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PROCEEDINGS AND DEBATES OF THE 103^{d} CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Tuesday, June 21, 1994*

The House met at 10:30 a.m. and was called to order by the Speaker.

MORNING BUSINESS

The SPEAKER. Pursuant to the order of the House of February 11, 1994, and June 10, 1994, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, other than the majority and minority leaders, limited to 5 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. WISE].

THE HEALTH CARE DEBATE GOES PRIME TIME

Mr. WISE. Mr. Speaker, I urge Americans to tune in tonight when the health care debate literally goes prime time. I congratulate the NBC television network for recognizing the importance of this issue, the most sweeping legislation this Congress will consider in 60 years, and for focusing on this issue and for devoting 2 hours tonight of prime time attention to it.

Indeed, many of the local affiliates are then adding another hour for discussion within our local areas. I hope it is the start of many such discussions that need to take place across this country, because there is a lot of bad information or disinformation or misinformation or misunderstandings about health care and all the issues involved with it.

My hope is that the televised town meeting tonight will begin to focus these issues in the minds of many, many citizens and that by watching the televised town meetings like the one that NBC conducts tonight, by attending town meetings that many Members of Congress will be sponsoring over the Fourth of July week, by attending many other meetings and by asking questions, all of us will get a better understanding of this important issue and that Members of Congress will get a better understanding of what their constituents want done.

The town meeting tonight, for instance, hopefully will delve beyond the 15-second sound bites and get past the rhetoric so that citizens in our country and Members of Congress will understand the need finally to enact and plan affordable access to health care for all. I have heard that call from my constituents at every town meeting and from the 60,000 West Virginians who signed petitions that I personally delivered to you, Mr. Speaker, last year, requesting comprehensive health care legislation be passed.

Yes, Mr. Speaker, just as the health care reform debate goes prime time tonight, so the Congress must know that the prime time for action is now, not next year, and not the next century.

Let me speak as frankly as I can, Mr. Speaker, and say to you and through you to the American public that we better get involved if we want health care, because the 5 percent that are spreading all the bad information or disinformation or noninformation, or simply do not understand, are clouding it for everyone else. I think the message is very clear, that people in this country want comprehensive health care, guaranteed private insurance that cannot be taken away.

What happens if it does not pass this year? So what? Who loses, one might ask. Let me tell you who loses. Who loses, for instance, is the small business owner who is trying desperately to do what he or she knows is important for his or her employees and provide that insurance in today's market, knowing that they cannot get a competitive rate, knowing that there is discriminatory pricing against them. The small business operator loses because under most of the plans that are out there, including the President's plan, the small business operator gets a significant subsidy and, in fact, would be able to provide insurance at a far lower cost than he or she is presently able to do so.

Who loses if health care does not pass this year? The large business operator loses, the GM's, the Fords, the LTV's, the large companies in this country who pay 14 percent or 15 percent of their wages in health care and would see that lowered to 7.9 percent. Ask them who is more competitive against the Japanese and the Germans and all the others where their health care costs are significantly lower. That is who loses in this country.

Who loses if health care does not pass? I lose and people like me who have good insurance through their employer. Yes, we have good insurance as part of the Federal Employee System, 9 million Federal employees and their dependents are part of it. But each year if we have got insurance and each year we know our benefits are going down, our deductibles are going up, our copays are going up and our premiums are going up.

What we have in this country right now is a prescription that says less people are going to pay more money for less coverage. That is who loses.

The people who want to change jobs will lose if there is not comprehensive health care. Try carrying your insurance policy to the next job. It does not work, does it?

Yes, I hear that all we need is insurance reform, tinker a little bit here, do community rating, do portability so we can carry it to the next job, adjust the system so that the insurance companies cannot exclude because of preexisting illness. All of those ought to be done.

Read the Wall Street Journal, not your bastion of social liberalism. Read some of the other publications in the last 2 weeks who point out that if we do not have universal coverage, that is, everybody is in the pool, if we do not have universal coverage, we cannot do community rating that means anything, we cannot do portability, we cannot do the other insurance reforms. Because without universal coverage, we will just have the sickest of the sick in the pool. How are we going to do any kind of ratings on that?

A lot of people lose if health care does not pass, Mr. Speaker. It is time for all of us to act.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

THE PRESIDENT'S COSTLY HEALTH CARE PLAN

The SPEAKER pro tempore (Mrs. CLAYTON). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from California [Mr. HUFFINGTON] is recognized during morning business for 4 minutes.

Mr. HUFFINGTON. Madam Speaker, I rise today to address a very significant issue on the minds of all Americans, health care: in particular, the devastating effects President Clinton's plan will have on my home State of California and the Nation in general.

Recently, the California Governor's office released a report entitled "Above All Do No Harm," which analyzes the impact President Clinton's plan will have throughout the United States and California. Central to this report is the administration's recurring theme: Pay now, save later.

Madam Speaker, the Government has played this trick on the American people before. When Congress enacted Medicare in 1965, it was estimated that hospital insurance would cost $14 billion between the years 1966 and 1971. In reality, costs to the taxpayer totaled $24 billion, 65 percent above the original predictions. Americans realize a Government-run health care system does not save money.

As the Governor's report suggests, the costs of the Clinton plan could exceed the Congressional Budget Office's baseline by over $25 billion annually. And, despite President Clinton's rhetoric, by the year 2000, over $38 billion will be added to our ever-expanding national debt.

In order to pay for this massive increase in spending, the Clinton plan places the burden on the private sector. According to the Governor's report, business would take on billions of dollars in additional costs, and 3.7 million jobs could be lost nationwide.

The Clinton plan will also reduce national output and personal earnings. Under the administration's estimates, the Clinton plan will drain $224 billion from our economy by the year 2000.

Madam Speaker, California has led the way in reforming health care delivery. Yet, the only reward we receive under the Clinton plan is more Federal Government interference and tax hikes. According to the Governor's study, California could lose as many as 650,000 jobs. And, we could see personal earnings decline by a staggering $71 billion by the year 2000.

Not only will California's workers lose, but our State budget will also take a tremendous hit. By the end of the decade, the gross State product will decrease by $29 billion, and State income tax revenue will drop by almost $2 billion. Furthermore, the Governor's report states Clinton's plan could delay California's economic expansion by another 2 years. The bottom line is California cannot afford the Clinton prescription for health care.

And what do we get for all this money? Price controls, rationing, and worst of all—the Clinton's plan erodes our individual liberties. With this plan in place, the American people will be restricted from choosing their own doctor. A doctor outside a patient's plan could be fined up to $10,000 each time he provided treatment. The American people do not want a Government-provided physician; they want the freedom to choose their own doctor.

Madam Speaker, the Clinton's plan requires us to pay more for health care now in the hope of savings later; it restricts our choice of doctors; and it could cost 3.7 million jobs throughout the Nation—650,000 in California alone. My only question for the administration is this: If health care reform is about saving money, how come we end up paying so much?

SPOUSE ABUSE AND DOMESTIC VIOLENCE MUST END

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized during morning business for 5 minutes.

Mrs. SCHROEDER. Madam Speaker, this has been a very painful weekend for an awful lot of us, and I do not want to address what I think about O.J. Simpson, because I honestly think he should be considered innocent until they prove him guilty. But let me say, one of the things that came out this weekend that is so traumatizing is the issue of spouse abuse and domestic violence, and how even some of our largest cities with supposedly the best trained and the most compassionate police forces, totally ignore this, over and over and over again.

People often say, why do the women put up with this? Why do they tolerate this? Well, if you look at the Simpson case, you find that the police were called to the house nine separate times. Nine separate times. And never was an arrest made.

Think about what the record shows. That on the ninth time, Nicole came out and said that she wanted her husband arrested, please arrest her husband. She had called them there eight times before.

When they went to talk to O.J., he said, "The police have been here eight times before. This is a family matter. You are not going to arrest me. Why do you want to make a big deal out of this?"

Well, if you had been beaten nine times, you would probably think it was a pretty big deal. He said, "Go away, we can handle it." And then that time, the Los Angeles police did not arrest him. They allowed him to drive away in his Bentley.

What happened at that point was Mrs. Simpson then filed in the court a battering charge, and the judge allowed him, with his record, to plead no contest, pay a $700 fine, which for most Americans would be like giving a nickel, pay a $700 fine, and then talk to a psychiatrist of his choice over the phone, and do community service.

Now, if someone had beat you up on the street and threatened to kill you and done this nine times, and the police continued to refuse to arrest them, and you finally had to go for a battery charge and they give him a nickel fine, told him to do community service and talk to a doctor on the phone, I think you would be very angry. Somehow what happens on the street, we make very different from what happens in the home.

When you look at the statistics, it is incredible. That emergency wards see 4 million women a year on average that have been beaten so bad that they are in an emergency ward. That during the eighties, at least 1,500 women a year were killed; 1,500 women a year. And the nineties, it looks like it is going to be bigger and better.

Well, this keeps going on year after year after year. We have one city in America where not too long ago more policemen killed their wives than were killed in the line of duty.

You know, we are all terrified of street violence. But can you imagine living a life where not only was the street unsafe, home was more unsafe than the street? Home more unsafe than the street. Domestic terrorism.

We also know that a child that witnesses this kind of violence in the home is about 700 times more likely to be violent than a child who does not. If a child sees these arguments being solved in the home with violence time after time after time, there is no way you can give them a couple hours of conflict resolution courses and have them change their way. Please.

This year in the crime bill this House passed a historic measure, the Violence Against Women Act. It is now in conference with the Senate. The Senate bill is even better than ours by a long shot. I wanted desperately to be on that conference and am not on that conference. There are no women on that conference. I would hope after this weekend, we would see that conference come out of here with a crime bill that is as strong as the Senate, that is as tough as it can be, that finally focuses the Federal Government on this very critical issue. Because that, and that alone, will do more to prevent crime in the future, by trying to intervene in families and get people a new behavior mode. You can change this. I just hope we do everything we can after this tragic weekend to see that we never, never again see police officers winking at this bloody awful violence, that only leaves children without a mother and a very tragic future.

CLINTON HEALTH CARE PLAN TOO COSTLY

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from California [Mr. KIM] is recognized during morning business for 5 minutes.

Mr. KIM. Madam Speaker, 9 months ago, President Clinton presented us with his plan to radically change the American health care system. The details of this plan are, by now, familiar to all of us: The Clinton plan contains, as its centerpiece, an employer mandate that would force every employer to pay 80 percent of the health care costs for their employees and their families. Employer liability for these health care costs could be as high as 7.9 percent of payroll.

From the beginning, I, along with most other Republicans, have strongly opposed the employer mandates proposed by the President. For months, I have been trying to convince the proponents of this plan that these new mandates would be destructive to business, especially small business, and would threaten the livelihood of ordinary American people.

However, the proponents of the Clinton plan are not listening. They persist in trying to convince the American people that forcing employers to pay for their employees' health insurance will not put companies out of business, will not reduce employees' wages, and will not cost hundreds of thousands of Americans their jobs.

Well, I am here to tell you that those who are trying to sell this line of reasoning are dead wrong. As a former small business owner, I know from firsthand experience that businesses simply cannot afford to absorb this enormous new payroll tax without cutting wages, laying off employees or, in some cases, going out of business entirely.

But you do not have to take my word for this. Over the past few months, numerous studies have examine the potential impact that the Clinton plan will have on wages and jobs. Almost universally, these studies predict that the Clinton plan will have a devastating impact on jobs and wages. Let us take a closer look at one of these studies.

I call to my colleagues' attention a study conducted by the CONSAD research corporation commissioned by the National Federation of Independent Businesses. This study is the result of the work of dozens of experts in the fields of health care, public policy, economics, business and labor, and is based on real-world data, not abstract economic models.

Look at this. Over 850,000 jobs lost, and a potential 3.8 million jobs lost; 470,000 employees of small businesses will lose their jobs; 540,000 employees in the retail and service industries will lose their jobs; and, 23 million employees will see their wages reduced by a total of $28 billion—or $1,200 per year per worker.

□ 1050

Madam Speaker, while these results are disturbing enough, I am even more disturbed by the conclusions that the report reaches about exactly who will be hurt the most by the proposed employer mandates. According to the study, of those who lose their jobs: 60 percent will be women; 74 percent will be parents with children; 66 percent will be low-income people; and 88 percent will be part-time workers.

In other words, not only will the employer mandates in the Clinton plan create massive job loss and wage decline, but the plan will also concentrate those losses among American people who are least able to afford such losses—the very people that the plan is supposed to help.

I believe that the CONSAD study clearly demonstrates how bad an idea employer mandates actually are. While these kind of mandates may bring a few more people into this government-run health care system, they only do so at great cost to the wages and jobs of ordinary American people. Even worse, employer mandates hurt groups of people—people with families, the poor, women—that are most in need of our help.

For these reasons, I strongly urge my colleagues to explore alternatives to the Clinton plan that do not require employer mandates. Let us fix what is wrong with our health care system, but let us not risk the livelihoods of millions of Americans. We owe it to the hard working American people.

TOO DEAR A PRICE IN HAITI

The SPEAKER pro tempore (Mrs. CLAYTON). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Florida [Mr. GOSS] is recognized during morning business for 4 minutes.

Mr. GOSS. Madam Speaker, President Clinton's policy Plan A toward Haiti is to starve Haitians into democracy. If that does not work—and it will not—Plan B is to force them into democracy at gunpoint. That will not work, either.

Today, I ask again how much is this whole tragic comedy costing and are we nearing the goals that we set? The short answers are that it is costing a lot and we are accomplishing very little except making misery—life threatening misery—for ever more Haitians. We know that the administration spent $1.5 million for the lease on a Ukrainian cruise ship, that was returned before the new ship-board refugee processing program was up and running. We know that we are still leasing another Ukrainian ship for $34,000 a day—in addition to what we pay for fuel, crew, and waste removal. And it is hardly cheap to run the U.S.S. *Comfort* or to send the 1,000 U.S. civilian and military personnel assigned to the new refugee processing program. Of course, you have to add in the cost of the embargo enforcement—with 13 patrol ships, that is a hefty sum too. While we know the administration got stuck for $12 million by Turks/Caicos to rent a small parcel of their beach, there is still no word on what anchoring our ships in Jamaican waters is costing United States taxpayers or how much the sanction teams on the Dominican border are spending.

Madam Speaker, I have repeatedly asked the administration for the long answer to the question of what all of this is costing, but frankly do not expect an answer anytime soon because I do not think the administration has any idea what it has gotten us into. But, we cannot just think of Haitian policy in terms of financial cost. The human cost is mounting as well—a price that will ultimately be borne by an entire generation of Haitians who either do not survive or suffer a lifetime of ill effects from having been denied basic needs like food, potable water, and health care.

According to recent reports, the signs of famine in Haiti are growing—two out of three Haitian children are now said to be suffering from malnutrition. Water for drinking and washing in most towns and villages has been fouled with human waste. Typhoid, malaria, tuberculosis, and hepatitis are running rampant. All the while, United States authorities tighten the screws on the Haitian people by holding back relief flights and allowing a punishing embargo to miss its mark. Madam Speaker, this is a price that no people should be asked to pay, especially if there is no need for it. Could it be worse? Yes. A U.S. military invasion could add even more cost.

The cost of American lives. That would be unthinkable.

"We are no longer in the negotiating business", a senior administration official says ominously. What business, I ask, then, are we in? Does anybody at the White House know?

WHITEWATER

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Texas [Mr. SAM JOHNSON] is recognized during morning business for 4 minutes.

Mr. SAM JOHNSON of Texas. Madam Speaker, article I of the Constitution gives Congress the right and obligation to conduct oversight of the executive branch. But, in the case of the Whitewater investigation we have found an abuse of power when one political party controls both the White House and the Congress.

The actions of the majority, the agencies, and the administration raise many questions, most important, whether they have compromised their independence or obstructed justice.

But, beyond the stories of a cover-up, where is the enforcement mechanism for congressional oversight when political concerns obstruct the Nation's business? The Democrat leaders in this House are still interfering with the regulatory and legislative process.

We requested hearings in the Banking Committee and the Banking Committee chairman denied them. We all know the Banking Committee has legislative jurisdiction over Madison Savings with respect to abuse of federally insured deposits, plans to merge all Federal banking agencies, agency contracting procedures, and institutional record keeping, just to name a few.

RTC oversight hearings were canceled. We can only assume the chairman feared inquiries on Madison Savings. Questions on Madison would not have been out of line, that is the job of the Banking Committee.

The RTC, a historically mismanaged agency that just received $18.3 billion in new funding, is now three oversight hearings behind. Three hearings required by law. Clearly political protection was more important than taxpayer dollars in this decision.

In addition, Madam Speaker, the ranking minority member, Mr. LEACH, has made many requests of OTS and the RTC for documents that he has a right to. But, they refused to disclose documents again after the chairman directed them not to respond to Mr. LEACH's requests.

Finally, the House has agreed to hold hearings, but on limited topics. The Madison Savings oversight, which is the foremost concern of the Banking Committee is not an approved topic for the hearings. And once again the process is being held up by the chairman, who yesterday expressed dissatisfaction with the topics that have been decided upon. This will once again delay hearings on Whitewater.

It is clearly a stall—a cover up.

Our oath of office should be our guide. America has to come first, not Republicans, not Democrats, not Independents, nor any other party.

Congress should hold full disclosure hearings on Whitewater and RTC oversight hearings, not only to answer questions about the President and Madison savings, but to ensure the integrity of the Congress and fulfill our responsibility to the American people.

AN EMPLOYER MANDATE IS A MANDATE FOR DESTRUCTION

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from New Jersey [Mr. SAXTON] is recognized during morning business for 4 minutes.

Mr. SAXTON. Madam Speaker, if Congress enacts President Clinton's employer mandate, forcing all small businesses to fund health care reform, two things will happen.

One, millions of jobs will be lost.

And two, American workers earnings will fall.

If Members do not want to take my word for this, maybe we should take a look at what other people are saying about the effects of an employer mandate on jobs.

In fact, several weeks ago, I requested that the Republican staff of the Joint Economic Committee look into what other people are saying about an employer mandate that forces small business to pay for its employees' health care and the resulting effects on jobs.

I am happy to report that this afternoon I will be releasing the study the GOP–JEC staff conducted.

The report, entitled "A Mandate for Destruction: Survey of Job and Wage Destruction That Will Result From Requiring Employers To Pay for Workers' Health Insurance," examines 41 different studies of the Clinton health care proposal and particularly the effects of employer mandates on jobs and wages.

In fact, all economists agree that an employer mandate will raise the cost of labor, aside from making us less competitive in the world market. Firms will have to shift as much of the mandated costs back onto workers in the form of lower wages as possible. And, to the extent that they are unable to shift the cost increase back to employees in the form of reduced wages, they will hire fewer workers and in some cases lay off others.

Thus, employers and employees face a nasty trade off—job destruction or wage reduction.

The JEC staff analyzed over 40 studies that vary widely in their methodologies and assumptions yet their findings are consistent and unambiguous. Employer mandates kill jobs—a lot of them.

And as many of the reports show, it is the lowest wage earners who are most at risk of losing their jobs.

As the chart shows, estimated job losses range from a low of 600,000 to a high of 3.8 million, with an average probable loss of 1.0 million jobs and an average potential loss of 2.1 million jobs.

The Clinton administration itself admits that as many as 600,000 jobs could be lost. And we all know that if the White House is willing to admit this amount, that the true impact on jobs must be much higher.

Specifically, one of the studies in the JEC–GOP survey broke out estimates of the effects on a State-by-State basis and found, for example, that in 1998 New Jersey would lose 32,200 jobs, $3.6 billion in wages and benefits, and $520 in income per person.

In addition, the State of California conducted a study that concluded that the job loss in California from the Clinton health care mandate would be so severe that job loss would exceed all the California jobs lost from defense cuts and would postpone the California economic recovery for years.

And, the study finds that forcing all employers to pay insurance would reduce wages—a lot—with a the middle class taking a big hit. Americans making between $14,000 and $30,000 per year stand to suffer most of the estimated wage reductions from an employer mandate by losing $1,450 a year, on average.

The verdict is in and the evidence is clear and convincing. Beyond a reasonable doubt that forced employer paid health insurance is a wage batterer and a job killer.

Madam Speaker, later today, I will be submitting a summary of this study in the part of the CONGRESSIONAL RECORD for Extensions of Remarks.

□ 1100

MANDATING COVERAGE OR ACCESS

The SPEAKER pro tempore (Mrs. CLAYTON). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Georgia [Mr. COLLINS] is recognized during morning business for 5 minutes.

Mr. COLLINS of Georgia. Madam Speaker, while the issue and debate about health care reform are very complicated, they can be boiled down to a basic question that Congress and the American people must ask.

Should health care reform be based on federally mandated employer health care insurance coverage; or instead, on employer health care insurance access. There is a world of difference between the two options. Mandated coverage means an unfunded, open-ended, entitlement; but access means a private market remedy encouraging individual responsibility.

Supporters of an employer mandate to pay for health care insurance claim that it will provide 100 percent coverage, while providing greater health care coverage and benefits for all employees. But in reality there are real costs that the employee will pay with this type of mandate.

As the health care debate continues, individuals who are considering supporting a mandate on employers to provide health care must ask "Am I willing to pay more, through reduced wages, fewer job opportunities and a smaller health care benefit package than I receive now, in order to pay for health care insurance coverage for those that already have access to health care services?"

But let us look at the one example we do have in this country of a fully implemented employer mandate to pay for health coverage:

The State of Hawaii passed a health care employer mandate in 1974. But this mandate has not been effective in achieving the 100 percent health care coverage that Clinton administration officials argue will be the natural result of the President's plan. Even with the passage of Hawaii's Prepaid Health Care Act in 1974, and the Health Insurance Program of Hawaii, as many as 7 percent of Hawaiian residents are without health care coverage.

Additionally, the employer mandate-based program has failed to effectively control costs. Health care costs in general for Hawaii have skyrocketed over the past few years: Between 1980 and 1990, total health care spending in that State rose 191 percent, compared to the national average of 163 percent.

EFFECTS OF THE EMPLOYER MANDATE

Most damaging is the impact that this program has had on the private sector in Hawaii.

The owner of a 17-employee small business located in Maui, HI, recently testified before the Small Business Committee about the impact of the employer mandate on her business.

She stated that costs associated with the employer mandate have caused her, as a business owner to "hold off purchasing new equipment" and "slow down any expansion plans."

She stated: "We had to hold wages at the same level for 2½ years."

She added:

> For 5 years we have had plans to start a retirement fund for our employees, and each year, costs associated with mandated benefits have made us cancel those plans.
>
> In thinking they were doing employees a favor through mandates, the State of Hawaii only caused more hardships for workers: their wages rose at slower rates, and they ultimately received less health care than they previously had. We are at a point in our business that we will do anything to avoid hiring one more person—and not for a lack of need.

EMPLOYERS

In Hawaii, 4 in 10 employers had to reduce their number of employees, 55 percent restricted wage increases, and 6 in 10 raised prices to the consumer as a result of the mandate.

Between 1980 and 1986, Hawaii's employment grew by only 9 percent, compared to 20 percent for the U.S. Pacific coast States, and in 1975 when the employer mandate went into effect, Hawaii was 25th among the States in average annual wages. By 1986, they had fallen to 36th.

Private sector health care does not mean fundamentally flawed health care. There are weaknesses in coverage and high costs that must be addressed. There is agreement on the issue that we need insurance reform, greater access through the elimination of pre-existing conditions, greater portability of coverage, and elimination of loopholes that exclude those individuals and families just above poverty levels.

But in deciding on the best health care reform plan, the administration would be wise to remember their very own campaign slogan: "It's the economy stupid." As we debate proposals that will change the way we deliver, ensure, receive, and finance health care, we must carefully consider the impact these changes will have on the American economy as a whole.

Because in the long-run, by placing a mandate on employers to pay for health care, the American people the American workers will ultimately once again be paying the price through reduced wages, fewer benefits, and diminished employment opportunities in our private sector.

HEALTH CARE

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Wyoming [Mr. THOMAS] is recognized during morning business for 5 minutes.

Mr. THOMAS of Wyoming. Madam Speaker, I rise to talk, as others have, about health care. Clearly that is the issue before us, and clearly it is an issue that deserves consideration.

I am concerned that what began as a legitimate discussion of how do we improve health care to families in this country has become now a debate as to how we fill a political imperative to do something before November so everyone can wave the flag and say, "Look, look what we've done."

We should, however, use the momentum that has been developed. We should use the momentum to ensure that there are changes in the health care system in this country.

I will be holding a town meeting, another town meeting in Rock Springs, WY, next week to talk with Wyoming families about how we can best provide a service that fits in a rural State. And services must be unique, services must be flexible, services must be different.

Two weeks ago I was in Pinedale, WY. Pinedale, WY, has one general practitioner. It is 100 miles to Jackson on the one hand and to Rock Springs on the other to a hospital. You know what folks said there. They said, "don't mess around with our health care." You might have thought they wanted all of these kinds of things to be brought there but no, they want to continue to have the choice of doing the things that they want to do.

I have worked in health care in Wyoming now for something like 4 years, and I have to tell you that flexibility, that access, doing something about price is indeed the things that are most interesting to families in Wyoming.

There are a number of health care plans out there. Families are beginning to understand that there are options in doing something. We began with sort of a notion that there was either President Clinton's plan or nothing. Not true. Not true.

□ 1110

And fortunately there are alternatives, alternatives that will make fundamental change in health care without uprooting the very essence of the best health care system that we have in the world.

Frankly, I am not willing to put at risk my constituents for the implanting of a totally new untested kind of program that affects one-seventh of the entire economy and put it into place on a national level without having some experience in States. States are the best laboratory for doing that.

People in Wyoming value their personal physicians and, as you can imagine, sometimes it is tough, sometimes they are small towns where there are only a limited number of health care providers. But they want that choice.

One of the paradoxes, one of the interesting things has to do with prescription drug pricing. All of us, I think, want the drug store and the pharmacist right there on Main Street so that we can go there to get our needs filled immediately. We also want the advice of a pharmacist and a druggist.

At the same time we move toward HMO's and the kind of organization where almost all prescription needs are filled by mail. So we go to the pharmacist on Main Street and say, "Give us some advice, will you, please, and please have something of everything for us on a short-term basis, but we are going to send somewhere else and get the product." These two things have some conflicts. We need to do something about level pricing so that we can keep the pharmacist on Main Street to do that.

We need to make fundamental changes. We need to make changes, but we have to decide basically whether we want more government involved in health care or whether we want to continue to strengthen and perfect the private delivery system. I choose the private delivery system.

If we are going to use insurance as the funding mechanism, we have to make some changes, fundamental changes that you cannot be denied because of preexisting conditions, that it is portable so you can take it with you, we can do those things; we can do them; that you are not canceled because of utilization. We can do something about tort reform that has to do with the cost of defensive medicine. Those are doable kinds of things.

I am encouraged, frankly. I am encouraged that finally the Congress is beginning to say, "Look, if we can make substantial improvements, if we can go from 85 percent coverage to 91 percent coverage, that that is movement in the bright direction." We do not have to insist, as President Clinton does, that we either move all the way in one giant step or not at all.

I thought it was interesting Senator MOYNIHAN said that it is incremental, that life is incremental, that things we do here are incremental. We do them as we can do them, and we do them as they are proven. We do them as they are proven to be beneficial.

I think we need fundamental change in health care. I think we can have fundamental change in health care. We can have it in this Congress if we will do those things that will have some bipartisan support and that we can believe and pass and do.

RECESS

The SPEAKER pro tempore (Mrs. CLAYTON). Pursuant to clause 12, rule I, the Chair declares the House in recess until 12 noon.

Accordingly (at 11 o'clock and 13 minutes a.m.) the House stood in recess until 12 noon.

□ 1200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 12 noon.

PRAYER

Reverend Lawrence Burkholder, president emeritus, Goshen College, Goshen, IN, offered the following prayer:

Gracious God, we would begin this day of deliberation in gratitude for skies above, land below and oceans around, for "America the Beautiful"—purple mountains, fertile fields, rushing streams, and flowered deserts.

Help us to save this inheritance, lest we become rich while the land becomes poor, imagining ourselves fulfilled but future generations deprived, indulging our well-being without being well.

Not only for this natural inheritance would we be grateful. We rejoice in the soundness of democratic institutions which, though vulnerable to human error, persist for the advancement of justice and peace, blessed by the wisdom of Founding Fathers, caring mothers, and dedicated statesmen.

By Your kind providence, lead Your servants, our legislators, to make good judgments, to the benefit of all Your children everywhere. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will ask the gentleman from Indiana [Mr. ROEMER] to come forward and lead the House in the Pledge of Allegiance.

Mr. ROEMER led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation, under God, indivisible, with liberty and justice for all.

WELCOME TO REVEREND J. LAWRENCE BURKHOLDER

(Mr. ROEMER asked and was given permission to address the House for 1 minute.)

Mr. ROEMER. Mr. Speaker, I rise to welcome Rev. J. Lawrence Burkholder, president emeritus of Goshen College in Goshen, IN. He is joined today in the Chamber by his wife, Harriet, and their daughter, Myrna.

It is with some effort and much joy that Reverend Burkholder and his family have traveled to Washington, and I join with my colleagues in welcoming him here today.

His visit is an honor, especially because Reverend Burkholder offered the prayer at the opening of today's session of the House of Representatives. With this prayer, Reverend Burkholder has represented the Third Congressional District of Indiana as Guest Chaplain—a distinction shared by very few individuals in the history of this Chamber.

Quoting Isaiah "without vision, the people will perish." Reverend Burkholder has shown great vision for people. Reverend Burkholder has made a difference in this world. He is a scholar of philosophy and theology, president emeritus of Goshen College, former professor of divinity at Harvard Divinity School, and author of several books, including "The Limits of Perfection."

Many more honors could be spoken of Reverend Burkholder. But I think it is best said that Reverend Burkholder is a person who has truly offered his life to our Lord, working each day to improve humanity, and improve the life of those less fortunate.

TRAGEDY VISITED ON SPOKANE, WA

(Mr. FOLEY asked and was given permission to address the House for 1 minute.)

Mr. FOLEY. Mr. Speaker, yesterday a mindless tragedy was visited on my home city of Spokane, WA. Twenty-two people were wounded and four killed when a discharged Air Force lab technician opened fire with an AK-47 rifle in the base hospital annex attached to the Fairchild Air Force Base. Two of the critically wounded are children ages 3 and 5.

Both facts and the assailant's motivation remain unclear, but the airman was recently discharged from the Air Force on psychiatric grounds earlier this year. The man reportedly took a taxi to Fairchild Air Force Base, walked into an off-base Air Force medical facility, and opened fire. The first person reportedly killed was the psychiatrist who had recommended the gunman be discharged from the Air Force. It will probably be days before all the questions are answered, and I am merely reporting here information drawn largely from press reports.

Mr. Speaker, I am a native of Spokane, WA. I have spent most of my adult life living in and serving the citizens of Spokane and eastern Washington. Over that period, the community has suffered through economic recession and natural disasters. We have dealt with those adversities and persevered. But the senseless tragedy that was visited on the Spokane community and the Fairchild Air Force Base community will certainly challenge both communities' resilience and courage.

There has always been a sense of community between Spokane and Fairchild Air Force Base. My wife Heather and I offer our prayers to the victims, their families, and the united community which must now surmount this horrific incident. Together we will manage to overcome this tragedy.

A PERFECT DAY—A PERFECT GAME

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I rise today to recall a great moment of perfection that occurred 30 years ago to this day.

On June 21, 1964, which also happened to be Father's Day that year, JAMES PAUL DAVID BUNNING, pitching for the Philadelphia Phillies in the first game of a doubleheader, threw a perfect game against the New York Mets. There have been only 12 regular season perfect games in all of baseball history.

I am talking, of course, about the same JIM BUNNING with whom we are so proud to serve here in the House of Representatives.

Mr. Speaker, during his magnificent career on the baseball diamonds of this Nation, JIM BUNNING won 224 major league games. His lifetime earned run average was 3.27. Just to show he could swing the bat, he had seven career home runs, as well.

It should also be noted that JIM BUNNING pitched another no-hitter earlier in the American League for the Detroit Tigers against the Boston Red Sox on July 20, 1958. That is the thing that is so much different here, a no-hitter in the National and the American League, for those who are not baseball buffs.

Mr. Speaker, today I would like everyone to take just a moment to salute

JIM BUNNING's first great career. He was indeed one of the greatest baseball pitchers ever to have taken the mound in the history of the game.

I would like to look forward to the day when JIM BUNNING is inducted into the Baseball Hall of Fame, and certainly hope his chances are not diminished by his now being a Member of the Congress.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 1183. An act to validate conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to the Central Pacific Railway Company.

The message also announced that the Senate had passed with amendments, in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2815. An act to designate a portion of the Farmington River in Connecticut as a component of the National Wild and Scenic Rivers System; and

H.R. 4454. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 1995, and for other purposes.

The message also announced that the Senate insist upon its amendments to the bill (H.R. 4454) entitled "An act making appropriations for the legislative branch for the fiscal year ending September 30, 1995, and for other purposes" and request a conference with the House of Representatives on the disagreeing votes of the two Houses thereon. Ordered, that Mr. REID, Ms. MIKULSKI, Mrs. MURRAY, Mr. BYRD, Mr. MACK, Mr. BURNS, and Mr. HATFIELD, be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 150. An act to provide for assistance in the preservation of Taliesin in the State of Wisconsin, and for other purposes.

S. 316. An act to establish the Saguaro National Park in the State of Arizona, and for other purposes.

S. 472. An act to improve the administration and management of public lands, National Forests, units of the National Park System, and related areas by improving the availability of adequate, appropriate, affordable, and cost effective housing for employees needed to effectively manage the public lands.

S. 1703. An act to expand the boundaries of the Piscataway National Park, and for other purposes; and

S. 1980. An act to establish the Cane River Creole National Historical Park and the Cane River National Heritage Area in the State of Louisiana, and for other purposes.

APPOINTMENT AS MEMBERS OF BOARD OF VISITORS TO U.S. MILITARY ACADEMY

The SPEAKER. Pursuant to the provisions of section 4355(a) of title 10, United States Code, the Chair appoints as members of the Board of Visitors to the U.S. Military Academy the following Members of the House: Mr. HEFNER of North Carolina; Mr. LAUGHLIN of Texas; Mr. FISH of New York; and Mr. DELAY of Texas.

APPOINTMENT AS MEMBERS OF BOARD OF VISITORS TO U.S. NAVAL ACADEMY

The SPEAKER. Pursuant to the provisions of section 6968(a) of title 10, United States Code, the Chair appoints as members of the Board of Visitors to the U.S. Naval Academy the following Members of the House: Mr. HOYER of Maryland; Mr. MFUME of Maryland; Mrs. BENTLEY of Maryland; and Mr. SKEEN of New Mexico.

APPOINTMENT AS MEMBERS OF BOARD OF VISITORS TO U.S. AIR FORCE ACADEMY

The SPEAKER. Pursuant to the provisions of section 9355(a) of title 10, United States Code, the Chair appoints as members of the Board of Visitors to the U.S. Air Force Academy the following Members of the House: Mr. DICKS of Washington; Mr. HOAGLAND of Nebraska; Mr. HEFLEY of Colorado; and Mr. YOUNG of Florida.

SELECTION OF MEMBERS TO SERVE ON POLICY COMMITTEE OF WHITE HOUSE CONFERENCE ON AGING

The SPEAKER. Pursuant to the provisions of section 204 of the Older Americans Act Amendments of 1987, as amended by section 834 of Public Law 102-375, the Chair selects the following Members of the House to serve on the Policy Committee of the White House Conference on Aging: Mr. MARTINEZ of California; Mr. JACOBS of Indiana; Mr. HUGHES of New Jersey; and Mrs. MORELLA of Maryland.

□ 1210

REAPPOINTMENT AS MEMBER OF THE FEDERAL COUNCIL ON THE AGING

The SPEAKER. Pursuant to the provisions of section 204(a) of the Older Americans Act of 1965 (42 U.S.C. 3015(a)), as amended by section 205 of Public Law 102-375, the Chair reappoints to the Federal Council on the Aging for a 3-year term on the part of the House the following member from private life: Mrs. Josephine K. Oblinger of Williamsville, IL.

APPOINTMENT AS MEMBERS TO THE COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION

The SPEAKER. Pursuant to the provisions of section 206 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616) as amended by section 2(d) of Public Law 102-586, the Chair appoints the following members to the Coordinating Council on Juvenile Justice and Delinquency Prevention on the part of the House: Mr. Gordon A. Martin, Jr., of Roxbury, MA, to a 3-year term; Mr. Michael J. Mahoney of Chicago, IL, to a 2-year term; and Ms. Mary Ann Murphy of Spokane, WA, to a 1-year term.

APPOINTMENT AS MEMBER OF BOARD OF TRUSTEES FOR THE JOHN C. STENNIS CENTER FOR PUBLIC SERVICE TRAINING AND DEVELOPMENT

The SPEAKER. Pursuant to the provisions of section 114(b) of Public Law 100-458, the Chair appoints to the board of trustees for the John C. Stennis Center for Public Service Training and Development the following Member on the part of the House to fill the existing vacancy thereon: Mr. LEWIS of Georgia.

UNIVERSAL COVERAGE NECESSARY FOR A TRULY FAIR HEALTH CARE SYSTEM

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEPHARDT. Mr. Speaker, for months now, Democrats have been fighting for a health care plan that covers every single American. It is easy to forget why guaranteed coverage is more than just another part of the plan.

The fact is, the only way to keep health care costs from bankrupting families and businesses is by making sure everybody is in the system.

First of all, let us remember who pays for the uninsured—those of us who have insurance. That is not health care—it is stealth care. It is a hidden tax that drives up the cost of health insurance. Guaranteed coverage is the only way to stop it.

Second, some say that if employers help to provide health care, it will destroy jobs. But when you look at the costs of providing coverage, it is less than a minimum wage increase.

Recent minimum wage increases have not destroyed jobs. Many believe they have led to higher employment. And a recent study concluded that health care reform will create tens of thousands of jobs as well.

Finally, there is the question of responsibility. Is it fair for some of us to pay the cost of the uninsured? Is it fair for some of us to pay higher premiums because others will not pitch in?

Getting every American involved is simply the only way health care can work.

And when the real debate begins—when we start talking about the real principles that lead to guaranteed coverage—I believe we will create a health care system that is truly fair for all Americans.

DEMOCRATIC PARTY ANTIRELIGIOUS BIGOTRY

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, we are apparently faced with a systematic Democratic Party strategy of antireligious bigotry.

Today's Roll Call, page 1, headline, "Dems Unleash on 'Radical Right,'" and the Morton Kondracke Column, page 6, entitled "Democrats Launch War Over Religion GOP Should Win," are signs of a deliberate Democratic Party decision to launch an assault on those who regularly attend a synagog or church.

Today the leader of the Democratic Congressional Campaign Committee will apparently attack citizens for their religious beliefs in a National Press Club speech. Apparently any value or lifestyle is acceptable to the Democratic leadership unless it has a religious basis.

This is antireligious bigotry, and the Democratic leadership should stop this divisive and destructive strategy.

POLITICS, HEALTH CARE, AND WOMEN

(Mr. DERRICK asked and was given permission to address the House for 1 minute.)

Mr. DERRICK. Mr. Speaker, last week a Republican Congressman revealed his marching orders: close ranks against Democratic efforts to pass meaningful health care reform.

It seems things like comprehensive coverage and cost containment are bad for the Republican party.

But Republican political gambits will spoil health care for everyone—for instance, women, who have a lot to gain from health care reform.

American women are more likely to need health care than men, but they are less likely to be insured. Working women hold down the bulk of jobs that do not offer health insurance. Women live longer and are more likely to need costly long-term care. Funding for research into diseases afflicting women is inadequate.

Health care reform addresses these problems. But Republicans have closed ranks against reform, and in effect on women and the Nation. It is too bad that Republican politics puts them so squarely at odds with the Nation's health.

THE REPUBLICAN POSITION ON HEALTH CARE REFORM

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, the gentleman from South Carolina has just misrepresented the Republican position on health care, as did news stories over the weekend.

Mr. Speaker, I yield to the gentleman from Georgia [Mr. GINGRICH], the minority whip.

Mr. GINGRICH. Mr. Speaker, I want to make very clear the Republican position is we very much want to work together on a bipartisan basis to pass a bipartisan health bill. We believe it is possible to write a bill which is market-oriented, which has personal accountability, which allows people to have a choice of their own doctor.

We are opposed to a big-government, big-bureaucracy, tax-increase bill, but we would very much like to work with the Democratic leadership if they are prepared to give up their partisan strategy, the same one they followed on the tax increase last year of trying to pass a bill with 51 votes in the Senate and 218 votes in the House.

We beg the Democratic leadership: Let us work together on a bipartisan bill that is centrist. Do not try to pass a big-government, tax increase, big-bureaucracy bill only with Democratic votes.

I thank my friend for allowing me to clarify that.

Mr. WALKER. I thank the gentleman.

The majority leader earlier today outlined a program that calls for a big-government approach to health care. Americans do not need bureaucrats running their health care program. They need choice, and they need to have a chance to have their own doctor.

WORKING FOR A BIPARTISAN HEALTH CARE BILL

(Mr. FILNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FILNER. Mr. Speaker, I yield briefly to the gentleman from South Carolina [Mr. DERRICK].

Mr. DERRICK. Mr. Speaker, in reference to the minority whip's remarks, we accept. We would be delighted to work for a bipartisan health care bill.

INVESTMENT IN THE CHILDREN OF THE WORLD

Mr. FILNER. Mr. Speaker, now that that is settled, UNICEF, the United Nations Children's Fund, today released its 1994 Progress of Nations Report—giving country-by-country comparisons of progress made in meeting the basic needs of children and families.

Nearly 13 million children worldwide die each year of preventable malnutrition and disease, dying not of massacres but of measles and dehydration. And we know what to do to prevent these deaths.

Increased global immunizations are now preventing 3 million deaths per year. Oral rehydration therapy, a simple Gatorade-like solution which prevents diarrheal dehydration, is now saving 1 million children each year. But much remains to be done to make these simple and inexpensive therapies more widely available.

My colleagues who serve on the Foreign Operations Subcommittee will soon be going into conference with the Senate regarding 1995 foreign assistance appropriations. I urge support for the Senate's binding language on children's programs which will require the Agency for International Development to devote $185 million to primary health care, $135 to basic education, and $25 million to micronutrients such as vitamin A.

This is a visionary investment in the world's children and families which does not increase overall foreign aid. This Congress could make no better investment.

EMPLOYER MANDATE WOULD HARM WOMEN-OWNED SMALL BUSINESSES

(Mrs. MEYERS of Kansas asked and was given permission to address the House for 1 minute.)

Mrs. MEYERS of Kansas. Mr. Speaker, as the ranking member of the Small Business Committee, I am concerned about the harm we will inflict on the 6.5 million women-owned small businesses if we endorse President Clinton's employer mandate as a part of health care reform. Women collectively employ more people in the United States than the Fortune 500 companies employ worldwide.

The employer mandate in President Clinton's health care proposal would cause 52 percent of small businesses which are too small or new to offer health insurance, to pay from $1,000 to $2,500 per worker. Eight studies now conclude that we will kill between 600,000 to 2.6 million jobs with this mandate.

Small businesses do not want to dodge their responsibility; they want to grow into larger, stronger businesses that can afford to offer their employees good health care benefits. Frankly, I am amazed that White House officials believe that small businesses are getting off easy—there is nothing easy in the personal and financial risks these women take every day.

We should assist our small women-owned businesses, not burden them with further mandates.

□ 1220

EPA IS HAVING A COW

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, another EPA crisis: The EPA gave another half-million dollars to study bovine flatulence, the burps and belches of cows. This is udder nonsense.

Folks, what is next? Will the EPA ban alfalfa? Clover? Orchard grass?

And now you know and I know what is coming up is: human flatulence. What about chili and kidney beans and hard-boiled eggs?

And to make matters worse now, what if these backpacks on Elsie are just a little too tight and she goes about 7.9 of the Richter? Does the EPA create a bovine burp task force? Do we get our first "flat" tax, folks?

The truth is this issue stinks, and I think it is about time for Congress to strap some tush monitors on the EPA.

I yield back the balance of my flatulence.

WAKE-UP CALL FOR MR. CLINTON: "COME IN, MR. CLINTON"

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, does anyone remember the game, "telephone," where one person whispers something into another person's ear and it is passed down the line until the last person says aloud what the word or phrase is? Inevitably, by the time the phrase is passed down, it becomes an unintelligible, jumbled mess. Well, when it comes to health care reform, I am convinced the White House is playing telephone with us.

Employer mandate, for example, has become many things since its birth at the White House, such as employer contribution, employer payment responsibility, employer premium payment, and in a recent effort to make it more palatable, a trigger—which is no more than a delayed mandate. Whatever the name, 93 percent of the small business people in my district are opposed to an employer mandate for one reason: They cannot afford it. Neither can their employees.

Well, the game is over. Members on either side of the aisle do not need a dictionary to know that the definition of an employer mandate is jobs killer. And we do not fall for the pitifully camouflaged employer mandate known as a trigger.

The White House can no longer ignore the fact that the phone is ringing. It is America calling, Mr. President, and they are saying loud and clear: "We can't afford your jobs killer—er—employer mandate. Mr. Clinton."

INCONSISTENCY OF THE DAY

(Mr. SWIFT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SWIFT. Mr. Speaker, last Wednesday night during the Republican special order on reform, my views on the lack of goals of the Joint Committee on Reorganization were attacked. I then have a legitimate opportunity to point out the inconsistency of their exercise.

Earlier that same day, every Republican who participated in the reform special order cast a major vote against reform. They each voted to gut the Federal Election Commission budget for the coming year. The FEC is the primary agency responsible for overseeing campaign spending, for auditing candidates, and for enforcing the law. Yet to properly do its job the Commission needs adequate operating funds and substantially updated computer capabilities.

It is the height of inconsistency to vote for what will result in poorer oversight and against reform in the afternoon and then participate that same night in a special order designed to convince the cable audience of your support for reform.

I trust the appropriations conference will restore full funding to the Federal Election Commission so that this effort to smother and intimidate the Commission will be reserved.

WOMEN AND EMPLOYER MANDATES

(Ms. MOLINARI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MOLINARI. Mr. Speaker, 72 percent of all part-time workers in the retail sales sector and 81 percent of all employees in the personal services sector are women.

Thanks to the taxes in the Clinton health care plan, however, 300,000 of those women in the retail industry will lose their jobs and 80,000 women in the personal services sector will lose their jobs. Yes, everyone will have health care; most women, however, will not have a job. An employer mandate has the political appeal of seeming to finance health insurance for the vast majority of Americans without raising their taxes, but not surprisingly, virtually every credible analysis of the President's proposal estimates significant job loss and wage reductions as a result of the employer mandate.

Even Laura Tyson estimates that as many as 600,000 Americans could lose their jobs, and women will lose because it will be the working women of this country who bear the burden of the employer mandate. Let us face it, employer mandates are not a free lunch, and more women workers in this country will be paying through lower wages, decreased benefits, and maybe even a lost job.

Let us be honest with the working women in America: Who will pay for an employer mandate? some men may, most women will.

PASS VIOLENCE AGAINST WOMEN ACT

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, one thing that we learned this weekend is very sobering: That nine times—nine times—the Los Angeles police department was called to the Simpson home about a family violence matter, and nine times they did not arrest anyone.

Now, many people say, "Why do women tolerate this kind of violence?" If the police come nine times and never arrest anyone, what kind of protection do you really have?

There is a solution to this. Finally, the Federal Government is focusing on this in the Violence Against Women Act, which should be in the crime bill. I hope every American tries to finally start dealing with domestic violence. We must get violence out of the home. That is the fastest breeder of violence on the street.

Let us start where it all begins: In the home. Let us make sure we have the strongest possible Violence Against Women Act in this crime bill and let everyone in America say we are going to insist our police departments start answering those calls and making arrests and getting to the bottom of this issue.

PRESIDENT CLINTON'S JOB-KILLING PAYROLL TAX

(Mrs. FOWLER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. FOWLER. Mr. Speaker, I rise to express my grave concerns about President Clinton's prescription for health reform. Mandates, price controls, bureaucracy, and government regulation are simply not the answer, and I think the side effects of the treatment just might kill the patient.

My concerns are heightened by studies which show that enormous job losses will result from the Clinton payroll tax. Assuming we can afford expensive government subsidies, it appears that job losses associated with the Clinton plan would approach 1 million, and more than 20 million workers would see their wages cut. And if we cannot afford the subsidies, these numbers skyrocket.

Especially disturbing is the fact that the industries which will be hit hardest by the tax are all characterized by high female employment. Although women are only 43 percent of the workforce, they will make up 6 percent of those who will lose jobs. The President's plan is not a bargain for working Americans, and I urge my colleagues to reject big government and new taxes and work for bipartisan reform that preserves jobs.

WHITE HOUSE SHOULD SEND REPRESENTATION TO GUAM COMMEMORATION

(Mr. DE LUGO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DE LUGO. Mr. Speaker, 50 years ago, our troops liberated the only populated part of our territory captured by the enemy during World War II: the island of Guam.

Subjected to a brutal occupation these American nationals suffered because of their defiant loyalty to the United States.

Yet, our Nation does not sufficiently recognize its debt to them.

I find it especially embarrassing that our Executive has not planned an adequate tribute to the Chamorros of Guam—or the brave servicemen of the bloody Marianas campaign on that island or the Japanese-mandated islands to its north.

I regret to have to say that the administration I support has not displayed enough sensitivity so far to the contributions of all of the people involved in spite of the efforts of the Delegate from Guam.

The White House should not fail to send top representation to the Commemoration he has organized at Arlington National Cemetery this Saturday or participate at a high level in the ceremonies on the anniversaries in the islands.

□ 1230

THE PRESIDENT AND WELFARE RHETORIC: IT IS SNOWING IN THE "SHOW ME STATE"

(Mr. HORN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HORN. Mr. Speaker, last week President Clinton unveiled his welfare reform bill.

According to the most recent Newsweek, candidate Clinton talked about welfare reform in 40 percent of his campaign speeches, how ironic that not until he was 40 percent into his presidency did he finally get around to doing something about it.

Regretfully, what he is getting around to doing about welfaree reform is not very much.

By choosing Kansas City for the unveiling, President Clinton thinks Missouri is the Snow Me State, not the Show Me State.

You do not need to be from Missouri to know the President is wrong. People are not stupid.

It is amazing that when it comes to welfare reform and taking people off a government program, the President could not be more cautious; but when it comes to health care and putting every American onto a Federal program he could not be more cavalier.

Regardless of the issue, one thing is clear: every step this administration takes is away from middle America and toward Washington. And for the President, every issue is an opportunity to do just that.

HEALTH CARE REFORM SEEN AS NO THREAT TO JOBS

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, as we heard today, Republicans are calling the health care reform package a job killer. It is the same argument that Republicans made about the budget last year and it is the same argument they made about Social Security more than half a century ago. They were wrong then. And they are wrong now.

Republicans called the President's budget package a job killer and not one of them voted for it. But, far from stifling job creation, that budget has created 3.1 million private sector jobs.

And, we can look even further back to find the job killer scare tactic in use. In 1935, when Republicans were trying to defeat Social Security, one House Member said that landmark legislation would: "prevent any possibility of employers providing work for people."

The budget agreement did not cause job loss, as the Republicans claimed it would. Social Security did not stop employers from providing work for people, as the Republicans claimed it would. And, health care reform will not cause businesses to resort to layoffs, as the Republicans claim it will.

Whether it be job security, social security, or health security—Democrats have consistently faced up to this Nation's great challenges. And, we will do it again on health care reform because Democrats are determined to guarantee universal health care for every American. I ask my Republican colleagues to put aside the partisan rhetoric and work with us to pass health care reform this year. The American people are counting on us.

REPORT ON H.R. 4603, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1995, AND SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1994

Mr. MOLLOHAN, from the Committee on Appropriations, submitted a privileged report (103–552) on the bill (H.R. 4603) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. ROGERS reserved all points of order on the bill.

DEMOCRATIC PARTY MEMBERS ATTACK "RADICAL RIGHT" FUNDAMENTALISTS

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, the headline in yesterday's Roll Call newspaper says it all: "Dems Unleash on 'Radical Right.'" Apparently at 2 o'clock this afternoon one of the leading Democrat Members of Congress is going to start that attack in earnest. I happen to think that that is a big mistake politically for the Democrat Party. After all, I think it is very good that we encourage people that have religious beliefs to become involved in the political process. Our Founding Fathers were men and women of strong religious conviction, and many of the original 13 colonies were founded by Pilgrims trying to escape religious persecution in Europe.

I think the Democrats are making a real political mistake to resort to any religious bigotry. I think we need to look beyond the headlines. I personally do not think there is anything radical at all about people when religion plays a role in their daily lives and they happen to think they should do more for themselves instead of asking for government to do more and more. They happen to read the Bible, and some of them can even recite the Ten Commandments. If we had more people like that, I think our Government would be better off.

O.J. SIMPSON TRAGEDY POINTS UP IMPORTANCE OF THE VIOLENCE AGAINST WOMEN ACT

(Ms. NORTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, many Americans seem confused about how to respond to the Simpson family tragedy. O.J.'s life is indeed cut from the cloth of Greek tragedy, complete with the tragic flaw that may have brought his downfall. That flaw, however, may have brought death to Nicole Brown Simpson and Ronald Goldman.

A jury will decide O.J.'s guilt or innocence. He has, however, already confessed to crimes that were never punished—repeatedly and sometimes brutally beating his wife. This domestic violence against Nicole may have led to her death. If so, the only possibility for prevention was with the police she summoned and the courts that were her only recourse. They failed Nicole. And they failed O.J., whose life, too, is now all but over, however the case comes out.

Let us not compound these failures. Let us remember Nicole and the 52 percent of all women in the first half of the 1980's who were murdered by their partners. Let us make certain that the Violence Against Women Act remains a part of the crime bill.

MASSIVE JOB LOSS PREDICTED WITH CLINTON-LIKE HEALTH CARE PLAN

(Mr. BOEHNER asked and was given permission to address the House for 1 minute.)

Mr. BOEHNER. Mr. Speaker, the liberals here in Congress want to impose Government-run health care, plans like the Clinton bill, and the vehicle to implement it is what is called an employer mandate. They say, "We don't want to raise taxes on the American people, so let's see, how about you pay for it?" They are pointing to the employers in America.

The only problem is that employers are just entities. It is the people who are going to pay these taxes. The estimates are that from 1 to 3 million Americans will lose their jobs if a Clinton-like plan is enacted. Beyond that, if a worker does not lose his job, he is likely to see lower wage increases and maybe cuts in benefits.

Employer mandates are nothing more than taxes on employment. For those few businesses in America that can raise their prices to cover those increases, the result becomes higher prices on America's consumers.

The American people are not going to be fooled. They know the Clinton plan means we are going to pay more and get less.

Mr. Speaker, let us not tax employers. Let us not tax employment in America. Let us have real health care reform that fixes the problems in the current system without creating a huge Government-run health care system.

HEALTH CARE IN ROCHESTER, NY—A MODEL FOR THE COUNTRY

(Ms. SLAUGHTER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, I want to talk about health care. I am just lucky, because I represent Rochester, NY, where we have had the Clinton plan, for the most part, for about 40 years. So these tactics and misrepresentations don't affect us.

We started community rating about 40 years ago. We have about half the uninsured rate over the rest of the country. The premiums in Rochester, NY, are one-third less than the national average and we have administrative costs which are much smaller, about 4 percent less than other systems.

This health care plan will not hurt anybody. As a matter of fact, we have superb care. In Rochester we have nine hospitals that cooperate. We have hospitals that have 85 percent bed utilization. That lowers cost and we are constantly planning to meet future needs.

We have heard all this scare business before. Let me read something for the benefit of the Members. This is a comment that was made when the Medicare system was being debated in 1968.

> "One of the traditional methods of imposing statism or socialism has been by way of medicine." He urged his listeners to write to Congress opposing Medicare and warned, "If you don't do this, one of these days you and I are going to spend our sunset years telling our children and our children's children what it was like in America when men were free."

That was Ronald Reagan, with the spot paid for by the American Medical Association and the American Medical PAC, and played at Operation Coffee Cup, coffees put on by doctors' wives.

America, we have heard this all before.

Are we really the only industrialized nation on the planet that can't provide good, affordable care to all our people?

TRIGGERS: A DATE WITH DISASTER

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, I have just one comment first. I would like to suggest to the Members that the previous speaker apparently has obtained a waiver for her particular area, and I think we should make note of that fact.

Mr. Speaker, by now we have all heard about the various so-called triggers, being debated here on Capitol Hill and around the country.

As you know, those are the points in time, where if all our market reforms fail that federally mandated, Big Brother-like health care reforms could go into effect.

Those same triggers are being touted as areas of compromise, making health care reform more palatable for those Members of Congress who can't make a decision.

Let us face it. Triggers are just another way for Congress to postpone an action it is unwilling to take today.

Plain and simple, this is just another way for many of my colleagues to pass the buck. And all of us here know that buck is going to end up in only one place—right at the feet of the American taxpayer.

I want substantive health care reform. But I do not want us to rush to settle our differences and sacrifice the public's best interests in the process.

This is an American issue—not a Republican or Democrat one. Let us work together on resolving our differences, not on finding ways to abdicate our responsibilities. Triggers aren't the answer.

□ 1240

GENDER EQUITY BILL

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTCHINSON. Mr. Speaker, it has often been observed that our Tax Code is antifamily. One of the clearest examples is in the treatment of IRA's.

A two-wage earner household is eligible for IRA deductions of $4,000—however if one spouse stays at home, the couple is eligible for only $2,250.

Such a tax policy says that a mom who opts to stay at home and care for her young children is less valuable than the mom in the marketplace.

This situation can be corrected by passing the bipartisan IRA Equity Act.

This bill will encourage savings, ensure equity, and establish greater security and independence for women whose careers may be interrupted by child rearing and homemaking. The homemaker should not be treated like a second-class citizen.

If we are to recognize the importance of family values, we must start acknowledging the contributions of those spouses who elect not to work outside of the home. They, too, must be able to plan for their own retirement. For this reason, I urge my colleagues to cosponsor H.R. 3523, the IRA Equity Act.

WELFARE WASTE

(Mr. BAKER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAKER of California. Mr. Speaker, earlier this week, President Bill Clinton unveiled his welfare reform plan. His bill would cost more than $9 billion.

Do the American people really believe this reform plan will be worth the additional expense? Any reform plan that doesn't save the taxpayers money isn't really reform.

Bill Clinton was clever when he promised to end welfare as we know it. By moving a few welfare recipients from the Government welfare programs to Government make-work programs, the administration thought it could fool the American public.

But to the middle-class taxpayer who must shell out money to pay for this shell game, it's still the same old story: More Government, more taxes, and more spending.

Mr. Speaker, the people are tired of gimmicks. They are tired of tinkering. And they are tired of half-truths.

When it comes to the President's welfare reform plan, the Democrats are reinventing the Federal bureaucracy as we know it.

OLD WINE, OLD BOTTLES

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, the Clinton administration is claiming they have new ideas to bring to the health care debate.

This reminds me of the adage "putting new wine in old bottles." Except that the Clinton administration hasn't even gone that far.

There's no new wine here, just the same old, stale vintage of big spending, big taxing programs.

There is no new bottle either. One sniff of the cork and you know this is the same big government container we have seen before.

The only thing that is new here is the label. Instead of employer mandate, we now get the benign-sounding "triggers."

This is the same old chicanery from the same old winery that called taxes "contributions" just last year.

Fortunately, America has learned that it must look past the salesmanship to the basic question: Who pays? With this administration and with this plan they have learned the answer is they do.

HEALTH CARE VERSUS WELFARE REFORM

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, it is amazing that the same people President Clinton is purporting to help with his welfare plan are precisely the ones he will hurt with his health care plan.

The poor, the unwed mothers, the minorities are supposed to be the beneficiaries of Mr. Clinton's welfare plan.

These same groups will then be the victims of his health care plan. They will pay with their jobs, with decreased opportunities, and with raises they will never see.

It is incredible that when it comes to welfare and taking people off a government program the President could not be more cautious; but when it comes to health care and putting every American onto a Federal program he could not be more cavalier.

No wonder the White House loves universal access—it will make every single man, woman, and child a perpetual dependent of the Federal Government.

No wonder they are willing to talk about taking a few people off a Government program after 2 years when they are planning to put everyone on a Government program forever.

NEA—AN OUTRAGE AGAIN

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, an article in this morning's Washington Times shines a bright light on the National Endowment for the Arts, and what we see is not a pretty picture.

Year in, and year out, members of this body are told that the latest outrages funded by the NEA are aberrations, that the NEA is not responsible for the works of these so-called artists, and that it will not happen again.

Well, it has happened again. The Walker Art Center in Minneapolis received $104,500 in matching NEA grants in 1993 and hosted the following piece of performance art. On March 5, Mr. Athey, who is HIV positive, began his show by piercing his body with needles. He then proceeded to cut designs into the back of another man on stage.

Mr. Athey blotted the blood from the man's back with paper towels and proceeded to use a clothesline to run the bloody towels over his shocked audience. The Minneapolis Star Tribune reported that many in the audience scattered in near-panic trying to avoid the dripping blood.

As a famous actor was fond of saying, "Here we go again." It is obvious that something needs to be done about the NEA. Public outcry has not compelled the NEA to distribute its grants with perceptions of common decency in mind. Nor have mere words from Congress. It is time to send the NEA a message it cannot ignore. Please join me in voting to cut funding for the NEA.

WE'RE FROM THE GOVERNMENT—WE'RE HERE TO HELP

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, this weekend at town meetings in southwest Florida I met with constituents about the ongoing health debate. Their message was clear—they don't want less jobs, more taxes or bad medicine—they don't want "reform" if it means more bureaucracy and more Government control over their personal health choices. They spoke of the need to correct fraud and waste they encounter everyday in Government-run health care programs we now have and they resented—very much—the idea of having their ability to choose their own doctor restricted by Government fiat. They also see past the glib words and rosy promises of the White House sales staff trying to sell the Clinton plan—they know that plan would gut Medicare funding and lead to rationing. They also know the promised new drug and long-term-care benefits are quickly disappearing as Congress realizes it cannot afford to deliver on the President's promises. In sum, they don't buy the line—"trust me—I'm from the Government and I'm here to help."

CONFERENCE REPORT ON S. 24, INDEPENDENT COUNSEL REAUTHORIZATION ACT OF 1994

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 439 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 439

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (S. 24) to reauthorize the independent counsel law for an additional 5 years, and for other purposes. All points of order against the conference report and against its consideration are waived.

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida [Mr. GOSS], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 439 provides for the consideration of the conference report on S. 24, the Independent Counsel Reauthorization Act of 1994. The rule waives all points of order against the conference report and against its consideration.

Mr. Speaker, the conference report on S. 24 reauthorizes for 5 years the independent counsel provisions of the Ethics in Government Act which would allow the appointment of special prosecutors to investigate alleged wrongdoing by top executive branch officials, including the President.

□ 1250

The conference report creates a specific category of coverage under the law for Members of Congress, allowing the Attorney General to use the independent counsel process with regard to allegations against Members if doing so would be in the public interest.

The agreement would establish an extensive series of cost and administrative controls to restrain spending by the independent counsel and to ensure better oversight of their activities.

In order to enforce cost controls, the conference report requires GAO to conduct a financial review of independent counsel expenditure statements at midyear, a full audit at year-end, and another full audit at termination of each independent counsel's office.

The agreement further requires each independent counsel to designate an employee who will be responsible for certifying that expenses are reasonable and lawful, and who will be held liable for any improper spending.

In addition, the conference report requires the General Services Administration to provide space for the independent counsel in Federal buildings, unless GSA determines that other arrangements would cost less.

The conference report requires a review of the progress of the appointment of an independent counsel 2 years after that appointment and every year thereafter. In addition, the agreement requires an independent counsel to file a final report that includes reasons for not indicting individuals who are the subject of an investigation by the counsel.

Finally, the conference report contains a provision that was not included in either the House or Senate bill that would allow Whitewater special prosecutor, Robert Fiske, to stay on as an independent counsel. Under the original act a Federal employee cannot be named as an independent counsel. The agreement gives the courts the option to retain Mr. Fiske if the issue of Whitewater becomes an independent counsel investigation.

Mr. Speaker, House Resolution 439 is a fair rule that will expedite consideration of this important conference report. I urge my colleagues to support the rule and conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a bad bill and it is carried by a bad rule. More than 3 months ago, when this House first considered H.R. 811, legislation authorizing the independent counsel, many of us urged this body to extend its mandatory provisions to Members of Congress. That debate came in the context of ongoing allegations about impropriety and abuse of office by certain Members on both sides of the aisle. Because of the way the majority maneuvered the rules of this House during that debate, we actually were never given a clean shot at insuring that Members of Congress would be directly accountable under an independent counsel law.

Today, as we revisit this important issue, public concern about abuse of privilege, potential felonious activities and efforts at plea bargaining by one celebrated Member of the House has mounted to some new heights, I am sorry to say. But I doubt there is a newspaper or a TV station in this country that has failed to report in on that matter. People are simply fed up with the oft-repeated appearance of Members getting special treatment and avoiding accountability, whether it is exempting Congress from the laws it passes or whether it is extra-generous health coverage or perhaps pension benefits or any other special consideration for Members. People are upset about it.

Several weeks ago, as we discussed the legislation that funds the Congress, many of my colleagues on the other side of the aisle lamented what they see as Congress-bashing and grandstanding from Members seeking to reform this institution. But frankly, such cavalier dismissal of the legitimate concerns shared by hundreds of thousands of Americans, if not millions of Americans, at this point, is tantamount to shooting the messenger. The problem is not those of us who point out the perks, privileges, and special treatment for Members. The problem is that apparently some Members continue to believe they should be treated differently and live by different rules than the people we are all elected to serve.

The alleged wrongdoing characterized by the 17-count indictment of the chairman of the Committee on Ways and Means underscores the perception of arrogance of power and lack of respect for the rules that is hard to imagine, even by Congress' worst critics, and I must point out quickly at this juncture, that the chairman has been found guilty of nothing at this stage, but the damage to the House's credibility is real and we all know it.

I am, therefore, truly disappointed that the bill before us today still fails to guarantee mandatory congressional coverage. By leaving the decision of invoking an independent counsel in cases involving Members of Congress up to the Attorney General, this bill invites conflict of interest. In the current case, the administration's enormous stake in the outcome of the ongoing investigation was clear to everybody in this country and much commented on in the media. The President even made a supportive public appearance for the Member in question in his home district. We are relieved that so far those responsible for seeing justice served have managed to avoid succumbing to political pressure, and we congratulate them for that. But why leave the door open for such a possibility? Why not mandate congressional coverage and remove the temptation for undue interference under this and future administrations? We have that opportunity.

Mr. Speaker, today's rule waives all points of order against the independent counsel conference report. This is a very dangerous precedent. It is a way of doing business that does not allow complete deliberation and complete accountability. If we are going to do it here on a matter of this import, are we going to do it with things like health care, when we all know there is much at stake and we all know that we want a chance at the final product and not have something come out of a conference committee that has not been deliberated by either body and stuck in and protected with an ironclad protection as we have in this rule.

While I am grateful to the gentleman from Texas, Chairman BROOKS, for providing the Committee on Rules with the specific outline of the rules violations in this bill, I must object once again to a blanket waiver of the rules. There is no reason why the committee could not have granted specific rules waivers, if they were absolutely necessary. Why must we routinely discard all the standing rules of this House? I cannot answer that.

Members should take an especially close look at one provision in this bill referred to by the gentleman from South Carolina, a measure that was in neither the original House version nor that of the other body. I refer to the language pertaining directly to Robert Fiske, the special counsel currently investigating Whitewater-Madison Guaranty situation. As currently written, this bill allows Mr. Fiske to be named an independent counsel, a seemingly harmless change of title that has potentially costly implications for American taxpayers. Because of a little-known distinction, people who are under investigation by an independent counsel but who are not indicted could seek reimbursement for their legal costs. This is not the case for those being investigated by a special counsel, which is what Mr. Fiske is today. So by passing this conference report, Members will be opening up the opportunity for those Whitewater participants currently under investigation by Mr. Fiske to recoup their legal bills.

The big question is, who is liable for those fees should that eventuality arise? Is it the taxpayers? And if so, to whom would this retroactive change apply? And is there a limit to the liability?

Have the same folks who brought us retroactive tax raises now been inspired to bring up retroactive relief for Whitewater participants at the taxpayers' expense? A fair question and one that deserves debate.

All these questions must be carefully considered. I must remind Members that time and again this House rushes into things for which it is later sorry:

Catastrophic health comes to mind, so do many other things.

The taxpayers are usually the losers in that equation. I realize very well that the majority leadership has the power, they do have the power, to reserve the option to cover up misdoings. That seems to be an inside the beltway malady that can affect anyone in power in either party. But the public has spoken. They want Congress to obey the laws and play it by the rules. And an independent counsel helps make that happen, and it is, frankly, too bad that the Democratic leadership will not ensure that it happens with mandatory independent counsel cover for the Congress.

Mr. Speaker, I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, there has been some concern that history might get distorted when Disney opens up its theme park. I do not share that. I have no objection there. But I will say this: If Disney's history is no more valid than what we have just heard from the gentleman from Florida, some of the critics will be vindicated.

The gentleman was talking about going after Members of Congress. Let us be very clear. Why there was not an independent counsel in the case of the chairman of the Committee on Ways and Means and why there was not an independent counsel in the case of the ranking member of the Committee on Appropriations, the senior Republican.

□ 1300

George Bush did not want one. The law that was in effect when the investigation was begun of the chairman of the Committee on Ways and Means, the law that was in effect when the senior Republican in the Committee on Appropriations was indicted, allowed the Attorney General, George Bush's appointee, to name an independent counsel if he wanted to do that.

George Bush's Attorney General, Mr. Barr, said:

> No, I do not think there should be an independent counsel if we are investigating the senior Republican on the Committee on Appropriations. I do not think there should be an independent counsel if we are investigating the chairman of the Committee on Ways and Means.

As a matter of fact, Mr. Speaker, the independent counsel law was in effect for the 12 years of Republican administrations immediately preceding. About a dozen Members of Congress were indicted, and in no case did Edwin Meese or William Barr or Richard Thornburgh or William French Smith, the four Republican Attorneys General, ever use their unchallenged authority to name an independent counsel.

People who think that it is a terrible thing that there was not automatically an independent counsel when a Member of Congress was indicted should complain to the four Republican Attorneys General who declined to do that. As a matter of fact, pointing to someone who has been indicted without an independent counsel as proof that you need an independent counsel to get an indictment seems to me to strain logic even beyond where it often gets bent in these rules debates.

Mr. Chairman, the fact is that Members have been indicted and they have been convicted and they have been exonerated. This is simply a mistaken argument.

As a matter of fact, Mr. Speaker, the gentleman from Florida argued two ways, one, that Members of Congress get a great favor if they are not covered by the independent counsel statute and, two, the President and others in the Whitewater thing will be given a great favor if they are covered by the independent counsel law. He said, "Look, if you cover these people by the independent counsel, you might pay their legal fees."

Members can plead the alternative in court, but I do not think one should be allowed to argue in the alternative in a congressional debate. Which is it, a special favor to cover someone under independent counsel, or is it a special perk not to be under the independent counsel?

The fact is that this law, passed originally by Democrats under a Democratic President, opposed by Republicans, filibustered to death by Republicans in the Senate, that is why we have Mr. Fiske, because Republicans in the Senate filibustered this law to death at the end of the Bush administration. They were tired of honest investigations.

Now, Mr. Speaker, Democrats under a Democratic President are restoring the law.

Mr. GOSS. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Illinois [Mr. HYDE], a senior member of the Committee on the Judiciary.

Mr. HYDE. Mr. Speaker, in response to the remarks of the gentleman from Massachusetts [Mr. FRANK], there are real divisions on the wisdom or the constitutionality of an independent counsel. I do not blame anybody for thinking it is not a constitutional office.

Personally, I support the concept of independent counsel. I was present at the creation, back in 1978, when we put this together. I thought it was appropriate then and I think it is appropriate now.

What I do regret, Mr. Speaker, is that we did not take this opportunity to make it a better statute, because it is not a Republican administration that will be the object of any activities that may or may not ensue. I think we had the opportunity to have some accountability. We had the opportunity to broaden the coverage to include Congress in an effective way. We really have not done that. We have nibbled around the edges.

Mr. Speaker, I think the most egregious aspect of this rule, which after all is what we are talking about, is the fact that we are waiving a point of order about something that was not a conferenceable issue.

Mr. Speaker, what the conference has done is taken the law, which says—and I quote from section 593 of title 28, United States Code, subparagraph (b)(2): "The division of the court may not appoint as an Independent Counsel any person who holds an office of profit or trust under the United States." That is now Mr. Fiske, who is the special counsel, not the independent counsel, although, interestingly enough, he is being paid from the independent counsel's indefinite appropriation.

All independent counsels have a diamond-studded platinum credit card, without limit, so the Justice Department is not going to have his salary taken out of their appropriation. However, we have waived that in the conference; that is, in the rule, to permit Mr. Fiske, should the three-judge court decide, and should the Attorney General petition for an independent counsel—and I shall not hold my breath—to appoint Mr. Fiske.

Mr. Speaker, the objection to those amendments we offered to the bill to make it a better bill, a more effective bill, they were rejected as interfering with the independence of the court, but of course now, by suggesting indirectly that Mr. Fiske be the independent counsel, it seems to be the maximum interference with the court.

However, one aspect of this should be considered, Mr. Speaker. If, indeed, Mr. Fiske is appointed independent counsel and takes over the investigation of matters that he is now investigating, attorneys fees may be paid out of the independent counsel's indefinite appropriation; whereas if he remains special counsel, answerable to Janet Reno, each person who is investigated and indicted or whatever has to pay their own attorneys fees. That may be the real reason for this waiver.

Mr. Speaker, I had no real problem with the waiver, as a matter of fact, because there may be some good, solid reasons why Mr. Fiske, if it is determined to appoint an independent counsel, at least he will have the case in hand. He will not have to relearn things, which a new person might.

However, Mr. Speaker, if we are going to breach the rules of procedure by permitting the adoption of something that was in neither bill, and was not conferenceable, that same magnanimity, that same flexibility ought to have been granted to us so we could again revisit some of the things we wanted to put in the bill to make it more effective, like some meaningful accountability, like congressional coverage, like classified material provisions, including penalties for its mishandling. None of those requests were granted. The majority got just what they wanted and the minority got a warm handshake.

For that reason, Mr. Speaker, I am unenthusiastic about this rule, and will vote "no."

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Texas [Mr. BRYANT], the chairman of the Subcommittee on Administrative Law and Governmental Relations of the Committee on the Judiciary.

Mr. BRYANT. Mr. Speaker, I think it is regrettable that, in my view, while knowing better, Members will stand on this floor and assert that somehow or another a provision which was inserted for a very practical reason may have been brought to us due to any type of a sinister motive on the part of any Member or of the administration. The simple fact is, due to a Republican filibuster in the Senate, we could not pass the independent counsel law, which had been actually and timely acted upon by this body last year. So when the Whitewater matter came up, there was no independent counsel statute on the books and accordingly, the Attorney General appointed a special counsel.

The special counsel has done a great deal of work. The special counsel, by the way, is a member of the other party. It only makes sense that if we are going to pass the independent counsel statute again, that it be written in such a way so that if—if the court so chooses, this same person can be appointed independent counsel, rather than starting all over again with someone else.

There is absolutely nothing in this rule and nothing in this bill that in any fashion whatsoever enhances the ability of the President to reclaim attorneys fees or ask for reimbursement of attorneys fees at the end of the process, any more than he otherwise would be able to do.

I think it is a great mistake on the part of the minority to stand on the floor and not so subtly hint that there is some ulterior motive when there is none. I do not think it matches, in my view, the reputation for integrity or the abilities of the gentleman from Florida [Mr. GOSS], who first made this assertion.

Mr. GEKAS. Will the gentleman yield?

Mr. BRYANT. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Chairman, I say to the gentleman from Texas [Mr. BRYANT] that he piqued my interest when he said that the question of attorneys fees as to the President is not relevant here.

Would the gentleman respond to this question: If we did not adopt an independent counsel and simply allowed the Fiske persona to pursue the special counsel trail that he is now on, would attorneys fees be payable to any target of that investigation?

Mr. BRYANT. Mr. Speaker, no, they would not.

Mr. GEKAS. Is it not true, Mr. Speaker, that the independent counsel statute which the gentleman wants to adopt with this special language does, if the gentleman will continue to yield, retroactively seek to cover attorneys fees for the White House?

Mr. BRYANT. It most clearly is not retroactive in any respect whatsoever.

Mr. GEKAS. If the gentleman will continue to yield, I am not saying retroactive, but that is, it would put into play attorneys fees for White House would-be or actual targets; is that correct?

Mr. BRYANT. It does not put them into play.

Mr. GEKAS. Mr. Speaker, I ask the gentleman what is the purpose of the act?

Mr. BRYANT. It is completely irrelevant, Mr. Speaker. The purpose of the language is to permit Mr. Fiske to be named as independent counsel and to continue his work, rather than having to get into a situation where he might have another appointed independent counsel.

☐ 1310

It has nothing whatsoever to do with attorney's fees.

Mr. GEKAS. Mr. Speaker, if the gentleman will yield further, if we decided not to pass an independent counsel statute at all, could not Mr. Fiske continue to work as special counsel and the will of the Congress be met by the fact that he is continued as special counsel?

Mr. BRYANT. Certainly. The gentleman is correct.

Mr. GEKAS. Then why go through the independent counsel syndrome in order to bring Mr. Fiske on board again if it would not be for the substantial difference that exists, namely, attorney's fees?

Mr. BRYANT. There is a no requirement in this bill that Mr. Fiske be named the independent counsel, but the way it is written with this new provision, he could be named as independent counsel. That is the purpose of it.

Mr. GEKAS. Mr. Speaker, if the gentleman will yield further, what special powers would be given to him he does not have now if we go into independent counsel other than the question of attorney's fees? What other powers would he have?

Mr. BRYANT. First, the question of attorney's fees would not come into play even in that case. But this bill does not appoint Mr. Fiske independent counsel. It simply removes his ineligibility for appointment as independent counsel. That is all it does. Because the law says we cannot appoint someone on the Federal payroll. Mr. Fiske is actually from the private sector. He is only on the Federal payroll temporarily as special counsel. All we are doing is removing his disability. That is all this bill does.

Mr. GEKAS. Mr. Speaker, if the gentleman will yield further, do we need to have Mr. Fiske become eligible for independent counsel?

Mr. BRYANT. I certainly think it is a reasonable option in order that we might not repeat the entire process with a new independent counsel. Of course it makes sense, not to repeat the entire process.

Mr. GEKAS. Mr. Speaker, I cannot conjure up my thoughts into a picture of why independent counsel would come into play if the special counsel could not consider it his.

Mr. BRYANT. Mr. Speaker, reclaiming my time to conclude my remarks, I just simply say in good faith, and I think it is very clear to Members on the other side, this provision was put in here for a very practical purpose, so we would not have to go through a repetitive process. It does not in any way enhance anyone's ability to reclaim attorney's fees whatsoever. I urge the Members to vote for the rule. It is a reasonable rule, it is a very good bill, and let us move forward today and break this impasse.

Mr. GOSS. Mr. Speaker, I yield 6 minutes to the distinguished gentleman from the Commonwealth of Pennsylvania [Mr. GEKAS], the ranking Member of the Subcommittee on Administrative Law and Governmental Relations.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding me the time, and I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, I say to my friend, the gentleman from Texas, I certainly do not intend any sinister connotations. It was simply informational. It seems to me under the independent counsel statute those people that are targets of investigation who are not indicted are entitled, and I think they ought to be entitled, to reimbursement for their attorney's fees. I would have gone further and said people that are indicted but are found not guilty or who win on appeal ought to have their attorney's fees paid. I am not against that and I do not think it is sinister. I just think the Members are entitled to know there is a difference between independent counsel appointed by the court where attorney's fees are allowable and special counsel which is now Mr. Fiske's title where attorney's fees are not. That is my information.

Mr. BRYANT. Mr. Speaker, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Texas.

Mr. BRYANT. Mr. Speaker, the gentleman from Illinois [Mr. HYDE] makes a compelling point with which I completely agree. The point is, though, that there is nothing in this bill that permits the claiming of attorney's fees retroactively for what has already taken place.

Mr. HYDE. I did not say that. The gentleman from Pennsylvania [Mr. GEKAS] did.

Mr. BRYANT. Second, the other point is this: It is very clear to everyone that there was no motive behind this provision other than to make it easy to make Mr. Fiske independent counsel. Nobody cares about the payment of attorney's fees.

Mr. HYDE. I do not charge any sinister motives at all. The "sinister" was your word and I thought a little overdone.

Mr. BRYANT. It came from the other side and I felt it necessary to respond to it.

Mr. GEKAS. Mr. Speaker, I now seize back what is left of my time.

Mr. Speaker, I would join with the gentleman from Texas or with anyone else to create a special statute now to empower any special counsel, like Mr. Fiske is now, to also account for attorney's fees for those targets who are not indicted. That would be the proper way to proceed to finally dispose of the attorney's fees situation once and for all. That is the proper way to go. It still smacks of suspicious motivation to insert the Fiske language in the independent counsel statute which we are now considering.

Who believes or wants Mr. Fiske to become independent counsel? Because the gentleman from Texas and others say that is the only reason we have this language in, so that he can become independent counsel. Who is begging for that? Why do we need that, if he is conducting an investigation, has the witnesses before him, has subpoena powers, has discovery powers, has all the powers that independent counsel would have to continue investigation?

As a matter of fact, Mr. Barr, who has been mentioned here, did have special counsel on at least one occasion, perhaps two, in which the work was completed without any thought of independent counsel, which was anathema to him, which I acknowledge. He did not like the concept of independent counsel. But here we cannot remove the suspicion that pervades the sentence that is included in this statute beyond the scope of the conference, beyond the scope of what the House did, beyond the scope of what the Senate did in debating independent counsel but as an afterthought was added to allow this special language for the special prosecutor to be converted into independent counsel. That appalls me.

I wanted to say this. When the bill was moving through the House, I and others tried mightily to include Members of Congress as primary targets, as mandatory targets, as everyone knows. I was greatly disappointed that that was not included, because even though the gentleman from Massachusetts made a sparkling oration here about that, he did not account for something that is very special to him in previous debates on many other subjects before the Committee on the Judiciary, namely, the appearance of conflict, the appearance of favoritism. It appears to the American people if we do not put Members of Congress as possible targets of independent counsel that, indeed, we are trying to cover something. But that is a moot issue now.

I was willing to come to the floor when this conference came, knowing that we were defeated in our efforts to go on with the business. I was not even going to object to this bill. I was happy that the proposed statute includes a favorite subject matter of mine to which the gentleman from Texas agreed and helped me insert in the subcommittee deliberations; that is, a yearly report to the Congress of the doings of the independent counsel. That was a very good concept and it made this bill much better than it ever was. I was tempted to support it, notwithstanding my disappointment about the failure to include Members of Congress as targets.

Now Mr. Fiske comes in, whose work I endorse and who I want to succeed in his investigation, he comes in and poisons the atmosphere, that language does, by making me doubtful and worried about the manipulation of the independent counsel statute to address a subject which never came up until the last minute and which still is not a problem to be corrected in this devious manner. Rather, I want the gentleman from Texas to sit with me and craft a bill to amend whatever statute is required to allow special counsel to take into consideration attorney's fees but not go do end around the independent counsel statute.

Mr. BRYANT. Mr. Speaker, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Texas.

Mr. BRYANT. Mr. Speaker, I would like to make it very clear to the gentleman that this bill does not appoint Mr. Fiske as independent counsel. But it does provide in the event the Attorney General receives the information necessary to make her seek an independent counsel from the three Republican judges on that panel, they will be able if they choose to do so to make it Mr. Fiske. They do not have to, but they would be able to choose him. That is all it does.

Mr. GOSS. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, one of the things that has concerned me over the past several months is the objectivity of the special counsel.

Mr. Fiske was a friend and an associate in several cases in New York with Bernie Nussbaum, who was the right-hand man of President Clinton at the White House. Mr. Nussbaum has since departed for a number of reasons, but he and Mr. Fiske were close. As a matter of fact, Mr. Fiske, the special counsel investigating Whitewater, asked Lawrence Walsh, who was investigating Iran-Contra, to appoint Mr. Nussbaum as assistant or associate counsel.

□ 1320

That shows there is a pretty close tie.

Mr. Fiske recommended now-FBI Director Louis Freeh to be the head of the FBI to the White House, and Bernie Nussbaum, and Louis Freeh was appointed, and he is probably a good appointment, that once again shows a close tie to the White House, Bernie Nussbaum and Mr. Fiske.

Finally, Mr. Fiske and his law firm represented the International Paper Co. that sold hundreds acres for hundreds of thousands of dollars to the Whitewater Development Corp. His law firm and he represented the International Paper Co. that sold land to the Whitewater Development Corp. which he is investigating.

Now, I am not claiming there is something sinister here, but there at least is the appearance, the appearance of possible impropriety.

We come to this special provision that you are talking about now that will allow him not only to be the special counsel but to be appointed independent counsel. It appears to me this is done for a purpose, to make sure Mr. Fiske is rolled over into the independent counsel role in the event that this investigation and, in any event, that this law is passed. It is going to waive the prohibition against him possibly being appointed independent counsel.

Now, maybe there is nothing to all of this, but to the American people who know all the facts, they know that Mr. Fiske was tied to Mr. Nussbaum, not once, twice, but several times. They know that he and his firm represented the International Paper Co. that sold land to Whitewater, and he is investigating this.

There certainly is a cloud over this investigation, and to take away the prohibition which would allow Mr. Fiske not only to be special counsel but to become independent counsel would lead some to believe that maybe this is a way to mask the facts so that the public never knows what the heck went on with Whitewater.

In addition to that, there have been in recent days and weeks allegations raised and the possibility raised that some members of this administration in the White House may have been involved in laundering drug money through the Lasater firm, to three or four banks, one of which is in the Cayman Islands. I am not talking about the possibility that Patsy Thomasson down there, who was the chief financial officer for Lasater & Co. when he was indicted and convicted of drug trafficking in Arkansas, when $665 million in State bonds were sold by Lasater during that time, that this should be investigated as well.

Now, what I would like to see happen is for the independent counsel to investigate this. Now, if Mr. Fiske is rolled from special counsel into the independent counsel, there is a very good possibility that he and Janet Reno will say, "Hey, wait a minute, we do not want to investigate allegations of possible money laundering and drug trafficking. They are not relevant to Whitewater." But that should be investigated. We should have a full investigation of that as well as Whitewater.

I am just saying that the appearance, the appearance of possible impropriety by the investigation is something that I do not think we should allow to happen. It should be clean and aboveboard.

I know my colleagues are going to say, "Well, he is a Republican. There is no question about his allegiance." I think that begs the issue. It begs the issue, because he was tied to Nussbaum. He did recommend Nussbaum to the special counsel in the Iran/Contra investigation. He did recommend Louis Freeh to be head of the FBI. He did represent International Paper Co.

I just think this is something that we should not allow to happen.

This special counsel I do not believe should be rolled over into the special counsel statute, and I know that is what you guys are trying to do. I think it is very, very clear.

Mr. BRYANT. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Texas.

Mr. BRYANT. Mr. Speaker, the independent counsel is chosen by a three-judge panel, all three of which are Republicans. The case you just made against Mr. Fiske you can make to that court. We are not deciding that there today. We are simply saying, though, that if the court chooses to do so it might make Mr. Fiske independent counsel since it would seem reasonable he be able to continue.

Second, I would just point out that this grand conspiracy you just alleged apparently has no residence in the U.S. Senate, which approved this conference report unanimously without even taking a record vote on the matter.

Mr. BURTON of Indiana. Reclaiming my time, I am talking about the appearance, the appearance of possible impropriety.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. ARMEY], chairman of the Republican Conference.

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today in strong opposition to the rule.

When we began considering this authorization, I thought we would actually address some of the fundamental problems of the independent counsel law. However, many of the concerns raised by Members on this side of the aisle were ignored or swept under the rug. Now we are about to vote on a bill which puts us back at square 1 with no real reform of the independent counsel law in sight.

Mr. Speaker, the conference report does virtually nothing to extend the independent counsel law to cover Members of Congress or to bring financial accountability to the independent counsel's office, and it does absolutely nothing to limit the scope or duration of investigations, prevent frivolous inquiries, or correct past abuses and deter future corruption except in the case of Mr. Fiske and Whitewater, should that agreement be consummated.

In short, we have before us a bill long on style and very short on substance.

I encourage my colleagues to defeat the rule, send this back to the drawing board, see if we cannot come back with a more substantive proposition that can leave the American people no doubt that we are once more engaged in some aspect of the Whitewater whitewash.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, a lot has been said here today about who is going to pay on this Whitewater thing, and whether this is a good idea. But this is a not conferenceable item that has been talked about.

I am sorry to say the debate apparently got into using words like "sinister" and "suspicious" and so forth when it went to that question of motivations of Members of Congress. I do not think that those are appropriate words, and certainly my motivations for raising this question go more to the issues of straightening out what the implications are of this type of provision. I want to make sure we do not have unintended negative consequences on our legislation.

I think to way that people are not concerned about the costs of legal defense these days, of Members of Congress and the executive branch both, belies the reality. In fact, people are. I have just been handed a New York Times article. It appears that the White House is planning to solicit money for legal aid. And it refers to several Members of Congress in this article, who have been really hurt trying to pay defense costs, defending themselves against various allegations. This is a very relevant subject for all of us, and it is one that deserves a little further debate rather than coming in as a not conferenceable item that was not debated either in this House or the other body.

I do not think it is sinister to suggest that we ought to have deliberative democracy working on an issue that is this important. I suspect that the value of a good debate here would not only allow the will and the wisdom of the Members to shine forth, but I also think it would let the sun shine in on a little bit of what is going on here. This is an area where every time we try and hide from the public or anybody in the administration tries to reserve information, there is an upcry, and the media gets it, and we have yet another scandal.

I guess the question I would ask is: If this is such a good idea that we provide this provision to go from special counsel to independent counsel, then why was it not debated in the House or in the other body? I mean, why are we suddenly doing this at the last minute?

I admit there appears to be pluses and minuses to this issue after listening to gentlemen on our side and the other side of the aisle as well. And I am not convinced that I understand fully what all the implications will be.

□ 1330

I do not like to have to vote on legislation when there is the opportunity to do better. I suspect that that is the way many Members are going to feel on this. I think the other issue that is before us today is: We have talked a lot about policing ourselves in this body and doing as good a job as we can. Actually, we are not the judges of whether we police ourselves very well. The American people are the judges of that. And the American people are sending a pretty strong message out there that says they do not think we are doing a very good job of that. They seem to be saying to us:

> You know, maybe it wouldn't be a bad idea if we did mandate an independent counsel position for Members of Congress as well as members of the executive branch.

It seems to me that is a very, very fair debate and a very, very fair proposition to take up. It is one, sadly, that again we are not going to reach because of the rule that we are working under this day.

It is for that reason that I am going to urge that we defeat this rule. Let's go back to the drawing boards and try to straighten out this question of legal fees and who is going to be liable for them. Let's straighten out this question of why we should not make Members of Congress subject to the mandate of an independent counsel.

This is going to be one more of those questions that Members are going to have to answer as they go back about their business in the months ahead, saying, "Why did Congress exempt itself again from coverage by an independent counsel?"

That just is not going to play well.

Mr. Speaker, at this point I have no more speakers and no more requests for time on this side, and I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield as much time as he may consume to the distinguished gentleman from Texas [Mr. BROOKS], the chairman of the Committee on the Judiciary.

Mr. BROOKS. I thank the gentleman for yielding this time to me.

Mr. Speaker, let me first say I want to thank the gentleman from South Carolina [Mr. DERRICK] for managing this rule and for his longtime service on the Committee on Rules and say that we in this House, both Democrats and Republicans, will miss him.

Mr. Speaker, you will note Members are rising and applauding.

Mr. Speaker, the conference report on S. 24, the Independent Counsel Reauthorization Act, closely parallels the bill as it passed the House of Representatives. The Committee on Rules graciously granted the rule on the conference report to deal with three extraneous matters. Noncontroversial, but nongermane, language is included in the conference report at the insistence of the Senate Governmental Affairs Committee conferees, both Democrats and Republicans, and with the acquiescence of the House Government Operations Committee, which has jurisdiction over the subject matter.

That language, based on an amendment added to the Senate bill by the gentleman from Arizona [Mr. MCCAIN], requires an annual White House personnel report. We did not think that was too bad, and we thought you might even approve of that. The conference report also includes noncontroversial transition provisions which were not in the House- or Senate-passed bills, to describe how changes in the underlying statute would be applied in the case of two ongoing statutory investigations that began before the statute expired on December 15, 1992.

One of the transition provisions permits, but of course does not require, the court to consider Mr. Fiske, who presently serves as a regulatory independent counsel appointed by Attorney General Reno, as a possible, as a possible candidate to be appointed by the court as statutory independent counsel.

All of the transition provisions were unanimously agreed to by the Senate Democratic and Republican conferees and by a rollcall vote of the entire conference report by the House conferees.

And may I point out, and I point this out to my friend, the gentleman from Florida [Mr. GOSS], who is a man with a core of decency, sometimes obscured by rhetoric, but I want you to think about this: Mr. DOLE, who is the minority leader over in the Senate, and Mr. COHEN, as ranking Republican on the Senate committee, both endorsed the Fiske amendment as a reasonable, responsible operation. And the bill passed by voice vote in the Senate.

And you might as well understand that I am not going to appoint Fiske. I do not care whether they appoint him or not. The question is, should he be eligible? And if they wanted to appoint Fiske, if they wanted to do it, just have him resign the day before and appoint him.

You know, there is a way to skin the cat if you are determined to do it.

The legitimate, decent way is to make it possible.

If the Attorney General recommends him, if the three-judge court, made up primarily of Republican judges, decides that they want to appoint him and they make the decision alone, not you, not me, not Janet Reno, not the President, not anybody in this building; they make the decision, they issue the guidelines, the parameters of what they expect him to do.

They do that. I do not do that. The Judiciary Committee does not do that. The Government Operations Committee does not do that. The Rules Committee does not do that. The three-judge panel does it. And they will continue to do it as I think they should.

So, I thank the distinguished chairman and members of the Committee on Rules for their work, and urge my colleagues to adopt this rule.

Mr. GOSS. Mr. Speaker, will the gentleman yield?

Mr. BROOKS. I yield to my friend, the gentleman from Florida, a man with a core of decency.

Mr. GOSS. A court of decency?

Mr. BROOKS. A core—c-o-r-e.

Mr. GOSS. A core? Well, I appreciate that.

I appreciate the gentleman yielding.

Mr. Speaker, let me say that the articulate and clear explanation the gentleman from Texas has given about this particular provision would undoubtedly be of great benefit to all of the membership, and it should have been debated on this floor because I think the chairman very well could have convinced most of the Members that it was a good idea.

But we are going into this blind. Not all of the Members have had the opportunity to talk to those distinguished Members of the other body or the chairman of the committee, about all of the provisions of this. We have had a lot of queries on this side.

Our point, when we are talking about the rule, is that it is better to do this in the deliberative process, in the sunshine, through the committees and through debate on the floor, rather than shut it out in the Rules Committee and deal with a nonconferenceable item this way.

I think the gentleman would probably prevail on his point.

I do not see the need to protect it except for that rule.

I wish we had brought this in at the beginning of the process, is all that I can say.

Mr. BROOKS. If we had thought about it, we would have put it in the bill on the House side.

Mr. GOSS. Well, we thought—if it is such a great idea, why did we not do it?

Mr. BROOKS. We did not think about it at the time.

Mr. GOSS. OK, that is a fair answer.

Mr. DERRICK. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GOSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 243, nays 171, not voting 20, as follows:

[Roll No. 257]

YEAS—243

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Long
Lowey

Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Traficant
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Washington
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—171

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grandy
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Machtley
Manzullo
McCandless
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Spence
Stearns
Stump
Sundquist
Swett
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—20

Bentley
Carr
Chapman
DeFazio
DeLay
Dornan
Frost
Furse
Grams
Lloyd
McCollum
Mfume
Michel
Mineta
Schumer
Shaw
Slattery
Solomon
Towns
Valentine

□ 1401

The Clerk announced the following pair:

On this vote:

Mr. Mineta for, with Mr. Grams against.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. BROOKS. Mr. Speaker, pursuant to House Resolution 439, I call up the conference report on the Senate bill (S. 24), to reauthorize the independent counsel law for an additional 5 years, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of May 19, 1994, at page 10989.)

The SPEAKER pro tempore (Mr. BARLOW). The gentleman from Texas [Mr. BROOKS] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, last Congress the Independent Counsel Act died a less than honorable death—the result of bludgeoning and being held hostage by some Republicans who viewed a "good government" mechanism somehow as the enemy rather than as a trusted watchman. In the face of unrelenting hostility by the previous Republican administration—including the threat of a Senate filibuster—the law lapsed on December 15, 1992. Certainly, that was unfitting treatment for one of the few truly novel enhancements to our constitutional democracy in the 20th century. I am happy that many of the once ardent opponents of the statute have now experienced a change of heart in the past year and now embrace reauthorizing the statute.

The conference committee on S. 24 reported back to us a product that closely parallels the bill as it passed the House of Representatives. I might note that the House and Senate language on coverage of Members of Congress were virtually identical, and the express language covering Members of Congress is retained in this conference report.

As I noted during the rule debate, noncontroversial language mandating an annual White House personnel report to Congress is included in this conference report at the insistence of the Senate Government Affairs Committee conferees—both Democrats and Republicans. The conference report also includes noncontroversial transition provisions dealing with the application of the new provisions to the two ongoing statutory investigations begun before the statute expired on December 15, 1992.

One of the transition provisions permits—but, in no way requires—the court to consider the present regulatory Whitewater independent counsel appointed by Attorney General Reno as a possible candidate to be appointed by the court as a statutory independent counsel—should such an independent counsel be requested under this statute.

All of these transition provisions were unanimously agreed to by the Senate Democratic and Republican conferees, and by a rollcall vote on the entire conference report by the House conferees. In fact, the conference report was adopted by voice vote in the other body on May 24, 1994.

I heartily thank the distinguished House and Senate conferees for their fine work on this conference report, and I am proud to be associated in this work with them.

In conclusion, we have a fine conference report reflecting the will of the House of Representatives. As my colleagues will recall, President Clinton has always supported the reauthorization of the independent counsel statute. He is waiting to sign this conference report. I urge Members to take the final step needed to send it on to him by voting "aye."

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the American people should know very clearly that what we are about to do is to reauthorize, if the bill should pass, if the conference report should pass, reauthorize, come back into the picture, independent counsel. The American public will remember the horrendous experiences we have had with some of the previous independent counsel who have spent millions of dollars, one up to near $50 million over a long period of time, spending the taxpayer's money, to come to inconclusive decisions or decisions that later became obsolete and moot. Millions of dollars were spent by independent counsel. Knowing that that was the case, many Republicans on this side refused to acknowledge the necessity for an independent counsel of the type that we had before, the free-wheeling, free spending, unquartered kinds of independent counsel that seem to make the scene around here.

But now this new independent counsel statute that has been brought before us takes some salutory steps, and I am willing to acknowledge that.

□ 1410

As a matter of fact, pride of authorship prompts me to say that this bill is better than anyone before it because it carries one of my provisions. That provision is good for the American public. It says that an independent counsel every year must give a report to the Congress of what that counsel is attempting to do or is doing.

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, does the gentleman think we should have kept that in like we did, or is he against it now?

Mr. GEKAS. No. I am saying that that is a salutary provision and makes this bill better than the last one. Now I have to be convinced to vote for it.

Mr. BROOKS. Mr Speaker, did the gentleman vote for the last one?

Mr. GEKAS. Mr. Speaker, reclaiming my time, we are now in a position to say, my gosh, even if this bill is better than the last one before, reluctant as we might be because of the fallacies of the past independent counsel to consider that this would be a good bill, now we have some other flaws leaping out at us that make it impossible for many of us to support this legislation. And that is the Fiske fix to which the chairman referred in his opening remarks as being a mere transition type of language that facilitates the possibility of appointing the present Special Counsel Fiske as an independent counsel.

We do not need Fiske to become independent counsel, do we? I have asked that question rhetorically and practically with everyone.

If Mr. Fiske goes about his duties as special counsel, the Congress will have an opportunity to review his work and to thank him for his services when he completes his investigation and concludes it. Why do we need him to be in the wings to be created independent counsel? Who has asked for that? Whose motivation brings this language to the bill? Why are we so interested in having Mr. Fiske line up as a possibility of being appointed as independent counsel? He will not have any extra powers. He will have the power of subpoena, powers of discovery, all the lawyer-like devices that are available to him will not be expanded under the independent counsel.

There is only one difference. And that has to be explained by the proponents of this legislation to the satisfaction of the Members of the Congress of the American public. And that is this. Under the present special counsel authorization that Mr. Fiske has, if a member of the White House staff or the President or the First Lady should become the targets of investigation and those investigations do not merit an indictment against the President or the First Lady or any other member of the White House, then they will sigh a sigh of relief, but then they will have to pay their attorney's fees if they hired an attorney for any stage of these proceedings. And that is the special counsel purview of the authorization that he has.

Now, now we tell the American public, get this, if this bill, this conference report passes, the independent counsel language takes over and then, because of the language that we slipped in here, Mr. Fiske is designated and appointed as independent counsel, lo and behold, it is possible that under the current language of the independent counsel, now defunct and the new language of the independent counsel bill about to be passed, the attorney's fees for such targets can be paid, application for those attorney's fees can be made to the Court for reimbursement.

That is a devious way to get around the now seeming prohibition against attorney's fees being paid by the taxpayers for members of the White House who might be under investigation.

I tell Members here and now, and I told the gentleman from Texas during the debate on the bill, I am willing, if the Congress feels it is necessary, to work with him to create a special statute now to amend the special counsel and to give Mr. Fiske directly, through his investigation, the power to entertain attorney's fees for targets of investigation under his authorization, but not to left-handedly do an end run around the entire process by putting this Fiske fix into the independent counsel language. It taints the whole thing. It poisons the atmosphere. Use all the metaphors and facsimiles we can, it stinks. It has the scent of suspicion about it, and we ought to be careful.

Here we are now. I wanted to support this because it has my language in it for yearly audits, yearly reports to the Congress, which is a very good provision. And I wanted to support it notwithstanding the fight that we put up, many of us on this side, to include Members of Congress as targets of a possible investigation. But I am willing to live with the will of the Congress that says we cannot have Members of Congress as similar targets to members of the Executive. I think it is wrong, but I am willing to live with that. But I will not live with the stench of this language that no one has explained satisfactorily on the question of attorney's fees and the so-called transition to independent counsel.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

It is time to put to rest, once and for all, the strange allegation just heard that the so-called transition rule relating to Mr. Fiske is a ploy to permit retroactive reimbursement of attorneys fees to those persons now the subject of his current regulatory independent counsel investigation. The notion of such retroactivity is a red herring, pure and simple. It is not true.

Under the terms of the independent counsel statute, attorney fee reimbursement is available only for expenses incurred during an investigation conducted pursuant to the statute, under 28 U.S.C. 593(F), the operative words are:

> Upon the request of an individual who is the subject of an investigation conducted by an independent counsel pursuant to this chapter . . . the. . . court may . . . award . . . those reasonable attorneys' fees incurred by that individual during that investigation. . .

The Court, not the gentleman and not me, not the gentleman from Indiana [Mr. BURTON], not the gentleman from New York [Mr. FISH], not the gentleman from Illinois [Mr. HYDE], nobody we know, the Court, three-judge, Republican court may award those reasonable attorney's fees incurred by that individual during the investigation.

Thus, when Congress revives the independent counsel statute, it revives this rule about the award of attorneys fees; and that rule is clear that no award of attorneys fees incurred prior to the appointment of an independent counsel by the special court is permitted.

Let us also keep in mind that there is no guarantee of getting attorney's fees incurred during an independent counsel regime either. The basic standard for recovery of attorney's fees under the independent counsel law remains the same. If the matter would have been investigated by the Department of Justice in the absence of the independent counsel statute, there generally is no basis for such a recovery. And, by requiring the court to seek the views of both the Justice Department and the independent counsel on any fee requests received, and that is the law, the conference report makes it harder for independent counsel subject to obtain fees, even when they have to be granted by the court.

Ultimately, the availability of attorney's fees is up to the special court, the panel court, it is their judgment, to decide based on the facts involved in each fee request. But the terms of the law are very strict. And, I believe it beyond question that the issue of Mr. Fiske's eligibility to be an independent counsel has no bearing whatsoever on the outcome of any possible award of attorney's fees.

□ 1440

Mr. BROOKS. Mr. Speaker, I yield to my distinguished friend, the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Is it not true, Mr. Speaker, I ask the gentleman who has just yielded to me, is it not true that if Special Counsel Fiske were to continue through his present authorization, to the conclusion of his investigation, that no attorneys fees whatsoever would be authorized under his work or under the statute that has authorized his work?

Mr. BROOKS. Mr. Speaker, that is the law.

Mr. GEKAS. Mr. Speaker, that is the end of that question. If the gentleman will continue to yield, is it not true that prospectively, any new independent counsel undertaking a new investigation can, under that authorization, be empowered to grant applications for attorneys fees?

Mr. BROOKS. I am sorry, would the gentleman repeat that?

Mr. GEKAS. Let me rephrase that. If we adopt the conference report reauthorizing independent counsel, is it not true, Mr. Speaker, that at least prospectively thereafter, a new independent counsel having been appointed.

Mr. BROOKS. By the court.

Mr. GEKAS. That the reauthorization would allow attorneys fees applications to be made?

Mr. BROOKS. It will allow them to be made, but they must go to the court, and the court will decide whether or not they get them.

Mr. GEKAS. We understand that, Mr. Speaker.

Mr. BROOKS. That has been the law before.

Mr. GEKAS. Is it not possible, then, Mr. Speaker, if the gentleman will yield further, that what the prohibition is under the present special counsel authorization, that no attorneys fees can be paid members of the White House for any type of lawyers fees they incurred, that that can be changed when the same individual, Mr. Fiske, would become independent counsel prospectively for any further allegations that might be made against White House personnel?

Mr. BROOKS. It must be during the tenure of that independent counsel, Mr. Speaker. We cannot reach backward to the case 2 years ago.

Mr. GEKAS. I asked prospectively, once Fiske——

Mr. BROOKS. Prospectively, if one is eligible.

Mr. GEKAS. If the gentleman will yield further, Mr. Speaker, so that at least for prospective attorneys fees, the independent counsel will be able to allow recompense for that, where it could not under special counsel.

Mr. BROOKS. He cannot allow anything. It is allowed only if the court agrees.

Mr. GEKAS. I am talking about——

Mr. BROOKS. It could occur. It could happen.

Mr. GEKAS. If the gentleman will continue to yield, I was talking about the independent counsel statute, not special counsel himself, or independent counsel, but the answer is clear, if special counsel under this present system does his work, no attorneys fees can be paid.

Mr. BROOKS. That is correct.

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield 7 minutes to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, I thank my colleague for his generosity in yielding time to me.

Mr. Speaker, I have been a proponent and supporter of the independent counsel law from the time of its first enactment in 1978. I still support the concept of an independent counsel statute. This law stands as a symbol that the American system of justice should not, and does not, allow preference or favoritism to those serving in high public office. It is intended to ensure that personal or institutional conflicts of interest will not impede an impartial investigation, when there is specific and credible evidence that wrongdoing involving covered officials may have occurred.

But, having said that, I must admit that I am not pleased with many of the provisions in this conference report. The independent counsel law expired in December 1992. As this lengthy time frame indicates, Congress has had ample opportunity to study the operational history of this law and to make some badly needed changes in this statute. Unfortunately, despite our efforts on this side of the aisle, Congress has not taken full advantage of this opportunity.

There is no question but that prior independent counsel investigations have highlighted a number of serious shortcomings in this law. Questions have been raised about the excessive cost of these investigations, the lack of accountability once an independent counsel is appointed, and the open-ended nature of these investigations. Many have expressed concern about certain actions that have been taken under the auspices of this law that raise serious due process and legal fairness questions.

The bill we have before us purports to deal with some of these serious and fundamental problems. But, in my estimation, it fails to address these issues in an effective manner. Despite the use of promising subtitles like "Cost Controls," S. 24 actually allows independent counsel to continue to enjoy virtually unlimited budgets. The expenses of all independent counsel will continue to be paid out of a permanent indefinite appropriation and, thus, remain totally outside of the scrutiny of the annual appropriations process. Nothing in the final version of the bill changes this unusual funding mechanism—a policy choice made by Congress in December, 1987—which is at the core of the accountability and cost problems we face in this law.

Based upon the most recent cost figures provided to us, the total cost for the 13 investigations conducted to date under the independent counsel statute is in excess of $63,800,000 and $40 million of this was spent on 1 investigation. When we last considered this legislation—as H.R. 811—in the House of Representatives in February, my good friend and colleague, the gentleman from Illinois [Mr. HYDE] offered the Republican substitute which, among other things, would have subjected each independent counsel to the annual appropriations process 2 years after they were appointed. This approach, it seems to me, would strike a fair balance between the need for independence on the part of the special prosecutor with the very legitimate congressional oversight concerns about the open-ended nature and expense of these investigations. Under the Hyde proposal each independent counsel would have 2 years to demonstrate whether further investigation—and funding—was warranted. Unfortunately, this excellent idea was not adopted.

Also, this legislation continues a number of statutory loopholes that allow each independent counsel far too much discretion with respect to the expenditure of taxpayer dollars. For example, S. 24 directs each independent counsel to comply with Justice Department policies respecting expenditures of funds "except to the extent that compliance would be inconsistent with the purposes of this chapter." This exception language is far too broad—far too generous. Under it, each independent counsel is his or her own judge as to whether a particular expenditure is consistent with the purposes of this law or not.

Similarly, this legislation will require that the administrative arm of the judicial branch of our Government continue to provide administrative support and guidance—primarily, disbursement and accounting functions—for the various independent counsels. The Administrative Office of U.S. Courts has been providing these services for some years under an informal agreement with the Justice Department. Many have questioned the logic and propriety of this arrangement, since an independent counsel performs a prosecutorial, executive branch function, not a judicial one. Section 3 of the bill amends section 594(l) of title 28 prohibiting the Administrative Office from disclosing "information related to an independent counsel's expenditures, personnel, or administrative acts or arrangements" without prior approval from the relevant independent counsel. So, an agency of the judicial branch is prohibited from disclosing any information about the activities it undertakes on behalf of the independent counsel. To say the least, this is an unusual provision and one that is not particularly encouraging from an accountability and cost control standpoint. Does this provision mean, for example, that a House or Senate Appropriations Subcommittee could not request relevant expenditure figures from the Administrative Office? What does this provision do to the ability of the General Accounting Office to obtain accurate cost information?

When the House considered this measure back on February 9, I offered an amendment which was adopted as part of the House version of this legislation. It reflected my concern about the existing statutory language dealing with the salaries that can be paid to the employees of the various independent counsel. Under my amendment, adopted by this House just a few months ago, no more than two employees of the independent counsel were to be compensated at a rate equivalent to that paid at level V of the executive schedule—that is, $108,200. All other employees would be subject to a salary ceiling equivalent to the basic pay for GS–15 employees—that is, $86,589. Now, the conference report comes back, with no opportunity for input from me on this matter, providing that all employees of an independent counsel may be paid up to the level of ES–4 of the senior executive schedule, with a District of Columbia locality adjustment. What this translates to mean is that persons hired by an independent counsel could potentially receive up to $111,838 annually. This result is an odd way to achieve cost controls and is not consistent with the intent of the Fish amendment as adopted by this House.

Another problem that has received attention is the fact that national security information and classified documents have been mishandled, lost, and inappropriately disclosed during an independent counsel's investigation. The Republican substitute provided that it would be grounds for the removal of an independent counsel for good cause, if he or she violated Federal laws or regulations governing the maintenance, use, and disclosure of classified information. Failure to follow such procedures could subject an independent counsel to penalties under 18 U.S.C. 798. The proposal was not adopted. Instead, the conference report provides that "(A)n independent counsel shall comply with guidelines and procedures used by the (Justice) Department in the handling and use of classified material." But, once again, the ultimate judge of compliance will be each independent counsel himself or herself. The bill provides no sanction for the failure to follow such guidelines and procedures. If there is no sanction specified in this law—what standard will be applied and who will oversee possible violations?

Repeatedly during this debate, I have argued that each independent counsel should be required to follow established Justice Department policies and procedures regarding criminal prosecutions. From a due process, constitutional rights standpoint, it is simply not appropriate or fair that independent counsel are permitted to establish a different set of prosecutorial rules and standards than those followed by all other Federal prosecutors in this country. What does S. 24 do to resolve this problem? It amends section 594(f) of title 28 to say that an independent counsel "shall, except to the extent that to do so would be inconsistent with the purposes of this chapter, comply" with Justice Department policies in the enforcement of criminal laws. When, logically would it be inconsistent with the purposes of the independent counsel law to follow the time-tested rules and procedures followed in every other Federal criminal prosecution? Each independent counsel stands in the shoes of a Federal prosecutor. They stand in for the Attorney General, for the Criminal Division and for the U.S. attorneys in a specific case. In the course of these often-high visibility investigations, they should act wholly consistent with the same rules governing prosecutorial behavior in all other Federal criminal cases. This ensures consistency, fairness, and protects due process rights.

I would mention that S. 24 does provide for the division of the court to review every 2 years whether or not the termination of an independent counsel is appropriate. I have been a strong supporter of the idea that the division of the court, which appoints each independent counsel, should regularly revisit their decision and make a determination whether or not further investigation is justified. Unfortunately, however, the amendment in the bill to section 596(b)(2) does not go quite far enough. That is, before termination of an investigation, the court will have to decide that "all matters within the prosecutorial jurisdiction of such independent counsel * * * have been completed or so substantially completed" that the matter essentially is resolved. The "all matters" language makes it difficult for the division of the court to make a termination finding in many cases, particularly where the initial grant of jurisdiction to an independent counsel may have been a broad one. So, while the division of the court will revisit an appointment every 2 years, I am far from certain that this will result in significant reductions in the length of these investigations. The language is too deferential to assure that there will be no further waste of the taxpayers' money.

Finally, Mr. Speaker, S. 24 includes a provision that was not contained in either the House bill nor the Senate bill. This provision waives that portion of the law which prohibits the division of the court from appointing "any person who holds any office of profit or trust under the United States." 28 U.S.C. 593(c)(2). Thus, it would remove a statutory barrier that would prevent the court from selecting Robert B. Fiske Jr., the special counsel in the Madison Guaranty Savings & Loan Association case—that is, "Whitewater"—if the attorney general seeks the appointment of an independent counsel in the same case. This idea does not trouble me from an efficiency and continuity standpoint. However, Members should recognize that this provision does have implications as to whether persons being investigated by Mr. Fiske may eventually have their attorneys' fees reimbursed under the applicable provisions of a reauthorized independent counsel law. This proposal has never been the subject of hearings, has not previously been voted on by this body, and clearly was beyond the scope of the Conference Committee.

In conclusion, we had a genuine chance to establish effective cost controls, to assure greater accountability on the part of independent counsel, and to protect national security documents and classified information. Unfortunately, we have done very little to realize these goals. Mr. Speaker, this statute will be reauthorized for another 5 years but the likelihood is that Congress will have to revisit these same problems again in 1999. We have missed an opportunity to craft a significantly better independent counsel law and that is very unfortunate. I am disappointed by our failure to turn a good idea into a good law.

□ 1430

Mr. GEKAS. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, one of my favorite sayings coined by John Greenleaf Whittier is, "Of all sad words of tongue or pen, the saddest are these, it might have been."

Mr. Speaker, we might have had a very good statute here about a very important subject, namely, the inevitable conflicts of interest that arise in political affairs. I do understand increasingly as I get older that the struggle for freedom many times is a struggle over weaning Government, that the Government, because it is wielding public power, does not always do it in the public interest. The Government is made up of individuals who can be as susceptible to the foibles of human nature as anybody else and the experience of the Lawrence Walsh independent counsel adventure which went on some 6 years and cost beyond $35 million, because that does not include what was spent by the Government in complying with his requests, we ought to have learned something about the abuses of power and for the future tried to restrain this office within proper bounds, but we have not done so. The glaring faults of the old law that has expired remains subject to some little minor tinkering which will not make a great deal of difference.

I want to go on record as saying I support the concept of an independent counsel. I am well aware of the conflicts that can arise in the executive but they can also arise in the congressional branch of Government, and I think we need an independent counsel statute. So I am going to vote for this statute although with mixed feelings, because I think the abuses that we saw in the previous years are still incipient and latent within the four corners of this statute.

Most egregious is the lack of accountability as far as tax dollars are concerned. The independent counsel is the only creature known to American Government who is above and beyond the normal restraints of any other governmental agency. The soldiers in Desert Storm had to rely on an appropriation from Congress for their food, for their little tents, for their ammunition. The FBI as it goes about investigating crime must rely on congressional appropriation. So must the court that appoints the independent counsel. So must the National Institutes of Health. There is not an operation, a function, an agency in Government that does not depend on congressional appropriation. But not the independent counsel, an unlimited credit card, diamond studded, made of platinum that goes and goes and goes like Tennyson's brook, without an end.

Mr. Speaker, what we wanted was some modicum of accountability. We offered an amendment that said, "You can get more than any number of bites at the apple you want, but after 2 years, then you go through the appropriations process. You show what you spent, then ask for what you need and you will get it." Some cost accountability.

No, we still have an independent counsel that is the beneficiary of a permanent, limitless, endless, boundless appropriation.

I will grant Members, there is a gesture at accountability, because under the new law, there will be appointed an independent certifying officer, and he is to screen out, or she, screen out unnecessary expenditures. But note that this independent certifying officer is appointed by the independent counsel. His only real discretion is on travel. So we have an inspector general of sorts without any teeth. It is like an efficiency expert without a computer. No congressional coverage. The Attorney General must find it in the public interest before an independent counsel can be appointed for a Congressman.

Classified matter. We have the horrible story of the previous independent counsel's office having classified information in a suitcase when they went out to the west coast to take the deposition of Ronald Reagan, and then one of the lawyers tossed it to a red cap at the corner at LAX Airport and it was never seen again. Never seen again. It was not reported for a matter of several weeks.

It seems to me we should require the independent counsel to observe regulations concerning classified information. Yes, the new version says he should comport with regulations. But no penalty. The amendment was offered said it was grounds for dismissal from office failing to follow the regulations.

The jurisdiction of the independent counsel. The last independent counsel had a hunting license to go from Alaska to Key West looking for anything and everything, without limit, without let, without hindrance. We thought we ought to spell out a little bit the jurisdiction of the independent counsel so as to avoid the hunting license and the fishing license with an unlimited bank account. No, it was not to be.

Mr. Speaker, I am still going to vote for this bill, but with little enthusiasm.

Mr. Speaker, in 1978, as a member of the Criminal Justice Subcommittee of the House Judiciary Committee, I was involved in the enactment of the first Federal special prosecutor law. That law, of course, is now commonly referred to as the Independent Counsel Act. I was—you might say—present at the creation. I believed then, as I believe now, that a properly structured independent counsel law can play a positive role in our system of government.

But time and experience have shown that this is a law in dire need of comprehensive change—real reform. Since this statute went into effect in 1979, it has proven to be far too costly and one that grants far too much discretion to those appointed to serve under its authority. The very title "special prosecutor" carries with it a certain serious aura. It certainly is a term that makes for dramatic headlines and is easily adaptable for the lead story on the nightly news.

But, there is a sobering reality beyond the headlines and, sometimes, it is a reality that should concern us. This is a law that can be, and has been used as a tool of political retribution. It is a law that permits an independent counsel, once appointed, virtually unlimited power and provides that counsel with unlimited financial resources with which to pursue his or her probe. Our experience under this law has, at times, demonstrated that constitutional due process rights are not always well protected under the current statutory structure.

Consequently, when the authorization for this law expired in December 1992, I believed it was high time to rethink as well as to reauthorize. We now find ourselves in June 1994—so we certainly have had plenty of time to review the history and to make the necessary changes and reforms in this law. Unfortunately, we have not done so. The conference report—S. 24—before this House merely purports to make the needed reforms. The reforms that will be cited by some of my Judiciary Committee colleagues are really illusory. The language of this bill is replete with exceptions—escape hatches—which will continue to permit an independent counsel too much discretion with taxpayer funds and too much power with respect to the rights of innocent persons.

Allow me to quickly summarize where changes are needed and where S. 24 falls far short.

No change in congressional coverage: Under the conference version, Members of Congress are not automatically covered. There is no mandatory coverage. Instead, coverage of Members of Congress would continue to be a discretionary decision by the Attorney General. There is a new public interest test to determine applicability, but the bottom line is that Members of Congress are not specifically included as covered persons under the law.

Illusory cost controls: The conference version does not change the fundamental fact that all independent counsel are the beneficiaries of a permanent indefinite appropriation. What this means is that the funding for these various investigations has no limit—it is an open-ended, unrestrained expense account. So much for the cost controls referred to by my colleagues on the other side of the aisle.

During House consideration in February, I offered a comprehensive substitute bill that would have made each independent counsel subject to the annual appropriations process after the first 2 years of their investigation. Unfortunately, that compromise proposal was not adopted. Thus, independent counsel will continue to receive a never-ending, limitless source of funding. Interestingly enough, the Department of Justice has already decided to fund Mr. Robert B. Fiske's regulatory special counsel entity under this same indefinite appropriation.

Similarly, the conference version does not place significant limits on the salaries of the independent counsel's staff. Further, reimbursement for commuting expenses will now be limited to a mere 18 months. Why should it take a year and half to decide whether or not such an assignment deserves one's full-time attention? S. 24 also says that an independent counsel shall comply with the established policies of the Justice Department respecting expenditures—but then says: "except to the extent that compliance would be inconsistent with the purposes of this chapter." Guess who gets to decide whether or not compliance would be inconsistent with this law? Each independent counsel—himself or herself. Thus, we provide this court-appointed official a diamond-studded platinum credit card with no limits whatsoever.

Treatment of classified information: Another item of particular importance to me as a former member of the Select Committee on Intelligence is the treatment of classified information. New language will appear in the law stating that "[A]n independent counsel shall comply with guidelines and procedures used by the [Justice] Department in the handling and use of classified material." Unfortunately, unlike the substitute which I offered on the House floor, the new law will be silent as to what sanctions would apply if an independent counsel unlawfully discloses or otherwise misuses classified material. I believe that such irresponsible actions should be grounds for removal of an independent counsel. There have been a number of documented abuses regarding the handling and treatment of classified information in the recent past, and tough penalties should apply.

No precise definition of jurisdiction: The conference committee version also makes no change in the language of the law dealing with the responsibility of the division of the court to specifically define the jurisdiction of an independent counsel's inquiry. Broad, vague grants of jurisdictional authority to independent counsel have been a key problem with this law in the past. For Congress to leave this provision unchanged will have direct implications for the future cost of these investigations and potential unfairness to innocent persons dragged into these investigations.

Unfortunately, many of the reforms I have advocated were beyond the scope of the conference. This is true because they were not contained in either the House or Senate bill. But that is also true, I would note, of section 7(h) which is in the conference report. Section 7(h) specifically deals with the regulatory special counsel, Robert B. Fiske, Jr., waiving a provision that would otherwise bar his appointment as an independent counsel in the Madison Guaranty Savings & Loan case. See: 28 U.S.C. §593(b)(2). Again, this provision was not in either bill. Its inclusion sends a signal to the division of the court that the appointment of Mr. Fiske under a newly reauthorized independent counsel law would be OK with Congress. While there is a logic of continuity and efficiency to this singular waiver, it nevertheless raises questions as to whether we are interfering with the independence and discretion of the court in this case. Also, some have speculated that attorneys' fees can only be awarded if a statutory independent counsel is appointed, because no such authority exists in the case of a special counsel. See: 28 U.S.C. §515; 28 CFR §§600.1-.5.

Obviously, the final conference version of this legislation is a disappointment to me. Congress had the opportunity to respond to the legitimate criticisms and concerns that have been raised by State and Federal prosecutors, by lawyers and law professors and—most importantly—by the American taxpayer. This reauthorization bill simply fails to make the needed reforms. The very existence of the independent counsel law signifies the principle that no one should be above the law. We had the opportunity to ensure that those individuals who are appointed to serve as independent counsel are not above the law either. Unfortunately, we have failed to do so.

Mr. GEKAS. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I agree with some of the concerns articulated by my distinguished colleagues, the gentleman from Illinois [Mr. HYDE] and the gentleman from New York [Mr. FISH], but I would stress that while imperfect, this bill should be supported. In so doing, I would also like to stress that from talks with a large number of Members, that I think it is fair to say that it is the expectation that there is a decent prospect that the Justice Department will recommend to the court that the existing special counsel be turned into an independent counsel. However one votes on this bill, it is not intended as a vote of confidence or no confidence in this particular special counsel.

Mr. Speaker, in my judgment Mr. Fiske is an honorable man doing a very honorable job. I would stress that with regard to a change in status, there is no expectation that I know of in this body that the Justice Department would want to recommend to the court a midstream change in counsel. It would be the expectation as far as I know that this particular counsel might have his status changed, but not his role and that there would not be any curtailment of his existing mandate.

Finally, with regard to the issue that some have raised, quite understandably, about the cost of legal fees, I can only say that I think it is appropriate for any President to have the highest quality legal representation. There is precedent with other special counsels, particularly under the Reagan administration, for such legal fees to be provided, but even if there was no precedent, the only decent thing for a legislative body is to authorize and allow the finest legal representation for the President of the United States.

Mr. Speaker, I do support this measure. I wish frankly some Republican amendments had been looked at more carefully in the Committee on the Judiciary, but given the circumstances this is the right action to take at this particular time.

Mr. GEKAS. Mr. Speaker, I yield myself 1 minute to reiterate for the benefit of the gentleman from Iowa that I, too, favor an institutionalization, a statutory methodology by which the President of the United States could seek reimbursement for attorney's fees when under some circumstances he would be investigated and found not to be indicted.

□ 1440

What I object to is the unclear, cloudy, suspicious way in which this problem may be addressed through this legislation. That is the only thing, and the gentleman from Iowa should be certain of that.

Mr. Speaker, I yield 4 minutes to my colleague, the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I would like to tell my colleagues a story.

A fellow came to my office about 2 or 3 weeks ago, and his name was Dennis Patrick. Mr. Patrick was a fellow who used to be, I think, the youngest circuit court clerk or youngest court clerk in his county in Kentucky. He had a friend named, I believe, Steve Love, who was connected with the Lasater brokerage firm in Arkansas.

Mr. Love invited him to come on a trip with him, on a jet plane. It was like the rich and famous. He went on this jet plane on a trip, where he went deep sea fishing. During this trip, Mr. Love said that this Lasater & Co. firm wanted to make a deal with him where he would get $20,000 a month without any investment, just because they wanted him to open an account and help them with some brokerage operations down there.

Well, $20,000 a month with no investment sounded pretty good to this fellow. But he did not think it was going to come to pass. About a month later he got a call from Mr. Love, who said, "Come on down to Little Rock, because we are going to give you $21,000 as the first installment on your account." He said he would have roller-bladed down there for that kind of money. He went down to Arkansas, and a little naive, I might add. He went down and got $21,000. The money was deposited, I believe, in the First American Bank down there.

He went over there and signed some papers. That was the last he heard about that until about 6 months or 8 months later, I guess, two people from the firm came to his place in Kentucky, and they inadvertently, he said, or maybe on purpose, left a file folder with some transaction slips, and these transaction slips showed that in 1985 and 1986 there was between $60 and $109 million of bonds transferred through his account to Mr. Lasater's account and other accounts in three banks, one in the Cayman Islands.

He became very concerned about this, because he knew nothing of these transactions.

The financial officer in charge of Lasater & Co. was a lady named Patsy Thomasson, and she knew all about the financial transactions going on in his firm. So he was concerned maybe they were doing something like possibly laundering drug money, because Mr. Lasater was being investigated for drug trafficking in Arkansas, and during the time he was being investigated for drug trafficking in Arkansas, the Governor of Arkansas, then Mr. Bill Clinton, gave him $665 million in State bonds to be sold, from which Mr. Lasater made $1.3 million.

To make a long story short, Mr. Lasater was convicted of drug trafficking, got 2½ years in jail, but he only spent 6 months in a halfway house. Then his conviction was commuted by Governor Clinton.

During the time he was in the halfway house, Mrs. Thomasson, over at the White House now, conducted all of his business activities, and during 1985 and 1986, as I said, between $60 and $109 million went through his account without his knowledge.

There is some question about where that money came from, especially in view of the fact Mr. Lasater was convicted of drug trafficking.

Incidentally, I must tell you that Mr. Patrick, after he started asking questions about this, they tried to kill him three times. This is not only documented. The men that tried to kill him were convicted and went to jail. They tried to kill him three times. So somebody, he believes, was trying to cover up his questions about the money going through this account. As I said before, the chief personnel officer at the White House, Patsy Thomasson, was chief financial officer of that firm at that time.

I wrote to Mr. Fiske asking him to expand the Whitewater investigation into possible laundering of drug money through the Lasater account, or through the Lasater company, and through Mr. Patrick's account. And I also asked that Mrs. Thomasson be investigated, because she was the chief financial officer and would have been aware of all of these transactions.

I have not yet heard from Mr. Fiske. However, the reason I am taking the floor right now is to inform the House that if we pass this independent counsel statute, as I believe we are going to today, and if Mr. Fiske declines to expand the Whitewater investigation into the possible laundering of drug money, then I will ask whoever is appointed independent counsel to investigate these allegations, these possibilities, because if $60 to $109 million in drug money was laundered and somebody at the White House may have been involved, it most certainly should be investigated by the special counsel.

Mr. GEKAS. Mr. Speaker, I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield the balance of my time to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Mr. Speaker, the conference report on S. 24, the Independent Counsel Reauthorization Act of 1994, very closely tracks House Resolution 811, which passed the House earlier this year by a vote of 356 to 56. Like the House-passed bill, the conference report reauthorizes the independent counsel for 5 years and maintains the basic structure of the act which expired, unfortunately, in December 1992. Even though we were prepared to pass it, it was killed by virtue of, in effect, a filibuster coming from the other side.

We have persisted. We have acted as rapidly as we possibly could, and we have brought it back to be passed again.

The independent counsel law required the Attorney General to review credible and specific allegations of serious wrongdoing by high executive-branch officials and to seek the appointment of independent counsel to investigate the allegations if the Attorney General determined that further investigation was warranted.

The conference report also preserves the Attorney General's discretionary authority to seek appointment of an independent counsel to investigate allegations of wrongdoing by anybody else covered by Federal criminal law if the case may result in a personal, financial, or political conflict of interest for officials of the Justice Department.

It also follows the House-passed bill by putting in place strong rules and procedures to prevent wasteful spending. I am concerned that we have not fully satisfied the concerns expressed by the gentleman from Illinois [Mr. HYDE], because he has participated in this process in very good faith. We have, however, taken, in my view, steps that go as far as we possibly can go without compromising the independence of the counsel. Specifically we have required a specific employee be assigned to the duty of certifying the expenditures and to certifying that they are reasonable and in accordance with law.

To comply also with established policies of the Department of Justice regarding the expenditures of any funds, it is his obligation and obligation of the independent counsel, and he must also follow the same Federal laws and regulations that apply to travel by employees of all executive branch agencies.

We have gone a very long way in attempting to address the concerns of a number of Members with regard to the ability of the independent counsel to spend, but it is more important that he be independent than that we cover every possible abuse and prevent every possible abuse in the future.

To insure that the new rules are followed, the conference report would require independent counsel as well to submit annual reports of expenditures to the Congress. I think we have gone as far as we could possibly go, and also maintain the independence of this independent counsel.

The conference report also places further restrictions on the salaries that are paid to individuals who are employed by independent counsel employees, and it amends the act to provide an explicit category of coverage for Members of Congress.

Now, I regret the points that have been made earlier. But this House and the other body specifically voted to adopt the provision that is in this bill which allows the Attorney General to exercise her discretion to apply for the appointment of an independent counsel with regard to a Member of Congress. She would be able to use the independent counsel process with regard to a Member of Congress whenever she determined that it was in the public interest for her to do so.

With this change, any confusion that may exist about whether Members of Congress are covered by the law is ended once and for all.

The agreement also contains a number of provisions that were in the Senate bill but not in the House bill. It would lengthen, for example, for 15 to 30 days as the period of time allowed for the Attorney General's initial review of allegations, and deletes from the act the requirement that the independent counsel state the reasons for not indicting anyone who is under investigation.

It includes a nongermane provision regarding requiring the White House to report annually on personnel employed in the executive office of the President, that was sought by Members from the other side.

It also includes a number of transition provisions as well that deal with existing independent counsel that are presently operating and takes account of the fact that the conversion of this statute to their situation requires a few provisions which are not controversial.

□ 1450

Finally, I would simply respond to the many statements that have been made with regard to attorneys fees and so forth by saying once again this conference report was approved by a unanimous vote of the other body. Surely the Senator from Iowa, Mr. DOLE, as minority leader, surely Mr. STEVENS, as a member of the conference, surely Mr. COHEN, as a member of the conference, are diligent enough and dedicated enough to have spotted any indication of any of the conspiratorial motives that might have lain behind the adoption of this provision had they existed. They did not exist.

Simply put, we want the three-judge court to have the option, if it chooses to do so, to convert Mr. Fiske from a special counsel to an independent counsel. But that decision will be made by the three-judge court, not by the passage of this statute.

This is a historic statute that has served this country well. We have attempted to make it a little bit better and to reenact it in order that the country might know that high public officials who may be so personally close to the Attorney General that we could not reasonable expect them to be treated in the same way that every other American is going to be treated, will be treated the same way every other American is treated by an independent counsel that is able to act in the public interest.

I urge the Members to vote in favor of the approval of the conference report.

Ms. FURSE. Mr. Speaker, as I was the last time the House considered this legislation, I am concerned about provisions in this bill which set a different standard for Congress and the executive branch. While executive branch officials are subject to the provisions of S. 24, there is no requirement in this legislation that credible evidence of wrongdoing by a Member of Congress will be investigated by the Justice Department or a third party.

Action is needed to restore the public's faith in Congress. Although I believe it could go further, I will support this legislation because Members of Congress are explicitly listed as possible subjects of independent counsel investigations. I do so, however, reiterating the fact that Congress must at all times avoid setting a different standard for itself.

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. BARLOW). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GEKAS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 317, nays 105, not voting 12, as follows:

[Roll No. 258]

YEAS—317

Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Bachus (AL)
Baesler
Baker (LA)
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (FL)
Brown (OH)
Bryant
Byrne
Calvert
Camp
Canady
Cantwell
Cardin
Castle
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Dornan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Engel
English
Eshoo
Evans
Everett
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Furse
Gallegly
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoekstra
Holden
Horn
Hoyer
Huffington
Hughes
Hutto
Hyde
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Klug
Knollenberg
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Long
Lowey
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McDermott
McHale
McKeon
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Olver
Ortiz
Orton
Owens
Oxley
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Porter
Poshard
Price (NC)
Rahall
Ramstad
Rangel
Reed
Regula
Reynolds
Richardson
Ridge
Roemer
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shaw
Shays
Shepherd
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Snowe
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zimmer

NAYS—105

Abercrombie
Archer
Armey
Baker (CA)
Ballenger
Bartlett
Barton
Bateman
Bentley
Bliley
Boehner
Bonilla
Brown (CA)
Bunning
Burton
Buyer
Callahan
Coble
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Dickey
Doolittle
Dreier
Duncan
Emerson
Ewing
Fields (TX)
Gekas
Gingrich
Goodlatte
Goodling
Goss
Grams
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoke
Houghton
Hunter
Hutchinson
Inglis
Inhofe
Istook
Johnson, Sam
Kim
King
Kingston
Kolbe
Kyl
Lewis (FL)
Lewis (KY)
Linder
Livingston
Lucas
Machtley
McCollum
McHugh
McInnis
McMillan
McNulty
Michel
Moorhead
Murphy
Myers
Nussle
Packard
Paxon
Petri
Pombo
Portman
Pryce (OH)
Quillen
Quinn
Ravenel
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Schaefer
Sensenbrenner
Shuster
Smith (OR)
Smith (TX)
Spence
Stearns
Stump
Sundquist
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Vucanovich
Walker
Walsh
Wilson
Zeliff

NOT VOTING—12

Carr
Chapman
DeFazio
Frost
Lloyd
Mineta
Obey
Pelosi
Slattery
Solomon
Valentine
Washington

□ 1514

Messrs. KINGSTON, THOMAS of Wyoming, GOODLING, ISTOOK, HERGER, and ROYCE changed their vote from "yea" to "nay."

Mr. BLUTE changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report on S. 24 which was just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERSONAL EXPLANATION

Mr. MFUME. Mr. Speaker, I was unavoidably detained earlier this morning and missed the previous vote, which was rollcall No. 257 on the rule for consideration of S. 24. Had I been here, I would have voted "aye."

GENERAL LEAVE

Mr. STOKES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4568, Supplemental Appropriations for HUD for fiscal year 1994, and that I may include tabular and extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

SUPPLEMENTAL APPROPRIATIONS, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, 1994

Mr. STOKES. Mr. Speaker, pursuant to the order of the House of Friday, June 7, 1994, I call up the bill (H.R. 4568) making supplemental appropriations for the Department of Housing and Urban Development for the fiscal year ending September 30, 1994, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of the bill, H.R. 4568, is as follows:

H.R. 4568

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide supplemental appropriations for the Department of Housing and Urban Development for the fiscal year ending September 30, 1994, and for other purposes, namely:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

FEDERAL HOUSING ADMINISTRATION

FHA—MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT

During fiscal year 1994, additional commitments to guarantee loans to carry out section 203(b) of the National Housing Act, as amended, shall not exceed an additional loan principal of $35,000,000,000.

FHA—GENERAL AND SPECIAL RISK PROGRAM ACCOUNT

For an additional amount for the cost of guaranteed loans, not to exceed $18,080,000, as authorized by the National Housing Act, as amended (12 U.S.C. 1715z-3(b) and 1735c(f)), of which $8,080,000, shall become available upon enactment: *Provided*, That such costs, including the cost of modifying loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That notwithstanding any limitation for fiscal year 1994 in section 531(b) of the National Housing Act, these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $3,000,000,000: *Provided further*, That during fiscal year 1994, the Secretary shall sell without recourse assigned mortgage notes having an unpaid principal balance of up to $180,000,000, which notes were originally insured under section 221(g)(4) or title X of the National Housing Act: *Provided further*, That of the amount appropriated herein, an amount equal to the lesser of $10,000,000 or the excess of the net proceeds from the sale of mortgage notes above $88,900,000 shall become available only after such sale has been completed.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES LOAN GUARANTEE PROGRAM ACCOUNT

During fiscal year 1994, additional commitments to issue guarantees to carry out section 306 of the National Housing Act, as amended (12 U.S.C. 1721(g)), shall not exceed $55,000,000,000.

The SPEAKER pro tempore. Pursuant to the order of the House of Friday, June 17, 1994, the gentleman from Ohio [Mr. STOKES] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. MCDADE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Ohio [Mr. STOKES].

Mr. STOKES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4568, the FHA-Ginnie Mae supplemental appropriations bill. H.R. 4568 is a single purpose supplemental appropriations bill that would provide increased housing loan commitment authority for the Department of Housing and Urban Development.

On June 6, the administration requested that the current 1994 limitations on FHA and Ginnie Mae guaranteed loans be increased. Specifically, the following requests were submitted.

The administration requested that the FHA-mutual mortgage insurance limitation on guaranteed loans be increased by $35 billion—from $84.6 billion in the 1994 Appropriations Act to $119.6 billion.

The request also proposed that the FHA-general and special risk insurance limitation on guaranteed loans be increased by $3 billion—from $15.4 billion to $18.4 billion.

An increase in the appropriation subsidy for the FHA-general and special risk fund of $18,080,000 is also proposed. Of this amount, $8,080,000 is offset by additional receipts from an expansion in the condominium mortgage insurance program. The balance of $10 million is contingent upon the sale of mortgage notes at a greater than estimated value to the Government.

Finally, the administration requests an increase in the commitment authority for the Ginnie Mae mortgage-backed securities program of $55 billion—from $130 billion provided in the 1994 Appropriations Act to $185 billion.

Lower interest rates and a high level of mortgage refinancing in the first part of fiscal year 1994 caused more loans to be guaranteed than had been anticipated. Mortgage interest rates have risen recently and the volume of loan guarantees for the FHA and Ginnie Mae programs have fallen off a little. Still, the department estimates the loan limitations for both FHA and Ginnie Mae will be exhausted by mid-July—if not before.

As presently scheduled, the 4th of July recess does not end until mid-July. To avoid any disruption to the housing market and the economy because the FHA could not guarantee any more housing loans, the committee is recommending that the requested increases to the loan limitations for both the FHA and Ginnie Mae be sent to the President prior to the beginning of the 4th of July recess.

I urge Members to vote for H.R. 4568.

Mr. Speaker, I reserve the balance of my time.

Mr. MCDADE. Mr Speaker, I yield myself such time as I may consume.

□ 1520

Mr. Speaker, I rise to join my distinguished friend from Ohio, the chairman of the Subcommittee on VA, HUD and Independent Agencies, and the ranking minority member, the gentleman from California [Mr. LEWIS], who does such an outstanding job, in urging support for this supplemental. I know of no controversy, and we ought to mark down this day as a red-letter day, because this bill has no cost to the Federal Government.

As all of my colleagues know, the FHA and GNMA Mortgage Insurance and Loan Guarantee Programs pay for themselves. They are the main mechanisms by which we achieve low down payment housing for first-time buyers, middle-income people and lower-income people in this great country who want to realize the American dream of home ownership.

There is a third program, the General and Special Risk Program account, in here, which has a minimal cost but it is offset to everybody's satisfaction. There is no argument or dispute about it.

I take one moment of caution just to say that there is a HUD audit out there that the inspector general has commissioned with Price Waterhouse, and it continues to outline problems in the financial and accounting management at the Department of Housing in a general way, not related to this bill, Mr. Speaker, but related to HUD in its general management. And all Members need to take an interest in it, in that the long-term success of all housing programs depends on these management problems being addressed.

I urge adoption of this bill.

Mr. Speaker, I urge the adoption of the bill, and I reserve the balance of my time.

Mr. STOKES. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Texas [Mr. GONZALEZ], chairman of the Committee on Banking, Finance and Urban Affairs.

Mr. GONZALEZ. Mr. Speaker, I want to announce that I certainly will not think of using 5 minutes. It is not necessary in order to say the essential thing that ought to be said here, and that is that I join the chairman and the ranking member of the Appropriations subcommittee in this very efficient and rather quick response to a need in raising these levels on guarantees. The FHA has even, according to Price Waterhouse's own report to us, the subcommittee, authorizing subcommittee, has turned around and its capital standards are such that they exceed what we mandated in the 1990 Comprehensive Housing Reauthorization Act, in excess of 1.35 percent.

And they reach 1.44. And within reasonable time, if they keep on doing the business they are doing, again, bringing FHA where it has been, it should be 2 percent.

So I want to compliment the gentleman from Ohio [Mr. STOKES] again, and the members of the subcommittee, for responding quickly in order to ensure that the FHA is able to do the business and continue their guarantee program.

Mrs. ROUKEMA. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentlewoman from New Jersey.

Mrs. ROUKEMA. Mr. Speaker, I would certainly like to associate myself with the remarks of the chairman of the Subcommittee on Housing and Community Development and rise also in support of this provision. I believe it is well thought out and certainly it has the support of the committee on both sides, bipartisan support.

Mr. GONZALEZ. Mr. Speaker, I want to recognize the gentlewoman from New Jersey [Mrs. ROUKEMA] and her tremendous contribution to the authorizing committee and also say that heretofore where we have had these difficulties in reaching authorization legislation in prompt and sufficient time before appropriation that never have we had the cooperation from the appropriation level as we have had from the gentleman from Ohio [Mr. STOKES]. I am very grateful. Again, I reiterate my profound thanks to the gentlewoman from New Jersey for her great contributions to the housing and urban development laws of our country.

Mrs. ROUKEMA. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I rise in support of H.R. 4568, the HUD supplemental appropriations for fiscal year 1994.

On June 6, due to a high demand for FHA loans and refinancings, which were a direct result of the current low mortgage rate interest environment, the administration submitted a request for supplemental Federal home mortgage loan and guarantee commitment authority for the FHA.

The request would increase fiscal year 1994 loan guarantee authority for the FHA Mutual Mortgage Insurance Program [MMI] by an additional $35 billion. It would also provide an additional $3 billion for loan guarantees for the general and special risk insurance programs.

The Ginnie Mae commitment guarantee authority for principal and interest payments on mortgage-backed securities issued by Ginnie Mae would be increased by $55 billion.

Both of these measures are necessary to allow the FHA and Ginnie Mae to provide homeownership opportunities for thousands of American families who are seeking to share in the American dream of homeownership.

Generally, Mr. Chairman, these extensions are considered within the context of an authorization bill, but because these current loan commitment levels are about to be reached, and it is uncertain how long an authorization bill would take, it is appropriate to address these issues in this legislation.

I want to acknowledge the cooperation of Chairman STOKES and Ranking Member LEWIS of the VA, HUD, and Independent Agencies Appropriation Subcommittee and Chairman OBEY and Ranking Member MCDADE for their continued willingness to recognize the role of the authorization committee and to consult with us as we move these initiatives through the legislative process.

I urge the Members to support this legislation.

Mr. FAWELL. Mr. Chairman, as cochairman of the Porkbusters Coalition, I rise to commend the Appropriations Committee for reporting such a "clean" bill. Often the Porkbusters cite unauthorized projects in the 13 appropriations bills that pass the House and Senate. The last supplemental appropriations bill, making appropriations for the California earthquake, contained several unauthorized projects. But, Mr. Chairman, the bill we see before us today is a clean bill and does not contain a single unauthorized project.

I commend Mr. OBEY and the Appropriations Committee on this accomplishment. There are no waivers of House rules necessary for this bill. There would be no justification for a closed rule. The Porkbusters and I are hopeful for more appropriations bills that adhere to this standard.

Mr. STOKES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MCDADE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CLEMENT). Pursuant to the order of the House of Friday, June 17, 1994, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. STOKES. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 410, nays 9, not voting 15, as follows:

[Roll No. 259]

YEAS—410

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Furse
Gallegly
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Grams
Grandy
Green
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Long
Lowey
Lucas
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Nussle
Oberstar
Olver
Ortiz
Orton

Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—9

Burton
Coble
Crane
Gekas
Goss
Lewis (FL)
Miller (FL)
Stump
Walker

NOT VOTING—15

Carr
DeFazio
Dingell
Ford (MI)
Frost
Greenwood
Lloyd
Mineta
Obey
Pickle
Sharp
Slattery
Solomon
Valentine
Washington

☐ 1548

So the bill was passed.

The result of the vote was announced as above recorded.

The motion to reconsider was laid on the table.

REPORT ON H.R. 4606, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES, APPROPRIATIONS, 1995

Mr. STOKES, from the Committee on Appropriations, submitted a privileged report (Rept. No. 103-553), on the bill (H.R. 4606) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. YOUNG of Florida reserved all points of order on the bill.

APPOINTMENT OF CONFEREES ON H.R. 4278, SOCIAL SECURITY ACT AMENDMENTS OF 1994

Mr. JACOBS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4278) to make improvements in the Old-Age, Survivors, and Disability Insurance Program under title II of the Social Security Act, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

☐ 1550

The SPEAKER pro tempore (Mr. CLEMENT). Is there objection to the request of the gentleman from Indiana? The Chair hears none, and, without objection, appoints the following conferees: Messrs. GIBBONS, ROSTENKOWSKI, PICKLE, JACOBS, FORD of Tennessee, ARCHER, BUNNING, and SANTORUM.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 4277, SOCIAL SECURITY ADMINISTRATIVE REFORM ACT OF 1994

Mr. JACOBS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4277) to establish the Social Security Administration as an independent agency and to make other improvements in the Old-Age, Survivors, and Disability Insurance Program, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. CLEMENT). Is there objection to the request of the gentleman from Indiana?

There was no objection.

MOTION TO INSTRUCT CONFEREES OFFERED BY MR. SANTORUM

Mr. SANTORUM. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SANTORUM moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill H.R. 4277 be instructed to insist upon section 231 of the House bill.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. SANTORUM] will be recognized for 30 minutes, and the gentleman from Indiana [Mr. JACOBS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to offer this motion to instruct on a provision that is agreed to that was formulated in the committee by the gentleman from Texas [Mr. PICKLE] and myself as a result of hearings that were held in the Oversight Subcommittee.

Mr. Speaker, I want to commend the work done by the Oversight Subcommittee in ferreting out what was another example of how fraud-ridden the SSI program is and how much work needs to be done to deal with, I believe, the most fraud-ridden program in the Federal Government.

Mr. PICKLE and the gentleman from New York [Mr. HOUGHTON] held a hearing, I believe, in February of this year which exposed a scandal in California, or reported the scandal here to Washington, having to do with third-party translators, people who were translators for individuals who were seeking disability benefits.

These translators were Vietnamese in this case who were going out on the street, recruiting people to come in and claim disabilities when, in fact, they were not disabled. They went in and set up a clinic with a doctor who was willing to cooperate in this fraud, got certificates that these people were, in fact, disabled, six-page reports that were done with a 2-minute examination, witnessed by undercover cameras. They went to the disability office, and the disability office and the officer did not have a translator available from the disability office, so they used this recruiter as the translator who promptly answered all the questions, and the person receiving the disability or applying had no knowledge of even what the discussion was that was taking place.

This was a terrible situation that was exposed by MediCal and brought to this subcommittee, and this legislation is an attempt by the subcommittee to quickly respond to this problem.

I want to commend the chairman of that subcommittee, the gentleman from Texas [Mr. PICKLE], for doing an outstanding job in doing so, and we have attacked a couple of very specific areas in this proposal that was inserted in the bill in committee.

Let me review a couple of what I think the most important ones are: No. 1, what we found in this case was, even though this fraud was perpetrated and 14 people were indicted by California in this fraud case, there were 2,000 people, 2,000 people who started to receive benefits in 1993, 39 million dollars' worth of benefits as of February when we had this hearing were involved in the fraud, and yet the Social Security Administration failed to do one redetermination, failed to do one redetermination on any one of these 2,000 people who were involved in this fraud case.

We subsequently, through the work of the subcommittee, convinced Social Security that redeterminations should be done when people who are put on SSI are suspected to being on there fraudulently. You would think that that would be an obvious case, but it, in fact, took the work of the subcommittee to get them to do it.

Now we are going to put in statute that anytime you have a suspicioun of fraud of someone who gets on the SSI rolls, that we will have an immediate redetermination by the Social Security Administration.

Second, another almost amazing consequence of this investigation: We found that MediCal was doing this investigation and had done an extensive job and had the names of all the people who were implicated in this fraudulent scheme, and when we asked the Social Security Administration why they had not been trying to get redeterminations, their response was, well, we do not have the names of these people and the Social Security numbers and, therefore, we cannot get them. We asked the question: "Well, did you bother to ask for the names?" And the person from MediCal in the back stood up and said, "No. They never bothered to ask."

So what we do in this law is require the inspector general, who cooperated with MediCal in this case, to turn over the names of the people suspected of fraud to the Social Security Administration so the Social Security Administration does not have an excuse not to investigate people who are conducing fraud.

But this is the kind, unfortunately, of detail that we have to deal with here in the Congress because we have a Social Security Administration that is not willing to pursue fraudulent claims as vigorously as I think the public demands.

Again, I want to compliment the gentleman from Texas [Mr. PICKLE] and the gentleman from New York [Mr. HOUGHTON] for the outstanding work done on the Oversight Subcommittee in coming up with this investigation.

Mr. Speaker, I reserve the balance of my time.

Mr. JACOBS. Mr. Speaker, first of all, we accept the motion to instruct. It makes eminently good sense.

Mr. Speaker, I yield 4 minutes and 33 seconds, to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Speaker, on May 5 of this year, the Oversight Subcommittee of Ways and Means, which I chair, issued a bipartisan report on reform to address the supplemental security income fraud and abuse that has been taking place.

We held our meeting in conjunction with the Subcommittee on Human Resources chaired by the gentleman from Tennessee [Mr. FORD], and we passed a resolution that would, we thought, correct. We did find that there potentially were many fraud cases and abuse cases going on in this area.

To address the problem, I offered an amendment in behalf of the gentleman from Tennessee [Mr. FORD], the gentleman from New York [Mr. HOUGHTON], and the gentleman from Pennsylvania [Mr. SANTORUM], which was unanimously adopted by the full committee.

In order to have us have a clear view of it, let me list three things it does. No. 1, it ensures accurate translation of the interviews conducted by SSA officials during the SSI application process. We just want to be sure the translators are giving us a true, accurate, and certifiable translation.

Second, we established a streamlined procedure enabling the SSA, the Social Security Administration, to expeditiously terminate fraudulently obtained SSI benefits. I can advise the House the Social Security is actually under way now in trying to go back and find those old cases and see if they can file suit against those people getting SSI benefits fraudulently. So that process is under way.

And, third, we increased both civil and criminal sanctions available to SSA in SSI fraud cases.

So as the chairman said, I support this amendment that the gentleman from Pennsylvania has offered, and I will assure him that I will work diligently to see this agreement is kept in the conference agreement.

Mr. SANTORUM. Madam Speaker, I yield 2 minutes to the gentleman from New York [Mr. HOUGHTON], the ranking member of the Subcommittee on Oversight.

□ 1600

Mr. HOUGHTON. Madam Speaker, I thank the chairman, the gentleman from Texas [Mr. PICKLE], who has done a wonderful job and is a very fair chairman, bipartisan chairman, and we need more of that in this day and age.

Madam Speaker, I rise to support the motion. I think it is important. There is a particular section I would like to talk about. But the reason it is important is because I do not think the Senate has dealt sufficiently with the fraud issue. Therefore, in order to have this be an important element in the conference, we ought to take this thing up and we ought to support the gentleman from Pennsylvania [Mr. SANTORUM] and the gentleman from Texas [Mr. PICKLE].

Madam Speaker, section 231 of the House contains the bipartisan in what they have said.

Madam Speaker, section 231 of the House contains the bipartisan fraud amendment. What it does is it requires four things. It requires Social Security to obtain information, to move quickly. To focus the limited resources on areas it thinks are important and also to use its new penalty authority.

As others have said, this does not come right in over the transom; this has been a yearlong investigation. The investigation has uncovered a variety of different things. One of the things the gentleman from Pennsylvania [Mr. SANTORUM] mentioned is the horrible use of these middlemen, I mean preying upon new citizens coming into this country who do not know any better, and then the skimming process takes place. It is clearly obvious that this thing is going on all over the place and is costing the American taxpayers billions of dollars.

So we have differences, I am sure, as to how to reform the welfare system, but we do not have any difference on this.

Madam Speaker, I would urge my colleagues and all our colleagues here to support the motion to instruct and restore taxpayers' confidence.

Mr. JACOBS. Madam Speaker, I yield 3 minutes to the distinguished and handsome gentleman from Tennessee [Mr. FORD].

Mr. FORD of Tennessee. I thank the gentleman for yielding this time to me.

Madam Speaker, I join with my colleagues in strong support of this bipartisan amendment. My good friend and colleague, the gentleman from Pennsylvania [Mr. SANTORUM], I would like to refer to the amendment as the Pickle-Ford-Santorum amendment that was offered in the subcommittee and added to this particular bill.

You know, Madam Speaker, it was clear that it was early on that a response to this problem that we were faced with, with the SSI program, is, I like to say, thanks to both the staff of the Subcommittee on Human Resources and the Subcommittee on Oversight, who investigated this matter.

On February 24 there was a joint session of the Oversight Subcommittee and the Human Resources Subcommittee that conducted hearings. It was the intent of both of those committees, and we did act on the amendment and put it into this particular bill.

Madam Speaker, I join with my colleagues in a bipartisan effort to say "yes" as a conferee. I see Mr. SANTORUM is a conferee also. We will make sure both sides of the aisle will be protected, Democrats and Republicans, to keep this provision in the bill.

I just wanted the Republican side to know that it was a concerted effort, it was not one person's idea. This was a full investigation conducted by two subcommittees and a bipartisan effort in the full committee to bring this provision about.

Mr. SANTORUM. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. JACOBS. Madam Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the motion to instruct conferees.

The previous question was ordered.

The SPEAKER pro tempore (Ms. DANNER). The question is on the motion to instruct conferees offered by the gentleman from Pennsylvania [Mr. SANTORUM].

The motion to instruct was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. GIBBONS, ROSTENKOWSKI, PICKLE, JACOBS, FORD of Tennessee, ARCHER, BUNNING, and SANTORUM.

There was no objection.

ANNOUNCEMENT OF INTENT TO OFFER ON TOMORROW, JUNE 22, 1994, A MOTION TO INSTRUCT CONFEREES ON H.R. 3355, VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1993

Mr. MCCOLLUM. Madam Speaker, pursuant to clause 1(c) of rule 28, I am announcing to the House that I intend to offer a motion to instruct conferees on the crime bill, H.R. 3355.

The form of the motion is as follows:

> Mr. MCCOLLUM moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to the Senate amendment to the bill H.R. 3355 be instructed not to make any agreement that would have the effect of reducing the funding provided for prisons to a level that is less than the level provided in titles VI and VIII of the House amendment.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 4602 DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1995

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103-554) on the resolution (H. Res. 458) waiving certain points of order against the bill (H.R. 4602) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1995, and for other purposes, which was referred to the House Calendar and ordered to be printed.

FREEDOM SUMMER REMEMBRANCE DAY

Mr. WYNN. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service and the Committee on the Judiciary be discharged from further consideration of the resolution (H. Res. 457) expressing the sense of the House of Representatives that June 21, 1994, be designated as "Freedom Summer Remembrance Day," and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore (Mr. HOLDEN). Is there objection to the request of the gentleman from Maryland?

Mr. FILNER. Mr. Speaker, reserving the right to object, I am pleased to join with my friend, the gentleman from Georgia [Mr. LEWIS], in introducing this resolution commemorating Freedom Summer of 1964 and the efforts of James Chaney, Andrew Goodman, and Michael Schwerner. With this resolution, we are designating June 21, 1994, the 30th anniversary of their deaths, as "Freedom Summer '94 Day."

It is fitting for us to focus our attention on the contributions made to civil rights by a group of dedicated young people 30 years ago this summer. Hundreds of concerned young men and women joined Freedom Summer and worked for justice in Mississippi in 1964. Three of them made the ultimate sacrifice—one black Mississippian and two Jewish northerners. Three Americans not yet old enough to vote were killed in the cause of registering others to vote. I know that there are many Members of this body who will remember exactly where they were when they heard that Michael Schwerner, Andrew Goodman, and James Chaney were dead.

I was not in Mississippi that summer, but three summers before I was there as a Freedom Rider—and I had witnessed first-hand the attempts to resist integration. I saw friends beaten, I saw mobs attack women and children, I ducked from gunfire, and I served a jail sentence in the Mississippi State Penitentiary for my commitment to the principle of equality. I am proud, and yet humble, that I was able to add my contribution to this noble cause.

As we pause here today to reflect upon the events of 30 years ago and to begin the Freedom Summer '94 commemoration, it is most important for us to remember the goals of those young people in 1964. We have made progress. Yes, it is true that all Americans now have the right to sit in the front of the bus. Yes, it is true that all Americans now have the right to vote. But prejudice and inequity remain.

When we hear of the lack of jobs and economic opportunity for our inner city youth, when we hear of the scourge of drugs and random violence that threaten our communities, indeed, when we hear the President remind us that our children are now planning their own funerals, we recognize that the goals of Freedom Summer are not yet realized. So, in Freedom Summer '94, thousands of young people, ages 14 to 24, are organizing to improve the quality of life in their own neighborhoods. We met with many of them last evening, and their enthusiasm, dedication, and idealism are an inspiration to us all.

Let us, today, rededicate ourselves to caring, to working, to voting in this Chamber so that all American children will have the opportunity to live in a safe community, to an education worthy of their intellect and talents, to health care that is a right—not a privilege, and to a job and a future full of hope and promise.

There is still much work to be done.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

Mr. LEWIS of Georgia. Mr. Speaker, reserving the right to object, I rise today in support of House Resolution 457. This resolution commemorates the Mississippi Summer Project of 1964 and the efforts of James Chaney, Andrew Goodman, and Michael Schwerner by expressing the sense of this body that June 21, 1994—the 30th anniversary of their deaths—should be designated as Freedom Summer '94 Day.

These three young men gave their lives to advance the cause of freedom for every American. They were fighting and struggling for the universal right to vote. We must never forget these three men and what they died for.

This resolution also calls attention to Freedom Summer '94. This summer, youth organizations throughout the country are planning to establish creative partnerships among young leaders and help build a national network of youth leadership. At a time when many of our young people feel left out and left behind, it is my hope that the spirit of Chaney, Goodman, and Schwerner will inspire, motivate, and encourage our young leaders of today.

One of the most important things I tell people today is that you must believe in the possibility of positive change.

Thirty years ago, I watched young blacks and young whites struggling, fighting and shedding blood together. We stood together during times of difficulty. We must continue to do so now. As Americans, we should be about the business of building a truly interracial democracy, rather than dividing people along racial, ethnic, and religious lines.

During that period of our history, there was a coalition of conscience that worked together in a struggle to create an interracial democracy in America—to create what I like to call the beloved community. People from all walks of life, especially young people, and from around the country struggled together during Freedom Summer to make the State of Mississippi and the Nation a better place.

Mr. Speaker, I am pleased and delighted to sponsor House Resolution 457. I want to thank everyone who supported this resolution and my colleague from California, Congressman FILNER, who I first met in 1961 as a fellow freedom rider. Mr. FILNER worked very hard this week to win support for this resolution.

I am also pleased to announce that several of my colleagues and I will hold a special order later today to honor the memory of the three young men who gave their lives in the cause of freedom. I look forward to the special order and the participation of my colleagues.

Ms. WATERS. Mr. Speaker, I rise today to pay tribute to three martyrs of the American civil rights movement—Andrew Goodman, James Chaney, and Mickey Schwerner.

Thirty years ago today, these three young men were arrested by authorities in the State of Mississippi, released, and then chased down on a lonely highway by a group of men and murdered. Goodman and Schwerner were white and from New York. James Chaney was an African-American and a Mississippian.

These young men were part of a nonviolent army of faith and love known as the Mississippi Freedom Summer. Young people—black and white, men and women, northerners and southerners—came to the State of Mississippi in the summer of 1964 in order to organize black Mississippians to register and vote.

The Emancipation Proclamation was 101 years old when Schwerner, Chaney, and Goodman began their work that summer. Yet African-Americans were still effectively enslaved by a system that refused them the right to vote for the public officials who represented them. The powers-that-be used intimidation, violence, and threats to keep black Mississippians down and to deny them their rights.

On their last day on Earth, Schwerner, Chaney, and Goodman traveled to a black church that had been burned by racist night riders. The church had been the site of a black voter registration meeting.

The racists sought to silence the voices of democracy and truth when they dragged Schwerner, Chaney, and Goodman from their car and shot them.

Instead, this unspeakable act galvanized the conscience of a nation throughout the summer of 1964. Young people sprang to take their place. Voter registration continued. The Mississippi Freedom Democratic Party, led by Fanny Lou Hamer, sent an integrated delegation to that summer's Democratic Convention in Atlantic City, challenging the segregationist delegates. A landmark civil rights bill passed the Congress and was signed into law on July 2, 1964, as President Johnson himself declared "we shall overcome."

Just recently, we paid tribute to those who served and who fell 50 years ago on the Normandy beaches of D-day, fighting for liberty and democracy. Like those heroes, Schwerner, Chaney, and Goodman are martyrs to the cause of freedom. It is worth remembering that freedom's battles are not always fought on foreign shores or against other armies. Schwerner, Chaney, and Goodman gave their lives so that this country might live up to its ideals of democracy and opportunity for all.

Thirty years have passed. Some issues may be different. But the work continues and will continue so long as we remember the courage and the commitment of Schwerner, Chaney, and Goodman.

Mr. LEWIS of Georgia. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 457

Whereas on June 21, 1964, James Chaney, Andrew Goodman, and Michael Schwerner gave their lives at a young age in an effort to guarantee the rights that are the birthright of every citizen of the United States, particularly the right to vote;

Whereas James Chaney, Andrew Goodman, and Michael Schwerner were part of a movement that helped to achieve the passage of the Civil Rights Act of 1964, the Voting Rights Act of 1965 and other milestones in the progress of this Nation toward achieving the goal of ensuring equal rights, equal opportunities and equal justice for all;

Whereas during the 30 years after the deaths of James Chaney, Andrew Goodman, and Michael Schwerner, this Nation has benefitted tremendously from the removal of many barriers to full participation by every citizen of this nation in political, educational and economic life;

Whereas the lives and resultant deaths of James Chaney, Andrew Goodman, and Michael Schwerner have come to symbolize the dream of brotherhood and sisterhood among citizens of this Nation from all races, religions and ethnic backgrounds and serve to inspire all citizens—in particular young citizens—to be dedicated to the ideals of justice, equality, citizenship and community;

Whereas the lifework of these men and thousands of other young students who traveled to Mississippi remains unfinished until all barriers are removed that bar the full participation of every citizen of this Nation in the democratic process of this Nation, especially the electoral process; and

Whereas the Nation continues to need the leadership and involvement of all its citizens, in particular the young, in solving problems in their communities and improving the lives of those in need: Now, therefore, be it

Resolved, that it is the sense of the House of Representatives that—

(1) June 21, 1994, is designated as Freedom Summer Remembrance Day;

(2) the House of Representatives expresses the importance of citizens—regardless of party, ideology, age, race, creed, and socio-economic status—working to improve this Nation and address issues most critical to their communities;

(3) the Voting Rights Act of 1965 has helped to fulfill the promise of democracy in this Nation; and

(4) the House of Representatives reaffirms the goal of removing remaining barriers to full voter participation in this Nation.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

□ 1610

GENERAL LEAVE

Mr. WYNN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just considered and agreed to.

The SPEAKER pro tempore (Mr. HOLDEN). Is there objection to the request of the gentleman from Maryland?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The Speaker pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 21, 1994.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on Tuesday, June 21, 1994 at 9:05 a.m. and said to contain a message from the President wherein he transmits draft legislation entitled, "Work and Responsibility Act of 1994."

With great respect, I am

Sincerely yours,
DONNALD K. ANDERSON,
Clerk.

WORK AND RESPONSIBILITY ACT OF 1994—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 103–273)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means, the Committee on Education and Labor, the Committee on Agriculture, the Committee on Energy and Commerce, the Committee on the Judiciary, and the Committee on Foreign Affairs and ordered to be printed:

To the Congress of the United States:

I am pleased to transmit for your immediate consideration and enactment the "Work and Responsibility Act of 1994."

It is time to end welfare as we know it and replace it with a system that is based on work and responsibility—a system that will help people help themselves. This legislation reinforces the fundamental values of work, responsibility, family, and community. It rewards work over welfare. It signals that people should not have children until they are ready to support them, and that parents—both parents—who bring children into the world must take responsibility for supporting them. It gives people access to the skills they need and expects work in return. Most important, it will give people back the dignity that comes from work and independence. The cost of the proposal to the Federal Government is estimated at $9.3 billion over 5 years and is fully offset, primarily through reductions in entitlements and without new tax increases.

The Work and Responsibility Act of 1994 will replace welfare with work.

Under this legislation, welfare will be about a paycheck, not a welfare check. Our approach is based on a simple compact designed to reinforce and reward work. Each recipient will be required to develop a personal employability plan designed to move that individual into the work force as quickly as possible. Support, job training, and child care will be provided to help people move from dependence to independence. Time limits will ensure that anyone who can work, must work—in the private sector if possible, in a temporary subsidized job if necessary.

This legislation includes several provisions aimed at creating a new culture of mutual responsibility. It includes provisions to promote parental responsibility and ensure that both parents contribute to their children's well-being. This legislation establishes the toughest child support enforcement program ever. It also includes: incentives directly tied to the performance of the welfare office; extensive efforts to detect and prevent welfare fraud; sanctions to prevent gaming of the welfare system; and a broad array of incentives that States can use to encourage responsible behavior.

Preventing teen pregnancy and out-of-wedlock births is a critical part of welfare reform. To prevent welfare dependency, teenagers must get the message that staying in school, postponing pregnancy, and preparing to work are the right things to do. Our prevention approach includes a national campaign against teen pregnancy and a national clearinghouse on teen pregnancy prevention. Roughly 1,000 middle and high schools in disadvantaged areas will receive grants to develop innovative teen pregnancy prevention programs.

The Work and Responsibility Act of 1994 proposes dramatic changes in our welfare system, changes so bold that they cannot be accomplished overnight. We can phase in these changes by focusing on young people, to send a clear message to the next generation that we are ending welfare as we know it. The bill targets resources on welfare beneficiaries born after December 31, 1971. This means that over time, more and more welfare beneficiaries will be affected by the new rules: about a third of the caseload in 1997, and half by the year 2000. States that want to phase in faster will have the option of doing so.

The results of these changes will be far-reaching. In the year 2000, 2.4 million adults will be subject to the new rules under welfare reform, including time limits and work requirements. Almost 1 million people will be either off welfare or working.

But the impact of welfare reform cannot be measured in these numbers alone. This legislation is aimed at strengthening families and instilling personal responsibility by helping people help themselves. We owe every child in America the chance to watch their parents assume the responsibility and dignity of a real job. This bill is designed to make that possible.

I urge the Congress to take prompt and favorable action on this legislation.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 21, 1994.*

NATIONAL EMERGENCY WITH RESPECT TO POLICIES OF THE GOVERNMENTS OF SERBIA AND MONTENEGRO—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 103–274)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs and ordered to be printed:

To the Congress of the United States:

On May 30, 1992, in Executive Order No. 12808, the President declared a national emergency to deal with the threat to the national security, foreign policy, and economy of the United States arising from actions and policies of the Governments of Serbia and Montenegro, acting under the name of the Socialist Federal Republic of Yugoslavia or the Federal Republic of Yugoslavia, in their involvement in and support for groups attempting to seize territory in Croatia and Bosnia-Herzegovina by force and violence utilizing, in part, the forces of the so-called Yugoslav National Army (57 FR 23299, June 2, 1992). The present report is submitted pursuant to 50 U.S.C. 1641(c) and 1703(c). It discusses Administration actions and expenses directly related to the exercise of powers and authorities conferred by the declaration of a national emergency in Executive Order No. 12808 and to expanded sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro) (the "FRY (S/M)") contained in Executive Order No. 12810 of June 5, 1992 (57 FR 24347, June 9, 1992), Executive Order No. 12831 of January 15, 1993 (58 FR 5253, January 21, 1993), and Executive Order No. 12846 of April 26, 1993 (58 FR 25771, April 27, 1993).

1. Executive Order No. 12808 blocked all property and interests in property of the Governments of Serbia and Montenegro, or held in the name of the former Government of the Socialist Federal Republic of Yugoslavia or the Government of the Federal Republic of Yugoslavia, then or thereafter located in the United States or within the possession or control of United States persons, including their overseas branches.

Subsequently, Executive Order No. 12810 expanded U.S. actions to implement in the United States the United Nations sanctions against the FRY (S/M) adopted in United Nations Security Council Resolution 757 of May 30, 1992. In addition to reaffirming the blocking of FRY (S/M) Government property, this order prohibits transactions with respect to the FRY (S/M) involving imports, exports, dealing in FRY-origin property, air and sea transportation, contract performance, funds transfers, activity promoting importation or exportation or dealings in property, and official sports, scientific, technical, or other cultural representation of, or sponsorship by, the FRY (S/M) in the United States.

Executive Order No. 12810 exempted from trade restrictions (1) transshipments through the FRY (S/M), and (2) activities related to the United Nations Protection Force ("UNPROFOR"), the Conference on Yugoslavia, or the European Community Monitor Mission.

On January 15, 1993, the President issued Executive Order No. 12831 to implement new sanctions contained in United Nations Security Council Resolution 787 of November 16, 1992. The order revoked the exemption for transshipments through the FRY (S/M) contained in Executive Order No. 12810, prohibited transactions within the United States or by a United States person relating to FRY (S/M) vessels and vessels in which a majority or controlling interest is held by a person or entity in, or operating from, the FRY (S/M), and stated that all such vessels shall be considered as vessels of the FRY (S/M), regardless of the flag under which they sail.

On April 26, 1993, I issued Executive Order No. 12846 to implement in the United States the sanctions adopted in United Nations Security Council Resolution 820 of April 17, 1993. That resolution called on the Bosnian Serbs to accept the Vance-Owen peace plan for Bosnia-Herzegovina and, if they failed to do so by April 26, called on member states to take additional measures to tighten the embargo against the FRY (S/M) and Serbian-controlled areas of Bosnia-Herzegovina and the United Nations Protected Areas in Croatia. Effective April 26, 1993, the order blocked all property and interests in property of commercial, industrial, or public utility undertakings or entities organized or located in the FRY (S/M), including property and interests in property of entities—wherever organized or located—owned or controlled by such undertakings or entities, that are or thereafter come within the possession or control of United States persons.

2. The declaration of the national emergency on May 30, 1992, was made pursuant to the authority vested in the President by the Constitution and laws of the United States, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3 of

the United States Code. The emergency declaration was reported to the Congress on May 30, 1992, pursuant to the section 204(b) of the International Emergency Economic Powers Act (50 U.S.C. 1703(b)). The additional sanctions set forth in Executive Order Nos. 12810, 12831, and 12846 were imposed pursuant to the authority vested in the President by the Constitution and laws of the United States, including the statutes cited above, section 1114 of the Federal Aviation Act (49 U.S.C. App. 1514), and section 5 of the United Nations Participation Act (22 U.S.C. 287c).

3. There have been no amendments to the Federal Republic of Yugoslavia (Serbia and Montenegro) Sanctions Regulations (the "Regulations"), 31 C.F.R. Part 585, since the last report. Of the two court cases in which the blocking authority was challenged as applied to FRY (S/M) subsidiaries and vessels in the United States, the government's position in the case involving the blocked vessels was upheld by the Fifth Circuit Court of Appeals. The Supreme Court declined to review the decision. *Milena Ship Management Co.* v. *Newcomb*, 804 F. Supp. 859 (E.D. La. 1992), *aff'd*. 995 F. 2nd 620 (5th Cir. 1993), Cert. denied — U.S. —, 114 S.Ct. 877 (1994). The case involving a blocked subsidiary is pending a decision by the court on the government's motion for summary judgment.

4. Over the past 6 months, the Departments of State and Treasury have worked closely with European Community (the "EC") member states and other U.N. member nations to coordinate implementation of the sanctions against the FRY (S/M). This has included visits by assessment teams formed under the auspices of the United States, the EC, and the Conference for Security and Cooperation in Europe (the "CSCE") to states bordering on Serbia and Montenegro; deployment of CSCE sanctions assistance missions ("SAMs") to Albania, Bulgaria, Croatia, the Former Yugoslav Republic of Macedonia, Hungary, Romania, and Ukraine to assist in monitoring land and Danube River traffic; bilateral contacts between the United States and other countries for the purpose of tightening financial and trade restrictions on the FRY (S/M); and establishment of a mechanism to coordinate enforcement efforts and to exchange technical information.

5. In accordance with licensing policy and the Regulations, FAC has exercised its authority to license certain specific transactions with respect to the FRY (S/M) that are consistent with the Security Council sanctions. During the reporting period, FAC has issued 114 specific licenses regarding transactions pertaining to the FRY (S/M) or assets it owns or controls, bringing the total as of April 15, 1994, to 677. Specific licenses have been issued (1) for payment to U.S. or third-country secured creditors, under certain narrowly defined circumstances, for pre-embargo import and export transactions; (2) for legal representation or advice to the Government of the FRY (S/M) or FRY (S/M)-controlled clients; (3) for the liquidation or protection of tangible assets of subsidiaries of FRY (S/M)-controlled firms located in the United States; (4) for limited FRY (S/M) diplomatic representation in Washington and New York; (5) for patent, trademark and copyright protection and maintenance transactions in the FRY (S/M) not involving payment to the FRY (S/M) Government; (6) for certain communications, news media, and travel-related transactions; (7) for the payment of crews' wages, vessel maintenance, and emergency supplies for FRY (S/M)-controlled ships blocked in the United States; (8) for the removal from the FRY (S/M) of certain property owned and controlled by U.S. entities; and (9) to assist the United Nations in its relief operations and the activities of the U.N. Protection Forces. Pursuant to regulations implementing United Nations Security Council Resolution 757, specific licenses have also been issued to authorize exportation of food, medicine, and supplies intended for humanitarian purposes in the FRY (S/M).

During the past 6 months, FAC has continued to oversee the liquidation of tangible assets of the 15 U.S. subsidiaries of entities organized in the FRY (S/M). Subsequent to the issuance of Executive Order No. 12846, all operating licenses issued for these U.S.-located Serbian or Montenegrin subsidiaries or joint ventures were revoked, and the net proceeds of the liquidation of their assets placed in blocked accounts.

The Board of Governors of the Federal Reserve Board and the New York State Banking Department again worked closely with FAC with regard to two Serbian banking institutions in New York that were not permitted to conduct normal business after June 1, 1992. The banks had been issued licenses to maintain a limited staff for audit purposes while full-time bank examiners were posted in their offices to ensure that banking records are appropriately safeguarded. Subsequent to the issuance of Executive Order No. 12846, all licenses previously issued were revoked. FAC is currently working with the Federal Reserve Board and the New York State Banking Department to resolve outstanding issues regarding the banks.

During the past 6 months, U.S. financial institutions have continued to block funds transfers in which there is an interest of the Government of the FRY (S/M) or an entity or undertaking located in or controlled from the FRY (S/M). Such transfers have accounted for $58.6 million in Yugoslav assets blocked since the issuance of Executive Order No. 12808, with some $22 million in funds transfers frozen during the past 6 months.

To ensure compliance with the terms of the licenses that have been issued under the program, stringent reporting requirements are imposed. More than 380 submissions were reviewed since the last report and more than 194 compliance cases are currently open. In addition, licensed bank accounts are regularly audited by FAC compliance personnel and by cooperating auditors from bank regulatory agencies.

6. Since the issuance of Executive Order No. 12810, FAC has worked closely with the U.S. Customs Service to ensure both that prohibited imports and exports (including those in which the Government of the FRY (S/M) has an interest) are identified and interdicted, and that permitted imports and exports move to their intended destination without undue delay. Violations and suspected violations of the embargo are being investigated and appropriate enforcement actions are being taken. There are currently 50 cases under active investigation. Since the last report, FAC has collected 20 civil penalties totaling nearly $75,000 from 17 financial institutions for violations involving transfers of funds in which the Government of the FRY (S/M) has an interest. Two U.S. companies and one law firm have also paid penalties related to exports and unlicensed payments to the Government of the FRY (S/M) for trademark registrations.

7. The expenses incurred by the Federal Government in the 6-month period from November 30, 1993, through May 29, 1994, that are directly attributable to the authorities conferred by the declaration of a national emergency with respect to the FRY (S/M) are estimated at about $3 million, most of which represent wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in FAC and its Chief Counsel's Office, and the U.S. Customs Service), the Department of State, the National Security Council, the U.S. Coast Guard, and the Department of Commerce.

8. The actions and policies of the Government of the FRY (S/M), in its involvement in and support for groups attempting to seize and hold territory in Croatia and Bosnia-Herzegovina by force and violence, continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. The United States remains committed to a multilateral resolution of this crisis through its actions implementing the binding resolutions of the United Nations Security Council with respect to the FRY (S/M).

I shall continue to exercise the powers at my disposal to apply economic sanctions against the FRY (S/M) as long as these measures are appropriate, and will continue to report periodically to the Congress on significant developments pursuant to 50 U.S.C. 1703(c).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 21, 1994.*

THE WORK AND RESPONSIBILITY ACT OF 1994

(Mr. FORD of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous material.)

Mr. FORD of Tennessee. Mr. Speaker, I rise today to join with my colleagues, the chairman of the Committee on Ways and Means, and other members of that committee and the chairman of the Committee on Education and Labor in cosponsoring the new welfare reform package that has been sent to the Congress today by President Clinton, and that bill now has a number: 4605. I will be including statements from the gentleman from Florida [Mr. GIBBONS], the acting chairman of the full Committee on Ways and Means and the gentleman from Michigan [Mr. FORD].

Today I join with, not only the acting chairman, but, hopefully in a bipartisan way, Democrats and Republicans alike in trying to come up with ways and means to fashion a welfare bill that will respond to the real problems of poor people and the welfare population in this Nation. We have waited quite some time, but the President has kept his word to this Congress and to the American people. We do have a welfare reform package before us.

Mr. Speaker, this has been a very courageous move on the President's part, and I join with him, Republicans, and the American public in trying to say that, yes, we are going to move right away to bring a bill to the House floor.

The statements referred to are as follows:

Mr. GIBBONS. Mr. Speaker, today I am introducing, together with the Honorable WILLIAM D. FORD, chairman of the Committee on Education and Labor, the Honorable HAROLD E. FORD, chairman of the Committee on Ways and Means, Subcommittee on Human Resources, and the Honorable MATTHEW G. MARTINEZ, Chairman of the Committee on Education and Labor, Subcommittee on Human Resources, the Honorable RICHARD A. GEPHARDT, majority leader, and three other Members of the House of Representatives, H.R. 4605, the Work and Responsibility Act of 1994.

In making his welfare reform proposal, President Clinton has once again demonstrated his willingness to confront difficult problems and to propose balanced solutions. The President's proposal doesn't blame poor children and their parents. It doesn't blame immigrants, whom we have welcomed to our land under immigration and naturalization law. Instead, it follows the basic values of the American people—able-bodied parents ought to work to support their families, and parents ought to be responsible for their children.

Mr. Speaker, 30 years ago, President Lyndon Baines Johnson commissioned me to help lead the war on poverty. Contrary to popular belief, we had more than a few successes in those days. In fact, that effort, along with strong economic growth, reduced the American poverty rate by more than 40 percent. But when we pulled back from those efforts, poverty rose, and welfare caseloads grew dramatically, particularly in the past 5 years. We have paid a high price for their ineffective policies of the last 20 years. Now is the time to change course.

President Clinton wants to renew our commitment to the American taxpayer to help poor parents who are willing to help themselves. He has pledged to end welfare as we know it, and I am ready to reenlist for that effort. The Government has an obligation to help those who cannot make it on their own, but they have an obligation as well—to their children, to their communities, and to our society.

Mr. Speaker, this is an issue on which there is bipartisan agreement that the system needs reform. I agree with the President that welfare reform should be a top priority when we complete work on health care reform. I look forward to helping the President in ending welfare as we know it, and I urge my colleagues to join me in this effort.

Mr. FORD of Michigan. Mr. Speaker, today I join Acting Chairman GIBBONS in cosponsoring President Clinton's Work and Responsibility Act of 1994.

The President has lived up to his promise to deliver a welfare reform bill to the Congress, and I applaud him. He has demonstrated his courage both by initiating a national debate on this difficult issue, and by proposing specific solutions to the problems we all seek to address.

I am cosponsoring the President's welfare reform bill because I believe we have a crisis in this country that we ignore at great risk to poor families, and our national well-being. While I agree with many of the proposed solutions in the President's bill, I will seek changes in the legislation that ensure families better opportunities to develop their skills, to work, and to earn a living wage.

President Clinton is right to focus his welfare reform proposal on work. As the research indicates, the majority of welfare parents want to work, and eventually do work. However, many are hampered in their efforts by a welfare system that at its best ignores their goals, and at its worst creates barriers to their realization.

And too often forgotten in the welfare debate are the barriers presented by today's labor market. Real wages for low-skilled workers have fallen precipitously, and opportunities for upward mobility have deteriorated. In isolated rural and inner-city labor markets, job availability is a significant concern.

Both the welfare system and the labor market are failing many families in America, and this is the context in which I plan to consider welfare reform. I pledge to work to ensure that more jobs at living wages are created under the welfare reform bill and other social policy initiatives. I make this pledge to the parents and children who receive welfare assistance, and to their many brethren who have left welfare to work, yet remain poor.

A TRIBUTE TO THE CREW OF THE U.S.S. "SARATOGA"

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida [Mrs. FOWLER] is recognized for 5 minutes.

Mrs. FOWLER. Mr. Speaker, since the days of the great sailing ships, Americans have had a deep and abiding affection for their Navy, and that affection is shared by the people of northern Florida. In my district we have a special relationship with the Navy, and we feel a great deal of pride in the ships and crews who are home-ported there. That is why this Friday, June 24, 1994, will be a bittersweet day for us all—because that is the day the Navy's oldest active duty aircraft carrier, U.S.S. *Saratoga*, commanded by Capt. William H. Kennedy, will complete her final voyage, returning to Mayport from a 6-month deployment to the Mediterranean Sea.

"Super Sara" or simply "Sara," as she is affectionately known, is home to more than 5,000 superb sailors and aviators. These men have been away from their spouses, children, friends, and loved ones for over 165 days to ensure that our Nation's interests are being protected at sea. We will welcome them back with gratitude for their service and gladness for their safe return, but some tears will be shed as we reflect upon the fact that the Sara is coming home for the last time.

Saratoga, the sixth ship to bear that proud name, was launched in Brooklyn, NY, on October 8, 1955. Since that time, she has been a vital part of our Nation's defense, participating in a number of important military operations.

Saratoga patrolled off the coast of Cuba near Guantanamo Bay during the Cuban missile crisis. She was stationed off the coast of Lebanon during the Six-Day War. She saw combat in the Tonkin Gulf during the Vietnam war and in the Red Sea during the Persian Gulf war, and she was the first carrier to transit the Suez Canal by night. A number of *Saratoga* alumni have gone on to distinguish themselves in the best Navy tradition. In fact, one of them, Adm. Jeremy Boorda, is now the Chief of Naval Operations.

Saratoga began her final deployment—the 22d of her 38-year career—on January 12, 1994. Entering the Adriatic on February 1, *Saratoga* and her embarked carrier, Airwing 17, commanded by Capt. Philip Howard, launched the first of thousands of sorties in support of United Nations and NATO operations "Deny Flight" and "Provide Promise" over Bosnia and Herzogovina. She spent nearly 70 days of her 165-day deployment in the Adriatic Sea, and her presence did a great deal to ease the suffering of those ashore in the former Yugoslavia.

Saratoga also participated in exercises and operations with other U.S. services and allies, including exercise

"Dynamic Impact," a large-scale NATO exercise which included the navies of 12 nations. Throughout this deployment *Saratoga* sailors also served with distinction as America's goodwill ambassadors, hosting foreign dignitaries and visitors both at sea and in port. In each port, *Saratoga* sailors volunteered their off-duty time to help others including spending a day with Bosnian refugees at a camp in Slovenia.

On June 12, *Saratoga* turned over the watch to her relief, U.S.S. *George Washington*, our Navy's newest aircraft carrier, enabling the United States to maintain a continuous aircraft carrier presence in the Mediterranean Sea.

As you can see, Mr. Speaker, the Sara and her accompanying battle group ships have continued to do what we depend on our aircraft carriers to do best—provide a continuous and capable forward presence to ensure American interests are protected throughout the world. To maintain our forward presence, our national security strategy requires 11 active and 1 operational reserve aircraft carriers, and I believe that building CVN-76 is an investment for the future we can afford right now. It is the right thing to do and the foundation for essential naval force modernization.

Since she has been an integral part of Navy life in north Florida for nearly 30 years, the Jacksonville community has expressed an interest in making Jacksonville the final resting place for the *Saratoga* as a naval memorial and museum. As I speak, the "Save Our Sara" committee in Jacksonville is busy researching the specific steps which must be taken to preserve the legacy of this fine warship after her decommissioning on August 20.

Mr. Speaker, I ask my colleagues to join me in saluting the thousands of *Saratoga* sailors who will return from the ship's final deployment this Friday, as well as all the sailors who have served aboard this great ship during her long and distinguished career. Their sacrifice and service have protected our shores and our interests aboard for 38 years, and they deserve the thanks of a grateful Nation.

Although the book is about to close on the final chapter of the *Saratoga*'s active duty life, many of these individuals will continue to serve our Nation aboard other vessels. They will take with them many fond memories of life aboard the Sara and in Jacksonville, and I know that my colleagues and the people of north Florida join me in wishing them fair winds and following seas.

□ 1620

EMPLOYER MANDATES IN CLINTON'S HEALTH PLAN A BAD IDEA

The SPEAKER pro tempore (Mr. HOLDEN). Under a previous order of the House, the gentleman from California [Mr. KIM] is recognized for 5 minutes.

Mr. KIM. Mr. Speaker, 9 months ago, President Clinton presented us with his plan to radically change the American health care system. The details of this plan are by now familiar to all of us. The Clinton plan contains, as its centerpiece, an employer mandate that would force every employer to pay 80 percent of the health care costs for their employees and their families, or up to 7.9 percent of payroll.

From the beginning, I, along with most other Republicans, have strongly opposed the employer mandates proposed by the President. For months, we have been trying to convince the proponents of the plan that these new mandates would be destructive to business, especially small business, and would threaten the livelihood of ordinary American people.

However, the proponents of the Clinton plan are not listening. They persist in trying to convince the American people that forcing employers to pay for the employees' health care costs would not put companies out of business, would not reduce employees' wages, would not cost hundreds of thousands of Americans their jobs.

I am here to tell you that those who are trying to sell this line of reasoning are dead wrong. As a former small businessman myself, I know from firsthand experience that business simply cannot afford to absorb this enormous new payroll tax without cutting wages, laying off employees, or, in some cases, going out of business entirely.

You do not have to take my word for this. Over the past few months, numerous studies have been conducted to look at this impact that Clinton's plan will have on wages and jobs. Almost universally, these studies predict that the Clinton plan will have a devastating impact on jobs and wages.

Let's take a look at this chart. The studies done by the State of California Office of Planning Department says jobs will be lost, between 2.5 to 3.7 million jobs.

Let's take a look at the CONSAD study, which is commissioned by the National Federation of Independent Businesses. It says, 850,000 job losses, up to 3.7 million potential job losses.

According to CONSAD, 470 employees of small businesses will lose their jobs, 540,000 employees in the retail and service industry will lose their jobs, and 23 million employees will see their wages reduced by a total of $28 billion, or $1,200 per year per worker.

While these results are disturbing enough, I am even more disturbed by the conclusion of who will exactly be hurt the most by these proposed employee mandates. According to the study of those who lose the jobs the most, let's look at this chart: Women, 59 percent of women lose their jobs. That is without the subsidy. Low-wage people, 66 percent of low-income people lose their jobs. Parents with children, 75 percent. And 88 percent of part-time workers will lose their jobs.

In other words, not only will the employer mandates in the Clinton plan create massive job loss and wage decline, but the plan will also concentrate those losses among those American people who are least able to afford such losses, such as this group of people, the very people this plan is supposed to help.

I believe the CONSAD study clearly demonstrates how bad an idea this employer mandate is.

□ 1630

While these kind of mandates may bring a few more people into the health care system, they only do so at great cost to the wages and jobs of ordinary people. Even worse, employer mandates hurt groups of people, people with families, the poor, women that are most in need of our help.

For these reasons, I strongly urge my colleagues to explore alternatives to the Clinton plan that do not require employer mandates. Let us fix what is wrong with the system, but let us not risk the livelihoods of millions of hardworking American people.

HEALTH CARE REFORM VOTES

The SPEAKER pro tempore (Mr. HASTINGS). Under a previous order of the House, the gentleman from Illinois [Mr. MICHEL] is recognized for 5 minutes.

Mr. MICHEL. Mr. Speaker, I submit for the RECORD the votes on health care reform which took place in full committee in the Education and Labor Committee on June 17, 1994:

COMMITTEE ON EDUCATION AND LABOR

FULL COMMITTEE

HEALTH CARE MARKUP, JUNE 17, 1994

The following recorded votes were taken on June 17, 1994 in the Committee on Education and Labor during full committee consideration of Chairman FORD's mark, H.R. 3600, Health Security Act of 1994:

1. An amendment by Representative Armey to eliminate the provisions imposing government-determined premium caps on all health plans. The amendment was defeated 14–26.

DEMOCRATS

Mr. Ford, "nay."
Mr. Clay, "nay" by proxy.
Mr. Miller (CA), "nay" by proxy.
Mr. Murphy, "nay" by proxy.
Mr. Kildee, "nay."
Mr. Williams, "nay."
Mr. Martinez, "nay."
Mr. Owens, "nay" by proxy.
Mr. Sawyer, "nay" by proxy.
Mr. Payne, "nay" by proxy.
Mrs. Unsoeld, "nay."
Mrs. Mink, "nay" by proxy.
Mr. Andrews, not voting.
Mr. Reed, "nay."
Mr. Roemer, not voting.
Mr. Engel, "nay" by proxy.
Mr. Becerra, "nay."
Mr. Scott, "nay."
Mr. Green, "nay."
Ms. Woolsey, "nay."

Mr. Romero-Barceló, "nay" by proxy.
Mr. Klink, "nay" by proxy.
Ms. English, "nay" by proxy.
Mr. Strickland, "nay" by proxy.
Mr. De Lugo, "nay."
Mr. Faleomavaega, "nay" by proxy.
Mr. Baesler, "nay."
Mr. Underwood, "nay" by proxy.

REPUBLICANS

Mr. Goodling, "yea."
Mr. Petri, "yea" by proxy.
Mrs. Roukema, "yea."
Mr. Gunderson, "yea" by proxy.
Mr. Armey, "yea."
Mr. Fawell, "yea" by proxy.
Mr. Ballenger, "yea."
Ms. Molinari, "yea."
Mr. Barrett, "yea" by proxy.
Mr. Boehner, "yea."
Mr. Cunningham, "yea" by proxy.
Mr. Hoekstra, not voting.
Mr. McKeon, "yea."
Mr. Miller (FL), "yea."
Mr. Castle, "yea" by proxy.

2. An amendment by Representative Armey to strike the monetary penalties, up to $5,000 or three times the amount owed, which may be levied by the Department of Labor on individuals who fail to pay premiums owed. The amendment was defeated 15–27.

DEMOCRATS

Mr. Ford, "nay."
Mr. Clay, "nay" by proxy.
Mr. Miller (CA), "nay" by proxy.
Mr. Murphy, "nay" by proxy.
Mr. Kildee, "nay."
Mr. Williams, "nay."
Mr. Martinez, "nay."
Mr. Owens, "nay."
Mr. Sawyer, "nay" by proxy.
Mr. Payne, "nay" by proxy.
Mrs. Unsoeld, "nay" by proxy.
Mrs. Mink, "nay" by proxy.
Mr. Andrews, Not voting.
Mr. Reed, "nay" by proxy.
Mr. Roemer, "nay."
Mr. Engel, "nay" by proxy.
Mr. Becerra, "nay."
Mr. Scott, "nay."
Mr. Green, "nay."
Ms. Woolsey, "nay."
Mr. Romero-Barceló, "nay" by proxy.
Mr. Klink, "nay" by proxy.
Ms. English, "nay" by proxy.
Mr. Strickland, "nay" by proxy.
Mr. De Lugo, "nay."
Mr. Faleomavaega, "nay" by proxy.
Mr. Baesler, "nay."
Mr. Underwood, "nay" by proxy.

REPUBLICANS

Mr. Goodling, "yea."
Mr. Petri, "yea" by proxy.
Mrs. Roukema, "yea."
Mr. Gunderson, "yea" by proxy.
Mr. Armey, "yea."
Mr. Fawell, "yea" by proxy.
Mr. Ballenger, "yea."
Ms. Molinari, "yea."
Mr. Barrett, "yea" by proxy.
Mr. Boehner, "yea" by proxy.
Mr. Cunningham, "yea" by proxy.
Mr. Hoekstra, "yea."
Mr. McKeon, "yea" by proxy.
Mr. Miller (FL), "yea."
Mr. Castle, "yea" by proxy.

3. An amendment by Representative Hoekstra to delete the provisions which require the Secretary of Labor to establish a special "migrant health plan" for migrant and seasonal agricultural workers and their families. The amendment was defeated 18–25.

DEMOCRATS

Mr. Ford, "nay."
Mr. Clay, "nay" by proxy.
Mr. Miller (CA), "nay."
Mr. Murphy, "yea."
Mr. Kildee, "nay."
Mr. Williams, "nay."
Mr. Martinez, "nay" by proxy.
Mr. Owens, "nay" by proxy.
Mr. Sawyer, "nay."
Mr. Payne, "nay" by proxy.
Mrs. Unsoeld, "nay" by proxy.
Mrs. Mink, "nay."
Mr. Andrews, "yea."
Mr. Reed, "nay" by proxy.
Mr. Roemer, "nay."
Mr. Engel, "nay" by proxy.
Mr. Becerra, "nay" by proxy.
Mr. Scott, "nay."
Mr. Green, "nay."
Ms. Woolsey, "nay."
Mr. Romero-Barceló, "nay" by proxy.
Mr. Klink, "nay" by proxy.
Ms. English, "nay" by proxy.
Mr. Strickland, "nay."
Mr. De Lugo, "nay."
Mr. Faleomavaega, "nay" by proxy.
Mr. Baesler, "yea."
Mr. Underwood, "nay" by proxy.

REPUBLICANS

Mr. Goodling, "yea."
Mr. Petri, "yea" by proxy
Mrs. Roukema, "yea."
Mr. Gunderson, "yea." by proxy.
Mr. Armey, "yea" by proxy.
Mr. Fawell, "yea" by proxy.
Mr. Ballenger, "yea."
Ms. Molinari, "yea."
Mr. Barrett, "yea" by proxy.
Mr. Boehner, "yea" by proxy.
Mr. Cunningham, "yea" by proxy.
Mr. Hoekstra, "yea."
Mr. McKeon, "yea" by proxy.
Mr. Miller (FL), "yea."
Mr. Castle, "yea."

FREEDOM SUMMER REMEMBERED

Mr. LEWIS of Georgia. The Speaker, I am pleased to reserve this special order in tribute to the Mississippi Summer Project of 1964 and the efforts of James Chaney, Andrew Goodman, and Michael Schwerner, three civil rights workers who were murdered in Mississippi that summer.

During that period of history, there was a coalition of conscience that worked together in a struggle to create a truly interracial democracy in America—to create what I like to call the beloved community. People from all walks of life, especially young people, and from around the country struggled together during Freedom Summer to make the State of Mississippi and our Nation a better place.

Earlier today I presented House Resolution 457 to the House under unanimous consent to commemorate the Mississippi Summer Project of 1964 and the efforts of the three slain civil rights workers by designating June 21, 1994—the 30th anniversary of their deaths—as Freedom Summer '94 Day.

This resolution also acknowledged Freedom Summer '94. This summer, youth organizations throughout the country are planning to establish creative partnerships among youth activists and help build a national infrastructure of youth leadership.

At that time, the State of Mississippi had a black voting age population of more than 450,000, but only about 18,000 were registered to vote. Almost 200,000 people turned out to participate in a mock election that SNCC had sponsored in 1963, and that election spurred us to organize the Mississippi Summer Project. After the election, we started recruiting students to come and be a part of the Mississippi Summer Project.

These three young men gave their lives to advance the cause of freedom for every American. They were fighting and struggling for a universal right to vote. We must never forget these three men and what they died for.

After the murders, we lived in Mississippi with the constant possibility that something could happen to any of us. During the summer, many churches were bombed and burned, particularly black churches in small towns and rural communities that had been headquarters for freedom schools, voter registration rallies, and workshops. There were shootings on homes, so we lived with constant fear.

Despite being attacked by racial violence, we tried not to become too preoccupied with the fear. We came to feel that we were part of a nonviolent army, and, within the group, you had a sense of solidarity. You knew you had to move on despite the fear. I will never forget some of the problems and trauma that some of the SNCC people went through. It was a trying time for all of us.

I think for many of us that summer in Mississippi was like guerilla warfare. You knew that you had to prepare yourself, condition yourself, if you were going to be there. You knew that you were going to stay for a period of time, and there were going to be some disappointments and some setbacks. What we tried to instill, particularly in the SNCC staff and into the young people coming down, was that even as they came there, we weren't going to change Mississippi in 1 summer or 1 year, that it was a much longer effort. In a sense we went down to help the people there, but no doubt they helped all of us a great deal; there's no question about that. Some of us, no doubt, literally grew up overnight because of being in positions of responsibility where we had to make tough decisions, we had to act. Our main purpose was empowering the local, indigenous black people of Mississippi.

I think Freedom Summer helped many of us to reaffirm our commitment to nonviolent struggle. While nonviolence was, for some, merely a tactic for social change, for many of us it became a philosophy of life—a way of living. When we suffered violence and abuse, when we were arrested and jailed, our concern was not for retaliation. We sought to understand the human condition of our attackers and to accept suffering in the right spirit.

As I worked throughout the South during the 1960's I saw civil rights workers and indigenous people whom we were trying to help with their heads cracked open by nightsticks, lying in the street weeping from tear gas, calling helplessly for medical aid.

I saw old women and young children in peaceful protest, who were run down by policeman on horses, beaten back by fire hoses, and chased by police dogs. Yet these people were still able to forgive, understand, and sing, "Ain't going to let nobody turn me around."

We saw young blacks and young whites working, struggling, fighting, and shedding blood together 30 years ago. We stood together during times of difficulty. We must continue to do so now. As Americans, we should be about the business of building a truly interracial democracy, rather than dividing people along racial, ethnic, and religious lines in 1994.

Mr. Speaker, I am pleased that so many of my colleagues have agreed to participate in this special order.

□ 1640

Mr. Speaker, what I would like to do right now is call on two of the Members of this great body who were in Mississippi during the summer of 1964.

It is my pleasure to yield to the gentlewoman from the District of Columbia, ELEANOR HOLMES NORTON.

Ms. NORTON. Mr. Speaker, I want to both thank and acknowledge the leadership of the gentleman from Georgia, Mr. JOHN LEWIS, who I met more than 30 years ago as a compatriot in the Student Nonviolent Coordinating Committee, for calling us to account around the lives of three young men whose names will always be remembered together as Schwerner, Goodman, and Chaney, who died together and gave new meaning to the words "black and white together," because they died together in Neshoba County 30 years ago.

Mr. Speaker, I had spent 1963, or part of it, in the delta preparing for the Mississippi Freedom Summer, in the prototype of what was to become that summer, teaching in the freedom schools, encouraging youngsters and adults to vote. It was the most eventful summer of my life. It was a summer when I also helped write the Mississippi Freedom Democratic Party brief, with Joe Rauh, and ran the lobbying operation that ultimately resulted in changes that introduced people into the party ranks and delegations without regard to race and gender.

Mr. Speaker, I remember a point in the summer when we were told that the three were missing. They had just gotten there. The summer had just begun for the students. Mickey Schwerner's brother was a classmate of mine in college. His wife was in Washington working with us. We waited on a watch we hoped would not be a death watch, and it was.

We should remember today, Mr. Chairman, not only because of the sacrifices of these extraordinary young men, and we should remember not for memory's sake, or for the sake of nostalgia. For two reasons we should remember. One has to do with continuing discrimination, the other with new and troubled intergroup relations.

The continuing discrimination is sometimes clear in its rawest form, as we see openly racist cults forming in the United States. They do not hide their disagreement with 30 years of progress in race relations in this country.

There is also bitter feeling in the black community about under-the-table discrimination, the kind of discrimination that nobody or most of us dare not practice openly, but which is practiced covertly every day. Particularly do young black men feel this because of the stereotyping that comes from the fact that so much crime is committed by black youngsters, and so all young black men are often considered to be potential criminals. That is the kind of stereotyping that Schwerner, Goodman, and Chaney died to remove.

The second reason, of course, has to do with intergroup relations. This has always been part and parcel of the raison d'etre of the civil rights movement. It has always been an all-inclusive movement. I never thought we would get 30 years after the triumph of that movement and find that there was name-calling across racial and ethnic lines and a tension that we did not see even then.

Yes, we must not forget, Mr. Speaker, that Schwerner and Goodman and Chaney were not all black, that two of them were white and Jewish, and only one of them was black, and that they died together for a cause they all believed in.

When we separate ourselves and do not communicate with ourselves, when there is self-segregation, it is easy, it is easy for us to forget the high principles of the civil rights movement, the high principles for which Schwerner, Goodman, and Chaney died. Kids are self-segregating themselves, and increasingly groups around the country are self-segregating themselves. That kind of self-segregation, as opposed to the normal kind of fraternization among groups who are from the same background, but rigid self-segregation, Mr. Speaker, is the breeding ground for intergroup tension, deprecation, and hatred.

Out of the Mississippi Freedom Summer the person I shall remember the most is Fannie Lou Hamer, who thereafter become my own mentor, though she had a sixth grade education and I had just graduated from law school. She always took me back to first principles. When she died, her town, before that day, had declared Fannie Lou Hamer Day, and that was Rulevle, MS. Fannie Lou Hamer had brought together the blacks and the whites in that most segregated part of Mississippi to work together on raising food, plants, and animals, so they could all relieve themselves of the hunger that characterized Sunflower County.

Today, Mr. Speaker, I would like to invoke the spirit of Fannie Lou Hamer, and I thank the gentleman also for invoking the spirit of Schwerner, Goodman, and Chaney.

I want to mention, Mr. Speaker, finally, that this weekend the gentleman from Georgia [Mr. LEWIS] and I and a number of Members shall be in Mississippi, because there is a reunion this weekend of those of us who were there then, designed to call us all to account and to bring us and help bring our community to its senses on the sensitive and tragic and overriding issue of race in this country.

We shall have fun together, we shall sing together the old freedom songs, and there shall be more serious business at the table, the business of reminding ourselves and helping to remind our country that we have a long way to go, and we have got to go there together, to both end discrimination, and while respecting our individual backgrounds, bring us all together, for after all, this is one country, and we, too, are one.

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank the gentlewoman from the District of Columbia [Ms. NORTON], my friend and colleague, for participating in this special order.

Mr. Speaker, I yield to the gentleman from Massachusetts [Mr. FRANK], who was in Mississippi in 1964.

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman from Georgia [Mr. LEWIS] for yielding to me. It was an honor to follow his leadership 30 years ago, because he was then one of the leaders of the party of conscience in this Nation, those who were genuinely dedicated to making the constitutional principles that we profess a reality. He continues to be a leader. I continue to be honored to follow him and to be associated with him.

Mr. Speaker, as I look to him and to the gentlewoman from Washington, DC [Ms. NORTON], who was also in Mississippi, it becomes particularly poignant to think of the murder of James Chaney and Andrew Goodman and Michael Schwerner, because we were all about the same age 30 years ago. We all had the same kind of motivation.

As I look at my colleagues who were leaders then, and are leaders now, I wonder if people of the dedication of those three who were, and let us remember, they were murdered, they were murdered with the participation of law enforcement officials of the

State of Mississippi, they were murdered brutally, with the Federal Government standing idly by at the time. The question naturally arises; What further contribution would these three people have made?

Mr. Speaker, it is very important to contrast where we were in 1964 and where we are today. We have a long way to go in making our constitutional principles realities for everyone, but we have accomplished very significant progress. The fact, for instance, that we stand on this floor today with a colleague from Mississippi, Mr. BENNIE THOMPSON, who will be joining us, and others indicates that we are capable of significant improvement.

In 1964, as the gentleman from Georgia [Mr. LEWIS] has pointed out, the vast majority of African-Americans in Mississippi might as well have lived in South Africa, for all the rights that they had as individuals. There was a degree of deprivation of individual rights within the United States 30 years ago that was unimaginable to people outside. I saw that because I went to Mississippi from Massachusetts, and it was, while I thought of myself as well-read and well-informed, as extraordinary revelation to understand how little black people in that State could enjoy the rights that I had taken for granted all my life. We continue to make that fight.

It is important, both that we remember that progress has been made, and that we remember that a good deal of progress has yet to be made. In particular, I was pleased that my colleagues who spoke before me noted that by accident, it could have been a different combination, but Chaney, Schwerner, and Goodman happened to be one black and two Jewish Americans. There was any conceivable combination that you could have put together out of that, but that is important, because we are at a time now when there are people who would try to inflame relations in this country. Even as we move to diminish the prejudices that have plagued us, there are people who would like to fan new ones, who would like to expand old ones.

☐ 1650

I was very proud to be in Mississippi in 1964, and I felt I was there as an American, fighting hard for the principles of our Constitution. I also felt, being Jewish, that I was fulfilling an important part of the tradition I had been born into and cherish, the Jewish tradition, both as a matter of self-interest because a society in which minorities are mistreated is one in which Jews will not do well, and as a matter of commitment to broader principles that both as an American and as a Jew I had been brought up to treasure. And I am very pleased to join again today with my colleague from Georgia, and others to reaffirm all aspects of that, to reaffirm first of all our solemn duty as Americans to make the Constitution real for everybody, to make that glorious statement of principle a glorious reality. We are coming closer and closer but we cannot slack off.

And I also want to have the chance to celebrate the working together of the African-American and Jewish communities as part of the broader American community, as we work with others, stressing those things which we have in common with each other as well as those things which all of us as Americans have a commitment to.

Thirty years has seen a lot of progress. We have a ways to go. It is important for us on occasions such as this to rededicate ourselves to making that progress. This is a nation which is capable of even more greatness than we have achieved. This is a nation capable of genuinely fulfilling the promise we have made and have been carrying forward.

We, in particular, in this body are especially lucky because we have been given a particular opportunity to carry that out. Being able to serve in the democratically elected legislative body of the greatest representative government that has ever been known in the history of the world is an extraordinary honor for all of us. I think it is very appropriate on this occasion, 30 years after three young Americans were murdered because they dared to think that the Constitution could become a reality, it is very appropriate for us to use the privileged position we have been given to dedicate ourselves to continuing their work.

I thank my friend from Georgia.

Mr. LEWIS of Georgia. I want to thank my friend and my colleague, Mr. Speaker, and I want to thank the gentleman from Massachusetts [Mr. FRANK] for his participation and for his being in Mississippi in 1964, 30 years ago and being here today and for keeping his eyes on the prize.

Mr. Speaker, I think it is fitting and proper that I yield to one of the real leaders in the struggle for civil rights and social change long before I came to this body, the gentleman from California DON EDWARDS, who visited the South, Mississippi, Alabama, particularly Jackson, Selma, Greenwood.

Mr. Speaker, I yield to the gentleman from California DON EDWARDS an outstanding Member of this body.

Mr. EDWARDS of California. Mr. Speaker, I thank the gentleman from Georgia for arranging this series of discussions tonight and the gentleman from Massachusetts, [Mr. FRANK]. Mr. LEWIS is one of the great heroes of the dark days of American apartheid and our war against it, and may be the most prominent of all of the great men and women who risked their lives in Mississippi.

Yes, I went to Mississippi as a member of the House Judiciary Committee in late 1963. My son, Leonard Edwards, now a superior court judge, was living with Fanny May Hamer in Ruleville in Sunflower County where he was one of the leaders in encouraging young black Americans in Mississippi to register to vote. It was a dangerous summer; it was a dangerous country, dangerous times. People would follow you in their cars. Threats. My son and I left Ruleville to go to another city where there was a freedom house with young Americans who were living together, working all day every day to register voters. Fifteen minutes after we left the house the next morning to go on to McComb, MS the house was bombed and several young men and women were seriously injured.

But the young people who died, whose contribution we are celebrating today, with President Kennedy, were key elements in our success in enacting the 1964 and 1965 Civil Rights Acts. We could not have been successful if it had not been for the sacrifice of the lives of many, including President Kennedy, because, Mr. Speaker, we did not have the votes in the Judiciary Committee in 1963 to report favorably the civil rights bill. After that dreadful day in November 1963, when President Kennedy was assassinated in Dallas, Lyndon Johnson, the new President, came to the Congress and asked us in the name of President Kennedy to enact the civil rights bill that he so lovingly had fostered. And we did.

But we could not have done it without the sacrifice of the three young people, whose bodies were buried outside of Philadelphia, MS under 12 feet of mud and stone in that awful dam.

So we celebrate their contribution today, but we must remember also that the emancipation is not over, it has a long way to go. Up until 1980 or 1981 civil rights bills could come to the floor of this House and the floor of the Senate and quite readily pass. We had a bipartisan, nonpartisan understanding that it was our duty as American legislators to end the remnants of apartheid in this country.

I regret to say that since the early 1980's, there has been almost a reversal in our success. More than 11 Supreme Court decisions have not assisted or encouraged the emancipation. They have worked against, and weakened, the precious civil rights bills. And I suppose, Mr. Speaker, that Shaw versus Reno was almost the crowning blow, the dagger in the heart of civil rights, when you think that the seats of six fine African-American Members of the House of Representatives are in peril now because of Shaw versus Reno. This completely unnecessary decision of the Court showed the attitude of the Court toward civil rights, and to a certain extent that of America today, because we do not fight for civil rights anymore. We are having trouble with the crime bill in getting a very modest proposal accepted called the Racial Justice Act.

So let us use the celebration of the contributions of the three young Americans whose bodies were found under the dam to declare that we must continue the emancipation. We cannot live, as Lincoln said in his debate with Stephen Douglas in 1857, as a divided America. A nation divided against itself cannot stand. And, Mr. Speaker, we are divided and we can only be brought together by efforts of all of us to continue the civil rights struggle, to perhaps include economic rights and social rights as American ideals in future work.

I thank the gentleman from Georgia for arranging this very important series of speeches tonight.

□ 1700

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank my friend and colleague, the gentleman from California [Mr. EDWARDS], for his long service in the cause of civil rights and social justice and for participating in this special order tonight.

Mr. Speaker, I yield to the gentleman from Florida [Mr. HASTINGS].

Mr. HASTINGS. Mr. Speaker, I have prepared remarks, but I would like to speak for a moment from the heart.

First, I would like to thank the gentleman from Georgia [Mr. LEWIS] and the gentleman from Massachusetts [Mr. FRANK] for allowing this special order, for this special order occasion that is being undertaken, I would also like to thank the previous speaker who, in the next session of Congress, will have left us an immense legacy to try and live up to the type of reputation that he, DON EDWARDS, has put forward here in the House of Representatives on behalf of this Nation.

It is fitting on an evening like this, even though there will be many more celebratory times when we will say to our colleague, DON EDWARDS, thank you for all of his work, at least this evening I think he would appreciate being praised for being there when it counted for all of us.

As the gentleman from Massachusetts [Mr. FRANK] said, it is true that 30 years ago there were difficulties that brought many races together to fight for freedom, and yet 30 years hence, we are still in that struggle notwithstanding substantial progress that has been made, so it is in the memory of Goodman and Schwerner, and Chaney, a trilogy of names that will always be connected, that we come together today and celebrate the 30th anniversary of freedom summer.

Today, as we celebrate the 30th anniversary of freedom summer, we are painfully reminded that freedom has its price.

On this day 30 years ago, three courageous, dedicated selfless, young men-Andrew Goodman, Michael Schwerner, and James Chaney—paid the ultimate price for freedom. They gave their lives, so that all Americans can truly enjoy "Liberty, Peace and the Pursuit of Happiness."

Our American dream, sadly enough, is marred by the nightmare of so many of their kind, who sacrificed to their bitter ends, for the realization of justice and equality in this country. They crossed racial, religious, cultural, gender, political, geographic, social, and economic lines in their unyielding quest for freedom. They marched for freedom—they died for freedom.

Just as Goodman, Schwerner, Chaney, and countless other freedom fighters united to address racial injustices, we too—as Members of the very institution tasked with being agents for change—must unite to address crime, homelessness, health care, and welfare.

We can take our example from those who participated in freedom summer—who put aside their varied differences for a much bigger cause. We can likewise put aside our political differences, to accomplish a much bigger cause, in the summer of 1994.

As we commemorate the heroics of the civil rights class of 1964—of which we have the good fortune of serving with one of its most distinguished alumni, our friend and colleague, Representative JOHN LEWIS—let us rededicate ourselves to the tenets that these Americans espoused and pledged their lives to—securing the rights of all Americans, as guaranteed under the Constitution of these United States of America.

Then perhaps, we can say with straight faces, relieved hearts, and genuine sincerity, the immortal words of Dr. King, "Free at Last, Free at Last, Thank God Almighty, We're Free at Last."

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank my friend and my colleague, the gentleman from Florida [Mr. HASTINGS], for his words, his leadership, for his sense of vision over the years, and for participating in this special order this afternoon.

Mr. Speaker, it is now my pleasure and delight to yield to the majority whip of the House, the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, one day, decades from now, when a new generation of American schoolchildren sits down to study the fight for justice and equal rights in America they will learn about a woman named Rosa Parks, and her courageous ride on a bus;

They will learn about Martin Luther King, and his simple and inspiring dream;

They will learn about the freedom riders and the thousands of men and women who braved dogs and hoses and batons to cross the bridge at Selma.

But as they learn about these inspiring people and places, they will notice that one name continues to surface at every juncture, one bright light continues to shine at every crossroads showing the way with his leadership and his courage, and his bravery.

They will learn, Mr. Speaker, about a compassionate and committed young man from the State of Georgia named JOHN LEWIS, who in one long summer helped bring a Nation to its senses and brought injustice to its knees.

Mr. Speaker, I am deeply honored this evening to be on this floor on the anniversary of the freedom summer of 1994 with the man who as much as anyone helped mobilize students against injustice in the South back in 1964, who helped raise the consciousness of America and who continues to inspire us today with his leadership and his courage.

Mr. Speaker, JOHN LEWIS is a hero to me and millions of other people around the world.

Mr. Speaker, a young African-American boy growing up in Mississippi today might find it hard to believe that there was a time when blacks would be beat up if they tried to vote.

He might find it hard to believe that there was a time when people in America would disappear without a trace, simply for expressing the right guaranteed to them under the Constitution of the United States.

And he might find it impossible to believe that 30 crowded summers ago, three young men were arrested, jailed, beaten, shot and killed, simply because they tried to extend that basic right to other Americans.

But it did happen, Mr. Speaker. And we are here today to honor those three heroes, James Chaney, Andrew Goodman, and Michael Schwerner, who answered the call 30 years ago to go to Mississippi and extend the cause of freedom for every American.

Like thousands of other students like them, including Congressman BOB FILNER, who led other students from his school, Congresswoman ELEANOR HOLMES NORTON, who spoke so eloquently on the floor who continues today to provide leadership and who was there, my friend and colleague who has been a champion of civil liberties and civil rights in this institution, DON EDWARDS, whom we will miss so dearly because of his incredible leadership, my wife Judy, who spent the hot summer of 1964 working with JOHN LEWIS to end over 200 years of discrimination and abuse, they believed that what they were doing was right, that everybody deserved an equal chance at the American dream, and they put their lives on the line to extend that right.

We should never forget that 30 years ago, a group of inspired and committed young Americans, working together, nonviolently, helped change the world.

Today, we can't forget that to advance the cause of freedom in the world, to advance the cause of human rights, sometimes we have to take risks, sometimes we have to stand on principle, not because our consciences tell us to, not because our history tells us to, but because it is right.

We have come a long way since 1964, we have made a lot of progress, but we still have a long way to go.

We still live in an America that is separate and unequal.

We still live in an America where basic justice is being denied to millions of Americans.

We honor the memories of these three men today not just to remember their sacrifices, not just to remember their experiences, but to remind ourselves that we are the heirs of their sacrifice, and we must remain eternally vigilant to end the discrimination and prejudice they fought against, here and around the world.

Because in the end, that's the highest tribute we can pay.

□ 1710

I thank my colleague from Georgia [Mr. LEWIS] for leading us this evening on this very important anniversary.

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank the majority whip, the gentleman from Michigan [Mr. BONIOR], for participating in this special order. I want to thank him for his commitment, his dedication to the cause of justice and social change. I also want to thank him for those kind and moving words.

Mr. Speaker, I count the majority whip as a friend and as a brother.

Mr. Speaker, at this time it is my pleasure to recognize the gentleman from Mississippi [Mr. THOMPSON]. This gentleman is a living example of the progress that we have made in the State of Mississippi and in the South during the past 30 years.

I yield to the gentleman from Mississippi [Mr. THOMPSON].

Mr. THOMPSON of Mississippi. I thank the gentleman from Georgia [Mr. LEWIS].

Mr. Speaker, today marks the 30th anniversary of the murder of three civil rights workers in Philadelphia, MS, by the Neshoba County deputy sheriff and fellow members of the Klu Klux Klan. These young men, James Chaney, Andrew Goodman, and Michael Schwerner were brutally murdered for attempting to register African-Americans to vote. These deaths signaled to the country that civil rights activists were willing to put their lives on the line to end legal segregation in America.

Chaney, through his extraordinary courage as a teenager in the 1950's, began to inspire his family and neighbors in the community of Meridian to help transform Mississippi from a State that forced African-Americans to live as second-class citizens to a society offering equal opportunity to all.

As we commemorate the 30th anniversary of Freedom Summer 1964 let's not forget these three young men who gave their lives in the struggle for civil and human rights. Their loss should continue to serve as a special call to this Nation to work together to end the racism, poverty, and violence that plague our communities.

Mississippi can proudly boast about having the highest number of African-American elected officials. However, we must always be reminded that we had to fight to be granted the right to vote. I, along with many of my colleagues, am here today as a direct result of the struggles of the sixties. To borrow an overused, but appropriate saying, if you don't remember your history, you are doomed to repeat it. We must remember that freedom has been and will continue to be a constant struggle.

[From the New York Times, October 21, 1967]

MISSISSIPPI JURY CONVICTS 7 OF 18 IN RIGHTS KILLINGS—ALL-WHITE PANEL ACQUITS 8 AND RULES A MISTRIAL ON 3 IN KLAN CONSPIRACY CASE

(By Walter Rugaber)

MERIDIAN, MISS., Oct. 20.—A Federal Court jury of white Mississippians convicted seven men today for participating in a Ku Klux Klan conspiracy to murder three young civil rights workers in 1964.

Guilty verdicts were returned against Cecil R. Price, 29 years old, the chief deputy sheriff of Neshoba County, and Sam H. Bowers Jr., 43, of Laurel, identified as the Imperial Wizard of the White Knights of the Ku Klux Klan.

Also convicted were Horace D. Barnette, a one-time Meridian salesman; Jimmy Arledge, 30, a Meridian truck driver; Billy Wayne Posey, 30, a Williamsville service station operator; Jimmie Snowden, 34, a Meridian laundry truck driver; and Alton W. Roberts, 29, a Meridian salesman.

MAXIMUM TERM 10 YEARS

The maximum penalty for the conspiracy convictions is 10 years in prison and a $5,000 fine.

Eight other men were acquitted by the panel of five men and seven women. The jurors were unable to reach a verdict on three of the 18 defendants, and mistrials were declared. . . .

Murder is generally not a Federal crime unless committed on Government property. The conspiracy charges, filed under a Reconstruction era law, were brought after the state courts failed to take action.

The convictions were said to be the first in a civil rights slaying in Mississippi. The state has had a series of unpunished racial killings in recent years, starting with the murder in 1955 of Emmett Till, a Negro from Chicago.

But the lynching in nearby Neshoba County of the three young rights workers occurred at the height of the direct assault on segregation in the South and has been one of the most widely followed criminal cases of the decade.

The Department of Justice and the Federal Bureau of Investigation fought in court for more than three years. Informed estimates of the prosecution's cost ranged upward from $1 million.

The dead youths were Michael H. Schwerner, 24 of New York, a white field worker for the Congress of Racial Equality; Andrew Goodman, 20, of New York, a white college student, and James E. Chaney, 21, of Meridian, a Negro plasterer.

They disappeared June 21, 1964, after driving to Neshoba County from Meridian to investigate the burning of a Negro church. Price arrested them and placed them in the county jail that afternoon.

3 HELD FOR LYNCHING

The Government found that Price held the three until a Klan lynching party could be assembled, then released them, recaptured them on the highway and turned them over to the gunmen for execution.

The bodies were found Aug. 4, 1964, buried about 15 feet beneath the earthen dam of a small farm pond in Neshoba County. Prosecution witnesses told how the three had been buried in a common grave and covered with the aid of a bulldozer.

The defendants who pulled the triggers were never identified in court. Horace Barnette presumably named them in a signed confession.

Many newsmen, Government sources and other longtime observers of the state were surprised by the news of the guilty verdicts and predicted that the jury's decision would have a substantial effect here.

Several observers said that the convictions would not only restrain terrorist activities in Mississippi but also make it easier for the prosecution to obtain convictions in future cases.

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank my friend and colleague, the gentleman from Mississippi [Mr. THOMPSON], for participating in this special order, and I look forward to being with him and the good people of Mississippi this weekend in visiting his district.

Mr. Speaker, it is now my pleasure to yield to the gentleman from Ohio [Mr. FINGERHUT].

Mr. FINGERHUT. I thank the gentleman.

Mr. Speaker, I thank the gentleman from Massachusetts [Mr. FRANK], the gentleman from Georgia [Mr. LEWIS], for organizing this opportunity for us to come to the floor and remember freedom summer. Let me say to the gentleman from Georgia [Mr. LEWIS] that I will not occupy much of this time because in some ways I feel inadequate to the task.

I played no personal role in these events, was but a young man growing up in Ohio at the time. But I grew up being taught that one man, one person, can make a difference, that if we believe enough, we can change the world all by ourselves. The reason I was taught that is because of the example of people like the gentleman from Georgia [Mr. LEWIS], and people like Michael Schwerner, Andrew Goodman, James Chaney, who are not here to tell the story. But I was taught that because of such people who did, when the time came and they were called, did stand up and did singlehandedly change the world.

I had the opportunity, I say to the gentleman from Georgia [Mr. LEWIS], on Friday to go back to my alma mater, Northwestern University, in Evanston, IL, to address the students there on the occasion of the commencement of the Class of 1994, as so many of our colleagues have had a chance to address students at this time of graduations and commencements.

I asked them to believe, and I told them that I hoped they do believe, that they are so good and so smart and so idealistic that they can really change the world. And as evidence of their abilities, I submitted to them what happened 30 years ago almost to the day they graduated and that is that three young men, certainly not willingly, but were ready to give their lives for a simple idea, that all people can be equal, that all people in this democracy have the right to vote and to exercise and be part of all the cherished freedoms.

Mr. Speaker and I say to the gentleman from Georgia [Mr. LEWIS] I thank you for what you have given to me as a legacy. I thank you for your continued leadership, and I thank you for reminding us every single day that each and every one of us is a Member of this body and each and every person listening at home and those not listening can, if they so desire and if they have the strength of will and the strength of character, can change the world, can make a difference even today because you have done so.

I thank you for giving us this opportunity as a country to remember how 30 years ago three young men also made a difference.

☐ 1720

Mr. LEWIS of Georgia. Mr. Speaker, I thank the gentleman from Ohio [Mr. FINGERHUT] for participating in this special order, and I thank him for those kind words.

Now, Mr. Speaker, it is my pleasure to yield to the gentlewoman from Pennsylvania [Ms. MARGOLIES-MEZVINSKY].

Ms. MARGOLIES-MEZVINSKY. Mr. Speaker, as my colleagues have heard, it was 30 years ago today that a young African-American man from Mississippi and two young Jewish men from New York were arrested, taken to jail, beaten, shot, and killed because they were registering voters in Mississippi.

Thinking of these three young men who gave their lives in the cause of freedom, I reflect on that seminal summer when more than 1,000 young men and women from colleges and universities across the Nation went to Mississippi to participate in voter registration drives.

I also reflect on the alliance between African-Americans and Jewish-Americans, which was an important piece of the summer project's success.

This alliance during freedom summer was typical of the battle for human rights—a battle which Jewish-Americans and African-Americans fought side by side, risking their lives—and sometimes dying for the cause.

Thus on this night that we honor James Cheney, Mickey Schwerner, and Andrew Goodman, I ask that we also remember the long and productive alliance between Jewish-Americans and African-Americans.

When extremists on both sides today try to break that alliance, let us remember our past accomplishments and the common goals and objectives of both groups—for they have more in common than not. Both share experiences that make them revere tolerance—that make them understand, and fight for—even die—for freedom.

What is more important?

It is for us to cherish their legacy and make sure we make it live.

Mr. LEWIS of Georgia. Mr. Speaker, I thank the gentlewoman from Pennsylvania [Ms. MARGOLIES-MEZVINSKY] for participating in this special order.

Ms. MARGOLIES-MEZVINSKY. Mr. Speaker, I thank the gentleman from Georgia [Mr. LEWIS] for giving me the opportunity to do so.

Mr. LEWIS of Georgia. Mr. Speaker, it is my pleasure to yield to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I thank the gentleman from Georgia [Mr. LEWIS] for yielding to me, and may I, first of all, say that it is a pleasure to be a colleague of the gentleman who I certainly read about for many years before I ever had the pleasure of meeting with him and serving with him, and I said this many times before, and I will say it again:

When we think of a true American hero, the gentleman from Georgia [Mr. LEWIS] is certainly my idea of a real American hero, someone who has really done so much to further justice in this country and someone who, despite the way he had been treated, emerged with no sense of bitterness or hostility whatsoever.

I just want to say, Mr. Speaker, it is indeed a pleasure to be the gentleman's colleague and his friend.

Mr. Speaker, 30 years ago today three young men, committed to the righteous cause of racial justice and equality, were brutally murdered while they prepared for the Freedom Summer of 1964 in Mississippi. Despite differing backgrounds, James Chaney, Michael Schwerner, and Andrew Goodman shared a strong unwavering commitment to democracy and civil rights for all Americans. Their barbaric murders served as a solemn, but jarring, reminder of the social and political battles which were fought in our Nation's cities, suburbs, and countryside not so long ago. Black and white, Jewish people and Christian people, men and women worked together toward the fulfillment of common goals, often risking their personal safety.

Recently there has been increased national attention focused on certain groups and individuals who denounce the important and shared role in an alliance that African-Americans and Jewish-Americans have played in our Nation's history. Mr. Speaker, throughout our country's history blacks and Jews have shared much and have had much in common. Both have been persecuted and have faced discrimination. Both have been in the forefront of pushing for social justice and social equality in this country and, indeed, the world. Some hatemongers would attempt to drive the two groups apart with falsehoods, hatemongering, revisionist history and appeals for prejudice, but they will not succeed.

Andrew Goodman and Michael Schwerner were two Jewish-Americans from my city, New York City, and James Chaney was a black man in Mississippi. They shared a dream of equality and a better life for all Americans, and today, Mr. Speaker, we still share that dream. The 30th anniversary of the murders of Schwerner, Chaney, and Goodman provides an historic opportunity to highlight our shared commitment to civil and human rights and social justice. The alliance between African-Americans and Jewish-Americans in this country has been a strong one and continues to be strong because there still is much in common. We must continue to work together. All Americans must continue to work together toward the betterment of our society for all Americans.

Mr. Speaker, I thank the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. I want to thank my colleague and friend, the gentleman from New York [Mr. ENGEL], for participating in this special order tonight.

It is now my pleasure to yield to the gentleman from New Jersey [Mr. KLEIN].

Mr. KLEIN. Mr. Speaker, I thank the gentleman from Georgia [Mr. LEWIS] for yielding to me, but I particularly thank the gentleman for his leadership, not only this evening in connection with this special order remembering those events of 30 years ago, but, most importantly, for his leadership 30 years ago in the cause and the fight for the most important and cherished right of all Americans.

I never participated in the work in Mississippi. I did have the privilege, however, of joining with half a million other Americans when I heard the great Reverend Martin Luther King say, "I have a dream," and I remember that cherished dream, and I know that the three men who we remember tonight shared that dream just as a thousand others who worked in Mississippi shared that dream, just as millions of other Americans throughout our Nation shared that dream. It was a dream and a fight for the most precious right that we possess as American citizens, the right to vote, the right to determine our own destiny, the right to exercise power at the ballot box.

□ 1730

I think it is particularly fitting that we remember that the 3 people who died in Mississippi, one black and two Jews, although they came from very different backgrounds and very different heritages, shared a common bond, shared a common goal and a common ideal. On this 30th anniversary, let their memories serve as a reminder to all Americans and a clarion call of what they died for, and that they did not die in vain. They died to fight bigotry and hatred wherever it existed. They died to ensure that every American could vote and could exercise the right at the ballot box. Let all Americans now gather around and continue to honor that ideal by exercising their right to vote so that the efforts of these 3 men shall not have been in vain.

Mr. Speaker, I thank my friend, the gentleman from Georgia, for giving me this opportunity to participate in this event.

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank the gentleman from New Jersey [Mr. KLEIN] for participating in this special order.

Mr. Speaker, in the past three decades, our society has made a great deal of progress. Because of the Mississippi freedom summer and the sacrifices made by Goodman, Chaney, and Schwerner, our Nation is a better place. We have witnessed what I like to call a nonviolent revolution, a revolution of values, and a revolution of ideas. The Mississippi summer project gave many of us hope that the building of an interracial democracy was possible even under the most adverse and daunting conditions. The civil rights movement instilled in many of us the dream that we could through disciplined nonviolent action transform this Nation into the beloved community. This has been a conscious goal, and, though it may be a distant one, the Mississippi summer project strengthened my conviction that we can make that dream a reality.

Mr. PAYNE of New Jersey. Mr. Speaker, I join my colleagues in honoring the memory of three courageous young Americans who, 30 years ago today, paid the ultimate price for their belief in a freer, more just America—Andrew Goodman, James Chaney, and Mickey Schwerner.

As an activist myself during that era, I attended the famous march on Washington in 1963 when Dr. Martin Luther King delivered his famous "I Have a Dream" speech and I also marched in Selma, AL. During freedom summer of 1964, I well remember the shock waves sent through our entire community at the news of the terrible fate met by these three young men.

In the midst of the horror and outrage we felt at the news of the murders, there also emerged a great sense of determination that these young lives would not have been given in vain—that the movement for freedom and justice would march forward. The sacrifice that these young men made, their unwavering commitment and idealism, sustained us through many dark days and we remembered them with special gratitude in times of victory.

As we pay tribute to these three brave Americans today, let us pledge never to forget the lessons they left us. Let us never underestimate the right to vote and to participate in the political process. The door which is open now was once boarded shut for millions of Americans.

Let us also remember the lesson these young men taught us about the value of friendship between people of all backgrounds committed to a common cause. In a time when there is too much division and mistrust among groups in our Nation, we should reflect upon these three young men, two Jewish and one African American, united by the bonds of friendship and a common passion for justice.

Andrew Goodman, James Chaney and Mickey Schwerner remain true American heroes. They undertook a dangerous and ultimately deadly mission to ensure that all of their fellow citizens, regardless of race, would be guaranteed the basic rights of democracy. Mr. Speaker, let us honor their memory and renew our commitment to the ideals for which they sacrificed their precious young lives.

Mr. MFUME. Mr. Speaker, today, June 21, 1994, marks the 30th anniversary of the murder of three civil rights pioneers: Andrew Goodman, Mickey Schwerner, and James Chaney.

It was the summer of 1964. Waves of college students gathered together in Mississippi to join other civil rights groups in the summer project of 1964. This project established schools, clinics, and voter registration programs. The purpose of this project was to assist African-Americans in exercising their voting power.

Shortly after the project began three civil rights workers, two Jewish and one African-American, came together to help create a better society for future generations. Mickey Schwerner, a 24-year-old Jewish-American, arrived in Meridian, MS 6 months before the project began in order to set up community centers to help African-Americans with the democratic process. James Chaney, a 21 year old African-American, was a native of Meridian and had been active in civil rights movement for the majority of his life. Andrew Goodman, a student of Oxford University, met Chaney and Schwerner at a training session for volunteers in Oxford, OH on the 19th of June. On the 20th they rode to Meridian, MS together. On the 21st they were murdered.

The trio set out on Sunday, June 21, 1964, to investigate the burning of a church in Neshoba County. As they headed back home, a deputy of Neshoba County stopped them under the guise of a speeding charge. They spent 5 hours in jail and were released late that night. The men were then led into a trap of blood-thirsty klansmen and bigoted police officers, including the town sheriff. Goodman and Schwerner each received a bullet to the chest at point blank range. Chaney, however, was shot three times. We don't know whether he was punished more for his skin color or his relentless struggle. What we do know is that Mr. Chaney was shot once in the abdomen, once in the back, and a final shot to the head.

Three men from different backgrounds came together for one common goal that summer of 1964. To promote justice and equality of all individuals. They worked together, suffered together, and gave their lives together so that we all could stand today and participate in the democratic process that is every American's birthright. Their lives symbolize the dream of unity among all citizens of this Nation, regardless of race, religion, and culture.

Now, I ask that we all remember the courage and dedication of Schwerner, Goodman, and Chaney. Let this commemoration of their lives inspire us to dedicate our lives to the ideas of justice, equality, citizenship, and community.

Mr. STOKES. Mr. Speaker, I want to thank my colleagues, my good friend from Georgia, JOHN LEWIS, and the distinguished gentleman from Massachusetts, BARNEY FRANK, for reserving this special order. I join them for this hour which is dedicated to three individuals who, even in memory, continue to embody the struggle for civil rights in this country.

Thirty years ago today, on June 21, 1964, Andrew Goodman, James Chaney and Mickey Schwerner were brutally murdered in rural Neshoba County, MI. On that day, these three young men—two Jews and one African American—gave their lives for the cause of freedom.

We know their lynchings marked a turning point in the civil rights movement, as the names Chaney, Goodman and Schwerner were splashed across newspapers and television screens throughout America. For many of us who were a part of the civil rights movement, this brutal act of violence is as vivid in our minds today as it was 30 years ago.

We recall that even as the search intensified for evidence in the disappearance of these young men, here in Washington, ceremonies were underway to mark President Lyndon Johnson's signing of the landmark Civil Rights Act of 1964. When the murder case unfolded in Mississippi, no fewer than 21 individuals, ranging from a 17-year-old gas station attendant, to a 71-year-old retired police officer, were implicated in the plot to murder the young volunteers.

Mr. Speaker, the cause which drove these young men to work together for freedom is well known. Goodman, Chaney and Schwerner were part of the Mississippi summer project, a campaign which brought college students to Mississippi in an effort to register black voters. The slogan for the project was, "If you can crack Mississippi, you can crack the south."

We know the job undertaken by these young men, and many other like them, was not an easy one. Like most of the South during that period, the State of Mississippi was hostile, filled with racial tension, and extremely resistant to change. Yet, hundreds of dedicated students immersed themselves in these settings in the hopes of bringing about positive change. The young men we honor this evening paid the ultimate sacrifice for their belief that others were entitled to a better life.

Mr. Speaker, when we reflect upon the interwoven lives of Goodman, Chaney and Schwerner, we are reminded of the unique partnership that existed between the black and Jewish communities during the struggle for civil rights in America. We are reminded that blacks and Jews marched on Selma, participated in sit-ins and demonstrations, and, in many instances, gave their lives for freedom. During that turbulent period, we recognized that fact that the only way to eradicate inequality and injustice was by working together.

The need for a continued close working relationship between the black and Jewish community is just as critical in today's world. We must be mindful that forces exist that would rather tear apart a historical partnership than build upon a relationship that has successfully benefitted both races.

Mr. Speaker, the deaths of Andrew Goodman, James Chaney and Mickey Schwerner, mark a pivotal event in our Nation's history. I commend my colleagues for bringing us together, not only to remember these young men, but to remind us of the lesson symbolized by their deaths.

GENERAL LEAVE

Mr. LEWIS of Georgia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the subject of my special order tonight.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

CALL FOR AN END TO THE EXCISE TAX ON BEER

The SPEAKER pro tempore (Mr. KLEIN). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Massachusetts [Mr. BLUTE] is recognized for 60 minutes as the minority leader's designee.

Mr. BLUTE. Mr. Speaker, before we move on to a new special order, we on this side would also like to congratulate the gentleman from Georgia for his great contributions to our country, more particularly for his great efforts during the civil rights movement. We know that there was a lot of courage involved in that effort and we want to congratulate him for putting together that very enlightening special order.

Mr. Speaker, changing the subject tonight, we would like to get to the subject of taxes, once again, to discuss taxes here on the floor of the House. It seems unfortunate that taxes are the topic of debate here all too often. There is no question that the American people are sick and tired of the many financial burdens and increasing financial burdens imposed on them by government at all levels. Taxes in the form of sales taxes, income taxes, capital gains taxes, gas taxes and on and on and on. But this evening I would like to talk about just one particular tax that we in Congress hear about constantly from working Americans across this country, a tax that they are upset about and that they do not want to see raised once again, the excise tax on beer. The reason people mention the beer tax to me as I travel throughout my district each weekend and read my mail each day is that every time Congress is looking to finance some new initiative, whether it be health care, GATT, welfare reform, or something else, a beer tax is almost always suggested as being the answer to all or part of the financing scheme.

Let me just read one example of a letter I received from a constituent concerning this issue and the negative impact that the last time the Congress reached for an increased in the excise tax on beer had on this one individual and his family:

> DEAR CONGRESSMAN BLUTE: As owner of a small package store the new (1991) tax and the worsening economy has hit us hard. So bad that we are now closing our family-run store and we are going to file Chapter 7 for both the business and personally.
>
> I hope you'll stand up for American consumers and small business owners like me. Even though stopping any new tax is too late to help my business, maybe it will still help others.

Clearly, many Americans care about this issue, even though excise taxes are not something that they see printed out on their sales slip at the local supermarket. So tonight we are here to dispel some of the myths that these taxes are a positive thing, and to reaffirm the fact that beer tax hikes not only hit consumers in the wallet, they kill jobs in the districts of every Member of this House.

Let us talk about jobs for a few minutes. We all know that there are not enough of them out there currently, so we need to do everything we can to preserve the good jobs in our country that allow many American families to make ends meet.

The jobs of over 2.7 million workers are affected by the beer industry. There are 500,000 retailers, 3,000 wholesalers, and 400 breweries in this country, employing 845,000 people between them.

Additionally, the success of the industry affects many other livelihoods, from the farmers who grow the hops and barley to the truckers who deliver the kegs and the cases.

Mr. Speaker, in my State of Massachusetts, approximately 202,000 people are employed in beer-related businesses. In my district alone there are over 16,000 jobs impacted by this industry. From store cashiers to restaurant owners to the men and women who work at bottling plants, hardworking Americans depend on revenues from the sale of beer for their paychecks.

Those job figures are based on what the industry looks like today. But just a few years ago, there were 31,000 more Americans providing for their family as a result of their jobs in this industry. Those jobs are now gone. The reason? Higher excise taxes.

Many may not remember that a provision of the now infamous 1990 budget deal doubled the excise tax on beer. In January 1991, beer taxes shot up from $9 to $18 per barrel. Consumers, faced with a stiff price hike, chose not to buy as much and sales fell 3 percent, the worst decline in sales in 30 years. As I said before, 31,000 Americans found themselves out of a job, not because they did not work hard or because they failed to show up for work one day, but they were put in the unemployment line by their own Government because of an ill-advised tax. It reminds me of what Justice Marshall once said about taxes:

"The power to tax involves the power to destroy."

The crazy thing about this job loss is that while tax revenues from the doubled beer excise tax initially rose, the most recent figures show that the revenues are now declining again, at a rate of more than $70 million from fiscal year 1992 to fiscal year 1993.

Consumers are changing their buying habits because excise taxes have reached beyond the saturation point.

I few facts on these taxes:

Beer is taxed nearly 3 times higher than most other consumer products. By doubling the excise tax, consumers actually get taxed twice, because they pay a sales tax on top of that excise tax.

Today, approximately 80 cents of every six-pack of beer is paid in taxes.

I wish we could take a vote today on repealing that wrong-headed tax from 1991, but unfortunately we cannot.

Mr. Speaker, it brings to mind the similar disastrous experience with the luxury tax, which was imposed and supposed to produce a tremendous amount of revenue. History teaches us that the revenues declined and thousands of Americans were thrown out of work in the boating industry. Thankfully this Congress and this administration saw the error of that way and repealed the luxury tax.

What we can do tonight, and I hope to do along with some of my colleagues tonight, is to educate the American people and the other Members of Congress about what a bad idea doubling that excise tax was in 1991 and what a derogatory effect it had on our country in terms of jobs and in terms of taking money out of the pockets of the 80 million Americans who enjoy a beer every now and then.

□ 1740

What public policy good does it serve to tax the beer drinkers of America, who are an overwhelmingly responsible, hard-working group, who should not be singled out in this way?

We have heard it called a sin tax. But in my view, it is not a sin tax. Where I come from, it is not a sin, after a long day of work, to come home, put the Red Sox on the tube, put your feet up, and have cold beer. Let us remember that the working men and women are the ones who have to beer the brunt of our public policy decisions here in the Nation's Capital.

Mr. Speaker, at this time I would like to yield to our distinguished colleague from the city of Buffalo, NY, who also would like to join in this special order, the gentleman from New York [Mr. QUINN].

Mr. QUINN. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. BLUTE]. I wanted to join him and others today that will join us in a few minutes to strongly state my opposition to increasing excise taxes on beer as well.

We are here tonight to talk about middle class working Americans. As this Congress tackles important issues, health care and welfare reform in the coming weeks and months, it is important that we stand firm, that Members tell Congress and tell the President that higher beer taxes are not the answer to fund these worthwhile programs.

When I ran for Congress back in 1992, I pledged to oppose any new Federal excise taxes on beer. Back in January 1991, Federal excise taxes on beer doubled. In New York State, there has been almost a 400 percent increase in State beer taxes over the last 5 years. A 400 percent increase.

We know what happened back in 1991 after the Federal tax doubled. Sales declined and revenues declined. The decline in sales were the largest in 35 years, and almost 31,000 jobs were lost in our country. When you consider that many small businesses that rely on income from beer sales, the numbers of those job losses become staggering.

That is right, jobs were lost. Middle and lower class taxes went up, and there is no major decrease in teen drinking or drunk driving. It just does not seem to make sense.

In 1993, New Yorkers paid $191 million in Federal beer taxes, and another $86 million in State beer taxes.

In another area of New York State, I represent Buffalo, NY, in Fulton, NY, the Miller Brewery will be closing on October 1 of this year. Nine Hundred people will be out of work. Three hundred people have already been laid off. Why? Because the 1991 tax increase seriously hurt sales. The town will lose one of its largest employers, one of the largest property taxpayers in all of the area.

Mr. Speaker, when we take a serious look at beer taxes and get by all the rhetoric, we can see that we are talking about a regressive tax that unfairly singles out beer drinkers and beer consumers. When the 1991 tax was passed, moderate drinkers, not chronic abusers, but moderate drinkers reduced their beer consumption. It punished millions of hard working Americans. The minority of drinkers who abuse alcohol are not put off by higher costs. Sadly enough, and unfortunately, these people have serious problems and need to be helped through education, treatment, and tougher law enforcement.

Middle class working class Americans, like the people that I represent in Western New York, and people across this country, are taxed enough Mr. Speaker. Higher beer taxes are not the answer.

Mr. BLUTE. Mr. Speaker, I want to thank my colleague, Mr. QUINN, from Buffalo, NY.

Mr. Speaker, at this time I would like to recognize for purposes of debate another distinguished colleague of ours from New York—from Long Island, NY, Congressman PETER KING.

Mr. KING. Mr. Speaker, I thank the gentleman for yielding. I rise tonight in support of his special order and in opposition to any increase in the excise tax on beer.

Mr. Speaker, in rising in support of Mr. BLUTE, I do so and I violate a pledge I made last November when as a Notre Dame graduate I was in deep depression after his alma mater, Boston College, defeated Notre Dame. I said on the floor I would never work with Mr. BLUTE or Mr. MARKEY. Notwithstanding that pledge, I feel so strongly about this issue that I am temporarily waiving the pledge and appearing tonight with him to speak out against any increase at all in the excise tax.

Seriously, Mr. Speaker, what we are talking about are the hard working men and women in our country who are already taxed. They are taxed by the Federal Government, they are taxed by the State government, they are taxed by the local governments, and we in New York have especially high taxes. We are the tax capital of the world. As Mr. BLUTE stated earlier, there are thousands of employees throughout this country who lost their jobs when the last excise tax was raised.

In my district alone, just yesterday, I was visiting Mr. Hap Boening, a beer wholesaler, touring his facility, seeing the large number of people he employs, seeing how slim the profit margin is and why, because of the increase in 1991 on the excise tax, and seeing how close they are to barely surviving because of those tax increases, and how we will put them over the edge if we raise the taxes again.

I find it very arrogant on the part of the people in Washington, bureaucrats, think tank operators, who somehow feel that you can always tax the working guy or the working woman. They call it a sin tax. As Mr. BLUTE said, it is no sin at all at the end of a hard day to come home and open up a can of beer and, as he said, to watch the Red Sox. Well, that it a bad example, I think. I don't know why anyone would want to watch the Red Sox. Certainly, if you wanted to watch the Mets or the Yankees or the Jets or the Giants or Rangers, who after 54 years won the Stanley Cup, or the Knicks, who tomorrow night are going to win the NBA championship, what is wrong at the end of a hard day, with coming home and having a beer, of enjoying a barbecue in your backyard with your family, and having a beer or two. This is what the working people of this country want to do. They want to work hard, they want to enjoy their families, enjoy their homes, and have a little relaxation.

Yet, very arrogantly, the first impulse in Washington is when they need a few dollars to fund some exotic social program, is to look to the middle class people, the blue collar people, the decent men and women that make this country work, and take away one of the few small luxuries, quote-unquote, that they still have.

So it is bad for our economy, it is bad social policy, and it is arrogant to even be considering any type of increase in the excise tax.

I think that Mr. BLUTE has performed a real service tonight in arranging this special order, in focusing public attention on an issue which is too often ignored. Also in mobilizing some of the finest legal brains here in the House of Representatives, some of the colleagues, as I look around and see them, the leading Members, certainly on our side of the aisle, who have come forward tonight to show their great regard for Mr. BLUTE and their great concern over this issue.

So, Mr. Speaker, I close my remarks by imploring the Clinton administration and imploring the Congress not even to consider any increase at all in the excise tax on beer.

I yield back my time to Mr. BLUTE, and commend him for the tremendous leadership he has shown on this and so many other issues. It is because of men like him that the country is what it is today.

Mr. BLUTE. Mr. Speaker, I thank my colleague for those words. I would remind him, with reference to the Yankees, that it is a long season, and the Red Sox will be back in September. So I thank him for those words and for participating in this debate. I know the gentleman to be a great champion of working men and women in his district and throughout the country, and this is an important issue relating to both our constituents and, more generally speaking, the people in the entire country.

I will enter the into the RECORD a statement by our colleague TIM HOLDEN from the 6th District of Pennsylvania opposing increases in the excise tax on beer. TIM writes that in his district, he has one of the oldest breweries in the entire country, the Yuengling Brewery, started in 1829, and is still a family-owned business and employs thousands of people in his district.

At this time I would like to bring up for this debate someone who really knows about the job implications of this industry in his district. He is from St. Louis, MO, the home of many of the Nation's largest breweries, and that is JIM TALENT from St. Louis.

□ 1750

Mr. TALENT. Mr. Speaker, I thank the distinguished gentleman from Massachusetts for yielding and for raising this important subject. It is a subject that we need to talk about a little bit more here, I think, in the House, for a lot of the reasons that other Members have elucidated. They affect us in St. Louis, too. I am very glad I am here because I want everybody in the House to know that we brew a lot of beer in the Midwest, not just in the Northeast. And we drink a lot of beer in the Midwest, and we are proud of it.

St. Louis is the home of one of the main facilities of Anheuser-Busch. Thousands of people who are employed in the St. Louis area either in that facility or in the beer distributorships in which the beer is taken to package liquor stores and grocery stores or in those stores on in the making or the brewing or the distributing of beer. It is a very important part of the economy of St. Louis and a very important part of the life of a lot of people in my area and across the United States.

Like all of these Members, the possibility of an excise tax on beer came up in my campaign for Congress in 1992, and it has come up many times since then. I am dead set opposed to it.

I want, before I discuss the reasons for that, to go a little bit into the general tax situation which my friend, the gentleman from Massachusetts, mentioned earlier on in his remarks. It is true that the American people are overtaxed. A statistic that I think just highlights this is, if you look at the percentage of the average American family's income that is paid in Federal taxes today, it is approximately 25 percent. We are not talking here about rich people. We are talking about the average American family 25 percent of its income in Federal taxes of all kinds today: income taxes, excise taxes, Social Security taxes, and the rest.

Contrast that with two generations ago. Let us say in 1952, my father started a three-person firm in St. Louis at that time. He and my mom were starting out at that time. At approximately that time, the average American family paid 2.5 percent of its income in Federal taxes. So what we have experienced in the last two generations is a 1,000-percent increase in the burden of the Federal Government on the average American family in the United States. Then we wonder here in the Congress why people are having trouble saving for retirement, saving for an education for their children, having a vacation, making ends meet. People are holding on by their fingernails even though they are working harder than ever before, even though they are borrowing more money, have less leisure time for themselves and their families, and they are holding on by their fingernails. And a big part of the reason is the increase in Federal taxes that has come out of this institution in the last two generations. Nothing is more annoying to that average American family than the prospect of paying more in taxes, and I think in particular the beer tax, the excise tax, because, as other Members here have said, it is a tax on working people, primarily. And it is a tax that threatens the jobs of working people, primarily.

If you are going to look to increase the revenue burden of the Federal Government, which is the last thing you ought to do, certainly this is the last place that you ought to look to do it.

The statistics have already been mentioned here. I can go through them again.

Beer taxes are paid primarily by working people. They are already paying three times on average the tax on beer that they pay on other commodities, three times. And Why? What is wrong with beer?

Other people have used the example, what is wrong with going home after a hard day's work, sitting down in front of the television, opening up a beer and watching the St. Louis Cardinals, who are going to come back and win the National League Pennant, watching the St. Louis Cardinals on television in the summer. There is absolutely nothing wrong with it. There is no reason to discriminate against that kind of activity in public policy.

In preparing for these remarks tonight, I decided I would try and find out what really happens on the ground in real life to real people when one of these tax increases occur. I called up my brother back in St. Louis. He has a little tavern in the hometown where we were raised. He has owned that place for about 10 years. He serves food, cooks a lot of that food himself and serves a lot of beer to people. He has a regular clientele who come in to watch sporting events. It is a family place. People bring in their kids, and he has specials. He has especially good chili in the summer days.

I called him up and said, what happens when you have to increase the price of a glass of beer by a nickel or a dime because taxes went up? Of course, he experienced the tax increase a few years ago. I said, what happens? Do people buy the same amount of beer that they bought before? He said, no. He is not an economist. He lived through this. He said, no. Instead of having three glasses of beer and a sandwich over the course of a couple hours and watching the baseball game, they have one or two.

This is not good from the standpoint of social policy. These are moderate drinkers. As my friend, the gentleman from New York [Mr. QUINN] mentioned, these tax increases do not cut down on abusive drinking or drunk driving. Those people are not in control of their habits. An extra nickel or dime does not make any difference to them. It does make a difference to hard-working Americans who enjoy moderate drinking of beer as part of social activities, watching sporting events, eating with their friends. And so it is counterproductive. This is the most futile thing about it of all. Not only does it threaten the jobs of working people as it further threatens the lifestyles of working people, but in the end the Federal Government experiences not more revenue but less revenue because it results in people having two glasses of beer instead of three in the course of an evening watching a baseball game.

It is like a lot that Congress seems to do these days. It is counterproductive, hurts people and is futile in the end, even in terms of the objectives of the people who sponsor these kinds of measures.

I could not agree more with the gentleman's point of view on this. I thank him for bringing this up. It is an important measure to bring before the Congress and to emphasize. I am pleased to say that I do not see a lot of tendency this year to increase taxes on beer as part of these proposals. But it is important that we maintain vigilance on this issue so that it not come up, because people do keep talking about it.

I thank the gentleman for the opportunity to participate in his special order.

Mr. BLUTE. Mr. Speaker, I thank the gentleman for participating and for his articulate presentation on the issue of the impact of taxes on the American people. He is absolutely correct. The tax burden of average Americans by any standard, by any analysis has continued to increase in real terms in the last few decades. That causes real hurt for average American families.

A fine Member of Congress, the gentlewoman from Nevada [Mrs. VUCANOVICH] was unable to be here tonight but she submitted the following statement that I would like to submit for the RECORD, and she writes that her constituents in Nevada paid $28 million in Federal beer excise taxes and $4 million in State and local beer excise taxes last year. And she writes, "That is enough."

I would also like to put into the RECORD, a statement by our distinguished colleague, the gentleman from California [Mr. COX], who has been an outspoken leader on this issue and has filed a bill to repeal the 1990 increase in the excise tax. It is H.R. 1928. It would attempt to do to the beer excise tax what this Congress, in its infinite wisdom, has already done with the luxury tax. And that is, to repeal it.

Mr. Speaker, at this time I would like to yield to another one of our distinguished colleagues, the gentleman from New York [Mr. McHUGH], this time in upstate New York.

Mr. McHUGH. Mr. Speaker, I thank the gentleman for yielding. I would certainly want to join with my other colleagues in thanking the gentleman from Massachusetts [Mr. BLUTE] for his efforts here today.

This may well be a preemptive strike, but as we have heard here this afternoon, we think it a very important effort to underscore the negative effects of what we view to be a very regressive and I think a very unnecessary levy. There seems to be an attitude in this city, Mr. Speaker, that in large measure taxes can be extracted without effect, that if we are clever enough, that if we can dress it up in fancy enough language, somehow we can expect the economy to give up dollars to the Federal Treasury and that no one will pay.

We see it every day. We see it most of all in the language that we use these days here in Washington particularly, because we do not levy taxes anymore. We talk about revenue enhancers. We do not levy taxes. We talk about contributions. We do not levy taxes. We ask people to somehow share the burden, to ante up their fair share.

We just do not levy taxes any longer, except in one instance. We do on rare occasions admit that we levy taxes on sinful activities. "Sin taxes," we are calling them. And somehow we think here inside the Beltway that that phrase makes our activities justified, that somehow if we talk about sinful, immoral activities, people should be expected to pay.

It just does not work that way, Mr. Speaker. Certainly, the Americans, throughout this Nation, know that. And it is something that regrettably America's elected leaders too often forget.

You have heard here this afternoon, I think very eloquently, how when we talk about the consumption of beer, we are talking about a lot of things. We are talking about issues that need the full attention of this Congress.

However, by and large we are not talking about sinful activity. The American people know most importantly that no matter what we call them, contributions, fair share, whatever it may be, sin taxes, taxes are taxes, and they will be paid, not by faceless corporations, not by accountants with green eye shades on, writing out a check and mailing it in, not by some faceless entity. Taxes are paid by people. They are paid by the people of this Nation.

When we talk about sin taxes, I think this is especially true. We have heard here today that really taxes on beer and taxes that fall most heavily on middle America, middle-class people who go out in the morning and work hard and who come home at night and are interested in just enjoying themselves, relaxing a bit, and having a beer or two in a wholly responsible way.

We have seen the evidence and the impact, the disastrous impact, of the sin taxes, so-called, that have been levied on beer to this point already. Members have heard the gentleman from New York [Mr. QUINN], my dear friend, talk about the effects on a place called Fulton, NY. Fulton, NY, is in my district. It is in Oswego County in the 24th Congressional District.

Indeed, as the gentleman suggested, on December 1, 1993, the Miller Brewing Co. announced that that facility would be closing this year. It would be closing, and what would be the result? The result would be the loss of what was at its height some 1,200 jobs, 1,200 hard-working men and women, largely middle class, blue collar, getting up in the morning and going about their business; 1,200 people supporting their families, and the impact and the devastation has already begun.

We know now that we have not just lost those 900 jobs, but we have lost the support that those jobs gave throughout the community, the brewery support of the local tax base, of course, paying for school and education for our young people, paying for sewer and water facilities so that the entire community could enjoy those aspects of living in America today. We have lost the commodities that they purchased in the local economy, the water that they purchase and the other goods to support the plant. Now those 900 people, people who pay taxes themselves, are without work and can use the money in the sin taxes perhaps to access the Federal job training or retraining program.

The irony of it, the foolishness of it, it seems to me is just so obvious. Sin taxes are paid, and in this instance, it was a tax that was paid first by the consumers, people who went out and enjoyed their beer on occasion in a responsible way, and when the taxes went up, found that they had to make hard choices; that the beer that they enjoyed had to be put aside for some other necessity, some other thing that they felt they had to purchase.

After a time, Mr. Speaker, as they bought less beer, the breweries recognized that the second set of individuals to pay that tax had to come forward as well, the workers in the brewing industry, the 900 family members in Fulton, NY, who now found themselves working in a facility that was deemed unnecessary because capacity for production had far outstripped the consumption of that particular product.

It is obvious, Mr. Speaker, these kinds of taxes, as most taxes are, represent a losing formula. The gentleman from Missouri [Mr. TALENT] said it very, very well. Sin taxes do not produce the kind of revenue lines that are necessary to support important programs. The more you tax these commodities, the less amount that is purchased. Your revenue line goes down, and all of a sudden you have to raise taxes again and again and again.

Mr. Speaker, by any other name this is a disastrous tax. By any other name, it is a step that we should not be taking. We can construct meaningful health care reform, we can construct meaningful Government programs, without having to resort to these kinds of legislation, it seems to me. I ask my colleagues to join with the gentleman here this afternoon in requesting that we reject the rhetoric and legislate on the reality.

With that, Mr. Speaker, again I will close by thanking the gentleman from Massachusetts [Mr. BLUTE] for his efforts here today. It is an important fight and I am proud to be part of it.

Mr. BLUTE. I thank the gentleman from upstate New York for his leadership on this issue, and particularly for describing the impact of these excise taxes on people in his district, 900 jobs. Those are good-paying jobs that will be very, very difficult to replace in any other way at an equivalent pay scale and salary level.

Mr. Speaker, let me just read an excerpt from a letter I received from a beverage wholesaler in Massachusetts who employs hundreds of people in my district:

> DEAR CONGRESSMAN BLUTE: As you return home in weeks to come, I urge you to take notice of signs—placed on all my beer trucks—which note the annual cost of excise taxes on the beer these trucks carry * * *
>
> We are undertaking this awareness building effort to remind consumers in Massachusetts of the money they pay in excise taxes for the beer they drink. As a * * * wholesaler, we think it is important to remember who is paying the bulk of the beer tax burden. Unlike other consumption taxes such as those on luxury products that target the rich, beer taxes fall unfairly on working men and women earning average incomes. This group of Americans can least afford another drain on their wages, especially in these economic times.
>
> As you grapple with the numerous critical issues facing our nation, resolving our nation's budget crisis will undoubtedly receive much of your attention. However, please remember that beer drinkers already pay their fair share and just had their taxes doubled in 1991 * * *
>
> Thank you for your time.

Mr. Speaker, in summation, these taxes hit working people. They are regressive taxes, and they have real implications in people's lives, both in the form of taking spendable income out of their family budgets and also killing jobs in our country, jobs that are difficult to replace.

I urge the Congress, I urge the administration, as we address health care reform, as we address welfare reform, as we address GATT, as we address all of the calls upon the taxpayers' money, to not seek this avenue once again to produce revenues. It is not the right thing to do, and it is bad for America.

I thank my distinguished colleagues for joining us in this special order.

Mr. Speaker, I include a "Dear Colleague" that my friend Congressman CHRIS COX from California recently sent along to me. CHRIS had hoped to be there tonight but unfortunately had a scheduling conflict. He has a great bill pending and I think he makes some excellent points in this letter:

COSPONSOR H.R. 1928 TO REPEAL THE REVENUE-LOSING 1990 "LUXURY TAX" ON BEER

U.S. CONGRESS,
HOUSE OF REPRESENTATIVES,
Washington, DC, April 21, 1994.

DEAR COLLEAGUE: Next week, nearly 1,000 beer wholesalers and brewers will visit Capitol Hill to discuss with you issues that affect the brewing industry. The most important item on their agenda will be to discuss the impact of the federal excise tax on beer.

As you know, the 1990 Omnibus Budget Reconciliation Act imposed several "luxury" taxes to soak the rich. They were all revenue losers: the penalty taxes on boats, planes, jewelry, furs, and autos lost revenue for the Treasury and cost thousands of U.S. jobs. Not surprisingly, last year Congress finally acted to repeal these revenue-losing "luxury" taxes.

You may not have known, however, that the same 1990 OBRA doubled the tax on beer—with similar results. The 1990 "luxury tax" on beer has been extremely damaging both to the nation's economy and the Treasury. It has destroyed 31,000 jobs in the brewing, wholesaling, and retailing industries. Total beer sales have suffered the worst decline in 30 years. And the ripples from this tax hike have been felt throughout many other sectors of our economy: direct purchases of agricultural and other products needed to make beer have fallen by more than $200 million. The reduction in beer sales and the resultant loss of jobs have, in turn, cost federal and state governments hundreds of millions of dollars in lost tax revenues. Worse, the "luxury tax" on beer has cost millions more in increased outlays for unemployment compensation and other social services to help those who were put out of work by this ill-conceived tax increase.

Middle and lower-income Americans, who comprise the vast majority of our nation's 80 million beer drinkers, have been hardest hit by this tax on one of their few "luxuries." As a result of this regressive tax increase, beer is now taxed at three times the rate of most other consumer products. Those who would presume to indulge in the "luxury" of purchasing beer are not among the most heavily taxed people in our society.

I've introduced H.R. 1928 to repeal the "luxury tax" on beer, and eliminate this regressive tax on one of the few "luxuries" that is enjoyed by working Americans. If you would like to become a cosponsor, please contact Peter Uhlmann at x55611.

Sincerely,

CHRISTOPHER COX,
U.S. Representative.

Mr. HOLDEN. Mr. Speaker, I rise this evening to express my opposition to increasing the excise tax on beer.

Increasing the beer tax would have both a devastating affect on jobs in this country and also on hard-working Americans who drink beer after a long day at work.

Beer drinkers and the beer industry have already been called on to pay their fair share in excise taxes. In 1991, the excise tax was raised on beer resulting in the loss of over 31,000 American jobs. That's right—31,000 hard working-Americans were taxed out of a job, just 3 years ago.

Now there's talk of raising the excise tax another 150 percent. This will result in another 180,000 Americans losing their jobs to taxes. We as Members of Congress, should be working to create jobs, not tax them out of existence.

My district, in addition to having many beer drinkers, is the home of the Yuengling Brewery, the oldest brewery in America. Yuengling is a family owned brewery that has been operating since 1829, employing hard working Americans and providing refreshments for thousands.

How do I explain to the workers there that they are losing their jobs because Congress decided to raise taxes on beer?

How do I explain to the 55,600 beer industry workers in Pennsylvania that we are going to devastate their industry with more taxes?

Additionally, increasing the beer tax will only further hit the wallets of working Americans who now pay over $3 in taxes for a case of beer. How much more should honest, hard-working Americans have to pay?

The beer tax is regressive and will most hurt those Americans who can least afford to pay. It is not wealthy Americans drinking wine in nice restaurants who will be most hurt by increasing the beer tax, it will be hardworking middle class Americans who enjoy a cold beer at the end of a long day.

Mr. NEAL of Massachusetts. Mr. Speaker, President Clinton made a smart move when he decided not to include beer taxes in his proposed health care package. Now, however, it's up to Congress to follow the same intelligent path as it weighs the funding demands of major Government programs, particularly health care.

The reason higher beer taxes should be avoided has nothing to do with politics: Using such taxes to fund ongoing Government programs is not smart budgeting because it simply doesn't work.

All we need to do is look toward the States to discover the growing inefficiencies of beer excise taxes. Last year, the Council of State Governments called these so-called sin taxes a worn out tax source. The council advised States to look for more stable revenues to fund vital programs such as health care and education.

The council is not alone in its contention that revenue for important social programs should not come from unreliable sources such as beer taxes. Other widely respected organizations, including the Federation of Tax Administrators and the National Council of State Legislators, agree that the excise tax piggy bank has been raided too often.

The Federal Government should heed these omens and leave beer taxes off the table once and for all when searching for health care funding vehicles. Funding for any major social program, especially national health care, should not fall unduly upon the shoulders of beer consumers or any other single group.

Tax fairness is a time-honored principle in our country, and during the past few years, responsible beer consumers have shelled out more than their fair share.

When the Federal beer excise tax was doubled in 1991, moderate drinkers—not chronic abusers—reduced their consumption. Not only did this prove beer taxes to be a shaky revenue generator, but it also punished 84 million hard-working, middle class Americans whose only offense was purchasing a perfectly legal, adult consumer product.

The minority of drinkers who abuse alcohol are not put off by higher costs. They have serious problems which can only be cured through education and tougher law enforcement, not excessive taxation.

Punishing the many for the irresponsible behavior of the few is not just a bad idea, its bad public policy, period. Access to quality health care is a vital issue of our times, but implementing a regressive tax to fund a program for every American doesn't jibe with common sense.

Our task in Congress is clear: Any health care program up for consideration must include reasonable funding mechanisms—ones that do not gamble with people's security by betting on excise tax revenues which may never materialize.

Mrs. VUCANOVICH. Mr. Speaker, I rise in opposition to any increase in the excise tax on beer. No one outside the beltway thinks they are undertaxed—and they're right. But here we are again, only 3 years after Congress doubled the beer excise tax, looking at yet another increase.

Remember too, that not too long ago, the President campaigned on a pledge to not raise taxes on the middle class. Members on my side of the aisle applauded that pledge.

But I want to point out that in 1992, almost half of all beer sold in the United States was consumed by working people making under $35,000. It's appalling that some people are once again proposing to increase a tax aimed straight at middle income Americans.

Increasing the beer excise tax is a direct and undisguised shot at these folks. They are being squeezed to the limit and are tired of paying for new and expanded Federal programs with their hard-earned money.

Last year Nevadans paid $28 million in Federal beer excise taxes and $4 million in State and local beer excise taxes. That's enough. Mr. Speaker, I urge my colleagues to look at spending cuts, not tax increases on the average working American, to pay for any new Federal spending.

GENERAL LEAVE

Mr. BLUTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend and to include extraneous material on the subject of my special order.

The SPEAKER pro tempore (Mr. KLEIN). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

THE CONTEXT OF THE HEALTH CARE DEBATE

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the Chair recognizes the gentleman from Oregon [Mr. WYDEN] for 60 minutes.

Mr. WYDEN. Mr. Speaker, I think it is particularly important to try to set in some context the health care debate as we are facing it in the remaining weeks, particularly before the August recess. I think it would be fair to say, and I think Members of Congress on both sides of the aisle would agree that there is substantial confusion with respect to the health care issue. Certainly since the President gave his very eloquent address here in this Chamber, we have seen very powerful, very influential, very well-funded interest groups spend substantial sums of money to try to protect their interests, to try to make sure that the debate in effect goes their way, and I think the public is confused.

Mr. Speaker, I think it is important to set out a few facts, and one of them, Mr. Speaker, I think deals with why there is an immediate need for action on health care and action in this session of Congress.

Mr. Speaker, we know that our country does have superior health care in many respects. There are many things that are right about American health care, but the fact of the matter is that there are many things that we can do far better.

The infant mortality rate would be just one example. The infant mortality rate for our country ties us for 21st out of 25 industrialized nations. That means that in terms of the industrialized world, we are not up in front. We have a lot to do.

Specifically, that means that in our country there are 9 children out of every 1,000 that are born who die before their first birthday. At least half of the American infants who die could be saved with simple prenatal care for low-income mothers, care that they cannot get without health insurance coverage.

Eight out of ten uninsured Americans are part of working families. Mr. Speaker, it is a myth to say that those who are uninsured by and large want to be uninsured, or are just home and taking it easy. Most of them are part of working America. They get up in the morning, they go to work, they try to play by the rules, and yet they have not been able to afford health care.

We have almost 2 million Americans who lose their health insurance coverage each month. Eighty-one million Americans have pre-existing conditions, such as asthma and diabetes and high blood pressure, and health insurance companies in our country routinely use these kinds of conditions as a rationale to jack up insurance premiums or to deny our citizens access to insurance altogether.

More than 100 million Americans have so-called lifetime limits on the amount their health insurance policies will pay out. Chronic disease and illness does not respect these limits, and neither should the U.S. Congress.

□ 1810

It seems to me that when our constituents ask why is it so important that Congress act and that Congress act now on the health care issue, these are the kinds of considerations we should point to.

Let us talk about why it is not right for so many young people to not get a fair chance in life, why the infant mortality rate is so high in our country, why so many of our citizens are victimized when the insurance companies cherrypick and take the healthy people and send those who are ill off to some underfunded Government program.

Those are the kinds of things that I think we ought to be focusing on as we go into this period before the August recess when it is so important that Congress act.

Mr. Speaker, let me also talk for a moment about some of the serious consequences in terms of the way health care is funded today. To a great extent today in America, our system of financing health care has a real strain of socialism, a redistributive kind of function that just is not right. What we have in America is those who do get their coverage through their place of employment in effect subsidize those who do not. In my home State of Oregon, what we find is the employers who cover their people usually offer preventive care, some outpatient health services, perhaps a catastrophic health care benefit. It is not a Mercedes, it is not a Cadillac, it is just the basics of American health care. But very often, those hardworking Oregon small businesses, and they usually are small because in my State the vast majority of businesses are small, they have to subsidize the companies that are not offering coverage to their workers. And not only do they have to subsidize the coverage, but they have to subsidize the coverage at the most expensive end, because we find in our country that the workers, of course, the businesses that do not cover their folks, those workers get sick, no question about that, they cannot defy human nature, they end up going to the hospital emergency room and then those costs, and I want to emphasize this word, those costs are socialized, they are socialized throughout the community and the employers who cover their people have to pick up the expenses.

So I happen to think that we ought to deal with this cost shift. The Congressional Budget Office has estimated that about $25 billion in health costs are shifted onto persons with private insurance each year.

In 1991, hospitals were left with an estimated $10.8 billion in unpaid bills from uninsured patients. That was up from $3.5 billion in 1981. So I think we ought to deal with this matter of the cost shift. For those who want yet another example from the real world, the National Association of Manufacturers has asserted that in 1991 its members were billed an extra $11 billion to recoup costs not covered by the government or the uninsured.

So my own sense, Mr. Speaker, is that everybody has got to be part of the solution. We ought to say that individuals in our country ought to have to pay something as a portion of the cost of health care. There needs to be individual accountability, and I have long said that I personally would favor the idea of an individual making a copayment every single time they go to a medical provider's office.

Individual responsibility, individual accountability ought to be right at the heart of financing health care.

But I also think that employers ought to have a role in financing health care as well, because if we do not have such a system the employers who cover their people subsidize the ones that do not, and they have to, in effect, pay the most expensive end of the health care system, and that is the cost of these emergency room bills.

So I think that we ought to recognize in our country, particularly if we want to be fair to our businesses and our businesses that are trying to compete in tough global markets, that we ought to stipulate that we are going to seriously deal with this problem of cost shifting. It is a problem that is growing in our country, and it is particularly inequitable to the small businesses across our country, such as the ones I have talked to in my home State who struggle, and yet valiantly are able to cover a significant portion of their workers' health costs and yet those Oregon small businesses are subsidizing some of their competitors, and that is not right.

Mr. Speaker, let me try now to touch on one of the other issues that is so important to the citizens of our country, and that is the elderly. We are finding that Medicare, which of course is a program that is of extraordinary importance to seniors, has left many of our seniors now paying more out of pocket for their medical bills than they did when Medicare began. We are finding many seniors for example having to pay more than a thousand dollars a year out of pocket for their prescription drugs. That seems particularly unfair, given the fact that taxpayers and seniors do much of the heavy lifting with their tax dollars to get these drugs, particularly cancer drugs, to market.

So I would hope that as we look to these last few weeks before the recess that we particularly take steps to try to address the concerns of seniors and fill in some of the gaps in Medicare.

In this regard, another important step that could be taken is to begin a serious, long-term care policy for our country and to build it around home health care. In my own State of Oregon

I had a lot of familiarity with this program back in the days when I was codirector of the Oregon Gray Panthers. We have started a home care program which has significantly reduced the number of older people in nursing homes and also made seniors happier and more comfortable with the prospect of being in their community.

To his credit the President in his health reform bill tries to start a long-term care policy for our country, beginning with home health care, and in my view the President deserves great credit for having launched this long overdue effort.

Finally, it seems to me in the Medicare area there must be an effort to try to make sure that the payments that seniors rely on for their health care services are based on what they need and not on where they live.

Recently the General Accounting Office sent to me a shocking report demonstrating enormous differences between regions of the country as to what Medicare will pay for a particular health service.

For example, there is a 180 percent differential between what Medicare will pay for mammography services of course being of great importance to older women in our country, and there is a great difference between what Medicare will pay between Southern California and Northern California, even with the same carrier.

So I would hope as we look to health reform that some uniform national standards be defined with respect to Medicare payments for our senior citizens, and I would point out that ensuring that there are some uniform payments standards would also be fair to our physicians, because they should not have to have the uncertainty that we now have with respect to Medicare payments when they see older people.

Mr. Speaker, finally, as we look to these last few weeks we should recognize that health care is really the premier domestic issue of our day and the test of our ability to govern.

□ 1820

One-seventh of our economy, almost $1 trillion, is devoted to health care.

I would say that on a personal basis, this is the most important issue to the American people, because we know that if our families and their loved ones do not have their health, virtually nothing else matters. So this is an issue that we cannot allow to fall by the wayside.

There is a very serious problem with the American health care system today despite the many positive attributes of American health care, and that is why I outlined the issues with respect to infant mortality and life expectancy and the many challenges.

We have to make sure, particularly, that our young people get a fair start, and there is a problem with financing, Mr. Speaker, because right now we do have the employers who cover their workers. In many instances, facing great difficulty in doing so, those employers have to subsidize the employers who do not cover their workers, and that is not right from the standpoint of making sure that all businesses face the same kind of competitive consideration.

Finally, it seems to me that we ought to make sure that we go to bat for our seniors, and to his credit, President Clinton starts a long-term-care policy for our country. He also initiates a number of positive changes in terms of nursing home insurance. I, the gentlewoman from Illinois [Mrs. COLLINS], Senator PRYOR and others have worked on this.

There is a great deal of bipartisan support for this, and this measure should be enacted also.

Finally it seems to me we ought to deal with the shocking General Accounting Office report that I mentioned that shows enormous disparities as to what Medicare pays for the various regions of our country for essential health services, and to me those issues, addressing the need for health care reform, because so many Americans go without every day, recognizing that the financing of American health care must be fair, and that all of us, individuals, businesses, and government, should contribute, and then, finally, making sure that our seniors get a fair shake and we address the problem that I outlined where many seniors are paying more out of pocket for their Medicare than when the program began.

These ought to be issues that come before the Congress before we go home for the August recess.

I think Members of both sides of the aisle can come to an agreement on many of these key kinds of issues. I am certainly anxious to work with my colleagues on a bipartisan basis toward that end.

I now yield to the gentleman from California [Mr. FAZIO], who has done yeoman work on the health issue for many years, and I appreciate his participation.

Mr. FAZIO. I thank my colleague from Oregon for yielding.

Of course, Oregon is a State that has really been on the cutting edge of health care reform, and I guess it is no surprise its delegation, particularly the gentleman from Portland, the gentleman from Oregon [Mr. WYDEN], has been in the forefront of efforts to bring health reform to the Nation.

I think I am most anxious to hear more voices raised similar to yours in behalf of universal coverage. I think for many Americans the assumption is when we deal with health care reform here in Washington that is automatic, that is guaranteed. In fact, I think many people thought with the announcement of the President's plan that we were well on our way to enacting the kinds of comprehensive health care plan that sure that all Americans were covered.

I guess I was struck by one of the news reports last night where a women shown caring for her husband who had recently had a stroke was asking, in fact, are they going to blow it, are they somehow going to fail to bring us what we have been waiting for so long, what we have come to expect, and that is a health care plan that will cover all Americans at affordable rates, private insurance, important to point out, but insurance that still cannot be taken away, insurance that cannot have a cap that can be exceeded, insurance that will have the kind of internal reforms that are needed to make sure that people can move from job to job, and in fact can be employable.

But the issue of universal coverage, I think, has been sometimes misdescribed. I do not think it is simply that many of us who are anxious to see these reforms brought about feel it is appropriate, equitable, fair to cover everyone. I think that is a given. We understand that people who work hard every day and not people on welfare who have access to Medicaid, but people who work hard every day really do deserve to be able to bring home to their families the security that a health care plan provides.

But it is not just the question of equity and fairness. It is essential, if we are to get health care costs under control, that we have a comprehensive system that rewards the insurer, the provider for keeping people healthy. We have got to have a systematic approach to health care reform in this country.

For too many years we have had people falling through the cracks only to become the burden that government and the private insurance payers have to carry, sometimes because of their unfortunate circumstances, sometimes because of their own decision not to have coverage even when it might have been available or affordable which, of course, is not always the case. But as a result, we have a system that tends to, I think, drive costs higher, and all Americans benefit when a systematic approach is put together, when we finally have a health care system that includes everyone and provides the burden of responsibility for both the employer, as in the President's plan, and the individual, the beneficiary, who will be contributing to that plan so that it is affordable.

So often when people fail to have, for example, prenatal care, and there are some 5 million women who have health care policies without that benefit, but so often when people fail to have that kind of basic protection and they end up giving birth to low-birth-weight babies, all of us, insurance payers as well as taxpayers, many of us twofold, end up paying the additional cost of, say, bringing a low-birth-weight baby to viability.

So for the lack of $500 to $1,500, we will end up spending $500,000 because we are not simply going to let a low-birth-weight baby die. We are going to employ every possible avenue to save that child and make it viable, but it seems that we have, therefore, our priorities backward. We have our economies in the wrong place. We are being, in effect, penny-wise and pound-foolish.

There are many, many people who think, as young individuals, they want to maximize their income and perhaps avoid contributing anything to their own health care costs. It would be wrong to assume that they will not have health care costs, and when they become expensive, some would call them catastrophic, they certainly fall on all of us once again.

We have certainly begun to understand in this Congress cost-shifting, that is to say, when one level of Government reduces its expenditures say for reimbursement in Medicare, we find other levels of Government, the State perhaps, certainly local Governments that run county hospitals have to increase their spending, because there is no alternative to providing ultimate care to people in their most acute need.

What we have often failed to see as we cost-shift around between the public sector and private sector or between public sectors is that we really have not solved the problem of cost containment. We have simply aired our dirty linen. We have shifted the burden to some other element of our society, some other source of payment. That is one of the reasons why so many of our hospitals are struggling.

So what we have got to do with universal coverage is to bring people into a health care system that really does provide for the first time the sort of protection that everyone in our society needs from the every escalating costs of health care, and that, I think, is far more important than any number of individuals or families that may for any given period of time be without care, because we all understand that while it is important as a question of equity, it is even more perhaps important to the total health care bill that is running far in excess of inflation in most years, and certainly in far greater numbers as a percentage of our economy than the countries we compete with.

We have got a problem that needs to be resolved. And so I want to congratulate the gentleman's reference to universal coverage, to comprehensive benefits for people that are available to everybody, but I think you cannot underscore too many times the broader contribution this makes to all of those people who currently have a package of health benefits and a tax bill that they have to make payments on.

☐ 1830

I was listening to the news this morning about workers who are about to go on strike because in fact their health benefit package was being whittled back once again. This was in a defense contractor's situation, an industry that we all know has been under real stress.

People are willing to consider going out on a picket line over a decline in their benefit package, or perhaps an increase in what it would cost them to maintain their benefits.

So we see that even those people who in relatively well-paid industries, even those families that have had a very, very solid package of health care benefits, are coming under the stress of these costs that are rising, that are driving employers to take extraordinary measures to try to shift the burden that they are assuming to others. So no one is really immune. In the short run you may compare yourselves to others, your neighbors in the community, and feel well off and wonder what is in it for you. But in fact, all of us are showing signs of having a hard time bearing up under the costs of the health care system currently in place.

Of course it was this President who had the courage to lead us into this very, very complex political problem. I am convinced it is this Congress that will ultimately find our way to a solution, one that I think needs to cover all Americans at some point, hopefully sooner rather than later, because if we fail the working Americans, those people who are currently unable to get coverage any other way than through their work, if we fail to help those who are not getting health care today, to make it more affordable to the middle class, we will have another layer of cynicism added onto the American public. These are the people who are the ones, who are the people who pay the freight, who follow the rules, who are there every year to make their contribution to Government, and certainly when they go out into the marketplace to purchase insurance, they have to pay far more than many of their neighbors who work for corporations or for the government or some other employer that makes a major contribution. These are the people we cannot fail to take care of. If we neglect them, we are neglecting Americans in every district of this country, Republican and Democratic alike, middle-class people who deserve to have their problems attended to, who have, I think, been for too long the hidden victims of the health care system that we have in this country, which tends to ration care based on where you work and how much you make.

So once again I want to associate myself with the effort of the gentleman from Oregon [Mr. WYDEN], who has once more laid out the reasons for this very difficult, but very fundamental, change we are trying to make in the way the American health care system works.

Mr. WYDEN. I thank my colleague, the gentleman from California. Particularly I want to underscore the point he is making with respect to universal coverage.

Mr. Speaker, there is a myth, I think, afoot in some quarters that people who are uncovered, by and large, do not want to be covered; they are sort of sitting at home in their hammocks, having a soda or something like that.

What we have found is that the vast majority of uninsured citizens are working people, they are working in businesses, as the gentleman has stated, they play by the rules, and they are struggling to get ahead, and very often their businesses are dying to cover them but they have just not been able to afford it.

So I think the gentleman's point about the need for universal coverage is critical.

We also ought to know there has been some talk, for example, about just going forward with various kinds of reform in the marketplace and just leaving it at that. I think these marketplace reforms are very good, the insurance reforms, having uniform billing, changes in the deductibility laws so that sole employers get the same tax break that big employers do. Those are valuable benefits.

We absolutely ought to have them in any health care bill. But if we do, what will happen is that the system, particularly employers, will start wringing out some of the extra costs and then those who are uninsured will be in even worse shape because our employers, as the gentleman has noted, are already having to write off considerable costs.

So I think the gentleman has given us a very fitting way to close.

What this debate is all about is making sure that we get all Americans under the tent, that all Americans have access to decent, affordable health services on a date certain. It seems to me we should not go into the next century without Americans having that kind of coverage. And I want to commend my friend and colleague for all the good work that he has done on this issue for these many years.

Mr. Speaker, if the gentleman desires any additional time, I would be happy to yield it to him.

Mr. FAZIO. I thank the gentleman. I just wanted to indicate that in my discussions with my constituents in the small business community, I see a great deal of concern about the affordability. The average small business today is paying 35 percent, on average, more than the large corporation to provide coverage for their workers. I found a real anxiety, an angst on the part of many of the people who run these businesses because they really would rather provide health coverage to their families and workers than the worker's compensation which most States require them to provide. In fact I think there has been some misuse of worker's compensation because of the absence of health benefits for many, particularly low-income workers.

What these people are telling me is that they would much rather provide 24-hour care to people and let them have less money spent on the argument over whether it was a job-related illness or not, and put our resources into holding down costs and at the same time providing basic benefits to everyone, including the families of these workers.

But, of course, that would take us to the point of responsibility for trying to integrate worker's comp and the normal health care system. This is something I think this Congress needs to look at.

I have been told in my State of California that business could save $1 billion a year with this sort of integration. Our insurance commissioner John Garanendi, talked about the 24-hour care and the fact that it probably could reduce the combined package of worker's comp and health care that is currently paid for by some average small business, by one-third. This, I think, is one of the areas we could go to help keep faith with the small business community that wants to provide coverage, that will help us without creating new bureaucracies, and move toward a comprehensive coverage for all Americans.

We have obviously talked about doing away with the inequitable 25-percent deductible for the sole proprietor the gentleman has mentioned. Everyone should have this health care deducted. I think we all understand that small businesses with low-income workers are to need some subsidy to get started. If we can only provide that subsidy and at the same time the advantage of the lower rates which I think we certainly would expect these pooling arrangements to provide, then I think we have come a long way toward meeting the legitimate concerns about small business, concerns that caused us to think twice because we do not want to put people out of work at the same time we provide comprehensive health benefits for everyone.

Mr. WYDEN. The point the gentleman makes with respect to small businesses is critically important. All of the bills that are moving through the pipeline employ the idea of a kind of voluntary alliance. Some of the defenders of the status quo, when there was debate about how to get purchasing power for the little guy—because that is what this is all about—you can call them alliances, co-ops, anything you want, but the idea is to get purchasing power for the little guy so he or she is in a position to bargain with doctors, with hospitals, with insurers.

To his credit, the President has been very flexible in terms of working with the committees—I sit on the Health Committee, and the gentleman is on the Appropriations Committee—in terms of trying to look at this alliance approach to try to address those kinds of cost considerations.

I think now there is growing bipartisan support for some kind of effort to allow these small businesses to pool their bargaining power and be in a good package.

Mr. FAZIO. Regrettably, we have talked about individual access to health care. I say regrettably because it is a misnomer, I believe. Somebody said to me just the other day, "I have access to every restaurant in my home town, but I cannot order from the menus of many of them because of the prices." I think that is why I am a little bit concerned about people going down that blind alley in this debate. We are going to somehow conclude if we would all just take individual responsibility, we would have universal coverage.

☐ 1840

We have a law in my State that requires everyone to have a certain amount of auto insurance, and yet I have not met anybody who has had an accident with anybody who is not an uninsured driver in a long time.

It simply does not get the job done, and yet at the same time, while access has not guaranteed that people get care when it is needed and at the most affordable cost, we have also concluded, it seems, that it is a bit of a misnomer to say that simply by mandating something actually accomplishes it.

We need to avoid creation of new bureaucracies; everyone understands that. So we need to build on the existing system which has provided health care for 9 out of 10 Americans and their families, and I hope that we have gotten beyond the rhetoric, beyond the quick 30-second spots and other things that attempt to describe what we are doing here, which is expand an existing system as some sort of socialized medicine.

And yet I am so astounded by people who tend to believe the worst about anything that is proposed by our Government. We, in fact, in Government have to act to reform the insurance system to figure out ways to contain costs, to do all the things that people really want to do. It takes an act of Congress and a signature of this President. It seems to me we are well on our way to making that kind of progress and accomplishing our goal.

But we have still got to fight through these rhetorical hurdles which are constantly thrown up that are really designed to divert people's attention, and to try to confuse them and create anxiety over the direction we are going. There will be more choice for many people in terms of where they can go for a doctor, for a health provider of any sort.

So, Mr. Speaker, I am hopeful that efforts like the gentleman's this evening are really going a long way in trying to inform the public about what the real choices are and, hopefully, to disabuse and end the confusion of those who have been carried away by other efforts that have been made to kind of stop this in its tracks and to prevent this sort of progress that most Americans truly want to make in this area.

Mr. WYDEN. I think that last point is particularly important because I think some of these well-funded interest groups that obviously have a financial stake in protecting the status quo have, in effect, climbed into our television sets over the last 6 to 8 months and said the Western civilization is going to end, and the Federal Government is going to come to town, tear up the sidewalks and take over the communities, and as the gentleman has correctly pointed out, what health reform is all about: It is building on what we have today, keeping in place the many positive aspects of health reform, filling in the gaps to make sure all our citizens are covered, dealing with the inequities of cost shifting, and I think the gentleman's point is particularly valuable, and I appreciate it.

Mr. FAZIO. One of the ironies of this whole debate is that within 2 years, looking backward, we had no consensus on the insurance reforms that today are said to be of consensus view on this floor. People are now coming forward saying, "Well, let's just fix the health insurance system. We have heard all the complaints, and we are ready to go. Let's find a consensus on that issue."

Well, first of all, Mr. Speaker, that is a consensus of very brief duration. The consensus with the insurance industry has occurred as a result of the very serious debate and desire to move forward that has occurred under the leadership of President Clinton and Mrs. Clinton.

But even more so, to simply add to all our costs, to fix the inequities in the health insurance system that condemn some families with a very sick child or parent to huge debts for as long as the eye can see is really not to solve the problem alone because cost containment, of course, is further away if we simply add to the costs of everyone to work out the inequities in the health insurance system.

We not only have to do that, but we have to hold out not just the promise, but the reality, of cost containment for people because it defies logic to say that we can bear up the costs of catastrophic health incidents that affect some families and not pay more to resolve those issues.

So, back to the original point: We need a system of health care. We need to reduce costs and burdens on middle class families or we will not have the wherewithal to solve the inequities in the existing health insurance system, let alone find ways to cover people who are without insurance.

So the ultimate need here is not just to tinker with the existing system. We have been doing that. Maybe we have advanced the cause in a bipartisan sense on insurance reform. But we owe the public a lot more than simply doing that and leaving town, indicating that we think we really have accomplished the central purpose for which this whole debate has been focused.

Mr. WYDEN. I think also the point that the gentleman makes on the cost containment issue is so critically important for the 80 percent plus of America that is covered.

Mr. FAZIO. And happy with their health plan.

Mr. WYDEN. Happy with their coverage and, frankly, at this point kind of scared because of all of these commercials.

Now to the extent we can have managed competition, standardized coverage, these plans having to compete for the business of our consumers and our patients on the basis of price, and service, and quality, that heightened competition can be of real benefit to the 80 percent who are covered.

I would also say that I think that we will be exploring some cost containment approaches that are not going to involve some kind of Federal micromanagement or run-from-Washington kind of approach.

One idea that has been presented to me of late is that plans, to the extent that they are required to stay within certain cost limits, if they did not stay within those limits, they simply would have their enrollment frozen. They would not be able to take additional people until their costs went down below any kind of reasonable cost containment.

That does not strike me as some kind of huge federal micromanagement approach, the cost. That is something, again in the private sector, it would take place in the local communities across the country. It would not be something that would be run from Washington, DC, and frankly some of these special interest groups that created this image, that the idea is that, as my colleagues knows, all the health care would be run by Washington, DC, and their doctors would wear a white coat that says "commissar" on it, and part of this would be part of just one Federal bureaucracy, and I think the gentleman really has, I think, hammered home the point that this is still going to be health care in the private sector. It is going to be built on the system we have today, and I appreciate it.

Mr. FAZIO. If the gentleman would yield, I think I am referring to the most recent Harry and Louise ads where I see the specter of rationing raised and, as the gentleman knows, the fear of somehow, with cost containment, or some other limitation on what can be spent on health care, that we are going to be rationing care. I find that really a misnomer and a real effort to divert people's attention from the real problems.

I was talking with Budget Director Panetta today about the irony of having some people here on the House floor voting to place caps on entitlements and at the same time their unwillingness, their inability, to support any efforts to contain health care costs, when in fact we know here at the Federal level 80 percent of our problem with entitlements in terms of future-year budget deficits is directly related to our cost of health care, the cost of Medicare and Medicaid, and other health activities which have been growing and impacting us just as they have the private sector businessman and individual payer.

So, Mr. Speaker, there is a little inconsistency here. On the one hand the same voices that say we have got to contain entitlements and we have got to hold down on Federal spending are saying essentially that when you try to do this with any sort of certainty or surety at all, we are ending up rationing care, creating fear among the public that somehow there will be an inadequate amount of money to go around to provide the kind of commitment to care that everyone thinks they have purchased with their health insurance. It is a little inconsistent. In fact some might say hypocritical. These are some of the same people who criticize for cutting Medicare too much when in fact in some cases they opposed its creation and now are foursquare for it.

□ 1850

Mr. WYDEN. What is interesting about that is some of the folks who are taking that approach on entitlement programs are the leading advocates for a very modest bill that would just have a handful of changes in insurance costs.

That kind of approach ironically will produce bigger bills for the folks who are covered today. Because if all we do is have some insurance changes and folks who are facing serious health problems are put into the pool with those who are healthy, absent any overall reform, the only thing that is really accomplished is the 80 percent who are relatively healthy get bigger bills.

Mr. FAZIO. That is right.

I do appreciate the gentleman's contribution this evening. I do hope that over the next several weeks, we will be able to assure that woman I saw on the news last night who was wondering whether once again we were going to blow it here in Washington and somehow overlook the tremendous desire the public has to solve these problems and move forward. It is so easy today in this atmosphere to frighten people into neutrality or worse. It is very hard to galvanize a majority to move toward change. But I think we have the leadership in the White House that we need and I think there is a sufficient understanding in the Congress now of this issue that we will understand if we fall short and hopefully step up to the challenge.

It is individuals like the gentleman from Oregon who provided us that leadership within the House of Representatives, in our caucus, and I am happy to be associated with the gentleman's remarks this evening.

Mr. WYDEN. I thank my colleagues.

I would also note, the gentleman from California is well known for his political involvements in many areas, and I think it would be fair to say that the vast majority of what we have discussed on this floor over the last 30 minutes is part of an approach that can win strong bipartisan support. I have heard again and again, the public has said they want to see real health reform and not a lot of partisan sniping. I think as someone who also is very significant in political obligations, it is very constructive to hear the gentleman focus as he has this evening on the kinds of health reforms that can win a broad base of support in this Congress from Members on both sides of the aisle. I think it is an ideal way to sum up.

THE GROWING TRADE AND BUDGET DEFICITS

The SPEAKER pro tempore (Mr. KLEIN). Under a previous order of the House, the gentleman from Ohio [Mr. BROWN] is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, the Commerce Department released monthly trade figures today. More bad news. In fact, a double dose of bad news. Exports are down, American goods sold abroad have gone down. Imports have gone up. America's trade imbalance with foreign countries is spiraling out of control. The trade deficit for April according to the Commerce Department is $8.4 billion. The April trade deficit means the loss of some 160,000 jobs. We are losing good-paying jobs in northeast Ohio, we are losing good-paying jobs throughout the United States. A $100 billion annual trade deficit means the loss of some 2 million jobs.

Mr. Speaker, $60 billion of that trade deficit has been with Japan, $25 billion of that trade deficit has been with China; 85 percent of our trade deficit are with those two countries in the Far East. For every $1 billion in trade deficit, some 19,000 American jobs are lost.

Mr. Speaker, those are generally good-paying jobs. They are jobs in manufacturing where people make $10 and $12 and $15 an hour. They typically are not service jobs, they are typically production jobs, some of the best jobs that mean middle-class incomes and middle-class lifestyles and college degrees and purchases of homes for America's families.

We are also seeing a continued decline in the trade surplus with Mexico. During the debate on the North American Free-Trade Agreement, proponents of NAFTA, proponents of that trade agreement with Mexico and Canada would brag that Mexico's trade surplus of some $6 billion and $7 billion 2 and 3 years ago would grow and that that surplus we had with Mexico where we were selling more to Mexico than we were buying from Mexico would continue to grow and create American jobs.

Mr. Speaker, in fact what has happened is the exact opposite. Where last month, actually in April, the trade surplus with Mexico shrunk to only $7 million and is moving in the wrong direction, so that there is a good chance we will, in fact, have a trade deficit with Mexico similar, maybe not to the same degree but similar to the trade deficits we have with China and Japan.

Mr. Speaker, what does all that mean to the American family? American families are realizing the potential threat posed by budget deficits and trade deficits. But when we have that double threat of trade deficits and budget deficits, America's families are faced with higher interest rates for the purchase of homes, are faced with the continued pressure on the dollar, and in ultimately rising unemployment. In the end we risk losing the economic recovery that the administration has fought for and that many of us in Congress have fought for.

The budget deficit, we have been generally successful, we are moving in the right direction. The budget deficit has come down, we have aggressively cut spending. We have ended programs. We have done a lot of the right things. Perhaps not quite far enough, but we have done a lot of positive things with the budget deficit. Unfortunately with the trade deficit we must do much, much more.

We need jobs in Lorain, OH; in Newton Falls, OH; in Brunswick, OH; in Elyria, OH, in areas all over this country. We need an aggressive trade policy. It means standing up to the Japanese when they violate trade laws. It means standing up to the Chinese when they engaged in illegal dumping. It means standing up to those countries when they are not playing fair, when the playing field is not level.

Mr. Speaker, we need fair trade, not free trade.

WE NEED HEALTH REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. McDERMOTT] is recognized for 30 minutes.

Mr. McDERMOTT. Mr. Speaker, the question that has been raised very frequently over the last few months has been the question, why do we need health care reform?

There has certainly been those in this House who have said we do not need health care reform, that everything is just fine, that if one has health care insurance now, do not worry, they are taken care of, there is nothing to worry about.

Mr. Speaker, I want to take this time to talk to the Members about an issue that affects me very much personally because I know the people involved. This is not some theoretical story, this is an actual human beings story who have what is called good health insurance. Many times people say, "Are you in the Congress going to give us the same kind of health care that you have?"

I would suggest to people who say that that they want better than we have in the U.S. Congress.

All the Members of the U.S. Congress belong to the Federal Employees Health Benefit Program. All other Federal employees are in that same program. I want to talk about what that program really does and how it affects individuals.

Many times as people talk about the whole area of health insurance, they say that the problem is the patients. The patients, they are using the system too much, it is costing too much because the patients are the ones at fault in the health care system. The theory, then, is that we ought to have managed care, we ought to force everybody into managed care and give people a bunch of booklets to look through so that they can shop smart, like buying health insurance was like buying a new automobile, or was like buying a new refrigerator.

If you are going to buy a new refrigerator, you know exactly the size of your kitchen, you know the space it is going to go, you know whether you want a de-icer or what kind of attachments you might want on it.

If you are buying an automobile, you know whether you are going to be driving long distances or short distances or over rough terrain or what kind of use you will put that vehicle to.

The problem with health care for all Americans is none of us know what we will need tomorrow. We hope that we will never have to use our health insurance. There is not anybody out there sort of slathering after using their health insurance. People have health insurance policies, hopeful that when the time comes and a problem comes to them, that health insurance will cover them for the things that they need.

Mr. Speaker, I was a physician in the State Department living in Zaire a long time ago, in 1987, and as a member of the State Department, I got to know the director of medical affairs of the U.S. Department of State. He has allowed me to use his name and I am going to tell his story and his wife's story because I think it is instructive about what all Americans face no matter who you are or in what level you are why we need health reform in this country.

□ 1900

Dr. Goff is an oncologist. That is somebody whose primary specialty is in the treatment of cancer. So if there is anybody in this society who ought to know how to buy a smart insurance policy related to cancer, it should be Dr. Goff. But here is what happened to the Goff family.

Mrs. Goff, who is 53 years old, got cancer of the uterus, and she had the diagnosis made at a fairly late stage. She has had now two operations and several sets of chemotherapy, and they recently did what they call an operation to look back and see if the cancer has cleared up.

There is a reoccurrence, and the recommendation made by the Hutchinson Cancer Center in Seattle and the doctors in Bellingham, WA, where she lives, is she ought to have high dose chemotherapy plus a bone marrow transplant to support that high dose chemotherapy.

They went to their Federal Employees Health Benefit Plan and they looked in it and they said, well, it says it covers bone marrow transplants. We will go and get the assurance of the Federal plan that we are covered by.

Now, the Federal plan is administered by Blue Cross of Washington, DC., here in the city of Washington, in the capital city. Even though they live out in Washington State, their insurance plan is administered by Blue Cross of Washington, DC.

Blue Cross of Washington, DC., said our plan does not cover your treatment, the high dose chemotherapy or the bone marrow transplant.

So here is a family, Dr. Goff is now retired from the State Department, he has been in the Government for 25 years, paid into a plan that he every year thought would cover whatever is necessary for his family's well-being, and suddenly he finds that he has a plan that does not cover his particular problems.

Now, he began to do some research because he is an oncologist, and he went through the literature and found that things that are covered by that plan, there is no more basis for their being covered than for the procedures that his wife was trying to get payment for, and, in fact, in many instances the things that are covered have less scientific basis than what they produce.

He talked to people at the Washington State Blue Cross. Blue Cross of Washington and Alaska is in Seattle. He talked to the medical director there and I talked to him. The doctor said yes, the Federal plan does not cover this kind of treatment. But if you happen to be in Blue Cross of Washington State, if you are covered by the Washington State Blue Cross, this treatment would be covered.

Now, I ask you, and I ask any Member of Congress, how we can possibly in this body put out the belief to people that we are going to make it possible for them to shop smart? You cannot shop smart when you do not know what is going to happen to you, when you cannot read your Blue Cross plan, when you do not know what the scientific changes are across the medical field. And yet, here we are hurdling toward going after, presenting to the American people, a plan which gives more power to insurance companies.

What is happening to Dr. Goff and what is happening to lots of Americans is that their health care is being rationed. Right now all the rationing that is going on in this country is being done by insurance companies. It is being decided by actuaries, it is being decided by accountants, people who decide well, this only gives somebody 10 percent greater chance. We are not going to worry about it. We will not give that kind of treatment. We will only give treatment to somebody, maybe 50 percent or 60 percent or whatever.

The decisions that are being made in health care today are being made by insurance companies. And for the Congress to say that we want to get everybody into managed care, and therefore we will be able to save money, is simply handing control of the health care of all our constituents into the hands of about six or eight large insurance companies in this country.

Now, Dr. Goff has a fall-back position. Since his insurance does not pay for it, if you want to get a bone marrow transplant, I don't care what center it is in the United States, they will either take you, if your insurance plan covers it, or if you can take out of your pocket $60 or $80 or $100 thousand and put it on the table before you come in.

Now, this is a doctor, he has got a practice, he is making a decent living. He has a pension and so forth. But they will not accept from him oh, just come in and have the treatment and pay us when you get the money. They wanted the money up front. This is in the Hutchinson Cancer Center in Seattle and every other cancer center. They do not do bone marrow transplants without advance payment or assurance of it from an insurance plan.

Now, Dr. Goff is lucky. He may be able to take a loan out on his house, take the equity out of his house, for $60,000 or $80,000, and put that money down and get that kind of treatment for his wife. He is lucky.

Not everybody in this country is lucky enough to be able to come up with $80,000 at the exact time that their loved one, whether it is a wife or a child or whomever, needs that kind of treatment. And what the President has said is that we need health care that can never be taken away, and that covers the things that Americans are worried about.

Everyone who has insurance right now says, why should I be worried? Well, let me tell you, the reason why every American, including Members of Congress, should be worried, is that none of us know whether the policy we have been paying on will cover the kinds of things that may face us. And there is no way we can ever be that knowledgeable.

I am a physician. I could not be that knowledgeable. Nobody can. And it is nonsense to say that the American people suddenly, we are going to hand them booklets and they are going to then be knowledgeable to buy health insurance.

Any time anybody comes on the floor of this House and says that we will hand around a bunch of booklets and people will know how to buy good health care simply is talking nonsense. If Dr. Goff did not know how to do it, it is sure that JIM MCDERMOTT will not know how to do it, and every Member of Congress and all the American people are going to be in the same bind.

Now, I support the single payer system because I think it is the best way to give every one the opportunity to see the physician of their choice, to have the biggest benefit package, to have it paid for in the most efficient way. We can save $100 billion a year. The Congressional Budget Office has said by eliminating insurance companies from the process and letting the doctor and the patient make this decision about what ought to be done, we can save $100 billion a year, which will cover all the benefits which our society presently does not have.

All of us hope, all of us hope, desperately hope, that we will never use our health insurance. We do not want to use it. It is not something people lie around at night saying, gee, I wonder how I can get some benefits out of my insurance policy. That would be like saying you would want to have some benefits out of your fire insurance policy. Maybe if we had a fire in the house, we could finally get some benefits out of that.

Nobody want that. And the fact is that the single payer system is the only way you can guarantee to the American people that you provide a benefit package that covers the things that people need with an affordable cost. And I hope that this Congress will consider the case of Dr. Goff and all the other people.

He is not alone. There was a case in California of a woman who had breast cancer, and the doctors recommended a bone marrow transplant for her. And, she did not have the money. So she had to go around and try and raise the money. Finally she got it, but too late. She died.

But the case was settled in the California courts for $84 million, very simply because the contract that she had from the managed care operation said they did bone marrow transplants. What it didn't say was we don't do bone marrow transplants if you have breast cancer.

□ 1910

So she thought she was covered. And in fact, that same case was settled really in large measure because they found a provision in the internal memos of the company which said to the doctors, "If you don't make referrals for bone marrow transplants, you will get paid more." That is what managed competition is all about. That is what managed care under insurance companies is all about. It is not directed at what is in the best interest of the patient. It is directed at what is in the best interest of the stockholders.

You have to remember that managed care from insurance companies simply is designed in a corporation to take in as much money as possible, spend as little on benefits as possible so at the end of the quarter you can give the biggest dividends to the stockholders. And a health insurance plan run by insurance companies with managed care by insurance companies is not going to be good for the American people.

That is why I support the American Health Security Act, which is the single-payer plan, H.R. 1200. I hope every Member of this Congress will read that bill and consider it the best for all their constituents.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. LLOYD (at the request of Mr. GEPHARDT), for today and tomorrow, on account of medical reasons.

Mr. UNDERWOOD (at the request of Mr. GEPHARDT), for today and tomorrow, on account of official business.

Mr. MINETA (at the request of Mr. GEPHARDT), for today, on account of official business.

Mr. SOLOMON (at the request of Mr. MICHEL), for today and the balance of the week, on account of minor surgery.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. FOWLER) to revise and extend their remarks and include extraneous material:)

Mrs. FOWLER, for 5 minutes, today.

Mr. KIM, for 5 minutes, today.

Mr. MICHEL, for 5 minutes each day, on June 22, 23, and 24.

Mr. COX, for 5 minutes, today.

Mr. DORNAN, for 5 minutes each day, on June 22 and 23.

(The following Member (at the request of Mr. FILNER) to revise and extend his remarks and include extraneous material:)

Mr. OWENS, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. BROWN of Ohio, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. FOWLER) and to include extraneous matter:)

Mr. MICHEL.
Mr. PACKARD.
Mr. GINGRICH.
Mr. CUNNINGHAM.
Mr. SAXTON.
Mr. HUNTER.

(The following Members (at the request of Mr. FILNER) and to include extraneous matter:)

Mr. LEVIN.
Mr. MAZZOLI in two instances.
Mr. FOGLIETTA.
Mr. LAFALCE.
Mr. ANDREWS of New Jersey in two instances.
Mr. SKELTON.
Mr. KILDEE.
Mr. REED in two instances.
Mr. ENGEL.
Mr. STARK.
Mr. STUPAK.
Mr. BACCHUS of Florida.
Mr. BERMAN.
Mr. EDWARDS of California.
Mr. LANTOS.
Mr. WILLIAMS.
Ms. NORTON.
Mr. KANJORSKI.
Mr. SANDERS.
Mr. COYNE.

(The following Members (at the request of Mr. MCDERMOTT) and to include extraneous matter:)

Mr. STENHOLM.
Ms. MARGOLIES-MEZVINSKY.
Mr. HALL of Texas.
Mr. GILLMOR.
Mr. JOHNSTON of Florida.
Mr. MANTON.
Mr. FAWELL.
Mr. MFUME.
Mrs. UNSOELD.
Mr. PALLONE.
Mr. EMERSON.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 150. An act to provide for assistance in the preservation of Taliesin in the State of Wisconsin, and for other purposes; to the Committee on Natural Resources;

S. 316. An act to establish the Saguaro National Park in the State of Arizona, and for other purposes; to the Committee on Natural Resources;

S. 472. An act to improve the administration and management of public lands, National Forests, units of the National Park System, and related areas by improving the availability of adequate, appropriate, affordable, and cost effective housing for employees needed to effectively manage the public lands; to the Committee on Natural Resources; and

S. 1980. An act to establish the Cane River Creole National Historical Park and the Cane River National Heritage Area in the State of Louisiana, and for other purposes; to the Committee on Natural Resources.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1904. An act to amend title 38, United States Code, to improve the organization and procedures of the Board of Veterans' Appeals.

BILLS PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H.R. 3676. An act to amend the District of Columbia Spouse Equity Act of 1988 to provide for coverage of the former spouses of judges of the District of Columbia courts; and

H.R. 4205. An act to amend title 11, D.C. Code, to clarify that blind individuals are eligible to serve as jurors in the Superior Court of the District of Columbia.

ADJOURNMENT

Mr. McDERMOTT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 12 minutes p.m.), the House adjourned until Wednesday, June 22, 1994, at 10 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the first quarter of 1994, in connection with official foreign travel; an amendment to the consolidated Speaker's report of foreign currencies and U.S. dollars utilized in connection with official foreign travel authorized by the Speaker in the first quarter of 1994, pursuant to Public Law 95-384; and, an amendment to the 1993 report of a miscellaneous group, U.S. House of Representatives, are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1994

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
John B. Chesson	9/29	10/5	Belgium		1,590.00						1,590.00
	10/5	10/14	England		1,908.00						1,908.00
Commercial air fare							4,043.45				4,043.45
Thomas G. Montgomery	9/28	10/5	Belgium		1,590.00						1,590.00
	10/5	10/14	England		1,908.00						1,908.00
							4,043.45				4,043.45
David Finnegan	1/15	1/18	Germany		849.00						849.00
	1/19	1/21	France		534.00						534.00
Commercial air fare							3,332.55				3,332.55
Lisa Kountoupes	1/12	1/15	Poland		440.00						440.00
	1/15	1/18	Germany		655.00						655.00
Commercial air fare							2,521.45				2,521.45
Catherine Van Way	1/11	1/12	Sweden		184.00						184.00
	1/12	1/15	Poland		440.00						440.00
	1/15	1/18	Germany		655.00						655.00
Commercial air fare							2,505.45				2,505.45
David Finnegan	2/13	2/17	Switzerland		955.00						955.00
Commercial air fare							2,035.65				2,035.65
Catherine Van Way	2/13	2/20	Switzerland		955.00						955.00
Commercial air fare							1,478.95				1,478.95
Sue Sheridan	2/7	2/12	Switzerland		1,146.00						1,146.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1994—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Commercial air fare							1,442.95				1,442.95
Gregory Wetstone	2/14	2/19	Switzerland		955.00						955.00
Commercial air fare							1,424.95				1,424.95
Committee total					14,764.00		22,828.85				37,592.85

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JOHN D. DINGELL, Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1994

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Robert A. Borski	1/10	1/14	Chile		944.00		3,442.95				4,386.95
David Smallen	1/10	1/14	Chile		944.00		3,442.95				4,386.95
Hon. Lucien Blackwell	1/11	1/16	Philippines		843.00						843.00
	1/16	1/18	Japan		786.00						786.00
	1/18	1/21	China		591.00		3,621.95				4,212.95
Hon. Stephen Horn	1/12	1/16	Greece		808.00						808.00
	1/16	1/18	Israel		642.00						642.00
	1/18	1/19	Jordan		191.00						191.00
	1/19	1/21	Syria		512.00						512.00
	1/21	1/23	Morocco		423.75		(3)				423.75
Hon. Tim Hutchinson	1/13	1/15	Netherlands				(3)				
	1/15	1/16	Germany				(3)				
Hon. William D. Lipinski	3/25	3/27	Ireland		436.00						436.00
	3/27	3/30	England		786.00						786.00
	3/30	4/3	France		1,040.00		(3)				1,040.00
Hon. Jerry Costello	3/25	3/27	Ireland		436.00						436.00
	3/25	3/30	England		786.00						786.00
	3/30	4/3	France		1,040.00		(3)				1,040.00
Hon. Glenn Poshard	3/25	3/27	Ireland		436.00						436.00
	3/27	3/30	England		786.00						786.00
	3/30	4/3	France		1,040.00		(3)				1,040.00
Hon. George Sangmeister	3/25	3/27	Ireland		436.00						436.00
	3/27	3/30	England		786.00						786.00
	3/30	4/3	France		1,040.00		(3)				1,040.00
Hon. Tim Valentine	3/25	3/27	Ireland		436.00						436.00
	3/27	3/30	England		786.00						786.00
	3/30	4/3	France		1,040.00		(3)				1,040.00
Donna McLean	3/25	3/27	Ireland		436.00						436.00
	3/27	3/30	England		786.00						786.00
	3/30	4/3	France		1,040.00		(3)				1,040.00
James R. Miller	3/25	3/27	Ireland		436.00						436.00
	3/27	3/30	England		786.00						786.00
	3/30	4/3	France		1,040.00		(3)				1,040.00
Roger Nober	3/25	3/27	Ireland		436.00						436.00
	3/27	3/30	England		786.00						786.00
	3/30	4/3	France		1,040.00		(3)				1,040.00
Mary Walsh	3/25	3/27	Ireland		436.00						436.00
	3/27	3/30	England		786.00						786.00
	3/30	4/3	France		1,040.00		(3)				1,040.00
Judy Windham	3/25	3/27	Ireland		436.00						436.00
	3/20	3/30	England		786.00						786.00
	3/30	4/3	France		1,040.00		(3)				1,040.00
Committee total					29,304.75		10,507.85				39,812.60

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

NORMAN Y. MINETA, Chairman, Apr. 30, 1994.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, TRAVEL TO INDONESIA, THAILAND, CHINA, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1994

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Majority Leader D. Gephardt	⅙	⅛	Indonesia		462.00		(3)		5,361.42		10,905.42
Hon. Pete Stark	⅙	⅛	Indonesia		462.00						
Hon. George Miller	⅙	⅛	Indonesia		462.00						
Hon. Norman Dicks	⅙	⅛	Indonesia		462.00						
Hon. Mike Synar	⅙	⅛	Indonesia		462.00						
Hon. Rosa DeLauro	⅙	⅛	Indonesia		462.00						
Hon. Chet Edwards	⅙	⅛	Indonesia		462.00						
Mr. Thomas O'Donnell	⅙	⅛	Indonesia		462.00						
Mr. Michael Wessel	⅙	⅛	Indonesia		462.00						
Ms. Margaret Sullivan	⅙	⅛	Indonesia		462.00						
Mr. Eli Attie	⅙	⅛	Indonesia		462.00						
Mr. John Lawrence	⅙	⅛	Indonesia		462.00						
Majority Leader D. Gephardt	⅛	1⁄11	Thailand		852.00		(3)		5,279.29		15,503.29
Hon. Pete Stark	⅛	1⁄11	Thailand		852.00						
Hon. George Miller	⅛	1⁄11	Thailand		852.00						
Hon. Norman Dicks	⅛	1⁄11	Thailand		852.00						

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, TRAVEL TO INDONESIA, THAILAND, CHINA, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1994

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Mike Synar	1/8	1/11	Thailand		852.00						
Hon. Rosa DeLauro	1/8	1/11	Thailand		852.00						
Hon. Chet Edwards	1/8	1/11	Thailand		852.00						
Mr. Thomas O'Donnell	1/8	1/11	Thailand		852.00						
Mr. Michael Wessel	1/8	1/11	Thailand		852.00						
Ms. Margaret Sullivan	1/8	1/11	Thailand		852.00						
Mr. Eli Attie	1/8	1/11	Thailand		852.00						
Mr. John Lawrence	1/8	1/11	Thailand		852.00						
Majority Leader D. Gephardt	1/12	1/16	China		800.00		(3)		2,584.81		11,790.81
Hon. Pete Stark	1/12	1/16	China		406.00						
Hon. George Miller	1/12	1/16	China		800.00						
Hon. Norman Dicks	1/12	1/16	China		800.00						
Hon. Mike Synar	1/12	1/16	China		800.00						
Hon. Rosa DeLauro	1/12	1/16	China		800.00						
Hon. Chet Edwards	1/12	1/16	China		800.00						
Mr. Thomas O'Donnell	1/12	1/16	China		800.00						
Mr. Michael Wessel	1/12	1/16	China		800.00						
Ms. Margaret Sullivan	1/12	1/16	China		800.00						
Mr. Eli Attie	1/12	1/16	China		800.00						
Mr. John Lawrence	1/12	1/16	China		800.00						
Committee total					24,974.00				13,225.52		38,199.52

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

RICHARD A. GEPHARDT, Majority Leader, May 31, 1994.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MEXICO–U.S. INTERPARLIAMENTARY GROUP, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1993

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Delegation expenses:[3]											
Pre-conference meeting									295.69		
Committee total									295.69		295.69

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] The 33d annual meeting, originally scheduled for 1992, was postponed until 1994.

E de la GARZA, May 19,1994.

EXECUTIVE COMMUNICATIONS, ETC.÷

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3399: A letter from the Assistant Secretary, Department of the Air Force, transmitting notification that the installation commander at Luke Air Force Base, AZ, has conducted a cost comparison study to reduce the cost of operating the range operations and maintenance function at Gila Bend Air Force Airfield and Goldwater Range, pursuant to 10 U.S.C. 2304 note; to the Committee on Armed Services.

3400: A letter from the Secretary, Department of Housing and Urban Development, transmitting the Department's report on directives to further fair housing objectives under certificate and voucher programs, pursuant to Public Law 102–550, section 153(5) (106 Stat. 3718); to the Committee on Banking, Finance and Urban Affairs.

3401: A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment and services sold commercially to Denmark (transmittal No. DTC–13–94), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

3402: A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

3403: A letter from the Secretary, Department of Agriculture, transmitting the Secretary's management report for the 6-month period ending March 31, 1994, pursuant to Public Law 101–576, section 306(a) (104 Stat. 2854); to the Committee on Government Operations.

3404: A letter from the Administrator, Environmental Protection Agency, transmitting the semiannual report of activities of the inspector general covering the period October 1, 1993, through March 31, 1994, and management report for the same period, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

3405. A letter from the Director, Office of Personnel Management, transmitting the semiannual report on activities of the inspector general for the period of October 1, 1993, through March 31, 1994, and management report for the same period, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

3406. A letter from the Assistant Secretary of Defense; transmitting the Department's report entitled, the "Metric Transition Program," pursuant to Public Law 100–418, section 5164(c) (102 Stat. 1452); to the Committee on Science, Space, and Technology.

3407. A communication from the President of the United States, transmitting notification of the designations of Peter S. Watson as Chair and Janet A. Nuzum as Vice Chair to the U.S. International Trade Commission, effective June 17, 1994, pursuant to 19 U.S.C. 1330(c)(1); to the Committee on Ways and Means.

3408. A letter from the Assistant Secretary for Legislative Affairs, Department of State; transmitting a copy of Presidential Determination No. 94–28: Assistance Program for the New Independent States of the Former Soviet Union, pursuant to 22 U.S.C. 5858; jointly, to the Committees on Appropriations and Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MOLLOHAN: Committee on Appropriations. H.R. 4603. A bill making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes (Rept.

103-552). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of Iowa: Committee on Appropriations. H.R. 4606. A bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes (Rept. 103-553). Referred to the Committee of the Whole House on the State of the Union.

Mr. GORDON: Committee on Rules, House Resolution 458. Resolution waiving certain points of order against the bill (H.R. 4602) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1995, and for other purposes (Rept. 103-554). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SPRATT:

H.R. 4604. A bill to establish direct spending targets, and for other purposes; jointly, to the Committees on Government Operations and Rules.

By Mr. GIBBONS (for himself, Mr. Ford of Michigan, Mr. Ford of Tennessee, Mr. Martinez, Mr. Gephardt, Mr. Cardin, Mr. Ackerman, and Mr. Cramer):

H.R. 4605. A bill to amend the Social Security Act, the Food Stamp Act, and other relevant statutes to redesign the program of aid to families with dependent children to establish a program that provides time-limited, transitional assistance, prepares individuals for and requires employment, prevents dependency, overhauls the child support enforcement mechanism at both State and Federal levels, and for other purposes; jointly, to the Committees on Ways and Means, Agriculture, and Education and Labor.

By Mrs. UNSOELD:

H.R. 4607. A bill to establish the Vancouver National Heritage Area, and for other purposes; to the Committee on Natural Resources.

By Mr. HUGHES (for himself and Mr. Moorhead):

H.R. 4608. A bill to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for fiscal year 1995, and for other purposes; to the Committee on the Judiciary.

By Mr. FAZIO (for himself and Mr. Miller of California):

H.R. 4609. A bill to establish a Commission on Integration of Workers' Compensation Medical Benefits to study and develop a detailed plan for implementing the transfer of financial responsibility for workers' compensation medical benefits to health insurers, and to provide for the implementation of the plan; jointly, to the Committees on Education and Labor, Energy and Commerce, Ways and Means, Armed Services, Post Office and Civil Service, Natural Resources, and Veterans' Affairs.

By Mr. LAFALCE:

H.R. 4610. A bill to amend Title XVIII of the Social Security Act to provide for coverage of self-administered Betaseron treatments for Multiple Sclerosis under the Medicare Program, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. HOCHBRUECKNER:

H.R. 4611. A bill to direct the Secretary of Transportation to convey to the Montauk Historical Society Light Station Montauk Point, located at Montauk, NY; to the Committee on Merchant Marine and Fisheries.

By Mr. JOHNSTON of Florida (for himself, Mrs. Thurman, Mr. Wilson, Mr. Faleomavaega, Mr. Canady, Mr. Royce, and Mr. Lipinski):

H.R. 4612. A bill to amend the Internal Revenue Code of 1986 to exempt gain from the sale of a principal residence from tax; to the Committee on Ways and Means.

By Mr. JOHNSTON of Florida (for himself and Mr. Goss):

H.R. 4613. A bill to protect the ecologically fragile coastal resources of south Florida by prohibiting offshore oil and gas activities and by cancelling Federal leases in the area of the outer Continental Shelf adjacent to the south Florida coast; jointly, to the Committees on Natural Resources and Merchant Marine and Fisheries.

By Mr. OLVER (for himself and Mr. Neal of Massachusetts):

H.R. 4614. A bill to amend the Federal Water Pollution Control Act to provide grants for projects that demonstrate technologies and methods for reducing discharges from combined sewer overflows into navigable waters of interstate significance; to the Committee on Public Works and Transportation.

By Mr. ORTON (for himself and Ms. Shepherd):

H.R. 4615. A bill to make the provisions of the act commonly known as the "Warren Act" to the Central Utah Project, UT, and for other purposes; to the Committee on Natural Resources.

By Mr. PALLONE:

H.R. 4616. A bill to amend the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to improve natural gas and hazardous liquid pipeline safety, in response to the natural gas pipeline accident in Edison, NJ, and for other purposes; jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

By Mr. PENNY:

H.R. 4617. A bill to amend the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 to repeal the restriction on assistance to Azerbaijan; to the Committee on Foreign Affairs.

By Mr. SANDERS (for himself, Mr. Andrews of Maine, Ms. Collins of Michigan, Mr. DeFazio, Mr. Dellums, Mr. Engel, Mr. Foglietta, Mr. Gonzalez, Mr. Gutierrez, Mr. Hinchey, Mr. Johnston of Florida, Mrs. Kennelly, Mrs. Mink of Hawaii, Mr. Moran, Mr. Nadler, Mr. Oberstar, Mr. Obey, Mr. Owens, Mrs. Unsoeld, Mrs. Schroeder, Mr. Shays, Ms. Velazquez, Mr. Vento, Mr. Washington, and Mr. Yates):

H.R. 4618. A bill to authorize the Secretary of Agriculture to impose labeling requirements for milk and milk products produced from cows which have been treated with synthetic bovine growth hormone, to amend the Agriculture Act of 1949 to require the Secretary of Agriculture to reduce the price received by producers for milk that is produced by cows injected with synthetic bovine growth hormone, to direct the Secretary of Health and Human Services to develop a synthetic BGH residue test, and for other purposes; to the Committee on Agriculture.

By Mr. SCHUMER:

H.R. 4619. A bill to amend title 18, United States Code, to provide an official duty defense to certain section 32 and related offenses; to the Committee on the Judiciary.

By Mr. STENHOLM (for himself and Mr. Smith of Texas):

H.R. 4620. A bill to provide that the costs relating to repairs correcting seepage problems at Twin Buttes Dam, TX, are nonreimbursable; to the Committee on Natural Resources.

By Mr. TRAFICANT:

H.R. 4621. A bill to establish a National Academy of Space, and for other purposes; to the Committee on Science, Space, and Technology.

By Mr. ANDREWS of New Jersey:

H.J. Res. 381. Joint resolution to designate May 1995 "Multiple Sclerosis Association of America Month"; to the Committee on Post Office and Civil Service.

By Ms. SNOWE:

H. Res. 459. Resolution providing for the consideration of the bill (H.R. 3266) to provide for automatic downward adjustments in the discretionary spending limits for fiscal year 1994 set forth in the Congressional Budget Act of 1974 equal to the amount of rescissions contained in this act; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

430. By the SPEAKER: Memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to memorializing the President and Congress to take action to help ease the burden that increased lumber prices have placed on homebuilders and homebuyers; to the Committee on Agriculture.

431. Also, memorial of the House of Representatives of the State of Louisiana, relative to memorializing the U.S. Congress to take such actions as are necessary to authorize the use of the U.S. flag to drape the coffins of former members of the Civilian Conservation Corps; to the Committee on Education and Labor.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 65: Mrs. Morella.

H.R. 301: Mr. Shays.

H.R. 911: Mr. Fields of Texas.

H.R. 1103: Mr. Williams.

H.R. 1417: Mr. Frank of Massachusetts, Mr. Stupak, and Mr. Deutsch.

H.R. 1442: Mr. Oxley.

H.R. 1500: Mr. Ravenel and Mr. Berman.

H.R. 1607: Mr. Shays.

H.R. 1671: Mr. Clement, Mr. Rangel, Mr. Canady, Mr. Wilson, Mr. Emerson, and Mr. Bonior.

H.R. 1801: Ms. Eddie Bernice Johnson of Texas.

H.R. 1843: Mrs. Thurman and Mr. Herger.

H.R. 2064: Mr. Richardson.

H.R. 2147: Mr. Moran.

H.R. 2326: Mr. Smith of Texas, Mr. Oberstar, Mr. Richardson, Mr. Nussle, Mr. Sharp, and Mr. Johnson of South Dakota.

H.R. 2758: Mr. Gingrich.

H.R. 2866: Mr. Ford of Tennessee.

H.R. 2886: Mr. Greenwood, Mr. Kim, Mr. Bilbray, Mr. Pomeroy, and Mr. Wise.

H.R. 2969: Mr. McNulty.

H.R. 3005: Mr. Smith of Michigan, Mr. Allard, and Mr. Manzullo.

H.R. 3031: Mrs. Fowler.

H.R. 3293: Mr. Schiff.

H.R. 3348: Ms. Molinari.

H.R. 3421: Mr. Smith of Michigan and Mr. Saxton.

H.R. 3488: Mr. Livingston, Mr. Wilson, and Mr. Pombo.

H.R. 3497: Ms. Slaughter, Mrs. Fowler, and Mr. King.

H.R. 3596: Mr. Evans and Mr. Hughes.

H.R. 3717: Mr. Shays.

H.R. 3986: Mr. Minge.

H.R. 3987: Ms. Furse.

H.R. 3992: Mr. Rohrabacher.

H.R. 4042: Mr. Lantos.

H.R. 4050: Mrs. Clayton and Ms. Eddie Bernice Johnson of Texas.

H.R. 4091: Mr. Gonzalez, Mr. Martinez, Mr. Evans, Mr. Murphy, and Mr. Ackerman.

H.R. 4100: Mr. Owens.

H.R. 4150: Mr. Duncan.

H.R. 4163: Mr. Abercrombie, Mr. Glickman, Mr. Romero-Barceló, Mr. Hinchey, and Mr. Evans.

H.R. 4178: Mr. Royce and Mr. Manzullo.

H.R. 4223: Mr. Boehner.

H.R. 4251: Mr. Ridge and Mr. Upton.

H.R. 4258: Mr. Hilliard and Mr. Murphy.

H.R. 4259: Mrs. Meyers of Kansas and Mr. Clinger.

H.R. 4269: Mr. Frost.

H.R. 4358: Mr. Dornan.

H.R. 4365: Mr. Castle.

H.R. 4386: Mr. Klein, Mr. Greenwood, Mr. Barca of Wisconsin, Mr. Whitten, Mr. Schiff, Mr. Barcia of Michigan, Mr. Dooley, Mr. Rose, Mr. Pallone, Mr. DeFazio, Mr. Bacchus of Florida, Mr. de la Garza, Mrs. Morella, Mr. Clay, Mr. Oberstar, Ms. Eddie Bernice Johnson of Texas, Mr. Durbin, Mr. de Lugo, Mr. Michel, Mr. Quillen, Mr. Hansen, Mr. Miller of California, Mr. Baker of Louisiana, and Mr. Bonilla.

H.R. 4404: Mrs. Johnson of Connecticut, Mr. Franks of Connecticut, Mr. Vento, Mr. Farr, and Mr. Moorhead.

H.R. 4433: Mr. Zimmer, Mr. Ehlers, Mr. Baker of Louisiana, and Mr. Royce.

H.R. 4441: Mr. Gillmor.

H.R. 4452: Mr. Stokes, Mrs. Meek of Florida, Mrs. Clayton, Mr. Lipinski, Mr. Payne of New Jersey, Mr. Bacchus of Florida, Mr. Watt, Mrs. Unsoeld, Mr. Hilliard, Mr. Edwards of California, Mr. Montgomery, Mr. Frost, Mr. Parker, Mr. DeFazio, and Mr. Clyburn.

H.R. 4507: Mr. Parker and Mr. Hochbrueckner.

H.R. 4528: Mr. Coble, Mr. Hughes, and Mrs. Thurman.

H.R. 4535: Mrs. Collins of Illinois and Mr. Moorhead.

H.R. 4582: Mr. Swift.

H.J. Res. 44: Mr. Kyl.

H.J. Res. 90: Mr. Regula, Mr. Jacobs, Mr. Levin, Mr. Lewis of California, and Mr. LaFalce.

H.J. Res. 145: Mr. Hoekstra, Mr. Goss, Mr. Ramstad, Mr. Smith of Texas, Mr. Kim, and Mr. Hutchinson.

H.J. Res. 321: Mr. Royce.

H.J. Res. 326: Mr. Parker, Mr. Sabo, Mr. Hastings, Ms. McKinney, Mr. Sanders, Mrs. Vucanovich, Mr. Fields of Louisiana, Mr. Glickman, Mr. Flake, Mr. Ravenel, Mrs. Bentley, Mr. Murtha, Mr. Washington, Mr. Lewis of Georgia, Mr. Myers of Indiana, Mr. Sangmeister, Mr. Lantos, Mr. Schumer, Mr. Richardson, Mr. Applegate, Mr. Diaz-Balart, Mr. Houghton, Mr. Borski, Mr. Hefley, Mr. Packard, Mr. Franks of Connecticut, Mr. Kasich, Mr. Kanjorski, Mr. Ackerman, Mr. Whitten, Mr. Jacobs, Mr. Tauzin, Mr. Rogers, Mr. Valentine, Mr. Watt, and Ms. Molinari.

H.J. Res. 356: Mr. Fish and Mr. Traficant.

H.J. Res. 359: Mr. Thompson and Mr. Fingerhut.

H.J. Res. 373: Mr. Rohrabacher.

H.J. Res. 378: Mr. Frank of Massachusetts, Mr. Moran, Mr. McDade, Mr. Mazzoli, Mr. Gonzalez, Mr. Hefner, Mr. Studds, Mr. Orton, Mr. Parker, Mr. Moakley, Mr. Pickett, Mr. Farr, Mr. Ackerman, and Mr. Waxman.

H. Con. Res. 148: Mr. Deutsch and Mr. Livingston.

H. Con. Res. 199: Mr. Hastings.

H. Con. Res. 202: Mr. Parker.

H. Con. Res. 219: Mr. Hilliard, Mr. Owens, Mr. Beilenson, Mr. Kyl, Ms. Molinari, Mr. Wilson, Mr. Greenwood, Ms. Woolsey, Ms. Harman, Mr. Torkildsen, Ms. Schenk, Mr. Hughes, Mr. Johnson of South Dakota, Mr. Porter, Mr. Kleczka, Mr. Barrett of Wisconsin, Ms. Furse, Mr. Kopetski, Ms. Slaughter, Mr. Hinchey, Mr. Zeliff, and Mr. Meehan.

H. Con. Res. 243: Mr. Evans, Mr. Stupak, Mrs. Meek of Florida, and Mr. Owens.

H. Con. Res. 246: Mr. Durbin, Mr. Owens, Mr. Foglietta, Mr. Thompson, Mr. Mann, Mr. Gunderson, Mr. Klug, Mr. DeFazio, and Mr. Frost.

H. Res. 372: Mr. Andrews of New Jersey, Mr. Fish, and Mr. Stupak.

H. Res. 446: Mr. Dreier, Mr. Kolbe, Mr. McInnis, Mr. Kasich, Mr. Browder, Mr. Cramer, Mr. Evans, Mr. McNulty, Mr. Goodling, and Mrs. Roukema.

PETITIONS, ETC.

Under clause 1 of rule XXII.

99. The SPEAKER presented a petition of the Arkansas Legislative Counsel, Arkansas, relative to requesting that the U.S. Congress include its members and employees in any health care legislation it adopts in 1994 or thereafter; which was referred to the Committee on House Administration.

SENATE—*Tuesday, June 21, 1994*

(Legislative day of Tuesday, June 7, 1994)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the Honorable HARRIS WOFFORD, a Senator from the State of Pennsylvania.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

* * * *they that wait upon the Lord shall renew their strength; they shall mount up with wings as eagles; they shall run, and not be weary; and they shall walk, and not faint.*—Isaiah 40:31.

Eternal God, the wisdom of Isaiah speaks to our contemporary, frenzied lifestyle. We can go faster than ever, but we never seem to have enough time, and we never seem to arrive. We have more of everything, materially, than any other culture at any other time, but we never seem to have enough. Our technological progress exceeds unimaginable bounds, while we disintegrate and decay socially and culturally. We pass hundreds of laws, yet crime and poverty and violence increase.

Patient God, lead us to the light of Isaiah's wisdom that we may learn to wait upon the Lord and be continually renewed.

In the name of Him whose strength is made perfect in our weakness. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 21, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRIS WOFFORD, a Senator from the State of Pennsylvania, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WOFFORD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. MITCHELL. Mr. President and Members of the Senate, I will now outline the schedule for the Senate for today and for the next several days.

There will be a period for morning business until 9:30 a.m., at which time the Senate will resume consideration of the so-called Whitewater resolution. That will be disposed of in a vote, or a series of votes to occur beginning at 2:15 p.m., today.

The Senate will then resume consideration of the Treasury, postal appropriations bill on which action began yesterday. It is my hope that we can complete action on that bill today.

The Senate will then proceed to consideration of the Department of Defense authorization bill, and the foreign operations appropriations bill.

I expect that during this week the Appropriations Committee will report two additional appropriations bills, the energy and water, and the Department of Agriculture appropriations bills. I hope that we will be able to consider those in the next several days.

I also hope to proceed to consideration of the striker replacement bill. And under a previous order, I will move to proceed to the product liability bill not later than the close of business on Friday.

I expect that there will be votes during the day today, not prior to 2:15 p.m., but certainly thereafter, as well as throughout the week.

As I indicated in my announcement of the schedule for this period, votes are possible on next Monday, June 27. I hope to have an announcement with regard to the schedule for that day during this week.

I conclude by saying that, as I have indicated previously, the legislative period between the Fourth of July recess and the Labor Day recess will be a very busy one. I expect the Senate to be in session with votes 5 days a week with lengthy sessions during each of those days as we will have a number of matters on which action will be required.

Mr. President, I thank my colleagues for their cooperation. I note the presence of the distinguished Senator from Vermont.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 9:30 a.m. with Senators permitted to speak up to 5 minutes each.

Under the previous order, the Senator from Vermont is recognized to speak for up to 10 minutes.

Mr. LEAHY. Mr. President, I ask unanimous consent that I be able to have the full 10 minutes even if it meant the time for morning business had to be extended by a couple minutes to accommodate that.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Vermont is recognized.

Mr. LEAHY. I thank the Chair.

(The remarks of Mr. LEAHY pertaining to the introduction of S. 2216 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

WELCOME TO 26TH ANNUAL CONFERENCE, WOCN

Ms. MIKULSKI. Mr. President, the State of Maryland welcomes the Wound, Ostomy and Continence Nurses [WOCN] Society for their 26th annual conference at the Baltimore Convention Center on June 19–23. The conference theme is "Positioning for Change—Where Do We Go From Here?"

WOCN is a 3,000-member professional association representing nurses who specialize in the care of patients with wounds, ostomies, and incontinence. Members of the WOCN are registered nurses, many of whom have advanced education as enterostomal therapists [ET] nurses, or specialty education in wound, ostomy, or continence care.

ET nurses traditionally specialized in the care of patients with ostomies. However, as the needs increased for specialists in managing wounds and related skin conditions, ET nurses incorporated wound care into their practice.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Many WOCN members report the majority of their practice is related to wound care.

ET nurses have also extended their practice into the area of continence care, including prevention, assessment, diagnosis, and management. Today, the WOCN membership consists primarily of ET nurses, however, the number of nurses specializing in only wound or continence car is increasing. The WOCN nurse is an integral part of the healthcare system in providing cost-effective care to their patients.

The conference provides an opportunity for participants to enhance their theoretical and clinical knowledge base for the nurse specializing in the care of individuals with a wound, ostomy, or incontinence condition. The conference also aims to identify current issues and trends that impact professional practice; provide resources to assist the participant in marketing their practice and profession; provide an opportunity for the participant to discuss clinical and professionals issues; and recognize available collaborative practice opportunities in various health care settings.

Participants in the conference will include the WOCN membership, allied health care professionals, and pharmaceutical and medical manufacturers. The Clinton administration will be represented at the conference by Ms. Kathleen Hastings, consultant to the Surgeon General on health care reform. She will deliver the keynote address at the opening session on June 20, 1994.

Mr. President, I know my colleagues will join me in wishing WOCN success with their conference. I am pleased and honored that they have chosen the city of Baltimore to host their event.

ADDITIONAL COSPONSOR—S. 1951

Mr. BAUCUS. Mr. President, today I asked Senator MOYNIHAN to include me as a cosponsor of S. 1951, the Reemployment Act of 1994. I wholeheartedly agree with the intent of this legislation—the consolidation and coordination of a variety of worker retraining programs.

However, I have some concerns about this legislation as it is currently drafted. I have outlined some of those concerns in a letter to Secretary of Labor Robert Reich. I ask that the letter be printed in the RECORD. The Governor of the State of Montana, Marc Racicot, has established a Reemployment Act Task Force to track this bill. The Governor has come up with a preliminary set of concerns that he outlined in a letter to me. I ask that this letter also be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 20, 1994.

Hon. ROBERT REICH,
Secretary, U.S. Department of Labor,
Washington, DC.

DEAR BOB: First of all, on behalf of the hundreds of dislocated mill workers in Western Montana I would like to thank you and your Department for your rapid response to their critical need for Trade Adjustment Assistance funds. The former Champion and Crown Pacific workers have gone through a very difficult period and it has been reassuring to have the U.S. Department of Labor on their side. I am personally grateful for your attention to this issue.

As we discussed, the confusing and critical needs of these mill workers are a perfect example of the need for coordination and streamlining of various retraining programs and the Reemployment Act of 1994. I would like to take this opportunity to let you know that, despite concerns I have about the proposal as it's currently drafted, I intend to cosponsor this important legislation.

One serious concern I have about the Reemployment Act is the cost. It is my understanding that the Administration's proposal advocates an $5.5 billion increase over current spending for FY 1995–1999. Although the need for effective job training programs is critical to prepare Americans for a dynamic economy, during difficult financial times is troubling.

As I also mentioned, I have heard several recurring concerns expressed by individuals and officials in Montana about the workability of the Department's proposal. These problems relate to the potential problems associated with implementing the bill in a rural state facing serious economic challenges and changes. Specifically, the administrative structures proposed in Title III of the bill, the One Stop Shop Center, appear to be duplicative of existing structures and could limit our state's ability to provide services effectively.

We are fortunate in Montana to have a big, beautiful state that often functions like a small town. We work together, we cooperate and we design service delivery systems that work for us. As the Reemployment Act moves through the legislative process, I will work to see that it includes enough flexibility to allow that cooperation to continue, both in Montana and in other rural states.

I have enclosed more information regarding Montana's concerns including a letter from Governor Racicot and a letter expressing the concerns of the Vocational Education community. I appreciate your review of this material. As I mentioned, Montana has formed a volunteer Reemployment Act Task Force and this group is prepared to provide comments on the bill as it progresses.

Again, Bob, I want to thank you for your outstanding help with the TAA funds. It is very important to many in Montana. I look forward to working with you on the Reemployment Act.

With best personal regards, I am
Sincerely,

MAX BAUCUS.

OFFICE OF THE GOVERNOR,
STATE OF MONTANA,
Helena, MT, May 20, 1994.

Sen. MAX BAUCUS,
U.S. Senate,
Washington, DC.

DEAR SENATOR BAUCUS: We are pleased to send you comments on the proposed federal Re-employment Act of 1994. Montana is perhaps unique in our willingness and ability to work together in common purpose within our job training community.

Background: On April 18, a one day statewide forum on the proposed Reemployment Act was held in Helena. This forum was sponsored by the Montana Job Training Coordinating Council, the Concentrated Employment Program and Balance of State Private Industry Councils, and the Department of Labor and Industry. Approximately 250 people attended from across the state and representing a broad range of interests including job training, welfare, education, apprenticeship, unemployment insurance, and labor market statistics.

The goal of the forum was two-fold: to provide those in attendance with an overview of the Act and to develop consensus comments for our Congressional delegation. As Governor Racicot stated in his invitation to attend this forum, "Where Montanans speak with unity is where we can be most effective with our Congressional delegation to help in their deliberations on this key legislation."

The overview of the Act was provided by Niall Rogers from Region VIII, who participated on the DOL team responsible for drafting the legislation. Breakout sessions were then conducted to develop consensus and report back in three areas:

(1) Title I Comprehensive Program for Worker Reemployment and Title II Retraining Income Support and Flexibility in Unemployment Compensation.

(2) Title III One-Stop Career Center System.

(3) Title IV National Labor Market Information System and Title V Reinvention Labs for Job Training for the Economically Disadvantaged.

RECOMMENDATIONS

Generally: It is safe to say that participants at our forum were stunned at the amount of detail and micro-management contained in the 250 page draft bill. While it is a most assuredly admirable undertaking to attempt to legislate for every possibility in every community and state in America, our consensus was that it is not possible to construct a detailed floor plan that will fit the terrain in New York City and also in Miles City, Montana. We strongly encourage a backing away in law from the "how" a program is operated and more emphasis on "what" the program accomplishes. If that is not feasible, then consider a rural exception for states like Montana, allowing us to design a streamlined delivery that works for us. We simply cannot afford the overhead these job training programs are causing by requiring a different delivery system for each. We would prefer to streamline overhead and direct more funds to citizens.

Montana is working to promote community based design and delivery of all human service programs into integrated systems of which job training programs are one component. With our total population of only 800,000, our definition of local and community are much different than envisioned in the Act. Again, we need the flexibility to keep job training programs a partner in this bigger effort.

Additionally, we are concerned about effective competition. (We refer here to the request for proposal selection process, not to offering choice to consumers. We strongly believe in the value of good customer service and enjoy the "competition" to provide good service. Our experience, as an administrative entity and as service providers, has indicated that competition for dollars between service providers who are providing similar services inhibits coordination and cooperation on behalf of the customers. The proper way to deal with poor service is through the monitoring and evaluation systems not through the funding process. We see no point in considering an operator with poor performance for additional funding, they should be eliminated by the monitoring process.) We believe that the four-year competitive process to choose career center and one-stop operators set forth under Title I Section 118 and Title III Section 313 is disruptive and divisive. When these systems are in place and the operators are performing well, we believe they should be allowed a certain security to conduct business without the added encumbrance of a bidding process every four years. We do believe that these systems should be held accountable to reasonable standards of performance through monitoring and evaluation processes.

We also believe that putting a well coordinated (including an electronic network) delivery system of program operators out to bid every four years is not only disruptive at this level, but is also not cost effective. Please realize that we base this concern on experience; Montana has been bidding every one to two years all along and is trying to move away from this frequent to bring about better coordination and stability. If mandatory selection frequency is inevitable, not less frequent than seven years would probably be adequate in Montana, with opportunity for waivers under certain conditions such as community consensus. There simply aren't many operators in most of our communities. We note that, of all the federal programs that come to us, only job training seems obsessed with competition for funding. Competition really cannot take the place of effective quality control, enforcement and results.

(1) Titles I and II—Comprehensive Program; Retraining Income Support:

Prior to talking about concerns in specific sections of the law, we would like to point out that several of the items listed below (including paragraphs number 1, 2, 3) are good examples of too much detail that we suggested should be eliminated in our introductory paragraphs. If they cannot be eliminated or greatly reduced, then we present the following concerns with the realization that different sections of the country may have very different concerns about the same issues.

Section 119, Limits.—The proposed limits discriminate against economically disadvantaged citizens who have not been recently employed and therefore probably have few resources. Likewise, training limited to $4,750 per participant will not be sufficient for those with fewer skills to obtain high technology employment. Additionally, the two year training limit may not be sufficient to attain the higher skills necessary for long-term employment. Generally, the imposed limits seem arbitrary and undefensible.

Worker profiling information should be available to career centers as soon as possible so that clients can be steered to the appropriate services. All others should receive immediate testing and assessment to determine client needs and goals. Only then should a client be assigned to either Basic or Intensive Services.

16 Week Window for Enrollment.—Similar to the two year cap on training, those with few skills may have to spend more than sixteen weeks in basic and remedial skills training before they are ready for enrollment into actual job training. If the Individual Service Strategies are to be the foundation tools for further training, this time period may be too short. We suggest that time limit extensions be allowable, with justification in the ISS.

Pell Grant Exclusion.—We suggest that participants who receive Pell Grants should not be penalized amounts commensurate with their Cost of Attendance (COA) in available funds for training under the proposed legislation. However, service providers should be held accountable to coordinate resources for their clients.

Section 152.—Pre/post Placement Percentage (as a performance standard).—Montana urges care be taken that the Pre/post Placement Percentage standard does not compare directly with the former wage, since wage trends for upgraded employment are not always higher than previous wage experiences.

Technical Assistance.—We recommend that technical assistance and capacity building be made available before performance failure occurs.

Three-year Income Support (Section 204).—This limit may work against those with less than 3 years of tenured employment. This provision will limit these participants with lower personal reserves to 52 weeks of unemployment compensation. Additionally, this provision makes no mention of start-up help for those wishing to enter self employment.

Performance Standards.—Montana questions why this program should use indicators for economically disadvantaged populations when training programs already exist for this target group (JTPA Title II; JOBS).

(2) Title III—One-Stop Career Systems:

Workforce Investment Boards (WIBs).—Montana feels strongly that private sector involvement is a valuable component. Similarly we do not like to see the role of Local Elected Officials (LEOs) diluted. We urge flexibility within the WIB for membership composition and voting privileges.

In general, we urge that WIBs be kept both voluntary and flexible. We believe that this bill creates a duplicate administrative structure. The administrative entity/grant recipient still exists under a unit or consortia of local government while the WIB has its own staff as well. We urge that the bill have one administrative entity/grant recipient structure.

The overall power and authority of the WIB must be further clarified, especially as it relates to other programs within the purview of job training (i.e., the Employment Service. Within the state of Montana the Employment Service has worked hard at having local offices become more like "Community Based Organizations" and have been very successful at building community support by being responsive to each community's needs. Concurrently, the Employment Service sees the change in the economy toward a more global economy. In order to be responsive to America's needs to be globally competitive the Employment Service needs to be at least a national system and services like the Automated Labor Exchange and America's Job Bank are being offered in every Montana Job Service office and many other small communities. For the Employment Service to be an effective tool in our national economy we still need a coordinated federal system. Thus we need a much clearer definition of the federal, state and local authority.) While we support the idea of the WIB having broad authority over all local training programs (including Job Corps), the current bill makes the WIB answer to its own operators instead of the other way around. We recommend the WIBs have sufficient authority to match whatever local level of responsibility is established.

We concur that states and local service areas should continue to improve coordination and communication. In conjunction, Montana urges that coordination and communication be a priority at the national level, especially between the Departments of Labor, Education and Health and Human Services.

We suggest a reasonable transition period (at least one year) be allowed to work out local authority, organization and procedural issues. Major changes to any system can cause upheaval; we believe a transitional period will ease growing pains.

Most-in-Need.—There appears to be a mixed message in requirements for service to those most-in-need; this target group may also be those least able to pay for services.

Demand Occupations.—Training funds should be prioritized by demand occupations in the area; funds should not be spent on maintaining institutions, but rather on the actual occupations identified as in demand in the community. We also suggest flexibility by area for identifying demand occupations. (An example: blacksmith may not normally be considered a demand occupation; however, in Miles City, Montana, there may be a demand for blacksmiths.)

Quality Assurance.—We suggest that a process outside the regular educational system be designed for quality assurance for schools.

Other Programs.—We believe that programs both in and outside USDOL should be included in the legislation: Job Corps; chemical dependency programs; mental health; Pell Grant assistance; Vocational Rehabilitation; Adult Basic Education. The waiver approach envisioned in the legislation is too cumbersome and slow to be practical.

Flexibility.—We urge legislation which allows one-stop centers to have broad and flexible law and rules so centers can best fit local resources.

(3) Titles IV and V—National Labor Market System; Reinvention Labs:

a. Labor Market Information System:

The system must focus on where the jobs are and will be, and what types of training will be available.

A bulletin board system is the future avenue for such information. Existing electronic systems which are currently up and working well should be kept in place. Updated information is the most important aspect of a quality labor market information system.

We would urge that resources not be diverted unduly into evaluation and oversight and that evaluation instruments be developed with states and local involvement.

Training and technical assistance to operate the system should be a part of the proposed legislation.

The system should be service-based as well as technology-based. It must apply to real-life situations.

b. Reinvention Labs:

We believe that the waiver process should be flexible enough so that SDAs or areas or operators within an SDA could be eligible to apply.

The Secretary should be able to approve as many worthwhile applications as the Department sees fit to approve. The limit of 75 applications appears arbitrary and unnecessary.

Section 283.—We would request that a waiver once approved only be terminated for cause.

With limited Title II funds, we urge that the labs be funded from additional available funds rather than from Title II base allocations.

Summary: At the close of the forum, the hosting Councils urged interested parties to join a Reemployment Act Task Force. This Task Force will be coordinated by the Councils and will continue to track the Reemployment Act throughout the legislative process. The Task Force will serve to keep the job training community informed as the legislation progresses through Congress and to submit further comments as necessary.

We appreciate the goals of the Reemployment Act of 1994, and we are grateful for the opportunity to comment on the proposed Act early in the legislative process. Again, we wish to emphasize that the comments in this letter represent where many Montanans came together and reached consensus. We appreciate your consideration.

Sincerely,

MARC RACICOT,
Governor.
HELEN KELLICUT,
Chair, State Job Training Coordinating Council.
BOB FRANCISCO,
Chair, CEP Private Industry Council.
DALE KUTTERER,
Chair, Balance of State Joint Council.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, before we ponder today's bad news about the Federal debt, let's have a little pop quiz: How many million would you say are in a trillion? And when you figure that out, just consider that Congress has run up a debt exceeding $4½ trillion.

To be exact, as of the close of business on Monday, June 20, the Federal debt stood—down to the penny—at $4,592,530,655,789.90. This means that every man, woman, and child in America owes $17,515.41, computed on a per capita basis.

Mr. President, to answer the question—how many million in a trillion—there are a million, million in a trillion. I remind you, the Federal Government, thanks to the U.S. Congress, owes more than $4½ trillion.

STOP SERBIAN AGGRESSION: PROTECT ALBANIANS IN KOSOVA

Mr. PRESSLER. Mr. President, I rise today to voice my concern over Serbian aggression in the Republic of Kosova. Over the past several years, I have spoken on this important issue on numerous occasions. Unfortunately, it is necessary to continue speaking out.

If Serb aggression and ethnic cleansing offensives are directed against Kosovar Albanians, regional stability will diminish further and a great tragedy will be inflicted upon a proud people. The danger is real.

I therefore have called upon President Clinton to act decisively to help solve the crisis in Kosova. I ask unanimous consent that a copy of my letter to the President be included in the RECORD immediately following my remarks.

(See exhibit 1.)

Mr. PRESSLER. The Republic of Kosova is a government in exile. Kosovar Albanians are struggling desperately to overcome the socialist Belgrade Government amidst a deteriorating society. A policy to restore the freely elected Government of Kosova and secure democracy is needed urgently. In calling upon President Clinton for a decisive policy that addresses this crisis, I have offered several suggestions.

The United States is able to provide the leadership and the diplomatic tools necessary to assure a stable democratic Republic in Kosova. This leadership and diplomacy can be provided by several means. First, the arms embargo against Bosnia should be ended. Giving Bosnian Moslems the ability to defend themselves against ethnic cleansing aggression would provide a strong incentive for Bosnian Serbs to accept a peace agreement. Military assistance to Bosnian Moslems would be perceived as a threat to Serbian aggressors. Such an action could deter war from reaching Kosova.

Second, lifting economic sanctions against Serbia could be linked to designated improvements in Kosova. This would provide an incentive for substantial improvements for human rights. However, before the trade embargo should be lifted, improvements in the treatment of Bosnian Moslems must be evident. Promises alone are not enough. Third, the United States should recognize Kosova as an independent, sovereign nation and establish full diplomatic relations with it. Recognition of Kosova's sovereignty would legitimize future democratic and market-based reforms in a country that is seeking to establish democratic institutions and a market-based economy. Finally, Mr. President, the no-fly zone could be expanded to include Kosova.

Mr. President, current international events have diverted our attention from the plight of Kosovar Albanians. I call upon President Clinton to direct serious attention to Kosova. This is essential if we are to prevent the escalation of the Bosnian conflict, halt the expansion of Serbian ethnic cleansing, and contribute substantively to the further spread of democracy in the successor States of the former Yugoslavia.

EXHIBIT 1

U.S. SENATE,
Washington, DC, June 8, 1994.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: I am writing to express my concern over the current situation in the Republic of Kosova. The potential for violence in this region has been underestimated seriously and demands your immediate attention.

Specifically, I am concerned deeply that Serbian "ethnic cleansing" offensives will reach Kosovar Albanians. Bosnian Serbs already have called for the "ethnic cleansing" of more than two million Albanians living in Kosova. The socialist Belgrade government, with its Serbian-dominated army, has shown no interest in refraining from oppression and human rights violations against Kosovar Albanians.

The United States must exercise leadership and diplomatic tools to ensure Kosova a peaceful separation from Serbia. We can begin by ending the arms embargo against Bosnia so that Bosnian Muslims may obtain the means to defend themselves against the Serbs. Another means of preventing the war from reaching Kosova would be link a lifting of economic sanctions against Serbia to specified improvement in Kosova. This might serve as an incentive for Serbs to comply with human rights initiatives. Also, the United States should recognize diplomatically the Republic of Kosova as an independent, sovereign nation. These steps are essential to obtaining a legitimate democracy and future economic reforms. Finally, we could expand the "no-fly-zone" to include Kosova in an effort to further deter war in that region.

Thank you for your serious attention regarding this matter. I will continue my efforts to work with you in helping to end the conflict in the Balkans.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

BUDGET SCOREKEEPING REPORT

Mr. SASSER. Mr. President, I hereby submit to the Senate the Budget Scorekeeping Report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effect of congressional action on the budget through June 16, 1994. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the concurrent resolution on the budget (H. Con. Res. 287), show that current level spending is below the budget resolution by $4.9 billion in budget authority and $1.1 billion in outlays. Current level is $0.1 billion above the revenue floor in 1994 and below by $30.3 billion over the 5 years, 1994–98. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $311.7 billion, $1.1 billion below the maximum deficit amount for 1994 of $312.8 billion.

Since the last report, dated June 9, 1994, there has been no action that affects the current level of budget authority, outlays, or revenues.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 20, 1994.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the 1994 budget and is current through June 16, 1994. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Concurrent Resolution on the Budget (H. Con. Res. 64). This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated June 7, 1994, there has been no action that affects the current level of budget authority, outlays or revenues.

Sincerely,

ROBERT D. REISCHAUER, *Director*.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1994, 103D CONGRESS, 2D SESSION, AS OF CLOSE OF BUSINESS JUNE 16, 1994

[In billions of dollars]

	Budget resolution (H. Con. Res. 64)[1]	Current level[2]	Current level over/under resolution
On-budget:			
Budget authority	1,223.2	1,218.4	−4.9
Outlays	1,218.1	1,217.1	−1.1
Revenues:			
1994	905.3	905.4	0.1
1994–1998	5,153.1	5,122.8	−30.3
Maximum Deficit Amount	312.8	311.7	−1.1
Debt Subject to Limit	4,731.9	4,506.7	−225.2
Off-budget:			
Social Security Outlays:			
1994	274.8	274.8	(3)
1994–1998	1,486.5	1,486.5	(3)
Social Security Revenues:			
1994	336.3	336.2	−1.1
1994–1998	1,872.0	1,871.4	−0.6

[1] Reflects revised allocation under subject 9(g) of H. Con. Res. 64 for the Deficit-Neutral reserve fund.

[2] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[3] Less than $50 million.

Note.—Detail may not add due to rounding.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 103D CONGRESS, 2D SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1994, AS OF CLOSE OF BUSINESS JUNE 16, 1994

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues	....	....	905,429
Permanents and other spending legislation[1]	721,182	694,713	....
Appropriation legislation	742,749	758,885	....
Offsetting receipts	(237,226)	(237,226)	....
Total previously enacted	1,226,705	1,216,372	905,429
ENACTED THIS SESSION			
Emergency Supplemental Appropriations, FY 1994 (P.L. 103–211)	(2,286)	(248)	....
Federal Workforce Restructuring Act (P.L. 103–226)	48	48	....
Offsetting receipts	(38)	(38)	....
Housing and Community Development Act (P.L. 103–233)	(410)	(410)	....
Extending Loan Ineligibility Exemption for Colleges (P.L. 103–235)	5	3	....
Foreign Relations Authorization Act (P.L. 103–236)	(2)	(2)	....
Marine Mammal Protection Act Amendments (P.L. 103–238)	....	4	....
Airport Improvement Program Temporary Assistance Act (P.L. 103–260)	(65)	....	....
Total enacted this session	(2,748)	(643)	0
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted[2]	(5,562)	1,326	....
Total Current Level[3, 4]	1,218,395	1,217,056	905,429
Total Budget Resolution	1,223,249	1,218,149	905,349
Amount remaining:			
Under Budget Resolution	4,854	1,093	....
Over Budget Resolution	....	....	80

[1] Includes Budget Committee estimate of $2.4 billion in outlay savings for FCC spectrum license fees.

[2] Includes changes to baseline estimates of appropriated mandatories due to enactment of P.L. 103–66.

[3] In accordance with the Balanced Budget and Emergency Deficit Control Act of 1985, the total does not include $14,157 million in budget authority and $9,065 million in outlays in emergency funding.

[4] At the request of Budget Committee staff, current level does not include scoring of section 601 of P.L. 102–391.

Note.—Numbers in parentheses are negative. Detail may not add due to rounding.

HONORING THE 85TH BIRTHDAY OF COL. TOM PARKER

Mr. MATHEWS. Mr. President, I rise today to pay tribute to a great Tennessean, a man known as Col. Tom Parker who is remembered by most Americans for his work as manager for Elvis Presley. Colonel Parker celebrates his 85th birthday on June 29, and I join thousands of Tennesseans in sending him best wishes.

This week a grand celebration is planned in Las Vegas to recognize the colonel's birthday and his remarkable career in the music industry.

Prior to the well-known days of Elvis, Colonel Parker promoted many country acts and managed the careers of Eddy Arnold and Hank Snow. In fact, it was during one of Hank Snow's tours that Parker booked an obscure act that would one day fascinate the entire world: Elvis Presley.

It was Colonel Parker who set up the original RCA contract and established Elvis Presley Music. And it was the colonel who helped "The King" build a superstar career spanning more than two decades. For all the mystique of Elvis, Colonel Parker himself has become something of a legend.

A native of West Virginia and a well-seasoned traveler of the South, Parker comes by the honorary title of colonel through his membership in the Tennessee Militia. That honor was bestowed in 1954 when Frank Clement was Governor of Tennessee and I was a young assistant on the Governor's staff.

It is my pleasure to extend congratulations on this significant occasion of the 85th birthday of Col. Tom Parker.

Mr. President, I yield the floor.

TRIBUTE TO MAJ. MARIE THERESE ROSSI, USA

Mr. BRADLEY. Mr. President, I rise to pay tribute to the memory of a brave and dedicated American, Maj. Marie Therese Rossi. Article I of the Code of Conduct for members of the Armed Forces reads as follows: "I am an American fighting in the forces which guard my country and our way of life. I am prepared to give my life in their defense." No one more than Maj. Marie Therese Rossi understood what those words meant and all that they symbolize.

On March 1, 1991, Major Rossi, one of the first females to fly in the Persian Gulf war, was killed when her CH–177 transport helicopter crashed into an unlit Saudi Arabian microwave tower. Throughout her military career, Major Rossi had prepared for the time when her country would call upon her to make the ultimate sacrifice for the welfare of our Nation. Shortly before her fatal mission, she was interviewed by CNN on the perils of her mission. She simply replied, "This is the moment that everybody trains for * * * that I've trained for, so I feel ready to meet the challenge." With such a selfless attitude, she did, and her exemplary commitment to the United States of America and its people is to be commended.

Marie was born on January 3, 1959, to Paul J. and Gertrude Nolan Rossi in Teaneck, NJ. She was well known throughout her community for the compassion and love she gave to animals as a member of 4–H while she was a youth. To her troops, she displayed an unparalleled sense of caring which made them marvel at her impeccable qualities of character and integrity. As a leader, Major Rossi was demanding but not demeaning; she made it a point to lead by example.

After her commissioning through ROTC, she served at Fort Bliss, TX, as a battery executive officer, battalion adjutant, and commander of the reception station processing battery. From there, then-Captain Rossi graduated on the commandant's list from officer rotary wing aviators course in 1986. She was then assigned to the 213th Combat Aviation Company in South Korea, fully qualified in the CH–47 helicopter.

In June 1990, she was promoted to major and assigned as commander of B Company 2d Battalion, 159th Aviation Regiment, Hunter Army Airfield. On September 19, 1990, she deployed with her unit to Dhahran, Saudi Arabia.

Major Rossi was married less than a year to fellow soldier CWO Anderson Cayton. At her memorial service at Arlington National Cemetery, where she was buried with full military honors, he stated, "The Lord has given this country a hero. He has taken my Marie and the love we had for each other and given it to the hearts of this country."

Maj. Marie Therese Rossi, a military professional, loving wife, and proud servicewoman, will be remembered not only for the contributions she has made to protect freedom and preserve liberty, but also for the exemplary way she lived her life as a true American. Her service reflects great credit upon herself, her unit, the U.S. Air Force, and the United States of America.

TRIBUTE TO GEORGE JOHN VAFINIS

Mr. HEFLIN. Mr. President, I want to pay tribute to a man who touched many lives in my hometown. Our friend, restaurant owner George John Vafinis, who died May 26, will be greatly missed by the people of Tuscumbia and Sheffield, where George's Steak Pit thrived for nearly 40 years.

George was native of Glassaskopelos, Greece, and a veteran of World War II and the Greek Navy, but Tuscumbians accepted him as one of their own.

George opened his first restaurant in 1956. This establishment quickly gained a reputation for its food, elegance, and charm. George always treated his employees and customers with professionalism, class, and respect. One employee described him as the best boss she ever had, and his customers thought just as highly of him. George had been retired from the restaurant business since 1983. He spent the last decade traveling often to his native Greece to visit friends and relatives.

I extend my heartfelt sympathies to George's wife Evangeline, and their entire family in the wake of their tremendous loss. We are thankful George chose to make his home in Tuscumbia. Our town will not be the same without him.

THE 50TH ANNIVERSARY OF THE GI BILL

Mr. HEFLIN. Mr. President, on June 22, we will celebrate the 50th anniversary of the signing of the Servicemen's Readjustment Act of 1944, known widely as the GI bill. When introduced, this landmark legislation was the focus of intense and heated debate, but the famed bill designed to assist World War II veterans returning to their homes and jobs has since come to be recognized as one of the most important pieces of domestic legislation ever signed into law. In fact, the GI bill has woven and shaped the fabric of our society as few pieces of legislation in our history have.

During the 50 years of the GI bill, the law has provided unprecedented access to education and training programs for millions of veterans, enhancing the quality of our work force and the quality of life for our workers. The law also made possible for these veterans the American dream of home ownership, transforming the majority of Americans from tenants and renters to homeowners. In return, the Nation has reaped many times its investment. The dramatic change in our society created a standard of living that was the envy of the postwar world.

Although it became law only 6 months after its introduction in Congress, many Members and educators had serious misgivings about its possible effects. Some felt it was too expensive and would encourage laziness among veterans. Still others feared an influx of veterans would lower standards in American higher education. Many veterans organizations themselves opposed the bill initially because they felt it was too sweeping and could jeopardize veterans getting any help at all. At the time, Congress had already failed to act on about 640 bills concerning veterans. But there was great pressure to enact a plan to offset the dire consequences predicted for the postwar years, and many of these and other objections proved to be unfounded.

President Roosevelt signed the bill into law on June 22, 1944, doing so in the presence of five American Legionnaires and several Members of Congress. The American Legion had been instrumental in designing the main features of the GI bill and paving its way through Congress.

Fifty years ago, few could have predicted the significant and lasting impact the GI bill has had. When signing the bill, President Roosevelt emphasized the Nation's obligation to its veterans but he could not have foreseen that the bill would change society so dramatically. In his statement, FDR said, "It gives emphatic notice to the men and women in our armed forces that the American people do not intend to let them down." Now, 50 years later, the legacy of that promise made and kept can be seen in the benefits to the country, and to the millions of brave veterans who served.

In the midst of the drive toward reforming our health care and welfare systems, and indeed reinventing the entire Federal Government, we can look to the GI bill as a shining example of what Government can accomplish when it does things right.

PRESIDENT CLINTON'S KOREA POLICY

Mr. D'AMATO. Mr. President, I rise today to comment on the truly incredible developments that have occurred in President Clinton's Korea policy, and I use the word "policy" loosely, since last week. I cannot recall, and no one I have spoken with can recall, a situation in which the abrupt collapse of a major U.S. international effort was caused by the personal intervention of a former President.

Here, former President Carter took the initiative to travel to North Korea to meet with Kim Il-sung after consulting with President Clinton and being briefed by high administration officials. Then, Mr. Carter engages in exchanges with Kim Il-sung in which he certainly sounds as if he were representing the United States, even though he claims it was a private trip. Finally, the representations that Mr. Carter makes to Kim Il-sung effectively short-circuit current United States policy toward North Korea.

Mr. President, I was under the distinct impression that the U.S. Constitution provides for only one person to hold the office of President of the United States at a time. Mr. Carter held that office once, but he has not been in office since January 1981. Mr. Clinton holds the office now.

I have the gravest objections, both on constitutional and substantive grounds, to Mr. Carter's intervention in U.S. policy. He had no authorization to speak for the United States on such a grave matter as our policy toward North Korea. Reportedly, Mr. Clinton did not delegate this authority to Mr. Carter, and Mr. Carter's actions reached far beyond the customary scope allowed any informal representative acting for the President in international situations.

This raises questions about the nature and degree to which Mr. Clinton is meeting his constitutional responsibility to conduct the foreign policy of the United States. In fact, the published descriptions of the way Mr. Carter's visit was prepared for and conducted, and how the administration reacted to it, paint such a picture of confusion and disarray in the foreign policy process as to be without parallel since the days of strongest internal dispute over the conduct of the Vietnam war. In fact, even then it appeared that one person—President Johnson—was clearly in charge, even though much maneuvering, carping, leaking, and conspiring was going on around him. Now, it is legitimate to ask whether anyone really is in charge.

Mr. President, I ask unanimous consent that a series of articles that appeared in the press concerning this issue be printed in the RECORD following my remarks. The articles are as follows: "U.S. Shift on Korea: Clinton Retreating From a Showdown," by Michael R. Gordon, the New York Times, Saturday, June 18, 1994, p.1; "Carter Visit to North Korea: Whose Trip Was It Really?" by David E. Sanger, the New York Times, Saturday, June 18, 1994 p. 6; "Carter Faulted by White House on North Korea: Policy Statements Cause Confusion on Sanctions," by R. Jeffrey Smith and Bradley Graham, the Washington Post, Saturday, June 18, 1994, p. A1; "Carter Trip May Offer 'Opening': White House Wary of Ex-President's View N. Korea 'Crisis Is Over,"' by R. Jeffrey Smith and Ruth Marcus, the Washington Post, Monday, June 20, 1994, page A1; "Mr. Carter's Trip," an editorial, the Washington Post, Monday, June 20, 1994, page A14;

and "U.S. Debates Shift on North Korea: Carter's Visit Derails Sanctions Drive," by R. Jeffrey Smith and Ann Devroy, the Washington Post, Tuesday, June 21, 1994, p. A1.

(See exhibit 1.)

Mr. D'AMATO. These articles, taken together, show why our allies question our resolve and our judgment in a wide range of foreign policy questions, not just North Korean policy. These articles document an absence of commitment to principle—any principle—and an absence of management of the policy process, that can only be described as breathtaking.

What are the principles this administration lives by and is willing to stand behind with blood, treasure, and steel, if necessary? These questions are being asked by our allies, but they are being answered by our enemies.

Mohammed Aideed, Slobodan Milosevic, General Cedras, and now Kim Il-song are providing the answers. These answers are dismaying our friends and emboldening our enemies. And I believe that if we do not see an abrupt and strong reversal of this disintegration of our foreign policy leadership, more of our enemies will decide to act, and sooner rather than later.

Mr. President, the price the people of the United States may have to pay to redeem American leadership—and with it, U.S. national security in a potentially hostile world—may be beyond the ability of the present administration to imagine. Moreover, if we do not pay the price when our enemies present the bill, we will find ourselves in retreat behind our ocean moats, facing a much diminished future for ourselves and our children.

This is the issue, and it demands an immediate and urgent response from a focused and committed President. He can start by obeying the old maxim, "when in charge, take charge." He has not, and we are beginning to comprehend what that means. It is not a question of "inside the beltway" maneuvering, it is a question of leadership and character. We will soon know, whether Mr. Clinton desires it or not, if he has the judgment and the strength to lead successfully when events are turning against him. For the sake of this Nation, we must pray that the answer is "yes."

EXHIBIT 1

U.S. SHIFT ON KOREA; CLINTON RETREATING FROM A SHOWDOWN

(By Michael R. Gordon)

WASHINGTON, June 17.—North Korea's latest offer to resolve the crisis over its nuclear program appears to include little that is new, but President Clinton's willingness to seize it as an opportunity to avoid a confrontation reflects an abrupt shift of policy.

The change says less about the prospects for a diplomatic resolution than it does about the Administration's apprehensions over a showdown and its difficulties in marshaling an international coalition for tough sanctions.

The White House got to the precipice of economic sanctions and sending military reinforcements, was nervous about what it saw and decided to take another crack at diplomacy, even though that meant backing away from a key condition for high-level negotiations. The condition was its insistence that North Korea insure that monitors be allowed to take measurements to determine whether Pyongyang has ever diverted plutonium for a nuclear weapon.

Administration officials say they are merely exploring new signs of flexibility on the part of the North Koreans, and argue that any agreement in which they would freeze their nuclear weapons program while high-levels tasks proceed would be a good bargain for the United States.

"As the President said yesterday, our policy has not changed one iota," said Anthony Lake, Mr. Clinton's national security adviser.

But the officials also acknowledged that the details of the North Korean proposal, which would allow international monitors to remain in North Korea as long as Washington made "good-faith efforts" to negotiate, remain to be clarified.

And they acknowledge that former President Jimmy Carter complicated the picture by asserting wrongly that Washington had stopped "sanction activity" in the United Nations, where the officials said the United States is still consulting with other nations on the possibility of sanctions.

But even supporters of the Administration's new approach say it represents a major change in Washington's stance.

Representative Gary L. Ackerman, the Queens Democrat who visited North Korea in October, said the Administration was right to try to follow up any opening that might have been created by Mr. Carter's diplomacy in Pyongyang. But Mr. Ackerman added that the North Korean statements, which the White House has hailed as signs of a new policy, reflected longstanding positions.

Mr. Ackerman said "almost everything" that the North Koreans had proposed had been floated before. "They have sold it to somebody new at a different time," he said, referring to Mr. Carter.

Some experts were more critical. "There has been a clear change in our position. We put our markers down, and now we are doing the very thing that we said was unacceptable," said Zalmay Khalilzad, the head of the Pentagon's office of policy planning in the Bush Administration. "When you state you won't do something and then you do it, it undermines your credibility."

DISPUTE BEGAN LAST YEAR

The controversy arose last year when the International Atomic Energy Agency determined that North Korea had produced more plutonium than it had acknowledged when it shut down its nuclear reactor at Yongbyon in 1989. The agency then sought to carry out additional inspections to confirm its findings.

The inspections were important because the Central Intelligence Agency believe that the North Koreans diverted enough plutonium for one or two bombs, while Pyongyang says it produced only a minute quantity of plutonium.

But the North Koreans balked at allowing the inspections.

That put the ball squarely in the Administration's court, which debated how to respond. Pentagon officials argued that it was more important to limit the North Korean program in the future than to resolve the mystery of the past diversion, but they were overruled.

Taking a resolute stance, the Administration vowed not to engage in high-level talks unless the North Koreans took steps to freeze their plutonium production and insure that monitors could take future measurements to determine whether and how much plutonium was diverged when the reactor was shut down in 1989.

U.S. DEMANDS IGNORED

But the North Koreans ignored the American demands.

In April, they shut down the Yongbyon reactor yet again and withdrew its fuel rods, destroying the evidence that inspectors needed to determine its past plutonium diversion.

In response, the Administration announced that it would seek economic sanctions and that it would not engage in high-level talks.

"This act undercuts the basis for our dialogue with North Korea," Robert Gallucci, the Assistant Secretary of State for Politico-Military Affairs, told the House Foreign Affairs on June 9. "We will not continue that dialogue until a reasonable basis for it can be reestablished."

Until Thursday, the Administration held to its position that North Korea had not offered a sufficient basis to resume high-level talks. But when North Korea repeated its interest in holding high-level talks to Mr. Carter, Washington's stance changed.

Mr. Clinton announced that American officials were now willing to engage in talks if North Korea would freeze its nuclear program by refraining from future processing of plutonium, refraining from refueling the reactor at Yongbyon and allowing international inspectors to stay at the Yongbyon site.

By exclusion it dropped its condition on making it possible to trace past plutonium diversion.

In effect, Washington went for the most risk-free approach. It put aside the policies that were difficult, that required the painful building of international coalitions and that raised the prospect of military intervention.

ANY HEADWAY UNCLEAR

By today, it was unclear whether headway was made. Pak Gil Yon, North Korea's representative to the United Nations, denied that North Korea would ever allow monitors to inspect its waste sites to try to determine the extent of its past plutonium diversion.

If the Administration's diplomatic gambit works, Washington will have succeeded in the short run in limiting—but not erasing—the North Korean nuclear menace.

But if it fails, the credibility of the Administration's foreign policy, already under question for flip-flops over China, Haiti and Somalia, may come under fire.

"I am not surprised that the North Koreans took the opportunity of the visit of a former President of the United States to 'send a message,'" Mr. Gallucci said today. "What we don't know really is the meaning of that message, and particularly what we don't know is whether the message they intend to send is really one in which one can see a desire in fact to reestablish a dialogue."

[From the New York Times, June 18, 1994]

CARTER VISIT TO NORTH KOREA: WHOSE TRIP WAS IT REALLY?

(By David E. Sanger)

SEOUL, SOUTH KOREA, Saturday, June 18—Completing his mission to North Korea, former President Jimmy Carter hugged the country's dictator on Friday and called the trip "a good omen," but immediately touched off a squabble with the Clinton Administration over whether North Korea had specifically offered to freeze its nuclear weapons development project.

President Clinton and his advisers, who had originally said Mr. Carter was on a private trip and then became televised participants in the delicate talks with the North Korean leader, Kim II Sung, clearly distanced themselves from the former President's initiative.

At times they seemed to openly contradict each other. On Friday, Mr. Carter told Mr. Kim that the White House had "stopped the sanction activity in the United Nations," where an American draft resolution has been circulating since Wednesday. But Administration officials quickly responded that they had done nothing of the kind, and questions swirled over whether North Korea had simply repackaged old proposals that Washington had already rejected.

Speaking to reporters in Chicago on Friday, Mr. Clinton said:

"The position is just exactly what it was yesterday. We are pursuing our sanctions discussion in the U.N. If the North Koreans meant yesterday when they said they would leave the inspectors and equipment there—if they meant they would cease their nuclear operations while talks went on, then we could have talks.

"But we have to go to sanctions if the violations continue."

VERIFICATION IS SOUGHT

The Administration's chief coordinator on Korean issues, Robert L. Gallucci, said he was trying to verify, through diplomatic channels, the exact meaning of Mr. Kim's vague promises to open up his country's nuclear facilities after high-level, official talks with Washington. Until they can determine that the promises constitute a new initiative, Mr. Gallucci said, "we are going to continue consultations in New York on a sanctions resolution.

Embracing Mr. Carter's efforts without endorsing its results, Mr. Gallucci said that "we will look at it very closely and if it is something on which we can build, we will try to build.

Similarly, Mr. Carter said that the Clinton Administration had "provisionally agreed" to go ahead with the high-level talks that North Korea has long demanded. But American officials said there would be no such talks unless they determined that Mr. Kim had actually agreed to freeze the North's nuclear program, assuring that it could not produce more weapons from the nuclear fuel it recently extracted from its largest reactor.

Still, there were unconfirmed reports that Mr. Gallucci may soon meet a senior North Korean official.

There was considerable suspicion that Mr. Kim may have given up considerably less than Mr. Carter's optimistic tone would suggest. Mr. Kim's offer to allow two United Nations inspectors to remain in the country did constitute progress, but merely preserved the status quo ante. Many of his other offers were repackaged proposals that the Administration had previously found unacceptable.

OPPORTUNITIES AND RISKS

In Seoul, officials said that Mr. Carter's trip offered some new opportunities, but was also filled with risks and they clearly feared that Mr. Carter was not in command of the complexities of North-South relations.

"I think that the U.S. has the same view we do, a mix of concern and expectation," a top South Korean official said today.

The White House had approved and even encouraged the Carter visit, but American officials said they had viewed the Carter mission as an attempt to gain a clearer picture of North Korea's position and had not expected to get swept into negotiations that were being carried out on television.

Taken by surprise by Mr. Carter's comments on Thursday, Secretary of State Warren Christopher woke up several Foreign Ministers in Asia to try to craft a response before Mr. Carter went in for another negotiating session with Mr. Kim.

Chosun Ilbo, one of South Korea's most prominent newspapers, said in the edition prepared for Saturday that South Korea "could not hide the bewilderment at such a turn of events.

"There is nothing new in the North Korean proposal," it said. It added that "for an administration that has been emphasizing its close cooperation with Washington, it was difficult to hide its dissatisfaction with Clinton" for speaking before sorting out the North's intentions.

Still, the hope is that Mr. Kim's statements, particularly as they filter down through the tightly controlled North Korean Government, will end the cycle of threats and counterthreats that have escalated tensions in recent weeks. If the effort fails, one American official here noted tonight, "we can turn the sanctions back on fairly quickly."

The fact of the matter is that Mr. Clinton has time. It will likely take weeks to get the sanctions resolution through the Security Council, and then a 30-day grace period kicks in before the first, mild steps are implemented.

American and South Korean officials believe that no diversion of the fuel extracted last month from the reactor is possible for at least another month or two. Until that time the fuel rods are too radioactive to handle. After that point, however, experts estimate that the rods could be reprocessed into bomb-grade plutonium in a matter of months.

[From the Washington Post, June 18, 1994]

Carter Faulted by White House on North Korea; Policy Statements Cause Confusion on Sanctions

(By R. Jeffrey Smith and Bradley Graham)

The Clinton administration yesterday disowned statements by Jimmy Carter in North Korea, saying the former president evidently had misstated U.S. policy despite earlier consultations between Carter and officials in Washington.

In an embarrassing split, administration officials said they could not explain why Carter said in North Korea the United States had dropped its recent proposal for sanctions against the country, a day after President Clinton had said the diplomatic drive for sanctions would continue.

"We have no way of knowing why he thought what he thought, or why he said what he said," a senior official said.

Senior U.S. officials also said Carter apparently had misled the North Koreans by telling them Clinton had already agreed to hold new high-level diplomatic talks over the isolated country's nuclear program.

Clinton, Vice President Gore, national security adviser Anthony Lake and Assistant Secretary of State Robert L. Gallucci each went to considerable lengths yesterday to say Washington is still pursuing its sanctions drive even as it explores new prospects for dialogue with the hard-line communist state.

Clinton, asked during a trip to Chicago about the seemingly mixed signals sent by Carter and Washington, said, "We worked all day long [Thursday] on a very clearly and carefully worded statement so that our position could not be misunderstood by [the North Koreans] or anyone else, and it is the same position today."

Clinton left open the possibility Carter's statement about sanctions—in a brief appearance carried by CNN—could have been misinterpreted.

In the presence of a television crew, Carter said to North Korean President Kim II Sung, "I would like to inform you that they [the United States] have stopped the sanctions activity in the United Nations," which Washington had begun only on Tuesday. CNN reported Carter told Kim he was passing on the message after consultations with the White House.

Clinton noted, "There was no question and answer, there was no clarification." Other officials said they had not had a chance to talk with Carter yesterday to check the remarks. But, for the second day in a row, U.S. officials privately expressed anguish over Carter's public remarks during his visit as a private citizen to the North Korean capital of Pyongyang at the invitation of the government there. "We would not have scripted it this way," a U.S. official said.

While publicly welcoming an unexpected North Korean concession to Carter on Thursday—in which North Korea promised not to eject international inspectors from a sensitive nuclear site—the officials had been privately scathing that the former Democratic president would so embarrass his successor by challenging his policy at a highly sensitive moment.

The official said that on Thursday Lake and Gallucci had read to Carter over the telephone the text of an official statement worked out by the administration in response to the North Korean concession that made clear Washington was "continuing to consult on our sanctions resolution at the [U.N.] Security Council."

Officials said during Lake's telephone call with Carter on Thursday evening [Washington time], Carter had made clear he was not happy with that policy. U.S. officials said both men knew the conversation was subject to North Korean eavesdropping.

Carter "wanted to see more give in our position," the official said. But Lake "made clear to him" in the 20-minute conversation that the position was firm.

"Carter is hearing what he wants to hear, both from Kim Il Sung and from the administration. He is creating his own reality," said a senior U.S. official, who spoke on condition he remain unidentified.

Asked if the scrambled signals could undermine U.S. policy or reflect poorly on Clinton's handling of the dispute with North Korea, another senior official said caustically that "the implications are for Carter and what does it say about Jimmy Carter, not what does it say about Bill Clinton."

In a related development, Defense Secretary William J. Perry and Gen. John Shalikashvili yesterday briefed members of Congress on military preparations in light of tensions over Korea. They hoped to calm concerns on Capitol Hill about the readiness of U.S. forces in South Korea. Senators and representatives emerged generally satisfied about the steps so far but somewhat divided over the extent to which the Clinton administration should move now to reinforce American troops in Korea.

"Some members are pressing for more decisive action," said a congressional source who attended the briefing. "But others contend we must be careful not to take military measures that would eliminate our diplomatic maneuvering room."

In weighing how quickly and how much to bolster American forces in Korea, administration officials worry about provoking a North Korean invasion but also worry about not doing enough to guard against attack.

After weeks of intensive planning, the Pentagon has drafted several options for building up U.S. military assets in the region, ranging from a minimum of sending support personnel to a maximum of dispatching squadrons of fighters and bombers as well as an additional aircraft carrier to supplement the one normally based in Japan.

Carter, who has regularly stepped in to try to help resolve diplomatic disputes since his defeat by Ronald Reagan in the 1980 elections, told acquaintances before his departure for North Korea that he wanted to try to head off what he feared could be an unwarranted slide toward devastating conflict there.

The dispute stems from a clash between the International Atomic Energy Agency, a U.N.-affiliated nuclear proliferation watchdog, and North Korea over promised inspections of the country's suspected nuclear weapons program.

The dispute became more serious earlier this month, when North Korea defied IAEA demands to conduct tests critical to assessing whether North Korea in the past had sought to build nuclear weapons. Washington then decided to seek a series of gradually escalating sanctions that North Korea claims would be an act of war.

When Carter first informed Washington of his desire to accept the North Korean invitation, officials were divided about whether to try to talk him out of it.

Gallucci said Carter would be questioned by U.S. officials this weekend, after leaving North Korea, and that Washington would then attempt to confirm his account of North Korea's position through routine diplomatic channels next week as a prelude to possible high-level talks.

Only if North Korea meets a series of U.S. conditions will the talks go forward, and the U.S. sanctions effort be suspended, Gallucci said.

As diplomatic strains have grown with North Korea, the United States so far has taken relatively limited military measures aimed essentially at improving defensive capabilities. These include delivery to South Korea this spring of six Patriot anti-missile batteries, and an increase in intelligence personnel and equipment in—and over—Korea.

A number of other significant improvements in the firepower and mobility of U.S. forces have occurred in recent months as part of a new war plan adopted several years ago before tensions began to rise. These have included dispatch of Apache attack helicopters, Bradley Fighting Vehicles and counter-battery radar.

But, in contrast to the buildup that marked the faceoff between the Bush administration and Iraqi President Saddam Hussein in 1990, the Clinton administration has taken pains to keep its latest reinforcement efforts as low-key as possible. Four years ago, the United States was hoping to scare Saddam into pulling his forces out of Kuwait rather than risk war. This time, U.S. officials are afraid of scaring a paranoid North Korean leadership into invading the South.

"We have to be careful that we don't propel ourselves into a war we're trying to prevent," Adm. Charles R. Larson, commander-in-chief of U.S. forces in the Pacific, told a naval conference in Newport, R.I., this week.

[From the Washington Post, June 20, 1994]

CARTER TRIP MAY OFFER "OPENING:" WHITE HOUSE WARY OF EX-PRESIDENT'S VIEW—NORTH KOREA "CRISIS IS OVER"

(By R. Jeffrey Smith and Ruth Marcus)

The Clinton administration yesterday offered an upbeat appraisal of the controversial visit by former president Jimmy Carter to North Korea, saying it may have produced "an opening" in stalled efforts to resolve a dispute over that country's nuclear program.

Assistant Secretary of State Robert L. Gallucci, the senior U.S. envoy on North Korean nuclear matters, offered this assessment after a two-hour briefing by Carter for senior officials at the White House. During the briefing, Carter also spoke by telephone for 30 minutes with President Clinton, who was at Camp David.

Gallucci, at a news briefing, repeated the administration's position that Washington needs to verify the specifics of North Korea's reported offer to Carter to freeze its nuclear program in exchange for new high-level talks with the United States.

Gallucci also declined to endorse Carter's statement outside the White House after his briefing that "the crisis is over." But Gallucci's assessment, while guarded, was more optimistic than the tentative stance that he and other administration officials adopted before hearing from Carter face-to-face.

"It may be well that President Carter has brought back something upon which we can build and defuse the situation," Gallucci said, explaining that his conclusion was based on hearing new deals of the visit. "The characterization I'm comfortable with is that there may be an opening here."

Gallucci took pains to make clear that "certainly, we're very appreciative of President Carter's good efforts" to resolve the standoff over inspections by key nuclear facilities, apparently seeking to smooth over criticism by some officials of Carter's statements about U.S. policy in North Korea earlier in the week. "I think we are all on the same sheet of music," Gallucci said.

As Gallucci was briefing at the White House, however, Carter was telling reporters in a suite at a nearby hotel that he felt the administration's policy on Korea had been misguided and that he undertook the four-day visit to rescue Washington from a precipitous slide toward a devastating new war on the Korean peninsula.

Carter told reporters that in his view, the administration was wrong to put forward a proposal last week for gradually escalating U.N. sanctions to punish past North Korean intransigence on international inspections of its nuclear facilities. He said sanctions would be "a direct cause of potential war" and would not block North Korea's access to desired foreign trade or nuclear technology.

Carter said he has been unable to reconcile his views of the dispute with that of "so-called experts" in the administration who assert North Korea will bend under the threat of sanctions to allow the required inspections. "The experts who briefed me before I left have never been to North Korea," he noted caustically.

In commenting on his brief visit, which came after a series of invitations from North Korea, Carter offered a strikingly uncritical assessment of the country and its autocratic leaders.

"People were very friendly and open," he said, and had refrained from leveling any criticism at South Korea, something that he said had appeared "quite interesting." He called the capital of Pyongyang, which U.S. intelligence officials have said experiences periodic blackouts from energy shortages, a bustling city with shops that looked like "Wal-Mart in Americus, Georgia," and that the neon lights at night reminded him of Times Square.

"I don't feel as if I have been duped," he said, explaining that "the proof is in the pudding" because North Korea must now make good on a promise to him by President Kim Il Sung that its nuclear program will be frozen during new high-level negotiations with Washington.

This means, Carter said, that the country will not eject the last two international inspectors from a key nuclear complex and will not produce new plutonium. But he said he was not sure if it also meant the country would agree to not refueling a reactor suited to plutonium production, a condition set out by Washington for new talks that Carter said in an "oversight" he had neglected to mention.

Carter first met alone yesterday with national security adviser Anthony Lake, who was a senior official in Carter's State Department. The meeting then expanded to include Gallucci, Assistant Secretary of State Winston Lord, deputy national security adviser Samuel R. "Sandy" Berger and national security council staffer Daniel B. Poneman.

Gallucci said his optimistic appraisal of the results of Carter's visit was based on what Carter had depicted as North Korea's apparent interest in "genuinely decommissioning and putting aside" nuclear reactor technology suited to the production of plutonium, a key ingredient of nuclear arms.

Gallucci also cited Carter's assertion of North Korea's general interest in "improving relations and meeting international standards" in the nuclear field, as well as its possible willingness to settle U.S. questions about its past plutonium production "in the context of an overall settlement" of all major disputes with Washington.

"There's much that could be there, and . . . we need to determine whether it is there," Gallucci said.

But House Foreign Affairs Committee Chairman Lee Hamilton (D-Ind.), speaking later on CNN's "Late Edition," expressed more skepticism than Carter about the results of the trip. He said he disagreed with Carter's assessment that the Korean crisis was resolved, explaining that "the fundamentals really have not changed. . . . North Korea is still not living up to its commitments. . . . There is no real concession on their part at this point."

Former Secretary of State Lawrence S. Eagleburger, appearing on the same program, was biting in his criticism of Carter. "I really wish he'd stayed home," Eagleburger said. He said he was "horrified" to hear Carter "taking the word of this murderer who runs North Korea," and that North Korea still had not complied with international inspection demands.

Carter said he was taken aback by the criticism of his visit, but that Clinton had told him during the telephone call that "he was very grateful that I had gone and he thought it was a very fine accomplishment."

Carter confirmed that the State Department had dissuaded him from traveling to North Korea on two prior occasions, but said Clinton had signaled his approval for the trip in a message relayed from Europe by Vice President Gore on June 6.

By Carter's description, his decision to proceed came after a three-hour briefing by Gallucci in Atlanta convinced him that sanctions could lead to war. "I was distressed to realize we were approaching the possibility of a major confrontation . . . and that there was no avenue of communication that I could ascertain that might lead to a resolution," Carter said.

After a series of additional briefings in Washington, including a chat with Lake, Carter flew to Seoul on June 12 with his wife Rosalynn and two aides from his policy center in Atlanta. Carter said he found South Korean officials there "concerned about my visit" but that the U.S. military commander in Korea, Gen. Gary Luck, gave a "very positive reaction."

Carter emphasized he was never authorized to convey any message to North Korea from the administration, and had not been recruited to play a "good cop" to the "bad cop" image of Washington's sanctions drive.

But he indicated he clearly viewed himself as a mediator in the dispute who could broker a solution that would stave off war. On Wednesday, when the trip appeared to be going badly, he dispatched an aide and former U.S. diplomat, Marion Creekmore, to the border with South Korea carrying a letter for transmission to Clinton pleading for a U.S. compromise that could lead to new negotiations.

The letter was never sent because on Wednesday and Thursday, Carter said, Kim accepted his proposal that the North Korean nuclear program be frozen as a condition of new high-level talks and also said he was willing to move toward eventual denuclearization of the entire peninsula under a stalled 1991 accord with South Korea.

Carter also disclosed that Kim had suggested that North and South Korea make substantial troop reductions along their border and engineer a pullback of weaponry under some form of inspections. He also said that at the urging of Kim's wife, Kim had accepted Carter's proposal of joint U.S. North Korean searches for remains of U.S. servicemen buried by U.S. troops during the Korean conflict.

"I don't think that they are an outlaw nation," Carter said. "Obviously they've done some things in the past that we condemn. They have their own justification for them and I won't go into that . . . But this is something that's not for me to judge."

Carter apologized for the confusion caused by his televised claim from North Korea on Friday that Washington had "stopped the sanctions activity in the United Nations" in response to an apparent North Korean concession on the inspection issue. Administration officials had said the remark conflicted with what Lake had told Carter in a telephone conversation earlier that day.

But Carter, who had spoken with Lake around 5 a.m. local time in Korea, told reporters he did not recall hearing that pledge. "I regret that misunderstanding," he said. "It was my fault" because his televised claim that sanctions work had been suspended did not make clear he was expressing his personal view, rather than administration policy.

[From the Washington Post, June 20, 1994]

MR. CARTER'S TRIP

That was an astonishing trip that Jimmy Carter made to North Korea. He went in on his status as a former American president but conducted himself as an above-the-fray mediator trying to keep two heedless parties from going over the brink to war. Or perhaps only one heedless party: the United States. Mr. Carter seems to take at face value much of the stated position of North Korea and its "Great Leader," dictator, aggressor and terrorist Kim Il Sung, whom he found a rather reasonable and pleasant fellow.

At one point he appeared to be committing the U.S. government to a no-sanctions policy. The resulting uproar produced assertions that he was not speaking for the United States at all. But he kept on repeating his view that sanctions are wrong: wrong not because they would inflict economic pain—the Koreans could bear up fine, Mr. Carter believes—but because they embody an insult to Kim Il Sung so offensive that they would provoke him to war, and wrong because North Korea has done nothing proven in its nuclear development to warrant being stigmatized as an outlaw nation. So much for anyone else's concern that North Korea is a chronic cheater on its anti-proliferation vows.

Still, the Clinton administration was smart to keep its cool. The shrewd Kim Il Sung may have been using Jimmy Carter as a cover for making policy adjustments he did not care to make directly to Bill Clinton. An offer of a nuclear freeze, another teasing reference to inspection, resumption of U.S.-North Korean talks, a proposal of a first North Korean summit with South Korea: these items are chips in play on an extended bargaining table. But as offered by Kim Il Sung, they serve a strategy of seeking advantage from the United States—a guarantee against attack, a return to international society, a recognition of North Korea's place and pride—without surrendering the nuclear option.

The United States needs something very different: to make sure North Korea gets off the nuclear road. On this crucial requirement, Mr. Carter has drawn no rabbit out of the hat. The crisis is not, as he says, over. We are still no closer to knowing whether North Korea means to comply with international nonproliferation pledges or to play for time. This is what President Clinton must keep foremost in mind as he continues a negotiation that has been complicated but perhaps also loosened by Jimmy Carter's intervention.

[From the Washington Post, June 21, 1994]

U.S. DEBATES SHIFT ON NORTH KOREA: CARTER'S VISIT DERAILS SANCTIONS DRIVE

(By R. Jeffrey Smith and Ann Devroy)

The Clinton administration scrambled yesterday to find a fresh strategy for dealing with North Korea after former president Jimmy Carter's visit there derailed a U.S. drive for economic sanctions to punish that country for its suspected nuclear weapons program.

After being criticized last week by Carter for trying to be too tough on North Korea, and by prominent conservatives for acting too weakly toward the hard-line communist states, senior U.S. officials met at the White House with nearly a dozen independent experts to hear advice about what the policy should be.

But the meeting produced no clear road map, as "there were divisions" among the participants that were not resolved, an administration official said.

The administration also put on hold its plans to contact the North Korean regime immediately in the aftermath of Carter's briefing of the White House over the weekend on the results of his four-day visit.

Although the administration had said last week it would seek to confirm the results of the visit through diplomatic channels, "we have not made a decision yet about the best way to do that," a senior official said. He said the contact with North Korea is still likely to be initiated this week.

Officials said President Clinton and national security adviser Anthony Lake were among those who attended the unannounced White House seminar, which featured as guest lecturers a gaggle of former diplomats under presidents George Bush and Ronald Reagan as well as several academic experts and recent visitors to North Korea besides Carter.

Most of those picked for the group had been critical of what the administration has done so far to try to stop North Korea's nuclear program. "It's basically all the guys who have been trashing us in op-ed pieces," including both liberals and conservatives, said one official.

An official described the session as an effort to "get a sense of whether there is a consensus on how to proceed. We are simply getting their perspective on what they think is the situation and what our course should be." Another official said Lake also wanted to explain to the group the rationale behind the administration's actions so far.

Several officials said the administration's decision to seek outside advice underscored the confusion provoked by the results of Carter's visit, which produced a North Korean promise to Carter that the country would freeze its plans to accumulate more plutonium—a key ingredient of nuclear arms.

As relayed by Carter, North Korea's promise was conditioned on Washington's acceptance of immediate high-level, bilateral negotiations between Washington and Pyongyang. Such talks would effectively sideline the recent U.S. proposal for mild economic and other sanctions to punish North Korea for its past intransigence on nuclear matters.

The administration had maintained for weeks that these talks would not occur if North Korea withdrew spent nuclear fuel from its 25-megawatt reactor at the Yongbyon nuclear complex. The demand reflected Washington's desire for international inspectors to get a look at the fuel to assess the country's past production of plutonium, as well as U.S. concern that the fuel could be used to produce enough plutonium for four or five nuclear weapons.

But North Korea withdrew the fuel without inspectors present, prompting Washington to press for sanctions and Carter to depart for the North Korean capital to head off what he feared was a likely war. Both before and after his visit, he publicly condemned Washington for its aloof style of dealing with North Korea, and criticized the U.S. push for sanctions.

Officials said Carter's criticisms had provoked internal discussion of whether the administration should seek to confirm the results of his visit by opening a new high-level channel of contacts with North Korea, use an existing lower-level channel, or simply write a letter.

An official indicated the administration's confusion reflected in part some uncertainty about whether North Korea's pledges to Carter are sincere. He said the consensus at the White House broke down like this: "There is maybe a 15 percent chance the whole world caught a break because the North Koreans could make concessions to someone not in the government—Carter—that they could not make with us. There is a 35 percent chance that it was pure stalling [while North Korea prepares to make more bombs] and maybe a 50 percent chance that it is really an opening [though not a breakthrough] that we can exploit now to achieve the results we all want."

Another factor in the administration's desire for fresh advice was the controversy created by some of Carter's statements about his trip. While Carter may get credit for finding a way for both Washington and Pyongyang to step back from confrontation, several diplomatic analysts questioned his description of the North Korean capital as bustling and neon-lit, combined with his refusal to criticize a regime accused of terrorism and human rights abuses.

"If Carter is right, everything we have been told about North Korea for 40 years is wrong," one former U.S. official said.

Carter "was very effectively used by Kim Il Sung to dissipate the pressure for sanctions and split the coalition" that Washington has been trying to build, said a former high-ranking diplomat who served in Democratic and Republican administrations.

Attending the seminar from the administration were Lake, deputy national security adviser Samuel R. "Sandy" Berger, Secretary of State Warren Christopher, Secretary of Defense William J. Perry and other senior officials. The outside experts included former ambassador to China James Lilly, former ambassador to South Korea Donald Gregg, and former undersecretary of state Arnold Kantor.

Others attending were Sandy Specter and Selig Harrison from the Carnegie Endowment, Alan Romberg from the U.S. Institute for Peace, and Asia scholar Michael Oxenberg.

In other fallout yesterday from Carter's visit, South Korea asked North Korea for a meeting on June 28 to discuss plans for a first-ever summit meeting between their presidents, aimed at reducing nuclear tensions on the peninsula, Reuter reported. Carter brought back from Pyongyang a message from North Korean President Kim Il Sung proposing a meeting with his southern counterpart, Kim Young Sam.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

AUTHORIZING OVERSIGHT HEARINGS BY THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 9:30 a.m. having arrived, the Senate will now proceed to the consideration of Senate Resolution 229, which the clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 229) authorizing oversight hearings by the Committee on Banking, Housing, and Urban Affairs.

The Senate proceeded to consider the resolution.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Kansas, the Republican leader, or his designee is recognized to offer amendment numbered 1818.

Mr. D'AMATO. Mr. President, I was under the impression that the amendment has been offered.

AMENDMENT NO. 1818

(Purpose: To propose a substitute)

Mr. D'AMATO. Mr. President, if that is not the case, on behalf of the Republican leader, Senator DOLE, and myself, I submit the following amendment and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for Mr. DOLE for himself and Mr. D'AMATO, proposes an amendment numbered 1818.

Mr. D'AMATO. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

The amendment is as follows:

Strike all after the resolving clause and insert in lieu thereof the following:

SECTION 1. SCOPE OF THE HEARINGS.

The Committee on Banking, Housing, and Urban Affairs (referred to as the "committee") shall—

(1) conduct an investigation into, and study of, all matters that have a tendency to reveal the full facts about:

(A) allegations of improper contacts or communications between and among officials of the White House, the Department of the Treasury, Resolution Trust Corporation, and Office of Thrift Supervision;

(B) the Park Service Police investigation into the death of White House Deputy Counsel Vincent Foster;

(C) the handling and disposition of documents in the office of White House Deputy Counsel Vincent Foster at and after the time of his death; and

(D) any other activity, circumstance, material or transaction having a tendency to prove or disprove that any official of the United States Government or any other person acting either individually or in concert with others engaged in any activity that was illegal, improper, unauthorized or unethical in connection with any activity related to Whitewater Development Corporation, Madison Guaranty Savings and Loan Association, and Capital Management Services, Inc. occurring on or after January 20, 1993; and

(2)(A) make such findings of fact as are warranted and appropriate;

(B) make such recommendations, including recommendations for new legislation and amendments to existing laws and any administrative or other actions, as the committee may determine to be necessary or desirable; and

(C) fulfill the Constitutional oversight and informing function of the Congress with respect to the matters described in this section.

The hearings authorized by this resolution shall begin on a date determined by the Majority Leader, in consultation with the Minority Leader, but no later than the earlier of July 22, 1994, or within 30 days after the conclusion of the first phase of the independent counsel's investigation.

SEC. 2. MEMBERSHIP, ORGANIZATION, AND JURISDICTION OF THE COMMITTEE FOR PURPOSES OF THE HEARINGS.

(a)(1) For the sole purpose of conducting the investigation and study authorized by this resolution, the committee shall consist of—

(A) the members of the Committee on Banking, Housing, and Urban Affairs, who shall, in serving as members of the committee, reflect the legislative and oversight interests of other committees of the Senate with a jurisdictional interest (if any) in the investigation and study authorized in paragraph (1) of section 1 as provided in subparagraph (B);

(B)(i) Senator Kerry and Senator Bond from the Committee on Small Business;

(ii) Senator Riegle and Senator Roth from the Committee on Finance;

(iii) Senator Shelby and Senator Domenici from the Subcommittee on Public Lands, Parks, and Forests of the Committee on Energy and Natural Resources;

(iv) Senator Moseley-Braun from the Committee on the Judiciary; and

(v) Senator Sasser and Senator Roth from the Permanent Subcommittee on Investigations; and

(C) the ranking member of the Committee on the Judiciary, or his designee, who shall serve for purposes of considering matters within the jurisdiction of the Committee on the Judiciary, but shall not serve as a voting member of the committee.

(2) For the purpose of paragraph 4 of rule XXV of the Standing Rules of the Senate, service of the ranking member of the Committee on the Judiciary as a member of the committee shall not be taken into account.

(b) The jurisdiction of the committee shall encompass the jurisdiction of the committees and subcommittees listed in subsection (a)(1)(B), to the extent, if any, pertinent to the investigation and study authorized by this resolution.

(c) A majority of the members of the committee shall constitute a quorum for reporting a matter or recommendation to the Senate, except that the committee may fix a lesser number as a quorum for the purpose of taking testimony before the committee or for conducting the other business of the committee as provided in paragraph 7 of rule XXV of the Standing Rules of the Senate.

SEC. 3. ADDITIONAL STAFF AND ASSISTANCE FOR THE COMMITTEE.

(a) The committee, through the chairman, may request and use, with the prior consent of the chairman of any committee or subcommittee listed in section 2(a)(1)(B), the services of members of the staff of such committee or subcommittee.

(b) To assist the committee in its investigation and study, the chairman, after consultation with the ranking member and the approval of the committee, shall appoint additional committee staff. The level of compensation payable to any such additional employee shall not be subject to any limitation on compensation otherwise applicable to an employee of the Senate.

(c) To assist the committee in its investigation and study, the Senate Legal Counsel and Deputy Senate Legal Counsel shall work with and under the jurisdiction and authority of the committee.

(d) The Majority and Minority Leaders of the Senate may each designate one staff person to serve on the staff of the committee to serve as their liaison to the committee.

(e) The Comptroller General of the United States is requested to provide from the General Accounting Office whatever personnel, investigatory, material, or other appropriate assistance may be required by the committee.

SEC. 4. PUBLIC ACTIVITIES OF THE COMMITTEE.

(a) Consistent with the rights of persons subject to investigation and inquiry, the committee shall make every effort to fulfill the right of the public and the Congress to know the essential facts and implications of the activities of officials of the United States Government with respect to the matters covered by the investigation and study as described in section 1.

(b) In furtherance of the public's and Congress' right to know, the committee—

(1) shall hold, as the chairman (in consultation with the ranking member) considers appropriate and in accordance with paragraph 5(b) of rule XXVI of the Standing Rules of the Senate, open hearings subject to consultation and coordination with the independent counsel appointed pursuant to title 28, parts 600 and 603, of the Code of Federal Regulations (referred to as the "independent counsel");

(2) may make interim reports to the Senate as it considers appropriate; and

(3) shall, in order to accomplish the purposes set forth in subsection (a), make a final comprehensive public report to the Senate of the findings of fact and any recommendations specified in paragraph (2) of section 1.

SEC. 5. POWERS OF THE COMMITTEE.

(a) The committee shall do everything necessary and appropriate under the laws and Constitution of the United States to make the investigation and study specified in section 1.

(b) Except as provided in subsection (c), the committee is authorized to exercise all of the powers and responsibilities of a committee under rule XXVI of the Standing Rules of the Senate and section 705 of the Ethics in Government Act of 1978 (2 U.S.C. 288d), including the following:

(1) To issue subpoenas or orders for the attendance of witnesses or for the production of documentary or physical evidence before the committee. A subpoena may be authorized by the committee or by the chairman with the agreement of the ranking member and may be issued by the chairman or any other member designated by the chairman, and may be served by any person designated by the chairman or the authorized member anywhere within or without the borders of the United States to the full extent permitted by law. The chairman of the committee, or any other member thereof, is authorized to administer oaths to any witnesses appearing before the committee.

(2) To employ and fix the compensation of such clerical, investigatory, legal, technical, and other assistants as the committee considers necessary or appropriate.

(3) To sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate.

(4) To hold hearings for taking testimony under oath or to receive documentary or physical evidence relating to the matters and questions it is authorized to investigate or study.

(5) To require by subpoena or order the attendance, as witnesses before the committee or at depositions, of any person who may have knowledge or information concerning any of the matters the committee is authorized to investigate and study.

(6) To take depositions and other testimony under oath anywhere within the United States or in any other country, to issue orders by the chairman or any other member designated by the chairman which require witnesses to answer written interrogatories under oath, to make application for issuance of letters rogatory, and to request, through appropriate channels, other means of international assistance, as appropriate.

(7) To issue commissions and to notice depositions for staff members to examine witnesses and to receive evidence under oath administered by an individual authorized by local law to administer oaths. The committee, acting through the chairman, may authorize and issue, and may delegate to designated staff members the power to authorize and issue, commissions and deposition notices.

(8) To require by subpoena or order—

(A) any department, agency, entity, officer, or employee of the United States Government,

(B) any person or entity purporting to act under color or authority of State or local law, or

(C) any private person, firm, corporation, partnership, or other organization,

to produce for its consideration or for use as evidence in the investigation or study of the committee any book, check, canceled check, correspondence, communication, document, financial record, paper, physical evidence, photograph, record, recording, tape, or any other material relating to any of the matters or questions such committee is authorized to investigate and study which they or any of them may have in their custody or under their control.

(9) To make to the Senate any recommendations, including recommendations for criminal or civil enforcement, which the committee may consider appropriate with respect to—

(A) the willful failure or refusal of any person to appear before it, or at a deposition, or to answer interrogatories, in obedience to a subpoena or order;

(B) the willful failure or refusal of any person to answer questions or give testimony during his appearance as a witness before such committee, or at a deposition, or in response to interrogatories; or

(C) the willful failure or refusal of—

(i) any officer or employee of the United States Government,

(ii) any person or entity purporting to act under color or authority of State or local law, or

(iii) any private person, partnership, firm, corporation, or organization,

to produce before the committee, or at a deposition, or at any time or place designated by the committee, any book, check, canceled check, correspondence, communication, document, financial record, paper, physical evidence, photograph, record, recording, tape, or any other material in obedience to any subpoena or order.

(10) To procure the temporary or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)).

(11) To use on a reimbursable basis, with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration of the Senate, the services of personnel of such department or agency.

(12) To have access through the agency of any members of the committee, staff director, chief counsel, or any of its investigatory assistants designated by the chairman, to any data, evidence, information, report, analysis, document, or paper—

(A) which relates to any of the matters or questions which the committee is authorized to investigate or study;

(B) which is in the custody or under the control of any department, agency, entity, officer, or employee of the United States Government, including those which have—

(i) the power under the laws of the United States to investigate any alleged criminal activities or to prosecute persons charged with crimes against the United States; or

(ii) the authority to, or which in fact has, conducted intelligence gathering or intelligence activities,

without regard to the jurisdiction or authority of any other Senate committee; and

(C) which will aid the committee to prepare for or conduct the investigation and study authorized and directed by this resolution.

(13) To report violations of any law to the appropriate Federal, State, or local authorities.

(14) To expend, to the extent the committee determines necessary and appropriate, any moneys made available to such committee by the Senate to make the investigation, study, and reports authorized by this resolution.

(c) The committee shall have no power under section 6005 of title 18, United States Code for immunizing witnesses.

(d)(1) Subject to the provisions of paragraph (2), the committee shall be governed by the rules of the Committee on Banking, Housing, and Urban Affairs, except that the committee may modify its rules for purposes of the investigation and study conducted under this resolution. The committee shall cause any such amendments to be published in the Congressional Record.

(2) The committee's rules shall be consistent with the Standing Rules of the Senate and this resolution.

SEC. 6. RELATION TO OTHER INVESTIGATIONS.

In order to—

(1) expedite the thorough conduct of the investigation and study authorized by this resolution;

(2) promote efficiency among all the various investigations underway in all branches of the United States Government; and

(3) engender a high degree of confidence on the part of the public regarding the conduct of such hearing,

the committee is encouraged—

(A) to obtain relevant information concerning the status of the independent counsel's investigation to assist in establishing a hearing schedule for the committee;

(B) to coordinate, to the extent practicable, its activities with the investigation of the independent counsel;

(C) to seek the full cooperation of all relevant investigatory bodies; and

(D) to seek access to all information which is acquired and developed by such bodies.

The Senate requests that the independent counsel make available to the committee, as expeditiously as possible, all documents and information which may assist the committee in its investigation and study.

SEC. 7. SALARIES AND EXPENSES.

Such sums as are necessary shall be available from the contingent fund of the Senate out of the Account for Expenses for Inquiries and Investigations for payment of salaries and other expenses of the committee under this resolution, which shall include sums which shall be available for the procurement of the services of individual consultants or organizations thereof. Payment of expenses shall be disbursed upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries paid at an annual rate.

SEC. 8. REPORTS; TERMINATION.

(a) The committee shall make the final public report to the Senate required by section 4(b) as soon as practicable after the conclusion of the investigation and study.

(b) The final report of the committee may be accompanied by whatever confidential annexes are necessary to protect confidential information.

(c) The authorities granted by this resolution shall terminate 30 days after submission of the committee's final report. All records, files, documents, and other materials in the possession, custody, or control of the committee shall remain under the control of the regularly constituted Committee on Banking, Housing, and Urban Affairs.

SEC. 9. COMMITTEE JURISDICTION AND RULE XXV.

The jurisdiction of the committee is granted pursuant to this resolution notwithstanding the provisions of paragraph 1 of rule XXV of the Standing Rules of the Senate relating to the jurisdiction of the standing committees of the Senate.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from New York.

Mr. D'AMATO. Mr. President, every person who has ever had the privilege to serve in the U.S. Congress has taken the same oath—a pledge to uphold our Constitution. The Constitution, with its system of checks and balances, places an obligation on the Congress to conduct meaningful oversight of the executive branch of Government.

The distinguished majority leader and Senator COHEN, in a book titled "Men of Zeal," said it best when they explained that:

> * * * a central function of democracy is to allow a free people to drag realities out into the sunlight and demand a full accounting from those who are permitted to hold and exercise power. Congress provides a forum for disclosing the hidden aspects of governmental conduct.

While the political party in power in the Congress and in the White House has changed many times in more than 200 years, the Congress' constitutional obligation to examine the conduct of the executive branch and to bring all the facts before the American people has never changed.

Today, the Senate has a choice to make. Is the Senate going to authorize Whitewater oversight activities that are real—or just an illusion?

The resolution proposed by the majority leader is a transparent effort to prevent full and fair congressional oversight of the Whitewater affair. The majority leader's amendment would authorize hearings on only three limited areas:

First, the Park Police investigation into the death of White House Deputy Counsel Vincent Foster;

Second, the way in which White House officials handled documents in the office of White House Deputy Counsel Vincent Foster at the time of his death; and

Third, communications between officials of the White House and the Department of the Treasury or the Resolution Trust Corporation relating to the Whitewater Development Corp. and the Madison Guaranty Savings & Loan Association.

Not only does this resolution prevent the Banking Committee from fully examining potential misconduct by the Clinton administration related to Whitewater, but also fails to give the Banking Committee the essential tools necessary to conduct oversight activities. This resolution is so limited and so unfair that it would have been rejected out of hand by Senate Democrats if there were a Republican in the White House.

The Mitchell resolution abandons a 200-year tradition of thorough and fair congressional oversight in favor of a new policy: See no evil; hear no evil; speak no evil.

That is why the Republican leader, Senator DOLE, and I have prepared a Republican alternative to the resolution proposed by Senator MITCHELL.

The Republican alternative is patterned after oversight resolutions that have passed the Senate time and time again. Our resolution would provide the Banking Committee with the same oversight powers that were provided to countless other oversight committees in the past.

The Republican alternative is also consistent with the Whitewater resolution unanimously supported by the Senate on March 17. The resolution requires coordination of the Senate's Whitewater oversight activities with the independent counsel's investigation. It also requires that Whitewater hearings be scheduled after consultation and coordination with the independent counsel. These restrictions go further than any previous Senate oversight resolution in deference to an independent counsel investigation. Going any further would turn a strong and vigilant congressional watchdog into a lap dog of the independent counsel.

The Republican alternative also focuses on the so-called Washington Phase of the independent counsel's investigation which is soon to be completed. But unlike the Mitchell resolution, which is narrowly limited to just three areas, the Dole-D'Amato resolution would permit full and fair congressional oversight by authorizing the Banking Committee to determine whether there was any illegal, improper, unauthorized, or unethical conduct by officials of the Clinton administration, or any other person, related to Madison Guaranty Savings & Loan Association, Whitewater Development Corp., and Capital Management Services, Inc., occurring on or after January 20, 1993.

While some Democrats may claim that the Republican alternative resolution is simply a fishing expedition, I must remind my colleagues that the Senate has trolled these waters before—often times.

For example, the Senate Iran-Contra Committee was given the authority to investigate and study any activity, circumstance, material, or transaction having a tendency to provide or disprove that any person engaged in any illegal, improper, unauthorized, or unethical conduct in connection with the shipment of arms to Iran or the use of the proceeds from arms sales to provide assistance to the Nicaraguan rebels.

The Senate Watergate Committee was specifically authorized to investigate—and I ask you to listen to the words carefully—any activities, materials, or transactions having a tendency to prove or disprove that persons engaged in any illegal or improper or unethical activities in connection with the Presidential election of 1972.

During 12 years of Republican administrations the Congress kept the bright spotlight of congressional oversight on the White House searching far and wide for any sign of potential wrongdoing. Now that there is a Democrat in the White House, the Senate Democrats have apparently decided that it is time to turn the lights out.

As the New York Times observed in an editorial on June 17, efforts by Senate Democrats to restrict the scope of oversight hearings because the President is also a Democrat result in legitimate claims of a coverup. In fact, Senator BYRD, who was the majority leader during the Iran-Contra affair, said:

> It would seem to me if the President was of my own party, I should think that in the final analysis I would want all the facts, believing as I would, not having seen evidence to the contrary, that he is not guilty of having violated the law. But I would not want to shut off an investigation or do anything to impede an investigation. The result of my action then would be a hue and cry that there was a whitewash or that the people did not get the facts or that I tried to obstruct justice. I would want the complete facts, I would want all the facts. [Cong. Rec. p. 280, Jan. 6 1987]

These were the words of the distinguished former majority leader, the President pro tempore, and I think they are as correct today—and that is why there is a hue and cry that this is a whitewash. I refer to the former majority leader's own words and his own rationale. It was true then and it is true today.

Mr. President, the American people expect Congress to fulfill its constitutional obligation to conduct full and fair oversight and get to the bottom of Whitewater. Regrettably, efforts by Senate Democrats to engage in a Whitewater bailout will leave the American people high and dry.

Upholding our constitutional obligation to conduct comprehensive oversight has been a tradition in the U.S. Senate. Some of this institution's most shining moments resulted from our willingness to shine the light on the darker episodes in our Nation's history. It would be a tragedy if the Senate chose to cover up a stain on the White House caused by Whitewater with a whitewash of its own.

Mr. President, I see the majority leader is not here at this time. I think he was going to take some time. If he is not, I see my distinguished colleague from Pennsylvania.

Mr. President, I suggest the absence of a quorum.

Mr. SPECTER. Mr. President, if the Senator will withhold, I had come to the floor anticipating that the sequence would be that the majority leader would offer a resolution and that the Republican leader would offer a resolution. I had discussed a number of matters with the majority leader last week and had come to join my distinguished colleague from New York today to pursue that.

But, as a matter of sequence, I am waiting for the majority leader's resolution, for his response to what Senator D'AMATO has said.

Mr. D'AMATO. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

Mr. SPECTER. Mr. President, if the clerk will withhold the call of the quorum, we are under a time agreement. I suggest it be charged equally to both sides.

Mr. D'AMATO. It will be, as I understand it.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DORGAN). Without objection, it is so ordered.

Mr. DOLE. Mr. President, I thank the distinguished Senator from New York for offering my amendment. I want to indicate that it is a very important amendment.

We talk a lot about cooperation around this place. Democrats need cooperation on this; they need cooperation on that. This is an example of what happens when the Republicans need cooperation. We get none. It may portend what may happen in the future.

But I think when historians look back to June 1994, they will see one of those rare occasions in American political history when one branch of Government—the Congress—willingly gave up power to another branch—the executive. I think this is very significant.

We can doll it up all we want, dance around it, make speeches, but there is no question about it, we just simply surrendered congressional authority to the executive branch by agreeing to limit the scope of Whitewater hearings to three narrow issues. We have taken the extraordinary step of giving an independent counsel, an unelected bureaucrat, the opportunity—in fact the right—to exercise the veto over our own oversight activities which, by the way, happen to be rooted in article I of the Constitution. No permission slip from Mr. Fiske, no hearings. It is just that simple. No bureaucratic signoff, no investigation by Congress. So much for oversight and so much for the separation of powers.

Of course, Mr. President, Congress has rarely been so deferential, particularly when it comes to oversight. Did the House Subcommittee on Oversight and Investigations get permission from Independent Counsel Whitney North Seymour before holding hearings on Michael Deaver in 1986? Of course not.

Did the House Judiciary Committee wait to get the go-ahead from Independent Counsel Alexia Morrison before investigating Assistant Attorney General Theodore Olson? Of course not.

Did Lawrence Walsh's Iran-Contra investigation prevent the House and the Senate from going forward with hearings? The answer is obvious.

Did Justice Department investigations into BCCI and BNL stop Congress from conducting its own concurrent investigation into these matters? Not a chance. Of course not.

And what about Watergate, Mr. President? The efforts of Archibald Cox and Leon Jaworski certainly did not prevent Congress from conducting hearings broadcast live on national television and live on radio and covered for months and months.

But now we have appointed a traffic cop. Mr. Fiske is Congress' traffic cop. If he flashes a red light on hearings, that is the end of it; we cannot have any hearings. We have to stop. If he gives us a green light, we can go maybe a little ways, but they have to be circumscribed by what will be a party-line vote here. It will be a stop-and-go process: Stop and go, stop and go.

We want to cooperate with Mr. Fiske, and that is why he has had a 5-month head start. That is why we have agreed not to grant immunity to any witness, because that was a major concern early on. So we thought we had taken care of that.

But it all comes down to the fact that Congress and Mr. Fiske have very different roles. Whether we are Democrats or Republicans or Independent, you have a right to know and a right to make a judgment for yourself. And Congress has responsibilities under the Constitution, as well as five major pieces of legislation. We have oversight responsibility. Our mandate comes from the Constitution. We were elected by the American people, and we are going to take our case to the American people in the coming weeks and months and see if they think Congress has a right to know, and tell them to take a look at the record of the last 12 years and the statements of my colleagues on the other side during those 12 years and then make a judgment.

But we were elected by the people. Mr. Fiske was appointed by the Attorney General who was appointed by President Clinton. Mr. Fiske's job is criminal prosecution. Our job is full public disclosure. And these jobs are not incompatible; they are just different.

So we are going to take one more chance, one more offer of compromise, one more offer of cooperation, which you are going to hear a lot about in the next few weeks on the other side: "Oh, we need your cooperation on this, on GATT, on health care, on crime." Well, if we give the same cooperation we have had on this issue, it will be a long, hot summer. And maybe it should be a long, hot summer.

We cannot have it both ways. The majority party cannot say, "Well, on this issue you get zippo, nothing, until we tell you; until Robert Fiske tells you, you get nothing. On everything else, if you do not cooperate, then you are guilty of gridlock." I think that is a hard sell.

I hope that if we have a majority—which I think we will have next year—we will not comport ourselves in the same way. In fact, go back and look at the record when Republicans had control of the Senate. We conducted investigations of three Republican appointees.

So I just suggest that I hope we do not have a double standard here. I do not want people out here next week or the next week or the next month saying, "We need your cooperation. Why are you holding this up?" I will go back and read all the speeches they made on Whitewater. Maybe Mr. Fiske can take over domestic policy, if he has any spare time.

But let me talk about the compromise. Under the amendment, the forum for hearings is the Banking Committee, same as the Mitchell resolution.

Subpoenas may be authorized by the committee or the chairman with agreement of the ranking member, same as the Mitchell resolution.

No immunity may be granted to any witness, same as the Mitchell resolution.

The Banking Committee is encouraged to coordinate with Robert Fiske, same as the Mitchell resolution.

The committee is authorized to hold public hearings and make interim and final reports. Again, Mr. President, same as the Mitchell resolution.

The amendment also borrows from the Iran-Contra experience, taking language word for word from the resolution established in the Iran-Contra Select Committee.

Like the Iran-Contra resolution, the amendment provides that the Banking Committee may have access to relevant evidence in custody of any Federal agency. It directs the Senate legal counsel and the General Accounting Office to assist the committee if their help is requested.

And like the Iran-Contra resolution, it provides that Robert Fiske should make available to the committee all documents and information which may assist the committee in its own investigation.

Much of the debate last week centered around the issue of scope. My colleagues on the other side of the aisle want very narrow hearings, limited to three narrow areas, a small piece of the entire Whitewater puzzle.

Their proposal would prohibit us from examining the Justice Department handling of the RTC criminal referrals. It would prevent the Senate from taking a look at how Madison Guaranty was treated by S&L regulators. It would block hearings into the SBA loan that somehow found its way into the Whitewater partnership. It would say no to the hearings on the so-called commodities issue. It would prohibit us from asking the U.S. attorney in Little Rock why she delayed so long in recusing herself in the prosecution of David Hale. And if any Senator wants to examine the Whitewater partnership itself, that, too, would be off limits.

So most everything is off limits. It is a very limited scope; very limited scope.

So, Mr. President, do we really want full disclosure? Obviously, my colleagues on the other side do not want full—they do not want any disclosure. Are we really committed to oversight? Obviously not. Do we want to get the matter behind us? Obviously not. Maybe we have to wait until next year to have real hearings.

I want to make reference to a New York Times editorial of June 17, 1994, last week. This was the New York Times, not the National Republican Committee or Republican Senators. Let me quote what they have to say, because I think it will be quoted a lot, maybe in TV spots, later this year:

> Senate Democrats are rushing toward a partisan coverup—

Coverup—that is their word. Somebody used the word on the Senate floor last week and we were castigated and chastised. So I will read what the New York Times said:

> a partisan coverup of the Whitewater affair. They have voted to hold narrowly circumscribed hearings in the Senate Banking Committee, which they dominate. They are therefore likely to prolong the agony of the President they hope to protect.

So I suggest that it is not just Republicans who have been saying that the scope is too limited. There is not any opportunity for hearings.

We do not want to engage in a fishing expedition, as some of my Democratic colleagues have suggested. That is why we are prepared to narrow the scope of the hearings to cover only those activities that occurred during the Clinton administration on or after January 20, 1993. If we are serious about having hearings on the subject covered by the so-called Washington phase of Fiske's investigation, then let us do so. But let us not limit hearings to bits and pieces proposed in the resolution offered by the distinguished majority leader. If we mean what we say, then let us look at the entire Washington component of Whitewater.

So, Mr. President, as I have said, our amendment, with minor changes, adopts the resolution of the majority leader.

It also adds a fourth area of inquiry allowing the Banking Committee to examine any other activity having a tendency to prove or disprove that any person engaged in illegal, unauthorized or unethical conduct relating to Whitewater, Madison Guaranty or Capital Management Services occurring—Mr. President, this is important—on or after January 20, 1993. In other words, during the Clinton administration.

It tracks the March 17 resolution which passed this body 98 to 0, and now we are backing away from that. It has been March to April, April to May, May to June. Three months, ninety days, we have been backtracked on the other side. We voted for that because there was a public outcry at the time. That subsided now so it is not important anymore. By directing the Banking Committee to examine any activity suggesting illegal, unauthorized, or unethical conduct, it also adopts word-for-word the scope of inquiry contained in the Iran-Contra resolution.

So, Mr. President, Republicans are willing to be reasonable, following precedent, limiting the scope of the hearings to Washington matters occurring during the administration, allowing hearings to be held in the Banking Committee, accepting much of what the distinguished majority leader himself has proposed.

So it just seems to me that we will be back. This will not be the last amendment offered on Whitewater. We know the outcome of this amendment. We may have another one this week. We may have several next week. We may have several after the July 4 recess because this is a fair compromise striking a fair balance and, in my view, it should pass with strong bipartisan support. But, of course, with only 44 votes on this side of the aisle, I have no illusions about the outcome later today.

Finally, Mr. President, I would be remiss if I did not thank my distinguished colleague from New York, Senator D'AMATO, for his leadership on Whitewater. It is not easy being the point man on an issue as controversial as this one, but I believe that Senator D'AMATO has handled his responsibilities with diligence and with considerable skill. I think in the long run the American people, regardless of party, are going to owe Senator D'AMATO and the Senator from Pennsylvania [Mr. SPECTER] and others who kept this issue out in front, for public disclosure, a debt of gratitude.

I ask unanimous consent that the New York Times editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 17, 1994]

RUNNING FOR COVER ON WHITEWATER

Senate Democrats are rushing toward a partisan cover-up of the Whitewater affair. They have voted to hold narrowly circumscribed hearings in the Senate Banking Committee, which they dominate. They are therefore likely to prolong the agony of the President they hope to protect.

By a 56-to-43 vote, the Senate decided to limit hearings next month to three elements of the case. One is the U.S. Park Police's investigation into the death of Vincent Foster Jr., the Deputy White House Counsel. Two, the way in which members of the White House staff disposed of Mr. Foster's Whitewater files. Three, whether White House officials tried to manipulate Treasury Department investigations into Madison Guaranty Savings and Loan.

This agenda focuses only on White House behavior after Bill Clinton became President and excludes far more important questions about what happened in Arkansas before he and Mrs. Clinton reached the White House.

To recapitulate: Did James McDougal, a Clinton crony who headed Madison, receive favorable treatment from a bank regulator appointed by then-Gov. Bill Clinton? Were Madison funds used to pay off Mr. Clinton's 1984 campaign debt? Were funds in Madison accounts diverted to the Whitewater Development Company? How much did the Clintons pay for their half-share of Whitewater? Did they receive financial benefits that they should have reported as taxable income?

In short, the Democrats have chosen to ignore precisely those dealings that have raised suspicions that the Clintons may have profited from favors dispensed by people who had something to gain from them. They have also shown no interest in Mrs. Clinton's commodities trading, or the possibility that an artful broker may have given her favorable treatment. The special counsel investigating Whitewater, Robert Fiske, has likewise shown little interest in this issue.

The Democrats say their timid agenda results from a desire not to undermine Mr. Fiske's inquiries. They also promise to get to the Arkansas questions next year—safely after the midterm elections. In March, this page argued against a partisan circus and agreed that hearings should be delayed until Mr. Fiske got his feet on the ground. But we also said the delay should be measured in weeks, not months. Mr. Fiske has now had time to learn the basics of the case, both in Washington and Arkansas; it is hard to see how a broad Congressional inquiry could seriously hinder him. It might even help; past

Congressional hearings have made the prosecutor's case even stronger.

We also noted that Mr. Fiske could not expect Congress to abdicate its oversight responsibilities. The banking committees have a legitimate interest in the behavior of Federal bank regulators and the Arkansas bank regulators in regard to Madison and its dubious lending practices.

House Democrats are expected to follow the Senate's narrow path. This path does not serve the public or the President. It leaves unanswered questions that voters deserve to have answered. It prolongs the uncertainty that has damaged this Presidency from day one of the Whitewater affair and hands the G.O.P. a new—and legitimate—cover-up issue.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair.

Mr. President, while the Republican leader is in the Chamber, if I may have his attention very briefly, the two resolutions really require analysis and debate if there is to be any presentation as to the differences between them.

I had a discussion with the majority leader on June 15 and made some references specifically to the Office of Thrift Supervision. I asked him if he would include the OTS in his resolution if we produced the indicators of the relevancy to matters which were already within his resolution. We had a discussion also as to other agencies like the Justice Department or the FDIC.

Now, I know that Senator MITCHELL is busy. He was here earlier today. We do not have very much time to debate this resolution, but I intend to start to go into the facts.

The Republican leader has made a comment about this resolution coming up again. If we are not able to really get down to brass tacks and have a discussion with Senator MITCHELL as the offeror of the other resolution, I intend—I hope with the Republican leader's backing and the backing of my colleague, Senator D'AMATO—to revisit this without a time agreement so that we can get down to the hard facts and the indicators about the necessity for the breadth of the investigation.

When we are here in the Chamber—and there are three Republican Senators here: Senator DOLE, Senator D'AMATO, and myself—and nobody to defend it, it is like a sound Chamber; we can talk but who is listening. We can produce some very damaging evidence which really warrant broader investigation to which the distinguished majority leader really ought to respond.

So I just make that prefatory statement because I hope we will revisit this long enough to bring out the facts and to have the kind of analysis which will show the American people, beyond those who read the lead editorial in the New York Times, which characterized it as a coverup, that the hard facts require a much broader charter than is in the Mitchell amendment, and require at least the charter which is in the Dole amendment.

I proposed to discuss this morning, Mr. President, the five separate factors of hard indicators that the scope of the Mitchell resolution is totally insufficient. Those factors relate to the Justice Department, including the Attorney General directly, the FDIC, the Office of Thrift Supervision, the Hale issue, and the alleged suicide, the very sad situation regarding Mr. Foster.

Now, the scope of the Mitchell amendment is extraordinarily narrow in three particulars. It does not have the customary introductory prefatory language which is always found in these matters and is found in the Dole amendment, which calls for an investigation into and study of all matters that have a tendency to reveal the full facts about this issue. All the Mitchell amendment says is conduct hearings into whether improper conduct occurred regarding this issue, and then the three items.

Thus, on its face, you start off with a proposition that the Mitchell amendment does not have the customary clause to investigate all the matters relating to any specific item. Then, Senator Dole's amendment goes on to discuss, in subsection (D), relating to any "other activity, circumstance, material or transaction having a tendency to prove or disprove that any official of the U.S. Government or any other person, acting either individually or in concert with others, engaged in any activity that was illegal, improper, unauthorized or unethical in connection with any activity related to Whitewater Development Corporation, Madison Guaranty Savings and Loan Association, and Capital Management Services occurring on or after January 20, 1993."

Mr. President, that is an important day because what the Dole amendment calls for is an investigation by the Senate into matters which have been generally referred to as phase I. Phase I involves what happened while President Clinton has been in office, because it is in that scope that the President, as the chief executive officer, has the ultimate control over the Justice Department, the Treasury Department, OTS, FDIC, and the RTC. That is why it is important as to phase I—and we are not talking about going into everything in the past—that at least all matters involved after Mr. Clinton became President, would be subject to investigation by the Senate inquiry.

Now, Mr. President, necessarily, that inquiry will relate to matters which occurred in the past. For example, the Mitchell amendment concedes that there will be inquiry and investigation into discussions between White House officials and Treasury Department officials and RTC officials. When you get into the subject matter of those conversations, then inevitably there will have to be questions about what occurred on the matters related to the subject. We do not know what they talked about. But they probably talked about McDougal advancing the funds that should have been paid for by President and First Lady Hillary Clinton.

So that when you talk about those discussions, inevitably there is going to have to be an inquiry into some of the underlying substantive matters, even though that is a part of the subject matter which will be investigated in phase II by the special counsel.

Mr. President, I must comment at this point that it is really demeaning, at least in my opinion, for the U.S. Senate to be taking a second-class position behind the independent counsel and deferring to him. The purpose of the independent counsel and his role in conducting a grand jury investigation, which is secret and looks for criminal prosecutions, is totally different from the responsibility of the U.S. Senate on a congressional inquiry. It is conceded generally that matters of public policy that the Senate looks into are of greater importance than individual prosecutions.

That is not to say that the individual prosecutions are not important. That is not to say that the Senate should not exercise care to avoid interfering with the underlying prosecutions. If you come to a test case where you have important matters to be investigated by the Senate and it may conflict with the prosecution, you ought to try to work it out between the Senators and the prosecutor. But, Senators ought not make a commitment in advance to be deferential to the prosecutor and to give up our senatorial prerogatives carte blanche, lock, stock, and barrel, to the prosecutor, which is what we are doing here.

The suggestion has been made—and I think it is pretty obvious—that the deference being made here is not a matter of protecting the prosecutions, which we can protect without that deference. Deference is being made to limit the investigation. It is—these are not ARLEN SPECTER's words; these are the words of the New York Times—the "coverup" which is involved here.

So it is pretty galling, frankly, to be talking about a Senate inquiry, as a U.S. Senator and former prosecutor, which is subordinate to the prosecutor's inquiry. But that is the fact of life because there are 56 Democrats and 44 Republicans. That number may change. Senator DOLE talks about television spots in the next election. But that is the mathematics.

We had a lot of votes last week. That is going to be the mathematics of the vote today. But the least we can do is have it out as to what the underlying evidence is, and I hope the majority leader will join us. He was on the floor today. I know he has to make his own schedule. I know he has a lot of commitments. I will do my best—if not today, then tomorrow, the day after, sometime in the future—to talk about the matters factually, which I am happy to address with the majority leader present.

Mr. President, it is insufficient to have the scope of the investigation limited, under the Mitchell resolution, to "communications between officials of the White House and the Department of Treasury"—where the Resolution Trust Corporation related to Whitewater Development Corp. and Madison Guaranty Savings & Loan. It's just not sufficient to limit it to White House, Treasury, and RTC. I had this discussion briefly with the majority leader on the 15th, as the CONGRESSIONAL RECORD shows.

The reason that is not sufficient, Mr. President, is that there are others who are involved in these discussions. I now refer to materials which were disclosed by Congressman JIM LEACH, who has done an outstanding job in ferreting out materials on the House side. This document that I refer to is a memorandum from L. Jean Lewis to L. Richard Iorio. Ms. Lewis relates a conversation which occurred on May 19, 1993, where Ms. Dyone Mitchell of the Office of Legal Counsel of the Department of Justice advised that a prosecution matter had been forwarded on to Ms. Donna Henneman in Legal Counsel.

Jean Lewis then contacted Ms. Henneman and explained that it was a referral out of Madison Guaranty forwarded to a Mr. Chuck Banks, who had been in the U.S. attorney's office. According to this memorandum, written by Jean Lewis of the RTC, Ms. Henneman.

> . . . had immediate knowledge, stating, "Oh, the one involving the President and his wife."

She then stated that is, Ms. Henneman stated, according to this memorandum from Jean Lewis—that the referral had been submitted to that office as a "special report" for the attention of the Attorney General, and not as a referral for the prosecution.

She then stated—that is, Ms. Henneman said to Ms. Lewis—that:

> Anytime a referral comes in that would make the Department look bad, or has political ramifications, it goes to the Attorney General.

She further added that the referral had been submitted to that office:

> . . . because of the political ramifications and the political motivations.

When you are dealing with influence of the White House, how can you limit the investigation to the Department of Treasury and the Resolution Trust Corporation, when there are documents which show that the Department of Justice was involved and that the referral was made to the Attorney General personally?

Whether it got to the Attorney General, or what the Attorney General did, or whether the Attorney General was involved, I do not know.

By my comments, I do not cast any aspersions on the Attorney General or on anyone else. But this kind of a memorandum, which is a smoking gun, requires that the scope of the investigation include the Department of Justice, the U.S. attorneys where the referral was made, and the Attorney General, to see precisely what happened.

That is point one, Mr. President.

Mr. President, there is a time limitation on which I have just consulted with my colleague, Senator D'AMATO. So I shall be brief. Perhaps we will revisit this at another time. I will put these documents in the RECORD.

There is a notation by Jean Lewis concerning a discussion with FDIC attorney April Breslaw, where Ms. Breslaw stated that:

> . . . the "head people" would like to be able to say that Whitewater did not cause a loss to Madison, but the problem is so far that no one has been able to say that to them.

April Breslaw said because it "would get them off the hook."

The memo goes on to say:

> If you know that your mortgages are being paid, but you are not putting money into the venture, and you know that the venture is not cash flowing, wouldn't you just question the source of the funds being used to your benefit?

That is referring to the obligations to pay the mortgage that the President and First Lady Hillary Clinton had, and refers to the source of the money coming from Mr. McDougal.

Last week, I had an extended discussion with the majority leader on the issue of including the Office of Thrift Supervision in the scope of the resolution because it is insufficient on its face when it refers only to the Treasury and RTC.

An article in the New York Times dated March 16, 1994, sums it up as follows:

> Clinton administration officials last year rejected a recommendation by a senior regulator to open a Treasury Department investigation into the failed savings and loan association owned by President Clinton's former partner in the Whitewater venture. . . .
>
> The request to open a broad investigation of the savings institution was made by Brian McCormally, the top enforcement official for the Midwestern division of the Office of Thrift Supervision . . .
>
> . . . the request was turned down last fall by Mr. McCormally's supervisors in Washington, Carolyn Lieberman, acting counsel to the thrift supervision office, and Jonathan Fiechter, acting director of the office. They report to senior political appointees at the Treasury Department, and rarely make major decisions without high-level consultations.

On its face, this demonstrates a need to go into the Office of Thrift Supervision, a need which is not comprehended within the Mitchell amendment, but is comprehended within the Dole amendment.

Point four: The issue involving David Hale, a matter which occurred after President Clinton became President so it is within phase I.

Now I quote from the New York Times of March 21, 1994:

> With profits from that deal in hand, Mr. Hale's company made a number of loans to people connected to Arkansas Democratic politics. The largest was a $300,000 loan in April 1986 to Mr. McDougal's wife Susan. Mr. Hale has asserted that both Mr. Clinton and Mr. McDougal pressed him to make the $300,000 loan, knowing it would not be used by Mrs. McDougal.

And further in the article.

> It is not clear what happened to the $300,000. But some money from the loan appeared to wind up for a while in 1986 in Whitewater as part of a land deal. Mr. McDougal has said that the Clintons, his partners in Whitewater, were unaware of that transaction.

Here you have the U.S. Attorney operating in the Department of Justice, part of the Clinton administration, while President Clinton was in office, and this inquiry is foreclosed by the Mitchell amendment. It would be permitted by the Dole amendment.

The Mitchell amendment does relate to the alleged suicide of Vincent Foster, but, on its face, that provision is so narrowly circumscribed that it may well prevent the Senate inquiry from going into related factors which have to be investigated if there is to be any sense made out of the matter relating to the Foster suicide.

On July 20, 1993, a Federal magistrate in Little Rock authorized a search warrant for the business offices of David Hale. Hours later, Vincent Foster left his office and allegedly committed suicide. Mr. Foster had received calls from a former colleague in the Rose law firm and the Denver lawyer James Lyon, who prepared the Whitewater review for the campaign in 1992.

The Washington Post on December 19, 1993 noted the failure to have the Whitewater tax returns filed and that they were prepared later by an Arkansas firm under the direction of the late Vincent Foster.

Those are matters, Mr. President, which should be inquired into if there is to be any real substance to the very narrow articulation of the Mitchell amendment.

I note my colleague Senator COHEN is on the floor and time has been reserved for him.

So I will conclude, Mr. President, with a request. I ask unanimous consent that the full memorandum, dated May 19, 1993 from L. Jean Lewis to L. Richard Iorio be printed in the RECORD and the two-page notes of conversation between RTC senior criminal investigator L. Jean Lewis and FDIC attorney April Breslaw be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

To: L. Richard Iorio.
CC: Lee O. Ausen.
From: L. Jean Lewis.
Subject: #7236/Madison Guaranty Savings
Date: Wednesday, May 19, 1993 15:55:03 CDT

In following up on the suggestion that Mr. Daniel Koffsky, Acting Assistant Attorney General, be sent a copy of Madison referral #C0004, I contacted the Office of Legal Counsel to verify the correct address. In speaking with Dyone Mitchell of that office, I reiterated the address provided by US Atty Richard Pence, which reads:

Office of Legal Counsel
Executive Office for the U.S. Attorneys
U.S. Justice Department
Washington, DC 20530

The letter provided the phone number (202) 514-2041.

Ms. Mitchell advised that the Office of Legal Counsel and the Executive Office for the U.S. Attorney's were two separate sections, and that the referral may have been forwarded to the Executive Office instead of Legal Counsel. She then connected me with the operator, who put me through to the Executive Office where I spoke with Stephanie Kennedy. I explained to Ms. Kennedy what I was looking for, and she said she would get back to me this afternoon.

She called me back at 3:30, and advised that she had forwarded the matter on to Donna Henneman in "Legal Counsel", who would check it out and call me back tomorrow. I then contacted Ms. Henneman to offer background information on what I was looking for. When I explained that it was a referral out of Madison Guaranty, forwarded to that office by Chuck Banks, she had immediate knowledge, stating "oh, the one involving the President and his wife". She then stated that the referral had been sent to that office (exactly which office is still unclear to me) as a special report for the attention of the Attorney General, and not as a referral for prosecution. She then stated that "anytime a referral comes in that would make the department look bad, or has political ramifications, it goes to the Attorney General." She further added that the referral had been submitted to that office "because of the political ramifications and political motivations", and then told me that referrals were not prosecuted out of that office. She then stated that the referral had been declined. I advised her that the referral had not been declined, and read her the letter sent to this office by U.S. Attorney Richard Pence. She acknowledged that she was confused, and told me she would speak with her supervisor, Deborah Westbrook, and have her call me back tomorrow. I then asked for Ms. Henneman's title, and she informed me that she was the Ethics Program Manager. I thanked her and ended the conversation.

I'll keep you posted if and when I hear from Ms. Westbrook.

Notes from the conversation between RTC Senior Criminal Investigator L. Jean Lewis and FDIC Attorney April Breslaw on February 2, 1994, from approximately 3:50 p.m. until 4:35 p.m.

April stated that "the people at the top" keep getting asked about Whitewater, which seems to have become a catch all phrase for Madison and its related investigations. She said that eventually "this group" is going to have to make a statement about whether or not Whitewater caused a loss to Madison, but the fact that Whitewater had no loan at Madison and provided less potential for a loss. April stated very clearly that Ryan and Kulka (7), the "head people" would like to be able to say that Whitewater did not cause a loss to Madison, but the problem is that so far no one has been able to say that to them. She felt like they wanted to be able to provide an "honest answer", but that there were certain answers that they would be "happier about, because it would get them off the hook."

April felt that it would have been difficult to determine exactly what happened with the Whitewater account, because so many checks had gone in and out of the account, and made a reference to the end resulting netting itself out. She joked about Greg Young's work papers on the Maple Creek Farms reserve for development analysis, and how it didn't seem to have any apparent tie to Whitewater. I concurred that it didn't have any legitimately defined tie, which is precisely why it was included in the referral.

She inquired about the $30,000 check to Jim McDougal from Whitewater in 5/85, and about the disposition of the funds. I explained the transaction as I know it: the $30,000 had been converted to a MGS&L cashier's check, which was subsequently endorsed by and deposited to Riggs National Bank. I explained that when the check was force paid, the Whitewater account was overdrawn by over $28,000 which was then subsequently covered by the payment of a $30,000 bonus from WFC to Jim McDougal, deposited directly to Whitewater on McDougal's orders.

She asked how we could get to a clear cut answer as to whether or not Whitewater caused a loss to Madison. I stated that, as far as I am concerned, there is a clear cut loss. I also stated that any attempt to extract Whitewater as one entity from the rest of the McDougal controlled entities involved in the alleged check kite will distort the entire picture. I further pointed out that I would produce the answers that were available, but that I would not facilitate providing "the people at the top" with the "politically correct answers just to get them off the hook."

She asked questions about the specifics of the checks going through the Whitewater account. I stated that it appeared that the majority of the checks written out of the Whitewater account during the window time frame were going to other financial institutions to make loan payments. I also said that the referral focused only on a short time frame, but that if that same research were conducted for a two year period, it was my belief that the losses to Madison from the Whitewater account alone would easily exceed $100,000, given that $70,000 had gone out of the account during the six month window time frame. I further added that the end loss result from the entire scam, using all 12 companies/entities, would be hundreds of thousands of dollars in what were essentially unauthorized loans.

I stated that if she wanted me to tell her, unequivocally, that Whitewater didn't cause a loss, I could not do that. I could only reiterate the allegations contained in the referral, which are based on fact, and that it is my opinion and belief that Whitewater did, in fact, cause a loss to Madison because of the amount of the unauthorized loans that McDougal made, through the check kite, to entities in which he was a primary party and beneficiary. I also pointed out that this ultimately benefited his business partners—the same business partners that knew they had real estate ventures that were not cash flowing, but that also knew their mortgage and/or notes were somehow being paid. I pointed out that these business partners are intelligent individuals, the majority of them being attorneys, who must have concluded that McDougal was making the payments for their benefit. I posed the question to her, if you know that your mortgages are being paid, but you aren't putting money into the venture, and you also know the venture isn't cash flowing, wouldn't you question the source of the funds being used to your benefit? Would you just assume that your partner was making these multi-thousand dollar payments out of the goodness of his heart? Wouldn't you wonder even more if you knew that your business partner's main source of income, an S&L, was in serious financial difficulty, which by 1985 was fairly common knowledge?

We discussed the initiation of the MGSL investigation, and how evidence of the check kite came to light. I explained that after reviewing a series of checks, all of which noted "loan" in the memo field, I discerned a pattern that looked like a check kite, and proceeded to trace funds through the various accounts, which is a standard investigations procedures. The end result was the referral alleging a massive check kite. I also advised April that I had been told by both the U.S. Attorney's office (Mac Dodson), and the FBI (Steve Irons) that this was a highly prosecutable case of check kiting. I also told her that I disputed the declination of that referral on the basis of "insufficient information". She commented that "that's what Grand Juries are for", and I pointed out that it generally seemed to be the policy of the U.S. Attorney to agree to open a case before they would start Grand Jury proceedings. I also noted that I found the treatment of that particular referral by the Justice Department to be highly unusual. This concluded our discussion.

Mr. SPECTER. That will be sufficient without encumbering the RECORD further.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Chair recognizes the Senator from New York [Mr. D'AMATO].

Mr. D'AMATO. I yield to the Senator from Maine [Mr. COHEN], 15 minutes.

The PRESIDING OFFICER. The Senator from Maine [Mr. COHEN] is recognized for 15 minutes.

Mr. COHEN. I thank the Senator for yielding.

Mr. President, I take the floor today not with a hope that we may change the ultimate outcome of the vote that will occur later this afternoon but at least to express my sense of frustration and opposition to the kind of double standard that is now being exhibited through the legislation proposed by the majority.

When the Iran-Contra scandal unfolded, the notion of a sale of weapons to Iran was in complete contradiction to the articulated public policy on the part of the Reagan administration, and many people, including myself, were justifiably outraged that we would have one public policy and a private policy that contradicted it.

When the diversion became a matter of public knowledge, it only compounded the sense of outrage that our system was being distorted or indeed perverted in a way that was inconsistent with our democratic values.

At that time, there were a number of committees that had jurisdiction—the Intelligence Committee, Foreign Relations Committee, and Armed Services Committee. There was the prospect there would be multiple investigations into these allegations about the wrongful sale and diversion of funds to the Nicaraguan contras.

At that time, the majority decided it should establish a select committee, and I recall the kind of calculation that was involved in resolving the composition of that committee. We in the minority sat back and waited to see whether the majority would appoint Members who were renowned for their partisanship and then we would respond in kind.

That did not occur. I think both leaders felt at that time that the Senate would distinguish itself only by appointing Members who would conduct those hearings in the most impartial fashion possible. That is outlined in the book that Senator MITCHELL and I coauthored called "Men of Zeal," and I will not take the time to quote from the specific passages, but I later will submit those for the RECORD, including recommendations how future investigations ought to be conducted when there are allegations of either misuse of Federal agencies or personnel or other types of inappropriate conduct by the executive branch.

The experience to date on Whitewater is quite different. From the very beginning, the majority has said we do not care what the allegations are; there will be no hearings, period. The Justice Department is conducting whatever investigations are appropriate.

It was only after there were certain revelations that perhaps the Justice Department was not as independent as it portrayed itself to be that finally the majority relented, and I might point out it has taken this Congress and this Senate longer to agree to appoint a committee or to authorize a committee to investigate the allegations than it did to conduct the entire Iran-Contra investigation. The entire investigation was conducted within a 9-month period. Discussions over Whitewater hearings began last October, and we still do not know if hearings can be set up by August because we do not know whether the special prosecutor will complete his investigation by that time.

But in any event, we finally found the majority willing to appoint a special prosecutor. But then the argument became now with the special prosecutor you cannot have any hearings whatsoever. In my judgment, at that time, no Whitewater allegations rose to a level of criminal misconduct. The majority said you can have a special prosecutor and we agreed because that is all we could get.

But, of course, the special prosecutor investigation is conducted in private. It is conducted in a courtroom in which cameras are not allowed, and everyone in this Chamber knows that the public does not have as great an appreciation or understanding of the issues involved unless they can see them, unless they can look at the witnesses, unless they can make some assessment as to the truth or veracity or lack thereof on the part of any given witness. Only when the public can see them discussed and debated openly do they really understand the depth of the issues. Of course, if you have a special prosecutor, you never get to see that. You will read about it and, indeed, I wonder how many have bothered to read the final report that was filed by independent counsel, Mr. Walsh, Judge Walsh. I doubt if few beyond this beltway, maybe not within the beltway, ever bothered to read it.

So everybody understands, if you can just keep the people away from congressional hearings, whatever the outcome, the special prosecutor will have a minimal effect, if any at all.

I must say with respect to Iran-Contra that, had the Congress at that time yielded to Judge Walsh, who said, "Please, don't go forward with your hearings," I doubt very much whether the public would have had the same understanding of the gravity of the issues involved in that scandal. During those hearings, we learned not only was there a sale of weapons to Iran, a terrorist country, and a diversion of funds to the Nicaraguan Contras, in violation of the Boland amendments. I believe there was a violation of the Boland amendments, and I think the courts agreed on that issue. A separate, off-the-shelf, stand-alone, self-sustaining capability to carry out future covert activity was created, as we recall Colonel North telling us before the cameras at that time.

I think one of the most dangerous aspects of that entire event was the creation of a private, stand-alone, self-sustaining covert capability that undermined the foundation of our democratic system that might not have been revealed until long after President Reagan and maybe even President Bush left office.

So it was imperative that the Congress exercised its constitutional responsibility under those circumstances as we did. But in view of what happened, because Colonel North's conviction was overturned and that of Admiral Poindexter because of the use of their testimony, Congress has reacted with some caution, as I think it is appropriate.

I think it is appropriate that we try to take into account the needs and responsibilities of the special counsel.

I attended the meeting with Mr. Fiske and Senator D'AMATO, my colleague from New York. I believe we reached an understanding at that time; namely, that he should be allowed to proceed with—we should not call it the first phase, because he is conducting the investigation simultaneously—that aspect of his investigation that surrounded allegations that pertained to the President and his administration since the time he took office. That was the understanding about the Washington aspect of his investigation.

And I might point out, by the way, that he felt that he could conclude that aspect of his investigation "within a few weeks," were his exact words. That was back, as I recall, in either early or mid-March. So it is not a few weeks. It is March, it is April, it is May, it is June, and now we are told it is July. But, fair enough, if it takes that long to conduct his investigation.

But we said we would not grant any immunity to any of the witnesses and that we would try to structure the hearings and, as I recall, I insisted upon the words "structure and sequence the hearings" so as not to either interfere with or undermine his investigation.

The majority leader has taken the position that we cannot even begin to hold hearings until Mr. Fiske has completed the subject of his investigation, the so-called Washington matter. But the Washington matter has been confined to three specific areas.

That was not my understanding of the agreement that we reached with Mr. Fiske. We said that we would defer our investigation or call for hearings until such time as he completed his investigation into those matters that pertained to the time the President took office. And, frankly, I think that is the way it should be structured. Let the special prosecutor go back 10 years or however long in the past, let him do that without interference or hindrance on the part of Congress.

But we did not at any time understand that to mean we would only be limited to three specific subject matters.

The majority leader has interpreted this Washington matter as only that which occurred in Washington. I find that hard to comprehend. If something occurred in Virginia or Maryland or perhaps St. Louis or Kansas City, then it is out of bounds? That clearly was not the understanding that Senator D'AMATO and Mr. Fiske and I reached at that time.

So now we have the situation that, I suggest respectfully, the majority has taken us back to October of last year—no hearings into the subject matters that the minority would like to investigate under any circumstances, because now we have delegated to the special prosecutor not only the timing as to when we can hold hearings—we cannot begin until he says so—but now we also delegated to him the responsibility of deciding what we can investigate.

So we have the ironic situation where we have to wait for Mr. Fiske to complete every aspect of the so-called Washington matter, which is strictly confined to events in Washington, DC, and we also have to abide by his determination as to what is important and what is not important, because if he has not investigated it, we cannot investigate it.

I have never heard of anything as restrictive as this. The special prosecutor defines when and what. And if he does not investigate, Congress is out of bounds, it can not investigate. That is the interpretation the majority is now offering the U.S. Senate?

I think it is unprecedented, Mr. President. I think it is clearly a partisan ploy. And so let us not have the cry that it is simply raw politics being played over on this side of the aisle. It is politics being played on both sides of the aisle. We ought to understand that.

The majority is concerned that there are Members over here who would like to embarrass the President. That may be; that may be. I have stated time and time again that I personally do not want to see the President embarrassed. I hope he will not be embarrassed.

But I have also taken the position that, if you have nothing to hide, you have nothing to fear. If there is nothing out there, then do not be worried about it. If there is nothing to embarrass the President about, he will not be embarrassed.

Do you know who will be embarrassed? We will be embarrassed. Any Republican Member who seeks to make something out of nothing, who seeks to exploit an issue solely for the purpose of causing embarrassment to the President of the United States, the public will react to that. The camera does not lie. The public will be able to look in on those proceedings and see that this individual or that individual is not interested in finding the facts but simply trying to trash the President or the First Lady. We will receive an overwhelmingly negative reaction if that is the goal and motive in the procedure and the tactics that are adopted by the minority.

Mr. President, nothing that I say here today is going to change the outcome, because we are talking about something called pure power. The precedent is being set that, in the future, if there is ever a special counsel or independent counsel who has been appointed to investigate allegations of wrongdoing or misuse of power or authority or agencies or personnel, once that independent counsel has been appointed, Congress can no longer hold hearings on that subject matter. That is the precedent being set.

Second, if Congress is going to be allowed to hold hearings, it can only inquire into those areas that the independent counsel has inquired into and none other. That, too, is a precedent being set here today.

Last week, I said that is a very dangerous precedent. I want to modify that because I do not think precedents count much anymore. I do not think precedents mean anything anymore, not in this body.

Because being in the majority means never having to say you are sorry or to be bound by the rules, because you make the rules. Whatever the majority says, that is what the rule is going to be and we do not care about setting a precedent, ignoring a precedent, or overturning a precedent.

Sometime in the future, Mr. President, be it 1994 or 1996 or the year 2000, the majority in the Senate is going to change, and once again so will the rules change. I think it is unfortunate. I think something is being lost in this institution by what we are going through right now, because I think what we are witnessing is a turning of the Senate into something akin to the House of Representatives, where the majority can fill up the tree when it comes time to debating a President's stimulus package, or block every single amendment offered on this side by simply having recognition of the majority leader to offer a second-degree amendment and therefore, be prevented from voting on Republican amendments.

I must tell you, when that happens, when you do that, you will prevail on this today, but when you do that, you are succeeding in hardening the hearts and the spirits of some of us on this side who have dedicated their careers to working toward the middle, toward seeking compromise, of moderation, of working with the majority to come up with what we believe to be in the best interest of the people of this country. It may very well, in my judgment, affect the way in which we react and respond to the majority in other areas that are of interest to this country. That is not going to bode well for the country. It is not going to bode well for the Senate. I suggest it is likely to be the legacy of this Congress, that we took the Senate as an institution that we had loved in the past and which revered the rights of the minority in the past and protected them, and we started down the road of turning this body into another one which will not bear much resemblance to what it used to be.

Mr. President, I say this with some regret. I thought the amendment that was offered by my colleague from New York went too far in requesting too much. I feel the majority leader's proposal is much too restrictive. I felt there were legitimate areas the minority should be allowed to question and to structure the committee investigation in a way that would produce the best possible results.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. D'AMATO. I yield the Senator from Maine an additional 2 minutes.

The PRESIDING OFFICER. The Senator from Maine is recognized for an additional 2 minutes.

Mr. COHEN. I say this on a note of regret. What I see taking place in this institution is more partisanship, more polarization, more backbiting, less willingness to accommodate the interests of the other, less willingness to work out our differences—and an eagerness, perhaps, to throw down the line saying this is all you are going to get.

If that is going to be the case for the duration of this Congress, I suspect it is going to spill over to the next Congress because the numbers are likely to change. We may pick up a few seats. We may pick up perhaps even a majority. Then the tables will be turned. And when the argument is made of appealing to the majority at that time, there will be a stone ear. I do not think that would be in the best interests of this body. It would certainly not be in the best interests of the country. I think we ought to strive to reach an accommodation. We have not done that to date. It has been majority rule. They have said, "We dictate, these are our rules, take it or leave it." That should not be the legacy that we leave for this institution.

I yield the remainder of my time.

The PRESIDING OFFICER. Who seeks recognition? The Chair recognizes the Senator from New York, [Mr. D'AMATO].

Mr. D'AMATO. Mr. President, we are under a rather strict time limitation. I have a number of colleagues who indicated they would like to speak to this issue. The fact is, some of them are not here. Up until now we have used their time. There is no one present on the other side. I understand, if we go into a quorum call, time will be deducted, is that right, equally from each side?

The PRESIDING OFFICER. The Chair would advise that the time is deducted against the time allotted to the side that requests the quorum call unless unanimous consent agreement has been sought.

Mr. D'AMATO. I believe there has been a unanimous consent propounded, and I submit again, in the interests of fairness, that the time be deducted equally from both sides.

The PRESIDING OFFICER. The Chair will advise the Senator, that is done on a case-by-case basis.

Mr. D'AMATO. I renew my request. I suggest the absence of a quorum, and I request that time be deducted equally from both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MATHEWS). Without objection, it is so ordered.

The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, on March 17 of this year I received a letter from the Office of Thrift Supervision, from Jonathan Fiechter, the Acting Director. Mr. Fiechter sent me this letter in response to a New York Times article which appeared the day before. Quite unusual.

I ask unanimous consent that a copy of the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THRIFT SUPERVISION,
Washington, DC, March 17, 1994.
Hon. ALFONSE M. D'AMATO,
Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR D'AMATO: I am writing you to respond to inaccuracies that appeared in a March 16, 1994 "New York Times" article regarding enforcement decisions it is asserted I made related to Madison Guaranty Savings and Loan. Although OTS does not ordinarily make an effort to point out inaccuracies in press articles, because this article has generated significant media and Congressional interest, I believe the effort here is worthwhile. My response must be limited, however, because it is OTS policy (similar to that of other agencies with enforcement powers) to refrain from discussing whether or not an enforcement action is underway or was ever contemplated or rejected.

The article contains a report that OTS (specifically, myself and the Acting Chief Counsel) turned down a request from a senior lawyer in the Midwest region to open a formal investigation into Madison Guaranty Savings and Loan. The article goes on to imply that this decision was made in consultation with senior political appointees at the Treasury Department, because the Chief Counsel and I "rarely make major decisions without high-level consultations."

First, contrary to the statement in the article, in my fifteen months as Acting Director, I have never been a party to any decisions either to initiate or not to initiate any investigations involving thrift institutions. My involvement in enforcement actions occurs only at the end of the process, after an investigation is completed, and a notice of charges or a consent agreement is presented to me for decision.

Second, formal investigations are proposed by regional exam staff in consultation with regional enforcement attorneys, considered by the enforcement review committee and regional director of the region in which the thrift is located, and, if approved, forwarded to the Chief Counsel for concurrence in consultation with the Deputy Director for Regional Operations.

Third, neither I nor OTS staff consult with Treasury Department officials on enforcement actions. The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) specifically prohibited such consultations, and we have adhered scrupulously to this requirement.

The OTS is a bureau of Treasury. I report to Frank Newman, Under Secretary of the Treasury. The only conversation I have ever had with Treasury regarding OTS enforcement activities relating to Madison occurred on March 16, 1994 when Mr. Newman mentioned the New York Times article and asked whether I had ever consulted with anyone at Treasury regarding any investigations or enforcement actions. I assured him that I had not had any conversations with Treasury officials on enforcement-related activities regarding Madison and that I was unaware of any conversation or memoranda between OTS staff and Treasury on this subject.

The staff of the Office of Thrift Supervision has worked diligently since the passage of FIRREA to restore the credibility of the thrift regulatory function and to clean up the thrift industry. Your committee has been supportive of our efforts. While it is always possible to second guess our decisions, I believe we have done a credible job of carrying out our mission. Our decisions have been based solely on the facts as we know them, applicable law, and the agency's supervisory objectives.

Sincerely,
JONATHAN L. FIECHTER,
Acting Director.

Mr. D'AMATO. Mr. President, according to the March 16, 1994, article in the New York Times, the Office of Thrift Supervision, Jonathan Fiechter and acting counsel Carolyn Lieberman turned down a request from a senior lawyer in the Midwest region to open a formal investigation into Madison.

I bring this up because this is the matter to which my distinguished colleague from Pennsylvania, Senator SPECTER, referred. He referred to, as it related to OTS, why the actions taken subsequent to President Clinton taking office were not covered in the scope of the hearing.

We are talking about whether or not people in the administration, in the executive department, used their power to attempt to impede an investigation.

Mr. President, is that a legitimate inquiry? Of course it is. On what basis could you possibly say that there should not be an inquiry of that matter? And, indeed, if Mr. Fiske completes his investigation—by the way, I do not concede this should be the case but even under the assumptions put forth by the Democratic leader that before you can look into anything, Mr. Fiske has to sign off—then why should not the actions of the Office of Thrift Supervision be looked into?

Whether or not there is merit in the article of the 16th where Mr. Brian McCormally, as a senior lawyer from the Midwest region and a top law enforcement official in OTS, apparently requested to open, and I quote, "a broadened investigation of Madison." The article does say that "two reports to senior political appointees at the Treasury Department were made."

The article says that they were turned down. Mr. Fiechter says that never happened; that he certainly was not involved and he sent me a letter advising us of that.

It seems to us that it is not a fishing expedition to ascertain exactly what took place. The Senator from Pennsylvania [Mr. SPECTER], is absolutely correct. We have a right to know, the American people have a right to know if Mr. McCormally was quoted inaccurately or if there was an attempt to stop a legitimate inquiry from being made relating to Whitewater? Was that undertaken by people from Treasury? Was Mr. Fiechter involved? He said he was not. I believe him. Who, if anybody was? Was this just a false rumor?

Should we not have the ability to call Mr. McCormally before the committee and ascertain exactly what took place? Why would this be outside the scope of a hearing, a legitimate hearing? Is it because we are involved in a coverup? And I use that word, because I believe that there has been no explanation to date as to why the Office of Thrift Supervision, the Federal Deposit Insurance Corporation and their employees did not follow through. They may or may not have been asked not to go forward with an investigation that they normally would have. Why would we not have the ability to make that kind of inquiry?

Here we have an assertion that Mr. McCormally, a lawyer working for the Office of Thrift Supervision, made a request to open up an investigation into Madison, and that it was turned down. The article goes on to say that Treasury, and it quotes unnamed senior political appointees, rarely makes major decisions without high-level consultations. I do not think that is startling. Do you really believe that they undertake these kinds of decisions without consultation? Do we not have a right to ascertain who at Treasury may have been consulted, and what they did or did not do? Is that not a legitimate scope of a hearing?

I say that Senator SPECTER is absolutely correct, and that is just one little aspect that needs to be answered. Why are we looking to deny legitimate hearings by excluding the Office of Thrift Supervision and the activities undertaken after the induction of President Clinton into the White House?

I understand the argument that can be made that we do not want to impede other investigations. But if the so-called Washington phase has been completed, then why can we not look into this matter? Why would you want to have hearings that preclude us? And by the way, if we go forward with hearings, I will tell you that I will push this issue, there is no doubt about it, because there cannot be any legitimate purpose if we do not have the ability to ascertain truth or falsity and to ascertain whether or not there has been an abuse of power by the administration.

We have a right to know. The people have a right to know. I have to tell you, I am not going to be silenced, nor are my colleagues going to be silenced, simply because one side has the votes. We still have in this country the ability to stand up and raise questions.

People may not like it. People may attack you for it. But I can tell you, I am going to continue to press because I know it is correct; I know it is proper. I know there would not be one outcry from the other side if we had a different situation, if we had a Republican President and we said you could not ask the Office of Thrift Supervision any questions relating to whether someone tried to impede an investigation from going forward after the new administration took office.

Can you imagine your colleagues saying: Oh no, you cannot ask that question. Ridiculous. But we are being told we cannot ask that question. Why? We are asking whether or not there has been an abuse of power, an attempt to stifle an investigation. Why can we not ask Treasury Department people about their possible contacts with the Office of Thrift Supervision and whether they kept them from looking into Madison?

That is what you are saying in this resolution. You cannot do it. Why? Did Mr. Fiske tell you you cannot look into this? He said: When I am done with my phase, you can do it. OK, fine. If he is done with his Washington phase, why can we not do it?

Do taxpayers not have the right to know whether agencies like the Office of Thrift Supervision, like the Office of Federal Deposit Insurance Corporation, were precluded from taking actions they normally would have taken except that there was political interference either by the Justice Department or by the Treasury Department? They do not have a right to know that?

That is what we are getting to, and that is exactly what the majority leader's resolution would stop us from doing, asking that kind of question.

Have they had secret meetings? Have they had contacts with the White House? Did they direct you to do certain things? People have a right to know. And yet we will not be able to pursue this. Just a little office like the Office of Thrift Supervision, just something that seems to me to be rather critical in this whole matter. Was there an abuse of power by the executive? Was there an attempt by the executive to stop a legitimate investigation from going forward into Whitewater/Madison as it related to the use of taxpayers' money?

Now, why would the OTS and the individuals who were involved not be asked whether or not they were permitted to do their job which is to ascertain whether or not Whitewater dollars were used illegally or whether taxpayers' money were used unreasonably, unethically, unfairly, and whether or not there was criminal and/or civil liability. Do you mean to tell me that speaking to the Treasury Department about that at a hearing and saying to a Treasury Department person: Did you have contact with the Office of Thrift Supervision—which is, by the way, part of them and they are allowed to operate in an independent manner. Can't we ask: Did you attempt to stifle them from going forward? Did you speak to Mr. McCormally? Did you speak to McCormally's supervisor? Did you tell them that no formal investigation could be opened up?

Do you mean to tell me we do not have the right to ask that question? What a lot of nonsense. What a lot of baloney. And I have to hear it is politics. I will tell you politics, politics on the Democratic side. It is a whitewash. We cannot even ask the Treasury Department whether or not they kept the Office of Thrift Supervision from doing their job after the President came into office. You mean to tell me that you are going to go forward and tell the American people that these are legitimate hearings? Nonsense. You may try, but you are not going to get away with it, absolutely not. And you can call me any name you want. You can deride me, et cetera, but I have to tell you something. We happen to be asking what is right and what is fair.

And there is politics involved. It is politics of a coverup. You would not dare attempt to impede an investigation of this type into a Republican President. No way. What else do you call what you are doing if it is not stonewalling?

Imagine, you cannot ask the Treasury Department whether or not they have had contacts and attempted to keep OTS from doing their job.

Now, I believe Fiechter. In his letter to me, he says he had no contact. I believe him. Were there others who did? Were there other people in Treasury who spoke to people in OTS that Mr. Fiechter may not have been aware of? Do we not have a right to know? And, by the way, if there was no one, then fine. Fine. But let us at least look into it. And that is one little area of the absurdity of the resolution which we are being asked to pass, which so limits the hearings that there will not be fair hearings.

Mr. President, I see that my colleague from Oklahoma, Senator NICKLES, is here. I yield the floor for 10 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank my friend and colleague from New York. I also wish to compliment him for his leadership and his statement that he has made this morning, as well as last week, on this issue. I would concur with the analysis of his statement. I think that if we pass Senator MITCHELL's resolution we will be doing a disservice to the Senate, a significant disservice to the Senate.

Today we will be closing another chapter in the ongoing Whitewater matter. And in this Senator's opinion, it has been a very disappointing chapter.

It did not start that way, and it certainly does not have to end that way. The Senate voted 98 to 0 last March 17 to conduct hearings on all matters related to Madison Guaranty Savings and Loan Association, Whitewater Development Corp., and Capital Management Services, Inc.

The distinguished leaders began good-faith negotiations on the appropriate timetable, procedure, and forum for those hearings.

The negotiations did not conclude successfully, and that is unfortunate. The leaders respectfully agreed to disagree. But that is not all that has happened.

After the distinguished Republican leader and the Senator from New York offered their resolution last month, the majority leader responded with his own resolution. That resolution represented a stunning reversal from the manner in which we conducted our oversight responsibilities during a whole host of matters during the last two administrations.

Those precedents include limiting the scope of the investigation to only three items, nothing having to do with the real issue of Whitewater, whether the Governor of Arkansas, Mr. Clinton, abused his power and contributed to the failure of a savings and loan that cost taxpayers more than $47 million.

Another precedent is what I call taking the Fiske, giving specific counsel appointed by the executive branch virtual veto power over the Senate's investigation of this matter. During the 14 years I have been in the Senate, the Senate has conducted or investigated at least 25 hearings having to do with alleged wrongdoings in the executive branch. Not once have we ever hid behind the independent counsel or special prosecutor. This is an alarming abrogation of our responsibilities.

That is not all. The majority leader, through the use of the second-degree amendments, refused to permit up-and-down votes to expand his resolution to include other aspects of the Whitewater matter. That is a serious infringement on the rights of the minority in the Senate, a very bad precedent for any majority leader to establish.

It has already been discussed here. Even the editorial pages of the New York Times last Friday took the majority to task for prolonging the uncertainty and raising the specter of a coverup.

I might mention, too—I said this last week; I urge my colleagues on both sides of the aisle to think about it—the procedures which the majority leader used last week could be repeated, it could be repeated on the other side. We may have a change in leadership in the Senate—maybe in 6 months. I would like to think that the minority would have the right to offer amendments and not automatically be in the second degree where their amendments are not even offered, and certainly to be in the second degree, not by amendments that are germane to the pending amendment offered by the minority and basically offering the same amendment 10 or 12 times.

Today, the Republican leader and the distinguished Senator from New York have offered a resolution that bends over backward to accommodate the majority. It simply expands the investigation in one additional area where anyone "engaged in the illegal, improper or unauthorized or unethical conduct related to Whitewater, Madison, or Capital Management Services since Bill Clinton took office as President of the United States."

This forces us to put aside for now some of the most important questions about Whitewater. Did Governor Clinton receive illegal campaign contributions from a federally chartered savings and loan? Were federally insured deposits diverted to pay Mr. Clinton's Whitewater debts? Did the Clintons use Whitewater to underreport their income and avoid paying income taxes? Did then-Governor Clinton pressure an SBA-backed company into giving him an illegal loan that he may have benefited from as a Whitewater investor?

Each of those questions is related to a specific criminal statute of the United States Code. Those questions have been around for more than 2 years since the New York Times first broke the Whitewater story on March 8, 1992.

The Senate has voted to prevent any serious discussion or investigation of these matters, even if they come up in hearings we have already voted to begin next month. We will just have to wait a little longer for the answers.

The choice we have today is twofold: Do the Whitewater hearings begin on July 22 or July 29? And do they actually look into any aspects of Whitewater? These hearings should have begun a long time ago.

The first revelations into Whitewater occurred more than 2 years ago. The most recent revelations began before Thanksgiving. On the first day of winter, our leader and the Senator from New York asked the Banking Committee to begin hearings into the matter. Here we are, exactly 6 months later, and we are still debating. We should be ashamed of ourselves for this procrastination.

Some have suggested that a broader resolution would somehow interfere with the special counsel's investigation. No one wants to interfere with his investigation, and I have confidence that the Banking Committee or a select committee would have proceeded responsibly.

But broader hearings can actually help the special counsel do his job. One of the important aspects of the special counsel's investigation occurred as the result of information learned at a Banking Committee oversight hearing. We learned about a February 2 meeting at the White House set up by Deputy Treasury Secretary Roger Altman to give them a heads up on a criminal referral. So those who suggest that the Banking Committee or any committee would not move ahead responsibly, I think, is wrong. The facts suggest otherwise.

As I look at the difference between the new Dole-D'Amato resolution, and the one approved by the Senate last week, the differences appear minor. But there are some important questions, related to the Washington phase of the Whitewater investigation, that the Senate may pursue. They are matters that could not be brought up, or would be covered up under the majority leader's resolution. For example:

Were records destroyed?

On March 21, exactly 3 months ago, U.S. News & World Report quoted two Rose law firm employees as claiming to have shredded a box of documents marked with the late Vince Foster's initials, after Robert Fiske's appointment earlier this year. Under the Dole-D'Amato resolution, we can and should resolve that matter.

Whitewater's tax returns:

According to the Washington Post on January 21 of this year, it was reported that prior to Vince Foster's death, he oversaw the preparation of 3 years' worth of Whitewater tax returns that were filed late. It is a violation of the United States Code for a subordinate Federal employee to perform personal services when he or she is supposed to be doing his or her official duties. But that is not the real issue. The Clinton's have repeatedly said they were passive investors in Whitewater. Yet after the 1992 election, they took responsibility for 3 years' worth of tax returns that were not filed. It is also against the law not to file tax returns. Those are important issues we can pursue under the Dole-D'Amato resolution, but not under the majority leader's resolution. We should be able to ask about those tax returns.

The actions of Arkansas U.S. attorney Paula Casey:

Paula Casey was a campaign volunteer for Bill Clinton. Her husband was appointed to a State job by then-Gov. Bill Clinton. She was confirmed by the Senate as U.S. attorney for the Eastern District of Arkansas. Sometime after September 29 last year, U.S. Attorney Casey received a criminal referral from the RTC. On October 27, before the matter became public, she advised the RTC of her decision to forego an investigation due to "insufficient information."

But just as soon as the criminal referral was reported in the media, she recused herself, just days later. That is a possible violation of Department of Justice rules governing recusals. That also smells of a coverup, and we need some answers. Under the Dole-D'Amato resolution—but not under the majority leader's resolution—we can investigate that matter.

And what about the unusual circumstances surrounding the subpoena issued by the Justice Department for the Clintons' Whitewater files?

On the very day President Clinton Voluntarily offered to turn over this Whitewater records to the Justice Department, his personal attorney, David Kendall, negotiated a subpoena for those records to prevent their release under the Freedom of Information Act. That is highly unusual, if not unprecedented. The President has said that disclosure is the order of the day, but his lawyer negotiated with his own Justice Department for a carefully ordered subpoena to avoid the release of documents. That smells of a coverup, and we deserve some answers, and the documents should be made public.

And speaking of answers, the Dole-D'Amato resolution, as I read it, would permit us to investigate statements made by the President, Mrs. Clinton, and White House spokespersons in their official capacity. We need to know whether White House officials have acted unethically or perhaps illegally in their public pronouncements. We need to know those answers.

In less than 3 hours, we will bring this chapter of the Whitewater matter to a close. The choice is a simple one: Do we begin the process of conducting a real investigation into one phase of the Whitewater matter, or do we wash our hands of our constitutional responsibilities?

If we fail to pass the Dole-D'Amato resolution, we will handcuff ourselves in violation of the spirit, if not the letter, of our March 17 resolution, which called for hearings into all matters related to Whitewater. We will perform a disservice to ourselves, through the incredibly bad precedents we set, including giving the special counsel veto power over our own investigation. We will perform a disservice to the President and Mrs. Clinton, who need to get this matter behind them, and quickly. But most importantly, we do a disservice to the people who sent us here to do a job.

We have a constitutional responsibility to conduct oversight over all matters related to the operations of Government. We have let them down. They deserve better, and it starts today with a "yes" vote on the Dole-D'Amato resolution.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. Before the Senator begins, the Chair notes that the Republican leader has 6 minutes 45 seconds remaining for debate.

The Senator from Alaska [Mr. MURKOWSKI], is recognized.

Mr. MURKOWSKI. Mr. President, I rise to speak in reluctant support of the compromise amendment that is now being offered by the Republican leader and the distinguished Senator from New York [Mr. D'AMATO].

I am supporting this amendment only because it provides a modest beginning for Senate hearings that will ultimately provide the public with some of the answers to questions concerning the Whitewater affair.

I would have preferred a broader makeup of the committee as originally proposed by Senator D'AMATO and Senator DOLE. A committee that was made up primarily of the banking members, but also had members from other committees who would have special expertise. For example, on the matter of the Foster death that occurred on Park Service land, a member or two from the Energy Committee that has oversight would have been appropriate. Several months ago, I requested of the Park Service a copy of their initial investigation, and that has been unavailable. In any event, we are left with—as a consequence of decisions made by the majority leader—a take it or leave it proposal, which is better than nothing.

Unfortunately, the problem we are facing, and the obligation we have to the American people, is that when we are through, we are not going to be able to answer the core questions surrounding Whitewater. The committee will not be able to determine why Madison failed; nor will it be able to determine if federally insured deposits at the failed Madison Guaranty Savings were diverted to Governor Clinton's 1984 campaign; nor will it be able to determine whether federally insured Madison deposits were diverted to pay the Clintons' share of their Whitewater debts; nor will it be able to determine whether after Madison became insolvent, if favoritism, conflict of interest, and a false financial audit presented to State regulators by the Rose law firm permitted Madison to remain open.

These questions will not be answered for the simple reasons that our colleagues on the other side of the aisle will not permit a full-blown investigation this year. It appears they are quite satisfied to stonewall on these issues for as long as possible in the hope that they can make it through the midterm elections without having to deal with damage-control related to Whitewater.

However, this strategy of delay, in my opinion, is sure to backfire. It guarantees that the Clinton administration will be mired in Whitewater politics in 1995 and possibly in 1996. It may be good short-term politics to delay Whitewater hearings, but in the long term, it is likely to cause even more serious problems for the administration.

Mr. President, Democratic stonewalling on Whitewater will not make the issue go away. Republicans may have lost 10 party line votes last week on broadening the scope of Whitewater hearings, but the persistence of the Democratic intransigence on this matter is beginning to be noted by the press.

We all read last Friday's New York Times, and the lead editorial, entitled "Running for Cover on Whitewater," put the issue of Whitewater hearings in blunt perspective when it stated in its opening sentence, "Senate Democrats are rushing toward a partisan cover-up of the Whitewater affair."

This is the same New York Times that endorsed President Clinton in 1992 and generally has been sympathetic to elected officials in the Democratic Party.

Would congressional hearings interfere with Special Counsel Fiske's investigation? As I have stated numerous times on the floor of the Senate, we have held hearings simultaneously with independent counsels in the cases involving Anne Burford and the EPA Superfund, Michael Deaver and Iran Contra, and BNL Bank, and BCCI.

As the Times noted in its editorial:

> It is hard to see how a broad congressional inquiry could seriously hinder [Mr. Fiske]. It might even help; past congressional hearings have made the prosecutor's case even stronger.

Finally, I note what the Times had to say about the piecemeal, drag-out approach to hearings that the Democratic majority repeatedly supported:

> This path does not serve the public or the President. It leaves unanswered questions that voters deserve to have answered. It prolongs the uncertainty that has damaged this Presidency from day one of the Whitewater affair and hands the GOP a new—and legitimate—cover-up issue.

Mr. President, I believe that a year from now the Democrats are going to regret that they have taken this staggered approach to the hearings. As I have said for months, it would be far better for the President and the public to find out the facts associated with Whitewater as soon as possible. We have to get this matter behind us. Further delay serves no one, least of all the President of the United States.

Mr. President, I ask unanimous consent that the June 17 New York Times editorial be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 17, 1994]

RUNNING FOR COVER ON WHITEWATER

Senate Democrats are rushing toward a partisan cover-up of the Whitewater affair. They have voted to hold narrowly circumscribed hearings in the Senate Banking Committee, which they dominate. They are therefore likely to prolong the agony of the President they hope to protect.

By a 56-to-43 vote, the Senate decided to limit hearings next month to three elements of the case. One is the U.S. Park Police's investigation into the death of Vincent Foster, Jr., the Deputy White House Counsel. Two, the way in which members of the White House staff disposed of Mr. Foster's Whitewater files. Three, whether the White House officials tried to manipulate Treasury Department investigations into Madison Guaranty Savings and Loan.

This agenda focuses only on White House behavior after Bill Clinton became President and excludes far more important questions about what happened in Arkansas before he and Mrs. Clinton reached the White House.

To recapitulate: Did James McDougal, a Clinton crony who headed Madison, receive favorable treatment from a bank regulator appointed by then-Gov. Bill Clinton? Were Madison funds used to pay off Mr. Clinton's 1984 campaign debt? Were funds in Madison accounts diverted to the Whitewater Development Company? How much did the Clintons pay for their half-share of Whitewater? Did they receive financial benefits that they should have reported as taxable income?

In short, the Democrats have chosen to ignore precisely those dealings that have raised suspicions that the Clintons may have profited from favors dispensed by people who had something to gain from them. They have also shown no interest in Mrs. Clinton's commodities trading, or the possibility that an artful broker may have given her favorable treatment. The special counsel investigating Whitewater, Robert Fiske, has likewise shown little interest in this issue.

The Democrats say their timid agenda results from a desire not to undermine Mr. Fiske's inquiries. They also promise to get to the Arkansas questions next year—safely after the midterm elections. In March, this page argued against a partisan circus and agreed that hearings should be delayed until Mr. Fiske got his feet on the ground. But we also said the delay should be measured in weeks, not months. Mr. Fiske has now had time to learn the basics of the case, both in Washington and Arkansas; it is hard to see how a broad Congressional inquiry could seriously hinder him. It might even help; past Congressional hearings have made the prosecutor's case even stronger.

We also noted that Mr. Fiske could not expect Congress to abdicate its oversight responsibilities. The banking committees have a legitimate interest in the behavior of Federal bank regulators and the Arkansas bank regulators in regard to Madison and its dubious lending practices.

House Democrats are expected to follow the Senate's narrow path. This path does not serve the public or the President. It leaves unanswered questions that voters deserve to have answered. It prolongs the uncertainty that has damaged this Presidency from day one of the Whitewater affair and hands the G.O.P. a new—and legitimate—cover-up issue.

Mr. MURKOWSKI. Mr. President, I yield the floor.

Mr. D'AMATO. Mr. President, How much time do I have?

The PRESIDING OFFICER. The Senator has 1 minute 30 seconds remaining.

Mr. D'AMATO. Mr. President, I will ask that when we go into a quorum call, that we not charge the time equally. We have no time. I ask that I be permitted to save our 1 minute 30 seconds until the last 10 minutes before we vote, and that any quorum call at the time be charged against Senator MITCHELL's time.

The PRESIDING OFFICER. Is there objection to the request?

Mr. PRYOR. Mr. President, reserving the right to object, I do not understand why the quorum call should be charged against Senator MITCHELL's time. The Republicans have been on the floor all morning speaking on this, and if they want to charge the time equally——

Mr. D'AMATO. Mr. President, I only wanted to save the remaining 1 minute 30 seconds. The impact of it is to say that you will permit me to keep my 1 minute 30 seconds down to the last 10 minutes; that is why. Senator MITCHELL was not here. I would have preferred that he or other Democrats be on the floor, but I understand there is pressing business. I am only trying to preserve the 1 minute 30 seconds that I have so I might speak before we conclude at 1 o'clock. Otherwise, as soon as a quorum call goes in, if the time is charged equally, I will have no time remaining.

Mr. PRYOR. Mr. President, the majority has no hesitation in allowing Senator D'AMATO from New York to reserve 1 minute 30 seconds to close. But we want the Senator to know and the Senate to know that we do have a time certain to vote on this particular matter.

Mr. D'AMATO. I thank my colleague.

The PRESIDING OFFICER. The time of the Senator from New York is reserved.

Mr. PRYOR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I ask unanimous consent that I be allowed to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized.

NORTH KOREA: TIME TO GIVE DIPLOMACY A CHANCE

Mr. PELL. Mr. President, President Jimmy Carter's recent meetings with the North Korean President Kim Il-sung provide a welcome breathing space for diplomacy to resume between the United States and North Korea.

Until the agreements achieved by President Carter, I had become concerned that the situation was heating up to an intensity that was leading us once again to war on the Korean Peninsula.

I hope President Clinton welcomes the progress made by President Carter and builds upon it.

Certainly, the situation was, and remains dire. The North Koreans had withdrawn at an accelerated rate fuel rods from their 25-megawatt thermal reactor at Yongbyon, leading to speculation that they would shortly begin reprocessing into plutonium a substantial amount of nuclear fuel. At the same time they had hindered the work of International Atomic Energy Agency [IAEA] inspectors who were trying to maintain the continuity of existing nuclear safeguards and to verify possible previous North Korean nuclear activities. As a result, the United States had begun consultations with U.N. Security Council members with the goal of phasing in a series of sanctions against North Korea.

It is against this backdrop that President Clinton's decision to endorse the visit by former President Carter to North Korea must be seen. President Carter's political background, as well as his prior military training in the nuclear field, and his role as an international conflict mediator through his work at the Carter Center in Atlanta gave him unique qualities for this very special mission.

By gaining North Korean agreement to freeze their nuclear program while discussions with the United States resume, an agreement to permit joint American-North Korean teams to search for the remains of missing-in-action from the Korean war, and in addition to renew the North-South dialog which the North Koreans had called off last November, President Carter has achieved a significant breathing space that must now be enlarged through additional diplomacy.

The ball is now in the North Korean court as a result of their promises to President Carter. While the North Koreans gained the prestige of an American President visiting their homeland, the visit provided them with a face-saving means to maintain IAEA safeguards without having appeared to have given into the threat of American sanctions. The publicity attendant to President Carter's trip now puts the onus upon the North Koreans to fulfill their promises to the former President.

The Clinton administration is now in the process of following through on these promises. While it is by no means the end of the North Korean crisis, it is a major opportunity to test North Korean intentions. There can be no doubt that the negotiations will be long and protracted, but as long as IAEA inspectors remain on duty and nuclear fuel rods are not removed from the pools where they now lie cooling, President Carter should be applauded for giving the world more breathing space from the brink of war.

As I said, I hope that President Clinton will welcome the progress made by President Carter and seek to build upon it.

AUTHORIZING OVERSIGHT HEARINGS BY THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

The Senate continued with the consideration of the resolution.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, as we return now to the so-called Whitewater debate on the floor of the Senate, I would like, if I might, Mr. President, for a few moments to outline basically where we have been in this debate, where we are now, and, hopefully, where we intend to go.

First, I would like to state that it appears that our colleagues, for one reason or another, have some sort of fixation attached to the issue of the so-called Whitewater affair. This fixation is demonstrated in the simple fact that the U.S. Senate has been in session 73 days this year and that our colleagues on the other side of the aisle have taken to the floor of the U.S. Senate and they have made some 62 speeches, 62 appearances, taking up the time of the U.S. Senate to basically forge a political issue and to promote a political goal.

Mr. President, this debate today is certainly not and should not be couched in what would be the limitations or the restrictions of a hearing relative to the Whitewater affair. At least that should be very clear in all of our minds by now. The Whitewater issue, Mr. President, has been voted on on nine separate occasions, including language which is going to provide for the avenue for additional hearings into additional matters that relate to the Whitewater issue. On many occasions on the floor of the U.S. Senate, the distinguished majority leader has stated over and over and over again that, one, we will meet our constitutional obligation as a Senate to get to the bottom of this issue; two, that we will at all times adhere to the original agreement adopted by a vote of 98 to nothing on March 17; and that we will continue to follow the advice and the admonition of Mr. Robert Fiske, the special counsel or the special investigator into the Whitewater matter. And that admonition, Mr. President, is something we know. It is something our colleagues on the Republican side of the aisle know. That admonition is very simply not to begin an investigation in Congress until phase I of the Fiske investigation has been concluded.

It seems that we would learn from past mistakes of the legislative branch being too eager to move into areas while another investigation is being held into a similar matter. We should have learned that lesson from the Iran-Contra matter. I would like to quote from an editorial, Sunday, June 19, 1994, from the Washington Post. I will only quote the last two paragraphs from this particular editorial.

> While the proposed hearings will cover events in the Clinton Presidency, the Senate majority leader has given assurances of additional hearings on issues that cover the Clintons' political and business lives before the White House. It is no abdication of Congress' oversight responsibility to be mindful of the pitfalls of simultaneous probes.

The final paragraph from the editorial:

> Congress ought to avoid hearings that might interfere with the prosecutorial efforts to compile admissible evidence leading to convictions. Iran-Contra taught that lesson. Why the rush? The Clintons aren't going anywhere. Senate Democrats should hold firm.

Once again, on nine occasions this body has voted and stated that we will hold additional hearings at the appropriate time relating to any and all issues in the Whitewater matter. Also, I think it should be noted at this particular time that the special counsel, Mr. Fiske, in writing to the Senate Banking Committee on March 7, requested that:

> [The] committee not conduct any hearings in the areas covered by the grand jury's ongoing investigation, both in order to avoid compromising that investigation and in order to further the public interest in preserving fairness, thoroughness, confidentiality of the grand jury process.

Mr. President, I think that the resolution that has been proposed by the majority leader is not only a proposal that deals in good faith, I think it deals in good common sense. It will protect the testimony of those individuals who might or might not be called before a grand jury. It also provides for an effort, a concentrated effort, to find every possible and conceivable fact and put out in the open those facts that might relate to the Whitewater issue.

Once again, our majority leader has repeatedly emphasized in his public and private statements that he and the Senate are and have been firmly committed to meeting the constitutional obligation to conduct oversight and committed to full and complete public hearings.

Also, I do think—without questioning the motivation behind any of the language as proposed by our Republican friends on the other side of the aisle—I do think what would be happening, should we adopt the resolution offered by the Senator from New York and the Senator from Kansas, the minority leader, is without question this would lead this body and the Senate Banking Committee off on a fishing expedition; a fishing expedition into any activity by any person which is illegal, improper, unauthorized or unethical, which is related to the Whitewater matters and occurred after January 20, 1994.

The inclusion of the words "improper" and "unauthorized acts," is a particularly broad and vague description of what would be the authority of the particular committee, the Banking Committee in this instance, in dealing with this issue. I think this language might well expand—broaden the scope of these hearings into matters potentially under investigation as part of the ongoing inquiry by the special counsel in Little Rock and elsewhere. On the other hand, the majority leader's resolution provides for the hearings to conclude and for a report to be made to the Senate by the end of this session of Congress. The Republican resolution is open-ended. There is no requirement for the committee to complete its work on any particular date. It could go next year, the following year, the year after that, and into the next century, theoretically, if the Republican resolution were to be adopted.

I also believe that we are facing an issue before the Senate at this time where we must step back and once again look at what has really happened, and not fall victim to some of the hyped-up allegations that we are hearing from the other side of the aisle. Many times on the floor of this body in the last several weeks we have heard the word "coverup." We have heard the words, "political crony." We have heard the question, "What do they have to hide?" The best of all I think, Mr. President, is when one of our colleagues on the other side of the aisle have indicated that the real reason for this issue surfacing on the floor of the Senate at this time is to come to the aid of the President, to try to help the President through this particular issue—so he can have a successful administration, which I suppose is the inference we would draw.

I would like to address that for just a moment. I would like to state this President, I think—and I totally believe the American people feel—has forcefully addressed the questions which have arisen in the so-called Whitewater issue. The President of the United States has faced questions from the media on many occasions, including a major press conference that the President held just on the issue of Whitewater. All of us remember that press conference. In fact, I found there were very few questions posed by the media during that particular hour in that historic press conference that really went to the heart of what Whitewater was all about. I thought the President handled himself well and, in fact, I think the media description of the President's reaction to the questions was very, very fair indeed. He reassured the American people. He has taken the necessary steps to assure there will not even be an appearance of interference that might be wrong in the investigation by anyone in the White House.

The First Lady has also addressed this matter in an unprecedented and extensive major press conference back, I believe, during the month of May, when Mrs. Clinton appeared before a national press audience and was interrogated about her role or alleged role in the Whitewater events. I strongly feel she answered those questions directly and honestly while looking us and the camera right in the eyes. Mrs. Clinton answered those questions proposed recently by special counsel Robert Fiske, under oath, for over an hour. This was in an interview in the White House.

The President and Mrs. Clinton have now appeared before Mr. Fiske, and we believe strongly on this side of the aisle that this part of the investigation should not be damaged, it should not be compromised by any action that the U.S. Senate might take. Let us all be assured that the investigation by the special counsel is continuing.

It is an ongoing investigation. It is an ongoing investigation where we are about to see, if I am not mistaken, the conclusion of phase I of the investigation. Therefore, under the agreement that we have with Mr. Fiske, it will soon be time for us in the legislative branch to look into the facts in phase I of this particular matter.

Let us remind our colleagues on the other side of the aisle that the special counsel in this case is a Republican. He is not a Democrat. This is a serious matter and Mr. Fiske is a serious man. Mr. Fiske is a man of unquestioned ability as a prosecutor, as an attorney. Once again, he is a Republican. In fact, when his appointment was made, our friend, the Senator from New York, was the very first Senator who came forward to express his unqualified support for this appointment. Senator D'AMATO said that "He"—Mr. Fiske—"is a man of uncompromising integrity and he will unearth the truth for the American people."

These are the words of the Senator from New York. Mr. President, I will only state as a follow-on that we need to allow Robert Fiske, the special counsel, to continue to do that job. Many of the same individuals, many of the same Republican Senators on this side of the aisle who called for a special counsel shifted their partisan gears as soon as he was named and began to call for immediate congressional hearings simultaneous to the investigation that was being conducted by Mr. Fiske even at that particular moment.

Even in the face of that very counsel's opposition to any simultaneous Whitewater hearings, Republicans continued to come to the floor of the Senate—in fact, on 62 occasions—on 62 occasions, in 62 speeches, they have come to the floor and said, "Oh, we have to have full-fledged immediate hearings." It does not matter that the special counsel is in the process of conducting a hearing. It does not matter that what the Senate might do could actually compromise the evidence, and the statements and the information that are being taken at this point and in this particular phase, by Mr. Fiske.

Even in the face of the counsel's opposition to any hearings that go beyond the scope of what we have agreed to on March 17, our Republican colleagues on the other side of the aisle, on 62 occasions, I remind the Presiding Officer and our colleagues, continue to demand that the Congress go forward in a way that risks damage to the investigation which the special counsel has begun.

There is another little thing that is happening over here, and I think I ought to make note of it. I am sorry that my friend, Senator NICKLES from Oklahoma, is no longer on the floor. Every few hours or so, there seems to be a pattern that has developed, a pattern of throwing someone's name out. Maybe just a little raw meat from time to time they throw out on the floor and indicate maybe that someone has done something wrong.

We can say anything on the floor of this Senate about anyone. We are protected. We have immunity. Now, if we go outside of this Chamber, if we go out in front of this Capitol, on the steps of this Capitol in the public forum, then we can be held accountable. We can be held accountable as individuals. No longer are we given the protective cloak of "speech and debate" that we have while we are in the so-called sanctity of the Chamber of the U.S. Senate.

Senator NICKLES a while ago just threw out the name of Paula Casey, U.S. attorney in Little Rock. "Maybe we better look at Paula Casey, the U.S. attorney down there in Little Rock. Let's see if she didn't do something wrong in the handling of this particular matter," he said.

Our friend from North Carolina, Senator FAIRCLOTH, last week got up on the floor and started castigating a fine person, a fine lawyer, one who has done her duty as a public official, as a public servant in the State of Arkansas, Beverly Bassett Schaffer, who is known throughout our State as one of the most prominent female lawyers in our State; in fact, one of the most prominent lawyers in our State. Always throwing someone's name out to be used as a matter of public speculation in the sense that perhaps they have done something wrong, maybe we ought to look at them.

But the bottom line, Mr. President, in this debate is that in the Republican resolution there would be no breaks; there would be no restrictions; the sky would be the limit; there would be no reporting date, no date to conclude the hearings, no time certain for a report to the U.S. Senate on the findings—a total open-ended proposition as offered by the Senator from New York and his colleagues on the floor of the Senate.

Mr. D'AMATO. Mr. President, will——

Mr. PRYOR. I will not yield at this time. The Senator from New York, by the way——

Mr. D'AMATO. I was just wondering if my distinguished colleague will yield for a question on that point.

Mr. PRYOR. I am going to conclude my remarks first.

Mr. D'AMATO. Certainly.

Mr. PRYOR. I am going to conclude my remarks, but I want to first note that the Senator from New York has already spoken 19 times on Whitewater, on the issue.

Mr. D'AMATO. I just was wondering if the Senator would yield for a question at some point.

Mr. PRYOR. The Senator from New York can ask the Senator from Arkansas a question when the Senator from Arkansas finishes his statement.

Mr. D'AMATO. Certainly.

Mr. PRYOR. I, frankly, am about through with my statement, Mr. President.

The PRESIDING OFFICER. The Senator from Arkansas has the floor.

Mr. PRYOR. Mr. President, I have heard a lot of times on the floor also about, "Well, here's what we did in Watergate; we had a broad umbrella of issues that we could look into." Then we hear a lot about—from this side of the aisle—what we did in the Iran-Contra hearings.

Once again, a huge umbrella of what we could look at. But, Mr. President, each of those instances relative to Watergate, relative to Iran-Contra, were issues that impacted and related directly to the issue of national security—national security.

This issue of Whitewater is not an issue of national security, to the best of our knowledge. No one has ever even brought up that it should be looked upon in the same vein or with the same degree of concern that we all had in years past with Iran-Contra and also with Watergate.

Mr. President, this afternoon should conclude what we must do, once again, to exercise our obligation, to recognize that obligation. The majority leader certainly on this side has stated that we recognize that obligation and that we have to deal with it, and we are going to deal with it. We have proposed the way to deal with it. We have proposed the timing of how it should be dealt with, and we think that timing, Mr. President, represents a good approach, a sound approach, and an approach that the American people will accept.

I think the Senator from New York had a question. I will be glad to yield for a question.

(Mrs. MURRAY assumed the chair.)

Mr. D'AMATO. Certainly. I thank my colleague for that. I do not question the sincerity of my colleague's arguments. We are saying that when Mr. Fiske has completed the Washington phase of his investigation, we can then go forward in those matters covered. Then why would we not permit the committee, whichever committee is set up to hold these hearings, to examine whether or not the Office of Thrift Supervision—OTS—has had anyone interfere or attempt to interfere with a possible investigation of Madison? And we are talking about after January 20, 1994. So we are not talking about going into matters prior to the administration taking office. But the question is whether or not there was any attempt by anyone from Treasury that attempted to preclude Mr. McCormally from going forward. I do not know whether this was the case, because Mr. Fiechter wrote to me and said that he certainly never met with Mr. McCormally. Would we not be interested in ascertaining this information?

The leader's resolution or amendment does not give us the ability to examine it. Does the Senator think that that would be within our scope?

Mr. PRYOR. Madam President, I am very glad that the Senator from New York has posed that question, and I would answer that with two quick points.

One, Mr. Fiske has not indicated that those issues raised by the Senator from New York are issues that he will be looking at in the first phase of his investigation. Therefore, for us to move forward with an investigation into the matter that the Senator from New York has raised on that subject I think could possibly impede the investigation being conducted by Mr. Fiske and ultimately perhaps by the grand jury.

Second, I might say, Madam President, in response to the Senator from New York, what we are faced with here is not a question of limiting an investigation, as I have stated in my remarks and as the majority leader has stated in his remarks and as we have voted on eight or nine times, I think it is eight times by the majority of the Senate. We are not limiting this debate. We are only limiting this phase of the debate.

Mr. D'AMATO. To the Washington aspect.

Mr. PRYOR. That is correct. And this is a proper thing to do at this particular time.

Mr. D'AMATO. So my question is——

Mr. PRYOR. Acceding to the request of the special counsel, Mr. Fiske.

Mr. D'AMATO. So my question is, if Mr. Fiske has no objection and has covered OTS in his Washington scope—I have not been told that he has not covered it—then would not the OTS properly fall within the realm of this inquiry. These matters have occurred subsequent to the President taking office, should that not be a legitimate matter of inquiry?

Mr. PRYOR. Madam President, in response to the Senator from New York, let us remember that the majority leader's proposal has been tailored to accommodate what Mr. Fiske has stated that he would be investigating at a particular time.

Mr. D'AMATO. Yes.

Mr. PRYOR. In the March 17 resolution so adopted by 98 of our colleagues, including the Senator from New York and the Senator from Arkansas, we all agreed that the scope of this investigation could be broadened, and perhaps by implication would be broadened, at the appropriate time. It is a matter of when, I say to my friend from New York.

Mr. D'AMATO. I understand that, and that is what brings about some concern. Because it would seem to me to be almost evident on its face that if Mr. Fiske has completed that area of his investigation of the so-called Washington-side, including whether or not Treasury people have attempted to impact OTS in its decision, then that would be a matter that we should be able to look into. That is the Senator's point. I hope the Senator would agree with me on that.

Mr. PRYOR. Madam President, I think it is a valid issue that the Senator has raised. But I think that question is going to have to be answered, posed, and disposed of at another time.

Mr. D'AMATO. As a matter of fact, I have already instructed staff to write a letter to Mr. Fiske inquiring of him whether or not he has pursued the matter of OTS and whether or not there was any influence exerted. He will make his response, and if his response is that they hope to have that matter concluded in the initial investigation, then we could, as a matter of comity and fairness, at least examine that issue.

Mr. PRYOR. Madam President, I am confused because right after Mr. Fiske was appointed to this position, it was the Senator from New York, the junior Senator from New York, who applauded the choice—I just put his statement in the RECORD. He stated he was a very fine appointment, and he proclaimed also that this is a man who is going to get to the bottom of this matter, and I believe that. I do not know that we ought to start telling Mr. Fiske what to investigate right now and what not to investigate.

Mr. D'AMATO. I do not question the statement I made. I stand by it. I still think he is a man of great integrity and ability. That is not the question.

The question is, if he has concluded the Washington part of his investigation and has no reluctance to us going forward—and OTS has been part of it—then should we not be able to make inquiry as it relates to OTS? It seems to me that that would then be the question. We should have the ability to go forward.

I cannot tell Senators that I know that Mr. Fiske has covered OTS. I do not know that. I have not posed the question to Mr. Fiske. But I intend to pose that question to him. Certainly I think it is not inappropriate to do so. I will send a copy of that letter to the chairman of the committee.

I am wondering if my good friend knows that in the book "Men of Zeal," which is coauthored by the majority leader and Senator COHEN, as it relates to deadlines, the leader said—let me quote if I might. It is very short. It is written: "Fourth, setting fixed deadlines for the completion of congressional investigations should be avoided."

He goes on to say: "But such decisions are often dictated by political circumstances and need to avoid the appearance of partisanship."

He concludes by saying: "We hope that in future cases such an artificial restraint on the pursuit of facts will not be necessary."

Mr. PRYOR. Madam President, I was not aware that Senator MITCHELL and Senator COHEN stated anything about deadlines. I am sorry I did not. I do not know how it relates to this particular issue. But I will conclude, and I am going to yield the floor because my friend from Kentucky wants to make a statement, Senator FORD, but I will just yield by saying that we spent millions upon millions of dollars in the Iran-Contra investigation. And I think it went on for how many years—2, 3, 4 years? We just felt that there had to be a cutoff point where this particular committee would conclude something. And if it did not conclude anything, then it could write the report that it was inconclusive, but at least force the body to give us a report in the Senate, account for the money expended, give us the facts as they saw them, and put the issue to rest.

Mr. President, with that, speaking of putting this issue to rest, I am going to take a rest and I am going to yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. PRYOR. Madam President, how much time do we have remaining?

The PRESIDING OFFICER. The majority leader controls 48 minutes 30 seconds.

Mr. FORD. Will the Senator yield me 10 minutes?

Mr. PRYOR. I will be glad to yield 10 minutes. In fact, if I might, Madam President, with the consent of the Senator from Kentucky, I will just yield the floor to him. I am not controlling time. And I do think Senator MITCHELL certainly wants to reserve some time. The Senator from Kentucky can take all the time he so desires.

Mr. FORD. Thanks very much. I will be sure the majority leader has some time left because I can hardly wait.

Madam President, let me begin my remarks this morning by reading a portion of the speech radio personality Garrison Keillor gave to the National Press Club back in April when the Whitewater frenzy was at its peak. He said, and I quote:

> The Whitewater story has run for months on the power of suggestion. With any shaggy-dog story like this one, whose point is its pointlessness, people became fascinated by the fact that they are still standing and listening to what apparently is a long, winding circumstantial joke that the teller keeps complicating by tossing in new unrelated elements—things we don't know that may be true, and, if they are, then other things that may be true.
>
> * * * And now the story dwindles to a few scraps—the possibility of inconsistencies in statements about things that nobody ever suggested were wrong to begin with. The American people are setting on the bleachers waiting for the elephant to come out, and all we see are the guys selling cotton candy.

Keillor is right. There is no elephant. There is only the circus atmosphere. There is only carnival barkers promising all sorts of outlandish exhibits inside their tents.

But you and I know the truth usually has little resemblance to the barker's hype.

Despite the fact that we do not have much more than speculation and innuendo, Democrats and Republicans agreed back in March on a process to provide a fair and dignified—I want to underscore "dignified"—congressional forum to examine the facts.

At that time, Democrats and Republicans voted unanimously for hearings structured and sequenced in such a manner that in the judgment of leaders they would not interfere with the ongoing investigation of Special Counsel Robert B. Fiske, Jr. I do not see how anything could be any clearer than that.

Now the Republicans are saying that is not good enough—that a 98-0 vote is irrelevant.

But I guess none of us should be too surprised by this. Back in early January, the Republicans were demanding that a special counsel be brought in. On January 12, the President expressed his agreement with the need for a special counsel to dispel any question of impropriety. Before the sunset, the Republicans were holding a press conference demanding the creation of a Senate Select Committee. They have been drawing and redrawing lines in the sand ever since.

Despite the fact that we have an independent counsel already using scarce taxpayer dollars to investigate every aspect of this matter, this body decided to hold a congressional hearing. Yes. It was a compromise. But it was a necessary compromise that would not jeopardize the efforts of the special counsel—special counsel, I might add, who is a lifelong Republican—we have heard that—and whose appointment was hailed by the Republican Members of this body. It could not have been any better.

As everyone here knows, Special Counsel Fiske requested, both in writing and in meetings with Senators, that the Senate not conduct hearings which could interfere with his investigation. He specifically asked that since his investigation is being conducted in two phases, the Senate's hearings be conducted in two phases as well.

These are not unreasonable requests, Madam President. These are not requests that call on the Senate to abdicate its constitutional responsibilities.

These requests acknowledge certain Members who do not believe one independent investigation is enough. But they also acknowledge that congressional hearings have the potential to jeopardize the special counsel's efforts.

These are not unreasonable requests. But do not take my word for it. Trust the word of a fellow Republican.

According to an April 16 Boston Globe editorial, Representative JIM LEACH, the ranking member on the House Banking Committee, who they describe as the "most credible critic" on Whitewater, "wants hearings delayed until the special counsel finishes inquiries this summer."

Something does not ring just right here when we find so much furor here. But let me read that statement again.

According to the April 16 Boston Globe editorial, Representative JIM LEACH, the ranking member of the House Banking Committee, who they describe as the "most credible critic" on Whitewater, "wants hearings delayed until the special counsel finishes inquiries this summer."

Somehow or another, the House, both Democrats and Republicans, came together on basically the same position that majority leader MITCHELL has proposed. They did not have the rancor. They did not have the speeches. They say, well, the Democrats control everything over there. Well, if they control what BOB MICHEL says and does, that is unusual. I guarantee you they do not control the Congressman from Georgia, Congressman GINGRICH, and what he says. You just cannot say that they are two controlled individuals by Democrats. They came together in a public statement, and they are proceeding in the proper manner.

Perhaps what Representative JIM LEACH said is why House Republicans and Democrats agreed to the hearings essentially identical to the format outlined by our majority leader, Senator MITCHELL; limited to three areas, and conducted by the House Banking Committee.

The editorial goes on to say that "even Leach acknowledges that Republicans should not let Whitewater impede legislation on health care, welfare, and crime."

And therein lies the true issue today, Madam President. If we learned one thing from the elections of 1992, it was that the American people are tired of gridlock and inefficiency in Congress. They wanted representatives who were willing to tackle crime, to tackle health care, to tackle welfare reform.

How do we demonstrate this? By barely passing a bipartisan aviation bill, because Senators trying to score political points effectively ground the business of this Chamber to a halt.

Yes. This is about character, Madam President. It is about having the character to do the people's business.

I do not know a better measure of strong character than a President willing to tackle issues like health care, crime, and welfare. He took on these issues knowing full well what the odds were for success.

These last 2 weeks the Senate has countered that demonstration of character and courage with gridlock and political posturing.

Perhaps the editorial page of the Los Angeles Times put it best when they said:

> "Some Republican leaders may want a crippled President, but ordinary American citizens do not, rather many appear to be growing weary of the recurring cycle of allegation, cover, hearings, and investigations that seem to sap so much of our national vitality.

Madam President, if the Senate really wants a circus, we have all of the ingredients right here, including the clowns. But I do not think that is what we really want. Instead, let us show the American public that they did not make a mistake in sending us here and that we have the strength of character it takes to tackle issues like crime, health care, and welfare reform. That is what the people want us to be doing, that is what the people expect us to do, and that is the character that this body ought to express.

I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from Ohio?

Mr. FORD. How much time does the Senator need?

Mr. METZENBAUM. I need 10 minutes.

Mr. FORD. Madam President, under the authority given me, I yield 10 minutes to the Senator from Ohio.

Mr. METZENBAUM. Madam President, I have been around here about 19 years, and, frankly, I am disturbed at the tenor and tone of this debate. I think it is an embarrassment to the U.S. Senate that we are playing this game over and over and over again on the so-called Whitewater issue.

We have resolved that issue. There will be hearings, there will be an investigation, and there will be additional hearings, if they are necessary, and that is all provided for. But instead, some on the opposite side of the aisle think there is great political mileage in this.

This country really does not support this. Maybe Rush Limbaugh and some of those right-wing commentators support it. But the reality is that the American people are concerned that we are to do something about health care in this country; we are to do something about welfare reform; we are to concern ourselves about some of the problems overseas. And this whole to-do about Whitewater has been up and down and backwards and forwards in the Senate. The Senate has passed legislation on it. But notwithstanding that, Members on the other side of the aisle have spoken on this subject 63 times—63 times—and I say it was for no other purpose than attempting to get some publicity out of it, not for any meaningful purpose.

The distinguished Senator from New York has had three speeches on crime and 19 speeches on Whitewater. I think that, if he reversed that, that is what the American people are concerned about—resolving the problems of crime in this country—and they are less concerned about the Whitewater investigation, which is in the hands of an independent counsel and on which there is going to be hearings in the U.S. Senate, as well as in the House of Representatives.

The distinguished minority leader has had 8 speeches on crime and 10 speeches on Whitewater. What are the concerns of those of my fellow Senators on the opposite side of the aisle? Do they not understand that this is not what the American people sent us here to deliberate about? They sent us here to solve the problems of this country, to solve the problems of seeing to it that every American has a chance for decent health care, to solve the problems of seeing to it that every American has a chance for a job. But the fact is that there are millions of Americans that do not have jobs, and we are working on discussing Whitewater—we are not working on it, we are discussing it, talking and talking and talking. It demeans the Senate. It is a reflection upon the character of this body to try to exploit this particular issue.

Madam President, I say that this is not the way the U.S. Senate ought to conduct its business. We have so many important pieces of legislation. We go into the crime bill conference this afternoon, and it is a very controversial measure. We are moving onto the whole question of striker replacement, where workers throughout the country, even as we meet today, are going on strike and employers are bringing in replacements—contrary to that which they have done over the past 50 years—to take their jobs because they had the audacity to strike. We have important legislation to deal with. We have health care legislation to deal with. We have education legislation to deal with.

But what is the Senate tied up with? The Senate is tied up with my colleagues on the other side of the aisle being anxious to come to the floor and beat this particular issue, beat it, beat it, and beat it—the Whitewater issue—hoping they are going to somehow embarrass the President of the United States. Ask the American people about how many are concerned about Whitewater, and it will be a very insignificant amount. Ask them how many are concerned about solving the problems of crime. There will be a much larger percentage. Ask them about solving the health care problems of this country and you will find a large percentage. Ask them how many of them are concerned about employment in this country, and you will see a large percentage.

Nobody is doing anything on the other side of the aisle that I can see about temporary workers taking over jobs of Americans in this country. The largest single employer in this country, as we meet here today—that being Manpower, Inc.—are supplying temporary workers that are called upon to do their jobs without any protection as far as health care is concerned, without protection as far as medical leave or family leave, without any other protection of their job; they are called in for a few hours to do their job, and not a person on the other side of the aisle speaks up on that.

I think it is time for my colleagues on the other side of the aisle to take stock of themselves. You are a very decent group of people. Many of you are very able legislators. But the fact is that we are wasting the time of the U.S. Senate in further debating the issue of Whitewater when there is an independent counsel working on the matter, when the House is moving forward on hearings, where the Senate is prepared to move forward on hearings. But, no, they want to beat this same dead horse over and over again. It is time to bring it to a halt. It reflects upon those leading the debate, and it reflects upon all of those who are on the other side of the aisle supporting the debate.

On each vote taken so far in order to move forward, offered by the majority leader of the Senate, the Members on the other side voted en bloc not to permit us to go forward with our regular business. We are wasting too much time. It does not reflect well on us. It does not reflect well on the Senate. It does not reflect well upon our constitutional processes. I say it is time for a halt. Stand up and be counted on some important legislation instead of wasting further time on the floor of the U.S. Senate trying to make something out of an issue that is a whole lot of nothing.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MITCHELL. Madam President, I yield 10 minutes to the Senator from South Dakota.

Mr. DASCHLE. Madam President, let me commend the distinguished Senator from Ohio for a very compelling statement.

Madam President, I hope this will be the last day we debate this issue. I hope we can resolve it once and for all and get on with it. As the distinguished Senator from Ohio said, this Senate has an incredibly large agenda that we have to address, and time is wasting. The pages of the calendar are turning, and we do not have the ability or the luxury to continue day after day, week after week, to address a resolution that I think should have been resolved a long time ago. In fact, we have been doing this since last March. The resolution offered then by the majority leader enjoyed the bipartisan, unanimous support of this body.

On March 17, by a vote of 98 to 0, we passed a resolution that made it very clear what the intent of this body ought to be:

> The hearings should be structured and sequenced in such a manner that, in the judgment of the leaders, those hearings would not interfere with the ongoing investigation of Special Counsel Robert B. Fiske, Jr.

That is what the resolution said. We were right then, and we are right today. We must set out in an effort, as the majority leader has indicated, to do what is called for in this resolution.

The resolution that we are voting on today is identical to what the Senate approved last week, as the leader has indicated. Under its provisions, hearings will commence on the first phase of the Whitewater matter in the Banking Committee approximately 30 days after the special counsel indicates that such hearings would not interfere with his investigation or by July 29, whichever is earlier.

In fact, there is a date certain by which this body will act on an investigation. There is a date certain for all Members, for all of America to understand that the investigation will commence and information can begin to be acquired.

The majority leader has repeatedly emphasized in his public and private statements that he and the Senate are firmly committed to meeting the constitutional obligation to conduct the oversight responsibly as required under this resolution and committed to the full and complete hearings that this resolution entails.

We are determined to conduct that oversight in an appropriate way which will avoid interfering with the investigation that is now being conducted by the special counsel.

Democratic and Republican leaders in the House agreed on June 15 to do exactly what this resolution requires, to hold oversight hearings in the House Banking Committee and to accommodate the concerns of the special counsel. This is essentially identical to the leader's proposal.

The leader's resolution authorizes additional hearings to be held into the remaining matters in accordance with the Senate's unanimous vote on March 17.

The Republican resolution, I might emphasize, makes no such commitment to additional hearings. I do not know why they chose not to elaborate on their intentions about additional hearings. But the resolution does not contain any reference to anything beyond this first phase.

The resolution on the Republican side, like the numerous amendments offered last week, seeks to expand the scope of the first phase of the hearings, something that Robert Fiske has said over and over is untenable as he continues to do his work in a very meaningful and productive fashion.

The language is very vague, permitting what we would consider a "fishing expedition" by any person into any activity that is illegal, improper, unauthorized, or unethical related to the Whitewater matters and occurring after January 20, 1994. The inclusion of "improper" and "unauthorized" acts is particularly broad and vague.

What are we talking about when we make reference to improper or unauthorized? Who is going to make that determination, over what timeframe? How does that relate to what Mr. Fiske is attempting to do with his investigation?

The language might well expand the scope of the hearings into matters potentially under investigation in the ongoing inquiry by the special counsel in Little Rock or elsewhere.

The majority leader's resolution provides for the hearings to conclude and for a report to be made to the Senate by the end of this session of Congress. The Republican resolution is open-ended with no requirement for the committee to complete its work by any date whatsoever.

The majority leader's resolution provides funding for additional staff and expenses for the Banking Committee, something that Members of the Republican side have indicated is necessary if we are going to do this work correctly. The Republican resolution provides no limit on the cost of the investigation.

The President has moved forcefully to address questions that have arisen about the so-called Whitewater matter. The Senator from Arkansas earlier addressed that in a very comprehensive manner.

The President has faced questions from the media on several occasions including a major press conference. He has assured the American people. And he has taken necessary steps to assure that there will not be even the appearance of interference in the investigation by anyone in the White House.

The President answered the special counsel's questions under oath for 90 minutes, and Mrs. Clinton answered Mr. Fiske's questions, also under oath, for over an hour. According to press reports the questions were limited to the first phase of the matters which we contend ought to be done in this inquiry here in the Senate.

The investigation by the special counsel is continuing. It is a serious matter. It is being conducted by a serious man. He is a man of unquestioned ability as a prosecutor. He is a Republican. He was named pursuant to the request led by congressional Republicans for a special counsel.

His appointment was applauded by virtually everyone in this body and for good reason.

Madam President, we need to allow Mr. Fiske to do his job. Many of the same Republicans who called for a special counsel shifted partisan gears as soon as he was named and began to call for immediate congressional hearings. Even in the face of that very counsel's opposition to any such hearings, they continue to demand that the Congress go forward in a way that risks damage to the investigation which has been begun by the special counsel.

This willingness to demand public hearings at any cost is further evidence, in my view, that the purpose is political.

The special counsel, Mr. Fiske, wrote on March 7, 1994, to the chairman and the ranking member of the Senate Banking Committee requesting that the

> committee not conduct any hearings in the areas covered by the grand jury's ongoing investigation, both in order to avoid compromising that investigation and in order to further the public interest in preserving fairness, thoroughness, and confidentiality of the grand jury process.

He further stated,

> We are doing everything possible to conduct and conclude as expeditiously as possible a complete, thorough and impartial investigation. Inquiry into the underlying events surrounding MGS&L, Whitewater and CMS by a Congressional committee would pose a severe risk to the integrity of our investigation.

We must have the integrity of this investigation protected.

On March 9, in a press conference, Mr. Fiske stated again that his investigation into the communications between White House officials and Treasury Department or Resolution Trust Corporation officials about Whitewater-related matters and his investigation into the Park Service investigation of the death of White House Deputy Counsel Vincent Foster is complete, and he would have no objection to congressional hearings on those matters.

I think he has emphasized over and over that on those matters he does not have any objection to our going forth, and that is really the purpose of the majority leader's resolution—to allow the committee to do its work, to allow the Senate to go on record as we did on March 17 to do the work that is recognized to be the responsibility of this body.

The bipartisan leadership of the House of Representatives confirmed its desire to do that, Madam President, on May 26. They met with Mr. Fiske and, at that meeting, too, Mr. Fiske stated that his intent was clear as could be: that we must recognize the importance of protecting his Whitewater investigation; that congressional hearings ought to be limited to communications between White House officials and Treasury Department officials about Whitewater matters, the Park Service Police investigation into the death of White House Deputy Counsel Vincent Foster, and the White House handling of Vincent Foster's files subsequent to his death.

These are the matters specifically delineated in the resolution before us today.

We have learned, Madam President, time and again from past experience what extensive interference in the ongoing investigations of a special counsel can do. We saw it in the Iran-Contra congressional hearings. We have seen it in other cases throughout history.

Need we learn that lesson all over again? Need we confuse and confound and in some ways undermine the investigation of Mr. Fiske?

Independent counsel Lawrence Walsh addressed that very question earlier this year, pleaded with us to recognize the importance of allowing the special counsel to do his work.

I understand, Madam President, my time has expired.

I just hope that: First, we can pass the resolution proposed by the majority leader; second, that we can get on with this investigation and in a meaningful way; and third, that we can turn to the agenda that is now before the Congress. We cannot afford to continue to paralyze this body with any more of the resolutions that we have had before us in the past couple of weeks.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The majority leader.

Mr. D'AMATO. Madam President, I wonder if the Senator from South Dakota will yield for a question?

Mr. MITCHELL. Madam President, we have been in a situation where in every previous debate the Republican colleagues used far more time than the Democratic colleagues in the debate.

I do not mind if the Senator wants to use the minute and a half to answer the question and we will use our time to respond.

Mr. D'AMATO. I will use 30 seconds, then.

Mr. MITCHELL. Fine.

Mr. D'AMATO. Madam President, I point out that the language that calls for investigation of activities, materials and transactions having a tendency to prove or disprove persons engaged in any illegal or improper or unethical activities comes from essentially two other committees. There is precedent—the Iran-Contra Committee and the Watergate Committee, and others. This was not just dreamed up. That is the kind of language that empowers the committee to go forth.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The majority leader.

Mr. MITCHELL. Madam President, and Members of the Senate, the Senate is now in its 6th legislative day on this so-called Whitewater matter, and the Senate is now debating and will soon vote for the 10th time on essentially the same issue.

In this entire year, only one other bill has taken as many as 7 legislative days. That was the Competitiveness Act, and the only reason that took so long was because Republican Senators filibustered the bill.

So we have now reached the point where the Senate has spent as much or more time on this Whitewater matter as it has on any other matter that has come before the Senate this year. Yet our Republican colleagues suggests in the debate they need more time to debate this. I think that says very clearly to the American people what the priorities and programs of the two parties are.

Our colleagues' highest priority is Whitewater. We want to get on with the business before the country. We want to pass the defense authorization bill this week. We want to deal with health care and crime. We want to deal with all of the legislation that will help improve the lives of Americans.

Our Republican colleagues want to talk about Whitewater.

Ask the American people, is Whitewater the most important issue facing the country? Is Whitewater the issue that requires the Senate to spend more time on it than any other matter that confronts the country? I think the answer, obviously, is no. And that is why the attempt by our Republican colleagues to create a political circus on Whitewater has fallen as flat as a lead balloon. The American people know what is going on. They know this is a purely partisan exercise to attack the President and Mrs. Clinton. It is not working. And it should not work.

What is this issue that is so important that the Senate has to debate on it, not once or twice, not 5 or 6 or 8 or 9 times, but 10 times; 10 times, debating and voting on the same issue, over and over and over again?

It is not whether there will be hearings on the Whitewater matter. The Senate has voted on that, 98 to 0. We are going to adopt a resolution which provides for hearings on the first phase and we have committed ourselves to full hearings on all matters at the appropriate time. So there is no question about whether there will be hearings. There will indeed be hearings, as I have said right from the start.

No, the issue, rather, is whether the first phase of the hearings will go beyond the subjects that are now in the first phase of the special counsel's investigation, contrary to the Senate resolution of March 17, approved 98 to 0, and contrary to the publicly stated wishes and urgings of the special counsel himself. That is the only issue before us.

Our Republican colleagues want to expand the scope of the first phase to go beyond those subjects considered in the first phase of his investigation by the special counsel. Our resolution says our first phase of hearings will cover the subjects covered in the first phase of the special counsel's investigation. And when he completes the remainder of his investigation, the remainder of our hearings will cover all remaining subjects.

By contrast, our Republican colleagues want the first phase of our hearings to cover all of the subjects that are under investigation about Whitewater. They want to be able now to sling more accusations at President and Mrs. Clinton, apparently unable to wait until the special counsel completes his investigation. And, in so doing, they are prepared to risk undermining the special counsel's investigation.

Madam President, reference was made here today by our Republican colleagues about an editorial in the New York Times. There was conspicuous silence about the editorial in the Washington Post of yesterday.

I ask unanimous consent that editorial be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, June 19, 1994]

CONGRESS AND WHITEWATER

New York Republican Sen. Alfonse M. D'Amato's knack for uniting Democrats must make him the envy of the White House. For the better part of a week, Senate Democrats have joined forces to beat back partisan attempts by Sen. D'Amato and his GOP colleagues to get political mileage out of the Whitewater affair. The wrangling is over the terms of the Banking Committee's pending Whitewater probe. The Republicans complain that the agreement—reached along party lines—to limit public hearings to those phases of the Whitewater probe completed by special counsel Robert Fiske is an abandonment of Congress's constitutional oversight responsibilities. They also charge that the narrowly focused probe is a flagrant attempt by Democrats to go bail for Bill Clinton. Their passion notwithstanding, the Republicans' charges don't hold much water.

The terms of the Banking Committee probe meet the spirit of a March 17 resolution in which the Senate voted 98–0 that "the hearings should be structured and sequenced in such a manner that. . . they would not interfere with the ongoing investigation of special counsel Robert B. Fiske Jr." Mr. Fiske's position that Congress should allow the special prosecutor to proceed without risk of congressional hearings compromising either his work or the grand jury process lay the heart of the resolution, which Senate Republicans supported overwhelmingly. It is that intent that Sen. D'Amato et al. are now trying to annul.

By the end of this month, the initial phases of Mr. Fiske's probe covering the investigation of the death of White House deputy counsel Vincent Foster, the handling of his papers by White House officials and Whitewater-related communications between White House and Treasury officials will be finished. These are the areas to be examined by the Senate Banking Committee. Interestingly, without going through the Senate's machinations, the House agreed to impose similar limits on its own Banking Committee. To denounce the present structure or the sequencing of hearings as a cover-up is wrong.

While the proposed hearing will cover events in the Clinton presidency, the Senate majority leader has given assurance of additional hearings on issues that cover the Clintons' political and business lives before the White House. It is no abdication of Congress's oversight responsibility to be mindful of the pitfalls of simultaneous probes.

Congress ought to avoid hearings that might interfere with prosecutorial efforts to compile admissible evidence leading to convictions. Iran-contra taught that lesson. Why the rush? The Clinton's aren't going anywhere. Senate Democrats should hold firm.

Mr. MITCHELL. Madam President, let me quote briefly from the article. I will paraphrase so as not to mention any individual Senator's name, although names are included in the editorial. The editorial says, "Congress and Whitewater." And it reads, in part: For the better part of a week, Senate Democrats have joined forces to beat back partisan attempts by their GOP colleagues to get political mileage out of the Whitewater affair.

I don't think it could be stated more accurately: Partisan attempts to get political mileage out of the Whitewater affair. In a single sentence, that sums up what has been tying up the Senate for 6 days.

Then it goes on to say the Republican charges do not hold much water. The editorial then recites, as we have here repeatedly, the resolution of March 17, voted by the Senate by a vote of 98 to 0.

The editorial then goes on to say that:

> By the end of this month, the initial phases of Mr. Fiske's probe covering the investigation of the death of White House deputy counsel Vincent Foster, the handling of his papers by White House officials and Whitewater-related communications between White House and Treasury officials will be finished. These are the areas to be examined by the Senate Banking Committee. Interestingly, without going through the Senate's machinations, the House agreed to impose similar limits on its own Banking Committee. To denounce the present structure or the sequencing of hearings as a cover-up is wrong.

Madam President, let me go back in time so all Americans can understand clearly what is occurring here. Our Republican colleagues in the Senate earlier this year requested the appointment of a special counsel to investigate the Whitewater matter. A special counsel was appointed.

That special counsel is himself a lifelong Republican, a man of experience and integrity, whose appointment was praised by all of our colleagues, including the junior Senator from New York. That special counsel then requested of the Senate and the House that they not conduct hearings that could interfere with or undermine his investigation. And he specifically requested that any first phase of hearings that were held in the Senate or House not go beyond the first phase of his investigation, so as not to jeopardize the remainder—and really what is the heart—of his investigation.

Our Republican colleagues then reversed fields. Having supported the appointment of the special counsel, having praised the appointment of the special counsel, they now ask the Senate to act in a manner which directly contradicts the request of the special counsel.

It is important that everyone understand, and so I repeat, again: We are going to have a full set of hearings on this matter. The only issue, the only question, is the timing and sequence of those hearings so as not to interfere with the special counsel's investigation. And that is what the Senate voted for. Everyone today, every Senator who votes for the pending resolution offered by the minority leader and the Senator from New York, the Republican resolution, will be voting to contradict his on her vote cast in March, because that resolution directly contradicts the earlier vote which stated that hearings should be sequenced in a manner so as not to interfere with the special counsel's investigation. This is a flip-flop. First a flip-flop on the special counsel, now a flip-flop on the Senate's vote itself, by our Republican colleagues.

The hearings will be held, but they will be held at a time and in a manner that does not interfere with the special counsel's investigation. This is a matter of learning from precedent, not ignoring precedent. We saw what happened in the Iran-Contra case. And let me repeat that here now, briefly, so again people have a full understanding.

There has always been a tension between congressional hearings and ongoing investigations by appropriate prosecutorial agencies, either the Justice Department or, as in this case, a special counsel acting in behalf of the Justice Department.

That tension was covered under the law in a Supreme Court case, known as the Kastigar case, in which the Court set out the procedures by which a person could first testify under immunity at a congressional hearing and then still be subject to prosecution. It was a difficult but a reasonable and attainable test that could be met, so it was possible under the law to have both testimony by a witness at a congressional hearing under immunity and a subsequent prosecution of that person for acts covered in the testimony.

In the Iran-Contra matter, former Marine LCol. Oliver North testified before the congressional committee under a guaranty of immunity. I personally, as a member of that committee, did not favor the grant of immunity. I felt it was unnecessary, that he would have testified in any event. Notwithstanding my view, the committee voted to grant him immunity. He testified. He was then indicted, prosecuted, and convicted on three felony counts.

He appealed his conviction and the court of appeals returned the case to the district court, effectively reversing the convictions and establishing a new legal standard that did not previously exist with respect to such matters. And that legal standard has been interpreted by the independent counsel in that case, and many other legal scholars, to effectively preclude both congressional hearings and testimony under immunity, or otherwise, and a subsequent prosecution.

That independent counsel stated, and I quote:

> I think the views of some of those in the congressional committees that there was a possibility of concurrent activity, that the Congress could investigate on television and that the criminal prosecution could also go on, was just proved to be wrong, and I think the lesson is very clear as we spelled out in the report. Congress has control. It's a political decision as to which is more important, but it can't have both.

The question now is whether we are to risk undermining the investigation of this special counsel, a special counsel appointed at the request of Republican Senators and whose appointment was applauded by Republican Senators because he himself is a lifelong Republican and a man of integrity.

Madam President, it has been alleged here over and over again that this is a coverup. And yet the House of Representatives has accepted a procedure which is essentially identical to that contained in my resolution. Are our colleagues here really suggesting that the House Republican leadership is engaged in a coverup of this matter to protect President Clinton? Of all the fantastic allegations that have been made here on the Senate floor, I think that is the most fantastic.

Clearly, the Republican leadership in the House is not interested in, nor are they participating in, a coverup of this matter. And yet they have adopted precisely the practice which is in our resolution and which is so vigorously attacked by our Republican colleagues in the Senate.

In this instance at least, it is clear that the House Republicans and the House Democrats share the view of Democrats in the Senate and it is a view which I believe the American people share as well.

Madam President, let me repeat what the issue is here and what it is not. Contrary to the allegations made by our colleagues, there will be a thorough congressional inquiry. It will be detailed. It will cover all of the matters that are involved in the so-called Whitewater affair as set forth in the resolution passed by the Senate on March 17.

The only issue before us is the narrow issue of the timing of those hearings: Whether or not the first phase of the congressional hearings will be limited to those subjects which are covered in the first phase of the special counsel's investigation as the special counsel himself has repeatedly requested, or whether the Senate will go beyond those subjects in the first phase of its investigation to embrace the full matter in a way that would directly contradict the Senate's own vote of 98–0, directly contradict the special counsel's request and pose the direct threat of undermining the special counsel's investigation. That is the only issue.

We have already voted on this nine times, nine times in the previous 5 calendar days before today, and the vote has been the same and I hope it will be the same today.

I think the American people must ask: When are our colleagues going to accept the decision of the Senate, permit the hearings to go forward and to permit the Senate to do the important business before the country?

Finally, let me say it is ironic, in view of all this discussion about additional hearings, that the Republican resolution makes no provision for the additional hearings. Our resolution does. And so, in fact, if someone really wants there to be hearings on all of the subject matters, they should vote for our resolution, because a vote for theirs does not include any provision for additional hearings beyond this additional phase. That is another indication that they want to throw everything into these additional hearings in an effort to attack the President and Mrs. Clinton.

Madam President, I say to the Members of the Senate, the issue is clear, the issue has been voted on nine times with the same result. I hope that this 10th time will be the last time we vote on this. We have already wasted more than we should of the Senate's time dealing with this matter, and it is time now to permit the hearings to go forward. It is time now to turn the attention of the Senate to the other important business which awaits us.

Under law, we must act on 13 appropriations bills. We are going back to one today. We have a number of others. We have to pass the defense authorization bill. We are going to do that. We have a number of important measures. In the near future, we hope to be dealing with health care on the Senate floor.

If our Republican colleagues want to go to the American people and say they think Whitewater is more important than all of those things, that is their business. But for us, we feel this is the way to end it, this is the time to end it, and let us get on with the rest of the business.

Madam President, I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Madam President, on the questions of how important is Whitewater, and does it square up on the relative polls, let me say that if there has been an abuse of power, an abuse which prevented agencies from doing their job, then there is nothing—nothing—more important than the Whitewater hearings.

Abuse of power attacks the very fundamental principles of our democracy: Government for the people, not a tyrannical Government.

As for the House of Representatives and their actions, let me tell you 256 Democrats, 178 Republicans—this was not an agreement. No way. It is more like an offer you can't refuse.

In regard to the composition of the committee and the other aspects of our amendment, the resolution put forth by Senator DOLE and myself requires that the Whitewater hearings be scheduled after consultation and coordination with the independent counsel. These restrictions go further than any previous Senate oversight resolution, in deference to the independent counsel.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. D'AMATO. I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. How much time do I have remaining?

The PRESIDING OFFICER. One minute forty-five seconds.

Mr. MITCHELL. Madam President, that is not much time, so I would not attempt to recapitulate the argument in its entirety. But I think every Member of this Senate knows what is going on.

This is, as the Washington Post stated, a partisan effort to gain political advantage. This is an effort by our colleagues to use any mechanism to divert attention away from their own lack of any meaningful program to deal with the problems facing this country and, at the same time, to attack President and Mrs. Clinton.

We have seen it and heard it out here on the Senate floor over the past six calendar days, spread over nearly a 2-week period: Over and over again innuendo about the President and Mrs. Clinton, even though unsubstantiated, even though unproven, but nonetheless thrown out in an effort to create some impression in the minds of the American people that the President and Mrs. Clinton have done something wrong.

I will just say again, Madam President, we have debated this nine times. We voted nine times. Now we have debated it a 10th time. We are going to vote it a 10th time. I urge my colleagues, cast the same vote that we did previously. Reject this resolution, adopt the underlying resolution and then let us get on to the business facing this country, what the American people want us to do, which is something about jobs, economic growth, health care, crime. Those are the issues. Those are the issues.

Madam President, my time is up. I yield the floor.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order, the hour of 1 o'clock having arrived, the Senate will stand in recess until 2:15 p.m.

Thereupon, at 1 p.m., the Senate recessed until 2:16 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. KOHL).

AUTHORIZING OVERSIGHT HEARINGS BY THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

The Senate continued with the consideration of the resolution.

Mr. LOTT. Mr. President, a newspaper not known for its agreement with Republicans ran an editorial on June 17, 1994 calling for full and open hearings on the Whitewater affair. Mr. President, I ask unanimous consent that the editorial from the New York Times, entitled "Running for Cover on Whitewater," be entered into the RECORD after my remarks.

(See exhibit 1.)

Mr. LOTT. The Times' editorial does not start with mincing words: The first sentence of the editorial reads, "Senate Democrats are rushing toward a partisan cover-up of the Whitewater affair." This is strong, but true language. It is the language that many Senators have used on this floor over the past few weeks. It is language that tells of a deep frustration over the hesitation of the Senate to take on its full constitutional authority and responsibility.

The Times' editorial goes on to talk about the narrowly circumscribed hearings that our Democrat colleagues have been pushing, hearings that would look at only three questions about actions taken after Mr. Clinton became President. The hearing our colleagues on the other side of the aisle have been pushing, says the New York Times, "excludes far more important questions about what happened in Arkansas before he [Mr. Clinton] and Mrs. Clinton reached the White House."

These far more important questions are the exact ones that the Democrats want to avoid.

Before I go on, I want to stress that the newspaper calling this charade over hearings a "cover-up" could not be called Republican. Many Republicans and conservatives have been criticized by this newspaper's editorials. My Democrat colleagues can't say that this newspaper is biased against their point of view. The New York Times is the premiere liberal newspaper.

With even the Times coming out for full hearings, I think this shows that both Republicans and Democrats, liberals and conservatives want to get these Whitewater issues behind us, so we can go on with solving the Nation's problems.

Some of our Democrat colleagues think otherwise. Some might think that holding back on hearings might serve the President well. Well, a cover-up does not make these issues go away. The President is ill-served by these unanswered questions. The Nation needs to know and wants to know the answers.

The so-called hearings our Democrat colleagues have voted for would focus on only three issues: the U.S. Park Police's handling of the Vince Foster suicide; the way in which the White House handled Mr. Foster's Whitewater files; and whether the White House brought pressure to bear on Treasury officials concerning Madison Guaranty.

These issues are important, and should be looked at by the Senate Banking Committee.

We on this side of the aisle, though, I have been pushing to address other issues, which are within the purview of the Senate. Last week, every time we tried to pass an amendment requiring the Senate to look at these other issues, our Democrat colleagues who would shoot our amendment down. It's an ostrich mentality that has been shown: "No, we don't want the American people to know about that."

What are these other issues? I will quote the New York Times: These issues have to do with "dealings that have raised suspicions that the Clintons may have profited from favors dispensed by people who had something to gain from them." The Clintons' dealings with Madison, the Whitewater land deal, and Mrs. Clinton's magical commodities trading come to mind as issues that the Senate should address. The commodities trading isn't even being looked at by the special counsel—it needs to be looked at by somebody. Why not the Senate?

The answer from those who oppose open hearings doesn't hold water. The opponents of real hearings use fig leaves to cover up a big abdication of Senate responsibility.

One fig leaf is that Senate hearings might disrupt the special counsel's investigation. This is false. There have been many congressional hearings in the past that have gone on while prosecutors have investigated, as the New York Times pointed out. What has changed now?

Mr. Fiske has had a head start in his investigation. We have been patient. We have let Mr. Fiske learn the essentials of the case. Now, it's our turn, and our duty.

It is not the Republicans who are playing raw partisan politics. It is not us who are putting party before duty. Sure, there are politics involved. But the goal is to get to the truth. We don't know if the truth will hurt or help the President. We do know that this cover-up has hurt.

The American people need to know. The faith in the institution of the Presidency needs to be restored. We need hearings not just for the Senate, but for the President, and the people who elected him.

Despite the amendments that have been passed to stop full hearings, we on this side will continue to press for more information. If the Senate doesn't take responsibility for hearings, then we will take the case to the people.

When you get down to it, you can't blame the people for the low opinion it has of this one-party Government. They feel like their voices are not being heard. Sure, another fig leaf thrown around is that the American people don't care about Whitewater. Maybe so—though I disagree. Whitewater is not the World Cup Soccer championships—we wouldn't put on hearings for entertainment. It's our responsibility to have hearings whether people are interested in them or not.

I think the American people, even if they don't know the specifics of Whitewater—though hearings would solve this—feel that something wrong might have happened. This feeling is part of the general unease that has shown up in low opinion polls for this administration.

I look forward to the resolution of the impasse we have reached in this Chamber. I also look forward to the end of this Whitewater mess, if only because of the corrosive uncertainty that day to day hurts Mr. Clinton's Presidency.

Whatever we do, we have to do it quickly. Lollygagging until the end of summer, after the elections, or next year will only prolong the agony of this administration.

EXHIBIT 1

[From the New York Times]

RUNNING FOR COVER ON WHITEWATER

Senate Democrats are rushing toward a partisan cover-up of the Whitewater affair. They have voted to hold narrowly circumscribed hearings in the Senate Banking Committee, which they dominate. They are therefore likely to prolong the agony of the President they hope to protect.

By a 56-to-43 vote, the Senate decided to limit hearings next month to three elements of the case. One is the U.S. Park Police's investigation into the death of Vincent Foster Jr., the Deputy White House Counsel. Two, the way in which members of the White House staff disposed of Mr. Foster's Whitewater files. Three, whether White House officials tried to manipulate Treasury Department investigations into Madison Guaranty Savings and Loan.

This agenda focuses only on White House behavior after Bill Clinton became President and excludes far more important questions about what happened in Arkansas before he and Mrs. Clinton reached the White House.

To recapitulate: Did James McDougal, a Clinton crony who headed Madison, receive favorable treatment from a bank regulator appointed by then-Gov. Bill Clinton? Were Madison funds used to pay off Mr. Clinton's 1984 campaign debt? Were funds in Madison accounts diverted to the Whitewater Development Company? How much did the Clintons pay for their half-share of Whitewater? Did they receive financial benefits that they should have reported as taxable income?

In short, the Democrats have chosen to ignore precisely those dealings that have raised suspicions that the Clintons may have profited from favors dispensed by people who had something to gain from them. They have also shown no interest in Mrs. Clinton's commodities trading, or the possibility that an artful broker may have given her favorable treatment. The special counsel investigating Whitewater, Robert Fiske, has likewise shown little interest in this issue.

The Democrats say their timid agenda results from a desire not to undermine Mr. Fiske's inquiries. They also promise to get to the Arkansas questions next year—safely after the midterm elections. In March, this page argued against a partisan circus and agreed that hearings should be delayed until Mr. Fiske got his feet on the ground. But we also said the delay should be measured in weeks, not months. Mr. Fiske has now had time to learn the basics of the case, both in Washington and Arkansas; it is hard to see how a broad Congressional inquiry could seriously hinder him. It might even help; past Congressional hearings have made the prosecutor's case even stronger.

We also noted that Mr. Fiske could not expect Congress to abdicate its oversight responsibilities. The banking committees have a legitimate interest in the behavior of Federal bank regulators and the Arkansas bank regulators in regard to Madison and its dubious lending practices.

House Democrats are expected to follow the Senate's narrow path. This path does not serve the public or the President. It leaves unanswered questions that voters deserve to have answered. It prolongs the uncertainty that has damaged this Presidency from day one of the Whitewater affair and hands the G.O.P. a new—and legitimate—cover-up issue.

Mr. SIMPSON. Mr. President, I rise in strong opposition to Democrat efforts to limit the appropriate, constitutional role of the Senate in conducting oversight hearings into the Whitewater affair.

The majority leader has characterized Republican efforts to have fair hearings as, "raw partisan politics." But I would argue that those very strong words much better describe the efforts by partisans on the other side of the aisle to unreasonably limit the scope of hearings which we approved 98 to 2 over 3 months ago.

Mr. President, I understand that many Democrats say they "want the truth to be told," but I am beginning to wonder how serious they are. It is one thing to say you are in favor of hearings, and quite another to help establish a fair process to make fair hearings a reality.

The appointment of a special counsel to investigate the Whitewater controversy received bipartisan support. The D'Amato-Dole effort was careful to ensure that there would be proper consultation and coordination with the special counsel. The hearing process we advocated would not inhibit his investigation nor jeopardize his findings in any way. It would, however, permit Congress to properly do its job and to meet its oversight responsibilities.

What I find truly puzzling is that during those "ugly dark days" of the Reagan-Bush years, Congress held 25 hearings on alleged wrongdoing. Never was the scope of those hearings so limited. Most of those hearings were conducted with the full support of both republicans and Democrats. For 6 of those years, indeed, Republicans controlled this Chamber.

Yet the majority leader calls the effort to hold fair hearings on Whitewater "raw partisan politics." I am under no illusion that politics does not often play a part in how things are done in this body. However, conducting fair hearings which are not unreasonably limited on Whitewater, like oversight hearings in other areas, is the nature of our job here. Politics need not have reared its head in this debate.

In 1986 and 1987, both Republicans and Democrats called for a select committee to investigate Iran-Contra. Republicans and Democrats at that time were able to put party differences aside and we agreed that it was in the best interest of the American people to conduct hearings. Finding out the truth was the only thing that mattered. We didn't try to "muzzle" Senators from asking important questions.

Unfortunately, it seems that many Democrats have decided that protecting a President of the same party has a higher priority. These are many of the very same Democrats who supported numerous congressional hearings between 1981 and 1992. We did not limit the scope of those hearings. So please spare us all of the prattle, babble, and patronizing riffle about how Republicans are working with only one motive, that being politics. The sudden change of heart among Democrats is proof enough that the shoe fits the other foot more comfortably.

Mr. President, Republicans have been asking for fair hearings since the snow-filled, icy-cold days of January, and we are now well into the hot and humid days of June. Today, we still do not have even the simplest explanations of the Whitewater matter.

In the 1992 elections, the Clinton campaign stoked voter outrage over the status quo. We all remember the dominating themes of "change" and "reform."

Many people thought if Bill Clinton were elected, our tomorrows would be filled with hope and change and reform. If this blatant exercise in foot-dragging is the "reform" that we are likely to continue to see during the rest of the administration, then the American people will once again experience disillusionment over the ever-widening gap between rhetoric and reality.

For those who say that "Whitewater is a distraction from the real issues," think again. This may be a very real issue. We need to know more about what laws may have been violated by those in the highest levels of power in our country.

We must do our jobs as Republicans and Democrats in Congress with the same fortitude that we did during the Reagan and Bush years. We must never be selective in our judgment and must always strive to find the truth—no matter who may be resident in the White House.

The PRESIDING OFFICER. Under previous order, the question is on agreeing to amendment No. 1818, offered by Senator D'AMATO for Senator DOLE.

Mr. CRAIG. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Connecticut [Mr. DODD] is absence due to illness in the family

I also announce that the Senator from Nevada [Mr. REID] is absent attending a funeral.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 44, nays 54, as follows:

[Rollcall Vote No. 153 Leg.]

YEAS—44

Bennett
Bond
Brown
Burns
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
Danforth
Dole
Domenici
Durenberger
Faircloth
Gorton
Gramm
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Jeffords
Kassebaum
Kempthorne
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Roth
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner

NAYS—54

Akaka
Baucus
Biden
Bingaman
Boren
Boxer
Bradley
Breaux
Bryan

Bumpers
Byrd
Campbell
Conrad
Daschle
DeConcini
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin

Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mathews
Metzenbaum
Mikulski
Mitchell

Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Shelby
Simon
Wellstone
Wofford

NOT VOTING—2

Dodd
Reid

So the amendment (No. 1818) was rejected.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON SENATE RESOLUTION 229

The PRESIDING OFFICER. Under the previous order, the question now occurs on adoption of Senate Resolution 229.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Connecticut [Mr. DODD] is absent due to illness in the family.

I also announce that the Senator from Nevada [Mr. REID] is absent attending a funeral.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 44, as follows:

[Rollcall Vote No. 154 Leg.]

YEAS—54

Akaka
Baucus
Biden
Bingaman
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Campbell
Conrad
Daschle
DeConcini
Dorgan
Exon
Feingold

Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mathews

Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Shelby
Simon
Wellstone
Wofford

NAYS—44

Bennett
Bond
Brown
Burns
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato

Danforth
Dole
Domenici
Durenberger
Faircloth
Gorton
Gramm
Grassley
Gregg
Hatch
Hatfield

Helms
Hutchison
Jeffords
Kassebaum
Kempthorne
Lott
Lugar
Mack
McCain
McConnell
Murkowski

Nickles
Packwood
Pressler
Roth

Simpson
Smith
Specter
Stevens

Thurmond
Wallop
Warner

NOT VOTING—2

Dodd
Reid

So the resolution (S. Res. 229) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1995

The PRESIDING OFFICER. Under previous order, the Senate will now resume consideration of H.R. 4539, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 4539) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1995, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

DeConcini amendment No. 1822, relating to non-profit mail rates and advertising exemptions.

The PRESIDING OFFICER. Amendment 1922 is the pending question.

Mr. DECONCINI. Mr. President, I ask unanimous consent we temporarily lay aside the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I yield for the purpose of morning business to the Senator from Washington, for 10 minutes.

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington for 10 minutes.

THE FAIRCHILD HOSPITAL SHOOTING

Mrs. MURRAY. Mr. President, I stand before the Senate today with a very sad message.

Last night the State of Washington and the community of Spokane were rocked by the impact of violence. A young, recently discharged serviceman entered Fairchild Air Force Base Hospital and opened fire with an AK-47.

Today there are 4 people dead and 22 wounded.

Many are critically wounded, and two of the injured are children. I am deeply shocked and saddened by this horrible incident, and my heart and prayers go out to the families and friends of the innocent victims.

The gun used in this senseless attack was an AK-47 assault rifle.

AK-47 rifles are legal in this country. It is legal to manufacture replicas, and sell AK-47 assault weapons here in the United States.

An AK-47 rifle was used in the 1989 Stockton, CA, shootings where innocent children were gunned down on a playground.

An AK-47 was used later that same year in shootings at a Louisville, KY, printing plant.

An AK-47 weapon also was used in the January 1993 CIA shootings in Langley, VA.

The fully automatic AK-47 has been the weapon of Communist bloc countries, such as the Russian Army. It was also the weapon faced by United States soldiers in Vietnam.

As many have said before me, the AK-47 and other military-type assault weapons were designed for no other purpose than to kill. They are not hunting rifles, or guns designed for any type of sport. They were designed to kill.

If something can come out of what happened in Spokane last night, my hope is that Congress will come to agreement on the assault weapon ban language in the crime bill—which the House and Senate are now considering in a conference committee. The AK-47 is on the list of weapons that would be banned in the bill.

Mr. President, the gunman in Spokane was only 20 years old. In many States it is legal for him to buy so-called long guns such as the AK-47 even at the age of 18. However, he would not have been able to buy a handgun until he turned 21.

It was also a young man under 21, who shot and killed a young high school student in Seattle, WA, 3 months ago with a different assault weapon. It is also on the list of guns that would be banned by the proposal pending before the conference committee.

It is amazing and appalling to me that a young person under 21 years of age cannot buy a handgun, but—under current law—can purchase an AK-47 and other so-called long guns at the local gun store.

There is no waiting period on long guns in many States. So even if the gunman had purchased the gun recently, he would not have been subject to a background check. The Brady bill—which was recently signed into law—only covers handgun purchases. It, unfortunately, does not cover guns such as the AK-47, which is not a handgun.

It is also amazing to me that Congress has been sitting on assault weapon ban legislation since at least 1989, which is the same year as the Stockton, CA, schoolyard murders. That was over 5 years ago, and still nothing has become law.

It is shocking to me that a young man could actually have access to an AK-47 assault rifle and use it in such a devastating and senseless crime. This terrible tragedy seems to me to underscore the importance of banning assault weapons in this country.

What happened in Spokane last night is not an isolated incident. We keep hearing stories about someone opening fire with an assault rifle and people being killed. How many more people have to die before we realize how destructive and totally unnecessary these weapons are and ban them from this country?

It is past time to pass a ban on assault weapons. If it saves even one innocent life, then—in my mind—it is well worth the law. And finally, it is time for us to ask the question, "Why has our Nation endured such a record of violence?" Until we answer that question openly and honestly as a society, we will continue to be shocked and saddened by tragedies such as what occurred in my home State last night.

I yield the floor.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1995

The Senate continued with the consideration of the bill.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the present amendment be laid aside and I yield to the Senator from Nebraska for 5 minutes.

Mr. KERREY. If the chairman will yield, I actually would like to speak on the bill.

Mr. DECONCINI. I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska [Mr. KERREY].

Mr. KERREY. Mr. President, first of all, I would like to praise the leadership of Senator DECONCINI, the Senator from Arizona, the chairman of the subcommittee, and I would like, indeed, to speak briefly about a program that Senator DECONCINI was instrumental in starting. It is one of these small programs that very often gets missed.

I would like to call it to my colleagues' attention because, indeed, it works. There are many things in this bill that are worthy, and I suspect we will have the opportunity to debate them. Indeed, I suspect we will have the opportunity to hear additional amendments being offered to attempt to improve it.

I would like to talk about a very small, a relatively low-cost but a very cost-effective program called the Gang Resistance Education and Training Program, or the GREAT Program. GREAT is a program that falls under the heading of prevention. This is an effort to prevent crime rather than to react to it, to respond to it when we see it on the streets. It is a true partnership. The money goes to law enforcement agencies and the law enforcement agencies then form partnerships with a local school.

For the purpose of perhaps describing this beyond need, it is important for me to say this effort, this kind of partnership is possible because the money goes to the law enforcement agency. The law enforcement agency then approaches the school looking for a partner. As a consequence of that kind of approach, we end up with almost no administrative costs, very little of the traditional overhead that we see when we pump money top down either through law enforcement or through our educational institutions.

In committee, we added $5 million to the administration's request for funding for GREAT. The administration eliminated funding, cut some funds that would not just benefit Nebraska but benefit other communities that are beginning to learn about the benefits of this program. The committee restored those funds, and I would like to discuss why.

In Omaha, NE, war is breaking out on the streets this summer. Recent shootings, including the murder of an Omaha gang leader last weekend, have been linked to an emerging war between rival gangs. As in other wars, in this one, young people who have barely glimpsed the lives that lie before them, are being cut down in cold blood by other young people armed to the teeth with weaponry designed to kill.

If our people were under attack on the streets of Mogadishu or Seoul or Sarajevo, we would not hesitate to reinforce them and to win the effort. Indeed, when Moslem terrorists attacked and killed innocent Americans in the World Trade Center, our response was immediate and forceful. Nothing could stop us.

The gang war that is warring on the streets of Omaha and other cities this summer in the United States is no different, and if it is different, it is because this war is worse. Today, instead of fighting and dying thousands of miles away from home, our children are dying in our own streets. Today the battles are for our neighborhoods and our children.

Today, Mr. President, we are fighting the battle at home. The typical problem is that far too many of our children are making very bad choices and very bad decisions and suffering severe consequences as a result.

The generals in this battle are people like Officer Dan Hagen of the police department in Papillion that was awarded a $5,000 grant to form a partnership with the Papillion High School system. Mr. President, 300 young people went through a 6-week GREAT Program; 300 young people at a cost of $15,000 is why I call it not only low cost but cost effective.

Dan Hagen has made an immeasurable contribution toward keeping kids off the streets and away from crime through the GREAT Program. Today Officer Hagen and thousands of other law enforcement officials across Nebraska and in the Nation, as well, need reinforcements. This bill provides some of them. It provides reinforcements in the form of continued funding for the GREAT Program, including several successful efforts in my own home State. We restored the $5 million in funding in committee because we believed deeply that the GREAT Program saves the lives of children. But it saves more than lives, Mr. President.

The modest amount we spend keeping kids away from crime today can spare us the expense of punishing them later and spare our economy the needless loss of young lives that could be adding to our economy instead of detracting from it.

While I respect very much the fact that the administration must abide by tough budget caps imposed by this body at the urging of myself and others, we ought not cut that spending which saves us money in the long run. We should go further in the coming months. We should make a serious commitment of natural resources and a full-scale buildup in the war on crime. Specifically in this case, I urge and hope my colleagues will support the $40 million authorization that would take to fund 50 new GREAT initiatives nationwide.

I support that funding because the GREAT Program works. Whether you are a conservative or whether you are a liberal, whether you are a Republican or Democrat, I guarantee you that if you saw the results of this effort, young people who now see the dangerous consequences of making bad choices and the very low cost of administering and operating this program that you would say that taxpayers are getting their money's worth.

We do not need to pretend when we talk about crime that small programs like this are a cure-all. Each of us knows that crime is a much more complex problem than that. But today in Nebraska, we are compelled to wonder whether the Omaha youth who are today engaged in slaughter might instead be engaged in study in high school, college, or trade schools had the GREAT Program been there for them. We are compelled to wonder whether they might be contributing to the economy and the work force and to families in the home. Tragedy, Mr. President, compels us to ask that question. Foresight today may keep us from having to ask it again.

Mr. President, I said it in the subcommittee hearings, but the distinguished Senator from Arizona, the chairman of this committee, has left a legacy in many, many areas, a legacy that will be remembered, a legacy that will be appreciated. This is not only an important legacy, but it is a legacy that will be measured in lives and a legacy that will be measured in the long-term contribution to the American society.

I yield the floor.

The PRESIDING OFFICER (Mr. LIEBERMAN). Who seeks recognition?

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa [Mr. GRASSLEY].

Mr. GRASSLEY. Mr. President, I rise for the purpose of offering an amendment, but I would like to say to the distinguished manager, the Senator from Arizona, that my amendment is going through just a little bit of a rewrite. I would like to take advantage of the opportunity to make my opening statement on my amendment, and then I hope to have it ready at the end of that period of time for debate and consideration by this body.

Mr. President, this is a bipartisan amendment. My colleagues who are joining me in this are Senators LOTT, WALLOP, SHELBY, BURNS, FAIRCLOTH, and HUTCHISON.

The amendment that I will be offering shortly will do two very simple things: It puts the rights of the American taxpayer before the IRS request which is in this bill for 5,000 more agents. Second, this amendment says that the Senate will not tolerate increases in the budget caps. I call this increase in the budget caps "cap creep," just gradually losing control over what little budget discipline we have by creeping in numbers.

This amendment strikes and saves the taxpayers $405 million, and this is funding that will be struck from the IRS portion of this bill that is before this body. That amount of money that will be saved is the amount of money that would be used for the 5,000 agents. That is 2,000 that would normally go by attrition and then 3,000 additional new agents above and beyond what they have now that they want to hire.

I wish to remind my colleagues that the Senate did discuss this during the fiscal year 1995 budget resolution, and we included this in the budget resolution but with a very, very important condition. That would be that this money would be allowed only on the condition that the taxpayer bill of rights II would become law. In sum, the Senate said at that time in the debate on the budget resolution, if the IRS were to get more agents, the American taxpayers had to have more constitutional protection.

As one of my key cosponsors of the amendment stated, this funding for new agents would be available "if, and only if," the taxpayer bill of rights II would become law.

Unfortunately, that is not what happened. The requirement that the taxpayer bill of rights II become law as well as some other conditions that were in that compromise, these were all dropped in conference on the budget resolution. But do you know what? The additional money above the caps to hire the 5,000 more agents was not dropped. So a Senator that went into that issue—and several of us were involved in those discussions; very little of it played out here in the Chamber of the Senate, but a compromise was reached. For those Senators who thought, well, it might be all right to have the additional agents if the taxpayer protections to which they were entitled were not left out in the cold, the taxpayer protections never survived the conference as did the 5,000 agents with the $405 million above the caps, the budget discipline in the 1990 budget law, and so here we are at appropriations time to make real for fiscal year 1995 these 5,000 agents.

The Senate now has the opportunity to remove this stain on its effort to protect the taxpayers. By striking this funding, the Senate will reaffirm that the taxpayer does come first and that the Senate did not abandon the taxpayers' interests.

I know that many of my colleagues on both sides of the aisle were supporters of the passage of the original taxpayer bill of rights, and I believe that that was in 1988, as I recall. And you are now cosponsors of an additional bill providing additional protection for the taxpayers. That bill was introduced by Senator PRYOR, the main sponsor, and myself as prime cosponsor. We have always had a great deal of bipartisanship on this effort to get protection for the taxpayers.

So you were cosponsors of that original taxpayer bill of rights. You are interested in the bill that we now have before the Senate to expand those rights. As I said, this legislation, the bill of rights, is largely due—and maybe I ought to say wholly due—to the tremendous work of my colleague from Arkansas, Senator PRYOR, who is chairman of the Finance subcommittee responsible for the oversight of the IRS. I serve with Senator PRYOR on that subcommittee, and I am the ranking member of that subcommittee.

There is no question that achieving passage during the previous administrations of the taxpayer bill of rights was extremely difficult. Unfortunately, we have learned from followup hearings that the IRS has often been slow in implementing this legislation. Just as important, we learned that there are many further reforms necessary to protect the taxpayers. And that is what is in the Pryor-Grassley taxpayer bill of rights II. And not all of the needed rights that should be legislated are in that bill but most of them are contained in this bill presently before the Senate, taxpayer bill of rights II.

Placing the taxpayers first is an issue to which we should all agree. This was not a partisan issue when the first bill of rights was passed, and I believe it is not a partisan issue now. The only way that we are going to ensure that passage of the taxpayer bill of rights II becomes a priority for this administration and for this Congress is if we send a very clear signal that protecting the taxpayer is our top priority, that is, by legislating further rights for the taxpayer. And, of course, this is why, we have a National Taxpayers Union letter in support of this amendment. But it is not so much that they are concerned about the $405 million or concerned about the 5,000 agents, saving that money, as important as it is, but the National Taxpayers Union was one of the prime supporters of the taxpayer bill of rights I, and they are also very strongly supportive of Senator PRYOR's second effort, taxpayer bill of rights II, which is before the Senate.

My colleagues are familiar with the legion of horror stories that we hear in our home States about the tender mercies of the IRS. I do not think any of us want to go home and tell our constituents that we voted for $405 million to hire 5,000 more IRS agents while at the same time we received no consideration of the protections we were trying to get for the taxpayers in their dealings with the IRS.

That is point one, that if we are going to fund these agents, as we very carefully worked out a compromise in the Senate on the budget resolution, then those agents cannot be hired until the taxpayer bill of rights II becomes law. More agents on the one hand, more protections for the taxpayers then at the same time.

Now, I would like to then turn to the second issue that this amendment addresses; that is, helping to put a stop to cap creep.

Now, think of the efforts that we have in this budget law that is before us. We legislate caps on how much money can be spent. We legislate these caps.

The Appropriations Committee, when it appropriates money, has to have all the money in every appropriations bill add up. They cannot add up to more than is in that cap in the budget resolution.

This amendment is only going to strike that funding for the IRS that goes above and beyond the cap; above and beyond what every other agency of Government has to live within, a predetermined cap. It is unacceptable that the Senate would take a position that a small percentage of the funding for the IRS should increase budget caps. In doing so, we would completely undermine the discipline of these caps especially in light of the Exon-Grassley cuts of $13 billion. The Senate adopted $26 billion cuts under Exon-Grassley, and then it was compromised because the House rubberstamped the President's budget. We agreed then in conference to $13 billion of cuts.

Here again, let me acknowledge that this precedent certainly did not start with this administration because we have had previous administrations also engaged in this poorly thought out policy of "cap creep." To argue that this funding should be allowed to increase the caps because it would raise more money than it spends is the thin wedge of a disastrous policy that undermines every effort that we make to control spending.

So, when you do this for the IRS, where does this policy end? Why is not agency A, agency B, agency X, Y, and Z entitled to the same consideration, or why in the case of the IRS, if this is good justification, is not the entire IRS off budget? Then when you start doing that, why not take Customs Service off budget? Or, why not take the National Park Service employees off budget because they take your $5 at Yellowstone, and other national parks you enter?

There is hardly an agency that does not take in some revenue in the form of fees or taxes for us that could not claim, if they could just keep that and not run it through the appropriations process, that they could very effectively spend that to bring in more revenue?

My colleagues will hear much hankering from opponents of this amendment. They will tell you how important it is to have these additional agents.

So let me just say, Mr. President, that if you buy that line, then you are falling for the line that always comes before us when we try to cut anything—the "old Washington Monument ploy." You will remember that is when you cut $1 from some budget, the first thing that is going to happen in this town is that the Washington Monument is going to be closed down. Well, you know, we have heard that argument time and time again. But it just never happens. That Washington Monument is standing there tall and straight since it was started in the 1840's and completed in the 1880's, and people are entering it and enjoying it. It is not closed down.

This action by the IRS is premeditated conniving at its bureaucratic best. You see, the IRS budget is obviously so bare bones that they absolutely had to bust the caps by funding these agents. I would like to describe this bare-bones budget. It contains about $50 million in staff bonuses. It buys over 600 new cars, brand-new cars. It spends 2 and four/tenths billions—yes, that is billion dollars—for travel, office space, and new furniture. All of this, the travel, the office space, the new furniture, is obviously sacrosanct.

Yes, Mr. President, this ploy has the aroma of something that happens too often in this town. Bureaucrats in the corridors conniving, and the target of this connivance in this instance is the poor, ordinary taxpayer out there. The connivance is the arbitrary decision to allow the funding of agents to cause a cap creep. If the staff bonuses, or the new cars, or the new furniture had been the cause, then no one would stand for it. There is no way that the managers of this bill could justify going over the cap to buy more furniture, or to have more travel, or to have more cars. But we can take more money above the cap, and hire more agents, and it is fully justified. But let us not worry about the furniture. Let us not worry about the travel. Let us not worry about the new cars because, if you had to use that as the justification for more money for the IRS, it would never sell here. But perhaps it can be sold by hiring 5,000 more agents.

I bet if you go home to your taxpayers in your respective States, and you ask people if they want to spend more money on the IRS, or for more agents, or for more furniture, it would be for more furniture. As a matter of fact, they would feel it could not be justified under any circumstances. But when we go through this ploy that we are going through in this bill, the taxpayers are still getting the shaft. Only it is a little less obvious. The aroma of this bureaucratic conniving is still there.

I cannot wait to see who among my colleagues will vote for all this, and then try to explain it to their constituents. I say to my colleagues, if you care about spending restraint, if you support Exon-Grassley cuts, if you care about the deficit and the debt, you will support this bipartisan amendment. Otherwise, we will see more and more such gimmicks that negate all of our efforts to control all spending. In other words, if we break the dam in this instance, this will not be the only water over the dam for the IRS. There will be a lot of other departments that are going to justify additional expenditures.

I think instead that this amendment is an amendment that will clear up the smoke and help crack the mirrors. This should be an easy vote for anybody who considers themselves a deficit hawk.

I want to close again by making an appeal to my colleagues to support this amendment for the sake of the taxpayers. Because, again, I want to emphasize, just in case somebody just started to pay attention to what this amendment does, we provided in the budget resolution for these additional agents. But they could not be hired. And the money could not be spent until the taxpayer bill of rights passed.

In other words, more agents—it was legitimate to give the taxpayers more protection. It went to conference after it went through this body fully supported. The conference took out the taxpayers' rights provision. No, no protection, no additional protection whatsoever for the taxpayers. But the additional 5,000 agents, costing $405 million, yes, that is OK. Move on.

So I think the bottom line is that we have to put the protection of the taxpayers first before the desires of the IRS to hire 5,000 more agents.

Mr. President, I will soon yield the floor.

AMENDMENT NO. 1823

(Purpose: To limit funding on the Internal Revenue tax compliance initiative in fiscal year 1995, and for other purposes)

Mr. GRASSLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for himself, Mr. SHELBY, Mr. LOTT, Mr. WALLOP, Mr. BURNS, and Mr. FAIRCLOTH, proposes an amendment numbered 1823.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 15, line 17, strike out "$4,358,180,000" and insert in lieu thereof "$3,953,180,000."

On page 15, line 19, beginning with "*Provided*" strike out all through the semicolon on line 21 and insert in lieu therof the following: "*Provided*, That no funds appropriated under this heading may be used for the enhanced tax compliance initiative for fiscal year 1995 as proposed by the Internal Revenue Service".

Mr. GRASSLEY. Mr. President, I yield the floor.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama [Mr. SHELBY] is recognized.

Mr. SHELBY. Mr. President, I rise in support of the Grassley amendment. I am glad that I had the opportunity to cosponsor it with the Senator from Iowa.

Mr. President, earlier this year, the Senate agreed to spend approximately $2.2 billion over 5 years to help the IRS increase tax compliance in this country. At that time, Mr. President, it was agreed that this new spending would be considered what we call off budget, because according to the IRS's own estimates, the new spending would be offset by increased revenues generated from improved compliance. As part of the compromise that ensured the passage of this amendment in the Senate budget resolution, it was agreed that before one dime would be spent on putting more IRS agents on the beat, a taxpayers' bill of rights would be enacted into law to ensure that taxpayers' rights were respected under the new initiative.

Mr. President, it was the will of the Senate that a taxpayers' bill of rights be a prerequisite to this new off-budget spending grant. The language in the appropriations bill before us today ignores that will, Mr. President. The quid pro quo of taxpayer protections that form the basis for Senate approval was stripped out by budget conferees, leaving only the grant of $405 million in new spending for fiscal year 1995.

Mr. President, I believe this is a back-ended way of once again putting it to the American taxpayer without any assurance that taxpayers will be protected from undertrained or overzealous tax collectors.

While I oppose spending $405 million next year, much less $2.2 billion over the next 5 years to beef up IRS compliance, without these necessary protections in them, I continue to question the need and also the effectiveness of new off-budget spending for more tax collectors at all.

Mr. President, we are told that this spending will pay for 5,000 new IRS enforcement agents—5,000. According to the IRS, an infusion of $405 million a year and an increase in enforcement staff by 5,000 would allow the IRS to improve compliance and collect more revenues, more taxes.

Mr. President, the IRS cannot even figure out how much it receives or spends every year. In a 1994 GAO report, they stated that they were unable to audit 64 percent of the IRS's operating funds because the IRS could not account for all of the funds themselves. The IRS cannot even account for $4.3 billion they already have, and we now want to give them another $405 million for 1995? Do we, Mr. President?

Whatever happened to the Vice President's plan to reinvent Government, or the recently passed Federal Work Force Restructuring Act? I remember just last November receiving the Treasury's plan for reinventing the IRS. I was under the impression that they were going to do more with less—not more or less with more.

According to their reinvention plan, the IRS was going to reduce the size and number of its regional offices from 7 to 5, consolidate its 44 geographic customer service centers to 23, and cut staff. In fact, the IRS was scheduled to see a reduction in the staff of 2,000 people as part of the governmentwide initiative to reduce the Federal work force that was so talked about.

Now Congress is going to go back and basically eliminate that staff cut and add 3,000 more full-time Federal employees to the Government rolls. This is not reinventing Government, Mr. President; this is reinventing new ways to increase the size and the cost of the Federal Government.

Mr. President, even more integral to the IRS's reinvention was supposed to be the use of technology, like electronic filing and telephone collections. What happened there?

In a plan for reinventing the IRS, an entire page is dedicated to describing how existing workers—not new workers—who are displaced by these new technologies will be retrained and relocated.

Why then, with the knowledge that existing workers will already be displaced, are we spending more money to hire more of them? Why not just retrain existing workers for enforcement positions?

Mr. President, by their own admission, the IRS has a surplus of employees, not a deficit. I thought that reinventing Government was about being more efficient with existing resources, not asking for 5,000 new, full-time Federal employees.

Mr. President, it is my understanding that the GAO does not support spending more on new revenue agents. In fact, they would recommend, I believe, just the opposite.

According to their April 1994 report:

> We do not support an initiative that calls for more revenue agents. We believe the focus of IRS's collection efforts should be just the opposite—more use of the telephone and less reliance on face-to-face contacts.

More recently, in a letter dated June 20, 1994, a few days ago, responding to several questions directed by Senator GRASSLEY, the following statement was made with regard to the necessity of new revenue agents:

> We do not know the specific amounts of revenue involved, but there are steps IRS could take to generate additional revenues by using existing staff differently and more efficiently.

And in commenting on past funding for such compliance initiatives, GAO noted the following:

> In 1990, for example, IRS received funding for nine compliance initiatives but implemented only two. In 1991, Congress appropriated $191 million for initiatives and IRS used $134 million for that purpose. In 1993 and 1994, Congress authorized initiatives of $43 million and $115 million respectively. However, IRS was unable to fully implement the initiatives in either year. IRS now plans to spend only about $17 million on the fiscal year 1994 initiatives. We do not know what IRS eventually spent on the fiscal year 1993 initiatives.

Mr. President, I quote again from GAO:

> We do not know what IRS eventually spent on the fiscal year 1993 initiatives, and yet we are going to give them another $405 million for fiscal year 1995.

Mr. President, spending $405 million in 1995 is not the fiscally responsible thing to do.

Finally, I would like also to note to my colleagues that the President, to my understanding, did not include the request for this funding into the fiscal 1995 budget. So not only does GAO think it is a bad idea, I do not think the President, unless he has changed his mind, thought that an increase was necessary either when he submitted his budget for 1995.

Not only is this unnecessary spending, it is inefficient spending. Hiring 5,000 new Federal employees to collect taxes is not the answer to improving compliance and, Mr. President, it is not the answer to reinventing Government.

I urge my colleagues to join me in supporting Senator GRASSLEY in this effort.

The PRESIDING OFFICER. The Chair recognizes the Senator from Mississippi [Mr. LOTT].

Mr. LOTT. Mr. President, I rise in support of the Grassley-Shelby amendment.

Mr. President, I think it is important that as we consider this amendment to this appropriations bill we examine the history of how we got to this point.

The President's budget proposed hiring 5,000 new IRS agents to increase compliance. And the administration proposed paying for it with off-budget spending. This proposal was included on the floor when the Senate passed the budget resolution. But, it was on the condition that the taxpayer bill of rights II become law by 1996.

The budget conference took the liberty of striking this essential protection for the taxpayer. Thus, the conference report allowed for off-budget spending of $405 million per year for new agents with no offset to pay for this spending and no taxpayer bill of rights II.

The Treasury-Postal appropriations bill before us now includes this off-budget funding for the new IRS agents.

Most Senators and Members of Congress can cite to you not one, not two, but many instances of abuse by IRS agents. Quite often it appears to me that this abuse comes from the fact that they do not have enough to do. It is not just a question of collecting what is owed. It is how you do it. That is why I think the taxpayer bill of rights II is such an integral part of this issue. If we are going to have 5,000 more IRS agents crawling all over the American taxpayers, the least we can do for balance and equity is provide some fundamental rights and protection for the taxpayers.

Let me just cite examples of what is in this taxpayer bill of rights II package.

It would provide for an ombudsman to help people when they feel like they are not being treated fairly, when a particular agent perhaps goes too far.

It provides for an interest-free extension period for payment of taxes after notice and demand. Part of the biggest problem with people who have difficulty with the IRS is not so much what they owe, but what they wind up owing. Interest and penalties continue to just stack up and make it almost impossible for the taxpayer to ever get to the principal. This would extend the interest-free period for payment of that tax after notification. It would even have an expansion of authority to abate that interest.

It provides for changes after you have filed a single return. You could actually change the filing to a joint return without penalty.

It deals with collection activities, offers of compromise, notification of examination, removal of limits on recovery for civil damages, and a myriad of other very important, reasonable, basic commonsense provisions. The taxpayer would be protected and the Internal Revenue Service may even see an increase in compliance.

So I am very pleased that Senator GRASSLEY and Senator SHELBY have offered this amendment. A number of other Senators are cosponsors of this proposal to strike the provision in this appropriations bill to hire 5,000 new IRS agents. This amendment will reduce the deficit by $2 billion over a 5-year period.

Why should the IRS be allowed to do this? There are other Federal agencies which perform an invaluable service and they do not receive off-budget funding. I think the IRS should not get any special treatment. In fact, I want to give you some arguments as to why the IRS does not need all these additional agents.

According to CBO, the IRS has seen the greatest increase in staff in the Federal Government over the past 12 years except for the Department of Defense. In fiscal year 1982, IRS had 82,857 employees. As of January 1, 1994, the Internal Revenue Service has 113,770 employees.

As you can see, there has been about a 30,000-person increase in the number of Federal employees at IRS alone.

At a time when the Federal Government is shrinking by 252,000 workers. Why do we need this 5,000-agent increase on top of the 30,000 that have been added in the previous 10 years?

I think that better compliance is an appropriate goal, but if that is the problem, I believe they should refocus their agents and the funding they already have. Instead of going after Methodist ministers about whether they are self-employed or not, they should go after real offenders.

I also fear one of the results of 5,000 additional agents is that they will target small businesses and small corporations who already are struggling just to make ends meet.

Allowing this money to be spent off budget is a big misstep down a very steep and slippery slope of budget gimmickry and exorbitant deficits. It will totally undermine the credibility of budget caps which are set in law.

This is an excellent amendment, one that I would urge my colleagues to support. It is fiscally sound. It also honors a commitment from the budget resolution. We do not need to be increasing the size of Federal agencies at this time—especially IRS agents.

I have not noticed a shortage of agents in Mississippi. Is there a State which is clamoring for more IRS agents? I want to remind my colleagues that this increase was tied to the passage of the taxpayer bill of rights II. There are a lot of punitive actions performed by agents which need to be done away with. The taxpayer bill of rights II provides an excellent compromise. It works with the taxpayers, to get the taxes they owe in a less aggressive and adversarial manner. I do not think we would need more IRS agents. We need fewer IRS agents.

My colleagues are going to give you an argument about good Government and paying unto Caesar, Caesar's due. This is not the problem. In fact, this amendment will be a way that we can help reduce the deficit by $2 billion over 5 years.

What would a referendum with taxpayers reveal? Let them vote. I bet they would overwhelmingly support the Grassley-Shelby amendment. And again I urge my colleagues to do the same and support this fiscally responsible amendment. Increasing the Federal work force is going in absolutely the wrong direction at the wrong time. Taking it off budget and adding the cost to the deficit is bad budget policy, and unsound fiscal policy—it is unbelievable.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona, [Mr. DECONCINI].

Mr. DECONCINI. Mr. President, the Senator from Mississippi is correct. There has been a substantial increase in IRS agents over the past 12 years, and they have been under the compliance initiatives offered by the Bush administration and the Reagan administration.

So this growth did not occur here in the last 18 months from this administration.

What we have done here, and it is very important that people understand, the budget resolution that we passed in this body, and, by the way, I have sympathy for not putting these funds off budget, it troubles me immensely but that is what this body did. The budget resolution provided for an additional $405 million in budget authority and outlays, outside the discretionary caps.

If I had my druthers I would not do that. But that is not what the body did, and that is not the law that we are governed by when we are subject to the budget process. We are the appropriators, and we come up with the money. The money has been authorized by the Budget Committee and that was to have a compliance initiative in order to raise additional revenues between $9 billion and $10 billion.

I hope it works. I think there is a good chance that it will. These funds were then what they call "crosswalked" to the committee. The additional IRS compliance funds were provided in the appropriations process. That is why we are here. That is why that money is in this appropriations bill. The committee bill actually includes an additional $426 million for IRS law enforcement with this purpose and this purpose alone.

In addition, the bill includes language stating that the funds cannot be used for any other purpose, and that no funds shall be transferred from the tax law enforcement account in fiscal year 1995 for other purposes.

Why was that done? That was done to ensure, to satisfy people here, that this was not some way to get around the caps for anything other than a compliance initiative. I will talk about the need for that in just a moment.

The funds will be used to support 5,000 new agents. But that is not how many new agents are actually going to be hired here, and they are not all agents. Many of them are collectors, and there is a difference. It is a fine distinction. If you are from the IRS, I understand, and you knock on the door and say, "I am here to help you;" when you tell them you are from the IRS, it does not make any difference if you are a collector or an agent. The point is, these are not the same employees as an agent is, because they do collection and not auditing, which is what the agents do.

Out of this, there are going to be only 2,000 new employees. The Senator from Iowa may say that is too many.

Mr. GRASSLEY. It should be 3,000 new employees.

Mr. DECONCINI. No, 2,000 new employees. The rest are going to be taken from the IRS rolls that were going to be eliminated through the attrition process. They will not be eliminated but they are not all new people.

Why are we doing this? Let us get down to the facts. The Senator from Iowa says and the Senator from Mississippi says, "Gee whiz, the poor taxpayer." I am interested in seeing that the taxpayer is not harassed. I am sick and tired of it. I get those complaints as well as anybody else. And I am sure the Senator from Iowa knows the accounts receivable inventories, taxes due the Federal Government—the Government you and I are here representing, as well as the people here, that we are trying to make run more effectively—that tax receivables have grown 35 percent just in the last 5 years—in the last 5 years; 1 year under this administration and 4 years under the past administration. I am not blaming anybody; it is just a fact. We are not collecting money. People who should be paying their taxes do not pay them.

The accounts receivable are estimated at over $75 billion. What do we do about it? We have some options. We could say just collect it and take the money out of, I do not know, taxpayer services; take it from telephones or knock down the computer so you cannot count or answer questions of taxpayers, or do something. We did not.

What we said: The administration came up with an initiative very similar to the initiatives the Bush administration has come up with and the Reagan administration has come up with, to go out and get those American taxpayers who are not paying.

If you want to defend the American taxpayer who does not want to pay their tax bill, be my guest. But I am sick and tired of it. I pay my taxes. You pay your taxes. Most of the people we represent pay their taxes. Why should we not go after those who do not?

So the budget is approved by this body, and in it there is a compliance, to go get those taxpayers. The tax gap, in addition to the $75 billion estimated—it is estimated to be maybe $127 billion.

The number of taxpayers failing to pay their liabilities, failing to pay their taxes—probably there are some in Iowa. I am sure there are some in Arizona and Mississippi. I have to represent them. But I am not going to represent them to not pay their taxes, because there are over 14 million who do not pay their taxes and nobody asks them any questions or goes after them.

I think we should go after them. I wish I was not here, frankly—because my friends know how I feel, and I have supported the Grassley-Exon amendments on a number of occasions—I wish I was not here arguing for something outside the cap. Because I do not like to see that stuff off-budget, this or anything else. But that is not what I have to do. I have an obligation here to get an appropriation to do a taxpayers compliance and it happens to be already passed by the Budget Act to be off-budget or over the caps, outside the caps. So now we have to do it. It does not affect the deficit. It will permit the IRS to help close that taxpayer gap. It seems to me the Senators who are proposing this amendment ought to be for it.

In addition, it is going to raise between $9 billion and $10 billion. Let us say they are off, and it raises $7 or $8 billion. That is still a good investment for $2 billion over a 5-year period.

The chairman of the Budget Committee, Senator SASSER, in a statement just yesterday, said a number of things, and one of them was:

> The Internal Revenue Service and the Treasury Department have certified that they are firmly committed to the principles of privacy, confidentiality, courtesy, and protection of taxpayer rights. To this end the Internal Revenue Service and the Treasury Department have specifically committed to initiate and implement educational programs for any new employees hired as a result of the compliance initiative.

That is what we told them to do. We did not tell them that they had to pass the taxpayer bill of rights. We did not say it was conditioned that they pass it. We told them that they had to institute and initiate the proper procedures, and now we are told that they have done it. To me, what else can you ask? Had the condition been that you must enact into law the Pryor taxpayer bill of rights, that would have been something else. And I am a cosponsor of that bill, and I support it very much. But what the budget resolution said is that you have to certify that you are instituting these new initiatives. And I think that is what has been done.

Senator SASSER goes on to say that the Internal Revenue Service compliance initiatives will not increase the total of the Federal budget deficit over 5 years. I did not just make that up. That comes from the GAO. They said, "We believe that the additional budget authorities will not increase the deficit over the 5-year period in question." That is a quote from the text, from the Policy and Administration Office of the GAO. That letter goes on to state, with reference to the IRS estimates of revenue:

> The IRS has changed its methodology for estimating the additional revenues to be generated by augmenting its examination function. Thus, we are more confident than in the past about the reliability of the revenue estimates associated with the examination part of the compliance initiative.

I have had problems in the past. I have been working on this committee ever since I have been in the Senate, and I have been chairman of it for 9 years now, and I have had a lot of problems with this particular issue of promising to raise all this money and not being able to get there. So we have asked them over the years, go back and look at how much you have raised under these initiatives. They have put in a new mechanism of trying to determine this. They can only estimate, nobody can guarantee it, but they have lowered that. I believe they have come as close as they can.

In addition, with reference to the use of revenue officers that the IRS plans to hire to implement its collection program, the committee has included language in the committee report which states: "The Committee has denied the request of $87,908,000 for the hiring of 1,192 additional revenue officers, and instead instructed the Service to redeploy these funds into the hiring of additional call site collectors," which is different from an IRS agent as to how much you have to pay them. The committee took this action as a direct result of the GAO recommendations.

I have to agree. I wish I was not here asking, arguing for $405 million outside the discretionary caps. That is what we did. And to not now go through with the compliance because this body adopted a budget that took the money outside the caps is really foolish. We have letters, which I will put in the RECORD and read them only if we want to extend this debate—and I appreciate the Senator from Iowa being willing to enter into a time agreement so we can get on with things. We have letters here from Lloyd Bentsen, the Secretary of the Treasury, and the Commissioner of the Internal Revenue Service, Mrs. Richardson, that all state that they are in compliance with the requirements that were in the Budget Act, that they have initiated the proper education systems and programs to guarantee to the taxpayer, as best as they can, that they will abide by the rules as set out in the taxpayer bill of rights.

As I said, I wish we had passed that taxpayer bill of rights.

Mr. GRASSLEY. Will the Senator yield for a question?

Mr. DECONCINI. I will be glad to yield for a question.

The PRESIDING OFFICER. The Senator from Arizona yields.

Mr. GRASSLEY. I said for a question.

If you would permit me just to say something along the lines of what you just said. Their letters may say—and I do not dispute the sincerity of Secretary Bentsen, Commissioner Richardson, et cetera, on what they will try to do from an educational standpoint on taxpayers' rights, what they will try to do from the standpoint of issuing regulations on the taxpayer bill of rights, what they can do without our passing law.

But they cannot substitute a pledge that they are going to do this to take the place of the agreement that was reached in the Senate on our budget resolution when we said that it was conditioned on the passage of taxpayer bill of rights 2, not their maybe doing something through regulation or their doing something through education that would take the place of the passage of taxpayer bill of rights 2. They can do all these things good and dandy, but the bottom line of it is, that cannot satisfy the agreement that was reached on the floor of the Senate on the budget resolution.

Mr. DECONCINI. If the Senator will yield, first of all in the bill, section 2, under the administrative provisions, it states, and I will read it to the Senator, on page 17:

> The Internal Revenue Service shall institute and maintain a training program to ensure that Internal Revenue Service employees are trained in taxpayers' rights in dealing courteously with the taxpayers and in cross-cultural relations.

So that is part of this law that is before us right here, that says they shall do it. That is in the bill.

We did not adopt the budget resolution that said this is conditioned upon passage of the taxpayer bill of rights 1 or 2. That is not what the budget resolution said, as I will point out. The budget resolution noted the Internal Revenue Service and the Treasury Department, according to Senator SASSER, have certified that they are committed to the principles of privacy, confidentiality, courtesy, protection of taxpayers' rights. And to this end the

Internal Revenue Service and the Treasury Department have explicitly committed to initiate and implement educational programs for any new employees hired as a result of the compliance initiative.

Then at the end of the statement he says some other things about the Commissioner.

But as I point out, we have it here that they have to. We did not say that they may institute and maintain training programs. Exactly what the Senator wants. If the Senator is here because the taxpayer bill of rights has not been passed, I am sympathetic. I wish it was passed. I do not want to muck up this bill, but if he offered it here, I would vote for it because I support it and we ought to pass it. It is the right thing to do.

But now we are stuck. We passed a budget and now you are saying take out the compliance because you have not complied with all the taxpayer bill of rights. It does not say we have to comply. It says they have to certify that they will institute these and to ensure that they will institute, we have told them right here, they shall institute it. So they will be breaking the law if they do not do this in section 2.

I do not know what else we can ask of the agency. I just do not know what else we can ask.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator from Missouri [Mr. BOND].

Mr. BOND. Mr. President, I, too, am a supporter of the taxpayer bill of rights, and I have been a cosponsor. I want to see it passed. I think it makes a good deal of sense. But as we talk about the budget resolution and the provisions in it, I think it is perhaps appropriate to point out that there were a couple of provisions in the Senate version of the budget resolution.

One of those provisions has already been addressed, and that is, we wanted the Secretary of the Treasury to certify to the chairman that the Internal Revenue Service will initiate and implement an educational program with respect to taxpayer bill of rights 1 and 2 for any new employees hired pursuant to such budget authority or outlays and as the chairman, Senator DECONCINI, has already pointed out, we have letters expressing binding commitments from both Secretary Bentsen and Commissioner Richardson. As the chairman has further pointed out, we have put binding language about that educational effort into this measure.

With respect to actual passage of the taxpayer bill of rights, the Senate budget resolution had contingencies and under it said, No. 1:

> In the case of such budget authority or outlays through any fiscal year after fiscal year 1995—

After fiscal year 1995

> there has been enacted into law a taxpayer bill of rights 2.

That applies to future years. It does not apply to 1995.

My good friend from Iowa, I believe, is a member of the Finance Committee. I believe that that measure is within the jurisdiction of the Finance Committee. I certainly wish him well in passing it out of the Finance Committee, and I will support on the floor the taxpayer bill of rights. But the problem is that we are seeing significant amounts of revenue not collected.

This country's tax structure is based on voluntary compliance. We expect that most people voluntarily will pay their taxes. We have to back that up, though, because current estimates are that we have only 83 percent voluntary compliance and that figure is going down. Each percentage point of compliance is worth between $7 and $10 billion to the Treasury. If you took the lower estimate of $7 billion, pushing the tax compliance rate to 95 percent would generate $84 billion a year.

Mr. President, I do not like taxes. I do not know too many people who do like taxes, but I would rather collect the taxes that are owed than have to come and fight against tax increase proposals increasing the rates. I think every taxpayer in this country who is paying taxes would agree that the IRS should make every effort to collect the taxes that are owed. It certainly makes more sense than raising taxes on those who are already complying.

The Senator from Arizona has already talked about the 83 percent who voluntarily comply, and I assume and I hope it means everybody in this Chamber. And 83 percent of our constituents nationwide are the ones I am concerned about. They are the ones who are bearing the burden because 17 percent are not paying their taxes. That is a tax gap of $100 to $200 billion. We could reduce the taxes on those who already pay if we could get substantial compliance with the tax laws that are now on the books.

A point has been raised about the possibility of raising revenue in other areas. Frankly, I would support some initiatives in Customs because I think they are missing out on revenue that could be raised. But the fact of the matter is that the Internal Revenue Service collects 90 percent of the revenues of the Federal Government. If they are not doing a good job of pursuing nonpayers, those who do not comply, then there is less of an incentive for voluntary compliance, and we may see that 83 percent compliance figure erode further.

If you really are concerned about the 83 percent of the taxpayers, you will support the provision in the bill. To support this amendment, however well-intentioned, is to say to the 17 percent who skate without paying the taxes: "Good luck; we're going to give you another pass; we're not going to step up the compliance efforts to make it more likely that we will track you down and bring actions to force you to pay." To me, this benefits the 17 percent who do not pay at the expense of the 83 percent who do pay.

GAO has been raised here and the GAO letter of June 16, again as Chairman DECONCINI has pointed out, clearly states that this additional budget authority will not increase the budget deficit over the 5-year period.

My colleague from Iowa said we need to stick with the caps. Why do we need to stick with the caps? I believe in caps when they are designed to keep the deficit down.

I personally faulted the Director of OMB for not putting this proposal in the original budget proposal. I think this should have been part of the proposal. It should have been in the caps. But the fact that it was not does not mean there is any less good to be achieved by collecting money from the people who are not paying their taxes now. Somewhere between $100 billion to $200 billion of taxes are not being paid. For this revenue-raising measure, adding compliance officers, we will get about $9 billion over 5 years.

That is a better than $4 return for every $1 we spend. This initiative should and will reduce the deficit. And it will do so not at the expense of the 83 percent who do their taxes but at the expense of the 17 percent who are not paying their taxes now.

While I respect and admire the conservative fiscal responsibility of my colleagues from Iowa and Alabama, on this one I am afraid they are just plain wrong. This will enable us to lower the deficit, to gain more than $4 in revenue for every $1 spent on this compliance initiative.

I hope that my colleagues will support what the Budget Committee did and what the subcommittee in the Appropriations Committee has done, and that is to provide a compliance initiative so that we will say to the taxpayers, the vast majority who did pay, we are going to protect you by going after the deadbeats who do not pay their taxes. I hope the Senate will reject this amendment.

The PRESIDING OFFICER. Who seeks recognition?

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. First of all, I ask unanimous consent that Senator ROTH be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. We have heard from the distinguished managers of this bill what they consider good-faith attempts by Treasury and the IRS to educate agents and to issue regulations that will be a substitute for the condition that we had in the budget when it passed the Senate, that these agents could not be hired unless we passed taxpayer bill of rights 2. I believe that our colleagues probably in their own good mind accept the good faith of those efforts. They have letters that say the same thing.

But I would like to have my colleagues understand that I have written Secretary Bentsen to get the details of these education and training programs and what regulations might be issued, and I have not received any response yet, anything definitive on what they are going to do. And so as well intended as the provisions of this legislation might be to see that this is done, I think that we cannot count on it.

I think that also the references to the conference report probably had that same good intention, but I have not trusted these approaches in the past. I have dealt with it under both Republican administrations and now under this administration to do what they say they are going to do in protecting taxpayers' rights. That is why I was very adamant in the compromise that was worked out when the budget first passed the Senate that this would be conditioned on the passage of legislation, not just on some nebulous sort of promises of education of employees and doing some things through regulation.

This is meant to be a nonpartisan issue. I think it is perfectly legitimate for the Senator from Arizona to suggest what happened under previous administrations. I just think that the problem we are dealing with here is that the IRS is the same IRS, whether you have Republican Presidents or you have Democrat Presidents. So this amendment is not in any way a criticism of this Democratic administration or President Clinton. This is a situation that I would say is institutional, a problem that is institutional with which we have to deal.

Now, I would like to ask Senator DECONCINI to consider what he said yesterday on this issue in his opening statement on the legislation.

He had, as he put it, reservations about this initiative as it was stated in the bill. He further stated, and I would like to quote, "These kinds of funds ought to be dedicated to the modernization of the system and making it really functional and available."

This compliance initiative in this legislation that my amendment would strike, which is striking $405 million and then striking the authorization for 5,000 agents, is a misallocation of the taxpayers' money and it goes against the principles of reinventing Government.

This IRS staff increase provision, I think, has been mislabeled, as it is a tax law enforcement measure. I think it has to be and can be more accurately referred to as the "heavy-hand-of-the-law measure that will increase Government bureaucracy and harassment at taxpayers' expense."

Now, of course, we want and we need the IRS to collect revenues, and nobody including this Senator can justify any amount of money lawfully owed the Government going unreported and uncollected. But there are other ways to get that job done than the effort to just hire more people and appropriate more money for it and even break the budget caps to do this. That is bad for the IRS, but it is going to be bad as it sets a precedent for other departments to ask for the same consideration, because the GAO and others are legitimately making arguments that the IRS needs to reprioritize and achieve more efficiencies within its current means. Until these are accomplished in a maximum way, we should not even be considering more staff increases, especially if the President is serious about his so-called reinventing Government proposal.

I thought reinventing Government meant doing more with less staff and less bureaucracy. I thought that because that has been expressed by Vice President GORE very clearly, and I feel very clearly supported by President Clinton in this effort. Since the day after Labor Day last year, this administration has been fully into reinventing Government, and I have been supportive of that effort. I say in some respects I do not think there is going to be the proper followthrough, but at least for what they say they are trying to do I say it is the right direction and we should help them do what they want to do, only more.

That applies to the IRS as well. I think the IRS has a long way to go before these priorities and these efficiencies are achieved. Just one of the misallocations in the resources can be seen in the area of in-kind payments for farmers.

Currently, the IRS is going after hundreds of family farmers who pay their workers with grain or other commodities. Under the law, very clearly these payments are exempt from the FICA taxes, but the IRS, which is trying to overturn the law, has been going after these farmers for millions of dollars in back taxes, penalties, and interest. Many, if not most, of these family farmers are following the law as written, but the IRS has found a group of powerless taxpayers of modest means to go after. Many of the farmers my office has dealt with do not have the money to fight these misguided attacks.

Why is the IRS going after these low-income family farms when there are thousands of international tax cheats out there? That is my concern. What is the top priority of the agency? When the IRS is misusing resources now, how can we expect such an uncontrollable bureaucracy to do better with more funding? In other words, why, if they are not careful now with the allocation of those funds should they have $405 million more to hire 5,000 more agents?

Then there is another group that the IRS has been going after. This has been referred to already by my distinguished colleague from Mississippi. They have been going after Methodist ministers. Can you believe that? An attorney for the United Methodist Church testified before the House Ways and Means Committee about the IRS targeting and harassing a group of Methodist preachers. What have we come to, Mr. President? It is no wonder the public is angry.

Of course, there are hundreds of other individual horror stories as documented through congressional hearings and news reports that we do not have time to go into. But my point, Mr. President, is that the IRS has to first get its priorities straight and needs to implement new and effective taxpayer protections before we unleash thousands of more agents on a skeptical, if not angry, public.

A vote for the Grassley-Shelby amendment, an amendment with bipartisan support, is a vote to protect taxpayers and force better efficiency, and it is a vote against budget gimmickry.

I hope that my colleagues will put the taxpayers first in supporting this amendment.

No one knows the true overall costs of this IRS staff increase or the amount of offsetting revenue that will be raised. This is a main point of at least one of the managers of this bill; that we are going to bring in all of this money as a result of putting on 5,000 more agents. There is no objective evidence that past staff increases have actually raised more than they cost, especially when you factor in retirement costs. Even if the IRS studies do not prove that these staff increases made money or even the IRS studies cannot prove that staff increases made money for the Government, the profit that has been made in the past was due more to realized efficiencies and reprioritizing than to staff increases. Even the IRS admits that.

The General Accounting Office has also found that "Past IRS staff increases," to quote a report, "were not implemented as Congress intended, and the IRS' revenue estimates were unreliable." And the GAO says that the staff increases will probably increase the deficit in the first year and will not increase the deficit in later years only if certain conditions are met. These certain conditions are, first, whether or not funds are used as intended to increase IRS enforcement staffing; second, funds are provided in the fiscal years after 1995 to maintain the increased staffing level; and, three, whether the IRS is able to successfully hire, to train, and to retain this additional staff.

So we are going to have to spend even more taxpayer dollars in the outyears to realize any projected savings, meaning that the total cost of this new staffing is unknown but may be way beyond the initial $2 billion 5-year cost. In addition, the CBO refuses to score the staff increases as a revenue raiser.

CBO does speculate that more money would be raised than the staff would cost. But they were unable to factor in what will undoubtedly be very expensive retirement costs.

So that is speculation, and it is a far cry from accomplishing any kind of deficit reduction. If my amendment succeeds, we know that we will be saving over that 5 years $2 billion. If these staff increases pass, we are going to be lucky to break even, let alone make money.

So true deficit reduction is only certain if our amendment passes. The committee provision is at best wishful thinking.

I notice that my colleague from Illinois is on the floor and wants to speak. I will yield momentarily. But based on some discussions that he and I privately had, I would like to take advantage of repeating something that I said earlier in this debate because he was not on the floor at that time.

There has been some allusion to it by the managers of the bill—that that quote was actually from the conference report, or from this legislation, as opposed to what was agreed to by the Senator from Illinois and myself and several others on the budget resolution when it was up in April. That is what we should do if we are going to hire more agents: Make sure that we get adequate protection for the taxpayers.

So some of us agreed that this money could be spent only after the taxpayer bill of rights 2 passed. So we went ahead in the budget resolution. The money is there as it passed the Senate. But then it goes to conference between the House and Senate. The condition that this money not be spent until the taxpayer bill of rights 2 passes was taken out. There was some nebulous language put in that the IRS would do their best to educate their personnel to do some things by regulation that would be substituted for the taxpayer bill of rights.

Those are good measures. But effectively the Treasury Department in agreeing to what the Senate agreed to get it through the Senate with full knowledge that they would run from that agreement when it passed, when it was coming out of conference.

So we ended up with these nebulous promises of regulations and education. And I would hope that my colleague from Illinois would agree that we should not now appropriate that money until that original agreement was followed because that would have never gotten through this body in the first instance without that condition in it.

I yield the floor.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DECONCINI. Mr. President, I will yield in a moment to the Senator from Illinois.

I want to comment on one remark the Senator from Iowa said. He quoted me in a statement that I made yesterday about what I think the IRS priorities are. I stand by that statement. I think if I were the Commissioner, I would do it differently. If I were the Senate and the Congress, I would do it differently. But I am not the Commissioner and I do not act as this body. What I do with the ranking Member here is that we take what the Budget Committee gives us.

Now we are appropriating it, and we are doing everything that the Senator has asked us to do, and everything that I believe was an agreement—I will hear about that in a moment—as to what was supposed to be done by the IRS. We are telling them that they shall institute all of these procedures that were discussed in the budget, inside the budget agreement and outside the budget agreement.

So we are truly abiding by what I think was the intent of those budgeteers when they went to the budget and afterwards. That is why we have this provision in the bill.

I thank the Senator from Illinois.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I thank Senator DECONCINI for his work here.

Let me add that Senator DECONCINI's service to this country will be missed in the U.S. Senate, for what he is doing on this bill is just one of the many illustrations of it.

The situation is pretty much as my colleague from Iowa described it. I introduced the amendment. We had an agreement that we would put on Senator PRYOR's taxpayer bill of rights 2, and in the process of all of this, things got changed.

My understanding is that Treasury says they are going to implement this. I would prefer it in legislative language. If Senator PRYOR offers it in legislative language, I am going to vote for it. But I also believe we ought to get people to comply with the law. And if we can spend this amount of money, and according to GAO get a net return of $9.2 billion, we ought to do it.

Second, I think we ought to say—because we talk about the abuses of the IRS, and there have been abuses. I think every Member of the Senate has had some constituents who come in and have genuine complaints about IRS abuses. I was audited maybe 30 years ago and had to go in with 2 or 3 years—I forget now—of my returns. And, real candidly, I found when they saw you were playing it honest, they were helpful, and I ended up, one year, paying maybe $186 and another year getting back $230; it was kind of a wash. I do not remember whether I ended up getting more or paying more money. But I have to say they were very courteous as they moved through the process. I think that is the general experience that people have.

There is $125 billion that is not collected each year, but people owe it. But I think we owe it to the people who do pay taxes to see that the taxes are collected.

This is not a new thing. In 1990—and the Senator from Colorado can correct me if I am wrong—my recollection is that it was not a Democratic administration in charge. The 1990 budget agreement included an IRS tax compliance initiative which provided additional funding for activities that would reasonably be expected to increase revenue collections. The administration is considering a similar multiyear IRS initiative beginning in 1995 to increase taxpayer compliance further.

We are doing identically what we did in 1990. The IRS audits only 1 percent of tax returns. So we are not talking about just a massive deluge descending on the taxpayers of this country.

The report by the committee, shared by Senator DECONCINI, has this substitute language on the taxpayer bill of rights, and here we should give credit to our colleague Senator PRYOR, who really has done superb work in this.

It says:

> The Internal Revenue Service and the Treasury Department have certified that they are firmly committed to the principles of privacy, confidentiality, courtesy, and protection of taxpayer rights. To this end, the Internal Revenue Service and the Treasury Department have explicitly committed to initiate and implement education programs for any new employees hired as a result of the compliance initiative made possible by this section.

Under the old taxpayer bill of rights, 9,000 managers of the IRS got 20 hours of training so they would be sensitive to taxpayers, and all other employees got 6 to 8 hours of training. My guess is that most of the complaints we are hearing today are not as frequent as the complaints that we had in years past. I cannot vouch for that. Someone may come up with a study on this. But it seems to me that if we ask good, solid, honest citizens to pay their taxes, we ought to go after the people who do not pay their taxes, who cheat. And this is what the committee is asking is: Let us collect some of this $125 billion that we are not collecting right now. So I am going to oppose the amendment offered by my friend from Iowa. I have great respect for him for his independence and his tenacity. But I think we owe it to the American people to collect this money.

I yield the floor.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana [Mr. BURNS], is recognized.

Mr. BURNS. Mr. President, I rise in strong support of the Grassley amendment, and I guess after being around here for a while and looking at how the bureaucracy works at the Federal level, it is not a hard judgment call to make.

There is nothing in this legislation or the increase in funds for this bureaucracy to go out and collect taxes. I agree with my friend from Illinois that, yes, it should be done, but there is no incentive for them to do so. They have demonstrated that over the last 2, 3, 4 years, since I have been in the U.S. Senate.

We can talk about 1990. For example, the IRS received funding for nine compliance initiatives, but they only implemented two. They would probably come back and say, "We only had people enough to implement two." But the money was there. There is a lack of initiative or incentive to go out and get it done. Whenever you talk about trying to save money—and it becomes a mindset or a spending set in Government—I am familiar with that because before I came here, I worked at local government where the rubber really hits the road, and as far as making government work, you are not only the man that makes out the budget, but you are also the appropriator. And so you sort of wise up to those types of things.

In 1991, Congress appropriated $191 million for initiatives, and the IRS used $134 million for that purpose. We say, "Look at the money we saved." But do you know what? Their collections did not go up. The activity did not go up. They bought automobiles, and they gave a few raises. They said, "Well, we improved the morale of the IRS." Well, I will tell you what; we can improve the morale of the whole country, spending money like that. But only two initiatives were put in place.

The IRS was unable to fully implement the initiatives in either year. So whenever we take a look at that, we see that we do not give them an incentive to go ahead and do the job as they are supposed to do it. I imagine that you could create a Gestapo if you said, "OK, go out and collect that $9.2 billion, and we will pay you a commission," if you want to make the investment in new auditors, or CPA's, or new ways to collect taxes across the country.

I think that would be very hard to do, and I do not think that is the kind of Government we really want. I think what we want is an agency that will honestly do their jobs, present their budget honestly, and do an honest day's work, and provide services not only for the taxpayers but also those people who we would like to think like to pay their taxes.

So I support this initiative for the simple reason that I think it sends a strong message to the rest of this Federal Government, that, yes, you are going to have to do more with less, because the American people have told us that that is the way they want it done.

For that reason, I will support this amendment. I thank my friend from Iowa for offering this amendment.

I thank the Chair, and I yield the floor.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri [Mr. BOND], is recognized.

Mr. BOND. Mr. President, there are some things in the statement of my good friend from Montana with which I agree. In the past, we have provided initiatives to the IRS, and they have not carried them out because we put in requirements on the IRS, unfunded mandates, like pay increases, that we did not provide the funding for.

That is one of the reasons they have not been able to carry out the compliance requests.

We give them all these new jobs to do with great ideas, and then we say, "By the way, you have to eat this pay increase, and you have to take on these additional responsibilities."

When this came out of the Budget Committee, it was fenced, and it said, "You have to use this for compliance."

My colleagues have raised the questions about what are you going to do with these moneys? Accounts receivable have grown 35 percent. That is people have not paid their bills. The number of taxpayers failing to pay their liability in full has increased from 14 million to 16 million. They are going to put staff to get quicker assignment and accelerated taxpayer contact to get the moneys collected.

Underreporting is a major problem. They are going to initiate a matching report program that will assure that all the documents they get in are matched to see if the payments reported by the payors are included as revenue by the payees.

As to nonfilers, there are more than 10 million returns that should be filed that are not filed each year. Again, they will use the information they get to identify those who receive dividends and who are not on the tax rolls.

Tax fraud: For some in the 17 percent who do not pay, they are guilty of criminal tax frauds, and these are the people that really should bother us.

I assume, as I said, that all of us here in the 83 percent who do pay the taxes that are owed, when some people are resorting to willful criminal fraud to evade their responsibility to pay taxes, that is a major blow at all of us who pay our taxes as they are owed.

There are bankruptcy fraud, motor fuel tax evasion, financial fraud involving pensions, and filing fraud.

These are criminal activities. These are criminal activities that can be pursued with the resources that are set in this compliance initiative.

Will this generate $9.2 billion over 5 years? Well, I cannot say for sure. I intend to monitor it to see that it does. I believe it is a reasonable way to approach it.

The Senator from Montana served in local government, and he knows that you have to have the resources to collect the taxes that are owed.

I served as Governor of Missouri, and I found that when you had a carefully crafted program to increase compliance, you could collect not only a lot more money from those who are trying to evade the taxes but you had a very healthy impact on those who were debating about whether to file and pay voluntarily the taxes they owed.

I have seen these initiatives can work. I believe that we have the commitment from the IRS and the Treasury that they will make them work. We have the commitment from the IRS and Treasury that they will provide education for the IRS personnel to comply with the taxpayer bill of rights as required in the initial budget resolution in the Senate.

As I said, the budget resolution in the Senate expressed the hope that the taxpayer bill of rights II would be passed for the years after fiscal year 1995. I look forward to seeing my friend from Iowa bring that measure to the floor from the Finance Committee. I will certainly support it.

I believe that it is false economy to fail to provide the $400 million that over 5 years will bring in $9 billion.

I urge my colleagues not to support this amendment.

The PRESIDING OFFICER. The Senator from Iowa [Mr. GRASSLEY] is recognized.

AMENDMENT NO. 1823, AS MODIFIED

Mr. GRASSLEY. Mr. President, I have a modification of my amendment I send to the desk.

The PRESIDING OFFICER. The Senator has the right to modify the amendment.

The amendment (No. 1823), as modified, is as follows:

On page 15, line 17, strike out "$4,358,180,000" and insert in lieu thereof "$3,953,180,000".

On page 15, line 19, beginning with "*Provided*" strike out all through the semicolon on line 21 and insert in lieu thereof the following: "*Provided* That no funds appropriated under this heading may be used for the enhanced tax compliance initiative for fiscal year 1995 as proposed by the Internal Revenue Service".

On page 15, line 24, strike out "$442,148,000" and insert in lieu thereof "$391,448,000" and strike out "5,002" and insert in lieu thereof "4,495".

Mr. GRASSLEY. So I may proceed?

The PRESIDING OFFICER. The Senator may proceed.

Mr. GRASSLEY. I also ask unanimous consent to add Senator SMITH as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, there is just one last point to both managers of the bill that I would like to make before we vote, and I understand that they desire to have closing statements, and that is OK with me.

First of all, Senator SIMON is not here, but this is only to raise a question to him. It is not to condemn anything he is saying.

The General Accounting Office—and he referred to the General Accounting Office—has never said that this would raise $9 billion, and I would be interested in seeing that figure from the GAO if the Senator from Illinois has it.

The estimates that we have been dealing with here are estimates from the IRS itself, and as a practical matter when we are making judgments about revenue that will come in from some action we take, we do not rely on the General Accounting Office for budget estimates.

I want to quote from the GAO analysis of the IRS fiscal year budget in regard to this specific figure.

Funding provided for the compliance initiatives in the Senate budget resolution is significantly lower than the funding level upon which IRS based its staffing and revenue estimates. The budget resolution would provide funding of $2.025 billion over 5 years.

That is what we have in the budget resolution, and that is what they are appropriating here.

> The IRS' estimates of 8,136 additional full-time employes (FTEs) and $9.2 billion of additional revenue were based on funding of $2.5 billion over that period. With the decreased funding—

That would be a decreased funding of about a half billion dollars.

> —IRS will have to revise its estimates.

That is revise its estimates of that $9 billion that we are told that they will get.

That is GAO's analysis of this proposition we are dealing with here.

So I think you want to remember that according to GAO, IRS is not getting the money that they say they need or the number of employees they say they need to get what they want.

So somehow the managers of this bill are going to have to revise down that $9 billion that they are quoting here.

I yield the floor, and I think I have nothing further to say on this amendment.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DeCONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, we are expecting another Senator to come over and speak on this amendment. The manager on the other side and I hope that we can move to a vote as quickly as we can after that.

In order to perhaps avoid having to have another amendment tomorrow, I would just call attention to the fact that on June 8 I wrote to Mr. McClarty at the White House asking him a question about the unauthorized use of Government-funded transportation by two members of the White House staff.

I have asked that he review any other incidents regarding use of taxpayer-financed transportation by White House staff, and I have asked the findings of the review. I have asked if they are conducting an overall review of helicopters and other modes of transportation. I have asked for copies of the travel log entries of Presidential helicopters for each trip with a 200-mile radius of the White House since January 20, 1993, including information on all nonmilitary personnel who rode in the helicopter, et cetera.

Now, I suppose I could always offer a specific amendment related to that commanding that the White House provide it. I would hope that maybe it has just been an oversight by Mr. McClarty that they have not been able to respond to my request of June 8. But in order perhaps to save this body some time, I would again call to the attention of the executive branch representatives that I wrote the letter on June 8 and I would be most grateful for a response before we finish this bill so hopefully we could avoid having to put a specific amendment on the floor relating to those matters.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, for the RECORD, I ask unanimous consent to have printed at this time a letter from Mrs. Richardson, the Commissioner of the Internal Revenue Service, dated April 22, 1994; a letter from Secretary Bentsen, dated June 21, 1994; and one from Secretary Bentsen dated April 22, 1994, all indicating the intentions and the initiatives already being taken by the Treasury Department, Internal Revenue Service, to comply with the budget resolution.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, DC, April 22, 1994.

Hon. DAVID H. PRYOR,
Chairman, Subcommittee on Private Retirement Plans and Oversight of IRS, Committee on Finance, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I would like to follow up on our conversation yesterday about the language currently contained in Simon-Bond-Pryor IRS compliance initiative amendment to the Senate Budget proposal.

The Internal Revenue Service fully recognizes the need to protect the rights and privacy of taxpayers and the need to continue to increase the knowledge of our employees about those rights. We will initiate and implement educational programs with respect to the Taxpayer Bill of Rights for any new employees that we hire as a result of the compliance initiative called for in the amendment.

In fact, many of our training programs already address the Taxpayer Bill of Rights, either directly or indirectly. For example, this year all IRS employees attended Ethics Workshops that teach the tenets of respect for others, treatment with courtesy and decency, and principles of fairness and concern for others. I have enclosed a copy of that material for you. More directly, all new collection and examination employees receive mandatory training on the Taxpayer Bill of Rights and I will forward copies of those materials to you under separate cover.

I firmly believe that continued reinforcement of the principles of privacy and confidentiality, courtesy, and protection of rights is the right thing to do to ensure the ethical treatment of taxpayers and one of the foundations of voluntary compliance. I also believe this compliance initiative makes good business sense for increasing revenue, enhancing compliance and reducing the deficit. I appreciate your support and efforts on behalf of this initiative and the taxpaying public.

Sincerely,
MARGARET MILNER RICHARDSON.

DEPARTMENT OF THE TREASURY,
Washington, DC, June 21, 1994.

Hon. DENNIS DECONCINI,
Chairman, Subcommittee on Treasury, Postal Service and General Government, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing regarding the Compliance Initiative in the FY 1995 Treasury-Postal Appropriations that would provide an additional 5,000 employees for IRS. I am particularly concerned about statements in a June 20th letter from Senator Grassley and others about that Initiative that was circulated to you and your colleagues. I want to set the record straight.

PROTECTION OF TAXPAYER RIGHTS

I want to assure you that the Internal Revenue Service fully recognizes the need to protect the rights and privacy of taxpayers and the need to continue to increase the knowledge of its employees about those rights. I wrote to Senator David Pryor on April 22, 1994 and told him that IRS would ensure the protection of taxpayer rights and privacy. I have also spoken to Commissioner Richardson about continuing to reinforce the principles and provisions of the Taxpayer Bill of Rights and know she is committed to a strong training program as stated in her letter of April 22nd to Senator Pryor.

GAO SUPPORT FOR THE COMPLIANCE INITIATIVE

Senator Grassley's letter alleges that GAO questions the validity of adding new IRS compliance employees. Quite to the contrary, GAO has stated in a June 16, 1994 letter to Chairman Sasser "that an increase in enforcement staffing will help generate significant revenues over the long term."

THE INITIATIVE WILL GENERATE OVER $9 BILLION IN REVENUE

The IRS Compliance Initiative was presented in the Budget within the framework of broader deficit reduction, rather than focusing entirely on spending. It is anticipated that the Compliance Initiative will conservatively yield in excess of $9 billion over 5 years—all of which will be applied to deficit reduction.

I appreciate your support and efforts on behalf of the Compliance Initiative and effective tax administration.

Sincerely,

LLOYD BENTSEN.

DEPARTMENT OF THE TREASURY,
Washington, DC, April 22, 1994.

Hon. DAVID H. PRYOR,
Chairman, Subcommittee on Private Retirement Plans and Oversight of IRS, Committee on Finance, U.S. Senate, Washington, DC.

DEAR DAVID: I have spoken with Commissioner Richardson about continuing to reinforce the principles and provisions of the Taxpayer Bill of Rights through training new IRS employees. I want to add my support to the IRS' efforts to protect the rights and privacy of taxpayers.

The Internal Revenue Service is committed to initiating and implementing educational programs with respect to the Taxpayer Bill of Rights for any new employee hired as a result of the Simon-Bond-Pryor IRS compliance initiative amendment to the Senate budget proposal. I fully support the training programs that the IRS already has in place and will initiate for all new employees to enhance the ethical treatment of taxpayers and to protect their rights.

Sincerely,

LLOYD BENTSEN.

Mr. DECONCINI. Mr. President, I am prepared to move ahead now and table the amendment, but we are waiting for one other Senator who wants to come over.

I hope the Senate will table this. I have a great respect for the Senator from Iowa. He has done a good job here. Often I have been with him, particularly on his taxpayer bill of rights. I would like to see that, and, frankly, if that were a condition of this $405 million compliance, then I would not be here asking for it. But the budget agreement did not make it conditional. What the budget agreement did is said that it is outside the caps, and it said that the Internal Revenue should certify, which they have done. The Budget Committee chairman here, who handled all of that negotiation in the budget, indicated that they have certified it, they are doing it.

In addition, as I pointed out, we put in the law that they shall do it. I do not know what more we could ask, what more we can do. Is there a gamble here? Yes, there is a gamble. The Senator from Missouri pointed out so well why the Senator from Montana says we have not been able to collect all this money on these initiatives, and that is because we here are mucking it around. The pay is the best example, asking these agencies to absorb the pay increase. If we go to the higher pay level of 2.6, which is not in this bill, if we go to that and say, "Absorb it," it is $700 million to come up with. If you are Internal Revenue, you take it out of some of these things.

But what we have said here is, for some of the initiatives, they cannot use this money for anything else. And we underscored that particularly because of the concern of those Members, such as the Senator from Iowa, that maybe this money will not be used for compliance, maybe it will be used for salary increases, for travel, for new computers.

It will not be used for anything but the compliance. So if they do not spend it, it is not going to be obligated, it is not going to go. They have the initiative and the incentive to get the job done here. Of course, if they are not to do it, I will not be here to cheer, to be on their backs. But I am sure plenty of people will be, because there has been a strong commitment made here that this money is going to be spent for this purpose and this purpose alone, and the law says it cannot be spent for anything else, and we have specifically told the IRS to institute the initiatives the budget agreement calls for.

Mr. President, in a few short minutes I am going to move to table.

Mr. BURNS. Mr. President, I rise today as an original cosponsor of the Grassley amendment to the Treasury-Postal appropriations bill.

I do not think the American people would be too happy to learn that this bill would allow the Internal Revenue Service to hire 5,000 more employees—at a cost of $405 million a year.

And to top it off, this cost would not be on-budget.

I cannot think of a more contradictory message to send to the American public—increasing the number of tax collectors in a time when the Government is trying to reduce the number of Federal workers.

According to the information I have seen, the IRS has seen a dramatic increase in the number of people it employes over the past decade. In fact, the IRS currently has almost 114,000 employees.

I think that the IRS has enough tax collectors already. In fact, I suspect that this agency will use these additional employees in ways that go beyond simple compliance.

I will give you one example. The IRS has been working to reduce the number of folks who classify themselves as independent contractors.

Many small businesses rely on the services of independent contractors—folks who provide their services for a fee, but who are not on the payrolls of businesses. The IRS, however, would like to see these folks classified as employees of these businesses.

If the IRS is allowed to hire another 5,000 people, I have a feeling that they would devote even more time and resources to pursue small businesses who use independent contractors in good faith.

Small business owners do not have the time and resources to defend themselves against these kinds of charges—not with all of the other requirements that the Government puts on them.

In addition, if the IRS increases its work force, then the Government will have to look elsewhere to meet its goal of reducing the work force by 272,000. I suspect that the Department of Defense will take the brunt of the cuts. I cannot support that.

This amendment will strip the $405 million in extra spending from this bill. I urge my colleagues to vote in favor of it.

Mr. KOHL. Mr. President, I rise today in support of Senator GRASSLEY's amendment to remove the $405 million provided in this bill for new IRS agents. And I admit, Mr. President, I do so with some regret. In the past, I have supported beefing up IRS enforcement.

Currently, IRS accounts receivable—that is money legitimately owed to the United States but not collected—is over $100 billion. That is money that could go to education, health care, economic development, or to reduce the deficit. But as long as it remains uncollected, it simply goes to the enrichment of tax cheats. That's not fair to the honest American taxpayers who pay each year for the service our Government provides.

So I would very much like to support the IRS enforcement initiative in this bill. I will not, however, because it is presented as off-budget spending not subject to the spending caps passed last year.

Mr. President, what sort of message do we send when we cheat on our own budget rules to pay for IRS agents to catch people who cheat on their taxes? If we support spending money to collect on our huge accounts receivable, and I do, we ought to be willing to pay for those agents on-budget.

Congress has no ability to make money disappear by declaring it off-budget. This $405 million will go into our bottom line. It will add to the deficit. It ought to be subject to the spending caps like all other discretionary spending.

Some argue that the off-budget treatment is justified because the $405 million goes into agents who will bring money into the Government—it is an investment. I am sure that is true, Mr. President, but I am also sure that Government investments in immunization, in education, in police, and in nutrition programs will save this country and this Government money in the long run, and they are not off-budget.

Mr. President, our new budget rules place tight limits on spending. Those limits make us choose between good programs and good Federal investments. If we believe a program, like IRS enforcement, is important, we make the choice to fund it. We don't—or shouldn't—make the choice to bend the budget rules to pay for it.

So, Mr. President, I will vote for the Grassley amendment, and I urge my colleagues to do the same.

Mr. DECONCINI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I move to table the amendment by the Senator from Iowa and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER (Ms. MOSELEY-BRAUN). The question is on agreeing to the motion to lay on the table the amendment by the Senator from Iowa, No. 1823, as modified. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Oklahoma [Mr. BOREN] is necessarily absent.

I further announce that the Senator from Connecticut [Mr. DODD] is absent due to illness in the family.

I also announce that the Senator from Nevada [Mr. REID] is absent attending a funeral.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 43, as follows:

[Rollcall Vote No. 155 Leg.]

YEAS—54

Akaka
Biden
Bond
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cochran
Conrad
Danforth
Daschle
DeConcini
Dorgan
Exon
Feinstein
Ford
Glenn
Gorton
Graham
Harkin
Hatfield
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pell
Pryor
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Simon
Specter
Warner
Wellstone
Wofford

NAYS—43

Baucus
Bennett
Bingaman
Brown
Burns
Campbell
Chafee
Coats
Cohen
Coverdell
Craig
D'Amato
Dole
Domenici
Durenberger
Faircloth
Feingold
Gramm
Grassley
Gregg
Hatch
Heflin
Helms
Hutchison
Kassebaum
Kempthorne
Kohl
Lott
Lugar
Mack
Mathews
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Shelby
Simpson
Smith
Stevens
Thurmond
Wallop

NOT VOTING—3

Boren
Dodd
Reid

So the motion to lay on the table the amendment (No. 1823), as modified, was agreed to.

Mr. DECONCINI. Madam President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

ORDER OF PROCEDURE

Mr. DECONCINI. Madam President, I know the Senator from New Hampshire is ready to move on his amendment which I believe is going to require a vote. We have agreed to accept the amendment of the Senator from Delaware. I ask unanimous consent that we proceed to that amendment for not more than 7 minutes equally divided, and then we proceed after that to the amendment of the Senator from New Hampshire.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Delaware is recognized.

AMENDMENT NO. 1824

(Purpose: Expressing the sense of the Senate that Canadian restrictions on imports of United States chickens should be eliminated and Canada should comply with its obligations under the North American Free Trade Agreement and the Uruguay Round Agreements)

Mr. ROTH. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH], for himself and Mr. PRYOR, proposes an amendment numbered 1824.

Mr. ROTH. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . SENSE OF THE SENATE REGARDING CANADA'S RESTRICTIONS ON IMPORTS OF UNITED STATES CHICKENS.

(a) FINDINGS.—The Senate makes the following findings:

(1) The United States chicken industry is a highly competitive and growing industry which employs over 200,000 people, has over 25,000 family farms, and has significant production in over 28 States.

(2) United States exports of chickens grew by 32 percent in volume in 1993 and exports are increasingly important to the continued economic vitality of the chicken industry.

(3) Canada's chicken supply management system has severely limited the importation of United States chickens to Canada since it was imposed over 15 years ago, and its elimination would lead to between $350,000,000 and $700,000,000 in new exports to Canada and between 7,000 and 14,000 new jobs in the United States.

(4) Canada's chicken supply management system protects Canadian chicken growers while seriously hurting both United States and Canadian food processors, retailers, and consumers.

(5) The United States and Canada have a free trade agreement which calls for the elimination of all tariffs and prohibits the imposition of new tariffs on any goods traded bilaterally.

(6) The goals of the Uruguay Round Agreement on Agriculture are to liberalize and expand trade in agriculture and to eliminate distortions to such trade.

(7) Canada refused to negotiate the issue of elimination of its severe trade restrictions on the importation of United States chickens as part of the North American Free Trade Agreement (hereafter referred to as "NAFTA") because the issue was part of the global trade negotiations under the Uruguay Round.

(8) The Uruguay Round has now concluded and the former and current United States Trade Representative, as well as other key cabinet-level officials, have stated that Canada will be in violation of its NAFTA obligations if it does not eliminate its newly imposed tariffs on chickens.

(9) The United States chicken industry has waited patiently for access to Canadian markets, which would be the United States largest export market for chickens if it were fully open.

(10) NAFTA should lead to free and completely open trade for the chicken industry between the United States and Canada, as it will between the United States and Mexico.

(11) The United States and Canada are currently holding discussions to resolve this and other bilateral agricultural matters.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the United States should reserve all current and future rights to bring Canada into compliance with its tariff obligations under NAFTA, including the use of bilateral or multilateral dispute settlement proceedings; and

(2) any agreement that is negotiated between the United States and Canada on chickens should lead to—

(A) substantial and immediate new market access opportunities for United States chicken exports in excess of the levels that have already been achieved; and

(B) a commitment from Canada before the effective date of the Uruguay Round Agreements which—

(i) establishes a timeframe for the elimination of all of Canada's tariffs on chickens; and

(ii) provides for growth in market access levels for United States chicken exports to Canada during the period such tariffs are being phased out.

Mr. ROTH. Madam President, this weekend there will be a very important meting at the ministerial level between the United States and Canada to discuss several bilateral agricultural issues. U.S. Trade Representative Mickey Kantor and Secretary of Agriculture Mike Espy will be representing the United States at this meeting, which I understand will take place in Chicago. The amendment I am offering, which is cosponsored by my distinguished colleague, Senator PRYOR, expresses the views of the Senate with respect to one of the key issues under discussion—Canada's trade restrictions on United States exports of chicken.

Madam President, for over 15 years, Canada has imposed a strict quota regime on the importation of poultry under its so-called supply management system.

It has effectively restricted imports of United States chicken to well under 10 percent of Canada's domestic production and has prevented our competitive chicken and other poultry producers from increasing their exports to our largest trading partner. It has been estimated that if Canada's market were completely open, United States chicken exports would grow to $350 to $700 million per year and would create 7,000 to 14,000 jobs in the United States. Last year we exported just $90 million in chickens.

Our Nation's chicken industry has been growing rapidly and is a world class competitor. A substantial portion of this growth is due to exports. In 1993, for example, our chicken exports grew by 32 percent in volume. In the Delmarva region, exports doubled last year. Our exports would have been much greater if Canada's market weren't so protected. The key to continued growth for the United States poultry industry is full access to Canada.

It is expected, in fact, that Canada would become our largest export market for chickens, instead of remaining our third largest market, if there were open trade between our two countries.

Madam President, I and many of my colleagues have been urging for some time that Canada open its poultry market, most recently in a letter to Ambassador Kantor which 20 Senators signed. I urged this as a major objective during our bilateral free-trade negotiations with Canada and later during the negotiations on the North American Free-Trade Agreement [NAFTA]. Unfortunately, we made no progress in eliminating Canada's quota regime during these talks. We were, however, able to agree to the elimination of tariffs on all goods between our two countries and to the prohibition of any new imposition of tariffs.

The recently concluded Uruguay Round Agreement on Agriculture mandates the elimination of all non-tariff barriers by converting them into tariffs, which requires Canada to turn its poultry quotas into tariffs. This new agreement, combined with Canada's bilateral tariff obligations to us under NAFTA, means that free trade in chickens is now within our reach.

I am extremely disturbed that the Canadian Government is refusing to recognize this fact and continues to refuse to open its market to us. Madam President, I supported both the Canadian Free-Trade Agreement and NAFTA, and it is high time for our free-trade agreement to actually lead to free trade for our chicken industry.

As everyone knows, the most basic, fundamental aspect of any free trade agreement is the elimination of tariffs.

The sense-of-the-Senate resolution I am offering underscores all of these critical points. It also expresses the views of the Senate with respect to what our overall goals should be in the upcoming high-level meeting this weekend.

There are two critical points that our negotiators must not lose sight of. First, we should reserve all of our rights, current and future, to bring Canada into compliance with its tariff obligations under NAFTA. If Canada will not implement its free-trade obligations, our only option may be to pursue formal dispute settlement proceedings.

Second, any agreement that is negotiated to resolve this bilateral dispute should accomplish two things: It should create substantial new export opportunities for United States chicken producers, and it should include a timeframe for phasing out and eliminating all of Canada's tariffs on chickens. These tariffs should be phased out as soon as possible, and there should be growth in market access levels during the transition to free trade.

We are on solid ground in insisting on our free-trade rights for our chicken exporters, and our chicken industry and workers deserve nothing less.

I urge the adoption of this amendment.

Mr. DECONCINI. Madam President, the Senator from North Dakota wanted to debate this for 1 minute or 2. I reserved 2 minutes, but I ask unanimous consent that the Senator have 3 minutes to respond to this amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from North Dakota [Mr. DORGAN] is recognized.

Mr. DORGAN. Madam President, I have not had an opportunity to read the amendment, which apparently is going to be accepted. I do not stand to object to it. I understand that some are concerned that in the discussions with Canada, particularly those now scheduled in Chicago on the 27th, in the give and take of the trade that goes on in negotiating sessions, one might expect to get certain things for wheat producers and give up certain things for other sectors. I understand that concern. So I, not having read this, will not object, assuming that the purpose on the front page expresses the sense of the resolution.

But I want to make one thing clear: When our negotiators go to Chicago, one of the important issues to be discussed in Chicago is the durum wheat and barley issue. We are being flooded with unfairly subsidized grain from Canada. An article 28 action has been filed under GATT, and also a section 22 complaint.

We expect the United States Trade Ambassador and the Secretary of Agriculture to go to Chicago and sit down and negotiate with Canada. But if they cannot negotiate an adequate settlement—and I am talking about a settlement that establishes limits on the amount of wheat and grain coming in that is unfairly subsidized—then I do not want an agreement at all. I do not want a bad agreement; we already have that. We were sold out in the negotiations with Canada in the first place. Clayton Yeutter, who represents now the same interest he probably helped then, was the Trade Ambassador then, and they sold out the agricultural interests in the first go around. We are stuck with a flood of unfairly subsidized grain, costing us hundreds of thousand of dollars of lost revenue.

If we are going to instruct the Trade Ambassador with respect to chickens—and I do not know about chickens, but I know about wheat, barley, and durum—I want our Trade Ambassador to understand that when you sit down with Canada, we do not want you to accept just any agreement, only a good one, one in which we limit the quantity of Canadian grain coming in and unfairly competing against American producers. If they cannot get that kind of agreement, I want a section 22 complaint to play itself out, an article 28 filing—which has already been done—and I want significant import restrictions on the grain flooding across the border from Canada.

This is not fair trade or free trade. It is not two-way trade that is fair to our farmers. We have been literally taken advantage of and, frankly, I am sick of it. Over 50 months ago, I held the first hearing on this and could not get the time of day at USTR. Finally, we may get action on behalf of our grain producers.

I do not deny the concerns of the Senator from Delaware on behalf of another sector. But I want the same message, if we are sending messages to USTR. And if there is agreement, it better be a decent agreement on behalf of our grain producers to solve the unfair trade. If not, let us set up the import restrictions, and do it now and not later.

I will not object, and I will yield the remainder of my 3 minutes.

Mr. DECONCINI. Madam President, I am thankful that the Senator from North Dakota has pointed out some different views here, and I am really not in a position to dispute either side here.

The amendment, as I understand it, is not objectionable to the Senator from Arizona. I am prepared to take it. I tell the Senator from North Dakota that I am going to talk to him about his concern as we go to conference, and I will tell the Senator from Delaware that I will look at it again. I was not aware of the arguments that were put forth here. For purposes of tonight, I am prepared to accept the amendment.

Mr. BOND. Madam President, on this side, I note for the RECORD that Senator PACKWOOD, the ranking member of the Finance Committee, has expressed his concern that this is legislation within the jurisdiction of the Finance Committee. But there are no other objections to this amendment that I know of on this side.

Mr. DECONCINI. Madam President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1824) was agreed to.

Mr. ROTH. Madam President, I move to reconsider the vote.

Mr. DECONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MOTION TO RECOMMIT

Mr. SMITH. Madam President, I send a motion to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from New Hampshire [Mr. SMITH] moves to recommit H.R. 4539 to the Committee on Appropriations with instructions to report the bill to the Senate, within 3 days (not counting any day on which the Senate is not in session), with an amendment reducing the total appropriation provided therein to a sum not greater than its fiscal year 1994 level.

Mr. SMITH. Madam President, I ask for the yeas and nays on my motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SMITH. Madam President, for the benefit of my colleagues, I will be no more than 10 minutes or so in my remarks, unless I am engaged by some on the other side. Then there should be a recorded vote.

Former President Reagan used to have an expression where he said: "Here we go again." And here we go again. We just rejected an opportunity to save $405 million on this appropriations bill, taking 5,000 IRS agents out of the IRS. That was rejected with a vote of something like 55-43. So there is not a great deal of optimism that I have that my amendment will not meet the same fate. But I believe history will judge us in the way we conduct ourselves here, and I think history is going to judge the neglect we have provided to the national debt and deficits and keep adding to that debt in this country.

I think history will judge that we were seriously wrong, and that we passed a huge debt on to our children, and that is wrong; and that one of the ways we can deal with this specifically, when they come to the floor of the U.S. Senate, are the appropriations bills.

I offered an amendment to recommit the legislative appropriations bill last week, and it was defeated by a voice vote with very few people here to really care one way or the other. That would have saved $93 million.

I just watched Senator GRASSLEY's amendment go down which would have saved $405 million. A million here and a million there, as Senator Dirksen, from your State of Illinois, used to say, it soon adds up to real money. So now it is a trillion here and a trillion there.

So the bottom line is nobody should be fooled. The U.S. Senate is not interested in saving money, in saving taxpayer money, because, if they were, it would not be rejecting amendments like this, No. 1, like the Grassley amendment; No. 2, they would not be increasing the appropriations bills as they come before us on the Senate floor. You cannot reduce spending if you increase appropriations bills. That is really not all that complicated to understand, but that is what we are doing.

Now, let us look at the one before us. The amount of the bill that is sent up here today is $23,573,863,000. The amount enacted in 1994 fiscal year was $22,538,822,000. Now, where I took math the difference is $1,035,041,000. That is how much we are spending over last year's bill. That is what is before us today.

Senator GRASSLEY did try to get $405 million off it, and he failed. But we are spending over $1 billion more than we spent last year in this appropriation.

So when you go back tomorrow to your constituents and you tell them you want to cut spending and you favor reducing spending of the U.S. Government, I hope you are going to also be able to tell them you voted for this amendment because it is pretty difficult to justify to say you want to cut spending if you are not willing—I am not even asking you to cut spending. I am asking you to come in at last year's level. I am asking you to cut the increase of $1 billion.

I said it last week on this floor, and I am going to say it again this week and again next week and the following week and every week that an appropriation bill comes on the floor of the U.S. Senate that has more money than it had last year, because it is wrong.

We have all kinds of reasons. There is always a reason, all kinds of justifications. But these increases are simply unacceptable. They are unacceptable when we go out and face our constituents and hear the hardships they are having trying to meet their tax requirements every day of their lives. And here we are increasing spending. Talk to your constituents and they will tell you they want the Government to cut spending. They want it to reduce spending.

But, no, we are not only not reducing it, we cannot even come in at last year's level, and that is all I am asking. This is not a cut. It is a reduction of the increase.

The question is, why should we spend more money than we did last year? Why? We have a $4.5 trillion national debt. The deficit will run at least $170 billion this year.

Here is our chance to take one paltry billion, one little billion. It is a lot of money, but it is really quite little compared to $4.5 trillion, is it not? The $1 billion increase—and this is very important because a lot of people think we just reach up and pull the money down off the tree and spend it. After all, this is a $23 billion appropriations bill we are talking about here. This $1 billion increase in this legislation is borrowed money. I say to my colleagues we borrowed this money. We do not have a surplus in the Treasury. There is no surplus there. So, we cannot reach up there and take $1 billion and say, OK, we are going to add it to the appropriations last year and spend it on all these worthwhile causes. No, we are not doing that. We are borrowing that billion dollars.

Now when you borrow $1 billion at roughly 7 percent interest, that is an additional $70 million in interest costs alone on this $1 billion, not on this bill, this billion, $70 million in interest.

So, we are spending borrowed dollars, spending borrowed dollars, when we ought to be finding ways to offset so we do not have to borrow more and pass this debt on to our kids.

You realize how selfish, how selfish we are, how selfish and inconsiderate we are, passing on this kind of monumental debt to our kids. That is what we are doing. And everybody stands up here on the floor and says this is a great cause. We need to have this money. If we do not have this billion-dollar increase, the whole Government is going to fold up. My goodness, I am sure the whole Government will just close down. We have to have this $1 billion increase. We cannot live without it. We could not possibly live on what we had last year.

Let me tell you something, Madam President. There are millions of families out there who are living on what they had last year and millions of families out there that are trying to live on less than they had last year. I cannot understand why we cannot set an example in the U.S. Senate.

Madam President, the OMB estimates that the Federal Government will spend more than $1.5 trillion in the upcoming fiscal year. The breakdown is not very complicated. It is easy to figure. Mandatory entitlement spending will consume about $775 billion of that. Net interest on debt, an item that is difficult to reduce unless you reduce spending, will total approximately $213 billion in fiscal year 1995. Interest on the debt in fiscal 1995 will be $213 billion. Very soon, not too many years, maybe by the end of the decade, interest on the debt is going to pass defense spending in the budget of the United States of America.

That is a pretty sad commentary. Defense spending now is roughly $270 billion, and the lines are coming and they are going to cross, and interest is going to go up this way and defense is going to go down this way.

We are going to spend in this overall budget about $18 billion on international affairs and, last and by no means least, $270 billion in the domestic discretionary category. Total spending is $1.52 trillion, with a T; total revenue is $1.4 trillion; the total deficit $171 billion.

This takes $1 billion—$1 billion—off of that deficit. Not only does it do that, it takes $70 million, $70 million in additional interest expense.

Do you know what this will mean ultimately if we do not stop this insanity? Total bankruptcy for the United States of America.

I have mixed emotions about being here as an observer somewhere out in the hills of New Hampshire or perhaps here on the Senate floor and watch those who year after year, day after day, month after month, continue to increase this spending. I want to hear what they have to say to their constituents and to the American people when the country goes bankrupt, when we do not have any money in the Social Security trust fund or Medicare or Medicaid or for the defense of America. What are you going to say then? When are we going to stop it? Our spending addiction has got to end sooner rather than later, I hope.

I know that our spending program is not isolated in this area, to the credit of those who are managers of this bill. I realize that. It certainly is not their fault that we have a $4.5 trillion national debt. However, we have an opportunity to make a small dent in it. But instead we are going to increase it.

The only opportunity we have is to deal with the 13 appropriation bills as they come down and to reform entitlements. Those are the only two things really we can do, because until we reduce the debt we cannot reduce the interest payments on the debt.

So already, between the legislative branch bill considered last week and the bill before the Senate today, Congress is spending $1.1 billion more than we did last year, $1 billion, a little over $1 billion today and $93 million on Thursday, so about $1.1 billion, a little over. That is what we have added. That is what we are adding to the deficit just with these two votes.

It will be interesting, Madam President. I cannot wait to see the result. It will be interesting to see how many people step up and say, you know, maybe we could afford to take one little paltry billion dollars out of a $1.5 trillion budget. It will be interesting to see how many votes we get. I predict 30 to 35 max. We will see.

What signal does this send the American people? I would ask my colleagues, what signal does it send the American people when we do this time after time after time? If we cannot cut a little, make little reductions like this, how do you expect to ever get into entitlement reform; how do you ever expect to pay off, let alone begin to pay off, how in the world will you ever be able to expect to pay off a $4.5 trillion national debt? Believe me, the archeologists are going to be digging up our graves by the time that is paid off and wondering what in the world we did during this era of time.

When I hold town meetings in New Hampshire to discuss the deficit and talk about the need for entitlement reform, you know, frankly, many of my constituents, some of them Social Security recipients, some of them on Medicare, even Medicaid, say to me,

> We are willing to help. We might be willing to have our entitlements frozen, but I don't want to read about waste. If you are going to take my COLA or cut my COLA or reduce my COLA, I don't want to read about you wasting billions of dollars in some pork project that some particular Senator or Congressman decided that they want to put into some appropriations bill without an authorization. I don't want to read about that. I do not want to read about waste.

And they are right. They should not. But if they read these reports on these appropriations bills, they are going to find bad news in there, bad news.

When are we going to stop?

I care about my country. I care about my country very much. I am really sad to see my colleagues passing time after time after time spending increases, not willing to make those tough decisions —this one is not all that tough— tough decisions, not willing to make them and passing on this debt.

The equivalent of this is you are leaving your mortgage payments to your children, rather than your home. That is what we are doing. Most of us would prefer to leave our home, our assets, not our liabilities to our children.

Why do we in this body, in the Congress of the United States, the U.S. Senate, feel that it is right to pass on a debt of $4.5 trillion to our children?

And I wish it stopped there. It does not stop at $4.5 trillion. It is growing at approximately $175 billion a year being added on to that debt. And that is going to go up even more dramatically after the turn of the century to approximately $350 billion a year, all of that money being added to the debt to where you get up to the year 2010 or so and you are going to be looking at a $6 trillion or $7 trillion national debt, maybe higher, at which point we will not be able to recover.

Take a $10 trillion national debt, for example. Seven percent of that is $700 billion a year in interest. That is what that would be when we get to that point.

Now how do we stop it, if we do not cut spending, if we do not balance the budget? We already rejected a balanced budget amendment here. We have rejected numerous requests for fiscal restraint responsibility in here.

We always say we do not need it. I heard it said on the floor of the Senate by many of my colleagues, some who have been here a lot longer than I have, "We do not need a balanced budget amendment. We just have to exercise fiscal restraint."

I hope those who were making that argument will come out here now and say, "I am going to exercise fiscal restraint. It is time. You are right, Senator SMITH. I did say that and here is my vote for your amendment. We will take that billion."

Would it not be nice? I think we would surprise the American people.

I can say one thing. A lot of my colleagues are going to be surprised in November if we do not start exercising fiscal restraint, because that is what the American people want. They do not want debt passed on to their children.

You know, I am amazed, I used to serve on a local school board. I will tell you, there is no way that the constituents that I represented would allow me, as the chairman of that school board, to come out and say, "Folks, we are going to deficit spend. We do not have enough money, so we are going to have to borrow red ink and deficit spend."

No way. It would not work. They would come to me and they would say—and they did—"Cut spending somewhere. I don't care where you cut. You are the board members. You cut it. But we want the budget balanced."

That is what the American people want us to do in this place. But at the Federal Government level, we do not do it.

So let me just say this, Madam President, in conclusion. There is always a reason why we should increase spending, and I am sure we will probably hear some before the debate is over. But it is not good enough.

This Congress is not accepting the challenge. This is a major challenge; this is America at stake, the fiscal responsibility of this country.

If we do not start with one little area of an appropriations bill—I am not asking you to cut it by 10 percent, 20 percent, even 1 percent. I am asking you to come in at last year's level, spend what you spent last year, make due with what you had last year, show the way on one appropriations bill. That is all I ask.

Instead, we have already considered two, when this one is over, and each is proposed to spend more money than we did last year.

So, again, if this amendment is defeated—and I believe that it will be —we will have a $1.1 billion increase to our deficit which, in turn, will be added to the debt.

The word austerity does not leap to mind when I think of the U.S. Senate, Madam President. I am offering my colleagues a very simple choice. There is not anything complicated about it; nothing complicated about this one: You want to cut spending? You vote for the Smith amendment or the motion to recommit. That is what I am asking. If you do not want to cut it, then you do not.

But let me point out, this is a motion to recommit. It gives the committee the full flexibility, the Appropriations Committee. I am not going across the board with cuts. I am not singling out any program. I am simply asking the committee to come back in where they feel they want to do it, wherever they want to do it. They are the experts. They are in there. Come back with what we spent last year. That is what this motion to recommit does.

Again, "cut" is the wrong word. "Freeze" is the right word. So you either want to freeze spending or you do not, not cut spending.

Should Federal spending on the Treasury, Postal Service, and other independent agencies be increased from last year's level or should it be decreased? Or do we owe the American people at the very minimum our vote to hold the line on spending? I think we owe them a vote to hold the line on spending, a very minimal line, I might say.

Madam President, in closing let me just repeat. My motion is to recommit the bill to the Appropriations Committee with instructions that they report a bill that does not exceed last year's spending levels. They have the full flexibility to do it. If they do that, we will save $1 billion-plus on this vote alone in the U.S. Senate.

I yield the floor, Madam President

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Thank you, Madam President.

My friend from New Hampshire is correct. This bill is indeed $1.116 billion above the fiscal year 1994 enacted levels. There are increases in these appropriations bills. But, I would note that the committee has already reduced the President's request by $794 million.

Now, what may escape the attention of some of my colleagues is the fact that mandatory increases which authorizing committees, not the Appropriations Committee, have jurisdiction over total $709 million above the fiscal year 1994 level.

My colleague made some comments about dealing with entitlements and mandated spending. I look forward to joining him to work on those, because anybody who looks at the spiral in spending by the Federal Government realizes they come from directed spending programming, not programs subject to discretionary appropriations.

There is another measure in this bill, the $405 million which is above the budget request. That was just approved on a 54-43 vote.

My colleague says that this is additional spending. He is concerned, as I am, about the national debt. This $405 million compliance initiative over 5 years will raise a net of $7 billion to go to reducing the debt. If he is concerned, as I am, about the size of the debt and our inability to reduce that debt, then I would assume that he must have voted for that compliance initiative. Because when you have only 83 percent of the taxes owed actually being paid, those of us who are complying voluntarily are carrying the load of the 17 percent who are not. And we are seeing voluntary compliance go down because there is not sufficient credibility that people who do not comply voluntarily will be pursued.

If you take out the mandatory $709 million above the 1994 level and the $405 million that we just approved by a specific vote to lower the debt by $7 billion over 5 years, the new funding, discretionary funding added on in this bill, would be less than $2 million above the fiscal year 1994 level.

This committee cannot reduce the mandatory accounts. So to take the bill back to the 1994 levels, there would have to be an across-the-board reduction of approximately 10 percent. There are very few programs in the bill so most of the money goes for salaries and operating expenses of agencies. Reductions would in fact cause management problems for all agencies.

But let me tell you specifically what it would do. I think it is probably an inadvertent impact of the motion that my colleague from New Hampshire has made, and that would be to cripple the war on drugs and crime by making deep cuts in drug-related law enforcement.

One of the things that we have been able to do in this bill is to restore cuts in law enforcement made by the Clinton administration, set up by the Office of Management and Budget. These are the additions that would be most at risk, were this motion to be adopted. We were able to restore 110 Customs agents inspectors; 10 positions for pilots and crew; $8.8 million to enhance air operations; $20 million from the drug czar forfeiture fund for air and marine operations; 71 positions as Secret Service agents for counterfeiting and entitlement fraud investigations; 22 positions for ATF agents specializing in enforcement activities; 7 positions in Federal law enforcement training efforts; 2 positions for financial investigations in the FinCen.

I am very proud to have played a role in restoring these cuts, because I believe these positions are vital. The Federal Government must continue aggressively and offensively to fight the war on drugs.

A week or two ago, I met with chiefs of police, prosecutors and Federal law enforcement officials to discuss what they believe will and will not work fighting crime on the streets. In real life, this group represented law enforcement officials with a wide range of experience, from the inner city of St. Louis to the most outlying suburb. In this meeting the crimefighters all agreed that only with strong support from the Federal Government can the drug war be won. Yet the Clinton administration proposed to slash the drug czar's office by 84 percent, and the State Department's international narcotics matters budget by 32 percent over the last 2 years. And in this year's budget proposal, the administration sought to eliminate drug enforcement grants completely.

In my State, law enforcement officials urge that there is a need for a comprehensive approach to fighting the drug war, a comprehensive approach that includes money for treatment but which also makes funding for interdiction an integral part in combating drugs.

Only the Federal Government has the resources and the jurisdictional authority to interdict drugs at our borders. It is a vicious, insidious horrific chain. If we allow more drugs to leak into the United States, then more drugs end up in our neighborhoods, more crimes are committed by those using and selling drugs, more crimes are committed to get drugs, more crimes are committed under the influence of drugs, and tragically, more people become drug addicted and need treatment. We need to weaken this chain of crime and devastation at every link—not strengthen it by ignoring interdiction or by forcing cuts in this appropriations bill that will take money from drug interdiction efforts.

Local authorities depend upon drug enforcement grants to State and local governments to fund multijurisdictional drug teams, street level enforcement teams to shut down neighborhood drug dens, drug crime laboratories that share technology and expertise with local officials, and treatment for drug offenders. At least one Missouri law enforcement official told us the worst thing we could do on drug law enforcement was to cut the grant money from the Regional Information Sharing System and the Byrne grant money.

Once again, in my meetings with local law enforcement officials one theme continues to surface. The State and local law enforcement officials that I met with in southeast Missouri attributed much of the alarming rise in crime, both violent and nonviolent, to the distribution, use, and addiction to illegal drugs.

Furthermore, State and local law enforcement officials have stressed that, in light of manpower limits and budget constraints on training and equipment, it is vital there be Federal law enforcement entities with whom they can work cooperatively.

One officer from a very small town, Marble Hill, MO, told me:

> When we become involved in a major crime or investigation, it is a comfort to know that the federally funded agencies such as DEA, FBI, ATF, Federal Marshals and the National Guard are there for much-needed help and resources. These agencies are very critical in the outcome of having adequate law enforcement here. When their budgets are being cut and decreased, our means and ways of getting outside help and assistance are also cut and decreased.

Madam President, I cite that as an example of the degree to which State and local law enforcement officials depend upon Federal drug assistance, Federal drug law enforcement assistance.

Frankly, to recommit this bill to freeze it would put at risk, obviously, not all of those drug enforcement activities, but the Customs agency inspectors, the air operations, the drug czar, the Secret Service agents, the ATF agents—people who are providing a vital link and a vital resource in fighting crime that devastates our States, our communities, our neighborhoods.

We need to get our debt and our deficit under control. Trying to nickel and dime law enforcement, which would be the most likely outcome of this measure, is not the way to do it. If we are to avoid seeing the deficit skyrocket we have to be able to collect the taxes. IRS does that. We also need to have the resources to help local law enforcement officials combat drug activities in the States and to interdict drugs coming in from across our borders.

Madam President, I hope my colleagues will not support the motion to recommit.

The PRESIDING OFFICER (Mr. FEINGOLD). The Senator from New Hampshire.

Mr. SMITH. Mr. President, I do not wish to prolong this much longer, but I do want to respond to a couple of points the Senator from Missouri made.

First of all, the motion should be fully understood. I thought I made it clear. The motion to recommit does not tell the Senator from Missouri or the Senator from Arizona to cut any specific program. It does not say where he should cut. You do not have to cut anything. All we are asking in the motion is that the Appropriations Committee find dollars wherever they see fit to bring the budget in line with what it was last year. That is what it says.

Do not read more into the motion than what it is. I did not say cut law enforcement. I did not say cut drug enforcement—not at all. As a matter of fact, I agree with the Senator on those points. So I would also point out that just on the previous vote we had an opportunity to take $405 million of the $1 billion I am looking for from IRS agents. I do not know what that has to do with drugs but that is a fact. We rejected that. So it is a very weak argument.

Also, I want to say I have been in the Congress of the United States for 10 years—not as long as many of my colleagues—but I have been here for 10 years and I heard the argument in every single debate that we have on any matter to cut spending. I hear the same argument, over and over again. If we would just spend this money, we are going to save all this money and we are going to have tremendous savings.

It would seem to me by now we ought to have a balanced budget, if that is the case. If we are going to spend all this money to make money, then we ought to have a balanced budget. It is not working that way, folks. It is going the reverse.

In the last 10 years the debt has tripled. It has not gone down, it has gone up. So it is not working. Somebody better get the message. Spending money to make money is not working, folks. It is time to cut spending. That will work; I guarantee you that will work. If you do not have it, you cannot spend it.

My colleague from North Carolina—and I want to close on this point—spoke on the floor yesterday, and I think a small portion of what he said is worth repeating because it goes right to the heart of this entire debate, in case somebody missed it.

Senator HELMS said as of Friday on June 17 at the close of business the Federal debt, down to the penny, stood at $4,591,908,053,316.92 That was as of Friday. It is a lot more now. Several days have past.

But this debt was run up by the Congress of the United States of America. You cannot blame anybody else. There is nobody else you can blame. You cannot blame any President, Democrat or Republican. You cannot blame President Reagan or President Clinton because we appropriate every dime. That is exactly the point Senator HELMS makes. "The U.S. Constitution is quite specific about that," Senator HELMS says, "as every school boy is supposed to know."

Senator HELMS goes on to say: "Most people cannot conceive of a billion of anything, let alone a trillion."

Let us get some idea what a billion and a trillion means in another picture here. This is what Senator HELMS says:

> It may provide a bit of perspective to bear in mind that a billion seconds ago, the Cuban missile crisis was going on. A billion minutes ago, not many years had elapsed since the crucifixion of Jesus Christ.

That sort of puts it in perspective, does it not, that Congress has run up a Federal debt of $4.5 trillion? In other words, the Federal debt, as I said earlier, stands today at $4,591,908,053,316.92. Those words are very accurate and, frankly, they are very indicative of what the problem is in this place.

Again, I heard it just seconds ago from my colleague from Missouri: "We have to cut the debt. We have to cut spending." But nobody wants to do it. Nobody wants to do it. In your household if you cannot make ends meet you cut somewhere. If your car breaks down and you want to go on vacation, you cancel the vacation. We do not cancel anything around here. We just borrow more money, over and over again.

You would think I was asking for us to cut $25 trillion out of the budget or something. I am asking for $1 billion, to come back at last year's level. I am not cutting a nickel.

The other argument that was used was, "Well, the President's budget"—I do not care what the President's budget is. If the President's budget is over, we should deal with our own budget. We can work the President's budget into our debate, but whatever the President sends in is not relevant.

The question is, What did we spend last year? Are we spending more than last year? And the answer is yes, over $1 billion more than last year on this one appropriations bill.

You cannot reduce spending if you do not vote to do it. There is nothing complicated about it. So bear in mind, as you evaluate those who vote, as the citizens of America evaluate those who vote on this amendment, take a look at those votes on this amendment. The next time somebody who votes against it says to you out there, "I support cutting spending," ask them, "Where were you on this vote?"

It is not cutting spending even, it is freezing it.

Mr. President, I yield the floor.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, as to the freeze amendment offered by the Senator from New Hampshire, first of all let me say, I understand where he is coming from because we all talk about cutting the deficit. But I think the Senator probably will agree that the biggest problem of not cutting the deficit, no matter what we do with budget resolutions—even when we adopted the President's economic plan that did cut the deficit—we cannot really get at the deficit until we do something about entitlements.

The fact, for whoever is listening, if they want to know it, is that this bill, as the Senator said, is over $1 billion, slightly—$1,115,497,000, as I see it, above last year's level.

Four hundred six million dollars, or $405 million we just voted on. We know what that is. It is clear. The Senate said we are not going to cut that out because we want to go after those taxpayers who have not been paying, and that I think is set behind us.

So now where is the rest of that increase? The rest of that increase, some

$708,674,000, is mandatory expenses. That is right, you have it—entitlements. Things that we cannot cut here. We do not have the jurisdiction.

The Senator's amendment, though it applies across the whole board, is not going to reduce the mandatories. And what are these mandatories? They are the civil service retirement, something we have to enact by law, the money has to go; there is the health and life insurance and disability payments, something that we have to enact.

Having said that, we are in this bill $329,780,000 below the President's request. Excuse me, we are $793 million below the President's request. So we have made cuts here.

There are increases over last year, and the mandatories take up the bulk of that. Then you add the enhancement which we just voted on, and there you have it.

So what are you going to do? I do not see any amendments to go after civil service retirement, but that is what you have to do if you really want to cut across the board. And we are just not doing it.

We cannot reduce these mandatory accounts. Those funds have to be paid out, and they are going to come out. So what is left?

If this amendment is adopted, we go back and what do we cut? The Senator from New Hampshire says you do not have to cut the National Drug Control Policy special forfeiture fund; you do not have to cut Customs; you do not have to cut IRS criminal investigations; you do not have to cut the ATF, Alcohol, Tobacco and Firearms; you do not have to cut the Secret Service that not only protects the President but does fraud cases; you do not have to cut these things. You make up your mind.

I am telling the Senator, we have no choice except to do what the Senator from Missouri has indicated. We will cut the drug program. That is what is going to get cut here because we cannot cut the mandatory programs.

So the Senator puts us in the worst of positions that we have to go and cut Customs, the air interdiction program, the marine interdiction program, the effort, and that is already cut over last year by some $24 million. That is below last year's level. I can go through program by program and point out where we made cuts. It gets back to the reason that we have increased at all here: because of the compliance initiative, and the mandatories.

To me, this would not be a fair amendment and really enact a freeze, because if you do not do entitlements, and you have decided that you are going to do the compliance initiative, we are at a freeze. Actually, we are below the President's request because we made some cuts. But we did not make it in law enforcement, we did not make it in the drug interdiction program.

So I hope at the appropriate time when this Senator moves to table this amendment, that the Senate will go on record that we have a freeze here, and until there is somebody who wants to stand up and take on the entitlements, this is just a game. We are not spending more from the standpoint of the discretionary part of this bill.

We have made cuts, and I can go through them item by item: The department office in the Treasury is a $3 million reduction; the U.S. Customs, we cut some there in order to get back to some of the law enforcement; salaries and expenses, we cut $13 million; Internal Revenue, we even made reductions there, trying to get below, because we knew we would have this question on the initiative. And we cut $6 million out of the administration and management account; we cut $1,191,000 out of OMB. We asked them to take a bite. In the construction account, the President requested $999 million. We cut it.

Now, the Senator wants to make it real easy; if you are for deficit reduction, just vote for this because here it is. Well, I am for deficit reduction, and I produced a bill here with the Senator from Missouri and the entire Appropriations Committee that does stay within the caps, funds the mandatories, and makes a substantial reduction of $793 million below what the President requested.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. I apologize to my friend from Colorado. I will be very brief.

The Senator from Arizona again makes the case that somehow I am cutting these programs. I am not asking the Senator to cut those programs. I am asking him to look at the area that he has responsibility for and make cuts where he sees fit. He saw fit to add $405 million after making those cuts for 5,000 more IRS agents.

So I find the Senator's argument very difficult to comprehend. I mean it is nice to go to the town meetings and you can say about the Smith amendment, I did not vote for it because it was going to cut crime or it was going to cut drug enforcement. The truth of the matter is it does not do either. The Senator knows that.

Mr. DECONCINI. Will the Senator yield?

Mr. SMITH. Yes.

Mr. DECONCINI. Where would the Senator cut it then if he were on this committee?

Mr. SMITH. I would take $405 million, I would take half of it from the IRS agents.

Mr. DECONCINI. I appreciate that, and we already voted on that, but it was turned down.

Mr. SMITH. That is correct.

Mr. DECONCINI. OK. Now, where else would the Senator cut? Where else would the Senator cut it?

Mr. SMITH. I am directing the Senator——

Mr. DECONCINI. That is right, and I am telling the Senator what we would have to do to get that additional $708 million. We would have to cut law enforcement and the drug interdiction program.

Mr. SMITH. The point is if the Senate of the United States feels that that is what the Senator should do as the chairman of that committee, that is what he would be directed to do with this motion to recommit.

The truth of the matter is the Senate will do that only if they want to reduce spending, and I would just say, not to belabor the point, but for the Senator to stand in this Chamber and say that somehow we have to deal with entitlements if we are going to get a handle on the budget deficit and the debt, I totally agree with him. But if we are not willing to freeze a $1 billion increase in one appropriations bill, how in the world are we going to have the courage to go out and face entitlement reform? It is the most ridiculous argument I have ever heard. If we are not willing to do that with $1 billion in a freeze, how in the world are we going to face up to entitlements? The point is nobody faces up to anything. You have to take one step before you walk a mile. And nobody wants to take the first step. That is the bottom line.

Mr. DECONCINI. Will the Senator yield?

Mr. SMITH. Yes, I will yield.

Mr. DECONCINI. I just want to point out that, if the Senator wants to be really constructive here, I would welcome him suggesting where he would cut. We already know the $405 million, and we voted that out, so that is not going to happen. So where else would he cut out of that discretionary area?

Mr. SMITH. I would say to the Senator——

Mr. DECONCINI. Lay out $700 million of cuts, and I daresay the Senator will not be able to not cut into the drug program, not cut into the drug czar, not cut into the Customs drug program or the commercial trade program or not cut into the ATF or the Secret Service.

I know the bill pretty well. I think the Senator from New Mexico, who used to be the ranking member, would agree that it is hard—hard—to find that money if you are told to go back and cut $1 billion out of those areas and not cut the drug and the crime-related areas.

Mr. SMITH. I would say to the Senator again, we are not cutting $1 billion. We are coming in at last year's level. You are increasing last year's level $1 billion. We are not cutting anybody. We are cutting only because you have increased it with what you have brought up here, including $405 million. That is the point that I wish to make. And I would say to the Senator, if he votes for and this amendment passes, this motion to recommit, I will work with the Senators in areas to cut other than drug and law enforcement.

I ask unanimous consent to add as cosponsors Senators BROWN, ROTH, and FAIRCLOTH.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Mr. President, I rise in support of the Smith amendment. I have cosponsored this not out of a way of condemning the work of the Appropriations Committee or the distinguished subcommittee chairman who has brought this measure before us. As a matter of fact, the Senator from Arizona has pointed out that this is within the budget guidelines, that it is less than what the President asked for. I believe both of those statements are accurate, and he is to be commended for having made that progress.

The reality is that our history in the last 15 years is that Congress has consistently overspent its own budget, not only the President's budget but its own budget. So to have fit this measure within the budget as clearly as has been done I think is something that he is to be proud of, not ashamed.

But I rise in support of the amendment out of an additional concern. What we spend is not simply a function of what we would like to spend in each area but it is a function of what we have. Senator SMITH has pointed out the awesome size of the national debt. I would draw Members' attention to another item.

Included in the President's budget package that he sent to Congress and, frankly, included in President Bush's last budget message, was a reference to generational accounting. That generational accounting has a very interesting calculation. Included in that is an effort to estimate what someone born today would have to pay in the way of taxes simply to pay for the programs that are already in existence. This assumes not overspending the budget by a penny. It assumes no new programs. It assumes that our estimates, economic estimates, are valid. I think Members of this body and American citizens will note none of those things have happened. In other words, we have in the last 15 years always overspent our budget. We have always had overly optimistic assumptions. At least on the average they have been overly optimistic. And you have also seen crises declared which end up overdoing it, and we have ended up every year adding new programs.

But even assuming you add no new programs, the economic estimates are sound, and you do not overspend the budget, President Clinton's own estimate is that someone born today would pay 82 percent of everything they earned in their lifetime in terms of taxes; 82 percent simply for the programs that are already on the books.

That includes local, State, and Federal combined. But part of our decision as to not only what we would like to appropriate but our ability to appropriate has to include our ability to continue to pay these budgets.

It seems to me the proposal of the Senator from New Hampshire is a modest one. He is not talking about cuts. He is talking simply about staying within the amount that was appropriated in the prior years. I believe we can do it. I have faith in the Appropriations Committee to set priorities.

Is it going to be easy? No. But I think it can and, frankly, Mr. President, I think it must be done. If our children are to have a future, if we are going to be an economically viable entity in the world markets, if we are going to be competitive, the cost of Government has to be brought under control.

It seems to me that Senator SMITH has brought to us a valid, workable alternative, one that utilizes the good knowledge of the committee to set priorities.

I certainly think the question of the Senator from Arizona as to specifically where he would find the funds is an appropriate question, a fair question.

Members may recall that Senator KERREY and I brought to this floor during the budget consideration a proposal that would have specifically delineated almost $100 billion of cuts over the next 5 years. We named specific programs and specific areas. Frankly, I do not know that the fact that it was specific necessarily helped. The history of this Congress is that we seem to turn down efforts to cut spending or control spending whether they are specific or not.

Is it fair to ask where you would specifically get the money? Yes, absolutely, it is fair. But ultimately we have to wean ourselves from ever-increasing deficits. It seems to me that clearly the amendment of the Senator from New Hampshire does that. The amendment of the Senator from New Hampshire does say at least for 1 year we are not going to increase spending in this area. It is the kind of thing that I think merits approval.

Frankly, I think it is the kind of amendment that I hope he and others offer on other appropriations bills that come before the Senate. We can turn this around, but we can only turn it around if we are willing to back a solid, courageous amendment such as the one that has been brought forward by the Senator from New Hampshire.

I yield the floor, Mr. President.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I rise to send an amendment to the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. Is the Senator from North Carolina attempting to amend the motion to recommit?

Mr. FAIRCLOTH. No.

The PRESIDING OFFICER. The motion to recommit is the pending business. It would take unanimous consent in order to amend it at this time.

Mr. FAIRCLOTH. I withhold for now, Mr. President.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum.

Mr. DOMENICI. Mr. President, I ask the Senator if he would withhold on that request?

Mr. DECONCINI. I do.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, might I ask the manager, the proponent of the motion to instruct? How much longer do we think we will be before there is something decisive on this amendment?

Mr. SMITH. Mr. President, there is no more debate on this side that I am aware of.

Mr. DECONCINI. The answer to the Senator's question is not more than 3 minutes on this side. We will go to a vote, although we will not have a vote until sometime around 7 p.m. We will put it off, and lay aside the amendment.

ORDER OF PROCEDURE

Mr. DOMENICI. Mr. President, I ask that I be permitted to proceed for 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THANKS TO SENATOR DENNIS DECONCINI

Mr. DOMENICI. Mr. President, the manager of this bill on the majority side, Senator DENNIS DECONCINI, comes from the West just like I do. I arrived here 22 years ago. I have a funny sounding name. It also ends in "i" like Senator DECONCINI.

This Senate, for all of its history, had only one Italian-American Senator, John Pastore, a Democrat from Rhode Island, until the Senate was shocked to find that there were actually Italian-American Republicans in the West. But I arrived. I was the first Italian-American Senator to ever serve as a Republican.

It was not too long afterward that our neighboring State—and, actually, we used to be one before we separated and became States and joined the Union. It was not too long thereafter until another arrived from the West. And his name was DENNIS DECONCINI. Frankly, neither he nor I think our names are very similar. But somehow there are many people who think we are one and the same. In fact, we joked many times about getting each other's mail, and even of people stopping us at various places around the country. And, interestingly enough, as I recall, he helped President Carter, and he voted for the Panama Canal Treaty with a reservation that he posed. I did not. That was a pretty heavy issue out there among conservatives.

Frankly, I was stopped in many places shortly after that, and I was accosted as being one who voted for the Panama Canal Treaty. I wondered what they were talking about. I soon found that in some instances our names were being confused, and it did not all make too much sense. But frankly, I was never embarrassed to be confused with DENNIS DECONCINI. I hope the same is true for him.

In addition, I can remember one time because of certain positions the good Senator from Arizona had taken regarding organized crime that there was kind of a note around, sort of a rumble, that his life had been threatened. I remember joking to him saying, "Is the threat over with? I hope so. So they won't be confusing us." And we had a good laugh about that.

But seriously, I rise tonight to say thanks to my good friend, not because of where our ancestors came from, but because I think he has been a very, very good Senator. Regardless of what has happened and the reason that he has decided not to run, I wanted him to know and the Senate to know that this is one Senator who knows him very, very well because I have worked with him. I had this particular position of the ranking member on this subcommittee for a long time. I can tell you: There is no harder working person around. Second, there is no Senator in this Senate or in modern times that is more concerned about the law enforcement man on the beat. He had more concern for the Border Patrol, the FBI, the DEA, than any Senator here. He did more early on when crime was not the issue of the day than anybody here. And I believe that, as he leaves us, it is time for somebody from this side of the aisle to say that about somebody from that side of the aisle. And I say it very willingly and very openly.

I could go through some things that this small bill—it does not have a lot of jurisdiction that was done on this bill to help the relationship between the United States and Mexico, and a big precursor to NAFTA.

You know, Mr. President, and fellow Senators, it was not a President of the United States, nor any of his Cabinet people, nor his Border Patrol director, any of those, that came to the Congress and said the border between Mexico and America as it pertains to our facilities, border crossings, with jails attendant, with restrooms that are there, with facilities that are there—nobody came forward from the executive branch saying that is a disgrace, a disaster. It really is not befitting the United States to have such deplorable border facilities. It was Senator DECONCINI.

Believe it or not, in a Treasury, Postal bill, the first signs of a master plan for making the border facilities modern between our two great nations came from this little subcommittee under the leadership of that Senator from the State of Arizona; a $357 million program to rebuild facilities that were broken down, that were absolutely disgraces. I had one in my State that essentially, if either OSHA or the Environmental Protection Agency or any regulatory agency for the United States went and looked at it, they would have closed it down.

It was a disaster in terms of how it treated people; the jail facilities. Federal judges would have let people out of there the minute they arrived, if they knew about them. There was nothing at all modern about the scales, the weighing system, and how you stop people and check.

There is a brand spanking new facility there, as there are many places up and down that border which, as I said, are necessary infrastructure precursors to a NAFTA and an increase of trade between our two countries.

So that is one that I choose to mention here tonight because in a very real way it shows a lot of things. It shows he knows the problems of his State, and expands that quickly to the national problem; and, second, he has a great deal of tenacity. I mean, he will not give up. There are some around here who, I am sure, do not like that tenacity because they wish he would have given up from time to time around here. But he did not give up when it came to finding a way to put that kind of program into place and into being, even if it was in an appropriations bill.

I think he remembers that. Let me also say that the battles here on the floor today never seem to disappear. How many internal revenue agents are enough? Revenue forgone has been an issue forever. At least it is finally getting resolved in terms of how does the Post Office handle the charitable kinds of mailings coming in at less than full price and who pays for that.

Congress is never willing to face up to that year after year, sticking this little committee with that problem, as if all of a sudden we can write laws to change that. With his tenacity and hard work, that is mostly solved, with reference to the future of reduced-rate mailings for the Red Cross, Boy Scouts, and the Organization for the Blind, and the like.

So, Mr. President, I do not pass judgment on the amendment before us, but I do pass judgment tonight for myself, personally. And we say thank you, Arizona, for sending Senator DECONCINI. It has been a pleasure to be his colleague and to find many areas where we could work together for our States and our Country.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1995

The Senate continued with the consideration of the bill.

Mr. DECONCINI. Mr. President, I thank my friend from New Mexico, and indeed he is a friend. We have had some laughs about our names being so similar. Along with those laughs, we have had some serious working relationships on this committee and on other things in the Senate. I am grateful for his remarks. What can I say but thank you.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. DECONCINI. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to call the roll.

The legislative clerk continued to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT

Mr. DECONCINI. Mr. President, I ask unanimous consent that the pending amendment of the Senator from New Hampshire be set for a vote at 7:15, when there will be a motion to table by the Senator from Arizona, and that no amendments be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I have talked to the Senator from North Carolina, and the Senator from California has been very patient. I apologize for the delay.

I am prepared to yield to her for 10 minutes as in morning business. I ask unanimous consent that that be the order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California, Mrs. BOXER, is recognized.

VIOLENCE AGAINST WOMEN

Mrs. BOXER. Mr. President, I thank the Chair, and I thank the distinguished chairman for giving me this time. I know we are making good progress on the bill before us, but I felt it important to take the floor for a brief time to talk about a very important issue.

Mr. President, throughout American history, women have changed the course of debate in this country. Rosa Parks refused to sit in the back of the bus, and the Nation's attention was focused to the issue of racial injustice. Anita Hill stepped forward to testify before Congress, and the Nation focused on sexual harassment in the workplace. And now, Mr. President, a terrible event in California, the death of a young mother, brings a tragic issue to the forefront: The brutality and the terror of spousal abuse.

We should not jump to conclusions about who was responsible for Nicole Simpson's murder. But we do know from the Los Angeles Police Department that she was repeatedly beaten by her former husband, once so badly that she had to be hospitalized. As reported in the Los Angeles Times, she was bruised and bloodied and slapped so hard, Mr. President, that a hand print was left on her neck.

What we do know is that the criminal justice system is guilty because it routinely turns its back on this form of brutality and leaves too many women out in the cold.

Mr. President, beating is beating. Blood spilled is blood spilled. Whether it occurs at the hands of a stranger or a family member, there should be no difference in the way it is viewed. It is time for action to prevent violence in the home. The excuse that "This is just a family matter" is no longer acceptable. "I love her so much that I lost myself" are words that must be seen as a cry for help from both spouses in the relationship.

Today, I join President Clinton and several of my colleagues on both sides of the aisle in calling for immediate action on the crime bill, which appears to be stalled in the conference.

Passage of this bill is now more important than ever, Mr. President, not only because of its many provisions to make our streets and our schools safer, but also because it includes the only comprehensive piece of legislation to pass the House and Senate on the issue of violence against women.

Four years ago, Senator JOE BIDEN, the distinguished chairman of the Senate Judiciary Committee, introduced the Violence Against Women Act. I was extremely pleased that he asked me to author the House version at that time, which I did, and I did it every year that I was in the House of Representatives. We have pushed and pushed to make this bill law ever since.

The Violence Against Women Act provides police, prosecutor, and judicial training on dealing with spousal abuse. It funds services to victims, such as shelters for battered women and children.

By the way, Mr. President, we have more shelters in this country for animals than we do for women and children. We need action now. We need prevention programs now.

Two years ago, we were successful in enacting a few provisions into law. As part of the Higher Education Act, we secured funding for rape prevention programs on college campuses. When Congress reauthorized the Family Violence Prevention and Services Act, the only Federal program that provides funding to battered women shelters, we secured more funding for these services, as well as public education campaigns.

But we are still struggling, Mr. President, to enact the majority of this bill. I am proud to see on the floor the chairman of the Judiciary Committee, JOE BIDEN, who has led this fight before anyone knew what the problem was. Well, maybe our colleagues did not feel the sense of urgency then when we began, but it is critical that we act now. We cannot let another year go by. We cannot let another day go by. The Violence Against Women Act must be passed as part of the crime bill. I especially urge my colleagues on the conference to follow Senator BIDEN's lead and vote for the authorization level of $1.8 billion.

That is crucial in our efforts. I said we could not wait another day. Let me correct myself, Mr. President. We cannot wait another minute because every 15 seconds a woman is beaten in America. An estimated 2 to 4 million women are battered by their spouses or partners every year. As many as one-fifth to one-third of all women who visit emergency rooms are victims of spousal abuse. In 1992, approximately 30 percent of all women murdered—nearly 1,400 wives and girlfriends—were slain by their husbands or boyfriends. Let me repeat that, Mr. President—1,400 wives and girlfriends were slain by their husbands or boyfriends.

To all Americans who care about this issue, who want to act now to save the lives of innocent people, please help Senator BIDEN push this crime bill through. Look. We have partisan differences around here. We fight about a lot of things. But this President is right when he says let us move swiftly and in a bipartisan fashion on this crime bill. Every 15 seconds a woman is battered. Mr. President, let us act now.

We saw what happened in California. But it happens every 15 seconds.

I see my distinguished colleague here. If I have any time remaining, I yield it to him, and if I do not, I ask unanimous consent that he be granted 3 or 4 minutes to comment at this time.

The PRESIDING OFFICER. The Senator from California has just under 4 minutes remaining.

Mrs. BOXER. Then I yield the remainder of my time to my friend and colleague and a great leader on this—he deserves all our thanks—Senator BIDEN.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I thank the Senator from California for her generous remarks.

The truth of the matter is, although 5 years ago I wrote this bill—this bill, I might add, did not move until my friend from California came to the U.S. Senate. She was the original sponsor in the House on this legislation. But when she came to the U.S. Senate, all of a sudden I found that my exhortations to my colleagues took on a new dimension. When I stood up and cited the statistics that my friend from California cites, people listened, and we got it passed. But there was not much sense of urgency. But when the distinguished Senator from California came and made the case with the passion and urgency that she does, literally things begin to move.

I am pleased to tell Senator BOXER and my colleagues that in the crime conference so far, the chairman of the conference, Mr. BROOKS, and the President of the United States, through the Attorney General, have agreed to the language that Senator BOXER and I originally introduced 4 years ago, which is that it has all the provisions and full funding.

Now we have not had a vote in the full conference on that yet, but I fully expect that it will survive.

Let me point out that the most important thing it seems to me about the passage of the violence against women's legislation which in a sense has been submerged in the larger crime bill, if this bill all by itself were being debated, it would be one of the major pieces of legislation we would be acting on as a Congress. But because we were able to include it in the overall crime bill at the last minute, in effect, increasing its prospects of passage, it has somehow been lost sight of.

The reason why it is important that it not be lost sight of is because not that it will affect substantively what actually it allocates to the States, actually allocated to fight violence against women, but because the public at large is unaware of what we are doing.

One of the most important things about the violence against women legislation in my view and the reason why I wrote the legislation in the first instance is it is designed not only to substantively change the law but to indirectly change attitudes in America.

To use a trite Washington expression, the bottom line of the violence against women legislation is that no man under any circumstance, for any reason other than self-defense, has a right to touch a woman without her permission, period. No ifs, ands, or buts. This is about power, physical power, and violence against women and particularly domestic violence, which is a misnomer. There is nothing domestic about it. That makes it sound like domestic cats as opposed to wild cats. The truth is we should drop that phrase.

It is violence, pure and simple, and one of the things we have to do is change attitudes.

Let me just suggest to you one of the States in the Nation in 1987 surveyed all of their seventh, eighth, and ninth grade students and asked the following question, and I am paraphrasing: If a man spends $10 on a woman on a date and then demands to have sex with her and she refuses, is he entitled to use force?

Somewhere around 34 percent of the young men in this State said yes, and an astounding 24 percent of the young women said yes.

We must change attitudes about what a man can do. We have to drop phrases like "my woman." The idea that any man has a right to touch a woman, whether she is a saint or a prostitute, is not relevant. No man has a right to lay a hand on a woman in anger without her permission—and that is an oxymoron. If she is angry, she is not going to be giving permission. That is the attitude we have to change.

My hope is when we pass this legislation, it will not only substantively make things safer for women, increasing everything from battered women shelters, to lighting, to education of prosecutors and judges, but it also will give women, in addition to the criminal cause of action, for the first time in our history, a civil cause of action.

So not only will the man go to jail if the woman can prove she was a victim of violence because of her sex, she can take his car, his house, his savings account. She can be empowered not to have to wait for the State to decide whether to proceed. She can proceed. And until women are empowered that way, things will not change.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. BOXER. I thank the Senator.

Mr. BIDEN. I thank the Chair.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1995

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from North Carolina.

AMENDMENT NO. 1825

Mr. FAIRCLOTH. Mr. President, I ask that the amendment that I previously sent to the desk be read, please, and I ask for its immediate consideration.

The PRESIDING OFFICER. If there is no objection, the motion to recommit is set aside and the clerk will report.

The bill clerk read as follows:

The Senator from North Carolina [Mr. FAIRCLOTH] proposes an amendment numbered 1825.

The amendment is as follows:

At the appropriate place in the bill add the following: "Notwithstanding any provision of law, the President must certify to Congress, annually, that no person or person with direct or indirect responsibility for administering the Executive Office of the President's Drug-Free Workplace Plan are themselves subject to the program of individual random drug testing."

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, when a person goes to work at the White House they are supposed to be given a drug test. Additionally, 12 percent of employees who are in what are called testing designated positions are supposed to be randomly given drug tests every year.

But, Mr. President, there is yet another category of people who are given drug tests. These are people who the Secret Service has determined have a recent and/or extensive history of drug use. They are subject to what is called the individual random drug testing program.

These are not people who experimented with marijuana in college years ago, even those who did not inhale. They are people who have a history of serious narcotics abuse.

In testimony before the House, we have learned that there are 10 or 11 people in the White House who are in this category; 10 or 11 are in this category that I am talking about that have serious problems with drugs.

Again, not people who experimented with drugs 15 or 20 years ago, but rather, 10 or 11 people who the Secret Service and the White House legal counsel's office have apparently determined need to be tested frequently because of recent and/or significant narcotics abuse.

Mr. President, this amendment is straight forward and direct. It simply says that the President must certify to Congress that the people who are in charge of the White House drug testing program do not, themselves, have a recent and/or extensive history of drug use.

It just makes common sense that someone with a history of drug problems should not be involved in administering drug testing programs.

While it should go without saying that a drug addict should not be in charge of the drug testing program, it should be noted that the White House Drug Testing Program is administered by the Office of Administration. The Office of Administration is run by a woman named Patsy Thomasson. And Patsy Thomasson is the former right hand woman to a man named Dan Lasater.

Dan Lasater is a convicted cocaine dealer who gave President Clinton's half-brother Roger a job, and was later pardoned by Bill Clinton. Dan Lasater held fundraising parties for Bill Clinton, flew the Clintons around in his jet, and paid off Roger Clinton's drug debts.

Federal and State law enforcement documents describe widespread cocaine use among Lasater, his employees, his business associates, and his friends. Those same law enforcement documents describe parties at which vials of cocaine were distributed as party favors. Ashtrays filled with cocaine were spread among the hors d'oeuvres, and cocaine was served on the Lasater corporate jets.

After Bill was reelected to the Governor's mansion in 1982, Lasater's bond firm made millions of dollars in underwriting State of Arkansas bonds. His firm even made $750,000 by underwriting bonds for a new State Police radio network. This was despite the fact that Lasater had told an investigator sent by Bill Clinton's Director of the Arkansas State Police that he was a cocaine user.

Dan Lasater's chief financial officer in this operation was Patsy Thomasson, the woman who now has oversight over the White House drug testing program.

Six months after he was awarded the State Police radio bond contract, Dan Lasater formally became the target of a joint State-Federal drug task force investigating cocaine distribution in Little Rock. FBI documents show that he later confessed to using cocaine, and to giving it away to friends, employees and business associates on more than 180 occasions.

In October 1986, Dan Lasater was indicted for possessing and distributing cocaine. The U.S. attorney said that Lasater and his associates were blatant in their drug use. Lasater maintained a supply of cocaine in his pockets, and even snorted it at his office.

He pled guilty, and as part of his plea he agreed to make detailed statements about his cocaine use. He also agreed to identify the people he gave cocaine to during parties, during business meetings, and as part of his business entertainment. When Dan Lasater went to jail for cocaine trafficking he gave his power of attorney—his power of attorney—to Patsy Thomasson, the lady now in charge of White House administration and the Drug Testing Program.

A power of attorney is one of the most powerful legal documents that exists. Patsy Thomasson had complete control over Dan Lasater's affairs while he was serving his prison time for cocaine trafficking. In business and other legal matters, Patsy Thomasson and the cocaine kingpin Dan Lasater were one and the same.

In his application to Bill Clinton for a pardon, Dan Lasater excused his criminal behavior, saying that the cocaine was used in social situations. He compared it to—and I quote—"paying for dinner and drinks for my friends." A strange way to do business.

Mr. President, there are many people in high places in the White House who associated with Dan Lasater. In light of the fact, the U.S. Senate should have the FBI list of the 180 occasions that documented Dan Lasater's cocaine use, and the people that he supplied it to—and we should have it immediately, if not sooner.

But until it gets that FBI cocaine list, Congress should—at a very minimum—demand that the President certify that the people in charge of the White House drug testing program do not themselves have a history of recent or extensive drug abuse.

Patsy Thomasson, the righthand woman of the man who admits to snorting cocaine with friends and business associates, and who was the person who had that cocaine distributor's power of attorney while he was in prison, now is in charge of the White House drug testing program!

Mr. President that is wrong. We do not know if anyone in the White House were at any of Dan Lasater's cocaine parties. But it is wrong to have a business partner and confidant of a drug dealer in charge of the White House drug testing program.

Patsy Thomasson refuses to disclose to Congress whether the people monitoring the White House drug testing program—including herself—are among the specially tested group of people with histories of serious drug abuse.

At the bare minimum, the President should have to certify that no one with responsibility for that drug testing program has a history of recent or extensive drug use themselves.

Mr. President, Congress should see to it that drug addicts are not in charge of the White House drug testing program. That is what this amendment will do.

Mr. President, on this amendment, I ask for the yeas and nays at the appropriate time.

Mr. President, I yield the floor.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER (Mrs. BOXER). The Senator from South Dakota.

Mr. PRESSLER. Madam President ask unanimous consent to speak for 2 minutes, as if in morning business.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

NORTH KOREA AND CHINA

Mr. PRESSLER. Mr. President, Japan, South Korea, Taiwan, and other friends of the United States in East Asia are not pursuing nuclear weapons programs. This is not an accident. It represents almost 50 years of successful diplomacy by Democrat and Republican administrations.

That success is at risk in the current North Korea nuclear weapons crisis. If the North Koreans can stare down the Clinton administration, it will be very difficult to persuade the rest of East Asia not to look after its own security interests.

Mr. President, it is not in anyone's interest for there to be a nuclear arms race either on the Korean peninsula or in the rest of East Asia. Therefore, recent events in Beijing can only be described as puzzling.

From June 6 to June 13 the North Korean Chief of Staff met with almost the entire top military leadership in China: The Chairman and both Vice Chairmen of the Central Military Commission, the Defense Minister, the Chief of Staff and Deputy Chief of Staff of the Chinese Army, the political commissars of the Air Force and Navy, the commandant and deputy commandant of China's leading armor school, the Deputy Commander of Beijing Military Region, and other military officials. Finally, the North Koreans toured the sixth artillery division, one of the units around Beijing. By my count this includes all the Chinese military services and all the combat branches of the services. A number of the Chinese individuals in the meetings with their North Korean counterparts were veterans of the Korean war.

We only know snippets of what they discussed but it is very hard to avoid the conclusion that this was a war council. The Chairman of the Chinese Central Military Commission was quoted in the official Chinese press as declaring that China and North Korea are as close as "lips and teeth." The Chinese Defense Minister referred to the United States as "imperialist aggressors" for our actions in defense of South Korea in 1950. If South Korea's largest newspaper is accurate, the Chinese pledged 85,000 troops to the aid of North Korea in the event of war.

Mr. President, today I have written to the Chinese Ambassador bringing to his attention my concern over these meetings and statements. It is time for the Chinese Government to make a positive contribution to resolving the North Korean nuclear issue. Their actions of 2 weeks ago were a big step backward.

Mr. President, I ask unanimous consent that my letter to the Chinese Ambassador and certain publications on this subject from Chinese, North Korean and South Korean newspapers and radio outlets be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 21, 1994.

His Excellency LI DAOYU,
The Ambassador of China,
Washington, DC.

DEAR MR. AMBASSADOR: Since the end of World War II the United States has exercised its leadership to ensure that those countries in East Asia which are allied with us have not developed nuclear weapons. This accomplishment has not occurred by accident but rather after considerable effort and some diplomatic cost.

We have now come to a critical juncture with North Korea. It is not in anyone's interest for North Korea to maintain its nuclear weapons program. As North Korea's long time ally, China is obliged to take the lead in convincing the North Korean leadership of the absolute necessity that its nuclear weapons ambitions must be abandoned.

Therefore, the discussion in Beijing from June 6 to June 13 between the highest military leadership in China and their North Korean counterparts raise serious questions of China's intentions. President Jiang Zemin's declaration of solidarity with North Korea, using a phrase associated with wartime allegiance, only raises additional questions. Finally, we wonder what to make of the report of China's pledge of 85,000 troops to the aid of North Korea in time of war. At a time when China should be pressing North Korea to adopt a peaceful stance, these statements and meetings seem to suggest other objectives.

Considering North Korea's history of aggression and state terrorism, the United States will not allow it to develop nuclear weapons without challenge. If those who have influence and leverage with the North Korean leadership choose to avoid their responsibilities, the United States will need to reevaluate its strategy for maintaining peace in the region.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

MILITARY DELEGATION RETURNS FROM PRC

PYONGYANG, JUNE 14 (KCNA).—The DPRK military delegation headed by Choe Kwang, Politburo member of the Central Committee of the Workers' Party of Korea, vice-chairman of the National Defence Commission of the DPRK and chief of the general staff of the Korean People's Army, returned home Monday after visiting China.

That day *Liu Huaqing*, member of the standing committee of the Political Bureau of the Central Committee of the Communist Party of China and vice-chairman of the Central Military Commission, met the Korean military delegation.

Liu Huaqing said that China and the DPRK are the closest neighbours whose mountains adjoin each other and which have common rivers and the friendly relations between the two countries with a historical tradition have reached a higher phase and been consolidated today.

"The people of China treasure Sino-Korean friendship," Liu said, "and will pass it on from generation to generation."

JIANG ZEMIN RECEIVES DPRK MILITARY DELEGATION

PRC President Jiang Zemin said in Beijing on 7 June that strengthening and developing PRC–DPRK friendship is the unwavering policy of the CPC and the PRC Government, as well as the desire of the whole party and all the people.

During a meeting with a DPRK military delegation led by Vice Marshal Choe Kwang, chief of general staff of the Korea People's Army, President Jiang Zemin said that the PRC and the DPRK are friendly neighbors and the two parties, two countries, and two Armies have a tradition of a friendly relationship, and that it is of great significance in the past, and at present as well, to further develop such relations.

He said that the Chinese party and Government are satisfied with the development of the relations between the two parties and two nations and will continue to make efforts to develop the relations.

Chief of General Staff Choe Kwang expressed his gratitude to President Jian Zemin for meeting the delegation and said that it is an invariable stance of the Workers' Party of Korea to develop the DPRK-PRC friendship for generations.

PRC MILITARY HEAD MEETS DPRK MILITARY DELEGATION

Colonel General Liu Huaqing, member of the Standing Committee of the Political Bureau of the CPC Central Committee and vice chairman of the Central Military Commission, emphasized in Beijing on the morning of 13 June that the ultimate goal for resolving the nuclear issue on the Korean peninsula is realizing the denuclearization of the Korean peninsula and peace and security on it. He said that China's position is that the nuclear issue should be resolved peacefully through dialogue among the parties concerned.

Colonel General Liu Huaqing said this at the meeting with a DPRK military delegation led by Vice Marshal Choe Kwang, member of the Political Bureau of the Central Committee of the Workers' Party of Korea and chief of the General Staff of the Korean People's Army, at the Diaoyutai, the State Guest House.

Stating that close friendly relations have been cemented between the two countries and peoples of China and the DPRK, Colonel General Liu Huaqing said that friendly relations between China and the DPRK are very precious ones that should be inherited for all generations to come.

Vice Marshal Choe Kwang said that promoting friendly relations between the DPRK and China corresponds with the desire of the two countries' peoples and that the DPRK highly evaluates China's efforts to develop bilateral friendly relations. He said that he believes that the bilateral friendly relations would further develop and be consolidated.

During the meeting, the military leaders of the two countries share the view on activating the military exchange between the two countries.

The Korean military delegation arrived in China on 6 June and, during its stay, visited Beijing, Hangzhou, and Shanghai.

DPRK MILITARY DELEGATES' PRC VISIT REPORTED

The DPRK military delegation led by Comrade Choe Kwang, member of the Political Bureau of the Workers Party of Korea Central Committee, vice chairman of the DPRK National Defense Commission, and chief of the General Staff of the Korean People's Army [KPA], which is visiting China, inspected the Armored Force Engineering Academy of the Chinese People's Liberation Army [PLA] on 6 June. Commandant of the academy Major General Cai Kangsheng, Vice Commandant Major General (Sun Jiangrong), and other functionaries concerned, welcomed the delegation.

The head of the delegation inspected the honor guard with Cao Gangchuan, deputy chief of General Staff, and the commandant of the academy. The delegation looked over the tanks and armored cars receiving training at the academy, and an exhibition hall that exhibited technological achievements.

On 7 June, the delegation inspected the sixth artillery division of the Beijing military region.

On 6 June, Zhang Wannian, chief of the General Staff of the PLA, arranged a banquet for the delegation. Members of the DPRK military delegation led by Choe Kwang, the chief of the General Staff; the DPRK ambassador to China; and the embassy military attache were invited. Cao Gangchuan, deputy chief of the General Staff of the PLA; the political commissar of the Navy Department; the political commissar of the Air Force Department; the deputy commander of the Beijing military region; and other functionaries concerned were on hand.

Speeches were exchanged at the banquet. In his speech, Zhang Wannian, chief of the General Staff, said that the Armies of the two countries of China and the DPRK have a long tradition of friendly relations. He emphasized that the friendship concluded between the people and Armies of the two countries through blood ties is invincible. He stated that the heroic and diligent Korean people and the People's Army achieved great results in socialist construction and national defense building under the leadership of the Comrade President Kim Il-song, the great leader of the Korean people and close friend of the Chinese people, and the respected Comrade Kim Chong-il. He also said that the Chinese people and Army are happy about those results as though they were their own.

He said that he hopes that the Korean people and the People's Army achieve greater results in the future under the leadership of the respected Comrade President Kim Il-song and Comrade Kim Chong-il, the supreme commander of the KPA.

On 7 June, the delegation met with the Chinese National Defense Minister Chi Haotian. During the meeting, the defense minister said that the people and Armies of the two countries fought shoulder to shoulder during the anti-Japanese war period opposing the Japanese imperialist aggressors, and that during the fatherland liberation war, they shed blood and fought together in one dugout against the U.S. imperialist aggressors. He emphasized that the friendship between the two countries was truly bonded by blood. He said that since the people and Armies of the two countries shared joys and sorrows on the road of revolutionary struggle, they were one in mind. He stated that China is happy with the results being achieved by the Korean people and the People's Army in socialist construction and in strengthening national defense, as though the results were their own.

Next, the defense minister arranged a dinner for the delegation. Participants of the banquet and dinner made a toast for the long life of the great leader Comrade Kim Il-song, for the long life of the dear leader Comrade Kim Chong-il, and for the long life of the Chinese party and state leaders including the respected Comrades Deng Xiaoping and Jiang Zemin.

DAILY REPORTS PRC TO SEND 85,000 TROOPS IF WAR BREAKS OUT

Western diplomatic sources in Hong Kong said on 11 June that China promised to send a ground army of approximately 85,000 troops to North Korea if a war breaks out on the Korean peninsula and, also, to provide credit assistance—such as food and energy—to the latter if UN economic sanctions are effected.

The sources said: Such an agreement between China and North Korea was discussed between the key leaders of the North Korean party and government, who visited China in early June, and the relevant high-level officials of the Chinese party and Army. As a result, a final agreement was reached during the visit by Choe Kwang, chief of the General Staff of the North Korean Army, to China on 7 June.

Prior to these remarks, a military source in Hong Kong once said that according to the China-North Korea Friendly Treaty signed in 1961, China has formulated plans to support North Korea by sending ground troops between 50,000 and 75,000 soldiers—who belong to the three divisions of the 39th Shenyang Military District Army stationed in Dalian—as well as approximately 10,000 rapid deployment troops [sinsok paechigun] of the Jinan Military District to the latter. The source said, however, that China will send its troops to North Korea only if North Korea is cornered as a result of an invasion by the United States and South Korea, and that if North Korea invades South Korea, China will not directly provide military support to North Korea, except for spare parts or ammunition for the Chinese-made weapons North Korea currently possesses.

The sources said: Prior to the China visit by Choe Kwang, chief of the General Staff of the North Korean Army, North Korea had sent over 10 high-level leaders from each ministry—such as the Workers Party of Korea, the Army, the Ministry of People's Armed Forces, the Ministry of Public Security, the Ministry of Foreign Affairs, and the Ministry of Metal Industry—to Beijing to discuss the issues—such as China's participation in a war if it breaks out on the Korean peninsula, as well as its economic support for North Korea if the United Nations imposes economic sanctions on North Korea—with the relevant Chinese authorities, including leaders of the Communist Party of China and its People's Liberation Army. In return for China's support for North Korea, North Korea has proposed that it will grant China the right to use the ports in the East Sea areas, and that it will provide materials such as nonferrous metals and cement to China.

They also said: Kim Kyong-hui, younger sister of Kim Chong-il, a director of the Light Industrial Department of the Workers Party of Korea, visited Beijing in late May to hold working-level meetings with the Chinese side in order to discuss its economic support for North Korea. She is expected to return home around 13 June.

MEET WITH JIANG ZEMIN 7 JUNE

Comrade Jiang Zemin, general secretary of the Communist Party of China Central Committee, president of the state, and president of the Central Military Commission, on 7 June received a military delegation of our country led by Comrade Choe Kwang, member of the Political Bureau of the Workers Party of Korea Central Committee, vice chairman of the DPRK National Defense Commission, and chief of the General Staff of the Korean People's Army.

At the talks, the head of the delegation conveyed greetings from the great leader Comrade Kim Il-song and the dear leader Comrade Kim Chong-il to Comrade Jiang Zemin.

Expressing deep thanks for this, Comrade Jiang Zemin asked the head of the delegation to convey his warm greetings to the great leader Comrade Kim Il-song and dear leader Comrade Kim Chong-il.

Comrade Jiang Zemin stressed that PRC-DPRK friendship was personally provided, strengthened, and developed by Comrade Kim Il-song, the respected leader of the Korean people, together with revolutionaries of old generations including President Mao Zedong and Premier Zhou Enlai of the Chinese people. He said that this friendship is forged with blood.

Stating that the two nations of the PRC and DPRK are amicable neighbors with lips-and-teeth relations, Comrade Jiang Zemin pointed out that the two parties, two nations, and two armies have a traditional friendship.

He emphasized that it is of great significance in the past and at the present time as well to strengthen and develop such a friendship, and that the Chinese party and government attach great significance to developing friendly relations with DPRK. He said that he is satisfied with the fact that relations between the two parties and two nations are developing.

He noted that it is a firm policy of the Chinese party and government and is the desire of the whole party and all the people to strengthen and develop PRC-DPRK friendship, and stressed that they will make efforts for this.

Present at the talks were Zhang Wannian, chief of the General Staff of the Chinese People's Liberation Army; Cao Gangchuan, deputy chief of General Staff; the ambassador of our country to the PRC; and the military attache in the Embassy.

"STRENGTHENING" OF TIES VIEWED

BEIJING, June 7 [date as received] (KCNA).—"Strengthening and developing Sino-Korean friendship are the firm policy of our party and government as well as the desire of our whole party and people, and we will make efforts to this end," declared Jiang Zemin, general secretary of the Central Committee [C.C.] of the Communist Party of China, president of the republic and chairman of the Central Military Commission.

He said this when he met Tuesday the visiting military delegation of the Democratic People's Republic of Korea led by Choe Kwang, member of the Political Bureau of the C.C., the Workers' Party of Korea, vice-chairman of the National Defence Committee of the DPRK and chief of the Official Staff of the Korean People's Army.

Jiang Zemin said friendship between China and the DPRK is one provided, consolidated and developed by the respected leader of the Korean people Comrade Kim Il-song together with Chairman Mao Zedong, Premier Zhou Enlai and other revolutionary veterans of the Chinese people and forged in blood.

Noting that the two countries are friendly neighbours in the lips-and-teeth relationship, he said the two parties, two countries and two armies have traditional relations of friendship.

He stressed that further strengthening and developing such relations—past or present—is always of great significance.

"The Chinese party and government regard their friendly relations with the DPRK important, and are satisfied with the development of the relations between the two parties and two countries," he added.

Mr. PRESSLER. Madam President, it is outrageous that the Chinese and North Koreans are holding these meetings at this time. It is amazing we do not hear more about it. Our President should speak publicly about this.

Madam President, it is not in anyone's interest for there to be a nuclear arms race either in the Korean Peninsula or in the rest of Asia. Therefore, recent events in Beijing can only be described as puzzling. All this time it seems the United States has been trying to get North Korea to back down. Yet, all the while, North Korea and China have been meeting on a military level. These nations' top military people are meeting, and nobody is saying anything about it.

As a result, I have sent a letter to President Clinton citing the discussions in Beijing from June 6 to June 13 between the highest military leadership in China and their North Korean counterparts. I have spoken many times on this floor about the Chinese nuclear buildup and military buildup. In the next 10 years, our main military antagonist will be China. Japan will not stand still. Eventually, they, too, will try to get the bomb. North Korea and China are working hand in hand, yet nobody will acknowledge this.

Finally, we wonder what to make of the report of China's pledge of 85,000 troops to the aid of North Korea in time of war. At a time when China should be pressing North Korea to adopt a peaceful stance, these statements and meetings seem to suggest other objectives. I go on:

> Considering North Korea's history of aggression and state terrorism, the United States should not allow it to develop nuclear weapons without challenge. If those who have influence and leverage with the North Korean leadership choose to avoid their responsibilities, the United States will need to reevaluate its strategy for maintaining peace in the region.

So we are at a critical juncture with North Korea. At that very moment we find their top military people spending a week with the Chinese top military figures. It is not in anyone's interest for North Korea to maintain its nuclear weapons program. As North Korea's longtime ally, China is obliged to take the lead in convincing the North Korean leadership of the absolute necessity that its nuclear weapons ambitions must be abandoned.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1995

The Senate continued with the consideration of the bill.

Mr. DECONCINI. Madam President, I ask unanimous consent the vote scheduled for 7:15 be scheduled for 7:25.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Madam President, the amendment pending, the amendment from the Senator from North Carolina, has some merit. But I must say I am very disappointed to see the personal attack on the assistant to the President who is the administrator of the Office for Management and Administration.

Before I comment on that, let me say the White House is very cognizant of the importance of a drug-free workplace. And, indeed, they have taken steps to ensure that is the case. As a matter of fact, it has been prior administrations that have taken that step, and there have been assistants to the Presidents in past administrations and one in this case who was tested, it was positive, and they have been dismissed. So, no one is trying to exempt themselves from the drug testing.

The Executive Office of the President has had a drug-free workplace since July of 1988, and this administration adopted that and actually enhanced it. The drug-free workplace is administered by the Office of Administration, Personnel Management Division, which is headed and staffed by a career civil servant. We are not talking about a political appointee. This is not Patsy Thomasson who runs this drug testing program.

Any individual being placed in a testing designated position is tested under the applicant's testing provisions of the program. Here in this White House they have adopted a drug testing for employees—it is currently a mandatory procedure. Everybody employed at the White House, the Office of Policy Development, the Office of Administration, the National Security Council, Council of Economic Advisers, the Office of the Vice President, Council of Economic Quality, Executive Residence, Office of the National Drug Control Policy, the Office of Science and Technology—all of these people are under a mandatory drug testing program. And it is 12 percent, or approximately 117 employees, of the Executive Office of the President who undergo this mandatory annual drug test every year.

That means their names are not picked by Patsy Thomasson or by Mr. McLarty or some political person down there. They are picked randomly from the 1,057 employees. As they come up they are tested. No excuse. Not, "OK, 2 days"; or "I just do not feel like doing it now"—they are tested. It is conducted by an independent contractor, somebody who is totally dismissed and divorced, not part of the White House politically or professionally. They are independent contractors who conduct the test for the White House to ensure quality control.

Testing 12 percent is above, I am told, what the normal drug-free workplace standard is.

Let me get to the heart of this amendment that ought not to be here, in all due respect to the distinguished Senator from North Carolina. There is no evidence that I know of that Patsy Thomasson has been involved in any drug action or participation in any way herself. I am advised she has gone before the grand jury in the State of Arkansas, that there has been no evidence whatsoever to link her in this. It is to me a disgrace that the accusations are made here regarding this young lady. She is a hard-working person who is trying to do the best she can. It is a tough job, administering 1,057 people, many of them political appointees, who have certain relationships with the President or the Chief of

Staff and do not have to listen to her, and she has almost a thankless job.

For Senators to stand up here and read newspaper clippings and make accusations that Patsy Thomasson is somewhat involved in drugs and that she is responsible for the problems down at the White House is unfair. Believe me, I have worked with this woman. And when there was a security problem down there, she said, "Yes, what can you do to help me, Senator?"

When I called I said, "I want to help." And we, from the Intelligence Committee, offered to send down our director of security and, if I may Madam President, the Intelligence Committee has a security system that is widely respected throughout the intelligence community. And we have had an excellent record. And the White House took us up on it. Mr. James Wolfe went down there and spent several days with White House officials reviewing their security procedures, including the drug testing.

And there is no evidence that Ms. Thomasson has been involved with administering this drug test. She just said, "It will be a policy," as it always had been. It is a policy today.

So, though this amendment has merit because I find nothing objectionable relating to the responsibility of the executive office, I find it very objectionable and disgraceful, in my opinion, to see attacks on someone who is an administrator at the White House who I think has a proven ability. If somebody wants to look back and say, oh, well, she had a friend once who was indicted or who did something wrong, was accused of something—well, as the Bible said, who is going to throw the first stone in this body? Who has been in politics who has not had some friend or somebody who has gotten in trouble that they had nothing to do with?

So I am extremely disappointed that an amendment that has some merit cannot be set before the Senate without making a personal attack on somebody's reputation. Believe me, I have a little experience with that.

It is absolutely enough to make you regurgitate.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Madam President, I was not planning to speak, but on the TV monitor, I listened to the Senator from North Carolina.

Let me just briefly state that we have just seen a case of the Senator from North Carolina assassinate the character of a fine lady, a fine woman, a fine person who works in the White House.

Patsy Thomasson, during the trial and the grand jury proceedings of Dan Lasater, to the best of my knowledge, testified at length before the grand jury, and in her testimony, to the best of my knowledge, stated that she had never used cocaine in her life. The Senator from North Carolina, a few moments ago, stated on the floor of the U.S. Senate that Patsy Thomasson had, in fact, admitted to the use of cocaine.

Madam President, I think the Senator from North Carolina owes this individual and the U.S. Senate an apology.

I yield the floor.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Madam President, I would like to draw attention of my colleagues to the fact that this will be the last Treasury, Postal Service bill that our very dear colleague, Senator DENNIS DECONCINI, will be moving through the U.S. Senate. He, of course, will bring back an excellent conference so that we will be able to vote on that.

But I wish as a member of the Appropriations Committee and a member of the Subcommittee on Treasury, Postal Service to pay my respects to Senator DECONCINI and the outstanding job he has done, both in the Senate and with this particular subcommittee. This is a very complicated subcommittee. It deals with Federal law enforcement, other than what is at the Justice Department.

He tried to make sure that there was enough money for the new cops, for the Bureau of Alcohol, Tobacco and Firearms, those wonderful, gallant men and women who are trying to protect us from too many guns on the streets.

He has been an advocate of adequate funding for the Internal Revenue Service, not only to collect enough taxes to balance the budget, but go after the waste, to go after the fraud, to go after the bums and to go after the deadbeats who just will not pay their taxes. And DENNIS DECONCINI was in the forefront of making sure it was adequately funded.

Every single agency at the Department of Treasury has come under this man's appropriations. He has stood firm in terms of fiscal responsibility and yet he has seen a direction for the future and placed money in law enforcement, in those Federal agencies important to the Treasury. He has tried to get the mail delivered on time. I hope one day he is a stamp himself.

So as a Member of the United States, and I know he is in active negotiations, I would like to say that Senator DECONCINI is really one of the great guys in the Senate, and I say that because I have worked with him, I have served with him, and I have learned from him.

Madam President, Senator DECONCINI on Appropriations will be sorely missed.

Madam President, I yield the floor and suggest the absence of a quorum.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. Will the Senator withhold her call for a quorum call?

Ms. MIKULSKI. I withhold.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is seeking recognition.

Mr. BOND. Madam President, I ask unanimous consent that the Senator from North Carolina may be permitted to speak for 1½ minutes. I believe some questions were raised about what he said, and he wished to clarify them before we go to a vote. I know many of our colleagues have other commitments and want to go to a vote. But I ask unanimous consent that he be given 1 minute.

The PRESIDING OFFICER. Is there objection?

Mr. PRYOR. Reserving the right to object.

If the Senator from North Carolina is given a minute and a half, I ask a minute and a half to be given to the Senator from Arizona to respond or to the Senator from Arkansas.

The PRESIDING OFFICER. Is there objection?

Mr. CONRAD. I object.

The PRESIDING OFFICER. Objection is heard.

The PRESIDING OFFICER. Under the previous order, the question recurs on the motion to recommit offered by the Senator from New Hampshire [Mr. SMITH].

Mr. DECONCINI. Madam President, I move to table the motion by the Senator from New Hampshire——

Mr. DOMENICI. Will the Senator withhold?

Mr. DECONCINI. And I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Mr. DECONCINI. I withhold that.

The PRESIDING OFFICER. The Senator withholds and yields to the Senator from New Mexico.

Mr. DECONCINI. For parliamentary inquiry.

I make a parliamentary inquiry. Does the Senator think it is appropriate if a Senator wants to explain and say he did not say what a Senator has accused him of saying that he should not be given permission to do that for 1½ minutes?

I yield the floor.

The PRESIDING OFFICER. Is the question addressed to the Senator from North Dakota who objected?

Mr. DOMENICI. The question has been propounded, and I do not expect an answer.

The PRESIDING OFFICER. The Senator does not expect an answer.

MOTION TO RECOMMIT H.R. 4539

Mr. DECONCINI. Madam President, I move to table the motion of the Senator from New Hampshire and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on agreeing to the motion to table the motion to recommit the bill offered by the Senator from New Hampshire.

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] is necessarily absent.

I further announce that the Senator from Connecticut [Mr. DODD] is absent due to illness in the family.

I also announce that the Senator from Nevada [Mr. REID] is absent attending a funeral.

Mr. DOLE. I announce that the Senator from Montana [Mr. BURNS], the Senator from Minnesota [Mr. DURENBERGER], and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. SIMPSON] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 38, as follows:

[Rollcall Vote No. 156 Leg.]

YEAS—56

Akaka
Biden
Bingaman
Bond
Boren
Boxer
Breaux
Bumpers
Byrd
Campbell
Cochran
Cohen
Conrad
D'Amato
Daschle
DeConcini
Domenici
Dorgan
Exon
Feinstein
Ford
Glenn
Gorton
Graham
Hatfield
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Simon
Specter
Stevens
Wellstone

NAYS—38

Baucus
Bennett
Bradley
Brown
Bryan
Chafee
Coats
Coverdell
Craig
Danforth
Dole
Faircloth
Feingold
Gramm
Grassley
Gregg
Hatch
Heflin
Helms
Hutchison
Kassebaum
Kempthorne
Kohl
Lott
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Roth
Shelby
Smith
Thurmond
Wallop
Warner
Wofford

NOT VOTING—6

Burns
Dodd
Durenberger
Harkin
Reid
Simpson

So the motion was agreed to.

Mr. DECONCINI. Madam President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF ENERGY

Mr. THURMOND. Madam President, the Senate will soon begin debate on the 1995 Defense authorization bill. At that time I plan to speak at some length on the President's budget and the recommendations of the Armed Services Committee. Today, however, I want to address a topic to which I believe the Senate must devote special attention. That is the woeful state of our nuclear weapons posture.

The measure of our nuclear posture is not merely the number of weapons we have; it is also our capability to maintain our nuclear weapons over the years, no matter what. That, Madam President, is in terrible shape. This administration has put us on a course of unilateral nuclear disarmament. This administration has explicitly, formally planned that, starting in 2010 or so, we run out of all tritium reserves. Without tritium, our nuclear weapons will not work, so we will begin in 2010, or so, to lose nuclear weapons at a rate of hundreds per year. Madam President, nothing can be done to stop this unless this administration changes direction and builds an assured supply of tritium. It is as simple as that.

Who would ever have thought that our nuclear weapons posture would come to this? For 50 years now we have had a bipartisan national security policy in those areas where the very survival of the United States was at issue. Ten administrations agreed that nuclear deterrence would be the central core of our defense policy.

Now I am afraid we may be seeing that unanimity of policy in the face of nuclear danger begin to slip away. I hope I am wrong, because the world is more dangerous, not less; there are more nuclear foes, not less; the United States is more vulnerable, not less. But in certain decisions the administration is apparently now taking, I see the end of the object of our bipartisan agreement.

Madam President, let me give some examples of how this administration is putting us on the road to a covert nuclear phaseout. First, it is no secret that the Secretary of Energy has surrounded herself with a small number of advisers, perhaps four or five, who appear to be the architects of nuclear policy in DOE. What is alarming to me is that three of them have spent most of their professional lives as antinuclear activists. What is alarming is that U.S. national security will be impacted for decades by decisions made in 1994 by professional antinuclear activist veterans of ban-the-bomb campaigns, who have fought the national nuclear weapons program for years, in the press and in the courts. None of these advisors have had any experience in what it takes to maintain our nuclear weapon complex; what is alarming is that this administration does seem to not care.

Second, look what they are doing to the nuclear weapon complex. All the plants are closed permanently. The knowledge of skilled craftsmen is gone. Capabilities are dissipated. It is true that we have no need to produce nuclear weapons now. But DOE is making sure we never can again. We had a plan to reconfigure, reduce, and modernize, to build a modest but modern capacity that would last. But even that was too much for this antinuclear crowd at DOE. They canceled that reconfiguration program. They abolished the office. Madam President, no other nuclear nation is doing this. The French are maintaining their complex at top form. The British have kept their manufacturing facilities in commission. The Russians, in all their misery, have not abandoned nuclear weapons plants. The Chinese are building at the same pace they always have. Madam President, is there some secret that Mrs. O'Leary's advisors know, something that has escaped the rest of us; some secret that says it is wise and right for us, alone of nuclear powers, to dismantle our nuclear complex and put ourselves on the road to the ultimate nuclear free zone: an America without nuclear weapons?

Third, DOE is planning, yes, planning that we have a tritium shortage. In a letter dated June 10, Secretary O'Leary says "the United States has sufficient tritium in its inventory to meet projected requirements, including a reserve, until 2009." But she goes on to say that if a new production reactor is begun in 1996, it will be 2011 before it produces tritium. Already, DOE plans that we eat into our critical reserve, something we have never done before. This is just to maintain the START II stockpile. Madam President what if something goes wrong; what if the Russians change their mind on dismantlement? What options do we have? Here is DOE's answer; it is so pathetic that I hesitate to describe it to the Senate, but here it is: either restart a reactor built in 1954, or commandeer a commercial nuclear power plant, or buy tritium from the Russians. These are not serious options. These will never happen. Mrs. O'Leary knows they will never happen. Madam President, if anything goes wrong, DOE has seen to it that we have no acceptable options.

Fourth, DOE has left us awash in plutonium and spent fuel. We will have tons of plutonium from dismantled weapons, but DOE refuses to build a reactor to consume it. We have reactor fuel sitting corroding in ponds at Savannah River, and DOE is bringing in more from overseas, all because DOE refuses to reprocess spent fuel. They do not dare. Their antinuclear colleagues would never forgive them if they were to reprocess fuel or build a reactor. That would send the wrong message to the world. This administration thinks that if we stop reprocessing fuel and if we stop building reactors, why then surely the rest of the world will see our wisdom and follow us. Madam President, because of this silly theory that what we do will change the nuclear ambitions of North Korea, Iraq, or Pakistan, my State is subjected to being a dumping ground for corroding reactor fuel. It is a terrible policy and it is wrong.

Why would they put is in such a bind? What drives their thinking over their? I want to believe that their intentions are good, that they are not intentionally planning that we stumble toward disaster.

Madam President, at a time when weapons of mass destruction are proliferating around the world and falling into the hands of outlaw states, the United States appears determined to go out of the nuclear weapons business, by default if not by design. If present trends continue, strategic forces will fall to below START II levels. We are canceling weapons production, scrapping vital facilities, losing the rare human skills needed to fabricate, maintain, and test weapons, and putting an end to testing. With the loss of hard-to-replace infrastructure, the loss of scientists and engineers, and the projected shortage of tritium, I can foresee a time early in the next century when America will no longer be a nuclear power. It is going to happen, and it is going to be because of this administration's overthrow of 50 years of bipartisan agreement. Madam President, I hope I am wrong, but it appears from evidence like this that the administration is committed to a nuclear policy far different from what was the basis of 50 years of bipartisan agreement—a new policy based on guilt and shame, a policy that tells the world that the United States is ashamed of having nuclear weapons, a policy dictated by professional antinuclear activists.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1995

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Madam President, I rise to offer an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The Senate is currently considering Amendment No. 1825.

Mr. BROWN. Madam President, I ask unanimous consent that the amendment currently before the body be set aside and that I may be permitted to offer an amendment.

The PRESIDING OFFICER. Is there objection to setting aside the amendment currently before the Senate?

Mr. DECONCINI. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Colorado has the floor. He has made the unanimous consent request that the amendment that is pending be set-aside. The Chair has asked if there is objection.

Mr. DECONCINI. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Colorado.

Mr. BROWN. Madam President, at the appropriate time I will offer an amendment. It is one that deals with a very straightforward function. It deals with the expenses for travel of employees.

The amendment simply provides that none of the funds in the bill may be used to pay for the expenses of travel for employees, including employees of the Executive Office of the President, or other individuals who are not directly responsible for the discharge of the official governmental tasks and duties for which the travel is being undertaken.

It is consistent with current law, including title V of the United States Code which authorizes travel expenses for Federal employees and individuals traveling on official business. And it also is consistent with President Clinton's "Memorandum on Restriction of Government Aircraft." That memorandum was issued on February 10, 1993, describing "The limited circumstances under which senior executive branch officials," and that includes employees of the Executive Office of the President, "are authorized to use Government aircraft."

Earlier this year, I think Members will recall there occurred an unfortunate incident involving the use of military helicopters by White House staff for a golf outing which cost thousands of dollars. Ultimately, the White House official responsible for arranging that excursion reimbursed the Government, and I think the President is to be commended for seeing that that reimbursement took place, and I believe his action was appropriate in that follow up.

However, last week, the Associated Press reported that the Defense Department had arranged for 26 flights to Europe for as many as 1,000 individuals, including Government officials, their spouses, staff, and others who attended the D-day anniversary celebrations in Normandy. In addition, there were aircraft used for President Clinton's entourage and White House staff.

Apparently, all this was done at taxpayer expense and cost literally millions of dollars. It is not clear from the information available whether all the passengers on these flights were conducting official business or discharging "an agency's official responsibilities," obviously both terms of art under our law. These are outlined in the President's memo last year under the area of restricting use of Government aircraft. However, according to a statement made during debate on this bill in the other body last week, one of these "staff" was an unpaid White House intern.

Imagine the irony. At the same time, many American veterans paid their own way aboard commercial flights to Europe to participate in the D-day ceremonies.

My amendment simply makes it clear, in effect, that none of the funds in the bill can.be used to pay the travel expenses of Federal employees, including White House staffers, and others, unless they are directly responsible for the discharge of official duties for which the travel is being undertaken.

Madam President, let me emphasize here. Concern over the use of travel expenses and aircraft should not be thought to be confined to this administration. Other administrations of both parties had had trouble in these areas. This is a change in the statutes or modification, and I think properly called a clarification, that I think should apply to all administrations.

One should not think that these travel problems are the province of only one party. My impression is that both parties have had problems in that regard, and this is a change in the law which will be helpful no matter who occupies the White House.

Let me also emphasize that this is not meant to deal solely with the White House or the President's family. Clearly, family members do play an important role in the foreign policy of our country and travel with him is an appropriate and I think a necessary part of the President fulfilling his duties at times.

But this is a measure I think that is needed to make it clear that you simply cannot use Government money for non-official functions.

Madam President, I ask unanimous consent that a copy of the news articles from the Washington Post of June 17, and the Washington Times of June 1, and the Wall Street Journal of March 21, on this matter, and a copy of the February 10 memorandum on restrictions of Government aircraft be printed in the RECORD following this statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PENATGON PAID THE FREIGHT FOR D-DAY FETE

The Defense Department arranged 26 flights to Europe for members of Congress, Pentagon officials, their spouses, staff and others who attended the D-Day anniversary celebrations, the Pentagon said.

No cost breakdown for the flights was made available, nor did the Pentagon account for aircraft devoted to President Clinton's entourage and other White House support staff in figures released Wednesday.

The Pentagon flights also carried members of the Cabinet, World War II veterans and high-ranking military officers to the D-Day observance in Normandy, France, the Defense Department said.

Its statement called World War II "the defining event of the 20th century," and argued observance of the 50th anniversary of the Allied invasion on June 6, 1944, which broke through Hitler's Atlantic Wall, "deserves Department of Defense support."

Since the celebrations, Rep. Dan Burton (R-Ind.) has hit the TV talk-show circuit to complain about the size and cost of the administration's D-Day delegation. He said the air travel bill alone may have topped $6 million.

On Wednesday night, the House defeated 287 to 147, a proposal by Burton to trim the White House budget by $5 million because the White House has not provided full information on Clinton's entourage to Normandy.

The White House said over the weekend that both it and the Pentagon would provide information to Congress on the eight-day trip to Europe.

The Pentagon statement said there were eight flights for Pentagon officials, five flights for congressional delegations and 13 flights for ceremonial participants.

[From the Washington Times, June 1, 1994]

UNITED STATES INVADES BY AIR THIS TIME—30 OFFICIAL PLANES GO TO NORMANDY

(By Paul Bedard)

Official Washington's invasion of Normandy for the 50th anniversary of D-Day is turning into a major logistical feat requiring more than 30 military aircraft to transport up to 1,000 government guests.

The price is at least $5 million in flying time to get the guests invited by President Clinton, the Pentagon, and House and Senate members to the daylong ceremonies starting at 5 a.m. Monday.

And that doesn't include the costs of hotel rooms, ground transportation and meals for the guests and security and support staff, up to another 700 people, associated with a presidential trip overseas.

Rep. Dan Burton, Indiana Republican, said he approves of the president going to Normandy for the D-Day ceremonies but noted that "the estimates are he's going to take a thousand people."

"I think it's the height of arrogance and extravagance" at a time when the budget is tight, Mr. Burton said.

Unable to get exact details from the White House and Pentagon about the size of the fleet flying Americans to Normandy, Mr. Burton has assigned aide Kevin Long to call Air Force bases to get a list of aircraft tapped by the administration.

His preliminary results show that all 89th Air Wing jets based at Andrews Air Force Base that are capable of flying to Europe are being used: 12 in all, including the two Boeing 747s assigned to the president. And nine C-141 transports configured to carry cargo and passengers will be sent from Scott Air Force Base in Illinois.

Four C-9 cargo planes based at Dover Air Force Base in Delaware also will be used, as will four C-141s from a base in New Jersey and cargo and passenger jets from Oklahoma's Tinker and Altus bases.

White House spokeswoman Dee Dee Myers said yesterday that the White House is responsible only for the two Boeing 747s and aircraft used to carry staff and presidential limousines and helicopters.

"This is certainly something that goes much beyond the White House, and this is something the Department of Defense has been working on, as you know, for two years. There are other military aircraft going over there in conjunction with that" Miss Myers said.

She rejected Mr. Burton's suggestion that Mr. Clinton is using the flying armada to carry friends and family. She said the White House has no responsibility for who is on the jets other than the two 747s.

She refused to identify those flying on the 747s other than to mention staff and some Cabinet members. First lady Hillary Rodman Clinton is accompanying the president.

But the White House did release the manifests of House and Senate members who will use two or three jets from the 89th Air Wing to get to Normandy.

Twenty-one senators and 35 House members are participating in the ceremonies for D-Day, the June 6, 1944, landing that marked the start of the Allied march to Berlin.

The Pentagon is helping to manage the ceremonies and is bringing dozens of veterans, current officers and press aides to the one-day event.

Representatives of all units involved in the assault on Utah and Omaha beaches will be sent, as will service secretaries and the generals and admirals of major commands, especially those in Europe.

A chartered 747 will fly reporters to Europe to cover Mr. Clinton's visit, which begins tonight and lasts through next week. He will tour Rome, Paris, London and Oxford, England. News organizations using the jet pay for it.

An administration official suggested that the surging costs associated with U.S. participation in the D-Day anniversary result in part from the need to transport troops from the United States to Normandy.

When President Reagan made a short visit to Normandy to commemorate the 40th anniversary, many troops were flown from European commands that have been dismantled since the end of the Cold War.

In addition to transporting American official to the battlefield, the Air Force is sending six F-15 Eagles, six F-16 Falcons and a B-1 for ceremonial duties. Air Force flyovers will take place at Utah Beach and the U.S. cemetery in Normandy.

During the Winter Olympics in Norway, Mr. Burton raised questions about Mrs. Clinton's use of Air Force jets. He also has criticized a White House aide's use of presidential helicopters for a golf outing.

While strongly supporting U.S. participation in the D-Day ceremonies, Mr. Burton criticized the White House for not inviting representatives of major veterans groups to ride on Air Force One.

[From the Wall Street Journal, Mar. 21, 1994]

GSA HEAD PLANS TO REIMBURSE U.S. FOR TRIP EXPENSES

(By Jeffrey H. Birnbaum)

WASHINGTON.—Roger Johnson, the head of the General Services Administration, intends to repay the federal government $1,062.55 in expenses following the first of two reviews of his travel records.

Mr. Johnson, the former chief executive of Western Digital Corp., an Irvine, Calf.-based disk-drive maker, asked for the reviews after The Wall Street Journal obtained his travel vouchers through a Freedom of Information Act request. The vouchers showed that Mr. Johnson visited his residence in California—where his wife was living during five of the nine official trips he took in his first seven months on the job.

A second probe by his agency's inspector general is continuing.

In the meantime, aides said Mr. Johnson intends to repay $589 for meals and incidental expenses for four trips that involved stays in his home. He plans to repay another $473.55 as the result of an error that reimbursed him for one of his trips at the commercial rate rather than the lower, government-employee rate.

The review, conducted by Dennis Fischer, the agency's chief financial officer, also discovered that Mr. Johnson was underreimbursed for an air fare by $353, and will be paid by the government for that flight. Mr. Johnson also personally paid for some of his flights back to California, including one during the recent wildfires.

Mr. Fischer concluded that Mr. Johnson's actions were "consistent with federal travel regulations," as Mr. Johnson asserted they were. Still, Mr. Johnson said he wanted to repay the government for some of the meal and incidental expense payments he accepted while he was staying at his home in order to avoid the appearance of confusing personal with government travel.

The 59-year-old Mr. Johnson has spent a lot of his time in Washington developing plans for—and promoting—President Clinton's effort to make the federal government more efficient. He also is the administration's highest-ranking Republican and its only former chief executive of a major industrial U.S. corporation. The GSA, a 20,000-person agency, oversees the government's real estate and does much of its purchasing.

[From the Weekly compilation of Presidential Documents, Feb. 15, 1993]

MEMORANDUM ON RESTRICTION OF GOVERNMENT AIRCRAFT

February 10, 1993.

Memorandum for the Heads of Executive Departments and Agencies and Employees of the Executive Office of the President.

Subject: Restricted Use of Government Aircraft.

The taxpayers should pay no more than absolutely necessary to transport Government officials. The public should only be asked to fund necessities, not luxuries, for its public-servants. I describe in this memorandum the limited circumstances under which senior executive branch officials are authorized to use government aircraft.

In general, Government aircraft (either military or owned and operated by a particularly agency) shall not be used for non-governmental purposes. Uses other than those that constitute the discharge of an agency's official responsibilities are non-governmental.

The Secretary of State, Secretary of Defense, Attorney General, Director of the Federal Bureau of Investigation, and the Director of Central Intelligence may use Government aircraft for nongovernmental purposes, but only upon reimbursement at "full coach fare" and with my authorization (or that of my designated representative) on the grounds that a threat exists which could endanger lives or when continuous 24-hour secure communication is required.

When travel is necessary for governmental purposes, Government aircraft shall not be used if commercial airline or aircraft (including charter) service is reasonably available, i.e., able to meet the traveler's departure and/or arrival requirements within a 24-hour period, unless highly unusual circumstances present a clear and present danger, an emergency exists, use of Government aircraft is more cost-effective than commercial air, or other compelling operational considerations make commercial transportation unacceptable. Such authorization must be in accordance with the May 22, 1992, Office of Management and Budget Circular A-126, "Improving the Management and Use of Government Aircraft." (The provisions and definitions of this Circular are to supplement but not replace the provisions in this memorandum.) In addition, Government funds shall not be used to pay for first-class travel, unless no other commercial service is reasonably available, or such travel is necessary for reasons of disability or medical condition.

In order to assist the Administrator of General Services oversight of agency aircraft, all use of Government aircraft by senior executive branch officials shall be documented and such documentation shall be disclosed to the public upon request unless classified. Each agency and the Executive Office of the President shall report semiannually to the General Services Administration and the Office of Management and Budget data relating to the amount of travel on Government aircraft by such officials at Government expense and the amount of reimbursements collected for travel for nongovernmental purposes.

In addition, all agencies are directed to report to OMB within 60 days of this memorandum on their continuing need for aircraft configured for passenger use in their inventories. OMB, in turn, shall evaluate the sufficiency and effectiveness of current policies. Such review should include a public comment process.

This memorandum shall apply solely to senior executive branch officials. For purposes of this memorandum, senior executive branch officials are civilian officials appointed by the President with the advice and consent of the Senate, as well as civilian employees of the Executive Office of the President.

Thank you for your assistance in implementing these restrictions.

WILLIAM J. CLINTON.

MEMORANDUM ON USE OF GOVERNMENT VEHICLES

February 19, 1993.

Memorandum for the Heads of Executive Departments and Agencies.

Subject: Use of Government Vehicles.

The use of Government vehicles for daily home-to-work transportation of high-level executive branch officials is a privilege designed to facilitate the efficient operation of the Government and to provide security to key Government employees with substantial military and national security responsibilities. In the past, however, this privilege has been abused by certain executive branch officials and has come to exemplify a Government out of touch with the American people. Using such perquisites of office outside of the scope of our mission to serve the public is unacceptable. Accordingly, I believe that there must be a strong presumption against the general granting of this privilege absent security concerns or compelling operational necessity.

The law authorizes me to designate up to six employees in the Executive Office of the President to receive daily home-to-work transportation in Government vehicles. In addition, the law allows me to designate up to 10 additional employees of Federal agencies to receive this benefit. However, for the reasons stated above, in my Administration, no officer or employee of the Executive office of the President or any other Federal agency is authorized by me to receive use of a Government vehicle for daily home-to-work transportation pursuant to 31 U.S.C. 1344(b)(1)(B)&(C). The only exceptions, for compelling national security reasons, are the Assistant to the President for National Security Affairs, the Deputy Assistant to the President for National Security Affairs, and the Chief of Staff of the White House.

The law also allows Cabinet Secretaries and other Executive Level I officials to authorize one principal deputy to use a Government vehicle for daily home-to-work transportation. The use of Government vehicles for this purpose is simply not appropriate for Government officials at this level absent security or operational requirements. Accordingly, by this memorandum I am instructing you to refrain from authorizing the use of Government vehicles for your deputies for daily home-to-work transportation. This memorandum does not prevent you from authorizing the temporary use of Government vehicles in accordance with the requirements of the law.

I further direct each executive department or agency to reduce the number of executive motor vehicles (except armored vehicles) that it owns or leases by at least 50 percent by the end of fiscal year 1993. Each agency will report on its compliance to the Director of the Office of Management and Budget at that time. I order the Director of the Office of Management and Budget, in consultation with the Administrator of General Services, to issue any further directives necessary to implement this memorandum and to monitor compliance.

Finally, I urge the head of each agency to strictly enforce the Governmentwide regulations prohibiting the unauthorized use of Government vehicles, including the use of corrective or disciplinary action where appropriate.

WILLIAM J. CLINTON.

The PRESIDING OFFICER (Mrs. FEINSTEIN). The Senator from Colorado.

Mr. BROWN. Madam President, may I inquire if the distinguished Senator from Arizona feels it is appropriate to move ahead with an amendment at this point.

Mr. DECONCINI. Let me advise my friend that I am attempting to formulate a suggestion to the Senator's amendment. That is the only reason I am hesitant to have it pending because if the Senator were agreeable to that then I would just ask to offer that amendment, and I will have that in a few short minutes.

Mr. BROWN. I thank the Senator.

Mr. DECONCINI. If the Senator wants to continue but before he lays the amendment down, I would like to offer to him what I think we may be able to accept.

Mr. BROWN. Surely. I appreciate the Senator's willingness to review the matter, and I am happy to work with him.

Madam President, let me emphasize that this does not change in any way I think the treatment of the President's family. It certainly would be my opinion that the travel by the First Lady and the President's family is appropriate, fits in under the current statute, and would not be changed by this amendment.

Madam President, I yield the floor.

Mrs. BOXER. Madam President, I would like to inquire if the distinguished chairman of the subcommittee would be willing to engage in a brief colloquy with me concerning the role of the Internal Revenue Service in the potential development of a 101-acre subdivision in Tiburon, CA, known as the Harroman property.

Mr. DECONCINI. I would be happy to do so at this time.

Mrs. BOXER. I thank the chairman. The Harroman property was seized by the Federal Government in 1965 from a delinquent taxpayer and put into receivership in 1984. It has been the target of IRS collection efforts since 1965.

I would like to call the chairman's attention to language in the House Appropriations Committee report on the fiscal year 1995 Treasury/Postal bill which expresses concern that the IRS, through its collection efforts with regard to the Harroman property, may inadvertently be causing speculative real estate activity which is not in the best interest of the Federal Government. The report further notes the IRS appears to be promoting development of the Harroman property over the opposition of the town of Tiburon and appears to have refused to consider alternatives to the subdivision development which have been suggested by the Tiburon city council.

The House committee directs the IRS to fully investigate its role in this matter and report its findings to the committee by December 15, 1994. Such report is directed to include a full accounting of any expenses that may have been incurred in the promotion of the development of the Harroman property. Further, the IRS is directed to cease all activity concerning promotion of the subdivision development until the report is completed, and to explore alternative proposals with the town of Tiburon.

Is the distinguished chairman of the subcommittee familiar with the House committee report language and is he committed to requiring the IRS to comply with the directions contained therein?

Mr. DECONCINI. I am familiar with the section of the House report to which the Senator from California is referring, and I share her concern that possibly the IRS has not made a strong enough effort to work with the people of Tiburon in reconciling its interests with theirs. I expect the IRS to fully comply with the instructions of the House Committee and I look forward to receiving the report by December 15 of this year.

Mrs. BOXER. I thank the distinguished chairman for his cooperation in this matter of great importance to the people of Tiburon, CA.

I ask unanimous consent that the section of the House Appropriations Committee report which we have been discussing be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TIBURON, CALIFORNIA, PROPERTY

It has been brought to the attention of the Committee that the Internal Revenue Service may be influencing the development of a 101-acre subdivision in Tiburon, California. The property was seized in 1965 by the government from a delinquent taxpayer and in 1984, was turned over to receivership. Since 1965, the property has been the target of IRS collection efforts. The Committee has been informed that through its collection efforts, IRS may be inadvertently causing speculative real estate activity and is concerned that such activity may not be in the best interests of the government. The Committee has also been informed that it appears that the IRS may be promoting this development over the opposition of the Town of Tiburon. The committee has also been informed that IRS has been unwilling to explore City-advocated alternatives to the subdivision development.

In light of this information, the Committee directs the IRS to fully investigate its role in this matter and report its findings to Committee by December 15, 1994. The report shall include a full accounting of any expenses which may have been incurred to date in promotion or furtherance of the development venture. The Committee directs the IRS to cease any activity in which it may be engaged concerning the promotion of this development until such time as the report is completed. The Committee further directs that while the investigation is ongoing, that IRS explore with the City alternatives to the Subdivision development.

PROCESSING TAX RETURNS AND ASSISTANCE

Appropriation, fiscal year 1994 to date	$1,695,853,000
Budget estimate, fiscal year 1995	1,616,295,000
Recommended in the bill	1,616,295,000
Bill compared with:	
Appropriation, fiscal year 1994	−80,558,000
Budget estimate, fiscal year 1995	....

RECOMMENDATION

The Committee recommends an appropriation of $1,516,295,000, the same as the fiscal year 1995 request, a reduction of $80,558,000 from fiscal year 1994.

MISSION

This appropriation provides for processing tax returns and related documents, processing data for compiling statistics of income and assisting taxpayers in correct filing of their returns and in paying taxes that are due.

TAX LAW ENFORCEMENT

Appropriation, fiscal year 1994 to date	$4,507,963,000
Budget estimate, fiscal year 1995	3,986,280,000
Recommended in the bill	4,413,880,000
Bill compared with:	
Appropriation, fiscal year 1994	−404,618,000
Budget estimate, fiscal year 1995	−426,300,000

Mr. BAUCUS. Madam President, I would like to take a moment to ask the chairman of the subcommittee. Senator DECONCINI, a couple of questions. But first let me commend the chairman for the work he has done on this bill.

This year, unlike previous years, the congressional process appears to have worked rather well. Last year, as chairman of the Environment and Public Works Committee, I made a commitment to the Senate that the committee would authorize projects in the fiscal year 1995 public buildings program prior to action by the Appropriations Committee. By authorizing the fiscal year 1995 program on May 26—before the markup of the appropriations bill—the Environment and Public Works Committee has met its responsibility to authorize projects in a timely manner.

The General Services Administration's fiscal year 1995 public buildings program in the appropriations bill reflects the action taken by the Environment and Public Works Committee. However, there are 10 new construction projects and one repair and alteration project in H.R. 4539 that are unauthorized projects. By including language in H.R. 4539 that explicitly requires authorization by both the House Public Works Committee and the Environment and Public Works Committee, there is an assurance that no unauthorized projects receive appropriated funds. I commend the Senator from Arizona for recognizing that these projects need to be reviewed by the Environment and Public Works Committee before any appropriated funds are expended.

My concern, of course, is the conference report. The House version of H.R. 4539 funds many of these authorized projects—without the proviso that they be authorized prior to expenditure of funds. This bad policy and as chairman of the authorizing committee, I object to this. I would like to ask the Senator from Arizona a question—is it his intention to hold firm with his House counterparts and insist upon language explicitly requiring authorization of all public buildings projects by both the House Public Works and Transportation Committee and the Senate Environment and Public Works Committee—prior to the expenditure of appropriated funds?

Mr. DECONCINI. I would like to assure my friend from Montana, chairman of the Environment and Public Works Committee, that it is certainly my intention to insist upon language in the conference report accompanying H.R. 4539 that will require authorization of all line-item public buildings projects subject to the authorization requirements of section 7(a) of the Public Buildings Act of 1959.

Mr. BAUCUS. I thank my colleague. I would like to ask one more question of the chairman of the subcommittee. I am pleased to see that the bill before us proposes to rescind funds for a number of projects. Projects where savings have been identified by GSA's "time-out and review" and most recently by the Environment and Public Works Committee.

As the Environment and Public Works Committee considers the authorization of the 10 unauthorized projects in H.R. 4539, savings could be identified and reflected in the authorized level. This would create a situation where the authorization is at a lower level than the appropriated amount. Would the chairman of the subcommittee support the rescission of the difference in the authorized and appropriated amounts?

Mr. DECONCINI. As the Senator from Montana has noted, the bill before us today does, in fact, rescind over $88 million. After receiving a prospectus and other information on any unauthorized project in the conference report, should the Environment and Public Works Committee identify savings, we would consider rescission or reprogramming of these funds to other Federal building fund priorities.

Mr. BAUCUS. I thank the chairman.

Madam President, let me again commend the chairman of the subcommittee for his work on this bill and also specifically recognize him for his years of dedication to the U.S. Senate and the citizens of the State of Arizona.

Mr. DECONCINI. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWN. Madam President, what is the current business before the body?

The PRESIDING OFFICER. The pending question is amendment No. 1825.

Mr. BROWN. Madam President, I ask unanimous consent that the pending amendment be set aside and that I be permitted to offer an amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Is the Senator asking for recognition?

Mr. BROWN. I am.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. BROWN. Thank you, Madam President.

AMENDMENT NO. 1826

(Purpose: To limit use of funds for travel expenses to those employees directly responsible for the discharge of the official governmental tasks and duties for which the travel is being undertaken)

Mr. BROWN. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. BROWN] proposes an amendment numbered 1826.

The amendment is as follows:

At the appropriate place in the bill, add the following new section:

SEC. . No part of any appropriation contained in this Act may be used to pay for the expenses of travel of employees, including employees of the Executive Office of the President, or other individuals, not directly responsible for the discharge of the official Governmental tasks and duties for which the travel is undertaken:

Provided, That this restriction shall not apply to family of the President, members of Congress, Heads of State of a foreign country or their designee(s').

Mr. BROWN. Madam President, this amendment is much like what I outlined a few minutes previous to this. It has one addition; that is, the "provided" clause that makes clear that it does not apply to the President's family or foreign heads of State, and so on.

It does not include all of the language which had been suggested by the distinguished Senator from Arizona, but it does seem to me it makes it clear that we are not to have the taxpayers pay for people traveling on Government aircraft that are not involved in official business. It also makes clear that this does not apply to the President's family, which obviously is an area that I think most Members would agree have, and on a regular basis have in the past, been part of trips and add to the value of those official trips

Madam President, I yield the floor.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 1827 TO AMENDMENT NO. 1826

Mr. DECONCINI. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 1827 to amendment No. 1826.

The amendment is as follows:

At the end of the pending amendment, add the following: "or other individuals so designated by the President".

Mr. DECONCINI. Madam President, I understand what the Senator from Colorado is attempting to do, and that is restrict the use of travel to official business. And that is appropriate.

I have to say, parenthetically, I do not recall this kind of amendment coming up in previous administrations, but I know the Senator from Colorado would have offered it had there been an incident like there was recently, which I believe prompted this. I do not want to put any words in the Senator's mouth, but I just raise it for purposes of clarification here. I think we know what we are talking about.

This amendment is to stop or to prevent people who work for the President or for the Government from using official travel—helicopters or whatever it may be—for business that is nonofficial business, even if it is connected with official business.

Now I have to object to that. I do not know if the White House objects to it or not.

I think the Senator has a good point. What does bother me about the amendment is—and I thank the Senator for expanding it to the President's family, Members of the Congress, and heads of State of a foreign country or their designees—is that the President himself, in my judgment, ought to be able to invite someone that he wants to go on a trip with him, even if it were not official business.

I cannot see any reason that George Bush could not invite a veteran to go along with him, even if it was not official business, even if he was just traveling with him because he is a friend of his and he may want to talk to him. Maybe he is going to talk to him about veterans' affairs. Then we might say that is official business, but we do not know that it is official business.

The President of the United States ought to be able to say, "I want this person to go with me." I do not think that is asking too much for the head of State in the strongest nation and the most economically and militarily powerful nation in the world not to be able to say, "I want this person to go with me."

The Senator has agreed to other Members of Congress and other things. But it just seems to me it is inappropriate.

What if the President wants his dentist to go with him? Is that official business? I would not know. But I would not want to prevent the President from taking his dentist.

President Bush liked to play golf. This President likes to play golf. What if he wanted to take his golf pro, so when he is out there on official business in California he may want to play golf? Maybe the taxpayers would object to that.

It only places the responsibility on the President to make a decision whether or not there is an individual he would like to travel with him. I do not think that is unreasonable. I think this is most reasonable, that the President ought to be able to do that. I hope the Senator from Colorado would agree that this one person in the country—and even if he and I, the Senator from Colorado and I, might say that is a foolish mistake to take your pro, your golf pro—but it is the President of the United States. It is not like we are giving immunity from taxes or something like that. We say, if you want to take a friend, somebody who is not official business, you can take him on Air Force One with you, or he can drive in a limousine out to Camp David with you. If it is a friend of his daughter's who is going to go to Camp David to spend the weekend and they are going to drive out there, OK, you can come with us in our limousine because of our Secret Service concerns. You are my friend, I want you to come, whatever—the young lady or young man might want to be able to spend the weekend with the President and the family.

So I think we can get too carried away with this. If the Senator from Colorado would accept this amendment, then I suggest to the Senator from Missouri that we accept his amendment as amended by me.

I can go into a great deal of problems with the amendment. The one that comes to my immediate mind is veterans, who often travel with Presidents, people with disabilities who often travel with Presidents—I do not know why. Maybe it is official business, but it could be the President is extending nothing more than friendship to a particular group of people. They may be not veterans. They may be, God forbid, lawyers. Maybe he wants to take some lawyers with him that are not for official business.

If the President is going to draw a will, that is not official business. If he wants to talk about his legal problems on the airplane while he is flying to Miami or to Moscow, which is personal business, he ought to be able to take the lawyer with him, or the banker who might give him some advice on investments.

I think this is just way too restrictive, that a President would be prohibited from doing that unless he could then demonstrate that it is official business.

So you are asking the President to say, "gee, I have to conjure up some official business here so I can take my banker, or I can take my veteran friend, or I can take my lawyer, or my dentist. Because while I am flying across the ocean I like to have the work done on my gums and they are willing to do it there." It is really going way too far.

I am sure the Senator from Colorado did not have that in mind, but that is why I suggested we restrict it to the President's decision. He will be responsible to the public interpretation if that is unacceptable conduct for a President.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Madam President, I appreciated the summary the senior Senator from Arizona has given. I think he pinpoints the disagreement between us.

As Members consider how they will vote on this measure, let me first of all note the President has broad authority simply by what he may designate as official business. In other words, the President has the ability, for example, when traveling to a Veterans Day celebration, to indeed make a Veterans Day effort the official business he or she may be involved in that day. And the President has enormous ability, under the existing statute, to control what is official business, and thus enormous authority and breadth of decisionmaking as to who legally qualifies, properly qualifies to travel on the airplane.

The only people this would affect are people who are not in any way involved in official business and, regardless of what the President designates as official business, could not come under that exception. That is a very narrow group.

Let me also note under title 5, the Federal law now is quite clear that the only way you can receive this travel, the only way money can be expended for travel, for Government travel, is if it is for official business. The difference between my amendment and existing law is this: Current law lays out what you can spend it for, that is for official business. This amendment makes it clear that you cannot spend it unless it is official business.

Is it very similar? Yes. But it is also quite clear that the abuses that have been noted recently are not ones we can allow the taxpayer to pick up the bill for.

It seems to me Members have a clear choice here. Do you want the President to be able to designate that the taxpayers are going to pay for travel for anybody he designates, or she designates, in the future, even though they have nothing to do with official business, or not?

If you think people who are not on official business should have their travel taken care of by the taxpayers, then you will want to vote for the DeConcini amendment. If you think the taxpayers' money ought to be used only for official business, then I hope you will vote against the DeConcini amendment.

Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second at the moment.

The Senator from Colorado is recognized.

Mr. BROWN. Let me simply ask Members to consider what is at stake here. The Senator from Arizona, I think, had talked about various people who could be in this category; that is asked by the President to come on a trip even though that person may not have anything to do with official business. Who would that be? A golf pro? Well, is it a convenience to the President to have his own or her own personal golf pro come along? Perhaps it would be. Should the taxpayers pick up the tab? This Senator thinks they should not. This gives us a chance to vote on that. I think it is a very clear amendment in that regard.

We are a great Nation. We are a very powerful Nation, as the Senator from Arizona has mentioned. I could not agree more with it.

But it would be remiss of me not to note that we are also the most deeply-in-debt Nation on the face of the Earth and in the history of the world. We also have the biggest trade deficit of any nation in the world. We also have the lowest capital formation rate and savings rate of any major industrialized country in the world.

We ought to be concerned about wise use of the public money. Thus I think the underlying amendment would satisfy the concern over the use of taxpayers' dollars far more than the amendment that is offered.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DECONCINI. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia is recognized.

Mr. BYRD. I thank the Chair.

Madam President, I commend the managers of this bill, Mr. DECONCINI, chairman of the Treasury, Postal Service Subcommittee, and Mr. BOND, the ranking member of the Treasury, Postal Service Subcommittee, for their excellent work on this legislation throughout the hearings, in markup, and their management of the bill thus far on the floor.

Senator DECONCINI has been a member of the Appropriations Committee since 1977. He has been chairman of the subcommittee since 1987. This is his final year as chairman of the Treasury, Postal Subcommittee. He will not be here to manage this bill next year. I wish it were not so. His knowledge and understanding of even the most minute details of this legislation have been evident from the first. His work on this bill has demonstrated his dedication to duty and to getting the job done and doing so in a cooperative and cheerful manner. He is persistent, tenacious, dedicated, and effective.

He should be proud of the outstanding work he has done again this year on this very difficult bill, and as chairman of the Appropriations Committee, I am proud of the work that he has done. I am also proud of the dedicated support that he receives from his loyal staff, both in his office and on the Appropriations Committee.

And the work of Senator BOND, whose expertise in these matters is considerable and growing, is also appreciated.

I urge all Members to support the bill upon its final passage.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Madam President, I am indebted to the Senator from West Virginia for his friendship and his kindnesses that he has extended to this Senator over the years. He had gone out of his way on a number of occasions to assist this young, new, budding Senator some 18 years ago, that I will never forget, and for his taking the time tonight to express his friendship and compliments.

I will try to get out of the body tonight with my head intact. I appreciate it very much.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Madam President, I ask unanimous consent that the following amendments be the only first-degree floor amendments in order to H.R. 4539, the Treasury, Postal Service appropriations bill; that they be subject to second-degree amendments provided they are relevant to the first-degree amendments to which they are offered; that no other motion to recommit be in order during the pendency of this agreement; that these first-degree amendments must be offered by close of business today, June 21, except as noted below; provided further that in the case where there is a time limit on the first-degree amendment, that any second-degree amendment be subject to the same time limit, with the time equally divided and controlled in the usual form.

Those amendments are: an amendment by Senator DECONCINI regarding Customs inspectors' pay; an amendment by Senator DECONCINI regarding revenue foregone, and that is amendment No. 1822; an amendment by Senator FAIRCLOTH regarding drug testing, and that is amendment No. 1825; an amendment by Senator DECONCINI that is relevant; an amendment by Senator BROWN regarding travel expenses, and that is amendment No. 1826, and a second-degree amendment to that amendment by Senator DECONCINI, that is amendment No. 1827; an amendment by Senator DECONCINI that is relevant; an amendment by Senator BOND that is relevant; an amendment by Senator DECONCINI that is relevant; an amendment by Senator BOND that is relevant;

an amendment by Senator DECONCINI that is a managers' amendment; an amendment by Senator FORD that is relevant; an amendment by Senator DECONCINI for Senators MITCHELL and DOLE regarding congressional awards.

Madam President, I further ask unanimous consent that when the Senate resumes consideration of H.R. 4539 on Wednesday, June 22, that the following be the only first-degree amendments remaining in order and that they must be offered by 1 p.m. on Wednesday, June 22; that they be subject to second-degree amendments provided they are relevant to the first degree to which they are offered; further, that in the case where there is a time limit on the first-degree amendment, that any second-degree amendment be subject to the same time limit with the time equally divided and controlled in the usual form.

Those amendments are: an amendment by Senator LEVIN to restore funding for ASUC, 20 minutes; an amendment by Senator REID regarding land border crossing fee, 50 minutes; an amendment by Senator GORTON regarding diesel fuel boaters, 50 minutes; an amendment by Senator BOND that is relevant, 50 minutes; an amendment by Senator DECONCINI that is relevant, 50 minutes; an amendment by Senator DOMENICI regarding review of procurement reform, 20 minutes; an amendment by Senator MCCAIN regarding GSA approval courthouse, 10 minutes; an amendment by Senator MCCAIN to delete FTE requirements from the bill, 30 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. BROWN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. BROWN. Madam President, the Senator from Arizona and I are very close to an agreement on working out the amendment and his amendment to my amendment. I ask that the unanimous-consent request include a provision allowing me to modify my amendment with the agreement of the Senator from Arizona.

Mr. MITCHELL. Madam President, I so modify my request, and I renew my request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Madam President, I say to Members of the Senate, in view of our having obtained this agreement, there will be no further rollcall votes this evening. The amendments which must be offered today as listed will either be accepted or if one or more votes are required, those votes will be set to occur tomorrow morning. Then there will be tomorrow morning, up through 1 p.m. tomorrow, the potential of eight other amendments.

I do not know at this time how many, if any, of those will require votes. But those Senators on that list should be aware that they must offer the amendments prior to 1 p.m. tomorrow or the amendments will no longer be in order. That means that we expect to complete action on this bill, I hope, shortly after 1 p.m., and then we will be proceeding to the Department of Defense authorization bill.

So I thank my colleagues for their cooperation. I thank Senator BOND and Senator DECONCINI for their cooperation.

Mr. MITCHELL. Madam President, I share the sentiments expressed by Senator BYRD about the leadership and skill which Senator DECONCINI has demonstrated as a manager of legislation, particularly, and as a Senator generally.

It has been a great pleasure, indeed an honor, to have served with him, and I can say that having been majority leader now for nearly 6 years and having observed a large number of Senators managing legislation, it is a very difficult art and there is no one who exceeds Senator DECONCINI in skill, persistence, tenacity, and the perseverance needed to gain enactment of complex legislation.

So I merely wanted to make that comment, and I thank him for his work on this bill. We will now finish this bill early tomorrow afternoon, thanks in large part to his leadership.

Madam President, I suggest the absence of a quorum.

Mr. DECONCINI. Madam President, if the Senator will withhold, I thank the majority leader for his kindness and his compliments. I appreciate the leadership that he has brought to this body. He is always there to help when you need a leader to help get something through and passed. Senator MITCHELL is always willing to forgo many of his own positions and what have you to come out and get involved. That is why some of us are able to pass some things, or anybody is able to pass some things, because of his leadership. And I thank him for his friendship probably more than anything else over the years in being in the Senate with him.

Mr. MITCHELL. Madam President, I suggest the absence of a quorum.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Madam President, I thank the Chair for recognizing me.

Madam President, in the past hour, hour and a half there has been extensive discussion relative to a speech on the floor of the Senate made by our friend from North Carolina, the junior Senator, Senator FAIRCLOTH.

Upon hearing that speech on the monitor, Madam President, I immediately, I guess, took umbrage at what I thought at that time and heard at that time, or thought I heard at that time, which was in my earliest recollection of my earliest understanding of what Senator FAIRCLOTH I thought was saying, I thought was stating that Patsy Thomasson of the White House staff had admitted to cocaine use.

Madam President, I went to Senator FAIRCLOTH. We met in the middle of the Chamber. We discussed this at some length. And I had urged him to make an apology not only to Patsy Thomasson at the White House but also to the United States Senate.

I also stated, if I had misrepresented what he had said, that I would apologize to him. So, Madam President, I am in the Chamber tonight to state that I may have read into what he was saying a comma or maybe an inflection and certainly an innuendo about this fine person, Patsy Thomasson; that upon listening once again to the videotape actually two times—we went to Senator DOLE's office—I must say, Madam President, that on this particular point I owe an apology to my friend from North Carolina, and I do so apologize.

I also state that in addition to the apology I make to him, I think in two or three instances or places in his remarks our friend from North Carolina, in my opinion, came very close to indicating that Patsy Thomasson had been or was, or perhaps even is—I should say, or has been a drug user. For example, he states that Patsy Thomasson refuses to disclose to Congress whether the people monitoring the White House drug testing program including herself are among the specially tested group of people with histories of drug abuse.

Now, to a lot of reasonable people, this would imply, or we would infer that Patsy Thomasson in the White House has a history of drug abuse.

There are two or three other instances in Senator FAIRCLOTH's speech, but once again, Madam President, I want to say that I am going to live up to my end of the bargain, and I am going to apologize to my friend. But I do hope that we will use the Senate —in this great body of debate and certainly of decorum, I hope we will be all cautious to realize that sometimes by innuendo we can certainly tarnish and perhaps ruin permanently someone's very good character.

I know that last week the Senator from North Carolina discussed in the Chamber in a very negative way another very fine person in our State, Beverly Bassett Schaffer, a splendid individual, fine public servant of our people, wonderful lawyer. Tonight it is Patsy Thomasson. Tomorrow, tomorrow night, who else?

But I do say I wish to live up to my end of the bargain, Madam President. I do apologize to the Senator from North Carolina.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. FAIRCLOTH. I accept the apology of the Senator from Arkansas. I appreciate the spirit in which he offered it, and I accept it in the same manner.

I did not say that Patsy Thomasson used cocaine. I did say very clearly that she had a close business relationship with a man who used cocaine extensively.

I said that she would not assure Members of the House that the people monitoring the White House drug testing including herself were not among the specially tested group of White House employees with a history of drug use. And I repeat, she would not assure Members of the House of this fact.

Given that fact and given her past relationship with Mr. Lasater, I still believe the President should certify that no one in charge of that drug testing program has a history of drug problems themselves. And that is very simply what my amendment will do.

If President Clinton makes that certification, that is good enough for me. But the American people have the right to know.

I yield the floor.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Madam President, the pending business is the amendment by the Senator from Colorado, am I correct, or the second-degree amendment?

The PRESIDING OFFICER. The pending amendment is the second-degree amendment of the Senator from Arizona.

Mr. DECONCINI. I thank the Chair.

Madam President, I have been working with the Senator from Colorado, and he and I have agreed to a slight alteration. And under the UC, if I am not mistaken, his amendment or my second-degree amendment can be modified with consent of both of us. I hereby send to the desk such a modification and ask unanimous consent that the second-degree amendment be modified as so submitted.

The PRESIDING OFFICER. Is there objection? There being no objection, it is so ordered.

The modification is as follows:

At the end of the pending amendment, add the following: "The name and expense of travel of anyone so designated by the President shall be disclosed to the Congress."

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DECONCINI. Madam President, I thank the Senator from Colorado for making this accommodation. I understand where he is coming from, and indeed I think this will permit the President flexibility but also put the responsibility clearly with the President for whomever he may decide he wants to travel with him. I for one think that he should have that flexibility, and I have no objections at all to him making that public. I think the President in this case and probably other Presidents as well are not hiding with whom they travel. Everybody finds out. The press sees them come and go and they count the people who get on and off. Manifests are available, I understand. So I can see no particular problem with it.

I thank the Senator. I am prepared to accept the amendment if my friend from Missouri is.

The PRESIDING OFFICER. Does the Senator from Colorado seek recognition?

Mr. BOND. We are prepared to accept it.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. I thank the Chair. I am prepared to accept the amendment.

I would say that my preference would be that the amendment as originally put forth be adopted, that is, someone who is not on official business who would be allowed to travel with a President not be paid for. But frankly, I am convinced that the discipline of disclosing anyone not involved in official business is a very strong discipline, and my sense is that every President who may choose to exercise this discretionary power will use great care, and I suspect if they do not use great care they will find a very strong reaction by the American public.

So, the discipline of having to publicly report and file this information along with the name and the cost, I think, will accomplish the purpose.

I agree to the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Arizona.

The amendment (No. 1827), as modified, was agreed to.

Mr. DECONCINI. Madam President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Colorado, as amended.

The amendment (No. 1826), as amended, was agreed to.

Mr. DECONCINI. Madam President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1828

Mr. DECONCINI. Madam President, I have technical amendments that have been cleared with the ranking member. I send several of these amendments to the desk and ask that they be considered en bloc.

These amendments make technical corrections to the Federal wage scale language in the bill. Several paragraphs were inadvertently omitted in the bill.

Also, I have an amendment here which increases the funding for the Historical Publication on Records Commission by $250,000; technical language to White House security; technical change to a provision in the bill which relates to the COLA savings in Alaska and Hawaii.

I ask unanimous consent that these amendments all be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection, the pending amendment is set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 1828.

Mr. DECONCINI. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 63, line 20, strike "$5,000,000" and insert "$5,250,000".

On page 98, line 12, strike the words "one-fifth".

On page 99, add the following between lines 11 and 12:

(D) The applicable amount under this paragraph shall be zero if neither subparagraph (A), subparagraph (B), nor subparagraph (C) applies.

(3) The Office of Personnel Management shall discuss with and consider the views of the Federal Prevailing Rate Advisory Committee in carrying out the Offices's responsibilities with respect to this paragraph.

(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, and no employee covered by section 5348 of such title, may be paid during the periods for which subsection (e) is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(c) For the purposes of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule that was not in existence on September 30, 1994, shall be determined under regulations prescribed by the Office of Personnel Management.

(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 1994, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

(e) The provisions of this section shall apply with respect to pay for services performed by any affected employee on or after October 1, 1994.

(f) For the purpose of administering any provision of law (including section S431 of title 5, United States Code, and any rule or regulation, that provides premium pay, retirement, life insurance, or any other employee benefit) that requires any deduction or contribution, or that imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(g) Nothing in this section shall be considered to permit or require the payment in any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment and retention of qualified employees.

(i) The Office of Personnel Management may prescribe any regulations which may be necessary to carry out this section.

On page 113, line 5, strike "in" and insert in lieu thereof "on";

On page 113, line 10, insert after "SF-86" the words "or equivalent form";

On page 113, line 11, insert after "not," the word "within";

On page 113, line 16, strike "White House" and insert in lieu thereof "access".

On page 84, line 19, strike all through page 85, line 13, and insert the following:

SECTION 1. The allowances provided to employees at rates set under section 5941 of title 5, United States Code, and Executive Order Numbered 10000 as in effect on the date of the enactment of this Act may not be reduced during the period beginning on the date of the enactment of this Act through December 31, 1996: *Provided*, That no later than March 1, 1996, the Office of Personnel Management shall conduct a study and submit a report to the Congress proposing appropriate changes in the method of fixing compensation for affected employees, including any necessary legislative changes. Such study shall include—

(1) an examination of the pay practices of other employers in the affected areas;

(2) a consideration of alternative approaches to dealing with the unusual and unique circumstances of the affected areas, including modifications to the current methodology for calculating allowances to take into account all costs of living in the geographic areas of the affected employees; and

(3) an evaluation of the likely impact of the different approaches on the Government's ability to recruit and retain a well-qualified workforce.

For the purpose of conducting such study and preparing such report, the Office may accept and utilize funds made available to the Office pursuant to court approval.

Mr. DECONCINI. These are technical amendments with the exception of the one for Historical Publications on Records Commission for $250,000.

The PRESIDING OFFICER. Is there further debate on the amendments? If not, the question is on agreeing to the amendments.

The amendment (No. 1828) was agreed to.

Mr. DECONCINI. Madam President, I move to reconsider the vote by which the amendments were agreed to.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HOUSE COMMITTEE REPORT

Mr. HATFIELD. I would like to make the distinguished chairman of the subcommittee aware of a provision in the House committee's report that is of particular interest to me and the electric ratepayers in the Pacific Northwest.

Mr. DECONCINI. I would be pleased to hear the Senator from Oregon's concerns.

Mr. HATFIELD. On pages 7 and 8 of its report, the House included a provision dealing with the Bonneville Power Administration's request to the Department of the Treasury to develop a revised methodology under section 9(f) of Public Law 96-501. The House report requests that the Secretary of the Treasury provide a report on this issue by January 1, 1995.

Mr. DECONCINI. I am aware of that particular provision.

Mr. HATFIELD. This is a rather complicated issue dealing with the financing of electric generating resources by public entities in the Pacific Northwest, and it is extremely important to regional energy planning and development in my region. While I consider the House provision to be a positive action, I believe that further clarification may be necessary during conference.

Without going further into the details of the issue at this time, I am asking whether the distinguished subcommittee chairman would be willing to work with me in conference to secure further clarification and direction, to the extent that it is needed, to the Secretary of the Treasury to assist in the resolution of this matter.

Mr. DECONCINI. I would be pleased to work with the Senator from Oregon on this issue in our conference.

Mr. HATFIELD. I thank the distinguished Senator from Arizona.

AMENDMENT NO. 1829

(Purpose: To amend the Congressional Award Act to provide that the Secretary of the Treasury shall strike the medals awarded under such Act, and for other purposes)

Mr. DECONCINI. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] for Mr. MITCHELL (for himself and Mr. DOLE) proposes an amendment numbered 1829.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . CONGRESSIONAL AWARD PROGRAM MEDALS.

Section 3 of the Congressional Award Act (2 U.S.C. 802) is amended—

(1) in subsection (a)—

(A) by striking "gold, silver, and bronze"; and

(B) by striking the last sentence and inserting the following: "Each medal shall consist of gold-plate over bronze, rhodium over bronze, or bronze and shall be struck in accordance with subsection (f)."; and

(2) by adding at the end the following new subsection:

"(f) CONGRESSIONAL AWARD PROGRAM MEDALS.—

"(1) DESIGN AND STRIKING.—The Secretary of the Treasury shall strike the medals described in subsection (a) and awarded by the Board under this Act. Subject to subsection (a), the medals shall be of such quantity, design, and specifications as the Secretary of the Treasury may determine, after consultation with the Board.

"(2) NATIONAL MEDALS.—The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be charged against the Numismatic Public Enterprise Fund such amounts as may be necessary to pay for the cost of the medals struck pursuant to this Act.".

Mr. DECONCINI. Madam President, this is a noncontroversial amendment which has been cleared on both sides and is being offered at the request of the joint leadership of both Houses of Congress on behalf of Senators MITCHELL and DOLE.

The purpose of this amendment is to direct the U.S. Mint to strike medals awarded by the Congressional Award Program. The Congressional Award Act, Public Law 96-114, was enacted in 1979 "to promote initiative, achievement, and excellence among youths in the areas of public service, personal development, and physical and expedition fitness." Under this program, gold, silver, and bronze medals are awarded to young Americans, aged 14 to 23, who satisfy the standards of achievement established by the Congressional Award Board.

To date, more than 5,000 recipients have contributed more than 1 million hours of volunteer community service in earning this award. Since the inception of this program, the Congressional Award Board has privately contracted to supply the medals awarded to the recipients. Given the nature of this program and its record of success, however, the joint bipartisan leadership of Congress and other sponsors of the Congressional Award believe that the U.S. Mint should strike national medals symbolizing genuine congressional recognition of each recipient's achievements.

As this legislation was drafted, representatives of the joint leadership, and the Congressional Award Board worked closely with the U.S. Mint to develop a successful, yet cost-effective, approach to this proposal. To this end, each medal will consist of less expensive materials without compromising the high quality appearance of the current medals. Also, the Secretary of the Treasury will determine the quantity, design, and specifications of the medals, after consultation with the Congressional Award Board. Finally, the Mint's production of these medals will not require an appropriations, as necessary amounts will be charged against the Mint's revolving fund for numismatic programs and operations, the numismatic public enterprise fund.

I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The amendment (No. 1829) was agreed to.

Mr. DECONCINI. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. AKAKA). Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, what is the present order?

The PRESIDING OFFICER. The Senate is considering amendment No. 1825.

Mr. DECONCINI. That is the Faircloth amendment?

The PRESIDING OFFICER. The Senator is correct.

UNANIMOUS-CONSENT AGREEMENT

Mr. DECONCINI. Mr. President, I ask unanimous consent that when the Senate reconvenes tomorrow morning, after morning business and leadership time is set aside, the vote occur on amendment No. 1825 at 10 a.m., without any intervening action.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I ask for the yeas and nays on the Faircloth amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

AMENDMENT NO. 1830

(Purpose: To amend chapters 83 and 84 of title 5, United States Code, to extend the civil service retirement provisions of such chapter, which are applicable to law enforcement officers, to inspectors and canine enforcement officers of the U.S. Customs Service, and for other purposes)

Mr. DECONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 1830.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page ___, insert between lines ___ and ___ the following new section:

SEC. ___. CUSTOMS SERVICE INSPECTORS AND CANINE ENFORCEMENT OFFICERS AS LAW ENFORCEMENT OFFICERS FOR FEDERAL RETIREMENT SYSTEMS.

(a) SHORT TITLE.—This section may be cited as the "Customs Service Inspectors and Customs Canine Enforcement Officers Retirement Act of 1994".

(b) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) DEFINITIONS.—Section 8331 of title 5, United States Code, is amended—

(A) by striking out "and" at the end of paragraph (25);

(B) by striking out the period at the end of paragraph (26) and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new paragraphs:

"(27) 'customs inspector' means an employee of the United States Customs Service—

"(A) who—

"(i) elects to make contributions and be covered in accordance with section 4 of the Customs Service Inspectors and Customs Canine Enforcement Officers Retirement Act of 1994; or

"(ii) is hired after the effective date of such Act; and

"(B) the duties of whose position are primarily to—

"(i) enforce laws and regulations governing the importing and exporting of merchandise;

"(ii) process and control passengers and baggage;

"(iii) interdict smuggled merchandise and contraband; and

"(iv) apprehend (if warranted) persons involved in violations of customs laws,

including an employee engaged in this activity who is transferred to a supervisory or administrative position; and

"(28) 'customs canine enforcement officer' means an employee of the United States Customs Service—

"(A) who—

"(i) elects to make contributions and be covered in accordance with section 4 of the Customs Service Inspectors and Customs Canine Enforcement Officers Retirement Act of 1994; or

"(ii) is hired after the effective date of such Act; and

"(B) the duties of whose position are primarily to work directly with a dog in an effort to—

"(i) enforce laws and regulations governing the importing and exporting of merchandise;

"(ii) process and control passengers and baggage;

"(iii) interdict smuggled merchandise and contraband; and

"(iv) apprehend (if warranted) persons involved in violations of customs laws,

including an employee engaged in this activity who is transferred to a supervisory or administrative position.".

(2) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—Section 8334 of title 5, United States Code, is amended—

(A) in subsection (a)(1), by striking out "a law enforcement officer," and inserting in lieu thereof "a law enforcement officer, a customs inspector, a customs canine enforcement officer,"; and

(B) in the table in subsection (c), by striking out "and firefighter for firefighter service." and inserting in lieu thereof ", firefighter for firefighter service, customs inspector for customs inspector service, and customs canine enforcement officer for customs canine enforcement officer service".

(3) MANDATORY SEPARATION.—Section 8335(b) of title 5, United States Code, is amended in the second sentence by striking out "law enforcement officer" and inserting in lieu thereof "law enforcement officer, a customs inspector, or a customs canine enforcement officer".

(4) IMMEDIATE RETIREMENT.—Section 8336(c)(1) of such title is amended by striking out "law enforcement officer or firefighter," and inserting "law enforcement officer, a firefighter, a customs inspector, or a customs canine enforcement officer,".

(c) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—

(1) DEFINITIONS.—Section 8401 of title 5, United States Code, is amended—

(A) by striking out "and" at the end of paragraph (31);

(B) by striking out the period at the end of paragraph (32) and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new paragraphs:

"(33) 'customs inspector' means an employee of the United States Customs Service—

"(A) who—

"(i) elects to make contributions and be covered in accordance with section 4 of the Customs Service Inspectors and Customs Canine Enforcement Officers Retirement Act of 1994; or

"(ii) is hired after the effective date of such Act; and

"(B) the duties of whose position are primarily to—

"(i) enforce laws and regulations governing the importing and exporting of merchandise;

"(ii) process and control passengers and baggage;

"(iii) interdict smuggled merchandise and contraband; and

"(iv) apprehend (if warranted) persons involved in violations of customs laws,

including an employee engaged in this activity who is transferred to a supervisory or administrative position; and

"(34) 'customs canine enforcement officer' means an employee of the United States Customs Service—

"(A) who—

"(i) elects to make contributions and be covered in accordance with section 4 of the Customs Service Inspectors and Customs Canine Enforcement Officers Retirement Act of 1994; or

"(ii) is hired after the effective date of such Act; and

"(B) the duties of whose position are primarily to work directly with a dog in an effort to—

"(i) enforce laws and regulations governing the importing and exporting of merchandise;

"(ii) process and control passengers and baggage;

"(iii) interdict smuggled merchandise and contraband; and

"(iv) apprehend (if warranted) persons involved in violations of customs laws,

including an employee engaged in this activity who is transferred to a supervisory or administrative position.".

(2) IMMEDIATE RETIREMENT.—Section 8412(d) of title 5, United States Code, is amended—

(A) in paragraph (1) by striking out "or firefighter," and inserting in lieu thereof "firefighter, customs inspector, or customs canine enforcement officer,"; and

(B) in paragraph (2) by striking out "or firefighter," and inserting in lieu thereof "firefighter, customs inspector, or customs canine enforcement officer,".

(3) COMPUTATION OF BASIC ANNUITY.—Section 8415(g)(2) of title 5, United States Code,

is amended in the sentence following subparagraph (B) by inserting "customs inspector, customs canine enforcement officer," after "firefighter,".

(4) DEDUCTIONS.—Section 8422(a)(2) of title 5, United States Code, is amended—

(A) in subparagraph (A) by inserting "customs inspector, customs canine enforcement officer," after "air traffic controller,"; and

(B) in subparagraph (B) by inserting "customs inspector, customs canine enforcement officer," after "air traffic controller,".

(5) GOVERNMENT CONTRIBUTIONS.—Section 8423(a) of title 5, United States Code, is amended—

(A) in paragraph (1)(B)(i) by inserting "customs inspectors, customs canine enforcement officers," after "law enforcement officers,"; and

(B) in paragraph (3)(A) by inserting "customs inspectors, customs canine enforcement officers," after "law enforcement officers,".

(6) MANDATORY SEPARATION.—Section 8425(b) of title 5, United States Code, is amended in the second sentence by inserting ", customs inspector, or customs canine enforcement officer" after "law enforcement officer".

(e) INCLUSION OF OVERTIME PAY AS BASE PAY FOR CUSTOMS INSPECTORS AND CUSTOMS CANINE ENFORCEMENT OFFICERS.—Section 8331(3) of title 5, United States Code, is amended—

(1) in subparagraph (D) by striking out "and" after the semicolon;

(2) in subparagraph (E) by adding "and" after the semicolon;

(3) by inserting after subparagraph (E) the following new subparagraph:

"(F) with respect to a customs inspector or customs canine enforcement officer as defined under paragraphs (27) and (28), compensation for overtime under section 5542(a), but not to exceed 50 percent of any statutory maximum in overtime pay for customs inspectors or customs canine enforcement officers which is in effect for the year involved;"; and

(4) in the matter following subparagraph (F) (as added by paragraph (3) of this section) by striking out "and (E)" and inserting in lieu thereof "(E), and (F)".

(f) AGENCY CONTRIBUTIONS FOR CUSTOMS INSPECTORS AND CUSTOMS CANINE ENFORCEMENT OFFICERS.—Section 13031(f)(3)(A)(i) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)(A)(i) is amended—

(1) by redesignating subclauses (IV) and (V) as subclauses (V) and (VI), respectively; and

(2) by inserting after subclause (III) the following new subclause:

"(IV) paying agency contributions to the Civil Service Retirement and Disability Fund to match contributions for customs inspectors and customs canine enforcement officers as defined under section 8331 (27) and (28), respectively, in accordance with the Customs Inspectors and Customs Canine Enforcement Officers Retirement Act of 1994;".

(g) OVERTIME AND PREMIUM PAY FOR CUSTOMS INSPECTORS AND CUSTOMS CANINE ENFORCEMENT OFFICERS.—

(1) OVERTIME PAY.—Section 5542(a)(4) of title 5, United States Code, is amended by inserting after "law enforcement officer" the following: "as defined under section 8331(20) or 8401(17), a customs inspector as defined under section 8331(27), and a customs canine enforcement officer as defined under section 8331(28)".

(2) LIMITATION ON PREMIUM PAY.—Section 5547(c) of title 5, United States Code, is amended—

(A) in paragraph (1) by inserting "a customs inspector as defined under section 8331(27) and customs canine enforcement officer as defined under section 8331(28)" after "law enforcement officer"; and

(B) in paragraph (2) by inserting "a customs inspector as defined under section 8331(27) and customs canine enforcement officer as defined under section 8331(28)" after "law enforcement officer".

(h) ADMINISTRATIVE PROVISIONS.—

(1) EMPLOYEE COVERAGE.—No later than 90 days after the effective date of this section, each customs inspector or customs canine enforcement officer shall make an irrevocable election to be covered under chapter 83 or 84 (as the case may be) as amended by this section.

(2) EMPLOYEE CONTRIBUTIONS.—Any individual who has served as a customs inspector or customs canine enforcement officer before the effective date of this section, shall have such service credited and annuities determined in accordance with the amendments made by this section, if such individual makes payment into the Civil Service Retirement and Disability Fund of an amount, determined by the Office of Personnel Management, which would have been deducted and withheld from the basic pay of such individual (including interest thereon) under chapters 83 and 84 of title 5, United States Code, as if such amendments had been in effect during the periods of such service.

(3) AGENCY CONTRIBUTIONS.—No later than 90 days after a payment made by an individual under paragraph (1), the Department of the Treasury shall make a payment into the Civil Service Retirement and Disability Fund of an amount, determined by the Office of Personnel Management, which would have been contributed as a Government contribution (including interest thereon) under chapters 83 and 84 of title 5, United States Code, for the service credited and annuities determined for such individual, as if the amendments made by this section had been in effect during the applicable periods of service.

(4) REGULATIONS.—The Office of Personnel Management shall determine the amount of interest to be paid under this section and may promulgate regulations to carry out the provisions of this section.

(i) RULE OF CONSTRUCTION.—No provision of this section or amendment made by this section shall be construed to provide for treatment of customs inspectors or canine enforcement officers of the United States Customs Service as law enforcement officers for any purpose other than as specifically provided in such provision or amendment.

(j) EFFECTIVE DATE.—The provisions of this section and amendments made by this section shall take effect on the date occurring 90 days after the date of enactment of this Act.

Mr. DECONCINI. Mr. President, this amendment I am offering will provide Customs inspectors and canine enforcement officers an opportunity to participate in the Law Enforcement Retirement System. The fact is, Mr. President, that this amendment provides only part of the status that these employees truly deserve, which is full recognition and benefits given to other Federal law enforcement officers. Few can argue against the facts and statistics which support this position, yet past attempts by myself and my colleagues to provide full law enforcement status have been unsuccessful, due solely to budgetary constraints. I am hopeful that in fairness, we might, at least provide this one benefit.

The Customs inspectors and canine officers, in their capacity as the first line of defense in the war on drugs, must work long, irregular hours and are frequently confronted with dangerous and stressful situations. A 1991 report by the Customs Inspector and Canine Officer Compensation Panel reported the following:

First, Customs inspectors and canine officers are assaulted more often than FBI, Secret Service, and Customs agents and U.S. marshals.

Second, in 1991 CI's and CEO's made 15,808 arrests, representing 73 percent of Customs' total number of arrests.

Third, in 1991 CI's and CEO's seized 71,705, 42 percent of Customs' total, pounds of cocaine and 2,870 pounds of heroin, 97 percent of Customs' total.

Fourth, only DEA and Bureau of Prisons officers are killed in the line of duty more frequently.

Fifth, in addition to U.S. Customs laws, they enforce over 1,600 laws for 60 agencies.

As stated in that 1991 report, "Customs inspectors constitute a vital part of the total enforcement function of the U.S. Customs Service." They carry firearms, make arrests, conduct inspections, and participate in seizures. Their duties are difficult and dangerous and most certainly take a physical and mental toll on an employee over the course of a long career. The duties require a vigorous and physically fit work force, especially in geographical areas which have large, active marine and air terminals and border crossing with high rates of entry and contraband smuggling, such as the Southwest border, New York City and Miami. New York, for example, employs 2,000 inspectors due to the high levels of activity. The New York district makes more heroin seizures than any other port in the country; processes more air passengers; and examines approximately 50 percent of the air cargo coming into this country. They would benefit by this amendment.

This amendment provides currently employed inspectors and officers with the opportunity to retain their current status and benefits or surrender their current overtime system, which is double time, to retire from the U.S. Customs Service under the same 20-year system as do Federal law enforcement officers. However, under this amendment, inspectors and canine officers entering service after enactment would enter under the Law Enforcement Retirement System and would no longer receive the current higher rate of overtime.

This option will ensure both the well-being of the employee and continued high level of competence provided by a young and vigorous work force in positions that are more physically and mentally challenging.

This provision is fundamentally cost neutral, in that, the employee choosing the early retirement will surrender a more costly form of overtime compensation which is funded by COBRA fees. The savings in COBRA fees will be redirected into the retirement account. In providing this option there is both a recognition of fiscal responsibility and concern for the safety and well-being of the employee.

The Customs inspectors and canine officers meet the criteria for law enforcement officer status and benefits. It is the cost for total law enforcement status and not their job description, duties, danger, or arrest authority, which has denied these individuals this recognition. The amendment I am proposing represents a fair, reasonable, and deserved, yet partial solution to this problem at little cost. These officers and inspectors have been passed over, unfairly, and deserve the same retirement benefit as other officers.

I urge the Members of this body to support this reasonable and inexpensive compromise in fairness to these inspectors and officers.

I thank my staff, particularly John Libonati, who is a fellow with us from one of the Federal agencies, for the time he has spent in putting together this amendment and working out the details, as well as the other members of the Appropriations Committee staff, and minority side, of course, for their effort to support this amendment.

This amendment has been cleared by the chairman of the Finance Committee. He has advised me personally that he has no objection to the amendment.

I urge Members to adopt this amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. I thank the Chair.

Mr. President, there are no objections to this amendment on this side of the aisle. But I would note for the RECORD that Senator PACKWOOD, the ranking member of the Finance Committee, has expressed his concern that this is legislation within the jurisdiction of the Finance Committee.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Missouri suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, the pending amendment is what?

The PRESIDING OFFICER. The pending amendment is Amendment No. 1830.

Mr. DECONCINI. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DECONCINI. Mr. President, is this the amendment dealing with revenue foregone?

The PRESIDING OFFICER. The amendment 1830 deals with Custom inspectors.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1822, AS MODIFIED

Mr. DECONCINI. Mr. President, I send a modification of amendment No. 1822 to the desk.

The PRESIDING OFFICER. The Senator has that right.

The amendment is so modified.

So the amendment (No. 1822) was modified, as follows:

At the end of Title VI, add the following new section:

SEC. . Section 3626 paragraph (j)(1) subparagraph (D) of Title 39 United States Code is amended by—

(a) deleting the final "." from (II) and adding "; and;"

(b) and adding—"(III) clause (i) shall not apply to space advertising in mail matter that otherwise qualifies for rates under former section 4452(b) or 4452(c) of this title, and satisfies the content requirements established by the Postal Service for periodical publications."

: *Provided*, That such changes in law shall take effect if the Congress does not enact legislation on this subject matter prior to Oct. 1, 1995: *Provided further*, That the Postal Service shall not implement any rule or regulation to enforce section 3626(j)(1)(D)(i) of title 39, United States Code, prior to September 30, 1995.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. DECONCINI. Mr. President, this amendment deals with the so-called revenue foregone and has been worked out with the Senator from Alaska and the Senator from Missouri to deal with the authorizing committees' concern that they have an opportunity to address this in their committees.

It is self-explanatory. What it does here, in essence, is it says the Postal Service shall not implement any rule or regulation to enforce certain sections made reference there prior to September 30, 1995.

I ask adoption of the amendment.

Mr. BOND. No objection.

The PRESIDING OFFICER. Is there further debate on amendment No. 1822? If not, the amendment is agreed to.

The amendment (No. 1822), as modified, was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Arizona suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. DECONCINI. Mr. President, I now ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

WHITEWATER HEARINGS

Mr. DOLE. Mr. President, earlier this afternoon, I received a letter from Republican leader BOB MICHEL, and Republican whip NEWT GINGRICH making clear that their recent agreement with the House Democrat leadership on Whitewater hearings was not meant as an endorsement of any effort to restrict the scope of these hearings.

When you are so outgunned, as the House Republicans often are with only 178 Members, it is not always possible to steer the House of Representatives in the direction you wish it to go. Compromises sometimes become necessary. As the Michel-Gingrich letter states:

> * * * Given the rules of the House and our inability to openly amend legislation, there is little or no possibility of Republicans even offering on the House floor a proposal to have real, useful hearings on Whitewater. When the Democrat leadership, therefore, offered as the only potential for hearings being the House Banking Committee, we agreed.

I know that some of my colleagues on the other side of the aisle have attempted to use the House leadership agreement to bolster their own arguments for very limited Whitewater hearings. Today's letter from Representatives MICHEL and GINGRICH makes clear that House Republicans have not endorsed the limited-hearing approach. It is my hope that Senators will take the time to read the letter and, as a result, stop mischaracterizing the efforts of these two able House Republicans.

Mr. President, I ask unanimous consent that the letter be reprinted in the RECORD immediately after my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE REPUBLICAN LEADER,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 20, 1994.

Hon. ROBERT DOLE,
Senate Republican Leader, S-130, U.S. Capitol, Washington, DC.

DEAR BOB: Not surprisingly, some want to mischaracterize our bipartisan agreement on Whitewater hearings. Let us set the record straight.

We asked the Majority Leadership in January for extensive hearings and have regularly renewed that request. Last week we reaffirmed that desire and pointed out that the "Washington phase" of any Whitewater hearings probably amounts to less than five percent of any overall investigation. We do not intend to let the Democratic Leadership try to fool the American people into believing that all the questions about Whitewater will be put to rest by either Special Counsel Fiske or limited hearings on the "Washington phase."

As you are well aware, given the rules of the House and our inability to openly amend legislation, there is little or no possibility of Republicans even offering on the House floor a proposal to have real, useful hearings on Whitewater. When the Democrat Leadership, therefore, offered as the only potential for hearings being the House Banking Committee, we agreed.

Our agreement, however, should in no way be seen as a validation of the idea that these limited hearings are all that is necessary or all that the Constitution requires of the Congress. Regrettably, Chairman Gonzalez has informed his Leadership that he objects to several of the things in our agreement and believes further discussions are necessary. We can only guess at the outcome of those "discussions."

The public has the right to know exactly what occurred in Whitewater and the Congress has a responsibility to investigate. Only then can we decide the legislative remedies necessary to prevent further abuses.

We totally support the efforts made by you, Senator D'Amato and the rest of the Senate Republicans. The amendments you have offered to ensure that Whitewater hearings be useful and meaningful are the best hope of actually achieving hearings that fulfill the Constitutional responsibilities of Congress.

Given the same opportunity, we would be pursuing the same effort to inform the American people and to use the Congressional system of checks and balances to pursue the truth in our one-party government in Washington.

Please feel free to share this letter with your colleagues as you see fit.

Sincerely,

BOB MICHEL,
Republican Leader.
NEWT GINGRICH,
Republican Whip.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Order No. 975 and Calendar Order No. 976; I further ask unanimous consent that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that upon confirmation, the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

Mr. BOND. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

NATIONAL COUNCIL ON DISABILITY

Bonnie O'Day, of Massachusetts, to be a Member of the National Council on Disability for a term expiring September 17, 1995.

NAVY

The following named officer to be placed on the retired list in the grade indicated under the provisions of Title 10, United States Code, Section 1370:

To be admiral

Adm. Charles R. Larson, xxx-xx-xxxx, U.S. Navy.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

WORK AND RESPONSIBILITY ACT OF 1994—MESSAGE FROM THE PRESIDENT—PM 126

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which were referred to the Committee on Finance:

To the Congress of the United States:

I am pleased to transmit for your immediate consideration and enactment the "Work and Responsibility Act of 1994."

It is time to end welfare as we know it and replace it with a system that is based on work and responsibility—a system that will help people help themselves. This legislation reinforces the fundamental values of work, responsibility, family, and community. It rewards work over welfare. It signals that people should not have children until they are ready to support them, and that parents—both parents—who bring children into the world must take responsibility for supporting them. It gives people access to the skills they need and expects work in return. Most important, it will give people back the dignity that comes from work and independence. The cost of the proposal to the Federal Government is estimated at $9.3 billion over 5 years and is fully offset, primarily through reductions in entitlements and without new tax increases.

The Work and Responsibility Act of 1994 will replace welfare with work. Under this legislation, welfare will be about a paycheck, not a welfare check. Our approach is based on a simple compact designed to reinforce and reward work. Each recipient will be required to develop a personal employability plan designed to move that individual into the work force as quickly as possible. Support, job training, and child care will be provided to help people move from dependence to independence. Time limits will ensure that anyone who can work, must work—in the private sector if possible, in a temporary subsidized job if necessary.

This legislation includes several provisions aimed at creating a new culture of mutual responsibility. It includes provisions to promote parental responsibility and ensure that both parents contribute to their children's well-being. This legislation establishes the toughest child support enforcement program ever. It also includes: incentives directly tied to the performance of the welfare office; extensive efforts to detect and prevent welfare fraud; sanctions to prevent gaming of the welfare system; and a broad array of incentives that States can use to encourage responsible behavior.

Preventing teen pregnancy and out-of-wedlock births is a critical part of welfare reform. To prevent welfare dependency, teenagers must get the message that staying in school, postponing pregnancy, and preparing to work are the right things to do. Our prevention approach includes a national campaign against teen pregnancy and a national clearinghouse on teen pregnancy prevention. Roughly 1,000 middle and high schools in disadvantaged areas will receive grants to develop innovative teen pregnancy prevention programs.

The Work and Responsibility Act of 1994 proposes dramatic changes in our welfare system, changes so bold that they cannot be accomplished overnight. We can phase in these changes by focusing on young people, to send a clear message to the next generation that we are ending welfare as we know it. The bill targets resources on welfare beneficiaries born after December 31, 1971. This means that over time, more and more welfare beneficiaries will be affected by the new rules: about a third of the caseload in 1997, and half by the year 2000. States that want to phase in faster will have the option of doing so.

The results of these changes will be far-reaching. In the year 2000, 2.4 million adults will be subject to the new rules under welfare reform, including time limits and work requirements. Almost 1 million people will be either off welfare or working.

But the impact of welfare reform cannot be measured in these numbers alone. This legislation is aimed at strengthening families and instilling personal responsibility by helping people help themselves. We owe every child in America the chance to watch their parents assume the responsibility and dignity of a real job. This bill is designed to make that possible.

I urge the Congress to take prompt and favorable action on this legislation.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 21, 1994.*

NATIONAL EMERGENCY WITH RESPECT TO THE ACTIONS OF THE FEDERAL REPUBLIC OF YUGOSLAVIA (SERBIA AND MONTENEGRO)—MESSAGE FROM THE PRESIDENT—PM127

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

On May 30, 1992, in Executive Order No. 12808, the President declared a national emergency to deal with the threat to the national security, foreign policy, and economy of the United States arising from actions and policies of the Governments of Serbia and Montenegro, acting under the name of the Socialist Federal Republic of Yugoslavia or the Federal Republic of Yugoslavia, in their involvement in and support for groups attempting to seize territory in Croatia and Bosnia-Herzegovina by force and violence utilizing, in part, the forces of the so-called Yugoslav National Army (57 FR 23299, June 2, 1992). The present report is submitted pursuant to 50 U.S.C. 1641 (c) and 1703 (c). It discusses Administration actions and expenses directly related to the exercise of powers and authorities conferred by the declaration of a national emergency in Executive Order No. 12808 and to expanded sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro) (the "FRY (S/M)") contained in Executive Order No. 12810 of June 5, 1992 (57 FR 24347, June 9, 1992), Executive Order No. 12831 of January 15, 1993 (58 FR 5253, January 21, 1993), and Executive Order No. 12846 of April 26, 1993 (58 FR 25771, April 27, 1993).

1. Executive Order No. 12808 blocked all property and interests in property of the Governments of Serbia and Montenegro, or held in the name of the former Government of the Socialist Federal Republic of Yugoslavia or the Government of the Federal Republic of Yugoslavia, then or thereafter located in the United States or within the possession or control of United States persons, including their overseas branches.

Subsequently, Executive Order No. 12810 expanded U.S. actions to implement in the United States the United Nations sanctions against the FRY (S/M) adopted in United Nations Security Council Resolution 757 of May 30, 1992. In addition to reaffirming the blocking of FRY (S/M) Government property, this order prohibits transactions with respect to the FRY (S/M) involving imports, exports, dealing in FRY-origin property, air and sea transportation, contract performance, funds transfers, activity promoting importation or exportation or dealings in property, and official sports, scientific, technical, or other cultural representation of, or sponsorship by, the FRY (S/M) in the United States.

Executive Order No. 12810 exempted from trade restrictions (1) transshipments through the FRY (S/M), and (2) activities related to the United Nations Protection Force ("UNPROFOR"), the Conference on Yugoslavia, or the European Community Monitor Mission.

On January 15, 1993, the President issued Executive Order No. 12831 to implement new sanctions contained in United Nations Security Council Resolution 787 of November 16, 1992. The order revoked the exemption for transshipments through the FRY (S/M) contained in Executive Order No. 12810, prohibited transactions within the United States or by a United States person relating to FRY (S/M) vessels and vessels in which a majority or controlling interest is held by a person or entity in, or operating from, the FRY (S/M), and stated that all such vessels shall be considered as vessels of the FRY (S/M), regardless of the flag under which they sail.

On April 26, 1993, I issued Executive Order No. 12846 to implement in the United States the sanctions adopted in United Nations Security Council Resolution 820 of April 17, 1993. That resolution called on the Bosnian Serbs to accept the Vance-Owen peace plan for Bosnia-Herzegovina and, if they failed to do so by April 26, called on member states to take additional measures to tighten the embargo against the FRY (S/M) and Serbian-controlled areas of Bosnia-Herzegovina and the United Nations protected areas in Croatia. Effective April 26, 1993, the order blocked all property and interests in property of commercial, industrial, or public utility undertakings or entities organized or located in the FRY (S/M), including property and interests in property of entities (wherever organized or located) owned or controlled by such undertakings or entities, that are or thereafter come within the possession or control of United States persons.

2. The declaration of the national emergency on May 30, 1992, was made pursuant to the authority vested in the President by the Constitution and laws of the United States, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergency Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3 of the United States Code. The emergency declaration was reported to the Congress on May 30, 1992, pursuant to section 204(b) of the International Emergency Economic Powers Act (50 U.S.C. 1703(b)). The additional sanctions set forth in Executive Orders Nos. 12810, 12831, and 12846 were imposed pursuant to the authority vested in the President by the Constitution and laws of the United States, including the statutes cited above, section 1114 of the Federal Aviation Act (49 U.S.C. App. 1514), and section 5 of the United Nations Participation Act (22 U.S.C. 287c).

3. There have been no amendments to the Federal Republic of Yugoslavia (Serbia and Montenegro) Sanctions Regulations (the "Regulations"), 31 C.F.R. Part 585, since the last report. Of the two court cases in which the blocking authority was challenged as applied to FRY (S/M) subsidiaries and vessels in the United States, the government's position in the case involving the blocked vessels was upheld by the Fifth Circuit Court of Appeals. The Supreme Court declined to review the decision. *Milena Ship Management Co.* v. *Newcomb*, 804 F. Supp. 859 (E.D. La. 1992), aff'd. 995 F.2nd 620 (5th Cir. 1993), cert. denied—U.S.—, 114 S.Ct. 877 (1994). The case involving a blocked subsidiary is pending a decision by the court on the government's motion for summary judgment.

4. Over the past 6 months, the Departments of State and Treasury have worked closely with European Community (the "EC") member states and other U.N. member nations to coordinate implementation of the sanctions against the FRY (S/M). This has included visits by assessment teams formed under the auspices of the United States, the EC, and the Conference for Security and Cooperation in Europe (the "CSCE") to states bordering on Serbia and Montenegro; deployment of CSCE sanctions assistance missions ("SAMs") to Albania, Bulgaria, Croatia, the Former Yugoslav Republic of Macedonia, Hungary, Romania, and Ukraine to assist in monitoring land and Danube River traffic; bilateral contacts between the United States and other countries for the purpose of tightening financial and trade restrictions on the FRY (S/M) and establishment of a mechanism to coordinate enforcement efforts and to exchange technical information.

5. In accordance with licensing policy and the Regulations, FAC has exercised

its authority to license certain specific transactions with respect to the FRY (S/M) that are consistent with the Security Council sanctions. During the reporting period, FAC has issued 114 specific licenses regarding transactions pertaining to the FRY (S/M) or assets it owns or controls, bringing the total as of April 15, 1994, to 677. Specific licenses have been issued (1) for payment to U.S. or third-country secured creditors, under certain narrowly defined circumstances, for pre-embargo import and export transactions; (2) for legal representation or advice to the Government of the FRY (S/M) or FRY (S/M)-controlled clients; (3) for the liquidation or protection of tangible assets of subsidiaries of FRY (S/M)-controlled firms located in the United States; (4) for limited FRY (S/M) diplomatic representation in Washington and New York; (5) for patent, trademark and copyright protection and maintenance transactions in the FRY (S/M) not involving payment to the FRY (S/M) Government; (6) for certain communications, news media, and travel-related transactions; (7) for the payment of crews' wages, vessel maintenance, and emergency supplies for FRY (S/M)-controlled ships blocked in the United States; (8) for the removal from the FRY (S/M) of certain property owned and controlled by U.S. entities; and (9) to assist the United Nations in its relief operations and the activities of the U.N. Protection Forces. Pursuant to regulations implementing United Nations Security Council Resolution 757, specific licenses have also been issued to authorize exportation of food, medicine, and supplies intended for humanitarian purposes in the FRY (S/M).

During the past 6 months, FAC has continued to oversee the liquidation of tangible assets of the 15 U.S. subsidiaries of entities organized in the FRY (S/M). Subsequent to the issuance of Executive Order No. 12846, all operating licenses issued for these U.S.-located Serbian or Montenegrin subsidiaries or joint ventures were revoked, and the net proceeds of the liquidation of their assets placed in blocked accounts.

The Board of Governors of the Federal Reserve Board and the New York State Banking Department again worked closely with FAC with regard to two Serbian banking institutions in New York that were not permitted to conduct normal business after June 1, 1992. The banks had been issued licenses to maintain a limited staff for audit purposes while full-time bank examiners were posted in their offices to ensure that banking records are appropriately safeguarded. Subsequent to the issuance of Executive Order No. 12846, all licenses previously issued were revoked. FAC is currently working with the Federal Reserve Board and the New York State Banking Department to resolve outstanding issues regarding the banks.

During the past 6 months, U.S. financial institutions have continued to block funds transfers in which there is an interest of the Government of the FRY (S/M) or an entity or undertaking located in or controlled from the FRY (S/M). Such transfers have accounted for $58.6 million in Yugoslav assets blocked since the issuance of Executive Order No. 12808, with some $22 million in funds transfers frozen during the past 6 months.

To ensure compliance with the terms of the licenses that have been issued under the program, stringent reporting requirements are imposed. More than 380 submissions were reviewed since the last report and more than 194 compliance cases are currently open. In addition, licensed bank accounts are regularly audited by FAC compliance personnel and by cooperating auditors from bank regulatory agencies.

6. Since the issuance of Executive Order No. 12810, FAC has worked closely with the U.S. Customs Service to ensure both that prohibited imports and exports (including those in which the Government of the FRY (S/M) has an interest) are identified and interdicted, and that permitted imports and exports move to their intended destination without undue delay. Violations and suspected violations of the embargo are being investigated and appropriate enforcement actions are being taken. There are currently 50 cases under active investigation. Since the last report, FAC has collected 20 civil penalties totaling nearly $75,000 from 17 financial institutions for violations involving transfers of funds in which the Government of the FRY (S/M) has an interest. Two U.S. companies and one law firm have also paid penalties related to exports and unlicensed payments to the Government of the FRY (S/M) for trademark registrations.

7. The expenses incurred by the Federal Government in the 6-month period from November 30, 1993, through May 29, 1994, that are directly attributable to the authorities conferred by the declaration of a national emergency with respect to the FRY (S/M) are estimated at about $3 million, most of which represent wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the FAC and its Chief Counsel's Office, and the U.S. Customs Service), the Department of State, the National Security Council, the U.S. Coast Guard, and the Department of Commerce.

8. The actions and policies of the Government of the FRY (S/M), in its involvement in and support for groups attempting to seize and hold territory in Croatia and Bosnia-Herzegovina by force and violence, continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. The United States remains committed to a multilateral resolution of this crisis through its actions implementing the binding resolutions of the United Nations Security Council with respect to the FRY (S/M).

I shall continue to exercise the powers at my disposal to apply economic sanctions against the FRY (S/M) as long as these measures are appropriate, and will continue to report periodically to the Congress on significant developments pursuant to 50 U.S.C. 1703(c).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 21, 1994.*

MESSAGES FROM THE HOUSE

At 2:16 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4554. An Act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1995, and for other purposes.

H.R. 4556. An Act making appropriations for the Department of Transportation, and related agencies for the fiscal year ending September 30, 1995, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 215. A Concurrent resolution honoring James Norton Hall and recognizing his outstanding contributions to the United States and the South Pacific.

At 6:28 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4568. An Act making supplemental appropriations for the Department of Housing and Urban Development for the fiscal year ending September 30, 1994, and for other purposes.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4277) to establish the Social Security Administration as an independent agency and to make other improvements in the old-age, survivors, and disability insurance program; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon: and appoints Mr. GIBBONS, Mr. ROSTENKOWSKI, Mr. PICKLE, Mr. JACOBS, Mr. FORD of Tennessee, Mr. ARCHER, Mr. BUNNING, and Mr. SANTORUM as managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4278) to make improvements in the old-age, survivors, and disability insurance program under title II of the Social Security Act; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon: and appoints Mr. GIBBONS, Mr. ROSTENKOWSKI, Mr. PICKLE, Mr. JACOBS, Mr. FORD of Tennessee, Mr. ARCHER, Mr. BUNNING, and Mr. SANTORUM as managers of the conference on the part of the House.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 24) to reauthorize the independent counsel law for an additional 5 years, and for other purposes.

The message further announced that pursuant to the provisions of section 206 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616) as amended by section 2(d) of Public Law 102–586, the Speaker appoints the following individuals from private life to the Coordinating Council on Juvenile Justice and Delinquency Prevention on the part of the House: Mr. Gordon A. Martin, Jr., of Roxbury, MA, to a 3-year term; Mr. Michael J. Mahoney of Chicago, IL, to a 2-year term; and Ms. Mary Ann Murphy of Spokane, WA, to a 1-year term.

That pursuant to the provisions of section 204(a) of the Older Americans Act of 1965 (42 U.S.C. 3015(a)), as amended by section 205 of Public Law 102–375, the Speaker reappoints to the Federal Council on the Aging for a 3-year term on the part of the House the following member from private life: Mrs. Josephine K. Oblinger of Williamsville, IL.

That pursuant to the provisions of section 114(b) of Public Law 100–458, the Speaker appoints to the Board of Trustees for the John C. Stennis Center for Public Service Training and Development the following Member on the part of the House to fill the existing vacancy thereon: Mr. LEWIS of Georgia.

That pursuant to the provisions of section 204 of the Older Americans Act Amendments of 1987, as amended by section 834 of Public Law 102–375, the Speaker selects the following Members of the House to serve on the Policy Committee of the White House Conference on Aging on the part of the House: Mr. MARTINEZ, Mr. JACOBS, Mr. HUGHES, and Mrs. MORELLA.

That pursuant to the provisions of section 9355(a) of title 10, United States Code, the Speaker appoints as Members of the Board of Visitors to the U.S. Air Force Academy the following Members on the part of the House: Mr. DICKS, Mr. HOAGLAND, Mr. HEFLEY, and Mr. YOUNG of Florida.

That pursuant to the provisions of section 6968(a) of title 10, United States Code, the Speaker appoints as Members of the Board of Visitors to the U.S. Naval Academy the following Members on the part of the House: Mr. HOYER, Mr. MFUME, Mrs. BENTLEY, and Mr. SKEEN.

That pursuant to the provisions of section 4355(a) of title 10, United States Code, the Speaker appoints as Members of the Board of Visitors to the U.S. Military Academy the following Members on the part of the House: Mr. HEFNER, Mr. LAUGHLIN, Mr. FISH, and Mr. DELAY.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following bill:

S. 1904. An Act to amend title 38, United States Code, to improve the organization and procedures of the Board of Veterans' Appeals.

The enrolled bill was subsequently signed by the President pro tempore (Mr. BYRD).

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 4554. An Act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1995, and for other purposes; to the Committee on Appropriations.

H.R. 4556. An Act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1995, and for other purposes; to the Committee on Appropriations.

The following measure was read and referred to the Committee on Foreign Relations:

H. Con. Res. 215. Concurrent resolution honoring James Norman Hall and recognizing his outstanding contributions to the United States and the South Pacific.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2879. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on the Warren Station Externally Fired Combined Cycle Demonstration Project; to the Committee on Energy and Natural Resources.

EC–2880. A communication from the Secretary of the Interior, transmitting, pursuant to law, notice of the intention to award a specific watershed restoration contract; to the Committee on Energy and Natural Resources.

EC–2881. A communication from the Secretary of the Interior, transmitting, a draft of proposed legislation entitled "Anaktuvuk Pass Exchange and Wilderness Redesignation Act of 1994"; to the Committee on Energy and Natural Resources.

EC–2882. A communication from the Secretary of Energy, transmitting, pursuant to law, notice of a delay relative to the report entitled "Adequacy of Management Plans for the Future Generation of Spent Nuclear Fuel and High-Level Radioactive Waste"; to the Committee on Environment and Public Works.

EC–2883. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the audit of the Principal Financial Statements of the U.S. Customs Service for fiscal year 1993; to the Committee on Finance.

EC–2884. A communication from the Acting General Counsel of the Department of Defense, transmitting, a draft of proposed legislation to improve coordination of benefits information by sharing health insurance information from the Medicare and Medicaid Coverage Data Bank; to the Committee on Finance.

EC–2885. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on rescissions and deferrals, dated June 1, 1994; pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition and Forestry, the Committee on Armed Services, the Committee on Banking, Housing and Urban Affairs, the Committee on Commerce, Science and Transportation, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Committee on Finance, the Committee on Foreign Relations, the Committee on Governmental Affairs, the Committee on the Judiciary, and the Committee on Small Business.

EC–2886. A communication from the Secretary of Education, transmitting, pursuant to law, notice of final regulations for Rehabilitation Long-Term Training; to the Committee on Labor and Human Resources.

EC–2887. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the annual report for calendar year 1993; to the Committee on Rules and Administration.

EC–2888. A communication from the Acting General Counsel of the Department of Defense, transmitting, a draft of proposed legislation to amend title 38, United States Code, to authorize servicemen's Group Life Insurance for members of the Retired Reserve of a uniformed service who have not received the first increment of retired pay or have not yet reached sixty-one years of age and who have been transferred to the Retired Reserve under the temporary special retirement qualification authority provided by section 1331a of title 10, United States Code; to the Committee on Armed Services.

EC–2889. A communication from the Administrator of the Federal Aviation Administration, transmitting, pursuant to law, a report relative to the Traffic Alert and Collision Avoidance System; to the Committee on Commerce, Science and Transportation.

EC–2890. A communication from the Federal Co-Chairman of the Appalachian Regional Commission, transmitting, pursuant to law, the semiannual report of the Inspector General for the period October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC–2891. A communication from the Administrator of the General Services Administration, transmitting, a draft of proposed legislation to amend chapter 57 of title 5, United States Code, to provide a system for setting the maximum mileage allowances for reimbursement to an employee for the use of a privately owned vehicle while engaged on official Government Business; to the Committee on Governmental Affairs.

EC–2892. A communication from the Chairman of the Board for International Broadcasting, transmitting, pursuant to law, the semiannual report of the Inspector General for the period of October 1, 1993, through March 30, 1994; to the Committee on Governmental Affairs.

EC-2893. A communication from the Director of the Administrative Office of the United States Courts, transmitting, pursuant to law, the actuarial reports on the Judicial Retirement System, the Judicial Officers' Retirement Fund, the Judicial Survivors' Annuities System, and the Court of Federal Claims Judges' Retirement System for fiscal year 1993; to the Committee on Governmental Affairs.

EC-2894. A communication from the Secretary of Veterans Affairs, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2895. A communication from the Secretary of Labor, transmitting, pursuant to law, the semiannual reports of the Inspector General and the Executive Director of the Pension Benefit Guaranty Corporation for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2896. A communication from the Administrator of the Small Business Administration, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2897. A communication from the Chairman and General Counsel of the National Labor Relations Board, transmitting, pursuant to law, the semiannual report of the Inspector General for the period October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2898. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report relative to an audit of the District of Columbia's Public School's Central Investment Fund; to the Committee on Governmental Affairs.

EC-2899. A communication from the Chairman of the Equal Employment Opportunity Commission, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2900. A communication from the Secretary of the Smithsonian Institution, transmitting, pursuant to law, the semiannual report of the Inspector General for the period October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2901. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the semiannual report of the Inspector General for the period October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2902. A communication from the Chief Operating Office/President of the Resolution Funding Corporation, transmitting, pursuant to law, a report relative to the Corporation's internal controls and audited financial statements; to the Committee on Governmental Affairs.

EC-2903. A communication from the General Counsel of the Department of Commerce, transmitting, a draft of proposed legislation to provide the Secretary of Commerce with the authority to share the address lists of the Bureau of the Census with the United States Postal Service and Federal, State, and local officials when it is required for the efficient and economical conduct of censuses and surveys; to the Committee on Governmental Affairs.

EC-2904. A communication from the General Counsel of the Department of Commerce, transmitting, a draft of proposed legislation to change the census date for the 2000 decennial census and subsequent censuses; to the Committee on Governmental Affairs.

EC-2905. A communication from the Acting Administrator of the Agency for International Development, transmitting, pursuant to law, the semiannual report of the Inspector General and the semiannual report on audit management for the period from October 1, 1993, to March 31, 1994; to the Committee on Governmental Affairs.

EC-2906. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report relative to the District's public schools' vendor delivery verification process; to the Committee on Governmental Affairs.

EC-2907. A communication from the Chairman of the Interstate Commerce Commission, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2908. A communication from the Department of Education, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2909. A communication from the Chief Executive Officer of the Corporation for National and Community Service, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2910. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2911. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2912. A communication from the Chairman and Chief Executive Officer of the Farm Credit Administration, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2913. A communication from the Chairman of the National Endowment for the Arts, transmitting, pursuant to law, the semiannual report of the Inspector General and the semiannual report on final action for the period from October 1, 1993, through March 31, 1994, to the Committee on Governmental Affairs.

EC-2914. A communication from the Secretary of Education, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2915. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2916. A communication from the Secretary of Labor, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2917. A communication from the Secretary of the Interior, transmitting, pursuant to law, the semiannual report of the Inspector General and the Secretary's report on audit followup for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2918. A communication from the Deputy and Acting CEO of the Resolution Trust Corporation and the Chairman of the Thrift Depositor Protection Oversight Board, transmitting, pursuant to law, the semiannual report of the Inspector General of the Resolution Trust Corporation for the period October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2919. A communication from the Chairman of the National Credit Union Administration, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993 through March 31, 1994; to the Committee on Governmental Affairs.

EC-2920. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2921. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2922. A communication from the Director of the Peace Corps, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2923. A communication from the Chairman of the Consumer Product Safety Commission, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2924. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report relative to an audit of the Boxing and Wrestling Commission for fiscal years 1991, 1992 and 1993; to the Committee on Governmental Affairs.

EC-2925. A communication from the Chairman of the Board of Directors of the Panama Canal Commission, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2926. A communication from the Director of the United States Information Agency, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2927. A communication from the Attorney General of the United States, transmitting, pursuant to law, the semiannual management report for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2928. A communication from the Director of the Information Security Oversight Office, transmitting, pursuant to law, the Office's "Report for the President" for 1993; to the Committee on Governmental Affairs.

EC-2929. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the Administrator's semiannual management report for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2930. A communication from the Secretary of Energy, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2931. A communication from the Secretary of Housing and Urban Development's designee to the Federal Housing Finance Board, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2932. A communication from the Director of the Norfolk Naval Shipyard Co-operative Association, transmitting, pursuant to law, the annual report of the Association relative to Federal pension plan for 1992; to the Committee on Governmental Affairs.

EC-2933. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the 1993 annual report indicating the Commission's compliance with the Government in the Sunshine Act; to the Committee on Governmental Affairs.

EC-2934. A communication from the Chairman of the National Science Board, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2935. A communication from the Chairman of the Board of Directors of the Corporation for Public Broadcasting, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EC-2936. A communication from the Secretary of Commerce, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from October 1, 1993, through March 31, 1994; to the Committee on Governmental Affairs.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted:

By Mr. LEAHY, from the Committee on Agriculture, Nutrition and Forestry:

Marilyn Fae Peters, of South Dakota, to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation;

Sheila C. Bair, of Kansas, to be a Commissioner of the Commodity Futures Trading Commission for the remainder of the term expiring April 13, 1995;

Mary L. Schapiro, of the District of Columbia, to be a Commissioner of the Commodity Futures Trading Commission for the term expiring April 13, 1999;

Mary L. Schapiro, of the District of Columbia, to be Chairman of the Commodity Futures Trading Commission; and

Doyle Cook, of Washington, to be a Member of the Farm Credit Administration Board, Farm Credit Administration, for the term expiring May 21, 1998.

(The above nominations were approved subject to the nominees' commitment to appear and testify before any duly constituted committee of the Senate.)

Mr. NUNN. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

*General Michael P. C. Carns, USAF to be placed on the retired list in the grade of general (Reference No. 1237)

*Lieutenant General Bradley C. Hosmer, USAF to be placed on the retired list in the grade of lieutenant general (Reference No. 1238)

*Lieutenant General Thomas G. McInerney, USAF to be placed on the retired list in the grade of lieutenant general (Reference No. 1239)

*Lieutenant General Alexander M. Sloan, USAF to be placed on the retired list in the grade of lieutenant general (Reference No. 1240)

*Lieutenant General Michael A. Nelson, USAF to be placed on the retired list in the grade of lieutenant general (Reference No. 1254)

*General Charles A. Horner, USAF to be placed on the retired list in the grade of general (Reference No. 1314)

*Vice Admiral William J. Flanagan, Jr., USN to be admiral (Reference No. 1341)

*General J. H. Binford Peay III, USA for reappointment to the grade of general (Reference No. 1371)

*Real Admiral (Selectee) Jay L. Johnson, USN to be vice admiral (Reference No. 1373)

*General Walter E. Boomer, USMC to be placed on the retired list in the grade of general (Reference No. 1383)

*General Joseph P. Hoar, USMC to be placed on the retired list in the grade of general (Reference No. 1384)

*Lieutenant General William M. Keys, USMC to be placed on the retired list in the grade of lieutenant general (Reference No. 1387)

*Lieutenant General Henry C. Stackpole III, USMC to be placed on the retired list in the grade of lieutenant general (Reference No. 1388)

*General Robert C. Oaks, USAF to be placed on the retired list in the grade of general (Reference No. 1432)

*Major General Paul E. Stein, USAF to be lieutenant general (Reference No. 1435)

*Lieutenant General John E. Jackson, Jr., USAF to be placed on the retired list in the grade of lieutenant general (Reference No. 1453)

*Lieutenant General Peter A. Kind, USA to be placed on the retired list in the grade of lieutenant general (Reference No. 1456)

*Lieutenant General Donald M. Lionetti, USA to be placed on the retired list in the grade of lieutenant general (Reference No. 1457)

*Major General Anthony C. Zinni, USMC to be lieutenant general (Reference No. 1458)

Total: 19.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LEAHY (for himself, Mr. INOUYE, Mr. LUGAR, Mr. MITCHELL, Mr. MOYNIHAN, Mr. ROBB, Mr. SIMPSON, Mr. DODD, Mrs. FEINSTEIN, Mr. METZENBAUM, Mrs. KASSEBAUM, Mr. SASSER, Mr. DASCHLE, Mr. GRAHAM, Mr. CHAFEE, Mr. DECONCINI, Mr. SIMON, Ms. MIKULSKI, Mr. FEINGOLD, Mr. SPECTER, Mr. BINGAMAN, Mr. KERRY, Mr. KERREY, Mr. PELL, Mr. EXON, Mr. FORD, Mr. KOHL, Mr. WELLSTONE, Mr. BUMPERS, Mr. WOFFORD, Mr. MATHEWS, Mr. SARBANES, Mr. JEFFORDS, Mrs. BOXER, Mr. AKAKA, Mr. HATFIELD, Mr. HARKIN, Mr. RIEGLE, Mr. DORGAN, Mr. KENNEDY, Mr. LAUTENBERG, Mrs. MURRAY, Ms. MOSELEY-BRAUN, Mr. ROCKEFELLER, Mr. BRADLEY, Mr. DURENBERGER, Mr. REID, Mr. BIDEN, Mr. CONRAD, Mr. GLENN, Mr. CAMPBELL, Mr. PRYOR, Mr. BAUCUS, Mr. LIEBERMAN, and Mr. BRYAN):

S. 2216. A bill to state the sense of Congress on the production, possession, transfer, and use of anti-personnel landmines, to place a moratorium on United States production of anti-personnel landmines, and for other purposes; to the Committee on Armed Services.

By Mrs. FEINSTEIN (for herself and Mr. FEINGOLD):

S. 2217. A bill to restrict accompanied tours for the Armed Forces personnel assigned to Europe; to the Committee on Armed Services.

By Mr. GLENN (for himself and Mr. AKAKA):

S. 2218. A bill to provide authorization of appropriations for the Federal Emergency Food and Shelter Program for the fiscal years 1995 and 1996; to the Committee on Governmental Affairs.

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S. 2219. A bill to amend the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to improve natural gas and hazardous liquid pipeline safety, in response to the natural gas pipeline accident in Edison, New Jersey, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. PELL (by request):

S. 2220. A bill to provide for a United States contribution to the Inter-American Development Bank, and for other purposes; to the Committee on Foreign Relations.

S. 2221. A bill to implement the obligations of the United States under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, known as "the Chemical Weapons Convention" and opened for signature and signed by the United States on January 13, 1993; to the Committee on Foreign Relations.

By Mr. MITCHELL (for himself, Mr. COHEN, Mr. LEAHY, and Mr. JEFFORDS):

S. 2222. A bill to grant the consent of Congress to the Texas Low-Level Radioactive Waste Disposal Compact; to the Committee on the Judiciary.

By Mr. KOHL (for himself and Mr. FEINGOLD):

S. 2223. A bill to amend title 10, United States Code, to authorize the Secretary of Defense to provide assistance to promote public participation in defense environmental restoration activities; to the Committee on Armed Services.

By Mr. MOYNIHAN (for himself, Mr. MITCHELL, Mr. BREAUX, Mr. DASCHLE, Mr. DODD, Mr. KENNEDY, and Mr. ROCKEFELLER) (by request):

S. 2224. A bill to amend the Social Security Act, the Food Stamp Act of 1977, and other relevant statutes to redesign the program of aid to families with dependent children to establish a program that provides time-limited, transitional assistance, prepares individuals for and requires employment, prevents dependency, and overhauls the child support enforcement mechanism at both the Federal and State levels, and for other purposes; to the Committee on Finance.

By Mrs. BOXER:

S. 2225. A bill to direct the Secretary of the Interior to conduct a salmon captive broodstock program; to the Committee on Environment and Public Works.

By Mr. HATFIELD:

S. 2226. A bill to designate a site for the relocation of the public facility of the National Museum of Health and Medicine, and for other purposes; to the Committee on Armed Services.

By Mr. LAUTENBERG (for himself and Mr. MITCHELL):

S. 2227. A bill to amend the Solid Waste Disposal Act to provide congressional authorization of State control over transportation of municipal solid waste, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LIEBERMAN:

S. Con. Res. 71. A concurrent resolution to require enactment of a resolution by the appropriate House of Congress for each capital improvement project in the United States Capitol area with an estimated total cost greater than $3,000,000; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY (for himself, Mr. INOUYE, Mr. LUGAR, Mr. MITCHELL, Mr. MOYNIHAN, Mr. ROBB, Mr. SIMPSON, Mr. DODD, Mrs. FEINSTEIN, Mr. METZENBAUM, Mrs. KASSEBAUM, Mr. SASSER, Mr. DASCHLE, Mr. GRAHAM, Mr. CHAFEE, Mr. DECONCINI, Mr. SIMON, Ms. MIKULSKI, Mr. FEINGOLD, Mr. SPECTER, Mr. BINGAMAN, Mr. KERRY, Mr. KERREY, Mr. PELL, Mr. EXON, Mr. FORD, Mr. KOHL, Mr. WELLSTONE, Mr. BUMPERS, Mr. WOFFORD, Mr. MATHEWS, Mr. SARBANES, Mr. JEFFORDS, Mrs. BOXER, Mr. AKAKA, Mr. HATFIELD, Mr. HARKIN, Mr. RIEGLE, Mr. DORGAN, Mr. KENNEDY, Mr. LAUTENBERG, Mrs. MURRAY, Ms. MOSELEY-BRAUN, Mr. ROCKEFELLER, Mr. BRADLEY, Mr. DURENBERGER, Mr. REID, Mr. BIDEN, Mr. CONRAD, Mr. CAMPBELL, Mr. PRYOR, Mr. BAUCUS, Mr. LIEBERMAN, and Mr. BRYAN):

S. 2216. A bill to state the sense of Congress on the production, possession, transfer, and use of antipersonnel landmines, to place a moratorium on United States production of antipersonnel landmines, and for other purposes; to the Committee on Armed Services.

LANDMINE PRODUCTION MORATORIUM ACT

Mr. LEAHY. Mr. President, I have spoken a number of times on the floor of the U.S. Senate about the scourge of landmines throughout the world.

Last week I spoke about Ken Rutherford, an American from Colorado, who lost part of his leg from a landmine in Somalia. I also spoke of Fred Downs, an American veteran who lost his arm from an American landmine in Vietnam. They are two of the tens of thousands of Americans, mostly veterans from past wars including the Persian Gulf war, who have been either killed or maimed by landmines.

They are also among the hundreds of thousands of people—over 1,200 each month of each year, mostly innocent civilians, who lose their lives, or an arm, a leg or their eyesight from landmines.

Last month, UNICEF—the United Nations Childrens Fund—issued a report entitled "Anti-personnel Landmines: A Scourge on Children." That report describes, in horrifying detail, how landmines are shattering the lives of children in over 60 countries. Let me read just one entry in the UNICEF report:

> One 6 year old Somali boy had picked up an object that looked like the plastic top of a thermos bottle on a road near his home. The explosion blinded him in both eyes, scarred his face, destroyed his right hand, which was later amputated at the wrist, and left both knees crippled with shrapnel injuries.

That boy was one of tens of thousands like him who have been permanently maimed by landmines. They are considered the lucky ones. They survived. According to UNICEF, landmines are killing and maiming more children than soldiers.

Mr. President, one would think we would do everything possible to stop this outrage. If American children walking to school were getting their arms and legs blown off, you can bet we would have all 100 Senators doing everything possible to stop it. That is what is going on all over the world today in country after country after country.

Last year, the United States enacted a moratorium on exports of antipersonnel landmines. In an extraordinary vote, all 100 Senators voted for that moratorium. That vote was noticed around the world, and at least 8 other countries have followed our example and announced their own moratoria on landmine exports.

Our leadership led to U.N.-sponsored talks in Geneva to seek international limits on the production, use, and export of landmines. During the next year those talks will either produce real results that will begin to stop the landmine slaughter, or a piece of paper with a lot of signatures that make people feel good but accomplishes nothing.

The fact that these negotiations are happening at all is because people everywhere want to see something done about landmines. They have seen too many photographs of children missing an arm or a leg, or both, like this one.

Look at this young boy, Mr. President. A young boy who should be out playing and enjoying life and looking forward to a bright future. What kind of future does he have in a country like Nicaragua, with an arm and a leg missing? Think of this happening in over 60 countries, 1,200 times a month. Mr. President, there is no doubt in my mind that the outcome of these international negotiations will depend upon what we do here. If we show leadership, if we set an example and challenge other countries, we may be able to begin to stop this.

We are not going to see a ban on landmines any time soon, but we can make the difference between posturing and real progress. We can do that by making a bold gesture ourselves as Americans, by showing we are serious, and then pressuring other countries to join us.

That is why today I am introducing legislation to impose a moratorium, for 12 months, on the production of antipersonnel landmines by the United States to show the rest of the world that it can be done. Its purpose is to challenge other countries, and it calls on the President to seek similar action from major landmine producers, like Italy, Pakistan, Russia, France, South Africa, and Great Britain.

As with any arms control initiative, I can already hear some people across the Potomac saying that a 12-month moratorium on antipersonnel landmines is going to leave our troops defenseless, the troops of the most powerful Nation on Earth. So, before a lot of people run over from the Pentagon to say we are about to unilaterally disarm, let me tell you what this legislation does not do.

It does not in any way limit the use of landmines by American troops.

It does not in any way affect U.S. stockpiles of mines, and I would encourage each Senator to ask the Army how many landmines they have in warehouses today.

It does not cover Claymore mines, which are command detonated and account for almost half of the antipersonnel mines we produce.

It does not cover antitank mines, which were used so effectively against Saddam Hussein, but which do not trigger from the pressure of a child's footstep.

Nor is it the slippery slope the Army is forever using as an excuse to oppose practically every arms control measure ever proposed. This is a crucial year. The U.N. negotiations will decide how these weapons are dealt with for years to come.

Mr. President, every 15 minutes of every day of every week of every month of every year, a landmine explodes and kills or horribly maims some unsuspecting person.

Maybe it is an Italian mine. Or a Russian mine. Or maybe it is an American mine. There are at least six types of American mines littering Cambodia, which has more amputees per capita than anywhere else. There are 6 or 8 million unexploded landmines in that small country.

Mr. President, who needs anti-personnel landmines more—the United States, or Third World countries where they have become the cheap weapon of choice and where our troops will be sent either as U.N. peacekeepers or in combat and where Americans go as medical personnel facing the danger of these weapons. A $5 landmine, hidden by a layer of dust, can blow the leg off a well-trained American soldier equipped with the most sophisticated weaponry as easily as snapping your fingers.

This legislation falls far short of the total ban many are calling for. But it is a step that we, by far the most powerful Nation in the world, can afford to take during this crucial year. A year from now I suspect we will know if we made any difference. If the negotiations fail, at least let them fail not because of the United States, not because we did not show moral leadership. But if they succeed, I have not the slightest doubt that it will be because the United States decided to do something meaningful about a scourge that the State Department says "may be the most toxic and widespread pollution facing mankind."

Mr. President, I ask unanimous consent that my legislation, the Landmine Production Moratorium Act, and the names of the 53 original cosponsors, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2216

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. FINDINGS.

The Congress makes the following findings:

(1) There are approximately 100,000,000 unexploded anti-personnel landmines strewn in more than 60 countries around the world, and tens of millions of anti-personnel landmines are stored in stockpiles. The Department of State reports that "landmines may be the most toxic and widespread pollution facing mankind".

(2) Like chemical and biological weapons, landmines kill and maim indiscriminately.

(3) After the United States adopted a unilateral moratorium on the export of anti-personnel landmines, the United Nations General Assembly unanimously called for an international moratorium on such exports, and the Governments of France, Germany, Greece, Belgium, the Netherlands, Poland, Slovakia, and South Africa have announced export moratoria. The Government of Cambodia has stated that it will no longer use or purchase anti-personnel landmines.

(4) Despite such actions, far more anti-personnel landmines are being strewn than are being cleared. Each month, at least 1,200 persons, mostly innocent civilians, are killed or injured by landmines. In some countries, more than one-third of all casualties of anti-personnel landmines are women and children.

(5) With hundreds of types of anti-personnel landmines being produced in at least 50 countries, only international cooperation on limits on the production, possession, transfer, and use of anti-personnel landmines will stop the slaughter of innocent lives.

(6) A United Nations conference to review the 1980 Conventional Weapons Convention, including Protocol II to the Convention (otherwise known as the Landmine Protocol), is planned for 1995. Meetings of governmental experts to prepare for the conference have begun. This is a critical time for United States leadership to help solve the landmine crisis.

SEC. 2. POLICY.

It is the sense of Congress that the President should—

(1) actively seek an international agreement prohibiting the production, possession, transfer, and use of anti-personnel landmines; and

(2) as interim measures to be pursued during the seeking of such prohibitions, actively seek international agreements, modifications of the 1980 Conventional Weapons Convention, or other agreements or arrangements to limit further the production, possession, transfer, and use of anti-personnel landmines.

SEC. 3. MORATORIUM ON THE PRODUCTION AND PROCUREMENT OF ANTI-PERSONNEL LANDMINES.

(A) SENSE OF CONGRESS.—It is the sense of Congress that a moratorium by the United States on the purchase and production of anti-personnel landmines would encourage other nations to adopt similar measures.

(b) MORATORIUM.—Effective 90 days after the date of the enactment of this Act, the United States Government shall not purchase or produce anti-personnel landmines.

(c) PERIOD OF MORATORIUM.—The prohibition set forth in subsection (b) shall continue until the end of the one-year period beginning on the date of the enactment of this Act.

(d) ACTIONS BY OTHER NATIONS.—(1) The Congress urges the President, during the period referred to in subsection (c), to encourage each nation which is a major producer of anti-personnel landmines to adopt a moratorium similar to the moratorium described in subsection (b).

(2) If the President determines during the period referred to in subsection (c) that nations that are major producers of anti-personnel landmines have adopted moratoria similar to the moratorium described in subsection (b), the President may extend the moratorium for such additional time as the President considers appropriate.

(3) For the purposes of this subsection, the term "major producers of anti-personnel landmines" shall include the following:

(A) Belgium
(B) Bulgaria
(C) The Peoples Republic of China
(D) Egypt
(E) France
(F) Germany
(G) Hungary
(H) Italy
(I) Pakistan
(J) Russia
(K) South Africa
(L) The United Kingdom

SEC. 4. AUTHORIZATION OF FUNDS FOR DEMINING ACTIVITIES.

Of the funds authorized by an Act authorizing appropriations for military activities of the Department of Defense, $10,000,000 are authorized to support humanitarian activities relating to the clearing and disarming of landmines and the protection of civilians from landmines (including activities relating to the furnishing of education, training, technical assistance, demining equipment and technology and activities relating to research and development on demining equipment and technology) and for contributions to United Nations agencies and programs and to nongovernmental organizations to support such activities, and $10,000,000 are authorized for efforts to improve landmine detection and neutralization.

SEC. 5. ANALYSIS AND ASSESSMENT OF COSTS AND EFFECTS OF ANTI-PERSONNEL LANDMINES.

(a) ANALYSIS.—(1) Not later than 180 days after the date of the enactment of this Act, the Administrator of the Agency for International Development and the Secretary of State shall jointly submit to Congress a joint report containing a quantitative and qualitative analysis of the social, economic, and environmental costs and effects of the use of anti-personnel landmines.

(2) The analysis shall cover not less than three countries (as jointly determined by the Administrator and the Secretary) in which the presence of landmines presents significant social, economic, and environmental problems.

(3) In preparing the report, the Administrator and the Secretary shall rely on any appropriate governmental and nongovernmental materials and sources of information that are available to them.

(b) ASSESSMENT.—(1) The Secretary of Defense shall submit to Congress a report setting forth the total number of members of the United States Armed Forces killed or wounded by anti-personnel landmines during each of the following periods:

(A) World War II.
(B) The Korean conflict.
(C) The Vietnam era.
(D) The Persian Gulf War.

(2) The Secretary of Defense shall submit the report under this subsection at the same time that the report required under subsection (a) is submitted.

SEC. 6. DEFINITIONS.

For purposes of this Act:

(1) The term "anti-personnel landmine" means any of the following:

(A) Any munition placed under, on, or near the ground or other surface area, delivered by artillery, rocket, mortar, or similar means, or dropped from an aircraft and which is designed, constructed, adapted, or designed to be adapted to be detonated or exploded by the presence, proximity, or contact of a person.

(B) Any device or material which is designed, constructed, adapted, or designed to be adapted to kill or injure and which functions unexpectedly when a person disturbs or approaches an apparently harmless object or performs an apparently safe act.

(2) The term "1980 Conventional Weapons Convention" means the 1980 Conventional Weapons Convention on Production or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed To Be

Excessively Injurious or To Have Indiscriminate Effects, done at New York on April 10, 1981.

ORIGINAL COSPONSORS OF THE LANDMINE PRODUCTION MORATORIUM ACT

Senators Inouye, Lugar, Mitchell, Moynihan, Robb, Simpson, Dodd, Feinstein, Metzenbaum, and Kassebaum.

Senators Sasser, Daschle, Graham, Chafee, DeConcini, Simon, Mikulski, Feingold, Specter, and Bingaman.

Senators Kerry, Kerrey, Pell, Exon, Ford, Kohl, Wellstone, Bumpers, Wofford, and Mathews.

Senators Sarbanes, Jeffords, Boxer, Akaka, Hatfield, Harkin, Riegle, Dorgan, Kennedy, and Lautenberg.

Senators Murray, Moseley-Braun, Rockefeller, Bradley, Durenberger, Reid, Biden, Conrad, Glenn, and Campbell.

Senators Pryor, Baucus, Lieberman, and Bryan.

By Mrs. FEINSTEIN (for herself and Mr. FEINGOLD):

S. 2217. A bill to restrict accompanied tours for the Armed Forces personnel assigned to Europe; to the Committee on Armed Services.

LEGISLATION RESTRICTING ACCOMPANIED TOURS FOR ARMED FORCES PERSONNEL

• Mrs. FEINSTEIN. Mr. President, today, on behalf of myself and Senator FEINGOLD, I am introducing legislation that would require the Department of Defense to adopt short, unaccompanied tours for the majority of U.S. troops stationed in Europe.

Currently, most U.S. troops are deployed in Europe for 3-year tours and are usually accompanied by their families. As a result, the Pentagon—and U.S. taxpayers—must pay for dependents' moving expenses as well as other costs associated with their stay overseas.

Most U.S. personnel abroad are stationed in Europe. Although the number of military personnel in Europe has decreased in the aftermath of the cold war, the costs of supporting dependents there remains high. With approximately the same number of dependents as there are enlisted personnel stationed in Europe, those costs total hundreds of millions of dollars each year. Taxpayers are footing the bill for—among other things—housing, schools, commissaries, hospitals, and family centers.

A 1989 Rand study found there were many problems associated with dependents living abroad. Among them:

Dealing with their safety in time of crisis;

Helping spouses to find employment;

Allocating sufficient funds to maintain quality-of-life services—especially given that such services are used as much as 65 percent more overseas than at home; and

Assisting families to care for their children while abroad.

And almost as importantly, the Congressional Budget Office estimates that $1.5 billion could be saved by limiting tours in Europe to 1 year, rotating personnel more often and reducing the number of family members who accompany troops overseas. These savings could be used to help reduce the budget deficit or to fund other important Department of Defense priorities.

Although this bill would require that the majority of troops be assigned to 1-year unaccompanied tours, the Secretary of Defense would have the discretion to allow some key personnel to be assigned for longer periods of time, and to be accompanied by their families.

Short, unaccompanied tours for military personnel is not a new idea. In some places, like South Korea—where there are housing shortages and other factors to consider—U.S. troops have already been successfully limited to 1-year tours without dependents.

Critics of shorter unaccompanied tours have argued that separating soldiers and officers from their families lowers morale and could have a negative impact on military units and retention.

However, a survey of military personnel conducted by the Department of Defense last year found that although an individual officer's moral may be lowered by family separation, there was absolutely no impact on unit morale.

I agree that unaccompanied tours could have an impact on retention. But with current reductions in the numbers of military personnel as a result of the post-cold-war drawdown, this should not have an impact on the readiness of our forces.

Critics also have argued that shorter tours mean that soldiers will be reassigned more frequently, thus impacting readiness. However, the Congressional Budget Office has said that transferring whole units which are cohesive and have trained together—as opposed to only individual troops—offsets that problem.

Also, it is clear that in South Korea—where shorter, unaccompanied tours are standard—readiness is not a problem. In fact there is no other area of the world where U.S. troops are on a higher state of alert. This is even more true now, with North Korea attempting to develop a nuclear bomb, and Kim Il-song saying he will turn Seoul into a "sea of fire."

The Korean situation also offers a good illustration of one of the major benefits of unaccompanied tours—we will not have to worry about protecting or evacuating thousands of families if war suddenly engulfs the peninsula. Clearly fewer vulnerable dependents equates to greater military flexibility.

With the end of the cold war and the number of U.S. troops being reduced to as few as 100,000 in Europe by 1995, adopting short, unaccompanied tours makes sense. It saves money while maintaining an adequate military presence overseas.

I urge my colleagues to support this legislation. I now ask unanimous consent that the full text of this bill and a CBO report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2217

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACCOMPANIED TOURS FOR ARMED FORCES PERSONNEL ASSIGNED TO EUROPE.

(a) PAYMENT FOR DEPENDENTS.—

(1) RESTRICTION.—Subject to paragraph (2)—

(A) no travel and transportation expenses may be paid for dependents to accompany members of the Armed Forces of the United States assigned to permanent duty ashore in Europe; and

(B) no funds may be expended for support of dependents accompanying members of the Armed Forces of the United States assigned to permanent duty ashore in Europe.

(2) WAIVER AUTHORITY.—

(A) ESSENTIAL PERSONNEL.—The Secretary of Defense may waive the application of paragraph (1) to a member of the Armed Forces if the Secretary determines that the assignment of that member to permanent duty ashore in Europe for a period of more than one year is necessary in order to ensure the continuity of effective conduct of necessary activities of the Armed Forces of the United States in Europe.

(B) NATIONAL SECURITY INTERESTS.—The Secretary of Defense may waive the application of paragraph (1) when necessary in the national security interests of the United States.

(b) SHORT TOURS.—It is the sense of Congress that the period of assignment of a member of the Armed Forces to permanent duty ashore in Europe should not exceed one year.

CONGRESSIONAL BUDGET OFFICE REPORT—MARCH 1994

ADOPT SHORT, UNACCOMPANIED TOURS FOR EUROPE

[In millions of dollars]

	Annual savings [1]					Cumulative 5-year savings
	1995	1996	1997	1998	1999	
Budget authority	240	240	240	400	410	1,530
Outlays	220	220	210	370	400	1,420

[1] Savings from CBO baseline and CBO estimate of administration's plan.

Under current policy, military personnel in Europe generally remain for tours of three years and may be accompanied by their families. The U.S. government pays for the moving expenses of dependents (spouses and children) and for other costs associated with their stay in Europe. In 1990, about 310,000 military personnel were located in Europe along with some 317,000 dependents. By 1993, the number of military personnel in Europe had decreased to 167,000 with a similar number of dependents. Accompanied tours require that DoD maintain a large support infrastructure in Europe, including schools for dependents, commissaries, hospitals, family centers, and family housing. In countries like South Korea, where housing shortages and other factors make it difficult to support families, most personnel are assigned for only one year without their families.

This option assumes adoption of one-year unaccompanied tours in Europe for almost all U.S. military personnel assigned there. Longer, accompanied tours would still be permitted for a few key personnel who need to remain overseas longer to ensure continuity in U.S. operations. This change would be phased in over three years, starting in 1995. When fully in effect, the new policy should permit elimination of all overseas schools for dependents, family centers, family housing, and some commissaries and other support facilities. The added costs associated with moving military personnel more often would be offset by savings in other areas. Together, these actions would reduce overseas support costs by $240 million in 1995 and by a total of $1.5 billion through 1999, compared with costs under the CBO baseline. This option is consistent with the Clinton Administration's plans to limit U.S. troops in Europe to 100,000 by 1995 and to maintain the current troop level in Korea.

Additional savings not reflected in these estimates might eventually be realized if the number of hospitals and other facilities that cater to dependents can be reduced. However, there could be greater costs, also not reflected in the estimates, for federal Impact Aid for schools in U.S. localities where military dependents would increase in number.

This option would primarily affect personnel in the Army and Air Force, who accounted for more than 90 percent of U.S. military personnel in Europe at the end of 1993. Even though many—perhaps as many as half—of the positions in Europe could be filled by unmarried personnel, the shift to short, unaccompanied tours would increase the portion of married Army and Air Force personnel serving without their families. By 1997, that share would rise from today's level of about 8 percent to about 12 percent, which is the current level for Navy and Marine Corps personnel. However, the share of Army personnel serving without their families would be almost double current levels, but still only one-third higher than the rates typical for Navy personnel.

Coupled with the increased disruptions associated with the ongoing drawdown of U.S. military forces, this increase in time away from their families might cause some Army and Air Force personnel to leave the military. Although such departures would be unlikely to cause shortages of skilled personnel during the current drawdown, lower retention could be a problem in the future. Shorter tours would also increase turnover among personnel in Europe, which could adversely affect readiness by reducing the amount of time units train together. Finally, some headquarters or support positions could require the continuity provided by longer tours.

Some of the problems associated with shorter tours could be minimized by the force drawdown or policy changes. The Congress has mandated a reduction of troops in Europe of about 65 percent between 1990 and 1995, compared with the 25 percent decrease in overall forces. As a result, fewer military personnel will face the prospect of unaccompanied tours, thus reducing any negative effects on retention. To counter the effect of higher turnover on readiness, entire units rather than individuals could be rotated; in this way, individuals would already be accustomed to operating as a unit. Finally, for those positions that require continuity, longer accompanied tours could be permitted with special provisions for educational and other support.

Adverse effects of unaccompanied tours would be further reduced if U.S. forces in Europe were cut even more. Some military analysts and policy makers have suggested that 50,000 or 75,000 U.S. military personnel in Europe may be adequate in view of the greatly diminished threat to European security posed by the republics of the former Soviet Union. Moreover, if only a small force was stationed in Europe, the per capita cost of maintaining schools, commissaries, and other support facilities would grow sharply, thereby encouraging a shift to unaccompanied tours.•

By Mr. GLENN (for himself and Mr. AKAKA):

S. 2218. A bill to provide authorization of appropriations for the Federal Emergency Food and Shelter Program for the fiscal years 1995 and 1996; to the Committee on Governmental Affairs.

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM REAUTHORIZATION

• Mr. GLENN. Mr. President, today I am introducing legislation to reauthorize the Emergency Food and Shelter Board Program. This bill would reauthorize the Emergency Food and Shelter National Board Program at its current reauthorization level of $187,560,000 million for fiscal years 1995 and 1996.

The Emergency Food and Shelter National Board Program was first created on March 24, 1983, through the jobs stimulus bill Public Law 98-8. The bill initially provided $50 million for emergency food and shelter to FEMA for allocation by a National Board between March 1983 and March 1984. Because the need for these emergency food and shelter services persisted and, in fact, grew, funds continued to be appropriated to the program through the mid-1980's. In July 1987, the Stewart B. McKinney Homeless Assistance Act Public Law 100-77, authorized the Emergency Food and Shelter National Board Program for assistance to counties in every State.

The Emergency Food and Shelter [EFS] National Board Program is chaired by the Federal Emergency Management Agency [FEMA] and includes representatives of various national nonprofits, such as the United Way of America, the Salvation Army, the National Council of Churches of Christ in the U.S.A., Catholic Charities, USA, the Council of Jewish Federations, Inc., and the American Red Cross. The National Board brings Federal agencies, State entities, and local nonprofit groups together in a unique and highly successful effort to assist those most in need. In addition to the dedication and experience of FEMA and these nonprofit, EFS has become a model McKinney program by adhering to five operation principles: speedy administration and funding, award to areas of greatest need, local decision-making, public/private sector cooperation, and minimum but accountable reporting.

This program's funds are distributed on a formula basis, straight to emergency shelters, soup kitchens, and other nonprofit groups in every State. Because each locality has a local board mirroring the structure of the national board, EFS funds are allocated quickly. Last year, within three months, EFS has already paid out 95 percent of its funds. And, unlike what happens in most programs, a negligible percentage of the National Board's funds are spent on administrative costs. Because each nonprofit organization raises almost all of its own funds for administration, last year, EFS only spent 1.4 percent of its funds on administration.

As chairman of the Governmental Affairs Committee, I know the importance of this program. While this program was never intended per se to address or correct structural poverty or longstanding problems, EFS continues to assist many people through the emergency shelters and feeding programs and homeless prevention activities which it funds. While some may debate that the national housing and hunger emergency which spurned EFS no longer exists, this is not so. A housing and hunger emergency can strike a person at any time.

On June 14, 1994, Dr. Dennis P. Culhane of the University of Pennsylvania testified before the Committee on Governmental Affairs regarding his recent study of the homeless population in New York and Philadelphia. Dr. Culhane found that contrary to popular belief, most homeless people are not chronically homeless. In fact, the large majority of homeless in this country became temporarily homeless due to temporary housing emergencies, usually caused by job loss and eviction. EFS is one of the few McKinney programs which helps this population before they lose their jobs and homes and become homeless. In addition to emergency shelters, EFS can help people remain in their homes through the aid of homeless prevention activities, such as emergency cash assistance and eviction prevention. By aiding individuals and families before they become homeless, EFS can save people from the disruption of family, work, and education that homelessness can impose.

EFS addresses the needs of hunger, as well as shelter. In a recent study on hunger in the United States, Second Harvest found that a staggering 10.4 percent of the population—25,970,319 Americans, of which 11,141,267 were under age 18—rely on food pantries, soup kitchens, homeless shelters, and other emergency feeding programs for food. I would point out that almost half of these 26 million people did not expect to need assistance 3 months prior to visiting the food pantries, a fact which speaks to how quickly a food and housing emergency can strike American families. Studies such as those of Dr. Culhane and Second Harvest prove that the need for programs like EFS still exists.

Mr. President, I believe that in light of the need for emergency services and the past success of the EFS program under FEMA, we must reauthorize this program. While I am not proposing any increase in the reauthorization level for fiscal years 1995 and 1996, I would hope that the appropriations for this program could be brought up to the authorization level. At a time when people continue to face crises unimagined in their own lives and when the very services we have provided so far are, in some cases, the only hope they see for survival, we cannot and must not turn our backs and do nothing. I urge my colleagues to join with me in cosponsoring and passing this vital legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2218

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 322 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11352) is amended to read as follows:

"SEC. 322. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $187,560,000 for each of fiscal years 1995 and 1996.".•

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S. 2219. A bill to amend the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to improve natural gas and hazardous liquid pipeline safety, in response to the natural gas pipeline accident in Edison, NJ, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NATURAL GAS PIPELINE SAFETY IMPROVEMENT ACT OF 1994

• Mr. LAUTENBERG. Mr. President, today I am introducing the Natural Gas Pipeline Safety Improvement Act of 1994. This bill will dramatically decrease the chances of pipeline accidents and reduce the risks that those who live, work, or go to school in the vicinity of a pipeline are currently exposed to.

This bill is designed to prevent disasters like the one which occurred on the evening of March 23 in Edison, NJ. The whole Nation witnessed the ball of fire over Edison in the wake of the explosion. Every American who saw that image on television shuddered.

All too often, when a disaster happens, people focus on it for a few days and then shift their attention to other events. That has not happened in the wake of the Edison explosion and will not happen. We can't afford to let it. And neither Senator BRADLEY or Congressman PALLONE, who represents Edison, or I will allow it to just fade away.

I won't let it happen because I saw the destruction in Edison after the explosion. It was devastating to the families involved and traumatic to all residents of my State, which is crisscrossed with similar pipelines. I have also seen the psychological problems it created. I have talked to the families who lost everything but the clothes on their backs. I have seen the emotional fallout—the children and adults who replay the events of that evening each and every night before they drift into a fitful sleep.

Edison is not an isolated event. Since that terrible night of March 23, there have been other pipeline problems. And there were events that preceded it. My major concern is what happened in Edison, but we must make sure that it doesn't happen in any community, to any American.

Senator BRADLEY and I believe that if this bill had been law before that fateful night in March things could have been very different.

Let me briefly describe the five major elements of our legislation.

First, we want to beef up compliance with existing laws by making sure that we conduct regular oversight inspections of corporations with pipeline operations around the country.

Our bill authorizes the U.S. Department of Transportation to recoup the cost of accident investigations from pipeline companies so that these regular inspections are not interrupted when personnel and resources from the Office of Pipeline Safety are diverted to investigate a major pipeline failure.

Second, we want to prevent accidents before they happen. Our legislation will increase funding to States to advertise one-call notification systems and expand the DOT role in pipeline safety to include pipeline safety awareness programs.

One-call notification systems require contractors to learn the location of underground facilities before they dig.

Third, we need to have an adequate data base so we can cope with the potential problems we face. Our bill directs the Secretary to establish an electronic data system on existing pipelines.

This system will provide information on the nature, extent, and geographic location of pipeline facilities in order to facilitate risk assessment and safety planning with respect to such facilities.

Fourth, we need to target attention to areas where the greatest potential threat exists. Our proposal will increase inspection and siting requirements for pipelines in high density population areas. It would also recruit residents in the vicinity of a pipeline to report suspicious dumping or digging on a pipeline right-of-way.

Finally, we need to have stronger punishment to deter negligent or willful violations of law. Our bill would make it a Federal crime to illegally dump on pipeline rights-of-way and mandate the installation and use of remotely controlled shut-off valves.

This legislation is an initial response to the pipeline problem. We need to explore other solutions and that process is ongoing.

Secretary Peña has been enormously responsive in the wake of this disaster. Shortly after the explosion, when we toured the site, he pledged to develop a comprehensive response. Together, we laid out a series of steps the U.S. Department of Transportation could take immediately to prevent future disasters. The Secretary has been a man of his word.

Already, Secretary Peña has requested more resources to provide better regulatory monitoring and oversight of our Nation's pipeline system. I intend to fund that effort in this year's transportation appropriations bills. He also approved a $1.2 million grant to the New Jersey Institute of Technology to advance research in pipeline safety, as well as, direct his Office of Pipeline Safety to undertake a complete assessment of potential safety risks of gas pipeline in our State.

At that time, Secretary Peña also agreed to my request to bring experts on pipelines and pipeline safety together to discuss ways to improve the system. As a result of his commitment, and the hard work of the Department of Transportation's Office of Pipeline Safety, yesterday a pipeline safety summit was held in New Jersey.

The summit was designed to develop a public/private agenda that establishes priorities for pipeline safety initiatives and identifies the next steps needed to make them a reality.

The report developed from the suggestions at this summit will form a blueprint for action. Secretary Peña will submit them in legislative form to me for presentation to the Congress. I expect that report, including additional legislative proposals, in the next couple of months.

In the meantime, I would like to remind my colleagues that no State in the union is exempt from the type of disaster that happened in Edison, N.J. I would encourage all of my colleagues to examine and cosponsor the Natural Gas Pipeline Safety Improvement Act of 1994.

Mr. President, I ask unanimous consent that the text of the Natural Gas Pipeline Safety Improvement Act of 1994 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2219

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Natural Gas Pipeline Safety Improvement Act of 1994".

SEC. 2. RECOVERY BY SECRETARY OF TRANSPORTATION OF COSTS OF INVESTIGATION OF CERTAIN PIPELINE ACCIDENTS.

(a) NATURAL GAS PIPELINE ACCIDENTS.—Section 14 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1681) is amended by adding at the end the following:

"(g)(1)(A) Subject to paragraphs (2) and (3), the Secretary may recover from any person who engages in the transportation of gas, or who owns or operates pipeline facilities, the costs incurred by the Secretary—

"(i) in investigating an accident with respect to such transportation or facilities; and

"(ii) in overseeing the response of the person to the accident.

"(B) For the purposes of this paragraph, the costs incurred by the Secretary in an investigation of an accident may include the cost of hiring additional personnel (including personnel to support monitoring activities by the Office of Pipeline Safety), the cost of tests or studies, and travel and administrative costs associated with the investigation.

"(2) The Secretary may not recover costs under this subsection with respect to an accident unless the accident—

"(A) results in death or personal injury; or

"(B) results in property damage (including the cost of any lost natural gas) and environmental damage (including the cost of any environmental remediation) in an amount in excess of $250,000.

"(3) The amount that the Secretary may recover under this subsection with respect to an accident may not exceed $500,000.

"(4)(A) Amounts recovered by the Secretary under this subsection shall be available to the Secretary for purposes of the payment of the costs of investigating and overseeing responses to accidents under this subsection. Such funds shall be available to the Secretary for such purposes without fiscal year limitation.

"(B) Such amounts shall be used to supplement and not to supplant other funds made available to the Secretary for such purposes.".

(b) HAZARDOUS LIQUID PIPELINE ACCIDENTS.—Section 211 of the Hazardous Liquid Pipeline Safety Act of 1979 (title II of Public Law 96–129; 49 U.S.C. App. 2010) is amended by adding at the end the following:

"(g)(1)(A) Subject to paragraphs (2) and (3), the Secretary may recover from any person who engages in the transportation of hazardous liquids, or who owns or operates pipeline facilities, the costs incurred by the Secretary—

"(i) in investigating an accident with respect to such transportation or facilities; and

"(ii) in overseeing the response of the person to the accident.

"(B) For the purposes of this paragraph, the costs incurred by the Secretary in an investigation of an accident may include the cost of hiring additional personnel (including personnel to support monitoring activities by the Office of Pipeline Safety), the cost of tests or studies, and travel and administrative costs associated with the investigation.

"(2) The Secretary may not recover costs under this subsection with respect to an accident unless the accident—

"(A) results in death or personal injury; or

"(B) results in property damage (including the cost of any lost hazardous liquid) and environmental damage (including the cost of any environmental remediation) in an amount in excess of $250,000.

"(3) The amount that the Secretary may recover under this subsection with respect to an accident may not exceed $500,000.

"(4)(A) Amounts recovered by the Secretary under this subsection shall be available to the Secretary for purposes of the payment of the costs of investigating and overseeing responses to accidents under this subsection. Such funds shall be available to the Secretary for such purposes without fiscal year limitation.

"(B) Such amounts shall be used to supplement and not to supplant other funds made available to the Secretary for such purposes.".

SEC. 3. GRANTS TO STATES AND ONE-CALL NOTIFICATION SYSTEMS TO PROMOTE USE OF SUCH SYSTEMS.

(a) GRANTS TO STATES.—Subsection (c) of section 20 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1687) is amended by adding at the end the following: "The Secretary may make a grant to a State for development and establishment of a one-call notification system only if the State ensures that the cost of establishing and operating the system are shared equitably by persons owning or operating underground facilities.".

(b) GRANTS TO SYSTEMS.—Such subsection is further amended—

(1) by striking "GRANTS TO STATES.—" and inserting "GRANTS TO STATES AND SYSTEMS.—(1)"; and

(2) by adding at the end the following:

"(2)(A) The Secretary may also make grants to one-call notification systems for activities relating to the promotion of the utilization of such systems.

"(B) The Secretary shall ensure that the Federal share of the cost of the activities referred to in subparagraph (A) under any grant made under this paragraph does not exceed 50 percent of the cost of such activities.".

(c) SANCTIONS.—Subsection (b)(9) of such section is amended by inserting ", or that would provide for effective civil or criminal penalty sanctions or equitable relief appropriate to the nature of the offense" after "12 of this Act".

(d) CONFORMING AMENDMENT.—Subsection (f) of such section is amended by striking out "subsection (c)" and inserting in lieu thereof "subsection (c)(1)".

SEC. 4. PREVENTION OF DAMAGE TO PIPELINE FACILITIES.

(a) NATURAL GAS PIPELINE FACILITIES.—Section 14(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1681(a)) is amended by inserting after "and training activities" the following: "and promotional activities relating to prevention of damage to pipeline facilities".

(b) HAZARDOUS LIQUID PIPELINE FACILITIES.—Section 211(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (title II of Public Law 96–129; 49 U.S.C. App. 2010(a)) is amended by inserting after "and training activities" the following: "and promotional activities relating to prevention of damage to pipeline facilities".

SEC. 5. ELECTRONIC DATA ON PIPELINE FACILITIES FOR RISK ASSESSMENT AND SAFETY PLANNING.

(a) AUTHORITY TO DEVELOP.—The Secretary of Transportation may develop an electronic data base containing uniform information on the nature, extent, and geographic location of pipeline facilities. The purpose of the data base shall be to provide information on such facilities to the Secretary, owners of pipeline facilities, as persons engaged in transporting gas or hazardous liquids through pipeline facilities, and for secured use by State agencies concerned with land use planning, environmental regulation, and pipeline regulatory oversight, in order to facilitate risk assessment and safety planning with respect to such facilities.

(b) CONTRACT AND GRANT AUTHORITY.—(1) Subject to paragraph (2), the Secretary may develop the data base described under subsection (a) by entering into contracts or cooperative agreements with any entity that the Secretary determines appropriate for that purpose and by making grants to States or institutions of higher education for that purpose.

(2) The Secretary shall ensure that the Federal share of the cost of any activities carried out under a grant or cooperative agreement made under this subsection does not exceed 50 percent of the cost of such activities.

(c) USE OF GEOGRAPHIC INFORMATION SYSTEM TECHNOLOGY.—In developing the data base described in subsection (a), the Secretary shall, to the maximum extent practicable, develop a data base that—

(1) utilizes Geographic Information System technology or any similar technology providing data of an equivalent quality and usefulness; and

(2) permits ready incorporation of data and information from a variety of sources.

(d) DEFINITION.—For purposes of this section, the term "pipeline facility" has the meaning given such term in section 20(e) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1687(e)).

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) NATURAL GAS PIPELINE SAFETY ACT OF 1968.—(1) Section 17(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684(a)) is amended—

(A) in paragraph (12), by striking "and";

(B) by striking paragraph (13); and

(C) by adding after paragraph (12) the following new paragraphs:

"(13) $20,000,000 for the fiscal year ending September 30, 1995;

"(14) $30,000,000 for the fiscal year ending September 30, 1996; and

"(15) $35,000,000 for the fiscal year ending September 30, 1997.".

(2) Section 17(c) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684(c)) is amended by striking "and $10,000,000 for the fiscal year ending September 30, 1995" and inserting in lieu thereof "$16,500,000 for the fiscal year ending September 30, 1995, $19,000,000 for the fiscal year ending September 30, 1996, and $21,500,000 for the fiscal year ending September 30, 1997".

(b) HAZARDOUS LIQUID PIPELINE SAFETY ACT OF 1979.—Section 214(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2013(a)) is amended—

(1) in paragraph (12), by striking "and";

(2) by striking paragraph (13); and

(3) by adding after paragraph (12) the following new paragraphs:

"(13) $7,000,000 for the fiscal year ending September 30, 1995;

"(14) $10,000,000 for the fiscal year ending September 30, 1996; and

"(15) $11,000,000 for the fiscal year ending September 30, 1997.".

SEC. 7. SITING OF INTERSTATE TRANSMISSION FACILITIES.

(a) SITING GUIDELINES.—Within 2 years after the date of enactment of this Act, the Federal Energy Regulatory Commission shall review its practices and guidelines for siting natural gas interstate transmission facilities in urban areas to determine whether changes are needed in the areas of—

(1) selecting routes for pipelines; and

(2) determining the appropriate width of rights-of-way.

(b) EDUCATIONAL INFORMATION FOR LOCAL JURISDICTIONS.—(1)(A) Within 2 years after the date of enactment of this Act, the Secretary, in consultation with the Federal Energy Regulatory Commission, shall make educational information available, regarding natural gas interstate transmission facilities permits and rights-of-way and issues with respect to development in the vicinity of such interstate transmission facilities, for distribution to appropriate agencies of local governments with jurisdiction over the lands through which natural gas interstate transmission facilities pass.

(B) For purposes of this section, the term "interstate transmission facilities" has the meaning given such term in section 2(8) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671(8)).

(2)(A) Within 2 years after the date of enactment of this Act, the Secretary shall make educational information available, regarding hazardous liquid interstate pipeline facilities rights-of-way and issues with respect to development in the vicinity of such interstate pipeline facilities, for distribution to appropriate agencies of local governments with jurisdiction over the lands through which hazardous liquid interstate pipeline facilities pass.

(B) For purposes of this paragraph, the term "interstate pipeline facilities" has the meaning given such term in section 202(5) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001(5)).

(3) There are authorized to be appropriated to the Secretary of Energy for carrying out this subsection, $2,000,000, to remain available until expended.

SEC. 8. DUMPING WITHIN PIPELINE RIGHTS-OF-WAY.

(a) NATURAL GAS PIPELINE SAFETY ACT OF 1968.—

(1) AMENDMENT.—The Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671 et seq.) is amended by adding at the end the following new section:

"SEC. 22. DUMPING WITHIN PIPELINE RIGHTS-OF-WAY.

"(a) PROHIBITION.—No person shall excavate within the right-of-way of a natural gas interstate transmission facility, or any other limited area in the vicinity of such interstate transmission facility established by the Secretary, and dispose solid waste therein.

"(b) DEFINITION.—For purposes of this section, the term 'solid waste' has the meaning given such term in section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)).".

(2) CONFORMING AMENDMENT.—Section 11(a)(1) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1679a(a)(1)) is amended by striking "or section 20(h)" and inserting in lieu thereof ", section 20(h), or section 22(a)".

(b) HAZARDOUS LIQUID PIPELINE SAFETY ACT OF 1979.—

(1) AMENDMENT.—The Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001 et seq.) is amended by adding at the end the following new section:

"SEC. 221. DUMPING WITHIN PIPELINE RIGHTS-OF-WAY.

"(a) PROHIBITION.—No person shall excavate within the right-of-way of a hazardous liquid interstate pipeline facility, or any other limited area in the vicinity of such interstate pipeline facility established by the Secretary, and dispose solid waste therein.

"(b) DEFINITION.—For purposes of this section, the term 'solid waste' has the meaning given such term in section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)).".

(2) CONFORMING AMENDMENT.—Section 208(a)(1) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2007(a)(1)) is amended by inserting "or section 221(a)" after "section 207(a)".

SEC. 9. PERIODIC INSPECTION BY INSTRUMENTED INTERNAL INSPECTION DEVICES.

(a) NATURAL GAS PIPELINE SAFETY ACT OF 1968.—Section 3(g)(2) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672(g)(2)) is amended—

(1) by striking "Not later than 3 years after the date of the enactment of this paragraph" and inserting in lieu thereof "Not later than 1 year after the date of the enactment of the Natural Gas Pipeline Safety Improvement Act of 1994"; and

(2) in the first sentence, by inserting "and shall prescribe a schedule or schedules for such inspections" after "operator of the pipeline".

(b) HAZARDOUS LIQUID PIPELINE SAFETY ACT OF 1979.—Section 203(k)(2) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002(k)(2)) is amended—

(1) by striking "Not later than 3 years after the date of the enactment of this paragraph" and inserting in lieu thereof "Not later than 1 year after the date of the enactment of the Natural Gas Pipeline Safety Improvement Act of 1994"; and

(2) in the first sentence, by inserting "and shall prescribe a schedule or schedules for such inspections" after "operator of the pipeline".

SEC. 10. PROMOTING PUBLIC AWARENESS FOR NEIGHBORS OF PIPELINES.

(a) NATURAL GAS PIPELINE SAFETY ACT OF 1968.—Section 18 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1685) is amended by adding at the end the following new subsections:

"(c) PROMOTING PUBLIC AWARENESS FOR NEIGHBORS OF PIPELINES.—Not later than 1 year after the date of enactment of this subsection, and annually thereafter, the owner or operator of each interstate transmission facility shall notify all residents within 1000 yards, or such other distance as the Secretary determines appropriate, of such interstate transmission facility of—

"(1) the general location of the interstate transmission facility;

"(2) a request for reporting of any instances of excavation or dumping on or near the interstate transmission facility;

"(3) a phone number to use to make such reports; and

"(4) appropriate procedures for such residents to follow in response to accidents concerning interstate transmission facilities.

"(d) PUBLIC EDUCATION.—The Secretary shall develop, in conjunction with appropriate representatives of the natural gas pipeline industry, public service announcements to be broadcast or published to educate the public about pipeline safety.".

(b) HAZARDOUS LIQUID PIPELINE SAFETY ACT OF 1979.—Section 212 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2011) is amended by adding at the end the following new subsections:

"(e) PROMOTING PUBLIC AWARENESS FOR NEIGHBORS OF PIPELINES.—Not later than 1 year after the date of enactment of this subsection, and annually thereafter, the owner or operator of each interstate pipeline facility shall notify all residents within 1000 yards, or such other distance as the Secretary determines appropriate, of such interstate pipeline facility of—

"(1) the general location of the interstate pipeline facility;

"(2) a request for reporting of any instances of excavation or dumping on or near the interstate pipeline facility;

"(3) a phone number to use to make such reports; and

"(4) appropriate procedures for such residents to follow in response to accidents concerning interstate pipeline facilities.

"(f) PUBLIC EDUCATION.—The Secretary shall develop, in conjunction with appropriate representatives of the hazardous liquid pipeline industry, public service announcements to be broadcast or published to educate the public about pipeline safety.".

SEC. 11. REMOTELY OR AUTOMATICALLY CONTROLLED VALVES.

Section 3 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672) is amended by adding at the end the following new subsection:

"(l) REMOTELY OR AUTOMATICALLY CONTROLLED VALVES.—Not later than 18 months after the date of enactment of this subsection, the Secretary shall issue regulations requiring the installation and use, wherever technically and economically feasible, of remotely or automatically controlled valves that are reliable and capable of shutting off the flow of gas in the event of an accident, including accidents in which there is a loss of the primary power source. In developing proposed regulations, the Secretary shall consult with, and give special consideration to recommendations of, appropriate groups from the gas pipeline industry, such as the Gas Research Institute.".

SEC. 12. BASELINE INFORMATION.

(a) NATURAL GAS PIPELINE SAFETY ACT OF 1968.—Section 3(g) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672(g)) is amended by adding at the end the following new paragraph:

"(3) BASELINE INFORMATION.—Before transporting natural gas through a pipeline which, because of its design, construction, or replacement, is required by regulations issued under paragraph (1) to accommodate the passage of instrumented internal inspection devices, the owner or operator of such pipeline shall, using such a device, obtain baseline information with respect to the safety of the pipeline.".

(b) HAZARDOUS LIQUID PIPELINE SAFETY ACT OF 1979.—Section 203(k) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002(k)) is amended by adding at the end the following new paragraph:

"(3) BASELINE INFORMATION.—Before transporting hazardous liquids through a pipeline which, because of its design, construction, or replacement, is required by regulations issued under paragraph (1) to accommodate the passage of instrumented internal inspection devices, the owner or operator of such pipeline shall, using such a device, obtain baseline information with respect to the safety of the pipeline.".•

By Mr. PELL (by request):

S. 2220. A bill to provide for a United States contribution to the Inter-American Development Bank, and for other purposes; to the Committee on Foreign Relations.

U.S. CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

• Mr. PELL. Mr. President, by request, I introduce for appropriate reference a bill to provide for a U.S. contribution to the Inter-American Development Bank, and for other purposes.

This proposed legislation has been requested by the Department of the Treasury, and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the letter from the general counsel of the Department of the Treasury, which was received on April 29, 1994.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2220

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Inter-American Development Bank Act (22 U.S.C. 283 *et seq.*) is amended by adding at the end thereof the following new section:

"SEC. 37. CAPITAL INCREASE; INCREASE IN RESOURCES OF FUND FOR SPECIAL OPERATIONS

"(a) AUTHORITY TO VOTE FOR, AND TO SUBSCRIBE AND CONTRIBUTE TO, INCREASE IN AUTHORIZED CAPITAL STOCK OF BANK AND INCREASE IN RESOURCES OF FUND FOR SPECIAL OPERATIONS

"(1) VOTE AUTHORIZED.—The United States Governor of the Bank is authorized to vote for resolutions that—

"(A) were transmitted by the Board of Executive Directors to the Governors of the Bank by resolution of [ ], 1994;

"(B) are pending before the Board of Governors of the Bank; and

"(C) provide for—

"(i) an increase in the authorized capital stock of the Bank and subscriptions to the Bank; and

"(ii) an increase in the resources of the Fund for Special Operations and contributions to the Fund.

"(2) SUBSCRIPTION AND CONTRIBUTION AUTHORITY.—To the extent and in the amounts provided in advance in appropriations Acts, on adoption of the resolutions described in paragraph (1), the United States Governor of the Bank may, on behalf of the United States—

"(A) subscribe to 760,644 shares of the increase in the authorized capital stock of the Bank; and

"(B) contribute $82,304,000 to the Fund for Special Operations.

"(b) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—To pay for the subscription and contribution authorized under subsection (a), there are authorized to be appropriated, without fiscal year limitation, for payment by the Secretary of the Treasury—

"(1) $9,175,977,459 for the United States subscription to the capital stock of the Bank; and

"(2) $82,304,000 for the United States contribution to the Fund for Special Operations.

"(c) AUTHORITY TO VOTE FOR CERTAIN RESOLUTIONS.—The United States Governor of the Bank is authorized to vote for a proposed resolution of the Board of Governors entitled 'Amendments to the Agreement Establishing the Inter-American Development Bank, the Regulations of the Board of Governors, the General Rules Governing Admission of Nonregional Countries to Membership in the Bank, and the Regulations for the Election of Executive Directors,' which was submitted to the Board of Governors pursuant to a resolution of the Board of Executive Directors approved on [ ], 1994.".

DEPARTMENT OF THE TREASURY,
Washington, DC, April 26, 1994.

Hon. AL GORE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: I am pleased to transmit herewith a draft bill, "To authorize a United States contribution to the Inter-American Development Bank, and for other purposes."

This legislation would authorize the United States to participate in the recently concluded eighth replenishment of the Inter-American Development Bank (IDB). The replenishment will support an increased lending program to Latin America, establish new priorities in IDB lending, and recognize Latin America and the Caribbean as our trusted partners. It also significantly reduces the cost of U.S. participation in the IDB.

The size of the eighth replenishment is $40 billion for Ordinary Capital and $1 billion for the Fund for Special Operations (FSO). The U.S. will pay $25.6 million per year for six years for paid-in shares of Ordinary Capital, and $20.6 million per year for four years for the FSO. These payments and contributions, of course, are subject to obtaining necessary appropriations. The U.S. will also purchase 747,906 shares of callable capital, which will require program limitation in appropriations legislation.

With this replenishment, the U.S. share in the IDB will be lowered from 34.6 to 30 percent, thereby significantly reducing the U.S. annual payment for Ordinary Capital. The proposed legislation will also authorize the U.S. to agree to IDB Charter amendments that will allow the U.S. to maintain nearly all of its current rights and privileges. U.S. approval would be required before the IDB could make new FSO loans or adopt new FSO policies, and the U.S. presence or vote will be a critical element in all future meetings or mail votes of the IDB Board of Governors.

The reduction in the U.S. share in the IDB also permits a larger non-regional country presence in the IDB, which leverages significant new concessional resources for the FSO that will be used for the poorest countries of the region. The U.S. share of the $1 billion FSO replenishment is only 8.2 percent, compared to 41 percent under the previous replenishment.

The eighth replenishment is a major achievement for the United States and the IDB. The IDB's lending program will be reoriented to ensure that positive economic gains made in many Latin American and Caribbean countries are expanded to include all strata of society. The IDB's objective is to increase social sector lending to 40 percent of total lending by volume, and 50 percent of total number of operations.

In order to expand economic opportunity, operational changes are being made, the type and scope of lending for the social sectors will be expanded, and projects will be targeted more narrowly at the poor and disenfranchised. Lending in the social sectors will focus on primary and preventative health care, with an emphasis on maternal and child health care, inoculations and nutrition, family planning, expanded support for the role of women and other disenfranchised groups, basic education, vocational training and adult education, support for good governance, and improvements in water supply, sewage and sanitation.

The eighth replenishment also places a premium on lending to support the environment. The IDB will increase environmentally beneficial lending and encourage borrowing countries to improve protection of the environment, including the global environment. The IDB will also encourage energy efficiency and conservation, establish a water resources policy and incorporate resettlement policies into its environmental assessments. Further, the IDB will continue to support the conservation, reforestation and rehabilitation of forests and will not finance commercial logging in primary tropical moist forests. The replenishment agreement also will result in increased public participation by ensuring that environmental information is available to the public in both donor and borrowing countries throughout the project cycle.

In connection with the eighth replenishment, the United States has commitments from Bank management and other Bank members to establish an independent inspection function, which would include a panel of independent experts to investigate allegations that the IDB had failed to adhere to its own operational policies. IDB management is committed to propose a comprehensive disclosure policy based on the assumption that, in the absence of a reason for confidentiality, information will be released.

It would be appreciated if you would lay the draft bill before the Senate. An identical draft bill has been transmitted to the Speaker of the House of Representatives.

The Office of Management and Budget has advised that there is no objection to the transmittal of the draft bill to the Congress, and that its enactment would be in accord with the program of the President.

Sincerely,

JEAN E. HANSON,
General Counsel.•

By Mr. PELL (by request):

S. 2221. A bill to implement the obligations of the United States under the Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on Their Destruction, known as "the Chemical Weapons Convention" and opened for signature and signed by the United States on January 13, 1993; to the Committee on Foreign Relations.

CHEMICAL WEAPONS CONVENTION IMPLEMENTATION ACT OF 1994

• Mr. PELL. Mr. President, by request, I introduce for appropriate reference a bill to implement the obligations of the United States under the Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on Their Destruction, known as "the Chemical Weapons Convention" and opened for signature and signed by the United States on January 13, 1993. This act may be cited as the "Chemical Weapons Convention Implementation Act of 1994."

This proposed legislation has been requested by the U.S. Arms Control and Disarmament Agency, and I am introducing it in order that there may be a specific bill to which Members of the

Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the section-by-section analysis and the letter from the Director of the U.S. Arms Control and Disarmament Agency, which was received on June 2, 1994.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2221

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chemical Weapons Convention Implementation Act of 1994."

SEC. 2. TABLE OF CONTENTS

The table of contents for this Act is as follows—

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Congressional findings.
Sec. 4. Congressional declarations.
Sec. 5. Definitions.
Sec. 6. Severablity.

TITLE I.—NATIONAL AUTHORITY

Sec. 101 Establishment.

TITLE II.—APPLICATION OF CONVENTION PROHIBITIONS TO NATURAL AND LEGAL PERSONS

Sec. 201. Criminal provisions.
Sec. 202. Effective date.
Sec. 203. Restrictions on scheduled chemicals.

TITLE III.—DECLARATIONS BY CHEMICAL INDUSTRY

Sec. 301. Reporting of information.
Sec. 302. Disclosure of information or materials.
Sec. 303. Prohibited acts.

TITLE IV.—INSPECTIONS

Sec. 401. Inspections of chemical industry.
Sec. 402. Other inspections and lead agency.
Sec. 403. Prohibited acts.
Sec. 404. Penalties.
Sec. 405. Specific enforcement.
Sec. 406. Legal proceedings.
Sec. 407. Authority.

SEC. 3. CONGRESSIONAL FINDINGS.

The Congress makes the following findings—

(1) Chemical weapons pose a significant threat to the national security of the United States and are a scourge to humankind.

(2) The Chemical Weapons Convention is the best means of ensuring the nonproliferation of chemical weapons and their eventual destruction and forswearing by all nations.

(3) The verification procedures contained in the Chemical Weapons Convention and the faithful adherence of nations to them, including the United States, are crucial to the success of the Convention.

(4) The declarations and inspections required by the Chemical Weapons Convention are essential for the effectiveness of the verification regime.

SEC. 4. CONGRESSIONAL DECLARATIONS.

The Congress makes the following declarations—

(1) It shall be the policy of the United States to cooperate with other States Parties to the Chemical Weapons Convention and afford the appropriate form of legal assistance to facilitate the implementation of the prohibitions contained in title II of this Act.

(2) It shall be the policy of the United States, during the implementation of its obligations under the Chemical Weapons Convention, to assign the highest priority to ensuring the safety of people and to protecting the environment, and to cooperate as appropriate with other States Parties to the Convention in this regard.

(3) It shall be the policy of the United States to minimize, to the greatest extent practicable, the administrative burden and intrusiveness of measure to implement the Chemical Weapons Convention placed on commercial and other private entities, and to take into account the possible competitive impact of regulatory measures on industry, consistent with the obligations of the United States under the Convention.

SEC. 5. DEFINITIONS.

(a) IN GENERAL.—Except as otherwise provided in this Act, the definitions of the terms used in this Act shall be those contained in the Chemical Weapons Convention.

(b) OTHER DEFINITIONS.—(1) The term "Chemical Weapons Convention" means the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature on January 13, 1993.

(2) The term "national of the United States" has the same meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

(3) The term "United States," when used in a geographical sense, includes all places under the jurisdiction or control of the United States, including (A) any of the places within the provisions of section 101(41) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. Sec. 1301(41)), (B) any public aircraft or civil aircraft of the United States, as such terms are defined in sections 101(36) and (18) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. Secs. 1301(36) and 1301(18)), and (C) any vessel of the United States, as such term is defined in section 3(b) of the Maritime Drug Enforcement Act, as amended (46 U.S.C. App. Sec. 1903(b)).

(4) The term "person," except as used in section 201 of this Act and as set forth below, means (A) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, any State or any political subdivision thereof, or any political entity within a State, any foreign government or nation or any agency, instrumentality or political subdivision of any such government or nation, or other entity located in the United States; and (B) any legal successor, representative, agent or agency of the foregoing located in the United States. The phrase "located in the United States" in the term "person" shall not apply to the term "person" as used in the phrases "person located outside the territory" in sections 203(b), 203(c) and 302(c) of this Act and "person located in the territory" in section 203(b) of this Act.

(5) The term "Technical Secretariat" means the Technical Secretariat of the Organization for the Prohibition of Chemical Weapons established by the Chemical Weapons Convention.

SEC. 6. SEVERABILITY.

If any provision of this Act, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

TITLE I—NATIONAL AUTHORITY

SEC. 101. ESTABLISHMENT.

Pursuant to paragraph 4 of Article VII of the Chemical Weapons Convention, the President or the designee of the President shall establish the "United States National Authority" to, *inter alia*, serve as the national focal point for effective liaison with the Organization for the Prohibition of Chemical Weapons and other States Parties to the Convention.

TITLE II.—APPLICATION OF CONVENTION PROHIBITIONS TO NATURAL AND LEGAL PERSONS

SEC. 201. CRIMINAL PROVISIONS.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by—

(1) redesignating chapter 11A relating to child support as chapter 11B; and

(2) inserting after chapter 11 relating to bribery, graft and conflicts of interest the following new chapter:

"CHAPTER 11A—CHEMICAL WEAPONS

"Sec.
"227. Penalties and prohibitions with respect to chemical weapons.
"227A. Seizure, forfeiture, and destruction.
"227B. Injunctions.
"227C. Other prohibitions.
"227D. Definitions.

"SEC. 227. PENALTIES AND PROHIBITIONS WITH RESPECT TO CHEMICAL WEAPONS.

"(a) IN GENERAL.—Except as provided in subsection (b), whoever knowingly develops, produces, otherwise acquires, stockpiles, retains, directly or indirectly transfers, uses, owns or possesses any chemical weapon, or knowingly assists, encourages or induces, in any way, any person to do so, or attempts or conspires to do so, shall be fined under this title or imprisoned for life or any term of years, or both.

"(b) EXCLUSION.—Subsection (a) shall not apply to the retention, ownership or possession of a chemical weapon, that is permitted by the Chemical Weapons Convention pending the weapon's destruction, by any agency or department of the United States. This exclusion shall apply to any person, including members of the Armed Forces of the United States, who is authorized by any agency or department of the United States to retain, own or possess a chemical weapon, unless that person knows or would have known that such retention, ownership or possession is not permitted by the Chemical Weapons Convention.

"(c) JURISDICTION.—There is jurisdiction by the United States over the prohibited activity in subsection (a) if (1) the prohibited activity takes place in the United States or (2) the prohibited activity takes place outside of the United States and is committed by a national of the United States.

"(d) ADDITIONAL PENALTY.—The court shall order that any person convicted of any offense under this section pay to the United States any expenses incurred incident to the seizure, storage, handling, transportation and destruction or other disposition of property seized for the violation of this section.

"SEC. 227A SEIZURE, FORFEITURE, AND DESTRUCTION.

"(a) SEIZURE.—(1) Except as provided in paragraph (2), the Attorney General may request the issuance, in the same manner as provided for a search warrant, of a warrant authorizing the seizure of any chemical weapon defined in section 227D(2)(A) of this title that is of a type or quantity that under the circumstances is inconsistent with the purposes not prohibited under the Chemical Weapons Convention.

"(2) In exigent circumstances, seizure and destruction of any such chemical weapon described in paragraph (1) may be made by the Attorney General upon probable cause without the necessity for a warrant.

"(b) PROCEDURE FOR FORFEITURE AND DESTRUCTION.—Property seized pursuant to subsection (a) shall be forfeited to the United States. Except as inconsistent herewith, the provisions of chapter 46 of this title relating to civil forfeitures shall extend to a seizure or forfeiture under this section. The Attorney General shall provide for the destruction or other appropriate disposition of any chemical weapon seized and forfeited pursuant to this section.

"(c) AFFIRMATIVE DEFENSE.—It is an affirmative defense against a forfeiture under subsection (b) that—

"(1) such alleged chemical weapon is for a purpose not prohibited under the Chemical Weapons Convention; and

"(2) such alleged chemical weapon is of a type and quantity that under the circumstances is consistent with that purpose.

"(d) OTHER SEIZURE, FORFEITURE, AND DESTRUCTION.—

"(1) Except as provided in paragraph (2), the Attorney General may request the issuance, in the same manner as provided for a search warrant, of a warrant authorizing the seizure of any chemical weapon defined in section 227D(2) (B) or (C) of this title that exists by reason of conduct prohibited under section 227 of this title.

"(2) In exigent circumstances, seizure and destruction of any such chemical weapon described in paragraph (1) may be made by the Attorney General upon probable cause without the necessity for a warrant.

"(3) Property seized pursuant to this subsection shall be summarily forfeited to the United States and destroyed.

"(e) ASSISTANCE.—The Attorney General may request assistance from any agency or department in the handling, storage, transportation or destruction of property seized under this section.

"(f) OWNER LIABILITY.—The owner or possessor of any property seized under this section shall be liable to the United States for any expenses incurred incident to the seizure, including any expenses relating to the handling, storage, transportation and destruction or other disposition of the seized property.

"SEC. 227B. INJUNCTIONS.

"(a) IN GENERAL.—The United States may obtain in a civil action an injunction against—

"(1) the conduct prohibited under section 227 of this title;

"(2) the preparation or solicitation to engage in conduct prohibited under section 227 of this title; or

"(3) the development, production, other acquisition, stockpiling, retention, direct or indirect transfer, use, ownership or possession, or the attempted development, production, other acquisition, stockpiling, retention, direct or indirect transfer, use, ownership or possession, of any alleged chemical weapon defined in section 227D(2)(A) of this title that is of a type or quantity that under the circumstances is inconsistent with the purposes not prohibited under the Chemical Weapons Convention, or the assistance to any person to do so.

"(b) AFFIRMATIVE DEFENSE.—It is an affirmative defense against any injunction under subsection (a)(3) that—

"(1) the conduct sought to be enjoined is for a purpose not prohibited under the Chemical Weapons Convention; and

"(2) such alleged chemical weapon is of a type and quantity that under the circumstances is consistent with that purpose.

"SEC. 227C. OTHER PROHIBITIONS.

"(a) IN GENERAL.—Except as provided in subsection (b), whoever knowingly uses riot control agents as a method of warfare, or knowingly assists any person to do so, shall be fined under this title or imprisoned for a term of not more than ten years, or both.

"(b) EXCLUSION.—Subsection (a) shall not apply to members of the Armed Forces of the United States. Members of the Armed Forces of the United States who use riot control agents as a method of warfare shall be subject to appropriate military penalties.

"(c) JURISDICTION.—There is jurisdiction by the United States over the prohibited activity in subsection (a) if (1) the prohibited activity takes place in the United States or (2) the prohibited activity takes place outside of the United States and is committed by a national of the United States.

"SEC. 227D. DEFINITIONS.

"As used in this chapter, the term—

"(1) 'Chemical Weapons Convention' means the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature on January 13, 1993;

"(2) 'chemical weapon' means the following, together or separately:

"(A) a toxic chemical and its precursors, except where intended for a purpose not prohibited under the Chemical Weapons Convention, as long as the type and quantity is consistent with such a purpose;

"(B) a munition or device, specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in subparagraph (A), which would be released as a result of the employment of such munition or device; or

"(C) any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (B);

"(3) 'toxic chemical' means any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. This includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere;

"(4) 'precursor' means any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. This includes any key component of a binary or multicomponent chemical system;

"(5) 'key component of a binary or multicomponent chemical system' means the precursor which plays the most important role in determining the toxic properties of the final product and reacts rapidly with other chemicals in the binary or multicomponent system;

"(6) 'purpose not prohibited under the Chemical Weapons Convention' means—

"(A) industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes;

"(B) protective purposes, namely those purposes directly related to protection against toxic chemicals and to protection against chemical weapons;

"(C) military purposes not connected with the use of chemical weapons and not dependent on the use of the toxic properties of chemicals as a method of warfare; or

"(D) law enforcement purposes, including domestic riot control purposes;

"(7) 'national of the United States' has the same meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(8) 'United States,' when used in a geographical sense, includes all places under the jurisdiction or control of the United States, including (A) any of the places within the provisions of section 101(41) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. Sec. 1301(41)), (B) any public aircraft or civil aircraft of the United States, as such terms are defined in sections 101(36) and (18) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. Secs. 1301(36) and 1301(18)), and (C) any vessel of the United States, as such term is defined in section 3(b) of the Maritime Drug Enforcement Act, as amended (46 U.S.C. App. Sec. 1903(b));

"(9) 'person' means (A) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, any State or any political subdivision thereof, or any political entity within a State, any foreign government or nation or any agency, instrumentality or political subdivision of any such government or nation, or other entity; and (B) any legal successor, representative, agent or agency of the foregoing; and

"(10) 'riot control agent' means any chemical not listed in a Schedule in the Annex on Chemicals of the Chemical Weapons Convention, which can produce rapidly in humans sensory irritation or disabling physical effects which disappear within a short time following termination of exposure."

(b) CLERICAL AMENDMENTS.—The table of chapters for part I of title 18, United States Code, is amended by—

(1) in the item for chapter 11A relating to child support, redesignating "11A" as "11B"; and

(2) inserting after the item for chapter 11 the following new item:

"11A. CHEMICAL WEAPONS .... 227."

SEC. 202. EFFECTIVE DATE.

This title shall take effect on the date the Chemical Weapons Convention enters into force for the United States.

SEC. 203. RESTRICTIONS ON SCHEDULED CHEMICALS.

(a) SCHEDULE 1 ACTIVITIES.—It shall be unlawful for any person or any national of the United States located outside the United States to produce, acquire, retain, transfer or use a chemical listed on Schedule 1 of the Annex on Chemicals of the Chemical Weapons Convention, unless—

(1) the chemicals are applied to research, medical, pharmaceutical or protective purposes;

(2) the types and quantities of chemicals are strictly limited to those that can be justified for such purposes; and

(3) the amount of such chemicals per person at any given time for such purposes does not exceed a limit to be determined by the United States National Authority, but in any case, does not exceed one metric ton.

(b) EXTRATERRITORIAL ACTS.—(1) It shall be unlawful for any person or any national of the United States located outside the United States to produce, acquire, retain or use a chemical listed on Schedule 1 of the Annex on Chemicals of the Chemical Weapons Convention outside the territories of the States Parties to the Convention or to transfer such chemicals to any person located outside the territory of the United States, except as provided for in the Convention for transfer to a person located in the territory of another State Party to the Convention.

(2) Beginning three years after the entry into force of the Chemical Weapons Convention, it shall be unlawful for any person or any national of the United States located outside the United States to transfer a chemical listed on Schedule 2 of the Annex on Chemicals of the Convention to any person located outside the territory of a State Party to the Convention or to receive such a chemical from any person located outside the territory of a State Party to the Convention.

(c) JURISDICTION.—There is jurisdiction by the United States over the prohibited activity in subsections (a) and (b) if (1) the prohibited activity takes place in the United States or (2) the prohibited activity takes place outside of the United States and is committed by a national of the United States.

TITLE III.—DECLARATIONS BY CHEMICAL INDUSTRY

SEC. 301. REPORTING OF INFORMATION.

(a) REPORTS.—The Department of Commerce shall promulgate regulations under which each person who produces, processes, consumes, exports or imports, or proposes to produce, process, consume, export or import, a chemical substance subject to the Chemical Weapons Convention shall maintain and permit access to such records and shall submit to the Department of Commerce such reports as the United States National Authority may reasonably require pursuant to the Chemical Weapons Convention. The Department of Commerce shall promulgate regulations pursuant to this title expeditiously, and may amend or change such regulations as necessary.

(b) COORDINATION.—To the extent feasible, the United States National Authority shall not require any reporting that is unnecessary, or duplicative of reporting required under any other Act. Agencies and departments shall coordinate their actions with other agencies and departments to avoid duplication of reporting by the affected persons under this Act or any other Act.

SEC. 302. DISCLOSURE OF INFORMATION OR MATERIALS.

(a) IN GENERAL.—Any information or materials reported to, or otherwise obtained by, the United States National Authority or the Department of Commerce, or any other agency or department under this Act or the Chemical Weapons Convention may be withheld from public disclosure or provision only to the extent permitted by law. Information or materials obtained from declarations or inspections required by the Chemical Weapons Convention, that are not already in the public domain, shall be withheld from public disclosure or provision and shall not be required to be disclosed pursuant to section 552 of title 5, United States Code, except that such information or material—

(1) shall be disclosed or otherwise provided to the Technical Secretariat or other States Parties to the Chemical Weapons Convention in accordance with the Convention, in particular, the provisions of the Annex on the Protection of Confidential Information;

(2) shall be made available to any committee or subcommittee of Congress of appropriate jurisdiction upon the written request of the chairman or ranking minority member of such committee or subcommittee, except that no such committee or subcommittee, or member thereof, shall disclose such information or material;

(3) shall be disclosed to other agencies or departments for law enforcement purposes with regard to this Act or any other Act, and may be disclosed or otherwise provided when relevant in any proceeding under this Act or any other Act, except that disclosure or provision in such a proceeding shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding; and

(4) may be disclosed, including in the form of categories of information, if the United States National Authority determines that such disclosure is in the national interest.

(b) NOTICE OF DISCLOSURE.—If the United States National Authority, pursuant to subsection (a)(4), proposes to publish or disclose or otherwise provide information or materials exempted from disclosure in subsection (a), the United States National Authority shall, where appropriate, notify the person who submitted such information or materials of the intent to release such information or materials. Where notice has been provided, the United States National Authority may not release such information or materials until the expiration of 30 days after notice has been provided.

(c) CRIMINAL PENALTY FOR WRONGFUL DISCLOSURE.—Any officer or employee of the United States or former officer or employee of the United States, who by virtue of such employment or official position has obtained possession of, or has access to, information or materials the disclosure or other provision of which is prohibited by subsection (a), and who knowing that disclosure or provision of such information or materials is prohibited by such subsection, willfully discloses or otherwise provides the information or materials in any manner to any person, including persons located outside the territory of the United States, not entitled to receive it, shall be fined under title 18, United States Code, or imprisoned for not more than five years, or both.

(d) INTERNATIONAL INSPECTORS.—The provisions of this section on disclosure or provision of information or materials shall also apply to employees of the Technical Secretariat.

SEC. 303. PROHIBITED ACTS.

It shall be unlawful for any person to fail or refuse to (a) establish or maintain records, (b) submit reports, notices, or other information to the Department of Commerce or the United States National Authority, or (c) permit access to or copying of records, as required by this Act or a regulation thereunder.

TITLE IV.—INSPECTIONS

SEC. 401. INSPECTIONS OF CHEMICAL INDUSTRY.

(a) AUTHORITY.—For purposes of administering this Act—

(1) any duly designated member of an inspection team of the Technical Secretariat may inspect any plant, plant site, or other facility or location in the United States subject to inspection pursuant to the Chemical Weapons Convention; and

(2) any duly designated representative of an agency or department may accompany members of an inspection team of the Technical Secretariat during the inspection specified in paragraph (1).

(b) NOTICE.—An inspection pursuant to subsection (a) may be made only upon issuance of a written notice to the owner and to the operator, occupant or agent in charge of the premises to be inspected, except that failure to receive a notice shall not be a bar to the conduct of an inspection. The notice shall be submitted to the owner and to the operator, occupant or agent in charge as soon as possible after the United States National Authority receives it from the Technical Secretariat. The notice shall include all appropriate information supplied by the Technical Secretariat to the United States National Authority regarding the basis for the selection of the plant site, plant, or other facility or location for the type of inspection sought, including, for challenge inspections pursuant to Article IX of the Chemical Weapons Convention, appropriate evidence or reasons provided by the requesting State Party to the Convention with regard to its concerns about compliance with the Chemical Weapons Convention at the facility or location. A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection.

(c) CREDENTIALS.—If the owner, operator, occupant or agent in charge of the premises to be inspected is present, a member of the inspection team of the Technical Secretariat, as well as, if present, the representatives of agencies or departments, shall present appropriate credentials before the inspection is commenced.

(d) TIMEFRAME FOR INSPECTIONS.—Consistent with the provisions of the Chemical Weapons Convention, each inspection shall be commenced and completed with reasonable promptness and shall be conducted at reasonable times, within reasonable limits, and in a reasonable manner. The Department of Commerce shall endeavor to ensure that, to the extent possible, each inspection is commenced, conducted and concluded during ordinary working hours, but no inspection shall be prohibited or otherwise disrupted for commencing, continuing or concluding during other hours. However, nothing in this subsection shall be interpreted as modifying the time frames established in the Chemical Weapons Convention.

(e) SCOPE.—(1) Except as provided in paragraph (2) of this subsection and subsection (f), an inspection conducted under this title may extend to all things within the premises inspected (including records, files, papers, processes, controls, structures and entering and exiting vehicles) related to whether the requirements of the Chemical Weapons Convention applicable to such premises have been complied with.

(2) To the extent possible consistent with the obligations of the United States pursuant to the Chemical Weapons Convention, no inspection under this title shall extend to—

(A) financial data;

(B) sales and marketing data (other than shipment data);

(C) pricing data;

(D) personnel data;

(E) research data;

(F) patent data; or

(G) data maintained for compliance with environmental or occupational health and safety regulations.

(f) FACILITY AGREEMENTS.—(1) Inspections of plants, plant sites, or other facilities or locations for which the United States has a facility agreement with the Organization for the Prohibition of Chemical Weapons shall be conducted in accordance with the facility agreement.

(2) Facility agreements shall be concluded for plants, plant sites, or other facilities or locations that are subject to inspection pursuant to paragraph 4 of Article VI of the Chemical Weapons Convention unless the owner and the operator, occupant or agent in charge of the facility and the Technical Secretariat agree that such an agreement is not necessary. Facility agreements should be concluded for plants, plant sites, or other facilities or locations that are subject to inspection pursuant to paragraphs 5 or 6 of Article VI of the Chemical Weapons Convention

if so requested by the owner and the operator, occupant or agent in charge of the facility.

(3) The owner and the operator, occupant or agent in charge shall, to the extent practicable consistent with the obligations of the United States under the Chemical Weapons Convention, participate in the negotiation of all facility agreements concluded pursuant to the Convention.

(g) SAMPLING AND SAFETY.—(1) The Department of Commerce is authorized to require the provision of samples to a member of the inspection team of the Technical Secretariat in accordance with the provisions of the Chemical Weapons Convention. The owner or the operator, occupant or agent in charge of the premises to be inspected shall determine whether the sample shall be taken by representatives of the premises or the inspection team or other individuals present.

(2) In carrying out their activities, members of the inspection team of the Technical Secretariat and representatives of agencies or departments accompanying the inspection team shall observe safety regulations established at the premises to be inspected, including those for protection of controlled environments within a facility and for personal safety.

(h) COORDINATION.—To the extent possible consistent with the obligations of the United States pursuant to the Chemical Weapons Convention, the representatives of the United States National Authority, the Department of Commerce and any other agency or department, if present, shall assist the owner and the operator, occupant or agent in charge of the premises to be inspected in interacting with the members of the inspection team of the Technical Secretariat.

SEC. 402. OTHER INSPECTIONS AND LEAD AGENCY.

(a) OTHER INSPECTIONS.—The provisions of this title shall apply, as appropriate, to all other inspections authorized by the Chemical Weapons Convention. For all inspections other than those conducted pursuant to paragraphs 4, 5, or 6 of Article VI of the Convention, the term "Department of Commerce" shall be replaced by the term "Lead Agency" in section 401.

(b) LEAD AGENCY.—For the purposes of this title, the term "Lead Agency" means the agency or department designated by the President or the designee of the President to exercise the functions and powers set forth in the specific provision, based, inter alia, on the particular responsibilities of the agency or department within the United States Government and the relationship of the agency or department to the premises to be inspected.

SEC. 403. PROHIBITED ACTS.

It shall be unlawful for any person to fail or refuse to permit entry or inspection, or to disrupt, delay or otherwise impede an inspection as required by this Act or the Chemical Weapons Convention.

SEC. 404. PENALTIES.

(a) CIVIL.—(1) Any person who violates a provision of section 203, 303, or 403 of this Act shall be liable to the United States for a civil penalty in an amount not to exceed $50,000 for each such violation. For purposes of this subsection, each day such a violation of section 403 continues shall constitute a separate violation of section 403.

(2)(A) A civil penalty for a violation of section 203, 303 or 403 of this Act shall be assessed by the Lead Agency by an order made on the record after opportunity (provided in accordance with this subparagraph) for a hearing in accordance with section 554 of title 5, United States Code. Before issuing such an order, the Lead Agency shall give written notice to the person to be assessed a civil penalty under such order of the Lead Agency's proposal to issue such order and provide such person an opportunity to request, within 15 days of the date the notice is received by such person, such a hearing on the order.

(B) In determining the amount of a civil penalty, the Lead Agency shall take into account the nature, circumstances, extent and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require.

(C) The Lead Agency may compromise, modify or remit, with or without conditions, any civil penalty which may be imposed under this subsection. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged.

(3) Any person who requested in accordance with paragraph (2)(A) a hearing respecting the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business. Such a petition may be filed only within the 30-day period beginning on the date the order making such assessment was issued.

(4) If any person fails to pay an assessment of a civil penalty—

(A) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with paragraph (3); or

(B) after a court in an action brought under paragraph (3) has entered a final judgment in favor of the Lead Agency;

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 30-day period referred to in paragraph (3) or the date of such final judgment, as the case may be) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount and appropriateness of such penalty shall not be subject to review.

(b) CRIMINAL.—Any person who knowingly violates any provision of section 203, 303, or 403 of this Act, shall, in addition to or in lieu of any civil penalty which may be imposed under subsection (a) for such violation, be fined under title 18, United States Code, imprisoned for not more than two years, or both.

SEC. 405. SPECIFIC ENFORCEMENT.

(a) JURISDICTION.—The district courts of the United States shall have jurisdiction over civil actions to—

(1) restrain any violation of section 203, 303 or 403 of this Act; and

(2) compel the taking of any action required by or under this Act or the Chemical Weapons Convention.

(b) CIVIL ACTIONS.—A civil action described in subsection (a) may be brought—

(1) in the case of a civil action described in subsection (a)(1), in the United States district court for the judicial district wherein any act, omission, or transaction constituting a violation of section 203, 303 or 403 of this Act occurred or wherein the defendant is found or transacts business; or

(2) in the case of a civil action described in subsection (a)(2), in the United States district court for the judicial district wherein the defendant is found or transacts business.

In any such civil action process may be served on a defendant wherever the defendant may reside or may be found, whether the defendant resides or may be found within the United States or elsewhere.

SEC. 406. LEGAL PROCEEDINGS.

(a) WARRANTS.—(1) The Lead Agency shall seek the consent of the owner or the operator, occupant or agent in charge of the premises to be inspected prior to the initiation of any inspection. Before or after seeking such consent, the Lead Agency may seek a search warrant from any official authorized to issue search warrants. Proceedings regarding the issuance of a search warrant shall be conducted *ex parte*, unless otherwise requested by the Lead Agency. The Lead Agency shall provide to the official authorized to issue search warrants all appropriate information supplied by the Technical Secretariat to the United States National Authority regarding the basis for the selection of the plant site, plant, or other facility or location for the type of inspection sought, including, for challenge inspections pursuant to Article IX of the Chemical Weapons Convention, appropriate evidence or reasons provided by the requesting State Party to the Convention with regard to its concerns about compliance with the Chemical Weapons Convention at the facility or location. The Lead Agency shall also provide any other appropriate information available to it relating to the reasonableness of the selection of the plant, plant site, or other facility or location for the inspection.

(2) The official authorized to issue search warrants shall promptly issue a warrant authorizing the requested inspection upon an affidavit submitted by the Lead Agency showing that—

(A) the Chemical Weapons Convention is in force for the United States;

(B) the plant site, plant, or other facility or location sought to be inspected is subject to the specific type of inspection requested under the Chemical Weapons Convention;

(C) the procedures established under the Chemical Weapons Convention and this Act for initiating an inspection have been complied with; and

(D) the Lead Agency will ensure that the inspection is conducted in a reasonable manner and will not exceed the scope or duration set forth in or authorized by the Chemical Weapons Convention or this Act.

(3) The warrant shall specify the type of inspection authorized; the purpose of the inspection; the type of plant site, plant, or other facility or location to be inspected; to the extent possible, the items, documents and areas that may be inspected; the earliest commencement and latest concluding dates and times of the inspection; and the identities of the representatives of the Technical Secretariat, if known, and, if applicable, the representatives of agencies or departments.

(b) SUBPOENAS.—In carrying out this Act, the Lead Agency may by subpoena require the attendance and testimony of witnesses and the production of reports, papers, documents, answers to questions and other information that the Lead Agency deems necessary. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In the event of contumacy, failure or refusal of any person to obey any such subpoena, any district court of the United States in which venue is proper shall have jurisdiction to order any such person to comply with such subpoena. Any failure to obey such an order of the court is punishable by the court as a contempt thereof.

(c) INJUNCTIONS AND OTHER ORDERS.—No court shall issue an injunction or other order that would limit the ability of the Technical Secretariat to conduct, or the United States National Authority or the Lead Agency to facilitate, inspections as required or authorized by the Chemical Weapons Convention.

SEC. 407. AUTHORITY.

The Lead Agency may issue such regulations as are necessary to implement this title and the provisions of the Chemical Weapons Convention, and amend or revise them as necessary. The Lead Agency shall have the authority to appoint officials to issue warrants pursuant to section 406(a) authorizing inspections pursuant to this title.

SECTION-BY-SECTION ANALYSIS OF THE PROPOSED CHEMICAL WEAPONS CONVENTION IMPLEMENTATION ACT OF 1994

OVERVIEW

The Chemical Weapons Convention (CWC) contains a number of provisions that require implementing legislation to give them effect within the United States. These include provisions on international inspections, declarations by the chemical industry, and the establishment of a "National Authority" to serve as the liaison between the United States and the international organization established by the CWC (the Organization for the Prohibition of Chemical Weapons or OPCW) and States Parties to the Convention. In addition, the CWC requires the United States to prohibit all individuals and legal entities within the United States, regardless of their nationality, and all individuals outside the United States possessing U.S. citizenship, from engaging in activities that are prohibited to the United States under the Convention. As part of this prohibition, the CWC requires the United States to enact "penal" legislation implementing this prohibition (i.e., enact legislation that penalizes conduct, either by criminal, administrative, military or other sanctions).

The proposed "Chemical Weapons Convention Implementation Act of 1994" contains six miscellaneous sections and four Titles. The six miscellaneous sections concern the short title of the Act, the table of contents, Congressional findings and declarations, definitions, and a severability clause. Title I provides specific authority for the President to establish the U.S. National Authority. Title II contains criminal prohibitions with regard to activities relating to chemical weapons (e.g., outlawing their possession, development and use) and the use of riot control agents as a method of warfare. This Title also implements the CWC's restrictions on activities related to Schedule 1 and 2 chemicals (the chemicals and their precursors of most risk to the object and purpose of the CWC), such as the prohibition on transfers to non-States Parties.

Title III contains provisions authorizing the United States to collect information from members of the chemical industry as required by the CWC, and outlaws the failure to provide such information. This Title also prohibits the disclosure of information or materials (e.g., samples) obtained under the CWC except to the OPCW and States Parties, to appropriate committees and subcommittees of the Congress, for law enforcement purposes, and when disclosure is determined to be in the national interest. Finally, this Title prohibits authorized disclosure of information or materials obtained pursuant to the Act.

Title IV sets forth procedures for the initiation and conduct of international inspections required by the CWC. This includes provisions regarding notice, credentials, inspection time frames and scope, facility agreements, sampling and safety, and U.s. Government coordination. It also contains legal mechanisms for ensuring that the United States can fulfill its CWC obligation to allow inspections, such as procedures for obtaining warrants. These also include outlawing the refusal to allow, or interference with, inspections. Finally, this Title sets forth the penalties for violations of the requirements to provide access and information and violations of the restrictions with regard to Schedule 1 and 2 chemicals.

The Act does not address the issues of privileges and immunities for members of the international inspection teams, export controls (other than the specific trade restrictions) and liabilities. The Administration believes that U.S. obligations under the CWC with regard to these issues are already adequately provided for in current law.

MISCELLANEOUS SECTIONS

The first part of the Act contains six sections that provide for the short title of the Act, a table of contents, Congressional findings and declarations, definitions, and a severability clause. Sections 1 and 2 are standard provisions regarding the short title of the Act and the table of contents. Section 3 contains four findings by the Congress. These findings were developed to demonstrate Congressional recognition, in turn, of the importance of the problems addressed by the Convention, the materiality of the Convention in solving these problems, the significance of the verification regime for the success of the Convention, and the necessity of declarations and inspections for the effectiveness of the verification regime. The intent is to provide a clear legislative recognition of the rationale and need for declarations and international inspections of facilities and locations within the United States.

Section 4 sets forth three declarations regarding U.S. policy on the provision of legal assistance to other States Parties to the Convention, on ensuring the safety of people and protection of the environment during the implementation of the Convention, and on minimizing the burden of the Convention on the U.S. business community, consistent with other U.S. obligations under the CWC. The first two declarations reinforce the identical undertakings by the United States contained in CWC Articles VII (2) and (3).

Section 5 contains a general provision incorporating the definitions set forth in the Convention and definitions of the following terms used in the Act: "Chemical Weapons Convention;" "national of the United States;" "United States;" "person;" and "Technical Secretariat." The first term is simply shorthand for the full title of the Convention. The term "national of the United States" utilizes the definition contained in section 101(a)(22) of the Immigration and Nationality Act.

The term "United States" reflects the geographic scope of the obligations of States Parties contained in the Convention, i.e., any place under the jurisdiction or control of a State Party (see, e.g., CWC Article I(2)). Places under the jurisdiction or control of the United States include U.S. territory and certain places outside the United States, such as U.S. overseas military bases and offshore oil platforms on the U.S. continental shelf. The definition specifies two such places—U.S. aircraft and vessels—by incorporating definitions for them contained in other existing law. This inclusion does not mean that any exceptions contained in these laws are also included. The overriding provision in the definition of the term "United States" is that the term includes "all places under the jurisdiction or control of the United States," not all places are defined in those other laws.

The term "person" is defined as broadly as possible to ensure that all possible entities within the United States that are covered by the provisions. Most uses of the term "person" in the Act refer to entities located in the United States. However, this definition also specifically sets forth the uses of the term "person" that include entities outside the United States, e.g., entities to whom Schedule 1 or 2 chemicals are transferred. Finally, the term "Technical Secretariat;" refers to the body of the OPCW responsible for conducting verification activities.

Section 6 contains a severability clause ensuring that if a section of the Act is later judged to be invalid, the other sections will remain in effect. While the Administration believes that the Convention and the Act are fully consistent with the U.S. Constitution, because of the unique constitutional considerations entailed in permitting international inspections of private facilities and locations within the United States, such a clause is prudent. Section 6 is modeled on nearly identical language contained in the Nuclear Nonproliferation Act, Public Law 95-242.

Title I—National Authority

Title I provides for the establishment of the "United States National Authority" to, *inter alia*, serve as the official liaison between the United States and the OPCW and other States Parties to the Convention. This is required by CWC Article VII(4), which states that "[i]n order to fulfill its obligations under [the CWC], each State Party shall designate or establish a National authority to serve as the national focal point for effective liaison with the [OPCW] and other States Parties. . . ." Section 101 requires the President to establish such a National Authority, but leaves it up to the Executive Branch to determine the appropriate structure. This structure will be set forth in detail in a forthcoming Executive Order.

Title II—Application of Convention Prohibitions to Natural and Legal Persons

Title II contains three sections. Specifically, it provides for criminal prohibitions with regard to activities relating to chemical weapons (e.g., outlawing their possession, development and use), as well as provisions authorizing the seizure, forfeiture and destruction of chemical weapons. In addition, it outlaws the use of riot control agents as a method of warfare. This Title also implements the CWC's restrictions on activities related to Schedule 1 and 2 chemicals, such as the prohibition on transfers to non-State Parties. Title II is intended to fulfill the obligation of the United States under the CWC to give full domestic legal effect to the Convention's prohibitions with regard to the activities of natural and legal persons. In addition, this Title is intended to provide law enforcement officials with the lawful authority to act in the interest of national security and public safety in all situations, including and beyond official activities undertaken to implement the Convention.

Section 201 sets forth criminal prohibitions and penalties with respect to chemical weapons, procedures for seizure, forfeiture and destruction of chemical weapons, provisions for injunctions on prohibited activities, prohibitions on the use of riot control agents as a method of warfare, and definitions pertaining to these provisions.

This section is specifically required by the CWC. CWC Article VII(1) provides that:

Each State Party shall, in accordance with its constitutional processes, adopt the necessary measures to implement its obligations under [the] Convention. In particular it shall:

(a) Prohibit natural and legal persons anywhere on its territory or in any other place under its jurisdiction as recognized by international law from undertaking any activity prohibited to a State Party under [the] Convention, including enacting penal legislation with respect to such activity;

(b) Not permit in any place under its control any activity prohibited to a State Party under [the] Convention; and

(c) Extend its penal legislation enacted under subparagraph (a) to any activity prohibited to a State Party under [the] Convention undertaken anywhere by natural persons, possessing its nationality, in conformity with international law.

CWC Article VII(1) is designed to extend the prohibition on activities by States Parties (primarily the CWC Article I prohibitions on the development, production, other acquisition, stockpiling, retention, transfer or use of chemical weapons) to activities by private individuals and legal entities, such as corporations. This was done as a means of ensuring that States Parties could not lawfully conduct prohibited activities through intermediaries and to place an affirmative obligation on States Parties to control prohibited activities within their legal or actual reach. It is understood that for a State Party to "prohibit" activities it must enact and enforce penal legislation governing the conduct of private individuals and legal entities. The term "penal" was understood by the negotiators to mean that the legislation can be of a criminal, civil, administrative, military or other such nature, so long as penalties are involved. According, the penalties proscribed in Title II include criminal, civil and military sanctions.

Title II (in particular section 201) is designed to fulfill the U.S. obligation contained in CWC Article VII(1). It addresses all of the prohibited activities contained in the CWC that the Administration believes require specific implementing legislation. (Other prohibitions are already covered by existing law or involve entirely governmental action for which individuals can be penalized by appropriate administrative or military sanctions.) Section 201 is modeled after similar language contained in the Biological Weapons Anti-Terrorism Act (BWATA), Public Law 101-298. That Act implements a comparable obligation contained in Article IV of the Biological Weapons Convention.

Subsection 201(a) consists of a new chapter 11A of the criminal code embodied in Title 18 of the U.S. Code and contains five sections numbered "227" through "227D." New Title 18, section 227, implements the prohibited activities contained in CWC Articles I(1) (a), (b), and (d). (Persons violating the CWC Article I(1)(c) prohibition on engaging in military preparations to use chemical weapons would be subject to military sanctions or other laws prohibiting U.S. persons from engaging in military activities.) Subsection 227(a) outlaws the knowing development, production, other acquisition, stockpiling, retention, direct or indirect transfer, use, ownership or possession of any chemical weapon, the assistance, encouragement or inducement of any person to do so, and the attempt or conspiracy to do so. Violators can be fined or imprisoned for life or any term of years, or both.

The language of subsection 227(a) is modeled on similar language in the BWATA, 18 U.S.C. 175(a). Subsection 227(a) clearly sets out the elements of the offense and establishes penalties that underscore the commitment of the United States to the total abolition of chemical weapons. The provision for imposing fines or confinement for life or any term of years (which mirrors the same penalties with regard to biological weapons) is intended to enable the courts to exercise discretion in sentencing. This will allow the punishment to be commensurate with the crime, whether, e.g., it be the terrorist use of a chemical weapon or a lesser offense adjudged under this subsection.

The language of subsection 227(a) establishing liability for one who "encourages or induces" prohibited activities is intended to implement CWC Article I(1)(d). That provision of Article I requires each State Party to undertake "never under any circumstances . . . [t]o assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party. . . ." Subsection 227(a) does not, however, affect the legitimate right to freedom of speech contained in the First Amendment to the U.S. Constitution.

Under the CWC the United States is permitted to retain at least part of its chemical weapons stockpile for up to ten years before all of it must be destroyed (or fifteen years if the United States seeks and receives a five-year extension from the OPCW). Chemical weapons also may be discovered at a later time, including after the ten-year destruction deadline has passed. Subsection 227(b) therefore acts to permit the retention, ownership or possession of these chemical weapons by any agency or department of the United States or any person, including members of the U.S. armed forces, acting with the authorization of any agency or department of the United States pending the weapon's destruction. The exclusion from the general prohibition for individuals is patterned after the obedience to orders defense in military law, i.e., authorization is presumed to be legal unless the individual knows or should have known that it is not. The jurisdictional reach of this section required by CWC Article VII(1) is set forth in subsection 227(c). Finally, as discussed below, subsection 227(d) contains additional penalties related to chemical weapons.

New Title 18, section 227A provides the Attorney General the authority to seek the seizure, civil forfeiture, and destruction or other appropriate disposition of chemical weapons. Subsection 227A(a) describes the seizure process for chemical weapons as defined under section 227D(2)(A) (i.e., certain toxic chemicals and their precursors) that are "of a type or quantity that under the circumstances is inconsistent with the purposes not prohibited under the Chemical Weapons Convention." Chemical weapons fall into three categories—toxic chemicals and their precursors, chemical munitions and devices, and chemical equipment. Subsection 227A(a) concerns only the first category of chemical weapon.

Pursuant to the Federal Rules of Criminal Procedure, the Attorney General may apply for a judicial warrant authorizing the seizure of such toxic chemicals and their precursors. The phrase "under the circumstances" obligates the Attorney General to look beneath surface appearances to ensure that toxic chemicals and precursors that are intended for purposes not prohibited by the Chemical Weapons Convention are not mistakenly targeted for seizure and forfeiture.

In exigent circumstances, seizure and destruction may be carried out upon probable cause without a warrant. This exception is intended to be used in rare instances, such as where the danger to public health and safety or to the environment or the danger of transfer to another country is so extreme that applying for a warrant is impracticable.

Subsection 227A(b) provides procedures for forfeiture and authorizes the disposition by the Attorney General of forfeited chemical weapons that are toxic chemicals or precursors. The standard civil forfeiture procedures applicable under chapter 46 of Title 18 of the U.S. Code to forfeitures of property involved in other types of criminal activity, including procedures for notice, opportunity for a forfeiture hearing, and the allocation of the burden of proof at such hearing, are incorporated into subsection 227A(b) by reference. The chapter 46 procedures will apply to seizures and forfeitures under section 227A to the extent that the standard forfeiture procedures applicable under chapter 46 are not inconsistent with the warrant requirement, the provisions for summary forfeiture of chemical weapons as defined by sections 227D(2) (B) and (C), or the other provisions of section 227A. Subsection 227A(b) also requires that the Attorney General shall provide for the destruction or other appropriate disposition of chemical weapons that are seized and forfeited.

Subsection 227A(c) gives claimants an affirmative defense to aver, if they wish, in forfeitures under subsection 227A(b) of toxic chemical and precursors as defined in section 227D(2)(A). As previously noted, chemical weapons fall into three categories—toxic chemicals and their precursors, chemical munitions and devices, and chemical equipment. Subsection 227A(c) concerns only the first category of chemical weapon.

In this regard, it is important to note that section 227D(2)(A) defines "chemical weapon" to exclude chemicals that are "intended for a purpose not prohibited under the Chemical Weapons Convention, as long as the type and quantity is consistent with such a purpose." Such purposes are defined in section 227D(6) and include, e.g., industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes. Also, subsection 227A(a) seizures are based upon the "type or quantity that under the circumstances is inconsistent with the purposes not prohibited under the Chemical Weapons Convention." Consequently, fairness requires that the claimants be afforded the opportunity to demonstrate that the seized chemicals are in fact intended for a purpose that is not prohibited and that the chemicals are of a type and quantity consistent with that purpose. Claimants may, of course, decide to raise no defense or to put the Government to its proof. The affirmative defense of subsection 227A(c) is intended, therefore, to be an additional protection for persons who use toxic chemicals and their precursors for purposes not prohibited under the Chemical Weapons Convention.

Subsection 227A(d) provides for summary forfeiture without a hearing and the destruction of the chemical weapons defined by sections 227D(2) (B) and (C). In contrast to chemical weapons that are toxic chemicals and precursors (section 227D(2)(A)), which are seized for forfeiture based on type, quantity, and circumstances, seizures of chemical weapons that are munitions and devices (section 227D(2)(B)) or equipment (section

227D(2)(C)) are based upon their existence "by reason of conduct prohibited under section 227." There is no affirmative defense provision for munitions and devices that are "specifically designed" to cause death or other harm and that exist by reason of criminal conduct. Similarly, there is no affirmative defense provision for equipment that is "specifically designed for use directly in connection with the employment of munitions and devices" and that exists by reason of criminal conduct. By definition, such munitions, devices and equipment have a purpose inconsistent with the Chemical Weapons Convention. Consequently, an affirmative defense based upon establishing that such property has a purpose that is not prohibited and that the property is of a type and quantity consistent with that purpose is inappropriate.

Subsection 227A(d) provides for the seizure and summary forfeiture of "chemical weapons" as defined under sections 227D(2) (B) and (C) (munitions, devices or equipment) if they exist "by reason of conduct prohibited under section 227." Pursuant to the Federal Rules of Criminal Procedure, the Attorney General may apply for judicial warrants authorizing the seizure of such munitions, devices or equipment. In exigent circumstances, seizures and destruction may be carried out upon probable cause without a warrant. As with subsection 227A(a), this exception is intended to be used in rare instances in which the danger to public health and safety or to the environment or the danger of transfer to another country is so extreme that applying for a warrant is impracticable.

It is important to note that the term "directly" in the definitions of munitions, devices and equipment that are considered to be chemical weapons is intended to mean "solely." Thus, dual-use munitions and their components are not considered to be chemical weapons provided they do not otherwise meet this definition. For example, dual-use munitions may be used to disperse chemicals not prohibited by the Convention, such as smoke, provided the munitions have not been specifically designed to cause death through the release of toxic chemicals. Also, dual-use weapons systems such as artillery or aircraft that are capable of employing chemical weapons are not covered by this definition, and so are not subject to these provisions.

Subsection 227A(e) authorizes the Attorney General to seek the assistance of any federal agency in the handling, storage, transportation, and destruction or other disposition of any seized "chemical weapon" as defined under section 227D(2). This provision provides the Attorney General with the ability to avoid unnecessary danger to law enforcement personnel and the public by arranging for appropriate assistance from any federal agency that has the necessary resources and expertise to safely undertake the custody and disposition of hazardous chemical weapons.

Subsection 227A(f) provides for civil liability to the United States on the part of the owner or possessor of property seized as a chemical weapon under section 227A for any expenses incurred incident to such seizure including, but not limited to, expenses for handling, storage, transportation and destruction or other disposition of the seized property. Additionally, for seizures of chemical weapons in which there is a related criminal prosecution and conviction for a violation of section 227, subsection 227(d) imposes an additional criminal penalty on the convicted defendant to pay such expenses. Under the CWC, all chemical weapons must be destroyed. Therefore, given that the sale of forfeited chemical weapons in order to realize proceeds to pay the expenses associated with their seizures and forfeiture is not feasible, these provisions preserve the Department of Justice Assets Forfeiture Fund from depletion that would otherwise result from disbursements for such expenses pursuant to 28 U.S.C. 524(c)(1)(A).

New Title 18, section 227B authorizes the United States to seek injunctions against, *inter alia*, the development, production, other acquisition, stockpiling, retention, direct or indirect transfer, use, ownership or possession of chemical weapons, or the preparation or solicitation to do so. As with section 227A, section 227B is intended to permit Government action before a chemical weapon causes injury or environmental harm. Mere speech is not actionable under section 227B. Moreover, subsection 227B(b) provides an affirmative defense analogous to the one in subsection 227A(c).

New Title 18, section 227C, implements the prohibited activity contained in CWC Article I(5). Subsection 227C(a) outlaws the knowing use of riot control agents as a method of warfare and the assistance of any person to do so. Violators can be fined or imprisoned for up to ten years. Subsection 227C(b) excludes the members of the U.S. armed forces from this criminal sanction. Instead, it prescribes appropriate military penalties. This substitution is designed to eliminate the possibility that military personnel will refuse to use riot control agents in lawful situations for fear of possible criminal sanctions if such use is later ruled to be in violation of the CWC. Finally, the jurisdictional reach of this section required by CWC Article VII(1) is set forth in subsection 227C(c).

New Title 18, section 227D, contains definitions pertinent to the modifications to Title 18 of the U.S. Code. For ease in the use of Title 18, this section repeats, essentially verbatim, definitions contained in CWC Article II and, with minor changes, the definitions contained in section 5 of the Act. Specifically, this section adopts the CWC definitions for the following terms used in the modifications to Title 18: "chemical weapon" (CWC Article II(1)); "riot control agent" (CWC Article II(7)); and "purpose not prohibited under the Chemical Weapons Convention" (CWC Article II(9)). This section also repeats the following CWC terms used in the CWC definitions: "toxic chemical" (CWC Article II(2)); "precursor" (CWC Article II(3)); and "key component of a binary or multicomponent chemical system" (CWC Article II(4)). In addition, this section repeats the definitions for the following terms contained in section 5(b) of the Act: "Chemical Weapons Convention;" "national of the United States;" and "United States." Finally, this section repeats the definition for "person" contained in section 5(b)(4) of the Act, but does not limit it to those entities "located in the United States."

Subsection 201(b) contains clerical amendments for modifying chapter 11 of Title 18 of the U.S. Code.

Section 202 makes the effective date of Title II the same as the date the Convention enters into force for the United States. This ensures that the prohibitions with regard to the U.S. Government and with regard to individuals and legal entities begin at the same time. The rest of the Act is intended to become effective prior to this date in order to provide sufficient time to establish the required legal authority and procedures under the Convention. For example, information will need to be obtained from the chemical industry well in advance of the entry into force of the CWC for the United States in order for the United States to make the required declarations on chemicals listed in the CWC within 30 days after the CWC enter into force for it.

Section 203 requires individuals and legal entities to comply with the CWC's restrictions pertaining to States Parties' production, acquisition, retention, use and transfers of Schedule 1 chemicals are chemicals that have been used or produced for chemical weapons purposes, are considered of greatest risk to the CWC, and have little or no commercial utility. Schedule 2 chemicals are largely precursors used in the production of Schedule 1 chemicals. These restrictions are contained in Parts VI(1), VI(2) and VII(31) of the CWC Annex on Implementation and Verification (Verification Annex).

CWC Verification Annex Part VI(1) states that:

"A State Party shall not produce, acquire, retain or use Schedule 1 chemicals outside the territories of States Parties and shall not transfer such chemicals outside its territory except to another State Party."

The purpose of this paragraph is to ensure that these chemicals of highest risk to the Convention do not spread to non-States Parties.

CWC Verification Annex Part VI(2), in turn, states that:

"A State Party shall not produce, acquire, retain, transfer or use Schedule 1 chemicals unless:

"(a) The chemicals are applied to research, medical, pharmaceutical or protective purposes; and

"(b) The types and quantities of chemicals are strictly limited to those which can be justified for such purposes; and

"(c) The aggregate amount of such chemicals at any given time for such purposes is equal to or less than 1 [metric ton]; and

"(d) The aggregate amount for such purposes acquired by a State Party in any year throughout production, withdrawal from chemical weapons stocks and transfer is equal to or less than 1 [metric ton]."

Finally, CWC Verification Annex Part VII(31) states that:

"Schedule 2 chemicals shall only be transferred to or received from States Parties. This obligation shall take effect three years after entry into force of [the] Convention." The main purposes of these paragraphs are to serve as a disincentive for countries to remain outside of the Convention, to facilitate verification, and to deny chemical weapons precursors to non-States Parties.

Subsection 203(a) implements Part VI(2) of the CWC Verification Annex by making it unlawful to produce, acquire, retain, transfer or use Schedule 1 chemicals unless they are used for permitted purposes, the types and quantities are strictly limited to those that can be justified for such purposes, and the amounts do not exceed limits to be established by the U.S. Government. The aggregate amount of Schedule 1 chemicals in the United States as a whole may not exceed one metric ton. A portion of this quota will be needed by the U.S. Government for protective purposes such as determining the adequacy of defensive equipment and measures. The remainder of the quota will be apportioned among private individuals and legal entities doing permitted work with Schedule 1 chemicals.

Subsection 203(b) implements Parts VI(1) and VII(31) of the CWC Verification Annex.

Paragraph 1 of subjection 203(b) makes it unlawful to produce, acquire, retain, transfer or use Schedule 1 chemicals outside the territories of States Parties. Paragraph 2 of subsection 203(b) makes it unlawful to transfer to, or receive from, non-States Parties any Schedule 2 chemicals. Note that this is intended as a prohibition with regard to end-users. It does not prohibit transshipments through the territories of non-States Parties.

Subsection 203(c) sets forth the jurisdiction of the prohibitions contained in this section. The jurisdictional reach is the same as required in CWC Article VII(1)—all activities within the United States and all activities undertaken by individuals with U.S. citizenship outside the United States. Accordingly, subsections 203(a) and (b) apply to all persons (defined as all entities within the United States) and all nationals of the United States (defined as U.S. citizens) outside the United States.

The civil and criminal procedures and penalties for violations of section 203 are set forth in section 404. The authority of U.S. district courts to enforce section 203 is set forth in section 405.

Title III—Declarations by Chemical Industry

Title III contains three sections. It sets forth provisions regarding reporting of information required by the Convention, restrictions on disclosure of information and material obtained under the Convention, and failure to provide information. A number of these provisions are modeled after similar provisions in the Toxic Substances Control Act (TSCA), Public Law 94-469. The verification regime for controlling emissions of the chemical industry under the TSCA is the closest analogy in U.S. domestic law to the verification regime created by the CWC.

Section 301 pertains to chemical industry reporting requirements and coordination among U.S. Government departments and agencies in collecting required information. Subsection 301(a) requires chemical industry to maintain, permit access to, and provide to the Department of Commerce the information necessary for the United States to make the declarations required under the Convention. To help ensure that the chemical industry is not producing chemical weapons, the CWC requires declaration and inspection of the chemical facilities most capable of conducting such activities. CWC Article VI and Parts VI–IX of the CWC Verification Annex set forth the various requirements for declarations of chemicals and chemical facilities. These provisions require facility-specific declarations of specific chemicals of concern to the Convention (which are listed in the CWC in Schedules 1 to 3) that are produced (and in some cases processed or consumed) above certain thresholds (which start as high as 200 metric tons per year). In addition, certain chemical facilities that produce unscheduled chemicals that could be used to produce scheduled chemicals must be declared. Subsection 301(a) is based on similar language contained in the TSCA, 15 U.S.C. 2607(a)(1)(A).

Subsection 301(b), in turn, requires agencies and departments to avoid duplication of reporting required by other laws (e.g., TSCA) by, inter alia, coordinating their actions with other agencies and departments. This section is based on similar language contained in the TSCA, 15 U.S.C. 2607(a)(2)(G).

Section 302 restricts the public disclosure of the information and materials required by the CWC, provides criminal penalties for wrongful disclosure, and applies these provisions to the international inspectors. Subsection 302(a) provides, with certain exceptions, for an extensive prohibition on the public disclosure of information or materials obtained from declarations or inspections required under the CWC. (The term "materials" was included to protect such things as samples of chemicals. The term "public disclosure" is intended to make clear that the exchange of information or materials among government agencies and departments is not covered by this provision.) This provision is designed to provide chemical industry and any other persons affected by declarations and inspections under the CWC with the greatest amount of protection for their information and materials possible. Specifically, this provision is intended to make clear that information or materials obtained from declarations or inspections shall not be required to be disclosed pursuant to the Freedom of Information Act (5 U.S.C. 552), and may be disclosed only in accordance with the criteria set forth in the provision. This will allow the U.S. Government to protect all such information or materials without requiring an inquiry into whether there are, e.g., proprietary interests in such information or materials. This provision is based, in part, on protections for license applications under the Export Administration Act (EAA), 50 App. U.S.C. 2411(c)(1).

These protections are in addition to those already contained in the CWC. The CWC verification regime provides for a range of provisions intended to protect non-relevant or sensitive information. This includes, e.g., the opportunity for an inspected facility to have a facility agreement specifying the nature of access and the information to be collected in routine inspections, the right of the United States to manage access in challenge inspections, the right of the inspected facility to take the photographs or samples requested by the inspection team, and the right of the United States to inspect the inspection equipment brought in by the inspection team. In addition, the CWC Annex on the Protection of Confidential Information (Confidentiality Annex) contains provisions that provide for the protection of information designated confidential by States Parties that is provided to the OPCW. Finally, the Confidentiality Annex establishes procedures to address concerns or allegations of breaches of such obligations and provides for punitive measures where appropriate.

There are four exceptions to the extensive prohibition on disclosure—disclosures to the OPCW and other States Parties to the Convention, disclosures to appropriate Congressional committees and subcommittees, disclosures to agencies and departments for law enforcement purposes, and disclosures determined to be in the national interest.

The first exception allows the United States to report the information and materials to the OPCW as required by the CWC. It also allows the United States to disclose information and materials to other States Parties, which will assist the United States, *inter alia*, in complying with the CWC Article VII(2) obligation to afford other States Parties the appropriate legal assistance in facilitating the implementation of the Convention. The second exception is designed to ensure that the appropriate Congressional personnel have access to the information while providing as much protection as possible. This exception is modeled on similar language in the EAA, 50 App. U.S.C. 2411(c)(2). The third exception is designed primarily for the situation in which U.S. Government personnel accompanying inspectors happen to witness evidence of a crime. In such a case, the Government would not be precluded from using such information in any subsequent prosecution. This exception would, therefore, permit the Government to use information or materials obtained during inspections in regulatory, civil or criminal proceedings conducted for the purpose of law enforcement, including those that are not directly related to enforcement of the CWC. The final exception is designed to provide the U.S. Government discretion to release information or materials when to do so would be in the national interest. For example, in order to provide openness regarding U.S. chemical activities, non-sensitive information such as lists of facilities might be released. This exception is modeled on similar language in the EAA, 50 App. U.S.C. 2411(c)(1).

Subsection 302(b) provides for advance notice to the supplier of information or materials in appropriate cases when the U.S. Government intends to exercise the national interest provision to release information or materials. This provision is designed to provide affected persons with the opportunity to prepare for, *inter alia*, the direct public disclosure of information or materials. This subsection is modeled, in part, on language contained in the TSCA, 15 U.S.C. 2613(c)(2)(a).

Subsection 302(c) provides for criminal penalties for unauthorized willful disclosures of information or materials obtained pursuant to the CWC. This is designed to strengthen the non-disclosure protections afforded chemical industry and other persons affected by the CWC and is modeled after nearly-identical language in the TSCA, 15 U.S.C. 2613(d)(1).

Subsection 302(d) provides for application of the disclosure provisions to the members of the international inspection teams. In general, members of OPCW inspection teams and other Technical Secretariat personnel are immune from domestic laws during their performance of official duties within a State Party (CWC Article VIII, Section E, and Part II, Section B, of the CWC Verification Annex). However, the Director-General of the Technical Secretariat can waive such immunity from suit in U.S. courts for their official acts, as provided for in Part II(14) of the CWC Verification Annex and paragraph 20 of the CWC Confidentiality Annex. Accordingly, subsection 302(d) provides the legal authority to prosecute members of the inspection team and other Technical Secretariat personnel for unauthorized disclosure when the Director-General has waived their immunity.

Section 303 makes it unlawful for any person to fail or refuse to establish, maintain, submit or permit access to records that are required by the CWC. The civil and criminal penalties for such violations are set forth in section 404 and the specific enforcement powers for violations are set forth in section 405. Section 303 is modeled after similar language in the TSCA, 15 U.S.C. 2614(3).

Title IV—Inspections

Title IV consists of seven sections. It contains procedures for conducting international inspections of chemical industry, as well as for conducting other types of inspections under the CWC. It also contains penalties for failure or refusal to allow such inspections in violation of the Act (as well as for failure to provide information required by the CWC and failure to abide by the restrictions with regard to Schedule 1 and 2 chemicals). Finally, Title IV establishes other legal mechanisms for compelling non-consensual inspections, such as search warrants, and the authority to issue necessary regulations. As with Title III, a number of these provisions are modeled after similar provisions in the Toxic Substances Control Act.

Section 401 provides the domestic legal framework for the conduct of inspections of chemical industry by the international inspectors of the Technical Secretariat. Specifically, it sets forth procedures with regard to authority to inspect, provision of notice and credentials, time frames for inspections, scope of inspections, facility agreements, sampling and safety, and coordination among U.S. Government agencies and departments. While designed primarily for routine inspections of chemical industry (which are expected to constitute the vast majority of non-military inspections within the United States), these procedures are also designed to be used for any other inspections required by the Convention, e.g., challenge inspections of private facilities.

CWC Article VI and Parts VI–IX of the CWC Verification Annex set forth the various requirements for routine inspections of chemical facilities. The chemical industry facilities subject to routine inspections are those that produce (and in some cases, process or consume) chemicals listed in the CWC Schedules (provided this occurs above certain thresholds). In addition, chemical industry facilities that produce unscheduled discrete organic chemicals above specified threshold levels will be subject to inspection beginning three years after the CWC enters into force, unless the OPCW Conference of the States Parties decides otherwise. The Specific facilities to be inspected will be chosen on the basis of neutral and objective criteria and methods, including weighted random selection, equitable geographic distribution of inspections, and the characteristics of the facility and the nature of activities carried out there. The rules for the conduct of routine inspections, including scope, aim, time frames and protection of proprietary and other sensitive information are set forth in Parts VI–IX of the CWC Verification Annex, the CWC Confidentiality Annex and the detailed implementing provisions currently being developed by the Preparatory Commission for the OPCW. For many facilities, the specific implementation of these rules will be agreed *a priori* in facility agreements between the United States and the OPCW.

In addition to routine inspections, chemical industry facilities and all other facilities or locations in the United States potentially may be subjected to challenge inspections pursuant to CWC Article IX. Challenge inspections are conducted by the CWC Technical Secretariat upon the request of a State Party that has a concern about compliance with the Convention. Access to the challenged site must be granted by the inspected State Party, but all activities within the site are subject to "managed access," i.e., the nature and extent of access by inspection team is subject to negotiation. (To balance this, however, the CWC requires States Parties to make every reasonable effort to provide alternative methods of demonstrating compliance when full access is not provided.) Under managed access, in addition to the extent of access within the site, the particular inspection team activities and the performance of activities and provision of information by the inspected State Party are also subject to negotiation.

Subsection 401(a) authorizes the Technical Secretariat inspection team to conduct inspections of U.S. facilities and U.S. Government personnel to accompany these inspection teams. This subsection is based, in part, on similar language contained in the TSCA, 15 U.S.C. 2610(a). It is important to note that these are procedures for international inspections that involve U.S. Government assistance. Title IV does not provide for separate inspections by the U.S. Government to enforce the CWC. Instead, for the purposes of U.S. law, the CWC will be enforced by the normal civil and criminal processes, although, as previously noted, information gathered during international inspections is not precluded from being used in these processes.

Subsection 401(b) requires the U.S. Government to provide notices of inspections and sets forth the required recipients and contents of such notices. It is based, in part, on similar language contained in the TSCA, 15 U.S.C. 2610(a). Separate notices are given to the owner of the facility and to the operator, occupant or agent in charge of the facility. While a notice is required to conduct an inspection, failure to receive a notice cannot bar an inspection. This provision is necessary in order to fulfill the U.S. CWC obligation to allow inspections to proceed within 48 to 120 hours of the receipt by the United States of notice from the Technical Secretariat. Because of these short time frames, the written notice required by this subsection could be made by electronic means such as facsimiles. The notice provided by the U.S. Government will contain all appropriate information supplied by the Technical Secretariat. This means the United States will provide as much information as possible but is not required to provide all information since this may involve classified or other sensitive foreign policy or national security information. Finally, separate notices are not required for each entry.

Subsection 401(c) requires the Technical Secretariat and, if present at the inspection, U.S. Government personnel to present appropriate credentials. While it is anticipated that, at least for the first few years of the Convention, U.S. government escorts will be furnished for all inspection teams, over time such escorts may not be required for all inspections. This subsection is based, in part, on similar language contained in the TSCA, 15 U.S.C. 2610(a).

Subsection 401(d) requires that, consistent with the provisions of the SWC, all inspections must be commenced and completed with reasonable promptness and conducted at reasonable times, within reasonable limits, and in a reasonable manner. In particular, the U.S. Government must endeavor to ensure that, to the extent possible consistent with the CWC, each inspection is commenced, conducted and concluded during ordinary working hours. (However, the inspectors are permitted by the CWC to work around-the-clock since the duration of inspections under the CWC is set in continuous hours.)

The CWC itself sets forth the specific rules for conducting inspections, including such things as duration, aim, and rights of the inspectors and the inspected State Party. While some of these are fixed, others are subject to negotiation. Accordingly, the purpose of this subsection is to commit the U.S. government to exercising its influence on behalf of inspected facilities to ensure that inspections are conducted in a reasonable manner. This complements the general obligation of the U.S. Government to assist inspected facilities in interacting with the inspection team, as set forth in subsection 401(h). Subsection 401(d) is based, in part, on similar language contained in the TSCA, 15 U.S.C. 2610(a).

Subsection 401(e) sets forth the permitted scope of inspections conducted pursuant to the CWC. In general, an inspection may extend to all things within the premises inspected related to whether the CWC has been complied with. However, to the extent possible consistent with the CWC, no inspection can extend to financial, sales and marketing (other than shipment), pricing, personnel, research, patent or environmental/health regulations data. This data is considered to be, in general, the most sensitive to proprietary concerns and the least relevant to compliance with the CWC. The United States cannot flatly prohibit collection of this information by the Technical Secretariat. Nevertheless, this subsection is intended to commit the U.S. Government to exercising its influence on behalf of inspected facilities to ensure that, to the extent permitted by the CWC, information not relevant to compliance with the CWC is protected from disclosure. As with subsection 401(d), this complements the subsection 401(h) obligation of the U.S. Government to assist inspected facilities in interacting with the inspection team. Subsection 401(e) is based on similar language contained in the TSCA, 15 U.S.C. 2610(b)(1) and (2).

Subsection 401(f) provides for the conclusion of facility agreements and the participation of facilities in negotiating such agreements. The CWC provides for facility agreements as a means of agreeing with States Parties, in advance, on the detailed procedures that will govern routine inspections of a declared facility. (These detailed procedures will be based on general procedures for inspections contained in the CWC and developed by the OPCW Preparatory Commission and approved by the OPCW.) While the CWC contemplates the participation of the facility in agreeing on these details, the actual facility agreement is between the State Party, i.e., the United States, and the OPCW. Facility agreements are required for all chemical weapons production, destruction and storage facilities and for Schedule 1 facilities. Facility agreements are to be concluded for Schedule 2 facilities unless the State Party and the Technical Secretariat agree otherwise. Facility agreements may be concluded for Schedule 3 facilities and "other chemical production facilities" if the State Party requests them.

To implement these provisions, subsection 401(f) provides that for facilities that have facility agreements routine inspections will be conducted in accordance with those agreements. For Schedule 2 facilities, this subsection gives owners and operators, occupants or agents in charge the right to refuse a facility agreement, if the Technical Secretariat concurs. For Schedule 3 facilities and other chemical production facilities, subsection 401(f) establishes the expectation that the U.S. Government will conclude facility agreements with the OPCW for those facilities that request them. Finally, subsection 401(f) makes clear that facility owners and operators, occupants, or agents in charge of the facilities are to be involved in the negotiations of all required and requested facility agreements to the extent that it is practicable, consistent with U.S. obligations under the CWC.

Subsection 401(g) authorizes the U.S. Government to require the provision of samples as required by the Convention and requires CWC inspectors and accompanying U.S. Government personnel to observe the safety regulations of the inspected facility. Since provision of the wide range of samples contemplated by the CWC is not a common component of domestic inspection regimes, this subsection is intended to make clear that the U.S. Government is authorized to take this action. The provision on safety regulations expands to U.S. Government personnel the identical obligation for CWC inspection teams contained in Part II(43) of the CWC Verification Annex. Finally, this subsection makes clear that inspected facilities will have the right to choose who will take the samples.

Subsection 401(h) requires the U.S. Government, to the extent consistent with the CWC, to assist inspected facilities in interacting with the inspection team. Accordingly, this creates a general obligation for the U.S. Government to use its discretionary power under the CWC in support of inspected facilities. However, this does not require the U.S. Government to disregard other CWC obligations and policy considerations such as the obligation to make every reasonable effort to resolve compliance concerns where full access has not been provided for challenge inspections.

Section 402 provides for application of Title IV to all inspections authorized by the CWC. The Administration has proposed that the Department of Commerce be the agency responsible for routine inspections of chemical industry. Implementation of other types of inspections may require different departments or agencies to be responsible for the inspection, depending on the specific situation. Accordingly, this section provides for a "Lead Agency" to assume the responsibilities of the Department of Commerce for inspections that do not involve routine inspections of the chemical industry. (The Lead Agency could remain as the Department of Commerce for some or all aspects of other inspections, e.g., providing notice of challenge inspections of chemical industry.)

This is particularly important for legal proceedings with regard to inspections. For example, application for an administrative search warrant for a non-consensual routine inspection may involve a particular agency or department while application for a warrant for a non-consensual challenge inspection might more appropriately be handled by the Department of Justice.

Section 403 makes it unlawful for any person to fail or refuse to permit entry or inspection, or to disrupt, delay or impede an inspection required by the Act and the CWC. The CWC allows inspected facilities, particularly during challenge inspections, to take actions to protect sensitive information. Such actions would not be considered as disrupting, delaying or impeding an inspection. This provision is intended to cover only those actions not permitted by the CWC.

Section 403 serves as the basic legal cornerstone for ensuring that the United States can fulfill its obligation under the CWC to allow inspections by the Technical Secretariat. The civil and criminal procedures and penalties for violations of this section are set forth in section 404. The authority of U.S. district courts to enforce section 403 is set forth in section 405. Section 403 is based on nearly identical language contained in the TSCA, 15 U.S.C. 2614(4).

Section 404 sets forth civil and criminal penalties for violations of section 403, as well as for violations of sections 203 and 303. (Section 203 contains restrictions with regard to Schedule 1 and 2 chemicals. Section 303 makes unlawful any refusal to provide information or materials required under the Act.) Subsection 404(a) provides for civil penalties, hearings, consideration by the Lead Agency of the circumstances of the violations, modifications to the penalties, and recovery of penalties. It is modeled after nearly identical language in the TSCA, 15 U.S.C. 2615(a)(1), (a)(2)(A), (a)(2)(B), (a)(2)(C), (a)(3) and (b).

Subsection 404(a) provides for civil penalties of up to $50,000 for violations of sections 203, 303 or 403. It further provides that for violations involving refusal to provide access (section 403), each day such a violation continues will constitute a separate violation. The purpose of this latter provision is to place additional pressure on those who refuse access. This creates an important additional legal mechanism for enabling the United States to meet its treaty obligation to provide access to facilities and locations that are subject to inspection under the CWC.

Subsection 404(a) also requires notice and a hearing prior to assessment of the penalty, requires the Lead Agency to take into account factors such as the circumstances of the violation and the violator's ability to pay, allows the Lead Agency to modify and penalty, and provides for judicial review of the penalty. This subsection also authorizes the Attorney General to recover the amounts assessed, plus interest, where the violator fails to pay the penalty.

Subsection 404(b) provides that any person who knowingly violates sections 203, 303 or 403 is also subject to criminal fines or imprisonment up to two years or both.

Section 405 pertains to specific enforcement. Subsection 405(a) authorizes U.S. district courts to restrain violations of sections 203, 303 and 403 and to compel the taking of any action required by the Act or the CWC. This provision is modeled after nearly identical language in the TSCA, 15 U.S.C. 2616(a)(1)(A) and (C).

Subsection 405(b) sets forth the venue for bringing the civil action to restrain or compel activities and the localities where process may be served. This provision is modeled after similar language in the TSCA, 15 U.S.C. 2616(a)(2) (A) and (B). Because the Act applies to the activities of U.S. citizens outside of the United States, service of process is allowed wherever the defendant may be found. (Assistance by other States Parties in serving process would be an example of the legal assistance required pursuant to CWC Article VII(2).)

Section 406 sets forth additional legal mechanisms for ensuring that the U.S. can fulfill its CWC inspection obligations within the time frames allowed in cases when consent is not given for the inspection or the inspection is otherwise illegally resisted. This section provides for the issuance of search warrants and subpoenas and a prohibition on the use of injunctions by U.S. courts to constrain the conduct of inspections. These legal mechanisms, together with the threat of penalties for violations of section 403, are particularly important in the case of challenge inspections, which may involve facilities or locations that have little or no connection to the CWC. Even in these cases, Part X(38) of the CWC Verification Annex requires the U.S. Government to provide access within the challenged site. In turn, Part X(41) provides that in meeting this requirement the inspected State Party is under the obligation to provide "the greatest degree of access taking into account any constitutional obligations it may have with regard to proprietary rights or search and seizures." Accordingly, the provisions of Section 406 have been drafted to provide the U.S. Government with the legal tools, consistent with the U.S. Constitution, to enable it to fulfill these obligations.

Subsection 506(a) provides procedures for requesting and issuing a search warrant from any official authorized to issue search warrants in accordance with the Fourth Amendment. These procedures are designed to meet constitutional requirements for the issuance of warrants on the basis of "administrative probable cause," i.e., the standards for issuing warrants under administrative inspections rather than the standards used for criminal searches. (These procedures can also be used to obtain criminal search warrants, however.)

Under these procedures, the Government must provide to the official authorized to issue search warrants all appropriate information supplied by the Technical Secretariat regarding the basis for the selection of the facility or location, including, for challenge inspections, appropriate evidence or reasons provided by the requesting State Party with regard to its concerns about compliance with the Convention at the facility or location. The Government would also be required to provide any other appropriate information available to it related to the reasonableness of the selection of the location for the inspection.

Under the procedures, the official authorized to issue search warrants would then be required to promptly issue a warrant authorizing the requested inspection if an affidavit is submitted by the Government showing that the CWC is in force for the United States; the facility sought to be inspected is subject to the specific type of inspection requested; the procedures established under the CWC and the implementing legislation for initiating an inspection have been complied with; and the Government undertakes to ensure that the inspection is conducted in a reasonable manner and will not exceed the scope or duration set forth in or authorized by the CWC or the Act. Persons authorized to issue warrants would include federal magistrates and judges. The warrant must specify the type of inspection authorized; the purpose of the inspection; the type of facility to be inspected; to the extent possible, the items, documents and areas that may be inspected; the earliest commencement and latest concluding dates and times of the inspection; and the identities of the inspection team, if known, and, if applicable, the representatives of the U.S. Government.

Subsection 406(b) authorizes subpoenas requiring the attendance and testimony of witnesses and the production of information, and provides for compelling such action by U.S. district courts. This subsection is intended to ensure that the United States can fulfill its obligation under the CWC to provide information regarding compliance, in particular, its obligation pursuant to CWC Article IX(11)(a) to make every reasonable effort to demonstrate its compliance with the Convention. This section is based on nearly identical language contained in the TSCA, 15 U.S.C. 2610(c).

Subsection 406(c) prohibits courts from issuing injunctions or other orders limiting the ability of the Technical Secretariat to conduct inspections or the U.S. Government to facilitate them. If such injunctions or other orders are allowed the United States could be placed in the position of having to violate its obligation to allow inspections. For example, a temporary restraining order blocking an inspection could be issued by a federal court even though a search warrant had been validly authorized pursuant to the Act. Such an action, even if later reversed, might easily keep the United States from granting access to an inspected facility within the two to five days allowed for most routine inspections. A U.S. domestic law example of this provision is the Anti-Injunction Law, 29 U.S.C. 101, which prohibits U.S. courts from issuing injunctions with regard to certain labor disputes.

Section 407 provides the U.S. Government with the authority to issue such regulations as are necessary to implement the inspection regime created by the CWC and the Act. This section also authorizes the appointment of officials to issue search warrants.

U.S. ARMS CONTROL
AND DISARMAMENT AGENCY,
Washington, DC, May 27, 1994.

Hon. ALBERT GORE, Jr.,
President, U.S. Senate.

DEAR MR. PRESIDENT: On behalf of the Administration, I hereby submit for consideration the "Chemical Weapons Convention Implementation Act of 1994." The Chemical Weapons Convention (CWC) was signed by the United States in Paris on January 13, 1993, and was submitted by President Clinton to the United States Senate on November 23, 1993, for its advice and consent to ratification. The CWC prohibits, inter alia, the use, development, production, acquisition, stockpiling, retention, and direct or indirect transfer of chemical weapons.

The President has urged the Senate to provide its advice and consent to ratification as early as possible so that the United States can continue to exercise its leadership role in seeking the earliest possible entry into force of the Convention in January 1995.

The CWC contains a number of provisions that require implementing legislation to give them effect within the United States. These include: International inspections of U.S. facilities; declarations by U.S. chemical and related industry; and establishment of a "National Authority" to serve as the liaison between the United States and the international organization established by the CWC and States Parties to the Convention.

In addition, the CWC requires the United States to prohibit all individuals and legal entities, such as corporations, within the United States, as well as all individuals outside the United States possessing U.S. citizenship, from engaging in activities that are prohibited under the Convention. As part of this obligation, the CWC requires the U.S. to enact "penal" legislation implementing this prohibition (i.e., legislation that penalizes conduct, either by criminal, administrative, military or other sanctions.)

The proposed "Chemical Weapons Convention Implementation Act of 1994" reflects views expressed from representatives of industry as well as from the staff of various congressional committees.

Expeditious enactment of implementing legislation is very important to the ability of the United States to fulfill its treaty obligations under the Convention. Enactment will enable the United States to collect the required information from industry, to allow the inspections called for in the Convention, and to outlaw all activities related to chemical weapons, except CWC permitted activities, such as chemical defense programs.

The Omnibus Budget and Reconciliation Act (OBRA) requires that all revenue and direct spending legislation meet a pay-as-you-go requirement. That is, no such bill should result in an increase in the deficit; and if it does, it must trigger a sequester if not fully offset. This proposal would increase receipts by less than $500,000 a year.

As the President indicated in his transmittal letter of the Convention: "The CWC is in the best interests of the United States, allied and international security, and enhanced global and regional stability." Therefore, I urge the Congress to enact the necessary implementing legislation as soon as possible after the Senate has given its advice and consent to ratification.

The Office of Management and Budget advises that there is no objection to the submission of this proposal and its enactment is in accord with the President's program.

Sincerely,

JOHN D. HOLUM,
Director.

By Mr. MITCHELL (for himself, Mr. COHEN, Mr. LEAHY, and Mr. JEFFORDS):

S. 2222. A bill to grant the consent of Congress to the Texas Low-Level Radioactive Waste Disposal Compact; to the Committee on the Judiciary.

TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT CONSENT ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the bill as introduced be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2222

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Texas Low-Level Radioactive Waste Disposal Compact Consent Act".

SEC. 2. CONGRESSIONAL FINDING.

Congress finds that the compact set forth in section 5 is in furtherance of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b et seq.).

SEC. 3. CONDITIONS OF CONSENT TO COMPACT.

The consent of Congress to the compact set forth in section 5—

(1) shall become effective on the date of the enactment of this Act;

(2) is granted subject to the provisions of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b et seq.); and

(3) is granted only for so long as the regional commission established in the compact complies with all of the provisions of such Act.

SEC. 4. CONGRESSIONAL REVIEW.

Congress may alter, amend, or repeal this Act with respect to the compact set forth in section 5 after the expiration of the 10-year period following the date of enactment of this Act, and at such intervals thereafter as may be provided in such compact.

SEC. 5. TEXAS LOW-LEVEL RADIOACTIVE WASTE COMPACT.

(a) CONSENT OF CONGRESS.—In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(a)(2)), the consent of Congress is given to the States of Texas, Maine, and Vermont to enter into such compact.

(b) TEXT OF COMPACT.—Such compact reads substantially as follows:

"TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT

"ARTICLE I. POLICY AND PURPOSE

"SEC. 1.01. The party states recognize a responsibility for each state to seek to manage low-level radioactive waste generated within its boundaries, pursuant to the Low-Level Radioactive Waste Policy Act, as amended by the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. 2021b–2021j). They also recognize that the United States Congress, by enacting the Act, has authorized and encouraged states to enter into compacts for the efficient management and disposal of low-level radioactive waste. It is the policy of the party states to cooperate in the protection of the health, safety, and welfare of their citizens and the environment and to provide for and encourage the economical management and disposal of low-level radioactive waste. It is the purpose of this compact to provide the framework for such a cooperative effort; to promote the health, safety, and welfare of the citizens and the environment of the party states; to limit the number of facilities needed to effectively, efficiently, and economically manage low-level radioactive waste and to encourage the reduction of the generation thereof; and to distribute the costs, benefits, and obligations among the party states; all in accordance with the terms of this compact.

"ARTICLE II. DEFINITIONS

"SEC. 2.01. As used in this compact, unless the context clearly indicates otherwise, the following definitions apply:

"(1) 'Act' means the Low-Level Radioactive Waste Policy Act, as amended by the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. 2021b–2021j).

"(2) 'Commission' means the Texas Low-Level Radioactive Waste Disposal Compact Commission established in Article III of this compact.

"(3) 'Compact facility' or 'facility' means any site, location, structure, or property located in and provided by the host state for the purpose of management or disposal of low-level radioactive waste for which the party states are responsible.

"(4) 'Disposal' means the permanent isolation of low-level radioactive waste pursuant to requirements established by the United States Nuclear Regulatory Commission and the United States Environmental Protection Agency under applicable laws, or by the host state.

"(5) 'Generate,' when used in relation to low-level radioactive waste, means to produce low-level radioactive waste.

"(6) 'Generator' means a person who produces or processes low-level radioactive waste in the course of its activities, excluding persons who arrange for the collection, transportation, management, treatment, storage, or disposal of waste generated outside the party states, unless approved by the commission.

"(7) 'Host county' means a county in the host state in which a disposal facility is located or is being developed.

"(8) 'Host state' means a party state in which a compact facility is located or is being developed. The State of Texas is the host state under this compact.

"(9) 'Institutional control period' means that period of time following closure of the facility and transfer of the facility license from the operator to the custodial agency in compliance with the appropriate regulations for long-term observation and maintenance.

"(10) 'Low-level radioactive waste' has the same meaning as that term is defined in Section 2(9) of the Act (42 U.S.C. 2021b(9)), or in the host state statute so long as the waste is not incompatible with management and disposal at the compact facility.

"(11) 'Management' means collection, consolidation, storage, packaging, or treatment.

"(12) 'Operator' means a person who operates a disposal facility.

"(13) 'Party state' means any state that has become a party in accordance with Article VII of this compact. Texas, Maine, and Vermont are initial party states under this compact.

"(14) 'Person' means an individual, corporation, partnership or other legal entity, whether public or private.

"(15) 'Transporter' means a person who transports low-level radioactive waste.

"ARTICLE III. THE COMMISSION

"SEC. 3.01. There is hereby established the Texas Low-Level Radioactive Waste Disposal Compact Commission. The commission shall consist of one voting member from each party state except that the host state shall be entitled to six voting members. Commission members shall be appointed by the party state governors, as provided by the laws of each party state. Each party state may provide alternates for each appointed member.

"SEC. 3.02. A quorum of the commission consists of a majority of the members. Except as otherwise provided in this compact, an official act of the commission must receive the affirmative vote of a majority of its members.

"SEC. 3.03. The commission is a legal entity separate and distinct from the party states and has governmental immunity to the same extent as an entity created under the authority of Article XVI, Section 59, of the Texas Constitution. Members of the commission shall not be personally liable for actions taken in their official capacity. The liabilities of the commission shall not be deemed liabilities of the party states.

"SEC. 3.04. The commission shall:

"(1) Compensate its members according to the host state's law.

"(2) Conduct its business, hold meetings, and maintain public records pursuant to laws of the host state, except that notice of public meetings shall be given in the non-host party states in accordance with their respective statutes.

"(3) Be located in the capital city of the host state.

"(4) Meet at least once a year and upon the call of the chair, or any member. The governor of the host state shall appoint a chair and vice-chair.

"(5) Keep an accurate account of all receipts and disbursements. An annual audit of the books of the commission shall be conducted by an independent certified public accountant, and the audit report shall be made a part of the annual report of the commission.

"(6) Approve a budget each year and establish a fiscal year that conforms to the fiscal year of the host state.

"(7) Prepare, adopt, and implement contingency plans for the disposal and management of low-level radioactive waste in the event that the compact facility should be closed. Any plan which requires the host state to store or otherwise manage the low-level radioactive waste from all the party states must be approved by at least four host state members of the commission. The commission, in a contingency plan or otherwise, may not require a non-host party state to store low-level radioactive waste generated outside of the state.

"(8) Submit communications to the governors and to the presiding officers of the legislatures of the party states regarding the activities of the commission, including an annual report to be submitted on or before January 31 of each year.

"(9) Assemble and make available to the party states, and to the public, information concerning low-level radioactive waste management needs, technologies, and problems.

"(10) Keep a current inventory of all generators within the party states, based upon information provided by the party states.

"(11) By no later than 180 days after all members of the commission are appointed under Section 3.01 of this article, establish by rule the total volume of low-level radioactive waste that the host state will dispose of in the compact facility in the years 1995–2045, including decommissioning waste. The shipments of low-level radioactive waste from all non-host party states shall not exceed 20 percent of the volume estimated to be disposed of by the host state during the 50-year period. When averaged over such 50-year period, the total of all shipments from non-host party states shall not exceed 20,000 cubic feet a year. The commission shall coordinate the volumes, timing, and frequency of shipments from generators in the non-host party states in order to assure that over the life of this agreement shipments from the non-host party states do not exceed 20 percent of the volume projected by the commission under this paragraph.

"SEC. 3.05. The commission may:

"(1) Employ staff necessary to carry out its duties and functions. The commission is authorized to use to the extent practicable the services of existing employees of the party states. Compensation shall be as determined by the commission.

"(2) Accept any grants, equipment, supplies, materials, or services, conditional or otherwise, from the federal or state government. The nature, amount and condition, if any, of any donation, grant or other resources accepted pursuant to this paragraph and the identity of the donor or grantor shall be detailed in the annual report of the commission.

"(3) Enter into contracts to carry out its duties and authority, subject to projected resources. No contract made by the commission shall bind a party state.

"(4) Adopt, by a majority vote, bylaws and rules necessary to carry out the terms of this compact. Any rules promulgated by the commission shall be adopted in accordance with the Administrative Procedure and Texas Register Act (Article 6252–13a, Vernon's Texas Civil Statutes).

"(5) Sue and be sued and, when authorized by a majority vote of the members, seek to intervene in administrative or judicial proceedings related to this compact.

"(6) Enter into an agreement with any person, state, regional body, or group of states for the importation of low-level radioactive waste into the compact for management or disposal, provided that the agreement receives a majority vote of the commission. The commission may adopt such conditions and restrictions in the agreement as it deems advisable.

"(7) Upon petition, allow an individual generator, a group of generators, or the host state of the compact, to export low-level waste to a low-level radioactive waste disposal facility located outside the party states. The commission may approve the petition only by a majority vote of its members. The permission to export low-level radioactive waste shall be effective for that period of time and for the specified amount of low-level radioactive waste, and subject to any other term or condition, as is determined by the commission.

"(8) Monitor the exportation outside of the party states of material, which otherwise meets the criteria of low-level radioactive waste, where the sole purpose of the exportation is to manage or process the material for recycling or waste reduction and return it to the party states for disposal in the compact facility.

"SEC. 3.06. Jurisdiction and venue of any action contesting any action of the commission shall be in the United States District Court in the district where the commission maintains its office.

"ARTICLE IV. RIGHTS, RESPONSIBILITIES, AND OBLIGATIONS OF PARTY STATES

"SEC. 4.01. The host state shall develop and have full administrative control over the development, management and operation of a facility for the disposal of low-level radioactive waste generated within the party states. The host state shall be entitled to unlimited use of the facility over its operating life. Use of the facility by the non-host party states for disposal of low-level radioactive waste, including such waste resulting from decommissioning of any nuclear electric generation facilities located in the party states, is limited to the volume requirements of Section 3.04(11) of Article III.

"SEC. 4.02. Low-level radioactive waste generated within the party states shall be disposed of only at the compact facility, except as provided in Section 3.05(7) of Article III.

"SEC. 4.03. The initial states of this compact cannot be members of another low-level radioactive waste compact entered into pursuant to the Act.

"SEC. 4.04. The host state shall do the following:

"(1) Cause a facility to be developed in a timely manner and operated and maintained through the institutional control period.

"(2) Ensure, consistent with any applicable federal and host state laws, the protection and preservation of the environment and the public health and safety in the siting, design, development, licensing, regulation, operation, closure, decommissioning, and long-term care of the disposal facilities within the host state.

"(3) Close the facility when reasonably necessary to protect the public health and safety of its citizens or to protect its natural resources from harm. However, the host state shall notify the commission of the closure within three days of its action and shall, within 30 working days of its action, provide a written explanation to the commission of the closure, and implement any adopted contingency plan.

"(4) Establish reasonable fees for disposal at the facility of low-level radioactive waste generated in the party states based on disposal fee criteria set out in Sections 402.272 and 402.273, Texas Health and Safety Code. The same fees shall be charged for the disposal of low-level radioactive waste that was generated in the host state and in the non-host party states. Fees shall also be sufficient to reasonably support the activities of the commission.

"(5) Submit an annual report to the commission on the status of the facility, including projections of the facility's anticipated future capacity, and on the related funds.

"(6) Notify the Commission immediately upon the occurrence of any event which could cause a possible temporary or permanent closure of the facility and identify all reasonable options for the disposal of low-level radioactive waste at alternate compact facilities or, by arrangement and commission vote, at noncompact facilities.

"(7) Promptly notify the other party states of any legal action involving the facility.

"(8) Identify and regulate, in accordance with federal and host state law, the means and routes of transportation of low-level radioactive waste in the host state.

"SEC. 4.05. Each party state shall do the following:

"(1) Develop and enforce procedures requiring low-level radioactive waste shipments originating within its borders and destined for the facility to conform to packaging, processing, and waste form specifications of the host state.

"(2) Maintain a registry of all generators within the state that may have low-level radioactive waste to be disposed of at a facility, including, but not limited to, the amount of low-level radioactive waste and the class of low-level radioactive waste generated by each generator.

"(3) Develop and enforce procedures requiring generators within its borders to minimize the volume of low-level radioactive waste requiring disposal. Nothing in this compact shall prohibit the storage, treatment, or management of waste by a generator.

"(4) Provide the commission with any data and information necessary for the implementation of the commission's responsibilities, including taking those actions necessary to obtain this data or information.

"(5) Pay for community assistance projects designated by the host county in an amount for each non-host party state equal to 10 percent of the payment provided for in Article V for each such state. One-half of the payment shall be due and payable to the host county on the first day of the month following ratification of this compact agreement by Congress and one-half of the payment shall be due and payable on the first day of the month following the approval of a facility operating license by the host state's regulatory body.

"(6) Provide financial support for the commission's activities prior to the date of facility operation and subsequent to the date of congressional ratification of this compact under Section 7.07 of Article VII. Each party state will be responsible for annual payments equalling its pro-rata share of the commission's expenses, incurred for administrative, legal, and other purposes of the commission.

"(7) If agreed by all parties to a dispute, submit the dispute to arbitration or other alternate dispute resolution process. If arbitration is agreed upon, the governor of each party state shall appoint an arbitrator. If the number of party states is an even number, the arbitrators so chosen shall appoint an additional arbitrator. The determination of a majority of the arbitrators shall be binding on the party states. Arbitration proceedings shall be conducted in accordance with the provisions of 9 U.S.C. Sections 1 to 16. If all parties to a dispute do not agree to arbitration or alternate dispute resolution process, the United States District Court in the district where the commission maintains its office shall have original jurisdiction over any action between or among parties to this compact.

"(8) Provide on a regular basis to the commission and host state:

"(A) an accounting of waste shipped and proposed to be shipped to the compact facility, by volume and curies;

"(B) proposed transportation methods and routes; and

"(C) proposed shipment schedules.

"(9) Seek to join in any legal action by or against the host state to prevent nonparty states or generators from disposing of low-level radioactive waste at the facility.

"SEC. 4.06. Each party state shall act in good faith and may rely on the good faith performance of the other party states regarding requirements of this compact.

"ARTICLE V. PARTY STATE CONTRIBUTIONS

"SEC. 5.01. Each party state, except the host state, shall contribute a total of $25 million to the host state. Payments shall be deposited in the host state treasury to the credit of the low-level waste fund in the following manner except as otherwise provided. Not later than the 60th day after the date of congressional ratification of this compact, each non-host party state shall pay to the host state $12.5 million. Not later than the 60th day after the date of the opening of the compact facility, each non-host party state shall pay to the host state an additional $12.5 million.

"SEC. 5.02. As an alternative, the host state and the non-host states may provide for payments in the same total amount as stated above to be made to meet the principal and interest expense associated with the bond indebtedness or other form of indebtedness issued by the appropriate agency of the host state for purposes associated with the development, operation, and post-closure monitoring of the compact facility. In the event the member states proceed in this manner, the payment schedule shall be determined in accordance with the schedule of debt repayment. This schedule shall replace the payment schedule described in Section 5.01 of this article.

"ARTICLE VI. PROHIBITED ACTS AND PENALTIES

"SEC. 6.01. No person shall dispose of low-level radioactive waste generated within the party states unless the disposal is at the compact facility, except as otherwise provided in Section 3.05(7) of Article III.

"SEC. 6.02. No person shall manage or dispose of any low-level radioactive waste within the party states unless the low-level radioactive waste was generated within the party states, except as provided in Section 3.05(6) of Article III. Nothing herein shall be construed to prohibit the storage or management of low-level radioactive waste by a generator, nor its disposal pursuant to 10 C.F.R. Part 20.302.

"SEC. 6.03. Violations of this article may result in prohibiting the violator from disposing of low-level radioactive waste in the compact facility, or in the imposition of penalty surcharges on shipments to the facility, as determined by the commission.

"ARTICLE VII. ELIGIBILITY, ENTRY INTO EFFECT; CONGRESSIONAL CONSENT; WITHDRAWAL; EXCLUSION

"SEC. 7.01. The states of Texas, Maine, and Vermont are party states to this compact. Any other state may be made eligible for party status by a majority vote of the commission and ratification by the legislature of the host state, subject to fulfillment of the rights of the initial non-host party states under Section 3.04(11) of Article III and Section 4.01 of Article IV, and upon compliance with those terms and conditions for eligibility that the host state may establish. The host state may establish all terms and conditions for the entry of any state, other than the states named in this section, as a member of this compact; provided, however, the specific provisions of this compact, except for those pertaining to the composition of the commission and those pertaining to Section 7.09 of this article, may not be changed except upon ratification by the legislatures of the party states.

"SEC. 7.02. Upon compliance with the other provisions of this compact, a State made eligible under Section 7.01 of this article may become a party State by legislative enactment of this compact or by executive order of the governor of the State adopting this compact. A State becoming a party State by executive order shall cease to be a party State upon adjournment of the first general session of its legislature convened after the executive order is issued, unless before the adjournment, the legislature enacts this compact.

"SEC. 7.03. Any party State may withdraw from this compact by repealing enactment of this compact subject to the provisions herein. In the event the host State allows an additional State or additional States to join the compact, the host State's legislature, without the consent of the non-host party States, shall have the right to modify the composition of the commission so that the host State shall have a voting majority on the commission, provided, however, that any modification maintains the right of each initial party State to retain one voting member on the commission.

"SEC. 7.04. If the host State withdraws from the compact, the withdrawal shall not become effective until five years after enactment of the repealing legislation and the non-host party States may continue to use the facility during that time. The financial obligation of the non-host party States under Article V shall cease immediately upon enactment of the repealing legislation. If the host State withdraws from the compact or abandons plans to operate a facility prior to the date of any non-host party State payment under Sections 4.05(5) and (6) of Article IV or Article V, the non-host party States are relieved of any obligations to make the contributions. This section sets out the exclusive remedies for the non-host party States if the host State withdraws from the compact or is unable to develop and operate a compact facility.

"SEC. 7.05. A party State, other than the host State, may withdraw from the compact by repealing the enactment of this compact, but this withdrawal shall not become effective until two years after the effective date of the repealing legislation. During this two-year period the party State will continue to have access to the facility. The withdrawing party shall remain liable for any payments under Sections 4.05(5) and (6) of Article IV that were due during the two-year period, and shall not be entitled to any refund of payments previously made.

"SEC. 7.06. Any party State that substantially fails to comply with the terms of the compact or to fulfill its obligations hereunder may have its membership in the compact revoked by a seven-eighths vote of the commission following notice that a hearing will be scheduled not less than six months from the date of the notice. In all other respects, revocation proceedings undertaken by the commission will be subject to the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), except that a party State may appeal the commission's revocation decision to the United States District Court in accordance with Section 3.06 of Article III. Revocation shall take effect one year from the date such party State receives written notice from the commission of a final action. Written notice of revocation shall be transmitted immediately following the vote of the commission, by the chair, to the governor of the affected party State, all other governors of party States, and to the United States Congress.

"SEC. 7.07. This compact shall take effect following its enactment under the laws of the host State and any other party State and thereafter upon the consent of the United States Congress and shall remain in effect until otherwise provided by federal law. If Texas and either Maine or Vermont ratify this compact, the compact shall be in full force and effect as to Texas and the other ratifying State, and this compact shall be interpreted as follows:

"(1) Texas and the other ratifying State are the initial party States.

"(2) The commission shall consist of two voting members from the other ratifying State and six from Texas.

"(3) Each party State is responsible for its pro-rata share of the commission's expenses.

"SEC. 7.08. This compact is subject to review by the United States Congress and the withdrawal of the consent of Congress every five years after its effective date, pursuant to federal law.

"SEC. 7.09. The host State legislature, with the approval of the governor, shall have the right and authority, without the consent of the non-host party States, to modify the provisions contained in Section 3.04(11) of Article III to comply with Section 402.219(c)(1), Texas Health & Safety Code, as long as the modification does not impair the rights of the initial non-host party States.

"ARTICLE VIII. CONSTRUCTION AND SEVERABILITY

"SEC. 8.01. The provisions of this compact shall be broadly construed to carry out the purposes of the compact, but the sovereign powers of a party shall not be infringed upon unnecessarily.

"SEC. 8.02. This compact does not affect any judicial proceeding pending on the effective date of this compact.

"SEC. 8.03. No party State acquires any liability, by joining this compact, resulting from the siting, operation, maintenance, long-term care or any other activity relating to the compact facility. No non-host party State shall be liable for any harm or damage from the siting, operation, maintenance, or long-term care relating to the compact facility. Except as otherwise expressly provided in this compact, nothing in this compact shall be construed to alter the incidence of liability of any kind for any act or failure to act. Generators, transporters, owners and operators of facility shall be liable for their acts, omissions, conduct or relationships in accordance with applicable law. By entering into this compact and securing the ratification by Congress of its terms, no party State acquires a potential liability under section 5(d)(2)(C) of the Act (42 U.S.C. Sec. 2021e(d)(2)(C)) that did not exist prior to entering into this compact.

"SEC. 8.04. If a party State withdraws from the compact pursuant to Section 7.03 of Article VII or has its membership in this compact revoked pursuant to section 7.06 of Article VII, the withdrawal or revocation shall not affect any liability already incurred by or chargeable to the affected state under section 8.03 of this article.

"SEC. 8.05. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared by a court of competent jurisdiction to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstances is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby to the extent the remainder can in all fairness be given effect. If any provision of this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

"SEC. 8.06. Nothing in this compact diminishes or otherwise impairs the jurisdiction, authority, or discretion of either of the following:

"(1) the United States Nuclear Regulatory Commission pursuant to the Atomic Energy Act of 1954, as amended (42 U.S.C. Sec. 2011 et seq.); or

"(2) an agreement state under section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. Sec. 2021).

"SEC. 8.07. Nothing in this compact confers any new authority on the states or commission to do any of the following:

"(1) Regulate the packaging or transportation of low-level radioactive waste in a manner inconsistent with the regulations of the United States Nuclear Regulatory Commission or the United States Department of Transportation.

"(2) Regulate health, safety, or environmental hazards from source, by-product, or special nuclear material.

"(3) Inspect the activities of licensees of the agreement states or of the United States Nuclear Regulatory Commission.".

Mr. LEAHY. Mr. President, I rise in support of S. 2222, the Texas Low-Level Radioactive Waste Disposal Compact, which establishes a formal waste agreement between the States of Vermont, Maine, and Texas.

While I would prefer to be supporting a measure that represents a perfect solution for our Nation's low-level waste problem—something that gets rid of low-level waste permanently without affecting a single American—this alternative does not exist. Therefore, I rise to support the best solution available.

This issue is not an easy one, and I am still looking for improvements to the established system. I have joined several of my colleagues in support of a Presidential blueribbon commission to look critically at the generation, classification, storage, and disposal of radioactive waste in this country. I hope that this effort will provide some improvements to the current way that we deal with this issue.

However, given the current authority established by Congress in the Low-Level Radioactive Waste Policy Amendments Act of 1985, the Texas-Vermont-Maine compact is a remarkably good one. The bill we are introducing today represents the 10th low-level waste trade compact to be considered by Congress. With the ratification of this compact, 45 States will be members of multistate low-level waste storage agreements which nearly completes the process that Congress established in 1985.

This bill also assures that Vermont's waste will be stored in one of the safest sites available. The planned storage facility is in a geologically stable area that receives less than 12 inches of rainfall per year and has an evapotranspiration rate of 70 inches a year. Less than one inch of water runs off the land annually, and groundwater is more than 700 feet below the surface.

The compact minimizes the impact of waste disposal on the American people. The planned site is on marginal range that supports about one head of cattle per 100 acres and has a population of less than 1 person per 1,000 acres. The State of Texas has ensured that the facility will comply with the strict terms of the President's Executive order on environmental equity. The facility will be built to the highest standard using the best technology available.

In addition, the bill solves several financial, legal, and environmental problems for the State of Vermont. In ratifying this compact we protect Vermont from hostile influxes of waste that would be possible if Vermont built its own facility independently and we meet the intent of Federal law. The State of Vermont has avoided large capital costs by participating actively in this planning process. It is my understanding that another State, by comparison, offered Texas $100,000,000 to join the compact and was turned away. States that do not have a compact at this point find themselves on a difficult situation. Some of these States have passed up opportunities that may compromise their ability to deal safely with low-level radioactive waste.

Finally, the compact represents the clear political will of all three States. Engineers, planners, community activists, geologists, State officials and many others have participated in a democratic process. These and other stakeholders will continue to be involved as the project progresses. The Vermont State Legislature passed this compact on April 20, 1994, and the Governor signed the bill the following day. The bill honors the hard work, commitment, and support that our States have demonstrated toward this compact.

I want to thank the majority leader for introducing this legislation and I am willing to lend my support to this bill. I also want to thank the Senators from Texas for supporting their State in Congress on this issue. I hope the Judiciary Committee can review the bill expeditiously and return it to the floor for final passage in the 103d Congress.

By Mr. KOHL (for himself and Mr. FEINGOLD):

S. 2223. A bill to amend title 10, United States Code, to authorize the Secretary of Defense to provide assistance to promote public participation in defense environmental restoration activities; to the Committee on Armed Services.

DEFENSE ENVIRONMENTAL CLEAN-UP TECHNICAL ASSISTANCE ACT

Mr. KOHL. Mr. President, Defense toxic waste sites are a lingering legacy threatening local communities across the country and in my State of Wisconsin. As the Defense Department downsizes or closes bases, there is a growing fear among citizens that environmental cleanup of toxic waste sites will be rushed and that, faced with tight budgets, the Defense Department may make decisions about the clean-up of these sites which are detrimental to the health and well-being of citizens living nearby. This fear has become even more acute with the realization that the cost of cleaning up the 15,000 plus Defense toxic waste sites across the country could cost as must as $25 billion.

The legislation I am introducing today, along with Senator FEINGOLD, attempts to protect the interests of local communities in the cleanup process and give them the means to participate in the difficult decisions about environmental cleanup which lie ahead.

Two years ago, all the parties involved in the cleanup of Federal environmental contamination came together under the auspices of the Keystone Foundation. For the first time, Federal, State, local, and Indian tribal officials, and community, environmental, and labor organizations, came up with a series of recommendations acceptable to everyone to improve public participation in the cleanup of these hazardous sites. These recommendations can be found in the Interim Report of The Federal Facilities Environmental Restoration Dialogue Committee.

The Defense Department endorsed the Keystone recommendations and has been working to implement them.

The cornerstone of this effort is the creation of restoration advisory boards at each installation. These boards are made up of community members selected to give local input on cleanup issues to the Federal agency having jurisdiction over the site. In a pilot program the Defense Department has directed each of the services to assist communities in setting up restoration advisory boards at five installations with environmental contamination.

In an effort to make these boards more independent and give them credibility in their communities, the Keystone participants recommended that the Federal agencies provide technical assistance grants to the boards, much like EPA does at Superfund sites, so the boards can hire experts to help them understand complex environmental impact statements and technical and engineering information provided to them by the Federal Government.

Although the Defense Department has been committed to the Keystone process, it has refused to provide technical assistance grants. I believe this is a serious mistake which could undermine the independence and the credibility of these boards in their own communities.

This legislation puts into statute the establishment of restoration advisory boards by the Defense Department and lays out criteria for the makeup of these boards. Most important, however, it requires that the Defense Department provide small grants to the restoration advisory boards of $100,000 or one-tenth of 1 percent of the total cost of cleaning up the facility, whichever works out to be less, to allow them to obtain technical assistance.

By limiting the amount which would go to each community and setting a cap on overall spending for technical assistance grants, the bill does not direct significant funds away from cleanup itself.

This bill will not delay cleanup of bases, rather it will facilitate environmental cleanup. By ensuring that the views of local citizens can be heard, we can prevent strained relations between civilians and the military and the delays that often arise because of these tensions.

This bill is not designed to fund more studies. I think we all agree that there have been plenty of studies.

Finally, this bill would not require new spending. Instead, it designates one-quarter of 1 percent from the Defense Environmental Restoration Account and the 1990 Base Realignment and Closure Account or $7.5 million, whichever works out to be less, for this purpose.

Mr. President, this is a small price to pay for peace of mind. And, in the long run, investing the local community in the cleanup process will save millions of dollars that might have been spent in litigation down the road.

This bill could have tremendous impact across the country. In my own State, there are 278 contaminated sites at 47 bases and formerly used Defense sites.

Badger Army Ammunition Plant which is located in Baraboo, WI, is one of five installations designated by the Army to participate in the pilot program to implement the Keystone recommendations. Subsequent to its selection, a restoration advisory board made up of a cross-section of citizens who have been affected or could be affected by the environmental contamination at Badger was created to provide policy and technical advice on key cleanup decisions.

The board at Badger has been frustrated by its inability to receive a technical assistance grant from the Department of Defense to hire independent technical advisors. Instead, the Army has encouraged the board to use the technical advisors employed by the Army. Yet, the environmental contractors working for the Army are not permitted to speak directly to members of the board when they have questions. All questions have to go through the Army.

Although I have no doubt that the Army is operating in good faith, preventing the restoration advisory board from receiving independent guidance on technical matters violates the spirit of the Keystone process and puts the entire credibility of the board at stake. Our legislation would correct this problem.

Similar legislation has been introduced in the House by Representative Underwood from Guam and I want to commend him for his work on this issue. He was successful in having a similar provision adopted in the House version of the Defense authorization bill.

This bill is about empowering citizens who have taken on the difficult task of working side-by-side with the military to make sure that clean really means clean. Above all, this bill is about building trust between the Federal Government and our local communities.

Mr. President, I want to alert my colleagues to my intention to offer this bill as an amendment to the Defense authorization bill. I urge my colleagues to support this effort so we can get on with the business of cleaning up our bases and making our communities, the water, the soil, and the air, safe for our children.

Mr. FEINGOLD. Mr. President, I am very pleased to join with my friend and colleague Senator KOHL in introducing legislation to authorize the Secretary of Defense to provide assistance to promote public participation in defense environmental restoration activities.

Mr. President, I believe legislation such as this will provide a greater opportunity for local community members to play an active and informed role in environmental restoration activities at nearby Defense installations.

Currently, while the Department of Defense is participating in the Keystone Federal Facilities Environmental Restoration Committee which has been instrumental in opening the doors to greater local community involvement in restoration activities through the use of restoration advisory boards, one important piece is missing.

Mr. President, I would like to use as an example a recent request to the Department of Defense made by members of the Site Specific Advisory Board at the Badger Army Ammunition Plant in Baraboo, WI.

This board which has input into ongoing restoration activities at the plant is exclusively made up of community members. Given the technical nature of environmental remediation, monitoring, and planning, the board requested funds to employ an independent technical adviser to assist them in providing and explaining technical information. This request was denied.

I wrote to the Department of Defense on the board's behalf asking that the Department reconsider this position. The Department again responded in the negative.

Mr. President, given the technical nature of both on-site environmental restoration and of regulatory process, the Keystone report recommended that technical assistance funding be provided to nongovernmental advisory board members to help ensure more effective and meaningful participation, especially as it relates to SSAB [site specific advisory board] review and comment on technical reports and documents being developed by the Federal facility managers and their contractors.

The EPA has authority to provide technical assistance grants to communities near national priorities list [NPL] sites under the Comprehensive Environmental Response, Compensation and Liability Act. I believe this possibility of technical assistance funding is essential in assuring fully informed community involvement, and that advisory boards which are located near non-NPL Defense sites should have the same access to such funds through the Department of Defense.

Mr. President, individuals should have a voice in cleanup activities which are taking place in their backyards. They are the most invested in seeing that remediation takes place in a responsible and efficient matter, because it is their health and the health of their children at stake if it is not. These individuals should not only have a voice, but the tools needed for an informed collective voice. I believe the legislation offered by Senator KOHL and myself today will help to make that more possible.

By Mr. MOYNIHAN (for himself, Mr. MITCHELL, Mr. BREAUX, Mr. DASCHLE, Mr. DODD, Mr. KENNEDY, and Mr. ROCKEFELLER) (by request):

S. 2224. A bill to amend the Social Security Act, the Food Stamp Act of 1977, and other relevant statutes to redesign the program of aid to families with dependent children to establish a program that provides time-limited, transitional assistance, prepares individuals for and requires employment, prevents dependency, and overhauls the child support enforcement mechanism at both the Federal and State levels, and for other purposes; to the Committee on Finance.

WORK AND RESPONSIBILITY ACT OF 1994

Mr. MOYNIHAN. Mr. President, along with the Majority Leader MITCHELL and Senators BREAUX, DASCHLE, DODD, and KENNEDY, I am today introducing the Work and Responsibility Act of 1994 at the request of President Clinton.

The President's proposal builds on the Family Support Act which this body passed 5 years ago. Governor Clinton, as head of the National Governors' Association, was a key supporter of that legislation. The early returns from States like California and Florida suggest that the program is working exactly as intended—earnings are up and welfare costs are down. The major disappointment is that the States have had trouble coming up with the funds to draw down all of the available Federal dollars. The new proposal increases Federal funding, and reduces the required State match, so that a much larger portion of the caseload should be able to enter school, or job training, or otherwise start down the road to self-sufficiency.

The new plan emphasizes employment. "Work is the best social program this country ever devised," President Clinton said last Thursday at the Commerce Bank in Kansas City in announcing his plan to submit this legislation. This Congress has already increased work incentives for welfare recipients with last year's expansion of the earned income tax credit, and the incentives will be even stronger when we pass universal health coverage. Under the President's welfare plan, most recipients will have to go to work after they have been on the rolls for 2 years. For job-ready individuals, job search will become the first priority. And states will be allowed to increase work incentives in their welfare programs.

The President directly addresses the problem of out-of-wedlock births. In Kansas City last Thursday, he predicted that within 10 years, unless current trends are reversed, "more than half of our children will be born in homes where there has never been a marriage." Reversing these trends won't be easy, but nothing is as important. "No nation" said the President "has ever found a substitute for the family." For a young woman who is thinking of having a baby and going on welfare, the new plan contains a simple message: you will have to live at home and stay in school, and after you graduate, you will have to go to work.

There are also some bold changes to increase child support payments—"the toughest child support enforcement measures in the history of this country," according to the President. The plan sets up a new system of paternity establishment to enforce the responsibility of both parents from the moment the child is born. It involves the IRS in tracking delinquent parents from the moment they start a new job. And it includes new provisions to ensure that parents don't avoid their responsibility by crossing State lines.

No doubt there will be criticisms of the President's bill; complaints that he went too far, or that he did not go far enough. What matters is that, as in 1988, a broad consensus has developed around a few basic points—that all recipients should have access to the education and training they need, that after that they should go to work, preferably in the private sector but in a public job if necessary, and that we must redouble our efforts to stop the rise in teenage pregnancy which has done so much to increase welfare caseloads. If you look at the major bills that have been introduced in the House and the Senate, what stands out are the similarities, not the differences. If we can focus on the areas of agreement, I believe we can put together a bipartisan coalition in favor of the kind of work-oriented system that the great majority of Americans support.

Mr. MITCHELL. Mr. President, last week President Clinton announced a sweeping welfare reform plan that will make welfare receipt temporary. Ending the cycle of dependency will end welfare as we know it.

Under the President's plan, from day one, welfare parents will be required to develop an employability plan. That plan will serve as a blueprint for self-sufficiency.

Those parents who are job-ready will join a job search program. Anyone offered a job, will be required to take it. For those welfare parents not job-ready, they will be required to participate in the Job Opportunities and Basic Skills Program, known as JOBS, where they will receive the education and skill training necessary to become employable.

Under current law, few AFDC parents of young children participate in the JOBS Program. Under the Clinton plan, AFDC parents of children age one or older will be required to participate in JOBS. For mothers who have additional children while receiving AFDC, they will be required to participate in JOBS once their new baby is 3 months of age.

For AFDC parents who have not found employment within 2 years, they will be required to work for their benefits in a newly created WORK Program. While States will have flexibility in designing WORK Programs, the basic concept is that the WORK Program will be a work-for-wages plan, so that AFDC parents receive money only for hours actually worked.

To ensure that parents can participate in the JOBS and WORK Programs, child care assistance will be provided.

The Clinton plan focuses on young unwed mothers. Studies have long shown that young women who become mothers as teenagers are likely to remain on welfare for the longest period of time. They are more likely to drop out of high school, have no work training or job skills, and over their lifetime represent the bulk of the cost to the welfare system.

Under the Clinton plan, AFDC parents under 20 years of age who do not have a high school degree will be required to participate in the JOBS Program once their baby is 3 months of age.

States will have the flexibility to adopt sanctions or incentives to boost teen school attendance. For teen parents who attend high school regularly, States could provide a bonus payment. For teen parents who drop out of high school or who miss more than a few days, their AFDC benefit could be reduced.

In addition, teen parents will be required to live at home or in a supervised group setting.

The Clinton plan is tough on deadbeat parents. I think we all agree that raising a child is a financial responsibility for both the mother and the father. For too long, too many noncustodial parents have walked away from their financial responsibility.

Under the Clinton plan, the child support enforcement system will be simplified and streamlined. For mothers applying for AFDC, they will be required to provide paternity information to the State in order to qualify for benefits.

Those parents owing child support who don't make their payments will be subject to tough sanctions. States will be allowed to suspend occupational and professional licenses as well as drivers' licenses of deadbeat parents. Since this law was enacted in Maine last year, about 8,700 delinquent parents have paid over $10 million in past-due support.

Interstate child support enforcement is nearly impossible today. Under the Clinton plan, States will be required to adopt uniform rules to ensure that child support is paid regardless of the State in which parents decide to live.

There has been criticism of the Clinton plan in the papers recently because the President has chosen to target initial resources in his bill to mothers born after 1971. This criticism is unfounded.

Welfare reform is not a new objective. Every President since Dwight Eisenhower has made welfare reform a priority. But eliminating poverty in the United States has proven an elusive goal and welfare caseloads and costs have risen steadily.

The Aid to Dependent Children Program that President Roosevelt created was designed primarily for widows with young children. Today, very few of these households are now headed by widows. Most are unmarried mothers or divorced or separated mothers.

Women who gave birth as teenagers make up nearly half of the AFDC caseload. Because they lack education and job skills, they represent the long-term costs of the AFDC Program and they are the mothers who make welfare a way of life. By targeting mothers under 25, the Clinton plan seeks to end the cycle of dependency that young mothers create.

At State option, a larger segment of the welfare population, in fact, all applicants, can be required to participate in the WORK Program and work for their benefits. I believe that this is fair. The Clinton plan targets the population most likely to represent the long-term cost of the welfare system. States are given the flexibility to enlarge the population affected by the new rules.

With all the criticism from Governors about Congress enacting large unfunded mandates, I believe that the Clinton plan offers a realistic strategy. Requiring participation in the JOBS Program or the WORK Program, for those who haven't found employment, is not free. It will cost the Federal and State governments some money to provide child care to ensure that welfare parents can participate in these programs.

It will cost the Federal and State governments some money to fund education or job training programs and ultimately the WORK Program to ensure that AFDC parents are either getting the skills that they need to become employable or are in a workfare type program. To ensure that Congress is not passing on a large unfunded mandate to the States, I believe that the Clinton bill is a sound plan.

Welfare receipt ought to be temporary, given during times of financial crisis for a family, not a way of life as it has become for too many families. For those who can work, they ought to be required to work.

But, one of the largest barriers that many women with children face as they seek to leave the welfare rolls is the absence of health care. A family on AFDC automatically qualifies for Medicaid, the health insurance program for the poor. But, many low paying jobs, the jobs that most welfare recipients may qualify for, don't carry health insurance.

This means that the first time this family has a health problem, the likelihood that the family returns to the welfare rolls is quite good.

Universal health care coverage is part of the President's health care plan. While there might be many changes in the President's health care plan before it's enacted, universal coverage is critical to making work pay and helping families become and stay self-sufficient.

Health care coverage is a critical part of welfare reform. Poor women and children currently on welfare have little chance to make it on their own off welfare if they don't have health care coverage.

During the next several months, there will be much debate about welfare reform in the Congress and in the States. There is no magic wand to turn welfare recipients into wage earning recipients. There is no panacea to fixing our Nation's welfare system.

If we provide health insurance to all Americans, if we improve the child support system, and if we work to promote more personal responsibility among our Nation's youth, we can truly reform our Nation's welfare system. We can "end welfare as we know it".

Mr. BREAUX. Mr. President, the welfare system in this country is failing all of us. It is failing the working people whose tax dollars pay for it and it is failing the poor, who it was intended to help.

Even worse, it has corrosive effects on individual self-sufficiency and family structure and traps them into an endless cycle. Too often welfare condemns families to a repeating cycle of poverty and hopelessness that is passed from one generation to the next.

Poverty and long-term dependence on welfare are critical issues in this country. In 1992, the number of people living in poverty reached 37 million Americans—it grew by 5.4 million people over just 3 years. At the same time, the number of out-of-wedlock births has increased to epidemic proportions.

In my State of Louisiana, almost one-third of all children live in poverty. In Orleans Parish alone, nearly half of all children alive today—46 percent live in poverty. It's not hard to see that welfare reform is a pressing issue in Louisiana because the lives of so many Louisiana citizens are shaped by the broken welfare system and the poisonous culture that it creates.

That is why I am an original cosponsor of the bill being introduced today. I am especially pleased to join with the chairman of the Senate Finance Committee, Senator MOYNIHAN, who has long been a leader on this issue, and with Senate Majority Leader MITCHELL.

President Clinton promised to "end welfare as we know it" and this bill demonstrates that he is honoring that commitment. He has done something that is extremely difficult to do. He has sent us a plan that is truly dramatic in its reach—from the very beginning welfare will become a transitional system leading to work. At the same time, he has structured the reforms in a way that is practical and workable.

To me "ending welfare as we know it" does not mean mindlessly slashing welfare programs to save tax dollars. It means alleviating poverty and welfare dependency, not just for welfare recipients, but for the "working poor." And most importantly, it means a long-term commitment to putting poor Americans to work and helping them resolve the circumstances that made them poor in the first place.

We must help the growing numbers of welfare dependent individuals. They must be given a chance, and strongly helped and encouraged to enter the economic mainstream of this country. Work and responsibility must be rewarded in the welfare system and a refusal to live by the rules that working people live by ought not to be rewarded.

President Clinton's plan says that after a period of 2 years AFDC recipients should no longer be eligible for welfare payments. Instead they should be placed in jobs in the private sector or, where necessary, into community service jobs. Welfare would be transformed into a temporary program for individuals who will soon be returning to the work force. Those who aren't willing to work or go through job training could no longer receive benefits forever.

The proposal will also reinforce the concept of parental responsibility by toughening the enforcement of child-support obligations and holding absent fathers responsible for their fair share of supporting the children that they bring into the world.

Last year we started the process of reforming welfare by expanding and simplifying the Earned Income Tax Credit. This will help working families stay out of poverty and, as the President has promised to do, make work pay. Health care reform is also a critical piece of comprehensive welfare reform. Right now, too many poor Americans are faced with the loss of health insurance should they choose to take a job and get off of welfare. This penalty for working needs to be eliminated and we are well on the road to making the needed changes.

Welfare reform legislation should be looked at as one of the critical pieces of an overall domestic agenda that will help all working families, all of those too often forgotten Americans who work hard and play by the rules. Other major pieces of this agenda include the crime bill, which is now in conference, and the 500 billion dollar deficit reduction bill we passed last year, which has succeeded in keeping interest rates down so that millions of Americans have been able to refinance their mortgages and keep a little bit more of their own hard-earned money. Inflation is also down and job creation is on the rise.

Reaching a consensus on how to solve this problem won't be easy. In past welfare reform efforts, conservatives have argued for less spending on welfare without making fundamental changes in how welfare works. Liberals have, too often, simply argued for more resources without making fundamental changes either.

The arguments have mostly been over less of the same or more of the same. This is too simple—the existing welfare system needs to be replaced with a work-based social policy that reinforces mainstream values by rewarding individual initiative, expanding opportunities for self-sufficiency and, in return, demanding responsible behavior on the part of recipients.

The proposal that President Clinton has sent us would achieve these goals and he is to be commended for his commitment to this vital issue. He has sent us a bill that contains the vital elements of real reform and I, for one, am eager to get started on it.

• Mr. DODD. Mr. President, I rise today as a proud cosponsor of President Clinton's welfare reform bill. I see it as an excellent starting point to what I hope will prove to be a constructive debate. I wanted to take this opportunity to share with my colleagues a statement I delivered when the President unveiled his proposal last week:

For me, the entire debate over welfare reform orbits this one word, responsibility: Our responsibility as teenagers not to bring kids into the world if we can't care for them; our responsibility as fathers not to walk away from the kids we do create; our responsibility as adults to work and earn a paycheck; our responsibility as a private sector to create jobs; and our responsibility as a government to help people on welfare find their way to those jobs.

It is time for all of us to meet these responsibilities. It is time for all of us to save the children who are suffering today because we haven't.

PERSONAL RESPONSIBILITY

When I think about the importance of responsibility, I think of a young woman I met in Bridgeport, CT, when I was touring the Private Industry Council job training program there. I spoke with a welfare mother sitting behind a computer terminal, trying to learn a trade. I asked her why she was there, why she was working so hard to find a job rather than simply staying on welfare.

She paused for a while after I asked the question and then looked me straight in the eye: "Mr. politician," she said, "I've got a 4- and a 5-year-old at home, and I want them to see a parent going to work in the morning. That's something I never saw growing up."

This woman understood responsibility. She was taking responsibility for her life, and she was taking responsibility for her children's lives.

As we embark on this process, I hope we will remember that welfare reform shouldn't just be a campaign slogan or the title of an issue brief. Welfare reform should be about people, and in the case of aid to families with dependent children [AFDC] most of those people are children. In fact, AFDC was created almost 60 years ago for the principal purpose of assisting needy children without fathers.

While our society has changed dramatically since that time, the purpose of the program has not. Two-thirds of welfare recipients today are children. If the system fails, it fails their parents—but more than anything else, it fails their kids.

FAILING OUR CHILDREN

That is what's happening today. We—all of us—are failing our children. This point has been driven home in recent months with the release of a couple of studies that painted a devastating portrait of young America:

A report I requested from the General Accounting Office showed that the number of poor children under the age of 6 in America increased by more than 25 percent during the 1980's.

These numbers are worse in urban areas: Forty-seven percent of young children living in the capital of my own State of Connecticut are poor, making Hartford the American city with the second-highest child poverty rate.

Another study by the Carnegie Foundation found that one in four young children is poor.

I don't know of anyone who could look at statistics like these and not recognize that something is seriously wrong in America—and that our children are being punished for it.

STOP POINTING FINGERS

It is time for everyone to stop pointing the finger of blame at someone else for this state of affairs.

Liberals must stop blaming something amorphous they call society. Conservatives must stop blaming mythical individuals called welfare queens. And people on welfare must stop blaming others for circumstances they can personally take the initiative to change.

I want to emphasize that the President's announcement today does not represent the end of a process, but only a beginning. This is a highly complex issue, and we don't want to leap before we look.

With that caveat in mind, I think the President's plan includes a number of valuable provisions. Work requirements, time limits and better linkages to job training programs are all ideas worthy of serious and careful consideration.

STRONG CHILD SUPPORT PROVISION

I am especially pleased about the strong child support enforcement component of the President's plan. The poverty rate for single-parent families headed by women is nearly 33 percent. This compares to a poverty rate of under 8 percent for two-parent families.

The lack of child support is a major cause of poverty among single-parent families in this country, and too often those families going without support end up on welfare. The link between lack of child support and poverty is clear, as the Census Bureau illustrated when it estimated that between 1984 and 1986 approximately half a million children fell into poverty after their fathers left home.

The President's proposal contains some valuable tools to change this situation and demand that absent fathers step up to the plate and take responsibility for their children. I was pleased that the President incorporated a number of provisions from child support legislation I introduced earlier this year.

TEEN PREGNANCY

The President's initiative also recognizes that reducing teen pregnancy is integral to cutting into welfare dependency. Between 1960 and 1988, the percentage of births in America to unmarried mothers rose from 5 percent to 26 percent, and the poverty rate for children raised in such settings is terrible—for children of single Hispanic mothers the rate approaches 75 percent.

We must state in clear, unmistakable terms to teenage boys and girls that they best not create a life unless they are willing to take responsibility for that life. The President envisions a concerted, national campaign to achieve that end.

CHILD CARE

Finally, the President's plan contains a modest child care component. The lack of quality, affordable child care is often the most serious obstacle to young women's efforts to enter the work force—and to stay in the work force once they get there.

I am pleased that the administration recognized this fact by including child care in its proposal and by making provisions of the child care and development block grant that I authored in 1990 the standard for Federal child care. But I am concerned about the modest scope of this provision. By including only a very limited expansion of child care for the working poor, the President's plan may very well be penny wise but pound foolish when it comes to child care.

We may save money in the short run by not providing more generous child care benefits, but lose money down the road if women who have successfully made the transition from welfare to work go back to welfare after a year due to a lack of affordable, quality child care.

I do understand the daunting fiscal pressures the administration faced in drafting this plan, and I want to reiterate that, taken as a whole, it is a creative and constructive proposal. In the months ahead, we will be carefully examining each part of the proposal, and I look forward to working with my colleagues on this exciting endeavor.

CONCLUSION

This country, so great and strong, the most productive economic power in the world, surely has the will and the know how to end welfare dependency. When we are finished with this process, I hope we will demand more of everyone in this country. I hope we will demand that each and every American accept responsibility for his or her actions. I hope we will demand that our children not be raised in intolerable conditions.

I know one thing: That the American people are demanding that we reform welfare and that we do it right. We have a responsibility as elected representatives to respond to that demand, and I am eager to roll up my sleeves and get started.●

Mr. KENNEDY. Mr. President, I support President Clinton's efforts to reform the welfare system and make it a program that encourages productive work instead of habitual welfare dependency.

Genuine welfare reform means job training and education that provide mothers on welfare with the opportunity to enter the workplace and earn a living wage. Genuine welfare reform means providing adequate child care, so that mothers can leave home for work and know that their children will be safe. It means passing health reform, so that no mother feels the need to stay on welfare in order to get health care for her children.

President Clinton's plan for reforming the welfare system includes all of these essential components. It is a genuine effort to improve this troubled program, and I am proud to cosponsor it.

The 2-year time limit on welfare benefits and the work requirements are important features of this plan. The real problem with the work requirements is likely to be making enough jobs available. Welfare reform won't work if there is no job at the end of reform.

The 2-year time limit provides adequate time to make job training and other assistance available, while also ensuring that welfare does not become a way of life. The decision to apply the limit at the outset only to welfare recipients 25 years old or younger is sensible. Federal, State, and local governments will be overwhelmed if they have to provide job training, child care, and job opportunities for everyone on welfare. The first priority is to help young mothers avoid welfare dependency.

In general, I also support the sanctions and disincentives in the President's plan. Sanctions are appropriate for those who do not fulfill their obligation to attend job training sessions, seek work, or meet the other work requirements. However, I oppose the family cap—measures that aim at the mother but hit the child are not the answer to welfare dependency.

I look forward to effective action by Congress to achieve these reforms. Our goal is to turn the welfare system into a helping hand, and end the handout it was become for far too many.

Mr. President, I ask unanimous consent that a fact sheet, legislative specifications, and a copy of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD.

S. 2224

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Work and Responsibility Act of 1994".

SEC. 2. TABLE OF CONTENTS; REFERENCES.

(a) TABLE OF CONTENTS.—This Act contains the following titles and sections:

TITLE I—JOBS

Sec. 101. Requirement to Participate in Enhanced JOBS Program.
Sec. 102. Establishment of Enhanced JOBS Program Under Part F.
Sec. 103. Amendments Pertaining to Services and Activities Under JOBS Program.
Sec. 104. Twenty-four Month Limit.
Sec. 105. Responsibilities of Assistant Secretary for Family Support.

TITLE II—WORK

Sec. 201. Establishment of Program.
Sec. 202. Federal Funding for the JOBS and Work Programs; Participation Requirements.
Sec. 203. Administration of the JOBS and Work Programs.
Sec. 204. Special Provisions Relating to Indian Tribes and Alaska Native Organizations.
Sec. 205. Special Rules for the Territories.
Sec. 206. Training and Employment for Non-Custodial Parents.
Sec. 207. Federal Tax Treatment of Work Wages.

TITLE III—CHILD CARE

Sec. 301. Child Care for JOBS and Work Program Participants and At-Risk Families.
Sec. 302. Related Amendments.
Sec. 303. Limitation of At-Risk Child Care to Families Ineligible for Recipient or Transitional Child Care.
Sec. 304. Option to Consolidate State Responsibility for Child Care.
Sec. 305. Funding for Quality Improvement and Licensing Activities Benefitting Children Receiving AFDC or At-Risk Child Care.
Sec. 306. Funding of Child Care for Families At-Risk of Welfare Dependency.
Sec. 307. Supplement to Income Disregard.

TITLE IV—PROVISIONS WITH MULTI-PROGRAM APPLICABILITY

Sec. 401. Performance Standards.
Sec. 402. AFDC Quality Control System Amendments.
Sec. 403. National Welfare Receipt Registry; State Information Systems.
Sec. 404. Research and Evaluation; Technical Assistance; Demonstration Projects.
Sec. 405. Offsets to Mandatory Spending From Fraud, Waste, and Abuse.

TITLE V—PREVENTION OF DEPENDENCY

Sec. 501. Supervised Living Arrangements for Minors.
Sec. 502. State Option to Limit Benefit Increases for Additional Family Members.
Sec. 503. Case Management for Parents Under Age 20.
Sec. 504. State Option to Provide Additional Incentives and Penalties to Encourage Teen Parents to Complete High School and Participate in Parenting Activities.
Sec. 505. Adolescent Pregnancy Prevention Grants.
Sec. 506. Demonstration Projects to Provide Comprehensive Services to Prevent Adolescent Pregnancy in High-Risk Communities.

TITLE VI—CHILD SUPPORT ENFORCEMENT

Sec. 600. References in Title.

Part A—Eligibility and Other Matters Concerning Title IV-D Program Clients

Sec. 601. Cooperation Requirement and Good Cause Exception.
Sec. 602. State Obligation to Provide Paternity Establishment and Child Support Enforcement Services.
Sec. 603. Distribution of Payments.
Sec. 604. Due Process Rights.
Sec. 605. Privacy Safeguards.
Sec. 606. Requirement to Facilitate Access to Services.

Part B—Program Administration and Funding

Sec. 611. Federal Matching Payments.
Sec. 612. Performance-Based Incentives and Penalties.
Sec. 613. Federal and State Reviews and Audits.
Sec. 614. Automated Data Processing Requirements.
Sec. 615. Director of OSCE Program; Training and Staffing.
Sec. 616. Funding for Secretarial Assistance to State Programs.
Sec. 617. Data Collection and Reports by the Secretary.

Part C—Locate and Case Tracking

Sec. 621. Central State Case Registry.
Sec. 622. Centralized Collection and Disbursement Support Payments.
Sec. 623. Amendments Concerning Income Withholding.
Sec. 624. Locator Information From Interstate Networks and Labor Unions.
Sec. 625. National Welfare Reform Information Clearinghouse.
Sec. 626. Expanded Locate Authority.
Sec. 627. Studies and Demonstrations Concerning Federal Parent Locator Service.
Sec. 628. Use of Social Security Numbers.

Part D—Streamlining and Uniformity of Procedures

Sec. 635. Adoption of Uniform State Laws.
Sec. 636. State Laws Providing Expedited Procedures.

Part E—Paternity Establishment

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Sec. 901. Limitation on Federal Payments for Emergency Assistance.
Sec. 902. Uniform Alien Eligibility Criteria for Public Assistance Programs.
Sec. 903. Eligibility of Sponsored Aliens for Certain Programs.
Sec. 904. National School Lunch Program.
Sec. 905. State Retention of Amounts Recovered.
Sec. 906. Commodity Program Income Ineligibility.
Sec. 907. Amendments Related to Superfund Tax Extension.
Sec. 908. Federal Railroad Administration User Fees.
Sec. 909. Special Earned Income Tax Credit Rules for Military Personnel.
Sec. 910. Nonresident Aliens not Eligible for Earned Income Tax Credit.
Sec. 911. Extension of Certain Custom Fees.

TITLE X—EFFECTIVE DATES

Sec. 1001. Effective Dates.

(b) REFERENCE.—References herein to the "Act" are references to the Social Security Act except where otherwise provided or when the context otherwise requires.

TITLE I—JOBS

SEC. 101. REQUIREMENT TO PARTICIPATE IN ENHANCED JOBS PROGRAM.

(1) Section 402(a)(19) of the Act is amended by striking out all down through subparagraph (E)(i) and inserting in lieu thereof the following:

"(19) provide—

"(A) that the State has in effect and operation a job opportunities and basic skills training program (hereafter in this title referred to as the 'JOBS' program which meets the requirements of part F), and a program of employment (hereafter in this title referred to as the 'WORK' program) which meets the requirements of part G;

"(B) that the State will (except as otherwise provided in this paragraph or in part F), to the extent the program is available in the political subdivision involved, apply the requirements and conditions of this paragraph to "(i) each applicant for or recipient of aid to families with dependent children who—

"(I)(a) was born after 1971, or

"(b) is the parent of a dependent child and is living with such child's other parent who is an individual born after 1971 (or was living with such an individual during any month after September 1995 in which they received aid under this part), and

"(II) is the parent of a dependent child,

(but not including any individual who is eligible by application of section 407, in a State which exercises the option to limit eligibility under section 407(b)(2)(B), and (ii) thereafter any additional classes of parents of dependent children to whom the State chooses to make section 417 applicable (and identified in the State plan by date of birth, date of application, or other reasonable basis), and (iii) to any other applicants for or recipients of aid who the State chooses to require to participate in the program under part F and identifies in its State plan approved under this part;

"(C) that the State will, except as otherwise provided in this paragraph or part F—

"(i) require all individuals described in subparagraph (B) other than a child who is not a custodial parent and is under age 16 or attending full time an elementary, secondary, or vocational (or technical) school) to participate in the program under part F, and

"(ii) to the extent that Federal financial participation under section 404(k) is available, allow individuals who are not required to participate in such program, or to whom subparagraph (D) applies, to participate in such program, except that such individual shall, in a month in which he or she meets a condition of any of clauses (i) through (vii) of subparagraph (D), be permitted to cease participation in such program, and be subject to the provisions of subparagraph (D) (for so long as they remain applicable) and the State may, at its option, apply section 417 to individuals described in subparagraph (B)(ii) and who choose to participate in the program under part F (even though they meet one of the criteria under subparagraph (D) for deferral from participation);

"(iii) with respect to individuals who wish to participate, but whom the State is not required to include under clause (ii), consider such individuals request for approval of a self-initiated education and training program and apply criteria generally applicable to approval of such activities under the State's JOBS program, but approval of such application shall only guarantee child care pursuant to subsection (g)(1)(A)(i)(II);

"(D) that participation in the program under part F will not be required and the provisions of such part, other than paragraph (1) and (2) of section 481(a) (relating to personal responsibility agreements and employability plans) will not apply, but the State may provide for participation in appropriate cases in one or more types of activities designed as preparation for participation in the program under part F, in the case of any individual described in subparagraph (B) who—

"(i) is the custodial parent of a child—

"(I) born less than one year earlier, or,

"(II) (in the case of either a child conceived during a month in which such parent received aid under this part or a child whose custodial parent is under the age of 20 and does not have a high school diploma or equivalent) born more recently than within the preceding 12 weeks (or, if greater) the number of weeks specified in section 102(a)(1) of the Family and Medical Leave Act of 1993 establishing the period of leave to which certain employees are entitled following the birth of a child, but this clause may only be applied to one parent of a child for any month;

"(ii) is a woman in the third trimester of pregnancy;

"(iii) is 60 years of age or older;

"(iv) is needed in the home because of the illness or incapacity (as confirmed by a licensed physician, psychologist, or mental health professional (from a list of such professionals approved for this purpose by the State)) of another member of the household and no other appropriate household member is available to provide the needed care;

"(v) is found, on the basis of a certification by a licensed physician, psychologist, or mental health professional (from a list of such professionals approved for this purpose by the State) to have an illness or incapacitating condition, that at least temporarily, prevents the individuals from engaging in employment or training;

"(vi) resides in an area of the State where the time required to travel to and from the site where the individual's participation in the program under part F would take place would exceed a total of two hours (or, if greater, the generally accepted commuting time in that area) in a day; or

"(viii) meets such other criteria as the State may specify in its plan that reasonably suggest an inability to participate in the program under part F, except that the average monthly number of individuals to whom this clause is applied for months in any fiscal year shall not exceed 5 percent of the average monthly number of all individuals (described in clauses (i) and (ii) of subparagraph (B)) for months in such fiscal year (or, in the case of fiscal years after 1999, 10 percent of such average monthly number) together with the average monthly number of individuals registered in the WORK program under part G for months in such year, unless the Secretary, upon a showing by the State of extraordinary or unforeseeable circumstances, allows the application of this clause to a greater number of individuals for a specified period of time;

"(E) that the State will promptly advise each applicant and recipient of the participation requirements under this paragraph and of the limitation on the number of months of eligibility for aid under this part that may be applied (as required by the provisions of section 417) to such applicant or recipient;

"(F) that—

"(i) in the case of a custodial parent who has not attained 20 years of age, does not have a high school diploma (or its equivalent), and is required to participate in the program under part F, the State will require such parent to participate in an educational activity; and".

(2) Section 402(a)(19)(E)(ii) of the Act (as in effect on the date of enactment of this Act) is amended by striking out "(notwithstanding the part-time requirement in subparagraph (C)(iii)(II))".

(3) Section 402(a)(19) of the Act is further amended—

(A) by striking out paragraph (F) (as in effect on the date of enactment of this Act),

(B) by striking out so much of subparagraph (G) as precedes clause (ii) and inserting in lieu thereof the following:

"(G) that—

"(i) if an individual who is required to participate in the program under part F refuses without good cause to accept employment of 20 hours per week or more (or such greater number of hours as the State plan provides pursuant to section 417(b)(4)(i)(IV)) in which such individual is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined to be a bona fide offer of employment, the family of which such individual is a member shall be ineligible for aid for six months or if sooner, until the first month following the month in which such individual accepts such an offer of employment; and

"(ii) if an individual who is required to participate in the program under part F fails without good cause to do so, the needs of such individual shall not be taken into account in making the determination under paragraph (7), and if such individual is the parent or other caretaker relative, at the option of the State, payments of aid for any dependent child in the family in the form of payments of the type described in section 406(b)(2) (which in such case shall be without regard to clauses (A) through (D) thereof) may be made;".

(4) Section 402 (a)(19)(G) of the Act is further amended—

(A) by redesignating clauses (ii), (iii), and (iv) as clauses (iii), (iv), and (v), respectively,

(B) by striking out in clause (iii) (as redesignated) "clause (i)" and inserting in lieu thereof "clause (ii)",

(C) by striking out in clause (v) (as redesignated) the dash and all that follows down through "(II)", and placing the text of clause (II) immediately after "this subparagraph", and

(D) by adding at the end thereof the following new clause:

"(vi) the State agency shall conduct an evaluation of the circumstances in any case in which an individual to whom a sanction is being applied under clause (iii)(I) continues after three months to fail or refuse to comply with the requirement that occasioned the imposition of the sanction, and in the case of any other individual to whom a sanction is being applied under clause (iii), and provide appropriate counseling and other supportive services to assist the individual to address the cause of the failure or refusal; and".

"(vii) during months in which a sanction is applied under this subparagraph, the family of which the sanctioned individual is a member shall be considered to be receiving aid for purposes of title XIX, and for purposes of any other Federal or Federally-assisted program, such family shall be considered to be receiving the amount of such aid that would be payable if such individual were not being sanctioned;

"(viii) during months in which a sanction is applied under this subparagraph, the family of which the sanctioned individual is a member shall be considered to be receiving aid for purpose of title XIX, and for purposes of any other Federal or Federally-assisted program, such family shall be considered to be receiving the amount of such aid that would be payable if such individual were not being sanctioned; and".

(5) Section 402(a)(42) of the Act is amended by inserting before the semicolon the following: "and if an individual is being sanctioned under section 402(a)(19)(G), such individual and all members of the family shall not become ineligible for such medical assistance by reason of such sanction".

SEC. 102. ESTABLISHMENT OF ENHANCED JOBS PROGRAM UNDER PART F.

(1) Section 481 of the Act is amended—

(A) by amending the heading of such section to read:

"PURPOSE; REQUIREMENT TO ESTABLISH AND OPERATE PROGRAM; DEFINITIONS";

(B) by redesignating subsection (b) as subsection (c);

(C)(i) by transferring subsection (a) of section 482 to section 481, and redesignating it as subsection (b); and

(ii) by amending section 481(b) (as so redesignated) by striking out "Secretary of Labor" in paragraph (1)(C) and inserting in lieu thereof "Secretary of Labor and the Secretary of Education".

(2) Section 482 of the Act is amended by striking out all that precedes subsection (c) and adding the following new heading and subsections (a) and (b):

"OPERATION OF ENHANCED STATE PROGRAMS

"SEC. 482.

(a) REQUIRED ELEMENTS OF ENHANCED JOBS PROGRAM.—

"(1)(A) PERSONAL RESPONSIBILITY AGREEMENT.—Each individual who is a parent or other caretaker relative of a dependent child and a representative of the State agency shall, at the time of application for aid under part A, sign a personal responsibility agreement. The agreement shall, in the case of individuals to whom section 417 applies, set forth in clear terms, understandable by all parties, an acknowledgment that aid under the State plan is subject to a general 24-month limit and should be considered transitional in nature. The agreement, in all cases, should acknowledge that the goal of both the individual and the State is to enable the individual to achieve maximum economic independence and self sufficiency. To this end, the individual will participate in appropriate activities, and the State will furnish necessary enabling services and assistance.

"(B) The State agency shall provide the program and employment information required by subsection (c) as promptly as possible, but in no event later than 90 days after the earliest date for which payment is made. In the case of individuals to whom section 417 applies, the information shall be provided in person, on either an individual or group basis, and the State agency shall obtain written confirmation from the individual that the individual received and understood the program and employment information.

"(2) EMPLOYABILITY PLAN.—

"(A)(i) The State agency shall, with respect to each individual required to participate in the program under this part, other than an individual to whom section 402(a)(19)(D) applies, conduct an assessment of the educational, child care, and other supportive services needs, as well as the skills, literacy, prior work experience and employability of each participant in the JOBS program, including a review of the family circumstances. The agency may also review the needs of any child of the participant.

"(ii) On the basis of such assessment, the State agency and the individual shall, within 90 days from the earliest date for which payment is made, jointly develop an employability plan for such individual. The purpose of the employability plan is to lay out the fastest and most effective way to help the participant find employment and become self-sufficient. The plan shall indicate the overall period of time that is expected to be necessary to achieve the individual's employment goal, taking into consideration, in the case of individuals to whom the provisions of section 417 apply, the maximum remaining period of time for which aid may be paid to such individual under the plan approved under part A. The plan will detail the activities in which the individual will be expected to engage in order to find employment, including job search, employment training and preparation, or education. The plan must be reasonable in light of the individual's literacy, skills, and needs, and the resources and opportunities for employment (including self-employment) within the community where the individual resides, and shall, to the maximum extent possible and consistent with this section, reflect the preferences of such individual. The employability plan shall also describe the child care and other social services and assistance which the State agency will provide in order to allow the individual to take full advantage of the activities under the program operated under this part, and the steps the individual should take to bring promptly to the attention of the State agency any difficulties the individual is encountering in participating in the program under this part. The employability plan shall not be considered a contract.

"(iii) The State plan shall provide that, if an individual works an average of 20 hours a week (or such greater number, but not more than 30, as the State plan may provide) or more in a position of employment, work in such position shall constitute the primary activity under such individual's employability plan.

"(B) The State plan under this part must provide for a review mechanism that will be available should the individual and the State agency be unable to agree on the content of the employability plan. The review process shall, at the least, provide for prompt involvement of another employee (or designee) of the State agency with supervisory or greater responsibilities than the person with whom the individual is in disagreement to provide further negotiation support. If agreement still cannot be reached, the State agency shall, in accordance with regulations of the Secretary, afford the individual access to arbitration or a mediation process, to a more formal review or hearing, or to a combination of such processes.

"(C) Failure or refusal by an individual to sign an agreed upon employability plan, or to sign a plan with respect to which the applicable processes under subparagraph (B) have been completed and under which the employability plan has been found appropriate, shall result in denial of aid with respect to such individual, except that no sanction or other penalty shall continue under this subparagraph after the individual has signed an appropriate plan.

"(3) EMPLOYABILITY PLAN FOR DEFERRED INDIVIDUALS.—The State agency and each individual for whom participation in activities has been found appropriate under section 402(a)(19)(D) shall jointly develop an employability plan. The plan shall place primary emphasis on the activities in which the individual is able to engage that, together with any services provided by the State, will best prepare the individual for full participation in the program under this part. Plans under this paragraph are not subject to the procedures of paragraph (2).

"(4) CASE MANAGER.—the State agency may assign a case manager to each participant and the participant's family who will be responsible for assisting the family to obtain any services which may be needed to assure effective participation in the program.

"(5) PERIODIC ASSESSMENT.—At such intervals as the State agency finds appropriate, but not less frequently than once every 6 months, a representative of the State agency and the individual shall conduct a review of the individual's employability plan (including the plan of an individual to whom paragraph (3) applies) and the progress that is being made to achieve the goals set in the plan. The State agency shall consider, in conducting the assessment, whether an individual participating in activities under section 402(a)(19)(D) has become ready to participate in the program under this part, or whether an individual required to participate under this part should no longer be so required and instead should participate in such activities. If it is concluded that there should be any such change in status, the individual's employability plan shall be revised accordingly effective with the month following the month in which the revision is made. In the case of an individual participating in the program under this part, the assessment shall specifically address both the individual's participation and the State agency's delivery of services as agreed to in the employability plan. If it is found in the course of an assessment that there has been a substantial failure to provide services to the recipient in accordance with the employability plan, the plan (or some other State agency record) must document that finding, and the period during which the failure occurred.

"(6) REVISION OF EMPLOYABILITY PLAN.—The employability plan may be revised as necessary following an assessment under paragraph (5) or at any other time that events warrant it, upon the agreement of the individual and the State agency. If there is disagreement about the need for revision, or the respects in which the plan will be revised or the new content of the plan, the procedures described in paragraph (2)(B) will be applicable.

"(7) The State agency may require that, in the case of an individual described in section 402(a)(19)(B) and whose employability plan, including an employability plan under paragraph (3), reflects the need for treatment for substance abuse, such individual participate in substance abuse treatment that is available without charge to the individual. The State plan may, notwithstanding any other provision of law, make applicable to any individual required to participate in such treatment activities the provisions of section 402(a)(19)(G), and if so, shall advise the individual of the consequences of failure or refusal to accept treatment.

"(b) TRANSITION TO WORK PROGRAM.—(1) The State agency shall schedule a meeting with each individual subject to the time limit under section 417, with adequate advance notice to the individual, not later than 90 days prior to the first month for which such individual will become ineligible for aid under part A by reason of such time limit. The State agency shall evaluate the individual's progress under the employability plan, determine whether any extensions (as allowed under section 417) are necessary and available, and advise the individual about the job search requirement (described in paragraph (2)) and the steps that must be taken thereafter to register for the program under part G. If a meeting is held with the individual in connection with a redetermination of eligibility, periodic assessment, or for any other purpose, within the 6-month period preceding the first month of ineligibility by reason of section 417, the State agency may take the steps required by this paragraph at such meeting in satisfaction of this requirement.

"(2) Not later than 45 days prior to the close of the twenty-fourth month of receipt of aid under part A (or, at the option of the State, at an earlier date after the twenty-first month of receipt of such aid), the individual shall be required to engage in job search to the extent consistent with the goals of such individual's employability plan. Engaging in job search for the period of time required by the State under the preceding sentence shall be a prerequisite to receipt of a work assignment under the WORK program established and operated under part G. For purposes of this subparagraph, 'month of receipt of aid under part A' shall not include any month prior to the first month in which this subparagraph was in effect.

"(3) References to applicants, or to actions that must occur at the time of application or from the earliest date for which payment is made, in the amendments made by this section, shall be construed to include references to recipients, and actions that must occur at the time of the first redetermination of eligibility by a State for aid to families with dependent children occurring after the effective date of such amendments in such State.".

SEC. 103. AMENDMENTS PERTAINING TO SERVICES AND ACTIVITIES UNDER JOBS PROGRAM

(a) REPEAL OF REDUNDANT PROVISION.—Section 482(c) of this Act is amended by repealing paragraph (5).

(b) REQUIREMENT TO PROVIDE JOB SEARCH SERVICES.—Section 482(d)(1)(A) of the Act is amended—

(1) in clause (i), by redesignating subclauses (I through (IV) as (II) through (V), respectively,

(2) by inserting before subclause (II) (as redesignated) the following:

"(I) group and individual job search as described in subsection (g);", and

(3) in clause (ii), by repealing subclause (I) and redesignating subclauses (II) through (IV) as subclauses (I) through (III), respectively.

(c) EMPLOYMENT-ORIENTED EDUCATION.—Section 482(d)(1)(A)(i)(II) of the Act as redesignated is amended by striking out "basic and remedial education to achieve a basic literary level" and inserting in lieu thereof "employment-related education to achieve literacy levels needed for economic self-sufficiency".

(d) SELF-EMPLOYMENT PROGRAMS.—Section 482(d)(1)(A)(ii) of the Act (as redesignated) is amended—

(1) by striking out "and" after clause (II) (as redesignated), and

(2) by adding "and" after clause (III), and

(3) by adding after and below clause (III) (as redesignated), the following:

"(IV) programs to prepare for self-employment or to enable individuals to establish a microenterprise.".

(e) CHILD CARE PROVIDER TRAINING AND NONTRADITIONAL EMPLOYMENT.—Section 482(d)(1)(B) of the Act is amended by adding at the end thereof the following new sentence: "The State shall include in its plan a description of whether and how it will provide training to prepare individuals to be child care providers. The State shall also include in its plan a description of the steps it will take to encourage the training and placement of participants in nontraditional positions of employment, including steps to increase program participants' awareness of the availability of such training and placement opportunities.".

(f) WORK SUPPLEMENTATION EXTENSION.—Section 482(e) of the Act (as redesignated) is amended—

(1) in paragraph (2)(G)—

(A) by striking out "9 months" and inserting in lieu thereof "12 months", and

(B) by striking out "without regard to the provisions of subparagraph (b)(ii)(II) of such section"; and

(2) in paragraph (4)(A), striking out "9 months" and inserting in lieu thereof "12 months".

(g) AMENDMENTS TO JOB SEARCH PROGRAM.—Section 482(g) of the Act is amended—

(1) in paragraph (1) by striking out "may" and inserting in lieu thereof "shall";

(2) by amending so much of paragraph (2) as precedes subparagraph (A) to read as follows:

"(2) The State agency may require job search by an individual who is applying for and shall upon approval of the application require job search by an individual who is receiving aid to families with dependent children and is determined by the State to have non-negligible work experience, or to have a high school diploma or equivalent, including individuals required by the State's exercise of its option under section 402(a)(19)(B) (i) and (ii) to participate in the program under this part—";

(3) in paragraph (2)(A), by striking out "8 weeks" and inserting in lieu thereof "12 weeks", and

(4) by amending paragraph (2)(B) to read as follows:

"(B) at such time or times thereafter as the State agency many determine, but not to exceed a total of 4 months in any 12-month period (and for this purpose, there shall be included the time that the individual engaged in job search pursuant to both subparagraph (A) and section 482(c), but not any period of job search that occurred at the same time that the individual was participating in another activity under this part.".

(h) PROCEDURES TO RESOLVE DISPUTES.—Section 482(h) of the Act is amended by striking out "shall establish" and all that follows down to "shall provide an opportunity for a hearing" and inserting in lieu thereof "shall establish either (A) a conciliation procedure, meeting standards established by the Secretary, for the resolution of disputes involving an individual's participation in the program, or (B) a procedure that includes advance notice to the individual of an apparent failure to comply with a program requirement, and 10 days in which to contact and meet with a State agency representative in order to resolve the dispute (or to comply with the requirements) and make unnecessary the imposition of a sanction. If the dispute is not resolved through whichever of these procedures the State adopts, the State agency".

(i) COORDINATION REQUIREMENTS.—Section 483(a)(1) of the Act is amended by inserting immediately following "the Job Training Partnership Act" in the first sentence", the Adult Education Act, the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990,".

(j) PROVISIONS GENERALLY APPLICABLE TO PROVISION OF SERVICES UNDER JOBS AND WORK.—SECTION 484 OF THE ACT, INCLUDING THE HEADING, IS AMENDED TO READ AS FOLLOWS:

"PROVISIONS GENERALLY APPLICABLE TO PROVISION OF SERVICES UNDER JOBS OR WORK

"SEC. 484. (a) In assigning participants in the program under this part to any program activity, or in assigning individuals registered with the program under part G to a position of employment, the State agency shall assure that—

"(1) each assignment takes into account the capacity, health and safety, family responsibilities, and place of residence of the participant;

"(2) no participant will be required, without his or her consent, to travel an unreasonable distance from his or her home or remain away from such home overnight;

"(3) individuals are not discriminated against on the basis of race, color, sex, national origin, religion, age, or disability, and all participants will have such rights as are available under any applicable Federal, State, or local law prohibiting discrimination;

"(4) no such assignment will—

"(A) result in the displacement of any currently employed worker, including partial displacement such as a reduction in the hours of non-overtime work, wages, or employment benefits;

"(B) impair existing contracts for services or collective bargaining agreements;

"(C) infringe upon the promotional opportunities of any currently employed worker;

"(D) result in the employment of the participant or filling of a position when—

"(i) any other person is on layoff, on strike or has been locked out from, or has recall rights to, the same or a substantially equivalent job or position with the employer; or

"(ii) the employer has terminated any regular employee or otherwise reduced its workforce with the effect of filling the vacancy so created with such participant; or

"(E) result in filling a vacancy for a position in a State or local government agency for which State or local funds have been budgeted, unless such agency has been unable to fill such vacancy with a qualified applicant through such agency's regular employee selection procedure during a period of not less than 60 days;

"(5) no participant shall be assigned to a position to perform work under a contract for services for the first 90 days after the commencement of such contract if such contract immediately succeeds a contract for services under which an employee covered by a collective bargaining agreement performed the same or substantially similar work for another employer;"

"(6) no participant shall be assigned to a position with a private nonprofit entity to carry out activities that are the same or substantially equivalent to activities that have been regularly carried out by a State or local government agency in the same local area, unless such placement meets the nondisplacement requirements of paragraph (4);

"(7) to the extent that a State workers' compensation law is applicable, workers' compensation benefits in accordance with such law shall be available with respect to injuries suffered by participants, and, to the extent that such law is not applicable, participants shall be provided with medical and accident protection for on-site injuries in accordance with regulations issued by the Secretary;

"(8) health and safety standards established under State and Federal law that are otherwise applicable to the working conditions of employees shall be equally applicable to the working conditions for participants; and

"(9) the State will establish and maintain grievance procedures, meeting the requirements of subsection (c), for resolving complaints by regular employees or their representatives alleging violations of the nondisplacement provisions described in paragraph (4), or of the requirements relating to wages, benefits and working conditions under this title.

"(b) A grievance procedure that meets the requirements of this subsection must include the following procedures:

"(1) DEADLINES.—Hearings on any grievance filed pursuant to subsection (a)(8) shall be conducted within 30 days of the filing of such grievance and a decision shall be made not later than 60 days after the filing of such grievance. A grievance shall be made not later than 45 days after the date of the alleged occurrence.

"(2) APPEALS.—Upon receiving a decision under paragraph (1), or if 60 days has elapsed without a decision being made, a grievant may either—

"(A) file an appeal as provided for in the State's procedures or in regulations promulgated by the Secretary, or

"(B) submit such grievance to binding arbitration in accordance with paragraph (3).

"(3) ARBITRATION.—

"(A) IN GENERAL.—

"(i) JOINTLY SELECTED ARBITRATOR.—In accordance with paragraph (2) on the occurrence of an adverse grievance decision, or 60 days after the filing of such grievance if no decision has been reached, the party filing the grievance shall be permitted to submit such grievance to binding arbitration before a qualified arbitrator who is jointly selected and independent of the interested parties.

"(ii) IMPASSE PROCEDURES.—If the parties are unable to agree on an arbitrator within 20 days from when the request for arbitration is filed, the parties shall request the Federal Mediation and Conciliation Service or the American Arbitration Association to submit a list of arbitrations. The parties shall alternately strike names from such list until the name of one person remains, who shall be the arbitrator.

"(B) DEADLINES.—An arbitration proceeding conducted pursuant to subparagraph (A)(i) shall be held not later than 45 days after the request for such arbitration, or if the arbitrator is appointed pursuant to paragraph (A)(ii), not later than 30 days after such appointment, and a decision concerning such grievance shall be made not later than 30 days after the date of such arbitration proceeding.

“(C) COST.—

“(i) IN GENERAL.—The cost of the arbitration proceeding conducted under this subsection shall be divided evenly between the parties to the arbitration.

“(ii) EXCEPTION.—If a grievant prevails under the arbitration proceeding conducted under this subsection, the party found in violation of the requirements of this part shall pay the total cost of such proceeding and the attorney's fees of the grievant.

“(D) ENFORCEMENT.—Suits to enforce arbitration awards under this subsection may be brought in any district court of the United States having jurisdiction over the parties, without regard to the amount in controversy and without regard to the citizenship of the parties.

“(4) REMEDIES.—Remedies for a grievance filed under this subsection include—

“(A) suspension of payments to employers;

“(B) the termination of such payments;

“(C) the prohibition of the placement of a participant;

“(D) reinstatement of a displaced employee to the position held by such employee prior to displacement;

“(E) payment of lost wages and benefits of the displaced employee;

“(F) reestablishment of other relevant terms, conditions, and privileges of the displaced employee; and

“(G) such equitable relief as is necessary to correct a violation or to make a displaced employee whole.

“(c) Written Notification of Labor Organizations.—

“(1) No position of employment with an employer may be established under title part unless the local labor organization representing employees of such employer who are engaged in the same or substantially similar work as that proposed to be carried out under such position have been provided written notification of the initial assignment of a participant to such position not less than 30 days prior to the commencement of such assignment. No such notification shall be required with respect to the subsequent assignment of participants to the same position with the same employer.

“(2) If a local organization provided notice of an assignment pursuant to paragraph (1) objects to an assignment of a participant pursuant to paragraph (1) objects to an assignment of a participant on the basis that such assignment would violate the requirements relating to nondisplacement, wages, benefits, or working conditions under this title, such organization may, as an alternative to the grievance procedures provided pursuant to subsection (b), file a complaint pursuant to an expedited grievance procedure. Such expedited procedure shall be carried out in accordance with the binding arbitration procedures described in subsection (b)(3), except that—

“(A) the request for arbitration shall be filed within 30 days of receiving written notice,

“(B) the arbitrator shall be jointly selected by the parties not later than 10 days after the request for arbitration, or, if the parties are unable to agree, appointed by the Federal Mediation and Conciliation Service (or another entity is agreed to by both parties) not later than 15 days after the request for arbitration, and

“(C) the proceeding shall be conducted and a decision issued not later than 30 days after the request for arbitration.

“(3) If a local organization files a complaint pursuant to the expedited grievance procedure under paragraph (2), a participant shall not be placed in the position that is the subject of the complaint until it is determined pursuant to the expedited procedure that such placement would not be in violation of this title.

“(d) In assigning participants in the JOBS program under this part to any program activity, the State agency shall, in addition to the assurances required under subsection (a), assure that—

“(1) the conditions of participation are reasonable, taking into account in each case the experience and proficiency of the participant and the child care and other supportive services needs of the participant; and

“(2) each assignment is based on available resources, the participant's circumstances, and local employment opportunities.

“(e) In assigning individuals registered with the State's WORK program under part G to a position of employment, the State agency shall, in addition to the assurance required under subsection (a), assure that—

“(1) no individual eligible to register for the State's WORK program, determined in accordance with the provisions of part A and this part, shall be excluded from such program;

“(2) no family with a member eligible to participate in the State's program under part G will, by reason of such assignment, and upon participating the full number of hours provided by such assignment, have income less than the amount such family would have if it were receiving aid under the State's plan approved under part A and had no other income (except if a sanction is applied under section 496(f));

“(3) each family with a member participating in the program under part G shall be considered to be receiving aid to families with dependent children for purpose of the State's plan approved under title XIX;

“(4) where a labor organization represents a substantial number of employees who are engaged in similar work in the same area as that proposed to be funded under part G, an opportunity shall be provided for such organization to submit comments with respect to such proposal;

“(5) participants employed under the WORK program shall be compensated for such employment in accordance with appropriate law, but in no event at a rate less than the highest of—

“(A) the Federal minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938;

“(B) the rate specified by the appropriate State or local minimum wage law; or

“(C) the rate paid to employees of the same employer performing the same type of work and having similar employment tenure with such employer; and

“(6) except as otherwise provided under this paragraph, participants employed under the WORK program shall be provided benefits (including health benefits, unless the State agency concludes that it would impose an undue financial burden on either the employer or the State), working conditions and rights at the same level and to the same extent as other employees of the same employer performing the same type of work and having similar employment tenure with employer.

“(f) Funds available to carry out the program under this part, or under part G, may not be used to assist, promote, or deter union organizing.

“(g) The provisions of this section apply to any work-related programs and activities under this part or under part G (as provided herein), and under any other work-related programs and activities authorized (in connection with the AFDC program) under section 1115.”.

SEC. 104. TWENTY-FOUR MONTH LIMIT.

Part A of title IV of the Social Security Act is amended by redesignating section 417 as section 419 and adding after and below section 416 the following new section:

“SEC. 417. TWENTY-FOUR MONTH LIMIT.

“(a) LIMITATION.—(1) IN GENERAL.—Notwithstanding any other provision of law, a State plan approved under this part must provide that, except as otherwise provided in this title, aid to families with dependent children will not be payable to an individual to whom section 402(a)(19)(B)(i) or (ii) applies or to individuals who have chosen to participate in the program under part F and to whom the State has elected under section 402(a)(19)(C) to apply this section, or to his or her dependent child or children living in the same home with such individual for any month after the twenty-fourth month (whether or not such months are consecutive) for which such individual has, together with his or her dependent child or children, received aid under the State's plan, or under the plan of any other State, approved under this part. The limitation in the preceding sentence shall not apply to (A) an individual who has received such aid for 24 months and who is working to the extent described in clause (IV) or (V) of paragraph (2)(B)(i), whichever may be applicable, or (B) an individual's dependent child or children if they are living with another relative specified in section 406(a)(1) who is not subject to, or has not received aid for months in excess of, the limit prescribed by, this section.

“(2) APPLICABILITY.—In applying paragraph (1)—

“(A) if an individual has previously received aid under a State plan approved under this part for more than 18 months, the number of months for which an individual is considered to have previously been paid aid under such a State plan shall be reduced by one month for every period of four months throughout which no such aid was paid, and no wages under the program under part G were paid but such number of months shall never be reduced to fewer than 18 (regardless of whether such periods of four months were consecutive); and

“(B)(i) there shall not be included, as a month in which an individual received aid under a State plan approved under this part—

“(I) any month prior to the first month for which this section is in effect in such State, or in the case of a recipient of aid in such State for the month preceding such month, the first month in which such individual's eligibility is redetermined by such State;

“(II) any month prior to the first month in which payment of aid under this part was authorized with respect to such individual;

“(III) any month prior to the month in which such individual attains age eighteen;

“(IV) any month during which the individual worked 20 hours a week (or such greater number, but not more than 30, as the State plan under part F provides) or more;

“(V) any month during which the total average number of hours worked per week by both parents, in a family eligible by reason of section 407 and in which section 402(a)(19)(D) is applicable to neither parent, exceeds 30 hours (or such greater number, but not more than 40, as the State plan under part F provides); or

"(VI) any month during which section 402(a)(19)(D) was applicable to such individual; and

"(ii) there shall be included each month for which aid would have been paid but for the applicability to such individual of a sanction under section 402(a)(19)(G) or 402(a)(26).

For purposes of clauses (i)(IV) and (V), there shall not be excluded any month in which the individual fails to accept an offer of additional hours of employment, or in which such individual reduces the hours of employment and thereby becomes eligible for additional amounts of aid under this part.

"(b) NOTICE TO INDIVIDUALS.—A State plan approved under this part shall provide that notice will be given to each member of a family to whom the time limit under subsection (a) applies, not less frequently than once every six months, concerning the number of months of eligibility remaining for each such member. The notice required by this subsection may be given together with the payment of aid.

"(c) EXTENSION OF LIMIT.—

"(1) EXTENSION BY REASON OF FAILURE TO PROVIDE SERVICES.—The State agency shall extend the twenty-four-month limit referred to in subsection (a) in the case of an individual who has been unable to complete the education, training, or other activities intended to prepare such individual for employment by reason of the substantial failure of the State agency to provide or arrange for the provision of child care or any other service agreed upon in the individual's employability plan. A finding of failure to provide services shall be based on the documentation made at the semi-annual assessment (required by section 482(a)(5)), together with any reports or information either the individual or the State agency may have with respect to the period between the assessment and the close of the twenty-fourth month. The time limit shall be extended for so many months as are necessary to allow the individual to complete the activities agreed upon in the employability plan, but in no event may such extension exceed an additional 24 months.

"(2) EXTENSION TO COMPLETE COURSE OF EDUCATION.—

"(A) The State agency shall extend the twenty-four-month limit referred to in subsection (a)—

"(i) in the case of an individual receiving services under the Individuals with Disabilities Education Act, for so long as necessary to permit such individual to attain a high school education (or the equivalent) or, if sooner, until such individual reaches age 22; and

"(ii) in the case of an individual in a structured learning program (as defined in paragraph (4)), including a program under the School-to-Work Opportunities Act of 1993, for so long as necessary to permit such individual to complete the program or, if sooner, until such individual reaches age 22.

"(B) Subject to subsection (e), the State agency may extend the twenty-four-month limit referred to in subsection (a)—

"(i) for no more than 12 additional months in order to allow an individual to complete high school (or an equivalent program of education), so long as the individual is making satisfactory progress toward obtaining a high school diploma (or equivalent);

"(ii) for no more than 24 additional months in order to allow an individual to complete a post-secondary program so long as the individual is enrolled in a work-study program, or is employed at least 15 hours per week, and is making satisfactory progress toward completing a degree-granting or certificate-granting education or training program, or structured microenterprise or self-employment program likely to improve the individual's economic self-sufficiency; or

"(iii) for such additional number of months as it finds appropriate in any case, determined on an individual basis, where such extension is necessary to afford an individual with significant learning disabilities or other substantial barriers to employment additional time to obtain the remedial education, job skills training, or other services specified in the employability plan needed to enable the individual to secure employment.

"(3) EXTENSION OF EMPLOYABILITY PLAN.—The State agency shall extend, and if appropriate revise, the employability plan of each individual with respect to whom an extension is provided under this subsection, and shall continue to furnish, through the months of the extension, the supportive services for which the extended plan provides.

"(4) As used in this subsection, a 'structured learning program' means one that begins at the secondary school level, continues into a post-secondary program, and is designed to lead to a degree or recognized skills certificate.

"(d) EXCEPTION FOR TRANSITION TO UNSUBSIDIZED EMPLOYMENT.—The State may, at its option, provide for continuing for one additional month the payment of aid to an individual (and his or her dependent child or children) under the State plan, notwithstanding subsection (a), in any case where such continued payment is necessary to assist the individual who is about to commence a position of employment (other than as a participant in the program under part G) until receipt of the first payment of wages. The State plan shall describe the evidence of employment that the State will require in order that payment may be continued under this subsection.

"(e) LIMITATION ON AVERAGE MONTHLY NUMBER OF EXTENSIONS.—If the average monthly number of individuals with respect to whom the State has extended the twenty-four month limit by application of subsection (c)(1) or (c)(2)(B) in any fiscal year exceeds 10 percent of the average monthly number of individuals to whom this section applies (and who are required to participate in the program under part F) in the fiscal year involved, the provisions of section 403(k)(6) (reducing Federal payments under section 403(a)) shall apply, unless the Secretary, upon a showing by the State of extraordinary or unforeseeable circumstances, allows the application of such subsections to a greater number of individuals for a specified period of time.

"(f) ALTERNATIVE TIME LIMIT DEMONSTRATIONS.—Notwithstanding any other provision of this part, the Secretary may permit not more than five States to conduct demonstrations to determine what effects, if any, application of time limits of other than twenty-four months would have in promoting the objectives of the part. The Secretary shall approve a demonstration only if the proposed time limit is consistent with both the purpose of making AFDC a transitional program and affording recipients with support to enable them to prepare themselves to obtain unsubsidized employment. Any State applying a time limit other than that specified in subsection (a) shall evaluate both the short and long term effects of such time limit in enabling recipients to become self-sufficient and shall report the results of such evaluation to the Secretary.".

SEC. 105. RESPONSIBILITIES OF ASSISTANT SECRETARY FOR FAMILY SUPPORT.

Section 419 of the Act, as redesignated by section 104 of this Act, is amended by striking out "and part F" and inserting in lieu thereof "part F, and part G".

TITLE II—WORK

SEC. 201. ESTABLISHMENT OF PROGRAM.

(a) Title IV of the Act is amended by adding at the end thereof the following new part:

"PART G—WORK

"SEC. 491. PURPOSE AND DEFINITIONS.

"(a) PURPOSE.—It is the purpose of this part to assist States in developing and providing positions of employment for individuals who have received aid to families with dependent children for 24 months, and participated in the program under part F, but have not been able to secure unsubsidized employment.

"(b) DEFINITION.—As used in this part, a 'WORK position' is a position of employment to which an individual is assigned under this part.

"SEC. 492. ESTABLISHMENT AND OPERATION OF STATE PROGRAMS.

"(a) REQUIREMENT.—Each State shall establish and operate a program to locate and create temporary positions of employment (in this part referred to as the 'WORK program') for individuals who have received aid for 24 months, as provided in section 417. The WORK program shall be in effect in each political subdivision of the State not later than 2 years after the State's program under part F is in effect in such subdivision.

"(b) STATE PLAN.—The State shall establish and operate its WORK program under a plan approved by the Secretary which describes how the State will implement the plan, and indicates, through cross-references to the appropriate provisions of this part and of parts A and F, that the program will be operated in accordance with such provisions of law. The State plan shall describe the strategies and activities to be undertaken by the State to identify and develop WORK positions. Such strategies shall, to the extent practicable, be designed to identify and develop positions likely to result in the placement of participants in unsubsidized employment. The strategies and activities may include—

"(1) wage subsidies or other incentives to for-profit, nonprofit, and public employers to employ participants;

"(2) performance-based contracts with public or nonprofit or other private organizations to place participants in unsubsidized employment;

"(3) payments to nonprofit employers to assist in supervising participants employed by such employers;

"(4) assistance to participants in establishing microenterprises and other self-employment efforts;

"(5) payments to nonprofit employers and public agencies to employ participants in temporary projects designed to address community needs, such as projects to enhance neighborhood infrastructure and provide other community services; and

"(6) payments to employers to employ participants as child care providers.".

"(c) COORDINATION WITH JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM.—The State plan submitted to the Secretary to carry out the requirements of this part shall, together with the State plan required to carry out part F, constitute a single plan and shall, to the maximum extent feasible, reflect an integrated strategy to assist the individuals and families served under the plan to achieve economic self-sufficiency.

"(d) WORK ADVISORY BOARDS.—

"(1) DESIGNATION.—The State plan shall designate, or describe a process for establishing or designating, a WORK advisory board for each local area in the State to provide advice and guidance in the administration of the program under this part. The State shall ensure the participation of local elected officials in the designation or establishment of such boards.

"(2) LOCAL AREA.—The local areas for which WORK advisory boards shall be designated or established pursuant to paragraph (1) may be—

"(A) service delivery areas established under section 101 of the Job Training Partnership Act;

"(B) the geographic boundaries of the labor market areas in the State; or

"(C) such other areas as the Governor determines are appropriate to promote the effective administration of the WORK program.

"(3) COMPOSITION.—Each WORK advisory board designated or established pursuant to paragraph (1) shall consist of—

"(A) representatives of private sector employers,

"(B) representatives of organized labor;

"(C) representatives of not-for-profit organizations, including community-based organizations;

"(D) representatives of local government, such as local, elected officials and representatives of economic development agencies, human service agencies, and educational agencies; and

"(E) such other community leaders as the State determines are appropriate.

"(4) FUNCTIONS.—Each WORK advisory board shall provide comments to the State agency relating to the State plan developed pursuant to subsection (b) of this section. In addition, each WORK advisory board shall provide advice and guidance to the agency administering the WORK program in the local area relating to—

"(A) the identification of potential WORK positions;

"(B) opportunities for placing WORK participants in unsubsidized employment;

"(C) methods for ensuring compliance with the requirements of this part relating to nondisplacement and working conditions;

"(D) methods for carrying out the coordination requirements specified in subsection (e) of this section; and

"(E) such other aspects of the WORK program that such board determines are appropriate.

"(e) COORDINATION WITH OTHER PROGRAMS AND ENTITIES.

"(1) IN GENERAL.—The State plan shall include a description of the cooperative arrangements established with appropriate programs and agencies to enhance the administration of the program under this part, including arrangements with—

"(A) the Employment Service, and

"(B) other relevant employment and public service programs administered through public and private entities, such as programs supported under the Job Training Partnership Act and the National and Community Service Act and with programs under the CCDBG Act to explore the development of positions in child care for WORK program participants.

"(2) LOCAL COORDINATION.—The entity administering the WORK program in local areas shall, in addition to establishing linkages with the programs and agencies described in paragraph (1), establish cooperative arrangements with other appropriate entities to enhance the administration of the program under this part. Such arrangements may be established with local government and service agencies, public housing agencies, community-based organizations, business and labor organizations, voluntary organizations, and other appropriate entities.

"SEC. 493. ELIGIBILITY FOR WORK PROGRAM; REGISTRATION.

"(a) ELIGIBILITY.—(1) IN GENERAL. An individual—

"(A) to whom section 417 applies, who has received aid under the State plan approved under part A for twenty-four months, and with respect to whom no extension under section 417 has been provided,

"(B) who is not an individual to whom section 402(a)(19)(D) applies, and

"(C) who meets the eligibility criteria for aid to families with dependent children (but for section 417) under the State's plan approved under part A,

shall be permitted to register for participation in the State's WORK program and, upon registration and continuing compliance with the requirements applicable to individual's awaiting assignment to a WORK position, be eligible for such an assignment and, in accordance with the succeeding provisions of this part, a payment of aid to families with dependent children.

"(2) SPECIAL RULES.—The State plan shall specify whether one or both parents will be required to register with and participate in the WORK program as a condition of eligibility for an assignment for either parent under the WORK program and a payment of aid to the family, in the case of a family in which both parents are subject to the limit in section 417.

"(b) REGISTRATION.—The State plan shall establish a simple procedure under which an individual who meets the criteria of subsection (a) may register with and participate in the WORK program so that the individual will receive wages (if an appropriate assignment is available) or aid, or (if applicable) both, in the month following the final month of the time limit under section 417. The State plan must describe the methods that will be employed to assure the uninterrupted provision of aid for the family of an individual who has complied with all applicable requirements and conditions of this part.

"(c) WORK PROGRAM ASSESSMENT.—The State plan shall provide for the prompt assessment of each individual registering with the program, in order to determine an appropriate assignment for such individual. The assessment must include a review of the individual's education, training, and employment experience while participating in the program under part F, as well as any employment experience the individual may have had thereafter.

"(d) LIMITATIONS ON ASSIGNMENTS.—

"(1) HOURS OF WORK.—The State plan shall—

"(A) ensure, to the extent practicable, that participants' wages earned from WORK positions provide on the average 75 percent of the sum of wages together with aid paid to participants in the States WORK program;

"(B) ensure no assignment will result in an average number of hours of work over any four-week period that is less than 15 hours per week or greater than 35 hours per week; and

"(C) provide that in making WORK assignments the State agency shall, to the maximum extent feasible, ensure that an assignment to a WORK position will not interfere with any hours of unsubsidized employment in which the individual is already engaged at the time of the assignment.

"(2) LENGTH OF ASSIGNMENT.—An assignment to a WORK position shall be for no longer than 12 months and may not be reassigned to the same position.

"(e) PAYMENT OF AID.—The State agency administering the State's plan approved under part A shall pay for each month to each family with an individual registered with the WORK program the amount of aid that would be payable to such family under such plan, except that—

"(1) wages earned by a family member from employment in a WORK position shall not be considered in determining eligibility for continued participation in the WORK program;

"(2) in determining the amount of aid that is payable, the State agency may determine whether to disregard from the wages received from the WORK position any amounts that may be disregarded under section 402(a)(8)(A)(iv);

"(3) if a family member has been assigned to and is employed in a WORK position, the amount of the family's aid will not be subject to increase by reason of the individual's failure to perform the full number of hours per week for which the assignment was made.

"(f) TREATMENT UNDER OTHER LAWS.—;

"(1) Individuals participating in the WORK program, and their families, whether or not any aid is payable in addition to wages from a WORK position, shall be considered to be receiving such aid for purposes of the State's plan for medical assistance approved under title XIX.

"(2) Wages paid for employment in a WORK position shall be treated as if they were wages from unsubsidized employment for purpose of any other Federal law unless it is expressly provided otherwise in Federal law.

"(g) PROGRAM PARTICIPANTS.—The Secretary may by regulation prescribe criteria for determining when an individual's employment no longer constitutes participation in the WORK program.

"SEC. 494. PROVISIONS GENERALLY APPLICABLE TO WORK POSITIONS.

"(a) IN GENERAL.—In addition to the applicable provisions of section 484, the conditions described in this section shall be applicable to WORK positions.

"(b) PROHIBITION ON CONTRIBUTIONS FOR RETIREMENT BENEFITS.—No funds available under this title may be used for contributions to a retirement plan on behalf of any participant.

"(c) EXCLUSION FROM UNEMPLOYMENT COMPENSATION.—The employment of participants under the WORK program shall not be subject to the provisions of any Federal or State unemployment compensation law.

"(d) SICK AND PERSONAL LEAVE.—The Secretary is authorized to issue regulations establishing a minimum number of hours that a participant may be on leave from a WORK position due to illness or other reasons specified by the Secretary without having the amount of wages payable to such participant reduced to account for such leave. In accordance with paragraph (1) of this subsection, the regulations shall provide that if the employer provides, to similarly situated regular employees, paid leave that is equal to or exceeds the minimum prescribed by the Secretary, the employer shall also provide such paid leave to a participant. If the employer does not provide such paid leave, the State agency shall implement such leave.

"(e) RECORDS ON RETENTION OF PARTICIPANTS.—The entity administering the WORK program shall maintain records on the extent to which each employer receiving assistance under this part retains participants in unsubsidized employment subsequent to the completion of WORK assignments.

"SEC. 495. PRE-ASSIGNMENT ACTIVITIES AND SERVICES; PRIORITY OF ASSIGNMENTS; POST-ASSIGNMENT ASSESSMENT

"(a) ASSIGNMENTS.—The State plan approved under this part shall provide for the establishment and maintenance of a registry, updated regularly and frequently, of all registered individuals who are awaiting assignment to a WORK position. The State plan shall describe the criteria that will generally be applied for determining the order in which registered individuals will be assigned to positions. Such criteria must provide for assigning, as promptly as an appropriate position becomes available, and individual to whom a sanction is being applied under section 496(f)(2)(A) (in the case of a first failure to comply with a requirement of the WORK program) or who has ended a period of time during which a sanction has been applied under section 496(f)(2)(B), (C), or (D) (in the case of a second or subsequent such failure), and thereafter preference will be given to individuals who have not previously received a WORK assignment during a period of consecutive months while registered for the WORK program.

"(b) JOB SEARCH; OTHER WORK PREPARATORY ACTIVITIES.—

"(1)(A) JOB SEARCH.—The State plan under this part shall describe any requirements the State applies to individuals registered for and awaiting assignment to a WORK position, including the extent to which the individual must participate in individual or group job search (not to exceed 35 hours per week) and the period for which the job search must continue or the number of contacts that must be made, or such other measure as the State finds appropriate.

"(B) The State agency may require an individual employed in a WORK position or in regular employment to engage in job search but the number of hours per week of required job search (or of the time needed to comply with the job search requirement if measured differently from hours per week) together with the hours per week for which the individual is employed may not exceed 35.

"(C) The State agency shall require each individual who has completed an assignment to perform supervised job search (in accordance with the time limits established under paragraph (1)) while awaiting another assignment.

"(2) OTHER ACTIVITIES.—If the State requires that an individual registered under this part and awaiting assignment to a WORK position engage in any activities in addition to job search that would prepare the individual to carry out successfully the assignment or otherwise support achievement of the purposes of this part, the State plan shall describe those activities and the maximum periods of time for which they may be required (or other measure that the State finds appropriate), which may not exceed 35 hours per week.

"(3) CHILD CARE AND OTHER SUPPORTIVE SERVICES.—(A) The State agency shall notify each individual registered with the WORK program of the availability (under sections 402(g)(1) and (2)) of child care and other supportive services necessary to permit the individual to participate successfully in the WORK program (during both a pre-assignment period and a period of employment under the WORK program).

"(B) A State may, at its option, provide child care and other supportive services (and include an appropriate provision in its plan under this part) to an individual employed in a WORK position to enable or assist such individual also to engage in education or training activities, approved for this purpose by the State agency as likely to enhance such individual's ability to secure and retain permanent, unsubsidized employment, and if the State chooses to provide any one or more such services under this subparagraph, shall notify all registered individuals who are potentially eligible therefor of the availability of such services.

"(c) COMPREHENSIVE POST-ASSIGNMENT ASSESSMENT.—The State agency shall conduct a comprehensive assessment of each individual registered with the WORK program after every second assignment completed by such individual (or of an individual who has been registered for two years). On the basis of this assessment, the State may

"(1) reassign the individual to activities under section 402(a)(19)(D) or to the JOBS program (for such period of training and other activities as may be appropriate), or

"(2) assign the individual to another WORK position if the individual was unable to find unsubsidized employment either because there were no jobs available that such individual had the necessary skills to fill or because such individual is incapable of working outside of a sheltered environment.

Notwithstanding the preceding sentence, in such cases where the State finds that the individual is employable and living in an area where there are jobs available to match the individual's skills, the State may require the individual to engage in intensive job search, supervised by a job developer who may require the individual to apply for appropriate job openings to determine if the individual is making a good faith effort to find unsubsidized employment. An individual who fails without good cause to apply for appropriate job openings, cooperate with the job developer or employer, or accept a private sector job opening, shall be ineligible for aid under part A or an assignment under the State's WORK program for 6 months. Following such a period of ineligibility, the State shall reassess such individual's status, and may take such steps under this subsection as it finds appropriate.

"SEC. 496. FAILURE TO MEET WORK PROGRAM REQUIREMENTS.

"(a) ACTIONS THAT CONSTITUTE FAILURE TO MEET WORK PROGRAM REQUIREMENTS.—The following actions, without good cause, constitute failure by an individual to meet the requirements of the WORK program—

"(1) failing or refusing to accept a bona fide offer of unsubsidized employment of at least 20 hours per week (or less if the offered employment meets the criteria specified in section 482(d)(2));

"(2) failing or refusing to accept or report for a WORK position to which the individual has been assigned;

"(3) voluntarily leaving such a position;

"(4) failing or refusing to engage, to the extent required under the State plan, in the job search or other activities required pursuant to section 495 or subsection (e).

"(b) MISCONDUCT RESULTING IN DISCHARGE FROM WORK POSITION.—In addition to the actions described in subsection (a), a participant will be deemed to have failed to meet the requirements of the WORK program if, prior to the completion of an assignment, such participant is discharged by an employer from a WORK position due to misconduct.

"(c) DEFINITIONS OF GOOD CAUSE AND MISCONDUCT.—The Secretary shall issue regulations establishing criteria for determining what constitutes good cause for purposes of subsections (a) and (g) and misconduct for purposes of subsection (b). Such regulations shall, at a minimum, include—

"(1) with respect to the actions described in paragraph (3) of subsection (a), a requirement that a participant voluntarily leaving a WORK position promptly notify the entity administering the WORK program of the reasons for leaving; and

"(2) with respect to discharge for misconduct, a provision allowing the State, with the approval of the Secretary, to apply the criteria relating to misconduct applicable to the disqualification of an individual for benefits under the State unemployment compensation law.

"(d) OPPORTUNITY FOR HEARING.—The State plan shall provide advance notice to an individual when the State agency determines that a sanction should be imposed, and shall advise the individual of the right to a hearing. The State agency shall provide a hearing, upon request by the individual, in accordance with procedures established by the Secretary (which shall allow the State to adopt procedures followed in hearings on unemployment compensation claims that meet the standards set forth by the United States Supreme Court in *Goldberg* v. *Kelly*, 397 U.S. 254 (1970).).

"(e) INTERIM ACTIVITIES.—The State agency may require, pending the hearing referred to in subsection (d), participation by the individual in appropriate activities under the WORK program.

"(f) SANCTIONS.—If, in accordance with the preceding provisions of the section, an individual is found to have failed without good cause to meet a requirement of the WORK program—

"(1) if the failure involves subsection (a)(1) (relating to an offer of unsubsidized employment), the family of which such individual is a member shall be ineligible for aid to families with dependent children (if any such aid were otherwise payable) for a period of six months and such individual may not be assigned to a WORK position during such period; and

"(2) if the failure involves paragraph (2), (3), or (4), of subsection (a) or involves subsection (b)—

"(A) in connection with the first of any such failures, the amount of aid for which the family (of which such individual is a member) is eligible shall for one month equal one-half of the amount that would be payable to the family if the individual were awaiting assignment to a WORK position, but such reduction shall cease upon the acceptance by such individual of an assignment of a new WORK position or, in cases involving job search or other required activities (as described in subsection (a)(4)), the individual's engaging in the required program activities;

"(B) in connection with the second of any such failures, the amount of aid so payable shall be reduced as described in subparagraph (A) for a 3-month period and the individual may not be assigned during such period to a new WORK position;

"(C) in connection with the third of any such failure, such family shall be ineligible for any such aid for a 3-month period and the individual may not be reassigned during such period; and

"(D) in connection with the fourth or any subsequent such failure, such family shall be ineligible for any such aid for a 6-month period and the individual may not be reassigned during such period;

but during the months in which a sanction is applied under this subsection, the family of which the sanctioned individual is a member shall be considered, for purposes of the State's plan approved under part A, its plan approved under title XIX, to be receiving aid to families with dependent children and for purposes of any other Federal or Federally-assisted program based on need, such family shall be considered to be receiving the amount that would be payable to such family if the individual were awaiting assignment to a WORK position. Notwithstanding the preceding sentence, if at any time an individual subject to a sanction under this subsection accepts an offer of unsubsidized employment in a position that meets the criteria for WORK positions prescribed by section subsection (a)(1), the sanction shall cease at that time and both the individual and the family shall be considered, for purposes of part A, to be an individual and family no longer subject to sanction under this program.

"(g) Notwithstanding section 493, no individual who without good cause leaves an unsubsidized position that provides 20 hours or more per week (or such greater number as the State has elected under section 482(a)(2)(A)(iii)) on the average, may register under section 493(b) for the WORK program (of any State) until after the 3-month period beginning on the date on which the individual left the position.

"(h) EVALUATION FOLLOWING SECOND WORK SANCTION.—The State plan must provide that the State will promptly conduct a thorough evaluation of an individual (and family) against whom a second sanction must be imposed to determine whether there are particular circumstances, not previously recognized by the State agency, that are contributing to the individual's failure to meet the requirements of the WORK program, and to provide, where appropriate, any additional social services, evaluations, or other diagnostic or remedial services or take such other actions as may be necessary to assist the individual and protect the other family members. In conducting the evaluation, the State agency shall consider whether the individual is appropriately registered in the WORK program, or whether the individual should be referred to the State plan approved under part A to be considered an individual to whom section 402(a)(19)(D) applies.".

(b) REQUIREMENT TO PROVIDE SUPPORTIVE SERVICES TO INDIVIDUALS REGISTERED FOR WORK PROGRAM.—Section 402(g)(2) is amended, by striking out "part F" and inserting in lieu thereof "part F or part G".

SEC. 202. FEDERAL FUNDING FOR THE JOBS AND WORK PROGRAMS; PARTICIPATION REQUIREMENTS; MAINTENANCE OF EFFORT AND SUBSTANTIAL IMPLEMENTATION.

(a) AMOUNT OF STATE'S ENTITLEMENT FOR JOBS.—Paragraphs (1) through (4) of section 403(k) of the Act are amended to read as follows:

"(k)(1) In addition to payments under subsection (a), the Secretary shall pay to each State with a plan approved under part F an amount equal to the product of—

"(A) the State's enhanced Federal medical assistance percentage as defined in subsection (m)(6), and

"(B) its expenditures to carry out the program under part F (other than expenditures required by section 402(g)(1)(A) in the case of the 50 States and the District of Columbia),

but payments to a State under this title for any fiscal year for such activities may not exceed the limitation under paragraph (2) with respect to such State.

"(2) The limitation under this paragraph with respect to a State for any fiscal year is the amount that bears the same ratio to the amount specified in paragraph (3) for such fiscal year as the average monthly number of adult recipients (as defined in paragraph (4)) in the State in the preceding fiscal year bears to the average monthly number of such recipients in all the States for such preceding year.

"(3) The amount specified in this paragraph is—

"(A) $1,750,000,000 for fiscal year 1996,

"(B) $1,700,000,000 for fiscal year 1997,

"(C) $1,800,000,000 for fiscal year 1998,

"(D) $1,900,000,000 for each of fiscal years 1999 through 2004, and

"(E) $1,900,000,000, adjusted by the CPI as prescribed by section 406(i), for fiscal year 2005 and each fiscal year thereafter,

reduced by 2 percent (for direct grants to Indian tribes and Alaska Native organizations under section 482(i)), and further reduced by 2 percent (of the amount specified in each subparagraph) (or, in the case of fiscal years after 1998, 1 percent) for carrying out section 404 of the Work and Responsibility Act of 1994 (relating to demonstrations, research and evaluation, and technical assistance) and further reduced in fiscal year 1996 by the amount available to the Secretary for purposes of special adjustments under subsection (p).

"(4) For purposes of this subsection, the term 'adult recipient' in the case of any State means an individual other than a dependent child (unless such child is the custodial parent of another dependent child) whose needs are met in whole or in part with payments of aid to families with dependent children or wages from a position under the WORK program, or a combination of such aid and wages.".

(B) PARTICIPATION STANDARDS FOR JOBS PROGRAM.—Section 403(k) of the Act is further amended by adding at the end thereof the following new paragraphs:

"(6)(A) Notwithstanding any other provision of this subsection—

"(i) if, with respect to a State in a fiscal year, the average monthly number of individuals receiving aid to families with dependent children who are described in subparagraph (B)(i) or (ii) of section 402(a)(19) but are not included in subparagraph (D) thereof who participate in an activity under the JOBS program (including individuals who are employed for the minimum number of hours adopted by the State under section 482(a)(2)(A)(iii) or are being sanctioned pursuant to section 402(a)(19)(G)) exceeds 55 percent of the average monthly number of all such individuals, the Secretary shall pay to such State an additional amount (without the requirement of any additional nonfederal share) for use in carrying out its program under part F, and

"(ii) if, with respect to a State, such average monthly number in such year does not exceed 45 percent, then the Secretary shall reduce by 25 percent the Federal matching rate generally applicable to such State's expenditures for aid for each month in such year with respect to the number of individuals by which the average monthly number is less than 45 percent of the total.

The Secretary shall determine the amount of the additional payments for performance exceeding the standard and shall make such additional payments for a fiscal year by increasing as appropriate the amount payable to such State under subsection (a) up to the amount of the reductions under clause (ii), together with the reductions under subparagraph (C) and subsection (l)(4)(A) for such fiscal year, and if the additional payments exceed such reductions the amount available to the Secretary for such fiscal year under subsection (p) shall be reduced by the amount of such excess.

"(B) The Secretary shall issue regulations prescribing criteria for determining what constitutes participation by an individual for purposes of this section, the periods of time over which participation will be measured, and any other matters necessary to implement the provisions of this subsection or of subsection (l).

"(C) If the average monthly number of individuals in a fiscal year to whom the State applies section 402(a)(19)(D)(vii) exceeds the limit prescribed therein (or such greater limit as the Secretary may have allowed), or if the average monthly number of individuals with respect to whom the State extends the time limit under section 417 exceeds the limit prescribed in section 417(e) (or such greater limit as the Secretary may have allowed), the Secretary shall, notwithstanding any other provision of this section, reduce by 25 percent for each month in such fiscal year the Federal matching rate generally applicable to such State's expenditures for aid with respect to the total number of individuals by which such average monthly numbers exceeds such limits.

"(D) Notwithstanding subparagraph (A)(i), the Federal payment shall not be increased if the Secretary determines that the State has not accurately recorded the number of months for which individuals to whom section 417 applies have received aid, or has not accurately recorded or reported to the Secretary other required data, to an extent inconsistent with standards for accuracy prescribed in regulations by the Secretary.".

(c)(1) AMOUNT OF STATE'S ENTITLEMENT FOR WORK.—Section 403(l) of the Act is amended by striking out paragraphs (1) through (3) and inserting in lieu thereof the following:

"(l)(1) In addition to payments under subsections (a) and (k), the Secretary shall pay to each State with a plan approved under part G an amount to carry out its program under such plan equal to the sum of—

"(A) an amount equal to—

"(i) such State's expenditures to operate its WORK program (other than expenditures to which subparagraph (B) applies and expenditures to which section 402(g)(1)(A) applies in the case of the 50 States and the District of Columbia), multiplied by

"(ii) the State's enhanced Federal medical assistance percentage as defined in subsection (m)(6), but such amount with respect to a State for any fiscal year may not exceed the limitation under paragraph (2) applicable to such State for such fiscal year, and

"(B) an amount equal to—

"(i) the State's expenditures for wages to participants in its program under part G (whether paid directly to the participant, or in the form of wage subsidies to the participant's employer), multiplied by

"(ii) such State's Federal medical assistance percentage, as defined in section 1905(b) (or, where applicable, the last sentence of section 1118).

"(2) The limitation under this paragraph with respect to a State for any fiscal year is the amount that bears the same ratio to the amount specified in paragraph (3) for such fiscal year as the sum of (i) the average monthly number of individuals subject to the time limit in section 417 (and who are subject to the requirement to participate in the program under part F) in such State, and (ii) the average monthly number of individuals registered in such State's WORK program, bears to the total of such sums of all the states for months in the preceding fiscal year.

"(3) The amount specified in this paragraph is——

"(A) $200,000,000 for fiscal year 1998,
"(B) $700,000,000 for fiscal year 1999,
"(C) $1,100,000,000 for fiscal year 2000,
"(D) $1,300,000,000 for fiscal year 2001,
"(E) $1,400,000,000 for fiscal year 2002,
"(F) $1,600,000,000 for fiscal year 2003,
"(G) $1,700,000,000 for fiscal year 2004, and
"(H) $1,700,000,000 adjusted by the CPI as prescribed by section 406(i), and then multiplied by the WORK program factor, as defined in paragraph (4).

reduced by 2 percent (for direct grants to Indian tribes and Alaska Native organizations under section 482(i)) and further reduce by 2 percent (of the amount specified in each subparagraph) (or in the case of fiscal years after 1998, 1 percent) for carrying out section 404 of the Work and Responsibility Act of 1994 (relating to demonstrations, research and evaluation, and technical assistance).

"(4) For purposes of determining the amount specified in paragraph (3) for any fiscal year, the 'WORK program factor' is the ratio of—

"(i) the sum of the average monthly number of recipients of aid who are individuals described in section 402(a)(19)(B)(i) and WORK registrants (who are not receiving aid) for months in the preceding fiscal year, divided by the sum of the average monthly number of all recipients of such aid and WORK registrants (who are not receiving aid) for months in such preceding fiscal year, to

"(ii) such quotient with respect to the average monthly numbers for months in fiscal year 2004.".

(2) Paragraph (4) of section 403(l) (as in effect prior to enactment of this Act) is redesignated as subsection (k)(7) of section 403.

(d) PARTICIPATION STANDARDS FOR WORK PROGRAM.—Section 403(i) of the Act is further amended by adding at the end thereof the following new paragraphs:

"(4)(A) Notwithstanding any other provision of this paragraph, the Federal matching rate applicable to a State's expenditures for aid to families with dependent children for a fiscal year shall be reduced for each month in such year by 25 percent with respect to the average monthly number of individuals by which such State fails to meet its WORK participation standard for such year.

"(B) For purposes of this paragraph, a State's WORK participation standard is met if—

"(i) the average monthly number of positions to which WORK registrants are assigned is not fewer than the number of such positions that the Secretary requires that the State establish, taking into account the limitation applicable to such State under paragraph (2) for the fiscal year involved, and the amounts of assistance necessary to locate or create WORK positions; or

"(ii) the ratio of—

"(I) the average monthly number of individuals assigned to positions in the WORK program, participating in job search as required by the State plan under part G following an assignment to a WORK position, but for a period of no longer than 3 consecutive months, being sanctioned pursuant to section 496(f) or in unsubsidized employment and not receiving aid (but who at some time within the preceding 3 months were participating in the WORK program), to

"(II) the sum of the average monthly number of individuals registered with the State's WORK program and the average monthly number of individuals in unsubsidized employment and not receiving aid (but who at some time within the preceding 3 months were participating in the State's WORK program), is not less than 0.80.".

(e) PROVISIONS APPLICABLE TO JOBS, WORK, AND CHILD CARE FUNDING.—Section 403(m) of the Act is amended to read as follows:

"(m)(1) If a State so requests, the limitation applicable to such State under subsection (k)(2) for a fiscal year, or the limitation applicable to such State under subsection (l)(2) for such fiscal year, may be increased (and the other limit decreased equally) by an amount up to 10 percent of the sum of such limits for such fiscal year or, if less, by the amount of the limit to be decreased. In the case of fiscal 1997, the State may request that its limit under subsection (k)(2) be reduced by up to 10 percent and the amount made available for preparing to conduct its WORK program.

"(2) If the sum of the amount specified in any fiscal year under subsection (k)(3), and the amount specified for such fiscal year under subsection (l)(3), exceeds (or if the Secretary estimates that it will exceed) the total amount paid (or estimated to be payable) under subsections (k)(1) and (l)(1)(A) for such fiscal year, then the Secretary shall adjust the maximums applicable to payments to those States to which the limits under such subsections have made additional payment unavailable under either subsection (k)(1) or (l)(1)(A), and to which payments for such fiscal year under either or both such subsections would be greater but for the applicability to such States of such limits. The Secretary shall by regulation provide for the equitable adjustment of such limits in the case where all States' requests for adjustment of limits, and additional payments, for a fiscal year under this paragraph exceed the amount available for reallotment.

"(3)(A) If in any fiscal year—

"(i) the average rate of total unemployment in a State for such fiscal year equals or exceeds 6.5 percent, and

"(ii) the average rate of total unemployment in such State for such fiscal year equals or exceeds 110 percent of such rate for either of the two preceding fiscal years, the percent applicable to such State for such fiscal year, for purposes of applying each of subsections (k)(1)(A), (l)(1)(A)(i), and (n)(1)(A), to the extent made possible by the availability of additional amounts to such State pursuant to paragraph (2), shall be applied as if it had been increased by 10 percent of the difference between 100 percent and the rate otherwise applicable in each of such subsections, respectively, from the beginning of such fiscal year (but if no such additional amount is made available, such rates shall be unaffected by this subparagraph).

"(B) The amounts specified in subsections (k)(3), (l)(3), and (n)(3) for any fiscal year are each increased, if, for either the last two quarters of the fiscal year involved (but not such last two quarters), the average rate of total unemployment in the United States equals or exceeds 7 percent, by 2.5 percent plus an additional 0.25 percent for each one-tenth of a percentage point by which the average rate of total unemployment in the United States (for such two-quarter period) exceeds 7 percent.

"(4) Notwithstanding the provisions of subsections (k) and (l), no amount of a State's expenditures as aid to families with dependent children shall be excluded for purposes of payment under subsection (a) by reason of the State's failure to meet the participation standards or the limit on deferrals (under section 402(a)(19)(D)(vii)) or extensions of the time limit (under section 417(e)) applicable to the State's program under part F for months in the first year that such program is in effect, or by reason of the State's failure to meet the participation standard applicable to its program under part G during the first year that such program is in effect.

"(5) Prior to the general effective date of the amendments to part F made by the Work and Responsibility Act of 1994, or the general effective date of part G, as the case may be, the Secretary shall issue regulations containing the necessary information to permit implementation of such standards and application of reductions in Federal payment for failure to meet such standards. Not later than 12 months after such amendments become effective with respect to a State, such State shall be required to begin reporting data as required by the Secretary in order to determine whether the participation standards have been met.

"(6) As used in this part, a 'State's enhanced Federal medical assistance percentage' with respect to expenditures for a fiscal year means such State's Federal medical assistance percentage as defined in section 1905(b) (or, where applicable as defined in the last sentence of section 1118), plus

"(A) 5 percentage points, but not less than 65 percent, with respect to fiscal years 1996 and 1997,

"(B) 7 percentage points, but not less than 67 percent, with respect to fiscal year 1998,

"(C) 9 percentage points, but not less than 69 percent, with respect to fiscal year 1999, and

"(D) 10 percentage points, but not less than 70 percent, with respect to fiscal year 2000, and each fiscal year thereafter.".

(f)(1) Section 402(g)(3)(A)(i) of the Act is amended by striking out "Federal medical assistance percentage (as defined in section 1905(b))" and inserting in lieu thereof "State's enhanced Federal medical assistance percentage (as defined in section 403(m)(6))".

(2) Section 402(g)(B)(A)(ii) of the Act is amended by striking out "Federal medical assistance percentage (as defined in section 1118)" and inserting in lieu thereof "State's enhanced Federal medical assistance percentage (as defined in section 403(m)(6))".

(g) Section 403 of the Act is amended by adding at the end thereof the following new subsection:

"(o) Notwithstanding the preceding provisions of this section, the percentage applicable to a State for purposes of section 402(g)(3)(A) and subsections (k)(1)(A), (l)(1)(A)(ii), and (n)(1)(A) (for determining the Federal payment with respect to a State's JOBS program expenditures, portions of its WORK program expenditures, and its child care expenditures, respectively) shall be the State's Federal medical assistance percentage, but not less than 60 percent (or, in the case of section 402(g)(3)(A) and subsection (n)(1)(A), the State's Federal medical assistance percentage) for any fiscal year—

"(1) in which the nonfederal share of the sum of its expenditures that may be included for purposes of subsection (a)(3) and its expenditures for its program under part F, its program under part G, and child care services under subsections (g) and (i) of section

402 (not included under subsection (a)(3)) is less than the nonfederal share of expenditures for purposes of subsection (a)(3) and of expenditures (for which Federal matching was provided) under its program under part F and child care services (not included under subsection (a)(3)) under subsections (g) and (i) of section 402 for fiscal year 1994 (or fiscal year 1993 if such nonfederal share were greater for such year), or

"(2) in which the number of individuals to whom the provisions of section 417 are being applied is less than 90 percent of the number of individuals in the State who are custodial parents described in subparagraph (B)(i) of section 402(a)(19) (but not included under subparagraph (D) thereof) unless the State has submitted an approvable plan amendment that provides for implementing all statutory requirements to its JOBS program, and meeting related requirements with respect to 90 percent of such individuals within two years of the date such requirements first become effective.".

(h) SECRETARY'S SPECIAL ADJUSTMENT FUND.—Section 403 of the Act is amended by adding at the end thereof the following new subsection:

"(p)(1) There shall be available to the Secretary from the amount appropriated for payments under subsection (k) for States' JOBS programs for fiscal year 1996, $300,000,000 for special adjustments to States' limitations on Federal payments for their JOBS and WORK programs. Amounts made available to the Secretary pursuant to this subsection shall also be available for carrying out subsection (k)(6) and section 404(c).

"(2) A State may, not later than March 1 and September 1 of each fiscal year, submit to the Secretary a request to adjust the limitation on payments under this section with respect to its JOBS (and, in fiscal years after 1997) its WORK programs for the following fiscal year. The Secretary shall only consider such a request from a State which has, or which demonstrates convincingly on the basis of estimates that it will, submit allowable claims for Federal payment in the full amount available to it under subsections (k) and (l) in the current fiscal year and obligated 95% of its full amount in the prior fiscal year. The Secretary shall by regulation prescribe criteria for the equitable allocation among the States of Federal payments pursuant to adjustments of the limitations referred to in the preceding sentence in the case where the requests of all States that the Secretary finds reasonable exceed the amount available, and, within 30 days following the dates specified in this paragraph, will notify each State whether one or more of its limitations will be adjusted in accordance with the State's request and the amount of the adjustment (which may be some or all of the amount requested).

"(3) The Secretary may adjust the limitation on Federal payments to a State for a fiscal year under subsection (k) and under subsection (l), and upon a determination by the Secretary that (and the amount by which) a State's limitation should be raised, the amount specified in either such subsection, or both, shall be considered to be so increased for the following fiscal year.

"(4) The amount made available under subsection (a) for special adjustments shall remain available to the Secretary until expended. That amount shall be reduced by the sum of the adjustments approved by the Secretary in any fiscal year, and the amount shall be increased in a fiscal year by the amount by which all States' limitations under subsection (k), (l), and (n) for a fiscal year exceeded the sum of the Federal payments under such subsections for such fiscal year (after application of subsection (m)(2)), but for fiscal years after 1977, such amount at the end of such fiscal year shall not exceed $400,000,000.".

SEC. 203. ADMINISTRATION OF THE JOBS AND WORK PROGRAMS

(a) STATE OPTION.—Part G of title IV of the Act is amended by adding at the end thereof the following new section:

"ADMINISTRATION

"SEC. 497. (a) The chief executive officer of any State with a plan approved under part A may designate a State agency (hereinafter referred to as the 'JOBS/WORK agency'), other than the agency established or designated under section 402(a)(3) (hereafter referred to as the 'part A agency') to administer (or supervise the administration of) the JOBS program under part F and the WORK program under this part in such State.

"(b) The JOBS/WORK agency designated under this section and the part A agency shall jointly submit the State plan required by parts F and G, and shall enter into and provide to the Secretary an agreement setting out the responsibilities of each agency. Any such agreement shall provide—

"(1) that the part A agency will retain responsibility for—

"(A) determining initial and continuing eligibility of applicants for and recipients of (and the amount of) aid to families with dependent children;

"(B) maintaining accurate records of the number of months for which each individual received aid, and notify individuals of the remaining months of eligibility, in accordance with the preceding provisions of this title;

"(C) applying sanctions when appropriate under the provisions of section 402(a)(19)(G) or 496(f);

"(D) affording an opportunity for a fair hearing as required by section 402(a)(4), or in connection with any disagreement (with adverse consequences) about the application of section 417 (other than matters about which the JOBS/WORK agency provides a hearing);

"(2) that each agency agrees to cooperate with the other in order to exchange all information necessary to carry out the programs involved in a manner that simplifies as much as possible the burden on recipients of aid under part A, and participants in the programs under parts F and G, and allows the most effective administration of all programs involved;

"(3) a specific description of how responsibility will be allocated and coordinated between the two agencies for the following functions:

"(A) determining to which individuals section 402(a)(19)(D) is applicable;

"(B) determining the individuals to whom extensions under section 417(e) are to be granted (and the length of such extensions);

"(C) conducting reviews, and providing dispute resolution measures, including fair hearings in appropriate cases, on disagreements arising out of requirements under the JOBS or WORK program; and

"(4) that the requirements of paragraphs (4), (5), (6), (9), (19), and (21)(A) of section 402(a) will be applicable as appropriate to the joint plan submitted under this section to the same extent (and together with all relevant regulations issued thereunder by the Secretary) as they are to a State plan submitted under part A.

"(c) In each State in which the chief executive officer designates an agency under subsection (a), the Secretary shall make payment to the agency so designated in the case of payments required under subsections (k) and (l) of section 403, rather than to the State's part A agency, and the JOBS/WORK agency so designated shall be responsible for the proper expenditure of such funds.

"(d) Upon designation by the chief executive officer under subsection (a), and approval by the Secretary of the State plan submitted in accordance with this section, all references (whether direct or by context) in this Act to the State agency responsible for the State plan under part A shall be deemed to be references to the agency designated under this section when referring to a function or responsibility of such agency.

"(e) In any State administering a Statewide one-stop career center system for the provision of employment and training services, as defined by the Secretary in conjunction with the Secretary of Labor, the Governor shall ensure that the programs under parts F and G—

"(1) participate in the operation of such system, and

"(2) make employment and training services available to participants through the one-stop career centers.".

SEC. 204. SPECIAL PROVISIONS RELATING TO INDIAN TRIBES AND ALASKA NATIVE ORGANIZATIONS.

(a) AUTHORITY TO ADMINISTER JOBS AND WORKS PROGRAMS.—Section 482(i) of the Act is amended—

(1) by redesignating paragraphs (5), (6), (7), and (8) as paragraphs (6), (7), (8), and (9), respectively, and

(2) by amending paragraphs (1) through (4) of such subsection to read as follows:

"(1)(A) An Indian tribe or Alaska Native organization may apply to the Secretary to conduct both a JOBS program under this part, and a WORK program under part G. An application to conduct these programs in a fiscal year must be submitted not later than July 1 of the preceding fiscal year. Upon approval of the application, payment in the amount determined in accordance with the succeeding provisions of this subsection shall be made directly to the tribe or organization involved.

"(B) Neither the JOBS program nor the WORK program set forth in the application of an Indian tribe or Alaska Native organization submitted under subparagraph (A) need meet any requirement under this part or part G or under section 402(a)(19) that the Secretary determines is inappropriate for such program.

"(C) The JOBS and WORK programs of any Indian tribe or Alaska Native organization may be terminated voluntarily by such tribe or organization or may be terminated by the Secretary upon a finding that such programs are not being conducted in substantial conformity with the terms of the application approved under subparagraph (A). Following voluntary termination of an application, or termination by the Secretary of an application of an Indian tribe or Alaska Native organization, such tribe or organization shall not be eligible to submit a new application under subparagraph (A) with respect to any year before the sixth year following such termination.

"(2) The Secretary shall pay directly to each Indian tribe or Alaska Native organization with an application approved to conduct a JOBS program under this part and a WORK program under part G for a fiscal year an amount (without the requirement of any nonfederal share) which bears the same ratio to 2 percent of the sum of the amounts specified in sections 403(k)(3) and 403(l)(3) for such fiscal year as the adult Indian or Alaska Native population receiving aid to families with dependent children residing within the area to be served by the tribe or organization bears to the total of such adults receiving such aid residing within all areas which any such tribe or organization could serve. The Secretary shall from time to time review the components of the ratios established under the first sentence of this subparagraph to determine whether the individual payments under this subsection continue to reflect accurately the distribution of population among the grantees, and shall make adjustments necessary to maintain the correct distribution of funding.

"(3) A grantee under this subsection may use up to 20 percent of its payment for the JOBS program, or for the WORK program, as the case may be, for a fiscal year to carry out such program in the following fiscal year, and up to 10 percent of such payment for either such program to carry out the other such program in the fiscal year for which the payment was made.

"(4) At the request of a grantee, the Secretary may approve use of up to 10 percent (or, if less, $5000) of the payment for the JOBS program in connection with an economic development project upon a demonstration by the grantee that such project will include provision for training JOBS program participants in skills necessary for employment on the project.

"(5) An application under this subsection shall provide that (upon approval) the grantee will be responsible for determining whether an individual (within the grantee's service area) to whom the time limits of section 417 apply is one to whom section 402(a)(19)(D) is applicable, and whether (and for how long) extensions of the time limit under section 417 should be provided and for reporting to the State agency making payments of aid to the individuals served by the grantee the determinations made under this paragraph.".

(b) CHILD CARE.—Section 403 is amended by adding after and below subsection (b) the following new subsection:

"(c)(1) Each Indian tribe and Alaska Native organization submitting an application under section 482(i) to administer its JOBS and WORK programs under parts F and G, respectively, may also submit to the Secretary (as a part of the application) a description of the child care needs of its JOBS and WORK program participants, and of the program that it will implement to meet such needs, and request direct funding for the provision of all such child care. The child care program described need not meet any requirement of this part (other than the requirements of section 402(g)(1)(A)(viii)) that the Secretary determines is inappropriate with respect to such child care program.

"(2) The Secretary shall pay to each Indian tribe and each Alaska Native organization whose application approved under section 482(i) includes a request for direct funding for child care an amount (without the requirement of a nonfederal share) to provide child care for recipients of AFDC and for participants in the tribe's or organization's JOB and WORK programs, and to provide transitional child care with respect to an individual who is eligible for child care under section 402(g)(1)(A)(ii). The amount of the payment provided under the preceding sentence for a fiscal year shall not exceed the total amount payable directly to such tribe or organization under section 482(i).

"(3) The provisions of sections 402(g)(1)(A)(i) and (ii) shall not be construed as imposing any obligation upon a State to provide child care for the children of JOBS or WORK program participants included within an approved application under section 482(i) that includes a request for direct funding of child care, during the period for which such direct funding is provided.

"(4) The Secretary shall establish data collection and reporting requirements, and performance standards, with respect to child care programs implemented under this subsection.".

SEC. 205. SPECIAL RULES FOR THE TERRITORIES.

"(a) EXCLUSION FROM GENERAL CEILING OF JOBS, WORK, AND "AT-RISK" CHILD CARE.—Section 1108(a) of the Act is amended by striking out, in the matter preceding paragraph (1), "section 403(k)" and inserting in lieu thereof "subsection (k), (l)(1), or (n) of section 403".

(b) Section 482 of the Act is amended by adding at the end thereof the following new subsection:

"(j) OPTIONS FOR TERRITORIES.—(1) IN GENERAL.—Puerto Rico, the Virgin Islands, Guam, and American Samoa may each determine whether the provisions of section 417 shall be applicable under its State plan approved under part A, and, if so, part G shall be applicable. Each State exercising the option in the preceding sentence shall submit the necessary plan amendments and plans to the Secretary for approval. Any such plan or plan amendment must also describe with respect to such section 417 and part G (and all related amendments) a phase-in strategy and a timetable for achieving full implementation.

"(2) SECRETARIAL WAIVERS.—The Secretary may waive or modify any requirement pertaining to the provisions of section 417, the program required under part G, or the requirements of part A (including participation rates and performance standards) that, as established with reference to the 50 States and the District of Columbia, would be inappropriate for a State to which this subsection applies.

"(3) TERMINATION.—The applicability of section 417 and part G to a State to which this section applies may be terminated voluntarily by such State, but following any such termination, such State shall not be eligible to exercise the option with respect to any year before the sixth year following such termination."

SEC. 206. TRAINING AND EMPLOYMENT FOR NONCUSTODIAL PARENTS.

Section 482 of the Act is amended by adding at the end thereof the following new subsection:

"(j) TRAINING AND EMPLOYMENT FOR NON—CUSTODIAL PARENTS.—

"(1) The Secretary shall approve the application of a State to conduct a program of training and employment opportunities for noncustodial parents that meets the requirements of this subsection.

"(2) An application to conduct a program under this subsection shall—

"(A) describe the political subdivision or subdivisions, or other identifiable areas of the State where the program will be conducted,

"(B) describe the services that will be provided to participants, including the training, job readiness services, and employment opportunities that will be available, and indicate whether these will be provided through the program under this part or under part G (or both) or whether some or all of the activities under this subsection will be conducted as a separate program,

"(C) describe the supportive services that will be provided to enhance the participant's involvement in the program and ability to obtain employment and meet his or her child support obligations,

"(D) indicate whether the State will conduct a random assignment evaluation of the effects of the program on improved responsibility in meeting child support obligations, and

"(E) provide assurance that the State's program will comply with the requirements of this subsection.

"(3) The application must provide that a noncustodial parent will be eligible to commence participation in the program under this subsection if his or her child is receiving aid to families with dependent children (or the child's custodial parent is receiving wages in connection with the program under part G), or if the noncustodial parent owes past-due child support which has been assigned to the State agency administering the State plan approved under part A and is unemployed. Paternity must be established before a noncustodial father may enter the program, and the noncustodial parent must be cooperating in the establishment of a child support obligation and the entry of an award. If a parent who has been participating in the program ceases to be eligible therefor because the child with respect to whom the support obligation exists is no longer eligible for aid to families with dependent children (and the custodial parent is not receiving wages in connection with the program under part G), the State must nonetheless allow the participant to complete the training or program activity.

"(4) A State conducting a program under this subsection shall not be required—

"(A) to accept all applicants even though they meet the criteria of paragraph (3), or

"(B) to provide the same training, services, or employment opportunities to all participants,

and the State shall not require—

"(C) that individuals participate in the JOBS program (or in education or training activities comparable or similar to the JOBS program) as a prerequisite to participation in the WORK program (or comparable program of subsidized employment), or

"(D) that the custodial parent of an individual's child be participating in the JOBS program under part F or the WORK program under part G as a condition of such individual's eligibility to participate in the program under this subsection.

"(5) The State agency shall assure that wages will be paid for work performed by the participant and may provide for the payment of training stipends.

"(6)(A) The State agency shall garnish subsidized wages, or any stipends, paid in connection with a non-custodial parent's participation in the program under this subsection, and remit them to the State agency administering the State plan approved under part D for distribution as a child support collection in accordance with the provisions of that part.

"(B) The State may provide, if, with respect to an individual participating in the program under this subsection, it has jurisdiction over the child support obligation being enforced that hours of participation in program activities may, or a reasonable basis, be credited to reduce amounts of past-due child support owed to such State agency by the individual.

"(7)(A) A State with an application approved under this subsection may use, for carrying out the program described in such application in any fiscal year, up to 10 percent of the sum of the amounts available to it for such fiscal year under subsection (k)(2) and (l)(2) of section 403. The State shall be entitled to so much of such amount as equals the percentage specified in section 403(k)(1)(A) multiplied by its expenditures necessary to carry out its approved applications.

"(B) A State may include, as expenditures necessary to carry out its approved application, amounts expended for stipends, wage subsidies, supportive services, training, and administrative costs of the State agency directly related to the program under this subsection.".

SEC. 207. FEDERAL TAX TREATMENT OF WORK REMUNERATION.

(a) WORK REMUNERATION INELIGIBLE FOR EARNED INCOME TAX CREDIT.—Subparagraph (B) of section 32(c)(2) (defining earned income for purposes of the Earned Income Tax Credit) of the Internal Revenue Code of 1986 is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting in lieu thereof ", and", and by inserting after clause (iii) the following clause:

"(iv) no amount of remuneration received for services provided in WORK position to which the taxpayer was assigned under Part G of title IV of the Social Security Act shall be taken into account.".

(b) WORK REMUNERATION INELIGIBLE FOR TARGETED JOBS TAX CREDIT.—Section 51(b) (defining qualified wages for purposes of the Targeted Jobs Tax Credit) of the Internal Revenue Code of 1986 is amended by inserting after paragraph (3) the following new paragraph (4):

"(4) SPECIAL RULES FOR WORK POSITIONS.—

"(A) QUALIFIED WAGES.—No amount of remuneration received for services provided in a WORK position to which an employee was assigned under Part G of title IV of the Social Security Act shall be treated as qualified wages.

"(B) QUALIFIED FIRST-YEAR WAGES.—The 1-year period described in paragraph (2) is determined without regard to the period in which the employee provided services in a WORK position to which the employee was assigned under Part G of title IV of the Social Security Act.".

(c) WORK REMUNERATION NOT SUBJECT TO FUTA.—Section 3306(b) (defining wages for purposes of the federal unemployment tax) of the Internal Revenue Code of 1986 is amended by striking "or" at the end of paragraph (15), by striking the period at the end of paragraph 16 and inserting in lieu thereof ", or", and by inserting after paragraph (16) the following paragraph:

"(17) remuneration paid for services provided in a WORK position to which the employee was assigned under Part G of title IV of the Social Security Act.".

(d) WORK REMUNERATION EXCLUDED FROM GROSS INCOME.—The Internal Revenue Code of 1986 is amended by redesignating section 137 (containing certain cross references) as section 138, and by inserting after section 136 the following section:

SEC. 137. WORK PROGRAM REMUNERATION.—Gross income shall not include any remuneration received for services provided in a WORK position to which the individual was assigned under Part G of title IV of the Social Security Act.".

TITLE III—CHILD CARE

SEC. 301. CHILD CARE FOR JOBS AND WORK PROGRAM PARTICIPANTS AND AT-RISK FAMILIES.

(a) GUARANTEE WHILE IN WORK OR JOBS PROGRAM.—(1) Section 402(g)(1)(A)(i)(I) of the Act is amended by striking out the semicolon and inserting in lieu thereof "(including employment under part G, or other required activities under such part);".

(2) Section 402(g)(1)(A)(i) of the Act is amended—

(A) by striking out "(including participation in a program that meets the requirements of subsection (a)(19) and part (F))", and

(B) by striking out "approves the activity" and inserting in lieu thereof "approves the activity as part of the individual's employability plan under part F (regardless of whether resources are available to provide other services or pay for other activities to carry out such plan)".

(b) TRANSITIONAL CHILD CARE AFTER LEAVING WORK PROGRAM.—

(1) Section 402(g)(1)(A)(ii) of the Act is amended immediately following "aid to families with dependent children" by inserting "or wages under the program under part G".

(2)(A) Clause (iii) of section 402(g)(1)(A) of the Act is amended by inserting before the period at the end thereof "or wages under part G".

(B) Clause (iv) of such section is amended immediately after "aid to families with dependent children" by inserting "or wages under part G".

(c) HEALTH AND SAFETY STANDARDS; CONTINUITY OF CARE.—(1) FOR RECIPIENTS.—Section 402(g)(1)(A) of the Act is amended by adding at the end thereof the following new subparagraphs:

"(viii) Child care guaranteed under this section, whether provided by a method permitted under subparagraph (B) or by means of an agreement under subsection (j) with the lead agency designated under the Child Care and Development Block Grant Act of 1990 (hereafter referred to as the 'CCDBG Act'), must meet all health and safety standards established by the lead agency (for purposes of the CCDBG Act), and, in addition to any other requirements imposed pursuant to that Act, the State agency must establish immunization requirements and assure (and any such agreement must provide) that, consistent with regulations of the Secretary (I) children whose child care is paid for, in whole or in part, under this subsection will be required to have received all immunizations, at the appropriate times, as currently recommended by the Advisory Committee on Immunization Practices (as advisory committee established by the Secretary, acting through the director of the Centers for Disease Control and Prevention) as specified on the pediatric vaccines list referred to in section 1928(e), and (II) child care providers used will take steps to assure that toxic substances, weapons, and any other items at the location where the child care is provided that could be harmful to young children, will be secured and unobtainable by the children.

"(ix) The State plan must assure that child care provided under this subsection will conform in all ways to the provisions for parental choice, unlimited parental access, handling of parental complaints, and consumer education, as well as to all the other standards, criteria, and requirements applicable to child care provided under the CCDBG Act.

"(x) The State agency may, at its option, provide or authorize the provision of child care under this subsection (and if it exercises this option, shall so advise the lead agency designated under the CCDBG Act, if it has an agreement with such agency under subsection (j)) to a child for such periods of time as are necessary to assure continuity of care even though, for such periods, the individual whose participation in the program under part F or page G or whose employment is enabled by the child care may have temporary interruptions in employment or training.".

(2) FOR AT-RISK FAMILIES.—Section 402(i) of the Act is amended by redesignating paragraphs (5) and (6) as paragraphs (8) and (9), respectively, and by inserting after paragraph (4) the following new paragraphs:

"(5) Child care provided under this subsection, whether provided by a method permitted under paragraph (2) or by means of an agreement under subsection (j) with the lead agency designated under CCDBG Act, must meet all health and safety standards established by the lead agency (for purposes of the CCDGB Act), and, in addition to any other requirements imposed pursuant to that Act, the State agency must establish immunization requirements and assure (and any such agreement must provide) that, consistent with the regulations of the Secretary (i) children whose child care is paid for, in whole or in part under this subsection will be required to have received all immunizations, at the appropriate times, as currently recommended by the Advisory Committee on Immunization Practices (as advisory committee established by the Secretary, acting through the director of the Centers for Disease Control and Prevention) as specified on the pediatric vaccines list referred to in section 1928(e), and (ii) child care providers used will take steps to assure that toxic substances, weapons, and any other items at the location where the child care is provided that could be harmful to young children, will be secured and unobtainable by the children.

"(6) The State plan must assure that child care provided under this subsection will conform in all ways to the provisions for parental choice, unlimited parental access, handling of parental complaints, and consumer education, as well as to all other standards, criteria, and requirements applicable to child care provided under the CCDBG Act.

"(7) The State agency may, at its option, provide or authorize the provision of child care under this subsection (and if it exercises this option, shall so advise the lead agency designated under the CCDBG Act, if it has an agreement with such agency under subsection (j)) to a child for such periods of time as are necessary to assure continuity of care even though, for such periods, the individual whose employment is enabled by the child care may have temporary interruptions in employment.".

SEC. 302. RELATED AMENDMENTS.

(a) CHILD CARE FOR PARTICIPANTS IN THE JOBS OR WORK PROGRAM, AND TRANSITIONAL CHILD CARE.—Section 402(g) of the Act is amended—

(1) by striking out in paragraph (1)(A)(vii), "a sliding scale formula" and all that follows and inserting in lieu thereof "the sliding fee scales established by the lead agency designated under the Child Care and Development Block Grant Act of 1990 as required by section 658E(c)(5) of that Act.";

(2) by amending paragraph (1)(C)(i) by striking out clause (II) and inserting in lieu thereof "an amount not less than the amount provided in the State plan pursuant to this clause for January 1994.";

(3) by amending paragraph (3)(B) by adding "and" after clause (i), striking out "applicable standards" and all that follows in clause (ii) and inserting in lieu thereof "all requirements, standards, and criteria applicable to child care funded under the CCDBG Act.", and by repealing clause (iii); and

(4) by repealing paragraphs (4) and (5).

(b) AT-RISK-CHILD CARE.—Section 402(i) of the Act is amended—

(1) in paragraph (3)(A), by striking out "a sliding scale formula" and all that follows and inserting in lieu thereof "the sliding fee

scales referred to in subsection (g)(1)(A)(vii).";

(2) in paragraph (8)(B) (as redesignated by section 401(c)(2)), by striking out "applicable standards of State and local law;" and inserting in lieu thereof "all requirements, standards, and other criteria applicable to child care funded under the CCDBG Act;

(3) by repealing subparagraphs (C) and (D) of such paragraph (8); and

(4) by amending paragraph (9) (as redesignated) to read as follows:

"(9) In order to facilitate more accurate analysis of the supply and quality of child care resources, the demand for such resources that cannot currently be satisfied, and the effectiveness and relationship of Federal programs providing support for child care and child development activities, the Secretary shall specify by regulation a core set of consistently defined data elements for child care which must be used by each State with respect to all reports relating to child care or child development activities supported in whole or in part under this Act or under the CCDBG Act.".

SEC. 303. LIMITATION OF AT-RISK CHILD CARE TO FAMILIES INELIGIBLE FOR RECIPIENT OR TRANSITIONAL CHILD CARE

Section 402(i)(1)(A) of the Act is amended to read as follows:

"(A) is not eligible for child care under subsection (g);".

SEC. 304. OPTION TO CONSOLIDATE STATE RESPONSIBILITY FOR CHILD CARE.

(a) STATE OPTION.—Section 402 of the Act is amended by adding at the end thereof the following new subsection:

"(j)(1) In order to provide the child care which must be guaranteed pursuant to subsection (g) or which may be furnished pursuant to subsection (i), the State agency may enter into an agreement with the lead agency designated under section 658D of the CCDBG Act under which—

"(A) subject to paragraph (2), the State agency will pay (either in advance or as reimbursement) the lead agency for the cost of providing child care for any child with respect to whom care must be guaranteed under subsection (g) or is to be furnished under subsection (i), and the lead agency agrees that care for all such children will only be paid for from such reimbursement; and

"(B) that (i) all child care provided by the lead agency under the agreement, whether directly or by contractual or other arrangements, will be subject to the same requirements, standards, and other criteria as are applicable to child care funded under the CCDBG Act, and (ii) parents and children to whom such care is provided will be offered all the same protections and procedural safeguards as are applicable to child care furnished under the CCDBG Act.

"(2) LIMITS OF REIMBURSEMENT.—The State agency shall not pay the lead agency for care provided to a child an amount (A) less than the minimum permitted under subsection (g)(1)(C)(i)(II) and specified by the State for fiscal year 1994 in its plan approved under this part nor (B) in excess of the amount described in subsection (g)(1)(C) or (i)(3)(B), whichever may be applicable to the child involved, and, with respect to children to whom subsection (i)(3)(B) applies, the State agency shall be obligated to pay the lead agency for child care furnished in a fiscal year only to the extent of appropriations available for such purpose for such fiscal year.

"(3) SINGLE STATE AGENCY.—Nothing in this subsection shall be construed as precluding the designation of the agency established or designated under section 402(a)(3) as the lead agency for purposes of the CCDBG Act. No agreement shall be necessary in the case where the same agency is designated under both the CCDBG Act and this Act, but the agency shall, as lead agency, comply with all the provisions of this subsection.".

SEC. 305. FUNDING FOR QUALITY IMPROVEMENT AND LICENSING ACTIVITIES BENEFITTING CHILDREN RECEIVING AFDC OR AT-RISK CHILD CARE.

(a)(1) LICENSING AND MONITORING COSTS.—Section 402(g)(3) of the Act is amended by adding at the end thereof the following new subparagraph:

"(C) In determining the amount expended by a State for purposes of section 403(a)(3), the Secretary shall allow the State to include an amount, determined in accordance with a formula prescribed by the Secretary, to reimburse the State for expenditures in connection with licensing, monitoring, and similar activities with respect to child care providers in the State. The formula adopted by the Secretary shall reflect either the number of children for whom child care is reimbursed under section 403(a), the number of child care providers in the State furnishing such child care, or both, and any other factors which the Secretary determines it would be equitable to consider. The total payment to all States pursuant to this subparagraph shall not exceed $15,000,000 for any fiscal year.".

(2) The amendment made by paragraph (1) shall be effective for fiscal years after 1995.

(b) SUPPLY AND QUALITY IMPROVEMENT ACTIVITIES.—Section 402(i) of the Act is amended by redesignating paragraph (9) (as previously redesignated) as paragraph (10) and inserting after and below paragraph (8) the following:

"(9) Of the amount available to a State for any fiscal year under section 403(n), 10 percent of such amount may be paid by the Secretary with respect to expenditures for those activities to improve the quality of child care in the State described in section 458G of the Child Care and Development Block Grant Act (referred to in this subsection as the 'CCDBG' Act) and to increase the availability in low-income communities of child care appropriate for infants and very young children in a variety of settings. Either the State agency administering the plan approved under this part or the lead agency designated under the CCDBG Act may conduct such activities (in which case the State agency shall pay to the lead agency the amount provided by the Secretary for this purpose pursuant to the preceding sentence).".

SEC. 306. FUNDING OF CHILD CARE FOR FAMILIES AT RISK OF WELFARE DEPENDENCY.

(a) FEDERAL FUNDING.—Section 403(n) is amended—

(1) in paragraph (1)(A), by striking out "the Federal medical assistance percentage as defined in section 1905(b))" and inserting in lieu therof "the State's enhanced Federal medical assistance percentage (as defined in subsection (m)(6))"; and

(2) in paragraph (2), by amending subparagraph (B) to read as follows;

"(B) The amount specified in this subparagraph is—

"(i) $300,000,000 for fiscal year 1995,

"(ii) $500,000,000 for fiscal year 1996,

"(iii) $600,000,000 for fiscal year 1997,

"(iv) $700,000,000 for fiscal year 1998, and

"(v) $1,000,000,000 for fiscal year 1999,

"(vi) $1,050,000,000 for fiscal year 2000,

"(vii) $1,100,000,000 for fiscal year 2001,

"(viii) $1,150,000,000 for fiscal year 2002,

"(ix) $1,200,000,000 for fiscal year 2003,

"(x) $1,300,000,000 for fiscal year 2004, and

"(xi) the product of $1,300,000,000 adjusted by the CPI as prescribed in section 406(i) and the ratio of the child population in the United States for the most recent preceding fiscal year for which such data are available, to such population for the second most recent preceding fiscal year,

reduced by 2 percent (or, in the case of fiscal years after 1998, 1 percent) for carrying out section 404 of the Work and Responsibility Act of 1994.".

(b) REALLOTMENT OF AT-RISK CHILD CARE FUNDS.—Section 403(n)(3)(C) of the Act (permitting a one-year carryover by a State of unclaimed Federal funds for at-risk child care) is amended to read as follows:

"(C) If the amount specified in subparagraph (B) for any fiscal year exceeds (or if the Secretary estimates that it will exceed) the total amount paid (or estimated to be payable) under paragraph (1) for such fiscal year, then the Secretary shall provide additional payments to States whose expenditures pursuant to section 402(i) for such year exceed their limitation on Federal payment under paragraph (2). The Secretary shall by regulation provide for the equitable reallotment of any amounts available in the case where all States' claims for a fiscal year under this subparagraph exceed the amount available for reallotment.".

SEC. 307. SUPPLEMENT TO INCOME DISREGARD.

(a) REQUIREMENT.—Section 402(g)(1)(B) of the Act is amended by adding at the end thereof the following new sentence: "If the State agency guarantees child care by applying the income disregard provision in subsection (a)(8)(A)(iii) in determining the amount of aid to be paid for a month, the State agency shall offer the caretaker relative the option of receiving care under another arrangement pursuant to this subparagraph, or, alternatively, the State agency shall reimburse the caretaker relative for expenditures for child care for such month in an amount equal to the excess of such expenditures (or, if less, the maximum amount that may be paid for the type of child care involved, as determined under subparagraph (C)) over the amount that is disregarded under such subsection.".

(b) NOTICE.—Section 402(g)(1)(A)(i) of the Act is amended by striking out the period at the end and inserting in lieu thereof a semicolon and adding after and below clause (II) the following:

"and if the State agency applies the income disregard provision in subsection (a)(8)(A)(iii) without reimbursement under subparagraph (B) for any additional cost, it shall advise each such family that they also have the option to have the State agency provide child care under another arrangement pursuant to subparagraph (B).".

TITLE IV—PROVISIONS WITH MULTI-PROGRAM APPLICABILITY

SEC. 401. PERFORMANCE STANDARDS.

Section 487 of the Act is amended to read as follows:

"SEC. 487. PERFORMANCE STANDARDS.

"(a) DEVELOPMENT OF FACTORS TO BE MEASURED.—In order to specify a set of outcome-based performance measures to which the Secretary can thereafter apply standards of achievement to define successful State JOBS and WORK programs (with appropriate variations in the factors to be measured, and the standards applied, among the States and for programs directly administered by Indian tribes or Alaska Native organizations), the

Secretary shall develop recommendations for factors to be measured in assessing such programs, together with specific elements to be examined and the methodology for collecting the necessary data. Factors to be recommended shall include the percentage of a State's AFDC caseload subject to the time limits in section 417 who receive aid for 24 cumulative months and may include factors such as those considered under section 106 of the Job Training Partnership Act, as well as—

"(1) the increase in employment and level of earnings of program participants after leaving the JOBS and WORK programs,

"(2) the retention of program participants for significant periods of time in unsubsidized employment,

"(3) the decrease in the rate of dependency on welfare of participants' families,

"(4) the improvement in the long-term economic well-being of families with children with a family member who previously participated in one or both such programs, and

"(5) such other factors as the Secretary finds appropriate.

The Secretary shall solicit views on the recommendations from the Secretary of Labor, the Secretary of Education, and other Federal, State, and local officials (and representatives of associations of such officials) from both the executive and the legislative branches of government, and from other individuals and organizations with expertise in the fields of social welfare, education and training programs for children and adults, employment-related programs and social and supportive services related to these areas, as well as from community-based organizations and former and current program participants. Based upon the consultations and consideration of the views provided regarding the recommended factors, the Secretary shall, not later than October 1, 1996, publish in the Federal Register the factors to be measured in assessing States' performance in administering the programs established under parts F and G.

"(b) DEVELOPMENT OF PERFORMANCE STANDARDS.—(1) RECOMMENDATIONS.—In order to set standards of achievement to be applied to each of the factors to be measured as defined in accordance with subsection (a), the Secretary shall, not later than April 1, 1998, develop recommended standards to be applied to each of the factors. Views on these recommended standards shall be solicited from officials, organizations, and individuals broadly representative of the groups described in subsection (a). Based upon the consultations and consideration of the comments received from these sources, the Secretary shall, not later than October 1, 1998, publish in the Federal Register the standards to be applied to the measurement factors.

"(2) REQUIREMENTS.—The performance standards described in paragraph (1) shall include provisions governing cost-effective methods for obtaining such data as are necessary to carry out this section which, notwithstanding any other provision of law, may include access to earnings records, State employment security records, records collected under the Federal Insurance Contributions Act (chapter 21 of the Internal Revenue Code of 1986), State aid to families with dependent children records, and the use of statistical sampling techniques, and similar records or measures, with appropriate safeguards to protect the confidentiality of the information obtained.

"(c) INCENTIVES AND PENALTIES.—The Secretary shall recommend and, not later than October 1, 1998, issue regulations prescribing incentives for States meeting or exceeding the performance standards adopted pursuant to subsection (b), and penalties for States failing to meet such standards. In developing such regulations, the Secretary shall study and consider the relationship between penalties and incentives as a means of achieving the proposed standards. The Secretary will consider whether the penalties and incentives set are sufficient to insure that a State which incurs the costs necessary to obtain the desired outcomes is financially better off than one that does not. Such regulations shall also include provisions for delay of any penalty when the Secretary finds it appropriate to afford a State sufficient time to develop and (with the Secretary's approval) implement a corrective action plan which, if successful, will obviate the application of a penalty, and provision for furnishing technical assistance to any State in order to improve its program and avoid the application of a penalty.

"(d) The Secretary shall, from time to time, and in consultation with officials, organizations, and individuals broadly representative of the groups referred to in subsection (a), review and, if appropriate, propose modifications to the factors to be measured, the standards of performance, or the incentives and penalties, and after opportunity for review and comment, modify any one or more of such items.

"(e) The Secretary shall on an annual basis make public the level of performance achieved by each State as compared to the applicable standard.

"(f)(1) Each State with a plan approved under this part shall collect and furnish such data as the Secretary may require to assist in the development of the factors to measure performance (pursuant to subsection (a)) and the development of standards to be applied to those factors (pursuant to subsection (b)).

"(2) Each State with a plan approved under this part shall establish methods to solicit, on a regular and ongoing basis, the views of participants in the program under this part, and in the WORK program under part G, and of employers of participants from both programs, on the quality and effectiveness of the services provided under the program. Participants and employers may provide either oral or written views, and the State should use a range of methods to obtain such views, including written questionnaires and group interviews and discussions. The information obtained from participants and employers shall be analyzed by the State and a summary of the information, together with the State's analysis, made available for use in improving the administration of the JOBS and WORK programs.

SEC. 402. AFDC QUALITY CONTROL SYSTEM AMENDMENTS.

(a) EXPANDED PURPOSE.—Section 408(a) of the Act is amended to read as follows:

"(a) IN GENERAL.—In order (1) to improve the accuracy of payments of aid to families with dependent children, and wages under the WORK program under part G, to assess the accuracy of State reported data relating to its JOBS and WORK programs and to its implementation of the time limits established by section 417, (2) to determine the number of individuals to whom the State found applicable section 402(a)(19)(D) (by each of the categories enumerated within such section) and the number of individuals with respect to whom an extension of the time limit under section 417 was provided (by each of the categories enumerated within section 417(e)), (3) to determine whether participation standards under section 403 have been met, (4) to assess the effectiveness of the State's program by applying the performance standards developed under section 487, and (5) to serve such other purposes as the Secretary finds appropriate for a performance measurement system, the Secretary shall establish and operate a quality control system to secure the accurate data needed to measure performance, identify areas in which corrective action is necessary, and determine the amount (if any) of the disallowance required to be repaid to the Secretary because of erroneous payments of aid made by the State, or its failure to meet such participation or performance standards.".

(b) ADDITIONAL DATA REQUIRED TO BE SAMPLED.—Section 408(h) of the Act is amended—

(1) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively,

(2) by adding after and below paragraph (1) the following new paragraph:

"(2) payments of aid that will be considered, for purposes of this section, to be erroneous payments because of a State's exceeding the limits specified in section 402(a)(19)(D) or 417(e), and the State's failure to achieve the participation rates specified in section 403, or to meet the performance standards developed pursuant to section 487, and the additional data elements to be included in a sample (and whether as part of the sample review under subsection (b) or separately) in order to determine whether such participation rates have been achieved, and the extent to which the State has met such performance standards;"; and

(3) by amending paragraph (3) (as redesignated) by inserting before the semicolon "and matters relating to the size and selection of samples and relating to the methodology for making statistically valid estimates of the State's compliance with the limits referred to in paragraph (2) and its achievement of participation rates and performance (measured against such standards) achieved by the State".

(c) STATE STUDIES.—Section 408(h) is amended by adding at the end thereof the following new sentence: "Expenditures by a State to conduct studies approved by the Secretary to test and improve its quality control system, and adapt it to the full range of purposes described in subsection (a) shall, notwithstanding any other provision of law, be considered for purposes of section 403(a)(3) to be necessary for the proper and efficient administration of the State's plan approved under this part.".

(d) CONFORMING AMENDMENT.—Section 408(b)(5) of the Act is amended—

(1) in subparagraph (A), by striking out "subsection (h)(3)" and inserting in lieu thereof "subsection (h)(4)", and

(2) in subparagraph (B), by striking out "subsection (h)(4)" and inserting in lieu thereof "subsection (h)(5)".

(e) CONSULTATION.—The Secretary of Health and Human Services shall consult with the State agencies administering programs under parts A, F, and G of title IV of the Act, and with others knowledgeable about design and administration of quality control systems and performance measurements systems, and thereafter, but not later than April 1, 1995, report to the Congress and publish in the Federal Register the proposed rules necessary to effectuate the amendments to section 408 of the Act made by this section.

SEC. 403. NATIONAL WELFARE RECEIPT REGISTRY; STATE INFORMATION SYSTEMS

(a) FEDERAL RESPONSIBILITIES.—Part A of title IV of the Act is amended by adding after section 410 the following new section:

"NATIONAL WELFARE RECEIPT REGISTRY

"SEC. 411. (a) ESTABLISHMENT.—In order to assist States in administering their State plans approved under this part, part F, and part G, the Secretary shall establish and maintain an automated registry, to be known as the National Welfare Receipt Registry, containing information reported by each State agency administering a plan approved under this part concerning individuals receiving (or who have received) aid to families with dependent children or wages under a State's WORK program under part G.

"(b) INFORMATION TO BE MAINTAINED.—There shall be maintained in the Registry, at a minimum, the following information with respect to each individual in the family who has received aid to families with dependent children:

"(1) the individual's name, date of birth, and social security account number;

"(2) the months for which aid was provided (with respect to such individual), including months in which no aid was paid with respect to such individual because a sanction was being applied pursuant to section 402(a)(19)(G), section 402(a)(26), or section 496(f);

"(3) months in which section 402(a)(19)(D) was applicable to the individual;

"(4) months during which an extension under section 417 (e) was provided with respect to an individual;

"(5) months in which an individual was registered with the State's WORK program under part G and months in which the individual was assigned to a position under part G; and

"(6) such other information as the Secretary may determine would assist in the administration of the programs involved, including the performance measurement of one or more of such programs.

"(c) USE OF INFORMATION.—(1) TO WHOM PROVIDED.—The Secretary shall promptly respond to requests by a State agency administering a plan approved under this part for information with respect to one or more individuals, identified by name and social security number. The Secretary shall furnish such information electronically, and if such an individual has previously received (or is receiving) aid to families with dependent children, or was registered under a program pursuant to part G, identify the State making payment of aid or administering the program under part G for each month involved or indicate that the requested information is not in the Registry.

"(2) REGULATIONS.—The Secretary shall prescribe rules pertaining to—

"(A) the format in which and process by which States must submit the information maintained under subsection (b);

"(B) the format in which and process by which States must submit requests (and responses will be furnished to such requests) for information under this subsection;

"(C) the safeguards that the State must adopt to assure that requests are submitted, and responses received, only by personnel authorized by the State agency to perform these functions; and

"(D) steps that the State must take to safeguard any information received from the Registry, and assure that it will not be redisclosed except to the extent permitted under section 402(a)(9) or under this section.

The Secretary shall take into consideration in developing and issuing rules under this subsection the varying levels of capability among the States to monitor, provide, and receive by electronic means the information to be maintained in the Registry, and shall allow in such rules a State to adopt alternatives to the generally applicable requirements if the State demonstrates that its alternative will be effective in reporting, receiving and using the information to be maintained in the Registry and the State has in effect an advance planning document approved under section 402(e).

"(d) The Secretary shall not be liable to either a State or an individual for inaccurate information provided to the Registry by one State and reported by the Secretary to a second State.

"(e) The Secretary may disclose information in the Registry, in addition to disclosure to States for the purposes described above, only—

"(1) to the Social Security Administration in order to verify the accuracy of, and as necessary to correct, the social security account numbers of individuals about whom information has been reported, and for use by the Social Security Administration in determining the accuracy of payments under the Supplemental Security Income program under title XVI, or for use in connection with benefits under title II, as may be relevant,

"(2) to the Internal Revenue Service for purposes directly connected with the administration of the earned income tax credit under section 32 of the Internal Revenue Code of 1986, or the advance payment of such credit under section 3507 of such Code or for verification of a dependency exemption claim in an individual's tax return or in connection with the dependent care tax credit,

"(3) to the Secretary of Labor (or the State agency administering the State's program under title III of the Act) for purposes directly connected with the administration of the unemployment compensation program under title III (or under a State law with respect to which the Secretary of Labor certifies payment under such title), and

"(4) for research purposes found by the Secretary to be likely to contribute to achieving the purposes of this part or part F or G, but without personal identifiers.

"(f) There are authorized to be appropriated to establish the National Welfare Receipt Registry, $6,000,000 for fiscal year 1995, and to operate the Registry, $4,000,000 for each of fiscal years 1996 through 1999.".

(b) STATE RESPONSIBILITIES.—Section 402(a) of the Act is amended by adding after paragraph (28) the following new paragraph:

"(29) provide—

"(A) that information will be reported to the National Welfare Receipt Registry, at such times, in such format and by such process as the Secretary shall prescribe pursuant to section 411;

"(B) that the State agency will request from such Registry, and from the other Registries maintained as part of the National Welfare Reform Information Clearinghouse established pursuant to section 453A, in such manner as the Secretary may prescribe, and will use all information that would facilitate the proper and efficient operation of the State's programs under this part and parts F and G, and

"(C) that the State agency will cooperate with any other State agency administering or supervising the administration of a plan approved under this part in order to resolve any disagreement between an individual seeking aid under such a plan (or seeking to participate in a program under part G) and the State about the correctness of information it reported to the Registry and report to the Registry any corrections to be made in the data contained in the Registry;".

(c) STATE AUTOMATED INFORMATION SYSTEM.—Section 402(a)(30) of the Act is amended to read as follows:

"(30)(A) provide for an automated system which manages, monitors, and reports the information in paragraph (29) efficiently and economically, and for security against unauthorized access to, or use of, the data in such system; and

"(B) at the option of the State, provide for the establishment and operation, in accordance with an (initial and annually updated) advance planning document approved under subsection (e), of a statewide automated information system to assist in the administration of the State plan approved under this part through automated procedures and processes in any one or more of the following areas—

"(i) to assist in performing intake and referral functions;

"(ii) to assist in providing the child care services required under subsection (g)(1), and available under subsection (i), and coordinating the provision of such services with those provided in the State under the Child Care and Development Block Grant Act, in an efficient manner that eliminates (or at least minimizes) the disruption of service to children and families and assists the State in monitoring the quality, cost, and delivery of such services; or

"(iii) to assist in the administration of the State's plan approved under part F, including monitoring the delivery of employment and training services and related support services, and to manage the information necessary to administer and assess its programs under parts F and G;

and to provide for security against unauthorized access to, or use of, the data in such system and, if the State elects to implement any such automated system, may also develop and implement a system (or, if more cost-effective, enhance an existing system) for determining eligibility for any payment amount of aid under this part;".

(d) DEVELOPMENT OF MODEL AUTOMATED INFORMATION MANAGEMENT SYSTEMS.—Section 413 of the Act (including its heading) is amended to read as follows:

"MODEL AUTOMATED INFORMATION MANAGEMENT SYSTEMS

"SEC. 413. (a)(1) The Secretary shall, in partnership with States, design and develop model automated support and case management systems to assist States in the operation, managing, tracking, and reporting in each of the program areas described in section 402(a)(30)(A) and clauses (i), (ii), and (iii) of section 402(a)(30)(B), and thereafter provide necessary technical assistance to States choosing to adopt such model.

"(2) Two or more States may determine to collaborate in developing model automated support and case management systems to assist them in operating, managing, tracking, and reporting in each of the program areas described in section 402(a)(30) and, in such case, the Secretary shall provide all appropriate technical assistance, and otherwise cooperate with the States' collaboration to develop systems that meet all the requirements of this part.

"(b) The model system developed by the Secretary under subsection (a)(1), or the system developed collaboratively by States under subsection (a)(2), must meet the following criteria:

"(1) with respect to payment of aid under the State's plan approved under this part, the system must be capable of assisting in performing the intake and federal function;

"(2) with respect to the State's child care programs under this part, as well as under the CCDBG Act, the system must be capable of assisting in—

"(A) identifying and establishing the eligibility of families with children in need of child care, and determining the appropriate program under which to pay for such care;

"(B) determining the continuing eligibility of such families for such care, and planning for and monitoring services provided to such families;

"(C) processing payments and other financial data needed for the management of the child care programs, and

"(D) producing necessary management reports for the efficient and effective administration of the child care programs, including the generating of required financial and statistical reports;

"(3) with respect to the State's JOBS and WORK programs under parts F and G respectively, the system must be capable of assisting in—

"(A) assessing a participant's service needs in relation to stated goals,

"(B) developing an appropriate employability plan, and

"(C) monitoring and recording the individual's attendance at or participation in all required program activities.

In the case of each of the State's systems described in paragraphs (1), (2), and (3), the system must also be capable of exchanging data electronically with related Federal electronic data systems and other such systems of the State, and providing such other information necessary to assess the State's program performance against the standards established by the Secretary under section 487.

"(c) There are authorized to be appropriated to carry out subsection (a), $7,500,000 for each of fiscal years 1995 and 1996.

"(d)(1) In addition to the technical assistance required in connection with the model systems described in subsection (a)(1), the Secretary shall provide for such training, and furnish such technical assistance as may be appropriate to enable States to develop and implement automated management systems as promptly and in as cost-effective a manner as possible.

"(2) There are authorized to be appropriated $1,000,000 for each fiscal years 1995 through 1999 to carry out this subsection.".

(e) ENHANCED MATCHING.—Section 403(a) of the Act is amended—

(1) by redesignating paragraph (3) as paragraph (3)(A) and striking out "and" at the end thereof, and

(2) by adding after and below such paragraph the following:

"(B) if the Secretary determines that the modification of a State's system that meets the requirements of section 402(a)(3)(A) will be cost-effective, or that a State's automated management information system uses any one or more of the Secretary's models developed under section 413(a)(1), or is based on a State collaboration under section 413(a)(2), Federal payments with respect to such systems shall equal 80 percent (or, if greater, the State's enhanced Federal medical assistance percentage, as defined in subsection (m)(6)) of a State's expenditures under its approved advance planning document for the cost of developing and implementing any such system collaborative project; and

"(C) notwithstanding any other provision of this section, the total amount payable by the Secretary with respect to expenditures, (during the five-year period) to which subparagraph (B) applies shall not exceed $800,000,000 to be distributed among the States, and to make available at such time or times over the five-year period, as is provided in regulations issued by the Secretary, taking into account the relative size of State caseloads and the levels of automation needed to meet the requirements of this title, and payments under subparagraph (B) shall be made at such times and in such manner as provided in subsection (b) and the advance planning document approved under section 402(e).", and

(3) by striking out "section 403(a)(3)" in subparagraph (C) of section 402(g)(3) of this Act, as added by section 305(a)(1) of this Act, and inserting in lieu thereof "section 403(a)(3)(A)".

(d)(1) REVISION OF ADVANCE PLANNING DOCUMENT REQUIREMENT.—Section 402(e) of the Act is amended to read as follows:

"(e)(1) The Secretary shall not approve the Advance Data Planning document referred to in subsection (a)(30), unless such document, when implemented, will economically, efficiently, and effectively carry out the objectives of the automated, statewide, management information systems referred to in such subsection, and such document provides a plan to address the State's approach, schedule, needed resources, and cost-benefit of the project.

"(2) The Secretary shall, on a continuing basis, review, access, and inspect the planning, design, and operation of the statewide management information systems approved under subsection 403(a)(3)(B), to determine whether, and to what extent, such systems meet and will continue to meet requirements imposed under this part.".

SEC. 404. RESEARCH AND EVALUATION; TECHNICAL ASSISTANCE; DEMONSTRATION PROJECTS.

(a) FUNDING.—There shall be available to the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") for carrying out the projects and other activities specified in this section, and other such activities related to the provisions of this Act, in a fiscal year an amount equal to 2 percent (or, in the case of fiscal years after 1998, 1 percent) of the sum of the amounts specified in subsections (k)(3), (l)(3), and (n)(2)(B) of section 403 of the Social Security Act for such fiscal year.

(b) RESEARCH AND EVALUATION.—In addition to any other research and evaluation found appropriate by the Secretary pertaining to the new programs and amendments to existing programs added to the Social Security Act by the provisions of this Act, the Secretary shall, in consultation with the Secretary of Labor and the Secretary of Education conduct, in accordance with scientifically-acceptable methodology, the following studies of the time-limited program of assistance together with training and preparation for employment, followed by a program of required employment or employment-related activities:

(1) a two-phase implementation study of—

(A) the initial steps taken by States and political subdivisions to implement the new programs and requirements established by the amendments made by this Act, as well as the obstacles faced, institutional arrangements entered into, and recommendations of such States and political subdivisions based on their experiences, and thereafter

(B) the experiences of States and localities after the new programs and requirements have been substantially implemented, including a study of the program design, services provided, funding levels, participation rates, and recommendations of the administering agencies, and a review of the impact of these new programs and requirements on the State and local administration of the programs, including management systems, staffing structures, and the culture of the welfare programs;

(2) an evaluation in a variety of States and localities, using random assignment of individuals to treatment and control groups, and other appropriate rigorous methods, to examine the effectiveness of time-limited assistance in helping participants achieve self-sufficiency, and the corresponding effect on unemployment rates, reduction of welfare dependency and teen pregnancy, the effects on income levels, family structure, and children's well-being among participant groups; and

(3) together with the Secretary of Labor, a comprehensive national study after the WORK program (under part G of title IV of the Act) has been in effect for 2 years to measure the program's success in assisting participants to obtain unsubsidized employment, and to evaluate skill levels and barriers to employment in the case of individuals who have not, after participating in such program for 2 years, been able to obtain unsubsidized employment.

(c) TECHNICAL ASSISTANCE.—In addition to any other specific authorization in the Social Security Act for technical assistance, the Secretary is authorized to offer a broad range of technical assistance to States (including Indian tribes and Alaska Native organizations) and territories, including training, consultations, and fostering the exchange of information among States and others about practices, strategies, and techniques that are proving effective.

(d) PLACEMENT DEMONSTRATION PROJECTS.—The Secretary is authorized to approve up to 10 demonstrations of innovative techniques to increase the number of placements of participants in the JOBS program (under part F of title IV of the Social Security Act) in positions of unsubsidized employment with significant retention rates. No more than 5 such demonstrations shall test the use by the State of a private organization, pursuant to a contractual arrangement under which the organization will place JOBS program participants in employment, and no more than 5 such demonstrations shall involve the use of placement bonuses payable to State or local agency employees who effectuate successful placements. All the projects shall specify performance standards (based on placement and retention rates) to measure successful performance, and, in the case of projects involving the use of private agencies, shall also specify the services that must be made available to clients, both before and after the placement, and indicate whether the organization will also serve participants in the State's WORK program (under part G of title IV of the Social Security Act.)

(e) WORK-FOR-WAGES DEMONSTRATION PROJECTS.—The Secretary is authorized to approve up to 5 local demonstration projects to test the development, implementation, and effectiveness of WORK programs conducted outside the context of the State's AFDC program. Any project approved under this subsection must include the following elements:

(1) the State agency administering the State's AFDC program (under part A of title IV of the Social Security Act) must close the case when an individual to whom section 417

applies (as added by section 104 of this Act) reaches the time limit specified in such section;

(2) each individual involved in the demonstration must be advised of the procedures that must be followed to apply for the WORK-for-Wages Project, and may not be denied an opportunity to participate if such individual would be eligible to participate in the State's WORK program under part G of such title;

(3) each individual will be afforded the opportunity to earn wages in a position of employment and WORK stipends if necessary to provide at least the income level of the State's AFDC program (after application of the $120 per month earned income disregard for work expenses) in the case of a similarly situated family (and States conducting projects will be encouraged to standardize, to the extent consistent with the preceding provisions of this paragraph, the amount of the stipends), but no payment of either wages or the stipend will occur unless the individual has worked or participated in an alternative project-specified activity such as job search, interim community service, or other activity designed by the project; and

(4) those elements of the WORK program under part G of title IV of the Act which this Secretary determines are essential to achieve its objectives, while protecting the interests of participants in the program and others involved in or affected by the project, will be retained and applied in the project.

(f) WORK SUPPORT AGENCY DEMONSTRATIONS.—The Secretary is authorized, in consultation with the Secretary of Labor, the Secretary of Agriculture, and the Secretary of the Treasury, to approve demonstration projects in up to 5 States, under which the State establishes a Work Support Agency to provide a broad and coordinated array of services and assistance to individuals who are former recipients of aid to families with dependent children to assist them in retaining unsubsidized employment. Services may include assistance in obtaining other benefits or payments for which the individual is still eligible, assistance in dealing with short-term family problems which could otherwise jeopardize continuation of the employment relationship, short-term or one-time financial aid to meet unusual employment-related needs and any other aid or services that support the individual's ability to retain or, where necessary, secure employment.

(g) DEMONSTRATION PROJECTS FOR NONCUSTODIAL PARENTS.—In order to encourage the development of innovative parenting programs for noncustodial parents that build upon existing programs for high-risk families, such as the Head Start program, the Healthy Start program, the Even Start program, and the Family Preservation and Support program, the Secretary is authorized to make grants to States, Indian tribes and Alaska Native organizations, or community-based organizations to conduct demonstration projects designed to improve the parenting skills of noncustodial parents with particular emphasis on matters such as the importance of parental involvement and economic security in the healthy development of children. The applicant shall describe the services to be provided, and the way in which project services will be coordinated with one or more of the programs or initiates referred to in the preceding sentence.

(h) The Secretary shall, with respect to all demonstrations authorized under this section, prescribe—

(1) the minimum length of such projects in order to assure the value of the project,

(2) the assignment techniques and other requirements for the methodologies so that the results will be scientifically acceptable,

(3) the required financial contribution by the project applicant,

(4) types of expenditures that may be included under the project,

(5) the timing and nature of required reports and the procedures to be followed in conducting the evaluation and review of project results, and

(6) any other rules that the Secretary finds appropriate to assure the integrity of the demonstration, and to protect the rights and interests of program participants who are assigned to the demonstration.

SEC. 405. OFFSETS TO MANDATORY SPENDING FROM REDUCED FRAUD, WASTE, AND ABUSE.

(a) CERTIFICATIONS.—In order to assure achievement of the reductions in mandatory spending assumed in the cost estimates accompanying this Act, beginning in fiscal year 1998, and each of the five succeeding fiscal years is—

(1) the Secretary of Health and Human Services shall certify to the Director of the Office of Management and Budget that each of the systems of data bases included in the National Welfare Reform Information Clearinghouse established by Section 453A of the Social Security Act, (as added by section 625 of this Act) are both receiving data from and providing data to State and Federal agencies, and otherwise fully complying with all requirements imposed by or pursuant to the provisions of the Social Security Act establishing, and requiring use of the components, of the Clearinghouse, and

(2) the Director of the Office of Management and Budget shall determine whether, and if so certify that, all such data were used fully and by the Federal agencies to which it was supplied in order to reduce fraud, waste, and abuse in the programs it administers and in compliance with the requirements imposed by or pursuant to the Social Security Act and subsection (d).

(b) ALTERNATIVE REDUCTIONS IN MANDATORY SPENDING.—If the Director of the Office of Management and Budget, after consultation with the Secretary of Health and Human Services, certifies, prior to the close of a fiscal year, as provided in subsection (a)(2), that, notwithstanding the full use of data as described in subsection (a) and States' implementation of applicable requirements of the Social Security Act, mandatory spending was not reduced (when compared to the levels estimated had the Clearinghouse not been established and used) by the amount projected in the cost estimates, then in the succeeding fiscal year the following reductions in spending shall occur, in the sequence stated, to the extent necessary to reduce mandatory spending by the difference between the amount that it was estimated would be saved (or avoided) in the year (in which the certifications are made) and the amount certified by the Director as having been saved (or avoided):

(1) the amount made available to the Secretary of Health and Human Services under section 404(a) of this Act for research, demonstrations, and technical assistance, and the amount available under section 452(j) of the Social Security Act (as added by section 616 of this Act) for technical assistance to States with respect to child support enforcement programs (each such amount being reduced proportionately); and, if necessary,

(2) amounts otherwise payable under section 403(a)(3) of the Social Security Act (as amended by this Act) to States which have not fully implemented all the requirements imposed by or pursuant to the Social Security Act for full use of the data available from any part of the National Welfare Reform Information Clearinghouse shall be reduced by 3 percent (or such lesser amount as is necessary to achieve the necessary reductions in mandatory spending).

(c) RELATED AMENDMENTS.—Section 1137(a)(2) of the Act is amended by striking out "such Code," and inserting in lieu thereof "such Code, and information available from any Registry maintained under the National Welfare Reform Information Clearinghouse established under section 453(A) (or, prior to the full establishment and operation of the Director of New Hires, from systems of similar information maintained by any other State, where cost-effective),".

(d) The Social Security Administration and the Secretary of the Treasury shall each request and fully use all information in the registries maintained under the National Welfare Reform Information Clearinghouse established under Section 453A of the Social Security Act to the extent that such information may be useful in carrying out their statutory responsibilities and reducing fraud, waste, and abuse.

TITLE V—PREVENTION OF DEPENDENCY

SEC. 501. SUPERVISED LIVING ARRANGEMENTS FOR MINORS.

(1) Section 402(a)(43) of the Act is amended by striking out "at the option of the State,".

(2) Such section is further amended in subparagraph (A)(i) by striking out ", or reside in a foster home" and all that follows down to the semicolon.

(3) Such section is further amended—

(A) by amending so much of subparagraph (B) as precedes clause (i) to read "(B) in the case where—",

(B) by striking out the semicolon at the end of each numbered clause in such subparagraph and inserting in lieu thereof a comma, and

(C) by adding after and below clause (v) of such subparagraph the following:

"subparagraph (A) shall not be applicable, but the State agency shall assist the individual in locating an appropriate adult-supervised supportive living arrangement taking into consideration the needs and concerns of the minor, (or may determine that the individual's current living arrangement is appropriate) and thereafter shall require that the individual (and child, if any) reside in such living arrangement as a condition of the continued receipt of aid under the plan (or in an alternative appropriate arrangement, should circumstances change and the current arrangement cease to be appropriate) or, if the State agency is unable, after making diligent efforts, to locate any such appropriate living arrangement, it shall provide for comprehensive case management, monitoring, and other social services consistent with the best interests of the individual (and child) while living independently;".

SEC. 502. STATE OPTION TO LIMIT BENEFIT INCREASES FOR ADDITIONAL FAMILY MEMBERS.

(a) STATE OPTION.—Section 402(a) of the Act is amended—(A) by striking out "and" after paragraph (44);

(B) by striking out the period after paragraph (45) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(46) at the option of the State, provide that—

"(A) subject to subparagraphs (B), (C), and (D), the amount of aid to families with dependent children paid to a family under the plan will not be increased by reason of the birth of a child to an individual included in such family for purposes of making the determination under paragraph (7) and applying paragraph (8), or will be increased less than the amount that would be paid with respect to such child if such child had been a member of the family when the family first applied for aid, (but any such child will be considered to be a recipient of aid for all other purposes, including title XIX) if—

"(i) in the case where the individual is a custodial parent of a dependent child, the child was conceived in a month for which the individual received aid under the plan, or

"(ii) in the case where the individual is a dependent child, the individual is the parent of another child who is a member of the same family and whose needs are included for purposes of making such determination;

"(B) services will be offered under paragraph (15) to all appropriate family members;

"(C) there will be disregarded, in making the determination under paragraph (7) and before applying the provisions of paragraph (8), an amount of income equal to any increase in aid that would have been paid but for subparagraph (A) that is derived from child support collected with respect to the child referred to in paragraph (A), earned income of a member of the family referred to in such subparagraph, or from any other source specified in the plan that the Secretary may approve as consistent with the objectives of this paragraph; and

"(D) the provisions of subparagraph (A) will not be applied in case of rape or in any other cases that the State agency finds would violate standards of fairness and good conscience.".

(b) MATCHING FOR RELATED ADMINISTRATIVE COSTS.—Section 403(a)(3) of the Act is amended by striking out the semicolon and inserting in lieu thereof "or counseling or referral services (but no other types of family planning services) furnished pursuant to section 402(a)(15);".

SEC. 503. CASE MANAGEMENT FOR PARENTS UNDER AGE 20.

Section 482(b) of the Act, as amended by section 102(2) of this Act, is further amended by—

(1) redesignating paragraph (4) as paragraph (4)(A),

(2) striking out "The State agency" in such paragraph

(4)(A) and inserting in lieu thereof "Except as provided in subparagraph (B), the State agency", and

(3) by inserting after and below paragraph (4)(A) the following:

"(B) The State agency shall—

"(i) assign a case manager to each custodial parent receiving aid under part A who is under age 20;

"(ii) provide that case managers will have the training necessary) taking into consideration the recommendations of appropriate professional organizations) to enable them to carry out their responsibilities and will be assigned a caseload the size of which permits effective case management; and

"(iii) provide that the case manager will be responsible for—

"(I) assisting such parent in obtaining appropriate services, including at a minimum, parenting education, family planning services, education and vocational training, and child care and transportation services,

"(II) making the determinations required to implement the provision of paragraph (43),

"(III) monitoring such parent's compliance with all program requirements, and, where appropriate, providing incentives and applying sanctions, and

"(IV) providing general guidance, encouragement and support to assist such parent in his or her role as a parent and in achieving self-sufficiency.".

SEC. 504. STATE OPTION TO PROVIDE ADDITIONAL INCENTIVES AND PENALTIES TO ENCOURAGE TEEN PARENTS TO COMPLETE HIGH SCHOOL AND PARTICIPATE IN PARENTING ACTIVITIES.

(a) STATE PLAN.—Section 402(a)(19)(E) of the Act (as amended by section 101 of this Act) is amended by adding "and" after clause (ii) and adding after and below clause (ii) the following new clause:

"(iii) at the option of the State, some or all custodial parents who are under age 20 (and pregnant women under age 20) who are receiving aid under this part will be required to participate in a program of monetary incentives and penalties, consistent with subsection (k);".

(b) ELEMENTS OF PROGRAM.—Section 402 of the Act is amended by adding at the end thereof the following new subsection:

"(k)(1) If a State chooses to conduct a program of monetary incentives and penalties to encourage custodial parents (and pregnant women) who are under age 20 to complete their high school (or equivalent) education, and participate in parenting activities, the State shall amend its State plan—

"(A) to specify the one or more political subdivisions in which the State will conduct the program (or other clearly defined geographic area or areas), and

"(B) to describe its program in detail.

"(2) A program under this subsection—

"(A) may, at the option of the State, include all such parents who are under age 21;

"(B) may, at the option of the State, require full-time participation in secondary school or equivalent educational activities, or participation in a course or program leading to a skills certificate found appropriate by the State agency or parenting education activities (or any combination of such activities and secondary education);

"(C) shall require that the case manager assigned to the custodial parent pursuant to section 492(b)(3) will review the needs of such parent and will assure that, either in the initial development or revision of the parent's employability plan, there will be included a description of the services that will be provided to the parent and the way in which the case manager and service providers will coordinate with the educational or skills training activities in which the custodial parent is participating;

"(D) shall provide monetary incentives for more than minimally acceptable performance of required educational activities; and

"(E) shall provide penalties (which may be those required by subsection (a)(19)(G) or, with the approval of the Secretary, other monetary penalties that the State finds will better achieve the objectives of the program.

"(3) When a monetary incentive is payable because of the more than minimally acceptable performance of required educational activities by a custodial parent, the incentive shall be paid directly to such parent, regardless of whether the State agency makes payment of aid under the State plan directly to such parent.

"(4)(A) For purposes of this part, monetary incentives paid under this subsection shall be considered aid to families with dependent children.

"(B) For purposes of any other Federal or Federally-assisted program based on need, no monetary incentive paid under this subsection shall be considered income in determining a family's eligibility for or amount of benefits under such program, and if aid is reduced by reason of a penalty under this subsection, such other program shall treat the family involved as if no such penalty has been applied.

"(5) The State agency shall from time to time provide such information as the Secretary may request, and otherwise cooperate with the Secretary, in order to permit evaluation of the effectiveness on a broad basis of the State's program conducted under this subsection.".

SEC. 505. ADOLESCENT PREGNANCY PREVENTION GRANTS.

(a) ADOLESCENT PREGNANCY PREVENTION.—Title XX (42 U.S.C. 1397–1397F) is amended by adding at the end the following:

"SEC. 2008. ADOLESCENT PREGNANCY PREVENTION GRANTS.

"(a) PURPOSE.—The purpose of this section is to encourage and provide financial assistance for the development of intensive and sustained school-linked and school-based pregnancy prevention programs for adolescents and their families in areas of high poverty or high unmarried adolescent birth rates that build upon other Federal, State, and local pregnancy prevention and youth development programs.

"(b) GENERAL AUTHORITY.—Notwithstanding section 2005(a)(6), the Secretary of Health and Human Services, the Secretary of Education, and the Chief Executive Officer of the Corporation for National and Community Service (hereinafter referred to as the 'responsible Federal officials'), in consultation with other relevant Federal agencies, shall jointly make grants to eligible entities, to carry out programs in accordance with this section.

"(c) FEDERAL ADMINISTRATION.—

"(1) Notwithstanding the Department of Education Organization Act (20 U.S.C. 3401 et seq.) and the General Education Provisions Act (20 U.S.C. 1221 et seq.), the responsible Federal officials shall jointly provide for the administration of this section, and shall jointly issue whatever regulations, procedures, and guidelines, the responsible Federal officials consider necessary and appropriate to administer and enforce the provisions of this section.

"(2) The responsible Federal officials may enter into agreements with any other Federal entity with expertise in youth development activities to administer the program under this section and may provide such entity with appropriate reimbursement.

"(d) FUNDING.—

"(1) IN GENERAL.—To achieve the purposes of this section, the responsible Federal officials shall make grants to eligible entities under subsection (b) and conduct activities under subsections (m) and (n) so that in the aggregate the expenditures for such grants and activities do not exceed $20,000,000 for fiscal year 1995, $40,000,000 for fiscal year 1996, $60,000,000 for fiscal year 1997, $80,000,000 for fiscal year 1998, and $100,000,000 for fiscal year 1999 and each subsequent fiscal year.

"(2) PAYMENTS TO GRANTEES.—Upon approval by the responsible Federal officials, each grant applicant shall be entitled to payment of at least $50,000 and not more than $400,000 for each fiscal year based on an assessment by the responsible Federal officials of the scope and quality of the proposed program and the number of adolescents to be served by the program. Payments to a grantee for any fiscal year shall be available for expenditure by such grantee in such fiscal year or the succeeding fiscal year.

"(3) RESERVATION FOR EVALUATION, TRAINING, TECHNICAL ASSISTANCE, AND NATIONAL CLEARINGHOUSE.—The responsible Federal officials shall reserve, with respect to each fiscal year, up to 10 percent of the aggregate amount described in paragraph (1) for expenditure by the responsible Federal officials of evaluation, training, and technical assistance related to the programs under this section, and for the establishment and operation of a National Clearinghouse on Adolescent Pregnancy Prevention Programs under subsection (n).

"(4) EXCESS AMOUNT.—If in any fiscal year the aggregate amount specified in paragraph (1) for such fiscal year exceeds the amount required to carry out approved grant applications and other functions under paragraph (3), then the amount specified in section 2003(c)(5) shall be increased by the excess.

"(e) DEFINITIONS.—As used in this section:

"(1) ADOLESCENTS.—The term 'adolescents' means youth who are ages 10 through 19.

"(2) ELIGIBLE ENTITY.—The term 'eligible entity' means a partnership that includes—

"(A) a local education agency, acting on behalf of one or more schools, together with

"(B) one or more community-based organizations, institutions of higher education, or public or private agencies and organizations.

"(3) ELIGIBLE AREA.—The term 'eligible area' means a school attendance area in which—

"(A) at least 75 percent of the children are from low-income families as that term is used in part A of title I of the Elementary and Secondary Education Act of 1965; or

"(B) the number of children receiving Aid to Families with Dependent Children under part A of title IV is substantial as determined by the responsible Federal officials; or

"(C) the unmarried adolescent birth rate is high, as determined by the responsible Federal officials.

"(4) SCHOOL.—The term 'school' means a public elementary, middle, or secondary school.

"(5) RESPONSIBLE FEDERAL OFFICIALS.—The term 'responsible Federal officials' means the Secretary of Education, the Secretary of Health and Human Services, and the Chief Executive Officer of the corporation for National and Community Service.

"(f) USES OF FUNDS.—Grants under this section—

"(1) shall be used to—

"(A) develop, operate, expand, and improve a sequential, age-appropriate program of instruction and counseling services for adolescents designed to promote personal responsibility and a healthy drug free lifestyle, and to prevent adolescent pregnancy, through such activities as counseling and instruction in the full range of consequences of premature sexual behavior and adolescent pregnancy, training in decision-making, and activities to promote involvement of parents and families in adolescent development and personal responsibility; and

"(B) provide opportunities for youth at-risk to develop sustained contact with one or more volunteer or professionally trained adults to provide character development, through such activities as mentoring, group coaching, or after-school activities; and

"(2) may be used to conduct other related activities that promote the purposes of this section.

"(g) APPLICATION.—Each applicant for a grant under subsection (b) must submit an application that—

"(1) includes a plan, based on local needs, for accomplishing the purposes of this section that—

"(A) sets forth specific, measurable goals intended to be accomplished under the program, and describes the methods to be used in measuring progress toward accomplishment of such goals;

"(B) describes the components of the program, including—

"(i) the role in the program of any national service participants supported by the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) or by any other national service law as defined in such Act, and

"(ii) the activities, in accordance with subsection (f), that will be made available under the program,

and the manner in which such components will be implemented, including the extent to which activities will take place after school, on weekends, or during the summer;

"(C) describes the manner in which one or more professional staff will administer the program, and, where appropriate or feasible, the manner in which national service participants will be involved in the development or delivery of services and in the coordination of during or after-school activities;

"(2) demonstrates the manner in which the program will be based on research concerning effective means of reducing adolescent pregnancy, including reducing risk-taking behaviors correlated with adolescent pregnancy;

"(3) demonstrates that the program will serve male and female adolescents and, where feasible, out-of-school adolescents, and describes the steps the applicant will take to serve such adolescents;

"(4) demonstrates the manner in which the applicant will provide, to the extent feasible, a continuity of services for adolescents until age 19;

"(5) demonstrates the extent to which school personnel, parents, community organizations, and the adolescents to be served have participated in the development of the application and will participate in the planning and implementation of the program;

"(6) describes the applicant's partnership, including the relationship of the partners, the role of each partner in the development and implementation of the program, and the manner in which the partners will coordinate their resources;

"(7) describes the nature and scope of commitment to the program by other community institutions, such as religious organizations, community groups, institutions of higher education, business, and labor;

"(8) describes the methods to be used in coordinating the provision of services under the program with the provision of services or benefits under other Federal or federally assisted programs, State and local programs, and private programs serving the same population;

"(9) demonstrates that the area to be served is an eligible area;

"(10) contains assurances that at least one activity will be located in a school in the area to be served and describes the activities that will be school-based;

"(11) contains assurances that the amounts provided under this section will not be used to supplant Federal, State, or local funds for services and activities that promote the purposes of this section;

"(12) contains assurances that the applicant will provide a non-Federal share, in cash or in kind, of at least 20 percent of the cost of carrying out the approved program;

"(13) describes the applicant's plan for continuation of the program following completion of the grant period and termination of Federal support under this section;

"(14) contains assurances that the applicant will furnish such reports, containing such information, and participate in such evaluations, as the responsible Federal officials may require; and

"(15) includes such other information and assurances as the responsible Federal officials may reasonably require.

"(h) PRIORITIES.—In making awards under this section, the responsible Federal officials shall give priority to applicants that—

"(1) provide for non-Federal resources significantly in excess of those required in subsection (g)(12) or for an increasing ratio of non-Federal resources over the term of the grant; and

"(2) participate in other Federal and non-Federal programs that relate to the purposes of this section.

"(i) TREATMENT AS NON-FEDERAL SHARE.—For purposes of the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.), the funds provided to a grantee under this section shall not be considered Federal funds.

"(j) PROHIBITION ON USE OF FUNDS.—No assistance made available under this section shall be used to provide religious instruction, to conduct worship services, or to promote any religious view or teaching in any manner.

"(k) GEOGRAPHIC DIVERSITY.—The responsible Federal officials shall, to the extent feasible, ensure that applications are approved from both urban and rural areas and reflect nationwide geographic diversity.

"(l) APPLICATION PERIOD.—An application approved under this section shall be for a term of 5 years; except that approval may be terminated before the end of such period if the responsible Federal officials determine that the grantee conducting the program has failed substantially to carry out the program as described in the approved application.

"(m) EVALUATION, TRAINING, AND TECHNICAL ASSISTANCE.—

"(1) EVALUATION.—The responsible Federal officials shall evaluate the effectiveness of programs conducted under this section, directly or by grant or contract, and may require each grantee conducting such a program to provide such information as the responsible Federal officials determine is necessary for such evaluations.

"(2) TRAINING AND TECHNICAL ASSISTANCE.—The responsible Federal officials may provide training and technical assistance with respect to the development, implementation, or operation of programs under this section.

"(3) COORDINATION WITH NATIONAL CLEARINGHOUSE.—The responsible Federal officials shall coordinate the activities conducted under this subsection with the activities conducted by the National Clearinghouse on Adolescent Pregnancy Prevention Programs under subsection (n).

"(n) NATIONAL CLEARINGHOUSE ON ADOLESCENT PREGNANCY.—

"(1) ESTABLISHMENT.—The responsible Federal officials shall establish, through grant or contract, a national center for the collection and provision of programmatic information and technical assistance that relates to adolescent pregnancy prevention programs, to be known as the 'National Clearinghouse on Adolescent Pregnancy Prevention Programs'.

"(2) FUNCTIONS.—The national center established under paragraph (1) shall serve as a national information and data clearinghouse, and as a training, technical assistance, and material development source for adolescent pregnancy prevention programs. Such center shall—

“(A) develop and maintain a system for disseminating information on all types of adolescent pregnancy prevention programs and on the state of adolescent pregnancy prevention program development, including information concerning the most effective model programs;

“(B) develop and sponsor a variety of training institutes and curricula for adolescent pregnancy prevention program staff;

“(C) identify model programs representing the various types of adolescent pregnancy prevention programs;

“(D) develop technical assistance materials and activities to assist other entities in establishing and improving adolescent pregnancy prevention programs;

“(E) develop networks of adolescent pregnancy prevention programs for the purpose of sharing and disseminating information; and

“(F) conduct such other activities as the responsible Federal officials find will assist in developing and carrying out programs or activities to reduce adolescent pregnancy.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall become effective October 1, 1994.

SEC. 506. DEMONSTRATION PROJECTS TO PROVIDE COMPREHENSIVE SERVICES TO PREVENT ADOLESCENT PREGNANCY IN HIGH-RISK COMMUNITIES.

(a) DEMONSTRATON PROJECTS.—Title XX (42 U.S.C. 1397–1397f) is amended by adding at the end the following:

“SEC. 2009. DEMONSTRATION PROJECTS TO PROVIDE COMPREHENSIVE SERVICES TO PREVENT ADOLESCENT PREGNANCY IN HIGH-RISK COMMUNITIES.

“(a)(1) PURPOSE.—In order to stimulate the development of innovative approaches for the effective delivery of comprehensive services, with particular emphasis on pregnancy prevention, to certain youth and their families in high-risk communities and the promotion of community involvement in improving the environment in which such youth live, the Secretary of Health and Human Services shall conduct demonstration projects in accordance with this section.

“(2) APPROVAL OF PROJECTS.—The Secretary of Health and Human Services, in consultation with the Secretary of Education, the Secretary of Housing and Urban Development, the Attorney General, the Director of the Office of National Drug Control Policy, and the Secretary of Labor, shall approve at least 5 and not more than 7 projects, in accordance with subsection (c). Upon approval by the Secretary, each project applicant shall be entitled to payment of up to $3,600,000 for each of fiscal years 1995 through 1999 for the purpose of conducting approved demonstration projects.

“(b) FUNDING.—

“(1) IN GENERAL.—There shall be made available to the Secretary not to exceed 420,000,000 for each of fiscal years 1995 through 1999 for carrying out the projects under this section. Payments to a grantee for any fiscal year must be expended by the grantee in such fiscal year or the succeeding fiscal year.

“(2) EVALUATION TRAINING, AND TECHNICAL ASSISTANCE.—The Secretary shall reserve, with the respect to each fiscal year, ten percent of the amount described in paragraph (1) for expenditure by the Secretary for training and technical assistance related to the demonstration projects under this section and for evaluation of such projects. The amount so reserved shall remain available for obligation through fiscal year 1999.

“(3) EXCESS AMOUNTS.—If in any fiscal year the amount specified in paragraph (1) for such fiscal year exceeds the amount required to carry out approved projects and evaluation, training, and technical assistance under this section, then the amount specified in section 2003(c)(5) shall be increased by the excess.

“(c) APPLICATION; ELIGIBILITY CRITERIA.—A local public or private nonprofit organization, including a unit of government, or any combination of such entities, shall be eligible to submit a project application. In order that an application be approved under subsection (a), the application must—

“(1) demonstrate that the geographic area to be served by the project satisfies the following criteria:

“(A) it includes a population of 20,000 to 35,000 residents,

“(B) it has an identifiable boundary and is recognizable as a community by its residents, and

“(C) within the community, there is a poverty rate of not less than 20 percent;

“(2) include a plan for accomplishing the purposes of this section that—

“(A) describes the comprehensive, integrated services, in accordance with subsection (e), that will be made available under the project;

“(B)(i) sets forth the goals intended to be accomplished under the project, and

“(ii) describes the methods to be used in measuring progress toward accomplishment of such goals and the outcomes to be measured, including unmarried adolescent birth rates, rates of youth alcohol and drug use, rates of youth violence, high school graduation rates, and such other outcomes as the Secretary finds appropriate;

“(C) describes the process by which the affected community (including parents, the youth to be served, schools, local government, religious organizations, community groups, business, and labor) is a full partner in the process of developing and implementing the project and the extent to which parents, the youth to be served, and local institutions and organizations have contributed to the planning process;

“(D) identifies the private and public partnerships to be used;

“(E) describes the methods to be used in coordinating the provision of services under the project and the provision of services or benefits under other Federal or federally assisted programs, State and local programs, and private programs serving the same population; and

“(F) describes the manner in which other Federal funds and non-Federal funds will be used to further the purpose of the program;

“(3) demonstrate strong State and local government commitment to the project and involvement in the planning and implementation of the project;

“(4) demonstrate the ability of the applicant to carry out the project;

“(5) describe the methods to be used for maintaining accurate records regarding the activities carried out with funds under this section;

“(6) contain assurances that the amounts provided under this section will not be used to supplant Federal, State, and local funds for services and activities that promote the purposes of this section;

“(7) contain assurances that the applicant will provide a non-Federal share, in cash or in kind, of 10 percent of the cost of carrying out the approved project and describe the capacity of the applicant to provide the non-Federal share;

“(8) contain assurances that the applicant will furnish such reports, containing such information, and participate in such evaluations, as the Secretary may require; and

“(9) include such other information as the Secretary may require.

“(d) PRIORITY.—In making awards under this section, the Secretary shall give priority to applicants that provide for non-Federal resources significantly in excess of those required in subsection (c)(7).

“(e) USE OF GRANTS.—Under each demonstration project conducted under this section, the grantee shall develop a community-wide strategy to address the causes and factors of risk-taking tendencies among youth, to positively affect community norms, to increase community health and safety, and to generally improve the social environment to enhance the life choice of community youth. The strategy shall be used to provide a comprehensive set of coordinated services designed to saturate the community and shall include, but not be limited to, the following areas:

“(1) health education and access services designed to promote physical and mental well-being and personal responsibility (with particular emphasis on pregnancy prevention), such as school health services, family planning services, alcohol and drug abuse prevention services and referral for treatment, life skills training, and decision-making skills training;

“(2) educational and employability development services designed to promote educational advancement leading to a high school diploma or its equivalent and opportunities for high skill, high wage job attainment and productive employment, to establish a lifelong commitment to learning and achievement, and to increase self-confidence, such as academic tutoring, literacy training, drop-out prevention programs, career and college counseling, mentoring programs, job skills training, apprenticeships, and part-time paid work opportunities;

“(3) social support services designed to provide youth with a stable environment, opportunities for a sustained relationship with one or more adults, and opportunities for participation in safe and productive activities, such as cultural, recreational and sports activities, leadership development, peer counseling and crisis intervention, mentoring programs, parenting skills training, and family counseling;

“(4) community activities designed to improve community stability, and to encourage youth to participate in community service and establish a stake in the community, such as community policing, community service programs, community activities in partnership with less distressed neighborhoods, local media campaigns, and establishment of community advisory councils with youth representation; and

“(5) employment opportunity development activities designed to be coordinated with educational and employability development services, social support services, and community activities described in paragraphs (2) through (4). Emphasis shall be on development of linkages with employers within and outside the community to help create employment opportunities and foster an understanding by community youth of the relationship between productive employment, healthy development, and sound life choices.

“(f) EVALUATION, TRAINING, AND TECHNICAL ASSISTANCE.—

“(1) EVALUATION.—The Secretary shall evaluate the effectiveness of each demonstration project conducted under this section and may require each grantee conducting such a project to provide such information as the Secretary determines is necessary for such evaluations.

"(2) TRAINING AND TECHNICAL ASSISTANCE.—The Secretary shall provide training and technical assistance with respect to the development, implementation, or operation of projects under this section.

"(3) COORDINATION WITH NATIONAL CLEARINGHOUSE.—The Secretary shall coordinate the activities conducted under this subsection with activities conducted by the National Clearinghouse on Adolescent Pregnancy Prevention Programs under section 2008(n).

"(g) FUNDING PERIOD.—Each demonstration project supported under this section shall be conducted for a 5-year period; except that the Secretary may terminate a project before the end of such period if the Secretary determines that the grantee conducting the project has failed substantially to carry out the project as described in the approved application.

"(h) DEFINITIONS AND SPECIAL RULES.—As used in this section:

"(1) YOUTH.—The term "youth" means an individual who is not less than 10 years of age and not more than 21 years of age.

"(2) USE OF CENSUS DATA.—Population and poverty rate shall be determined by the most recent decennial census data available.".

(b) EFFECTIVE DATE.—The amendment made by this section shall become effective October 1, 1994.

TITLE VI—CHILD SUPPORT ENFORCEMENT

SEC. 600. REFERENCES IN TITLE.

References in this title to a section or other provision refer to a section or other provision of the Social Security Act, unless the context otherwise requires.

PART A—ELIGIBILITY AND OTHER MATTERS CONCERNING TITLE IV-D PROGRAM CLIENTS

SEC. 601. COOPERATION REQUIREMENT AND GOOD CAUSE EXCEPTION.

(a) CHILD SUPPORT ENFORCEMENT REQUIREMENTS.—Section 454 is amended—

(1) by striking "and" at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting "; and"; and

(3) by adding after paragraph (24) the following new paragraph:

"(25) provide that the State agency administering the plan under this part—

"(A) will make the determination specified under paragraph (4), as to whether an individual is cooperating with efforts to establish paternity and secure support (or has good cause not to cooperate with such efforts) for purposes of the requirements of sections 402(a)(26) and 1912;

"(B) will advise individuals, both orally and in writing, of the grounds for good cause exceptions to the requirement to cooperate with such efforts;

"(C) will take the best interests of the child into consideration in making the determination whether such individual has good cause not to cooperate with such efforts;

"(D)(i) will make the initial determination as to whether an individual is cooperating (or has good cause not to cooperate) with efforts to establish paternity within 10 days after such individual is referred to such State agency by the State agency administering the program under part A of title XIX;

"(ii) will make redeterminations as to cooperation or good cause at appropriate intervals; and

"(iii) will promptly notify the individual, and the State agencies administering such programs, of each such determination and redetermination;

"(E) with respect to any child born on or after the date 10 months after enactment of this provision, will not determine (or redetermine) the mother (or other custodial relative) of such child to be cooperating with efforts to establish paternity unless such individual furnishes—

"(i) the name of the putative father (or fathers); and

"(ii) sufficient additional information to enable the State agency, if reasonable efforts were made, to verify the identity of the person named as the putative father (including such information as the putative father's present address, telephone number, date of birth, past or present place of employment, school previously or currently attended, and names and addresses of parents, friends, or relatives able to provide location information, or other information that could enable service of process on such person), and

"(F)(i) (where a custodial parent who was initially determined not to be cooperating (or to have good cause not to cooperate) is later determined to be cooperating or to have good cause not to cooperate) will immediately notify the State agencies administering the programs under part A of title XIX that this eligibility condition has been met; and

"(ii) (where a custodial parent was initially determined to be cooperating (or to have good cause not to cooperate) will not later determine such individual not to be cooperating (or not to have good cause not to cooperate) until such individual has been afforded an opportunity for a hearing.".

(b) AFDC AMENDMENTS.—

(1) Section 402(a)(11) is amended by striking "furnishing of" and inserting "application for".

(2) Section 402(a)(26) is amended—

(A) in each of subparagraphs (A) and (B), by redesignating clauses (i) and (ii) as subclauses (I) and (II);

(B) by indenting and redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iv), respectively;

(C) in clause (ii), as redesignated—

(i) by striking "is claimed, or in obtaining any other payments or property due such applicant or such child," and inserting "is claimed;"; and

(ii) by striking "unless" and all that follows through "aid is claimed; and";

(D) by adding after clause (ii) the following new clause:

"(iii) to cooperate with the State in obtaining any other payments or property due such applicant or such child; and";

(E) in the matter preceding clause (i), as redesignated, to read as follows:

"(26) provide—

"(A) that, as a condition of eligibility for aid, each applicant or recipient will be required (subject to subparagraph (C))—";

(F) in subparagraph (A)(iv), as redesignated, by striking ", unless such individual" and all that follows through "individuals involved";

(G) by adding at the end the following new subparagraphs:

"(B) that the State agency will immediately refer each applicant requiring paternity establishment services to the State agency administering the program under part D;

"(C) that an individual will not be required to cooperate with the State, as provided under subparagraph (A), if the individual is found to have good cause for refusing to cooperate, as determined in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the child on whose behalf aid is claimed—

"(i) to the satisfaction of the State agency administering the program under part D, as determined in accordance with section 454(25), with respect to the requirements under clauses (i) and (ii) of subparagraph (A); and

"(ii) to the satisfaction of the State agency administering the program under this part, with respect to the requirements under clauses (iii) and (iv) of subparagraph (A);

"(D) that (except as provided in subparagraph (E)) an applicant requiring paternity establishment services (other than an individual eligible for emergency assistance as defined in section 406(e)) shall not be eligible for any aid under this part until such applicant—

"(i) has furnished to the agency administering the State plan under part D the information specified in section 454(25)(E); or

"(ii) has been determined by such agency to have good cause not to cooperate;

"(E) that the provisions of subparagraph (D) shall not apply—

"(i) if the State agency specified in such subparagraph has not, within 10 days after such individual was referred to such agency, provided the notification required by section 454(25)(D)(iii), until such notification is received); and

"(ii) if such individual appeals a determination that the individual lacks good cause for noncooperation, until after such determination is affirmed after notice and opportunity for a hearing); and"; and

(H)(i) by relocating and redesignating as subparagraph (F) the text at the end of subparagraph (A)(ii) beginning with "that, if the relative" and all that follows through the semicolon;

(ii) in subparagraph (F), as so redesignated and relocated, by striking "subparagraphs (A) and (B) of this paragraph" and inserting "subparagraph (A); and

(iii) by striking "and" at the end of subparagraph (a)(ii).

(c) MEDICAID AMENDMENTS.—Section 1912(a) is amended—

(1) in paragraph (1)(B), by inserting "(except as provided in paragraph (2))" after "to cooperate with the State"; and

(2) in subparagraphs (B) and (C) of paragraph (1) by striking ", unless" and all that follows and inserting a semicolon;

(3) by redesignating paragraph (2) as paragraph (5), and inserting after paragraph (1) the following new paragraphs:

"(2) provide that the State agency will immediately refer each applicant or recipient requiring paternity establishment services to the State agency administering the program under part D of title IV;

"(3) provide that an individual will not be required to cooperate with the State, as provided under paragraph (1), if the individual is found to have good cause for refusing to cooperate, as determined in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the individuals involved—

"(A) to the satisfaction of the State agency administering the program under part D, as determined in accordance with section 454(25), with respect to the requirements to cooperate with efforts to establish paternity and to obtain support (including medical support) from a parent; and

"(B) to the satisfaction of the State agency administering the program under this title, with respect to other requirements to cooperate under paragraph (1);

"(4) provide that (except as provided in paragraph (5)) an applicant requiring paternity establishment services (other than an individual eligible for emergency assistance as defined in section 406(e), or presumptively eligible pursuant to section 1920) shall not be eligible for medical assistance under this title until such applicant—

"(i) has furnished to the agency administering the State plan under part D of title IV the information specified in section 454(25)(E); or

"(ii) has been determined by such agency to have good cause not to cooperate; and

"(5) provide that the provisions of paragraph (4) shall not apply with respect to an applicant—

"(I) if such agency has not, within 10 days after such individual was referred to such agency, provided the notification required by section 454(25)(D)(iii), until such notification is received); and

"(ii) if such individual appeals a determination that the individual lacks good cause for noncooperation, until after such determination is affirmed after notice and opportunity for a hearing.".

(d) Effective Date.—The amendments made by this section shall be effective with respect to applications filed in or after the first calendar quarter beginning 10 months or more after enactment of this amendment (or such earlier quarter as the State may select) for aid under title IV-A or for medical assistance under title XIX.

SEC. 602. STATE OBLIGATION TO PROVIDE PATERNITY ESTABLISHMENT AND CHILD SUPPORT ENFORCEMENT SERVICES.

(a) State Law Requirements.—Section 466(a) is amended by adding at the end the following new paragraph:

"(12) Use of central case registry and centralized collections unit.—Procedures under which—

"(A) every child support order established or modified in the State on or after October 1, 1997 is recorded in the central case registry established in accordance with section 454A(e); and

"(B) child support payments are collected through the centralized collections unit established in accordance with section 454B—

"(i) on and after October 1, 1997, under each order subject to wage withholding under section 466(b); and

"(ii) on and after October 1, 1998, under each other order required to be recorded in such central case registry under this paragraph or section 454A(e), except as provided in subparagraph (C); and

"(C)(i) parties subject to a child support order described in subparagraph (B)(ii) may opt out of the procedure for payment of support through the centralized collections unit (but not the procedure for inclusion in the central case registry) by filing with the State agency a written agreement, signed by both parties, to an alternative payment procedure; and

"(ii) an agreement described in clause (i) becomes void, and may not be renewed, whenever—

"(I) the party owing support fails to make a timely payment; or

"(II) either party advises the State agency of an intent to vacate the agreement.".

(b) State Plan Requirements.—Section 454 is amended—

(1) in paragraph (4), to read as follows:

"(4) provide that such State will undertake—

"(A) to provide appropriate services under this part to—

"(i) each child with respect to whom an assignment is effective under section 402(a)(26), 471(a)(17), or 1912 (except in cases where the State agency determines, in accordance with paragraph (25), that it is against the best interests of the child to do so); and

"(ii) each child not described in clause (i)—

"(I) with respect to whom an individual applies for such services; and

"(II) (on and after October 1, 1997) each child with respect to whom a support order is recorded in the central State case registry established under section 454A, regardless of whether application is made for services under this part; and

"(B) to enforce the support obligation established with respect to the custodial parent of a child described in subparagraph (A).";

(2) in paragraph (6)—

(A) by striking all that precedes subparagraph (C) and inserting the following:

"(6) provide that—

"(A) services under the State plan shall be made available to non-residents on the same terms as to residents;

"(B) no fees or costs shall be imposed on any absent or custodial parent or other individuals—

"(i) on or after October 1, 1997, for application for child support enforcement services under this part; or

"(ii) for inclusion in the central State registry maintained pursuant to section 454A(e);"; (B) in each of subparagraphs (C) and (D)—

(i) by indenting such subparagraph and aligning its left margin with the left margin of paragraph (B); and

(ii) by striking the final comma and inserting a semicolon;

(C) by striking subparagraph (E) and inserting the following subparagraphs:

"(E) no other fees or costs may be imposed on the custodial parent; and

"(F) any other fees or costs may be imposed on the noncustodial parent (but fees for child support collection services provided through the central collections unit operated pursuant to section 454B, or for related automated procedures pursuant to section 454A(g), may be imposed only if such fees or costs are added to, and not deducted from, amounts collected as child support);".

(c) Conforming Amendments.—

(1) Section 452(g)(2)(A) is amended by striking "454(6)" each place it appears and inserting "454(4)(A)(ii)".

(2) Section 454(23) is amended, effective October 1, 1997, by striking "information as to any application fees for such services and".

(3) Section 466(a)(3)(B) is amended by striking "in the case of overdue support which a State has agreed to collect under section 454(6)" and inserting "in any other case".

(4) Section 466(e) is amended by striking "or (6)".

SEC. 603. DISTRIBUTION OF PAYMENTS.

(a) Distributions Through State Child Support Enforcement Agency to Former Assistance Recipients.—Section 454(5) is amended—

(1) in subparagraph (A)—

(A) by inserting "except as otherwise specifically provided in section 464 or 466(a)(3)," after "is effective,"; and

(B) by striking "except that" and all that follows through the semicolon; and

(2) in subparagraph (B), by striking ", except" and all that follows through "medical assistance".

(b) Distribution to a Family Currently Receiving AFDC.—Section 457 is amended—

(1) by striking subsection (a) and redesignating subsection (b) as subsection (a);

(2) in subsection (a), as redesignated—

(A) in the matter preceding paragraph (2), to read as follows:

"(a) In the Case of a Family Receiving AFDC.—Amounts collected under this part during any month as support of a child who is receiving assistance under part A (or a parent or caretaker relative of such a child) shall (except in the case of a State exercising the option under subsection (b)) be distributed as follows:

"(1) an amount equal to the amount specified in section 402(a)(8)(A)(vi) shall be taken from each of—

"(A) amounts received in a month which represent payments for that month; and

"(B) amounts received in a month which represent payments for a prior month which were made by the absent parent in the month when due;

and shall be paid to the family without affecting its eligibility for assistance or decreasing any amount otherwise payable as assistance to such family during such month;";

(B) in paragraph (4), by striking "or (B)" and all that follows and inserting"; then (B) from any remainder, amounts equal to arrearages of such support obligations assigned, pursuant to part A, to any other State or States shall be paid to such other State or States and used to pay any such arrearages (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing); and then (C) any remainder shall be paid to the family.".

(3) by inserting after subsection (a), as redesignated, the following new subsection:

"(b) Alternative Distribution in Case of Family Receiving AFDC.—In the case of a State electing the option under this subsection, amounts collected as described in subsection (a) shall be distributed as follows:

"(1) an amounts equal to the amount specified in section 402(a)(8)(A)(vi) shall be taken from each of—

"(A) amounts received in a month which represent payments for that month; and

(B) amounts received in a month which represent payments for a prior month which were made by the absent parent in the month when due;

and shall be paid to the family without affecting its eligibility for assistance or decreasing any amount otherwise payable as assistance to such family during such month;

"(2) second, from any remainder, amounts equal to the balance of support owed for the current month shall be paid to the family;

"(3) third, from any remainder, amounts equal to arrearages of such support obligations assigned, pursuant to part A, to the State making the collection shall be retained and used by such State to pay any such arrearages (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing);

"(4) fourth, from any remainder, amounts equal to arrearages of such support obligations assigned, pursuant to part A, to any other State or States shall be paid to such other State or States and used to pay any such arrearages (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing); and

"(5) fifth, any remainder shall be paid to the family.".

(c) Distribution to a Family Not Receiving AFDC.—Section 457(c) is amended to read as follows:

"(c) In Case of Family Not Receiving AFDC.—Amounts collected by a State agency under this part during any month as support of a child who is not receiving assistance under part A (or of a parent or caretaker relative of such a child) shall (subject to the remaining provisions of this section) be distributed as follows:

"(1) first, amounts equal to the total of such support owed for such month shall be paid to the family;

"(2) second, from any remainder, amounts equal to arrearages of such support obligations for months during which such child did not receive assistance under part A shall be paid to the family;

"(3) third, from any remainder, amounts equal to arrearages of such support obligations assigned to the State making the collection pursuant to part A shall be retained and used by such State to pay any such arrearages (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing);

"(4) fourth, from any remainder, amounts equal to arrearages of such support obligations assigned to any other State pursuant to part A shall be paid to such other State or States, and used to pay such arrearages, in the order in which such arrearages accrued (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing).".

(d) DISTRIBUTION TO A CHILD RECEIVING ASSISTANCE UNDER TITLE IV-E.—Subsection (d) is amended, in the matter preceding paragraph (1), by striking "Notwithstanding the preceding provisions of this section, amounts" and inserting "In Case of a Child Receiving Assistance under Title IV-E.—Amounts".

(e) SUSPENSION OR CANCELLATION OF DEBTS UPON MARRIAGE OF PARENTS.—Section 457 is further amended by adding at the end the following new subsection:

"(e) SUSPENSION OR CANCELLATION OF DEBTS TO STATE UPON MARRIAGE OF PARENTS.—

"1. CIRCUMSTANCES REQUIRING SUSPENSION OR CANCELLATION.—In any case in which a State has been assigned rights to support owed with respect to a child who is receiving or has received assistance under part A and—

"(A) the parent owing such support marries (or remarries) the parent with whom such child is living and to whom such support is owed and applies to the State for relief under this subsection;

"(B) the State determines (in accordance with procedures and criteria established by the Secretary) that the marriage is not a sham marriage entered into solely to satisfy this subsection; and

"(C) the combined income of such parents is less than twice the Federal poverty line,

the State shall afford relief to the parent owing such support in accordance with paragraph (2).

"(2) SUSPENSION OR CANCELLATION.—In the case of a marriage or remarriage described in paragraph (1), the State shall either—

"(A) cancel all debts owed to the State pursuant to such assignment, or

"(B) suspend collection of such debts for the duration of such marriage, and cancel such debts if such duration extends beyond the end of the period with respect to which support is owed.

"(3) NOTICE REQUIRED.—The State shall notify custodial parents of children who are receiving aid under part A of the relief available under this subsection to individuals who marry (or remarry).".

(f) REGULATIONS.—The Secretary shall promulgate regulations—

(1) under title IV-D of the Social Security Act, establishing a uniform nationwide standard for allocation of child support collections from an obligor owing support to more than one family; and

(2) under title IV-A of such Act, establishing standards applicable to States electing the alternative formula under section 457(b) of the Social Security Act for distribution of collections on behalf of families receiving Aid to Families with Dependent Children, designed to minimize irregular monthly payments to such families.

(g) CLERICAL AMENDMENT.—Section 454 is amended—

(1) in paragraph (11), by striking "(11)" and inserting "(11)(A)"; and

(2) by redesignating paragraph (12) as subparagraph (B) of paragraph (11).

(h) CONFORMING AMENDMENT.—Section 402(a)(26)(A)(i), as redesignated by section 601(b)(2)(A), is amended—

(1) by striking "(I)"; and

(2) by striking ", and (II)" and all that follows before the semicolon.

SEC. 604. DUE PROCESS RIGHTS.

(a) Section 454, as amended by section 603(g), is further amended by inserting after paragraph (11) the following new paragraph:

"(12) provide for procedures to ensure that—

"(A) individuals who are parties to cases in which services are being provided under this part—

"(i) receive notice of all proceedings in which support obligations might be established or modified; and

"(ii) receive a copy of any order establishing or modifying a child support obligation within 14 days after issuance of such order; and

"(B) individuals receiving services under this part have access to a fair hearing or other formal complaint procedure, meeting standards established by the Secretary, that ensures prompt consideration and resolution of complaints (but the resort to such procedure shall not stay the enforcement of any support order);".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1996.

SEC. 605. PRIVACY SAFEGUARDS.

(a) STATE PLAN REQUIREMENT.—Section 454, as amended by section 601, is further amended—

(1) by striking "and" at the end of paragraph (24);

(2) by striking the period at the end of paragraph (25) and inserting "; and"; and

(3) by adding after paragraph (25) the following new paragraph:

"(26) will have in effect safeguards applicable to all sensitive and confidential information handled by the State agency designed to protect the privacy rights of the parties, including—

"(A) safeguards against unauthorized use or disclosure of information relating to proceedings or actions to establish paternity, or to establish or enforce support; and

"(B) prohibitions on the release of information on the whereabouts of one party to another party against whom a protective order with respect to such party has been entered.".

(b) The amendments made by this section shall become effective on October 1, 1996.

SEC. 606. REQUIREMENT TO FACILITATE ACCESS TO SERVICES.

(a) STATE PLAN REQUIREMENT.—Section 454(23) is amended—

(1) by striking "the State will regularly" and inserting "the State will—

"(A) regularly";

(2) by incorporating the remainder of the text within subparagraph (A);

(3) by striking "and" at the end; and

(4) by adding after and below subparagraph (A) the following new subparagraph:

"(B) have a plan for outreach to parents designed to disseminate information about and increase access to child support enforcement services, including plans responding to needs—

"(i) of working parents to obtain such services without taking time off work; and

"(ii) of parents with limited proficiency in English for elimination of language barriers to use of such services; and".

(b) The amendments made by this section shall become effective on October 1, 1996.

PART B—PROGRAM ADMINISTRATION AND FUNDING

SEC. 611. FEDERAL MATCHING PAYMENTS.

(a) INCREASED BASE MATCHING RATE.—Section 455(a)(2) is amended to read as follows:

"(2) The applicable percent for a quarter for purposes of paragraph (1)(A) is—

"(A) for fiscal year 1996, 69 percent,

"(B) for fiscal year 1997, 72 percent, and

"(C) for fiscal year 1998 and succeeding fiscal years, 75 percent.".

(b) MAINTENANCE OF EFFORT.—Section 455 is amended—

(1) in subsection (a)(1), in the matter preceding subparagraph (A), by striking "From" and inserting "Subject to subsection (c), from"; and

(2) by inserting after subsection (b) the following new subsection:

"(c) MAINTENANCE OF EFFORT.—Notwithstanding the provisions of subsection (a), total expenditures for the State program under this part for fiscal year 1996 and each succeeding fiscal year, reduced by the percentage specified for such fiscal year under subsection (a)(2)(A), (B), or (C)(i), shall not be less than such total expenditures for fiscal year 1995, reduced by 66 percent.

SEC. 612. PERFORMANCE-BASED INCENTIVES AND PENALTIES.

(a) INCENTIVE ADJUSTMENTS TO FEDERAL MATCHING RATE.—(1) IN GENERAL.—Section 458 is amended to read as follows:

"INCENTIVE ADJUSTMENTS TO MATCHING RATE

"SEC. 458. (a) INCENTIVE ADJUSTMENT.—(1) IN GENERAL.—In order to encourage and reward State child support enforcement programs which perform in an effective manner, the Federal matching rate for payments to a State under section 455(a)(1)(A), for each fiscal year beginning on or after October 1, 1997, shall be increased by a factor reflecting the sum of the applicable incentive adjustments (if any) determined in accordance with regulations under this section with respect to Statewide paternity establishment and to overall performance in child support enforcement.

"(2) STANDARDS.—(A) IN GENERAL.—The Secretary shall specify in regulations—

"(i) the levels of accomplishment, and rates of improvement as alternatives to such levels, which States must attain to qualify for incentive adjustments under this section; and

"(ii) the amounts of incentive adjustment that shall be awarded to States achieving specified accomplishment or improvement levels, which amounts shall be graduated, ranging up to—

"(I) 5 percentage points, in connection with Statewide paternity establishment; and

"(II) 10 percentage points, in connection with overall performance in child support enforcement.

"(B) LIMITATION.—In setting performance standards pursuant to subparagraph (A)(i) and adjustment amounts pursuant to subparagraph (A)(ii), the Secretary shall ensure that the aggregate number of percentage point increases as incentive adjustments to all States do not exceed such aggregate increases as assumed by the Secretary in estimates of the cost of this section as of June 1994, unless the aggregate performance of all States exceeds the projected aggregate performance of all States in such cost estimates.

"(3) DETERMINATION OF INCENTIVE ADJUSTMENT.—The Secretary shall determine the amount (if any) of incentive adjustment due each State on the basis of the data submitted by the State pursuant to section 454(15)(B) concerning the levels of accomplishment (and rates of improvement) with respect to performance indicators specified by the Secretary pursuant to this section.

"(4) FISCAL YEAR SUBJECT TO INCENTIVE ADJUSTMENT.—The total percentage point increase determined pursuant to this section with respect to a State program in a fiscal year shall apply as an adjustment to the applicable percent under section 455(a)(2) for payments to such State for the succeeding fiscal year.

"(b) MEANING OF TERMS.—For purposes of this section—

"(1) the term 'Statewide paternity establishment percentage' means, with respect to a fiscal year, the ratio (expressed as a percentage) of—

"(A) the total number of out-of-wedlock children in the State under one year of age for whom paternity is established or acknowledged during the fiscal year, to

"(B) the total number of children born out of wedlock in the State during such fiscal year; and

"(2) the term 'overall performance in child support enforcement' means a measure or measures of the effectiveness of the State agency in a fiscal year which takes into account factors including—

"(A) the percentage of cases requiring a child support order in which such an order was established;

"(B) the percentage of cases in which child support is being paid;

"(C) the ratio of child support collected to child support due; and

"(D) the cost-effectiveness of the State program, as determined in accordance with standards established by the Secretary in regulations.".

(b) TITLE IV-D PAYMENT ADJUSTMENT.—Section 455(a)(2), as amended by section 611, is further amended—

(1) by striking the period at the end of subparagraph (C)(ii) and inserting a period; and

(2) by adding after and below subparagraph (C), flush with the left margin of the subsection, the following:

"increased by the incentive adjustment factor (if any) determined by the Secretary pursuant to section 458.".

(c) CONFORMING AMENDMENTS.—Section 454(22) is amended—

(A) by striking "incentive payments" the first place it appears and inserting "incentive adjustments"; and

(B) by striking "any such incentive payments made to the State for such period" and inserting "any increases in Federal payments to the State resulting from such incentive adjustments".

(d) CALCULATION OF IV-D PATERNITY ESTABLISHMENT PERCENTAGE.—(A) Section 452(g) is amended in paragraph (1), in the matter preceding subparagraph (A), by inserting "its overall performance in child support enforcement is satisfactory (as defined in section 458(b) and regulations of the Secretary), and" after "1994,".

(B) Section 452(g)(2) is amended—

(i) in subparagraph (A), in the matter preceding clause (i)—

(I) by striking "paternity establishment percentage" and inserting "IV-D paternity establishment percentage"; and

(II) by striking "(or all States, as the case may be)";

(ii) in subparagraph (A)(i), by striking "during the fiscal year";

(iii) in subclause (I) of subparagraph (A)(ii), by striking "as of the end of the fiscal year" and inserting "in the fiscal year or, at the option of the State, as of the end of such year";

(iv) in subclause (II) of subparagraph (A)(ii), by striking "or (E) as of the end of the fiscal year" and inserting "in the fiscal year or, at the option of the State, as of the end of such year";

(v) in subparagraph (A)(iii)—

(I) by striking "during the fiscal year"; and

(II) by striking "and" at the end; and (vi) in the matter following subparagraph (A)—

(I) by striking "who were born out of wedlock during the immediately preceding fiscal year" and inserting "born out of wedlock";

(II) by striking "such preceding fiscal year" both places it appears and inserting "the preceding fiscal year"; and

(III) by striking "or (E)" the second place it appears.

(C) Section 452(g)(3) is amended—

(i) by striking subparagraph (A) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively;

(ii) in subparagraph (A), as redesignated, by striking "the percentage of children born out-of-wedlock in the State" and inserting "the percentage of children in the State who are born out of wedlock or for whom support has not been established"; and

(iii) in subparagraph (B), as redesignated—

(I) by inserting "and overall performance in child support enforcement" after "paternity establishment percentages"; and

(II) by inserting "and securing support" before the period.

"(e) TITLE IV-A PAYMENT REDUCTION.—Section 403 is amended—

(1) in subsection (a), by striking "1958—" and inserting "1958—" (subject to subsection (h))—";

(2) in subsection (h), by striking all that precedes paragraph (3) and inserting the following:

"(h)(1) If the Secretary finds, with respect to a State program under this part in a fiscal year beginning on or after October 1, 1996—

"(A)(i) on the basis of data submitted by a State pursuant to section 454(15)(B), that the State program in such fiscal year failed to achieve the IV-D paternity establishment percentage (as defined in section 452(g)(2)(A)) or the appropriate level of overall performance in child support enforcement (as defined in section 458(b)(2)), or to meet other performance measures that may be established by the Secretary, or

"(ii) on the basis of an audit or audits of such State data conducted pursuant to section 452(a)(4)(C), that the State data submitted pursuant to section 454(15)(B) is incomplete or unreliable; and

"(B) that, with respect to the succeeding fiscal year—

"(i) the State failed to take sufficient corrective action to achieve the appropriate performance levels as described in subparagraph (A)(i), or

"(ii) the data submitted by the State pursuant to section 454(15)(B) is incomplete or unreliable,

the amounts otherwise payable to the State under this part for quarters following the end of such succeeding fiscal year, prior to quarters following the end of the first quarter throughout which the State program is in compliance with such performance requirement, shall be reduced by the percentage specified in paragraph (2).

"(2) The reductions required under paragraph (1) shall be—

"(A) not less than one nor more than two percent, or

"(B) not less than two nor more than three percent, if the finding is the second consecutive finding made pursuant to paragraph (1), or

"(C) not less than three nor more than five percent, if the finding is the third or a subsequent consecutive such finding."; and

(3) in subsection (h)(3), by striking "not in full compliance" and all that follows and inserting "determined as a result of an audit to have submitted incomplete or unreliable data pursuant to section 454(15)(B), shall be determined to have submitted adequate data if the Secretary determines that the extent of the incompleteness or unreliability of the data is of a technical nature which does not adversely affect the determination of the level of the State's performance.".

(f) EFFECTIVE DATES.—

(1) INCENTIVE ADJUSTMENTS.—(A) The amendments made by subsections (a), (b), and (c) shall become effective October 1, 1996, except to the extent provided in subparagraph (B).

(B) The provisions of section 458 of the Act, as in effect prior to the enactment of this section, shall be effective for purposes of incentive payments to States for fiscal years prior to fiscal year 1998.

(2) PENALTY REDUCTIONS.—(A) The amendments made by subsection (d) shall become effective with respect to calendar quarters beginning on and after the date of enactment of this Act.

(B) The amendments made by subsection (e) shall become effective with respect to calendar quarters beginning on and after the date one year after the date of enactment of this Act.

SEC. 613. FEDERAL AND STATE REVIEWS AND AUDITS.

(a) STATE AGENCY ACTIVITIES.—Section 454 is amended—

(1) in paragraph (14), by striking "(14)" and inserting "(14)(A)";

(2) by inserting paragraph (15) as subparagraph (B) of paragraph (14); and

(3) by inserting after paragraph (14) the following new paragraph:

"(15) provide for—

"(A) a process for annual reviews of and reports to the Secretary on the State program under this part, using such standards and procedures as are required by the Secretary, under which the State agency will determine the extent to which such program is in conformity with applicable requirements with respect to the operation of State programs under this part (including the status of complaints filed under the procedure required under paragraph (12)(B)); and

"(B) a process of extracting from the State automated data processing system and transmitting to the Secretary data and calculations concerning the levels of accomplishment (and rates of improvement) with respect to applicable performance indicators (including IV-D paternity establishment percentages and overall performance in child support enforcement) to the extent necessary for purposes of sections 452(g) and 458.".

(b) FEDERL ACTIVITIES.—Section 452(a)(4) is amended to read as follows:

"(4)(A) review data and calculations transmitted by State agencies pursuant to section

454(15)(B) on State program accomplishments with respect to performance indicators for purposes of section 452(g) and 458, and determine the amount (if any) of penalty reductions pursuant to section 403(h) to be applied to the State;

"(B) review annual reports by State agencies pursuant to section 454(15)(A) on State program conformity with Federal requirements; evaluate any elements of a State program in which significant deficiencies are indicated by such report on the status of complaints under the State procedure under section 454(12)(B); and, as appropriate, provide to the State agency comments, recommendations for additional or alternative corrective actions, and technical assistance; and

"(C) conduct audits, in accordance with the government auditing standards of the United States Comptroller General—

"(i) at least once every 3 years (or more frequently, in the case of a State which fails to meet requirements of this part, or of regulations implementing such requirements, concerning performance standards and reliability of program data) to assess the completeness, reliability, and security of the data, and the accuracy of the reporting systems, used for the calculations of performance indicators specified in subsection (g) and section 458;

"(ii) of the adequacy of financial management of the State program, including assessments of—

"(I) whether Federal and other funds made available to carry out the State program under this part are being appropriately expended, and are properly and fully accounted for; and

"(II) whether collections and disbursements of support payments and program income are carried out correctly and are properly and fully accounted for; and

"(iii) for such other purposes as the Secretary may find necessary;".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to calendar quarters beginning on or after the date one year after enactment of this section.

SEC. 614. AUTOMATED DATA PROCESSING REQUIREMENTS.

"(a) REVISED REQUIREMENTS.—(1) Section 454(16) is amended—

(A) by striking ", at the option of the State,";

(B) by inserting "and operation by the State agency after "for the establishment";

(C) by inserting "meeting the requirements of section 454A" after "information retrieval system";

(D) by striking "in the State and localities thereof, so as (A)" and inserting "so as";

(E) by striking "(i)"; and

(F) by striking "(including" and all that follows and inserting a semicolon.

"(2) Part D of title IV is amended by inserting after section 454 the following new section:

"AUTOMATED DATA PROCESSING

"SEC. 454A. (a) IN GENERAL.—In order to meet the requirements of this section, for purposes of the requirement of section 454(16), a State agency shall have in operation a single statewide automated data processing and information retrieval system which has the capability to perform the tasks specified in this section, and performs such tasks with the frequency and in the manner specified in this part or in regulations or guidelines of the Secretary.

"(b) PROGRAM MANAGEMENT.—The automated system required under this section shall perform such functions as the Secretary may specify relating to management of the program under this part, including—

"(1) controlling and accounting for use of Federal, State, and local funds to carry out such program; and

"(2) maintaining the data necessary to meet Federal reporting requirements on a timely basis.

"(c) CALCULATION OF PERFORMANCE INDICATORS.—In order to enable the Secretary to determine the incentive and penalty adjustments required by sections 452(g) and 458, the State agency shall—

"(1) use the automated system—

"(A) to maintain the requisite data on State performance with respect to paternity establishment and child support enforcement in the State; and

"(B) to calculate the IV–D paternity establishment percentage and overall performance in child support enforcement for the State for each fiscal year; and

"(2) have in place systems controls to ensure the completeness, and reliability of, and ready access to, the data described in paragraph (1)(A), and the accuracy of the calculations described in paragraph (1)(B).

"(d) INFORMATION INTEGRITY AND SECURITY.—The State agency shall have in effect safeguards on the integrity, accuracy, and completeness of, access to, and use of data in the automated system required under this section, which shall include the following (in addition to such other safeguards as the Secretary specifies in regulations):

"(1) POLICIES RESTRICTING ACCESS.—Written policies concerning access to data by State agency personnel, and sharing of data with other persons, which—

"(A) permit access to and use of data only to the extent necessary to carry out program responsibilities;

"(B) specify the data which may be used for particular program purposes, and the personnel permitted access to such data; and

"(C) ensure that data obtained or disclosed for a limited program purpose is not used or redisclosed for another, impermissible purpose.

"(2) SYSTEMS CONTROLS.—Systems controls (such as passwords or blocking of fields) to ensure strict adherence to the policies specified under paragraph (1).

"(3) MONITORING OF ACCESS.—Routine monitoring of access to and use of the automated system, through methods such as audit trails and feedback mechanisms, to guard against and promptly identify unauthorized access or use.

"(4) TRAINING AND INFORMATION.—The State agency shall have in effect procedures to ensure that all personnel (including State and local agency staff and contractors) who may have access to or be required to use sensitive or confidential program data are fully informed of applicable requirements and penalties, and are adequately trained in security procedures.

"(5) PENALTIES.—The State agency shall have in effect administrative penalties (up to and including dismissal from employment) for unauthorized access to, or disclosure or use of, confidential data.".

(3) IMPLEMENTATION TIMETABLE.—Section 454(24) is amended to read as follows:

"(24) provide that the State will have in effect an automated data processing and information retrieval system—

"(A) by October 1, 1995, meeting all requirements of this part which were enacted on or before the date of enactment of the Family Support Act of 1988; and

"(B) by October 1, 1998, meeting all requirements of this part enacted on or before the date of enactment of the Work and Responsibility Act of 1994 (but this provision shall not be construed to alter earlier deadlines specified for elements of such system);".

(b) SPECIAL FEDERAL MATCHING RATE FOR DEVELOPMENT COSTS OF AUTOMATED SYSTEMS.—Section 455(a) is amended—

(1) in paragraph (1)(B)—

(A) by striking "90 percent" and inserting "the percent specified in paragraph (3)";

(B) by striking "so much of"; and

(C) by striking "which the Secretary" and all that follows and inserting ", and"; and

(2) by adding at the end the following new paragraph:

"(3)(A) The Secretary shall pay to each State, for each quarter in fiscal year 1995, 90 percent of so much of State expenditures described in subparagraph (1)(B) as the Secretary finds are for a system meeting the requirements specified in section 454(16), or meeting such requirements without regard to clause (D) thereof.

"(B)(i) The Secretary shall pay to each State, for each quarter in fiscal years 1996 through 2000, the percentage specified in clause (ii) of so much of State expenditures described in subparagraph (1)(B) as the Secretary finds are for a system meeting the requirements specified in section 454(16) and 454A, subject to clause (iii).

"(ii) The percentage specified in this clause, for purposes of clause (i), is the higher of—

"(I) 80 percent, or

"(II) the percentage otherwise applicable to Federal payments to the State under subparagraph (A) (as adjusted in pursuant to section 458).

"(iii) Notwithstanding any other provision of this section, the total amount payable by the Secretary with respect to expenditures during fiscal years specified in clause (i) shall not exceed $260,000,000, to be distributed among the States, and to be made available at such time or times over the five-year period, as is provided in regulations issued by the Secretary, taking into account the relative size of State caseloads and the level of automation needed to meet the requirements of this part, and payments under clause (i) shall be made to a State at such times and in such a manner as provided in the advanced planning document approved under section 452(d).".

(c) CONFORMING AMENDMENT.—Section 123(c) of the Family Support Act of 1988 is repealed.

(d) ADDITIONAL PROVISIONS.—For additional provisions of section 454A, as added by subsection (a), see sections 621, 622, and 636 of this Act.

SEC. 615. DIRECTOR OF CSE PROGRAM; TRAINING AND STAFFING.

(a) REPORTING TO SECRETARY.—Section 452(a) is amended, in the matter preceding paragraph (1), by striking "directly".

(b) TRAINING PROGRAM.—Section 452(a)(7) is amended by striking "paternity;" and inserting "paternity, through activities including—

"(A) development of a core curriculum and training standards to be used by States in the development of State-specific training guides; and

"(B) development of a national training program for directors of State programs under this part;".

(c) STATE PLAN REQUIREMENT.—Section 454, as amended by sections 602 and 604, is further amended—

(1) by striking "and" at the end of paragraph (25);

(2) by striking the period at the end of paragraph (26) and inserting "; and"; and

(3) by adding after paragraph (26) the following new paragraph:

(27) provide that the State agency will develop and implement a training program which—

"(A) is consistent with the national training standards and core curriculum developed by the Secretary pursuant to section 452(a)(7), and uses a State-specific training guide incorporating such core curriculum;

"(B) provides for initial and ongoing training of all staff (including State and local agency staff and contractors) of the program under this part, including annual training for case workers and special training when significant changes are made in statutes, regulations, policies, or procedures; and

"(C) may provide (subject to approval by the Secretary) for appropriate training of other persons with responsibilities relating to the implementation of the State program under this part (including staff administering programs under part A, part E, title XIX, and other related and complementary programs; judges and other staff of judicial and administrative tribunals; law enforcement personnel; staff of social services organizations; and the private bar).

(d) STAFFING STUDIES.—(1) SCOPE OF STUDY.—The Secretary of Health and Human Services shall, directly or by contract, conduct studies of the staffing of each State child support enforcement program under title IV–D of the Act. Such studies shall include a review of the staffing needs created by requirements for automated data processing, maintenance of a central case registry, and centralized collections of child support, and of changes in these needs resulting from changes in such requirements.

(2) FREQUENCY OF STUDIES.—The Secretary shall complete the first staffing study required under paragraph (1) by October 1, 1996, and may conduct additional studies subsequently at appropriate intervals.

(3) REPORT TO CONGRESS.—The Secretary shall submit a report to the Congress stating the findings and conclusions of each study conducted under this subsection.

SEC. 616. FUNDING FOR SECRETARIAL ASSISTANCE TO STATE PROGRAMS.

Section 452 is amended by adding at the end the following new subsection:

"(j) FUNDING FOR FEDERAL ACTIVITIES ASSISTING STATE PROGRAMS.—(1) There shall be available to the Secretary, from amounts appropriated for fiscal year 1995 and each succeeding fiscal year for payments to States under this part, the amount specified in paragraph (2) for the costs to the Secretary for—

"(A) information dissemination and technical assistance to States, training of State and Federal staff, staffing studies, and related activities needed to improve programs (including technical assistance concerning State automated systems);

"(B) research, demonstration, and special projects of regional or national significance relating to the operation of State programs under this part; and

"(C) operation of the Federal parent Locator Service under section 453 and the National Welfare Reform Information Clearinghouse under section 453A, to the extent such costs are not recovered through user fees.

"(2) The amount specified in this paragraph for a fiscal year is the amount equal to a percentage of the reduction in Federal payments to States under part A on account of child support (including arrearages) collected in the preceding fiscal year on behalf of children receiving aid under such part A in such preceding fiscal year (as determined on the basis of the most recent reliable data available to the Secretary as of the end of the third calendar quarter following the end of such preceding fiscal year), equal to—

"(A) 1 percent, for the activities specified in subparagraphs (A) and (B) of paragraph (1); and

"(B) 2 percent, for the activities specified in subparagraph (C) of paragraph (1).".

SEC. 617. DATA COLLECTION AND REPORTS BY THE SECRETARY.

(a) ANNUAL REPORT TO CONGRESS.—(1) Section 452(a)(10)(A) is amended—

(A) by striking "this part;" and inserting "this part, including—"; and

(B) by adding at the end the following indented clauses:

"(i) the total amount of child support payments collected as a result of services furnished during such fiscal year to individuals receiving services under this part;

"(ii) the cost to the States and to the Federal Government of furnishing such services to those individuals; and

"(iii) the number of cases involving families—

"(I) who became ineligible for aid under part A during a month in such fiscal year; and

"(II) with respect to whom a child support payment was received in the same month;".

(2) Section 452(a)(10)(C) is amended—

(A) in the matter preceding clause (i)—

(i) by striking "with the data required under each clause being separately stated for cases" and inserting "separately stated for (1) cases";

(ii) by striking "cases where the child was formerly receiving" and inserting "or formerly received";

(iii) by inserting "or 1912" after "471(a)(17)"; and

(iv) by inserting "(2)" before "all other";

(B) in each of clauses (i) and (ii), by striking ", and the total amount of such obligations";

(C) in clause (iii), by striking "described in" and all that follows and inserting "in which support was collected during the fiscal year;";

(D) by striking clause (iv);

(E) by redesignating clause (v) as clause (vii), and inserting after clause (iii) the following new clauses:

"(iv) the total amount of support collected during such fiscal year and distributed as current support;

"(v) the total amount of support collected during such fiscal year and distributed as arrearages;

"(vi) the total amount of support due and unpaid for all fiscal years; and".

(3) Section 452(a)(10)(G) is amended by striking "on the use of Federal courts and".

(4) Section 452(a)(10) is further amended by striking the matter following the end of subparagraph (I).

(b) DATA COLLECTION AND REPORTING.—Section 469 is amended—

(1) in subsections (a) and (b), to read as follows:

"(a) The Secretary shall collect and maintain, on a fiscal year basis, up-to-date statistics, by State, with respect to services to establish paternity and services to establish child support obligations, the data specified in subsection (b), separately stated, in the case of each such service, with respect to—

"(1) families (or dependent children) receiving aid under plans approved under part A (or E); and

"(2) families not receiving such aid.

"(b) The data referred to in subsection (a) are—

"(1) the number of cases in the caseload of the State agency administering the plan under this part in which such service is needed; and

"(2) the number of such cases in which the service has been provided."; and

(2) in subsection (c), by striking "(a)(2)" and inserting "(b)(2)".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to fiscal year 1995 and succeeding fiscal years.

PART C—LOCATE AND CASE TRACKING

SEC. 621. CENTRAL STATE AND CASE REGISTRY.

Section 454A, as added by section 614, is further amended by adding at the end the following new subsections:

"(e) CENTRAL CASE REGISTRY.—(1) IN GENERAL.—The automated system required under this section shall perform the functions, in accordance with the provisions of this subsection, of a single central registry containing records with respect to each case in which services are being provided by the State agency (including, on and after October 1, 1997, each order specified in section 466(a)(12)), using such standardized date elements (such as names, social security numbers or other uniform identification numbers, dates of birth, and case identification numbers), and containing such other information (such as information on case status)as the Secretary may require.

"(2) PAYMENT RECORDS.—Each case record in the central registry shall include a record of—

"(A) the amount of monthly (or other periodic) support owed under the support order, and other amounts due or overdue (including arrears, interest or late payment penalties, and fees);

"(B) the date on which the support obligation will terminate under such order;

"(C) all child support and related amounts collected (including such amounts as fees, late payment penalties, and interest on arrearages); and

"(D) the distribution of such amounts collected.

"(3) UPDATING AND MONITORING.—The State agency shall promptly establish and maintain, and regularly monitor, case records in the registry required by this subsection, on the basis of—

"(A) information on administrative actions and administrative and judicial proceedings and orders relating to paternity and support;

"(B) information obtained from matches with Federal, State, or local data sources;

"(C) information on support collections and distributions; and

"(D) any other relevant information.

"(f) DATA MATCHES AND OTHER DISCLOSURES OF INFORMATION.—The automated system required under this section shall have the capacity, and be used by the State agency, to extract data at such times, and in such standardized format or formats, as may be required by the Secretary, and to share and match data with, and receive data from, other data bases and data matching services, in order to obtain (or provide) information necessary to enable the State agency (or Secretary or other State or Federal agencies) to carry out responsibilities under this part. Data matching activities of the State agency shall include at least the following:

"(A) NATIONAL CHILD SUPPORT REGISTRY.—Furnish to the National Child Support Registry established under section 453A (and update as necessary, with information including notice of expiration of orders) minimal information (to be specified by the Secretary) on each child support case in the central case registry.

"(B) FEDERAL PARENT LOCATOR SERVICE.—Exchange data with the Federal Parent Locator Service for the purposes specified in section 453.

"(C) AFDC AND MEDICAID AGENCIES.—Exchange data with State agencies (of the State and of other States) administering the programs under part A and title XIX, as necessary for the performance of State agency responsibilities under this part and under such programs.

"(D) INTRA- AND INTERSTATE DATA MATCHES.—Exchange data with other agencies of the State, agencies of other States, and interstate information networks, as necessary and appropriate to carry out (or assist other States to carry out) the purposes of this part.".

SEC. 622. CENTRALIZED COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS.

(a) STATE PLAN REQUIREMENT.—Section 454, as previously amended by sections 601, 605, and 615, is further amended—

(A) by striking "and" at the end of paragraph (26);

(B) by striking the period at the end of paragraph (27) and inserting "; and"; and

(C) by adding after paragraph (27) the following new paragraph:

"(28) provide that the State agency, on and after October 1, 1997—

"(A) will operate a centralized, automated unit for the collection and disbursement of child support under orders being enforced under this part, in accordance with section 454B; and

"(B) will have sufficient State staff (consisting of State employees, and (at State option) contractors reporting directly to the State agency) to monitor and enforce support collections through such centralized unit, including carrying out the automated data processing responsibilities specified in section 454A(g) and to impose, as appropriate in particular cases, the administrative enforcement remedies specified in section 466(c)(1).".

(b) ESTABLISHMENT OF CENTRALIZED COLLECTION UNIT.—Part D of title IV is amended by adding after section 454A the following new section:

"CENTRALIZED COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS

"SEC. 454B. (a) IN GENERAL.—In order to meet the requirement of section 454(28), the State agency must operate a single centralized, automated unit for the collection and disbursement of support payments, coordinated with the automated data system required under section 454A, in accordance with the provisions of this section, which shall be—

"(1) operated directly by the State agency (or by two or more State agencies under a regional cooperative agreement), or by a single contractor responsible directly to the State agency; and

"(2) used for the collection and disbursement (including interstate collection and disbursement) of payments under support orders in all cases being enforced by the State pursuant to section 454(4).

"(b) REQUIRED PROCEDURES.—The centralized collections unit shall use automated procedures, electronic processes, and computer-driven technology to the maximum extent feasible, efficient, and economical, for the collection and disbursement of support payments, including procedures—

"(1) for receipt of payments from parents, employers, and other States, and for disbursements to custodial parents and other obligees, the State agency, and the State agencies of other States;

"(2) for accurate identification of payments;

"(3) to ensure prompt disbursement of the custodial parent's share of any payment; and

"(4) to furnish to either parent, upon request, timely information on the current status of support payments.".

(c) USE OF AUTOMATED SYSTEM.—Section 454A, as added by section 614 and amended by section 621, is further amended by adding at the end the following new subsection:

"(g) CENTRALIZED COLLECTION AND DISTRIBUTION OF SUPPORT PAYMENTS.—The automated system required under this section shall be used, to the maximum extent feasible, to assist and facilitate collections and disbursement of support payments through the centralized collections unit operated pursuant to section 454B, through the performance of functions including at a minimum—

"(1) generation of orders and notices to employers (and other debtors) for the withholding of wages (and other income)—

"(A) within two working days after receipt (from the National Directory of New Hires or any other source) of notice of and the income source subject to such withholding; and

"(B) using uniform formats directed by the Secretary;

"(2) ongoing monitoring to promptly identify failures to make timely payment; and

"(3) automatic use of enforcement mechanisms (including mechanisms authorized pursuant to section 466(c)) where payments are not timely made.".

(d) The amendments made by this section shall become effective on October 1, 1997.

SEC. 623. AMENDMENTS CONCERNING INCOME WITHHOLDING.

(a) MANDATORY INCOME WITHHOLDING.—(1) Section 466(a)(1) is amended to read as follows:

"(1) INCOME WITHHOLDING.—(A) UNDER ORDERS ENFORCED UNDER THE STATE PLAN.—Procedures described in subsection (b) for the withholding from income of amounts payable as support in cases subject to enforcement under the State plan.

"(B) UNDER CERTAIN ORDERS PREDATING CHANGE IN REQUIREMENT.—Procedures under which all child support orders issued (or modified) before October 1, 1995, and which are not otherwise subject to withholding under subsection (b), shall become subject to withholding from wages as provided in subsection (b) if arrearages occur, without the need for a judicial or administrative hearing.".

(2) Section 466(a)(8) is repealed.

(3) Section 466(b) is amended—

(A) in the matter preceding paragraph (1), by striking "subsection (a)(1) and inserting "subsection (a)(1)(A)";

(B) in paragraph (5), by striking all that follows "administered by" and inserting "the State through the centralized collections unit established pursuant to section 454B, in accordance with the requirements of such section 454B.";

(C) in paragraph (6)(A)(i)—

(i) by inserting ", in accordance with timetables established by the Secretary," after "must be required"; and

(ii) by striking "to the appropriate agency" and all that follows and inserting "to the State centralized collections unit within 5 working days after the date such amount would (but for this subsection) have been paid or credited to the employee, for distribution in accordance with this part.";

(D) in paragraph (6)(A)(ii), by inserting "be in a standard format prescribed by the Secretary, and" after "shall"; and

(E) in paragraph (6)(D)—

(i) by striking "employer who discharges" and inserting "employer who—(A) discharges";

(ii) by relocating subparagraph (A), as designated, as an indented subparagraph after and below the introductory matter;

(iii) by striking the period at the end; and

(iv) by adding after and below subparagraph (A) the following new subparagraph:

"(B) fails to withhold support from wages, or to pay such amounts to the State centralized collections unit in accordance with this subsection.

(b) CONFORMING AMENDMENT.—Section 466(c) is repealed.

(c) DEFINITION OF TERMS.—The Secretary shall promulgate regulations providing definitions, for purposes of title IV–D of the Act, for the term "income", and for such other terms relating to income withholding under section 466(b) of the Act as the Secretary may find it necessary or advisable to define.

SEC. 624. LOCATOR INFORMATION FROM INTERSTATE NETWORKS AND LABOR UNIONS.

STATE LAW REQUIREMENT.—Section 466(a), as amended by section 623, is amended by adding after paragraph (7) the following new paragraph:

"(8) LOCATOR INFORMATION.—(A) INTERSTATE NETWORKS.—Procedures ensuring that the State will neither provide funding for, nor use for any purpose (including any purpose unrelated to the purposes of this part), any automated interstate network or system used to locate individuals—

"(i) for purposes relating to the use of motor vehicles; or

"(ii) providing information for law enforcement purposes (where child support enforcement agencies are otherwise allowed access by State and Federal law),

unless all Federal and State agencies administering programs under this part (including the entities established under sections 453 and 453A) have access to information in such system or network to the same extent as any other user of such system or network.

"(B) LABOR UNIONS.—Procedures under which labor unions, and their hiring halls, must furnish to the State agency, upon request, with respect to any union member against whom paternity or a support obligation is sought to be established or enforced, such information as the union or hiring hall may have on such member's residential address and telephone number, employer's name, address, and telephone number, and wages and medical insurance benefits.".

SEC. 625. NATIONAL WELFARE REFORM INFORMATION CLEARINGHOUSE.

(a) Part D of title IV is amended by adding after section 453 the following new section:

"NATIONAL WELFARE REFORM INFORMATION CLEARINGHOUSE

"SEC. 453A. (a)(1) In order to assist States in administering their State plans under this part and parts A, F, and G, and for the other purposes specified in this section, the Secretary shall establish and operate a National Welfare Reform Information Clearinghouse, performing the functions and meeting the requirements specified in this section, and containing the registries and directory specified in paragraph (2).

"(2) COMPONENTS SPECIFIED.—The registries and directory specified in this paragraph, for purposes of paragraph (1), are:

"(A) the National Child Support Registry established pursuant to subsection (b);

"(B) the National Directory of New Hires established pursuant to subsection (c);

"(C) the Federal Parent Locater Service established pursuant to section 453; and

"(D) the National Welfare Receipt Registry established pursuant section 411.

"(3) USED FOR TERM.—For purposes of this section, references to registries maintained under this section shall be considered to include the National Directory of New Hires and the Federal Parent Locator Service.

"(b) NATIONAL CHILD SUPPORT REGISTRY.—(1) IN GENERAL.—The Secretary shall establish by October 1, 1997, and maintain thereafter, an automated registry, to be known as the National Child Support Registry, containing minimal information (in accordance with paragraph (2)) on each case in each State central case registry maintained pursuant to section 454A(e), as furnished (and regularly updated), pursuant to section 454A(f), by State agencies administering programs under this part.

"(2) CASE INFORMATION.—The case information required to be furnished pursuant to this subsection, as specified by the Secretary, shall include sufficient information (including names, social security numbers or other uniform identification numbers, and State case identification numbers) to identify the individuals who owe or are owed support (or with respect to or on behalf of whom support obligations are sought to be established), and the State or States which have established or modified, or are enforcing or seeking to establish, such an order.

"(c) NATIONAL DIRECTORY OF NEW HIRES.—(1) IN GENERAL.—The Secretary shall establish by October 1, 1997, and maintain thereafter, an automated directory, to be known as the National Directory of New Hires, containing—

"(A) information supplied by employers on each newly hired individual, in which paragraph (2); and

"(B) information supplied by State agencies administered State unemployment compensation laws, in accordance with paragraph (3).

"(2) EMPLOYER INFORMATION.—(A) INFORMATION REQUIRED.—Subject to subparagraph (D), each employer shall furnish to the Secretary, for inclusion in the directory under this subsection, not later than 10 days after the date (on or after October 1, 1997) on which the employer hires a new employee (as defined in subparagraph (C)), a report containing the name, date of birth social security number of each employee, and the employer identification number of the employer.

"(B) REPORTING METHOD AND FORMAT.—The Secretary shall provide for transmission of the reports required under subparagraph (A) using formats and methods which minimize the burden on employers, which shall include—

"(i) automated or electronic transmission of such reports;

"(ii) transmission by regular mail; and

"(iii) transmission of a copy of the form required for purposes of compliance with section 3402 of the Internal Revenue Code of 1986.

"(C) EMPLOYEE DEFINED.—For purposes of this paragraph, the term 'employee'—

"(i) means (subject to clause (ii)) any individual subject to the requirement of section 3402(f)(2) of the Internal Revenue Code of 1986; and

"(ii) does not include an employee of a Federal or State agency performing law enforcement functions, or of a Federal agency performing intelligence or counterintelligence functions, where the head of such agency has determined that reporting pursuant to this paragraph with respect to such employee could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

"(D) PAPER REDUCTION REQUIREMENT.—As required by the information resources management policies published by the Director of the Office of Management and Budget pursuant to 44 U.S.C. 3504(b)(1), the Secretary, in order to minimize the cost and reporting burden on employers, shall not require reporting pursuant to this paragraph if an alternative reporting mechanism can be developed that either relies on existing Federal or State reporting or enables the Secretary to collect the needed information in a more cost-effective and equally expeditious manner, taking into account the reporting costs on employers.

"(E) CIVIL MONEY PENALTY ON NONCOMPLYING EMPLOYERS.—(i) Any employer that fails to make a timely report in accordance with this paragraph with respect to an individual shall be subject to a civil money penalty, for each calendar year in which the failure occurs, of the lesser of $500 or 1 percent of the wages or other compensation paid by such employer to such individual during such calendar year.

"(ii) Subject to clause (iii), the provisions of section 1128A (other than subsections (a) and (b) thereof) shall apply to a civil money penalty under clause (i) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).

"(iii) Any employer with respect to whom a penalty under this paragraph is upheld after an administrative hearing shall be liable to pay all costs of the Secretary with respect to such hearing.

"(3) EMPLOYMENT SECURITY INFORMATION.—(A) REPORTING REQUIREMENT.—Each State agency administering a State unemployment compensation law approved by the Secretary of Labor under the Federal Unemployment Tax Act shall furnish to the Secretary of Health and Human Services extracts of the reports to the Secretary of Labor concerning the wages and unemployment compensation paid to individuals required under section 303(a)(6), in accordance with subparagraph (B).

"(B) MANNER OF COMPLIANCE.—The extracts required under subparagraph (A) shall be furnished to the Secretary of Health and Human Services on a quarterly basis, with respect to calendar quarters beginning on and after October 1, 1995, by such dates, in such format, and containing such information as required by that Secretary in regulations.

"(d) DATA MATCHES AND OTHER DISCLOSURES.—(1) VERIFICATION BY SOCIAL SECURITY ADMINISTRATION.—(A) The Secretary shall transmit data on individuals and employers in the registries maintained under this section to the Social Security Administration to the extent necessary for verification in accordance with subparagraph (B).

"(B) The Social Security Administration shall verify the accuracy of, correct or supply to the extent necessary and feasible, and report to the Secretary, the following information in data supplied by the Secretary pursuant to subparagraph (A):

"(i) the name, social security number, and birth date of each individual; and

"(ii) the employer identification number of each employer.

"(2) CHILD SUPPORT LOCATOR MATCHES.—For the purpose of locating individuals for purposes of paternity establishment and establishment and enforcement of child support, the Secretary shall—

"(A) match data in the New Hire Directory against data in the Child Support Registry not less often than every 2 working days; and

"(B) report information obtained from such a match to concerned State agencies operating programs under this part not later than 2 working days after such match.

"(3) DATA MATCHES AND DISCLOSURES OF DATA IN ALL REGISTRIES.—(A) FOR TITLE IV PROGRAM PURPOSES.—The Secretary shall—

"(i) perform matches of data in each registry maintained under this section against data in each other such registry (other than the matches required pursuant to paragraph (1)), and report information resulting from such matches to State agencies operating programs under this part and parts A, F, and G; and

"(ii) disclose data in such registries to such State agencies—

to the extent, and with the frequency, that the Secretary determines to be effective in assisting such States to carry out their responsibilities under such programs.

"(B) FOR INCOME ELIGIBILITY VERIFICATION SYSTEM.—The Secretary shall disclose data in the registries maintained under this section to the programs specified in section 1137(b), to the extent necessary to enable such programs to meet requirements for an income eligibility verification system under such section 1137.

"(c) TO SOCIAL SECURITY ADMINISTRATION.—The Secretary shall disclose data in the registries maintained under this section to the Social Security Administration.

"(i) for the purpose of determining the accuracy of payments under the supplemental security income program under title XVI; or

"(ii) for use in connection with benefits under title II.

"(4) OTHER DISCLOSURES OF NEW HIRE DATA.—The Secretary shall disclose data in the New Hire Directory under subsection (c)—

"(A) to the Secretary of the Treasury for purposes directly connected with—

"(i) the administration of the earned income tax credit under section 32 of the Internal Revenue Code of 1986, or the advance payment of such credit under section 3507 of such Code; or

"(ii) verification of a claim with respect to employment in an individual tax return; and

"(B) to State agencies operating employment security and workers compensation programs, for the purpose of assisting such agencies to determine the allowability of claims for benefits under such programs.

"(5) DISCLOSURES FOR RESEARCH PURPOSES.—The Secretary is authorized to disclose data in registries maintained under this section for research purposes found by the Secretary to be likely to contribute to achieving the purposes of this part or part A, F, or G, but without personal identifiers.

"(f) FEES.—(1) FOR SSA VERIFICATION.—The Secretary shall reimburse the Commissioner of Social Security, at a rate negotiated between the Secretary and the Commissioner, the costs incurred by the Commissioner in performing the verification services specified in subsection (d).

"(2) FOR INFORMATION FROM SESAS.—The Secretary shall reimburse costs incurred by State employment security agencies in furnishing data as required by subsection (c)(3), at rates which the Secretary determines to be reasonable (which rates shall not include payment for the costs of obtaining, compiling, or maintaining such data).

"(3) FOR INFORMATION FURNISHED TO STATE AND FEDERAL AGENCIES.—State and Federal agencies receiving data or information from the Secretary pursuant to this section shall reimburse the costs incurred by the Secretary in furnishing such data or information, at rates which the Secretary determines to be reasonable (which rates shall include payment for the costs of obtaining, verifying, maintaining, and matching such data or information).

"(g) Restriction on Disclosure and Use.—Data in registries maintained pursuant to this section, and information resulting from matches using data maintained in such registries, shall not be used or disclosed except as specifically provided in this section.

"(h) Retention of Data.—Data in registries maintained pursuant to this title, and data resulting from matches performed pursuant to this section, shall be retained for such period (determined by the Secretary) as appropriate for the data uses specified in this section.

"(i) Information Integrity and Security.—The Secretary shall establish and implement safeguards with respect to the entities established under this section designed to—

"(1) ensure the accuracy and completeness of information in the system; and

"(2) restrict access to confidential information in the registries to authorized persons, and restrict use of such information to authorized purposes.

"(j) Limit on Liability.—The Secretary shall not be liable to either a State or an individual for inaccurate information provided to a registry maintained under this section and disclosed by the Secretary in accordance with this section.

(b) Conforming Amendments.—

(1) To title IV–D.—Section 454(8) is amended—

(A) by striking ", and" at the end of subparagraph (A);

(B) in subparagraph (B), to read as follows:

"(B) the Federal Parent Locator Service established under section 453; and"; and

(C) by adding at the end the following new subparagraph:

"(C) the National Welfare Reform Information Clearinghouse established under section 453A;".

(2) To federal unemployment tax act.—26 U.S.C. 3304 is amended in paragraph (16)—

(A) by striking "Secretary of Health, Education, and Welfare" each place it appears and inserting "Secretary of Health and Human Services";

(B) in subparagraph (B), by striking "such information" and all that follows and inserting "information furnished under subparagraph (A) or (B) is used only for the purposes authorized under such subparagraph;";

(C) by striking "and" at the end of subparagraph (A);

(D) by redesignating subparagraph (B) as subparagraph (C); and

(E) by inserting after subparagraph (A) the following new subparagraph:

"(B) wage and unemployment compensation information contained in the records of such agency shall be furnished to the Secretary of Health and Human Services (in accordance with regulations promulgated by such Secretary) as necessary for the purposes of the National Directory of New Hires established under section 453(b) of the Social Security Act, and".

(3) To state grant program under title III of the social security act.—Section 303(a) is amended—

(A) by striking "and" at the end of paragraph (8);

(B) by striking the period at the end of paragraph (9) and inserting "; and"; and

(C) by adding after paragraph (9) the following new paragraph:

"(10) The making of quarterly electronic reports, at such dates, in such format, and containing such information, as required by the Secretary of Health and Human Services under section 453A(b)(3), and compliance with such provisions as such Secretary may find necessary to ensure the correctness and verification of such reports.".

SEC. 626. EXPANDED LOCATE AUTHORITY.

(a) Expanded Authority To Locate Individuals and Assets.—Section 453 is amended—

(1) in subsection (a), by striking all that follows "subsection (c))" and inserting the following:

", for the purpose of establishing, setting the amount of, or enforcing child support obligations—

"(1) information on, or facilitating the discovery of, the location of any individual—

"(A) who is under an obligation to pay child support;

"(B) against whom such an obligation is sought; or

"(C) to whom such an obligation is owed, including such individual's social security number (or numbers), most recent residential address, and the name, address, and employer identification number of such individual's employer; and

"(2) information on the individual's wages (or other income) from, and benefits of, employment (including rights to or enrollment in group health care coverage); and

"(3) information on the type, status, location, and amount of any assets of, or debts owed by or to, any such individual."; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "social security" and all that follows through "absent parent" and inserting "information specified in subsection (a)"; and

(B) in paragraph (2), by inserting before the period ", or from any consumer reporting agency (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))";

(3) in subsection (e)(1), by inserting before the period ", or by consumer reporting agencies".

(b) Reimbursement for Data From Federal Agencies.—Section 453(e)(2) is amended in the fourth sentence by inserting before the period "in an amount which the Secretary determines to be reasonable payment for the data exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the data)".

(c) Access to Consumer Reports Under Fair Credit Reporting Act.—(1) Section 608 of the Fair Credit Reporting Act (15 U.S.C. 1681f) is amended—

(A) by striking ", limited to" and inserting "to a governmental agency (including the entire consumer report, in the case of a Federal, State, or local agency administering a program under part D of title IV of the Social Security Act, and limited to"; and

(B) by striking "employment, to a governmental agency" and inserting "employment, in the case of any other governmental agency)".

(2) Reimbursement for reports by state agencies and credit bureaus.—Section 453 is amended by adding at the end the following new subsection:

"(g) The Secretary is authorized to reimburse costs to State agencies and consumer credit reporting agencies the costs incurred by such entities in furnishing information requested by the Secretary pursuant to this section in an amount which the Secretary determines to be reasonable payment for the data exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the data).".

(d) Disclosure of Tax Return Information.—(1) Section 6103(1)(6)(A)(ii) of the Internal Revenue Code of 1986 (26 U.S.C. 6103(1)(6)(A)(ii)) is amended by striking ", but only if" and all that follows and inserting a period.

(2) Section 6103(1)(8)(A) of the Internal Revenue Code of 1986 (26 U.S.C. 6103(1)(8)(A)) is amended by inserting "Federal," before "State or local".

(e) Technical Amendments.—

(1) Sections 452(a)(9), 453(a), 453(b), 463(a), and 463(e) are each amended by inserting "Federal" before "Parent" each place it appears.

(2) Section 453 is amended in the heading by adding "FEDERAL" before "PARENT".

SEC. 627. STUDIES AND DEMONSTRATIONS CONCERNING LOCATOR ACTIVITIES.

(a) Studies.—The Secretary of Health and Human Services shall study, and report and make recommendations to the Congress concerning—

(1) whether access to information available through the Federal Parent Locator Service under section 453 of the Social Security Act should be afforded to noncustodial parents seeking to locate their children and, if so, whether custodial parents at risk of harm by such noncustodial parents could be adequately protected; and

(2) the feasibility, implications, and costs of establishing and operating electronic data interchanges between such Service and major consumer credit reporting bureaus.

(b) Demonstrations.—The Secretary shall make grants to States, from funds available under section 452(j) of the Social Security Act, for demonstrations designed to test the utility of automated data exchanges with State data bases that have the potential to improve the States' effectiveness in locating individuals and resources for purposes of establishing paternity and establishing and enforcing support obligations.

SEC. 628. USE OF SOCIAL SECURITY NUMBERS.

(a) State Law Requirement.—Section 466(a) is amended by adding at the end the following new paragraph:

"(13) Social security numbers required.—Procedures requiring the recording of social security numbers—

"(A) of both parties on marriage licenses and divorce decrees; and

"(B) of both parents, on birth records and child support and paternity orders.".

(b) Clarification of Federal Policy.—Section 205(c)(2)(C)(ii) is amended by striking the third sentence and inserting "This clause shall not be considered to authorize disclosure of such numbers except as provided in the preceding sentence.".

Part D—Streamlining and Uniformity of Procedures

SEC. 635. ADOPTION OF UNIFORM STATE LAWS.

(a) Section 466(a) is amended by adding at the end the following new paragraph:

"(14) Interstate enforcement.—(A) Adoption of UIFSA.—Procedures under which the State adopts in its entirety (with the modifications and additions specified in this paragraph) not later than January 1, 1996, and uses on and after such date, the Uniform Interstate Family Support Act, as approved by the National Conference of Commissioners on Uniform State Laws in August, 1992.

"(B) EXPANDED APPLICATION OF UIFSA.—The State law adopted pursuant to subparagraph (A) shall be applied to any case—

"(i) involving an order established or modified in one State and for which a subsequent modification is sought in another State; or

"(ii) in which interstate activity is required to enforce an order.

"(C) LONG-ARM JURISDICTION, BASED ON RESIDENCE OF CHILD.—The State law adopted pursuant to subparagraph (A) shall presume that, in the case where a child meets the criteria for residence in the State, a tribunal of the State having jurisdiction over such child has jurisdiction over both parents of such child, if parentage has been legally established or acknowledged, or may be presumed under the laws of the State.

"(D) JURISDICTION TO MODIFY ORDERS.—For purposes of the State law adopted pursuant to subparagraph (A), section 611(a)(1) of such Uniform Act shall be amended to read as follows:

"(1) the following requirements are met:

"(i) the child, the individual obligee, and the obligor—

" '(I) do not reside in the issuing State; and

" '(II) either reside in this State or are subject to the jurisdiction of this State pursuant to section 201; and

" '(ii) (in any case where another State is exercising or seeks to exercise jurisdiction to modify the order) the conditions of section 204 are met to the same extent as required for proceedings to establish orders; or'.

"(E) PARTIES' OPTION CONCERNING JURISDICTION.—The State laws adopted pursuant to subparagraph (A) shall allow parties, by agreement, to permit a State that issued an order to retain jurisdiction which the State would otherwise lose under the provisions of such law.;

"(F) SERVICE OF PROCESS.—The State law adopted pursuant to subparagraph (A) shall recognize as valid, for purposes of any proceeding subject to such State law, service of process upon persons in the State (and proof of such service) by any means acceptable in another State which is the initiating or responding State in such proceeding.

"(G) COOPERATION BY EMPLOYERS.—The State law adopted pursuant to subparagraph (A) shall provide for the use of procedures (including sanctions for noncompliance) under which all entities in the State (including for-profit, nonprofit, and governmental employers) are required to provide promptly, in response to a request by the State agency of that or any other State administering a program under this part, information on the employment, compensation, and benefits of any individual employed by such entity as an employee or contractor.".

(b) EXPEDITED APPEAL OF CONSTITUTIONAL CHALLENGE.—(1) An appeal may be taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order issued by a United States district court ruling upon the constitutionality of section 466(a)(14)(C) of the Act, as added by subsection (a).

(2) The Supreme Court shall, if it has not previously ruled on the question, accept jurisdiction over, and advance on the docket, and expedite to the greatest extent possible, such appeal. All cases raising such question shall be consolidated to the maximum extent permissible under applicable rules of civil procedure.

SEC. 636. STATE LAWS PROVIDING EXPEDITED PROCEDURES.

(a) STATE LAW REQUIREMENTS.—Section 466 is amended—

(1) in subsection (a)(2), in the first sentence, to read as follows: "Expedited administrative and judicial procedures (including the procedures specified in subsection (c)) for establishing paternity and for establishing, modifying, and enforcing support obligations."; and

(2) by adding after subsection (b) the following new subsection:

"(c) EXPEDITED PROCEDURES.—(1) ADMINISTRATIVE ACTION BY STATE AGENCY.—Procedures which give the State agency the authority (and recognize and enforce the authority of State agencies of other States), without the necessity of obtaining an order from any other judicial or administrative tribunal (but subject to due process safeguards, including (as appropriate) requirements for notice, opportunity to contest the action, and opportunity for an appeal on the record to an independent administrative or judicial tribunal), to take the following actions relating to establishment or enforcement of orders:

"(A) ESTABLISH OR MODIFY SUPPORT AMOUNT.—To establish the amount of support awards in all cases in which services are being provided under this part, and to modify the amount of such awards under all orders included in the central case registry established under section 454A(e) (including orders entered by a court), in accordance with the guidelines established under section 467.

"(B) GENETIC TESTING.—To order genetic testing for the purpose of paternity establishment as provided in section 466(a)(5).

"(C) DEFAULT ORDERS.—To enter a default order, upon a showing of service of process and any additional showing required by State law—

"(i) establishing paternity, in the case of any putative father who refuses to submit to genetic testing; and

"(ii) establishing or modifying a support obligation, in the case of a parent (or other obligor or obligee) who fails to respond to notice to appear at a proceeding for such purpose.

"(D) SUBPOENAS.—To subpoena any financial or other information needed to establish, modify, or enforce an order, and to sanction failure to respond to any such subpoena.

"(E) ACCESS TO PERSONAL AND FINANCIAL INFORMATION.—To obtain access, subject to safeguards on privacy and information security, to the following records (including automated access, in the case of records maintained in automated data bases):

"(i) records of other State and local government agencies, including:

"(I) vital statistics (including records of marriage, birth, and divorce);

"(II) State and local tax and revenue records (including information on residence address, employer, income and assets);

"(III) records concerning real and titled personal property;

"(IV) records of occupational and professional licenses, and records concerning the ownership and control of corporations, partnerships, and other business entities;

"(V) employment security records;

"(VI) records of agencies administering public assistance programs;

"(VII) records of the motor vehicle department; and

"(VIII) corrections records; and "(ii) certain records held by private entities, including—

"(I) customer records of public utilities and cable television companies; and

"(II) information (including information on assets and liabilities) on individuals who owe or are owed support (or against or with respect to whom a support obligation is sought) held by financial institutions (subjection to limitations or liability of such entities arising from affording such access).

"(F) INCOME WITHHOLDING.—To order income withholding in accordance with section 466(a)(1) and (b).

"(G) CHANGE IN PAYEE.—(In cases where support is subject to an assignment under section 402(a)(26), 471(a)(17), or 1912, or to a requirement to pay through the centralized collections unit under section 454B) upon providing notice to obligor and obligee, to direct the obligor or other payor to change the payee to the appropriate government entity.

"(H) SECURE ASSETS TO SATISFY ARREARAGES.—For the purpose of securing overdue support—

"(i) to intercept and seize any periodic or lumpsum payment to the obligor by or through a State or local government agency, including—

"(I) unemployment compensation, workers' compensation, and other benefits;

"(II) judgments and settlements in cases under the jurisdiction of the State or local government; and

"(III) lottery winnings;

"(ii) to attach and seize assets of the obligor held by financial institutions;

"(iii) to attach public and private retirement funds in appropriate cases, as determined by the Secretary; and

"(iv) to impose liens in accordance with paragraph (a)(4) and, in appropriate cases, to force sale of property and distribution of proceeds.

"(I) INCREASE MONTHLY PAYMENTS.—For the purpose of securing overdue support, to increase the amount of monthly support payments to include amounts for arrearages (subject to such conditions or restrictions as the State may provide).

"(J) SUSPENSION OF DRIVERS' LICENSES.—To suspend drivers' licenses of individuals owing past-due support, in accordance with subsection (a)(16).

"(2) SUBSTANTIVE AND PROCEDURAL RULES.—The expedited procedures required under subsection (a)(2) shall include the following rules and authority, applicable with respect to all proceedings to established paternity or to establish, modify, or enforce support orders:

"(A) LOCATOR INFORMATION; PRESUMPTIONS CONCERNING NOTICE.—Procedures under which—

"(i) the parties to any paternity or child support proceedings are required (subject to privacy safeguards) to file with the tribunal before entry of an order, and to update as appropriate, information on location and identity (including social security number, residential and mailing addresses, telephone number, driver's license number, and name, address, and telephone number of employer); and

"(ii) in any subsequent child support enforcement action between the same parties, the tribunal shall be authorized, upon sufficient showing that deligent effort has been made to ascertain such a party's current location, to deem due process requirements for notice and service of process to be met, with respect to such party, by delivery to the most recent residential or employer address so filed pursuant to clause (i).

"(B) STATEWIDE JURISDICTION.—Procedures under which—

"(i) the State agency and any administrative or judicial tribunal with authority to hear child support and paternity cases exerts statewide jurisdiction over the parties, and orders issued in such cases have statewide effect; and

"(ii) (in the case of a State in which orders in such cases are issued by local jurisdictions) a case may be transferred between jurisdictions in the State without need for any additional filing by the petitioner, or service of process upon the respondent, to retain jurisdiction over the parties.".

(c) EXCEPTIONS FROM STATE LAW REQUIREMENTS.—Section 466(d) is amended—

(1) by striking "(d) If" and inserting "(d) EXEMPTIONS FROM REQUIREMENTS.—(1) IN GENERAL.—Subject to paragraph (2), if"; and

(2) by adding at the end the following new paragraph:

"(2) NON-EXEMPT REQUIREMENTS.—The Secretary shall not grant an exemption from the requirements of—

"(A) subsection (a)(5) (concerning procedures for paternity establishment);

"(B) subsection (a)(10) (concerning modification of orders);

"(C) subsection (a)(12) (concerning recording of orders in the central State case registry);

"(D) subsection (a)(13) (concerning recording of social security numbers);

"(E) subsection (a)(14) (concerning interstate enforcement); or

"(F) subsection (c) (concerning expedited procedures), other than paragraph (1)(A) thereof (concerning establishment or modification of support amount).".

(d) AUTOMATION OF STATE AGENCY FUNCTIONS.—Section 454A, as added by section 614 and amended by sections 621 and 622, is further amended by adding at the end the following new subsection:

"(h) EXPEDITED ADMINISTRATIVE PROCEDURES.—The automated system required under this section shall be used, to the maximum extent feasible, to implement the expedited administrative procedures required under section 466(c).".

PART E—PATERNITY ESTABLISHMENT

SEC. 640. STATE LAWS CONCERNING PATERNITY ESTABLISHMENT.

(a) STATE LAWS REQUIRED.—Section 466(a)(5) is amended—

(1) by striking "(5)" and insert "(5) PROCEDURES CONCERNING PATERNITY ESTABLISHMENT.—

(2) in subparagraph (A)—

(A) by striking "(A)" and inserting "(A) ESTABLISHMENT PROCESS AVAILABLE FROM BEFORE BIRTH UNTIL AGE EIGHTEEN.—";

(B) by indenting clause (ii) an additional unit of indentation from the left margin; and

(C) by adding after and below clause (ii) the following new clause:

"(iii) Procedures which permit the initiation of proceedings to establish paternity before the birth of the child concerned.";

(3) in subparagraph (B)—

(A) by striking "(B)" and inserting "(B) PROCEDURES CONCERNING GENETIC TESTING.—(i)";

(B) in clause (i), as redesignated, by inserting before the period ", where such request is supported by a sworn statement by such party setting forth facts establishing a reasonable possibility of the requisite sexual contact";

(C) by inserting after and below clause (i) (as redesignated) the following new clause:

"(ii) Procedures which require the State agency, in any case in which such agency orders genetic testing—

"(I) to pay costs of such tests, subject to recoupment (where the State so elects) from the putative father if paternity is established; and

"(II) to obtain additional testing in any case where an original test result is disputed, upon request and advance payment by the disputing party.";

(4) in subparagraph (C), to read as follows:

"(C) VOLUNTARY ACKNOWLEDGMENT PROCEDURE.—Procedures for a simple civil process for voluntarily acknowledging paternity under which—

"(i) the benefits, rights and responsibilities of acknowledging paternity are explained to unwed parents;

"(ii) due process safeguards are afforded; and

"(iii) hospitals and other health care facilities providing inpatient or outpatient maternity and pediatric services are required, as a condition of participation in the State program under title XIX—

"(I) to explain to unwed parents the matters specified in clause (i);

"(II) to make available the voluntary acknowledgment procedure required under this subparagraph; and

"(III) (in the case of hospitals providing maternity services) to have facilities for obtaining blood or other genetic samples from the mother, putative father, and child for genetic testing; to inform the mother and putative father of the availability of such testing (at their expense); and to obtain such samples upon request of both such individuals;";

(5) in subparagraphs (D) and (E), to read as follows:

"(D) LEGAL STATUS OF ACKNOWLEDGMENT.—Procedures under which—

"(i) a voluntary acknowledgment of paternity creates, at State option, either—

"(I) a conclusive presumption of paternity, or

"(II) a rebuttable presumption which becomes a conclusive presumption within one year, unless rebutted or invalidated by an intervening determination which reaches a contrary conclusion;

"(ii) (at State option), notwithstanding clause (i), upon the request of a party, a determination of paternity based on an acknowledgment may be vacated on the basis of new evidence, the existence of fraud, or the best interests of the child; and

"(iii) a voluntary acknowledgment of paternity is admissible as evidence of paternity, and as a basis for seeking a support order, without requiring any further proceedings to establish paternity.

"(E) BAR ON ACKNOWLEDGMENT RATIFICATION PROCEEDINGS.—Procedures under which no judicial or administrative proceedings are required or permitted to ratify an unchallenged acknowledgment of paternity.";

(6) in subparagraph (F), to read as follows:

"(F) ADMISSIBILITY OF GENETIC TESTING RESULTS.—Procedures—

"(i) requiring that the State admit into evidence, for purposes of establishing paternity, results of any genetic test that is—

"(I) of a type generally acknowledged, by accreditation bodies designated by the Secretary, as reliable evidence of paternity; and

"(II) performed by a laboratory approved by such an accreditation body;

"(ii) that any objection to genetic testing results must be made in writing not later than a specified number of days before any hearing at which such results may be introduced into evidence (or, at State option, not later than a specified number of days after receipt of such results); and

"(iii) that, if no objection is made, the test results are admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy."; and

"(7) by adding after subparagraph (H) the following new paragraphs:

"(I) NO RIGHT TO JURY TRIAL.—Procedures providing that the parties to an action to establish paternity are not entitled to jury trial.

"(J) TEMPORARY SUPPORT ORDER BASED ON PROBABLE PATERNITY IN CONTESTED CASES.—Procedures which required that a temporary order be issued, upon motion by a party, requiring the provision of child support pending an administrative or judicial determination of parentage, where there is clear and convincing evidence of paternity (on the basis of genetic tests or other evidence).

"(K) PROOF OF CERTAIN SUPPORT AND PATERNITY ESTABLISHMENT COSTS.—Procedures under which bills for pregnancy, childbirth, and genetic testing are admissible as evidence without requiring third-party foundation testimony, and shall constitute prima facie evidence of amounts incurred for such services and testing on behalf of the child.

"(L) WAIVER OF STATE DEBTS FOR COOPERATION.—Procedures under which the tribunal establishing paternity and support has discretion to waive rights to all or part of amounts owed to the State (but not to the mother) for costs related to pregnancy, childbirth, and genetic testing and for public assistance paid to the family where the father cooperates or acknowledges paternity before or after genetic testing.

"(M) STANDING OF PUTATIVE FATHERS.—Procedures ensuring that the putative father has a reasonable opportunity to initiate a paternity action.".

(b) TECHNICAL AMENDMENT.—Section 468 is amended by striking "a simple civil process for voluntary acknowledging paternity and".

SEC. 641. OUTREACH FOR VOLUNTARY PATERNITY ESTABLISHMENT.

(a) STATE PLAN REQUIREMENT.—Section 454(23), as amended by section 606, is further amended by adding at the end the following new subparagraph:

"(C) publicize the availability and encourage the use of procedures for voluntary establishment of paternity and child support through a variety of means, which—

"(i) include distribution of written materials at health care facilities (including hospitals and clinics), and other locations such as schools;

"(ii) may include pre-natal programs to educate expectant couples on individual and joint rights and responsibilities with respect to paternity (and may require all expectant recipients of assistance under part A to participate in such pre-natal programs, as an element of cooperation with efforts to establish paternity and child support);

"(iii) include, with respect to each child discharged from a hospital after birth for whom paternity or child support has not been established, reasonable follow-up efforts (including at least one contact of each parent whose whereabouts are known, except where there is reason to believe such follow-up efforts would put mother or child at risk), providing—

"(I) in the case of a child for whom paternity has not been established, information on the benefits of and procedures for establishing paternity; and

"(II) in the case of a child for whom paternity has been established but child support has not been established, information on the benefits of and procedures for establishing a child support order, and an application for child support services;".

(b) ENHANCED FEDERAL MATCHING.—Section 455(a)(1)(C) is amended—

(1) by inserting "(i)" before "laboratory costs", and

(2) by inserting before the semicolon “, and (ii) costs of outreach programs designed to encourage voluntary acknowledgment of paternity”.

(c) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall become effective October 1, 1996.

(2) The amendments made by subsection (b) shall be effective with respect to calendar quarters beginning on and after October 1, 1995.

SEC. 642. PENALTY FOR FAILURE TO ESTABLISH PATERNITY PROMPTLY.

Section 403 is amended—

(1) in subsection (a), as amended by section 612(e), by striking “subsection (h)” and inserting “subsections (h) and (i)—”; and

(2) by adding after subsection (h) the following new subsection:

“(i) PENALTY FOR FAILURE TO ESTABLISH PATERNITY PROMPTLY.—(1) IN GENERAL.—The amounts otherwise payable to a State under subsection (a) for any calendar quarter beginning 10 months or more after enactment of this subsection shall be reduced by an amount, determined pursuant to regulations in accordance with paragraph (2), for certain children for whom paternity has not been established.

“(2) REDUCTION FORMULA.—The Secretary shall promulgate regulations specifying the formula for the reduction required under this subsection, which formula shall provide for a reduction in Federal matching payments to a State under this section by an amount equal to the product of—

“(A) the number (after allowing for the tolerance level established under paragraph (3)) of children born on or after the date 10 months after enactment of this provision who are receiving aid under the State plan under part A, whose custodial relatives have, throughout the preceding 12-month period, complied with the cooperation requirements specified in section 454(25)(D), but for whom paternity has not been established;

“(B) the average monthly assistance payment under the State plan under this part; and

“(C) the Federal matching rate applicable to such assistance payment.

“(3) TOLERANCE LEVEL.—(A) The tolerance level, for purposes of paragraph (2)(A), shall not be higher than the percentage specified in subparagraph (B) of children in the State described in paragraph (1), and may decrease over time to make allowance for a State's inability to establish paternity in all cases.

“(B) The percentage specified in this paragraph shall be 25 percent for fiscal years 1997 and 1998, 20 percent for fiscal years 1999 and 2000, 15 percent for fiscal years 2001 and 2002, and 10 percent for fiscal year 2003 and each succeeding fiscal year.”.

SEC. 643. INCENTIVES TO PARENTS TO ESTABLISH PATERNITY.

(a) OPTIONAL STATE ACTIVITIES.—Section 455 is amended by adding at the end the following new subsection:

“(f) PATERNITY ESTABLISHMENT INCENTIVES TO FAMILIES.—(1) The Secretary, in accordance with regulations, may approve proposals by States to amend State plans under this part to provide for incentive payments to families to encourage paternity establishment.

“(2) Federal financial participation shall be available in accordance with subsection (a) for expenditures by a State pursuant to a plan amendment approved under paragraph (1).

(b) DEMONSTRATIONS.—(1) Projects Authorized.—The Secretary shall authorize up to 3 States to conduct demonstrations providing financial incentives to families for establishment of paternity.

(2) FEDERAL FUNDING.—(A) Subject to subparagraph (B), a State participating in a demonstration under this section shall be entitled to Federal payments pursuant to section 455(f) of the Social Security Act for 90 percent of the payments to families under such demonstration.

(B) FUNDING LIMITATION.—Total Federal expenditures for demonstrations under this section shall not exceed $1,000,000.

PART F—ESTABLISHMENT AND MODIFICATION OF SUPPORT ORDERS

SEC. 651. NATIONAL COMMISSION ON CHILD SUPPORT GUIDELINES.

(a) ESTABLISHMENT.—The Secretary is authorized to establish, in accordance with this section, a commission to be known as the “National Commission on Child Support Guidelines” (in this section referred to as the “Commission”).

(b) GENERAL DUTIES.—The Commission shall consider whether a national child support guideline is advisable and, if it so determines, shall develop and propose for congressional consideration such a guideline (or parameters for State guidelines), reflecting the Commission's study of various guideline models and its conclusions concerning their strengths and deficiencies, and specifically reflecting consideration of the need for simplicity and ease of application of guidelines, and of the matters enumerated in subsection (c).

(c) MATTERS FOR CONSIDERATION BY THE COMMISSION.—In making the recommendations concerning guidelines required pursuant to subsection (b), the Commission shall consider—

(1) the adequacy of State child support guidelines established pursuant to section 467;

(2) matters generally applicable to all support orders, including—

(A) the feasibility of adopting uniform terms in all child support orders;

(B) how to define income and under what circumstances income should be imputed; and

(C) tax treatment of child support payments;

(3) the appropriate treatment of cases in which either or both parents have financial obligations to more than one family, including the effect (if any) to be given to—

(A) the income of either parent's spouse; and

(B) the financial responsibilities of either parent for other children or stepchildren;

(4) the appropriate treatment of expenses for child care (including care of the children of either parent, and work-related or job-training-related child care);

(5) the appropriate treatment of expenses for health care (including uninsured health care) and other extraordinary expenses for children with special needs;

(6) the appropriate duration of support by one or both parents, including—

(A) support (including shared support) for post-secondary or vocational education; and

(B) support for disabled adult children; and

(7) whether, or to what extent, support levels should be adjusted in cases where custody is shared or where the noncustodial parent has extended visitation rights.

(d) MEMBERSHIP.—

(1) NUMBER; APPOINTMENT—

(A) IN GENERAL.—The Commission shall be composed of 12 individuals appointed not later than March 1, 1995, of which—

(i) two shall be appointed by the Chairman of the Senate Committee on Finance, and one shall be appointed by the Ranking Minority Member of such Committee;

(ii) two shall be appointed by the Chairman of the House Committee on Ways and Means, and one shall be appointed by the Ranking Minority Member of such Committee; and

(iii) six shall be appointed by the Secretary of Health and Human Services.

(B) QUALIFICATIONS OF MEMBERS.—Members of the Commission shall have expertise and experience in the evaluation and development of child support guidelines. At least one member shall represent advocacy groups for custodial parents, at least one member shall represent advocacy groups for noncustodial parents, and at least one member shall be the director of a State program under title IV–D of the Social Security Act.

(2) TERMS OF OFFICE.—Each member shall be appointed for the life of the Commission. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(e) COMMISSION POWERS, COMPENSATION, ACCESS TO INFORMATION, AND SUPERVISION.—The first sentence of subparagraph (C), the first and third sentences of subparagraph (D), subparagraph (F) (except with respect to the conduct of medical studies), clauses (ii) and (iii) of subparagraph (G), and subparagraph (H) of section 1886(e)(6) of the Social Security Act shall apply to the Commission in the same manner in which such provisions apply to the Prospective Payment Assessment Commission, except that references in such section to the Office of Technology Assessment shall be disregarded.

(f) REPORT.—Not later than July 1, 1997, the Commission shall report to the President and the Congress on the results of the studies required under this section.

(g) The Commission shall terminate 6 months after submission of the report required under subsection (f).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 1995 and 1996, to remain available until expended.

SEC. 652. STATE LAWS CONCERNING MODIFICATION OF CHILD SUPPORT ORDERS.

(a) STATE LAW REQUIREMENTS.—Section 466(a)(10) is amended—

(1) by inserting “PROCEDURES FOR MODIFICATION OF SUPPORT ORDERS.—” after “(10)”;

(2) by redesignating subparagraph (C) as subparagraph (E) and inserting after subparagraph (B) the following new subparagraphs:

“(C)(i) Procedures to ensure that, beginning October 1, 1999 (or such earlier date as the State may select), the State agency (or, at the option of the State, the local agency) reviews and adjusts, in accordance with guidelines established pursuant to section 467(a), judicial and administrative child support orders included in the State registry established pursuant to section 454A(d), under which (subject to clauses (ii) and (iii) the order—

“(I) is to be reviewed not later than 36 months after the establishment of the order or the most recent adjustment of (or determination not to adjust) such order; and

“(II) (at State option) may not be reviewed during a minimum period established by the State following the establishment or most recent review of the order.

“(ii) The requirement of clause (i)(I) shall not apply in any case where—

“(I) the State has determined, in accordance with regulations of the Secretary, that such a review would not be in the best interests of the child; or

"(II) both parents have been informed of the modified support amount that would be imposed under the guidelines and have declined such modification in writing.

"(iii) The State shall provide for review of a child support order upon the request of either parent, notwithstanding the requirement of clause (i)(II), whenever, subsequent to the establishment or most recent review—

"(I) either parent's income has changed by more than 20 percent, or

"(II) other substantial changes have occurred in either parent's circumstances.

"(D) AMOUNT OF MODIFICATION BASED ON GUIDELINES.—Procedures under which support orders reviewed in accordance with subparagraph (C) must be adjusted in accordance with the guidelines established pursuant to section 467(a), without a requirement for any other change in circumstances (except that the State may refuse to modify an order in any case where the change in the support amount, if so modified, would not exceed a threshold percentage (which may not be greater than 10 percent)).";

(3) in subparagraph (E), as redesignated—

(i) by striking "(E)" and inserting "(E) DUE PROCESS SAFEGUARDS.—";

(ii) in the matter preceding clause (i), by striking "this part—" and inserting "this part, in accordance with State due process requirements—";

(iii) in clause (i), by striking ", at least 30 days before the commencement of such review"; and

(iv) in clause (iii), by striking "not less than 30 days" and inserting "a reasonable time".

(b) AUTOMATED PROCEDURES.—Section 454A, as previously added and amended by this Act, is further amended by adding at the end the following new subsection:

"(i) MODIFICATION OF SUPPORT ORDERS.—The automated system required under this section shall be used, to the maximum extent feasible, to assist in the review and modification of support orders in accordance with the timetable under section 466(a)(10) and the guidelines under section 467.".

SEC. 653. STUDY ON USE OF TAX RETURN INFORMATION FOR MODIFICATION OF CHILD SUPPORT ORDERS.

(a) REQUIREMENT FOR STUDY.—The Secretary of Health and Human Services and the Secretary of the Treasury shall conduct a study to determine how return information (as defined in section 6103(b) of the Internal Revenue Code of 1986) filed with the Secretary of the Treasury might be used to facilitate the process of determining the amount (if any) by which child support award amounts should be modified in accordance with guidelines established under section 467.

(b) AMENDMENT TO INTERNAL REVENUE CODE.—Section 6103(l)(6) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

"(C) Upon written request by the Secretary of Health and Human Services, the Secretary may disclose return information to officers and employees of the Department of the Treasury and the Department of Health and Human Services, as may be specified in such written request, to be used in conducting the study required under section 653 of the Work and Responsibility Act of 1994. Return information disclosed pursuant to this subparagraph shall be used only for purposes of conducting such study.".

PART G—ENFORCEMENT OF SUPPORT ORDERS

SEC. 661. REVOLVING LOAN FUND FOR PROGRAM IMPROVEMENTS TO INCREASE COLLECTIONS.

Part D of title IV is amended by inserting after section 455 the following new section:

"REVOLVING FUND FOR PROGRAM IMPROVEMENTS TO INCREASE COLLECTIONS

"SEC. 455A. (a) PURPOSE; AUTHORIZATION OF APPROPRIATIONS.—The Secretary is authorized to establish a revolving fund for loans to States operating programs under this part, for short-term projects by such States (and political subdivisions of such States) for making operational improvements in such programs with the potential for achieving substantial increases in child support collections. There are authorized to be appropriated for payment to such fund $10,000,000 for each of fiscal years 1998 and 1999, and $20,000,000 for each of fiscal years 2000 through 2003: Provided, That payment may be made to this fund only to the extent, and in such amounts, as are provided for in advance in appropriations Acts.

"(b) CRITERIA FOR LOAN AWARDS.—Criteria for evaluating applications for loans under this section must include—

"(1) the likelihood that the proposed project will increase child support collections, and

"(2) the availability to the State (or political subdivision) of funding for the project from other sources.

"(c) Amount and Duration of Loans.—

"(1) AMOUNT.—Loans may be made to a State under this section in amounts not to exceed $5,000,000 per State or $1,000,000 per project (or $5,000,000 for a single Statewide project in a large State). States may supplement loan funds under this section with funds from other sources, and may require contributions from local jurisdictions served by the project.

"(2) DURATION.—Loan payments to a State for a project under this section may not be made for a period longer than 3 years.

"(d) RECOUPMENT.—A loan to a State under this section shall be recovered from the State over 3 fiscal years, beginning in the fourth calendar quarter beginning after the project ends (or, if earlier, the sixteenth calendar quarter beginning after loan payments for the project began) through—

"(1) an offset of one-half of the increase in incentive payments due to the State under section 458 for each calendar quarter until funds are fully repaid, plus

"(2) an offset from payments due to the State under section 455(a) for each calendar quarter equal to the amount, if any, by which one-twelfth of the total loan (plus interest) exceeds the amount described under paragraph (1),

with such amounts recovered being credited to the revolving fund under this section.

"(e) AVAILABILITY AS STATE SHARE.—Funds received by a State under this section may be used by the State as the non-Federal share of expenditures under the State program under this part.".

SEC. 662. FEDERAL INCOME TAX REFUND OFFSET.

(a) CHANGED ORDER OF REFUND DISTRIBUTION UNDER INTERNAL REVENUE CODE.—(1) Section 6402(c) of the Internal Revenue Code of 1986 is amended—

(A) by striking "The amount" and inserting "(1) In general. The amount";

(B) by striking "paid to the State. A reduction" and inserting "paid to the State.

"(2) Priorities for offset. A reduction";

(C) by striking "shall be applied first" and inserting "shall be applied (after any reduction under subsection (d) on account of a debt owed to the Department of Education or Department of Health and Human Services with respect to a student loan) first";

(D) by striking "has been assigned" and inserting "has not been assigned"; and

(E) by striking "and shall be applied" and all that follows and inserting "and shall thereafter be applied to satisfy any past-due support that has been so assigned.".

(2) Section 6402(d)(2) of such Code is amended by striking "after such overpayment" and all that follows through "Social Security Act and" and inserting "(A) before such overpayment is reduced pursuant to subsection (c), in the case of a debt owed to the Department of Education or Department of Health and Human Services with respect to a student loan, (B) after such overpayment is reduced pursuant to subsection (c), in the case of any other debt, and (C) in either case,".

(b) ELIMINATION OF DISPARITIES IN TREATMENT OF ASSIGNED AND NON-ASSIGNED ARREARAGES.—Section 464(a) is amended—

(A) by striking "(a)" and inserting "(a) Offset Authorized.—";

(B) in paragraph (1)—

(i) in the first sentence, by striking "which has been assigned to such State pursuant to section 402(a)(26) or section 471(a)(17)"; and

(ii) in the second sentence, by striking "in accordance with section 457(b)(4) or (d)(3)" and inserting "as provided in paragraph (2)";

(C) in paragraph (2), to read as follows:

"(2) The State agency shall distribute amounts paid by the Secretary of the Treasury pursuant to paragraph (1)—

"(A) in accordance with section 457(a)(4) or (d)(3), in the case of past-due support assigned to a State pursuant to section 402(a)(26) or section 471(a)(17); and

"(B) to or on behalf of the child to whom the support was owed, in the case of past-due support not so assigned.";

(C) in paragraph (3)—

(i) by striking "or (2)" each place it appears; and

(ii) in subparagraph (B), by striking "under paragraph (2)" and inserting "on account of past-due support described in paragraph (2)(B)";

(2) Section 464(b) is amended—

(A) by striking "(b)(1)" and inserting "(b) REGULATIONS.—"; and

(B) by striking paragraph (2).

(3) Section 464(c) is amended—

(A) by striking "(c)(1) Except as provided in paragraph (2), as" and inserting "(c) DEFINITION.—As"; and

(B) by striking paragraphs (2) and (3).

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective October 1, 1996.

SEC. 663. INTERNAL REVENUE SERVICE COLLECTION OF ARREARS.

(a) AMENDMENT TO INTERNAL REVENUE CODE.—Section 6305(a) of the Internal Revenue Code of 1986 is amended—

(1) in paragraph (1), by inserting "except as provided in paragraph (5)" after "collected";

(2) by striking "and" at the end of paragraph (3);

(3) by striking the period at the end of paragraph (4) and inserting a comma;

(4) by adding after paragraph (4) the following new paragraph:

"(5) no additional fee may be assessed for adjustments to an amount previously certified pursuant to such section 452(b) with respect to the same obligor."; and

(6) by striking "Secretary of Health, Education, and Welfare" each place it appears and inserting "Secretary of Health and Human Services".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective October 1, 1996.

SEC. 664. AUTHORITY TO COLLECT SUPPORT FROM EMPLOYMENT-RELATED PAYMENTS BY UNITED STATES.

(a) CONSOLIDATION AND STREAMLINING OF AUTHORITIES.—

(1) Section 459 is amended in the caption by inserting "INCOME WITHHOLDING," before "GARNISHMENT".

(2) Section 459(a) is amended—

(A) by striking "(a)" and inserting "(a) Consent To Support Enforcement.—

(B) by striking "section 207" and inserting "section 207 of this Act and 38 U.S.C. 5301"; and

(C) by striking all that follows "a private person," and inserting "to withholding in accordance with State law pursuant to subsections (a)(1) and (b) of section 466 and regulations of the Secretary thereunder, and to any other legal process brought, by a State agency administering a program under this part or by an individual obligee, to enforce the legal obligation of such individual to provide child support or alimony.".

(3) Section 459(b) is amended to read as follows:

"(b) Consent to Requirements Applicable to Private Person.— Except as otherwise provided herein, each entity specified in subsection (a) shall be subject, with respect to notice to withhold income pursuant to section 466(a)(1) or (b), or to any other order or process to enforce support obligations against an individual (if such order or process contains or is accompanied by sufficient data to permit prompt identification of the individual and the moneys involved), to the same requirements as would apply if such entity were a private person.".

(4) Section 459(c) is redesignated and relocated as paragraph (2) of subsection (f), and is amended—

(A) by striking "responding to interrogatories pursuant to requirements imposed by section 461(b)(3)" and inserting "taking actions necessary to comply with the requirements of subsection (A) with regard to any individual"; and

(B) by striking "any of his duties" and all that follows and inserting "such duties.".

(5) Section 461(b) is relocated and redesignated as section 459(c)(1), and is amended to read as follows:

"(c) Designation of Agent; Response to Notice or Process.—(1) The head of each agency subject to the requirements of this section shall—

"(A) designate an agent or agents to receive orders and accept service of process; and

"(B) publish (i) in the appendix of such regulations, (ii) in each subsequent republication of such regulations, and (iii) annually in the Federal Register, the designation of such agent or agents, identified by title of position, mailing address, and telephone number.".

(6) Section 459(d) is redesignated as paragraph (2) of section 459(c), and is amended to read as follows:

"(2) Whenever an agent designated pursuant to paragraph (1) receives notice pursuant to section 466(a)(1) or (b), or is effectively served with any order, process, or interrogatories, with respect to an individual's child support or alimony payment obligations, such agent shall—

"(A) as soon as possible (but not later than fifteen days) thereafter, send written notice of such notice or service (together with a copy thereof) to such individual at his duty station or last-known home address;

"(B) within 30 days (or such longer period as may be prescribed by applicable State law) after receipt of a notice pursuant to section 466(a)(1) or (b), comply with all applicable provisions of such section 466; and

"(C) within 30 days (or such longer period as may be prescribed by applicable State law) after effective service of any other such order, process, or interrogatories, respond thereto.".

(7) Section 461(c) is relocated and redesignated as section 459(d), and is amended to read as follows:

"(d) Priority of Claims.—In the event that a governmental entity receives notice or is served with process, as provided in this section, concerning amounts owed by an individual to more than one person—

"(A) support collection under section 466(b) must be given priority over any other process, as provided in section 466(b)(7);

"(B) allocation of moneys due or payable to an individual among claimants under section 466(b) shall be governed by the provisions of such section 466(b) and regulations thereunder; and

"(C) such moneys as remain after compliance with subparagraphs (A) and (B) shall be available to satisfy any other such processes on a first-come, first-served basis, with any such process being satisfied out of such moneys as remain after the satisfaction of all such processes which have been previously served.".

(8) Section 459(e) is amended by striking "(e)" and inserting "(e) No Requirement to Vary Pay Cycles.—".

(9) Section 459(f) is amended by striking "(f)" and inserting "(f) Relief From Liability.—(1)".

(10) Section 461(a) is redesignated and relocated as section 459(g), and is amended—

(A) by striking "(g)" and inserting "(g) Regulations.—"; and

(B) by striking "section 459" and inserting "this section".

(11) Section 462(f) is relocated and redesignated as section 459(h), and is amended to read as follows:

"(h) Moneys Subject to Process.—(1) Subject to subsection (i), moneys paid or payable to an individual which are considered to be based upon remuneration for employment, for purposes of this section—

"(A) consist of—

"(i) compensation paid or payable for personal services of such individual, whether such compensation is denominated as wages, salary, commission, bonus, pay, allowances, or otherwise (including severance pay, sick pay, and incentive pay); and

"(ii) periodic benefits (including a periodic benefit as defined in section 228(h)(3)) or other payments—

"(I) under the insurance system established by title II; and

"(II) under any other system or fund established by the United States which provides for the payment of pensions, retirement or retired pay, annuities, dependents' or survivors' benefits, or similar amounts payable on account of personal services performed by the individual or any other individual;

"(B) do not include any payment—

"(i) as compensation for death under any Federal program;

"(ii) under any Federal program established to provide 'black lung' benefits;

"(iii) by the Secretary of Veterans Affairs as pension, or as compensation for a service-connected disability or death (except any compensation paid by such Secretary to a former member of the Armed Forces who is in receipt of retired or retainer pay if such former member has waived a portion of his retired pay in order to receive such compensation);

"(iv) by way of reimbursement or otherwise, to defray expenses incurred by such individual in carrying out duties associated with his employment; or

"(v) as allowances for members of the uniformed services payable pursuant to chapter 7 of 37 U.S.C., as prescribed by the Secretaries concerned (defined by 37 U.S.C. 101(5)) as necessary for the efficient performance of duty.".

(12) Section 462(g) is redesignated and relocated as section 459(i).

(13)(A) Section 462 is amended—

(i) in subsection (e)(1), by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii); and

(ii) in subsection (e), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B).

(B) Section 459 is amended by adding at the end the following:

"(j) Definitions.—For purposes of this section—".

(C) Subsections (a) through (e) of section 462, as amended by subparagraph (A), are relocated and redesignated as paragraphs (1) through (4) of section 459(j), and are indented accordingly.

(b) Conforming Amendments.—

(1) To title IV–D.—Sections 461 and 462 are repealed.

(2) To 5 U.S.C.—5 U.S.C. 5520a is amended, in subsections (h)(2) and (i), by striking "sections 459, 461, and 462 of the Social Security Act (42 U.S.C. 659, 661, and 662)" and inserting "section 459 of the Social Security Act (42 U.S.C. 659)".

(D) Military retired and retainer pay.—(1) Definition of court.—10 U.S.C. 1408(a)(1) is amended—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(C) by adding after subparagraph (C) the following new paragraph:

"(D) any administrative or judicial tribunal of a State competent to enter orders for support or maintenance (including a State agency administering a State program under part D of title IV of the Social Security Act).";

(2) Definition of court order.—10 U.S.C. 1408(a)(2) is amended by inserting "or a court order for the payment of child support not included in or accompanied by such a decree or settlement," before "which—".

(3) Public payee.—10 U.S.C. 1408(d) is amended—

(A) in the heading, by striking "to spouse" and inserting "to (or for benefit of)"; and

(B) in paragraph (1), in the first sentence, by inserting "(or for the benefit of such spouse or former spouse to a State central collections unit or other public payee designated by a State, in accordance with part D of title IV of the Social Security Act, as directed by court order, or as otherwise directed in accordance with such part D)" before "in an amount sufficient".

(4) Relationship to title IV–D.—10 U.S.C. 1408 is amended by adding at the end the following new subsection:

"(j) Relationship to Other Laws.—In any case involving a child support order against a member who has never been married to the other parent of the child, the provisions of this section shall not apply, and the case shall be subject to the provisions of section 459 of the Social Security Act.".

(e) Effective Date.—The amendments made by this section shall become effective on the date six months after enactment of this Act.

SEC. 665. MOTOR VEHICLE LIENS.

Section 466(a)(4) is amended—

(A) by striking "(4) Procedures" and inserting "(4) Liens.—(A) In general.—"; and

(B) by adding at the end the following new subparagraph:

"(B) MOTOR VEHICLE LIENS.—Procedures for placing liens for arrears of child support on motor vehicle titles of individuals owing such arrears equal to or exceeding two months of support, under which—

"(i) any person owed such arrears may place such a lien;

"(ii) the State agency administering the program under this part shall systematically place such liens;

"(iii) expedited methods are provided for—

"(I) ascertaining the amount of arrears;

"(II) affording the person owing the arrears or other titleholder to contest the amount of arrears or to obtain a release upon fulfilling the support obligation;

"(iv) such a lien has precedence over all other encumbrances on a vehicle title other than a purchase money security interest; and

"(v) the individual or State agency owed the arrears may execute on, seize, and sell the property in accordance with State law.".

SEC. 666. VOIDING OF FRAUDULENT TRANSFERS.

Section 466(a) is amended by adding at the end the following new paragraph:

"(15) FRAUDULENT TRANSFERS.—Procedures under which—

"(A) the State has in effect—

"(i) the Uniform Fraudulent Conveyance Act of 1981,

"(ii) the Uniform Fraudulent Transfer Act of 1984, or

"(iii) another law, specifying indicia of fraud which create a prima facie case that a debtor transferred income or property to avoid payment to a child support creditor, which the Secretary finds affords comparable rights to child support creditors; and

"(B) in any case in which the State knows of a transfer by a child support debtor with respect to which such a prima facie case is established, the State must—

"(i) seek to void such transfer; or

"(ii) obtain a settlement in the best interests of the child support creditor.".

SEC. 667. STATE LAW AUTHORIZING SUSPENSION OF LICENSES.

Section 466(a) is amended by adding at the end the following new paragraph:

"(16) AUTHORITY TO WITHHOLD OR SUSPEND LICENSES.—Procedures under which the State has (and uses in appropriate cases) authority (subject to appropriate due process safeguards) to withhold or suspend, or to restrict the use of driver's licenses, professional and occupational licenses, and recreational licenses of individuals owing overdue child support or failing, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings.".

SEC. 668. REPORTING ARREARAGES TO CREDIT BUREAUS.

Section 466(a)(7) is amended to read as follows:

"(7) REPORTING ARREARAGES TO CREDIT BUREAUS.—(A) Procedures (subject to safeguards pursuant to subparagraph (B)) requiring the State to report periodically to consumer reporting agencies (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) the name of any absent parent who is delinquent by one month or more in the payment of support, and the amount of overdue support owed by such parent.

"(B) Procedures ensuring that, in carrying out subparagraph (A), information with respect to an absent parent is reported—

"(i) only after such parent has been afforded all due process required under State law, including notice and a reasonable opportunity to contest the accuracy of such information; and

"(ii) only to an entity that has furnished evidence satisfactory to the State that the entity is a consumer reporting agency.".

SEC. 669. EXTENDED STATUTE OF LIMITATION FOR COLLECTION OF ARREARAGES.

(a) AMENDMENTS.—Section 466(a)(9) is amended—

(1) by striking "(9) Procedures" and inserting "(9) LEGAL TREATMENT OF ARREARS.—(A) FINALITY.—

(2) by redesignating indented subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively; and

(3) by adding after and below subparagraph (A), as redesignated, the following new subparagraph:

"(B) STATUTE OF LIMITATIONS.—Procedures under which the statute of limitations on any arrearages of child support extends at least until the child owed such support is 30 years of age.".

(b) APPLICATION OF REQUIREMENT.—The amendment made by this section shall not be read to require any State law to revive any payment obligation which has lapsed prior to the effective date of such State law.

SEC. 670. CHARGES FOR ARREARAGES.

(a) STATE LAW REQUIREMENT.—Section 466(a) is amended by adding at the end the following new paragraph:

"(17) CHARGES FOR ARREARAGES.—Procedures providing for the calculation and collection of interest or penalties for arrearages of child support, and for distribution of such interest or penalties collected for the benefit of the child (except where the right to support has been assigned to the State).".

(b) REGULATIONS.—The Secretary of Health and Human Services shall establish by regulation a rule to resolve choice of law conflicts arising in the implementation of the amendment made by subsection (a).

(c) CONFORMING AMENDMENT.—Section 454(21) is repealed.

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to arrearages accruing on or after October 1, 1997.

SEC. 671. VISITATION ISSUES BARRED.

Section 466(a) is amended by adding at the end the following new paragraph:

"(18) VISITATION ISSUE BARRED.—Procedures under which failure to pay child support is not a defense to denial of visitation rights, and denial of visitation rights is not a defense to failure to pay child support.".

SEC. 672. TREATMENT OF SUPPORT OBLIGATIONS UNDER BANKRUPTCY CODE.

(a) NO STAY OF PROCEEDINGS.—11 U.S.C. 362(b)(2) is amended to read as follows:

"(2) under subsection (a) of this section—

"(A) of the commencement or continuation of a judicial or administrative proceeding, or other action under State or territorial law by a government unit, against the debtor to establish paternity, to establish or modify an obligation to pay for the support of a spouse, former spouse, or child of the debtor, or to establish a schedule for payment of such support (including any arrearages); or

"(B) of the collection of alimony, maintenance, or support from property that is not property of the estate;".

(b) STREAMLINED FILING PROCEDURE FOR SUPPORT CREDITOR.—11 U.S.C. 501 is amended by adding at the end the following new subsection:

"(e)(1) The creditor of a claim that is excepted from discharge under section 523(a)(5) may file such claim by delivering to the clerk of the bankruptcy court in which a petition under this title is pending, in person or by registered mail, the claim form promulgated under paragraph (2). Such a creditor, filing a claim in such a manner, shall not be required to make a personal appearance before the court, to be represented by counsel admitted to practice in the jurisdiction in which such court is located, to comply with any local rules not specified pursuant to paragraph (2), or to pay any filing fees or other charges in connection with the filing of such claim.

"(2) The Judicial Conference of the United States shall promulgate, not later than June 30, 1995—

"(A) a standardized, simplified form for filing claims described in paragraph (1); and

"(B) procedural guidelines for the use of such form, which rules shall be designed to minimize the burden on support creditors of filing such claims.".

(c) TREATMENT AS PREFERRED UNSECURED CREDITOR.—11 U.S.C. 507(a) is amended—

(1) by striking "(8) Eighth," and inserting "(9) Ninth,"; and

(3) by inserting after paragraph (7) the following new paragraph:

"(8) Eighth, unsecured claims for alimony, maintenance, or support of a spouse, former spouse, or child of the debtor allowed under section 502 of this title, to the full extent of such claims, and in accordance with any payment schedule established as described in section 362(b)(2).".

(d) PAYMENT SCHEDULE IN CHAPTER 13 PLANS.—11 U.S.C. 1322(a)(2) is amended by inserting before the semicolon "(except that the plan shall provide, in the case of a debt not subject to discharge under section 523(a)(5), for payment in accordance with any payment schedule included in the order providing for alimony, maintenance, or support)".

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective October 1, 1995.

SEC. 673. DENIAL OF PASSPORTS FOR NONPAYMENT OF CHILD SUPPORT.

(a) HHS CERTIFICATION PROCEDURE.—(1) SECRETARIAL RESPONSIBILITY.—Section 452 is amended by adding at the end of the following new subsection:

"(k) CERTIFICATIONS FOR PURPOSES OF PASSPORT RESTRICTIONS.—(1) IN GENERAL.—Where the Secretary receives a certification by a State agency in accordance with the requirements of section 454(29) that an individual owes arrearages of child support in excess of $5,000, the Secretary shall transmit such certification to the Secretary of State for action (with respect to denial, revocation, or limitation of passports) pursuant to 22 U.S.C. 219.

"(2) LIMIT ON LIABILITY.—The Secretary shall not be liable to an individual for any action with respect to a certification by a State agency under this section.".

(2) STATE CSE AGENCY RESPONSIBILITY.—Section 454, as previously amended by sections 601, 605, 615, and 622, is further amended—

(1) by striking "and" at the end of paragraph (27);

(2) by striking the period at the end of paragraph (28) and inserting "; and"; and

(3) by adding after paragraph (28) the following new paragraph:

"(29) provide that the State agency will have in effect a procedure (which may be combined with the procedure for tax refund (which may be combined with the procedure for tax refund offset under section 464) for certifying to the Secretary, for purposes of the procedure under section 452(k) (concerning denial of passports) determinations that individuals owe child support arrearages of $5,000 or more, under which procedure—

"(A) each individual concerned is afforded notice of such determination and the consequences thereof, and an opportunity to contest the determination; and

"(B) the certification by the State agency is furnished to the Secretary in such format, and accompanied by such supporting documentation, as the Secretary may require.".

(b) STATE DEPARTMENT PROCEDURE FOR DENIAL OF PASSPORTS.—Chapter 4 of 22 U.S.C. is amended by adding at the end the following new section:

"§ 219. Denial of passport for nonpayment of child support.

"(a) IN GENERAL.—The Secretary, upon certification by the Secretary of Health and Human Services, in accordance with section 452(k) of the Social Security Act, that an individual owes arrearages of child support in excess of $5,000, shall refuse to issue a passport to such individual, and may revoke, restrict, or limit a passport issued previously to such individual.

"(b) LIMIT ON LIABILITY.—The Secretary shall not be liable to an individual for any action with respect to a certification by a State agency under this section.".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective October 1, 1995.

PART H—DEMONSTRATIONS

SEC. 681. CHILD SUPPORT ENFORCEMENT AND ASSURANCE DEMONSTRATIONS.

(a) DEMONSTRATIONS AUTHORIZED.—(1) INITIAL PROJECTS.—The Secretary shall make grants to three States for demonstrations under this section to determine the effectiveness of programs to provide assured levels of child support to custodial parents of children for whom paternity and support obligations have been established.

(b) DURATION OF PROJECTS.—(1) TOTAL PROJECT PERIOD.—The Secretary shall make grants to States for demonstrations under this section beginning in fiscal year 1997, for periods of from 7 to 10 years.

(2) PHASEDOWN PERIOD.—Each State implementing a demonstration project under this section shall—

(A) phase out activities under such demonstration during the final two years of the project; and

(B) obtain the Secretary's approval, before the beginning of such phasedown period, of a plan for accomplishing such phasedown.

(c) CONSIDERATIONS IN SELECTION OF PROJECTS.—(1) SCOPE.—Projects under this section may, but need not, be statewide in scope.

(2) STATE ADMINISTRATION.—(A) RESPONSIBLE STATE AGENCY.—A State demonstration project under this section shall be administered either by the State agency administering the program under title IV–D of the Social Security Act or the State department of revenue and taxation.

(3) CONTROLS.—At least one demonstration project under this section shall include randomly assigned control groups.

(B) AUTOMATION.—The State agency described in subparagraph (A) shall operate (or have automated access to) the automated data system required under section 454(16) of the Social Security Act, and shall have adequate automated capacity to carry out the project under this section (including the timely distribution of child support assurance benefits).

(d) ELIGIBILITY.—(1) IN GENERAL.—Child support assurance payments under projects under this section shall be available only to children for whom paternity and support obligations have been established (or with respect to whom a determination has been made that efforts to establish paternity or support would not be in the best interests of the child).

(2) FAMILIES WITH SHARED CUSTODY.—In cases where both parents share custody of a child, a parent and child shall not be eligible for benefits under a demonstration under this section unless—

(A) a support order is in effect entitling such parent to support payments in excess of the minimum benefit; or

(B) the agency or tribunal which issued the order certifies that the child support award would be below such minimum benefit if either parent was awarded sole custody and the guidelines under section 467 were applied.

(3) STATE OPTION TO BASE ELIGIBILITY ON NEED.—At State option, eligibility for benefits under a demonstration under this section may be limited to families with incomes and resources below a standard of need established by the State.

(f) BENEFIT AMOUNTS.—(1) RANGE OF BENEFIT LEVELS.—States shall have flexibility to set annual benefit levels under demonstrations under this section, provided that (subject to the remaining provisions of this subsection) such levels—

(A) are now lower than $1,500 for a family with one child or $3,000 for a family with four or more children; and

(B) are not higher than $3,000 for a family with one child or $4,500 for a family with four or more children;

(2) INDEXING.—Annual benefit levels for each fiscal year after fiscal year 1996 shall be indexed to reflect the change in the Consumer Price Index.

(3) UNMATCHED EXCESS BENEFITS.—The Secretary may permit States to pay benefits higher than a maximum specified in paragraphs (1) and (2), but Federal matching of such payments shall not be available for benefits in excess of the amounts specified in paragraph (1) (as adjusted in accordance with paragraph (2)) by more than $25 per month.

(g) TREATMENT OF BENEFITS.—(1) FOR PURPOSES OF AFDC.—The amount of aid otherwise payable to a family under title IV–A of the Social Security Act shall be reduced by an amount equal to the amount of child support assurance paid to such family (or, at the Secretary's discretion, by a percentage of such amount paid specified by the Secretary).

(2) FOR PURPOSES OF OTHER BENEFIT PROGRAMS.—(A) IN GENERAL.—Except as provided in subparagraph (B), child support assurance paid to a family shall be considered ordinary income for purposes of determining eligibility for and benefits under any Federal or State program.

(B) DEEMED AFDC ELIGIBILITY.—At State option, a child (or family) that is ineligible for aid under title IV–A of the Social Security Act because of payments under a demonstration under this section may be deemed to be receiving such aid for purposes of determining eligibility for the Federal and State programs.

(3) FOR TAX PURPOSES.—Child support assurance which is paid to a family under this section and is not reimbursed from a child support collection from a noncustodial parent shall be considered ordinary income for purposes of Federal and State tax liability.

(h) WORK PROGRAM OPTION.—At the option of the State grantee, a demonstration under this section may include a work program for unemployed noncustodial parents of eligible children.

(i) AVAILABILITY OF APPROPRIATIONS FOR PAYMENTS TO STATES.—(1) STATE ENTITLEMENT TO IV–D FUNDING.—A State administering an approved demonstration under this section in a calendar quarter shall be entitled to payments for such quarter, pursuant to section 455 of the Social Security Act for the Federal share of reasonable and necessary expenditures (including expenditures for benefit payments and for associated administrative costs) under such project, in an amount (subject to paragraphs (2) and (3)) equal to—

(A) with respect to that portion of such expenditures equal to the reduction of expenditures under title IV–A of the Social Security Act pursuant to subsection (g)(1), a percentage equal to the percentage that would have been paid if such expenditures had been made under such title IV–A; and

(B) 90 percent of the remainder of such expenditures.

(2) STATES WITH LOW AFDC BENEFITS.—In the case of a State in which benefit levels under title IV–A of the Act are below the national median for such payments, the Secretary may elect to provide 90 percent Federal matching of a portion of expenditures under a project under this section that would otherwise be matched at the rate specified in paragraph (1)(A).

(3) FUNDING LIMITS; PRO RATA REDUCTIONS OF STATE MATCHING.—(A) FUNDS AVAILABLE.—There shall be available to the Secretary, from amounts appropriated to carry our part D of title IV of the Social Security Act, for purposes of carrying out demonstrations under this section, amounts not to exceed—

(i) $27,000,000 for fiscal year 1997;

(ii) $55,000,000 for fiscal year 1998;

(iii) $70,000,000 for each of fiscal years 1999 through 2002; and

(iv) $55,000,000 for fiscal year 2003.

(B) PRO RATA REDUCTIONS.—The Secretary shall make pro rata reductions in the amounts otherwise payable to States under this section as necessary to comply with the funding limitation specified in subparagraph (A).

(j) DISTRIBUTION OF CHILD SUPPORT COLLECTIONS.—Notwithstanding section 457 of the Social Security Act, support payments collected from the noncustodial parent of a child receiving (or who has received) child support assurance payments under this section shall be distributed as follows:

(1) first, amounts equal to the total support owed for such month shall be paid to the family;

(2) second, from any remainder, amounts owed to the State on account of child support assurance payments to the family shall be paid to the State (with appropriate reimbursement to the Federal Government of its share to such payments);

(3) third, from any remainder, arrearages of support owed to the family shall be paid to the family; and

(4) fourth, from any remainder, amounts owed to the State on account of current or past payments of aid under title IV–A of the Social Security Act shall be paid to the State (with appropriate reimbursement to the Federal Government of its share of such payments).

(k) EVALUATIONS AND REPORTS.—(1) STATE EVALUATIONS.—Each State administering a demonstration project under this section shall—

(A) provide for ongoing and retrospective evaluation of the project, meeting such conditions and standards as the Secretary may require; and

(B) submit to the Secretary such reports (at such times, in such format, and containing such information) as the Secretary may require, including at least an interim report not later than 90 days after the end of the fourth year of the project, and a final report not later than one year after the completion of the project, which shall include information on and analysis of the effect of the project with respect to—

(i) the economic circumstances of both noncustodial and custodial parents;

(ii) the rate of compliance by noncustodial parents with support orders;

(iii) work-force participation by both custodial and noncustodial parents;

(iv) need for or amount of aid to families with dependent children under title IV–A of the Social Security Act;

(v) paternity establishment rates; and

(vi) any other matters the Secretary may specify.

(2) REPORTS TO CONGRESS.—The Secretary shall, on the basis of reports received from States administering projects under this section, make the following reports, containing an assessment of the effectiveness of the projects and any recommendations the Secretary considers appropriate:

(A) an interim report, not later than six months following receipt of the interim State reports required by subsection (c); and

(B) a final report, not later than six months following receipt of the final State reports required under subsection (i).

(3) FUNDING FOR COSTS TO SECRETARY.—There are authorized to be appropriated $10,000,000 for fiscal year 1997, to remain available under expended for payment of the cost of evaluations by the Secretary of demonstrations under this section.

SEC. 682. SOCIAL SECURITY ACT DEMONSTRATIONS.

Section 1115(c)(3) is amended by striking "increased cost" and all that follows and inserting "an increase in total costs to the Federal Government.".

PART I—ACCESS AND VISITATION GRANTS

SEC. 691. GRANTS TO STATES FOR ACCESS AND VISITATION PROGRAMS.

(a) IN GENERAL.—Part D of title IV is amended by adding at the end the following new section:

"GRANTS TO STATES FOR ACCESS AND VISITATION PROGRAMS

"Sec. 469A. (a) PURPOSES; AUTHORIZATION OF APPROPRIATIONS.—For the purposes of enabling States to establish and administer programs to support and facilitate absent parents' access to and visitation of their children, by means of activities including mediation (both voluntary and mandatory), counseling, education, development of parenting plans, visitation enforcement (including monitoring, supervision and neutral drop-off and pickup), and development of guidelines for visitation and alternative custody arrangements, there are authorized to be appropriated $5,000,000 for each of fiscal years 1996 and 1997, and $10,000,000 for each succeeding fiscal year.

"(b) PAYMENTS TO STATES.—(1) Each State shall be entitled to payment under this section for each fiscal year in an amount equal to its allotment under subsection (c) for such fiscal year, to be used for payment of 90 percent of State expenditures for the purposes specified in subsection (a).

(2) Payments under this section shall be used by a State to supplement (and not to substitute for) expenditures by the State, for activities specified in subsection (a), at a level at least equal to the level of such expenditures for fiscal year 1994.

"(c) ALLOTMENTS TO STATES.—(1) IN GENERAL.—For purposes of subsection (b), each State shall be entitled (subject to paragraph (1)) to an amount for each fiscal year bearing the same ratio to the amount authorized to be appropriated pursuant to subsection (a) for such fiscal year as the number of children in the State living with only one biological parent bears to the total number of such children in all States.

"(2) MINIMUM ALLOTMENT.—Allotments to States under subparagraph (A) shall be adjusted as necessary to ensure that no State is allotted less than $50,000 for fiscal year 1996 or 1997, or $100,000 for any succeeding fiscal year.

"(d) FEDERAL ADMINISTRATION.—The program under this section shall be administered by the Administration for Children and Families.

"(e) STATE PROGRAM ADMINISTRATION.—(1) Each State may administer the program under this section directly or through grants to or contracts with courts, local public agencies, or non-profit private entities.

"(2) State programs under this section may, but need not, be Statewide.

"(3) States administering programs under this section shall monitor, evaluate, and report on such programs in accordance with requirements established by the Secretary.

PART J—EFFECT OF ENACTMENT

SEC. 695. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise specifically provided (but subject to subsections (b) and (c))—

(1) provisions of this title requiring enactment or amendment of State laws under section 466 of the Act, or revision of State plans under section 454 of the Act, shall be effective with respect to periods beginning on and after October 1, 1995; and

(2) all other provisions of this title shall become effective upon enactment.

(b) GRACE PERIOD FOR STATE LAW CHANGES.—The provisions of this title shall become effective with respect to a State on the later of—

(1) the date specified in this title, or

(2) the effective date of laws enacted by the legislature of such State implementing such provisions,

but in no event later than the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(c) GRACE PERIOD FOR STATE CONSTITUTIONAL AMENDMENT.—A State shall not be found out of compliance with any requirement enacted by this title if it is unable to comply without amending the State constitution until the earlier of—

(1) the date one year after the effective date of the necessary State constitutional amendment or

(2) the date five years after enactment of this title.

SEC. 696. SEVERABILITY.

If any provision of this title or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this title which can be given effect without regard to the invalid provision or application, and to this end the provisions of this title shall be severable.

TITLE VII—IMPROVING GOVERNMENT ASSISTANCE AND PREVENTING FRAUD

PART A—AFDC AMENDMENTS

SEC. 701. PERMANENT REQUIREMENT FOR UNEMPLOYED PARENT PROGRAM.

(a) IN GENERAL.—Section 401(h) of the Family Support Act of 1988 (terminating the requirement that States provide benefits to two-parent families based on the unemployment of the principal earner) is repealed.

(b) APPLICABILITY TO PUERTO RICO, AMERICAN SAMOA, GUAM, AND THE VIRGIN ISLANDS.—Section 401(g)(2) of the Family Support Act of 1988 is amended, effective on the date of enactment of such Act, to read as follows:

"(2) The amendments made by this section (other than those made by subsection (c)) shall not become effective with respect to Puerto Rico, American Samoa, Guam, or the Virgin Islands unless the jurisdiction involved notifies the Secretary of Health and Human Services that it chooses to have such amendments apply and submits the necessary plan amendment.".

SEC. 702. STATE OPTIONS REGARDING UNEMPLOYED PARENT PROGRAM.

(a) DURATION OF UNEMPLOYMENT AND RECENCY-OF-WORK TESTS.—(1) Section 407(b)(1)(A) of the Act (in the matter preceding clause (i)) is amended to read as follows:

"(A) subject to paragraph (2), shall provide for the payment of aid to families with dependent children with respect to a dependent child within the meaning of subsection (a)—".

(2) Such section is further amended—

(A) by striking out "whichever" in clause (i) and inserting in lieu thereof "when, if the State chooses to so require (and specifies in its State plan), whichever",

(B) by inserting "when" before such parent in clause (ii), and

(C) by striking out "(iii)(I)" and inserting in lieu thereof "(iii) when, if the State chooses to so require (and specifies in its State plan) (I)".

(b) STATE OPTION TO DEFINE "UNEMPLOYMENT".—At its option, a State may provide aid under part A to children of employed parents and may apply, for purposes of section 407 of the Act, as definition of unemployment that includes some or all of the individuals who, solely by reasons of the standards prescribed by the Secretary of Health and Human Services under subsection (a) of such section and in effect on the date of enactment of this Act, would not have been eligible for aid to families with dependent children, and shall include such definition in its State plan approved under part A of title IV of the Act.

(c) EFFECTIVE DATE.—The amendments made by this section and the provisions of this section shall become effective October 1, 1996.

SEC. 703. DEFINITION OF ESSENTIAL PERSON.

(1) GENERAL REQUIREMENT.—Section 402 of the Act is amended by adding immediately after and below subsection (c) the following new subsection:

"(d) In order that the State may include the needs of an individual and determining the needs of the dependent child and relative with whom the child is living, such individual must be living in the same home as such child and relative and—

"(1) furnishing personal services required because of the relative's physical or mental inability to provide care necessary for herself or himself or for the dependent child (which, for purposes of this subsection only, includes a child receiving supplemental security income benefits under title XVI), or

"(2) furnishing child care services, or care for an incapacitated member of the family, that is necessary to permit the caretaker relative—

"(A) to engage in full or part-time employment outside the home, or

"(B) to attend a course of education designed to lead to a high school diploma (or its equivalent) or a course of training on a full or part-time basis, or to participate in the program under part F on a full or part-time basis.".

SEC. 704. EXPANDED STATE OPTION FOR RETROSPECTIVE BUDGETING.

Section 402(a)(13) of the Act is amended—

(1) by striking out in the matter that precedes subparagraph (A) "but only with respect to any one or more categories of families required to report monthly to the State agency pursuant to paragraph (14),"; and

(2) by striking out in each of subparagraphs (A) and (B) "(but only where the Secretary determines it to be appropriate, in the case of families who are required to report monthly to the State agency pursuant to paragraph (14),".

SEC. 705. DISREGARDS OF INCOME.

"(a) STUDENT EARNINGS.—(1) IN GENERAL.—Section 402(a)(8)(A)(i) of the Act is amended by striking out "dependent child" and all that follows and inserting in lieu thereof "individual under age 19 who is an elementary or secondary school student".

"(2) CONFORMING AMENDMENTS.—Section 402(a) of the Act is amended—

(A)(i) by striking out "a dependent child who is a full-time student" in paragraph (8)(A)(vii) and inserting in lieu thereof "an individual under age 19 who is an elementary or secondary school student", and

(ii) by striking out "such child" in such paragraph and inserting in lieu thereof "such individual", and

(B) by striking out in paragraph (18) "of a dependent child" and inserting in lieu thereof "of an individual under age 19".

"(b) STANDARD EARNED INCOME DISREGARD AMOUNT.—(1) Section 402(a)(8)(a)(ii) of the Act is amended by striking out "$90" and inserting in lieu thereof "$120, or if greater, $120 adjusted by the CPI (as prescribed in section 406(i))".

(2) The amendment made by this subsection shall become effective October 1, 1996.

(c) STATE OPTION TO DISREGARD EARNED INCOME.—(1) IN GENERAL.—Section 402(a)(8)(A)(iv) of the Act is amended to read as follows:

"(iv) may, at its option, disregard amounts of earned income in addition to those required or permitted to disregarded under this paragraph, and shall specify in its State plan any such additional amounts and the circumstances (including whether they will be disregarded for applicants as well as for recipients) under which they will be disregarded;"

(2) CONFORMING AMENDMENTS.—

(A) Clause (ii) of section 402(a)(8)(B) of the Act is repealed.

(B)(i) Section 402(a)37) of the Act is amended by striking out "or because of paragraph (8)(B)(ii)(II)".

(ii) Section 1925(a) of the Act is amended by striking out "or because of section 402(a)(8)(ii)(II) (providing for a time-limited earned income disregard)".

(C) Section 402(g)(1)(A)(ii) of the Act is amended by striking out "increased income" and all that follows down to the period and inserting lieu thereof "amount of earnings from such employment".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall become effective October 1, 1996.

(d) DISREGARD OF TRAINING STIPENDS.—Section 402(a)(8)(A)(v) of the Act is amended to read as follows:

"(v) shall disregard from the income of any individual applying for or receiving aid to families with dependent children any amount received as a stipend or allowance under the Job Training Partnership Act or under any other training or similar program;".

(e) MANDATORY CHILD SUPPORT PASS-THROUGH.—(1) Section 402(a)(8)(A)(vi) of the Act is amended—

(A) by striking out "$50" (in two places) and inserting in lieu thereof "$50, or, if greater, $50 adjusted by the CPI (as prescribed in section 406(i))";, and

(B) by striking out the semicolon at the end and inserting in lieu thereof "or, in lieu of the amount specified in two places in this clause, such greater amount as the State many choose (and provide for in its State plan);".

(2) CPI ADJUSTMENT.—Section 406 of the Act is amended by adding at the end thereof the following new subsection:

"(i) For purposes of this part, an amount is 'adjusted by the CPI' for any month in a calendar year by multiplying the amount involved by the ratio of—

"(1) the Consumer Price Index (as prepared by the Department of Labor) for the third quarter of the preceding calendar year, to

"(2) such Consumer Price Index for the third quarter of calendar year 1996,

and rounding the product, if not a multiple of $10, to the nearer multiple of $10.".

(f) LUMP-SUM INCOME.—(1) IN GENERAL.—Section 402(a)(8)(A) of the Act is amended—

(1) by striking out "and" after clause (viii), and

(2) by adding after and below clause (viii) the following new clause:

"(ix) shall disregard from the income of any family member any amounts of income received in the form of nonrecurring lump-sum payments;".

(2) REPEAL.—Section 402(a)(17) of the Act is repealed.

(g) EDUCATIONAL ASSISTANCE.—Section 402(a)(8)(A) of the Act is further amended by adding after and below clause (ix) the following new clause:

"(x) shall disregard all educational assistance provided to a family member;".

(h) IN-KIND INCOME.—Such section is further amended by adding after and below clause (x) the following new clause:

"(xi) shall disregard all in-kind income provided to a family member;"

(i) BENEFITS UNDER THE NATIONAL AND COMMUNITY SERVICE ACT.—Such section is further amended by adding after and below clause (xi) the following new clause;

"(xii) shall disregard any living allowance, child care allowance, stipend, or educational award paid under section 140 of the National and Community Service Act of 1990 to a family member participating in a national service program carried out with assistance from the Corporation for National and Community Service;".

(j) "FILL-THE-GAP" DISREGARDS.—(1) Such section is further amended by adding after and below clauses (xii) the following new clause:

"(xiii) may disregard, in addition to any other amounts required or permitted by this paragraph, income described in the State plan by type or source and by amount, but no amount in excess of the difference between the State's standard of need applicable to the family involved and the State's payment amount for a family of the same size with no other income;".

(2) The amendment made by this subsection shall become effective October 1, 1996.

SEC. 706. STEPPARENT INCOME.

(a) Section 402(a)(31) of the Act is amended by striking out "$90" and inserting in lieu thereof "$120" and by striking out the semicolon at the end and inserting in lieu thereof ", or, at the option of the State, so much of such income as exceeds any greater amount or amounts as the State agency finds appropriate to strengthen family life and provide incentives to increase earnings;".

(b) The amendment made by this section shall become effective October 1, 1996.

SEC. 707. INCREASE IN RESOURCE LIMIT.

Section 402(a)(7)(B) of the Act is amended (in the matter preceding clause (i)) by striking out "$1000 or such lower amount as the State may determine "and inserting in lieu thereof "$2000 or, in the case of a family with a member who is 60 years of age or older, $3000".

SEC. 708. EXCLUSIONS FROM RESOURCES.

(a) LIFE INSURANCE.—Section 402(a)(7)(B)(ii) of the Act is amended by striking out the semicolon at the end and inserting in lieu thereof", and the cash value of life insurance policies;".

(b) REAL PROPERTY WHICH MUST BE DISPOSED OF.—Section 402(a)(7)(B)(iii) of the Act is amended to read as follows: "real property which the family is making a good faith effort to dispose of at a reasonable price;".

(c) EXCLUSION OF PAYMENTS OF THE EITC.—Section 402(a)(7)(B) of the Act is amended—

(1) by striking out "or" after clause (iii), and

(2) by amending clause (iv) (pertaining to payments by reason of the Earned Income Tax Credit) by striking out "the following month" and inserting in lieu thereof "the following eleven-month period", and by striking out the semicolon at the end and inserting in lieu thereof "and any lump-sum payment of State earned income tax credits and any payments described in this clause shall be deemed to be expended prior to other resources that are not excluded;".

(d) LUMP-SUM PAYMENTS FOR MEDICAL EXPENSES OR REPLACEMENT OF LOST RESOURCES.—Section 402(a)(7)(B) of the Act is amended—

(1) by striking out "and" after clause (iv), and

(2) by adding after clause (iv) the following new clause: "(v) for the month of receipt and the following eleven-month period, amounts that have been paid as reimbursement (or payment in advance) for medical expenses or for the cost of repairing or replacing resources of the family;".

(e) INDIVIDUAL DEVELOPMENT ACCOUNTS.—Section 402(a)(7)(B) of the Act is amended by adding after clause (v) the following new clause: "(vi) amounts, not to exceed $10,000 (including interest) in total, in one or more Individual Development Accounts established in accordance with (I) section 529 of the Internal Revenue Code of 1986 by any member of a family receiving aid to families with dependent children, or (II) under a demonstration project conducted under the Individual Development Account Demonstration Act of 1994, but only such amounts (including interest) that were credited to such account in a month for which such aid was paid, or food stamps provided, with respect to such individual or in any month after such a month;".

(f) RESOURCES FOR SELF-EMPLOYMENT.—Section 402(a)(7)(B) of the Act is amended by adding after clause (vi) the following new clause: "(vii) liquid and nonliquid resources that are or will be used for the self-employment of a family member, to the extent and under the circumstances allowed by the State agency in accordance with regulations issued by the Secretary after consultation with the Secretary of Agriculture;''.

SEC. 710. TRANSFER OF RESOURCES.—

Section 402(a)(7) of the Act is amended—

(1) by adding "and" after subparagraph (C), and

(2) by adding after and below subparagraph (C) the following new subparagraph:

"(D) shall determine ineligible for aid any family member who knowingly transfers resources for the purpose of qualifying or attempting to qualify for such aid for such period, not in excess of one year from the date of discovery of the transfer, determined in accordance with regulations of the Secretary;''.

SEC. 711. LIMITATION ON UNDERPAYMENTS.

Section 402(a)(22)(C) of the Act is amended by striking out "an underpayment" and inserting in lieu thereof "an underpayment, the corrective payment shall be made regardless of whether the family is, at the time payment is made, receiving current payment of aid under the State plan but such payment shall not exceed the amount necessary to correct for the underpayment of aid during the twelve-month period immediately preceding the month in which the State agency first learned of the underpayment, and".

SEC. 712. COLLECTION OF AFDC OVERPAYMENTS FROM FEDERAL TAX REFUNDS.

(a) AUTHORITY TO INTERCEPT TAX REFUND.—(1) Part A of title IV of the Act is amended by adding at the end thereof the following new section:

"COLLECTION OF OVERPAYMENTS FROM FEDERAL TAX REFUNDS

"Sec. 418.(a). Upon receiving notice from a State agency administering a plan approved under this part that a named individual has been overpaid under the State plan approved under this part, the Secretary of the Treasury shall determine whether any amounts as refunds of Federal taxes paid are payable to such individual, regardless of whether such individual filed a tax return as a married or unmarried individual. If the Secretary of the Treasury finds that any such amount is payable, he shall withhold from such refunds an amount equal to the overpayment sought to be collected by the State and pay such amount to the State agency.

"(b) The Secretary of the Treasury shall issue regulations, approved by the Secretary of Health and Human Services, that provide—

"(1) that a State may only submit under subsection (a) requests for collection of overpayments with respect to individuals (A) who are no longer receiving aid under the State plan approved under this part, (B) with respect to whom the State has already taken appropriate action under State law against the income or resources of the individuals or families involved as required under section 402(a)(22)(B), and (C) to whom the State agency has given notice of its intent to request withholding by the Secretary of the Treasury from their income tax refunds;

"(2) that the Secretary of the Treasury will give a timely and appropriate notice to any other person filing a joint return with the individual whose refund is subject to withholding under subsection (a); and

"(3) the procedures that the State and the Secretary of the Treasury will follow in carrying out this section which, to the maximum extent feasible and consistent with the specific provisions of this section, will be the same as those issued pursuant to section 464(b) applicable to collection of past-due child support.

(2) Section 6402 of the Internal Revenue Code of 1986 (as previously amended by section 662 of this Act) is further amended—

(A) in subsection (a), by striking "(c) and (d)" and inserting "(c), (d), and (e)";

(B) by redesignating subsections (e) through (i) as subsections (f) through (j), respectively; and

(C) by inserting after subsection (d) the following new subsection:

"(g) Collection of overpayments under title IV-A of Social Security Act. The amount of any overpayment to be refunded to the person making the overpayment shall be reduced (after reductions pursuant to subsections (c) and (d), but before a credit against future liability for an internal revenue tax) in accordance with section 418 of the Social Security Act (concerning recovery of overpayments to individuals under State plans approved under part A of title IV of such Act).".

(b) CONFORMING AMENDMENT.—Section 552a(a)(8)(B)(iv)(III) of title 5 of the United States Code is amended by striking out "section 464 or 1137 of the Social Security Act" and inserting in lieu thereof "section 419, 464, or 1137 of the Social Security Act."

SEC. 713. VERIFICATION OF STATUS OF CITIZENS AND ALIENS.

(A) IN GENERAL.—Section 1137(d) of the Act is amended by adding at the end thereof the following:

"(6) A State shall be deemed to meet the requirements of paragraph (1) with respect to the eligibility of each member of a family applying for aid under the State plan approved under part A of title IV, if the State requires, as a condition for such eligibility, a declaration in writing by an adult member of the family, under penalty or perjury, that each family member is a citizen of the United States or an alien eligible for aid under such State plan (and, with respect to a child born into a family receiving such aid, such declaration must be made no later than the time of the next redetermination of such family's eligibility following the birth of such child).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective upon enactment.

SEC. 714. REPEAL OF REQUIREMENT TO MAKE CERTAIN SUPPLEMENTAL PAYMENTS IN STATES PAYING LESS THAN THEIR NEEDS STANDARDS.

Section 402(a)(28) of the Act is repealed.

SEC. 715. CALCULATION OF 185 PERCENT OF NEED STANDARD.

Section 402(2)(18) of the Act is amended by striking out "without application of paragraph (8)(A)(viii)," and inserting in lieu thereof "applying only the disregard provisions of paragraph (8)(A) that appear in clauses (v)(income from a program under the Job Training Partnership Act and similar programs), (viii)(payments related to the Earned Income Tax Credit), (ix)(certain lump-sum payments), (x) (educational assistance), (xi) (in-kind income), and (xii)(certain payments under the National and Community Service Act of 1990),".

SEC. 716. TERRITORIES.

(a) Section 1108(a) of the Act is amended by amending paragraphs (1) (2), and (3) to read as follows:

"(1) for payment to Puerto Rico shall not exceed—

"(A) $82,000,000 with respect to fiscal years 1994, 1995, and 1996, and

"(B) $102,500,000 or, if greater, such amount adjusted by the CPI (as prescribed in subsection (f)) for fiscal year 1997 and each fiscal year thereafter;

"(2) for payment to the Virgin Islands shall not exceed—

"(A) $2,800,000 with respect to fiscal years 1994, 1995, and 1996, and

"(B) $3,500,000 or, if greater, such amount adjusted by the CPI (as prescribed in subsection (f)) for fiscal year 1997 and each fiscal year thereafter; and

"(3) for payment to Guam shall not exceed—

"(A) $3,800,000 with respect to fiscal year 1994, 1995, and 1996, and

"(B) $4,750,000 or, if greater, such amount adjusted by the CPI (as prescribed in subsection f)), for fiscal year 1997 and each fiscal year thereafter.".

(b) CPI ADJUSTMENT.—Section 1108 of the Act is amended by adding at the end thereof the following new subsection:

"(f) For purposes of subsection (a), an amount is 'adjusted by the CPI' for months in calendar year by multiplying that amount by the ratio of the Consumer Price Index as prepared by the Department of Labor for—

"(1) the third quarter of the preceding calendar year, to

"(2) the third quarter of calendar year 1996, and rounding the product, if not a multiple of $10,000, to the nearer multiple of $10,000.".

PART B—FOOD STAMP ACT AMENDMENTS

SEC. 721. INCONSEQUENTIAL INCOME.

Section 5(d)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(2)) is amended to read as follows—

"(2) any inconsequential payments, as defined by the Secretary, received during the certification period, but not to exceed a total of such payments of $30 per household member in any quarter, whether the household's income is calculated on a prospective or retrospective basis,".

SEC. 722. EDUCATIONAL ASSISTANCE.

Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended by—

(1) striking clause (3) of subsection (d) and inserting in lieu thereof the following—

"(3) all educational assistance provided to a household member,";

(2) in the proviso of clause (5) of subsection (d), striking "and no portion of any educational loan" and all that follows through "provided for living expenses,"; and

(3) striking clause (3) of subsection (k).

SEC. 723. EARNINGS OF STUDENTS.

Effective on and after September 1, 1994, section 5(d)(7) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(7)) is amended by—

(1) striking "a child who is a member of the household, who is"; and

(2) striking ", and who is 21" and inserting in lieu thereof "who is 18".

SEC. 724. TRAINING STIPENDS AND ALLOWANCES; INCOME FROM ON-THE-JOB TRAINING PROGRAMS.

Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended by—

(1) striking "and (16)" in subsection (d) and inserting in lieu thereof "(16)";

(2) inserting before the period at the end of subsection (d) ", and (17) any amount received by any member of a household as a stipend or allowance under the Job training Partnership Act (29 U.S.C. 1501 et seq.) or under any other training or similar program"; and

(3) striking in subsection (l) the language beginning with "under section 204(b)(1)(C)" and all that follows through "19 years of age." and inserting in lieu thereof "shall be

considered earned income for purposes of the food stamp program.".

SEC. 725. EARNED INCOME TAX CREDITS.

Effective on and after September 1, 1994, the second sentence of section (5)(g)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)(3)) is amended by—

(1) inserting "Federal or State lump-sum" immediately preceding "earned income tax credits"; and

(2) striking the language beginning with "if such member was participating" and all that follows through "the 12-month period".

SEC. 726. RESOURCES NECESSARY FOR SELF EMPLOYMENT.

Section 5(g)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)(3)) is amended by adding the following new third and fourth sentences—

"The Secretary shall also exclude from financial resources loans obtained for the purposes of starting or operating a business. The Secretary may exclude from financial resources liquid or nonliquid resources that are or will be used for the self employment of any member of a household to the extent and under the circumstances allowed in regulations issued by the Secretary after consultation with and the Secretary of Health and Human Services.".

SEC. 727. LUMP-SUM PAYMENTS FOR MEDICAL EXPENSES OR REPLACEMENT OF LOST RESOURCES.

Section 5(g)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(3)) as amended by this Act is further amended by adding the following new fifth sentence—

"The Secretary shall also exclude from financial resources, for a period of one year from their receipt, amounts that have been paid as reimbursements (or payment in advance) for medical expenses or for the cost of repairing or replacing resources of the family.".

SEC. 728. INDIVIDUAL DEVELOPMENT ACCOUNTS.

Section 5(g)(3) of the Food Stamp act of 1977 (7 U.S.C. 2014(f)(3)) as amended by this Act is further amended by adding the following new sixth and seventh sentences—

"The Secretary shall also exclude from financial resources amounts, not to exceed $10,000 (including interest) in total, in one or more Individual Development Accounts established in accordance with (A) section 529 of the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.) by any member of a household applying for or receiving assistance under this Act or (B) a demonstration project conducted under the Individual Development Account Demonstration Act of 1994, but only such amounts (including interest) that were credited to such account in a month for which assistance was provided under this act or aid to families with dependent children was provided pursuant to part A of the title IV of the Social Security Act, with respect to such individual, or in any month after such a month. The Secretary shall also exclude from financial resources, for the month of its receipt and the following month, a nonrecurring lump-sum payment received by any household member if the household member represents that the payment will be deposited in an Individual Development Account established as described in the preceding sentence.".

SEC. 729. CONFORMING AMENDMENT.

Section 5(d)(8) of the Food Stamp Act of 1977 (7 U.S.C 2014(d)(8)) is amended in the proviso by inserting "paragraph (3) of subsection (g) of this section or" immediately preceding "other laws".

PART C—ECONOMIC INDEPENDENCE

SEC. 731. SHORT TITLE.

This title may be cited as the "Individual Development Account Demonstration Act of 1994".

SEC. 732. DECLARATION OF POLICY AND STATEMENT OF PURPOSE.

(a) DECLARATION OF POLICY.—It is the policy of the United States—

(1) to eliminate barriers that prevent recipients of Aid to Families with Dependent Children (AFDC) from becoming self-sufficient through self-employment and asset accumulation;

(2) to identify and implement cost-effective strategies to encourage saving and entrepreneurship among the broadest possible range of low-income families, particularly families eligible for AFDC, and that have the potential to reduce Federal spending on transfers and services to the disadvantaged;

(3) to enhance private-sector opportunities for low-income families by enabling them to use their own human and financial resources through expansion of business investment, job creation, home ownership, and human capital investment; and

(4) to expand the capacity of local organizations to provide asset-related services that help people to help themselves such as savings mechanisms, loan funds, technical assistance, and entrepreneurial training.

(b) STATEMENT OF PURPOSE.—The purpose of the demonstration projects authorized under this title is to provide for a means of determining—

(1) the social, psychological, and economic effects of providing low-income individuals the opportunity to accumulate assets and develop and utilize entrepreneurial skills; and

(2) the extent to which an asset-based assistance policy may be used to enable individuals with low-income to achieve economic self-sufficiency.

SEC. 733. INDIVIDUAL DEVELOPMENT ACCOUNT DEMONSTRATION PROJECTS.

(a) IN GENERAL.—Not later than one year after the date of enactment of this Act, any State or local government, or any qualified organization may apply to the Administrator/Chairperson of the Community Development Bank and Financial Institutions Fund (hereinafter the Administrator/Chairperson) for a grant to conduct individual development account demonstration projects for eligible persons.

(b) CONTENTS.—Each application shall—

(1) describe the demonstration project;

(2) describe the persons who will participate in the project;

(3) demonstrate the ability of the applicant—

(A) to assist project participants in achieving economic self-sufficiency through the project; and

(B) to assist project participants in developing greater knowledge about savings, investments, and other financial matters;

(C) to oversee the use of grant funds, including the documentation and verification of start-up expenses in the case of entrepreneurial assistance; and

(D) to effectively administer the project;

(4) in the case of a qualified organization, document a commitment by the State in which the project is to be conducted to provide a specified amount of funds to the qualified organization for the project, and any similar commitment made to the qualified organization by any other non-Federal public entity or any private entity;

(5) contain a plan for maintaining data and other information concerning assistance provided to project participants sufficient to evaluate the project and a certification that the applicant will fully cooperate and provide access to all information concerning the project in connection with any evaluation of the project conducted pursuant to subsection (1); and

(6) contain such other information as the Administrator/Chair may prescribe.

(c) CRITERIA.—In considering whether to approve an application, the Administrator/Chairperson shall assess the following:

(1) The degree to which the project described in the application is likely to aid project participants in achieving economic self-sufficiency through activities requiring qualified expenses. In making such assessment, the Administrator/Chairperson shall consider the overall quality of project activities and shall not consider any particular kind or combination of such qualified expenses to be an essential feature of any project.

(2) The ability of the applicant to responsibly administer the project.

(3) The amount of funds from non-Federal sources that are committed to the project.

(4) The adequacy of the plan for maintaining information necessary to evaluate the project.

(d) APPROVAL.—

(1) The Administrator/Chairperson shall, on a competitive basis, approve such applications to conduct demonstration projects under this section as the Administrator/Chairperson deems appropriate on the basis of the criteria described in subsection (c).

(2) No court shall have jurisdiction to review the approval or nonapproval of any application by the Administrator/Chairperson.

(e) DEMONSTRATION AUTHORITY; ANNUAL GRANTS.—

(1) DEMONSTRATION AUTHORITY.—The approval by the Administrator of an application shall authorize the applicant (hereinafter the grantee) to conduct the project for five project years in accordance with the approved application and the requirements of this section.

(2) ANNUAL GRANTS.—The Administrator/Chairperson shall make a grant to each grantee on the first day of each project year.

(f) RESERVE FUND.—

(1) ESTABLISHMENT.—Each grantee shall establish a reserve fund that shall be used in accordance with this subsection.

(2) DEPOSITS.—

(A) as soon after receipt as is practicable, a grantee shall deposit into the reserve fund—

(i) all annual grants made by the Administrator/Chairperson;

(ii) all funds provided to the grantee by any non-Federal public or private entity to conduct the demonstration project;

(iii) all proceeds from any investments made pursuant to paragraph (4); and

(iv) all amounts title to which vests in the grantee pursuant to subsection (h)(5).

(3) EXPENDITURES.—A grantee shall use amounts in the reserve fund only—

(A) to assist project participants in obtaining the skills and information necessary to achieve economic self-sufficiency through activities requiring the payment of qualified expenses;

(B) to provide financial assistance in accordance with subsection (h) to project participants;

(C) to administer the project; and

(D) to maintain and provide information necessary for the evaluation of the project pursuant to subsection (1).

(4) ACCOUNTING STANDARDS.—The Administrator/Chairperson shall prescribe regulations governing the accounting of amounts

deposited in and withdrawn from reserve funds.

(5) TERMINATION OF PROJECT.—Notwithstanding paragraph (3), upon the termination of any demonstration project approved under this section, remaining amounts in the reserve fund established with respect to such project and remaining investments made from amounts in the reserve fund shall be distributed to the Administrator/Chairperson and each non-Federal public or private entity that contributed to the project in proportion to their contributions.

(g) SELECTION OF ELIGIBLE PERSONS TO RECEIVE ASSISTANCE.—A grantee shall provide individual development account assistance to eligible persons whom the grantee deems to be best situated to benefit from such assistance, taking into account the amount of grants made by the Administrator/Chairperson and other funds available to the grantee for such assistance.

(h) FINANCIAL ASSISTANCE FOR INDIVIDUAL DEVELOPMENT ACCOUNTS.—

(1) IN GENERAL.—A grantee shall provide initial financial assistance to a project participant who establishes an individual development account, not to exceed $500 per participant. Such financial assistance shall be deposited in the individual development account established by a project participant.

(2) MATCHING CONTRIBUTIONS.—The Administrator/Chairperson or a grantee may make matching contributions of not less than 50 cents and not more than $4 for every $1 deposited into an individual development account by a project participant, not to exceed $2,500 for any project participant.

(3) LIMITATION ON USE.—

(A) Financial assistance provided pursuant to paragraph (1) shall not be available for use by a project participant until—

(i) the individual development account is closed; and

(ii) a project participant has deposited into the individual development account an amount equal to the initial financial assistance provided pursuant to paragraph (1).

(B) Financial assistance provided pursuant to paragraph (1) or (2) shall be used by a project participant only for the payment of qualified expenses.

(4) APPLICABILITY OF OTHER LAW.—The provisions of section 529 of the Internal Revenue Code of 1986 (26 U.S.C. 529) and such rules, regulations and procedures as may be prescribed by the Secretary of the Treasury under such Code shall apply to an individual development account for which financial assistance is provided pursuant to this subsection.

(5) EFFECT OF PROHIBITED TRANSACTIONS.—In the event that an individual development account ceases to be an individual development account under the provisions of section 529(e)(2) of the Internal Revenue Code of 1986 (26 U.S.C. 529(e)(2)), or any portion of an individual development account is treated as distributed under the provisions of section 529(e)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 529(e)(3)), title to all amounts in such an account, or such portion of an account, attributable to financial assistance provided pursuant to paragraph (1) or (2) shall vest in the grantee providing financial assistance pursuant to paragraph (1) and such amounts shall be paid to such grantee.

(i) LOCAL CONTROL OVER DEMONSTRATION.—

(1) Each grantee shall, subject to the provisions of subsection (k), have sole responsibility for the administration of demonstration projects approved by the Administrator/Chairperson.

(2) The Administrator/Chairperson may prescribe such regulations as may be necessary to ensure that grantees comply with the terms of approved applications and the requirements of this section.

(j) ANNUAL REPORTS.—

(1) IN GENERAL.—Each grantee shall annually report to the Administrator/Chairperson concerning the progress of each approved demonstration project administered by such grantee. The report shall, at a minimum—

(A) describe project participants;

(B) contain an audited financial statement for the reserve fund established with respect to the project;

(C) provide information on amounts deposited in individual development accounts of project participants to whom such assistance is provided under the project; and

(D) such other information as the Administrator/Chairperson may require with respect to the evaluation of the project pursuant to subsection (1).

(2) SUBMISSION.—Reports required by paragraph (1) shall be submitted annually not later than the anniversary of the date the Administrator/Chairperson approved the application for the demonstration project.

(3) COORDINATION WITH STATE GOVERNMENT.—A grantee shall transmit a copy of each report required by paragraph (1) to the Treasurer (or equivalent official) of the State in which the project is conducted at the time prescribed by paragraph (2).

(k) SANCTIONS.—

(1) REVOCATION OF DEMONSTRATION AUTHORITY.—If the Administrator/Chairperson determines a grantee not conducting a demonstration project in accordance with the approved application and the requirements of this section, and has failed to undertake corrective action satisfactory to the Administrator/Chairperson, the Administrator/Chairperson may revoke the approval for a demonstration project shall not be subject to review by any court.

(2) ACTIONS REQUIRED UPON REVOCATION.—

(A) If the Administrator/Chairperson revokes approval to conduct a demonstration project pursuant to paragraph (1), the Administrator/Chairperson—

(i) shall suspend the project;

(ii) shall take control of the reserve fund established pursuant to subsection (f) with respect to such project; and

(iii) shall solicit applications from entities described in subsection (a) to conduct the suspended project in accordance with the approved application (or under such terms and conditions as the Administrator may prescribe) and the requirements of this section.

(B) If the Administrator/Chairperson approves an application to conduct the suspended project, the Administrator/Chairperson shall transfer to the new grantee control of the reserve fund established pursuant to subsection (f) for the project, and such grantee shall be considered to be the original grantee for purposes of this section. The date the Administrator/Chairperson approved the application of the new grantee to conduct the suspended project shall apply for purposes of the annual reports required by subsection (j).

(C) If the Administrator/Chairperson has not approved an application to conduct a project by the date that is one year after approval to conduct the project was revoked, the Administrator/Chairperson shall—

(i) terminate the project; and

(ii) distribute remaining amounts in the reserve fund for such project and investments made from amounts in the reserve fund in accordance with the provisions of subsection (f)(6).

(l) PROJECT EVALUATIONS.—

(1) IN GENERAL.—Not later than six months after the date of enactment of this Act, the Administrator/Chairperson, in consultation with the Secretary of the Treasury and the Secretary of the Department of Health and Human Services, shall enter into a contract with an independent organization (hereinafter "evaluator") for the evaluation of individual demonstration projects conducted pursuant to this section and the effectiveness of assistance provided to eligible persons pursuant to this section.

(2) EVALUATIONS.—In entering into the contract provided for in paragraph (1), the Administrator/Chairperson should consider providing for evaluation of—

(A) the types of information and public education efforts that attract project participants;

(B) the accessibility of the demonstration project by participants and the ease of participation;

(C) the level of financial assistance required to stimulate participation in the demonstration project, and whether such level varies among different demographic populations;

(D) whether project features utilized in conjunction with individual development accounts (such as peer support, structured planning exercises, mentoring, and case management) contribute to participation in the project;

(E) the level of self-sufficiency achieved by project participants as measured by employment or self-employment rates, earned and investment income, exit rates, poverty rates, and recidivism rates, particularly for program participants eligible for food stamp benefits and AFDC;

(F) the reduction in the level of public expenditure on project participants as measured by changes in overall support payments including AFDC, food stamp benefits, Federal child care assistance, Federal housing assistance, JOBS, and other benefits, taking into account costs incurred by the Federal Government in support of demonstration projects;

(G) the level of asset accumulation by project participants as measured by savings rates, net worth, business start-ups, human capital investments, new homes, number of loans to low-income and AFDC eligible families, and whether asset accumulation continued after a subsidy or other assistance;

(H) the economic, psychological, and social effects of asset accumulation; and

(I) the circumstances concerning and the extent to which asset accumulation by project participants contributes to—

(i) a greater sense of security and control and positive outlook;

(ii) greater household stability;

(iii) increased long-term planning;

(iv) increased efforts to maintain and develop assets;

(v) greater knowledge about savings, investments, and other financial matters;

(vi) increased effort and success in educational achievement within the household;

(vii) increased specialization in career development;

(viii) improved social status;

(ix) increased political participation;

(x) increased community involvement;

(xi) increased earned income;

(xii) decreased reliance on traditional forms of public assistance, with particular emphasis on food stamp benefits and AFDC; and

(xiii) increased tendency to save during and after the period of project participation.

(3) METHODOLOGICAL REQUIREMENT.—In evaluating any demonstration project conducted under this section, the evaluator

should obtain such quantitative data before, during, and after the project, as is necessary to evaluate the project and include randomly assigned control groups.

(m) DEFINITIONS.—As used in this section:

(1) HOUSEHOLD.—The term "household" means all individuals who share use of a dwelling unit as primary quarters for living and eating separately from other individuals in the living quarters.

(2) NET WORTH.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "net worth" means, with respect to a household, the aggregate fair market value of all assets that are owned in whole or in part by any member of the household, less the obligations or debts of any member of the household.

(B) ASSETS EXCLUDED.—Net worth shall be determined without taking into account the fair market value and the obligations or debts of—

(i) the primary dwelling unit of the household;

(ii) the motor vehicle having the greatest equity value; and

(iii) items essential for daily living, such as clothes, furniture, and similar items of limited value.

(3) INDIVIDUAL DEVELOPMENT ACCOUNT.—The term "individual development account" shall have the same meaning given such term in section 529 of the Internal Revenue Code of 1986 (26 U.S.C. 529).

(4) PROJECT YEAR.—The term "project year" means with respect to a demonstration project, any of the six consecutive 12-month periods beginning on the date the project is approved by the Administrator.

(5) QUALIFIED ORGANIZATION.—The term "qualified organization" means a community development financial institution as defined in section   of the Community Development Banking and Financial Institutions Act of 1994.

(6) ELIGIBLE PERSON DEFINED.—The term "eligible person" means any person who is a member of a household that meets all of the following requirements:

(A) EITC TEST.—The household has at least one individual who is an eligible individual within the meaning of section 32(c)(1) of the Internal Revenue Code of 1986 for purposes of the earned income tax credit.

(B) INCOME TEST.—The household did not have adjusted gross income (as determined pursuant to the Internal Revenue Code of 1986) in the immediately preceding calendar year in excess of $18,000.

(C) NET WORTH TEST.—The net worth of the household, as of the close of the immediately preceding calendar year, did not exceed $20,000.

(7) QUALIFIED EXPENSES.—The term "qualified expenses" shall have the same meaning as provided in section 529(c)(1) of the Internal Revenue Code of 1986 (26 U.S.C. 529(C)(1)).

(n) AUTHORIZATION OF APPROPRIATIONS.—To carry out the purposes of this section there are authorized to be appropriated to the Administrator/Chairperson—

(1) $10,000,000 for fiscal year 1997,

(2) $20,000,000 for each of fiscal years 1998, 1999, 2000, and 2001, and

(3) $10,000,000 for fiscal year 2002.

SEC. 734. INDIVIDUAL DEVELOPMENT ACCOUNTS.

(a) IN GENERAL.—Subchapter F of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by adding at the end of the following new part:

"PART VIII—INDIVIDUAL DEVELOPMENT ACCOUNTS

"SEC. 529. INDIVIDUAL DEVELOPMENT ACCOUNTS.

"(a) ESTABLISHMENT OF ACCOUNTS.—

"(1) IN GENERAL.—An individual development account may be established by or on behalf of an eligible individual for the purpose of accumulating funds to pay the qualified expenses of such individual.

"(2) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means an individual—

"(A) for whom assistance is provided under section 733(h) of the Individual Development Account Demonstration Act;

"(B) receiving assistance under 42 U.S.C. 601 et seq.; or

"(C) receiving assistance under 7 U.S.C. 2011 et seq.

"(b) LIMITATIONS.—

"(1) ACCOUNT TO BENEFIT ONE INDIVIDUAL.—An individual development account may not be established for the benefit of more than one individual.

"(2) MULTIPLE ACCOUNTS.—If, at any time during a calendar year, two or more individual development accounts are maintained for the benefit of an eligible individual, such individual shall be treated as an eligible individual for such year only with respect to the account first established.

"(3) WHO MAY CONTRIBUTE.—Contributions to an individual development account, other than contributions made pursuant to section 733(h) of the Individual Development Account Demonstration Act, may be made only by an eligible individual and in the case of an eligible individual described in subsection (e)(2)(A), by another eligible individual who is a member of the same household as the eligible individual.

"(4) ANNUAL LIMIT.—Contributions to an individual development account by or on behalf of an eligible individual for any taxable year shall not exceed the lesser of $1,000 or 100% of the earned income, within the meaning of section 32(c)(2), of the eligible individual making such contribution. No contribution to the account under section 733(h) of the Individual Development Account Demonstration Act shall be taken into account for the purposes of this limitation. No contribution may be made to an individual development account by or on behalf of any individual after such individual has ceased to be an eligible individual.

"(5) LIMIT ON TOTAL CONTRIBUTIONS.—Total contributions to an individual development account for all years may not exceed $10,000.

"(c) DEFINITIONS AND SPECIAL RULES.—For the purposes of this section—

"(1) QUALIFIED EXPENSES.—In the case of an eligible individual described in subsection (a)(2)(A), the term 'qualified expenses' means one or more of the expenses described in subparagraphs (A), (B), (C), and (D), as provided by the entity providing assistance to the eligible individual under section 733(h) of the Individual Development Account Demonstration Act. In the case of any other eligible individual, the term 'qualified expenses' means one or more of the expenses described in subparagraphs (A), (B), (C), and (D).

"(A) POST-SECONDARY EDUCATION EXPENSES.—Post-secondary educational expenses paid from an individual development account directly to an eligible educational institution. For the purposes of this subparagraph—

"(i) the term 'post-secondary educational expenses' means—

"(I) tuition and fees required for the enrollment or attendance of a student at an eligible educational institution;

"(II) fees, books, supplied, equipment required for courses of instruction at an eligible educational institution; and

"(III) a reasonable allowance for meals, lodging, transportation, and child care, while attending an eligible educational institution; and

"(ii) the term 'eligible educational institution' means—

"(I) an institution described in section 481(a)(1) or 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1) or 1141(a)), as such sections are in effect on the date of the enactment of this section; and

"(II) an area vocational education school (as defined in subparagraph (C) or (D) of section 521(4) of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990 (20 U.S.C. 2471 (4))) in any State (as defined in section 521(33) of such Act), as such section is in effect on the date of the enactment of this section.

"(B) FIRST-HOME PURCHASE.—Qualified acquisition costs with respect to a qualified principal residence for a qualified first-time homebuyer, if paid from an individual development account directly to the persons to whom the amounts are due. For purposes of this subparagraph—

"(i) the term 'qualified acquisition costs' means the costs of acquiring, construction, or reconstructing a residence, and includes any usual or reasonable settlement, financing, or other closing costs;

"(ii) the term 'qualified principal residence' means a principal residence (within the meaning of section 1034), the qualified acquisition costs of which do not exceed 80 percent of the average area purchase price applicable to such residence (determined in accordance with paragraphs (2) and (3) of section 143(e));

"(iii) the term 'qualified first-time homebuyer' means a taxpayer (and, if married, the taxpayer's spouse) who has no present ownership interest in a principal residence during the three-year period ending on the date on which a binding contract was entered into to acquire, construct, or reconstruct the principal residence to which this subparagraph applies.

"(C) BUSINESS CAPITALIZATION.—Amounts paid from an individual development account directly into a business capitalization account which is established in a federally insured financial institution and is restricted to use solely for qualified business capitalization expenses. For purposes of this subparagraph—

"(i) the term 'qualified business capitalization expenses' means qualified expenditures for the capitalization of a qualified business pursuant to a qualified plan;

"(ii) the term 'qualified expenditures' means expenditures included in a qualified plan, including capital, plant, equipment, working capital, and inventory expenses;

"(iii) the term 'qualified business' means any business that does not contravene any law or public policy (as determined by the Administrator of the Community Development Bank and Financial Institutions Fund);

"(iv) the term 'qualified plan' means a business plan—

"(I) that is approved by a financial institution, or any other institution designated as a community development financial institution, having demonstrated fiduciary integrity;

"(II) that includes a description of services or goods to be sold, a marketing plan, and projected financial statements; and

"(III) that may require the eligible individual to obtain assistance of an experienced entrepreneurial advisor.

"(D) TRANSFERS TO IDA'S OF FAMILY MEMBERS.—Amounts in an individual development account may be paid or transferred directly into another such account established for the benefit of an eligible individual who is—

"(i) the taxpayer's spouse; or

"(ii) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151.

"(2) INDIVIDUAL DEVELOPMENT ACCOUNT.—The term 'individual development account' means a trust created or organized in the United States exclusively for the purpose of paying the qualified expenses of an individual who was an eligible individual at the time when contributions were made to such trust, but only if the written instrument creating the trust meets the following requirements:

"(A) No contribution will be accepted unless it is in cash or check.

"(B) The trustee is a financial institution insured by an instrumentality of the Federal Government.

"(C) The assets of the account will be invested only in federally insured deposits and/or stock of a regulated investment company within the meaning of section 851(a), in accordance with the direction of the eligible individual.

"(D) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(E) Except as provided in subparagraph (F), any amount in the account which is attributable to assistance provided under section 733(h) of the Individual Development Account Demonstration Act may be paid or distributed out of the account only for the purpose of paying the qualified expenses of the eligible individual.

"(F)(i) Any balance in the account on the day after the date on which the individual for whose benefit the trust is established dies will be transferred within 60 days of such date as directed by such individual to another individual development account established for the benefit of an individual who is a family member described in subsection (c)(1)(D) and who is an eligible individual, or who was an eligible individual on the day immediately preceding the date on which the individual for whose benefit the trust is established dies.

"(ii) In any case where clause (i) does not apply, the portion of the account attributable to contributions other than those provided under section 733(h) of the Individual Development Account Demonstration Act shall be paid out within five years of the date of death to the beneficiaries of the individual for whose benefit the account was established, and the balance shall vest in the grantee providing assistance under section 733(h) of the Individual Development Account Demonstration Act and shall be paid to such grantee within 60 days of the day after the date of death.

"(3) TIME WHEN CONTRIBUTIONS DEEMED MADE.—A taxpayer shall be deemed to have made a contribution to an individual development account on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

"(d) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, any amount paid or distributed out of an individual development account shall be included in gross income of the payee or distributee for the taxable year in the manner provided in section 72.

"(2) TREATMENT OF ASSISTANCE CONTRIBUTIONS.—

"(A) DISTRIBUTIONS USED TO PAY QUALIFIED EXPENSES.—If a distribution or payment from an individual development account is used exclusively to pay the qualified expenses incurred by the individual for whose benefit the account is established, then, for purposes of section 72, assistance contributions made to such individual development account under section 733(h) of the Individual Development Account Demonstration Act shall be treated in the same manner as contributions made by the individual.

"(B) DISTRIBUTIONS NOT USED TO PAY QUALIFIED EXPENSES.—If a distribution or payment from an individual development account is not used exclusively to pay the qualified expenses incurred by the individual for whose benefit the account is established, then, for purposes of section 72, assistance contributions made to such individual development account under section 733(h) of the Individual Development Account Demonstration Act shall be treated in the same manner as earnings on the account.

"(e) TAX TREATMENT OF ACCOUNTS.—

"(1) EXEMPTION FROM TAX.—An individual development account is exempt from taxation under this subtitle unless such account has ceased to be an individual development account by reason of paragraph (2). Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(2) LOSS OF EXEMPTION OF ACCOUNT WHERE INDIVIDUAL ENGAGES IN PROHIBITED TRANSACTION.—

"(A) IN GENERAL.—If the individual for whose benefit an individual development account is established or any individual who contributes to such account engages in any transaction prohibited by section 4975 with respect to the account, the account shall cease to be an individual development account as of the first day of the taxable year (of the individual so engaging in such transaction) during which such transaction occurs.

"(B) ACCOUNT TREATED AS DISTRIBUTING ALL ITS ASSETS.—In any case in which any account ceases to be an individual development account by reason of subparagraph (A) as of the first day of any taxable year—

"(i) all assets in the account on such first day that are attributable to assistance provided under section 733(h)(1) and (2) of the Individual Development Account Demonstration Act shall be paid as provided in section 733(h)(5) of such Act; and

"(ii) the provisions of subsection (d)(1) shall apply as if there was a distribution on such first day in an amount equal to the fair market value of all other assets in the account on such first day.

"(3) EFFECT OF PLEDGING ACCOUNT AS SECURITY.—If, during any taxable year, the individual for whose benefit an individual development account is established, or any individual who contributes to such account, uses the account or any portion thereof as security for a loan—

"(A) an amount equal to the part of the portion so used which is attributable to assistance provided under section 733(h)(1) and (2) of the Individual Account Demonstration Act shall be paid as provided in section 733(h)(5) of such Act; and

"(B) the remaining part of the portion so used shall be treated as distributed under the provisions of subsection (d)(1) to the individual so using such portion.

"(f) ADDITIONAL TAX ON CERTAIN AMOUNTS INCLUDED IN GROSS INCOME.—

"(1) DISTRIBUTION NOT USED FOR QUALIFIED EXPENSES.—In the case of any payment or distribution that is not used exclusively to pay qualified expenses incurred by the eligible individual for whose benefit the account is established, the tax liability of each payee or distributee under this chapter for the taxable year in which the payment or distribution is received shall be increased by an amount equal to 10 percent of the amount of the distribution that is included in the gross income of such payee or distributee for such taxable year.

"(2) DISQUALIFICATION CASES.—If any amount includible in the gross income of an individual for a taxable year because such amount is required to be treated as a distribution under paragraph (2) or (3) of subsection (e), the tax liability of such individual under this chapter for such taxable year shall be increased by an amount equal to 10 percent of such amount required to be treated as a distribution and included in the gross income of such individual.

"(3) DISABILITY OR DEATH CASES.—Paragraphs (1) and (2) shall not apply if the payment or distribution is made after the individual for whose benefit the individual development account becomes disabled within the meaning of section 72(m)(7) or dies.

"(g) COMMUNITY PROPERTY LAWS.—This section shall be applied without regard to any community property laws.

"(h) CUSTODIAL ACCOUNTS.—For purposes of this section, a custodial account shall be treated as a trust if the assets of such account are held by a bank (as defined in section 408(n)) or another person who demonstrates, to the satisfaction of the Administrator of the Community Development Bank and Financial Institutions Fund, that the manner in which he will administer the account will be consistent with the requirements of this section, and if the custodial account would, except for the fact that it is not a trust, constitute an individual development account described in subsection (c)(2). For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

"(i) REPORTS.—

"(1) The trustee of an individual development account established by or on behalf of an eligible individual described in subsection (a)(2)(A) shall—

"(A) prepare reports regarding the account with respect to contributions, distributions, and any other matter required by the Administrator of the Community Development Bank and Financial Institutions Fund under regulations; and

"(B) submit such reports, at the time and in the manner prescribed by the Administrator of the Community Development Bank and Financial Institutions Fund in regulations; to—

"(i) the individual for whose benefit the account is maintained;

"(ii) the organization providing assistance to the individual under section 733(h) of the Individual Development Account Demonstration Act; and

"(iii) the Administrator of the Community Development Bank and Financial Institutions Fund.

"(2) The trustee of any individual development account shall make such reports regarding such account to the Secretary and to the individual for whom the account is, or is to be, maintained with respect to contributions (and the years to which they relate), distributions, and such other matters as the Secretary may require under forms or regulations. The reports required by this subsection—

"(A) shall be filed at such time and in such manner as the Secretary prescribes in such forms or regulations, and

"(B) shall be furnished to individuals—

"(i) not later than January 31 of the calendar year following the calendar year to which such reports relate, and

"(ii) in such manner as the Secretary prescribes in such forms or regulations.".

(b) CONTRIBUTION NOT SUBJECT TO THE GIFT TAX.—Section 2503 of the Internal Revenue Code of 1986 (26 U.S.C. 2503) (relating to taxable gifts) is amended by adding at the end thereof the following new subsection:

"(h) INDIVIDUAL DEVELOPMENT ACCOUNTS.—Any contribution made by an individual to an individual development account described in section 529(c)(2) shall not be treated as a transfer of property by gift for purposes of this chapter.".

(c) TAX ON PROHIBITED TRANSACTIONS.—Section 4975 of the Internal Revenue Code of 1986 (26 U.S.C. 4975) (relating to prohibited transactions) is amended—

(1) by adding at the end of subsection (c) the following new paragraph:

"(4) SPECIAL RULE FOR INDIVIDUAL DEVELOPMENT ACCOUNTS.—An individual for whose benefit an individual development account is established and any contributor to such account shall be exempt from tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be an individual development account by reason of section 529(e)(2)(A) to such account."; and

(2) in subsection (e)(1), by inserting ", an individual development account described in section 529(c)(2)" after "section 408(a)".

(d) INFORMATION REPORTING.—Section 6047 of the Internal Revenue Code of 1986 (26 U.S.C. 6693) (Relating to information returns) is amended by adding at the end of subsection (c) the following new sentence: "To the extent provided by forms or regulations prescribed by the Secretary, the provisions of this section shall apply to any transaction of any trust described in section 529.".

(e) FAILURE TO PROVIDE REPORTS ON INDIVIDUAL DEVELOPMENT ACCOUNTS.—Section 6693 of the Internal Revenue Code of 1986 (26 U.S.C. 6693) (relating to failure to provide reports on individual retirement accounts or annuities) is amended—

(1) in the heading of such section, by inserting "OR ON INDIVIDUAL DEVELOPMENT ACCOUNTS" after "ANNUITIES"; and

(2) by adding at the end of subsection (a) the following new sentence: "The person required by section 529(i) to file a report regarding an individual development account at the time and in the manner required by such section shall pay a penalty of $50 for each failure, unless it is shown that such failure is due to reasonable cause.".

(f) SPECIAL RULE FOR DETERMINING AMOUNTS OF SUPPORT FOR DEPENDENT.—Section 152(b) of the Internal Revenue Code of 1986 (26 U.S.C. 152(b)) (relating to definition of dependent) is amended by adding at the end the following new paragraph:

"(6) A distribution from an individual development account described in section 529(c)(2) used exclusively to pay qualified expenses described in section 529(c)(1) of the individual for whose benefit the account is established shall not be taken into account in determining support for such individual for purposes of this section.".

(g) CLERICAL AMENDMENTS.—

(1) The table of parts for subchapter F of chapter 1 of such Code is amended by inserting at the end the following new item:

"Part VIII. Individual Development Accounts.".

(2) The table of sections for subchapter B of chapter 68 of such Code is amended by amending the item relating to section 6693 to read as follows:

"Sec. 6693. Failure to provide reports on individual development accounts or annuities or on individual development accounts.".

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after the enactment of the Act.

PART D—ADVANCE EITC STATE DEMONSTRATIONS

SEC. 741. ADVANCE PAYMENT OF EARNED INCOME TAX CREDIT THROUGH STATE DEMONSTRATION PROGRAMS.

(A) IN GENERAL.—Section 3507 (relating to the advance payment of the earned income tax credit) of the Internal Revenue Code of 1986 is amended by adding at the end the following subsection (g);

"(g) STATE DEMONSTRATIONS.—

"(1) IN GENERAL.—In lieu of receiving earned income advance amounts from an employer under subsection (a), a participating resident shall receive advance earned income payments from a responsible State agency pursuant to a State Advance Payment Program that is designated pursuant to paragraph (2).

"(2) DESIGNATIONS.—

"(A) IN GENERAL.—From among the States submitting proposals satisfying the requirements of subsection (g)(3), the Secretary (in consultation with the Secretary of Health and Human Services) may designate not more than 4 State Advance Payment Demonstrations. States selected for the demonstrations may have, in the aggregate, no more than 5 percent of the total number of households participating in the program under the Food Stamp program in the immediately preceding fiscal year. Administrative costs of a State in conducting a demonstration under this section may be included for matching under section 403(a) of the Social Security Act and section 16(a) of the Food Stamp Act of 1977.

"(B) WHEN DESIGNATION MAY BE MADE.—Any designation under this paragraph shall be made no later than December 31, 1995.

"(C) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

"(i) IN GENERAL.—Designations made under this paragraph shall be effective for advance earned income payments made after December 31, 1995, and before January 1, 1999.

"(ii) SPECIAL RULES.—

"(I) REVOCATION OF DESIGNATIONS.—The Secretary may revoke the designation under this paragraph if the Secretary determines that the State is not complying substantially with the proposal described in paragraph (3) submitted by the State.

"(II) AUTOMATED TERMINATION OF DESIGNATIONS.—Any failure by a State to comply with the reporting requirements described in paragraphs (3)(F) and (3)(G) has the effect of immediately terminating the designation under this paragraph (2) and rendering paragraph (5)(A)(ii) inapplicable to subsequent payments.

"(3) PROPOSALS.—No State may be designated under subsection (g)(2) unless the State's proposal for such designation—

"(A) identifies the responsible State agency,

"(B) describes how and when the advance earned income payments will be made by that agency, including a description of any other State or Federal benefits with which such payments will be coordinated,

"(C) describes how the State will obtain the information on which the amount of advance earned income payments made to each participating resident will be determined in accordance with paragraph (4),

"(D) describes how State residents who will be eligible to receive advance earned income payments will be selected, notified of the opportunity to receive advance earned income payments from the responsible State agency, and given the opportunity to elect to participate in the program,

"(E) describes how the State will verify, in addition to receiving the certifications and statement described in paragraph (7)(D)(iv), the eligibility of participating residents for the earned tax credit,

"(F) commits the State to furnishing to each participating resident to the Secretary by January 31 of each year a written statement showing—

"(i) the name and taxpayer identification number of the participating resident, and

"(ii) the total amount of advance earned income payments made to the participating resident during the prior calendar year,

"(G) commits the State to furnishing to the Secretary by December 1 of each year a written statement showing the name and taxpayer identification number of each participating resident,

"(H) commits the State to treat the advanced earned income payments as described in subsection (g)(5) and any repayments of excessive advance earned income payments as described in subsection (g)(6),

"(I) commits the State to assess the development and implementation of its State Advance Payment Program, including an agreement to share its findings and lessons with other interested States in a manner to be described by the Secretary, and

"(J) is submitted to the Secretary on or before June 30, 1995.

"(4) AMOUNT AND TIMING OF ADVANCE EARNED INCOME PAYMENTS.—

"(A) AMOUNT.—

"(i) IN GENERAL.—The method for determining the amount of advance earned income payments made to each participating resident is to conform to the full extent possible with the provisions of subsection (c).

"(ii) SPECIAL RULE.—A State may, at its election, apply the rules of subsection (c)(2)(B) by substituting 'between 60 percent and 75 percent of the credit percentage in effect under section 32(b)(1) for an individual with the corresponding number of qualifying children' for '60 percent of the credit percentage in effect under section 32(b)(1) for such an eligible individual with 1 qualifying child' in clause (i) and 'the same percentage (as applied in clause (i))' for '60 percent' in clause (ii).

"(B) TIMING.—The frequency of advance earned income payments may be made on the basis of the payroll periods of participating residents, on a single Statewide schedule, or on any other reasonable basis prescribed by the State in its proposal; however, in no event may advanced earned income payments be made to any participating resident less frequently than on a calendar-quarter basis.

"(5) PAYMENTS TO BE TREATED AS PAYMENTS OF WITHHOLDING AND FICA TAXES.—

"(A) IN GENERAL.—For purposes of this title, advanced earned income payments during any calendar quarter—

"(i) shall neither be treated as a payment of compensation nor be included in gross income, and

"(ii) shall be treated as made out of—

"(I) amounts required to be deducted by the State and withheld for the calendar quarter by the State under section 3401 (relating to wage withholding), and

"(II) amounts required to be deducted for the calendar quarter under section 3102 (relating to FICA employee taxes), and

"(III) amounts of the taxes imposed on the State for the calendar quarter under section 3111 (relating to FICA employer taxes),

as if the State had paid to the Secretary, on the day on which payments are made to participating residents, an amount equal to such payments.

"(B) ADVANCE PAYMENTS EXCEED TAXES DUE.—If for any calendar quarter the aggregate amount of advance earned income payments made by the responsible State agency under a State Advance Payment Program exceeds the sum of the amounts referred to in subparagraph (A)(ii) (without regard to paragraph (6)(A)), each such advance earned income payment shall be reduced by an amount which bears the same ratio to such excess as such advance earned income payment bears to the aggregate amount of all such advance earned income payments.

"(6) STATE REPAYMENT OF EXCESSIVE ADVANCE EARNED INCOME PAYMENTS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, in the case of an excessive advance earned income payment a State shall be treated as having deducted and withheld under section 3401 (relating to wage withholding), and therefore is required to pay to the United States, the repayment amount during the repayment calendar quarter.

"(B) EXCESSIVE ADVANCE EARNED INCOME PAYMENT.—For purposes of this section, an excessive advance income payment is that portion of any advance earned income payment that, when combined with other advance earned income payments previously made to the same participating resident during the same calendar year, exceeds the amount of earned income tax credit to which that participating resident is entitled under section 32 for that year.

"(C) REPAYMENT AMOUNT.—The repayment amount is equal to 50 percent of the excess of—

"(i) excessive advance earned income payments made by a State during a particular calendar year, over

"(ii) the sum of—

"(I) 4 percent of all advance earned income payments made by the State during that calendar year, and

"(II) the excessive advance earned income payments made by the State during that calendar year that have been collected from participating residents by the Secretary.

"(D) REPAYMENT CALENDAR QUARTER.—The repayment calendar quarter is the second calendar quarter of the third calendar year after the calendar year in which an excessive earned income payment is made.

"(7) DEFINITIONS.—For purposes of this section—

"(A) STATE ADVANCE PAYMENTS PROGRAM.—The term 'State Advance Payment Program' means the program described in a proposal submitted for designation under paragraph (1) and designated by the Secretary under paragraph (2).

"(B) RESPONSIBLE STATE AGENCY.—The term 'responsible State agency' means the single State agency that will be making the advance earned income payments to residents of the State who elect to participate in a State Advance Payment Program.

"(C) ADVANCE EARNED INCOME PAYMENTS.—The term 'advance earned income payments' means an amount paid by a responsible State agency to residents of the State pursuant to a State Advance Payment Program.

"(D) PARTICIPATING RESIDENT.—The term 'participating resident' means an individual who—

"(i) is a resident of a State that has in effect a designated State Advance Payment Program,

"(ii) makes the election described in paragraph (3)(C) pursuant to guidelines prescribed by the State,

"(iii) certifies to the State the number of qualifying children the individual has, and

"(iv) provides to the State the certifications and statement set forth in subsections (b)(1), (b)(2), (b)(3), and (b)(4) (except that for purposes of this clause (iv), the term 'any employer' shall be substituted for 'another employer' in subsection (b)(3)), along with any other information required by the State.".

(b) TECHNICAL ASSISTANCE.—The Secretaries of Treasury and Health and Human Services shall jointly ensure that technical assistance is provided to State Advance Payment Programs and that these programs are rigorously evaluated.

(c) ANNUAL REPORTS.—The Secretary shall issue annual reports detailing the extent to which—

(1) residents participate in the State Advance Payment Programs,

(2) participating residents file federal and State tax returns,

(3) participating residents report accurately the amount of the advance earned income payments made to them by the responsible State agency during the year, and

(4) recipients of excessive advance earned income payments repaid those amounts.

The report shall also contain an estimate of the amount of advance earned income payments made by each responsible State agency but not reported on the tax returns of a participating resident and the amount of excessive advance earned income payments.

(d) AUTHORIZATION OF APPROPRIATIONS.—For purposes of providing technical assistance described in subsection (b), preparing the reports described in subsection (c), and providing grants to States in support of designated State Advance Payment Programs, there are authorized to be appropriated in advance to the Secretary of the Treasury and the Secretary of Health and Human Services a total of $1,400,000 for fiscal year 1996 through 1999.

TITLE VIII—SELF EMPLOYMENT/MICROENTERPRISE DEMONSTRATIONS

SEC. 801. DEMONSTRATION PROGRAM TO PROVIDE SELF-EMPLOYMENT OPPORTUNITIES TO WELFARE RECIPIENTS AND LOW-INCOME INDIVIDUALS.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") and the Administrator of the Small Business Administration (hereinafter in this section referred to as the "Administrator"), shall, subject to the availability of appropriations in advance for this purpose, jointly develop a self-employment/microenterprise demonstration program for at least five years in length that will build on the experience of microenterprise and self-employment programs previously carried out by the Federal Government and other entities. The program shall be designed—

(1) to identify regulatory and other barriers that prevent welfare recipients and low-income individuals from increasing self-sufficiency through self-employment and microenterprise development, and to identify and test effective means to eliminate such barriers;

(2) to develop and evaluate promising program models, based upon existing effective practices, which have the potential to (A) increase the number of welfare recipients and low-income individuals who become self-sufficient or increase self-sufficiency through self-employment and microenterprise development and (B) reduce Federal spending on transfer payments and services to welfare recipients and low-income individuals; and

(3) to demonstrate the potential for expanding the capacity of local organizations to provide services, technical assistance and loans which help welfare recipients and low-income individuals start or expand self-employment or microenterprises.

(b) USE OF INTERMEDIARIES.—To carry out such program, the Secretary and Administrator shall jointly enter into agreements with local intermediaries that—

(1) apply to participate in such program, and

(2) demonstrate that they are capable of implementing the provisions of the agreement.

(c) PROGRAM DESIGN.—In order to facilitate a randomized evaluation, as provided for in subsection (i)(1) below, the Secretary and Administrator shall identify those predominant and effective program models currently used by existing intermediaries to provide self-employment and related services to low-income individuals, and shall design the demonstration program in order to evaluate at least two distinct types of program models with contrasting levels of technical assistance. In designing the demonstration program, the Secretary and Administrator shall consult with appropriate parties, such as—

(1) state and local agencies and private, nonprofit organizations with experience in administering self-employment programs that serve low-income individuals; and

(2) other persons with recognized expertise in conducting randomized evaluations of self-employment programs or other related programs.

(d) ASSISTANCE TO INTERMEDIARIES.—

(1) IN GENERAL.—To carry out the program, the Secretary and Administrator may provide the following assistance to intermediaries selected to participate in the program—

(A) grants for providing technical assistance to eligible individuals, for operating costs and for costs associated with participating in the evaluation provided for in subsection (i)(1) below;

(B) loans guarantees; and

(C) loans.

(2) TECHNICAL ASSISTANCE TO INTERMEDIARIES.—The Secretary and Administrator may provide grants to intermediaries or third-party technical assistance providers for the provision of technical assistance to intermediaries selected to participate in this program.

(3) TERMINATION OF ASSISTANCE.—Assistance awarded pursuant to this section may fully fund project periods of up to five years. The Secretary and Administrator may revoke, terminate or reduce assistance to an intermediary if the intermediary fails to comply with the terms of any agreement it enters into with the Secretary and Administrator.

(e) SELECTION OF INTERMEDIARIES.—

(1) IN GENERAL.—In determining whether to enter into an agreement with an

intermediary under this section, the Secretary and Administrator shall take into consideration—

(A) the intermediary's record of success in serving low-income individuals;

(B) the intermediary's record of success in providing technical assistance or loans to low-income individuals for the purpose of self-employment;

(C) the nature, types, and cost of technical assistance and/or lending methods the intermediary will employ in serving the target population;

(D) the intermediary's ability to obtain matching funds from private sources; and

(E) such other matters as the Secretary and Administrator deem appropriate.

(2) ADDITIONAL PROGRAMS.—In addition to the demonstration program provided for in subsection (c) above, the Secretary and Administrator may select up to five intermediaries that would employ program models that would operate independently of the randomized evaluation provided for in subsection (i)(1) below, where such program models demonstrate promising, innovative strategies that could not readily be evaluated by a randomized experimental design.

(f) ELIGIBLE INDIVIDUALS.—An individual eligible to participate in a program conducted under this section is any low-income individual or welfare recipient. The Secretary and Administrator shall ensure that an appropriate minimum percentage of welfare recipients will participate in each demonstration program funded under this section.

(g) PROVISIONS OF AGREEMENTS.—Any agreement entered into with an intermediary under this section shall provide that—

(1) the intermediary has or will have an agreement with the State agency responsible for administering the job opportunities and basic skills training program (as provided for under part F of title IV of the Social Security Act) (hereinafter in this section referred to as the "JOBS" programs) and the Work Program (as provided under part G of title IV of such Act) such that JOBS and Work program funds will be used to provide support services, including training and technical assistance, to welfare recipients who are participating in the demonstration programs funded under this section;

(2) the intermediary will implement a program that is approved by the Secretary and Administrator;

(3) the intermediary will cooperate with any independent evaluator(s) selected pursuant to subsection (i) below; and

(4) the intermediary will meet any other obligations required by the Secretary and Administrator, including any fund matching requirements.

(h) PROGRAM ADMINISTRATION.—

(1) IN GENERAL.—The Secretary and Administrator shall enter into a memorandum of understanding for the joint administration of the demonstration programs provided for by this section. The designation of intermediaries to participate in the program shall be completed no later than 12 months after the date of appropriation of funds for this Act.

(2) COORDINATION WITH OTHER AGENCIES.—The Secretary and Administrator shall also coordinate and consult with the Secretaries of the Department of Agriculture, the Department of Housing and Urban Development, and the Department of Labor, on regulatory or other reforms or coordinated efforts by such agencies that may further eliminate barriers to self-employment and legitimize microenterprise development by low-income individuals and welfare recipients.

(i) EVALUATION AND REPORT.—

(1) IN GENERAL.—The Secretary, in consultation with the Administrator, shall conduct or provide for an evaluation of the effectiveness of the demonstration program provided for in subsection (c) above and shall prepare and submit to the President and Congress a preliminary report of the evaluation no later than three years following the designation of intermediaries and a final report no later than seven years following such designation, together with such recommendations, including recommendations for legislation, as the Secretary and Administrator deem appropriate. Such evaluation shall be based on an experimental design with random assignment between a treatment group and a control group. In designing the evaluation, the Secretary shall consider testing for—

(A) greater self-sufficiency as measured by employment and self-employment rates, amount of earned income, poverty rates, and exit and recidivism rates for Aid to Families With Dependent Children (hereinafter in this section referred to as "AFDC"), Food Stamps and other public assistance programs;

(B) reduced costs of public support as measured by changes in overall support payments for items such as income maintenance, food, child care, health care, housing, job training and other benefits;

(C) number of businesses and jobs created, number of loans to welfare recipients and low-income individuals, repayment rates for loans, and business performance after welfare or other public assistance ends;

(D) the relative effectiveness, cost-to-benefit ratio, and degree of financial self-sufficiency of the different program models employed by the intermediaries participating in the demonstration program; and

(E) the program's impact and effectiveness in serving participants in a time-limited welfare system, as compared to other low-income individuals.

(2) EVALUATION OF ADDITIONAL PROGRAMS.—The Secretary, in consultation with the Administrator, shall also conduct or provide for an independent evaluation of the effectiveness of any program models selected pursuant to subsection (e)(2) above and shall prepare and submit to the President and Congress a preliminary report of the evaluation no later than three years following the designation of intermediaries, and a final report no later than five years following such designation, together with such recommendations, including recommendations for legislation, as the Secretary and Administrator deem appropriate.

(3) PRELIMINARY REPORTS TO CONGRESS.—The preliminary reports provided for in paragraphs (1) and (2) of this subsection shall include an analysis of any regulatory or other barriers that prevent welfare recipients and low-income individuals from becoming self-sufficient through self-employment and microenterprise development.

(4) REQUIRED INFORMATION.—The Secretary may require each intermediary selected pursuant to this section to provide the Secretary with such information as the Secretary determines is necessary to carrying out the duties of this subsection.

(5) EARLY AND REGULAR INFORMATION SHARING WITH INTERMEDIARIES.—The Secretary, in consultation with the Administrator, shall provide early and regular feedback and summaries to intermediaries selected to participate pursuant to this section of the progress of the evaluation, the data collected during the evaluation, preliminary findings and such other information as the Secretary deems appropriate. The Secretary shall provide such feedback and summaries at least once a year for the life of the demonstration.

(j) AUTHORIZATION OF APPROPRIATIONS.—To carry out the purposes of this section there are authorized to be appropriated to the Secretary and Administrator—

(1) $4,000,000 for fiscal year 1997,

(2) $8,000,000 for each of fiscal years 1998, 1999, 2000, and 2001, and

(3) $4,000,000 for fiscal year 2002.

(k) DEFINITIONS.—For the purposes of this section—

(1) the term "intermediary" means an organization, partnership, or consortium of organizations that acts as a lender and/or as a technical assistance provider to individuals who wish to start or expand a microenterprise;

(2) the term "low-income individual" means an individual whose income level does not exceed 130 percent of the official poverty line as defined by the Office of Management and Budget;

(3) the term "microenterprise" generally means a business that has a net worth of less than $15,000;

(4) the term "technical assistance" as it relates to assisting a welfare recipient or low-income individual to become self-employed includes business technical assistance, entrepreneurial training, and/or personal development services; and

(5) the term "welfare recipient" means a participant in a time-limited welfare program who is eligible for the JOBS or Work program or a person who is receiving assistance from AFDC.

TITLE IX—FINANCING

SEC. 901. LIMITATION ON FEDERAL PAYMENTS FOR EMERGENCY ASSISTANCE.

Section 403(a)(5) of the Act is amended to read as follows:

"(5)(A) Each State shall be entitled to payment from the Secretary in an amount equal to 50 percent of the total amounts expended under the State plan in a fiscal year as emergency assistance to needy families with children, but such payment may not exceed the greater of—

"(i) such State's share of the limitation in subparagraph (B) for such fiscal year, or

"(ii) the amount paid by the Secretary with respect to such State's expenditures for emergency assistance to needy families with children for fiscal year 1991.

"(B) The limitation referred to in subparagraph (A) is $418,000,000 for fiscal year 1995, and for fiscal year 1996 and for each fiscal year thereafter, $418,000,000 multiplied by the ratio of the Consumer Price Index (prepared by the Department of Labor) for the third quarter of the preceding fiscal year to such Index for the third quarter of fiscal year 1994.

"(C) For purposes of this paragraph, a 'State's share of the limitation in subparagraph (B)' for a fiscal year means—

"(i) such State's share of the EA portion of the limitation (as defined in subparagraph (D)), plus

"(ii) such State's share of the AFDC portion of the limitation (as defined in subparagraph (E)) for the fiscal year involved.

"(D) For the purposes of this paragraph, the EA portion of the limitation is—

"(i) for fiscal year 1995 and each fiscal year thereafter, the limitation for such year, multiplied by—

"(I) 90 percent, minus

"(II) 10 percentage points for each year after 1995.

but never less than zero.

"(E) For purposes of this paragraph, the AFDC portion of the limitation is—

"(i) for fiscal year 1995, the limitation for such year, multiplied by 10 percent, and

"(ii) for fiscal year 1996 and each fiscal year thereafter, the limitation for such year multiplied by—

"(I) 10 percent, plus

"(II) 10 percentage points for each year after 1995,

but never more than 100.

"(F) For purposes of this paragraph—

"(i) a State's share of the EA portion of the limitation for a fiscal year is the limitation for such year multiplied by the ratio of the estimated expenditures in such State for emergency assistance to needy families with children for quarters in fiscal year 1994 to the sum of such estimated expenditures in all the States for quarters in such year, and

"(ii) a State's share of the AFDC portion of the limitation for a fiscal year is the limitation for such year multiplied by the ratio of the estimated expenditures in such State for aid to families with dependent children for quarters in the preceding fiscal year to the sum of such expenditures in all the States for quarters in such preceding fiscal year.".

SEC. 902. UNIFORM ALIEN ELIGIBILITY CRITERIA FOR PUBLIC ASSISTANCE PROGRAMS.

(a) FEDERAL AND FEDERALLY-ASSISTED PROGRAMS.—

(1) PROGRAM ELIGIBILITY CRITERIA.—

(A) AID TO FAMILIES WITH DEPENDENT CHILDREN.—Section 402(a)(33) of the Social Security Act is amended by striking "(A) a citizen" and all that follows and inserting the following:

"(A) a citizen or national of the United States,

"(B) a qualified alien (as defined in section 1101(a)(10)), provided that such alien is not disqualified from receiving aid under a State plan approved under a State plan approved under this part by or pursuant to section 210(f) or 245A(h) of the Immigration and Nationality Act or any other provision of law;".

(B) SUPPLEMENTAL SECURITY INCOME.—Section 1614(a)(1)(B)(i) of such Act is amended to read as follows:

"(B)(i) is a resident of the United States, and is either (I) a citizen or national of the United States, or (II) a qualified alien (as defined in section 1101(a)(10)), or".

(C) MEDICAID—

(i) Section 1903(v)(1) of such Act is amended to read as follows:

"(v)(1) Notwithstanding the preceding provisions of this section, (A) no payment may be made to a State under this section for medical assistance furnished to an individual who is disqualified from receiving such assistance by or pursuant to section 210(f) or 245A(h) of the Immigration and Nationality Act or any other provision of law, and (B) except as provided in paragraph (2), no such payment may be made for medical assistance furnished to an individual who is not a (i) citizen or national of the United States, or (ii) qualified alien (as defined in section 1101(a)(10)).".

(ii) Section 1902(v)(2) of such Act is amended by—

(I) striking "paragraph (1)" and inserting "paragraph (1)(B)"; and

(II) striking "alien" each place it appears and inserting "individual".

(iii) Section 1902(a) of such Act is amended in the last sentence by striking "alien" and all that follows and inserting "individual who is not (A) a citizen or national of the United States, or (B) a qualified alien (as defined in section 1101(a)(10)) only in accordance with section 1903(v).".

(iv) Section 1902(b)(3) of such act is amended by inserting "or national" after "citizen".

(2) Definition of term "qualified alien"—Section 1101(a) of such Act is amended by adding at the end the following new paragraph:

"(10) The term 'qualified alien' means an alien—

"(A) who is lawfully admitted for permanent residence within the meaning of section 101(a)(20) of the Immigration and Nationality Act;

"(B) who is admitted as a refugee pursuant to section 207 of such Act;

"(C) who is granted asylum pursuant to section 208 of such Act;

"(D) whose deportation is withheld pursuant to section 243(h) of such Act;

"(E) whose deportation is suspended pursuant to section 255 of such Act;

"(F) who is granted conditional entry pursuant to section 203(a)(7) of such Act as in effect prior to April 1, 1980;

"(G) who is lawfully admitted for temporary residence pursuant to section 210 or 245A of such Act;

"(H) who is within a class of aliens lawfully present within the United States pursuant to any other provision of such Act, provided that—

"(i) the Attorney General determines that the continued presence of such class of aliens serves a humanitarian or other compelling public interest, and

"(ii) the Secretary of Health and Human Services determines that such interest would be further served by treating each alien within such class as a 'qualified alien' for purposes of this Act; or

"(I) who is the spouse or unmarried child under 21 years of age of a citizen of the United States, or the parent of such a citizen if the citizen is 21 years of age or older, and with respect to whom an application for adjustment to lawful permanent residence is pending;

such status not having changed.".

(3) CONFORMING AMENDMENT.—Section 244A(f)(1) of the Immigration and Nationality Act is amended by inserting "and shall not be considered to be a 'qualified alien' within the meaning of section 1101(a)(10) of the Social Security Act" immediately before the semicolon.

(b) STATE AND LOCAL PROGRAMS.—A State or political subdivision therein may provide that an alien is not eligible for any program of assistance based on need that is furnished by such State or political subdivision unless such alien is a "qualified alien" within the meaning of section 1101(a)(10) of the Social Security Act (as added by subsection (a)(2) of this section).

(c) EFFECTIVE DATE.—

(1) The amendments made by subsection (a) are effective with respect to benefits payable on the basis of any application filed after the date of enactment of this Act.

(2) Subsection (b) is effective upon the date of enactment of this Act.

SEC. 903. ELIGIBILITY OF SPONSORED ALIENS FOR CERTAIN PROGRAMS.

(a) Deeming of Sponsor's Income and Resources to an Alien Under the Supplemental Security Income, Aid to Families with Dependent Children, and Food Stamp Programs.

(1) LENGTH OF DEEMING PERIOD.—

(A) MAKING THE SSI 5-YEAR PERIOD PERMANENT.—Subsection (b) of section 7 of the Unemployment Compensation Amendments of 1993 (Public Law 103–152) is repealed.

(B) INCREASING THE AFDC PERIOD FROM 3 TO 5 YEARS—Section 415 of the Social Security Act is amended by striking "three years" each place such phrase appears and inserting "5 years.".

(C) INCEASING THE FOOD STAMP PERIOD FROM 3 TO 5 YEARS.—Section 5(i) of the Food Stamp Act of 1977 is amended by striking "three years" each place such phase appears and inserting "5 years".

(2) INAPPLICABILITY IN THE CASE OF ANY ALIEN WHOSE SPONSOR RECEIVES SSI OR AFDC BENEFITS.—

(A) SSI.—Section 1621(f) of the Social Security Act is amended by adding at the end the following new paragraph:

"(3) The provisions of this section shall not apply to any alien for any month for which such alien's sponsor receives a benefit under this title (which includes, for purposes of this paragraph, the program of federally administered State supplementary payments made pursuant to section 1616(a) of this Act of section 212(b) of Public Law 93–66) or the program of aid to families with dependent children authorized by part A of title IV of this Act.".

(B) AFDC.—Section 415(f) of the Social Security Act is amended—

(i) by redesignating paragraph (1) through (5) as subparagraphs (A) through (E), respectively;

(ii) by striking "(f)" and inserting "(f)(1)"; and

(iii) by adding at the end the following new paragraph:

"(2) The provisions of this section shall not apply to any alien for any month for which such alien's sponsor receives a benefit under the program authorized by this part, or the program of supplemental security income authorized by title XVI of this Act (which includes, for purposes of this paragraph, the program of federally administered States supplementary payments made pursuant to section 1616(a) of this Act or section 212(b) of Public Law 93–66).".

(C) FOOD STAMPS.—Section 5(i)(2)(E) of the Food Stamp Act of 1977 is amended—

(i) by striking "(E)" and inserting "(E)(i)"; and

(ii) by adding at the end the following:

"(ii) The provisions of this subsection shall not apply to any alien for any month for which such alien's sponsor receives a benefit under the program of aid to families with dependent children authorized by part A of title IV of the Social Security Act or the program of supplemental security income authorized by title XVI of such Act (which includes, for purposes of this paragraph, the program of federally administered State supplementary payments made pursuant to section 1616(a) of such Act or section 212(b) of Public Law 93–66).".

(3) INEQUITABLE CIRCUMSTANCES.—

(A) SSI.—Section 1621 of the Social Security Act is amended by adding at the end the following new subsection:

"(g) The Secretary may, pursuant to regulations promulgated after consultation with the Secretary of Agriculture, alter or suspend the application of this section in any case in which the Secretary determines that such application would be inequitable under the circumstances."

(B) AFDC.—Section 415 of the Social Security Act is amended by adding at the end the following new subsection:

"(g) The Secretary may, pursuant to regulations promulgated after consultation with the Secretary of Agriculture, alter or suspend the application of this section in any case in which the Secretary determines that such application would be inequitable under the circumstances."

(C) FOOD STAMPS.—Section 5(i)(2) of the Food Stamp Act of 1977 is amended by adding at the end the following new subparagraph:

"(F) The Secretary may, pursuant to regulations promulgated after consultation with the Secretary of Health and Human Services, alter or suspend the application of this section in any case in which the Secretary determines that such application would be inequitable under the circumstances."

(4) FOOD STAMPS EXEMPTION FOR BLIND OR DISABLED ALIENS.—Section 5(i)(2)(E) of the Food Stamp Act of 1977 (as previously amended by subsection (a)(2)(C)) is further amended by adding at the end the following:

"(iii) The provisions of this subsection shall not apply with respect to any individual for any month for which such individual receives a benefit under the program of supplemental security income authorized by title XVI of the Social Security Act by reason of blindness (as determined under section 1614(a)(2) of such Act) or disability (as determined under section 1614(a)(3) of such Act), provided that such blindness or disability commenced after the date of such individual's admission into the United States for permanent residence.".

(5) INCREASE IN FOOD STAMP RESOURCE LIMITATION.—Section 5(i)(2)(B)(ii) of the Food Stamp Act of 1977 is amended by striking "$1,500" and inserting "$2,000".

(b) DISQUALIFICATION OF CERTAIN SPONSORED ALIENS AFTER THE 60th Month After Entry into the United States Under the Supplemental Security Income, Aid to Families with Dependent Children, and Food Stamp Programs.—

(1) In general.

(A) SSI.—Section 1611(e) of the Social Security Act is amended by inserting between paragraphs (3) and (5) a new paragraph (4) as follows:

"(4)(A) No individual (other than an individual described in section 1621(f)(1)) who is an alien shall be an eligible individual or eligible spouse for purposes of this title with respect to any month beginning after the 60th month after such individual's entry into the United States if the adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986) of any person who (as a sponsor of such individual's entry into the United States) executed an affidavit of support with respect to such individual plus the adjusted gross income of such person's spouse and dependent children (if any) for the most recently completed year for which—

"(i)(I) a return has been filed in connection with the taxes imposed by subtitle A of the Internal Revenue Code of 1986 by or on behalf of such person (and such person's spouse and dependent children, if any), or (II) no such return is required by such Code to be so filed, and

"(ii) the Secretary has published the U.S. median income for all families pursuant to subparagraph (B)(i)(I), exceeds the applicable measure of U.S. median income for all families (determined in accordance with subparagraph (B)(i)(II)) for such year.

"(B)(i) The Secretary shall publish twice yearly in the Federal Register a notice—

"(I) setting out the U.S. median income for all families for not fewer than five of the years immediately preceding the year in which such notice is published, and

"(II) identifying the months for which each such figure shall be deemed to be the applicable measure for the purpose of making the determination required by subparagraph (A).

"(ii) The U.S. median income for all families for any year published by the Secretary pursuant to clause (i) shall be the amount reported for such year by the Census Bureau pursuant to its Current Population Survey, except that if such amount has not been so reported for such year at the time such notice is published, then the measure of the U.S. median income for all families for such year shall be derived by increasing the amount reported by the Census Bureau for the immediately preceding year by a percentage equal to the percentage (rounded to the nearest one-tenth of one percent), if any, by which the Consumer Price Index (as prepared by the Department of Labor) for such year has increased over such immediately preceding year.".

(B) AFDC.—Section 402(a) of the Social Security Act is amended by—

(i) striking "and" at the end of paragraph (44);

(ii) striking the period at the end of paragraph (45) and inserting "; and"; and

(iii) adding at the end a new paragraph as follows:

"(46) provide that an individual who is an alien may not be considered a dependent child, a caretaker relative whose needs are to be taken into account in making the determination under paragraph (7), or any other person whose needs should be taken into account in making such a determination with respect to the child or relative, with respect to any month beginning after the 60th month after such individual's entry into the United States if the adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986) of any person who (as a sponsor of such individual's entry into the United States) executed an affidavit of support with respect to such individual plus the adjusted gross income of such person's spouse and dependent children (if any) for the most recently completed year for which—

"(A)(i) a return has been filed in connection with the taxes imposed by subtitle A of the Internal Revenue Code of 1986 by or on behalf of such person (and such person's spouse and dependent children, if any), or (ii) no such return is required by such Code to be so filed, and

"(B) the U.S. median income for all families has been published, exceeds the applicable measure of U.S. median income for all families for such year. For purposes of the preceding sentence, the requirement for the publication of the U.S. median income for all families for any year shall be satisfied by the publication of such data for such year pursuant to section 1611(e)(4)(B)(i)(I), and the 'applicable measure of U.S. median income for all families' for any year shall be the measure applicable for such year pursuant to section 1611(e)(4)(B)(i)(II).".

(C) FOOD STAMPS.—Section 6 of the Food Stamp Act of 1977 is amended by adding at the end a new subsection as follows:

"(i) No alien who is a member of a household otherwise eligible to participate in the food stamp program under this section shall be eligible to participate in such program as a member of that or any other household with respect to any month beginning after the 60th month after such alien's entry into the United States if the adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986) of any person who (as a sponsor of such alien's entry into the United States) executed an affidavit of support with respect to such alien plus the adjusted gross income of such person's spouse and dependent children (if any) for the most recently completed year for which—

"(1)(A) a return has been filed in connection with the taxes imposed by subtitle A of the Internal Revenue Code of 1986 by or on behalf of such person (and such person's spouse and dependent children, if any), or (B) no such return is required by such Code to be so filed, and

"(2) the U.S. median income for all families has been published,

exceeds the applicable measure of U.S. median income for all families for such year. For purposes of the proceeding sentence, the requirement for the publication of the U.S. median income for all families for any year shall be satisfied by the publication of such data for such year pursuant to section 1611(e)(4)(B)(i)(I) of the Social Security Act, and the 'applicable measure of U.S. median income for all families' for any year shall be the measure applicable for such year pursuant to section 1611(e)(4)(B)(i)(II) of such Act.".

(2) CONFORMING AMENDMENTS.—

(A) COOPERATION REQUIREMENT.—

(i) SSI.—Section 1621(d)(1) of the Social Security Act is amended in the first sentence by—

(I) striking "during the period of 5 years after entry into the United States,"; and

(II) inserting "or section 1611(e)(4)" after "this section".

(ii) AFDC.—The second sentence of section 415(c)(1) of the Social Security Act (as previously amended by subsection (a)(1)(B) of this section) is further amended by—

(I) striking "during the period of 5 years after his or her entry into the United States"; and

(II) inserting "or section 402(a)(46)" after "this section".

(iii) FOOD STAMPS.—The first sentence of section 5(i)(2)(C)(i) of the Food Stamp Act of 1977 (as previously amended by subsection (a)(1)(C) of this section) is further amended by—

(I) striking "during the period of 5 years after entry into the United States,"; and

(II) inserting "or section 6(i)" after "this section".

(B) LIABILITY FOR OVERPAYMENTS.—

(i) SSI.—Section 1621(e) of the Social Security Act is amended by—

(I) striking "during the period of 5 years after such alien's entry into the United States,";

(II) inserting "or section 1611(e)(4)" after "this section"; and

(III) adding at the end the following sentence: "If an individual who is an alien subject to this subsection is naturalized as a citizen of the United States, such naturalization shall have no effect upon the continued application of this subsection to such individual or to such individual's sponsor.".

(ii) AFDC.—Section 415(d) of the Social Security Act (as previously amended by subsection (a)(1)(B)) is further amended by—

(I) striking "during the period of 5 years after such alien's entry into the United States,";

(II) inserting "or section 402(a)(46)" after "this section"; and

(III) adding at the end the following sentence: "If an individual who is an alien subject to this subsection is naturalized as a citizen of the United States, such naturalization shall have no effect upon the continued application of this subsection to such individual or to such individual's sponsor.".

"(iii) FOOD STAMPS.—Section 5(i)(2)(D) of the Food Stamp Act of 1977 (as previously amended by subsection (a)(1)(C)) is further amended by—

(I) striking "during the period of 5 years after such alien's entry into the United States,";

(II) inserting "or section 6(i)" after "this section"; and

(III) adding at the end the following sentence: "If an individual who is an alien subject to this subparagraph is naturalized as a citizen of the United States, such naturalization shall have no effect upon the continued application of this subparagraph to such individual or to such individual's sponsor.".

"(3) Disclosure of Tax Return Information.—Section 6103(1)(7)(B) of the Internal Revenue Code of 1986 is amended by designating the existing matter as clause (i) and adding at the end the following:

"(ii) The Secretary shall disclose, upon request, return information with respect to adjusted gross income (as defined in section 62) from returns filed by, or with respect to, any individual (and such individual's spouse and dependent children, if any) who (as a sponsor of an alien's entry into the United States) executed an affidavit of support with respect to such alien and whose income is considered in connection with determining such alien's eligibility for a program described in clause (i), (iii), or (vi) of subparagraph (D) to any Federal, State, or local agency administering such program, but only for the purpose of, and to the extent necessary, in determining the eligibility of such alien for benefits under such program.

"(iii) Information regarding any determination made pursuant to section 402(a)(46) of 415 of the Social Security Act (relating to the aid to families with dependent children program), section 1611(e)(4) or 1621 of such Act (relating to the supplemental security income program), or section 5(i) or 6(i) of the Food Stamp Act of 1977 (relating to the program of assistance under that Act) in connection with determining an alien's eligibility for benefits under any such program shall not be considered to be return information subject to the limitations on disclosure or redisclosure imposed by this section.".

(c) State and Local Programs.—A State or political subdivision therein may provide that an alien is not eligible for any program of assistance based on need that is furnished by such State or political subdivision for any month if such alien has been determined to be ineligible for such month for benefits under——

(A) the program of aid to families with dependent children authorized by part A of title IV of the Social Security Act, as a result of the application of section 402(a)(46) or 415 of such Act;

(B) the program of supplemental security income authorized by title XVI of the Social Security Act, as a result of the application of section 1611(e)(4) or 1621 of such Act; or

(C) the Food Stamp Act of 1977, as a result of the application of section 5(i) or 6(i) of such Act.

(d) Effective Date.—

(1) Except as otherwise provided in paragraph (2), the amendments made by subsections (a) and (b) are effective with respect to benefits under the program of aid to families with dependent children authorized by part A of title IV of the Social Security Act, the program of supplemental security income authorized by title XVI of the Social Security Act, and the program authorized by the Food Stamp Act of 1977, payable for months beginning after September 30, 1994, on the basis of—

(A) an application filed after such date, or

(B) an application filed on or before such date by or on behalf of an individual subject to the provisions of section 1621(a) or section 415(a) of the Social Security Act or section 5(i)(1) of the Food Stamp Act of 1977 (as the case may be) on such State.

(2) The amendments made by clauses (i)(III), (ii)(III), and (iii)(III) of subsection (b)(2)(B) are effective upon the date of enactment of this Act.

(3) Subsection (c) is effective on October 1, 1994.

SEC. 904. FAMILY DAY CARE HOMES.

(a) Section 17(c) of the National School Lunch Act (42 U.S.C. 1766(c)) is amended—

(1) in paragraph (1), by inserting "except as provided in paragraphs (4) and (5) of this subsection," after "For purposes of this section,";

(2) in paragraph (2), by inserting "except as provided in paragraphs (4) and (5) of this subsection," after "For purposes of this section,";

(3) in paragraph (3), by inserting "except as provided in paragraphs (4) and (5) of this subsection," after "For purposes of this section,";

(4) by redesignating paragraph (4) as paragraph (6); and

(5) by inserting after paragraph (3) the following new paragraphs:

"(4) For purposes of this section, the level one reimbursement factor for family or group day care homes shall be $1.5050 for lunches or suppers, $.8275 for breakfasts, and $.4475 for supplements. The reimbursement factor under this paragraph shall be adjusted on July 1, 1996, to reflect changes in the Consumer Price Index for food away from home for the most recent 24-month period for which data are available, and on July 1 of each year, starting July 1, 1997, to reflect changes in the Consumer Price Index for food away from home for the most recent 12-month period for which data are available. The reimbursement factor under this paragraph shall be rounded to the nearest one-fourth cent.

"(5) For purposes of this section, the level two reimbursement factor for family or group day care homes shall be $1.2675 for lunches or suppers, $.5375 for breakfasts, and $.25 for supplements. The reimbursement factor under this paragraph shall be adjusted on July 1, 1996, to reflect changes in the Consumer Price Index for food away from home for the most recent 24-month period for which date are available, and on July 1 of each year, starting July 1, 1997, to reflect changes in the Consumer Price Index for food away from home for the most recent 12-month period for which data are available. The reimbursement factor under this paragraph shall be rounded to the nearest one-fourth cent.".

(b) Section 17(f)(3) of the National School Lunch Act (42 U.S.C. 1766(f)(3)) is amended—

(1) by adding after subparagraph (C) the following new subparagraph:

"(D) The Secretary shall make payments, totalling not more than $2,000,000 in fiscal year 1995 and $5,000,000 in fiscal year 1996, to provide grants to States: for the purpose of providing assistance, including grants to family or group day care home sponsoring organizations and other appropriate organizations; for securing and providing training, materials, automated data processing assistance, and other assistance for the staff of such sponsoring organizations; and for providing training and other assistance to family or group day care homes in order to assist in the implementation of the requirements contained in this subsection. Of the amount of funds made available to each State under this subparagraph an amount not to exceed 30 percent may be retained by the State to carry out the purposes of this subparagraph;";

(2) In subparagraph (A), by deleting ", except that reimbursement shall not be provided" and all that follows through "nearest one fourth cent." and inserting in lieu thereof "as set forth in subparagraphs (B) and (C).";

(3) by redesignating subparagraphs (B), (C) and (D) (as added by paragraph (1)) as subparagraphs (D), (E), and (L) respectively;

(4) by inserting subparagraph (A) the following new subparagraphs:

"(B) Sponsoring organizations of family or group day care homes located in low-income areas shall be reimbursed for meals or supplements served to children in those homes at the level one reimbursement rates established in subsection (c)(4) of this section.

"(C) Sponsoring organizations of family or group day care homes, except family or group day care homes covered under subparagraph (B) of this subsection, shall be reimbursed for meals or supplements served to children in those homes, at the election of the family or group day care home, either—

"(i) at the level two reimbursement rates established in subsection (c)(5) of this section; or

"(ii)(I) for meals and supplements served to children from households that meet the income eligibility guidelines for free or reduced price meals and supplements set forth in section 9(b) of this Act, at the level one reimbursement rates established in subsection (c)(4) of this section; and

"(II) for meals and supplements served to children from families who do not meet the requirements of paragraph (C)(ii)(I) of this subsection, at the level two reimbursement rates established in subsection (c)(5); or

(iii) for meals and supplements served to children in family or group day care homes in which the family or group day care home provider meets the income eligibility guidelines for free or reduced price meals and supplements set forth in section 9(b) of this Act, at the level one reimbursement rates established in section (c)(4) of this section.";

(5) by adding at the end of subparagraph (D) (as redesignated by paragraph (3)) the following: "In addition, family or group day care home sponsoring organizations shall receive for their administrative expenses an additional $10 per month for each home located in a low-income area."; and

(6) by adding after subparagraph (E) (as redesignated by paragraph (3)) the following new subparagraphs:

"(F) Notwithstanding subparagraph (C), reimbursement shall not be provided for meals or supplements served to the children of a person acting as a family or group day care home provider unless such children meet the income eligibility guidelines for free or reduced price meals under section 9(b) of this Act. Where so qualifying, the family or group day care home sponsoring organization shall be reimbursed for those meals and supplements at the level one rates established in subsection (c)(4).

"(G) For family or group day care home providers who elect to use the procedures under paragraph (3)(C)(ii) of this subsection, the Secretary shall implement streamlined and simplified counting and claiming procedures, provided that such procedures do not compromise program accountability.

"(H) Sponsoring organizations of family or group day care homes (other than those located in low-income areas) may receive the level one reimbursement rates for meals and supplements established in subsection (c)(4) of this section for those children with a parent participating in the programs established under part F or G of title IV of the Social Security Act, the at-risk child care program under title IV of such Act, or a Federal or a State child care program with an income eligibility limit that does not exceed the income eligibility guidelines for free or reduced price meals and supplements set forth in section 9(b) of this Act.

"(I) For purposes of this section, 'low-income areas' is defined to mean "areas in which poor economic conditions exist" as defined in Section 13(a)(1)(C) of this Act.

"(J) For purposes of this section, determinations made by the State agency which establish that a family or a group day care home is located in a 'low income area' shall be in effect for 3 years, unless the State agency determines that the area in which the home is located is no longer a 'low income area'.

"(K) The Secretary shall make payments, totalling not more than $5,000,000 in each of fiscal years 1997, 1998, 1999, and 2000 to provide grants to States for the purpose of providing assistance, including grants to family or group day care home sponsoring organizations, to assist family or group day care homes in low-income areas to become licensed or approved for the program under this section. Of the amount of funds available to each State under this subparagraph, an amount not to exceed 30 percent may be retained by the State to carry out the purposes of this subparagraph. Any payments received under this subparagraph shall be in addition to payments which States receive under subsection (b) of this section.".

(c) Effective Dates.—

(1) Except as provided in paragraph (2), the amendments made by subsections (a) and (b) shall take effect on July 1, 1996.

(2) The amendment made by subsection (b)(1) shall take effect on the date of enactment of this Act.

SEC. 905. STATE RETENTION OF AMOUNTS RECOVERED.

Section 16(a) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)) is amended by striking "1995" both places it appears in the proviso of the first sentence and inserting in both places in lieu thereof "2004".

SEC. 906. COMMODITY PROGRAM INCOME INELIGIBILITY.

Notwithstanding any other provision of law, a person with annual off-farm adjusted gross income in excess of $100,000, as determined by the Secretary of Agriculture, shall not be eligible to receive from the Commodity Credit Corporation income support and price support through loans, purchases, payments, and other operations. The Secretary of Agriculture shall issue regulations defining the term "person" which shall conform, to the extent practicable, to the regulations issued in accordance with section 1001 of the Food Security Act of 1985, as amended.

SEC. 907. AMENDMENTS RELATED TO SUPERFUND TAX EXTENSION.

(a) EXTENSION OF TERMINATION DATE.—Paragraph (1) of section 59A(e) of the Internal Revenue Code of 1986 (26 U.S.C. 59A(e)(1)) is amended by striking "January 1, 1996" and inserting "February 1, 1998".

(b) ADJUSTMENTS TO AMOUNTS COLLECTED.—Paragraph (3) of section 4611(e) of the Internal Revenue Code of 1986 (26 U.S.C. 4611(e)(3)) is amended—

(1) by striking "December 31, 1995" and inserting "September 30, 1998";

(2) by striking "$11,970,000,000" each time it appears and inserting "$15,500,000,000"; and

(3) by striking "January 1, 1996" and inserting "October 1, 1998".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to amounts collected and amounts credited after the date of the enactment of this Act.

SEC. 908. FEDERAL RAILROAD ADMINISTRATION USER FEES.

Section 216 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 447) is amended—

(1) by striking subsection (a)(3) and inserting the following:

"(3) Fees established under this section shall be assessed to railroads subject to this chapter and shall cover all costs incurred by the Federal Railroad Administration in administering this chapter, and those laws transferred to the jurisdiction of the Secretary of Transportation by subsection (e)(1), (2), and (6)(A) of section 1655 of Title 49, other than activities described in section 431(a)(2) of this title.";

(2) by inserting before the period in subsection (c) ", and those laws transferred to the jurisdiction of the Secretary of Transportation by subsection (e)(1), (2), and (6)(A) of section 1655 of Title 49"; and

(3) by striking subsections (e) and (f).

SEC. 909. SPECIAL EARNED INCOME TAX CREDIT RULES FOR MILITARY PERSONNEL.

(a) MODIFIED RESIDENCY REQUIREMENT.—Subparagraph (E) of section 32(c)(3) (defining qualifying child) of the Internal Revenue Code of 1986 is amended by adding at the end the following sentence: "The preceding sentence does not apply during any period during which the taxpayer is stationed outside the United States while serving on extended active duty (as defined in section 1034(h)(3)) with Armed Forces of the United States."

(b) REPORTING MILITARY EARNED INCOME.—Subsection (a) of section 6051 (relating to receipts for employees) of the Internal Revenue Code of 1986 is amended by striking "and" at the end of paragraph (8), by striking the period at the end of paragraph (9) and inserting in lieu thereof ", and", and by inserting after paragraph (9) the following paragraph:

"(10) in the case of an employee who is a member of the Armed Forces of the United States, the total amount of earned income (as defined in section 32(c)(2)).".

(c) ADVANCE PAYMENT OF EARNED INCOME TAX CREDIT.—Paragraph (1) of section 3507(c) (defining earned income advance amount) of the Internal Revenue Code of 1986 is amended by adding at the end the following sentence: "For purposes of subparagraph (A) in the case of an employee who is a member of the Armed Forces of the United States, the employee's earned income (as defined in section 32(c)(2)) shall be taken into account rather than the employee's wages.".

(d) EFFECTIVE DATES.—The amendments made by this section shall apply to taxable years beginning and remuneration paid after December 31, 1994.

SEC. 910. NONRESIDENT ALIENS NOT ELIGIBLE FOR EARNED INCOME TAX CREDIT.

(a) IN GENERAL.—Section 32(c)(1) (defining eligible individual) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

"(E) EXCEPTION FOR NONRESIDENT ALIENS.—The term 'eligible individual' does not include a nonresident alien unless an election under section 6013(g) (relating to treating a nonresident alien individual as a resident of the United States) or section 6013(h) (relating to the year in which a nonresident alien becomes a resident of the United States) is in effect for the taxable year with respect to the nonresident alien.

EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1994.

SEC. 911. EXTENSION OF CERTAIN CUSTOMS FEES.

Subsection (j)(3) of section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, (19 U.S.C. 58c), is amended to read as follows:

"(3) Fees may not be charged under subsection (a) of this section after September 30, 2004.".

TITLE X—EFFECTIVE DATES

SEC. 1001. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided and subject to subsection (b), the amendments and repeals made by this Act, other than title VI, shall become effective with respect to periods beginning on or after October 1, 1995.

(b) The Secretary of Health and Human Services may, upon the request of a State, delay the effective date prescribed by subsection (a) with respect to such State upon a showing of circumstances beyond the State's control, but such extension may not extend beyond October 1, 1996.

(c) Notwithstanding any other provision of law, no State shall be found to have failed to comply with any requirement imposed on such State's programs by or pursuant to the amendments made by titles I and II of this Act by reason of its failure to have such program (or requirements) in effect Statewide if such program is in effect Statewide not later than 2 years after the effective date specified in subsection (a), or 2 years after such later date as is approved by the Secretary pursuant to subsection (b).

WORK AND RESPONSIBILITY ACT OF 1994—FACT SHEET

The President today sent to the Congress the "Work and Responsibility Act of 1994". This legislation represents a fundamental reform of the Nation's welfare system, based on the values of work and responsibility. When this bill is enacted, welfare will be a transitional system leading to work. The combination of expanded education and training, work opportunities and requirements, improved child support enforcement, and streamlined government assistance will make the lives of millions of low-income families and their children demonstrably better.

This legislation will:

Replace the Aid to Families with Dependent Children (AFDC) program with a transitional assistance program followed by work. Job training, support, and child care will be provided to help people move from dependence to independence;

Make work pay for low-income families. In addition to the expanded Earned Income Tax Credit and better coverage under health care reform, child care programs for families on public assistance and poor working families will be improved;

Promote parental responsibility through a national effort to prevent teen pregnancies, incentives to encourage responsible parenting, and improvements in child support enforcement; and

Improve government assistance by increasing conformity between the AFDC and Food Stamp programs, creating new fraud control measures, linking funding incentives and penalties to the performance of States and caseworkers in service provision, job placement, and child support collection.

The cost of the proposal to the Federal Government is estimated at $9.3 billion over five years and is fully offset, primarily through reductions in entitlements and without new tax increases.

BACKGROUND

In 1993, a record number of Americans received AFDC benefits—14.1 million persons each month. Two-thirds of AFDC recipients are children. Although State and Federal expenditures for assistance payments set an all-time high of $22.6 billion in 1993, real AFDC benefit levels (which average $377 per month for a family of three) have actually declined by 42 percent in the last two decades.

The current welfare system does little to help people find work and does not encourage those who go to work. Instead of strengthening families and instilling personal responsibility, the system imposes stricter rules on two-parent families and lets too many noncustodial parents who owe child support off the hook. Instead of promoting self-sufficiency, the culture of the welfare offices seems to create an expectation of dependence. Taxpayers, program administrators, and recipients alike are frustrated with the current system and seek change.

LEGISLATIVE PROPOSAL

Welfare reform must accomplish multiple and varied objectives. Through its focus on work, responsibility, family, and opportunity, the plan will change the values, expectations, and incentives within the current welfare system. Ultimately, the plan is about improving the lives of children and families by rewarding work and responsibility to make families stronger and children and society better off.

TRANSITIONAL ASSISTANCE FOLLOWED BY WORK

This reform proposal calls for fundamentally replacing the AFDC program with a transitional assistance program to be followed by work. The phase-in of the new requirements will begin with all recipients (including new applicants) born after December 31, 1971. All persons of the same age and circumstances will then face the same rules, regardless of when they entered the system. The new program includes four key elements: a simple compact; training, education, and placement assistance to move people from welfare to work; a two-year time limit; and work requirements.

Everyone who receives cash support will be expected to do something to help themselves and their community. Recipients will sign a personal responsibility agreement indicating what is expected of them and of the Government in order to prepare them for self-sustaining employment. Persons who are not yet in a position to work or to train (for example, because of disability or the need to care for an infant or disabled child) will be deferred until they are ready for the time-limited Job Opportunities and Basic Skills (JOBS) program.

The core of the transitional support program will be an expanded and improved JOBS to provide training, education, and job placement services to AFDC recipients focused on moving people into work. Every aspect of the new JOBS program will be designed to help recipients find and keep jobs. The enhanced program will include a personal responsibility agreement and an employability plan designed to move persons from welfare to work as rapidly as possible. For most applicants, supervised job search will be required from the date the application for AFDC is approved. JOBS participants will be required to accept a job if offered. The new effort, rather than creating an employment training system for welfare recipients alone, will seek close coordination with Job Training Partnership Act (JTPA) programs and other mainstream training programs and educational resources.

Young recipients will be limited to two years of cash assistance, after which they will be expected to work. While two years will be the maximum period for the receipt of cash aid, the goal will be to help persons find jobs long before the end of the two-year period. Mothers with infants, individuals with disabilities that limit work, and those caring for a disabled child will be deferred from these requirements and will not be subject to the time limit while such conditions exist. In a very limited number of cases, and at the discretion of States, extensions of the time limit will be granted for completion of an education or training program or in unusual circumstances.

Those persons who are not able to find employment before reaching the two-year time limit will be required to take a job in the WORK program. WORK jobs will be paid employment, rather than "workfare" and will include subsidized private sector jobs, as well as positions with local not-for-profit organizations and in the public sector. The positions are intended to be short-term, last-resort jobs, designed neither to displace existing workers, nor to serve as substitutes for unsubsidized employment. Provisions will be put in place to discourage lengthy stays in the WORK program. Among these will be limits on the duration of any one WORK assignment, frequent periods of job search, denial of the Earned Income Tax Credit (EITC) to persons in WORK assignments, and a comprehensive reassessment after a second WORK assignment. People will be required to make a good-faith effort to find unsubsidized work, and anyone who turns down a job offer will be removed from the welfare rolls for six months. The primary emphasis of the WORK program will be on securing unsubsidized employment. States will be given considerable flexibility in the operation of the WORK program in order to achieve this goal.

MAKING WORK PAY/CHILD CARE

Although they are not part of this legislative proposal, the EITC and health care reform are two of the three major components of making work pay; the final component is affordable, accessible child care. This proposal will continue to guarantee child care assistance to families on public assistance while they are working or in education or training and to those who are in transition after leaving welfare, and it will extend the guarantee to the WORK program. Funding for child care for low-income working families will be significantly increased. At-Risk Child Care Program funds will be set aside to address quality improvements and supply issues. Rules across all child care programs will be coordinated to create seamless coverage for persons who leave welfare for work.

In addition, the proposal includes provisions to simplify the rules regarding the amount of earnings and child support that can be disregarded before calculating the AFDC benefit. Finally, demonstrations will be permitted to provide advance payments of the EITC through State agencies.

PREVENTING TEEN PREGNANCY AND PROMOTING PARENTAL RESPONSIBILITY

The bill includes provisions aimed at reducing teen pregnancy and out-of-wedlock births, including a national campaign against teen pregnancy, a national clearinghouse on teen pregnancy prevention, teen pregnancy prevention grants, and comprehensive service demonstrations of various prevention approaches. The bill also provides incentives for responsible behavior that would require minor parents to live at home, require school-age parents to stay in school, allow States to limit additional benefits for additional children conceived while on AFDC, and give States options to use a variety of incentives to reward responsible behavior.

The bill also includes a number of proposals to address the shortcomings in the current child support enforcement system. The scope and effectiveness of the current State paternity establishment process will be expanded by provisions including streamlining the paternity establishment process, requiring cooperation from mothers as a condition of receiving AFDC benefits, conducting paternity outreach aimed at voluntary paternity establishment, and giving States the administrative authority to establish the child support award in appropriate cases, based on State guidelines.

In order to ensure fair award levels, this proposal will: (1) require universal, periodic, administrative updating of awards; (2) reorder the distribution of child support payments to enable families to more easily move from welfare to work; and (3) establish a National Commission on Child Support Guidelines. This proposal also includes provisions for central registries and other tools to improve both intra- and interstate enforcement. States will be required to use the threat of revoking professional, occupational, and drivers' licenses to make delinquent parents pay child support. The proposal will give States additional enforcement tools such as universal wage withholding to increase collections. States will also have the option of developing JOBS and/or WORK programs for noncustodial parents who have children receiving AFDC or who have child support arrearages owed to the State from prior periods of AFDC receipt by their children.

The proposal also calls for a limited number of time-limited Child Support Enforcement and Assurance demonstrations which will attempt to link expanded efforts at child support collections to some level of guarantee that a child will receive a child support payment on a consistent basis. Finally, this proposal will focus more attention on noncustodial parents by establishing demonstration grants for paternity and parenting programs and grants for success and visitation programs.

IMPROVING GOVERNMENT ASSISTANCE

This bill includes provisions to increase coordination and simplification in the operation of the AFDC and Food Stamp programs, and improve the incentives in income support programs, including allowing States to eliminate special requirements for two-parent families, allowing families to own a reliable automobile and accumulate savings and a number of other coordination and simplification proposals to encourage work and family formation. The proposal will also increase the current cap on funding for certain assistance programs operating in the territories, create self-employment/microenterprise demonstrations, and limit the definition of essential persons.

Measures to enhance accountability and efficiency and reduce fraud include a nationwide public assistance clearinghouse and state tracking systems to follow people in the JOBS and WORK programs. Finally, the proposal seeks to transform the culture of the welfare system into a performance-based system through the adoption of new performance measures and service delivery standards, an improved quality assurance system, and funding for research, demonstrations, evaluation and technical assistance.

FINANCING

The cost of the proposal to the Federal Government is $9.3 billion and is fully offset.

The financing comes from three areas: (1) reductions in entitlement programs; (2) extensions of various savings provisions set to expire in the future; and (3) better EITC targeting and compliance measures. Estimated Federal savings for all proposals are roughly $9.3 billion over five years.

Entitlement Reforms. The current Emergency Assistance (EA) program would be modified by establishing a Federal cap for each State's EA expenditures (saves $1.6 billion over five years). Sponsorship and benefit eligibility rules for non-citizens under Supplemental Security Income (SSI), AFDC, and Food Stamps would be tightened; the deeming of sponsors' income in the SSI program would be permanently extended to five years; the same deeming rules would be extended to AFDC and Food Stamps; and eligibility would be limited to aliens with sponsors below median income (saves $2.8 billion over five years). In addition, more consistent eligibility criteria under SSI, AFDC, Food Stamps and Medicaid would be established for all categories of immigrants who are *not* legal permanent residents (saves $900 million over five years). Once immigrants become citizens, they will be eligible for benefits on the same basis as are other Americans.

Congress is in the process of enacting strengthened sanctions and new time limits for individuals receiving SSI and Social Security Disability Insurance (SSDI) benefits who have substance abuse problems that are material to disability finding and these savings would be referenced for welfare reform (saves an estimated $800 million over five years). Family day care food program funding to low-income children would be better targeted (saves $500 million over five years). Producers receiving $100,000 or more in off-farm adjusted gross income would be made ineligible for Commodity Credit Corporation (CCC) crop subsidies (saves $500 million over five years).

Extended Expiring Provisions. The 1990 Farm Bill provision which changed the percentage of recovered Food Stamp overissuances retainable by State agencies for fiscal years 1991-95 would be extended (saves $100 million over five years). Fees for passenger processing and other custom services would be extended (increases receipts by $1 billion in 2004). Railroad safety inspection fees would be extended permanently (increases receipts by $200 million over five years). The Corporate Environmental Income (CEI) tax used to finance Superfund would be extended through fiscal year 1998 (increases receipts by $1.6 billion over five years). Using these extensions to help finance welfare reform will in no way threaten the funding of the programs involved.

EITC Targeting and Compliance Measures. The proposal would deny the EITC to nonresident aliens completely, affecting 50,000 taxpayers, mainly visiting foreign students and professors (saves $100 million over five years). The proposal would extend the EITC to active military families living overseas, and the Department of Defense would be required to report the nontaxable earned income paid to military personnel (both overseas and States-side) on Form W-2 (saves $200 million over five years).

WORK AND RESPONSIBILITY ACT OF 1994—LEGISLATIVE SPECIFICATIONS

INTRODUCTION

It is time to end welfare as we know it and replace it with a system that is based on work and responsibility—a system that will help people help themselves. This legislation reinforces the fundamental values of work, responsibility, family, and community. It rewards work over welfare. It signals that people should not have children until they are ready to support them, and that parents—both parents—who bring children into the world must take responsibility for supporting them. It gives people access to the skills they need and expects work in return. Most important, it will give people back the dignity that comes from work and independence. The cost of the proposal to the Federal Government is estimated at $9.3 billion over five years and is fully offset, primarily through reductions in entitlements and without new tax increases.

The "Work and Responsibility Act of 1994" will replace welfare with work. Under this legislation, welfare will be about a paycheck, not a welfare check. Our approach is based on a simple compact designed to reinforce and reward work. Each recipient will be required to develop a personal employability plan designed to move that individual into the workforce as quickly as possible. Support, job training, and child care will be provided to help people move from dependence to independence. Time limits will ensure that anyone who can work, must work—in the private sector if possible, in a temporary subsidized job if necessary.

This legislation includes several provisions aimed at creating a new culture of mutual responsibility. It includes provisions to promote parental responsibility and ensure that both parents contribute to their children's well-being. This legislation establishes the toughest child support enforcement program ever. It recognizes that preventing teen pregnancy and out-of-wedlock births is a critical part of welfare reform. To prevent welfare dependency, teenagers must get the message that staying in school, postponing pregnancy, and preparing to work are the right things to do. The legislation also includes: incentives directly tied to the performance of the welfare office; extensive efforts to detect and prevent welfare fraud; sanctions to prevent gaming of the welfare system; and a broad array of incentives that States can use to encourage responsible behavior.

The "Work and Responsibility Act of 1994" proposes dramatic changes in our welfare system, changes so bold that they cannot be accomplished overnight. We phase in these changes by focusing on young people, to send a clear message to the next generation that we are ending welfare as we know it.

JOBS, TIME LIMITS AND WORK [TITLE I, TITLE II]

Definition: A "subsidized job" is defined as a position subsidized under either the JOBS or the WORK program.

JOBS and Time Limits

1. Effective Date and Definition of Phased-in Group

Specifications

(a) The effective date for the legislation would be October 1, 1995. States could petition to delay implementation for up to one year after the effective date (i.e., until, at the latest, October 1, 1996) for circumstances beyond the control of the State IV-A agency (e.g., no meeting of State legislature that year). States would be required to have the program implemented statewide (in each political subdivision of the State where it is feasible to do so) within two years of initial implementation.

(b) The phased-in group would be defined as custodial parents, including minor custodial parents, who were born after 1971 (in 1972 or later).

(c) States would have the option to define the phased-in group more broadly (e.g., custodial parents born after 1969; born after 1971 and all first-time applicants), provided the phased-in group included at least the population described in (b).

(d) States would be required to apply the new rules, including the time limit, to all applicants in the phased-in group as of the effective date of the legislation. Recipients (parents) in the phased-in group who were on AFDC prior to the effective date would be subject to the new rules, including the time limit, as of their first redetermination following the effective date.

2. Program Intake

Current law

The Family Support Act requires a State agency to make an initial assessment of JOBS participants with respect to employability, skills, prior work experience and educational, child care and supportive service needs.

Vision

At the point of intake, applicants would learn of their specific responsibilities and expectations regarding the JOBS program, the two-year time limit and its relationship to JOBS participation and AFDC benefits not conditioned upon work. Each applicant would now be required to enter into a personal responsibility agreement with the State agency broadly outlining the obligations of each party. While the personal responsibility agreement would serve as a general accord, the employability plan would be focused on the specific employment-related needs of each applicant.

Rationale

States must change the culture of the welfare system by changing the expectations of both the recipient and the State agency. This calls for modifying the mission of the welfare system beginning at the point of intake to stress employment and access to needed services rather than eligibility and benefit determination. The mutual obligations of the State agency and the participant must be spelled out and enforced. JOBS programs must continue to link clients to services in the community.

Specifications

(a) All parents and other caretaker relatives would be required as part of the application/redetermination process to sign a Personal Responsibility Agreement with the State IV-A agency. The Agreement would state the overall goal of achieving maximum self-sufficiency and would describe the general responsibilities of both the applicant and the State agency (for the applicant, following the employability plan; for the State, making available the services in the plan). Current recipients (parents), if they had not previously signed the Agreement, would be required to sign the Agreement as part of the redetermination process. The Personal Responsibility Agreement for persons in the not-phased-in group would make no reference to the time limit.

(b) The Personal Responsibility Agreement would not be a legal contract.

(c) The State IV-A agency would be required to orient each applicant to the AFDC program by providing information about the AFDC program, which would include (among other items) the nature and applicability of the two-year time limit, the JOBS participation requirement, the services provided under JOBS and the availability of such services to persons not in the phased-in group. Each applicant in the phased-in group would be informed of the number of months of cash assistance/JOBS participation for which he or she was eligible (e.g., 24 for first-time applicants). The orientation information could be provided as part of the eligibility determination process or in a subsequent one-on-one or group orientation session. States would be required to provide the orientation information prior to or as part of the development of the employability plan. The information would be imparted in the recipient's primary language pursuant to Federal law and regulation. Child care would be available as needed to enable an individual to receive the orientation information (as under 45 CFR 255.2).

(d) The State would have to obtain confirmation in writing from each applicant in the phased-in group that he or she had received and understood the requisite orientation information.

(e) Recipients who were already on assistance as of the effective date of the legislation would be provided with the requisite orientation at the earliest possible date but in no event later than at the development or revision of the employability plan (see below) or as part of the redetermination process, whichever came first.

3. Employability Plan

Current law

On the basis of the assessment described above, the State agency must develop an employability plan for the participant. The State agency may require participants to enter into a formal agreement which specifies the participant's obligations under the program and the activities and services to be provided by the State agency. The employability plan is not considered a contract.

Vision

The employability plan would be designed so as to help individuals secure lasting employment as soon as possible. Employability plans could be for less than 24 months and may include assignment, through JOBS, to work programs such as On-the-Job Training, Work Supplementation and CWEP.

Specifications

(a) The State agency would be required to complete the assessment and employability plan (for new recipients) within 90 days from the earliest date for which payment was made. For recipients on assistance as of the effective date, the employability plan would have to be developed (or revised, if such a plan were already in place) within 90 days of the date the recipient became subject to the time limit (i.e., within 90 days of the redetermination; see above).

(b) The employability plan would be developed jointly by the State agency and the recipient. In designing the employability plan, the agency and the recipient would consider, among other elements, the months of eligibility (for JOBS participation/AFDC benefits not contingent upon work; see Definition of the Time Limit below) remaining for that recipient (if that recipient were subject to time limit).

(c) An employability plan would be required for all JOBS participants, including those not in the phased-in group (e.g., volunteers). Employability plans would also be developed, when appropriate, for persons who were deferred from JOBS participation.

(d) The employability plan for persons required to participate in JOBS would include an expected time frame for achieving self-sufficiency and the activities intended to assist the participant in obtaining employment within that time period. The time frame would, in the case of many JOBS participants, be shorter than 24 months. For persons who were deferred, an employability plan could detail the activities needed to remove the obstacles to JOBS participation (see below).

(e) Amend section 483(b)(1)(A) by adding "literacy" after the word "skills."

(f) The State agency would provide that if the recipient and the State agency staff member or members responsible for developing the employability plan could not reach agreement on the plan, a supervisory level staff member or other State agency employee trained to mediate these disputes would intervene to provide further advocacy, counseling or negotiation support.

(g) To resolve disputes (regarding the employability plan) not settled by the intervention in (f), a State could elect one or more of the following processes:

i. Permit the agency to establish an internal review board to arbitrate disputes. This board would have the final say. The Secretary would establish regulations for such boards.

ii. Permit agencies to employ mediation using trained personnel, rather than arbitration, to resolve the dispute. HHS would be responsible for providing technical assistance to States that wished to use mediation.

iii. Allow the recipient a fair hearing contesting whether the State agency had followed the established process for developing the employability plan. A fair hearing could be the exclusive remedy or could be allowed in addition to the procedure in (i) or (ii).

(h) Persons who refused to sign or otherwise agree to the employability plan after the completion of the process described above would be subject to sanction, curable by agreeing to the plan. In the event of an adverse ruling at a fair hearing concerning the employability plan, the individual would not have the right to a second fair hearing prior to imposition of the sanction for continued refusal to agree to such plan.

4. Deferrals

Current law

States must require non-exempt AFDC recipients to participate in the JOBS program to the extent that resources are available. Exemptions under the current JOBS program are for those recipients who are ill, incapacitated, or of advanced age; needed in the home because of the illness or incapacity of another family member; the caretaker of a child under age 3 (or, at State option, under age 1); employed 30 or more hours per week; a dependent child under age 16 or attending an educational program full time; women in the second and third trimester of pregnancy; and residing in an area where the program is not available. The parent of a child under age 6 (but older than the age for an exemption) who is personally providing care for the child may be required to participate only if participation does not exceed 20 hours per week and necessary child care is guaranteed. For AFDC-UP families, the exemption due to the age of a child may be applied to only one parent, or to neither parent if child care is guaranteed.

Vision

Under the new provisions, a much greater percentage of AFDC recipients would be required to participate in JOBS. Single-parent and two-parent families would be treated similarly under the new JOBS system. Persons not yet ready for participation in JOBS would be deferred, temporarily in many cases, from such participation. The State agency would, when appropriate, assist such individuals in filing for Supplemental Security Income (SSI) or Disability Insurance (DI). Some of the criteria for deferral are based on current regulations concerning exemptions, but in a number of instances the definition is tightened significantly.

Rationale

In order to change the culture of welfare, it is necessary to maximize participation in the JOBS program. It is also critical to ensure that all welfare recipients who are able to participate in JOBS have such services made available to them by the States. The deferral policy does, however, give States the flexibility to consider differences in the ability to work and to participate in education and training activities in determining whether to require an individual to enter the JOBS program.

Specifications

(a) Adult recipient (see Teen Parents below for treatment of minor custodial parents) who were not able to work or participate in education or training activities (e.g., due to care of a disabled child) could be deferred either prior to or after entry into the JOBS program (or after entry into the WORK program; see WORK specifications below). For example, if an individual became seriously ill after entering the JOBS program, he or she would then be deferred.

(b) The State agency would be required to make an initial determination with respect to deferral prior to or as part of the development of the employability plan, since the determination would in turn affect the content of the employability plan. Recipient who was required to participate in JOBS rather than deferred could request a fair hearing focusing on whether the individual meets one of the deferral criteria (see below). The time frame for completion of the employability plan (see above) would be waived in instances of a dispute concerning deferral from JOBS.

(c) Persons who were deferred from JOBS would be expected when possible to engage in activities intended to prepare them for employment and/or the JOBS program. An employability plan for a deferred recipient could detail the steps, such as referral to a vocational rehabilitation program or arranging for an appropriate day care or school setting for a child with a disability, needed to enable the adult to enter the JOBS program and/or find employment.

Recipients not likely to ever participate in the JOBS program (e.g., those of advanced age) would not be expected to engage in activities to prepare for JOBS participation. An employability plan for such a person might include steps intended to, for example, improve the family's health status or housing situation. For individuals who were expected to enter the JOBS program shortly (e.g., mothers of young children), services could be provided to address any outstanding barriers to successful participation in JOBS (e.g., arranging for child care).

(d) States could provide program services to deferred individuals, using JOBS funds, but would not be required to do so. Likewise, States could provide child care or other supportive services to persons who were deferred, but would not be required to do so—there would be no child care guarantee for individuals in the deferred status. Persons who were deferred would not be subject to sanction for failure to participate in activities. In other words, in order to actually require an individual to participate in an activity, a State would have to classify the individual as JOBS-mandatory (except with respect to participation in substance abuse treatment; see Substance Abuse and Deferral from JOBS or WORK below).

(e) Persons who were deferred would not be subject to the time limit, i.e., months in which a recipient was in deferred status would not count against the two-year limit.

(f) The criteria for deferral from JOBS would be the following:

(1) Is a parent of a child under age one, provided the child was not conceived while the parent was on assistance. A parent of a child conceived while on assistance would be deferred for a twelve-week period following the birth of the child (consistent with the Family and Medical Leave Act).

(Under current law, a parent of a child under age three, under age one at State option, is exempted from JOBS participation, and no distinction is made according to whether or not the parent was on assistance when the child was conceived)

(2) Is ill or incapacitated, when it is certified by a licensed physician, psychologist or mental health professional (from a list of such professionals approved by the State) that the illness or incapacitating condition is serious enough to prevent, at least temporarily, entry into employment or training;

(3) Is 60 years of age or older;

(4) Is needed in the home because another member of the household requires the individual's presence due to illness or incapacity as determined by a licensed physician, psychologist or mental health professional (from a list of such professionals approved by the State), and no other appropriate member of the household is available to provide the needed care;

(5) Is in the third trimester of pregnancy; or

(Under current law and regulations, pregnant women are exempted from JOBS participation for both the second and third trimesters)

(6) Lives in a remote area. An individual would be considered remote if a round trip of more than two hours by reasonably available public or private transportation would be required for a normal work or training day. If the normal round-trip commuting time in the area is more than 2 hours, the round-trip commuting time could not exceed generally accepted standards for the area.

(Same as current regulations, CFR 250.30))

(g) Only one parent in an AFDC-UP family could be deferred under f(1).

(h) Each State would be permitted to defer from JOBS for good cause, as determined by the State, a number of persons up to a fixed percentage of the total number of persons in the phased-in group, which would include adult recipients (parents), minor custodial parents and persons in the WORK program. These good cause deferrals would be in addition to those meeting the deferral criteria defined in (f). Good cause could include substantial barriers to employment—for example, a severe learning disability or serious emotional instability. The percentage cap on such deferrals would be set, in statute, at 5% through FY 99 and 10% thereafter. A State would be able, in the event of extraordinary circumstances, to apply to the Secretary to increase the percentage cap on good cause placements. The Secretary would be required to respond to such request in a timely manner (time frame to be established by regulation).

(i) The Secretary would develop and transmit to Congress, by a specified date, recommendations regarding the level of the cap on good cause deferrals; the Secretary could recommend that the cap be raised, lowered or maintained at ten percent.

(j) The State agency would be required to reevaluate the status of persons in deferred status at such time as the condition is expected to terminate (if the condition is expected to be temporary) but no less frequently than at each semiannual assessment (see Semiannual Assessment below) to determine if the individual should remain in deferred status or should enter (or re-enter) the JOBS or WORK programs.

(k) Recipients who met one (or more) of the deferral criteria would be permitted to volunteer for the JOBS program, subject to available Federal resources (see JOBS Participation below). Such a volunteer JOBS participant would in general be treated as other JOBS participants except that he or she would not be subject to sanction or to the time limit. These volunteers would be distinct from volunteers from the not-phased-in group (see JOBS Participation below), who could at State option be subjected to the time limit.

(l) A State agency would be required to promptly inform a recipient of any change in his or her status with respect to JOBS participation and/or the time limit (e.g., movement from the deferred status into the JOBS program).

(m) The criteria for deferring persons from WORK participation (see WORK below) would be identical to the deferral criteria for persons who had not yet reached the two-year time limit. Persons who were deferred from the WORK program after reaching the time limit would be eligible for AFDC benefits. Such individuals would be treated exactly the same as persons deferred from the JOBS program before reaching the time limit, except that if the condition necessitating deferral ended, they would enter or re-enter the WORK program, rather than the JOBS program. Adult recipients deferred from the WORK program for good cause would count against the cap on the number of deferrals for good cause.

5. Substance Abuse and Deferral from JOBS or WORK

Current law

Current law does not specifically mention substance abuse. Under JOBS regulations, a recipient whose only activity is alcohol or drug treatment would not be counted toward a State's participation rate. Alcohol or drug treatment may, however, be provided as a supportive service using JOBS funds should a State choose to do so. Oregon currently has a waiver that permits the JOBS program to require participation in substance abuse diagnostic, counseling, and treatment programs if they are determined to be necessary for self-sufficiency.

Vision

States would be given flexibility to require recipients they determine to be unable to engage in employment or training because of a substance abuse problem to participate in substance abuse treatment while in the deferred status. Sanctions may be imposed for non-participation in substance abuse treatment provided that both treatment and supportive services, including child care, are made available.

Rationale

States report (on an anecdotal basis) substance abuse as a problem they encounter in their JOBS populations. It is a barrier to self-sufficiency for a number of AFDC recipients who will require treatment if they are to successfully participate in employment or training activities. It is estimated that approximately 4.5% of AFDC recipients have substance abuse problems sufficiently debilitating to preclude immediate participation in employment or training activities. Nearly one-third of these have participated in some form of alcohol or drug treatment in the past year.

Specifications

(a) States may require persons found unable to engage in employment or training due to substance abuse to participate in appropriate substance abuse treatment while in deferred status.

(b) Sanctions, equivalent to JOBS sanctions, may be levied for non-participation in treatment, provided such treatment is available at no cost to the recipient.

(c) Child care and/or other supportive services must be made available to an individual required to participate in substance abuse treatment.

(d) Provisions concerning the semiannual reassessment apply to deferred persons participating in substance abuse treatment as described in this section.

(e) States may also require individuals in JOBS to participate in substance abuse treatment (in conjunction with another JOBS activity or activities) as part of the employability plan.

6. Definition of the Time Limit

Current Law

Some States (those which did not have an AFDC-UP program in place as of September 26, 1988) are permitted to place a type of time limit on participation in the AFDC-UP program, restricting eligibility for AFDC-UP to as few as 6 months in any 13-month period (Section 407(b)). Thirteen states presently impose time limits on AFDC-UP eligibility. Under current law, however, no other type of time limits may be placed on participation in the AFDC program.

Vision

Most of the people who enter the welfare system do not stay on AFDC for many consecutive years. It is much more common for recipients to move in and out of the welfare system, staying a relatively brief period each time. Two out of every three persons who enter the welfare system leave within two years and fewer than one in ten spends five consecutive years on AFDC. Half of those who leave welfare return within two years, and three of every four return at some point in the future. Most recipients use the AFDC program not as a permanent alternative to work, but as temporary assistance during times of economic difficulty.

While persons who remain on AFDC for long periods at a time represents only a modest percentage of all people who ever enter the system, however, they represent a high proportion of those on welfare at any given time. Although many face very serious barriers to employment, including physical disabilities, others are able to work but are not moving in the direction of self-sufficiency. Most long- term recipients are not on a track toward obtaining employment that would enable them to leave AFDC.

The proposal would establish, for adult recipients who were not deferred, a cumulative time limit of two years on the receipt of AFDC benefits not contingent upon work, with extensions to the time limit to be granted under certain circumstances. Months in which an individual was deferred would not count against the time limit. Individuals who have left welfare for extended periods of time would be eligible for a cushion of a few months of AFDC benefits.

The two-year time limit is part of the overall effort to shift the focus of the welfare system from disbursing funds to promoting self-sufficiency through work. This time limit gives both the recipient and the welfare agency a structure that necessitates steady progress in the direction of employment and economic independence. As discussed in the WORK specifications below, recipients who reach the two-year time limit without finding an unsubsidized job would be offered publicly subsidized jobs to enable them to support their families.

Specifications

(a) The time limit would be a limit of 24 on the cumulative number of months of AFDC benefits an adult (parent) could receive before being required to participate in the WORK program (see Teen Parents for treatment of young custodial parents). In other words, the 24 months would begin with the initial AFDC payment (or with the first payment following redetermination, in the case of persons on AFDC prior to the effective date of the legislation). Months in which an individual was receiving assistance but was deferred rather than in JOBS would not count against the 24-month time limit (see Deferral above).

(b) The 24-month time clock would not begin to run until a custodial parent's 18th birthday. In other words, months of receipt as a custodial parent before the age of 18 would not be counted against the time limit.

(c) A record of the number of months of eligibility remaining would be kept for each individual subject to the time limit. Non-parent caretaker relatives would not be subject to the time limit.

(d) The State agency would be required to advise each recipient subject to the time limit as to the number of months of eligibility remaining for him or her no less frequently than once every six months (see Semiannual Assessment below). In addition, the State agency would be required to contact and schedule a meeting with any recipient who was approaching the 24-month time limit at least 90 days prior to the end of the 24 months (see Transition to Work/WORK below).

7. AFDC–UP Families and the Time Limit

Specifications

(a) In an AFDC–UP family, both parents would be subject to the time limit if either parent were in the phased-in group (see below). A separate record of months of eligibility remaining would be kept for each parent. If one parent in an AFDC–UP family were deferred, that parent would not be subject to the time limit—months in deferred status would not count against that individual's 24-month limit. The other parent, however, would still be subject to the time limit. A deferral of one parent in an AFDC–UP family would not count against the cap on deferral for good cause.

(b) If one parent had reached the time limit and the other had not, the parent who had reached the time limit would be required to enter the WORK program. If the parent who had reached the limit declined to participate in the WORK program, that parent's needs would no longer be considered in calculating the family's grant. His or her income and resources would still be taken into account. The family would still be eligible for the remainder of the benefit (essentially, the other parent and the children's portion) until the other parent reached the two-year limit.

(c) If a parent in an AFDC–UP family reached the time limit but declined to enter the WORK program, the needs of that individual would (as above) not be taken into account in calculating the AFDC benefit. If such a parent subsequently reversed course and entered the WORK program, he or she would be considered part of the assistance unit for the purpose of determining any supplemental AFDC benefit and would also be eligible for a WORK assignment. As discussed in the WORK specifications below, a State would not be required to provide WORK assignments to both parents in an AFDC–UP family.

(d) Months in which a parent in an AFDC–UP family met the minimum work standard would not count against that parent's time limit. If the combined hours of work for both parents were equal to an average of 30 or more per week (up to 40 at State option), neither parent would be subject to the time limit (see Minimum Work Standard).

(e) If one of the two parents in an AFDC–UP family were sanctioned under the WORK program or under JOBS for refusing to accept an unsubsidized job, the sanctions described below (see Sanctions/Penalties) apply, regardless of the status of the second parent.

(f) With respect to the phase-in, both parents in an AFDC–UP family would be considered subject to the new rules if either parent were in the phased-in group. If the parents in an AFDC–UP family subject to the new rules subsequently separated, both would still be subject to the new rules.

(g) States which placed separate limits on AFDC–UP eligibility (e.g., 6 months in any 13-month period) would not be permitted to apply the two-year limit or any related provisions to AFDC–UP families. In these States, all AFDC–UP families would be treated as part of the not-phased-in group.

8. Teen Parents

Vision

Persons under 18 are not ready to be independent and should generally be in school. Under the proposed law, minor parents would not be allowed to set up independent households. They would receive case management and be expected to remain in school. A teen parents's time clock would not begin to run until he or she turned 18 (and could establish an independent household).

Specifications

(a) States would be required to provide case management services to all custodial parents under 20.

(b) All custodial parents under 20 who has not completed high school or the equivalent would be required to participate in the JOBS program, with education as the presumed activity. The 24-month time clock, however, would not begin to run until a custodial parent turned 18. In other words, months of receipt as a custodial parent before the age of 18 would not be counted against the time limit.

(c) Custodial parents under 20 who had not completed high school or the equivalent and who had a child under one would be required to participate in JOBS as soon as the child reached twelve weeks of age. States would be permitted to defer custodial parents under 20 in the event of a serious illness or other condition which precluded school attendance.

(d) Custodial parents who were eligible for and receiving services under the Individuals with Disabilities Education Act would receive an automatic extension up to age 22 if needed to complete high school. These extensions would not be counted against the cap on extensions.

9. JOBS Services

Current Law

A range of services and activities must be offered by States under the current JOBS program, but States are not required to implement JOBS uniformly in all parts of the State and JOBS programs vary widely among States. The services which must be provided as part of a State's JOBS program are the following: educational activities, including high school and equivalent education, basic and remedial education, and education for persons with limited English proficiency; job skills training; job readiness activities; job development and job placement; and supportive services to the extent that these services are necessary for participation in JOBS. Supportive services include child care, transportation and other work-related supportive services. States must also offer, in addition to the aforementioned services, at least 2 of the following services: group and individual job search, on-the-job training (OJT), work supplementation programs and community work experience programs.

Vision

The definition of satisfactory participation in the JOBS program would be broadened to include additional activities that are necessary for individuals to achieve self-sufficiency. States would continue to have broad latitude in determining which services were provided under JOBS. Greater emphasis, however, would be placed on job search activities, to promote work and employment.

Specifications

Up-Front Job Search

(a) All adult new recipients in the phased-in group (and minor parents who had completed high school) who were judged job-ready would be required to perform job search from the date assistance began. Job ready would be in general defined as having either non-eligible work experience, or a high school diploma or the equivalent. States would include a more detailed definition of job-ready in the State plan. The definition would have to exclude persons who met or appeared likely to meet one of the deferral criteria. A formal determination as to deferral, however, would not be required at this point.

(b) States would have the option of requiring all job-ready new recipients, including those in the not-phased-in group, to perform up-front job search. States would also be permitted to require job search from the date of application (as under current law, this requirement could not be used as a reason for a delay in making the eligibility determination or issuing the payment).

(c) The permissible period of initial job search would be extended from 8 weeks to 12.

Other Provisions Concerning JOBS Services

(d) States would be required to include job search among the JOBS services offered.

(e) Clarify the rules so as to limit job search (as the exclusive activity, i.e., not in conjunction with other services) to 4 months in any 12-month period. The up-front job search (described above) and the 45-90 days of job search required immediately before the end of the two-year time limit (see Transition to Work/WORK below) would both be counted against the 4-month limit.

(f) Amend section 482(d)(1)(A)(i)(I) by replacing "basic and remedial education to achieve a basic literacy level" with "employment-oriented education to achieve literacy levels needed for economic self-sufficiency".

(g) Self-employment programs, including microenterprise training and activities, would be added to the list of optional JOBS activities.

(h) Increase the limit on Federal reimbursement for work supplementation program expenditures from the current ceiling, which is essentially based on a maximum length of participation in a work supplementation program of 9 months, to a level based on a maximum length of participation of 12 months.

(i) Change the nondisplacement language to permit work supplementation participants to be assigned to unfilled vacancies in the private sector, provided such placements did not violate the other nondisplacement provisions in current law.

(j) Alternative Work Experience would be limited to 90 days within any 12-month period.

(k) The State plan would be required to include a description of efforts to be undertaken to encourage the training and placement of women and girls in nontraditional employment, including steps to increase the awareness of such training and placement opportunities.

(l) States would be required to indicate in the State plan whether and how they will make training as child care providers available to participants.

(m) The State plan would include procedures to ensure that, to the extent possible, (external) service providers promptly notify the State agency in the event of noncompliance by a JOBS participant, e.g., failure to attend a JOBS activity.

(n) Amend the language in Social Security Act section 483(a)(1) which requires that there be coordination between JPTA, JOBS and education programs available in the State to specifically require coordination with the Adult Education Act and Carl D. Perkins Vocational Educational Act.

(o) Where no appropriate review were made (e.g., by an interagency board), the State council on vocational education and the State advisory council on adult education would review the State JOBS plan and submit comments to the Governor.

(p) The agency administering the JOBS and WORK program would be prohibited by regulation from referring participants to, contracting with or otherwise making IV-F of IV-G funds available to a provider of education and training services if such institution were disqualified from participation in a program under Title IV of the Higher Education Act or under the Reemployment Act. A State would be provided, by regulation, the option of applying the alternative eligibility procedure established under the Reemployment Act of potential providers of JOBS or WORK services.

10. Minimum Work Standard

Specifications

(a) The minimum work standard would be an average of 20 hours of (unsubsidized) work per week during the month, with a State option to increase to up to an average of 30 hours per week. States would also have the option to set different minimum work standards for different subgroups (e.g., mothers of children under 6), provided that the standard for each subgroup were at least 20 and no more than 30 hours per week.

(b) Months in which an individual met the minimum work standard would not count against the time limit. In an AFDC-UP family, if one parent met the minimum work standard, he or she would not be subject to the time limit. Months in which the combined hours of both parents equaled or exceeded 30 (up to 40 at State option) would not count against the time limit for either parent.

(c) An individual who had not reached the time limit and was meeting the minimum work standard would be counted as a JOBS participant (see JOBS PARTICIPATION below).

(d) A person who had reached the time limit but was meeting the minimum work standard would be eligible for supplemental AFDC benefits, if otherwise eligible for FDS (see EARNINGS SUPPLEMENTATION below).

(e) A State would be required to offer a WORK assignment to an individual working in an unsubsidized job for a number of hours less than the minimum work standard (provided the person were otherwise eligible for the WORK program; e.g., met income and resource tests). The WORK assignment would be structured, to the extent possible, not to interfere with the unsubsidized employment.

(f) Persons meeting the minimum work standard would be required to accept additional hours of unsubsidized work if offered, provided such work met the relevant standards (e.g., health and safety) for unsubsidized employment and the total number of hours did not exceed an average of 35 per week. Such individuals would also be prohibited from reducing the number of hours worked with the intent of receiving additional benefits.

11. Jobs Participation

Current Law

Under the Family Support Act of 1988, which created the JOBS program, minimum JOBS participation standards (the percentage of the non-exempt AFDC caseload participating in JOBS at a point in time) were established for fiscal years 1990 through 1995. States face a reduced Federal match rate if those standards are not met. In FY 1993 States were required to ensure that at least 11% of the non-exempt caseload in the State was participating in JOBS (in an average month). The standard increased to 15% for FY 1994 and will rise to 20% for FY 1995. There are no standards specified for the fiscal years after FY 1995. Individuals who are scheduled for an average of 20 hours of JOBS activities per week and attend for at least 75% of the scheduled hours are countable for participation rate purposes. States are required to meet separate, higher participation standards for principal earners in AFDC-UP families. For FY 1994, a number of AFDC-UP parents equal to 40 percent of all AFDC-UP principal earners are required to participate in work activities for at least 16 hours per week. The standards rises to 50 percent for FY 1995, 60 percent for FY 1996 and 75 percent for each of the fiscal years 1997 and 1998.

Vision

To transform the welfare system from an income support system into a work support system, the JOBS program must be expanded significantly. This substantial increase in the number of JOBS participants would be phased in over time.

Specifications

(a) The JOBS program targeting requirements would be eliminated. The separate AFDC-UP participation standards in current law would remain in place.

(b) Individuals in self-initiated education and training activities (including, but not limited to, post-secondary education) would receive child care benefits if and only if such activities were approved through the JOBS program. Costs of such education and training would not be reimbursable under JOBS. Child care and supportive services expenditures, however, would be matchable through IV-A and JOBS, respectively.

(c) The definition of participation would be altered by regulation such that an individual enrolled half-time in a degree-granting post-secondary educational institution who was making satisfactory academic progress (as defined by the Higher Education Act) and whose enrollment was consistent with an approved employability plan would be considered to be participating satisfactorily in JOBS, even if such a person were scheduled for fewer than 20 hours of class per week.

(d) The definition of JOBS participation would be broadened to include working in jobs that met the minimum work standard (see above).

(e) The broadened definition of participation would include participation in a structured microenterprise program. As above, satisfactory participation in such a microenterprise program would meet the JOBS participation requirement, even if the scheduled hours per week were fewer than 20.

JOBS Participation for the Not-Phased-in Group

Specifications

(f) A State would be required to continue providing services to a person already participating in JOBS as of the effective date, consistent with the employability plan in place as of that date.

(g) States would be given substantial flexibility regarding JOBS services for persons not in the Federally-defined phased-in group (custodial parents born after 1971), as discussed below:

i. A State would be required to serve volunteers from the not-phased-in group to the extent that Federal JOBS funding was available (i.e., the State had not drawn down its full JOBS allotment). States would have the option of subjecting such JOBS volunteers to the time limit. A State would be required to describe in the State plan its policy with respect to volunteers.

ii. States could define the phased-in group more broadly, e.g., parents born after 1971 and all new applicants (see EFFECTIVE DATE AND DEFINITION OF THE PHASED-IN GROUP above). In addition, a State could require recipients who were not in its phased-in group to participate in JOBS, and sanction such an individual for failure to comply, but that person would not be subject to the time limit. An individual in either the phased-in or the not-phased-in groups who met one of the deferral criteria could not be required to participate in JOBS.

12. JOBS Funding

Current law

Under current law, the capped entitlement for JOBS is distributed according to the number of adult recipients in a State, relative to the number in all States. State expenditures on JOBS are currently matched at three different rates. States receive Federal matching funds, up to the State's 1987 WIN allocation, at a 90 percent Federal match rate. Expenditures above the amount reimbursable at 90 percent are reimbursed at 50 percent, in the case of spending on administrative and work-related supportive service costs, and at the higher of 60 percent or FMAP in the case of the cost of full-time JOBS program staff and other program expenditures (apart from spending on child care, which does not count against the jobs capped allotment and is matched at FMAP). The JOBS entitlement (Federal funding) is capped at $1.1 billion for FY 94, $1.3 billion for FY 95, and $1 billion for FY 96 and each subsequent fiscal year.

Specifications

(a) The capped entitlement of JOBS would be allocated according to the average monthly number of adult recipients (which would include WORK participants) in the State relative to the number in all States (similar to current law).

(b) The JOBS capped entitlement (Federal) would be set at $1.75 billion for FY 1996 ($300 million of which would be designated for the Secretary's Fund; see below), $1.7 billion for FY 1997, $1.8 billion for FY 1998 and $1.9 billion for fiscal years 1999 through 2004. For fiscal year 2005 and each fiscal year thereafter, the level of the cap would be set at $1.9 billion adjusted for inflation using the Consumer Price Index.

(c) The Federal match rate (for each State) for all JOBS expenditures under the proposed law would be set at the following levels: FMAP plus five percentage points, with a floor of 65 percent, for fiscal years 1996 and 1997; at FMAP plus seven percentage points, with a floor of 67 percent, for FY 1998; at FMAP plus nine percentage points, with a floor of 69 percent, for FY 1999; and at FMAP plus ten percentage points, with a floor of 70 percent, for FY 2000 and each fiscal year thereafter. Spending for direct program costs, for administrative costs and for the costs of transportation and other work-related supportive services (apart from child care) would all be matched at this single rate. The current law hold harmless provision, under which expenditures up to a certain level are matched at 90 percent, would be eliminated. The enhanced match rate would become effective upon statewide implementation of the new legislation. Statewide for this purpose would be defined as a number of persons subject to the time limit that equaled or exceeded 90% of the federally defined phased-in group. The numerator for this calculation would be individuals in the State's phased-in group who were subject to the time limit; the denominator would be custodial parents born after 1971. A State would be eligible for the enhanced match rate prior to reaching the 90 percent level if it had in place an approved plan for achieving, within two years of initial implementation, that target.

(d) To qualify for the enhanced match rate, a State's total spending (State share) for JOBS, WORK (matchable from the WORK capped entitlement) and for IV-A, Transitional and At-Risk Child Care for a fiscal year would have to equal or exceed the State's total spending for JOBS and the IV-A, Transitional and At-Risk Child Care for Fiscal Year 1994 but could in no event be less than the total of such spending for Fiscal Year 1993.

(e) If a State did not qualify for the enhanced match rate by meeting the requirements in (c) and (d) above, its Federal match rate for JOBS and WORK (WORK operational costs) for the fiscal year in question would be reduced to a rate equal to the higher of FMAP and 60 percent (for all JOBS spending) and its Federal match rate for spending on the child care programs for that fiscal year would be reduced to FMAP.

(f) A State would be permitted, beginning in FY 97, to reallocate an amount up to 10% of its combined JOBS and WORK allotments (WORK allotments from the capped entitlement) from its JOBS program to its WORK program and vice versa. The amount transferred could not exceed the allotment for the program from which the transfer was made.

Example: A State with a $5 million JOBS allotment and a $6 million allotment from the WORK capped entitlement (see WORK Funding below) can allocate $1.1 million from JOBS to WORK or vice versa. The State finds that spending on the JOBS program is running higher than expected and so it opts to reallocate $600,000 from WORK to JOBS. The State can now draw down up to $5.6 million, rather than $5 million, in Federal funding for JOBS expenditures. On the other hand, the State can now receive only $5.4 million in Federal matching funds, at WORK match rate (capped entitlement), for spending on WORK costs.

(g) If the States did not claim all available Federal JOBS and WORK funding (WORK capped entitlement) for a fiscal year, a State could draw down Federal funds for JOBS and/or WORK in excess of its allotments. The additional Federal funding would be drawn from the unobligated balance (JOBS and WORK money not spent by other States). A State would have to draw down its full allocations for both JOBS and WORK to be able to draw down unspent funds beyond these allotments (for spending on either program). This would require legislative authority to distribute unobligated funds from one fiscal year during the subsequent fiscal year and to distribute unliquidated obligations from a fiscal year during, not the succeeding fiscal year, but the one after that (two years afterward).

Example: During FY 99, seven States spend on JOBS and WORK at a level that would draw down Federal funding in excess of their allotments. The FY 99 JOBS and WORK allotments for the seven States total $100 million, but the level of State match contributed for the two programs would enable the seven to draw down $110 million in Federal funds, absent the limitations on State allocations, for a difference of $10 million. The total amount of unobligated JOBS and WORK funding for FY 99 (based on States' drawing down JOBS and WORK funding only up to the level of their allotments) is $7 million. Each of the seven States would receive 70 cents for each dollar of Federal funding it could potentially have drawn down beyond the level of its JOBS and WORK allotments. State A, which would have drawn down an additional $1 million in Federal funding above its allocations, in the absence of any limitations, would receive $700,000 in additional Federal funding. If the amount of unobligated JOBS and WORK funding exceeded $10 million, the seven States would receive the full $10 million in additional Federal funding.

(h) If the rate of total unemployment in a State for a fiscal year equaled or exceeded the (total unemployment rate) trigger for extended unemployment compensation (currently 6.5 percent), and the State's total unemployment rate for that fiscal year equaled or exceeded 110 percent of that rate for either (or both) of the two preceding fiscal years, the State match rate for JOBS, WORK and At-Risk Child Care for that fiscal year would be reduced by ten percent (not by ten percentage points; e.g., from 30 percent to 27 percent, not from 30 percent to 20 percent). The adjustment to the match rate would become effective only if the State obligated sufficient funding to draw down its full allotments for JOBS, WORK and At-Risk Child Care at the pre-adjustment match rate. The State could then, as described above, draw down unspent JOBS and WORK funds at the higher match rate.

Example: State A obligates sufficient funding to draw down its full allocations for JOBS, WORK and At-Risk Child Care at the pre-adjustment match rates. The State match rate for JOBS and WORK is 25%, the total State contribution to both programs is $1 million and its total Federal allotment for both programs is $3 million. If the unemployment rate in State A for the fiscal year exceeded the trigger level (described above), the State match rate would be reduced from 25 to 22.5 percent. State A could then potentially draw down an additional $450,000 ($3.45 million minus $3 million) in Federal funds. Referring to the example above, the $450,000 would be placed in the pool with the $10 million the seven aforementioned States could potentially draw down beyond the level of their allotments. If the unobligated balance for the fiscal year were sufficient, State A would receive the full $450,000 and the seven other States would receive the full $10 million. If not, each of the eight States would receive a pro-rated amount (e.g., 65 cents on the dollar).

(i) The capped entitlement for JOBS for a fiscal year would rise by 2.5 percent if the average national total unemployment rate for the last two quarters of the previous fiscal year or the first two quarters of that fiscal year equaled 7 percent. For each tenth of a percentage point by which the national unemployment rate for either of those two-quarter periods exceeded 7 percent, the cap would be increased by an additional .25 percent. For example, if the unemployment rate for the last two quarters of the preceding fiscal year were 8.1 percent, the JOBS cap for the fiscal year would be increased by a total of 5.25 percent (2.5 percent for reaching 7 percent plus an additional 2.75 percent for the 1.1 percentage points over 7). Each State's allotment would increase accordingly.

In other words, a determination would be made at the beginning and in the middle of the Federal fiscal year as to whether the JOBS cap should be increased (i.e., whether the unemployment trigger level had been reached). If the cap were increased at the beginning of the year, an adjustment would not also be made at the middle of the year.

The same provision would apply to the capped entitlement of WORK (as described below) and to At-Risk Child Care.

(j) Funding for teen case management (see Teen Parents above) would be provided not as a set-aside, but as additional dollars within the JOBS capped entitlement.

13. Semiannual Assessment

Specifications

(a) The State agency would be required, on at least a semiannual basis, to conduct a review of the employability plan for both JOBS participants and for deferred persons who had an employability plan in place, to evaluate progress toward achieving the goals in the plan. This assessment, which would be done in person, could be integrated with the annual AFDC eligibility redetermination. Persons in deferred status found to be ready for participation in employment and training could be assigned to the JOBS program following the assessment. Conversely, persons in the JOBS program discovered to be facing very serious obstacles to participation could be deferred. Other revisions to the employability plan would be made as needed.

(b) The assessment would entail an evaluation of the extent to which the State was providing the services called for in the employability plan. In instances in which the State was found not to be delivering the specified education, training and/or supportive services, the agency would be required to take steps to ensure that the services would be delivered from that point forward.

14. Transition to Work/WORK

Specifications

(a) Persons would be required to engage in job search during a period of not less than 45 days (up to 90 days, at State option) before taking a WORK assignment. The employability plan would be modified accordingly. In most cases, the job search would be performed during the 45–90 days immediately preceding the end of the time limit.

(b) The State agency would be required to schedule a meeting with any recipient approaching the end of the 24-month time limit at least 90 days in advance of that individual's reaching the limit. The State agency would, as part of the 90-day assessment, evaluate the recipient's progress and employability to determine if an extension were appropriate to, for example, complete a training program in which the recipient was currently enrolled (see Extensions below). The State agency would be required to inform the recipient, both in writing and at the face-to-face meeting, of the consequences of reaching the time limit—the need to register for the WORK program in order to be eligible for further support, in the form of a WORK assignment. Recipients would also be apprised of the requirement to engage in job search for the final 45-90 days and of the State's extension policy.

(c) States would have the option of providing an additional month of AFDC benefits to individuals who found employment just as their eligibility for AFDC benefits/JOBS participation ended, if necessary to tide them over until the first paycheck.

(d) The State agency would notify the recipient, either by phone or in writing, of the purpose and need for the 90-day meeting, and the State agency would be required to make additional attempts at notification if the recipient failed to appear.

(e) For persons re-entering the JOBS program (including those previously assigned deferred) with fewer than six months of eligibility remaining, the development/revision of the employability plan could be considered the 90-day meeting, if the requisite information were provided at that point. In the case of an individual re-entering with fewer than 90 days of eligibility, the meeting would be held at the earliest possible date.

(f) The semiannual assessment could be treated as the 90-day meeting, provided it fell within the final six months of eligibility. Conversely, the 90-day assessment would meet the requirement for a semiannual assessment.

Worker Support

(g) States would be encouraged to use JOBS or WORK funds (from the capped WORK allocation; see below), to provide services designed to help persons who had left the JOBS or WORK programs for employment keep those jobs.

Services could include case management, work-related supportive services, and job search and job placement assistance for former recipients who had lost their jobs. Case management could entail assistance with money management, mediation between employer and employee and aid in applying for advance payments of the EITC. Work-related supportive services could include payments for licensing or certification fees, clothing or uniforms, auto repair or other transportation expenses and emergency child care expenses.

15. Extensions

Specifications

(a) States would be required to grant extensions to persons who reached the time limit without having had adequate access to the services specified in the employability plan. In instances in which a State failed to substantially provide the services, including child care, called for in the employability plan, the State would be required to grant an extension equal to the number of months needed to complete the activities in the employability plan (up to a limit of 24 months). States would be mandated to take the results of the semiannual assessment(s) into account in determining if services were delivered satisfactorily. If an extension were granted on the grounds of inadequate service delivery, the employability plan could be revised, as appropriate, at that point. Disagreements about revisions to the plan would be subject to the same dispute resolution and sanctioning procedures as was the initial development of the plan.

(b) If the State agency and the recipient disagreed with respect to whether services were substantially provided and hence as to whether the recipient was entitled to an extension, the State agency would be mandated to inform the recipient of her or his right to a fair hearing on the issue. All hearings would be held prior to the end of the individual's 24 months of eligibility.

(c) In a fair hearing regarding a recipient's claim that he or she was entitled to an extension due to State failure to make available the services in the employability plan, the State would have to show what services were provided. A recipient would be entitled to an extension if the hearing officer found that the recipient was unable to complete the elements of the employability plan because services, including necessary supportive services, were not available for a significant period of time. If it were determined that adequate services were not provided, an extension would be granted and the recipient and State agency would revise the employability plan, as appropriate (see above).

(d) Persons enrolled in a structured learning program (including, but not limited to, those created under the School-to-Work Opportunities Act) would be granted an extension up to age 22 for completion of such a program. A structured learning program would be defined as a program that begins at the secondary school level and continues into a post-secondary program and is designed to lead to a degree and/or recognized skills certificate. Such extensions would not count against the cap on extensions (see below).

(e) States would also be permitted, but not required, to grant extensions of the time limit under the circumstances listed below, up to 10% of all adults and minor parents required to participate in JOBS and subject to the time limit. Extensions due to State failure to deliver services, as discussed above, would be counted against the cap. A State would, however, be required to grant an extension if services were not provided, regardless of whether the State was above or below the 10% cap.

(1) For completion of a GED program (extension limited to 12 months).

(2) For completion of a certificate-granting training program or education activity, including post-secondary education or a structured microenterprise program expected to enhance employability or income. Extensions to complete a two or four-year college degree would be conditioned on simultaneous participation in a work-study program, or other part-time work (for at least an average of 15 hours per week).

The extension is contingent on the individual's making satisfactory academic progress, as defined by the Higher Education Act (extension limited to 24 months).

(3) In cases of persons who are learning disabled, illiterate or who face language barriers or other substantial obstacles to employment. This would include a person with a serious learning disability whose employability plan to date has been designed to address that impediment and who consequently has not yet obtained the job skills training needed to secure employment (extension not limited in duration).

The State agency would be required to set a duration for each extension granted, sufficient to, for example, finish a training program already underway or, in the event of a State failure to provide services, to complete the activities in the employability plan.

(f) States would be required to continue providing supportive services as needed to persons who had received extensions of the time limit.

(g) A State would be permitted, in the event of extraordinary circumstances, to apply to the Secretary to have its cap on extensions raised. The Secretary would be required to make a timely response to such requests (see Deferral above).

(h) The Secretary would develop and transmit to Congress (see Deferral above), by a specified date, recommendations regarding the level of the cap on extensions; the Secretary could, as mentioned above, recommended that the cap be raised, lowered or maintained at ten percent.

16. Qualifying for Additional Months of Eligibility

Specifications

(a) Persons who had left AFDC with fewer than six months of eligibility for AFDC benefits/JOBS participation remaining would qualify for a limited number of additional months of eligibility, to serve as a cushion. An individual in this category (fewer than 6 months of eligibility remaining) would qualify for one additional month of eligibility for every four months during which the individual did not receive AFDC and was not in the WORK program, up to a limit of six months of eligibility at any time.

(b) Persons who left the WORK program would also be able to qualify for up to 6 months of eligibility for AFDC benefits/ JOBS participation, just as described in (a).

(c) Individuals re-entering the AFDC program would be subject to the up-front job search requirement, as described above under JOBS Services.

Administration of JOBS/WORK

Current law

By statute JOBS must be administered by the IV-A agency. State IV-A agencies may delegate to or contract (either through financial or non-financial agreements) with other entities such as JTPA to provide a broad range of JOBS services. The IV-A agency must retain overall responsibility for the program (including program design, policy-making, establishing program participation requirements) and any actions that involve individuals (including determination of exemption status, determination of good cause, application of sanctions, and fair hearings).

HHS/ACF makes grants to the IV-A agency based on the allocation formula outlined in the statute and holds the IV-A agency accountable for meeting participation and target group expenditure requirements as well as submitting all necessary program and financial reports.

Vision

JOBS and WORK would be administered by the IV-A agency unless the Governor designates another entity to administer the programs. If the Governor designates an agency other than the IV-A agency to administer JOBS/WORK, then any plan or other document submitted to HHS to operate the programs would be jointly submitted by the administering entity and the IV-A agency.

Based on the Governor's designation. HHS/ ACF would make grants to the administering entity and hold that entity responsible for submitting program and financial reports and meeting appropriate performance standards.

In a State that elects to operate one-stop career centers, JOBS/WORK would be required components of the one-stop career centers.

17. Overall Administration

Specifications

(a) JOBS and WORK must be designated by the same State entity.

(b) The Governor may designate the agency to administer JOBS/WORK. In the absence of the designation of another agency, the IV–A agency would administer JOBS/WORK.

(c) The Governor would determine whether the State had a State-wide one-stop career center system. The determination would be made at least every two years. If the Governor determined that the State had such a system, the JOBS/WORK program would participate in the operation of the one-stop career centers. The Governor would make one-stop career center services available to the participants in the JOBS/WORK components.

(d) If the Governor designated an entity other than the IV–A agency, then that agency and the IV–A agency would have to enter into a written agreement outlining their respective roles in carrying out JOBS/WORK.

(e) If the IV–A agency retained administration of JOBS, it would have the option of contracting with another entity or entities to carry out any and all functions related to JOBS/WORK. All contracts and agreements with such entities would be written.

(f) If the Governor designated an entity other than the IV–A agency, then that agency and the IV–A agency would be required to jointly submit any plan required to operate JOBS/WORK to the Secretary of HHS.

(g) Upon notification by the Governor of the designation of an entity other than the IV–A agency to administer JOBS/WORK, the Department of Health and Human Services would make all grant awards and hold accountable for all financial and reporting requirements the designated entity.

18. Specific Responsibilities of the IV–A Agency

Specifications

(a) No matter which entity has responsibility for JOBS/WORK, the IV–A agency must retain responsibility for:

(1) Determining eligibility for AFDC;

(2) Tracking and notifying families subject to the time limit of months left of eligibility;

(3) Applying sanctions;

(4) Making supplemental payments to eligible WORK participants and determining continuing eligibility for WORK and for AFDC payments;

(5) Notifying the JOBS/WORK agency at least 120 days before an individual's two-year limit was up so that appropriate steps (e.g., job search) could be taken; and

(6) Holding fair hearings regarding time limits and cash benefits.

19. Other Areas of Responsibility

Specifications

(a) In States where an entity other than the IV–A agency is responsible for JOBS/WORK, we propose to give States the flexibility to determine how the following functions are carried out. The State plan would have to contain specific information detailing how the State intended to carry out the following functions:

(1) Determining deferral status;

(2) Granting extensions to the time limits; and

(3) Providing secondary reviews and hearings on issues specifically related to JOBS or WORK participation.

WORK

Current law

There is at present under Title IV no work program of the type envisioned here. States are presently permitted to operate on-the-job training, work supplementation and community work experience programs as part of the JOBS program (Section 482(e) and 482(f), Social Security Act, 45 CFR 250.61, 250.62, 250.63). Regulations, however, explicitly prohibit States from operating a program of public service employment under the JOBS umbrella (45 CFR 250.47).

Vision

The focus of the transitional assistance program would be helping people move from welfare to unsubsidized employment. The two-year time limit for cash assistance not contingent on work is part of this effort. Some recipients will, however, reach the two-year time limit without having found a job, despite having participated satisfactorily in the JOBS program. We are committed to providing them with the opportunity to work to help support their families. The design of the WORK program will be guided by a principle central to the reform effort, that persons who work should be no worse off than those who are not working.

The WORK program would make work assignments (hereafter WORK assignments) in the public, private and non-profit sectors available to persons who had reached the time limit. States would be required to create a minimum number of WORK assignments, but would otherwise be given considerable flexibility in the expenditure of WORK program funds. For example, States would be permitted to contract with private firms and not-for-profits to place persons in subsidized or unsubsidized private sector jobs.

The WORK program would take the form of a work-for-wages structure. Participants in WORK assignments would be paid for hours worked; individuals who missed work would not be paid for those hours.

Definition: The terms "WORK assignment" and "WORK position" are defined as a job in the public, private or not-for-profit sectors to which an individual is currently assigned under the WORK program.

20. Establishment of a WORK Program

Specifications

(a) Each State would be required to operate a WORK program making WORK assignments available to persons who had reached the 24-month time limit for AFDC benefits not conditioned upon work.

21. WORK Funding

Specifications

(a) There would be two WORK program funding streams:

(1) A capped entitlement which would be distributed to States according to the sum of the average monthly number of persons required to participate in JOBS (and subject to the time limit) and the average monthly number of persons in the WORK program in a State relative to the number in all States.

(2) An uncapped entitlement to reimburse States for wages paid to WORK program participants, which would include wage subsidies to private, for-profit employers.

The capped entitlement would be for WORK operational costs, which would include expenditures to develop WORK assignments, placement bonuses to contractors and spending on other WORK program services such as supervised job search.

(b) A State would receive matching funds, up to the amount of the capped allocation, for expenditures for WORK operational costs at the WORK match rate, which would be set at the same level as the JOBS match rate (as described in JOBS Funding above). For expenditures on wages to WORK participants, including wage subsidies to private employers, a State would be reimbursed at its FMAP.

Example: State A's allocation (annual) from the capped WORK entitlement for FY 99 is $1.5 million. The State's WORK (and JOBS) match rate is 75 percent and its FMAP is 50 percent. The State spends a total of $5.2 million on the WORK program—$1.6 million to develop the WORK assignments, make performance-based payments to placement contractors, and provide jobs search services and $3.6 million on wage subsidies to private employers and wages for WORK participants in the public and not-for-profit sectors. State A would be reimbursed for the $1.6 million in spending on operational costs at the 75 percent capped allocation match rate, for a total of $1.2 million in reimbursement at that rate. For the $3.6 million in expenditures on WORK wages, the State would be reimbursed at the FMAP, for $1.8 million in Federal dollars from the uncapped stream and a total of $3 million in Federal matching funds.

As discussed in JOBS Funding above, the enhanced match rate would become effective upon statewide implementation of the new legislation, provided the State met the maintenance of effort requirement concerning its total spending for JOBS, WORK and for IV–A, Transitional and At-Risk Child Care. Prior to statewide implementation, the WORK match rate would be set at the higher of FMAP and 60 percent.

(c) The WORK capped entitlement would be set at $200 million for FY 1998, $700 million for FY 1999, $1.1 billion for FY 2000, $1.3 billion for FY 2001, $1.4 billion for FY 2002, $1.6 billion for FY 2003 and $1.7 billion for FY 2004. For fiscal year 2005 and each fiscal year thereafter, the level of the WORK capped entitlement would be set at $1.7 billion adjusted for inflation by the Consumer Price Index (CPI) and for the increase over time in the relative size of the phased-in group.

(d) As discussed above (see JOBS Funding), a State would be permitted to reallocate up to 10% of the combined total of its JOBS and WORK allotments from its JOBS program to its WORK program, and vice versa. A State would be permitted to reallocate up to 10% of its JOBS funding for FY 97 (the year prior to implication of the WORK program) to cover WORK program start-up costs.

(e) If, as described in JOBS Funding, the States were not able to claim all available Federal JOBS and WORK funding (WORK capped entitlement) for a fiscal year, a State would be able to draw down Federal funds, for WORK spending on operational costs, in excess of its allotment from the capped entitlement.

(f) As discussed in JOBS Funding above, if the rate of total unemployment in a State for a fiscal year equaled or exceeded the (total unemployment rate) trigger for an extended benefit period (currently 6.5 percent), and the State's total unemployment rate for that fiscal year equaled or exceeded 110 percent of that rate for either (or both) of the two preceding fiscal years, the State match rate for JOBS, WORK and At-Risk Child Care for that fiscal year would be reduced by ten percent.

(g) The capped entitlement for WORK for a fiscal year would rise by 2.5 percent if the average national total unemployment rate for the last two quarters of the previous fiscal year or the first two quarters of that fiscal year equaled 7 percent. For each tenth of a percentage point by which the national unemployment rate for either of those two-quarters periods exceeded 7 percent, the WORK cap would be increased by an additional .25 percent. (identical to the provision concerning lifting the cap on JOBS funding; see JOBS Funding)

22. Flexibility

Specifications

(a) States would enjoy wide discretion concerning the spending of WORK program funds. A State could pursue any of a wide range of strategies to provide work to those who had reached the two-year time limit, including:

Offer wage subsidies and other incentives to for-profit, not-for-profit and public employers;

Execute performance-based contracts with private firms, not-for-profit or public organizations to place WORK participants in unsubsidized jobs;

Make payments to not-for-profit employers to defray the cost of supervising WORK participants;

Support microenterprise and self-employment efforts; or

Make payments to not-for-profit employers and public agencies to employ participants in temporary projects designed to address community needs, such as projects to enhance neighborhood infrastructure and provide other community services, or to employ participants as, for example, mentors to teen parents on assistance.

Employ WORK participants as child care workers or home health aides.

The approaches above would be listed in statute as examples, but States would not be restricted to these strategies.

23. Limits on Subsidies to Employers

Specifications

(a) An individual could hold a particular WORK assignment (i.e., the WORK subsidy could be paid) for no more than 12 months. Ideally, after the subsidy ended, the employer would retain the WORK participant in unsubsidized employment. After completing an assignment, an individual could not be reassigned to the same WORK position.

(b) The Secretary may adopt, as necessary, regulations to assure the appropriate use of the wage subsidy (e.g., to prevent fraud and abuse).

24. Coordination

Specifications

(a) The agency administering the WORK program would be required to coordinate delivery of WORK services with the public, private and not-for-profit sectors, including local government, large and small businesses, United Ways, voluntary agencies and community-based organizations (CBOs). Particular attention should be paid to involving the breadth of the community in the development of the WORK program in that locality.

(b) The State would be required to designate in the State plan, or describe a process for designating, bodies to serve as WORK advisory/planning boards for each JTPA Service Delivery Area in the State (or for such larger or smaller area as the State deems appropriate). The WORK planning board, which could be either an existing or a new body, would assist the administering entity in operating the WORK program in that area. The State would be mandated to involve local elected officials in the designation or establishment of such boards.

The planning board would work in conjunction with the WORK program agency to identify potential WORK assignments and opportunities for movement into unsubsidized employment, and to develop methods to ensure compliance with the requirements relating to nondisplacement, working conditions and coordination (as described in this section). WORK planning boards would have to include union and private, public (including units of general purpose local government) and not-for-profit (including CBOs) sector representation.

(c) States would have to establish a process by which WORK planning boards could submit comments regarding the development of the State plan.

(d) The WORK agency would be required to include in the State plan provisions for coordination with the State comprehensive reemployment system (including the Employment Service) and other relevant employment and public service programs in the public, private and not-for-profit sectors, including efforts supported by the Job Training Partnership Act or the National and Community Service Trust Act of 1993.

25. Retention Records

Specifications

(a) States would be required to keep a record of the rate at which employers (public, private and not-for-profit) retained WORK program participant (after the subsides ended). Similarly, States would be mandated to monitor the performance of placement firms.

26. Nondisplacement

Specifications

(a) The assignment of a participant to a subsidized job under the WORK program would not—

(1) result in the displacement of any currently employed worker, including partial displacement such as a reduction in the hours of non-overtime work, wages or employment benefits;

(2) impair existing contracts for services or collective bargaining agreements;

(3) infringe upon the promotional opportunities of any currently employed worker;

(4) result in the employment of the participant or filing of a position when—

(a) any other person is on layoff, on strike or has been locked out from, or has recall rights to, the same or a substantially equivalent job or position with the same employer; or

(b) the employer has terminated any regular employee or otherwise reduced its work force with the effect of filing the vacancy so created with such participant; or

(5) result in filling a vacancy for a position in a State or local government agency for which State or local funds have been budgeted and are available, unless such agency has been unable to fill such vacancy with a qualified applicant through such agency's regular employee selection procedure during a period of not less than 60 days.

(b) A participant would not be assigned to a position with a private, non-for-profit entity to carry out activities that are the same or substantially equivalent to activities that have been regularly carried out by a State or local government agency in the same local area, unless such placement meets the nondisplacement requirements described in this section of the specifications.

(c) No participant would be assigned to a position to perform work under a contract for services for the first 90 days after the commencement of such contract if such contract immediately succeeds a contract for services under which an employee covered by a collective bargaining agreement performed the same or substantially similar work for another employer.

27. Grievance, Arbitration and Remedies

Specifications

(a) Each State would establish and maintain grievance procedures for resolving complaints by regular employees or their representatives alleging violations of the nondisplacement provisions described above and the requirements relating to wages, benefits or working conditions described in these specifications.

(b) Hearings on any grievance filed pursuant to the provision above would be conducted within 30 days of the filing of such grievance and a decision would have to be made within 60 days of the filing. Except for complaints alleging fraud or criminal activity, a grievance would be made not later than 45 days after the date of the alleged occurrence.

(c) Upon receiving a decision, or if 60 days has elapsed without a decision being made, a grievant may do either of the following:

(1) file an appeal as provided for the State's procedures or in regulations promulgated by the Secretary, or

(2) submit such grievance to binding arbitration in accordance with the provisions of this section.

Arbitration

(d) In accordance with the appeal/arbitration provision above, on the occurrence of an adverse grievance decision, or 60 days after the filing of such grievance if no decision has been reached, the party filing the grievance would be permitted to submit such grievance to binding arbitration before a qualified arbitrator who was jointly selected and independent of the interested parties.

(e) If the parties could not agree on an arbitrator, the Governor would appoint an arbitrator from a list of qualified arbitrators within 15 days of receiving a request for such appointment from one of the parties to the grivence.

(f) An arbitration proceeding conducted as described here would be held not later than 45 days after the request for such arbitration, or if the arbitrator were appointed by the Governor (as described above) not later than 30 days after such appointment, and a decision concerning such grievance would be made not later than 30 days after the date of such arbitration proceeding.

(g) The cost of the arbitration proceeding conducted as described here would in general be divided evenly between the parties to the arbitration. If a grievant prevails in such an arbitration proceeding, the party found in violation would pay the total cost of such proceeding and the attorney's fees of the grievant.

(h) Suits to enforce arbitration awards under this section may be brought in any district court of the United States having jurisdiction over the parties, without regard to the amount in controversies and without regard to the citizenship of the parties.

Remedies

(i) Remedies for a grievance filed under this section include—

(1) suspension of payment for assistance under this title;

(2) the termination of such payments;

(3) the prohibition of the placement of a participant;

(4) reinstatement of a displaced employee to the position held by such employee prior to displacement;

(5) payment of lost wages and benefits of the displaced employee;

(6) reestablishment of other relevant terms, conditions and privileges of the displaced employee; and

(7) such equitable relief as is necessary to correct a violation or to make a displaced employee whole.

28. Written Notification of Labor Organizations

Specifications

(a) No WORK position could be established with an employer unless the local labor organization representing employees of such employer who were engaged in the same or substantially similar work as that proposed to be carried out under such position has been provided written notification of the initial assignment of a participant to such position not less than 30 days prior to the commencement of such an assignment. No such notification would be required with respect to the subsequent assignment of participants to the same position with the same employer.

(b) If a local organization which was provided notice of an assignment pursuant to (a) above objected to an assignment of a participant on the basis that such assignment would violate the requirements relating to nondisplacement, wages, benefits or working conditions as described in these specifications, such organizations could, as an alternative to the grievance procedures as described above, file a complaint pursuant to an expedited grievance procedure. Such expedited procedure would be carried out in accordance with the binding arbitration procedures described above, expect that—

(1) the request for arbitration would have to be filed within 30 days of receiving written notice.

(2) the arbitrator would be jointly selected by the parties not later than 10 days after the request for arbitration, or, if the parties were unable to agree, appointed by the Federal Mediation and Conciliation Service (or another entity, if agreed to by the parties) not later than 15 days after the request for arbitration, and

(3) the arbitration proceeding would be conducted and a decision issued not later than 30 days after the request for arbitration.

(c) If a local organization filed a complaint pursuant to the expedited grievance procedure described in this section of the specifications, a participant could not be placed in the prospective WORK position that was the subject of the complaint until it was determined, pursuant to the expedited grievance procedure, that such placement would not be in violation of any of the relevant provisions in these specifications.

29. WORK Eligibility Criteria and Registration Process

Specifications

(a) Recipients who had reached the two-year time limit for AFDC benefits not contingent upon work and who otherwise met the AFDC eligibility criteria (e.g., income and asset limits) would be eligible to enter the WORK program.

(b) States would be mandated to describe the WORK program, including the terms and conditions of participation, to all recipients at least 90 days before they were slated to reach the 24-month time limit (see Transition to Work/WORK above). Recipients who had reached the 24-month time limit would be required to register for the WORK program in order to be eligible for either a WORK assignment or for AFDC benefits while awaiting a WORK position (see Allocation of WORK Assignments/Interim Activities below).

(c) States would be required to establish a registration process for the WORK program. The registration process would in general include an assessment for the purpose of matching the participant with a WORK assignment which the individual had the ability to perform and which would assist him or her in securing unsubsidized employment. The agency would be expected to draw upon an individual's JOBS case record in making such an assessment. States would be prohibited from denying an eligible individual (as described above) entry into the WORK program, provided he or she followed the registration procedure.

(d) Only one parent in an AFDC-UP family would be required to participate in the WORK program. States would, however, have the option of requiring both parents to participate.

(e) An individual who had exited the system after having reached the time limit or after having entered the WORK program, but had not qualified for any additional months of AFDC benefits/JOBS participation (see Qualifying for Additional Months of Eligibility above) would be permitted to enroll, or re-enroll, in the WORK program.

Example: A WORK program participant finds a private sector job and leaves the WORK program, but is laid off after just one month, before qualifying for any months of AFDC benefits/JOBS participation (see above). This person would be eligible for the WORK program.

(f) States would be required, for persons in WORK assignments, to conduct a WORK eligibility determination (similar to an AFDC eligibility determination in all respects, except that WORK wages would not be included in countable income; see below) on a semiannual basis. If the circumstances of an individual in a WORK assignment changed (e.g., increase in earned income, marriage) such that the family were no longer eligible for AFDC, the participant would be permitted to remain in the WORK assignment until the semiannual redetermination. An individual found to be ineligible for the WORK program as of the redetermination, however, would not be permitted to continue in that WORK assignment. Persons found to the ineligible for the WORK program would not have access to a WORK assignment, other WORK program services or to the AFDC benefits provided to persons in the WORK program who were not in WORK assignments.

(g) WORK wages would not be included in countable income for purposes of determining WORK eligibility. WORK wages would be included in countable income for purposes of calculating any supplemental AFDC benefit (see below).

30. Allocation of WORK Assignments/Interim Activities

Specifications

(a) The entity administering the WORK program in a locality would be required to keep an updated tally of all WORK registrants awaiting WORK assignments (as opposed to, for example, WORK participants who had been referred to a placement contractor). WORK positions would not be allocated strictly on a first-come, first-served basis. An individual whose sanction period had just ended would be placed in a new WORK assignment as rapidly as possible. Among other WORK participants, persons new to the WORK program would have priority for WORK assignments over persons who had previously held a WORK position.

(b) States would have the option of requiring persons who were awaiting WORK assignments to participate in other WORK program activities (e.g., individual or group job search, arranging for child care, self-initiated activities), and to establish mechanisms for monitoring participation in such activities. Persons in this waiting status could include WORK participants who had completed an initial WORK assignment without finding unsubsidized employment, participants whose assignments ended prematurely for reasons other than the participant's misconduct, and individuals awaiting a hearing concerning misconduct. Individuals who failed to comply with such participation requirements would be subject to sanction as described below (see Sanctions).

(c) States would be required to provide child care and other supportive services as needed to participate in the interim WORK program activities (described above).

(d) The family of a person who was in the WORK program but not in a WORK assignment (e.g., awaiting an assignment or in an alternate WORK activity) would receive AFDC benefits, provided that the individual were complying with any applicable requirements (as described above).

(e) Participants who left a WORK assignment for good cause (see Sanctions below) would be placed in another WORK assignment or enrolled in an interim or alternate WORK program activity (e.g., job search until a WORK assignment became available). Such persons and their families would be eligible for AFDC benefits (as outlined above).

(f) In localities in which the WORK program was administered by an entity other than the IV-A agency, the IV-A agency would still be responsible for AFDC benefits to families described in 10(d). States would not be permitted to distinguish between such families and other AFDC recipients with respect to the determination of eligibility and calculation of benefits-States could not apply a stricter standard or provide a lower level of benefits to persons on the waiting list.

31. Hours of Work

Specifications

(a) States would have the flexibility to determine the number of hours for each WORK assignment. The number of hours for a WORK assignment could vary depending on the nature of the position. WORK assignments would have to be for at least an average of 15 hours per week during a month and for no more than an average of 40 hours per week during a month.

Each State would be required, to the extent possible, to set the hours and wage rates for WORK assignments such that the wages from a WORK assignment represented at least 75 percent of the total of the wages and AFDC benefits received by a WORK participant. This would be a State plan requirement.

32. Earnings Supplementation

Specifications

(a) In instances in which the family income of an individual who had reached the time limit and was working in either a WORK assignment or an unsubsidized job that met the minimum work standard was not equal to the AFDC benefit for a family of that size, the individual and his/her family would receive an AFDC benefit sufficient to leave the family no worse off than a family of the same size that was on AFDC and had no earned income.

(b) With respect to eligibility and benefit determination, AFDC benefits for families described in (a) above would be identical to

AFDC benefits for persons who had not reached the two-year time limit, except that the supplemental AFDC benefit would not be adjusted up due to failure to work the set number of hours for a WORK assignment.

(c) The work expense disregard for the purpose of calculating any supplemental AFDC benefit would be set at the same level as the standard $120 work expense disregard. States which opted for more generous earnings disregard policies would be permitted but not required to apply these policies to WORK wages.

33. Treatment of Work Wages with Respect to Benefits and Taxes

Specifications

(a) Except as otherwise provided in these specifications, wages from WORK assignments would be treated as earned income with respect to Federal and Federal-State assistance programs other than AFDC (e.g., food stamps, SSI, Medicaid, public and Section 8 housing).

(b) WORK registrants and their families would be treated as AFDC recipients with respect to Medicaid eligibility, i.e., they would be categorically eligible for Medicaid (pending implementation of the Health Security Act). Persons who left the WORK program for unsubsidized employment would, as with former AFDC recipients, be eligible for transitional Medicaid.

(c) Persons in WORK assignments would be subject to FICA taxes. States would be required to ensure that the corresponding employer contribution for OASDI and HI was made, either by the employer or by the entity administering the WORK program (or through another method).

(d) Earnings from WORK positions would not be subject to tax, would not be treated as earned income or included in adjusted gross income for purposes of calculating the Earned Income Tax Credit, and would not be treated as qualified wages for purposes of the Targeted Jobs Tax Credit.

(e) The employment of participants under the WORK program would not be subject to the provisions of any Federal or State unemployment compensation law.

(f) To the extent that a State workers' compensation law were applicable, workers' compensation in accordance with such law would be available with respect to WORK participants. To the extent that such law were not applicable, WORK participants would be provided with medical and accident protection for on-site injury at the same level and to the same extent as that required under the relevant State workers' compensation statute.

(g) WORK program funds would not be available for contributions to a retirement plan on behalf of any participant.

(h) With respect to the distribution of child support, WORK participants would be treated exactly as individuals who had reached the time limit and were working in unsubsidized jobs meeting the minimum work standard. In instances in which the WORK participant were receiving AFDC benefits in addition to WORK wages, child support would be treated just as it would for any other family receiving AFDC benefits (generally, a $50 pass-through, with the IV-A agency retaining the remainder to offset the cost of the supplemental AFDC benefits).

34. Supportive Services/Worker Support

Specifications

(a) States would be required to guarantee child care for any person in a WORK assignment, as with JOBS program participants under current law (Section 402(g)(1), Social Security Act). Similarly, States would be mandated to provide other work-related supportive services as needed for participation in the WORK program (as with JOBS participants, Section 402(g)(2), Social Security Act).

(b) States would be permitted to make supportive services available to WORK participants who were engaged in approved education and training activities in addition to a WORK assignment or other WORK program activity. In other words, a State could, but would not be required to, provide child care or other supportive services to enable a WORK participant to, for example, also take a vocational education course at a community college.

35. Wages and Working Conditions

Specifications

(a) Participants employed under the WORK program would be compensated for such employment in accordance with appropriate law, but in no event at a rate less than the highest of—

(1) the Federal minimum wage specified in section 6(a)(1) of the Fair Labor Standards Act of 1938;

(2) the rate specified by the appropriate State or local minimum wage law;

(3) the rate paid to employees of the same employer performing the same type of work and having similar employment tenure with such employer.

(b) Except as otherwise provided in these specifications, participants employed under the WORK program would be provided benefits, working conditions and rights at the same level and to the same extent as other employees of the same employer performing the same type of work and having similar employment tenure with such employer.

(c) Employers would be expected to provide WORK participants health insurance coverage comparable to that provided other employees of that same employer performing the same type of work (with Medicaid serving as the secondary payer). WORK program funds would be available to subsidize the employer share of the cost of health insurance coverage. Exceptions to this requirement could be made in cases in which the provision of such coverage would be inordinately expensive or otherwise onerous.

NOTE: Under current law, a Medicaid recipient is required (if cost effective) to enroll in a health plan offered by an employer, and the State is required to use Medicaid funds to cover the full employee share (e.g., premiums, deductibles, copayments) of the cost of such health care coverage. Cost effective is defined as resulting in a net reduction in Medicaid expenditures.

(d) Employers would not be required to make contributions to retirement systems or plans on behalf of WORK participants.

(e) All participants would be entitled to a minimum number of sick and personal leave days, to be established by the Secretary. These would be provided by the employer, if they were provided to other comparable employees (employers may offer more days). The agency administering the WORK program would be required to design a method of providing the minimum number of sick and personal days to WORK participants whose employers did not provide such a minimum number. A person in a WORK assignment who became ill and exhausted her or his sick leave, or whose child required extended care, would be deferred from the WORK program if he or she met the deferral criteria.

(f) A parent of a child conceived while the parent was in the WORK program (and/or on AFDC) would be deferred for a twelve-week period following the birth of the child (or such longer period as is consistent with the Family and Medical Leave Act of 1993).

(g) Health and safety standards established under State and Federal law that are otherwise applicable to the working conditions of employees would be equally applicable to the working conditions of WORK participants.

36. Sanctions/Penalties (JOBS and WORK)

Current law (JOBS)

The sanction for the first instance of failure to particiate in JOBS as required (or failure to accept a private sector job or other occurrence of noncompliance) is the loss of the non-compliant individual's share of the grant until the failure to comply ceases. The same sanction is imposed, but for a minimum of 3 months, for the second failure to comply and for a minimum of 6 months, for all subsequent instances of non-compliance. The State, however, cannot sanction an individual for refusing to accept an offer of employment if that employment would result in a net loss of income for the family.

For sanctioned AFDC-UP families, both parents' shares are deducted from the family's grant, unless the second parent is participating in the JOBS program.

Specifications

JOBS Sanctions

(a) A State's conciliation policy (to resolve disputes concerning JOBS participation only) could take one of the following two forms:

(i) A conciliation process that meets standards established by the Secretary; or

(ii) A process whereby a recipient is notified, prior to the issuing of a sanction notice, that he or she in apparent violation of a program requirement and that he or she has 10 days to contact the State agency to explain why he or she is not out of compliance or to indicate intent to comply. Upon contact from the recipient, the State agency would attempt to resolve the issue and would have option of not imposing the sanction.

(b) Individuals sanctioned within the JOBS program would still have access to other available services, including JOBS activities, child care and Medicaid. Sanctioned months would be counted against the 24-month time limit.

(c) The sanction for refusing, without good cause, an offer of an unsubsidized job meeting the minimum work standard would be changed from the current penalty (removal of the adult from the grant) to loss of the family's entire AFDC benefit for 6 months or until the adult accepts a job offer, whichever is shorter. The Secretary would promulgate regulations concerning good cause for refusing a private sector job offer (see SANCTIONS below).

(d) Current law would be changed such that for sanctioned AFDC-UP families, the second parent's share of the benefit would not also be deducted from the grant, unless the second parent were also required to participant in JOBS and were similarly non-compliant.

(e) States would be required to conduct an evaluation of any individual who failed to cure a first sanction within 3 months or received a second sanction, in order to determine why the parent is not complying with the program requirements. Following such an evaluation, the State would, if necessary, provide counseling or other appropriate support services to help the recipient address the causes of the non-compliance.

Ineligibility for a WORK Assignment

(f) Persons may be declared ineligible for a WORK assignment due to misconduct related to the program. Misconduct would include any of the following, provided good cause does not exist:

i. Failure to accept an offer of unsubsidized employment;

ii. Failure to accept a WORK assignment;

iii. Quitting a WORK assignment;

iv. Dismissal from a WORK assignment;

v. Failure to engage in job search or other required WORK activity (see ALLOCATION OF WORK ASSIGNMENTS/INTERIM ACTIVITIES above).

(g) The Secretary would establish regulations defining good cause for each of the following:

i. Refusal to Accept an Offer of Unsubsidized Employment or a WORK Assignment or to Participate in Other WORK Program Activity.

ii. Quitting a WORK Assignment or Unsubsidized Job. These regulations would include the provision that an employee must notify the WORK agency upon quitting a WORK assignment.

iii. Dismissal from a WORK Assignment. The regulations would allow a State, subject to the approval of the Secretary, to apply in such instances the definition of misconduct utilized in its unemployment insurance program. (A IV–A agency might be allowed to contract with the State Unemployment Insurance hearing system to adjudicate these cases.)

(h) A WORK participant would be notified of the agency's intent to impose a penalty and would have a right to request a hearing prior to the imposition of the penalty. The Secretary would establish regulations for the conduct of such hearings, which would include setting time frames for reaching decisions (e.g., 30 days from the date of request for hearing). A State would be permitted to follow the same procedures it utilizes in hearings regarding claims for unemployment compensation.

(i) Recipients awaiting a hearing for alleged misconduct may be required to participate in interim WORK program activities. Refusal, pending the hearing, to participate in such WORK program activities on the same grounds (e.g., bedridden due to illness) claimed as cause for the original alleged misconduct would not constitute a second occurrence of potential misconduct.

(j) Penalties imposed would be as follows:

i. Refusal to Accept an Offer of Unsubsidized Employment. A WORK participant who without good cause turned down an offer of an unsubsidized job that met the minimum work standard would be ineligible for a WORK assignment, and the family ineligible for AFDC benefits, for a period of 6 months (consistent with the JOBS sanction for refusing a job offer). Such an individual would be eligible for services, such as job search assistance, during this period.

ii. Quitting, Dismissal from or Refusal to Accept a WORK Assignment without Good Cause. A person who quit a WORK assignment without good cause, who was fired from a WORK assignment for misconduct related to the job, or who refused to take an assignment without good cause would be subject to the penalties described below.

For a first occurrence: The family would receive 50% of the AFDC grant that would otherwise be provided (i.e., if the individual were not sanctioned and were awaiting a WORK assignment) for one month or until the individual accepts a WORK assignment, whichever is sooner.

For a second occurrence: Fifty percent (50%) reduction in the family's grant for 3 months. The individual would not be eligible for a WORK assignment during this period—this penalty would not be curable upon acceptance of a WORK assignment.

For a third occurrence: Elimination of the family's grant for a period of 3 months. As with a second occurrence, the individual would not be eligible for a WORK assignment during this period.

For a fourth and subsequent occurrence: Same as the penalty for a third occurrence, except that the duration would be 6 months.

The State would be required to make job search assistance available to such penalized persons (any occurrence, first or subsequent) if requested.

iii. Refusal to Participate in Job Search or Other Required WORK Program Activity. An individual who refused to participate in job search (e.g., following a WORK assignment) or other required WORK program activity would be subject to the same penalty as persons who quit or were fired from WORK assignments, with each refusal to be considered one occurrence. If such a refusal constituted the first occurrence, the penalty, as above, would be curable upon engaging in the required activity.

iv. Quitting an Unsubsidized Job without Good Cause. Individuals who without good cause voluntarily quit an unsubsidized job that met the minimum work standard would not be eligible to register for the WORK program for a period of 3 months following the quit.

(k) All penalties (any occurrence, first or subsequent) would be curable upon acceptance of an unsubsidized job meeting the minimum work standard. In other words, a sanctioned individual who took an unsubsidized job meeting the minimum work standard would be treated exactly the same as an unsanctioned individual with respect to calculating any supplemental AFDC grant. If the family's income, net of work expenses, were lower than the AFDC grant for a family of that size, the family would receive a supplemental AFDC benefit sufficient to make up the difference (see Earnings Supplementation above). Such an individual would still not, however, be eligible for a WORK assignment during the penalty period (e.g., six months for refusal to take an unsubsidized job, three months for a second occurrence of another type of misconduct).

(l) Food stamp and housing law and regulations would be amended as necessary to ensure that neither food stamps nor housing assistance would rise in response to a JOBS or WORK penalty.

(m) A person ineligible for the WORK program, and the family, provided they were otherwise qualified, would still be eligible for other assistance programs, including food stamps, Medicaid and housing assistance.

(n) As described under AFDC–UP FAMILIES AND THE TIME LIMIT above, if one of the two parents in AFDC–UP family is sanctioned under the WORK program or under JOBS for failure to accept an unsubsidized job, the sanctions described in this section apply, regardless of the status of the other parent.

(o) The State would be required, upon imposition of a second WORK sanction, to conduct a thorough evaluation of the participant and the family to ascertain why the individual is not in compliance and to determine the appropriate services, if any, to address the presenting issues. The evaluation would include, when appropriate, a Child Protective Services abuse and neglect investigation. The WORK administering agency could, as a result of the evaluation, decide, for example, that the parent should be deferred from WORK participation or that he or she should receive intensive counseling.

37. JOB SEARCH

Specifications

(a) WORK program participants would generally be required to engage in job search at the conclusion of a WORK assignment or while otherwise awaiting a WORK assignment or enrollment to a WORK program activity serving as an alternative to a WORK assignment (see ALLOCATION OF WORK ASSIGNMENTS/INTERIM ACTIVITIES). The number of hours per week (up to a maximum of 35) and the duration of periods of required job search would be set by the State, consistent with regulations to be promulgated by the Secretary.

(b) The State could also require WORK participants to engage in job search while in a WORK assignment, provided that the combined hours of work and job search did not exceed an average of 40 per week and the requirement was consistent with regulations to be promulgated by the Secretary. The number of hours for job search would be the expected time to fulfill the particular job search requirement, i.e., if a WORK participant were expected to make 5 contacts per week, the number of hours of job search would be the estimated number of hours needed to make the contacts.

38. ASSESSING PARTICIPATION IN WORK BEYOND 2 YEARS

Specifications

(a) At the end of the two consecutive WORK assignments, participants who had not found unsubsidized work would be assessed on an individual basis, with three possible results:

1) Participants determined to be unable to work or to need additional training would be deferred from WORK or re-assigned to the JOBS program.

(2) Those determined to be unable to find work in the private sector either because there were no jobs available to match their skills or because they were incapable of working outside a sheltered environment would be allowed to remain in the WORK program for another assignment. Similar assessments would be conducted following each subsequent assignment.

(3) At State option, those who were employable and who lived in an area where there were jobs available to match their skills could be required to engage in intensive job search supervised by a job developer, who would be able to require participants to apply for appropriate job openings to determine if they were not making good faith efforts to find jobs. Failure to apply for appropriate job openings, noncooperation with the job developer or employer, or refusal to accept a private sector job opening without good cause would result in ineligibility for either WORK or AFDC benefits for 6 months. After 6 months of ineligibility, the person would immediately be given another individual work assessment and could again be denied eligibility for noncooperation or refusal to accept a job.

(b) The Departments of HHS and Labor will undertake a comprehensive national study at the end of the second year following implementation of the WORK program to measure the program's success in moving people into unsubsidized jobs and to evaluate the skill levels and barriers to work of the persons who have spent two years in the WORK program.

39. Secretary's Fund for States That Spend Beyond Their JOBS/WORK Allotments

Vision

Establish a fund that the Secretary would use to provide additional funding for States that spend beyond their JOBS/WORK allotments and re-allotments. A sum of $300 million would be put into the fund initially. Thereafter, any unspent JOBS/WORK and At-Risk child care monies would contribute to the Fund.

Rationale

The Secretary's Fund gives the Department the ability to allocate overall JOBS/WORK program funds prudently and, at the same time, provide additional support to States that are aggressively implementing their programs and require more than what they receive under their standard allotment and re-allotments. Furthermore, under this program, States are given some lead time to they can anticipate the additional funding in their planning processes.

Specifications

(a) A fund of $300 million would be established for FY 96 for use by the Secretary to provide funding to States that needed additional dollars for JOBS (and subsequently JOBS or WORK) beyond what they were provided under the JOBS and WORK funding allocation formulas and subsequent reallocation procedures (see JOBS Funding and WORK Funding above).

(b) Twice each year (March 1 and September 1), States that obligated 95% of their JOBS and WORK allotments for the previous year and were expected to obligate their full JOBS and WORK allotments for the current year would qualify for additional funding from the Secretary's Fund for the next fiscal year.

(c) Thirty days later, States would be notified about final decisions on funding from the Secretary's Fund.

[Regulations would specify how the monies would be allocated among qualified States. If the total amount requested from the Fund were greater than what was available in the fund, monies would be allocated based on a procedure to be developed by the Secretary.]

(d) Monies from the fund would be treated just as the basic JOBS/WORK allotment and subject to the same Federal matching rates each year as were in effect for standard JOBS/WORK funding. The same between-program reallocation rules as those for the base JOBS/WORK funding would also be in effect. That is, States could move up to 10% of the combined JOBS and WORK monies from the Fund from one program to the other.

(e) The monies available in the Fund in FY 97 would come from two sources:

i. The original authorization level of $300 million, and

ii. Unspent State JOBS/WORK and At-Risk Child Care monies that had not been reallocated to the States (see JOBS Funding and WORK Funding above).

(f) Beginning in fiscal year 1998, the Secretary's Fund would be capped at $400 million (after all requests had been satisfied). Excess monies would revert to the Treasury.

(g) Beginning in FY 98, States could request monies for both JOBS and WORK. The monies from the Secretary's Fund that States added to their standard WORK program allocation would be included for purposes of determining the minimum number of WORK slots States must create.

Enhancing Responsibility and Opportunity for Non-custodial Parents

Vision

We need to make sure that all parents live up to their responsibilities. When people don't pay child support, their children suffer. Just as we expect more of mothers, we cannot let fathers just walk away. A number of programs show considerable promise in helping non-custodial parents to reconnect with their children and fulfill their responsibility to support them. Some programs help non-custodial parents do more by seeing that they get the skills they need to hold down a job. Other programs give non-custodial parents the opportunity to meet their child support obligations through work.

As there is not a long track record of research and evaluation on programs for non-custodial parents, it is envisioned that new programs should be modest and flexible, growing only as evaluation findings begin to identify the most effective strategies.

1. Training and Employment for Non-custodial Parents

Current Law

Section 482 of the Social Security Act (Title IV-F) permits the Secretary to fund demonstrations to provide services to non-custodial parents. The Secretary is limited as to the number of projects that can be funded under this provision. Evaluations are required. This provision, along with section 1115 of the Social Security Act, provide the authority for the Parents Fair Share Demonstrations currently underway.

Vision

States would be provided with the option of developing JOBS and/or work programs for the noncustodial parents of children who were receiving AFDC or have child support arrearages owed to the State from prior periods of AFDC receipt. States would be given the flexibility to develop different models of non-custodial parent programs which could best address the needs of children and parents in their state. These non-custodial parent programs would coordinate with other relevant efforts such as the public housing authorities' Resident Initiatives Programs, which make job and services available to non-custodial parents of children living in public housing. Evaluations would be required as appropriate for the options developed by the States.

Rationale

There is evidence that one of the primary reasons for non-support by some non-custodial parents is unemployment and underemployment. In a recent GAO report evidence was presented that about 29 percent of non-custodial fathers under age 30, many of whom were non-marital fathers, had income below the poverty level for one or no income at all. It will be difficult for these fathers to contribute much to the financial support of their children without additional basic education, work-readiness and job training which would enhance their earning capacity and job security.

Specifications

(a) A State would be able to spend up to 10 percent of its JOBS and WORK funding (allotment from the WORK capped entitlement) for training, work readiness and work opportunities for non-custodial parents. The State would have complete flexibility as to which of these funding streams would be tapped.

i. Parenting and peer support services offered in conjunction with other employment-related services would be eligible for FFP.

ii. A State could structure the service delivery in a variety of ways. For example, a State could provide services to non-custodial parents through the JOBS program and a non-custodial parent work program, or through a single combined program.

(b) A non-custodial parent would be eligible to participate (1) if his or her child were receiving AFDC or the custodial parent were in the WORK program at the time of referral or (2) if he or she were unemployed and had outstanding AFDC child support arrears. Paternity, if not already established, would have to be voluntarily acknowledged or otherwise established prior to participation in the program. In instances in which a child support award had not yet been established, the State could require, as a additional condition of eligibility, that the non-custodial parent cooperate in the establishment process. Arrears would not have to have accrued in order for non-custodial parents to be eligible to participate. For those parents with no identifiable income, participation could commence as part of the establishment or enforcement process.

(c) The state would be required to allow a non-custodial parent to complete the program activity or activities in which he was currently enrolled even if the children became ineligible for AFDC. However, if the non-custodial parent voluntarily left the program, were placed in a job, or were terminated from the program, he would have to be redetermined as eligible under the criteria in (b) above.

(d) States would not be required to provide all the same JOBS or WORK services to custodial and non-custodial parents, although they could choose to do so. Participation in the JOBS program would not be a prerequisite for participation in a non-custodial parent work program. The non-custodial parent's participation would not be linked to self-sufficiency requirements or to JOBS/WORK participation by the custodial parent.

(e) Payment of stipends for work would be required. Payment of training stipends would be allowed. All stipends would be eligible for FFP.

i. Stipends would have to be garnished for payment of current support.

ii. At State option, the (current) child support obligation could be suspended or reduced to the minimum while the non-custodial parent was participating in program activities which did not provide a stipend or wages sufficient to pay the amount of the current order.

iii. Participation in program activities could be credited against AFDC child support arrears owed the State.

iv. State-wideness requirements would not apply.

Indian tribes and Alaska Native organizations; JOBS, time limits WORK and child care

Provisions in this section apply specifically to Indian tribes and Alaska Native organizations.

JOBS and time limits

1. New Tribal JOBS Funding Formula

Current law

Under current law, funding for Indian tribes who operate a JOBS program is based on the number of adult Tribal members who receive AFDC who reside within the tribe's designated service area. Funding for Alaska Native organizations is based on the number of adult Alaska Natives who receive AFDC who reside within the boundaries of the region the organization represents. Indians living on the same reservation are currently subject to either the Tribal JOBS program or the State JOBS program depending on Tribal affiliation. Indians living in Alaska who are not Alaska Natives are subject to the State's JOBS program.

Tribal JOBS grantees currently receive funding based on a count of just under 31,000 adult Tribal members who receive AFDC. It is estimated that the adult AFDC population for all reservations (including those where a Tribal JOBS program does not exist) is 58,000.

Vision

All Native Americans living within the designated service area of an Indian tribe or Alaska Native organization would be subject to the tribal JOBS program regardless of tribal affiliation, if the tribe elects to run a JOBS program.

Rationale

Programs operated by the Department of Labor and the Bureau of Indian Affairs for Indians do not use Tribal affiliation to establish program funding or eligibility.

Specifications

(a) All Indians, living within the designated service area of an Indian tribe or within the boundaries of the region served by an Alaska Native organization which is a JOBS grantee, would be included in determining the amount of the grantee's JOBS funds.

(b) An Indian is one who meets the definition of Indian as given in section 4(d) of the Indian Self-Determination and Education Assistance Act.

2. New JOBS Application Period

Current Law

Under current law, Indian tribes and Alaska Native organizations had until April 13, 1989 to apply and until October 1, 1990 to begin operating a JOBS program. Indian tribes who did not meet these deadlines are prohibited from submitting applications to operate JOBS programs.

Vision

Indian tribes who did not meet the application deadline for JOBS would be given additional opportunity to do so.

Rationale

The window in which Indian tribes had to apply for JOBS was very limited. Other Federally funded formula grant programs available to Indian tribes do not have similar restrictions.

Specifications

(a) All federally recognized Indian tribes not operating a JOBS program may submit applications and plans to do so.

(b) There would be no new application deadline.

(c) New applications/plans would have to be submitted by July 1 of each year, with the effective date of approved plans to be October 1.

(d) An Indian tribe or Alaska Native organization who terminated or has its JOBS program terminates would be eligible to reapply for JOBS after a five-year period. Such Indian tribe or Alaska Native organization can reapply by July 1 of the fifth year by submitting an application and plan, with the effective date of an approved plan to be October. 1. (This is to prevent a Tribal grantee from frequently entering and leaving the program.)

(e) The current restriction that an Indian tribe must have a reservation to be eligible to operate a JOBS program would be retained.

3. Funding Set-Aside for Tribal JOBS Grantees

Current Law

Currently, funding for Indian tribes who operate a JOBS program is based on the number of adult Tribal members who receive AFDC who reside within the tribe's designated service area. Funding for Alaska Native organizations is based on the number of adult Alaska Natives who receive AFDC who reside within the boundaries of the region the organization represents. Yearly, Tribal grantees (includes Alaska Native organizations) and the State in which they are located must reach an agreement on the number of Tribal members who receive AFDC who reside with the grantee's designated service area. Any amount due a grantee by this agreement is deducted from the JOBS funding allocated to the State.

Although in some cases it does not cause problems, States and Indian tribes/Alaska Native organizations have found it difficult to come to agreement on the number of adult Tribal members who receive AFDC.

Vision

A set-aside of 2% out of total JOBS funds would be established to distribute to Indian tribes and Alaska Native organizations to provide JOBS.

The proposed percentage set-aside for Tribal JOBS grantees was determined based on two assumptions. First, that Indian tribes who do not currently operate a JOBS program would be given the opportunity to do so. Second, that all Indians, not just Tribal members, would determine Tribal funding. Using these assumptions, it is estimated that almost 2% (58,000 individuals) of the eligible adult AFDC population are Indians living on or near reservations or in areas served by Alaska Native organizations.

Rationale

Additional funding for the tribal JOBS grantees would make up for the lack of matching funds. States spent approximately $1,395 per JOBS participant from Federal and State matching funds in FY 93. Indian tribes spent approximately $935 per JOBS participant, all from federal funds as tribes are not required to provide matching funds.

Establishing a set-aside in lieu of the current funding formula would benefit both the Indian tribes, Alaska Native organizations and the States. States would not have any vested interest in the number of adult AFDC recipients who are Indians residing within a Tribal grantee's designated service area as the numbers would not have an impact on the States' JOBS allocations.

Funding for Indian tribes in the Child Care and Development Block Grant (CCDBG) program is a set-aside of the total allocated CCDBG funds.

Specifications

(a) Allocate a set aside of 2% of the total JOBS allocation to Indian tribes and Alaska Native organizations.

(b) Each grantee's share of the set aside would be determined by its percentage share of the entire adult Indian AFDC population which is living on or near reservations or within the boundaries of the region represented by an Alaska Native Organization.

(c) Provide for a periodic review of the percentage set-aside to ensure that it is based on an accurate percentage of adult AFDC recipients who are Indians living in the designated service area of a grantee. Provide for an automatic adjustment of the set-aside based on the results of this review.

(d) The remainder of the funding issued to an Indian tribe or Alaska Native organization who wishes to terminate or who have their programs terminated after the start of a fiscal year would revert to the State in which the Indian tribe or Alaska Native organization is located. This is because the State would then be responsible for serving the AFDC recipients who had been subject to the Tribal program.

(e) An Indian tribe or Alaska Native organization would be permitted to reallocate up to 10% of its JOBS allotment to its WORK program, and vise versa.

4. Carry-over of Funds

Current law

States, Indian tribes and Alaska Native organizations are currently prohibited from carrying over federal funds awarded in one fiscal year to the next fiscal year. All federal funds received in a fiscal year must be obligated by the end of the same fiscal year. Indian tribes and Alaska Native organizations have sometimes had to shut down their JOBS programs because new fiscal year funding is often not received until November. Unlike States which are in a position to use their own resources for operating JOBS pending the issuance of grant awards, Indian tribes and Alaska Native organizations do not have this luxury. States also have the advantage of the Cash Management Improvement Act (CMIA) which does not apply to Indian tribes and Alaska Native organizations. CMIA says that the Federal government must pay interest to States if States are forced to use State funds for something for which Federal funds are normally used. Thus, for example, States were issued a portion of their fiscal year 1994 JOBS funds a month before Indian tribes and Alaska Native organizations were issued any funds.

Without timely grant awards and without forward funding, Indian tribes and Alaska Native organizations either had to cease the program or use other limited tribal funds in the interim.

Vision

The JOBS programs operated by Indian tribes and Alaska Native organizations would not have to cease operation at the beginning of a fiscal year due to the non-timely issuance of new grant awards.

Rationale

The Job Training Partnership Act program under the Department of Labor has authority for forward funding. JTPA grantees are permitted to carry over a maximum of 20% of funds from one program year to the next.

Specifications

(a) Indian tribes and Alaska Native organizations who operate JOBS programs would be permitted to carry over no more than 20% of the funds awarded in one fiscal year into the next fiscal year.

5. JOBS Funds for Economic Development

Current law

Under current law, JOBS funds cannot be used to build/improve infrastructure which is so badly needed by Indian tribes and in areas served by Alaska Native organizations. JOBS funds cannot be combined with economic development funds to write proposals, make capital expenditures, etc. Indian tribes and Alaska Native organizations can apply for grants from ACF's Administration for Native Americans that if received can be used to support these activities. What Indian tribes and Alaska Native organizations can and what some do is to use JOBS funds to train individuals to work in economic development enterprises.

Vision

Allowing tribal JOBS grantees to denote a portion of their JOBS funds to economic development would give them additional opportunity to help their clients move towards self-sufficiency.

Rationale

Without the leveraging of Federal funds for economic development, there would be fewer employment opportunities for Native Americans.

Specifications

(a) Upon approval by the Secretary, Indian tribes and Alaska Native organizations would be permitted to use no more than $5,000 or 10%, whichever is less, of their JOBS funds on economic development related projects.

(b) All economic development related projects that use JOBS funds must involve the training of JOBS participants for related jobs.

6. Deferrals

All provisions in the discussion on deferrals above apply except for the following.

Specifications

(a) Indian tribes and Alaska Native organizatons who operate a JOBS program would be responsible for the determination as to whether an AFDC recipient is to be deferred.

7. Extensions

Vision

Tribal JOBS grantees would be responsible for granting extensions to time limited AFDC benefits and would not necessarily be held to the same limitation on the granting of extensions as would be the States.

Rationale

Many reservations and areas served by Alaska Native organizations suffer from lower literacy rates and higher unemployment than most areas of the country.

Specifications

(a) Indian tribes and Alaska Native organizations who operate a JOBS program would be responsible for the determination as to whether extensions to time limited AFDC benefits should be granted.

WORK

1. Indian Tribes and Alaska Native Organizations to Operate Their Own WORK Programs

Current Law

Refer to this section under the general discussion of the WORK program.

Vision

Tribal AFDC recipients would be subject to the requirement to participate in JOBS just as they are now. They would also be subject to time limits.

Indian tribes and Alaska Native organizations would have the option to run JOBS. An Indian tribe or Alaska Native organization that operates JOBS would be required to operate a WORK program also. Indian tribes and Alaska Native organizations are responsible for determinations of JOBS-Prep status and extensions; however, there may be additional extensions because of unique tribal circumstances. Tribal members subject to tribal JOBS/WORK programs are excluded from any State program measures.

The Tribal WORK program would have to look different from the State WORK program because of the proposed funding formula. The portion of the WORK funding based on a diversion of AFDC grants would be difficult and complicated to accomplish because of the State's continued responsibility of AFDC funds and the need for extremely close coordination between the State and the Indian tribe or Alaska Native organization. Therefore, it is envisioned that the tribal WORK program would more closely resemble a Community Work Experience Program (CWEP) than a work-for-wages model (i.e., a tribal member would continue to receive cash assistance, but would be required to participate in a WORK activity). Indian tribes and Alaska Native organizations would be able to use WORK allocation to create job opportunities.

Rationale

Since the Indian tribes and Alaska Native organizations would have to be involved in the development of WORK assignments on the reservation, it follows that the Indian tribes and Alaska Native organizations be given the administration of the WORK program. Keeping the WORK program at the tribal level would allow for a continuum of activity. It also advances tribal self-determination and provides for a more holistic framework for addressing the needs of Native Americans.

Specifications

(a) Indian tribes and Alaska Native organizations which operate a JOBS program would apply to administer a WORK program. Any application would have to be approved by the Secretary.

(b) Indian tribes and Alaska Native organizations who do not want to operate a WORK program could not continue to operate a JOBS program.

(c) Funding for the tribal WORK program would be a percentage set-aside of the total WORK allocation.

(d) An Indian tribe or Alaska Native organization would be permitted to reallocate up to 10 percent of its JOBS allotment to its WORK program, and vice versa.

(e) An Indian tribe or Alaska Native organization would not be required to match Federal funds.

(f) The WORK program set forth in the application of an Indian tribe or Alaska Native organization under this part need not meet any requirement of the State WORK program that the Secretary determines is inappropriate with respect to a tribal WORK program.

(g) The Secretary shall develop appropriate data collection requirements.

(h) Appropriate performance measures would be developed.

Child Care

1. Allocate JOBS and Transitional Child Care Funds to Tribes and Alaska Native Organizations

Current Law

Under current law, States are the only entities eligible to administer title IV-A child care funds. Participants in Tribal JOBS programs who need child care have to be referred to the State IV-A agencies in order to receive needed child care.

Although data is not collected on the extent that title IV-A child care is used by Tribal JOBS participants, anecdotal information from Tribal JOBS directors seems to indicate that Tribal JOBS participants do not always get their child care needs taken care of through the State. Potential child care providers on reservations are often intimidated or unable to provide necessary information to the State in order to meet State requirements. Indian tribes and Alaska Native organizations that receive Child Care and Development Block Grant (CCDBG) funds sometimes use these funds to pay the costs of the child care to avoid dealing with the State. By using CCDBG funds to pay for the child care needed by Tribal JOBS participants, the Indian tribe or Alaska Native organization cannot use the funds to serve the child care needs of others who qualify.

Vision

Indian tribes and Alaska Native organizations would not have to rely the State IV-A agencies to guarantee the child care needed by Tribal JOBS participants and transitional child care. Funding the Tribal JOBS grantees to guarantee child care makes it easier for these entities to ensure that Tribal child care needs are met. Tribes would be provided funding for child care up to an amount equal to their JOBS/WORK allotment from title IV-A funds to address JOBS and transitional child care needs.

Rationale

Indian tribes and Alaska Native organizations who currently rely on the use of CCDBG to provide child care that is the responsibility of the State IV-A agency would be able to use CCDBG funds for their intended purpose once JOBS and transitional child care funds are available to them. The amount of child care funding available to the Indian tribes and Alaska Native organizations from title IV-A funds for JOBS and transitional child care and CCDBG should be sufficient to meet the child care needs without the additional funding provided by At-Risk Child Care. Therefore, it is not being recommended to fund the Indian tribes and Alaska Native organizations directly for the At-Risk Child Care program at this time. However, we are adding a provision to give the Secretary authority to determine that there is a need in the future and to allocate funds for At-risk Child Care to tribal programs at that time.

Specifications

(a) Upon an approved application, all Indian tribes and Alaska Native organizations that operate a JOBS/WORK program would be allowed to administer title IV-A JOBS and transitional child care funds.

(b) Tribes that elect to administer title IV-A JOBS and transitional child care funds would receive reimbursement from title IV-A funds for the actual amount spent on child care up to an amount equal to their combined JOBS and WORK allotment.

(c) Indian tribes and Alaska Native organizations would not be required to match Federal funds.

(d) The JOBS and transitional child care program set forth in the application of an Indian tribe or Alaska Native organization under this part need not meet any requirement of the JOBS and transitional child care programs that the Secretary determines is inappropriate with respect to such tribal JOBS and transitional child care program. The CCDBG health and safety standards, however, could not be waived.

(e) The Secretary shall develop appropriate data collection requirements.

(f) Appropriate performance measures would be developed.

Miscellaneous

1. Technical Assistance, Demonstrations and Evaluations

Current law

The three year contract awarded in 1990 to provide technical assistance to Tribal JOBS grantees expired last year. Tribal JOBS grantees are not eligible to operate demonstration projects. And evaluations of the Tribal JOBS programs have not been done.

Vision

To gain more thorough information about what makes a successful Tribal or Alaska Native JOBS program, evaluation is needed just as it is for State programs.

Rationale

Welfare reform will be a major force in Indian country. Whatever form welfare reform takes, Indian tribes and Alaska Native organizations will need ongoing technical assistance to understand and implement necessary changes to their JOBS programs.

Most Tribal (including areas served by Alaska Native organizations) environments are sufficiently different from State environments to warrant the involvement of a certain number of Indian tribes or Alaska Native organizations in demonstration projects.

A demonstration project may further allow an Indian tribe or Alaska Native organization to design and implement a program that tests innovative approaches that suits the unique circumstances of that Indian tribe, Alaska Native organization or of Indian country.

Specifications

(a) Indian tribes and Alaska Native organizations would be eligible to submit applications for demonstration projects related to welfare reform, such as combining JOBS and WORK into a block grant.

(b) Any contract awarded for the provision of technical assistance following the passage of welfare reform legislation must specify that Indian tribes and Alaska Native organizations receive a fair share of the technical assistance.

Provisions for Territories

Vision

As under current law, Territories would be required to operate a JOBS program. However, Territories would have the option to run a time-limited system or not. Should a Territory choose to implement a time-limited system, operation of a WORK program would be mandatory. The funding for operation of the WORK program would be available in an equivalent manner as for all States. Provisions which would remove At-Risk child care from the section 1108 cap (see Improving Government Assistance section) would enable Territories to meet their expanded child care needs. Additionally, the Secretary would have flexibility to accommodate special circumstances faced by Territories.

Specifications

1. JOBS and Time Limits

(a) Funding level for Jobs would be at the enhanced match rate (described in JOBS Funding above). The JOBS allocation methodology would be the same as under current law.

(b) Time-limits would be an option. Territories can elect to implement a time-limited system but are not required to. If a Territory chooses to operate a time-limited system, it must specify a phase-in strategy in the plan, subject to Secretarial approval. Territories would also be required to specify a time-frame for implementing a time-limited system Territory-wide, subject to Secretarial approval.

(c) Territories would be subject to all participation rates and other performance standards if applicable. However, the Secretary shall have the authority to modify these and other requirements to accommodate special circumstances.

2. WORK Requirements

(a) If Territory elects to operate a time-limited system, a WORK program is mandatory. Territories would be required to specify an implementation plan, subject to Secretarial approval.

(b) WORK funding would be the same as JOBS—75 percent match for administrative costs from the national capped entitlement. The WORK allotment would be based on the same methodology as for other States: based on number of JOBS participants subject to time-limits and number of WORK registrants. WORK wages funding would come from Sec. 1108 capped monies (i.e., the AFDC benefits these recipients would have gotten anyway under a non-time-limited system).

(c) The Secretary shall have the authority to allow or require Territories to opt-out of a time-limited and WORK system. Territories can opt-in again after at least 5 years.

WAIVER PROVISIONS [TITLE II]

Current law

Section 1115 of the Social Security Act provides the Secretary authority to waive compliance with specified requirements of the Act that are judged likely to promote the objectives of the AFDC, child support, or Medicaid program. Demonstrations under waiver authority must be cost neutral to the federal government and must be rigorously evaluated.

Vision

The two-year time limit is part of the overall effort to shift the focus of the welfare system from disbursing funds to promoting self-sufficiency. It is imperative that we send a clear and consistent message about our expectations of the States and of welfare recipients. For that reason, the numbers of waivers granted to States to apply time limits other than 24 months will be limited to 5.

States will be able to conduct demonstrations regarding the WORK program. However, certain aspects of the WORK program will not be waivable so that recipients are afforded some protections against financial loss and loss of Medicaid and to ensure that the program does not result in displacement of other workers.

Specifications

1. Authority for demonstrations

(a) Allow the Secretary to authorize no more than five demonstrations with time limits other than 24 months. These time limits can be longer or shorter than 24 months provided that they are consistent with the overall goals of the JOBS and WORK programs.

2. Non-waivable WORK provisions;

(a) Each State shall have a WORK program.

(b) No person defined as eligible in for the WORK program shall be excluded from the WORK program.

(c) Participant families in a demonstration program, other than those subject to sanctions, shall not be made worse-off than a family of the same size, with no income, receiving AFDC benefits.

(d) Participants employed under any demonstration program shall be compensated for such employment at a rate no less than the highest of: the Federal minimum wage specified in section 6(a)(1) of the Fair Labor Standards Act of 1938; the rate specified by the appropriate State or local minimum wage law; the rate paid to employees or trainees of the same employer working the same length of time and performing the same type of work.

(e) In assigning participants in the demonstration program to any program activity: each assignment shall take into account the physical capacity, skills, experience, health and safety, family responsibilities, and place of residence of the participant; no participant shall be required, without his or her consent, to travel an unreasonable distance from his or her home or remain away from such home overnight; individuals shall not be discriminated against on the basis of race, sex, national origin, religion, age, or handicapping condition, and all participants will have such rights as are available under any applicable Federal, State, or local law prohibiting discrimination;

(f) Appropriate workers' compensation and tort claims protection shall be provided to participants on the same basis as they are provided to other individuals in the State in similar employment (as determined under regulations of the Secretary).

(g) No work assignment under the program shall result in a violation of any non-displacement, grievence, or consulation provisions specified in the JOBS, Time Limit and Work section.

(h) Funds available to carry out a demonstration program may not be used to assist, promote, or deter union organizing.

(i) The State shall establish and maintain a grievance procedure for resolving complaints by regular employees or their representatives that the work assignment of an individual under the program violates any of the prohibitions described in subsection (g). A decision of the State under such procedure may be appealed to the Secretary of Labor for investigation and such action as such Secretary may find necessary.

(j) Participants in the program and their families shall be categorically eligible for Medicaid.

MAKE WORK PAY [TITLE III, TITLE VIII]

Background and vision

A crucial component of welfare reform that promotes work and independence is making work pay. In 1992, 30 percent of female heads of families with children worked but the family remained poor. Even full-time work can leave a family poor. Almost 11 percent of these female head who worked full-year/full-time were poor, 15 percent if they had children under six years of age. Simultaneously, the welfare system sets up a devastating array of barriers for people who receive assistance but want to work. It penalizes those who work by taking away benefits dollar for dollar; it poses arduous reporting requirements for those with earnings but still eligible to receive assistance; and it prevents saving for the future with a meager limit on assets. Moveover, working poor families often lack adequate health protection and face sizeable child care costs. Too often, parents may choose welfare instead of work in order to ensure that their children have health insurance and receive child care. If our goals are to encourage work and independence, to help families who are playing by the rules, and to reduce both poverty and welfare use, then work must pay better than welfare.

Working family tax credits are a major component of making work pay. The expansion of the Earned Income Tax Credit (EITC) passed in 1993 was a significant step toward making it possible for low-wage workers to support themselves and their families above poverty. When fully implemented, it will have the effect of making a $4.25 per hour job pay nearly $6.00 per hour for a parent with two or more children. Those families who are eligible for the maximum credit in 1996 obtain, in effect, a raise worth $1.62 per hour (or $3,000 per year), assuming full-year/full-time work. Full utilization and periodic distribution will maximize the effect of this pay raise for the work poor.

A critical step toward making work pay is ensuring that all Americans have health insurance coverage. Many recipients are trapped on welfare by their inability to find or keep jobs with health benefits that provide the security they need. And too often, poor, non-working families on welfare have better coverage than poor, working families. The President's health care reform plan will provide universal health care coverage, ensuring that no one will have to choose welfare instead of work to ensure that their children have health insurance. The EITC expansion, access to child care, and health care reform will support workers as they leave welfare to maintain their independence and self-sufficiency.

Another essential component for making work pay is affordable, accessible child care. In order for families, especially single-parent families, to be able to work or prepare themselves for work, they need dependable care for their children. In addition to ensuring child care for participants in the transitional assistance program and for those who transition off welfare, child care subsidies will be made available to low-income working families who have never been on welfare.

All regulatory provisions specified in this section shall be published within 1 year of enactment of this act, unless specified as otherwise.

A. CHILD CARE

Current Law and General Direction of Proposal

The Federal Government currently subsidizes child care for low-income families through a number of different programs. The programs have different eligibility rules and regulations, creating an extremely complicated system that is hard for both providers and recipients to navigate. The major existing programs include an entitlement to child care for AFDC recipients (title IV–A); transitional child care (TCC) (also entitlement) for up to a year for people who have left welfare for work; a capped entitlement ($300 million) for those the State determines to be at-risk of AFDC receipt (At-Risk); and the Child Care and Development Block Grant (CCDBG). There is also a disregard for child care costs available to working AFDC recipients. While these multiple programs provide valuable support for child care, legislative changes are needed to strengthen the welfare reform plan.

We are at this making changes only in the IV–A programs, which will remain as separate authorities. Any changes in the CCDBG will be made during its reauthorization in 1995.

Vision

Child care is critical to the success of welfare reform. It is essential to provide child care support for parents receiving assistance who will be required to participate in education, training, and employment. In addition, child care support for the working poor is also essential to "making work pay" and to enable parents to remain in the workforce. Our goals are to increase child care funding so that families have the access to the child care that they need, to simplify the administration of Federal child care programs to support the development State child care systems and to reduce the likelihood that parents and children will have to change providers as they move from funding stream to funding stream, and to assure that children are cared for in healthy and safe environments.

Rationale

We are proposing to increase available child care support significantly by extending the child care guarantee to JOBS Prep and WORK program participants and by increasing the funding for child care for working poor families through the At-Risk Child Care Program. To assure access to a variety of forms of child care, we would prohibit States from lowering their State-wide limits and mandate that States supplement the disregard or provide a second, direct payment option to all parents. To improve consistency, we propose to have the IV–A child care programs follow the CCDBG requirements and allow States to place all Federal child care programs in one agency. Finally, to increase supply and improve quality in order to ensure that children are in healthy and safe environments, we propose to create a set-aside in the At-Risk program, to make licensing and monitoring of IV–A child care programs allowable for reimbursement as an administrative cost, to add IV–A requirements that States must assure that children do not have access to toxic substances and weapons and that all children must be immunized to meet the Public Health Service immunization standards.

We have selected the strategy of using the CCDBG standards and adding two new standards because we believe this truly represents the minimal requirements that can assure that children are protected. Many States obviously agree since they are already using the same standards for IV–A child care and CCDBG child care according to their State plans. In all cases except immunization, States will continue to establish their own standards; in the case of immunization, we do not believe requirements should vary from State to State. Using the CCDBG standards IV–A child care also strengthens the parental rights and opportunities; we will assure the parental choice of providers, provide parents information on options for care and payments of child care, and establish a system for parental complaints.

Specifications

1. Increased funding for child care

(a) Change the State match for the At-Risk Child Care Program, Section 402(i) to that consistent with the new, enhanced match for other IV–A services. Increase the amount authorized for the program to $300 million in 1995; $500 million in 1996; $580 million in 1997; $755 million in 1998; and $1 billion in 1999. The program will increase by $50 million each year thereafter until 2004 when it will increase by $100 million. Restrict eligibility to families not eligible for other IV–A child care programs. Reallocate unused At-Risk funds to States that have exceeded the required State match. If the State unemployment rate increases dramatically, the amount of the required match would be reduced. Similarly, the capped entitlement would be increased in the event of high unemployment nationwide. (See description in JOBS, TIME LIMITS AND WORK section)

(b) Change the State match for all other IV–A child care programs to the new, enhanced match for other IV–A services.

2. Program simplification/consistency issues

(a) Continued to have the IV–A child care funds flow to the IV–A agency but give the States the explicit option to contract to the lead CCDBG agency.

(b) Make the IV–A requirements for coordination, public involvement, and consultation in relationship to develop of the IV–A child care plan consistent with the requirements of the CCDBG statute.

(c) make the IV–A child care requirements consistent with CCDBG requirements with respect to parental rights and health and safety standards.

Add to the health and safety standards section:

(i) a requirement that the State must have requirements that children funded under the IV–A child care programs are immunized at levels specified by PHS. States will be given the flexibility to exclude certain children from this requirement.

(ii) a requirement that the State must have rules to assure that no child has access to toxic and illegal substances or weapons in the child care setting.

(d) Require that the State establish and periodically revise sliding fee scales that provide cost sharing by the families that receive Federal assistance for child care services. The fee scales will be the same for all programs (those used for CCDBG).

(e) Establish one requirement for State reporting to cover all programs, with core data elements to be defined by the Secretary.

3. Continuity of Care

(a) Give States the option under the IV–A programs to extend hours and weeks of care when reasonable to assure continuity of care for children.

4. Information to Parents

(a) Require that States must provide child care information to parents (use CCDBG language, adding "(including options for care and payment).")

5. Supply and Quality Issues

(a) Create a 10% set aside in the At-Risk program for supply building and quality improvements using language in CCDBG Section 658 (B) as allowable activities and adding as an allowable activity the expansion of the supply of care for infants and toddlers in low-income communities (as defined by the States).

(b) Establish explicitly that licensing and monitoring of IV–A funded child care providers is an allowable administrative cost, limited by a cap on expenditures of $15 million a year with State allocations set by a formula established by the Secretary.

6. Payment

(a) Prohibit States from lowering their statewide limits below those in effect on January 1, 1994.

(b) Retain the disregard, but mandate that States must offer working AFDC recipients the same level and forms of child care assistance as families in JOBS, TCC, and At-Risk Child Care. To accomplish this, States may either offer families the choice of the disregard or a direct payment for care or they may instead offer them a supplement to the disregard.

7. Clarification of the Guarantee

Guarantee child care for volunteers whose activities are approved as part of their employability plan under JOBS regardless of the availability of JOBS funding for those activities if the volunteer still undertakes the approved activities.

8. Territories

Allow territories to use WORK funds to pay for child care for WORK participants; continue to allow them to use JOBS funds to pay for child care for JOBS participants. Remove At-Risk Child Care from the territorial cap (See *Improving Government Assistance* section).

B. IMPROVING THE EITC [TITLE III]

1. Permitting publicly administered advanced EITC payment systems

Current law

The earned income tax credit (EITC) is a refundable tax credit available to a low-income filer who has earned income and whose adjusted gross income is below specific thresholds. Low income workers can claim the EITC while filing their tax returns at the end of the year. In addition, workers with children have the choice of obtaining a portion of the credit in advance through their employers, and claiming the balance of the credit upon filing their income returns. The amount of the advanced payment is calculated on the basis that taxpayers have only one qualifying child. The annual advanced EITC payment cannot exceed 60 percent of the maximum full-year EITC for a family with one child. In 1996, the maximum advance payment would be $1,223.

An employee choosing to receive a portion of the EITC in advance does so by filing a form W-5 with his or her employer. The employer is not required to verify employee's eligibility for the credit. Employers may be penalized for failing to comply with an employee's request for an advanced payment. The employer calculates the advanced EITC payment to which an employee is entitled based on the employee's wages and filing status and adds the appropriate amount to the employee's paycheck. The employer reduces its payment of employment and income taxes to the IRS by the aggregate amount of advanced EITC payments made during the period and reports this amount to the IRS on form 941.

At the end of the year, the employer notifies both the IRS and the employee of the actual amounts of advanced credits paid to the employee by filling in a box on the form W-2. When filing their income tax return at the end of the year, an employee is required to report advance payments, if any, of the EITC.

Vision

The proposal would promote use of advance payment option of the Earned Income Tax Credit (AEITC) by allowing selected public agencies to administer an advanced EITC payment for low income workers who voluntarily request it. For example, a State might choose to administer the AEITC through Food Stamp offices. States are not permitted to do this under current statute.

Rationale

Few programs are as effective in reaching the eligible population as the EITC. Despite the successes of the current program, the delivery of the EITC could be improved, particularly by enhancing the probability that the EITC will be claimed in advance throughout the year rather than as a year-end lump sum payment. In recent years, fewer than 1 percent of EITC claimants have received the credit through advance payments in their paychecks. The reasons for the low utilization rate are not fully known, though a recent GAO study found that many low-income taxpayers were unaware they could claim the credit in advance.

There may be other barriers to participation in the advance payment option. The GAO study also found that once informed, many workers stated that they would prefer to receive the EITC in a lump-sum payment. While some workers may simply prefer the forced savings aspects of receiving the credit in a lump sum, others may fear their employer's reaction if they ask for a government wage supplement to be added to their paycheck. Others may be fearful of owing the government a large sum of money at the end of the year because they received too large an amount in advance.

It is believed that welfare recipients, in particular, could benefit from receiving the credit at more regular intervals throughout the year. By receiving the credit as they earn wages, workers would observe the direct link between work effort and the EITC. Public agencies that deal directly with welfare recipients are uniquely advantaged to ensure that the AEITC option is used frequently and appropriately. They could explain to recipients who are about to transition from welfare to work how the AEITC will increase their income stream, making work a more rational option.

Allowing States the option provide advance payments of the EITC through public agencies (e.g., the offices which also provide food stamp benefits) could dramatically increase use of the AETIC among the working AFDC and ex-AFDC populations. A State could choose to target information about the EITC to welfare recipients or other individuals likely to become welfare recipients but who are currently outside the workforce. Individuals could have the choice of receiving the credit from a neutral third-party, without fear of notifying their employers of their eligibility for the EITC. Moreover, they could receive assistance in determining the appropriate amount of the EITC to claim in advance. States would also have the resources to verify eligibility for the credit better than employers, reducing the risk of erroneous payments being made to ineligible persons. This option would also allow for an evaluation of alternative delivery systems:

Specifications

(a) A State would have the option to propose to the Secretary of the Treasury a demonstration project pursuant to which advance payments of the EITC would be made to eligible residents through a State agency. Such agencies may include public assistance offices (AFDC and/or Food Stamps), Employment Service Offices, State finance and revenue agencies, and so forth. A State may choose only one agency to provide the advance credit.

(b) Approval by the Secretary of the Treasury of a State's proposal would be required in all cases. The Secretary of the Treasury would consult with the Secretary of Health and Human Services, the Secretary of Agriculture, and other Departmental Secretaries as appropriate if the State proposal includes coordination of EITC payments and other Federal benefits.

(c) Where appropriate, States may include in their proposals coordination of advance payments of the EITC and other Federal benefits (such as food stamps) through electronic benefit technology.

(d) State plans would be required to specify how payment of the EITC would be administered. States must include a detailed explanation of how eligibility for the credit would be determined and verified. States would also have to agree to provide recipients and the IRS with annual information reports in a timely fashion (typically by January 31 of the following year) showing the amounts of the EITC paid in advance. In addition, States would agree to provide the IRS with a listing by December 1st of the names and social security numbers of all person who participated in the state program at any time during the year (through October). States which failed to meet these reporting requirements would not be allowed to continue participation in the program.

(e) States would be allowed (but not required) to provide on an advanced basis up to 75 percent of the maximum amount of the credit for which the taxpayer is eligible and voluntarily requests.

(f) States would reduce payments of withholding taxes (for both income and payroll taxes) from their own employees by the amount of the advance payments made during the prior quarter.

(g) After the processing of income tax returns and matching of returns with information reports, the Secretary of the Treasury would be required to issue an annual report detailing the extent to which EITC claimants under State plans: (1) participated in the State plan; (2) filed a tax return; (3) reported accurately the amount of the advanced payments payable during the year by the state; and (4) repaid any overpayments of the advanced EITC within the prescribed time. The report would also contain an estimate of the amount of the excessive overpayments made by the state. Excessive overpayments would include advance payments not reported on the tax return and advance payments in excess of the EITC calculated on the basis of information reported to the IRS and causing taxpayers to owe outstanding amounts to the IRS.

(h) States would be required to repay the Federal government 50 percent of excessive advance payments subsequently not recaptured by the IRS made to State residents participating in the plan over a 4 percent threshold. The Secretary of the Treasury would demonstrate that due and diligent effort had been made to recapture these amounts through normal procedures. The 4 percent threshold applies to all advanced payments made by the State for a given tax year. States would become liable for the excessive amounts two years after the due date for the filing of a tax return.

(i) The Secretary of Treasury and the Secretary of Health and Human Services would jointly ensure that technical assistance is provided to States undertaking demonstration projects aimed at increasing participation in the EITC and EITC advanced payment programs. Sufficient training and adequate resources would be provided to both agencies pursuant to the provision of technical assistance to the States. The Secretaries of Treasury and HHS will see that such pilots are rigorously evaluated.

(j) The Secretary of Treasury, in consultation with the Secretary of HHS, shall enter into agreements with up to 4 States to pilot and assess the development and implement publicly administered advanced Earned Income Tax Credit initiatives. The Food Stamp population for the selected States can not equal more than 5% of the Food Stamp caseload nationwide.

(k) These agreements shall provide planning and implementation grants to States selected under this provision provided:

(i) that the Secretary of the Treasury also reviews and approves of the proposal submitted to the Secretary of DHHS;

(ii) that the selected States agree to share their findings and lessons with other interested States in a manner to be described by the Secretary.

(l) The total amount available under this provision for demonstration planning, organizing, and start-up is $1.4 million and no individual State can receive a grant in excess of $500,000. These demonstration programs shall not exceed three years in duration.

(m) AFDC and Food Stamp administrative funds can be used to pay for these provisions.

C. INCOME DISREGARDS [TITLE VII]

Current Law

Federal AFDC law requires that all income received by an AFDC recipient or applicant be counted against the AFDC grant except income that is explicitly excluded by definition or deduction. States are required by Federal law to disregard the following income: (1) for the first four months of earnings, working recipients are allowed a $90 work expense disregard, another $30 unspecified disregard, and one-third of remaining earnings are also disregarded; (2) the one-third disregard ends after four months; and (3) the unspecified $30 disregard ends after 12 months.

In addition, a child care expense disregard of $175 per child per month ($200 if the child is under 2) is permitted to be calculated after other disregard provisions have been applied. Currently, $50 in child-support is passed through to families with established awards. States are now required to disregard the EITC in determining eligibility for and benefits under the AFDC program.

Vision

The provisions proposed under this component are designed to: (1) make the treatment of income simpler for both recipients and welfare officials to understand; (2) make work a more attractive, rational option for those who would continue to receive assistance; (3) remove the time sensitivity of current rules (i.e., eliminate provisions which change the rules governing the treatment of income depending on how long the person has worked); and (4) improve the economic well-being of those who need to combine work and welfare. (See IMPROVING GOVERNMENT ASSISTANCE for other earning disregard provisions)

Specifications

(a) Require States to disregard a minimum of $120 in earnings, indexed for inflation in rounded increments of $10.

(b) States will have the flexibility to establish their own disregard policies on earned income above this amount for both applicants and/or recipients and WORK program participants.

(c) States shall have flexibility in establishing fill-the-gap policies (i.e., States will have the flexibility to determine which types of income should be considered in developing a fill-the-gap policy, such as child support payments, stipends, etc. in addition to earned income).

(d) The AFDC $50 pass-through of child support payments will also be indexed for inflation in rounded $10 increments. States will have the flexibility to pass-through additional child support payments above this amount.

(e) The Federally established earnings disregard and the $50 child support pass-through will be indexed for inflation according to changes in the consumer price index (CPI). The disregards will be rounded to the nearest $10 increment.

The base period for the provisions to index the disregards shall be the calendar quarter ending September 30, 1996. The computation quarter for determining whether an adjustment is warranted shall be the calendar quarter ending September 30 for each year following 1996. For computation purposes, adjustments will be determined based on the un-rounded disregard amount. For example, if the unrounded adjusted value of the disregard is $125, then the rounded disregard is $130. To determine the value of the disregard in the subsequent year, the change in the CPI will be compared to $126, not $130. Adjustments to the disregards will become effective the following January 1.

(f) The effective date of these provisions shall be October 1, 1996.

Rationale

The proposal allows for greater State flexibility; States can determine the appropriate income disregard and can determine which sources of income to disregard. The indexing of the minimum amount will ensure that working recipients are afforded an adequate earned disregard in the future.

PERFORMANCE MEASURES PROPOSAL [TITLE IV]

Vision

The provisions described in this section initiate a process that will result in the development and implementation of a comprehensive performance measurement system which reflects and reinforces the emerging "culture" of the redesigned welfare system.

Current JOBS law

Under the SSA section 487 [FSA Section 203(b)] not later than October 1st, 1993, the Secretary of Health and Human Services shall:

(1) in consultation with the Secretary of Labor, representatives of organizations representing Governors, State and local program administrators, educators, State job training coordinating councils, community-based organizations, recipients, and other interested persons, develop performance standards with respect to the programs established pursuant to this part that are based, in part, on the results of the studies conducted under section 203(c) of such Act, and the initial State evaluations (if any) performed under section 486 of this Act; and

(2) submit his/her recommendations for performance standards developed under paragraph (1) to the appropriate committees of jurisdiction of Congress, which recommendations shall be made with respect to specific measurements of outcomes and be based on the degree of success which may be reasonably expected of States in helping individuals to increase earnings, achieve self-sufficiency, and reduce welfare dependency, and shall not be measured solely by levels of activity or participation. Performance standards developed under this subsection shall be reviewed periodically by the Secretary and modified to the extent necessary.

Current JOBS program performance measures

Participation rate for all AFDC recipients required to participate in JOBS (45 CFR 250.74(b) and 250.78)—For Fiscal Year 1994 the required participation rate is 15%. This is to ensure that a minimum proportion of the AFDC adult population is participating at a meaningful (significant) level.

Participation rate for AFDC-UP recipients (45 CFR 250.74(c)—For Fiscal Year 1994 the required participation rate is 40%. This is to ensure that a minimum proportion of the AFDC-UP principal wage earners or their spouses engage in work activities.

Target group expenditures (45 CFR 250.74(a)(1))—At least 55% of a State's JOBS expenditures must be spent on applicants and recipients who are members of the State's target populations as defined at 45 CFR 250.1. This is to ensure that the hard to serve are served by requiring that 55% of IV-F expenditures are spent on the target groups defined in the statute or, if different, approved as a part of the State's JOBS plan.

Current data reporting system

The JOBS Case Sample Reporting System (CSRS) was established to meet some of the reporting requirements mandated by section 487 of the Social Security Act. However, the data necessary to establish participation rates is collected through both CSRS and aggregate hard copy. Only data necessary to establish the numerator for overall participation is collected through CSRS. The population from which each State must draw its sample (or in lieu of drawing a sample, the State may submit the entire population each month) is defined as the number of JOBS participants that were engaged in at least one hour of activity in an approved JOBS program component during the sample month. In addition to JOBS program data, a limited amount of demographic data and child care data is also required to be submitted.

Current QC law

Under section 408 of the Social Security Act, States are required to operate a quality control system in order to ensure the accuracy of payments in the AFDC program. States operate the system in accordance with time schedules, sampling methodologies, and review procedures prescribed by the Secretary. The law defines: what constitutes a payment error; how error rates and disallowances are calculated; the method for adjusting State matching payments; and the administrative and judicial reviews available to States subject to disallowances because of error rates in excess of the national standard (i.e., the national error rate for each year).

The AFDC-QC system functions primarily as a monitoring/auditing system. Its primary purpose is to establish the correctness with which payments are made to AFDC cases in each State. The AFDC-QC system also obtains the data necessary to produce the publication entitled "Characteristics and Financial Circumstances of AFDC Recipients." The AFDC-QC system is not used to meet any of the reporting requirements for the AFDC program. Subsequent to the establishment of this system, which is a subsystem of the National Integrated Quality Control System (NIQCS), OMB required additional AFDC data be collected to replace the biennial survey of AFDC families that had been in place through 1979.

Vision

One objective of welfare reform is to transform the "culture" of the welfare system; from an institutional system whose primary mission is to ensure that poor children have a minimal level of economic resources to a system that focuses equal attention on the task of integrating their adult caretakers into the economic and social mainstream of society. We envision an outcome-based performance measurement system that consists of a limited set of broad measures and focuses State efforts on the goals of the transitional support system—helping recipients become self-sufficient, reducing dependency, and moving recipients into work. The system would be developed and implemented over time, as specified in statute. Interested parties will be included in the process for determining outcome-based performance measures and standards.

Until a system incorporating outcome-based standards can be put in place, State performance will be measured against service delivery measures as specified in statute. These service delivery standards would be used to monitor program implementation and operations, provide incentives for timely implementation, and ensure that States were providing services needed to convert welfare into a transitional support system. The current targeting and participation standards would be eliminated (see draft specifications on JOBS, TIME LIMITS, AND WORK). The new service delivery measure for JOBS would ensure that a substantial portion of such cases are being serviced on an ongoing basis. As soon as WORK program requirements begin to take effect (i.e., two years after the effective date of the start of the phase-in), States would be subject to a performance standard under the WORK program. Until automated systems are operational and reliable, State performance vis-a-vis these service delivery measures would be based on information gathered through the modified QC system.

Within a specified time period after enactment of this bill, the Secretary will develop a broader system of standards which incorporates measures addressing the States' success in moving clients toward self-sufficiency and reducing their average tenure on welfare. All accompanying regulations to this section shall be published within 12 months of the enactment of this act, unless an effective date is otherwise specified.

Rationale

The standards against which systems performance are judged must reflect the emerging mission or goal of the reformed system. The existing Quality Control (QC) system may actually create counterproductive incentives for States attempting to cope with this emerging institutional environment. QC focuses on how well the income support function is done to the exclusion of other systems goals. This directly shapes the atmosphere of and feel within welfare agencies; how personnel are selected and trained, how administrative processes are organized, and the basis for allocating organizational rewards.

It is a simple reality that the management and technological demands which emerge from a system designed to change how people function are more complex than those for an income support system. Strategies that judge performance solely by inputs or effort will no longer be adequate. The new system eventually must be judged by what is accomplished rather than how it is accomplished. At the same time, the challenges of transforming organizational cultures cannot be ignored; we must remain cognizant of the implementation and operational challenges all levels of government will confront in moving to the new system.

In response to the demands imposed by substantive organizational change, the "official" focus of the QC system will be revised to include program outcomes in addition to payment accuracy. The QC system should reflect the new mission of the system without jeopardizing the integrity of the program as it is currently understood. This can be achieved through the development of performance measures and standards that reflect the degree to which the policy is implemented as intended and which eventually focus on results, while ensuring that the residual income support functions are administered competently. The goal is that payment accuracy and other designated performance standards be given equal priority by the welfare agency.

Provisions 1 through 3 generally deal with requirements and procedures for establishing performance outcomes; provisions 4 and 5 deal with developing service delivery measures and standards to assess whether the program is being implemented and operated as intended; and provision 6 provides the necessary authority to modify the QC system to carry out the monitoring functions specified in the Act.

Specifications

1. *Establishing an Outcome-Based Performance Standards System*

Vision

Part 1: This provision provides general authority to the Secretary of DHHS to establish an outcome-based performance standards system.

The vision governing welfare reform is consistent with the theme of "reinventing government." Ultimately, this means less federal prescription, greater local flexibility and responsibility, and the measurement of success by outcomes and not inputs or effort.

Rationale

These provisions establish and reinforce the goal that State performance eventually will be judged by the results they achieve and not the way they achieve those results. This means keeping a focus on the goals of reform; moving clients toward self-sufficiency and independence while ensuring the overall well-being of children and their families.

Specifications

(a) In accordance with the effective dates specified, in order to assess State performance, the Secretary shall enact an outcome-based performance standards systems that will measure the extent to which the program helps participants improve their self-sufficiency, their independence from welfare, their labor market participation, and the economic well-being of families with children. As specified below, the Secretary shall first develop outcome-based performance measures and then shall take steps to set expected standards of performance with respect to those measures. The system will also include performance standards for measuring the extent to which individuals are served by the transitional support system (i.e., service delivery standards).

(b) The current quality control system shall be revised to reflect the new performance standards system (*see section on Quality Control*).

(c) The Secretary shall publish annually State-level data indicating State performance under such a system.

(d) Amend Sec. 487 (b) to read: The Secretary may require States to gather such information and perform such monitoring functions as are appropriate to assist in the development of such a performance measurement system and shall include in regulations provisions establishing uniform reporting requirements for such information.

(e) In adopting performance standards the Secretary shall use appropriate methods for obtaining data as necessary, which may include access to earnings records, State employment security records, State Unemployment Insurance records, and records collected under the Federal Insurance Contributions Act (chapter 21 of the Internal Revenue Code of 1986); drawing reliable statistical samples and revising QC reviews of AFDC payment and case information; and using appropriate safeguards to protect the confidentiality of the information obtained.

(f) The Secretary shall, in consultation with appropriate interested parties, review and modify the performance measures and standards, and other components of the performance measures system periodically as appropriate.

2. Developing an Outcome-Based Performance Measurement System

Vision

Part 2: This provision requires the Secretary to propose a specific set of intermediate outcome measures and establishes a process and timetable for doing such.

Before outcome-based standards are established, a set of outcome-based measures will be put in place. (Note: a measure is merely an aspect of the program on which data is collected; a standard is a specific level of performance that is expected of States of agencies with respect to that measure.)

These provisions are viewed as the first step toward developing a true outcome-based performance measurement system and recognize complementary work taking place in other agencies.

Rationale

Recognizing the complexity of this task, this legislation incorporates a prudent strategy that moves forcefully, yet with reasonable caution in the direction of developing an outcome-based performance system.

Specifications

(a) By April 1, 1996, for the purposes of enacting a performance measurement system, the Secretary will develop recommendations for specific outcome-based performance measures (with proposed definitions and data collection methodologies) and shall solicit comments from the Congress, Secretaries of Labor, Education, and other Departments, representatives of organizations representing Governors, State and local program administrators, educators, State job training coordinating councils, community-based organizations, recipients, and other interested persons (hereinafter referred to as interested parties).

(b) The recommendations shall include the percentage of the caseload who reach the 2-year time-limit and may include but shall not be limited to measures which examine:

(i) factors used in section 106 of the Job Training Partnership Act and any subsequent amendments such as placement and retention in unsubsidized employment and a reduction in welfare dependency; and,

(ii) other factors as deemed appropriate by the Secretary.

(c) Based on comments from the interested parties, the Secretary will finalize the measures and will publish them in the Federal Register by October 1, 1996.

3. Implementing an Outcome-Based Performance Measurement System

Vision

Part 3: This provision requires the Secretary to set standards of performance for States to meet with respect to the measures developed under prior provisions and sets some procedural guidelines for setting those standards.

Knowing what we want to accomplish is different from setting concrete expectations for States about what they ought to accomplish. The standards should be set carefully, with adequate time to obtain input from stakeholders and interested parties and to fully access the potential impact of the standards.

Rationale

It is important to provide sufficient time to think through an appropriate set of measures with relevant parties and to carefully consider what kind of realistic standards might be set with respect to those measures. The legislation sets a time period to consider important measurement issues and what consequences should be set for failure to meet established standards.

Specifications

(a) By April 1, 1998, for the purposes of enacting outcome-based standards, the Secretary, in consultation with interested parties, shall present recommendations for performance standards based on the performance measure information (as specified above) and other appropriate information.

(b) Based on comments from the interested parties, the Secretary will finalize the standards and will publish them in the Federal Register by October 1, 1998.

(c) The Secretary shall amend the regulations for this Act to establish the penalties and incentives for the proposed standards by October 1, 1998. These regulations shall specify that the incentives may be paid from penalty payments collected and available funds in the Secretary's Fund, such that the result of such payments shall be cost-neutral.

4. Service Delivery Standards

Vision

Part 4: This provision requires that certain standards be set to determine how well States are implementing key aspects of the new system and sets rewards and penalties based on those standards.

To ensure that welfare systems are operating the program as intended, the new performance system will provide for awards and penalties for State performance through adjustments to the State's claims for federal matching funds on AFDC payments and on JOBS service dollars. These measures are designed to provide positive and negative incentives to States to serve recipients under the new transitional system and to monitor program operations. States would be subject to financial incentives for a monthly participation rate in JOBS and a participation rate in WORK. In addition, the caps on JOBS extensions and deferral assignments and State accuracy in keeping of the two-year clock are considered service delivery standards.

Rationale

Because major changes to the welfare system are being proposed, it is critical that the extent to which the intent of the law is being realized be monitored carefully. Measuring critical aspects of the new program will provide necessary feedback upon which to judge progress toward changing the "culture" of the welfare system, while the proposed set of incentives and penalties will keep States focused on the required changes.

Specifications

(a) Upon enactment of this act, the Secretary shall implement service delivery measures for purposes of accountability and compliance.

(b) States shall be subject to service delivery standards upon the effective date of the new JOBS program. States shall begin reporting and validating data for service delivery measures no later than 12 months following the publication of the JOBS/WORK regulations in a manner to be prescribed by the Secretary.

(c) The service delivery standards apply only to the phased-in mandatory population that is subject to the time limit (including those additional groups a State can opt to include in the phase-in group).

(d) Monthly Participation Rate in JOBS: Similar to current law, States are expected to meet a monthly participation rate. Using a computation period of each month in a fiscal year (i.e., over a 12 month period), the State's monthly participation rate shall be expressed by a percentage, and calculated as follows:

(i) The denominator consists of the average monthly number of individuals who are mandatory for JOBS (i.e., excluding those in the deferral status).

(ii) The numerator consists of the average monthly number of individuals who are mandatory for JOBS (i.e, excluding those in the deferral system) who participate in an activity, are employed and meet the minimum work standard (and remain on aid), or are in the sanctioning process as defined by JOBS program rules). The definition of participation for the purposes of calculating the monthly participation rate will be determined in regulation.

(e) The performance standard for the JOBS monthly participation rate is set at 50 percent, with a −5/+5 tolerance level, with financial penalties if the standard is not met and financial incentives if the standard is exceeded. For the proportion of caseload below the standard (45%), a 25 percent reduction in the FFP for their AFDC benefits will be levied for the annual period covered by the rate, using the average AFDC benefit paid in the State to calculate the amount of the penalty. (This penalty is not a 25 percentage point reduction. Rather, the penalty will reduce the FFP from 50 percent to 37.5 percent, not from 50 percent to 25 percent.) There will be no penalties or additional payments for those States with participation rates between 45 and 55 percent. Penalties will not be assessed in the first year of program operation.

(f) If a State exceeds the JOBS monthly participation rate (55%) in a fiscal year, the State will be entitled to receive an additional payment (without the requirement of any additional nonfederal share) for use in carrying out its JOBS program. The payments will be made from penalties collected from State performance on other service delivery measures and from the Secretary's Fund. The Secretary shall determine the amount of the payments.

(g) WORK Program Participation Rate: To ensure that individuals who reach the time limit are assigned to work slots, States will be expected to meet a WORK participation standard. Financial penalties are applied if the standard is not met. The WORK performance measure would take effect two years after the effective date of this legislation (sees *JOBS, Time Limits, and Work section*). To meet this standard, States are required to meet either:

(i) Case 1: The number required so that 80 percent of those who are registered for the WORK program are assigned to a WORK slot or are in other defined statutes (as explained below). Using a computation period of each month in a fiscal year (i.e. over a 12 month period), the WORK participation rate is expressed as a percentage and is calculated as follows: (1) The denominator consists of two parts; first, the average monthly number of individuals who are registered for the WORK program (i.e., excluding those in the deferral status); and second, the average monthly number of individuals who left the WORK program within the last three months and are working in an unsubsidized job and are not eligible for an earnings supplement. (2) The numerator consists of the average monthly number of individuals who are assigned to a WORK slot, are in the sanctioning process as defined under the WORK program rules, are participating in a WORK job search activity between WORK assignments (for a period of up to three months), or, who left the WORK program within the last three months and are working in an unsubsidized job and are not eligible for an earnings supplement. The exact definition of the rate will be specified in regulation. Or,

(ii) Case 2: The number required so that total number of WORK slots the State is required to create, based on their funding allocation, are filled by individuals assigned to a WORK slot. Under this option the number of WORK slots the State is required to create will be determined by dividing the annual capped WORK allocation by a figure representing the cost per work slot, with the latter to be determined by the Secretary.

(h) For the proportion of caseload below the applicable standard, a 25 percent reduction in the FFP for their AFDC benefits will be levied for the annual period covered by the rate, using the average AFDC benefit level paid in the State to determine the amount of the penalty. Penalties will not be assessed in the first year of program operation. (This penalty is not a 25 percentage point reduction. Rather, the penalty will reduce the FFP from 50 percent to 37.5 percent, not from 50 percent to 25 percent.)

(i) States will be required to place individuals who have most recently hit the time-limit into WORK slots prior to other WORK participants (e.g., those who have already completed a slot and are awaiting re-assignment).

(j) Caps on Deferrals and JOBS Extensions: For any cases above the cap for deferrals and/or above the cap for JOBS extensions, a 25 percent reduction in the FFP for their AFDC benefits will be levied, using the average AFDC benefit level paid in the State to determine the amount of the penalty. Penalties will not be assessed in the first year of program operation. The penalties do not apply if the State submitted a proposal to the Secretary to raise the cap and the Secretary granted such a waiver. (This penalty is not a 25 percentage point reduction. Rather, the penalty will reduce the FFP from 50 percent to 37.5 percent, not from 50 percent to 25 percent.) (see also JOBS, Time Limits, and WORK section)

(k) As appropriate, the Secretary may require States to report other data elements related to the provision of JOBS and WORK services, such as the provision on teen case management services. Such additional reporting requirements will be specified in regulation no later than 12 months following the enactment of this act.

(l) States are not eligible for adding payments for exceeding the JOBS monthly participation rate if the Secretary determines:

(i) the accuracy of a State's time-clock fails the threshold standards for time-clock accuracy, as defined subsequently in regulations; and/or,

(ii) other required data on the JOBS and WORK program reported by a State that fails the threshold standards for data quality, as defined subsequently in regulations.

5. Client Feedback

Vision

Part 5: This provision requires that States establish a process for collecting client feedback on their experience in the program as a method for improving program operations.

There has been little study in the past of client perceptions of the services provided through the welfare department. However, similar to the way customers' reactions are important to the business community, understanding and managing client feedback on the services they receive provide important information on areas where program performance could improve. Additionally, it will be important to establish mechanisms to ensure feedback on the quality of services provided by public, nonprofit, and private agencies.

Rationale

One aspect of reinventing government is to make public systems client- or market-driven. In a time-limited cash assistance program, providing participants with quality services and opportunities through which to enhance their human capital and improve their chances in the labor market seems essential. Obtaining feedback directly from the "customers" is one way of helping program managers ensure that they provide participants what is needed.

Specifications

(a) Each State shall establish methods for obtaining, on a regular basis, information from individuals and employers who have received services through the JOBS and/or WORK program regarding the effectiveness and quality of such services. Such methods may include the use of surveys, interviews, and focus groups.

(b) Each State agency shall analyze the customer service information on a regular basis and provide a summary of such information for use in improving the administration of the programs.

6. Expanded Mission for Quality Control System

Vision

Part 6: This provision provides the Secretary with the authority to review and modify the Quality Control system as needed and sets up some procedural guidelines for identifying the needed changes and making those changes.

The following language allows the Secretary to build on the current payment accuracy Quality Control system to incorporate a broader system focused on the performance standards established in statute or by regulation and to ensure the efficient and effective operation of the JOBS/WORK/Time Limited Assistance program. Payment accuracy will be retained but as one element in a broad performance measurement role for the QC system.

Rationale

Operating a performance driven accountability system requires resources. Until the new system is fully developed, it will be difficult to estimate what those resource requirements will be. Some of those resources must come from the existing QC system, necessitating changes in that system. The Secretary must have authority to make those changes in a way that does not sacrifice the ability to ensure the integrity and accuracy of income maintenance payments.

Specifications

(a) The Secretary shall build on the current QC system to establish procedures for determining, with respect to each State, the extent to which any and all performance standards established by statute or regulation are being met. The Secretary shall modify the scope of the current QC system as deemed necessary to accommodate the review of the additional data elements and new performance measures and standards and shall report the modifications to Congress.

(b) To this end, the Social Security Act will be amended to expand the purpose of the QC system to include: improving the accuracy of benefit and wage payments in the AFDC and WORK program, assessing the quality of State-reported data, ensuring the accuracy of State reporting of JOBS/WORK data required under this act, ensuring that other performance standards are met, and fulfilling other appropriate functions of a performance measurement system.

(c) The Secretary shall designate additional data elements to be collected in a QC review sample to fulfill the needs of a performance measures system (pursuant to section 487 as amended under this part), shall amend case sampling plans and data collection procedures as deemed necessary to make statistically valid estimates of program performance identified elsewhere in this section, and may redefine what is counted as an erroneous payment in the QC system.

(d) States shall conduct periodic, internal audits of their JOBS and WORK processes to ensure the accuracy of reported data and annual audits to establish accuracy rates. The Federal government would specify the minimum sample sizes to achieve 90 or 95 percent confidence at the lower limit (the method generally used by OIG). States would also be permitted to use current QC resources to conduct special studies to test and improve the current system.

(e) The Secretary shall, after consulting with the States and securing input from knowledgeable sources, publish regulations regarding changes in the design and administration of existing QC functions as well as enhancements to that system. These proposed changes will be published no later than 6 months after enactment of this Bill.

INFORMATION SYSTEMS AND INFRASTRUCTURE [TITLE IV]

Current law and background

In the late 1970s, the Federal government decided to improve the administration of welfare programs through the use of computerized information systems. The Congress enacted PL 96-265 and subsequent legislation to grant incentive funding to encourage the development of automated systems.

In 1981, the AFDC program released the Family Assistance Management Information System (FAMIS) specifications and updated them in 1983. In 1988, the Food Stamp Program (FSP) released similar guidelines in regulations and updated them in 1992. Incentive funding is also available for statewide, Child Support Enforcement (CSE) systems.

A recent GAO report indicated that, in the previous 10 years the Federal government had spent nearly $900 million in the development and operation of AFDC and FSP automated systems alone. In the Omnibus Budget Reconciliation Act of 1993, the Congress repealed enhanced funding for AFDC and FSP effective April 1, 1994.

An emerging priority of Federal funding agencies has been to encourage States to implement more cost-effective systems which integrate service delivery at the local level. This has enabled many States to begin using combined application forms for multiple programs (including AFDC, FSP, and Medicaid) and a combined interview to determine eligibility for the various programs. Consequently, with systems support, a single eligibility worker can process an application for several programs at the same time.

Another priority is the development of electronic transfer of funds and Electronic Benefit Transfer (EBT) technology to delivery benefits. This technology allows recipients to use a debit card, similar to a bank card, at retail food stores and automated teller machines (ATMs) to access their benefit accounts. Plans to expand the use of EBT systems are mentioned in the Vice President's National Performance Review.

Under current law and regulations, States and the Federal government have developed elaborate computer management information systems for financial management and benefit delivery, program operations, and quality control. Some programs, such as Child Support Enforcement, are in the midst of large-scale (and long-term) computer system change, while others, such as AFDC (with its FAMIS systems), are nearing completion of a development cycle.

Both FAMIS and Child Support Enforcement Systems (CSES) have been funded under an enhanced funding (90 percent) match. Partly as a result of this incentive funding, many States have integrated, automated, income maintenance systems which assist caseworkers in determining eligibility, maintaining and tracking case status, and reporting management information to the State and Federal governments.

Other essential welfare programs, namely JOBS and child care, have limited and fragmented automated systems. For the most part, States could fund parts of these systems at the 50 percent match rate. States report that administrative funds have not been available to fully automate and interface JOBS and Child Care with other programs within the State.

Many of these systems have serious limitations: limited flexibility, lack of interactive access, limited ability to exchange data electronically, etc. Even the most sophisticated systems fall short of the goal of allowing State agencies to use technology to:

Eliminate the need for clients to access different entry points before they receive services;

Eliminate the need for agency workers (and clients) to encounter and understand a wide variety of complex rules and procedures;

Share fully computer data with programs within the State and among States; and

Provide the kind of case tracking and management that will be needed for a time-limited welfare system.

Vision and Rationale

Computer and information technology solutions will support welfare reform by providing new automated screening and intake processes, eligibility decision-making tools, and benefit delivery techniques. Application of modern technologies such as expert systems, relational databases, voice recognition units, and high performance computer networks, will help empower families and individuals seeking assistance. At the same time, these technologies will assist in reducing fraud and abuse so that Federal and State benefits are available to those who are in need.

State-level Systems and National Clearinghouse

To achieve this vision, we are proposing an information infrastructure which allows, at the State level, the integration and interfacing of multiple systems, for example, AFDC, food stamps, work programs, child care, Child Support Enforcement (CSE), and others. The Federal Government, in partnership with the States, or groups of States in partnership with the Federal Government, may develop model systems that perform these functions or subsets of these functions.

To support the broader information needs, the new information infrastructure needs to include, on the one hand, a national data "clearinghouse" to coordinate data exchange and for other purposes and, on the other, enhanced State and local information processing systems to improve management and delivery of services.

Enhanced State Systems. At the State and local level, the systems infrastructure would include automated subsystems for intake, eligibility determination, assessment, and referral; case management and service delivery; and benefit, payment, and reporting. The infrastructure would consist of new systems components integrated with existing systems or with somewhat enhanced existing systems. Variations in existing automated systems would make it unreasonable to try to standardize these systems. Rather, we need linkages that allow for the accurate exchange of data between systems.

By linking the various programs and systems, States would be able to provide integrated services and/or benefits to families and individuals "at-risk" of needing financial assistance, those receiving assistance, and those transitioning from public assistance program to self-sufficiency. As part of this automation effort, enhanced funding will be offered as an incentive for States to develop and implement statewide, automated systems for JOBS/WORK management and monitoring, and to enable seamless services for child care. Such an automated system infrastructure would enable States to provide greater support to families who might otherwise dissolve, as well as to parents who may, because of unmet needs, be forced to terminate employment or training opportunities.

In addition, as Electronic Benefit Transfer (EBT) and Electronic Funds Transfer (EFT) become more widespread, they would be used for other programs, such as child care reporting and payments, and reporting of JOBS participation. As an example, a JOBS participant could be required to self-report either through a touch-tone phone that connects to a Voice Recognition Unit (VRU) or through the use of plastic card technology.

Enhanced Detection of Fraud and Abuse. For detection and analysis of fraud and abuse, computer matching of records and sharing of data among State programs and at a national level would be increased. For example, the child support information needs for establishing an order or in review and modification would be extremely valuable for access by the AFDC agency, after the agency has performed prospective eligibility determinations, but before benefits are granted. In addition, the National Clearinghouse would be extremely helpful in ensuring that an individual does not obtain AFDC beyond the time limit, does not receive benefits in more than one location or for children claimed by another family, or fails to report employment.

Data and Reporting on Program Operations and Clients. Current methods for data gathering and reporting requirements on program operations and clients could be reduced. Many of the current data and reporting requirements will be superseded by new ones, but in any case, many current items are of low data quality or of little interest. Current requirements will be re-examined.

National Clearinghouse. The National Clearinghouse will be a collection of abbreviated case and other data that "points" to where detailed case data resides and provides the minimum information for implementing key program features. Described in detail under the Child Support Enforcement section, this Clearinghouse will not be a Federal data system that performs individual case activities. While information will be coming to and from the Clearinghouse, it will contain limited data—States will retain overall processing responsibility.

The Clearinghouse will maintain at least the following data registries:

The National New Hire Registry will maintain employment data for individuals, including new hire information.

The National Locate Registry will enhance and subsume the current Federal Parent Locator Service (FPLS) functions.

The National Child Support Registry will contain data on all non-custodial parents who have support orders.

The National Welfare Receipt Registry will contain data to operate a time-limited assistance program, such as the beginning and ending dates of welfare receipt, participation in various work programs, and the name of the State providing benefits.

A. NATIONAL WELFARE RECEIPT REGISTRY

(a) As part of the National Clearinghouse, the Secretary of DHHS will establish and operate a National Welfare Receipt Registry to assist in operating a national time-limited assistance "clock".

(b) The Clearinghouse, described more fully in the section on Information Systems for the Child Support Enforcement Program, will contain four Registries including the National Welfare Receipt Registry. At a minimum, the Welfare Receipt Registry will assist States in calculating the remaining months an individual may be eligible to receive benefits and reduce fraud and abuse.

(c) The National Welfare Receipt Registry will be maintained by obtaining electronically from each State IV-A agency information on individuals receiving benefits. Upon request, the Clearinghouse will send electronically information to the State agency.

(d) The information to be exchanged is as follows:

(i) Information to be sent to the Clearinghouse includes identification information, such as the names and Social Security Numbers of members of the family; the dates an individual went on and off assistance; participation information for AFDC, JOBS and WORK programs; information on extensions of time-limits and sanctions for non-compliance for these and other programs; as well as other information as determined necessary by the secretary.

(ii) Information to be received from the Clearinghouse includes whether the applicant has been reported to have received assistance and, if so, when and in which State(s); whether the Social Security Numbers supplied are valid; whether the applicant is contained in the New Hire Registry as being recently employed; and other information as determined by the Secretary.

(e) Information Discrepancies: If an information discrepancy exists between the information the client presents to the State agency and the information in the Clearinghouse, the Secretary will assist in the resolution by verifying that the data contained in the Registry reflects the information contained in the State agency records where the individual has previous assistance, correcting the Clearinghouse information if necessary, and reporting the updated information to the requesting State.

(f) The States involved must take appropriate actions to resolve the discrepancy in accordance with normal due process requirements and must submit corrected information to the Clearinghouse when the discrepancy is resolved.

B. STATE TRANSITIONAL ASSISTANCE SUPPORT INFORMATION SYSTEM

(a) The State agency, in order to assist in the administration of time-limited welfare, will establish and operate a statewide, automated, Transitional Assistance Support Information System. This system will serve to significantly improve the effectiveness and efficiency of State systems information infrastructures for the management, monitoring, and reporting on clients as they work towards independence and self sufficiency. The State may receive enhanced funding for these changes under specific approaches approved by DHHS and described below.

(b) The minimum capabilities of the State system include:

(i) Exchanging information as described above in A(d) in a standard, electronic format with the National Clearinghouse;

(ii) Querying electronically the National Welfare Receipt Registry in the National Clearinghouse before granting assistance;

(iii) Using the information received from the Clearinghouse in the determination of eligibility and time period for which assistance may be granted:

(iv) Reporting corrected or updated information to the Registry; and

(v) Meeting current statutory requirements for security and privacy.

(c) Alternative Interim Method: The Secretary may approve an alternative interim method if the State demonstrates that the alternative will be effective in reporting, receiving, and using transitional assistance information and the State has an approved Advanced Planning Document for the Automated Data Processing System that meets requirements in the proposed statute.

(d) The State may also augment the minimum system described above in specific ways and receive enhanced match for development costs under certain conditions. (The specific conditions are described in a later section.) Under this augmented system, clients will receive considerably enhanced service responsiveness through responsiveness through prescreening to match available services to individuals and determine the required qualifying and verification information needed for each service.

C. STATE AUTOMATED SYSTEMS

(a) As part of building better automated systems, States will be offered enhanced funding if they take one of two strategies to automation projects. That is, to economically and efficiently develop and implement automated systems in support of AFDC, child care, and JOBS/WORK programs, the Secretary will, as a condition of enhanced funding, require States to develop and use model systems developed in partnership with the Federal Government and other States under one of two approaches.

1. Federally Led and Sponsored Model Systems, in Partnership with State Agencies

Under this approach, the Department in partnership with the States will design and develop model automated support and case management information systems that assist the States in managing, controlling, accounting for, and monitoring the factors of the State plans for AFDC, child care, and JOBS/WORK programs as well as providing security safeguards. These model systems are described below:

(a) Transitional Assistance Support Information System: This model system will provide statewide, automated, procedures and processes to meet both the minimum requirements described above plus additional functions. The additional functions include at least: performing intake and referral; monitoring and reporting against some performance measures; exchanging information on-line with the Clearinghouse and exchanging data with other automated case management and information systems.

(b) Child Care Case Management Information System: This model system will provide statewide, automated, procedures and processes to achieve seamless child care delivery, including all child care programs of the State. This system will assist the State in administration of child care program(s) and to manage the non-service related CCDBG funds. The functions will meet both the minimum requirements described above plus additional functions which will include, at least, the ability to: identify families and children in need of child care, establish eligibility for child care, and determine funding source(s); plan and monitor services, determine payments, and update and maintain the family and child care eligibility status for child care; maintain and monitor necessary provider information; process payments and meet other fiscal needs for the management of child care program(s); produce reports required by Federal and State directives; monitor and report performance against performance standards; and electronically exchange information with other automated case management systems and with the statewide automated transitional assistance support system.

(c) JOBS/WORK Case Management Information System: This model system will provide statewide, automated, procedures and processes to control, account for, and monitor all factors of the JOBS and WORK programs and support both management and administrative activities of the programs.

these functions will meet both the minimum requirements described above plus additional functions including the capability to: assess a participant's service needs; develop an employability plan; arrange, coordinate, and manage the services or resources needed for the plan; track and monitor ongoing program participation and attendance; exchange information electronically with other programs; and provide performance and assessment information to the Secretary.

2. Multi-State Collaborative Projects, State Lead with Federal Partnership

Under this approach, the Department will assist and support State IV–A agencies, or the State's designated contracted agency (for child care or JOBS), in multi-State collaborative projects for purposes of designing and developing automated system models and in developing enhancements to existing systems as follows:

(a) Transitional Assistance Support System: In addition to meeting the Federally-sponsored model system functional specifications described above, States may, in collaborative efforts, augment their systems to include automation of additional functions as follows: determining eligibility; improving government assistance standards; performing case maintenance and management functions; calculating, managing, and reconciling payments to eligible recipients; providing for processes and procedures to detect and prevent fraud and abuse; and producing reports.

(b) Child Care and JOBS/WORK Case Management Information Systems: States may, in collaborative efforts, design, develop, and implement automated information systems that meet the model functional specifications of Child Care and JOBS/WORK described in the Federally-sponsored model approach.

D. FEDERAL FUNDING FOR NATIONAL WELFARE RECEIPT REGISTRY, MODEL STATE SYSTEMS TO SUPPORT STATE ACTIVITIES, AND TECHNICAL ASSISTANCE AND TRAINING

(a) $6 million will be needed to establish the National Welfare Receipt Registry in Fiscal Year 1995 and $4 million to operate the Registry for each of fiscal years 1996 through 1999; $7.5 million will be needed to develop the model systems for each of fiscal years 1995 and 1996; and $1 million will be needed to provide technical assistance and training to States for each of fiscal years 1995 through 1999.

E. FEDERAL FUNDING OF STATE SYSTEMS

(a) Under certain conditions, States may claim Federal Financial Participation (FFP) for the costs to establish and operate automated systems described above. Two match rates will be available.

(b) Enhanced Match. States are eligible for enhanced match (80 percent FFP) for up to 5 years after enactment for costs incurred in developing and implementing automated systems described above, including the costs of computer hardware, on the condition that the approach to system design, development, and implementation meets one of the two approaches:

1. Federally Sponsored Model: The State adapts and implements a model/prototype system developed by the Secretary in accordance with the functional specification described in that section, or

Multi-State Collaborative Project: The State, through a collaborative multi-State consortium, jointly designs, develops, and/or implements, a system or subsystems in accordance with the functional conditions and specifications described in that section.

(c) The Federal portion of the enhanced match will be limited to $800 million and will be available over a five year period State-by-State in accordance with a formula that takes into consideration State program caseload, existing level of automation and performance and progress against an approved advance planning document. The Secretary will develop regulations for the definition and implementation of these funding provisions.

(d) Exception for Adaptation of Existing System to Meet Minimum Requirements: If a State demonstrates to the Secretary that modifications to an existing system meet the minimum requirements of a Transitional Assistance Support System as described in that section and meet certain additional conditions, the Secretary may grant an exception to the enhanced funding requirements. The additional conditions are that the State requires limited enhancements to an existing system and the State demonstrates that it would be more cost-effective to proceed independently or with custom modifications.

(e) Regular Match: States will receive 50 percent FFP for operational costs and for costs they incur if they do not follow the enhanced match provisions described above and for systems features beyond those provided above.

F. ADDITIONAL FRAUD AND ABUSE PROVISIONS

Vision

Under this proposal, statutory provisions will require that States and specific Federal agencies utilize the information for purposes of reducing waste, fraud, and abuse. In order to ensure that Federal and State agencies implement and utilize the prescribed systems effectively for these purposes the following provisions apply. Federal and State expenditures for specific administrative costs will be reduced if—despite full implementation and use of the systems—actual savings from anti-fraud provisions do not meet anticipated savings. This provision will ensure that Federal and State agencies have a stake in the successful implementation and operation of information systems for anti-fraud and abuse purposes.

Specifications

(a) The Department of HHS will certify that the systems associated with the National New Hire Registry, the National Child Support Registry, and the National Welfare Receipt Registry are operational.

(b) For the purpose of reducing waste, fraud and abuse, the Office of Management and Budget (OMB) must certify that required Federal agencies have implemented and utilized the information fully to utilize information from these data systems.

(c) If OMB, in consultation with the Secretary of HHS, certifies that actual saving as a result of increased Federal and State activities of anti-fraud provisions are less than $290 million over five years (including savings as a result of Federal agencies fully utilizing the information) the following expenditure shall be reduced to make up the shortfall (This provision shall apply only if all provisions specified in (a) and (b) are fully met):

(i) The 2% set-aside for technical assistance, research and demonstrations (as specified in the Technical Assistance, Research and Demonstration section) and the 1% set-aside for training, technical assistance, research, and demonstrations (as specified in the Child Support Enforcement section) shall be reduced by an amount equal to the difference or up to the amount of the set-aside.

(ii) If the shortfall in savings is still greater than in (i), additional funds shall be reduced via the following mechanism: States that fail to implement the improved verification data source will receive 3% less in IV–A administrative matching funds.

(d) This provision shall be assessed in FY 1998. Penalties, if applicable, will be applied to FY 1999 funding, and every year thereafter.

(e) This provision shall expire at the close of FY 2004.

TECHNICAL ASSISTANCE, RESEARCH, DEMONSTRATIONS, AND EVALUATION [TITLE IV]

A. TECHNICAL ASSISTANCE, RESEARCH, AND EVALUATION

1. Authority to Tap JOBS/WORK and Child Care Funds For Research, Demonstrations, Evaluation and Technical Assistance Purposes

Current law

There are a variety of ways that funds are set aside for evaluation oversight and technical assistance support to programs. The Family Support Act, for example, authorizes specific amounts for implementation and effectiveness studies of the JOBS Program. Under the Head Start Act, 13 percent of annual appropriations are reserved by the Secretary for a broad range of uses including training, technical assistance and evaluation. The Secretary of HHS, at her discretion, sets aside 1% of Public Health program funding for evaluation of its programs.

Vision

Welfare reform seeks nothing less than a change in the "culture" of the welfare system. This necessitates making major changes in a system that has primarily been focused on issuing checks. Now we will be expecting States to change individual behavior and their own institutions so that welfare recipients will be moved into mainstream society. This will not be done easily. We see a major role for evaluation, technical assistance and information sharing. Initially, States will require considerable assistance as they design and implement the changes required under this legislation. Then, as one State or locality finds strategies that work, those lessons ought to be widely shared with others. One of the elements critical to this reform effort has been the lessons learned from the careful evaluations done of earlier programs. Those lessons and the feedback secured during the implementation of these reforms will be used in a formative sense and will guide continuing innovation into the future. We propose reserving 2% of the total annual capped entitlement funding for JOBS and At-Risk Child Care in FY 1996, FY 1997, and FY 1998 and 1% of the JOBS, At-Risk Child Care and WORK annual capped entitlement in fiscal years thereafter for research, demonstrations, evaluation, and technical assistance, with a significant amount reserved for child care. We seek to evaluate demonstrations in a number of different areas. Please see the sections on Make Work Pay, Child Support Enforcement, and Prevent Pregnancy and Promote Parental Responsibility.

Rationale

Sufficient funds should be available to ensure that the Department(s) can provide adequate levels of technical assistance to States, oversee State implementation of welfare reform, and carry out other supportive research and training activities. Tying funds to a percentage of the overall program dollars ensures that as the program grows, funds for research, evaluation and technical assistance also grow.

Specifications

(a) Reserve for the Secretary from amounts authorized for the capped JOBS, WORK and At-Risk Child Care funding, two percent of JOBS and child care funds in Fiscal Years 1996 through 1998, and one percent of JOBS, At-Risk Child Care, and WORK for each fiscal year thereafter for expenditures for research, evaluation, the provision of technical assistance to the States and to carry out research, evaluations, and demonstrations as described below. Technical assistance is defined broadly to include training, "hands-on" consultation to States requesting assistance, the transferring of "best practices" from one State to another, etc.

(b) To the extent that these issues can be researched in a methodologically sound way, the Secretary of HHS, in consultation with the Secretary of Labor and the Secretary of Education, shall conduct the following evaluation studies of time-limited JOBS followed by WORK:

(i) A two-phase implementation study that describes:

How States and localities initially responded to new policies, implemented the new program, the obstacles and barriers encountered, institutional arrangements entered into, and recommendations;

How States and localities subsequently performed as their programs matured including program design, services provided, operating procedures, funding levels, participation rates and recommendations. The study will also consider the effects on State and local administration of welfare programs including management systems, staffing structure, and "culture."

(ii) A study of the effectiveness of a time-limited assistance program followed by work in helping participants achieve self-sufficiency and the corresponding effect on unemployment rates, reduction of welfare dependency and teen pregnancy, and the effects on income levels, family structure, and children's well-being.

(iii) A comprehensive national study of the WORK program after it has been in effect for two years to measure success its success in assisting participants to obtain unsubsidized employment and to evaluate the skill levels and barriers to participants who were unable to obtain unsubsidized jobs.

B. DEMONSTRATIONS

1. Authority to Initiate Major Demonstrations and Pilot Programs to Improve the Effectiveness and Efficiency of the Reformed Welfare System

Current law

The Social Security Act authorizes the Secretary to conduct demonstrations. Many States operate demonstration programs with strong evaluation components that have helped shape public policy.

Vision

We propose key demonstrations in areas where additional feedback is required about the cost, feasibility, and/or effectiveness is necessary before national policy is determined. In each area, we propose both a set of policies for immediate implementation and a set of demonstrations designed to explore ideas for still bolder innovation in the future. In addition, we would encourage States, Indian tribes, and Alaskan Native organizations to develop their own demonstrations. In some cases we would provide additional Federal resources. Lessons from past demonstrations have been central to both the development of the Family Support Act and to this plan.

Specifications

(a) The Secretary of HHS shall have the authority to approve and conduct the following demonstrations, which will be funded out of the funds allocated to technical assistance, research, demonstrations, and evaluation (as discussed in detail below):

2. Demonstrations to Encourage Placement During Participation in the JOBS Program

Current law

There are no provisions in current law similar to what is proposed under this section.

Vision

One of the explicit goals of welfare reform is to transform the welfare system (and the JOBS program) into one which focuses from the very first day on helping people to get and hold jobs. To achieve this, we will find demonstration programs that focus on enhancing job placements. We envision two strategies, as specified below.

Rationale

A good JOBS program balances the need to communicate to those entering the welfare system that AFDC is a temporary support system by moving recipients quickly into the labor market while remaining sensitive to the fact that all recipients are not competitive in that market. We are changing the culture of welfare to get out of the business of writing checks and into the business of helping people find and keep jobs. We are changing the incentives in the welfare system to emphasize long-term placement in the workforce. We want to experiment with a number of new approaches that will spur caseworkers, clients, and service providers to help people get off welfare for good. We need more information about how to set up rewards that will reflect the new "mission" of the welfare system.

Specifications

(a) Placement Bonuses: No more than five demonstration grants would be available for programs that use placement bonuses to reward agencies or caseworkers who are particularly good at placing JOBS participants in private sector jobs. The emphasis will be on securing long-term placements in the labor market and on finding ways to place medium and long-term recipients.

(b) Placement Firms: No more than five demonstration grants would be available to States to work with private not-for-profit and for-profit organizations. Services that the organization will deliver, such as work preparation, placement services, and follow-up services will be specified. Performance standards will specify the basis on which the organizations will be paid. These performance standards would be based on placement and retention measures.

(c) The Secretary shall evaluate the effectiveness of such programs, preferably using random assignment of individuals to treatment and control groups or, where that is inappropriate for scientific reasons, the most rigorous appropriate method.

3. Demonstrations to Develop Work-for-Wages Programs Outside the AFDC System

Vision

States are encouraged to experiment with approaches to designing and administering the WORK program outside of the AFDC system. The Secretary may authorize up to 5 demonstration projects to assess the feasibility and effectiveness of WORK programs that are administered outside of the AFDC system. These demonstrations will be rigorously evaluated.

Rationale

It is not clear that the welfare system will be the most appropriate agency to run an employment based system like the WORK program in all States. In some cases, state-level Labor Department entities, non-profit, or proprietary agencies may have a comparative advantage. Even if a comparative advantage does lie with an organization independent of the welfare system, questions remain. For example, it is not apparent that the required ongoing communication between the agencies running the WORK program and the agency issuing supplemental income support checks (and retaining responsibility for other residual welfare functions) can be maintained. This, and other management uncertainties, must be resolved through demonstration programs.

Specifications

(a) Up to 5 local demonstration projects to test the development and implementation of WORK programs administratively located outside of the AFDC system will be conducted.

(b) The Secretary shall conduct a rigorous evaluation, preferably using a random assignment to treatment and control groups or, where that is inappropriate for scientific reasons, the most rigorous appropriate method.

(c) All individuals who exhaust their transitional assistance must be eligible to apply to the WORK program either after their initial spell on welfare or if they leave JOBS or WORK and subsequently reapply for assistance and have no time left. States may not deny admission into WORK for any reasons other than those discussed under the section on sanction policy.

(d) States must close AFDC cases when recipients reach the time limit. WORK programs under this subsection may only pay participants for performance of some activity.

(e) States may develop a system of compensation that mixes wages and WORK stipends. States must develop a system that ensures that WORK participants who comply fully with the program's rules are receiving income at least equal to what they would have received on AFDC plus the work disregard. States shall have flexibility on this criteria in the interest of administrative simplicity but the income from full compliance in WORK must exceed income on AFDC for a similarly situated family.

(f) States will be allowed to pay participants WORK stipends when they are not in a WORK assignment as compensation for a range of activities to be designated by the state, including job search, job clubs, and interim community service assignments. States will have flexibility in designing the stipend system, but it will have to be a pay-for-activity system.

(g) States would be allowed to develop a system of wage supplementation. WORK stipends could be provided to part-time workers either in unsubsidized jobs or in the WORK program. States would be encouraged to develop a simple system of supplements.

(h) Eligibility for the supplement would be contingent on satisfactory participation in WORK.

4. WORK Support Agency Demonstrations

Current law

At State option, Federal financial participation is available for JOBS activities and services provided for certain periods to an individual who has been a JOBS participant but who loses eligibility for AFDC. These activities and periods are: (1) case management activities and supportive services for up to 90 days from the date the individual loses eligibility for AFDC; and (2) JOBS component activities for the duration of the activity if funds for the activity are obligated or expended before the individual loses eligibility for AFDC. (45 CFR 250.73) In addition, the State agency may provide, pay for, or reimburse one-time work-related expenses which it determines are necessary for an applicant or recipient to accept or maintain employment. (45 CFR 255.2)

Vision

In order to learn about the effects of work support strategies, we propose demonstration programs to test different approaches. The goal is to increase employment retention and reduce welfare recidivism by helping those individuals who become employed keep their jobs and those who lose their jobs to regain employment quickly. Case managers will maintain contact with and offer assistance to current or former AFDC recipients who obtain employment and provide direct assistance to aid them in employment retention or to help find a subsequent job. Payments to help meet the costs of certain employment-related needs may also be provided if determined necessary for job acceptance or retention, or reemployment.

States might establish work support agencies with distinctly different responsibilities than IV–A agencies and possibly housed separately from the local IV–A agencies to provide centralized services specifically to working families. The Work Support agencies could be administered, for example, by the State employment or labor departments; by Community Action Agencies, or a One-Stop Shopping Center.

The work support offices might provide food stamps, child care, advance EITC payments, and possibly health insurance subsidies to eligible low-income working families, or (at local discretion) families suffering a temporary labor market disruption. Employment-related services such as career counseling, assistance with updating resumes and filling out job applications would also be made available specifically to individuals who had left AFDC for work through the work support office. Services which might also be included are time and money management, family issues, workplace rules, establishing ongoing relationships with employers, providing mediation between employer and employee, assisting with application for the EITC, making referrals to other community services, providing or arranging for supportive services needed for employment retention or re-employment, and providing for job referral or placement assistance if initial jobs are lost. The supportive services which can be provided to aid job retention may include: occupational license, certification, or test fees, tool/equipment expenses, clothing, uniforms, or safety equipment costs, driver's license fees, motor vehicle maintenance, repair, insurance or license costs, other transportation expenses, moving expenses (related to accepting employment), emergency child care expenses, health-related expenses not covered by Medicaid, short-term mental health expenses, and family counseling.

Rationale

A significant proportion of new entrants will move between States of dependency and non-dependency. Some 70 percent of new entrants exit in two years, about one-half of these for work. But within five years, some 70 percent of those will return. A similar picture is found for those in the secondary labor market. Job transitions and disruptions are very common, even within brief time periods. Many of these people do not have sufficient work histories to qualify for benefits under the Unemployment Insurance system. The primary recourse available upon a job loss is the welfare system.

Our welfare and JOBS systems are geared toward graduations; treating people and moving them on. We now assume that even those with high levels of human capital may have to make seven or eight reinvestments in training and new skill/technology acquisitions over the course of a lifetime. We must begin to work on developing a similar perspective and supportive systems for low-wage workers and those who must, on occasion, receive income assistance for their families.

The participating State would be responsible for the design of the work support agency, including the administrative structure and the menu of services, but would have to receive approval from the appropriate departments (in most cases Agriculture, Health and Human Services and Treasury).

Specifications

(a) A separate authority under Title IV of the Social Security Act would be established whereby a designated number of entities chosen by the Secretary, in consultation with the Secretary of Labor, Agriculture, and Treasury, would be entitled to demonstration grants to operate a Work Support Agency to support individuals who have left AFDC for work.

(b) Up to five demonstration projects will be funded.

(c) The activities under the demonstration would be focused on providing coordinated employment-related services. Grantees would be given great flexibility to design programs to help former AFDC recipients retain employment.

5. Demonstration Grants for Innovative Paternity and Parenting Initiatives

Vision

This proposal would focus on helping fathers (primarily poor, young, non-marital fathers) understand and accept their responsibilities to nurture and support their children. Building on programs which seek to enhance the well-being of children, this proposal would facilitate the development of parenting components aimed specifically at fathers whose participation in the lives of their children is often ignored or even unintentionally discouraged.

Rationale

There is considerable evidence that increased poverty is not the only adverse affect on children of fatherless families. Fathers have an important role to play in fostering self-esteem and self-control in children as well as increasing and promoting the career aspirations of both sons and daughters. Some clinical researchers and social commentators believe that much of the increase in violent behavior among teenage boys is at least in part due to lack of positive male role-models and supportive fathering in many communities. But good fathering is especially difficult for the many men who themselves belong to a second and third generation of "fatherless" families or whose own role models for parenting where abusive or neglectful.

Specifications

(a) Demonstration grants will be made available to States, Indian tribes, and/or community based organizations to develop and implement non-custodial parent (fathers) components for existing programs for high risk families (e.g., Head Start, Even Start, Healthy Start, Family Preservation, Teen Pregnancy and Prevention) to promote responsible parenting, including the importance of paternity establishment and economic security for children, and the development of parenting skills.

(b) Grants must last three years, have an evaluation component, preferably using a random assignment of individuals to treatment and control groups or, where that is inappropriate for scientific reasons, the most rigorous appropriate method.

6. Section 1115 Waivers

Current Law

Section 1115(c)(3) of the Social Security Act restricts State waivers which can be granted under the child support program to those that would not increase the Federal cost of the AFDC program. In all other cases, States can offset increased costs in one program (such as increased expenditures for JOBS) with savings in other areas (such as AFDC and Medicaid). In child support, however, savings generated from non-IV–A programs cannot be used to cover IV–A costs resulting from IV–D waivers. The within-AFDC cost neutrality provisions for the child support program discourages States from looking at IV–D as part of their total welfare reform strategy and greatly restricts their abilities to design and implement child support demonstrations of interest and significance.

Specification

(a) Increase States' ability to test innovative IV–D and non-custodial parent programs. Give them the same degree of flexibility to offset AFDC costs resulting from demonstrations involving child support that now exists in the other programs. In addition, give States the authority to value the worth of work activities that non-custodial fathers do to reduce their AFDC debts and child support arrearages.

PREVENT TEEN PREGNANCY AND PROMOTE PARENTAL RESPONSIBILITY [TITLE V]

A. NATIONAL TEEN PREGNANCY PREVENTION INITIATIVE

1. Teen Pregnancy Prevention Grants and Establishment of a National Clearinghouse on Teen Pregnancy

Current Law

There are numerous Federal programs that address the issue of teen pregnancy prevention, including repeat pregnancies. Some of these programs focus specifically on teen pregnancy, but given that the multiple problems adolescents face are often interrelated, the specific problems that other programs emphasize (e.g., alcohol and drug abuse, school drop-out) are also related to adolescent pregnancy prevention. Current federal efforts include HHS's family planning grants, maternal and child health programs, adolescent health programs, runaway and homeless youth programs, and alcohol and drug abuse prevention programs. Department of Education efforts include drug-free schools and communities programs, and postsecondary education outreach and student support services programs; and the Department of Labor efforts include New Chance, Youth Fair Chance, JTPA programs, and the Young Unwed Fathers Project. There are also programs in the Departments of Housing and Urban Development, Agriculture, Justice, Interior and Defense.

Vision

We must address the issue of births among unmarried teens. There will be a national campaign to help reduce the number of unmarried teenagers who become pregnant. This campaign will also take into account the myriad of risky behaviors that can be related to teenage pregnancy. It will strive to develop, enhance and promote youth competence, as well as foster ties to families, communities, and society.

The rise in births to unmarried teens over the past generation has raised the issue of teen pregnancy to enormous national significance. The number of births to unwed teen mothers increased from 92,000 in 1960 to 368,000 in 1991. Adolescents who bring children into the world face a very difficult time getting themselves out of poverty, while young people who graduate from high school and defer childbearing until they are mature, married and able to support their offspring are far more likely to get ahead. Both parents bear responsibility for providing emotional and material support for their child. The overwhelming majority of teenagers who bring children into the world are not yet equipped to fulfill this fundamental obligation. They are often unable to handle peer pressures and the risk of other activities leading to negative consequences, such as alcohol and drug abuse, delinquency and violence.

The non-legislative aspects of this campaign are a national mobilization of business, national and community voluntary organizations, religious institutions, schools, and the media behind a shared and urgent challenge directed by the President; the announcement of national goals to define the mission and to guide the work of the national campaign; and the establishment of a privately funded non-profit, non-partisan entity committed to the goals and mission of the national campaign. These are the essential building-blocks of a comprehensive campaign for youth balancing opportunity and responsibility across the full range of Administration youth initiatives, including Goals 2000, School-to-Work, National Service, the preventive health provisions under the Health Security Act, the after-school and jobs programs included in the prevention package in the Crime Bill, as well as the prevention strategies proposed below as part of welfare reform.

There are two legislative aspects of this initiative. The first, addressed below, is a Teen Pregnancy Prevention Grant Program where about 1,000 schools and community-based entities would be provided flexible grants to implement promising teen pregnancy prevention strategies. Funding would be targeted to schools with the highest concentration of middle and high school age youth at-risk. The goal would be to work with youth as early as age 10 and establish continuous contact and involvement through graduation from high school. To ensure quality and establish a visible and effective presence, these programs will be supervised by professional staff and, where feasible, be supported by a team of national service participants provided by the Corporation for National and Community Service. The second, described in number 2 below, is a comprehensive services demonstration approach to enhance our learning from prevention strategies.

Specifications

(a) A separate authority under the Title XX of the Social Security Act would be established for grants to promote the development, operation, expansion, and improvement of school-based and -linked adolescent pregnancy prevention programs in areas where there are high poverty rates or high rates of unmarried adolescent births.

(b) The approved applicant shall be entitled to payment of at least $50,000 and not more than $400,000 each fiscal year for five years. The grant amount will be based on an assessment of the scope and quality of the proposed program and the number of children to be served by the program. The grant must be expended in the fiscal year it is awarded or in the succeeding fiscal year. At least a 20 percent non-Federal, cash or in-kind match, is required. Priority will be given to those with a higher match or an increasing ratio of non-Federal resources over the length of the grant.

(c) The grants will be jointly awarded by HHS, Education, and the Corporation for National and Community Service, in consultation with other Federal departments and agencies. The administration of the program could be delegated to another Federal entity, such as the proposed Ounce of Prevention or the Community Empowerment Board.

(d) Eligible grantees are a partnership that includes a local education agency, acting on behalf of one or more schools, and one or more community-based organziations, institutions of higher education, or public or private for-profit or non-profit agencies or organizations. Existing successful programs—including those now operated by national voluntary organizations—would be encouraged to apply for funds to expand and upgrade their services. Grantees would have to be located in a school attendance area where either (1) at least 75 percent of the children are from low-income families as defined under part A of title 1 of the Elementary and Secondary Education Act of 1965, or (2) there are a significant number of children receiving AFDC, or (3) there is a high unmarried adolescent birth rate. Geographic distribution, including urban and rural distribution, would be taken into account in selection of grantees.

(e) Grantees would, based on local needs, design and implement promising programs to prevent teen pregnancy through a variety of approaches. Grantees would be given a great deal of flexibility in designing their program. However, core components at each site must include:

Curriculum and counseling designed to reach young people that address the full range of consequences of premature sexual behavior and teen pregnancy. Existing models of best practices suggest that these educational activities should focus on developing the psychology and character required for responsible behavior as well as on expanding cognitive knowledge.

Activities designed to provide opportunities for youth at-risk to develop sustained contact with one or more volunteer or professionally trained adults to provide character development. Group coaching, individual mentoring, and a range of activities after-school, on weekends, and in the summer could be included. Such activities could also include community service by the youth themselves.

To ensure quality, programs would be coordinated by one or more professional staff. The programs, where feasible, would also utilize national service participants to engage students, parents, families, and the community in organized efforts to reduce risk-taking behaviors that may lead to adolescent pregnancy, including the delivery of services and in the coordination of during- or after-school activities. Grantees will be asked to describe the role that any National Service participants will play in the program, consistent with the National and Community Service Act of 1990.

Grantees are allowed to expand on these core components, including conducting activities as part of another youth development program.

(f) Grantees would be asked to submit an application. The primary aspect of the application would be a plan which addresses local needs and describes (a) the measurable goals the applicant wants to achieve and how it intends to measure progress in achieving the goals; (b) curriculum and counseling and sustained adult relationships components of the program, as well as any additional components, and how they intend to implement them; and (c) how national service participants will be an integral part of the program, where feasible.

They would also be asked to provide other assurances, including—

How the services provided are based on research of effective approaches to reducing teen pregnancy. Other risk-taking behaviors correlated with teen pregnancy should also be included.

How both male and female teens and, where possible, out-of-school teens will be served.

How each program would work with middle and/or high school age youth (ages 10 through 19) to establish continuous contact and involvement through graduation from high school.

How school staff, parents, community organizations, and the teens to be served have been and will be included in the development of the application as well as the planning and implementation of the program.

Evidence of ongoing commitment with other community institutions, such as churches, youth groups, universities, businesses, or other community, civic, and fraternal organizations.

Coordination of their program with other Federal or federally assisted programs, State and local programs, and private activities, and how the applicants resources and services are linked and coordinated. For example, how they are coordinating State education reform efforts underground by the State education agency.

How the program plans to continue operation following completion of the grant period.

How funds will not supplant Federal, State, or local funds.

(g) A grantee would be given priority if their non-Federal resources are significantly is excess of the 20 percent required or there is an increasing ratio of non-Federal resources over the length of the grant, and if they participate in other Federal and non-Federal programs.

(h) The Secretary may terminate a grant before the end of the 5-year period if the Secretary determines that the grantee conducting the project has failed substantially to carry out the project as described in the approved application.

(i) Total funding for the program is $300 million over five years. $20 million in FY 1995, $40 million in FY 1996, $60 million in FY 1997, $80 million in FY 1998 and $100 million in FY 1999 and each subsequent fiscal year thereafter. Up to ten percent of the funding will be set-aside for the evaluation, training, and technical assistance as well as for establishment of a National Clearinghouse on Teen Pregnancy (see j. and k. below). Since this program and the Clearinghouse is authorized through Title XX of the Social Security Act, any funds not expended in a fiscal year shall be redirected to the Title XX Social Services Block Grant Program.

(j) A rigorous Federal evaluation of some sites would be conducted. Grantees would be asked to provide information requested for the evaluation. Training and technical assistance would also be provided to the grantees.

(k) A National Clearinghouse of Teen Pregnancy Prevention would be established to provide communities and schools with teen pregnancy prevention programs with curricula, models, materials, training and technical assistance. There could be an existing clearinghouse or technical assistance center. It will establish an information exchange and network on promising models and rigorous evaluation.

The Clearinghouse would be a national center for the collection and dissemination of programmatic information and technical assistance that relates to teen pregnancy prevention programs. It will also look at the State of teen pregnancy prevention program development, including information on the most effective models. It would develop and sponsor training institutes and curricula for teen pregnancy prevention program staff, and develop networks for sharing and disseminating information. The Clearinghouse could also conduct evaluations of teen pregnancy prevention programs (not limited to the grants provided in this bill).

2. Learning from Prevention Approaches through Comprehensive Services Demonstrations to Prevent Teen Pregnancy in High Risk Communities

Current Law

There are demonstration authorities that exist to serve youth in particular areas, but most are not as comprehensive as the demonstrations described below in the scope of services for all youth and are not a saturation model.

Vision

Early unwed child-bearing and other problem behaviors are interrelated and strongly influenced by the general life-experiences associated with poverty. Changing the circumstances in which people live and consequently how they view themselves is needed to change the decisions young people make in regard to their lives.

For any effort which hopes to have results that are large enough to be meaningful, attention must be made to circumstances in which youth grow up. It should address a wide spectrum of areas associated with youth living in a healthy community: economic opportunity, safety, health, and education.

Particular emphasis must be paid to the delay of sexual activity and prevention of adolescent pregnancy before marriage. Programs that combine these elements have shown the most promise, especially for adolescents who are motivated to avoid pregnancy until they are married. However, for those populations where adolescent pregnancy is a symptom of deeper problems, education and contraceptive services alone will be inadequate; they must be part of a much wider spectrum of services.

Interventions need to enhance education, prevent drug use, link education to health and other services, and help stabilize communities and families in trouble. This would provide a sense of rationality and order in which you can develop, make decisions, place trust in individuals and institutions serving them, and have a reasonable expectation of a long, safe, and productive life.

Comprehensive Demonstration Grants for Youth in High-Risk Communities of sufficient size or "critical mass" to significantly improve the day to day experiences, decisions and behaviors of youth are proposed. Services would be non-categorical, integrated and delivered with a personal dimension. They would follow a "youth development" model and would seek to assist communities as well as directly support youth and families. These demonstrations would be coordinated with other Administration activities, such as the prevention components of the Crime bill and empowerment zones, and would be part of an overall community strategy for youth.

Specifications

(a) A separate authority under the Title XX of the Social Security Act would be established whereby a designated number of community sites chosen by the Secretary, in consultation with the Secretaries of Education, HUD, Justice, Labor, and the Director of the Office of National Drug Control Policy, would be entitled to a demonstration grant to educate and support school-age youth (youth ages 10 through 21) in high risk situations and their family members through comprehensive social and health services, with an emphasis on pregnancy prevention.

(b) Funding and services provided under this demonstration do not have to achieve this goal of comprehensiveness in and of themselves. Rather, this funding can be used to provide "glue money," fill gaps in services, ensure coordination of services, and other similar activities which will help achieve the overall goal of comprehensive integrated services to youth.

(c) Starting in FY 1995, up to seven community sites would be entitled to $90 million over 5 years (up to $3.6 million per site). Grantees would be required to provide a 10 percent, in cash or in-kind, match of the Federal funding. Priority would be given to those with a higher match or an increasing ratio of non-Federal resources over the length of the grant. Since this program is authorized through Title XX of the Social Security Act, any funds not expended in a fiscal year shall be redirected to the Title XX Social Services Block Grant Program.

(d) The demonstration grantee would develop a community-wide strategy to address the causes and factors of risk-taking tendencies among youth, to positively affect community norms, to increase community health and safety, and to generally improve the social environment to enhance the life choices of community youth. The strategy would be used to provide a comprehensive set of coordinated services designed to saturate the community and would include, but not be limited to, the following areas:

(i) Health education and access services designed to promote physical and mental well-being, delay sexual activity, and personal responsibility. These include school health services, family planning services, alcohol and drug use prevention services and referral for treatment, life skills training, and decision-making skills training.

(ii) Educational and employability development services designed to promote educational advancement that lead to a high school diploma or its equivalent and opportunities for high skill, high wage job attainment and productive employment, to establish a lifelong commitment to learning and achievement, and to increase self-confidence. Activities could include, but are not limited to, academic tutoring, literacy training, drop-out prevention programs, career and college counseling, mentoring programs, job skills training, apprenticeships, and part-time paid work opportunities.

(iii) Social support services designed to provide youth with a stable environment, continuous contact with adults, and encouragement to participate in safe and productive activities. Services could include, but are not limited to, cultural, recreational and sports activities, leadership development, peer counseling and crisis intervention, mentoring programs, parenting skills training, and family counseling.

(iv) Community activities designed to improve community stability, and to encourage youth to participate in community service and establish a stake in the community. Activities could include, but are not limited to, community policing, community service programs, community activities in partnership with less distressed communities, local media campaigns, and establishment of community advisory councils with youth representation.

(v) Employment opportunity development activities designed to be coordinated with educational and employability development services, social support services, and community activities described in (ii) through (iv). Emphasis would be on the development of linkages with employers within and outside the community to help create employment opportunities and foster an understanding by community youth of the relationship between productive employment, healthy development, and sound life choices.

(e) Sites would have to meet the following characteristics, and any others determined by the Secretary of Health and Human Services, in consultation with the other Federal agencies.

(i) Geographic—Communities must identify the community or communities they will target. Smaller, more focused boundaries than those required in Empowerment Zones or Youth Fair Chance will be used in order to develop a "critical mass" of services to meet the above goals. Each community must have an identifiable boundary and must be considered a community by its residents.

(ii) Population—Each community or group of communities have populations of approximately 20,000 to 35,000 people.

(iii) Poverty—The entire area must have a poverty rate of at least 20%.

(f) Local governments (or units of local governments) and local public and private non-profit organizations could apply. Applicants would be required to supply evidence of comprehensive commitment to the project and collaboration between the community and the city and State (such as local school to work partnerships). The applicant must involve multiple elements (e.g., government, schools, churches, businesses) of the community and the State in the planning and implementation of the demonstration program. Applicants must demonstrate (1) ability to manage this major effort, (2) resources for obtaining data and maintaining accurate records, (3) how they will coordinate with other programs serving the same population, and (4) assurances that the funding provided through this program will not be used to supplant Federal funds for services and activities which promote the purposes of this program.

(g) Applicants must define the goals intended to be accomplished under the project. They must also describe the methods to be used in measuring progress toward accomplishment of the goals and outcomes to be measured. Outcomes to be measured would include, but are not limited to, unmarried birth rates, high school graduation rates, college attendance rates, rates of alcohol and other drug use and violence reduction.

(h) The Department will support rigorous evaluations of all demonstrations. The Federal government will also provide technical assistance to applicants throughout the life of the demonstration. These activities will be coordinated with the National Clearinghouse on Teen Pregnancy Prevention. $10 million would be provided for these activities.

(i) The Secretary may terminate a grant before the end of the 5-year period if the Secretary determines that the grantee conducting the project has failed substantially to carry out the project as described in the approved application.

B. INCENTIVES FOR RESPONSIBLE BEHAVIOR

1. Minor Parents Live at Home

Current Law

Under Section 402(a)(43) of the Social Security Act, States have the option of requiring minor parents (those under the age of 18) to reside in their parents' household, a legal guardian or other adult relative, or reside in a foster home, maternity home or other adult supervised supportive living arrangement (with certain exceptions). Delaware, Maine, Michigan, Virgin Islands, and Puerto Rico have included this in their State plans.

Vision

By definition, minor parents are children. We believe that children should be subject to adult supervision. This proposal would require minor parents to live in an environment where they can receive the support and guidance they need. At the same time, the circumstances of each individual minor will be taken into account in making decisions about living arrangements.

Specifications

(a) All States would require minor parents to reside in their parents' household or with a legal guardian, with certain exceptions as described below. This is the same as the allowed State option under current law, except that now the provision would be a requirement in all States.

(b) As in current law, when a minor parent lives with her parent(s), the parent(s)' income is taken into account in determining the benefit. If the minor parent lives with another responsible adult, the responsible adult's income is not taken into account. Child support would be sought in all cases.

(c) A minor parent is an individual who (i) is under the age of 18, (ii) has never been married and (iii) is either the natural parent of a dependent child living in the same household or eligible for assistance paid under the State plan to a pregnant woman. This is the same definition as current law.

(d) The following exceptions (now in current law) to living with a parent or legal guardian will be maintained:

(i) individual has no parent or legal guardian of his or her own who is living and whose whereabouts are known;

(ii) no living parent or legal guardian of such individual allows the individual to live in the home of such parent or guardian;

(iii) the State agency determines that the physical or emotional health or safety of the individual or dependent child would be jeopardized if the individual and dependent child lived in the same residence with the individual's own parent or legal guardian;

(iv) individual lived apart from his or her own parent or legal guardian for a period of at least one year before either the birth of any dependent child or the individual having made application for aid to families with dependent children under the plan; or

(v) the State agency otherwise determines (in accordance with regulations issued by the Secretary) that there is good cause for waiving the requirement. (In those States that have this policy, the following are examples of what they determine to be good cause exceptions: the home is the scene of illegal activity; returning home would result in overcrowding, violation of the terms of the lease, or violation of local health and safety standards; the minor parent is actively participating in a substance abuse program which would no longer be available if she returned home; no parent or legal guardian lives in the State.)

(e) Current law and regulation requiring that the determination of a minor parent's residency status must be made within 45 days that all eligibility determinations are made would be maintained.

(f) If the State determines the minor should not live with a parent or legal guardian (or the current arrangement ceases to be appropriate because circumstances change), the minor must be assisted in obtaining an appropriate supportive alternative to living independently. (The types of living arrangements that States now use or are considering include living with an adult relative, a licensed foster home, in a group home for pregnant teens or teen parents, and in an approved congregate housing facility.) If no appropriate setting is found the State must grant eligibility, but must utilize case managers to provide support for the minor.

(g) The State would use the case management for teen parent provision (see #2 below) to make the determinations required under this provision. As described in the next proposal, these case managers would be trained appropriately and have reasonable caseloads. Determinations would be made after a full assessment of the situation, including taking into account the needs and concerns expressed by the minor.

(h) This provision would go into effect in FY 1996.

2. Limiting AFDC Benefits To Additional Children Conceived While on AFDC

Current Law

Currently, families on welfare receive additional support whenever they have an additional child.

Vision

States should be allowed to seek to reinforce parental responsibility by not increasing AFDC benefits when a child is conceived while the parent is on welfare. The message of responsibility would be further strengthened by providing the family an opportunity to earn what would have been paid in benefits.

Specifications

(a) Allow States the option of limiting the increase, in full or in part, in the AFDC benefit amount when an additional child is conceived while the parent is on welfare. In order to exercise this option, the State must demonstrate that family planning services under 402(a)(15) are available and provided to all recipients who request them.

(b) Under this option, if a parent has an additional child, the State must disregard an amount of income equal to any increase in aid that would have been paid as a result of the additional child. Types of income to be disregarded include: (i) child support; (ii) earned income; or (iii) any other source that the State develops and is approved by the Secretary.

(c) The provision would not be applied in the case of rape or in any other cases that the State agency finds would violate the standards of fairness and good conscience (such as where there is clear evidence that contraceptive failure occurred in an unemployed parent AFDC family).

(d) This provision would go into effect in FY 1996.

3. Case Management for All Custodial Teen Parents

Curent law

Section 482(b)(3) of the Social Security Act allows States to provide case management to all those participating in the JOBS program.

Vision

Frequently, it is multiple problems that lead youth to the welfare system. Their complex needs often stand in the way of their meeting educational requirements and other responsibilities. Removing these barriers to self-sufficiency can involve the confusing and difficult process of accessing multiple service systems. This proposal would provide every teen with a case manager who would help them navigate these systems and hold them accountable for their responsibilities and requirements.

Specifications

(a) Require States to provide case management services to all custodial teen parents under age 20 who are receiving AFDC.

(b) Case management services to teen parents will include, but is not limited to: (i) assisting recipients in gaining access to services, including, at a minimum, family planning, parenting education, and educational or vocational training services; (ii) determining the best living situation for a minor parent, taking into account the needs and concerns expressed by the minor (see #1 above); (iii) monitoring and enforcing program participation requirements (including sanctions and incentives were appropriate); and (iv) providing ongoing general guidance, encouragement and support.

States must describe in their plans how they will meet these requirements.

(c) Case managers must receive adequate training in the social service and youth development field, and States should take into account recommendations by appropriate professional organizations to carry this out. Also, the case managers must be assigned a caseload of a size that permits effective case management (adequately serves and protests teen parents and their children).

(d) This provision would go into effect in FY 1996.

4. Teen Parent Education and Parenting Activities State Option

Current law

Under section 402(a)(19) of the Social Security Act, teen custodial parents are required to participate in the JOBS program unless they are under 16 years of age, attending school full-time, or are in the last seven months of pregnancy. Participation in the JOBS program involves an assessment of the individual, and an agreement specifying what support services the State will provide and what obligations the recipient has. For those who have not obtained a high school diploma or a GED, attendance at school can serve as their JOBS assignment. Participation in the JOBS program is contingent on the existence of such a program in the geographic vicinity of the recipients' residence.

In addition, under a Section 1115 waiver, States, can implement programs which utilize incentives or sanctions to encourage or require teen parents on AFDC to continue their education. Two examples of States have done or planning to do this are the Learning, Earning, and Parenting Program (LEAP) in Ohio and Cal Learn in California, which is in the process of being implemented. LEAP and Cal Learn are mandatory for all pregnant and custodial teen parents who are receiving AFDC and who do not have a high school diploma or GED. Under both LEAP and Cal Learn program rules, all eligible teens are required to enroll (or remain enrolled) in and regularly attend a school or education program leading to a high school diploma or GED. These two initiatives apply only to teens who are case heads. Other States have obtained waivers to implement programs using sanctions to influence dependents to continue their education.

Vision

Teenage mothers face substantial obstacles to achieving self-sufficiency. Eight percent of teen mothers drop out of high school and only 56 percent ever graduate. Their earning abilities are limited by lack of education and job skills. Teen parents are often not well prepared in the area of parenting. This proposal provides States with a mechanism to utilize creative approaches for encouraging and supporting youth in both their educational and parenting endeavors.

Specifications

(a) Provide States the option to use monetary incentives (which must be combined with sanctions) as inducement for pregnant teens and teen custodial parents who are receiving AFDC and who do not have a high school diploma or GED to enroll (or remain enrolled in and regularly attend a school of education program leading to a high school diploma or GED, or a program leading to a recognized degree or skills certificate if the State determines this is most appropriate for a recipient. States may also choose to provide incentives for participation in parenting education activities. This option will operate as part of the new JOBS program, and the rules pertaining to JOBS will apply unless it is specifically stated otherwise.

(b) Each State plan must clearly define the following—

Incentives: States must define by how much benefits will be increased and what kinds of achievements will be rewarded.

Examples of incentives chosen by Ohio and California are as follows:

In Ohio's LEAP, teens who provide evidence of school enrollment receive a bonus payment of $62. They then receive an additional $62 in their welfare check for each month in which they meet the program's attendance requirements. For teens in a regular high school in Ohio, this means being absent no more than four times in the month, with two or fewer unexcused absences. Different attendance standards apply to part-time programs, such as Adult Basic Education (ABE) programs providing GED preparation assistance, but the same financial incentives apply.

Participants of Cal Learn will be required to present their report cards four times a year. The grant will be increased by $100 for the month after the Cal Learn participant receives a report card with a "C" average or better. For graduating high school (or its equivalent), these teens will have their grants increased on a one time basis by $500.

Sanctions: Sanctions under the revised JOBS program would apply unless the State proposes alternative sanctions, to be approved by the Secretary, which the State believes better achieves their objectives.

Examples of sanctions chosen by Ohio and California are as follows:

In LEAP, teens who do not attend an initial assessment interview (which commences participation in LEAP) or fail to enroll in school have $62 deducted from their grant (i.e., the teens are "sanctioned") each month until they comply with program rules. Similarly, enrolled teens are sanctioned by $62 for each month that they exceed the allowed number of unexcused absences. Teens who exceed the allowed number of total absences, but do not exceed the allowed number of unexcused absences receive neither a bonus nor a sanction.

In the Cal Learn program, teens who do not receive at least a "D" average or who do not submit his/her report card will have the assistance unit grant reduced over a two month period by the lesser of $50 or the amount of the grant. This will result in a sanction of not more than $100. Included in the sanctions will be teens that do not present their report cards because they have dropped out of school or were expelled.

Coordination: A case manager (as described in A.2) will assess each recipient's needs and arrange for appropriate services. States must describe the mechanism case managers and other service providers will use to coordinate with schools.

Eligibility: Custodial teen parents under 20 years of age and pregnant women under the age of 20 who have not received a high school diploma (or equivalent) are eligible. States may choose to include custodial pregnant teens and teen parents up to their 21st birthday.

Exemptions: Exemptions from participation will be based on the same new guidelines governing participation in JOBS and WORK, with two exceptions. First, teens will only be able to defer participation for 3 months after giving birth. Also, a disability will not allow a recipient to defer participation in high school, as school districts are required to provide students with disabilities appropriate services. (See JOBS and WORK section of proposal for more specific details.)

State-wideness: States can limit the geographic scope of this option.

Information and Evaluation: States would be required to provide information at the Secretary's request and to cooperate in any evaluation.

(c) Monetary incentives provided under this program would be considered AFDC.

(d) Monetary incentives provided under this option would not be considered income in determining a family's eligibility for any other Federal or Federally-assisted program, and any other Federal or Federally-assisted program would treat any penalty imposed as if no such penalty had been applied.

(e) This provision would go into effect in FY 1996.

CHILD SUPPORT ENFORCEMENT PROPOSAL

[TITLE VI]

I. Establish awards in every case

The first step in ensuring that a child receives financial support from the noncustodial parent is the establishment of a child support award. This is normally done through a legal proceeding to establish paternity or at a legal proceeding at the time of a separation or divorce. States currently receive Federal funding for paternity establishment services provided through the IV–D agency. This proposal expands the scope and improves the effectiveness of current State paternity establishment procedures. States are encouraged to establish paternity for as many children born out-of-wedlock as possible, regardless of the welfare or income status of the mother or father and as soon as possible following the child's birth. This proposal further requires more outreach about paternity establishment to stress that having a child is a two-parent responsibility. Building on the President's recent mandate for in-hospital paternity establishment programs enacted as part of the Omnibus Budget and Reconciliation Act (OBRA) of 1993, it further encourages nonadversarial procedures to establish paternity as soon as possible following the child's birth, streamlines procedures surrounding genetic parentage testing, and requires efforts to remove barriers to interstate paternity establishment.

Paternity Performance and Measurement Standards

Under current law, State performance is only measured against those cases in the IV–D child support system that need paternity established. Children are often several years old or older by the time they enter the IV–D system (normally when the mother applies for welfare). Research shows that the longer the paternity establishment process is delayed, the less likely it is that paternity will ever be established, so it is important to start early, before a mother goes on welfare.

Under the proposal, each State's paternity establishment performance will be measured based not only upon cases within the State's current IV–D child support system, but upon all cases where children are born to an unmarried mother. States will then be encouraged to improve their paternity establishment for all out-of-wedlock births through performance-based incentives. (Current paternity establishment performance standards for IV–D cases will also be maintained.)

(1) Each State will be required, as a condition of receipt of Federal funding for the child support enforcement program, to calculate a State paternity establishment percentage based on yearly data that record: (a) all out-of-wedlock births in the State for a given year, regardless of the parents' welfare or income status; and (b) all paternities established for the out-of-wedlock births in the State during that year.

The Secretary shall prescribe by regulation the acceptable methods for determining the denominator and the numerator of the new paternity establishment performance measure with a preference for actual number counts rather than estimates.

Financial Incentives for Paternity Establishment

In order to encourage States to increase the number of paternities established, the Federal government will provide performance-based incentive payments to States based on improvements in each State's paternity establishment percentage. The incentive structure will reward the early establishment of paternity so that States have both an incentive to get paternities established as quickly as possible and an incentive to work older cases. (See also State Paternity Cooperation Responsibilities and Standards, p. 11). Finally, current regulations establishing time-frames for establishing paternity will be revised since the administrative procedures required under the proposal will allow cases to be processed more quickly.

(1) Federal Financial Participation rate (FFP) will be provided for all paternity establishment services provided by the IV–D agency regardless of whether the mother or father signs a IV–D application.

(2) Performance-based incentives will be made to each State in the form of increased FFP of up to 5 percent. The incentive structure determined by the Secretary will build on the performance measure so that States that excel will be eligible for incentive payments.

(3) At State option, States may experiment with programs that provide financial incentives to parents to establish paternity. The

Secretary will additionally authorize up to three demonstration projects whereby Federal Financial Participation is available for financial incentives to parents for establishing paternity.

(4) The Secretary will issue regulations establishing revised time-frames for establishing paternity.

Streamlining the Paternity Establishment Process

Encouraging early establishment of paternity

Very little outreach is currently conducted about the importance and mechanics of establishing paternity in public health related facilities (e.g. prenatal clinics or WIC clinics), even though these facilities have significant contact with unmarried pregnant women. For example, in 1990, less than 1 percent of all counties reported they conducted outreach about paternity establishment in prenatal clinics. Conducting outreach in these public-health related facilities will not only broaden knowledge about the benefits of establishing paternity in general, but will also enhance the effectiveness of hospital-based programs. By the time the parents of an out-of-wedlock child are offered an opportunity to establish paternity in the hospital, the parent(s) will have already had an opportunity to obtain information about and reflect upon why they should establish paternity for their child.

As part of the effort to encourage the early establishment of paternity, the proposal allows State agencies and mothers to start the paternity establishment process even before the child is born. Since fathers are much more likely to have a continuing relationship with the mother at that time, locating the father and serving him with legal process is much easier. If the father does not acknowledge paternity, a genetic test can then be scheduled immediately after the birth of the child.

Experience has also shown that while a high proportion of fathers are willing to consent to paternity in the hospital, there are some who are unwilling to voluntarily acknowledge paternity outright but would do so if genetic testing confirmed parentage. The hospital based paternity establishment process can be further streamlined by providing the opportunity for genetic testing right at the hospital. This is an efficient use of resources since hospitals are already fully equipped to obtain samples for these tests and blood tests are already performed on newborns at the hospital for other purposes.

As part of the State's voluntary consent procedures, each State must:

(1) require, either directly or under contract with health care providers, other health-related facilities (including pre-natal clinics, "well-baby" clinics, in-home public health service visitations, family planning clinics and WIC centers) to inform unwed parents about the benefits of and the opportunities for establishing legal paternity for their children; this effort should be coordinated with the U.S. Public Health Service. WIC program information shall also be available to the IV–D agency in order to provide outreach and services to recipients of that program.

(2) require full participation by hospitals and other health-related facilities to cooperate and implement in-hospital paternity establishment programs as a condition of reimbursement of Medicaid.

As part of a State's civil procedures for establishment of paternity, each State must: (1) have statutes allowing the commencement of paternity actions prior to the birth of the child and procedures for ordering genetic tests as soon as the child is born, provided that the putative father has not yet acknowledged paternity; (2) make available procedures within hospitals to provide for taking a blood or other sample at the time of the child's birth, if the parents request the test.

Simplifying paternity establishment

Currently, acknowledgements of paternity must create either a rebuttable or conclusive presumption of paternity. A rebuttable presumption means that even though someone has admitted paternity, they can later come in and offer other evidence to "rebut" their previous acknowledgement. This leaves many cases dangling for years and years. The parents believe in some cases that paternity is established when, in fact, it is not. Under the proposal, rebuttable presumptions "ripen" into conclusive presumptions after one year. A conclusive presumption acts as a judgment so that paternity has, in fact, been officially established. States are allowed some flexibility to tailor due process provisions.

The vast majority of paternity cases can be resolved without a trial once a genetic test is completed. Such tests are highly accurate and will effectively either exclude the alleged father or result in a paternity probability over 99 percent. Virtually all alleged fathers will admit to paternity when faced with genetic test results showing near certainty that he is the father. Currently in most States, however, changes in the legal process have not kept up with the changes in genetic testing technology, resulting in an unnecessary and inefficient reliance on the courts to handle the matters surrounding genetic tests.

Under the proposal, States will no longer have to start a legal proceeding through the courts and have a court hearing simply to have a genetic test ordered. States are also precluded from requiring a court hearing prior to ratification of paternity acknowledgments. These procedures will speed up what is otherwise unnecessarily a very time consuming and labor intensive process. Another delay in the process occurs if the father fails to show for an ordered blood test. Often the IV–D agency must go back to court to get a default order entered, even though this process could be handled more efficiently on an administrative basis. Under the proposal, the IV–D agency will be given the authority to enter default orders without having to resort to the courts.

The Federal government currently pays 90 percent of the laboratory costs for paternity cases requiring genetic testing and will continue to do so. However, there is currently a great deal of variation at the State and local level regarding whether and under what circumstances the costs of genetic testing are passed on to fathers facing a paternity allegation. The proposal will eliminate the current variation by requiring all States to advance the costs of genetic tests, and then allowing recoupment from the alleged father in cases where he is determined to be the biological father of the child. By advancing the costs of genetic testing, there is no financial disincentive for alleged fathers to evade genetic testing. At the same time, requiring that an alleged father reimburse the State for the cost of genetic tests should he be determined to be the biological father eliminates any incentives for fathers to request genetic tests as a "stalling" technique and promotes voluntary acknowledgment of paternity when appropriate.

In the event that a party disputes a particular test result, the dispute should normally be resolved through further testing. The party should be given the opportunity to have additional tests but also be required to incur the costs of those additional tests. This will help to ensure that the opportunity to request additional testing is used only in cases where there is a legitimate reason to question the original test results and not used as a delaying tactic to avoid establishing paternity.

Currently, research on non-custodial fathers suggests that many fathers who might otherwise be open to the idea of establishing paternity are deterred from doing so because they may then be required to pay large amounts of arrears and/or face delivery-associated medical expenses in addition to ongoing support obligations. For low-income fathers with limited incomes, this poses a special problem. Providing the administrative agency/court the authority to forgive all or part of these costs will reduce disincentives to establish paternity in certain cases.

IV–D agencies currently are not encouraged to bring a paternity action forward on behalf of the putative father, even in cases in which the mother is not cooperating with the State in establishing paternity. In some states, fathers have no standing to bring paternity actions at all. If the primary goal is to establish paternity for as many children born out-of-wedlock as possible, IV–D agencies should be able to assist putative fathers as well as mothers in establishing paternity for a non-marital child.

Under the OBRA of 1993 amendments, States are required to have expedited processes for paternity establishment in contested cases and each State must give full faith and credit to determinations of paternity made by others States. In order to further streamline the treatment of contested cases, the proposal provides that States can set temporary support in appropriate cases. This discourages defendants in paternity actions from contesting cases in order to simply delay the payment of support. The proposal also abolishes jury trials for paternity cases. Jury trials are a remnant from the time when paternity cases were criminal in nature. Almost two-thirds of the States still allow jury trials. While rarely requested, jury trials delay the resolution of cases and take a heavy toll on personnel resources. With the advent of modern scientific genetic testing, they serve very little purpose, as almost all cases will ultimately be resolved based on the results of the tests. The proposal also cases certain evidentiary rules, allowing cases to be heard without the need for establishing a foundation for evidence that is normally uncontroverted.

As part of a State's civil procedures for establishment of paternity, each State must:

(1) provide that acknowledgments of paternity create either a rebuttable or conclusive presumption of paternity. If a rebuttable presumption of paternity is created, States must provide that the presumption ripens into a conclusive legal determination with the same effect as a judgment no later than 12 months from the date of signing the acknowledgment. States may, at their option, allow fathers to move to vacate or reopen such judgments at a later date in cases of fraud or if it is in the best interest of the child.

(2) provide administrative authority to the IV–D agency to order all parties to submit to genetic testing in all cases where either the mother or putative father requests a genetic test; and submits a sworn statement setting forth facts establishing a reasonable possibility of the requisite sexual contact, without the need for a court hearing prior to such

an order. (State option remains as to whether to provide this administrative authority in cases where there is a presumed father under State law);

(3) precluded the use of court hearings to ratify paternity acknowledgments;

(4) provide administrative authority to the IV-D agency to enter default orders to establish paternity specifically where a party refuses to comply with an order for genetic testing. (State law continues to determine the criteria, if any, for opening default orders);

(5) advance the costs of genetic tests, subject to recoupment from the putative father (subject to State pauper provisions) if he is determined to be the biological father of the child (Federal funding will continue at 90 percent for laboratory tests for paternity); if the result of the genetic testing is disputed, upon reasonable request of a party, order that additional testing be done by the same laboratory or an independent laboratory at the expense of the party requesting the additional tests;

(6) provide discretion to the administrative agency or court setting the amount of support to forgive delivery medical expenses or limit arrears owed to the State (but not the mother) in cases where the father cooperates or acknowledges paternity before or after a genetic test is completed;

(7) allow putative fathers (where not presumed to be the father under State law) standing to initiate their own paternity actions;

(8) establish and implement laws which mandate, upon motion by a party, a tribunal in contested cases to order temporary support according to the laws of the tribunal's State if: (a) the results of the parentage testing create a rebuttable presumption of paternity; (b) the person from whom support is sought has signed a verified statement of parentage; or (c) there is other clear and convincing evidence that the person from whom support is sought is the particular child's parent;

(9) enact laws which abolish the availability of trial by jury for paternity cases; and

(10) have and use laws that provide for the introduction and admission into evidence, without need for third-party foundation testimony, of pre-natal and post-natal birth-related and parentage-testing bills; and each bill shall be regarded as prima facie evidence of the amount incurred on behalf of the child for the procedures included in the bill.

Paternity Outreach

Paternity establishment is recognized as an important strategy to combat the high incidence of poverty among children born out of wedlock. Yet to date, there has been no cohesive national strategy to educate the public on this issue. As a result, many parents do not understand the benefits of paternity establishment and child support and are unaware of the availability of services. This proposal calls for a broad, comprehensive outreach campaign at the Federal and State level to promote the importance of paternity establishment as a parental responsibility and a right of the children.

A combined outreach and education strategy will build on the Administration's paternity establishment initiative included in last year's budget law, OBRA of 1993, by underscoring the importance of paternity establishment for children born outside of marriage and the message that child support is a two-parent responsibility. States will be asked to expand their point of contact with unwed parents in order to provide maximum opportunity for paternity establishment and to promote the norm that paternity establishment is doing the right thing for their children.

Under the proposal: (1) the Department of Health and Human Services, including the Public Health Service, and in cooperation with the Department of Education, will take the lead in developing a comprehensive media campaign designed to reinforce both the importance of paternity establishment and the message that child support is a "two parent" responsibility; (2) States will be required to implement outreach programs promoting voluntary acknowledgment of paternity through a variety of means, such as the distribution of written materials at schools, hospitals, and other agencies. These efforts should be coordinated with the U.S. Department of Education. States are also encouraged to establish pre-natal programs for expectant couples, either married or unmarried, to educate parents on their joint rights and responsibilities in paternity. At State option, such programs could be required of all expectant welfare recipients; (3) States will be required to make reasonable efforts to follow up with individuals who do not establish paternity in the hospital, providing them information on the benefits and procedures for establishing paternity. The materials and the process for which the information is disseminated is left to the discretion of the States, but States must have a plan for this outreach, which includes at least one post-hospital contact with each parent whose whereabouts are known (unless the State has reason to believe that such contact puts the child or mother at risk); (4) all parents who establish paternity, but who are not required to assign their child support rights to the State due to receipt of AFDC, must, at a minimum, be provided subsequently with information on the benefits and procedures for establishing a child support order and an application for child support services; and

(5) upon approval of the Secretary, Federal funding will be provided at an increased matching rate of 90 percent for paternity outreach programs.

Improving Cooperation Among AFDC Mothers in the Establishment of Paternity

Cooperation standards and good cause exceptions

Currently, cooperating with the IV-D agency in establishing paternity is a condition of eligibility for AFDC and Medicaid recipients. Cooperation is defined as appearance for appointments (including blood tests), appearance for judicial or administrative proceedings, or provision of complete and accurate information. The last standard is so vague that "true" cooperation is often difficult to determine. Research suggests that a greater percentage of mothers know the identity and whereabouts of the father of their child than is reported to the IV-D agency. Better and more aggressive procedures can yield a much higher rate of success in eliciting information about the father from the mother than is currently achieved.

The proposal contains several provisions aimed at significantly increasing cooperation among AFDC mothers while at the same time not penalizing those who have fully cooperated with the IV-D agency but for whom paternity for their child is not established due to circumstances beyond their control. Increased cooperation will result in higher rates of paternity establishment.

Under the proposal:

(1) the new cooperation standards described herein will apply to all applications for AFDC or appropriate Medicaid cases for women with children born on or after 10 months following the date of enactment;

(2) the initial cooperation requirement is met only when the mother has provided the State the following information: (a) the name of the father; and (b) sufficient information to verify the identity of the person named (such as the present address of the person, the past or present place of employment of the person, the past or present school attended by the person, the name and address of the person's parents, friends or relatives that can provide location information for the person, the telephone number of the person, the date of birth of the person, or other information that, if reasonable efforts were made by the State, could lead to identify a particular person to be served with process); (c) if there is more than one possible father, the mother must provide the names of all possible fathers;

(3) the continued cooperation requirement is met when the mother provides the State the following information: (a) additional reasonable, relevant information which the mother can reasonably provide, requested by the State at any point; (b) appearance at required interviews, conference hearings or legal proceedings, if notified in advance and an illness or emergency does not prevent attendance; or (c) appearance (along with the child) to submit to genetic tests;

(4) good cause exceptions will be granted for non-cooperation on an individual case basis only if recipients meet the existing good cause exceptions for the AFDC program.

(5) State IV-D workers must inform each applicant orally and in writing of the good cause exceptions available under current law and help the mother determine if she meets the definition. (Current exemptions for Medicaid eligibility for pregnant women are also maintained.)

Cooperation prior to receipt of benefits

Currently, many local IV-D agencies do not conduct intake interviews at all but rather rely on information (e.g., identity and location of the father) obtained by the IV-A agency. Those IV-D agencies that conduct intake interviews do not schedule them until after the mother has already applied for and been determined eligible to receive AFDC benefits. This practice reduces the incentive of AFDC mothers to cooperate with the IV-D agency in providing complete and accurate information about the father of their child because questions regarding cooperation do not arise until after eligibility for AFDC has been approved and the family is receiving benefits.

The proposal will increase the incidence of paternity establishment by making receipt of benefits conditional upon fulfilling the cooperation requirement; IV-D agencies will have to determine whether the cooperation requirement has been met prior to the receipt of benefits. States will be encouraged, but not required, to facilitate this change in procedure by either co-locating IV-A agencies and IV-D agencies or conducting a single IV-A/IV-D screening or intake interview. AFDC applicants who fail to fulfill the new cooperation requirement will be sanctioned.

(1) Applicants must cooperate in establishing paternity prior to receipt of benefits: (a) using the new cooperation standards, an initial determination of cooperation must be made by the State IV-D agency within 10 days of application for AFDC and/or Medicaid; (b) if the cooperation determination is not made within the specified time-frame, the applicant could not be denied eligibility for the above benefits based on noncooperation pending the determination; (c) once an

initial determination of cooperation is made, the IV-D agency must inform the mother and the relevant programs of its determination; (d) individuals qualifying for emergency assistance or expedited processing could begin receiving benefits before a determination is made.

(2) Failure to cooperate with the IV-D agency will result in an immediate sanction:

(a) sanctions will be based on current law. States are required to inform all sanctioned individuals of their right to appeal the determination.

(b) if a determination is made that the custodial parent has met the initial cooperation requirement and the IV-D agency later has reason to believe that the information is incorrect or insufficient, the agency must: (i) try to obtain additional information; and if that fails (ii) schedule a fair hearing to determine if the parent is fully cooperating before imposing a sanction;

(c) if a mother fails to cooperate and is determined ineligible for benefits, but subsequently chooses to cooperate and takes appropriate action, Federal and State benefits will be immediately reinstated.

(d) if the determination results in a finding of noncooperation and the applicant appeals, the applicant could not be denied benefits based on noncooperation pending the outcome of the appeal. States can set up appeal procedures through the existing IV-A appeals process or through a IV-D appeals process.

(3) States are encouraged to either co-locate IV-A and IV-D offices, provide a single interview for IV-A and IV-D purposes, or conduct a single screening process.

State Paternity Cooperation Responsibilities and Standards

States will be held to new standards of responsibility for determining cooperation and ensuring that information regarding paternity is acted upon in a timely fashion. Under the proposal, if the mother meets this stricter cooperation requirement and provides full information, the burden shifts to the State to determine paternity within one year from the date the mother met the initial cooperation date. This is a shorter time period than what was required by regulation under the Family Support Act of 1988 and under the proposed OBRA of 1993 regulations.

If the State fails to establish paternity within the new specified one-year timeframe, it will lose Federal FFP for those cases. This FFP penalty does not exist under current law, and provides a significant incentive for States to work their incoming paternity cases in a timely fashion. A tolerance level is allowed for cases where paternity cannot be established despite the State's best efforts. Other paternity standards under existing law will be maintained to encourage States to continue to work all new and old IV-D cases.

For all cases subject to the new cooperation requirements: (1) State IV-D agencies must either establish paternity if at all possible or impose a sanction in every case within one year from the date that the initial cooperation requirement is met; or (2) If the mother has met the cooperation requirements and the State has failed to establish paternity within the one year time limit, the State will not be eligible for FFP of the AFDC grant for those cases. (The Secretary will establish by regulation a method for keeping track of those cases. The FFP penalty will be based on an average monthly grant for cases where paternity is not established rather than by tracking individual cases.) The Secretary shall prescribe by regulation a tolerance level, for which there will be no penalty, for cases where paternity cannot be established despite the best efforts of the State. The tolerance level shall not exceed a percentage of the State's mandatory cases that need paternity established in any given year (25 percent in years 1 and 2, 20 percent in years 3, and 4, 15 percent in years 5 and 6, and 10 percent thereafter).

Accreditation of Genetic Testing Laboratories

In 1976 a joint committee of the American Bar Association (ABA) and the American Medical Association (AMA) establishing guidelines for paternity testing. In the early 1980's, the Parentage Testing Committee of the American Association of Blood Banks (AABB), under a grant from the Federal Office of Child Support Enforcement, developed standards for parentage testing laboratories. These standards served as a foundation for an inspection and accreditation program for parentage testing laboratories. In addition, the Parentage Testing Committee developed a checklist for inspectors to use in determining if laboratories are in conformance with the standards required for AABB accreditation. These standards are subject to future revision as the state-of-the-art and experience dictate.

Using accredited laboratories ensures that laboratories do not take shortcuts, employ unqualified personnel, fail to perform duplicate testing or otherwise compromise quality control. Thirty-six of the fifty-four IV-D Child Support Enforcement agencies currently use solely AABB accredited laboratories for paternity testing. Under the proposal, the Secretary will authorize an organization such as the AABB or a U.S. agency to accredit laboratories conducting genetic testing and States will be required to use only accredited laboratories.

State law often fails to keep pace with scientific advances in genetic testing. For instance, while DNA testing for paternity cases is widely accepted in the scientific community, some State laws remain from a time prior to DNA testing. Such State laws may refer only to "HLA" or "blood" testing, so State agencies are unable to contract with laboratories using more modern techniques. Under the proposal, States must amend their laws to accept all accredited test results with the type of tests to be determined by the authorized organization or agency based upon what testing is widely accepted in the scientific community.

(1) The Secretary will authorize an organization or U.S. agency to accredit laboratories conducting genetic testing and the procedures and methods to be used; and

(2) States are required to use accredited labs for all genetic testing and to accept all accredited test results.

Administrative Authority to Establish Orders Based on Guidelines

Establishing paternity alone does not establish an obligation to pay support. An obligation to pay support is only created when the proper authority issues an order that support be paid (i.e., an "award" of support). Sometimes this is done when paternity is established and sometimes not—there are many State variations. States also vary in how they establish an award when someone enters the IV-D system in non-paternity cases. A few States provide administrative authority to establish child support orders. Many States require that a separate court action be brought.

Establishing support awards is critical to ensuring that children receive the support they deserve. Under the proposal, all IV-D agencies will have the authority to issue the child support award. This will vastly simplify and speed-up the process of getting an award in place. Adequate protections are provided to ensure that award levels are fair; the IV-D agency must base the award level on State guidelines and States are provided the flexibility to set up procedural due process protections. These administrative procedures apply to paternity and IV-D cases only. Legal separations and divorces may still be handled through the court process.

States can be exempted from this requirement if they can establish orders as effectively and efficiently through alternative procedures.

(1) States must have and use simple administrative procedures in IV-D cases to establish support orders so that the IV-D agency can impose an order for support (based upon State guidelines) in cases where: (a) the custodial parent has assigned his or her right of support to the state; (b) the parent has not assigned his or her right of support to the State but has established paternity through an acknowledgment or State administrative procedure; or (c) in cases of separation where a parent has applied for IV-D services and there is not a court proceeding pending for a legal separation or divorce. At State option, States may extend such authority to all cases of separation and divorce, but they are not required to do so.

(2) In all cases appropriate notice and due process as determined by the State must be followed.

(3) Existing provisions for exempting States under section 466(d) of the Social Security Act are preserved.

II. Ensure fair award levels

National Commission on Child Support Guidelines

States are currently required to use presumptive guidelines in setting and modifying all support awards but have wide discretion in their development. While the use of state-based guidelines has led to more uniform treatment of similarly-situated parties within a state, there is still much debate concerning the adequacy of support awards resulting from guidelines. This is due to inadequate information on the costs of raising a child by two parents in two separate households and because disagreements abound over what costs (medical care, child care, non-minor and/or multiple family support) should be included in guidelines. The issue is further compounded by charges that individual State guidelines result in disparate treatment between States and encourage forum shopping.

To resolve these issues and ensure that guidelines truly provide and equitable and adequate level of support in all cases, the proposal creates a national commission to study and make recommendations on the desirability of uniform national guidelines or national parameters for setting guidelines.

(1) A twelve-member National Commission on child Support Guidelines will be established no later than March 1, 1995, for the purpose of studying the desirability of a uniform, national child support guideline or national parameters for State guidelines.

(2) The Chairman of the Senate Committee on Finance and the Chairman of the House Committee on Ways and Means shall appoint tow members each, the Ranking Minority Members of such Committee shall appoint one member each, and the Secretary of Health and Human Services shall appoint six members. Appointments to the Commission must include a State IV-D Director and

members or representatives of both custodial and non-custodial parent groups.

(3) The Commission shall prepare a report not later than two years after the date of appointment to be submitted to Congress. The Commission terminates six months after submission of the report.

(4) If the Commission determines that a uniform guideline should be adopted, the Commission shall recommend to Congress a guideline which it considers most equitable, taking into account studies of various guideline models, their deficiencies, and any needed improvements. The Commission shall also consider the need for simplicity and ease of application of guidelines as a critical objective.

In addition, the Commission should study the following:

(1) the adequacy of existing State guidelines

(2) the treatment of multiple families in State guidelines including: (a) whether a remarried parent's spouse's income affects a support obligation; (b) the impact of step and half-siblings on support obligations; and (c) the costs of multiple and subsequent family child raising obligations, other than those children for whom the action was brought;

(3) the treatment of child care expenses in guidelines including whether guidelines should take into account: (a) current or projected work related or job training related child care expenses of either parent for the care of children of either parent; and (b) health insurance, related uninsured health care expenses, and extraordinary school expenses incurred on behalf of the child for whom the order is sought;

(4) the duration of support by one or both parents, including the sharing of post-secondary or vocational institution costs; the duration of support of a disabled child including children who are unable to support themselves due to a disability that arose during the child's minority;

(5) the adoption of uniform terms in all child support orders to facilitate the enforcement of orders by other States;

(6) the definition of income and whether and under what circumstances income should be imputed;

(7) the effect of extended visitation, shared custody and joint custody decisions on guideline levels; and

(8) the tax aspects of child support payments.

Modifications of Child Support Orders

Inadequate child support awards are a major factor contributing to the gap between the amount of child support currently collected versus the amount that could potentially be collected. When child support awards are determined initially, the award is set using current guidelines which take into account the income of the noncustodial parent (and usually the custodial parent as well). Although the circumstances of both parents' (including their income) and the child change over time, awards often remain at their original level. In order to rectify this situation, child support awards need to be updated periodically so that the amount of support provided reflects current circumstances. Recent research indicates that an additional $7.1 billion dollars per year could be collected if all awards were updated (based upon the Wisconsin guidelines).

The Family Support Act of 1988 responded to the problem of inadequate awards by requiring States to review and modify all AFDC cases once every three years, and every non-AFDC IV-D case every three years for which a parent requests a review. Although a good start, there are several shortcomings with current policy.

First, requiring the non-AFDC custodial parent, usually the mother, to initiate review, places a heavy burden on the mother to raise what is often a controversial and adversarial issue. Research indicates that a significant proportion of mothers would rather not "rock the boat" by initiating a review, even though it could result in a higher amount of child support. In order to eliminate this burden on the non-AFDC custodial parent and this inequitable treatment of AFDC and non-AFDC cases, child support awards of non-AFDC children should be subject to automatic review and updating just as current law now provides for AFDC children.

Second, current review and modification procedures are extremely labor intensive, time-consuming, and cumbersome to implement. This problem is particularly pronounced in, although not limited to, States with court-based systems. Improvements in automated systems will help diminish some of the time delays and tracking problems currently associates with review and modification efforts. However, a simplified administrative process for updating awards is also needed for States to handle the volume of cases involved in a more efficient and speedier manner.

(1) States shall have and use laws that require the review of all child support orders included in the State Central Registry once every three years. The review may consist of an exchange of financial information through the State Central Registry. The State shall provide that a change in the support amount resulting from the application of guidelines since the entry of the last order is sufficient reason for modification of a child support obligation without the necessity of showing any other change in circumstances. (States may, at their option, establish a threshold amount not to exceed 10 percent since entry of the last order.) States shall adjust each order in accordance with the guidelines unless both parents decline the adjustment in a writing filed with the State Central Registry.

(2) States may set a minimum time-frame that runs from the date of the last adjustment that bars a subsequent review before a certain period of time elapses, absent other changed circumstances. Individuals may request modifications more often than once every three years if either parent's income changes by more than 20 percent.

(3) States are not precluded from conducting the process at the local or county level. Telephonic hearings and video conferencing are encouraged.

(4) To ensure that all reviews can be conducted within the specified time-frame, States must have and use laws which: (a) provide the child support agency through the State Central Registry administrative power to modify all child support orders and medical support orders, including those orders entered by a court (unless the State is exempted under section 466(d) of the Social Security Act); (b) provide full faith and credit for all valid orders of support modified through an administrative process; (c) require the child support agency to automate the review and modification process to the extent possible; (d) ensure that interstate modification cases follow UIFSA and any amending Federal jurisdictional legislation for determining which State has jurisdiction to modify an order; (e) ensure that downward modifications as well as upward modifications must be made in all cases if a review indicates a modification is warranted; (f) simplify notice and due process procedures for modifications in order to expedite the processing of modifications (Federal statutory changes also); (g) provide administrative subpoena power for all relevant income information; and (h) provide default standards for non-responding parents.

(5) The Secretary of Health and Human Services and the Secretary of the Treasury shall conduct a study to determine if IRS income data can be use to facilitate the modification process.

Distribution of Child Support Payments

Priority of child support distribution

Families are often not given first priority under current child support distribution policies. The proposal will make such policies more responsive to the needs of families by reordering child support distribution priorities, giving States the option to pay current child support directly to families who are recipients and reordering Federal income tax offset priorities.

When a family applies for AFDC, an assignment of support rights is made to the State by the custodial parent. Child support paid (above the first $50 of current support) is retained by the State to reimburse itself and the Federal government for AFDC benefits expended on behalf of that family. When someone goes off public assistance, payments for support obligations above payment of current support (i.e., arrearages) may be made to satisfy amounts owned the State and the family. States currently have discretion to either pay these child support arrearages first to the former AFDC family or to use such arrearage payments to recover for past unreimbursed AFDC assistance. Only about 19 States have chosen to pay the family arrearages first for missed payments after the family stops receiving AFDC benefits.

The proposed change will require all States to pay arrearages due to the family before reimbursing any unreimbursed public assistance owed to the State. Such a change will strengthen a families post-AFDC self-sufficiency. Families often remain economically vulnerable for a substantial amount of time after leaving AFDC; about 40 percent of those who leave return within a year and another 60 percent return within two years. Ensuring that all support due to the family during this critical transition period is paid to the family can mean the difference between self-sufficiency or a return to welfare.

States that have already voluntarily implemented this policy believe that such a policy is more fair to the custodial family who now depends on payment of support to help meet its living expenses. States have also found it difficult to explain to custodial and non-custodial parents why support paid when a family has left welfare should go to reimburse the State arrearages first before arrearages owed the family are paid. If child support is about ensuring the well-being of children, then the children's economic needs should be taken care of before State debt repayment.

Public policy also ought to promote the establishment of two-parent families. Having two parents living together within marriage provides children with more emotional and financial support than having two parents living apart. Under current law, child support arrears are not dischargeable even if the parents marry or reconcile. In these circumstances, the family must pay back itself, or the State, if the family was on AFDC. For families with no AFDC arrearages, such payments are illogical and inefficient; a check must be written by the family, sent to the IV–D agency, credited against the arrearage amount, and re-issued by the State back to the family. For families with AFDC arrearages, such payments are not re-issued to the family, but are to be used to reduce the State and Federal debt. This can make low income families even poorer. Under the proposal, families who unite or reunite in marriage can have their arrearages suspended or forgiven if the family income is less than twice the Federal poverty guideline. Protections will be included to ensure that marriage (or remarriage) is not undertaken for the sole purpose of eliminating child support arrearages.

(1) States shall distribute payments of all child support collected in cases in which the obligee is not receiving AFDC, including moneys collected through a tax refund offset, in the following priority: (a) to a current month's child support obligation; (b) to debts owed the family (non-AFDC obligations); if any rights to child support were assigned to the State, then all arrearages that accrued after or before the child received AFDC shall be distributed to the family; (c) subject to (2), to the State making the collection for any AFDC debts incurred under the assignment of rights provision of Title IV–A of the Social Security Act; (d) subject to (2), to other States for AFDC debts (in the order in which they accrued); the collecting State must continue to enforce the order until all such debts are satisfied and to transmit the collections and identifying information to the other State;

(2) If the noncustodial and custodial parents unite or reunite in a legitimate marriage (not a sham marriage), the State must suspend or forgive collection of arrearages owed to the State if the reunited family's joint income is less than twice the Federal poverty guideline.

(3) The Secretary shall promulgate regulations that provide for a uniform method of allocation/proration of child support when the obligor owes support to more than one family. All States must use the standard allocation formula.

(4) Assignment of support provisions shall be consistent with (1) above.

Treatment of Child Support for AFDC Families—State option

With the exception of the $50 pass-through, States may not pay current child support directly to families who are AFDC recipients. Instead child support payments are paid to the State and are used to reimburse the State for AFDC benefit payments. Many States have found that both AFDC recipients and noncustodial parents misunderstand and resent child support being used for State debt collection. Under waiver authority, Georgia has undertaken a demonstration to pay child support directly to the AFDC family and a number of other States have expressed interest in this approach. The proposal will allow States the option to pay child support directly to the AFDC family, thereby allowing States to choose the distribution policy that will work best in their State. The AFDC benefit amount is reduced in accordanc with State policy to account for the additional family income. This policy change makes child support part of a family's primary income and places AFDC income as a secondary source of support.

(1) At State option, States may provide that all current child support payments made on behalf of any family receiving AFDC must be paid directly to the family (counting the child support payments as income).

(2) The Secretary shall promulgate regulations to ensure that States choosing this option have available an AFDC budgeting system that minimizes irregular monthly payments to recipients.

III. Collect Awards That are Owed

Overview

Currently, enforcement of support cases is too often handled on a complaint-driven basis with the IV–D agency only taking enforcement action when the custodial parent pressures the agency to take action. Many enforcement steps require court intervention, even when the case is a routine one, and even routine enforcement measures often require individual case processing rather than relying upon automation and mass case processing.

Under the proposal, all States will maintain a central State registry and centralized collection and disbursement capability through a central payment center. State staff will monitor support payments to ensure that the support is being paid and will be able to impose certain administrative enforcement remedies at the State level. Thus, routine enforcement actions that can be handled on a mass or group basis will be imposed through the central State office using computers and automation. States may, at their option, use local offices for cases that require local enforcement actions. State staff thus will supplement, but not necessarily replace, local staff.

The Federal role will be expanded to ensure efficient location and enforcement, particularly in interstate cases. In order to coordinate activity at the Federal level, a National Child Support Enforcement Clearinghouse (NC) will be established to help track parents across State lines. The National Clearinghouse includes a national child support registry, the expanded FPLS and a national directory of new hires. The National Clearinghouse will serve as the hub for transmitting information between States, employers, and Federal and State data bases. Interstate processing of cases will be made easier through the adoption of uniform laws for handling these types of cases.

The proposal includes a number of child support enforcement tools—tools that have been proven effective in the best performing States. Finally, changes in the funding and incentive structure of the IV–D program and changes designed to improve program management and accountability are proposed.

State Role

Central State Registry

Currently, child support orders and records are often scattered through various branches and levels of government. This fragmentation makes it impossible to enforce orders on an efficient and organized basis. Also, the ability to maintain accurate records that can be centrally accessed is critical. Under the proposal, States will be required to establish a Central State Registry for all child support orders established or registered in that State. The registry will maintain current records of all the support orders and work in coordination with the Central Payment Center for the collection and distribution of child support payments. This will vastly simplify withholding for employers. The creation of central State registries was one of the major recommendations of the U.S. Commission on Interstate Child Support and is a concept supported by virtually all child support professionals and advocacy groups.

(1) As a condition of receipt of Federal funding for the child support enforcement program, each State must establish an automated central State registry of child support orders.

(2) The registry must maintain a current record of the following:

(a) all present IV–D orders established, modified or enforced in the State;

(b) all new and modified orders of child support (IV–D and non-IV–D) established by or under the jurisdiction of the State, after the effective date of this provision; and

(c) at either parent's request, existing child support cases not included in the IV–D system on the effective date of the registry.

(3) The State, in operating the child support registry, must:

(a) maintain and update the registry at all times;

(b) meet specified time-frames for submission of local court or administrative orders to the registry, as determined by the Secretary;

(c) receive out-of-State orders to be registered for enforcement and/or modification;

(d) record the amount of support ordered and the record of payment for each case that is collected and disbursed through the central payment center;

(e) conform to a standardized support abstract format, as determined by the Secretary, for the extraction of case information to the National Registry and for matches against other data bases on a regular basis;

(f) program the statewide automated system to extract updates automatically of all case records included in the registry;

(g) provide a central point of access to the Federal new-hire reporting directory and other Federal data bases, statewide data bases, and interstate case activity;

(h) routinely match against other State data bases to which the child support agency has access;

(i) use a uniform identification number, preferably the Social Security Number, for all individuals or cases as determined by the Secretary;

(j) maintain procedures to ensure that new arrearages do not accrue after the child for whom support is ordered is no longer eligible for support or the order becomes invalid (e.g., triggering notices to parents if order does not terminate by its own terms or by operation of law);

(k) use technology and automated procedures in operating the registry wherever feasible and cost-effective;

(l) ensure that the interest or late payment fees charged can be automatically calculated;

(m) ensure that the registry has access to vital statistics or other information necessary to determine the new paternity performance measure. (If automated elsewhere, access to these other data bases should be automated as well); and

(n) ensure that the system is capable of producing a payment history as determined by the Secretary.

Option for integrated state registry

(4) States may, at their option, maintain a unified, integrated registry by connecting local registries through computer linkage. (Local registries must be able to be integrated at a cost which does not exceed the cost of a new single central registry.) Under this option, however, the State and State staff must still perform all of the activities described herein for central registries and must maintain a State Central payment Center for collection and disbursement of payments.

Automated mass case processing and administrative enforcement remedies

In most States, routine enforcement actions, which are necessary in thousands or tens of thousands of cases, are still handled on an individual case basis. Often these actions require court involvement in each individual case or, at the very least, initiation of the routine action at the local level. Such a process by its nature is slow and cumbersome, causing many cases to simply never receive the attention they deserve. A few States, such as Massachusetts, are handling routine enforcement actions by using mass case processing techniques and imposing administrative enforcement remedies through centralized case handling. Computer systems routinely match child support files of delinquent obligors against other data bases, such as wage reporting data and bank account data, and when a match is found can take enforcement action automatically without human intervention. The system automatically notifies the obligors of the actions being taken and offers an appeal process. The vast majority of obligors do not appeal, so the case proceeds routinely and the support is obtained and sent to the families due support.

The use of such mass case processing techniques and administrative remedies have significantly reduced the number of cases where the IV-D agency has to resort to contempt or other judicial measures. This also frees up staff to work paternity cases or other more labor intensive enforcement measures. The Proposal requires all States to develop the capacity to handle cases using mass case processing and the administrative enforcement remedies.

(1) As a condition of State plan approval, the State must have sufficient State staff, State authority and automated procedures to monitor cases and impose those enforcement measures that can be handled on a mass or group basis using computer automation technology. "State staff" are staff that are employed by and directly accountable to the State IV-D agency (private contractors are allowed). (Where States have local staff, this supplements, but does not necessarily replace, local staff. Therefore, local staff are still provided where necessary.)

Specifically the State shall:

(2) monitor all cases within the registry on a regular basis, determining on at least a monthly basis whether the child support payment has been made;

(3) maintain automation capability whereby a disruption in payments triggers automatic enforcement mechanisms;

(4) administratively impose the following enforcement measures without need for a separate court order:

(a) order wages to be withheld automatically for the purposes of satisfying child support obligations, and direct wage withholding orders to employers immediately upon notification by the national directory of new hires;

(b) attach financial institution accounts (post-judgment seizures) without the need for a separate court order for the attachment; (States can, at their option, freeze accounts and if no challenge to the freeze of funds is made, turn over the part of the account subject to the freeze up to the amount of the child support debt to the person or State seeking the execution);

(c) intercept certain lump-sum monies such as lottery winnings and settlements to be turned over to the State to satisfy pending arrearages;

(d) attach public and private retirement funds in appropriate cases, as determined by the Secretary;

(e) attach unemployment compensation, workman's compensation and other State benefits;

(f) increase payments to cover arrearages;

(g) intercept State tax refunds; and

(h) submit cases for Federal tax offset.

(5) In all cases, appropriate notice and due process as determined by the State must be followed but State laws and procedures must recognize that child support arrears are currently treated as judgments by operation of law and reducing amounts to money judgments is not a prerequisite to any enforcement.

Centralized Collection and Disbursement Through a State Central Payment Center

Under current law, payments of support by noncustodial parents or by employers on behalf of noncustodial parents are made to a wide variety of different agencies, institutions and individuals. As wage withholding becomes a requirement for a larger and larger segment of the noncustodial population, the need for one, central location to collect and disburse payments in a timely manner has grown. States vary regarding how the child support payments are routed. In some States, locally distributed child support payments stay at the local level, with the remainder going to the State for distribution. In other States, all the money is transmitted to the State and is then distributed to either the family or to the governmental entity receiving AFDC reimbursement. A few States are beginning to collect and distribute child support payments at the State level.

Collection and distribution practices vary in non-IV-D cases as well. Some States route the money through local clerks or courts. In other States the non-IV-D child support payments flow entirely outside of government, from the obligor or his or her employer directly to the custodial parent.

Under the proposal, payments made in all cases entered in the central registry are processed through a Central Payment Center, run by the State government as part of the Central Registry or contracted to a private vendor. (Parents may opt out of payment through the State Central Payment Center under certain conditions; see p. 29 for further detail.) This eases the burden on employers by allowing them to send withholdings to one location within the State instead of to several county clerks or agencies. In addition, distribution and disbursement is accomplished based on economies of scale, allowing for the purchase of more sophisticated processing equipment than many counties could individually purchase, ensuring speedy disbursement and central accountability in intercounty cases. State governments will be able to credit their AFDIC reimbursement accounts quickly and parents who opt for direct deposit could have their share of the support almost immediately deposited.

(1) Through a fully automated process, the State Central Payment Center must:

(a) serve as the State payment center for all employers remitting child support withheld from wages; and

(b) serve as the State payment center for all non-wage withholding payments through the use of payment coupons or stubs or electronic means, unless the parties meet specified opt-out requirements. States, at their option, may allow cash payments at local offices or financial institutions only if the payments are remitted to the State Central Payment Center for payment processing by electronic funds transfer within 24 hours of receipt.

(2) In fulfilling these obligations, the State Central Payment Center must:

(a) accept all payments through any means of transfer determined acceptable by the State including the use of credit card payments and Electronic Funds Transfer (EFT) systems;

(b) generate bills which provide for accurate payment identification, such as return stubs or coupons, for cases not covered under wage withholding;

(c) identify all payments made to the State Central Payment Center and match the payment to the correct child support case record;

(d) disburse all collections in accordance with priorities as set forth under the proposal;

(e) disburse the child support payments to the custodial parents through a transmission process acceptable to the State, including direct deposit if the custodial parent requests;

(f) provide that each child support payment made by the noncustodial parent is processed and sent to the custodial parent promptly at the time it is received (exceptions by regulation for unidentified payments);

(g) maintain records of transactions and the status of all accounts including arrears, and monitor all payments of support;

(h) develop automatic monitoring procedures for all cases where a disruption in payments triggers automatic enforcement mechanisms;

(i) accept and transmit interstate collections to other States using electronic funds transfer (EFT) technology; and

(3) In order to facilitate the quick processing and disbursement of payments to custodial parents, States are encouraged to use Electronic Funds Transfer (EFT) systems wherever possible.

(4) States must also be able to provide parents up-to-date information on current payment records, arrearages, and general information on child support services available. Use of automated Voice Response Units (VRU) to respond to client needs and questions, the use of high-speed check-processing equipment, the use of high-performance, fully-automated mail and postal procedures and fully automated billing and statement processing are encouraged; the Federal Office of Child Support Enforcement (OCSE) will facilitate private businesses in providing such technical assistance to the States.

(5) States may form regional cooperative agreements to provide the collection and disbursement function for two or more States through one "drop box" location with computer linkage to the individual State registries.

(6) States must enact procedures providing that in child support cases, a change in payee may not require a court hearing or order to take effect and may be done administratively, with notice to both parties.

Eligibility for IV-D Enforcement Services

Under the existing system, child support services are provided automatically to recipients of AFDC, Medicaid and, in some cases, Foster Care Assistance. Other single parent families, however, must seek services on their own by making a written application to the IV-D agency. Further, they must pay an application fee unless the State elects to pay the fee for them. Women may be intimidated from initiating a request for services and many States view the written application requirement as an unnecessary bureaucratic step.

To foster an environment where routine payment of child support is inescapable without placing the burden on the custodial parent to take action, all cases included in the central registry (that is, all families with new and modified orders for support, all families currently receiving IV–D services and any other family desiring inclusion in the registry) will receive child support enforcement services automatically, without the need for application. However, in situations where compliance with the order is not an issue, parents can opt to be excluded from payment through the central payment center. This essentially carries forward the flexibility provided under existing immediate wage withholding requirements.

(1) All cases included in the State's central registry shall receive child support services without regard to whether the parent signs an application for services. Current child support cases not covered through the IV–D system at the time of enactment could also request services through the State child support agency.

(2) Under no circumstances may a State deny any person access to State child support services based solely on the person's nonresidency in that State or require the payment of any fees by a parent for inclusion in the central registry.

(3) No fees or costs may be imposed on any custodial or noncustodial parent or other individual for application for IV-D child support services; no fees or costs may be imposed on any custodial parent for any child support enforcement services, including collections, provided by the IV-D child support agency. (Non-custodial parents may be charged fees or costs except where prohibited herein.)

Opportunity to opt-out

(4) Parents with child support orders included in the central registry can choose to opt-out of payment through the central payment center if they are not otherwise subject to a wage withholding order (current provisions for exceptions to wage withholding are preserved).

(5) Parents who opt-out must file a separate written form with the agency signed by both parties, indicating that both individuals agree with the arrangement.

(6) If the parents choose to opt-out of wage withholding and payment through the central payment center, the noncustodial parent fails to pay support, and the custodial parent notifies the agency for enforcement action, compliance with be monitored by the State thereafter.

Federal Role

National clearinghouse (NC)

The National Clearinghouse will consist of four components, three of which have direct bearing on improving child support enforcement: the National Child Support Registry, the expanded FPLs, and the National Directory of New Hires. (The National Transitional Assistance Registry is not discussed in this section.) The National Clearinghouse shall operate under the direction of the Secretary of Health and Human Services.

National child support registry

The Family Support Act of 1988 mandated the implementation and operation of a comprehensive, statewide, automated child support enforcement system in every State by October 1, 1995. Statewide automation will help correct some of the deficiencies associated with organizational fragmentation as well as alleviate another problem—ineffective case management. For interstate case processing, the Child Support Enforcement Network (CSENet), currently being implemented, is designed to link together statewide, automated systems for the purpose of exchanging interstate case data among States. While all States will eventually be linked through CSENet, no national directory or registry of all child support cases currently exists. A national registry in combination with statewide automated systems has the potential to greatly improve enforcement nationally, through improved located and wage withholding, and to also improve interstate case processing.

Under the proposal, a National Child Support Registry will be operated by the Federal government to maintain an up-to-date record of all child support cases and to match these cases against other databases for location and enforcement purposes. The primary function of the Registry is to expedite matches with other major databases.

(1) The Federal government will establish a National Child Support Registry that maintains a current record of all child support cases based on an extract of information from each State's Central Registry. The National Registry will:

(a) contain minimal information on every child support case from each State: the name and Social Security Number of the noncustodial parent (or putative father) and the case identification number;

(b) interface with State Central Registries for the automatic transmission of case updates;

(c) match the data against other Federal data bases;

(d) point all matches back to the relevant State in a timely manner; and

(e) interface and match with National Directory of New Hires.

(2) The Secretary shall determine the networking system, after considering the feasibility and cost, which may be any of the following:

(a) building upon the existing CSENet interstate network system;

(b) replacing the existing CSENet;

(c) integrating with the current SSA system; or

(d) integrating with the proposed Health Security Administration's network and data base.

(3) An amount equal to two (2) percent of the Federal share of child support collections made on behalf of AFDC families in the previous year shall be authorized in each fiscal year to fund the National Clearinghouse.

National directory of new hires

A National Directory of New Hires, operated by the Federal government, will be created to maintain an up-to-date data base of all new employees for purposes of determining child support responsibility. Information will come from transmission of the W–4 form, which is already routinely completed or through some other mechanism as the employer chooses. Information from the data base will be matched regularly against the National Registry to identify obligors for automatic income withholding and the appropriate State will be notified of the match. This national directory will provide a standardized process for all employers and interstate cases will be processed as quickly as intraState cases.

Currently, information about employees and their income is reported to State Employment Security Agencies on a quarterly basis. This data is an excellent source of information for implementing wage withholding as well as for locating the noncustodial parent to establish an order. A major drawback, however, is that this data is approximately three- to six-months old before the child support agency has access to it. A significant number of obligors delinquent in their child support change jobs frequently or work in seasonal or cyclical industries. Therefore, it is difficult to enforce child support through wage withholding for these individuals. At least ten States have passed legislation and implemented a process requiring employers to report information on new employees soon after hiring. Several others have introduced legislation for employer reporting.

The problem with continuing on the current path is that each State is taking a slightly different approach concerning who must report, what must be reported, and the frequency of reporting, etc. Also, while improving intraState wage withholding, this approach does little to improve interstate enforcement. The time has come for more standardization as well as expansion through a national system for reporting new hire information. Many employers and the associations which represent them, such as the American Society for Payroll Management, are calling for a centralized, standardized single reporting system for new hire reporting to minimize the burden on the employer community. A National Directory of New Hires will significantly reduce the burden on employers, especially multi-State employers, as well as increase the effectiveness for interstate wage withholding.

(1) The Secretary of Health and Human Services shall operate a new National Directory of New Hires which maintains a current data base of all new employees in the United States as they are hired.

(2) All employers are required to report information based on every new employee's W–4 form (which is already routinely completed) within 10 days of hire to the National Directory:

(a) employers may mail or fax a copy of the W–4 or use a variety of other filing methods to accommodate their needs and limitations, including the use of POS devices, touch tone telephones, electronic transmissions via personal computer, tape transfers, or mainframe to mainframe transmissions;

(b) information submitted must include: the employee's name, Social Security Number, date of birth, and the employer's identification number (EIN);

(3) employers will face fines or civil penalities if they intentionally fail to: comply with the reporting requirements; withhold child support as required; or disburse it to the payee of record within five calendar days of the date of the payroll.

(4) The National Directory of New Hires shall:

(a) match the data base against several national data bases on a periodic basis including:

(i) the Social Security Administration's Employer Verification System (EVS) to verify that the social security number given by the employee is correct and to correct any transpositions;

(ii) the National Child Support Registry (matching to occur at least every 48 hours); and

(iii) the Federal Parent Locate Service (FPLS);

(all cases submitted to the National Child Support Registry and other locate requests submitted by the States shall be periodically cross-matched against the National Directory of New Hires);

(b) notify the State Registry of any new matches within 48 hours including the individual's place of employment so that States can initiate wage withholding for cases where wages are not being withheld currently or take appropriate enforcement action; and

(c) retain data for a designated time period, to be determined by the Secretary.

(5) The State Employment Security Agencies (SESAs) shall submit extracts of their quarterly wage reporting data to the National Directory of New Hires. The SESAs shall utilize a variety of automated means to transmit the data electronically to the National Directory of New Hires. The National Directory shall take appropriate measures to safeguard the privacy and unauthorized disclosure of the wage reporting data submitted by SESAs.

(6) States shall match the hits against their central registry records at least every 48 hours and must send notice to employers (if a withholding order/notice is not already in place) within 48 hours of receipt from the National Directory of New Hires.

(7) A feasibility study shall be undertaken to determine if the New Hire Directory should ultimately be part of the Simplified Tax and Wage Reporting System, or the Social Security Administration's or the Health Security Act-created data bases.

Expanded FPLS

States currently operate State Parent Locator Services (SPLS) to locate noncustodial parents, their income, assets and employers. The SPLS conducts matches against other State databases and in some instance has online access to other State databases. In addition, the SPLS may seek information from credit bureaus, the postal service, unions, and other sources. Location sources may vary from State to State depending on the individual State's law. One location source used by the SPLS is the Federal Parent Locator Service (FPLS). The FPLS is a computerized national location network operated by OCSE which obtains information from six Federal agencies and the State Employment Security agencies (SESAs).

In order to improve efforts to locate noncustodial parents, under the proposal, OCSE will significantly expand the Federal Parent Locate Services and make improvements in parent locator services offered at the Federal and State levels. The FPLS shall operate under the National Clearinghouse.

(1) The OCSE shall expand the scope of State and Federal locate efforts by:

(a) allowing States (through access to the FPLS and the National Child Support Registry) to locate persons who owe a child support obligation, persons for whom an obligation is being established, or persons who are owed child support obligations by accessing:

(i) the records of other State IV-D agencies and locate sources;

(ii) Federal sources of locate information in the same fashion; and

(iii) other appropriate data bases.

(b) requiring the child support agency to provide both ad-hoc and batch processing of locate requests, with ad-hoc access restricted to cases in which the information is needed immediately (such as with court appearances) and batch processing used to troll data bases to locate persons or update information periodically;

(c) for information retained in a State IV-D system, providing for a maximum 48 hours turnaround from the time the request is received by the State to the time information/response is returned; for information not maintained by the State IV-D system, the system must generate a request to other State locate data bases within 24 hours of receipt, and respond to the requesting State within 24 hours after receipt of that information from the State locate sources;

(d) broadening the definition of parent location to include the parents' income and assets;

(e) developing with the States an automated interface between their Statewide automated child support enforcement systems and the Child Support Enforcement Network (CSENet), permitting locate and status requests from one State to be integrated with intraState requests, thereby automatically accessing all locate sources of data available to the State IV-D agency; and

(2) States shall have and use laws that require unions and their hiring halls to cooperate with IV-D agencies by providing information on the residential address, employer, employer's address, wages, and medical insurance benefits of members;

(3) The Secretary shall authorize:

(a) a study to address the issue of whether access to the National Locate Registry should be extended to noncustodial parents seeking the location of their children and whether, if it were, custodial parents fearful of domestic violence could be adequately protected and shall make recommendations to Congress; and

(b) a study to address the feasibility and costs of contracting with the largest credit reporting agencies to have an electronic data interchange with FPLS, accessible by States, for credit information useful for the enforcement of orders, and if the Fair Credit Reporting Act is amended, for establishment and adjustment of orders.

(c) demonstration grants to States to improve the interface with State data bases that show potential as automated locate sources for child support enforcement.

Expanded role of Internal Revenue Service

The Internal Revenue Service (IRS) is currently involved in the child support enforcement program both as a source of valuable information to assist in locating noncustodial parents, their assets and their place of employment, and as a collection authority to enforce payment of delinquent support obligations. In FY 1992, well over one-half of a billion dollars was collected by the IRS on behalf of over 800,000 child support cases. This proposal focuses on strengthening the IRS role in child support enforcement in three areas: enhancing data exchange; expanding the tax refund offset program; and, improving the full collection process.

Enhancing data exchange between IV-D child support and the IRS data

The Internal Revenue Code currently provides access to certain tax information used by child support enforcement agencies, including 1099 data. Access to this information greatly enhances State enforcement efforts and the utility of the locate network. Under the proposal, the Secretary of the Treasury will explore the feasibility of simplifying access to this IRS data.

(1) The Secretary of the Treasury shall explore the feasibility of and, as appropriate, institute procedures whereby States can more easily obtain access to IRS data (including 1099 data), if allowed by law, for the purposes of identifying obligors' income and assets. Safeguards must be in place to protect the confidentiality of the information.

IRS tax refund offset

Current statutory requirements for Federal tax refund interception set different criteria for AFDC and non-AFDC cases. One especially inequitable difference is that the tax refund offset is not available to collect past-due child support for non-AFDC children who have reached the age of majority, even if the arrearage accrued during the child's minority. The proposal will eliminate all disparities between AFDC and non-AFDC income tax refund offsets for child support collection purposes.

(1) The disparities between AFDC and non-AFDC cases regarding the availability of the Federal income tax refund offset shall be eliminated, the arrearage requirement shall be reduced to an amount determined by the Secretary, and offsets shall be provided regardless of the age of the child for whom an offset is sought. Time-frames, notice and hearing requirement shall be reviewed for simplification.

IRS full collections

Currently, the IRS full collection process (which may include seizure by the IRS of property, freezing of accounts, and other procedures) is available to States as an enforcement tool in collecting delinquent child support payments. While use of the IRS full collection process could be an effective enforcement remedy, especially in interstate cases, it is currently used only rarely, in part, because the current process is cumbersome and prohibitively expensive from the States' perspective. The IRS and HHS have recently undertaken a study to explore how to improve the IRS full collection process and to make recommendations regarding its expansion. As part of this study, 700 cases were certified to IRS for collection in September, 1993. These cases are being closely monitored and the data obtained will be used to make recommendations for improvement to the IRS Full Collection project, including the establishment of a new fee structure. The proposal will require the Secretary of Treasury to improve the full collection process by establishing a simplified and streamlined process, including the use of an automated collection process for child support debts.

(1) To improve the IRS Full Collection process, the Secretary of the Treasury shall:

(a) simplify the IRS full collection process;

(c) establish procedures to ensure that the process is expeditious and implemented effectively;

(c) explore the feasibility of the IRS using its automated tax collection techniques in child support full collection cases; and

(d) the IRS will not charge an extra submission fee if a State updates the arrears on an open case.

Interstate Enforcement

Currently, many child support efforts are hampered by States' inability to locate noncustodial parents and secure orders of support across State lines. New provisions will be enacted to improve State efforts to work interstate child support cases and make interstate procedures more uniform throughout the country.

Under current law, most States handle their interstate cases through the use of versions of the Uniform Reciprocal Enforcement of Support Act (URESA), promulgated in 1950 and changed in 1952, 1958 and 1968. Using URESA may result in the creation of several child support orders in different States (or even counties within the same state) for different amounts, all of which are valid and enforceable. Interstate income withholding, an administrative alternative to URESA, is not widely used and limits the enforcement remedy of withholding.

Under the proposal, States will be required to adopt verbatim URESA's replacement, the Uniform Interstate Family Support Act (UIFSA). UIFSA ensures that only one State controls the terms of the order at any one time. UIFSA, unlike URESA, includes a comprehensive long-arm jurisdiction section to ensure that as many cases stay in one State as is possible. Direct withholding will allow a State to use income withholding in interstate cases by serving the employer directly without having to go through the second State's IV-D agency. Additionally, States could quickly obtain wage information from out-of-State employers. Interstate locate through the National Clearinghouse should improve locate capability dramatically, by linking State agencies, Federal locate sources and the new hire data base.

We will also ask Congress to express its sense that it is constitutional to use "child-state" jurisdiction, which if upheld by the Supreme Court, will allow agencies to bring the child support case where the child resides instead of where the noncustodial parent lives if he or she has no ties to the child's state. This extends long arm jurisdiction's reach to all cases instead of just most cases. It would also eliminate arguments and court proceedings regarding jurisdiction.

While all States have implemented immediate wage withholding programs for child support payment, there are significant variances in individual State laws, procedures and forms. Those differences are significant enough to bog down the interstate withholding system. Even within States, forms and procedures may vary, resulting in slow or inaccurate case processing. The proposal will require the Secretary to promulgate regulations defining income and other terms so that income withholding terms, procedures and definitions are uniform. This will improve interstate wage withholding effectiveness and fairness and facilitate a more employer-friendly withholding environment. The net effect of UIFSA, direct and uniform withholding, national subpoenas, interstate lien recognition, interstate communication, and child-State jurisdiction is to almost eradicate any barriers that exist to case processing simply because the parents do not reside in the same state.

To facilitate interstate enforcement efforts, each State must have and use laws, rules and procedures that:

(1) provide for long-arm jurisdiction over a nonresident individual in a child support or parentage case under certain conditions;

(2) require Social Security Numbers of all persons apply for a marriage license or divorce to be listed on the supporting license or decree;

(3) require Social Security Numbers of both parents to be listed on all child support orders and birth certificates;

(4) adopt verbatim the Uniform Reciprocal Enforcement of Support Act (URESA) drafting committee's final version of the Uniform InterState Family Support Act (UIFSA), to become effective in all States no later than October 1, 1995 or within 12 months of passage, but in no event later than January 1, 1996;

(5) give full faith and credit to all terms of any child support order (whether for past-due, currently owned, or prospectively owned support) issued by a court or through an administrative process which has jurisdiction under the terms of UIFSA;

(6) provide that out-of-State service of process in parentage and child support actions must be accepted in the same manner as are in-State service of process methods and proof of service so if service of process is valid in either State it is valid in the hearing State;

(7) require the filing of the noncustodial parent's and the custodial parent's residential address, mailing address, home telephone number, driver's license number, Social Security Number, name of employer, address of place of employment and work telephone number with the appropriate court or administrative agency on or before the date the final order is issued, in addition:

(a) pursue for the purpose of providing sufficient notice in any support related action, other than the initial notice in an action to adjudicate parentage or establish or modify a support order that the last residential address of the party given to the appropriate agency or court is the current address of the party, in the absence of the obligor or obligee providing a new address;

(b) prohibit the release of information concerning the whereabouts of a parent or child to the other parent if there is a court order for the physical protection of one parent or child entered against the other parent;

(8) provide intraState transfers of cases to the city, county, or district where the child resides for purposes of enforcement and modification, without the need for refiling by the plaintiff or re-serving the defendant; require the State child support agency or State courts that hear child support claims to exert statewide jurisdiction over the parties and allow the child support orders and lines to have statewide effort effect for enforcement purposes;

(9) make clear that visitation denial is not a defense to child support enforcement and that nonsupport is not available as a defense when visitation is at issue;

(10) require States to require employers, as a condition of doing business in the State, to respond to requests by out-of-State IV-D agencies for individual income information pertaining to all private, State and local government employees for purposes of establishing and collecting child support.

In addition, the Federal government shall:

(1) make a Congressional finding that child-State jurisdiction is consistent with the Due Process clauses of the Fifth and Fourteenth Amendments, Section 5, the Commerce Clause, the General Welfare Clause, and the Full Faith and Credit Clause of the United States Constitution, so that due process is satisfied when the State where a child is domiciled asserts jurisdiction over a nonresident party, provided that party is the parent or presumed parent of the child in a parentage or child support action;

(a) test the constitutionality of this assertion of child-State jurisdiction by providing for an expedited appeal to the U.S. Supreme Court directly from a Federal court;

(2) provide that a State that has asserted jurisdiction properly retains continuing, exclusive jurisdiction over the parties as long as the child or either party resides in that State or if all the parties consent to the State retaining jurisdiction;

(a) when no State has continuing exclusive jurisdiction when actions are pending in different States, the last State where the child has resided for a consecutive six month period (the home State) can claim to be the State of continuing and exclusive jurisdiction, if the action in the home State was filed before the time expired in the other State for filing a responsive pleading and a responsive pleading contesting jurisdiction is filed in that other State;

(3) provide that a State loses its continuing, exclusive jurisdiction to modify its order regarding child support if all the parties no longer reside in that State or if all the parties consent to another State asserting jurisdiction;

(a) if a State loses its continuing, exclusive jurisdiction to modify, that State retains jurisdiction to enforce the terms of its original order and to enforce the new order upon request under the direction of the State that has subsequently acquired continuing, exclusive jurisdiction;

(b) if a State no longer has continuing jurisdiction, then any other State that can claim jurisdiction may assert it;

(c) when actions to modify are pending in different States, and the State that last had continuing, exclusive jurisdiction no longer has jurisdiction, the last State where the child has resided for a consecutive six month period (the home State) can claim to be the State of continuing, exclusive jurisdiction, if:

(i) a responsive pleading contesting jurisdictional control is filed in a timely basis in the non-home State, and

(ii) an action in the home State is filed before the time has expired in the non-home State for filing a responsive pleading;

(4) provide that the law of the forum State applies in child support cases, unless the forum State must interpret an order rendered in another State, so that the rendering State's law governs interpretation of the order; in cases in which a statute of limitations may preclude collection of any outstanding child support arrearages, the longer of the forum or rendering State's statute of limitations shall apply; and

(5) provide that all employers can be served directly with a withholding order by any State, regardless of the State issuing the order; The Secretary shall develop a universal withholding form that must be used by all States.

In addition: (1) Section 466 of the Social Security Act will be amended to require regulations so that income withholding terms, procedures, forms and definitions of income for withholding purposes are uniform to ensure interstate withholding efficiency and fairness, based on regulations promulgated by the Secretary;

Other Enforcement Measures

Currently, State and Federal enforcement efforts are often hampered by cumbersome enforcement procedures that make even routine actions difficult and time consuming. In order to enable States to take more efficient and effective action when child support is not paid, the proposal requires States to adopt several additional proven enforcement tools and streamline enforcement procedures.

Routinized Lien-Placing Process on Motor Vehicles

Liens have two faces. They are either passive encumbrances on property that entitle the lienholder to money when the property changes owners, or they are proactive collection tools that force the obligor to relinquish the property to satisfy the child support debt. Under current law, States must have and use procedures to impose liens on personal and real property. However, the time consuming and cumbersome nature associated with the case-by-case judicial activity now required to impose liens is a major reason for their limited use in practice. Under the proposal, the process by which liens on motor vehicles are imposed will be made more routinized and efficient, resulting in an increase in child support collected. States will be required to set up a routine lien-placing process on motor vehicle titles, without the necessity of first acquiring writs from courts, on noncustodial parents who are delinquent in paying child support.

Universal wage withholding

Withholding child support directly from wages has proven to be one of the most effective means of ensuring that child support payments are made. Currently, all IV-D orders should generally be in withholding status if the parties have not opted out or a decision maker has not found good cause. IV-D orders entered prior to 1991 in which no one has requested withholding or the obligor has not fallen behind by one month's worth of support are the only orders that do not have to be in withholding status. Arrearage-triggered IV–D withholding requires prior notice in all but a handful of States. Non-IV–D orders entered after January 1, 1994 are subject to immediate withholding if the two opt-outs are not invoked. Other non-IV–D orders may be in withholding status, depending on if there are arrearages and whether the parties took the appropriate action to impose if the withholding State does not impose it automatically in non-IV–D cases.

While the patchwork of orders subject to withholding is gradually being filled in, one way to speed up the universality of withholding is to require withholding in all cases unless the parties opt out or a court finds good cause. As under current law, if an arrearage of one month of support accrues whether or not there is an opt out, withholding must be implemented; however, it should be implemented automatically without need of further court action in non-IV–D cases as well, and without need for notice prior to withholding in the arrearage-triggered cases. Universalizing withholding (except for opt outs) makes the system equal for the non-IV–D and the IV–D parent. It allows for the immediate implementation of withholding when an obligor begins a new job. Imposing withholding without prior notice gives the States the jump on collection, instead of waiting up to 45 days for resolution. In the very few cases in which withholding might be incorrectly imposed, a hearing will be immediately available to the aggrieved obligor to satisfy due process concerns and to ensure accurate withholding (if a phone call to the agency does not quickly resolve the dispute).

Access to records

Access to current income and asset information is critical to tracking down delinquent noncustodial parents who are trying to escape their responsibilities. The need to petition the courts for information on the address, employer, and income of parents on a case-by-case basis impedes the ability of States to effectively carry out child support enforcement actions. Recognizing the value of timely and systematic access to information, the proposal will require States to make the records of various agencies available to the child support agency on a routine basis, through automated and nonautomated means. In addition, the proposal will require that child support agencies be granted access to specific case-related financial institution records for location or enforcement action.

Reducing fraudulent transfer of assets

A major problem in some child support cases occurs when an obligor transfers his or her assets to someone else to avoid paying support. To protect the rights of creditors, States have enacted laws under the Uniform Fraudulent Conveyance Act and the Uniform Fraudulent Transfer Act to allow creditors to undo fraudulent transfers. Applying such laws to child support will provide equal protection to the support rights of custodial parents as applied to any other creditor and may deter obligors who are considering fraudulent transfer. The proposal will make it easier to take legal steps against parents who intentionally transfer property to avoid child support payment.

License revocations

An effective enforcement tool recently implemented by a number of States is withholding or suspending professional/occupational licenses and, in some States, also standard driver's licenses of noncustodial parents owing past-due child support. States that have added this procedure to their arsenal of enforcement remedies have favorable perceptions about its effectiveness, noting that it has both increased the amount of arrearages collected and served as an incentive for noncustodial fathers to keep current in their monthly child support obligation. Often the mere threat of suspending a license is enough to get many recalcitrant obligors to pay. The proposal requires all States to adopt such laws while allowing State flexibility to tailor due process protections.

Statute of limitations for child support arrearages

Under current law, each State may decide when it no longer has the power to collect old debts. Usually invoking a State statute of limitations is done by the debtor, and is not automatic. Some State statute of limitations for child support debts are as short as seven years. Under the proposal, a uniform and extended statute of limitations for collecting child support debts of 30 years after the child's birth will be required. This ensures that a non-payor is less likely to forever escape payment simply because they have avoided payment in the short-term.

Interest on arrearages

Child support debts are currently at a competitive disadvantage compared to commercial debts. While many States have the authority to apply interest to delinquent support, few routinely do so and thus there is no financial incentive for a noncustodial parent to pay support before paying an interest accruing debt. To raise the priority of child support debts to at least that afforded to other creditors, the proposal will require States to calculate and collect interest or late penalties on arrearages.

Expanded use of credit reporting

Credit Bureaus can be an effective mechanism for collecting information needed to locate parents and establish awards at the appropriate level and for ensuring that child support payments are kept current. Under current law, credit report information may be used for locate and enforcement purposes. Agencies may not use credit reports for establishment or modification purposes, however. States are also not required to report arrearages upon a request from a credit bureau unless the arrearages are in excess of $1,000. (States may report, at State option, when a lesser amount is owed.) This proposal will give IV–D agencies access to all credit bureau information for consideration in establishing, modifying, and enforcing child support orders. Since credit reports are likely to fully disclose income generating activities, such reports can be extremely important in identifying assets and income needed to establish awards. Additionally, requirements for States to report child support arrears of more than one month would encourage noncustodial parents to stay current in their payment of support, because non-payment could jeopardize their credit rating. Many States have improved their credit reporting activities regarding child support arrearages. This proposal will ensure uniformity among the States and prevent any one State from becoming a safe-haven for non-paying parents.

Bankruptcy

Although a noncustodial parent obligated to pay support may not escape the obligation by filing bankruptcy, the ability to collect amounts due is hampered by current bankruptcy practices. One of the difficulties faced is that the filing of a bankruptcy action automatically "stays" or forbids various actions to collect past-due support. In order to continue child support collections, permission from the Bankruptcy Court must be granted to lift the automatic stay. Another obstacle is a requirement that the attorney handling the child support creditor's claim must either be a member of the Federal bar in the jurisdiction where the bankruptcy action is filed, appear by permission, or find alternative representation. In addition, child support obligations are often treated less favorably than other financial obligations such as consumer debts and, under a Chapter 13 bankruptcy proceeding, an individual debtor is allowed to pay off debts over an extended period of time—usually three to five years. Even though the current child support continues and arrearages cannot be forgiven through bankruptcy, the ability to collect these arrearages quickly can be thwarted when, as under current practice, a bankruptcy payment plan could require a different payment arrangement on support arrearages than that imposed by a court or administrative support process.

The proposal will eliminate these types of bankruptcy related obstacles to collecting child support. It will remove the effects of an automatic stay with respect to child support establishment, modification, and enforcement proceedings, require the establishment of a simple procedure under which a support creditor can file their claim with the bankruptcy court, treat unsecured support obligations as a second priority claim status, and require that the bankruptcy trustee recognize and honor an arrearage payment schedule established by a court or administrative decision maker. These changes will facilitate the uninterrupted flow of support to children in the event the obligor files for or enters into bankruptcy.

Federal garnishment

Garnishment of Federal employees salaries and wages for child support was authorized prior to the requirement that all States have and use wage withholding procedures which do not require specific court or administrative authorization. The Federal garnishment statute was not changed to make its procedures consistent with the requirements for all other child support wage withholding. The proposal will simplify the implementation of child support wage withholding by requiring that the same procedures be used for Federal and non-Federal employees. The proposal also allows garnishment of military pay more consistent with other types of garnishable money.

Passports

Collecting child support from persons who have left the country is extremely difficult, even if the United States has a reciprocal agreement with the country in which the noncustodial parent currently resides. If there is no reciprocal agreement with that country, it is often virtually impossible to collect child support from the noncustodial parent. Under the proposal, passports and visas will not be issued for foreign travel for the most egregious cases in which support is owed—those owing over $5,000 in past due support.

In order to enforce orders of support more effectively, States must have and use laws that: (1) systematically impose liens on vehicle titles for child support arrearages using a method for updating the value of the lien on a regular basis or allowing for an expedited inquiry to and response for proof of the amount of arrears; provide an expedited method for the titleholder or the individual owing the arrearage to contest the arrearage or request a release upon fulfilling the support obligation; the liens shall cover all current and future support arrearages and shall have priority over all other creditors' liens imposed on a vehicle title other than a purchase money security interest; in appropriate cases the agency shall have the power to execute on, seize, sell and distribute encumbered or attached property in accordance with State law;

(2) require the State agency to initiate immediate wage withholding action for all cases for which a noncustodial parent has been located and wage withholding is not currently in effect, without the need for advance notice to the obligor prior to the implementation of the withholding order;

(3) empower child support agencies to issue administrative subpoenas requiring defendants in paternity and child support actions to produce and deliver documents to or to appear at a court or administrative agency on a certain date; sanction individuals who fail to obey a subpoena's command;

(4) provide, at a minimum, that the following records are available to the State child support agency through automated or nonautomated means:

(a) recreational licenses of residents, or of nonresidents who apply for such licenses, if the State maintains records in a readily accessible form;

(b) real and personal property including transfers of property;

(c) State and local tax departments including information on the residence address, employer, income and assets of residents;

(d) publicly regulated utility companies and cable television operators; and

(e) marriages, births, and divorces of residents;

(5) provide, at a minimum, the following records of State agencies are available to the State child support agency: the tax/revenue department, motor vehicle department, employment security department, bureau of corrections, occupational/professional licensing department, secretary of state's office, bureau of vital statistics, and agencies administering public assistance. If any of these State data bases are automated, the child support agency must be granted either online or batch access to the data.

(6) provide for access to financial institution records based on a specific case's location or enforcement need through tape match or other automated or nonautomated means, with appropriate safeguards to ensure that the information is used for its intended purpose only and is kept confidential; a bank or other financial institution will not be liable for any consequences arising from providing the access, unless the harm arising from institution's conduct was intentional;

(7) provide indicia or badges of fraud that create a prima facie case that an obligor transferred income or property to avoid a child support creditor; once a prima facia case is made, the State must take steps to avoid the fraudulent transfer unless settlement is reached;

(8) require the withholding or suspension of professional or occupational licenses from noncustodial parents who owe past-due child support or are the subject of outstanding failure to appear warrants, capiases, and bench warrants related to a parentage or child support proceeding;

(a) the State shall determine the procedures to be used in a particular State and determine the due process rights to be accorded to obligors.

(b) the State shall determine the procedures to be used in a particular State and determine the due process rights to be accorded to obligors.

(b) the State shall determine the threshold amount of child support due before withholding or suspension procedures are initiated.

(9) suspend the driver's licenses, including any commercial licenses, of noncustodial parents who owe past-due child support:

(a) the suspension shall be determined by the IV–D agency, which shall administratively suspend licenses. The State shall determine the due process rights to be accorded the obligor, including, but not limited to, the right to a hearing, stay of the order under appropriate circumstances, and the circumstances under the suspension may be lifted;

(b) the State shall determine the threshold amount of child support due before withholding or suspension procedures are initiated.

(10) extend the statute of limitations for collection of child support arrearages until the child for whom the support is ordered is at least 30 years of age.

(11) calculate and collect interest or late penalties on arrearages (accrued after the date of enactment) for non-payment. (Late penalties may be imposed on a monthly, quarterly, or annual basis.) All such charges must be distributed to the benefit of the child (unless child support rights have been assigned to the State). The Secretary shall establish by regulation a rule to resolve choice of low conflicts.

In addition, Congress shall: (12) amend the Fair Credit Reporting Act to allow State agency access to and use of credit reports for the location of noncustodial parents and their assets and for establishing and modifying orders to the same extent that the State agency may currently use credit reports for enforcing orders;

(13) require reports to credit bureaus of all child support obligations when the arrearages reach an amount equal to one month's payment of child support;

(14) amend the Bankruptcy Code to:

(a) allow parentage and child support establishment, modification and enforcement proceedings to continue without interruption after the filing of a bankruptcy petition; preclude the bankruptcy stay from barring or affecting any part of any action pertaining to support as defined in section 523 of Title 11;

(b) allow child support creditors to file a claim without charge or having to meet special local court rule requirements for attorney appearances in a bankruptcy case or district court anywhere in the United States by filing a simplified form that includes information detailing the child support creditor's representation, and the child support debt, its status, and other characteristics;

(c) require the establishment of a simple procedure under which support creditors can file claims with the bankruptcy court;

(d) give child support creditors priority over certain other unsecured creditors; and

(e) require that the bankruptcy trustee make payments to a child support creditor from the bankruptcy State in accordance with a payment schedule established in a family court or other administrative or judicial proceeding.

(15) amend and streamline Sections 459, 461, 462 and 465 of the Social Security Act and companion laws to make the garnishment of Federal employees and retirees (including military) salaries, wages and other benefits and income consistent with the terms and procedures of the IV-D withholding statute (466(b) of the Social Security Act).

(16) amend laws and procedures to ensure that passports, and visas for persons attempting to leave the country, are not issued if they owe more than $5,000 in child support arrearages. The State Department may match its list of applicant against tax offset files of noncustodial parents with orders who owe more than $5,000;

The Social Security Administration shall be authorized to: (17) provide the State IV-D or Department of Motor Vehicle agency access to electronic verification of Social Security Numbers.

Privacy protection

Historically, child support enforcement agencies have had access to information unavailable to other Federal and/or State agencies because of the special nature of their mission—ensuring that children receive appropriate financial support from their parents. Parents cannot be located and orders cannot be established and enforced unless the State has access to a wide array of information sources which identify places of employment and other information about assets and income. Under current Federal and State regulations and rules, information obtained for child support purposes is protected from unwarranted disclosure. The proposal ensures that privacy safeguards continue to cover all sensitive and personal information by extending such protections to any new sources of information. States are required to ensure that safeguards are in place to prevent breaches of privacy protection for individuals not liable or potentially liable for support and to prevent the misuse of information by those employees and agencies with legitimate access for child support purposes only.

(1) States shall:

(a) extend their data safeguarding State plan requirements to all newly accessible information under the proposal. States shall also institute routine training for State and local employees (and contractors shall be required to do the same for their staff) who handle sensitive and confidential data.

(b) regularly self-audit for unauthorized access or data misuse, and investigate individual complaints as necessary.

(c) have penalties for persons who obtain unauthorized access to safeguarded information or who misuse information that they are authorized to obtain. Supervisors who knew or should have known of unauthorized access or misuse shall also be subject to penalties.

(2) Procedures for protection of tax records should include such protections as:

(a) data matching performed by staff having access only to related data fields necessary to perform child support functions;

(b) controlling access to individual child support computer records by the use of individual passwords; and

(c) monitoring access on a regular basis by use of computerized audit trail reports and feedback procedures.

In addition: (3) All child support enforcement staff shall be kept informed of Federal and State laws and regulations pertaining to disclosure of confidential tax and child support information.

(4) Access to State vital statistics shall be restricted to authorized IV–D personnel.

(5) The Federal government shall ensure that New Hire information is limited to IV–D agency use by authorized persons (as defined under current law).

(6) The Secretary shall issue regulations setting minimum privacy safeguards that States must follow to ensure that only authorized users of personal information have access to it solely for official purposes.

Funding

Federal financial participation and incentives

The current funding structure of the Child Support Enforcement program is comprised of three major components: direct Federal matching, incentive payments to States, and the States' share of child support collections made on behalf of AFDC recipients.

Direct Federal matching, known as Federal financial participation or FFP, provides for 66 percent of most State/local IV–D program costs. A higher rate, 90 percent, is paid for genetic testing to establish paternity and, until October 1, 1995, for comprehensive State wide automated data processing (ADP) systems. The Federal government also pays States an annual incentive based on collections and cost effectiveness equalling 6–10 percent of collections from the Federal share of AFDC-related collections. States must pass on part of the incentive to any local jurisdiction that collected the child support if the State required the jurisdiction to participate in the program's costs.

Currently, States may profit from the IV–D program's funding structure irrespective of their performance. The proposed child support financing reforms are primarily directed at the Federal financial participation and the payment of incentives. Basic FFP will be increased from 66 percent to 75 percent to ensure that all States had a sufficient resource base to operate an efficient and effective program. Incentives will be based on State performance in the areas of paternity establishment, order establishment, collections and cost-effectiveness. Such incentives will ensure that States focus on the results that are expected from the program activities. States and the Federal Government will still share in the reduction in costs resulting from support collections made on behalf of AFDC recipients.

(1) The Federal government will pay 75 percent of State administrative costs. All cases included in the State's Central Registry will be eligible for federal funding.

(2) States are eligible for incentive payments in the following areas:

(a) paternity establishment—earning an increase of up to 5 percentage points in FFP for high paternity establishment rates, as determined by the Secretary; and

(b) overall performance—earning an increase of up to 10 percentage points in FFP for strong overall performance which factors in:

(i) the percentage of cases with support orders established (number of orders compared to the number of paternities established and other cases which need a child support order):

(ii) the percentage of overall cases with orders in paying status;

(iii) the percentage of overall collections compared to amount due;

(iv) cost-effectiveness.

(3) All incentives will be based on a formula to be determined by the Secretary.

(4) All incentive payments made to the States must be reinvested back into the State child support program.

Registry and clearinghouse start-up enhanced FFP

Enhanced funding for the automated central registries and centralized collection distribution systems is critical to enable States to implement these new requirements.

(I) States will receive enhanced FFP at a 80%/20% Federal/State match rate, or at the base 75% FFP plus incentives, whichever is higher, for the planning, design, procurement, conversion, testing and start-up of their full-service, technology-enabled State registries and centralized payment centers. This includes necessary enhancements to the automated child support system to accommodate the proposal.)

(2) For the next 5 years, total Federal payments to States for ADP are capped at $260,000,000, to be distributed among States by a formula set in regulations which takes into account the relative size of State caseloads and the level of automation needed to meet applicable ADP requirements.

State/Federal maintenance of effort

(1) Using a maintenance of effort plan, the Federal government will require States to maintain at least their current level of contribution to the program, representing the State FFP match and any other State funds or receipts allocated to the child support program.

Revolving loan fund

In order to encourage ongoing innovation in the IV-D program, it is proposed that a revolving loan fund be created. The revolving loan fund will allow the Federal government more flexibility in helping States develop and implement innovative practices which have significant effects on increasing collections and ongoing innovation.

(1) The Federal government through OCSE shall provide an authorization of funds of up to $100 million to be made available to States and their subdivisions to be used solely for short-term, high-payoff operational improvements to the State child support program. Projects demonstrating a potential for increases in child support collections will be submitted to the Secretary on a competitive basis. Crieria for determining which projects to fund shall be specified by the Secretary based on whether adequate alternative funding already exists, and whether collections can be increased as a result. Within these guidelines, States shall have maximum flexibility in deciding which projects to fund.

(2) Funding will be limited to no more than $5 million per State or $1 million per project, except for limited circumstances under which a large State undertakes a statewide project, in which case the maximum for that State shall be $5 million for the project. States may supplement Federal funds to increase the amount of funds available for the project and may require local jurisdictions to put up a local match.

(3) Fundng will be available for a maximum of three years based on a plan established with the Secretary. OCSE must expeditiously review and, as appropriate, fund the approved plan. At the end of the project period, recipients must pay funds back to the Revolving Fund out of increased performance incentives.

(4) Beginning with the next Federal fiscal year after the project ends, the Federal government shall offset half of the increase in the State's performance incentives every year until the funds are fully repaid. If the State fails to raise collections that result in a performance incentive increase at the projected attributable level, the funds will be recouped by offsetting the FFP due to a State by a sum equal to one-twelfth of the project's Federal funding, plus interest, over the first twelve quarters beginning with the next fiscal year following the project's completion.

Program management

Dramatically improving child support enforcement requires improved program management at both the State and Federal levels. The proposal includes several provisions designed to lead to better program performance and better services.

Training

From 1979 through the late 1980s OCSE contracted with outside organizations to provide on-site training to States across a broad range of topics. In early 1991, OCSE established the National Training Center within the Division of Program Operations to take over many training functions formerly performed by contractors. The purpose of the Center is to bolster States' training initiatives through curriculum design/development, dissemination of information and materials and, to the extent resources permit, the provision of direct training. While a few States have developed training standards for staff, there is currently no mandate that States have minimum standards for persons involved in the child support program.

Under the proposal, the Federal share of funding for training, technical assistance and research will significantly increase and will be earmarked each year for such things as training, technical assistance, research, demonstrations and staffing studies. Furthermore, States will be required to have minimum standards for training in their State plans. Under the proposal, OCSE will also develop a training program for State IV–D Directors. The IV–D program's complexity and importance to children and family self-sufficiency require that States have experienced and well-trained managers. Experts often point to the leadership experience of IV–D managers as a major factor in a state's performance.

(1) An amount equal to one (1) percent of the Federal share of child support collections made on behalf of AFDC families in the previous year shall be authorized in each fiscal year to fund technical assistance, training, research, demonstrations and staffing studies.

(2) OCSE shall provide a Federal developed core curriculum to all States to be used in the development of State-specific training guides. OCSE shall also develop a national training program for all State IV–D directors.

(3) States must also have minimum standards in their State plans for training, based on the newly develop state-specific training guide, that include initial and ongoing training for all persons involved in the IV–D child support program. The program shall include annual training for all line workers and special training for all staff when laws, policies or procedures change.

(4) In addition, funds under Title IV–D of the Social Security Act shall be made available to States for the development and conduct of training of IV–A and IV–E caseworkers, private attorneys, judges and clerks who need a knowledge of child support to perform their duties but for whom a cooperative agreement does not exist for ongoing child support activities.

Technical assistance

Currently, States complain that they receive very little technical assistance from the Federal government. Indeed, the level of technical assistance provided to State child support enforcement agencies has declined significantly over the past several years because of staff and resource limitations. Aside from the provision of training and publication dissemination, most of the assistance provided is in the nature of problem identification through program reviews.

Under the proposal, OCSE will provide comprehensive direct technical assistance in a variety of forms to States. In particular, OCSE will take an active role in developing model laws and identifying best practices that States may adopt, reviewing State laws, procedures, policies, and organizational structure, and providing enhanced technical assistance to meet the program's goals. Such provision of technical assistance will be designed to prevent program deficiencies before they occur.

The OCSE shall provide technical assistance to States by: (1) developing model laws and identifying model legislation and "best" State practices that States may follow when changing State laws to meet new Federal requirements;

(2) reviewing State laws, policies, procedures, and organizational structure, including cooperative agreements, as part of the State plan approval process;

(3) providing a State with a written assessment of its program and, when appropriate, identifying areas in which the State is deficient;

(4) providing enhanced technical assistance to States to meet the program's goals; and

Audit and reporting

The Federal statute mandates periodic comprehensive Federal audits of State programs to ensure substantial compliance with all federal requirements. If deficiencies identified in an audit are not corrected, States face a mandatory fiscal penalty of between 1 and 5 percent of the Federal share of the State's AFDC program funding. Once an audit determines compliance with identified deficiencies, the penalty is lifted.

The detail-oriented audit is time-consuming and labor intensive for both Federal auditors and the States. One result is that audit findings do not measure current State performance or current program requirements. States contend that the audit system focuses too much on administrative procedures and processes rather than performance outcomes and results. However, it is widely agreed that efforts to pass the audit have been a significant driving force behind States' improved performance. While two-thirds of the States fail the initial audit, three-fourths of these same States come into compliance after a corrective-action period and avoid the financial penalty.

The proposal will simplify the Federal audit requirements to focus primarily on performance outcomes and require States to conduct self-reviews to assess whether or not all required services are being provided. Federal auditors will assess States' data used to determine performance outcomes to determine if it is valid and reliable and conduct periodic financial and other audits as the Secretary deems necessary. If State self-reviews or the level of grievances/complaints indicates that services are not being provided, OCSE will evaluate the State's program and ascertain the causes for the problems to help States correct the problems. Audit penalties assessed on the basis of deficiencies found with respect to a fiscal year will be waived if the State passes the audit at the end of the next fiscal year.

(1) Audit procedures by the Secretary shall include:

(a) simplifying the Federal audit requirements to focus primarily on performance outcomes;

(b) requiring States to develop their own control systems to ensure that performance outcomes are achieved, while making the results subject to verification and audit;

(2) States shall:

(a) develop internal automated management control reporting systems that provide information to enable States to assess their own performance and employees' workload analysis, on a routine, ongoing basis so that exceptions can be called to the program management's attention;

(b) develop computer systems controls that provide reasonable assurances that computer-based data are complete, valid, and reliable;

(c) in accordance with Federal regulations, annually conduct a self-review to assess whether or not the State meets the program's specified goals, performance objectives and any recently completed staffing studies, as well as ensure that all required services are being provided.

(3) Federal auditors shall:

(a) at a minimum, based up the U.S. Comptroller General's Government Auditing Standards, every 3 years assess the reliability of the computer-processed data (or results provided as a result of the self-review). These audits will: (a) examine the computer system's general and application controls; (b) test whether those controls are being complied with; and (c) test data produced by the system on computer magnetic tape or other appropriate auditing medium to ensure that it is valid and reliable;

(b) if a State has failed a previous audit, continue to evaluate on an annual basis whether the State has corrected the deficiencies identified under (1) above;

(c) if the State self-reviews determine that the Federal requirements are not being met, ascertain the causes for the deficiency/weakness so that States will be able to take better corrective actions; and

(d) if the State's report on the status of grievances/complaints indicates substantial and material noncompliance with the program requirements, then evaluate the State's program.

(e) each State will also be subject to periodic financial audits to ensure that their funds are being allocated and expended appropriately and adequate internal controls are in place which will help ensure that all monies are being safeguarded. The Secretary may conduct such other audits as deemed necessary to ensure compliance.

(4) The Secretary shall promulgate regulations to revise the penalty process for failures to meet the program's performance goals and objectives and/or failure to generate reliable and valid data. Penalties will be imposed immediately after a one year corrective action period.

Director of office of child support enforcement

(1) The individual with responsibility for the day to day operation of the Federal Office of Child Support Enforcement shall have the title of Director instead of Deputy Director.

Staffing study

Insufficient staff levels have been cited as the greatest barrier to effectively processing child support cases. Despite significant State savings from the program, staffing levels have not kept pace with caseloads ever increasing in size and complexity. Comprehensive data on staffing is almost nonexistent. To address this information vacuum, staffing studies will be conducted for each State child support enforcement program, including an assessment of the effects of automation on human resource needs. States can use this information for informed personnel and budgetary decisionmaking.

(1) The Secretary of Health and Human Services or a disinterested contractor shall conduct staffing studies of each State's child support enforcement program. Such studies shall include a review of the automated case processing system and central registry/central payment center requirements and include adjustments to future staffing if these changes reduce staffing needs. Such staffing studies may be periodically repeated at the Secretary's discretion. The Secretary shall report the results of such staffing studies to the Congress and the States.

Expanded Outreach

No manner of child support reform will be truly successful unless parents are aware of and have reasonable access to services. Despite the fact that State child support agencies are currently required to advertise the availability of services, many families remain unaware of the program and still others find that services are not easily accessible.

In addition to the paternity establishment outreach provisions described earlier, the proposal will require each State to develop an outreach plan to inform families of the availability of IV–D services and to provide broader access to services, including initiatives which target the needs of working families and non-English speaking families. The Federal government will aid this effort by developing outreach prototypes and a multimedia campaign which focuses on the positive effects a noncustodial parent's involvement can have on a child's life as well as the detrimental effects of a parent's failure to participate.

(1) In order to broaden access to child support services, each State plan must:

(a) respond to the need for office hours or other flexibility that provide parents opportunity to attend appointments without taking time off of work; and

(b) develop and appropriately disseminate materials in languages other than English where the State has a significant non-English-speaking population; staff or contractors who can translate should be reasonably accessible for the non-English-speaking person provided services.

(2) To aid State outreach efforts, OCSE must:

(a) develop prototype brochures that explain the services available to parents with specific information on the types of services available, the mandated time frames for action to be taken, and all relevant information about the procedures used to apply for services;

(b) develop model public service announcements for use by States in publicizing on local television and radio the availability of child support services;

(c) develop model news releases that States could use to announce major developments in the program that provide ongoing information of the availability of services and details of new programs; and

(d) focus more resources on reaching putative fathers and noncustodial parents through a multimedia campaign that acknowledges positively those who comply and spotlights the detrimental effects on a child of a parent's failure to financially and emotionally participate in the child's life.

Customer accountability

Under current law, OCSE has few requirements regarding how IV–D offices are to interact with the "customer" i.e., the affected family members, and how State agencies should respond to child support customers' complaints. Under the proposal, States will be required to notify custodial parents on a timely basis before all scheduled establishment and modification hearings or conferences. The State agency has 14 days to provide a copy of any subsequent order to the custodial parent. If someone receiving IV-D services feels the services provided were inadequate, he or she may request a fair hearing or a formal review process. Complaint and disposition reports shall be forwarded to the Department of Health and Human Services. These reforms give the "customers," the children's parents acting on behalf of the children, the redress that seems lacking in many States when the system fails to perform adequately. A mandatory grievance system should take care of most complaints, with a back-up right to sue in case the State grievance system inadequately resolves serious deficiencies of the program.

(1) State agencies shall notify custodial parents in a timely manner of all hearings or conferences in which child support obligations might be established or modified;

(2) State agencies shall provide custodial parents with a copy of any order that establishes or modifies a child support obligation within 14 days of the issuance of such order;

(3) An individual receiving IV-D services shall have timely access to a State fair hearing or a formal, internal complaint-review process, according to regulations established by the Secretary, provided that there is no stay of enforcement as a result of the pending request (reports of complaints and dispositions shall also be reported to the Secretary);

(4) It is the intent of Congress that the express purpose of Title IV-D is to assist children and their families in collecting child support owned to them. Individuals who are injured by a State's failure to comply with the requirements of Federal law, including State plan requirements of various titles of the Social Security Act, should be able to seek redress in Federal court. (No specific private cause of action to enforce child support provisions of the law are contained herein because there is already a private cause of action under 42 U.S.C. 1983 to redress State and local officials' violations if Federal child support statutes.)

Effective date

Unless otherwise stated in the Appendix, the amendments made by this Act shall take effect on October 1, 1994.

IV. GUARANTEEING SOME LEVEL OF CHILD SUPPORT-CHILD SUPPORT ENFORCEMENT AND ASSURANCE DEMONSTRATIONS

Improving child support enforcement is absolutely essential if we are going to make it possible for people to move from welfare to work. Single parents cannot be expected to bear the entire financial burden of supporting their children alone. We have to do everything possible to ensure that the non-custodial parent also contributes to the support of his or her child. Still, there will be cases where the support from the non-custodial parent will not be available; for instance, in cases where the non-custodial parent has been laid off from a job or presently has very low income.

Child Support Enforcement and Assurance (CSEA) is a program that will provide a minimum insured child support payment to the custodial parent even when the noncustodial parent was unable to pay. With such a program, a combination of work and child support could support a family out of welfare and provide some real financial security. Unlike traditional welfare, Child Support Enforcement and Assurance will encourage work because it allows single parents to combine earnings with the child support payment without penalty. Also, according to some experts, Child Support Enforcement and Assurance will change the incentives for a mother to get an award in place and it will focus attention on the noncustodial parent as a source of support.

No State currently has a Child Support Enforcement and Assurance program, although the Child Assistance Program (CAP) in the New York State has some similar features. Many States have expressed an interest in trying a Child Support Enforcement and Assurance program, provided that some federal assistance and direction could be provided. Major questions surround such programs—costs, implementation strategies, anti-poverty effectiveness, the effect on AFDC participation, etc. And unless the State really does a good job in enforcement, there is a question about whether such a program lets the noncustodial parent off the hook for payment

State demonstrations will be used to try out Child Support Enforcement and Assurance with States being allowed some State flexibility to try different approaches. Evaluations of the demonstrations will be conducted and used to make recommendations for future policy directions.

(1) Congress will authorize and appropriate funds for three CSEA demonstration programs:

(a) Each demonstration will last seven to ten years. An interim report will be due four years after approval of the demonstration grant.

(b) The Secretary shall determine from the interim reports whether the programs should be extended beyond seven to ten years and whether additional State programs should be recommended, based on various factors that include the economic impact of CSEA on both the noncustodial and custodial parents, the rate of noncustodial parents' child support compliance in cases where CSEA has been received by the custodial parent, the impact of CSEA on work-force participation and AFDC participation, the anti-poverty effectiveness of CSEA, the effect on paternity establishment rates, and any other factors the Secretary may cite.

(c) As part of the demonstrations, some States will have the option of creating work programs so that noncustodial parents could work off the support if they have no income.

(d) The demonstration projects are based on a 90%/10% Federal/State match rate (the higher federal match applies only to administrative costs attributable to the program and that portion of the benefits that does not represent the reduction in AFDC due to receipt of the CSEA benefit.)

(e) The Secretary may terminate the demonstrations if the Secretary determines that the State conducting the demonstrations is not in substantial compliance with the terms of the approved application.

(f) The Secretary may approve both statewide demonstrations and demonstrations that are less than state-wide.

(g) The Secretary shall develop standards for evaluation including appropriate random assignment requirements.

(2) The child support assurance criteria for the State demonstration programs will require that:

(a) the CSEA program be administered by the State IV-D agency, or at State option, its department of revenue; in order to be eligible to participate in the CSEA program, States must ensure that their automated systems that include child support cases are fully able to meet the CSEA program's processing demands, timely distribute the CSEA benefit, and interface with an in-house (or have on-line access to a) central statewide registry of CSEA cases.

(b) States are provided flexibility in designing the benefit scales within the following parameters: benefit levels between $1,500 per year for one child and $3,000 per year for four or more children and benefit levels between $3,000 per year for one child and $4,500 per year for four or more children.

(c) CSEA basic benefit amounts are indexed to the adjusted Consumer Price Index.

(d) CSEA benefits are counted as private child support for the purpose of eligibility for other government programs;

(e) CSEA benefits are deducted dollar for dollar from an AFDC grant, except that in low benefit States, the Secretary shall have discretion to approve applications for programs with less than a dollar for dollar deduction. (Also, where CSEA removes someone from the AFDC grant, States may, at their option, continue eligibility for other related benefits that would have been provided under the AFDC grant.) If a State chooses it may supplement the CSEA basic benefit amount by paying the FMAP contribution of any supplement up to $25, and all of any supplement over $25.

(f) CSEA eligibility is limited to children who have paternity and support established. Waivers from this requirement may be granted only in cases of rape, incest, and danger of physical abuse.

(g) CSEA benefits are treated as income to the custodial parent for State and Federal tax purposes. At the end of the calendar year, the State will send each CSEA recipient a statement of the amount of CSEA provided and private child support paid during the calendar year. If the CSEA benefits exceed the support collected, the difference is taxable as ordinary income.

(h) money collected from the noncustodial parent be distributed first to pay current support, then CSEA arrearages, then family support arrearages (see distribution section of enforcement), then AFDC debts.

(i) in cases of joint and/or split custody, a person is eligible for CSEA if there is a support award that exceeds the minimum insured benefit or the court or agency setting the award certifies that the child support award will be below the minimum CSEA benefit if the guidelines for sole custody were applied to either parent.

V. ENHANCING RESPONSIBILITY AND OPPORTUNITY FOR NON-CUSTODIAL PARENTS

Access and Visitation Grants to States

Children need emotional and social support of both parents, as well as financial support. While it is necessary to clearly distinguish between obligations for financial support and other parent-child interactions, positive parent-child interactions may have an effect on support payment compliance as well as other aspects of child well-being. There is also evidence that many parents need help in understanding how to implement cooperative parenting after a divorce or separation occurs and that children are harmed by the continuation of hostile relationships between their parents. The Family Support Act of 1988 authorized Access demonstration to determine if such projects reduced the amount of time required to resolve access disputes, reduced litigation relating to access disputes, and improved compliance in the payment of support. These demonstrations are coming to a close and there is no provision for the on-going funding of additional projects.

This proposal will supplement State efforts to provide increased support for access and visitation projects which reinforce the need for children to have continued access to and visitation by both parents.

(1) Grants will be made to States for access and visitation related programs; including mediation (both voluntary and mandatory), counseling, education, development of parenting plans, visitation enforcement including monitoring, supervision and neutral drop off and pick up and development of guidelines for visitation and alternative custody arrangements.

(a) The Administration for Children and Families, Department of Health and Human Services will administer the program.

(b) States will be required to monitor and evaluate their programs; evaluation and reporting requirements will be determined by the Secretary;

(c) States may sub-grant or contract with courts, local public agencies or to private nonprofit agencies to carry out the approved grant work;

(d) Program(s) operating under the grant will not have to be state-wide;

(e) Funding will be authorized as a capped entitlement under section IV–D of the Social Security Act. State grantees will receive funding at the regular FFP program rate. Projects will be required to supplement rather than supplant State funds.

Training and Employment for Noncustodial Parents

[See JOBS/time-Limits and WORK Specifications]

Demonstration Grants for Paternity and Parenting Programs

[See Technical Assistance, Evaluation and Demonstrations Specifications]

EFFECTIVE DATES FOR IMPLEMENTING REFORMS

The following schedule assumes passage of Federal legislation before October 1, 1994. Legislation amending existing Federal statutes outside of Title IV–D of the Social Security Act is effective upon enactment unless stated otherwise. Legislation amending Federal responsibilities under Title IV–D is effective October 1, 1994.

Any State requirement that requires legislation to be effective within two years of the date of enactment of the Federal legislation should have an additional caveat: ". . . or, if the State legislature meets biennially, within three months after the close of its first regular session that begins after enactment of this bill."

Proposed requirement	Effective date
Paternity:	
New paternity measurement	Oct. 1, 1995.
FFP—paternity (see FFP phase in below)	Oct. 1, 1997.
Performance-based incentives	Oct. 1, 1996.
Federally approved State incentives/demos	Oct. 1, 1996.
State/health care provider information	Oct. 1, 1996.
Simplified paternity procedures	Oct. 1, 1995.
State outreach requirements	Oct. 1, 1996.
Enhanced FFP (90 percent) for paternity outreach.	Oct. 1, 1995.
Cooperation and good cause requirements	10 months after enactment.
Accredition of genetic testing labs:	
Fed regulations	Oct. 1, 1995.
Effective for 1st new State contract	Oct. 1, 1995.
Administrative authority for establishment	Oct. 1, 1997.
National commission on child support guidelines:	
Authorized	Oct. 1, 1994.
Named by	March 1, 1995.
Report due	July 1, 1997.
Review and adjustment for cases	Oct. 1, 2000.
Distribution changes:	
New priority/multiple orders	Oct. 1, 1997.
Treatment of child support in AFDC cases.	Oct. 1, 1995.
Tax offset-returns filed	After Jan. 1, 1996.
Central State registry:	
Automated requirements tied to current FSA/OCSE requirements.	Oct. 1, 1995.
Other requirements	Oct. 1, 1997.
Central payment center:	
Centralized collection/distribution start up.	Oct. 1, 1997.
Statewide distribution	Oct. 1, 1998.
Administrative action to change payee	Oct. 1, 1995.
National child support registry:	
Funding	Oct. 1, 1994.
On-line/fully operational	Oct. 1, 1997.
National directory of new hires:	
Funding	Oct. 1, 1995.
On-line for all States	Jan. 1, 1997.
Universal ER reporting requirements	Jan. 1, 1997.
Feasibility study (STAWRS, SSA, AHSA):	
Funded	Oct. 1, 1994.
Let	Dec. 1, 1994.
Due	June 1, 1995.
HHS/IRS decision	Aug. 1, 1995.
Expanded FPLS:	
Funding	Oct. 1, 1994.
On-line/fully operational	Oct. 1, 1997.
Union Hall cooperation—State laws	Oct. 1, 1995.
Studies—Locate and credit reporting agencies:	
Funded	Oct. 1, 1995.
Let	Dec. 1, 1995.
Due	Dec. 1, 1996.
IRS data (IRS and State changes)	Oct. 1, 1995.
IRS tax offset—Effective for returns	After Jan. 1, 1996.
IRS full collection:	
Nonautomated changes	Oct. 1, 1995.
Automated funding	Oct. 1, 1994.
Automated IRS implementation	Oct. 1, 1995.
Interstate enforcement:	
UIFSA (legis. flexible until 1/1/96)	Oct. 1, 1995.
Federal request for information	Oct. 1, 1995.
OCSE distributes form nationwide force effective.	Oct. 1, 1995.
Other State laws	Oct. 1, 1995.
Other enforcement measures:	
State enforcement law changes	Oct. 1, 1995.
Exception: liens and immediate wage withholding in all non-IV–D cases.	Oct. 1, 1997.
Privacy protections:	
Federal regulations	Oct. 1, 1995.
State implementation	Oct. 1, 1996.
Federal financial participation:	
66 to 69 percent	Oct. 1, 1995.
70 to 72 percent	Oct. 1, 1996.
73 to 75 percent	Oct. 1, 1997.
Incentives: Federal reg promulgation	Oct. 1, 1995.
Paternity standard	Oct. 1, 1997.
Overall performance	Oct. 1, 1997.
Enhanced (80 percent) ADP system enhancement:	
Start up	Oct. 1, 1994.
Sunsets	Oct. 1, 1999.
State/Federal maintenance of effort	Oct. 1, 1997.
Revolving loan fund	Oct. 1, 1995.
Training/technical assistance:	
OCSE begins its efforts	Oct. 1, 1994.
Audit and technical assistance:	
Technical assistance funding	Oct. 1, 1994.
Federal audit regulations	Oct. 1, 1995.
State-based audit requirements	Oct. 1, 1996.
Staffing studies funded	Oct. 1, 1994.
Studies completed	Oct. 1, 1996.
Outreach:	
States begin to meet goals	Oct. 1, 1995.
OCSE requirements/funding	Oct. 1, 1995.
Customer Accountability:	
Fair hearings:	
Federal regulations	Oct. 1, 1995.
State implementation	Oct. 1, 1996.
Child support enforcement and assurance (CSEA) demonstrations:	
Fed/State funding for CSEA	Oct. 1, 1995.
State interim reports	Jan. 1, 1999.
State final reports	Oct. 1, 2002–5.
Federal reports to Congress	Apr. 1, 2005.
Federal administrative funding	Oct. 1, 1994.
Federal regulations	Oct. 1, 1995.

IMPROVING GOVERNMENT ASSISTANCE [TITLE VII, TITLE VII]

A. RATIONALIZATION AND SIMPLIFICATION ACROSS ASSISTANCE PROGRAMS

The rationalization and simplification of assistance programs is something of the holy grail of welfare reform—always sought, never realized. The reasons are many: different goals of different programs, varied constituencies, Department differences, divergent Congressional committee jurisdictions, and the inevitable creation of winners and losers from changing the status quo. Yet everyone agrees that recipients, administrators, and taxpayers are all losers from the current complexity. Below are several proposals for reform. The proposals do not make substantial changes in program structures. Rather, the proposals achieve simplification by streamlining administrative processes and by conforming program rules between the AFDC and Food Stamp programs. The proposals modify existing rules that create unnecessary complexity and confusion for program administrators and recipients. The proposal also supports the expansion of Electronic Benefits Transfer (EBT) programs for delivering Federal and State government benefits. Nationwide expansion was recommended by the Vice President's National Performance Review as a means of reducing fraud, streamlining benefit delivery, and saving taxpayers money. No legislative or regulatory provisions are included in the welfare reform proposal specific to the EBT expansion, although the two initiatives are complementary in their commitment to improve government assistance.

1. Resources

(A) General

Current law

The Social Security Act and implementing regulations set a $1,000 limit (or a lower limit at State option) on the equity value of resources that a family may have and be eligible for AFDC. Excluded from consideration as countable resources are the home owned and occupied by the family; an automobile with a maximum equity value of $1,500 (or a lower limit at State option); bona fide funeral agreements with a maximum equity value of $1,500 for each family member (or lower limit set by the State); one burial plot for each family member; and real property for a period of 6 consecutive months (or 9 consecutive months at State option) which the family is making a good faith effort to sell. Under certain conditions, States may establish rules regarding transfer of resources in order to obtain or retain eligibility.

The Food Stamp Act and implementing regulations set a $2,000 limit (or $3,000 for a household with a member age 60 or over) on the value of resources a household may have and participate in the program. The Act does not specify how the value of resources is to be determined, but provides for uniform national eligibility standards for income and resources. State agencies are prohibited from imposing any other standards of eligibility. Households in which each member receives AFDC, SSI, or general assistance from certain programs do not have to pass the food stamp resource eligibility test. Regulations exclude from resources the value of one burial plot per family member and the cash value of life insurance policies. Also excluded is real property which the household is making a good faith effort to sell at a reasonable price and which has not been sold. There is no specific exclusion for burial plans (funeral agreements). Any amount that can be withdrawn from a funeral contract without an obligation to repay is counted as a resource.

Food Stamp law prohibits the transfer of resources within the 3-month period prior to application. A household that knowingly transfers resources for the purposes of qualifying or attempting to qualify for food stamps shall be ineligible to participate in the program for a period of up to one year from the date of discovery of the transfer.

Vision

Both the AFDC and Food Stamps programs serve similar needy populations. Yet, because the rules for treatment of both the amounts and categories of resources are different in each program, resources that meet one program's requirement can result in ineligibility under the other. Both programs have substantially different rules for evaluating the resources of that needy group, forcing welfare administrators to apply different program rules to the same resources in the same family. The following legislative proposal would reduce the current administrative complexity and confusion for welfare administrators and recipients by providing uniform treatment of assets where appropriate.

Specifications

Require the Secretaries in both Departments to develop uniform resource exclusion policies in the following areas, by October 1, 1996:

(a) Resource Limits: Increase the AFDC resource limit to $2,000 (or $3,000 for a household with a member age 60 or over) to conform to the Food Stamp resource limit.

(b) The Secretary of HHS shall specify in regulations the valuation of an automobile.

(c) Resource Exclusions:

(i) Real Property: Propose legislation to amend the Social Security Act to exclude real property which the AFDC family is making a good faith effort to sell at a reasonable price and which has not been sold, to conform to the Food Stamp policy.

(ii) Cash Surrender Value of Life Insurance Policies: Propose legislation to amend the Social Security Act to totally exclude the cash surrender value of life insurance policies under the AFDC program to conform to the Food Stamp policy.

(iii) Transfer of Resources: Propose legislation to provide that a household that knowingly transfers resources for the purposes of qualifying or attempting to qualify for AFDC shall be ineligible for benefits for a period of up to one year from the date of discovery of the transfer. This proposal conforms to the Food Stamp policy.

Rationale

The administrative complexity that exists in applying certain resource requirements in the AFDC and Food Stamp programs will be greatly reduced under the proposed changes. Welfare administrators will be able to apply the same rules to the same resources for the same family. These conforming changes achieve simplification by streamlining the administrative processes in both programs.

(B) Asset Accumulation—Individual Development Accounts

Current Law

The Social Security Act and implementing regulations set a $1,000 limit (or a lower limit at State option) on the equity value of resources that a family may have and be eligible for AFDC, with only limited exclusions.

The Food Stamp Act and implementing regulations set a $2,000 limit (or $3,000 for a household with a member age 60 or over) on the value of resources a household may have and participate in the Program. Section 13925 of Pub. L. 103–66 of the Omnibus Budget Reconciliation Act provides that the Secretary of Agriculture shall conduct, for a period not to exceed 4 years, projects to test allowing not more than 11,000 households nationwide to accumulate up to $10,000 each in excluded resources. These assets are for later expenditures for a purpose directly related to improving the education, training or employability (including self-employment) of household members, for the purchase of a home for the household, for a change in the household's residence, or for making major repairs to the household's home.

Vision

Welfare reform should include strategies to test the notion that one way out of welfare for some people is through empowering them to start their own businesses and encouraging them to save their earnings to build for the future. During the campaign, the President endorsed the idea of helping welfare recipients help themselves by proposing to increase the number of microenterprises and establish Individual Development Accounts (IDAs). These legislative proposals would promote self-sufficiency by encouraging recipients to accumulate savings, assets and start their own businesses.

An IDA is an optional earnings-bearing, tax-benefitted trust account in the name of one person. An IDA would be held in a licensed, federally-insured financial institution. Withdrawals can be made from the account only for qualified purposes, which include: first home purchase, post-secondary education (college/long-term training), or business development (microenterprises). There would be penalties for non-designated use of the account. Participant eligibility would be determined by the State agency using Federal guidelines. Monies placed into an IDA account by an AFDC and Food Stamp recipient would be disregarded for purposes of determining resource limits, up to $10,000. All income placed into an IDA would be tax deferred. An individual would retain the IDA after leaving welfare, but would still be required to use the resources for specified purposes or would face penalties.

The tax laws will be amended to allow for the establishment of IDAs; DHHS and USDA regulations will set the limit at $10,000; subsidized IDAs will be established on a demonstration basis; unsubsidized IDAs will also be permitted for qualified individuals not involved in a demonstration. Current recipients (and applicants with established IDAs) for both the AFDC and Food Stamp programs can establish IDAs and have their savings and interest excluded. States, at their option, could pursue this approach to promoting self-sufficiency.

Specifications

1. National Unsubsidized IDA Program

(a) At State option, allow IDAs to be established by Federally insured financial institutions to be used exclusively to pay for post-secondary education or training expenses, first-home purchases, or business capitalization where there is a qualified plan. Effective October 1, 1996.

(b) Recipients of Food Stamps and AFDC are eligible for participation in the IDA program. Individuals otherwise eligible for the Earned Income Tax Credit shall be permitted to establish IDAs, but some restrictions apply (specifically see provision (iv) below).

(i) Annual contributions shall not exceed the lesser of $1,000 or 100% of all income, excluding public assistance, with a total account limit of $10,000 per family.

(ii) The total amount in an IDA shall not exceed $10,000.

(iii) If the accounts are established while a family is on AFDC or Food Stamps, the IDA account balance will not count against a family's resource limits. Families who leave the rolls after opening an account can continue the account. If the family re-applies for AFDC or Food Stamps at a later date, their IDA savings and interest, up to $10,000, are excluded.

(iv) If an IDA-eligible individual establishes an IDA while not receiving AFDC or Food Stamps (for example, upon receiving an EITC payment under the subsidized IDA demonstration) and subsequently applies for assistance to either program, the amount in the IDA shall be applied against the resource limits for purposes of determining eligibility.

(c) The penalty for a withdrawal from an unsubsidized IDA for purposes other than those specified will be 10 percent of the amount withdrawn that is includable in income.

2. Subsidized Individual Development Account (IDA) Demonstration

(a) Amend the tax laws to allow States, localities, and community development financial institutions to apply to receive grants to operate 6-year IDA demonstration projects. Project grants will be awarded by the Community Development Bank and Financial Institutions Fund on a competitive basis and must be renewed annually. Authorized levels are $10 million in fiscal year 1997 and 2002 and $20 million for fiscal years 1998–2001. Effective October 1, 1996.

(i) $500 in initial financial assistance will be placed into accounts established for project participants who establish IDAs so banks are willing to set up the accounts. In addition, participant contributions may be subsidized in amounts ranging from $.50 to $4 for each $1 deposited, not to exceed $2,500. Total individual IDA amounts may not exceed $10,000.

(ii) Eligible participants are households with: at least one member eligible for EITC, an adjusted gross income not in excess of $18,000, and a net worth not in excess of $20,000.

(iii) Grantees will maintain a reserve fund to be spent on assisting participants in achieving self-sufficiency, administering the project, and to collect evaluation information.

(iv) Grantees must submit annual reports on the progress of their project.

(v) The Fund will contract for an independent evaluation of individual demonstration projects describing project features, assessing levels of self-sufficiency and benefit reduction achieved, levels of assets accumulated, and their effects.

(vi) The penalty for a non-designated withdrawal from a subsidized IDA will be the total amount of the subsidy and 10 percent of the individual's contribution of the amount withdrawn.

3. Self-Employment/Microenterprise Demonstration

(a) Through a memorandum of understanding, HHS and SBA will jointly develop and administer a minimum 5-year, self-employment/microenterprise demonstration program. Consultation with Agriculture, HUD and Labor is also required. Participants must be persons with incomes below 130 percent of poverty or persons participating in JOBS, WORK or AFDC-only, with the percentage of welfare recipients to be established by the agencies. Local intermediaries (organizations or consortium of organizations) will apply to enter into agreements to demonstrate the program. Authorized amounts shall be $4 million for fiscal years 97 and 02 and $8 million for fiscal years 1998–2001. Effective October 1, 1996.

(i) HHS and SBA, in consultation with public and private organizations, will identify promising program models currently used to provide self-employment and related services to low-income individuals and design a demonstration to evaluate, using a randomized experimental design, at least two types of models with contrasting levels of technical assistance. The agencies may fund up to five other projects with designs that do not lend themselves to a randomized experiment.

(ii) HHS and SBA may provide technical assistance, grants, loan guarantees and loans to intermediaries.

(iii) In selecting intermediaries, SBA and HHS will take into consideration the applicant's record of success, program design, capacity and other criteria.

(iv) Intermediaries must have contracts with the local JOBS agency such that JOBS and WORK program funds will be used to provide supportive services including training and technical assistance for participants who are welfare recipients.

(v) Preliminary and final effectiveness evaluation reports together with recommendations must be submitted to the President and Congress. A report on barriers is also required. The evaluation study shall take into consideration increase in self-sufficiency, reduced costs of public support, number of businesses and jobs created, cost-effectiveness, and program effectiveness. Early and regular feedback to the participating intermediaries is also specified.

4. Other Legislative Changes

(a) The Social Security Act and the Food Stamp Act will be amended, as appropriate, to comport with the changes in the tax laws. In addition, will be drafted to include the following provisions:

(i) Lump sum income: Non-recurring lump sum income will not be counted for resource purposes in the month of receipt or the following month if put in an IDA.

(ii) The total exclusion for an AFDC assistance unit or Food Stamp household is $10,000.

Rationale

IDA's and other set-asides provide welfare recipients the opportunity to be entrepreneurs in the private sector and accumulate savings for specific purposes. This approach promotes self-sufficiency by empowering them to start their own businesses and encouraging them to save money they earn to build for their future. Additionally, the money saved in IDAs might be used by participants for educational and training purposes, thus saving local program resources.

(C) Microenterprise (Self-Employment)

Current law

Resource Exclusions

Under Federal AFDC policy, except for real property, States may disregard for AFDC purposes income-producing property (as defined by the State) of self-employed individuals. States may also disregard income-producing property owned by a recipient who is not currently employed, but who the State reasonably expects to return to work. Federal regulations as 45 CFR 233.30(a)(3)(xxi) require that States disregard, for AFDC purposes, bona fide loans from any source for any purpose that meet the criteria set out in the State Plan.

Section 5(g)(2) of the Food Stamp Act and implementing regulations at 7 CFR 273.8(e)(4), (5), (6), (9), (15) and (16) exclude "property which annually produces income consistent with its fair market value; property which is essential to the self-employment of a household member; installment contracts for the sale of lands and buildings, if the contract . . . is producing income consistent with fair market value; resources . . . of . . . self-employed persons, which has been prorated as income;" non-liquid assets with liens resulting from business loans; and real or personal property that is needed for maintenance of certain vehicles.

Specifications

(a) Amend the Social Security and Food Stamp Acts to give the respective Secretaries the authority to specify in regulations exclusions necessary for self-employment. Require that these regulations be prepared jointly and demonstrate consistency between the two programs.

(b) Amend the Food Stamp Act to exclude business loans from resources.

Rationale

Current AFDC policy does not permit funds necessary for the operation of a microenterprise to be excluded separately from the general $1,000 resource limit. This restriction discourages recipients from establishing small businesses. By expanding the microenterprise resource exclusions, microenterprise owners will be able to set aside sufficient liquid resources to operate the business.

2. Income issues

Vision

Federal laws or rules frequently disregard a part or the total income of applicants and recipients in determining eligibility and benefits for assistance programs. Often, the same income is treated differently in the AFDC and Food Stamp programs. Such differences are incomprehensible to recipients and difficult to administer.

Our goal is to adopt uniform equitable income disregard policies for the AFDC and Food Stamp programs which are easy to understand, simple to administer and promote work and education.

1. Treatment of Lump Sum Income

Current law

Under Section 402(a)(17) of the Social Security Act, non-recurring lump sum income is considered to be available to meet an AFDC family's current and future needs. If the assistance unit's countable income, because of receipt of lump sum income, exceeds the applicable State need standard, the unit is ineligible for a period determined by dividing the total countable income (including the lump sum) by the need standard.

The Food Stamp Act, at 5(d)(8), excludes from income non-recurring lump sum payments. Such amounts, if not spent in the month received, are treated as resources.

Specifications

For applicants and recipients:

(a) Amend section 402(a)(17) of the Social Security Act (SSA) to exclude non-recurring lump sum payments from income.

(b) Amend both the SSA and FSA to disregard as resources, for one year from the date of receipt, non-recurring lump sum payments that are reimbursements or advanced payments.

(c) Amend both the SSA and the Food Stamp Act (FSA) to disregard the amount of any Federal or State EITC lump sum payments as resources for one year from receipt.

Rationale

Lump sum payments are treated completely differently in the two programs. Considerable simplification for both the clients and workers can be achieved if the policies are consistent. Also, current AFDC policy can result in hardship for families since they are supposed to conserve the payments to meet future living expenses rather than to cover debts and other costs.

2. Treatment of Educational Assistance

Current law

Several laws address the treatment of educational assistance for AFDC. Any educational assistance provided under programs in title IV of the Higher Education Act or the Bureau of Indian Affairs must be disregarded (P.L. 102-325, sec. 479B). A State must disregard payments made for attendance costs under the Carl D. Perkins Vocational and Applied Technology Education Act (P.L. 101-392, sec. 507(a). Under AFDC rules, the State must disregard educational loans and grants that are obtained and used for direct educational expenses, such as tuition and books (233.20(a)(3)(iv)(B). (Any of the educational assistance covering items in the State's need standard is counted as income.) Also, States may disregard all educational assistance as complementary assistance that is for a different purpose than AFDC (233.20(a)(3)(vii)(a)).

Portions of income received under the Job Training Partnership Act and the Higher Education Act are disregarded in the Food Stamp program. By regulation, such educational assistance provided on behalf of the household for living expenses, food, or clothing to the extent that the funds exceed the costs of tuition and mandatory fees are counted as income. (7 CFR 273.9(c)(1)(v); 273(c)(3); 273(c)(4); 273.9(c)(5)(i)(D); and 373.9((c)(10)(xi).

Specifications

(a) Amend the Social Security Act and Food Stamp Act to totally disregard all educational assistance received by applicants and recipients.

3. Earnings of Students

Current law

For a dependent child receiving AFDC, the earned income of a full-time or part-time student (not employed full-time) attending a school, college, or university, or a course of vocational or technical training designed to fit him for gainful employment is disregarded (402(a)(8)(A) of the Social Security Act). At State option, the earned income of a dependent child applying for AFDC may also generally be disregarded. The earnings of minor parents attending school are not excluded.

Effective September, 1994, the Food Stamp program will exclude the earnings of elementary or high school students age 21 and under (FSA 5(d)(5); 7 CFR 273.9(c)(7).

Specifications

(a) Amend the Social Security and Food Stamp Acts to conform Food Stamps to AFDC policy and limit the disregards to elementary and secondary students up to age 19.

4. Irregular Income

Current law

No statutory provisions address irregular income for AFDC. Rules permit States to disregard small, nonrecurring gifts not to exceed $30 per individual per quarter (233.20(a)(3)(iv)(F).

The Food Stamp Act (Sec. 5(d)(2)) requires the exclusion of income of $30 or less in a quarter per household received too infrequently or irregularly to be anticipated. The exclusion does not apply under retrospective budgeting.

Specifications

(a) Amend the Food Stamp Act to conform to AFDC rules to exclude inconsequential income not in excess $30 per individual per quarter.

5. Treatment of JTPA Income

Current Law

For AFDC, the income of a dependent child which is derived from participation in a JTPA program may be disregarded. Earned income may be disregard for a period up to six months per calendar year. Unearned income may be disregarded indefinitely (section 402(a)(8)(A)(v) of the SSA).

Under Food Stamps, training allowances from vocational and rehabilitation programs and JTPA earnings are excluded, except income from on-the-job training programs under section 204(5) of title II. All OJT income of individuals under age 19 and under parental control is excluded. (7 CFR 273.9(b)(1)(iii) and (v); 273.9(c)(10)(v)

Specifications

(a) Amend the Social Security and the Food Stamp Acts to disregard as income all training stipends and allowances received by a child or adult from any program, including JTPA.

(b) Eliminate targeted earned income disregards so that the earned income from any on-the-job training programs or from a job will be counted after the general earned income disregards are deducted.

6. Supplemental Payments

Current Law

Section 402(a)(28) of the Social Security Act requires those States that deduct income from the need rather than the payment standard (fill-the-gap) now and in July of 1975 to provide a supplemental payment to families who have less disposable income because child support is paid to the child support agency instead of directly to the family.

Food Stamps—No such provision exists in the Food Stamp program.

Specifications

(a) Amend the Social Security Act to remove this provision.

7. Treatment of In-kind Income

Current Law

AFDC rules require earned in-kind income to be counted. As a matter of policy, States may disregard any unearned in-kind income. If the State elects to count unearned in-kind income, the amount counted is limited to the value of the item in the State's need standard.

Under Food Stamps, in-kind benefits such as food, clothing, housing, produce are excluded. (FSA 5(d)(1); 7 CFR 273.9(c)(1)).

Specifications

(a) Amend the Social Security Act to require States to disregard both earned and unearned in-kind income.

8. Treatment of National and Community Service Act Benefits

Current Law

No statutory provision excludes, for purposes of the AFDC program, allowances, stipends and educational awards received by participants in a National Service program established under the National and Community Service Act of 1990, as amended by the National and Community Service Trust Act of 1993.

The Food Stamp program will exclude from income National Service program benefits. The National and Community Service Act, as amended, specifies that the exclusion in section 142(b) of the Job Training Partnership Act (JTPA) applies to National Service program benefits. Section 142(b) of the JTPA provides that payments will not be considered as income for purposes of income transfer and in-kind aid furnished under any Federal or federally assisted program based on need, other than Social Security Act programs.

Specifications

(a) Amend section 402(a)(8)(A) of the Social Security Act to disregard from the income of a family allowances, stipends and educational awards received by volunteers participating in a National Service Program under the National and Community Service Act of 1990, as amended by the National and Community Service Trust Act of 1993.

3. Filing unit

Under current law, the AFDC filing unit must consist of a needy deprived child, its natural or adoptive parent(s), and all natural and adoptive brothers and sisters (including half brothers and sisters) who are living together. The unit's income and resources are used to determine eligibility and the amount of payment. A stepparent is treated the same as a natural or adoptive parent for filing unit purposes in seven States (Nebraska, New Hampshire, Oregon, South Dakota, Utah, Vermont, and Washington). These States have laws of general applicability which hold the stepparent responsible for the children to the same extent as a natural or adoptive parent. In all other States, the stepparent's needs are not included in the unit and his/her income, after certain disregards, are considered available to the unit members.

If there is no parent in the home, then another non-legally responsible relative with whom the child is living may, at his/her option, join the unit and be assisted. Additionally, States may exercise the option of including other individual(s) living in the home as an essential person(s). The essential person's income and resources are used to determine eligibility and amount of payment.

Certain parents and siblings are excluded from the unit: illegal and sponsored aliens, recipients of SSI, foster children, and individuals ineligible due to lump sum income.

1. UP Provisions

Current Law

The Social Security Act at section 407(a) and 407(b) limits AFDC eligibility for two-parent families to those where the principal wage earner is unemployed, and has worked six of the last 13 quarters. "Unemployed" is defined in regulations as working less than 100 hours in a month.

Specifications

(a) Allow States, at their option, to modify, reduce, or eliminate any of the special eligibility requirements for two-parent families (e.g., the 100-hour rule, 30 day unemployment requirements, the work history test, etc.) for both applicants and/or recipients. For States that elect to maintain a 100 hour rule (or a modified hour rule), WORK program participation would not count towards this rule.

(b) Remove the sunset provision that allows for the termination of AFDC-UP in 1998 and make it a permanent program.

(c) The effective date for the above provisions shall be October 1, 1996.

Rationale

Some of the arguments for removing the additional eligibility requirements are that eliminating them would:

Remove the AFDC marriage penalty in which single-parent families have easier access to benefits than married couples;

Improve horizontal equity by treating disadvantaged children the same irrespective of whether they live with one or two parents;

Encourage work, as the current rule limiting labor market attachment would be incongruous in a new transitional welfare program that emphasizes work; and,

Also enhance the simplicity of the system.

Finally, a number of States have sought waivers in this area.

2. Essential Person Provision

Current Law

The Social Security Act at section 402(a)(7) and the implementing regulation at 45 CFR 233.20(a)(2)(vi) permit States, at their option, to include in the AFDC grant benefits for essential persons. Such individuals are not eligible for AFDC in their own right, but their needs are taken into account in determining the benefits payable to the AFDC family because they are considered essential to the well-being of an AFDC recipient in the family. Twenty-two States currently include the option as part of their respective State plans.

(a) Limit the kinds of individuals that a State may identify as essential to individuals providing at least one of the following benefits or services to the AFDC family:

(1) child care which enables a caretaker relative to work full or part-time outside the home;

(2) care for an incapacitated AFDC family member in the home;

(3) child care that enables a caretaker relative to attend high school or GED classes on a full or part-time basis;

(4) child care that enables a caretaker relative to participate in JOBS; and

(5) child care that enables a caretaker relative to receive training on a full or part-time basis.

Rationale

The Social Security Amendments of 1967 provided a specific statutory base for an essential person policy. This policy has two aspects. First, States are permitted to specify those individuals who can be considered essential; second, States must permit the AFDC family to have the final decision as to whether such individuals are in fact essential. Under this policy, States are not required to identify the benefits or services that these essential persons must provide.

In 1989, this policy became contentious. Based in part on an OIG review of certain State practices the Family Support Administration published final regulations which limited State authority to determine categories of individuals who could be considered as essential to the family. These regulations precluded States from covering individuals who did not provide an essential benefit or service to the family. (The permissible categories are the five shown in option 2 above.) However, in 1990 the district court for the Eastern District of Pennsylvania in *Vance v. Sullivan* and the district court for the District of Maine in *McKenney v. Sullivan* held that these regulatory limitations conflict with section 402(a)(7)(A) of the Social Security Act. The courts interpreted this section as providing States with the authority to identify in their State plans the categories of individuals who may be recognized as essential persons. These judicial decisions were not appealed. Consequently, the Department revoked the 1989 regulations and reinstated the prior policy. In order to rationalize the use of the essential person policy, a statutory amendment to section 402(a)(7)(A) is necessary.

3. Stepparent Deeming

Current Law

Section 402(a)(31) of the Social Security Act requires that the income of an AFDC dependent child's stepparent who lives in the same home as the child is counted in the monthly determination of eligibility and the amount of assistance. The statute also requires that the following disregards will be applied in determining the amount of the stepparent's countable income:

The first $90 of the stepparent's gross earned income;

An additional amount for the support of the stepparent and other individuals who live in the home, who are not in the assistance unit, and who the stepparent claims as dependents for Federal income tax purposes. This disregard must equal the State's need standard amount for a family group of the same composition as the stepparent and the other individuals not in the assistance unit;

Alimony and child support payments to individuals not living in the household, and

Amounts actually paid by the stepparent to individuals not living in the home but who he or she claims as dependents for Federal income tax purposes.

Specification

(a) Amend the Social Security Act to give States the flexibility to increase the amount of the stepparent disregards. This provision shall be effective October 1, 1995.

Rationale

Allowing the disregards to be increased provides incentives for AFDC recipients to marry to improve the stability of the family, and provides an incentive for stepparents to increase their earnings.

4. Optional retrospective budgeting

Current Law

For the AFDC program, the Social Security Act permits States to use retrospective budgeting only for the categories of families required to monthly report. The Food Stamp Act permits States to retrospectively budget cases that are not required to monthly report.

Specifications

(a) Amend the Social Security Act at section 402(a)(13) to delete the clause "but only with respect to any one or more categories of families required to report monthly to the State agency pursuant to paragraph (14),". This technical amendment will make retrospective budgeting optional for States without regard to whether families are required to monthly report.

Rationale

Allowing States to use retrospective budgeting without requiring cases to monthly report will foster consistency between the AFDC and Food Stamp programs, and will give States greater flexibility to administer their programs.

5. Miscellaneous administrative provisions

1. Underpayments

Current Law and Policy

Section 402(a)(22) of the Social Security Act requires State agencies to promptly take all necessary steps to correct any underpayment. Regulations at 45 CFR 233.20(a)(13) limit the issuance of underpayments (both agency and client caused) to current recipients and former recipients who would be currently eligible if the error causing the underpayment had not occurred. As a result of litigation, program policy also permits States to issue underpayments to former recipients who would no longer be currently eligible. The amount of the underpayment is not limited by the number of eligible months covered.

Section 11(e)(11) of the Food Stamp Act provides that benefits are to be restored to a household requesting them if the benefits have been "wrongfully denied or terminated." The period for which benefits are restored is limited to one year prior to the date the State agency either receives a request for restoration from the household or otherwise learns that a loss to the household occurred. The Food Stamp rule (7 CFR 273.17) also prohibits the State agency from restoring benefits for a period longer than 12 months. The rule requires that benefits be restored even if the household is currently ineligible.

Vision

To provide clients with a rational and consistent policy in the processing of underpayments.

Specifications

(a) Amend section 402(a)(22) of the Social Security Act to conform to Food Stamp law by requiring the issuance of agency caused underpayments to current and former recipients for a period not in excess of 12 months from the date that the agency learns about the underpayment.

Rationale

Since clients are responsible for reporting changes in circumstances that affect eligibility and benefits, a 12-month limit on restoring lost benefits due to agency error reinforces positive behavior. The change also achieves consistency between the AFDC and Food Stamp underpayment policies.

2. Recovery of Overpayments Through Federal Tax Intercept

Current Law

Section 402(a)(22) of the Social Security Act requires, as a condition for aid and services to needy families with children, a State plan which must provide that a State agency will promptly take all necessary steps to correct any overpayment to any individual who is no longer receiving aid under the plan. Recovery shall be made by appropriate action under State law against the income or resources of the individual or the family.

Vision

To allow State agencies to recover AFDC program overpayments through the use of a tax intercept program in coordination with the IRS. A 50% match rate to cover administrative costs will be provided.

Specifications

(a) Amend section 402(a)(22)(b) of the Social Security Act to permit State agencies to coordinate with the IRS to intercept Federal Income Tax Returns for the collection of outstanding AFDC overpayments, provided they pursue other means of collection under State law prior to using the Federal Tax intercept program. The tax intercept recovery method would only be used to recover overpayments made to individuals who are no longer receiving aid under the plan.

(b) The administrative costs would have a 50% Federal match rate for State expenses.

Rationale

Currently States have the authority to intercept State tax refunds but are unable to do so if the overpaid individual moves to another State. A Federal system would allow States to collect from individuals, regardless of their State of residence. FNS has been running an IRS tax intercept program as a demonstration project since 1992. The program has proved to be very effective in collecting outstanding overpayments, so much so that FNS has expanded the demonstration every year to include more States. A 50% match for administrative costs supports the Administration's philosophy that the administration of the AFDC program should be an equal Federal/State partnership.

3. Administrative cost structuring for certain social services

Current Law

Section 402(a)(15) of the Social Security Act provides for certain services to be offered and provided promptly (directly or under arrangements with others) to all individuals voluntarily requesting such services. Services will be voluntary and shall not prerequisite to eligibility. This is to be provided to each appropriate relative and dependent child receiving aid and for each appropriate individual (living in the same home as a relative and child receiving aid) whose needs are taken into account in making the eligibility determination.

Vision

Section 403(a)(3) indicates that administrative costs of such services are not matched at 50 percent if the State includes family planning under their Title XX Social Services Block Grant Program. This policy would be amended to allow for administrative matching for counseling and referral activities only.

Specifications

(a) Change Section 403(a)(3), to allow a 50 percent match for counseling and referral activities if they are provided under Title XX.

4. Declaration of citizenship and alienage

Current Law

Section 1137(d) of the Act requires, as a condition of eligibility for assistance, a declaration in writing by the individual (or, in the case of an individual who is a child, by another on his/her behalf) under penalty of perjury, stating whether or not the individual is a citizen or national of the United States, and, if such individual is not a citizen or national of the United States, whether he/she is in a satisfactory immigration status.

Vision

To bring the AFDC program into alignment with Food Stamps by allowing one adult member of an applicant assistance unit to sign the declaration of citizenship or alien status for all members of the unit.

Specifications

(a) Amend the Social Security Act by revising section 1137(d)(1)(A) as follows:

(1)(A) The State shall require, as a condition of an individual's eligibility for benefits under any program listed in subsection (b), a declaration in writing by the individual (or, in the case of an individual who is a child or a second parent in a two-parent unit, by another on the individual's behalf), under penalty of perjury, stating whether or not the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is in satisfactory immigration status.

Rationale

The current requirement is administratively burdensome as it requires each adult in the AFDC unit to sign a separate declaration. This proposal will allow the adult payee or principal earner in an assistance unit to declare on behalf of his/her second parent and children, thereby simplifying the application and redetermination process. This proposal would also provide consistency with Food Stamps.

6. Territories

Current Law

Section 1108 of the Social Security Act permits the territories (i.e., Guam, Puerto Rico, and the Virgin Islands) to operate the AABD and AFDC programs; American Samoa is only authorized to operate an AFDC program. Funding for Child Care and Transitional Child Care is provided for under the JOBS limit of entitlement. If the territory elects to operate these programs, it must also have an title IV-E or Foster Care program. The territory must adhere to the same eligibility and payment requirements as the States. The Federal government matches 75 percent of costs; however, funding for the territories is capped. The caps are $82 million for Puerto Rico, $3.8 million for Guam, and $2.8 million for the Virgin Islands. Between 1979 and the present, the caps were increased once, by roughly 13 percent.

Vision

To create realistic funding levels for the territories that are reflective of the current economy and caseload. A mechanism that will provide occasional adjustments in funding levels will be developed to replace the current burdensome method of petitioning Congress for adjustments. Additionally, Territories will have the option to operate a time-limited system and a WORK program (see specifications under JOBS, TIME LIMITS, AND WORK SECTION) but will not be required to do so.

Specifications

(a) Continue to require the territories to operate the AABD, AFDC (including JOBS supportive services) and Foster Care programs. Amend section 1108 of the Social Security Act to increase the caps by an additional 25 percent and create a mechanism for indexing. The effective date shall be October 1, 1996.

(b) At-Risk child care will not be applied against the cap.

(c) The territories would not be required to operate AFDC-UP programs (effective upon enactment of this act).

(d) The cap shall be adjusted regularly, according to changes in the CPI.

Rationale

The number of public assistance programs funded under the current caps, coupled with only one adjustment to these caps in 15 years, has seriously limited the territories' abilities to provide, let alone increase benefits. Benefit payments above the cap are financed 100 percent by the territories, resulting in situations such as Guam's where the Federal share is roughly 40 percent. Puerto Rico reports that, since 1987, AFDC caseloads have nearly doubled from 98,000 units to 183,000 units. Further, beginning October, 1994, Puerto Rico will be required to extend eligibility to two-parent families. Puerto Rico estimates that an additional 40,000 families will be eligible for AFDC due to this provision. If match rates were determined by formula, as they are in the States, the territories would be eligible for higher match rates. Increasing the cans and providing a mechanism for efficient adjustments to those caps will not only continue to give territories the authority to operate public assistance programs but adequate means to do so as well.

B. REGULATORY REVISIONS

1. Automobile resource limit

Current requirements

The Social Security Act provides for the exclusion of so much of a family member's ownership interest in one automobile as prescribed by the Secretary. That exclusion is set by regulation at $1500 equity value (or a lower limit set by the State) in one vehicle with any excess equity value counted toward the $1,000 AFDC resource limit.

The Food Stamp Act provides for the total exclusion of vehicles that are used over 50 percent of the time for income-producing purposes; annually producing income consistent with their FMV; necessary for long distance travel for work (other than daily commute); used as the household's home; or needed to transport a physically disabled household member. For the following vehicles, the amount of the FMV OVER $4,500 is counted as a resource: one per household (regardless of use); and vehicles used for work, training or education to prepare for work in accordance with food stamp employment and training requirements. For all other vehicles, the FMV over $4,500 or the equity value, whichever is more, is counted as a resource.

Vision

Reliable transportation will be essential to achieving self-sufficiency for many recipients in a time-limited program. Because a dependable vehicle is important to individuals in finding and keeping a job, particularly for those in areas without adequate public transportation, both the AFDC and the Food Stamp programs need as conforming automobile resource policy that supports acquiring reliable vehicles. This proposal would simplify the automobile resource policy by conforming the program rules and reducing the unnecessary complexity and confusion for program administrators in both programs.

Regulatory specifications

(a) Exercise Secretarial authority and amend the regulations to increase the AFDC automobile limit to $3,500 equity value, and subsequently index for inflation.

Rationale

This proposal is a first step toward bringing a level of conformity between the two programs that would eliminate some of the administrative complexity involved with valuing vehicles under varying criteria and would result in greater effectiveness and efficiency in the administration of both programs.

2. Verification

Current Requirements

Food Stamp law and regulations include specific requirements for verification and documentation of information needed for eligibility and benefit determinations. Food Stamp regulations mandate verification of utility and medical expenses (when actual is claimed), identity, residency (address), disability and household composition. In the AFDC program, the Act and regulations do not address how verification is to occur but State procedures have generally conformed to the verification policy outlined in the Federal quality control manual.

Under the Food Stamp Act (FSA) (sections 11(e)(3),(9)) and Social Security Act (Act) (sections 402(a)(25) and 1137), income must be verified through the Income and Eligibility Verification System (IEVS). The State must request wage and benefit information for from the State Wage Information Collection Agency, the Social Security Administration, and the agency administering Unemployment Insurance Benefits. Unearned income information must be requested from the Internal Revenue Service. Both programs are also required by law to verify alien status through the Immigration and Naturalization Service's Systemic Alien Verification for Entitlement system.

Both programs review the accuracy of eligibility decisions and benefit amounts through quality control systems, with the intended result that much information is verified at application and at recertification to avoid errors. States may, in both programs, adopt other verification requirements.

Vision

Federal computer matching and verification requirements are often burdensome for both clients and eligibility staff. Even where States have flexibility, the emphasis on payment accuracy and the potential for fiscal quality control penalties have often resulted in unnecessary documentation, delays in benefits and improper denials and terminations. Yet, to assure the public that their taxes are being spent to serve only those in need, verification will continue to be a critical component of the new system for delivering assistance to families. States must be afforded the flexibility to simplify matching procedures, while assuring program integrity through minimum standards.

Regulatory Specifications

(a) Exercise current Secretarial waiver authority for IEVS and SAVE to give States greater flexibility relative to the selection of alternate sources for matching activities, the elimination of certain matches, the targeting of client groups for matching and follow-up verification, and the modification of time frames for follow-up action on match "hits." Amend the Federal regulations on IEVS and change the ACF review perspective on SAVE (given the absence of regulations in this area) to provide greater latitude on what can be waived and the applicable State justification.

(b) Verification systems and time-frames for action will be included in the State Plan.

Rationale

States will welcome the increased flexibility provided by this proposal and be able to streamline their verification activities, saving time and paperwork. At the same time, the State plan approval process will ensure adequate protection of client rights and program integrity without restricting State flexibility.

NON-CITIZENS PROVISIONS

A. ELIGIBILITY FOR NON-CITIZENS

1. Apply a uniform standard for determining alien eligibility for non-citizens under AFDC Supplemental Security income, and Medicaid

Current law

Assuming they meet all other eligibility requirements, foreign nationals residing in the United States must be lawfully admitted for permanent residence or "permanently residing in the United States under color of law" (PRUCOL) to qualify for benefits of the AFDC, Supplemental Security Income (SSI), or Medicaid programs.

The term PRUCOL applies to certain individuals who are neither U.S. citizens nor aliens lawfully admitted for permanent residence. Aliens who are PRUCOL entered the United States either lawfully in a status other than lawful permanent residence or unlawfully. PRUCOL status is not a specific immigration status but rather includes many other immigration statuses. Under the SSI statute, PRUCOL aliens include those who hold parole status. The AFDC statute defines aliens who have been granted parole, refugee, or asylum status as PRUCOL, as well as aliens who had conditional entry status prior to April 1, 1980. The Medicaid statute uses the term PRUCOL but provides no guidance as to the meaning parole of the term.

In addition to the revisions in the regulations reflecting the interpretation of section 1614(a)(1)(B) of the Social Security Act resulting from the court in the *Berger* and *Sudomir* decisions discussed below, PRUCOL status also is defined in AFDC, SSI and Medicaid regulations as including aliens: who have been placed under an order of supervision or granted asylum status: who entered before January 1, 1972, and continuously resided in the United States since then; who have been granted "voluntary departure" or "indefinite voluntary departure" status; and who have been granted indefinite stays of deportation.

In the case of *Berger v. Secretary, HHS*, the U.S. Court of Appeals for the 2d Circuit in interpreted PRUCOL for the SSI program to include 15 specific categories of aliens and also those aliens whom the Immigration and Naturalization Service (INS) knows are in the country and "does not contemplate enforcing" their departure. SSA follows the *Berger* court's interpretation of the phrase "does not contemplate enforcing" to include aliens for whom the policy or practice of the INS is not to enforce their departure as well as aliens whom it appears the INS is otherwise permitting to reside in the United States indefinitely. The Medicaid regulations include the same Prucol categories as the SSI regulations.

The *Sudomir v. Secretary, HHS* decision, which focused on AFDC eligibility for asylum applicants, was less expansive. The U.S. Court of Appeals for the 9th Circuit determined that AFDC eligibility would extend only to those aliens allowed to remain in the United States with a "sense of permanence." Applicants for asylum are thus specifically excluded from receiving AFDC benefits by this decision even though they would not necessarily be disqualified for SSI due to the *Berger* decision.

Specifications

(a) Eliminate any reference to PRUCOL as an eligibility category in titles IV, XVI, and XIX of the Social Security Act (the Act). Standardize the treatment of aliens under these titles by identifying in the statute the specific immigration statuses in which noncitizens must be classified by INS in order to qualify to be considered for AFDC, SSI, or Medicaid eligibility. Specifically, provide that only aliens in the following immigration statuses could qualify—lawfully admitted for permanent residence within the meaning of section 101(a)(20) of the Immigration and Nationality Act (INA); residing in the United States with lawful temporary status under sections 245A and 210 of the INA (relating to certain undocumented aliens legalized under the Immigration Reform and Control Act of 1986); residing in the United States as the spouse or unmarried child under 21 years of age of a citizen of the United States, or the parent of such citizen if the citizen is over 21 years of age, and with respect to whom an application for adjustment to lawful permanent resident is pending; or residing in the United States as a result of the application of the provisions listed below: sections 207 of the INA (relating to refugees) or 203(a)(7) of the INA (relating to conditional entry status as in effect prior to April 1, 1980); section 208 of the INA (relating to asylum); section 243(h) of the INA (relating to a decision of the Attorney General to withhold deportation); section 244 of the INA (relating to a decision of the Attorney General to suspend deportation); and any other provision of the INA, provided that: (i) the Attorney General determines that the continued presence of an alien within a class of aliens serves a humanitarian or other compelling public interest, and (ii) the Secretary of HHS determines that such interest would be further served by permitting such alien of such class to be potentially eligible for benefits under titles IV, XVI, and IX (e.g., certain aliens granted parole status).

(b) The proposal would continue the eligibility of those aliens eligible for AFDC, SSI, or Medicaid on the effective date of the amendment who began their periods of eligibility before enactment for as long as they remain continuously eligible.

(c) The proposal would also allow State and local programs of assistance to utilize the same criteria for eligibility.

Rationale

Some aliens currently considered PRUCOL did not enter the United States as immigrants under prescribed immigration procedures and quotas, but entered illegally. Others entered legally under temporary visa but did not depart. The courts have determined some of these aliens to be eligible for benefits under the definition of PRUCOL, even though such individuals have not received from INS a deliberate immigration decision and status for permanent presence in the United States. In essence, many of these aliens are similar to illegal aliens except that they have been caught, which under current law can ironically improve an alien's situation in terms of benefit eligibility. That is, if they are caught, INS will likely grant them one of the "PRUCOL statuses"—such as voluntary departure or deferred action—which currently allows them to be eligible for SSI, AFDC, and/or Medicaid. If they are not caught, they are simply undocumented and are not eligible for any benefits other than emergency medical services. Therefore, it is reasonable to restrict AFDC, SSI, and Medicaid eligibility to specific categories of aliens who have entered the United States lawfully or who are permitted to remain in the U.S. indefinitely and are eligible to obtain permanent resident status.

Determining which aliens must be considered for eligibility for Social Security Act programs has become excessively confusing due to judicial actions, and it is subject to ongoing challenge in the courts. This confusion—characterized by the different treatment by different programs of similar individuals—would be remedied by establishing in statute a uniform definition of alien eligibility. The proposal would provide such a uniform definition by listing the immigrant statutes and specifically citing the provisions of the INA under which they are granted, thereby eliminating the ongoing uncertainty about the precise scope of the eligibility conditions and potential inconsistencies regarding alien eligibility in the three programs. Due to the complexities of immigration statuses there are some groups of aliens which can not be defined unequivocally in statute. For example, some aliens are paroled into the U.S. for humanitarian purposes and are effectively permitted to remain indefinitely. Others are paroled into the U.S. for a very limited period of time—typically a matter of weeks—for specific purposes (e.g., to testify at a trial). The proposal would permit the Attorney General to identify those classes of aliens within certain immigration categories that are allowed to remain in the U.S. due to humanitarian or other compelling public interest reasons. In turn, the Secretary of HHS would be granted authority to determine whether those classes of aliens identified by the Attorney General would be potentially eligible for benefits.

The Food Stamp program has avoided similar problems because the categories of aliens eligible for assistance under the program have been specifically listed in law. This proposal seeks to do the same for AFDC, SSI, and Medicaid. The proposal would save administrative resources and costs. The case development required to determine if an alien is considered PRUCOL generally is time-consuming because SSA and State AFDC and Medicaid agencies must verify the alien's status with INS. In many cases, an alien's status as PROCOL must be re-verified annually.

B. SPONSOR-TO-ALIEN DEEMING

Current Law: Under immigration law and policies, most aliens lawfully admitted for permanent residence and certain aliens paroled into the United States are required to have sponsors.

As a condition of entry as a lawful permanent resident, almost all immigrants must satisfy the admitting officer that they are not likely to become a public charge in the United States. For many immigrants, this requirement is met by having a relative who is a U.S. citizen or legal permanent resident agree to "sponsor" the immigrant. Sponsors sign affidavits of support or similar agreements provided by the Department of State or the Immigration and Naturalization Service affirming that they will be responsible for supporting the immigrants and ensuring that he immigrants will not become public charges. However, these pledges are not enforceable and, by themselves, have no effect on whether the immigrants can qualify for public assistance. Therefore, the Supplemental Security Income (SSI), Aid to Families with Dependent Children (AFDC), and the Food Stamp program apply rules that limit sponsors' shifting their responsibilities to the programs by deeming a portion of a sponsor's income and resources as being available to the immigrant for a particular period of time. The affidavit of support informs the sponsor and the immigrant of the deeming rules that will be applied to the immigrant by the SSI, AFDC, and Food Stamp programs.

Specifically, sections 1614(f)(3), 1621(a), and 415 of the Social Security Act provide that in determining SSI and AFDC eligibility and benefit amount for an alien, his sponsor's (and sponsor's spouse's) income and resources are deemed to the alien for 3 years after the alien's entry into the United States. Public Law 103–152 extends the period of sponsor-to-alien deeming in the SSI program from 3 to 5 years for those applying for benefits beginning January 1, 1994 and ending October 1, 1996. For the SSI program, these deeming provisions do not apply to an alien who becomes blind or disabled after entry into the U.S. The Food Stamp program currently provides for a three-year sponsor-to-alien deeming period. Refugees are exempt from the deeming rules under all three programs. Immigration law provides generally that an alien who has resided continuously in the United States for at least 5 years after being lawfully admitted for permanent residence may file an application for U.S. citizenship.

Specifications

(a) Make permanent the five year sponsor-to-alien deeming under the SSI program. Extend from three to five years sponsor-to-alien deeming under the AFDC and Food Stamp programs.

(b) For the period beginning with six years after being lawfully admitted for permanent residence in the U.S. and until a sponsored immigrant attains citizenship status, no sponsored immigrant shall be eligible for benefits under the AFDC, SSI, and Food Stamp programs, unless the annual income of the immigrant's sponsor is below the most recent measure of U.S. median family income.

"Annual income" of the sponsor shall include the most recent measure of annual adjusted gross income (AGI) of the immigrant's sponsor, and the AGI of the sponsor's spouse and dependent children, if any.

"Median family income" shall be based on the most recent Bureau of the Census measure for U.S. median family income for all families, updated by the most recent measure of change in the Consumer Price Index (CPI–U).

(c) Each year the Secretary of HHS shall publish in the Federal Register the median family income amount that will be used to determine the eligibility of sponsored immigrants for the AFDC, SSI, and Food Stamp programs. This measure will be based on the most recent income data from the Current Population Survey (CPS), published by the Bureau of the Census.

(d) Allow State and local programs of assistance to disqualify from participation in general assistance any alien who is disqualified from participation in the SSI, AFDC, and Food Stamp programs due to sponsor-to-alien deeming.

(e) Effective with respect to applications filed and reinstatements of eligibility following a month or months of ineligibility on or after October 1st 1994.

(f) Exempt from sponsor-to-alien deeming under the Food Stamp program any sponsored alien who becomes blind or disabled after entry into the U.S. and becomes eligible for SSI.

(g) Raise the Food Stamp resource limit under sponsor-to-alien deeming to conform with the general resource limit under Food Stamps.

(h) Exempt from sponsor-to-alien deeming under SSI, AFDC, and Food Stamps any sponsored immigrant whose sponsor is receiving AFDC or SSI benefits.

(i) Allow the Secretaries of HHS and Agriculture—after consultation and coordination with each other—to alter or suspend the sponsor-to-alien deeming provisions on an individual case basis where it is determined that application of the standard sponsor-to-alien deeming provisions would be inequitable under the circumstances (e.g., if the sponsor has physically abused the sponsored immigrant).

Rationale

The number of immigrants entering the U.S. has been increasing recently and there has been a rapid rise in the number of immigrants receiving benefits—particularly SSI benefits. For example, the number of immigrants who received SSI benefits in December 1992 was more than double the number who received benefits in December 1987. Over a third of all aged legal permanent residents on the SSI rolls in December 1993 came onto the rolls within 12 months after their 3-year sponsor-to-alien deeming period ended, indicating that the deeming provision is instrumental in delaying alien eligibility for SSI. Maintaining (under SSI) and extending (under AFDC and Food Stamps) the deeming period to 5 years for lawfully admitted permanent residents for whom an affidavit of support has been signed serves to enforce the pledge made by a sponsor that the immigrant will not become a public charge and avoids increases in benefit program costs which would otherwise occur as a result of increasing immigrant use of welfare benefits. Requiring a sponsor that is in the top half of the income distribution in the U.S. to continue to be financially responsible for a sponsored immigrant beyond the 5 year deeming period maintains the integrity of these welfare programs which are intended to help the poorest of the poor.

For example, under the SSI program, many elderly immigrants are sponsored by their children who have signed affidavits of support. It seems equitable to require the children to continue to support their relatives for the 5 year deeming period, rather than allow the parents to obtain welfare entitlement benefits solely on the basis of age, particularly if the sponsors are financially able to continue supporting the immigrants they have sponsored. Sponsors generally have significant income and resources to support their alien relatives. Once the 5 year period has ended, it is equitable to continue requiring the sponsor in the top half of the income distribution to be financially responsible for the well-being of the sponsored immigrant. Nothing in this proposal would prohibit a sponsored immigrant from becoming eligible for benefits if the sponsor's income and resources were depleted sufficiently to meet eligibility criteria, as is the case with current law. Also, refugees would continue to be exempt from sponsor-to-alien deeming, and sponsored immigrants who become blind or disabled after entry into the U.S. would continue to be eligible for benefits. This proposal merely requires sponsors to continue for a longer period of time to accept financial responsibility for those immigrants they choose to sponsor. Once sponsored immigrants become citizens, it is appropriate to discontinue these eligibility rules.

FINANCING PROVISIONS

Vision

The financing for welfare reform comes from three areas: (1) reductions in entitlement programs; (2) extensions of various savings provisions set to expire in the future; and (3) better EITC targeting and compliance measures. Estimated federal savings for all proposals are roughly $9.3 billion over five years.

A. ENTITLEMENT REFORMS

1. Cap the emergency assistance program

Vision

The AFDC-Emergency Assistance (EA) Program is an uncapped entitlement program. In fiscal year 1990, expenditures totalled $189 million; by fiscal year 1999 they are projected to reach almost $1 billion. While the intent of the EA program is to meet short-term emergency needs and help keep people off welfare, States currently have wide latitude to determine the scope of their EA programs. Recently, States have realized that the definition of the program is so broad that it can fund almost any critical services to low-income persons. Some States have begun shifting costs from programs which the States fund primarily on their own such as foster care, family preservation, and homeless services into the matched EA program. States appear to be funding services that address long-term problems as well as true emergency issues.

Specifications

(a) Modify the current Emergency Assistance program by establishing a Federal cap for each State's EA expenditures. The cap will be set in fiscal year 1995 and increased by the Consumer Price Index in each subsequent year.

(b) The basic allocation formula is a combination of two components:

(i) Allocation among States proportional to their requested expenditures in 1994; and

(ii) Allocation among States proportional to their total AFDC spending in the previous year.

(c) There will be a ten-year transition period, and the weighting of the components will shift over time, with increasingly more weight being given to the second component. Beginning in 1995, the weighting will be 90 percent by component 1 and 10 percent by component 2. The weighting will be altered by 10 percentage points each year such that by 2004, the weighting will be 100 percent by component 2.

Rationale

The proposal ensures that all States will receive continued funding equal to their actual 1991 levels. The Federal match will continue at 50 percent up to the cap. This proposal raises about $1.60 billion over five years. The basic allocation formula balances the need to protect States that have been spending heavily on EA in and before 1994 with the potential claims of new States which have not previously had claims for services under EA.

2. Tighten sponsorship and eligibility rules for non-citizens

Vision

In recent years, the number of non-citizens lawfully residing in the U.S. who collect SSI has risen dramatically. Immigrants rose from 5 percent of the SSI aged caseload in 1982 to over 25 percent of the caseload in 1992. Since 1982, applications for SSI from immigrants have tripled, while immigration rose by only about 50 percent over the period.

Most of the legal permanent residents applicants enter the country sponsored by their relatives, who agree as a condition of sponsorship that their relatives will not become public charges. To enforce this commitment, until this year, current law required that for 3 years, a portion of the sponsor's income in excess of 110 percent of poverty by "deemed" as available to help support the legal permanent resident (LPR) immigrant should they need public assistance. Currently, about one-third of the LPR immigrants on SSI subject to the deeming rules apply in their 4th year of residency. Last fall, to pay for extended unemployment benefits, Congress extended the time of deeming under SSI from three years to five years until 1996 when it reverts to three years again.

The Administration proposal related to non-citizens contains two parts-extending the deeming period for sponsor income and coordinating eligible criteria under four Federal assistance programs.

Specifications

(a) Deeming Make the current five-year period of sponsor responsibility permanent law under the SSI program and extends from three years sponsor responsibility under the AFDC and Food Stamp programs. The sponsor's income would be deemed as available to support the immigrant should they apply for public assistance. For the period beginning with six years after being lawfully admitted for permanent residence in the U.S. and until a sponsored immigrant attains citizenship status, if the sponsor has become above the U.S. median family income ($39,500), the sponsor will continue to be responsible for ensuring the support of the immigrant.

Rational

This will have the effect of denying benefits to immigrants with sponsors with income above the median. Once immigrants attain citizenship, they will be eligible to apply for benefits on their own. Any immigrants whose sponsor is receiving SSI or AFDC benefits would be exempt from sponsor-to-alien deeming under SSI, AFDC and food stamps. The proposal affects applications for the date of enactment (i.e., it would grandfather current recipients as long as they remained continuously eligible for benefits). These changes in deeming rules would have no effect on, Medicaid eligibility for immigrants. This part of the proposal saves about $2.8 billion over five years.

(b) Set consistent deeming rules for sponsored immigrants across three Federal programs (SSI, AFDC, and Food Stamps). Sponsor responsibility is based on longstanding immigration policy that immigrants should not become public charges.

Rationale

Sponsored immigrants most often apply for SSI benefits on the basis of being aged, and are different from most citizens in that the latter typically spend their life working and paying taxes in the U.S. At the same time, this proposal ensures that truly needy sponsored immigrants will not be denied welfare benefits if they can establish that their sponsors are no longer able to support them, if their sponsors die, or if the immigrant becomes blind or disabled after entry into the U.S. The policy would not affect refugees or asylees.

Vision

Currently, due to different eligibility criteria in statute, and litigation over how to interpret statutory language, the four Federal programs (SSI, AFDC, Medicaid, and Food Stamps) do not cover the same categories of non-LPR immigrants. For example, aliens whose departure the INS does not contemplate enforcing are eligible for SSI, but not for Food Stamps. The Food Stamp program has the most restrictive definition of which categories of non-LPR immigrants are eligible for benefits (i.e., the eligibility criteria encompass a fewer number of INS statuses). SSI and Medicaid have the most expansive definition of which categories of non-LPR immigrants are eligible for benefits, and the AFDC program falls between these extremes. This element establishes in statute a consistent definition of which non-LPR immigrants are eligible for welfare benefits.

(c) Eligibility criteria. Establish similar eligibility criteria under four Federal programs (SSI, AFDC, Medicaid, and Food Stamps) for all categories of immigrants who are not legal permanent residents.

Rationale

This proposal makes eligibility criteria in the SSI, Medicaid, and AFDC programs similar to the criteria that currently exist in the Food Stamp program. The new list of INS statuses required for potential eligibility to the SSI, Medicaid, and AFDC programs is also virtually identical to those listed in the Health Security Act providing eligibility for the Health Security Card. Like the extended deeming provisions, this part of the proposal affects applications after date of enactment (i.e., it would grandfather current recipients as long as they remained continuously eligible for benefits). This part of the proposal saves about $900 million over five years.

3. New rules regarding SSI benefits for drug and alcohol addicted recipients

Current Law

Current law requires that all SSI disability recipients for whom substance abuse is material to the finding of disability must be in available treatment and must have their payments made through a representative payee (a third party who receives and manages the funds). Payments to these SSI drug addict and alcoholic (DA&A) beneficiaries are suspended if the individual fails to participate in appropriate alcohol or drug treatment, if such treatment is available. No similar requirements are made of Social Security (Title II) disability beneficiaries who receive benefits on the basis of addictions. The representative payee and treatment requirements have been part of the SSI program since its inception over 20 years ago. However, the provisions have not been implemented effectively.

Specification

(a) Strengthen sanctions and apply new time limits to benefits paid to individuals receiving Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI) benefits who have substance abuse problems that are material to their disability finding.

Rationale

The Congress is reaching decisions on these proposals currently in conference on H.R. 4277, a bill which the Administration supports. We anticipate savings of $800 million over five years. Should the final bill yield savings of less than $800 million, we are committed to working with Congress to fully finance the package.

4. Income test meal reimbursements to family day care homes

Current Law

The Child Care Food Program provides food subsidies for children in two types of settings: child care centers and family day care homes. They are administered quite differently. The subsidies in centers are well targeted because they are means-tested; USDA believes that over 90 percent of Federal dollars support meals served to low-income (below 185 percent of poverty) children. The family day care part of the program is not well targeted because it has no means test (due to the burden it would place on the providers). A USDA-commissioned study estimates that 71 percent of Federal food program dollars to family day care homes support meals for children above 185 percent of the poverty line. While the child care center funding levels have been growing at a modest rate, the family day care funding levels are growing rapidly—16.5 percent between 1991 and 1992.

Specifications

(a) Amend section 17(c) of the National School Lunch Act (42 U.S.C. 1766(c)) to establish a two-tiered reimbursement structure (in the Child and Adult Care Food Program) with a higher level of reimbursement for meals served by family day care homes located in low-income areas. Low-income areas would be defined as those in which half of the households have incomes below 185 percent of poverty. Family day care homes not located in low-income areas would have the option of receiving lower rates of meal reimbursement or administering a means test to enrolled children.

(b) Under the means tested option, meals served to children whose family income is below 185 percent of poverty would be reimbursed at the higher rate, while those served to children from higher income families would be reimbursed at the lower rate. Meals served to children enrolled in programs operated by low income providers would also be reimbursed at the higher rate. Finally, meals served to the day care providers' own children would continue to be means-tested.

(c) Provide family day home sponsoring organizations with an additional $10 per home per month for each home it sponsors in low-income areas. Authorize $2 million to States agencies for technical assistance to sponsors to help implement the new reimbursement system in FY 1995. Technical assistance funding would increase to $5 million in FY 1996. Authorize for FY 1997 through FY 2000 $5 million for the licensing of family day care homes in low-income areas.

Rationale

This approach better targets the family day care food program funding to low-income children and creates minimal administrative requirements for providers. This provision yields savings of about $500 million over five years.

5. Limit deficiency payments to those making $100,000+ from off-farm income per year

Vision

USDA farm programs are criticized for unfairly supporting large farms and wealthy producers rather than smaller farms and lower-income farmers. The Congressional Office of Technology Assessment concluded that most big farms "do not need direct government payments and/or subsidies to compete and survive."

Specification

(a) Make producers receiving $100,000 or more in off-farm adjusted gross income ineligible for Commodity Credit Corporation (CCC) crop subsidies (price support loans and income support payments).

Rationale

The proposed targeting of subsidies would direct farm payments to smaller, family farms, which deserve Federal financial help more than large agricultural enterprises and individuals with sufficient off-farm income. It would cause an estimated 1–2 percent of program participants to drop out of USDA farm programs. Most of these wealthiest participants include corporations and individuals for whom farming is not a primary occupation or source of income. This proposal would save about $500 million over five years.

B. EXTEND EXPIRING PROVISIONS

1. Hold constant the portion of food stamp overpayment recoveries that States may retain

Vision and rationale

States are permitted to keep some portion of the 100-percent Federal Food Stamp recoveries as an incentive payment for pursuing violations. This proposal raises about $100 million over five years.

Specification

(a) Extend the 1990 Farm Bill provision which reduced the percentage of recovered Food Stamp over-issuances retainable by State agencies for fiscal years 1991–95. Under this provision, which would be extended to fiscal years of 1996–2004, States could retain 25 percent of recoveries from intentional program violations (previously 50 percent) and 10 percent of other recoveries (previously 25 percent).

2. Extend fees for passenger processing and other custom services

Vision and rationale

A flat-rate merchandise processing fee (MPF— is charged by U.S. customs for processing of commercial and non-commercial merchandise that enters or leaves U.S. warehouses. The fee, adopted by OBRA 1986, generally is set at 0.19, percent of the value of the good. Other variable customs fees are charged for: passenger processing; commercial truck arrivals; railroad car arrivals; private vessel or private aircraft entries; dutiable mail; broker permits; and barge/bulk carriers. NAFTA extended the MPF and other fees through September, 2003. This proposal would save about $1 billion in that year.

Specification

(a) Extend the fees through September, 2004.

3. Extend railroad safety use fees

Vision and rationale

Railroad safety inspection fees were enacted in the Omnibus Budget Reconciliation Act of 1990 to pay for the costs of the Federal rail safety inspection program. The railroads are assessed fees according to a formula based on three criteria: road miles, as a measure of system size; train miles as a measure of volume; and employee hours as a measure of employee activity. The formula is applied across the board to all railroads to cover the full costs of the Federal railroad safety inspection program. The fees are set to expire in 1996. The 1995 President's Budget proposed to extend the fees through 1999 and expand them, effective in 1995, to cover other railroad safety costs. The proposal raises about $200 million over five years.

Specification

(a) Extend the Railroad safety inspection fees permanently.

4. Extend expiring corporate environmental income (CEI) tax used to finance superfund

Vision and rationale

A broad-based environmental tax, based on corporate alternative minimum taxable income (0.12 percent) in excess of $2 million, was first enacted in 1986 and is set to expire at the end of 1995.

Superfund reauthorization legislation would provide a further CEI tax extension through the year 2000, which would provide sufficient additional credit needed for budget scoring of the Superfund legislation's "orphan share" proposal. All revenue from the CEI tax extension, whether enacted in welfare reform or Superfund legislation, will continue to be dedicated to the Hazardous Substance Superfund to be used only for Superfund cleanups.

Specification

(a) Extend the CEI tax into 1998.

C. EITC TARGETING AND COMPLIANCE MEASURES

1. Deny EITC to non-resident aliens

Vision and rationale

Under current law, non-resident aliens may receive the Earned Income Tax Credit (EITC). Because non-resident taxpayers are not required to report their worldwide income, it is currently impossible for the IRS to determine whether ineligible individuals (such as high-income nonresident aliens) are claiming the EITC. We estimate that about 50,000 taxpayers will be affected by our proposal, mainly visiting foreign students and professors. The proposal raises about $100 million over five years.

Specification

(a) Deny the EITC to non-resident aliens completely.

2. Require Income Reporting for EITC Purposes for Department of Defense (DoD) Personnel

Vision and rationale

Under current law, families living overseas are ineligible for the EITC. The first part of this proposal would extend the EITC to active military families living overseas. To pay for this proposal, and to raise net revenues, the DoD would be required to report the nontaxable earned income paid to military personnel (both overseas and States-side) on Form W-2. Such nontaxable earned income includes basic allowances for subsistence and quarters. Because current law provides that in determining earned income for EITC purposes such nontaxable earned income must be taken into account, the additional information reporting would enhance compliance with the EITC rules. The combination of these two proposals raises about $200 million over five years.

Specifications

(a) Extend the EITC to active military families living overseas.

(b) Require DoD to report the nontaxable earned income paid to military personnel (both overseas and States-side) on Form W-2.

By Mr. HATFIELD:

S. 2226. A bill to designate a site for the relocation of the public facility of the National Museum of Health and Medicine, and for other purposes; to the Committee on Armed Services.

RELOCATING THE NATIONAL MUSEUM OF HEALTH AND MEDICINE

• Mr. HATFIELD. Mr. President, on May 5, 1994, I introduced legislation, S. 2080, to designate the site for the relocation of the National Museum of Health and Medicine. The legislation identifies a site adjacent to the Hubert Humphrey Building, located just off of the National Mall, as the new location for the museum, which is currently at the Walter Reed Medical Center in Bethesda, MD. My legislation, cosponsored by Senators NUNN, KENNEDY, HARKIN, and BOXER, was referred to the Senate Committee on Energy and Natural Resources.

Today I am introducing a revised version of the legislation which adds to the original purpose of relocating the museum by also providing for the continued display and interpretation of the collections of the Armed Services Institute of Pathology. These collections, which contain precious artifacts representing our country's history in such areas as Civil War medicine and the assassinations of Presidents Lincoln and Garfield, are world renown. This bill will be referred to the Senate Committee on Armed Services, which has had primary jurisdiction over this facility since its inception when it was known as the Army Medical Museum.

The Army Medical Museum was born amidst the tumult of the United States Civil War. Over the years, in addition to handling the autopsies on two of our former Presidents, the museum identified the Aedes Aegypti mosquito as the carrier of yellow fever—work which made it possible to control the disease and removed a critical barrier to construction of the Panama Canal. Prior to World War I, Maj. Frederick Russell, curator of the museum, was a central figure in the discovery of a successful antityphoid vaccine which was both developed and tested at the museum. "Fit to Fight," a series of educational films warning American soldiers about the dangers of venereal disease, was produced by the museum in response to this recurring problem of the great war.

In 1965, the museum was designated a national historic landmark. In 1989, it became the National Museum of Health and Medicine of the Armed Forces Institute of Pathology. Today, more than 125 years after its founding, the museum continues to respond to changing medical and educational needs of the Nation and the international audience it serves.

I am convinced that this facility, if strategically located and infused with a strong public education mandate, can play a pivotal role in the teaching of self-responsibility for our health. To me, as we continue to reform the Nation's health care delivery system, there is no greater mission than raising public awareness and responsibility.•

By Mr. LAUTENBERG (for himself and Mr. MITCHELL):

S. 2227. A bill to amend the Solid Waste Disposal Act to provide congressional authorization of State control over transportation of municipal solid waste, and for other purposes; to the Committee on Environment and Public Works.

FLOW CONTROL ACT OF 1994

• Mr. LAUTENBERG. Mr. President, today I am introducing the Flow Control Act of 1994 which will overturn a recent Supreme Court decision and give State and local governments the authority to control the flow of solid waste. This decision, if allowed to stand, could result in chaos in communities in the 43 States where flow control authority is currently in place and constitutes a critical component of strategies to manage waste. I'm pleased that the majority leader, Senator MITCHELL, is a cosponsor of this legislation.

A few weeks ago, in a 6-to-3 decision, the Supreme Court ruled in the case of Carbone versus Clarkstown that a New York municipality could not require that garbage generated in the locality be sent to a designated waste management facility. The Court held that a Clarkstown, NY flow control ordinance interfered with interstate commerce and deprived out-of-State firms access to the local trash market. The Constitution provides that only the Federal Government may regulate commerce among the States unless it specifically delegates this authority to them. The Court's ruling held that this power had not been granted by Congress to the States.

This decision will have a significant effect on the ability of State and local governments to manage garbage. Historically, State and local governments have had the responsibility for municipal solid waste management. This is recognized in the Nation's solid waste management law, the Resource Conservation and Recovery Act or RCRA. In RCRA, the Congress found that collection and disposal of garbage is primarily a function for State and local governments. To foster this function, RCRA requires EPA to provide assistance in the development and implementation of State solid waste management plans. States are encouraged to develop statewide solid waste management plans. Before EPA approves a plan, it must find that the plan identifies the responsibilities of State, regional and local governments and has provided for the establishment of such State regulatory powers as is necessary to implement the plan. It's clear from RCRA that Congress intended that state and local governments have the authority necessary to manage solid waste.

Forty-three States including New Jersey either utilize flow control authority or have authorized local governments to use flow control for waste management. Flow control laws have been in place in New Jersey since 1979 and control all of the nonhazardous solid waste in our 567 municipalities and 21 counties. Flow control has been a significant part of New Jersey's ability to build an infrastructure to handle the 14 millions tons of solid waste requiring disposal annually. Collectively, this infrastructure represents a capital investment of over $2 billion. New Jersey's recycling programs also are dependent on revenues received for use of New Jersey waste management facilities.

The Supreme Court Decision threatens this authority, undercuts the roles of State and local governments in solid waste management, and negates the planning process contemplated by the Congress in RCRA.

The decision makes it impossible for cities to guarantee a steady stream of waste to waste disposal and processing facilities. Without this guaranteed steady stream of garbage, communities will be unable to secure financing to build solid waste management facilities. This threatens New Jersey's program to become solid waste self-sufficient by the end of the decade. It also threatens New Jersey's existing program to restrict exports of garbage without approval by the State.

In addition, localities would lose the revenue generated by garbage disposal at municipal facilities as garbage flowed to other facilities. This would eliminate the source of funding for related nonprofitable waste management activities such as recycling and household hazardous waste programs. We need to increase recycling efforts. But the loss of flow control authority threatens existing efforts let alone making an expansion of recycling programs less likely.

Finally, existing bonds used to finance waste management facilities are at risk if localities cannot send an adequate level of garbage to the facility to generate revenues to pay off the bonds. If localities cannot send an adequate level of garbage to a facility to generate the revenue needed to pay off the bonds, they face default and the affected communities face higher taxes.

My bill takes a balanced approach to addressing the concerns raised by the Supreme Court decision. It is intended to put State and local governments in the same position they were in concerning flow control authority on the day before the *Carbone* decision and other court decisions striking down flow control laws except as specifically provided for in the bill. It protects all existing flow control laws and arrangements like those in New Jersey where flow control had been used to designate solid waste management facilities prior to May 15, 1994. It grants authority to State and local governments to institute additional flow control authority for:

Municipal solid waste from household sources;

Recyclables which have been voluntarily surrendered to the government; and

Municipal solid waste generated from commercial, industrial and institutional sources, as well as incinerator ash and construction and demolition debris if such waste had been flow controlled under a State or local law or ordinance prior to May 15, 1994.

It provides that flow control authority can only be used if the community has a program to remove recyclables from the solid waste stream in accordance with the State law or a local solid waste management plan.

My bill requires that the local government undertake a competitive designation process when it decides to implement its flow control authority which considers the facilities and services which the private sector can provide. This process is designed to foster competition and help save the taxpayers money by keeping tipping fees down.

This competitive designation process requires the government to establish specific criteria to be used to select facilities and also compare alternatives when designating a facility for flow control. The process also provides the public participation during the selection process. At the same time, it allows State and local governments to retain final decision making authority over most waste disposal decisions.

I want to make clear what the bill does not do. It does not tell State and local governments how to manage waste. Decisions on how to manage garbage and where to site management facilities are not Federal responsibilities. These decisions have been and continue to be issues for local governments to decide subject to state permits. It leaves State and local governments with the same authority they've had other than dealing with flow control to address solid waste.

Mr. President, we cannot expect State and local governments to manage solid waste as contemplated by RCRA if we fail to provide those governments with the tools to ensure that properly sized facilities to manage the waste are constructed. My bill merely overturns the Supreme Court decision and provides state and local governments with the tools they need to manage solid waste.

Mr. President, the Congress should deal with the ambiguities that flow from the Supreme Court decision soon. State and local governments need to discharge their responsibilities for solid waste disposal.

In dealing with this issue, we must be mindful of the impact that it might have on the consumer. My bill is pro-consumer. Municipal solid waste is a State and local government responsibility but doesn't have to be carried out by these governments. There are numerous examples of successful efforts to privatize government operations. This bill will bring the pressure of the free market to bear on solid waste decisions and hopefully lead to the most efficient operation providing relief to local taxpayers.

I ask unanimous consent that a copy of the bill, a summary of the bill, editorials from the Camden Courier-News, the Newark Star-Ledger, and the Atlantic City Press and letters of support of the bill appear in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2227

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Flow Control Act of 1994".

SEC. 2. CONGRESSIONAL AUTHORIZATION OF STATE CONTROL OVER TRANSPORTATION OF MUNICIPAL SOLID WASTE.

(a) IN GENERAL.—Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end the following new section:

"SEC. 4011. CONGRESSIONAL AUTHORIZATION OF STATE CONTROL OVER TRANSPORTATION OF MUNICIPAL SOLID WASTE.

"(a) AUTHORITY.—

"(1) IN GENERAL.—Each State and each qualified political subdivision may, in accordance with this section—

"(A) direct, limit, regulate, or prohibit the transportation of municipal solid waste generated from household sources (as described in subsection (g)(2)(A)(i)) within the boundaries of the State or subdivision and designate each waste management facility to which any such municipal solid waste shall be transported;

"(B) direct, limit, regulate, or prohibit the transportation of municipal solid waste that is generated, or is commingled with municipal solid waste that is generated, from commercial, institutional, or industrial sources within the boundaries of the State or subdivision, or that is incinerator ash from a solid waste incineration unit, or construction debris or demolition debris, generated within the boundaries of the State or subdivision (referred to in this subparagraph as 'covered waste') and designate each waste management facility to which any such covered waste shall be transported, if, before May 15, 1994—

"(i) the State or subdivision adopted a law, ordinance, regulation, or legislative or administrative provision that pertains to the transportation of municipal solid waste generated within the boundaries; and

"(ii) directed, limited, regulated, or prohibited the transportation of covered waste under the law, ordinance, regulation, or provision to a facility designated before such date; and

"(C) direct, limit, regulate, or prohibit the transportation of recyclable materials generated within the boundaries of the State or subdivision and designate each facility to which any such materials shall be transported.

"(2) APPLICATION.—A State or qualified political subdivision may exercise the authority described in paragraph (1)(C) with respect to recyclable materials only if—

"(A) the generator or owner of the materials voluntarily made the materials available to the State or qualified political subdivision and relinquished any rights to, or ownership of, such materials; and

"(B) the State or qualified political subdivision, or the designee of the State or qualified political subdivision, assumes such rights to, or ownership of, such materials.

"(b) LIMITATIONS.—A State or qualified political subdivision may exercise the authority provided by subsection (a) only if the State or qualified political subdivision—

"(1) before exercising the authority described in subsection (a)(1)(A) with respect to municipal solid waste described in subsection (a)(1), establishes a program to separate, or divert at the point of generation, the materials described in subsection (g)(4) from the municipal solid waste, for purposes of recycling, reclamation, or reuse, in accordance with any State law or municipal solid waste planning requirements in effect;

"(2) develops and implements a process described in subsection (c) for the designation of facilities described in subsection (a); and

"(3) after conducting 1 or more public hearings—

"(A) finds, on the basis of the record developed at the hearing or hearings that it is necessary to exercise the authority provided by subsection (a) to meet the current solid waste management needs (as of the date of the record) and anticipated solid waste management needs of the State or qualified political subdivision for management of municipal solid waste or recyclable materials; and

"(B) provides a written explanation of the reasons for the finding described in subparagraph (A).

"(c) COMPETITIVE DESIGNATION PROCESS.—In developing and implementing the designation process described in subsection (b)(2) or (e)(4) with respect to waste management facilities and facilities for recyclable materials, the State or qualified political subdivision shall—

"(1) ensure that the designation process is based on, or is part of, a municipal solid waste management plan that is adopted by the State or qualified political subdivision and that is designed to ensure long-term management capacity for municipal solid waste or recyclable materials generated within the boundaries of the State or subdivision;

"(2) set forth the goals of the designation process, including at a minimum—

"(A) capacity assurance;

"(B) the establishment of provisions to ensure that protection of human health and the environment will be achieved; and

"(C) any other goals determined to be relevant by the State or qualified political subdivision;

"(3) identify and compare the alternatives and options for designation of the facilities;

"(4) provide for public participation and comment;

"(5) ensure that the designation of the facilities is accomplished through an open competitive process during which the State or qualified political subdivision—

"(A) identifies in writing the specific criteria to be utilized for selection of the facilities;

"(B) provides an opportunity for interested public persons and private persons to offer their existing (as of the date of the process) or proposed facilities for designation; and

"(C) evaluates and selects the facilities for designation based on the merits of the facilities in meeting the specific criteria identified; and

"(6) base the designation of each such facility on reasons that shall be stated in a public record.

"(6) OWNERSHIP OF RECYCLABLE MATERIALS.—

"(1) PROHIBITION ON REQUIRED TRANSFERS.—Except as provided in paragraph (3), nothing in this section shall authorize any State or qualified political subdivision to require any generator or owner of recyclable materials to transfer any recyclable materials (other than abandoned or discarded materials) to such State or qualified political subdivision.

"(2) PROHIBITION ON PROHIBITED TRANSACTIONS.—Except as provided in paragraph (3), nothing in this section shall prohibit any generator or owner of recyclable materials from selling, purchasing, accepting, conveying, or transporting any recyclable materials for purposes of transformation or remanufacture into usable or marketable materials, unless the generator or owner voluntarily made the materials available to the State or qualified political subdivision and relinquished any rights to, or ownership of, such materials.

"(3) LAW AND CONTRACTS.—A contract, law, ordinance, regulation, or provision described in subsection (e)(1) may contain an authorization described in paragraph (1) or a prohibition described in paragraph (2).

"(e) EXISTING LAWS AND CONTRACTS.—

"(1) IN GENERAL.—This section shall not supersede, abrogate, or otherwise modify any of the following:

"(A) Any contract or other agreement (including any contract containing an obligation to repay the outstanding indebtedness on any facility) entered into before May 15, 1994, by a State or qualified political subdivision in which such State or qualified political subdivision has designated a waste management facility, or management facility for recyclable materials, for the management of municipal solid waste or recyclable materials pursuant to an ordinance or law adopted by such State or qualified political subdivision before May 15, 1994.

"(B) Any other contract or agreement entered into before May 15, 1994, for the management of municipal solid waste.

"(C)(i) Any law, ordinance, regulation, or legislative or administrative provision—

"(I) that is adopted before May 15, 1994; and

"(II) that pertains to the transportation of municipal solid waste generated within the boundaries of a State or qualified political subdivision;

to the extent that the law, ordinance, regulation, or provision is applied to the transportation of municipal solid waste, generated from household sources (as described in subsection (g)(2)(A)(i)) within the boundaries, to a facility designated before such date under such law, ordinance, regulation, or provision.

"(ii) Any law, ordinance, regulation, or legislative or administrative provision—

"(I) that is adopted before May 15, 1994;

"(II) that pertains to the transportation of municipal solid waste generated within the boundaries of a State or qualified political subdivision; and

"(III) under which a State or qualified political subdivision, prior to May 15, 1994, directed, limited, regulated, or prohibited the transportation of municipal solid waste that is generated, or is commingled with municipal solid waste that is generated, from commercial, institutional, or industrial sources within the boundaries, or that is incinerator ash from a solid waste incineration unit, or construction debris or demolition debris, generated within the boundaries;

to the extent that the law, ordinance, regulation, or provision is applied to the transportation of municipal solid waste described in subclause (III), to a facility designated before such date under such law, ordinance, regulation, or provision.

"(iii) Any law, ordinance, regulation, or legislative or administrative provision—

"(I) that is adopted before May 15, 1994; and

"(II) that pertains to the transportation of recyclable materials generated within the boundaries of a State or qualified political subdivision;

to the extent that the law, ordinance, regulation, or provision is applied to the transportation of recyclable materials, that are generated within the boundaries and with respect to which the generator or owner of the materials, and the State or qualified political subdivision, have met the appropriate conditions described in subsection (a)(2), to a facility designated before such date under such law, ordinance, regulation, or provision.

"(iv) Any law, ordinance, regulation, or legislative or administrative provision—

"(I) that is adopted before May 15, 1994;

"(II) that pertains to the transportation of recyclable materials generated within the boundaries of a State or qualified political subdivision; and

"(III) under which a State or qualified political subdivision, prior to May 15, 1994, directed, limited, regulated, or prohibited the transportation of recyclable materials that are not materials with respect to which the generator or owner of the materials, and the State or qualified political subdivision, have met the appropriate conditions described in subsection (a)(2) and that—

"(aa) are generated from household sources (as described in subsection (g)(2)(A)(i)) within the boundaries; or

"(bb) are generated from commercial, institutional, or industrial sources within the boundaries;

to the extent that the law, ordinance, regulation, or provision is applied to the transportation of recyclable materials, described in subclause (III), to a facility designated before such date under such law, ordinance, regulation, or provision, and is applied to the same class of materials described in item (aa) or (bb) of subclause (III) to which the law, ordinance, regulation, or provision applied before such date.

"(2) CONTRACT INFORMATION.—A party to a contract or other agreement that is described in subparagraph (A) or (B) of paragraph (1) shall provide a copy of the contract or agreement to the State or qualified political subdivision on request. Any proprietary information contained in the contract of agreement may be omitted in the copy, but the information that appears in the copy shall include at least the date that the contract or agreement was signed, the volume of municipal solid waste or recyclable materials covered by the contract or agreement with respect to which the State or qualified political subdivision could otherwise exercise authority under subsection (a), the source of the waste or materials, the destination of the waste or materials, the duration of the contract or agreement, and the parties to the contract or agreement.

"(3) EFFECT ON INTERSTATE COMMERCE.—Effective from the date of its adoption, no contract or agreement described in subparagraph (A) or (B) of paragraph (1), and no law, ordinance, regulation, or provision described in paragraph (1)(C), shall be considered to impose an undue burden on or otherwise impair, restrain, or discriminate against interstate commerce.

"(4) LIMITATION.—A State or qualified political subdivision may exercise the authority of any law, ordinance, regulation, or provision described in paragraph (1)(C), to the extent provided in such paragraph, only if the State or qualified political subdivision develops and implements a process described in subsection (c) for the designation of any waste management facility or facility for recyclable materials that the State or qualified political subdivision designates, after the date of enactment of this section, as a facility to which any waste or materials described in paragraph (1) shall be transported. Nothing in this paragraph shall affect any designation made before the date of enactment of this section

"(5) EFFECT ON STATE PROCUREMENT LAWS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), nothing in this section shall supersede or modify—

"(i) any State law or State regulation concerning the procurement of municipal solid waste services or facilities by qualified political subdivisions; or

"(ii) any State law or regulation concerning competitive bidding for such services or facilities.

"(B) DESIGNATION.—Notwithstanding subparagraph (A), any such facilities shall be subject to the designation process described in subsection (c).

"(6) DESIGNATION BEFORE A DATE.—For purposes of this section, a facility shall be considered to be designated before a date if—

"(A) the facility was designated before the date in a written document; and

"(B) the terms and requirements of the document, and of any laws and regulations of the State or qualified political subdivision involved, that were in effect and applicable to the designation continue to apply

"(f) SAVINGS CLAUSE.—Nothing in this section is intended to supersede, amend, or otherwise modify Federal or State environmental standards that apply to the disposal or management of solid waste at waste management facilities and facilities for recyclable materials.

"(g) DEFINITIONS.—As used in this section:

"(1) INDUSTRIAL SOLID WASTE.—The term 'industrial solid waste' means solid waste generated by manufacturing or industrial processes, including waste generated during scrap processing and recycling, that is not hazardous waste regulated under subtitle C.

"(2) MUNICIPAL SOLID WASTE.—

"(A) IN GENERAL.—The term 'municipal solid waste'—

"(i) means any waste generated by a household, including a single or multifamily residence,

"(ii) includes waste generated by a commercial, institutional, or industrial source to the extent that such waste—

"(I) is essentially the same as waste normally generated by households; or

"(II) would be considered conditionally exempt small quantity generator waste under section 3001(d) and is collected and disposed of with other municipal solid waste as part of normal municipal solid waste collection services; and

"(iii) includes residue remaining after recyclable materials have been separated, or diverted at the point of generation, from municipal solid waste described in clause (i) or (ii).

"(B) EXCLUSIONS.—The term 'municipal solid waste' shall not include any of the following:

"(i) Hazardous waste required to be managed in accordance with subtitle C (other than waste described in subparagraph (A)(ii)(II)), solid waste containing a polychorinated biphenyl regulated under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), or medical waste.

"(ii)(I) A recyclable material.

"(II) A material or a product returned from a dispenser or distributor to the manufacturer or the agent of the manufacturer for credit, evaluation, or reuse.

"(III) A material or product that is an out-of-date or unmarketable material or product, or is a material or product that does not confirm to specifications, and that is returned to the manufacturer or the agent of the manufacturer for credit, evaluation, or reuse.

"(iii) Any solid waste (including contaminated soil and debris) resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604 or 9606) or a corrective action taken under this Act.

"(iv)(I) Industrial solid waste.

"(II) Any solid waste that is generated by an industrial facility and transported for the purpose of containment, storage, or disposal to a facility that is owned or operated by the generator of the waste, or a facility that is located on property owned by the generator or a company with which the generator is affiliated.

"(3) QUALIFIED POLITICAL SUBDIVISION.—The term 'qualified political subdivision' means a governmental entity of a political subdivision of a State if a majority of members of the entity are elected officials and the entity has been granted authority by the State to plan for, or determine the methods to be utilized for, the collection, disposal, or other management of municipal solid waste generated within the boundaries of the political subdivision.

"(4) RECYCLABLE MATERIALS.—The term 'recyclable material' means any material (including any metal, glass, plastic, textile, wood, paper, rubber, or other material) that has been separated, or diverted at the point of generation, from solid waste for the purpose of recycling, reclamation, or reuse.

"(5) WASTE MANAGEMENT FACILITY.—The term 'waste management facility' means any facility in which solid waste is collected, separated, stored, transferred, treated, processed, or disposed of.".

(b) TABLE OF CONTENTS.—The table of contents for such subtitle D is amended by adding after the item relating to section 4010 the following new item:

"Sec. 4011. Congressional authorization of State control over transportation of municipal solid waste.".

FLOW CONTROL SUMMARY

(A) FLOW CONTROL AUTHORITY

(a)(1) Provides general authority for flow control of waste generated within the boundaries of the State or political subdivision for:

(A) Municipal solid waste generated from household sources;

(B) Municipal solid waste generated from commercial institutional, or industrial sources, if, before May 15, 1994, the State or political subdivision had a low authorizing the flow control of such waste and the State or political subdivision had directed such waste to a solid waste management facility designated before such date, and;

(C) Recyclable materials.

(a)(2) Limits authority to flow control recyclables to situations where the generator or owner of the material voluntarily relinquishes ownership of the material and the state or local government assumes ownership of the materials.

(B) LIMITATIONS ON AUTHORITY

To use flow control authority, states or local governments must:

(1) establish a program to separate or divert recyclables from municipal solid waste in accordance with any State law or municipal solid waste planning requirements;

(2) implement a process for the designation of facilities; and

(3) conduct a public hearing and make a written finding it is necessary to exercise flow control authority to meet needs for the management of municipal solid waste or recyclables.

(C) DESIGNATION PROCESS

Establishes a designation process that State and local governments must use to exercise flow control. The process must: be based on or part of a municipal solid waste management plan; set forth goals of the process including addressing capacity assurance and protecting human health and the environment; identify and compare alternatives for designation; provide for public participation; designate facilities based on an open competitive process in which the community identifies the criteria to be used in selecting facilities, provides an opportunity for any member of the public to offer their facility for the designation, and selects the facility based on the merits of the facility meeting the specified decision criteria; and base the designation of each facility on reasons stated in the public record.

(D) RECYCLABLE MATERIALS

Except for laws which were implemented by the designation of a facility to receive recyclables prior to May 15, 1994, makes clear that: (a) a state or local government cannot require a generator or owner of recyclable materials to transfer the material to the State or local government; and (b) the flow control provisions have no effect on the ability of owners of recyclables from engaging in transactions regarding the material unless the owner voluntarily relinquishes any rights to the material.

(E) GRANDFATHER OF EXISTING CONTRACTS AND LAWS

(1) Protests contracts entered into by a state or local government which designates a waste management facility which were entered into before May 15, 1994. Protects any other contract (including those involving private parties) entered into before May 15, 1994. Protects laws, ordinances, regulations or legislative or administrative provision adopted before May 15, 1994 regarding flow control of municipal solid waste generated from; (1) residential sources, (2) commercial, institutional, or industrial sources, or incinerator ash and construction and demolition debris, (3) recyclable materials where ownership is voluntarily relinquished by the generator or owner, and (4) recyclable materials where ownership is not voluntarily relinquished by the generator or owner, if the state or local government had exercised flow control authority by the designation of a facility to receive such waste prior to May 15, 1994. Future flow control over recyclable materials where ownership is not voluntarily relinquished by the generator or owner may only be applied to the same category of recyclables.

(2) Allows the state or local government to obtain access to the contract or agreement grandfathered under paragraph (1) after the deletion of proprietary information. Establishes the minimum level of information which must be made available.

(3) Provides that the contracts, agreements, laws, and administrative provisions grandfather under paragraph (1) shall not be considered to impose an undue burden on or discriminate against interstate commerce.

(4) Provides that for designations taking place after the date of enactment under the authority of those laws, ordinances or provisions grandfathered under paragraph 1(C), the state or local government must implement the designation process.

(5) Provides that nothing in the section shall supersede or modify any state law regarding procurement or competitive bidding.

(6) Provides that when a facility is designated before a date, the laws and regulations of the state or political subdivision which accompany the designation continue to remain in effect.

(F) SAVINGS CLAUSE

Provides that nothing in the bill shall supersede, amend, or modify Federal or State environmental standards which apply to solid waste management or disposal.

(G) DEFINITIONS

(1) Industrial waste definition refers to waste from manufacturing or industrial processes that is not hazardous waste as regulated under Subtitle C, including waste generated during scrap processing and recycling.

(2) Municipal solid waste means waste generated by a household, including a single or multifamily residence, and includes waste generated by a commercial, institutional, or industrial source if it is essentially the same as waste normally generated by households, or would be considered conditionally exempt small quantity generator waste under section 3001(d) of RCRA. It includes residue remaining after recyclable materials have been separated or diverted. Certain materials are specifically excluded.

(3) Qualified political subdivisions means a government entity of a political subdivision of a state if a majority of members of the entity are elected officials that has been granted authority by the State to plan for or determine the method to be used for the collection, disposal, or other management of municipal solid waste generated within the boundaries of the political subdivision.

(4) Recyclable material means any material that has been separated or diverted at the point of generation from solid waste for the purpose of recycling, reclamation or reuse.

(5) Waste management facility means any facility in which solid waste is collected, separated, stored, transferred, treated, processed, or disposed of and any combustion facility.

[From the Star-Ledger, June 18, 1994]

In the Dumps

The garbage disposal business has become so complicated these days that even the U.S. Supreme Court has become involved—a development that virtually ensures it will become even more complicated. In a ruling that could have far-reaching implications, the court invalidated government control over where private haulers may dump municipal garbage.

The court, in a 6-3 decision, held that a local ordinance in a New York State community requiring its garbage to be sent to a designated facility was unlawful because it interfered with interstate commerce and was unconstitutional.

The ruling could have an adverse impact on New Jersey waste management policies which regulate the statewide disposal of garbage. However, Robert Shinn, commissioner of the state Department of Environmental Protection and Energy (DEPE), said there are "enough distinctions" between the New York ordinance and the state's regulations to protect New Jersey's law from a court challenge.

A dissenting view came from Bruce Parker, general counsel for the National Solid Wastes Management Association, which represents private waste haulers nationwide. The Supreme Court ruling, he said, gives haulers the option of ignoring New Jersey directives to dump their waste at particular incinerators, landfills or transfer stations if they find that an out-of-state alternative is more economically favorable.

New Jersey has a big stake here. Hundreds of millions of dollars have been invested in waste disposal facilities that depend on an assured flow of garbage to sustain their economic viability. If these regulatory controls are invalid, they could have a serious financial impact because of the diversion of waste to landfills in other states. They also would affect 43 other states that also use the so-called "flow-control" authority to manage garbage disposal.

There's an element of irony in that several states want to stop New Jersey and other states from continuing to export their garbage. That is precisely the objective of this state's solid waste policies, which are directed at reducing its dependency in exporting 20 percent of its garbage.

New Jersey and other states would have no recourse but to explore other options in the event that the Supreme Court ruling has a disruptive impact on its waste management policies by significantly increasing the volume of out-of-state garbage dumping. It is a national problem that should be addressed by federal legislation. Several states already have petitioned Congress to stop the export of garbage to their landfills.

A more direct approach is being taken by Sen. Frank Lautenberg (D-N.J.), who will introduce legislation to overturn the Supreme Court decision. This is a response that should help resolve reservations over a state's proper function to regulate an industry that provides an essential public service, addressing the specific waste disposal needs of individual states.

[From the Courier-News, May 15, 1994]

"Flow Control" Invalid—Ruling Threatens To Hike Disposal Costs

For years New Jersey has been running out of landfills, fighting congressional bans on exporting of our garbage and trying to keep mobsters from controlling the state's hauling industry.

To attain self-sufficiency in waste disposal, and to hold down rising costs, the state proclaimed a determination to become self-sufficient in handling its waste—by target dates that were repeatedly extended.

The Legislature also required counties to develop what are now known nationwide as "flow-control plans." Haulers are required to take all waste to recycling, separation and transfer stations certified by the state before it is burned at an incinerator or dumped in a landfill.

The requirement to use only certified facilities assured a steady flow of garbage—and income to pay off the bond issues used to finance new incinerators. It also made it difficult for haulers stripped of state licenses because of their mob connections to re-enter the business.

New Jersey's flow-control system is the most comprehensive of the 27 adopted by other states. But Robert Shinn, the state environmental protection commissioner, was almost blase in assessing the impact of Monday's U.S. Supreme Court ruling that one town's flow-control rules violated the Constitution's interstate commerce clause.

Shinn said that, unlike the Clarkstown, N.Y. rules invalidated by the court, New Jersey's were immune to challenge. (The suit against Clarkstown, was filed by a hauler barred from doing business in New Jersey because of mob ties.)

Sen. Frank Lautenberg accepted the invitation extended in Justice Sandra Day O'Connor's concurring opinion for Congress to authorize flow-control rules. He pledged to introduce legislation to overturn the Clarkstown decision.

A spokesman for the hauling industry says the decision means that any hauler who can save money by dumping garbage out of state "cannot be stopped by New Jersey." Haulers who bypass certified transfer, recycling and separation centers and incinerators, of course, reduce income for those facilities.

When tonnage falls below amounts guaranteed in "put or pay" contracts, counties—or rather their taxpayers—are required to pay penalties.

There was a remedy proposed in the majority opinion by Justice Anthony Kennedy: Municipalities (or counties) should subsidize fees of their waste-disposal facilities so that they will always be lower than those charged by the private sector—and will thus attract business without any flow-control laws.

The Supreme Court ruling in a theoretical vacuum, ultimately may have increased costs for a service the state was trying to assure would be delivered more efficiently, safely and less corruptly. Taxpayers can only hope Shinn's confidence in the legal invulnerability of New Jersey's system is well-placed.

[From the Press, May 29, 1994]

Congress Should Act

It's tempting, isn't it?

It's tempting to say: Open up the marketplace in trash. Let government compete with private industry. Take away government's monopoly on trash disposal—which has made New Jersey one of the costliest states in the nation to get rid of trash.

That's a tempting conclusion, in the wake of a Supreme Court case that would eliminate the ability of governments to tell private haulers where to dispose of trash.

But it would be wrong. Here's why:

Remember, for a second, why government started taking control of trash in the first place. Remember leaking, substandard landfills and illegal dumpsites that polluted groundwater—many of which became Superfund sites that are now costing billions to clean up. Remember concerns about mob influence over the waste-disposal industry. Remember the environment—and goals that trash generation and disposal be done in a manner least likely to pollute our environment and deplete natural resources.

For all of those excellent reasons, government took control of trash. Whether that was the best route to go or not, it's too late to reverse it now for existing facilities.

Most of the tough decisions have been made about where to build trash-disposal facilities. The programs are in place. Already, billions of dollars have been spent by local governments. And the financial underpinnings of those programs and facilities were flow-control laws, which the Supreme Court decision undermines.

Kicking out those financial underpinnings after so many trash facilities have been built and so much money expended is unfair. It jeopardizes public bonds and could leave taxpayers paying the bill.

Moreover, undermining flow-control laws is likely to hurt recycling efforts. And recycling (at least of most materials) saves natural resources and landfill space. It's the right thing to do, whether it saves money or not.

Congress should act quickly on a bill that would grandfather the trash control systems that exist in about half the states, including New Jersey. Such a bill is now being prepared in the House and Senate.

Such a bill would be most attractive if it not only protects the financial footing of existing government-run trash programs, but requires government to consider whether future operations would be less costly and more effectively run by private industry.

Legislation requiring a comparison of public and private ownership of new trash facilities is pending on the state level. That provision has also been included in at least one early draft of the federal bill protecting existing trash systems from the Supreme Court decision.

Such a mandatory cost comparison is wise. It's at least at attempt to rein in the spiraling cost of garbage disposal in New Jersey and help ensure the bills for future trash operations aren't inflated by government bloat.

THE ASSOCIATION OF
ENVIRONMENTAL AUTHORITIES,
Mercerville, NJ, June 8, 1994.
Hon. FRANK LAUTENBERG,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR: It was a pleasure to meet with you in Newark last Friday. The AEA members who manage solid waste are grateful to you for supporting our position in the draft amendment which you have distributed to us. We wish you success in getting it added on to the Interstate Bill. Please feel free to call on us to help advance the bill in any way in which we can.

AEA has planned a program with the League of Municipalities to present this issue. I was hopeful that someone from your staff might attend and present your views on why the wording of this bill is advisable over other similar bills. Obviously, the New Jersey League position will be helpful in moving the National League of Cities position. I do not yet have a date for the seminar, but will keep your staff advised.

Thank you also for permitting us to participate in the press conference which was held after our meeting. The debt impact was presented in the ensuing article printed in the Star Ledger and was a welcomed opportunity.

Your attention to this matter is greatly appreciated.

Very Truly Yours,
ELLEN GULBINSKY,
Executive Director.

ATLANTIC COUNTY,
EXECUTIVE OFFICE,
Atlantic City, NJ, June 3, 1994.
Senator FRANK LAUTENBERG,
Hart Building, Washington DC.

DEAR SENATOR LAUTENBERG: As you are aware, the recent U.S. Supreme Court decision in Carbone vs. Clarkstown has stymied many of the solid waste collection and disposal systems financed and supervised by New Jersey's county governments.

I join with fellow county executives Robert Janizewski of Hudson County and Robert Prunetti of Mercer County in support of your efforts to pass legislation which establishes the circumstances under which county governments vested with principal responsibility for the collection and disposal of solid waste can regulate waste flows.

This legislation is vital to the orderly collection and disposal of solid waste in New Jersey, where this responsibility has been delegated to county governments with state oversight. As a result many counties have invested extensively in solid waste facilities such as incinerators, transfers stations, and long term disposal contracts. These investments are seriously jeopardized if a county cannot rely on a guaranteed waste stream which will provide the necessary revenues to pay the project's indebtedness.

Every homeowner in New Jersey is at risk of significantly higher taxes if corrective legislation is not approved. Your efforts in this regard are greatly appreciated.

Sincerely yours,
RICHARD E. SQUIRES,
County Executive.

WMX TECHNOLOGIES, INC.,
Washington, DC, June 16, 1994.
Hon. FRANK LAUTENBERG,
U.S. Senate, Washington, DC.

DEAR SENATOR LAUTENBERG: As you know, the WMX family companies provides municipal solid waste (MSW) management services in 48 States. These services include 134 solid waste landfills and 15,000 waste collection vehicles serving approximately 800,000 commercial and industrial customers as well as 12 million residential customers and contracts with nearly 1,800 municipalities. In addition, our 14 trash-to-energy facilities produce energy from MSW for the 400 communities they serve. Finally, our recycling programs provide curbside recycling to 5.2 million households in more than 600 communities and 75,000 commercial customers throughout the United States.

Because all of these services could be severely and adversely impacted by inappropriate flow control legislation, we have a strong interest in supporting your efforts to identify a fair and effective resolution of the issues associated with flow control.

We believe that your proposed legislation strikes an appropriate balance between the need to protect existing investments and arrangements upon which there has been actual reliance, and the need to foster and maintain vigorous and free competition in the provision of waste management services. Your bill would do so by grandfathering flow control measures that have been implemented by designation of particular facilities before May 15, 1994, and authorizing prospective flow control after that date of only household MSW and certain recyclables under specified conditions and procedures, including a competitive process and a finding that flow control is needed. We consider these elements to be critically important, and we are pleased that you included them.

We look forward to working with you in support of your flow control legislation and in seeking to strike a similar balance in interstate waste legislation that honors and protects good faith investments and arrangements made in reliance upon the Commerce Clause.

Sincerely,
ROBERT EISENBUD,
Director of Legislative Affairs.

INSTITUTE OF SCRAP RECYCLING
INDUSTRIES, INC.,
Washington, DC, June 16, 1994.
Senator FRANK LAUTENBERG,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR LAUTENBERG: Thank you very much for your concerted efforts to bring together a consensus of all interested parties around legislation to address the issue of flow control. Well before the U.S. Supreme Court created the current furor over flow control by handing down the *Carbonne* v. *Clarkstown* case, you and your staff were laying the necessary ground work for achieving compromise on this delicate issue.

The Institute of Scrap Recycling Industries (ISRI) appreciates your work and supports the draft legislation you have put forward, as it applies to recyclables, because it resolves a number of very important flow control issues in a manner that will benefit recycling. First, the bill clearly acknowledges the distinction between municipal solid waste and recyclable material. While some local governments might feel the need for a type of flow control in order to plan for future waste contingencies, the bill recognizes that where this need has been asserted, it has been related to a "disposal" problem and that recycling is the opposite of disposal rather than a subset of it. Your legislation prohibits, in all prospectively enacted flow control ordinances, the seizure by a governmental entity of recyclable materials which the owner does not voluntarily relinquish.

Second, for existing flow control requirements, the bill limits the effects of flow control on recyclable material which the owner does not relinquish willingly, to situations where: 1) a governmental entity has enacted a law which instituted flow control over recyclables prior to May 15, 1994, 2) that entity has designated a facility, prior to May 15, 1994, to which such recyclables must be taken, 3) that entity has actually applied the flow control requirement to recyclables before May 15, 1994, and the recyclables to which the government entity seeks to flow control are of the same commodity type as those over which it asserted authority prior to May 15, 1994. We believe that this grandfathering requirement is sufficiently and appropriately narrow to assure that the nationwide market for recycled content materials will not be Balkanized.

Finally, the definition section of the bill clearly states that the wastes generated during the recycling process are industrial solid wastes and therefore exempt from flow control.

Again, ISRI appreciates your foresight and interest in recycling.

Sincerely yours,
HERSCHEL CUTLER,
Executive Director.

ADDITIONAL COSPONSORS

S. 340

At the request of Mr. HEFLIN, the names of the Senator from Michigan [Mr. RIEGLE] and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 340, a bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the application of the Act with respect to alternate uses of new animal drugs and new drugs intended for human use, and for other purposes.

S. 1020

At the request of Mr. WOFFORD, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 1020, a bill to promote economic growth and job creation in the United States by facilitating worker involvement in the development and implementation of advanced workplace technologies and advanced workplace practices and by identifying and disseminating information on best workplace practices.

S. 1208

At the request of Mr. WOFFORD, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 1208, a bill to authorize the minting of coins to commemorate the historic buildings in which the Constitution of the United States was written.

S. 1805

At the request of Mr. WARNER, the names of the Senator from Vermont [Mr. JEFFORDS] and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of S. 1805, a bill to amend title 10, United States Code, to eliminate the disparity between the periods of delay provided for civilian and military retiree cost-of-living adjustments in the Omnibus Budget Reconciliation Act of 1993.

S. 1889

At the request of Mr. CHAFEE, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 1889, a bill to amend title XIX of the Social Security Act to make certain technical corrections relating to physicians' services.

S. 1951

At the request of Mr. BAUCUS, his name was added as a cosponsor of S. 1951, a bill to establish a comprehensive system of reemployment services, training and income support for permanently laid off workers, to facilitate the establishment of one-stop career centers to serve as a common point of access to employment, education and training information and services, to develop an effective national labor market information system, and for other purposes.

S. 2062

At the request of Mr. INOUYE, the names of the Senator from Louisiana [Mr. JOHNSTON] and the Senator from Wisconsin [Mr. FEINGOLD] were added as cosponsors of S. 2062, a bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to permit the movement in interstate commerce of meat and meat food products and poultry products that satisfy State inspection requirements that are at least equal to Federal inspection standards, and for other purposes.

S. 2073

At the request of Mr. SMITH, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Kansas [Mr. DOLE], the Senator from Indiana [Mr. LUGAR], the Senator from Nevada [Mr. REID], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 2073, a bill to designate the U.S. courthouse that is scheduled to be constructed in Concord, NH, as the "Warren B. Rudman United States Courthouse", and for other purposes.

S. 2120

At the request of Mr. INOUYE, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from Arkansas [Mr. PRYOR], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. 2120, a bill to amend and extend the authorization of appropriations for public broadcasting, and for other purposes.

S. 2177

At the request of Mr. LAUTENBERG, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 2177, a bill to ensure effective congressional oversight of overseas military base support carried out by NATO host countries for the United Sates as payments-in-kind for release of United States overseas military facilities to such countries and to reduce the deficit.

S. 2178

At the request of Mr. DASCHLE, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 2178, a bill to provide a program of compensation and health research for illnesses arising from service in the Armed Forces during the Persian Gulf war.

S. 2183

At the request of Mr. ROBB, the names of the Senator from Indiana [Mr. LUGAR], the Senator from Arizona [Mr. DECONCINI], the Senator from Tennessee [Mr. MATHEWS], and the Senator from Colorado [Mr. CAMPBELL] were added as cosponsors of S. 2183, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the signing of the World War II peace accords on September 2, 1945.

S. 2215

At the request of Mr. LIEBERMAN, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 2215, a bill to establish rules governing product liability actions against raw materials and bulk component suppliers to medical device manufacturers, and for other purposes.

SENATE JOINT RESOLUTION 158

At the request of Mr. WOFFORD, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of Senate Joint Resolution 158, a joint resolution to designate both the month of August 1994 and the month of August 1995 as "National Slovak American Heritage Month."

SENATE JOINT RESOLUTION 165

At the request of Mr. COCHRAN, the names of the Senator from Indiana [Mr. COATS], the Senator from West Virginia [Mr. BYRD], and the Senator from North Dakota [Mr. DORGAN] were added as cosponsors of Senate Joint Resolution 165, a joint resolution to designate the month of September 1994 as "National Sewing Month."

SENATE JOINT RESOLUTION 182

At the request of Mr. JOHNSTON, the names of the Senator from Rhode Island [Mr. PELL] and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of Senate Joint Resolution 182, a joint resolution to designate the year 1995 as "Jazz Centennial Year."

SENATE JOINT RESOLUTION 196

At the request of Mr. SMITH, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Virginia [Mr. ROBB], and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of Senate Joint Resolution 196, a joint resolution designating September 16, 1994, as "National POW/MIA Recognition Day" and authorizing display of the National League of Families POW/MIA flag.

SENATE JOINT RESOLUTION 198

At the request of Mr. PRYOR, the names of the Senator from North Dakota [Mr. DORGAN], the Senator from South Carolina [Mr. THURMOND], the Senator from Louisiana [Mr. JOHNSTON], the Senator from California [Mrs. BOXER], the Senator from Michigan [Mr. LEVIN], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of Senate Joint Resolution 198, a joint resolution designating 1995 as the "Year of the Grandparent."

AMENDMENT NO. 1472

At the request of Mr. HARKIN the names of the Senator from Illinois [Mr. SIMON], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Mississippi [Mr. COCHRAN], the Senator from Nevada [Mr. REID], the Senator from South Dakota [Mr. DASCHLE], the Senator from Massachusetts [Mr. KERRY], the Senator from Hawaii [Mr. INOUYE], the Senator from Colorado [Mr. CAMPBELL], the Senator from Alaska [Mr. STEVENS], the Senator from Washington [Mr. GORTON], the Senator from South Carolina [Mr. THURMOND], the Senator from Nebraska [Mr. EXON], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from California [Mrs. BOXER], the Senator from Wyoming [Mr. SIMPSON], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Ohio [Mr. METZENBAUM], the Senator from Vermont [Mr. LEAHY], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Washington [Mrs. MURRAY] were added as cosponsors of amendment No. 1472 intended to be proposed to S. 1757, a bill to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care of all Americans.

AMENDMENT NO. 1473

At the request of Mr. HARKIN the names of the Senator from Illinois [Mr. SIMON], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Mississippi [Mr. COCHRAN], the Senator from Nevada [Mr. REID], the Senator from South Dakota [Mr. DASCHLE], the Senator from Massachusetts [Mr. KERRY], the Senator from Hawaii [Mr. INOUYE], the Senator from Colorado [Mr. CAMPBELL], the Senator from Alaska [Mr. STEVENS], the Senator from Washington [Mr. GORTON], the Senator from South Carolina [Mr. THURMOND], the Senator from Nebraska [Mr. EXON], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from California [Mrs. BOXER], the Senator from Wyoming [Mr. SIMPSON], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Ohio [Mr. METZENBAUM], the Senator from Vermont [Mr. LEAHY], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Washington [Mrs. MURRAY] were added as cosponsors of Amendment No. 1473 intended to be proposed to S. 1779, a bill to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care of all Americans.

AMENDMENT NO. 1476

At the request of Mr. HARKIN the names of the Senator from Illinois [Mr. SIMON], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Mississippi [Mr. COCHRAN], the Senator from Nevada [Mr. REID], the Senator from South Dakota [Mr. DASCHLE], the Senator from Massachusetts [Mr. KERRY], the Senator from Hawaii [Mr. INOUYE], the Senator from Colorado [Mr. CAMPBELL], the Senator from Alaska [Mr. STEVENS], the Senator from Washington [Mr. GORTON], the Senator from South Carolina [Mr. THURMOND], the Senator from Nebraska [Mr. EXON], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from California [Mrs. BOXER], the Senator from Wyoming [Mr. SIMPSON], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Ohio [Mr. METZENBAUM], the Senator from Vermont [Mr. LEAHY], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Washington [Mrs. MURRAY] were added as cosponsors of Amendment No. 1476 intended to be proposed to S. 1775, a bill to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care for all Americans.

SENATE CONCURRENT RESOLUTION 71—RELATING TO CAPITAL IMPROVEMENT CONTROL

Mr. LIEBERMAN submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 71

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. SHORT TITLE AND PURPOSE.

(a) SHORT TITLE.—This resolution may be cited as the "Capital Improvement Control Resolution".

(b) PURPOSE.—The purpose of this resolution is to require that each large capital improvement project in the United States Capitol area with estimated total costs greater than $3,000,000 be approved by a resolution of the appropriate House of Congress.

SEC. 2. DEFINITIONS.

For purposes of this resolution—

(1) the term "United States Capitol area" means the buildings and grounds of the United States Capitol, the Library of Congress, and the congressional offices; and

(2) the term "large capital improvement project" means a project with an estimated total cost greater than $3,000,000 involving new construction, reconstruction of existing buildings, or acquisition of equipment with a useful life of greater than 5 years.

SEC. 3. CAPITAL IMPROVEMENT RESOLUTION.

(a) CAPITAL IMPROVEMENT RESOLUTION.—No funds shall be obligated for any large capital improvement project in the United States Capitol area unless the House of Congress with jurisdiction over the project has approved the project through the enactment of a resolution described in subsection (b) (referred to as a "Capital Improvement Resolution)".

(b) FORM OF RESOLUTION AND REPORT.—

(1) RESOLUTION.—A Capital Improvement Resolution shall—

(A) include a statement specifically approving the large capital improvement project and identifying the costs of such project; and

(B)(i) if such project only affects 1 House of Congress, be in the form of a simple resolution of such House; or

(ii) if such project affects both Houses, be in the form of a concurrent resolution.

(2) REPORT.—The resolution shall be accompanied by a report from a committee with jurisdiction over the capital improvement project which shall include—

(A) a description of the capital improvement project;

(B) the justification for making the capital improvement;

(C) the alternatives considered, including the costs of the alternatives, and the reasons for rejecting the alternatives;

(D) the total estimated costs for the capital improvement project; and

(E) the maximum amount which may be appropriated for the project.

SEC. 4. WAIVER OF RESOLUTION.

An affirmative vote of three-fifths of Members of the appropriate House of Congress, duly chosen and sworn, shall be required to waive any requirement of this Act.

Mr. LIEBERMAN. Mr. President, today I am submitting a concurrent resolution to improve the process for authorizing large projects for the buildings and grounds of the U.S. Capitol. The current controversy over the staggering cost of renovating the Senate subway illustrates the need for a more thorough airing of major construction projects in the Capitol area. The $18-million pricetag for the subway renovation is difficult to justify, especially amid reports that less expensive alternatives existed. It is true that those alternatives did not involve state-of-the-art equipment that the Senate subway will soon boast. But it is arguable they would have done the job for much less money. For example, one alternative of replacing the existing subway cars with new cars of a similar design would have cost $3 million. Would the Senate have approved an $18 million plan had it known that a $3 million alternative existed? I am certain we all would have wanted a fuller explanation of the benefits that would justify the greater expenditure.

Almost no information was provided to the full Senate about the subway project before it began. The full Senate was never given a report regarding projected expenditures, estimated total cost, or reasons for rejecting alternative proposals. The appropriations for the subway were not given a separate line-item.

At a time when the Federal debt is measured in trillions and public faith in Congress is very low, we must make sure that all major projects to improve the Capitol area receive careful scrutiny. Since excessive expenditures on renovation projects to the Capitol reflect badly on every Member of Congress and on the institution, every Member should have the information necessary to make a decision and an opportunity to vote on the proposal. The concurrent resolution which I am introducing today would provide both. The Capital Improvement Control Resolution of 1994 requires that all major renovations and construction projects affecting the buildings and grounds of the U.S. Capitol area must be approved by a vote on a resolution by the appropriate House of Congress. The resolution must be accompanied by a report on the project which provides (1) a description of the project, (2) the justification for the project, (3) the alternatives considered, along with their costs and reasons for their rejection, (4) the total estimated costs for the project, and (5) the maximum amount which may be spent on the project without requiring passage of another resolution. Only large projects, defined as these with estimated total costs of over $3 million, would be affected by this new procedure. The requirements of the bill could not be waived without an affirmative vote by three-fifths of Members duly chosen and sworn.

I believe that full disclosure and open debate on major construction projects involving the Capitol grounds will ensure that the costs are reasonable and necessary. The Capital Improvement Control Resolution offers a small but significant step toward restoring public respect for this institution.

AMENDMENTS SUBMITTED

1995 TREASURY-POSTAL SERVICE APPROPRIATIONS ACT

GRASSLEY (AND OTHERS) AMENDMENT NO. 1823

Mr. GRASSLEY (for himself, Mr. SHELBY, Mr. LOTT, Mr. WALLOP, Mr. BURNS, Mr. FAIRCLOTH, Mr. ROTH, and Mr. SMITH) proposed an amendment to the bill (H.R. 4539) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1995, and for other purposes; as follows:

On page 15, line 17, strike out "$4,358,180,000" and insert in lieu thereof "$3,953,180,000."

On page 15, line 19, beginning with "Provided" strike out all through the semicolon on line 21 and insert in lieu thereof the following; "Provided that no funds appropriated under this heading may be used for the enhanced tax compliance initiative for fiscal year 1995 as proposed by the Internal Revenue Service".

ROTH (AND PRYOR) AMENDMENT NO. 1824

Mr. ROTH (for himself and Mr. PRYOR) proposed an amendment to the bill, H.R. 4539, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING CANADA'S RESTRICTIONS ON IMPORTS OF UNITED STATES CHICKENS.

(a) FINDINGS.—The Senate makes the following findings:

(1) The United States chicken industry is a highly competitive and growing industry which employs over 200,000 people, has over 25,000 family farms, and has significant production in over 28 States.

(2) United States exports of chickens grew by 32 percent in volume in 1993 and exports are increasingly important to the continued economic vitality of the chicken industry.

(3) Canada's chicken supply management system has severely limited the importation of United States chickens to Canada since it was imposed over 15 years ago, and its elimination would lead to between $350,000,000 and $700,000,000 in new exports to Canada and between 7,000 and 14,000 new jobs in the United States.

(4) Canada's chicken supply management system protects Canadian chicken growers while seriously hurting both United States and Canadian food processors, retailers, and consumers.

(5) The United States and Canada have a free trade agreement which calls for the elimination of all tariffs and prohibits the imposition of new tariffs on any goods traded bilaterally.

(6) The goals of the Uruguay Round Agreement on Agriculture are to liberalize and expand trade in agriculture and to eliminate distortions to such trade.

(7) Canada refused to negotiate the issue of elimination of its severe trade restrictions on the importation of United States chickens as part of the North American Free Trade Agreement (hereafter referred to as "NAFTA") because the issue was part of the global trade negotiations under the Uruguay Round.

(8) The Uruguay Round has now concluded and the former and current United States Trade Representative, as well as other key cabinet-level officials, have stated that Canada will be in violation of its NAFTA obligations if it does not eliminate its newly imposed tariffs on chickens.

(9) The United States chicken industry has waited patiently for access to Canadian markets, which would be the United States' largest export market for chickens if it were fully open.

(10) NAFTA should lead to free and completely open trade for the chicken industry between the United States and Canada, as it will between the United States and Mexico.

(11) The United States and Canada are currently holding discussions to resolve this and other bilateral agricultural matters.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the United States should reserve all current and future rights to bring Canada into compliance with its tariff obligations under NAFTA, including the use of bilateral or multilateral dispute settlement proceedings; and

(2) any agreement that is negotiated between the United States and Canada on chickens should lead to—

(A) substantial and immediate new market access opportunities for United States chicken exports in excess of the levels that have already been achieved; and

(B) a commitment from Canada before the effective date of the Uruguay Round Agreements which—

(i) establishes a timeframe for the elimination of all of Canada's tariffs on chickens; and

(ii) provides for growth in market access levels for United States chicken exports to Canada during the period such tariffs are being phased out.

FAIRCLOTH AMENDMENT NO. 1825

Mr. FAIRCLOTH proposed an amendment to the bill H.R. 4539, supra; as follows:

At the appropriate place in the bill, add the following: "Notwithstanding any provision of law, the President must certify to Congress, annually, that no person or persons with direct or indirect responsibility for administering the Executive Office of the President's Drug-Free Workplace Plan are themselves subject to the program of individual random drug testing."

BROWN AMENDMENT NO. 1826

Mr. BROWN proposed an amendment to the bill H.R. 4539, supra; as follows:

At the appropriate place in the bill, add the following new section:

SEC. . No part of any appropriation contained in this Act may be used to pay for the expenses of travel of employees, including employees of the Executive Office of the President, or other individuals, not directly responsible for the discharge of the official Governmental tasks and duties for which the travel is undertaken: *Provided*, That this restriction shall not apply to family of the President, Members of Congress, Heads of State of a foreign country or their designee(s).

DECONCINI AMENDMENT NO. 1827

Mr. DECONCINI proposed an amendment No. 1827 to the amendment No. 1826, proposed by Mr. BROWN, to the bill H.R. 4539, supra; as follows:

At the end of the pending amendment, add the following: "or other individuals so-designated by the President."

DECONCINI AMENDMENT NO. 1828

Mr. DECONCINI proposed an amendment to the bill H.R. 4539, supra; as follows:

On page 63, line 20, strike "$5,000,000" and insert "$5,250,000."

On page 98, line 12, strike the words "one-fifth".

On page 99, add the following between lines 11 and 12:

(D) The applicable amount under this paragraph shall be zero if neither subparagraph (A), subparagraph (B), nor subparagraph (C) applies.

(3) The Office of Personnel Management shall discuss with and consider the views of the Federal Prevailing Rate Advisory Committee in carrying out the Office's responsibilities with respect to this paragraph.

(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, and no employee covered by section 5348 of such title, may be paid during the periods for which subsection (e) is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(c) For the purposes of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule that was not in existence on September 30, 1994, shall be determined under regulations prescribed by the Office of Personnel Management.

(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 1994, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

(e) The provisions of this section shall apply with respect to pay for services performed by any affected employee on or after October 1, 1994.

(f) For the purpose of administering any provision of law (including section 5431 of title 5, United States Code, and any rule or regulation, that provides premium pay, retirement, life insurance, or any other employee benefit) that requires any deduction or contribution, or that imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(g) Nothing in this section shall be considered to permit or require the payment in any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment and retention of qualified employees.

(i) The Office of Personnel Management may prescribe any regulations which may be necessary to carry out this section.

On page 113, line 5, strike "in" and insert in lieu thereof "on";

On page 113, line 10, insert after "SF-86" the words "or equivalent form";

On page 113, line 11, insert after "not," the word "within";

On page 113, line 16, strike "White House" and insert in lieu thereof "access".

On page 84, line 19, strike all through page 85, line 13 and insert the following:

SECTION 1. The allowances provided to employees at rates set under section 5941 of title 5, United States Code, and Executive Order Numbered 10000 as in effect on the date of the enactment of this Act may not be reduced during the period beginning on the date of the enactment of this Act through December 31, 1996: *Provided*, That no later than March 1, 1996, the Office of Personnel Management shall conduct a study and submit a report to the Congress proposing appropriate changes in the method of fixing compensation for affected employees, including any necessary legislative changes. Such study shall include—

(1) an examination of the pay practices of other employers in the affected areas;

(2) a consideration of alternative approaches to dealing with the unusual and unique circumstances of the affected areas, including modifications to the current methodology for calculating allowances to take into account all costs of living in the geographic areas of the affected employees; and

(3) an evaluation of the likely impact of the different approaches on the Government's ability to recruit and retain a well-qualified workforce.

For the purpose of conducting such study and preparing such report, the Office may accept and utilize funds made available to the Office pursuant to court approval.

MITCHELL-DOLE AMENDMENT NO. 1829

Mr. DECONCINI (for Mr. MITCHELL, for himself and Mr. DOLE) proposed an amendment to the bill H.R. 4539, supra; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . CONGRESSIONAL AWARD PROGRAM MEDALS.

Section 3 of the Congressional Award Act (2 U.S.C. 802) is amended—

(1) in subsection (a)—

(A) by striking "gold, silver, and bronze"; and

(B) by striking the last sentence and inserting the following: "Each medal shall consist of gold-plate over bronze, rhodium over bronze, or bronze and shall be struck in accordance with subsection (f)."; and

(2) by adding at the end the following new subsection:

"(f) CONGRESSIONAL AWARD PROGRAM MEDALS.—

"(1) DESIGN AND STRIKING.—The Secretary of the Treasury shall strike the medals described in subsection (a) and awarded by the Board under this Act. Subject to subsection (a), the medals shall be of such quantity, design, and specifications as the Secretary of the Treasury may determine, after consultation with the Board.

"(2) NATIONAL MEDALS.—The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be charged against the Numismatic Public Enterprise Fund such amounts as may be necessary to pay for the cost of the medals struck pursuant to this Act.".

DeCONCINI AMENDMENT NO. 1830

Mr. DECONCINI proposed an amendment to the bill H.R. 4539, supra; as follows:

On page ___, insert between lines ___ and ___ the following new section:

SEC. ___. CUSTOMS SERVICE INSPECTORS AND CANINE ENFORCEMENT OFFICERS AS LAW ENFORCEMENT OFFICERS FOR FEDERAL RETIREMENT SYSTEMS.

(a) SHORT TITLE.—This section may be cited as the "Customs Service Inspectors and Customs Canine Enforcement Officers Retirement Act of 1994".

(b) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) DEFINITIONS.—Section 8331 of title 5, United States Code, is amended—

(A) by striking out "and" at the end of paragraph (25);

(B) by striking out the period at the end of paragraph (26) and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new paragraphs:

"(27) 'customs inspector' means an employee of the United States Customs Service—

"(A) who—

"(i) elects to make contributions and be covered in accordance with section 4 of the Customs Service Inspectors and Customs Canine Enforcement Officers Retirement Act of 1994; or

"(ii) is hired after the effective date of such Act; and

"(B) the duties of whose position are primarily to—

"(i) enforce laws and regulations governing the importing and exporting of merchandise;

"(ii) process and control passengers and baggage;

"(iii) interdict smuggled merchandise and contraband; and

"(iv) apprehend (if warranted) persons involved in violations of customs laws,

including an employee engaged in this activity who is transferred to a supervisory or administrative position; and

"(28) 'customs canine enforcement officer' means an employee of the United States Customs Service—

"(A) who—

"(i) elects to make contributions and be covered in accordance with section 4 of the Customs Service Inspectors and Customs Canine Enforcement Officers Retirement Act of 1994; or

"(ii) is hired after the effective date of such Act; and

"(B) the duties of whose position are primarily to work directly with a dog in an effort to—

"(i) enforce laws and regulations governing the importing and exporting of merchandise;

"(ii) process and control passengers and baggage;

"(iii) interdict smuggled merchandise and contraband; and

"(iv) apprehend (if warranted) persons involved in violations of customs laws,

including an employee engaged in this activity who is transferred to a supervisory or administrative position.".

(2) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—Section 8334 of title 5, United States Code, is amended—

(A) in subsection (a)(1), by striking out "a law enforcement officer," and inserting in lieu thereof "a law enforcement officer, a customs inspector, a customs canine enforcement officer,"; and

(B) in the table in subsection (c), by striking out "and firefighter for firefighter service." and inserting in lieu thereof ", firefighter for firefighter service, customs inspector for customs inspector service, and customs canine enforcement officer for customs canine enforcement officer service".

(3) MANDATORY SEPARATION.—Section 8335(b) of title 5, United States Code, is amended in the second sentence by striking out "law enforcement officer" and inserting in lieu thereof "law enforcement officer, a customs inspector, or a customs canine enforcement officer".

(4) IMMEDIATE RETIREMENT.—Section 8336(c)(1) of such title is amended by striking out "law enforcement officer or firefighter," and inserting "law enforcement officer, a firefighter, a customs inspector, or a customs canine enforcement officer,".

(c) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—

(1) DEFINITIONS.—Section 8401 of title 5, United States Code, is amended—

(A) by striking out "and" at the end of paragraph (31);

(B) by striking out the period at the end of paragraph (32) and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new paragraphs:

"(33) 'customs inspector' means an employee of the United States Customs Service—

"(A) who—

"(i) elects to make contributions and be covered in accordance with section 4 of the Customs Service Inspectors and Customs Canine Enforcement Officers Retirement Act of 1994; or

"(ii) is hired after the effective date of such Act; and

"(B) the duties of whose position are primarily to—

"(i) enforce laws and regulations governing the importing and exporting of merchandise;

"(ii) process and control passengers and baggage;

"(iii) interdict smuggled merchandise and contraband; and

"(iv) apprehend (if warranted) persons involved in violations of customs laws,

including an employee engaged in this activity who is transferred to a supervisory or administrative position; and

"(34) 'customs canine enforcement officer' means an employee of the United States Customs Service—

"(A) who—

"(i) elects to make contributions and be covered in accordance with section 4 of the Customs Service Inspectors and Customs Canine Enforcement Officers Retirement Act of 1994; or

"(ii) is hired after the effective date of such Act; and

"(B) the duties of whose position are primarily to work directly with a dog in an effort to—

"(i) enforce laws and regulations governing the importing and exporting of merchandise;

"(ii) process and control passengers and baggage;

"(iii) interdict smuggled merchandise and contraband; and

"(iv) apprehend (if warranted) persons involved in violations of customs laws, including an employee engaged in this activity who is transferred to a supervisory or administrative position.".

(2) IMMEDIATE RETIREMENT.—Section 8412(d) of title 5, United States Code, is amended—

(A) in paragraph (1) by striking out "or firefighter," and inserting in lieu thereof "firefighter, customs inspector, or customs canine enforcement officer,"; and

(B) in paragraph (2) by striking out "or firefighter," and inserting in lieu thereof "firefighter, customs inspector, or customs canine enforcement officer,".

(3) COMPUTATION OF BASIC ANNUITY.—Section 8415(g)(2) of title 5, United States Code, is amended in the sentence following subparagraph (B) by inserting "customs inspector, customs canine enforcement officer," after "firefighter,".

(4) DEDUCTIONS.—Section 8422(a)(2) of title 5, United States Code, is amended—

(A) in subparagraph (A) by inserting "customs inspector, customs canine enforcement officer," after "air traffic controller,"; and

(B) in subparagraph (B) by inserting "customs inspector, customs canine enforcement officer," after "air traffic controller,".

(5) GOVERNMENT CONTRIBUTIONS.—Section 8423(a) of title 5, United States Code, is amended—

(A) in paragraph (1)(B)(i) by inserting "customs inspectors, customs canine enforcement officers," after "law enforcement officers,"; and

(B) in paragraph (3)(A) by inserting "customs inspectors, customs canine enforcement officers," after "law enforcement officers,".

(6) MANDATORY SEPARATION.—Section 8425(b) of title 5, United States Code, is amended in the second sentence by inserting ", customs inspector, or customs canine enforcement officer" after "law enforcement officer".

(e) INCLUSION OF OVERTIME PAY AS BASE PAY FOR CUSTOMS INSPECTORS AND CUSTOMS CANINE ENFORCEMENT OFFICERS.—Section 8331(3) of title 5, United States Code, is amended—

(1) in subparagraph (D) by striking out "and" after the semicolon;

(2) in subparagraph (E) by adding "and" after the semicolon;

(3) by inserting after subparagraph (E) the following new subparagraph:

"(F) with respect to a customs inspector or customs canine enforcement officer as defined under paragraphs (27) and (28), compensation for overtime under section 5542(a), but not to exceed 50 percent of any statutory maximum in overtime pay for customs inspectors or customs canine enforcement officers which is in effect for the year involved;"; and

(4) in the matter following subparagraph (F) (as added by paragraph (3) of this section) by striking out "and (E)" and inserting in lieu thereof "(E), and (F)".

(f) AGENCY CONTRIBUTIONS FOR CUSTOMS INSPECTORS AND CUSTOMS CANINE ENFORCEMENT OFFICERS.—Section 13031(f)(3)(A)(i) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)(A)(i) is amended—

(1) by redesignating subclauses (IV) and (V) as subclauses (V) and (VI), respectively; and

(2) by inserting after subclause (III) the following new subclause:

"(IV) paying agency contributions to the Civil Service Retirement and Disability Fund to match contributions for customs inspectors and customs canine enforcement officers as defined under section 8331 (27) and (28), respectively, in accordance with the Customs Inspectors and Customs Canine Enforcement Officers Retirement Act of 1994;".

(g) OVERTIME AND PREMIUM PAY FOR CUSTOMS INSPECTORS AND CUSTOMS CANINE ENFORCEMENT OFFICERS.—

(1) OVERTIME PAY.—Section 5542(a)(4) of title 5, United States Code, is amended by inserting after "law enforcement officer" the following: "as defined under section 8331(20) or 8401(17), a customs inspector as defined under section 8331(27), and a customs canine enforcement officer as defined under section 8331(28)".

(2) LIMITATION ON PREMIUM PAY.—Section 5547(c) of title 5, United States Code, is amended—

(A) in paragraph (1) by inserting "a customs inspector as defined under section 8331(27) and customs canine enforcement officer as defined under section 8331(28)" after "law enforcement officer"; and

(B) in paragraph (2) by inserting "a customs inspector as defined under section 8331(27) and customs canine enforcement officer as defined under section 8331(28)" after "law enforcement officer".

(h) ADMINISTRATIVE PROVISIONS.—

(1) EMPLOYEE COVERAGE.—No later than 90 days after the effective date of this section, each customs inspector or customs canine enforcement officer shall make an irrevocable election to be covered under chapter 83 or 84 (as the case may be) as amended by this section.

(2) EMPLOYEE CONTRIBUTIONS.—Any individual who has served as a customs inspector or customs canine enforcement officer before the effective date of this section, shall have such service credited and annuities determined in accordance with the amendments made by this section, if such individual makes payment into the Civil Service Retirement and Disability Fund of an amount, determined by the Office of Personnel Management, which would have been deducted and withheld from the basic pay of such individual (including interest thereon) under chapters 83 and 84 of title 5, United States Code, as if such amendments had been in effect during the periods of such service.

(3) AGENCY CONTRIBUTIONS.—No later than 90 days after a payment made by an individual under paragraph (1), the Department of the Treasury shall make a payment into the Civil Service Retirement and Disability Fund of an amount, determined by the Office of Personnel Management, which would have been contributed as a Government contribution (including interest thereon) under chapters 83 and 84 of title 5, United States Code, for the service credited and annuities determined for such individual, as if the amendments made by this section had been in effect during the applicable periods of service.

(4) REGULATIONS.—The Office of Personnel Management shall determine the amount of interest to be paid under this section and may promulgate regulations to carry out the provisions of this section.

(i) RULE OF CONSTRUCTION.—No provision of this section or amendment made by this section shall be construed to provide for treatment of customs inspectors or canine enforcement officers of the United States Customs Service as law enforcement officers for any purpose other than as specifically provided in such provision or amendment.

(j) EFFECTIVE DATE.—The provisions of this section and amendments made by this section shall take effect on the date occurring 90 days after the date of enactment of this Act.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

SUBCOMMITTEE ON WATER AND POWER

Mr. BRADLEY. Mr. President, I would like to announce for my colleagues and the public that a hearing has been scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on the following bills pending before the Subcommittee:

S. 1786, to increase the authorization of appropriations for the Belle Fourche Irrigation Project, and for other purposes;

S. 1988, to authorize the transfer of a certain loan contract to the Upper Yampa Water Conservancy District, and for other purposes;

S. 2066, to expand the Mni Wiconi Rural Water Supply Project, and for other purposes;

S. 2068, to authorize the construction of the Lewis and Clark Rural Water System and to authorize assistance to the Lewis and Clark Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water supply system, and for other purposes;

S. 2124, to provide for private development of power at the Mancos Project, and for other purposes; and

S. 2213, to make applicable the provisions of the act commonly known as the "Warren Act" to the Central Utah Project, Utah, and for other purposes.

The hearing will take place on Tuesday, June 28, 1994 at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building, First and C Streets, NE, Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit a written statement for the printed hearing record is welcome to do so. Please send your comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC, 20510, Attention: Leslie Palmer.

For further information, please contact Dana Sebren Cooper, Counsel for the Subcommittee at (202) 224–4531 or Leslie Palmer at (202) 224–6836.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration will meet at 9:30 a.m., in SR–301, Russell Senate Office Building, on Wednesday, June 29, 1994, to hold a markup of executive business. The committee will consider the nominations for reappointment of Lee Ann Elliott, of Virginia, and Danny Lee McDonald, of Oklahoma, to be members of the Federal Election Commission, each for a term expiring April 30, 1999.

The agenda will also include any legislative and administrative items which are ready for committee consideration on the date of the markup.

For further information regarding this markup, please contact Carole

Blessington of the Rules Committee staff on x40278.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for my colleagues and the public that a hearing has been rescheduled before the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony from the scientific community on the scientific and technological basis for radon policy. Indoor radon is receiving some attention in this session of Congress, and bills are pending in the House and the Senate that would substantially increase the amount and scope of Government and regulation related to radon. Research supported by programs under the jurisdiction of the Committee on Energy and Natural Resources can provide important insights into the feasibility and desirability of some of these proposed changes.

The hearing will now take place on Thursday, July 14, 1994 at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building, First and C Streets, NE, Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and natural Resources, U.S. Senate, Washington, DC 20510, Attention: Dr. Robert M. Simon.

For further information, please contact Dr. Robert M. Simon of the committee staff at 202/224/7569.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Committee On Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, June 21, beginning at 10 a.m. to conduct a markup of the Housing Choice and Community Investment Act of 1994, S. 2049.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. DECONCINI. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee for authority to meet on Tuesday, June 14, at 9:30 a.m. for a joint hearing with the House Subcommittee on Environment, Energy and Natural Resources, on: Radioactive Contamination at Sewage Treatment Plants.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, June 21, 1994 to hold a hearing on the nominations of Paul Borman of Detroit, MI to be United States District Judge for the Eastern District of Michigan, Denise Cote of New York, NY to be United States District Judge for the Southern District of New York, John Koeltl of New York NY to be United States District Judge for the Southern District of New York, Rosemary S. Pooler of Syracuse, NY to be United States District Judge for the Northern District of New York and Lewis A. Kaplan of Irvington, NY to be United States District Judge for the Southern District of New York.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, June 21, 1994 at 4:00 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COURTS AND ADMINISTRATIVE PRACTICES

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Subcommittee on the Courts and Administrative Practices of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Tuesday, June 21, 1994 at 10:00 a.m., to hold a hearing on the Foreign Sovereign Immunity Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., June 21, 1994, to receive testimony on the proposed location of the Disney's America project and its potential impact on the Manassas National Battlefield Park and other significant historic sites in northern Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

MIDDLETOWN SENIOR CITIZENS HOUSING CORPORATION 20TH ANNIVERSARY

• Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to the Middletown Senior Citizens Housing Corp. 20th anniversary celebration of Daniel Towers and Bayshore Village, two senior citizen housing apartment complexes that are home to almost 200 families in Monmouth County, NJ.

In their attempt to meet the ongoing needs of senior citizens in the Monmouth area, the Township of Middletown established Daniel Towers as the first of four buildings designed exclusively for seniors. Under the auspices of the Department of Housing and Urban Development, this landmark building has successfully maintained an inviting and amiable atmosphere for 20 years. In conjunction with this project, the Bayshore Village was also founded, with the help of the New Jersey Housing and Mortgage Finance Agency, and has also maintained a successful housing complex for the last two decades.

I commend both the Middletown Township Housing Authority and the Middletown Senior Citizens Housing Corp. for their outstanding efforts on behalf of seniors in Monmouth County. Organizations and people who are willing to commit their time and energy to helping others enhance not only the lives of those whom they affect directly, but also the lives of everyone in the community.•

TRIBUTE TO W.T. YOUNG

• Mr. MCCONNELL. Mr. President, I rise today to recognize and congratulate William T. Young, an outstanding Kentuckian whose horse, Tabasco Cat, most recently won the Preakness and the Belmont Stakes. Mr. Young's recent victories represent the climax of his many achievements.

Throughout his life, W.T. Young has succeeded in both his business and in his service to the Lexington community. Born February 15, 1918, Young received his undergraduate degree in mechanical engineering from the University of Kentucky. After serving in World War II, Mr. Young returned home and founded W.T. Young Foods Inc. where he processed peanut butter. In 1955 the peanut butter was marketed under the Jif brand, and Mr. Young sold his company to Proctor & Gamble.

Three years later, Mr. Young founded W.T. Young Storage Inc. which provides general warehousing, shipping, and trucking services. He also founded a frozen food distribution operation while serving as chairman of the Royal Crown Cola Co.

Along with his business success, W.T. Young has also devoted considerable time and money to educational and civic concerns throughout Kentucky. He has endowed a scholarship program and served as a major benefactor and chairman of the board of Transylvania University in Lexington. Mr. Young is also the current chairman of Shaker Village located in Pleasant Hill, KY. He actively encourages Kentucky tourism, and strongly supports the idea that Kentucky's heritage be preserved. W.T. Young has also been very active in Kentucky politics, for he served as a one-dollar-a-year vice chairman of the

State cabinet during the administration of former Kentucky Governor John Y. Brown, Jr.

Young's interest in breeding thoroughbreds began in the 1970's and he has gradually found successes in the top levels of racing and breeding. Tabasco Cat, Young's most famous horse, has captured the hearts of many horse-racing fans, especially after his victories in two of the coveted Triple Crown races. Overlooking farms in Lexington, I suspect that even at 76, W.T. Young still has many winning racehorses ahead of him.

Young's recent winning of the Preakness and Belmont Stakes is a great accomplishment for a man of so many achievements, but Mr. Young's dedication and service to the Lexington business and civic community must not go unrecognized.

Mr. President, I congratulate W.T. Young for his many efforts, both personal and professional, to further enhance the quality of Lexington and the State of Kentucky. Please insert the following article from the Blood Horse into the RECORD.

The article follows:

[From the Blood Horse, May 28, 1994]

THE JOY OF BEING YOUNG (AND REYNOLDS)

(By David L. Heckerman)

William T. Young and David P. Reynolds, gin rummy-playing buddies and co-owners and co-breeders of Preakness Stakes (gr.I) winner Tabasco Cat, are racing's 1994 version of the Sunshine Boys. The 76-year-old Young and 78-year-old Reynolds have long traveled in the industry's best circles and long operated important racing and breeding programs. Their first classic victory, after years of pleasurable aspiration, represents the achievement of a lifetime goal. As such, it was especially rewarding.

"This has to be the greatest thrill I've ever had," said the reserved and disciplined Young, whose string of business successes and philanthropic achievements have made him into one of Kentucky's wealthiest and most influential citizens. "You grope for words to explain what it is like. The elation is simply marvelous."

"This horse has been a joy to me since last fall," said the openly delighted Reynolds, a former prep-school quarterback who lost his right eye in a college polo match, then went on to head his family's aluminum and metals processing firm. "I've been telling people since he won his first race that he could be a Triple Crown winner. He sure showed us today what he's got."

Young and Reynolds have been friends for decades, since the days when Reynolds was ascending the ladder at the Reynolds Metals office in Louisville. The two men attended the 1985 Breeders' Cup together at Aqueduct, when Young's two-year-old colt Storm Cat was overtaken by Tasso at the wire of the Breeders' Cup Juvenile (gr.I).

"Storm Cat couldn't have been beaten by more than an eighth of an inch, and I can still hear Bill saying, 'Well, we lost, but we've still got a good colt here,'" said Reynolds. "When Storm Cat went to stud, he told me I should send the best mare I had to him, and we would do a foal-sharing. We tried it two or three times, and it didn't produce a lot to brag about. Then we got Tabasco Cat."

As co-owners of a classic contender, Young and Reynolds tossed a coin to see whose colors Tabasco Cat would carry in the Kentucky Derby (gr. I). Young won the toss, and the colt carried his Overbrook Farm colors to a sixth-place finish at Churchill Downs. By terms of the agreement, Tabasco Cat raced in the Preakness under Reynolds' purple and white silks.

"I told Bill, 'Look whose colors they're painting up there on that weathervane now,'" Reynolds said, with an impish laugh, minutes after Tabasco Cat's victory. "Those colors look so good, I can see them with my glass eye."

"The greatest thing about this win to me is that I won it with one of my dearest friends," said Young. "It's been a real pleasure to own this horse and race him with David Reynolds. He's a marvelous individual and a dear, dear friend."

"Bill's got a silver tongue to go with his silver hair," smiled Reynolds, "but I like to hear the things that he says."

MULTI-FACETED MAN

Owing to one of his early successful enterprises, W.T. Young has been described in some racing stories as a former peanut butter manufacturer. That is like describing Thomas Edison as a former electrician. Both descriptions are accurate, but neither captures the full breadth of the man.

Born Feb. 15, 1918, Young received his undergraduate degree in mechanical engineering from the University of Kentucky in 1939. After World War II, he founded W.T. Young Foods Inc. in Lexington to process peanut butter. Later, the peanut butter was marketed under the Jif brand. Young sold his company to Proctor & Gamble in 1955.

Three years later, Young founded W.T. Young Storage Inc., which still provides general warehousing, shipping, and trucking services. He also served for 20 years as chairman of Royal Crown Cola Co. Among other current businesses are frozen food distribution.

On another front, Young was an early investor in the Humana profit-making healthcare enterprises, based in Louisville. He benefited substantially when the value of Humana stock spiraled upward in the 1980s.

In more recent years, Young has devoted considerable portions of his time and money to educational and civic concerns. He has endowed a scholarship program and served as a major benefactor and chairman of the board of Transylvania University in Lexington. He is the current chairman of Shaker Village at Pleasant Hill, Ky., a restored historic community and tourist attraction that seeks to maintain a portion of Kentucky heritage.

Young served as a $1-a-year-vice chairman of the state cabinet in the administration of former Kentucky Gov. John Y. Brown Jr., who was a guest in the Tabasco Cat party at this year's Preakness. At his classic-winning partner's invitation, Young also served from 1985–91 on the board of Reynolds Metals.

Young owned his first Thoroughbreds in the 1970s and began a steady move toward the top levels of racing and breeding in the 1980s. Overbrook Farm currently spreads over 1,600 acres of pastures and wooded hillsides southeast of Lexington. Its immediate neighbors include Wimbledon and Juddmonte Farms to the east and Lexington's exclusive Harland Estates subdivision to the west.

Storm Cat was Young's first major stakes competitor. He has been followed by such other grade I winners as Grand Canyon, Corporate Report, Deposit Ticket, Salt Lake, Patches, Cuddles, and Seaside Attraction. The last named captured the Kentucky Oaks (gr. I) in 1990, giving Young the first half of a double coveted by every Bluegrass Thoroughbred breeder. Union City, who started at odds of 5.90–1 in the 1993 Kentucky Derby, and Tabasco Cat, who started at 6.10–1 this year, have given Young his best chances thus far at completing the double.

While Union City sustained a fatal injury in the 1993 Preakness, Tabasco Cat's victory gave Young his first classic success. "We left here last year as sad as we could be, and this year we're leaving on cloud 10 or 15," Young said after the Preakness.

One year ago, Young stood firmly behind trainer D. Wayne Lukas in the aftermath of Union City's injury. "Lukas has been Overbrook's trainer for five years, during which time the care and condition of our horses has been superb by any standard. We have never had any reason to question his judgment and integrity in all matters, including the care of our horses. He has our continued confidence," Young said in a prepared statement at the time.

This year, Lukas acknowledged his clients' support after the Preakness. "David Reynolds and Bill Young stayed with me and supported our program in a difficult time, and I'm just tickled for them," Lukas said.

SPORTSMAN AND BUSINESSMAN

David Reynolds was born in Bristol, Tenn., on June 16, 1915, and currently resides in Richmond, Va., near the headquarters of Reynolds Metals, where he is listed as chairman emeritus. He was a classmate and all-around carousing buddy of the late Kentucky breeder Warner L. Jones Jr. at Lawrenceville Prep.

At Princeton University, Reynolds ruptured a ligament in football practice, lost an eye in a polo match, and received a bachelor's degree in business administration. The combination of those events soon launched him into lifetime pursuits as an avid golfer and an executive of the family business, which was founded by his father, the late Richard S. Reynolds.

When Reynolds was based in Louisville, Jones ushered him into the ranks of Thoroughbred ownership. Reynolds' wife of 48 years was a native Kentuckian, Margaret Harrison, whose father, William Harrison, once served as mayor of Louisville. With that connection, Mrs. Harrison "cried every year when they played 'My Old Kentucky Home' at the Derby," Reynolds remembered after the Preakness. She died in 1992.

Prior to Tabasco Cat, Reynolds' best runners were the fillies Small Raja and Lady Dean. Small Raja captured Pimlico's Black-Eyed Susan Stakes (gr. II) on the day before the 1977 Preakness and later won the Monmouth Oaks (gr. I) for her owner's first grade I victory. Lady Dean won eight stakes, three of them graded, at Mid-Atlantic and Northeastern tracks in 1981–82.

Reynolds currently owns about 25 broodmares. Most are boarded at either Hermitage Farm near Goshen, Ky., which is operated by Warner Jones' widow Harriett, or Worthington Farms near Glyndon, Md. The latter farm is owned by J.W.Y. Martin Jr., whose wife Glennie is Reynolds' niece.

Several members of Reynolds' family follow racing closely and accompanied him to both the Derby and Preakness. His daughters, Margaret Mackell and Dorothy Brotherton of Richmond, Va., attended both races. Another daughter, Julie Swords of Boulder, Colo., was on hand in Louisville, but watched the Preakness on television in Colorado.

An hour after the Preakness, Reynolds was seated in the Chrysler Triple Crown tent in the Pimlico infield, happily autographing

Preakness Day programs for family members, friends, and wellwishers.

"I'd have to say this is about as good as it gets," Reynolds said. "We might as well just do this again sometime."•

HOMICIDES BY GUNSHOT IN NEW YORK CITY

• Mr. MOYNIHAN. Mr. President, I rise, as has been my practice each week in this session of the 103d Congress, to announce to the Senate that during the last week, 19 people were killed in New York City by gunshot, bringing this year's total to 462.•

BIOMATERIALS ACCESS ASSURANCE ACT OF 1994—S. 2215

• Mr. DURENBERGER. Mr. President, I rise today to join my friend and colleague from Connecticut, Mr. LIEBERMAN, in introducing the Biomaterials Access Assurance Act of 1994.

This bill, in my opinion, represents a significant step forward in reducing the costs of medical devices.

Unless we reform our product liability system, those who make many of the life-saving medical devices that we take for granted today may no longer be able to purchase the raw materials and components necessary to produce their products. Our current product liability system makes it much too easy to bring lawsuits against raw materials suppliers, and too costly for those suppliers to defend themselves even when they ultimately win.

We in Congress must not allow the 7.4 million people who literally owe the quality of their lives to medical devices—and the countless others who will depend on medical devices in the years to come—to become casualties of an outmoded product liability system.

The bill we are introducing today will help reform our product liability laws to assure raw material suppliers that they will not be held liable unless there is real evidence that they were responsible for putting a defective device on the market.

As my colleague from Connecticut says, this bill is good for both consumers and business. By reducing the likelihood of expensive litigation, it will help ensure that life-saving medical products continue to be available to those Americans whose lives—and quality of life—literally depend on them.

Mr. President, I pledge to do all within my power to ensure that this measure is enacted in this Congress.•

BILL INDEFINITELY POSTPONED—S. 680

Mr. DECONCINI. Mr. President, I ask unanimous consent that Calendar Order No. 322, S. 680, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL DISCHARGED AND REFERRED—H.R. 3840

Mr. DECONCINI. Mr. President, I ask unanimous consent that H.R. 3840, a bill to designate the Sam B. Hall Federal Building and U.S. Courthouse, be discharged from the Governmental Affairs Committee and referred to the committee of jurisdiction, the Committee on Environment and Public Works.

Mr. BOND. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING CORRECTION OF ENGROSSMENT OF SENATE RESOLUTION 229

Mr. DECONCINI. Mr. President, I ask unanimous consent that in the engrossment of Senate Resolution 229 the clerk be authorized to make the following correction: That on page 4, line 22, "Rule XXV" should be changed to "Rule XXVI."

Mr. BOND. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Senate proceed, en bloc, to the immediate consideration of Calendar Order Nos. 463, 464, 465, and 466; that the resolutions be agreed to and the motions to reconsider laid on the table, en bloc; that any statements relating to these calendar items appear at the appropriate place in the RECORD; and that the consideration of these items appear individually in the RECORD.

Mr. BOND. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELATING TO THE PRINTING OF A SENATE REPORT

The resolution (S. Res. 196) to authorize the printing of additional copies of a Senate report entitled "Developments in Aging: 1993" was considered and agreed to as follows:

S. RES. 196

Resolved, That there shall be printed for the use of the Special Committee on Aging, in addition to the usual number of copies, the maximum number of copies of volumes 1 and 2 of the annual report of the committee to the Senate, entitled "Developments in Aging: 1993", which additional copies may be printed at a cost not to exceed $1,200.

AMENDING THE STANDING RULES OF THE SENATE

The resolution (S. Res. 224) to amend the Standing Rules of the Senate for the use of the recording studio and mass mailings with respect to uncontested elections was considered and agreed to as follows:

S. RES. 224

Resolved, That (a) paragraph 1 of rule XL of the Standing Rules of the Senate is amended by striking the period at the end and inserting ", unless the candidacy of the Senator in such election is uncontested.".

(b) Paragraph 6(a) of rule XL of the Standing Rules of the Senate is amended by striking the period at the end and inserting ", unless the candidacy of the Senator in such election is uncontested.".

RELATING TO THE PURCHASE OF CALENDARS

The resolution (S. Res. 225) relating to the purchase of calendars, was considered and agreed to as follows:

S. RES. 225

Resolved, That the Committee on Rules and Administration is authorized to expend from the contingent fund of the Senate, upon vouchers approved by the chairman of that committee, not to exceed $79,040 for the purchase of one hundred and four thousand 1995 "We The People" calendars. The calendars shall be distributed as prescribed by the committee.

AUTHORIZING THE PLACING OF A BUST OF RAOUL WALLENBERG IN THE CAPITOL

The concurrent resolution (H. Con. Res. 222) authorizing the placement of a bust of Raoul Wallenberg in the Capitol was considered and agreed to.

ORDERS FOR TOMORROW

Mr. DECONCINI. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., Wednesday, June 22; that following the prayer, the Journal of proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each, with Senator MITCHELL or his designee controlling up to 20 minutes and Senators KENNEDY and KASSEBAUM controlling up to 20 minutes total, with Senator WELLSTONE recognized for up to 10 minutes and Senator CAMPBELL recognized for up to 5 minutes; that at 10 a.m., the Senate then resume consideration of H.R. 4539, the Treasury appropriations bill, under the provisions and limitations as previously ordered.

Mr. BOND. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. DECONCINI. Mr. President, if there is no further business to come before the Senate, and I see no other Senator seeking recognition, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 9:25 p.m., recessed until Wednesday, June 22, 1994, at 9 a.m..

NOMINATIONS

Executive nominations received by the Senate June 21, 1994:

THE JUDICIARY

MARK W. BENNETT, OF IOWA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF IOWA, VICE DONALD E. O'BRIEN, RETIRED.

SALVADOR E. CASELLAS, OF PUERTO RICO, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF PUERTO RICO, VICE JAIME PIERAS, JR., RETIRED.

DANIEL R. DOMINGUEZ, OF PUERTO RICO, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF PUERTO RICO, VICE GILBERTO GIERBOLINI-ORTIZ, RETIRED.

DEPARTMENT OF JUSTICE

DELISSA A. RIDGWAY, OF THE DISTRICT OF COLUMBIA, TO BE CHAIRMAN OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 30, 1994, VICE JAMES H. GROSSMAN.

DELISSA A. RIDGWAY, OF THE DISTRICT OF COLUMBIA, TO BE CHAIRMAN OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR A TERM EXPIRING SEPTEMBER 30, 1997. (REAPPOINTMENT.)

JOHN R. LACEY, OF CONNECTICUT, TO BE A MEMBER OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR THE TERM EXPIRING SEPTEMBER 30, 1995, VICE BENJAMIN F. MARSH, TERM EXPIRED.

DEPARTMENT OF STATE

RICHARD L. GREENE, OF MARYLAND, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF STATE, VICE JILL E. KENT.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 21, 1994:

NATIONAL COUNCIL ON DISABILITY

BONNIE O'DAY, OF MASSACHUSETTS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1995.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE NAVY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be admiral

ADM. CHARLES R. LARSON [redacted]

EXTENSIONS OF REMARKS

LEGISLATION TO PROVIDE MEDICARE COVERAGE FOR BETASERON

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1994

Mr. LAFALCE. Mr. Speaker, I am today introducing a bill, the Multiple Sclerosis Home Treatment Equity Act of 1994, to provide Medicare reimbursement of Betaseron, the only approved biological treatment developed specifically for persons suffering from multiple sclerosis.

It has been estimated that more than 300,000 people in the United States have been diagnosed with multiple sclerosis, or MS. The disease usually strikes at the prime of productive life—most people are diagnosed with MS between age 20 and age 40. MS attacks the central nervous system, producing an inflammation in the brain and spinal cord, which in turn causes scarring lesions on the nerves and a multitude of debilitating symptoms. The symptoms of MS are highly individual, but may include fatigue, impaired vision, loss of muscle coordination. tremors, and bladder and bowel problems.

The most serious symptom of MS is the occurrence of periodic flareups, called exacerbations, of symptoms. Without treatment many individuals experience a progressive worsening of these exacerbations, generally leading to steady physical deterioration and permanent disability.

Of the estimated 300,000 people affected with MS, approximately 25 percent have been diagnosed with relapsing/remitting MS. In relapsing/remitting MS, the exacerbations occur less frequently, and recovery from the exacerbations is generally complete or partial. Although individuals experience plateaus of stable impairment, during which they are generally able to perform the functions of normal daily life, they are often partially impaired and are at risk of further progression of the disease.

FDA APPROVED TREATMENT

The Food and Drug Administration has recently approved a treatment called Betaseron for use by those with relapsing/remitting MS. Betaseron is a revolutionary biological agent which has been shown in clinical tests to be effective in decreasing the frequency and severity of exacerbations in relapsing/remitting patients.

The most significant aspect of Betaseron is that it reduces the formation of lesions on the nerves. Since these lesions are widely thought to be related to the progression of the disease, Betaseron could very well be slowing the physical deterioration of the individual. Individuals afflicted with relapsing/remitting MS may therefore lead more productive lives with Betaseron, and avoid many of the health care costs associated with advancing MS.

Recognizing the profound potential of Betaseron, the FDA used a new accelerated approval process to speed consumer access to the treatment. The Agency approved Betaseron as a generally self-administrable biological agent, meaning that patients who are able can inject themselves with Betaseron at home. Betaseron must be injected under the skin every other day. Unfortunately, the injections, even performed at home, are very expensive, costing approximately $1,000 every month. Without health care coverage which provides reimbursement for home injections, most people with MS would not be able to afford Betaseron.

There are approximately 17,000 people eligible for Medicare who have relapsing/remitting MS. Currently, Medicare only covers treatments received in a physician's office. Medicare does not cover prescription drugs or self-administered injections, and therefore does not cover Betaseron. This presents a problem for people diagnosed with relapsing/remitting MS who become eligible for Medicare. Many beneficiaries are forced to give up their private insurance upon eligibility, only to find that they are no longer reimbursed for the treatment that is so beneficial. They are then forced to find ways to cover the large expense of Betaseron on their own, although they are unable to work, or forego its beneficial effects.

The tragedy of this situation was highlighted for me by the experiences of a man from my district, Mr. Kevin Cloy. Mr. Cloy is 31 years old, and was diagnosed with relapsing/remitting MS in 1990. Mr. Cloy was forced to quit his job due to the disabling effects of MS. In March, Mr. Cloy became eligible for Medicare, losing his private insurance coverage.

Last December, Mr. Cloy became one of the first people to receive Betaseron after FDA approval. Betaseron treatment has done wonders for Mr. Cloy. He is now able to walk, whereas before Betaseron he was confined to a wheelchair. His wife is now able to go to work without worrying about what might happen to him during the day. Mr. Cloy wants to eventually return to work, to again be a productive member of society. With Betaseron this may be possible.

However, Mr. Cloy and his family can no longer afford to pay for Betaseron. The community of Middleport, NY, recently organized a successful fundraiser. But this offers only a temporary solution.

NEED FOR MEDICARE COVERAGE

We must change the inequity in the Medicare system, in which some beneficiaries are covered for Betaseron treatments and some are not. Medicare coverage of Betaseron is needed so that all of those afflicted with relapsing/remitting MS can have the potential of returning to a more normal, productive life.

Mr. Speaker, in this historic time when Congress is actively addressing national health care reform, it is clear that our system must provide better care to more people at a lower cost. One way to accomplish these goals is to focus on preventive care.

I believe that providing access to Betaseron for those afflicted with MS is an excellent example of the financial benefits of preventive care. In slowing the progression of the disease, and allowing these individuals to return to productive lifestyles, Betaseron provides benefits which, in the long term, may far exceed the cost of providing the treatment.

I believe that it is time we act to make this critical treatment available to all eligible Medicare beneficiaries. I urge the Congress to adopt this important legislation.

RETIREMENT OF REV. CANON BRUCE A. WEATHERLY

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1994

Mr. ANDREWS of New Jersey. Mr. Speaker, I rise today to recognize one of the most dedicated citizens from my community whose outstanding service is unmatched. Rev. Canon Bruce A. Weatherly, the rector of Trinity Episcopal Church in Moorestown, NJ, plans to retire from his duties after 35 years of honorable service.

These are just a few of his many accomplishments. He is the president of Drenk Memorial Guidance Center of Burlington County. He is a charter member and the first president of the Affiliated Community Mental Health Center. In addition, the Reverend is a charter member and the first president of the Youth Activities Council Advisory Board of Moorestown, and he is a member of the board of trustees of Burlington College. Rev. Canon Bruce A. Weatherly has enhanced our community with his many accomplishments.

I am honored to take this opportunity to thank him for his many years of unselfish dedication to our community. He is certainly a role model for many of the younger citizens in my district.

SALUTE TO JOHN JOSEPH MAINOR

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1994

Mr. REED. Mr. Speaker, I rise today to salute a distinguished young man from Rhode Island who has attained the rank of Eagle Scout in the Boy Scouts of America. He is John Joseph Mainor of Troop One in Saunderstown, RI and he is honored this week for his noteworthy achievement.

Not every young American who joins the Boy Scouts earns the prestigious Eagle Scout

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Award. In fact, only 2.5 percent of all Boy Scouts do. To earn the award, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. He must earn 21 Merit Badges, 11 of which are required from areas such as Citizenship in the Community, Citizenship in the Nation, Citizenship in the World, Safety, Environmental Science, and First Aid.

As he progresses through the Boy Scout ranks, a Scout must demonstrate participation in increasingly more responsible service projects. He must also demonstrate leadership skills by holding one or more specific youth leadership positions in his patrol and/or troop. This young man has distinguished himself in accordance with these criteria.

For his Eagle Scout project, John re-set headstones and cleaned up an historical cemetery in north Kingstown.

Mr. Speaker, I ask you and my colleagues to join me in saluting Eagle Scout John Joseph Mainor. In turn, we must duly recognize the Boy Scouts of America for establishing the Eagle Scout Award and the strenuous criteria its aspirants must meet. This program has through its 84 years honed and enhanced the leadership skills and commitment to public service of many outstanding Americans, two dozen of whom now serve in the House.

It is my sincere belief that John Joseph Mainor will continue his public service and in so doing will further distinguish himself and consequently better his community. I join friends, colleagues, and family who this week salute him.

THE LOUISVILLE ZOO TURNS 25

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1994

Mr. MAZZOLI. Mr. Speaker, I rise today to extend congratulations to the Louisville Zoo as it celebrates its silver anniversary.

For the past 25 years, the zoo, located in my district (and almost in my own backyard), has been dedicated to strengthening the bond between human beings, animals, and the environment. By offering an extensive array of programs that promote education, conservation, scientific study, and recreation, the zoo has been able to demonstrate to all its visitors, young and old alike, the close link between the human species and the animal kingdom and how each is dependent, to a greater or lesser degree, on one another.

In a scenic setting, the zoo exhibits over 1,600 animals representing six zoogeographical areas: the African Veldt, the Asian Plains, the North and South American Panoramas, Aquatics, and Australian Outback.

Family-oriented and accessible for all, the zoo has had an extensive history of involvement in the Louisville and Jefferson County community. In cooperation with Jefferson County Public Schools, the zoo offers an annual Children's Environmental Festival/Earth Day as well as the services of the MetaZoo, a "living classroom." The zoo's commitment to the education of all is demonstrated in its annual programming.

The "World's Largest Halloween Party" provides children and their parents with a fun, safe, and educational alternative to traditional trick-or-treating. And, Kentuckians of all ages look forward to the zoo's summer series of outdoor concerts held in conjunction with the Louisville Orchestra. In addition, the Louisville Ballet, the Kentucky Opera Association, and other local acting troops have performed at the zoo's outdoor amphitheater.

In addition to providing the community with educational and recreational programs, the Louisville Zoo has long been dedicated to the development of scientific study, most notably in the fields of conservation and endangered animal rehabilitation. In 1988, the zoo received the Edward H. Bean Award for its Woolly Monkey Propagation Program. And, notable scientific accomplishments at the zoo include the successful transfer of a zebra embryo to a domestic horse and a successful raptor rehabilitation program.

Yet despite its many awards and achievements, the zoo is not resting on its laurels. Instead, it continually searches for innovative ways to grow and develop.

The most recent addition was the HerpAquarium, which features over 100 species of reptiles, amphibians and fish, and highlights the importance of conservation and the severe threat of extinction posed by the destruction of the rain forest. The zoo was recently selected to house a captive breeding population of black-footed ferrets, North America's most endangered mammals. And, new plans are on the way for expansion and renovation.

Mr. Speaker, I ask you and my colleagues to join me and the Louisville and Jefferson County community in congratulating the zoo director, Dr. William Foster, and the many others who have worked tirelessly to ensure that the Louisville Zoo would become what it is today, a true jewel of our community.

L'CHAIM: TO LIFE

HON. MARJORIE MARGOLIES-MEZVINSKY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1994

Ms. MARGOLIES-MEZVINSKY. Mr. Speaker, I rise today to pay homage to my constituent, Mr. Michael Herskovitz, a man who captures the spirit not only of survival, but the realization of accomplishment. Mr. Herskovitz's is a story of the terrors of the Holocaust, and of a spirit that refused to be broken. Through Nazi incarceration in the labor camps, to isolated fears in a strange land with unknown customs, to the perseverance of desires, Mr. Herskovitz, a Czechoslovakian immigrant, epitomizes the promise of the American Dream.

Recently, a book recounting the details of Mr. Herskovitz's life was brought to my attention. "Early One Saturday Morning" is written through the eyes of the 13-year-old Michael. Hidden within the simplicity of the words is a horrifying story which can chill you down to the marrow of your bones. It is the tale of concentration camps Auschwitz and Mathousen—of a young boy separated from family and friends and the hellish existence created to try to break the human spirit. After watching the extinction of countless people before his eyes, young Michael still willed himself to live. Recounting the experiences, he observes, "'All it takes for evil to survive is for the good people to do nothing.'" He was one of 90 children of 8,000 to survive. At liberation, he weighed a mere 96 kilos, about 45 pounds. Mr. Herskovitz's story only begins with his hospital recovery.

Following his rehabilitation, Michael was reunited with his uncle, one brother, and two of his sisters—the rest of his family had been exterminated. Overcoming a heavy heart, Michael was educated as an automotive mechanic in Czechoslovakia. Then, he dedicated his energies to the Israeli Independence movement. Working hard and supported by his wife, Frida, also a Holocaust survivor, Michael came to the United States. He spoke no English. In this strange land of foreign customs, he decided that he "want[ed] to stay and bring [his] family here * * * It was heaven because the family was together again, united, and [they] could begin to plan a future." An uncrushable spirit, Michael Herskovitz went from the status of immigrant blue collar laborer, to working in a local gas station, to partner, to sole owner. He essentially lives the American dream. Now as he retires, Mr. Herskovitz is surrounded by the love of his family, grown in the generations. He recounts the horrors of the Holocaust, fearing that silence may doom us to repeat an unthinkable history whose piercing memories cannot begin to penetrate the carnage of body and soul.

Let us remember the past, but also think of the hope and vitality of unlikely heroes such as Michael Herskovitz. He is not merely a survivor but a symbol of hope and dreams. Let us follow the example of this extraordinary man, for I cannot say it better than his own words:

> I am so glad to be alive and I try to get every drop of life out of each hour of the days that I have been given * * * Live my life with a clear conscience, do as much good as I can.

AS MILITARY PAY SLIPS BEHIND, POVERTY INVADES THE RANKS

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1994

Mr. GINGRICH. Mr. Speaker, I would urge all of my colleagues to carefully read the following article recently published in the New York Times. I believe that if you read this article, you will see how the President's cuts in the defense budget are taking a toll on the men and women who bravely defend and put their lives on the line every day for the United States.

I believe it is unconscionable that the U.S. Government is not sufficiently providing for the American men and women who voluntarily make such great personal sacrifices every day to ensure your freedom and my freedom, and I strongly encourage my colleagues to actively oppose further cuts in America's defense budget.

[From the New York Times, June 12, 1994]

AS MILITARY PAY SLIPS BEHIND, POVERTY INVADES THE RANKS

(By Eric Schmitt)

WASHINGTON, June 11.—Like other airmen at Hickam Air Force Base in Honolulu, 21-year-old Jason Edwards worries about tensions faraway in North Korea that could erupt into fighting and involve his base.

But Airman Edwards has more immediate concerns as well. He is worried about how to feed his 22-year-old wife, Beth, and their two small children on his total pay and allowances of $1,330-a-month. In desperation, the Edwardses last month began drawing $228 a month in food stamps to get by.

"It's a very tight squeeze for us," Mrs. Edwards said. "We haven't bought any steaks since we've been here, and whenever I want to cook something with ham, I substitute Spam for it."

In a trend that has senior Pentagon officials deeply troubled, an increasing number of military families are turning to food stamps to make ends meet. Three-quarters of America's enlisted forces earn less than $30,000 a year, and the gap between civilian and military wages is growing.

To be sure, no one ever joined the military to get rich. But neither did they expect to have to go on welfare. Military officials worry that a growing demand for food stamps and other Government assistance may signal larger personnel problems in a culture that preaches self-reliance and self-discipline.

The overall number of troops on food stamps is very small and difficult to measure because the Government does not track military recipients.

About 3 percent of the 1.7 million service members qualify for food stamps and 1 percent, or about 17,000 personnel, receive them monthly, according to a 1992 study by the Defense and Agriculture Departments. The Agriculture Department manages the food stamp program.

Nonetheless, the Defense Department said the total value of food stamps redeemed at military commissaries increased to $27.4 million last year from $24.5 million in 1992, including retired military recipients. Food donation centers are bustling at bases from Hawaii to Florida. And in Georgia's Liberty County, which serves Forth Stewart, 30 percent of the 2,400 households receiving food stamps each month are military families.

Top military officials voice concern that Pentagon budget cuts to quality-of-life issues like pay could impair both morale and retention of service personnel. The Clinton Administration tried to freeze military salaries this year and increase them only by 1.6 percent for next year. Congress instead approved a 2.2 percent increase for this year and will probably approve a 2.6 percent raise for next year, but neither raise will keep pace with inflation, which is about 3 percent. "We cannot expect service members to lay their lives on the line when back home their families have to rely on food stamps to make ends meet," said Adm. William A. Owens, the vice chairman of the Joint Chiefs of Staff.

The vast majority of service members on food stamps are sergeants or below in the Army, Marine Corps and Air Force and petty officers or below in the Navy. The families usually have more than two children, and the spouse does not work. Very few officers qualify for food stamps.

In a culture that promotes a fierce ethic of taking care of one's own, soldiers' reluctant embrace of food stamps and other financial assistance has wounded military leaders.

"We've always told our soldiers that we'll provide for them a quality of life that's at least equal to the civilians for whom they serve," Richard A. Kidd, the Sergeant Major of the Army, the senior enlisted soldier, said in an interview. "It's getting tough to do that now."

For most people who join the armed forces, the lure is not money but adventure, education and patriotism. The military also offers good medical and commissary benefits.

But since 1982, the gap between civilian and military wages has widened to 13 percent, and is projected to be near 20 percent by the end of the decade. The military wages include housing and other allowances.

Meantime, the rising pace of deployments abroad is placing greater strains on the shrinking number of service members and their families. "There's only so long you can ask them to do more without recognizing it before people just start to leave," said Sydney T. Hickey, associate director of government relations for the National Military Family Association in Alexandria, Va.

In addition, more young people than ever are entering the military with spouses and children—and added financial burdens. Between 70 to 80 percent of all enlisted men and women earn less than $30,000 a year, including housing and food allowances, according to a study by Senator John McCain, an Arizona Republican on the Armed Services Committee. Among those, 45 percent of the Army and 46 percent of the Marine Corps earn less than $20,000 a year. Mr. McCain coined a new term for what he calls these people: "the new military poor."

Spec. Kimberly Southworth, a 29-year-old Army truck mechanic stationed at Schofield Barracks in Oahu, Hawaii. She is separated from her husband and living with her three children on post. Specialist Southworth said her monthly income was $1,700 but after taxes and bills, including $6 an hour for babysitters, she has about $50 left over each month.

"I don't like having to apply for food stamps, but I don't have a choice," said Specialist Southworth, who has received $390 a month in food stamps since January 1992. "The cost of living is so high in Hawaii and the pay for my rank is so low. If I didn't have food stamps, I'd be in debt up to my neck."

At the Navy base in Norfolk, Petty Officer First Class Gary Benfield and his wife, Suzanne, said they and their four children—ages 5 months to 7 years—rely on another Federal program for nursing mothers and children under 5, the Women, Infants and Children program, for $100 a month in food coupons.

Overall, the value of W.I.C. coupons redeemed at military commissaries increased to $15.2 million last year from $12.4 million in 1992. "It bothers me because no employee of the Federal government should qualify for Federal assistance," Mrs. Benfield said.

Eligibility for food stamps is based on a combination of income, other financial resources and household size. Federal officials say as many as 40 percent of military families on food stamps live in free military housing. They qualify for stamps because their incomes are not raised above the cutoff by the housing and food allowances that service members living off-base receive.

Pentagon spokesmen say the issue is not strictly pay, but individual family circumstances. "We don't compensate people for having nine people in their family," said Maj. Bill Buckner, an Army spokesman.

Military officials say they encourage service members with financial problems to take advantage of food stamps, and a range of other programs, from emergency loans to financial planning seminars. Many families, however, balk at stepping forward for what they consider a handout.

"We've tried to identify them, but they just don't come forward," said Chief Master Sgt. Eddie Morgan, the senior enlisted airman in the 33d Fighter Wing at Eglin Air Force Base in Florida. "It's a pride thing."

To get around that, the senior enlisted airmen at Eglin manage a fund called Operation Care that distributes $10,000 in yearly donations from other service members to needy families, usually around the holidays. Last year, 247 families, some with as many as seven children, received grants of $25 for each family member.

Some branches of the military are reluctant to discuss the subject at all. When asked to help contact families on food stamps who would be willing to talk about their plight for this article, a Marine Corps spokeswoman, Lieut. Col. Robin Higgins, declined, saying, "The commandant prefers to emphasize the positive things about the quality of life in the Marine Corps." She was referring to Gen. Carl E. Mundy Jr., the Commandant of the Marine Corps.

So painful is the perceived stigma of using food stamps that some service members pay more to avoid being seen using them. A highly decorated chief petty officer in Norfolk, who received $200 to $400 a month in food stamps from 1982 until 1993, said he and his wife shopped in supermarkets rather than Navy commissaries, even though commissary food prices are on average about 25 percent cheaper.

"We didn't want to be seen by anyone we knew, so we went to the community store even though it was more expensive," said the chief petty officer, who spoke on the condition of anonymity.

Defense Department officials say that about 50 percent of military spouses have full-time jobs to help pay the bills. Since military personnel transfer frequently, however, spouses often must start over each move and miss out on promotion opportunities.

Many service members work part-time as fast-food servers, gas station attendants, grocery baggers and hotel-room cleaners. A 22-year-old combat medic in an artillery unit at Fort Carson, Colo., started his second job today as a security guard in a city park. The medic said he needed the $4.25-an-hour weekend job to supplement his $1,000 monthly base pay to support his wife and their three children, a 2-year-old boy and year-old twin boys.

"When I joined the Army, I expected good benefits, decent pay and job security, just like the commercials say," said the medic, a Persian Gulf war veteran who spoke on condition of anonymity. "But it's been a lot harder than I ever imagined."

Commanders expressed concern that working two jobs could hurt military performance. "It's something we pay attention to," said Chief Master Sgt. Mike Burbage, the senior enlisted adviser at Eglin Air Force Base. "But it's tough to tell a guy to quit a job if he needs it to feed his family."

TYLER'S 30-YEAR MONSIGNOR

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1994

Mr. HALL of Texas. Mr. Speaker, I rise today to pay tribute to a remarkable man from the Fourth Congressional District of Texas, Msgr. Milam J. Joseph of Tyler, TX, a wonderful and valued friend of mine.

On May 30, Monsignor Joseph celebrated his 30th year in the ministry, having been ordained by Bishop Thomas K. Gorman for the Diocese of Dallas on May 30, 1964. Milam Joseph then served as the assistant pastor for St. Rita's Church in Fort Worth for 2 years. He served the Dallas/Fort Worth Diocese from 1964 to 1968 as notary to the tribunal and in 1968 as director of vocations.

Monsignor Joseph's exceptional education began at Sacred Heart Elementary School and Jesuit High School in Dallas. He graduated with a bachelor of science degree in commerce from the University of Notre Dame in 1959. He continued his education at St. John's Seminary in Little Rock from 1959 to 1960, at Catholic University here in Washington from 1960 to 1964, and at the University of Dallas in 1961. He received a master's degree in education in 1967 from Catholic University.

This is indeed an impressive resume and list of academic credentials, Mr. Speaker. However, Monsignor Joseph's most impressive work has been as a pastor, living and working with everyday men and women as they go through everyday lives.

In 1969, Monsignor Joseph came to the Immaculate Conception Church in Tyler, TX, in 1969. He served as assistant pastor for 4 years, becoming pastor in 1973. He also served as principal of Thomas K. Gorman High School from 1969 to 1974.

Monsignor Joseph has served on numerous boards, foundations, and charitable organizations in east Texas, including University Park Hospital in Tyler, people attempting to help [PATH], and the Tyler ministerial alliance. He received various awards and honors from church organizations, educational institutions, and civic groups. These involvements and honors are not the result of Milam Joseph's desire for recognition. Rather, they are because people wanted to recognize him for his efforts on behalf of his parishioners and the people of Tyler.

As I said earlier, Monsignor Joseph's most notable accomplishments have been with his everyday works as a pastor—marrying, burying, counseling, baptizing, providing comfort, and sharing joy. A letter from the pastoral council at Immaculate Conception describes Father Joseph: "In good times and bad times, in season and out of season, he has always been there for us. Like the threads of a tapestry, his presence is woven throughout our lives * * *" What a testimony.

In conclusion, I would like to note one of Father Joseph's activities. Seeing the rising number of immigrants in east Texas, particularly from Mexico, he recognized that these individuals had special needs and presented unique opportunities for all the congregations in east Texas. Perhaps Monsignor Joseph's empathy for these people came from the fact that his own family members were immigrants to this country. His father, John Joseph, was born in Pittsburgh, PA, of Lebanese descent. His mother, Anne Marpes Joseph, was born in Rachine, Lebanon, and migrated to this country. Nonetheless, Father Joseph saw the needs of newcomers to east Texas. Beginning in 1965, he began to participate in exchange programs to Latin America. He studied the Spanish language, history, and culture. And then in 1976, he established the Hispanic Social Ministry Office in Tyler. This is indicative of the concerned, proactive work Milam Joseph has been about. As the letter from the pastoral council says, he is "truly a man of vision * * * He has been our voice in East Texas for social justice."

Mr. Speaker, on July 11, Msgr. Milam Joseph began a 6-month sabbatical to reflect, pray, and study. He will be missed in the diocese in which he has served and in the larger east Texas community. In announcing Joseph's sabbatical, Bishop Edmond Carmody called Joseph "a man for all people, the rich and the poor, all ethnic groups, all brothers and sisters of other faiths and traditions * * *" I am sure all of those people and all of the members of this body join me in wishing Msgr. Milam Joseph Godspeed.

80TH BIRTHDAY FOR HELENA Z. BENITEZ

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1994

Mr. CUNNINGHAM. Mr. Speaker, I rise today to pay tribute to the Hon. Helena Z. Benitez on the occasion of her 80th birthday. She has long been known as one of the most prominent citizens of the Philippines and a tireless advocate for Philippine-United States friendship.

On June 27, 1994, Helena Benitez will be honored at a gala at the Manila Hotel Fiesta Pavilion. This is a fitting honor for a woman who has been a champion of numerous causes and a leader throughout the history of the independent Philippines.

Miss Benitez received liberal arts and education degrees from the Philippines Women's University in Manila and a doctorate in humane letters from the Manhattan College of the Sacred Heart. Her dedication to youth and education is evident, as she also served as president of the Philippines Women's University for 2 years, and currently serves as chairman of that institution's board. In 1940, Miss Benitez was the founding member and chairman of the central committee of the Girl Scouts of the Philippines.

During World War II, Helena Benitez was a heroine. When the Japanese invaded the Philippines and brutally imprisoned countless Filipinos and Americans, Miss Benitez was a leader in the resistance. With prisoners suffering from hunger and disease, she organized a group of young, prominent Filipino women who obtained food and medicine. These women risked their lives by delivering these supplies to prisoners and internees, for which they could have been put to death.

This aid was critical, as the Japanese occupation authorities refused to admit the International Red Cross to the Philippines. Miss Benitez founded the Volunteer Social Aid Committee, which provided life-saving food and medicine to American and Filipino prisoners-of-war. She and her colleagues were recognized by the Congress of the Philippines for their efforts after the war ended.

She continued to be a vital force in the early period of Philippine independence, establishing the Community College of the Philippines Women's University, founding and serving as the first president of the Philippines Home Economic Association. She also founded the Bayanihan Folk Arts Association and the Family Life Workshop. As testament to her great affection for this country, she founded and served as vice-chairman of the America-Philippines Society in New York City.

It was only natural that a woman of her commitment should enter the public arena, and she was elected to the Philippines Senate. She served as vice-chairman of the Committee on Education and represented her country at a number of international conferences. As a Senator, she also served on the National Resources, Urban Development and Resettlement, and Local Government Committees of the Philippines Senate. Miss Benitez also served as a member of the Philippines National Economic Council. She also was active in her government's work at the United Nations, chairing various committees and being given the Romulo UN Award.

Helena Benitez has been recognized for her service with the Soroptimist International Woman Helping Women Award. Currently, in addition to her duties at Philippines Women's University, she serves as international vice-president of the Pacific Memorial Freedom Foundation, which preserves the history of the Philippines during World War II.

Mr. Speaker, I know my colleagues join me in saluting the 80 years of accomplishments of Helena Z. Benitez. She is a role model for her fellow citizens of the Philippines and a great friend of the United States of America.

WELCOME TO PRESIDENT YOWERI K. MUSEVENI

HON. HARRY JOHNSTON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1994

Mr. JOHNSTON of Florida. Mr. Speaker, I want to welcome the President of Uganda, Yoweri K. Museveni, to the United States. President Museveni is leading a trade and investment mission including more than 30 representatives of Uganda's private sector of the United States from June 18, 1994, to June 25, 1994. This mission will visit Washington, DC, Minneapolis, MN, and Dallas, TX. I am pleased to report that President Museveni's delegation has received widespread support from the U.S. business community, including the Corporate Council on Africa.

President Museveni is an important leader for Uganda and Africa. His free market policies have resulted in an impressive record of economic growth, and his leadership has brought Uganda from the chaos of war to an unprecedented era of political and social stability. Uganda has significantly improved its human rights record, and continues its progress toward democracy. Uganda recently held Constituent Assembly elections which were declared free and fair by international observers. I am hopeful that President Museveni will ensure equally free and fair elections for President and Parliament early next year, after the adoption of Uganda's new constitution.

Finally, I would like to recognize President Museveni's vital contributions to conflict resolution and international peacekeeping. His leadership has been especially important in Sudan, Somalia, and Liberia. I am particularly appreciative of President Museveni's efforts to relieve the terrible suffering in southern Sudan and to bring peace to this war-ravaged country. I welcome President Museveni to the United States, and I look forward to working with him to ensure the progress of political and economic reform in Uganda and the other countries of Africa.

IN HONOR OF SHRI AKSHAR PURUSHOTTAM SWAMINARAYAN HINDU TEMPLE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1994

Mr. STARK. Mr. Speaker, it is my honor to announce that Shri Akshar Purushottam Swaminarayan Hindu Temple in Milpitas, CA will soon be installing a new idol. This most sacred event will take place on July 16, 1994, and will be performed by Swaminarayan Hindu Temple's spiritual leader, H.D.H. Pramukh Swami Maharaj.

I extend my warmest wishes to Swaminarayan Hindu Temple on this sacred day and would also like to applaud them for their continued commitment to community service. On top of providing a place for Hindus to reach the heights of spiritual excellence, Swaminarayan Hindu Temple organizes frequent antiaddiction and antidrug campaigns and coordinates numerous blood donation and food distribution drives. They also play a very active role in providing emergency relief for the victims of natural disasters around the world.

Swaminarayan Hindu Temple, inaugurated in August 1991, is part of the Bochasanwasi Swaminarayan Sanstha [BSS], a socio-religious organization with over 72 active centers and 11 temples throughout the United States and Canada. The BSS, founded on the peaceful teachings of Lord Swaminarayan, has 3 million members and strives to enrich society morally, spiritually and socially.

Again, I would like to congratulate Swaminarayan Hindu Temple on this very special occasion. The active and positive role they play in our community is truly appreciated and I wish the temple continued success and growth in the coming years.

HONORING REV. BOB AND RUTH HAHN ON THE OCCASION OF THEIR 40TH ANNIVERSARY OF MARRIAGE AND MINISTRY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1994

Mr. GILLMOR. Mr. Speaker, it gives me great pleasure to rise today and pay tribute to two outstanding citizens of northern Ohio. This week, Rev. Bob and Ruth Hahn of Port Clinton will celebrate two anniversaries. The first celebrates their 40 year union as man and wife. In addition, they will celebrate Bob's retirement after 40 years of ministry in churches throughout the Midwest.

While their achievements and accomplishments during this timespan are too numerous to mention, both have brought a devotion and caring to Port Clinton that will be missed by all. Commitment to civic service is a hallmark of Ohio and one of the reasons it is such a wonderful place to live. Bob and Ruth's dedication to God has greatly enhanced this commitment and should be commended.

In addition to his work with the United Methodist Church, Bob is also a member of the Rotary Club and deeply involved in all aspects of the community. Ruth has also shared her talents with others. As music coordinator for St. John's Lutheran Church, she has been known to play the organ at St. John's and then slip in the back door of the United Methodist Church to lend her beautiful voice to the choir.

Mr. Speaker, Bob and Ruth Hahn's lives have been a model of excellence and are an inspiration to us all. I ask my colleagues to join me in paying a special tribute to the Hahn's record of personal accomplishments and wishing them all the best in the future.

VOLUNTEERS FOR PARK CLEANUP PROJECT HONORED

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1994

Mr. ANDREWS of New Jersey. Mr. Speaker, I rise today to recognize these citizens for their outstanding commitment to community service in my district. On Saturday, June 4, 1994, these citizens participated in a park cleanup project on the North Shore of Camden, NJ. I would like to take this opportunity to thank each and every volunteer for his or her unselfish effort in the cleanup.

Charles A. Derrickson, Vana Bayliss, Brian Marcantonio, Jason Reinert, Niecey Fuentes, BJ Robinson, Joshuel Fuentes, Melvin Fuentes, Jerry Fuentes, Ceferino Fuentes, Marjorie Haulsey, James Haulsey III, Jennifer Haulsey, Jannell Haulsey, Christopher Finger.

Eileen Ward, Crystal James, Sydney Francis, Veronica Truluck, Felix Vazquez, Jim Beach, Jean Rivera, John Russell, James Haulsey, Sr., David Torres, May Hyman, Judia Hyman, Isaiah Hyman, Tonya Johnson, Desmond Johnson.

Albert Benjamin, Cary Bowles, Luz Rodriguez, Linda Mateo, Marni Rivera, Donald Myers, Rob Day, Diego Gonzales, Carmen Santiago, Betha Lindsey, Lydia H. Connor, Jacqueline Connor, James M. Connor, Jr., Joeline M. Connor, Jeremiah M. Connor.

Lydia Ireland, Richard O'Brian, James M. Connor, Sr., Madeline Alicea, William A. Klein, Lataya S. Murray, Katrina Cuevas, Susana Alicea, Rosario Alicea, Joshua Brickhouse, Mike, Devlin, Lucille Cruge, Daniel Finger, Denise Finger, W. Robinson.

Michael Haluszka, Jack Shannon, Scott Goldberg, Jeff Swartz, Phil Rowan, Donna Civa, Dorothy Brown, Jennifer Brown, Jeffrey Albert, Stephanie Albert, Rosie Rosell, Edwin Montgomery, Lydia Ortega, Mr. & Mrs. Francis Haug, Ashley Garzia.

Andres Sustache, Charles A. Derrickson, J. Douglass Griffith, Zandy Candelaria, Yadira Santiago, May Rojas, Luzbette Rojas, Cindy Candelaria, Luz Quinones, Carmen Velazques, Julio Quinones, Sarah Falana, Antonia Falana, Isabel Robinson, Lisa Hood.

Robbie Hood, Lisa Zane, Roger Little, Angel Fuentes, Charles Pollack, Anna Alia Fuentes, Jose L. Martinez, Joseph Mahan, Kathy Meyers, Stella A. Maltman, Jack Swobaski, Yamil Rodriguez, David McBride, Andrea Barany, Jan Hodell.

Yvette Cuevas, Evelyn Sanchez, Pilar Shaffer, Ruben Rivera, Vivian Pandora, B.J. Schaffer, Ramon Martinez, Hilda Rodriguez.

SALUTE TO JASON CLARK

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1994

Mr. REED. Mr. Speaker, I rise today to salute a distinguished young man from Rhode Island who has attained the rank of Eagle Scout in the Boy Scouts of America. He is Jason Clark of Troop 1 in Coventry, RI, and he is honored this week for his noteworthy achievement.

Not every young American who joins the Boy Scouts earns the prestigious Eagle Scout Award. In fact, only 2.5 percent of all Boy Scouts do. To earn the award, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. He must earn 21 merit badges, 11 of which are required from areas such as citizenship in the community, citizenship in the Nation, citizenship in the world, safety, environmental science, and first aid.

As he progresses through the Boy Scout ranks, a Scout must demonstrate participation in increasingly more responsible service projects. He must also demonstrate leadership skills by holding one or more specific youth leadership positions in his patrol and/or troop. This young man has distinguished himself in accordance with these criteria.

For his Eagle Scout project, Jason removed the old tile from the basement floor of St. Vincent de Paul Church, patched the floor and repainted it.

Mr. Speaker, I ask you and my colleagues to join me in saluting Eagle Scout Jason Clark. In turn, we must duly recognize the Boy Scouts of America for establishing the Eagle Scout Award and the strenuous criteria its aspirants must meet. This program has through its 84 years honed and enhanced the leadership skills and commitment to public service of many outstanding Americans, two dozen of whom now serve in the House.

It is my sincere belief that Jason Clark will continue his public service and in so doing will further distinguish himself and consequently better his community. I join friends, colleagues, and family who this week salute him.

ISRAEL'S 46TH BIRTHDAY

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1994

Mr. MAZZOLI. Mr. Speaker, today, I pay tribute to Israel on the 46th anniversary of its creation as an independent nation on May 14, 1948.

Israel has always been a beacon to democracies around the world, and has long been a friend of the United States. That beacon has grown especially bright now that the long-awaited Middle East peace process has begun. In an area little known for peace, Israel and the Palestine Liberation Organization, have taken an important first step in establishing a lasting peace in the Middle East.

The past 46 years have been challenging to Israel and, while the future may be unclear, Israel and her people have shown remarkable tenacity for surviving and succeeding. May Israel's future continue to be bright and may the bond that has developed over the years between the United States and Israel grow even stronger.

INTRODUCTION OF BOVINE GROWTH HORMONE LABELING BILL

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1994

Mr. SANDERS. Mr. Speaker, I am pleased to be introducing national legislation to require the labeling of milk and dairy products produced with synthetic bovine growth hormones, known as rBGH. I am also pleased that the legislation has the support of more than 20 of my colleagues as well as farm and consumer organization across the Nation.

I am pleased because no issue in recent years better illustrates the need for farmers and consumers to join together and take our agriculture and our food supply back from the chemical companies and multinational corporations who now dominate it.

rBGH is a new, synthetic drug injected into cows to force them to produce more milk. But that is not all. rBGH makes cows sick, and it is going to result in higher Federal spending, lower farm income and a loss of family farms.

The legislation we are introducing has three parts. It will require labels on milk produced with synthetic rBGH. It will require development of a synthetic rBGH residue test to help validate label claims and it will provide for an assessment on farmers who use rBGH, so they bear the burden of increased Federal costs that result from its use.

Right now, the dairy industry is being held hostage by the Monsanto Co., producers of the new synthetic hormone. The overwhelming majority of consumers don't want synthetic rBGH. Most farmers don't want synthetic rBGH. But Monsanto is pushing it into the market and into our milk supply. In the process, they are pitting farmers against consumers. In fact, farmers who chose not to inject their cows with the new drug and who label their milk as free of synthetic rBGH are being slapped with law suits by the Monsanto Co. for "misleading" consumers. And finally, taxpayers and farmers are being forced to pick up the tab for this unnecessary and controversial drug.

I am proud that Vermont is the first State to require labeling of milk produced with synthetic rBGH. Wisconsin, Minnesota and Maine have also passed rBGH labeling laws and other States are considering similar measures. A number of companies around the country have also begun their own voluntary labeling programs, but they all face expensive law suits.

Our legislation will replace a growing patchwork of State laws and individual labels with a simple label that guarantees consumers the right to know if their milk was produced with rBGH. And it will stop Monsanto's strategy of intimidation and law suits.

Let me outline some of our major concerns with this product.

Synthetic rBGH will cause serious economic problems. The Office of Management and Budget estimates that dairy surpluses caused by rBGH will cost farmers $1.3 billion in income over the next 5 years, while increasing the Federal budget by more than $500 million.

Since rBGH was introduced in February, we have seen major increases in milk production compared to last year. The Milwaukee Sentinel reported May 11, on the "sea of new milk, triggered in part by the introduction of bovine growth hormone."

As a result, farmers are bracing for a significant drop in their milk prices. It is estimated that farm prices could drop by as much as $2 per hundredweight this summer. Since the real price farmers receive for their milk has already declined significantly in recent years, a drop of $2 per hundredweight is a disaster that will mean an acceleration in the decline of family farms and a weakening of rural economies across the Nation.

Contrary to Monsanto's assertions, there is growing evidence that an rBGH residue test is possible. In fact, European scientists have reported—Journal of Immunoassay, March 1994—using a test in their lab and appear to have laid the groundwork for a commercial test.

A residue test confirms a difference in the milk of injected cows. If there were no difference in the milk, if there were no residue of synthetic hormone, there would simply be nothing to test for.

Consumers have the right to know how their milk is produced and what they are consuming. Consumer polls and the action taken by State legislatures, clearly underscore very strong consumer support for labeling synthetic rBGH milk. Right now consumers are being robbed of that right. I am concerned that consumers that do not want to ingest milk produced from cows injected with synthetic BGH feel that they are left with no choice but to avoid milk. We should be promoting worry-free milk consumption. I think Congress should take action to restore it.

Other countries are responding to their consumers. Today, a member of the Canadian Parliament, Wayne Easter, who is an active member of the Agriculture Committee, former president of the National Farmers Union, and a dairy farmer, asked me to send a copy of this legislation to him so he could present it to the Canadian Minister of Agriculture as a possible solution to the strong negative reaction of Canadian consumers to synthetic rBGH.

Synthetic rBGH injections make cows sick. This is shown in rBGH trials and confirmed by the FDA and the GAO. The POSILAC—synthetic rBGH—label lists a variety [20] of adverse side effects. It also warns that using synthetic rBGH may result in the use of more antibiotics, increasing the risk of antibiotics ending up in consumers' milk. The FDA calls this a manageable risk. The question is, why we are taking any risk at all for a drug that no one, other than the Monsanto Co., needs or wants.

The entire FDA review of rBGH provides a classic example of why the American public is losing faith in the ability of the Federal Government to protect their interests over those of big business. The GAO is currently conducting a review of possible conflicts of interest and bias at the FDA involving its review of Monsanto's product. Earlier, in 1992 the Monsanto Co. was found to have repeatedly violated the Federal laws prohibiting promotion of a new animal drug before its approval. The inspector general is now completing another review of continued violations of that law and we expect it will show that Monsanto continued to violate the law even after warnings by the FDA.

The great majority of American dairy farmers do their very best to provide consumers with pure and wholesome milk and dairy products that they can buy and use with confidence. But this tradition is threatened.

On the one hand we have the Monsanto Co. looking for profits at any cost. On the other hand we have farmers and consumers asking Congress to take action on their behalf.

Outside the beltway the choice is clear. It is our hope now that the Congress will join with us in taking this simple but very important action in support of both farmers and consumers.

TRIBUTE TO MERLE DOUTHIT

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1994

Mr. SKELTON. Mr. Speaker, today I wish to pay tribute to a Missourian, Merle Douthit of Odessa, MO, who recently passed away.

Formerly a farmer near Odessa, MO, Mr. Douthit was the presiding commissioner of Lafayette County from 1986 until 1990. Prior to that position, Mr. Douthit was a Lafayette County deputy sheriff from 1976 to 1986 and was also former chief deputy.

Mr. Douthit was a Navy veteran of World War II and the Korean war, and a member of the American Legion. He was also a member of the Bee Squares Dance Club, and of the church.

He is survived by his wife, Dorothy, sons, Michael and James, daughter, Patty Howerton, a twin sister, Melba Hosmer, eight grandchildren, two stepgrandchildren, a great-grandson, and two stepgreat-grandchildren. I urge my colleagues to join me in bidding a farewell to my friend through the years who was respected by all who knew him.

SALUTE TO EDWARD AND IRENE DOMBROWSKI

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1994

Mr. FOGLIETTA. Mr. Speaker, I rise to salute Edward and Irene Dombrowski, on the occasion of their 50th wedding anniversary. Mr. and Mrs. Dombrowski of Philadelphia will have an anniversary celebration on June 26 as a sumbol of the love and devotion they have shared together for a half a century. Mr. Speaker, I join with their friends and family in wishing the Dombrowskis of Philadelphia a very happy 50th anniversary.

HONORING THE WESTCHESTER BLACK WOMEN'S POLITICAL CAUCUS

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1994

Mr. ENGEL. Mr. Speaker, it is with great pleasure that I honor the 20 years of service provided to the community by the Westchester Black Women's Political Caucus, which greatly encourages the participation of black women in all phases of the political process. Its mission is to project, pursue, and support causes, issues, and individuals who help advance the socioeconomic and political position of women and minorities.

Founded in 1974 by Alice C. Scott, the caucus has been led by several noteworthy pioneers, such as Joan Mosley, Gwen Byrd, Ethel Harmon, Cheryl Brennan, Bernadette McWilliams, Ann Grant, Alfreda Williams, Lois Bronz, Ann Grant, Oriel Redd, Ruth Thompson, Marlene Danridge, and many other women not mentioned but no less invaluable.

These women have helped to make the organization a viable, growing component of the true meaning of democracy. Currently the Westchester Black Women's Political Caucus has chapters in the Greater Northern Westchester area, Greenburgh, Mount Vernon, New Rochelle, and Yonkers. Barbara J. Shealy serves as the newly elected county president.

Since the inception of the caucus, 25 women have been either elected or appointed to various positions such as district leader, commission and board members, town supervisors, city clerk, city council member, county legislator, city comptroller, and State committee woman. The spirit of excellence and equity projected by the caucus continues to expand the participation of black women and minorities in the political process. I applaud this grassroots organization of women on the move.

THE 50TH ANNIVERSARY OF THE GI BILL

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1994

Mr. MICHEL. Mr. Speaker, it is with great pleasure that I rise today to salute the 50th anniversary of the signing of the Servicemen's Readjustment Act of 1944, better known as the "GI Bill."

These days, the American people look with great suspicion at the role of Government in their lives. They wonder if they are getting their money's worth with big Government programs with large bureaucracies. And many times, the taxpayers are not getting their money's worth.

But the GI bill gave America more than its money's worth. In fact, with the possible exceptions of the Marshall plan and the Louisiana Purchase, the GI bill has been the greatest investment in the history of the American taxpayer.

What did the GI bill do? It simply helped to make the United States the greatest, most stable, and most progressive democracy on Earth.

It educated 20 million veterans. It built more than 14 million homes. It is credited with creating the modern American middle class. It is the financial linchpin of our higher education system and our real estate industry. It transformed our universities from elitist preserves for the wealthy to institutions attainable and affordable to the common man. And it gave the average American family a chance to own their own home.

Mr. Speaker, it is no secret why this investment in America's future works and why other Great Society programs do not. The GI program gives veterans a chance to help themselves. The Great Society programs discourage private initiative. The GI bill emphasizes individual achievement, while the Great Society programs emphasize bureaucratic achievement. And the GI bill has proved to be a catapult to success while the Great Society programs have proved to be a road to defeat.

As I salute the GI bill's 50th anniversary, I should mention my own personal thanks to the American Legion and those who worked so hard to make this bill the law of the land. After all, as a young veteran, I myself put the GI bill to good use in finishing at Bradley University after the Second World War. And I am just one of the millions of success stories spawned by the framers of this historic legislation.

TWIN BUTTES DAM NEEDS REPAIRS

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1994

Mr. STENHOLM. Mr. Speaker, I rise today to introduce legislation which would address a very serious, even life-threatening situation in San Angelo, TX, which is in my district. Twin Buttes Dam, which is a Bureau of Reclamation project, was built in the early 1960's. Due to poor design and construction of the dam, it seeps water. Although the Bureau has attempted to correct the problem, the seepage has grown worse over the years to the point where last December the water level of the reservoir was lowered well below conservation level to prevent a breach of the dam.

In fact, Twin Buttes Dam is rated the least safe dam subject to failure in the Bureau's inventory. As you can imagine, repairing Twin Buttes Dam is vitally important for several reasons, not the least of which is the fact that the lives and homes of the 40,000 people who live below the dam are endangered. Also, Twin Buttes Reservoir is the water source for 90,000 residents of San Angelo and the surrounding area. For these reasons, the dam must be fixed as quickly as possible. Furthermore, because it was faulty construction on the part of a Federal Government project, the expense of the repairs should also be the responsibility of the Federal Government.

Due to the importance of this matter, I offer this legislative remedy and urge its expeditious consideration.

CONGRESSMAN KILDEE HONORS DAVID DOLBY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1994

Mr. KILDEE. Mr. Speaker, I rise today before my colleagues in the U.S. House of Representatives to pay tribute to an outstanding American, Mr. David Dolby, a Medal of Honor recipient. The Vietnam Veterans of America Genesee Chapter No. 175 will host a reception for Mr. Dolby, on Wednesday, June 22, 1994 at the Disabled Veterans Post No. 3, in my hometown of Flint, MI.

Mr. Dolby joined the U.S. Army in February 1965, being assigned to Company B, 1st Battalion, 8th Cavalry Division. He served in the U.S. Army for 5½ years, doing five tours in Vietnam. During his Vietnam service David earned many medals and citations for bravery. The awards given to David include the Silver Star, the Bronze Star with two Oak Leaf Clusters, the Purple Heart, the Air Medal, the Army Commendation Medal with two Oak Leaf Clusters, the Good Conduct Medal, the National Defense Service Medal, the Vietnam Service Medal with one silver and three bronze stars, the Republic of Vietnam Cross of Gallantry with gilt star, the Republic of Vietnam Armed Forces Honor Medal Second Class, the Republic of Vietnam Campaign Medal with "60" clasp, Cambodian Service-Honor Medal, Combat Infantry Badge, the Parachutist Badge, Valorous Unit Citation, Meritorious Unit Citation, the Republic of Vietnam Presidential Unit Citation and the Republic of Vietnam Cross of Gallantry Unit Citation with Palm insignia. Honorary awards received by David Dolby include the Republic of Vietnam Parachutist Badge, the Republic of Vietnam Ranger Badge and the Cambodian Parachutist Badge.

Sergeant David Dolby was honored with our Nation's highest award—the Congressional Medal of Honor—for his acts of bravery and leadership displayed during an ambush of his platoon on October 20, 1967. Sergeant Dolby's platoon was advancing tactically when it came under intense enemy fire from the immediate front. Six members of his platoon were critically wounded, including the platoon leader. Sergeant Dolby moved the wounded to a safe location and took command of the platoon. Despite continuing intense enemy fire, Sergeant Dolby repositioned the remaining members of the platoon to engage the enemy. With intense enemy fire and disregard for his own safety, Sergeant Dolby positioned the men to cover the withdrawal of the forward elements, assisted the wounded, and he alone, attacked the enemy positions until his ammunition was gone. Replenishing his ammunition, he returned to the area of intense action, singlehandedly killed three enemy machine gunners and neutralized the enemy fire, allowing friendly elements on the flank to advance. He personally carried a seriously wounded soldier to safety so he could be treated and, in returning to the forward area, he crawled through withering fire to within 50 meters of the enemy bunkers and threw smoke grenades to mark them for air strikes. Sergeant Dolby directed artillery fire on the enemy and succeeded in silencing several enemy weapons.

Mr. Speaker, it is indeed an honor and a pleasure for me to rise today to pay tribute to this outstanding soldier, Sgt. David Dolby. His actions of unsurpassed valor during 4 hours of intense combat were a source of inspiration to his entire company, contributed significantly to the success of the overall assault on the enemy position, and were directly responsible for saving the lives of a number of his fellow soldiers. I urge all my colleagues to join me in saluting the bravery and courage of Sgt. David Dolby.

OPPOSE EMPLOYER MANDATES

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1994

Mr. PACKARD. Mr. Speaker, I rise to express my grave concerns about employer mandates to finance health care reform. Employer mandates are just another burden on businesses already straddled with other Government mandates and regulations. This method of financing will have a disastrous effect on our labor force and will result in massive job loss.

Under the Clinton plan, employers will have to pay 80 percent of the cost of average insurance for their employees. Most of this money will come from a worker's paycheck, not from the employer's profits or by higher prices. The cost of such a mandate would be passed on in reduced wages, or in the case of many lower-income employees, loss of their jobs. A study by the American Legislative Exchange Council projects that in my State of California, 114,000 Jobs will be lost while over 2.8 million workers would face reduced wages, hours, or benefits. A very grim forecast.

Who are the workers most fearful of losing their jobs because of employer mandates? More than 75 percent of the lost jobs will be in industries such as restaurants, retail trade, and construction. These industries employ large numbers of low wage workers, people who would suffer the most from the loss of their jobs if employer mandates were in effect. In the restaurant industry alone, labor costs would rise by more than 19 percent, thus reducing or eliminating many part-time positions, the bulk of their employees.

Mr. Speaker, employer mandates would be one of the worst ways to finance health care reform. Instead of providing employers with new health benefits, it would jeopardize the most important benefit they have: A job. I urge my colleagues to join me in opposing employer mandates in any health care reform legislation.

100TH ANNIVERSARY OF GREAT AUDITORIUM

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1994

Mr. PALLONE. Mr. Speaker, Friday, July 1, 1994, will mark the 100th anniversary of the opening of the Great Auditorium in Ocean Grove, NJ. The anniversary will be marked by a major celebration involving the entire community of Ocean Grove and numerous visitors from near and far. I look forward to being part of the festivities.

Mr. Speaker, the Great Auditorium is more than a historical monument. It is living history, a link with the past that serves as the focal point of the community to this day. The rafters of this great hall have echoed with the stirring voices of great American statesmen and orators, including seven U.S. Presidents, as well as some of the leading religious leaders of the 20th century and a diverse group of musical artists. During a 1970 visit to Ocean Grove, President Richard M. Nixon called the Auditorium a historic hall with significant memories in the history of our country. The Auditorium has been the meeting place for numerous community functions and civic events. And, of course, the Auditorium has been the scene of regular Sunday services.

The building was dedicated on July 1, 1894. But to trace the history of its construction, we should go back in time another 25 years to the founding of the unique and nationally known community of Ocean Grove. In the summer of 1869, according to the official history compiled by the Ocean Grove Camp Meeting Association, 10 families gathered for rest and religious fellowship on the land that is now known as Founders Park. Dr. William B. Osborn had traveled the entire length of the Jersey shore, from Sandy Hook to Cape May, in search of a suitable location for camp meetings. He chose a square mile of oceanfront property with a high beach and a beautiful grove of trees which was free of mosquitoes and named it Ocean Grove. In December of that year, an organization consisting of 13 laymen was formed under the name "the Ocean Grove Camp Meeting Association."

Over the years, as times have changed, the community of Ocean Grove has strived to maintain its traditions. Today, the community is designated as a national historic site. Many people still come to Ocean Grove for spiritual reasons. Others come here to enjoy the beautiful beach and to bask in the charm of the stately Victorian homes and oceanfront hotels that make this community so unique.

The first "Preacher's Stand," built in 1870, was an octagon capable of seating 75 ministers and surmounted by a cupola in which was a small bell, according to "A Brief History of Ocean Grove." On the site of the original open-air sanctuary a frame structure was constructed, covered with tree boughs, which created an inspiring effect in dry weather but caused numerous problems when it rained. Finally, in 1876 a permanent roof was installed. A new bell tower with a larger bell was installed, and this bell has heralded services for 119 years. By 1877, this 3,000-seat structure was no longer large enough to accommodate the crowds. In 1891, Dr. Stokes, then president of the Camp Meeting Association, proposed construction of a new 10,000-seat hall to mark Ocean Grove's silver anniversary. Ground was broken in December 1893. It took an average of 36 working men only 92 days to complete the Great Auditorium, and the dedication ceremony took place on July 1, 1894. The full construction cost: $69,112.16.

There are 262 doors and windows in the hall, which is nearly the size of a football field. The seating arrangement was changed to theater style, reducing the capacity to 6,500, but improving the comfort for the audience. In 1988, a new stainless steel roof was installed at a cost of over $850,000, with the support of the State of New Jersey and contributions from friends.

Mr. Speaker, as visitors to the Great Auditorium can attest, this landmark is a soaring, monumental, graceful structure. It is amazing to imagine what the construction costs of such facility would be today—if such a project were even attempted. Through the loving care provided by the Camp Meeting Association and the citizens of Ocean Grove, and the generosity of both public and private sources, I am confident that the next 100 years can be as inspiring as the Great Auditorium's first century.

THE VANCOUVER NATIONAL HERITAGE AREA PARTNERSHIP ACT OF 1994

HON. JOLENE UNSOELD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1994

Mrs. UNSOELD. Mr. Speaker, today I am introducing legislation to provide for the long-term preservation and interpretation of the significant cultural, natural, and recreational resources located in the relatively small area of Vancouver, WA. My bill would establish a Federal, State, and local partnership to coordinate the management of public properties that represent some of the most significant and interesting history in the Pacific Northwest.

Vancouver might be described as the cradle of civilization and settlement in the Pacific Northwest. Native Americans built a rich cultural and trading center along the shores of the Columbia River, and there came into contact with such early American explorers as Lewis and Clark. Later in the 19th century and early 20th century English and American settlements and military forces were headquartered in Vancouver. Since the early 20th century, Vancouver has been home to one of the oldest and most historically significant operating airports in the country. Each of these chapters in the history of the Northwest and the United States are represented by sites and facilities clustered in Vancouver's historic district.

Six principal sites make up the historic area of Vancouver:

One.—Fort Vancouver was founded in 1825 and served as the regional headquarters for the Hudson's Bay Company. The fort was seminal to European settlement and commercial growth in the Pacific Northwest and is now the re-constructed fort—a National Historic Site owned and managed by the National Park Service.

Two.—The Vancouver Barracks are immediately adjacent to Fort Vancouver. From the mid-19th century until World War I the barracks were the principal administrative outpost of the U.S. Army in the Pacific Northwest.

Three.—Officers Row is an avenue of 21 elegant houses overlooking Fort Vancouver and the Columbia River. For over 100 years, Officers Row housed some of our Nation's greatest military leaders. Officers Row was recently acquired from the Department of the Army and restored by the city of Vancouver.

Four.—Between the Columbia River and Fort Vancouver lies Pearson Airpark, one of the oldest continuously operating commercial airports in the Nation. Pearson is managed by the city of Vancouver and partially owned by the National Park Service. The airpark has played an important role in the history of military and civilian aviation in the Northwest, including the landing of Valeri Chkalov, the "Soviet Lindbergh," marking the first transpolar flight between Russia and the United States. Today Pearson is a home to a diverse array of historically significant aircraft, and an acclaimed air museum.

Five.—The Columbia waterfront links the history of all these sites. Pieces of the waterfront currently owned by the National Park Service were the site of early Indian activity landings by the explorers.

Six.—The Marine Park is a stretch of mostly wild and undeveloped land along the Columbia River which captures the natural ambiance of the river before the arrival of French, British, and early American explorers.

Mr. Speaker, the concentration of these historic sites—all located in one 366-acre corner of Vancouver, WA—presents both management opportunities and challenges. For example, one of the critical issues facing the city of Vancouver, the National Park Service, and interested parties in the Vancouver area has been the future of Pearson Airpark. In 1972, the city's of Vancouver sold the eastern half of the Pearson runway to the Park Service, which planned, after the expiration of the city lease in 2002, to replace that part of the runway with interpretive plantings around the reconstructed Fort. Since the sale, a growing appreciation for the importance of Pearson's role in aviation and national history along with the region's demand for general aviation facilities has triggered a reconsideration of the future of aviation at Pearson, as well as a rethinking about the future of the entire historic district of Vancouver.

In 1990 under the guidance of Chairman VENTO, I authored successful legislation to respond to the managerial challenges facing the region by establishing a commission to analyze various management strategies for these historic properties. The commission was composed of representatives of the major entities interested in the area, including the National Park Service, the Army Corps of Engineers, the city of Vancouver, and the State of Washington. The commission completed its work in April 1993 by recommending that a partnership be established to ensure effective, coordinated management of the area.

The legislation that I am introducing today implements the findings of the commission as reported in the April 1993 study. Specifically, it will establish a local, State, and Federal partnership that will draw upon the expertise and experience of the National Park Service as a partner in managing and protecting of this entire area. The bill will protect Fort Vancouver and interpret the period of history that it represents. And it will also preserve and enhance Pearson Airpark, the Vancouver Barracks, Officers Row, the Columbia Riverfront, and the Marine Park, and the equally significant historic periods and events which they represent. Most importantly, by unifying and coordinating the management of all of these historical assets, the partnership will develop the full educational, recreational and historical potential of the proposed heritage area.

What makes this bill exciting is that by creating a partnership and leveraging non-Federal participation, this legislation will preserve and interpret these important parts of our history at a fraction of the cost to the Federal Government of having the Federal Government purchase all the lands in the 366-acre site.

The best history of our Nation isn't written in books, it's in the buildings, lands, and waterways of historic areas. When we visit these areas and when we take our children to them, we understand the past and we connect it to the future. I'm fortunate to have such a historic area in my district. For the people of Vancouver, for the visitors to the Pacific Northwest, and for the children who need to understand their own history; I urge my colleagues to support the Vancouver National Heritage Area Partnership Act of 1994.

SECTION-BY-SECTION SUMMARY OF H.R. , THE VANCOUVER NATIONAL HERITAGE AREA PARTNERSHIP ACT OF 1994—JUNE 21, 1994

SECTION 1. SHORT TITLE

The act may be cited as the "Vancouver National Heritage Area Partnership Act of 1994".

SECTION 2. FINDINGS AND PURPOSE

The proposed heritage area includes sites and facilities in Vancouver, Washington which represent distinct and overlapping historic themes and periods. The purpose of this act is to preserve, enhance, and interpret the significant aspects of the lands, water, structures and history of the proposed heritage area, and to provide a partnership that will develop and implement an integrated management program to achieve these aims.

SECTION 3. DEFINITIONS

SECTION 4. VANCOUVER NATIONAL HERITAGE AREA

Establishes the Vancouver National Heritage Area. The area shall include: Fort Vancouver National Historic Site, Vancouver Barracks, Pearson Airfield and Museum, Officers Row, Old Apple Tree Park, the Marine Park and the identified waterfront area, as well as the indicated path and easements.

SECTION 5. VANCOUVER NATIONAL HERITAGE AREA PARTNERSHIP

Establishes the Vancouver National Heritage Area Partnership to oversee the protection, enhancement, and development of the heritage area. The Partnership shall be composed of five members appointed by the Secretary who represent the interests of the Department of the Interior (National Park Service), the State of Washington, Department of the Army, City of Vancouver, and the general public. Each member shall serve on a volunteer basis, except that their expenses may be reimbursed by the Partnership.

SECTION 6. STAFF OF THE PARTNERSHIP

The Partnership shall have the power to appoint and fix compensation of such staff as may be necessary to carry out its duties. The Partnership may also accept the services of staff from federal agencies and State and local governments, for which such entities will be reimbursed.

SECTION 7. POWERS OF THE PARTNERSHIP

Partnership members will continue to exercise primary management responsibility for the lands and facilities over which they currently have jurisdiction. The Partnership will be authorized to: hold hearings, receive gifts, enter cooperative agreements, establish advisory groups, and perform other actions.

SECTION 8. COMPACT BETWEEN MEMBERS OF THE PARTNERSHIP

Within 12 months after it conducts its first meeting the Partnership shall prepare, sign and submit to the Secretary a compact that identifies the members of the Partnership, the goals of the heritage area, the responsibilities of each member of the Partnership, and the objectives that are likely to be included in the management plan.

SECTION 9. HERITAGE AREA MANAGEMENT PLAN

Within 36 months after it convenes its first meeting, the Partnership shall develop and submit to the Secretary a plan that defines a timetable for the various actions of the Partnership and the development of specific programs and facilities in the heritage area.

SECTION 10. PEARSON AIRPARK

The Partnership will develop the Pearson Airpark Viability and Mitigation Plan. This Plan would propose incentives and regulations to encourage a transition from basing predominantly general aviation aircraft to basing historic aircraft at Pearson. This transition shall be completed by April 3, 2022, unless a continuation of general aviation is expressly authorized by Congress. Also included in the Pearson Economic Plan would be a report to Congress regarding the advisability of continuing to base some general aviation at Pearson, and a program to mitigate any conflicts related to the operation of the Airpark and the other activities within the heritage area.

In addition, the city of Vancouver shall be required to remove all non-historic, aviation-related buildings and devices from the property of the National Park Service by 2003. The city of Vancouver will rent land from the National Park Service for the Airpark and the Air Museum, and shall be liable and responsible for the use and operation of these facilities. The National Park Service will be required to approve all structural improvements and additions to the Air Museum facilities on Park Service property.

SECTION 11. DUTIES AND POWERS OF THE SECRETARY OF THE INTERIOR

The National Park Service shall be the lead federal agency for implementing the management plan, and planning, designing and supervising all common heritage area facilities. Upon request of the Partnership, the Secretary may provide grants and technical assistance to prepare the compact and to prepare and implement the management plan. In consultation with the Partnership, the Secretary shall approve or disapprove the management plan.

SECTION 12. DUTIES OF OTHER FEDERAL ENTITIES

Other federal entities shall cooperate with the Secretary and the Partnership in carrying out their duties under this Act.

SECTION 13. AUTHORIZATION OF APPROPRIATIONS

There is authorized such funds as may be necessary to carry out this Act. The federal share of the cost for the heritage area in any fiscal year may not exceed 50 percent of the total cost of the heritage area.

TRIBUTE TO REV. FATHER LAWRENCE T. GAUTHIER

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1994

Mr. STUPAK. Mr. Speaker, I would like to bring to the attention of my colleagues the outstanding work done by a great leader in my congressional district, the Reverend Father Lawrence T. Gauthier. On the occasion of his retirement from the position of pastor at the congregation of St. Louis the King in Marquette, MI, it is most fitting to pay tribute to a man who has dedicated his life to providing leadership in both education and the spiritual guidance of the people of northern Michigan and the Upper Peninsula.

Father Lawrence T. Gauthier started his education at the Salvatorial Seminary, St. Nazianz, WI, and earned his Ph.D. in classical and philosophy studies at St. Francis Major Seminary in Milwaukee. He finished his theological studies at St. John's Seminary in Plymouth, MI, from 1952 to 1955. He was ordained a priest on June 4, 1955, at St. Peter's Cathedral and celebrated his first mass on June 5, 1955.

Since his ordination, Father Gauthier's ministry has included a variety of positions. Not only his primary role as a leader of spiritual lives, but, as well, that of a leader in the greater community and a teacher of children. Notably, his tenure as both a teacher and principal of Loretto Catholic High School, Sault Ste. Marie, MI, as well as a professorship in Dogmatic studies at Marymount College in Virginia. Father Lawrence T. Gauthier continued his service to the community's youth by later assuming leadership roles for the regional Catholic school system. While serving as regional superintendent of Catholic schools, deputy superintendent and, finally, superintendent of schools for the Diocesan Department of Education, Father Gauthier established himself as a truly dedicated and caring member of the faith.

His later devotion to his parishes of St. Michael's and St. Louis the King, both of Marquette, demonstrated his commitment to the service of his community. In his retirement, my congressional district has not only lost the services of a great leader but, indeed, a great man. It is with great pride and pleasure that I formally congratulate Father Gauthier on the accomplishments of his career, and boldly charge that his legacy of service and commitment be held in the memory of upcoming and future leaders who strive to follow the example he set. Father Gauthier, I thank you for teaching through action and for providing an exemplary role model for your community. I sincerely hope that your influence will linger and that your future holds as many joyful and fulfilling days as your past. Thank you.

TRIBUTE TO HELENA BENITEZ

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1994

Mr. HUNTER. Mr. Speaker, I rise today in recognition of the Honorable Helena Z. Benitez. A celebration of Helena Benitez' long years of service to others will be held on June 27, 1994, her 80th birthday, at the Manila Hotel Fiesta Pavilion in the Philippines. Miss Benitez earned liberal arts and education degrees from the Philippine Women's University in Manila and followed with a doctorate in humane letters from Manhattan College of the Sacred Heart, in the United States. She later served 2 years as president of the Philippine Women's University, one of the country's leading institution for girls, and is currently chairman of the board, Philippine Women's University.

In 1940, Helena Benitez was founding member and chairman, central committee, Girl Scouts of the Philippines. When the Japanese invaded the Philippines in 1941, they put all American and British civilians, as well as American prisoners of war, in concentration camps. As the Japanese continued their brutal occupation of the Philippines, civilian and military prisoners began to suffer from a lack of food and medical treatment, which pictures taken soon after the defeat of the Japanese show.

Helena Benitez was one of a group of young, socially prominent women who obtained food and medicine, and then risked their lives by sneaking up to the concentration camps at night and pushing food and medicine under barbed wire. If caught, they were bayoneted by the Japanese guards.

The Red Cross was not allowed into the Philippines by Japanese officials. Miss Benitez, as founding chairman of the Volunteer Social Aid Committee, along with the 12 other survivors of the aid group which provided help to the prisoners of war, was recognized by the Philippine Congress for their heroic efforts in helping the prisoners during World War II.

In 1948, Helena Benitez established the community college, Philippine Women's University, and was founder and first president of the Philippine Home Economics Association. In subsequent years, she founded the Bayanihan Folk Arts Association, the Family Life Workshop, and was founder and vice-chairman of the America-Philippines Society in New York City.

Upon being elected to the Philippine Senate, she was vice-chairman of the Committee on Education as well as head of several other committees: National Resources; Urban Development and Resettlement; and Local Governments. She was also a member of the National Economic Council.

With her unmatched enthusiasm for helping others, Helena Benitez was appointed by a number of Presidents of the Philippines to head national commissions and represent the Philippines in various international conferences.

Among awards given her was the Soroptimist International Women Helping Women Award.

Helena Benitez was also active in the United Nations, serving as chairman of U.N. committees meeting in various parts of the world, and received the Romulo U.N. Award.

She currently serves as international vice president of the Pacific Memorial Freedom Foundation, which is dedicated to preserving the history of the vital American-Filipino joint action against Japanese invaders during World War II.

Helena Benitez stands as an outstanding example of selfless public service. We in the United States of America particularly appreciate her official and volunteer activities in nurturing the historic friendship between the people of America and the people of the Philippines.

TRIBUTE TO JOHN BALL

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1994

Mr. LEVIN. Mr. Speaker, today I rise in special tribute to a law enforcement officer, a community activist, a husband and father, an educator, and a friend. A man whom I respect and admire. A man most deserving of our recognition.

John Ball of Royal Oak, MI.

John Ball has served jointly as the chief of police and director of public safety in the city of Royal Oak for 15 years. He is a member of the Oakland County crisis response team and an adjunct facility member at Oakland Community College. He has served as president of the South Oakland County Chiefs of Police Association and the Michigan Association of Chiefs of Police. He is involved in the Royal Oak Area Optimist Club, the R.W. Groves Alcoholism and Drug Abuse Center and the Common Ground Crisis Intervention group. He has served as president of Shrine High School and the Shrine of the Little Flower Elementary School Boards.

But this list of accomplishments and contributions only begin to tell the story of John Ball.

John Ball is a quiet, caring, and committed leader. He is a man who will tell it to you straight and whose judgment is right on the mark.

Just a few years ago, in the city of Royal Oak, we experienced a terrible tragedy at our post office. I remember so clearly walking into John's office that day and soon thinking to myself how very lucky we were to have him at the helm. He provided a sense of stability to the community and moved quickly to establish a network of support for the employees at the post office and restore a sense of calm to the community at large.

And just this year, when I went to my district for advice on the anticrime bill, John Ball was again there for his community. He went beyond telling me what was needed, and actually took the time to show me through a local criminal surveillance team. Along with other chiefs of police in the 12th district, we have joined together to make a difference for suburban communities in the crime bill.

John Ball has always been there, for the community. It has been an honor and privilege to work beside him.

As John retires from the Royal Oak Police Department and prepares to enter into what I am sure will be another rewarding career with the Archdiocese of Detroit, I would like to take this opportunity to wish him the best and to thank him, on behalf of my staff and myself, and most importantly, the entire community.

TRIBUTE TO REV. WILLIAM T. BROADOUS

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1994

Mr. BERMAN. Mr. Speaker, I am honored to pay tribute to Rev. William T. Broadous, one of the giants in the Christian ministry in southern California. For years, Rev. Broadous has been the pastor of Calvary Baptist Church in San Fernando, which has a congregation of over 3,000 members. He is a revered and respected member of the community, both for his utter devotion to God and his commitment to bettering the lives of others.

In addition to Rev. Broadous' regular duties at Calvary Baptist, for the past 4 years he has served as moderator of the Central District Association of the Western Baptist Convention of Churches. This post gave Rev. Broadous greater responsibility and greater visibility: The Central District Association represents approximately 20 churches in Los Angeles and Ventura Counties.

Rev. Broadous assumed his new role with characteristic vigor and vision. He was influential in bringing new pastors into the district and restored a sense of commitment and movement to the various auxiliaries and departments. He also instituted several new programs, including an annual retreat for district and church leaders and a direct prayer ministry. The next moderator will be hard-pressed to equal the accomplishments of Rev. Broadous.

I am honored to pay tribute to Rev. William T. Broadous, a man of dignity and compassion who truly loves his community and is beloved in return. His life and career are an inspiration to us all.

50TH ANNIVERSARY OF COMMISSIONING OF U.S.S. "WILKES-BARRE"

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1994

Mr. KANJORSKI. Mr. Speaker, I rise today to commemorate the 50th anniversary of the commissioning of the U.S.S. *Wilkes-Barre*. This September, the surviving shipmates of the World War II cruiser will gather in Wilkes-Barre, PA to reiminisce and celebrate the anniversary. The first reunion of the shipmates began in Wilkes-Barre in 1988, and I am pleased that they will be returning to northeastern Pennsylvania for the 50th anniversary. I especially want to recognize the efforts of Mr. Paul Rogan and his cochair, Mr. Frank K. Cotterall who have undertaken the considerable task of bringing the former shipmates together from all around the country.

The U.S.S. *Wilkes-Barre* was commissioned on July 1, 1944. The ship served in the the Pacific theater throughout World War II and received four battle stars for her service.

The best tribute paid to the captain and crew of the U.S.S. *Wilkes-Barre* is inscribed on a memorial which is proudly displayed on the grounds of the Luzerne County Courthouse in Wilkes-Barre. It reads:

> These anchors and bell are preserved here as a memorial to a valiant ship. The U.S.S. *Wilkes-Barre* CL 103, was a 10,000 ton Cleveland class cruiser, launched December 24, 1943, commissioned July 1st, 1944 and attached to the Pacific Fleet, Cruiser Division Seventeen.
>
> Becoming a part of task force 38, Third Fleet, the cruiser took part in bombardments against the enemy at French Indochina, China, Iwo Jima, Okinawa and Japan. During the Okinawa Campaign, the U.S.S. *Wilkes-Barre* aided the stricken carrier U.S.S. *Bunker Hill* and gained credit for saving the carrier.
>
> The U.S.S. *Wilkes-Barre* received word of the enemy surrender while off Hokkaido and entered Tokyo Bay to cover the landing of American Troops.
>
> The U.S.S. *Wilkes-Barre* was decommissioned on October 9, 1947.

Perhaps the most incredible fact about this ship is that none of its crew was killed during the war. I always believed that being associated with Wilkes-Barre was good luck, and when I learned of this fact, my beliefs were confirmed.

Mr. Speaker, the hard work of the U.S.S. *Wilkes-Barre* Association will culminate as their shipmates and wives gather here to celebrate and remember this fall. The U.S.S. *Wilkes-Barre* and her crew served our country proudly and with distinction. I am proud to represent the area which lent its name to such a fine ship and I look forward to the reunion of the crew members of the "Willie-Bee."

TRIBUTE TO HELGE H. WEHMEIER

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1994

Mr. COYNE. Mr. Speaker, today I would like to share with the Members of the House the remarks of Helge H. Wehmeier, president of Miles Inc., the 1994 recipient of the American Jewish Committee's Community Service Human Rights Award.

The American Jewish Committee has long been active in the Pittsburgh area. This organization hosts an annual Community Service Human Rights Award dinner to provide public recognition to individuals who serve the local community and the Nation by promoting public service and respect for the dignity of each individual.

Helge Wehmeier, of Miles Inc., was selected to receive the American Jewish Committee's Community Service Human Rights Award this year. Mr. Wehmeier and the 1,500 committed employees of Miles Inc., in the Pittsburgh area, have given much to our local community. They have worked as a team to support world-class arts organizations and have provided support for the education of young people, especially in the area of science.

Mr. Speaker, Helge Wehmeier is to be commended for his outstanding public service. I would like to submit the remarks of Helge Wehmeier for the RECORD so that the Members of the House may have an opportunity to review these comments.

[At the American Jewish Committee's Community Service Human Rights Award Dinner, May 17, 1994]

REMARKS BY HELGE H. WEHMEIER

Thank you very much, Tom.

Mayor Murphy, Mr. Moses, ladies and gentleman, good evening.

When I was informed that I had been selected to receive the American Jewish Committee's Community Service Human Rights Award, I felt many emotions.

Of course, I was proud that the Committee had deemed worthy of recognition my personal efforts and those of the employees of Miles to make our community a better place in which to live.

As you know, Miles' commitment to the community began long before I ever knew Pittsburgh was to be my future home. And I want to acknowledge the role of Konrad Weis in these efforts. It was Koni's two decades of leadership, at our company and in our community, that helped pave the way for this evening's recognition.

Next, among my feelings, I was aware that I would join a long list of past recipients of this award. Their patronage and activities on behalf of organizations dedicated to improving our community in so many ways have proven to be of the highest caliber. And I was pleased to be joining the ranks of this highly regarded group.

Not least among these is my friend, Tom O'Brien. His contributions to the economic, educational and civic well-being of Pittsburgh have set a standard of excellence aspired to by all who follow him as recipients of this award.

But, foremost in my emotions, I felt deeply honored by the acknowledgement of a group as highly principled and esteemed as the American Jewish Committee—an organization dedicated to promoting understanding and acceptance among the greatly diverse groups that make up our everyday world.

But honor does not adequately express my feelings. I am, of course, German. I was born in 1943, making me a part of the first generation of Germans to follow World War II and the first generation to live abroad since then.

All of us here undoubtedly consider ourselves to be persons of principle and tolerance. But I know that, as a German, I carry a heavy legacy. I was personally reminded—and deeply moved—in this respect with my recent visit to the Holocaust Museum in Washington, D.C.

Although I have made it a point to read the history of the Nazi era and to understand what occurred, the Holocaust Museum made me feel this terrible time.

Unfortunately, we cannot undo a single action of the past—not as nations; not as individuals. But we can try to make certain that we acknowledge and learn from the past so that we do not repeat it.

In a speech some two years ago in Dusseldorf, Germany, Richard von Weizaecker, Federal President of Germany, noted: "Reconciliation among people cannot succeed without truthfulness. However, truthfulness without the prospect of reconciliation, is inhuman. The strength for insight in one's own weaknesses, failures and guilt can work miracles. It does not mean exclusion. Instead, it offers a very profound approach to opening up an opportunity for a new beginning. It is of vital importance for the future."

Since its founding, the American Jewish Committee has demonstrated, most admirably, strong courage and willing responsibility in building bridges based on reconciliation and understanding—and in the process strengthening our sense of community and providing to us always an exemplary model of tolerance.

A case in point is the Committee's effort to help develop a solid foundation for human rights in post-war Germany, an endeavor epitomized by a paraphrase of the ancient proverb: "It is better to light a candle rather than curse the darkness."

Through decades of diligent effort, you have succeeded. And, along the way, thousands of personal relationships between Jews and Germans have been nurtured—building relations between peoples and bringing out the best in the world's communities.

The ties between America and Germany were so close for so long. In the decades before World War I, Germany had contributed significantly to our world in so many ways. And much of the credit for highly regarded German work in the fields of philosophy, literature, chemistry, physics and the arts was due to German Jews.

And, because of such contributions, so many people of German descent in America at that time proudly acknowledged their heritage.

Tragically, World War One began the unraveling of the cord binding our cultures. Certainly, the Nazis era and World War Two severed that cord.

As a post-war generation German, I ask myself: What kind of world do I want to leave to my two daughters? What kind of world do you and I want to leave to our children? We cannot let Hitler determine our relationship, thereby giving him an ill-deserved victory.

I would wish for us to revitalize our common roots: mighty roots like Albert Einstein, Felix Mendelssohn, Sigmund Freud.

The fruits produced by our common roots will always be laced with the bitterness of the fate of Anne Frank and millions of other victims. But the bitterness is sweetened by the hopeful adage: Not forgetting, but forgiving.

The personal lesson I have taken away from having to live with the consequences of our common history is this: We fail our communities, our fellow citizens and ourselves when we, as individuals, choose not to live up to our inherent obligation to all our neighbors, to all members of our community and to the world in which we live.

It is with purpose that I choose the word "individual." We are individually responsible for advancing the collective well-being of our communities—as we are called to see the individual in each person among us.

And it is as individuals that we consciously choose to join with others and work against exclusion, against discrimination, against the broad-brushed painting of any group as uniquely possessing this or that negative characteristic.

We need to accept—and allow to flourish—the diversity, the plurality, of our community. And we need to create and nurture the positive, helpful human environment that makes this possible.

All of us have, according to out unique talents and means, an obligation to further such a goal: by personal example; by judicious use of our positions; by generous sharing of our time and financial resources.

For me personally, I hope that I am, in some small way, helping to meet my own obligations in this regard by sharing with you, in this important forum, my private thoughts on such matters.

But I speak also for Miles and its fifteen-hundred employees in the Pittsburgh area, as well as our 22,000 colleagues throughout the United States. As a company—and as individual employees—we work hard at meeting our obligations to this community and the many others in which we work and live.

In Pittsburgh, our employees do this through support for community service agencies dedicated to ensuring that the everyday needs of all or our neighbors are met; through support for the world-class arts organizations that add so much to the cultural richness of life in our city; through support for the education of our young people, especially in science, so that they are better prepared to contribute as adults in an increasingly technologically sophisticated world.

And these efforts are not just through monetary contribution. Much of our employees' work is "sweat equity"—through service that calls for time, talent and, in some cases, hard physical labor.

For Miles, joining in efforts that benefit so many different peoples in our community is easier, perhaps, because of the nature of the worldwide Bayer company, of which we are a part. For a global enterprise like ours, diversity of cultures, races and beliefs is fundamental to our success.

We operate in markets throughout the world and, accordingly, draw our employees from around the globe.

We need the talents and unique perspectives these persons bring to our company. Indeed, we could not succeed in a world where we find, more and more, diverse groups and cultures taking on important roles in commerce.

For us at Miles, then, doing what is right—that is, seeking out and respecting plurality in our employees—also has proven to be the right way to succeed, as well. I suspect this holds true, ultimately, for any enterprise—whatever its purpose.

We are better and stronger persons—and our community is better and stronger—for acknowledging, nurturing and embracing the very best that each unique person might contribute to or endeavors.

But to gain that contribution, we must build bridges—if you will allow me this Pittsburgh analogy—and keep them in good repair. At times, the bridge-building might seem like a one-sided effort. But, even if unrecognized by us at the moment, the benefit to us surely comes back in untold ways.

And herein lies our future success—not only for us in Pittsburgh but, more broadly, for our global community, as well. With the American Jewish Committee's example of involvement and responsibility before us, I have no doubts about a better tomorrow.

Thank you so much.

EMPLOYER MANDATES

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1994

Mr. SAXTON. Mr. Speaker, the American people have heard a lot about mandates. They have heard about mandates imposed on States by the Congress to fund Government programs. And they have heard about State legislatures mandating services to be funded by local governments. Well today let me tell the American people about another mandate: the employer mandate.

The employer mandate is the means which President Clinton has chosen to fund his health care plan. Simply stated, an employer mandate is a tax levied on small business by Uncle Sam. In other words, employers will be forced to fund their employees' health care premiums.

Unfortunately, if Congress enacts President Clinton's employer mandate, forcing all small businesses to fund health care reform, two things will definitely happen.

First, millions of jobs will be lost.

And second, American workers' earnings will fall.

If you do not want to take my word for this, maybe we should take a look at what other people are saying about the effects of an employer mandate on jobs.

In fact, several weeks ago, I requested that the Republican staff of the Joint Economic Committee look into what people are saying about an employer mandate that forces small business to pay for its employees' health care and the resulting effects on jobs.

And, so I am here this afternoon to release the study that the JEC/GOP staff has completed.

The report, entitled "A Mandate for Destruction: Survey of Job and Wage Destruction That Will Result From Requiring Employers To Pay for Workers' Health Insurance," examines 41 different studies of the Clinton health care proposal and particularly the effects of employer mandates on jobs and wages.

In fact, all economists agree that an employer mandate will raise the cost of labor. Firms will have to shift as much of the mandated costs back onto workers in the form of lower wages. And, to the extent that they are unable to shift the cost increase back to employees in the form of reduced wages, they will hire fewer workers and in some cases lay off others.

Thus, employers and employees face a nasty trade off—job destruction or wage reduction.

The JEC staff analyzed over 40 studies that vary widely in their methodologies and assumptions yet their findings are consistent and unambiguous. Employer mandates kill jobs—a lot of them.

And as many of the reports show, it is the lowest wage earners who are most at risk of losing their jobs.

As the charts show, estimated job losses range from a low of 600,000 to a high of 3.8 million, with an average probable loss of 1.0 million jobs and an average potential loss of 2.1 million jobs.

The Clinton administration itself admits that as many as 600,000 jobs could be lost. And we all know that if the White House is willing to admit this amount, that the true impact on jobs must be much higher.

Specifically, one of the studies in the JEC/GOP Survey broke out estimates of the effects of a State-by-State basis and found, for example, that in 1998 New Jersey would lose 32,200 jobs, $3.6 billion in wages and benefits and $520 in income per person.

In addition, the Governor's office in the State of California conducted a study that concluded that the job loss in California from the Clinton health care mandate would be so severe that they would exceed all the California jobs lost from defense cuts and would postpone the California economic recovery for years.

And, the study finds that forcing all employers to pay insurance premiums would reduce wages—a lot—with the middle class taking a big hit. Americans making between $14,000 and $30,000 per year stand to suffer most of the estimated wage reductions from an employer mandate by losing $1,450 a year, on average.

The verdict is in and the evidence is clear and convincing. Beyond a reasonable doubt that forced employer paid health insurance is a wage batterer and a job killer.

The following is the introduction to the JEC/GOP survey:

MANDATE FOR DESTRUCTION—A SURVEY OF JOB AND WAGE DESTRUCTION THAT WILL RESULT FROM REQUIRING EMPLOYERS TO PAY FOR WORKERS' HEALTH INSURANCE

INTRODUCTION

This Survey reviews 41 sources, most of the studies and reports known to the Joint Economic Committee Republican (JEC/GOP) staff, that deal with the employment and wage effects of an employer health insurance mandate. For analytical purposes, most of the studies treat an employer mandate like an increase in the minimum wage or as a payroll tax increase.

The studies that offer the most direct empirical estimates of the cost of an employer mandate are summarized under "Top Ten Sources"; the "Useful Sources" section reviews studies and reports that offer analysis, theory, or insight but few numbers; and reports that do not deal directly with employer mandates are classified under "General Background Sources."

The Top Ten studies estimate probable job loss under an employer mandate similar to that contained in the Clinton health plan. Five of these studies (Sources 2, 3, 4, 7, and 8) restrict their analysis to the impact of an employer mandate alone. The five other studies (Sources 1, 5, 6, 9 and 10) consider the effect of the Clinton plan in its entirety.

Estimated job losses range from a low of 600,000 (RAND Corp. [5]) to a high of 3.8 million (CONSAD Research Corp. [6]), with an average probable loss of 1.0 million jobs. If, for example, each restaurant in the country reduced employment by just one worker, 300,000 jobs would be lost. Table 1 summarizes the major findings on the impact of an employer mandate on jobs.

TABLE 1.—ESTIMATED EMPLOYMENT EFFECTS OF AN EMPLOYER HEALTH CARE MANDATE

Study—Author/organization	Probable job loss	Potential job loss
Office of Planning & Research/State of California [source 1]	2,600,000	3,700,000
DRI/McGraw-Hill/CSE [2]	659,000	908,000
O'Neill & O'Neill/EPI [3, 7, 8]	780,000–890,000	2,300,000
GOP Staff/JEC [4]	710,000	807,000–1,200,000
Klerman & Goldman/RAND [5]	600,000	
CONSAD Research Corp./NFIB [6]	850,000	3,800,000
Fiscal Associates/NCPA [9]	677,000	783,000
Vedder & Gallaway/ALEC [10]	1,000,000	
Average	1,000,000	2,100,000

The range of the job loss estimates in Table 1 reflect the uncertain manner in which an employer mandate will affect employers and workers: An employer health insurance mandate will raise labor costs to employers but they will backshift as much as possible of their increased labor costs onto workers in the form of lower wages. The less employers are able to shift their increased labor costs back onto employees, the more jobs will be destroyed. The corollary finding is that the only way employers can refrain from reducing employment in the face of an employer mandate is to offset the increase in their labor costs by reducing wages. Thus, employers and workers face a nasty tradeoff: Job Destruction or Wage Reduction.

The RAND study [5], which finds the smallest employment effect of an employer mandate, assumes that 85 percent of the increased labor cost resulting from the mandate is successfully shifted back onto workers in the form of reduced wages. CONSAD [6] estimates that 23 million affected workers will experience a $28 aggregate annual wage reduction. Vedder & Gallaway [10] estimate that the Clinton plan will decrease wages by $93 billion in 1998, and the O'Neills [7,8] estimate a $27 billion wage reduction per year. The State of California [1] predicts a $68 billion loss in wages per year.

While the lowest wage workers are most at risk to lost their jobs as the result of an employer health care mandate, workers making between $14,000 and $30,000 per year stand to suffer most of the estimated wage reductions, losing on average $1,450 a year. Table 2 summarizes the major findings on the impact of an employer mandate on wages.

TABLE 2.—ESTIMATED WAGE EFFECTS OF AN EMPLOYER HEALTH CARE MANDATE

Study—Author/organization	Annual wage loss (aggregate)	Annual wage loss (per affected worker)[1]
Office of Planning & Research/State of California [1].	$68 billion	$1,660
CONSAD Research Corp./NFIB [6]	28 billion	[2] 1,200
O'Neill & O'Neill/EPI [3, 7, 8]	27 billion	660
Vedder & Gallaway/ALEC [10]	93 billion	2,300
Average	54 billion	1,450

[1] JEC/GOP staff calculation assumes 41 million affected workers.

[2] CONSAD calculation assumes 23 million affected workers.

Several of the studies also estimate the impact of an employer mandate on economic output. For example, DRI/McGraw-Hill [2] predicts that in the year 2000 GDP will be down by $53 billion, and Fiscal Associates [9] estimates that GDP will fall $90 billion by 1998 because of an employer health insurance mandate.

The studies in the Survey differ in crucial aspects. They employ different statistical models, different wage elasticities of labor demand and labor supply, and they treat premium-shifting by employers differently. The studies make different assumptions about the rate of growth of insurance premiums, and posit different levels of assumed savings from health care reform and other key variables. Yet, the studies' findings are consistent and unambiguous: Employer Mandates Destroy Jobs—a lot of them. Employer Mandates Reduce Wages—a lot.

CONSAD Research Corp. [6] examined five major plans introduced in the United States Congress and found that only the Clinton plan produces substantial effects on employment because it is the only plan that requires employers to pay workers' health costs. Moreover, Andrew Dick [26] examined the Hawaiian health care mandate of 1974 and found that the employer mandate in that state did not significantly expand insurance coverage to the uninsured.

SCHOOL TO WORK OPPORTUNITIES ACT

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1994

Mr. WILLIAMS. Mr. Speaker, I have comments concerning the conference report on the School-to-Work Opportunities Act which passed some time ago.

Why do we need this school-to-work initiative? About half of our young people do not go on to college; 75 percent never earn a college degree. And yet today's typical high school education is geared toward the college-bound student and not the vast majority of students who go directly into the workforce. Unless these young people, who will either never go to or finish college, have the skills to produce quality goods and services in a technologically oriented and fast changing consumer marketplace, America will not prosper in the global economy. In fact, the United States is the only advanced Nation that does not have a comprehensive formal system designed to help students prepare for and enter the workforce.

The school-to-work initiative helps bring such a system about. Its goal is the development of a comprehensive school-to-work transition system that is driven by States and local communities. This system is aimed at creating an education environment in which work experience is an integral part of the regular school curricula and to make that work experience real and meaningful by having it be part of a planned job training program. We already have a similar program at the college level. We call it cooperative education. Under it, college students get real life work experiences while enrolled in college that will assist these students in making intelligent future career choices. School-to-work takes this concept and extends it to the local school level.

There were a few areas of disagreement between the House and Senate versions of this legislation, but I am satisfied that we have worked these out responsibly. One major area of disagreement was about the issue of governance. This conference report represents a reasonable resolution of that issue, and I am confident it will result in both the involvement and concurrence of duly elected officials in every State in the development and implementation of each State's school-to-work plan. Many States have State constitutional structures that place supervision and control over certain programs—such as education—in the hands of State elected officials other than Governors. The conference report before us today preserves the integrity of those State decisions.

The conference report also requires that the program be implemented consistent with the regulatory requirements of the General Education Provisions Act. What this means is that regulations for this program will have to be developed and published, and interested parties given a reasonable amount of time to review proposed regulations and comment on them. This is a responsible approach to take when we are introducing a new initiative of such importance to our Nation's schools and the American public.

This is an important piece of legislation that can complement existing Federal and State occupational training efforts.

AMERICANS ARE LESS FREE THAN MANY

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1994

Mr. EDWARDS of California. Mr. Speaker, looking back through the history of our Nation, it is clear that Americans have steadfastly fought for liberty. But, as Anthony Lewis points out in last Friday's New York Times, there remain examples of how Americans are still less free than many.

I commend to you Mr. Lewis' comments.

[From the New York Times, June 17, 1994]

WHO'S IN CHARGE HERE?

(By Anthony Lewis)

BOSTON.—If there was one thing we expected from Bill Clinton's Presidency, it was a common-sense respect for civil liberties. No longer, we thought, would Government lawyers automatically try to assert their power over individuals when there was no real Government interest at stake.

That expectation has been dashed. Or so we have to conclude from two current cases of Government overreaching: outrageous cases.

Col. Margarethe Cammermeyer, a decorated veteran of the Vietnam War, was dismissed from the service two years ago. She wept on that day. So did her commanding officer, Maj. Gen. Gregory P. Barlow.

Colonel Cammermeyer was discharged because, in 1989, she was being considered for the Army War College and an interviewer asked her about her sexual orientation. She answered that she was gay.

Two weeks ago in Seattle, Federal District Judge Thomas S. Zilly held Colonel Cammermeyer's discharge unconstitutional. He ordered her restored to her job as chief nurse of the Washington State National Guard.

This week the Justice Department asked Judge Zilly to stay his order—hold it up—while a Government appeal from his decision was taken. In support of its motion, the department advanced a parade of horribles.

Restoring Colonel Cammermeyer to her position, a brief said, "is likely to have adverse effects on the ability of the military to maintain morale, efficiency and mission focus." It would "have adverse effects" on "unit cohesion and readiness."

Moreover, the department warned, Judge Zilly's order forbade the military to punish Colonel Cammermeyer for stating "her homosexual orientation." That meant she could disregard military policy, the brief said, which "will undermine respect for military authority throughout the armed forces."

To the brief was appended an equally amazing affidavit by Edwin Dorn, Under Secretary of Defense for Personnel and Readiness. He said that Colonel Cammermeyer's "open disobedience of the policy on homosexual conduct" might encourage members of the armed forces to violate any policy "they do not believe should apply to them."

The argument comes to this: A woman who never did or said anything against policy, except answer an official question truthfully, will destroy the armed forces if she is reinstated while the Court of Appeals considers the case. She actually served for three years after the 1989 interview while her superiors tried to stop her discharge, and the military suffered no harm then.

Attorney General Janet Reno has spoken of her admiration for Attorney General Robert Kennedy. I knew Robert Kennedy, and I know what he would have done if he had seen such a document in draft. To put it politely, the motion would not have been filed.

Ten years ago, by a vote of 5 to 4, the Supreme Court upheld a Reagan Administration order designed to keep Americans from going to Cuba. The order was a Treasury regulation forbidding Americans to spend money on travel to Cuba.

The decision was criticized as an example of the Court's growing tendency to exalt Presidential power. It did so by a strained interpretation of Congressional statutes.

Since then Congress has in various ways promoted the freedom to travel. Just last month it passed a joint resolution expressing the sense of Congress that "the President should not restrict travel or exchanges for informational, educational, religious, cultural or humanitarian purposes . . . between the United States and any other country."

A group of 200 Americans is planning to go to Cuba next Thursday for a week's visit. The trip has been planned by an organization called the Freedom to Travel Campaign.

But this week the Treasury Department blocked the group's $43,000 bank account. An official sent a letter to the bank warning it against grave violations: a letter from the same Government that says it is trying to advance democracy and human rights in the world.

Is our faith in our system really so fragile that we fear our citizens visiting Cuba? Or perhaps the question is: Do the people at the top of our Government know the folly that is being committed in their name?

SUPREME COURT DECISION NOT TO HEAR SPUN STEAK CASE

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 21, 1994

Mr. EMERSON. Mr. Speaker, I rise this morning to note an important action by the Supreme Court. Yesterday, the Supreme Court refused to review a brief filed by the EEOC regarding the Spun Steak Co. of San Francisco. On June 3, prompted by the Clinton administration, the EEOC filed a brief on a pending case involving the Spun Steak Co. The case concerned a meat processing company whose employees were bilingual, but all shared English as their common language. The owner set a policy that English should be used during the performance of work-related duties in response to charges that two Hispanic workers were making derogatory remarks about an Afro-American and Chinese-American employee in Spanish. In order to reduce conflict, the owner required that all daytime employees speak the language that they all understood, English. Employees were permitted to use the language of their choice on work breaks and on personal time.

Opponents of the workplace policy called this discriminatory, even though all the affected employees spoke English and were not deprived of the ability to communicate with each other.

Frankly, I find it unbelievable that the EEOC thinks that it is the Federal Government's job to police the private sector work force in efforts to encourage the use of foreign languages in the workplace. Proficiency in the English language is the key to opportunity and prosperity in America. Illiteracy and limited English-language skills are major problems that directly affect the labor force today. If anything, we must encourage workers to learn English in efforts to foster productivity and growth. In answer to this increasing problem, I have introduced legislation that will provide tax credits to employers for the cost of providing English language instruction to their limited English-proficient employees. Providing an incentive for employers to make English-language training available is an essential step in realizing 100 percent literacy among American adults and in providing them with the knowledge and skills necessary for becoming responsible citizens and productive workers. For the adult learner in the workplace, the first step toward retaining their jobs, acquiring promotions or increasing performance levels, is the acquisition of sufficient English-language skills. How can the Federal Government support the goals of increased productivity in the American work force and then discourage the use of English on the job?

In addition, there is the issue of workplace safety. In many instances, worker safety could be compromised by an atmosphere in which directions or warnings could not be understood. The ability to share a common language is crucial to safety in the workplace. This benefits not only the employer, but also the employee.

In conclusion, I would like to say that this is yet another example of Government intrusion into private business' affairs. It is outrageous that certain Government agencies continue to had down excessive regulations that serve only to hinder the productivity of business. Responsible Government is not accomplished by a bureaucracy sitting in Washington and publishing burdensome standards and regulations so fast that the hardworking citizen cannot keep up with all of them. Many times, Government regulatory agencies concentrate so keenly on the means that they tend to lose sight of the end. Doubtless, some element of regulation may be necessary in this extraordinarily complex world of ours, but when an enterprise spends more time complying and documenting its compliance with Federal regulations than it spends in conducting its business, then the Federal Government has gone too far and this must change.

The Clinton administration vehemently opposes the 1993 Federal appeals court ruling that upheld the right of employers to require workers to speak English on the job. The Supreme Court has rightly concluded that EEOC guidelines that assume that barring employees from speaking their primary language in the workplace may create a hostile environment are, in fact, invalid. I sincerely hope that the Clinton administration takes notice of this important decision and supports a national language policy that encourages the use of English in the official business of the Federal Government and in the workplace.

SENATE—*Wednesday, June 22, 1994*

(Legislative day of Tuesday, June 7, 1994)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable HARLAN MATHEWS, a Senator from the State of Tennessee.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

As the hart panteth after the water brooks, so panteth my soul after thee, O God. My soul thirsteth for God, for the living God * * *.—Psalm 42:1, 2.

Sovereign Lord of Love, help us heed the emptiness of life which God alone can fill. St. Augustine reminded us, "Thou hast made us for Thyself, O God, and our souls are restless until they rest in Thee." We have been told that, "There is a God-shaped vacuum in every heart that only God can fill."

Help us to understand ourselves, patient God—our need of Thee—our poverty without Thee. Forgive the way we allow secularism to invade our lives, dehumanizing us, lest we become a Godless generation which has lost its way. Lead us in the way to life and fulfillment.

We pray in His name who was perfection incarnate. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 22, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARLAN MATHEWS, a Senator from the State of Tennessee, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. MATHEWS thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The majority leader, or his designee, shall control up to 20 minutes.

The Chair, in his capacity as a Senator from the State of Tennessee, questions the presence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PELL addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. PELL. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. The Senate is in a period for morning business, with Senators allowed to speak for up to 5 minutes.

TRIBUTE TO JACQUELINE KENNEDY ONASSIS

A TREASURED JEWEL IN OUR NATIONAL HISTORY

Mr. PELL. Mr. President, the memory of Jacqueline Kennedy Onassis already has become a treasured jewel in our national history. Her grace and presence and her wonderful sense of proportion made her a model that will surely endure for generations to come. We knew her since her childhood when she spent many happy summers at her family home at Hammersmith Farm on Narragansett Bay. Her marriage to our then colleague and future President John Kennedy took place in Newport.

Later, Jackie Onassis brought to the White House her sense of harmony, beauty, and style. It was reflected not only in the uncompromising good taste of the restoration of the Executive Mansion itself, but also in the elegance and verve of the parties and events that she hosted there.

Her sense of style extended into affairs of Government as well. I particularly recall her influence on the legislation which I sponsored creating the National Foundation on the Arts and the Humanities.

In her later years, after the trauma and tragedy of Dallas had long receded and after the Onassis era was over, she resumed a life of her own in New York. This was particularly admirable because it was so true to her own instincts and values. She retained her privacy and she brought up her children marvelously well. And she worked as an editor at a craft that she enjoyed and at which she excelled. Her mordant wit and humor often gave laughter and pleasure to her friends.

Jackie remained a beautiful person to the end. Her life ended too soon and we miss her immensely. But she will remain in our hearts and in the memory of the Nation a bright spirit of elegance and style that may not soon be equaled.

I know that my wife and I already miss her immensely, immensely.

Mr. GLENN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Ohio is recognized.

A WOMAN FOR ALL TIME

Mr. GLENN. Mr. President, I think it is good that the Senate leadership has seen fit to set aside some of this time this morning for tributes to Jacqueline Kennedy Onassis.

When she passed away in New York, America lost a heroine, and Annie and I certainly lost a very good friend.

I was privileged to first meet Jackie over 30 years ago shortly after my orbital flight when she and President Kennedy were in the White House. There were so many good times back then that it would be hard to recount all of them.

Those who have described those years in the White House as Camelot surely know that a very large part of the reason was the style and the class and the elegance that Jackie brought to her duties as First Lady.

Along with all other Americans who lived through that period in history, Annie and I stood literally in awe—utter awe—of the dignity, the grace, and the courage that she displayed in those sad and awful days following the President's assassination at Dallas.

But following that, Jackie refused to live the rest of her life as a frozen frame in history, as a single snapshot. She regrouped, she remarried, she began and sustained a highly successful career in the publishing industry. And all the while she nurtured and raised her two children to be well adjusted and outstanding young adults, an achievement that she herself regarded and said was the best and most important thing that she had ever done.

Through it all, Jackie remained an intensely private person of whom the public could simply not get enough. Though she shunned the spotlight, she was generous with her time and always

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

remembered her friends. I will never forget when I was first running for office for the Senate, getting a call one day. She volunteered to help me campaign in Ohio for a seat in the Senate, and did radio spots for us back in that campaign.

The swiftness of Jackie's passing left all of us shocked and even a little bit numb. It seemed we just heard she had a problem and she was gone. For three decades she has been a fixture in our national consciousness. It is hard to believe she is really gone. After all, in so many ways and for so many years, she was not just a First Lady, but for many Americans—for most Americans, I think—she was "the First Lady of our Nation."

For her grace, for her courage, and, above all, for her unfailing dignity, Jacqueline Kennedy Onassis will be remembered as a woman not just for her time but for all time, and we shall miss her greatly.

TRIBUTE TO JACQUELINE KENNEDY ONASSIS

Mr. MITCHELL. Mr. President, last month, our Nation mourned the passing of former First Lady Jacqueline Kennedy Onassis, whose style, grace, dignity, and elegance made her a much admired American.

Her influence is difficult to overstate. As First Lady, Jacqueline Kennedy used her position to raise the stature of the arts in America. She encouraged donations of important pieces of art and furniture and raised private funds to restore and redecorate the White House. Mrs. Onassis also worked to preserve the beauty of Lafayette Square and its surrounding historic residences. She invited prominent artists to perform at the White House, as part of her effort to transform Washington into a cultural center.

Her influence was not confined to the United States. Few will forget her trip to Paris with President Kennedy. Said the President at the time "I am the man who accompanied Jacqueline Kennedy to Paris—and I have enjoyed it." The French were charmed by Mrs. Kennedy. Her wit and charisma captivated France and the world.

Although she became a virtual living legend, Jacqueline Onassis most treasured her private family life. She took great pains to shield her young children from the insatiable curiosity of the public. She understood that the most precious gift she could give to Caroline and John, Jr., was the gift of time, and she gave it as generously as she could.

Mrs. Onassis never asked to be a legend. But once she was thrust into the national and international spotlight, it was something she could not avoid. She conducted herself with grace and dignity that others could only emulate. Her contributions to the cultural heritage of this Nation are numerous, and we, as Americans, owe her a tremendous debt of gratitude.

Mr. President, at this time, I ask unanimous consent that the remarks of Senator KENNEDY which were made at the funeral service for Mrs. Onassis be printed in the RECORD.

There being no objection, the Remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR EDWARD M. KENNEDY, ST. IGNATIUS LOYOLA CHURCH, MAY 23, 1994

Last summer, when we were on the upper deck on the boat at the Vineyard, waiting for President and Mrs. Clinton to arrive, Jackie turned to me and said: "Teddy, you go down and greet the President."

But I said: "Maurice is already there."

And Jackie answered: "Teddy, you do it. Maurice isn't running for re-election."

She was always there—for all our family—in her special way.

She was a blessing to us and to the nation—and a lesson to the world on how to do things right, how to be a mother, how to appreciate history, how to be courageous.

No one else looked like her, spoke like her, wrote like her or was so original in the way she did things. No one we knew ever had a better sense of self.

Eight months before she married Jack, they went together to President Eisenhower's Inaugural Ball. Jackie said later that that's where they decided they like Inaugurations.

No one ever gave more meaning to the title of First Lady. The nation's capital city looks as it does because of her. She saved Lafayette Square and Pennsylvania Avenue.

Jackie brought the greatest artists to the White House, and brought the arts to the center of national attention. Today, in large part because of her inspiration and vision, the arts are an abiding part of national policy.

President Kennedy took such delight in her brilliance and her spirit. At a White House dinner, he once leaned over and told the wife of the French Ambassador, "Jackie speaks fluent French. But I only understand one out of every five words she says—and that word is DeGaulle."

And then, during those four endless days in 1963, she held us together as a family and a country. In large part because of her, we could grieve and then go on. She lifted us up, and in the doubt and darkness, she gave her fellow citizens back their pride as Americans. She was then 34 years old.

Afterward, as the eternal flame she lit flickered in the autumn of Arlington Cemetery, Jackie went on to do what she most wanted—to raise Caroline and John, and warm her family's life and that of all the Kennedys.

Robert Kennedy sustained her, and she helped make it possible for Bobby to continue. She kept Jack's memory alive, as he carried Jack's mission on.

Her two children turned out to be extraordinary, honest, unspoiled and with a character equal to hers. And she did it in the most trying of circumstances. They are her two miracles.

Her love for Caroline and John was deep and unqualified. She reveled in their accomplishments, she hurt with their sorrows, and she felt sheer joy and delight in spending time with them. At the mere mention of one of their names, Jackie's eyes would shine brighter and her smile would grow bigger.

She once said that if you "bungle raising your children nothing else much matters in life." She didn't bungle. Once again, she showed how to do the most important thing of all, and do it right.

When she went to work, Jackie became a respected professional in the world of publishing. And because of her, remarkable books came to life. She searched out new authors and ideas. She was interested in everything.

Her love of history became a devotion to historic preservation. You knew, when Jackie joined the cause to save a building in Manhattan, the bulldozers might as well turn around and go home.

She had a wonderful sense of humor—a way of focusing on someone with total attention—and a little girl delight in who they were and what they were saying. It was a gift of herself that she gave to others. And in spite of all her heartache and loss, she never faltered.

I often think of what she said about Jack in December after he died: "They made him a legend, when he would have preferred to be a man." Jackie would have preferred to be just herself, but the world insisted that she be a legend too.

She never wanted public notice—in part I think, because it brought back painful memories of an unbearable sorrow, endured in the glare of a million lights.

In all the years since then, her genuineness and depth of character continued to shine through the privacy, and reach people everywhere. Jackie was too young to be a widow in 1963, and too young to die now.

Her grandchildren were bringing new joy to her life, a joy that illuminated her face whenever you saw them together. Whether it was taking Rose and Tatiana for an ice cream cone, or taking a walk in Central Park with little Jack as she did last Sunday, she relished being Grand Jackie and showering her grandchildren with love.

At the end, she worried more about us than herself. She let her family and friends know she was thinking of them. How cherished were those wonderful notes in her distinctive hand on her powder blue stationery!

In truth, she did everything she could—and more—for each of us.

She made a rare and noble contribution to the American spirit. But for us, most of all she was a magnificent wife, mother, grandmother, sister, aunt and friend.

She graced our history. And for those of us who knew and loved her—she graced our lives.

JACQUELINE KENNEDY ONASSIS

Mr. SIMON. Mr. President, first, just in commenting on the tribute paid by Senator MITCHELL to Jacqueline Kennedy Onassis, he used the word "grace." That really described her, how she handled herself so well in so many difficult situations.

The tribute paid by Senator KENNEDY, as well as her friend Maurice Tempelsman, at the funeral, I thought were both eloquent.

TRIBUTE TO JACQUELINE KENNEDY ONASSIS

Mr. MATHEWS. Mr. President, I would like to take just a moment this morning to pay tribute to the memory of Jacqueline Kennedy Onassis.

As a young assistant to then Governor of Tennessee, Frank Clement, it was my privilege to get to know President Kennedy as we put together a program for the Appalachian region of this country, which has proven to be very advantageous and very helpful to the people of this Nation.

I never knew Jacqueline Kennedy. Of course, I knew of her. But, Mr. President, I, like many Americans, came to feel that she was a member of my family.

The passing of Jacqueline Kennedy Onassis left our Nation poorer in grace, elegance, and dignity. The example of her life has left us an ideal to honor and to hold.

Two generations of Americans remember personally the terrible events that she met with incredible measure and presence. From her, a nation learned how to face the loss of our President. But we who remember that time also learned from her how to find composure and steadiness when we faced tragedy in our own lives. She taught us again—and she taught us more—in the way she confronted her own death.

We still speak of Camelot, and we still ask ourselves what might have been. We will do so throughout the years to come. And when we do, we will remember the woman who remains the Nation's First Lady in more ways than we can recount. She will always be with us.

Mr. President, I yield the floor.

TRIBUTE TO JACQUELINE KENNEDY ONASSIS

Mr. WELLSTONE. Mr. President, I rise to pay tribute to the memory of an American heroine, Jacqueline Kennedy Onassis. When Mrs. Onassis passed away in May, she left a void in the hearts of not only Americans, but people all over the world. We are all saddened by her untimely death.

We mourn her loss, not just as an American icon, but for her rich legacy. As a young First Lady, Jacqueline Kennedy fulfilled the role perfectly. But she was more than the poised and beautiful wife of our President, John F. Kennedy. She brought with her to the White House, a love and knowledge of history and culture, and a desire to make the White House the most important home in America.

She filled it with donated pieces of American furniture and art, appropriate for the home of a President. She also brought prominent musicians and artists to the White House and helped to make our Nation's Capital a cultural center. Most important of all, she made the White House a home and filled it with the laughter of her children, Caroline and John, Jr. whom she adored. Her desire to maintain their privacy made us respect her even more.

And she taught a nation how to mourn. When President Kennedy was assassinated, she orchestrated the arrangements. We were all with her that sorrow-filled weekend, and we paid tribute to our slain President as our Nation had honored another assassinated President, Abraham Lincoln.

We will hold forever in our memories the sight of a riderless horse, and a little 3-year-old boy saluting his father one last time, and an eternal flame which still blazes brightly at Arlington National Cemetery. With her courage and the great dignity she possessed, Jacqueline Kennedy Onassis helped our Nation heal following the loss of the President.

Over the years and in private life, she maintained her commitment to historic preservation, and worked diligently to save historic sites, including New York's Grand Central Terminal. As a book editor, she continued to promote culture, and was instrumental in the publishing of books on art, history, and dance.

Jacqueline Kennedy Onassis leaves many lasting and significant contributions, and I am honored to join my colleagues in paying tribute to her. Admired and loved by all Americans, we will miss this extraordinary woman.

TRIBUTE TO JACQUELINE KENNEDY ONASSIS

Mr. HATFIELD. Mr. President, few first ladies have impacted the country in the manner of the late Mrs. Jacqueline Onassis. It is a distinct honor to join my colleagues in recognizing her contributions to our Nation which, because thanks and praise were not her motivations, too often went unnoticed.

Perhaps the most fitting and most lasting tributes to Mrs. Onassis exist already. They are found in the buildings she herself worked to preserve in Washington and in New York. Mrs. Onassis will be remembered for redecorating the White House, but should be remembered also for instigating its restoration and preservation. In addition, were it not for her efforts the stunning Old Executive Office Building next door would not be still standing. Her foresight in preserving the architecture of years past is reflected for us all in the elegant buildings which grace Pennsylvania Avenue today.

We must also not overlook her passion for books and later for publishing. It was due to her efforts that an array of distinctive books were made available to the rest of us. She was known for searching out new authors and ideas. The arts were a personal passion she brought with her to the White House and which engaged her for the remainder of her life. The influence on the rest of the country of this beloved interest will be lasting.

Nineteenth century author Mary Ann Evans, known to the world as George Eliot, once wrote:

> Ideas are poor ghosts until they become incarnate in a person.
> Then, they look out through eyes of compassion,
> They touch with warm, redemptive hands,
> And then,
> They shake the world like a passion.

Jacqueline Kennedy Onassis, with a manner which was subdued but never frail, shook this Nation, Ironically, without ever intending to do so. Her work to both preserve our Nation's history and to foster its ever-evolving artistic culture deserves tremendous credit and thanks. She will remain an inspiration for generations to come.

JACQUELINE KENNEDY ONASSIS

Mr. FEINGOLD. Mr. President, with the death of Jacqueline Kennedy Onassis, the final curtain has been drawn on one of the most inspiring and exciting eras in our Nation's history. She represented and meant so much to us. Dedicated and glamorous First Lady, accomplished editor, loving mother, and role model to millions are just some of the labels that have been affixed to this truly unique woman over the decades. But she really was more than just the sum of all her roles.

We grieved for Mrs. Onassis not just because she was taken too young, leaving behind two wonderful and accomplished adult children and because she was such an important part of the history of the last five decades. We grieved for Mrs. Onassis because she reminded us of a time when we were more sure of ourselves and of our place in the world.

When she burst onto the American scene in the late 50's and early 60's it seemed as though people had more faith, not just in themselves but also in their Federal Government. Vietnam, Watergate, Iran-Contra, and Whitewater were a long way off and there was a sense during the Kennedy era that we could accomplish almost anything, if we set our minds to it. That sense carried on into the triumphs of the Great Society and ultimately to our victory in the cold war, but along the way we seemed to lose some of that sense of optimism.

The various crises we have faced since the death of President Kennedy have left the American people more cynical and distrustful than they were in the early 1960's. This change is understandable, given all that has transpired in the past 30 years. Jacqueline Kennedy Onassis reminds us of how we were before this change and because of the power of nostalgia, her death makes that time seem further away than ever before. We have all lost an important part of our past. She remains one of America's most beloved First Ladies whose grace and courage during the dark days following President Kennedy's tragic death will long be remembered.

JACQUELINE KENNEDY ONASSIS: PROFILE IN COURAGE

Mr. HOLLINGS. Mr. President, when Jacqueline Kennedy Onassis passed away last month, it was a former First Lady who died, but the Nation mourned as though it had lost a beloved former President. Certainly, those of us in this body who were privileged to know her feel a profound sense of loss. However, I would not say that our grief is any greater than that of millions of Americans who never met her yet who revered her in a very special and personal way.

As First Lady, Jackie Kennedy was not politically active on the model of Eleanor Roosevelt or Hillary Rodham

Clinton. However, I dare say that she served the country more intensely and profoundly than any First Lady in history. She did so in the course of those dark days in November. At a time of unspeakable personal loss, when we should have been supporting and steadying her, it was she who supported and steadied us. It was a veiled and valiant Jackie Kennedy who supported and steadied an entire nation. For that act of sustained courage and fortitude, our beloved former First Lady will be remembered and honored for centuries to come.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I understand we are in morning business?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. DOLE. And leaders' time was reserved?

The ACTING PRESIDENT pro tempore. Leaders' time has been reserved.

RELIGIOUS BIGOTRY IN THE POLITICAL ARENA

Mr. DOLE. Mr. President, 60 years ago this November, Democrat Al Smith's campaign for the Presidency was buried under an avalanche of anti-Catholic bigotry. Thirty-four years ago this November, Democrat John Kennedy was narrowly elected to the Presidency, but only after dealing with accusations that he would be installing a "hot line" to the Vatican.

It is now 1994, and except for the occasional anti-Semitic rantings of fringe candidates like Lyndon LaRouche, I thought religious bigotry had long since been retired from the political arena.

Apparently, I was wrong. Yesterday, Congressman VIC FAZIO, chairman of the Democratic Congressional Committee, held a press conference to continue his attack on what he has termed the "fire-breathing Christian radical right."

Given the fact that the Democrats have lost every major competitive election since President Clinton took office, I can understand their desire to try to find some tactic that might work.

But by suggesting that being a Christian should exclude someone from being involved in politics is a tactic I simply do not understand and one that I believe will be quickly rejected by the American people.

The American people are much smarter than Congressman FAZIO and the Democrats give them credit. They care about where a candidate stands on issues. They are not concerned with whether or not a candidate is Catholic, Jewish, Episcopalian, Methodist, or Evangelical.

Mr. President, I have searched the Constitution and the Bill of Rights, and I cannot find anything which states that people who go to church should be banned from the political process.

In fact, Mr. FAZIO might be interested to note the very first sentence of the first amendment to the Constitution guarantees freedom of religious expression. It says, "Congress shall make no laws respecting an establishment of religion or prohibiting the free exercise thereof."

I also remind my Democrat friends both President and Mrs. Clinton have spoken about the importance of religion and attend church regularly, and I do not hear any Democrat questioning their right to participate in the political process.

Mr. President, I hope that Mr. FAZIO and the Democrats will rethink this latest foray into religious bigotry. I hope they will judge people by the stands they take on issues and not where they kneel to worship.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, as I understand it, there has been time that has been allocated to Senator KASSEBAUM and myself.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Under the previous order, there is 20 minutes total allocated to the Senator from Massachusetts and the Senator from Kansas.

Mr. KENNEDY. Mr. President, I yield myself 5 minutes.

The ACTING PRESIDENT pro tempore. The Senator is recognized.

REFORMING AND CONSOLIDATING FEDERAL JOB TRAINING PROGRAMS

Mr. KENNEDY. Mr. President, I am pleased to be joining Senator KASSEBAUM this morning in launching a bipartisan effort to reform and consolidate Federal job training programs.

In his State of the Union Address, President Clinton called on Congress to take immediate actions to bring some coherence to work force development policy. In this session of the Congress we have responded by enacting important new education and job training measures for young people such as the School-to-Work Opportunities Act and the Goals 2000: Educate America Act.

It is now time for us to press ahead and take up the rest of the President's challenge: To reform and streamline job training programs for adults. In his State of the Union Address the President noted that: "We simply must streamline today's patchwork of training programs and must make them a source of skills for people who lose their jobs".

Senator KASSEBAUM and I, and many other Senators from both sides of the aisle, take President Clinton's challenge seriously and intend to jointly introduce legislation this summer to reform and streamline job training programs for adults.

Many of the building blocks of our current job training system were established during the New Deal, New Frontier, and Great Society years. Our challenge then was to devise ways to help various hard-to-serve groups to enter the labor force. Most of those programs were appropriate at the time, and many have been effective.

Now, as a result of increased international competition, unprecedented technological changes, and defense downsizing, many additional workers now need to be retrained or have their skills upgraded. Population changes and the increasing number two income families have created a need to assist millions of additional workers to enter the labor force. Our goal is to update and improve Federal job training programs in a systematic way to respond to the changes taking place in our economy.

We must do more to ensure that job training programs for adults are streamlined and improved to give workers and businesses the skills needed to successfully compete in the 21st century.

There is good reason to be optimistic that we can succeed. Over the past several years, a bipartisan consensus has emerged to streamline and reform Federal job training programs. The landmark "America's choice: High Skills or Low Wages" report issued in 1990 by the Bipartisan Commission on the Skills of the American Work Force played an important role in helping to frame the debate. The report found that, compared to our major international competitors, the United States does not take a systematic approach to preparing noncollege bound workers for product careers.

Shortly after the release of the report, I asked the General Accounting Office to identify and analyze the many employment and training programs of the Federal Government. GAO identified 125 different programs with a total funding of $16.4 billion in 1991. As GAO noted, many of the programs provide similar services to the same target population, and create overlapping services and confusion on the part of localities and individuals seeking assistance.

In recent years, several members of Congress, including Senators KASSEBAUM, SIMON, HATFIELD, and HARKIN and Representatives WILLIAM FORD, COLLIN PETERSON, and WILLIAM ZELIFF requested additional information from GAO. Three major additional findings resulted from these followup studies.

THE SIZE AND SCOPE OF THE FEDERAL INVESTMENT IN JOB TRAINING PROGRAMS ARE LARGER THAN PREVIOUSLY THOUGHT

GAO identified 154 different employment and training programs and funding streams with $24.8 billion in requested funding for fiscal year 1994. Responsibility for administering these programs is spread across 14 departments and independent agencies. While some observers question the specific programs included in the GAO count, virtually all of those familiar with Federal job training policy agree with GAO's overall point—too much, duplication and too many inefficiencies exist in these separate programs.

IT IS DIFFICULT FOR ADMINISTRATORS TO CARRY OUT THESE PROGRAMS AND FOR CONSUMERS TO OBTAIN THEIR BENEFITS

Most of these programs, which were established over a period of decades, continue to operate under independent centers of control and authority. Many use separate delivery systems. The result is that the current programs confuse and frustrate everyone involved and impose unnecessary costs.

GAO discovered many specific examples of separate requirements that turn efforts to coordinate the delivery of services into a bureaucratic nightmare for program administrators. For example, many programs target the same populations, but conflicting eligibility requirements and operating cycles make coordination impossible.

IT IS DIFFICULT TO MEASURE WHAT THE PROGRAMS ARE ACCOMPLISHING

Perhaps the most alarming GAO finding is that many Federal agencies do not know whether their programs are working. At the request of Senator KASSEBAUM, GAO assessed 62 programs that provide job training assistance to the economically disadvantaged. GAO found that although most Federal agencies monitor the expenditure of funds, they generally do not collect information on outcomes. Ninety percent of the programs collected data on dollars spent and participants served, but only 49 percent knew whether the participants got jobs, and only 26 percent knew the wage level of the jobs.

In light of the importance of training to our Nation's work force, the lack of focus on accountability is unacceptable, especially at this time of increasingly tight Federal budgets and scarce resources for new investments.

Last March, two significant bills with important implications for reform and consolidation of Federal job training were introduced by members of the Senate Labor and Human Resources Committee.

The first of these bills, S. 1943, the Job Training Consolidation Act of 1994, was introduced by Senator KASSEBAUM. Her bill would set in motion a process for consolidating more than 60 separate programs authorized in 12 different statutes. Their authorizations would sunset 29 months after the bill's enactment. A new seven member commission would be established and given 2 years to develop a sweeping consolidation and reorganization plan. During that period, States would be given broad waiver authority to experiment with new approaches to consolidate and reform job training programs.

The second bill, S. 1964, is President Clinton's Reemployment and Retraining Act. Senator METZENBAUM is the primary sponsor of this bill, several of us on the committee are cosponsors. This bill would consolidate six training programs for dislocated workers, provide income support for them to participate in long-term training, improve the labor market information available to them, and let States begin to consolidate programs through new "one-stop career centers."

In the past month, Senator KASSEBAUM and I have worked together to achieve a common approach that we both feel deserves bipartisan support and that can accomplish the goals we share with the administration. We intend to develop a bipartisan bill to reform and consolidate Federal job training programs on this basis.

We also are sending a survey to the three agencies that collectively administer 110 of the 154 programs identified by GAO—the Department of Labor, Department of Education, and the Department of Health and Human Services. The purpose of this survey is to obtain baseline information to determine which programs should be included in our reform and consolidation effort. We will hold hearings to review these survey results and to review recommendations.

The need for a high performance work force development system has never been greater. I am confident that there will be broad bipartisan support for developing a better system to achieve it, and I look forward to early action by Congress to implement this approach.

Finally, Mr. President, what we are trying to do in our committee is to do an evaluation of the range of different programs that we have authorized and for which funding is appropriated to actually find out what percentage of that funding actually gets out into the field in terms of the administrative costs as well as the effectiveness of the program.

That is an ongoing and continuing commitment that we have made and on which we will continue to give reports to the Senate as a whole as to the progress that we are making. Obviously, there is a great deal of pressure in terms of responding to the immediate kinds of legislative challenges as we are facing a limited period of time before we recess for this session. But this is going to be an ongoing and continuing commitment of the committee. We have been able to gather broad bipartisan support.

I commend Senator KASSEBAUM and others on the committee, Republican and Democrat alike, who are working closely together. Many of these programs are not only in our Labor Committee but are administered by the Labor Department. Some of them are in the Agriculture Department, Commerce Department, and many other areas where there is cross-jurisdictional kinds of issues.

We attempt to work with our colleagues, and those in the Finance Committee as well, to attempt to try initially to consolidate and coordinate all of those programs in our committee and to begin the whole process of gathering many of the related types of programs in other agencies to see if we cannot make the programs: first, more effective and efficient; second, get a greater kind of accountability for the American taxpayer in terms of what is really happening in this program; and, third, give greater information to those people who are being impacted so that they know what kinds of skills in training and education programs are being enhanced; and fourth and finally, the employer will know how effective these programs are going to be as well.

So this is a continuing challenge for all of us. It is going to take some time. But I think we are making good progress. And we are going to continue to do it in these training programs and education programs, and in all the different areas of responsibility that we have in our committee.

I notice Senator KASSEBAUM on the floor. I again thank her.

Mr. President, I ask the Chair at the conclusion of the morning hour this morning to bring together the related comments and speeches on this subject matter so that there will be a sense of continuity in terms of documents.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. KASSEBAUM addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Kansas.

FEDERAL JOB TRAINING PROGRAM

Mrs. KASSEBAUM. Mr. President, I am pleased to join with my colleague, the Senator from Massachusetts, and of course the chairman of the Labor and Human Resources Committee, to announce our shared interest in revamping the current Federal job training system.

Senator KENNEDY has already addressed some aspects of that proposal.

And, if I may, I would like to reinforce my interest in these efforts.

I am pleased that there is growing bipartisan sentiment in Congress that the current system is badly in need of repair. According to the GAO, the Federal Government currently oversees 154 job training programs, administered by 14 different agencies, at a total cost to the taxpayers of almost $25 billion per year.

Mr. President, my concern—and I think the same concern was expressed by the Senator from Massachusetts—is that the right hand and the left hand just do not know what they are doing. They do not know what works and what does not work. In fact, the Senator from Massachusetts deserves credit for starting the ball rolling by asking the GAO in 1991 to identify and evaluate all the different programs involving employment and training.

The results of that initial study laid the groundwork for many of the current proposals to consolidate and eliminate duplicative job training programs. We simply cannot keep pumping Federal dollars into this confusing maze of programs. I do not think it is fair to those who want to find successful job training and retraining efforts. I do not think it is fair to the taxpayers to continue to support initiatives which we are not really sure are working as we would hope. To be honest, people are fed up across the country that we are spending money on Government programs that make big promises and then do not deliver.

We need to start over and create a job training system that works for everyone, whether you are a person just entering the work force, or a worker with advanced skills who seeks to enter into a new type of job. We do not have that kind of system today, and our workers and our economy both pay the price.

The task will not be easy. Last March, I introduced a bipartisan bill designed to overhaul completely the job training system by essentially wiping the slate clean and starting over. The bill takes two important steps toward achieving comprehensive reform.

First, the bill would grant broad waivers immediately to allow States and localities maximum flexibility to coordinate the largest programs at the local level.

Second, the bill establishes a national commission to make recommendations on consolidating all existing programs. At the end of 2 years, the largest job training programs would sunset unless Congress acts on the recommendations of the commission or reinstates existing law.

I firmly believe that the starting point of any discussion about job training must be how to overhaul completely the current system and create a new one that works—nothing less. Otherwise, we are just continuing to rebuild on an old structure, again not being able to evaluate the strengths and weaknesses of any particular program.

This is one of the main reasons why I have not supported the administration's Re-Employment Act. The Re-Employment Act attempts to combine only a fraction of the existing job training programs for dislocated workers. I do not believe that the Re-Employment Act goes far enough to confront the critical need for comprehensive reform, and may, in fact, delay real progress on consolidating and eliminating duplicative or ineffective programs.

In addition, I am very concerned about the additional costs of the REA, which provides long-term income support and many other benefits for individuals enrolled in retraining programs. The administration estimates that the bill would increase current costs by $13 billion over 5 years.

To pay for this new program, the administration proposes to make permanent a 0.2 FUTA percent tax imposed on employers. I have strong reservations about setting up a financing structure that could potentially develop into a new open-ended entitlement program.

In order for a consolidation effort to be successful, it must have broad bipartisan support.

I am pleased that Senator KENNEDY, who has had a longstanding interest in this area of public policy, is committed to working toward wholesale reform. While there is no consensus yet on how best to achieve comprehensive reform, Senator KENNEDY and I—and we have been joined by the Senator from Nebraska, Senator KERREY, who is a cosponsor of the Job Training Consolidation Act, which I believe is a good point of reference, all have some concerns about how best to consolidate and reform Federal job training programs. I believe these concerns reflect a desire for real change in this area, which many of us feel—and it seems to me, Mr. President, provides a good opportunity to seize the initiative and really be willing to boldly take some dramatic steps toward reform.

The joint statement for consolidating and reforming Federal job training programs, which Senator KENNEDY and I have articulated, incorporates the following five basic concepts about a comprehensive job training system. I think the Senator from Massachusetts referenced these, but I would reiterate the following:

First, it should be based on the needs of jobseekers and employers alike.

Second, it should be readily accessible and understandable to all participants and easy to use.

Third, it should focus on performance and accountability.

Fourth, it should provide flexibility and primary responsibility to the States and, in turn, to local communities, for design and implementation of job training systems.

Fifth, it should be based on local labor market needs which, by necessity, require the active involvement of the private sector.

I ask unanimous consent that a full copy of the joint statement on consolidation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOINT KENNEDY/KASSEBAUM STATEMENT: CONSOLIDATING AND REFORMING FEDERAL JOB TRAINING PROGRAMS

We believe that immediate action needs to be taken to transform federally-funded job training efforts from a collection of free-standing, categorical programs into a coherent, integrated, accountable work force development system.

The system should be based on the needs of job-seekers and employers alike. Too much activity that takes place within federally-funded job training programs is based on the institutional imperatives of the bureaucracy, rather than serving the needs of job-seekers, workers and employers. We need to create a system that assists individuals to enter the work force, increases their basic skills, improves their technical skills, or retrains them for new jobs according to the needs and demands of employers. We recognize that various hard-to-serve groups may require more assistance than others to succeed in this new system.

The system should be readily accessible to any worker, job seeker, or employer. The system should be understandable to all participants and easy to use. Every individual or business who approaches the system should have information about the full array of services available, and should be able to easily gain entry into the system. The system should assure that job-seekers will receive information, guidance and counseling about all available employment and training services—no matter where they first enter the system.

This system should focus on performance. Performance should be defined by the value added that is achieved (such as long-term job placement) rather than by the number of individuals served. Accurate and up-to-date information on the performance of all programs should be available to all.

The system should provide flexibility and responsibility to the states, and in turn to local communities, for design and implementation of job training systems. States are well-positioned to integrate federally funded job training programs with state education and economic development strategies, and to provide incentives and monitor the performance of local programs. Local officials should, wherever practicable, be given the authority to allocate resources based on the needs of job-seekers and employers alike, and the supply, demand, price and quality of job training services in their areas. The appropriate role for the federal government in the job training system is to provide overall policy direction, and articulate the authority and role for each level of government in the new system, provide resources to help execute these policies and establish this system, oversee system-wide performance, and disseminate best practices.

The system should be based on local labor market needs which, by necessity, require the active involvement of the private sector.

Private sector businesses, which ultimately provide the jobs, must be included as an integral part of the system at every level. Too often training programs are not connected to available employment opportunities. The system should require the involvement of employers in the choice, design and content of the types of skills and training needed in each local area in order to link training to employment opportunities.

Mrs. KASSEBAUM. While I believe the legislation that the Senator from Nebraska [Mr. KERREY], myself, and others, have introduced the Job Training Consolidation Act of 1994, incorporates these basic concepts, I recognize that others may have different ideas about how to reach the same goal. I welcome the suggestions and the recommendations of all who are interested in reforming our scattershot array of job training programs into a system that will serve all individuals more effectively.

In order to gain the most information available, Senator KENNEDY and I have agreed to take several concrete steps. We are requesting the three Federal agencies that are responsible for the bulk of our job training programs—the Departments of Labor, Education, and Health and Human Services—to provide us with the most current information regarding the performance of their programs. Such information will be necessary in order to make sensible determinations about the elimination or consolidation of specific programs.

Additionally, we are interested in the experiences of States, localities, and private sector initiatives for integrating employment and training programs. We are therefore requesting information from knowledgeable individuals and entities that will be useful in formulating a policy that reflects our joint vision. I am hopeful that we will be able to hold additional committee hearings as well. This will offer the opportunity to gain a variety of perspectives and ideas.

Mr. President, the current system is broken and needs to be fixed. We cannot patch up what is already a patchwork job training effort. We need to start over and produce a system that works for everyone.

I look forward to working with all who are interested in reform, including the chairman of the Labor and Human Resources Committee, Senator KENNEDY, and Senator KERREY from Nebraska.

BIPARTISAN JOB TRAINING

Mr. CHAFEE. Mr. President, I want to lend my complete support and encouragement to this effort by Senators KENNEDY and KASSEBAUM to craft bipartisan legislation to establish a Federal job training strategy. The chairman and ranking member of the Labor and Human Resources Committee are to be commended for tackling this critical issue.

I was an original sponsor of the Job Training and Consolidation Act, introduced earlier this year by Senator KASSEBAUM. This legislation proposes to create a commission to make recommendations on consolidating all Federal job training programs. It would also grant waivers to States and localities to facilitate program coordination at the local level—where it belongs.

While the legislation is an obvious threat to many Federal and State agencies—as well as to a number of congressional committees—jurisdictional gridlock must not frustrate the development of a cohesive national job training system.

According to a recent General Accounting Office [GAO] study, there are 154 separate job training programs, administered by 145 different agencies, at an annual cost to taxpayers of $25 billion. In a broad audit, GAO concluded few benchmarks exist to determine the efficacy of such programs; while most keep track of the number of trainees they serve, not one maintains job placement data.

This lack of accountability is absolutely unacceptable. We cannot afford to squander scarce Federal resources on programs whose success or failure cannot be measured. In my own State of Rhode Island, as in many others, the need for effective training programs for dislocated workers and noncollege bound youth is greater than ever. We must ensure that our sizable job training investment is wise, efficacious, and justifiable.

Senators KENNEDY and KASSEBAUM have developed a statement of objectives which I believe to be an excellent starting point for the development of a bipartisan bill. It includes the following five premises for a comprehensive job training system—all of which I strongly support:

First, it should serve the needs of job-seekers and employers—the two most critical participants in such a system;

Second, it should be readily accessible and comprehensible to all participants;

Third, it should be focused on performance and accountability—we should know how many job seekers actually get placed as a result of the training they receive;

Fourth, States and localities should have primary responsibility for design and implementation of job training systems;

Fifth, finally, a job training system should be based upon local labor market needs, so that the training is geared to employer needs in a given area. By necessity, this means any such system must have the active involvement of the private sector to be a success.

I want to thank Senators KENNEDY and KASSEBAUM for their initiative, and look forward to working with them as they develop legislation to create a national job training system.

Mr. KERREY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska [Mr. KERREY] is recognized.

JOB TRAINING CONSOLIDATION ACT OF 1994

Mr. KERREY. Mr. President, I rise as well in support of the Job Training Consolidation Act of 1994. Senator KASSEBAUM and I spoke about it earlier. I have really come to the floor not only to reinforce the need for this legislation, but to praise the senior Senator from Massachusetts for his comments earlier and for a longstanding commitment to job training in the United States of America.

It seems to me that as I examine and look at, and very often am tormented by, the problems I see today with the American family, there is no better or faster or more certain cure for what ails the American family today—which is still the preeminent institution in America, pound for pound, delivering more leaders, more artists, more builders, more creative individuals, than any other institution that we have—there is no better or faster cure for what ails the American family today than a job that provides an individual with not only the resources needed to support a family, but with some sense of dignity, some sense of value, some sense of importance.

All of us know that the nature of the work force has changed dramatically in our lifetimes. In my case, I got out of high school in 1961 and over three-fourths of my high school class went directly into the work force. In that year, it was possible to find a job relatively easily. The rule was that that job provided you with enough money that you could get married and support a family. You began to buy a home, and you did a couple years in the service and you came back and expected to be on the job 40 or 45 years. That was the rule, Mr. President.

It was the rule that that job was there almost regardless of what your skills were. If you had a willingness to work hard and had a willingness to show up on time and had the right attitude toward the job, there was an abundance of good paying jobs.

Well, Mr. President, there are not very many low-skill, high-paying jobs left in America. Congress may be the exception to that. We have in America today a real premium on skills, and all of us know it. We have seen the consequences for a young person who graduates from high school without the ability to do multistep mathematics. We have seen the consequences for a young person or an adult in the work force if they do not have the skills needed to operate the equipment that is required to keep American workers productive. Thus, job training in 1994 is more important than it ever has been, far more important than it ever has been, Mr. President.

All of us understand that it is likely, over the course of someone's life, that they are going to be in, perhaps, half a dozen different jobs over the course of a working lifetime, and the requirement for increasing job skills is apparent just from that fact.

The dilemma that we have, Mr. President, is that of the 154 different Federal programs that we have, very often, the most obvious output from those programs is frustration. Very often the most obvious product that is produced is not increased job skills but is frustration from having to deal with the rules and regulations of the bureaucracy being told, "No, this is not the place you go, you have to go some other place." Just trying to get the various agencies to work together, Mr. President, very often is the most difficult thing of all.

This piece of legislation sets in place a process whereby not only can we consolidate and reduce that frustration, but we can save taxpayers money as well. But we can also, Mr. President, do one additional thing, that is, to try to bring the power to make decisions about the kinds of training that is going to be done to the State and to the local level; whereas, again, as all of us know, State and local governments are increasingly not only competing for economic development, but they have come to the conclusion that job training is a crucial part of their being able to claim success.

In Nebraska, we recently competed both for the BMW plant and Mercedes plant, and in both cases, the winning State offered a package of job training to be able to secure that victory. Thus, both States and local governments, Mr. President, are far better equipped to make decisions about how to train, where to train, and what to train in a rapidly changing marketplace.

So, Mr. President, I come to the floor, again, to reiterate and reinforce my strong support for this legislation, and the importance of it ought to be self-evident to all of us. I know that it has been very evident to the senior Senator from Massachusetts, who has been working on this issue and been leading on this issue for better than a quarter of a century. I appreciate very much, again, the leadership of the Senator from Kansas, and I hope this legislation will have an opportunity to move this year because, as I said, Mr. President, it is needed today more than ever before.

JOB RETRAINING

Mr. SIMON. Mr. President, I would like to comment also on the move that has been made by Senator KENNEDY and Senator KASSEBAUM on job retraining. I welcome their leadership on this.

This is a problem. It is not a simple problem.

I offered an amendment, which I am pleased to say is now law, permitting Indian reservations to consolidate their programs. They have that authority as of October 1. It will be interesting to see what happens.

Several of us asked the GAO to do a study on this whole question of job retraining, how we can avoid duplication. But, there is a bit of an exaggeration. We say 154 programs. That includes the Pell grant programs and that includes rehabilitation programs for those who have disabilities. It is not a simple thing.

I hope we approach it not expecting to work miracles but trying to do a better job. And when we do a better job, we are going to help our society.

Our Secretary of Labor—and, incidentally, it is great to see the Secretary of Labor and the Secretary of Education working well together—but the Secretary of Labor says if you are well trained, technology is your friend. If you are not well trained, technology is your enemy. He is right and we have to do a better job.

REFORMING FEDERAL JOB TRAINING PROGRAMS

Mr. CONRAD. Mr. President, I rise today in support of the concepts put forth by Senator KENNEDY and Senator KASSEBAUM for consolidating and reforming federal job training programs.

American workers must compete in a rapidly changing world economy. They must be qualified to handle jobs that did not exist 10 years ago if we as a nation are going to be successful in solving many of our other problems including crime and welfare dependency.

Although I am sure that all of the 154 Federal programs now in effect were well intentioned when proposed, it seems clear that we now have a multitude of free-standing training programs that overlap in the services they provide while possibly not providing some needed services. This results in wasted funds and confusion on the part of local service providers and individuals seeking assistance. Even more disturbing to me is the fact that most Federal agencies do not know how successful their programs are in helping participants enter or reenter the work force.

As we continue to grapple with the budget deficit, we need to look at areas where Government spending and inefficiencies can be curtailed. If we have job training programs that have never been funded, they should be terminated. If programs overlap, they should be combined. If there is waste, it needs to be eliminated.

With Federal expenditures reaching $24 billion per year for job training, it is clear that we need to establish standards of accountability and determine exactly how this money is being spent and what kind of results we are getting.

The needs of our work force can be more effectively met if we pursue the concepts put forth today by my colleagues. Whether we are talking about displaced workers or economically disadvantaged workers, they will best be served by a system focused on performance and integration of private sector businesses in the job training process. Ultimately the success of any program should be measured by whether the participants receive long-term job placement. Too often training programs are not connected to the available employment opportunities in the area.

Finally, I know it is important to the job service personnel in my State that the administrative framework set up by the Federal Government provide flexibility to the States. The States are best equipped to integrate job training with educational and economic development opportunities in the areas they are serving.

I look forward to working with my colleagues to develop an integrated accountable work force development system.

THE JOB TRAINING ISSUE

Mr. SIMON. Mr. President, I would like to compliment Senator KENNEDY and Senator KASSEBAUM for their attention to this important issue. Better coordination of the delivery of our employment and training programs is clearly an issue we need to address. America's greatest asset is its human resources. How we invest in these resources is critical to our success as a nation.

Today, American productivity is the global standard. U.S. workers remain the most productive in the world. Regrettably, though, in recent years our productivity growth has been stagnant and other countries are beginning to catch up to us. In 1950, for example, Japanese productivity was about 16 percent of American productivity. Today, it has risen to around 75 percent. Furthermore, since 1950 Japanese productivity has increased at a rate of 6 percent per year, while United States productivity has increased at only a rate of 1.9 percent.

One of the causes of our stagnant productivity growth is that, unlike other nations, the United States does not have a coherent system for preparing people for the work force. Employment and training programs in the United States are often disconnected and uncoordinated. As a result, individuals often get lost in the maze and do not get the assistance they need.

We need to put the pieces together. If we are to succeed in meeting the challenges of the global economy, we must create a comprehensive, coordinated employment training system that is efficient, accessible, and effective.

This is a problem that has faced several Congresses and different administrations, but the Clinton administration has really taken the lead on finding solutions. I commend the President for taking serious steps to address this issue.

The School-to-Work Opportunities Act, which I am proud to have been the chief Senate sponsor of, encourages coordination of school-to-work, tech-prep and other similar programs into a single school-to-work system. The Reemployment Act, which I am a cosponsor of, consolidates eight dislocated worker programs into a single reemployment system. This initiative also includes a proposal for one-stop career centers to help make all programs more accessible to those in need. In addition, the President has established a commission to look at the issue of coordination. These are steps in the right direction.

States and localities have also been taking steps to address this issue. We need to build on these successes. While we are beginning to take serious steps in this area, we can do better. This is why the work of Senator KENNEDY and Senator KASSEBAUM is so important.

Much attention is focused on the number of programs that exist. The General Accounting Office has identified 154 different programs. Others have argued that this number is greatly exaggerated. These critics point out that it includes some programs that have never been funded, some programs only tangentially related to training like Health Care for the Homeless, and the Job Training Partnership Act and the Carl Perkins Act, were both counted as over 20 programs each. Indeed, an entire debate can take place on how many programs exist.

The number of programs, however, is not the issue. It is only part of the issue. The greater issues are: Whether proliferation of programs obstructs the delivery of services and training assistance; whether there are programs that are inefficient and unnecessarily duplicative; and whether the number of programs hinders the development of a coherent, coordinated system. If we focus only on the number of programs, we will fail to see other obstacles that exist. We will also fail to see other avenues available for creating a better coordinated system.

For example, in a recent report completed at my request, the General Accounting Office outlined a myriad of barriers that States and localities have encountered in trying to improve training assistance delivery. GAO found that different definitions of eligibility, conflicting program requirements and different funding cycles have made it difficult to pull programs together. We should weigh these kinds of facts as we consider how to improve our training system.

No single program will be able to satisfy the needs of all people. To move forward responsibility on this issue, we must recognize that there are different populations of workers that face different obstacles and have different needs. A 16-year-old trying to enter the work force has different needs than a 50-year-old dislocated workers trying to reenter the work force. The support systems and assistance needed by an individual with a disability are different than the needs of a veteran or displaced homemaker. We need a system that will provide everyone with the kind of assistance they need.

We must be careful in this effort that we do not disrupt services to populations with special needs who, because they are too difficult or too expensive to serve, may face difficulties under consolidated programs. Clearly, this includes individuals with disabilities.

Congress has consistently supported the position that individuals with disabilities, particularly those with severe disabilities, have greater and more complex barriers to employment than the general population. The successes of these programs depends upon the availability of highly skilled, well-trained personnel who have access to the latest in technology and research specified to the needs of people with disabilities.

A case study of one State that combined Rehabilitation Act funds with other human service dollars for approximately 5 years during the 1970's shows a disastrous decline in rehabilitation services during that period, despite State assurances that requirements of the Rehabilitation Act were being carried out.

Consolidation is not an end in and of itself. We need to move toward a more efficient system, but we must be careful how we reach that goal. We must make sure that in our zeal to streamline Government and consolidate programs we do not lose sight of the commitment we have also made to providing effective service to those who most need our help.

In addition, the issue before us is not how much we spend on training. Many would argue, myself included, that we do not spend enough on employment and training. The issue is how do we spend our limited resources effectively. Right now, we are not spending our money wisely. States and localities spend a great deal of their resources trying to navigate through a maze of conflicting requirements. We have to focus on how to get more for our dollar.

Finally, the debate should not be about pointing fingers, but about pinpointing solutions. The proliferation of disconnected, categorical training programs is not the fault of any one party, any one branch of Government, or any one Member of Congress. It is the responsibility of all of us to work together to find an effective, responsible approach to improving how we deliver training in the United States. I am pleased that Senator KENNEDY and Senator KASSEBAUM have taken the lead on this issue.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Mr. WELLSTONE. Thank you, Mr. President.

FAMILY VIOLENCE

Mr. WELLSTONE. Mr. President, I ask unanimous consent that a very fine op-ed piece in the St. Paul Pioneer Press from yesterday be printed in the RECORD at the end of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WELLSTONE. Mr. President, this past week there has been a very strong and serious focus on the issues of family violence. I agree with the Senator from Delaware [Senator BIDEN]; we really ought to call it family as there is nothing domestic about it.

We are coming to realize as a country that for all too many women the home, rather than being a safe place, is a very dangerous place. We are coming to realize as a country that family violence knows no boundaries. We are coming to realize that this violence is a crime and should be treated as such. We are coming to realize that perpetrators must be held accountable.

Mr. President, I think most important of all, we are coming to realize that this kind of violence within families, as opposed to once upon a time when we thought it was nobody's business, is everybody's business, and it is very much an issue we need to address in our communities to make life better in our country.

My wife Sheila and I have learned a great deal from men and women and children who have been down in the trenches on this issue in Minnesota. We brought to Washington, DC, the silent witness exhibit, an exhibit of life-sized silhouettes of 26 women who were murdered in 1990 in the State of Minnesota. It was displayed in the Russell Building. A number of my colleagues came up to me and said that on their own they went over and just looked at it and thought about it. It was so powerful.

This past year in Minnesota alone at least 28 women were killed by a husband, former husband, boyfriend, intimate partner or other family member. Every 12 seconds in the United States of America a woman is battered.

Health care: We might want to talk about family violence as a health care issue. It depends upon whose study you want to believe. Estimates are that between 37 and 60 percent of women across all race, class, and educational lines are battered or abused while pregnant. Blows to the abdomen can result in fetal fractures. The children of battered women may be born with handicaps due to the trauma received while in the womb. Studies are starting to show a causal effect between the battering of pregnant women and low birth weights of children.

Mental illness: Mr. President, 26 percent of all women who attempt suicide are victims of family violence. And, Mr. President, the long-term effects of this are impossible to estimate. Judges in Minnesota tell me that if you want to ask the question how can it be a child—even a child is a child at age 15 or 14—can commit such a violent crime, all too often those children have been victims of this kind of violence as well. Seventy-five percent of men who batter women also batter their children.

So I rise on the floor today just to say that given this focus, I think it is important that we in the Senate and House of Representatives take the issue seriously.

On a positive note, when we go to communities in Minnesota, I am amazed, women show up, 200, 300, 400, even in small towns. So do the police, so do men, so do clergy, so do business people. I think we finally are realizing that we cannot turn our gaze away from this, that we cannot put these problems and the issues in parentheses.

Senator BIDEN has done yoeman work. The Violence Against Women Act is part of the crime bill, and we must pass that.

I want to say to you, Mr. President, that the Child Safety Act that is part of that bill was an amendment that I introduced that sets up safe visitation centers so when a parent or parents come, a father comes back to a home to visit a child, violence cannot happen again at the home. There can be a safe exchange at a visitation center. When a child is abused by a parent, no matter what that parent has done to that child, the child still loves the parent. The child needs to see the parent, but there has to be supervision.

Finally, there is the Domestic Violence Firearm Prevention Act, which is an amendment we passed in the Senate along with the Child Safety Act. I do not think we want to let that be bottled up in conference committee.

Mr. President, if you have committed an act of violence against your spouse or child, whatever your gender is, you should not be able to own a firearm. If you have committed a felony, you cannot own a firearm. Family violence clearly, even though we do not treat it as a felony, is a serious crime. If there is a restraining order against you, you must not be able to own a firearm or possess a firearm.

Mr. President, all too often the difference between a battered woman and a dead woman is a gun.

We passed this amendment on the floor of the Senate. We passed the Child Safety Act as an amendment on the floor of the Senate. We passed the Violence Against Women Act on the floor of the Senate.

These provisions are not the be-all or end-all. There is a whole new generation of things we can do with people and communities to really deal with the issue because that is where the solutions are going to take place.

I do speak for a call to action that these amendments and that these initiatives pass as a part of that crime bill and not be bottled up. I really think we can take some important steps here in the Nation's Capitol that will be a positive message to women and to children, and I hasten to add to men, who care fiercely about this issue and know, in the words of my colleague from Illinois, we can do better.

EXHIBIT 1

[From the Saint Paul Pioneer Press]

SIMPSON CASE TO FORCE ABUSE ISSUE INTO OPEN

When the dam burst in the Simpson homicide case, a flood of emotions spread across a nation that suddenly, collectively, had to come to terms with the cultural illness of domestic abuse.

For more than a week, the sordid and the speculative, the sensational and the surreal has filled the reservoir of fascination with the celebrity crime. O.J. Simpson, a graceful drawing from the Great American Success Story of athletic wealth and stardom, stands accused of killing his ex-wife and a guest at her home. The televised pursuit of a distraught Simpson on the lam Friday displaces the stored images of a young man running his way out of meager circumstances and to the Heisman Trophy. Between the charming, handsome public person and the private person who emerged in full camera light last week, stood a long story secreted in the ways that domestic abuse can hide itself.

As facts are separated from scandalmongering, remember Simpson has not been convicted. It is also important to keep asking if Nicole Brown Simpson and Ronald Goldman are dead because domestic violence danger signs were not taken seriously enough, letting O.J. Simpson beat the legal system previously because of his prominence.

The electrifying notoriety of the Simpson case has the potential that other celebrity disclosures have shown to pull matters of life and death out of the closet. AIDS, with Rock Hudson and Magic Johnson. Alcoholism and breast cancer, both with Betty Ford.

If the Simpson case can accelerate the American culture change on domestic violence, there is something profound to be gained. Domestic violence remains America's most common crime, 37 percent of women will experience battering. Battering is the leading cause of injury to women ages 15 to 44. Some 47 children and women were killed in the state last year by domestic assailants.

Through concerted efforts of advocates, domestic violence has begun to receive the encompassing attention demanded to address it effectively. The talk in coffee shops about the Simpson case is really talk about what happens next door and just down the street. Every 18 seconds, next door, down the street, in a stylish California home, a woman will be beaten.

Mr. WELLSTONE. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Colorado.

Mr. CAMPBELL. Mr. President, I wish to first associate myself with the comments of my colleague Senator WELLSTONE. Certainly the activities of the past week has brought this issue of domestic violence to the forefront.

I might say as a former policeman—and I know several Members of this body are former police officers—those of us who did work the streets at one time as policemen saw the tragic effects of domestic violence, you might say, firsthand.

THE 50TH ANNIVERSARY OF THE GI BILL OF RIGHTS

Mr. CAMPBELL. Mr. President, I rise today to commemorate the 50th anniversary of the passage of the GI bill of rights.

Fifty years ago today, on June 22, 1944, President Franklin Delano Roosevelt signed the GI bill of rights, saying:

> With the signing of this bill, a well-rounded program of special veterans' benefits is nearly complete. It gives emphatic notice to the men and women in our armed forces that the American people do not intend to let them down.

The purpose of the GI bill of rights, which provided education, home loan, and unemployment benefits was to reward our veterans, to prevent stagnation, to improve the economy, and to provide for our Nation's long-term growth.

Fifty years later, the GI bill is credited with helping create a strong American middle class. It made college and home ownership possible for millions of Americans who otherwise would not have been able to afford it.

It has successfully helped soldiers make the transition to civilian life, and restored the human resources lost or stifled by the war. More than 20 million veterans have been educated, and more than 14 million veterans purchased homes through this landmark legislation.

Today, we have voluntary Armed Forces, meaning that the need for good veterans' benefits is even greater than it was 50 years ago. Simply stated, our Nation, as the world's only superpower, must have strong incentives to encourage young people to join the military service.

In fact, if it had not been for the GI bill, I might not have gone to college. After serving in the Korean war, I went to San Jose State in California and received $100 a month to go to school. This money was sorely needed for tuition, fees, books, and other college expenses. That was not very much, and indeed it is not very much now. It is about $400 a month now. But it certainly is a big help. Before the GI bill was signed into law, only about 10 percent of high school graduates went to college. After it was signed into law, that number increased to about 50 percent who attended college. That should be testimony to a profound social and economic impact on America.

I hope that as we celebrate the 50th anniversary of the GI bill of rights, we remember the great sacrifices of our veterans, and the accomplishments of veterans under this bill. I hope we express commitment to providing health care, education, job training, income assistance, and even burial benefits for our veterans and their families.

Most importantly, I hope we remember we have a continual obligation to veterans—the heroes we can never truly repay.

DOMESTIC VIOLENCE

Mr. SIMON. Mr. President, Senator WELLSTONE talked about domestic violence.

It could be that the events of the last week will change our culture in the same way that the Clarence Thomas-Anita Hill hearings changed our culture in making us sensitive to the whole question of sexual harassment. All of the sudden, we are talking about this problem more openly, and that is a healthy thing.

THE GI BILL

Mr. SIMON. Mr. President, I also wish to speak about your comments, Mr. President, on the GI bill.

It was designed as a gift to veterans. It turned out to be a massive investment in our own prosperity.

But it is interesting, if you take the inflation factor and apply it to the old GI bill, which was open to anyone who served in the service, today it would be a grant of $8,500. The maximum grant you can get today under the Pell grant is $2,300, and you have to be desperately poor to qualify.

We have slipped. When we had the GI bill, we spent 9 percent of our budget on education. Today, we are spending 2 percent of our budget on education.

CHANGE NEEDED IN THE UNITED NATIONS

Mr. SIMON. Finally, Mr. President, this morning's New York Times has the story that the French are sending 2,000 troops to Rwanda. I commend President Mitterrand and the French for doing that.

But listen to this paragraph from today's New York Times.

> This 2,000-man French force would be in addition to the already approved United Nations force of 5,500 troops, composed primarily of African soldiers, requested by Mr. Boutros-Ghali, but which has not yet been assembled and is not expected to get to Rwanda for 3 months.

We have to do better. We have to change the way the United Nations operates so they can move quickly. We cannot continue to tolerate this kind of a situation.

I will be introducing legislation that I hope can strengthen the United Nations here. Our colleague, Senator CLAIBORNE PELL, authored the paragraph in the U.N. Charter that gives the United Nations authority to move with force, if necessary. I hope we will examine and see how we can do a better job with the United Nations. Mr. President, I yield the floor.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the previous order with respect to morning business be vitiated; that Senator DECONCINI be recognized to make a modification to the pending amendment; and that immediately thereafter the vote occur.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO LT. GEN. MERLE FREITAG

Mr. INOUYE. Mr. President, I rise today to pay tribute to an outstanding military leader and the Comptroller of the U.S. Army, Lt. Gen. Merle Freitag. Lieutenant General Freitag will end his active military career effective this June, retiring after 32 years of singular dedication, outstanding performance, and distinguished service to the military and the Nation.

Throughout his distinguished military career, General Freitag has exhibited extraordinary leadership, competence, and professionalism. As steward of the Army's resources since 1991, he has set the standard for resource management leadership by tirelessly pursuing initiatives to ensure the most efficient use of Army financial resources. His leadership ensured soldiers and their commanders were supported in peace and in major contingencies such as Just Cause and Desert Storm. A professional resource manager in every sense of the word, the difference that he has made will influence the way the Army conducts its financial responsibilities for many years into the future. In his capacity as Comptroller, he has worked closely with Congress. His superior analytical abilities, visionary direction, integrity, and commitment to excellence have earned him the respect and admiration of the Members of Congress in both legislative bodies.

General Freitag has had an illustrious military career. A graduate of South Dakota State University in 1962, General Freitag served two tours in Vietnam and was awarded the Purple Heart and Bronze Star. He commanded both battalion- and brigade-level units of the 101st Airborne Division, Air Assault, providing aviation logistic support for deployment of aircraft worldwide. Since 1985, he has served in a variety of critical resource management positions at the Army staff and secretariat levels and in the Office of the Secretary of Defense, culminating in his present position as Comptroller of the Army.

Throughout General Freitag's professional Army career, his wife, Phyllis, has steadfastly supported him through hardships and triumphs and many career separations. Her devotion, sacrifice, and resilience typify the Army wife. The Nation owes a great deal of gratitude to Mrs. Freitag for her numerous sacrifices and contributions.

General Freitag and his wife have earned the retirement they so richly deserve. I personally want to wish him and his family the best in the years ahead and join the Nation in expressing our heartfelt thanks for his dedication and selfless devotion and service to the U.S. Army, the Department of Defense, and the United States of America.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, morning business is now closed.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1995

The PRESIDING OFFICER. The Senate will now resume consideration of H.R. 4539, which the clerk will report.

The legislative clerk read as follows:

> A bill (H.R. 4539) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1995, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Faircloth Amendment No. 1825, to certify that White House employees administering the drug testing program do not have a history of drug abuse.

DeConcini Amendment No. 1830, to extend the civil service retirement provisions of inspectors and canine enforcement officers of the United States Customs Service.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

AMENDMENT NO. 1825, AS MODIFIED

Mr. DECONCINI. Mr. President, the pending amendment is by the Senator from North Carolina. I have talked to him this morning and there are two very minor changes that he has agreed to.

On behalf of the Senator, I send them to the desk and ask the amendment be so modified.

The PRESIDING OFFICER. Authority has been granted to modify the amendment, and it is so modified.

The amendment (No. 1825), as modified, is as follows:

> At the appropriate place in the bill add the following: "Notwithstanding any provision of law, the President, or his designee, must certify to Congress, annually, that no person or persons with direct or indirect responsibility for administering the Executive Office of the President's Drug-Free Workplace Plan are themselves subject to a program of individual random drug testing."

The PRESIDING OFFICER. The question is on the amendment as modified. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Connecticut [Mr. DODD] is absent because of illness in the family.

Mr. SIMPSON. I announce that the Senator from Alaska [Mr. STEVENS] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 157 Leg.]

YEAS—98

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Danforth
Daschle
DeConcini
Dole
Domenici
Dorgan
Durenberger
Exon
Faircloth
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Gramm
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Simpson
Smith
Specter
Thurmond
Wallop
Warner
Wellstone
Wofford

NOT VOTING—2

Dodd
Stevens

So the amendment (No. 1825), as modified, was agreed to.

Mr. FAIRCLOTH. Mr. President, I move to reconsider the vote.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada [Mr. REID], is recognized.

Mr. REID. I thank the Chair.

I would direct this to the manager of the bill, the senior Senator from Arizona. I have an amendment which is part of the UC agreement, as does Senator DOMENICI. I wonder, for those others who have matters pending, if we could, with the consent of the manager and the ranking member on this bill, have an agreement that Senator DOMENICI would offer his amendment and that when he finishes, I could offer my amendment. Would that be appropriate?

Mr. DECONCINI. Mr. President, we will lay the pending amendment aside in a moment, and I do not want to ask for unanimous consent, but that is agreeable with Mr. BOND. We will go to the Senator's amendment after the Domenici amendment, and I will do everything I can to see that the Senator gets the floor.

Mr. REID. For those people in the offices in the Capitol, Senator DOMENICI has 20 minutes; I have 50 minutes.

Mr. DECONCINI. So the Senator may be advised, the majority leader is working on a unanimous consent to stack these votes later in the day.

Mr. REID. I am not talking about the voting.

Mr. DECONCINI. I am sorry.

Mr. REID. Just the fact the Senator can have some ability to know the people who will offer amendments, and they in the offices will know when to come over here.

Mr. DECONCINI. I thank the Senator from Nevada.

Mr. President, I ask unanimous consent that the pending amendment be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico [Mr. DOMENICI].

AMENDMENT NO. 1831

(Purpose: To add reporting requirements)

Mr. DOMENICI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes an amendment numbered 1831.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

SEC. . (a) The Office of Management and Budget shall report to the Congress no later than October 1, 1994, for each agency for which the budgetary resources available to the agency in fiscal year 1995 would be canceled in an appropriations act to achieve savings in procurement and procurement-related expenses, of the manner in which these savings are to be achieved.

(b) Notwithstanding any other provision of law, each agency for which the budgetary resources available to the agency in fiscal year 1995 would be canceled in an appropriations act to achieve savings in procurement and procurement-related expenses, such cancellation shall occur on October 31, 1994, or 30 days after the Office of Management and Budget submits the report required by subsection (a) of this section, whichever date is earlier.

The PRESIDING OFFICER. The Senators have 20 minutes equally divided on this amendment.

Mr. DOMENICI. Mr. President, will you advise me when I have used 6 minutes. I do not know whether I want any more than that.

Mr. President, this amendment has been cleared on both sides from the appropriators' standpoint—by not just the floor managers but the chairman and ranking member of the Appropriations Committee and their staffs.

Let me try to explain to the Senate what this does. While it appears complex, it is very, very important and I hope the managers will, when they go to conference, even though it has some appearance of being kind of an arcane, esoteric, budgetese amendment, I hope they will understand that it has a very important significance for the appropriations process in the Senate and the House, so let me give a bit of history.

On June 8, the Senate passed S. 1587, the Federal Acquisition Streamlining Act. This procurement reform bill will make many changes in law pertaining to both the Department of Defense and civilian agencies with reference to procurement contracts, make it less cumbersome, more businesslike, and hopefully will save money. This legislation will have significant budgetary impact as well. According to the National Performance Review, savings of $22.5 billion could be gained through procurement reform. The President's 1995 budget includes $10.6 billion in savings from procurement reform over 5 years. About 45 percent of that is expected to come from the Department of Defense, for those who are interested in defense activities.

What concerns me is the method the administration is going to use to achieve these savings. On March 16, the administration sent a budget amendment implementing the savings from the procurement reform bill. And incidentally, that was well before the bill had passed, that is, the procurement reform bill.

The transmittal letter from OMB Director Panetta admits, "These savings amounts are calculated based on Governmentwide procurement activities," which probably means the savings are estimated on some theoretical, across-the-board percentage reduction with no relation to the bill, or this bill.

Now, the language in the budget amendment, while very specific about the dollar amounts being saved, is not very specific about how the savings are to be achieved. That is, what is being cut to achieve the savings. And in general the language reads as follows:

Of the budgetary resources available to the Department during fiscal year 1995, *x* dollar amount is permanently canceled. The Secretary shall allocate the amount of budgetary resources canceled among the Department's accounts available for procurement.

So that over the years, $10.6 billion will be cut in the manner that I have just described. The danger with this is that if the agencies do not achieve savings through this reform measure, they may be forced to cancel or delay procurement to meet these mathematically determined targets. This language in the amendment, the language in the President's budget request, puts too much discretion in the hands of the administration and of those in departments that are handling procurement. It basically is a blank check rescission. The administration could use this language to avoid funding congressional priorities in the procurement area and we would have absolutely no recourse.

That is why this amendment, the one that is pending at the desk, is important. It requires the Office of Management and Budget to report to Congress on how these managed savings in the procurement area would be achieved. No budgetary resources could be canceled until 30 days after the submission of a report to the Congress required in this amendment.

The administration's language has already been included in several appropriations bills this year including the one we are considering today. I intend to pay special attention to agency actions with regard to achieving these procurement savings. Most of them would occur in revisions of contractor requirements, promotion of procurement of off-the-shelf commercial items and the raising of thresholds for small businesses.

So what we are suggesting in this amendment is that rather than give a blank check for rescissions up to $10.6 billion for savings to be achieved in procurement, the administration submit to Congress the specifics on what they intend to cancel, that is, rescind, do away with in terms of program authority, what they intend to do with specificity, so that we have 30 days to look at it.

Now, we are not trying to say it is inoperative or ineffective. We could have done that and given us more authority, but I chose a balance here; that they must do it specifically, advise us of the plan within 30 days prior to its being effected.

Mr. President, I do not intend to use any additional time unless somebody has questions of me. I am absolutely confident that when the Senators in charge understand the significance of the unilateral ability to cancel and rescind that they will insist that this kind of amendment become part of the appropriations process.

Mr. President, I want to take 30 seconds.

Frankly, this just says that the White House does not have authority under procurement savings to take it out of other programs to meet that goal. They have to show us precisely where the savings are in a report submitted to us within 30 days before it takes effect.

I yield the floor.

I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DECONCINI. Mr. President, the Senator from New Mexico [Mr. DOMENICI] has indeed been a leader in this area in procurement. I think his amendment is a good amendment. We are prepared to accept it on this side.

Mr. BOND. We are prepared to accept it.

Mr. DECONCINI. I yield the remainder of our time.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (No. 1831) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada [Mr. REID] is recognized.

Mr. REID. I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1832

(Purpose: To strike language prohibiting the collection of land border processing fees by the United States Customs Services)

Mr. REID. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1832.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 81, strike lines 3 through 6.

Mr. REID. Mr. President, the amendment I am offering will greatly reduce the gridlock that is hindering our Federal law enforcement Border Patrol operations.

Mr. President, this is a simple amendment. It really is. It strikes a small provision currently included in the Treasury-Postal bill that we are now debating. The provision that will be stricken reads as follows:

> None of the funds made available to the United States Customs Service may be used to collect or impose any land border processing fee at ports of entry along the United States-Mexico border.

That is what it does. It strikes that provision. It does nothing more than just that.

Mr. President, let me make it clear. This amendment does not—I repeat, underline, and underscore "does not"—create a border-crossing fee. It simply removes language prohibiting the Customs Service department from working with the Immigration and Naturalization Service on border enforcement. This prohibitive language does not serve the interests of anyone. It unduly burdens the INS effort to implement border-crossing fee pilot programs, and it needlessly exacerbates relations between two Federal law enforcement agencies engaged in a common mission.

Both INS and Customs are charged with responsibility for protecting our borders. Customs, of course, is more concerned about the unlawful entry of contraband or narcotics while INS is more concerned about the unlawful entry of individuals. But both serve very important and legitimate governmental functions. Because both are charged with the responsibility of protecting our borders, it is logical to expect that both would engage in cooperative ventures. You cross a border. You recognize that is the case.

This language prohibits such cooperative efforts such as border-crossing fees. It prohibits Customs from receiving money that could be used to establish programs, even pilot programs, that could test the merit of a border-crossing fee. If these programs, pilot in nature, work, maybe we could expand them. If they do not, at least people cannot say that Congress is not attempting to deal with problems that we face with our borders.

My understanding is that the administration believes that a border-crossing fee may be a good idea and that their implementation, at least on a pilot project basis, may be warranted. This is according to Doris Meisner at her confirmation hearing. She said she "had no objection to a border fee at all" because, again, "a user tax is acceptable."

We have also been in touch these past several days with the Justice Department and INS, and they have voiced support to this amendment that I now have before the body.

There is a great case to be made that border-crossing fees work, that they produce the desired result of bringing greater management to the protection of our borders, and they do so in a cost-effective manner.

I was walking over here for this last vote, Mr. President, with the Senator from New Mexico who offered this last amendment. We talked about border-crossing fees. He said, "Where are we going to get the money?" To my knowledge, the most appropriate way of getting more money to have a proper border enforcement, is through crossing fees.

It is ironic that we are debating this issue as part of an appropriations measure. We are operating under some of the most severe budget restrictions in the history of this country. The state of economic affairs which we have in this country today places burdens upon all of us. But it is necessary for balancing the budget to make a realistic effort to stretch dollars. The irony is that the border-crossing fee is a self-funding means of increasing our law enforcement efforts on our borders. Certainly, it is something reasonable.

Indeed, according to the Senator from California [Mrs. FEINSTEIN], a $1 border-crossing fee to be applied at all land borders would generate over $400 million a year. This would allow us to provide a significant increase in our Border Patrol presence. The legislation I have before Congress, Mr. President, would have more than a $1 border-crossing fee.

It would allow us to improve and expand existing facilities necessary for efficient border management. But, most importantly, Mr. President, it would allow us to do all this without having to resort to other less plausible means of supporting this improvement, like taxes. The revenue brought in by the imposition of a nominal border fee would clearly allow the INS and Customs to increase their presence and thus enhance their operations at the border. It would improve the cooperative coordination efforts of all parties charged with border responsibility.

I recently had the opportunity to review a 1991 GAO report that surveyed the U.S. border infrastructure. One of the findings of this report evidences the necessity of voting in favor of this amendment. From GAO:

> Border operations are interdependent by nature involving services and infrastructure such as inspectors, border stations, highways and bridges provided by many parties. This interdependence places great demands for coordination on all the parties involved.

The report concluded that "some of the problems can occur because of inadequate coordination between these parties."

All my amendment does is remove a statutory barrier precluding enhancement of coordinated law enforcement efforts between the INS and Customs. The GAO report also examines the problems caused by inadequate staffing at the border.

I think it is clear that we do not need a try to establish that we have inadequate personnel at the border. That has already been established significantly many times previously.

We have some pretty impressive border facilities used by these agencies. But the report said they are not fully utilized because they are understaffed. The report found that the Customs office had a difficult time filling their authorized staffing positions.

For example, in San Ysidro, the largest crossing across the United States-Mexico border, there are 24 primary lanes for going through Customs. However, only 16 of these lanes are open, on an average, and some less, during the busiest periods of the weekdays. Likewise, the three inspection facilities serving the city of Laredo, TX, has a combined capacity for 16 primary lanes, but the maximum number of lanes open is 12.

Incredibly, while the existing facilities were not being used due to lack of staffing, new or expanded facilities were being constructed. I do not know how we are going to pay to staff them. No one doubts that a border-crossing fee would allow us to provide for hiring and training more border law enforcement officers.

I did not support NAFTA, but I hope it works. The minute it passed, I discontinued saying anything negative about NAFTA. I hope it works. I hope that I am wrong and that all those people who said it would not work are wrong. I hope we have a lot more intercourse between Mexico and the United States. I hope commerce flows more freely, and that it is good for both countries. If that is the case, we are going to need more help with the borders rather than less.

Some of the opponents of my amendment may argue that the current prohibition applies only to the operation of a border control crossing fee by the Customs Service and not any other Federal agencies, as if Customs was so separate and distinct from the INS and other border law enforcement that the prohibition was frivolous and meaningless. That is not true. This is a specious argument put forward by lawyers, that simply does not hold any water.

First, Customs and INS have an agreement to jointly staff primary inspection stations, and Customs will only open as many lanes as INS can staff, not Customs. Therefore, to the extent that a border-crossing fee will be used to hire additional personnel, both agencies must receive equitable staffing increases.

Second, this argument is premised on the notion that the best border control strategy is to allow the agencies involved to come up with their own solutions. This is patently absurd. All of the agencies and officials with border responsibilities share a common and binding mission: Protection of our borders from undocumented individuals, or contraband, or narcotics. Yes, they are all interdependent, but their missions are not mutually exclusive. To ignore this is to disregard all that Vice President GORE has done in his recommendations to us in his thorough report on reinventing Government.

Allow me to emphasize again—and I cannot express the importance of this enough—my amendment removes the language prohibiting the Customs Service from receiving any funds to be used to collect or impose any border processing fee. I would like to have offered an amendment on this bill to have a border fee, but I have listened to the authorizing committees and others saying, "Give us a little time, and let us come up with something on our own." Well, I am willing to go along with that and not offer an amendment on this bill to establish a border-crossing fee, but I think the prohibition that is in this bill will stop an orderly development of a border-crossing fee.

I ask my colleagues to consider this when they vote on my amendment, and understand that we need to make improvements in the way we are handling immigration in this country. This is a small step forward. What if the administration wants, for example, to establish a pilot program on the southern border, similar to the successful pilot program run in Blaine, WA—they would not be able to unless this amendment passes—or perhaps try another innovative idea requiring enhanced border presence? The language included in the current bill hinders—and I believe precludes—any such plans. Why not avoid any possible conflict by simply voting in favor of my amendment to remove this barrier?

As I speak on this floor, Mr. President, Governor Symington from Arizona, Governor Wilson from California, and Governor Chiles from Florida, are testifying before the Appropriations Committee. Why? Because those States are being overburdened by the negligence of the Federal Government. It is unfair to those States and other States that we do not do a decent job controlling our borders. Why should we care? We just dump the responsibility off on the States.

Those Governors are there because they are concerned about their States. We in this body should, in effect, cut them some slack, and one way of beginning this slack is to pass this amendment. We are not establishing border-crossing fees with this amendment. We, though, would allow at a later time innovative work to see if it would work.

I am intrigued by my opponents' opposition to this amendment. They warn that any involvement by Customs in the collection or imposition of a border-crossing fee will curtail their efforts for preventing the unlawful entry of contraband or narcotics; that somehow, their efforts in these areas would be compromised. This, Mr. President, is disingenuous and ignores the many law enforcement benefits that border-crossing fees have realized in other areas.

It is important to remember that the border-crossing fees are not a radical idea. They are used on bridges and highways across our land and serve legitimate governmental purposes. Thousands and thousands of people are willing to pay a $3 crossing fee to pass over the Chesapeake Bay Bridge on the way to the Maryland and Delaware shores each weekend. Are they happy about the toll they pay? I do not know. Probably not. But they realize that the toll serves an important interest: Providing car travelers with the peace of mind that their 4-mile trek across the bridge will be safe and that law enforcement is there to ensure that other drivers will abide by the laws.

Is a border-crossing fee at our land borders really any different than border-crossing fees at our airports? It is to the extent that, under current law, international air travelers currently pay a $10 fee that is added to the price of their plane ticket to support the INS and Customs Service efforts. It is done at airports right now. Arguably, the freebie we currently provide on our land border entrants is facially discriminatory toward our international air traveler entrants.

I have a note handed to me and, as I indicated, the Governors are testifying one at a time. The first to testify is Governor Wilson, who is now calling for border fees in the appropriations hearing. Should we not at least have the ability to have Customs involved in this?

One of the Senators told me, "I cannot go for that; it will mess up our relations with Mexico." How about messing up relations with our own people? We have been most cooperative with Mexico. I have the greatest admiration and respect for the people of Mexico. They have made tremendous strides in the development of that country, and I want to work with them however I can. But having a border-crossing fee that applies to anyone, not just Mexicans, certainly seems fair.

My amendment is progressive, realistic, and will provide us with many more options to consider when the hard decisions are made later, on how we can best improve our border operations. It fosters cooperative efforts between the agencies involved in the maintenance of our borders, and without it we will again be accused of doing nothing about our growing border problem.

Let this vote stand as a measure of our intent to stand up to the critics that say the Federal Government is unwilling today to do anything about what is inherently a Federal Government responsibility.

I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BOND addressed the Chair.

Mr. DECONCINI. Madam President, I yield whatever time the Senator from Missouri cares to take.

The PRESIDING OFFICER (Mrs. MURRAY). The Senator from Missouri [Mr. BOND] is recognized.

Mr. BOND. Madam President, I thank the Chair and my colleague.

There are just a few problems that I think we ought to highlight about trying to institute Southwest border fees.

First, with respect to infrastructure, Mexico does not have an automated system to allow for record checks as part of the application review process. Border facilities are inadequate. The facilities that are there may make a segregation of vehicles from the remainder of traffic difficult, especially at border crossings. In Texas, for example, there are many crossings over the bridge where there is no feasible way to increase lanes without using lanes available to other vehicles.

These are very practical problems that come about from instituting a system of border fees as contemplated in this amendment.

The real risk along the United States-Mexico border is a very real and serious one. It requires oversight to make sure that illegals do not cross and that drugs are not brought into the country.

The function of collecting additional fees would necessarily take away from the staff utilized to look for illegal entrants and for illegal drugs or other contraband being brought into the United States.

If there was a dedicated lane set up or some process set up for collecting fees, staff would have to be assigned to the lanes, from both the Customs and INS. That would require staff to be pulled from existing duties at port of entry in other locations in the United States. That would take staff away from those ports where they should be processing border crossing cards and apprehending illegal aliens or drug smugglers.

I think there are some very real problems with Federal inspection agencies being inundated with illegal aliens. The Customs enforcement responsibilities include trying to stop drug smuggling from the State of Sonora, Mexico, which is at an all-time high.

This is a very, very important law enforcement activity, and it is of a much higher priority to keep the traffic moving over these borders than to have a designated commuter lane or to collect fees from people crossing the borders without the risk of increased smuggling activities without the additional enforcement authority required to thwart smuggling.

The real problem, as I understand it, is that there has been inadequate staffing by the Immigration and Naturalization Service. This is a policy of the Department of Justice. The Customs Agency has had an agreement that they go jointly with INS. But when there is a backup, a significant backup, Customs is sending its people out to man the booths, to man the stations, to make sure that the traffic flow is impeded to the least extent possible.

In the last 5 to 6 years, Customs has placed some 1,500 to 1,600 more employees on the border and they are doing their job. The real problem comes about when the Department of Justice does not adequately staff the INS facilities along the Southwest border.

Madam President, I believe that this amendment, while well intentioned, would cause significant problems for Customs, and I urge my colleagues to defeat the amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DECONCINI. Madam President, how much time remains on this side?

The PRESIDING OFFICER. The Senator from Arizona controls 20 minutes 30 seconds.

Mr. DECONCINI. Madam President, first, I want to say the Senator from Nevada is well intended in his effort here. I talked to him about it. He worked very hard on immigration issues. There is no question that his State suffers, as my State does and as do many States here, from undocumented people, and not having enough people to enforce the drug laws. We know that from our cities, from the local government to the Federal Government.

Yet I have to oppose the Senator's amendment for a number of reasons.

First of all, the prohibition in our bill was purposely put into the bill several years ago and has been there for some time. The reason is that, Customs, on its own, without authority of Congress, had decided to negotiate with INS and start these commuter lanes coming in from Canada. They were going to charge people if you came in from Canada and you wanted to get a card and pay a premium price so you could go through a little faster.

Someone might say that is not too unreasonable. It may not be too unreasonable. And we said: Yes, why do you not go ahead and try it? You go ahead and try it. But we do not want you unilaterally setting up what might be a discriminatory tax or tariff coming into this country without congressional approval.

So the INS in Blaine, WA, along with Customs, and also in Detroit, have developed such a plan, so that people who come across from Canada—not Mexico, but from Canada—can attempt to set up this lane and see if it works.

Now, that may work, and it is in the stage right now of testing it.

But I believe, and I think the Senator from Nevada has not so concluded and does not agree with me, that Congress should set these fees, if there are going to be any fees. Otherwise Customs will go ahead and set a fee and INS will go ahead and set a fee.

Who is going to oversee that? Who is going to pass legislation and oversee it? That is what I think we need to do.

The Senator, I think, has pending legislation, and I know the Senator from California has pending legislation that does institutes fees, and those fees would be used for border crossing, staffing, and what have you. But that is going to take an act of the Senate and the House of Representatives, signed by the President, to institute those fees. I think that is the way we have to proceed.

Dealing with Mexico, which is my neighbor, I cannot think of anything worse than to let some administrative office like Customs set a fee so everybody who comes from Mexico has to pay something, whether it is in a vehicle or a person walking. Even though there are those who were against NAFTA, NAFTA is there now. We are opening our borders. I do not see any reason to insult Mexico by doing this. It may be in violation of NAFTA; but those who are against NAFTA, maybe they do not care about that.

But it certainly is not in the spirit of a neighborly thing to do on the international level.

What if Mexico turns, and all of a sudden decides: We want a fee now? We want you to pay 200 pesos to come into the country each time you come in. I think there would be a lot of objection from citizens here and, of course, from the people on the border. And what if Mexico just let it happen by any agency, instead of national legislative action? I think we would have even more problems. So there are pilot projects to see if this works.

The GAO has recommended consideration of these programs. Customs and INS are supposed to staff it 50–50. It so happens that Customs is providing more staffing now, up to 70 percent, because INS is underfunded.

As the Senator from Missouri pointed out, the Justice Department, until this Attorney General, has never, to my recollection, while I have been here, asked for any increased staffing for the INS, and particularly the Border Patrol. This administration has done that for the first time.

The only problem Customs has with filling positions is because the work is so dangerous and so demanding that they do have some attrition. But this is not going to help that. We have funded $370 million for border facility improvements. The INS and Customs said they are adequate today; they are satisfactory, and they do not need any addition.

So to justify this fee that we are going to use to build new border structures, if you go all along the border, from Brownsville to San Diego, we are building new border stations. This is for the Southwest border. That is in place. We do not need that money.

I like to collect money and I would like to see Customs have additional funds, and Border Patrol, too. But I think it has to be a legislative act.

So I hope we do not proceed with this. I think it would be a very, very unwise piece of legislation that would affront our neighbors.

I think the Canadians would feel the same way if all of a sudden they get charged by an administrative agency, an executive agency, without a national policy and debate in this country. The Canadians may turn around and say: Let us charge every car that comes in here, or every car that is blue, or every car that wants to go through this lane.

Besides that, on the Mexican border it is particularly difficult, because the Mexicans do not have an infrastructure to create a commuter lane, a preference lane. They use the Rio Grande bridges to take people across. They are narrow bridges. They do not have the capacity to create such a lane.

It is impossible to use this commuter lane on many of the border stations on the Mexican and the United States border.

So I hope my colleagues will oppose the amendment from my distinguished friend from Nevada.

The PRESIDING OFFICER. Who yields time?

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, the argument put forward by my friend kind of reminds me of a murder case that I handled once, where a young man killed his parents. Well, the word around the courthouse was that, as a defense, I should use the fact that he was an orphan as part of the defense.

Well, this is kind of what we are hearing here; that is, the best defense is a good offense.

The arguments that they have put forward do not answer the question: Why do we have to have a prohibition from having a fee established on a pilot project or some other basis?

My friend from Missouri talked about the fact that there is tremendous understaffing at the border. That is why this Congress has to consider changing the way we do business.

One reason that the American public is upset with what Congress does or does not do is the fact that most of the time we do not do anything. Why should we prohibit there being the development of pilot programs like the one in Blaine, WA, which INS says is working very well?

In speaking with INS yesterday, they have indicated that they believe that the Blaine, WA, program is working very well. Maybe we should try it someplace else. If Governor Wilson, Governor Symington, or Governor Chiles heard the arguments of my friends from Arizona and Missouri, I think they would really be upset. I mean, there is no question that we need to do something about our borders.

In the city of Las Vegas, which has tens of millions of people coming there every year, millions and millions of people coming from overseas, we have for the INS two people to handle international flights. INS has two people. Now, can you imagine that? A 24-hour city, with all the problems that come from international flights with narcotics and contraband, there are two INS agents.

Do we need more help? The answer is yes. Does this legislation create more help? The answer is no.

All this does is remove from legislation a prohibition to allow Customs to establish border-crossing fees.

They talk about unfairness in having a fee. We have a fee right now. Anyone involved in an international flight pays $10. Are they discriminated against? Of course not, because the $10 helps provide for an orderly processing of international flights. INS needs to do more; Customs needs to do more.

The Senator from California, Senator FEINSTEIN, said a $1 border-crossing fee will establish a fund of $400 million a year.

To have my friend from Arizona say, "Well, the Reagan and Bush administrations did not ask for any additional INS staff and now this administration has," does that somehow indicate or imply that we do not need more?

Everyone knows we have been shuffling dollars to try to meet the caps in spending here. We still have a huge deficit. And we are not meeting the problem dealing with our borders.

This amendment will not create a border-crossing fee but will allow us to have a border-crossing fee at a later time if the evidence so warrants.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Madam President, it is important to realize that the administration is looking at the possibility of submitting or supporting legislation that would institute a border-crossing fee.

Just last week, the Judiciary Committee had hearings on this. Attorney General Reno testified on various issues, including border-crossing fees. In response to the question of why we should not charge a fee, Ms. Reno replied, "With respect to a border-crossing fee, that is an issue that we would have to look at." She further responded by saying, "There will be issues involving trade and trade interests, balanced with an appropriate allocation of costs for this process. The people may view the charge as a tariff and that would interrupt trade."

It would be a violation of our free-trade agreement with Canada and Mexico.

She further stated, "We have to look at it and make sure that we address the issue in a thorough way so that we understand all the consequences."

In light of her testimony, I think it would be irresponsible to strike a prohibition without reviewing it. And I agree with Attorney General Reno that the issue should be reviewed. This review should also be included, and will be included in the recommendations of Barbara Jordan, a former member of the House of Representatives from Texas, on the U.S. Commission on Immigration Reform, which is due in September, not too far away.

So to strike this, though it does not impose a fee as the Senator from Nevada says, it certainly gives a signal to

Customs to go ahead and put a fee on if you want to. I think that is a big mistake. I cannot see the justification for doing that.

We have tight border crossings in Arizona. Why do we have that? Because of drug smuggling. So if a fee were imposed and you started moving a huge amount of traffic in without carefully reviewing what that traffic is carrying, then you are going to raise the amount of drugs coming in, and we are already inundated.

So there has to be a process so that people are going to be checked out if they are granted and charged for a border-crossing card to expedite crossing. Mexico cannot handle it. We cannot handle it yet.

The argument then is, well, charge a fee so you can hire the people and the equipment to handle it. But I think you need to have a plan before you just permit an agency to impose the fee.

So, Madam President, it is my hope that the body will turn this down.

I can tell the Senator from Nevada, I may support a modest, very modest, border fee for infrastructure and for staffing. I think we have to be very careful that it is not in contradiction with our international trade agreements with our neighbors. That is why I cannot support something that would permit the Customs Service to set the fee. For those reasons, I have to oppose the amendment.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, the statement to me by the Senator from Missouri was it is more important to keep the traffic moving. It is not more important to keep the traffic moving. It is more important to keep the traffic moving that should be moving.

There was also the argument that this will take away from staff utilized in their regular work. We are not talking about them having to do any other kinds of work.

I repeat, this amendment does not give them the authority to do anything. It simply removes the following language:

> None of the funds made available to the United States Customs Service may be used to collect or impose any land border processing fee at ports of entry along the United States-Mexico border.

Why is it is only the United States-Mexico border? Why did they not allow this on the Canadian border? I think it is unfair, I think it is wrong, and I think it would set back what we are trying to do to have an orderly program to revise how we handle immigration in this country.

As indicated by the three Governors today before the Appropriations Committee, this has reached a crisis point.

What right does Congress have, what authority, why should we exercise this authority to stop Customs from doing something that is already done on the Canadian border? It is wrong.

I think it will slow up the process of the establishment of a border-crossing fee that will come; it is only a matter of time when it will come.

I agree with the Senator from Arizona. It should be a modest fee, but it should be a fee to help our staffing procedures, because American taxpayers cannot pay anymore themselves.

The PRESIDING OFFICER. Who yields time?

Mr. REID. I yield my time if the Senator from Arizona will yield back his time.

Mr. DECONCINI. Madam President, I am prepared to yield back my time.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DECONCINI. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Madam President, I ask unanimous consent the pending amendment be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1826, AS MODIFIED

Mr. DECONCINI. Madam President, I ask unanimous consent that amendment No. 1826, adopted by the Senate on Tuesday, June 21, be modified with the language I now send to the desk. This has been approved, Madam President, by the Senator from Colorado.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1826), as modified, is as follows:

> At the appropriate place in the bill, add the following new section:
>
> SEC. . No part of any appropriation contained in this Act may be used to pay for the expenses of travel of employees, including employees of the Executive Office of the President, or other individuals, not directly responsible for the discharge of the official Governmental tasks and duties for which the travel is undertaken: Provided that this restriction shall not apply to the family of the President, members of Congress, Heads of State of a foreign country or their designee(s), persons providing assistance to the President for official purposes, or other individuals so designated by the President. The name and expense of travel of anyone so designated by the President shall be disclosed to the Congress.

Mr. DECONCINI. Inquiry, do we need a vote on that?

Thanks.

Madam President, I ask unanimous consent the vote on or in relation to Senator REID's amendment (No. 1832) occur at 1:30 p.m., and that no amendments to language proposed to be stricken be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Madam President, I yield the floor. I think the Senator from Washington is prepared to proceed.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 1833

(Purpose: To provide that funds may not be used in certain cases to enforce the prohibition on selling dyed diesel fuel for use in recreational boats)

Mr. GORTON. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Washington [Mr. GORTON] for himself, Mr. JOHNSTON, Mr. MURKOWSKI, Mr. STEVENS, Mr. CRAIG, and Mr. KOHL proposes an amendment numbered 1833.

Mr. GORTON. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the appropriate place, insert the following new section:
>
> SEC. . (a) None of the funds made available by this or any other Act for fiscal year 1994 or 1995 may be used by the Internal Revenue Service after the date of the enactment of this Act to enforce the prohibition under the Internal Revenue Code of 1986 on selling dyed diesel fuel for any taxable use in a boat in cases where the person selling the fuel collects the tax on the fuel. The person shall collect such tax under the system described in subsection (b) when it is implemented.
>
> (b) Not later than 30 days after the date of the enactment of this Act, the Internal Revenue Service shall, from the funds made available to it by this Act, establish and implement a collection system which allows the sale of dyed diesel fuel for use in boats used for recreational purposes.

Mr. GORTON. Madam President, before 1994, marine diesel fuel was not taxed. Last year the tax and budget bill imposed a 24.4 cent per gallon tax on diesel fuel used by recreational boats, leaving commercial fuel for commercial vessels tax free.

The reason last year's bill made this distinction was the repeal of the luxury tax on expensive yachts, with the feeling that to make up for that loss of revenue those yachts and other recreational yachts that use diesel fuel—not gasoline—ought to be subjected to a fuel tax. Most of the boating community agreed with that exchange.

That law, however, in order to make the distinction, mandated two different types of diesel fuel: Clear fuel, the way it had been historically used in recreational boats and subject to the tax, and dyed fuel for commercial vessels, which was not subject to the tax.

The unforeseen problem in connection with this answer is that many marinas, perhaps a majority of marinas that sell diesel, are not equipped with two separate diesel fuel tanks to store the two different types of fuel. Each such marina under those circumstances must make a choice. Will it sell only dyed fuel, tax free to commercial vessels, or will it sell only clear fuel with the tax to recreational vessels? Either way the marina loses because it loses one set of its customers. Moreover, because dyed nontaxable commercial fuel cannot be sold, under the law, to recreational boaters, there are severe shortages, particularly in that field. Most of the marinas that sell diesel fuel sell the bulk of it to commercial vessels and have therefore simply cut off their recreational customers. Let me give a specific example from my State and the State of the Presiding Officer.

The owner and operator of Port Angeles Marine, on the Olympic Peninsula, told me his marina is not set up to dispense two types of diesel fuel, but he is the only marine diesel dealer in Port Angeles. Because he sells most of his diesel fuel to commercial vessels like ferry boats, tug boats, and fishing vessels, he has chosen to sell that type of fuel and to abandon the clear fuel for recreational boats. As a result, he has to turn away all of these recreational boaters who must then travel miles and miles and miles to the nearest facility because there is no other such facility in their community. The Boat Owners Association of the United States has cited to my office other examples from Maine, Connecticut, Massachusetts, Maryland, Georgia, Florida, Mississippi, Texas, California, Minnesota, and Alaska, and since a cosponsor of this amendment is the distinguished senior Senator from Louisiana, it is obvious this is a problem in that State and along the gulf coast as well.

This is a huge inconvenience to recreational boaters. It may also be a safety hazard as well because they have to go so far to find fuel and have to carry so much fuel on board their pleasure boats.

It is also an inhibitor to the business of these marine terminals because for many of them it will cost upward of $100,000 to put in a new tank and the investment is simply not worth it. Certainly we should not be reducing the ability of these small businesses to engage in their normal course of business simply for the convenience of the Internal Revenue Service and the way in which it collects the tax. The regulations, when we get right down to it, are ludicrous. Hundreds of recreational boaters and marine fuel facilities in Washington and across the country have asked us to help find a solution to the problem.

The permanent solution to the problem is found in S. 2029, a bill before the Finance Committee which will amend the Internal Revenue Code specifically to allow recreational boaters to buy the dyed commercial fuel if they pay the tax. There are at least a dozen cosponsors to that bill. It looks, however, as though that bill is unlikely to pass in this Congress, due, obviously, to the tremendous burden of legislation before that committee with respect to welfare, health care, and a number of other major issues. And even if it does, we will have lost this summer season. So I am offering this amendment as a temporary, immediate, and short-term fix. It really is meant to solve the problem during fiscal year 1995, so Congress can have a better opportunity to look at S. 2029, modify it as it deems necessary, and pass it in an orderly fashion.

My amendment would mean that recreational boaters do not have to wait until Congress gets around to looking at this situation in all of its ramifications, but will give relief as soon as the bill becomes law.

Specifically, the amendment says that none of the funds in this or any other act for fiscal years 1994 and 1995 may be used by the Internal Revenue Service after the date of enactment to enforce the prohibition on selling dyed commercial fuel to recreational users who pay the tax that is actually due, that 24.4 cent per gallon tax. It also requires the Internal Revenue Service within 30 days after the bill becomes law to establish and implement a system to collect the tax from the sale of dyed commercial fuel to recreational boaters.

As I have said, it is purely a temporary fix. It begins working on the day the President signs the bill and runs out on the last day of fiscal year 1995, or, I presume, earlier than that date if Congress has passed and the President has signed a permanent solution to the problem.

It simply says, in effect, that dyed commercial diesel fuel can be sold to recreational boaters who pay the tax. It is that simple. The major boating season has now begun. More and more recreational boaters are out on the waters and those who, unfortunately, have diesel engines are often going to find that no fuel is available or available in a convenient place.

This seems to be the appropriate vehicle because, of course, this is the appropriations bill for the appropriate agency.

This amendment by the Senator from Louisiana and myself is very strongly supported by the Boat Owners Association of the United States, the National Boating Federation, the Marine Retailers Association of America, the Marine Operators Association of America, the Petroleum Manufacturers Association of America and the Northwestern Marine Trade Association.

I have letters of endorsement for this proposal that I ask unanimous consent be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

BOAT OWNERS ASSOCIATION
OF THE UNITED STATES,
Alexandria, VA, June 21, 1994.

Hon. SLADE GORTON,
U.S. Senate, Washington, DC.

DEAR SENATOR GORTON: On behalf of the 500,000 members of this association, we applaud your efforts to seek a temporary solution to the problem facing recreational boat owners who own diesel-powered boats.

Ill-considered regulations issued by the Internal Revenue Service have forced many boaters with diesel-powered engines to put their boats in drydock or travel for hours, if not days, to find clear taxed diesel fuel, the only type the IRS now allows them to purchase.

As you can well imagine, this has incensed many hard-working Americans who, because of a government edict, can no longer use their boats.

We do not believe that this regulatory scheme was anticipated by Congress nor that the Congress intended for the IRS to wreak such havoc in the distribution of marine diesel fuel.

Please make it plain to your colleagues that diesel boat owners will not be able to pay the required federal fuel tax if they can't find the fuel—which is currently the case.

The solution you propose would require the IRS to go back to the drawing board and devise a less onerous system of collecting these taxes, such as allowing boaters to purchase any color fuel and simply pay the necessary tax at the pump. In the end, this should result in higher federal revenues and a considerably less burdensome enforcement system.

Sincerely,

MICHAEL SCIULLA,
Vice President.

BOAT OWNERS ASSOCIATION
OF THE UNITED STATES,
Alexandria, VA, June 17, 1994.

URGENT: FLOOR VOTE IMMINENT—SUPPORT THE GORTON AMENDMENT TO THE TREASURY/POSTAL APPROPRIATIONS BILL

To: Members, U.S. Senate.
From: Michael Sciulla.

You can't get it in Bar Harbor, Maine and all the way to the Canadian Coast.

You will also have some problems from Connecticut to Massachusetts.

You would be out of luck from Crisfield, Maryland to Ocean City.

You would have to travel miles inland to find it in Savannah, Georgia, and

You also can't get it in Key West and Crystal River, Florida.

You would be in dire straits from Gulfport, Mississippi to Galveston, Texas.

You could have serious problems along California's coast to Washington state.

You would be up a creek without a paddle in Grand Portage, Minnesota; and

You might as well forget it in Valdez, Cordova, and Whittier, Alaska

In all of these places and points in between, thousands of recreational boaters with diesel-powered engines might as well have their boats in drydocks thanks to regulations issued by the IRS which make it next to impossible for citizens to purchase diesel fuel to power their boats.

Implemented last January 1 to collect a 20.1 cents per gallon federal tax, these IRS regulations prohibit recreational boaters from purchasing anything but clear taxed fuel. Since commercial boaters are allowed to purchase blue-dyed untaxed fuel, many marine fuel retailers with only one diesel tank and pump have been forced to choose between fueling either recreational or commercial vessels.

This has led to major shortages around the country and a loss of business to marine fuel retailers. We have received numerous reports that some diesel boat owners have had to travel for hours and as much as two days to find clear taxed fuel.

Since none of this havoc was intended by Congress and since the Treasury Department is maintaining that they have no regulatory flexibility to resolve the problem, Sen. Slade Gorton will be offering an amendment to the Treasury/Postal Appropriations bill, H.R. 4539, to temporarily fix the problem.

Action is urgently needed now. Otherwise, thousands of boaters will simply not be able to use their boats this summer. As you can well imagine, those who can't purchase fuel now are quite upset.

On behalf of the 500,000 members of this association, I urge you to support the Gorton amendment when it reaches the Senate floor.

PETROLEUM MARKETERS
ASSOCIATION OF AMERICA,
Arlington, VA, June 20, 1994.

Hon. SLADE GORTON,
Hart Building, Washington, DC.

DEAR SENATOR GORTON: On behalf of the Petroleum Marketers Association of America (PMAA), I would like to offer our support to you in enacting an amendment to the Treasury Appropriations bill to rectify the tax collection system for diesel fuel sold to non-commercial or recreational boats. PMAA is a federation of 43 state and regional trade associations representing more than 11,000 independent petroleum marketers throughout the United States. These marketers sell in excess of forty percent of the gasoline, 75 percent of the home heating oil and 60 percent of the diesel fuel consumed in this country. Eighty-nine percent of PMAA's membership is classified as small business under size categories established by the Small Business Administration.

As you know the tax laws prevent marinas from selling dyed diesel fuel to recreational boaters. However, a marina generally can only sell one type of fuel to vessels, either dyed tax free or undyed tax paid. For a marina to sell both fuels would require the installation of additional tanks at the marina and pumps. This may be impossible at many ports because of strict environmental requirements, and at many other ports the costs may be prohibitive, since installing another tank will require insurance and approval by the port authority. As a result, marinas in many cases have chosen to sell only dyed diesel fuel and only make that fuel available to commercial vessels.

This limitation on the fuels that are supplied has in many cases prevented recreational boats from receiving fuel. This may result in these boats transiting waters with inadequate fuel, or in exposing our members to liability for stiff penalties if they sell the dyed fuel, even though they collect and remit the necessary taxes.

The amendment that you intend to offer strikes a sensible balance between the need for IRS to enforce the law and if incorporated into IRS regulations or procedures will provide the industry the ability to sell fuel to recreational boaters and collect the appropriate taxes. It will also allow marinas to sell fuel to pleasure boats at all marina locations without adding additional tanks, and increasing the environmental risks at the waterfront.

We sincerely appreciate the efforts you are making.

Sincerely,

JOHN J. HUBER,
Government Affairs Counsel.

MARINE RETAILERS
ASSOCIATION OF AMERICA,
Annapolis, MD, June 20, 1994.

Hon. SLADE GORTON,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR GORTON: The 3,500 members of the Marine Retailers Association of America support your proposed amendment to the Treasury Appropriations Bill which will help resolve a terrible problem facing marinas and recreational boaters.

As a result of the Omnibus Budget Reconciliation Act of 1993, boaters must now pay 24.4 cents per gallon for diesel fuel. To help regulate the non-taxed fuel sold to commercial boaters and the taxed fuel sold to recreational boaters, Congress mandated that a color-coded system be established and regulated by the IRS. This system requires recreational boaters to use clear diesel fuel and commercial operators must use red-dyed fuel. Both of these fuels are low-sulfur. However, to complicate the problem, the vast majority of boats built prior to 1994 must use a high sulfur diesel fuel.

Low sulfur fuels have caused safety problems with engines stopping due to injector clogging. In addition, in many parts of the country, clear diesel fuel is not available to recreational boaters, because a marina has opted to sell only red-dyed fuels.

We need your help. We prefer to see these provisions repealed outright. However, due to the lack of a legislative vehicle this year, your approach may be the best available.

MRAA endorses your amendment and thanks you for your support of the recreational boating industry.

MRAA is the national trade association of small businesses which sell and service new and used recreational boats and operate marine accessory stores.

Sincerely,

PHIL KEETER,
President.
LARRY INNIS,
Washington Representative.

MARINA OPERATORS
ASSOCIATION OF AMERICA,
Annapolis, MD, June 20, 1994.

Hon. SLADE GORTON,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR GORTON: The Marina Operators Association of America greatly appreciates your support of recreational boating and endorses your amendment to H.R. 4539, the Treasury Appropriations Bill, which would prohibit the Internal Revenue Service from using fiscal year 1995 funds to enforce the prohibition under the Internal Revenue Code of 1986 on selling dyed diesel fuels to recreational boaters.

MOAA is the national trade association of marina operators. Our members own and operate the gasoline/diesel fuel docks regulated under this provision of the Tax Code.

As you know, the Omnibus Budget Reconciliation Act of 1993 imposed a 24.4 cents per gallon excise tax on diesel fuel used by recreational boaters. The Act also set up a system where recreational boaters could use only clear-dyed, low sulfur diesel fuel and commercial operators could only use red-dyed, low sulfur diesel fuel. This outrageous system has resulted in mass confusion and severe fuel shortages for commercial and recreational boaters. To complicate this problem even more, low-sulfur fuel may be harmful to the seals on fuel pumps at marinas and to diesel engine fuel injectors.

Our industry needs the flexibility to pump all types of diesel fuels. Many marina operators have opted to pump only clear diesel fuel while other marinas are pumping only red-dyed fuels. Few marina operators can afford to install separate tanks and pumps for the two kinds of fuel. As a result, vast areas of the country are now offering only clear fuel, significantly affecting the economies of commercial boating/fishing, or red-dyed fuel, adversely affecting recreational boating.

MOAA supports outright repeal of the provisions of the Tax Code prohibiting red- or blue-dyed diesel usage by recreational boaters. However, without repeal, MOAA endorses your amendment and appreciates your efforts to help our industry. Thanks.

Sincerely,

BOB GIESLER,
President.

NATIONAL BOATING FEDERATION,
Alameda, CA, June 20, 1994.

Hon. SLADE GORTON,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR GORTON: The National Boating Federation is the only nation-wide group of totally volunteer recreational boating organizations, numbering among them about two million boaters. Incidentally, we count among our member organizations both the Northwestern Boating Council and the Recreational Boaters Association of Washington.

As you are well aware, as a result of the Omnibus Budget Reconciliation Act of 1993, the recreational boater has not only been burdened by a discriminatory 24.4 cents tax on diesel fuel; we are also suffering from the ill-conceived color coded fuel system mandated by the Internal Revenue Service. Being permitted to purchase only low sulfur, red-dyed fuel has resulted in life-threatening engine failures, and considerable waste of precious time (and fuel) trying to find the marine fuel dock devoted to recreational, versus commercial (and clear-colored, untaxed fuel) users.

Obviously, an outright reversal of this decision is in the recreational boaters' best interests. Failing the likelyhood of such a bill, we are very grateful for, and support strongly, your amendment to H.R. 4539, the Treasury Appropriations bill, which would prohibit the IRS from using 1995 funds for enforcement of the "dyed fuel rules".

Thank you from all of us for your regard for both the safety of the recreational boater, and our continued enjoyment of our wonderful family-oriented pastime.

Sincerely yours,

MARGOT J. BROWN,
President.

NORTHWEST MARINE
TRADE ASSOCIATION,
Seattle, WA, June 17, 1994.

Hon. SLADE GORTON,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR GORTON: Our office has just been informed of your efforts to amend the Treasury Appropriations Bill to allow marinas to sell dyed diesel fuel to boaters allowing them to pay the tax.

I have written to you previously because of the regulations enacted by the Internal Revenue Service (IRS) that have had a deleterious effect on the recreational boating industry in the Pacific Northwest. The fuel shortages caused by the regulations is forcing boaters . . . not only in our region of the country, but throughout the United States . . . to travel lengthy distances to find fuel. By amending the Treasury Appropriations

Bill, you are providing our industry with a solution.

We appreciate your efforts, and we wish you continued success.

Sincerely,

HANK SITKO,
Executive Director.

RECREATIONAL BOATING
ASSOCIATION OF WASHINGTON,
Seattle, WA, June 20, 1994.

Hon. SLADE GORTON,
U.S. Senate, Hart Senate Office Bldg., Washington, DC.

DEAR SENATOR GORTON: The Recreational Boaters Association of Washington strongly supports your amendment to H.R. 4539, the Fiscal Year 1995 Treasury/Postal Appropriations bill.

As you know, boaters and marinas in Washington state, and across the country, have faced severe hardship since enactment of the Omnibus Budget Reconciliation Act of 1993. That Act imposed 24.4 cents per gallon tax on diesel fuel used in recreational boats. It also instituted a system whereby recreational boaters can only buy "clear" fuel while commercial boaters usually buy "dyed" fuel.

Many marinas throughout Washington do not currently have the capacity to store and sell two types of diesel fuel. Consequently, they must choose. Whatever choice they make, both boaters and the marinas lose. Many recreational boaters cannot find diesel fuel, and marinas lose business.

A number of Washington recreational boaters cruised to Alaska. They were unable to buy fuel at many marinas during their trip as the marinas were unable to store the two types of diesel fuel. The marinas could only sell fuel to commercial vessels. Without adequate access to fuel, the safety of the recreational boaters may be in jeopardy.

Your amendment will allow marinas to sell dyed diesel fuel to recreational boaters who pay the tax. We believe that this commonsense amendment is critical to both recreational boaters and marinas and heartily support your efforts.

Sincerely,

PAUL D. MCTAGGART,
President.

Mr. GORTON. Madam President, we will end up, in all probability, in the initial stages at least, not voting directly on the merits of this amendment but on a point of order. That point of order will be raised because the Congressional Budget Office has scored this amendment as having a cost of some $6 million in this fiscal year and $25 million in the next fiscal year.

In anticipation, I want to speak to those proposed costs. They seem to be wildly out of line, first, even given the assumptions of the Congressional Budget Office itself.

According to a March 1992 national recreational boating survey prepared by Price Waterhouse for the U.S. Fish and Wildlife Service, approximately 46.7 million gallons of diesel fuel were being used by recreational boaters. Let us round that up to 50 million per year. That means at a tax rate of 24 cents per gallon, we would collect about $12.5 million in tax revenues from recreational boaters who use diesel fuel. How that can result in a loss of $25 million a year is beyond the understanding of this Senator. If no one paid the tax, if it were 100 percent evaded, it would not cost that amount of money.

A more important consideration, however, Madam President, is the fact that from the perspective of this Senator, and I think from the perspective of common sense, this will increase tax revenues rather than decrease them. At this point, it is so difficult for recreational boaters with diesel engines to find that diesel in many parts of this country that it is obvious that the use of their boats is lessened. They are not going out as frequently.

If we allow them to buy their fuel in the places that they have always bought their fuel in the past, logic would indicate that they will, in fact, buy more than they will under present circumstances, and logic will indicate that a great majority of them, as well as the great majority of the marinas themselves, will, in fact, collect the tax.

So I think that the point of order that is going to be raised is an artificial one. I believe, if anything, it will slightly increase rather than lose as a result of the passage of this amendment. But in any event—in any event, Madam President—I do not think the laws of the United States are passed for the benefit and the convenience of the Internal Revenue Service.

Recreational boaters, most of whom own their boats already, have agreed to pay a tax in order to end a luxury tax on large boats. They did not agree to put themselves at a tremendous disadvantage to be in a position in which they could not find the fuel they need for their boats. I believe that we owe the people of the United States who have boats like this at least the proposition that they should find their fuel supplies as conveniently located after the passage of this law as they did before the passage of this law, assuming that they are willing, as they are, to pay the tax.

That is what this amendment does. It does nothing more; it does nothing less. I hope that the Finance Committee will be able to pass its own law relatively quickly. But until it does, it seems that this temporary relief is very much in order.

The PRESIDING OFFICER. Who yields time?

Mr. DECONCINI. Madam President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. GORTON. Madam President, I yield such time to the Senator from Louisiana as he may consume.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Madam President, I thank the distinguished Senator from Washington and join with him in his amendment.

Every now and then, the Congress and the IRS does something that is so outrageous, so unfair, so beyond the pale of what Americans have a right to expect that we in Congress must act and must act now. Today is such a time, Madam President.

What we have is a situation that recreational boaters are put in an unsafe and unwise position with respect to obtaining fuel simply to make life easy on the IRS.

As my colleague from Washington has pointed out, the Congress last year passed a tax of 24.4 cents per gallon on recreational diesel fuel for boats which does not pertain to commercial fuel. In order to carry out the collection of this tax, the IRS came up with a rule that says commercial boats must use a dyed diesel fuel and recreational boats must use a clear diesel fuel. Sounds simple, sounds like a way to collect the tax on one kind of boat and be able to enforce it.

But what has actually happened, Madam President, is that marinas are forced to decide whether they are going to serve the commercial market or whether they are going to serve the recreational boater market, because they do not have sufficient tanks to serve both markets, and most of these marinas have decided that they are going to serve the commercial market creating a situation where no fuel is available for recreational boaters.

Madam President, I had one boatowner in Gretna, LA, call me and say that this has created a monopoly in a place called Venice because it is the only place where clear diesel is available for recreational boaters within 50 miles. The marina owner can charge what he wants to at Venice, and he is overcharging all the recreational boaters.

Another recreational boatowner in Morgan City, LA called to say that he cannot get any clear diesel within 3 days' travel time from Morgan City. Now, Morgan City is really a maritime area, so you can imagine how frustrated and angry recreational boatowners must be when they have to go all the way to New Orleans—as a matter of fact, beyond New Orleans—and into Lake Pontchartrain in order to get clear diesel.

It is outrageous, Madam President. Of course, the IRS says, well, marinas can build some more tanks, but in reality that's no solution. It costs tens of thousands of dollars to build these additional tanks, and most of them in my State are in the wetlands. To start with, a marina owner would have to get a 404 permit from the Corps of Engineers. Madam President, what we are trying to do as a nation is protect the wetlands, not build additional tanks with thousands of gallons of additional fuel in the middle of our fragile wetlands at a cost of tens of thousands of dollars in order to serve recreational boaters.

So, Madam President, what we have here is a rule that affects the availability of fuel for recreational boatowners, which is a very big, very important business in my State. It affects the expense to the boatowners because they must pay in some cases extortionate prices for this fuel, and it clearly affects the environment and sometimes affects the safety because if you cannot get fuel, you are marooned out in the gulf or some other area without fuel, and nothing is more unsafe than that.

So, Madam President, what Senator GORTON and I have done is put together an amendment that says the IRS must come up with an alternative way of collecting the tax. And there are various ways to do that. There are various ways that we have suggested to the IRS by which they can collect this tax.

Madam President, it will really alleviate an outrageous situation, an unsafe situation, an environmentally degrading situation that is currently being inflicted on recreational boatowners and marinas.

I wish to congratulate my distinguished colleague from Washington for his leadership on this amendment. There are many other Senators here who represent States which have a lot of recreational boatowners, and I hope this amendment passes overwhelmingly so that we can make fuel available to recreational boatowners in America.

I yield the floor.

Mr. MURKOWSKI. Mr. President, I am pleased to cosponsor an amendment that has been offered this morning by the distinguished senior Senator from Washington [Mr. GORTON] concerning enforcement of the diesel fuel dyeing rules that are applicable at oil facilities in my State of Alaska.

This amendment attempts to resolve one of the many problems associated with the Internal Revenue Service rules requiring diesel fuel dyeing. These rules require that taxable diesel fuel sold for highway use and recreational boating be sold in the clear, undyed form and that nontaxable diesel be dyed artificially.

As a result of these new rules, retail sellers of diesel fuel are now required to build a second storage facility or choose to serve only one type of customer; that is, a taxable customer, trucks on the highway, or a tax-exempt customer such as a commercial fishing vessel.

For the past 8 months, we have been trying to convince the Treasury Department and the Internal Revenue Service to reconsider the dyeing regulations that went into effect the first of this year. These provisions have caused a host of problems in my State of Alaska.

Air carriers in the State expressed safety concerns about dyeing fuel because the IRS initially chose to require dye colors that were nearly identical to the dye colors for aviation gasoline. As a consequence, the potential for disaster, if one simply looks at the color and puts it into the tank of an aircraft, is obvious. This problem has since been resolved, I am pleased to say, but, nevertheless, points out some of the difficulties we have.

Just last month, we saw problems with diesel dyeing as it affected the market for recreational boaters in Valdez, Cordova, and other areas where they simply do not have sufficient capacity in their tanks to store both taxable and nontaxable fuel, and they are facing a substantial dilemma.

The question is should they construct a second set of diesel storage tanks to handle the small amounts of taxable diesel fuel that they need to provide for summer recreational use—that is a very small amount—or should they turn down such businesses because the overwhelming majority of their sales throughout the year are tax-free sales to commercial fishing activities.

Mr. President, in my State of Alaska the diesel dyeing rules have placed a severe burden on fuel distribution systems throughout the State geared to one type of fuel. The vast majority of the storage tanks are located in remote rural villages that have no access to regular supplies of diesel fuel. Visualize that in much of the interior part of Alaska diesel fuel is delivered by barges that move up the rivers during high water and that can only occur once a year. As a consequence, the storage of heating oil occurs in a short period of time and you do not have it again until next year. We saw on Kodiak Island people were faced with a complete shutdown of the island's fuel distributors because they had run out of clear taxable fuel and a barge delivery was delayed by storms at sea.

Mr. President, the dyed diesel fuel regulations, as far as they are applicable in my State, make absolutely no sense at all. We have been exempted from an Environmental Protection Agency diesel dyeing rule because of the extremely high cost of converting our two refinery operations to produce low sulfur diesel fuel. Nearly all of our fuel dealers in Alaska find that the cost of complying with the IRS dyeing rules is simply prohibitive.

More than 95 percent of all diesel fuel used in Alaska is exempt from the tax, and that is the real issue. Nearly all of it is used for heating or commercial fishing purposes. Yet, under the IRS rules, every village in my State of Alaska, no matter how remote, would have to construct a second storage facility to hold taxable diesel fuel for one or two vehicles in the village that would use taxable fuel.

Who pays that cost, Mr. President?

It is currently projected the State would spend some $200 to $300, possibly $400 million to provide fuel tanks in the hundreds of rural villages throughout the State of Alaska. Under these IRS regulations, not only would the State have to repair existing facilities but the State and local communities would have to come up with these dollars to build additional storage tanks.

So, Mr. President, the amendment I am cosponsoring with Senator GORTON today would provide a temporary solution to the diesel fuel dyeing problems that have been plaguing us in Alaska. I would prefer that we could develop a comprehensive solution to all the diesel dyeing rules and include such a measure in a revenue bill.

I do want to express my concern about adding this additional legislative amendment on an appropriations bill. However, this is an emergency amendment that will have an immediate and direct effect on all recreational boaters and marinas operating throughout the United States this summer. Many boaters just will not be able to get fuel this summer unless we adopt this amendment. That is why I am supporting it.

Mr. President, I have been working with the chairman of the Senate Finance Committee, Senator MOYNIHAN, and the Treasury Department to find a workable solution to all of the problems that the diesel fuel rules have created in my State of Alaska. I believe such a solution is reachable this year. I look forward to continuing to work with the chairman of the Finance Committee to achieve that end. I do want to say that he has been most cooperative and understanding.

Mr. President, I yield the floor.

Mr. KOHL. Mr. President, I rise today as a cosponsor of the amendment offered by the distinguished Senators from Washington and Louisiana. Their amendment restores common sense to a regulation which has done nothing but create headaches and anxiety.

As my colleagues know, the Omnibus Budget Reconciliation Act of 1993 increased the excise tax on fuel used in recreational boats. The regulations implementing this change require the sale of two types of fuels to boaters: clear, taxable fuel for recreational boaters, and dyed, nontaxable fuel for commercial boaters. Unfortunately, at marinas where fuel is sold, these regulations have created a logistical nightmare. In attempting to comply with these regulations, many marinas have been forced to choose between purchasing a second storage tank and selling only one type of fuel. Since many marinas cannot afford to purchase a second tank, they have been left with no choice at all. To the dismay of many recreational boaters, most of those marinas have concluded that it is most profitable to store the dyed, untaxed fuel rather than the clear, taxed fuel. As a result, recreational boaters are finding it more and more difficult to find any fuel for their boats. In some cases, recreational boaters have been required to travel long distances to purchase fuel. Needless-to-say this was not the intention of the legislation we approved last year.

In the hope of restoring some common sense of these regulations, Senators GORTON and JOHNSTON have offered a simple and straightforward amendment. Their amendment will allow recreational boaters to purchase dyed commercial fuel if they pay the excise tax. As my colleagues evaluate this amendment please keep in mind that this is not about evading taxes or creating a loophole. This amendment is about correcting an ill-conceived and impractical regulation—a regulation which has been nothing short of disastrous. Please join me in supporting the Gorton-Johnston amendment.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator does not control time. The Senator who does control time is the Senator from Washington.

Mr. GORTON. I suggest the absence of a quorum with the time to be divided equally.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DECONCINI. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Madam President, I ask unanimous consent that the pending Gorton amendment be temporarily laid aside in order that we may proceed with Senator Levin's amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Madam President, first let me thank the Senator from Arizona and the Senator from Missouri for their work with me on this amendment.

AMENDMENT NO. 1834

(Purpose: To provide for the continuing existence of the Administrative Conference of the United States and maintain funding for the Conference at fiscal year 1994 levels)

Mr. LEVIN. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself, Mr. COHEN, Mr. GLENN, and Mr. GRASSLEY, proposes an amendment numbered 1834.

Mr. LEVIN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 32, insert between lines 11 and 12 the following:

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

SALARIES AND EXPENSES

For necessary expenses of the Administrative Conference of the United States, established by the Administrative Conference Act, as amended (5 U.S.C. 571 et seq.), including not to exceed $1,000 for official reception and representation expenses, $1,800,000.

On page 48, line 7, strike "$259,351,000," and insert "$257,151,000".

Mr. LEVIN. Madam President, the amendment which I am offering today in behalf of Senators COHEN, GLENN, and GRASSLEY would maintain the funding of the Administrative Conference of the United States at last year's level of $1.8 million.

In the absence of this amendment, there would be no funding at all for the Administrative Conference of the United States. So that if it is going to remain in existence, as I hope and feel it should, it would require appropriations.

This appropriation is less than the amount requested by the administration, which was I believe $2.6 million. But it is sufficient that it will allow the Administrative Conference to continue in existence and do the important work which it has been doing for Congress and for the executive branch.

The Administrative Conference of the United States plays an important role in harnessing some important resources for our youth. It helps us as we look at the administrative process. When we want to reform that process, when we look for ways in that process, it helps us. When we try to encourage alternative dispute resolutions, such as arbitration, which we have done by law, we look to the Administrative Conference of the United States to help us promote alternative dispute resolutions. When we utilize regulatory negotiation, which we do, which helps parties to a dispute over regulation to try to reach a consensus, we look to the Administrative Conference of the United States to assist in the advancement of the regulatory negotiation process. We look to them for reports for recommendations, and they perform an important and useful role.

This amendment would permit them to remain in existence at the same funding level as last year.

This is not an issue of an increase or a decrease in the amount of funding for ACUS, as the Administrative Conference is called; it is a do or die amendment, because without this amendment, there is literally no money in this bill for ACUS. The amount of the appropriation would be $1.8 million which would hold this agency to the same level of funding it received this fiscal year.

The Administrative Conference is a small agency in the executive branch with a very long reach and very important mission. It is charged with the responsibility of identifying and recommending improvements to the administrative procedures of our Federal agencies, and for 25 years ACUS has commendably carried out its responsibilities.

The backbone of the work of our Federal agencies is the administrative process. The administrative process is at work when agencies issue and implement regulations; it is at work when agencies adjudicate individual claims for benefits; it is at work when agencies award licenses; it is at work when agencies debar fraudulent or nonperforming contractors. There is not much that a Federal agency does that does not involve administrative procedure.

It is understandable, then, that when Vice President Gore went looking for key elements to reform the way our Federal agencies carry out their responsibilities he looked at the administrative process and saw the work of ACUS as an important asset to achieve real progress. Streamlining the administrative process is a primary goal of the National Performance Review, and ACUS is one vehicle the administration wants to use to reach that goal. For example, ACUS was selected as to be the lead implementing agency by the National Performance Review "Streamlining Management Control" team to increase the effectiveness of the offices of general counsel. The bill we are now considering would eliminate ACUS' role in carrying out the NPR. It would eliminate ACUS altogether. It provides no funds at all for ACUS for fiscal year 1995.

There are other important reasons, Mr. President, to restore funding for ACUS, and that is so ACUS can carry out the tasks it has been given in specific statutes. For example, I authored the Regulatory Negotiation Act in 1990. That law gives ACUS a key role in encouraging and facilitating agency use of regulatory negotiation. Regulatory negotiation is a fairly new approach to developing regulations that brings the affected parties into the process early and attempts to achieve by consensus what may never be able to be achieved through the normal rulemaking process. It is not for use in every rulemaking, but where it fits, it is proven to be very beneficial—cutting costs, improving enforcement, and in many case, accomplishing more substantively. Were ACUS to be eliminated, the center of the regulatory negotiation effort would evaporate, and we would risk the progress we have made over the last few years to get agencies to be more aggressive about using this process.

Similarly, ACUS has been assigned a key role in the execution of the Alternative Dispute Resolution Act. ADR, as it is called is a proven time and money saver. The ADR act encourages agencies to avoid costly and protracted litigation by using arbitration, mediation, and other alternative dispute resolution techniques. ACUS is responsible under the ADR act for facilitating the use of ADR in the Federal agencies, and they have been quite successful with their efforts. Were we to allow ACUS to go unfunded for fiscal year 1995, just as with regulatory negotiation, the center would be gone from the ADR effort, and much of the progress we have tried to achieve over the last few years would be lost.

Mr. President, let me describe another valuable feature to ACUS' work. ACUS is a small, freestanding agency that operates free of partisan wrangling. It is research and recommendations are supposed to be without political favoritism, and so they have been. But more importantly, because of the way this agency operates, it is able to bring together some of the best minds in the area of administrative law from both the private and public sectors and combine their work for the benefit of the public. Law professors, the private bar, judges, and agency officials serve together on various ACUS panels and studies. Those serving on the panels from the private sector provide their services free of charge. It is this ability of ACUS to leverage its small amount of money into such a sizeable substantive gain that makes this agency particularly unique. Were we to fail to fund the work of ACUS for next year, we would lose the valuable contributions of this unique arrangement.

Mr. President, another important task that ACUS preforms is to give Congress advice in drafting legislation that contains administrative procedures. I know the staff of the Governmental Affairs Committee and its subcommittees routinely use the expertise of ACUS to develop the best approach to establishing a particular administrative procedure. When my subcommittee needed to draft a new enforcement program for lobbying disclosure, it quickly and successfully turned to the expertise of ACUS to tell us what approach to take and what the pitfalls may be with various alternatives. We view this expertise as invaluable in formulating administrative processes.

Finally, Mr. President, let me say that this is not the glamorous stuff of Government. Administrative procedure can appear to be dry and not all that important. But that is only a superficial analysis. Administrative procedure, as I said earlier, is the backbone of the way our agencies operate. And because administrative procedure is so pervasive in our Government, its failings rapidly multiply in effect. At the same time, because it is procedure and not substance, its strengths routinely go unnoticed.

It would be a shame for us not to continue the work of ACUS, Mr. President. We would be cheating ourselves and our constituents.

I understand that the matter has now been cleared. Again, I thank my good friends from Arizona and Missouri for working with me on this.

Mr. DECONCINI. Madam President, I yield myself whatever time I may take.

Madam President, the House Appropriations Committee took this up and, as a matter of fact, they had a floor vote. It was struck, the $1.8 million, by a vote 223–210, to eliminate the funding for the conference. When we marked up in our subcommittee, the ranking member and I and the committee agreed that we just did not need this any longer.

My desire to eliminate this goes back to 1988. It has an administrative procedure role, no question about it. But I think it has outlived its usefulness. The point here is that—and I can put the Senator from Michigan at ease, as I am going to accept the amendment. But I think it is important to point out that we took our lead from the President.

On February 10, the President issued an Executive order cutting perks and excesses of Government offices. Specifically, he called on each executive department and agency to terminate not less than one-third of the advisory committees and substitute Federal advisory committees. So we took that very seriously. I took it seriously under other Presidents who said it, too, and it seems like this particular conference just will not die. I have great respect for the Senator from Michigan. He assures me that it is on a new track, has a new executive director, and that it is going to move in a manner in which it has not before.

I have looked at many of the reports in the past that this conference has given, and they range from, I think, health care to administrative judges, to—this is what my conclusion was 2 years ago—"about whatever was on the front page of the Washington Post." This conference did a study and came out with a report. That may be a little exaggeration but, quite frankly, I just could not see the extension of this.

Having said all that, I am prepared to accept the amendment because the administration assures me, as does the Senator from Michigan, that this is a warning shot and signal that they should get their act together or we will not be funding this again. I will not be here to oppose it next year. If offered, I would not take an appointment on it.

I yield the floor.

The PRESIDING OFFICER (Mr. BRYAN). Who yields time?

Mr. LEVIN. I was going to yield the remainder of my time, but the Senator from Missouri is going to seek recognition.

The PRESIDING OFFICER. The Chair informs the Senate that the time allocated to the Senator from Arizona has expired. Seven minutes forty-four seconds remain under the control of the Senator from Michigan.

Mr. LEVIN. Mr. President, I yield my friend from Missouri whatever time I have left.

Mr. BOND. Mr. President, I thank my good friend from Michigan. We have discussed this matter previously, and I know of no objections to this amendment on this side. I think that from what we have heard, it is worth accepting. I do note that we need to have specific information on the value of this body. And for future administration requests, I will ask that they provide those to us in future years so that we will have full knowledge as we go into our Appropriations Subcommittee of the benefits of the ACUS. But at this time, I thank the distinguished Senator from Michigan, and I am willing to accept his amendment on our side.

I yield the floor.

Mr. LEVIN. Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1834 offered by the Senator from Michigan [Mr. LEVIN].

The amendment (No. 1834) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, we have several amendments operational here. I see that the distinguished chairman of the Finance Committee is here. I know my colleague from Arizona is anxious to offer his amendment. If I could inquire of the Senator from New York if he is prepared to go forward?

Mr. MOYNIHAN. I am, sir, if the Senator from Washington is. He has been patiently waiting. I apologize for the fact that we had a committee meeting which just broke up.

Mr. DECONCINI. I will defer to the Senator from Washington because it is the pending amendment.

Mr. GORTON. The Senator from Washington and the Senator from Louisiana have already spoken. So the floor is available.

The PRESIDING OFFICER. The chair informs the Senate that there is a time agreement. Mr. GORTON controls 1½ minutes. The Senator from Arizona controls 19.

Mr. DECONCINI. I yield whatever time I have to the Senator from New York.

Mr. MOYNIHAN. May I respectfully ask the Chair how much time is available?

The PRESIDING OFFICER. There are 19 minutes remaining.

The Senator from New York [Mr. MOYNIHAN], is recognized.

Mr. MOYNIHAN. Mr. President, I will not require 19 minutes of the Senate's time to make the point that is relevant from the point of view of the Committee on Finance, and from the point of view of the Senate as regards constitutional requirements and our behavior with respect to taxation.

The first thing to say to my friend from the State of Washington—and I say it also to Senator BREAUX from the State of Louisiana, with whom I just spoke—is that you have a real problem which needs to be fixed. I certainly would undertake to attempt just that, and I think the Treasury recognizes that there is such a problem. In the 1993 Budget Reconciliation Act, we removed the luxury tax on pleasure boats, which had made its way into the Tax Code with large unanticipated and wholly unwelcomed consequences, which is that the manufacture and sale of such boats fell off precipitously. Under our rules, if we were to repeal that luxury tax, as it was called, we had to pay for it, and we did so by imposing a tax on diesel fuel, used in this particular type of boating. We required that the fuel thus used be undyed—that being the case with all diesel fuels that are taxed, principally diesel fuel used in trucks. Now we are happy to get rid of this. I should be happy, personally, to see this changed, because there are so many marinas, as I understand it, where really only one tank is available, and the fuel is going to be used for both taxable and nontaxable purposes, and what is the marina proprietor to do?

The Senator from Washington very properly suggests that the tax should be paid even though the fuel is dyed, which typically means it is destined for an exempt use. That is a fair point but not one persuasive to those persons whose lamentable works have been over the centuries to collect taxes. It just does not work. The law requires that the fuel remain undyed and the sale of it be taxed.

We cannot change the law on this bill. This would make this bill a revenue bill under article 1, section 7 of the Constitution, what we call the origination clause. And the distinguished Senator from the State of Washington will know this with much greater clarity than I could bring to it given his legal background. But there can be nothing unclear about the origination clause, as it is called.

It says:

> All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

In effect, Mr. President, this requires that we have a revenue bill before us which has originated in the House. That is the practice of two centuries and more. It is the rule of the Constitution. It is never breached.

If this were to go to the House it would be given a blue slip, as our usage has it, and the Parliamentarian would simply send it back. The House is properly vigilant with regard to its prerogative under article 1, section 7. There can be no question of what would happen.

That being the case, I believe it is the intention of the distinguished manager to move a point of order that simply says that enactment into law of the pending Gorton amendment would reduce revenues below the fiscal year 1995 revenue floor in violation of section 311 of the Congressional Budget Act. A constitutional point of order could be made as well.

I do not want to extend the debate. I want to extend a hand of friendship and help to the Senator from Washington to say that there is a problem and we have to deal with it and we will seek to do so. But we have to do so on an appropriate measure in a time in the future when one will come before us.

I predict that in this vale of tears there will be another revenue act before the Senate before too long, and I will undertake to try to work to resolve this matter. In the meantime I will say to my colleagues we cannot accept this amendment. To do so would put the entire bill in jeopardy and strain an already seriously overstrained Senate calendar.

Mr. President, seeing my friend from Washington having arisen, I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Do I understand the Chair to say I have 1½ minutes remaining?

The PRESIDING OFFICER. The Senator from Washington is correct.

Mr. GORTON. I ask unanimous consent to have another minute to that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, I am delighted with the agreement in principle as to the goal we would like to achieve on the part of the Senator from New York. I knew those were his views already, but it is particularly welcome that he lays them out for us here.

We have an absurd situation here. We have a situation in which the convenience of the tax collector is all and the convenience of the taxpayer is as nothing. We have a situation which has made it impossible for many boat owners to purchase fuel if they use diesel fuel pleasure boats, for their vessels.

We have here an opportunity to solve that problem in the short term.

The distinguished Senator from New York says that we cannot constitutionally change the Tax Code in the Senate. The Senator from New York is, of course, entirely correct. It is for exactly that reason that this amendment does not purport to change the Tax Code at all. It simply limits the enforcement authority of the Internal Revenue Service, which is not a tax bill.

Even more importantly, however, I am convinced that we could in fact do so. All appropriations bills originate in the House. This is an appropriations bill. It has been passed by the House of Representatives. Almost every appropriations bill includes revenue provisions in it of some sort or another. I suspect that this one does. It has started in the House.

The Constitution does not say the Ways and Means Committee of the House must act first. It says the House must act first.

The House has in a bill which deals with revenues as well as with expenditures. The House in the past has accepted provisions like this one in part.

If the House wishes to object to it, we can deal with that objection at that point. The House is not going to reject dealing with an appropriations bill which it itself has passed on the grounds of this provision. It may not like the provision. It may insist that the provision come out. Under those circumstances, a conference committee will have to make that decision.

But to say that somehow or another this is without precedent is absurd. Almost every appropriation bill we deal with in this place deals with revenue in some respect or another.

The provision is not unconstitutional and the House would not be justified in rejecting it on that ground.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. I thank the President and I respond on the constitutional points made by my friend from Washington by saying clearly the bill before us originated in the House. But it is an appropriations bill. It is a bill for spending moneys.

The Constitution constrains us with respect to revenue. All bills for raising revenue shall originate in the House of Representatives. This is not a bill for raising revenue. The provision that follows, which is that the Senate my propose or concur with amendments, simply does not apply here because this is not a revenue bill.

I say to my friends on both sides here that we can solve this problem but not in this manner. If you do it, if we proceed we will simply put at jeopardy all the work that has been done on the appropriations bill.

This is the Treasury, Postal Service, and general Government appropriations bill. A great deal of effort has gone into it. We are about to conclude it.

The managers have done superb job. I particularly thank the Senator from Arizona and I simply have to say that I hope that the distinguished manager will make a point of order, if he wishes to do that. That is, of course, the proper means of proceeding. Otherwise, I would feel obliged to do so on behalf of the Committee of Finance.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GORTON. Mr. President, I would say I am willing to yield back the remainder of my time if the other side is so the distinguished Senator from Arizona can make his point.

Mr. DECONCINI. Mr. President, before I yield back the time I just want to say that I am very sympathetic to what the Senator from Washington wants to do here. Though the Senator from Arizona does not have many rivers and lakes as these States do, we do have a very high per capita rate of boats.

I am pleased that the distinguished chairman of the Finance Committee indicates that he is going to address this matter. Because of that I am going to support the Senator on the point of order which I will make.

Mr. President, I make a point of order that the Gorton amendment violates section 311(A) of the Budget Act.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, I move to waive the relevant sections of the Budget Act in order to permit the consideration of the Gorton amendment.

And I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the vote on Senator GORTON's motion to waive the Budget Act occur, without intervening action or debate, upon the disposition of the Reid amendment No. 1832.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, the pending amendment is the Customs inspector amendment, I think. I ask unanimous consent that that be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

AMENDMENT NO. 1835

(Purpose: To establish procedural requirements for certain projects)

Mr. MCCAIN. Mr. President, I have an amendment that I send to the desk and I ask for its immediate consideration. It is on behalf of myself and Senator COHEN.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] for himself and Mr. COHEN, proposes an amendment numbered 1835.

Mr. MCCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place in the Act, insert the following:

SEC. . No part of any appropriation contained in this Act shall be made available for leases, line-item construction, repairs, or alterations projects in this Act that are subject to section 7(a) of the Public Buildings Act of 1959 (40 U.S.C. 606(a)) unless the Administrator of the General Services Administration certifies to the Committee on Environment and Public Works of the Senate and the Committee on Public Works of the House of Representatives that such expenditures are prudent, reasonable, and necessary.

Mr. MCCAIN. Mr. President, just to make sure I am in sync with the managers of the bill here, I believe under a previous order I am allowed to offer two amendments. This one, it is my understanding, the managers of the bill are ready to accept, so we will be able to dispense with it very shortly.

Then the second amendment, I believe, the time allotted is 30 minutes, equally divided. As I have informed the managers of the bill, I am sure that it would not be necessary to use that amount of time.

I ask the manager, my friend from Arizona, is that a correct assessment of the parliamentary situation?

Mr. DECONCINI. That is accurate.

I just want to advise the Senator from Arizona that Senator FORD wishes to speak on this amendment, the GSA amendment. So I may have to put in a quorum call. But the Senator is correct.

Mr. MCCAIN. I say to my friend, if necessary, we can set it aside and move to the second one while we are waiting for the presence of the Senator from Kentucky, because, it is my understanding, under the previous order, at 1:30 votes are in order. Let us see what happens.

Mr. President, this amendment would restrict the ability of the Federal Government to spend any funds to construct, lease, improve, or repair Federal buildings unless the Administrator of the General Services Administration certifies to the appropriate congressional committees that such expenditures are prudent, reasonable, and necessary.

The Treasury-Postal appropriations bill contains $733,229,000 for construction and acquisition of facilities in fiscal year 1995. This sum is lower than last year's amount, and I applaud the committee for its attention to this issue.

However, we must continue to be vigilant in our efforts to curb waste and abuse in the Federal construction and acquisition process. This amendment is a step in that direction.

The Administrator of the GSA has the ultimate authority over the Federal building process. And simply put, Mr. President, if the Administrator cannot certify to the Congress that expenditures made by GSA are not prudent, reasonable, and necessary, then they should not be made.

Let me make clear, this amendment would not kill any Federal construction project. If a courthouse is needed, it will still be built. If a Federal facility is required somewhere, it will still be built. Every building the Congress believes is needed will be built.

What this amendment does do however, is to ensure that when we build these courthouses and buildings, we are not wasting money on frivolous, unnecessary, or extravagant items. In other words, that we are spending money in a prudent and reasonable fashion on items that are necessary.

Mr. President, I do not believe this is an extreme standard. It is a commonsense standard. When the average family chooses, for example, to add on to their house, or redesign their kitchen, they normally do so in a prudent and reasonable fashion, spending money on items that are necessary. The Federal Government should operate by the standard.

But, unfortunately, in many cases, the Federal Government does not.

Another egregious example is the $218 million Boston Courthouse—which I might add was approved by the President's Supreme Court nominee Judge Breyer—contains: A 6-story atrium; 63 private bathrooms; 37 different law libraries; 33 private kitchens; custom designed private staircases; and a $1.5 million floating marina with custom-made park benches.

The $300 million Foley Square, New York Courthouse original design included: 100 percent deluxe wool carpet; operable windows, not normally included in any Federal building; marble lined elevators; mahogany, instead of regular hardwood paneling; custom brass fixtures; and custom designed lighting.

Are these extravagances necessary? I do not think the public believes so.

Mr. President, under the Federal Property and Administrative Services Act and the Public Buildings Act, the GSA has the authority to oversee the construction, alteration, and renovation of all public buildings, including Federal courthouses. The law allows the GSA to limit, restrict, or expand the scope of construction proposals of all public buildings, including Federal courthouses to ensure that such projects are appropriate.

The law gives the GSA the authority to renegotiate the scope of all projects and proposals. GSA may also require the proposers to justify their requests and design.

While these authorities are currently in law, continued problems with extravagant and wasteful courthouse construction, demands that we take more aggressive action. This amendment will do so by requiring the Administrator to certify to the Congress that construction plans and the spending to execute them are reasonable, prudent, and necessary. I have no doubt that this requirement will make the GSA more vigilant and more accountable about project plans and costs. Judging from the revelation of marbled halls, mahogany walls, and palatial suites, accountability seems like a very good idea.

Mr. President, this is a commonsense, fiscally sound amendment. I urge its adoption.

Mr. President, I ask unanimous consent that several articles on this issue be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 19, 1994]

JUDGE BREYER AND THE "TAJ MAHAL"

(By Jack Anderson and Michael Binstein)

Donald Trump may never have met Supreme Court nominee Stephen G. Breyer, but they share a fondness for perks and palaces.

This summer, construction bids will go out for a waterfront project that Rep. John J. Duncan Jr. (R-Tenn.) calls the "Taj Mahal" of federal courthouses. Breyer was a key player in approving the site and design of the planned federal courthouse at Fan Pier which sits just a short distance from downtown Boston. Breyer currently serves on the 1st U.S. Circuit Court of Appeals in Boston, which would use the new courthouse.

According to soon to be released figures compiled by Duncan, the $218 million courthouse project is slated to include amenities that would make The Donald blush: a six-story atrium, 63 private restrooms, 37 different law libraries and 33 "galleys," commonly known as private kitchens. The U.S. government also is spending $100,000 to provide judges and their staffs with exclusive use of custom spiral staircases between floors, even though an additional $370,000 is being spent for private elevators connecting the same floors.

The plans for the new courthouse suggest that a lot more than justice will be carried out there. More than half of the land will be used to build, among other things, a waterfront park, a $1.5 million floating marina and custom-made park benches, all at federal taxpayer expense. More than $789,000 is budgeted just for original works of art.

"If we need a new courthouse, let's build it, but let's do it in a way that's fair to the taxpayers as well as the judges. And I think there is a happy medium there," Duncan told our associate Jan Moller. "But I think they have far exceeded this with regard to the Boston courthouse."

A letter is currently circulating in Congress calling for a General Accounting Office audit of this and other courthouse projects.

Plans for a new courthouse in Boston have been in the works since the late 1980s, when a study conducted by the Boston Redevelopment Authority found that erecting a new building would be more cost-effective than renovating the existing one. This study, which also ranked potential sites for a new courthouse, found that the best location would have been downtown Boston. The Fan Pier site was far down the list mainly because of a lack of public transportation.

At roughly the same time, the owner of the Fan Pier site, Boston restauranteur Anthony Athanas, was embroiled in a legal battle with the Pritzker family of Chicago—owners of the Hyatt hotel chain—over the demise of a planned development at the vacant Fan Pier. With the help of the Pritzkers, Athanas had hoped to build a waterfront complex of hotels and restaurants, but the deal collapsed and the Pritzkers sued Athanas. When the dust cleared, the court ordered Athanas to pay the Pritzkers $59 million.

The loss was felt not just by Athanas, but by the Boston political establishment. The 81-year-old Athanas, who owns the famed Boston restaurant Anthony's Pier 4, is a longtime patron of every major political figure in the city, his restaurant having played host to countless political fund-raisers.

According to published reports, one of the major patrons at Anthony's was Rep. Joe Moakley (D-Mass.), the powerful chairman of the House Rules Committee, whose campaign spent almost $8,000 at Athanas-owned restaurants in 1989 and 1990. Moakley, who grew up in the South Boston district he now represents, even rented a summer home on Cape Cod from Athanas until recently, and his brother once worked as a maitre d' at Anthony's for eight years.

The relationship apparently paid off for Athanas, whose Fan Pier parcel moved rapidly up the list once bids were submitted for potential sites. After the bids were received, a committee made up of government officials and a team of judges, led by Breyer and U.S. District Judge Douglas P. Woodlock, sat down to evaluate them. They chose Fan Pier, which moved up in consideration after Moakley had helped find $278 million in federal funds to build a transitway from downtown to the new courthouse site. The government paid $34 million for the 4.6-acre parcel, money that helped Athanas defray the cost of his court battle.

A top aide to Moakley said that once the site was selected, Moakley and Sen. Edward M. Kennedy (D-Mass.) worked the Appropriations committees for the money to build the courthouse. Moakley told us he never lobbied for the Fan Pier site and that the selection had nothing to do with Athanas's legal problems.

"After I got the money [for the project], I sat down with the judges and I said, 'I think Fan Pier is a great area' and I just played it out like that," Moakley told us. "Athanas did run into some problems, but that had nothing to do with it."

[From the Washington Post, June 20, 1994]

TAXPAYERS TURN UP IN THE RED

(By Jack Anderson and Michael Binstein)

When the Justice Department's bankruptcy attorneys recently moved into their new Washington offices, the taxpayers wound up in the red.

During a walk-through of their brand-new headquarters, lawyers at the Justice Department's Executive Office for U.S. Trustees decided the new offices were too small. They were 30 square feet smaller than the department's standard of 150 square feet—and the government attorneys threw a fit.

The never-used offices were ripped out at a cost to the taxpayers of $10,203. Agency officials explained to government investigators they were afraid the smaller offices would create "tremendous personnel problems." Renovations for the larger offices plus the extra rent paid for the unoccupied space while the reconstruction was taking place totaled another $237,292.

"Rather than incurring over $247,000 for remodeling and rent on vacant space," Justice Department inspectors wrote in an internal report obtained by our associate Andrew Conte, "EOUST should have tried other options including 'living with' the space as it was originally constructed."

In a letter to the inspectors, then-director John Logan wrote, "The attorneys on staff believed that they were being treated unfairly because they were being assigned offices smaller than the standard size attorney office in the department." Creating a corporate environment for government attorneys didn't stop there. To have an entrance to the offices that "evidences the stature and professionalism of the government agency," officials billed a $5,000 mahogany-stained planter to the taxpayers. Planning and construction for the planter alone took eight months and "numerous phone calls, faxes and meetings," according to the report.

Inside, agency officials highlighted the director's office suite with top-of-the-line laminated glass interior windows and high-end ceramic tile counter tops and floors for his personal kitchen—complete with a sink, refrigerator and microwave. The more expensive laminated windows were installed only after first frosted windows and then safety glass windows had been installed and replaced. The safety glass had to be removed since the officials objected to having tiny industry seals in the corner of each pane of glass. Total cost to the taxpayers: $2,397. When the hot water heater in the director's personal bathroom stopped working, agency officials opted for replacing it rather than fixing it. The original hot water heater had been installed behind a sealed tile wall, but the plumbers who installed it agreed to make a hole in the tile, install an access door, and fix the hot water heater for free. Agency officials declined, telling the inspectors that the access door would have looked "chintzy." To install a second brand-new heater in a nearby closet, the taxpayers paid out an additional $1,680.

"The expenditures for a second hot water heater for the director's bathroom and changes to the interior glass were wasteful and unnecessary," the Justice Department investigators wrote in the audit report. "Likewise, spending almost $5,000 for a custom-built planter may not be a prudent use of government funds." Agency Director Logan responded: "We are committed to ensuring the wise use of taxpayers' money."

The General Accounting Office has a well-earned reputation as the government's top watchdog for fraud, waste and abuse. Yet sometimes the government ends up shelling out big bucks in an effort to save nickels and dimes.

In March 1993, Agriculture Department employee Cynthia K. Bernardini asked the government to pay for shipping a portable garage along with her double-wide mobile home when she was transferred to a new station. The request was kicked over to GAO, which has the authority to make decisions on such expenditures.

By the time the GAO had finished processing the request, it probably would have been cheaper for the government to have shipped the garage. After a year, GAO finally issued case B-252774, which said the government could not reimburse shipment of the garage "even though the employee considered the garage to be a major part of her lifestyle in the mobile home and she had it wired for electricity and decorated to match the mobile home."

"A lot of times as soon as we open the envelope that has an employee's complaint the taxpayers have already spent more money on our salaries than the claim is worth," one GAO official told us. "This big bureaucracy has to deal with a lot of little things that don't justify the big bureaucracy."

[From the New York Newsday, May 1994]

HIGH COST OF JUSTICE: LUSH DECOR UPGRADES SEND COURTHOUSE COSTS SOARING

(By Kathleen Kerr)

Spacious corner suites with views of New York Harbor. Private bathrooms—42 of them—complete with showers. Plush wool capeting. And 42 kitchenettes.

Requests by the courts for lush upgrades to the planned decor for the granite-clad Federal courthouse under construction in Manhattan's Foley Square have boosted the project's cost by tens of millions of dollars, a New York Newsday investigation has found.

One government document estimated the extras would cost more than $30 million, but federal officials have cloaked the project's costs in secrecy.

One GSA official estimated the original $241 million courthouse price will exceed $300 million when construction is completed later this year.

The 27-story downtown courthouse—the largest and most expensive in the country—will feature halls of justice lined with white Vermont marble.

Amenities for federal judges will include cherrywood-lined elevators, thick wool carpeting instead of less expensive synthetic floor covering and chambers as large as 860 square feet.

Then there are the windows—at least 300 will open.

Most new skyscapers have stationary windows that help keep air-conditioning costs down. But the courts demanded windows that open in judges chambers, despite the Federal design guide's recommendations for stationary windows in courthouses.

Original estimates placed the extra cost for the requested windows at $1.7 million. A compromise on the type and number of operable windows eventually was reached, but General Services Administration officials would not disclose the actual price.

"What Lola wants, Lola gets," former GSA Public Buildings Service Commissioner William Coleman said when asked about the judiciary's success in fighting for courthouse design changes.

GSA officials and the judge who headed the court during the planning stages defended the trappings as needed for such reasons as durability and improving acoustics.

But New York Newsday found that in some instances changes exceeded court design guidelines or were merely decorative.

And not all courthouses built in recent years have the amenities of Foley Square. For instance, the new Newark federal courthouse, which opened last year, doesn't have private showers or kitchenettes and has steel door knobs instead of brass. In Newark, a standard judge's chamber is 500 square feet in area and doesn't have operable windows, while courtrooms have no windows at all.

The 350,000-square-foot Newark courthouse cost $60 million. One official estimated the 630,000-square-foot Foley Square courthouse will cost more than $300 million when completed.

Judge Charles Brieant, chief judge for the Southern District of New York while plans for the new courthouse were in progress, defended some of the courts' requests for design changes and thought it unfair to compare Foley Square to Newark.

Brieant, who oversaw the project with input from other judges and court administrators, said that brass takes on "a vice putina" and won't rust like steel. As for the showers, Brieant said judges will need to use them after they use the exercise room in the new courthouse.

"Showers are very important when you have judges who commute and spend a lot of time in the courthouse. Showers are important for you if you're trying to finish out a trial and you have a cold or the flu."

But when asked how his counterparts in Newark can get along without those amenities, Brieant said: "I don't think you can compare courthouses. They're all different."

Officials at the GSA, which is overseeing the project, refused to reveal costs for the courthouse—under construction at taxpayers' expense—because, they said, that would jeopardize future negotiations on the project.

Officials said they expected some cost increases because they did not initially require developers to submit prices for certain expensive items, such as an underground tunnel between the courthouse and the Metropolitan Correctional Center across the street.

But GSA records—obtained by New York Newsday under the Freedom of Information Act—show the installation of such extras as rich mahogany veneers, expensive marble walls, brass hardware and elaborate moldings in the courthouse contributed significantly to soaring costs.

The courthouse is expected to house all of the 57 judges and magistrates of the Southern District of New York. In addition, the courts will continue to use the old 1936 landmark courthouse already in Foley Square.

Documents obtained by New York Newsday show that as far back as 1991 some officials feared costs were soaring out of control. Still, GSA acquiesced when the judiciary pushed for costly upgrade to courthouse building plans.

The Foley Square courthouse is just one of almost 200 federal projects valued at about $7.4 billion and approved by Congress in a construction spending marathon that began in the late 1980s.

Critics have assailed many of the projects—including a number of courthouses—complaining of government waste, pork-barrel politics and luxuries recommended by the courts.

Sen. Byron Dorgan (D–N.D.), a critic of federal construction projects, said many courthouses are "buildings that are . . . extravagant, radically overpriced and substantially overbuilt."

Roger Johnson, the new GSA administrator, has announced plans to slash some projects and cut back others for more than $500 million in savings. But the critics say that's just a drop in the bucket.

Johnson said an agency task force recently examined the problems of the courts and construction. "We're trying to come within closure on this staff, Johnson said in an interview.

Because the Foley Square project is nearing completion, it escaped the budget ax.

Sen. Daniel Patrick Moynihan (D–N.Y.) championed the Foley Square courthouse and won Congressional approval by including it in an appropriations bill. There were no congressional hearings for the project.

In pushing for the courthouse, Moynihan wrote in a Dec. 30, 1988, letter to then-Mayor Edward I. Koch: "The judiciary needs this space desperately. The war on drugs has literally clogged the courts . . . And there is GLORY! Remember, we agreed to recreate Foley Square as a true urban park."

Over the years, the Foley Square courthouse grew to more than twice the original size requested by the courts in the early 1980s.

A GSA pre-construction document shows the agency estimated that design changes requested by judges would add more than $90 million to the cost of the courthouse. GSA officials refused to discuss those estimates, but the document shows that:

Upgrades in courtroom furnishings requested by the courthouse including carpeting, woodwork, custom lighting, doors, hardware and ceilings—were expected to add $14.5 million to the price of the courthouse.

A preliminary estimate for approved upgrades in carpeting, woodwork, ceilings, doors and bathrooms in judges' chambers was more than $2 million.

When the courts requested upgrades to plan for elevator lobbies and public corridors, GSA arranged for marble walls. A preliminary estimate showed the cost to be $10 million.

Upgrades in dining areas, work spaces . . . including those used for secretaries, law clerks and libraries—and offices adjacent to courtrooms were expected to boost costs by more than $1 million.

Alan Greenberg, the GSA project executive for the Foley Square courthouse, would not confirm or deny cost estimates in the preconstruction document. "They're based on someone looking up in the sky . . . They're not based on the real world," he said.

GSA awarded the courthouse contract to BPT Properties of New York City, a limited partnership formed by Bechtel Investments Realty Inc. of San Francisco—an arm of the international engineering Goliath—and Park Tower Development Corp. of Manhattan on March 29, 1991. BPT recently won another GSA contract to build a Minneapolis courthouse.

GSA memos obtained by New York Newsday show that from the beginning Coleman, then a GSA official, expressed concerns about the cost of courthouse design changes.

In a memo dated Aug. 8, 1991, Coleman wrote to Clarence Lee, an administrator in the Washington, DC Administrative Office of the U.S. Court, about, increasing the courthouse price by more than $50 million—including about $30 million in design upgrades.

"As the result of our meetings with the developers and the judges, the original offering price will be substantially exceeded," Coleman wrote.

The prospect of skyrocketing costs led Coleman to suggest, "If there is a probability of a significant number of courtrooms and chambers initially unassigned, it would be beneficial to leave them unfinished."

GSA officials told New York Newsday the agency never consider leaving courtrooms unfinished to save money.

Coleman also estimated that "enhancements and modifications suggested during design development sessions with the developer, GSA and the courts" would cost between $25 million and $35 million.

In an interview with New York Newsday, Coleman said he told other GSA officials: "If we don't stop this change-order thing, the government is going to go down the tubes. This is a contractor's dream."

But Greenberg, the GSA Foley Square manager, defended the design changes. Greenberg said in an interview that GSA had only required minimum standards for interior finishes when it requested proposals. Later, the government decided to upgrade to improve the appearance of the courthouse interior.

Before the upgrades, Greenberg said, "We were providing Pergament paneling in an Ethan Allen room."

Greenberg said GSA also made additional changes to the building to conform to federal design standards not in effect at the time bids were submitted.

But there was also the question of the windows.

In his August, 1991, memo, Coleman had noted that if operable windows were installed in the courthouse, "the initial construction cost and future energy costs will be substantially increased and the air conditioning system will become unbalanced."

A federal design guide—compiled by the Judicial Conference of the U.S.—recommends materials and furnishings for courthouses and calls for stationary windows. But the courts have insisted they need not adhere in the guide.

While the court design guide calls for the interior location of courthrooms—without windows—to solve security and design problems, the courts insisted that the new Foley Square courtrooms have windows. GSA officials said they did not estimate whether that affected costs.

On Sept. 11, 1991, Coleman repeated his concerns in a memo to William Jenkins, a GSA assistant regional director, A GSA review team had recommended against operable windows.

"Operable windows should not be installed in the buildings," Coleman wrote. "They would violate our life-safety standards, compromise our HVAC (heating and air conditioning) system, negate the Energy Management System and adversely affect GSA's meeting energy conservation goals."

GSA recently told New York Newsday the partially opening windows ultimately selected for the courthouse will not pose air-conditioning problems.

In defending the design changes, Brieant said the courts asked GSA to substitute more intricate, raised ceilings for plain ceilings in certain courtrooms. The reason Brieant said, was to improve acoustics.

GSA complied. But Greenberg said the ceiling changes were decorative in nature.

The courts also requested, and got, thick wool carpeting—in shades of green, navy, taupe, beige, camel and gray—instead of less costly synthetic carpeting suggested in the federal design guide, GSA estimated the additional cost of the wool carpeting in judges' chambers alone would be $772,000.

Brieant said the reason was that wool "wears better than synthetic." Industry experts contacted by New York Newsday differ on the issue of wearability.

GSA would not discuss the cost of carpets. But a marketing manager for Karastan, a major carpeting manufacturer, estimated the retail cost of 40-ounce wool carpeting—the kind installed in judges' chambers—at $40 per square yard.

GSA could have saved money by buying 40-ounce synthetic carpeting—specified in the court design guide—which Karastan estimated at $20 per square yard.

Karastan estimated the retail cost of the 60-ounce wool carpeting selected for courtrooms at $55 per square foot. Retail prices, however, are generally higher than wholesale.

Brieant acknowledged that private bathrooms, including showers, for all judges "have been a source of consternation in some places." The court design guide allows private showers at the discretion of judges.

However, New York Newsday has learned that private showers for judges were recently deleted from the court design guide.

JUDICIOUS UPGRADES?

The figures below are estimates drawn from a pre-construction GSA document. GSA would not reveal the actual cost of the upgrades. In cases where the courts requested upgrades, GSA in some instances selected the actual material used to make the changes.

CHANGES REQUESTED BY COURTS

Original	Change	Estimated extra cost
Courtrooms:		
40 oz. synthetic carpeting.	60 oz. wool carpeting	
Hardwood base	Hardwood base	
Wood paneling	Wood Veneer, walls	
Fluorescent lights	Custom lighting	
Suspended tile ceilings.	Coffered ceilings	$14,480,000
Stationary windows	Operable windows	1,700,000
Hardwood veneer doors	Raised panel doors with bronze hardware.	492,000
Judges chambers:		
42 oz. synthetic carpeting.	40 oz. wool carpeting	772,000
Hardwood paneling	Mahogany, cherry veneers	389,000
Standard wood base	Base with molding	12,000
Upgrades to secretaries offices.		211,000
Elevator lobbies, corridors:		
Accoustical tile ceilings.	Sheetrock ceiling	
Lighting	Custom lighting	2,243,000
Walls, wallboard with vinyl fabric.	Marble	10,141,000
This change agreed to by GSA and courts, with BPT suggesting the material:		
Floors, marble	Terrazzo w/brass inlays	696,000

[From New York Newsday]

JUDGES MAKE DO IN NEWARK

(By Kathleen Kerr)

In the brand-new federal courthouse in Newark, judges manage to hear cases without the benefit of private showers, kitchenettes, thick wool carpeting and windows that open.

The Newark courthouse, which has 13 judges' chambers with room for expansion to 20, echoes some of the architectural flourishes in the old non-classical courthouse across the street. But unlike Manhattan's Foley Square courthouse, there is no floor-to-ceiling marble and no brass metalwork.

Judges' chambers are serviceable but not palatial. The chambers are about 560 square feet in size, compared to those at Foley Square, which are as large as 860 square feet. And in Newark, the judges make do with synthetic carpeting.

What do marble, brass and wool carpeting have to do with the workings of the courts? Nothing, says Judge Nicholas Politan, a six-year veteran of new Jersey's federal bench.

"It's pomposity . . . grandiose," Politan says when asked if he can think of a reason for the elaborate furnishings in the Foley Square courthouse.

Politan admits he would have liked a larger office, a conference room for meetings and windows that open to let in fresh air.

But Politan says that while he prefers wool carpeting, he hasn't given much thought to the synthetic carpeting in his office. "Does it affect my performance?" he shrugs as if to answer his own question.

Politan's office is lined with cherry wainscoting and cream-striped wallpaper. His private bathroom has no shower, and the refrigerator in his closet is one he brought from home.

But he says those things are secondary to the real needs of the courts.

"I can't too strenuously urge that the question of space in chambers and in the courtrooms is important for functionality," Politan says.

All the courtrooms in Newark's new courthouse are located in the building's interior and have no windows. A federal court design guide specifies windowless courtrooms for security reasons.

"It's probably very good to have interior courtrooms from a security standpoint," says Politan. But in New York, the judges insisted on windows in every courtroom. And Politan can't fathom why the courts in Manhattan would insist on brass hardware instead of steel for the Foley Square courthouse.

He is concerned, however, because the General Services Administration constructed a jury box in his courtroom that crowds jurors smack up against each other for hours on end. And he wants to know why GSA positioned the witness box in a way that makes it hard for lawyers to see the witness.

But as for marble and brass, Politan says: "That's a matter of taste. It's not a matter of function."

[From New York Newsday, 1994]

BIDDING LAWS GET SHORT SHRIFT: DEAL SWEETENED AFTER BUILDERS CHOSEN

(By Kathleen Kerr)

Sen. Daniel Patrick Moynihan promised "GLORY" for New York when he pushed in 1988 for the construction of a federal office tower and the nation's largest and costliest courthouse in lower Manhattan.

But mounting costs and design problems have plagued the $1 billion federal project in downtown Foley Square to the point that some industry insiders have dubbed it "Folly Square."

A New York Newsday investigation has found that federal officials circumvented bidding laws designed to hold down prices and avoid favoritism. Officials discouraged competition for contracts and then approved design changes that added tens of millions of dollars to the project's price tag, the investigation has found.

As a result, contractors and 2,500 union workers have reaped a bonanza from the project.

"This is the pot of gold for contractors and developers," said William Coleman, a former commissioner with the U.S. General Services Administration. GSA records show the courthouse is the most expensive one of its kind to date.

The 27-story courthouse and 34-story tower, which will house a number of federal agencies, including the Internal Revenue Service and the Environmental Protection Agency, are nearing completion and are expected to open early next year.

The huge public investment in the project came at a time when vacant office space downtown was going begging. The courthouse itself will be more than twice the original 250,000 square feet requested by the courts.

EMERGENCY CITED

GSA first required developers to bankroll the construction with private loans. After accepting bids for Foley Square, however, GSA reversed itself and arranged low-cost federal financing instead. But GSA did not seek new bids—required by laws designed to prevent favoritism—when the financing terms changed.

Instead, then-GSA head Richard Austin told Congress that cramped federal quarters in Manhattan had created an emergency need for the skyscrapers. Austin said seeking new bids would take too long and cost too much.

When told of the newspaper's findings, Sen. Howard Metzenbaum (D-Ohio), a critic of federal construction, said he would ask GSA and the Justice Department to probe federal bidding procedures for Foley Square.

"How do you say that building a 27-story courthouse and a 34-story office building is an emergency?" Metzenbaum asked.

The cost of land acquisition, interest on construction financing and cost overruns are expected to push the Foley Square project over the $1 billion mark—an amount approved by Congress.

Danielle Brian, director of the nonprofit Project on Government Oversight in Washington, D.C., said GSA's bidding process for Foley Square shows the government "often has in mind who the government wants and they set up specifications so only one company can get the job—not because they are necessarily better . . . It's a lousy way to conduct government contracting. It circumvents the whole point of . . . competition."

Roger Johnson, President Bill Clinton's new GSA chief, said in an interview he has found no problems with the Foley Square contracting procedure.

Moynihan (D-N.Y.), who championed the Foley Square project, exhorted former Mayor Edward I. Koch in a 1988 letter to help GSA bring it to fruition because of the "GLORY!" it would bring to the city.

In an interview, Moynihan disclaimed any involvement in the management of the huge project.

"I had nothing to do with it once the design had been chosen . . . ," Moynihan said, "We purchase public architecture the way we purchase paper clips . . . by sealed bid which nobody is allowed to know about."

But in fact, New York Newsday's investigation has shown, the bidding was handled in a way that served to discourage bidders and gave an edge to the chosen contractors. The investigation found:

GSA told Congress there was a "dire and immediate" need for Foley Square, but initial plans called for filling only half the office tower with federal agencies.

GSA skirted laws that guard against favoritism by not offering all bidders the same financing arrangement.

Former GSA regional administrator William Diamond destroyed his records when he left office—making it difficult to review his role in the project. Diamond now heads the city Department of General Services.

FEDERAL SPENDING MARATHON

Foley Square is one of almost 200 federal building projects valued at about $7.4 billion and approved by Congress during a construction spending marathon that began in the late 1980s.

Critics have assailed many projects, complaining of government waste and, in the case of courthouses, lavish furnishings for judges.

Sen. John McCain (R-Ariz.), another critic of federal projects, says Congress approves government construction "basically in a port barrel fashion."

Johnson recently announced plans to slush more than $500 million from the various projects. But Foley Square—well on the road to completion—escaped the budget ax.

Following the 1987 stock market crash, downtown real estate prices tumbled as the vacancy rate rose to between 15 and 20 percent.

Today, said Raymond O'Keefe, executive director of the Edward S. Gordon real estate brokerage, more than 20 million square feet remain available from $16 to $30 per square foot.

But GSA argues that leasing and outfitting existing space to fit government needs can be as costly as construction.

THE FOLEY SQUARE BUILDERS

BPT of New York City won a $241,112,643 contract to build the courthouse on the side of a former Pearl Street parking lot. And Linpro, based in Berwyn, Pa., won a $276,438,000 contract for the office building at the corner of Roade Street and Broadway, just off Foley Square.

BPT is a limited partnership formed by Park Tower Development Corp. of Manhattan and Bechiel Investments Realty Inc., of San Francisco.

Both BPT and Linpro—formerly affiliated with Dallas-based Lincoln Properties and now called LCOR—have won hundreds of millions of dollars in federal contracts. LCOR is development manager for the Penn Station redesign, another pet project of Moynihan's. GSA has hired EPT to build a federal courthouse in Minneapolis.

Bechtel alumni include Reagan cabinet members Casper Weinberger and George Schultz. And Park Tower President George Klein belongs to the Republican National Committee's elite Team 100, whose members each contributed $100,000 or more to Republican Party offers during the 1988 election campaign.

Just north of City Hall and west of Chinatown, Foley Square was once a marshland where pre-Revolutionary New Yorkers ice skated on the adjacent Collect Pond.

The City Board of Aldermen named it in 1926 after Thomas F. (Big Tom) Foley, a saloon-keeper, one-term sheriff and Tammany district leader in the early 1900s. Over the years, Foley Square became home to several courthouses and a drab federal office building.

IT STARTED AS AN ANNEX

In the early 1980s, the federal courts requested a 250,000-square-foot annex to the existing 1936 landmark courthouse. GSA and the courts settled on a 700,000-square-foot courthouse—allowing room for growth. GSA also decided to build an office tower for federal agencies.

On Dec. 11, 1987, Congress passed its annual appropriations bill containing a Moynihan amendment authorizing GSA to develop plans for Foley Square.

But there was a problem; Congress provided no money for construction. The GSA overcame that by requiring developers to obtain private construction financing.

That left developers who couldn't find construction loans out in the cold. Only five companies submitted bids.

On Feb. 3, 1989, then-New York GSA chief Diamond told Moynihan's Senate Public Works subcommittee about the financing arrangement. The GSA was to pay off project costs over 30 years.

With five bids in hand, two GSA committees considered design proposals.

By July 26, 1989, the committees had selected three finalists—BPT, Linpro and The Galbreath Company of Manhattan—and eliminated Collins Tuttle and Company Inc. and DWDA, both of New York City.

But GSA still had not acquired the city-owned lots it wanted as construction sites.

PROBLEMS DEVELOP

The city had backed out of an arrangement that allowed it to transfer the lots to the GSA at no cost in exchange for cheap rental space in the office building—one of the project's main selling points.

But Moynihan and Sen. Alfonso D'Amato (R-N.Y.) stepped into the breach and co-sponsored a bill allowing GSA to condemn the city lots and buy them for $104 million. The developers would finance the purchase and GSA would pay off the debt. Congress passed the bill on Nov. 16, 1989.

The project faced little public scrutiny except at two hearings where the anger of Lower East Side residents surfaced. At a Sept. 5, 1990, hearing, Kathryn Freed, a Democratic district leader, characterized the construction project as a "tremendous monster" that would harm the neighborhood.

Residents of the Chatham Towers apartments—who feared construction vibrations might damage older buildings—complained that GSA condemned the city lots to avoid a more public approval process.

And in a Sept. 14, 1990, letter to the GSA, State Sen. Manfred Ohrenstein (D-Manhattan) wrote: "In essence, there was no public process and notification."

Federal officials admitted the condemnations allowed them to avoid cumbersome hearings but insisted their motive was solely to expedite construction.

Bombarded by complaints that the courthouse would crowd the neighborhood and cast giant shadows, GSA reduced its original proposed size from 700,000 square feet to 630,000 square feet.

CHANGING THE RULES

Suddenly, in October, 1990, to reduce project costs, GSA decided to lift its requirement that developers find private financing for Foley Square. Instead, GSA arranged $797 million in low-interest financing through the Federal Financing Bank, an arm of the Treasury Department.

"Smoke and mirrors" is how U.S. District Judge Charles Brieant, the former chief judge of the Southern District of New York who pushed for the courthouse, describes FFB financing.

Diamond, the former GSA regional administrator, refused requests for an interview through a spokesman who said he had "nothing to add."

When New York Newsday requested Diamond's federal office diaries and calendars, Barbara Gerwin, GSA's regional counsel, said they were shredded the day he left office.

"They were just ripped into pieces and thrown out," Gerwin said.

Federal law forbids destruction of certain government records, including work-related personal papers regarded as agency documents.

GSA's switch to FFB financing meant a glaring departure from the original project terms. When terms change significantly, bidding laws require agencies to seek new bids to provide equal opportunities for all bidders.

But GSA chief Austin cited a Federal Property Act clause that permits agency heads to avoid competitive bidding for the public good.

On Oct. 25, 1990, Austin wrote to then-Vice President Dan Quayle, who served as President of the Senate, and House Speaker Thomas Foley and said seeking new bids would cost too much.

There is no indication either Quayle or Foley objected to Austin's decision.

BIDDING DISCOURAGED

In a separate "determination and finding" obtained by New York Newsday, Austin acknowledged GSA discouraged bidding for Foley Square.

Austin wrote in part: "The change from contractor financing to FFB financing arguably constitutes a substantial change in the Government's requirements which could necessitate cancellation of the SFO [solicitation for offers] and issuance of a new solicitation. This is based on the reasonable probability that but for the SFO requirement to obtain long-term private financing there would have been additional offerors capable of performing large design and construction projects, who would have entered the Foley Square project competition."

Limiting competition can drive up costs because contractors may increase prices, knowing the government must choose from a small pool. Conversely, contractors facing stiff competition may reduce prices to win contracts.

Robert Martin, GSA deputy regional administrator, said in a recent interview Austin's memo was a formality.

Martin said the need for office space was expected to become "dire" over time because the Environmental Protection Agency was growing.

On March 29, 1991, Linpro and BPT won the coveted Foley Square contracts—then valued at more than half a billion dollars.

Two losing bidders didn't completely buy GSA's reasons for not offering FFB financing to all bidders.

Wylie Tuttle, president of Collins Tuttle, said: "I was not offered any government financing . . . I'd like to know why."

Tuttle's bid was submitted before GSA arranged FFB financing.

Al Iudicello, who helped put DWDA's losing proposal together, refused to comment. BPT spokeswoman Michele deMilly said: "As far as they're concerned, the bidding process was fair."

Christopher McGratty, Linpro vice president when the company won the office building contract, said bidding was "more than fair and open."

The controversy surrounding the massive project didn't stop with the contract awards.

GSA awarded BPT the $241 million courthouse contract based on its price and exterior design, but Alan Greenberg, the GSA project executive, said the agency later borrowed from two losing proposals to improve BPT's interior plans.

"The original [BPT] offer—which we accepted knowing full well it was not top of the line on the inside—we ended up spending more money," said Greenberg, the project executive.

Linpro—which won the office building contract—proposed a courthouse price of $321,405,000 and lost. Another losing bidder, The Galbreath Company, submitted a $327,276,000 bid.

Johnson, the new GSA chief, said he was not aware that GSA changed BPT's courthouse design. "I think it's much more likely that the specs [specifications] changed from the courts," Johnson said.

Courthouse costs spiraled upward as plans changed. Greenberg said he now expects the courthouse price tag to top $300 million.

Coleman, the former GSA commissioner, told New York Newsday that low bids often did not remain low at GSA.

"One of the big things that always concerned me is low-bidding contractors wouldn't care because they always get you to change orders," he said.

More problems arose in 1992, when GSA drew criticism for failing to halt work when crews disturbed an 18th century African Burial Ground at the office building site.

The plans for Foley Square will not stop with the ribbon-cutting for the two skyscrapers. Moynihan has obtained $5.25 million through the Intermodal Surface Transportation Efficiency Act. The money will help redesign Foley Square plaza—a collection of tiny parks, traffic islands and interesting streets—to the tune of $13.6 million.

[From the Washington Times, 1994]

HILL PANEL ASKS WHY IT COST $218 MILLION FOR COURTHOUSE: BOSTON DEAL MAY EMBARRASS COURT NOMINEE BREYER

(By Michael Hedges)

A bipartisan group of congressmen is calling for a probe of spending on federal courthouses, including a review of a $218 million taxpayer-funded project in Boston that could prove embarrassing for Supreme Court nominee Stephen G. Breyer.

"We are concerned that we may be constructing courthouses we do not need and that we are adding unnecessary and extravagant extras onto some federal courthouses that increase the cost," said a letter to the General Accounting Office (GAO) signed by four Democratic senators, three Republican senators and a Republican House member.

While calling for the GAO to probe acquisition and construction of several federal courthouse sites, it is the Boston project that has the most potential to prove embarrassing to the Clinton administration.

"We are paying a high price for federal judges to have offices with a harbor-front view," Rep. John J. Duncan Jr., Tennessee Republican, said of the Boston courthouse project.

"In addition to a six-story atrium and lavish entrance, . . . this courthouse contains approximately 63 private bathrooms, 37 libraries and 33 private kitchens," Mr. Duncan said. It also will include a $450,000 boat dock and more than $750,000 in artwork.

The others signing the letter were Democratic Sens. Robert J. Kerrey of Nebraska, John Glenn of Ohio, Byron L. Dorgan of North Dakota and Jim Sasser of Tennessee, and Republican Sens. John McCain of Arizona, William S. Cohen of Maine and William V. Roth of Delaware.

Judge Breyer, of the U.S. Court of Appeals in Boston, played a pivotal role in planning the controversial courthouse and selecting its waterfront site. He co-chaired a judicial commission that chose the Fan Pier site, owned by a patron of Boston politicians, even though an earlier study had found it unacceptable and rated 10 different locations more appropriate.

Judge Breyer would not comment on the matter because he "has not been giving any interviews or commenting while his confirmation process is ongoing," a White House spokesman said.

But in interviews two years ago when the project was evolving, Judge Breyer told the Boston Globe, "We looked for the best architect in the world." The architect they got was I.M. Pei, acknowledged as one of the world's best, and most expensive.

The evolution of the Boston federal courthouse also involved the efforts of Massachusetts politicians, especially Rep. Joe Moakley, a Democrat, who helped find federal funds to get public transportation to the site and who is reportedly a close friend of the man who owned the property purchased to build the courthouse.

Mr. Moakley said through an aide that while he helped obtain the federal financing for the courthouse and the transportation system that will serve it, the selection of a site did not involve him.

"The site was chosen by a panel of judges and government officials," said Fred Clark, Mr. Moakley's campaign manager. "Their view, and our view, is that it is the best site in Boston."

In 1989 the Boston Redevelopment Authority finished a study saying the city's crowded federal courthouse would be cheaper to replace than to expand. That study listed four acceptable sites for a new courthouse, and ranked them by feasibility. One site rejected by the group was Fan Pier, a collection of lots along the Boston waterfront.

Of 12 sites considered, Fan Pier was rated 11th by the initial review panel. It was "rejected for transportation access and litigation reasons," the report said. "Both the city and the Commonwealth are reviewing means to improve public transportation access to the area. However, such transportation improvements will not be available for a number of years."

At that time the 20-acre Fan Pier site was owned by Boston restaurant owner Anthony Athanas, a patron to many Boston politicians, including Mr. Moakley, whose brother had been an Athanas employee for eight years.

The property was an abandoned railroad yard that had been sold for less than $100,000 in 1960. One reason the property had been valued so low was that government officials had shown little interest in extending a subway line to the area.

As Boston officials pondered a new courthouse, Mr. Athanas was locked in a legal battle with the Pritzker family of Chicago, owners of the Hyatt hotel chain. Because of a failed business deal between the two, Mr. Athanas was ordered by a court to pay the Pritzkers $59 million.

As part of the settlement, Mr. Athanas gave the Pritzkers' HBC Associates most of the Fan Pier site. He later made up part of this loss by selling the remaining 4.6 acres of Fan Pier to the federal government for $34 million as the courthouse site.

In the early 1990s, bids for the building of the courthouse were solicited. A committee made up of city officials and federal judges, and headed by Judge Breyer and a colleague, was picked to scrutinize the various bids and sites.

During the same period, Mr. Moakley helped to secure for Boston $278 million in federal funds to build a spur of the Boston transit system to the Fan Pier site.

Mr. Clark, Mr. Moakley's aide, said the congressman's effort to secure funding of the spur "was tied to the development of that section of Boston, not to the courthouse."

"The fact that Anthony Athanas owned the cheapest site in Boston is irrelevant to any personal friendship between he and Mr. Moakley," Mr. Clark said.

With the problem of transportation solved, Fan Pier jumped to the top of the list of sites reviewed by the panel co-chaired by Judge Breyer.

Mr. McCAIN. Mr. President, I thank the managers of the bill for accepting this amendment.

I have no further use for time. I ask my friend from Arizona if he chooses to go into a quorum call waiting for Senator FORD or ask unanimous consent to set aside the pending amendment and move to the second amendment. Whichever he desires is perfectly fine with me.

Mr. DECONCINI. Mr. President, let me assure my colleague that we will be sure that his second amendment is in before 1 o'clock.

So I will put in a quorum call and ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator has suggested the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, in relating to the present amendment offered by my colleague from Arizona, the standard that he sets forth here is prudent, reasonable and necessary. I have no objections to that. GSA says they do that. I guess someone could question that. We have a new GSA Administrator that has brought all kinds of new procedures to us.

So this Senator will be prepared, at the appropriate time, to accept the amendment.

The Senator from Kentucky is on his way over here, but, due to the fact that he is not here, I will ask at this time that we temporarily lay aside the pending amendment of the Senator from Arizona so he may proceed with another amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona [Mr. McCAIN] is recognized.

Mr. McCAIN. Thank you, Mr. President.

PRIVILEGES OF THE FLOOR

Mr. McCAIN. Mr. President, I ask unanimous consent that two interns from my office, John DiCaro and Pete Garuccio, be allowed privileges of the floor during the consideration of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1836

(Purpose: To eliminate full-time employment floors from the Act)

Mr. McCAIN. Mr. President, I have an amendment that I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN] proposes an amendment numbered 1836.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following:

SEC. . Notwithstanding any other provision of this Act, any "full time equivalent" employment minimum staffing requirements contained in this Act shall be null, void, and of no effect.

AMENDMENT NO. 1835

Mr. McCAIN. Mr. President, I note the presence of the distinguished Senator from Kentucky, Senator FORD, who had wished to speak on the previous amendment. I ask unanimous consent that Senator FORD be recognized at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. I thank the distinguished Senator.

Mr. President, all I want to do is ask the Senator a question or two as it relates to his amendment.

What does the Senator propose to do with the construction, to have them in a 5-year plan or a 6-year plan or a 3-year plan? What is the Senator's proposal as it relates to this amendment?

Mr. McCAIN. My amendment would apply no matter how many years were involved and that the Administrator of GSA stated that it be prudent and reasonable.

Mr. FORD. Now is that the prospectus that we use, or the 11(b)?

Mr. McCAIN. Yes.

Mr. FORD. And, if you have either one of those, it would meet the criterion? So, if the prospectus comes to the appropriate committee, that would satisfy the Senator's amendment? Or 11(b), that we have used, which is basically the same? The final page which approves the project is identical so it would not alter anything that is now in the pipeline subject to the 11(b) or the prospectus?

Mr. McCAIN. The Senator is correct.

Mr. FORD. That is all I need to know and I thank the Senator for his courtesy allowing me to get that in the RECORD. It not only satisfies me, but it satisfies some of the others. They were concerned about, having gone through all this work, something may then jeopardize the ability to use 11(b), or prospectus.

I thank the Senator and I thank the Chair.

Mr. McCAIN. I thank the Senator from Kentucky.

Mr. DECONCINI. Will the Senator from Arizona yield?

Mr. McCAIN. I will be glad to yield.

AMENDMENT NO. 1835

Mr. DECONCINI. If the Senator from Arizona is agreeable why do we not go ahead and agree to the previous amendment?

I ask unanimous consent we return to the previous amendment offered by the Senator from Arizona. I yield the remainder of my time and urge the adoption of the amendment.

The PRESIDING OFFICER. Does the Senator yield back the remainder of his time?

Mr. McCAIN. I yield the remainder of my time.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1835) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote.

Mr. McCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1836

The PRESIDING OFFICER. The pending question now is amendment 1836 offered by the Senator from Arizona [Mr. McCAIN].

Mr. McCAIN. Mr. President, this amendment is a rather straightforward issue. I do not believe it will require a great deal of debate.

By the way, Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the time agreement the Senator from Arizona [Mr. McCAIN] has 15 minutes.

Mr. McCAIN. Mr. President, the Department of Treasury and Postal Services appropriations bill before the Senate mandates minimum staffing levels for these agencies. I strongly object to this kind of micromanagement and believe it fosters inefficiency in Federal agencies and wastes taxpayer dollars.

This amendment would declare any provisions in the bill mandating a full-time employment floor to be null, void, and of no effect. In other words, the agencies funded in this bill will not have to implement FTE floors.

The Vice President in "Creating a Government That Works Better and Costs Less," the Report of the National Performance Review, stated:

> Congress should also minimize the restrictions and earmarks that it imposes on agencies. With virtually all federal spending under scrutiny for future cuts, Congress is increasingly applying earmarks to ensure that funding flows to favored programs and hometown projects.
>
> Imagine the surprise of Interior Secretary Bruce Babbitt, who a few months after taking office discovers that he was under orders from Congress to maintain 23 positions in Wilkes-Barre, Pennsylvania, field office of his department's anthracite reclamation program. Or that his department was required to spend $100,000 to train beagles in Hawaii to sniff out brown tree snakes. Edward Derwinski, former secretary of Veterans Affairs, was once summoned before the Texas congressional delegation to explain his plan to eliminate 38 jobs in that state.

Mr. President, if we want Federal agencies to operate in an efficient fashion we cannot congressionally micromanage those agencies.

Mr. President, could you imagine any company in America mandating that on no condition could that company employ less than a certain number of employees? This kind of congressional restriction defies both logic and good business sense.

By preventing these FTE floors from being adopted in this bill, we are in no way jeopardizing the jobs of Federal employees. Let me make that point clear. No Federal employee will necessarily lose his or her job by this action.

The President, with the support of Federal employee unions has proposed a plan to reduce the number of Federal employees. It is the President's plan that will dictate if any Federal job is eliminated.

I believe we should support the President in his efforts to curb the size of the Federal work force. I am attempting to give the President and the Department Secretaries that freedom. The FTE floors in the bill do the opposite by unduly tying the President's hands.

FTE floors are not needed to ensure the public's best interest. Each agency in this bill when FTE floors are applied, has an important mission and does much good work. I applaud these agencies. But I believe that these agencies can and will perform their jobs without the Congress mandating how many individuals—at minimum—they must employ to get the job done.

Allow me to quote the Vice President again:

> In Washington, we must work together to untangle the knots of red tape that prevent government from serving the American people well. We must give cabinet secretaries, program directors and line managers much greater authority to pursue their real purposes.

The Vice President has called for 252,000 positions to be eliminated in the Federal civilian work force, a reduction of almost 12 percent, bringing it below 2 million for the first time since 1966.

Yet in this bill, we are frustrating these efforts by mandating minimum staffing levels, stripping the President and the Cabinet Secretaries of their constitutional role of administering Government.

Mr. President, this is wrong. It is wasteful. And it is unnecessary micromanagement. The Vice President is correct when he stated: "eliminate FTE floors."

Last year the Senate saw fit to heed the Vice President's advice. The chairman of the Appropriations Committee and ranking member HATFIELD took action to eliminate FTE minimum floors from all the appropriations bills. I applaud them for their efforts last year. This year we should continue their work.

Mr. President, we also have from the Office of Management and Budget, a statement of administration policy of June 20, 1994 concerning this appropriations bill. This comes from the Office of Management and Budget. It states:

> In addition, the committee bill has added language setting FTE floors for the United States Customs Service, the Bureau of Alcohol, Tobacco and Firearms, Departmental Offices and parts of the Internal Revenue Service. Taken together, these provisions seriously undermine executive branch capability to execute its management responsibilities. The administration urges the Senate to eliminate these provisions.

Mr. President, the Vice President of the United States, generally has asked for elimination of these FTE floors. The Office of Management and Budget, in relation to this specific appropriations bill, has asked to eliminate this language. I hope we could comply with the request of the administration.

I really have no more discussion or debate on the issue. I reserve the remainder of my time, Mr. President, and yield the floor.

The PRESIDING OFFICER. The Senator from Arizona [Mr. DECONCINI].

Mr. DECONCINI. Mr. President, I have to oppose this amendment by my colleague from Arizona for a lot of reasons.

First of all, in the bill we have complied with the Executive order of whatever cuts are going to be made with the exception of law enforcement. That amounts to roughly 25,000 employees; 4,200 in the ATF, Alcohol Tobacco and Firearms—this includes people that enforce the Armed Career Criminal Program; Customs, responsible for major drug interdiction, of 17,524; and the IRS criminal division that does the fraud and also money laundering of some 5,000 FTE's.

The reason we did this is because—I think everybody in this body is supporting President Clinton's effort to add 100,000 police to the streets of this great country to get at the crime problem. In the crime bill the Senate adopted a sense-of-the-Senate resolution offered by myself that said that law enforcement should be exempt from this particular Executive order of not putting any floors in the number of FTE's. So that is the position the Senate has already taken.

Now this bill preserves that in the law enforcement positions only. To vote for the amendment of the Senator, the junior Senator from Arizona, would in fact be stripping away the capability of law enforcement to keep the number of people that they have. We restored only 50 positions in the interdiction program for the Customs Air and Marine Service out of 110—that were cut. We restored $12 million and 210 positions in Treasury law enforcement for the training of Federal law enforcement, for FinCEN, for the Secret Service as well as the Customs Service. In my judgment we will have to continue to maintain it.

How can we ask local law enforcement to understand that here we are going to add 100,000 police but we are going to cut our own? That makes no sense. It makes no sense at all. I do not know how we can justify spending $22 billion—which is what we are talking about in the crime bill, to add over 100,000 cops on the beat—and then turn around and reduce these Federal law enforcement people.

In Arizona, it would be devastating for our border, which is inundated with drugs. Without the restorations, this would mean that we would have less law enforcement people stopping people from bringing drugs across the border.

So I hope that the Senate will not accept and approve the amendment of the Senator from Arizona.

I yield to my friend from Missouri.

The PRESIDING OFFICER. The Senator from Missouri [Mr. BOND].

Mr. BOND. Mr. President, I join my colleague from Arizona in opposing this amendment. Quite simply, the reason we included floors is that we have added money back to restore full-time employees who would have been cut under the President's budget under an Executive order. These full-time employees essentially are law enforcement individuals. If we do not include the floors, the Office of Management and Budget will not permit the agencies where we have restored positions to hire up and maintain additional levels.

This is a scenario where we need to exercise our responsibility in this body and in Congress to assure that law enforcement positions are not cut unacceptably. If we do not have floors, the administration has clearly indicated that it intends to cut vitally important law enforcement resources in personnel.

My good friend, the junior Senator from Arizona, has said this seriously undermines executive responsibility. I think a better way to say that is that it forces the policy to be adopted by Congress to be carried out by the administration.

Yesterday, I had an opportunity, to discuss why I opposed the motion to recommit by the Senator from New Hampshire, why it is so important that we have adequate law enforcement. Frankly, the law enforcement professionals at the State and local level in my State are not too excited about having 100,000 rookie cops added for 3 years. They do not think that will make much difference.

What they are worried about is that we will reduce the very important Federal law enforcement agencies, which play a vital role in making sure that local law enforcement can come back, keep up with, and pursue effectively the interstate and international criminal operations that are drug- and sometimes weapons-related, but they are multi-State and international conspiracies which have resources far beyond the ability of a local law enforcement agency to cope.

I believe that the policy the administration has proposed, to take more and more money out of law enforcement at the Federal level and out of drug interdiction, is just plain wrong. As I said before, and I will not go into my comments again, the administration's view is not shared by the people who are law enforcers and prosecutors at the State and local level in my State. They recognize the importance of the Federal efforts. Frankly, I have seen enough to be convinced that they are correct.

The President's budget would provide 100,000 rookie cops on the beat and yet reduce the very law enforcement agencies that are supposed to carry out the additional get-tough provisions in the crime bill. We have to have the Federal law enforcement resources available.

We have done things that we think will help bring Federal employment down. We included a general provision, section 505, which permits GSA to contract out guard, messenger, elevator operator, and custodial services, something which they have been prohibited from doing in the past. That will cut full-time employees.

We cut substantial funding in GSA and IRS—in addition, we even cut the Secretary of the Treasury to show we meant business—the Tax Court, OPM, and even the executive office of the President. It was very tough for us to do those, but we did it. We even cut 15 positions from OMB. That one was a little easier.

Mr. President, I think this committee ought to decide and this body ought to decide where we place our priorities, because when you make cuts as have been proposed by OMB, you are changing the policy; you are saying we are no longer going to rely on the Federal law enforcement agencies with their abilities to interdict and combat drug trafficking and trade and major multi-State and international criminal enterprises. I think that is a wrong policy.

We have the opportunity in this bill to change that policy by saying not only are we going to provide the full-time employees for these vital law enforcement resources, we are going to say to the OMB, "You can't tell the agencies, well, they gave you some more people for law enforcement but don't hire them."

That is the reason the floors are in. If this were a private business, would you tie the hands of the chief executive officer? The board of directors could fire the chief executive officer if he did not carry out the policies. It works differently in Government. In Government, the executive officer has great powers and can propose policies. We in Congress have the responsibility for passing appropriations and making the legislative determinations on what we expect the policy to be.

While this does not fit within the traditional private sector mold of executive responsibility, it is very clearly a responsibility of this body and the entire Congress to decide that law enforcement is, in fact, a very important activity of the Federal Government. Having law enforcement officials able to deal with and to interdict drugs and to provide assistance to local law enforcement agencies is a vital function.

I urge my colleagues not to support the amendment of Senator McCAIN and to say that law enforcement at the Federal level is a high priority that we must pursue. I thank the Chair and I thank my colleague.

Mr. McCAIN. Mr. President, stripping all the FTE requirements in the bill will in no way means less Federal law enforcement. First, there is no assurance that officers and other crucial personnel will be hired under the FTE floors contained in the bill.

Second, each agency will be able to hire as many employees as they need. The FTE floor is not needed to ensure fully staffed agencies.

Third, the funding for increased Customs and Border Patrol Agencies is still in the bill. The McCain amendment does not change the bill's increased funding levels in any way.

Fourth, we should not tie the hands of the agency heads. What we must instead do is pass authorizing bills for these agencies, establishing policy goals and standards, and then allow the agency chiefs to use their resources in a manner that will best meet the goals the Congress establishes.

The PRESIDING OFFICER. Who yields time?

Mr. BOND. Mr. President, I ask unanimous consent that I may be permitted to speak not with time charged against the amendment but with respect to another matter in the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, the committee in the Senate has chosen to strike the language requested by the President and included by the House pertaining to the mandatory use of FTS 2000. That is the contract for long distance telephone service that has been in effect for several years. We have had to deal with this in the Treasury, Postal bill. The provision has been included in the Treasury bill since the contract for FTS 2000 was awarded in 1988. It is now estimated that the Government will save an estimated $3 billion over the life of the 10-year contract. The way we do that, however, is making sure that the Government agencies covered by the contract continue to use the FTS 2000 services. If they do not use them, then the bargain of the contract is broken and, frankly, the Federal Government is not living up to its responsibility.

The chairman has chosen not to include the language this year in the committee mark as he did last year. The exclusion, as he noted several times, does not indicate his opposition to mandatory use, only that he feels the administration has the authority to mandate use of the system, and therefore the need for this language is not necessary on an annual basis.

Mr. President, I had the opportunity to question the Director of the Office of Management and Budget when he came before our committee to determine why he had not issued the order requiring agencies to use the FTS 2000 telephone system. He told me that it seemed to make sense and he would have to get back to me. We still have not had any action by OMB or the President issuing an Executive order. This whole problem could be resolved if the administration would take positive action in the form of an Executive order or use any other means available to direct mandatory use. It is quite simple. The Government has gotten a good deal. They set up a long-term contract. They have 3 billion dollars' worth of savings. The only way that those savings work and the contract carried out is if everybody uses the services for which they contracted.

Now, Mr. President, I know there are other sellers who want to get in on the business but, frankly, the savings came about because of the broad nature and the length of time included in the contract.

The administration has chosen not to act affirmatively to require that the terms of the contract be met. I therefore will continue to support the inclusion of the mandatory use language in this legislation. I want my colleagues to know that we will look forward to working with the House in the conference committee on this measure.

Mr. President, I yield the floor.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona [Mr. DECONCINI].

Mr. DECONCINI. Mr. President, on the same subject matter, not on the pending amendment—if it is required to ask unanimous consent, I so ask—I wish to assure the Senator that the reason I did not advocate putting it in is exactly as the Senator points out. I believe that the executive branch has the authority; they admit they have the authority. As a matter of fact, they have had under consideration for at least 2 years an Executive order to implement this, which would mean it would take an Executive order or act of Congress to change it, and that is the reason it is not in here. I have some resentment toward the executive branch of Government and OMB to expect us to carry out their obvious responsibility here, and that is the reason it is not here.

I thank the Senator from Missouri. I understand his deep interest in it. I can assure him that my purpose is just to have the executive branch do what I believe they are supposed to do, which they are doing but they will not execute the order mandating that this occur because the decision has already been made.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I thank the chairman of the subcommittee for his kind statement.

Mr. BOND. Mr. President, on behalf of Senator McCAIN, I yield back Senator McCAIN's remaining time under

Senator McCAIN's control on the FTE floor limit amendment.

Mr. DeCONCINI. Mr. President, the bill includes FTE floors for only three agencies: ATF, 4,215 FTE's for the total agency and 1,140 FTE's for the Armed Career Criminal Program; Customs, 17,524 FTE's; and IRS Criminal Investigations Division, 5,002 FTE's.

These floors represent the total number of FTE's funded by the committee actions for these agencies.

In the case of ATF, we restored 22 FTE's which were proposed to be cut by the President's Executive order; and 24 FTE's to support the continuation of 6 GREAT projects from fiscal year 1994 which were not funded in the President's budget.

For Customs, we restored 50 positions in marine interdiction and 25 positions in air interdiction that were proposed to be cut as a result of the President's revised air and marine interdiction strategy. In addition, we restored 110 positions which were proposed for reduction due to the President's Executive order.

All total we are talking about 26,741 FTE's—231 FTE's which were not funded in the President's budget.

The bill restores $12 million and 212 FTE's for all of the Treasury law enforcement agencies—FLETC, FinCEN, Secret Service, ATF, and Customs—that would have taken cuts as a result of the President's Executive order. IRS–CI, under the President's budget was not proposed for personnel cuts as a result of the Executive order.

The reason we have included floors in the bill is that we have added money back for restoring FTE's that would have been cut in the President's budget. If we don't include the floors, OMB will not permit the agencies, where we have restored positions, to hire up and maintain those levels.

These are law enforcement and positions that support law enforcement—we happen to think this is a priority and the American public thinks it is a priority.

I do not know how we can justify spending $22 billion for enhanced crime initiatives, add 100,000 cops on the beat, and then turn around and reduce the very law enforcement agencies that are supposed to carry out the enhanced crime bill provisions.

Arizona would be one of the States most affected if the FTE floors are not included, as would all other border States. The administration's budget proposes to cut 40 inspectors and 3 inspection support positions in fiscal year 1995.

This is at a time when the administration is trying to enforce NAFTA and the new drug interdiction strategy.

I have had repeated briefings from Customs on the number of illegal drug flights that are landing just short of the United States border in Mexico. Customs is convinced that the landings are occurring in Mexico because of the effectiveness of the air interdiction program. What is happening, is the narcotraffickers are bringing the drugs into the United States by ground.

I fear that less staff on the border will only exacerbate this problem in illegal drug smuggling because there will not be sufficient inspectors to search for drugs or enforcement agents to conduct the investigations.

I think the Congress ought to decide where we want to place the staffing priorities—not OMB. If we take out the floors and provide the funding, there is no guarantee the money will be used for the purpose it was provided. And who will suffer, the American public who feels crime is the No. 1 problem in this country.

I support the President's efforts to reduce the Federal workforce by 252,000 FTE's over 5 years. However, it should not be accomplished at the expense of law enforcement.

I included a sense of the Senate resolution in the Senate crime bill stating that law enforcement positions should be exempt from the President's Executive order. It is foolish and expensive to be cutting on the one hand, then giving back on the other through the crime bill.

In fiscal year 1994, we included a provision in the Treasury appropriations act exempting Treasury law enforcement positions from the Executive order. OMB waived reduction in law enforcement for the Department of Justice, which had no such provision, but not for Treasury.

As a result, we provided the funding for restoration of the positions, and guess what, the positions were not restored.

The President's budget included substantial cuts for Customs and IRS that were not associated with the Executive order. For example, in Customs the President proposed a reduction of 217 FTE's not associated with the Executive order then proposed enhancements of 198 positions. We restored 75 of the 217; and did not fund 186 of the 198 which were associated with the trade fraud initiative.

For the IRS, the President proposed reductions totaling 3,169 FTE's, 636 of which are associated with the Executive order.

In addition, we included a general provision, section 505, which permits GSA to contract out guard, messenger, elevator operator, and custodial services—something they have been prohibited from doing in the past. This will result in decreased FTE's.

We cut substantial funding in GSA and IRS—in addition, we cut the Secretary of the Treasury, the Tax Court, OPM, and even the Executive Office of President. As a matter of fact, we cut 15 positions from OMB.

There is nothing in the bill which prohibits the administration from making cuts in other agencies to reach their total FTE reduction goals.

They just cannot take them in Customs, IRS' criminal investigations unit, or ATF. These are the agencies, that over the years, have been constantly undermanned in FTE's because of OMB interference with these agencies, despite congressional actions.

In conclusion, I think the congress ought to decide where positions are funded—that is our job. If we take out these floors, we relinquish that control to the executive branch.

Does the junior Senator from Arizona want to see a reduction in Customs agents and inspectors in Arizona or air interdiction personnel? Does he want to see more drugs coming through the border between Arizona and Mexico because Customs does not have the staff? That is exactly what will occur if the Senator's amendment in adopted.

Mr. President, I just want to make sure that everybody understands that the amendment offered by the junior Senator sets in place the inability for law enforcement, that is primarily dealing not only with drugs, but also criminal fraud, and the IRS criminal investigations, from being restored to the levels that this committee could come up with. Even with that, we are at a reduced overall rate of employment in this bill.

So that it is in total compliance with what the President has asked us to do. But I think it is up to the Congress, and I suspect and I hope that the Senate will not support the junior Senator's amendment because what we have done is restored those positions. It is vital—and it is really vital to the State of Arizona—that we do not reduce Customs personnel on our border. That is what this amendment would do if it were to carry. It does not tie the hands of the Government. In fact, it unties the hands so that we can continue the war on the drug traffickers who bring the drugs into this country.

So it is absolutely necessary that we defeat this. I hope the Senate will do so.

Mr. President, I move to table the amendment of the junior Senator from Arizona, and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. FORD). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DeCONCINI. Mr. President, I ask unanimous consent that the vote on the motion to table the amendment of the Senator from Arizona occur immediately following the budget waiver vote, and that no amendments to the amendment offered by Senator McCAIN be in order.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DeCONCINI. Mr. President, I yield back the remainder of the time on this amendment.

The PRESIDING OFFICER. All time having been yielded back, the question is on the motion.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the votes set to occur at 1:30 p.m. be moved to begin at 2 p.m.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

ORDER OF PROCEDURE

Mr. BRYAN. With the agreement of the floor leadership, I ask unanimous consent that he be able to speak as if in morning business for 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator may proceed.

Mr. BRYAN. I thank the Chair. I thank the floor leadership.

THE HOOVER DAM VISITORS CENTER AND ITS IMPACT ON ENERGY COSTS FOR RESIDENTS OF SOUTHERN NEVADA

Mr. BRYAN. Mr. President, I rise today to bring to your attention an example of how an incompetently managed Federal program is going to be directly impacting my constituents in Nevada.

In 1984, the Bureau of Reclamation came before Congress to seek an appropriation of $32 million for a visitors center at Hoover Dam.

Hoover Dam, one of the most successful Federal economic development projects of all time, is a major source of pollution-free power for the Western region of the United States, and a great visitor attraction.

The original $32 million cost projection for a new visitors center at Hoover Dam should have been more than sufficient to build one of the finest visitors centers in our country. Over the next 10 years, however, what could have been a model of efficiency and cost-effectiveness, instead turned into a project of nightmarish proportions.

This is a project that has more than doubled in costs while under construction, and consequently a project that will not be soon forgotten by the residents of southern Nevada. Indeed, these residents will remember every month they pay their power bill for the next 50 years.

Under terms of the Hoover Power Plant Act of 1984, beginning in 1996, those who receive Hoover Dam power will bear the full brunt of having to repay the costs of the visitors center. This includes Nevada Power Co. and its 400,000 residential users, and smaller power utilities such as Overton Power District and Valley Electric Association. Thirteen other power contractors, among them the Metropolitan Water District of Southern California, also receive their power from Hoover Dam and will be required to shoulder the additional cost.

The Bureau of Reclamation has indicated the Hoover Dam visitors center has gone from $32 million in construction costs to $120 million. Add in the interest to repay the Federal Government, and Hoover Dam ratepayers have a bill due for $450 million. All for a visitors center.

That is correct, Mr. President; $450 million all for a visitors center that was originally projected to cost $32 million plus the interest.

What does this mean to the residents of southern Nevada? Because Nevada receives 21 percent of the hydroelectric power generated by Hoover Dam, Nevada users of Hoover Dam power will pay nearly $100 million over the next 50 years.

In 1985 Hoover ratepayers thought they had an agreement to pay for a $32 million facility plus interest, not a $120 million facility plus interest, a price that will undoubtedly go higher before the project is finally completed. In short, they agreed to pay for a visitors center, not the Taj Mahal.

Hoover Dam itself was completed in 1935 at a cost of approximately $108 million. Hoover Dam is still considered to be one of the greatest marvels of engineering ever undertaken in the United States. It was truly an extraordinary achievement for a project of its magnitude considering the technology of its time. Hoover Dam has been named one of our Nation's seven modern engineering wonders by the American Society of Civil Engineers. For $108 million the Government got a 726-foot-high concrete dam containing over 6½ million tons of concrete, and employment for over 5,250 workers during the height of the Great Depression. If the dam itself is one of the seven modern engineering wonders of our country, what does that make the visitors center? Undoubtably one of the most embarrassing and mismanaged Federal projects of all time.

The new visitors center is indeed an improvement from the old visitors center, both from a safety as well as visitor access viewpoint. Some 750,000 visitors come to Hoover Dam each year, and the Bureau is expecting 1 million visitors by next year. But did it need a $16 million elevator system that has doubled in costs from original estimates? A 400-plus-seat theater sitting on an electric rotating platform?

I think the answer to both of those questions is "no."

You can imagine the sense of outrage of my constituents in southern Nevada, especially in areas such as Lincoln County where 100 percent of the power they receive is from Hoover Dam. Try explaining to them that their power rates are going to skyrocket over the next 50 years as a result of the building of the grandest visitors center ever built by the Federal Government.

Who is to blame for this? What are we going to do about it?

There are allegations that early in the project's development, someone—and I use that word advisedly—appears to have made a decision to use $77 million, which was appropriated for both the visitor center and increased generating capacity, solely to build a visitor center which was projected at $32 million. Someone decided to use $45 million that was intended to be used for the Hoover upgrade on the power plant and combine that and apply that for the construction of the visitor center, as well. I use the term "someone" because the smoking gun evidence has yet to be found that shows just who made this incredible decision.

The only way we can find out about this and get to the bottom of it is to hold congressional hearings. Why and by whom the decision was made and what relief can be found for the ratepayers that are going to suffer as a result of this decision should be the primary focus of these hearings. It is the ratepayers who receive Hoover Dam power and the ratepayers who will be picking up the tab for this Federal mismanagement. It is the ratepayers in southern Nevada, in Lincoln, Nye, and Clark Counties, that will be hit in every power bill they receive each and every month from 1996 to the year 2046. It is these people, Mr. President, who deserve an answer and relief, and congressional hearings is the only way to assure that we will obtain that answer.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1830

Mr. DECONCINI. Mr. President, the pending amendment, as I understand it, is No. 1830 dealing with law enforcement retirement?

The PRESIDING OFFICER. The Senator is correct.

Mr. DECONCINI. Mr. President, the amendment I am offering will provide Customs inspectors and canine enforcement officers an opportunity to participate in the Law Enforcement Retirement System. The fact is, Mr. President that this amendment provides only part of the status that these employees truly deserve, which is full recognition and benefits given to other Federal law enforcement officers. Few can argue against the facts and statistics which support this position, yet past attempts by myself and my colleagues to provide full law enforcement status have been unsuccessful, due solely to budgetary constraints. I am hopeful that in fairness, we might, at least provide this one benefit.

The Customs inspectors and canine officers, in their capacity as the first line of defense in the war on drugs, must work long, irregular hours and are frequently confronted with dangerous and stressful situations. A 1991 report by the Customs Inspector and Canine Officer Compensation Panel reported the following:

1. Customs Inspectors and Canine Officers are assaulted more often than FBI, Secret Service, and Customs Agents and U.S. Marshals.
2. In 1991 CI's and CEO's made 15,808 arrests, representing 73 percent of Customs total number of arrests.
3. In 1991 CI's and CEO's seized 71,705—42 percent of Customs' total—pounds of cocaine and 2,870 pounds of heroin, 97 percent of Customs' total.
4. Only DEA and Bureau of Prisons officers are killed in the line of duty more frequently.
5. In addition to U.S. Customs laws, they enforce over 1,600 laws for 60 agencies.

As stated in that 1991 report, "Customs Inspectors constitute a vital part of the total enforcement function of the U.S. Customs Service." They carry firearms, make arrests, conduct inspections and participate in seizures. Their duties are difficult and dangerous and most certainly take a physical and mental toll on an employee over the course of a long career. The duties require a vigorous and physically fit work force, especially in geographical areas which have large, active marine and air terminals and border crossings with high rates of entry and contraband smuggling, such as the Southwest border, New York City, and Miami. New York, for example, employs 2,000 inspectors due to the high levels of activity. The New York district makes more heroin seizures than any other port in the country; processes more air passengers, and examines approximately 50 percent of the air cargo coming into this country. They would benefit by this amendment.

This amendment provides currently employed inspectors and officers with the opportunity to retain their current status and benefits or surrender their current overtime system, which is double time, to retire from the U.S. Customs Service under the same 20-year system as do Federal law enforcement officers. However, under this amendment, inspectors and canine officers entering service after enactment would enter under the law enforcement retirement system and would no longer receive the current, higher rate of overtime.

This option will ensure both the well-being of the employee and continued high level of competence provided by a young and vigorous work force in positions that are more physically and mentally challenging.

This provision is fundamentally cost neutral, in that, the employee choosing the early retirement will surrender a more costly form of overtime compensation which is funded by COBRA fees. The savings in COBRA fees will be redirected into the retirement account. In providing this option there is, both a recognition of fiscal responsibility and concern for the safety and well-being of the employee.

The Customs inspectors and canine officers meet the criteria for law enforcement officer status and benefits. It is the cost for total law enforcement status and not their job description, duties, danger, or arrest authority, which has denied these individuals this recognition. The amendment I am proposing represents a fair, reasonable, and deserved, yet partial solution to this problem at little cost. These officers and inspectors have been passed over, unfairly, and deserve the same retirement benefit as other officers.

I urge the Members of this body to support this reasonable and inexpensive compromise in fairness to these inspectors and officers.

Mr. President, I am advised that the Senator from Ohio does not care to speak on this amendment. So I urge adoption of the amendment, which has been cleared on the other side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1830) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, at this time, I also move to table the amendment of the Senator from Nevada scheduled for a vote at 2 p.m. and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. DECONCINI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. In relation to the amendment by Senator REID, I ask unanimous consent that the motion to table that amendment be entered into and that the vote at 2 p.m. be on a motion to table the amendment of the Senator from Nevada.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. DECONCINI. I know of no other amendments, Mr. President. No other Senators want to discuss this bill, and we have approximately 44 minutes. I would say that if anybody wants to come over and talk about the bill, now is the time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the vote on final passage of the pending matter occur at the end of the last vote of those stacked to begin at 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

APPOINTMENT OF CONFEREES—H.R. 2739

Mr. FORD. Under the previous order, the Chair is authorized to appoint conferees to H.R. 2739, the Federal Aviation Administration Act of 1994.

The ACTING PRESIDENT pro tempore (Mr. MATHEWS) appointed Mr. HOLLINGS, Mr. FORD, Mr. EXON, Mr. DANFORTH, and Mr. PRESSLER conferees on the part of the Senate.

RECESS UNTIL 2 P.M.

Mr. FORD. Mr. President, I now ask unanimous consent that the Senate stand in recess until the hour of 2 p.m.

There being no objection, the Senate, at 1:24 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. KERRY).

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1995

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Reid amendment No. 1832.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Connecticut [Mr. DODD] is absent because of illness in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 44, nays 55, as follows:

[Rollcall Vote No. 158 Leg.]

YEAS—44

Akaka
Biden
Bingaman
Bond
Boren
Bradley
Bumpers
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
D'Amato
Danforth
DeConcini
Domenici
Dorgan
Durenberger
Feingold
Ford
Gramm
Harkin
Hatch
Hatfield
Hutchison
Jeffords
Leahy
Levin
Lieberman
Mathews
McCain
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Packwood
Pryor
Rockefeller
Sarbanes
Simon
Wellstone

NAYS—55

Baucus
Bennett
Boxer
Breaux
Brown
Bryan
Burns
Byrd
Campbell
Craig
Daschle
Dole
Exon
Faircloth
Feinstein
Glenn
Gorton
Graham
Grassley
Gregg
Heflin
Helms
Hollings
Inouye
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Lott
Lugar
Mack
McConnell
Metzenbaum
Nickles
Nunn
Pell
Pressler
Reid
Riegle
Robb
Roth
Sasser
Shelby
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner
Wofford

NOT VOTING—1

Dodd

So the motion to table the amendment (No. 1832) was rejected.

Mr. DECONCINI. I urge adoption of the amendment.

I ask unanimous consent to vitiate the yeas and nays.

The PRESIDING OFFICER. Is there objection?

Without objection, the yeas and nays are vitiated.

The question is on agreeing to the amendment.

The amendment (No. 1832) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the three succeeding votes be limited to 10 minutes in duration.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON MOTION TO WAIVE BUDGET ACT

The PRESIDING OFFICER. The question occurs now on the motion to waive the Budget Act on the amendment of the Senator from Washington, No. 1833.

The yeas and nays have been ordered. The clerk will call the roll.

Mr. FORD. I announce that the Senator from Connecticut [Mr. DODD] is absent because of illness in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 79, nays 20, as follows:

[Rollcall Vote No. 159 Leg.]

YEAS—79

Akaka
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brown
Bryan
Bumpers
Burns
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Dole
Domenici
Dorgan
Durenberger
Exon
Faircloth
Feinstein
Ford
Gorton
Graham
Gramm
Grassley
Gregg
Hatch
Heflin
Helms
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Mikulski
Mitchell
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner

NAYS—20

Baucus
Boren
Bradley
Byrd
Campbell
Danforth
Daschle
DeConcini
Feingold
Glenn
Harkin
Hatfield
Leahy
Metzenbaum
Moseley-Braun
Moynihan
Reid
Simon
Wellstone
Wofford

NOT VOTING—1

Dodd

The PRESIDING OFFICER. On this vote, the yeas are 79, the nays are 20. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative the motion is agreed to.

More than 60 Senators having voted in favor of the motion to waive, the point of order falls.

VOTE ON AMENDMENT NO. 1833

The PRESIDING OFFICER. The question now is on agreeing to the amendment.

The amendment (No. 1833) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote.

Mr. DECONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. I thank you, Mr. President.

Just succinctly and briefly, I am required to say that the Senate has just voted in direct opposition to article 1, section 7 of the U.S. Constitution. This bill will be returned to us from the House of Representatives within 24 hours. We knew that in advance and we proceeded anyway.

It seems to me to have been pointless. We do take an oath to uphold and defend the Constitution of the United States against all enemies foreign and domestic, and I do not see where it says excepting where diesel fuel is concerned.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, the statement of the Senator from New York relating to the constitutionality of this amendment is in error and without merit.

VOTE ON MOTION TO TABLE AMENDMENT NO. 1836

The PRESIDING OFFICER. The question occurs on the motion to table the amendment of the Senator from Arizona [Mr. MCCAIN], amendment No. 1836. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Connecticut [Mr. DODD] is absent because of illness in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 66, nays 33, as follows:

[Rollcall Vote No. 160 Leg.]

YEAS—66

Akaka
Baucus
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cochran
D'Amato
Danforth
Daschle
DeConcini
Domenici
Durenberger
Exon
Feinstein
Ford
Gorton
Graham
Gramm
Harkin
Hatfield
Heflin
Helms
Hollings
Hutchison
Inouye
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Levin
Lieberman
Mack
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pell
Pryor
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Simon
Specter
Stevens
Wellstone
Wofford

NAYS—33

Bennett
Brown
Coats
Cohen
Conrad
Coverdell
Craig
Dole
Dorgan
Faircloth
Feingold
Glenn
Grassley
Gregg
Hatch
Jeffords
Kempthorne
Kohl
Lott
Lugar
Mathews
McCain
Murkowski
Nickles
Pressler
Reid
Roth
Shelby
Simpson
Smith
Thurmond
Wallop
Warner

NOT VOTING—1

Dodd

So the motion to lay on the table the amendment (No. 1836) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Connecticut [Mr. DODD] is absent because of illness in the family.

The PRESIDING OFFICER (Mr. LIEBERMAN). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 72, nays 27, as follows:

[Rollcall Vote No. 161 Leg.]

YEAS—72

Akaka
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Campbell
Chafee
Cochran
Cohen
Conrad
Coverdell
D'Amato
Danforth
Daschle
DeConcini
Domenici
Dorgan
Durenberger
Exon
Feinstein
Ford
Glenn
Gorton
Graham
Gramm
Harkin
Hatch
Hatfield
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mathews
McCain
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Simon
Simpson
Specter
Stevens
Wellstone
Wofford

NAYS—27

Baucus
Brown
Burns
Coats
Craig
Dole
Faircloth
Feingold
Grassley
Gregg
Heflin
Helms
Hutchison
Kempthorne
Kohl
Lott
Mack
McConnell
Murkowski
Nickles
Pressler
Roth
Shelby
Smith
Thurmond
Wallop
Warner

NOT VOTING—1

Dodd

So the bill (H.R. 4539), as amended, was passed.

Mr. DECONCINI. Mr. President, I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, I move that the Senate insist on its amendments to H.R. 4539 and request a conference with the House on the disagreeing votes of the two Houses and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. LIEBERMAN) appointed Mr. DECONCINI, Ms. MIKULSKI, Mr. KERREY, Mr. BYRD, Mr. BOND, Mr. D'AMATO, and Mr. HATFIELD conferees on the part of the Senate.

Mr. DECONCINI. Mr. President, I cannot express enough thanks and gratitude to my ranking member, Senator BOND, his staff and, of course, the staff on the Appropriations Committee, Patty Lynch and Cybele Cobb, and the others who have worked so hard to put this bill together. I guess it maybe used to be an easy bill, but it seems to be harder every year. With reductions in the 602 allocations, it is really difficult to fund these agencies in an adequate fashion, and it would not happen without the hard work of the staffs of both the minority and majority.

Mr. BOND. Mr. President, I join with the chairman in expressing my thanks to the staff, Patty Lynch and Cybele Cobb on the majority staff; Chuck Parkinson on my staff. We have worked well together; it is a difficult bill. But I wish to take a couple minutes to thank the chairman.

This is the last regular appropriations bill that the Senator from Arizona [Mr. DECONCINI] will bring to the Senate floor. He has been a vital and very influential member of this subcommittee for the last 18 years, the last 9 of which he served as its chairman. I have had a real pleasure serving with him over the past 2 years, and I wish to express my personal thanks as well as thanks on behalf of all the other members who have served on the subcommittee, as well as the staff that worked with him.

I think Senator DECONCINI has been as fair as anyone I have seen in dealing with all the members. No one has worked harder to ensure that the agencies funded in this bill get what they need to operate and nothing is wasted.

Quite frankly, Mr. President, as Senator DECONCINI mentioned, that is not as easy as one would think. This bill funds all kinds of things—operations of Government agencies, the Internal Revenue Service, Postal Service. There are not a lot of champions of this bill. When you come down and argue to put more money into the IRS, sometimes it is a bit difficult to get those juices of enthusiasm flowing among your compatriots. It is a very easy bill to challenge. But all through the years that Senator DECONCINI has served on this subcommittee, he has worked hard to ensure the funds were provided when it would have been easy to make reductions for show rather than for substance.

In closing, I wish to make a special comment on Senator DECONCINI's legacies on Federal law enforcement. I have spoken here several times today about the importance of Federal law enforcement and why it plays a vital role in the overall public safety of this country. There are many things that local law enforcement and State law enforcement officials cannot do. They have told me time and time again, as I have repeated in the Chamber, that they must have that great leadership for Federal law enforcement.

Senator DECONCINI has been a tireless champion of Federal law enforcement, especially Treasury law enforcement. And as I have traveled around the country and visited the sites to see how law enforcement activities under the Treasury Department are proceeding, they know they are going forward at least in significant part because of the leadership of DENNIS DECONCINI. DENNIS DECONCINI was on the front line when the war on drugs began. Back in the 1980's, that was easy; drugs were nightly news. Unfortunately, the problem remains the same today, but the news does not seem to notice it. Yet, the importance of those Federal law enforcement agencies and their drug efforts is one of the reasons why we have been able to at least fight a good battle against drugs and the crime that they bring.

Senator DECONCINI's fervor for Federal law enforcement has not waned. When you take a strong position on a bill like this, you get criticized for your efforts sometimes, but he has persevered. That continued effort is reflected in the bill. We would not have achieved the good compromises that we did without his leadership. We intend to keep up the fight.

Mr. President, when next year rolls around and Treasury/Postal comes back in the Chamber, we are definitely going to miss the Senator from Arizona. But I trust we can continue to count on his leadership, his commitment, and his good advice. We will miss his friendship, but we certainly will remember very fondly the heritage and the high standards that he leaves for those who expect to be here after.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia [Mr. NUNN].

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

Mr. NUNN. Mr. President, I ask unanimous consent the Senate proceed to the consideration of calendar No. 459, S. 2182, the fiscal year 1995 Department of Defense authorization bill.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2182) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. NUNN. Mr. President, I yield for a minute to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska.

TIMES OF VOTES

Mr. MURKOWSKI. Mr. President, my message is a brief one. It is, primarily, a message to the leadership of the Democratic Cloakroom, and it concerns the vote today that was scheduled at 1:30.

I recognize we all try to accommodate each other, but this happens to be the 50th anniversary of the GI bill, and as the ranking Republican member on the Veterans Committee, I was asked to be down at the White House to commemorate that. The time of the ceremony was from 1 to 2 o'clock.

I made a number of telephone calls to our Cloakroom and was advised that the Democratic Cloakroom indicated that there would be votes at 1:30, and there were to be no exceptions. As a consequence, I changed my plans and could not make the appointment down at the White House for the 50th anniversary. Then I found out, when it was too late, that, indeed, they had made accommodation for a Member of the other side and postponed votes.

I hope that in the future we could coordinate a little better, in a bipartisan spirit, in a spirit of trying to accommodate each side. I recognize that these things will occur from time to time. This is one of the times when it did occur. I checked with our Cloakroom up until the last minute. Clearly they were being advised that there would be votes at 1:30.

So this message is delivered from the very inconvenient standpoint of one who missed commitments I had made. I wanted the RECORD to so note, and hopefully we can accommodate each other in an appropriate manner in the future.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The Senate continued with the consideration of the bill.

Mr. NUNN. Mr. President, I am pleased to bring before the Senate S. 2182, the National Defense Authorization Act for fiscal year 1995.

This bill provides the authorization in law for all the major functions under the jurisdiction of the Committee on Armed Services, including programs and activities of the Department of Defense, the Department of Energy nuclear programs, as well as civil defense. This authorization bill continues the process of reshaping the U.S. defense establishment for a post-cold-war world.

The bill emphasizes and tries to set priorities on the need to maintain the high quality of men and women entering and serving in the Armed Forces, the bill increases funds above the budget request for readiness and training programs, and it sustains the reduced pace of weapons systems modernization requested in the fiscal 1995 budget. The bill preserves critical defense industrial base capabilities and strengthens the peacekeeping and peace enforcement capabilities of U.S. military forces.

Finally, the bill continues the key areas of the defense conversion and transition program to help individual communities and businesses adjust to the effects of the defense drawdown.

At the beginning of this debate I want to thank the ranking minority member of the committee, Senator THURMOND, for all of the help and cooperation he has given on this bill, and on every other aspect of our committees' work. And the same can be said for Dick Reynard and the staff on the minority side. They have worked very diligently, and very cooperatively with the majority and the majority staff.

Senator THURMOND has tremendous knowledge and experience on national security issues, and it has been a pleasure to work with him this year on the Armed Services Committee, and in his capacity as the ranking Republican.

BUDGET IMPACT OF THE COMMITTEE BILL

Mr. President, I want to take just a moment to put this Defense budget in context.

Fiscal year 1995 will be the 10th consecutive year that the Defense budget will decline in real terms. Since 1985, the Defense Department's purchasing power has been reduced by 33 percent, or one-third. Under this budget, by fiscal year 1999 the Defense budget will decline by an additional 10 percent in real terms. We have 9 consecutive years of real decline in the Defense budget behind us, and we are looking at 5 more years of real decline ahead of us.

Since fiscal year 1990, Defense Department manpower—active duty personnel, reserve components, and civilian personnel—has been reduced by 750,000. The fiscal year 1995 budget will bring an additional reduction of over 180,000—86,000 active duty personnel; 46,000 National Guardsmen and reservists; and 50,000 DOD civilians. This means that 15,000 positions in the Department of Defense will be eliminated each month during fiscal year 1995.

Investment in research and procurement of new weapons has also been cut back dramatically. The fiscal year 1995 budget request of $43 billion for procurement is the lowest level since 1950 in real terms—and represents a decline of 53 percent in just 5 years. The economic impact of this reduction in defense investment, coupled with the increasing number of base closings in the next several years, will be felt in towns and communities across the whole country.

The bill before the Senate today authorizes a total of $263.3 billion in budget authority for the national defense function in fiscal year 1995, which is $400 million below the amount requested in the fiscal year 1995 budget. In outlays, the bill is approximately $800 million below the budget request for fiscal year 1995.

I want to make clear, however, that this bill is already above the budget authority and outlay levels in the House and Senate Defense Appropriations Subcommittee 602(b) allocations.

So the message, Mr. President, ought to be clear: Any amendments to this bill that Members want or expect the Defense Appropriations Subcommittee to be able to fund need to have offsets, both in budget authority and outlays.

Amendments that are not offset will just push this bill further above the levels that can be appropriated. Any amendments that add significant amounts of budget authority and outlays to this bill could force the Defense Appropriations Subcommittee to make cuts in the faster spending personnel and readiness accounts, which I do not think any of us want to see.

The net savings in this bill come mainly from reductions in intelligence programs recommended by the Intelligence Committee. Although the Armed Services Committee has joint jurisdiction with the Intelligence Committee over these intelligence programs, the Armed Services Committee applied these savings toward deficit reduction.

Mr. President, I am becoming increasingly concerned about the adequacy of funding for national defense over the next several years. Today, our military forces are ready; they are capable; and they are manned by high quality, dedicated people. But there are some real danger signals on the horizon.

There is the basic question of whether the current 5-year defense plan will be adequate to support the force levels contained in the administration's Bottom Up Review. We have looked at this issue carefully in the committee this year. I think many members of the committee are skeptical that the military services will be able to carry out the two nearly simultaneous, major regional contingencies with the force levels called for in the Bottom Up Review at the end of this decade. This is an issue that we will continue to look at in the next several years.

A more immediate concern, Mr. President, are some of the hidden reductions in the outyears of the Defense budget. The administration's current 5-year Defense budget has a shortfall of $20 billion for inflation.

The administration has proposed capping the annual military and civilian pay raises at 1 percent below current law this year and each of the next 4 years. Providing military and civil service employees with the annual cost of living increases each year required under current law—as Congress did last year and appears likely to do this year and in the future—will add another $26 billion to the cost of the President's 5-year defense plan.

OMB has budgeted so-called procurement reform savings of $12 billion over the entire Federal Government for the next 5 years, and DOD's share of this is in the $6 to $9 billion range. I do not know anyone who thinks these savings are likely to be achieved as quickly as OMB is projecting.

The fiscal year 1995 budget resolution calls for cuts in discretionary budget authority of $31 billion over the next 5 years. DOD's share of these reductions could be an additional $16 billion.

In addition to these identifiable shortfalls, there is also a question of whether DOD has adequately budgeted for the upfront costs of the base closure process, and whether the savings DOD is expecting from the base closures to date and those projected for 1995 will actually be achieved on schedule.

Mr. President, the current 5-year defense plan already calls for a continued decline in defense spending of 10 percent in real terms—after inflation—over the next 5 years. if these additional hidden, reductions are not reversed, I believe that they will seriously erode the future capability of our military services.

Mr. President, I want to take just a few moments now to summarize some of the main features of this bill for my colleagues.

SUBCOMMITTEE ON NUCLEAR DETERRENCE, ARMS CONTROL, AND DEFENSE INTELLIGENCE

In the area of strategic programs and arms control, the committee preserved bomber force structure options while directing further analyses of future bomber requirements; added funds to improve near-term precision bomber weapons; and continued restructuring ballistic missile defense programs to emphasize development and deployment of near-term, ABM Treaty-compliant missile defenses.

The committee spent a great deal of time this year reviewing the Defense Department's proposed bomber force posture. This review led to the committee to conclude that:

The Air Force bomber roadmap of 1992 and the Bottom Up Review called for a force structure of 184 bombers, yet the fiscal year 1995 budget request funds only 100 bombers during fiscal year 1995, and 80 thereafter.

Four recent independent studies all concluded that the planned DOD force structure of 80 to 100 nonstealth bombers with only 20 B-2's is inadequate to deal with the two major regional contingencies of the Bottom-Up Review.

DOD has no plans or proposals for interim precision weapons for bombers, preferring to wait until the end of the decade for the tri-service standoff attack missile [TSSAM] and the joint direct attack munitions [JDAM] family of weapons. Until these munitions are available, the bomber force will have only dumb iron bombs available.

DOD has settled on a bomber force structure and modernization plan before it has completed numerous ongoing analyses and tests that bear on those plans.

If DOD intends to reduce the bomber force level to between 80 and 100 nonstealthy bombers, then more than 20 B-2 stealth bombers will be required to meet the demands of the two major regional contingencies of the Bottom-Up Review. In the coming year, however, the production base for the B-2 will begin to disappear.

In light of these uncertainties over the future bomber force levels, the committee bill: Preserves the bomber force structure options for an additional year by preventing DOD from retiring any B-52 or B-1 bombers during fiscal year 1995; adds $150 million to the budget to preserve the bomber industrial base for 1 additional year; requires further bomber force structure and effectiveness analyses prior to congressional review of the fiscal year 1996 Defense budget next year; and adds $90 million to the budget for demonstration and procurement of interim precision weapons for the bomber force until the new family of precision guided munitions are available at the end of the decade.

Restructuring of the Ballistic Missile Defense Program initiated last year in the National Defense Authorization Act for fiscal year 1994 will continue under the committee bill. The committee reduced the request of $3.25 billion for the BMD program by $251 million, and transferred an additional $170 million from BMDO to other agencies.

The committee bill authorizes the budget request of $648 million for the MILSTAR satellite communications program, but shifts the management responsibility for this program from the Air Force to the Navy.

We also approved the budget request of $400 million for cooperative threat reduction programs for the States of the former Soviet Union—the so-called Nunn-Lugar programs—and directed DOD to develop a multiyear strategy for these programs.

The bill includes a reduction of $220 million from the budget request of $10.5 billion for Department of Energy defense activities. The level approved by the committee includes $5.2 billion for environmental restoration and waste management activities, the amount requested in the budget.

I want to commend Senator EXON and Senator LOTT for their leadership on these issues in the committee as chairman and ranking minority member of the Subcommittee on Nuclear Deterrence, Arms Control and Defense Intelligence.

SUBCOMMITTEE ON COALITION DEFENSE AND REINFORCING FORCES

The Subcommittee on Coalition Defense and Reinforcing Forces oversees a large portion of our conventional military capability. The committee bill contains a series of initiatives to strengthen conventional capabilities and improve the production efficiency of key weapons programs.

In the area of tactical aviation, the committee approved the budget request of $3.9 billion for the Air Force's F-22 and the Navy's F/A-18 E/F fighter aircraft programs. We authorized 17 F/A-18 C/D aircraft for the Navy, 7 fewer aircraft than in the budget request, to balance the budget request with requirements for this aircraft.

The committee also authorized the budget request of $158.3 million to extend the life and make modest capability improvements in the Navy F-14 aircraft. The committee disapproved the Navy's request to develop a more robust bomb delivery capability for the F-14 because we concluded that the total $1.6 billion cost of this upgrade was excessive, particularly in light of the air-to-ground capability already available in the F-18.

The committee also added $100 million to the budget to restore limited operational capability to SR-71 surveillance aircraft.

The committee authorized multiyear procurement of M1A2 Abrams tank upgrades for the Army, and added $25.2 million to the budget for enhanced warfighting capabilities for the Abrams tank. In addition, the committee added $108 million to the budget for 24 additional M1A2 tank upgrades for the Army so that the Army could transfer a comparable number of M1A1 tanks to the Marine Corps when the M1A2 upgrades are delivered to the Army.

For some time the committee has been concerned about the need to maintain the production of tactical missile programs at efficient rates. The bill authorizes $214 million for 872 Javelin missiles, an increase of $82.9 million; approved $133.6 million for 1,230 Hellfire missiles, an increase of $12 million; and added $5 million to the budget to upgrade almost 600 Stinger missiles to the more capable block I configuration. The committee reduced the budget request of $604.2 million for the triservice standoff attack missile [TSSAM] by $115.8 million, and prohibited spending fiscal year 1995 production funds until the program meets certain testing and evaluation criteria.

The Subcommittee on Coalition Defense and Reinforcing Forces has begun a review of ways the U.S. military can improve its ability to support peace operations. The committee took several actions in this bill to improve U.S. peacekeeping and peace enforcement capabilities, including:

The addition of $99.9 million to the budget for advance procurement of commercial airframes to be converted to JSTARS surveillance aircraft. This system, like the Air Force AWACS, is ideally suited to providing sophisticated intelligence and command and control over peacekeeping as well as military operations.

The addition of $10 million to the budget request of $12 million for countermine warfare research. Mine warfare is a particularly serious problem in areas where U.S. forces are engaged in peacekeeping operations.

The committee added funds to preserve certain critical capabilities in the defense industrial base which might otherwise disappear. The bill:

Converts the $27.8 million request in the budget for closing the TOW II production line into production of additional TOW IIB missiles, pending submission of a plan for developing a follow-on missile system;

Adds $35 million to the budget to keep the tank engine production base alive, and required the Defense Department to produce a tracked vehicle master plan; and

Authorizes an increase of $72 million to the budget of $25 million for a major initiative to support the small arms industrial base by directing the Army to buy additional small arms until the Army's inventory objectives are achieved and new weapons enter production.

The committee continued to promote the use of defense modeling and simulation in the areas of training, doctrine development, and acquisition. The bill:

Adds $16.8 million to the budget for the Army to continue testing of a revolutionary concept of training an entire brigade on modern, inexpensive simulators;

Adds $10 million to the budget to continue an initiative for distributed simulation to support National Guard and Reserve training; and

Because sophisticated training devices for disaster preparedness are lacking, initiates a program to adapt Army training models for use in training local civilian authorities to cope with natural disasters.

The committee also added $600 million to the budget for equipment for the National Guard and Reserve components. As in the past, the committee provided the funds in generic categories and directed the National Guard and Reserve components to purchase items of equipment which contribute most directly to supporting the domestic missions of these units.

I want to congratulate Senator LEVIN and Senator WARNER, the chairman and ranking minority member of the Subcommittee on Coalition Defense and Reinforcing Forces, for their leadership on these issues this year.

SUBCOMMITTEE ON REGIONAL DEFENSE AND CONTINGENCY FORCES

In the areas of regional defense and contingency forces, the committee sought ways to maintain technological superiority and match investment to force structure.

The bill authorizes a total of $3.6 billion for one nuclear powered aircraft carrier [CVN-76], and $2.7 billion for three DDG–51 destroyers; approves the budget request of $507.3 million for continued development of the Navy's new attack submarine; and shifts $600.8 million from the national defense sealift fund to begin construction of one LHD amphibious assault ship.

For Marine expeditionary forces, the committee added $220 million to the budget to purchase and convert two additional ships to enhance the Marine Corps prepositioning ship squadrons; authorized the budget request of $496.9 million for continued development of the V–22 tilt-rotor aircraft, and added 4 CH–53 helicopters to help protect mine countermeasures squadron force levels.

After a lengthy review, the committee approved the administration's request to enter into the settlement agreement negotiated with the C–17 prime contractor in January 1994. The committee approved the budget request for six new aircraft, but reduced the fiscal year 1995 procurement request of $2.8 billion by $387.4 million. In addition, the committee added $46.3 million to the budget request for nondevelopmental airlift aircraft for a total of $150 million.

I want to thank Senator KENNEDY and Senator COHEN, the chairman and ranking minority member of the Subcommittee on Regional Defense and Contingency Forces, for their usual excellent work on these programs this year.

SUBCOMMITTEE ON DEFENSE TECHNOLOGY, ACQUISITION AND INDUSTRIAL BASE

In the case of defense technology, acquisition and the industrial base, the committee took a number of actions to maintain the momentum of the Defense Reinvestment and Conversion Program enacted last year; emphasize manufacturing science and technology; maintain the technology base; and set the stage for acquisition reform.

The committee approved the budget request of $625 million for the industry and technology portion of the Defense Reinvestment and Conversion Program. This level will maintain funding to convert defense industries to dual-use production at the level of the past 2 fiscal years. The committee also approved $50 million for a Navy Reinvestment Program; $56.6 million for a Defense Laboratory Diversification Program; and added $28 million to the budget request of $97 million to maintain a Manufacturing Science and Technology Program that will develop manufacturing processes for new military technologies.

For the Strategic Environmental Research and Development Program, the committee authorized $170 million, an increase of $59 million to the budget request. The committee also added $20 million to the budget for historically black colleges and universities to increase the capacity of these schools to educate scientists and engineers, and authorized the full budget request of $50 million for the Mentor-Protege Program to bring minority-owned firms into the mainstream of defense production.

In the area of military medical research and development, the committee added $40 million to the budget for research on women's health issues related to service in the Armed Forces. We added $20 million to the budget for further research on telemedicine technology, which I believe has tremendous potential to deliver improved medical care to military personnel deployed to remote locations. We also added $4 million to the budget specifically for continued research into the cause and treatment for the gulf war syndrome.

We have not included any major acquisition policy legislation in this bill because just a few weeks ago the Senate passed S. 1587, the Federal Acquisition Streamlining Act of 1994. That legislation is a very high priority for the administration, and we hope the House will pass similar legislation soon so we can begin work on a conference agreement. This bill does include a series of legislative provisions to prohibit congressional earmarking of defense funds to specific non-Federal entities.

I want to congratulate Senator BINGAMAN and Senator SMITH, the chairman and ranking minority member of the Subcommittee on Defense Technology, Acquisition and Industrial Base for their leadership on these issues in the committee this year.

SUBCOMMITTEE ON MILITARY READINESS AND DEFENSE INFRASTRUCTURE

In the areas of military readiness and defense infrastructure, the committee authorized funds above the budget request for high priority readiness programs; added funds above the budget request to assist the military services in meeting a more difficult recruiting environment; and adopted a legislative provision to encourage competition in contracts for DOD's depot maintenance workload.

In reviewing the fiscal year 1995 budget, the committee found that the Army and the Air Force were reducing their overall civilian personnel levels in the current fiscal year much faster than originally anticipated when the fiscal year 1995 budget was submitted back in February. These lower civilian personnel levels in fiscal year 1994 resulted in savings of approximately $1.2 billion in fiscal year 1995.

The committee used these savings to authorize increases in high priority readiness programs, including:

An increase of $250 million to the budget request of $7.2 billion for depot maintenance programs to reduce the backlog of equipment overdue for repair and to prevent future degradation in equipment readiness;

An increase of $200 million to the budget request of $4.1 billion for repair and maintenance of real property to slow the dramatic growth in the backlog of real property maintenance on DOD installations; and

An increase of $72 million to the budget request of $534 million for DOD recruiting programs. This increase is needed to ensure that the military services continue to meet their recruit quality goals in an increasingly difficult recruiting environment.

Earlier this year, DOD officials indicated that in the final stages of preparing the fiscal year 1995 Defense budget, they were forced to reduce the military construction request by $900 million—in their words—"to absorb a department-wide inflation increase." As a result, the fiscal year 1995 military construction budget request is $1.1 billion below last year's level—a reduction of almost 15 percent in real terms.

The committee concluded that continued deep cuts in military construction will make it increasingly difficult for the military services to meet their facility modernization goals. As a result, the committee authorized a net increase of approximately $300 million to the budget request for military construction programs for fiscal year 1995.

Projects added to the budget were carefully reviewed by the committee to make sure they conform to the following stringent criteria: The project must be consistent with past base closure and realignment action; the project must represent a valid military requirement; the project must be included in the military service's 5 year plan; and the military service must be able to begin executing the project in fiscal year 1995.

All of the projects added to the fiscal year 1995 budget request meet these stringent criteria.

The allocation of depot maintenance workload between DOD depots and the private sector has been a controversial issue in the past year. The committee did not make any change to current law that requires not less than 60 percent of the depot maintenance workload in each service be carried out in DOD depots.

However, the committee is concerned over recent efforts in DOD to limit competition for depot maintenance workload. The bill includes a provision that would require DOD, in moving depot maintenance work out of a DOD depot, to continue public/public competitions—competitions among DOD depots—and public/private competitions—competitions between DOD depots and private sector companies.

Mr. President, I want to thank Senator GLENN and Senator McCAIN for their customary excellent work as chairman and ranking minority member of the Subcommittee on Military Readiness and Defense Infrastructure this year.

SUBCOMMITTEE ON FORCE REQUIREMENTS AND PERSONNEL

In the areas of personnel and compensation, the committee has made every effort to maintain a prudent glide path to reduce military personnel strength, and, at the same time, continued to provide for the quality of life of military personnel and their families.

After careful consideration, the committee decided to authorize a pay raise of 2.6 percent for military members, effective January 1, 1995.

The committee recommends an active duty military strength of 1,525,692 for fiscal year 1995, 85,484 below the fiscal year 1994 estimate. For the Reserve components, the bill authorizes a strength of 995,287 for fiscal year 1995, 48,803 below the fiscal year 1994 estimate and 9,290 above the requested level.

The committee reviewed also the authority of the President to call members of the Selected Reserve to active duty. Under current law, the President can call up to 200,000 members of the Selected Reserve to active duty for up to 90 days without declaring a national emergency. This 90-day callup can be extended for an additional 90 days.

The bill includes a provision that would extend the initial callup period for Selected Reserve components from 90 days to 180 days, and would require that any extension of this callup period receive prior approval of the Congress. The provision would also require the Secretary of Defense to report to the Congress on options for increasing the accessibility of the Reserve components in times of emergency. This report should also analyze the effects of each option on Reserve components recruiting, retention, employer support, and families.

The final personnel issue that I want to raise, Mr. President, involves cost-of-living increases, or COLA's, for military retirees.

I think Congress made a mistake last year in the Omnibus Budget Reconciliation Act of 1993 when we put the annual COLA's for military and civil service retirees on a different schedule for the next 4 years. That act delays COLA's for military retirees for 6 months beyond the date on which civil service retiree COLA's are paid in 1995 and 1996. In 1997 and 1998, the additional delay for military retirees grows to 9 months. In 1999, both military and civil service COLA's will once again be paid in January.

This so-called COLA inequity results from differences in the deficit reduction instructions given to the Armed Services and Governmental Affairs Committees. In meeting these instructions last year our committee noted: "COLA equity for all Federal retirees should be a basic principle and we urge the full Senate and the conferees on the reconciliation bill to take this into consideration."

Unfortunately the problem has not been fixed. Most of the members of the Armed Services Committee continue to feel very strongly that COLA's for military and civilian retirees should be effective on the same date. The committee endorsed a committee amendment that will be offered later in this debate that will restore COLA equity by making military and civil service COLA's effective on the same date. I will have more to say on this issue at the time of that debate.

I want to thank Senator SHELBY and Senator COATS, the chairman and ranking minority member of the Subcommittee on Manpower and Personnel, for their leadership of this subcommittee this year.

Mr. President, it is very important that we complete action on this bill as soon as possible. I do not know how many amendments there are going to be. The Appropriations Committee is anxious to get to work on the defense appropriations bill. We need to get to conference on this bill as soon as possible to guide the appropriation process. We have other matters that are going to be interrupting this bill over the next few days. We will have to judge as we go along as to how long this bill is going to take.

I urge everyone who has an amendment to please get it to our staff, and we will look at it so we can determine whether it can be accepted or whether it will have to be opposed. That will help us guide our way through the time schedule involving this bill when so many other things are on the calendar.

I thank all of the members of the Armed Services Committee for their hard work. I also thank Gregg Scott and Charlie Armstrong of the legislative counsel's office for their important contribution to this bill, as well as to the Federal acquisition reform bill of 1994, which passed the Senate a few weeks ago.

Mr. President, this is a good bill, considering the budget strain we are under. It does continue to process the reshaping of our defense establishment for the post-cold-war world.

I urge my colleagues to support the bill. I know Senator THURMOND has remarks. I yield the floor at this time.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina [Mr. THURMOND] is recognized.

Mr. THURMOND. Mr. President, with the commemoration of the 50th anniversary of the Normandy landing fresh in our mind, I join with the distinguished chairman of the Senate Armed

Services Committee, Senator NUNN, to present the national defense authorization bill for fiscal year 1995 to our colleagues. However, before going into the details of the bill, I want to congratulate Chairman NUNN for his excellent leadership, and the bipartisan manner in which he conducts the committee's business. I look forward to many more years of the close cooperation we have enjoyed during our long association on the Armed Services Committee.

I wish to commend our chief of staff of the Republicans, General Reynard, and the other members of the Republican staff for the good work they have done, especially George Lauffer, who worked for me for a number of years. I also wish to commend Arnold Punaro for his good work on this bill and the members of the majority staff, including Mr. Effron who has done so much good work.

Mr. President, during the past months, Americans reflected with pride on the splendid accomplishments and sacrifices of the men who stormed the beaches at Normandy to begin the liberation of Europe. As the Senate deliberates on the fiscal year 1995 Defense bill, I urge my colleagues to consider what it took to build the Army that assaulted across the beaches of France in June 1944.

Let me point out, that at the start of 1940 the active duty military strength was a minuscule 458,000. By the end of 1945, that number had soared to over 12 million men and women in uniform. As the United States entered the war, many of our recruits were still using wooden rifles for training. By the time they landed on the beaches of Normandy, they fought with the best weapons available at the time. These achievements took untold personal sacrifices to build that force, billions of dollars, and a Nation totally committed to winning the war.

Despite the cost of building the mighty forces that stormed Europe and island-hopped across the Pacific, the United States, convinced that peace was at hand, virtually disarmed after V–J Day. Regrettably, after winning the cold war and the battle against Saddam Hussein, our Nation is about to repeat history. We are reducing our forces, as previous administrations did after World War I and World War II, with the anticipation that peace is at hand.

Mr. President, this is the 10th straight year of declining defense budgets and our forces are approaching the lowest level of readiness since the Hollow Force years of the 1970's.

I present a series of charts here to highlight my presentation today.

During fiscal year 1995, the Department of Defense anticipates an average monthly loss of 7,100 active duty military personnel, 3,800 reserve personnel, and 4,100 civilian personnel. At the same time it will deactivate one combat ship, 37 combat aircraft, one combat battalion and close down one military installation each month. These are dramatic changes that unfortunately mirror the history of prior downsizing.

The budget level in the bill we are considering is the lowest in terms of percentage of gross domestic product since 1948. It represents 17.8 percent of the Federal Budget which is the lowest since 1940. Despite these startling statistics, the administration is calling for another 10 percent reduction in the defense budget over the next four years. We must stop the erosion in readiness and the decline in force structure. I hope that the Senate will join me in placing the administration on notice that further cuts in the defense budget will be challenged.

Mr. President, Chairman NUNN has already discussed the highlights of the committee's proposed fiscal year 1995 Defense bill; therefore, I will not go into lengthy detail. In my judgment, this bill is bare bones, but basically sound, when you consider the funding constraints imposed by the budget resolution.

According to a June 12, 1994, article in the New York Times, approximately 17,000 of our service members qualify for food stamps. The same article states that: "since 1982, the gap between civilian and military wages has widened to 13 percent, and is projected to be near 20 percent by the end of the decade." The committee recognized that the men and women of our Armed Forces are key to readiness and we provided for them with a 2.6 percent increase. This increase and the personnel provisions in the bill are only a start to ensure the welfare of our service members. However, it will take a great deal more money to provide adequate compensation.

I am pleased that the committee was able to fund, although at a moderate rate, the continued modernization of our forces. By authorizing funds for another aircraft carrier, an amphibious assault ship, the F–22 advanced fighter, and the C–17, the bill provides for future military capability, and strives to maintain key industrial base facilities.

In my judgment, the decision on the C–17 was especially critical. It will give our Nation a capability which will be needed more and more frequently as we withdraw our forces from overseas bases. The Armed Forces will need the C–17's long range and heavy lift capability as they respond to the crises, both military and humanitarian, that are occurring more frequently around the world.

The committee also restored a small number of the military construction projects that the services has to cut after the administration reduced the Milcon request by $900 million to cover inflation costs. These additional projects, which met the committee's stringent criteria, included family housing, troop barracks and maintenance facilities. We must remember that decent living and working conditions for our service personnel are as vital to force readiness as the latest weapons system.

Mr. President, the services are being compelled to maintain unrealistically high levels of short term readiness in order to forestall criticism of the administration's budget priorities. They are doing this at the expense of long-term readiness, which will result in the same set of problems we had in the late 1970's and early 1980's. These problems include poorly maintained equipment, inadequate facilities, and rock bottom morale.

We are now seeing signs that the services are heading back to the hollow force of the Carter years. Equipment maintenance and modernization are being deferred, and maintenance backlogs are growing. For example, the Air Force depot maintenance backlog will grow to $338 million this year, which is a $110 million increase since fiscal year 1993. The Army is able to fund only 56 percent of its depot maintenance requirement this year. Marine Corps ground equipment readiness has dropped below 90 percent for the first time since the hollow force period.

The Armed Services Committee is concerned over these escalating backlogs in equipment and facility repairs and their impact on current and future readiness. It, therefore, authorized an increase of $250 million and $200 million respectively to begin a long term recovery program in these areas.

Mr. President, the authorization bill reported by the Armed Services Committee authorizes the establishment of a $300 million contributions for international peacekeeping account in the Defense Department's accounts. I think it noteworthy that not a single Republican member of the committee voted in favor of this provision, which provides $300 million for U.N. or multilateral peacekeeping in the Defense Department's budget. In other words, the bipartisan consensus that normally underlies the committee's decisions on major defense programs and national security policies is conspicuously absent in this case.

Those of us who voted against establishing the fund are deeply concerned that the administration has crossed a major threshold in placing responsibility for payment of some U.N. peacekeeing costs directly on the Defense Department. Based on congressional testimony and numerous statements by administration officials, we have every reason to believe that U.S. participation in U.N. peace operations will increase in the coming years under the administration's policy of assertive multilateralism. Consequently, the peacekeeping bill to be paid directly by the Defense Department will proportionally increase as well, putting additional pressure on an already severely strained and underfunded defense budget.

Mr. President, as I stated earlier, that is a bare bones bill. Like many of my colleagues, I would have preferred a higher funding level to provide for continued readiness and modernization. However, I support the bill and urge the Senate to support it.

To those individuals who believe that we are spending too much on defense, I say "we have already cut enough." Based on Department of Defense data, defense outlays will decrease 35 percent between 1990 and 1999. At the same time, domestic discretionary spending will increase by 12 percent and mandatory spending will increase by 38 percent. As I said earlier, the defense budget is already at the minimum funding level. Any further reductions will jeopardize the security of our Nation, not only for the immediate future, but for the coming decades as well. As William Jennings Bryan said: "Destiny is not a matter of chance, it is a matter of choice; it is not a thing to be waited for, it is a thing to be achieved." We have the choice to realize our Nation's destiny with this bill, and I challenge the Senate to make the choice to support a strong defense.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia [Mr. NUNN].

Mr. NUNN. Mr. President, I note the Senator from Iowa has an amendment. Certainly we do not control the order of the amendments. I am pleased he was extremely cooperative in coming over and getting us started on a very meaningful amendment, which I assume he is prepared to present now. So I thank the Senator from Iowa for helping us to get off to a quick start in terms of meaningful amendments which really do affect the defense budget.

I understand that the Senator from Iowa is willing to enter into a unanimous consent agreement of 3 hours, equally divided.

Mr. GRASSLEY. Yes.

Mr. NUNN. I would like to propound that now, if that meets the Senator's approval.

Mr. President, I ask unanimous consent that, on the Grassley amendment related to the C–17 agreement, there be 3 hours, equally divided; that the time in support of the amendment be controlled by Senator GRASSLEY or his designee; that the time in opposition be controlled by Senator KENNEDY or his designee; that no amendment to the amendment be in order; and that on the expiration or yielding back of the time, there be a vote on or in relation to the Grassley amendment.

The PRESIDING OFFICER. Is there objection?

Mr. GRASSLEY. Reserving the right to object.

The PRESIDING OFFICER. The reservation is noted.

Mr. GRASSLEY. I have no objection.

The PRESIDING OFFICER. Hearing no objection, that will be the order.

Who yields time?

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I yield myself such time as I may consume.

If I do not stop to ask, if I have taken 20 minutes, I would like to have you notify me.

The PRESIDING OFFICER. The Chair will notify the Senator.

The Chair advises the Senator the time will not begin to toll until the Senator sends his amendment to the desk.

Mr. GRASSLEY. I think I better. I know I could have more time. I think it would violate our gentleman's agreement here.

AMENDMENT NO. 1837

(Purpose: To strike out section 131, relating to settlement of claims under the C–17 aircraft program.)

Mr. GRASSLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 1837.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 22, beginning with line 10, strike out all through page 25, line 3, and insert in lieu thereof the following:

Subtitle D—Other Matters

Mr. GRASSLEY. This amendment, if adopted, would reject the C–17 settlement agreement authorized by section 131 of this bill. This amendment would deny the authority to make direct cash payments of $348 million to McDonnell Douglas. I want to make that clear. This bill contains language that makes a direct payment of $348 million to McDonnell Douglas that I am going to say is a bailout. My amendment deals with striking that money out.

If this amendment is adopted, then I would plan to offer a second amendment to deny that the $348 million to carry out the McDonnell Douglas agreement. It would be taken away completely, so that the money could not be spent elsewhere. But right now we are talking about whether or not this agreement should be allowed to go through as the legislation permits.

Of the $348 million needed to put the agreement in operation, $294 million is in the bill; $116 million is in the Air Force ADT&E account; and $178 million is in the Air Force procurement account. In addition, $53.7 million in fiscal year 1994 Air Force ADT&E funds would have to be reprogrammed to complete the agreement.

If my amendment were passed, this would all be denied, as well.

Mr. President, I want to make one point crystal clear right off the bat, right at the start of this discussion. My amendment is not some kind of a backhanded attack on the C–17. I am not trying to sabotage the C–17 program, because I know, as our committee has very clearly stated over a long period of time, that we need to modernize our aging fleet of long-range transport aircraft. I know that we need to do that. We must do it.

All the money requested in the fiscal year 1995 budget to modernize our fleet of strategic airlift aircraft—in other words, to buy six new C–17's—remains in the bill intact. We are only talking about the $348 million that is used as a bailout of McDonnell Douglas.

I know, as the committee knows, that we have to modernize this fleet and we will be buying six new C–17's. I do not change that at all.

My amendment is directed solely, then, at Mr. Deutch's proposed C–17 settlement plan to give McDonnell Douglas a direct cash payment of $348 million.

The C–17 settlement agreement is embodied in a letter from Mr. John M. Deutch to Mr. John F. McDonnell, chairman and chief executive officer of the McDonnell Douglas Corp.

Mr. Deutch's letter is dated January 3, 1994. The letter was countersigned and accepted by Mr. McDonnell on January 6, 1994.

Mr. Deutch was Under Secretary of Defense for Acquisition when he negotiated the agreement. He is now the Deputy Secretary of Defense.

Mr. President, I ask unanimous consent that the C–17 settlement agreement be printed in the RECORD, so everybody can study it.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE UNDER SECRETARY OF DEFENSE,
Washington, DC, January 6, 1994.

MEMORANDUM

Subject: C–17 Documents

Attached, please find two documents relating to the C–17 program. First is the report of the Defense Science Board C–17 Task Force; and second is the Department's settlement offer regarding the C–17 program that has been agreed to by McDonnell Douglas. Within the coming months the Department of Defense will seek necessary Congressional authorization and the appropriation of funds to place this agreement into force.

JOHN D. DEUTCH.

THE UNDER SECRETARY OF DEFENSE,
Washington, DC, January 3, 1994.

Mr. JOHN F. MCDONNELL,
Chairman and Chief Executive Officer,
McDonnell Douglas Corp., St. Louis, MO.

DEAR MR. MCDONNELL: As a result of our communications over the past several weeks

I believe that I must restate my offer for settlement of C–17 issues. This letter supersedes all prior letters.

Over the past five months we have performed an intensive review of the C–17 program. Based on this review, I have concluded that the current C–17 program is not viable without substantial change and that three elements of change are required for a successful strategic airlift program:

1. A provisional 2-year program for C–17 production at a rate of 6 aircraft per year. During this period McDonnell Douglas must (a) introduce major management and manufacturing process changes, (b) demonstrate an ability to deliver aircraft on schedule and at cost, (c) successfully complete the flight test program and (d) satisfy all other contract specifications including Reliability, Maintainability, and Availability (RM&A) requirements.

2. Execution of a comprehensive settlement between the United States Government and McDonnell Dougles on outstanding C–17 business and management issues. This prospective settlement and the management and manufacturing production changes mentioned above are the subject of this letter.

3. Consideration of a mix of commercial wide-body aircraft or new C5–B production to meet the requirements for military airlift in the future.

These three elements will require consideration and action by Congress and my support of this course of action depends upon Congressional commitment to the entire package. The business settlement in this letter cannot stand alone because by itself it does not accomplish the goal of assuring the nation's strategic airlift military requirement will be met.

RESOLUTION OF CLAIMS AND DISPUTES

McDonnell Douglas has filed twelve claims of approximately $450 million against the Government under contract F33657–81–C–2108. I understand the company is planning to file additional claims of approximately $1.25 billion. The parties cannot effectively work for the success of the program and litigate claims of this magnitude at the same time. Therefore, if McDonnell Douglas releases the Government from all C–17 claims it may have as of today, whether filed or not, the Air Force will modify contract F33657–81–C–2108 to increase the target costs and ceiling prices by a total of $237 million. Additional details on the claims settlement are set forth in Attachment A.

REVISIONS TO THE SPECIFICATIONS

The Air Force will revise the range/payload and other specifications as stated in Attachment B and will revise the delivery schedule for aircraft T–1, and P–1 through P–6. The Government will waive all claims it may have as of the date of this agreement for failure of McDonnell Douglas to meet the original contract specifications. The Government also will waive claims for the failure of McDonnell Douglas to meet the delivery schedule for aircraft T–1, and P–1 through P–6. The delivery schedule under contract for aircraft beginning with P–7 shall remain the same.

CHARGING "SUSTAINING" ENGINEERING COSTS

McDonnell Douglas shall charge previously incurred nonrecurring engineering costs for aircraft design, special tooling or test equipment, and retrofit of design changes required for the C–17 to meet contract specifications, together with such other nonrecurring engineering costs as the Defense Plant Representative directs, to the full scale engineering development (FSED) portion of contract F33657–81–C–2108. The impact on McDonnell Douglas of these adjustments will be $41 million for nonrecurring engineering costs incurred through June 30, 1993, that were previously allocated to the Lot IV, V, and VI production contracts.

McDonnell Douglas also shall establish a system to identify and record C–17 future nonrecurring engineering costs, and a methodology to allocate these costs between the FSED portion of contract F33657–81–C–2108 and C–17 production contracts. The Defense Plant Representative shall approve the allocation of C–17 nonrecurring engineering costs between the FSED portion of contract F33657–81–C–2108 and C–17 production contracts prior to McDonnell Douglas receiving any payment for these costs. It is estimated that approximately $130 million in additional nonrecurring engineering costs will be charged to the FSED portion of contract F33657–81–C–2108.

FLIGHT TEST EXTENSION

McDonnell Douglas shall submit a proposal to modify contract F33657–81–C–2108 to extend the flight test program to a total of 152 "aircraft months." The parties will share the cost of this extension. The contracting officer and McDonnell Douglas will negotiate an estimated cost for this extension, and the contract will be modified to increase the target cost and ceiling price by 50 percent of the negotiated estimated cost. The cost of the flight test extension is estimated to total $123 million, or approximately $61.5 million for each party.

REDESIGN WING

McDonnell Douglas shall redesign the wing to eliminate the need for supplemental straps to meet design limit load requirements for the wing. The redesign effort shall begin immediately, and the redesigned wing shall be incorporated as soon as practicable but not later than aircraft P–29. McDonnell Douglas will bear the total cost of all nonrecurring engineering effort for the redesign, and for all new or modified production special tooling and special test equipment required for the redesigned wing. Costs incurred for this effort shall be separately identified and shall not be allowable, directly or indirectly, on any C–17 or other Government contract. The cost for the wing redesign is estimated to be $32 million.

CAD/CAM, MIS, AQS

In order to improve efficiency, McDonnell Douglas must implement a Computer Aided Design/Computer Aided Manufacturing System, Management Information System, and Advanced Quality System.

A. Computer Aided Design/Computer Aided Manufacturing (CAD/CAM) System. McDonnell Douglas shall implement a CAD/CAM system for use on the C–17 program, as described in Attachment C. The Government and McDonnell Douglas will share the cost of the CAD/CAM system equally, as provided in Attachment C, with the Government share estimated at $20 million.

B. Management Information System (MIS). McDonnell Douglas shall implement a computerized MIS system for the C–17 program as described in Attachment C. Government personnel shall have access to this system and its data. The Government and McDonnell Douglas will share the cost of the MIS equally, as provided in Attachment C, with the Government share estimated at $15 million.

C. Advanced Quality System (AQS). McDonnell Douglas shall upgrade its existing quality system as described in Attachment C. The Government and McDonnell Douglas will share the cost of the AQS equally, as provided in Attachment C, with the Government share estimated at $2.5 million.

PRODUCT IMPROVEMENT COST REDUCTION PROJECTS

As a demonstration of its commitment to the C–17 program, McDonnell Douglas shall invest not less than $100 million for product improvement cost reduction projects to improve the efficiency of the manufacturing process and to lower the aircraft unit cost. McDonnell Douglas will bear the total cost of these projects, and only the Government will benefit from these projects. The details are in Attachment C.

OTHER SETTLEMENT ISSUES

Additional issues that have been the subject of lengthy disputes between the project office and McDonnell Douglas must be settled. Those disputes will be resolved by contract actions as stated in Attachment D. The estimated cost of these issues is approximately $12 million to the Government, and approximately $52 million to McDonnell Douglas.

GENERAL TERMS AND CONDITIONS

The general terms and conditions set forth in Attachment E are applicable to this agreement.

Attachments A through E are a part of this agreement.

I will establish a group to monitor the implementation of this agreement. The group will report directly to the Under Secretary of Defense (Acquisition) and the Chief Executive Officer of McDonnell Douglas Corporation. It is my intention that the group shall be co-chaired by an Air Force general officer and a neutral senior industry official, both of whom shall have extensive acquisition experience. The group will include representatives from appropriate Government offices. McDonnell Douglas agrees to assign appropriate McDonnell Douglas representatives to participate with the group and to issue any necessary direction to McDonnell Douglas components to cooperate with the group.

This agreement will not become binding on the Department of Defense or on McDonnell Douglas until: (1) Congress supports the entire three-part approach; and (2) authorizing legislation and appropriations necessary to implement this agreement are enacted. If approved by Congress, the elements set forth in this letter of agreement must be implemented by modification of the existing C–17 contracts or by new contractual agreements entered into by McDonnell Douglas and the Air Force.

In order to expedite the process, I am directing the Air Force contract personnel to work with your representatives to prepare the contract documents necessary to implement this agreement promptly when it is appropriate. I request that you give a similar direction to your staff.

Please indicate your acceptance by signing below and returning one copy to me by close of business on January 6, 1994.

Sincerely,

JOHN DEUTCH.

Accepted: John F. McDonnell, Chairman and Chief Executive Officer, McDonnell Douglas Corporation.

ATTACHMENT A

AGREEMENT BETWEEN UNDER SECRETARY OF DEFENSE JOHN M. DEUTCH AND MR. JOHN F. MCDONNELL TO SETTLE C–17 ISSUES, JANUARY 3, 1994

Contract claims and disputes:

1. Claim settlement procedures. When authorizing legislation and appropriations necessary to implement this agreement have

been received, contract F33657–81–C–2108 will be modified to increase the target costs and the ceiling prices by a total of $237 million.

2. McDonnell Douglas actions:

a. Upon execution of this agreement, McDonnell Douglas shall join with the Government in a request to the Armed Services Board of Contract Appeals to defer further action on all pending C–17 related ASBCA appeals. McDonnell Douglas and the Government shall defer all action on these appeals. McDonnell Douglas shall not file any additional appeals with the ASBCA or any court, and shall not file any additional claims with the contracting officer, relating to C–17 contracts while DoD is seeking necessary settlement authority and appropriations. If DoD has not notified McDonnell Douglas by December 31, 1994, that necessary settlement authority and appropriations have been made available, McDonnell Douglas may thereafter file any additional claims or appeals it deems appropriate and proceed with further action on previously filed ASBCA appeals.

b. Upon execution of the contract modification described in paragraph 1 above, McDonnell Douglas agrees to dismiss with prejudice all currently pending C–17 claims and appeals, and to provide the Government with the release as stated below.

3. Release of Claims. Concurrent with, or contained in, the claim settlement modification, McDonnell Douglas shall provide the following release of claims:

McDonnell Douglas Corporation, on behalf of both itself and its operating divisions, including McDonnell Douglas Aerospace—Transport Aircraft and its corporate predecessors in interest, hereby releases and forever discharges the Government from all contractual claims, demands, requests for equitable adjustment, or any other causes of action, known or unknown, that McDonnell Douglas may have on or before [the date of execution of this agreement] arising out of C–17 program contracts. This release expressly includes all C–17 program claims, including claims under contracts for C–17 Aircrew Training Systems, certified or otherwise, that McDonnell Douglas Corporation or any of its operating divisions, may have on or before [the date of execution of this agreement] and all other C–17 related contractual claims, demands or causes of action, on its own behalf or on behalf of any subcontractor, arising out of any Government action or inaction occurring on or before [the date of execution of this agreement]. With respect to any contractual claim, demand, or cause of action of any kind initiated by a McDonnell Douglas Corporation subcontractor, vendor, supplier, or other party, McDonnell Douglas Corporation agrees to resolve such disputes without involving the Government, and releases and forever discharges the Government from any liability whatsoever arising out of any such claims, demands or causes of action. This release shall not preclude McDonnell Douglas Corporation from asserting defenses or offsetting amounts against Government claims, but the claims and other matters encompassed by this release shall not be used to assert or support any counterclaim against the Government.

ATTACHMENT B

AGREEMENT BETWEEN UNDER SECRETARY OF DEFENSE JOHN M. DEUTCH AND MR. JOHN F. MC DONNELL TO SETTLE C–17 ISSUES, JANUARY 3, 1994

C–17 Specifications revisions:

1. The System Specification (MDC S0001C) for the C–17 Airlift System shall be revised as follows:

Paragraph 3.2.1.1 Maximum payload mission, line 2: Replace "172,200 pounds" by "169,000 pounds"; line 3: Replace "160,000 pounds" by "157,000 pounds".

Paragraph 3.2.1.2 Heavy Logistics Mission, lines 2–3: Replace ""150,000 pounds" by "145,000 pounds"; lines 4–5: Replace "130,000 pounds" by "120,000 pounds".

Paragraph 3.2.1.3 Intertheater logistics mission, lines 2–3: Replace "120,000 pounds" by "114,000 pounds".

Paragraph 3.2.1.5 Ferry Range, line 2: Replace "4,600 NM" by "4,300 NM".

Paragraph 3.2.1.6.1 Maximum Gross Weight Takeoff, line 3: Replace "7,600-foot paved runway" by "8,200-foot paved runway".

Paragraph 3.2.1.6.2 Small austere airfield takeoff, lines 3–4: Replace "2,900-foot long" by "3,000-foot long"; line 4: Delete "Load Classification Number (LCN) 48"; lines 5–6: Delete "with the equivalent strength and shear capabilities".

Paragraph 3.2.1.6.3 Critical engine inoperative takeoff, line 2: Replace "2,941-foot" by "3,000-foot"; line 3: Delete "LCN 48"; lines 4–5: Delete "with equivalent strength and shear capabilities".

Paragraph 3.2.1.7.1 Normal landing, line 2: Replace "3,300-foot" by "3,950-foot"; lines 2–3: Delete "LCG IV (Load Classification Group)"; line 4: Replace "with a payload of 167,064 pounds and fuel" by "at the zero fuel weight of the mission defined in paragraph 3.2.1.1 plus fuel".

Paragraph 3.2.1.7.2 Maximum effort landing, line 2: Replace "2,650" by "3,200-foot"; line 2: Delete "LCN 48"; lines 3–4: Delete "with equivalent strength and shear capabilities"; line 5: Replace "with a payload of 124,076 pounds and fuel" by "at the zero fuel weight of the mission defined in paragraph 3.2.1.3 plus fuel"; line 7: Replace "3,000-foot" by "3,400-foot"; line 7: Delete "LCG IV"; line 8: Replace "with a payload of 134,599 pounds and fuel" by "at the zero fuel weight of the mission defined in the second sentence of paragraph 3.2.1.2 plus fuel".

Paragraph 3.2.1.7.3 Maximum payload landing, line 2: Replace "2,700-foot" by "3,000-foot"; line 2: Delete "LCG IV"; lines 3–4: Replace "with a payload of 167,064 pounds and fuel" by "at the zero fuel weight of the mission defined in paragraph 3.2.1.1 plus fuel".

Paragraph 3.2.1.8 Ground flotation, line 1: Replace "with a payload of 124,076 pounds" by "at the zero fuel weight of the mission defined in the second sentence of paragraph 3.2.1.2"; line 3: Replace "48" by "50"; line 5: Replace "runways" by "runways with equivalent strength and shear capabilities as an LCN 50 paved runway".

Paragraph 3.2.1.9.1 Turning, line 2: Delete "LCN 48".

Paragraph 3.2.1.9.1 Backing up, line 2: Delete "LCG IV"; line 3: Replace "with a payload of 167,064 pounds and fuel" by "at the zero fuel weight of the mission defined in paragraph 3.2.1.1 and fuel".

Paragraph 3.2.1.10.1 Cruise speed and altitude, line 3: Replace "0.77 Mach" by "0.74 Mach"; line 4: Replace "28,000 feet" by "27,000 feet".

Paragraph 3.2.1.10.2a. Airdrop speed, line 1–2: Replace "1.2 V_5, (not to exceed 130 KIAS)" by "130 KIAS (1.2 V_5, or greater margin)".

Paragraph 4.1.1.2, Initial Squadron Operations (ISO)., line 7: Delete "approximately one month".

Table 10.2.1 C–17A PEACETIME DESIGN MISSION PROFILES, missions 7, 8: Replace "163.6 (1000's of LBS)" by "157.0 (1000's of LBS)"; mission 11: Replace "6500 NM" by "6000 NM".

Paragraph 50.1, Mission Performance, line 3: Replace "6.5 pounds per U.S. gallon" by "6.7 pounds per U.S. gallon"; line 5: Replace "fuel" by "fuel at brake release for takeoff. Ramp weight shall be defined as takeoff gross weight plus fuel weight equal to fifteen minutes of engine operation at idle power for sea level static standard day conditions consistent with paragraph 50.1.1a Ground operations.".

Paragraph 50.1.1b.(2) Cruise, line 1: Add "Cruise using optimum step climb to start of descent"; lines 1–2: Replace "Cruise to overhead destination at long range cruise speed" by Cruise at optimum cruise speed"; line 2, Replace "0.77 Mach" by 0.74 Mach"; lines 3–4: Delete "at altitude for best cruise performance"; line 3: replace "28,000 feet" by "27,000 feet"; lines 3–4: Delete "nor greater than cruise ceiling".

Paragraph 50.1.1 c. *Descent and landing*: Replace "No time, fuel or distance credit" by "Time, fuel and distance credit shall apply".

Paragraph 60.6.4, *Conduct of the ORE.*, line 3: Delete "approximately one month".

2. The Prime Item Development Specification (MDC S0002C(1)) for the C–17 Air Vehicle shall be revised as follows:

Paragraph 3.2.1 *Performance*, line 6: Replace "mid-range center of gravity" by "payload/range optimum center of gravity".

Paragraph 3.2.1.11.1b. Mil–A–8860—Exceptions: Add "12. The maximum takeoff weight is the weight of the airplane with the maximum internal and external loads necessary to provide mission capabilities specified in the C–17 System Specification; after allowance is made for fuel burned during engine warmup and pre-flight taxi. This weight applies to:

(a) Take-off loads
(b) In-flight refueling conditions
(c) Flight loads
(d) Flutter and divergence prevention
(e) Serial delivery loads
(Ref. 6.2.1.2)

13. The landplane weight is defined as 491,900 pounds. (Ref. 6.2.1.5.2)".

Paragraph 3.2.1.11.1b. Mil–A–8860—additions: Add "4. The maximum ramp weight is the weight of the airplane with the maximum internal and external loads necessary to provide the mission capabilities specified in the C–17 System Specification; with no reduction for fuel burned during engine warmup and pre-flight taxi. This weight applies to:

(a) Pre-flight taxi and ground handling loads
(b) Wheel jacking, if such jacking is required for changing wheels and tires
(c) Vibration
(Ref. 6.2.1.2)".

Paragraph 3.2.1.11.1d.6. Mil–A–8862—Exceptions: Replace "design weight" by "ramp weight".

Paragraph 3.2.1.11.1: Add "q. Mil–W–25140B—Exceptions 1. An entry for ramp weight limitations shall be entered in Chart E. (Ref. 3.7.9.15.5)

2. The ramp weight shall be defined as Takeoff Gross Weight plus warmup and preflight taxi fuel. It will vary with each mission in the same manner as Takeoff Gross Weight. (Ref. 6.2.3)".

Paragraph 3.3.1.2.12 *Design for contamination*, Demonstration subparagraph: Delete.

Paragraph 3.7.1.2.1.3b. *Flotation*, line 2: Replace "LCN 48" by "LCN 50".

Paragraph 3.7.1.2.1.3c. *Flotation*, line 4: Replace "50 passes" by "40 passes".

Paragraph 3.7.1.6.3.2 *Sump space*, lines 1–2: Replace by "The sump space for each fuel tank shall be identified".

Paragraph 3.7.1.7.1.6 *Leakage rate*, lines 2–3: Replace "0.07 $V^{0.667}$ plus 0.5 pounds per minute" by "110 pounds per minute".

Paragraph 3.7.1.7.2.1.9 *Surface temperatures*, lines 6–16: Replace by"

. . . Exposed flight crew and loadmaster station surfaces (panels, knobs, switches, and other hand-actuated devices) which can normally be handled/contacted/actuated by air crew members while not wearing protective clothing shall not exceed the limits specified below for flight crew controls. Exposed flight crew and loadmaster station equipment surfaces which could be contacted accidentally by the bare skin of the air crew shall not exceed the limits specified below for inadvertent contact surfaces, or shall be shielded/guarded to prevent inadvertent contact by air crew members. The air vehicle, except the exposed flight crew and loadmaster stations, shall conform to the biothermal requirements of MIL–STD–1472 paragraph 5.13.4.6. . . . shall be used as design guides.

	Metal	Glass	Plastic
Flight crew controls	49°C (120°F)	59°C (138°F)	69°C (156°F)
Inadvertent contact	60°C (140°F)	68°C (154°F)	85°C (185°F)".

Paragraph 3.7.2.1.1.10 Engine Fuel, line 2: Replace "JP4" by "JP8".

Paragraph 6.1.1c., d., f., g., h. Weight terminology (various): Replace "No reductions" by "reductions"; Replace "taxi, warmup, or climb-out" by "taxi and warmup".

Paragraph 6.1.1g. Change title from "Maximum design weight" to "maximum take-off weight".

Paragraph 6.1.1e. *Landplane landing weight*, Replace by "The landplane landing weight is specified in 3.2.11.1.b, item 13.".

Paragraph 6.1.1o. Add "o. *Maximum ramp weight*. The aircraft maximum gross weight for the performance defined under 3.2.1. No reductions are permitted for fuel used during taxi, warmup, or climb-out.".

Section 20.2 *Pratt & Whitney Aircraft*, Add: "AF Designated F-117-PW-100)".

ATTACHMENT C

AGREEMENT BETWEEN UNDER SECRETARY OF DEFENSE JOHN M. DEUTCH AND MR. JOHN F. MCDONNELL TO SETTLE C–17 ISSUES, JANUARY 3, 1994

Computer Aided Design/Computer Aided Manufacturing (CAD/CAM) Management Information System (MIS), Advanced Quality System (AQS) Program Improvements and product improvement cost reduction projects

1. CAD/CAM, MIS and AQS. Within sixty days of the execution of this agreement, McDonnell Douglas shall provide the C–17 Program Director with proposals for the program improvement systems described below. The objectives of these programs are to, over time, modernize business practices so as to improve the efficiency of the program, in particular through a transition from paper to electronic means of communication, design and manufacturing, and to improve the management of cost, safety, and reliability through an improved quality system. The Contracting Officer and McDonnell Douglas will agree to a specific description of each system, and the nature and the timing of its implementation. The parties will also agree on the estimated cost of the acquisition and implementation of each of these program improvements. In order to provide the maximum benefits to the C–17 program from these program improvements, McDonnell Douglas will make these improvements as expeditiously as possible, but in no event later than one year form the date of this agreement. However, McDonnell Douglas shall not be required to implement these program improvements until the Government notifies McDonnell Douglas that authorizing legislation and appropriations for these program improvements have been received. The parties estimate that the total costs for these systems will be $40 million for CAD/CAM, $30 million for MIS, and $5 million for AQS. The parties will share the cost of these program improvements equally, within these estimates, with the cost to the Government estimated at $20 million for CAD/CAM, $15 million for MIS, and $2.5 million for AQS. Costs in excess of these estimated amounts will be allowable under the terms of the relevant C–17 contracts if the costs are allowable under the Federal Acquisition Regulation.

a. C–17 CAD/CAM System. McDonnell Douglas shall implement at CAD (three dimensional) network. This CAD network shall be the single engineering and manufacturing CAM data base to which any new or updated drawings would be added. Beginning on the date to be specified by the C–17 Program Director, drawings requiring update/changes shall be accomplished in a CAD format and added to this data base. Beginning not later than production lot 9 assembly start, McDonnell Douglas Corporation shall begin incorporating all C–17 drawings into this CAD system. The system shall be compliant with the Computer-aided Acquisition and Logistics System at this time. In addition, the CAD/CAM system shall be networked to McDonnell Douglas elements responsible for production planning, tooling, technical orders, and manufacturing engineering to ensure all functions are using the same engineering data base.

b. MIS. McDonnell Douglas shall implement a MIS system associated with the development, production, and sustainment of the C–17 weapon system which allows McDonnell Douglas and the Government to exercise oversight of the program, track and assess program technical, schedule, and funds status, and identify problems requiring action. Access to these information products shall be provided by electronic means as well as on magnetic, paper, or other media, as required to permit the timely and complete access to the information. However, the MIS shall use electronic media for information generation, access, transmission, storage, and integration. As a minimum, the level of detail in the MIS information products shall include electronic mail capability, and access to contractor technical, funds and schedule performance, Contract Data Requirements List status, Engineering Change Proposal Status, and LSA data. The MIS shall be installed at the McDonnell Douglas Corporation, with access available to the defense Plant Representative Office, System Program Office, Program Executive Officer, Air Force Material Command and Air Logistic Center facilities.

c. AQS. McDonnell Douglas shall implement an AQS in accordance with the Manufacturing Process Improvement Plan. This system shall be compliant with ANSI/ASQC Q–90 series standards. The system should be upgraded using ANSI/ASQC Q91–1987 and Q94–1987, as guides. The system will be directed at designing and building quality in by use of each tools as process control and continuous process variability reduction during the manufacturing process, rather than inspecting it in at the end of the production line. An effective root cause corrective act and disposition system will be implemented. The system shall reflect a prevention-based, multifunctional approach to quality. All major/critical subcontracts must comply with these requirements.

2. Product Improvement Cost Reduction Projects. The goal of each production improvement cost reduction project shall be to improve the quality and lower the production cost of C–17 aircraft.

a. Schedule. No later than thirty days after execution of this agreements McDonnell Douglas shall propose projects with an aggregate capital investment of not less than $35 million. No later than one year after execution of this agreement, McDonnell Douglas shall propose additional projects with an aggregate capital investment of not less than $65 million. The parties shall agree upon the specific projects to be undertaken and a precise description for each. At least $35 million of projects shall be completed by December 31, 1995, and the remaining projects shall be completed by December 31, 1996. However, McDonnell Douglas shall not be required to implement product improvement cost reduction projects until the Government notifies McDonnell Douglas that authorizing legislation and appropriations for this agreement have been received. If legislation is not enacted by September 30, 1994, the parties will negotiate alternate dates for implementation of these projects.

b. Project Costs and Benefits. McDonnell Douglas shall bear the total cost of these projects. The costs incurred for these projects shall be separately identified and shall not be allowable, directly or indirectly, on any C–17 or other Government contract. In addition, McDonnell Douglas shall not benefit on C–17 production contracts from cost savings attributable to these projects. Unless the parties agree on a different procedure, the parties shall, prior to McDonnell Douglas implementation of these projects: (1) negotiate the estimated net cost savings for each project; (2) reduce the target cost of each existing C–17 production contract by the amount of estimated cost savings attributable to these projects that is applicable to the aircraft being produced under the contract; and, (3) reduce the target profit, target price, and ceiling price on each existing C–17 production contract by the same percentage as the applicable reduction to target cost. The price of future C–17 production contracts shall be negotiated based on the estimated cost savings for these projects, and McDonnell Douglas shall not receive any profit consideration in future C–17 contracts for having implemented these projects.

ATTACHMENT D

AGREEMENT BETWEEN UNDER SECRETARY OF DEFENSE JOHN M. DEUTCH AND MR. JOHN F. MCDONNELL TO SETTLE C–17 ISSUES, JANUARY 3, 1994

Other settlement issues:

1. McDonnell Douglas agrees to take the following actions at no change in contract target cost or ceiling price.

a. Ditching Locks. McDonnell Douglas shall make any design and production modifications necessary so that the aft cargo door latch and lock system (ditching locks) are controllable in flight from the load master's control panels and from the flight deck.

b. Test Requirements Document. McDonnell Douglas shall provide Test Requirements Documents, except for depot support equipment built-in-test, in accordance with Contract Data Requirements List (CDRL) item 3059.

c. Fault Isolation Manuals. McDonnell Douglas shall provide Fault Isolation Manuals (Technical Orders) prepared at the level of detail specified by the Government (pursuant to contract 2108 CDRL item A0005 and paragraph 3-6 of the Specification Interpretation Document).

d. Composite/Structures Repair. McDonnell Douglas shall provide composite/structure repair engineering data and identification of resultant depot level support equipment.

e. Retrofit of Flaps and Slats. McDonnell Douglas shall complete the required effort to redesign the flaps and slats, incorporate the redesigned flaps and slats into future production aircraft, and retrofit existing aircraft.

f. Mission Computer Reserve Capacity. McDonnell Douglas shall implement corrective action to insure compliance with contract specification requirements for mission computer throughput.

g. Built-In-Test. McDonnell Douglas shall implement corrective action to ensure compliance with contract specification requirements relating to Built-In-Test false alarm rates.

h. Reliability, Maintainability, and Availability (RM&A). McDonnell Douglas shall implement a high visibility, aggressively managed reliability growth program and a RM&A Performance Review Board.

i. Manufacturing Process Improvement. McDonnell Douglas shall develop and implement a Manufacturing Process Improvement Plan.

j. Integrated Program Master Plan. McDonnell Douglas shall develop and implement an Integrated Program Master Plan.

k. Management Plan for Software Development and Release. McDonnell Douglas shall develop and implement a Management Plan for Software Development and Release.

l. Government Property System. McDonnell Douglas shall take the necessary corrective actions and submit required documentation to qualify for recertification of its government property system within 12 months of the date of this agreement.

m. Improvements to Range/Payload Performance. McDonnell Douglas shall implement the following initiatives:

(1) Use the Pratt & Whitney 94 Commercial Engine;

(2) Implement low risk weight reduction initiatives to reduce empty weight by 1,500 lbs;

(3) Reduce total aircraft drag by one percent;

(4) Increase maximum takeoff gross weight 5,000 lbs to 585,000 lbs.

In addition, McDonnell Douglas shall continue an active weight control program and perform trade studies on the following alternatives to determine, by cost-benefit analysis, the desirability of incorporation into the C–17 design:

(5) Increased fuel carrying capacity;

(6) Removal of core thrust reverser;

(7) Use of composite nacelle.

2. The Government and McDonnell Douglas will jointly take the following actions at no change in contract target cost or ceiling price.

a. Integrated Product Development. The parties will jointly implement Integrated Product Development, consistent with the Defense Science Board C–17 Task Force final report.

b. Incremental Configuration Audits. The parties will continue the incremental Functional Configuration Audit (FCA)/Physical Configuration Audit (PCA) process.

c. Management Plan for Affordability. The parties will jointly develop and implement a Management Plan for Affordability.

d. Reliability, Maintainability, and Availability (RM&A) Testing. The parties will conduct a multibase RM&A evaluation rather than using just Charleston AFB. The C–17 Program Director shall specify the date on which the Operational Readiness Evaluation (ORE) shall begin. The ORE may begin later than 30 days after Initial Operational Capability (IOC). Government warranty rights under the C–17 contracts that are limited to defects identified no later than 180 days after IOC shall be extended to 90 days after completion of the ORE, regardless of the date of the IOC. The C–17 Program Director shall determine what revisions to RM&A testing in the ORE are necessary to make the testing more operationally representative.

e. Subcontractor Engineering Data. McDonnell Douglas shall provide and mark Subcontractor Engineering Data as required by the C–17 contracts. The Government may challenge "limited rights" markings on the data as provided in the contracts. The parties shall establish a working group to resolve disagreements on this issue, and shall refer any unresolved differences to the appropriate higher level for decision.

3. Clarification of Existing Contract Requirements. McDonnell Douglas is not currently required to perform the work identified in this paragraph. If the Government has a requirement in this area, it will be the subject of a future contract or contract modification. It is noted that Technical Order Maintenance has already been the subject of a separate contract modification.

a. Refurbish aircraft T–1.

b. Provide Initial Squadron Operations (ISO) in excess of 12 months.

c. Provide airdrop testing instrumentation on aircraft P–3, P–4, or P–5.

d. Implement 400 pound troop seat.

e. Provide "Crash/Fire Rescue" as described in the McDonnell Douglas proposal submitted on July 2, 1993.

4. The parties shall take the preliminary steps to implement these other settlement issues, including submission of proposals and negotiation of any implementation details; however, nothing in this agreement shall be deemed to require the parties to implement these other settlement issues until the Government has notified McDonnell Douglas that authorizing legislation and appropriations for these other settlement issues have been received.

ATTACHMENT E

AGREEMENT BETWEEN UNDER SECRETARY OF DEFENSE JOHN M. DEUTCH AND MR. JOHN F. MCDONNELL TO SETTLE C–17 ISSUES, JANUARY 3, 1994

General provisions:

1. References to "costs" shall be deemed to mean "allowable costs" in accordance with Part 31 of the Federal Acquisition Regulation. Where a subsequent contract or contract modification is required by this agreement the applicable revision of the Federal Acquisition Regulation shall be the revision in effect on the date that the implementing contract document is executed.

2. It is the intention of the parties to this agreement that, although this agreement refers to contracts between the Government and the McDonnell Douglas Corporation, and other contractual documents between those parties are contemplated by this agreement, this agreement is not a contract for the procurement of property or services and is not subject to the Contract Disputes Act of 1978, as amended.

3. The Government expressly reserves any and all causes of action for fraud, misrepresentation, false statements, and false claims arising from the C–17 program.

Mr. GRASSLEY. In a nutshell, this is what the settlement agreement would accomplish.

For its part, the Government is willing to drop all its claims against McDonnell Douglas. It is willing to accept the aircraft's range/payload shortfall and schedule delays; and pay McDonnell Douglas $348 million in cash, including $234.5 million for the wing breakout claim.

In exchange, McDonnell Douglas would drop all its claims against the Government and supposedly absorb $454 million in out-of-pocket expenses.

Mr. President, the Deutch plan may not rest on firm ground.

I firmly believe that it was built on sand.

The Deutch plan presupposes that both sides are relinquishing valid claims and avoiding a long, expensive battle in court.

The General Accounting Office has looked at this whole scheme of things. They have evaluated the Deutch plan and concluded that the C–17 settlement agreement is a lousy deal for taxpayers.

The GAO's analysis of the settlement agreement is outlined in a recent report entitled "Military Airlift: C–17 Settlement Is Not a Good Deal."

The report is dated April, 1994.

This is what the GAO says about the validity of the claims that form the foundation of Mr. Deutch's C–17 get-well plan.

I quote from page 2:

> According to DOD officials, the claims were not subject to full legal or price analysis. Without any legitimate basis for establishing the realistic value of the claims of both parties, the true cost of the settlement is not known.

That is strong language for the GAO.

Mr. President, the GAO says there is no legitimate basis for the claims, $348 million of them included in the bill worked out by Mr. Deutch and the company.

I fear and suspect that the settlement agreement proposed by Mr. Deutch is really phase II of the 1990 backdoor bailout operation.

The settlement agreement is nothing more than another bailout to help McDonnell Douglas recover the $1.5-billion loss flowing from the cost overrun on the fixed-price R&D contract.

McDonnell Douglas cannot live up to the terms of the contract and now wants extraordinary relief and it wants, in the words of the defense industry, more nourishment from Congress.

McDonnell Douglas does not like the idea of losing $1.5 billion.

Company officials want Uncle Sam to shovel more money their way.

Mr. President, these defense companies have an insatiable appetite for money.

If we keep throwing money at McDonnell Douglas—and there has been plenty of that already, there will be no fleet of new C–17's. The C–17 will self-destruct under the sheer weight of mounting costs and mismanagement.

McDonnell Douglas signed a fixed-price contract on the C–17.

You cannot convince me that a company this famous, this sophisticated, could not have known what it was getting into by signing this fixed-price contract. The company must have known what it was getting into.

We need to hold McDonnell Douglas' feet to the fire and bring some discipline to the program. We need to make them live up to the terms of the contract.

McDonnell Douglas does not like being locked into the C–17 fixed-price contract.

Mr. Deutch wants to help them escape.

It is as simple as that.

Over the past 5 years, the Air Force and McDonnell Douglas have been staring down the throat of an ugly $1.5 billion cost overrun on the fixed-price C–17 R&D contract.

No company wants to be in that position. If they can do anything to get out of it they are going to do anything to get out of it.

To make matters much worse, the $1.5 billion C–17 cost overrun came on top of major financial losses on the Navy's A–12 Stealth Bomber Program.

These two financial disasters together caused senior DOD officials to worry that McDonnell Douglas might go down the tubes.

DOD officials like to keep this myth alive.

They concluded that extraordinary relief was in order. They took it on themselves to save the company. They decided on their own to give McDonnell Douglas a massive transfusion of cash.

They devised various devious schemes to cover up mounting delays and the burgeoning cost overrun on C–17 contracts in order to maintain an uninterrupted flow of money to the company.

Well, the DOD inspector general blew the cover on that backdoor bailout operation last year.

Remember in the first instance I quoted what the General Accounting Office said was wrong with this Deutch plan? Now I want to tell you that the DOD's own inspector general blew the cover on this other backdoor bailout. That backdoor bailout operation cost the taxpayers at least $350 million in illegal or improper progress payments.

Well, all the concerns about McDonnell Douglas' financial condition were unwarranted. Today's reports from Wall Street clearly indicate the company is healthy and well: "The company is on the road to recovery."

McDonnell Douglas has so much cash in its coffers that it is looking for new acquisitions and investments.

I do not think McDonnell Douglas has to have the $348 million cash payment to survive. This is not a life-or-death issue for the company.

But Mr. President, my concerns today are not over the company's financial well-being.

I am more concerned about how the taxpayer's money is being thrown around.

A $348 million direct cash payment to McDonnell Douglas for C–17 bungling is not my idea of how our tax dollars should be put to work.

Mr. President, I have three major beefs with the proposed C–17 settlement agreement:

First, there is the cost mischarging scheme.

This issue is identified in the settlement agreement as "Charging Sustaining Engineering Costs." It was a crooked retroactive accounting trick to channel illegal progress payments to McDonnell Douglas. I don't like the way this issue is handled by the Deutch plan.

Second the agreement downgrades critical aircraft range/payload specifications or specs—for the fourth time. The plane doesn't meet the specs. Under the Deutch plan, the specs will meet the airplane. It's the old rubber baseline. That's a lousy deal for the taxpayer. We pay more and get less.

Third, the agreement would provide McDonnell Douglas with a $234.5 million cash payment for the so-called wing breakout claim.

The GAO says there is no legitimate basis for this claim.

The C–17 contracting officer said there was no basis for this claim.

And I have documents that clearly suggest that this claim may be invalid.

At the appropriate point in the debate, I will place those documents in the RECORD.

I am going to speak on each one of these problems in the future but I am going to allow people who disagree with my amendment to speak, except for one other statement I want to make at this point.

Mr. President, the House of Representatives rejected the Deutch settlement agreement because it doesn't smell right. Well, it doesn't smell right to me, either. It has a bad odor about it. In fact, I think it stinks. And I hope my colleagues think so as well. I reserve the remainder of my time. Could I ask how much time I just used?

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator used 15 minutes. The Senator has 75 minutes and 6 seconds remaining.

Mr. GRASSLEY. Thank you.

I hope people in opposition will speak because I want to say some more but I do not want to say it all at once.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I urge my colleagues to oppose the Grassley amendment to the C–17 settlement. When we talked to senior commanders during our hearings this year, one message came through clearly. We need capable, modern airlift. With so many of our forces returning home from overseas, we need airlift for rapid crisis response, more now than in the recent past. The C–17 will provide that rapid response, along with the capabilities needed for military operations.

Last year we directed the Defense Department to review and restructure the C–17 program. Through Dr. Deutch's determined personal efforts, the Defense Department did restructure the C–17 program and the settlement is an integral part of the restructured program. The settlement is a benefit to the taxpayers, not a bailout. The department did what we told them to do in last year's authorization act. They worked hard to give the C–17 program the best chance to produce quality results.

The settlement protects the taxpayers from extended expensive claims cases. We should give the program every opportunity to produce these aircraft and then make a decision regarding the future of the C–17 after we have had some operational experience with aircraft.

Mr. President, the McDonnell Douglas Corp., has already lost—already lost—$1.2 billion on the program, whatever the settlement terms. This is no bailout. The settlement is an opportunity for both parties to set aside many legal claims and apply resources to an improved program.

I oppose the Grassley amendment and urge my colleagues to oppose it, also.

Mr. President, I would like to quote an excerpt from a letter written to the Honorable EDWARD M. KENNEDY, chairman of the Subcommittee on Regional Defense and Contingency Forces, Committee on Armed Services, U.S. Senate, from the deputy inspector general:

> However, I believe that it is essential that the settlement agreement be approved as part of any decision to continue pushing C–17 aircraft and to continue the course of action outlined by Deputy Secretary Deutch to the Congress on the future military aircraft.

Another excerpt:

> The settlement resolves all major outstanding issues and prevents a lengthy and expensive court battle. These legal proceedings could be costly, even if the Government were to prevail on all the issues, which is, of course, highly unlikely.

This is signed by Derek Vander Schaaf, deputy inspector general of the Department of Defense.

Mr. President, I just do not see how we can afford to try to upset this settlement. It has been worked on for months and months to get this thing straight. The Secretary of Defense favors the settlements. The Deputy Secretary of Defense favors the settlement. The Secretary of the Air Force favors the settlement. The Chief of Staff of the Air Force favors the settlement. They are our officials. They are part of the administration that is running this Government. If we do not take their word, whose word are we going to take?

Do we want to go off on a tangent, do not take this settlement, go back in court and be in court for years maybe, and cause expense to the Government? As the Secretary says, even if you win, you lose; it will cost the Government even more. It just does not make sense.

I urge my colleagues to vote against this amendment.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, how much time is there on this amendment?

The PRESIDING OFFICER. The Senator has 85 minutes remaining.

Mr. KENNEDY. Mr. President, I yield such time as I might use.

Mr. President, I oppose the Grassley amendment. Our Subcommittee on Regional Defense and Contingency Forces of the Armed Services Committee has jurisdiction over airlift, and we have watched the C-17 program with concern for several years.

After long deliberation and extensive review, we feel that the proposed settlement between the Defense Department and McDonnell Douglas makes sense for the Nation's defense needs. I support the settlement, and I urge my colleagues to reject this amendment.

The settlement is part of a long overdue comprehensive effort that sensibly and thoroughly addresses serious issues in our defense capability—to provide the airlift forces we need in the post-cold-war era.

The C-17 should be part of that answer, but as we all know, it has been a deeply troubled program.

The development of the aircraft has cost much more than anticipated in the engineering and development contract.

The contractor, McDonnell Douglas, has had huge losses.

The per unit cost of the aircraft has mushroomed from the initial estimates.

There have been performance and design problems requiring expensive solutions. Nobody, including the contractor, denies that this program has been plagued with problems.

The question that has faced us for several years is what to do about our airlift needs in light of the C-17's problems? We began a serious process 2 years ago to answer that question.

The fiscal year 1993 Defense Authorization Act directed the Defense Department to do two things. First, it directed the Department to contract with the Institute For Defense Analyses to conduct a comprehensive cost and effectiveness analysis of the C-17. Second, it called for an independent program review to determine whether and how the program should go forward.

Last year, at the beginning of the Clinton administration, the Under Secretary of Defense for Acquisition, John Deutch, took over the supervision of the program. He took the congressional directive a step further, and broadened the scope of the cost and effectiveness analysis. He compared the C-17 to alternative airlifters for cost effectiveness.

He also convened an independent task force of the Defense Science Board to review the C-17 program and make recommendations about its future.

Last year, both of these investigations submitted their findings. In both cases, they pointed to the same conclusion—if the C-17 can be made to work, it will prove to be the most cost-effective answer to our strategic airlift needs.

The most important of these two investigations was carried out by the Defense Science Board task force. This group was headed by Robert Fuhrman, the retired president of the Lockheed Corp. and Lt. Gen. James Fain, commander of the Aeronautical Systems Center. They brought together leading figures from industry and the military. The group was charged with assessing the C-17, deciding whether the contractor could successfully complete development of the program, and identify what changes should be made to enable it to succeed. The task force was asked to figure out whether the program could be fixed, and if so, how to fix it.

The conclusion of the Defense Science Board task force was clear and unequivocal:

> It is the unanimous conclusion of each member of the DSB C-17 task force that a comprehensive settlement, implemented immediately, is essential for the realization of a successful C-17 program.
>
> We believe that the C-17, implementing the recommendations in this report, can be a highly successful program.

There it is, in black and white. The Defense Science Board said the program can work—but that to make it work, a comprehensive settlement must be reached and implemented immediately.

The rationale for the settlement is laid out in detail in the report. In essence, they found that the negative environment between the Government and the contractor had undermined the program and would prevent it from ever succeeding.

To make the program a success, all of the claims and contentious issues had to be resolved, so that the Government and the contractor could stop focusing on litigation and start working to build a successful aircraft.

Armed with this information, under Secretary Deutch went ahead and negotiated a comprehensive settlement with McDonnell Douglas. He did so with only one goal in mind—find a cost-effective way of fulfilling our military airlift requirements. The result is a solution which can achieve this goal, yet it is under attack by this amendment.

The settlement places McDonnell Douglas on a 2-year probation. The Air Force will procure 6 planes for each of those 2 years, for a total of 40 aircraft. During this period, the contractor must do four things—introduce major changes in the management and manufacturing process; demonstrate an ability to deliver aircraft on schedule and at the designated cost; successfully complete the flight test program; and satisfy all contract specifications.

If the contractor can meet these requirements, the Air Force will consider procuring additional aircraft. I want to underline that, Mr. President. If the contractor can meet these requirements, the Air Force will consider procuring additional aircraft. The decision in terms of future aircraft, therefore, is dependent upon the compliance with this particular agreement. They will be making that judgment in the future based upon our national security needs. Obviously, if this program does not go forward, that particular option is not available. The Department is in no way committed to buying more than 40 C-17's. I emphasize this to make clear that the settlement in no way reduces the pressure on the contractor to perform and produce a successful aircraft. Just the opposite—it holds the contractor's feet to the fire.

As part of this arrangement, the Government and the contractor have agreed to settle a wide range of claims and outstanding issues that have plagued the program and prevented a cooperative effort to build a good aircraft. This is the part of the settlement that the Grassley amendment opposes.

To settle these issues and make investments in the program, the contractor will pay a total of $454 million, and the Government will spend $348 million. These amounts will settle $1.6 billion in outstanding claims by McDonnell Douglas against the Government. They will fund additional flight testing. And they will provide for investment in the program to reduce production costs and improve productivity.

Finally, the settlement eases some of the specifications in the original development contract. The air mobility command has made clear that these alterations do not prevent the aircraft from meeting their military requirements. The C-17 specified in the new contract will meet our core airlift requirements.

That is the settlement, and there is no justification to block it. Implementing the settlement is necessary for successfully continuing with the C-17 Program.

I would point out, Mr. President, as was made very evident from the various scientific and professional groups that reviewed it, they understood that this is basically a package. There had to be compliance in terms of meeting various requirements on the production and in terms of the competency of the aircraft, and there was also going to have to be resolution of the outstanding financial disputes for the basic reason that the whole program was being addressed in terms of whether it was going to continue as a realistic program in terms of meeting our airlift capability and our national security interest.

Both of those elements go together, and you begin to unwind one, in this instance the agreement, there is no question in my mind as well as those who are involved in the program itself that you undermine the totality of the agreement and therefore remove a very important element in the airlift capability for our national security.

Some argue that we should authorize six aircraft but not approve the settlement. But that ignores the fundamental conclusion of the Defense Science Board—you cannot have a program without the settlement. It is that simple.

As the Board made clear, the claims and recriminations between the Government and the contractor are the single largest obstacle to a successful C–17 Program. If we do not proceed with the settlement, we should kill the program. You cannot have a plane without taking the settlement too.

Some may agree in principle that a settlement makes sense, but that this particular settlement is not good enough. The Defense Department should try again. But Robert Fuhrman, the task force chairman, on behalf of the entire task force, has written to endorse the settlement as a faithful implementation of the recommendations.

In addition, I have a letter written to me by Derek Vander Schaaf, the inspector general of the Department of Defense, in which he states:

> I believe that it is essential that the settlement agreement be approved as part of any decision to continue purchasing C–17 aircraft and to continue the course of action outlined by Deputy Secretary Deutch to the Congress on the future of military airlift.

He continues:

> Failure to approve the settlement agreement will leave the program with a management environment that is not working and the prospect of wasting millions of dollars in litigation.

The print is clear. If you want to proceed with the program, you must fund the settlement. If you do not authorize the settlement, you might as well not bother with the program.

If McDonnell Douglas improves its performance, the Defense Department will be able to buy a cost-effective military airlifter beyond 40 planes. If McDonnell Douglas does not achieve this goal, we will still have a force of 40 C–17's with their specialized military airlift capabilities. These planes will provide much-needed outsize cargo-carrying capacity, and meet other specialized military capabilities.

If we stop the program now, we will have to restart the C–5B production line, in order to obtain the outsize cargo capability we need. Restarting the line would cost somewhere between $600 and $900 million, and take upwards of 3 years to achieve. This lengthy delay would deprive us of the airlift capability we need now.

I also have letters from Gen. John Shalikashvili, chairman of the Joint Chiefs of Staff, Gen. Gordon Sullivan, Chief of Staff of the Army, and Gen. Joseph P. Hoar, commander in chief of Central Command. They all agree that we need this aircraft, and we need it now.

In addition to the judgment of these top military officers that the C–17 meets our military requirements, let me mention one other letter. It is signed by the Secretary of Defense, Bill Perry, and Deputy Secretary John Deutch.

They state categorically that to meet our military requirements and, in their words, to protect the Department's interests on business issues and contractual claims, proceeding with the C–17 and proceeding with the settlement are the right steps at the right time.

In the time since the letter of agreement was signed between the Government and the contractor, there have been visible improvements in the program. The 12th aircraft was delivered last month—within a month of the scheduled date. The 13th aircraft, scheduled for delivery in June, is expected on time.

The recent aircraft have required the fewest days from flight preparations to delivery and have required the fewest waivers for unfinished work.

The improved atmosphere has already paid off. Rejecting the settlement would plunge the program back into the kind of litigation and controversy that has dragged the program down.

Some may argue that the House of Representatives did not authorize the settlement during their consideration of the defense authorization bill. No negative inferences can be drawn from that fact. The Members of the House did not have the opportunity to vote on the settlement. The only issue in the House was the C–17 program itself, and some thought the program itself was in trouble. But that was not the case.

On the key vote, the House voted 330–100—an overwhelming bipartisan margin of more than 3 to 1—to increase the procurement level from 4 planes to 6. It is clear that if given the opportunity to endorse the settlement, House support for it would have been equally resounding.

On June 8, the Senate passed by voice vote S. 1587, the Acquisition Reform Act of 1994. The purpose of this legislation was to help make Government procurement more like acquisition in the private sector. "Make Government act more like business" is the slogan we have all heard over and over again.

This settlement is an example of top Government officials trying to do just that—act more like business executives in handling this program. They did not act like Government lawyers, pursuing lengthy and costly litigation, wasting time, leaving us deadlocked in our efforts to build the military airlift we need.

Instead, they investigated the program, took the advice of the Nation's top experts, and negotiated a settlement that in their judgment serves the Nation's best interests.

If you want to oppose this settlement, fine. But do so with the knowledge that you do not really mean it when you say you want to see the Government act more like business. Because this settlement is the best example of Government acting like business we have seen in many years.

The C–17 program has many problems with no easy solution. But you do not have to be an expert on military airlift to know how urgently we need additional cargo-carrying capacity. You only need to see the news reports of U.S. aircraft carrying aid, troops, and equipment to Somalia, and Bosnia, aiding the evacuation of civilians from Rwanda, to understand the importance of having adequate airlift. You only need to read the reports about North Korea. Our military forces need to be ready for any contingency, and the C–17 program and the settlement are part of that readiness.

The administration has come up with a sensible approach to meeting our airlift needs. The C–17 settlement is an indispensable part of that solution. It takes the program out of the hands of the Government lawyers and puts it back into the hands of the engineers and men and women on the assembly line who will build this airplane and make it work. That is where this issue belongs. That is where the C–17 belongs.

I urge the Senate to support the settlement and reject the Grassley amendment.

I yield 10 minutes to the Senator from Maine.

The **PRESIDING OFFICER**. The Senator from Maine is recognized.

Mr. **COHEN**. I thank the Senator for yielding.

Mr. President, first let me congratulate my colleague and friend from Massachusetts for this fine statement on this subject, and to commend him also for the hearings which he—Senator THURMOND suggests I take his place until he returns. It is an impossible task for me to take his place. But in any event, for the hearings that the Senator scheduled and held and for the testimony that was presented.

I think the Senator from Massachusetts really outlined the key reasons why we should be supporting this particular proposed settlement and opposing the Grassley amendment. I think the C-17 program is an important one, and answers a real need.

I think we have to ask ourselves a question. Do we need an aircraft to provide this kind of additional airlift? If the answer is no, that is fine. You vote for the Grassley amendment. This is a decision that was made some time ago. We needed substantial additional airlift for outsize cargo. What were the alternatives considered at that time? The C-5 was considered. They said no. That is not really going to fit our needs for the future. How about some wide-body alternative; commercial airlines? No. That will not work either. They are available. They may be less expensive. But they will not be as useful in a time of crisis.

So we decided to go forward with the C-17 program to have a rapidly deployable force if necessary in the future.

Mr. President, at the Armed Services Committee hearings this year, at one point it was made very clear by the commanders in chief. We need a capable airlift. We have an aging C-141 fleet that is making a valiant effort. But it is falling victim to its years.

I might say that, if the Senator from South Carolina were here, and if the C-141 were as sturdy and as durable as he is, we might allow that fleet to stay in existence for some time to come, and not to have to deal with the C-17. That is not the reality of what we face.

As the Senator from Massachusetts has pointed out, the C-17 has had its share of problems. We should also point out that the C-5 had its share of problems in getting off the ground. All of these programs have their problems in the initial stages.

I think there has been a good-faith effort on the part of the administration under the leadership of Secretary Deutch to try and resolve the problems. The GAO says the C-17 has fallen short of its original cost schedule in performance expectations. That is true; absolutely true. The settlement acknowledges the past failures. It lays out a plan to overcome them.

More importantly, the settlement is no more than what we insisted upon last year. In last year's DOD authorization we directed the administration to do precisely what they have done. We said provide us a report on the C-17 program containing a discussion of corrective actions to be taken, which they have done; a proposed resolution about standing contractor claims, which they have done; any legislation relating to those claims; and, finally, a discussion of corrective actions to be taken by the contractor concerning the program, all of which has been done.

We can stay here and debate ad infinitum into the night and tomorrow in terms of the exact numbers and the merits of the contractor's claim against the U.S. Government and the Government's claim against the contractor. That will get us nowhere, let me suggest. That will be the beginning and the end as far as the unraveling of this particular agreement.

So if we want to go back to mandating litigation, we can do that. We can pluck out the agreement, in which case for all practical purposes that is the end of this program. That was the deal that was struck. It was a business arrangement, a business decision. We forgo our claims against you, Mr. Contractor, and you will forgo your claims against us. That was the arrangement.

If you do not have any confidence in Secretary Deutch, then reject his agreement. I think he is an outstanding public servant. I think he has made a really heroic effort to resolve this issue, to put the past problems behind us and go forward with the minimum of 40 aircraft. If the contractor demonstrates that they can produce an aircraft that is serviceable, that meets the revised specifications requirements, then at that time they can go forward and perhaps we will buy more. But in the absence of that, we will terminate the program after 40.

Mr. President, I think this settlement agreement is an appropriate one. It is not a bailout of the contractor. The contractor has already lost $1.2 billion in the program even with a settlement in place. It is out $1.2 billion. This settlement is based on a reasoned analysis by the Defense Science Board task force. And simply put, Mr. President, I think it is an agreement that has been directed by the Congress for the benefit of the taxpayers. It avoids unproductive, costly litigation from both sides and instead applies funds to program improvements that benefit each side.

If the contractor can show on time cost control production, they will have a chance, as I have indicated, at further production. We are not going to know the answers until the fall of 1995, until we have a C-17 reliability data and contractor performance to examine.

But we should not waste the over $6 billion spent for the development and the production so far by walking away from this agreement that we directed that the DOD negotiate. That is the irony involved. They have done precisely what we have asked for, and now we this year come back and say take it away; it is not good enough; let us unravel the whole package.

Mr. President, I hope the Grassley amendment will be rejected and we will continue to support the C-17 program as negotiated in this agreement by the administration.

I yield the remainder of my time.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 63 minutes remaining.

Mr. KENNEDY. I yield 15 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Thank you Mr. President. I also thank the Senator from Massachusetts.

Mr. President, I rise to associate myself with the comments just made by the Senator from Maine. I rise in strong support of the C-17 airlifter and in opposition to the Grassley amendment. Stated simply, we cannot have it both ways. You cannot be for the C-17 program and not support the settlement because you need the settlement to have a productive C-17 program.

I support six more C-17's in the 1995 fiscal year. Early approval of funding for eight additional aircraft in the 1996 fiscal year, and approval of the comprehensive Defense Department—McDonnell Douglas settlement.

I have personally visited Edwards Air Force Base. I make no bones about the C-17. It is important to my State. But more important than that is the valid military mission for this plane. I have talked to McDonnell Douglas officials. I have received an overview of the flight test program from Air Force personnel. I have talked with military test pilots who have flown the aircraft, and I have had the loadmaster show me the impressive parts of loading the aircraft.

As a result of my visit and extensive briefing, I concluded that the C-17 is a priority program that must continue in order to ensure our Nation's national security well into the next century.

In today's post-cold-war world, it is vitally important to have the ability to deliver troops and supplies anywhere in the world—quickly, directly, and efficiently. By 1997, 80 percent of the U.S. Army will be stationed in the continental United States as we transition to a power projection military. Airlift and the C-17 in particular, will be crucial to ensure that U.S. Forces can respond to any crisis, whenever and wherever they may occur all over the globe.

The world today, though safer than during the height of the cold war, is still a dangerous place. There are currently over 30 armed conflicts raging throughout the world—from Yugoslavia to Africa, and from South America to the Republics of the former Soviet Union.

The C-17 is fully capable of meeting our future airlift needs. Whether delivering tanks to help counter an armed invasion; delivering troops to the front lines; or delivering emergency relief supplies to disaster victims here at home, the C-17 can deliver.

THE UNIQUE CAPABILITIES OF THE C-17

The unique capabilities of the C-17 are unmatched by any other aircraft in the world today.

The C-17 is capable of direct delivery. Unlike the C-5, C-141, or C-130 cargo aircraft, the C-17 can take off from an airfield in the United States with a full load of equipment or troops, and through aerial refueling, the C-17 can deliver its cargo to small airfields near the front lines—landing on unimproved runways as short as 3,000 feet.

Some will say, the C-5 can too. I am told that is not correct. The C-5 and the C-141 must land at larger airfields, and then transfer equipment to smaller aircraft or land transport vehicles. And the C-130 does not have the range to provide direct delivery nor the cargo size to deliver large amounts of equipment. Though similar in external size to the C-141, the C-17 can carry twice the cargo. Though smaller than the massive C-5, the C-17 has a more efficient cross section and is able to carry two trucks side by side.

And though the C-130 can also land on short runways, the C-17 carries four times as much cargo. The C-17 is the only airlift aircraft capable of meeting all of these core military capabilities that must be met by any airlift modernization program.

The C-17 is also a cost-effective investment, as fewer personnel are required to operate it than other cargo aircraft—only a pilot, a copilot, and one load master are needed. Because of the superior technology of the aircraft, including a heads-up display and full fly-by-wire controls, the C-17 is the most technologically advanced airlifter in the world today. As one Air Force test pilot—a woman, as a matter of fact—recently told me, flying the C-17 is a pilot's dream.

The time is right for the C-17, as America needs a new airlifter. The other cargo aircraft in our current fleet—the C-5A's, C-141's, C-130's—are 20 years old. These older aircraft are on their last leg. Production of the C-17 is essential to modernize our airlift capabilities to meet our future national security needs.

Let me talk for a moment about civilian and military support.

Our Nation's civilian and military leaders also strongly support the C-17 program, from the President on down to the regional commanders in chief:

> The C-17's capabilities are crucial to the Air Force's ability to deliver and sustain forces in support of theater commanders. The C-17 can carry outsize cargo to give early forces firepower; it can deliver its cargo into remote locations with short runways; and it has the ability to airlift heavy equipment, supplies and troops * * *. There will be certain core capabilities that can only be provided by the C-17.—May 23, 1994 letter to Speaker Foley.

Defense Secretary Perry and Deputy Secretary Deutch:

> Our war fighting CINC's must have the capability to project and sustain forces worldwide * * *. The C-17 is the only airlifter in production that meets these core military requirements.—June 21, 1994 joint letter to Senator Feinstein.

Chairman of the Joint Chiefs of Staff, General Shalikashvili:

> America must have a core airlifter to replace the aging C-141. The continuing myths of a service life extension program for the C-141 or the ability of a commercial derivative to meet the needs of a core airlifter are just that—myths. Neither aircraft can carry the equipment to forward areas that the Army needs to win on tomorrow's battlefield. There may be a future role for a commercial derivative to supplement a core airlifter, but a CONUS-based force that lacks a core airlifter is a hollow force. Today there is only one alternative that can meet the requirements of a core airlifter—the C-17.—May 17, 1994 letter to Senator Nunn.

Army Chief of Staff, General Sullivan:

> The C-17 will provide the Air Force the capability to deliver critical Army "out-sized loads" while allowing access to 9,000 more runways (an increase of 300%) worldwide than the C-141 and C-5. The C-17 can land on the same runways as the C-130 and deliver four times the cargo weight. Equally important, the C-17 will improve throughput capacity, or rapid off-load and turn-around on the ground, by increasing the "maximum on ground" or MOG capacity. The performance characteristics of the C-17 will permit 8 C-17's to fit where 3 C-5's fit. Had we had the C-17 during Desert Shield, we could have delivered the first airborne brigade in 54 hours with just 93 aircraft—an improvement of some 34% over the 82 hours it took to deliver that brigade with 158 C-141's and 2 C-5's.—May 17, 1994 letter to Senator Nunn.

As the President, Secretaries of Defense, and military leaders have stated, the C-17 program is vitally needed to ensure adequate airlift capability for the future and to help protect America's vital national interests.

SETTLEMENT

Just as important as the authorization of actual C-17 aircraft, is approval of the comprehensive Defense Department/McDonnell Douglas settlement. As both Secretary Perry and Deputy Secretary Deutch have said, for the Pentagon to proceed with its airlift strategy, approval of the settlement agreement is needed.

> The settlement removes the gridlock that paralyzed the C-17 program for years and protects the Department's interests on business issues and contractual claims. It gives the program a fresh start while holding the contractor strictly accountable for improving its performance.

The settlement is a comprehensive agreement that must be taken as a whole. It is a package—different elements should not be scrutinized separately. As the Defense Science Board states, it is "an overall consolidated settlement" that has pros and cons for both the Defense Department and McDonnell Douglas. This is in no way a bail-out for the contractor. Yes, the cost to the Government is $348 million. But, the cost to the contractor is even more, $454 million.

Let me quote from, what I believe, is a very credible source, the deputy inspector general of the Defense Department, whose office has been very critical of the C-17 program in the past. This is from a June 3 letter to the Armed Services Committee:

> I believe that it is essential that the settlement agreement be approved as part of any decision to continue purchasing C-17 aircraft and to continue the course of action outlined by Deputy Secretary Deutch to the Congress on the future of military airlift.
>
> * * *
>
> The settlement resolves all major outstanding issues and prevents a lengthy and expensive court battle. These legal proceeding could be costly even if the Government were to prevail on all issues, which is of course highly unlikely. * * *
>
> Failure to approve the settlement agreement will leave the program with a management environment that is not working and the prospect of wasting millions of dollars in litigation.

The settlement agreement is an integral part of the C-17 program and the Pentagon's plan to move forward with airlift modernization. To oppose the settlement agreement, would be to oppose the C-17 program and jeopardize the future of our military airlift.

ECONOMIC IMPACT

Let me talk about the economic impact of the C-17 program nationally and in California.

Nationally, more than 100,000 people are employed as a result of C-17 production. In my State of California, 35,000 jobs are dependent on the C-17 program. These are good, high-wage jobs. Not minimum wage jobs, but jobs that pay between $30,000 and $40,000 a year. People can raise a family and, yes, buy a home. They are mostly blue collar jobs—good paying jobs.

As you know, California has been hit hard by defense downsizing. More than 250,000 defense-related jobs have been lost in California in just the last 2 years. The State is still in the depths of a recession from which most of the country has already recovered.

The nearly 800 California companies that help produce the C-17 and the over $153 million in C-17 contracts that are directed at California, are crucial to my State's economy.

CONCLUSION

I realize that the C-17 has been the subject of controversy over the past year or two, and that many allegations have been raised concerning the program. The program is currently on probation and needs to continue on track until November 1995, when Secretary Deutch will review the program and make a determination on how to proceed. But to reach that point, the President's budget request must be approved in full.

Full authorization of the six aircraft in fiscal year 1995, long-lead for eight aircraft in fiscal year 1996 and approval of the settlement is crucial to ensure that the Pentagon can go forward with its airlift modernization strategy.

As I have pointed out, there is clearly a need for the C-17. Its unique capabilities are unmatched by any other cargo aircraft in the world today. Our Nation must invest in a new, state-of-the-art airlifter to assure our national security in the post-cold-war world.

America needs a cargo aircraft that can provide superior airlift capability well into the next century. America needs a cargo aircraft that can deliver troops and supplies anywhere in the world, quickly and directly. America needs the C–17.

I urge my colleagues to support the Grassley amendment and support the C–17 program.

I ask unanimous consent that several letters in support of the C–17 program and settlement agreement be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
Washington, DC, June 21, 1994.

Hon. DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: The Fiscal Year (FY) 1995 National Defense Authorization bill (S. 2182) reported by the Senate Armed Services Committee supports our commitment to airlift modernization by funding the C–17 and approving the C–17 settlement agreement. As the Senate continues consideration of S. 2182, we urge you to support the Committee position on the C–17 and the settlement agreement.

Our warfighting CINCs must have the capability to project and sustain forces worldwide. To do this they need a survivable airlifter that can deliver outsize cargo to remote locations with austere fields; and it must be able to airdrop heavy equipment, supplies, and troops. The C–17 is the only airlifter in production that meets these core military requirements.

We developed an integrated strategy to meet our airlift requirements after comprehensively reviewing the C–17 program and the airlift needs of our combatant commanders. The necessary first step is to continue the C–17 program on a probationary basis to obtain 40 C–17s.

If McDonnell Douglas proves it can deliver quality aircraft, on time, at an affordable price, we will have positioned ourselves to acquire additional C–17s. The second step is to assess the capabilities and costs of non-developmental alternative aircraft.

For us to proceed with our airlift strategy, we need approval of the settlement agreement. As the Deputy Inspector General of the Department of Defense, Mr. Derek J. Vander Schaaf, expressed to the Senate Armed Services Committee, it is essential that the settlement agreement be approved as part of any decision to continue purchasing the C–17 and to continue our strategy on future military airlift.

The settlement removes the gridlock that paralyzed the C–17 program for years and protects the Department's interests on business issues and contractual claims. It gives the program a fresh start while holding the contractor strictly accountable for improving its performance.

For these reasons we request that you and your colleagues support the Senate Armed Services Committee and our airlift strategy when finalizing the FY 1995 defense bill.

Sincerely,

JOHN M. DEUTCH,
Deputy Secretary of Defense.
WILLIAM J. PERRY,
Secretary of Defense.

INSPECTOR GENERAL,
DEPARTMENT OF DEFENSE,
Arlington, VA, June 3, 1994.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Regional Defense and Contingency Forces, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing at the request of Deputy Secretary of Defense John Deutch regarding the C–17 settlement agreement. I and seven members from our audit staff participated in a Defense Science Board review of the C–17 program that ultimately led to the settlement proposal that is now under consideration by the Senate Armed Services Committee.

Prior to participating in the program review, our office had issued a number of reports highly critical of the C–17 program. A central theme in those reports was the lack of a candid assessment of the status of the program and its continued cost-effectiveness in light of significant cost, schedule and performance problems. In an effort to correct those deficiencies, we made a series of recommendations in a May 1992 audit report prepared in response to a request by the Senate Armed Services Committee. We recommended that a comprehensive cost and operational effectiveness analysis of the C–17 program and a Defense Acquisition Board program review be conducted prior to award of additional production contracts.

Our recommendations were not accepted by DoD management at that time. However, the essence of the recommendations were embodied in the FY 1993 DoD Authorization Act. Efforts by the new Defense Management Team to comply fully with the Act, together with acknowledgement of the seriousness of the C–17 problems, became the basis for formation of the special Defense Science Board Task Force on the C–17 program.

While we found no basis to withdraw any of our previous criticism of the C–17 program during our work in support of the Defense Science Board Task Force, we were encouraged by the candid assessments of problems and the diligence with which corrective actions were sought and pursued. The course of action outlined by DoD management to complete the C–17 flight test program—an in-depth assessment of nondevelopmental aircraft and a comprehensive cost and operational effectiveness analysis—should provide a sound basis for rendering decisions on fulfilling future airlift requirements in the most prudent manner.

However, I believe that it is essential that the settlement agreement be approved as part of any decision to continue purchasing C–17 aircraft and to continue the course of action outlined by Deputy Secretary Deutch to the Congress on the future of military airlift. The C–17 program is not viable without substantial change and resolution of numerous program management and contracting issues. For example, issues over range, payload and other performance requirements need to be settled—pending claims and counterclaims will prove to be a significant drag on the program. It is also essential that issues over who will pay for the lengthened flight test program and RDT&E costs that have been charged to production contracts be resolved now.

The settlement resolves all major outstanding issues and prevents a lengthy and expensive court battle. These legal proceedings could be costly even if the Government were to prevail on all the issues, which is of course highly unlikely. It is hard enough to manage a program of the C–17's size, complexity and problems. It is next to impossible if the Government and the contractor are in court arguing over costs incurred under a fixed price contract that is at least $1.2 billion over ceiling but is still supposed to serve as the operative document under which the program is managed.

Failure to approve the settlement agreement will leave the program with a management environment that is not working and the prospect of wasting millions of dollars in litigation. I see the settlement agreement as a sensible business arrangement in which McDonnell Douglas incurs additional costs of $454 million, recognizes some of its responsibilities for the C–17 shortcomings, and agrees to modernize its engineering and management systems. The Government spends $348 million and ensures that we complete the test program that will ultimately prove the viability/nonviability of the C–17 and settle all outstanding claims while paying a relatively small percentage of the needed contractor management improvements.

Should the Congress approve the settlement agreement, we are prepared to ensure that the agreement is implemented as approved and provide regular independent reports to the Committee on its implementation.

If we may be of further assistance, please contact me or Mr. John R. Crane, Office of Congressional Liaison, at (703) 614–0491.

Sincerely,

DEREK J. VANDER SCHAAF,
Deputy Inspector General.

DEPUTY SECRETARY OF DEFENSE,
Washington, DC, June 6, 1994.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I want to take the opportunity to reaffirm our commitment to airlift modernization. To provide a coherent airlift acquisition strategy, we request that the Committee approve the President's Budget Request for airlift modernization and approve the settlement agreement.

The warfighting CINCs speak with one voice on their requirement for airlift. They must have the capability to project and sustain forces worldwide. To do this they need a survivable airlifter that can deliver outsize cargo to remote locations with austere fields; and airdrop heavy equipment, supplies, and troops when necessary. The C–17 is the only airlifter in production that meets these core military requirements.

As I testified before the Subcommittee on Regional Defense and Contingency Forces, after comprehensively reviewing the C–17 program and the airlift issue, we developed an integrated strategy to meet our airlift requirements. The first element is to continue the C–17 program on a probationary basis to obtain 40 aircraft.

If McDonnell Douglas proves during the probationary period that it can deliver quality aircraft, on time, at an affordable price, we will have positioned ourselves to acquire additional C–17s. The second element is to assess the capabilities and costs of non-developmental alternative aircraft.

The assessment of alternative aircraft is crucial to our airlift strategy. We have airlift needs that can be met with either a core military airlift aircraft or with commercial wide-body aircraft for those airlift missions that do not require unique military capabilities. The assessment will help us determine the capability of alternative aircraft and the cost.

As part of the assessment, the Air Force will develop a draft request for proposal (RFP) in August 1994 with industry consultation and will issue a final RFP in March 1995. The RFP will contain mission scenarios and will ask contractors to propose their solutions to the mission scenarios. The RFP will provide for full and open competition and will permit contractors to propose various solutions for evaluation, including new commercial aircraft, a restart of C–5 production, commercial wide-body aircraft, and use of remanufactured used aircraft. We will then use the information from the contractors' responses to the RFP as an input to our airlift force structure decision in November 1995. At the same time, the Department is committed to the approach outlined in the settlement agreement—continue the C–17 program but retain the flexibility to move quickly to an alternative should the C–17 program not meet our requirements at an affordable price.

For us to proceed with our airlift strategy, we need approval of the settlement agreement. The settlement removes the gridlock that paralyzed the C–17 program for years and protects the Department's interests on business issues and contractual claims. It gives the program a fresh start while holding the contractor strictly accountable for improving its performance.

The settlement agreement has been criticized by the GAO as lacking in specific, quantified cost, schedule, and performance criteria. I disagree. Such criteria do exist and can be described in three parts.

First, through our cost and operational effectiveness analysis we have defined our overall airlift requirements. These are currently being reviewed as part of the Mobility Requirements Study Bottom-Up Review Update. The results of this review will feed directly into the Congressionally-mandated comparative C–17/Non-/Developmental Airlift Aircraft cost and operational effectiveness analysis that will support the November 1995 Defense Acquisition Board.

We also have a definition of the criteria involving the cost, schedule and performance of the C–17 aircraft. These include specific unit target costs and schedule criteria that have been established on current contracts and will be established as future contracts are awarded; and schedule and performance criteria in the Acquisition Program Baseline and in statute in the National Defense Authorization Act for FY 1994.

Finally, regarding the contractor's ability to build quality aircraft on a modern assembly line, the settlement agreement provides clear direction for improvements in producibility and factory modernization.

For these reasons, we urge your support of the President's Budget Request for airlift modernization and approval of the settlement agreement.

Sincerely,

JOHN DEUTCH.

CHAIRMAN OF THE
JOINT CHIEFS OF STAFF,
Washington, DC, May 17, 1994.

Hon. SAM NUNN,
Chairman, Committee of Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As I look into the future, it is clear that America's combatant commanders will become increasingly dependent upon strategic mobility. This mobility will continue to be based on an integrated triad of air, sea and surface capabilities. Despite the fact that two of these transportation modes are in relatively good condition with bright prospects for the future, I am deeply concerned that recent congressional actions may seriously degrade our airlift capability and ultimately threaten the viability of the entire strategic mobility system.

America must have a core airlifter to replace the aging C–141. The continuing myths of a service life extension program for the C–141 or the ability of a commercial derivative to meet the needs of a core airlifter are just that—myths. Neither aircraft can carry the equipment to forward areas that the Army needs to win on tomorrow's battlefields. There may be a future role for a commercial derivative to supplement a core airlifter, but a CONUS-based force that lacks a core airlifter is a hollow force.

Today there is only one alternative that can meet the requirements of a core airlifter—the C–17. We have all been frustrated with the repeated setbacks in the program, but we must not let this frustration obscure the facts. We now have an agreement in hand that allows us to test the capabilities of the airplane to meet warfighting requirements of America's combatant commanders and the capability of the program to meet efficiency and quality standards America's taxpayers deserve.

I ask for your support of the President's Budget Request for six C–17s in FY95, and for the reliability, maintainability, and availability and operational testing programs. Without the former, the program will not have the opportunity to demonstrate its significant improvements and production efficiencies. Without the latter, the C–17 will not be challenged to demonstrate its capabilities in the most rigorous testing program ever devised for an airlifter. Without your support, the program will be guaranteed to fail. We must not let this happen on our watch.

With best wishes,

Sincerely,

JOHN M. SHALIKASHVILI,
Chairman of the Joint Chiefs of Staff.

U.S. ARMY,
THE CHIEF OF STAFF,
May 17, 1994.

Hon. SAM NUNN,
Chairman, Armed Services Committee, U.S. Senate, Washington DC.

DEAR MR. CHAIRMAN: By 1997, 80% of America's Army will be stationed in the continental United States as we complete our transformation to a power projection Army. Our capability to lift the Army's heavy equipment by air and sea must keep pace with our changing requirements. This Nation must have the strategic lift capabilities to project power rapidly to any potential trouble spot in the world. We must get our forces to the fight.

Early arriving lethal combat power is the key to our joint warfighting capability. The Congressionally mandated Mobility Requirements Study generated the need for delivery of "outsized cargo" prior to the arrival of the fastest sealift. For the Army, this means armor, rocket systems, helicopters, and attack missiles. These weapon systems won't fit on any commercial aircraft—nor will they fit on most military airlifters in service today. Future air-deployable Army combat units will rely increasingly on the availability of airlift to carry this type of cargo.

The C–17 will provide the Air Force the capability to deliver critical Army "outsized loads" while allowing access to 9,000 more runways (an increase of 300%) worldwide than the C–141 and C–5. The C–17 can land on the same runways as the C–130 and deliver four times the cargo weight. Equally important, the C–17 will improve throughput capacity, or rapid off-load and turn-around on the ground, by increasing the "maximum on the ground" or MOG capacity. The performance characteristics of the C–17 will permit 8 C–17's to fit where 3 C–5's fit. Had we had the C–17 during Desert Shield, we could have delivered the first airborne brigade in 54 hours with just 93 aircraft—an improvement of some 34% over the 82 hours it took to deliver that brigade with 158 C–141's and 2 C–5's.

Finally, I am concerned about our joint capabilities for forced entry operations. In the Gulf War, we enjoyed the luxury of time and deployment to a country with secure and modern air and seaports. This may not always be the case. While the aging C–141 fleet helps the Army fulfill this requirement today, we will need the C–17 to provide the strategic airlift for troops and equipment to provide our forced entry capability and simultaneous application of joint combat power across the depth of the battlefield in the 21st century.

Mr. Chairman, I fully appreciate the concern over the troubled history of the C–17 acquisition program. However, I urge you to stay the course outlined by the Secretary of Defense earlier this year. The C–17 is the only aircraft that can get the Army's outsized combat systems to the next war when required. I respectfully solicit your support to maintain the President's request for the FY 1995 funding for the C–17.

Respectfully,

GORDON R. SULLIVAN,
General, U.S. Army.

U.S. CENTRAL COMMAND,
OFFICE OF THE COMMANDER IN CHIEF,
MacDill Air Force Base, FL, June 3, 1994.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, Russell Senate Office Building, Washington, DC.

MR. CHAIRMAN: As you know I am concerned and have been critical of the current state of America's airlift forces. However, I am even more concerned about our future ability to project US forces by air.

As our forces are returning from overseas and increasingly based in the CONUS, I become the CINC faced with the most strenuous requirement for mobility in the world. In the CENTCOM theater, because of the long deployment distances, we are particularly sensitive to, and dependent on, our ability to ensure the timely deployment of the early arriving lethal firepower—key to limiting the escalation of a conflict. This means armor, helicopters, rocket systems, and air defense missiles, most of which do not fit on any commercial aircraft. Only the C–17 and C–5 can deliver this requirement.

In addition, during the Gulf War, we were able to deploy in a country with secure air and sea ports. In this scenario, I have said we could be well served by the effectiveness of large commercial type aircraft moving large amounts of bulk cargo, particularly during the sustainment phase of an operation. However, I do not feel this will be the case in the early surge phase of future operations.

We must ensure that all CINCs have the flexibility to conduct deployment operations given any set of theater constraints. In the foreseeable future only the C–17, acting as the Nation's core military airlifter, can provide us this flexibility.

Mr. Chairman, CENTCOM is dependent on the country's mobility system. We need the

C–17. I urge you to support the modernization of the nation's strategic airlift as proposed by the Secretary of Defense and requested by the President in his FY 1995 budget.

J.P. HOAR,
General, U.S. Marine Corps.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I want to take the opportunity to affirm my personal support, as well as the support of the other four senior members of the C–17 Defense Science Board Task Force, for the comprehensive settlement between the Department of Defense and the McDonnell Douglas Corporation. A key recommendation of last Summer's C–17 Task Force was ". . . to implement a solution in which all contractual issues, claims and program deficiencies are combined and implemented as a consolidated settlement." This recommendation has clearly been accomplished with this settlement.

It should also be recognized that the settlement proposed by the task force was carefully adjusted by Mr. Deutch to significantly shift more of the financial burden of the settlement from the government to the contractor. This involved reducing the government financial liability by $37.5 million and increasing the contractor financial liability by $137.5 million. All other elements of the task force proposed settlement remain essentially intact, thus helping to provide a basis for successful program execution.

I recognize that enactment of authorizing language by the Congress is a necessary prerequisite that must be satisfied before this settlement becomes binding on the Department of Defense or on McDonnell Douglas. I strongly and respectfully urge you to support enactment of such language.

Sincerely,

ROBERT A. FUHMAN,
C–17 DSB Task Force, Co-chairman.

THE WHITE HOUSE,
Washington, May 23, 1994.

Hon. THOMAS S. FOLEY,
House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: As the House of Representatives continues its consideration of H.R. 4301, the National Defense Authorization Act of FY 1995, I want to re-emphasize the critical importance of the C–17 to this Nation's strategy and force posture.

The C–17's capabilities are crucial to the Air Force's ability to deliver and sustain forces in support of theater commanders. The C–17 can carry outsize cargo to give early forces firepower; it can deliver its cargo into remote locations with short runways; and it has the ability to airdrop heavy equipment, supplies and troops. The C–17 is the only aircraft that can meet these core military requirements. Thus even with a "mixed" strategic airlift enhancement program that includes procurement of nondevelopmental aircraft, there will be certain core capabilities that can only be provided by the C–17.

The House Armed Services Committee recommended reducing the C–17 production rate from six aircraft to four aircraft for fiscal year 1995. Such a reduction would drastically undercut the Department of Defense's strategy to control costs and resolve program deficiencies. After consultation with outside experts, the Defense Department determined the C–17 meets essential airlift requirements and is affordable. A reduction to four aircraft in 1995 would increase the annual unit costs by $40–50 million, cause at least 8,000 layoffs over the next two years, and undermine program stability at a time we are holding the contractor's feet to the fire for cost and schedule performance. Our careful evaluation of contractor performance will lead to a decision in November 1995 on full rate production and procurement of non-developmental aircraft.

For these reasons, I urge Congress to support the amendment to be offered by Representative Harman and others to restore our Budget Request for six C–17s in FY95.

Sincerely,

BILL CLINTON.

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I have had an opportunity to listen to four of my distinguished colleagues, the Senator from South Carolina, the Senator from Massachusetts, and now the junior Senator from California, and the Senator from Maine. They have talked very well, and I agree 99 percent with what they say, because they have spent most of their time justifying the need for the C–17.

As I said in the beginning, I have no quarrel with the C–17. There is money in this bill to buy six C–17's. My amendment has nothing to do with the decision to buy six C–17's.

I am talking about this agreement, and I would like to have my colleagues who are in opposition to my amendment focus upon the agreement.

I have said that the C–17 can go forward without this agreement. I say the C–17 can go forward without this agreement because we have money in the bill to go forward with the C–17. I am just saying that we should not be spending $348 million to bail out McDonnell Douglas, a cash payment to McDonnell Douglas. I have heard fine justifications for the C–17. I agree with that.

But my colleagues have not spoken to the agreement. My colleagues have not said why, if we do not have this agreement, we still cannot purchase those six C–17's.

Now, as I said, this is a cash infusion of taxpayers' money into McDonnell Douglas.

I want to read a May 6, 1994, article. By the way, in my previous time on the floor, I said I had quoted from the Wall Street Journal. That needs to be corrected. The source of my information was the Financial Times. But I want to give you a summary of that from Reuters' entitled "McDonnell Douglas Looking at Possible Acquisitions."

"The McDonnell Douglas Corporation with an increased amount of cash in its coffers is looking at possible additions to its military business," the company chairman John McDonnell said yesterday after the annual meeting.

"Up to now we really could not consider acquisition or major investments in our core business."

Continuing the quote:

"Now we are in a position that we can take advantage of opportunities either in the form of acquisition or internal investments in our core businesses. We intend to be doing that."

That is the end of quote, but going on, according to Reuters:

In the first quarter alone McDonnell Douglas increased cash and cash equivalents for aerospace operations from $215 million to $230 million as of March 31.

There is a major corporation in America who, its CEO says, is looking at making major acquisitions. We are talking about here whether or not, because of mistakes that the company had made, even considering the cooperation of our Government to rewrite the specs four times to meet the plane rather than building the plane to meet the specs, they should have $348 million of taxpayers' money.

I do not think it is justified. I do not think that my colleagues have made the case of why we cannot go ahead with the C–17 program and not have this agreement and finance this agreement to the tune of $348 million.

I think I need to respond to the points raised by my colleagues from these States on another point, that Congress, as they said correctly, last year did direct the Department of Defense to evaluate the restructure of the C–17 program. I do not dispute that, but at no time did we say that we had to bail out the program.

Based on my reading of the documents, at that time we had McDonnell Douglas over the barrel. We had leverage to get the program back on track, like Congress said last year. But in the meantime with all these negotiations, we have changed places with the company, and now it is the taxpayers that happen to be over the barrel.

This is not, in my view, a realistic response given the mismanagement of this program. I support the program, the C–17 program, but not this settlement, and this settlement is not necessary to move forward with the C–17 program.

The issue is the settlement. The issue on this floor, the issue of my amendment, is the settlement, not whether or not we should have the C–17 program.

I think that this is the proper solution. If you asked my advice what I think should be done on this, if the C–17 does not meet contract specs, then McDonnell Douglas should be made to either correct the problem or to repay the Government a reasonable sum of money for lost performance. If McDonnell Douglas refuses to do that, then I think the contract should be terminated by default.

On another comment, it was said that this settlement reflects the Government acting more like business, and we should, I suppose, compliment that if that were in fact the case. But as I view this, it is more like business as usual as far as our relationships with the military industrial complex.

I would like to explore then, because I want to keep the focus on the agreement, not on the C-17 program, why this is a bad deal.

In my first remarks on my amendment I provided an overall assessment of the proposed C-17 settlement agreement. My amendment would strip out the C-17 agreement in the bill that would give McDonnell Douglas a $348 million direct cash payment.

I also stated that I had three specific complaints about the settlement agreement.

First, there is the cost mischarging scheme.

The C-17 cost mischarging scheme gets a quasi-blessing under the Deutch plan.

It is referred to as the charging-sustaining-engineering cost in the settlement agreement.

The cost mischarging scheme is documented in two DOD IG reports: "Audit of Contractor Accounting Practice Changes for C-17 Engineering Costs," Report No. 92-046, February 13, 1992; and "Government Actions Concerning McDonnell Douglas Corporation Financial Condition During 1990," January 1993.

When all fiscal year 1990 R&D money for the C-17 was exhausted on or about October 1, 1990, the Air Force and company officials arbitrarily agreed to shift R&D costs and work-to-production contracts that were fat on cash.

This was the infamous journal voucher transfer operation that I have spoken about many times in morning business over the last several months on the floor. This journal voucher transfer operation temporarily prevented a cost overrun on the R&D contract. It made McDonnell Douglas appear to be performing well. It hid the cost overrun and made the company look good. That was before this present good financial condition of McDonnell Douglas as I just quoted from the Financial Times.

This deception, meaning the journal voucher transfer, facilitated a steady flow of cash and the award of follow-on contracts.

Had the true cost picture been known up front, the payments might have stopped.

As a result of this retroactive accounting change, at least $172 million in R&D costs were reallocated to production lots.

This procedure violated Federal statutory law: the Anti-Deficiency Act, section 1517 of title 31 of the United States Code; and the Purposes Act, section 1301 of title 31 of the United States Code.

The illegal practice continues today on C-17 contracts.

Eventually, $500 to $600 million in R&D expenses will have to be moved back to the R&D contract where they belong.

Sadly, there is no more R&D money left over to cover these expenses. The ceiling on the R&D contract was busted a long time ago. McDonnell Douglas will have to pick up the tab, unless Uncle Sugar provides some extraordinary relief.

And that brings me back to the settlement agreement.

The agreement identifies $171 million in C-17 R&D costs that were mischarged to production contracts.

Under the agreement, these costs must now be charged to the R&D contract.

As I said a moment ago, there is no more R&D money left over to cover those costs, not unless the ceiling on the fixed-price R&D contract is raised.

Well, Mr. President, guess what?

The Deutch plan raises the ceiling on the R&D contract by $237 million.

The Deutch agreement provides a direct cash payment of $348 million to McDonnell Douglas but does not specify how that money is to be used.

There are two big-ticket items covered by the agreement: the $234.5 million to pay for the wing breakout claim and $171 million to correct the cost mischarging scheme.

Who can say that McDonnell Douglas will not use some of the $348 million cash payment to cover the cost mischarging scheme?

The wing breakout claim and cost mischarging scheme are treated differently under the Deutch plan.

The $234.5 million for the wing breakout claim is supposedly covered by the $348 million cash payment. The cost mischarging scheme is not.

The $171 million needed to correct the cost mischarging scheme is supposedly an expense that McDonnell Douglas is willing to absorb.

Mr. Deutch wants us to think that the company will have to eat it and swallow a bitter pill.

Under the Deutch plan it is listed as an out-of-pocket expense for McDonnell Douglas.

The Deutch plan may be misleading on that score.

The GAO has evaluated those expenses and concludes that McDonnell Douglas' out-of-pocket expenses are really only $46 million, not the $454 million touted by Mr. Deutch.

I quote from page 5 of the GAO report:

> The stated cost to McDonnell Douglas should be offset by $237 million that the government would add to the target cost and ceiling price of the development contract to settle unspecified contractor claims. In addition, we believe that the $171 million for nonrecurring engineering should also be excluded from the $454 million estimate.
>
> The $171 million is not additional funding that the contractor will have to provide to implement the settlement, but rather, according to the DOD, full-scale engineering and development costs that the contractor had inappropriately allocated to current and future production contracts. The engineering cost either have been or will be incurred whether or not the settlement is implemented. The proper charging of the nonrecurring engineering costs to the development contract will increase the total cost of that contract.
>
> However, because the development contract is over ceiling, the contractor would not have been reimbursed for these costs anyway.

The cost mischarging scheme was used to make a series of illegal progress payments to McDonnell Douglas. Those payments violated the Purposes Act and the Anti-Deficiency Act.

Under the law, those violations must be reported and investigated. Those responsible must be identified and held accountable.

These violations occurred between July and December 1990. That was just about 4 years ago. Four years have passed, but nothing has happened.

Has the investigation been completed? Well, of course not.

I do not think we should raise the ceiling on the R&D contract by one penny, as the Deutch Plan does, until the DOD IG has conducted an independent investigation; identified those responsible for all the illegal progress payments to McDonnell Douglas; recovered the money; and determined what, if any, disciplinary action is called for.

I want to really thank the chairman of the committee, SAM NUNN, and the ranking Republican, Senator THURMOND, because they are trying to help in some of these areas. They have put in very strong language that appears on pages 217 and 218 of the committee report regarding the proper use of the Antideficiency Act, the investigations connected thereto, or at least what investigations are supposed to pursue when there is identified a potential illegal expenditure of money, and hopefully use that law the way it was intended to be used and hold people accountable.

The committee's proposal in this regard I think will help re-energize the Purposes Act and the Antideficiency Act.

The antideficiency law goes right to the heart of Congress' constitutional responsibility to control the purse strings. The Department of Defense is violating this law with impunity. That needs to be brought to a screeching halt.

So I compliment the committee for the guidance that they are giving to the Department of Defense in this.

Mr. President, I yield the floor and I ask for an accounting of my time.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Iowa has 50 minutes and 30 seconds remaining.

Mr. GRASSLEY. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa yields the floor.

Mr. KENNEDY. How much time does the Senator desire.

Mr. BOND. Twenty minutes.

Mr. KENNEDY. I ask unanimous consent that Senator DANFORTH be recognized following the Senator from Missouri.

How much time would he like?

Mr. DANFORTH. Twenty minutes.

Mr. KENNEDY. And that he be recognized for 20 minutes.

How much time, then, will we have?

The PRESIDING OFFICER. The Senator from Massachusetts [Mr. KENNEDY] has 49 minutes and 40 seconds remaining.

Mr. KENNEDY. Mr. President, I ask unanimous consent that these two Senators be recognized in that order for 20 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri [Mr. BOND].

Mr. BOND. Mr. President, I thank my distinguished colleague from Massachusetts, the chairman of the subcommittee.

I join with him, the ranking Republican, Senator THURMOND, the Senator from Maine, and the Senator from California in opposing the amendment before us today.

The committee bill contains a reasoned and appropriate coverage of the C–17 issue—including the omnibus settlement—and it should be approved by this body. Approval of the Grassley amendment, on the other hand, would result in dissolution of the settlement and a likely failure of the C–17 program.

Make no mistake about it. This settlement is critical to going forward on the C–17. Without the C–17 settlement, the program is fatally crippled and will likely dissolve into a lengthy series of litigious actions costing the millions and millions of dollars that the A–12 litigation is costing.

The issue before us is very simple: Are we going to go forward with the desperately needed program to modernize our strategic airlift, or not? Approval of the bill before us will allow the Defense Department to go forward with the modernization plan. Approval of this amendment, on the other hand, would likely result in cancellation of the C–17 program, years of litigation, and a disaster the next time this Nation is forced to deploy our troops to an overseas conflict.

There is no question that we need a new core airlifter. I think everybody agrees with that. The C–141 fleet has served well beyond its intended period of service. The fleet has already undergone a service life extension program, or SLEP, and is now almost constantly under restriction or grounded for one problem or another. The average aircraft is 27 years old and has almost 37,000 hours of use out of a lifetime of 45,000 hours. The simple bottom line is that the C–141 is fast coming to the end of its useful service life.

We must replace that core capability. The Joint Chiefs of Staff have laid out a series of requirements that they must have in a core airlifter. These include the ability to carry outsize cargo such as armored vehicles, air defense systems and helicopters; the ability to deliver cargo to austere airfields with short runways and limited ramp space; and the ability to air drop cargo.

I have here a chart which was blown up from a pamphlet provided to me by Gen. Ronald Fogleman, commander in chief, U.S. Transportation Command, when I visited his command at Scott Air Force Base in Illinois.

The chart gives a detailed review of the capabilities needed in a core airlifter.

The red means it is in the bottom third and cannot do the job; yellow means it is in the middle third and in some cases marginal; green means it fulfills the job.

It shows which aircraft can perform them. For those who may not be able to use it, this third column over here represents the C–17. The critical segments are the combat and the military segments.

You can see that the C–17 is the only one of all the aircraft—the C–5, C–141; two commercial wide bodies, probably a 747 and an L–1011; two commercial narrow bodies, probably a DC–9 and a 767, or a service life extension program C–141.

The Chairman of the Joint Chiefs of Staff has made clear that that is the case—in a recent letter to Senator INOUYE he wrote, "Today there is only one alternative that can meet the requirements of a core airlifter—the C–17."

Now, let us look at a few of these requirements.

Looking at the combat capabilities, the core airlifter must be able to airdrop cargo and troops, perform low-level parachute extraction, operate on 3,000 foot runways and unimproved airfields, and have the capability to survive in combat. Only the C–17 can do all of these things.

The C–5 cannot do many of them—it was not designed to airdrop troops or equipment, it cannot do low-level parachute extraction, it cannot operate on 3,000 foot runways or unimproved airfields, and it is not as survivable as the C–17. It is a fine aircraft for its intended job—moving large amounts of equipment to rear staging bases for downloading to smaller aircraft—but it cannot replace the C–17.

Commercial wide-body aircraft cannot perform any of these combat requirements. And a SLEPed C–141—which I do not even consider a realistic option—cannot perform many of them.

We see the same situation when we look at the military requirements. The core airlifter must have a high throughput—that is the ability continuously to deliver large amounts of cargo in a constrained environment such as crowded ramps and limited ground support equipment. The airlifter must be able to carry outsize and oversize cargo. It must have the ability to drive vehicles on and off. It must have air refueling capability; it must have limited ground support requirements, and configuration flexibility.

The C–17 has all of these capabilities. No other available aircraft does. Commercial aircraft have almost none of them.

Throughput is going to be a problem if we are operating planes that require extensive ground support equipment including tractors to maneuver them and loaders to load and unload them. The inability to drive vehicles on and off will exacerbate the problem. No commercial aircraft is going to be able to meet the outsize and oversize cargo requirement. And they certainly do not have air refueling capability.

So the bottom line then is that if we are going to field a core airlifter with the capabilities that our best military minds say we need, then we are going to have to field the C–17 or some new, undeveloped aircraft. It is clear to me that of those two choices, the C–17 is the right choice.

It makes no sense to go out and try to develop a new aircraft at this point. It would almost certainly give us an aircraft that costs more than the C–17, is delivered later than the C–17 and provides similar capability to the C–17. Instead, we ought to take this program and make it work. That is the path that this administration has endorsed, that the past administration endorsed, and that the panel of experts appointed by the Defense Science Board has endorsed.

The only other alternative is to give our troops an inadequate aircraft—an aircraft that our most senior military leaders have said will not be adequate to do the job. I am not willing to do that, and I am confident that most of my colleagues are not either.

I know that the GAO has criticized the C–17 program and the settlement and has argued for a fleet of commercial aircraft. If I have time later I will answer, point by point, the GAO contentions. I even heard a senior member of the House Armed Services Committee suggest we should just let UPS get our troops and equipment there. But there is no question that our ability to win in future conflicts will be directly tied to our ability to respond quickly and in force. That means we have to get our front-line troops to the battle quickly and with their equipment. That means their Apache and Blackhawk helicopters have to go in the first few days; their oversize communications vans have to go; they need Patriot missile batteries to protect them from enemy ballistic missiles; and they may need armored vehicles or even tanks in certain circumstances. UPS simply will not be able to deliver.

I know that some have looked at our experience in Desert Storm and say that it shows we can do the job with aircraft other than the C–17. However, there were several factors at work in that conflict that we are unlikely to see repeated. First, we were deploying our troops to a country that has one of the most modern and extensive systems of airfields in the world. We did not have to deal with austere airfields. Although I would note we still ran into problems with throughput, ramp space, and similar issues. Second, we had an opponent who gave us months to build up our force. If we had had to fight Saddam in the first few weeks of Operation Desert Shield, we would have had problems getting our equipment there because we did not have the C–17.

I would turn, for just a moment, from the specific issue of the need for a new core airlifter, to the more general issue of our overall mobility requirements. Mobility issues have been a major topic of debate throughout the time I have served in the Senate, and particularly since the end of the gulf war. That conflict focused this Nation on the importance of moving our forces to a conflict, and on the drastic shortfall in our current capability. It appears that there will be a significant discussion of mobility issues on this bill.

The issue of lift is growing in importance with each passing day as we continue to draw down our force and as we continue to withdraw our troops from their forward bases overseas.

Focusing on airlift, for the moment. Currently we face a shortfall in airlift capability. Even with the aging C–131's in the force, the Air Mobility Command is unable to meet the airlift needs that have been determined as minimum by the Joint Chiefs of Staff, and it cannot meet the requirement of deploying our forces to two nearly simultaneous major regional conflicts as the current administration has said we must be able to do. In fact, in a recent statement before the House Armed Services Committee, Deputy Secretary Deutch said, "During the Bottom-Up Review it was clear that strategic lift was the single greatest shortage from meeting our ability to deal with two major regional conflicts." (5/17/94)

The shortage is so acute that even the full buy of 120 C–17's will not alleviate it, however, it will at least get us within a moderate level of risk of meeting that requirement.

The shortfall in our existing capability is particularly acute in the ability to move outsize and oversize cargo. These are the items that can only be moved by the C–17 and, as I have already stated, these are the items that will have to be moved in the first few days of a conflict. In fact, Secretary Deutch has said that fully 75 percent of the cargo moved in the early weeks of a conflict would be either oversized or outsized. (Testimony before HASC, 5/17/94).

Currently, according to the information I received during a recent briefing at TRANSCOM headquarters, we can come nowhere close to deploying our troops and their equipment to two MRC's in time to win both scenarios. In fact, we would give our opponents in the second conflict months in which to move nearly unchallenged because of an inability to move our forces on schedule. This focuses—at least in my mind—the need for moving forward with deployment of the C–17.

Let me turn to the issue of the comprehensive settlement, signed last year by DOD and McDonnell Douglas. First, let us make clear that the settlement which would be vitiated by this amendment deleting the bill's funding was not negotiated with McDonnell Douglas. It was a take it or leave it offer from the Defense Department to McDonnell Douglas and they took it. My colleague from Iowa says he is only concerned about the settlement; not the need for the C–17, or for the purchase of six C–17's.

The issue is the C–17 program because if we do not get the settlement, then the whole program is at risk. If the settlement is denied then McDonnell Douglas would have to pursue its legal claims against the Air Force, the program would falter and die and our soldiers would be unable to get their equipment to the next conflict.

The settlement does not, as my colleague from Iowa said, give a $348 million cash payment to McDonnell Douglas. It gives $234 million plus the Government agrees to take on certain ongoing responsibilities.

This settlement is a reasonable one and it makes sense for all parties involved. It was first recommended by a specially-appointed Defense Science Board panel of senior experts. It was adopted by the current Pentagon leadership which certainly has no ties to this program—no reason to defend it other than because it is the right thing to do. And it has even been supported by the acting DOD inspector general, who has certainly been no friend of the program.

The Senator from Iowa has cited extensively comments by the IG. The IG Mr. Vander Schaaf, in a letter to Senator KENNEDY earlier this month wrote. "I believe that it is essential that the settlement agreement be approved as part of any decision to continue purchasing C–17 aircraft and to continue the course of action outlined by Deputy Secretary Deutch to the Congress on the future of military airlift." He went on to say, "The settlement resolves all major outstanding issues and prevents a lengthy and expensive court battle. These legal proceedings could be costly even if the Government were to prevail on all the issues, which is of course highly unlikely." And he goes on characterize the settlement as a "sensible business arrangement."

I would just highlight this for my friend from Iowa. This is the inspector general speaking—an individual who has been highly critical of the C–17, the Air Force and McDonnell Douglas. And someone whom the Senator has used as a source for many of his efforts on the floor. He has spent a considerable amount of time to study the program, testifying before Congress in relation to it—and, he participated in the Defense Science Board review. Even he agrees that this settlement makes sense.

Despite what the sponsors of this amendment would have us believe, this is not a bail-out for the contractor, and it is not a rip-off for taxpayers. It is a reasonable solution for fixing a program that has seen its share of trouble, but which is now back on track and working.

The settlement will resolve all of the lose ends that currently threaten the program. It assigns ultimate responsibility for all issues to either the contractor or the Government. It eliminates the possibility of wide-ranging and lengthy litigation which would cost the taxpayers millions, it gets all parties focused solely on making the program a success, and it results in our forces getting the aircraft they need to defend this Nation.

There are claims from the contractor of approximately $1.7 billion on this program.

The counsel's office in the DOD has advised me that on average, contractors win about 30 cents on the dollar. That is over $500 million potential liability to the Federal Government if they do not accept this settlement.

Make no mistake, this settlement is key to the success of the program. To quote from the Defense Science Board panel report:

> We believe the C–17 program will be successful if, and only if, the consolidated settlement is executed and the other recommendations detailed in this report are carried out.

I want my colleagues to understand, you cannot say you support the C–17 program but do not support the settlement. They go hand in hand. They cannot be separated.

Who said that? The panel was composed of the retired president and CEO of Lockheed, the commander of the Aeronautical Systems Center, the president of the Aerospace Corporation, the president and general manager of the B–2 Division of Northrop, and the chairman and CEO of Hughes Aircraft.

Mr. President, there is another issue that I wish to touch on briefly. That is the current status of the C–17 itself. There has been a lot of misinformation and hysteria circulated by opponents of the program. I think just to be clear, we ought to understand the status.

McDonnell Douglas has to date delivered 13 aircraft. Six of these are being used in the test program; seven are in operation at Charleston Air Force Base in South Carolina. The contractor will deliver the next aircraft this month.

The testing program is going forward at a healthy rate. Static ground testing to 150 percent has been completed successfully; lifetime durability testing has been completed. The aircraft is going to be cycled through a second lifetime for 60,000 hours.

Many numerous achievements have been indicated. The C–17 has demonstrated it can back up with payload aboard, turn around on a 90-foot runway, and offload eleven 10,000-pound pallets without ground support.

I have seen the pictures of it engaged in a low-altitude parachute extraction, which is something that the C–17 is unique in being able to do.

It has already set 21 new world flight records. But just as the distinguished Senator from California has said, probably the most important and persuasive thing about this, when you talk to the people who are operating it, when you talk to the loadmaster—that is the guy who really delivers the cargo, the person who is responsible for getting the packages there—he says: "This is the best plane that we have ever had to allow me to do my job."

This is designed to get the payloads in.

The reports from men and women who operate the C–17 are nothing short of glowing. It is a working aircraft. It is in production. Adopting the amendment before us today would wipe that progress away. Instead of having an operational first squadron in 6 months, we might be looking at 6 years or more and a significant degree of litigation.

That is good news for the lawyers who would fight it out in court, but bad news for our national security.

The C–17 Program is working. Both the Defense Department and the contractor have indicated their strong desire to make it a success. There is no question that we desperately need the system.

I urge my colleagues to reject this amendment. Let this plan go forward and make the program work; get the C–17 to the men and women who need it as quickly as possible.

The PRESIDING OFFICER. Who yields time?

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri [Mr. DANFORTH], is recognized.

Mr. DANFORTH. Mr. President, I strongly oppose the Grassley amendment and I support the efforts of the chairman of the subcommittee of the Armed Services Committee, Senator KENNEDY, and the efforts of the ranking member, Senator COHEN, in opposing this amendment.

Let me say especially that I want to compliment Senator KENNEDY for the enormous amount of time and attention he has paid to this issue. His subcommittee has held hearings on this matter and, in addition to the hearings, he has taken the time and the trouble to sit down with the appropriate people in the Defense Department, including Deputy Secretary Deutch, to go over the C–17 program and this settlement in enormous detail.

I think it is fair to say that Senator KENNEDY would not be listed among the knee-jerk supporters for every defense spending effort that comes before the U.S. Senate. He is a person who is not an automatic vote in favor of more and more defense spending. I think when he is convinced about the soundness of a program and the soundness of what the administration is attempting to do, that in itself is a very strong statement about the program and about the solution that has been offered by the Defense Department and by this administration.

Mr. President, there is no dispute before us about the importance of the C–17. This is a matter that has been spoken about on the floor of the Senate in this debate already. My colleague, Senator BOND, made a very strong case about the importance of the C–17, as did Senator KENNEDY, Senator COHEN, and Senator FEINSTEIN. Senator GRASSLEY himself has conceded the importance of the C–17 and, in fact, has told the Senate that he supports the C–17. So on both sides of this issue, there is agreement on the efficacy of this equipment, of the C–17, and of support for the C–17.

This high regard for this particular aircraft is shared by the Department of Defense, and certainly by the Chairman of the Joint Chiefs of Staff, who has said:

> Today there is only one alternative that can meet the requirements of a core airlifter: The C–17.

That is the position of the Joint Chiefs of Staff.

The Secretary of Defense has said:

> The C–17 is the only airlifter in production that meets these core military requirements.

So, again, the professional judgment of the Department of Defense and the professional judgment of the Joint Chiefs of Staff coincides with the views expressed on both sides of this issue on the floor of the Senate.

This is a very important system. That is not to say it has not been a troubled system. It has been troubled. It has been troubled because of the fact that the contract under which the aircraft was developed—the fixed price development contract—created real problems. Those problems have been recognized because now there is no such thing as a fixed price development contract.

It is recognized that a fixed price does not go with a development contract. The nature of development is that you cannot have a fixed price. So the concept of a fixed price development contract is now defunct.

But the problem was incurred under the fixed price development contract, and it did create a mess and it did create a major dispute. To the credit of the Clinton administration, when it came into office, it attempted to unwind this situation somehow to make it right. It assigned within the Department of Defense seven different teams to look at the C–17 and the contracting problems with the C–17. Those seven teams were comprised of 75 individuals, experts on the subject, who looked at the details. As a result of their effort, they created an ultimatum.

Now, Mr. President, the term "settlement" has been bandied about the floor of the Senate. It is said that, well, this is a settlement, or a bailout, for McDonnell Douglas; somehow they settled the claim with the Department of Defense.

It is not a settlement. It is an ultimatum, an ultimatum that was issued by the Department of Defense: take it or leave it. And on January 6 of this year, McDonnell Douglas took it. And the ultimatum was no great deal for McDonnell Douglas because McDonnell Douglas had already filed claims of $450 million against the Department of Defense, and in addition had $1.25 billion of claims that were prepared. And the Defense Department said: Drop them, drop your claims. Forget about them. We are not going to pay those claims.

The Defense Department said, furthermore, not only are you going to drop the claims, you are going to invest $100 million to lower the production costs and improve productivity; you, McDonnell Douglas, are going to redesign the wing at no cost to the Government; you are going to split the costs of additional flight testing and certain productivity improvements with the Government. And in return for all of this, in return for dropping your claims and paying these additional costs, the Government will pay $237 million for the contractor's claims and make a limited release of claims for late delivery of certain aircraft.

Overall, McDonnell Douglas pays $454 million, the Government pays $348 million compared to claims of $450 million plus another $1.25 billion that were prepared. That is hardly a bailout, and it is hardly a settlement. It is a very tough deal.

Now, the Senator from Iowa says, well, he is not against the C–17. He concedes the significance and the efficacy of the C–17. He says his problem is not with the C–17. His problem is with the settlement. And yet, Mr. President, the position of the Department of Defense is that the settlement and the future of the settlement are identical to the future of the C–17. They cannot be separated.

Deputy Secretary of Defense John Deutch testified before the House Armed Services Committee this year, and here is his quote:

> Without a settlement, a productive business requirement, which is essential to getting the C-17 program back on track, will not be established. Instead of putting in the necessary technical and management reforms, we will be back in claims court, back in claims adjudication dealing with a fixed price development contract * * * and there will be no basis for instituting the required management and technical reforms.

Furthermore, in a letter signed by Secretary Perry and Deputy Secretary of Defense Deutch to me dated June 21, 1994, they said:

> The settlement removes the gridlock that paralyzed the C-17 program for years and protects the Department's interests on business issues and contractual claims. It gives the program a fresh start while holding the contractor strictly accountable for improving its performance.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
Washington, DC, June 21, 1994.

Hon. JOHN C. DANFORTH,
U.S. Senate,
Washington, DC.

DEAR SENATOR DANFORTH: The Fiscal Year (FY) 1995 National Defense Authorization bill (S. 2182) reported by the Senate Armed Services Committee supports our commitment to airlift modernization by funding the C-17 and approving the C-17 settlement agreement. As the Senate continues consideration of S. 2182, we urge you to support the Committee position on the C-17 and the settlement agreement.

Our warfighting CINCs must have the capability to project and sustain forces worldwide. To do this they need a survivable airlift that can deliver outsize cargo to remote locations with austere fields; and it must be able to airdrop heavy equipment, supplies, and troops. The C-17 is the only airlifter in production that meets core military requirements.

We developed an integrated strategy to meet our airlift requirements after comprehensively reviewing the C-17 program and the airlift needs of our combatant commanders. The necessary first step is to continue the C-17 program on a probationary basis to obtain 40 C-17s.

If McDonnell Douglas proves it can deliver quality aircraft, on time, at an affordable price, we will have positioned ourselves to acquire additional C-17s. The second step is to assess the capabilities and costs of non-developmental alternative aircraft.

For us to proceed with our airlift strategy, we need approval of the settlement agreement. As the Deputy Inspector General of the Department of Defense, Mr. Derek J. Vander Schaaf, expressed to the Senate Armed Services Committee, it is essential that the settlement agreement be approved as part of any decision to continue purchasing the C-17 and to continue our strategy on future military airlift.

The settlement removes the gridlock that paralyzed the C-17 program for years and protects the Department's interests on business issues and contractual claims. It gives the program a fresh start while holding the contractor strictly accountable for improving its performance.

For these reasons we request that you and your colleagues support the Senate Armed Services Committee and our airlift strategy when finalizing the FY 1995 defense bill.

Sincerely,

JOHN M. DEUTCH,
Deputy Secretary of Defense.
WILLIAM J. PERRY,
Secretary of Defense.

Mr. DANFORTH. Then, Mr. President, the deputy inspector general wrote a letter to Senator KENNEDY which has already been cited in this Chamber, a letter dated June 3, 1994. Deputy Inspector General Derek J. Vander Schaaf wrote the letter. A number of people have pointed out that the inspector general has not exactly been fawning over the C-17 for the last number of years. But here is what the deputy inspector general of the Defense Department has said about this settlement.

Bear in mind the issue is whether the settlement is related to the underlying program, which everybody concedes is a good program. This is the deputy inspector general of the Defense Department, and here is what the deputy inspector general of the Defense Department says on the question of this settlement and the relationship between this settlement and the underlying program:

> I believe that it is essential that the settlement agreement be approved as part of any decision to continue purchasing C-17 aircraft and to continue the course of action outlined by Deputy Secretary Deutch to the Congress on the future of military airlift.

The deputy inspector general goes on to say:

> It is hard enough to manage a program of the C-17's size, complexity and problems. It is next to impossible if the Government and the contractor are in court arguing over costs incurred under a fixed price contract that is at least $1.2 billion over ceiling but is still supposed to serve as the operative document under which the program is managed.
>
> Failure to approve the settlement agreement will leave the program with a management environment that is not working and the prospect of wasting millions of dollars in litigation.

That is the deputy inspector general speaking. That is not a lobbyist for McDonnell Douglas. That is the deputy inspector general. That is not some Senator from a State where McDonnell Douglas is located. That is the deputy inspector general speaking, saying that it is essential, if this program is to go forward that this settlement be approved.

I only would make one other point, Mr. President, and it is this. The ultimatum which was made by the Defense Department to McDonnell Douglas was agreed to by McDonnell Douglas on January 6 of this year. That is approximately 5½ months ago.

Now, when an ultimatum is handed down from the Defense Department and when the contractor says, all right, we will meet that obligation, and then the contractor goes ahead, moves forward, acts on that representation, acts on the ultimatum, then a new relationship has been created with the Defense Department. Now, for that relationship to be undercut in this Chamber creates not only contractual problems for the Government; it creates enormous precedential problems for any contractor that is even thinking about doing business with the Department of Defense in the future.

I have had one former defense contractor explain why his business—he is the CEO of this business—is no longer a defense contractor. He said, "I do not want to do business with anybody who does not want me to make a profit and who thinks I am a crook."

Well, if people are going to get into the business of defense contracting or stay in that business, they have to have some reasonable assurance about the good will and the integrity and the reliability of those with whom they are doing business. And when the Department of Defense says here is the deal, and McDonnell Douglas 5½ months ago says, all right, we do not like it but we will take it, it is an ultimatum and we will take it, and they act in accordance with that agreement, then in this Chamber to offer an amendment and for the Senate to vote against that agreement and undo that agreement and undo the deal is in the opinion of this Senator the breaching of a contract if not legally—and maybe legally—certainly in principle.

It sends a very powerful message to other defense contractors that whatever arrangement they have with the Department of Defense, forget about it, because Congress is coming. Somebody is going to offer an amendment on the floor of the Senate to undo it. Do not rely on anything you hear from DOD.

For all those reasons, Mr. President, I support strongly the position taken by Senator KENNEDY, as chairman of the subcommittee, and Senator COHEN, who is the ranking member of the subcommittee, in opposition to the Grassley amendment.

The PRESIDING OFFICER. Who yields time?

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut [Mr. LIEBERMAN], is recognized.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I yield to myself such time as remains that was allocated to Senator KENNEDY, with his permission.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I thank the Chair.

Mr. President, I first ask unanimous consent that Debra Shelton, who is a congressional fellow on my staff, have access to the floor during consideration of S. 2182.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I rise to oppose the amendment offered by the Senator from Iowa and to support both the C–17 aircraft and the settlement that has been negotiated by the Pentagon involving the C–17.

I rise as a member of the subcommittee of the Armed Services Committee chaired by Senator KENNEDY to join with him and the ranking Republican member, Senator COHEN, in supporting this settlement and to particularly offer my thanks and congratulations to Senator KENNEDY for the leadership he has given on this very difficult, complicated, and controversial matter to try to bring it to a point where we can go forward with some confidence that we are going to be able to obtain the airlift capacity that everybody, including, apparently, people on both sides of this particular amendment, agree that America really needs for its national security.

I do not want to belabor the point about the C–17. I am just going to cite two or three sentences given to our committee, the Armed Services Committee, by leaders of the military.

Gen. Gordan Sullivan, Chief of Staff for the U.S. States Army, said to us: "The C–17 is the only aircraft that can get the Army's outsized combat systems to the next war when required."

Gen. Joe Hoar, the commander in chief of the U.S. Central Command, wrote to the committee saying simply: "We need the C–17. I urge you to support the modernization of the Nation's strategic airlift."

Finally, the Chairman of the Joint Chiefs of Staff, General John Shalikashvili, wrote to the House Armed Services Committee: "Today there is only one alternative that can meet the requirements of a core airlifter—the C–17."

So, Mr. President, the military has been quite clear with us. It does not take much more than reading today's newspapers to understand the unique nature of the conflicts we are going to face in the future. This is a remarkable airplane coming along which can carry outsized equipment to remote locations and land on difficult and often smaller airfields. That is exactly what we need.

The question raised by the amendment—and I think the Senator from Iowa is quite direct; he has accepted the need for the six C–17's that are authorized in this bill—the question is, do we need the settlement to obtain the C–17's? What is the relevance of the settlement to the C–17's? I think my colleagues have spoken well to this point. I just would like to add a few thoughts to it. The first is that this settlement did not just arrive out of the air as some deal, secret or otherwise, that was concocted by the Under Deputy Secretary of Defense, John Deutch, and the folks at McDonnell Douglas, or the Pentagon and McDonnell Douglas. This settlement follows a course of behavior that has been urged on the Pentagon by Members of Congress and, indeed, by independent oversight authorities such as the DOD Inspector General's office.

In fact, in the letter quoted earlier by a few of my colleagues from the Deputy Inspector General Derek J. Vander Schaaf, Mr. Vander Schaaf makes clear that in May of 1992 the Inspector General of the Department of Defense made a series of recommendations which included one for a comprehensive cost and operational effectiveness analysis of the C–17 program. He recommended a Defense Acquisition Board program review be conducted prior to award of additional contracts.

This was a troubled program. Those recommendations worked their way into the fiscal year 1993 DOD authorization act adopted by this Congress, and, pursuant to that, a special Defense Science Board task force on the C–17 was appointed.

It was that task force that recommended to the new management team at the Pentagon early last year that they try to clear the air; that they try to negotiate a settlement with McDonnell Douglas to see if we could give this troubled program—which was aimed at meeting a very real and universally accepted need that we had—a way to get over its troubles. Mr. Deutch went forward and argued effectively, I think, in his negotiations with McDonnell Douglas and came up with this settlement.

Mr. President, supporting a public official such as Deputy Secretary Deutch would not be reason enough to support the settlement if we did not think the settlement made sense. But I do think it is important to note here that Deputy Secretary Deutch was acting in response to a series of requests that were issued by Congress' oversight authorities in negotiating this settlement.

As a member of the Armed Services Committee, I have had the opportunity to watch and work with Mr. Deutch. I have found him to be extremely hardworking, thoughtful, effective, and totally committed to our national security.

I think it is important to say that we sent him out on a mission. I happen to think he performed it ably. But we ought to think twice not only before we send a message, as Senator DANFORTH said earlier, that military contractors can negotiate agreements with the Pentagon and then they will be nullified by second-guessing in Congress, but that we ought to send another message which is to the very effective public officials who serve us, as Deputy Secretary Deutch does, that if they go out and perform a mission that we have asked them to perform, that, unless we have awfully good reason, we are not going to second-guess them or micromanage and cut them off at the knees after they have done their best to carry out the mission we have given them.

In the case of the C–17 settlement have they done their best? I think this settlement clears the air. It gives McDonnell Douglas the best hope of building this aircraft that we need. It gives, incidentally, a program design for the Pentagon and now sets the Pentagon on a course that will give them a year. And then, in November of 1995, they have to look back and decide whether, in fact, as a result of the settlement and the authorization of these six aircraft, McDonnell Douglas has performed up to the desired standard. During that time, the Pentagon will also consider other options for meeting the airlift requirement, including the modification of conventional commercial aircraft.

But this settlement clears the decks fairly. It is a win-win for the Government and for McDonnell Douglas. And it gives us our best hope of getting this very serious airlift requirement met as soon as possible and as effectively as possible.

I come back to the words of the deputy inspector general, Mr. Vander Schaaf, about this settlement.

This is not McDonnell Douglas; it is not even a Member of this Chamber. This is the IG saying:

> "The C–17 program is not viable without substantial change and resolution of numerous program management and contracting issues. The settlement resolves all major outstanding issues and prevents a lengthy and expensive court battle. These legal proceedings could be costly even if the Government were to prevail on all the issues which is, of course, highly unlikely.

The IG concludes:

> I see the settlement agreement as a sensible business arrangement in which McDonnell Douglas incurs additional costs of $454 million, recognizes some of its responsibilities for the C–17 shortcomings, and agrees to modernize its engineering and management systems.

And then in a final statement—and one we should remember—Mr. Vander Schaaf says:

> Should the Congress approve the settlement agreement, we (the IG's office) are prepared to ensure that the agreement is implemented as approved and provide regular independent reports to the Committee on its implementation.

So I say, for those who may have any doubts, that should be the one final convincing argument to support the settlement and cause us to oppose the amendment. I thank the Chair and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume.

Mr. President, I am learning an awful lot on this floor about the C–17, none of it which I dispute as to why it is needed. What I am not learning much about is why we need this specific agreement, why it cannot be renegotiated to give the taxpayers a fair deal.

I think that we are giving an awful lot of consideration for an awful lot of interests here except the taxpayers' interests. I heard it spoken about 70 people in the Defense Department that worked on this deal. I heard about five people that are on a special high-level review group as an independent expert body to reconsider it. For instance, these are the five people: Robert Furman, president and chief operating officer, Lockheed Corp.; Lt. Gen. James A. Fayne, commander of the Aeronautical System Center; Edward C. Baldridge, president of the Aerospace Corp.; Mr. Oliver C. Wallo, Jr., president of the B-2 division, Northrop Corp.; Dr. Malcolm R. Curry, chairman and CEO, retired, of Hughes Aircraft.

Think of those people. They are the special high-level review group that has been referred to here by all my colleagues, and that this compromise and agreement was very carefully worked out. And then 70 other people within the Defense Department were working on it.

Where are the taxpayers' interests in this group? Where are the taxpayers' interests in this group? That is the question we have not heard much discussion about.

Why $348 million? Why do we need $348 million for a company that looks pretty good financially? I quoted from Reuter's on this. Let me quote from the Financial Times of May 6, 1994:

> McDonnell Douglas and the U.S. Aerospace and Defense Group is building up financial muscle. It wants to put itself in a good position to take advantage of investments and acquisition opportunities for its core aerospace business.

This company saw its stock go from $48 in 1992 to around $120 this year. That is as of May 6, 1994. This settlement, supposedly, this agreement, is a justification for keeping this program going. If this program does not keep going, if this settlement does not go through, then the C-17 program does not go. What is the tie-in between this agreement and $348 million and keeping the C-17 program going when you have a company that is so well off financially, it has improved its financial condition so well that it can think about acquisition opportunities, according to the Financial Times?

I just do not think there has been a case made that you need $348 million to keep this company afloat so that we can keep getting the C-17.

We have heard a big deal made about this agreement as we have viewed it, and a settlement being an ultimatum; that this group of 75 people, and four out of the top five people are major or retired corporate heads that have a great deal of special interest in defense business, so I do not know whether that is an impartial consideration. But we are told that they gave McDonnell Douglas a $348 million ultimatum—take it or leave it.

Well, we all wish we could have an ultimatum where that kind of cash is shoved down your throat.

On the other hand, the General Accounting Office—and I want to point out the General Accounting Office, because so many of the speakers in this body have quoted the inspector general—well, the General Accounting Office says that this $348 million ultimatum "is a lousy deal for the taxpayers." I agree with that. In fact, the General Accounting Office report, dated April 1994, is entitled "The C-17 Settlement is Not a Good Deal."

So I hope that all of my colleagues who are looking at this settlement and listening to people quote the inspector general, and saying what a great deal this is, will consider the position of the General Accounting Office that says that the C-17 settlement is not a good deal.

The C-17 agreement, as I see it, would lower the range payload specifications on this airplane. It would do it for the fourth time. Mr. President, we are building an aircraft, and we are writing the specs to meet what the aircraft can do.

The way we ought to look out for the taxpayers' money in the Defense Department is to decide what our national security goals are, then decide how much money it takes to meet those national security goals, then build equipment to meet those national security goals, have the Government write those specifications, and put it out for bid to a company that will try to do what the Government and taxpayers want done to meet our national security responsibilities.

The C-17 aircraft that have been delivered to date do not meet important range and payload specifications.

This is not Mickey Mouse stuff.

Mr. BOND. Mr. President, will the Senator yield for a question?

Mr. GRASSLEY. I will yield for a question.

Mr. BOND. Mr. President, I would ask my good friend from Iowa if he is aware of the statements made by under Secretary Deutch to the House Armed Services Committee on May 17, 1994, in which he said, "In the Joint Chiefs of Staff judgment, there is no impact on the operational military capability of this plane"?

He further said, "Some of these specifications we have indeed reduced, not because it was a problem for the contractor to meet them, but because they had no value for the military condition."

Is my colleague familiar with that statement?

Mr. GRASSLEY. Mr. President, I say to the Senator from Missouri, I am not specifically familiar with it. I will accept what he said.

I do not think it detracts from what I have said that I can factually and specifically verify.

Regardless of what the Joint Chiefs of Staff say now might be necessary to meet our national security goals, when it was decided that this airplane was needed there were specifications written for that. Those specifications have been modified four times and they have been modified because the plane could not do what the Defense Department said it wanted it to do in each of those original specifications.

Mr. President, they do not meet the important range and payload specifications. What we are talking about here is the primary justification for the airplane: The ability to deliver vital military cargo overseas to our troops fighting in the field.

The C-17 simply, as it is being built now, is not able to do what was originally said that it should accomplish. The C-17 cannot carry cargo over the required distance. This is a problem. It is a very big problem.

But this is not the first time the range/payload specs have been revised downward. As I said, this is the fourth time. The C-17 range/payload is headed south.

The C-17 range/payload specs have been moved downward on three different occasions.

Under the initial specs, the C-17 was supposed to carry 172,200 pounds 2,400 nautical miles.

Since then, the range/payload specs have been moved down three times: November 1985, March 1990, and July 1991. And now under the Deutch plan, it is about to take another dive.

And DOD is developing a way to change the methodology for calculating the C-17 range/payload performance. That worries me. That is a way to, as I see it, scheme on their part to really bugger up the data. Pretty soon we will not know where we are compared to, where we started, and where we are supposed to be.

Of course, that is the rubber baseline at its worst.

That is probably part of Mr. Deutch's plan to keep us confused.

The latest data suggests that current C-17 performance on the heavy logistics mission is only 93,345 pounds. That is well below the original spec of 130,000 pounds and the proposed Deutch spec of 120,000 pounds.

I have a feeling that we have not reached the end of the road on the C-17 range/payload shortfall. Another trip down that road is already in the making.

The Deutch plan will help the contractor and the airplane meet the specs. The specs will meet the airplane rather than having the airplane meet the specs. It is not supposed to work like that.

The Deutch plan is wasteful.

We paid McDonnell Douglas top dollar to meet the more stringent specs.

More stringent specs are more costly because they involve greater risk. They may not be achievable, as we now know.

McDonnell Douglas signed up to the more stringent specs. Now, we are about to let them off the hook.

We should hold their feet to the fire and make them live up to the terms of the contract.

If the C–17 does not meet contract specs, then McDonnell Douglas should be made to either correct the problem or repay the Government a reasonable sum of money for lost performance.

If McDonnell Douglas refuses to do that, then I think the contract should be terminated for default.

Under no circumstances should we be making a $348 million cash payment to McDonnell Douglas when the airplane does not meet important contract specs, like range/payload specs.

Those specs were written into the contract for a reason. That is what the military said they needed to carry out the mission. We are not even close to meeting those requirements. The C–17 is not going to give us the airlift capability we need to do the job somewhere down the road.

We paid McDonnell Douglas billions of dollars to develop and deliver an airplane that could deliver the goods over the required distance. Well, the airplane falls far short of the need. But we still paid full price. And now, Mr. Deutch is asking us to pay full price plus.

We pay full price plus $348 million. We pay more and get less.

That is not right.

The Deutch plan makes a mockery of defense contracting.

The Deutch plan is a lousy deal for the taxpayers.

I will yield 10 minutes to Senator ROTH of my time.

The PRESIDING OFFICER (Mr. CONRAD). Senator ROTH is recognized for 10 minutes.

Mr. ROTH. Mr. President, I rise today to oppose the settlement between the Defense Department and McDonnell Douglas. The C–17 aircraft is a program that typifies the problems with the Pentagon's buying system. It is far over budget, behind schedule, and does not meet requirements.

Approving the settlement would condone business as usual. Moreover, it would remove any accountability for those who are responsible for the problems in this program.

Here is the situation in a nutshell. In 1990, the Defense Department determined that McDonnell Douglas was overrunning significantly its fixed price development contract on the C–17 aircraft. The Government began to take actions to rein-in the contractor. In response, the contractor filed a claim against the Government to get reimbursed for the cost overruns, stating that the Government's poor program management caused the problems. There never was a question that the technology was too risky. The issue was always whether it was the Pentagon or McDonnell Douglas that had the management problem.

About 6 months ago, the Secretary of Defense announced that the situation had worsened and that the Undersecretary of Defense for Acquisition had developed a plan to fix the problems or terminate the program at 40 aircraft. It was supposed to cost $41.7 billion for 210 planes; now it will cost $43 billion for 120 planes.

I think that is worth reading once more. It was supposed to cost $41.7 billion for 210 planes, but now it will cost $43 billion for 120 planes.

At that time the Secretary said: "The C–17 is late, it's over ceiling price, and it has serious operational deficiencies."

Under the terms of the settlement the taxpayers will pay McDonnell Douglas $348 million, in return for its dropping the claims suit. In addition, the Government agrees to buy 40 C–17 aircraft and then to reevaluate the contractor's performance. The General Accounting Office has reviewed the settlement and determined that "it is not in the best interest of the Government." One reason why the settlement is not a good deal is that even if the problems are fixed, it is still going to cost $1.3 billion more to get 90 fewer planes than were planned 3 years ago. This deal is a turkey for American taxpayers, and like a turkey, it just will not fly.

Mr. President, I have spent many years analyzing the problems of the Pentagon's buying system. I do not believe that the settlement will fix the problems in the C–17 program. First, the deal holds no one accountable for this horror story or for fixing the problems. The settlement states that the Defense Department will reassess the situation in November 1995. But, the General Accounting Office, in its review of the settlement, found that "DOD will have little more information in November 1995 than it does now on the contractor's ability to cost-effectively produce the C–17."

Moreover, the GAO found that there are no cost, schedule, and performance criteria to determine whether the problems have been fixed. The taxpayers are supposed to pay to fix the program, and no one will be able to tell if the problems have been fixed. It is like taking your car to get fixed, paying for the repairs, and then hoping that the repairs get made.

Mr. President, the second reason that this is a bad deal is that it removes all recourse for the Government. The agreement lowers the contract specifications to a level that the plane can meet, rather than the capability that is required. For example, the C–17 specification for heavy lift will be lowered to nearly 20,000 pounds less than the minimum requirement. According to the Pentagon, failure to meet a minimum requirement normally is a reason to terminate a program. In the private sector, if you pay for a repair that isn't made there are consumer protection laws. Under the terms of this agreement, the Government waives its own consumer protection laws.

Mr. President, I am also concerned that this settlement represents a double standard. One for big, prime contractors and another for small businesses trying to sell to the Government. Recently, many contractors in Delaware were put out of business by one program that experienced a cost overrun. Unlike the C–17, the Government is very happy with the results of that contract.

However, according the Defense inspector general, the Government added some gold-plating after it had approved the design and construction was underway. When the small contractors asked for additional funds to cover the costs of gold plating, they were told to file a claim. They did not have a stable of lawyers or the savings accounts to pay lawyers during the years of litigation that are usual in claims cases. While the contractors tried to work with the government to settle the situation, several went bankrupt.

This is hardly the treatment that McDonnell Douglas received. Their stock value has reached and maintained new highs since the settlement was announced. The Contract Disputes Act and the Alternative Disputes Resolution Act provide judicious evaluation of contractor claims. Why should McDonnell Douglas not have to live up to the standards in those laws? Why should we fund contract claims that the Air Force's contracting officer has denied?

Mr. President, let us not kid ourselves. The C–17 problems will not be fixed if they are swept under the rug, and that's what this settlement agreement does. The GAO says that the settlement is a bad deal. The amendment that I join in cosponsoring rejects the settlement. If it passes, the Pentagon gets the message to negotiate a better deal or tell McDonnell Douglas to use the normal procedures.

Mr. President, I yield back the balance of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume. But let me give people a rough idea. I think I will probably have about 8 or 10 more minutes to speak now, and then I think I will still have about 20 minutes left. The other side has 3 minutes left. If the other side does not say anything that needs a lot of rebuttal, I will probably yield back and not use all my time. But I need to know what the other side might do before that is real conclusive.

Before I make my final point, I want to praise Senator ROTH not only for his cosponsorship of this amendment, but a long time before I came to this Senate he was a leader in efforts, and still is a leader in efforts, to ferret out waste in Government and to make Government officials accountable. I want to compliment him for that and to say keep up the good work.

I think one final point that would be my third main point of concern with the proposed C–17 settlement agreement is the $234.5 million for what is called the "wing breakout" claim. The wing breakout applies to subcontracting out wings for the C–17 with another company.

To a large extent, the proposed $348 million direct cash payment to McDonnell Douglas is based on the wing breakout claim. The wing breakout claim makes up about 70 percent of the total cash proposed by Mr. Deutch to be given to McDonnell Douglas.

Mr. President, the wing breakout claim has a bad odor about it. I want to explain to you how I think the Government here on this wing breakout claim is being taken, and how there is some effort to cloud the issue. I think I can uncloud the issue.

First of all, the C–17 contracting officer looked at this deal and said that it was invalid and unjustified. Now, that person is a DOD employee. The contracting officer, the guy that makes the big decisions, looked at this claim and said: Unjustified.

We had the GAO report—and I have referred to this document many times—entitled "C–17 Settlement is Not a Good Deal."

Well, the GAO looked at it and said that it was not legitimate.

The documents bearing on the wing breakout claim show conclusively that it is invalid and unjustified.

So how did the wing breakout claim wind up in the Deutch settlement?

From day one, McDonnell Douglas had planned to breakout the wing job. They promised to put the job for bids at source selection, way back in July 1982.

Now, I want to say to my colleagues, this was an empty promise, because all along McDonnell Douglas had other plans, and I hope that I can convince you of that.

McDonnell Douglas changed its mind and decided to spend $365 million and get into the wingmaking business at its Long Beach, CA plant. But it did not work out very well. You think these big corporations are always going to make the right judgments. Well, they do not. This was one bad judgment McDonnell Douglas made.

They ran head-on into serious technical and cost problems with the wing.

So the word got out. And this made the competition salivate.

Pressure mounted to break out the wing job into subcontracts, as McDonnell Douglas had promised to do from the very beginning.

Several Members of Congress recommended that the subcontract go to AVCO of Nashville, TN. But that idea did not go very far.

The Air Force and McDonnell Douglas balked at that idea. They decided in November 1986 to compete the job.

Four companies submitted bids for the wing subcontract: McDonnell Douglas, AVCO, Lockheed, and Rockwell.

Lockheed won the contract.

On August 18, 1987, Lockheed was awarded a $140 million contract to build nine wing sets.

The wing work then moved to the Lockheed plant at Marietta, GA.

At the time, the Air Force claimed the wing breakout competition would save the taxpayers $76.5 million on the R&D contract and first two production lots.

Well, the wing breakout led to another fiasco—2,300 engineering design changes—another cost overrun—and a nasty dispute between Lockheed and McDonnell Douglas.

By March 1990, Lockheed had over $150 million in claims against McDonnell Douglas.

On March 7, 1990, McDonnell Douglas agreed to pay Lockheed $99 million for delays, errors, and 2,300 design changes.

The subcontract was terminated and the wing work went back to the Long Beach plant.

Mr. President, I ask unanimous consent to have the McDonnell Douglas/Lockheed settlement agreement printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRASSLEY. McDonnell Douglas claims the mess eventually cost the company $234.5 million and blames the Government for creating the problem.

Remember back in July 1982 they promised us they were going to break it out. Then they decided not break it out. Then they decided to do it.

McDonnell Douglas submitted the $234.5 million wing breakout claim on July 2, 1993.

Mr. Deutch recommends that we pay 100 percent of this claim.

Now, Mr. President, what is the basis for McDonnell Douglas' claim and why is it not legitimate?

It seems to rest on one main assertion.

McDonnell Douglas claims that the Air Force and Congress directed the wing breakout. We forced them to do it.

The Air Force examined this claim and concluded that it had no merit. The decision was made by the C–17 contracting officer, Mr. James C. David, on November 10, 1993.

As the C–17 contracting officer, he had sole legal authority to make that determination.

I have his letter in my hand. I would like to read from it and then place it in the RECORD.

Mr. David states and I quote:

> At no time did the government overrule McDonnell Douglas' September 18, 1985 decision to make the wing nor did it direct a change thereto * * * The Air Force was sensitive to McDonnell Douglas' contractual rights * * * As a consequence of congressional concerns regarding the C–17 program, McDonnell Douglas, senior Air Force, and C–17 officials met on several occasions in the August to October 1986 time period to discuss how to assure a cost-effective make or buy decision.

This is Mr. David, working for the Department of Defense, the chief contracting officer saying at no time did the Government overrule McDonnell Douglas' September 18, 1985, decision to make the wing, nor did it direct a change thereto. But it is costing us $234.5 million.

Mr. BOND. Will the Senator yield?

Mr. GRASSLEY. I would like to finish the letter and then I will yield. I have about four paragraphs.

I will continue to quote, because I digressed there, I am sorry to say.

> In October 1986, McDonnell Douglas agreed to a plan which envisioned a competition to select the most cost-effective source. * * * McDonnell Douglas guaranteed there would be no price change to the C–17 contract. * * * In fact, $141 million in savings were anticipated by McDonnell Douglas * * * At no time did the Government direct the wing competition or decision to subcontract to Lockeed * * * McDonnell Douglas voluntarily agreed to and executed the wing competition plan * * *.
>
> Based on the decision to subcontract to Lockheed, the parties [McDonnell Douglas and the Air Force] negotiated a modification to the C–17 contract [known as] P00137.

That is the end of the quote. Those are the words of the C–17 contracting officer, I would say to the Senator from Missouri. If he wants to ask me a question I will yield, but I will yield only for the asking of the question. Those are the words of the C–17 contracting officer, Mr. David.

Mr. BOND. Mr. President, I would ask my colleague from Iowa, No. 1, does he have any evidence that the settlement is based solely on the wing breakout claim? The McDonnell Douglas claims against the Government are said to aggregate approximately $1.7 billion. I wanted to know if there is a specific line or reference in the proposed settlement that suggests that the wing breakout was the only claim and somehow the sole claim on which the cash payment was based? It appears to be a relatively close dollar figure.

But I wonder if my colleague from Iowa can indicate to me what basis he has for saying the cash settlement was based on the wing breakout claim? That is No. 1.

No. 2, is he aware that McDonnell Douglas had already filed an appeal before the decision to which my colleague referred was handed down? So, in fact, the contracting officer who made the decision was representing an adverse party at the time, since the matter had already been appealed? I ask those two questions.

Mr. GRASSLEY. On the latter point, I do not think the fact that the contracting officer may have been in a particular position has any bearing on it. We are talking about the person who was in charge. It seems to me that ought to be given considerable weight.

In the first instance, I do not have a specific document but the Senator from Missouri I do not think disputes my claim that it is 70 percent of it, and 70 percent of the $348 million is $234 million, and that Mr. Deutch recommended that it be paid 100 percent. Those are not disputable so I do not see how the question raises any new issue.

So I want to go on now at this point.

Mr. President, I want to also place the C–17 contracting officer's assessment of the wing breakout claim in the RECORD as well.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. GRASSLEY. Mr. President, now, as I said earlier, the wing breakout claim seems to rest on the assertion that Congress directed the Air Force to do it.

I can find nothing in the legislative history to suggest that the Congress directed it or forced the Air Force to subcontract the wing.

Let me read from the pertinent section of the fiscal year 1987 conference report.

> The conferees are pleased that the Air Force has decided to conduct a competition for the production of the C–17 wings.

Mr. President, that is as strong as the language gets. If that is a direct order, I will eat my hat.

Mr. President, I ask unanimous consent to place the legislative history on the wing breakout contract in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. GRASSLEY. The most telling piece of evidence against the wing breakout claim is the last paragraph in a document known as P00137.

P00137 was a negotiated change to the basic C–17 contract resulting from the decision to subcontract the wing to Lockheed. It was signed by McDonnell Douglas and the Air Force. It is dated September 21, 1987.

I will read paragraph 4 in P00137. I quote:

> This Supplemental Agreement is a full settlement of any claims of the Contractor resulting from the changes effected by P00137.

Mr. President, I ask for unanimous consent to place the Air Force document P00137 in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 4.)

Mr. GRASSLEY. This mutually agreed to clause should be viewed, I think, as a bar to the McDonnell Douglas wing breakout claim. It is a big barrier standing in the way of further consideration of the wing breakout claim.

Why did McDonnell Douglas wait over 3 years to file the wing breakout claim? They settled the wing breakout claim with Lockheed on March 7, 1990. Between March 1990 and July 2, 1993, McDonnell Douglas never complained about the problem. As the C–17 contracting officer put it, "McDonnell Douglas never requested any additional equitable adjustments until the filing of this alleged claim."

This does not add up. It does not make sense.

According to the GAO, senior defense officials recommended that the Government audit the claim before paying anything to McDonnell Douglas. That idea was rejected.

I have a DOD document that states and I quote:

> After analysis and discussion the Senior Level Review Group decided the government should pay 100% of the cost. * * * This [wing breakout] claim should be included in the settlement and a contract modification issued paying the contractor 100% * * * of reasonable costs and profit claimed by McDonnell Douglas not-to-exceed $234.5 million.

Mr. President, I ask unanimous consent to place the DOD document in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 5.)

Mr. GRASSLEY. Mr. Deutch signed off on that recommendation. That is how the $234.5 million for the wing breakout claim found its way into the bill.

The General Accounting Office says that we should not pay the full value of this claim in the absence of any legal or pricing analysis. The C–17 contracting officer says that we should not pay the claim. Contractual documents suggest the Air Force is legally barred from paying it. So what is the basis for Mr. Deutch's decision to pay 100 percent of this claim? That question must be answered before the C–17 settlement agreement is approved by Congress.

We have before us most of the debate in opposition to my amendment from those people who say that this C–17 settlement must be accepted by Congress or else we will not have any C–17's.

My amendment does not strike any money that is in the bill to buy six C–17's. The settlement is one issue and buying the C–17's is another issue, and I am for buying those six C–17's. I am not for this settlement.

My opposition has not made a strong case that this settlement is so closely tied to the C–17, the continuation of the manufacture of the C–17. Quite to the contrary. I have submitted evidence to this body that shows the financial condition of McDonnell Douglas being so great that they are thinking now at the highest corporate level of having cash for acquisitions.

So a company in that position cannot be dependent upon $348 million from the taxpayers to continue their assembly line for the C–17. It just does not add up.

The other point that I think is very clear is they made a good case that 75 people looked at this issue and came to the conclusion that this settlement should be agreed to. Seventy of those people are from within the Defense Department; then there are six at the highest level in the top level review group. Five of those six are from the defense industry, various corporations in the defense industry.

How impartial of a consideration of the taxpayers' interest do you get from a group that is scratching each other's back all the time within the military industrial complex?

EXHIBIT 1

SETTLEMENT AGREEMENT FOR FSED, LOTS I AND II

Douglas Aircraft Company (DAC) and Lockheed Aeronautical Systems Company (LASC) agree to settle the C–17 Wing Component Contract for FSED, Lots I and II at a revised total price of $239,000,000 subject to the following:

1. DAC releases and waives all past, present and future rights/claims against LASC including the exercise of options beyond Lot II. LASC and DAC agree that neither party releases or waives any rights/claims they may have regarding the DAC authorized long lead tasks related to Lot III. The resolution of such rights/claims shall be negotiated by the parties in accordance with the terms and conditions of the Basic Agreement.
2. LASC releases and waives all past, present and future rights/claims for increased compensation, damages or schedule relief, including any claims for changes, delay and disruption directly or indirectly related to completion of FSED, Lots I and II requirements, except all changes received by LASC after 7 March 1990 and those specifically excluded on Attachment A "Changes Excluded from Settlement".
3. The expedited effort for the test stand pylon will be continued under the current separate time and material contract.
4. The $4M maximum liability for changes under the Basic Agreement is liquidated and otherwise satisfied by this agreement.
5. Regarding Class I and Class II changes received by LASC after the date of subject agreement, the parties agree that only individual changes valued in excess of $5,400 in cost shall be submitted by LASC to DAC and shall require an equitable adjustment in contract price or schedule.
6. The capacity for processing of the current C–17 parts will be maintained for Lot III through Lot VI and the actual processing will be done, if requested by DAC, under a new separate priced contract between LASC and a specified subcontractor.
7. LASC agrees to work diligently and in good faith with DAC in the expeditious transfer of existing C–17 assembly and fabrication tooling, mock-up and operational

data/documentation to the new source(s). All costs associated with LASC preparation, removal and transfer of tooling and data/documentation is included in this settlement. LASC will not be responsible for shipping costs related to the transfer of work.

8. LASC agrees to meet the delivery schedule dated 7 March 1990 attached hereto. (See Attachment "B")

9. LASC will comply with applicable DOD statutory or regulatory requirements (such as CAS, defective pricing, etc.) contained in the Basic Agreement. The settlement amount may be adjusted downward by DAC to the extent that the Government subsequently disallows any portion of the settlement amount and such action is due to LASC's inability or failure to comply with such contract requirements. Should the Government disallow any portion of said settlement amount, then DAC agrees to either appeal such decision or shall provide LASC the opportunity to process such appeal in accordance with the applicable disputes clauses of DAC's prime contract or the DAC/LASC Basic Agreement. DAC agrees to cooperate and diligently support any appeal pursued by LASC.

10. DAC will amend the Basic Agreement to incorporate the provisions of this MOA within ten (10) days of execution. Upon execution of subject Agreement, DAC and LASC agree to promptly (NTE 7 work days), and in good faith, negotiate a definitization schedule, including an equitable schedule for resumption of progress payments.

11. All other terms/conditions, requirements and obligations under FSED, Lots I and II shall remain unchanged.

12. The effective date of this agreement shall be 7 March 1990.

ABRAHAM GOLDFARB,
Lockheed Aeronautical Systems Co.
GERALD D. STAFFIERI,
Douglas Aircraft.

EXHIBIT 2

DEPARTMENT OF THE AIR FORCE,
WRIGHT-PATTERSON AIR FORCE BASE,
OH,
November 18, 1993.

To: ASBCA (Recorder), Skyline Six, 7th Floor, 5109 Leesburg Pike, Falls Church, VA.
From: ASC/YCKBA, 2600 Paramount Place, Fairborn, OH.
Subject: ASBCA Case No. 46356, Appeal of McDonnell Douglas Corp., Under Contract No. F33657–81–C–2108.

The attached Contracting Officer's Final Decision was dispatched to the appellant on November 10, 1993. The appellant was informed by letter dated October 29, 1993 that a decision would be provided on November 10, 1993.

JAMES C. DAVID,
Contracting Officer.

DEPARTMENT OF THE AIR FORCE,
WRIGHT-PATTERSON AIR FORCE BASE,
OH,
October 29, 1993.

To: Rich Grimm, C–17 Program, C1–DE4, M/S 217A–410, McDonnell Douglas Government Aerospace (MDA), Transport Aircraft, 1510 Hughes Way, Long Beach, CA.
From: ASC/YCKBA, 2600 Paramount Place, Fairborn, OH.
Subject: Recertified Claim Submitted July 1993: Wing Breakout.

1. Reference ASC/YCKBA letter dated September 7, 1993, subject—Recertified Claims Submitted July 1993: SEAFAC and Wing Breakout.

2. The final decision on the subject claim has been delayed. Pursuant to FAR 33.211(c)(2), a final decision on the above referenced claim will be provided on or before 10 November 1993.

JAMES C. DAVID,
Contracting Officer.

DEPARTMENT OF THE AIR FORCE,
WRIGHT-PATTERSON AIR FORCE BASE,
OH,
November 10, 1993.

To: McDonnell Douglas Corp., McDonnell Douglas Aerospace (MDA), Rich Grimm, C–17 Program, C1–DE4, M/S 217A–410, 1510 Hughes Way, Long Beach, CA.
From: ASC/YCKBA.
Subject: Contract F33657–81–C–2108, Claim No. 015, Wing Breakout, Protective Claim, 02 July 1993.

1. References:

a. MDA letter TA–DEO–2108–93–3046, dated 02 July 1993—Protective Claim.

b. Air Force letter YCKBA, dated 07 September 1993, entitled Recertified Claims Submitted July 1993: SEAFAC, and Wing Breakout.

2. The Air Force has finished its review of MDA's July 2, 1993, recertified claim No. 15, entitled "Wing Breakout—Protective Claim." The arguments of the claim have been carefully considered in accordance with FAR 33.211. MDA claims that the Air Force directed it to perform work over and above contract requirements; that "In reaction to Congress' strong pressure" (on Senior Air Force Officials), "the Air Force conceded to Congress" and, contrary to the contract requirements, the Air Force overruled Douglas' make or buy decision. Consequently, "Douglas was required to conduct a competition and subcontract production of wing components to the lowest bidder," "in a manner outlined and directed by the Government."

3. A review of the contract and relevant documents demonstrates the Government is not liable for any of the costs alleged in your protective claim dated 2 July 1993. Accordingly, your July 2 1993 Protective Claim is denied in its entirety for the following reasons.

a. The concerns expressed and actions taken by members of Congress were entirely appropriate for officials elected to safeguard the interests of the United States. Despite expressions of the interests of their constituents, the correspondence of Congress reflects the goal of costs savings and cost-effective manufacture of the C–17 Weapon System. Moreover, MDA is obligated by its own Make or Buy Plan, (which is incorporated into the contract) and by its own procedures, to consider facts such as "sound business principles" and "Reasonable life cycle costs consistent with . . . delivery capabilities" when making make or buy decisions. The contract Make-or-Buy clause in fact requires the contractor to "submit justification in sufficient detail to permit evaluation of the proposed change." Government officials involved in this matter were therefore, entirely justified in requesting MDA to demonstrate cost-effective make or buy decisions.

b. At no time did the Government overrule MDA's September 18, 1985 Make decision, nor did it direct a change thereto. Mr. Thomas Cooper's (Assistant Secretary of the Air Force) letters of August 7, 1986 to Senators Sasser and Gore state; "Since the Air Force is under contract with McDonnell Douglas for the total C–17 System, any decision on the wing must, of course, *recognize the contractual rights and obligations of both parties.*" This clearly shows that the Air Force was sensitive to MDA's contractual rights and made this fact known to Congress. However, as a consequence of Congressional concerns regarding the cost of the C–17 Program, MDA, Senior Air Force and C–17 SPO officials met on several occasions in the August to October 1986 time period to discuss how to assure a cost-effective make or buy decision. In October 1986, MDA voluntarily agreed to a plan which envisioned a competition to select the most cost-effective source.

c. The key elements of this plan included MDA revising the contract make-or-buy plan with respect to the wing; and competing for potential subcontracting, the fabrication and partial assembly of a substantial portion of the wing, with no schedule slip. The potential subcontract was to be firm fixed price with firm FSED pricing and Not To Exceed pricing for five production options. MDA guaranteed there would be no price change to the C–17 contract. As early as 15 September 1986, MDA had advised the Air Force of its agreement that there would be no changes in Target Cost, Target Price, or Ceiling Price for FSED and Lots I and II as a result of MDA's decision to compete a portion of the wing. This advice was reiterated in MDA letters of September 26 and October 29, 1986. In fact, substantial savings were anticipated by MDA for FSED and Lots I and II, and these savings would be shared 80/20 by the Air Force and MDA under the incentive structure of the C–17 contract. MDA's plan was within the contractual framework.

d. At no time did the Government direct the make-or-buy plan change, the wing competition, the method for conducting it or the decision to subcontract to Lockheed. MDA voluntarily agreed to and executed the wing competition plan. In the final analysis, MDA made clear its willingness to evaluate and select the best approach to accomplish and demonstrate a cost-effective make-or-buy decision, so that the program would continue. Further substantiation from Mr. Johnson's (Corporate vice-president Aerospace Group Executive) 29 October 86 letter follows: ". . . It is my opinion that we have arrived at the best possible resolution of the wing competition issue . . . The timely conclusion of this issue will permit us to conduct an effective competition and to maintain the program schedule." At the conclusion of the competition Douglas provided the Government, in its June 19, 1987 letter, its own analysis which indicated an estimated $141M in savings for FSED and 5 lots, as a result of the wing competition and resultant MDA subcontract to Lockheed. This analysis verified the savings which had been anticipated in late 1986.

e. Based upon MDA's changes to its Make-or-Buy plan to compete a portion of the wing manufacture and assembly, and its decision to subcontract to Lockheed, the parties negotiated modification No. P00137. This modification had an effective date of 30 October 1987, estimated anticipated savings of $76.5M for FSED and Lots I and II, and set up a management reserve account to receive these savings. The last paragraph (Page 2, Paragraph 5) of P00137 states "This Supplemental Agreement is a full settlement of any claims of the Contractor resulting from the changes effected by P00137." This modification is a full accord and satisfaction between the parties.

f. After the execution of P00137 Douglas never requested any additional equitable adjustments until the filing of this alleged claim, despite the fact that there program restructures set out in P00108, P00384, and

P00384 occurred subsequently. Further, MDA never provided a notice that constructive change had occurred, as required by the contract. See Special Provisions H-67 and H-83(d).

4. This is the final decision of Contracting Officer. You may appeal this decision to the Board of Contract Appeals. If you decide to appeal, you must, within ninety (90) days from the date you receive this decision, mail or otherwise furnish written notice to the Board Of Contract Appeals and provide a copy to the Contracting Officer from whose decision that appeal is taken. The notice shall indicate that an appeal is intended, reference this decision and identify the contract by number. Instead of appealing to the Board of Contract Appeals, you may bring an action directly in the U.S. Court of Federal Claims (except as provided in the Contract Disputes Act of 1978, 41 U.S.C. 603, regarding Maritime Contracts) within twelve (12) months of the date you receive this decision. If you appeal to the Board of Contracts Appeals, you may, solely at your election, proceed under Board's Small Claims procedure for Claims of $10,000.00, or less or its accelerated procedure for Claims of $50,000.00 or less.

JAMES C. DAVID,
Contracting Officer.

EXHIBIT 3

EXCERPT FROM HOUSE REPORT 99-1005

C-17 AIRCRAFT

The conferees agree that C-17 tooling costs in fiscal year 1987 are more properly financed in the Research, Development, Test and Evaluation appropriation rather than in procurement. Production tooling for the C-17 in future years will follow the agreed-on tooling policy discussed elsewhere in this report. The conferees agree to provide $650,000,000 to RDT&E (including tooling), $15,000,000 in the procurement line for production planning, and $35,000,000 for advanced procurement.

The conferees are pleased that the Air Force has decided to conduct a competition for the production of C-17 wings. The Air Force should report the results of the competition and the Comptroller General should provide his independent assessment of the competition to the Committees on Appropriations as required by the House report.

EXCERPT FROM HOUSE REPORT 99-793

C-17

The C-17 is a multiengine aircraft for inter and intra theater airlift missions, for either strategic or tactical purposes. Fiscal year 1987 is the first year proposed for C-17 procurement funding. Acquisition of a fleet of 210 aircraft at a cost of $35,828,100,000 is envisioned. The Air Force budgeted $182,300,000 for production nonrecurring items and $35,000,000 for advance procurement of long lead parts. The Committee recommends $145,300,000, a reduction of $37,000,000 as recommended by the House Armed Services Committee, and $35,000,000 for advanced procurement of 2 aircraft in fiscal year 1988.

During deliberations on the fiscal year 1987 defense budget request, the Committee became concerned about the Air Force's proposed acquisition strategy to have C-17 wing manufactured by the prime contractor. Significant cost savings may be available if C-17 wing production is competed. The Committee commends the Air Force for its recent decision to conduct a formal competition for C-17 wing production in response to the Committee's concerns.

The Committee directs the Secretary of the Air Force to report the results of the formal competition for C-17 wing production to the Committee prior to releasing fiscal year 1987 C-17 procurement or RDT&E funds to the prime contractor that would be used for production tooling, long lead parts, or other efforts related to manufacture of the wings. This restriction is not intended to affect or otherwise delay other elements of the C-17 production program. The Secretary's report should demonstrate the Air Force's preferred acquisition strategy for production of C-17 wings will result in the lowest total acquisition cost to the Government, including the tax implications of constructing a new wing manufacturing facility, if applicable. The Committee further directs the Comptroller General to provide an independent assessment of the Air Force cost analysis supporting its C-17 wing production strategy to the Committee within two weeks of publication of the Air Force's report.

EXHIBIT 4

DOUGLAS AIRCRAFT CO.,
Long Beach, CA, 22 September 1987.

Subject: Contract F33657-81-C-2108, Supplemental Agreement P00137, Wing Competition Savings

To: Department of the Air Force, Headquarters Aeronautical Systems Division (AFSC), Wright-Patterson Air Force Base, OH 45433-6503.

Attention: Daniel E. Rosner (ASD/AF/C-17KA).

Reference: AF/YCK letter, dated 01 September 1987, same subject.

1. In response to the reference letter, the Contractor forwards herewith a signed copy of the subject modification.

2. The Contractor requests the Air Force incorporate paragraphs 2 and 3 of the subject agreement in block 16 of CDRL sequence No. 301A as follows:

*"The management reserve narrative found in format 5 of the Cost Performance Report entitled, "Baseline revisions this Month" is hereby divided into two different parts. Part 1 will be the standard management reserve tracking of all changes, with the exception of those associated with the wing management reserve. Part 2 will separately track any changes against the wing management reserve account.

*"Any changes (drawdown or increase) to the part 2 management reserve account will require System Program Director approval."

M. W. HOGAN,
Manager, C-17 Contracts.

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

Instrument ID No. 33657-81-C-2108.

Issued by: USAF/AFSC Aeronautical Systems Div. (ASD), Wright-Patterson AFB OH 45433-6503.

Administered by: AFPRO, Douglas Aircraft Company, 3855 Lakewood Blvd., Long Beach, CA 90846-0001.

Buyer: Jeff Patterson, ASD/AF/C-17KA.

Contractor: McDonnell Douglas Corporation, Douglas Aircraft Company, 3855 Lakewood Blvd., Long Beach, CA 90846-0001.

Security Class: U.

This supplemental agreement is entered into pursuant to authority of mutual agreement of the parties. If modifies the above numbered contract as set forth herein.

Remarks (Except as provided herein, all items and conditions of the contract, as herefore changed, remain unchanged and in full force and effect.)

Subject: Wing Competition Savings.

Change in contract price: None.

Change in obligation: None.

Name and title of signer: W. Hogan, Manager.

1. By mutual agreement of the parties, it is hereby understood, that based on a change to the make or buy plan to compete as a single subcontract package the following: fabrication of stringers, wing skins and spar caps, fabrication and subassembly effort related to the bulkhead assembly, fabrication and assembly of pylons, winglets, slats and fixed leading edge, an estimated savings of $65.6M will be realized for subject contract. The estimated savings for Lot I production, when exercised, will be $9.5M and the estimated savings for Lot II production, when exercised, will be $1.4M. All actual savings realized as a result of this wing subcontract will be subject to final price redetermination under Section H paragraph 46 of this contract.

2. The management reserve narrative found in format 5 of the Cost Performance Report entitled, "Baseline revisions this Month" is hereby divided into two different parts, 1 and 2. Part 1 will be the traditional management reserve tracking pre-existing changes and Part 2 will be a fenced management reserve consisting of the savings resulting from the wing competition. Both Part 1 & 2 amounts will be tracked separately.

3. Any changes (drawdown or increase) to the part 2 management reserve account will require System Program Director approval.

4. This Supplemental Agreement is a full settlement of any claims of the Contractor resulting from the changes effected by P00137.

Mr. GRASSLEY. Mr. President, I yield the floor. I have some time remaining. I would like to consult with the chairman of the committee or whoever is managing for the other side—they have 3 minutes left—if they want to continue or do they want to yield back time, because even though I have more time to yield back than they do, I will yield back my time.

Mr. NUNN. The Senator from Hawaii has been waiting. I know he would like to speak for 3 or 4 minutes and then at that stage I think we are ready to come to a vote.

Mr. GRASSLEY. I will reserve my judgment to see what the Senator from Hawaii says. If it does not need rebuttal, I will be glad to yield back time.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii controls 3½ minutes.

Mr. INOUYE. Mr. President, I rise today to ask the Senate to vote against the amendment offered by the Senator from Iowa, and vote to give the C-17 program a fair chance to prove its value as our core airlifter of the future.

I take this position because we need the C-17 now more than ever. The C-17 is uniquely suited for the demands of the post-cold-war era. And while others have come forward with alternatives, no other airlifter—now in the fleet or under consideration—can go as far in meeting our current and future military airlift needs.

Those who question the need for the C-17 overlook several important realities. In today's world, where the mission of our military forces has expanded to include localized conflict, ethnic strife, and humanitarian missions, America must have the means to respond quickly and effectively to crisis. As we continue to close and cut back our bases overseas, we are placing more and more importance on the ability to dispatch troops, equipment, and supplies over long distances—and to get them where they are needed, when they are needed.

The C–17 is key to that essential rapid-deployment capability. It can carry more cargo to more airfields in less time than any other airlifter. Only the C–17 will have the versatility to conduct airdrop and combat offload operations, operate at austere airfields, cover transcontinental distances, survive hostile environments, and maneuver on the ground in such a way that it can deliver more cargo in shorter times than other aircraft. It can haul the kind of outsize cargo that will be critical to the early hours of future crises—armor, helicopters, Patriot missile systems, and the like.

The promises of the C–17 are being kept. Its unique capabilities are being validated in flight and ground tests involving load tolerances, range and payload, takeoff and landing, ground maneuverability, and environmental conditions.

In the last year, this aircraft and this program have been subjected to intense scrutiny and independent analysis. A study of the Institute for Defense Analyses confirmed that the C–17 remains the most cost-effective solution to our increasingly urgent military airlift needs. The Joint Requirements Oversight Council, composed of four-star generals, confirmed the C–17 would meet the military's future operational requirements for strategic airlift. The Pentagon's cost analysis improvement group, certified that the C–17 is affordable with planned Defense Department budget parameters, and the Defense Science Board recommended continuation of the C–17 program. The findings of these various assessments were embraced by the Secretary of Defense and the White House; they support the request before us in this authorization bill.

Listen to what the commander in chief of the U.S. Transportation Command Gen. Ronald Fogleman says about the C–17:

> All studies have validated our requirement for a core military airlifter, and every cost and operational effectiveness analysis to date confirms the C–17 Design as the best option.

In a letter dated May 23 to the Speaker of the House, President Clinton called the C–17's capabilities:

> Crucial to the Air Force's ability to deliver and sustain forces in support of theater commanders * * * .Even with a "mixed" strategic airlift enhancement program, that includes procurement of non-developmental aircraft, there will be certain core capabilities that can only be provided by the C–17.

The C–17 is demonstrating those capabilities today. It is a real product that has been delivered and it is meeting the tests set for it by the military and by Congress.

Eight aircraft are in operational service.

Of the 10 specific performance and program mandates set last year by Congress for continued support of the C–17, all have been met or exceeded.

The latest program assessment by the Defense Department found that deliveries were improving in terms of schedule and quality, and reported that other schedule commitments were being met.

In short, the C–17 is earning our support. It is showing steady progress in meeting Defense Department and congressional demands. It is critical that we do our part in this authorization bill to nurture that process and lay a foundation for further progress.

Let me just acknowledge for the record that the C–17 has been a troubled program. It has encountered challenges and difficulties—many of which are not uncommon to programs of this size and complexity. But I believe it is time to drop this fixation on problems of the past. We believe we have a solution at hand—a way to put the troubles of the C–17 behind us and get the C–17 program squarely back on track. That solution lies in approval of the settlement reached almost 6 months ago between the Defense Department and McDonnell Douglas; that settlement is the subject of debate here today.

That settlement resolves all of the major issues and problems identified by the Defense Science Board task force review of the C–17 program. It cleans the slate of disputes that threatened to add cost and delay to the C–17 program. It eliminates around $1.6 billion in actual and potential claims at a fraction of that cost to the Government and requires the contractor to make substantial direct investments in program improvements. It avoids the risks and costs of litigation, and enables both sides to focus their resources on producing quality aircraft at affordable prices.

To paraphrase the Deputy Secretary of Defense John Deutch, this is a fair and balanced settlement—a good deal for the Government, a good deal for the taxpayer, and one that satisfies the military requirement before us. In his words, it establishes "A new basis for doing business."

The Defense Department reported only last month that "The benefits attributed to the settlement are not all speculative or prospective. The agreement has already produced tangible results."

In a sign of good faith, the contractor has begun fulfilling its financial end of the bargain, even in the absence of approval by Congress. It is time that we authorize the Defense Department to uphold the Government's end of this agreement.

Over the next 15 months or so, the C–17 will be undergoing stringent tests as part of the most rigorous evaluation ever applied to an aircraft of its kind. The settlement agreement covered by this bill provides an ambitious but realistic plan to cut costs and meet the operational requirements set by the military. Approval of this agreement is crucial if we are to receive our desired return on what we have already invested in this much-needed program. Moreover, it is needed to give the C–17 the fair chance it needs—and deserves—to meet the high expectations set for it, and take its rightful place as the core of our worldwide airlift fleet.

According to the Department of Defense, our refusal to approve this hard-won settlement would mean either a return to the problem environment of the past and the prospect of complicated, costly litigation, or program termination and associated litigation. That, quite simply, is an unacceptable, irresponsible alternative.

As the Chairman of the Joint Chiefs of Staff Gen. John Shalikashvili has said, the C–17 must be given "the opportunity to demonstrate its significant improvements and production efficiencies."

To those who would prefer to see the program fail, he warns—and I quote—"We must not let this happen on our watch."

Our military and civilian leaders agree on the importance of the C–17 to meet the challenges America faces in the foreseeable future and to fulfill our commitments around the world. The Department of Defense has presented us with a reasonable plan to assure that the C–17 meets the expectations that have been set for it. I ask that you join me in supporting that approach as the single best solution to the erosion of our airlift capability—a fair deal that meets the twin tests of fiscal responsibility and military need.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. GRASSLEY. Mr. President, I am going to take 1 minute and then yield back my time. Time has expired on the other side?

The PRESIDING OFFICER. The Senator is correct.

Mr. GRASSLEY. First of all, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GRASSLEY. Mr. President, as always, I appreciate the wisdom of the Senator from Hawaii. I have worked closely with him on such issues. Just last year, he was very helpful to me with some matters on the defense appropriations bill. I consider him very cooperative.

He has expressed his feelings on this. I do not have anything in rebuttal to what he had to say, but I have something to add because he did make some mention of the claims that McDonnell Douglas had against the Federal Government that are settled and that that would be a rationale why this should be agreed to.

They have been mentioned by several other people on this floor, as well, during this debate. There has never been any mention—when you talk about the claims McDonnell Douglas had against the U.S. Government—that the U.S. Government also had up to 3 billion dollars' worth of claims against McDonnell Douglas—3 billion dollars' worth of claims against McDonnell Douglas.

In conclusion, after all this debate is said and done, there is still no explanation of why it should be this specific agreement. Why is the future of the C–17 so dependent on this agreement? I think and I hope I have made clear that this is a lousy deal for the taxpayers.

So I urge my colleagues to send this agreement back to the drawing board. I yield back the remainder of my time.

The PRESIDING OFFICER. Is there further debate?

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I rise in support of the C–17 settlement and budget request, as the armed services supported, and in opposition to the Grassley amendment. I know this is a controversial issue, but you cannot separate the purchase of the C–17 from the settlement between DOD and the contractor. Based on my analysis of the C–17 program, it is clear that the settlement is a reasonable one and that it and the procurement are like the two blades of a pair of scissors: you don't get a fully functioning tool unless you have both components. If we are going to go ahead with the Defense Department plan to buy 40 C–17's as the minimal fleet of C–17's, we must reach a settlement that permits the procurement to go forward. Otherwise, the Department of Defense and the contractor will spend years in litigation and claims, battling each other instead of producing the aircraft. To kill the settlement is to kill the C–17 program.

Mr. President, I know many of my colleagues are concerned about the settlement of the C–17 program, and about the status of the program generally. I, too, am concerned that the program work, and that we get working aircraft at a reasonable price. The Defense Department has arrived at a conditional solution to the previous problems identified with the C–17 program. If the contractor meets DOD's terms, then DOD will go forward with continued procurement. If not, DOD will terminate the program at 40 planes. DOD should have a chance to make this solution work.

Mr. President, I urge my colleagues to oppose the Grassley amendment.

Mr. D'AMATO. Mr. President, one of the more controversial aspects of the finely crafted C–17 bail-out is the issue of claims. Much has been made of the fact that the contractor forwent $1.2 billion in threatened claims as part of the settlement proposal. My question is, why did the contractor give in?

The contractor is expected to lose over $1 billion on the full scale development/lot I/lot II contract, but is willing to waive the right to recover some or all of these costs. Just how real were these threatened claims? Was the contractor's decision influenced by the record on claims prior to the proposed settlement: 6 of 11 denied outright, with 5 more under negotiation or review?

Conversely, what did we get, and what did we give up, by wiping the slate clean without a thorough adjudication of both contractor and government claims? What role did the system program office, the Defense plant representative office, and the Defense Contract Audit Agency play in assessing claims on either side as the settlement proposal was taking shape?

Finally, was the Government forced to forgo claims because of the apparent inability of the Justice Department to recover even a penny on the dollar from the contractors involved in the A–12 debacle?

These are questions troubling me as we consider the bailout before us.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to amendment No. 1837 offered by the Senator from Iowa [Mr. GRASSLEY]. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Connecticut [Mr. DODD] is absent because of illness in the family.

Mr. SIMPSON. I announce that the Senator from Wyoming [Mr. WALLOP] is necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "nay."

The result was announced—yeas 32, nays 66, as follows:

[Rollcall Vote No. 162 Leg.]

YEAS—32

Baucus
Biden
Bingaman
Bradley
Breaux
Brown
Bumpers
Byrd
Conrad
D'Amato
Dorgan
Feingold
Glenn
Graham
Grassley
Gregg
Harkin
Hatfield
Kohl
Lautenberg
Mack
Mathews
Metzenbaum
Nunn
Pressler
Pryor
Roth
Simon
Smith
Specter
Wellstone
Wofford

NAYS—66

Akaka
Bennett
Bond
Boren
Boxer
Bryan
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
Danforth
Daschle
DeConcini
Dole
Domenici
Durenberger
Exon
Faircloth
Feinstein
Ford
Gorton
Gramm
Hatch
Heflin
Helms
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Leahy
Levin
Lieberman
Lott
Lugar
McCain
McConnell
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Packwood
Pell
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Shelby
Simpson
Stevens
Thurmond
Warner

NOT VOTING—2

Dodd
Wallop

So the amendment (No. 1837) was rejected.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Mrs. FEINSTEIN assumed the chair.)

Mr. CRAIG. Madam President, I ask unanimous consent to speak for 3 minutes as in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Idaho [Mr. CRAIG], is recognized for 3 minutes as in morning business.

THE 1872 MINING LAW

Mr. CRAIG. Madam President, today the House and the Senate attempted to come together in a conference to resolve the issue of reform of the 1872 mining law. As the Senate may remember, we passed legislation nearly a year ago to resolve that issue. The House dragged its feet for nearly 6 months and finally passed legislation early this year, and we have been attempting to get to conference with the House and the Senate appointing conferees. I think most of us in the West who have public lands and mining on public lands have been very anxious that we arrive at a compromise that resolves some of the contentious issues that have been here before this Senate on more than one occasion.

In the last 2 weeks, I have brought to the chairman of the Energy and Natural Resources Committee two different concepts of compromise. We have attempted to resolve the issue of royalties. I, and others, have moved from a net royalty to a gross royalty. While the industry is very concerned, they recognized it was very important to attempt to arrive at this compromise. We have also tried to deal with the issue of unsuitability. That is where we would give the Secretary of the Interior discretionary authority to make a determination on whether mining should occur on a certain property or it should not occur.

Well, because of timing today, that conference did not meet. But I hope we can meet next week. I hope the Senate and the House and their conferees are dedicated to bringing about real change in the mining law, but change that will keep America's miners working, that will allow this country the continued interest of investing in the mining industry to produce the metals necessary to keep an industrial complex alive.

I must tell you that I am terribly concerned that the House version does not do that, or that this administration, in the name of Secretary Bruce Babbitt, is not dedicated to that concept, for they have put up a bill that could well put thousands of people out of work. But I will tell you that Senators on both sides of this issue, the conferees appointed by the chairman of the Energy Committee, have met now for over 2 weeks trying to resolve our differences. While that has not yet been accomplished, I am still holding out hope that we can bring about the kind of compromise that I think all of us stand for—to recognize our environmental concerns, but to know that we cannot tax an industry into oblivion, that we must have a mining industry for this country, and that the Senate approach that we have been working so hard to bring about can, in fact, accomplish just that.

So I hope that Senators, recognizing the importance of this issue, will encourage the House and the Senate to come together to look at the ideas we have put together in a meaningful way, to ensure that we can produce a reform of mining law that will recognize the importance of a mining industry to our country and the kinds of changes that will maintain balance for the environment, for the mining industry, and for the working men and women who find their lives in it. It is a billion-dollar industry directly employing over 100,000 people. It is clearly a jobs issue, and I hope this administration will work with us in resolving that question.

I ask unanimous consent that an article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MINING THE SAGEBRUSH

The Western land wars continue, most notably of late over mining. Interior Secretary Bruce Babbitt and a gaggle of Democratic congressmen are pushing a Green button that has revived the Sagebrush Rebellion. The consequences already have been felt in Mr. Babbitt's near-miss for the Supreme Court and may extend into the 1996 election.

The secretary is in no mood to retreat. He aggravated tensions last month with a showy reference to the "biggest gold heist since the days of Butch Cassidy" when a big Nevada mining operation got out from under his thumb via a land privatization. More recently he got into high gear an effort to sell higher grazing fees to ranchers, while a timber standoff in the Northwest continues despite Judge Dwyer's dispensation. Meanwhile, environmentalists are blasting into Mr. Babbitt's rear flank on a host of issues. The political gains that Candidate Clinton made in this region in 1992 may be evaporating.

On mining and the other resource controversies, including dams and water, the West is still coming to terms with a changed federal government. The days of subsidized development are over, and we have applauded that. What now must be settled are the competing claims of those who've relied on "multiple use" of federal land for their livelihoods vs. those insisting on preservation. Private property also is on the line thanks to "wetlands" and the Endangered Species Act, whose listings Secretary Babbitt has just proposed to make more inclusionary of affected parties.

Consider mining. For well over a century, easy terms have invited exploration and development of the West and a common-law order has been imposed, much as under the Homestead Act. Now the politics have heated up around the disparities between the few thousand dollars it costs to obtain a site and potential billions of dollars' of mineral deposits. Hence, charges of a "gold heist" when a unit of American Barrick succeeded in forcing a patent (or land title) to its lode in northern Nevada.

Patents are extra protection for a company that fears that changes in policy will jeopardize its basic claim on the riches beneath federal lands. (Lenders thus insist on them before putting big bucks into a project.) Secretary Babbitt has made them hard to get.

Privatizing the vast federal tracts in the West is nearly always a good thing, and 3.2 million acres have been turned over since the Mining Act of 1872 was adopted. The current patent process is an inefficient and irrational way to go about it, because it doesn't capture the true value of a holding. Like so many other aspects of Western land policy, it lacks an economic reference point in allocating scarcity (i.e., a market price). Also, patents or some other form of secure tenure should be extended for other resource interests, including recreation.

The House of Representatives is less creative. It wants to keep the federal barony and thinks imposing an inflexible 8% federal royalty on gross mining revenues would even things out. The industry says that—on top of state taxes—would break it. By comparison, hard-rock miners may pay more than 10% in royalties to private property owners, though that usually involves surer discoveries than the speculation on public lands.

We wish we could be confident that the urban liberals who make hay of the resource "giveaways" were really interested in proper pricing, but their blanket opposition to a market in federal land (the House measures would end patenting) makes us doubters. At the same time, many Westerners also want to keep their federal landlord—but the traditional one, pre-Babbittry. Given the demographic shift in U.S. political power, this is a position they ultimately will have to abandon. Even if the West isn't turning liberal, it is being urbanized along with the rest of the country, and the resource interests can no longer expect to hold sway in Washington.

For all the uneconomic policies, however, the "gold heist" imagery is misplaced. The billions' worth of deposits—incentive enough to incur countless millions' worth of exploratory and extractive costs—are a long time in the digging. Average returns in the mining industry reportedly are under 5%; if this really were a tax-funded bonanza, investors would be clamoring for an equity position. As it is, the recent market appeal of mining companies owes to their finds abroad, not in the U.S. Thanks to lowered taxes (or royalties) in nations such as Mexico, exploration abroad now nearly equals that in the U.S., whereas in 1989 it was less than half.

Latin America is making a big pitch to the miners. Canada, meanwhile, is showing alarm over its decline, with Anne McClellan, its equivalent of Mr. Babbitt, stressing that month her intent to "improve the investment climate" for the domestic industry. The finance minister, Paul Martin, says this means a minimum of taxes and regulation—the opposite of the Babbitt approach.

Environmental degradation plays a big part in this debate. The past record of U.S. mining is no better than that of other sectors, and bankruptcy law has shielded even some recent malefactors from cleaning up their mess. But today's laws apply to mining as to everything else, so what's special? Stiffer bonding requirements can reinforce the reins on mine pollution. Creation of tradable claims to other resource use and enjoyment would enhance this protection.

The minerals industry becomes more conscious of waste as economics require. The property question needs to be figured into that. But if Washington simply substitutes one arbitrary set of prices and rules for another, it will end up with less of a mining base on which to apply lessons of the past. People who don't like to see soil turned would like that. Others who do, for the jobs and wealth it brings, are again stirring in the Sagebrush. When they act, it is likely to be in 1996 against a Democratic Party that, for all the reasonable talk, seems incapable of shaking free of its reflexively liberal policy prescriptions.

The PRESIDING OFFICER. Who seeks recognition?

The majority leader is recognized.

Mr. MITCHELL. Madam President, there will be no further rollcall votes this evening. I believe the chairman of the committee will continue with consideration of the bill to discuss amendments which do not require recorded votes.

The Senate will return to session at 9 a.m. tomorrow and will return to consideration of this bill at 9:35 a.m., at which time an amendment by the distinguished senior Senator from Pennsylvania will be offered, and then there will be a number of amendments and recorded votes throughout the day tomorrow.

Madam President, I now suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Madam President, in my opening remarks I noted that the defense bill is $400 million below the 1995 budget request by President Clinton in budget authority and $800 million below the Clinton request in outlays.

But I want to make it clear, if in my opening statement I did not make it clear, that this bill is already above the budget authority and the outlay level by a small amount, not much, but by a small amount of both the House and the Senate defense appropriations subcommittee's 602(b) allocations.

So this authorization bill already exceeds what the appropriators have allocated for defense in both budget authority and outlays not by much.

But I want everybody to know that because it has to be cleared that any amendments to this bill that do not have offsets, that are not offset by reductions, will make the budget authority and the outlays significantly above appropriated funds.

What that means is that if we push above the appropriated 602(b) level it will require the appropriators to make cuts in the fast spending accounts, which are personnel accounts and readiness accounts, and I do not think any of us want to see that.

I did want everyone to know that even though this bill is under the Clinton budget request it is not under the appropriation reality of the 602(b)'s, so there is no money here to be used up by amendments that do not have offsets.

So I hope when Senators come to the floor they will understand that our committee will be looking very carefully to make sure there are offsets for any kind of add-ons here. Otherwise, the appropriators will be given an impossible task trying to sort out an excessive authorization.

CBO COST ESTIMATE FOR S. 2182, THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

Mr. NUNN. Madam President, when the Armed Services Committee reported S. 2182, the National Defense Authorization Act for Fiscal Year 1995, to the Senate on June 14, the Congressional Budget Office [CBO] cost estimate on this bill was not available. The committee indicated in our report accompanying the bill that this cost estimate would be included in the material presented during the Senate floor debate.

Madam President, the committee has received the CBO cost estimate on the bill, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 17, 1994.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 2182, the National Defense Authorization Act for Fiscal Year 1995, as ordered reported by the Senate Committee on Armed Services on June 9, 1994.

The bill would affect direct spending and thus would be subject to pay-as-you-go procedures under the Balanced Budget and Emergency Deficit Control Act of 1985.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

JAMES L. BLUM
(For Robert D. Reischauer).

Enclosure:

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: S. 2182.

2. Bill title: National Defense Authorization Act for Fiscal Year 1995.

3. Bill status: As ordered reported by the Senate Committee on Armed Services on June 9, 1994.

4. Bill purpose: This bill would authorize appropriations for 1995 for the military functions of the Department of Defense (DoD) and the Department of Energy. This bill also would prescribe authorized personnel strengths for each active duty and selected reserve component.

5. Estimated cost to the Federal Government: The costs of this bill are shown in Table 1. Costs of the bill would fall under function 050, National Defense, except for certain items noted below.

DIRECT SPENDING

The direct spending in this bill stems primarily from provisions that would allow civil service retirement credit for past service, direct DoD to make certain Medicare payments, increase fees for the Armed Services Retirement Home, change severance payments to certain former employees, allow DoD to lease certain government property and spend the proceeds, and increase military retirement and survivor benefits.

Retirement Benefits for Civilians.—Section 334 would allow certain federal workers who were employed by non-appropriated fund instrumentalities (NAFI) between 1966 and 1988, and who are currently employed by the federal government in civil service positions, to receive retirement credit for their NAFI service. Employees would have to contribute to the retirement trust fund for each year of service for which they wish to receive credit. CBO estimates that approximately 20,000 employees would choose to purchase additional retirement credit, increasing government receipts in 1995 and 1996 by $53 million and $225 million, respectively. These receipts would outweigh higher spending for annuity payments in 1995 and 1996 by $33 million and $183 million, respectively. After 1996, however, the provision would raise net spending by $78 million in 1997, rising to $138 million in 1999.

Coverage Under Medicare Part B.—Section 708 of the bill effects certain retired military personnel who are eligible for Medicare. When an individual attains Medicare eligible at age 65, he or she must decide whether or not to purchase Part B coverage. Part B is a voluntary program covering physician services and other non-hospital costs. Those who do not initially opt for Part B coverage can choose to do so at a later date, but they must then pay a substantial penalty in the form of a higher premium. This provision directs DoD to pay the penalty for retired military personnel in this situation if they live within 65 miles of a military treatment facility that is slated for closure. CBO estimates the cost of this provision to be $20 million in 1995, increasing to $70 million by 1999.

Armed Forces Retirement Home.—Section 343 would increase the percentage charge for calculating resident fees for the Armed Forces Retirement Home and would expand the types of income on which such fees are calculated. By the year 2000, all of the changes will have been phased in and resident fees would be about double what they are today. This constitutes negative direct spending because offsetting receipts would increase while spending is expected to remain at baseline levels. Savings would start in 1996 at $3 million and increase to $12 million in 1999.

Section 343 would also increase the maximum amount that could be withheld from the pay of certain active-duty personnel in order to finance the Armed Forces Retirement Home Trust Fund. The provision would allow the Secretary of Defense, beginning January 1, 1995, to increase gradually the withholding rate from the current maximum of fifty cents per month to two dollars per month, if the Secretary determines that the trust fund requires this additional financing. While we cannot know what discretionary action the Secretary of Defense might take, CBO assumes that the current spending levels are not high enough, relative to the expected balance in the trust fund, to cause the Secretary to raise the withholding rate over the next five years. Thus, this provision would have no budgetary impact through 1999.

Payments to Former Employees.—The bill would raise payments from DoD's trust fund that makes severance payments to former foreign national employees. Under current law, DoD must take severance payments to a group of Dutch nationals that it no longer expects to employ; but unlike payments to other foreign national employees, these payments would come from discretionary appropriations. Under the bill, these payments would be made from the trust fund—a direct spending account. CBO expects that about 80 employees in 1995 would receive payments averaging $90,000, for a total cost of $7 million. Slightly more than 50 such employees would leave service each year from 1996 to 1998 as well, at an annual cost of $5 million.

Property Transaction.—Section 2822 would authorize the Secretary of the Navy to lease property at Port Hueneme, California, and spend the proceeds received from the lease. CBO estimates this provision would have no significant budgetary impact as the estimated $300,000 in annual proceeds would be spent on maintenance and construction of Naval facilities.

Section 2823 would authorize the Secretary of the Navy to lease property at Coronado, California to the Young Men's Christian Association of San Diego County. CBO estimates no significant budgetary effect from this provision.

Retired Pay and Survivor Benefits.—Section 503 would codify current practice with respect to military retirement. The provision would entitle limited duty officers with 18 or more years of service to stay in service until they qualify for military retirement at 20 years of service. CBO expects no budgetary impact from this provision.

Currently, certain reservists who leave military service involuntarily are eligible to receive transition payments of $1,950 annually for five years. Section 521 would require any reservist who receives these payments to forfeit an equal amount from their military retirement annuity. Direct spending savings would equal $54,000 in 1995 and $250,000 over the five years.

Section 531 would extend disability coverage to an officer candidate who incurred a disability while on authorized leave to attend classes. According to DoD, this provision would extend benefits to only a couple of members each year and would result in negligible costs.

Section 631 would clarify the calculation of the retired pay base for officers who retire in a grade lower than that held at retirement. It states that a member's pay base may not be based on a rate of basic pay for a grade higher than that at which the member retired. According to DoD, this provision would affect very few members, and would result in negligible savings.

Section 632 would credit the inactive service of active duty enlisted members for computation of retired pay. Currently, enlisted retirees are credited only for active training, whereas officer retirees are credited for both active and inactive training. According to DoD, approximately 750 enlisted members would be credited an additional 3 months. This provision would result in a five-year cost of $1.5 million.

Section 634 would prohibit an individual, or survivor, from receiving retired pay or an annuity if the individual was convicted of violating the espionage article of the Uniform Code of Military Justice. According to DoD, based on historical data this provision might affect one member and would result in negligible savings.

Section 641 would make reservists who leave service under temporary early retirement authority eligible for enrollment in the Servicemen's Groups Life Insurance (SGLI) program (function 700.) The insurance premiums paid by policyholders cover the anticipated costs of benefits paid by the program, so the net cost of the increased participation would be zero.

TABLE 1.—ESTIMATED COSTS OF THE NATIONAL DEFENSE AUTHORIZATION ACT, 1995, AS ORDERED REPORTED BY THE SENATE ARMED SERVICES COMMITTEE

[By fiscal year, in millions of dollars]

Category	1995	1996	1997	1998	1999
Revenues	53	225	0	0	0
Direct Spending					
Estimated budget authority	47	84	130	156	196
Estimated outlays	47	84	130	156	196
Asset Sales					
Estimated budget authority	−17	−17	−17	−17	−17
Estimated outlays	−17	−17	−17	−17	−17
Authorizations of Appropriations					
Specific authorizations	192,340	0	0	0	0
Estimated outlays	105,350	48,615	19,932	8,829	4,296
Estimated authorizations	50,970	539	1,379	1,409	1,402
Estimated outlays	47,561	3,634	1,371	1,402	1,397

ASSET SALES

Section 3301 would authorize the disposal of both aluminum and tungsten currently in the National Defense Stockpile. Annual receipts would increase from these sales by about $8 million from aluminum sales and by about $9 million from tungsten sales. Under current budgetary practices, these receipts are considered to be assets sales that do not count in meeting deficit reduction targets.

Section 2826 would authorize the sale, at fair market value, of the Cornhusker Army Ammunition Plant in Hall County, Nebraska, to the Board of Supervisors of Hall County. CBO is unable to estimate the value of this asset sale.

AUTHORIZATIONS OF APPROPRIATIONS

The bill specifically authorizes appropriations of $192 billion for 1995 for operation and maintenance, procurement, research, development, test and evaluation, nuclear weapons programs, and other DoD programs; it also authorizes emergency supplemental appropriations for 1994 in the amounts already provided in Public Law 103-211. All stated authorizations fall under National Defense (function 050.) Related outlays are shown in Table 1.

The bill contains both specific and implicit authorization of appropriations extending beyond 1995 primarily for military personnel costs; Table 2 contains estimates for the amounts authorized and the related outlays. The following sections describe the items shown in Table 2 and provide information about CBO's cost estimates. All estimates assume that funds will be appropriated for the full amount of the authorization and will be available for obligation by October 1, 1994. Outlays are estimated based on historical outlay rates.

Endstrength.—The bill would authorize 1995 endstrengths for active and reserve components of the Defense Department that would cost almost $70 billion. Endstrengths authorized for active-duty personnel would total about 1,526,000—the same as the Administration's request and about 85,000 below the level estimated for 1994.

DoD's reserve endstrength would be authorized at about 987,300 for 1995—8,290 people, or about $27 million more than the Administration's request, but about 37,500 people less than the level estimated for 1994. Also, the bill would authorize an endstrength of 8,000 in 1995 for the Coast Guard Reserve, which is 1,000 more than the Administration requested, but 2,000 less than 1994; this authorization would cost $57 million and falls under budget function 400.

Budget function 950—undistributed offsetting receipts—records the receipt of payments for function 050 for military retirement, retirement for DoD's civilian employees, Social Security, and Medicare. The total of about $20 billion shown in Table 2 for function 950 relates to the costs of both civilian and military personnel.

Compensation and Benefits.—The bill would authorize a 2.6 percent pay raise in 1995 for military personnel, which is one percentage point higher than the amount in the Administration's request. This change would cost $448 million in 1995 relative to the request and $1,165 million relative to current rates of pay.

The bill would also extend DoD's authority to pay certain bonuses and special pay that would expire at the end of 1994 or 1995. Active duty enlistment and reenlistment bonuses would be reauthorized at a cost of $112 million in 1996. The aviation officer retention bonus would be extended at a cost of $12 million in 1995, while special pay and bonuses for personnel in nuclear career fields would be continued through 1996 at a cost of $25 million. Payments for nurses would be extended for three years at a cost of $10 million in 1996. Finally, authority for certain special payments to reservists would be reauthorized at a cost of $38 million in 1996.

Section 521 would change the amount and schedule for severance payments to reserve personnel who leave military service involuntarily. Currently, eligible reservists receive as many as 5 annual payments of $1,950, until they reach 60 years of age including a full 12 month payment in the year they actually turn 60. This provision would allow DoD to make fewer than 5 payments and would reduce the last payment by prorating it based on birth date. Savings in 1995 would be small—about $14,000—but would total $34 million by 1999.

The bill would also increase the amount of incentive special pay received by nurse anesthetists from $6,000 to $15,000. This change would cost $5 million annually through 1998.

Several sections of the bill would allow DoD to exceed statutory limitations on the number of officers in particular pay grades, without increasing overall end strength levels. These changes would increase authorizations because some individuals would receive higher rates of pay, but the total amount would not exceed $500,000 in any year.

Another provision of the bill explicitly authorizes appropriations for military personnel of $70,790 million in 1995. Because the costs of other sections of the bill exceed this level, this section has the effect of reducing the authorization by $177 million.

Military Health Programs.—Several provisions of the bill deal with health care benefits provided to DoD beneficiaries. Section 702 would direct the Secretary of Defense to establish a dental benefits program for military family members overseas. Currently, DoD provides dental benefits to dependents of military members stationed in the United States. Based on the costs of this program and the number of overseas dependents, CBO estimates that this provision would cost $36 million in 1995 and $45 million in 1999.

Section 922 would prohibit the Department from closing the Uniformed Services University of the Health Sciences or even presuming that it will be closed. Current plans call for the school to admit its last class in 1994 and close by the end of 1998. Relative to that plan, the provision would cost $12 million in 1995 and about $74 million in 1999.

The bill would increase reimbursements to beneficiaries of the DoD medical system who are also eligible for Medicare due to disability. Under current law, individuals in this group must first submit health insurance claims to Medicare. They then turn to CHAMPUS for reimbursement of certain amounts not covered by Medicare. This bill would expand the level of reimbursement received under CHAMPUS so that beneficiaries could receive payment from CHAMPUS for most items not covered under Medicare, at a cost of $19 million in 1995. Payments would increase to $24 million by 1999.

The bill also directs DoD to establish a demonstration project furnishing chiropractic care through military medical facilities through 1997. Without knowing which facilities might be selected for the demonstration project or how many beneficiaries would be affected, CBO cannot estimate the costs associated with this project. Another demonstration project carried out between 1990 and 1992 provided coverage of chiropractic care through CHAMPUS at a cost of approximately $1 million annually; costs for this provision ought be of a similar magnitude.

Finally, the bill contains three provisions on health matters that have a relatively small budgetary impact. Section 701 would expand coverage under DoD's health care system to children in the process of being adopted by former or current military members. This provision would affect rough 1,000 children and cost about $2 million annually starting in 1996. Section 705 would allow the Department to pay licensing fees for DoD health care providers employed in the civilian sector. Reimbursements would be made up to $500 of the amount paid by the member at a cost of $250,000 annually. Section 703 would provide medical and dental care for abused dependents to cover any treatment resulting from the abuse. Costs would be small at about $10,000 per year.

Other Authorizations.—Section 355 authorizes DoD to provide funds to the American Red Cross for emergency communication services for military members and their families. This funding would not exceed $14.5 million in 1995 through 1997.

Title XXXV would authorize the Panama Canal Commission to spend any sums available from operating revenues of Treasury borrowing for operation, maintenance, and improvements of the canal in fiscal year

1995. This spending and the canal's operating revenues are considered discretionary, because the appropriation bill customarily establishes on an obligation ceiling for this account. CBO estimates that 1995 collections will be about $564 million and that collections will exceed spending by about $7.5 million, resulting in net outlays of −$7.5 million in budget function 400, Transportation.

TABLE 2.—ESTIMATED AUTHORIZATIONS IN THE NATIONAL DEFENSE AUTHORIZATION ACT, 1995, AS ORDERED REPORTED BY THE SENATE ARMED SERVICES COMMITTEE

[By fiscal year, in millions of dollars]

Category	1995	1996	1997	1998	1999
End strengths:					
Function 050:					
Estimated authorization	69,785	0	0	0	0
Estimated outlays	66,435	3,140	0	0	0
Function 400:					
Estimated authorization level	57	0	0	0	0
Estimated outlays	55	2	0	0	0
Function 950:					
Estimated authorization	−19,878	−1,308	−373	−381	−390
Estimated outlays	−19,878	−1,308	−373	−381	−390
Compensation and benefits:					
Military pay raise:					
Estimated authorization	1,165	1,556	1,576	1,611	1,648
Estimated outlays	1,109	1,534	1,571	1,606	1,643
Expiring authorities:					
Estimated authorization level	12	183	47	61	33
Estimated outlays	12	176	52	60	34
Reserve severance payments:					
Estimated authorization level	0	−9	−16	−26	−34
Estimated outlays	0	−8	−15	−26	−34
Other compensation and benefits:					
Estimated authorization	5	5	5	5	0
Estimated outlays	5	5	5	5	0
Limit on military personnel appropriations:					
Estimated authorization level	−177	0	0	0	0
Estimated outlays	−170	−6	0	0	0
Military health programs:					
Dental benefits:					
Estimated authorization level	(36)	38	40	42	45
Estimated outlays	(27)	35	39	42	44
Prohibition in closing USUHS:					
Estimated authorization level	(12)	36	61	72	74
Estimated outlays	(9)	29	53	67	73
Expanded CHAMPUS coverage:					
Estimated authorization level	(19)	20	21	23	24
Estimated outlays	(14)	19	21	22	24
Other military health programs:					
Estimated authorization level	(1)	3	3	3	3
Estimated outlays	(1)	3	3	3	3
Services for the Red Cross:					
Estimated authorization level	(15)	15	15	0	0
Estimated outlays	(11)	14	14	4	1
Panama Canal:					
Estimated authorization level	0	0	0	0	0
Estimated outlays	−7	0	0	0	0
Total estimated authorizations:					
Estimated authorization level	50,970	539	1,379	1,409	1,402
Estimated outlays	47,561	3,634	1,371	1,402	1,397

Note: The estimates in parantheses are non-add entries. The 1995 costs of these provisions are counted among the authorizations specifically stated in the bill.

6. Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. The direct spending costs of this bill that are subject to the pay-as-you-go procedures are shown in the following table.

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998
Change in outlays	47	84	130	156
Change in receipts	53	225	0	0

7. Estimated cost to State and local government: None.

8. Estimate comparison: None.

9. Previous CBO cost estimate: None.

10. Estimate prepared by: Mark Booth, Wayne Boyington, Elizabeth Chambers, Kent Christensen, Lori Housman, Amy Plapp, Deborah Reis, Ruchi Saggar, K. W. Shepherd, Lisa Siegel.

11. Estimate approved by: C. G. Nuckols, Assistant Director for Budget Analysis.

Mr. NUNN. I thank the Chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Madam President, I ask unanimous consent to proceed as if in morning business.

The PRESIDING OFFICER. Is there objection? There being none, it is so ordered.

The Senator from Texas is recognized to proceed as if in morning business.

Mrs. HUTCHISON. Thank you, Madam President.

TRIBUTE TO JACQUELINE KENNEDY ONASSIS

Mrs. HUTCHISON. Madam President, the leadership has designated today for tributes to the sister-in-law of our colleague from Massachusetts, so I rise to remember an elegant First Lady and a lost national treasure, Mrs. Jacqueline Kennedy Onassis.

While she rarely spoke in public and protected her privacy throughout her life, her effect on the spirit of the American people was great, because of her strength, and because of her love of beauty.

President Kennedy once praised Robert Frost, saying that "because he knew the midnight as well as the high noon, because he understood the ordeal as well as the triumph of the human spirit, he gave his age strength with which to overcome despair." When Kennedy's own death threatened our Nation with despair, his widow's strength helped us to overcome the midnight of that ordeal.

Madam President, I was just a college student during the Kennedy administration. Our generation of young women was profoundly affected by the grace and dignity of the First Lady. We were fascinated by her—as was the world.

The Kennedys celebrated art and beauty in many ways, and she was the leader in that great effort. She preserved the historic stateliness of Lafayette Park, restored the magnificence of the White House, and filled its halls with the music of great artists like Pablo Casals.

When she left the White House, her work as a doting mother and a steadfast champion of the arts became quieter, but she lost none of her zeal for either role, and she built a great legacy in both.

She was like a vision who moved, in Edmund Burke's words, "just above the horizon, decorating and cheering the elevated sphere she had just begun to move in, glittering like the morning star full of life and splendor and joy."

When that joy was shattered, she preserved that splendor, and her morning star continued to enrich our lives.

Madam President, today I offer the condolences of all Texans to my colleague from Massachusetts and to the other relatives and friends who survive her. May she rest in peace.

Thank you, Madam President

I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JEFFORDS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The Senate continued with the consideration of the bill.

Mr. JEFFORDS. Madam President, I rise on the bill to speak about some of the past accomplishments of this Nation relative to the defense of this Nation. I had the privilege today of being present at the celebration of the 50th anniversary of the signing of the Servicemen's Readjustment Act of 1944, better known as the GI bill. Unfortunately, it was a time when votes were about to occur here and, therefore, not many of the Members of this body were able to be there. But I was there because I am on the Veterans Committee and because I, as a youngster, was around in my great State to see the results from the GI bill at the end of World War II.

It was wonderful to see my older neighbors coming home from that war and to see what it meant to those who had sacrificed their lives—in the sense of time, as well as having them at risk—for this Nation. But our country came forward with the program known as the GI bill. I watched them as they went to college and to trade school, able to buy their homes and to have the lives which they were denied for so many years.

Through the years, that bill has changed the direction of many service members' lives, giving them assistance needed to readjust to civilian life after returning from the service. Most notably, it made higher education obtainable and affordable for millions of service members, and provided home loan assistance. Because of the GI bill, there are thousands of success stories both in my home State of Vermont and throughout our big Nation. Three Vermonters who stand out in my mind are friends of mine; they are Lance Harrington, John Tucker, and Ed Kehoe.

Lance is a Vietnam combat veteran who upon returning home used the GI bill to finish his college degree, graduate cum laude from law school, and now devotes his law practice to veterans benefits law.

John Tucker is a Korean era veteran who used the GI bill to obtain a BA in business administration. John has dedicated his life to advocating for homeless veterans and minorities.

My last example is Eddie Kehoe, a totally disabled World War II veteran who did not personally use his education benefits. Rather, he used the GI bill to put his five daughters through college.

In fact, on June 9, two of my colleagues who sit with me on the Senate Veterans' Affairs Committee spoke during a committee markup on the anniversary of the bill. It moved me to learn from Senators DASCHLE and CAMPBELL that they would not be in the position they are now without the assistance and the support the GI bill offered them after their return from service.

As ranking member of the Senate Subcommittee on Education, I have always been dedicated to furthering our country's educational standards and offering all Americans a fair chance to receive a sound education. The passage of the GI bill has been a substantial achievement in meeting those goals.

I believe we are at a time in our history where we can achieve such results in educational standards and assistance again. We sent a man to the moon in a mere decade, and we also sent a whole generation of GI's to college after World War II. Both of these efforts did cost a great deal of money. In fact, after the Second World War, the education budget constituted almost 10 percent of our total budget. But we were willing to spend money on those initiatives—for education in particular, because we recognized its importance. That is what we need to do again today.

The GI bill laid the foundation for further initiatives in the education field. This year, I introduced a bill dubbed the "1 percent for education" bill. My proposal would increase Federal funding for education by 1 percent of the whole Federal budget, $15 billion each year, until it reaches 10 percent of the budget—back where it was as a percent of the budget after World War II when the GI bill came into law. This is roughly the share of the Federal spending that we devoted to education after the conclusion of World War II. Now, at the conclusion of the cold war, it is down again to where we started before the GI bill came in, at a mere 1.8 percent.

Here again, in this country, as we struggle forward to meet the competition that is given us after the cold war, and the huge opening markets of the world, education investment of this nature, like the GI bill, is again appropriate. This money would be used first to fund the mandates the Federal Government has already created. It would fully fund those Federal programs such as Head Start that we know are successful and make other investments in our schools and students.

In particular, I would point to the special education bill. If we were to fully fund the 40 percent that we promised back when the bill came into effect in the mid-1970's, we would do much not only to help those who were in need of the funds, but also to help replace the funds that State and local governments have had to expend in order to make the special education bill work—funds that we had promised them.

In the months ahead, I will be continuing my efforts in this regard with the same determination and ambition that was proven successful in the passage of the GI bill. I salute the veterans service organizations which have supported the GI bill over the years and worked to see its passage, especially the American Legion, which has been credited with the original concept of the bill and its design.

As a member of the Senate Veterans' Affairs Committee, I pledge continued support of the assistance programs offered to veterans and service members through the GI bill. Today, as we all acknowledge the success of the GI bill, it is my hope we can come together as a Nation to support initiatives like "1 percent for education," which will allow our country to once again put education at the top of our priority list.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

MORNING BUSINESS

Mr. NUNN. Madam President, I ask unanimous consent there be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE OF THAT

Mr. HELMS. Madam President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that it was, and is, the constitutional duty and responsibility of Congress to control Federal spending. Congress has failed miserably in that task for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,594,504,756,753.85 as of the close of business yesterday, Tuesday, June 21. Averaged out, every man, woman, and child in America owes a share of this massive debt, and that per capita share is $17,622.98.

ACADEMIC EXCHANGE PROGRAM AT NORTHERN STATE UNIVERSITY

Mr. PRESSLER. Madam President, I am pleased today to announce a unique opportunity for the students and faculty at Northern State University in Aberdeen, SD. The international program at Northern State University recently entered into a cooperative agreement with Sichuan University in Chengdu, People's Republic of China. The agreement includes an exchange of students and faculty, and the promotion of economic opportunities for South Dakota and China. I offer my strong support to these efforts and to individuals at Northern State University for promoting positive relations with the People's Republic of China.

I personally visited Chengdu, China, in August 1993 and witnessed the economic miracles occurring there. Sichuan Province has a population of more than 100 million. It is China's most populous province. I participated in economic discussions with Governor Yang, visited an irrigation project, and attended a swearing-in ceremony for the very first American Peace Corps Volunteers to China. While visiting Chengdu, I was impressed with the widespread affection and appreciation of the Chinese for the American people. I am confident that the academic exchange agreement between Northern State University and Sichuan University will be successful.

Madam President this academic exchange will benefit the Aberdeen, SD, community by advancing economic opportunities and by increasing the understanding and appreciation of Chinese culture. I firmly believe that local community commitment to international academic programs, like the one at Northern State University, fosters strong ties and amiable relations with foreign countries. I applaud the efforts of Dr. John Hutchinson, Dr. Clyde Arnold, Dr. Thomas Flickema, Prof. Richard Chuang, and Prof. Pinggui Ziang of Northern State University for their effectiveness in promoting and strengthening positive relations with China.

TRIBUTE TO JAMES L. QUILLIN

Mrs. BOXER. Madam President, I rise today to pay tribute to a giant of California's labor movement. Jim Quillin recently announced his retirement as executive secretary-treasurer of the California Conference of Machinists, after more than 30 years serving the working men and women of California. On June 27, Jim will be honored in Honolulu at the 56th Annual Western States Conference of Machinists.

After completing his education at UCLA, Jim began his professional career at Lockheed and embarked on his lifelong involvement in the labor movement. From 1961 to 1969, Jim was a business representative of District Lodge 727 of the International Association of Machinists and Aerospace Workers. In this position, he represented workers in grievances and also participated in arbitration and contract negotiations.

In 1969, Jim was elected president of District Lodge 727, and for 6 years he represented over 20,000 workers in the aerospace industry throughout the State.

As executive secretary-treasurer of the California Conference of Machinists, Jim has represented more than 100,000 workers in the aerospace industry. Mr. President, as you well know, California has been hit especially hard by downsizing in our defense, and the aerospace industry has truly suffered. Jim has presided over this difficult time and his organization has taken a leading role in retraining displaced workers for other careers in aerospace and other high-technology industries.

Jim Quillin has combined his commitment to working men and women with a deep sense of public service. In 1975, he was appointed by Gov. Jerry Brown as California's Labor Commissioner. He served in this position for 6 years, ensuring that the concerns of labor were addressed by State government. Last year Jim was appointed by Gov. Pete Wilson to a bipartisan task force, which brought business and labor leaders together to recommend some much needed changes in California's workers' compensation system. The end result was stiffer penalties for those abusing the system and increased benefits for those truly injured.

Finally, through the years Jim has been involved in many community service organizations, including the United Way of Los Angeles, the International Guiding Eyes, and Project California, where he and other leaders are trying to enhance the transportation and telecommunications industries of my State. Not only will the labor movement miss Jim Quillin and his leadership, but the State of California will miss his many years of service.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. NUNN. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar 983. Gen. Michael P.C. Carns, to be general;

Calendar 984. Lt. Gen. Bradley C. Hosmer, to be lieutenant general;

Calendar 985. Lt. Gen. Thomas G. McInerney, to be lieutenant general;

Calendar 986. Lt. Gen. Alexander M. Sloan, to be lieutenant general;

Calendar 987. Lt. Gen. Michael A. Nelson, to be lieutenant general;

Calendar 988. Gen. Charles A. Horner, to be general;

Calendar 989. Gen. Robert C. Oaks, to be general;

Calendar 990. Maj. Gen. Paul E. Stein, to be lieutenant general;

Calendar 991. Lt. Gen. John E. Jackson, Jr., to be lieutenant general;

Calendar 992. Gen. J. H. Binford Peay III, to be general;

Calendar 993. Lt. Gen. Peter A. Kind, to be lieutenant general.

Calendar 994. Lt. Gen. Donald M. Lionetti, to be lieutenant general;

Calendar 995. Vice Adm. William J. Flanagan, Jr., to be admiral;

Calendar 996. Rear Adm. (Selectee) Jay L. Johnson, to be vice admiral;

Calendar 997. Gen. Walter E. Boomer, to be general;

Calendar 998. Gen. Joseph P. Hoar, to be general;

Calendar 999. Lt. Gen. William M. Keys, to be lieutenant general;

Calendar 1000. Lt. Gen. Henry C. Stackpole III, to be lieutenant general; and

Calendar 1001. Maj. Gen. Anthony C. Zinni, to be lieutenant general.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that upon confirmation, the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

IN THE AIR FORCE

The following named officer for appointment to the grade of general on the retired list pursuant to the provisions to Title 10, United States Code, Section 1370:

To be general

Gen. Michael P.C. Carns, [redacted] United States Air Force.

The following named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions to Title 10, United States Code, Section 1370:

To be lieutenant general

Lt. Gen. Bradley C. Hosmer [redacted] United States Air Force.

The following named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of Title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Thomas G. McInerney [redacted] United States Air Force.

The following named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions to Title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Alexander M. Sloan, [redacted] United States Air Force.

The following named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions to Title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Michael A. Nelson [redacted] United States Air Force.

The following named officer for appointment to the grade of general on the retired list pursuant to the provisions of Title 10, United States Code, section 1370:

To be general

Gen. Charles A. Horner, [redacted] United States Air Force.

The following named officer for appointment to the grade of general on the retired list pursuant to the provisions of Title 10, United States Code, section 1370:

To be general

Gen. Robert C. Oaks, [redacted] United States Air Force.

The following named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601:

To be lieutenant general

Maj. Gen. Paul E. Stein, [redacted] United States Air Force.

The following named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of Title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. John E. Jackson, Jr [redacted] United States Air Force.

IN THE ARMY

The following named officer for reappointment to the grade of general while assigned to a position of importance and responsibility under Title 10, United States Code, Section 164(a)(1) and Section 601(a):

To be general

Gen. J.H. Binford Peay, III, [redacted] United States Army.

The following named officer to be placed on the retired list in the grade indicated under the provisions of Title 10, United States Code, Section 1370:

To be lieutenant general

Lt. Gen. Peter A. Kind [redacted] United States Army.

The following names officer to be placed on the retired list in the grade indicated under the provisions of Title 10, United States Code, Section 1370:

To be lieutenant general

Lt. Gen. Donald M. Lionetti, [redacted] United States Army.

IN THE NAVY

The following named officer for appointment to the grade of Admiral while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601:

To be admiral

Vice Adm. William J. Flanagan, Jr., U.S. Navy, [redacted].

The following named officer for appointment to the grade of vice admiral while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601:

To be vice admiral

Rear Adm. (Selectee) Jay L. Johnson, U.S. Navy, [redacted].

IN THE MARINE CORPS

The following named officer to be placed on the retired list under the provisions of title 10, United States Code, section 1370:

To be general

Gen. Walter E. Boomer, [redacted] USMC.

The following named officer to be placed on the retired list under the provisions of title 10, United States Code, section 1370:

To be general

Gen. Joseph P. Hoar [redacted] USMC.

The following named officer to be placed on the retired list under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. William M. Keys [redacted] USMC.

The following named officer to be placed on the retired list under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Henry C. Stackpole, III, [redacted] USMC.

the following named officer, under the provisions of title 10, United States Code, section 601, for assignment to a position of importance and responsibility as follows:

To be lieutenant general

Maj. Gen. Anthony C. Zinni [redacted] U.S. Marine Corps.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON THE NATIONAL EMERGENCY AND BLOCKING HAITIAN GOVERNMENT PROPERTY—MESSAGE FROM THE PRESIDENT—PM 128

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

On October 4, 1991, pursuant to the International Emergency Economic Powers Act ("IEEPA") (50 U.S.C. 1701 *et seq.*) and section 301 of the National Emergencies Act ("NEA") (50 U.S.C. 1601 *et seq.*), President Bush exercised his statutory authority to issue Executive Order No. 12775, declaring a national emergency and blocking Haitian government property.

On October 28, 1991, pursuant to the above authorities, President Bush exercised his statutory authority to issue Executive Order No. 12779, blocking certain property of and prohibiting certain transactions with Haiti.

On June 30, 1993, pursuant to above authorities, as well as the United Nations Participation Act of 1945, as amended ("UNPA"), (2 U.S.C. 287c), I exercised my statutory authority to issue Executive Order No. 12853, to impose additional economic measures with respect to Haiti. This latter action was taken, in part, to ensure that the economic measures taken by the United States with respect to Haiti would fulfill its obligations under United Nations Security Council Resolution 841 of June 16, 1993.

On October 18, 1993, pursuant to the IEEPA and the NEA, I again exercised my statutory authority to issue Executive Order No. 12872, blocking property of various persons with respect to Haiti.

On May 6, 1994, the United Nations Security Council adopted Resolution 917, calling on States to take additional measures to tighten the embargo against Haiti. On May 7, 1994, pursuant to the above authorities, I exercised my statutory authority to issue Executive Order No. 12914, to impose additional economic measures with respect to Haiti. On May 21, 1994, pursuant to the above authorities, I exercised my statutory authority to issue Executive Order No. 12917, to impose those economic measures required by Resolution 917 that became effective May 21, 1994. These latter actions were taken, in part, to ensure that the economic measures taken by the United States with respect to Haiti would fulfill its obligations under the provisions of United Nations Security Council Resolution 917.

On June 10, 1994, pursuant to the above authorities, I exercised my statutory authority to issue Executive Order No. 12920, prohibiting additional transactions with Haiti.

On June 21, 1994, pursuant to the above authorities, I exercised my statutory authority to issue Executive Order No. 12922.

This new Executive order:

—blocks all property in the United States, or within the possession or control of United States persons, of any Haitian national resident in Haiti, or any other person subject to the blocking provisions of Executive Order Nos. 12775, 12779, 12853, 12872, or 12914 or a Haitian citizen who is a member of the immediate family of such a person, as identified by the Secretary of the Treasury; and makes limited exceptions for certain payments and transfers, and for the property of nongovernmental organizations engaged in the provision of essential humanitarian assistance or the conduct of refugee and migration operations in Haiti, that are identified by the Secretary of the Treasury;

—prohibits any transaction that evades or avoids or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions of the order; and

—authorizes the Secretary of the Treasury, in consultation with the Secretary of State, to issue regulations implementing the provisions of the order.

The new Executive order is necessary to tighten the embargo against Haiti with the goal of the restoration of democracy in that nation and the prompt return of the legitimately elected President, Jean-Bertrand Aristide, under the framework of the Governors Island Agreement.

I am providing this notice to the Congress pursuant to section 204(b) of the IEEPA (50 U.S.C. 1703(b)) and section 301 of the NEA (50 U.S.C. 1631). I am enclosing a copy of the Executive order that I have issued.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 21, 1994.*

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 12:04 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 1183. An act to validate conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to the Central Pacific Railway Company.

The enrolled bill was subsequently signed by the President pro tempore (Mr. BYRD).

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on June 22, 1994 she had presented to the President of the United States, the following enrolled bill:

S. 1904. An act to amend title 38, United States Code, to improve the organization and procedures of the Board of Veterans' Appeals.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2937. A communication from the Architect of the Capitol, transmitting, pursuant to law, the report of all expenditures from appropriated funds for the period October 1, 1993 through March 31, 1994; to the Committee on Appropriations.

EC–2938. A communication from the Acting Chairman of the Commodity Futures Trading Commission, transmitting, pursuant to law, the report on intermarket coordination activities; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2939. A communication from the Deputy Assistant Secretary of the Air Force (Communications, Computers and Support Systems), transmitting, pursuant to law, notice relative to the Luke Air Force Base, Arizona; to the Committee on Armed Services.

EC–2940. A communication from the Secretary of the Housing and Urban Development, transmitting, pursuant to law, the report assessing the costs incurred by public housing agencies in administering the Section 8 rental certificate and voucher programs; to the Committee on Banking, Housing, and Urban Affairs.

EC–2941. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation to implement aspects of the Department of Transportation budget request for fiscal year 1995; to the Committee on Commerce, Science, and Transportation.

EC–2942. A communication from the Assistant Secretary of Defense (Economic Security), transmitting, pursuant to law, the report on the Metric Transition Program for fiscal year 1993; to the Committee on Commerce, Science, and Transportation.

EC–2943. A communication from the Secretary of Energy, transmitting, pursuant to law, notice of a delay relative to the report on Federal energy and water conservation; to the Committee on Energy and Natural Resources.

EC–2944. A communication from the President of the United States, transmitting, pursuant to law, a notice relative to the U.S. International Trade Commission; to the Committee on Finance.

EC–2945. A communication from the Chairman of the Physician Payment Review Commission, transmitting, pursuant to law, the report entitled "Monitoring Access of Medicare Beneficiaries and Monitoring the Financial Liability of Medicare Beneficiaries"; to the Committee on Finance.

EC–2946. A communication from the Assistant Legal Adviser (Treaty Affairs), Department of State, transmitting, pursuant to law, a report of the texts of international agreements and background statements, other than treaties; to the Committee on Foreign Relations.

EC–2947. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the audit of the principal financial statements of the Internal Revenue Service for fiscal year 1993; to the Committee on Governmental Affairs.

EC–2948. A communication from the Secretary of Agriculture, transmitting, pursuant to the law, the report of the Office of Inspector General for the period October 1, 1993 through March 31, 1994; to the Committee on Governmental Affairs.

EC–2949. A communication from the U.S. Government Printing Office, transmitting, pursuant to the law, the report of the Office of Inspector General for the period October 1, 1993 through March 31, 1994; to the Committee on Governmental Affairs.

EC–2950. A communication from the Deputy Secretary of Defense, transmitting, pursuant to the law, the report of the Office of Inspector General for the period October 1, 1993 through March 31, 1994; to the Committee on Governmental Affairs.

EC–2951. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to the law, the report of the Office of Inspector General for the period October 1, 1993 through March 31, 1994; to the Committee on Governmental Affairs.

EC–2952. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to the law, the report of the Office of Inspector General for the period October 1, 1993 through March 31, 1994; to the Committee on Governmental Affairs.

EC–2953. A communication from the Secretary of Labor, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1993; to the Committee on the Judiciary.

EC–2954. A communication from the Chairman of the National Indian Gaming Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar years 1992 and 1993; to the Committee on the Judiciary.

EC–2955. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on the validation and effectiveness study of legal representation through guardian ad litem; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROCKEFELLER, from the Committee on Veterans Affairs, without amendment and with a preamble:

S.J. Res. 201. An original bill commemorating June 22, 1994, as the 50th anniversary of the Servicemen's Readjustment Act of 1944.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LOTT:

S. 2228. A bill to suspend temporarily the duty on certain textile-manufacturing machinery; to the Committee on Finance.

By Mr. WALLOP:

S. 2229. A bill to appropriate 2 percent of Federal individual income tax revenues to the States to fight crime; to the Committee on the Judiciary.

By Mr. ROCKEFELLER:

S.J. Res. 201. An original bill commemorating June 22, 1994, as the 50th anniversary of the Servicemen's Readjustment Act of 1944; from the Committee on Veterans' Affairs; placed on the calendar.

By Mr. THURMOND (for himself, Mr. ROCKEFELLER, Mr. DECONCINI, Mr. MITCHELL, Mr. GRAHAM, Mr. AKAKA, Mr. DASCHLE, Mr. CAMPBELL, Mr. MURKOWSKI, Mr. SIMPSON, Mr. SPECTER, and Mr. JEFFORDS):

S.J. Res. 202. A joint resolution commemorating June 22, 1994, as the 50th anniversary of the Servicemen's Readjustment Act of 1944; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WOFFORD (for himself and Mr. SIMPSON):

S. Res. 231. A resolution to recognize persons dedicated to improving voter participation, and for other purposes; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WALLOP:

S. 2229. A bill to appropriate 2 percent of Federal individual income tax revenues to the States to fight crime; to the Committee on the Judiciary.

TAX REBATE TO FIGHT CRIME ACT

• Mr. WALLOP. Mr. President, the statistics in the war on crime are appalling. A murder is committed every 21 minutes, a rape every 5 minutes, a robbery every 46 seconds, and an aggravated assault every 29 seconds. One-third of all Americans will be robbed in their lifetime; three-fourths will be assaulted.

With memories of the 50th anniversary of D-day so fresh in our minds and the brutal realities and sacrifices called for in that situation, it is rather horrifying to hear that a boy born in 1974 stands a greater chance of being murdered than a soldier in World War II stood of dying in combat. That's according to Norvel Morris, "Letter to the President on Crime Control."

Citizens of this country do not want to live through war on their streets and elected representative respond to that fact with the best of intentions. It is a mistake, however, for those at the Federal level to try and take matters into their own hands, the hands of a large, centralized government, by federalizing local and State crimes, fostering a dependency upon a Federal police force and spending Federal tax dollars in an imprudent manner.

I am concerned that in our zeal to protect the American public, we in Congress are federalizing crime which may ultimately make it more difficult to solve the problem. Fighting crime has traditionally been the responsibility of State and local governments for good reason. Only they know the true scope of the problem and the effect it has on their communities, and only they know how best to solve it. State and locally elected and accountable officials must pass and enforce laws to keep communities safe and healthy, not some distant bureaucrat located inside the beltway.

But we are doing more than encroaching on the province of the States, we are encouraging communities to rely upon the Federal Government for their local safety and security. The Senate bill contains nearly $9 billion, and the House some $3.4 billion, to put 100,000 new police officers on the streets. This would be a 20 percent increase in the current number of local police officers patrolling our neighborhoods, responding to community concerns, and making communities safer places to live and work. A government powerful enough to provide all your needs can also take them away at will.

I also have grave concerns about the focus of the Federal spending, as well. Of the estimated 5-year, $30 billion price tag for the crime bill expected to emerge from the House-Senate conference, more than $9 billion of that amount is currently earmarked and will likely go to unproven social welfare programs. It is an abuse of the taxpayers' trust for Congress to assure Americans we are tough on crime on the one had and then spend their tax dollars for midnight basketball programs, arts, crafts, and dance programs on the other, all under the guise of fighting the war on crime.

More than half the money in the House bill is dedicated to the expansion of social welfare programs—"the kind which, it has been argued, contributed to building the kind of society that permits crime in the first place," according to Stephen Moore, director of fiscal policy studies at the Cato Institute. Mr. President, I ask unanimous consent to include in the RECORD an excellent article by Mr. Moore—WSJ, June 13, 1994—which delineates this problem with the crime bill which is likely to come out of conference.

Fighting crime is, and should be a high priority, but the problem is real and the solution must be also. Congress is not going to solve the problem by throwing money at it to prove we care. This crime bill may be good for Congress, but is it good for the country?

I submit that it is not, Mr. President. Therefore, I am introducing a bill to address the issue of crime in this country in a manner which I believe is the only effective solution—by allowing State and local governments to crack down on crime and getting the Federal Government out of the way.

This bill, a companion measure was introduced by Mr. SENSENBRENNER in the House, will basically provide a tax rebate to fight crime. Two percent of the Federal personal income tax paid by residents of each State would be returned to the State for four purposes: to pay police officers, build and operate prisons, pay criminal court judges, prosecutors, and public defenders, or rebate the money back to taxpayers themselves. Taxpayers could use the rebate to buy burglar alarms, join with others in their community to hire a private security guard, install lights in dimly lit areas, or whatever else it takes to safeguard their homes and families.

This is a very simple concept, one that actually will increase the amount of money spent to fight crime. Approximately $55 billion would be rebated to fight crime over the next 5 years.

That crime inflicts an enormous fiscal toll on States is not questioned. They must dedicate money to that problem which could be directed to schools, hospitals, and local infrastructure. The Federal Government already hinders States in their efforts through the use of Federal mandates, directing State and local governments how to spend their money and stripping them of control over their own budgets. The safest investment we can make in fighting the war on crime is to simply get out of the way, let the States handle their own problems and deal with the epidemic at the level where the money would make the most difference. That is what this bill is all about, Mr. President.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, June 13, 1994]

WHAT THE CRIME BILL DOES

(By Stephen Moore)

Don't look now, but after 18 months in office, Bill Clinton is finally going to get his long-awaited fiscal stimulus bill through Congress. This year the White House and big city mayors have used an House and big city mayors have used an ingenious marketing strategy: They call it a crime bill. In fact, it's a well-kept secret on Capitol Hill that this year's crime bill is the largest urban cash program to come through Congress since Richard Nixon invented revenue sharing.

The current price tag for the House Crime Bill is $28 billion over five years—with some analysts speculating that the figure may rise to $30 billion in the House-Senate conference. In 1985, the federal government abolished the Urban Development Action Grant program after many years of poor results and a wasteful $3 billion outlay that included building tennis courts and luxury hotels. Yet the crime bill is roughly the equivalent of adding 10 new UDAG programs or three new CETAs (the federal job training program) to the budget.

It's easy to understand the temptation facing the urban lobby. Although more than half the money in the bill is dedicated to prisons and cops, much of the rest expands our social welfare programs—the kind which, it has been argued, contributed to building the kind of society that permits crime in the first place. Unlike most of the great social welfare legislation of the 1960s and early 1970s, this bill doesn't even make the pretense of starting small.

BAD PROGRAM

Almost $10 billion would be earmarked for "prevention and rehabilitation" programs, including such proven successful crime-bustling initiatives as:

Educational programs to "increase the self esteem" of young criminals and "provide youth with the skills."

Funding for "cultural programs, arts and crafts, health education and dance programs."

Expanded job-training centers. (Jobs training programs already in existence used to push kids through federal job training centers currently cost about $20,000 per recipient, the equivalent of a year at Harvard.

Training funds for teachers, social workers, and guidance counselors.

$50 million for an inner city Midnight Sports Program. (Presumbly kids are supposed to get out of bed in the middle of the night to go play basketball so they won't get involved in crime.) For the basketball league, each team has ten players and each league must have eight teams.

$40 million family unit demonstration project. The aim is to carry out demonstration projects that enable offenders to live in community correctional facilities with their children.

$450 million for drug treatment in prisons. Some of Washington, of course, has noted the surprising elements of the bill. "It's amazing the ideas that found their way into the crime bill," laments Tim Penny, a retiring Democrat. For example, the bill contains a $1.3 billion "Ounce of Prevention Program" sponsored by John Conyers (D., Mich.) and enthusiastically supported by the "root causes of crime" crowd. Only on Capitol Hill would a billion-plus program be labeled "an ounce"!

Some $2 billion would be allocated to the Local Partnership Act, or LPA, which is revenue sharing, the flow of federal funds of state programs, resurrected under another name. In truth it is worse than revenue sharing, because part of the formula for distributing the cash is based on local tax burdens: the more oppressive the local tax regime, the more money the city gets from Uncle Sam. (This rewards cities for high taxation.) For the cities, this is a big gift. For the urban lobby, the LPA promises to become Uncle Sam's gift that never stops giving.

Don't blame just Bill Clinton and the Democrats for this election year spending stampede: This bill is bipartisan pork at its very worst. A high-ranking GOP House staffer complained to me that Republican members have "little interest in cutting the costs, just getting their fair share of the sausage."

Of course, virtually no one truly believes that this avalanche of spending will do much to get muggers, drug kingpins, and murderers off the street. If social welfare spending were the answer to crime, the street corners of America's cities would be far and away the safest in the world. America already spends just over one trillion dollars (that's $1,000,000,000,000) on social welfare, and crime is getting worse. A huge portion of these funds go to the nation's inner cities. Since 1965 the federal government has spent an estimated $2.5 trillion on the War on Poverty and urban aid. This is the equivalent of 20 Marshall Plans, in real dollars.

Supporters of the crime bill argue that all the new spending will be paid for by reducing federal employment by about 200,000 positions over the next four years. But this bill alone could add well more than 200,000 lawyers, social workers, teachers and so forth to the federally subsidized payrolls of state and local government. Even this picture assumes that the promised cutbacks in federal payrolls can be achieved. The history of new social welfare programs is that they are inevitably well beyond their original predicted price tag in a very short time. Budgets for Great Society, community development programs, for example, expanded more than fourfold in their first ten years.

Many Republicans tout the billions in new hand-outs to states for building prisons as evidence that the bill is "tough on crime." Who could be against building prisons? Yet here are Republicans, who have been complaining for years about Congress handing down mandates on states, supporting a program that steals money from the states and then hands it back minus carrying costs with a host of strings attached, including compliance with Truth in Sentencing guidelines and other federal dictates. The principles of federalism are the crime bill's first casualties.

Some conservative supporters of this bill trumpet the new death penalty provisions for a whole federal litany of crimes. The death penalty is certainly a good thing, but isn't $30 billion a steep price to pay to get it? After all, the swift and sure execution of hardened criminals ought to save money, not cost it.

My prediction is that future Congresses will spend the next 20 years trying to weed out all the garbage that has been inserted into this fund. In the current version, the Democrats have succeeded in defining crime control in terms of how much Washington is willing to throw at the problem. That is a proven failure in fighting every other social pathology in America.

ADDITIONAL COSPONSORS

S. 575

At the request of Mr. KENNEDY, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 575, a bill to amend the Occupational Safety and Health Act of 1970 to improve the provisions of such Act with respect to the health and safety of employees, and for other purposes.

S. 993

At the request of Mr. KEMPTHORNE, the names of the Senator from Virginia [Mr. ROBB], the Senator from Hawaii [Mr. AKAKA], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of S. 993, a bill to end the practice of imposing unfunded Federal mandates on States and local governments and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations.

S. 1651

At the request of Mr. D'AMATO, the names of the Senator from Alaska [Mr. MURKOWSKI], the Senator from South Carolina [Mr. THURMOND], and the Senator from Texas [Mrs. HUTCHISON] were added as cosponsors of S. 1651, a bill to authorize the minting of coins to commemorate the 200th anniversary of the founding of the United States Military Academy at West Point NY.

S. 1669

At the request of Mrs. HUTCHISON, the names of the Senator from Oregon [Mr. PACKWOOD] and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. 1669, a bill to amend the Internal Revenue Code of 1986 to allow homemakers to get a full IRA deduction.

S. 1807

At the request of Mr. GRAMM, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 1807, a bill to guarantee individuals and families continued choice and control over their doctors, hospitals, and health care services, to secure access to quality health care for all, to ensure that health coverage is portable and renewable, to control medical cost inflation through market incentives and tax reform, to reform medical malpractice litigation, and for other purposes.

S. 1924

At the request of Mr. HATCH, the names of the Senator from Alabama [Mr. SHELBY] and the Senator from Utah [Mr. BENNETT] were added as cosponsors of S. 1924, a bill to amend the Internal Revenue Code of 1986 to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home.

S. 2029

At the request of Mr. BREAUX, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 2029, a bill to amend the Internal Revenue Code of 1986 to allow the taxable sale or use, without penalty, of dyed diesel fuel with respect to recreational boaters.

S. 2070

At the request of Mr. KOHL, the names of the Senator from Nebraska [Mr. EXON] and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 2070, a bill to amend the Internal Revenue Code of 1986 to increase the deductibility of business meal expenses for individuals who are subject to Federal hours of limitation.

S. 2085

At the request of Mrs. HUTCHISON, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 2085, a bill to amend title IV of the Social Security Act to require States to establish a 2-digit fingerprint matching identification system in order to prevent multiple enrollments by an individual for benefits under such Act, and for other purposes.

S. 2120

At the request of Mr. INOUYE, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 2120, a bill to amend and extend the authorization of appropriations for public broadcasting, and for other purposes.

S. 2134

At the request of Mr. FAIRCLOTH, the names of the Senator from Utah [Mr. BENNETT] and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of S. 2134, a bill to restore the American family, reduce illegitimacy, and reduce welfare dependence.

S. 2183

At the request of Mrs. HUTCHISON, the names of the Senator from Montana [Mr. BURNS], the Senator from Mississippi [Mr. COCHRAN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Texas [Mr. GRAMM], the Senator from Tennessee [Mr. SASSER], and the Senator from Pennsylvania [Mr. WOFFORD] were added as cosponsors of S. 2183, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the signing of the World War II peace accords on September 2, 1945.

S. 2191

At the request of Mr. STEVENS, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 2191, a bill to amend the Fishermen's Protective Act of 1967 to permit reimbursement of fishermen who must pay in advance what the United States considers an illegal fee to navigate waters.

SENATE JOINT RESOLUTION 178

At the request of Mr. DOMENICI, the names of the Senator from Virginia [Mr. ROBB] the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Florida [Mr. MACK], and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of Senate Joint Resolution 178, a joint resolution to proclaim the week of October 16 through October 22, 1994 as "National Character Counts Week."

SENATE JOINT RESOLUTION 198

At the request of Mr. PRYOR, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Joint Resolution 198, a joint resolution designating 1995 as the "Year of the Grandparent."

SENATE CONCURRENT RESOLUTION 60

At the request of Mr. GRAMM, the names of the Senator from Alabama [Mr. SHELBY], the Senator from California [Mrs. BOXER], the Senator from Massachusetts [Mr. KERRY], the Senator from Maine [Mr. MITCHELL], the Senator from South Carolina [Mr. HOLLINGS], the Senator from New York [Mr. MOYNIHAN], the Senator from Maine [Mr. COHEN], and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of Senate Concurrent Resolution 60, a concurrent resolution expressing the sense of the Congress that a postage stamp should be issued to honor the 100th anniversary of the Jewish War Veterans of the United States of America.

SENATE RESOLUTION 231—TO RECOGNIZE PERSONS DEDICATED TO IMPROVING VOTER PARTICIPATION, AND FOR OTHER PURPOSES

Mr. WOFFORD (for himself and Mr. SIMPSON) submitted the following resolution; which was considered and agreed to:

S. Res. 231

Whereas on June 21, 1964, James Chaney, Andrew Goodman, and Michael Schwerner gave their lives at a young age in an effort to guarantee the rights that are the birthright of every citizen of the United States, particularly the right to vote;

Whereas James Chaney, Andrew Goodman, and Michael Schwerner were part of a movement that helped to achieve the passage of the Civil Rights Act of 1964, the Voting Rights of 1965, and other milestones in the progress of this Nation toward achieving the goal of ensuring equal rights, equal opportunities, and equal justice for all;

Whereas during the 30 years after the deaths of James Chaney, Andrew Goodman, and Michael Schwerner, this Nation has benefited tremendously from the removal of many barriers to full participation by every citizen of this Nation in political, educational, and economic life;

Whereas the lives and deaths of James Chaney, Andrew Goodman, and Michael Schwerner have come to symbolize the dream of brotherhood among citizens of this Nation from all races, religions, and ethnic backgrounds and serve to inspire all citizens—in particular young citizens—to be dedicated to the ideals of justice, equality, citizenship, and community;

Whereas the lifework of these men and thousands of other young students who participated in the Freedom Summer remains unfinished until all barriers are removed that bar the full participation of every citizen of this Nation in the democratic process of this Nation, especially the electoral process; and

Whereas the Nation continues to need the leadership and involvement of all its citizens, in particular the young, in solving problems in their communities and improving the lives of those in need: Now, therefore, be it

Resolved by the Senate, That—

(1) June 21, 1994, is designated as Freedom Summer Day;

(2) the Senate expresses the importance of citizens—regardless of party, ideology, age, race, creed, and socioeconomic status—working to improve this Nation and address issues most critical to their communities;

(3) it is the sense of the Senate that the Voting Rights Act of 1965 has helped to fulfill the promise of democracy in this Nation; and

(4) the Senate reaffirms the goal of removing remaining barriers to full voter participation in this Nation.

AMENDMENTS SUBMITTED

1995 TREASURY-POSTAL SERVICE APPROPRIATIONS ACT

DOMENICI AMENDMENT NO. 1831

Mr. DOMENICI proposed an amendment to the bill (H.R. 4539) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for fiscal year 1995, and for other purposes, as follows:

At the end of the bill add the following new section:

SEC. . (a) The Office of Management and Budget shall report to the Congress no later than October 1, 1994, for each agency for which the budgetary resources available to the agency in fiscal year 1995 would be canceled in an appropriations act to achieve savings in procurement and procurement-related expenses, of the manner in which these savings are to be achieved.

(b) Notwithstanding any other provision of law, each agency for which the budgetary resources available to the agency in fiscal year 1995 would be canceled in an appropriations act to achieve savings in procurement and procurement-related expenses, such cancellation shall occur on October 31, 1994, or 30 days after the Office of Management and Budget submits the report required by subsection (a) of this section, whichever date is earlier.

REID AMENDMENT NO. 1832

Mr. REID proposed an amendment to the bill H.R. 4539, supra; as follows:

On page 81, strike lines 3 through 6.

GORTON (AND OTHERS) AMENDMENT NO. 1833

Mr. GORTON (for himself, Mr. JOHNSTON, Mr. MURKOWSKI, Mr. STEVENS, Mr. CRAIG, Mr. GRAHAM, Mr. SARBANES, and Mr. KOHL) proposed an amendment to the bill H.R. 4539, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . (a) None of the funds made available by this or any other Act for fiscal year 1994 or 1995 may be used by the Internal Revenue Service after the date of the enactment of this Act to enforce the prohibition under the Internal Revenue Code of 1986 on selling dyed diesel fuel for any taxable use in a boat in cases where the person selling the fuel collects the tax on the fuel. The person shall collect such tax under the system described in subsection (b) when it is implemented.

(b) Not later than 30 days after the date of the enactment of this Act, the Internal Revenue Service shall, from the funds made available to it by this Act, establish and implement a collection system which allows the sale of dyed diesel fuel for use in boats used for recreational purposes.

LEVIN (AND OTHERS) AMENDMENT NO. 1834

Mr. LEVIN (for himself, Mr. COHEN, Mr. GLENN, and Mr. GRASSLEY) proposed an amendment to the bill H.R. 4539, supra; as follows:

On page 32, insert between lines 11 and 12 the following:

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

SALARIES AND EXPENSES

For necessary expenses of the Administrative Conference of the United States, established by the Administrative Conference Act, as amended (5 U.S.C. 571 et seq.), including not to exceed $1,000 for official reception and representation expenses, $1,800,000.

On page 48 line 7 strike "$259,351,000," and insert "$257,151,000."

McCAIN (AND OTHERS) AMENDMENT NO. 1835

Mr. McCAIN (for himself, Mr. COHEN, and Mr. KERREY) proposed an amendment to the bill H.R. 4539, supra, as follows:

At the appropriate place in the Act, insert the following:

SEC. . No part of any appropriation contained in this Act shall be made available for leases, line-item construction, repairs, or alterations projects in this Act that are subject to section 7(a) of the Public Buildings Act of 1959 (40 U.S.C. 606(a)) unless the Administrator of the General Services Administration certifies to the Committee on Environment and Public Works of the Senate and the Committee on Public Works of the House of Representatives that such expenditures are prudent, reasonable, and necessary.

McCAIN AMENDMENT NO. 1836

Mr. McCAIN proposed an amendment to the bill H.R. 4539, supra; as follows:

At the appropriate place in the bill, add the following:

SEC. . Notwithstanding any other provision of this Act, any "full time equivalent" employment minimum staffing requirements contained in this Act shall be null, void, and of no effect.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

GRASSLEY AMENDMENT NO. 1837

Mr. GRASSLEY proposed an amendment to the bill (S. 2182) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 22, beginning with line 10, strike out all through page 25, line 3, and insert in lieu thereof the following:

Subtitle D—Other Matters

NORTHERN GREAT PLAINS RURAL DEVELOPMENT ACT

DASCHLE AMENDMENT NO. 1838

Mr. NUNN (for Mr. DASCHLE) proposed an amendment to the bill (S. 2099) to establish the Northern Great Plains Rural Development Commission, and for other purposes; as follows:

On page 3, line 19, insert "Rural" after "Plains".

On page 4, strike lines 23 and 24 and insert the following paragraph:

(2) 1 member shall be appointed from each of the States by the Secretary of Agriculture.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Wednesday, June 22, 1994 at 2:30 p.m., in SR–332, to mark up S. 1614, Better Nutrition and Health for Children Act of 1993 and S. 2095, Federal Crop Insurance Reform Act of 1994.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. NUNN. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee for authority to meet on Wednesday, June 22, at 10 a.m. for a hearing on: Military Construction: Buildings Go Up As Bases Go Down.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. NUNN. Mr. President, I ask unanimous consent that the Communications Subcommittee of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on June 22, 1994, at 9:30 a.m. on S. 2195, National Public Telecommunications Infrastructure Act of 1994.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

NGA GROCERS CARE AWARDS

• Mr. NICKLES. Mr. President, I wish to bring to the attention of the Senate the community contribution of the American independent retail grocers and their wholesalers.

In past years, through the celebration of National Grocers Week, the House and Senate have recognized the important role these businesses play in our economy. The week of June 19–25, 1994, commemorates the eighth year that National Grocers Week has been observed by the industry to encourage and recognize grocers' leadership in private sector initiatives. Across the Nation, community grocers, through environmental initiatives, political involvement, and charitable support, demonstrate and build on the cornerstone of this great country—the entrepreneurial spirit.

In this annual celebration, the National Grocers Association [NGA] and the Nation honor outstanding independent retail and wholesale grocers, their State association executives and food industry manufacturers for their community leadership with NGA's Grocers Care Awards.

Grocers Care recognizes the involvement of the entire food industry in community and civic programs: Retail grocers, wholesalers, and manufacturers. A sampling of the exemplary contributions includes:

Charitable support for national programs such as Grocers Fight Cancer, American Heart Association, American Diabetes Alert, the National Red Cross;

Political involvement by supporting voter registration campaigns and participation in local, State, and national councils such as the White House Conference on Small Business;

Support for education and the performing arts through contributions of time, funds, and buildings and percentage of sales donations for reading programs to fight illiteracy, scholarships, and computers for students' programs.

Community involvement by supporting programs to shelter and feed the homeless; fitness activities, sports teams and tournaments, Boy Scouts and Girl Scouts, Second Harvest, and senior citizen assistance;

Providing a leadership role in building a clean America from the environmental commitments of the manufacturer and packager to recycling initiatives at the retail stores. Grocers actively support and sponsor environmental campaigns in support of the Keep America Beautiful Program.

GROCERS CARE AWARD HONOREES

The Grocers Care theme will prevail during the NGA Washington Conference activities beginning Sunday, June 20, in Washington, DC. Representatives from companies, organizations, and associations around the United States will be honored. These honorees include:

Arkansas: Jerry Davis, Affiliated Foods Southwest, Little Rock;

California: Everett Dingwell, Certified Grocers of California, Los Angeles; Donald Kaplan, Bonfare Market, Danville;

Colorado: Harold Kelloff, Kelloff's Food Market, Alamosa; Don Stroberg, Don's Super Foods, Inc., Eaton;

Florida: Donald Kolvenbach, Affiliated of Florida, Tampa; Lorena Jaeb, Pick Kwik Food Stores, Mango;

Georgia: Zack Hinton, Zack's Properties, McDonough;

Idaho: Ronald McIntire, Ron's Thrift Stores, Hayden Lake; Jack Strahan, Super 1 Foods, Hayden Lake; William Long, Waremart, Inc., Boise;

Illinois: John Sullivan, J.B. Sullivan, Savanna; Richard Bellettini, Bellettini Foods, Coal City; Nick Andrew, Streator Foods, Inc., Streator;

Indiana: Larry Contos, Pay Less Super Markets, Anderson;

Iowa: Kevin Fichter, Prices-R-Rite, Sidney;

Kansas: Douglas Carolan, Associated Wholesale Grocers, Kansas City;

Kentucky: Bruce Chestnut, Laurel Grocery Company, East Bernstadt; Thomas Litzler, Remke's Market, Covington; Kenneth Techau, Techau Inc., Cynthiana; Frank Hinton, D&T Foods, Murray; Ronald L. Swogger, Paramount Foods, Inc., Louisville; James Higdon, Higdon's Foodtown's IGA, Lebanon;

Louisiana: Ferdie Barbier, Big B Supermarket, Belle Rose; Anthony Rouse, Jr., Rouse Supermarkets, Thibodaux; Hillar Moore, Associated Grocers, Baton Rouge; Barry Breaux, Breaux Mart, Metairie; Joseph H. Campbell, Associated Grocers, Inc., Baton Rouge; Ernie A. Matherne, Longview Enterprises, Inc., Paulina;

Maine: Donald Chalmers, Down East Energy, Brunswick; John Buck, Andy's Handy Store, Yarmouth; Frank Frisbee, Frisbee Supermarkets, Kittery Point;

Michigan: Robert DeYoung, Sr., Fulton Heights Foods, Grand Rapids; Patrick Quinn, Spartan Stores, Grand Rapids; Ruthann Shull, Busch's Valu Land, Ann Arbor; Richard Glidden, Hardings Market, Kalamazoo; Parker T. Feldpausch, Feldpausch Food Centers, Hastings;

Minnesota: Stephan B. Barlow, Sr., Barlow Foods, Rochester; Dan Coborn,

Coborn's, Inc., St. Cloud; William Farmer, Fairway Foods, Bloomington; Gordon Anderson, Gordy's, Plymouth; Alfred Flaten, Nash Finch Co., Minneapolis; Jonathan Seltzer, SUPERVALU; Doug Clements, Doug's Superfair Foods, Menomonie; Keith Johanneson, Bemidji; Elliott and Dennis Christenson, Elden's Super Fair Foods; Fred Angell, Angell Foods, Iron River;

Missouri: John Lottes, Rozier's Mercantil, Perryville; Charles Murfin, Ozark Supermarket, Inc.;

Nebraska: John Hanson, Sixth Street Food Stores, North Platte; Virgil Froehlich, Affiliated Foods Cooperative, Norfolk; Harlan Prauner, Affiliated Foods Cooperative;

Nevada: Joey Scolari, Scolari's Warehouse Markets, Reno;

New Hampshire: Charles Butson, Butson's Supermarkets, Woodsville; Martin Kashulines, the Cracker Barrel, Hopkinton;

New Jersey: Mark Laurenti, Shop-Rite of Pennington, Hamilton Square; Dean Janeway, Wakefern Food Corp., Edison; William Sumas, Village Supermarkets, Inc.;

New Mexico: Joseph DiGregorio, California Supermarkets, Gallup;

New York: Walter D'Agostino, D'Agostino Supermarkets, Larchmont;

North Dakota: Wallace Joersz, Bill's Super Valu, Mandan; Dalles Krause, Krause Super Valu, Hazen; Marvin Erdmann, SUPERVALU INC., Bismarck; Stephen Barlow, Miracle Mart, Minot;

Ohio: Walter Churchill, Sr., Churchill's Super Markets, Sylvania; Ronald Graff, Columbiana Foods, Boardman; Dale Conklin, Scrivner, Inc., Columbus; Joseph McAndrew, Columbiana Foods, Inc., Boardman;

Oklahoma: Tom Goodner, Goodner's Supermarket, Duncan; John Redwine II, John's IGA, Spiro; Bill Johnson, Johnson Foods, Muskogee; Maurice Box, Box Foods Stores, Tahlequah; Gary Nichols, Nichols SuperThrift, Checotah; Craig Puckett, Puckett's Food Stores, Sayre; Brenda Graham, Bill's Discount Foods, Tulsa;

Oregon: Alan Jones, United Grocers, Portland;

Pennsylvania: Christopher Michael, Associated Wholesalers, Robesonia; Anthony Genuardi, Genuardi Supermarkets, Inc.;

Tennessee: H. Dean Dickey, Giant Foods, Columbia; D. Edward McMillan, K-VA-T Foodstores, Knoxville;

Texas: R.A. Brookshire, Brookshire Brothers, Lufkin; Gerald Miller, SUPER VALU Stores, Houston;

Utah: G. Steven Allen, Allen's Super Save Markets, Orem; Kenneth Macey, Macey's, Salt Lake City;

Vermont: Michael Murphy, Shop & Save Food Markets, Johnsbury; Douglas A. Tschorn, Wayside Country Store, Arlington; Sonny Gates, C&S Beverage & Dairy, Wilmington;

Virginia: Gene Bayne, Gene's Super Market, Richmond; Walter Grant, Camellia Food Stores, Norfolk; Jack Smith, K-VA-T Food Stores, Grundy; Steven Smith, K-VA-T Food Stores, Abingdon; Donald Bennett, Richfood, Inc., Richmond;

West Virginia: David Milne, Morgan's Foodland, Kingwood;

Wisconsin: Dean Erickson, Erickson's Diversified, Hudson; Gerald Lestina, Roundy's Inc., Milwaukee; Gail Omernick, Copps Distributing Co., Stevens Point; Ronald Lusic, Godfrey Co., Waukesha;

The following State associations are instrumental in coordinating information relative to the community service activities of their members:

Alabama Grocers Association; Retail Grocers Association of Arizona; California Grocers Association; Food Industry Association Executives, Las Cruces; Retail Grocers Association of Florida; Illinois Food Retailers Association; Iowa Grocers Association; Kentucky Grocers Association; Louisiana Grocers Association; Maine Grocers Association; Mid-Atlantic Food Dealers Association; Mid-America Grocers Association; Minnesota Grocers Association; Missouri Grocers Association; New Hampshire Retail Grocers Association; New Jersey Food Council; New Mexico Grocers Association; North Carolina Food Dealers Association; North Dakota Grocers Association; East Central Ohio Food Dealers Association; Ohio Grocers Association; Square Deal Association; Youngstown Area Grocers Association; Oklahoma Grocers Association; Association of Oregon Food Industries; Pennsylvania Food Merchants Association; Rocky Mountain Food Dealers Association; Gulf Coast Grocery Association of Texas; Texas Food Industry Association; Utah Food Industry Association; Vermont Grocers Association; Wisconsin Grocers Association.

Manufacturers: McCormick & Co., Inc.; Kraft General Foods; Discover Card Services; Gerber Products Co.; Coca-Cola Foods; Georgia-Pacific Corp.; RJ Reynolds Tobacco Co.; General Mills, Inc.; Lever Brothers Co.; Kellogg U.S.A. Inc.; Nestle Food Co.; VISA U.S.A.; the Pillsbury Co.; Thomas J. Lipton Co.; Borden, Inc.●

THE GI BILL

● Mr. LAUTENBERG. Mr. President, 50 years ago today, a new policy was created that changed the face of America forever. On June 22, 1944, President Franklin Delano Roosevelt signed into law the GI bill, providing education and housing benefits to millions of returning World War II veterans.

Mr. President, I was one of those veterans. And I was one of those whose life was changed by the GI bill. As a result of the benefits the GI bill provided, I was able to go to college, create a Fortune 500 company employing more than 20,000 people, and give something back to this country by serving in the Senate for the past 12 years.

As a poor, working class kid whose parents were immigrants, I had little chance of going to college. In those days, college was for rich kids. In fact, only 10 percent of high school graduates in America attended college in 1944.

But after the bombing of Pearl Harbor, like millions of other young men, I enlisted in the service and spent the next 3 years in the Army. I was proud to serve my country.

My country rewarded me and millions of other veterans by creating opportunities for us that were previously unthinkable. Education and training, a living allowance, home financing—all became available to all veterans.

The World War II generation of veterans created the most prosperous country in the world. America still sees a higher percentage of high school graduates attending college than any other country in the world. American has the best housing of any country in the world. America has the largest middle class of any country in the world. This is the legacy of the GI bill.

Mr. President, this 50th anniversary of the GI bill should remind us what this country can do when we pull together for a great public purpose.●

RELIGIOUS INTOLERANCE DIRECTED AGAINST ORTHODOX CHRISTIANITY IN THE NATION OF TURKEY

● Mr. D'AMATO. Mr. President, I rise today to comment on the present state of religious persecution that exists in the nation of Turkey. This persecution has been directed against Orthodox Christianity, and more specifically, the Ecumenical Patriarchate of Constantinople. The Turkish press and leading Turkish citizens have been relentless in their verbal attacks on the spiritual leader of Orthodox Christianity, Ecumenical Patriarch Bartholomew. Sadly, the situation has recently turned violent. Incidents include fire bomb attacks on the Patriarchate and the desecration of both cemeteries and churches.

Even more disturbing than the intolerance in Turkey proper, is the continued de-Christianization of occupied Cyprus. In July 1974, Turkey occupied the region and began a systematic eradication of Christianity. Since that time, the Christian population has been expelled, Christian Orthodox Churches have been converted into mosques, and about 80,000 Turkish Moslem settlers have been transferred to the area.

Turkey is a United States ally, receiving significant military and economic aid. In deciding upon future aid to this Government, we must keep in mind Turkey's record on human rights and religious freedom. The continued persecution is deplorable, and the United States must send a signal to the Turkish Government that such actions will not be condoned.•

WE CELEBRATE THE GI BILL

• Mr. KERRY. Mr. President, today, I am proud to honor the 50th anniversary of the GI bill. The Congress and all Americans should take pride in the GI bill which serves as a lasting expression of our gratitude as well as our commitment to the veterans of our armed forces who sacrificed and continue to sacrifice so much. Moreover, the GI bill stands as a shining example of what can be accomplished by good Government; this historic legislation was an indispensable component of the historic economic growth and prosperity our Nation experienced after World War II, which dramatically transformed American society.

On June 22, 1944, just 16 days after the D-day invasion of Normandy, President Franklin D. Roosevelt signed into law the Servicemen Readjustment Act of 1944, commonly known to the millions of veterans it has served as the GI bill. In an effort to ease the often painful transition back to civilian life for the men and women courageously serving their country, the Congress adopted this pioneering legislation which offered veterans an opportunity to obtain a college education that before its passage was out of reach to most of them.

Since its enactment over 20 million veterans, serving bravely in World War II, the Korean conflict, Vietnam, and most recently the Persian Gulf war, have taken advantage of the benefits of the GI bill, expanding opportunities and growth for themselves and our Nation. College, once an institution for the elite, became an option for the average American. In addition to educational opportunity, it also provided guaranteed direct loans which enabled veterans to purchase over 14 million homes, farms, and millions of small businesses that represent the bedrock of our Nation's economic vitality.

The GI bill has invested billions of dollars in our veterans over the last five decades and our Nation has reaped immeasurable benefits. A veteran who received benefits from the GI bill has paid out anywhere from two to eight times more in income taxes than the amount of benefits he received. The GI bill is exemplary of the results of good Government, and is still relevant and important 50 years after its enactment. We have seen many failed programs that have been enacted over the years; the GI bill stands in remarkable contrast. It is an achievement that I believe deserves to be honorably recognized today.

Finally, the passage and vitality of the GI bill represents the gratitude the citizens of the United States feel for those that have worn our Nation's uniform. The GI bill, in FDR's words, "gives emphatic notice to the men and women in our Armed Forces that the American people do not intend to let them down." While spoken 50 years ago, these words still ring true today. We shall never let down those who have served so admirably in the face of danger to protect our freedom.•

A CRITIQUE OF U.S. FOREIGN POLICY UNDER PRESIDENT CLINTON

• Mr. D'AMATO. Mr. President, I rise today to again discuss the performance of the Clinton administration in the field of Foreign Policy.

On May 4, 1994, I placed a chronology of foreign policy events of the Clinton administration into the RECORD. This chronology detailed the unfortunate record of this administration in foreign affairs.

Today, I wish to include a series of foreign press statements from around the world on a variety of foreign policy topics. In this vein, I ask that this compilation of statements be printed in the RECORD following the text of my remarks.

Mr. President, this latest episode which saw the administration agree to allow former President Carter to travel to North Korea to conduct private diplomacy with Kim Il-song, is a travesty. Worse yet, the Washington Post reported that the President and his senior staff attended a White House seminar on North Korea. Why does the administration have to bring in outsiders to advise the President on issues so vital to the Nation when he has the entire resources of the Federal Government to do so? Is it because the people chosen for this purpose who serve in the administration have been unable to perform the task? Or is it simply because the administration is lost in a fog as to what they should do and a casting about for anything that sounds reasonable?

I suggest the latter and I might add that the President's continued lack of attention, interest and fortitude in foreign policy will come back to haunt us. Let us hope that for the sake of 37,000 young men and women sitting on the Korean DMZ, this administration's failings in foreign affairs don't come back to haunt them.

The compilation follows:

INNOCENTS ABROAD: HOW THE WORLD VIEWS CLINTON'S FOREIGN POLICY

(By Lawrence T. DiRita, Deputy Director of Foreign Policy and Defense Studies)

This month marks the fiftieth anniversary of the American-led invasion of Hitler's Europe. The Normandy landings turned the tide of World War II and linked American leadership to the future of Europe more closely than ever before. After the Allied victory in Europe, as many as a half-million Americans remained behind to guarantee that the bloody defeat of fascism was not invalidated by capitulation to Soviet communism. By 1991, American leadership had led to the collapse of the Soviet Union, a victory no less complete than that over Nazi Germany nearly half a century earlier.

American leadership overcame similar challenges in Asia. Next year will see observances of the fiftieth anniversary of the defeat of Imperial Japan and the establishment of stability and prosperity in Asia. The United States since World War II has been trusted throughout Asia with maintaining the balance of power, and resolute American leadership has turned once bitter enemies into the closest economic and strategic partners.

But as President Clinton returns from Europe, where he presided over the Normandy anniversary celebrations, Americans are uneasy about his ability to sustain the global leadership that the event recalled. In a recent poll, 53 percent of those questioned disapproved of his handling of foreign policy generally; only thirteen percent believe he even has a clear foreign policy.[1]

This doubt stems from the confused and often contradictory nature of the Clinton Administration's foreign policy. In Haiti, for example, the President first promised to end the Bush policy of returning refugees to Haiti, then reversed himself and adopted the identical policy. He reversed himself again later by bowing to liberal pressure to tighten sanctions and even to threaten invasion. More recently, President Clinton decided to extend most-favored nation trade benefits to the People's Republic of China (PRC), but only after having accused former President Bush of "coddling" the "dictators" in Beijing with the same policy.

These policy reversals and vacillations are symptomatic of a President without a clear foreign policy vision. This lack of leadership already is having an effect on how the world views the credibility and prestige of the United States. The overseas media coverage of American foreign policy has become increasingly negative, often hostile, as the Clinton Administration continues to drift in its relations with the world. Whether it is the recent tribal warfare in Rwanda or the nuclear stand-off on the Korean Peninsula, U.S. policies increasingly are portrayed in the foreign press as indecisive, incompetent, inconsistent, and shapeless.

This negative coverage is in marked contrast to that which George Bush received during the Persian Gulf War. Typical was the front page comment in Germany's Stuttgarter Zeitung, noting that "[t]he Gulf War means that the Americans have finally come to terms with the Vietnam trauma. The U.S. armed forces have shown that they can win . . . [T]he United States proved to be a reliable partner who does not dodge a critical situation . . . [and] emerges strengthened out of this conflict. The President showed initiative, leadership, strength, and stamina."[2]

Such optimism about U.S. leadership abroad is not readily found today. Consider a recent editorial in France's leading daily, Le Monde. Regarding the current crisis in the former Yugoslavia, the paper acknowledged that ". . . since World War II, Europe has never appealed so forcefully to the United States. And never has it had to deplore such a noncommittal and inconsistent policy by the United States."[3]

What follows are excerpts from a variety of sources that typify the foreign press's coverage of Clinton's foreign policy. Their opinions should be disturbing for Americans.

Footnotes at end of article.

They show a growing contempt and disrespect for a country that only two years ago was the awe and envy of the world.[4]

Tucker Bailey conducted research for this publication.

HOW THE WORLD VIEWS CLINTON'S FOREIGN POLICY

From Europe

"Cornered By His Past":

"On foreign policy is simply embarrassing. some of his flailing is understandable. . . . But much of it is the result of lack of attention, time and cure: and, not least, lack of spine."—The Economist (Britain), June 4, 1994.

"Clinton Uninterested In Imperial Aspects Of His Job":

Unfortunately, the White House is now inhabited by one of the most parochial and indecisive leaders in the history of the presidency. . . . All the signs are that President Clinton is uninterested in the imperial aspects of his job."—The Daily Telegraph (London), May 14, 1994

"Diplomatic Schizophrenia":

"It is hard to discern the guiding principles upon which any future [American] interventions would be undertaken. . . . As it stands, American policy apparently ascribed equal significance to the restoration of a flaky exponent of liberation theology to the presidency of Haiti as it does to the curtailment of North Korea's nuclear program. . . ."—The Daily Telegraph (London), May 9, 1994.

"Clinton Needs A Coherent Foreign Policy":

"The problem for the administration is that Mr. Clinton's habit of talking tough and then retreating at the first sign of resistance is now so notorious that it is undermining his credibility from Port-au-Prince to Pyongyang. . . . To stay in the White House in 1996, Mr. Clinton needs to show he can formulate and implement a coherent foreign policy."—The Independent (London), May 5, 1994.

"Is There A President In The White House?":

"Is there a president at the White House? More and more European and Asian leaders start to ask the question. . . . There is a long list of failures on the part of the president, who some days, does not spend more than a half hour on international affairs, but who has multiplied by 10 White House funds for polling. . . . The list begins with the withdrawal from Somalia. . . . The refusal to send American ground troops to Bosnia. . . . The officials at Port-au-Prince quickly figured how to profit from American indecisiveness in Somalia. . . . Same thing with Kim Il-sung, the old tyrant from North Korea, who trifled for 14 months with the calls from the United States . . . in order to keep secret his military nuclear programs. And while waiting for extension of the Most Favored Nation status, China refuses to assist the Untied States in this affair, because it is convinced of Clinton's immeasurable capability for ambivalence."—Liberation (Paris), May 3, 1994.

"Clinton Foreign Policy A Disaster":

"Clinton, since his election, shows himself a real disaster in foreign policy matters. . . . He can only be proud of one success in this field: The . . . Rabin-Arafat handshake at the White House. For the rest, all the rest, the 'imperial republic' . . . accumulates humiliating failures. It gave up in Haiti in front of the rabble. It fled away from Somalia. It did not make a move concerning the drama in Rwanda. . . . the temporary rescue of the 'safe area' of Gorazde [in Bosnia] comes too late, after a series of retreats."—l'Express (France), April 29, 1994.

"Why American Doesn't Lead":

"Eighteen months after his election, [President Clinton] still makes foreign policy like a governor of Arkansas. His pollster at his elbow, he tries to dispose of each new problem as swiftly and cheaply as he presumes Americans would like. . . . since it lacks ideas of its own, the Clinton administration looks for guidance elsewhere. . . . Why does this happen, and go on happening?. . . . Mr. Clinton does not care for foreign policy. . . . Mr. Clinton, bereft of instincts in foreign policy, needs to be coached by an expert to do the job the world requires of him . . . [E]xpert coaching requires what the president is not prepared to give: time, thought and application. . . . In times of crisis Americans have historically rallied round their president, even in support of policies that were neither cost- nor risk-free. They long to be led, and that could be Mr. Clinton's vital first step: lead America first, lead the world next."—The Economist (Britain), April 30, 1994.

"U.S. All-Or-Nothing Approach Counterproductive":

"The United States has a comply-or-else approach to foreign policy that is becoming . . . highly counterproductive. . . . It has reduced American public policy in Asia to a series of single issue obedience tests for other countries—human rights in China, nuclear bombs in North Korea, market openings in Japan, American bodies in Vietnam. It gives little room for maneuver, makes annual deadlines into almost automatic crises and walks into the arms of those regimes who need a foreign bogey for their own dim purposes."—The Guardian (London), May 18, 1994.

"Adams and the Alliance":

"The disgraceful decision by President Clinton to grant a visa to one of the world's leading terrorists [Irish Republican Army Leader Gerry Adams] . . . speaks volumes for the manner in which Mr. Clinton chooses to conduct American foreign policy and the sorry consequences it has had for the Anglo-American relationship. . . . The fact that [the decision] meant slighting America's closest ally and plunging the special relationship into its worst crisis since Suez counted for naught. The harsh fact for Britain is that in Mr. Clinton's Washington that relationship does indeed increasingly count for nothing. This is an administration which, when it thinks of foreign policy (and that it does rarely), thinks of Asia."-The Sunday Times (London), February 6, 1994 (Cited in FBIS-WEU-94-032-A).

"Contradictions":

"A [CNN] news conference of contradictions. . . . 'Clinton without a clue' was . . . the most prevalent impression the president left behind . . . What he announced was questionable and soft as putty, while failing to address some things at all. . . . He took shelter in generalities and remained vague and was thus not able to refute criticism of his lack of foreign policy concepts."—Sueddeutsche Zeitung (Munich), May 5, 1994.

"Sounded Good, But Left One Wondering":

"[The news conference left one] wondering after it was all over whether [President Clinton] is really in possession of the foreign policy map he had talked about and what he actually said in concrete terms."—Frankfurter Allgemeine, (Frankfurt), May 5, 1994.

"Sounds Like Roosevelt, Draws Back Like Carter":

"Mr. Clinton, who likes to talk like Franklin Roosevelt, often draws back like Jimmy Carter when it is a matter of getting going . . . The Americans don't want their children killed in far-away wars, but they want the United States to keep its role of leader of the free world. Clinton refuses to use his political capital for the management of foreign crises."—Le Figaro (Paris), May 5, 1994.

"Waiting For President's Foreign Policy":

"The mystery of American foreign policy under Clinton's leadership is increasing with each appearance where the president tries to dispel the shadows. . . After this [news conference], frustrated Americans and the embarrassed world are still waiting for the president's foreign policy."—Liberation (Paris), May 5, 1994.

"Clinton Did Not Exorcise Ghosts of Nixon, Bush":

"Clinton . . . did not succeed in exorcising the ghosts of two of his predecessors, Nixon and Bush. The former was, to the very end, a severe critic of the White House's international strategy. The latter, the winner of the Gulf War, is living proof that the United States is still capable of imposing peace and defeating the enemies of the new world order."—La Repubblica (Rome), May 5, 1995.

"No Consistent Or Comprehensible Foreign Policy":

"Washington has not been able to create a consistent and comprehensible foreign policy. The results of its wavering are visible to everybody in places like Mogadishu, Gorazde and Port-au-Prince. None of these places alone harmed vital U.S. interests but together they did. A great power's credibility and prestige have been wasted without any concrete results."—Helsinging Sanomat (Helsinki), May 10, 1994.

"Indecisiveness, Inconsistency Of U.S. Policy":

"With Bosnia, Haiti, Somalia, and North Korea, American policy has been revealing its indecisiveness and inconsistency for more than a year. . . ."—Dnevnik (Slovenia), May 14, 1994.

"Words And Action":

"The surprising element in the U.S. position is its irresolution, the apparent gap between words and action. . . [I]f the United States still wants to be taken seriously, it must take itself at its word. The catalogue of sins that Japan has been confronted with for many years quite obviously does not have the expected effect. Trade delegate Mickey Kantor has a reputation for being tough. Maybe toughness is only a disguise for a lack of concept, a lacking conclusive policy."—Handelsblatt (Duesseldorf), February 17, 1994 (Cited in FBIS-WEU-94-036).

"Clinton's Shapeless Foreign Policy":

"For Clinton, his policy on China is only one aspect of a generally shapeless foreign policy. At the [November 1993 APEC] summit conference in Seattle, Clinton attached more importance to the Asian-Pacific region than to relations with Europe. Now he is in a clinch with the Japanese and waging a war of words with Singapore. Indonesia has warned the United States not to try and interfere in its policy on labor unions and Malaysians are cool. Under pressure from senators and congressmen in his own party, Clinton is now forced to rap China on the knuckles without causing a revolt among the U.S. business world. . . . In this helpless situation, honesty would be refreshing."—General-Anzeiger (Bonn), May 18, 1994.

"Clinton Administration's Problems In Asia":

"The administration's problems [in Asia], as in other aspects of its foreign policy, stem from a failure to grasp the possibilities and limits of American power. . . . As Mr. Clinton is discovering, cost-free economic levers can be as hard to find as peril-free military ones. Asian leaders are resisting the idea that access to American markets requires them to dance to Washington's political tune. . . . The problem lies not with the objectives—human rights, open markets, nonproliferation—but with the means chosen."—The Times (London), April 5, 1994.

"Clinton Policy In Yugoslavia Idiotic":

"With its strident calls for air strikes, the U.S. administration asserts that it wants to reinforce the UN's credibility. Far from it: Washington's policy is to use the UN as a justification for policies already decided by the president and his bumbling entourage. . . . Most American commentators are now saying publicly what some notable U.S. ambassadors privately admit: that Clinton's policy in Yugoslavia is idiotic."—The Independent (London), May 6, 1994.

"U.S. Inconsistencies":

"Is there such a thing as a U.S. policy on Bosnia? Judging from the Geneva meeting on Friday, 13 May, the answer can only be negative. While the United States agreed to the approach advocated by the Europeans with respect to the Bosnian crisis, it was once more with plenty of reservations and unresolved contradictions."—Le Monde (Paris), May 15–16, 1994. (Cited in FBIS–WEIU–94–095).

"Europe After Clinton":

". . . [A] large number of people, not counting saxophone lovers, . . . are beginning to find the presidential tone a little thin. Perhaps too many people. And everybody is already wondering: Who will pay for the U.S. President's ulterior motives or errors of analysis? President Clinton's behavior on the Bosnian issue has not allayed these fears; quite the reverse."—Liberation (Paris), January 18, 1994. (Cited in FBIS–WEU–94–012).

"Clinton's New-Found Resolve Greeted With Skepticism":

"[President Clinton's] new-found resolve [over Haiti] has, however, been greeted at best with skepticism, at worst with Newsweek's contemptuous dismissal of his threats as tough talk amounting to no more than 'the policy equivalent of a one night stand.' So low is the president's credibility in foreign affairs . . . Mr. Clinton has blamed the UN in Somalia and the Europeans in Bosnia; if he has to order the Marines to Haiti, he will have no one to blame but his secretary of state and himself."—The Times (London), May 5, 1994.

"Rwandans Dying Because U.S. Messed Up in Somalia":

"Retrospectively, Washington is trying to present its intervention in Somalia as some UN foul-up, in which it unfortunately became entangled. . . . But the Somalia intervention was made in the USA. . . . Washington cut and ran. Now the Clinton administration is trying to delay troops being sent by other nations to the worst man-made disaster since the Second World War, Rwandans are dying because the United States messed up in Somalia."—The Times (London), May 18, 1994.

"Clinton Unwilling To Assume Global Leadership of U.S.":

"[President Clinton's] attempts to master the many crisis areas with the help of the UN show a deep misunderstanding of [its] role . . . [W]hen things get serious, the UN has to be led into action by the United States, as happened in the Gulf War."—Wirtschaftsworche (Austria), April 29, 1994.

"Clinton's Lack of Will":

"The United States has retreated from President Clinton's fiery rhetoric of last July—when he vowed the destruction of North Korea if it used a nuclear device—to actions that suggest that almost any deal is worthwhile. Having declared then that no inducements would be offered to Pyongyang until it fulfilled its international obligations, the Administration is now offering a string of concessions. In so doing, it has undermined the International Atomic Energy Agency's insistence on regular "challenge" inspections of undeclared sites."—The Daily Telegraph (London), January 11, 1994. (Cited in FBIS-WEU-94-007).

From Latin America

"Is Clinton Not Interested In Foreign Policy?":

"Haiti is just one of the Clinton administration's many international policy failures. . . . The Haitian question may cost the head of another member of Clinton's foreign policy staff, National Security Adviser Anthony Lake. . . . But the Clinton administration's major foreign policy problem is the president himself, who does not like the subject and prefers to avoid it whenever possible."—Folha de Sao Paulo (Brazil), May 12, 1994.

"Does U.S. Have A President?":

"Haiti is at least one, among various cases in which, accused of the sin of omission or hesitancy in action, the Clinton administration gives reason to wonder whether there is a president of the United States."—O Globo (Brazil), May 14, 1994.

"Improvised Initiatives, With Polls In Hand":

"From Somalia to North Korea, American diplomacy has become . . . a succession of improvised initiatives, about-faces, empty threats and general confusion. From Haiti to China, the credibility of Washington's policy of defending democracy and human rights has evaporated. . . ."—O Estado de Sao Paulo (Brazil), May 2, 1994.

"Significant U.S. Step Backward On Peacekeeping":

"After a year of indecision, failures and moderate triumphs in maintaining peace in situations and places so dissimilar like Bosnia, Somalia and Haiti, the Clinton administration has just taken a significant step backward in its effort to build a multilateral structure of a military nature destined to resolve regional conflicts and protect democracy and human rights around the world."—El Cronista (Argentina), May 10, 1994.

"U.S. Haitian Policy":

"President Clinton has done a number of flip-flops in the past year regarding policy on Haiti. If the regime in that country is not soon changed, he may very well have to do another."—Nassau Guardian (Bahamas), May 12, 1994.

"The Empire Attacks And World Applauds":

"What is disconcerting, dangerous and incredible in the Haitian case is that the U.S. president has reached the decision [to consider using military force], possibly against his own wishes and without being sure that it is what suits best the interests of his own nation-empire. . . ."—La Razon (La Paz), May 5, 1994.

From Asia

"Financial Markets Losing Faith In Clinton Economic Policy":

"The markets' declining confidence in the Clinton White House runs parallel to international loss of faith in the Clinton foreign policy and the erosion of public trust in the Clintons' personal lives—a trifecta captured in the Wall Street rumor this week of a new portfolio of 'White House bonds' to be issued by the U.S. Treasury: a Gore bond, with no interest; a Stephanopoulos bond with no maturity; and a Clinton bond with no principle."—Austrialian Financial Review (Australia), May 6, 1994.

"U.S. East Asian Policy Failure":

"President Clinton himself has no experience in dealing with foreign policy. The senior State Department officials he relies on . . . are people who have been out of the foreign service too long or who are new to their job. They are out of touch with political reality and formulate impractical policy. Their inability to see the woods for the trees leads U.S. foreign policy to run into walls in China and Japan and on the Korean peninsula. The world situation has changed and U.S. influence has correspondingly been diminished."—Sin Chew Jit Poh (Malaysia), March 31, 1994.

"Decline Of U.S. Status":

"The adjustment of [U.S. peacekeeping] policy transmits the message that the United States cannot solve various conflicts in the world. . . . Observers believe that the adjustment of . . . policy demonstrates the decline of the U.S. status. . . ."—People's Daily (Peoples' Republic of China), May 10, 1994.

"Leadership":

"[Mr. Nixon's] approach to government offers an example of Machiavellian intrigue. . . . But Mr. Nixon provided leadership, whatever its quality. And this is the one Nixon characteristic which the present incumbent in the White House, morally circumscribed and hedged in by principle, might usefully seek to emulate."—Business Times (Singapore), April 29, 1994.

"Hesitant":

"U.S. policy toward North Korea is similarly hesitant. At first it resolved that North Korea would not be allowed to possess nuclear arms. Recently the U.S. secretary of defense said North Korea will not be allowed to have 'significant' nuclear bombs. Different quarters wonder if this is a deviation from the earlier position. Similar questions are being asked about U.S. policy toward China and Haiti."—Ittefaq (Bangladesh), May 3, 1994.

"The East Has The Numbers To Prevail In APEC":

"[The Asia-Pacific Economic Cooperation (APEC) forum] can provide an international forum in which East Asia can isolate America when it oversteps the mark in flexing its bilateral muscle. . . . Isolated within APEC, the Clinton administration is also deeply divided internally on its China policy. The formula worked out last May by the Clinton team . . . is in deep trouble. . . . The Chinese must now be confident that they have called Mr. Clinton's bluff."—Australian Financial Review (Australia), March 25, 1994.

"U.S. Should Change Its Asian Policy":

"Clinton has not done anything worth praising during his interactions with the Asian countries; the reason is that it is wrong to use human rights and trade as the focus of foreign policy. The Clinton administration's Asian policy should change or else the United States will be incapable of handling the Asian situation."—Sing Tao Daily News (Hong Kong), April 3, 1994.

"Does U.S. President Want To Launch A Trade War?":

"The United States has not stopped linking human rights with economic issues and now it wants to link up the Chinese national enterprises. If Clinton is determined to launch a global trade war, the United States will be losing Asia and even the world."—Tin Tin Daily News (Hong Kong), April 6, 1994.

"U.S. Must Curb Human Rights Bias":

"Washington was a paper tiger in its trade war with Japan. It will inevitably be a paper tiger one more time in its controversy over trade issues with China."—Nanyang Siang Pau (Malaysia), March 19, 1994.

"Diplomacy By Ultimatum":

"The American 'diplomacy by ultimatum' does not seem to be working. It failed in Tokyo, it is failing in Pyongyang and the Chinese crisis is regarded within the U.S. itself as a fiasco of monumental proportions."—The Times Journal (Manila), March 30, 1994.

"MFN Should Not Become A Political Weapon":

"From the facts that Beijing laughed at the human rights card played by Americans . . . , it is apparent that Washington's move to link 'human rights' with 'trade' is very unwise. . . . To view [the issue] from a practical point of view, 'MFN' is really not a very good political weapon."—The China Times (Taiwan), March 27–April 2, 1994.

"U.S. Foreign Policy: Driven By The Banks?":

"The United States will have won few friends with what is little short of outright bullying in the cases of China and Japan. In relation to China, the pretense that the United States is seriously concerned about the 'human rights' of Chinese citizens deceives no one. China has had at least half-a-million political prisoners for decades. . . . The United States has observed these permanent factors of Chinese society with equanimity for years. Why the sudden outbreak of moral concern?"—News Weekly (Australia), April 6, 1994.

"U.S. Prestige Declining Over Human Rights Policy":

"The prestige of the United States . . . is declining rapidly over its human rights diplomacy. Even though the United States . . . continues to single out foreign countries as violators of human rights, it can hardly have it all its own way. The traditional U.S. diplomatic strategy of linking democratization and peace and security also seems to have come off its hinges. Developing countries have detected an opportunistic aspect of [the Clinton administration's] human rights diplomacy. . . ."—Nihon Keizai (Japan), April 5, 1994.

"U.S. Policies On Labor Anger Asian Nations":

"U.S. policies are increasingly antagonizing Asian nations, with the latest U.S. move to link trade and labor standards in world trade accords bitterly opposed throughout the region. . . . Australia opposes the U.S. move."—The Australian (Australia), March 31, 1994.

From the Middle East

"U.S. Schizophrenia":

"The problem is that America has 'schizophrenia.' On one hand, it hastens to send troops, and on the other it procrastinates . . . and even forbids others to exert an effort, a matter which encourages aggressors and raises questions about the reality of its foreign policy."—Al-Gomhouriya (Egypt), May 7, 1994.*

From Africa

"A Constant Flip-Flop":

"The dissolution of the previous bipolar political system following the collapse of the Soviet empire, did not automatically mean an ultimate American dominance and effective leadership as we expected or [were] made to believe. Nothing justifies this point more than the belated, albeit, abject failure by President Clinton to define his administration's foreign policy. . . ."—The Standard (Kenya), May 9, 1994.

"China Will Be The Superpower Of The 21st Century":

"The fickleness of American leadership of a largely free world has hastened the appearance of the Chinese dragon on the world scene. And if care is not taken, China may yet emerge as the dominant superpower at the end of this very century."—The Daily Times (Nigeria), April 6, 1994.

FOOTNOTES

[1] ABC/Washington Post Poll May 12-15, 1994. Cited in Cord Meyer, "Foreign Policy Achilles Heel," The Washington Times, May 20, 1994.

[2] "Bush's Victory" Stuttgarter Zeitung, March 1, 1991. As cited in United States Information Agency (USIA) Foreign Media Reaction Daily Digest, March 1, 1991, p. 4.

[3] "U.S. Inconsistencies" Le Monde, May 15-16, 1994, p. 1. As cited in Foreign Broadcast Information Service (FBIS) WEU–94–095, May 17, 1994.

[4] Most of the comments have been circulated in the United States Information Agency's Foreign Media Reaction Daily Digest. Those quotes drawn from the Daily Digest are marked by an asterisk. All others are drawn from the original source or as indicated.●

RECOGNITION OF THE ZIP LOCK SERVICES PROGRAM

● Mr. GORTON. Mr. President, today I would like to recognize the effective interagency group, Zip Lock Services, for its dedication to the enrichment of the lives of children and families in Yakima, WA.

While at home over the January recess, I organized a meeting of over 200 parents, teachers, administrators, and students. At this conference I listened carefully to the concerns and ideas of those in attendance. While I heard many varied and different suggestions, one theme was constant. Innovative and resourceful programs which educators and community members work hard to plan and execute deserve more recognition. I, therefore, promised to recognize, on a monthly basis, a school or school district program that is outstanding and innovative. The Zip Lock Services program is providing coordinated services and much needed assistance to children and families in the Yakima Valley and is worthy of such recognition.

The goal of this program is to bring together school personnel and other service agencies together to provide needed services for children with behavior problems. Children and their families require a coordinated interagency plan to match identified needs with services. Regardless of whether the child is identified within the educational, social service, or mental health system, their needs must be met. Since no one system has enough resources to meet the needs of all children and families, a multisystem and multiagency response was needed. Thus, Zip Lock Services was created and has been successful for the last 8 years.

Zip Lock Services should continue to be promoted throughout Washington State, as well as the entire United States. Recognizing that a problem exists and taking the initiative to develop successful programs is the key to improving our education system. The Zip Lock Services program has been so successful because it started right where the solutions and real answers can be found—in the local community.●

HONORING THE TOWN OF ROMULUS, NY; 200 YEARS

● Mr. D'AMATO. Mr. President, I rise today to raise my voice in celebration of the town of Romulus' 200th anniversary. On July 2, this great town will be celebrating its bicentennial with appropriate fanfare. I ask my colleagues to join me in celebrating the longevity, success, and patriotism of the people of Romulus, NY.

The town of Romulus was formed on March 5, 1794. It lies on rolling hills between Seneca and Cayuga Lakes in the Finger Lakes region of New York State. The former site of both Seneca and Cayuga Indian settlements, the area was originally part of the county of Onondaga. Following the Revolutionary War, it was received by Gen. James Clinton as a military township. It was named for Romulus the legendary founder of the city of Rome, Italy. The township was first settled by families from Northumberland County, PA in 1788.

Due to the increasing military needs resulting from the United States' entrance into World War II, construction began on the Seneca Army Depot in Romulus in 1941. Its mission then was to receive, store, distribute, and care for ammunition, explosives, and equipment and remains so today. Also, it provides support and training assistance to Army Reserve and National Guard units and other Government agencies.

Sampson Naval Training Station opened in 1942 and became a recruit training and medical center during World War II, as well as a college for veterans following the war. Subsequently it became an Air Force Training Center and later an annex to Willard Psychiatric Center. Today this area is known as Sampson State Park, which has modern camping facilities and a marina and has been a site for national hydroplane racing.

A high-frequency radio communications tower was commissioned on August 1, 1978, at Loran Station. The tower is an electronic long-range navigation system that serves an area of 20 million square miles with an accuracy of one-fourth mile. This is the master station in the Northeast operated by a staff of 20 members of the U.S. Coast Guard.

I am proud to represent Romulus and towns like it. It is people like the good people of Romulus who make up the fabric of American life. It is only right that we acknowledge the value of our history as exemplified by the town of Romulus. I salute the people of Romulus, and congratulate the town on the occasion of its 200th birthday.●

BRIEN McMAHON FEDERAL BUILDING ACT OF 1994

Mr. NUNN. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 439, H.R. 3724, designating the "Brien McMahon Federal Building" in Bridgeport, CT; that the bill be deemed read three times, passed, and the motion to reconsider laid upon the table; and that any statements appear in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 3724) was deemed read the third time and passed.

NORTHERN GREAT PLAINS RURAL DEVELOPMENT COMMISSION

Mr. NUNN. Madam President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of S. 2099, a bill to establish the Northern Great Plains Rural Development Commission, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (S. 2099) to establish a Northern Great Plains Rural Development Commission, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1838

(Purpose: To make certain technical corrections)

Mr. NUNN. Madam President, on behalf of Senator DASCHLE, I send a technical amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. DASCHLE, proposes an amendment numbered 1838.

The amendment is as follows:

On page 3, line 19, insert "Rural" after "Plains".

On page 4, strike lines 23 and 24 and insert the following new paragraph:

(2) 1 member shall be appointed from each of the States by the Secretary of Agriculture.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1838) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2099

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Northern Great Plains Rural Development Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) the rural economy of the Northern Great Plains is undergoing a substantial and potentially threatening transformation;

(2) the rural Northern Great Plains suffers from substantial measurable poverty, unemployment, outmigration, underemployment, aging of the population, and low per capita income;

(3) the Northern Great Plains is highly rural and has a highly dispersed population, and contains many Native American reservations;

(4) many of the basic industries of the rural Northern Great Plains in natural resources are under stress;

(5) a concerted Federal, State, and local public and private effort is needed if the rural Northern Great Plains is to share in the general prosperity of the United States;

(6) the creation of jobs and expansion of existing businesses, including small businesses, offer the greatest hope for rural economic growth and revitalization in the Northern Great Plains;

(7) the availability of capital, technology, market information, infrastructure development, educational opportunities, health care, housing, recreational activities, and resource development are essential to successful business development in the rural Northern Great Plains;

(8) the transportation needs of the rural Northern Great Plains must be addressed through highway and bridge construction, air service availability, and rail service and river transport development;

(9) because of the social, geographic, weather, historical, and cultural ties of the rural Northern Great Plains as well as common economic problems, planning for this unique region is desirable and urgently needed; and

(10) in the rural Northern Great Plains, the tourism industry offers significant additional potential for supporting economic development and job growth, fostered by the wise stewardship of natural resources.

SEC. 3. PURPOSE.

The purpose of this Act is to establish the Northern Great Plains Rural Development Commission to study and make recommendations regarding the economic needs and economic development of the rural Northern Great Plains by seeking and encouraging the participation of interested citizens, public officials, groups, agencies, businesses, and other entities in developing a 10-year rural economic development plan for the Northern Great Plains.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) CHAIRPERSON.—The term "chairperson" means the chairperson of the Commission.

(2) COMMISSION.—The term "Commission" means the Northern Great Plains Rural Development Commission.

(3) NORTHERN GREAT PLAINS.—The term "Northern Great Plains" means the States of North Dakota, South Dakota, Nebraska, Iowa, and Minnesota.

(4) STATE.—The term "State" means a State in the Northern Great Plains.

SEC. 5. ESTABLISHMENT.

There is established a Commission to be known as the "Northern Great Plains Rural Development Commission".

SEC. 6. MEMBERSHIP AND ORGANIZATION.

(a) MEMBERSHIP.—The Commission shall be composed of 10 members, of whom—

(1) 1 member shall be appointed by the Governor of each State; and

(2) 1 member shall be appointed from each of the States by the Secretary of Agriculture.

(b) TERM.—Each member of the Commission shall serve for such term as the official who appoints the member determines is appropriate.

(c) QUORUM.—Five members of the Commission shall constitute a quorum, but the Commission may establish that a lesser number shall constitute a quorum for the purpose of conducting hearings.

(d) MEETINGS.—

(1) FIRST MEETINGS.—Five or more members appointed under subsection (a)(1) shall determine the date, time, and place of the first meeting, and shall call the first meeting. At the first meeting, the members of the Commission shall appoint a chairperson from among the members appointed under subsection (a)(1). The first meeting of the Commission shall be held not later than 45 days after the date of enactment of this Act.

(2) ADDITIONAL MEETINGS.—The Commission shall conduct such additional meetings as the Commission determines are appropriate.

(e) APPOINTMENTS.—Each appointment under this Act shall be made not later than 30 days after the date of enactment of this Act.

(f) VACANCIES.—A vacancy on the Commission shall not affect the powers of the Commission and shall be filled in the same manner in which the original appointment was made.

(g) HEADQUARTERS.—The Commission shall establish the location for the headquarters of the Commission.

SEC. 7. DUTIES.

(a) PLAN.—The Commission shall identify and study the economic development, infrastructure, technology, telecommunications, capital, employment, transportation, business resource development, education, health care, housing, and recreation needs of the Northern Great Plains and develop a 10-year plan that makes recommendations and establishes priorities to address the needs.

(b) PREPARATION OF PLAN.—In developing the plan, the Commission shall, with respect to the Northern Great Plains—

(1) sponsor and conduct investigations, research studies, and field hearings;

(2) review and evaluate available research, studies, and information on conditions in the areas referred to in subsection (a);

(3) study the economy, identifying strengths, weaknesses, participation levels, opportunities, and methods of addressing outmigration;

(4) develop a profile of, and a description of resources devoted to, economic development (including tourism), human resources (including demographics, outmigration, poverty, Native Americans, education, and training), infrastructure (including air, water, highway, rail, and telecommunications), and natural resources;

(5) study and evaluate the economic development resources, coordination, collaboration, and "best practices" of the Federal, State, and local governments, nonprofit organizations, universities, businesses, agricultural and natural resources groups, foundations, cooperatives, and other organizations;

(6) identify methods of facilitating the employment and business startups of unemployed, underemployed, and low-income individuals and households;

(7) identify effective methods for promoting development on Native American reservations;

(8) study the availability of methods of delivering public, private, and nonprofit capital and technical assistance for business startups and expansions, including farming and ranching;

(9) evaluate the availability of, need for, and strategies for providing and maintaining, the infrastructure, including air, water, highway, rail, and telecommunications;

(10) study the structure and potential development of major industries, including agriculture, timber, mining, tourism, and manufacturing (including the use of advanced technologies and processes and adding value to raw materials and component parts);

(11) study the competence and availability of the labor force, including the health, educational, training, housing, and economic needs of the labor force;

(12) develop an inventory of water, mineral, energy, timber, agricultural, fishery, wildlife, and other natural resources;

(13) assess the comparative cost of doing business;

(14) assess the international trading levels, markets, and practices, and potential opportunities;

(15) assess the interconnection between metropolitan and rural areas and identify methods through which the areas can collaborate;

(16) assess methods by which small communities and regions are collaborating or can collaborate in economic development initiatives;

(17) evaluate—

(A) the distribution and impact of Federal spending, including grant-in-aid programs, research, and Federal procurement, and compare the level of spending in these categories with spending in other regions of the country; and

(B) the extent to which reliance on Federal, State, and local government outlays for poverty programs can be reduced by outlays targeted for economic development;

(18) identify Federal, State, and local government programs, policies, and regulations that enhance or obstruct the development of businesses and well-paying jobs with long-term potential and that effectively use the skills, education, and training of the labor force;

(19) evaluate the potential for States to jointly finance projects and activities of regional benefit; and

(20) analyze such other issues as the Commission determines are relevant to future economic development.

(c) DEVELOPMENT OF PLAN.—In developing the plan, the Commission shall—

(1) provide a forum for the consideration of the problems of the rural Northern Great Plains and proposed solutions, and establish and utilize citizens groups, special advisory councils, public hearings, and conferences;

(2) seek and encourage the participation of interested citizens, public officials, groups, agencies, economic development organizations, natural resource organizations, and other organizations;

(3) make the Commission accessible to the individuals, groups, agencies, and organizations referred to in paragraph (2) by holding at least 1 well publicized public hearing in each State; and

(4) consult with—

(A) Federal, State, and local government agencies, including the Departments of Agriculture, Commerce, Education, Labor, Health and Human Services, Housing and Urban Development, and Transportation, and the Small Business Administration, bank regulatory agencies, and rural development councils;

(B) banks, insurance companies, venture capital companies, and other for-profit financial institutions;

(C) nonprofit and community-based development organizations, revolving loan funds, and other organizations;

(D) industry and sectoral organizations;

(E) foundations and universities; and

(F) other organizations involved in economic development activities.

SEC. 8. COMPENSATION OF MEMBERS.

(a) MEMBERS APPOINTED BY GOVERNORS.—Each member of the Commission appointed by a Governor of a State may be compensated by the State that the member represents.

(b) MEMBERS APPOINTED BY THE SECRETARY.—Each member appointed by the Secretary of Agriculture, who is not otherwise employed by the United States Government, shall receive compensation at a rate determined by the Secretary of not to exceed the daily equivalent of the lowest annual rate of basic pay payable for grade GS–15 of the General Schedule under section 5332 of title 5, United States Code, including traveltime, for each day the member is engaged in the actual performance of the duties of the Commission. A member of the Commission appointed by the Secretary who is an officer or employee of the United States Government shall serve without additional compensation.

(c) TRAVEL AND OTHER EXPENSES.—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of services for the Commission. Each member of the Commission shall also be reimbursed by the United States Government for other necessary expenses incurred by the member in the performance of the duties of the member.

SEC. 9. POWERS AND ADMINISTRATIVE PROVISIONS.

(a) EXPERTS AND CONSULTANTS.—The Commission may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(b) FINANCIAL AND ADMINISTRATIVE SERVICES.—The Commission may enter into agreements with the Administrator of General Services for the procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as are agreed on by the chairperson and the Administrator of General Services.

(c) CONTRACTS.—Subject to subsection (d), the Commission may enter into contracts with Federal and State agencies and private firms, institutions, and agencies for the conduct of research and surveys, the preparation of reports, and other activities necessary to carry out the duties of the Commission.

(d) SUPPLIES, SERVICES, PROPERTY, AND CONTRACTS.—The Commission may procure supplies, services, and property, and make contracts in any fiscal year, only to such extent and in such amounts as are provided in appropriation Acts.

(e) HEARINGS.—The Commission or, on the authorization of the Commission, a member of the Commission may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, and request the attendance and testimony of such witnesses and the production of such books, records, memoranda, papers, and documents as the Commission or the member considers appropriate.

(f) INFORMATION.—The Commission may acquire directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality, information, suggestions, estimates, and statistics for the purpose of this Act. Each department, bureau, agency, board, commission, office, establishment, or instrumentality shall provide, to the extent permitted by law, the information, suggestions, estimates, and statistics directly to the Commission, upon request by the chairperson.

(g) PERSONNEL.—

(1) IN GENERAL.—Without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, the chairperson of the Commission may appoint, terminate, and fix the compensation of an Executive Director and such additional personnel as the chairperson determines are necessary to enable the Commission to carry out the duties of the Commission.

(2) COMPENSATION.—The rate of compensation of the Executive Director may not exceed a rate equal to the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of such title. The rate of compensation of all other personnel may not exceed a rate equal to the daily equivalent of the lowest annual rate of basic pay payable for grade GS–15 of the General Schedule under section 5332 of such title.

(h) ASSISTANCE FROM OTHER AGENCIES.—Upon request of the Commission, the head of any Federal agency may make any of the facilities and services of the agency available to the Commission or detail any of the personnel of the agency to the Commission, on a reimbursable basis, to assist the Commission in carrying out the duties of the Commission under this Act. If the head of an agency determines that the agency cannot make the facilities, services, or personnel available to the Commission, the head shall notify the chairperson in writing.

(i) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 10. REPORTS.

(a) INTERIM REPORT.—Before the end of the 270-day period beginning on the date of the first meeting of the Commission under section 6(d)(1), the Commission shall submit a report to the Secretary of Agriculture, the President pro tempore of the Senate, the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Speaker of the House of Representatives, the Committee on Agriculture of the House of Representatives, the President, and the Governor of each State, describing the findings and activities of the Commission and the further activities necessary to carry out the duties of the Commission.

(b) FINAL REPORT.—

(1) IN GENERAL.—Before the end of the 18-month period beginning on the date of the first meeting of the Commission under section 6(d)(1), the Commission shall submit to

the Secretary of Agriculture, the President pro tempore of the Senate, the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Speaker of the House of Representatives, the Committee on Agriculture of the House of Representatives, the President, and the Governor of each State, a report describing the findings and activities of the Commission and recommendations in accordance with paragraph (2) regarding specific actions that are necessary to promote the economic development of the rural Northern Great Plains while preserving, to the maximum extent possible, the natural beauty and habitat of the Northern Great Plains.

(2) RECOMMENDATIONS.—

(A) REGIONAL COLLABORATION.—The Commission shall, with respect to the Northern Great Plains—

(i) determine the most effective and appropriate method for ensuring continued collaboration within the region on economic development matters, considering regional compacts, cooperatives, foundations, development corporations, and other agreements and organizations;

(ii) identify the organizational structure, method of financing, functions, and participating organizations, of the collaboration referred to in clause (i);

(iii) identify methods of effective multicommunity, substate, and small region development; and

(iv) assess the interconnection between metropolitan and rural areas and identify methods of collaboration between the areas.

(B) BUSINESS DEVELOPMENT.—The Commission shall, with respect to the rural Northern Great Plains—

(i) recommend methods of diversifying the rural economy, including the development and financing of value-added and new-use agricultural products;

(ii) develop methods to promote and finance beginning owner-occupied farming and ranching operations;

(iii) recommend methods of promoting entrepreneurial development, including business startups and expansions;

(iv) recommend methods in which the public, private, and nonprofit sectors can help increase international trading levels and penetrate new markets in agricultural, manufactured, and service products;

(v) evaluate the potential utility of business and manufacturing networks in target sectors;

(vi) assess the competitiveness of manufacturers and the use of modern technology, processes, and information by the manufacturers, and methods of assisting manufacturers lacking the technology, processes, or information;

(vii) recommend methods in which capital and technical assistance can be provided on a regional or sectoral basis to business startups and expansions by public, private, and nonprofit organizations; and

(viii) recommend ways in which Federal and State resource conservation programs can be used to encourage tourism in the region.

(C) CAPITAL.—The Commission shall, with respect to the rural Northern Great Plains—

(i) determine if there are capital needs in the economy, and in what part of the economy the needs are located, and recommend how governmental, nonprofit, cooperative, community-based, microlending, banking, venture, seed, and nonbanking financing sources can assist in meeting the needs;

(ii) identify such strategies in organization, regulations, policy, marketing, and coordination as are needed to implement a plan to meet the needs referred to in clause (i); and

(iii) recommend methods of utilizing secondary financial markets to increase the capital available for business development.

(D) INFRASTRUCTURE.—The Commission shall, with respect to the rural Northern Great Plains—

(i) prepare a plan to preserve, finance, and operate effective freight railroad service in coordination with States, the Federal Railroad Administration, the Interstate Commerce Commission, rail operators, shippers, and the financial community;

(ii) prepare an assessment and agreement on the capital needs, coordination, and financing of telecommunications infrastructure, in cooperation with the Department of Agriculture, the National Telecommunications and Information Administration of the Department of Commerce, the Federal Communications Commission, the public utilities commission of each State, telephone companies and cooperatives, representative users, and such other entities as the Commission determines are appropriate; and

(iii) recommend strategies for addressing air, water, and highway needs.

(E) HUMAN RESOURCES.—The Commission shall, with respect to the rural Northern Great Plains—

(i) identify methods of facilitating the employment and business startups of individuals who are not effectively participating in the labor force, including unemployed, underemployed, and low-income individuals and households;

(ii) identify methods of coordinating on a regional or sectoral basis education and training programs that are tied to economic development initiatives, especially programs that address the outmigration of youth; and

(iii) study the competence and availability of the labor force and the effects of the health, educational, training, housing, and economic needs of the labor force, and identify regional strategies addressing the needs.

(F) GOVERNMENT PROGRAMS, POLICIES, AND REGULATIONS.—The Commission shall submit to the appropriate government, nonprofit, and private sector organizations recommendations for modifications or additions to the programs, policies, and regulations referred to in section 7(b)(18) to promote the rural development of the Northern Great Plains.

SEC. 11. TERMINATION.

The Commission shall terminate on the earlier of—

(1) 120 days after the date of submission of the final report under section 10; and

(2) 2 years after the date of enactment of this Act.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Mr. NUNN. Madam President, I move to reconsider the vote by which the bill was passed, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FREEDOM SUMMER DAY

Mr. NUNN. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 231, a resolution submitted earlier today by Senators WOFFORD and SIMPSON relating to Freedom Summer Day; that the resolution and preamble be agreed to; that the motions to reconsider be laid upon the table en bloc; further, that any statements on this measure appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 231) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 231

Whereas on June 21, 1964, James Chaney, Andrew Goodman, and Michael Schwerner gave their lives at a young age in an effort to guarantee the rights that are the birthright of every citizen of the United States, particularly the right to vote;

Whereas James Chaney, Andrew Goodman, and Michael Schwerner were part of a movement that helped to achieve the passage of the Civil Rights Act of 1964, the Voting Rights Act of 1965, and other milestones in the progress of this Nation toward achieving the goal of ensuring equal rights, equal opportunities, and equal justice for all;

Whereas during the 30 years after the deaths of James Chaney, Andrew Goodman, and Michael Schwerner, this Nation has benefited tremendously from the removal of many barriers to full participation and by every citizen of this Nation in political, educational, and economic life;

Whereas the lives and deaths of James Chaney, Andrew Goodman, and Michael Schwerner have come to symbolize the dream of brotherhood among citizens of this Nation from all races, religions, and ethnic backgrounds and serve to inspire all citizens—in particular young citizens—to be dedicated to the ideals of justice, equality, citizenship, and community;

Whereas the lifework of these men and thousands of other young students who participated in the Freedom Summer remains unfinished until all barriers are removed that bar the full participation of every citizen of this Nation in the democratic process of this Nation, especially the electoral process; and

Whereas the Nation continues to need the leadership and involvement of all its citizens, in particular the young, in solving problems in their communities and improving the lives of those in need: Now, therefore, be it

Resolved by the Senate, That—

(1) June 21, 1994, is designated as Freedom Summer Day;

(2) the Senate expresses the importance of citizens—regardless of party, ideology, age, race, creed, and socioeconomic status—working to improve this Nation and address issues most critical to their communities;

(3) it is the sense of the Senate that the Voting Rights Act of 1965 has helped to fulfill the promise of democracy in this Nation; and

(4) the Senate reaffirms the goals of removing remaining barriers to full voter participation in this Nation.

Mr. WOFFORD. Madam President, 30 years ago today, James Chaney, Andrew Goodman, and Michael Schwerner gave their lives trying to help America live up to its promise, trying to guarantee equal rights, equal opportunities and equal justice for all.

The brutal murders of these young men shocked the Nation and seared our collective conscience. Along with hundreds of other committed men and women, Chaney, Goodman, and Schwerner went down to Mississippi 30 years ago this summer as part of a national movement which led to the passage of the Civil Rights Act of 1964 and the Voting Rights Act of 1965.

I am pleased to join with my good friend, the distinguished Senator from Wyoming, ALAN SIMPSON, in introducing this resolution. And I thank my friend from the Civil Rights Movement and of the Selma March, Representative JOHN LEWIS and also Representative FILNER, a participant in Freedom Summer 1964, who have introduced a similar resolution under consideration today in the House.

As we rise to commemorate the lives of these young men whose tragic deaths have become symbols and milestones of America's struggle to give flesh to its noble principles, I am reminded of Lincoln's words at Gettysburg, PA:

> It is for us, the living, rather to be dedicated here to the unfinished work which they who fought here have thus far so nobly advanced. It is for us to be here dedicated to the great task remaining before us—that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion; that we here highly resolve that these dead shall not have died in vain; that this nation, under God, shall have a new birth of freedom; and that government of the people, by the people, for the people, shall not perish from the earth.

Today, we must honor James Chaney, Andrew Goodman, and Michael Schwerner by reaffirming our commitment to the purposes and ideals for which they paid the last full measure of devotion. We owe it to them to ensure that citizenship isn't just about rights that are owed but also includes responsibilities for striving to make this Nation a better place and working for the common good.

Mr. SIMPSON. Madam President, I join my colleague from Pennsylvania in sponsoring this resolution designating today as "Freedom Summer Day." Today marks the 30th anniversary of the murder of three young civil rights workers—James Chaney, Andrew Goodman, and Michael Schwerner.

These men were part of a national civil rights movement which led to the passage of the Civil Rights Act of 1964 and the Voting Rights Act of 1965.

This day should be dedicated to the ideals of justice, equality, citizenship, and community in memory of these young civil rights activists.

I thank my colleague for his leadership on this resolution.

Mr. RIEGLE. Madam President, yesterday an anniversary passed with relatively little attention or fanfare. But for those of us who lived through it 30 years ago, we were reminded at once of how high a price we have paid for freedom in this country.

On June 21, 1964, civil rights workers Michael H. Schwerner, Andrew Goodman, and James E. Chaney disappeared in Philadelphia, MS. Schwerner and Goodman, two young white men from New York, went to Mississippi and met James Chaney for one simple reason: they believed that all Americans, regardless of their race, should have the right to register to vote. And so they had volunteered to travel to Mississippi to help register black voters. Their bodies were found 6 weeks later in an earthen dam. For them, the price for freedom and voting rights was supreme. And if we do not continue to address the same prejudice and turmoil that still exists in our society today, then the price for our communities may also be supreme.

We passed a resolution yesterday, commemorating the Freedom Summer of 1964. And in recognizing what that event meant in the history of the civil rights movement, we should also take a moment to assess whether we have really achieved the goals we set for ourselves.

Dr. Martin Luther King spoke of a future where all people would be judged not by the color of their skin, but by the content of their character—clearly, that day is still far ahead of us. Extremists from all sides still spew the politics of hate, pitting color against color, race against race, religion against religion—and yet we can look back at Freedom Summer when people of all colors, and faiths, stood shoulder to shoulder in battling the racism and violence in Mississippi. Together, they managed to rivet public attention on the virulent hatred and bureaucratic racism existent in Mississippi in 1964. And because of their cooperation and their sacrifices, the Voting Rights Act was passed the following year, virtually eliminating systemic disenfranchisement.

I hope that all Americans, particularly those too young to have seen Freedom Summer firsthand, will take time to reflect on the status of civil rights in our Nation and on the great progress we can make when working together toward a common goal.

THE 50TH ANNIVERSARY OF THE SERVICEMEN'S READJUSTMENT ACT OF 1944

Mr. NUNN. Madam President, I ask unanimous consent the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 202, a joint resolution commemorating June 22, 1994, as the 50th anniversary of the Servicemen's Readjustment Act of 1944; that the Senate proceed to its immediate consideration; that the joint resolution be read a third time, passed; that the preamble be agreed to; that the motion to reconsider be laid upon the table; and that any statements appear at the appropriate place in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the joint resolution (S.J. Res. 202) was deemed read the third time and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 202

Whereas on June 22, 1944, President Franklin D. Roosevelt signed into law the Servicemen's Readjustment Act of 1944, commonly known as the GI Bill of Rights of 1944;

Whereas the GI Bill of Rights of 1944 has provided education and training benefits to over 7,800,000 United States veterans;

Whereas the GI Bill of Rights of 1944 is credited with contributing to the robust recovery of the United States post-World War II economy;

Whereas Acts enacted subsequent to the GI Bill of Rights of 1944 have provided education and training benefits to 12,500,000 United States veterans, making education and training opportunities for those veterans obtainable and affordable;

Whereas the GI Bill of Rights of 1944, and subsequent Acts, established home loan programs for United States veterans which, since 1944, have guaranteed over 14,000,000 loans, totaling over $400,000,000,000, providing home ownership opportunities to millions of United States veterans and their families;

Whereas the GI Bill of Rights of 1944, and subsequent Acts, have been recognized by political, business, sociocultural, and educational leaders as landmark pieces of legislation which have collectively contributed to the development of the United States middle class; and

Whereas Congress has repeatedly expressed its support of the goals of the GI Bill of Rights of 1944 through enactment of subsequent Acts: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That June 22, 1994, be commemorated as the 50th anniversary of the Servicemen's Readjustment Act of 1944, and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe that day with appropriate ceremonies and activities.

Mr. WALLOP. Madam President, last week's commemoratives of the invasion of Normandy were filled with stories of courage, valor, and patriotism. So poignant were the images of aging veterans walking the beaches of Normandy, searching the graves of the cemetery at Colleville. It is near impossible to capture the emotion in words—the despair, the powerful sacrifices, the exhilarating courage in pursuit of freedom. But as last week concluded, the uniqueness of the event is what, perhaps, will stay with us all.

Unique in several ways—in scope, in secrecy. Unique as an example of military art. As British Military Historian John Keegan points out, with the advent of nuclear weapons, an operation like D-day would be highly unlikely in today's world. D-day was necessary because the West's latent power was not energized and focused in time to deter a megalomaniac from attacking all his neighbors or to prevent him from conquering a whole continent. No leader today, unless he wills his own destruction, could set out on the course that Hitler took.

Unless, of course, we repeat the folly of our past. World War I predecessors assumed that the world had been rendered a more civilized place, one which could be ruled by utopian notions of International Law and Arms Control. Those men who abandoned our alliances and our military power in the name of global order actually set the stage for a repeat of the violence they so abhorred.

But D-day was unique in another, perhaps more profound way. The pride Americans felt surrounding the 50th anniversary of D-day was a pride taken in a moment in time—when lives were valiantly given in passionate quest for liberty. The generation that fought World War II embodied values of loyalty and citizenship—unquestioning and unyielding. We, their inheritors, felt pride in their selflessness, their duty, and honor. These are the qualities that let us prevail on the beaches of Normandy; these are the qualities that distinguish the men of June 6, 1944—these are the qualities that make the longest day so incredible * * *. Prepared to protect our freedom in war, we stood together in alliance against totalitarianism. Our victory was the vindication of the sacrifice and courage of those who fought and lived to fight on, but most especially of those who fought and died believing that freedom was more than a dream.

Lest a future generation of heroes have to lay down their lives, we must hold dear the lessons of World War II, and what led to it. We must make clear to all that America is prepared to protect her freedom through war if we have to, that America is ready and able to meet any challenge to its security. This will require more than maintaining military strength, though this is certainly essential. We dare not fritter away our power in pursuit of ill-defined goals that do not relate to American security. Bear in mind the words of Walter Lippman, written in the spring of 1943:

> Without the controlling principle that the Nation must maintain its objectives and its power in equilibrium, its purposes within its means and its means equal to its purposes, its commitments related to its resources and its resources adequate to its commitments, it is impossible to think at all about Foreign Affairs.

Anything less is squandering American power and credibility and demeans the honor of those who gave their lives on June 6, 1944.

Mr. AKAKA. Madam President, 50 years ago today, President Roosevelt signed into law the Servicemen's Readjustment Act, more popularly know as the GI bill. This legislation has appropriately been called one of the most important pieces of social legislation ever enacted.

To understand the importance of the GI bill, we must look back to America as it was in 1944. Millions of victorious veterans returned to America eager for work and ready to resume civilian life. Over the next 12 years, the GI bill sent 7 million men into training programs, thereby helping the Nation avoid the depression and unemployment typically associated with post-war economies and giving the United States its best educated, most competitive labor force up to that time. Under the GI bill's auspices, millions more took advantage of home loan benefits, further stimulating an economy struggling to revert to a peacetime footing.

Looking back, it is ironic to note that the GI bill was not an entirely popular measure when first enacted. Drafted in early 1944 by Harry Colmery, a former national commander of the American Legion, and pushed through Congress under the leadership of Senator Bennet Champ Clark, Senator Ernest McFarland, Representative John Rankin, and Representative Edith Nourse Rogers, with support from the Legion's John Stelle, the GI bill met with initial opposition from veterans organizations and educators. Veterans were concerned about funding for other veterans programs, while educators feared it would lower standards at universities or encourage moral laxness among veterans. Despite these concerns, the GI bill was eventually passed unanimously by both the Senate and the House of Representatives.

When President Franklin D. Roosevelt signed the bill on June 22, 1944, he expressed the Nation's gratitude for the sacrifices of those who had placed themselves in harm's way. Nevertheless, there was general apprehension concerning the bill's moral and fiscal impact. Critics were concerned about the unemployment benefits provided in the measure, fearing that too many veterans would choose to go on the dole rather than seek jobs. As it turned out, they need not have worried, for only 5 percent of all veterans claimed benefits for the full 52 weeks allowed.

Instead, veterans focused on using programs for training and housing. Veterans were eligible for up to $500 a year to cover educational costs and an additional stipend to support themselves while they were in school. So many veterans seized this opportunity that, by 1947, fully one-half of all college students were also veterans.

At the same time, many veterans took advantage of the GI bill's home loan guaranty benefits. During the war, veterans lacked the same opportunity as their civilian counterparts to establish favorable credit records. Using the GI bill, however, veterans were able to leverage the Federal Government's financial backing to secure privately obtained mortgages—without the necessity of making down payments.

As the only part of the original GI bill that remains in force, the Home Loan Guaranty Program has been an unqualified success. Between 1944 and 1966, 20 percent of the homes built in America were financed by the GI bill; as of 1992, the Department of Veterans' Affairs had guaranteed over 13.8 million loans totaling more than $392 billion. Many improvements to the program have been made over the years, include negotiable terms to allow veterans to pay competitive prices for homes and extension of eligibility to surviving spouses, military personnel on active duty, selected reservists, and native Americans living on trust lands. In this regard, I was pleased to have played some small part in these improvements, having sponsored the Senate legislation to extend home loan benefits to the latter two groups.

Subsequent incarnations of the GI bill have also continued the tradition of subsidized education for veterans. For example, the Korean conflict GI bill educated nearly 2.4 million veterans, well over half of the 5.5 million total eligible veterans. The Vietnam era GI bill provided training to nearly as many Americans—1½ million veterans—and, for the first time in history, entitled benefits for service personnel on active duty. Most recently, in recognition of the reserves' growing importance to the total force, the current Montgomery GI bill extends benefits to reservists who have served at least 6 years.

Madam President, it is a well-known fact that the GI bill enabled a significant portion of our youth to attain levels of success that they may never have achieved otherwise. From politicians like former President George Bush to entertainers like Paul Newman, the GI bill has assisted leaders from all paths of life in attaining their goals. Indeed, I am sure you could find dozens of legislators in both Houses who are indebted to the foresight of our predecessors in this body half a century ago.

Beginning in 1948, I myself used the GI bill to attend the University of Hawaii. Though the war interrupted my senior year of high school, the prospects for self-improvement under the GI bill compelled me to finish high school and, later to obtain a bachelor's degree. I also used the GI bill to purchase my first home, which enabled me to raise a family in relative comfort and security. I can honestly say that I would not be a sitting U.S. Senator today if not for the opportunities first presented to me 46 years ago by the GI bill.

Madam President, the GI bill has been called the most important domestic legislation ever enacted. During the 50 years of its existence, the program has provided educational benefits and enhanced economic opportunities for millions of Americans, and helped millions more achieve the American dream of home ownership. In no small part because of the tremendous investment in education and training made possible by the GI bill—and investment, I might add, repaid many times over in tax receipts—our country has prospered as no other. Today, what was once viewed as a simple readjustment measure is now seen as a remarkable political achievement that has altered the very fabric of society and history.

But, whatever larger impact that the GI bill has had on our country, the GI bill remains at heart a simple measure with a simple goal: To help veterans obtain homes and jobs. It is this simplicity, this enduring appeal to the basic human need for knowledge and shelter, that has made the GI bill such an unparalleled success.

Thank you, Madam President. On this, the 50th anniversary of the signing of the original GI bill, I would like to pay tribute to the wise architects of this landmark legislation, as well to the millions of men and women who, after serving honorably in uniform, have used the GI bill to make the America a better and greater Nation.

Mr. BURNS. Madam President, Americans recently observed the 50th anniversary of an important event—the landing at Normandy by American troops.

I rise today to mark the 50th anniversary of another historic event—the signing of the Servicemen's Readjustment Act of 1944, better known as the GI bill.

I spent 2 years at the College of Agriculture at the University of Missouri before I enlisted in the Marine Corps.

After I received my discharge, I went right to work and did not take advantage of the GI bill benefits.

Looking back, I wish I would have finished college. Who knows what I could have accomplished if I had.

In all seriousness, though, the GI bill is an example of the good that can be accomplished through a wise investment of taxpayer dollars.

The GI bill was the wellspring of the rise of the American middle class. The many veterans who were able to attend college bettered themselves, their prospects, and this country's future through education.

And the veterans who were able to buy their homes have contributed to the security of their families while getting their own piece of the American dream.

I think Americans can point with pride to the many successes made possible by the benefits provided under this landmark piece of legislation.

A lot of GI's owe the American Legion a debt of thanks for its role in drafting the original GI bill and for its hard work in championing the cause.

(At the request of Mr. MITCHELL, the following statement was ordered to be printed in the RECORD.)

● Mr. DODD. Madam President, I pay tribute to a remarkable event that occurred 50 years ago today. On June 22, 1944, President Franklin D. Roosevelt signed the Servicemen's Readjustment Act of 1944, a bill that would prove to be one of the most important bills Congress has ever passed.

This measure, better know as the GI bill of rights, was designed to head off the potentially disastrous social and economic consequences of a returning flood of World War II veterans. After our victories in Europe, America was faced with the certainty of a rapidly down-sizing work force that would have to readjust to a peacetime economy. Many anticipated a severe depression and widespread unemployment that would be dramatically heightened by the return of our troops. In response, members of the American Legion drafted the GI bill to provide these soldiers with the resources necessary to obtain a college education and to purchase a home. Although it was expected to provide a degree of assistance, not even President Roosevelt foresaw the real benefits that this law would provide.

Initially, the GI bill of rights had many critics. They argued that it was too expensive and that it would seriously undermine the quality of the American college education. Even some veterans' groups opposed its passage for fear that it would reduce the budgets of other veterans' programs. Their fears proved to be ungrounded.

Until this law's passage, a college education remained a reward for a very privileged few. Before World War II, only 10 percent of Americans attended college; today, almost 50 percent do. In 1939, approximately 160,000 Americans graduated from college. By 1950, that number had jumped to nearly 500,000. And in 1947, 50 percent of all college students were veterans. By providing veterans with financial assistance, the GI bill was directly responsible for this remarkable transformation. A society that had historically provided higher education to the wealthy became a society that rewarded the motivated, regardless of background. In doing so, the GI bill transformed our Nation's views on education.

In addition, the home loan guarantees provided by this law affected our Nation in unprecedented ways. As the Federal Government guaranteed the loans of veterans, millions became homeowners. Between 1945 and 1966, one of every five homes was financed by the GI bill. This assistance boosted the home building industry and dramatically helped an economy facing severe troubles.

The GI bill provided America with a very new and very real middle class. While encouraging veterans to stay out of a work force that was not prepared to accept them, the educational and financial benefits provided by this law laid the groundwork for an economic class that revitalized the American economy and strengthened our Nation in immeasurable ways.

To date, the original GI bill and its updated versions have provided educational assistance to 20 million veterans and have guaranteed 14 million home loans. Although there is no solid figure, some estimates calculate that for every dollar paid out through these programs, the U.S. Treasury receives $2 to $8 back in income taxes. We would all be less well off were in not for this law.

Madam President, today we should all take time to reflect on the impact the GI bill has had on America. We would not be such a strong Nation today if we had not acted so boldly one-half century ago.●

Mr. MURKOWSKI. Madam President, 50 years ago, in June 1944, American troops liberated Rome, invaded Normandy and stormed the island of Saipan. For the past few weeks our Nation has remembered their accomplishments and praised them for changing the world. Those service men and women represent the 16 million Americans who avenged Pearl Harbor and defeated Naziism in World War II.

The tools of their crusade were rifles and bombs, bullets and ships. Sixteen million Americans used these instruments of destruction to forge a new world in the blast furnace of war. I am proud to join in honoring those Americans for their courage in using the tools of war, but I also honor them for the world they subsequently created using the tools of peace.

Fifty years ago today, President Roosevelt signed legislation creating the GI bill. In so doing, he gave 16 million uniformed American men and women the tools to create better lives for themselves and a better America for the world.

The courage of the veterans of World War II in the field of battle is well documented. But today I commend those veterans for another virtue. Today, I ask America to remember America's servicemembers not only for their valor in war, but also for their success with the tools of peace. Tools created, not in a arsenal, but in the Congress. Tools wielded, not on a battlefield, but on a campus. Tools, not of destruction, but of creation. I ask America to thank the men and women who served our Nation during time of war for the peacetime world they created using the tools of the GI bill.

An entire generation of Americans became the first in their families to obtain a college degree, thanks to the education benefits provided by the GI bill.

An entire generation of Americans became the first in their families to own their own homes, thanks to the home loan guaranty benefits provided by the GI bill.

The GI generation of students fueled an unprecedented expansion of America's colleges, leading the way to a Nation where every citizen could aspire to a higher education. And the GI generation of graduates then provided American business with the educated workers needed to create an unprecedented prosperity for America.

The GI generation of homebuyers fueled a building boom that created the real estate, homebuilding, and mortgage finance industries that in turn give America an unmatched record of homeownership.

The Congress passed the legislation that created the GI bill, but America's thanks must be directed to the 16 million American veterans who transformed the programs of the GI bill from the dry language of the statute books into living, vibrant tools of peace and prosperity. They used education, home finance, and other GI bill benefits as a means to transform their lives and themselves. In so doing, they transformed our Nation and our world.

We are in debt to those veterans for their skill with the weapons of war as well as the beneficiaries of their proficiency with the tools of peace.

Madam President, there is no better day than today, the 50th anniversary of the GI bill, to thank them for what they did in time of war and to express our appreciation for the legacy they subsequently created in time of peace. A legacy our Nation continues to enjoy today.

Mr. ROCKEFELLER. Madam President, I rise today on the 50th anniversary of the Serviceman's Readjustment Act of 1944, better known as the GI bill of rights. I am pleased to join Senator THURMOND, and all of our colleagues on the Committee on Veterans' Affairs, in sponsoring legislation to commemorate this anniversary.

President Roosevelt signed the GI bill into law on June 22, 1944, and over the past 50 years, millions of veterans have taken advantage of the many opportunities it offered, particularly in the areas of education and home ownership. Long after the ticker tape settled, a grateful nation honored its heroes by helping them regain the opportunities they had foregone to serve the causes of freedom and democracy.

Just as the entire Nation has benefited from the service and sacrifice of our veterans, the entire Nation has also benefited from the GI bill. This landmark legislation has been an enormous force in shaping the economic growth of our Nation in the post-World War II era, and in the creation of the modern-American middle class.

Home ownership, for example, is an essential element of the American dream. But before World War II, most Americans were renters. The VA home loan guaranty program has backed more than 14 million home loans totaling more than $442 billion since 1944, including 42,000 loans in my own State of West Virginia; and today we are a nation where most families own their own homes.

Through the GI bill, millions of veterans and their families have been able to attain this part of the American dream. At the same time, they have spurred the tremendous growth of many industries, from homebuilding and real estate, to banking and finance.

Over the past five decades, the GI bill has made possible billions of dollars in education and training for millions of veterans. More than 7.8 million World War II veterans alone used the GI bill to get training and further their education. GI bill veterans accounted for half of all college enrollees in 1949—a truly incredible statistic. In return, the Nation has earned back a better educated, more capable work force, contributing greatly to a growing, competitive economy and to increased tax revenues.

Today, education and home loan benefits are a permanent part of the veteran's package of benefits. The new GI bill enacted in July 1985, crafted by and named after my good friend and colleague, Representative SONNY MONTGOMERY, greatly improved education benefits; it is perhaps the military's most valuable recruiting tool. This has been particularly important as we have converted to an All-Volunteer Force.

A few weeks ago, in recognition of all those who died during World War II and in commemoration of D-day, I had the enormous privilege of laying a wreath on the grave of a West Virginia soldier who was killed in France in 1944. That soldier was William Creed Brogan, who died at the young age of 20, leaving behind a young wife and son. Creed Brogan's wife, his son—who was less than a year old when his father died—and two fine grandsons the soldier never knew, joined me for the ceremony in Beckley, WV.

Bill Brogan, the son of a soldier who died in service to his country 50 years ago, is an example of what the GI bill has done for many, many veterans across this great country of ours. Bill Brogan dropped out of school at the age of 17 and joined the Army. He got his GED while in the service, and in 1965, he found himself back home—married and unable to find a job. Jobs in southern West Virginia were scarce then, just as they are now.

Bill knew that he had to have a trade—that without it he would never be able to make a decent life for himself and his family. So he turned to the VA. The VA paid for Bill's education as a welder, and armed with the education and that certificate, he has never had a problem finding a good job again. Bill and his wife, Shirley, have been able to have a wonderful life together, providing a quality of life for their two sons, Kenneth and Kevin, that may not have been possible otherwise. Bill told me—and I am quoting—"Without the help from the VA, I don't know what I would have done."

As the chairman of the Senate Committee on Veterans' Affairs, I am dedicated to making sure our veterans receive the benefits that they need and deserve. Eternal vigilance is the most solemn responsibility of a free society, and freedom is anything but free. We truly owe these men and women more than we can ever repay.

History shows that the opportunities veterans are given, and the successes they achieve, are directly linked not only to our national security, but to the economic underpinnings of our Nation in the modern era.

Ensuring that crucial benefits in the areas of education and home loan assistance are not eroded by time or budget concerns is of utmost importance—for we must never forget the priceless contributions of our veterans, in times of crisis as well as in times of peace.

Mr. WOFFORD. Madam President, over the course of our Nation's history, the United States has tried at the end of each of its conflicts to make up in some small ways to our veterans for the suffering they experienced, the interruption that military service caused in their lives, and the peril to which they subjected themselves for the sake of our country's security. Other than some relatively modest gestures, little was really done other than to tend their wounds or pay them some token bonus. It was up to the veteran to find his way back into the American mainstream after his discharge. And many did just that, going back to the farm, or returning to the city in search of a job.

However, 50 years ago, President Franklin D. Roosevelt did something for veterans which unalterably changed our country forever. On June 22, 1944, he signed into law the Servicemans Readjustment Act of 1944, a law which has become familiar to most Americans, almost affectionately, as the GI bill of rights, or the GI bill. I know, because I was one of those young soldiers who benefited from this historic act which recognized that citizenship isn't just bout rights that are owed, but about responsibilities to the broader society that are earned.

The GI bill brought historic changes in American society. Conceived by the American Legion, the GI bill, for the first time, brought college and university training within the reach of thousands of Americans who might not have been contemplated attending. It made it possible, for the first time, for a new middle class of Americans to own their own homes. It educated more than 20 million veterans. It has also brought more than 14 million homes.

The GI bill sent me to college. Along with thousands of my fellow veterans, it opened doors for me and set me on a path of public service in a variety of capacities. As a college president, I also saw its continued positive impact on subsequent generations of Americans.

Now as a Member of the U.S. Senate, a position I hold no doubt again to the GI bill, it's my turn to help ensure that our veterans are never forgotten, and indeed, helped along the rest of the way down that long path now 50 years old. Just as the education of our veterans 50 years ago helped to educate a whole new sector of our society, and in the process help to raise the standards of our entire country, so too must the health of those veterans be a national commitment.

And just as the GI bill faced significant opposition from partisan obstructionists and special interests, comprehensive health care reform faces a similar uphill struggle through the legislative process. In 1943 and 1944, Congress debated the GI bill for 6 months. During the time, there were many naysayers who tried to limit the scope of the bill. Opponents of the GI bill wanted the legislation to reach fewer veterans, fund fewer educational programs, afford fewer veterans the necessary opportunity to achieve professional and personal independence. The GI bill passed Congress only when the American Legion orchestrated an expansive grassroots campaign that demonstrated the public's support of lending a hand to the men who fought for our country. When the public demonstrated its overwhelming support of the GI bill, Congress passed the legislation with overwhelming majorities. Now, we face a similar struggle to pass comprehensive health care reform and we must respond with similar intensity.

Health care in our country is, for many Americans, a constant worry. While the VA is charged with caring for our veterans, it is no secret that its mission is imperiled by forces beyond its control. Ask any veteran who has waited 6 months for an appointment, only to sit 6 hours in a waiting room. Veterans health care reform must be a national priority. The VA is a solid, hard-working institution, but it needs our help. I believe that the solution to its problems lies in the VA's own program for reform, a plan which is a centerpiece of the President's health care reform effort. It needs our support. I intend to do my utmost to see that effort succeed.

Finally, on this historic anniversary, I want to reiterate my strong support for improving access to higher education. From my very first bill that improved access to higher education for low- and middle-income students to my support for many need-based financial aid programs, from direct-lending to income-contingent loans, from national service and school-to-work to TRIO programs, I shall continue to fight to open up the doors of college to more Americans.

MEASURE INDEFINITELY POSTPONED—CALENDAR NO. 482

Mr. NUNN. Madam President, I ask unanimous consent that calendar No. 482 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY, JUNE 23, 1994

Mr. NUNN. Madam President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., Thursday, June 23; that following the prayer, the Journal of proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 9:40 a.m., with Senators permitted to speak therein for up to 5 minutes each, with Senator WELLSTONE recognized to speak for up to 15 minutes, to be followed by Senator DOLE for 5 minutes; that at 9:45, the Senate resume consideration of S. 2182, with Senator SPECTER then recognized to offer an amendment relating to base closure.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESIGNATION OF SENATOR BOREN

The PRESIDING OFFICER. The Chair has an announcement.

The Chair lays before the Senate the letter of resignation of Senator DAVID L. BOREN, of Oklahoma, to become effective at the close of business on Tuesday, November 15, 1994.

Without objection, the letter is deemed read and spread upon the Journal.

The letter is as follows:

U.S. SENATE,
Washington, DC, June 22, 1994.

Hon. ALBERT GORE,
President of the U.S. Senate,
U.S. Capitol, Washington, DC.

DEAR MR. PRESIDENT: I herewith tender my resignation as a Member of the United States Senate from Oklahoma to become effective at the close of business on Tuesday, November 15, 1994.

Sincerely,

DAVID L. BOREN.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPPLEMENTAL APPROPRIATIONS FOR THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, 1994

Mr. NUNN. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4568, a bill to make supplemental appropriations for the Department of Housing and Urban Development for fiscal year 1994, just received from the House; that the bill be deemed read three times, passed, and the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 4568) was deemed to have been read three times and passed.

RECESS UNTIL 9 A.M. TOMORROW

Mr. NUNN. Madam President, if there is no further business to come before the Senate today, and I see no other Senator seeking recognition, I ask unanimous consent the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 7:42 p.m., recessed until Thursday, June 23, 1994, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate June 22, 1994:

THE JUDICIARY

WILLIAM C. BRYSON, OF MARYLAND, TO BE U.S. CIRCUIT JUDGE FOR THE FEDERAL CIRCUIT, VICE HOWARD T. MARKY, RETIRED.

NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

ALAN A. DIAMONSTEIN, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS FOR THE TERM EXPIRING OCTOBER 27, 1995, VICE EUGENE PETERS, TERM EXPIRED.

ENVIRONMENTAL PROTECTION AGENCY

ROBERT JAMES HUGGETT, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE ERICH W. BRETTHAUER, RESIGNED.

INTER-AMERICAN FOUNDATION

NEIL H. OFFEN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING OCTOBER 6, 1998, VICE PAUL EDWARD SUSSMAN, TERM EXPIRED.

DEPARTMENT OF DEFENSE

SANDRA KAPLAN STUART, OF NORTH CAROLINA, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE DAVID J. GRIBBIN III, RESIGNED.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 22, 1994:

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADE OF GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS TO TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. MICHAEL P.C. CARNS, [redacted]
GEN. CHARLES A. HORNER, [redacted]
GEN. ROBERT C. OAKS, [redacted]

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS TO TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. BRADLEY C. HOSMER, [redacted]

LT. GEN. JOHN E. JACKSON, JR. [redacted]
LT. GEN. THOMAS G. MC INERNEY [redacted]
LT. GEN. MICHAEL A. NELSON [redacted]
LT. GEN. ALEXANDER M. SLOAN [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10 , UNITED STATES CODE, SECTION 601.

To be lieutenant general

MAJ. GEN. PAUL E. STEIN [redacted]

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 164(A)(1) AND SECTION 601(A):

To be general

GEN. J.H. BINFORD PEAY III [redacted]

THE FOLLOWING-NAMED OFFICERS TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. PETER A. KIND [redacted]
LT. GEN. DONALD M. LIONETTI [redacted]

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

TO BE ADMIRAL

VICE ADM. WILLIAM J. FLANAGAN, JR. [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. (SELECTEE) JAY L. JOHNSON [redacted]

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICERS TO BE PLACED ON THE RETIRED LIST UNDER PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. WALTER E. BOOMER, [redacted]
GEN. JOSEPH P. HOAR [redacted]

THE FOLLOWING NAMED OFFICERS TO BE PLACED ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. WILLIAM M. KEYS [redacted]
LT. GEN. HENRY C. STACKPOLE III [redacted]

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, FOR ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY AS FOLLOWS:

To be lieutenant general

MAJ. GEN. ANTHONY C. ZINNI [redacted]

HOUSE OF REPRESENTATIVES—*Wednesday, June 22, 1994*

The House met at 10 a.m.

Rev. Dr. Gerald L. Durley, president, Concerned Black Clergy and pastor, Providence Baptist Church, Atlanta, GA, offered the following prayer:

Almighty God, we come this morning to thank You for a fresh new exciting day which will be filled with innumerable possibilities for those who are elected to office.

We thank You God for blessing those in this assembly and ask that You would continue to anoint their heads with wisdom, fill their hearts with compassion, focus their minds for sharp vision, open their eyes to see the needs of those who continuously cry out for help, and attune their ears to the voices from around the world who call on them for leadership.

We pray that You would grant peace where there is unrest and justice where injustices prevail. We give You praise, honor, and thanks for being the God of all Your creations.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New York [Mr. LEVY] please come forward and lead the House in the Pledge of Allegiance.

Mr. LEVY led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

INTRODUCTION OF REVEREND DURLEY

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute.)

Mr. LEWIS of Georgia. Mr. Speaker, I am pleased to say a few words about our guest chaplain, the Reverend Dr. Gerald L. Durley of Atlanta.

Rev. Dr. Durley is the senior pastor of the Providence Missionary Baptist Church in Atlanta, GA. He is currently president of the Concerned Black Clergy of Atlanta.

A true leader, Reverend Durley serves on numerous boards and committees of community organizations. He also serves as the Health Promotions Resource Center at Morehouse School of Medicine.

A native of Wichita, KS, Reverend Durley did his undergraduate study at Tennessee State University where he received a bachelor of science degree. He received his master of divinity degree from Howard University. The Reverend Dr. Durley also earned a master of science degree from the University of Illinois and earned his Ph.D in psychology from the University of Massachusetts.

As a student at Tennessee State in Nashville, TN, the Reverend Dr. Durley was an active participant in the civil rights movement. Rev. Dr. Durley served among the first group of Peace Corps volunteers that were sent to Nigeria in the 1960's.

In Atlanta, we are fortunate to have Rev. Dr. Durley to be a leader in our community.

Today, let us welcome Rev. Dr. Durley to the House of the people.

THE ENEMY

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, we have seen the enemy, and he is us.

That thought came to my mind after I heard the Democrats' bizarre attack on the religious right yesterday.

When VIC FAZIO talked about a stealth takeover of the Republican Party by certain Christian groups, I had to ask myself if I was a member of that fringe group.

After all, what do most of these groups want? Well, they want lower taxes. They want less Government spending. They want better crime control.

They want a basic respect for life. They support pro-family legislation. They wouldn't mind if our schools taught our students moral principles.

And they support the House and the Senate when it opens each of its sessions with a prayer.

Mr. Speaker, I would be honored to be a part of any group that promotes those principles that I agree with. I guess I am part of that crazy religious right that VIC FAZIO attacked so viciously yesterday. And I suspect most Americans are part of the fringe group, too.

REPUBLICANS CHARGED WITH MISLEADING PUBLIC ON DEMOCRATS' VIEW OF THE RADICAL RIGHT

(Mr. FAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO. Mr. Speaker, yesterday on the floor of this House a Member from the other side of the aisle said that the Democrats, by citing the rise of the radical right in the Republican Party, are bigots.

Well, I know the Bible says that we shall not bear false witness against our neighbor. The Republicans are simply trying to mislead the American people.

It is fine to use religion to motivate people to participate in politics. But, do not mistake religion for politics.

Be assured that Pat Robertson and the radical right's agenda is more about politics and taking control of Government than religion.

Pat Robertson would abolish the Department of Education.

Robertson has explicitly called for an end to the Social Security System.

Local radical right organizations have opposed school nutrition programs and prekindergarten programs for underprivileged children.

And Robertson has said that he would completely abolish any separation between church and state.

We do not take issue with anyone's religion or personal convictions. But, we are proud to say we will fight the radical right's agenda of intolerance. The American people have a right to know where they stand.

SPECIAL ORDER DIALOG INVITED ON CHRISTIAN COALITION AND SPECIAL INTEREST ISSUES

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, I read with great interest the comments of the gentleman from California to the National Press Club yesterday, with his answers to various questions, and I have a proposition for him.

I think that we should take 2 hours, maybe 1 night this week or next week, on special orders, and not have a debate but have a dialog. Is it appropriate, for example, for gay rights activists to be publicly in public life and to be at the Democratic National Convention and to speak, and is it appropriate for people in the Christian Coalition to be in public life and to be at the Republican Convention to speak?

Is there some magic defining line at which point if you actually go to church or synagogue regularly you are dangerous and you should not be allowed in public life?

I think if we could have not a debate but simply a dialog about the legitimacy of those who are concerned about and take religion seriously and being in public life, that it would be healthier for the country, and if the gentleman is being misdescribed, certainly if we had 2 hours and we yielded to each other generously, at the end of that time I think he would have adequately gotten across the distinctions between what he is afraid of and what he is not afraid of, and why he somehow seems to keep mentioning Christian activists as the people who scare him and does not mention any other kind of activists whom other Americans might find far more frightening.

Mr. Speaker, I would certainly extend to my friend the opportunity at his convenience to have that kind of dialog.

GUARANTEED COVERAGE IS KEY TO MEANINGFUL HEALTH CARE REFORM

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, yesterday, President Clinton made it clear that as Congress continues to debate health care reform, he will not compromise on the issue of guaranteeing coverage for every single American.

The President is right—without guaranteed coverage, there is no meaningful health care reform.

The fact is, while we do not have guaranteed coverage in this country, we do have guaranteed treatment. When an uninsured American shows up at the emergency room, we do not turn them away—even if they cannot pay. But then who pays for the uninsured? Those of us who have insurance.

The head of one major insurance company says that uncompensated care accounted for almost half of last year's cost increases.

And the real losers under this cost-shifting scheme are the hard-working families and employers who take the responsibility to pay their own way. A full third of employers' health care costs subsidize companies that do not bother to offer insurance.

Guaranteed coverage is the only way to stop it. First of all, everyone will have access to decent, ongoing, primary health care. We can prevent some of those emergency room crises before it is too late—and at a fraction of the cost.

Second, by bringing everybody into the system, sharing the costs and the benefits, we will make sure that those costs are spread fairly and evenly—no more free subsidies, no more hidden taxes.

I think that makes a lot of sense. After all, if you are in business, you are in business to compete. And free competition means you do not subsidize your competitors. Guaranteed coverage will level the playing field, once and for all.

So let us stop pretending that we can have real health care reform without guaranteed coverage—and let us start the debate about the programs and principles that will actually help us to reach that goal.

MAJORITY ATTACKS ON AMERICANS BECAUSE OF RELIGIOUS VALUES

(Mr. MICHEL asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, it is clear that the Democratic Party is making a concerted attack against American citizens who wish to bring religiously derived values into the political arena.

All of the scare tactics of classic demagoguery are being used. The attackers seek to demonize the victims by labeling them "the religious right." We are told that they want to secretly impose their views, et cetera.

But the truth is that these Americans are openly participating in our political process. They have had successes, and, oh, yes, they have had failures. What is wrong with that?

Why should they be subject to attack on their religious beliefs for exercising their constitutional rights? And who will be the next religious group to be victimized by such an attack? Will it be my small denomination, or yours? And I am reminded of when I was listed as one Member of this body with a religious affiliation with the Apostolic Christian Church.

But if the majority disagrees with the views of these folks, then openly debate them. But do not tell us there is something sinister going on when millions of Americans openly enter the political arena, tell us what is on their minds and seek to bring about change in a democratic fashion.

If they continue to be stereotyped and demonized by Democratic Party leaders just because of their religious views, then I must say that this gentleman here is appalled.

Mr. Speaker, I strongly urge Democratic Party leaders to stop these attacks. They are not in the tradition of the great party of Al Smith and John F. Kennedy and clearly do not represent the views of millions of Members of the Democratic Party.

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GUARANTEE PRIVATE HEALTH INSURANCE TO ALL AMERICANS

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, yesterday, President Clinton threw down the gauntlet on health care reform when he reiterated his promise to veto any legislation that does not include universal coverage. All of us here in this body need to likewise rededicate ourselves to this fight. Let us not lose sight of the reasons we took this issue on in the first place.

We need to reform the health care system because some 58 million Americans lack health insurance for at least 1 month a year. We need to reform the health care system because 133 million Americans have lifetime limits on health coverage. We need to reform the health care system because 81 million Americans have preexisting conditions.

Health care reform legislation did not materialize out of thin air. It came as a result of our country's health care crisis. A health care crisis that has made victims of people all across the country. Real people, with real stories. People like Ellen of East Haven, CT.

Ellen has a preexisting condition and cannot get health care coverage. She writes to me: "I am now just 30 years old and fear with the present state of our health care system, my husband and I will be paupers by the time I am 40."

Mr. Speaker, I say to my colleagues, as we walk the final, arduous mile of our health reform journey, let us not lose sight of where we are going and why. We must pass a health care reform bill that guarantees private insurance to every single American.

USE OF RELIGIOUS BIGOTRY INTOLERABLE

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, the use of religious bigotry as a campaign strategy is completely intolerable. And yet that appears to be where the Democrats are headed. Let us understand their position.

Democrats are prepared to tolerate those who call for condoms to be distributed to 9-year-olds, but are intolerant toward middle-class Americans who attend church and synagogue regularly and put their faith to work in public policy decisions.

Democrats are prepared to tolerate those who dodge the draft rather than serve their country, but are intolerant toward middle-class Americans who attend church and synagogue regularly and put their faith to work in public policy decisions.

Democrats are prepared to tolerate those who would spend future generations into bankruptcy, but are intolerant toward middle-class Americans who attend church and synagogue regularly and put their faith to work in public policy decisions.

Democrats are prepared to tolerate those who corrupt the most basic institutions of democracy, but are intolerant toward middle-class Americans who attend church and synagogue regularly and put their faith to work in public policy decisions.

Democrats are prepared to tolerate those who would redefine basic values such as family and individual responsibility, but are intolerant toward middle-class Americans who attend church and synagogue regularly and put their faith to work in public policy decisions.

Bigotry, including religious bigotry, is an ugly thing. The Democrats' use of bigotry as a political tool is as ugly as it gets.

GLOOM AND DOOM ON PROJECTED DISASTERS

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, we have been treated in the last few days to a parade of Members from the other side of the aisle on health care, warning about mandates and awful disasters and job killing cataclysmic projections of what will occur.

Let me quote a famous Republican leader: "There you go again." You were wrong on Social Security when you projected in 1935 that it was a socialistic experiment.

You were wrong in 1965 on Medicare when you predicted dire doom for that. Anyone over there want to oppose Medicare and call for its abolition? I doubt that.

You were wrong in 1988 when you called, and some of you sitting on this side of the aisle today, when you called a minimum wage increase of 90 cents an hour a job killer. The economy, of course, has only grown more jobs.

You, of course, were wrong in August of this last year when you said the budget package would be a job killer. It actually has been a job creator.

Now you wanted to warn us about health care. Well, any physician that has a record of prediction that this side has over here on these kinds of things is guilty of malpractice.

So I just remind you of that famous American Ronald Reagan, "There you go again."

THE RADICAL RIGHT

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, what is the radical right?

According to Democrat political strategists, it is a secret group of right wing fanatics who want in infiltrate the Republican Party, set up a theocratic state, and force Christianity on every American.

And what makes a person a member of the radical right? First, if you believe in God, you are a member of the radical right.

If you believe middle America pays too much to taxes, you are a member of the radical right. If you think socialized medicine is a bad idea, congratulations. You're a member of the radical right.

If you think Government is too big and spends too much, guess what? You're a member of the radical right. And, if you bowed your head and prayed when the Chaplain offered his prayer at the beginning of today's session, you are a member of the radical right.

Mr. Speaker, it is a sad day when the Democrat Party resorts to scare tactics to smudge the reputations of millions of Americans who disagree with their misguided agenda.

UNIVERSAL HEALTH INSURANCE COVERAGE NEEDED

(Mr. SKAGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKAGGS. Mr. Speaker, some are arguing that we really do not need universal insurance coverage to fix what is wrong with our health care system. We can just do insurance reform and that will be enough, they hope, to get costs under control. I think that they are wrong. Health care costs cannot be brought under control unless every one is participating fairly and that basically means universal coverage.

Right now we have universal treatment. If someone gets sick and goes to the hospital, they are going to get care. But who pays the bill? Well, it is typically the next person, the next patient who comes in, who is lucky enough to have insurance. This kind of cost shifting is one of the major ingredients in the escalating costs of our health care system, a major reason why in most hospitals an aspirin costs more than half a tank of gas.

It is also why so many businesses are not providing insurance—because costs are too high and going up too fast. Yet their competitors down the street, who are good enough to provide insurance for their employees, are basically carrying the burden for those that do not buy coverage.

This Congress has got to realize that we are already paying for the uninsured in the most expensive and inefficient ways. Universal coverage is an essential part of meaningful health care reform.

SUPPORT SLIPPING

(Ms. PRYCE of Ohio asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PRYCE of Ohio. Mr. Speaker, support is slipping in the House for the employer mandate in health care reform. I wonder why?

Could it be that an employer mandate will cost at least a million jobs and maybe more? Could be.

Could it be that an employer mandate would be the last straw for many small businesses resulting in the closing of thousands? Might be.

Could it be that an employer mandate makes it more expensive for companies to hire new employees? That could explain it.

But, Mr. Speaker, I have another theory for why support for employer mandate is slipping in the House.

My guess is that House Democrats do not want to support a really bad idea only to have the Senate reject it. My guess is that Democrats do not really want to walk the plank for President Clinton again. For whatever reason, I urge my colleagues to reject the employer mandate. It is an idea whose time has not come, and should not come.

CELEBRATING THE 50TH ANNIVERSARY OF THE GI BILL

(Mr. FILNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FILNER. Mr. Speaker, I rise today to take this opportunity to commemorate the 50th anniversary of one of the most successful ideas to ever come out of this Congress—this GI bill.

I am proud to serve under Chairman SONNY MONTGOMERY on the Veterans' Affairs Committee. As we all know, the fourth and current GI bill program is named after our chairman, and continues to embody the American promise to our veterans to repay them for their service, while promoting quality educational institutions across America.

Fifty years ago, President Roosevelt gave us one of the most important domestic programs of the century. Today, in 1994, each branch of the Armed Forces reports that approximately 9 out of 10 recruits are enrolling in the Montgomery GI bill program. This is of vital importance to our ecomony—since we are desperately in need of educated personnel to lead us into the next century.

Not only is this a good deal for veterans—but it has been estimated that the U.S. Treasury receives back in income taxes several time more than it pays out in GI bill education benefits. This is truly an investment in our future. How many other Government programs can we point to that have such a great success and actually gain us revenue and skilled workers?

Some famous people that many of us admire and work with every day are participants, in the GI bill program. Vice President AL GORE. Chairman of the Veterans' Affairs Committee SONNY MONTGOMERY. Representative RONALD DELLUMS. Secretary of State Warren Christopher.

The impact of the GI bill can hardly be overstated. It has transformed higher education in America, easing the transition of million of veterans into civilian life, while providing education and prosperity for our Nation as a whole. I join my colleagues in rising to commemorate the anniversary of this program and to hope that this Congress has the vision to pass more legislation just like the GI bill—legislation that works for our people, for our economy and for our future.

□ 1020

AMERICA NEEDS JOBS NOT MANDATES

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, whether we are talking about triggers or employer-financed health coverage, there are those in and around Capitol Hill who seem bent on forcing some sort of mandate down the American public's throat.

Specifically, reports have described the employer mandate as the linchpin of President Clinton's Government-run health care reform proposal. But what type of linchipin is this that speaks of reform on one hand, while moving toward job destruction and overall employee benefit reduction on the other.

The administration counters with the hollow argument that no jobs will be lost due to the implementation of the Clinton plan. However, this is dead wrong.

An average of more than 40 independent studies has shown that President Clinton's version of health care reform will cost the American public more than 2.1 million jobs during only the first 5 years of his program.

America does not need this type of jobs-killer. America does not want another Government-run bureaucracy. But most importantly, America cannot afford to lose any more jobs.

Mr. Speaker, let us work together on a bipartisan, health care reform package, and give the American public something they want: Health care reform now.

SHAME ON CONGRESS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, America's trade deficit in April exploded to over $8.5 billion. Imports are up; exports fell by almost $2 billion. Our trade program is a joke, and the international community says the laugh is on the Congress of the United States of America.

Think about it. Congress has driven down the dollar so low the dollar can walk under a closed door on Wall Street with a top hat on.

Congress has raised taxes. Congress has made threats. Congress has passed super trade laws.

Unbelievable. The truth is, Congress has allowed our trading partners to rape America, kill our jobs, kill out investment and has done nothing. The Constitution empowers Congress to regulate commerce with foreign nations, not to regulate food stamps and unemployment.

Think about it. It is about jobs, America. Congress, you are giving away the farm. Do your job. Shame, Congress.

THE EMPLOYER MANDATE, A JOB KILLER

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute.)

Mr. THOMAS of Wyoming. Mr. Speaker, it is about jobs. The employer mandate is a job-killing tax on U.S. business. The Democrats in Washington want this job-killing tax on U.S. business to pay for new and expanded health care entitlements. There are lots of technical terms and political theater being used around Washington to hide the job-killing tax on U.S. business, but let me share with Members a simple truth, a glossary of terms, I think, that we need to understand.

Employer mandate, that means a job-killing tax on U.S. business. Hard trigger, that means a job-killing tax on U.S. business. Soft trigger, that means a job-killing tax on U.S. business. Soft trigger with fast track, a job-killing tax on U.S. business.

Let us not be fooled by the technical babble that is going on. An employer mandate by any name is still a job-killing tax on U.S. business. Let us stop the mandate.

ON HEALTH CARE AND 50TH ANNIVERSARY OF GI BILL

(Mr. GENE GREEN of Texas asked and was permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, as we continue the process of enacting a health care reform plan, the special interest groups have stopped at nothing to derail progress. Harry and Louise are back and for the first time the Republican minority has openly stated that their Members will be retaliated against if they work with Democrats to pass a health care bill.

The Committee on Education and Labor has nearly completed its version of the health care reform plan and, just like President Clinton, we have included universal coverage. Universal coverage is the keystone to reform. It is crucial, if we are going to eliminate the cost shifting that is driving up health care insurance costs.

There are those who are still claiming that the sky will fall if we pass this plan. Yet, as we celebrate the 50th anniversary of the signing of the G.I. bill, we are reminded that there were some politicians in 1944 who said the same thing, who said we could not afford education and housing benefits and job training for those veterans. This program helped solidify the American dream and secured the American middle class and yet we are hearing the same opposition today as we heard in 1944.

We face the same mentality.

The American dream is slipping away for many Americans because of the health care costs. The only way to bring these rising costs under the control is for the requirement of unanimous coverage for every American.

A TRIBUTE TO ROBERT TURNER

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, on August 3, 1970, Robert Turner joined the Capitol Hill Police Force. That was 24 years ago.

Yesterday was his last day. for the past 17 years he has stood at the corner of New Jersey and Independence and taken care of all of us and our constituents and the many needs that are faced here in the U.S. Capitol.

He has demonstrated a great personal interest in many Members of Congress, and I most specifically think of our late colleague, Congressman Gene Chappie. He has always been very concerned about his widow, Nancy, and has spent a great deal of time regularly asking me about her. He has also spent a great deal of time ensuring that young people who visit the Capitol have an opportunity to learn and know about what is going on here.

I met him on a very cold December day in 1980. And since that time, he has been a friend to me. I will sorely miss Robbie when he retires, but I know that all of our colleagues would want to join in wishing him well in his retirement.

MOST PRISONERS ARE NOT CHOIR BOY TYPES

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, there has been a fairly steady drum beat of comment around the country, misinformation, maybe even disinformation, to the effect that our prisons, both the State and Federal, are teeming with choir boys, first time, nonviolent offenders. Wrong, Mr. Speaker, dead wrong.

Our prisons, and some 90 percent of all the prison population is housed at the State level, are full of people who are there following earlier convictions or because of violent activities. Ninety-four percent of all of those in the state level penitentiaries and prisons are there because of violent crimes or because they are serving sentences following earlier crimes. Only 6 percent of these people are first-time offenders.

In the Federal prisons, 35,000 were admitted in 1991, and only 2 percent of them, 700, were there because of mere drug possession or simple drug possession. Otherwise, they are violent people or have earlier convictions.

So we cannot forget, Mr. Speaker, as we deal with crime control, that one of the aspects, one of the very important factors is to have adequate prison facilities to take care of these violent offenders, to keep them off the streets and to keep them from marauding and terrorizing all of us.

THE CLINTON HEALTH CARE PLAN, BAD NEWS FOR WOMEN

(Ms. DUNN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DUNN. Mr. Speaker, the bad news for women just keeps coming with the Clinton health plan. First, mandatory health alliances threatened our choices of ob-gyn's and family doctors.

Next, talk of their drug price controls hurt the research and development of new drugs to treat breast and ovarian cancer and osteoporosis.

Now, triggered employer mandates are the latest threat, this time to women's jobs.

Mr. Speaker, women make up the bulk of our workforce in retail sales, education services, the food industry, and household services. These industries will bear two-thirds of the job losses that will result from employer mandates. 300,000 women would lose their jobs in the retail sector alone.

If Congress adopts employer mandates, it will in essence be replacing the glass ceiling with concrete.

Mr. Speaker, working women need a health care plan that provides access to portable, affordable, and private health insurance. What they do not need is an employer mandated plan that will cost hundreds of thousands of women their jobs.

□ 1030

CONGRESS NEEDS TO PUT CHILDREN FIRST

(Ms. FURSE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FURSE. Mr. Speaker, we in the Congress are always asked to solve so many problems, and of course we have been elected to govern, but so many problems exist that I want to talk about two companies in my State of Oregon who decided to do something about those problems on their own. These two companies received the Child Help USA Awards, and I want to tell the Members what they did.

Smith Home Furnishings put up a program on Christmas trees that raised $30,000 for at-risk children. They got canned food for 5,000 families in Portland, OR. They just instituted a new program where parents can come in and do a 2-minute video. In case their child is lost, the police can use this video to help find those children.

U.S. Bancorp also received a Child Help Award. They raised $15 million for at-risk children in the State of Oregon. Mr. Speaker, these companies did not wait for us. They went out on their own to do this. They put children first. Mr. Speaker, I think we in the Congress need to put children first.

LISTENING TO THE PEOPLE

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, as the majority holes up behind closed doors to hammer out a 218-vote strategy for passing a health care bill, I urge them to open a window and listen to the people. Health care reform is not about short-term political gain; it is not about winning elections; and it is not about saving the Clinton Presidency. Health care reform is about millions of American families and businesses—real people who have a pretty good idea about what works in our current system and what needs fixing. Southwest Floridians have been clear in their opposition to the big government, job killing Clinton approach. Of 5,800 people who contacted me in unsolicited commentary, 5,400 said "no" to the Clinton plan. Democrats should come out from their closed door, back room meetings and listen to the people. They say "no" to the Clinton health plan because they know there are better choices out there, and they want us to work on them.

JOHN LEWIS AND THE FREEDOM RIDERS

(Ms. HARMAN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. HARMAN. Mr. Speaker, I rise to commend my friend and colleague JOHN LEWIS for the special order he organized last night on the 30th anniversary of freedom summer.

"Hero" is a term that is often used too lavishly in political arenas. Everyone from sports stars to cartoon characters are called heroes on the floor. But JOHN LEWIS and the freedom riders are true American heroes. The courage to find peaceful methods, to stand with conviction in the face of overwhelming forces, and to accept violence and punishment as the price for exposing bigotry is by any definition heroism.

Today we take for granted the notion that there are legal protections against racial discrimination. Those protections were passed on this floor only after JOHN LEWIS and others demonstrated what the lack of those protections meant.

In this era of tremendous cynicism about Congress, it is heartening to know that JOHN LEWIS serves as a Member of this body. Thirty years ago, JOHN stood up by sitting down. It says something special about Georgia's Fifth District and the country as a whole that he now works to enhance the laws that he helped create.

BUYER AMENDMENT TO THE HEALTH SECURITY ACT

(Mr. BUYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUYER. Mr. Speaker, Members should go the Lincoln Memorial, and printed on the inside north wall is Abraham Lincoln's Second Inaugural Address:

> Let us strive on to finish the work we are in; to bind up the nation's wounds, to care for him who shall have borne the battle, and for his widow, and for his orphan * * *

One of the most sacred commitments that this Government has is that of caring for those who have been wounded in combat defending this Nation against its enemies.

The Clinton administration has abrogated this sacred commitment with the submission of H.R. 3600, the Health Security Act.

This bill has an employer mandate that places the burden of paying for our wounded vets not with the Government, where it rightly belongs, but with the employers of this Nation. It does so by requiring employers to pay 80 percent of the premium for those veterans who choose the VA as their health care provider.

I find this concept unacceptable. To quote Mr. Gorham, of the Disabled American Veterans, who testified at the Veterans Affairs Committee on March 8, 1994:

> IBM, Kodak, or General Motors do not make veterans. The Federal Government and

its policies make veterans and therefore the Federal Government has the responsibility to continue to fund the cost of service-connected disabilities.

In that same hearing, my colleague from New Jersey, CHRIS SMITH, went on to question each of the veteran service organization representatives present on this idea of responsibility for the service-connected disabled. Each and every one, to include the American Legion, Paralyzed Veterans of America, AMVETS, Vietnam Veterans of America, Blinded Veterans of America, and the Veterans of Foreign Wars concurred that this obligation should not be borne by employers.

CBO states that H.R. 3600 will save $7.9 billion by shifting the cost of veterans care off to employers. The Montgomery-Rowland amendment modifications will cost $4.5 billion, reducing the net savings of H.R. 3600 to $3.3 billion. My amendment will cost $4.1 billion, causing the veterans portion of H.R. 3600 to cost $790 million. I will offer an amendment for our Government to discharge its responsibility to the veterans of this Nation.

Whether we call our troops peacekeepers, peace enforcers, or just plain combat soldiers one fact remains—American lives will be at risk from hostile fire. If wounded serving this Nation, they deserve to be cared for by this Nation.

CELEBRATION FOR THE GI BILL

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, I yield to the gentleman from Indiana [Mr. BUYER].

Mr. BUYER. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I think the amendment of the gentleman from Mississippi [Mr. MONTGOMERY] tried to in fact correct what occurred, but I think that we have to strike the employer mandate. I will have offering that amendment, Mr. Speaker.

Mr. MONTGOMERY. Mr. Speaker, the gentleman from California [Mr. FILNER], the gentleman from Texas [Mr. GENE GREEN], and also the gentleman from Florida [Mr. BILIRAKIS] mentioned the 50th anniversary of the GI bill. It is today, June 22, that President Roosevelt, at the White House, signed this bill that changed America. It gave the opportunity for middle-class, young veterans to get a college education, people who would have never gotten anything but a high school education. It gave the veterans the opportunity to buy a home. I bought a home under the GI bill, and I still live there in that home in Meridian MS.

It is a great day, Mr. Speaker, and President Clinton and Secretary Brown will be downtown today at 1 o'clock in front of the Veterans Department having the celebration on the GI bill.

PAPERWORK ESCALATION WITH EMPLOYER MANDATES IS FURTHER THREAT TO SMALL BUSINESS

(Mr. GOODLATTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOODLATTE. Mr. Speaker, many bureaucrats and politicians in Washington, who have never owned or operated a small business or even held a private sector job, believe the simplest way to pay for their new health care bureaucracy is to make businesses pay for it.

Ideas that appear simple do not always translate into simple programs.

This is especially true in the case of employer mandates and health care reform. These mandates will hang many businesses not only because they will drive many businesses under, but also because employers would have new, far-reaching, federally mandated record keeping and reporting requirements.

Worst of all, this paperwork increase will cost American business billions of dollars each year, forcing them to lay off workers.

If this Congress, at the request of the President includes employer mandates in health care reform legislation, it may as well slip the noose around the neck of small business and kick the chair out from under them, because the paperwork increase will kill them anyway.

DEMOCRATS URGED TO ACCEPT A COMMONSENSE BIPARTISAN APPROACH TO HEALTH CARE REFORM

(Mr. HASTERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HASTERT. Mr. Speaker, one of the biggest differences between those who believe in a commonsense approach and President Clinton in the health care debate comes with the employer mandate.

President Clinton believes that forcing small businesses to pay 80 percent of an employee's health care insurance will help him reach a goal of universal coverage.

We have a different view. As the son of a small restaurant owner, I have seen firsthand how small businesses must struggle under the crushing burden of unfunded Federal mandates. The employer mandate will have a devastating impact on those same small businesses. It will mean an 8 percent payroll tax on most workers. And it will kill at least a million jobs.

Mr. Speaker, sacrificing jobs for a government-run health care system is not worth the price.

We need to fix the problems in our health care system without resorting to government-run health care schemes and job-killing employer mandates.

I urge my Democratic colleagues to turn away from the employer mandate and turn to a commonsense bipartisan approach to health care reform.

PREJUDICE REMAINS PREJUDICE

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, yesterday afternoon a member of the Democratic leadership went before the Nation's media to attack what he termed the "religious right."

Later the same afternoon, members of the Democratic leadership came to this floor to commemorate three civil rights workers slain in Mississippi 30 years ago.

Thirty years and one day ago, people were slain for trying to put an end to prejudice based on the color of a person's skin.

Sadly, just 1 day ago, we find that those who were able to recognize that symbol, were unable to grasp its meaning and felt it correct to turn and attack people on the basis of their religious beliefs.

The lesson learned 30 years ago should not have been forgotten 1 day ago. Prejudice remains prejudice, just as surely as it remains wrong. And Democrats will discover in November that religious prejudice is not a political asset.

HEALTH CARE EMPLOYER MANDATES

(Mr. GRAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRAMS. Mr. Speaker, by now we are all familiar with the exchange between Herman Cain, CEO of Godfather's Pizza, and President Clinton regarding the impact of employer mandates on jobs. While most people focused on the nature of Mr. Cain's concern, little attention was paid to the President's response.

Mr. Cain said, "If I'm forced to do this, what will I tell those people whose jobs I will have to terminate?"

The President responded, and I quote, "Would that really cause you to lay a lot of people off, if all your competitors had to do it too?" In other words, he said "Raise prices."

Unbelievably, the President is suggesting that if we equally disadvantage everyone, then relatively speaking no one business is at a disadvantage. This is a perversion of logic and demonstrates that the President, who has always received a paycheck from the government, has zero understanding of the free market, economics, and competition.

It should not, it must not, be the role of any government to handcuff people and businesses with oppressive, unjustified job-killing regulations. The employer mandates contained in the President's plan, and other plans, will destroy hundreds of thousands of jobs—plain and simple.

As we try to help those without health care, let us not jeopardize the job security of millions of people.

□ 1040

THE 50TH ANNIVERSARY OF THE GI BILL

(Mr. BILIRAKIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILIRAKIS. Mr. Speaker, earlier this month, we commemorated the 50th anniversary of D-day. But 1994 also marks the 50th anniversary of another historic event—the enactment of the Servicemen's Readjustment Act. Better known as the GI bill, and now known as the Montgomery GI bill, this law was intended to help thousands of demobilizing soldiers readjust to civilian life.

Although there have been many changes to GI bill benefits over the last 50 years, it is clear that this legislation has had a tremendous impact on U.S. society. For example, it has made a college education and vocational training affordable for millions. Since its enactment, more than 20 million veterans have received an education through the GI bill. The law has also made possible the loan of billions of dollars to purchase homes for 14 million veteran families—helping to bring them homeownership.

Mr. Speaker, I urge my colleagues to join me in saluting the GI bill. I would also like to commend the American Legion for taking the initiative 50 years ago to propose this important legislation.

WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 4602, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1995

Mr. GORDON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 458 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 458

Resolved, That during consideration of the bill (H.R. 4602) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1995, and for other purposes, all points of order against provisions in the bill for failure to comply with clause 2 or 6 of rule XXI are waived except as follows: beginning on page 80, line 10, through line 19.

The SPEAKER pro tempore (Mr. FILNER). The gentleman from Tennessee [Mr. GORDON] is recognized for 1 hour.

Mr. GORDON. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 458 is an open rule which provides for the consideration of H.R. 4602, the Department of the Interior and related agencies appropriations bill for fiscal year 1995.

The rule waives clause 2 of rule XXI against all provisions of the bill with one exception which is noted by page and line number in the resolution.

Clause 6 of rule XXI is also waived against all provisions in the bill.

Clause 2 of rule XXI prohibits unauthorized appropriations or legislative provisions in general appropriations bills, and clause 6 of rule XXI prohibits reappropriations in general appropriations bills.

Mr. Speaker, I would like to commend Chairman SID YATES, ranking Republican RALPH REGULA, and the Interior Subcommittee members for once again bringing a very difficult and complex piece of legislation to the floor.

Chairman YATES and his subcommittee held 33 days of hearings and received testimony from over 800 witnesses which is recorded in 13 published volumes totaling over 13,000 pages.

H.R. 4602 is the product of hard work, long hours, and careful consideration of the facts and issues surrounding many diverse and intricate subjects.

Chairman YATES and the subcommittee are responsible for funding programs and initiatives which range from alternative fuels research to the strategic petroleum reserve to national park land acquisition to the John F. Kennedy Center for the Performing Arts and the Smithsonian Institution to managing our Nation's forests and streams to funding health and education programs for native Americans.

This year all of this had to be done with drastically reduced resources. There was no getting around it. The subcommittee members had to roll up their sleeves, sharpen their pencils, weigh the options, and make the tough choices. I want to commend them for doing a tough job well.

Preserving this country's natural, historical and cultural assets for future generations—as our parents and grandparents did for us—is very important. Chairman YATES shares this commitment.

Tourists are visiting our national parks and battlefields with increasing frequency. Visitations were in excess of 265 million in 1993 and are expected to top 281 million in 1995. While increased attendance is good news, the human and natural resources which make up the National Park Service are starting to strain at the seams.

The subcommittee with the chairman's leadership made some tough choices this year to increase operating expenses. As the subcommittee report so aptly states, "the need is real; but the money is limited."

I would like to once again congratulate Chairman YATES, ranking Republican RALPH REGULA, and the subcommittee's staff for putting in the long hours, listening to all of the demands for increased funding, and making the tough choices.

Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, this is a typical rule for fiscal year 1995 appropriation bills. It is open and it waives points of order against reappropriations, unauthorized appropriations, and legislation in an appropriations bill, with the one exception. Although I do not favor these sweeping waivers, it is important to pass all appropriation bills as speedily as possible.

H.R. 4602, making appropriations for the Department of the Interior and related agencies, is the eighth of the 13 appropriation bills to be considered by the House. As usual the Committee on Appropriations has set a fine example of how bipartisan cooperation can result in a fiscally responsible bill. This bill is about $195 million below last year's level and $230 million below the President's request.

Mr. Speaker, the bill funds many important agencies, such as the Interior Department, the U.S. Forest Service, the Bureau of Indian Affairs, the Smithsonian Institution, the National Gallery of Art, and the National Foundation on the Arts and Humanities, and others. While all of us may not agree on the funding levels for these various agencies established by this bill, the rule does not restrict any Member's right to fully participate in the amending process or to offer motions to strike or reduce funding.

Mr. Speaker, I am disappointed that an amendment proposed by the gentleman from Louisiana [Mr. TAUZIN] was not allowed under this rule. This amendment would help protect private property rights, an effort I strongly support. I realize the amendment would have required special protection under the rules of the House, but in this case I think it was the right thing to do. A motion was offered to make this amendment in order, but it was defeated on a party line vote.

Mr. Speaker, I include for the RECORD the results of rollcall votes taken in the Committee on Rules' meeting yesterday, as follows:

ROLLCALL VOTES IN THE RULES COMMITTEE ON AMENDMENTS TO THE PROPOSED RULE ON H.R. 4602—INTERIOR APPROPRIATIONS, FISCAL YEAR 1995

Clinger: (A) An amendment to give preference in allocating resources to national forests where revenues from timber sales outweigh the cost of timber programs; and (B) An amendment to provide that if the U.S. Forest Service shifts resources, they must send Congress a study. Vote: (Defeated 3-5): Yeas—Quillen, Dreier, Goss. Nays—Moakley, Derrick, Beilenson, Hall, Gordon. Not Voting: Frost, Bonior, Wheat, Slaughter, Solomon.

Tauzin: An amendment to provide that funds appropriated for implementation of the Endangered Species Act could not be used in a manner that results in an interpretation of the act not consistent with the decision in Sweet Home Chapter of Communities for a Greater Oregon v. Babbitt. Vote: (Defeated 3-5): Yeas—Quillen, Dreier, Goss. Nays—Moakley, Derrick, Beilenson, Hall, Gordon. Not Voting: Frost, Bonior, Wheat, Slaughter, Solomon.

Mr. Speaker, again I support the adoption of this rule with misgivings. I think it is unfair that the Rules Committee waived the rules on certain provisions in the bill but refused to waive points of order on amendments of both Republicans and Democrats on a partisan basis. Be that as it may, we are where we are. The bill needs to be passed.

Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. CLINGER].

□ 1050

Mr. CLINGER. Mr. Speaker, I rise this year, as I did last year, to express my deep frustration about the lack of funding for this Nation's timber sale program in our national forests. Once again we are providing a wholly inadequate amount to support our national timber program. By doing so, we are undermining our chances for a strong economic recovery as well as jeopardizing millions of jobs. We can just about count on yet another major domestic industry going down the tubes. Every year there are several of us that stand here and raise the red flag—as a strong signal to our colleagues that serious problems lie ahead—but it is clear that very few are listening. Before you know it, it will be just too late.

Let us just take a quick look at the facts. This Nation's district, the Allegheny National Forest in Pennsylvania. This forest is an above cost forest, one that returns funds to the U.S. Treasury every year. In fact, last year the forest returned over $9 million. I am pleased that for every dollar spent in the Allegheny, $4 is returned. Yet this steady decrease in budget funds along with new administration policies means that the timber program in the Allegheny will be seriously hurt—even though it is fiscally and environmentally well managed and makes money for the Federal Government.

In addition, to the very scarce resources being appropriated, we may potentially be facing yet another problem which is the shifting of funds by the Forest Service between regions and forests. Basically, it is robbing Peter to pay Paul even if the forest, such as the Allegheny, has a successful and cost-effective timber program. This makes no sense and is unfair. To address this issue, I offered amendments in the Rules Committee which would require that some recognition be given to forests that are consistently above cost and that if funds are shifted between forests and regions we should understand the fiscal ramifications of doing so with a report to timber sale program has rapidly declined over the past 5 years. During the late 1980's, the Forest Service Timber Sale Program received full funding to sell about 11 billion board feet annually. For fiscal year 1994, we have a program resulting in 4.6 billion board feet—more than halved in just the past 5 years. President Clinton's fiscal year 1995 budget reduces the program to 4.4 billion board feet with further cuts by the Appropriations Committee. We are now at the lowest level since the 1950's. Should we anticipate that within the next few years the program will be cut to zero?

What does this mean? Simply put, it means fewer jobs. It means higher lumber prices. It means higher housing prices. It means a slower economic recovery. In fact, it means inflation probably followed by higher interests rates which are likely to be followed by recession. Lumber prices are skyrocketing as our supply continues to tighten and the cost of the average single family home has increase $5,000.

I am one of many Members that have a Federal forest in my district, the Allegheny National Forests in Pennsylvania.

Mr. Speaker, this forest is an above-cost forest, one that returns funds to the U.S. Treasury every year. In fact, last year the forest returned over $9 million. I am pleased that for every dollar spent in the Allegheny, $4 is returned. This steady decrease in budget funds, along with new administration policies, means that the timber program in the Allegheny will be seriously hurt, even though it is fiscally and environmentally well managed and makes money for the Federal Government.

In addition, Mr. Speaker, to the very scarce resources being appropriated, we may potentially be facing yet another problem, which is the shifting of funds by the Forest Service between regions and forests. Basically it is robbing Peter to pay Paul. Even if forests such as the Allegheny have a successful and cost-effective timber program, this makes no sense and is totally unfair. To address this issue, I offered amendments in the Committee on Rules which would require some recognition be given to forests that are consistently above cost, and that if funds are shifted between forests and regions, we should understand the fiscal ramifications of doing so with a report to Congress by the Forest Service.

Mr. Speaker, I believe that this is not the direction that we should be moving. Just ask those who are trying to buy a new home for the first time. Just ask those living in the rural communities surrounding our national forests. Just ask those who are unemployed simply because there is not enough money to fund the timber program. I urge my colleagues to take heed before it is too late—although many would think we have already passed that point.

I must reluctantly oppose this rule because my amendments were not made in order.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. REGULA], the ranking member of the committee.

Mr. REGULA. Mr. Speaker and my colleagues, I simply want to say that I think this is a fair rule. I understand the concern of the gentleman from Pennsylvania, and I share that, but that was a policy issue that was fought out in the subcommittee, and there are, of course, forces on both sides as to the question of how much timber we should sell, and on top of that, we have the impact of the Endangered Species Act, which has slowed the harvesting of timber considerably.

He is right that many first-time homebuyers are finding they have to pay an extra estimated $3,000 to $4,000 as a result of a shortage of lumber, or at least a shortage to the point that the price is going up.

I want to simply say again this is an open rule. The only thing that we protected are the unauthorized features of the bill such as the endangered species and the Bureau of Land Management.

BLM has not been authorized since 1982, and we hope that the authorizing committee will address these concerns in terms of permanent authority. But I recognize that there is some difficulty oftentimes on the other side of the Capitol in getting a conclusion to the authorizing bills.

The rule is as open as it possibly can be as far as the amount of funding for any of the specific programs. They are subject to amendments. People will have ample opportunity to make changes that will reflect different priorities in the expenditure of funds.

I would point out, as has been mentioned earlier, that we are addressing problems with almost $200 million less than we had in fiscal 1994, and even though the parks, and the forests have had great increase in visitor usage. As a result, we are not able to do visitor centers that would enhance the experience for those that go to our national parks and forests.

We have not been able to do as much maintenance as we should on facilities, and I would hope that in the future we can have more available in the way of funding to meet those needs.

We have had to deny some of the requests that Members have made that are good projects, but with $200 million less than last year, it was impossible to stretch the budget out to meet all of these requirements.

I certainly urge my colleagues to support the rule. There will be plenty of opportunity to address policy questions by way of amendments.

Mr. GORDON. Mr. Speaker, for the purposes of debate only, I yield 4 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I rise in strong support of this rule, and in strong support of the bill. Once again, this excellent committee of the Congress has had to make some very difficult choices in a number of areas.

As chairman of the Subcommittee on Native American Affairs, I have carefully reviewed that portion of the bill affecting the Indian tribes and Alaska Native villages of this country.

The problems of Indian country are many. The funding is never enough. But I commend the chairman, the gentleman from Illinois [Mr. YATES], and the committee for making those very hard choices.

One critical need was to provide adequate funding for Indian health care. I believe the committee has responded to this need and made this a priority, as do I.

Let me mention the Subcommittee on Native American Affairs and the Committee on Natural Resources, chaired by the gentleman from California [Mr. MILLER], the chairman, will also be providing the authorization for the Indian health care bill, but I particularly want to commend the chairman, the gentleman from Illinois [Mr. YATES], for the very substantial funding that continues a number of successful and innovative measures, not just in the Indian Health Service but in many parts of Indian country that are administered by the Bureau of Indian Affairs, the Indian Health Service, and other Federal agencies, as well as by tribes and tribal organizations.

Needless to say, I would like to thank the chairman for funding a large number of Indian tribes in the State of New Mexico. As my colleagues know, the gentleman from Oklahoma [Mr. SYNAR] and I have the largest Native American populations of every Member of this body, and what I was specifically concerned about was the funding and staffing of the Ship Rock Hospital located on the Navajo nation as well as the funding of irrigation projects of the Cochiti Jemez and Isleta Pueblos. I am confident inclusion of these funds for these programs and others will greatly assist tribal efforts to promote self-determination as well as protect health, safety, and welfare of their members.

Finally, we need to pass this rule to ensure that we do not have harmful amendments that would gut the Endangered Species Act and turn back the clock on environmental protection.

Mr. Speaker, I would also like to comment briefly on a more provincial issue involving the National Park Service and its efforts at reorganization. While it is well known that the Park Service has been evaluating different alternatives for several months, there have been a number of rumors that certain offices are going to be shut down, including the Southwest regional office in Santa Fe. While I recognize that several options will be looked at, and that it is only speculation at this point, as somebody who represents Santa Fe, NM, and the western region of the Park Service, I would just like to make note that it is critically important that this not happen.

The Southwest region of the National Park Service is at a crucial point in the implementation of several legislative initiatives in New Mexico and other states in the region. Should the region office in Santa Fe be shut down or significantly restructured, I am fearful that these initiatives would suffer to a great degree. Additionally, the regional office in Santa Fe has made great strides in the hiring of women, minorities, and handicapped individuals. Any dissolution or major restructuring will clearly be a setback to this progress.

To conclude on this particular issue, Mr. Speaker, let me say that I do not oppose streamlining of Federal agencies, including the National Park Service. However, we must look at the most prudent use of our resources in the context of the structure and mission of those agencies, and hopefully make wise decisions in that regard.

Mr. Speaker, this bill funds our public lands, the BLM, the Park Service, the Bureau of Reclamation. This bill funds also the National Endowment for the Arts.

I think that the chairman, the gentleman from Illinois [Mr. YATES], once again has risen to the challenge on a number of issues.

I think the minority has done equally well, too, in ensuring that on many of these issues the concerns of those with the National Endowment for the Arts, that we proceed with art that is mainstream, are taken care of.

Again, Mr. Speaker, I mainly am here to voice my strong support for the provisions affecting Native Americans that have been funded in this bill. Once again, it is a good bill, a tribute to the chairman, the gentleman from Illinois [Mr. YATES]; the men and women of Indian country owe him enormously. He silently over the years has made sure that while the rest of the Nation has forgotten Indian country, that he has not, and he is to be thanked.

□ 1100

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GORDON. Mr. Speaker, in conclusion, let me say this is a very important bill that deals with the preservation and restoration of our natural resources and our historic, cultural, architectural resources. It is important that we move forward with this bill.

This is an open rule, Mr. Speaker.

Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. YATES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4602, which we are about to consider, and that I may be permitted to include tables, charts, and other material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

H.R. 4602, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1995

Mr. YATES. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4602) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1995, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Ohio [Mr. REGULA] and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

□ 1102

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4602, with Mr. GLICKMAN in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

Under the unanimous-consent agreement, the gentleman from Illinois [Mr. YATES] will be recognized for 30 minutes, and the gentleman from Ohio [Mr. REGULA] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. YATES].

Mr. YATES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Subcommittee on Interior and Related Agencies appropriations, which has approved this bill, brings it today to the House of Representatives with appropriations for fiscal year 1995 for the Department of the Interior and various related agencies.

The recommendations of the committee are within our 602(b) allocations for both budget authority and for outlays. In order to stay within our allocation, we have recommended $230 million less than was requested by the administration.

The recommended discretionary budget authority, including scorekeeping adjustments, is $13.5 billion. The budget that is comparable to that for last year was $13.7 billion. So the amount that we recommend in this bill is approximately $200 million less than the bill that was enacted last year.

Offsetting the amount of expenditures, Mr. Chairman, is approximately $8.1 billion, which it is expected the Federal Government will collect during the next fiscal year in fees, in royalties, and in various kinds of income that are paid to the various agencies in the bill.

Despite the overall decrease recommended in this bill, we have recommended increases for selective programs, such as the President's Northwest forest plan; the climate change action plan; the South Florida Ecosystem Initiative; and costs made necessary because of the implementation of NAFTA, for which $6.3 million of the $10.8 million request was provided.

The committee has provided almost $46 million of the $57 million requested for the South Florida Ecosystem Initiative. The problem here requires our very serious and very immediate attention. Because of these pressures and the resulting impacts on water quality and quantity, the Everglades are now less than half their original size, invasive plant species have altered the landscape, wading birds have declined by more than 90 percent, and Florida Bay is experiencing severe declines in fishery resources.

The ecosystem initiatives that we have placed in this bill will take care of only a portion of the needs in that important area.

Other important initiatives included in the committee's recommendation include the funding for the President's Northwest forest plan. The plan offers a new approach to managing old growth forests and their biological diversity based on sound science and a commitment to existing law.

The funding included in the bill will allow timber sales under the plan to go forward as well as provide for the Jobs in the Woods Ecosystem Restoration Projects, watershed assessments, consultation and research.

In addition to reductions made by the committee in order to stay within our 602(b) allocation, the agencies in this bill, like those throughout the Government, will have to share in the reductions and cost adsorptions mandated for all Government programs in 1995.

For example, the agencies in the Interior bill will have to achieve $62 million in administrative savings and almost $38 million due to FTE reductions. These agencies will also absorb over $63 million dollars in costs related to pay increases, and potentially additional amounts for the pay increases recently approved in the Treasury bill.

In total, the agencies in the Interior bill will have to reduce or absorb about $180 million in addition to the specific reductions recommended by the committee.

To meet our 602(b) allocation, the committee was faced with eliminating and significantly downsizing several programs. The rural abandoned mine program has been eliminated. We did not like to do it. It is a program that has helped the areas where it has expended funds, but we had no choice.

As to the natural resource agencies included in the bill, we have recommended funding levels which reflect a total decrease of $57 million from the 1994 level. These agencies provide for operations on the public lands in the West as well as all of our national parks, wildlife refuges, and national forests. The committee did provide increased levels for operating programs to address some of the chronic underfunding of operating the parks and managing other public lands, but was not able to provide the amounts requested by the administration. There just was not enough money in our allocation.

The committee has provided a 19 percent increase for energy conservation programs. The items recommended for the climate plan are those expected to yield the largest reductions in greenhouse gas emissions. The overall increase for energy conservation is $134 million, which is about $152 million less than requested by the administration.

The committee was faced with a very difficult situation when the President's budget reduced the Indian health programs by $250 million below the 1994 level.

☐ 1110

Even after a budget amendment of $125 million was provided to our committee by the administration, the request was still $125 million below the current level. That is a huge, huge disparity. The committee recommendation of almost $1,960,000,000 provides only for essential operations for Indian Health which is unfortunate, Mr. Chairman, because the Indian people as a group are in much poorer health than any other group of people in our country.

The committee has included a total of $230 million for land acquisition in fiscal year 1995, which is a decrease of $24 million below the 1994 level. A majority of the accounts in this bill are recommended for funding below current levels. They include, in addition to the agencies already discussed, the U.S. Geological Survey, the Minerals Management Service, the Bureau of Mines, the Office of Surface Mining, the Bureau of Indian Affairs, Territorial Affairs, Departmental Offices of the Department of the Interior, Naval Petroleum and Oil Shale Reserves, the Kennedy Center, the National Endowment for the Humanities, the Institute for Museum Services, the National Capital Planning Commission—numbers of agencies, even some that I have not mentioned.

We have provided for moratoria on OCS oil and gas leasing and related activities, just as we did last year. This would provide prohibitions against offshore leasing along the entire Atlantic and Pacific Coasts, the entire Gulf of Mexico off Florida, and Bristol Bay in Alaska.

There was an addition of $1 million for the National Endowment for the Arts, concerning which there will be some explanation later on, but the committee felt this was necessary in order to advance Arts and Education, to provide Arts Education for the younger people in our country. We will go into that to a greater extent later on in the discussion of this bill.

Finally the committee recommended $77,281,000 for Endangered Species activities.

So, Mr. Chairman, this has been a broad general summary of what our committee did. I want to acknowledge the excellent and unique cooperation that I have had from the ranking Republican member, the gentleman from Ohio [Mr. REGULA], not only this year but over all the years that I have been chairman and he has been our ranking member. There is not a finer member of the House than Mr. REGULA, nor is there one who is more knowledgeable of the fields in which this bill is engaged. It is a pleasure to work with him.

I also want to acknowledge the fine work done by our Appropriations Subcommittee staff on both sides of the aisle. I want particularly to pay tribute to the clerk of our subcommittee, Mr. Neal Sigmon, whose work has been outstanding through the years.

In printing the committee report, one amendment adopted by the committee was not accurately reflected in House Report 103-551. That amendment relates to the northwest forest plan in the endangered species program. On page 18 of the report, after the table explaining the resource management account, the following is the correct delineation of the committee's action:

Endangered species.—The committee recommends $77,281,000 for endangered species activities within the Fish and Wildlife Service Enhancement Program. The budget request included net program increases of $23,435,000 for endangered species within the resource management account. Of that requested increase the committee has provided $19,305,000. The following table shows the distribution of the programmatic increase over fiscal year 1994 recommended by the committee:

Prelisting	+$280,000
Listing	+860,000
Consultation	+4,480,000
Permits	+625,000
Recovery	+13,060,000
Total	+19,305,000

Within the amounts provided are increases of $11,250,000 for the forest plan including $700,000 in listing, $2,300,000 for consultation and $8,250,000 for recovery. For south Florida, increases include $80,000 for prelisting, $10,000 for listing, $100,000 for consultation and $500,000 for recovery. NAFTA related increases are $200,000 for prelisting, $150,000 for listing, $200,000 for consultation, $125,000 for permits and $680,000 for recovery.

I would like to make one comment about a specific project which is of particular interest to Congressman GORDON: Stones River National Battlefield. The gentleman from Tennessee approached me and asked that any excess land acquisition funds which have been appropriated for the historic river trail be made available for general battlefield land acquisition, and vice versa should there be a shortfall in the river trail land acquisition account.

I realize how important the free flow of funds between the two accounts is to the timely acquisition of land which is threatened by commercial and residential development. I will work with the Senate to include language in the conference report which will allow for this arrangement.

At this point I ask that a table detailing the accounts in the bill be submitted in the RECORD.

FY 1995 INTERIOR APPROPRIATIONS BILL (H.R. 4602)

	FY 1994 Enacted	FY 1995 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
TITLE I - DEPARTMENT OF THE INTERIOR					
Bureau of Land Management					
Management of lands and resources	599,860,000	605,099,000	596,349,000	-3,511,000	-8,750,000
Fire protection	117,143,000	114,968,000	114,968,000	-2,175,000	
Emergency Department of the interior firefighting fund	116,674,000	121,176,000	121,176,000	+4,502,000	
Central hazmat account		14,050,000	13,435,000	+13,435,000	-615,000
Construction and access	10,467,000	3,936,000	3,836,000	-6,631,000	-100,000
Payments in lieu of taxes	104,108,000	104,108,000	104,108,000		
Land acquisition	12,122,000	21,173,000	17,060,000	+4,938,000	-4,113,000
Oregon and California grant lands	82,052,000	105,860,000	100,860,000	+18,808,000	-5,000,000
Forest ecosystems health and recovery	1,500,000			-1,500,000	
Range improvements (indefinite)	10,025,000	10,350,000	10,350,000	+325,000	
Service charges, deposits, & forfeitures (indefinite)	7,932,000	8,900,000	8,900,000	+968,000	
Miscellaneous trust funds (indefinite)	7,505,000	7,605,000	7,605,000	+100,000	
Total, Bureau of Land Management	1,069,388,000	1,117,225,000	1,098,647,000	+29,259,000	-18,578,000
United States Fish and Wildlife Service					
Resource management	481,623,000	539,083,000	514,650,000	+33,027,000	-24,433,000
Construction	73,565,000	35,095,000	25,264,000	-48,301,000	-9,831,000
Natural resource damage assessment and restoration fund	6,700,000	7,752,000	6,700,000		-1,052,000
Land acquisition	82,655,000	86,162,000	62,300,000	-20,355,000	-23,862,000
Cooperative endangered species conservation fund	9,000,000	10,571,000	9,000,000		-1,571,000
National wildlife refuge fund	12,000,000	13,748,000	12,000,000		-1,748,000
Rewards and operations	1,169,000	1,169,000	1,169,000		
North American wetlands conservation fund	12,000,000	13,952,000		-12,000,000	-13,952,000
Wildlife conservation and appreciation fund	1,000,000	1,000,000	1,000,000		
Total, United States Fish and Wildlife Service	679,712,000	708,532,000	632,083,000	-47,629,000	-76,449,000
National Biological Survey					
Research, inventories, and surveys	167,209,000	176,450,000	167,209,000		-9,241,000
National Park Service					
Operation of the national park system	1,061,823,000	1,124,715,000	1,083,973,000	+22,150,000	-40,742,000
National recreation and preservation	42,585,000	40,479,000	36,946,000	-5,639,000	-3,533,000
Historic preservation fund	40,000,000	42,000,000	41,000,000	+1,000,000	-1,000,000
Construction	201,724,000	148,568,000	171,417,000	-30,307,000	+22,849,000
Urban park and recreation fund	5,000,000	5,000,000	10,000,000	+5,000,000	+5,000,000
Land and water conservation fund (rescission of contract authority)	-30,000,000	-30,000,000	-30,000,000		
Land acquisition and state assistance	95,250,000	82,696,000	88,596,000	-6,654,000	+5,900,000
Illinois and Michigan Canal National Heritage Corridor Commission	250,000			-250,000	
Total, National Park Service (net)	1,416,632,000	1,413,458,000	1,401,932,000	-14,700,000	-11,526,000
United States Geological Survey					
Surveys, investigations, and research	584,685,000	580,680,000	576,775,000	-7,910,000	-3,905,000
Minerals Management Service					
Royalty and offshore minerals management	193,197,000	193,906,000	190,206,000	-2,991,000	-3,700,000
Oil spill research	5,331,000	6,452,000	6,452,000	+1,121,000	
Total, Minerals Management Service	198,528,000	200,358,000	196,658,000	-1,870,000	-3,700,000
Bureau of Mines					
Mines and minerals	169,436,000	148,919,000	152,269,000	-17,167,000	+3,350,000
Office of Surface Mining Reclamation and Enforcement					
Regulation and technology	110,552,000	110,006,000	110,206,000	-346,000	+200,000
Receipts from performance bond forfeitures (indefinite)	1,190,000	1,190,000	1,190,000		
Subtotal	111,742,000	111,196,000	111,396,000	-346,000	+200,000
Abandoned mine reclamation fund (definite, trust fund)	190,107,000	166,704,000	172,404,000	-17,703,000	+5,700,000
Total, Office of Surface Mining Reclamation and Enforcement	301,849,000	277,900,000	283,800,000	-18,049,000	+5,900,000
Bureau of Indian Affairs					
Operation of Indian programs	1,490,805,000	1,498,430,000	1,527,786,000	+36,981,000	+29,356,000
Construction	166,979,000	82,973,000	131,030,000	-35,949,000	+48,057,000
Indian land and water claim settlements and miscellaneous payments to Indians	103,259,000	174,045,000	82,896,000	-20,363,000	-91,149,000
Navajo rehabilitation trust fund	2,466,000			-2,466,000	
Technical assistance of Indian enterprises	1,970,000	1,970,000	1,970,000		
Indian direct loan program account	2,484,000		2,484,000		+2,484,000
(Limitation on direct loans)	(10,890,000)			(-10,890,000)	
Indian guaranteed loan program account	9,690,000	9,690,000	9,690,000		
(Limitation on guaranteed loans)	(69,000,000)	(46,900,000)	(46,900,000)	(-22,100,000)	
Total, Bureau of Indian Affairs	1,777,653,000	1,767,108,000	1,755,856,000	-21,797,000	-11,252,000

FY 1995 INTERIOR APPROPRIATIONS BILL (H.R. 4602)—Continued

	FY 1994 Enacted	FY 1995 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
Territorial and International Affairs					
Administration of territories	54,187,000	50,919,000	55,419,000	+1,232,000	+4,500,000
Northern Mariana Islands Covenant	27,720,000	27,720,000	27,720,000		
Subtotal	81,907,000	78,639,000	83,139,000	+1,232,000	+4,500,000
Trust Territory of the Pacific Islands	23,838,000	900,000	2,900,000	-20,938,000	+2,000,000
Compact of Free Association	12,102,000	13,258,000	17,758,000	+5,656,000	+4,500,000
Mandatory payments	10,000,000	14,900,000	14,900,000	+4,900,000	
Subtotal	22,102,000	28,158,000	32,658,000	+10,556,000	+4,500,000
Total, Territorial and International Affairs	127,847,000	107,697,000	118,697,000	-9,150,000	+11,000,000
Departmental Offices					
Office of the Secretary	64,111,000	62,599,000	62,599,000	-1,512,000	
Ecosystem restoration funds	7,000,000			-7,000,000	
Office of the Solicitor	33,359,000	35,374,000	35,374,000	+2,015,000	
Office of Inspector General	24,283,000	23,985,000	23,985,000	-298,000	
Construction Management	2,394,000	2,133,000	2,000,000	-394,000	-133,000
National Indian Gaming Commission	1,000,000	1,481,000	1,000,000		-481,000
Total, Departmental Offices	132,147,000	125,572,000	124,958,000	-7,189,000	-614,000
Total, title I, Department of the Interior (net)	6,625,086,000	6,623,899,000	6,506,884,000	-118,202,000	-115,015,000
Appropriations	(6,655,086,000)	(6,653,899,000)	(6,536,884,000)	(-118,202,000)	(-115,015,000)
Rescission	(-30,000,000)	(-30,000,000)	(-30,000,000)		
(Limitation on direct loans)	(10,890,000)			(-10,890,000)	
(Limitation on guaranteed loans)	(69,000,000)	(46,900,000)	(46,900,000)	(-22,100,000)	
TITLE II - RELATED AGENCIES					
DEPARTMENT OF AGRICULTURE					
Forest Service					
Forest research	193,083,000	203,280,000	201,780,000	+8,697,000	-1,500,000
State and private forestry	165,315,000	158,185,000	158,664,000	-6,651,000	+479,000
Emergency pest suppression fund	(15,000,000)		(17,000,000)	(+2,000,000)	(+17,000,000)
International forestry	6,996,000	9,972,000	7,000,000	+4,000	-2,972,000
National forest system	1,308,823,000	1,355,312,000	1,336,162,000	+27,339,000	-19,150,000
Forest Service fire protection	185,168,000	156,590,000	160,590,000	-24,578,000	+4,000,000
Emergency Forest Service firefighting fund	190,222,000	226,200,000	226,200,000	+35,978,000	
Construction	252,802,000	221,791,000	191,740,000	-61,062,000	-30,051,000
Timber receipts transfer to general fund (indefinite)	(-48,289,000)	(-51,828,000)	(-51,828,000)	(-3,539,000)	
Timber purchaser credits	(60,000,000)	(50,000,000)	(50,000,000)	(-10,000,000)	
Land acquisition	64,250,000	64,241,000	62,131,000	-2,119,000	-2,110,000
Acquisition of lands for national forests, special acts	1,212,000	1,252,000	1,252,000	+40,000	
Acquisition of lands to complete land exchanges (indefinite)	203,000	210,000	210,000	+7,000	
Range betterment fund (indefinite)	4,600,000	4,584,000	4,584,000	-16,000	
Gifts, donations and bequests for forest and rangeland research	96,000	89,000	89,000	-7,000	
Total, Forest Service	2,372,770,000	2,401,706,000	2,350,402,000	-22,368,000	-51,304,000
DEPARTMENT OF ENERGY					
Clean coal technology	-175,000,000	-337,879,000	-337,879,000	-162,879,000	
Fossil energy research and development	430,674,000	451,130,000	428,544,000	-2,130,000	-22,586,000
(By transfer)		(17,000,000)	(17,000,000)	(+17,000,000)	
Alternative fuels production (indefinite)	-4,798,000	-4,250,000	-4,250,000	+548,000	
Naval petroleum and oil shale reserves	214,772,000	199,456,000	193,956,000	-20,816,000	-5,500,000
Energy conservation	690,375,000	976,856,000	824,585,000	+134,210,000	-152,271,000
Economic regulation	12,994,000	12,437,000	12,437,000	-557,000	
Emergency preparedness	8,901,000	8,249,000	8,249,000	-652,000	
Strategic Petroleum Reserve	206,810,000	153,247,000	153,247,000	-53,563,000	
(By transfer)		(90,764,000)	(90,764,000)	(+90,764,000)	
Energy Information Administration	86,553,000	84,728,000	84,728,000	-1,825,000	
Total, Department of Energy	1,471,281,000	1,543,974,000	1,363,617,000	-107,664,000	-180,357,000
DEPARTMENT OF HEALTH AND HUMAN SERVICES					
Indian Health Service					
Indian health services	1,645,877,000	1,651,889,000	1,706,102,000	+60,225,000	+54,213,000
Indian health facilities	296,982,000	167,079,000	253,892,000	-43,090,000	+86,813,000
Total, Indian Health Service	1,942,859,000	1,818,968,000	1,959,994,000	+17,135,000	+141,026,000
DEPARTMENT OF EDUCATION					
Office of Elementary and Secondary Education					
Indian education	83,500,000	86,000,000	83,500,000		-2,500,000
OTHER RELATED AGENCIES					
Office of Navajo and Hopi Indian Relocation					
Salaries and expenses	26,936,000	28,897,000	26,936,000		-1,961,000
Institute of American Indian and Alaska Native Culture and Arts Development					
Payment to the Institute	12,563,000	9,812,000	12,713,000	+150,000	+2,901,000

FY 1995 INTERIOR APPROPRIATIONS BILL (H.R. 4602)—Continued

	FY 1994 Enacted	FY 1995 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
Smithsonian Institution					
Salaries and expenses	302,349,000	318,579,000	314,454,000	+12,105,000	-4,125,000
Construction and Improvements, National Zoological Park	5,400,000	5,000,000	5,000,000	-400,000	
Repair and restoration of buildings	24,000,000	25,300,000	24,000,000		-1,300,000
Construction	10,400,000	50,000,000	30,000,000	+19,600,000	-20,000,000
Total, Smithsonian Institution	342,149,000	398,879,000	373,454,000	+31,305,000	-25,425,000
National Gallery of Art					
Salaries and expenses	51,908,000	53,418,000	53,003,000	+1,095,000	-415,000
Repair, restoration and renovation of buildings	2,831,000	4,431,000	4,431,000	+1,600,000	
Total, National Gallery of Art	54,739,000	57,849,000	57,434,000	+2,695,000	-415,000
John F. Kennedy Center for the Performing Arts					
Operations	7,932,000	10,343,000	10,343,000	+2,411,000	
Repair and rehabilitation	12,697,000	9,000,000	9,000,000	-3,697,000	
Total, John F. Kennedy Center for the Performing Arts	20,629,000	19,343,000	19,343,000	-1,286,000	
Woodrow Wilson International Center for Scholars					
Salaries and expenses	6,352,000	9,878,000	9,878,000	+3,526,000	
National Foundation on the Arts and the Humanities					
National Endowment for the Arts					
Grants and administration	140,836,000	140,950,000	141,950,000	+1,114,000	+1,000,000
Matching grants	29,392,000	29,150,000	29,150,000	-242,000	
Total, National Endowment for the Arts	170,228,000	170,100,000	171,100,000	+872,000	+1,000,000
National Endowment for the Humanities					
Grants and administration	151,300,000	151,420,000	151,420,000	+120,000	
Matching grants	26,191,000	25,963,000	25,963,000	-228,000	
Total, National Endowment for the Humanities	177,491,000	177,383,000	177,383,000	-108,000	
Institute of Museum Services					
Grants and administration	28,777,000	28,770,000	28,770,000	-7,000	
Total, National Foundation on the Arts and the Humanities	376,496,000	376,253,000	377,253,000	+757,000	+1,000,000
Commission of Fine Arts					
Salaries and expenses	805,000	834,000	834,000	+29,000	
National Capital Arts and Cultural Affairs					
Grants	7,500,000	6,648,000	7,500,000		+852,000
Advisory Council on Historic Preservation					
Salaries and expenses	2,959,000	2,947,000	2,967,000	+8,000	+20,000
National Capital Planning Commission					
Salaries and expenses	5,868,000	5,655,000	5,655,000	-213,000	
Franklin Delano Roosevelt Memorial Commission					
Salaries and expenses	49,000	48,000	48,000	-1,000	
Pennsylvania Avenue Development Corporation					
Salaries and expenses	2,738,000	2,865,000	2,738,000		-127,000
Public development	4,289,000	4,184,000	4,084,000	-205,000	-100,000
Land acquisition and development fund	7,193,000			-7,193,000	
Total, Pennsylvania Avenue Development Corporation	14,220,000	7,049,000	6,822,000	-7,398,000	-227,000
United States Holocaust Memorial Council					
Holocaust Memorial Council	21,679,000	25,660,000	26,660,000	+4,981,000	+1,000,000
Total, title II, Related Agencies	6,763,354,000	6,800,400,000	6,685,010,000	-78,344,000	-115,390,000
(Timber receipts transfer to general fund, indefinite)	(-48,289,000)	(-51,828,000)	(-51,828,000)	(-3,539,000)	
(Timber purchaser credits)	(60,000,000)	(50,000,000)	(50,000,000)	(-10,000,000)	
Grand total:					
New budget (obligational) authority (net)	13,388,440,000	13,424,299,000	13,193,894,000	-194,546,000	-230,405,000
Appropriations	(13,418,440,000)	(13,454,299,000)	(13,223,894,000)	(-194,546,000)	(-230,405,000)
Rescission	(-30,000,000)	(-30,000,000)	(-30,000,000)		
(Timber receipts transfer to general fund, indefinite)	(-48,289,000)	(-51,828,000)	(-51,828,000)	(-3,539,000)	
(Timber purchaser credits)	(60,000,000)	(50,000,000)	(50,000,000)	(-10,000,000)	
TITLE I -DEPARTMENT OF THE INTERIOR					
Bureau of Land Management	1,069,388,000	1,117,225,000	1,098,647,000	+29,259,000	-18,578,000
United States Fish and Wildlife Service	679,712,000	708,532,000	632,083,000	-47,629,000	-76,449,000
National Biological Survey	167,209,000	176,450,000	167,209,000		-9,241,000
National Park Service	1,416,632,000	1,413,458,000	1,401,932,000	-14,700,000	-11,526,000
United States Geological Survey	584,685,000	580,680,000	576,775,000	-7,910,000	-3,905,000
Minerals Management Service	198,528,000	200,358,000	196,658,000	-1,870,000	-3,700,000
Bureau of Mines	169,436,000	148,919,000	152,269,000	-17,167,000	+3,350,000

FY 1995 INTERIOR APPROPRIATIONS BILL (H.R. 4602)—Continued

	FY 1994 Enacted	FY 1995 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
Office of Surface Mining Reclamation and Enforcement	301,849,000	277,900,000	283,800,000	-18,049,000	+5,900,000
Bureau of Indian Affairs	1,777,653,000	1,767,108,000	1,755,856,000	-21,797,000	-11,252,000
Territorial and International Affairs	127,847,000	107,697,000	118,697,000	-9,150,000	+11,000,000
Departmental Offices	132,147,000	125,572,000	124,958,000	-7,189,000	-614,000
Total, Title I - Department of the Interior	6,625,086,000	6,623,899,000	6,508,884,000	-116,202,000	-115,015,000
TITLE II - RELATED AGENCIES					
Forest Service	2,372,770,000	2,401,706,000	2,350,402,000	-22,368,000	-51,304,000
Department of Energy	1,471,281,000	1,543,974,000	1,363,617,000	-107,664,000	-180,357,000
Indian Health	1,942,859,000	1,818,968,000	1,959,994,000	+17,135,000	+141,026,000
Indian Education	83,500,000	86,000,000	83,500,000		-2,500,000
Office of Navajo and Hopi Indian Relocation	26,936,000	28,897,000	26,936,000		-1,961,000
Institute of American Indian and Alaska Native Culture and Arts Development	12,563,000	9,812,000	12,713,000	+150,000	+2,901,000
Smithsonian	342,149,000	398,879,000	373,454,000	+31,305,000	-25,425,000
National Gallery of Art	54,739,000	57,849,000	57,434,000	+2,695,000	-415,000
John F. Kennedy Center for the Performing Arts	20,629,000	19,343,000	19,343,000	-1,286,000	
Woodrow Wilson International Center for Scholars	6,352,000	9,878,000	9,878,000	+3,526,000	
National Endowment for the Arts	170,228,000	170,100,000	171,100,000	+872,000	+1,000,000
National Endowment for the Humanities	177,491,000	177,383,000	177,383,000	-108,000	
Institute of Museum Services	28,777,000	28,770,000	28,770,000	-7,000	
Commission of Fine Arts	805,000	834,000	834,000	+29,000	
National Capital Arts and Cultural Affairs	7,500,000	6,648,000	7,500,000		+852,000
Advisory Council on Historic Preservation	2,959,000	2,947,000	2,967,000	+8,000	+20,000
National Capital Planning Commission	5,868,000	5,655,000	5,655,000	-213,000	
Franklin Delano Roosevelt Memorial Commission	49,000	48,000	48,000	-1,000	
Pennsylvania Avenue Development Corporation	14,220,000	7,049,000	6,822,000	-7,398,000	-227,000
Holocaust Memorial Council	21,679,000	25,660,000	26,660,000	+4,981,000	+1,000,000
Total, Title II - Related Agencies	6,763,354,000	6,800,400,000	6,685,010,000	-78,344,000	-115,390,000
Grand total	13,388,440,000	13,424,299,000	13,193,894,000	-194,546,000	-230,405,000

Mr. REGULA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of the Interior Appropriations bill, and I want to join the chairman of the subcommittee, the gentleman from Illinois [Mr. YATES], in recommending this bill to all the Members.

Each year this bill seems to present a challenge. Unlike many years when we have wrestled with tough policy decisions, this year our biggest hurdle was a fiscal one. But that is as it should be in the Appropriations Committee.

As always, the chairman of the subcommittee has done a super job of balancing our fiscal responsibilities and our commitment to properly manage and protect our Nation's natural resources. Somehow we have brought a bill to the Members that is within our 602(b) allocation, but it has not been without pain and hardship. Specifically, this bill is below—and I emphasize this—the administration's request by $193 million and below last year's level by $206 million. And we are below the outlay allocation by $1 million and below in budget authority by about $4 million.

What I am saying to all the Members is that this is a lean bill because while the amount of money provided in this bill is less, at the same time the demands on our public lands have grown exponentially and, therefore, it poses a great challenge to meet all these needs while at the same time reducing expenditures. I want to assure my colleagues, especially those on my side of the aisle, that this is a lean bill.

I did a little calculation last night just to remind all of us how much bang for the buck the people get from this legislation. Few people realize that this bill will generate an estimated $8.1 billion in receipts in fiscal year year 1995 from OCS, grazing and mineral leases, forest timber sales, and sales of oil from the naval petroleum reserves. If you subtract the receipts from the expenditures, you have a net cost of about $4.4 billion. That is about $20 per person for the people of the United States. For that $20, think what we get. We get the 367 National Parks available to the public, encompassing 80 million acres, with parks in 49 States and some of the territories and the District of Columbia. We get 270 million acres of BLM lands which again are used by the public in many instances. We get 92 million acres of Fish and Wildlife Service lands, again available to the public to visit for educational purposes, recreation, and so on.

In addition, we have the forestlands, the tremendous acreages in National Forests that produce the timber which allows that first-time home buyer to have an opportunity to get a new home at reasonable cost.

All of this we get for $20 per person net cost. I think it is a tremendous bargain, and that is what we have tried to achieve in this bill.

We did accommodate the administration's initiatives, including the south Florida ecosystem that deals with Everglades. It is kind of ironic. We are going back and fixing the things that we have done in the past, the canals that were part of that system down there, the drainage of the Everglades. We have discovered that when we tamper with nature, we create huge problems. So now we are going to spend money repairing things that have been done in previous years. I think that is why it is so important that we always be sensitive to the impact of our activities.

With respect to the activities of the new National Biological Survey in our bill, which is somewhat contentious, we make it clear that the agency is to continue to operate within the guidelines that are set forth in the bill, and we currently provide these with respect to research and other activities.

I know that many of the Members have a concern about this, and we have made it as tight as possible, given the fact that under executive order the Secretary of the Interior has created the NBS. I know that many would wish that we could go further, but this is all that is within the jurisdiction of our committee. There are a number of things here that ought to be addressed in the authorizing process, but they have not been, and, therefore, we need to express our concern and do as well as we can under the circumstances.

☐ 1120

I wanted to take a few minutes to talk about the provision in the bill that I think one of my colleagues will also want to address, and that is the moratorium on patenting mining claims on Federal lands. We have carried the provision, at my request, for the past 4 years, and each year we have allowed this provision to be stricken during the conference.

This year, we had hoped that the comprehensive mining reform legislation would be enacted, as bills have passed both Houses. But as yet the conference has not taken place, and we have become increasingly less optimistic that reform of the antiquated mining law will occur in the 103d Congress. For that reason, the subcommittee has seen fit to again include a moratorium. I am hopeful we can retain that provision in conference, absent final action on the mining reform bill.

Just last week the Mineral Policy Center released a report, and I urge all of my colleagues to read this. They issued a report which echoed the concerns that we have expressed on this issue for some time. It is entitled "Golden Patents, Empty Pockets." That is what happens to the Federal Government, that is what happens to the people of these United States that own this land. We get empty pockets with golden patents.

The report concludes that unless Congress takes action during the 103d Congress, title to more than $34 billion in mineral resources belonging to the American public will be signed over to private mining companies for no more than $800,000. What a bargain. We are potentially giving away $34 billion of mineral resources for $800,000, and no royalties and no assurance it will be reclaimed in a proper way.

Many of these companies with pending patent applications are not even American companies. We are literally giving away our rich mineral resources, gold, silver, platinum and others, to foreign interests, at bargain basement prices. It is possibly the biggest travesty in Government, and yet it is happening under the antiquated law passed in 1872. We are still living under the terms of that law.

The Mineral Policy Center that did this report estimates that since 1872, the Federal Government has given away more than $231 billion of mineral resources belonging to the American public, either by patent or by royalty-free mining on public lands. Just recently, and it was in the news, the Secretary of the Interior was forced to approve by a court under the law, the 1872 law, a patent application of American Barrick Resources, a Canadian corporation, for 1,038 acres. A patent is the equivalent of a deed. These lands hold mineral resources valued at more than $10 billion. Barrick took title to the land for $5,190. They now own 10 billion worth of resources for $5,190. No bargain for the taxpayer. And they will pay no royalty on the mineral resources.

Patent applications have increased as Congress has tried unsuccessfully in recent years to reform the mining law. Currently 613 patent applications are being processed by BLM. The longer Congress avoids mining reform, the more likely all of the mineral resources are to leave public ownership at the bargain rate of $2.50 to $5 per acre with no chance of gathering royalty payments on these resources.

While many of the 613 applications are too far along in the process to be affected by the amendment in the bill, the moratorium, at least if we adopt it, will show that the giveaway and maybe the continued giving of our resources can be stopped and we can get both sides to the bargaining table and achieve mining reform. I think the moratorium is essential to get a mining reform bill out of the Congress.

The Mineral Policy Center recommends an immediate patent moratorium, and estimates this would save more than $10 billion in recoverable minerals reserves from being privatized by mining companies.

In short, this is a lean bill. It tries to balance the needs of our native Americans, and we have heard some comments on that before, our natural resources, and our energy policy, with the fiscal constraints we continue to face.

I want to say also, as part of the minority, this is truly a bipartisan bill. The chairman gives all the Members an opportunity to participate. I think he is extremely fair. He gives great leadership to the subcommittee, backed by a good staff. As a result, what we produce here is very bipartisan.

I know that we have had dozens of Member requests for projects, and all of those requests are treated equally by the chairman and the members of the committee without any regard to any partisan label. We try to respond to requests based on the priorities that we have to establish and the policy issues we have to address, simply because of the fiscal restraints that go with it. I think we are very fortunate to have the leadership of Chairman YATES and the fairness that he brings to this activity, because this bill, perhaps more than any other, touches the jewels of this Nation, the public lands, our parks, our forests, our streams.

I might add, and I have not really discussed this, that as we live in an era of diminishing energy resources, the research and the management of our energy assets in the United States are covered also by activities in this bill. We have tried to again have policies that will ensure adequate energy for the years ahead, and to use the resources in a very responsible way.

I certainly urge all of my colleagues to support this bill. I think it is very responsible, very well-crafted, and certainly responds to the fiscal constraints that are part of what we are trying to do in reducing the deficit. This bill takes a good step in that direction.

Mr. Chairman, I reserve the balance of my time.

Mr. YATES. Mr. Chairman, I yield 3 minutes to the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Chairman, I want to call the attention of the House to a very important provision in this legislation.

As the sponsor of the comprehensive House bill to reform the mining law of 1872, I commend the Appropriations Committee and in particular, RALPH REGULA, for including a moratorium on the processing and issuance of mining claim patent applications in this bill.

Who would not be justified in expressing shock and outrage upon learning that their government is currently being compelled to transfer title to $34 billion worth of publicly owned minerals for a price averaging less than $5 per acre.

That this paltry sum was all that the Federal Government is legally entitled to receive under the mining law of 1872.

Yet, this is exactly what is happening.

Under the mining law of 1872, the holder of a mining claim has the option to obtain title to public land, called a patent, for a mere $2.50 or $5.00 an acre depending on the type of claim.

We are talking about paying this paltry sum for public land that contains billions of dollars' worth of gold, of silver, and of other valuable hardrock minerals.

And now, with the passing of each month, each week, and each day of delay in the enactment of legislation to bring a halt to patenting, the opportunity of the American people to receive a fair return on billions of dollars of gold, silver, and other valuable minerals found on public lands is being lost.

Already, of the 34 billion worth of patent applications currently in the pipeline, only about $10 billion of that amount can be salvaged if we pass mining law reform today.

Moreover, in the event Congress fails to enact reform legislation by the end of the current session, an untold quantity of public minerals not yet under patent application will be at risk.

Let me give some examples of what we are talking about.

There are patent applications pending for the Jerritt Canyon Mine in Nevada.

Who is applying for these patents?

An outfit called Anglo-American from South Africa owns 70 percent of this gold mine.

And in return for 1,113,200,000 worth of gold in the lands subject to the patent application, the Federal Government will receive $5,080.

Now I know you are saying that you did not hear me right.

You heard me right.

$1.1 billion worth of gold underlying public lands owned by all Americans will be given to this company for $5,080.

Incredible. Simply incredible.

And the list goes on, and on. It is all here in a report by the Mineral Policy Center. This report has been delivered to each of our offices. Read it.

Wake up America.

Where is the media.

Everybody talks about scandals.

You want to hear about a scandal?

Well, by golly, this is it. This makes Teapot Dome look like chump change.

This should be on the front page of every newspaper in America every day until Congress does something about it.

I will say this. Last year the House, by a 3-to-1 margin, passed the comprehensive mining law reform bill I sponsored. This bill would eliminate the patent.

And I would note that Mr. REGULA has on, I believe, three other occasions included his patent moratorium in the Interior appropriation bill.

Yet, each and every time it has been defeated by the other body.

Enough is enough. Let us have comprehensive mining law reform. But as a stop-gap measure, this patent moratorium is necessary and very much in the public interest.

□ 1130

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. BOUCHER) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1995

The Committee resumed its sitting.

Mr. REGULA. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Arizona [Mr. KOLBE], one of the excellent members of our subcommittee.

Mr. KOLBE. Mr. Chairman, I rise in support of the fiscal year 1995 Interior appropriations bill. I want to thank Chairman YATES and the ranking Republican on the subcommittee, RALPH REGULA, for their hard work and attention to this country's natural resource needs. This year's bill has been an especially painful exercise because the subcommittee had to find a way to cut $200 million from the fiscal year 1994 enacted spending level. Somehow, this $13.6 billion bill achieves that most difficult requirement. The result is a responsible bill that is fair and evenly balanced. It is one that we can be comfortable supporting.

Certainly, this bill is not perfect. There are provisions in here that I disagree with. I strongly oppose the 1-year moratorium on mining patents included in the bill. Mining patents should be limited—perhaps even abolished—but that issue should be, and is being addressed in the proper venue—the authorizing committees. The House and Senate are set to go to conference on mining reform and they should be allowed to perform their work without the interference of the Appropriations Committee.

I also have concerns about reductions in the Timber Sales Program. Although the bill does not reduce that program by 6 percent as the administration requested, it still does not provide adequate funding for the Timber Sales Program. The administration requested funds to harvest 4.38 billion board feet; that is almost 60 percent less than the program allowed in the early 1990's. Fiscal year 1994 funding represents a 16-percent cut from the already low fiscal year 1993 level. This bill would permit approximately 4.5 billion board feet to be harvested—not enough, but an improvement over the budget submission.

I want to thank the chairman for his willingness to work with me and other members on issues of funding for the National Biological Survey. This bill freezes funding for the NBS and includes some important private property rights protections that were adopted by the House when the NBS authorization was considered by the House. I continue to have real, not imaginary, concerns about the direction of the National Biological Survey, but this report and bill language at least preserves the position previously adopted by the House.

I continue to be concerned about forest health in my State of Arizona. A recent report by the Forest Service, environmentalists, and scientists concludes that wildfire and disease could destroy most of the forests in Arizona and the West within the next 15-30 years. I know the chairman and subcommittee share my concerns and I will continue to work with them on this pressing issue.

This appropriation bill also includes $6.5 million for land acquisition at the east unit of the Saguaro National Monument. This fully authorized project is one of the highest priorities of the National Park Service. The monument is facing an imminent threat from development and this funding is essential if we are to preserve this irreplaceable national ecological treasure.

I commend the chairman and members of the subcommittee for producing a good bill in a very difficult year. I urge support for the fiscal year 1995 Interior appropriations bill.

Mr. YATES. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I take this time to discuss one of the amendments that is scheduled to be filed against our bill later in the debate. It pertains to the appropriations for the National Endowment for the Arts.

No agency has suffered from distortion and unfair criticism more than has the National Endowment for the Arts. Even under the excellent administration of its present chairman, Jane Alexander, the critics are using distortion, untruths, and anything that will cut the appropriations for the agency.

All of this, of course, revolves around the question, what is art? I suspect that this controversy goes back even to the wall drawings in the caves of prehistoric man, where I am sure the drawings were criticized by other Members of the group.

Michelangelo, one of the great, great artists in the history of the world, was criticized by Pope Julius the 2d about his work on the Sistine Chapel. And he had to change it. His heavenly and beautiful sculpture of David was criticized by the church because he had failed to place a fig leaf at an appropriate place on David.

The fact is, artists have always rebelled against the academicians because the academicians required little deviation from their established norms, their landscapes, their portraits. The rebels, like the Impressionists in their time, were called the Fauves, the made dogs. And then the Impressionists, of course, were followed by the Expressionists and then they were followed by the abstract Impressionists.

The point, of course, is that art is not static. It is always moving. It has its rebels. It has its detractors.

It is said that when President Harry Truman was shown one of the WPA paintings, which later sold for hundreds of thousands of dollars, I am sure, he said, "If that is art, I am a Hottentot."

Well, President Truman, while he played the piano, was not reckoned to be one of the great art critics of this time.

Under attack are all forms of art: The theater, the ballet, music, books. We remember the phrase, "Banned in Boston." Ulysses by the great Irish writer James Joyce, was banned by Customs inspectors and the case came up in court.

□ 1140

It was alleged that the book was pornographic. I would like to quote from the decision of a very enlightened judge in 5 Fed. Supp. 182. This is what the judge said in the decision about the "Ulysses."

He says, "The question is whether or not this book is pornographic. If it is, it has to be banned."

He says, "And it also explains another aspect of the book which I have further to consider; namely, Joyce's sincerity and his honest effort to show exactly how the minds of his characters operate."

Then the quote goes on to say, "For his attempts sincerely and honestly to realize his objective has required him incidentally to use certain words which are generally considered dirty words and has led at times to what many think is a too poignant preoccupation with sex in the thoughts of his characters.

"The words which are criticized as dirty are old Saxon words known to almost all men and, I venture, to many women, and are such words as would be naturally and habitually used, I believe, by the types of folk whose life, physical and mental, Joyce is seeking to describe."

Then it says, "If one does not wish to associate with such folks as Joyce describes, that is one's own choice. In order to avoid indirect contact with them one may not wish to read 'Ulysses'; that is quite understandable. But when such a great artist in words, as Joyce undoubtedly is, seeks to draw a true picture of the lower middle class in a European city, ought it to be impossible for the American public" to read that book?

The court concludes with this statement: "I am quite aware that owing to some of its issues 'Ulysses' is a rather strong draught to ask some sensitive, though normal, persons to take. But my considered opinion, after long reflection, is that whilst in many places the effect of 'Ulysses' on the reader undoubtedly is somewhat emetic, nowhere does it tend to be an aphrodisiac.

"'Ulysses' may, therefore, be admitted into the United States."

Criticism has recently been aimed at one of the grants being given by the Walker Art Center, which in turn had received a grant from the National Endowment for the Arts, a grant to a person whose name is Ron Athey. The Walker Art Center, when we asked them about it, considered his performance to be serious, considered it to be artistic. According to the officials at the Walker Art Center, and this is performance art, let me say to the Members, and performance art expresses the deep emotions of those who are giving the performance.

Mr. Athey had as his prop another person, and he used acupuncture needles, perhaps a knife, to cut the back of another person. The newspapers that reported it said that the blood was flowing freely and had to be stopped by towels, and that many people left the performance.

This is what the Walker Art Center says about it, about the performance, he performed "his ritualistic work exploring modern day martyrdom as it relates to AIDS. Athey is HIV-positive." He is very unhappy about it, "but he has stated repeatedly that his co-performer whose blood was raised is not infected with HIV. Mr. Athey's work includes scarification and the use of acupuncture needles.

"According to officials at the Walker," the Center "used less than $150 for this grant," a one-night performance, "less than $150 in Endowment Fund funds to support the performance."

It goes on to say, "The Walker Art Center followed universal safety guidelines as developed by the U.S. Centers for Disease Control and provided to the Walker by the Minnesota AIDS Project. The Minnesota Department of Health has concurred. There was no threat to anybody or to members of the audience.

"Contrary to erroneous press accounts, there was no blood dripping from towels. Several paper towels were used to blot surface blood (akin to a shaving nick)," which most of the Members of the House have experienced. "This blood was not HIV-positive.

"* * * There was no panic among audience members nor a mad rush for the exits. A large majority of audience members stayed for the post-performance discussions.

"Walker officials recognized" that the theme might be controversial and it advised viewer discretion to those who were coming in to see the performance, and on calendars that advertised the performance. It told them that they were likely to be shocked by the performance. Those who went had that in mind.

Mr. Chairman, this case will be used, as were the cases of Mapplethorpe and Serrano, to try to cut the appropriations for the National Endowment for the Arts.

What is art? With my limited education in the history of art, I am not one to say what is art. I doubt that I would have gone to see Mr. Athey and his performance, but that fact does not mean that others did not want to see the performance of Mr. Athey. Should that performance have been banned so that other Americans who wanted to see it could not see it after being appropriately warned? I do not think so. I think that the American people are mature enough to know what they want to see after they have been appropriately warned. I do not think it ought to be censored.

Mr. Chairman, I am sure this will be brought up later. There will be plenty of time later to discuss this matter again.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I want to commend the chairman of the committee for his work on the Interior appropriation bill, and for the cooperation we have had these past years, which has been extraordinary, on subjects of interest.

The Walker Art Center in Minnesota is a proud cultural institution in my sister city of Minneapolis. I just want to say to the gentleman from Illinois [Mr. YATES] that there are many who would want to sweep under the rug many of the problems and issues that we have before this country. There seems to be a phenomenon, Mr. Chairman, to associate with the expression and revelations of problems that are occurring whether it is AIDS or other serious problems we have, in our Nation; to attribute that to, in fact, the arts, to attribute it to the Federal Government as actually causing the problems.

In essence, Mr. Chairman, we are trying to respond to such issues and claims. We are trying to protect free expression—some of which maybe uncomfortable. I think all of us believe in the free choice of men and the individual as one of the highest goals of our Western culture and society, which is manifest in this Nation, and not in determinism; that is to say, that somehow the events and what people are exposed to shapes, in essence, their behavior.

We are responding to the serious problem of AIDS and HIV infection, and clearly these arts are talking about topics that are obviously not comfortable. They are controversial. They cause a lot of anxiety in me, and I suspect they do in many of our constituents and people across this Nation, but I think we want to deal with problems and face up to them, and we have to recognize that the artists are very often at the cutting edge of dealing with these serious social problems, whether they are issues of race relations, whether they are health problems, the whole myriad of things that make up this great pluralistic society that we call our Nation, America.

Mr. Chairman, I think the arts are in the forefront of that controversy. The small contribution we make here is much less than that which is provided by other nations to try to provide the crucible of thought and creativeness that characterizes American arts, and artists, which are one of our greatest exports and one of our finest expressions of freedom as a people.

I commend the gentleman, Mr. YATES, of his often solo defense of those efforts.

Mr. YATES. Mr. Chairman, I thank the gentleman for his contribution, for pointing out that today we live in a society and in a culture where there is too much evidence of blood and violence, and that there are protests; that those who suffer from one of the great diseases of the day, one that we still do not know how to control, AIDS, those who are suffering from HIV virus are protesting the fact that they find themselves in this kind of a milieu in our world.

I think we have to recognize they have a right to protest. We may not agree with them and we may not agree with the form it takes, but protest is the right of every American.

Mr. Chairman, I reserve the balance of my time.

☐ 1150

Mr. REGULA. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. PACKARD], one of the excellent members of our subcommittee.

Mr. PACKARD. Mr. Chairman, I rise in support of the fiscal 1995 Interior funding bill. It signals a commitment to preserving both our natural and fiscal resources.

As we take up the Interior appropriations bill, I would like to take this opportunity to thank Subcommittee Chairman YATES and Ranking Member RALPH REGULA for their leadership on this legislation. As a member of the subcommittee I have certainly appreciated all of the hard work they and their staffs have put into this bill. Their insight and tough scrutiny of Interior project funding requests indicates their commitment to fiscal responsibility.

While this year's budgetary constraints prompted a strict review of the entire bill, I am extremely pleased that my colleagues shared my view that the southern California programs funded in the bill are important investments for the entire Nation.

I especially appreciate the consideration of southern California's needs with the inclusion of what amounts to $3 million for the national communities conservation plan. Money is slated for the State of California, San Diego, Orange and Riverside Counties. I also commend the inclusion of funding for an innovative project like the national fish and wildlife foundation's land acquisition program in San Diego, CA. The $1 million provided in this bill will be matched by private donations, for a total of $2 million, in a cost effective partnership between Government and private efforts. Programs like these are vital for the enhancement of our resource conservation efforts.

The Department of the Interior, charged with the preservation of our precious natural resources, naturally must include air quality improvement as part of their efforts. As a member, representing the southern California region, I have long championed the use of alternative fuels as a method of solving this region's air quality problems. For this reason, I applaud the inclusion of funds for the Department's innovative alternative fueled vehicles program. The Department is directed to consider Federal fleet purchases of all types of vehicles including alcohol, natural gas, propane, and electric vehicles. This measure also funds the Park Service's efforts to introduce electric and natural gas vehicles in both Yosemite National Park and the Grand Canyon.

In southern California, our water related resources are extremely precious. I am happy to see that the committee included funding for the bays and estuaries program in the southern California region. Residents of this region will continue to enjoy the benefits of the important program.

In addition, southern California's sharing a border with Mexico are uniquely impacted by the NAFTA agreement. For this reason increased funding for NAFTA-related law enforcement efforts will help to ensure that southern California's natural resources are not negatively impacted by the implementation of the trade agreement.

Our national parks represent this country's commitment to preserving our natural heritage for this and future generations. The inclusion of land acquisition and management funding for the San Bernardino National Forest and the Cleveland National Forest is vital to the fulfillment of this goal. In particular, funding for Cleveland National Park will complete the acquisition of the beautiful Roberts Ranch area. Programs like these are vital for the enhancement of our resource conservation efforts.

However, I caution Members to remember that funding for national parks is scarce. As you continue to consider the Desert Protection Act, I urge you to keep in mind that these new parks designated in the bill will only siphon away scarce funds better spent maintaining existing monuments and parks. What good are national parks if they cannot be maintained at a level which makes them accessible.

Vistor centers are an important resource for the attending pubic and are part of what makes a park accessible to patrons. I wish to commend the committee's incorporation of funding for the planning of a visitor center for the Lassen Volcanic National Park. These funds will be matched by private donations and provides by the cooperation of public and private resources.

Furthermore, funding for the Quincy Library group demonstrates an important partnership between local and Federal agencies. This group is committed to finding consensus on issues surrounding forest health, the environment, and timber sales in local California communities affected by Federal regulation.

Finally, as a former dentist, I wish to recognize the inclusion of additional funds for Indian Health Service's Dental Service Program. This funding will help to pay for new and replacement dental units and services. Native Americans, served under this program, will benefit greatly.

The hard work of both full committee chairman, ranking members, and staff paves the way for meeting our Nation's interior needs.

I also support funding the bill for other California projects including land acquisition and management for the Big Sur/Los Padres National Forest, the Lake Tahoe Basin, North Fork American Wild and Scenic River, the Pacific Crest National Scenic Trail, Cache Creek, San Pedro National Park, Grasslands, the San Francisco Bay and Stone Lakes National Wildlife Refuges, Golden Gate, and for the Santa Monica mountains; the Stone Lakes National Wildlife Refuge Water Supply System; the replacement of Giant Forest Facilities and the generals highway underground utilities in Sequoia National Park; and warehouse maintenance and electrical system rehabilitation in Yosemite National Park.

Mr. YATES. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Georgia [Mr. DARDEN].

Mr. DARDEN. Mr. Chairman, I rise in strong support of H.R. 4602, the fiscal year 1995 Interior appropriations bill. I commend Chairman YATES and Mr. REGULA for their diligent efforts in creating a good bill under difficult budgetary circumstances.

Mr. Chairman, I would like to thank the Interior Subcommittee for addressing the needs of several important historic sites in the State of Georgia.

The committee has been kind enough to include funding to renovate facilities at the Kennesaw Mountain National Battlefield Park. These facilities have not been improved in almost three decades.

As the result of discussions between local nonprofit organizations, community leaders, and regional U.S. National Park Service officials, a plan to provide improvements to the facilities at Kennesaw Battlefield Park has been developed. Community groups have committed to contributing $300,000 toward the total cost of this project.

Mr. Chairman, 130 years ago this week, the battlefield at Kennesaw Mountain was the site of important battle activity during General Sherman's Georgia campaign in 1864. On behalf of the citizens of Georgia's Seventh District, I thank the committee for its assistance in improving and preserving this important historic and cultural resource in Cobb County, GA.

Mr. Chairman, I would also like to thank the committee for its continuing assistance to other ongoing Georgia projects including, the protection of the Chickamauga and Chattanooga National Military Park, assistance in completing the National Prisoner of War Memorial facility at Andersonville, and development of the Pinhoti portion of the Appalachian Trail.

Mr. Chairman, I again commend the committee and urge support of the bill.

Mr. REGULA. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. MYERS], a member of the Committee on Appropriations.

Mr. MYERS of Indiana. Mr. Chairman, I thank my colleague for yielding me the time.

Mr. Chairman, I have been hearing from people in my congressional district about the proposed DOE rule on hot water heaters, outlawing the conventional resistance hot water heater and favoring only the heat pump water heater. A lot of my constituents are below the $15,000 income. They have electric water heaters now, are not on gas lines, living in rural Indiana. I am sure that other Members of Congress have heard the same complaint. I see on page 97 of the report that the committee is aware of this potential rule and is going to be watching it.

Mr. Chairman, I hope that the committee will watch very closely and consider the number of people in the country that have water heaters now, the conventional electric water heater, resistance types, that would be outlawed and cannot afford the expensive hot water heater, or the heat pump water heater.

Mr. Chairman, I hope the committee will watch it very closely and make sure the DOE does the right thing.

Mr. REGULA. Mr. Chairman, if the gentleman will yield, we are very concerned and will try to protect this language.

Mr. MYERS of Indiana. I thank the gentleman.

Mr. YATES. Mr. Chairman, I yield the balance of my time to the gentleman from Washington [Mr. DICKS].

The CHAIRMAN. The gentleman from Washington [Mr. DICKS] is recognized for 1 minute.

Mr. DICKS. Mr. Chairman, I rise in strong support of H.R. 4602, the 1995 appropriations bill for the Department of the Interior and related agencies.

Mr. Chairman, I want to note that I have had the honor of serving for 18 years on this subcommittee. During that entire time, the gentleman from Illinois [Mr. YATES] has been the chairman of the subcommittee, has served there for 20 years and done an extraordinary job. I cannot think of a fairer, more evenhanded chairman than the gentleman from Illinois [Mr. YATES]. I want to compliment the gentleman from Ohio [Mr. REGULA], who has always been extraordinarily helpful and easy to work with.

Mr. Chairman, I would like to congratulate the chairman, Mr. YATES, and the ranking minority member, Mr. REGULA, for once again showing superb leadership in crafting this important appropriations bill for the Nation. The circumstances under which the subcommittee has developed the bill have been difficult, as we have had to cut $230 million in budget authority from the administration's requested funding levels for programs under our jurisdiction in order to contribute to deficit reduction. I commend our chairman and ranking minority member for their even-handedness in dealing with the constraints we have faced. Our bill reduces funding to the required BA and outlay levels, but does so in a manner that I believe is fair to all concerned.

I urge all Members to support the passage of this bill. H.R. 4602, the Interior appropriations bill, provides for multiuse management of our Federal lands—allowing for timber harvesting, recreation use, and wilderness designation. The bill ensures that there is adequate funding for the protection of endangered species and the surveying of vital habitat. It ensures the operation of our National Park System, supports the health, economic, and educational needs of native Americans, and invests resources to ensure that the United States stays ahead of the curve in investments in energy conservation. I am also proud that the Interior appropriations bill takes the lead in investing in our Nation's cultural institutions. This bill funds the National Endowment for the Arts, the National Endowment for the Humanities, the Kennedy Center, and the Smithsonian Institution.

As a Member from the Northwest, I have shared with my constituents a difficult and complex set of circumstances relative to the management of Federal forest lands. There is still a great deal to be done to help provide stability for workers, businesses, and communities that have been greatly impacted by the drastic reductions in timber harvest levels in the region. This bill will help. It includes critical funding to implement elements of the President's forest plan, which includes resources to move forward with economic assistance and regionwide watershed restoration activities. Judge Dwyer has lifted a long held court injunction on Federal lands, and now it is time to move things forward with new strategies such as adaptive management, and a greater reliance on ecological-sensitive silvicultural techniques such as salvage and thinning.

Again, I urge full support for the bill and its final passage.

Mr. REGULA. Mr. Chairman, I yield 1 minute to the gentleman from Alaska [Mr. YOUNG], the ranking member of the authorizing committee, the Committee on Natural Resources.

Mr. YOUNG of Alaska. Mr. Chairman, I want to thank the gentleman from Ohio [Mr. REGULA] and the gentleman from Illinois [Mr. YATES] for their fine work.

Mr. Chairman, there is a good deal wrong with this bill. Specifically, it spends less money on the things important to me, and more money on things I do not think should be funded. Further, it causes all kinds of problems with job-creating industries in public land States. But, there are some good things the committee has done.

I was gravely concerned when the administration submitted its budget with a proposed $300 million budget cut for the Indian Health Service for fiscal year 1995. This was a 50-percent cut in funding for health care for Indians and Alaska Natives, breaking a trust. After the President met with tribal leaders to smoke the peace pipe, they offered a small increase. The administration's proposed cuts affected new and replacement hospital projects currently under construction in Alaska. I would like to commend and thank Chairman YATES for his hard work and effort in reinstating critical and basic funding within the Indian Health Services' budget. Of utmost importance to my Alaska Native constituents is the completion of the Alaska Native Medical Center in Anchorage, AK. This statewide regional facility has needed replacement since the 1960's and I would like to thank Chairman YATES for reinstating the $17 million to complete this important project.

In addition to the Alaska Native Medical Center, the Kotzebue hospital is in the final phase of completion. I, again, thank Chairman YATES and the committee for reinstating $2,863,000 to complete this facility. This much needed facility is currently undergoing construction during the short summer construction season of the far north and I appreciate the funding for this. The committee has also appropriated $405,000 for operations of this new hospital and has also reinstated $64,000 for completion of the Kotzebue staff headquarters in Kotzebue. This facility was also under construction when the administration cut this funding out of the Indian Health Service budget. Also appropriated for Kotzebue is $933,000 for a dental clinic. This dental clinic serves native clients from throughout the Northwest Borough region and I thank the chairman for this funding.

Lastly, I appreciate the $115,000 increase within the National Community Health Representatives Program. As you are aware, the Community Health Aide Program in Alaska is a vital and lifesaving program which serves my rural Alaska native constituents. The community health aides are the first to provide basic health and emergency care to all rural residents. I thank the members of the Appropriations Committee for the increase in this critical program.

With regard to the Bureau of Indian Affairs [BIA] budget, I want to thank the committee for again including language directing the BIA to require base funding for all self-governance programs. Last year, the BIA failed to provide full base funding to five of my southeast Alaska tribes and I thank the committee for their explicit language requiring full base funding for all self-governance programs.

I am also pleased that the committee chose to include an additional $1,500,000 to restore the fish hatchery rehabilitation program to its 1994 level. As you are aware, last year, Alaska suffered one of its first and worst Chum Salmon fishery disaster on the Yukon and Kuskokwim Rivers and the Northwest region of my State. The bureau provided funding last year to begin addressing solutions to this disaster and I thank the chairman and committee for funding this program again this year.

Mr. REGULA. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Chairman, I thank the gentleman from Ohio for yielding me the time.

Mr. Chairman, I commend the Interior Subcommittee, and especially Chairman YATES and Mr. REGULA, for setting priorities and working within the constraints of our serious budget situation. I thank them for recognizing the national importance of Florida's natural resources, especially the troubled treasure of the Florida Everglades. Funding for our "river of grass" has been increased by nearly $20 million in this bill—an investment in the long term health of this jewel that is well worth the expense.

In addition, with the strong support of the Florida delegation, this bill contains language continuing the prohibition on new leasing for offshore oil and gas rigs, and a moratorium on drilling in the waters surrounding the highly sensitive Florida Keys. By this action, we are protecting delicate environmental resources—resources that makeup the backbone of Florida's economy. Of course, I wish we could avoid this annual stop-gap measure, by reaching consensus on a long-term energy strategy, and the role offshore oil and gas production will play. Toward this end my Florida colleague HARRY JOHNSTON and I have introduced H.R. 4312, which seeks to find a lasting balance between our energy priorities and environmental needs.

Mr. REGULA. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. GRAMS].

□ 1200

Mr. GRAMS. Mr. Chairman, one of the first and most important things children learn is to look both ways before they cross the street. It is good advice that Congress would be wise to accept and give when it passes legislation that impacts the viability of businesses and jobs.

Is it not interesting that before a builder can develop a tract of land the Environmental Protection Agency requires the submission of an environmental impact statement. This is the equivalent of "look before you cross."

But when it comes to legislation meant to protect the environment, rarely are cost-benefit or economic impact statements required; and even when they are required, they are typically ignored.

Looking after you cross the street is not too smart.

In 1988 Congress designated a 72-mile stretch of the Mississippi River as the Mississippi National River and Recreational Area, to foster an atmosphere that preserves the economic and social benefits this historic corridor provides.

The final plan was adopted last month and deserves praise, but it fails to answer all the concerns between environmental protection and jobs.

As it stands, the MNRRA plan calls for an economic impact statement to be conducted during implementation. That makes zero sense. Look before you cross.

Whether we are crossing the street or possibly hurting business and killing jobs we need to think before we act.

Mr. REGULA. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I would like to ask the chairman if he might be willing to engage in a colloquy with me, and to address the chairman, the gentleman from Illinois [Mr. YATES], and the gentleman from Ohio [Mr. REGULA] with regard to a concern I have.

Mr. Chairman, I am very concerned that as resources become more scarce to fund our Nation's timber sale program that these resources may be inequitably distributed by the U.S. Forest Service between regions and forests. If this occurs, I am concerned that the timber sale programs for those forests which have cost effective and successful programs, such as the one in my district, may be negatively impacted—and there will not be the continuity or stability which is so critical to keeping these programs and their surrounding communities viable.

I would ask that for fiscal year 1995, the House Appropriations Committee closely oversee the distribution of appropriations funds between regions and within regions for the timber sale program to ensure that there is equity in the distribution of these very limited resources. In addition, I would ask that the House Appropriations Committee request that the Forest Service prepare a justification of how the funds specifically for the timber sale program will be distributed among all the regions.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I am happy to yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, I understand the gentleman's concern with the possible negative impacts due to Forest Service decisions on the distribution of resources among the various Forest Service regions. While the gentleman has stated his concern with the timber program, the committee noted in its report a more general concern with the allocation of overall resources among the Forest Service regions, including, for example, recreation funding. We have asked the Forest Service to include in its budget request for fiscal year 1996 information describing the criteria used to allocate National Forest System funds among regions. I think the gentleman's concern can be addressed within the context of this information, which is more consistent with the Forest Service's move to ecosystem management, without placing the sole emphasis on one resource only, such as timber sales.

Mr. CLINGER. Mr. Chairman, I thank the chairman very much and appreciate your position and would be grateful for any assistance that you can provide. I thank the gentleman for all your work on this bill.

Mr. REGULA. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman and Members of the committee, the chairman has discussed the problem that arose in Minnesota with the Walker institution. I would simply point out that that was a decision that was made by the local community agency and not by the NEA, and I would like to quote from a letter I received from Jane Alexander, the chairman of the NEA.

She says, and I quote:

> I have been to 36 States so far and have seen the wonderful arts organizations the Endowment has made possible in areas of the United States from the most rural to the most dense inner city, organizations which build communities through the celebration of heritage or that address the needs of at-risk youth in after-school programs or that go into classrooms to teach music or painting. The National Endowment for the Arts is an unqualified success as an agency. For every dollar we award, we leverage $11 to $20 from other public and private sources in the community.

Then she closes in her letter with the statement,

> I have devoted the first year of my chairmanship to turning around the reputation of the National Endowment for the Arts by engaging people all over the country in a dialog about all the very good projects that we support.

And so I think this is a point that the chairman is trying to make. I know that she is very concerned about what has happened in a few instances, but I do not think we should overlook the enormously productive work that is done by the NEA.

I know that we had testimony in the subcommittee from young people whose lives have been touched in a very, very positive way by their experience in neighborhood workshops where they have had an exposure to music that they might otherwise never have experienced, and in the process have become quite interested themselves. Several gave brief performances for the subcommittee, and it was extremely impressive.

I think those are some of the things that do not make the news but certainly are very constructive.

Mr. Chairman, I yield 2 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I thank the gentleman for yielding me this time.

Let me say I rise generally in support of the bill. I think the committee has done an excellent job. I know how difficult it is to try to cover the needs that fall within this committee and this agency with the amount of money that is available.

I do want to comment, however, in general on a couple of things. One of them, of course, is the mining moratorium, and I just would comment a little bit on what might be termed by some as a little hyperbole in terms of mining, but more importantly, the system.

I guess it does distress me a little bit that we talk sometimes about the fact that there are 10 billion dollars' worth of gold nuggets lying out there on the ground and you simply pay $800 or whatever it is and go out there and pick them up. That is not the case, of course.

In order to have something that is valuable out of that area, you have to invest $1 billion. You have to create jobs for 30 years. You have to pay taxes. And you do some economic development kinds of things. So it is a little overstated to suggest that there are $10 billion there. There are not $10 billion there until somebody puts in the investment to be able to bring that product to a useful and valuable area.

But notwithstanding that, I do not disagree that there needs to be some change. As a matter of fact, the conference committee will begin today to talk about it. I do not know of any reason why it needs to be patented at all, quite frankly.

I am for some royalties. I think they are much too high in the House bill. But most of all, if we have a procedure here and we say there are authorizing committees and there are appropriating committees, then that is what we ought to do is we ought to authorize in one and appropriate in another.

It is pretty frustrating for those of us who are on the authorizing committee to go ahead and do it in the appropriating committees. I think that is wrong.

Let me shift just quickly to MMS, the Minerals Management Service. We talked about that at great length last year. We brought strong evidence to show the States do the very same thing, particularly in my State of Wyoming, and they collect the royalties. But they do it much cheaper. We need to change that.

Mr. REGULA. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. SKAGGS], a member of the subcommittee.

Mr. SKAGGS. Mr. Chairman, I thank the gentleman for yielding me this time.

□ 1210

Mr. Chairman, I'd like to commend our subcommittee chairman, SIDNEY YATES, for his outstanding work on this bill. With issues ranging from natural resource management to the arts, Chairman YATES has applied his fair-minded direction to craft a bill that reflects hard choices made under tight budgetary constraints. I also want to recognize the exceptionally fine work of RALPH REGULA as our ranking Republican member.

This bill covers a lot of territory. It will result in the purchase and protection of wild lands, investments in energy conservation and efficiency research, more responsible land management, and much more. I am pleased that the fiscal year 1995 Interior appropriations bill includes several projects important to Colorado.

ENERGY CONSERVATION PROGRAMS

Happily the committee was able to increase funding for the Department of Energy's energy conservation programs by $134 million over fiscal year 1994. A great deal of this work will be carried out at the National Renewable Energy Laboratory [NREL] in Colorado. Money spent on energy conservation and efficiency research is an investment in our future. The development of greener and cleaner technologies will help us save money, reduce our dependence on foreign oil, and improve the environment.

COLORADO LAND ACQUISITION

The committee included $7.9 million from the Land and Water Conservation Fund for land purchases in Colorado. This will ensure that some unique and precious areas of Colorado will be protected and preserved in their natural state for all to enjoy.

The land acquisitions include:

One and a half million dollars for East Portal tract, a 1,320-acre parcel of private land surrounded by the Arapaho-Roosevelt National Forest at the East Portal of the Moffat Tunnel. The area is an important hiking and skiing destination area in a roadless wilderness area.

Two million dollars for the Wilderness Protection Fund to purchase wilderness inholdings—privately-held lands in wilderness areas—in Colorado.

Two million dollars for Sangre/Kit Carson tract in the Rio Grande National Forest. This 8,500 acre tract is a well-known mountain climbing destination that's adjacent to recently designated wilderness.

Two million dollars to purchase 2,677 acres of the most spectacular scenery along the Unaweep/Tabeguache Scenic and Historic Byway. This land is a recreational area that also provides important winter range for big game, and peregrine falcon habitat.

Four hundred thousand dollars for acquisitions for Rocky Mountain National Park. Potential sites for acquisition include Circle C Church Ranch, a privately held tract that could be included in Rocky Mountain National Park, and "the Wedge", a private section of land adjoining the Kawuneeche Valley in the Arapaho National Forest.

FISH AND WILDLIFE LAW ENFORCEMENT

The committee secured second-year funding for a new Fish and Wildlife Service law enforcement program to combat illegal pollution that threatens wildlife. This program focuses particularly on unsafe cyanide leach mining operations and problems from other oil drilling and mining-related toxins.

The cyanide contamination from the Summitville mine was an ecological disaster that will end up costing taxpayers tens of millions of dollars. Beefing up law enforcement capabilities at Fish and Wildlife will help prevent future Summitvilles. The funds will be used to hire additional law enforcement agents for the Rocky Mountain area and to monitor, educate, and provide enforcement against the illegal use of a variety of contaminants that are killing migratory birds, eagles and endangered species.

ENDANGERED SPECIES RECOVERY

The bill includes $1.3 million in funds for the Fish and Wildlife Service's endangered species recovery programs for the Platte River and Colorado River basins. Of that, $500,000 will go for the Platte River Recovery Plan. This multi-State effort spearheaded by the Fish and Wildlife Service seeks to resolve conflicts between water development and fish and wildlife. The Fish and Wildlife Service will also receive $624,000 for the Upper Colorado River endangered fish recovery program, and $200,000 for the Upper Colorado River Basin recovery program.

FOREST SERVICE MANAGEMENT

Again this year, the committee directs the Forest Service to improve its management of the national forests in several respects.

The committee report on the bill requires the Forest Service to report to Congress on the extent of its authority for managing wilderness inholdings of subsurface mineral interests. The extent of the Forest Service's authority could have implications for wilderness lands throughout Colorado and the Nation. Clarification on this point is essential.

The committee also approved a directive that the Forest Service "avoid to the greatest extent possible entry into roadless areas" in selecting areas for timber harvests. Once roads are built in previously undeveloped areas, they destroy the wilderness value of lands, precluding later designation for wilderness protection. This is a modest effort to prevent unnecessary destruction of wilderness, and I hope the Forest Service will take a strong approach. My preference would be simply to eliminate new road construction in inventoried roadless areas of 5,000 acres or more.

Another provision in the committee report urges the Forest Service to give priority to completing its inventory of old-growth timber in the national forests and to exercise care to avoid including old-growth stands in areas put up for new timber sales.

The committee report also requests that the Forest Service report on the results of its inventory of wilderness inholdings, and it directs both the Forest Service and BLM to report on the status and funding requirements of its wild and scenic river studies and management plans.

ARTS, HUMANITIES, AND MUSEUMS

I am pleased with the committee's support for funding the National Endowment for the Arts [NEA], the National Endowment for the Humanities [NEH], and the Institute for Museum Sciences [IMS], which meets and, in the case of NEA exceeds, the administration's request. The arts and humanities are the exposition of the heart, soul, and mind of this society and of our wonderful mixture of different cultures. The modest expenditures we make on the two endowments help to bridge the Nation's diversity and to identify shared values. NEA and NEH have made the arts and humanities more accessible to the American public, and they deserve our support.

Mr. SABO. Mr. Chairman, I rise today to voice my support for provisions of the fiscal year 1995 Interior appropriations report that are intended to strengthen our international efforts to protect endangered species. The illegal trade in endangered species is increasingly threatening tigers, rhinos, and other species, particularly in Asia. This initiative, which I offered in the Appropriations Committee, draws public attention to these conditions and creates a voluntary donation program associated with the endangered species exhibits at the National Zoo in Washington, DC. The U.S. Fish and Wildlife Service [USFWS] and the Smithsonian Institution would jointly sponsor this program.

The goal of the donation program is to supplement funding for USFWS education and law enforcement programs that combat poaching and trading of endangered species. The increasing demand for tiger and rhino parts to produce "tradtiional" medicines has placed terrific pressure on these species. Without improved efforts to protect them, tigers and rhinos will be faced with certain extinction.

With 3 million visitors each year, the National Zoo is a perfect environment to educate people about the plight of these endangered species. Although I sought an $800,000 appropriation for additional Fish and Wildlife Service initiatives to halt illegal poaching and trading, budget constraints have prevented a direct appropriation for these efforts. As an alternative, this voluntary donation program will give zoo visitors an immediate avenue to help those species most at-risk. I believe zoo-goers will give graciously when they learn of the perilous circumstances of many wild animal populations.

If we are unable to halt illegal hunting and trade of these noble animals, they face ultimate extinction. Now is the time to act. I urge everyone who visits the zoo, young and old, to help save these species for future generations.

I thank the chairman of the House Interior Appropriations Subcommittee for his support for this initiative.

I would also like to include the March 28, 1994 Time magazine article "Tigers on the Brink" in the RECORD to further illustrate the urgent need for this effort.

TIGERS ON THE BRINK

(By Eugene Linden)

The great beast seems to materialize out of the dusk—a striped vision of might and mystery. Emerging from a thicket in southern India's Nagarahole National Park, the Bengal tigress is hungry and ready to begin another night's hunt. To nourish her 500-lb. body, she must kill a sambar deer, a boar or some other big animal every week of her adult life. Fortunately for her, Nature has given tigers the prowess to prey upon creatures far larger than the cats are. Her massive shoulders and forelimbs can grip and bring down a gaur, a wild, oxlike animal that may weigh more than a ton. Her powerful jaws and daggerlike teeth can rip the victim's throat or sever its spinal column, making quick work of the kill. But there will be no killing at this moment. After padding along a park road for a mere 100 yds., the tigress abruptly melts into the brush—here one instant, gone the next. Watching her disappear, Indian biologist Ullas Karanth of New York's Wildlife Conservation Society, breaks into a knowing smile. "When you see a tiger," he muses, "it is always like a dream."

All too soon, dreams may be the only place where tigers roam freely. Already the Nagarahole tigress is not free. If she hunts during the day, she may run into a carload of tourists, cameras clicking. At night, it may be poachers, guns blazing. Once the rulers of their forest home, she and the park's 50 other tigers are now prisoners of human intruders. More than 6,000 Indians live inside the 250-sq.-mi. refuge. And crowning the borders are 250 villages teeming with tens of thousands more people who covet not only the animals that the cats need for food but also the tigers. Their pelts and body parts fetch princely prices on the black market. Were it not for the 250 guards on patrol to protect Nagarahole's tigers, none of them would survive.

Sadly, this precarious life is as good as it gets for tigers today. Outside protected areas, Asia's giant cats are a vanishing breed, disappearing faster than any other large mammal with the possible exception of the rhinoceros. Even inside the parks, the tigers are succumbing to poaching and the relentless pressure of human population growth. No more than 5,000 to 7,500 of the majestic carnivores remain on the planet—a population decline of roughly 95% in this century. Unless something dramatic is done to reverse the trend, tigers will be seen only in captivity, prowling in zoos or performing in circuses. The wild tigers of old will be gone forever, their glory surviving merely in storybooks, on film—and in dreams.

Preventing such a tragedy is supposed to be the main goal of the governing body of CITES, the Convention on International Trade in Endangered Species, which is meeting in Geneva this week. These biannual sessions usually come and go without attracting much attention, but the plight of the tiger has put a spotlight on the delegates this time around. Last September CITES warned China and Taiwan, two countries where the illicit trade in tiger and rhino parts is prevalent, to take steps to shut down their black markets or face possible trade sanctions. Both nations claim to have curbed the illegal commerce, but environmentalists have gathered evidence to the contrary. Now everyone who is worried about wildlife focuses on one question: Will the nations of CITES follow through on their threat against China and Taiwan?

Whatever the outcome, it may be too late to save the tigers. They once rambled across most of Asia, from Siberia in the north to Indonesia in the south to Turkey in the west. Now they are confined to small, shrinking pockets in their forest habitat. The Caspian subspecies became extinct more than a decade ago. So did the Balinese and Javan cats. The survivors are impossible to count with any precision, but fewer than 650 Sumatran tigers remain and maybe 200 of Siberia's Amur, the world's largest cat. China has a few dozen left, and these isolated individuals will soon die out.

India, with an estimated 60% of the world's tigers, perhaps as many as 3,750, is determined to protect them. But the country's ambitious system of 21 reserves has proved increasingly susceptible to human predators. Over the past five years, the park's tiger populations have dropped 35% on average. In one notorious killing spree between 1989 and 1992, Ranthambhore National Park in Rajasthan lost 18 tigers to poachers, even though 60 guards were patrolling the forest.

Ironically, what makes the tiger so vulnerable to humans is its unshakable grip on the human imagination. For millenniums, tigers have prowled the minds of mankind as surely as they have trod the steppes and forests of Asia. On the banks of Amur River in Russia, archaeologists discovered 6,000-year-old depictions of tigers carved by the Goldis people, who revered the tiger as an ancestor and as god of the wild regions. In Hindu mythology the goddess Durga rides the tiger. And Chang Tao-ling, a patriarch of the Chinese philosophy of Taoism, also mounts a big cat in his quest to fight evil and seek the essence of life. In the English-speaking world nearly every schoolchild who has ever studied poetry is familiar with William Blake's attempt to frame with words the tiger's "fearful symmetry." India's Valmik Thapar, a student of tiger lore, say British and Dutch colonists sometimes killed the beasts in Indonesia and China as a way of asserting their supremacy over local deities.

Now more than ever the tiger's mystique is its ticket to the boneyard. If Asian cultures no longer revere the tiger as a god, many still believe that the animal is the source of healing power. Shamans and practitioners of traditional medicine, especially the Chinese, value almost every part of the cat. They believe that tiger-bone potions cure rheumatism and enhance longevity. Whiskers are thought to contain potent poisons or provide strength; pills made from the eyes purportedly calm convulsions. Affluent Taiwanese with flagging libidos pay as much as $320 for a bowl of tiger-penis soup, thinking the soup will make them like tigers, which can copulate several times an hour when females are in heat.

A beautiful tiger skin may bring its seller as much as $15,000, but the bones and other body parts generate even more money, and they are much easier to smuggle and peddle. As incomes rise in Asia, people can afford to pay tens or hundreds of dollars for a dose of tiger-based medicine. And as the destruction of tigers decreases supply, the price of their parts rises further, creating ever greater incentive for poachers to kill the remaining animals.

The forces driving the black market are so strong that nothing—not public opinion, not political pressure, not the power of police—has halted the tiger's slide toward extinction. Can international trade sanctions against Asian nations succeed where all else has failed? There is no guarantee. The tiger's plight reveals the limits of conservation efforts and raises disturbing questions about humanity's ability to share the planet with other animals. Says Elinor Constable, an Assistant Secretary of State who leads U.S. diplomatic efforts to help the tiger: "If the concerted efforts of the world cannot save the tiger, what will that say about our ability to deal with more complex environmental problems?"

Only a few years ago, the tiger was considered a conservation success story. Centuries of legal tiger hunting and forest destruction had raised the specter of extinction, but in 1972 governments rallied to rescue the cats. Taking up the issue as a personal cause, Indian Prime Minister Indira Gandhi launched Project Tiger, which established the country's network of reserves. Western nations joined with several Asian countries to ban hunting and the trade in skins. By 1980 populations on the subcontinent had recovered to the point where B.R. Koppikar, then director of Project Tiger, could boast to the New York *Times*, "You can say that there is now no danger of extinction of the tiger in India.

The conservation community so desperately wanted to believe in the success story that it ignored signs that all was not well. No government program could stop encroachment on tiger habitat as human numbers kept increasing; India alone has grown by 300 million people since the last tiger crisis. Moreover, many of the animals counted in Indian censuses turned out to exist only in the imaginations of bureaucrats who wanted to show their bosses that they were doing a good job of saving the tiger. Most significant, the tiger's defenders failed to pay enough attention to the growing market for its parts.

The market was always there, but in the 1980s it posed little threat to most tiger populations. In previous years China had slaughtered thousands of its tigers, claiming the animal was a pest that endangered humans. The massacre created a temporary glut of tiger bone—more than enough to satisfy the traditional medicine market. Looking back on what happened next, Peter Jackson, chairman of the cat-specialist group at IUCN, the International Union for the Conservation of Nature, in Geneva, says ruefully, "We should have seen this coming." Only in the late 1980s, he notes, after the Chinese had exhausted their bone stockpiles, did conservationists begin to notice unusual trends in poaching.

Brijendra Singh, a member of India's Tiger Crisis Committee, recalls hearing the first reports in 1986 of poachers being apprehended with bags of tiger bones. Intrigued, Singh and other officials at Corbett National Park set out to exhume tiger carcasses that had been buried in previous years. The workers discovered that the skeletons had already been removed. Soon reports of poaching for tiger bones began to flood in from all over India.

Only last year, however, did officials realize the scale of the slaughter. A sting operation organized by TRAFFIC, an organization that monitors the wildlife trade for the World Wildlife Fund, uncovered a vast poaching network. In one bust last August, New Delhi police found 850 lbs. of tiger bone (equivalent to 42 tigers) and eight pelts. Sansar Chand, a dealer who surrendered last December, has nearly two dozen wildlife cases pending against him. Given the ease with which traffickers can manipulate India's glacial judicial system—where cases can drag on for decades—arrest is often only an inconvenience.

For all the tiger's power, it can be an easy animal to kill, Many cats in the Ranthambhore park have died from poison that villagers sprinkled on animals that the tigers had killed and temporarily left on the ground. Other cats have fallen victim to the hunters of the Mogiya tribes, who pack high-powered rifles and shotguns. Middlemen pay them $100 to $300 per animals (a huge amount in an area where an average wage is $1 a day).

Once killed, many tigers join the corpses of leopards, jackals and other animals in a grotesque procession by cart and truck that leads ultimately to a series of tenements along a narrow, filthy alley in Delhi's Sadar Bazaar. In one cluster of squalid apartments, the TRAFFIC sting operation discovered more than a dozen families engaged in the illicit wildlife trade. There the once magnificent animals are skinned, their prized parts dried and packaged, and their bones cleaned and bleached. The skins travel west, often ending up in the homes of wealthy Arabs, while the bones make their way to the east, frequently on the backs of Tibetans who ferry the contraband across mountainous sparsely populated terrain to the Chinese border.

Indian conservationists have watched with dismay as this new round of poaching unravels the work of decades Sanjoy Debroy, a career wildlife officer, says that when he revisits a tiger reserve in Assam that he directed for a dozen years, the demoralized staff members can't talk to him without weeping. Their tigers are hunted by members of the Boro tribe, who are staging a rebellion against the government. They trade tiger parts for guns and ammunition to carry on their insurgency. The park had an estimated 90 tigers, but Debroy has heard that between 30 and 40 were killed in just four months. "I thought I had done something to restore the tiger," says Debroy, "but now I feel miserable as I watch my life's work go down the drain."

As bad as the situation is in India, it is far worse in eastern Russia's taiga. The Amur tiger that inhabits this 800-mile-long stretch of evergreen forest nearly disappeared once before—during the 1930s, when communist big shots would bag eight or 10 of the cats during a single hunt. But the state exercised iron control over the region, and when it decided to protect the tigers, their population recovered from roughly 30 to as many as 400 during the mid-1980s. Unfortunately for the Amur, tiger-bone prices began surging in the early 1990s, just when the fall of the Soviet Union led to a breakdown of law and order in the taiga.

The subsequent economic chaos has left the local wildlife departments broke and officials susceptible to bribes. Amid this collapse of enforcement, "the poacher owns the taiga," says Steven Galster, who monitors conservation efforts from Vladivostok for Britain's Tiger Trust. Not content with staking out areas frequented by the cats, some hunters stalk the Amur tiger on horseback with the help of dogs.

The losses have been staggering. Last winter, Russian officials estimated that between 80 and 96 tigers were killed, and the poaching continues unabated this year. A new study of tiger-population dynamics led by biologist John Kenney of the University of Minnesota suggests that even moderate poaching makes extinction a virtual certainty once a tiger census drops below 120. Unless the Russian government controls hunting, the Amur tiger will cross that threshold within two or three years.

Market demand drives poaching, and activists such as Sam LaBudde of the Earth Island Institute in San Francisco argue that the current crisis exposes the shortcomings of old-line conservation efforts. "The failure to address market demand means that tens of millions of dollars invested in past efforts to save the tiger have amounted to little more than a colossal subsidy for the Chinese traditional-medicine market," says LaBudde. Others point out that environmental groups have in fact achieved notable successes by attacking demand. Pressure on the fashion industry in the West, for instance, helped halt precipitous declines in spotted-cat populations during the 1970s, and international condemnation of ivory-consuming nations has granted the elephant at least a temporary reprieve.

Demand for tiger bone, however, originates in China, Korea and Taiwan, largely beyond the reach of Western publicity campaigns. Moreover, tiger-bone remedies are so ingrained in these cultures that it is not certain their governments could control the trade in tiger parts. Whether they have the will to try is even more open to question. All three countries have a well-documented history of paying lip service to agreements protecting endangered species while continuing to do business as usual.

Korea openly imported tiger parts until July 1993, and its customs statistics offer rare insight into the size of the market. An analysis by Traffic International revealed that Korea was importing from 52 to 96 dead tigers a year between 1988 and 1992, even as cat populations were plunging around the world. Imports rose in 1990 and 1991, suggesting that bone dealers were stockpiling parts in anticipation of the trade being shut down. Indeed, fearful of international sanctions, Korea finally joined Cites last year and banned tiger imports. But the country has failed to enforce new laws designed to halt the internal trade in tiger parts.

Taiwan and China have ostensibly accepted Cites' rules for years, but that hasn't helped the tiger. China halted the state-sponsored production of tiger-bone remedies only in mid-1993. Taiwan has announced a series of measures over the past 15 years banning the use of tiger bone and other products from endangered species, but the actions were annoyances to the dealers rather than serious blows to their business.

In 1989 the London-based Environmental Investigation Agency called on nations to impose sanctions against Taiwan for failing to halt illicit trade in endangered species. EIA investigators offered evidence of the open sale of tiger parts, including skins, and a host of other banned animal products. Since then, illegal wares have disappeared from display shelves, but subsequent investigations by several environmental groups suggest that potions made from tigers, rhinos and other endangered species are still readily available. As recently as this February, an undercover probe sponsored by Earth Trust in four Taiwanese cities found that 13 of 21 pharmacies visited offered tiger-bone medicines.

Renowned biologist George Schaller of New York's Wildlife Conservation Society warns that if the tiger-bone trade is allowed to continue, it will threaten all large cats. Traditional medicine makers also use bones from other endangered felines, such as the snow leopard and golden cat. "If the price keeps going up, the search for bone will start affecting cats in Africa," says Schaller.

The situation is almost a replay of the battle between environmentalists and Asian nations over the ivory trade, which led to rampant poaching of African elephants during the late 1980s. Fearful that the promises made about tiger parts were as empty as the one made about ivory, 86 organizations, led by the Earth Island Institute (EIA) and Britain's Tiger Trust, took their case against China and Taiwan to the government committee of CITES in March 1993. The committee gave the two countries six months to start cracking down on the trade in tiger parts and rhino horn. The deadline had little effect: at a meeting in Brussels last September, CITES declared the measures taken by China and Taiwan to be inadequate and set the stage for trade sanctions to be imposed.

Alarmed at that prospect, the two offending nations have since announced still more steps to curb the tiger-part trade, but they have yet to satisfy their critics. Chinese authorities say that they have assigned 40,000 people to enforce laws aimed at the black market and that more than 1,000 lbs. of confiscated tiger bone have been burned. Conservationists don't trust either claim. China has considered raising tigers in captivity to supply the traditional-medicine market, but that may only legitimize a nasty business. Poachers could pass off the tigers they kill as "captive bred."

The Taiwanese government has trumpeted the creation of a task force on endangered species within the national police. It remains unclear, however, whether the unit has been staffed or even has a budget. Taiwan officials have variously said the unit will have 300, 45 and six officers. So far, the Taiwanese have not made a single arrest, and response to a government call for people to come forward and register tiger parts and rhino horn has been embarrassingly small. Allan Thorton of the EIA says past efforts to enforce the law consisted of uniformed police asking pharmacies whether they had tiger bone—something like having cops ask drug dealers whether they are carrying heroin.

Taiwan defends itself vigorously. Ling Shiang-nung, vice chairman of the Council of Agriculture, questions both the sincerity and accuracy of international environmental groups that argue that tiger parts are still widely available. "We feel so disappointed that we are doing so much and getting so little credit for it," says Ling. Ginette Henley of traffic usa admits that the Taiwanese have taken steps but fears that Taiwan and China will do just enough to stave off sanctions and then allow the markets to resume business.

The issue will come to a head at this week's CITES meeting in Geneva, as delegates debate whether enough has been done in recent months to slow the tiger trade. Since CITES has no enforcement powers of its own, only individual member nations can make the decision to impose trade sanctions. A key player to watch is the U.S., largely because of the strong stand taken by Interior Secretary Bruce Babbitt. An ardent environmentalist, he attended the Brussels meeting in September and played a major role in the effort to put pressure on China and Taiwan.

In particular, Babbitt announced a determination by the Clinton Administration that these countries were in violation of the so-called Pelly amendment, a once obscure section of the U.S. Fishermen's Protective Act that has the potential to become the world's most powerful piece of environmental legislation. It authorizes the use of trade sanctions against nations whose actions hurt endangered species. Just the threat of Pelly penalties a few years ago caused Japan to reduce the use of drift nets by its fishing boats and prompted Korea to join CITES.

This time the Clinton Administration in effect told China and Taiwan to clean up their act or face sanctions, and a March deadline was set. On the eve of the Geneva sessions, Babbitt remained firm. "All the CITES members will be taking signals from this meeting," said the Interior Secretary. "There may not be another chance to save the tiger."

According to Administration sources, the U.S. will encourage delegates to renew their September call to action. This would provide President Clinton with the diplomatic cover for imposing sanctions. Before he takes that step, though, Clinton advisers expect to encounter opposition from within the Administration, as concern for the tiger collides with a host of other issues that entangle the U.S., China and Taiwan.

For instance, having chosen not to impose sanctions on China for its persistent violations of human rights, ranging from its treatment of Tibet to the torture and imprisonment of political dissidents, the Administration may find it hard to explain why it is acting now because of environmental wrongs. And at a time when the U.S. is trying to lower trade barriers, some members of the Administration argue that punitive sanctions against China or Taiwan will send the wrong message about U.S. commitment to free trade. A State Department official suggests that it's too soon for the U.S. to play its last card. "Once you impose sanctions," he asks, "what do you do then?"

Environmentalists respond that if the U.S. fails to act, the tiger will almost surely disappear in the wild. Noting that Taiwan and China have "been tried and convicted by CITES and the U.S.," Earth Island's LaBudde says, "A judgment of guilty with no penalty imposed hardly represents any deterrent." Thornton of the EIA agrees: "It is time for us to make it plain that we are not going to stand by and watch the last tiger disappear."

But the remedy is not that simple. Even if international pressure eliminated poaching, the tiger would still be in trouble. Its habitat is shrinking, and its food supply is dwindling as the territory claimed by humans inexorably expands. Can people be comfortable living in close proximity to hungry predators who on occasion eat humans? Says Geoffrey Ward, author of *The Tiger-Wallahs*: "Poaching is murder, but crowding is slow strangulation."

Given the pressures on habitat, some zoologists maintain that captive breeding of tigers and their eventual reintroduction into the wild should be pursued as a way to keep the species alive. Schaller and many other conservationists dismiss this approach as both inefficient and unrealistic. Tigers learn from their mothers subtle details about hunting that would be difficult for human mentors to teach. And once tigers have disappeared from an area, Schaller notes, it becomes extremely difficult to convince villagers that they should welcome the animals back. "It would cost millions to breed and reintroduce tigers," says the biologist. "If Asian nations want tigers, they can have them far more cheaply by protecting the remaining wild tigers."

Oddly, the Siberian tiger—a critically endangered subspecies—may have the best chance of survival, but only if poaching is controlled. "The Amur tiger has 800 miles of unbroken habitat to move through," says Howard Quigley, who is co-director of the Siberian Tiger Project, a Russian-American conservation effort, "but unless poaching is stopped, there will be no tigers to move through it." The Tiger Trust and the World Wildlife Fund offered vehicles, training and supplemental pay for Russian wildlife rangers, but the killing of tigers continued as those proposals languished for months on the desks of bureaucrats in Moscow. Only last week did the first, unarmed patrol go out.

For the majority of tigers, India is where the battle for survival will be won or lost. It is not the best place to make a stand, given the extreme pressures of human population growth. Says Kamal Nath, the country's Environment Minister: "The threat to the tiger has never been so strong or so real." On the other hand, India has invested $30 million during the 20 years of Project Tiger and has a culture in which many people still genuinely respect nature. Here is where the world will see if humans and tigers can live side by side.

The two species have coexisted for hundreds of thousands of years. Up until now, the big cat has always been extraordinarily adaptable and resilient. "All a tiger needs," says Schaller, "is a little bit of cover, some water and some prey." But the tiger has finally run afoul of mankind, an evolutionary classmate that has proved to be even more resourceful killer. "What will it say about the human race if we let the tiger go extinct?" asks TRAFFIC's Ashok Kumar. "What can we save? Can we save ourselves?"

A SHOTGUN, A PROMISE OF $5 AND A SKINNED CAT

The tiger hunter of yore was a maharajah or British aristocrat who would take potshots at roaring beasts while perched atop an elephant. Celebrated in prints and woodcuts, this blood sport looked manly but carried with it about as much risk as watching a professional football game from a skybox, since the cats wouldn't attack an elephant. Today the typical tiger killer is more like an Indian man named Raju: a diminutive, ragged farmer who does not even own a gun. Nonetheless, as a member of the Jenu Kuruba tribe, Raju knows how to hunt the big cats. In 1993 he downed a tiger in Nagarahole ark with a borrowed shotgun.

The gun's owner, a local landlord named Mahadeswara, had hired Raju to poach deer and other game favored in local feasts. Gun owners often hire tribesmen as shooters because of their knowledge of the forest. One evening last spring, Raju, the landlord and two other poachers hid near a water hole. At dusk a tiger approached within a few yards. Raju claims he was reluctant to shoot it, but the landlord insisted. He promised, but never delivered, payment of 110 lbs. of millet—worth $5.

Using a shotgun shell loaded with six slugs, Raju fired. So well hidden were the hunters, Raju says, that he had no fear of the tiger's turning on them if the shot missed. It did not; it hit the animal under its shoulder. Mortally wounded, the great cat tried to run but, after 20 yds., collapsed. The poachers skinned it on the spot.

As news of the tiger kill spread through nearby villages, informants quickly led police to Raju. Mahadeswara hid but was arrested two months later. While Indian justice guarantees neither swift nor sure punishment, tiger specialist Ullas Karanth believes the shame and inconvenience of interminable court proceedings deter villagers, who lack the resources of wildlife traders. Raju says he regrets what he did and hopes to assist with antipoaching patrols.

Unfortunately, tens of thousands of people like Raju live within five miles of the park and its riches. Residing in a relatively prosperous agricultural region, Raju is far better off than India's desperate poor. Even so, temptation led him to supplement his income by poaching other animals for years before he shot the tiger. Says C. Srinivasan, Nagarahole's deputy wildlife warden: "It's like trench warfare. We can never relax."

Mr. VENTO. Mr. Chairman, H.R. 4602 contains funding for the Pennsylvania Avenue Development Corporation [PADC], which is not authorized in fiscal year 1995 and at the appropriate point I will offer a point of order to strike it from the bill.

Mr. Chairman, Congress has repeatedly requested that PADC submit a plan for a successor entity, but PADC has never submitted one. The PADC Organic Act contains a provision calling for the ultimate sunsetting of PADC, and directs the corporation to present a plan for a successor entity to carry out ongoing responsibilities.

In 1991, PADC was authorized for only 1 year, instead of the 3 requested, and the Natural Resources Committee stated in its report that the reason for this was to provide the committee with the chance to review a successor entity plan in the next year.

The next year, PADC once again requested a 3-year extension of its authorization, but did not provide the requested successor plan. Congress approved an additional 2-year authorization, noting that the administration needed more time to prepare the successor entity plan.

That was almost exactly 2 years ago. Now, PADC is once again requesting a reauthorization for 3 years, but does not have an authorizing proposal and plan for a successor entity ready to present to Congress. PADC states that OMB has been reviewing the proposal for over a year and is not able to share with Congress the details of that proposal. This explanation is ludicrous and not responsible or responsive to the law, policy or the good faith effort of the Natural Resources Committee and Congress. Three years and no plan; the Congress should recognize foot dragging when it occurs.

Furthermore, PADC has already completed all the development work that it can realistically complete. All but three parcels identified in the master plan are completed. Of these, only one is on Pennsylvania Avenue itself. There are no immediate prospects for developing these parcels: The one on Pennsylvania Avenue is the one least likely to be developed in the near future.

PADC's work on the new Federal office building at Federal Triangle, the International Trade Center, can be absorbed by a successor entity and financed by the General Services Administration. There is no reason why funds from the natural resources area of the budget should go toward the construction of a large new Federal office complex, when that is the responsibility of the General Services Administration.

Because of PADC's lack of authorization, I will be raising a point of order on the Interior appropriation bill. In addition, I plan to introduce soon legislation to create a successor entity and dissolve the Pennsylvania Avenue Development Corporation.

Mr. HUGHES. Mr. Chairman, I rise in support of H.R. 4602, which provides appropriations for the Department of the Interior and Related agencies.

This legislation provides important funding for the Fish and Wildlife Service, the National Park Service, the Smithsonian Institute, and other programs that are necessary to conserving and fostering our natural and cultural resources.

In particular, the funding that the bill provides to the U.S. Fish and Wildlife Service will have a special impact in the State of New Jersey. This money is crucial to New Jersey's efforts to protect and preserve important habitat in one of the fastest growing States in the Nation.

Mr. Chairman, I am especially pleased that this legislation provides funding to the Fish and Wildlife Service for a very significant land acquisition project in New Jersey at the Cape May National Wildlife Refuge.

The Cape May National Wildlife Refuge was officially established in May of 1989 and covers 15,500 acres of coastal and freshwater wetlands in two sections, the Delaware Bay division and the Great Cedar Swamp. Together these divisions encompass some 15,500 acres.

H.R. 4602 contains $1 million that will enable the Fish and Wildlife Service to continue acquisition at the Cape May refuge. These funds will help the Service follow through with some of the options and negotiations now in progress, and keep alive the movement to protect south Jersey's natural resources. The wetlands included in the refuge are vitally important to Cape May County for Aquifer recharge, flood storage, and shore stabilization.

There is a compelling need to preserve this land that is situated so precariously in the Midst of one of the most heavily developed States in the Union. The Cape May National Wildlife Refuge is an essential element in our national program to protect and preserve our natural resources.

Cape May's wetlands are key to the survival of record-breaking concentrations of migrating and wintering shorebirds, raptors, waterfowl, gamebirds and songbirds. The Delaware Bay is the second largest resting area for shorebirds in the world, including the entire North American population of red knots, and over 50 percent of the North American ruddy turnstones and sanderlings.

The Cape May Peninsula is host to the second largest number of migratory birds of prey in the Union, including northern harrier, osprey, peregrine falcon, merlin, American Kestrel, sharp-shinned, Cooper's, and red-shouldered hawk, in addition to hundreds of American bald eagles each year. Additionally, some 34 percent of the Atlantic flyway's black duck population, unusual concentrations of gamebirds, and overwhelming numbers of songbirds overwinter or temporarily rest from their migration in the Cape May wetlands.

These wetlands, along with adjacent uplands, also host an unusually high number of globally threatened and endangered plant and animal species, including one listed and two candidates for listing on the Federal endangered species list. Finally, the Delaware Bay's marshes comprise one of the largest remaining wetland complexes on the Atlantic coast. Indeed, the greatest concern for all these species is loss of habitat.

In addition to the importance of the Cape May Peninsula for its diversity of fish, wildlife, and plant resources. Its wetlands serve a variety of hydrological functions such as flood storage, groundwater discharge and recharge, water quality protection, and shoreline stabilization.

The funding for the Cape May refuge, as well and the $355,000 including for protection of the Delaware Bay estuary, will provide a needed boost to critical conservation efforts in my district.

I would like to thank the chairman and ranking Republican of the Appropriations Committee and the chairman and ranking member of the Interior Subcommittee. I would especially like to praise the fine work of Chairman YATES, as well as Mr. REGULA, the ranking Republican member of that panel. They have, as usual, done an excellent job in crafting this bill as a whole. Chairman YATES and Mr. REGULA have been particularly sensitive to the need to protect natural resources in the face of increasing developmental pressures in New Jersey—the most urbanized and densely populated State in the Nation, and I appreciate their support.

Mr. Chairman, despite these austere times and the necessary budget cuts, I believe that this bill reflects Congress' commitment to the preservation and protection of our natural and cultural resources. This is a rational bill and I urge my colleagues' support for its passage.

Ms. FURSE. Mr. Chairman, I rise today in support of H.R. 4602, Interior appropriations for fiscal year 1995. I believe Chairman YATES and all the members of the subcommittee deserve credit for their work on this legislation, and moving it so expeditiously in the House. It contains funding for a number of vital programs in our Nation.

I want to call attention to a provision in this bill regarding diabetes. Diabetes is a serious health problem in America, afflicting nearly 14 million Americans. Diabetes has serious, sometimes life threatening complications such as lower extremity amputations, kidney and heart disease, blindness, and nerve damage. The sad truth is that a majority of these complications are completely avoidable with currently available medical care. I was pleased last year to support expansion of the Centers for Disease Control's Office of Diabetes Translation, an increase of $10 million, to help address this situation. I am supportive of a similar increase this year.

Today, the bill before us gives a significant boost to problems we face with diabetes and native Americans. The situation with diabetes is particularly acute for our Nation's native American population. Diabetes is one of the leading causes of sickness and death among native Americans, and the rate of diabetes mortality in native Americans is nearly 300 percent higher than the U.S. average. In fact, some tribes have diabetes rates near 35 percent.

Currently, the Indian Health Service [IHS] Diabetes Program provides comprehensive diabetes prevention and control services to native American communities. Reservation-based interventions, which detect diabetes-related complications before they become life-threatening, are a primary component of the program. Reaching out with prevention and control strategies to prevent costly complications is not only the humane thing to do, it saves millions of health care dollars in the long-run.

The IHS Diabetes Program, while authorized at level of $65 million, operated last year on a funding level of $7 million. Currently, only 17 of the 140 authorized reservation-based model diabetes programs have the necessary funds to operate. Despite increasing needs, this cost-effective program has not received an increase in funding for the last 3 years.

Earlier this year, I authored a letter—signed by 20 of my colleagues here in the House—requesting an increase in funding for the IHS Diabetes Program. I am pleased to say that H.R. 4506 includes an increase of $1.5 million for the IHS Diabetes Program. These funds will allow the IHS to set up three additional programs on reservations in America to help diagnose and control diabetes, preventing costly complications and human suffering. I realize that this action comes at a time when our resources are stretched to the limit, and it is gratifying to know that the subcommittee felt that this increase was a wise investment in the health of our native Americans.

I thank Chairman YATES and the entire subcommittee for their commitment to improving the quality of life for all Americans, and their hard work on this important legislation. I urge all my colleagues to support H.R. 4602.

Mr. MCDADE. Mr. Chairman, I rise today in support of H.R. 4602, the fiscal year 1995 appropriations bill for the Department of Interior and Related Agencies.

The chairman and ranking Republican on the subcommittee SID YATES and RALPH REGULA, are to be commended for putting together a fair and responsible bill under very tight spending caps.

It is no easy assignment to meet our deficit-cutting obligations at a time when the need for the important programs financed by the bill is greater than ever. Our duty to provide for the responsible stewardship of our public lands has not been diminished as the need to cut the deficit grows.

The subcommittee skillfully managed this delicate balancing act between the need to cut spending and the need to adequately provide for our natural resource agencies. H.R. 4602 is under the 602–B allocation in budget authority and outlays. The bill comes in at $194.5 million under the fiscal year 1994 level and $230.4 million under the President's request. At the same time, H.R. 4602 meets our commitment to the environment, reflects the priorities of the House, and responds to the changing needs in this country.

The bill provides $13.19 billion in budget authority to fund the Department of Interior, the Forest Service, Indian education and health, conservation and research programs of the Energy Department, and a number of arts and cultural programs.

Given the budget limitations, the committee was still able to fund a number of high-level initiatives. The ecological significance of the Everglades is recognized with the provision of funds to the National Park Service and four other Federal agencies. The bill also provides funding for the Northwest forest plan, another multiagency effort led by the Forest Service.

Much-needed increases have also been provided for operations in the natural resources agencies funded in the bill. In a matter which has been subject to past controversy, the biological survey receives level funding of $167.2 million. The committee is sensitive to the concerns of private property owners. Bill language was added in full committee to prohibit survey personnel from entering private lands without the written permission of the owner. The report includes language to ensure the objectivity and expertise of volunteers and provides assurances that the information the NBS collects on private property is readily available to landowners.

Total spending for Department of Energy functions covered under the bill is decreased by $106 million from the fiscal year 1994 level and $179 million from the President's proposal. Energy conservation received a $134.2 million increase, a 19.4 percent hike from the fiscal year 1994 level. The $824.5 million in the bill for conservation, however, is $152.2 million, or 15.6 percent, less than the President's request. The bill provides $50 million of the $119 million request for the climate action plan, which is designed to reduce U.S. emissions of greenhouse gases to 1990 levels by the year 2000.

The bill is not without controversy. It contains a 1-year moratorium on new mining patents, reduces construction budgets in the Forest, National Park and Fish and Wildlife Services, cuts the timber sales program, scales back many of the President's spending initiatives, and continues the moratorium on new oil and natural gas leases along many of the Nation's coasts.

Members may disagree on some of the specifics of this legislation, but it is, by and large, a fair, responsible, and balanced bill. It is a bill that both complies with the spending caps and provides for the needs of this Nation. I urge passage of H.R. 4602.

Mr. BEREUTER. Mr. Chairman, this Member rises today to thank the distinguished chairman of the Interior Appropriations Subcommittee, the gentleman from Illinois [Mr. YATES], and the ranking member on that subcommittee, the distinguished gentleman from Ohio [Mr. REGULA] for their work on behalf of the Winnebago Tribe of Nebraska. The subcommittee allocated the requested $1.4 million for facility design for the Winnebago Hospital. Gaining this recommended appropriation has been a long and difficult process for the Winnebago Tribe—the Omaha Tribe—this Member, both senators from Nebraska and Iowa, and the gentleman from Iowa [Mr. GRANDY]. We appreciate the assistance and personal commitment of Secretary Shalala in supporting this hospital project. These funds will allow the much-needed replacement hospital to begin to become a reality for my constituents. The Winnebago Hospital provides vital health care services to the native American population of Nebraska and other native Americans in the greater Sioux City area. The current hospital in Winnebago, NE is in dire need of replacement.

Mr. Chairman, this Member is most pleased that funds were appropriated for facility design for the Winnebago Hospital, especially considering the tight budget constraints facing the subcommittee this year.

Mr. SANDERS. Mr. Chairman, I am pleased to be able to express my support for H.R. 4602, the Interior and Related Agencies Appropriations bill for fiscal year 1995. This bill includes funding for many of our important agencies, in particular in two important areas: conservation of natural resources, and the arts and humanities.

In the area of conservation, I'm particularly pleased that this year's bill reverses a trend of many years' duration, in increasing the funding for States from the Land and Water Conservation Fund. The original plan for the LWCF was for a 50:50 split between the States and the Federal Government, but over three decades the ratio has shifted more and more to the Federal side. In recent years, only about 20 percent of LWCF funds have gone to the States.

This year's bill begins to remedy that. While Federal-side spending has gone down, the State-side share is increased by about 5 percent in this year's appropriation. This is a welcome change, and one more reason to support this bill.

I'm also pleased that the subcommittee chose to continue supporting the Forest Legacy program. Although the amount is not increased, as I would have liked, the decision to maintain funding in the face of a tight budget is a reflection of the demonstrated success of Legacy in providing a new way to protect our lands at relatively low cost.

It's ironic that advocates of private property rights have been criticizing this program, which provides funding to acquire easements from landowners who want to conserve productive forest land. In fact, Forest Legacy is an example of a successful Government-private partnership. This program, established in the 1990 farm bill, has already allowed the conservation of important forest lands in Vermont, such as the ridge crest of the Worcester Mountains and the beautiful Cow Mountain Pond area. A major success of this program has been the Big Jay tract, a 5,400-acre property adjacent to Jay State Forest which includes parts of the Long Trail and the Catamount Trail as well as the highest privately owned, undeveloped mountain peak in Vermont. The State of Vermont and Vermont conservation groups developed an innovative plan to protect Big Jay through a combination of easements and purchases, combining State, private, and Forest Legacy program funds.

Support for the arts is a yearly battle. JESSE HELMS and his cohorts will stop at nothing to stifle the artistic spirit of our country. I will continue to fight for increased funding for the arts and against the right wing movement to eliminate the National Endowment for the Arts altogether. This year, $171 million is being appropriated to the NEA, and of that money Vermont will receive a little over $1 million. This money is essential to many groups like Vermont Council on the Arts, the Flynn Theatre and the Vermont Symphony Orchestra Association. However, that price tag is nowhere near what a country should be spending in support of the arts, especially when considering we spend $718 million a day at the Pentagon. Annually, each American pays taxes of $1,138 for the military, $201 for education and 68 cents for arts. There is no doubt that we need to rethink our national priorities.

I feel very strongly that art and culture are a vital part of society, and that cultural activities should be open to all people. Unfortunately, today our children are being desensitized to violence through television, rather than inspired by music and theatre and the creative arts.

At the Vermont Council on the Arts a new initiative has been launched called the "Voices of Youth," which will begin new partnerships between the human services and the arts communities and youth organizations. "Voices of Youth" gives Vermont youth the opportunity to express themselves and get involved in the community through various artistic endeavors. "Voices of Youth" promotes the idea that children and youth should be seen and heard because they have a lot of important things to say—things that we all need to hear.

The efforts of the "Voices of Youth" work alongside my efforts to implore the President to sign the U.N. Convention on the Rights of the Child, which codifies all existing international laws regarding children and establishes a bill of rights for the world's children. One of the articles focuses directly on the need to develop a child's personality, talents and mental and physical abilities to their fullest extent. The convention also clearly states that children and youth have the right to freely express themselves. Our youth face so many terrors and frustrations in the world today, we need to ensure that the arts are a living part of their experience. In order to guarantee that this happens, we need to support institutions and organizations that equip our teachers and leaders with necessary skills and provide freedom of expression.

I've mentioned just a few of the valuable programs funded by this bill. I congratulate my colleagues Mr. YATES and Mr. REGULA and their subcommittee on their good work, and urge continued support for the protection of both the nature and the creative spirit of our country.

Mr. REGULA. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

The Clerk will read.

The Clerk read as follows:

H.R. 4602

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 1995, and for other purposes, namely:

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau of Land Management, $596,349,000, to remain available until expended, including $1,462,000 to be derived from the special receipt account established by section 4 of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–6a(i)): *Provided*, That appropriations herein made shall not be available for the destruction of healthy, unadopted, wild horses and burros in the care of the Bureau of Land Management or its contractors; and in addition, $21,650,000 for Mining Law Administration program operations, to remain available until expended, to be reduced by amounts collected by the Bureau of Land Management and credited to this appropriation from annual mining claim fees so as to result in a final appropriation estimated at not more than $596,349,000: *Provided further*, That in addition to funds otherwise available, not to exceed $5,000,000 from annual mining claim fees shall be credited to this account for the costs of administering the mining claim fee program, and shall remain available until expended.

FIRE PROTECTION

For necessary expenses for fire use and management, and fire preparedness by the Department of the Interior, $114,968,000, to remain available until expended.

EMERGENCY DEPARTMENT OF THE INTERIOR FIREFIGHTING FUND

For emergency rehabilitation, severity presuppression, and wildfire operations of the Department of the Interior, $121,176,000, to remain available until expended: *Provided*, That such funds also are available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes: *Provided further*, That notwithstanding any other provision of law, persons hired pursuant to 43 U.S.C. 1469 may be furnished subsistence and lodging without cost from funds available from this appropriation: *Provided further*, That only amounts for emergency rehabilitation and wildfire operations that are in excess of the average of such costs for the previous ten years shall be considered "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985.

CENTRAL HAZARDOUS MATERIALS FUND

For expenses necessary for use by the Department of the Interior and any of its component offices and bureaus for the remedial action, including associated activities, of hazardous waste substances, pollutants, or contaminants pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (42 U.S.C. 9601 et seq.), $13,435,000, to remain available until expended: *Provided*, That, notwithstanding 31 U.S.C. 3302, sums recovered from or paid by a party in advance of or as reimbursement for remedial action or response activities conducted by the Department pursuant to sections 107 or 113(f) of the Comprehensive Environmental Response, Compensation and Liability Act, as amended (42 U.S.C. 9607 or 9613(f)), shall be credited to this account and shall be available without further appropriation and shall remain available until expended: *Provided further*, That such sums recovered from or paid by any party are not limited to monetary payments and may include stocks, bonds or other personal or real property, which may be retained, liquidated, or otherwise disposed of by the Secretary of the Interior and which shall be credited to this account.

CONSTRUCTION AND ACCESS

For acquisition of lands and interests therein, and construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, $3,836,000, to remain available until expended.

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976 (31 U.S.C. 6901–07), $104,108,000, of which not to exceed $400,000 shall be available for administrative expenses.

LAND ACQUISITION

For expenses necessary to carry out the provisions of sections 205, 206, and 318(d) of Public Law 94–579 including administrative expenses and acquisition of lands or waters, or interests therein, $17,060,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; $100,860,000, to remain available until expended: *Provided*, That 25 per centum of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land-grant fund and shall be transferred to the General Fund in the Treasury in accordance with the provisions of the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 per centum of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315 et seq.) and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, but not less than $10,350,000, to remain available until expended: *Provided*, That not to exceed $600,000 shall be available for administrative expenses.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies of official public land documents, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under sections 209(b), 304(a), 304(b), 305(a), and 504(g) of the Act approved October 21, 1976 (43 U.S.C. 1701), and sections 101 and 203 of Public Law 93–153, to be immediately available until expended: *Provided*, That notwithstanding any provision to the contrary of section 305(a) of the Act of October 21, 1976 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that section, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to section 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this or subsequent appropriations Acts by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such forfeiture, compromise, or settlement are used on the exact lands damage to which led to the forfeiture, compromise, or settlement: *Provided further*, That such moneys are in excess of amounts needed to repair damage to the exact land for which collected.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing law, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $250,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau of Land Management; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $10,000: *Provided*, That notwithstanding 44 U.S.C. 501, the Bureau may, under cooperative cost-sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly-produced publications for which the cooperators share the cost of printing either in cash or in services, and the Bureau determines the cooperator is capable of meeting accepted quality standards.

Mr. YATES (during the reading). Mr. Chairman, I ask unanimous consent that all debate on this bill and all amendments thereto terminate no later than 4:30 p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. REGULA. Mr. Chairman, reserving the right to object, I find a number of Members on our side who have amendments and who want to speak on them. Therefore, at this point we could not agree to limiting debate. However, I think we could do it on amendment by amendment, that as each amendment comes up perhaps we could limit debate on that amendment. Some will take more time than others because there is a greater amount of controversy.

Mr. YATES. Mr. Chairman, I withdraw my request at this time.

Mr. Chairman, I ask unanimous consent that the remainder of the title be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The text of the balance of title I is as follows:

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations, protection, and utilization of fishery and wildlife resources, except whales, seals, and sea lions, and for the performance of other authorized functions related to such resources; for the general administration of the United States Fish and Wildlife Service; and for maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge; and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as authorized by the Act of August 13, 1970, as amended by Public Law 93–408, $514,650,000, of which $11,732,000 shall be for operation and maintenance of fishery mitigation facilities constructed by the Corps of Engineers under the Lower Snake River Compensation Plan, authorized by the Water

Resources Development Act of 1976 (90 Stat. 2921), to compensate for loss of fishery resources from water development projects on the Lower Snake River, and which shall remain available until expended; and of which $3,000,000 shall be provided to the National Fish and Wildlife Foundation for endangered species activities: *Provided*, That the amount provided to the National Fish and Wildlife Foundation shall be matched by at least an equal amount by the National Fish and Wildlife Foundation: *Provided further*, That sums may be made available to the States of Washington, Oregon, and California to conduct monitoring activities related to the President's Forest Plan.

CONSTRUCTION

For construction and acquisition of buildings and other facilities required in the conservation, management, investigation, protection, and utilization of fishery and wildlife resources, and the acquisition of lands and interests therein; $25,264,000, to remain available until expended.

NATURAL RESOURCE DAMAGE ASSESSMENT FUND

To conduct natural resource damage assessment activities by the Department of the Interior necessary to carry out the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601, et seq.), Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, et seq.), the Oil Pollution Act of 1990 (Public Law 101–380), and the Act of July 27, 1990 (Public Law 101–337); $6,700,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, any amounts appropriated or credited in fiscal year 1992 and thereafter, may be transferred to any account to carry out the provisions of negotiated legal settlements or other legal actions for restoration activities and to carry out the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601, et seq.), Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, et seq.), the Oil Pollution Act of 1990 (Public Law 101–380), and the Act of July 27, 1990 (Public Law 101–337) for damage assessment activities: *Provided further*, That sums provided by any party are not limited to monetary payments and may include stocks, bonds or other personal or real property, which may be retained, liquidated or otherwise disposed of by the Secretary and such sums or properties shall be utilized for the restoration of injured resources, and to conduct new damage assessment activities.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601–4–11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, and for activities authorized under Public Law 98–244 to be carried out by the National Fish and Wildlife Foundation, $62,300,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

COOPERATIVE ENDANGERED SPECIES CONSERVATION FUND

For expenses necessary to carry out the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), as amended by Public Law 100–478, $9,000,000 for grants to States, to be derived from the Cooperative Endangered Species Conservation Fund, and to remain available until expended.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $12,000,000.

REWARDS AND OPERATIONS

For expenses necessary to carry out the provisions of the African Elephant Conservation Act (16 U.S.C. 4201–4203, 4211–4213, 4221–4225, 4241–4245, and 1538), $1,169,000, to remain available until expended.

WILDLIFE CONSERVATION AND APPRECIATION FUND

For deposit to the Wildlife Conservation and Appreciation Fund, $1,000,000, to remain available until expended, to be available for carrying out the Partnerships for Wildlife Act only to the extent such funds are matched as provided in section 7105 of said Act.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 127 passenger motor vehicles, of which 106 are for replacement only (including 44 for police-type use); not to exceed $400,000 for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violations of laws administered by the United States Fish and Wildlife Service, and miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate; repair of damage to public roads within and adjacent to reservation areas caused by operations of the United States Fish and Wildlife Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the United States Fish and Wildlife Service and to which the United States has title, and which are utilized pursuant to law in connection with management and investigation of fish and wildlife resources: *Provided*, That the United States Fish and Wildlife Service may accept donated aircraft as replacements for existing aircraft: *Provided further*, That notwithstanding 44 U.S.C. 501, the Service may, under cooperative cost sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly-produced publications for which the cooperators share at least one-half the cost of printing either in cash or services and the Service determines the cooperator is capable of meeting accepted quality standards.

NATIONAL BIOLOGICAL SURVEY

RESEARCH, INVENTORIES, AND SURVEYS

For authorized expenses necessary for scientific research relating to species biology, population dynamics, and ecosystems; inventory and monitoring activities; technology development and transfer; the operation of Cooperative Research Units; and for the general administration of the National Biological Survey, $167,209,000, of which $166,909,000 shall remain available until September 30, 1996, and of which $300,000 shall remain available until expended for construction: *Provided*, That none of the funds under this head shall be used to conduct new surveys on private property unless specifically authorized in writing by the property owner.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, including not to exceed $1,599,000 for the Volunteers-in-Parks program, and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as authorized by the Act of August 13, 1970, as amended by Public Law 93–408, $1,083,973,000, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), of which not to exceed $79,900,000, to remain available until expended is to be derived from the special fee account established pursuant to title V, section 5201, of Public Law 100–203: *Provided*, That should any increase in fees be enacted after enactment of this Act but prior to September 30, 1995, that would be available for the programs under this heading, the Secretary of the Interior shall make available under this heading an amount equal to the amount collected by such fee increase to the resource stewardship program.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, environmental compliance and review, international park affairs, statutory or contractual aid for other activities, and grant administration, not otherwise provided for, $36,946,000.

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the provisions of the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), $41,000,000, to be derived from the Historic Preservation Fund, established by section 108 of that Act, as amended, to remain available for obligation until September 30, 1996.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, $171,417,000, to remain available until expended: *Provided*, That not to exceed $4,500,000 shall be paid to the Army Corps of Engineers for modifications authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989: *Provided further*, That $256,000 for rehabilitation of the William McKinley Tomb shall be derived from the Historic Preservation Fund pursuant to 16 U.S.C. 470a.

URBAN PARK AND RECREATION FUND

For expenses necessary to carry out the provisions of the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2501–2514), $10,000,000, to remain available until expended.

LAND AND WATER CONSERVATION FUND

(RESCISSION)

The contract authority provided for fiscal year 1995 by 16 U.S.C. 4601–10a is rescinded.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601–4–11), including administrative expenses, and for acquisition of lands or waters, or interest therein, in accordance with statutory authority applicable to the National Park Service, $88,596,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, of which $29,500,000 is for the State assistance program including $3,250,000 to administer the State assistance program: *Provided*, That of the amounts previously appropriated to the Secretary's contingency fund for grants to States $415,000 shall be available in 1995 for administrative expenses of the State grant program.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 467 passenger motor vehicles, of which 338 shall be for replacement only, including not to exceed 360 for police-type use, 12 buses, and 5 ambulances: *Provided*, That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided further*, That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island, including the facts and circumstances relied upon in support of the proposed project: *Provided further*, That the first proviso under this head in Public Law 102–381 (106 Stat. 1386) is amended by inserting ", not to exceed $500,000," after the word "funds".

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the United States Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, and the mineral and water resources of the United States, its Territories and possessions, and other areas as authorized by law (43 U.S.C. 31, 1332 and 1340); classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; $576,775,000, of which $62,130,000 shall be available only for cooperation with States or municipalities for water resources investigations: *Provided*, That no part of this appropriation shall be used to pay more than one-half the cost of any topographic mapping or water resources investigations carried on in cooperation with any State or municipality: *Provided further*, That of the offsetting collections credited to this account $546,000 are permanently canceled.

WORKING CAPITAL FUND

The first paragraph under this head in Public Law 101–512 is amended as follows: in the second sentence after "work," insert "facilities,"; and in the third sentence after "include" insert "laboratory modernization and equipment replacement,", after "operations," insert "maintenance,", and after "replacement of computer," insert "publications, scientific instrumentation,".

The second paragraph under this head in Public Law 101–512 is amended as follows: in the second proviso after "depreciation of equipment" insert "and facilities,".

ADMINISTRATIVE PROVISIONS

The amount appropriated for the United States Geological Survey shall be available for purchase of not to exceed 22 passenger motor vehicles, for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the United States Geological Survey appointed, as authorized by law, to represent the United States in the negotiation and administration of interstate compacts: *Provided*, That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in 31 U.S.C. 6302, et seq.

MINERALS MANAGEMENT SERVICE

ROYALTY AND OFFSHORE MINERALS MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only; $190,206,000, of which not less than $68,434,000 shall be available for royalty management activities; and an amount not to exceed $7,400,000 for the Technical Information Management System of Outer Continental Shelf (OCS) Lands Activity, to be credited to this appropriation and to remain available until expended, from additions to receipts resulting from increases to rates in effect on August 5, 1993, from rate increases to fee collections for OCS administrative activities performed by the Minerals Management Service over and above the rates in effect on September 30, 1993, and from additional fees for OCS administrative activities established after September 30, 1993: *Provided*, That $1,500,000 for computer acquisitions shall remain available until September 30, 1996: *Provided further*, That funds appropriated under this Act shall be available for the payment of interest in accordance with 30 U.S.C. 1721 (b) and (d): *Provided further*, That not to exceed $3,000 shall be available for reasonable expenses related to promoting volunteer beach and marine cleanup activities: *Provided further*, That notwithstanding any other provision of law, $15,000 under this head shall be available for refunds of overpayments in connection with certain Indian leases in which the Director of the Minerals Management Service concurred with the claimed refund due: *Provided further*, That the Secretary shall take appropriate action to collect unpaid and underpaid royalties and late payment interest owed by Federal and Indian mineral lessees and other royalty payors on amounts received in settlement or other resolution of disputes under, and for partial or complete termination of, sales agreements for minerals from Federal and Indian leases: *Provided further*, That the fifth proviso under the heading "Leasing and Royalty Management" for the Minerals Management Service in Public Law 101–512 (104 Stat. 1926) is amended by striking the words "or payment of civil penalty" after the words "result of the forfeiture of a bond or other security" and striking the words "or imposition of the civil penalty" after the words "rendered necessary by the action or inaction that led to the forfeiture": *Provided further*, That where the account title "Leasing and Royalty Management" appears in any public law, the words "Leasing and Royalty Management" beginning in fiscal year 1995 and thereafter shall be construed to mean "Royalty and Offshore Minerals Management".

OIL SPILL RESEARCH

For necessary expenses to carry out the purposes of title I, section 1016, title IV, sections 4202 and 4303, title VII, and title VIII, section 8201 of the Oil Pollution Act of 1990, $6,452,000, which shall be derived from the Oil Spill Liability Trust Fund, to remain available until expended.

BUREAU OF MINES

MINES AND MINERALS

For expenses necessary for conducting inquiries, technological investigations, and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs; to foster and encourage private enterprise in the development of mineral resources and the prevention of waste in the mining, minerals, metal, and mineral reclamation industries; to inquire into the economic conditions affecting those industries; to promote health and safety in mines and the mineral industry through research; and for other related purposes as authorized by law, $152,269,000, of which $99,365,000, shall remain available until expended.

ADMINISTRATIVE PROVISIONS

The Secretary is authorized to accept lands, buildings, equipment, other contributions, and fees from public and private sources, and to prosecute projects using such contributions and fees in cooperation with other Federal, State or private agencies: *Provided*, That the Bureau of Mines is authorized, during the current fiscal year, to sell directly or through any Government agency, including corporations, any metal or mineral product that may be manufactured in pilot plants operated by the Bureau of Mines, and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts: *Provided further*, That notwithstanding any other provision of law, the Secretary is authorized to convey, without reimbursement, title and all interest of the United States in property and facilities of the United States Bureau of Mines in Juneau, Alaska to the City and Borough of Juneau, Alaska; in Tuscaloosa, Alabama, to The University of Alabama; and in Rolla, Missouri, to the University of Missouri-Rolla.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as amended, including the purchase of not to exceed 15 passenger motor vehicles for replacement only; $110,206,000, and notwithstanding 31 U.S.C. 3302, an additional amount shall be credited to this account, to remain available until expended, from performance bond forfeitures in fiscal year 1995: *Provided*, That notwithstanding any other provision of law, the Secretary of the Interior, pursuant to regulations, may utilize directly or through grants to States, moneys collected in fiscal year 1995 pursuant to the assessment of civil penalties under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: *Provided further*, That notwithstanding any other provision of law, appropriations for the Office of Surface Mining Reclamation and Enforcement may provide for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, as amended, including the purchase of not more than 22 passenger motor vehicles for replacement only, $172,404,000 to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended: *Provided*, That grants to minimum program States will be $1,000,000 per State in fiscal year 1995: *Provided further*, That of the funds herein provided up to $18,000,000 may be used for the emergency program authorized by section 410 of Public Law 95-87, as amended, of which no more than 25 per centum shall be used for emergency reclamation projects in any one State and funds for Federally-administered emergency reclamation projects under this proviso shall not exceed $11,000,000: *Provided further*, That prior year unobligated funds appropriated for the emergency reclamation program shall not be subject to the 25 per centum limitation per State and may be used without fiscal year limitation for Federal emergency projects: *Provided further*, That pursuant to Public Law 97-365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For operation of Indian programs by direct expenditure, contracts, cooperative agreements, and grants including expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment of care, tuition, assistance, and other expenses of Indians in boarding homes, or institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order; management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau of Indian Affairs, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; for the general administration of the Bureau of Indian Affairs, including such expenses in field offices; maintaining of Indian reservation roads as defined in section 101 of title 23, United States Code; and construction, repair, and improvement of Indian housing, $1,527,786,000, of which $199,000 shall be for cyclical maintenance of tribally owned fish hatcheries and related facilities; and of which $297,000 shall be for a grant to the Close Up Foundation; and of which not to exceed $330,111,000 shall be for school operations costs of Bureau-funded schools and other education programs which shall become available for obligation on July 1, 1995, and shall remain available for obligation until September 30, 1996; and of which not to exceed $72,680,000 shall be for higher education scholarships, adult vocational training, and assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), which shall remain available for obligation until September 30, 1996; and of which $75,902,000 shall remain available until expended, including $16,206,000 for trust funds management, $19,083,000 for housing improvement, $30,169,000 for road maintenance, $2,332,000 for attorney fees, $1,983,000 for litigation support, $4,934,000 for self-governance tribal compacts, and $1,195,000 for the Navajo-Hopi Settlement Program: *Provided*, That payments of funds obligated as grants to schools pursuant to Public Law 100-297 shall be made on July 1 and December 1 in lieu of the payments authorized to be made on October 1 and January 1 of each calendar year: *Provided further*, That funds made available to tribes and tribal organizations through contracts or grants obligated during fiscal year 1995 as authorized by the Indian Self-Determination Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.), or grants authorized by the Indian Education Amendments of 1988 (25 U.S.C. 2001 and 2008A) shall remain available until expended by the contractor or grantee: *Provided further*, That of the funds provided, $7,500,000 shall remain available until expended, for the Indian Self-Determination Fund, which shall be available for the transitional costs of initial or expanded tribal contracts, grants or cooperative agreements with the Bureau of Indian Affairs under the provisions of the Indian Self-Determination Act: *Provided further*, That none of the funds appropriated to the Bureau of Indian Affairs shall be expended as matching funds for programs funded under section 103(b)(2) of the Carl D. Perkins Vocational Education Act: *Provided further*, That none of the funds in this Act shall be used by the Bureau of Indian Affairs to transfer funds under a contract with any third party for the management of tribal or individual Indian trust funds until the funds held in trust for all such tribes or individuals have been audited and reconciled to the earliest possible date, the results of such reconciliation have been certified by an independent party as the most complete reconciliation of such funds possible, and the affected tribe or individual has been provided with an accounting of such funds: *Provided further*, That notwithstanding any other provision of law, the statute of limitations shall not commence to run on any claim, including any claim in litigation pending on the date of this Act, concerning losses to or mismanagement of trust funds, until the affected tribe or individual Indian has been furnished with the accounting of such funds from which the beneficiary can determine whether there has been a loss: *Provided further*, That to provide funding uniformity within a Self-Governance Compact, any funds provided in this Act with availability for more than one year may be reprogrammed to one year availability but shall remain available within the Compact until expended: *Provided further*, That notwithstanding any other provision of law, Indian tribal governments may, by appropriate changes in eligibility criteria or by other means, change eligibility for general assistance or change the amount of general assistance payments for individuals within the service area of such tribe who are otherwise deemed eligible for general assistance payments so long as such changes are applied in a consistent manner to individuals similarly situated: *Provided further*, That any savings realized by such changes shall be available for use in meeting other priorities of the tribes: *Provided further*, That any such change must be part of a comprehensive tribal plan for reducing the long-term need for general assistance payments: *Provided further*, That any such tribal plan must incorporate, to the greatest extent feasible, currently existing social service, educational training, and employment assistance resources prior to changing general assistance eligibility or payment standards which would have the effect of increasing the cost of general assistance: *Provided further*, That any net increase in costs to the Federal government which result solely from tribally increased payment levels and which are not part of such a comprehensive tribal plan shall be met exclusively from funds available to the tribe from within its tribal priority allocation: *Provided further*, That any forestry funds allocated to a tribe which remain unobligated as of September 30, 1995, may be transferred during fiscal year 1996 to an Indian forest land assistance account established for the benefit of such tribe within the tribe's trust fund account: *Provided further*, That any such unobligated balances not so transferred shall expire on September 30, 1996: *Provided further*, That notwithstanding any other provision of law, no funds available to the Bureau of Indian Affairs, other than the amounts provided herein for assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall be available to support the operation of any elementary or secondary school in the State of Alaska in fiscal year 1995: *Provided further*, That within the funds contained in this Act, only the following new schools may receive initial funding pursuant to the provisions of 25 U.S.C. 2001(k) or 2505(a)(1)(C) and (D): Trenton and Sault Ste. Marie.

CONSTRUCTION

For construction, major repair, and improvement of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands and interests in lands; and preparation of lands for farming, $131,030,000, to remain available until expended: *Provided*, That $1,500,000 of the funds made available in this Act shall be available for rehabilitation of tribally owned fish hatcheries and related facilities: *Provided further*, That such amounts as may be available for the construction of the Navajo Indian Irrigation Project and for other water resource development activities related to the Southern Arizona Water Rights Settlement Act may be transferred to the Bureau of Reclamation: *Provided further*, That not to exceed 6 per centum of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover the road program management costs of the Bureau of Indian Affairs: *Provided further*, That any funds provided for the Safety of Dams program pursuant to 25 U.S.C. 13 shall be made available on a nonreimbursable basis: *Provided further*, That not to exceed $6,000,000 of contract authority and liquidating cash available in fiscal year 1995 from the Federal Highway Trust Fund may be used for the acquisition of road construction equipment.

INDIAN LAND AND WATER CLAIM SETTLEMENTS AND MISCELLANEOUS PAYMENTS TO INDIANS

For miscellaneous payments to Indian tribes and individuals and for necessary administrative expenses, $82,896,000, to remain available until expended; of which $78,851,000 shall be available for implementation of enacted Indian land and water claim settlements pursuant to Public Laws 87-483, 97-293, 101–618, 102–374, 102–441, 102–575, and 103–116, and for implementation of other enacted water rights settlements, including not to exceed $8,000,000, which shall be for the Federal share of the Catawba Indian Tribe of South Carolina Claims Settlement, as authorized by section 5(a) of Public Law 103–116; and of which $1,045,000 shall be available pursuant to Public Laws 98–500, 99–264, and 100–580; and of which $3,000,000 shall be available (1) to liquidate obligations owed tribal and individual Indian payees of any checks canceled pursuant to section 1003 of the Competitive Equality Banking Act of 1987 (Public Law 100–86 (101 Stat. 659)), 31 U.S.C. 3334(b), (2) to restore to Individual Indian Monies trust funds, Indian Irrigation Systems, and Indian Power Systems accounts amounts invested in credit unions or defaulted savings and loan associations and which were not Federally insured, including any interest on these amounts that may have been earned, but was not because of the default, and (3) to reimburse Indian trust fund account holders for losses to their respective accounts where the claim for said loss(es) has been reduced to a judgment or settlement agreement approved by the Department of Justice.

TECHNICAL ASSISTANCE OF INDIAN ENTERPRISES

For payment of management and technical assistance requests associated with loans and grants approved under the Indian Financing Act of 1974, as amended, $1,970,000.

INDIAN DIRECT LOAN PROGRAM ACCOUNT

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of expert assistance loans authorized by the Act of November 4, 1963, as amended, and the cost of direct loans authorized by the Indian Financing Act of 1974, as amended, $2,484,000: *Provided*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $10,890,000.

INDIAN GUARANTEED LOAN PROGRAM ACCOUNT

For the cost of guaranteed loans, $8,784,000, as authorized by the Indian Financing Act of 1974, as amended: *Provided*, That such costs including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize total loan principal any part of which is to be guaranteed not to exceed $46,900,000.

In addition, for administrative expenses necessary to carry out the guaranteed loan program, $906,000.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans, the Indian loan guarantee and insurance fund, the Technical Assistance of Indian Enterprises account, the Indian Direct Loan Program account, and the Indian Guaranteed Loan Program account) shall be available for expenses of exhibits, and purchase of not to exceed 255 passenger carrying motor vehicles, of which not to exceed 210 shall be for replacement only.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

For expenses necessary for the administration of territories under the jurisdiction of the Department of the Interior, $83,139,000 of which (1) $78,962,000 shall be available until expended for technical assistance, including maintenance assistance, disaster assistance, drug interdiction and abuse prevention, insular management controls, and brown tree snake control and research; grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for construction and support of governmental functions; grants to the Government of the Virgin Islands as authorized by law; grants to the Government of Guam, as authorized by law; and grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94–241; 90 Stat. 272); and (2) $4,177,000 shall be available for salaries and expenses of the Office of Territorial and International Affairs: *Provided*, That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or utilized by such governments, shall be audited by the General Accounting Office, in accordance with chapter 35 of title 31, United States Code: *Provided further*, That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 99–396, or any subsequent legislation related to Commonwealth of the Northern Mariana Islands Covenant grant funding, except that should the Secretary of the Interior believe that the performance standards of such agreement are not being met, operations funds may be withheld, but only by Act of Congress as required by Public Law 99–396: *Provided further*, That $1,025,000 of the amounts provided for technical assistance shall be available for a grant to the Close Up Foundation: *Provided further*, That the funds for the program of operations and maintenance improvement are appropriated to institutionalize routine operations and maintenance of capital infrastructure in American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia through assessments of long-range operations and maintenance needs, improved capability of local operations and maintenance institutions and agencies (including management and vocational education training), and project-specific maintenance (with territorial participation and cost sharing to be determined by the Secretary based on the individual territory's commitment to timely maintenance of its capital assets): *Provided further*, That any appropriation for disaster assistance under this head in this Act or previous appropriations Acts may be used as non-Federal matching funds for the purpose of hazard mitigation grants provided pursuant to section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c).

TRUST TERRITORY OF THE PACIFIC ISLANDS

For expenses necessary for the Department of the Interior in administration of the Trust Territory of the Pacific Islands pursuant to the Trusteeship Agreement approved by joint resolution of July 18, 1947 (61 Stat. 397), and the Act of June 30, 1954 (68 Stat. 330), as amended (90 Stat. 299; 91 Stat. 1159; 92 Stat. 495), and grants to the Trust Territory of the Pacific Islands, in addition to local revenues, for support of governmental functions; $2,900,000, to remain available until expended: *Provided*, That all financial transactions of the Trust Territory, including such transactions of all agencies or instrumentalities established or utilized by such Trust Territory, shall be audited by the General Accounting Office in accordance with chapter 35 of title 31, United States Code.

COMPACT OF FREE ASSOCIATION

For economic assistance and necessary expenses for the Federated States of Micronesia and the Republic of the Marshall Islands as provided for in sections 122, 221, 223, 232, and 233 of the Compacts of Free Association, $25,102,000, to remain available until expended, as authorized by Public Law 99–239; and in addition, for special assistance as authorized by Public Law 101–219, and for economic assistance and necessary expenses for the Republic of Palau as provided for in Sections 122, 221, 223, 232, and 233 of the Compact of Free Association, $7,556,000, to remain available until expended, as authorized by Public Law 99–658.

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary of the Interior, $62,599,000 of which not to exceed $7,500 may be for official reception and representation expenses: *Provided*, That of the offsetting collections credited to this account, $1,184,000 are permanently canceled.

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $35,374,000.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General, $23,985,000.

CONSTRUCTION MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses of the Office of Construction Management, $2,000,000.

NATIONAL INDIAN GAMING COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the National Indian Gaming Commission, pursuant to Public Law 100–497, $1,000,000.

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 18 aircraft, 10 of which shall be for replacement and which may be obtained by donation, purchase or through available excess surplus property: *Provided*, That notwithstanding any other provision of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft: *Provided further*, That no programs funded with appropriated funds in the "Office of the Secretary", "Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund or the Consolidated Working Fund.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: *Provided further*, That all funds used pursuant to this section are hereby designated by Congress to be "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 and must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under the jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods, volcanoes, storms, or other unavoidable causes; for contingency planning subsequent to actual oilspills; response and natural resource damage assessment activities related to actual oilspills; for the prevention, suppression, and control of actual or potential grasshopper and Mormon cricket outbreaks on lands under the jurisdiction of the Secretary, pursuant to the authority in section 1773(b) of Public Law 99-198 (99 Stat. 1658); for emergency reclamation projects under section 410 of Public Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: *Provided*, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: *Provided further*, That for emergency rehabilitation and wildfire suppression activities, no funds shall be made available under this authority until funds appropriated to the "Emergency Department of the Interior Firefighting Fund" shall have been exhausted: *Provided further*, That all funds used pursuant to this section are hereby designated by Congress to be "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 and must be replenished by a supplemental appropriation which must be requested as promptly as possible: *Provided further*, That such replenishment funds shall be used to reimburse, on a pro rata basis, accounts from which emergency funds were transferred.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, U.S.C.: *Provided*, That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $500,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902 and D.C. Code 4-204).

SEC. 106. Appropriations made in this title shall be available for obligation in connection with contracts issued by the General Services Administration for services or rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

SEC. 107. No funds provided in this title may be expended by the Department of the Interior for the conduct of offshore leasing and related activities placed under restriction in the President's moratorium statement of June 26, 1990, in the areas of Northern, Central, and Southern California; the North Atlantic; Washington and Oregon; and the Eastern Gulf of Mexico south of 26 degrees north latitude and east of 86 degrees west longitude.

SEC. 108. No funds provided in this title may be expended by the Department of the Interior for the conduct of leasing, or the approval or permitting of any drilling or other exploration activity, on lands within the North Aleutian Basin planning area.

SEC. 109. No funds provided in this title may be expended by the Department of the Interior for the conduct of preleasing and leasing activities in the Eastern Gulf of Mexico for Outer Continental Shelf Lease Sale 151 in the Outer Continental Shelf Natural Gas and Oil Resource Management Comprehensive Program, 1992-1997.

SEC. 110. No funds provided in this title may be expended by the Department of the Interior for the conduct of preleasing and leasing activities in the Atlantic for Outer Continental Shelf Lease Sale 164 in the Outer Continental Shelf Natural Gas and Oil Resource Management Comprehensive Program, 1992-1997.

SEC. 111. None of the funds in this Act may be used to publish a National final rule defining the term "valid existing rights" for purposes of section 522(e) of the Surface Mining Control and Reclamation Act of 1977 or to publish a final rule disapproving any existing State definition of valid existing rights.

SEC. 112. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to accept or process applications for a patent for any mining or mill site claim located under the general mining laws or to issue a patent for any mining or mill site claim located under the general mining laws.

SEC. 113. The provisions of section 112 shall not apply if the Secretary of the Interior determines that, for the claim concerned: (1) a patent application was filed with the Secretary on or before the date of enactment of this Act, and (2) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) for placer claims, and section 2337 of the Revised Statutes (30 U.S.C. 42) for mill site claims, as the case may be, were fully complied with by that date.

SEC. 114. Of the offsetting collections credited to public enterprise fund numbered 14-4053 in fiscal year 1995, $38,000 is permanently cancelled as a result of procurement cost savings.

SEC. 115. None of the funds available to the National Park Service in this Act may be used to process permits necessary for construction of a bridge to Ellis Island.

The CHAIRMAN. Are there any points of order on title I?

Mr. YATES. Mr. Chairman, I reserve a point of order against the Pombo amendment.

The CHAIRMAN. The gentleman is referring to an amendment that is to be offered.

Mr. YATES. Yes, Mr. Chairman.

AMENDMENT OFFERED BY MR. POMBO

Mr. POMBO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. POMBO: Page 9, line 17, strike "$514,650,000" and insert "$494,945,000".

The CHAIRMAN. Does the gentleman from Illinois [Mr. YATES] reserve a point of order on this amendment?

Mr. YATES. Mr. Chairman, I withdraw my point of order.

Mr. POMBO. Mr. Chairman, I offer today an amendment which would reduce the appropriation for the Endangered Species Act to last year's level of $494 million, from what is currently in the bill, $514 million. It is about a $20 million cut in what is currently in the bill. It would be a savings of nearly $20 million, which would amount to a great deal. It would freeze spending on the Endangered Species Act until we receive hearings and markup on the reauthorization.

I believe that the American people, several Members of Congress on both sides of the aisle, as well as the Secretary of the Interior, have stated that the Endangered Species Act does need to be reexamined, that it is in need of reauthorization, that there are many points to it which we do need to look into and change in order to make it a more efficient and more realistic act.

I do not believe, until there is reform, that the money would be spent wisely. I do not feel that at this time, with the horror stories that are throughout the entire country, that we should increase spending on the Endangered Species Act until we have had a chance to reauthorize and reform what is currently being done.

If you currently look at the way that ESA is being used across the country, if it were truly being used to save endangered species only, there would be little, if any, opposition to its support. But because of the way it is being used across the country, being used as a way of land use planning, being used as a method of implementing a social agenda of a chosen few, it is not being accepted well.

Because of that, I feel we not only need to send a message to the Department of the Interior and to the Fish and Wildlife Service, but I feel it is extremely important at this time that we do not authorize any more funds than what was currently being spent.

If we are going to increase this, it should be offset in other places.

Right now as I speak, there is a case that is going on in California, just south of me. It involves the Endangered Species Act. It involves a farmer who was farming his ranch, who was planting his crops, and he inadvertently ran over a tipton kangeroo rat, which is on the endangered species list.

When someone from the Fish and Wildlife Service entered his private property and witnessed this, he was placed under arrest, he faces a fine of up to $200,000 and a year in jail for inadvertently running over a tipton kangeroo rat. And I guess, to make matters worse, they impounded and took away his tractor, his way of making a living, because he ran over a rat. It is instances such as this that I feel it is imperative that at this time we look at reauthorizing the Endangered Species Act with the need of reforms.

I believe it is sending the wrong message from this Congress to the Interior Department, to the Fish and Wildlife Service, to not only fund the Endangered Species Act but to increase that funding substantially so that they continue on with these activities.

If any money should be spent on the Endangered Species Act at this time, it should be spent on paying back the people, the private property owners who have lost the use of their property over the past 20 years because of the implementation of the act. This is an area where we have been sorely lacking in responding to the constitutionally required takings amendment, the fifth amendment, which requires that if you are taking a person's property for public use, that they receive just compensation, which is currently not being done under the current implementation of the act.

☐ 1220

So, Mr. Chairman, in closing I would like to encourage my colleagues to send a message to the Interior Department, to the Fish and Wildlife Service and to the country that we will not accept this kind of action.

Mr. YATES. Mr. Chairman, I ask unanimous consent that all time for debate on this amendment and amendments thereto close by 1 o'clock, the time to be evenly divided.

The CHAIRMAN. The unanimous-consent request is for 40 minutes to debate on this amendment and all amendments thereto, evenly divided, 20 minutes for the gentleman from California [Mr. POMBO] and 20 minutes for the gentleman from Illinois [Mr. YATES]?

Mr. YATES. That is correct.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois [Mr. YATES].

Mr. YATES. Mr. Chairman, I rise in opposition to this amendment.

Legislation is pending for continuation of the Endangered Species Act. The chairman of the Committee on Merchant Marine and Fisheries is present at this debate, and we will go into this in some length later on, but I have a letter here from the Secretary of the Interior, Mr. Babbitt, which I will place in the RECORD in its entirety at the conclusion of my remarks.

In this letter, Mr. Chairman, the Secretary of the Interior says:

> This amendment would essentially stop implementation of the forest plan in the States of Washington, Oregon, and California. Ironically, although the proposed amendment may be intended to address concerns that the ESA is resulting in economic impacts to private landowners and to economic development interests, its impact will only be to exacerbate those problems. Increases proposed for the endangered species program are designed to address habitat needs over large land areas so that development can continue with the least impact on wildlife. The forest plan is a good example. Because of the forest plan, timber harvests, now on hold, would be able to resume. The proposed reduction would devastate the forest plan.

I think that this would destroy the endangered species program, and I oppose the amendment offered by the gentleman from California [Mr. POMBO].

The letter in its entirety is as follows:

SECRETARY OF THE INTERIOR,
Washington, DC, June 22, 1994.

Hon. SIDNEY R. YATES,
Chairman, Subcommittee on Interior and Related Agencies, Committee on Appropriations, House of Representatives, Washington, DC.

DEAR MR. YATES: I would like to express the serious concerns I have about a possible amendment to further reduce funding for endangered species programs below the recommendation of the Appropriations Committee.

Obviously, there are some members of Congress with concerns about the Endangered Species Act and its effect on the American public. I share these concerns and have made it one of my personal goals to implement the Act in a way that works, minimizing economic impacts and maximizing protection for species at risk. Of course, this requires funding, but it can save billions of dollars in local communities if we can help them to plan development in a way that does not severely affect wildlife.

I commend the Committee in its handling of these programs, given the fiscal constraints you are under. Although there were reductions, these were distributed responsibly and would allow us to continue with our top priorities, such as the Pacific Northwest forest plan. It is my understanding that an amendment may be offered that would reduce funding for these programs by another $20 million. A reduction of this magnitude would take the endangered species program $1.0 million below the FY 1994 enacted level. This is very disturbing to me.

This amendment would essentially stop implementation of the forest plan in the States of Washington, Oregon, and California. Ironically, although the proposed amendment may be intended to address concerns that the ESA is resulting in economic impacts to private landowners and to economic development interests, its impact will only be to exacerbate those problems. Increases proposed for the endangered species program are designed to address habitat needs over large land areas so that development can continue with the least impact on wildlife. The forest plan is a good example. Because of the forest plan, timber harvests, now on hold, would be able to resume. The proposed reduction would devastate the forest plan.

Under the proposed amendment another endangered species program I am trying to emphasize—prelisting—would be reduced below the FY 1994 level. This program is designed to take recovery-type actions to help species that may be in jeopardy, but have not yet been listed. The prelisting program avoids having to list species with all the economic consequences to local economic interests that occur with listing. Again, the reduction would make it more likely that species declines would continue and protective, restrictive measures would then have to be implemented.

Funding for consultations, recovery planning and recovery actions would be reduced below the FY 1994 level. In addition to funds for the forest plan, the Administration has proposed an additional $5.1 million for recovery and $2.9 got consultations. The Federal government has a responsibility to help other federal agencies, non-federal agencies and private landowners to meet the requirements of the Act. However, the amendment would result in less, rather than more assistance from the Fish and Wildlife Service in avoiding the negative consequences of the Act. It would also cause significant delays in planning and recovery actions so that important species can be delisted.

I ask that you do whatever to can to prevent any reductions to the endangered species program.

Sincerely,

BRUCE BABBITT.

Mr. Chairman, I reserve the balance of my time.

Mr. POMBO. Mr. Chairman, I yield 3½ minutes to the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Chairman, I appreciate the gentleman from California [Mr. POMBO] yielding this time to me, and I appreciate the work of the gentleman from Illinois [Mr. YATES] and the gentleman from Ohio [Mr. REGULA].

From time to time, Mr. Chairman, in this body we passed pieces of legislation that we find out it is not working the way we though it should work, and we have to go back, we have to change it, and we have to amend it. I have never seen a greater example of changing and amending legislation than the Endangered Species Act. It was originally intended, if my colleagues want to go back to 1973 and look at it, what it was intended to do; it was intended to take care of the larger species: the grizzly bear, the bald eagle, and now I have written a letter to Fish and Wildlife asking them a question, where they get the authority to get to the slimy slug and the ring-tailed rufous. But somewhere in there they seem to have been able to find it through some convoluted theory of how they do this.

Actually, Mr. Chairman, as we look through the act we find three places where it ought to be changed. One is the area where it talks about solely, that all they will look at is solely the biological features of the particular species. That should be changed, and other things like the economy of the area should be one of the considerations, as we have seen in the northwest with the spotted owl, as we see in California, Nevada, and Utah with the desert tortoise, as we see in Arizona with the red squirrel, as we see in Colorado with the squaw fish and other areas.

Another area that should be taken care of is in the taking provision. The Constitution says in the fifth amendment: "Nor shall private property be taken for public pursuits without just compensation." This is worse than taking. Those of us who have served in local and State government have used eminent domain. We go in and we take the property in an amount of minutes, but we give the person money, we pay for it. What do we do with this? The person cannot even use his own land, but he still pays taxes on it. This is much worse, the way it is taken.

A third one should be the definition section. Go back and read in 1973, find anywhere that it talked about going to the sub, sub, sub, subspecies. They did not talk about the brown stinking snail in the Provo River. Right now in the Colorado River we have a problem. We are able to give electricity, the cleanest kind, to the people all through that area for very low cost, but because of four particular fish that when I was a kid we called them trash fish, we tried to kill them out with rodents and could not do it over the years; now all four of those are endangered species. So we are going to lose the trout in the Colorado River for these, we are probably going to lose river running, we are losing our cheap power, and maybe we will have to talk about where the water goes.

Therefore, Mr. Chairman, as I look at this particular act, it is not living up to what we asked it to do. I have great respect for the act. I think we should take care of endangered species. But this particular act has gone way too far. The purpose of the act has been changed, and I think it would be prudent for Republicans and Democrats alike to say, "Let's change this so we can live with it."

This is one of the things that the people in the west are so upset about, and, if my colleagues go into their town meetings, they talk to their people, they will find in every district in America people are being hurt by this act that has gone way beyond what it was intended to do. I would hope that we could go along with the amendment offered by the gentleman from California [Mr. POMBO].

Mr. POMBO. Mr. Chairman, I yield 3 minutes to the gentleman from Colorado [Mr. ALLARD].

Mr. ALLARD. Mr. Chairman, I thank the gentleman from California [Mr. POMBO] for yielding this time to me.

Mr. Chairman, I rise today in support of the Pombo amendment. This amendment would keep Congress from appropriating a nearly 30-percent increase for the ESA, an act which expired on January 1 of this year.

As we all know, the ESA is in need of fundamental reform. It still remains a priority for Congress; however, until Congress reauthorizes the ESA, Congress should not be increasing the funding level by an additional $20 million. This will not destroy the program. It is not even a cut. What we are doing is we are maintaining it at current spending levels.

Instead, Mr. Chairman, we can be offering the taxpayer a savings of $20 million. I ask all of my colleagues to vote on the side of their taxpaying constituents, rather than supporting an increase for an unauthorized act. The Pombo Amendment represents a reasonable approach and I urge my colleagues to support this amendment.

Mr. DICKS. Mr. Chairman, I yield 3 minutes to the distinguished ranking member, the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I thank the gentleman from Washington [Mr. DICKS] for yielding this time to me.

Mr. Chairman, I share the same frustrations as my colleagues on this side of the aisle have expressed, and what they are saying is accurate in the sense that we need to reform the law. But the way to address the problems that have been outlined is to change the base law, and that is an authorizing committee's responsibility. Unfortunately, Mr. Chairman, we in the appropriations committee have to fund what is required under the law. One of the things that we are trying to address is this timber problem in the Pacific Northwest.

□ 1230

The bulk of the increase that we have put in the bill is to address the recovery problems in the Pacific Northwest so we can get some timber harvested up there, and it will be beneficial to the increase in timber harvest if we can get a proper recovery plan in place.

Also I might add that there have been some successes. The gray whale is off the endangered species list, and the eagle has been downgraded to a much less degree of protection because the system is working. But as my colleagues have pointed out, we get some egregious situations that result from the law, and I would hope that the authorizing committee will take a look at the base law and see if there is a better way to address the problems of protecting these species while at the same time making it possible for people to work effectively with it.

But in the meantime, in our appropriations process we have to have adequate funds to carry out the law as it is on the books today, and I would hope that my colleagues who are concerned about this would urge the authorizing committee to take a new look and see if based on our experiences, the endangered species law should have some changes. But in the meantime I urge my colleagues to support the committee's funding level because otherwise we cannot effectively carry out what is in the law today.

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I thank the gentleman for yielding time to me, and I appreciate the opportunity to speak.

I would just comment briefly on some of the factors that I think ought to go into this decision of funding. It goes back again largely to process.

We could talk about the fact that endangered species takes only into account the critters that are involved; it takes no interest in the economy or in jobs or in the people or in the ownership of land. But I will not talk about that.

We could talk a little bit about the fact that we cannot seem to get anything delisted—the whales, I think, largely because of the Marine Mammal Act, not because of endangered species, and as to the grizzly bear, every scientist in the area of Yellowstone Park says the grizzly bear should be delisted. But they are not. And I will not talk about that.

I will not talk about the fact that we use the Endangered Species Act simply as a way to get more Federal management on the lands within the States. Oftentimes it has very little to do with endangered species.

But what I would like to talk about, frankly, is the process. The process ought to be with the authorizing committee, and somehow there has been some resistance to moving forward with this. But we ought to do that. That is where it ought to be. We ought not to increase the funding until we have done what we need to have done in the authorizing committee, and that is take another look at the Endangered Species Act.

So, Mr. Chairman, I support the amendment.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of Wyoming. Of course, I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, the only point I want to make is that we already have a lot of problems we have to deal with. If we cut out the money for the Endangered Species Act, we are out there trying to work with the private land owners in the Pacific Northwest to do habitat conservation.

Mr. THOMAS of Wyoming. I understand that.

Mr. DICKS. We are trying to implement the 4-D rule so we can get some of these restrictions lifted. But in order to do it we have to have money for consultation.

Mr. THOMAS of Wyoming. You do have the money, and this amendment simply puts it back where it was.

Mr. DICKS. But we need more money. We have bigger problems.

Mr. THOMAS of Wyoming. Of course, you need money. Who does not? Everybody needs more money.

The CHAIRMAN. The time of the gentleman from Wyoming [Mr. THOMAS] has expired.

Mr. DICKS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I yield 1 minute to our good colleague, the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Chairman, I rise today to express my strong opposition to the Pombo amendment and my strong support for the Interior appropriations bill, in particular, the $1.5 million it provides for land acquisition in the Columbian White-tailed Deer Refuge, also known as the Julie B. Hansen Refuge. Encompassing riparian and island areas along the Columbia River, this refuge provides critical habitat for the endangered Columbian white-tailed deer. The acquisition of additional wetland and riparian forest areas, as provided for in H.R. 4602, will protect enough habitat for the deer that the Fish and Wildlife Service anticipates being able to de-list these species under the Endangered Species Act. This is truly an endangered species success story.

Our experience with the Columbian white-tailed deer should teach us 3 important lessons. One, the Endangered Species Act does indeed work. Implementation of a recovery plan, with the active involvement and support of local residents—including a local utility and pulp mill—can bring a species back from the brink of extinction, and with minimal economic impact and maximum social benefit to the community. Two, the story of the Columbian white-tailed deer clearly illustrates that to save a species, we must protect its habitat. We may be voting later today on an amendment that will try to severely restrict the Federal Government's ability to protect the critical habitat of our Nation's endangered species. Let us not fool ourselves—if we don't protect a species' home, we're not protecting the species and we will be incurring future economic, cultural and social upheaval.

Three, the Columbian white-tailed deer show us the merits of acting proactively to protect endangered species. It is more cost effective, less time consuming, and less impacting on the local economies and communities that depend on healthy natural resources to take preventive measures to protect populations at risk. Decreasing the budget for implementation of the Endangered Species Act—so that the Fish and Wildlife Service only has the resources to take action when a species is almost gone—is a recipe for future species trainwrecks. And we in the Northwest are all too aware of the economic and social impacts that result when we wait too long to protect a species. I strongly urge my colleagues to vote no against the Pombo amendment.

Mr. POMBO. Mr. Chairman, I yield 4 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, had I had the chance under the rule, I would have offered an amendment this morning challenging the Department of the Interior to do what the circuit court of appeals here in the District of Columbia has declared to be the law. The court of appeals in the Sweet Home case decided that as a matter of law the Department of the Interior was not interpreting the Endangered Species Act correctly.

It decided that this department of the Government was, in fact, depriving people of their private property rights in the implementation of the Endangered Species Act unnecessarily.

What it said in effect was that the language in the Endangered Species Act which speaks of the prohibition against harming or harassing an endangered species was never intended by Congress as an authority for the department to tell people they could not modify their premises, that they could not live on and use their property. As a consequence of the department's erroneous interpretation of the take or harm and harass provisions of the Endangered Species Act, property owners across America are being told they cannot do things with their property they ought to have the right to do.

For example, in California, when the kangaroo rat was declared an endangered species, a threatened species, all of a sudden property owners living in Southern California found themselves facing a dilemma. Up until last year they had been ordered to disc around their homes and actually destroy the brush around their property so that that brush would not create a fire hazard for their communities. Last year the Fish and Wildlife Service said, "If you do it, we will put you in jail. It is a violation of the Endangered Species Act. We have got to protect the kangaroo rat, so you can't protect your homes."

Most home owners obeyed the Fish and Wildlife Service and lost their homes as the fires swept through communities in southern California. Some disobeyed the law and saved their homes.

So we are left with a Department interpreting and enforcing an act that says in America that a kangaroo rat's home is more important than the home of a citizen of the United States of America. We are left with an interpretation of this act that our Department fully intends to continue implementing, but that the court of appeals here in Washington, DC, said was an incorrect interpretation.

We should have amended this bill today to compel the Department to follow the law. But the Committee on Rules said, "Oh, no, we are not going to give you a waiver to allow that amendment on an appropriations bill."

But let us look at this bill. We see that they granted other waivers. They granted a waiver for language that says you can't drill offshore. That is legislation on an appropriation bill. But this was not important enough an issue for the Committee on Rules to let this House debate it.

Let me tell the Members what we are building in this country. We are building an incredible train wreck if the Department continues to use the Endangered Species Act to deprive people of their property rights without just compensation. We are building an incredible train wreck the environmental community is not helping us to do anything about because they are telling us we cannot reform the Endangered Species Act this year, that it is too controversial. And it looks like we are not going to be able to take up the Clean Water Act this year because it is too controversial on wetlands So instead, we are keeping on doing what we have been doing, interpreting the law to deprive people of their property rights in America without just compensation.

We ought to protect endangered species. We ought to protect threatened species in America, but we ought to allow people to use their property, too. We ought to respect private property rights, and when we take them away, we ought to pay people just compensation as the U.S. Constitution provides. No private property should be taken for public purposes without just compensation.

□ 1240

Mr. DICKS. Mr. Chairman, I yield myself 15 seconds, just to point out the moratorium on offshore drilling is a limitations on an appropriation bill, and not substantive legislation.

Mr. POMBO. Mr. Chairman, I yield 15 seconds to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I wanted to point out the amendment we offered at the Committee on Rules was not a limitation on appropriation. It simply said you cannot spend money to enforce the law against what the court of appeals here in Washington, DC, said was a proper interpretation of the law. It was identical to that limitation to appropriations contained in the bill.

Mr. DICKS. There is a slight interpretations difference here.

Mr. Chairman, I yield 15 seconds to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I want to point out to my friend the decision he spoke to has been stayed by the courts, because there are two conflicting decisions. Until that is resolved, they are stayed.

Mr. DICKS. The ninth circuit has taken an opposite position on this.

Mr. Chairman. I yield 3 minutes to the distinguished chairman of the Committee on Merchant Marine and Fisheries, the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Chairman. I want to express my appreciation to the gentleman from Illinois [Mr. YATES] and the gentleman from Washington [Mr. DICKS] and to the distinguished ranking member, for a statesmanlike job on a very difficult subject.

The Endangered Species Act is a fundamental environmental statute. It is extraordinarily important, it has widespread public support, and, unfortunately, it is very easy to caricature. If in fact, as one Member suggested, the only critters protected by this law were cuddly and fuzzy and immediately lovable to our types, maybe it would be a lot more difficult to caricature. But the law does not speak to preserving cuddly critters. It speaks to all species. Yes, including subspecies explicitly in the original statute.

Let me say the single most important thing changed in the last couple of years has been the attitude of the administration, and most significantly the Secretary of the Interior. For the first time in a long time we have a Secretary determined to make this law work. His predecessors were determined to prove it could not work, and they did a pretty good job in their own terms.

I would point out that the gentleman from Washington State, who is now speaking ardently in opposition to this amendment, did not have very many kind things to say about this statute and its impact on his region of the country a few years ago, because it was in fact being administered by a Secretary who did not want it to work and had engineered some very major train wrecks in the Pacific Northwest.

We now have a Secretary who wants it to work and who has seen to it that it will work, and I think we have a responsibility to try to help him, rather than to obfuscate the situation and make his job more difficult.

The gentleman from Illinois [Mr. YATES], read from a letter from the Secretary with regard to the importance of this program. One of the ironies of this amendment is it seeks to strike the very funds which the new Secretary of the Interior is dedicating to see to it the problems he deplores are avoided and avoidable.

If I may, with specific reference, because it is so easy to find a noncuddly critter and say what a silly thing this is, the instance cited as justification for this amendment by its author, the small farmer in California, it is portrayed to us as if suddenly out of the heavens, without warning, came some awful Federal agent depriving this person of his rights without notice.

Two years ago, in November 1992, the gentleman in question was informed by the California Department of Fish and Game, and let me read, if I may, from that letter dated November 24, 1992:

> Dear Mr. and Mrs. Lin: It has come to the attention of the Department,

and this is the California State Department, incidentally, of Fish and Game,

> that you or your company intend to develop and/or modify the land you own.
>
> This letter is to serve as notification to you that the department has identified this area as native threatened and endangered species habitat that now contains significant populations of both state and federally listed threatened and endangered plants and animals.
>
> There are several state and Federal environmental regulations pertaining to impacts on threatened and endangered species. Any unpermitted modification or development of this land would cause an adverse impact and constitute a violation of the law.

Let me complete this. This is the notice, almost 2 years ago, to this gentleman. Then it says at the end:

> Before you proceed with any projects that may impact threatened or endangered species, either directly or through habitat modification, you must first satisfy the requirements of the California law and the Federal laws,

and this process gives him someone he could be in touch with.

This is not an unnoticed, suddenly outrageous, incomprehensible edict. Two years ago he was quietly and politely and routinely informed that he needed to consult because there was a problem.

Mr. POMBO. Mr. Chairman, I yield myself 30 seconds to respond to the chairman, who does make a number of good points.

I agree with the gentleman that the Endangered Species Act is one of the fundamental building blocks of our environmental policy in this country. But to point out specifically on the letter that the gentleman mentioned, the proper way at that time, when they are telling him he can no longer do anything with his property, is to start the eminent domain proceedings and to pay him for what they are in effect taking from him. And that is the property that he bought with the intention of farming.

That is not what is happening today. That is why there is so much frustration, not only on this House floor and in the committee that you chair, but across this country.

Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Chairman, I rise in support of the amendment offered by the gentleman from California.

The Washington Times in a recent editorial quoted the National Wilderness Institute as saying about the Endangered Species Act.

> The Federal endangered species program is out of control. Expenditures identified in recovery plans grossly understate the actual costs of recovery because many tasks called for in the plans do not include cost estimates, and none of the costs imposed on the private sector are included. The government has no idea of the true cost of the endangered species program * * * Though unmeasured, the costs of implementing the act as currently written are in the multi-billions, yet in over twenty years, not a single endangered species has legitimately been recovered and delisted as a result of the Endangered Species Act.

Mr. Chairman, I think this is a good amendment, and I urge my colleagues to support it.

Mr. DICKS. Mr. Chairman, I yield 2 minutes to the distinguished chairman of the Committee on Natural Resources, the gentleman from the great State of California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I would hope that we would reject this amendment.

Whatever people feel and their concerns about the administration of the Endangered Species Act, this amendment in and of itself does nothing about that, except to probably complicate and make the administration worse than many people are now concerned.

In a number of areas, and specifically in the Pacific Northwest, we are on our way to solving a problem that was allowed to fester by the previous administration in their desire not to administer the act properly and to hope that they could build up enough political pressure, and unfortunately, enough pain in the communities of the Pacific Northwest and communities that were seeing the economy change and needed help, they desired to build up the pressure to see if they could overturn the Endangered Species Act.

That did not work, and now we have an administration, the Clinton administration, that is desiring to see the Endangered Species Act carried out and also to help these communities recover.

In the State of California, we have problems in the delta. You cut this money and what you do not do is allow us to work out those problems, where just yesterday we announced that the Federal Government, the State government, the urban water users, the rural water users, and agricultural interests, are coming together to work out a plan to try to deal with this. That is what this money is for, to avoid those train wrecks, to avoid that kind of economic plan, to avoid that uncertainty, and to bring about a resolution of these issues.

Now, if the gentleman on the other side of the aisle simply wants to continue the status quo that he so deplores, then simply cut all of the money so we cannot get on with resolving these issues. This committee is strained for the allocation of its resources, but also it recognizes that we have got to resolve these areas, we have got to implement recovery plans, so that the communities and our constituents can get on with their lives and get out from underneath the Endangered Species Act, where we will not have to go to listings, we will not have to impose that kind of economic hardship on those individuals.

This will not help administer the Endangered Species Act. This will not change the Endangered Species Act. It will only make life far more difficult for people who are living with the uncertainty of the failure to resolve these issues.

□ 1250

Mr. POMBO. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Chairman, I strongly support the amendment of the gentleman from California [Mr. POMBO]. I wish I were as sanguine as the Democrats about the good intent of Mr. Babbit. After all, it is Mr. Babbit's Fish and Wildlife Service that told people they could not disk around their homes to protect themselves against the fire in southern California earlier this year or they would be in violation of the law.

Members have heard the stories told about the absurd kangaroo rat and this other rat that the gentleman talked about in Kern County. I mean, it is just amazing to me that we as Representatives would be willing to countenance a policy that puts rats above people. I do not think we ought to spend one dime increasing funding for this Endangered Species Act until we get right down to the fundamentals that the gentleman from Louisiana [Mr. TAUZIN] and others have talked about relative to protecting private property rights.

We have heard it represented that we are going to stand in the way of this marvelous plan for the Pacific Northwest. We have suffered a two-thirds reduction now in timber that is being harvested, and President Clinton and Vice President Gore held a big meeting to resolve the economic problems of the region. They sure helped them. They came up with a plan that lowered timber production from a two-thirds reduction to a four-fifths reduction. It will cost 80,000 jobs in the region. That is a lot of help.

Mr. Chairman, this Pombo amendment is a good step. This vote today ought to be a referendum on what people think about the President's implementation of the Endangered Species Act. I would submit that most Americans do not think very positively about it. It is one thing to protect species. It is another thing to take away people's God-given right to use their property.

The abuse of these rights has just gotten to the point where it can no longer be tolerated. I thank the gentleman from California for offering his amendment, for giving us this opportunity to state where we stand. Do we support private property? Are we willing to stand up and put our vote there, or are we willing to go along with big government, big bureaucracy, and with the desires of those who want to tell the private property owners how to use their property.

Then people are just going to tell you what you can and cannot do with what is yours and the regulations imposed will only leave you with the right to pay taxes on it and virtually nothing else!

Mr. Chairman, I ask for the Members to strongly support the Pombo amendment.

Mr. DICKS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Oregon [Mr. KOPETSKI], who has been in the middle of the train wreck.

Mr. KOPETSKI. Mr. Chairman, I appreciate the frustration that the gentleman from California [Mr. POMBO] has with the Endangered Species Act. But do not turn this into a referendum on the ESA, because what happens is they will put more of my timber workers out of work because we need this money so that we can complete the studies necessary so we can get some timber sales out there, as paltry as they are, under the President's plan.

This does not help the situation. It hurts us. It hurts the workers. It hurts the mill owners. it hurts the home building industry.

We need these bucks. I hope Members will please reject this amendment.

Mr. YATES. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in strong opposition to the Pombo amendment. This amendment takes us back to the thrilling days of yesterday and to denial of the endangered species problems.

Members may disagree on the application of the Endangered Species Act. But I do not think we disagree on the real problems that exist in the Pacific Northwest or other areas of the country. The fact is that these dollars are going to be used as part of a solution to the Pacific Northwest. We have a graphic example of a court injunction that has been lifted and hopefully, with the administration's plans, and the activities and further deliberations, we will see some of the restoration of some timber sales.

The fact is, we can argue and we can have our own politics, but not everybody is entitled to their own scientific facts about the way that these ecosystems work. The only place we are going to see DNA recreated is in Stephen Spielberg science fiction films of this country.

Man cannot do it in nature. There is a lot we do not know. The fact is, the Endangered Species Act has been very successful; over 25,000 conference resolutions have occurred over its life. The fact is that many of the controversial issues become emblematic of what is going on here.

Members today are sort of creating property rights based on a single decision. If they really have those rights, obviously the courts would have sustained them through a whole series of decisions. So it is unfair to take these dollars out, to deny the implementation of the Law and address the problems as they exist, not as some wish they were.

Mr. YATES. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Chairman, I do not want to leave the impression here that the Rocky Mountain West is all of one mind on this. My colleagues from Colorado spoke earlier in support of this amendment. I speak very strongly against it.

We are faced with the ironic circumstances that a few days after the Secretary announced an agreement among the Governors of Colorado, Wyoming, and Nebraska to move forward in a positive, proactive way to deal with the endangered species recovery problems in the Platte River Basin, this amendment would cut off the funding for that constructive approach avoiding another train wreck.

The gentleman from Utah raised the specter on the Colorado River. Again, if we adopt this amendment, our ability to proceed thoughtfully with the recovery plan for the fish in the Colorado River Basin will be undermined.

Defeat this amendment. It is not good policy.

Mr. YATES. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. HAMBURG].

Mr. HAMBURG. Mr. Chairman, I would like to associate myself with the remarks of those who have said that this is a counterproductive amendment, that we are trying to move forward in the Pacific Northwest with solutions to problems that have been created by very poor resource management. The President's Northwest Forest plan is not perfect. When I go back to my district, I hear a lot of complaints from the timber industry. I hear a lot of complaints from the timber industry. I hear a lot of complaints from the environmental side. But if there is one thing I have learned in government, if both sides are shaking their heads and not totally satisfied, we have probably come up with a compromise that makes some sense.

What this amendment will do is not allow us to move forward. The sum of

$11.3 million of the $20 million that would be provided in enhanced funding will be used in the Pacific Northwest. It will largely be used by small landowners to do the habitat conservation plans that are needed for us to implement the President's plan.

Please defeat this amendment. This amendment is not good for timber work. It is not good for the environment. We need to finally move forward. Defeat the Pombo amendment.

Mr. YATES. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, I heard on the other side the cry of property rights must be protected and, therefore, vote for this amendment. They could not be further from the truth.

Without the science that will come about because of the appropriations included in this bill, the private property rights of non-Federal landowners are going to be protected. They will be able to comply with the law in the most efficient manner possible. This is the way the administration, through the Forest plan, wants to help those private property owners be able to comply with the requirements and not be inconvenienced, not be prevented from having sustainable management of their property. They want it.

Oppose this amendment.

Mr. POMBO. Mr. Chairman, I yield myself 2 minutes.

□ 1300

Mr. Chairman, I appreciate the argument that many of my colleagues have made on the other side about the need for increased funding in this bill. Mr. Chairman, I understand the direction that the gentleman would like to go.

The problem is the way that the Endangered Species Act is being implemented. The previous speaker just spoke about science. Science can be turned to say anything that the gentleman wants.

If we had a fair and honest implementation of the Endangered Species Act we would allow both sides to introduce their science, and both sides would have the opportunity at the time of listing to put their biological evidence on the line and give the Secretary of the Interior the ability to weigh both sides of the argument as to whether or not this was truly an endangered species.

The spotted owl has talked about a lot here this morning. There are arguments on both sides of that issue. We all know that. It has been quite a contentious argument and debate over the many years it has continued.

The problem is both sides do not feel that they were heard. Both sides do not feel that their arguments were part of the debate. That is the situation we find ourselves in today.

Will the increased appropriation to this bill solve that problem? Absolutely not. It will not solve the problem. It will continue the current attitude and the current way that the Endangered Species Act is being implemented. The only way we change the problems that exist in the Endangered Species Act and the way it is being implemented is by reforming it, by changing it, by making it work.

There is no one on this floor who wants to do away with the Endangered Species Act and who does not see the value to this world in saving endangered species, but there are many arguments that have come up not only this morning but over the past several years about how we go about saving those species and the implementation of that act.

The way the act is currently being implemented, we have a series of distortions, a series of takings of private property rights. We see the very large corporations with the ability to buy off their endangered species problem through mitigation.

If they give a few million dollars through Fish and Wildlife or to Fish and Game, their problem goes away. If they pay a biologist to determine that their problem is on someone else's property and they can declare that someone else's property is critical habitat for whatever endangered species happens to be on one's own property, then we can pay to make that problem go away.

Those are some of the problems that exist. In my area it is not the big corporations that are being hurt by the Endangered Species Act, it is the little farmers who cannot afford to hire a string of attorneys and a string of biologists to buy their way out of their problem. Those are the people being hurt in my area.

My entire district is covered by one endangered species or another. There is no one in my district that is exempt from this act, because no matter what occurs in my part of California, we are overlaid by one critical habitat area or another.

Those are the issues that need to come out and that we need to debate in committee and on this floor. That is why it is so important.

Mr. YATES. Mr. Chairman, I yield the balance of our time to the distinguished gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Chairman, I yield 30 seconds to my colleague, the gentleman from Oregon [Mr. DEFAZIO], who has been in the middle of this problem from the very start.

Mr. DEFAZIO. Mr. Chairman, I thank the gentleman for yielding to me.

No one's district has been more impacted by the spotted owl-old growth timber controversy than mine.

Mr. Chairman, let me state very simply what this amendment will so. It will strip the agency charged with implementing this law of any flexibility, any flexibility to accommodate private property owners rights, and it is a clear invitation to litigation, further injunctions, and more disaster.

If Members like what happened under the Bush administration, they will love what would happen under the Pombo amendment.

Mr. DICKS. Mr. Chairman, I want to say to the gentleman from California [Mr. POMBO] that I probably, as well as any member of this body, appreciates the frustration that we all have under the Endangered Species Act, and the enormous consequences it has had on the Pacific Northwest, which I have had to deal with for the last 4 years.

However, I have to agree with all of my colleagues, including the chairman of the authorizing committee, the gentleman from Massachusetts [Mr. STUDDS] and the gentleman from California [Mr. MILLER], this is not the way to attack the problem. Next year we are going to proceed with the reauthorization of the Endangered Species Act, and at that time, my friend, the gentleman from Louisiana, and all the Members concerned are going to have an opportunity to present their amendments.

Let me tell Members what I think about this issue. I think that a species-by-species approach is in grave difficulty and in grave trouble. I think we need a comprehensive habitat conservation plan for the State of Washington, Oregon, and California, which is a multispecies approach, so that once we go to the Fish and Wildlife Service, once we submit our plan, then we are out from underneath the Endangered Species Act. From time to time we may have to use gap analysis or other tools, and make adjustments, but those are the issues we are going to debate in the reauthorization.

Right now what this amendment would do would hurt the small guys in the Pacific Northwest who are trying to do voluntary habitat conservation plans with the Fish and Wildlife Service so they can get out from underneath the Endangered Species Act. If the Fish and Wildlife Service does not have the money for consultations, if it does not have the money for habitat conservation plan work, if it does not have the money for the 4(d) rule, we are not going to get out from underneath these restrictions.

Mr. Chairman, I know the gentleman is trying to help, but this is not helping us. This is hurting the cause that the gentleman is trying to further.

I point out to all of my colleagues today, Mr. Chairman, that we have cut money out of this particular line item. We recognize there are restraints. The distinguished chairman of the Subcommittee on Interior of the Committee on Appropriations has had to take $260 million out of this bill. However, we did not take it all out of the Endangered Species Act because it would have been counterproductive. Let us vote no on this well-intentioned but misguided amendment.

Mr. THOMAS of California. Mr. Chairman, I support the amendment to rivet the administration's attention on the need to reform this economic growth and job killing law.

In the following article which is submitted for the RECORD, and appeared in the April 29 issue of the Bakersfield Californian, one can see that Fish and Wildlife has undertaken some rather drastic actions in the name of the Endangered Species Act. This example, which occurred in my district, is one of many examples of ESA enforcement which show the pernicious effects of this legislation. We have reached a point where a person cannot use their own property to earn a livelihood. The Government now controls private property, taking it without paying for it. I believe that the Endangered Species Act, as currently written, does not adequately address the economic and societal costs associated with the preservation of species. The act is just an "unfunded federal mandate," which affects the landowner.

I request, Mr. Chairman, that the House consider limiting the funding for the Department of Fish and Wildlife to stop the frivolous enforcement of this onerous legislation, while focusing attention on the need for reform of the Endangered Species Act now, so that our own citizens are not the victims of its enforcement. The amendment would send the message to the President that there is a need for reform, and that Congress is prepared to support the citizens of this country against laws that place animals ahead of people.

[From the Bakersfield Californian, Apr. 29, 1994]

WILDLIFE ACT CREATES DILEMMA FOR TRACTOR FIRM

(By Susan Towers)

Bakersfield businessman E.G. Berchtold couldn't have been more shocked when he received the official document from the U.S. attorney's office.

"The United States of America vs. One Ford Tractor."

A $50,000 tractor and disc Berchtold Equipment Co. had sold recently to a customer had been confiscated by the U.S. Fish and Wildlife Service. Berchtold still has a sizable financial interest in the equipment.

What the document didn't say, but what Berchtold later learned, was that it was the tractor driven by Taung Min Lin when he allegedly ran over and killed several endangered Tipton kangaroo rats about 20 miles southwest of Bakersfield.

Lin, an El Monte-based businessman and an owner of Wang-Lin Farms Inc., is the first farmer in Kern County to face prosecution under the federal Endangered Species Act, said Karen Kalmanir, assistant U.S. attorney in Fresno.

"Our concern is not only the tractor we might lose," Berchtold said. "All of us are losing our rights. The government is doing whatever it wants to do to us. What people don't realize is that this could be their house if they happened to kill some endangered animal in their backyard."

The tractor—and a disc—were confiscated by the federal agents in the same way as property is confiscated from drug traffickers, Kalmanir explained.

The Endangered Special Act "authorizes the confiscation of instruments of crime," she said.

The document had been sent to Berchtold Equipment Co. to let it know of the forfeiture action so that the company could petition the court to show any financial interest.

"We are an innocent party here," he said from his Bakersfield office. Berchtold added that he does not know whether he will get the tractor, even though the company has a Uniform Commercial Code document filed with the secretary of state defining the company's financial interest in the equipment.

"We sold a tractor that ran over something," he said. "This could happen to anyone. This could happen to a truck sold by Jim Burke Ford."

Berchtold also noted that the company was given only a few days to respond to the notice.

Through Bakersfield attorney Kenneth Bates, Berchtold has filed a response and hopes to either get the rest of the money owed on the tractor, or the tractor back.

He fears that Lin, facing a possible $200,000 fine and imprisonment if convicted, will not be able to pay the balance. U.S. Fish and Wildlife Service already has stopped him from farming until the matter has been handled.

Lin's criminal case will come before the U.S. Magistrate in Fresno May 11.

"This is a risk that all of my colleagues in the equipment business are now facing," Berchtold said.

Berchtold also said he was concerned about Lin. The elderly man from Taiwan does not speak English. He does not have an attorney. He does not have any good friends in Kern County and according to ranch manager Robert Sanchez, does not understand the environmental law.

Fred Starrh Jr., as an active member of the Coalition to Protect and Preserve Private Property Rights, said many local farmers are concerned about Lin's case. "There are other cases just like this going on right now," he said. "(State) Fish and Game and (U.S.) Fish and Wildlife are out of control."

Lin allegedly was caught cultivating virgin desert that he had purchased three years ago from Tenneco Oil Co. Starrh said that as urban Bakersfield expands over farmland, farmers are being forced to move toward the desert.

"Basically in this area, any land that is desert is home to endangered species," he said. "Farmers are finding that land they've owned for years but haven't used has become federal reserve property and there is nothing they can do about it."

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from California [Mr. POMBO].

The amendment was rejected.

The CHAIRMAN. Are there any amendments to the remainder of title I?

AMENDMENT OFFERED BY MR. ALLARD

Mr. ALLARD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ALLARD: Page 14, strike lines 9 through 22.

Mr. YATES. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 20 minutes, with 10 minutes on each side.

Mr. ALLARD. Mr. Chairman, reserving the right to object, I believe I have a number of Members who want to speak on this particular amendment.

Mr. YATES. Mr. Chairman, if the gentleman will yield, would the gentleman want to make it 30 minutes, with 15 minutes on each side?

Mr. ALLARD. Mr. Chairman, would the gentleman agree to 45 minutes on each side?

Mr. YATES. Mr. Chairman, 40 minutes, with 20 minutes on each side.

Mr. ALLARD. Mr. Chairman, would the gentleman agree to 45 minutes on each side? That would be 1½ hours from now, 3:30.

Mr. YATES. The gentleman will agree to 45 minutes, half to be controlled by the gentleman from Colorado [Mr. ALLARD].

The CHAIRMAN. The Chair heard the gentleman from Colorado [Mr. ALLARD] saying 45 minutes on each side.

Mr. YATES. Mr. Chairman, I withdraw my unanimous-consent request.

The CHAIRMAN. The gentleman from Colorado [Mr. ALLARD] is recognized for 5 minutes in support of his amendment.

Mr. ALLARD. Mr. Chairman, my amendment is very simple. It strikes all unauthorized funds for the National Biological Survey, which I shall refer to as the NBS.

The Interior appropriations bill contains $167.2 million in funds for the NBS. Every nickel of this money is appropriated in violation of the rules of this House.

Once again however, the handy work of the Rules Committee has been called upon to waive all points of order concerning unauthorized appropriations.

This happens time after time. It makes a mockery of the rules of this House, and it exposes the futility of the Budget Act in the battle to achieve deficit reduction.

While the Rules Committee has made it difficult for us to enforce the rules of the House, it has not made it impossible. My amendment would strike the unauthorized funds.

The appropriators and the conferees would then be free to direct that any of these funds be transferred to the biological research and survey activities of the Fish and Wildlife Service, the National Park Service, the BLM, and any other department bureaus.

In fact, I have amendment language that I am prepared to offer that would accomplish just that. Once the unauthorized NBS funds are stricken, my amendment would then allocate the money back to the appropriate areas of the Interior Department. Should the

Congress choose not to exercise this follow-up option, then we would apply the $167 million to deficit reduction. When the NBS was debated by the House it generated a great deal of controversy on issues such as property rights, scientific validity, volunteers, and the creation of a new bureaucracy. This issue is too controversial for the administration and the appropriators to simply forge ahead with inadequate congressional direction.

I fully anticipate that the chairman will argue on behalf of the administration, that the NBS is already authorized. This argument is ridiculous.

If this were the case, why did the House of Representatives spend so much time in heated debate this fall voting on an authorization bill.

Second, the chairman and the Rules Committee must know themselves that these funds are unauthorized. Why else would they have seen the need to protect the NBS funds with a special waiver of points of order?

Third, I have reviewed the evidence cited by the administration to support its argument that authorization already exists. I find it totally unpersuasive. First, they cite section 5 of the Fish and Wildlife Act of 1956, providing for reports and investigations concerning the availability and abundance and the biological requirements of the fish and wildlife resources.

This provision is in clear reference to the Fish and Wildlife Service. For starters, there is absolutely no mention of plant life, and to use this language to justify—nearly 40 years later—the creation of a massive, all-encompassing survey of plant and animal life on public and private land is an extraordinary stretch.

The administration also makes reference to the Fish and Wildlife Coordination Act, and the Migratory Bird Treaty Act. The first of these permits the making of surveys and investigations of the wildlife of the public domain. Again, no reference to private land or to plants. The second statute deals only with some species of migratory birds, and says nothing beyond that.

The administration does not address the issue of multiple jurisdiction. What authority does the Interior Department have to take all this action on its own? There may clearly be jurisdiction for the Agriculture Department since the NBS will affect the National Forests and all wildlife therein. Similarly, there is potential jurisdiction for the National Marine Fisheries Service in the Commerce Department.

In short, I see no evidence that there is any authority for the Secretary of the Interior to conduct the giant, comprehensive inventory of all plant and animal life—a cataloging of the ecosystems, as it is referred to.

While we are on the topic of authorization I would like to cite the written testimony of two important House chairmen on this issue of authorization.

In written testimony of May 1, 1993, before the Appropriations Committee, the chairman of the Natural Resources Committee stated that although he supported the NBS, "I believe that the NBS can carry out its functions only if authorized to do so. Therefore, I request that the appropriation be made subject to an authorization."

☐ 1310

The CHAIRMAN pro tempore (Mrs. UNSOELD). The time of the gentleman from Colorado [Mr. ALLARD] has expired.

(By unanimous consent, Mr. ALLARD was allowed to proceed for 5 additional minutes.)

Mr. ALLARD. Similarly, the chairman of the House Committee on Merchant Marine and Fisheries, in the same forum stated that "any new agency ought to be authorized by statute, and I intend to authorize it."

Mr. YATES. Mr. Chairman, reserving the right to object to the gentleman's request to extend for an additional 5 minutes, I am not going to object to the gentleman's 5 minutes as I have a right to do.

The CHAIRMAN. The gentleman is too late to object to this request for an additional 5 minutes.

The gentleman from Colorado had proceeded before the objection was made.

The Chair recognizes the gentleman from Colorado [Mr. ALLARD].

Mr. ALLARD. Mr. Chairman, now, I realize that Secretary Babbitt was not happy with the private property and other restrictions that the House placed on the NBS last fall. And I realize there is frustration that the Senate has not moved any authorization legislation, but that does not justify an end run around the process.

The bottom line is this, the National Biological Survey should be properly authorized, and all appropriations should be made subject to that authorization.

Let me address some of the specific reasons why this legislation should be authorized. First, private property concerns.

It is true that some language requiring permission from property owners is required before new surveys can be conducted on their land is included in the appropriation. However, this covers only the 1 year of appropriations. This protection should be a permanent provision in the language authorizing the NBS. Private property owners should not have to rely upon the annual goodwill of the appropriators to include this language each year.

As my colleagues will recall, this issue was the subject of an amendment to the authorization bill by Mr. TAYLOR.

Second, there is no explicit language in the appropriation prohibiting the use of volunteers. This is important to ensure the survey is conducted by professional and properly trained individuals. This issue was the subject of an authorizing amendment by Mr. TAUZIN.

Third, there is no language prohibiting other Federal agencies from using information collected under the survey pertaining to private land unless the landowner has access to the information, as well as a detailed description of the manner in which it was collected, and an opportunity to dispute its accuracy.

This issue was the subject of an additional authorizing amendment by Mr. TAUZIN. All three of the amendments I have mentioned were approved by the House last fall, but are not adequately addressed here in this appropriations bill.

An additional concern is the degree of centralized power which the National Biological Survey gives to the Secretary of the Interior.

The NBS is clearly a method to create a free standing bureau with independent scientists who are not subject to review, criticism, or questions. By taking the scientific activities of seven different Interior Department bureaus and combining them into one entity that functions pursuant to nothing more than a secretarial order, we foster a tremendous concentration of power and increase the opportunity for abuse.

Lets make no mistake about what we are doing here if we approve this appropriation. We are ceding congressional control and direction of this program to the Secretary of the Interior. In essence, Congress will have failed the citizens in its oversight duties.

How much do we really know about the National Biological Survey? A major complaint from many is the lack of information on the NBS. The Interior Department has put out broad and vague statements, but specifics and details are lacking.

One interesting aspect is the fact that a number of high ranking individuals in the NBS previously worked in the National Landmarks Program of the National Park Service. This program has been put on hold due to gross mismanagement. An inspector general's audit found that the property rights of at least 2,800 private landowners were infringed upon. Many properties were trespassed upon and designated as landmarks without the landowners knowledge. Past histories like this are precisely why Congress needs to be closely involved in the implementation of a program like the NBS.

Finally, there is a reason why the Secretary of the Interior wants this National Biological Survey so badly. It deals with much more than merely counting the number of plants and animals. This is a power grab, and it is a back door attempt to expand the sweep of the Endangered Species Act prior to its reauthorization.

The National Biological Survey empowers bureaucrats and environmental crusaders. I believe that it marks another milestone on the road to diminished private property rights.

The data collected is not going to sit in a file drawer somewhere, it is going to be used to justify vast restrictions on the rights of property owners. At least 60 percent of this country's land base is owned by private individuals. In order to inventory the entire Nation's resources, private property rights will be compromised.

Mr. Chairman, it is not enough for Congress to look at these issues 1 year at a time. We must ask ourselves, where this program is headed if we do not reign it in now. Where will it be 5 years from now. If we allow this unauthorized appropriation today, we are likely to find ourselves funding a far larger program with far greater powers in only a few short years.

I ask my colleague to join me in opposing this unauthorized appropriation. When this amendment passes, we will then work to restore the proper level of funding to those agencies of Interior that should be continuing research and survey programs.

Mr. YATES. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I sympathize with the purposes of the amendment of the gentleman from Colorado [Mr. ALLARD]. I can understand that he would like to have the bill creating the National Biological Survey enacted legislatively, and I would, too. That does not mean, however, that that portion of the National Biological Survey which is in existence and is operating is not operating pursuant to authority. The Secretary of the Interior has the right to reorganize this department or any of its agencies.

□ 1320

He has done that.

The appropriations that are provided in this bill are directed solely for those portions of the operation which are authorized.

Second, the gentleman from Colorado [Mr. ALLARD] proposes to kill the biological survey and to transfer the money to the respective agencies for rehiring their scientists who were transferred to the biological survey. That is impossible, not impossible, but it is unwarranted under this bill.

If the House is interested in this committee adhering to its 602(b) allocation, and the bill has been brought to the floor under its 602(b) allocation, it will vote against the amendment offered by the gentleman from Colorado [Mr. ALLARD].

Under the peculiar allocation of outlays that emerges under the various budget caps that we have, there are different outlays that are authorized for different agencies. The outlays that are estimated for the biological survey are 40 percent. The outlays that are estimated for the operations of many of the other agencies are 80 percent. So that, in the event that the gentleman from Colorado [Mr. ALLARD] were successful in his amendment, we would exceed our 602(b) allocation by $61 million.

Mr. ALLARD. Mr. Chairman, will the gentleman yield?

Mr. YATES. I am happy to yield to the gentleman from Colorado.

Mr. ALLARD. Mr. Chairman, I thank the gentleman for yielding.

I would like to talk a little bit about the 602(b) allocation.

I understand the problem where we have the accelerated expenditures that occur under the 602(b) allocation, but it is my belief that this can be corrected if the Allard amendment would pass through the conference report where we could reapportion and get those dollars back to those agencies and take care of the 602(b) allocation problem.

Mr. YATES. I respect the gentleman's belief. But he overlooks reality.

We are going to have to negotiate with the Senate and the Senate is going to be very limited in the outlays that it can approve, and I would doubt that, based on my years of conferring with the Senate, that would be possible, I may say to the gentleman.

Mr. ALLARD. If the gentleman will yield further, but the gentleman would concede there is a possibility the Senate could go along with this since the conference committee has not reported, and that could possibly be worked out in the conference committee?

Mr. YATES. The gentleman will not concede that at all. As I indicated, I know what the Senate is likely to do, and it is likely to restrict the amount of outlays to the extent that it can that are available for some House recommended programs. We will have to accept some of the Senate recommended programs. We will have to compromise on programs that we have approved in the House.

The first thing the Senate will do in its bill, and the gentleman ought to just take a look at the Senate bill as it comes out, is pay no attention to some of the projects that the House has approved for land acquisitions, for example. They will have superimposed in the place of the House acquisitions the acquisitions that their Senators have recommended. So we will have to bargain with the Senate on an equal distribution of those projects.

They will all have varying outlays.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. YATES] has expired.

(By unanimous consent, Mr. YATES was allowed to proceed for 1 additional minute.)

Mr. YATES. You are placing upon the conferees an almost impossible task when you say that we cannot come to an agreement on a disparity of 40 percent in outlays. So I urge the House to reject the allard amendment.

Mr. REGULA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition.

Mr. Chairman, and members of the committee, once again we are faced with a problem that needs to be dealt with in the authorizing committee. There is no question about the authority of the Secretary to do this reorganization. We have had 16 instances since 1950 where the Secretary of the Interior has done major reorganizing, 8 of them during the Reagan administration.

Secretary Watt created the Minerals Management Service in 1982, and we are funding it. It has been in existence ever since he served as Secretary of the Interior.

I would say at the outset I am no fan of the National Biological Survey, and it was language we put in in conference last year that restricted them as much as possible to protect private property rights. But I think there is not an issue about the Secretary's right to create this agency and to reorganize the functions.

So restricting the money will not solve the problem. The agency is in existence. It has functions that must be performed, and all we have done in the bill is to provide adequate funding.

Now, as the chairman pointed out, we would, because of the spendout rate, we would have a real problem if this amendment were adopted, and we returned the funding to the agencies which funded these functions prior to last year because we would be some $60 million short, and we are right up to the edge right now. When we go to the conference with the other body, there will be projects there that we need to accommodate, and the result would be we would have to eliminate a number of projects requested by House Members, many of them on my side of the aisle.

I think the important thing here is that the question of authorization is not an issue, or the right of the Secretary to reorganize. It has been done, and clearly under the statute he can do so.

I think if the gentleman, with his amendment, wants to eliminate this, it should be done through the authorizing process, but in the meantime, it is de facto administrative function, and we have to fund it to insure that appropriate ongoing activities are taken care of.

I again would emphasize that we in the bill have restricted the ability of the NBS to violate private property rights, and the Secretary clearly, in his statements, has been in agreement, and so that every effort exists within the language of the bill to insure that in no way does this impinge on the individuals and their rights to their property, and it is just simply a case that we have to provide the funding to do a function that is perfectly within the law.

Mr. YATES. Mr. Chairman, I ask unanimous consent that all time on this amendment and amendments thereto terminate in 40 minutes, 20 minutes to be allocated to the gentleman's side and 20 minutes to our side.

The CHAIRMAN. 20 minutes on each side is the request.

Mr. DELAY. Mr. Chairman, reserving the right to object, I did not hear the gentleman.

Mr. YATES. Mr. Chairman, if the gentleman will yield, my request was for 40 minutes, 20 minutes on your side and 20 minutes on our side.

We have already talked for 40 minutes, Mr. Chairman.

Mr. DICKS. Mr. Chairman, reserving the right to object——

The CHAIRMAN. The gentleman from Texas [Mr. DELAY] has the floor. He has reserved the right to object.

Mr. DELAY. Mr. Chairman, further reserving the right to object, I understand that what the gentleman is asking is 20 minutes to each side, with the time controlled by whom?

Mr. YATES. By the gentleman from Colorado [Mr. ALLARD] on your side and by me on this side.

The CHAIRMAN. The gentleman from Colorado [Mr. ALLARD] will control 20 minutes, and the gentleman from Illinois [Mr. YATES] will control 20 minutes.

Mr. DICKS. Mr. Chairman, if the gentleman will yield, is the request for this or any other amendment?

The CHAIRMAN. The request is for this or any amendment thereto.

Mr. YATES. That is right.

Mr. DICKS. I thank the Chair.

Mr. DELAY. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ALLARD. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of the Allard amendment. First, let me say I think it is rather unusual to say the least that the chairman, the respected chairman, and the respected ranking member are standing up asking you not to vote for the Allard amendment, because it will not allow them to spend more money. I think that, to me, is the No. 1 reason that you ought to vote for the Allard amendment.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I am happy to yield to the gentleman from Illinois.

□ 1330

Mr. YATES. It is not that we want to spend more money. We want to spend less money. Under our 602(b) allocation we spend a stated amount of money, and if Mr. ALLARD's amendment goes through, we will have to spend another $61 million.

Mr. DELAY. I think there is some disagreement there. But let me just say that this legislation, the National Biological Survey, is not authorized. Make no mistake about it, it is not authorized.

Now, the gentleman from Ohio [Mr. REGULA] correctly states that he has tried to protect property rights and the rights of property owners in this bill. But this only covers 1 year of appropriation. This protection should be a permanent provision in the language authorizing the National Biological Survey. Private property owners should not have to rely upon the annual goodwill of the appropriators to include this language each year.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Ohio.

Mr. REGULA. I thank the gentleman for yielding.

Mr. Chairman, I agree completely, but it requires an authorization bill to make it permanent.

Mr. DELAY. Reclaiming my time, the gentleman is making my point. We do not have an authorizing bill, we are spending money on a program that has not been authorized, and therefore we should not be spending this money.

Second, there is absolutely no explicit language prohibiting the use of volunteers. We argued that issue at length in the bill that came to the floor. This is very important to insure that the survey is conducted by professional and properly trained individuals. This was an authorizing amendment last fall, presented by the gentleman from Louisiana [Mr. TAUZIN].

Third, there is absolutely no language prohibiting other Federal agencies from using this information collected under the survey pertaining to private land unless the landowner has access to the information as well as the detailed description of the manner in which it was collected and an opportunity to dispute its accuracy. This is also another amendment offered by the gentleman from Louisiana [Mr. TAUZIN] that is not in this bill.

All three of those amendments that I have mentioned were approved by the House last fall, but it was chosen not to place them in the bill as protection of private property rights.

Of course, my concern, particularly as to Members on this side of the aisle, is the degree of centralized power which the National Biological Survey gives to the Secretary of the Interior. The NBS is clearly a method to create this program of independent scientists who are not subject to review, not subject to criticism, or not subject to even be questioned. By taking the scientific activities of seven different Interior Department bureaus and combining them into one entity that functions pursuant to nothing more than a secretarial order, we foster a tremendous concentration of power and increase the opportunity for abuse.

Mr. Chairman, I urge passage of the Allard amendment.

Mr. YATES. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. I thank the gentleman for yielding this time to me.

Mr. Chairman, the National Biological Survey [NBS] is a new bureau at the Interior Department. In October 1993 the House debated the need for the Survey, and passed H.R. 1845, a bill to authorize its creation.

As chairman of the Subcommittee on Technology, Environment, and Aviation of the Committee on Science, Space, and Technology I spent considerable time examining the need for the National Biological Survey. I stated at that time and I continue to believe today that it is critical to developing the scientifically sound information base required to make responsible policy decisions on protecting the Nation's environment and ensuring that future generations can enjoy and benefit from our natural resources.

I would like to express my strong support for the National Biological Survey, which was created by combining existing biological research programs from seven bureaus at the Department of the Interior. The National Biological Survey will make Interior's biological research capability more cost effective by reducing duplication of effort, enhancing coordination, and the Department's scientific capability. The National Biological Survey is a good Government initiative.

Let me remind by colleagues that the National Biological Survey is not a big new bureaucracy. It was created by Secretarial Order in September 1993 and is now fully operational. I have met with the Director, Dr. Ron Pulliam, and have been satisfied that he understands the concerns raised by the House during the debate on H.R. 1845, over issues as diverse as private property rights and scientific quality. I am impressed with the programs that are underway within the National Biological Survey.

By eliminating funding for the National Biological Survey, as called for in the Allard amendment, we will be costing taxpayers money, not saving it. I understand the gentleman's concern that we are appropriating money for a program that has not been authorized. I would like to point out, however, that the programs transferred to the National Biological Survey have been authorized by Congress. In addition, as I stated previously, the House passed H.R. 1845, a bill to authorize the National Biological Survey, and it is my view that the Survey, as it currently exists, is consistent with the views expressed by the House in that bill.

If Mr. ALLARD's amendment passes, the money already spent to create the National Biological Survey will have been wasted. In addition, we will be doing great harm to a substantial portion of the research programs that support the Fish and Wildlife Service, the National Park Service, the Bureau of Land Management, and the Cooperative State Research Programs that provide critical assistance to State fish and game activities across the country.

I urge my colleagues to vote against the Allard amendment.

Mr. ALLARD. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. I thank the gentleman for yielding this time to me.

Mr. Chairman, I yield to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN. Mr. Chairman, I rise to express strong support for H.R. 4602.

Mr. Chairman, I rise to express my strong support for H.R. 4602, the fiscal year 1995 appropriations bill for the Department of Interior and Related Agencies. I want to commend the chairman, Mr. YATES, the ranking member, Mr. REGULA, and my colleagues on the committee for their hard work in crafting this legislation. I also want to congratulate the professional and associate staff for their efforts in support of this initiative.

The bill appropriates approximately $13 billion for the Interior Department and related agencies which include the Energy Department's fossil fuel and conservation programs, the Forest Service within the Department of Agriculture, and Indian education and health programs under the administration of the Departments of Education and Health and Human Services. The appropriations fall below the amount requested by the administration and are within the 602b allocation established by the Budget resolution. Further, the agencies within the purview of the subcommittee legislation are expected to generate some $8 billion in receipts from oil, gas, mineral leases, timber sales, and grazing fees to name a few examples.

I was pleased to have the cooperation of my colleagues in addressing problems and programs unique to Texas and the southwest border with Mexico. This bill acknowledges and funds initiatives related to implementation of the North American Free Trade Agreement within the Fish and Wildlife Service. It also highlights the need for a border resource inventory.

In addition, programs within the National Park Service [NPS] highlight the natural and cultural heritage of the southwest and help preserve its resources. These include the Office of Mexican Affairs of the NPS which serves to coordinate international efforts along the border; funding for the Chamizal National Memorial in El Paso, a monument to international peace and border folk arts; resource protection at Big Bend National Park; a study of the Camino Real trail and Spanish colonial missions in West Texas and New Mexico; and land acquisition at Palo Alto Battlefield in South Texas to help document the history of the Mexican War.

Environmental protection is also addressed in the bill. This is especially true of programs funded within the Department of Energy which stress energy conservation in its research and development initiatives. I am pleased to have assisted in highlighting research needs in gas cooling and heating which are important to all consumers. Other research in the area of alternative fuels is supported by the legislation.

Finally, I want to thank the subcommittee for permitting me, working with Congressman TORRES and members of the Congressional Hispanic Caucus, to address concerns raised by the Smithsonian Institution task force on Latino issues. This task force made a number of recommendations regarding Latino programming and recruitment and employment goals for Hispanic Americans within the Smithsonian. The report accompanying the legislation encourages the Smithsonian to implement a number of recommendations made by the task force to ensure that the Institution reflect our Nation's cultural diversity.

I urge my colleagues to support this important legislation.

Mr. TAUZIN. Mr. Chairman and Members, let us cut quickly to the chase. This is not a question of allocations under the budget appropriations process; this is a question of whether or not this House is ever going to face the issue of reauthorization of the Endangered Species Act. And whether Congress is going to face the issue of authorization of the NBS program.

My friend from Washington said we are going to authorize the Endangered Species Act next year. It was up for reauthorization this Congress. The last time we reauthorized the act was in 1988, a 5-year authorization. Now, I can count and you can count; we should have done it this year. Why have we not reauthorized the Endangered Species Act this year? Why have we not had the debates on how that act ought to work and whether or not we ought to protect people in their private property rights and in their jobs as we go about the business of protecting species of plants and animals in our society? Why have we not seen a final authorization from the Congress on the Biological Survey? I will tell you why: Because the environmentalists meeting here in Washington in a room on March 4, a memo leaked out—we sent copies of it to you—they declared that those items were off the Congress' agenda this year. They did not want to have the Endangered Species Act bill debated before the House. Do you know why? They are afraid private property rights are going to be protected in this Chamber when they are not protected currently in the agency. They did not want the National Biological Survey bill to go to the Senate and then come back to the House. Why? Because this House agreed on amendments protecting private property rights. Those amendments are not in this appropriation bill. The amendments to make sure that public surveys are done first, to make sure private citizens have the right to know that good science was behind this survey and not volunteers with special interests in mind, to make sure that landowners had the right to challenge the information gathered on their private property. No, those amendment are not in this appropriation bill, they are in the authorization bill, which is dead on its way to the Senate because the environmental community declared on March 4 that it was dead.

The environmental community decided this Congress would not be able to address reauthorization of the Endangered Species Act.

Let me tell you, my friends: We have a lot of homeless people living in America. No one in this Chamber would vote for a law that said if a homeless person moved into your house tonight, that you had to move out. But if a rat, a bug, or a bird moves in your backyard, under the current Endangered Species Act and its regulations, you have got to get out, you have got to quit using your property, and nobody compensates you.

Something is wrong with that in America. If we are going to have good protection of endangered species, we ought to have a good balance in the law. We ought to respect people and their jobs. People ought to be part of the equation, too, and private property, under the fifth amendment, ought to be respected, but it is not, not in this appropriation.

We could reauthorize a bill, but no one would let us get to an authorization.

Mr. YATES. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Arizona [Mr. KOLBE], a member of our subcommittee.

Mr. KOLBE. I thank the distinguished chairman of the subcommittee for yielding this time to me.

I find myself, Mr. Chairman and Members of this body, in a very curious position because, as many of you know, I took a strong position in the debate we had to authorize the National Biological Survey. I have real concerns about it. In fact, I think that as it is planned by the Secretary of the Interior, it is misguided, headed in the wrong direction. I sympathize with the arguments that were made by Mr. TAUZIN, who was so instrumental in many of the amendments we considered to the authorizing bill. I agree with virtually all the amendments that were proposed. So I find myself in a curious position because I rise in opposition to the allard amendment. But, I do so from a tactical standpoint.

The chairman of this subcommittee was very, very willing to work with us in terms of trying to put language in the bill and report, that at least reflects the work that was done by this body when it stopped its consideration of the authorization for the National Biological Survey.

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Let me just cite what is in this bill and in the report; the most important provision that we adopted, the one that caused, really, the leadership in the House and the administration to stop further work on the NBS authorization, is this provision in this appropriation bill:

> Provided that none of the funds under this head shall be used to conduct new surveys on private property unless specifically authorized in writing by the property owner.

That is a very important protection for the private property owners.

In addition, Mr. Chairman, in our report language we say very clearly that the National Biological Survey funding is provided, and I quote, only to the extent authorized by law, unquote. Only to the extent authorized by law. We are very clear that we are not going to allow the NBS to do things that are not now permitted.

Let me just finally say that a memorandum of April 5 from the Director of the National Biological Survey, to all employees, said that it is NBS policy that all employees needing to enter private property get the permission from the landowner or from his representative before doing so.

Now I am not going to be content with a memorandum from NBS, and that is why we have put this provision in this legislation to make it as specific as possible.

Let me say that I am very sympathetic to the goals of the gentleman from Colorado [Mr. ALLARD]. I am very sympathetic to the goals that have been expressed by all of those who fought this battle on the National Biological Survey on the floor. I was with you is that fight. But I think that the chairman has done in the appropriation process everything possible to make sure that the will of the House, as it has been expressed so far, is being upheld, and I would hope we would turn down this amendment.

Mr. ALLARD. Mr. Chairman, I yield 3 minutes to the gentleman from Colorado [Mr. HEFLEY].

Mr. THOMAS of Wyoming. Mr. Chairman, will the gentleman yield?

Mr. HEFLEY. I yield to the gentleman from Wyoming.

Mr. THOMAS of Wyoming. Mr. Chairman, I rise in strong support of the amendment offered by Mr. ALLARD.

This bill contains $167.2 million for the National Biological Survey. This is a program that has never been authorized by Congress.

We all remember the battle that took place in the House over the National Biological Survey. Folks throughout the country expressed their concerns about the validity of the NBS, the creation of a new Federal bureaucracy and the ability of the Federal Government to intrude on the rights of private property owners.

Unfortunately, the Appropriations Committee has seen fit to ignore the authorizing committees and fund a program that is extremely controversial and has not been authorized.

This is a clear example of the Appropriations Committee running roughshod over the will of the Congress.

The National Biological Survey gives Federal bureaucrats the ability to make decisions about private property.

Don't think this is simply a Western issue. This affects folks across the country and sets a dangerous precedent. If we continue to fund this misguided program we are saying that the authorizing committees do not matter. The will of the House doesn't matter. That is very troublesome.

Already today, we have heard folks talk about how lean this bill is. I would certainly agree. That is why I am so troubled by the fact that we are spending $167 million to fund a program that hasn't even been authorized.

We have many programs in the Department of Interior that are being underfunded. The National Park Service is probably the best example. Yellowstone, Yosemite, and our other national treasures are falling apart. Clearly, we could use the $167 million for the National Biological Survey on a number of important initiatives.

Mr. Speaker, the National Biological Survey is a misguided program. It should not be funded by the Appropriations Committee without being authorized.

Support private property rights, support fiscal responsibility, support the Allard amendment.

Mr. HEFLEY. Mr. Chairman, I support the amendment offered by the gentleman from Colorado [Mr. ALLARD] and the reason I support it is this is no way to do the business of the House of Representatives. The Interior appropriation bill contains $167.2 million in funds for the National Biological Survey. Every nickel of this money is appropriated in violation of the rules of this House. After much debate last fall, Mr. Chairman, the House approved an authorization bill for the National Biological Survey. However the Senate has never acted, and no conference is in sight. Once the 167.2 million in unauthorized funds is stricken, if we pass this amendment, the appropriators and the conferees would then be free to direct that any of these funds be transferred to the biological research and survey activities of the Fish and Wildlife Service, the National Park Service, the BLM, and other departmental bureaus which have traditionally performed these activities, or, if we did not do that, we could take this money, and we could use it for deficit reduction.

Before the National Biological Survey was debated in the House, Mr. Chairman, it generated a great deal of controversy on issues such as property rights, scientific validity, volunteers, and the creation of a new bureaucracy. This issue is too controversial for the administration and the appropriators to simply forge ahead with an appropriate congressional direction.

Supporters of the appropriation have argued on behalf of the administration and the survey that it is already authorized. I think this argument is ridiculous. If this were the case, why in the world did the House of Representatives spend so much time in heated debate trying to carve out some kind of meaningful direction for this kind of activity?

Second, the Committee on Rules must know that these funds are unauthorized. Why else would they have seen the need to protect the National Biological Survey funds with a special waiver on points of order?

Third, the administration cites several statutes authorizing activities of the Fish and Wildlife Service and the Migratory Bird Treaty Act, however there is no evidence that there is any authority for the Secretary of the Interior to conduct the giant comprehensive inventory of all animal and plant life, a catalogue of the ecosystems, as it is referred to.

I would encourage us to support the amendment offered by the gentleman from Colorado [Mr. ALLARD] and get back in order the way the House of Representatives is supposed to do these things.

Mr. YATES. Mr. Chairman, I yield 5 minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Chairman, I thank the gentleman from Illinois [Mr. YATES] for yielding this time to me.

The National Biological Survey is about information, and information is not bad or good. It is just information. As NBS opponents will emphasize to us, Congress will be making environmental policies in the near future that will be affecting tens of billions of dollars of property in Congress. In my judgment it is utterly foolish to suggest that we should make those decisions in the absence of complete information. A few million spent on NBS is a wise investment when we consider the decisions that Congress will have to make.

NBS consolidates seven biological science programs. It makes them more effective, more efficient, and it just works a whole lot better.

In addition, Mr. Chairman, the National Biological Survey, and this is where I think this debate should really happen, in the authorizing committee so people can understand the essence of what this is all about; the National Biological Survey is developing new research programs that are more proactive at preventing future problems and problems with the Endangered Species Act. Its emphasis is on an ecosystem dynamics and restoration approach, and I think some of us should probably look that term up, ecosystems dynamic restoration approach. This research focuses on multispecies as opposed to a single species approach. This will reduce the perceived problem of stopping development or reducing agriculture because a small toad or rare ant happened to get in the way.

Mr. Chairman, to my friends who are opposed to the NBS and my friends who are opposed to the Endangered Species Act, what the National Biological Survey will offer to us is a multispecies approach to this problem. Let me give my colleagues an example. I say to my colleagues:

Suppose you find some rare ant on a farm or in a residential area. They say you can't farm because there's a rare ant there. Well, a multispecies approach will do two things. I don't know if there are any rare ants or not, but just in case, my colleagues, it will do two things. No. 1, with this national survey, in all likelihood, and it has happened already in the State of Maryland, they will find that rare ant in some other corner of the country, which makes it not rare. No. 2, that rare ant may not be that important in the ecosystem as a whole. So, therefore, under those two circumstances, with a study by multispecies with the National Biological Survey, we are much more likely to make intelligent choices as to what is really endangered and what is really important.

Now the NBS also establishes a number of unique, and I say unique perspectives on Federal, State, and local government cooperation. The State of Maryland has become involved in the National Biological Survey pilot program, and what has happened in the State of Maryland; this is from the Department of Natural Resources Director:

> Knowing more about where species occur has resulted in taking species off of an endangered species list for the State of Maryland. The State of Maryland, as a result of this pilot program, is proposing to remove ten species from its list because survey work contributed to the finding of more species in other places around the country.

One word from the Governor of Maryland:

> Maryland offers an ideal opportunity to "showcase" a partnership between a State and the NBS. We have made a significant commitment to collection of field data, digital mapping, GIS technologies, and coordination between State government agencies.

I want to make one comment about private property. The National Biological Survey scientists who do the surveys are required to comply with State laws regarding trespass and privacy laws. No one's private property rights will be violated. Property owners can only benefit from this particular information.

Dr. Caldwell from the University of Maryland, Maryland's Biotechnology Institute, internationally known, says this about the biological survey:

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> The National Biological Survey offers an opportunity for the United States to inventory and analyze the valuable genetic resources of the environment. If an inventory is not done within the reasonable near future, the loss of genetic material without its having been described or characterized will be a tragedy economically as well as ecologically, for understanding and utilizing the complexity of our successfully functioning ecosystem is vitally important to the health of this country.

The CHAIRMAN. The time of the gentleman from Maryland [Mr. GILCHREST] has expired.

The Chair states that the gentleman from Colorado [Mr. ALLARD] has 10½ minutes remaining and the gentleman from Illinois [Mr. YATES] has 9 minutes remaining.

Mr. ALLARD. Mr. Chairman, I yield 3 minutes to the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Chairman, I appreciate the gentleman's yielding time.

Mr. Chairman, we may ask ourselves the question, why are we debating this when the Congress has given the control of lands to the Forest Service and the BLM and the control of fish and animals to the States? Except for the 1972 Marine Mammal Protection Act, State jurisdiction is not diminished by the existence of Federal authority under other congressional enactments.

For our National Forests and our Bureau of Land Management administered lands, land use administration authority is vested in Federal land managers, while authority related to wildlife management, including the taking of fish and wildlife on such lands, has been reserved expressly by Congress to the States. The several States retain significant authority and responsibilities for the management of resident fish and wildlife species within their respective borders.

Mr. Chairman, the report accompanying this bill states that the Biological Survey is designed to provide the scientific knowledge necessary to balance the compatible goals of ecosystem protection and economic progress. Unlike the NBS authorization bill currently pending before the other body, the appropriation bill is virtually silent on the role of States in the management of these resources.

While some might argue that the NBS is only scientific research, it is research in support of a mission, and that mission is so vague and broad that it threatens to overturn the historical and constitutional responsibilities of the States. We should not allow the Department of the Interior to usurp the power of the States over fish and wildlife by granting an open-ended and undefined mandate to manage these resources.

Ecosystem management implies that the DOI has authority over all biological resources. In fact, it does not even have the sole authority on Federal lands. Where is that in the statute?

For example, the Department of Agriculture has jurisdiction over national forests, and the Department of Commerce has jurisdiction over marine mammals. The Department has tried to argue that NBS activities are a mere extension of an existing authorized function.

This is from their letter, and they cite three very limited fish and wildlife laws in support of that assertion. But in fact DOI does not even have jurisdiction over wildlife generally, let alone all the plant communities that make up the ecosystem. The bill has addressed these and other issues in the NBS authorization bill passed last year.

Mr. Chairman, I say to my friends that we should not fund the NBS until this bill is enacted.

Mr. YATES. Mr. Chairman, I yield 2 minutes to the distinguished chairman of the Committee on Merchant Marine and Fisheries, the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Chairman, there are strawmen lying all over this floor, devastated, mortally wounded and assassinated by arguments that have nothing whatever to do with the proposition before the House. This has nothing to do with authorized versus unauthorized expenditures. We have heard some crocodile tears on that subject. If that were the case, I would assume somebody around here would be striking the money for the Minerals Management Service which was instituted by President Reagan's Secretary of the Interior. Nobody got upset about that for the very simple reason that he had perfectly proper authority to do that. This is perfectly analogous to that. The Secretary of the Interior exercising his authority has reorganized his Department.

May I also say that in this case the authorizing committee at least in the House and the House itself really are not vulnerable to criticism. We have acted and by a strong bipartisan majority we have approved this.

And may I also observe that amendments which this House adopted, many of which some of us thought were not particularly wise and not particularly necessary but which this House adopted, are, so far as I know, without exception, being respected by the Secretary of the Interior as if they were the law. With regard to volunteers, with regard to peer review, with regard to access to information, and with regard to property rights, the amendments adopted by this House are being respected by the Secretary.

And finally, I believe we have heard words, as we did before last year, like "power grab." This is not even a debate about policy, never mind about power. This is simply the proposition that we ought to fund the acquisition of the best possible science that the mind of man can acquire. It seems to me that whatever one's individual views on the Endangered Species Act may be, whether we like it or whether we do not like it or whether we think it needs to be changed or it does not need to be changed, we would all concede together that our common purposes are served by the acquisition of the best possible science we can get. That is what this is about. It is not about policy, and it is not about unauthorized expenditures.

Mr. Chairman, I urge the defeat of the amendment.

Mr. ALLARD. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Colorado [Mr. ALLARD]. Striking $167 million in funding for the National Biological Survey [NBS].

When the NBS was debated by the House last fall, we passed amendments ensuring that Government bureaucrats would not trample the private property rights of the American people. Amendments protecting these rights were overwhelmingly passed by this House.

The Senate, however, has failed to pass similar legislation. In addition, the private property assurances in the House bill only cover 1 year of appropriations. Therefore, if we go ahead and leave this funding in tact, none of the assurances that we fought so hard for will be in place.

Second, there is no explicit language prohibiting the use of volunteers. This is crucial to insuring that the survey is conducted by professional and property trained individuals.

There is also no language prohibiting other Federal agencies from using information collected under the survey pertaining to private land, unless the landowner has access to the some information.

Mr. Chairman, a vote for the Allard amendment is a vote to protect private property rights. A vote against this commonsense amendment is a vote to let loose a new Federal bureaucracy without the guidelines this House is on record supporting.

Congressional concerns must be addressed before funding for the NBS can continue. This will ensure that private property concerns are properly addressed. It will also contribute to deficit reduction making clear that spending for unauthorized programs will no longer be tolerated.

Mr. YATES. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in strong opposition to the amendment.

This really is a step backward. This National Biological Survey is in place. I think that the administration and the Secretary of the Interior have taken a prerogative to reorganize the department in a more efficient way to, in fact, accomplish the various charges that they have within the myriad land-use laws, not the least of which, of course, are the Fish and Wildlife Service, the Park Service, the BLM, and the many other agencies, the seven agencies in total and bureaus that are included in the biological survey task.

It seems, Mr. Chairman, that there is a tendency to demonize the National Biological Survey, that somehow the accumulation of objective information about various species on public lands and private lands somehow is going to operate negatively in terms of affecting individuals and their property rights.

But let me point out to my colleagues that the Office of Technology Assessment did an impact review, for example, of some of the problems that have been caused by some of the exotic and noxious species—just 79 nonindeginous species—this century. They found that since 1906, through 1991, $97 billion was spent because of the impact problem types of these nonindeginous species. The types of species that need to be monitored and followed by the National Biological Survey.

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In other words, this is not some far-fetched environmental scheme that we have to find out about the problems with the endangered species. It is one that is very much a practical application in terms of our utilization. Have any of my colleagues ever heard of the medfly? How about zebra mussels? In other words, looking at what is happening with such species as the Africanization of the honey bee population in North America, another big problem. In fact, as they project ahead, they suggest in the near future we will spend $134 million more in terms of lost dollars because of the damage such exotic species cause. And the Biological Survey can and will give us new and current information, if we let the NBS work and get off our political high horses. We could all benefit. The data base for plant and annual populations simply isn't in place—when the Exxon oil spill accurred in the Gulf of Alaska we didn't have the baseline data to properly judge the before and after effects of the oil sheet. The NBS is needed to avoid problems and end debate with sound scientific information. Defeat the Allard amendment.

Mr. ALLARD. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I support the idea of using science in managing our environment, and I will do everything I possibly can to make sure we put an emphasis on the scientific approach to what is best for the environment. But in this debate, the bottom line is this: The National Biological Survey should be properly authorized, and all appropriations should be made subject to that authorization.

Now, in the debate it was brought up that we have some problems with 602(b) allocations. I would point out that since this amendment goes toward deficit reduction, it does not create any problems as it is currently worded with the 602(b) allocation.

I would further point out to Members that the reason we have problems with the 602(b) allocation is because this legislation is unauthorized, and, because it is unauthorized, we have some problems with the House rules.

I would also like to cite the written testimony of two important House chairman on the issue of whether the National Biological Survey requires authorization or not. But before I do that, I would just point out to the House that we had legislation before us last fall which was to authorize the biological survey.

Now, if it does not need to have authorization, why do we have it before the House? And why did we have, in written testimony on May 1, 1993, before the Committee on Appropriations, the chairman of the Committee on Natural Resources state that although he supported the National Biological Survey, "I believe that the NBS can carry out its functions only if authorized to do so. Therefore, I request that the appropriation be made subject to an authorization."

Similarly, the chairman of the Committee on Merchant Marine and Fisheries in the same forum stated, "Any new agency ought to be authorized by statute, and I intend to authorize it."

Now, I realize that Secretary Babbitt was not happy with the private property and other restrictions the House placed on the NBS last fall, and I realize that there is frustration that the Senate has not moved on any authorizing legislation. But that does not justify an end-run around the process.

On the issue of private property, I would point out to the Members of the House that what little private property protection there is, it has only been authorized every year for just 1 year. So every year we come in and we have to go ahead and rebattle this issue of private property rights on an annual basis. We need to have something in law which gives us longer than a year before we have to come forward and begin to reestablish the issue of private property.

Mr. YATES. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I do so for the purpose of denying the assertions of the gentleman from Colorado [Mr. ALLARD] that authorization is needed under this bill. The opposite is true. This bill authorizes expenditures only for those activities of the Secretary of Interior and the NBS that are already authorized. Those activities are authorized under the reorganization plan that the law permits the secretary to fashion.

The fact remains that we did not request a rule from the Committee on

Rules for the National Biological Survey. We requested it for the National Endowment for the Arts because that is not authorized. We requested it for the Bureau of Land Management, because that is not authorized. We did not request a rule for NBS yesterday.

I am sure if no rule had been given, that the gentleman's point of order would not have been sustained under the rules of the House.

Mr. Chairman, I yield 1 minute to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Chairman, I rise today to express my strong opposition to the Allard amendment which would delete funding for the National Biological Survey Act. The goal of the Biological Survey is simple and straight forward: To collect accurate, scientifically-defensible data on the biological resources of our Nation. Period.

Why is this important? Because Congress and our Federal agencies must make public policy decisions on a daily basis. If we don't have accurate data on which to base our policy decisions, then they will de facto based on misinformation or politics. The Biological Survey, ensures that we have the knowledge to make decisions based on data, not politics.

As we have all heard innumerable times, "an ounce of prevention is worth a pound of cure." This is certainly the case with species protection. It is much less expensive, less time consuming, and less onerous on the local economies and communities that depend on healthy natural resources to act proactively to protect populations at risk. The National Biological Survey will help us obtain the scientific information needed to do this so that we can prevent species trainwrecks from occurring.

Some have tried to characterize the Survey as being counter to private property rights. On the contrary. I own a working farm. I can tell you as a farmer what is most frustrating. It is the uncertainty surrounding whether or not there is an at-risk species on your property that may require special management measures. The Survey will provide landowners with this much-described certainty.

Without adequate biological data, we will not have the information needed to take species off of the Endangered Species Act list when they have recovered and no longer need special attention. The Survey will ensure that we have the scientific information needed to make decisions on delisting species. A vote no on the Allard amendment is an endorsement of information over ignorance, and an endorsement of science rather than politics. I urge my colleagues to vote "no" on the Allard amendment.

Mr. ALLARD. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I would like to say to the gentleman from Illinois [Mr. YATES] in response to his arguments, see, I believe this was unauthorized spending. And if the House had moved ahead, I would have stood and made a point of order that it was unauthorized spending.

Why was it necessary in the rules to waive points of order, if this was not in violation of those rules, in order to protect this amendment?

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. ALLARD. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, I thought I had explained that. We did not ask the Committee on Rules for a rule to protect the National Biological Survey. There are 12 or 13 different technical reasons for asking for a rule. There are specific reasons for asking for rules for BLM, for the arts, for programs that have not yet been authorized, even though the House has passed bills authorizing them.

Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, we did not ask for protection for the National Biological Survey. The reason we did not is that the Secretary's reorganization authority has been used by Secretaries of the Interior since 1950. James Watt used this authority to reorganize his department. This Secretary of the Interior has used his authority to place in existence the National Biological Survey, with certain limited functions, as he had every right under the law to do.

Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I wanted to quote from the Secretary of Interior's letter to the gentleman from Illinois [Mr. YATES], two paragraphs. The first is, as to the authority,

> The Solicitor has provided a solid legal opinion on my authority to create the Survey. That authority is contained in Reorganization Plan Number 3 of 1950 in 64 statute 1263. Secretaries before me have used this authority to create the former Bureau of Outdoor Recreation, the former Heritage Conservation and Recreation Service, the Existing Minerals Management Service, and numerous other internal reorganizations.

It is well established that there is authority to do this, authority existing since 1950.

The second paragraph from his letter,

> I share Congressional concerns about private property rights. Individual property rights are a cornerstone of the American law and culture. It is NBS policy to obey state trespass laws, obtain permission to enter private property, and share information obtained from that property with its owners.

□ 1410

Mr. ALLARD. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I took the minute just to point out to the House that the Committee on Rules did give a waiver for the appropriation of this program, even though it was not authorized. It, in effect, said it waived clause 2 of rule XI, prohibiting unauthorized appropriations or legislative provisions in the general appropriations bill.

The Committee on Rules did waive the rule against appropriating unauthorized funding for everything that is in the bill. They would not let us add anything, for example, to make sure that the agency followed the law in regards to the circuit court of appeals decision on modifications of habitat. But they waived for everything, including appropriating for this unauthorized program.

Mr. ALLARD. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, in winding up, I just again make the point that there is $167.2 million in this particular appropriation bill for the National Biological Survey.

It is unauthorized dollars, and if it was not unauthorized, then why in the world last fall did we have this debate that went on day after day on a bill that we eventually reported out of this House over to the Senate setting up the National Biological Survey?

I am convinced in my own mind that we need to have authorization, that it is inappropriate for appropriators to move ahead without that authorization. I will ask for an aye vote on the Allard amendment.

Mr. YATES. Mr. Chairman, this program is authorized.

Mr. Chairman, I yield 30 seconds to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I speak against the amendment and in support of funding for the National Biological Survey. The NBS was created at the Department of Interior by combining existing biological science programs from seven authorized Interior bureaus. It is nonregulatory and nonadvocacy. The NBS serves as a source of solid scientific information for use by local communities, wildlife managers, and landowners. As we know, the National Biological Survey Act was adopted by the House October, 1993. Secretary Babbit is committed to authorizing legislation for the NBS. Currently, the NBS is operational and has integrated the seven scientific units. It is a more efficient and cost-effective method of operating.

Mr. Chairman, there are strict requirements for NBS scientists to obey State trespass and privacy laws. This appropriations bill prohibits funds from being used for new surveys on private property without written permission from the owners.

Mr. Chairman, I urge my colleagues to vote "no" on the amendment and to support science to improve our understanding of biological resources.

Mr. YATES. Mr. Chairman, I yield 1 minute to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Chairman, again, I say to my colleagues, I, too, am frustrated about the concerns about the Endangered Species Act. But it is obvious, after the years that we have gone through this program, that we have got to have good science in order to make decisions. When we have bad science or the science is inadequate, then Federal judges take over. They enjoin the administration, and we have chaos.

To take out the $167 million for the biological survey, which is money that came from seven separate entities within the Department of Interior and created a new, more credible program, I think, would be totally counterproductive.

Again, I urge my colleagues here on both sides of the aisle to stay with the Committee. The Committee has done a good job here. Clearly, Secretary Babbitt had the authority to do this reauthorization, and I urge the defeat of the Allard amendment.

The CHAIRMAN. All time has expired.

Ms. ESHOO. Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from Colorado which would strike funding for the National Biological Survey.

A comprehensive biological inventory of the entire Nation, such as that created by the Biological Survey, gives us the tools and information to understand and protect our ecosystems better.

It prevents disastrous trainwrecks such as that which occurred in the Pacific Northwest and avoids wasting precious time and money.

Every State now has NBS facilities, programs, and personnel which collect important information and conduct research we need now to avoid more of the resource crises we all should rightly fear.

In supporting this amendment you are denying your States the ability to head off these crises.

For these reasons I urge you to vote against this misguided amendment.

Ms. SCHENK. Mr. Chairman, I rise in opposition to this amendment. I continue to be amazed at the opposition raised on this floor to the National Biological Survey. The purpose of this Survey is and has always been to gather a scientific data base about the status of our biological resources so that all Americans can make intelligent and informed policy decisions. To eliminate funding for this important survey is shortsighted and foolish.

A good example of the possibilities of the National Biological Survey is a recent agreement between the Department of the Interior and the California Resources Agency. They have agreed to cooperate closely in collecting, integrating, and providing biological data. The purpose of this agreement is to enable Californians to develop the kind of multispecies habitat planning we so badly need to avoid collisions between an endangered species and economic development. This is exactly the kind of research that the National Biological Survey is designed to produce. Under this program, private property owners, government officials, and others will have access to reliable information. Good data and good science are the underpinnings of sound environmental and development policy.

I urge my colleagues to oppose the Allard amendment.

Mr. EMERSON. Mr. Chairman, I am in strong support of the amendment offered by the gentleman from Colorado. As you will remember, when the House passed the bill to create the National Biological Survey, there was concern on both sides of the aisle about what we were in fact doing. Many proponents espoused the Survey as nothing more than an inventory of flora and fauna—innocently performed in the great American spirit of voluntarism.

Fortunately, the majority of us in this body realized that the thrust of this legislation and the so-called voluntarism amounted to nothing more than a further encroachment on the rights of private property owners and yet another sanctioning of federally approved land-use management proposals. Hasn't the Federal Government done enough in the way of imposing on landowners and their property. It's time that Congress respect the wishes of our constituents and stop this land grab by the Department of the Interior. I have no doubt that the agenda of the bureaucrats and the left-wing, radical environmentalists within the Department of the Interior want to make its so costly to be a developer, or a farmer, or a rancher, or a miner, or a timber harvester, that the only choice is to shut down and halt all activity. The imposition of more and more costly requirements and regulations to comply with Federal mandates and guidelines is, indeed, making this a reality.

I am deeply disturbed by a proposed new government bureaucracy that U.S. Interior Secretary Babbitt wants to set up which will count and monitor every species of plant and animal nationwide. Initiated by radical preservationist groups, the National Biological Survey goes far beyond counting plants and animals and may prove to be a private property owner's worst nightmare. Ultimately, a National Biological Survey will lead to the establishment of a militant, "eco-police" force with little regard for the constitutional protections of private property ownership.

I fear the day may come when a government bureaucrat will step on your land and shut down your operation—or worse, seize your property in the name of environmental protection. Perhaps you may have an endangered bug in your corn or cotton field, or your livestock may be grazing on a hillside where an endangered plant might be harmed. For many in southern Missouri who have dealt with agencies of government—particularly in wetlands determinations—this is already a familiar and frustrating occurrence.

A National Biological Survey potentially will cost taxpayers millions, enhance yet another unrestrained Federal bureaucracy, and give radical environmentalists greater control over your property and what you can—or cannot—do with it. The last thing Missouri property owners need is the Federal Government snooping around their backyard. It's high time Federal bureaucrats realized it's private property rights which have really become endangered. I urge my colleagues to keep in mind what Congress is doing as we continue to saddle the American taxpayer with more and more costly and burdensome regulations. I urge my colleagues to support the Allard amendment.

Mr. BEREUTER. Mr. Chairman, this Member reluctantly expressed his support for the amendment offered by his distinguished colleague from Colorado, Mr. ALLARD, which would eliminate the $167 million appropriation for the National Biological Survey in the Interior Appropriations bill for fiscal year 1995. This Member had intended to support funding for the National Biological Survey as I support the effort with the conditions placed upon the conduct of the Survey which were approved by the House. However, Mr. ALLARD has made a powerful and persuasive argument about the need for authorizing the Survey prior to appropriating funds.

This Member voted for final passage of H.R. 1845, the National Biological Survey Act, when it was approved by the House last October. This support was based on the benefits of the Survey as well as the addition of important private property rights amendments.

Unfortunately, however, the Senate has not yet acted and as a result, the National Biological Survey is clearly unauthorized. If funding is approved without authorization, the House action on the Survey last fall would be completely meaningless and the various limitations, including the protection of private property rights would not be guaranteed.

If the Biological Survey is eventually authorized, this Member will support an adequate funding level for the program. However, without such an authorization, this Member supports the Allard amendment and withholds support for the appropriation for the Survey.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado [Mr. ALLARD].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ALLARD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 169, noes 259, answered "present" 1, not voting 10, as follows:

[Roll No. 260]

AYES—169

Allard
Applegate
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barlow
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Bonilla
Brewster
Browder
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Clinger
Coble
Collins (GA)
Combest
Condit
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
DeLay
Dickey
Dingell
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Emerson
Everett
Fawell
Fields (TX)
Fowler
Gallegly
Gekas
Geren
Gingrich
Goodlatte
Goodling
Grams
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hoekstra
Hoke
Huffington
Hunter
Hutchinson

Hutto
Inglis
Inhofe
Istook
Johnson, Sam
Kasich
Kim
King
Kingston
Klink
Knollenberg
Kyl
Lambert
Laughlin
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Long
Lucas
Manzullo
McCandless
McCrery
McHugh
McInnis
McKeon
McNulty
Mica
Michel
Miller (FL)
Montgomery
Moorhead
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Penny
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Ramstad
Roberts
Rogers
Rohrabacher
Roth
Rowland
Royce
Santorum
Sarpalius
Schaefer
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Spence
Stearns
Stenholm
Stump
Sundquist
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Upton
Volkmer
Vucanovich
Walker
Wolf
Young (AK)
Young (FL)
Zeliff

NOES—259

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Bacchus (FL)
Barca
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Blute
Boehlert
Bonior
Borski
Boucher
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Cooper
Coppersmith
Coyne
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dixon
Durbin
Edwards (CA)
Ehlers
Engel
English
Eshoo
Evans
Ewing
Faleomavaega (AS)
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (TN)
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallo
Gejdenson
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Goss
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Holden
Horn
Hoyer
Hughes
Hyde
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klug
Kolbe
Kopetski
Kreidler
LaFalce
Lancaster
Lantos
LaRocco
Lazio
Leach
Levin
Lewis (GA)
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McDermott
McHale
McKinney
McMillan
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickle
Porter
Price (NC)
Rahall
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roemer
Romero-Barcelo (PR)
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Saxton
Schenk
Schiff
Schroeder
Scott
Serrano
Shays
Shepherd
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

ANSWERED "PRESENT"—1

Hayes

NOT VOTING—10

Ford (MI)
Houghton
Kaptur
Lloyd
Schumer
Sharp
Solomon
Underwood (GU)
Washington
Wilson

☐ 1434

Messrs. McINNIS, BARLOW, and TEJEDA, Ms. LONG, and Mr. TAYLOR of North Carolina changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mrs. VUCANOVICH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to speak about the mining patent moratorium contained in this bill, a subject which engendered still more misinformation from Members during general debate on this bill today.

I am not going to offer an amendment to strike this provision from the bill before us. But, I want Members to know that the American Barrick example spoken about earlier by the gentleman from West Virginia as well as the ranking member of the appropriations subcommittee is much different than was characterized.

Secretary Babbitt has been leading the disinformation campaign against the Mining Law in general and patenting in particular. It was necessary for American Barrick Resources to sue Mr. Babbitt in order to make him comply with the law, that is issue title to their fully valid mining claims for the statutory price per acre.

Other Secretaries have sought changes in this law, but they did not act "shamefully"—the words of the U.S. District Court, Mr. Chairman, as Secretary Babbitt did. The court went on to say Mr. Babbitt created a system of patent adjudication "intended to delay." No matter what his views may be—and they are quite clear in this area—he has an obligation to follow the law until amended, yet he ignored this duty.

What about the moratorium proposed in this bill? Mr. Chairman, the 101st Congress passed a 1-year mineral patent moratorium for oil shale mining claims via this same appropriations bill, which President Bush signed into law. A lawsuit was brought by Fred Larson, in U.S. District Court in Utah, to force the Secretary to act upon his application. Despite the language in that year's appropriations act, the court ordered the Department to continue the processing of Mr. Larson's application despite the appropriations moratorium. The judge said it was proper for the authorizing statute to be amended, but that it had not been, and that this back-door way of revising the mining law was clearly illegal. Mr. Chairman, the Justice Department did not appeal this decision to the circuit court and the 1-year moratorium was not renewed the following fiscal year.

But a new Secretary is in office now and he very much wants this moratorium because he thinks it will keep him from losing another lawsuit. But, I'm not so sure about that.

Now to the specifics of the Barrick case. Yes, there may indeed be upward of 10 billion dollars' worth of gold reserves in this block of now patented claims. But, Mr. Chairman, it will likely cost $9 billion to extract and process the ore to recover the precious metals.

Furthermore, Barrick had paid far, far more than the $5 per acre patenting fee prior to receiving patent. As a publicly traded company, American Barrick's SEC filings can be easily examined. If one were to do so, one would see that Barrick had sunk about $1 billion into the Goldstrike project when it sought its patents. Barrick is a good corporate citizen in Elko, NV, in my congressional district, as are the other mining companies which have fueled the growth of this town by fourfold or more.

Lastly, certain Members have decried the fact that no royalty will be collected from this large orebody, which was formerly part of the public domain, because of the antiquated mining law. But, have they stopped to ask how much Barrick would have paid in royalties if the deposit were in Canada rather than the United States? The answer, Mr. Chairman, is zero. That's right: Canada levies no gross royalty, and neither does Mexico, Sweden, and many other nations. Instead these nations tax the net proceeds, or profits, of hardrock mines, not the gross value of end products as would the House-passed bill.

Mr. Chairman, Secretary Babbitt called the patenting of the Goldstrike Mine the "biggest gold heist since the days of Butch Cassidy." But, we must compete for mining investment with countries that are blessed with prospective geology, as is the western United States. The gold heist we are looking at is stealing of mineral investment that would have gone into lands by nations in Latin America, Asia, and elsewhere because they recognize what we do not. There is no free lunch. If we insist upon uneconomic royalty terms and regulatory environments for miners, and other industries, we will have only ourselves to blame when the domestic industry can't be found anymore.

☐ 1440

Mr. REGULA. Mr. Chairman, will the gentlewoman yield?

Mrs. VUCANOVICH. I am happy to yield to the gentleman from Ohio.

Mr. REGULA. Would not Barrick be able to mine without having gotten a patent?

Mrs. VUCANOVICH. They would be able to mine. However, it would not be very practical for them to make those investments if they know that they would lose tenure or they would not be able to extract the minerals.

Mr. REGULA. But would they not have had unlimited time to mine in the absence of a patent?

Mrs. VUCANOVICH. I would say they would have had time within a reasonable amount of time. Again, there would be no incentive for them to do that if they knew they were not going to be able to mine.

Mr. MYERS of Indiana. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have been advised by the county commissioners and county attorney and some farmers in Boone County, IN, that there has been an effort and an attempt in the works of purchasing 351 acres of farmland in that county by the Miami tribe of Indians in Oklahoma.

This is farmland zoned for farmland, but in the application, the Bureau of Indian Affairs has been advised that it is being purchased by the Miami Indian tribe to be turned over to the Federal Government to be held in trust for economic development.

Now, they have been a little bit vague; the Indian group has been a little bit vague about what they are going to use this for. But there has been suspicion by a group in the county that they are purchasing this to build possibly a gambling casino which would be in violation of Indiana law. Indiana does not have casinos. But if this becomes a Federal tract and trust, they could build a casino.

What I am concerned about, and I think none of us are concerned about the Indians buying this land; this is land that at one time was held by the Miami Tribe before they moved to Oklahoma, but if they are developing a casino in violation of State law and in violation of zoning laws and everything else, something should be done about this.

The Bureau of Indian Affairs says the Indian Gaming Act provides very strict laws for land purchase after 1988, but they also cite the statute. One of the statutes is the Federal statute 25, Federal regulations. I examined that. The Indians then would be exempt from paying any local taxes, paying State taxes, paying any of the encumbrances that might be issued by local government. Local government loses entire control.

The Bureau of Indian Affairs says, however, they will contact the Governor and local government will be considered.

Mr. Chairman, well, I realize this is not within the purview of this committee, especially, but I do hope the committee will watch for things like this.

If they succeed in Indiana, they are going to move into other areas and take over and violate the intention of local government and State government in gaming, if nothing else. I hope the committee will examine the Bureau of Indian affairs and question next year just what they are doing. Are they going to take over the entire country, and are all of our counties going to be taken over by this effort to violate local and State law?

It is a deep concern of my constituency. Boone County, where this is located, is on an interstate highway between Indianapolis and Chicago. It would be approximately an hour and a half out of Chicago and about an hour out of Indianapolis. So this would very likely, if this were gaming, would be a great success there, but the local community certainly would not receive much benefit from it.

So I do hope the community will examine this in the future.

AMENDMENT OFFERED BY MR. DUNCAN

Mr. DUNCAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DUNCAN:

Page 15, line 14, insert ", reduced by $14,000,000," after "1,083,973,000".

Mr. DUNCAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. YATES. Mr. Chairman, I ask unanimous consent that all time on this amendment be limited to 50 minutes, 25 minutes to be under the direction of the gentleman from Tennessee [Mr. DUNCAN] and 25 minutes to be controlled by myself.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The time is limited to 50 minutes on this amendment, 25 minutes on each side, half controlled by the gentleman from Tennessee [Mr. DUNCAN], and half controlled by the gentleman from Illinois [Mr. YATES].

Mr. DUNCAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today I am offering a simple amendment to reduce funding for one of the most expensive projects in the history of the National Park Service by $14 million.

If this amendment is successful there will still be $11 million for the Presidio, which will be more than what is appropriated for 358 of the 368 national park units across the country.

In other words, there would be only 10 national park areas out of the 368 across the country that would receive more in operating funds than the 1,480-acre Presidio.

Today, the National Park Service plan for the Presidio calls for an annual appropriation of $25 million per year. This is more than the total annual cost of all new park areas authorized by Congress since 1980. Let me repeat that, without this amendment, the annual cost of the Presidio will be more than the annual cost of the approximately 30 new park areas that Congress has established in the last 14 years—put together. In addition, the Army is spending approximately $15 million a year at the Presidio.

This is a project which was debated at length when we considered this same bill last year, and little has changed since then. My amendment would reduce the Presidio back to the funding level of last year, fiscal year 1993.

Let me give my colleagues a little perspective on this. The Yellowstone National Park contains over 2.2 million acres, the Presidio just under 1,500 acres. Yellowstone had 539 miles of roads, the Presidio just 60 miles of roads. Yet, the proponents of the Presidio project want to appropriate $25 million annually, while Yellowstone receives only $17 million.

Mr. Chairman, my concerns with this measure are fivefold. First, it is a project that the National Park Service cannot afford. Second, while there are many natural and historic resources at the Presidio which should be preserved, there are also many which do not warrant Federal intervention or protection, like the pet cemetery, the Burger King, and others.

Third, plans currently under consideration call for tenant-landlord expertise which the National Park Service does not possess and which would set a terrible precedent for the future of the park system.

Fourth, the current National Park Service proposal calls for a Federal subsidy for the groups who would occupy buildings at the Presidio.

And fifth, the plan relies almost exclusively on public sector funding from the Federal Government, with little or no participation from the city of San Francisco or the State of California, both of which, even with financial problems, are in better shape fiscally than is the Federal Government.

Last October, the General Accounting Office reported that the Park Service plan would have a one-time cost of between $700 million to $1.2 billion, and an annual operating cost of $40 million.

The Park Service's preferred plan would have a total cost of at least $1.2 billion for construction and operations over the 15 year life of the plan.

According to the National Park Service, the cost to the Federal Government, which includes the Army, the National Park Service, and other Federal agencies would be about $40 million annually, with the balance to be paid for by tenant occupants of Presidio buildings.

However, to my knowledge the Park Service has yet to complete negotiations with any tenants, except the Gorbachev Foundation, or provide the committee with documentation of their estimates of rental receipts. Cost estimates for the private sector funding are highly speculative at this time.

The Presidio is just a small portion, 1,480 acres, of the 73,000 acre Golden Gate National Recreation Area which is located in and around the city of San Francisco.

The Golden Gate National Recreation Area has an annual operating budget of $10.5 million. The combined $35.5 million annual operating budget for the entire Golden Gate Park and the Presidio would be nearly twice as much as any other national park area in the Nation.

The $11 million appropriation level that my amendment calls for would be adequate for essential public safety and resource protection needs at the Presidio. Yet it sends a clear message that Congress does not endorse the huge spending program advocated in the current National Park Service plan.

My colleagues, no one in this House knows better than members of the Appropriations Committee the enormous financial problems faced by the National Park Service today.

The Appropriations Committee had to cut nearly $40 million in park operating funds from the administration request. The amount available is inadequate to even cover inflation at existing parks. Yet, existing parks are already facing huge shortfalls.

According to information provided to Congress, the National Park Service faces a $5.6 billion, 37-year backlog in major construction funding, a 25-year, $1.2 billion backlog in acquisition funding for previously approved projects and a $400 million shortfall in park operating funds.

In the State of California alone, the shortfall for construction and acquisition at existing parks approaches $1 billion.

Make no mistake about it, funding and staffing for the Presidio will come at the expense of park projects around the country.

Several weeks ago, National Park Service Director Kennedy testified in the Senate that staffing of the 350 positions needed for this park would be accomplished by taking staff from other park areas.

The problems of the impact of a proposal of this magnitude on the National Park Service budget are well-recognized from the top to the bottom by persons with an interest in the park system.

The chairman of the Senate Subcommittee on National Parks, Senator DALE BUMPERS, recently made this statement regarding the Presidio.

> * * * this is a highly desirable thing to do. But I must confess to you, despite my very best efforts, I have not been able to reconcile myself to these costs.

Consider the following statement made by a superintendent of a small park area from a recent issue of the National Park Service Ranger Magazine:

> I am not about to argue the merits of the Presidio as a resource, just the fact that when all our Servicewide needs are laid out and prioritized, how can we agree to apply limited resources to that facility?

I want to make clear to everyone that I agree there are many outstanding resources at the Presidio and I support involvement of the Federal Government to preserve those resources, but there are also many resources which do not deserve the protection of the Federal Government.

Examples of these items include a shopping mall, car wash, churches, gymnasiums, warehouses, pet cemetery, and a Burger King. These facilities clearly fit the definition of facilities where the Federal Government should not be expending its limited resources.

Finally, it is notable that the plan under consideration calls for public sector financing to come almost exclusively from the Federal Government, with little or no participation from the State of California or the city of San Francisco as I have noted. Of course this has made staunch defenders of this plan out of both the city and State governments, but it is unrealistic. This is something we cannot afford.

In the case of the Presidio, it is unacceptable to ask the Federal Government to shoulder the entire public financial burden.

□ 1450

Mr. Chairman, I reserve the balance of my time.

Mr. YATES. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the President's budget included $25 million within the Park Service budget for the operation of the Presidio. This money is to be used to continue the orderly transition of the Presidio from its activity as headquarters of the 6th Army to inclusion within the National Park System to occur on October 1, 1994.

When the Golden Gate National Recreation Area was established in 1972, the Presidio was included within the authorized boundaries of the Golden Gate National Recreation Area. In 1967 the entire Presidio was designated as a national historical landmark. The legislation directed that any and all parts of the Presidio that were determined to be in excess of the needs of the Department of Defense would shift to the jurisdiction of the National Park Service and Congress concurred with the recommendation of the Commission on Base Realignment and Closure directing the Army to vacate by 1995.

What do we do with this property? This property is one of the most pristine, most prestigious, most valuable pieces of property in the United States. It overlooks the ocean on a big bluff. It has beautiful lands, beautiful trees. It is just an ideal property for a park. You cannot let it go to farmland, you cannot let it go to seed. It is in the center of a very populated area and is going to make an ideal recreation area when it is concluded.

Orderly transfer of functions is now taking place.

The amount of money that this committee put into the bill is exactly the same amount as was in the bill last year. The money is going to be used for the day-to-day tasks of maintaining and operating the Presidio. Reducing the money in this bill does not make any of the requirements go away. We have to manage the park, we have to maintain the buildings and roads and the hazardous tree removal. The structural inspections, environmental compliance, the museum operations, storage facility management, law enforcement patrols, fire and medical and safety services, inspections, property inventory and procurement—all of these activities require the expenditure of funds.

The gentleman from Tennessee, for whom I have the most profound respect, in comparing the costs of this park with Yosemite, overlooks the fact that you are in the center of one of the metropolitan areas of the country, the San Francisco area. We have to take care of this particular park. It is one of the jewels of urban parks.

We on the Committee on Appropriations are limited in what we can do. We are following the authorization.

Mr. Chairman, we were criticized a few minutes ago on the last amendment because presumably we did not wait for an authorization. In this case we have the authorization, we are following it, and following the authorization requires the expenditure of a certain amount of money.

No longer can we have the Department of Defense pay for these expenses. These are something that are now the burden of the National Park Service and the burden of the taxpayers as a result.

I agree with the authorizing committee, it needs to be examining this issue and Congresswoman PELOSI's bill will soon be considered. In the meantime, the bills of the Presidio have to be paid. This money is not excessive for this purpose.

Mr. Chairman, I urge defeat of the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. DUNCAN. Mr. Chairman, I yield 3 minutes to my friend, the gentleman from Utah [Mr. HANSEN], the ranking member of the National Parks Subcommittee.

Mr. HANSEN. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of the Duncan amendment. I realize how dedicated my friend from San Francisco is to the Presidio but we simply cannot afford to turn this miniature city into a national park. There are certain natural and historical aspects of the park that certainly deserve protection; however, the Park Service has failed to present Congress with a reasonable plan to protect only those areas of greatest national significance.

Currently, the Park Service faces over $7 billion dollars in backlog for construction and acquisition. At a time when the Park Service cannot afford to fix roads and housing in Yellowstone, or the unsafe electrical system in Yosemite, or when we need to correct health and safety deficiencies at the Statue of Liberty, or when we need to replace obsolete water and sewer systems in the Everglades, how can we expect to pay for pet cemeteries, bowling alleys and Burger Kings at the Presidio. The Park Service is broke and we will not be able to fix it until we start spending the taxpayers money more wisely.

Yesterday, I met with some constituents in my office that want to build a rail line out to the Golden Spike national historic site in my district where the transcontinental railroads met in 1869. These constituents did not come with hat in hand; rather, they came to me to help secure a cooperative agreement with the Park Service so that these additions to this park unit could be paid for through private donations and through a local bond issue. These constituents realize that the Park Service is broke and they do not expect this Nation's taxpayers to bear the burden of these improvements. Where is the local support for the Presidio, where are the local dollars? If the Park Service plan is so good and the people of San Francisco want this entire area to be a park then lets give it to them. Let the city or the State run this park.

The current Presidio proposal is fiscally weak and will wreak havoc on other national park units. I can promise you that the $1.2 billion required to run the Presidio over the next 15 years will lead to further deterioration of the parks we already have. Support the Duncan amendment and force the Park Service to come back to us with a responsible plan for the Presidio.

□ 1500

Mr. YATES. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in opposition to the Duncan amendment.

The Presidio of San Francisco is a 1,400 acre military base located at the base of the Golden Gate Bridge in San Francisco. It contains a combination of natural, cultural and historical resources which are unparalleled in our Nation. With 220 years of military history captured in over 500 historic buildings, natural beauty ranging from coastal bluffs to grasslands and forests, endangered species and abundant recreational opportunities, the Presidio is a very unique place which is made even more remarkable by its location in the middle of a major urban metropolitan area.

In less than 5 months the Presidio will be transferred from the Army to the National Park Service to be administered as part of Golden Gate National Recreation Area [GGNRA]. This transfer is a result of a 1972 law which required the Presidio to be transferred to the National Park Service when it was determined to be excess to the Army's needs. The Golden Gate National Recreation Area is currently the most visited unit of the National Park System, and the addition of the Presidio will provide millions of national and international visitors with the opportunity to enjoy and learn from this truly unique area.

The National Park Service has spent the last 4 years developing a comprehensive plan for the future use of the Presidio. They have also developed a financial strategy to reduce the costs of operating and maintaining the Presidio through an innovative public/private partnership. Congress has already enacted legislation to provide for fiscal responsibility at the Presidio. Last year we enacted a bill (Public Law 103–175) to authorize leasing of one of the highest revenue generating elements of the Presidio, the Letterman/Lair Hospital and Research complex. Just yesterday, the National Park Service announced their selection of two prospective tenants for detailed negotiations for occupancy of 1.2 million square feet of office space. In order to reduce costs while at the same time preserving the rich history and natural features of the Presidio, existing buildings at the Presidio will be leased to generate income. The leasing will be done through the establishment of a public benefit corporation with expertise and experience in real estate and leasing transactions. This is the essence of H.R. 3433, legislation introduced by Representative NANCY PELOSI and cosponsored by 123 Members of the House. The Subcommittee on National Parks, Forests and Public Lands which I chair has held hearings on this legislation and a competing proposal introduced by the author of the amendment Representative DUNCAN. We have scheduled a markup on H.R. 3433 for next week in the subcommittee and expect to have a bill on the floor next month.

Representative DUNCAN's amendment would wreak havoc and destroy the ability of the National Park Service to carry out essential daily operations including maintenance, fire prevention, utilities, communications, emergency medical services and law enforcement. Although the amendment purports to save money, it would very likely increase costs to the taxpayer. First, it would lead to deterioration of buildings and infrastructure at the Presidio, which in turn make it more difficult to get paying tenants. Second, it would cut funding the National Park Service at the critical stage for the funding needed to make appraisals, prepare contracts and negotiate leases with prospective tenants.

Members from both sides of the aisle, myself included, have rightfully raised questions about the potential costs of the Presidio. I take these concerns very seriously, and I have always been willing to work with Members and stand ready to address these concerns in the proposed authorizing legislation pertaining to the Presidio. Mr. DUNCAN's amendment offers no solutions or suggestions about how to address the complex issues of the Presidio transfer. In fact, a recent hearing in the Subcommittee on National Parks, Forests and Public Lands revealed that Representative DUNCAN's approach of selling off certain Presidio lands would cost up to $100 million more than the approach taken in Representative PELOSI's legislation.

It is important to remember that the transfer of the Presidio to the National Park Service will be a significant savings to the Federal Government in comparison to its operation as a military installation. Members of Congress should know that the operation of the Presidio by the Department of Defense costs up to $30 to $40 million more per year than what it will cost as a national park. The average taxpayer will spend less but will gain more from an enhanced ability to enjoy the natural, historical and recreational resources of the Presidio.

Several other points should be made about costs of the Presidio. As the accompanying chart demonstrates, the Presidio maybe the only unit of the National Park System for which Federal funding need declines over time. Again, this is due to the innovative leasing strategy which will result in increasing revenues to offset the need for appropriated funds. Furthermore, the public benefit corporation will accomplish much of the repair and rehabilitation of Presidio buildings through private borrowing instead of appropriated construction dollars. Seven out of ten dollars for site and building rehabilitation will be borrowed from capital markets instead of being appropriated from this Interior Appropriations Committee.

The Duncan amendment is a disingenuous and simplistic approach which will neither save money nor protect the nationally significant resources of the Presidio. The issues involving the future management of the Presidio need to be resolved in the context of the authorizing legislation and not this bill. I urge all Members to vote "no" on this amendment.

Mr. DUNCAN. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Chairman, I rise and strongly support the amendment offered by the gentleman from Tennessee [Mr. DUNCAN].

It was mentioned by the chairman of the subcommittee that the Presidio has become the burden of the taxpayer, and that fact is exactly why I would like to support this amendment.

Yes, this Presidio conversion to a park is going to be the burden of the taxpayers unless we pass this amendment and change the direction. We now have a $4.5 trillion debt in this country. The majority party supported, with the President, last year the largest tax increase in history, supposedly to do something about the debt when, in fact, we are going to add over $2 trillion to the debt over the 5-year period.

This supposed concern by the President about the national debt is nothing more than a sham. We need to call it that. We need to look at it for what it is. This Presidio proposal is going to add to our debt in a completely unacceptable fashion.

The Presidio, over the next 15 years—during which the conversion will take place to convert this, is going to add $1.2 billion to the national debt. If the city of San Francisco thinks this property is good enough to convert to a park, then let them pay for it.

Focus on this bizarre contradiction:

We are closing military bases all over the country, including the Presidio, throwing thousands of people out of work, depressing the local economies, arguably endangering our national defense. So for what are we doing this? So we can turn around and borrow more money we do not have in order to have more parks? That does not make sense, Mr. Chairman. I support the Duncan amendment.

Look at these charts here. Let us look at what the chairman of the other body's Subcommittee on Parks had to say on May 12, 1994.

Senator DALE BUMPERS said,

> But in any event this thing obviously, this is a highly desirable thing to do, but I must confess to you, despite my best efforts, I have not been able to reconcile myself to these costs.

Let us look here now. We have a tremendous budget shortfall for our national parks. Let us look at some in California:

Yosemite National Park: We have an annual operating shortfall of almost $9.5 million, and a construction/land acquisition shortfall of slightly more than $394 million.

Sequoia, Kings Canyon National Park: We have an annual operating shortfall of $896,000, and a construction/land acquisition shortfall of more than $201 million.

The Redwood National Park: An annual operating shortfall of almost $1.5 million and a construction/land acquisition shortfall in excess of $5 million.

Now, Mr. Chairman, cumulatively for these parks throughout the country, we have a total shortfall of almost 7.5 to $9.5 billion."

Are we going to say, "Put all of these existing parks at the end of the line so we can take care of the Presidio?"

I will be passing out in a few minutes by congressional district what the shortfall is. I urge my colleagues to take a look at it.

Support the Duncan amendment.

Mr. YATES. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. LAUGHLIN].

Mr. LAUGHLIN. Mr. Chairman, I rise in support of Representative PELOSI's efforts to ensure the successful transfer of the Presidio from military control to national park service jurisdiction.

Ms. PELOSI's plan will reduce Federal appropriations by raising private capital for building improvements.

It will provide the public access to 220 years of military history, natural beauty and abundant recreational opportunities.

Mr. DUNCAN's amendment is not a feasible alternative.

It does not take into account the significant, positive steps accomplished by the National Park Service over the last year but only rehashes old problems that no longer exist.

I urge this body to vote "no" on the Duncan amendment which will obligate more taxpayers' money and vote "yes" to preserve the national treasure of the Presidio.

Mr. DUNCAN. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Chairman, I was just out there at the Presidio. I had a daughter, Nancy, graduate from San Francisco State, so I had an opportunity to look at the Presidio in a different light than I ever had before, and there indeed are, I say to the gentleman from Illinois [Mr. YATES], some pristine areas that ought to be made into a park, and then there is a hodgepodge of all kinds of other areas that would never be considered for a park. And I sit on the gentleman from Minnesota's [Mr. VENTO] Subcommittee on National Parks, Forests, and Public Lands and the gentleman from California's [Mr. MILLER] Committee on Natural Resources, as does the gentleman from Tennessee [Mr. DUNCAN], and we struggle all the time to try to figure where the resource is going to come from to protect the real jewels of our park system.

Let me just point out to my colleagues a few facts here, that the National Park Service faces a 37-year backlog in construction funding and a 25-year backlog in land acquisition and cannot afford this plan which will cost $1.2 billion to implement over the next 15 years.

I think what we ought to think about here is, yes, what part of the Presidio should we save and protect on the one hand, and on the other hand, what is it going to do to the rest of our park system? The National Park Service claims that the plan costs will be offset by contributions, and yet they have failed to sign a single tenant agreement. The $25 million National Park Service costs for this plan will be more than the total cost for all of the 30 new areas that have been established by Congress since 1980. The Appropriations Committee was forced to cut the administration request for Park Service operating funds by $38 million for 1995. The funding increase in this bill does not even cover inflation. Funds available are inadequate to take care of existing parks. We cannot afford to take on new projects of this magnitude when budgets are tight. We have to make certain choices.

□ 1510

Mr. YATES. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, it sounds almost like a broken record today, but once again this is an authorizing committee problem. There is a bill pending in the authorizing committee from the gentlewoman from California [Ms. PELOSI] to allow an administrative unit to take over many of the functions here and reduce substantially the cost. In the meantime, by virtue of a bill passed in 1972, and I think it is unfortunate that the proponents of this amendment were not here in 1972 and could have stopped this from being turned over to the Park Service, but as a result of that law, the land is the responsibility of the Park Service.

There are something like 800 buildings out there that have to be taken care of. There is no real authority to lease or rent these buildings. If we do not take care of them, the costs will be much greater later on. So we are simply recognizing that the land is there and that there needs to be funds to take care of it. It is in effect a small city, and the $25 million is a bare minimum. The committee scaled back the request, but we recognize that we have to have at least $25 million to just maintain this facility until such time as an organization can be put in place by virtue of action of the authorizing committee.

I wish that they would get this bill moved, so that this responsibility can be shifted into other uses for this park land. It is a magnificent resource. I think many of the suggested ideas for using it are good, but it cannot happen until there is an authorizing bill. Meanwhile, the park is there.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I point out we have passed an authorizing bill to provide emergency authority to begin the lease of the Letterman Lear facility. In fact yesterday, they selected two clients for detailed negotiations. We will move and are moving next week on the Pelosi bill, the major bill.

Mr. REGULA. Mr. Chairman, reclaiming my time, I think the gentleman would agree, if this could be done, we could reduce the cost to the Park Service.

So I would oppose the amendment. We have to do this. I have to oppose the amendment. I hate to spend the $25 million, all of us do. But, nevertheless, the buildings are there, the facilities are there. It is full of streets that have to be policed because it is part of the city, because of its proximity.

Let us hope that once the Pelosi bill is passed and the authority exists to have many different functions, that Letterman can be leased, and that we can prospectively vastly reduce the costs.

Mr. VENTO. I would point out this is a park unit where in fact the total appropriations costs are starting out at $25 million a year. We expect in the 15-year period for them to decline to $15 million a year with the private-public partnership anticipated.

Mr. REGULA. In the meantime, it is there, and we have to take care of it. As much as we like not to do that, $25 million is the minimum required to maintain these facilities until such time as we can have other functions. But I might also add, it cost a lot more when the Army had it.

Mr. DUNCAN. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. ALLARD].

Mr. ALLARD. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise today to support the amendment of the gentleman from Tennessee [Mr. DUNCAN] to keep the Presidio from becoming the most expensive park in the National Park Service.

We have to ask what do Americans expect to pay for in their national parks. I have a picture here of the only pet cemetery in the National Park System. Is this what the citizens of America expect to see in their national parks?

I have here some of the over 400 residences and dormitories, totaling 2.5 million square feet. Is this what the citizens of America expect to see in their national parks?

I have here one of two Presidio bowling alleys. Is this what the citizens of America expect to see in their national parks?

I have here one of two hospitals, totaling 800,000 square feet. I ask you, again, is this what the citizens of America expect to see in their national parks?

Here, finally, we have the only Burger King in the National Park Service. Is this what the citizens of America expect to see in their national parks?

Mr. Chairman, I think we need to ask that question over and over again, is this what the citizens of America expect to see in their national parks?

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. ALLARD. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, were not all of those facilities there when the Army had it, and did not the Park Service inherit all of these things that you have outlined here?

Mr. ALLARD. The point I would like to make is this is something, if it is important to the city of San Francisco, local governments ought to pay for it. The Federal Government should not be in there dedicating these types of facilities as part of the National Park System. This does not in any way compare to the Rocky Mountains National Park in Colorado.

Mr. REGULA. You did not get that from the Army either.

Mr. DICKS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MILLER], the distinguished chairman of the Committee on Natural Resources.

Mr. MILLER of California. Mr. Chairman, I would hope we reject the Duncan amendment.

The problem with the Duncan amendment is it solves none of the problems that the supporters of the Duncan amendment have discussed in the last few minutes. In fact, it makes all of those problems worse. It drives up the cost. If the gentleman from Tennessee [Mr. DUNCAN] had attended the hearing on his bill before the Committee on Natural Resources, he would have learned that his bill adds approximately $100 million to the cost of creating the Presidio National Park, as the gentleman from Ohio correctly points out, from the conversion from a military base to this national park.

This is in fact a national park. There is nobody that disputes the worth and the value of the Presidio. What we have come up with in the legislation proposed by our colleague, the gentlewoman from California [Ms. PELOSI], from San Francisco, is an ingenious ability to try to use those aspects of the former military base that can generate revenues to help the taxpayers of this country pay for the maintenance and the operation of these facilities as a national park, a national park where by the turn of the century we expect 8 million visitors a year to come and enjoy this.

Our colleague, the gentlewoman from California [Ms. PELOSI], has been working with the community, with the National Park Service, to develop a plan that is now in the bill before our committee, so that we can develop those revenues to offset the cost of this, so we can make sure that we utilize this land in the most cost-effective manner and at the same time hold on to the attributes of the Presidio that qualify it to be a national park.

This has been no easy task. This has been a contentious task. But one thing that has been established beyond a doubt is that the proposal of the gentleman from Tennessee [Mr. DUNCAN], either of simply slashing the money or his sale of the properties, makes all of these problems worse in fulfilling the need to create this national park. In fact, what we realize is those properties and the city of San Francisco would not be sold for years, so they will sit there in the Federal inventory generating no revenue, no usage, deferred maintenance, additional costs, year after year, that will go to the taxpayer.

If we follow the outline of the proposal by the gentlewoman from California [Ms. PELOSI], what we have is the most expeditious way to get to those properties generating revenue to help develop this park, to help maintain this park, and to allow the people of this Nation to enjoy this.

I appreciate all of the rhetoric, I appreciate all of the pictures. They simply have nothing to do with the facts and the problems that are confronted in dealing with the Presidio.

As the gentleman from Ohio [Mr. REGULA] properly pointed out, this was inherited from the Army. We are doing the best we can. We have a wonderful opportunity here for the people of this Nation to create an outstanding park. We also have a wonderful opportunity to relieve them of much of the financial burden. Mr. Chairman, we should vote down the Duncan amendment and support the proposal by the committee.

Mr. DUNCAN. Mr. Chairman, I yield 2 minutes to my good friend, the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I very much appreciate my colleague yielding.

I must say I rise with no small amount of hesitation to discuss this subject. I have the greatest respect for my colleague, the gentlewoman from California [Ms. PELOSI]. I particularly admire her understanding of the process and the capacity by which she is representing her constituency by tapping this source of funds in such an effective manner on behalf of her community and the proposed park in her district.

I further want to express my appreciation to our chairman, the gentleman from Illinois, Mr. YATES, as well as my ranking member, Mr. REGULA, during the appropriations process. They have been most helpful with me relative to some of the future problems I may have with parks in my own region.

But, I want to make this point which is being made very well by my colleagues. That is that we have a national park system that is totally underfunded. Those parks operate in a circumstance where there are limits on the number of personnel that can be assigned to the operation and maintenance of these park units.

Within those limits, constantly the Secretary tells us if we have to have more personnel for the Presidio or any other unit, then we must transfer them from other units within the system.

□ 1520

Now, over time, it is said we are going to get a lot of funding from the private use of these parks. That, I suppose, will pay for personnel eventually. In the meantime, we are faced with very real problems.

In the very near term, this committee that is authorizing Park Service spending is going to be proposing to make Death Valley National Monument a new national park. The Park Service says they will have to double their number of employees as they double the acreage involved. This personnel change is from 70 to 140 employees. Where will those 70 employees come from? Where will they be paid from? The FTE is limited. We do not get an answer.

I must say that in Death Valley today, it is approximately 120 degrees. Those poor employees are living in trailers without air-conditioning. Yet, there is no money available for their housing in these very remote areas. It is very obvious we have a serious shortfall here. It is time that we begin giving priorities that reflect the American public's interest in the park system and not channel the money down one pathway alone.

Mr. DICKS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MINETA], the distinguished chairman of the Committee on Public Works and Transportation.

Mr. MINETA. Mr. Chairman, I rise today in opposition to the amendment offered by the gentleman from Tennessee.

Mr. Chairman, the Presidio Army Base in San Francisco is one of our Nation's most significant historic sites. The base was established by the Spanish in 1776, was later controlled by Mexico, and came under the command of the United States in 1846. It holds the distinction of being the oldest continually operating military base in the country.

In particular, Mr. Chairman, the Presidio holds special significance for Americans of Japanese ancestry.

It was at Crissy Field that the U.S. military started the Military Intelligence Service Language School, just prior to our entry into the Second World War.

The Japanese-American instructors and students at the school were to play a crucial role in our ability to fight the war in the Pacific. General McArthur's Chief of Intelligence estimated that their effort shortened the war by as much as 2 years.

In addition, it was their contributions to the war efforts, along with those of the 442d Regimental Combat Team, that demonstrated to this Nation and to the world that Americans of Japanese ancestry were, in fact, dedicated and loyal Americans.

Mr. Chairman, I understand that markup is scheduled next week on legislation designed to streamline the operations of the Presidio. That legislation will transfer operation of the Presidio from the Park Service to a public benefit corporation and is projected to save up to $400 million over the next 15 years. This amendment threatens to undermine that effort.

The Presidio is a national treasure that must be preserved. I urge my colleagues to vote against the Duncan amendment.

Mr. DICKS. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, if I could engage the distinguished gentlewoman from California, I wanted to just make a couple points. First of all, I have been to the Presidio with my colleagues, the gentleman from Ohio [Mr. REGULA] and the gentleman from Pennsylvania [Mr. MURTHA]. I must say, this is one of the most beautiful places in the entire world. This is not a new issue.

I would like to ask the gentlewoman from California, is it not true that the 1972 legislation that Congress enacted foresaw a day when the military would no longer need this facility and would want to switch it over to the National Park Service? Is that not correct? This is not something new that we have not thought about before. This is something that has been in place for a long period of time.

Ms. PELOSI. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentlewoman from California.

Ms. PELOSI. Mr. Chairman, that is true. In fact, in the 1972 legislation creating the Golden Gate National Recreation Area, there was a provision in there which stated that when the Presidio was in excess of the needs of the Department of Defense, it would indeed become part of the Golden Gate National Recreation Area and a national park. It is a national landmark now.

Mr. DICKS. I want to also compliment the gentlewoman from California. She is doing an enormous amount of work and making an outstanding effort to try and bring private resources to bear to try and reduce the cost to the taxpayers. So I want to compliment her not only on her efforts on this appropriations bill but also for her work in terms of trying to get this project authorized. This is a national treasure.

We have to look at the next 500 years, not the next 15 years. And the people of California, the people of San Francisco will be thrilled that they have had the kind of leadership that the gentlewoman from California [Ms. PELOSI] has presented, as well as that of her predecessor, Phil Burton, who was responsible for the original legislation.

No one could go to the Presidio and not recognize that what Ms. PELOSI is trying to do is correct and should be supported by this House.

Mr. DUNCAN. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. STEARNS], one of the truly great Members of this body.

Mr. STEARNS. Mr. Chairman, I rise in support of the Duncan amendment to the Interior appropriations bill.

I thank the gentleman from Tennessee for his diligent work on this important issue. As a Member who has also experienced a base closure, I understand the gentlewoman from California's concerns and her commitment to her district. However, in implementing base transitions we should take care to not put the cart before the horse. The appropriations request for this bill does exactly that.

Mr. DUNCAN's amendment presents an alternative that prescribes fiscal and conventional responsibility for the Presidio. His amendment allocates $11 million for essential public safety and resource protection. This allocation is more than adequate for maintaining the Presidio.

This project has been troubled from its inception. The National Park Service hopes to make the entire base into a park, including many resources that they have no experience managing, or even any need for, resources like a shopping mall, a pet cemetery, warehouses, hospitals, housing, a golf course, and a Burger King. The current Presidio plan demands that the NPS become a real estate agent and developer. Obviously, they are unsuited for such responsibilities.

Furthermore, despite spending millions of dollars over the past few years, the NPS has yet to complete a final plan for the Presidio. Nor do they have an alternative plan. They really do not know what they are going to do. They want to enter into leases for Presidio properties, but have yet to sign a lease with any tenants. Despite this, the NPS maintains that the plan's costs will be offset by tenant contributions.

Congress cannot continue to fund projects that eat up much-needed funds. The Federal Government must take measures toward reducing our national deficit; we must look very carefully at each and every federally funded program, for in these times of budgetary crisis, it is imperative that Congress reduce funding where we can. We must reduce, or eliminate, funding for programs that are not vital to the economic well-being of our country. We must turn our attention to more fiscally responsible matters.

Again, Mr. DUNCAN's amendment would not defend or eliminate the Presidio plan. It would simply reduce the amount appropriated. It would force the NPS to re-evaluate its plan for a national park. I support the Duncan amendment because it presents a compromise that we can all live with. It maintains this natural resource, but it does so in the traditional manner, the horse is pulling the cart. The Duncan amendment shows the fiscal and conventional responsibility that Congress should exemplify. I urge my colleagues to support the amendment.

Mr. DUNCAN. Mr. Chairman, I yield 2 minutes to my good friend, the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, as is often the case in these kinds of extended amendments, practically everything has been said, but unfortunately not everyone has said it yet. So it is my turn to do that.

Of course, the real question is the matter of financing in the facilities that we have. We have talked a little bit about the facilities that we have.

We have a shortfall in the parks. We have a shortfall of construction that probably is in the neighborhood of between $5 and $6 billion, those parks that we already have that we are seeking to keep up. We have a shortfall in land acquisition of authorizations that have already been made and we are making them each day over in the authorizing committee of about $1.5 billion.

We have a shortfall in the operations yearly of $400 million in terms of what we do with national parks.

This colorful chart shows where we are with Gettysburg battlefield, Great Smoky Mountains, Everglades Park, Yellowstone Park, probably the most famous of all of our parks. And here is the one we are talking about now, almost twice as much money to do that as we are spending on the best park that we have.

□ 1530

That is for a park that we do not even need as a park. This is not 1972. This is a different situation in terms of money. This thing does not have to be a park because we said so in 1972. It can be converted to other things. It needs to be converted to other things. This is absolutely the wrong direction to take, to spend twice as much on a park that should not even be a park than we do in taking care of the major or jewel park of our whole system.

The CHAIRMAN. The gentleman from Tennessee [Mr. DUNCAN] has 2 minutes remaining.

Mr. DUNCAN. Mr. Chairman, I yield 1 minute to my friend, the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, I respect the gentlewoman from California [Ms. PELOSI] greatly and I appreciate what she is trying to do, but I rise in strong support of the Duncan amendment.

I commend the gentleman for recognizing what apparently so many in this body just cannot seem to understand. The Committee on Natural Resources seems to have the attitude that they have not seen a park that they do not like. As we have seen in almost every appropriation bill that has come to this floor this year, there is just not enough money to do everything.

NASA is very important to me, yet we had to set very stiff, tough priorities on NASA and the space station. We made major cuts. Yet here we are with a plan to transfer all this money to the Park Service for the Presidio. Approval of this plan flies right in the face of the fact that the National Park Service faces a 37-year backlog in construction funding. We have to set priorities. Vote for the Duncan amendment.

The CHAIRMAN. The gentleman has 1 minute remaining.

Mr. DUNCAN. Mr. Chairman, I yield the final minute to the gentleman from Alaska [Mr. YOUNG], the ranking member of the full committee.

Mr. YOUNG of Alaska. Mr. Chairman, with 1 minute I have to explain one thing.

Let us go back to the history very quickly. The gentleman is correct, this is a park. It was passed in 1972. Although we did not envision it ever being surplused, it is and has been.

The chairman of the subcommittee is probably correct, but let us go back to the amount of money we are talking about. This is a tremendous amount of money with a tremendous backlog. Remember, from 1980 until now the Committee on Natural Resources has created over 34 new parks which we do not have money for right today to operate the ones in existence.

Again, I want to stress the Presidio moneys which we are appropriating today, and the ranking member and the chairman say it must be done, exceeds the Yellowstone, exceeds the Yosemite, 1½ times more in total cost to operate.

I hope the bill of the gentlewoman from California [Ms. PELOSI] does pass and I hope we come back to this floor and have no further funding. I hear people talking about 15 years of funding for this bill, which would amount to a little over $400 million. Let us do our job. Let us turn this property back, as it should be, to the city of San Francisco, leave the fort area as a park, and keep that area, but let us not be burdening the taxpayer and neglecting the other parks in this country.

Mr. YATES. Mr. Chairman, I yield the remainder of our time to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I yield to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. I just want to point out that Golden Gate does cost more, Mr. Chairman, but Golden Gate has 16.7 million, Yosemite has 3.8 million, Yellowstone has 2.9 million visitors, so on a per visitor cost basis Golden Gate is the least expensive.

Mr. YOUNG of Alaska. Will the gentlewoman yield?

Ms. PELOSI. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, I ask the gentlewoman, what do they charge for admission to the Presidio?

Ms. PELOSI. We are just now becoming a national park, Mr. Chairman.

Mr. YOUNG of Alaska. If the gentlewoman will continue to yield, so far the visitors have not paid one cent.

Ms. PELOSI. It is not a park yet. It is still a military post.

Mr. Chairman, reclaiming my time, following up what the gentleman from Ohio [Mr. REGULA] said, the Presidio has more visitors than all the visitors that were mentioned here, combined, combined.

Mr. Chairman, the bill before us today is the culmination of many long hours of hearings, deliberation and care taken to advance an Interior appropriations measure that adequately safeguards our natural heritage in a context of demanding and competing interests.

The chairman and ranking member are to be commended for their determination and for their accomplishment in meeting this challenge. Mr. YATES and Mr. REGULA and members of their staffs—Neil Sigmon and Barbara Wainman—deserve our full appreciation for your efforts. I also would like to commend Judy Lemons of my staff for her work since 1972 on the Presidio issue.

Today, I rise in opposition to the Duncan amendment, Mr. Chairman. This is the same amendment Mr. DUNCAN offered and lost last year.

The Presidio transfer will end over two centuries of military history to become part of the most visited park in the United States. Its over 1,400 acres include the largest number of historic structures of any national park and it is the only urban park in the world included in the U.N. Biosphere Reserve.

Its unique natural features and educational potential provide us with an unprecedented opportunity to create an extraordinary 21st century national park.

It is essential to seek innovative ways to manage our Federal assets that save money while ensuring accountability. The history and national significance of the Presidio must be preserved as a testament to the growth of our Nation.

As I mentioned when Mr. DUNCAN first offered his amendment last year, plans were well under way for the successful conversion of the Presidio:

The Park Service has completed the planning process for the Presidio.

A lease is now being negotiated for the major revenue-generating property at the Presidio.

A legislative process is underway in the House and Senate to seek an innovative, cost-saving management mechanism that will reduce Federal outlays for the Presidio.

I have introduced legislation, H.R. 3433, as a cost-effective means for managing the Presidio. A subcommittee markup will occur this Monday on my bill, as well as one introduced by Mr. DUNCAN. At a hearing on these two bills, the Subcommittee on National Parks heard testimony that the Duncan bill would cost $100 million more than the legislation I have proposed.

Financial and real estate consultants working on the Presidio have determined that H.R. 3433 is the least-cost option under consideration and would be less costly than:

The Duncan bill which is projected to cost over $100 million more than my legislation.

Traditional Park Service management, which is projected to cost over $400 million more than H.R. 3433.

Mr. DUNCAN has no plan to actually reduce costs for the Presidio so he must resort to simplistic tactics that delay a process that was set in motion 22 years ago when, in 1972, Congress determined that the Presidio would become a national park. Delay is expensive. Every dollar cut now simply means that taxpayers costs will increase even more than the costs of the Duncan bill. Essential maintenance projects will only cost more next year. The Presidio is a national resource that should not be squandered.

Mr. DUNCAN mistakenly assumed that Presidio lands could be sold off to sustain what he would leave as a coastal strip of national park. According to local zoning ordinances, no property at the Presidio could be sold. Any change in the local ordinance would take a minimum of 10 to 15 years. The cost of increased security and mothballing of properties would only add to Mr. DUNCAN's growing tab for the Presidio.

California's Governor Wilson wrote to Mr. DUNCAN expressing his opposition to the Duncan bill. In the letter, Governor Wilson stated:

> A sale of all or part of the Presidio as contemplated by your bill has not withstood the rigors of close financial analysis, nor could it ensure use of these properties consistent with the overall plan for the Presidio.

The conversion of the Presidio, on September 30, marks an unprecedented opportunity to reshape a natural and human-made resource into a world-class urban park and global center for seeking solutions to problems of the natural and human environments.

Many of my colleagues have been helpful on this issue—Chairmen BRUCE VENTO, GEORGE MILLER, JACK MURTHA, RON DELLUMS and Representatives GREG LAUGHLIN, BEN GILMAN, and ARTHUR RAVENEL—all who were kind enough to contact other Members on behalf of my legislation for the Presidio and to urge them to oppose the Duncan legislation.

I urge my colleagues to vote against the shortsighted Duncan amendment.

Mr. LANTOS. Mr. Chairman, on October 1, 1994, the Presidio Army Base, located in San Francisco, will be transferred to the National Park Service. I fully support the transfer and conversion of this unique property for use by all citizens.

A National Historical Landmark since 1962, the Presidio contains 1,480 acres of irreplaceable historic, scenic, and ecological treasures. Located in a major urban metropolitan area and within the boundaries of the Golden Gate National Recreation Area, the Presidio contains numerous diverse characteristics. These include native ecosystems, endangered plants, and open space trails. In addition, it is the only U.N. International Biosphere Reserve located in an urban setting.

This is an ultimate example of successful base conversion. The transformation of the Presidio from military use to operative facilities for use by all Americans is a model for all to emulate. Centers for research and education, which will provide thousands of new jobs, will be established in the hundreds of historic buildings throughout the base.

The conversion of the Presidio to a national park will make the unique resources of the area available for use by the millions of visitors, as well as residents of the San Francisco Bay area. It is imperative for us to conserve this exceptional span of property for future generations.

Mr. Chairman, the funding included in this bill is essential to make this facility available and open to all. I urge my colleagues to oppose the amendment offered by Mr. DUNCAN.

☐ 1540

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee [Mr. DUNCAN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DUNCAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 171, noes 257, not voting 11, as follows:

[Roll No. 261]

AYES—171

Allard
Archer
Armey
Baesler
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bentley
Bilirakis
Bliley
Blute
Boehner
Bonilla
Brewster
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chapman
Clement
Clinger
Coble
Collins (GA)
Combest
Cooper
Costello
Crane
Crapo
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Green
Greenwood
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Machtley
Mann
Manzullo
McCandless
McCollum
McCrery
McHugh
McInnis
McKeon
Meyers
Mica
Michel
Miller (FL)
Minge
Molinari
Moorhead
Myers
Nussle
Parker
Paxon
Penny
Petri
Pickett
Pombo
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Ramstad
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Sarpalius
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Spence
Stearns
Stenholm
Stump
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Williams
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—257

Abercrombie
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baker (CA)
Barca
Barcia
Barlow
Barrett (WI)
Bateman
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bishop
Blackwell
Boehlert
Bonior
Borski
Boucher
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Coppersmith
Cox
Coyne
Cramer
Cunningham
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Engel
English
Eshoo
Evans
Faleomavaega (AS)
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gallo
Gejdenson
Gephardt
Geren
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman

Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Horn
Hoyer
Huffington
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Levin
Lewis (GA)
Lipinski
Long
Lowey
Maloney
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McHale
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Packard
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickle
Pomeroy
Porter
Price (NC)
Rahall
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Roemer
Romero-Barcelo (PR)
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Saxton
Schenk
Schroeder
Schumer
Scott
Serrano
Shepherd
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swift
Synar
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates

NOT VOTING—11

Ackerman
Bachus (AL)
Gibbons
Houghton
Lloyd
Oxley
Santorum
Sharp
Solomon
Underwood (GU)
Washington

☐ 1602

Mr. LEVIN changed his vote from "aye" to "no."

Mr. STUMP changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there other amendments to title I?

AMENDMENT OFFERED BY MR. HEFLEY

Mr. HEFLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HEFLEY: On Page 16, line 16, delete "$171,417,000," and insert, "$165,123,000".

Mr. HEFLEY. Mr. Chairman, the amendment before you would delete a total of $6,294,000 from the section of the bill dealing with construction funds for the National Park Service.

Mr. Chairman, I might ask the gentleman from Illinois [Mr. YATES] if on this amendment he would like to restrict the time.

Mr. YATES. Mr. Chairman, I ask unanimous consent that the time on this amendment be limited to 10 minutes, 5 minutes on each side, 5 minutes for the gentleman from Colorado [Mr. HEFLEY] and 5 minutes for myself.

Mr. HEFLEY. Mr. Chairman, reserving the right to object, that is agreeable.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Without objection, the gentleman from Colorado [Mr. HEFLEY] will be recognized for 5 minutes, and the gentleman from Illinois [Mr. YATES] will be recognized for 5 minutes.

There are no objections.

The CHAIRMAN. The Chair recognizes the gentleman from Colorado [Mr. HEFLEY].

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. HEFLEY. I yield to the chairman of the subcommittee.

Mr. YATES. Mr. Chairman, I am trying to understand what the purpose of the gentleman's amendment is.

Mr. HEFLEY. I will try to explain it.

Mr. Chairman, this amendment would take $6,294,000 from the section of the bill dealing with construction funds for the National Park Service. Specifically, this cut targets $1,294,000 earmarked for the Allegheny Portage Railroad near Johnstown, PA, and $5 million for construction of the mountain music center on the Blue Ridge Parkway in Virginia.

Now I am not going to get into an argument about the merits of the Portage Railroad or how this park got there. Our colleague, our former colleague, John Saylor, wanted a park there before he retired, and he got one. In fact, he got two parks. But I am going to question why and how the Government has pumped $25.6 million into a park that is about 1,000 acres in size, most of it forested and one part of it a major highway.

I want to question why it has spent that amount of money only a few years after Congress voted to cap expenditures at that site at $9.8 million. Generally speaking, the Committee on Appropriations' list of earmarks this year was defensible. Still, employee housing in Alaska took a hit of almost $1.7 million in this budget, and money to repair the utility system at Independence Hall, which has been a national disgrace over the past 5 years, got cut by about $3.4 million.

Mr. Chairman, with those kinds of priorities and a multi-billion-dollar maintenance backlog, I question whether Cresson mountain is the best place to put our money.

Now, the Mountain Music Center is a little bit different. It has been studied. The administration recommended it. The question is whether we really need a mountain music center in the National Park System and whether the National Park Service should be running such a music center in the first place.

Over the past 3 years I have become concerned about what we are asking the Park Service to do. We have asked it to run a music center at Wolf Trap, we have asked it to engage in economic development at Lowell, MA, and Thurmont, WV. We have asked it to build and operate a number of highways across the country, including the Blue Ridge Parkway. On other occasions we have asked it to manage a tennis stadium, to act as a leasing agent for an urban park and to run a railroad.

Is it any wonder why the Park Service is strapped for cash? The Park Service is in the business of protecting and interpreting sites important to the natural and cultural heritage of this country. I have real questions about whether mountain music will disappear from our culture without this $5 million interpretive center. I say let the private sector operate music centers like this and let the Park Service do its job.

Mr. Chairman, I reserve the balance of my time.

Mr. YATES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Allegheny Portage Railroad national historic site was approved by our committee upon the motion of the gentleman from Pennsylvania [Mr. MURTHA]. It is an historic area between Philadelphia and Pittsburgh.

The legislature of Pennsylvania enacted a mainline canal bill that authorized a board of canal commissioners to design and construct canal systems across the State. And it is for that reason that Mr. MURTHA came forward and asked for this amendment and the committee approved it.

With respect to the mountain music center, this matter has been pending for years. The gentleman from Virginia [Mr. BOUCHER] is the one who has recommended it.

Mr. Chairman, I yield 3 minutes to the gentleman from Virginia [Mr. BOUCHER] in order to tell the gentleman from Colorado [Mr. HEFLEY] why the center is needed.

Mr. BOUCHER. Mr. Chairman, I want to express my appreciation to the gentleman from Illinois for yielding this time to me.

I rise in opposition to the amendment offered by the gentleman from Colorado [Mr. HEFLEY] and would state in opposition to his amendment, that the Mountain Music Interpretive Center to be constructed on the Blue Ridge Parkway astride the Virginia-North Carolina border, would interpret the mountain music that is native to our area for one of the most popular national parks in the entire Nation.

From the traditional music of the Blue Ridge Mountains came bluegrass music, modern country music, today's rockabilly songs and western swing. The music that was born in the Blue Ridge Mountains of Virginia and North

Carolina is now popular throughout the Nation and around the world. In every corner of the globe, one hears the American music which had its roots in the Blue Ridge. The music born in that region, now popularizes our culture in every nation on Earth.

It is still very much alive in the place of its origin. Each year hundreds of bluegrass and other string bands play this uniquely American music throughout the Blue Ridge communities in our Appalachian States.

Mr. Chairman, this center has been a part of the Blue Ridge Parkway's long-range plans since the inception of that plan in the 1930's. It has been thoroughly reviewed at the national level.

In 1988, at the direction of this Congress, the Park Service conducted an extensive study of the utility of the traditional music center in Virginia and North Carolina.

☐ 1610

It was strongly endorsed as an outstanding means of enhancing the experience for the 22.3 million annual Blue Ridge Parkway visitors and highlighting the unique character of the region which has contributed so richly to American life. The architectural and engineering work has been completed for this center, and the land has been acquired for the facility. To take the next step the administration has requested $5 million for construction, and the committee has provided that amount.

I would stress that this project has been very strong local support, both in Virginia and in North Carolina. The city of Galax in my congressional district has made commitments to the project valued by the Park Service at more than $4 million, so much of the cost of the project will, in fact, be satisfied with local funds.

The appropriation is expressly contingent on the operation of the center taking place at no cost to the Federal Government. In fact, we anticipate substantial support from private foundations and by the States involved in order to provide operational revenues.

The project has been carefully considered. It will make a significant cultural contribution. It is receiving strong support locally in terms of financial commitments, and over the long-term it will be operated at no cost to the Federal Government. Mr. Chairman, I strongly oppose the gentleman's amendment and would hope that the committee would confirm this very thoughtful appropriation.

Mr. HEFLEY. Mr. Chairman, just in response to the gentleman there, the two things that I have problems with are: Why we put a cap on the park at $9 million and it has gone to $25 million and why we feel we must have this interpretive music center in this particular location.

Mr. Chairman, the Smithsonian collects this kind of music, the Library of Congress collects this kind of music. It is not as if this music is going to be lost if we do not do that.

Might be a nice thing to have, might be a nice thing to have in one's district, but is it something that is absolutely necessary in these tight budgetary times, and I think that is the question we have to be asking.

In conclusion, Mr. Chairman, let me just say I wonder where we are going to stop on these interpretive centers. We are going to do this one for mountain music. There is a proposal to do a New Orleans jazz park. Is jazz going to disappear if we do not do the park? Are we going to do a rap park? Are we going to do a rock and roll park? Are we going to do a country music park? I mean where is it going to stop if we do this kind of thing?

This goes beyond what the Park Service is obligated to do or what we charge them to do, and it takes funds, it takes resources, from the legitimate mission of the Park Service, and we have heard over and over this afternoon how short those resources are. The gentleman from Illinois [Mr. YATES] has had to struggle with trying to fund these things. He knows how short those resources are.

Mr. Chairman, I think I am out of time. I will stop at that point.

The CHAIRMAN. The gentleman from Illinois [Mr. YATES] has 1 minute remaining.

Mr. YATES. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, I can appreciate very much the arguments of the gentleman. There is no question but that we on the Appropriations Committee are called upon to finance new establishments and new parks that are approved by the Congress. This center has been approved by the Congress, as has been the Allegheny Portage Railroad. These are authorized projects. The place to stop them is in the authorizing committees. The Appropriations Committee receives these requests from the authorizing committees and from the Members from the particular areas. We thought these were worthy of financing. We have been holding in abeyance the project that the gentleman from Virginia [Mr. BOUCHER] brought us for years, and we think this would be like Wolf Trap, a performance center in the Park Service. The Kennedy Center is a performance center. This will be a performance center for folk music.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado [Mr. HEFLEY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HEFLEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 146, noes 282, not voting 11, as follows:

[Roll No. 262]

AYES—146

Allard
Andrews (ME)
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bentley
Bilirakis
Blute
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Camp
Canady
Castle
Coble
Collins (GA)
Combest
Condit
Cooper
Costello
Cox
Crane
Crapo
Cunningham
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fingerhut
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Gingrich
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hoekstra
Hoke
Huffington
Hutchinson
Hyde
Inglis
Inhofe
Inslee
Istook
Johnson, Sam
Kasich
Kildee
Kim
Kingston
Klein
Klug
Knollenberg
Kreidler
Kyl
Leach
Lewis (FL)
Lewis (KY)
Linder
Lucas
Mann
Manzullo
Margolies-Mezvinsky
McCollum
McCrery
McHugh
McInnis
McKeon
Meyers
Mica
Miller (FL)
Minge
Molinari
Nussle
Oxley
Parker
Paxon
Penny
Peterson (MN)
Petri
Pombo
Porter
Portman
Poshard
Pryce (OH)
Quinn
Ramstad
Ravenel
Roberts
Ros-Lehtinen
Roth
Roukema
Royce
Schaefer
Sensenbrenner
Shays
Smith (MI)
Smith (OR)
Smith (TX)
Snowe
Spence
Stearns
Stenholm
Stump
Swett
Talent
Tauzin
Thomas (CA)
Thomas (WY)
Thurman
Torkildsen
Upton
Walker
Williams
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—282

Abercrombie
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barlow
Bateman
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bishop
Blackwell
Bliley
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Calvert
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Engel
English
Eshoo
Evans
Faleomavaega (AS)
Farr
Fazio
Fields (LA)
Filner
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Frost
Furse
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Holden
Horn
Hoyer
Hughes
Hunter
Hutto
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)

Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
King
Klink
Kolbe
Kopetski
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Lehman
Levin
Levy
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Long
Lowey
Maloney
Manton
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McDade
McDermott
McHale
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Mfume
Michel
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Packard
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pickle
Pomeroy
Price (NC)
Quillen
Rahall
Rangel
Reed
Regula
Reynolds
Richardson
Ridge
Roemer
Rogers
Rohrabacher
Romero-Barcelo (PR)
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Shaw
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (NJ)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Sundquist
Swift
Synar
Tanner
Taylor (MS)
Taylor (NC)
Tejeda
Thompson
Thornton
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates

NOT VOTING—11

Ackerman
Houghton
Kleczka
Lloyd
Machtley
McCurdy
Sharp
Smith (IA)
Solomon
Underwood (GU)
Washington

☐ 1636

Messrs. TAYLOR of North Carolina, LIGHTFOOT, LAZIO, KING, LEVY, and McCANDLESS changed their vote from "aye" to "no."

Ms. MARGOLIES-MEZVINSKY changed her vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. BACHUS of Alabama. Mr. Chairman, I move to strike the last word.

Mr. Chairman, my remarks are going to deal with title I, not title II.

I rise today to voice my opposition to the Bureau of Mines report language that is attached to this legislation. I am specifically rising to express my opposition to the current plan to reorganize the Bureau of Mines.

On September 10, I and my colleagues wrote the chairman of the Subcommittee on Interior, the gentleman from Illinois [Mr. YATES] a letter, which I would like to submit for the RECORD.

In that correspondence, we point out four or five objections we had to the proposed reorganization.

First of all, it, in our estimation diminishes to a large extent all mineral assessment work, mineral processing technology research and health and safety research conducted by the research centers of the Bureau of Mines. If this reorganization goes forward, almost all research performed by the Bureau of Mines will be of an environmental nature.

I certainly do not have any objection to that type of work, but I do not believe that we should ignore the primary customer of the Bureau of Mines to date, and that is the mining industry.

I also want to express, and we did in this letter, our strong opposition to how this reorganization went about. It was under the Vice President's Reinventing Government plan, but part of his plan is to seek input from rank and file Bureau of Mines employees. And that was not done in this plan. It was a small group of executives that did this plan with the rank and file at the Bureau of Mines totally left out. And their input was not even sought.

Third, and I would say that to my fellow Members from the South, 25 percent of the mining in this Nation is done in the South, but under this proposed reorganization, there will not be a Bureau of the Mines office in the South.

☐ 1640

They will all be closed. There will be no research centers in the South. That is removing, in my mind, access to the Bureau of Mines to most Southern States.

Mr. Chairman, that will conclude my remarks. I include for the RECORD this letter:

HOUSE OF REPRESENTATIVES,
Washington, DC, May 10, 1994.

Hon. SIDNEY YATES,
Chairman, Subcommittee on Interior, Committee on Appropriations, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: We are writing to express our concerns regarding the proposed reorganization and restructuring of the United States Bureau of Mines. The reorganization proposes to drastically alter the field structure, research missions, and the mineral information collection and analysis functions of the Bureau.

This proposal runs contrary to the "Reinventing Government" report's two central themes of "empowering employees to get results" and "putting customers first." The Bureau's reorganization proposal was created within a small executive circle and had minimal input from rank-and-file employees. Furthermore, the plan virtually ignores the primary customer of BOM—the mining industry. In fact, the Bureau has made no secret of the fact that the reorganization plan was put together on the basis of political, rather than rational, criteria.

The plan proposes an almost total shift toward environmental research as BOM's focus and the closure and consolidation of field offices based on this shift. While we support environmental research, we oppose actions which would diminish mineral assessment work, mineral processing technology, health and safety research, reduce and phase out the Mineral Institutes, and eliminate recoverability estimations, and comparative cost analyses which assist U.S. mining companies in building export markets.

We maintain that a congressional review is warranted before any actions are taken to implement the current proposal and substantial revisions should be made in the proposal following such a review. As a result, we would appreciate your consideration of the following two steps in this year's appropriations bill.

First, we would request the Bureau's 1995 budget should be maintained at a level comparable to previous years. We believe it would be unwise to make the $20 million dollar cut in the Bureau's budget without exploring other options.

Second, we request a congressionally-mandated moratorium on the execution of the reorganization plan until a congressional review can be completed. Such moratorium would include a prohibition on the closure and consolidation of field offices prior to the approval of the committees of jurisdiction and the Congress.

We thank you for your consideration. Please do not hesitate to contact us if we can provide more information or be of further assistance in this matter.

Sincerely,
Spencer T. Bachus, Terry Everett, Scott McInnis, Dan Schaefer, Thomas Barlow, Robert Cramer, Earl Hilliard, Don Young, Sonny Callahan, Barbara Vucanovich, Bill Emerson, Michael Crapo, Charles Canady.

The CHAIRMAN. Are there further amendments to title I?

If not, the Clerk will read.

The Clerk read as follows:

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

For necessary expenses of forest research as authorized by law, $201,780,000, to remain available until September 30, 1996.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with, and providing technical and financial assistance to States, Territories, possessions, and others and for forest pest management activities, cooperative forestry and education and land conservation activities, $158,664,000, to remain available until expended, as authorized by law.

EMERGENCY PEST SUPPRESSION FUND

For necessary expenses for emergency suppression of pests, $17,000,000, to remain available until expended: *Provided*, That these funds, or any portion thereof, shall be available in fiscal year 1995 only to the extent that the President notifies the Congress of his designation of any or all of these amounts as emergency requirements under section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That Congress hereby designates these amounts as emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985.

INTERNATIONAL FORESTRY

For necessary expenses of international forestry as authorized by Public Laws 101–513 and 101–624, $7,000,000, to remain available until September 30, 1996.

NATIONAL FOREST SYSTEM
(INCLUDING RESCISSION OF FUNDS)

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, for ecosystem planning, inventory, and monitoring, and for administrative expenses associated with the management of funds provided under the heads "Forest Research", "State and Private Forestry", "National Forest System", "Construction", "Forest Service Fire Protection", "Emergency Forest Service Firefighting Fund", and "Land Acquisition" $1,348,162,000, to remain available for obligation until September 30, 1996, and including 65 per centum of all monies received during the prior fiscal year as fees collected under the Land and Water Conservation Fund Act of 1965, as amended, in accordance with section 4 of the Act (16 U.S.C. 460l–6a(i)): *Provided*, That unobligated and unexpended balances in the National Forest System account at the end of fiscal year 1994, shall be merged with and made a part of the fiscal year 1995 National Forest System appropriation, and shall remain available for obligation until September 30, 1996: *Provided further*, That up to $5,000,000 of the funds provided herein for road maintenance shall be available for the planned obliteration of roads which are no longer needed: *Provided further*, That funds in the amount of $12,000,000 provided under this head in prior years' appropriations Acts for fire management are rescinded.

FOREST SERVICE FIRE PROTECTION

For necessary expenses for firefighting on or adjacent to National Forest System lands or other lands under fire protection agreement, and for forest fire management and presuppression on National Forest System lands, $160,590,000, to remain available until expended: *Provided*, That unexpended balances of amounts previously appropriated for this purpose under the heading "Forest Service Firefighting", Forest Service, may be transferred to and merged with this appropriation and accounted for as one appropriation for the same time period as originally enacted.

EMERGENCY FOREST SERVICE FIREFIGHTING FUND

For necessary expenses for emergency rehabilitation, presuppression due to emergencies or economic efficiency, and wildfire suppression activities of the Forest Service, $226,200,000, to remain available until expended: *Provided*, That such funds are available for repayment of advances from other appropriation accounts previously transferred for such purposes.

CONSTRUCTION

For necessary expenses of the Forest Service, not otherwise provided for, for construction, $191,740,000, to remain available until expended, of which $70,341,000 is for construction and acquisition of buildings and other facilities; and $121,399,000 is for construction and repair of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532–538 and 23 U.S.C. 101 and 205: *Provided*, That funds becoming available in fiscal year 1994 under the Act of March 4, 1913 (16 U.S.C. 501) shall be transferred to the General Fund of the Treasury of the United States: *Provided further*, That not to exceed $50,000,000, to remain available until expended, may be obligated for the construction of forest roads by timber purchasers.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4–11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, $62,131,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

ACQUISITION OF LANDS FOR NATIONAL FORESTS SPECIAL ACTS

For acquisition of lands within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, Sequoia, and Cleveland National Forests, California, as authorized by law, $1,252,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 per centum of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the sixteen Western States, pursuant to section 401(b)(1) of Public Law 94–579, as amended, to remain available until expended, of which not to exceed 6 per centum shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements.

GIFTS, DONATIONS AND BEQUESTS FOR FOREST AND RANGELAND RESEARCH

For expenses authorized by 16 U.S.C. 1643(b), $89,000, to remain available until expended, to be derived from the fund established pursuant to the above Act.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (a) purchase of not to exceed 156 passenger motor vehicles of which 15 will be used primarily for law enforcement purposes and of which 148 shall be for replacement only; acquisition of 79 passenger motor vehicles from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed two for replacement only, and acquisition of 14 aircraft from excess sources; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (b) services pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; (c) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (d) acquisition of land, waters, and interests therein, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); (e) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, 558a note); and (f) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, or National Forest System administration of the Forest Service, Department of Agriculture, without the consent of the House and Senate Committees on Appropriations and the Committee on Agriculture, Nutrition, and Forestry in the United States Senate and the Committee on Agriculture in the United States House of Representatives.

Any appropriations or funds available to the Forest Service may be advanced to the Forest Service Firefighting appropriation and may be used for forest firefighting and the emergency rehabilitation of burned-over lands under its jurisdiction: *Provided*, That no funds shall be made available under this authority until funds appropriated to the "Emergency Forest Service Firefighting Fund" shall have been exhausted.

The appropriation structure for the Forest Service may not be altered without advanced approval of the House and Senate Committees on Appropriations.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Office of International Cooperation and Development in connection with forest and rangeland research, technical information, and assistance in foreign countries, and shall be available to support forestry and related natural resource activities outside the United States and its territories and possessions, including technical assistance, education and training, and cooperation with United States and international organizations.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in the report accompanying this Act.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to disseminate program information to private and public individuals and organizations through the use of nonmonetary items of nominal value and to provide nonmonetary awards of nominal value and to incur necessary expenses for the nonmonetary recognition of private individuals and organizations that make contributions to Forest Service programs.

Notwithstanding any other provision of law, money collected, in advance or otherwise, by the Forest Service under authority of section 101 of Public Law 93–153 (30 U.S.C. 185(l)) as reimbursement of administrative and other costs incurred in processing pipeline right-of-way or permit applications and for costs incurred in monitoring the construction, operation, maintenance, and termination of any pipeline and related facilities, may be used to reimburse the applicable appropriation to which such costs were originally charged.

Funds available to the Forest Service shall be available to conduct a program of not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as authorized by the Act of August 13, 1970, as amended by Public Law 93–408.

None of the funds available in this Act shall be used for timber sale preparation using clearcutting in hardwood stands in excess of 25 percent of the fiscal year 1989 harvested volume in the Wayne National Forest, Ohio: *Provided*, That this limitation shall not apply to hardwood stands damaged by natural disaster: *Provided further*, That landscape architects shall be used to maintain a visually pleasing forest.

Any money collected from the States for fire suppression assistance rendered by the Forest Service on non-Federal lands not in the vicinity of National Forest System lands shall be used to reimburse the applicable appropriation and shall remain available until expended as the Secretary may direct in conducting activities authorized by 16 U.S.C. 2101 (note), 2101–2110, 1606, and 2111.

Of the funds available to the Forest Service, $1,500 is available to the Chief of the Forest Service for official reception and representation expenses.

Notwithstanding any other provision of law, the Forest Service is authorized to employ or otherwise contract with persons at regular rates of pay, as determined by the Service, to perform work occasioned by emergencies such as fires, storms, floods, earthquakes or any other unavoidable cause without regard to Sundays, Federal holidays, and the regular workweek.

None of the funds available in this Act shall be used for preparation of timber sales using clearcutting or other forms of even aged management in hardwood stands in the Shawnee National Forest, Illinois.

None of the funds made available in this Act shall be used for timber sale planning or scoping using clearcutting in the Ouachita and Ozark-St. Francis National Forests in Arkansas, except for sales that are necessary as a result of natural disaster or a threat to forest health, or for maintaining or enhancing wildlife habitat, or habitat for endangered and threatened species, or for research purposes.

Pursuant to section 405(b), and section 410(b) of Public Law 101–593, of the funds available to the Forest Service, up to $1,000,000 for matching funds shall be available for the National Forest Foundation.

Funds appropriated to the Forest Service shall be available for interactions with and providing technical assistance to rural communities for sustainable rural development purposes.

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

The first paragraph under this head in Public Law 101–512, as amended, is further amended by striking the phrase "$100,000,000 on October 1, 1994, and $50,000,000 on October 1, 1995" and inserting "$18,000,000 on October 1, 1994, $100,000,000 on October 1, 1995, and $32,000,000 on October 1, 1996"; and by striking the phrase "$275,000,000 on October 1, 1994, and $100,000,000 on October 1, 1995" and inserting "$19,121,000 on October 1, 1994, $100,000,000 on October 1, 1995, and $255,879,000 on October 1, 1996": *Provided*, That not to exceed $18,000,000 available in fiscal year 1995 may be used for administrative oversight of the Clean Coal Technology program.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95–91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, $445,544,000, to remain available until expended, of which $17,000,000 shall be derived by transfer of unobligated balances from the "SPR petroleum account": *Provided*, That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas.

ALTERNATIVE FUELS PRODUCTION

(INCLUDING TRANSFER OF FUNDS)

Monies received as investment income on the principal amount in the Great Plains Project Trust at the Norwest Bank of North Dakota, in such sums as are earned as of October 1, 1994, shall be deposited in this account and immediately transferred to the General Fund of the Treasury. Monies received as revenue sharing from the operation of the Great Plains Gasification Plant shall be immediately transferred to the General Fund of the Treasury.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For necessary expenses in carrying out naval petroleum and oil shale reserve activities, $193,956,000, to remain available until expended: *Provided*, That the requirements of 10 U.S.C. 7430(b)(2)(B) shall not apply in fiscal year 1995.

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, $824,585,000, to remain available until expended, including, notwithstanding any other provision of law, the excess amount for fiscal year 1995 determined under the provisions of section 3003(d) of Public Law 99–509 (15 U.S.C. 4502): *Provided*, That $283,199,000 shall be for use in energy conservation programs as defined in section 3008(3) of Public Law 99–509 (15 U.S.C. 4507) and shall not be available until excess amounts are determined under the provisions of section 3003(d) of Public Law 99–509 (15 U.S.C. 4502): *Provided further*, That notwithstanding section 3003(d)(2) of Public Law 99–509 such sums shall be allocated to the eligible programs as follows: $230,800,000 for the weatherization assistance program, $23,339,000 for the State energy conservation program, and $29,060,000 for the institutional conservation program.

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Economic Regulatory Administration and the Office of Hearings and Appeals, $12,437,000, to remain available until expended.

EMERGENCY PREPAREDNESS

For necessary expenses in carrying out emergency preparedness activities, $8,249,000, to remain available until expended.

STRATEGIC PETROLEUM RESERVE

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for Strategic Petroleum Reserve facility development and operations and program management activities pursuant to the Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6201 et seq.), $244,011,000, to remain available until expended, of which $90,764,000 shall be derived by transfer of unobligated balances from the "SPR petroleum account": *Provided*, That appropriations herein made shall not be available for leasing of facilities for the storage of crude oil for the Strategic Petroleum Reserve unless the quantity of oil stored in or deliverable to Government-owned storage facilities by virtue of contractual obligations is equal to 700,000,000 barrels.

SPR PETROLEUM ACCOUNT

Notwithstanding 42 U.S.C. 6240(d) the United States share of crude oil in Naval Petroleum Reserve Numbered 1 (Elk Hills) may be sold or otherwise disposed of to other than the Strategic Petroleum Reserve: *Provided*, That outlays in fiscal year 1995 resulting from the use of funds in this account shall not exceed $9,000,000.

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $84,728,000, to remain available until expended: *Provided*, That, notwithstanding section 4(d) of the Service Contract Act of 1965 (41 U.S.C. 353(d)) or any other provision of law, funds appropriated under this heading may be used to enter into a contract for end use consumption surveys for a term not to exceed eight years.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign: *Provided*, That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: *Provided further*, That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: *Provided further*, That any contract, agreement, or provision thereof entered into by the Secretary pursuant to this authority shall not be executed prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project.

The Secretary of Energy may transfer to the Emergency Preparedness appropriation such funds as are necessary to meet any unforeseen emergency needs from any funds available to the Department of Energy from this Act.

No funds provided in this Act may be expended by the Department of Energy to prepare, issue, or process procurement documents for programs or projects for which appropriations have not been made.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles III and XXVII and section 208 of the Public Health Service Act with respect to the Indian Health Service, $1,706,102,000, together with payments received during the fiscal year pursuant to 42 U.S.C. 300aaa-2 for services furnished by the Indian Health Service: *Provided*, That funds made available to tribes and tribal organizations through contracts, grant agreements, or any other agreements or compacts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall be deemed to be obligated at the time of the grant or contract award and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation: *Provided further*, That $12,000,000 shall remain available until expended, for the Indian Catastrophic Health Emergency Fund: *Provided further*, That $351,258,000 for contract medical care shall remain available for obligation until September 30, 1996: *Provided further*, That of the funds provided, not less than $11,603,000 shall be used to carry out the loan repayment program under section 108 of the Indian Health Care Improvement Act, as amended: *Provided further*, That funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further*, That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall be available for two fiscal years after the fiscal year in which they were collected, for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, or construction of new facilities): *Provided further*, That of the funds provided, $7,500,000 shall remain available until expended, for the Indian Self-Determination Fund, which shall be available for the transitional costs of initial or expanded tribal contracts, grants or cooperative agreements with the Indian Health Service under the provisions of the Indian Self-Determination Act: *Provided further*, That funding contained herein, and in any earlier appropriations Acts for scholarship programs under the Indian Health Care Improvement Act (25 U.S.C. 1613) shall remain available for obligation until September 30, 1996: *Provided further*, That amounts received by tribes and tribal organizations under title IV of the Indian Health Care Improvement Act, as amended, shall be reported and accounted for and available to the receiving tribes and tribal organizations until expended.

INDIAN HEALTH FACILITIES

For construction, repair, maintenance, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of modular buildings, and purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act and the Indian Health Care Improvement Act, and for expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles III and XXVII and section 208 of the Public Health Service Act with respect to environmental health and facilities support activities of the Indian Health Service, $253,892,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, funds appropriated for the planning, design, construction or renovation of health facilities for the benefit of an Indian tribe or tribes may be used to purchase land for sites to construct, improve, or enlarge health or related facilities: *Provided further*, That notwithstanding any other provision of law a single procurement for the construction of the Fort Belknap, Montana health center and satellite clinic and a single procurement for construction of the White Earth, Minnesota health center may be issued which includes the full scope of the project: *Provided further*, That the solicitation and the contract shall contain the clause "availability of funds" found at 48 CFR 52.232.18.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5376; hire of passenger motor vehicles and aircraft; purchase of medical equipment; purchase of reprints; purchase, renovation and erection of modular buildings and renovation of existing facilities; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902); and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: *Provided*, That in accordance with the provisions of the Indian Health Care Improvement Act, non-Indian patients may be extended health care at all tribally administered or Indian Health Service facilities, subject to charges, and the proceeds along with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651-53) shall be credited to the account of the facility providing the service and shall be available without fiscal year limitation: *Provided further*, That notwithstanding any other law or regulation, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 86-121 (the Indian Sanitation Facilities Act) and Public Law 93-638, as amended: *Provided further*, That funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation: *Provided further*, That the Indian Health Service shall neither bill nor charge those Indians who may have the economic means to pay unless and until such time as Congress has agreed upon a specific policy to do so and has directed the Indian Health Service to implement such a policy: *Provided further*, That, notwithstanding any other provision of law, funds previously or herein made available to a tribe or tribal organization through a contract, grant or agreement authorized by Title I of the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), may be deobligated and reobligated to a self-governance funding agreement under Title III of the Indian Self-Determination and Education Assistance Act of 1975 and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation: *Provided further*, That none of the funds made available to the Indian Health Service in this Act shall be used to implement the final rule published in the Federal Register on September 16, 1987, by the Department of Health and Human Services, relating to eligibility for the health care services of the Indian Health Service until the Indian Health Service has submitted a budget request reflecting the increased costs associated with the proposed final rule, and such request has been included in an appropriations Act and enacted into law: *Provided further*, That funds made available in this Act are to be apportioned to the Indian Health Service as appropriated in this Act, and accounted for in the appropriation structure set forth in this Act: *Provided further*, That the appropriation structure for the Indian Health Service may not be altered without the advance approval of the House and Senate Committees on Appropriations: *Provided further*, That in fiscal year 1995 and thereafter (a) the Secretary may enter into personal services contracts with entities, either individuals or organizations, for the provision of services in facilities owned, operated or constructed under the jurisdiction of the Indian Health Service; (b) the Secretary may exempt such a contract from competitive contracting requirements upon adequate notice of contracting opportunities to individuals and organizations residing in the geographic vicinity of the health facility; (c) consideration of individuals and organizations shall be based solely on the qualifications established for the contract and the proposed contract price; and (d) individuals providing health care services pursuant to these contracts are covered by the Federal Tort Claims Act.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, title VI of the Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act as passed by the House of Representatives on March 24, 1994, $83,500,000: *Provided*, That $1,735,000 available pursuant to section 6203 of the Act shall remain available for obligation until September 30, 1996.

OTHER RELATED AGENCIES

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Navajo and Hopi Indian Relocation as authorized by Public Law 93-531, $26,936,000, to remain available until expended: *Provided*, That funds provided in this or any other appropriations Act are to be used to relocate eligible individuals and groups including evictees from District 6, Hopi-partitioned lands residents, those in significantly substandard housing, and all others certified as eligible and not included in the preceding categories: *Provided further*, That none of the funds contained in this or any other Act may be used by the Office of Navajo and Hopi Indian Relocation to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: *Provided further*, That no relocatee will be provided with more than one new or replacement home: *Provided further*, That the Office shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d-10.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

PAYMENT TO THE INSTITUTE

For payment to the Institute of American Indian and Alaska Native Culture and Arts Development, as authorized by Public Law 99-498, as amended (20 U.S.C. 56, Part A), $12,713,000: *Provided*, That notwithstanding any other provision of law, the annual budget proposal and justification for the Institute shall be submitted to the Congress concurrently with the submission of the President's Budget to the Congress: *Provided further*, That the Institute shall act as its own certifying officer.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed thirty years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to 5 replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees; $314,454,000, of which not to exceed $32,000,000 for the instrumentation program, collections acquisition, Museum Support Center equipment and move, exhibition reinstallation, the National Museum of the American Indian, the repatriation of skeletal remains program, research equipment, information management, and Latino programming shall remain available until expended and, including such funds as may be necessary to support American overseas research centers and a total of $125,000 for the Council of American Overseas Research Centers: *Provided*, That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, $5,000,000, to remain available until expended.

REPAIR AND RESTORATION OF BUILDINGS

For necessary expenses of repair and restoration of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, $24,000,000, to remain available until expended: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or restoration of buildings of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

CONSTRUCTION

For necessary expenses for construction, $30,000,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, a single procurement for the construction of the National Museum of the American Indian Cultural Resources Center may be issued which includes the full scope of the project: *Provided further*, That the solicitation and the contract shall contain the clause "availability of funds" found at 48 CFR 52.232.18.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901-5902); purchase or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; purchase of one passenger motor vehicle for replacement only; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $53,003,000, of which not to exceed $3,026,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized $4,431,000, to remain available until expended: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

OPERATIONS AND MAINTENANCE

For necessary expenses for the operation, maintenance and security of the John F. Kennedy Center for the Performing Arts, $10,343,000.

CONSTRUCTION

For necessary expenses of capital repair and rehabilitation of the existing features of the building and site of the John F. Kennedy Center for the Performing Arts, $9,000,000, to remain available until expended.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356) including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $9,878,000.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and Humanities Act of 1965, as amended, $141,950,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups and individuals pursuant to section 5(c) of the Act, and for administering the functions of the Act, to remain available until September 30, 1996.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $29,150,000, to remain available until September 30, 1996, to the National Endowment for the Arts, of which $12,750,000 shall be available for purposes of section 5(l): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $151,420,000 shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act, to remain available until September 30, 1996.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $25,963,000, to remain available until September 30, 1996, of which $14,000,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

INSTITUTE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

For carrying out title II of the Arts, Humanities, and Cultural Affairs Act of 1976, as amended, $28,770,000.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided*, That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $834,000.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99–190 (99 Stat. 1261; 20 U.S.C. 956(a)), as amended, $7,500,000.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing an Advisory Council on Historic Preservation, Public Law 89–665, as amended, $2,967,000: *Provided*, That none of these funds shall be available for the compensation of Executive Level V or higher positions.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71–71i), including services as authorized by 5 U.S.C. 3109, $5,655,000: *Provided*, That all appointed members will be compensated at a rate equivalent to the rate for Executive Schedule Level IV.

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Franklin Delano Roosevelt Memorial Commission, established by the Act of August 11, 1955 (69 Stat. 694), as amended by Public Law 92–332 (86 Stat. 401), $48,000, to remain available until September 30, 1996.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

For necessary expenses, as authorized by section 17(a) of Public Law 92–578, as amended, $2,738,000 for operating and administrative expenses of the Corporation.

PUBLIC DEVELOPMENT

For public development activities and projects in accordance with the development plan as authorized by section 17(b) of Public Law 92–578, as amended, $4,084,000, to remain available until expended.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

For expenses of the Holocaust Memorial Council, as authorized by Public Law 96–388, as amended, $26,660,000; of which $2,700,000 shall be for repair and rehabilitation projects and shall remain available until expended.

Mr. YATES (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. Are there any points of order against title II?

POINT OF ORDER

Mr. VENTO. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. VENTO. Mr. Chairman, I make a point of order against the paragraph on page 80, line 11 through line 14, regarding salaries and expenses for the Pennsylvania Avenue Development Corporation, as a violation of clause 2 of rule XXI, of the House.

The CHAIRMAN. Does the gentleman from Illinois [Mr. YATES] wish to speak to the point of order?

Mr. YATES. Mr. Chairman, I do.

Mr. Chairman, I am opposed to the point of order. I read from the statute, Mr. Chairman, and as I understand the point of order, it is to the salaries and expenses account of the Corporation. There are two appropriations, one to the salaries and expenses and one to public development. I thought the gentleman might have been addressing public development.

Mr. VENTO. Mr. Chairman, if I may be heard further, there was obviously a reference to the development funds. We did not seek to strike them under the point of order. We were advised that would not have been appropriate, so therefore we just focused on the salaries and expenses which are not authorized to the Pennsylvania Avenue Development Corporation.

Mr. YATES. Mr. Chairman I concede the point of order.

The CHAIRMAN (Mr. GLICKMAN). The point of order is conceded and sustained.

Are there any other points of order? If not, are there any amendments to title II?

AMENDMENT OFFERED BY MR. CRANE

Mr. CRANE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CRANE; page 77, after line 19, insert the following:

ELIMINATION OF FUNDING

Each amount appropriated or otherwise made available by this title for "National Endowment for the Arts" is hereby reduced to $0.

Mr. CRANE. Mr. Chairman, I would like to have a brief colloquy with our distinguished chairman, the gentleman from Illinois [Mr. YATES].

I would make a respectful request by unanimous consent that we could have a total of 50 minutes, with the time divided equally, on my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. YATES. Mr. Chairman, reserving the right to object, do I understand the request is for 50 minutes, divided 25 and 25?

Mr. CRANE. Yes, Mr. Chairman, that is right, if the gentleman will yield.

Mr. YATES. Mr. Chairman, would the gentleman make that 40 minutes, 20 and 20?

Mr. CRANE. All right, 40 minutes is agreeable, Mr. Chairman.

The CHAIRMAN. The Chair understands there will be 40 minutes, divided, with 20 minutes on each side on this amendment and all amendments thereto?

Mr. YATES. That is correct, Mr. Chairman.

Mr. CRANE. All amendments to my amendment, Mr. Chairman?

The CHAIRMAN. To the gentleman's amendment, yes.

Mr. CRANE. Exclusively to my amendment.

Mr. YATES. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois [Mr. CRANE]?

There was no objection.

The CHAIRMAN. The gentleman from Illinois [Mr. CRANE] is recognized for 20 minutes.

Mr. CRANE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment is not new to this body. I have introduced it on previous occasions, and I am pleased to report that each time we have come before the Chamber the numbers supportive of it have progressively increased.

Mr. Chairman, I would hope that this time the membership might listen carefully to some of the arguments in support of it. Mr. Chairman, the first and foremost one that I have consistently attempted to stress is the fact that funding of the arts was an issue that was brought up at the Philadelphia Convention in 1787. Charles Pinckney from South Carolina wanted to fund literature, arts, scientists, and it was overwhelmingly rejected by those people who crafted our Constitution as not a proper function of the National Government.

Mr. Chairman, I think it is appropriate for everyone to listen to what I just said, because after we get elected, we are all standing in this Chamber and we raise our right hand and swear to uphold that Constitution, so help us God. My point, Mr. Chairman, is we have a constitutional obligation to abolish the National Endowment for the Arts, for openers.

However, there are other arguments, too. If some are squeamish about my interpretation of the Constitution, and admittedly, we get 5–4 decisions on the Supreme Court bench, and I am not insisting upon omniscience, but I am saying there is a track record and the history is there for any who want to review it, but second is the necessity for it.

Mr. Chairman, $170 million was spent by the NEA of public money to finance their chosen artworks last year. However, last year the private sector came forward with better than $9 billion, in contrast to $170 million. It is not a case, Mr. Chairman, of killing the funding of the arts in this country.

However, in that debate that occurred in Philadelphia, one of the points made was by John Page, the representative from Virginia. He objected to funding on the grounds that Congress might, he said, "Like many royal benefactors, misplace their munificence and neglect a much greater genius of another." I think it is important for people to realize that the NEA gets about 5 times the number of requests for funding that it funds. Mr. Chairman, when they fund, they point out that that is a decided benefit to the recipient of that grant. He in turn then is able to marshal external support from the private sector for funding of his artworks.

Mr. Chairman, I would argue that comes at the expense of the four who were turned down by the NEA bureaucrats. As a result, that is an inequity. In addition to that, Mr. Chairman, there are other inequities that have come to light.

Mr. Chairman, Jack Kilpatrick, under the Freedom of Information Act, found out that these were dance panels that were determining who was to get grants, and panel A gave grants to panel B, panel B gave grants to panel A, panel C gave grants to panel B, and panel D gave grants to panel C. In other words, if an artist is part of that good old boy network, obviously he or she is going to get funded. That is realized in terms of the distribution of moneys that have gone into NEA funding.

For example, Mr. Chairman, here in the District of Columbia, which has less population than my congressional district, the District of Columbia got almost twice the amount of funding from the NEA of the whole State of Illinois, twice what Illinois got. Mr. Chairman, the fact is further that Illinois had more requests in than did the District of Columbia, but we were not the only ones short-changed, because the District of Columbia also got almost twice what Texas got. The District of Columbia got, in fact, 7 times what Florida got. The District of Columbia got almost twice what Pennsylvania got. The District of Columbia got more than twice what the State of Ohio got.

In fact, Mr. Chairman, the District of Columbia got more funding than the States of Arkansas, Idaho, Kansas, Mississippi, Nevada, North Dakota, Oklahoma, South Carolina, South Dakota, and Wyoming combined. The District of Columbia is the third largest beneficiary in this whole process.

In addition to that, Mr. Chairman, I think it is important to recognize, going back to John Page's arguments about denying qualified, talented people the benefits of funding in the arts if we introduce a bureaucracy making that kind of distribution, I think it is important to realize that so much of the controversy is raging still, notwithstanding what we assume to be a change of leadership of the NEA; and finally, that Jane Alexander as chairman would alter some of the obscene grants that have been made previously.

Mr. Chairman, I am sure many of our colleagues have read in the newspapers about the grant that was made to a museum up in Minneapolis. That art center, Walker Art Center in Minneapolis, funded an exhibit with public money that involved a performance by Mr. Ron Athey before an audience of 100 people. Mr. Athey a 3-member cast performed excerpts from his ritualistic work "Exploring Modern Day Martyrdom as it Relates to AIDS." Athey is HIV-positive, and his work includes scarification and the use of acupuncture needles. That includes drawing blood on the stage, putting it on towels, and then on a clothesline, circulating the towels above the audience.

□ 1650

That triggered a lot of controversy and Ms. Alexander claimed that there was misrepresentation in the news coverage of that, but the fact of the matter is she got a letter back and it was from the Minneapolis Tribune. The letter was signed by Mary Abbe, the art critic/art news reporter.

She indicated in that letter that traditionally she has been basically supportive of the NEA. But she did point out that Ms. Alexander's comments suggesting that they misrepresented what he did, and that included in her letter, she says, piercing his arm with hypodermic needles, drawing blood when he and his assistants pierced his scalp with acupuncture needles "The head thing actually did bleed." said John Killacky, the Walker's curator of performing arts who booked Mr. Athey and staged the event up there in Minneapolis.

Mr. Chairman, I simply mention this because this in turn has triggered a very considerable reaction in the other body, including a letter from Senator ROBERT BYRD and Senator DON NICKLES of Oklahoma.

In the letter, Senator BYRD demanded from Ms. Alexander answers to three specific questions:

First, how does this use of NEA funds pass the test of artistic excellence and artistic merit, by which applications for NEA funding are to be judged?

Second, in view of concerns about uses of funds that may be different from what is proposed in a grant application, why should the committee allow funds for grants that are not subject to strict controls which assure that the purposes stated in the grant application are indeed followed?

Third, what steps are you taking, and do you intend to take, to prevent such unacceptable actions from occurring when the use of Federal funds, however small, is involved.

Senator BYRD concludes: "Without the benefit of your response that safeguards will be instituted immediatley to ensure that such grossly improper activities are not undertaken in the future, NEA funding for fiscal year 1995 is in serious jeopardy."

Mr. Chairman, I include for the RECORD the letter from Senator BYRD and Senator NICKLES to Ms. Alexander as well as Ms. Alexander's letter to me when I raised a question about it, as well as the letter that was sent to Ms. Alexander from Ms. Abbe with the Minneapolis paper as follows:

NATIONAL ENDOWMENT FOR THE ARTS,
Washington, DC, June 15, 1994.

Hon. PHILIP M. CRANE,
House of Representatives, Cannon House Office Building, Washington, DC.

DEAR REPRESENTATIVE CRANE: Much of my time these past eight months has been spent travelling across the country talking with people about the National Endowment for the Arts. I have been to 36 states so far and seen the wonderful arts organizations the Endowment has made possible in areas of the United States from the most rural to the most dense inner city: organizations which build communities through the celebration of heritage, or that address the needs of at-risk youth in after-school programs or go into the classrooms to teach music, or painting.

The National Endowment for the Arts is an unqualified success as an agency. For every dollar we award we leverage 11 to 20 from other public and private sources in a community. This is no handout by the federal government but an investment by the American taxpayer of 65 cents per person, per year in the vitality of our communities both economically and creatively.

That is why it is so distressing to me to read mailings from the Christian Action Network and other groups which so distort and misrepresent what we at the Endowment do. Let me set the record straight with regard to inaccurate accounts currently being circulated by these groups.

The Walker Art Center in Minneapolis, Minnesota, one of the oldest (1879) and most prestigious museums in the country, received a $104,500 matching grant in March 1993, to support a season of more than 100 performing arts events.

On March 5, 1994, the Walker Art Center hosted a one night performance by Ron Athey before an audience of 100 people. Mr. Athey and a three-member cast performed excerpts from his ritualistic work exploring modern day martyrdom as it relates to AIDS. Athey is HIV-positive and his work includes scarification and the use of acupuncture needles.

There was absolutely no risk to the audience, the performers, or the crew backstage. The Walker Art Center took all health precautions necessary and the Minnesota Health Department concurred.

There was no blood dripping from towels as erroneously reported in the Minneapolis Star Tribune three weeks after the event took place.

Walker officials recognized the mature theme of the performance and advised viewer discretion in all press materials and calendars which advertised the performance.

Subsequent letters to the Star Tribune editor from patrons at the performance expressed dismay not only about the inaccurate coverage of the event, but concern about how the newspaper had trivialized what was a moving performance on a very disturbing and important contemporary subject. These people are taxpayers too.

I fully understand that the National Endowment for the Arts must be accountable to your constituents and those of other members of Congress. In supporting the

Walker Art Center, the Endowment is simply responding to the overwhelming support afforded that institution by the people and the corporate community of Minneapolis. The Walker is clearly the most prestigious cultural institution in Minnesota. It is staffed by serious professionals who are accountable to the community, and we expect them to make decisions that are respectful of, and appropriate to the community. This I believe they have done.

I wish it were not so, but the reports following Mr. Athey's performance lend a certain proof to the old adage that a falsehood repeated over and over eventually becomes truth in the ear of the listener. In past years, the Endowment has been harmed over and over again by false reports about the art it may or may not have supported, reports that get repeated again until they have the ring of truth.

I have devoted the first year of my chairmanship to turning around the reputation of the National Endowment for the Arts by engaging people all over the country in a dialogue about all of the very good projects that we support. I felt it was important in this respect to give you the facts regarding the perfomance at the Walker Art Center. I hope you will contact me if you have any additional questions about it.

Sincerely yours,

JANE ALEXANDER,
Chairman.

STAR TRIBUNE,
Minneapolis, MN, June 21, 1994.

Chairman JANE ALEXANDER,
Office of the Chairman, National Endowment for the Arts, the Nancy Hanks Center, Washington, DC.

DEAR CHAIRMAN ALEXANDER: In an article published 24 March 1994 in the Minneapolis Star Tribune, I reported public complaints about a performance by Los Angeles artist Ron Athey that was staged by Walker Art Center in Minneapolis. That event and subsequent reports about it have generated considerable debate here in the Twin Cities, including letters to the editor of this newspaper expressing both appreciation for and revulsion at Mr. Athey's activities and the Walker's presentation of them.

In a letter of 15 June 1994 to members of Congress, you take issue with my reportage in particular and the Star Tribune's coverage of that event in general. I object to your characterization of my work and the paper's coverage. In fact, you have misread the article. It does not say that "blood was dripping from towels," as you claim. See enclosed copy of the article.

Nor was the article "erroneously reported" or a "false report" as you assert. Walker Art Center officials have privately expressed dismay about the way in which Mr. Athey's performance was described in the article and deplored the response of individuals who objected to the performance. But they do not deny that Mr. Athey cut an abstract design into the flesh of another man, blotted the man's blood on paper towels, attached the towels to a revolving clothesline and suspended the blood-stained towels over the audience.

Nor do they dispute the fact that Mr. Athey, who is HIV-positive, pierced his arm with hypodermic needles and drew blood when he and assistants pierced his scalp with acupuncture needles. "The head thing actually did bleed, the arm did not," said John Killacky, the Walker's curator of performing arts who booked Mr. Athey and staged the event.

Like you and Walker director Kathy Halbreich, I did not attend this event. In the course of reporting on it, however, I have conducted extensive interviews with five individuals who witnessed Mr. Athey's performance.

They all agree that these things occurred. They differ only in what they thought of the activities and how they and others responded to them.

I am disturbed that you now, in the U.S. Congress, charge the Star Tribune with "erroneous reportage" and disseminating "false reports." If there are errors in our accounts, please notify Mr. Louis Gelfand, the Star Tribune's ombudsman who will investigate the charges.

I am also disturbed that you imply that the only letters received by this newspaper were those objecting to alleged "inaccurate coverage" and "trivialization." The paper received and published a wide variety of responses to the event, some expressing the views you indicate, and others critical of the event and its presentation by the Walker.

As you note in another context, "These people are taxpayers too."

On 3 June 1994 you met for about an hour with members of the Star Tribune's editorial board and others here in Minneapolis. I was at that meeting. At no point in the discussion was Mr. Athey's performance even mentioned. If you were concerned about erroneous reportage and false reports, surely that would have been an appropriate time to discuss them.

In your letter to Congress you note that you have devoted the first year of your chairmanship to "turning around the reputation of the NEA by engaging people all over the country in a dialogue about all of the very good projects" the agency supports. Then you say it was in that context that you gave them "the facts regarding the performance at the Walker Art Center."

You did not give them the facts.

In my capacity as the Star Tribune's art critic and art news reporter for the past decade, I have previously written commentaries in support of the National Endowment for the Arts. I expect to have occasion to do so again in the future because, like you, I recognize that the NEA has made—and doubtless will continue to make—important contributions to the cultural and artistic life of the United States.

The organization's good work, however, does not exempt it from criticism when its grant money is used in support of events that some find objectionable. Nor does what you call Walker Art Center's "overwhelming support" exempt its activities from public discussion.

In a society founded, as ours is, on free speech and open public debate, the activities of your agency, Walker Art Center and this newspaper are all open to discussion. That discussion is not furthered by pointing fingers at the press and lodging false charges of inaccuracy.

In the end, Walker Art Center must defend its decision to stage a performance involving human blood-letting and mutilation—or "ritual scarification" and "erotic torture" as the institution describes it. The NEA must defend its decision to endorse that program.

Your attempts to blame the press for criticisms of your agency merely trivialize the issues and obscure the facts.

Cordially,

MARY ABBE,
Art Critic/Art News Reporter.

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, June 17, 1994.

Chairman JANE ALEXANDER,
National Endowment for the Arts, Old Post Office Building, Washington, DC.

DEAR MADAM CHAIRMAN: As the Chairman and Ranking Member of the Senate Interior Appropriations Subcommittee with responsibilities for the National Endowment for the Arts, we are writing out of our concern over the NEA funding of the tribal ritual performance at the Walker Art Center in Minneapolis.

According to the Washington Post, body artist Ron Athey who is HIV-positive, ". . . tapped his own scalp with needles, which caused slight bleeding and stuck his arm with acupuncture needles". According to reports, the artist also cut a design into the back of another man and "blotted the results with a three-ply paper towel and then hoisted the bloodied print on a clothesline above the audience."

The Post also reported that several in the audience were horrified and many fled, knocking over chairs to get out from underneath the clotheslines. Obviously these people were concerned about the risks involved in coming into contact with HIV-infected blood. It is unconscionable that the NEA would fund and condone such a performance, especially when the health of the audience members is put at risk.

While attempting to diminish concerns about public safety, the local health official saw no health threat unless blood contact was made with a mucus membrane, such as the eyes, nose, or mouth. To us, the probability of such contact would not be out of the question under the circumstances.

Congress has a responsibility to take the federal government to task when it fails to uphold the public's safety. In this case the public should be able to expect to attend a publicly-funded performance without being exposed to HIV-infected blood. We believe you would agree with us on this point.

As a result, we expect you to ensure that NEA funding in the future does not put the public at health risk. We have placed our confidence in your abilities to tackle these types of concerns.

The Senate will soon begin its action on the FY 1995 Interior appropriations bill, which includes funding for NEA. As you know, a number of prior grant decisions of the Arts Endowment have been the subject of considerable debate and controversy in the Senate. If such debates are to be avoided in the future, and Federal funding for the arts to be continued, it is incumbent upon the NEA and its program beneficiaries to ensure that such projects are not funded, nor performances undertaken which misuse taxpayer funding.

In that regard, your prompt reply to the following issues is requested:

(1) How does this use of NEA funds pass the test of artistic excellence and artistic merit, by which applications for NEA funding are to be judged?

(2) In view of concerns about uses of funds that may be different from what is proposed in a grant application, why should the Committee allow funds for grants that are not subject to strict controls which assure that the purposes stated in the grant application are indeed followed?

(3) What steps are you taking, and do you intend to take, to prevent such unacceptable actions from occurring when the use of Federal funds, however small, is involved?

Without the benefit of your response that safeguards will be instituted immediately to ensure that such grossly improper activities are not undertaken in the future, NEA funding for FY 1995 is in serious jeopardy.

With kind regards,

Sincerely,

DON NICKLES,
Ranking Minority Member, Subcommittee on Interior and Related Agencies.
ROBERT C. BYRD,
Chairman, Subcommittee on Interior and Related Agencies.

Mr. Chairman, I reserve the balance of my time.

Mr. YATES. Mr. Chairman, I yield myself 8 minutes.

Mr. Chairman, the gentleman from Illinois is right in saying that he was defeated on this amendment last year, he was defeated on this amendment the year before that. Last year he was defeated on this amendment by a vote of 105 to 322. To say that he is making progress, I say to the gentleman, he has got a long way to go, because there is no validity to his amendment at all.

Mr. Chairman, he cites the case of a grant that was given through the Walker Art Center and the letter that was written about that grant by two of the Members of the other body. That is always done by those who are opposing the NEA. Out of the 4,000 grants that NEA makes in a year, they select one grant and say, "Look at what is happening as a result of NEA activities."

I suggest to the gentleman that he has not gone into the activities of NEA at all, that what he has done is look at a single grant. I think that the grantee in this case received $105 for a one-night performance from the Walker Art Center.

Mr. Chairman, there are 4,000 grants the NEA makes each year, grants to symphony orchestras, chamber music trios and quartets, jazz orchestras, theaters, dance, folk arts design, literature, arts education, education for children in schools all over the country, and the country is benefiting from them and the arts are blossoming as a result of NEA activities. That is the story of the NEA in action. It is not the cesspool of pornography or the cesspool of horrible activities that the gentleman has portrayed or has been portrayed by certain organizations for whom the Senator whose name he mentioned has been the spokesman in the Senate. It is no surprise that that Senator has opposed NEA. He has rigidly opposed NEA for years, as has the gentleman from Illinois [Mr. CRANE].

Mr. Chairman, I want to point out another aspect of what NEA does. The gentleman from Illinois [Mr. CRANE], in his presentation says the NEA grants go to the art elite. Nothing is farther from the truth. It is true that some grants may go to the art elite, but let me read to the House the testimony before our committee of the county prosecutor from Maricopa County, AZ, the city of Phoenix. This is what Mr. Richard Romley told our committee.

He says:

> As Maricopa County Attorney, whose jurisdiction includes Phoenix and 23 other municipalities, my main responsibility is the prosecution of criminals. On an everyday basis, I am confronted with incidents of drive-by shootings, drug and gang violence, rape, robbery, and murder. Ordinarily when I appear before a legislative committee, it is for the purpose of encouraging tougher laws . . . to make society safer by removing the criminal from our midst.

However, today I am here to discuss a program, and I want the gentleman from Illinois [Mr. CRANE] to listen to this. I think the gentleman should listen to what the prosecuting attorney in Phoenix says about NEA. Is the gentleman listening to the testimony of the prosecuting attorney of Phoenix, AZ, as he testified before our committee:

> I am discussing a program which is outside the traditional role of law enforcement. It is called the Anti-Drug APPLE Corps. The APPLE Corps represents a partnership of artists, prosecutors, private enterprise, law enforcement, and educators which came together because it was our belief that participating in the arts provides an opportunity for our children to build self-confidence and self-esteem . . . to turn them away from substance abuse.

Mr. Romley goes on to say this:

> . . . the battle lines and special interest groups from both sides descended upon our legislature. After studying the issue, I decided not to support the transfer of these monies from the arts to law enforcement, that the Arizona legislature wanted.
>
> In view of my position as a prosecutor, my opposition to transferring more money to law enforcement surprised some. However, I believed then as I do today that if we abandon the positive contributions of art to our society in order to fight the drug war, then the drug dealers have won again. They should not be permitted to take from our community that which is good.

Mr. Romley goes on to say this about the APPLE program:

"The initial success of the program," and he used RICO money from the Department of Justice together with arts money for the young people of Arizona, for the people who are threatened with gangs and who are threatened with juvenile delinquency.

He said:

> The initial success of the program encouraged us to embark on a 3-year partnership project that provided funding for after-school art programs. Additional funds were sought and received from the National Endowment for the Arts for that program.
>
> These funds, combined with the RICO monies, were utilized to develop art programs for at-risk youth in the rural and inner city areas of our State. Nineteen ninety-two was the first year of this project.
>
> The APPLE Corps program has reached approximately 33,000 educators, students and parents across the State of Arizona.

Mr. Chairman, that is what NEA does, among other things. Sure, it provides money for the symphonies, for the orchestras, for the dance and for the theaters as it should, but it also has a social conscience. It also is interested in education for our youth. In Arizona it is having a definite effect.

Mr. Chairman, the same kind of testimony was presented to our committee by a gentleman named William Strickland who does the same thing in Pittsburgh, who uses arts money for the purpose of taking these kids off the streets and providing them with worthwhile activities.

□ 1700

That is what NEA is.

Mr. CRANE. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Chairman, I remind the gentleman the State of Arizona, and this is a point I made earlier, the State of Arizona got all of $1,600,000 in grants, in contrast to the District of Columbia's $8,270,000. The State of Pennsylvania only got $5 million, in contrast to the $8 million in the District of Columbia, and that is further illustration of the inequity.

Mr. YATES. You can find that. You can find other places in the country, other States in the country, that received even less money than that, and there are other States that may possibly receive more. But that is based upon the arts activities in those States and a formula that is based on the health of the arts and the arts appropriations they received from their legislatures.

So I want to point out to you that NEA does do good work.

Mr. Chairman, I reserve the balance of my time.

Mr. CRANE. Mr. Chairman, I yield 2 minutes to my colleague, the gentleman from Ohio [Mr. BOEHNER].

Mr. BOEHNER. Mr. Chairman and my colleagues, we all know that arts education in America is important. My wife and I financially support the arts in our community. My wife sits on the board of a community arts organization that is having all types of fiscal problems.

The question we have before us today is: What is the appropriate role of the Federal Government when it comes to funding arts in America? And I would argue that it is not within the scope of Washington, not within the scope of the Federal Government to be involved in funding arts activities around America.

Second, I would point out at a time when our budget deficit is well over $200 billion, we should not be funding arts activities around this country and giving the bill to our kids and our grandkids.

If you look at the history of this program, it happens to coincide with a period of time in which we have had budget deficits each and every year. So we are out there living high on the hog, funding all of these activities around the country, only to pass the bill on to our kids and our grandkids.

It is not right, given the budget problems that we have before us today, to continue to involve ourselves in this type of activity.

Again, I think it is important. But I think that Americans ought to rise up in their communities and support these activities financially as they do today.

And so I would support the amendment offered by the gentleman from Illinois and hope my colleagues will begin to realize that as we continue to have budget deficits, we have to say no somewhere. This is an area that is not within the scope of our responsibility. It is an easy place to say no.

Mr. YATES. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I thank the gentleman for yielding me this time.

As many of you know, I have not been a big fan of the NEA. However, I think in fairness we should recognize the fact that much good is accomplished, and in many communities across this country the NEA funds become the seed money that results in a lot of private contributions.

Many people look to the NEA as a leader in determining what should happen.

I think the event at the Walker Art Center, funded by the Walker Art Center in Minneapolis was outrageous, absolutely outrageous. However, if we abolished every agency of Government that has done something outrageous, there would not be many left, and we forget that even though something like this was funded indirectly by the NEA, because, of course, the money went to Walker Art Center, and they, in turn, made the decision as to what they would fund; we forget all the good things that have been accomplished by the NEA, encouraging local support.

I might say the tax policies of this country also encourage local support, because the contributions to the cultural activities are deductible on a long form on the income tax. So it is part of our national policy to encourage cultural things, and NEA is a key element.

I would like to share with you some testimony we heard in the committee. A high school teacher in a small community of 35,000 in Alabama said,

> I am constantly looking for ways to enhance my students' classroom experience and to make the words in a textbook come alive and real for my students. I am here to thank you for your support of the NEA which, in turn, has helped to bring professional theater to Alabama, because nothing in my experience as a teacher brings the words of Shakespeare to life like a performance at the Alabama Shakespeare Festival. And without the Alabama Shakespeare Festival, there would be no opportunity for thousands of students in the South to discover the wonders of professional theater.

And he went on to point out how important it was.

And then one of the students testified, and I quote from him,

> As Mr. Thompson said, my name is Clint Gullatte. I am from a single-parent home and have lived in public housing for most of my life. I am the oldest of four children. I will be attending college where I will major in biology and hope to attend Auburn University School of Veterinary Medicine. My first experience at the Alabama Shakespeare Festival was a production of Peter Pan. I had no idea theater could be so exciting. Next I saw "A Raisin in the Sun," which is still one of my favorites. I could identify with Walter Lee Younger. He was the oldest son in a single-parent family with responsibilities and dreams of a better future. I have faced some of the same oppression, fear, and expectation.

And the student went on to say how vitally important this experience that he had as a result of an NEA grant to the Alabama Shakespeare Festival had touched his life.

We had any number of witnesses similar to this that appeared before our committee. I think it is important, as we make a judgment on whether or not to continue the NEA, to recognize that while once in a while something outrageous happens such as was the case in Minnesota, that in contrast far greater numbers of very worthwhile things result from the NEA funding and certainly generate in communities across this Nation a large amount of support that is based on the NEA's seed money and things that are very beneficial to our society.

So I think we need to weigh that we consider the amendment proposed by the gentleman from Illinois.

Mr. CRANE. Mr. Chairman, I yield 4 minutes to the gentleman from Texas [Mr. ARMEY], our distinguished minority conference chairman.

Mr. ARMEY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I am tempted to say, Oh brother, here we go again. For 10 years I have had the privilege of serving in this body, and for each of these 10 years I have come to this floor and made this same argument.

Certainly the gentleman from Illinois, the chairman of the subcommittee, is going to say, Oh brother, I have to listen to that again.

But, nevertheless, here we go. My own view of the matter is the National Endowment for the Arts offends the Constitution of the United States. My own view is there is no constitutional authority for this agency to exist. But leave that be as it may.

I would further argue the National Endowment for the Arts and the arguments by which it is rationalized is an affront to the American people. I am personally insulted on behalf of the American people by the argument that says without $200 million of the taxpayers' money, guided and directed by bureaucrats on behalf of the Federal Government, the American people would have for themselves nor afford for their children no opportunity to enjoy the arts. What a pitiful thing to say about the American people.

Ladies and gentlemen, the American people have long since enjoyed the arts many, many years before there was ever an NEA. It is in our spirit. It is in our desires. It is in our longing. It is in our blood. We love the arts.

Testimony to that can be found in the $9 billion we willfully and voluntarily spend on the arts today.

Do not tell me there would have been no Shakespeare Festival in Alabama without the NEA. There was 100 years ago without the NEA. Do not tell me there would not have been Shakespeare in Montana without the NEA. There was 100 years ago without the NEA.

☐ 1710

For us to suggest that the American people have not and do not and will not enjoy the arts, practice the arts without NEA is a pitiful statement on our lack of understanding of whom we represent.

Furthermore, if you believe in freedom of the arts—and I do believe in freedom of the arts—how can you possibly justify a Government agency that decides which art merits support and which does not? Of the 14,000 grant applications, 4,000 are granted. Is that not censorship against 10,000? Tell me how it is not.

For the Government to decide this art merits support and this art does not, I find that unacceptable. Finally, I would say that the existence of the NEA is an affront to the taxpayer. At a time when we are running deficits of $150 to $200 billion, at a time when the WIC Program is not funded, can we afford to spend $200 million of taxpayers' money for the arts?

Can we afford to take an elite group of people, generally the most privileged people in any community in which a grant is made, an amount of money that amounts to 65 cents for each and every American citizen? It does not seem like much money, but for the average American school child you could take that same 65 cents, buy that child, in their own home with their own parents, a box of Crayolas where, with the guidance of mother, father, big brother, big sister, grandmother, or grandfather, they would in that instance have more participation in the arts, in learning, developing, cherishing their own creative ability, than you will by giving a grant to somebody who has a masters degree from Harvard University already privileged to urinate in a jar and sink a crucifix in it.

Mr. YATES. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. SABO].

Mr. SABO. I thank the chairman of the subcommittee for yielding this time to me.

Mr. Chairman, I rise before you today to express my strong support for the

Walker Art Center located in Minneapolis, MN. The Walker is one of the Nation's most esteemed museums of modern and contemporary art. Its programs in the visual, performing, and media arts are uniquely international, multidisciplinary, and diverse. Since 1879, the Walker has supported innovative artists ranging from painter Pablo Picasso to choreographer Merce Cunningham to film director Clint Eastwood. Several Walker-organized exhibitions are now touring worldwide.

This year, the Walker and the Minneapolis Sculpture Garden expect to serve nearly 700,000 people through exhibition, films, performances, and educational programs. Each year the Walker brings more that 3,000 artists and scholars from across the globe to work and perform in Minnesota. Over 40,000 schoolchildren visited the Walker last year, and the Walker's new programs for teens serve as a national model.

Despite this impressive history of promoting both traditional and innovative art and developing community interaction, Minnesota's Walker Art Center has unfortunately become a part of today's debate about the National Endowment for the Arts fiscal year 1995 appropriation. Why? Because of a single performance which used $150 of matching grant money from the NEA. given what I have heard today—and the obvious high level of misinformation circulating feel it necessary to make you aware of what really happened.

On March 5, an audience of less than 100 people viewed a one-time performance by the Ron Athey theater troupe. The performance, which has also been seen in other communities including Los Angeles and Chicago, dealt with the difficult issues surrounding AIDS. The performance drew on centuries-old traditions from around the world and included a ceremony related to the African tradition of scarification which involved the drawing of a small amount of blood. Specifically, Mr. Athey used a surgical instrument to draw several small patterns on the back of a fellow performer. Just for the record, Mr. Athey has attested that his assistant is HIV-negative. The blood was then blotted on 3-ply paper towels and fastened to a clothesline. Some towels were slowly raised to the ceiling above the audience's heads.

Because of the nature of this performance, the Walker took all appropriate precautions as developed by the U.S. Centers for Disease Control and provided to the Walker by the Minnesota AIDS Project. The Minnesota Department of Health has publicly concurred that appropriate precautions were taken. In addition, all promotional and press material included a notice advising viewer discretion.

Some media reports suggest that many members of the audience fled. Others report of blood soaked towels. This is simply not accurate. The towels were not dripping and while approximately 10 members of the audience left quietly during the performance, many others have written to say they found the performance affirming, moving, and enlightening. In fact, to the best of my knowledge, this entire situation was generated by a single complaint and fed by irresponsible journalism.

I wish it were not so, but the reports following Mr. Athey's performance lend credence to the old adage that a falsehood repeated over and over eventually becomes truth in the ear of the listener. So I will say once again, the Walker Art Center is one of the most prestigious institutions in the country and has earned an international reputation. The NEA has played a crucial role in helping the Walker Art Center provide these services to Minnesota. It is extremely disturbing that the NEA, which has made such enormous contributions to the educational and cultural vitality of Minnesota, and all other States, would be placed in jeopardy by a single event.

Mr. Speaker, I am a strong supporter of the National Endowment for the Arts and am proud to have the Walker Art Center in my congressional district.

Mr. CRANE. Mr. Chairman, do I have the right to close on this amendment?

The CHAIRMAN. The gentleman from Illinois [Mr. YATES] has the right to close debate.

Mr. CRANE. Mr. Chairman, I yield 1 minute to our distinguished colleague, the gentleman from California [Mr. HUNTER].

Mr. HUNTER. I thank the gentleman for yielding this time to me.

Mr. Chairman, I want to rise in strong support of my friend, the gentleman from Illinois, Mr. CRANE's amendment. I have in front of me here for the House's viewing a picture by Olaf Wieghorst, who was considered the dean of Western artists and who lived in San Diego for the last 45 of his 50 years. He was one of the highest priced artists in the world when he finally passed away a couple of years ago, a man who despised subsidies. He was a cowboy, he never had a lesson in his life, never had a Government program, and he depicted the West in rugged individualism and responsibility and accountability.

I want to let the gentleman know that there are thousands of artists who have come up the hard way, who do not need Federal dollars, do not need subsidies.

We have a billion-dollar, or multi-billion-dollar, domestic private art market which supports the winners; there is no reason for Government to support the losers.

Mr. YATES. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise today in opposition to any amendment which seeks to cut or eliminate funding for arts and museums in America, and I urge my colleagues on both sides of the aisle to join me.

As a member of the Education and Labor Committee, I am struck not only by the diversity of the activities the NEA offers, but also, by how far reaching the impact of the NEA is.

For those Members who are contemplating voting to cut funding for the NEA to save money, I ask you to think again, after you have the facts. The NEA is one of the most powerful seed grant programs working today. In fact, it provides a significant economic stimulus to many small communities.

In fiscal year 1992, the $153 million in program funds invested by the NEA leveraged $1.68 billion in contributions and funding from businesses, groups, individuals, and other sources. This means that for each dollar invested by the NEA, $11 in matching funds are produced. In turn, this creates a twentyfold return in jobs, services, and contracts.

Since the Endowment's founding in 1965, the number of orchestras has increased from 110 to 230; nonprofit theater companies have gone from 37 to 450; opera companies have grown in number from 27 to 120, and dance companies from 35 to 450. In California alone, the number of performing arts companies, museums, and arts organizations has grown from 650 to over 1,400.

The counties of Marin and Sonoma, in California, which I am privileged to represent, have received over $100,000 this year in support of the arts, for incredibly diverse programs.

For instance, the NEA awarded individual creative writing grants to the Headlands Center for the Arts located in Sausalito, CA, which has a terrific open studio program for visual artists. The wonderful Marin Symphony, and Public Art Works Co., also received seed grants to bring their services to more people. The Antenna Theater in Sausalito, recently received $20,000 to create a production, which will combine elements from museum exhibits, radio theater, and audience participation.

Sonoma County benefits from Endowment-funded opera performances in Santa Rosa, and public radio and television programs based in Rohnert Park.

The Kids Street Theater in Santa Rosa, however, a non-profit theater group, which is made up of former school drop-outs, homeless kids, and other at-risk youth does not receive NEA funding. The director, Linda Conklin, recently brought her plea for financial assistance to me at a hearing on the NEA that was held in my district. She desperately wants to help more children, but she is in constant danger of losing her building and resources because she relies solely on private donations. A small grant from the NEA may be all she needs to stabilize her terrific program and pull in other funds.

Mr. Chairman, all these extraordinary activities by the NEA costs the individual taxpayer 68 cents a year. The total Federal commitment to the arts is less than two ten-thousandths of one percent of our budget.

Being a member of the Budget Committee, I firmly believe cutting unnecessary and unworkable programs is vitally important. I say to my colleagues, if you are serious about having some real impact in debt reduction, look elsewhere in the budget. The NEA is an excellent program that fits the criteria for deserving Federal support.

I urge my colleagues to vote no on this weakening amendment.

□ 1720

Mr. CRANE. Mr. Chairman, I yield the remainder of my time to our distinguished colleague, the gentleman from California [Mr. DORNAN], and I would just remind everyone of one very important point, and that is, if all of this money that has been diverted from law enforcement in Arizona is going into art works, why is it, with the third highest funding in the Nation here in DC, we have the highest per capita homicide rate in the world?

The CHAIRMAN. The gentleman from California [Mr. DORNAN] is recognized for 3½ minutes.

Mr. DORNAN. Mr. Chairman, more than any other debate in this great Chamber the one over NEA mystifies me. Well over 99 percent of NEA-funded art is certainly fine art. We are going to revisit this debate every single year because of that less than 1 percent that is so utterly offensive and blasphemous. I may come up with a creative amendment to give it to high school art programs which are closing every week all around the country.

I know that my distinguished colleague, the gentleman from Illinois [Mr. YATES], is a lover and a participant in the arts and wants to defend this program with all the fiber of his being. However, he too is embarrassed by this less than 1 percent, but the 1 percent keeps getting funded again and again and again.

Now here are quotes from two members of an NEA peer review board.

Helen Frankenthaler, a member of one of the peer review panels, a renowned and respected American painter and a heroine of the feminist movement, rejected some of the applications on the grounds that we should not fund this junk. She called it junk. There is plenty of junk. And I want to come back to some of the junk that got through.

Here is Phyllis Berney, another distinguished peer review panel member. She said that many of the works were politically inspired as opposed to primarily artistically inspired.

Why are these same people and this same garbage being now funded under Jane Alexander, a distinguished actress and artist who more or less promised that she was trying to get a handle on this?

Look what comes back again. Jerk, Tim Miller, who has heretofore used NEA funds to disrobe and masturbate on stage, and then do it in the audience, under a performance, quote, art presentation entitled "My Queer Body." How did this guy get back on the public dole again?

Here is Holly Hughes back again to receive more funds. We do not even know what she is going to do, but she is the Hughes of sewer performances like "The Well of Horniness."

Here is Karen Finley back again, whose past grants were used to deliver vicious antireligious and radical feminist harangues on stage while totally naked and covered in what we were told is chocolate syrup. She gets more money even though no one knows what her project is even going to be.

Here are Hughes, and Finley, and Miller back again, who sued and won because Jane Alexander's predecessor went into the courtroom and took a dive, as they say in prizefighting parlance. Here is the Kitchen Theater again. They paid money to Annie Sprinkle to invite the audience to give her, and I am going to change the writing in front of me, to conduct a gynecological examination upon her naked body with a flashlight.

Here is Frameline back again with more money for more pornographic, hard-core, close-in pornography at the Gay and Lesbian Film Festival in San Francisco.

Here is Marlon Riggs back again, and the list goes on, and on, and on, and I will finish it under the amendment to be offered by the gentleman from Florida [Mr. STEARNS] which probably will win. We need to rattle their bell and get their attention to stop giving money to these nonartistic jerks.

Mr. YATES. Mr. Chairman, I yield the balance of my time to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Chairman, I ask the House again to overwhelmingly reject the amendment offered by the gentleman from Illinois [Mr. CRANE], and there has been much made of the fact that some of the grants that have been made to various arts institutions have occasionally wound up with controversial art. This is what art is all about. It has always been controversial, and it will always be so.

The gentleman from Ohio and others in the leadership have stated to the National Endowment for the Arts that artistic excellence should be the guiding principle. I believe that that is correct.

I will say this:

Jane Alexander is an outstanding chairman of the Endowment. She is an artist. She is an actress. She is someone who is traveling all over the country trying to convince the American people that the investment for the National Endowment for the Arts is a good one.

I would say this:

The test is in the private sector, and ever since the Endowment was created, Mr. Chairman, the private sector has responded. For every dollar we invest as seed money through the National Endowment for the Arts we are receiving $11 in private sector investment, much of which is in matching grant money.

I would also point out that this is a major job-creation activity. The National Assembly of Local Arts Agencies report, Arts in the Economy, 1994, demonstrates that nonprofit art organizations have a significant impact on the Nation's economy. For example, 1.3 million full-time jobs are supported, 908,000 in the arts industry and 391,000 in supporting jobs. Twenty-five point two billion dollars is earned through the salaries, wages and entrepreneurial income. Local governments received $790 million in fees and taxes. State government receives $1.2 billion in fees and taxes. And the Federal Government receives $3.4 billion in income tax revenue.

I think this is a very good investment of the American taxpayers' money. Every poll shows that they overwhelmingly support the National Endowment for the Arts.

Jane Alexander is trying to use the arts in our inner cities to reach out to young people, to give them an alternative to crime, and violence, and drugs, and degradation. This is a positive program for the American people, and I think we should support it and again reject the Crane amendment because it simply is too severe. It restricts this agency too much.

I also hope that we will defeat the other amendment as well, Mr. Chairman.

This budget, by the way, in 1979 was $149 million. It has been eroded by 46 percent. We have held the line on this.

So, Mr. Chairman, I think this Congress has been responsible. This committee has been responsible. One hundred seventy-one million dollars is not enough, frankly. We need more money for the arts.

So I say to my colleagues, "Let's reject the Crane amendment as we did last year."

Ms. LOWEY. Mr. Chairman, I rise in strong opposition to the amendment.

All over America, local artists and local arts groups rely on the National Endowment for the Arts for essential support. These groups are doing tremendous work, but they are struggling for survival.

No one has ever questioned the work of hundreds of groups around the Nation. They have enriched our community and the quality of life.

Let me tell you some of the things the NEA does in my district. Support for the Westchester Council for the Arts; support for the Hudson River Museum in Yonkers, support for the Emelin Theater for the Performing Arts in Mamaroneck; and fellowship support for artists in Bronxville and City Island.

But this amendment could put many of them out of business. It will shut down deserving arts organizations all over this Nation, and it will do real damage to the cultural vitality of our Nation.

But that is not all. Abolishing the NEA would do damage to our local schools who rely on the Endowment to expand arts education in difficult financial times. It would take funds out of our schools and away from our children, at a time when the NEA is developing innovative programs to reach and educate at-risk Youth. The A.P.P.L.E. Corps programs, for example, is an innovative partnership of artists and law enforcement officials who understand that participation in the arts provides young people an opportunity to build self-confidence and self-esteem, and strengthens their resolve against drugs. This amendment would cripple programs like A.P.P.L.E.

And finally, this amendment would also undermine the economy of many areas of this country.

Last year the Port Authority of New York and New Jersey released a study on the economic impact of arts activities on the New York economy. The findings were dramatic, and cannot be ignored: While the economy of the New York metropolitan region has suffered, one sector of the regional Economy has grown—the arts. Indeed, the Arts directly employ over 40,000 people, and pump at least $9.8 billion a year into the economy of the New York Area.

An amendment to cut the NEA is an amendment to undermine an important growth area in our economy. The Arts are a lifeline not just for the creativity of many New Yorkers, but also a lifeline for the economy of our region.

Mr. Chairman, an amendment that will harm our Nation's schools, damages our cultural heritage, and damage local economies, at the same time, does not deserve the support of this House. I urge a "no" vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. CRANE].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CRANE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 113, noes 313, not voting 13, as follows:

[Roll No. 263]

AYES—113

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Barcia
Barrett (NE)
Bartlett
Barton
Bilirakis
Bliley
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Canady
Coble
Collins (GA)
Combest
Condit
Cox
Crane
Cunningham
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Emerson
Everett
Fawell
Fields (TX)
Gallegly
Gekas
Geren
Gilchrest
Gingrich
Goodlatte
Grams
Greenwood
Hall (TX)
Hancock
Hastert
Hayes
Hefley
Herger
Holden
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kim
King
Kingston
Knollenberg
Kyl
Laughlin
Levy
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Manzullo
McCandless
McCrery
McHugh
McKeon
Miller (FL)
Moorhead
Myers
Orton
Parker
Paxon
Petri
Pombo
Quillen
Quinn
Roberts
Rohrabacher
Roth
Royce
Sarpalius
Schaefer
Sensenbrenner
Shuster
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Stearns
Stenholm
Stump
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Vucanovich
Walker
Young (AK)

NOES—313

Abercrombie
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Ballenger
Barca
Barlow
Barrett (WI)
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bishop
Blackwell
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Camp
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Crapo
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Engel
English
Eshoo
Evans
Ewing
Faleomavaega (AS)
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallo
Gejdenson
Gephardt
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Grandy
Green
Gunderson
Gutierrez
Hall (OH)
Hamburg
Hamilton
Hansen
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Horn
Hoyer
Huffington
Hughes
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Klug
Kolbe
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lazio
Leach
Lehman
Levin
Lewis (CA)
Lewis (GA)
Lipinski
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCollum
McDade
McDermott
McHale
McInnis
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Nussle
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Richardson
Ridge
Roemer
Rogers
Romero-Barcelo (PR)
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sawyer
Saxton
Schenk
Schiff
Schroeder
Schumer
Scott
Shaw
Shays
Shepherd
Sisisky
Skaggs
Skeen
Slattery
Slaughter
Smith (IA)
Snowe
Spence
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Sundquist
Swett
Swift
Synar
Tejeda
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zeliff
Zimmer

NOT VOTING—13

Ackerman
Houghton
Lloyd
Machtley
McCurdy
Oberstar
Reynolds
Serrano
Sharp
Solomon
Underwood (GU)
Velazquez
Washington

□ 1749

Mr. SAXTON, Mr. DOOLEY, and Ms. DANNER changed their vote from "aye" to "no."

Mr. MCHUGH changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as recorded.

□ 1750

Mr. YATES. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. DE LA GARZA) having assumed the chair, Mr. GLICKMAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4602) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1995, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. BARRETT of Nebraska. Mr. Speaker, on Wednesday, June 22, I inadvertently voted "aye" on roll call vote No. 263. This roll call vote occurred on an amendment offered by

Rep. PHIL CRANE to eliminate funding for the National Endowment for the Arts [NEA]. In past Interior appropriation's bills, I've consistently voted against similar amendments, and I had intended to do the same on roll call No. 263.

The NEA, through the Nebraska Arts Council, has brought outstanding art programs to my district, which has enriched the artistic knowledge of my constituents, and their children—and I support those efforts. Without the NEA, poor rural schools would be without artist in residence programs, rural community art programs would not exist, and communities would not benefit from touring theatre and orchestra companies. From October 1992 through September 1993, 146 NEA-sponsored grants, which received $136,000 in NEA funds, were awarded to Nebraska's Third Congressional District. These programs attracted 456,856 people. This is the primary reason why I've consistently opposed past amendments to completely eliminate the NEA.

That's not to say that I support all of the NEA's funding decisions. I've been shocked and concerned that some highly objectional projects received taxpayer-provided funding. Thus, I have supported amendments in the past to reduce NEA funding by 5 percent.

I hope this explanation is helpful.

REPORT ON H.R. 4624, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND SUNDRY INDEPENDENT AGENCIES, BOARDS, COMMISSIONS, CORPORATIONS, AND OFFICES APPROPRIATIONS ACT, 1995

Mr. STOKES, from the Committee on Appropriations, submitted a privileged report (Rept. No. 103–555) on the bill (H.R. 4624) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. LEWIS of California reserved all points of order on the bill.

MOTION TO INSTRUCT CONFEREES ON H.R. 3355, VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994

Mr. McCOLLUM. Mr. Speaker, I offer a privileged motion to instruct conferees on the bill (H.R. 3355) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. McCOLLUM moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to the Senate amendment to the bill H.R. 3355 be instructed not to make any agreement that would have the effect of reducing the funding provided for prisons to a level that is less than the level provided in titles VI and VIII of the House amendment.

The SPEAKER pro tempore. The gentleman from Florida [Mr. McCOLLUM] is recognized for 30 minutes.

Mr. HUGHES. Mr. Speaker, I would like to claim the time in opposition to the motion.

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. HUGHES] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the motion to instruct conferees on the crime bill that I am offering tonight is very straightforward, as was read. It is a motion to stick with the House funding level for prison construction that is in the House bill when the conferees agree and meet with the Senate on what the final product of the crime bill will be.

Mr. Speaker, that position in the crime bill is a total on the House side of $13.5 billion. It appears from the chairman's mark that at least has been circulated around, whether it is the formal mark or not, that there may be an indication there is movement to make the figure for prison construction in the final product $6.35 billion or so, instead of the $13.5 billion that is in our bill today.

That is simply not an adequate amount of money, Mr. Speaker, for the prison construction necessary for us to assist the States in a partnership to get those who are repeat violent criminals and felons off the street and stop the revolving door that is causing the bulk of our crime problem in this country today.

Mr. Speaker, we know, for example, that roughly 6 percent of all criminals commit better than 70 percent of the violent crimes in this country and are serving only an average of 37 to 38 percent of their sentences. The fact of the matter is that there is nothing that could possibly be more important in the crime legislation we are about to do than to provide the resources that are necessary to get this 6 percent of these repeat violent offenders off the streets, lock them up, and throw away the keys. That is the first step.

It is like somebody who is bleeding to death, who has been run over by a car and has a lot of internal injuries. There may be some underlying problems causing crime in this Nation that we all would like to see addressed, but if you do not apply the tourniquet to the arm to stop the bleeding when you arrive on the scene, you cannot have a patient alive to work on the rest of the problems that he has.

The tourniquet in this case is our money and our resources to help the States to provide the prison space necessary to get these really bad guys off the streets. That is the crisis of the moment.

Mr. Speaker, the fact of the matter is the same mark bill that has been circulated, and I do not know the authenticity of it, because we have only met in pro forma type of session on the conference committee so far, but it looks like there is going to be about 30 billion dollars' worth of money in the final product that is proposed by the conference managers to the conference committee on the crime bill, $30 billion in this bill, only $6.5 billion of which would be for prisons, less than half of what we proposed in our bill.

Mr. Speaker, my motion to instruct is very simple. It is simply to say that we on the House side believe our conferees should stick to their guns, stick with what we put in the bill, and the dollar amount, not the details of how it is done, but just the dollar amount, at a level that is responsible.

The Bureau of Prisons has told me that we cannot begin to capture the repeat violent offenders for less than $10 billion, the ones that actually repeat. The bill itself and language that will probably come out of conference will cover for prison moneys a lot of people who are not repeat violent offenders, so we need to keep the higher dollar amount up there that is involved in this.

In fact, what we have seen, some of the money that is involved may be allocated for other programs, rather than strictly building straight prisons that will be labeled prison construction.

Mr. Speaker, I would like to make a couple of points about what happens every day in America to drive home. Then I have a colleague on the other side of the aisle who has been very instrumental in this that I would like to yield to.

Every day in America 14 people are murdered, 48 women are raped, and 578 people are victims of a robbery by a criminal who has already been caught, convicted, and then returned to the streets on probation or early release. Mr. Speaker, that simply must stop. That is why it is important to keep the money in the final product of this crime conference that will build the prisons necessary to take these repeaters off the streets and keep them locked up.

Mr. Speaker, I introduce the gentleman from Texas [Mr. CHAPMAN], who has been so instrumental in this process, and has been a cohort in trying to get truth in sentencing to stop this revolving door, and who supports this motion to instruct today.

Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. CHAPMAN] to discuss this motion to instruct. He has been a very good cosponsor of our efforts at truth in sentencing, and I believe he firmly supports this motion to instruct today.

Mr. CHAPMAN. I thank the gentleman for yielding time to me, Mr. Speaker.

Mr. Speaker, I want to commend the gentleman on this particular motion and tell him that I will gladly support him. While the crime conference is working and working hard on a bill that we certainly hope is going to enjoy overwhelming bipartisan support in the House, one of the things I think we in the House of Representatives did was vote for a balanced crime bill.

If in fact what we hear may be happening from pressures and from other initiatives, that the prison portion of this bill is being reduced perhaps to as low as $6.5 billion, while the price of the crime bill is going up to $30 billion, I would have to suggest to my colleagues in the House that is hardly balanced.

While we are going to work hard to get a prison grant program, Mr. Speaker, and truth in sentencing initiatives that we can all support and support in a bipartisan way, I think the gentleman from Florida [Mr. McCOLLUM] is correct to say that if we are going to make a positive difference in stopping crime in this country, violent crime, if we are really going to offer a meaningful carrot to the States to do something to get the violent criminals off the street, then we really need to support the House funding level.

Mr. Speaker, I think it is important. It is positive. It is something we all ought to support, to ask our conferees to stick to their guns, stick to the House position, stick to the funding level for the prison grant program that will make a meaningful difference on truth in sentencing in this country.

□ 1800

Mr. Speaker, I hope that all my colleagues on both sides of the aisle will vote for this motion to instruct, will give the House conferees the reinforcement, the strength that they need to fully fund, appropriately fund and in a meaningful way fund truth-in-sentencing for this crime bill.

Mr. McCOLLUM. Mr. Speaker, I reserve the balance of my time.

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not disagree with much of anything that my colleagues, the gentleman from Florida and the gentleman from Texas, have said. The prison grant money is extremely important. I happen to think it is one of the most important provisions in the bill. That is probably because I wrote much of that in subcommittee working with my colleague, the gentleman from Florida, and our other colleagues on the Subcommittee on Intellectual Property and Judicial Administration.

I think it is very important, I think it is very important that we begin to move the States toward truth-in-sentencing, that we have the States develop comprehensive plans that will do a far better job of classification, which inmates come into the system, a better job or risk assessment before they leave the system, a far better job than we have done in the State systems in trying to provide skills and training, trying to deal with their drug problems and mental problems when they are in the prison system.

Mr. Speaker, there is no question, I think that that is extremely important, because prisons have become revolving doors and we are not incarcerating violent offenders for as long as we should be incarcerating them. I cannot argue with any of that. But I do not know on what basis my colleague, the gentleman from Florida, suggests that the funding level is going to be at $6 billion. I have seen that kind of a mark circulated, also.

I do not know, but I can tell Members that I want to fight for as much of this funding as we can. But I am not so sure it is realistic at this time since we have not even met except for opening statements to decide how much money we can spend for this, because we are talking about real money, folks. It is going to be a trust fund, we are going to have to find whatever resources we commit to prison grant programs and other programs within the crime bill, we are going to have to find that money somewhere. It is going to have to come from other programs.

Mr. Speaker, I think at the same time we want to fund these programs realistically, I hope we are not talking about overpromising once again and underdelivering, because I think we need to talk in terms of real dollars, not authorize anything that we are not prepared to appropriate and spend.

Mr. Speaker, one of the reasons why I think our constituencies are very frustrated with us is because we have overpromised and we have underdeliverd. If what my colleagues, the gentleman from Florida [Mr. McCOLLUM], and the gentleman from Texas, Mr. JIM CHAPMAN, are talking about is fighting for as much as we can for this particular program, I am on board. I want to fight for whatever we can in the context of this conference. Just to make sure, however, that we are talking about real dollars and we are not talking about an authorization and not moneys to follow what we authorize.

Mr. Speaker, with that I do not have any other requests for time. I do not see any need to basically prolong this debate, because I do not think there is any difference between my colleague's position and mine. I want to get as much for prison grant programs as we can and have the best prison grant program for the States that we can develop so that we can move the States toward truth-in-sentencing and that we review inadequate sentences and do a far better job of incarcerating violent offenders until they are ready to go back into society.

Mr. Speaker, if that is what my colleague is for today, then frankly I do not see much difference between our positions. I cannot say, however, that we are going to be able to make a $13.5 billion mark. My colleague knows that we will do the best we can and try to preserve as much money for grant programs as we can for the States.

Mr. Speaker, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I simply want to say to the gentleman from New Jersey, I respect him a great deal. I know his intents are the same as mine and general principle. What my primary concern is in some of the things we have seen circulated, yes, we have not met, is there may be even more money in the prevention programs than there are for prisons and no priorities set. I just want to see the House send a strong message of the importance of prison monies of our body to the conferees, that we stick with it and make that the priority in this bill for spending when we start whittling away and start trying to find where to save money.

Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico [Mr. SCHIFF], a member of the Committee on the Judiciary.

Mr. SCHIFF. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, before I was elected to Congress, I was a career criminal prosecutor. I served 8 years as an elected district attorney, a number of years as an assistant prosecutor before that, and also 2 years as a defense lawyer.

I want to join particularly in the remarks made by the gentleman from Florida that although funds, of course, are not endless, the gentleman from New Jersey is very correct about that, of course, it is a matter of setting priorities. The highest priority I can recommend is to ensure adequate funding for prisons. This is not because I believe that every person convicted of every crime should go to prison. Quite the contrary. I think there are a number of occasions where an individual makes a real mistake in life, really is remorseful about it, really will not repeat it and really deserves the opportunity to stay in the community.

Mr. Speaker, the point is, those individuals who are returned to the community should be returned to the community only because we believe that the best expectation is they will not damage society further.

That is not what is happening today. Right now individuals are being released from prison back to society early or not going to prison at all simply to make space for other criminals.

Mr. Speaker, we should not have people on the streets who will break into our homes, who will steal our cars, who will embezzle from their employers and commit other offenses over and over and over again because we are trying to keep other criminals in prison. The fact of the matter is all those who endanger society and are judged that way should serve their time in prison. If they are released, it is because they deserve release, not because the space is limited.

Mr. Speaker, I would like to conclude by mentioning next to prisons, the next priority is prosecutors and law enforcement agencies. The public is asking for more prosecution of criminals. More criminals will be prosecuted with more prosecutors than with more laws. Although the appropriations subcommittee that we will vote on tomorrow in the Department of Justice budget did an excellent job in trying to set law enforcement priorities, there is one glaring omission. In the proposed budget tomorrow, the antitrust division of the Department of Justice is proposed for a 13 percent increase while the U.S. attorneys who do the day-to-day street prosecutions are proposed for a 1.6-percent increase. That priority is all wrong. The priority should be on the violent criminal prosecutors, because the President of the United States when he spoke to Congress said, "The American people are concerned about violent criminals." He did not say they were afraid of being mugged by antitrust violators.

Mr. McCOLLUM. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, very briefly it seems we are knocking on an open door. There is not any opposition really to this motion to instruct. The value of the motion to instruct is that we go into the conference where we have a history of being rolled time and time again with a strong statement that the House means what it said when it passed and authorized $13.5 billion for prisons. If we want to go home and say that we are a fearless fighter of crime and then we did not support the $13.5 billion, or the maximum amount available, to get violent criminals off the street and in jail, then we are going to have a hard sell.

Mr. Speaker, I think the first thing in the list of priorities, as the gentleman from New Mexico [Mr. SCHIFF] said, is to have prisons adequate to the potential prison population.

In Chicago, IL, people are arrested who are dangerous to themselves, dangerous to the community, they are released on their own recognizance in droves because there is no place to put them. The first duty of government is to protect the people, provide for their safety, and it seems to me if we are lacking prison space, that ought to be first on our priority.

The gentleman from Florida [Mr. McCOLLUM] deserves a lot of credit for being the leader certainly on our side of the aisle on this issue. I hope we all send a resounding, ringing message to the gentlemen from the other body that when we authorized $13.5 billion for prisons, we meant it.

Mr. McCOLLUM. Mr. President, I yield 3 minutes to the gentleman from Florida [Mr. CANADY], a member of the Committee on the Judiciary.

Mr. CANADY. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, this motion which is under consideration now goes to the very core of the concerns that this Congress should address in any meaningful crime bill. The American people understand that the criminal justice system in this country is failing them and that we can no longer tolerate the status quo. Criminals throughout the country are making the rational calculation that crime pays, that the small risk of punishment is well worth the benefits to be derived from their criminal activities.

☐ 1810

The system has lost its credibility, and the deterrent effect of the law has been undermined in a devastating way.

This motion to instruct conferees represents an essential means of restoring the credibility and deterrent force that has been lost in our system.

There is no greater problem affecting our criminal justice system today than the problem of early release. Just talk to your constituents. You will see their frustration and their fear occasioned by this problem.

Today violent offenders serve only 37 percent of their sentences. The gentleman from Florida [Mr. McCOLLUM] cited that statistic, but it is a statistic that bears repeating. It is intolerable, and it must be changed.

This Congress can help correct this fundamental problem by assisting the States, expanding the capacity of prison systems, and keep hardened criminals off the street. That should be our top priority.

In Florida alone, 20,350 inmates were released early in fiscal year 1992–1993 to maintain the State's prison population within its court-mandated capacity.

In February, a tragedy occurred in the Ocala National Forest because a criminal was released early from a Florida prison. John Edwards was murdered and his sister was brutally raped and beaten by two men. One of the accused men had been released from a Florida prison after serving less than one-fourth of his sentence. This is just one example of something that happens day after day all across this country.

If we in this House are serious about protecting law-abiding people of America against the violence of hardened criminals, we will put our money where our rhetoric is. We will support the funding level previously approved by this House, and we will pass this motion to instruct to send a strong message that we will not settle for anything less than $13.5 billion to help the States deal with this problem.

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not know what this debate is about, because, frankly, it sounds to me like we are on the same side.

But one thing I do want to point out, it is one thing to talk about housing violent offenders, taking them out of circulation, taking them off the streets, and that is very important. But no matter what kind of a sentence you give them short of life without parole, they are going to come out at some point.

It seems to me some of the speakers have lost sight of the fact that we need to start dealing with some of the problems when they are in the system. We have not done a good job throughout the country of classification of the inmates. We have not done a good job of risk assessment before inmates are released back into society. We have not done a good job of providing skills to them. We have not done a good job of dealing with their psychiatric, their mental problems, their drug problems. So, you know, in addition to housing violent offenders, we need to make sure that we are also dealing with their problems when they are in the system. And that is every bit as important as any other consideration, whether it be truth in sentencing, whether it be an adequate sentence or any other consideration in the bill.

Frankly, nobody is talking about that. I do not think the public is fooled. They know that the prison system is a revolving door, and often inmates are coming out of the system worse for the experience. We need to do a far better job, and that is what I hope my colleague, the gentleman from Florida, will help me get across in conference. Because that is every bit as important.

Mr. Speaker, I yield back the balance of my time.

Mr. McCOLLUM. Mr. Speaker, I yield myself such time as I may consume to conclude this little debate.

As the gentleman from New Jersey said, there is not really a debate over enforcing our will or expressing the fact we want to see it enforced in the conference today, and I assume we will have a very strong vote in favor of this motion to recommit.

But there is an important underlying current here. I agree with the gentleman from New Jersey that there are many other facets we need to address in terms of the criminal problems of this Nation that we face other than simply incarcerating the very violent and getting them off the street and incapacitating them.

In my judgment, and I think the judgment of the majority of the Members here and in the eyes of the Public, there is not anything more important or more immediate than doing this, and that in setting priorities when we go and sit down as conferees over the next few days, it is going to be very important for the conferees to think always the top priority is as much money as is needed to have it there for the prisons first and foremost, and if we do get down to having to make tough choices because of a limited amount of resources, that it not be the prison moneys that are cut, that we stick with those funds, and that if, indeed, there is a $20 billion instead of a $30 billion bill that comes out, that we still put $13 billion, or $13.5, as the House wishes here, into prisons, that we make those reductions and those adjustments elsewhere and protect the funding for the prisons first and foremost.

I think there is some flavor in a few of the documents circulated, again, preliminary documents that would indicate there may be some members of the conference, or perhaps some of the staff, who do not see it that way, who would put actually more money into the prevention programs in the final product than they would put into the prison moneys that are needed.

I would just close by pointing out the importance of the point I am making by citing a few of the statistics that are not cited very often. More than 40 percent of the murderers released from State prisons are rearrested for a felony or serious misdemeanor within 3 years. More than 20 percent are rearrested for a violent crime within 3 years. One in 15 is rearrested for another homicide. At least 30 percent of the murders in this country are committed by people on probation, parole, or bail. Thirty percent, a tremendous amount. And that is nonsense. Of the 50,000 violent criminals put on probation this year, over 9,000 will be rearrested for a violent crime within 3 years in the same State.

It is this revolving door that we are talking about. It is this incredible amount of violent crime being committed by the same people that must be stopped first and foremost, and it is for that reason and because of the importance of the priorities involved in this that the motion to recommit tonight is being offered to try to shore up for our conferees the House position of sticking with the $13.5 billion figure and not reducing it by some dramatic figure in order to find money for something else in the scope of things that are going on when, indeed, that money could be there and fully funding the prisons which take the priority.

With that in mind and, again, urging my colleagues to recognize the importance of the message being sent tonight, I urge a yes vote on the McCollum motion to instruct conferees to stick with the House funding for full funding of prisons at $13.5 billion.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DE LA GARZA). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Florida [Mr. McCOLLUM].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McCOLLUM. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 338, nays 81, not voting 15, as follows:

[Roll No. 264]

YEAS—338

Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Borski
Boucher
Brewster
Browder
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Combest
Condit
Cooper
Coppersmith
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeLauro
DeLay
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (TX)
Emerson
Engel
English
Eshoo
Everett
Ewing
Farr
Fawell
Fazio
Fields (TX)
Fingerhut
Fish
Fowler
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hefley
Hefner
Herger
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Hoyer
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kreidler
Kyl
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Long
Lowey
Lucas
Maloney
Manton
Manzullo
Margolies-Mezvinsky
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Menendez
Meyers
Mica
Michel
Miller (FL)
Moakley
Molinari
Montgomery
Moorhead
Moran
Morella
Myers
Neal (MA)
Neal (NC)
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Rowland
Royce
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Sensenbrenner
Shaw
Shays
Shepherd
Shuster
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Snowe
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sundquist
Swett
Swift
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torricelli
Traficant
Tucker
Unsoeld
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Wyden
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—81

Abercrombie
Barlow
Becerra
Beilenson
Berman
Blackwell
Bonior
Brooks
Brown (CA)
Brown (FL)
Clay
Collins (IL)
Collins (MI)
Conyers
Coyne
DeFazio
Dellums
Dingell
Dixon
Edwards (CA)
Ehlers
Evans
Fields (LA)
Filner
Flake
Foglietta
Ford (TN)
Frank (MA)
Gonzalez
Gutierrez
Hastings
Hilliard
Hinchey
Hughes
Johnson, E. B.
Kennedy
Kopetski
LaFalce
Mann
Markey
McDermott
Meehan
Meek
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Murphy
Nadler
Oberstar
Obey
Olver
Owens
Payne (NJ)
Pelosi
Penny
Rangel
Roybal-Allard
Rush
Sabo
Sanders
Schroeder
Scott
Serrano
Skaggs
Stark
Stokes
Studds
Synar
Torres
Towns
Velazquez
Vento
Visclosky
Waters
Watt
Waxman
Woolsey
Yates

NOT VOTING—15

Ackerman
Ford (MI)
Hayes
Houghton
Lloyd
Machtley
McCurdy
Murtha
Rostenkowski
Schumer
Sharp
Smith (TX)
Solomon
Washington
Whitten

☐ 1840

Messrs. COYNE, OWENS, and TORRES, Ms. WOOLSEY, and Mr.

FIELDS of Louisiana changed their vote from "yea" to "nay."

So the motion to instruct conferees was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1840

ANNOUNCEMENT OF INTENT TO OFFER ON TOMORROW, JUNE 23, 1994, A MOTION TO INSTRUCT CONFEREES ON H.R. 3355, VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1993

Mr. MCCOLLUM. Mr. Speaker, pursuant to clause 1(c) of rule XXVIII, I am announcing to the House that I intend to offer a motion to instruct conferees on the crime bill, H.R. 3355.

The form of the motion is as follows:

Mr. MCCOLLUM moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to the Senate amendment to the bill H.R. 3355 be instructed not to agree to any provision similar to subtitle I, relating to the local partnership Act, or to any provision similar to it, of title X of the House amendment.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2866

Mr. STUPAK. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor of H.R. 2866.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

ISSUANCE OF EXECUTIVE ORDER BLOCKING PROPERTY OF CERTAIN HAITIAN NATIONALS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee on Foreign Affairs and ordered to be printed:

To the Congress of the United States:

On October 4, 1991, pursuant to the International Emergency Economic Powers Act ("IEEPA") (50 U.S.C. 1701 *et seq.*) and section 301 of the National Emergencies Act ("NEA") (50 U.S.C. 1601 *et seq.*), President Bush exercised his statutory authority to issue Executive Order No. 12775, declaring a national emergency and blocking Haitian government property.

On October 28, 1991, pursuant to the above authorities, President Bush exercised his statutory authority to issue Executive Order No. 12779, blocking certain property of and prohibiting certain transactions with Haiti.

On June 30, 1993, pursuant to above authorities, as well as the United Nations Participation Act of 1945, as amended ("UNPA"), (2 U.S.C. 287c), I exercised my statutory authority to issue Executive Order No. 12853, to impose additional economic measures with respect to Haiti. This latter action was taken, in part, to ensure that the economic measures taken by the United States with respect to Haiti would fulfill its obligations under United Nations Security Council Resolution 841 of June 16, 1993.

On October 18, 1993, pursuant to the IEEPA and the NEA, I again exercised my statutory authority to issue Executive Order No. 12872, blocking property of various persons with respect to Haiti.

On May 6, 1994, the United Nations Security Council adopted Resolution 917, calling on States to take additional measures to tighten the embargo against Haiti. On May 27, 1994, pursuant to the above authorities, I exercised my statutory authority to issue Executive Order No. 12914, to impose additional economic measures with respect to Haiti. On May 21, 1994, pursuant to the above authorities, I exercised my statutory authority to issue Executive Order No. 12917, to impose those economic measures required by Resolution 917 that became effective May 21, 1994. These latter actions were taken, in part, to ensure that the economic measures taken by the United States with respect to Haiti would fulfill its obligations under the provisions of United Nations Security Council Resolution 917.

On June 10, 1994, pursuant to the above authorities, I exercised my statutory authority to issue Executive Order No. 12920, prohibiting additional transactions with Haiti.

On June 21, 1994, pursuant to the above authorities, I exercised my statutory authority to issue Executive Order No. 12922.

This new Executive order:

—blocks all property in the United States, or within the possession or control of United States persons, of any Haitian national resident in Haiti, or any other person subject to the blocking provisions of Executive Order Nos. 12775, 12779, 12853, 12872, or 12914 or a Haitian citizen who is a member of the immediate family of such a person, as identified by the Secretary of the Treasury; and makes limited exceptions for certain payments and transfers, and for the property of nongovernmental organizations engaged in the provision of essential humanitarian assistance or the conduct of refugee and migration operations in Haiti, that are identified by the Secretary of the Treasury;

—prohibits any transaction that evades or avoids or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions of the order; and

—authorizes the Secretary of the Treasury, in consultation with the Secretary of State, to issue regulations implementing the provisions of the order.

The new Executive order is necessary to tighten the embargo against Haiti with the goal of the restoration of democracy in that nation and the prompt return of the legitimately elected President, Jean-Bertrand Aristide, under the framework of the Governors Island Agreement.

I am providing this notice to the Congress pursuant to section 204(b) of the IEEPA (50 U.S.C. 1703(b)) and section 301 of the NEA (50 U.S.C. 1631). I am enclosing a copy of the Executive order that I have issued.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 21, 1994.*

MODIFICATION IN APPOINTMENT OF CONFEREES ON H.R. 3355, VIOLENT CRIME CONTROL AND PREVENTION ACT

The SPEAKER pro tempore. Without objection, the Speaker makes the following modification in the appointment of conferees on the bill (H.R. 3355) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety:

In the paragraph naming additional conferees from the Committee on Merchant Marine and Fisheries, add Mr. BATEMAN in lieu of Mr. YOUNG of Alaska.

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, and under a previous order of the House, the following Members are recognized for 5 minutes each.

HEALTH CARE REFORM VOTES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. MICHEL] is recognized for 5 minutes.

Mr. MICHEL. Mr. Speaker, I submit for the RECORD the votes on health care reform which took place in full committee in the Ways and Means Committee and in the Education and Labor Committee on June 21, 1994:

The following recorded votes were taken on June 21, 1994, in the Committee on Ways and Means during consideration of Acting Chairman Gibbons' substitute proposal for H.R. 3600, The Health Security Act of 1994:

An amendment by Mr. Thomas which would remove the Secretary of HHS' authority to exclude Medicare Part B and C coverage of prescription drugs for off-label uses, simply because the Secretary has determined such use of the drug is not medically appropriate. In order to be covered, off-label use of a particular drug would still have to meet the following: (1) FDA approval; (2) such use is supported by at least one specified compendium and (3) the carrier managing the Medicare coverage determines (with guidance from the Secretary) that such use is medically appropriate, based on supportive clinical evidence in peer reviewed medical literature. Defeated 24 to 14.

DEMOCRATS

Mr. Gibbons, "nay."
Mr. Rostenkowski, "nay."
Mr. Pickle, "nay."
Mr. Rangel, "nay."
Mr. Stark, "nay."
Mr. Jacobs, "nay."
Mr. Ford of Tennessee, "nay."
Mr. Matsui, "nay" by proxy.
Mrs. Kennelly, "nay."
Mr. Coyne, "nay."
Mr. Andrews of Texas, "nay."
Mr. Levin, "nay."
Mr. Cardin, "nay."
Mr. McDermott, "nay."
Mr. Kleczka, "nay."
Mr. Lewis of Georgia, "nay."
Mr. Payne of Virginia, "nay."
Mr. Neal of Massachusetts, "nay."
Mr. Hoagland, "nay."
Mr. McNulty, "nay."
Mr. Kopetski, "nay."
Mr. Jefferson, "nay."
Mr. Brewster, "nay."
Mr. Reynolds, "nay."

REPUBLICANS

Mr. Archer, "yea."
Mr. Crane, "yea" by proxy.
Mr. Thomas of California, "yea."
Mr. Shaw, "yea."
Mr. Sundquist, "yea."
Mrs. Johnson of Connecticut, "yea."
Mr. Bunning, "yea."
Mr. Grandy, "yea."
Mr. Houghton, "yea."
Mr. Herger, "yea."
Mr. McCrery, "yea."
Mr. Hancock, "yea."
Mr. Santorum, "yea."
Mr. Camp, "yea."

On an amendment by Mrs. Johnson of Connecticut to the Sundquist amendment providing that the entire budget for women's health services be kept budget neutral including the benefits provided in the Sundquist amendment. [The Sundquist amendment required the Secretary of HHS to promulgate regulations (with the advice of the American Cancer Society and the American College of Obstetrics and Gynecology) setting forth the schedule for mammography, pap smears and pelvic exams to ensure more frequent screenings based on the latest medical research. The Sundquist amendment was withdrawn.] Defeated 21–17.

DEMOCRATS

Mr. Gibbons, "nay."
Mr. Rostenkowski, "nay."
Mr. Pickle, "nay."
Mr. Rangel, "nay."
Mr. Stark, "nay."
Mr. Jacobs, "nay."
Mr. Ford of Tennessee, "nay" by proxy.
Mr. Matsui, "nay."
Mrs. Kennelly, "nay."
Mr. Coyne, "nay."
Mr. Andrews of Texas, "nay."
Mr. Levin, "nay."
Mr. Cardin, "yea."
Mr. McDermott, "yea."
Mr. Kleczka, "nay."
Mr. Lewis of Georgia, "nay" by proxy.
Mr. Payne of Virginia "nay."
Mr. Neal of Massachusetts, "nay."
Mr. Hoagland, "nay."
Mr. McNulty, "nay."
Mr. Kopetski, "yea."
Mr. Jefferson, "nay."
Mr. Brewster, "nay" by proxy.
Mr. Reynolds, "nay."

REPUBLICANS

Mr. Archer, "yea" by proxy.
Mr. Crane, "yea" by proxy.
Mr. Thomas of California, "yea" by proxy.
Mr. Shaw, "yea."
Mr. Sundquist, "yea."
Mrs. Johnson of Connecticut, "yea."
Mr. Bunning, "yea" by proxy.
Mr. Grandy, "yea."
Mr. Houghton, "yea" by proxy.
Mr. Herger, "yea" by proxy.
Mr. McCrery, "yea."
Mr. Hancock, "yea."
Mr. Santorum, "yea" by proxy.
Mr. Camp, "yea."

COMMITTEE ON EDUCATION AND LABOR—FULL COMMITTEE

HEALTH CARE MARK-UP, JUNE 21, 1994

The following recorded votes were taken on June 21, 1994 in the Committee on Education and Labor durng full Committee consideration of Chairman Ford's mark, H.R. 3600, Health Security Act of 1994:

1. An amendment by Rep. Miller (FL) that would allow working Medicare-eligible individuals and their spouses to have the option to keep Medicare as their primary health insurance. The amendment was defeated 15–27–1.

DEMOCRATS

Mr. Ford, "nay."
Mr. Clay, "nay" by proxy.
Mr. Miller of California, "nay" by proxy.
Mr. Murphy, "nay" by proxy.
Mr. Kildee, "nay."
Mr. Williams, "nay."
Mr. Martinez, "nay."
Mr. Owens, "nay" by proxy.
Mr. Sawyer, "nay."
Mr. Payne, "nay" by proxy.
Ms. Unsoeld, "nay" by proxy.
Ms. Mink, "nay."
Mr. Andrews, not voting.
Mr. Reed, "nay."
Mr. Roemer, "nay."
Mr. Engel, "nay" by proxy.
Mr. Becerra, "nay" by proxy.
Mr. Scott, "nay."
Mr. Green, "nay."
Ms. Woolsey, "nay."
Mr. Romero-Barcelo, "nay."
Mr. Klink, "nay" by proxy.
Ms. English, "nay" by proxy.
Mr. Strickland, "nay" by proxy.
Mr. deLugo, "nay."
Mr. Faleomavaega, "nay" by proxy.
Mr. Baesler, "nay."
Mr. Underwood, "nay" by proxy.

REPUBLICANS

Mr. Goodling, "yea."
Mr. Petri, "yea." by proxy.
Ms. Roukema, "yea."
Mr. Gunderson, "yea."
Mr. Armey, "yea" by proxy.
Mr. Fawell, "yea."
Mr. Ballenger, "yea."
Ms. Molinari, "yea" by proxy.
Mr. Barrett, "yea" by proxy.
Mr. Boehner, "yea."
Mr. Cunningham, "yea" by proxy.
Mr. Hoekstra, "yea."
Mr. McKeon, "yea" by proxy.
Mr. Miller of Florida, "yea."
Mr. Castle, "yea."

2. An amendment by Rep. Miller (FL) that makes clear that nothing in the Act shall prevent Medicare-eligible individuals from electing to continue receiving their health benefits through the Medicare program, rather than through either an employer health plan or another health plan mandated by the State. The amendment was defeated 17–24–2.

DEMOCRATS

Mr. Ford, "nay."
Mr. Clay, "nay" by proxy.
Mr. Miller of California, "nay" by proxy.
Mr. Murphy, "nay" by proxy.
Mr. Kildee, present, not voting.
Mr. Williams, "nay."
Mr. Martinez, "nay."
Mr. Owens, "nay" by proxy.
Mr. Sawyer, "nay."
Mr. Payne, "nay" by proxy.
Ms. Unsoeld, "nay" by proxy.
Ms. Mink, "nay."
Mr. Andrews, not voting.
Mr. Reed, "nay."
Mr. Roemer, "nay."
Mr. Engel, "nay" by proxy.
Mr. Becerra, "nay" by proxy.
Mr. Scott, "nay."
Mr. Green, "yea."
Ms. Woolsey, "nay."
Mr. Romero-Barceló, "nay."
Mr. Klink, "nay" by proxy.
Ms. English, "nay" by proxy.
Mr. Strickland, "nay" by proxy.
Mr. de Lugo, "nay."
Mr. Faleomavaega, "nay" by proxy.
Mr. Baesler, "yea."
Mr. Underwood, "nay" by proxy.

REPUBLICANS

Mr. Goodling, "yea."
Mr. Petri, "yea" by proxy.
Ms. Roukema, "yea."
Mr. Gunderson, "yea."
Mr. Armey, "yea" by proxy.
Mr. Fawell, "yea."
Mr. Ballenger, "yea."
Ms. Molinari, "yea" by proxy.
Mr. Barrett, "yea" by proxy.
Mr. Boehner, "yea."
Mr. Cunningham, "yea" by proxy.
Mr. Hoekstra, "yea."
Mr. McKeon, "yea" by proxy.
Mr. Miller of Florida, "yea."
Mr. Castle, "yea" by proxy.

3. An amendment by Rep. Armey to strike the provision in the Chairman's mark requiring that the National Council on Graduate Medical Education, in making allocations among eligible programs for each medical specialty, consider (A) the extent to which the population of training participants in the program includes training participants who are members of racial or ethnic minority groups, and (B) with respect to a racial or ethnic group represented among the training participants, the extent to which the group is underrepresented in the field of medicine generally and in the various medical specialties. The amendment was defeated 14–29.

DEMOCRATS

Mr. Ford, "nay."
Mr. Clay, "nay."
Mr. Miller of California, "nay."
Mr. Murphy, "nay" by proxy.
Mr. Kildee, "nay."
Mr. Williams, "nay."
Mr. Martinez, "nay" by proxy.
Mr. Owens, "nay."
Mr. Sawyer, "nay."
Mr. Payne, "nay."
Ms. Unsoeld, "nay" by proxy.
Ms. Mink, "nay."

Mr. Andrews, "nay."
Mr. Reed, "nay."
Mr. Roemer, "nay" by proxy.
Mr. Engel, "nay" by proxy.
Mr. Becerra, "nay" by proxy.
Mr. Scott, "nay."
Mr. Green, "nay."
Ms. Woolsey, "nay."
Mr. Romero-Barceló, "nay" by proxy.
Mr. Klink, "nay."
Ms. English, "nay" by proxy.
Mr. Strickland, "nay" by proxy.
Mr. de Lugo, "nay."
Mr. Faleomavaega, "nay" by proxy.
Mr. Baesler, "nay."
Mr. Underwood, "nay" by proxy.

REPUBLICANS

Mr. Goodling, "yea."
Mr. Petri, "yea" by proxy.
Ms. Roukema, "yea."
Mr. Gunderson, "nay."
Mr. Armey, "yea."
Mr. Fawell, "yea."
Mr. Ballenger, "yea."
Ms. Molinari, "yea" by proxy.
Mr. Barrett, "yea."
Mr. Boehner, "yea" by proxy.
Mr. Cunningham, "yea."
Mr. Hoekstra, "yea."
Mr. McKeon, "yea."
Mr. Miller of Florida, "yea."
Mr. Castle, "yea."

4. An amendment by Rep. Becerra, as modified by Rep. Cunningham, that would increase the vulnerable population adjustment funding from the $800 million/year provided in the bill to $2 billion/year. The Cunningham amendment, which was accepted on a voice vote, requires that providers be reimbursed from the vulnerable population adjustment fund for costs incurred providing health services to illegal aliens. The amendment, as amended, was adopted 27–13.

DEMOCRATS

Mr. Ford, "yea."
Mr. Clay, "yea" by proxy.
Mr. Miller of California, "yea" by proxy.
Mr. Murphy, "yea" by proxy.
Mr. Kildee, "yea" by proxy.
Mr. Williams, "yea."
Mr. Martinez, "yea" by proxy.
Mr. Owens, "yea" by proxy.
Mr. Sawyer, "yea."
Mr. Payne, "yea."
Ms. Unsoeld, "yea" by proxy.
Ms. Mink, "yea."
Mr. Andrews, not voting.
Mr. Reed, "yea."
Mr. Roemer, "nay."
Mr. Engel, "yea."
Mr. Becerra, "yea."
Mr. Scott, "yea."
Mr. Green, "yea."
Ms. Woolsey, "yea."
Mr. Romero-Barcelo, "yea" by proxy.
Mr. Klink, "nay."
Ms. English, "yea" by proxy.
Mr. Strickland, "yea" by proxy.
Mr. de Lugo, "yea."
Mr. Faleomavaega, "yea" by proxy.
Mr. Baesler, "nay."
Mr. Underwood, "yea" by proxy.

REPUBLICANS

Mr. Goodling, "nay."
Mr. Petri, "nay" by proxy.
Ms. Roukema, "nay."
Mr. Gunderson, not voting.
Mr. Armey, not voting.
Mr. Fawell, "nay" by proxy.
Mr. Ballenger, "nay."
Ms. Molinari, "yea" by proxy.
Mr. Barrett, "nay" by proxy.
Mr. Boehner, "nay" by proxy.
Mr. Cunningham, "yea."
Mr. Hoekstra, "nay" by proxy.
Mr. McKeon, "yea" by proxy.
Mr. Miller of Florida, "nay" by proxy.
Mr. Castle, "nay."

5. An amendment by Rep. Roukema to provide that a package of benefits and services equivalent to those available under the Federal Employees Health Benefit Plan (FEHBP) would be considered as meeting the requirements of the "comprehensive benefit package" under H.R. 3600. The amendment was defeated 15–27.

DEMOCRATS

Mr. Ford, "nay."
Mr. Clay, "nay" by proxy.
Mr. Miller of California, "nay" by proxy.
Mr. Murphy, "nay."
Mr. Kildee, "nay" by proxy.
Mr. Williams, "nay" by proxy.
Mr. Martinez, "nay" by proxy.
Mr. Owens, "nay."
Mr. Sawyer, "nay."
Mr. Payne, "nay" by proxy.
Ms. Unsoeld, "nay" by proxy.
Ms. Mink, "nay."
Mr. Andrews, "nay."
Mr. Reed, "nay."
Mr. Roemer, "nay."
Mr. Engel, "nay" by proxy.
Mr. Becerra, "nay" by proxy.
Mr. Scott, "nay."

SUBSTANTIVE PRINCIPLES BEHIND HEALTH CARE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. GEPHARDT] is recognized for 5 minutes.

Mr. GEPHARDT. Mr. Speaker, I rise this evening to talk about health care reform.

And I rise to talk not about the politics of health care reform—not about the partisan horse race that dominates so much of this debate—but to talk about the real, substantive principles behind health care reform.

Ever since this debate began last fall, President Clinton and the Democrats in this Congress have been fighting for a health care plan that guarantees affordable coverage for every single American.

That is our bottom line. The President has pledged to use his veto pen to make sure we do not stray from that fundamental principle.

In the past week, we have been under increasing pressure to lower that bottom line.

The lobbyists and the apologists want to overhaul our health care system, without guaranteeing coverage for everybody.

The press and the pundits say we are losing the debate about guaranteed coverage. And as a result, we are losing the votes to make it happen.

But I say: We are not losing the debate, because we have never had a real debate. For all the slogans and soundbites, we have never engaged in a serious discussion about why guaranteed coverage is critical to health care reform.

That is why I am here tonight. The simple fact is, guaranteed coverage is not just another element of the plan. It is the very core of the plan. Without it, there can be no meaningful health care reform. And without it, our health care system will bring us to the brink of bankruptcy.

Let us look at the facts.

Health care costs are soaring past the rate of inflation. Since 1978, when I started speaking out about health care, the average cost of a family policy has skyrocketed—from $800 a year to more than $5,000 a year.

Think about what that means to a family that's already struggling to get ahead—to pay off a mortgage, and put their children through college. It means that, at the rate we are going, they will just have to give up health care. They will have no other choice.

The same is true for American businesses. The cost of health care for a single employee doubled between the mid-80's and the early 1990's.

In 1990, because of these rising costs, General Motors spent more on employee health care than it spent on steel.

So the question is not whether we should change our health care system, the greatest and most envied network of care in the world—the question is whether we have the courage to save it, and keep health care from drifting beyond the reach of hardworking, middle-class Americans.

The only way to do that is by making sure that every single American has health insurance. There is simply no other way to make health care affordable for everybody—those who have insurance already, and those who have never had it.

You see, when an uninsured American shows up at the emergency room, we do not turn them away—even if they cannot pay. That is what a compassionate society must do.

But then who pays for the uninsured? Those of us who have insurance.

The head of one major insurance company told me that uncompensated care accounted for almost half of last year's cost increases.

The real losers under this cost-shifting scheme are the hard-working families and employers who take the responsibility to pay their own way.

Did you know that a full third of employers' health care costs subsidize companies that do not bother to offer insurance?

That is not health care—it is stealth care.

It is a hidden tax that drives the cost of health insurance through the roof. Guaranteed coverage is the only way to stop it.

And it will stop it in two ways. First of all, if we make sure that everyone has insurance, then everyone will have access to decent, ongoing, primary health care.

It will save the lives of many who are now uninsured—and it will save the rest of us billions of dollars in the process.

Second, by bringing everybody into the system, we'll make sure that those costs are spread fairly and evenly—no more free subsidies, no more hidden taxes.

This would be a boon for businesses that provide health care today.

After all, if you are in business, you are in business to compete. And free competition means you should not have to subsidize your competitors. Guaranteed coverage will level the playing field, once and for all.

Some argue that health care reform will destroy jobs, by making it hard to start or run a profitable business.

That is just plain wrong. By lowering the cost of health care for businesses that already provide it, we will free up tens of billions of dollars in private capital. The Congressional Budget Office has estimated that businesses would save $90 billion in the first year of the Clinton plan—with even greater savings in the years to follow.

That is $90 billion that can be used to hire new employees, or increase wages, or invest in new research or equipment.

Two highly respected private studies have estimated job creation in the hundreds of thousands. The Economic Policy Institute says that more than 250,000 manufacturing jobs will be created. The Employee Benefit Research Institute says 660,000 jobs will be created.

And those figures are in addition to the health care jobs that would be created. The Brookings Institution estimates that 750,000 home health care jobs alone would be created—750,000.

Small businesses, which now pay as much as 35 percent more than large businesses for health care, will get dramatic discounts. That may be why the Wall Street Journal called health care reform an "unexpected windfall" for small businesses.

And what about those businesses that do not pay for health care today? Will they have to pay more?

They will. To make the system fair, everybody has to pitch in. But when you look at the costs of covering workers in a typical small business, it is less than a modest minimum wage increase.

Recent minimum wage increases have not destroyed jobs. Many economists believe they have led to higher employment. And the benefits of guaranteed coverage, the benefits of a system that is both fairer and cheaper than the one we have today, are well worth those extra pennies.

This year, we have a real opportunity to change—a real opportunity to move this Nation forward, together.

This Congress can undertake the most comprehensive reform of our health care system in the history of this Nation.

I know that health care reform concerns many Americans. Change always brings a degree of uncertainty. We can never know if every number and target will be correct, if every assumption will work out the way we want it to.

But then, 30 years ago, many wondered whether Medicare would succeed. Today, it has given millions of older Americans the gift of life, and hope, and faith in the future.

Sixty years ago, people wondered whether Social Security was a good idea. Today, it is hard to imagine what America would be like without the reason and compassion of our Nation's retirement program.

And let me tell you, a lot of us are grateful that, despite all of the partisan battle cries, both of those landmarks bills passed with broad bipartisan support.

So let us join together in a partnership for real reform—as a matter of public policy, and as a matter of human decency.

Let us make sure that no American's health is determined by their wealth.

And let us make American health care work—for the dignity and security that all Americans demand and deserve.

□ 1850

FIFTIETH ANNIVERSARY OF THE GI BILL

The SPEAKER pro tempore (Mr. ABERCROMBIE). Under a previous order of the House, the gentleman from Texas [Mr. LAUGHLIN] is recognized for 5 minutes.

Mr. LAUGHLIN. Mr. Speaker, I rise to congratulate all American veterans on the 50th anniversary of the Servicemen's Readjustment Act of 1944, popularly known as the GI bill.

This important, social legislation has helped millions of American veterans, who made great sacrifices by serving in this Nation's military forces, to achieve the American Dream.

Over the past 50 years, 20 million veterans have become better educated and more than 14 million homes have been purchased.

This has been possible because the American Legion had the courage to insist on this legislation and President Franklin D. Roosevelt had the wisdom to sign it into law 50 years ago today.

I urge this body to continue its support of this legislation. We owe it to the veterans of this Nation.

They have made the sacrifices necessary for each of us to enjoy the freedoms our Constitution and Bill of Rights guarantee.

It is the least we can do for the tremendous sacrifices our veterans have made.

Mr. Speaker, I yield to the gentleman from Mississippi [Mr. MONTGOMERY], distinguished chairman of the Committee on Veterans' Affairs.

Mr. MONTGOMERY. Mr. Speaker, I want to commend the gentleman for bringing up about the GI bill of rights, which is celebrated today, of 50 years and to commend him for it and thank the veterans' organizations, such as the American Legion, which back in 1944 had a lot to do with getting this legislation passed.

It has been said by historians that this is probably the most important piece of legislation that has been passed in this century. It has helped young, middle-class Americans get an education. It has helped middle-class Americans get a home. I was one of those that used the GI bill home loan. In fact, I still live in that home back in Mississippi. So it has helped a number of people, and it is just great for our country.

It moved us from being an isolated nation into a progressive nation with better education, and we became a leadership country.

There was a very nice ceremony today down at the Veterans' Department. The President of the United States spoke as well as his Secretary of the Veterans' Department, Jessie Brown. I am glad that they are bringing to the attention of Americans this great event. World War II was terrible. Congressman DORNAN on the floor here and also Congressman STEARNS, we saw all of those white crosses over there of young men, 18 and 19 years of age, who had lost their lives for this country. But something good did come out of this war in that we got the GI bill of rights, and I appreciate very much the gentleman giving me this opportunity.

Mr. LAUGHLIN. Mr. Speaker, I know the gentleman from California [Mr. DORNAN] speaks in support and in strong support of the veterans and this legislation.

I yield to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Speaker, I just wanted to indicate and thank all the gentlemen on the floor this evening that in celebration of the 50th anniversary of World War II, the coins that were minted in our country by the U.S. Mint in order to create a World War II memorial here in Washington will only be on sale through the U.S. Mint through June 30 of this month. And there is a dollar coin, a clad half-dollar coin and a gold coin, ranging in price from $10 all the way to the golden coin, which costs $220. If veterans are listening and they want to call the Mint, which is an 800 toll-free number or call our office, we would tell them how to order these coins. If they buy them, the proceeds go to the construction of the World War II memorial here in our Nation's Capital to honor the causes for which you have spoken.

DEADLY ATTACKS IN NORTHERN IRELAND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. FOLEY] is recognized for 5 minutes.

Mr. FOLEY. Mr. Speaker, I rise in genuine sorrow and anger to report a series of deadly attacks in Northern Ireland. Last Thursday, Protestant paramilitaries of the Ulster Freedom Fighters killed a Catholic shopkeeper in Belfast. That same day, the Irish National Liberation Army, which seeks to oust the British from Northern Ireland by force, murdered two Protestant workers and wounded two others in a drive-by shooting in Belfast. Then, on Friday, two more people were killed in retaliation—one Catholic, one Protestant—although it seems likely that the Protestant was mistaken for a Catholic coworker by his killers, who wanted to even Thursday's score.

Finally, on Saturday, the Ulster Volunteer Force, a Protestant paramilitary group that wants to secure British rule, attacked and killed 6 Catholics, wounding 10. All were patrons of a pub and were cheering on the Irish national soccer team as it took on Italy in Giants Stadium in East Rutherford, NJ.

That there should be this tit-for-tat cycle of killings is not new. That there should be a rising number—and now a majority—of killings of Catholics by Protestant paramilitary groups is a disturbing phenomenon of the last year. That these attacks should occur, and with such bloody results, as all of Ireland and Britain await a statement by the Irish Republican Army concerning the British and Irish Governments' peace declaration cannot encourage optimism that the climate for peaceful dialog will exist if the IRA ever delivers such a response.

Both governments have condemned these killings—calling them slaughter and savagery. So too do the vast majority of people in the North, regardless of confessional status, because they want more than anything else to see an end of such barbarism. The paramilitary groups, as is their custom, condemn killings by the other side, but not by their own. However horrific, this pattern of paramilitary violence seems too familiar, too predictable.

Mr. Speaker, there is a way out of this death spiral that is choking the chance for peace. The IRA, the INLA, the UVF and all their violent progeny must end the killing that never seems to diminish the resolve of those they seek to terrorize. They must return the fate of the North to its people, and to the choices they freely make at the ballot box. Both governments have issued—and clarified at length—guarantees that the people of the two parts of the island of Ireland alone will determine their relationships.

Yet none of the efforts that have gone into the peace process, or which could be poured into it if given a chance, will have the slightest effect unless the men of violence acknowledge that the path they embrace has produced, not the victory they promise, but only the fervid and fatal aping of equally committed paramilitary groups of the opposite persuasion. Killings by one side begets only more killing by the other.

When the IRA or UVF kills an invariably innocent bystander, their political cause is not advanced one iota. The carnage they cause only serves to harden the hearts of those they seek to coerce.

Sir Patrick Mayhew, the British Secretary of State for Northern Ireland, visited the pub where the six were killed on Saturday. The horror of the crime was such that he suggested that the only explanation for their deaths one of the killers might give to his children would go something like this: "I killed a man of 87. He was sitting with his back to me. He was watching the World Cup. I shot him dead."

Mr. Speaker, Solzhenitsyn, in describing Stalin's Gulag, said, "Violence does not and cannot exist by itself; it is invariably intertwined with the lie." The big lie in Northern Ireland is that the brutality of the paramilitaries ever has or ever could bring peace to Northern Ireland. It can reap only what it sows. Reconciliation alone can bring peace to the North. Yet reconciliation is possible only when it is finally safe to watch a soccer match in your neighborhood pub with your back to the door.

□ 1900

SURGEON GENERAL ELDERS SHOULD RESIGN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. STEARNS] is recognized for 5 minutes.

Mr. STEARNS. There is a great deal of debate throughout America today on the need to shape a new set of shared values for this Nation. Like most Americans, I find this to be a welcome sign that, after three decades of moral relativism, we as a Nation are turning back to the idea that we need these core values.

That brings me to my main topic tonight. Along with over 70 of my House colleagues, tomorrow, I will be sending President Clinton a letter requesting the resignation of Surgeon General Joycelyn Elders. At the very time when voices from across the political spectrum are calling for greater personal responsibility, the Surgeon General has staked out an extremist position opposed to these ideals and often villified the majority of Americans who disagree with her.

I do not make this call for her resignation lightly, nor make it based on any one remark by Dr. Elders, but rather on a continuing series of statements she has made since her appointment. These comments, on issues ranging from drug legalization to health care for older Americans, demonstrate a strange hostility to mainstream American values.

Dr. Elder's general philosophy is that the Government's role is to force those who act responsibly to subsidize the lifestyles of those who do not. She attacks those who believe we must instill values in our children, recommending instead a government-mandated philosophy of relativism.

Just today, Dr. Elders launched her most vicious attack yet on those who support traditional values at the National Gay and Lesbian Health Conference in New York, villifying "the Un-Christian religious right," stating "we've got to be strong to take on those people who are selling out our children in the name of religion."

In my time in politics, I have disagreed with Members on both sides of the aisle on a wide variety of issues. But, as one who is proud to call myself a Christian and a conservative, I would never call someone who opposed me on a matter of principle Un-Christian.

That simply has no place in our public dialog, and there is no way that the Surgeon General can claim to represent all Americans when she is making these types of blanket condemnations of a large segment of American society.

That is the type of vituperative, divisive rhetoric that represents her only noteworthy accomplishment as Surgeon General. Rather than use this valuable bully pulpit to advance matters of general health concern, she has targeted the resources of her office to promoting her extremist agenda.

Allow me to take a moment to catalog some of Dr. Elders' statements—

Dr. Elders stated at a May Senate hearing that cancer and heart disease research should receive a lower priority than AIDS, because, and I quote, "most of the people that die with heart disease and cancer are our elderly population, you know, and we all will probably die with something sooner or later."

In December, in Newsweek magazine, she responded to a question of whether it was wrong to deliberately have a child out of wedlock by saying, "No. Everyone has different moral standards." This brought a response by the generally liberal columnist Joe Klein that "It is difficult to imagine a more succinct statement of moral relativism."

She has condemned those who oppose government funding of abortion on demand saying that the 70 percent of Americans who share this view are trying to force slave-like conditions on poor women. She has also instructed those who morally oppose abortion to get over their love affair with the fetus.

This is not only offensive to those who oppose abortion, but also to millions of other Americans who support abortion rights, but agree that there are profound moral questions involved in this debate and seek to minimize abortion.

The Surgeon General also has suggested that one of the benefits of legalized abortion is that it has reduced the number of Down's syndrome children.

She is on record as supporting abortion in the case of possible genetic predisposition to being homosexual. That, she said, would be the parents' choice. I imagine sex selection abortions would be acceptable to her too, under this theory.

She has stated that our public schools should provide condoms on request, and without parental notification, to our children, even elementary schoolers. "We must teach them responsibility and make sure they have the availability of a condom." She also made known her beliefs on casual sex stating. "I tell every girl when she goes out on a date—put a condom in her purse."

Dr. Elders has repeatedly made attacks against the Catholic Church, including referring to it derisively as a male-dominated, celibate church opposed to women.

As Americans, we can all rest more comfortably knowing that President Clinton disassociated himself from these and other statements directed against Catholics, but Dr. Elders refused to.

And, in her most famous statement, she stated that legalizing narcotics would improve public health and welfare in this country. Again, President Clinton quickly disavowed these statements.

This abuse of the office of the Surgeon General must stop. The office should be used to fight sickness and disease, not parents and churches.

In her remarks today, Joycelyn Elders concluded by saying that she knew President Clinton and had taught him well. By allowing Dr. Elders to remain a Surgeon General, the President is giving credence to those claims and tying himself to an agenda of extremism and hostility toward mainstream America.

He should take Dr. Elders remarks today, along with her many previous statements, as evidence that she will never be the type of Surgeon General who can unite all Americans behind the cause of public health. And, while the Surgeon General certainly has the right to engage in substantive debate on matters related to public health, Dr. Elders has shown herself unable to do so within normal and reasonable bounds of political discourse.

The Office of the Surgeon General is a small one with largely symbolic functions. But I believe it is also an important one, and past holders of the office have shown us the positive effects that can come through proper use of the position.

I am certain that there are any number of outstanding health professionals in this country who could serve the Nation well as Surgeon General without dividing Americans—especially on the basis of religion. The President should choose a new Surgeon General who will use the powers of that office to bring Americans together, not drive us apart.

I'd like to ask all of my colleagues, both Democrats and Republicans, to please join me in asking President Clinton to request the resignation of Surgeon General Joycelyn Elders.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 4603, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1994, AND SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1994

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–556) on the resolution (H. Res. 461) waiving certain points of order against the bill (H.R. 4603) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes, which was referred to the House Calendar and ordered to be printed.

CALLING FOR THE RESIGNATION OF JOYCELYN ELDERS AS SURGEON GENERAL OF THE UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minute.

Mr. DORNAN. Mr. Speaker, I had planned to come to the floor tonight to discuss D-day, the major turning point in 1944 in the Pacific, the battle for the islands of Saipan and Tinian. Both of them turned into major air base islands for the 20th Air Force and Gen. Curtis Lemay and the eventual destruction of the warlords' machine of conquest coming from Imperial Japan.

As a matter of fact, it was the final collapse of Tinian that caused the resignation in disgrace of Hideki Tojo, warlord Tojo. Most people know Hitler was driven to suicide by General Eisenhower in the great crusade of our efforts across Europe and into Germany, but Tojo went into disgraced isolation after the battle that took place from June 15, just nine days after D-day on the beaches of Normandy had started.

Only July 9 we had completely taken the island of Saipan, with civilians so terrified by propaganda of our Marines and National Guard, Army soldiers, that they jumped to their death off what became known as the Banzai Cliffs. And then on the island of Tinian, we invaded on July 24, finished that operation on August 1, where again, on what is called Suicide Cliffs, terrified civilians with their babies in their arms jumped to their death, and those few that had faced surrender found out that Americans were truly the most unusual conquerors in all of history, that we were bringing them freedom, not oppression.

Mr. Speaker, I include for the CONGRESSIONAL RECORD a very excellent Washington Post article from the invasion day itself, June 15, and I will discuss it next week:

SAIPAN: LITTLE FANFARE FOR THE OTHER D-DAY

(By William Branigin)

MARPI POINT, NORTHERN MARIANAS.—As the Japanese woman scrambled along the edge of what came to be known as Banzai Cliff here on the island of Saipan, she turned to glance at American Marines calling to her.

Film shot by a combat cameraman that day in July 1944 caught a look of terror on her face just before she jumped to her death.

Pfc. Guy Gabaldon, a highly decorated Marine who learned to speak Japanese while growing up in East Los Angeles, remembers pleading with her not to throw her baby to the jagged rocks below before she jumped. But like thousands of other Japanese civilians and soldiers who leaped from cliffs, blew themselves up with grenades or made suicidal charges on Saipan and neighboring Tinian, the woman chose death rather than capture by the Americans.

This and other terrible scenes followed the U.S. landing on Saipan on June 15, 1944. For two Marine divisions commanded by Lt. Gen. Holland M. "Howling' Mad" Smith—the spearhead of an invasion force that eventually totaled 71,000 men—it was D-Day in the Pacific war against imperial Japan.

Like the more famous landing on the beaches of Normandy 50 years ago, the invasion of Saipan, code-named Operation Forager, marked a critical point in World War II and was the scene of some of the war's bloodiest combat. It caused the resignation of Japan's military commander and prime minister, Gen. Hideki Tojo, allowed land-based U.S. bombers to devastate the Japanese homeland and helped cripple the country's shipping.

"Saipan has the same importance as Normandy," said Samuel McPhetres, a historian here. "It gave the Americans a foothold within bombing range of Tokyo and led to the eventual end of the war a year later." It also marked the first time that American forces encountered large numbers of Japanese civilians.

But unlike this month's commemoration of the Allied invasion of Normandy, ceremonies marking the 50th anniversary of the Pacific D-Day are going ahead with little fanfare. The highest-ranking U.S. official scheduled to attend the dedication today of the $3 million American Memorial Park are the Air Force and Navy commanders on nearby Guam. About 150 U.S. veterans, and 52 Japanese, including 11 veterans, are to attend commemorations at the park.

For many of Saipan's native Chamorro and Carolinian inhabitants, the low-key nature of the anniversary celebration may be just as well. Although the island is U.S. territory and has received more than $250 million from Washington since 1986, its economy depends heavily on Japanese tourism and investment.

The Northern Mariana Islands, the largest of which are Saipan, Tinian and Rota, were sold by Spain to Germany in 1898 and taken over by Japan in 1914. Japanese settlers established sugar plantations and brought in laborers from Okinawa and Korea.

Today, the islands are the only enemy territory occupied by U.S. forces during World

War II that later became part of the United States. Under a commonwealth arrangement, the islanders became U.S. citizens in 1986.

Yet more than 85 percent of the tourists who visit Saipan are Japanese, and Japan accounts for an estimated 95 percent of outside investment. Japanese investors own almost all the major hotels, and the Japanese war memorials that dot the island far outnumber the American ones.

"I hate to remind the Japanese that they lost the war 50 years ago," said Froilan Tenorio, the islands' governor. "They could be very sensitive. . . . I want to build this thing, I just don't want to publicize it."

Some Saipanese are cool to the idea of glorifying the victors of a battle of outsiders that caused so much death and destruction. An estimated 700 islanders—nearly a fifth of the native population at the time—died during the invasion and its aftermath. U.S. shelling leveled the main town of Garapan; its inhabitants had to take refuge in caves.

"The natives who died here were innocent victims," said Ramon Villagomez, 45, a justice on the commonwealth's Supreme Court, "You don't ask them to thank those people who brought the war here."

During the war, Villagomez said, an uncle of his was killed by a bullet, an older sister starved to death, and a 2-year-old brother was nearly given away to another family.

"We were caught in the middle of a war we were ignorant about," said Abel Olopai, a government official who was 10 years old when the Marines landed. He and his parents took refuge in a cave for more than a week with 30 other families, he said. When they emerged, they wore loincloths and held up crosses so they would not be mistaken for Japanese.

"We were anxious to get out of that terrible misery in the caves," he said. "We were so glad when the Marines came by and got us out.

Saipan-born Takeo Toma, one of thousands of Japanese who visit shrines and memorials on Saipan every year, was less happy to see the Marines. Then a 17-year-old civilian employee of Japan's South Seas Development Co., he was captured and, with co-workers, put in a prison camp.

"I still believed some relief army would come to help us," Toma recalled at a June 5 ceremony to honor colleagues who perished. "All the Japanese believed the Americans were devils at that time.

The battle actually began June 11, four days before the invasion, when a U.S. naval task force of more than 500 ships and 900 carrier-based planes started pounding Saipan.

Vice Adm. Chuichi Nagumo, the Japanese naval commander on Saipan who had commanded the Japanese fleet in the attack on Pearl Harbor, wired a desperate message to Tokyo: "Hell is upon us." He and the army commander on Saipan, Maj. Gen. Yoshitugu Saito, were left to defend the island with 31,600 soldiers and sailors.

On D-Day, the 2nd and 4th Marine Divisions, after a ritual prelanding breakfast of steak and eggs, began hitting Saipan's southwestern beaches under heavy Japanese artillery and machine-gun fire. About 8,000 Marines landed within the first 20 minutes. By day's end, the Americans had secured a beachhead 10,000 yards long and more than 1,000 yards deep, at a cost of more than 2,000 casualties.

Japan dispatched a powerful naval strike force to Saipan, but it was intercepted by units of the 800-ship 5th Fleet. In a two-day battle that became known as "the Marianas turkey shoot," American pilots shot down more than 400 Japanese planes. Two 30,000-ton Japanese carriers were sunk, and the fate of Saipan was sealed.

In his orders for a final suicidal counterattack on July 7, Saito commanded his men to kill seven Americans each. At the spot now known as the Last Command Post, Saito knelt facing toward home, shouted "Long live the emperor" and plunged his sword into his body as an aide shot him in the head. Nagumo also took his own life.

What followed shocked even the most battle-hardened Marines. Entire families of Japanese, terrified by their leaders' warnings that the Americans would torture and skin them alive, rape the women and roast the babies, committed suicide en masse.

They huddled around grenades and blew themselves up or jumped to their deaths at Marpi Point from the sites now known as Banzai Cliff, which overlooks the rocky coastline, and Suicide Cliff, an 800-foot-high outcropping inland. Some families lined up in order of age, the youngest first, and each child was pushed over the edge by the next older until the oldest was pushed by the mother and the mother by the father. Then the father ran over the cliff—backward, so as not to see his last step.

For Guy Gabaldon, then an 18-year-old Marine private, the cliff suicides were the worst memories of a brutal campaign. As a poor Hispanic child in East Los Angeles, he had been taken in for a time by a Japanese family. On Saipan, he put his language skill to use as a Marine scout to try to talk Japanese into surrendering.

Often he could only watch as the Japanese plunged to their deaths. "I tried to convince them not to jump off," Gabaldon, now 68, said in an interview here. "I would shout, 'Aunt, please don't do it. Don't kill your baby.' But the women would toss their babies off the cliff anyway and jump after them."

Saipan was declared secured on July 9, 1994. A small band of troops under Capt. Sakae Oba continued to hold out, surrendering in December 1945, four months after Japan capitulated.

The Americans paid a high price for victory in the 24-day campaign: 3,255 dead, 13,061 wounded and 326 listed as missing. But the Japanese paid much more dearly. According to figures compiled by the Marianas Visitors Bureau, of the 31,629 Japanese military personnel on the island, about 29,500 died.

Gabaldon, who was wounded while searching for Oba, received the Navy Cross—the Navy's second-highest award for heroism—for capturing more than 1,000 Japanese, some of them single-handedly while on one-man patrols in enemy territory. He talked 800 soldiers and civilians on Banzai Cliff into surrendering, and he also claims to have killed 33 Japanese soldiers in battle on Saipan and Tinian.

In 1957, the former Marine was featured on the TV program "This Is Your Life." A movie about his exploits, "From Hell to Eternity," was made.

The invasion of Saipan was followed by the capture of neighboring Tinian and the liberation of Guam, an island in the Marianas chain held by the United States since 1898 but seized by Japan at the time of the attack on Pearl Harbor in December 1941.

With Saipan, Tinian and Guam under its control, the United States began its buildup for a planned invasion of Japan. From bases in the Marianas, the new long-range B-29 Superfortress bomber attacked Tokyo and other targets.

"Our war was lost with the loss of Saipan," Japanese Vice Adm. Shigeyoshi Miwa said, according to a history by Don A. Farrell. From then on, Miwa said, U.S. forces "could cut off our shipping and attack our homeland."

Mr. DORNAN. Mr. Speaker, the reason I am cutting this short, and my apologies to all the World War II veterans from all of the Pacific theaters, those that were fighting 50 years ago in Burma, fighting with former President Bush, George Bush, off the aircraft carriers in the Marianas Islands campaign, those mopping up very bloody operations of combat on Biak Island and on the mainland of New Guinea.

And, of course, the Germans dug in their heels at Cherbourg 50 years ago, and we had two young Army men win the Medal of Honor. Instead of surrendering when they were surrounded, they followed Hitler's orders to fight to the death.

There was tremendous heroic conflict all over, but I have to discuss the conflict going on in our political system today, the demonizing of humble Christian people like my own five grown children in their thirties, who all believe they are part of what is now loosely called, sometimes viciously called, the religious right.

I want to pick up where my friend, the gentleman from Florida, CLIFF STEARNS, left off. I called for Joycelyn Elders' resignation from this microphone back in February, along with about five or six other people in the Clinton administration. Two of them heeded my plea. They were going anyway, with or without my protestations, Webster Hubbell and Bernard Nussbaum.

However, this Joycelyn Elders case is absolutely phenomenal. When I got back from D-day with our distinguished chairman, the gentleman from Mississippi, SONNY MONTGOMERY, my sons told me, "Dad, do you know what happened between the press and Admiral Joycelyn Elders while the President was gone? She got in the press' face and said that Clinton came up to her shortly before he left for Europe and said, 'I am following everything you are doing. I am proud of you. I support you. Keep it up.'"

If that is the case, and I have a suspicion she is telling the truth—as a matter of fact, it seems she tells the truth on anything and everything, no matter what it is, lets out her feelings to the detriment of the White House, where is the press, the hard-bitten, driving-for-a-hot-story press, asking Clinton if he does support everything she says and does?

☐ 1910

To pick up on what the gentleman from Florida [Mr. STEARNS] was mentioning, at that meeting up in New York today, at the Lesbian and Gay Health Conference—health—not—she praised all of these groups for their work. I repeat, she again labeled the un-Christian religious right.

She now seems to attack across the board, throws in Orthodox Judaism. Her particular point of bigotry that only 30-some Senators brought out in the Senate confirmation hearings, and I say it again on this floor, Joycelyn Elders is an anti-Catholic bigot which I have pointed to time after time with priests and bishops in Arkansas asking the President to bring this out before he appointed her. The President had to make excuses for her. She pretty much, to her credit, refused to apologize. There was a kind of a weak, circular type of phony dialog that went on. It backed off enough Senators that she got her confirmation, and of course she had Ted Kennedy, the Senator from Massachusetts, at her side.

She went on to say this morning, June 22, "We've got to be strong to take on those people who are selling our children out in the name of religion.

"Nobody has to teach us how to have sex. God taught us how to have sex."

Did he really teach that to the 8-year-olds and the 9-year-olds?

Then she said, "I've known your President a long time. I taught him well."

Mr. Speaker, I include for the Record an article on Vic Fazio and the definition of McCarthyism, and how Fazio is maybe flirting with heading in that direction. This article on Mr. Fazio was in today's paper. Also my press release and an article from Richard Benedetto, "Doubts Dog President's Every Move," on how Joycelyn Elders certainly is not serving the man who put her in that position.

The articles referred to follow:

[From Reuters, June 22, 1994]

ELDERS ATTACKS RELIGIOUS RIGHT, PRAISES GAY GROUPS

New York.—Surgeon General Joycelyn Elders, no stranger to controversy, took on the religious right Wednesday, saying it was selling out American youth in the name of religion.

In the keynote address to the Lesbian and Gay Health Conference, Elders praised gay and lesbian groups for their work on AIDS awareness and said they must add their voices to press for a comprehensive health care package.

She was warmly received, with her speech frequently interrupted by applause and at least two standing ovations.

She attacked what she called the "un-Christian religious right" for its opposition to education programs in such areas as sex and AIDS.

"We've got to be strong to take on those people who are selling our children out in the name of religion," she said to wild applause from the audience of several hundred.

"We've got to be as aggressive as they've been," she said.

She said that health education does not mean teaching young people how to have sex.

"Nobody has to teach us how to have sex. God taught us how to have sex. We've got to teach them responsibility."

She called on the participants to press for a full health care package that would ensure coverage for all.

"I'm going to ask you to help bring the energy of your movement to the health care debate," she said.

While there can be discussions about how to finance the system, universal coverage must be part of the program, Elders said, adding that President Clinton was fully committed to this principle.

"I've known your president a long time. I taught him well," she said.

Elders has been involved in a number of controversies since becoming surgeon general including the question of condoms for high school students to prevent the spread of AIDs and studying the legalization of some illegal drugs.

FAZIO SAYS RELIGIOUS RIGHT IS PUSHING GOP TO EXTREMES

(By Dan Balz)

The chairman of the Democratic Congressional Campaign Committee criticized the religious right yesterday as a "radical," "intolerant" fringe force that threatens to take control of the Republican Party, words that triggered angry complaints of "religious bigotry" from Republican officials and others.

Rep. Vic Fazio (D-Calif.) charged that Republicans are being pushed to the political extremes by the growing power of the religious right and predicted that Democrats will reap the benefits in elections this fall and in 1996.

"The Republicans accept the religious right and their tactics at their own peril, for these activists are demanding their rightful seat at the table, and that is what the American people fear most," Fazio said.

Democrats are worried about major losses in the fall elections, and Fazio's speech indicated that he and other Democrats hope to shift the focus away from public dissatisfaction with incumbents in Congress by raising questions instead about what kind of candidates the Republicans will be offering.

Although Fazio lumped a number of groups into what he called "the radical right," his principal target was the role of religious conservatives in the Republican Party.

Yesterday's flurry of charges and countercharges marked the angriest exchange of words between the parties since religious and social conservatives scored victories in Republican Party contests in Virginia, Texas and Minnesota over the past month.

Republican National Committee Chairman Haley Barbour immediately accused Fazio of "Christian bashing" and said Fazio's speech at the National Press Club was part of "an orchestrated strategy" by the Democratic Party that amounted to "religious bigotry."

Ralph Reed, executive director of the Christian Coalition, staged a counter-news conference minutes after Fazio's well-publicized speech to denounce the Democratic leader for trying "to divide the American people based on religion."

Saying that 30 years ago Alabama's George C. Wallace used the race card to divide voters in the South, Reed said, "Today Vic Fazio and the Democrats are playing the religious card."

But Fazio and other Democratic leaders dismissed Republican complaints and denied that Fazio's speech was part of an overall strategy for the fall campaigns.

"It's completely false," Fazio said of the charge of bigotry. "Our goal here is to not impugn anyone's right to practice their religion or express their views. We're talking about the Pat Robertson, Jerry Falwell wing, which is becoming the dominant wing of the party, and they know it—and they know how devastating it is to their party."

"I think it's a real straw man to make claims of religious bigotry," said Democratic National Committee Chairman David Wilhelm. "Haley needs to stop crying foul whenever there's criticism of the religious right because the issue is not religion, it's legitimate disagreement among people of equal faith whose faith leads them to opposite conclusions on issues of policy.

The strength of the Christian conservatives has triggered debate within the GOP itself. Fazio, sensing an opportunity for the Democrats, stepped into this debate yesterday, saying Republican leaders have surrendered to the radical right because Republicans have no issues to run on this year and know they cannot win elections without the help of religious conservatives.

But he added, "The issues and values espoused by these candidates [who enjoy support of religious conservatives] are out of touch with the more moderate swing voters in many suburban districts. Republicans will face a backlash that will favor the Democratic candidate."

Fazio said he fears that the "radical right" wants "to forget there's a separation between church and state" and he is concerned about banning of books and magazines or discrimination on the basis of sexual preference.

"I don't think there's any reason why people who have religious faith***shouldn't be part and parcel of the political process," he said. "But should they come together as a force to change the direction of their party? Should they be intolerant of others in the party who may not agree with them? Should they attempt to impose their personal religious views and ethical beliefs on the party system?"

Asked how the role of religious conservatives in the Republican Party is different from the role of organized labor in the Democratic Party, Fazio replied:

"Well, I think the organized labor movement in the Democratic Party comes at most issues on the basis of personal beliefs." He added that he does not think labor has been as powerful within the Democratic Party as the religious right is in the GPO.

The Christian Coalition's Reed rejected Fazio's charge of intolerance, saying his organization has worked to elect Republicans in Texas, Georgia and elsewhere who favor abortion rights.

"I don't believe the Republican Party is or should be a wholly owned subsidiary of any special interest, including ours," he said.

[From the USA Today, June 9, 1994]

DOUBTS DOG PRESIDENT'S EVERY MOVE, EVERY POLL

(By Richard Benedetto)

Jobs are up, inflation's low. And, despite foreign fumbles, the USA is at peace.

By every traditional measure, President Clinton should be riding high in the polls, yet recent surveys find growing disquiet with his presidency.

A USA TODAY/CNN/Gallup Poll this week finds the electorate less interested in his accomplishments and more concerned about who Clinton, might be.

Those doubts have helped keep Clinton's approval ratings low at a time he needs to be building beyond the 43% who elected him in 1992.

The degree to which Clinton is able to ease questions about his character will count as much as legislative achievement as he moves closer to 1996. And it could mean the difference between victory and defeat.

"Bill Clinton seems to have given people cause for specific cynicism," say Rutgers University political scientist Ross Baker. "And no president, given the sort of dispirit abroad in the country, will do well. Bill Clinton just does worse. He has to get his act together" for 1996.

Poll analysis finds many have reservations about his moral leadership, and genuine splits over whether he shares their values and is honest and trustworthy enough for the job.

More specifically: 35%, likely fueled by the continuing charges about financial dealings and extramarital affairs, say Clinton has tended to lower the stature of the presidency.

A third of the nation "strongly disapproves" of Clinton's presidency.

Only one in 10 say they'd "definitely" vote for him in 1996; 32% definitely won't.

Support is deep as well. One out of four say they like Clinton, but those numbers have not grown over the 16 months of his presidency.

About one in five make up a narrow band of undecided, swing voters who most likely will mean the difference between re-election in 1996 or a ticket back to Little Rock.

Duke University presidential scholar James David Barber says Clinton has a communications problem, that he needs to find more ways to talk directly to the American people and seriously explain to them in simple terms what he is trying to achieve, and how much he is accomplishing.

"People see a lot of him but they don't necessarily hear a lot of him," Barber says. "He needs to do weekly, 15-minute talks like Franklin Roosevelt's fireside chats."

Barber says Clinton may not be getting credit for achievements because they're being obscured by so many "troubles" in the country that continue to keep people uneasy: rising crime, rampant poverty, economic displacement, declining education and continued dissatisfaction with government itself.

Clinton has little wiggle room as he maneuvers the political minefield toward re-election. Among the dangers Clinton faces over the next two-plus years:

The fate of his health-care reform legislation.

The results of the 1994 election.

The long-term performance of the economy.

The outcome of a sexual harassment lawsuit filed by Paula Jones, a former Arkansas state worker.

Hearings on his Whitewater land dealings.

His ability to get a handle on foreign affairs.

"If this was 1996, and it was November, I'd say I was going to vote for him again. But with two years to go, it'll depend on what happens between now and 1996," says Gary Smith, 45, a Bristol, Ind., postal worker, a Republican who voted for Clinton in 1992.

Clinton political adviser Paul Begala insists Clinton has no character problem, just nasty political opponents who keep throwing mud and keep trying to fan the flames of discontent.

"Republicans and the radical right have made a conscious effort to undermine this president in a coordinated strategy," he says.

Everett Ladd of the Roper Center for Public Opinion Research attributes the galvanizing of Clinton detractors to two tenets: They are opposed to big government, and have serious reservations about his character.

"It's a confluence of the personal and the political," he says.

White House communications director Mark Gearan generally agrees Clinton has a lot of work ahead, but discounts the character issue.

"People will be looking at whether we have maintained faith with our commitment to create jobs, keep the economy going, provide health care and reduce crime," he says.

Indeed, those who support Clinton tend to be measuring him primarily on job performance. They like his willingness to tackle health care, his efforts to shake up the status quo, his hard work, his knowledge of the issues.

"I'm a registered Republican, but I voted for Clinton because I thought the country needed something different," says Smith.

But Clinton detractors appear to be judging him on a far more personal level. They say he's indecisive, a weak leader, unable to get a grip on foreign policy, a poor example of moral authority, a person who tells people what they want to hear.

"People are kind of iffy about him because they're not sure they can trust him," says Rosio Sanchez, 20, a San Diego college student.

A CRISIS WITHOUT A CRISIS

By most standards, President Clinton is not facing a major crisis.

But he can't seem to muster more than 43% re-election support, the same percentage he got in the 1992 election. And 40% of the electorate appears to be solidly opposed to him.

And when people are asked to rate him on a 10-point scale of whether they like or dislike him, numbers suggest he's in deep trouble:

25% say they like him very much; 19% say they don't like him very much.

It's almost as if he's in a crisis without a crisis.

Indeed, Clinton's like-dislike numbers fall into a range similar to those measured for other presidents facing some of the toughest times in their tenures.

He's slightly lower than Lyndon Johnson in August 1967, when antiwar protests were building, body counts were mounting in Vietnam and the country was splitting. Seven months later Johnson decided not to seek re-election.

He's slightly higher than Richard Nixon in August 1973, when Senate Watergate hearings were causing people to pause from their vacations to watch. A year later, Nixon resigned.

He's a little better than Jimmy Carter in August 1980, when U.S. hostages were being held in Iran and a rescue attempt had failed. Three months later, Carter lost his re-election effort to Ronald Reagan.

And he's about where Ronald Reagan was in June 1982, when the nation, gripped by a recession, was in a sour mood. The economy eventually recovered and Reagan went on to win a second term.

CONGRESS SHOULD PASS HEALTH CARE REFORM THIS YEAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. FROST] is recognized for 5 minutes.

Mr. FROST. Mr. Speaker, I want to take a few minutes to share with the House my experience yesterday in a hospital waiting room. It is helpful for Members of Congress every so often to have a reality check—to see the world through the eyes of the average person. Yesterday was just such a reality check for me.

It underscored for me the need for Congress to act this year on health care.

My youngest daughter, Camille, was operated on in a Dallas hospital for an elective procedure. Fourteen years ago she was born with a cleft lip. Yesterday's surgery was the third in a series of three operations designed to minimize any lasting scar. It was elective surgery but it was very important to the emotional well-being of a very important person in my life.

I am fortunate. I have health care—the same health care provided to all Federal employees. I pay about one-third of the premium and my employer, the Federal Government, pays the other two-thirds. All three of my daughter's operations have been covered by insurance.

This same daughter had some emergency abdominal surgery less than a year ago to correct a condition which could have been life-threatening. We consulted three doctors before her condition was properly diagnosed and treated. Clearly, I appreciate the importance of being able to choose your own doctor and to have multiple consultations. If I had been forced to go through a gatekeeper without the right to find my own specialist, my daughter might not be alive today. So I understand there are limits to what we should legislate.

While I was in the waiting room yesterday, I had the chance to visit with a husband and wife from Houston who were at the hospital for surgery for their 14-year-old daughter who had been born with a severe cranial-facial deformity. She has faced numerous surgeries and probably will need more in the future. She is an otherwise intelligent child who was born physically deformed.

I asked them about their health insurance. Did they have adequate coverage? They explained that a number of years ago the husband had changed jobs and his primary concern was not salary but what type of health insurance his new employer offered. He couldn't go to work for a firm that had a preexisting condition clause in its health insurance policy because his daughter would not have been covered.

Fortunately for him, he went to work for a French company with an office in Texas that had insurance which covered preexisting conditions. Had he taken a job with an American company, the chances are his daughter would not have been covered and he would have faced the cruel choice of either foregoing necessary surgery for his child or risking financial ruin. No

American worker should face that choice. And no American should have to take a job with a foreign company in order to get adequate health insurance.

Health care is a complicated question with many facets. Clearly we need to act this year to set in motion coverage for all Americans. The details are complicated and controversial and Congress should be flexible as we approach this subject. But it would be wrong for us not to act.

If we don't do it for any other reason, do it for our children. They deserve a future with the opportunity to lead full and productive lives.

Let's put aside our partisan differences and let's start down the road now. We can do it. I know we can.

NATIONAL ADVISORY REFERENDUM ON CONGRESSIONAL REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. HOEKSTRA] is recognized for 5 minutes.

Mr. HOEKSTRA. Mr. Speaker, the American people are frustrated with politics as usual in Washington, DC. Specifically, they are frustrated with Congress.

After years of scandals, deficits, and overall poor job performance, the people voted for change in the elections of 1992—110 new Members of Congress came to Washington to make a major impact and help to turn things around.

Just 17 months later, the people are hardly satisfied with what they have gotten for their votes of 1992. In fact, there has been no progress made in reforming the way Congress makes decisions. There has been no progress in changing our spending habits. And there has been no progress on reconnecting the American people to the process of setting the agenda in Washington.

But Mr. Speaker, this can all change today.

Congressman JIM INHOFE today filed a discharge petition on House Resolution 409, the National Advisory Referendum on Congressional Reform.

The national advisory referendum on congressional reform will give American voters the opportunity to vote on the balanced budget amendment, term limits, and the line-item veto, at the general election on November 8 of this year.

This is truly a great opportunity for the American people. This would be the first time in American history that the people would be given the right to go to the voting booth and cast a vote for or against major issues that impact the future of this country.

Why are we using the discharge petition? The reason is very simple. My legislation is currently collecting dust in the House administration Subcommittee on Elections. To date there has been no activity on my legislation.

There is a very good reason why my legislation is not going to come up for a vote without using the discharge petition.

The status quo rules in Congress. the way things are done around here rules in Congress. The power of the status quo, and the unwillingness on the part of leaders to change and adjust and refine to meet the challenges of our world, has been a great disappointment to me.

For this reason, Congressman JIM INHOFE and I are working together to get 218 of our colleagues to sign a discharge petition on House Resolution 409, the national advisory referendum on the balanced budget amendment, the national advisory referendum on term limits, and the national advisory referendum on the line item veto.

Why must we do this? Congress is ignoring the cries of the American people for change, but they are failing to recognize that Government policies are hurting actual businesses and actual individuals who are getting tired of paying huge taxes and complying with excessive Federal regulations.

The static Congress views this frustration as a mood. You hear this often, Members are concerned about the mood of the voters.

A dynamic Congress would view this frustration as a real problem, with an identifyable cause and effect. Taxes are too high. I can't save for my child's college education. I can't take my family on vacation. We need two incomes, one to pay the bills and another to pay the taxes.

So how do we change this?

I would argue that the first step is to give American people the tools they need to help set the agenda in Washington. The road to change and better government cannot be an us versus them issue.

Legitimacy must be restored, both to the institution and to democratic process.

The return to the Founding Fathers' vision for our constitutional Government, we need a new constitutional mechanism that lets voters help set the national agenda.

The national advisory referendum on congressional reform will give voters the opportunity to help set the agenda.

The American people, on November 8 of this year, will go to the polls and elect their Representatives and Senators, but they will also send a message to the Congress on three major reform issues.

The national advisory referendum is a modest proposal that will go a long way toward reconnecting the American people to the process of setting the agenda for Congress, a process they have been isolated from for far too long.

New benefits from holding a national referendum include the potential to stimulate the dangerously flagging public participation in civic affairs. Elections would once again be about both issues and candidates. Voters could go to the polls confident that they are sending a signal to Congress on which issues they want addressed. Candidates would be more likely to take positions on ballot issues, and less able to go into office based merely on name recognition and slick campaign styles.

The advisory referendum process realizes the constitutional provision for the public to "petition Congress for redress of grievances." Special interest lobbyists defend their access to Congress on these same petition grounds. Sure, individuals can write, call, or meet with their Representatives. But the wealthy have the means to organize in a collective voice, and their petitions are more likely to be heard. The national advisory referendum on congressional reform gives the average voter greater clout to compete with the current powerful interests.

The national advisory referendum on congressional reform provides two useful functions that elevate public debate and reinvigorate our traditional institutions—separating issues from personalities so one focuses on issues, and facilitating communication between the electorate and the elected representative.

As with any major reform, national indirect initiatives and referenda will disrupt comfortable relationships and break up cozy alliances. It may well mean the end of business as usual in Washington, DC. But business as usual is not what this Nation needs—nor what the voters want—at this point in our history. Enacting an indirect initiative process provides an opportunity to restore the democratic nature of our republican institutions, before growing public frustration brings even greater alienation or a stampede to more radical measures of change. It is time to sign disclose petition No. 22.

□ 1920

THE PUBLIC MUST SPEAK UP ON HEALTH CARE

The SPEAKER pro tempore (Mr. ABERCROMBIE). Under a previous order of the House, the gentleman from West Virginia [Mr. WISE] is recognized for 5 minutes.

Mr. WISE. Mr. Speaker, the purpose of my taking the floor tonight is twofold. It is, first, to urge the public to speak up on health care, and to remind the Congress what it got sent here to do, and the importance of affordable health care for everyone, and the second is to urge the public to pay attention, particularly in the last few weeks, to some of the claims that have been made in attacking health care and to look at them for what they are.

In terms of my first mission, Mr. Speaker, urging the public to stand up, first of all, I believe that the vast majority of the American public does support five basic goals, and those goals very quickly, Mr. Speaker, are that there should be guaranteed private health insurance for all that cannot be taken away, that there should be control of rapidly rising health care costs that make health care and health care insurance unaffordable to many of our citizens, that there should be freedom of choice to choose your provider, that there needs to be reforms in the existing insurance systems, and, finally, that there needs to be a provision for employer responsibility, shared responsibility, particularly assistance to those businesses, essentially small businesses, that need assistance to provide insurance to their employees.

Now, having said that, I have been treated to a barrage of attacks during the past few weeks by what I call the mandate maulers. These are the folks that want to come and scare you to death with the mandates that they envision.

Now, let me tell you what their predictions are. Their predictions are that the health care plan, particularly the one advanced by President Clinton, is a job-killer, that it will cause massive hemorrhage of jobs from our economy.

Let us look at the record of these nay-sayers. The record is not impressive. In 1935, Social Security; we have been going back through the records. And looking at the statements by the grandfathers of the present generation of nay-sayers, Social Security was going to prolong the recession. It was going to be a job-killer.

Today, of course, you do not find too many of those making those assertions about health care today willing to move to repeal Social Security.

The second issue then is Medicare, a little more currently, but still a little while ago, 1965. And once again they say, now, the parents of the present generation, coming forward and the nay-sayers coming forward and saying socialism, controlled medicine, job-killers, death to the economy and, of course, we know the record now that every senior citizen over 65 is covered by Medicare. You do not find too many on either side of the aisle that suggest doing away with it.

Now we come more currently, the budget of 1993, that budget debate: job-killer, we were warned. Somebody was trotting out a projection by each State from some fly-by-night tax foundation, oh, the Tax Foundation. That is it. I do not see the Tax Foundation predicting the job loss if this package passed, I do not see that study being flaunted much anymore, because it has been proven not to have been a job-killer, this budget package, but a job-creator, four times the rate of job creation over the Bush administration just a couple of years before.

Finally, we get to the present or close to the present, the minimum wage, the minimum wage debate of 1988, which was quite interesting: massive job loss was going to be caused by increasing the minimum wage 90 cents over 2 years. That was the prediction. Of course, now we know that was not the case either. Many studies bear that out. Not job-killers, but they want you to forget this, Mr. Speaker, and they want the American public to forget their nay-saying predictions and how wrong they were.

We now get to health care and the fact that at some point 51 million people in our country, most of them working, are going to be without health insurance, perhaps for a day, perhaps for years.

We also then need to look at the fact that 80-some-million Americans have health insurance, yes. But do they know that they have lifetime caps in there, for instance? Do they know that they have preexisting illness provisions that can deny them coverage? So millions more get drawn into this.

Who loses if health care does not pass? It is going to be a midlevel executive that I spoke to who has two children with preexisting illnesses. He cannot transfer jobs. He is scared to death that his company is going to change carriers.

Who loses if health care does not pass? It is going to be the small business operator trying to provide health care today to his or her employees but knowing their costs go up 30 to 40 percent a year, much greater than larger companies. They do not know, for instance, because the nay-sayers are not telling them that their costs could be as low has 3½ percent of gross payroll if the Clinton health care package passed or one of the other plans.

How many small businesses know, for instance, that under many of the plans put forward their costs, increased costs, could be as little as 19 cents to 33 cents an hour, much less than a minimum wage increase would be? But they are not being told that by the nay-sayer either.

Many say you can get by with simple insurance reforms, and yet the irony to this is that if you do not have universal coverage, everybody in there, you cannot do very much with community rating, because then you are only trying to take care of the very sickest of the sick, and so the need is to have everybody in that pool.

Mr. Speaker, finally, there is the importance of the American people to speak up and say enough nay-saying, get about the job, get it done.

HEALTH CARE MANDATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. RAMSTAD] is recognized for 5 minutes.

Mr. RAMSTAD. Mr. Speaker, I, too, rise to discuss health care reform.

I can assure the preceding speaker that I was not here in 1935, and I am not a nay-sayer.

But I believe we need to work together as Republicans and Democrats, take off our Republican hats, take off our Democrat hats, roll up our sleeves, and work together in a bipartisan, pragmatic way to craft a sensible health care reform package.

I also believe, looking at the empirical data, the studies that have been done not by so-called crackpot institutes or whatever, but the empirical evidence suggests that requiring employers to pay health insurance through imposition of an 8-percent payroll tax would be a disaster to the economy. The Joint Economic Committee, of which I am a member, recently compiled the many studies that have been done on mandates, and its analysis clearly shows an employer mandate like the one the Clintons are trying to sell to the American people will kill jobs and reduce wages.

One study done by two labor economists at Drew College shows the losses, or I should say, the loss of 3 million jobs. Another shows the loss nationwide of 2 million jobs if you put an 8-percent payroll tax on the employers of this Nation.

More important than the studies, I listen to the small businessmen and women in my district every week that I am home. Last week an owner of three fast food restaurants in our community came to me and showed me with his accountant how, if an 8-percent payroll tax is imposed, he will be forced to lay off 40 workers at those three fast food restaurants.

Another employer, small businessperson from my district, came to me recently. He owns two restaurants and showed me how he will be forced to lay off 35 workers if the 8-percent payroll to pay for health care is imposed on the small businessmen and women of America.

Those at greatest risk of losing their jobs through the employer mandate, make no mistake about it, are low- and middle-income workers. Moreover, mandates will not guarantee universal coverage.

Many proponents of government-run socialized medicine point to Hawaii as an example of how mandates work. I know the Speaker is familiar with this, and probably will have a response at a later date, but if we look at Hawaii, the mandate was enacted there in 1974. There is not universal coverage for the uninsured. The study of Hawaii concluded that similar business mandates elsewhere would produce only a small reduction in the number of uninsured persons.

The report by the Joint Economic Committee, Mr. Speaker, is telling. It starkly illustrates the clear threat to jobs, wages, and economic viability of an employer mandate. It shows that an employer mandate in any form, whether it is immediate or triggered at some date in the future, is a dagger pointed at the heart of our economy.

□ 1930

Mr. Speaker, we can expand health insurance coverage and control health care costs, but not with the bureaucratic monster and employer mandates.

An employer mandate is a recipe for economic disaster.

So, instead of killing jobs, reducing wages in a failed attempt to expand the health care coverage, we need a comprehensive strategy to reduce health care costs and expand access while maintaining the high quality of our health care delivery system. Health care reform legislation must include three cost-containment measures, at the very least:

First, medical malpractice liability reform, so doctors are not forced every day to practice defensive medicine;

Second, streamline administrative procedures; the paperwork, the red tape that right now is, according to some studies, comprising 24 percent of health care costs;

Third, the burdensome bureaucratic State mandates that are eating up dollars and not really going to quality health care.

We can expand coverage through tax deductions, credits and vouchers to low- and middle-income Americans, and authorizing medical savings accounts to allow consumers to save for future medical expenses tax-free. We can have reasonable and effective health care reform. I think such reform is both necessary and achievable, but we do not need to kill jobs, we do not need to destroy the current quality of care we enjoy in this country, in the process.

I urge all of my colleagues to review the Joint Economic Committee study.

I am convinced that, looking at the fact, the empirical data, will lead to a rejection of the job-killing employer mandates.

As I said before, let us roll up our sleeves, cut out the partisan political rhetoric, work together in a bipartisan way to craft a sensible health care reform bill. If we are going to pass a bill this year, let us please do it right.

MORE ON HEALTH CARE REFORM

The SPEAKER pro tempore. (Mr. ABERCROMBIE). Under a previous order of the House, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

Ms. DELAURO. Mr. Speaker, tonight I join several of my colleagues to help make it clear to the Members of this House that we are at a critical crossroads in the health care reform effort. I am proud to stand here with my colleagues, but I want you to know that I am also very worried, and the American people are worried and they are scared.

Frankly, I do not blame them. Their apprehension is completely understandable because those who do not want to truly change our system, to make sure that each and every American has health insurance, have seized on people's legitimate concerns and they have twisted what the President and others have proposed into frightening specters that bear no resemblance to the actual proposals.

But this should not surprise us. After all, this follows a long pattern of similar tactics used by Republicans who stood in the way of progress and making change to improve the lives of the working men and women in this country.

What we hear now from the opponents of health care reform echoes the voices that told Americans we should not enact Social Security because, "Never in the history of the world has any measure been brought here so insidiously designed as to prevent business recovery, to enslave workers, and to prevent any possibility of the employers providing work for the people."

Sound familiar? That is an actual quote in 1935 from Representative John Tabor of New York.

What we hear now reminds us of those who said during the debate to create Medicare, "We cannot stand idly by now, as the Nation is urged to embark on an ill-conceived venture in Government medicine, the end of which no one can see, and from which the patient is certain to be the ultimate sufferer."

Sound familiar?

My colleagues, I do not know about you, but I have yet to hear from a single constituent who believes he or she is suffering because we enacted Medicare, or feels enslaved by Social Security.

What we hear now is all too reminiscent of the last debate we had about raising the minimum wage. Among the dire predictions made 5 years ago by a current Member of the Republican Party in this body, "An increase of this magnitude in the minimum wage would destroy thousands of job opportunities for the young, the low-skilled, and the disadvantaged, it will adversely affect small businesses, result in higher inflation and interest rates and further increase the deficit." This statement simply flies in the face of our actual experience.

Yet, despite this legacy of failed scare tactics and inaccurate predictions, here they go again. First they tried to tell us there was no problem. They said we have the best health care in the world. And we do have the best health care in the world. The problem is that they forgot to mention that people cannot afford it, that 1 in 7 Americans does not have health insurance. For those Americans, it does not matter how good our health care may be, because they cannot take advantage of it. And those who have jobs and health insurance are afraid they will lose it.

But those men and women who had powerful stories to tell about how the system has failed them made their voices heard. They drowned out the chorus that said there was no problem. So, instead, the chorus changed its tune. Now they say all we need to do is tinker at the edges, change a few insurance practices or tax health care benefits to make Americans smarter health care consumers.

I believe Americans are smart enough right now to know the system needs fundamental changes because too many of them are just a plant closing away from losing their health insurance.

Therefore, I say to the Members of this House, let us not listen to those who would twist the facts, who mischaracterize what the President has proposed. It is time to listen to families all across this country who have shared their stories and their pain with us. It is time to respond to them, not to those with vested interests in the status quo.

It is time to listen to the families who tell us they want universal coverage. The only way to ensure working families do not have to pick up the tab for the uninsured is to cover everybody. The only way to make sure that if Americans lose their job or change jobs they will not lose their health insurance is to cover everybody. The only way to make sure that people who really need care are not excluded because of a preexisting condition is to cover everybody. And the only way to keep American businesses healthy and competitive is to keep costs down and end cost-shifting, by getting everybody covered. Rather than retreating or surrendering at this critical juncture, we should take up the President's call to pass health care reform legislation with universal coverage and to work with him.

So I call upon my colleagues, Democrats and Republicans, to end the partisan gamesmanship, work hard to overcome our differences, deliver guaranteed health insurance to the American people.

Let us join forces, rise to the occasion, and enact a universal health insurance coverage bill. This is a tremendous opportunity that we have which, if we lose it, may not come back for decades.

We owe it to the American public.

LET US HAVE A COMPROMISE HEALTH CARE BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Mr. SHAYS] is recognized for 5 minutes.

Mr. SHAYS. Mr. Speaker, it is really a privilege to be able to talk on the floor of the House about health care. As a Member who does not serve on a committee that deals directly with this issue but as someone who has spent the last 4 years trying to become better educated about the issue, I just wanted to make a few points.

First, it seems to me so clear that both Republicans and Democrats believe we need to deal with preexisting condition and to end job-lock. There is really no disagreement on our side of the aisle on that issue.

It seems to me that Republicans in particular want to see major malpractice reform stronger than what is in the President's bill, but both sides want to deal with the issue of malpractice reform, tort reform.

It seems to me both Republicans and Democrats want to deal with the issue of administrative costs and the reduction of paperwork.

On both sides of the aisle we want to do that. On both sides of the aisle we want to allow the small purchaser of health care to have the same purchasing power as the larger businesses, allow the individual to have the same purchasing power of the large business. So we are obviously supportive of some kind of community-type rating with some concept of age or area.

But to allow the small purchaser to have that large purchasing power is the key.

It also seems to me that Republicans and Democrats alike believe we should be able to deduct for health care costs whether you are a corporation or a private business.

Those five points are something that we could do tomorrow, I think, as a vast majority of Republicans on this side of the aisle also believe in universal health care, but our real challenge with the other side of the aisle is our concern that we simply cannot afford it and we need to phase it in. We need to approve the savings before we can build on it.

But if we are told on this side of the aisle that we have to have the Clinton bill, that we have to go the regulated approach, then we will have our disagreement. We can agree on these six items, but we cannot agree, it seems to me, on these fundamental differences.

Democrats, for the most part, are willing, and this is not a criticism, to have the regulated model, which they believe in and we have criticisms of.

□ 1940

Republicans, on the other hand, have a real desire to continue and to improve the market approach to cost containment and with copayments as a part of it. Democrats have some disagreements with that. But these are two very fundamental differences that we are going to have to find a way to bridge.

I read an article in the New York Times last week that seemed to imply that NEWT GINGRICH, my minority whip, soon to be minority leader or Speaker next year, was quoted as saying, leading the fight to basically oppose the President's plan, "Well, we do oppose the President's plan. The President's plan was not even voted by Democrats when it was brought forward with votes," so there are differences in agreement on the President's plan.

For instance, when the President says that we will control the costs of health care by $60 billion in the next 5 years, and the Congressional Budget Office says that it will add $70 billion, that is a difference of $130 billion that both Republicans and Democrats have to deal with.

What I am faced with, as I look at this issue, is that already 50 percent of our budget is on automatic pilot. It is entitlements. Plus we have interest on the national debt that we constantly pay for. It is on automatic pilot. We only vote on one third of our budget. At the very point that I am trying to find ways to reduce entitlements, we are giving serious consideration, and I am one of those individuals who are looking to expand an entitlement and provide universal health care. But it seems to me this is something we have got to do with a great sense of caution.

I favor the incremental approach. I am not ashamed of it. I favor the incremental approach, and so do many Members on my side of the aisle.

Let us deal with preexisting conditions. Let us deal with malpractice reform. Let us deal with administrative costs. Let us deal with community rating. Let us be able to deduct health care from our taxes. Let us do those things now. We can join hands right away.

The next question is: Do we go the next step, and do we go the market approach, or do we go the regulated approach? On those fundamental issues we have our differences. Neither side needs to be ashamed of it, but there are differences.

For me, as I look at our Federal budget deficits and know the national debt will go up $1.6 trillion in the next 5 years, I want to be cautious. For me, when I know that Medicare and Medicaid was supposed to only cost what today is the incremental cost in health care; in other words, what we add next year to our health care budget in Medicare and Medicaid, in fact it was what we thought the total costs would be today, we are so off in our estimates. If we are off 10 percent on our health care cost estimate, we are off a $100 billion in a $1 trillion program. If we are off 50 percent, Lord knows the problems we are going to have.

So, Mr. Speaker, I encourage both sides of the aisle to deal with what we can deal with and then see how we can get to that point of universal coverage which I strongly believe in.

CONGRESSIONAL REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from California [Mr. DREIER] is recognized for 60 minutes as the designee of the minority leader.

Mr. DREIER. Mr. Speaker, I have taken out this special order this evening to talk about an issue which was consumed a great deal of the time of my tenure here and especially consumed a better part of calendar year 1993, and that is the issue of congressional reform.

Now there are many people who think that, if you bring about reform in this institution, all of a sudden you will solve all the ailments of society. I have not been deluded to believe that for one moment. But I am convinced that, if we were to bring about meaningful reform of both the House and the Senate, we could increase the accountability and the deliberative process here in this institution.

Now we all know from having visited with our constituents, and I know that there are a lot of people who are focused on athletics, whether it is soccer or the NBA playoffs which are going to begin in about an hour and 15 minutes, but there are many people who have not spent a lot of time thinking about the issue of congressional reform. But if you talk to people at either soccer games, or basketball playoffs, or almost anyplace right now, the level of esteem for the U.S. Congress is obviously not very high. In fact, Mr. Speaker, we see surveys coming about on a regular basis as it continues to decline.

I argue that one of the reasons for that decline which we have observed over the past several years is that we have seen this place remain in the early part or actually the middle part of this century. The reason I say that is, if my colleagues look at the last time that there was real meaningful reform in a bipartisan, bicameral way, both the House and the Senate, it took place nearly half a century ago.

Now in the early part of the history of this country, as the Constitution established the process of having a census taken every 10 years, following that census the U.S. Congress would alter the committee structure to deal with the needs as they existed at that point. Well, while there were some slight modifications in 1970s, for all intents and purposes we have not seen meaningful reform of the committee structures in the House and Senate for, again, nearly half a century.

It was in 1947 when what was known as the Monroney-La Follette reform package was implemented, and, while there have been commissions that have been put together in the House and in the Senate, in 1992, actually August of 1992, in the wake of the many great, quote, unquote, scandals that hovered over this Capitol dome, whether it was the House Bank, or the Post Office, or the restaurant, or the other things that got a great deal of news at that point, Members of both the House and the Senate, and Republicans and Democrats, decided to come together just before that election in 1992 and establish what has become known as the Joint Committee on the Organization of Congress.

Now, Mr. Speaker, that was put into place to actually take effect on the first of January, 1993, and one of the things that was particularly appealing to me was the fact that it was scheduled to go out of existence on December 31 of 1993, something that was virtually unheard of, that Congress would establish a committee and it would last for no more than 1 year.

Well, in January of 1993, Mr. Speaker, the Joint Committee on the Organization did go into effect. I was very encouraged. I was honored when our colleague, Mr. Gradison, retired, and the gentleman from Illinois [Mr. MICHEL], the minority leader, asked me to serve as a co-vice chairman of that committee along with my colleagues in the House and Senate: DAVID BOREN, PETE DOMENICI and the gentleman from Indiana [Mr. HAMILTON]. I believe that the four of us and, quite frankly, virtually all of the Members on the Joint Committee in a bipartisan way were optimistic about the chance for meaningful reform in the Congress of the United States.

I remember some of the early statements made when our committee hearings were held in January and February of 1993. A number of my colleagues said they would rather be bold and go down losing with a strong package than they would to see a weak package which would have very little substance to it pass overwhelmingly in both bodies, and I think that is something that is very important. I think that while there are many people that want to reform this institution and launch into a regular vitriolic attack, I have to say that I am one who loves the U.S. Congress. It is clearly the greatest deliberative body known to man. With all the flaws that exist here, Mr. Speaker, clearly this is the place where, as was said to a British member of parliament by a former Speaker, "This is where the people govern," but quite frankly over the past several years we have seen accountability in the deliberative process diminish greatly.

□ 1950

I think that is one of the goals that we had in putting together this Joint Committee on the Organization of Congress. I should say that it was encouraging for me because as a member of the minority when the committee was established, there were an equal number of Republicans and an equal number of Democrats on that committee. Our approach was clearly bipartisan. In fact, I had the opportunity, something that is unheard of as a Republican Member, to wield the gavel over many of the committee hearings. The staff of the committee at that point told me that I had the chance to hold the gavel almost more often than my three colleagues who were cochairs of the committee. It was something that I believed was really going to lead to major reform of the institution.

Tragically, Mr. Speaker, I have found that there are too many people in this institution who thrive on the status quo.

The gentleman from Indiana [Mr. HAMILTON], my counterpart, I believe very sincerely wants to bring about meaningful change and reform here. He wants to do the kinds of things that will improve this institution. But unfortunately we have a rather recalcitrant Democrat leadership, and that leadership has stood in the way of our attempts to bring about reform.

If I could share with you, Mr. Speaker, our schedule. Initially, we had planned to go through our hearings, and, by the way we had 243 witnesses, 37 hearings. We were able to put together the largest compilation of information on the U.S. Congress that had ever been gleaned. We were scheduled to do that during the first half of the calendar year 1993. Then in the summer of 1993, we were to go through our markup. Then in the fall before we adjourned, we were to report back to both the House and the Senate our findings and have on the floor of both the House and the Senate our package to bring about changes in the committee structure, to end proxy voting or at least deal with that question, to require that Congress comply with the laws that are imposed on the American people. Those are the kinds of things that we very much wanted. To bring about budget process reform. Virtually everyone here is very frustrated with the budget procedures that we have around here; baseline budgeting which really is a sham and covers up the increases that regularly go on and on in spending bills. We wanted to deal with those things.

The original plan was to get that to the floor of the House and Senate by October of 1993. Unfortunately we went through October, past that, got to November, just before we were scheduled to adjourn. I should say that in the early fall, we had a very serious problem in that the Senate wanted to charge ahead and we had members of our committee on the House side who did not. So the Senate did. I encouraged them to go ahead. They went off on their own and proceeded with their reform package. In the House we frankly dilly-dallied around for a long period of time, then finally had our markup. We put together, Mr. Speaker, what is known as the chairman's mark. I would have thought that since there was an equal number of Republicans and an equal number of Democrats and I was a co-vice chairman of the committee that I might have been able to have some kind of input into what we called the chairman's mark. I did have four or five meetings with Speaker FOLEY, Mr. HAMILTON, and other Members of the House, talking with them about the need to proceed with a very balanced chairman's mark that would address all of these items. Unfortunately as we headed towards our markup just before Thanksgiving, we had a package which was very, very weak as the chairman's mark. It was very unfortunate the way it worked out, because the package that was submitted as the chairman's mark was so weak that we could not amend it unless we were to get a member of the majority, a Democrat, to join with us, because they realized that with 6 Democrats and 6 Republicans on the committee, it would be very, very difficult to get a vote and actually offer the kind of amendment that we wanted to.

Mr. Speaker, what happened when we had our markup just before Thanksgiving in 1993? We had 25 amendments that dealt with committee structure reform, congressional compliance. As I said earlier, having Congress live with the laws that we impose on the American people. Addressing the issue of proxy voting whereby a committee chairman or a representative of the majority, and on the minority side, too, can cast votes without the Member being present; budget process reform, sunshine legislation, a wide range of provisions, 25 amendments, they were defeated on 6–6 party line votes. So we ended up with a very weak package.

Mr. Speaker, I and my colleague from Cape Girardeau, MS, a hardworking member of the committee, Mr. EMERSON, voted to report the bill out. The other Republican members of the committee did not, because, like me, they were very frustrated. But I felt it was important to keep the process of reform moving. So I did, in fact, vote to report it out, so it would be reported first to our Committee on Rules, and the Committee on House Administration, and the Committee on Government Operations, and then down here on the House floor.

Unfortunately at this moment the bill remains languished on the committee where I sit, the Committee on Rules.

And what has happened, Mr. Speaker, is that if we look at the schedule that is before us, tomorrow afternoon our Committee on Rules is scheduled to report out an expedited rescission bill which has already passed this House. It is one of those items that we tried to address in the amendment process in the Joint Committee on the Organization of Congress. We also have had reports that they will proceed with a very weak congressional compliance provision. It is sort of a divide-and-conquer strategy that I have observed so far. Because while we were told at the end of last calendar year that we would have the package on the House floor and my counterpart, the gentleman from Indiana [Mr. HAMILTON], had indicated that he would support a very generous rule that would allow the areas that we had debated in our markup on the Joint Committee to be considered on the House floor, we have seen nothing other than this word that there will be attempts to break up this legislation, H.R. 3801.

I am very pleased, Mr. Speaker, that we have been joined by some of the extraordinarily tenacious, thoughtful, diligent members of the Joint Committee who worked long and hard through those hearings and then through the markup process. I should say that we have been joined by 2 of the newer members, one a sophomore who has served one term here, and the only freshman new member of the committee to serve on the committee was on our Republican side bringing that fresh approach.

Mr. Speaker, I would first like to yield to my very good friend, the gentleman from Colorado [Mr. ALLARD].

Mr. ALLARD. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to just take a moment to compliment the gentleman for his superb leadership on this particular issue. He did a great job in leading the issues that came before the Committee on the Organization of Congress. It was a pleasure to serve on that committee. The results were somewhat disappointing, and the fact that we do not have a bill before us this year is even more disappointing. The gentleman has worked very hard to try and call to the attention of the American people and Members, our colleagues here on the House floor, the fact that we do not have a bill before us today that seriously addresses the problem of congressional reform.

Mr. Speaker, the gentleman brought up the issue of budget. We spent a lot of time on that committee on budget issues.

The House had specifically stated that we do not deal with the balanced budget amendment, which I support, we do not do anything as far as the line item veto is concerned, but we talked about other budget matters. We saw a lot of things go on here on the floor in debate on an appropriations bill that we talked about in that committee, something I wanted to bring up in our discussions and am pleased that I was able to have time to get from my office down here to join in this discussion.

Mr. Speaker, we are talking about funding of unauthorized bills, or unauthorized projects. We talked about the balance between the authorizing committee and balance between the appropriators and how we can have more accountability in the process. Here we are today, we had a bill from Appropriations on the floor today that had dollars in it which were unauthorized. We spent a good part of the day arguing about the proper procedure that this House should be following, and I have always been a strong advocate that we have a committee of reference for a specific purpose, we have appropriators for a specific purpose, and that first of all we have to get our programs authorized. Then once we get them authorized, we do provide an opportunity then for the appropriators to decide what is the appropriate level to provide funds for those various programs and projects.

We also talked about baseline budgeting.

Mr. DREIER. Would the gentleman explain the baseline budgeting process for our colleagues?

Mr. ALLARD. I would be glad to do that.

In our personal budget, if we are a city council person, a county commissioner or in the State legislature, when we talk about baseline budgeting, basically we are talking about what we spent the year before. We go from that particular baseline and look at how much our expenditures are going to increase over that amount.

Mr. DREIER. At the local government level and people in their own budgets, they have zero-based budgeting, basically.

□ 2000

Mr. ALLARD. Well, that is one way, zero-based budgeting. They look at exactly what they spent the year before. Here in the Congress, our baseline has an inflater in it. The inflater is based on the anticipated rate of inflation. It might be 3 or 4 percent. It came to our attention in some of the testimony we had before the committee that if we took the last decade the last 10 years, and did nothing to the baseline, did not add any new programs, did not take any action, that the growth of the budget would be an average of 10 percent a year.

So what I think needs to happen, and so many members of the committee I think agreed with me, is we need to simplify our budget process, so that when Members talk about a 4 percent increase or somebody from the agency talks about a 4 percent increase, they understand that that is 4 percent over and above what was actually spent the year before.

If we took the last figures, over the last 10 years, the last decade, if you say a 4 percent increase, you have got to ask is that 4 percent above the baseline, and, if it is 4 percent above the baseline, it is a 14 percent increase.

Members of the House and the Senate could go back to their district and talk about how they reduced spending on a particular program, and in reality it might have been an increase. They can say we cut this program 3 percent. But if baseline spending was increasing an average of 10 percent a year, in reality what that was allowing was for a 7 percent increase.

I thought this was very important, that we have a process that is accountable, that the American people understand what we are talking about when we talk about a budget. We talked about 4 percent. If your city council person talks about a 4 percent increase in his budget, it is 4 percent over what was actually spent the year before.

In Congress, you can bet it is going to be 4 percent plus an inflater factor or some other factor above that. It is very important that the American people understand that you clarify that when you are talking about spending cuts or spending increases, that you talk about in relation to what. Was it in relation to actual spending the year before, or in relation to the baseline.

I happen to feel we need to get away from the baseline concept, where we have an actual inflater of some type built into it. We need to talk about what was actually spent the year before. We had a lot of discussion about this.

Mr. DREIER. What it basically comes down to is honesty in budgeting. As my friend has said, what we have is a procedure whereby the actual cost of living increase is built in, and then it appears that if we do not have a voted-on increase, that it has remained at last year's spending level, when it really has not. What we are really hoping for, again getting back to this issue of accountability, that we have honesty in budgeting, and, unfortunately we do not have that today.

Mr. ALLARD. Mr. Speaker, I want to thank the gentleman personally for all his help on this particular issue. I know the gentleman is a very strong proponent of a balanced budget and some form of accountability in our budgeting process. Here on the floor today we talked about unauthorized funding and we talked about some issues related to baseline budgeting. I think the American people and this Member of the House certainly appreciate your efforts in that area.

Mr. DREIER. I should say you did a very good job up in the Committee on Rules in trying to make your case too. Unfortunately, with our nine to four ratio up there, it makes it extraordinarily tough to get some of these thoughtful amendments that the American people would like to see passed even open for consideration here on the House floor. That is one of the other reforms that was among the 25 amendments that I had offered, because what we tragically see is a pattern of waiving the rules of the House. I offered an amendment when we were in our markup last November in which I said we should allow the majority to pass the rules under which this House will operate by a majority vote. And if the majority wants to say that we will change the rules, we should change the rules by a majority vote. But once those rules are in place, we should not have a pattern of regularly waiving the rules of the House. And, in fact, if the membership decides it is important to waive the rules, we should have a three-fifths vote. In fact, if we are going to violate the rules, we should have a three-fifths vote to say this is a matter that needs to be addressed, and we should proceed with it. For example, waiving the three day layover, if there is an emergency item that has to get to the floor of the Congress immediately, we should be able to waive that by a three-fifths vote.

It seems to me if we are going to have rules here, we should play by them the way they are outlined, in a very responsible way at the outset.

I remember the statements made by our former colleague, the late Mr. Natcher, who constantly said to me, over and over again, what we should do is simply comply with the standing rules of the House. He was always very concerned at the arrogance with which this institution, run by the Democrat majority, would regularly just cast aside these rules.

I would like at this time to yield to my very good friend from Washington, who is also a member of the committee. I say to my friend from Colorado, he can continue as part of this conversation. I do not want to limit by any means the opportunity for people to be involved.

I know my friend from Washington, who again worked long and hard on that committee, came in, I was so impressed, in her first days in the Congress, and she was able to jump right in and offer a great deal to this committee, as well as the other committees on which she sits. So I am happy to yield to my friend, Ms. DUNN.

Ms. DUNN. Thank you very much. I am delighted to be involved in your special order. I thank the gentleman from California for yielding.

I wanted to add to this discussion we are having tonight on congressional reform the fact that the discussions have taken place on many levels here in the Congress. For all of us, 1993 was to have been the year of reform. We worked long and hard, and we sat through, as the gentleman from California has said, 6 months of hearings and deliberation, more paperwork than had ever been generated from any committee such as this in the history of the Congress. Yet at the end of the year, we had not completed our work. The committee went out of business and we had not passed legislation.

I agree with you that we need an open rule to discuss reform. Let me tell you why.

In 1992, when we were out there on the campaign trail talking to people about what they wanted to see done differently in Congress should certain of us be elected, freshmen specifically, we heard a lot of words about deliberation. Folks wanted us to come to Congress to read the bills, to get to the committee meetings, to do the discussions, to figure out what the people were saying, and try to get these things done in Congress.

They wanted us to be fiscally responsible, and we have talked a bit about that tonight. They wanted the Congress to be more open and more responsive to the people back home. That was where I got the idea for my sunshine act, the Open Meetings Act, which is very similar to Washington State's own Washington Meetings Act.

They talked about our schedule and the fact they wanted to see more of us. So some of us proposed we be home in the district 1 week out of the month and support the Senate schedule, which allows them to do just that now.

But at the end of the year, we really had muffed our opportunity. We did not get reform, and we did not respond to what the folks had been asking us to do out there in the States.

But I want everybody to know that if we had an open rule on some of these items that we have brought before the Committee on Rules, that we have discussed in our many months of hearings and proposed on our side in the final days around Thanksgiving, when we actually worked on the chairman's mark, that there would have been support from both sides of the aisle.

I come tonight as the only freshman member of the Joint Committee on the Reform of Congress, but I worked with two very interesting groups through the whole year, and that was the reformers who had been selected by their colleagues on the majority side and those who had been selected on the minority side as leaders of the freshmen Democrat and Republican classes.

We spent some time together over the last year talking about places where we agreed, what we had in common, what we would like to see done after having been out there on the hustings listening to people for months during 1992.

We actually agreed on some areas. I want to point out a few of those areas tonight and let the folks know that if we were to have an open rule, or at least a generous rule on the debate on reform so that the House could debate some of these issues, there would be bipartisan support.

The two groups of freshmen on the Democrat and Republican side agreed that we should support biennial authorizations and appropriations. They actually agreed on that.

Now, they may not be able to lead on the other side, particularly all their freshmen colleagues, or certainly all the Members of the majority in the House, but they believed that having 2-year appropriation and authorization cycles, just like many state legislatures have now, would give us that extra year to do oversight. And that is a very simple concept. We vote all these expensive projects on the states and on the folks out there who fund them with their tax dollars, and yet we never really have time to look into those projects and find out, do they really belong under the aegis of the Federal Government.

□ 2010

Are we spending too much money on them? Should they be funded in another way? And the freshman Democrat and Republican leaders agreed that this is something we should do. They agreed that we ought to reduce the number of subcommittees. They believe in what our great chairman, the gentleman from California, had supported, that you can put functions together in a far more effective way than we do right now. Function-based committee jurisdictions and both groups supported this.

They agreed that we should use computers to schedule our time, that the schedule is a big problem in what we do here in the Congress. Particularly, new Members of Congress appreciate this. They see it more clearly than anybody, the phrenetic pace that we lead, the back and forth running across, feeling like a bellboy after awhile, coming and voting in the House and racing back to a hearing or to a meeting with constituents.

Mr. DREIER. I think the record should show that we would never think of you as a bellboy.

Ms. DUNN. Bell person. They see no reason for committee hearings taking place at the same time that subcommittee hearings under the same committee take place. This kind of thing does happen here in the Congress. It is because we are an arcane institution in that we do not use computers for scheduling, very, very different from the private sector and yet that technical ability does exist.

Together the freshmen on both sides of the aisle believe that public records should be available of who attends committee hearings. And this is one very minor plus, the chairman will remember that we were able to get passed into the chairman's mark on this joint committee proposal, but we will only know twice a year through the CONGRESSIONAL RECORD, of anybody's attendance at hearings or the votes that they cast.

The freshmen on both sides, the leaders believe that we should disallow proxy voting at full committee hearings. That is a very important pivotal reform that we could make if we could have proxy voting come up in some form as part of our committee debate, but it has not gotten through the Rules Committee. Proxy voting would require that Members be there at the committee hearing to vote on the bill.

Mr. DREIER. Reclaiming my time on that issue of proxy voting, it is important to note that there are committees where we do proxy voting. As was said earlier, I sit on the Rules Committee. If I am not there, my vote is not cast. And unfortunately, we have so many committees where Members do not ever attend or rarely attend, if ever, and they allow their vote to be cast without ever even knowing the issue that is being discussed. I believe that that clearly is an abrogation of one's responsibility to the 600,000 constituents who sent them here. I wish very much that we could do that.

Mr. ALLARD. We have talked in the past about keeping down the number of committees that Members are on. I think making them be there to vote instead of allowing somebody on the committee to vote for them through a proxy would be one of the most significant things we could do to begin to cut down the prolific growth of committees and the number of committees that we have in this institution. I just wanted to share that thought.

Mr. DREIER. My friend is absolutely right.

Ms. DUNN. I would say, too, that I recall one very memorable moment when the gentleman from Pennsylvania was serving as ranking member on one of our committees when the whole issue of proxy voting came to a head. I hope he will make mention of that this evening, because it illustrates what I am saying and what my other colleagues are saying.

The fact is that if we want to present a deliberative product, we have got to be there to listen to the deliberation, to consider both sides of the issue, and to let the folks back home, whom we are supposed to be representing, know that we care enough about these issues to be there in person representing then.

Both of the leadership Members on both sides of the aisle among freshmen agreed that we have got to separate Members' time in committee hearings versus that time that is spent on the floor. Again, an effort toward deliberation. We need to listen to the debate in both places. We need to be there. This can be done. It can be separated by days of the week and I think it is a very important reform.

So generally, what I am telling the gentleman from California and the members here tonight is that there is great agreement on many of these issues, which if they were allowed to be debated and discussed on the floor of the House, I think could pass and I think could make this body more deliberative and more accountable. I think that is what the folks back home are asking us to do.

Mr. DREIER. My friend is absolutely correct. I appreciate the fact that you have pointed to some of those items where we did have bipartisan agreement and were able to gain the support of both Democrats and Republicans, but tragically, as you look at those items, as important as they are, most of them really do not get right to the meat of this issue of both the deliberative process and the degree of accountability which is so often lacking here.

Earlier I was talking about the problem that we have had with talk of trying to break this bill up into bits and consider one particular measure and make it appear as if this is congressional reform.

I know that my friend from East Petersburg, PA, the Chief Deputy Whip, has very, very strong feelings, as do I. And I should say that Messrs. SOLOMON and EMERSON were sorry that they could not be here. They were hard-working mechanics of our committee and are firmly committed to the issue of reform. I know Mr. SOLOMON had originally taken out this time this evening and then very generously gave it to me, but we stand firmly committed to doing this in a comprehensive way, which is exactly the way Speaker FOLEY called for when we established the joint committee.

I yield to my friend.

Mr. WALKER. I thank the gentleman for yielding to me. We have just heard the gentlewoman from Washington and the gentleman from Colorado list a lot of issues that were discussed thoroughly in the committee. They were a part of a committee discussion that was designed to deal with reform in a comprehensive fashion.

That is what the reform groups outside of Congress had asked us to do. A number of the scholars, including people like Norm Ornstein who had looked at this matter, had called for this to be a time for comprehensive congressional reform. When the Speaker of the House appeared before us, he called for comprehensive reform. He gave us a very large mandate. He told the Members of the Hamilton-Dreier committee that this was to be a time when we would look at all of what the House had been doing and decide whether or not we could not reform us in a way that would serve the needs of Congress throughout the rest of this decade and into the next century.

The problem is that having done that kind of work, addressed the issues that you heard about tonight, plus many more, the bill then moved into no-man's land, where it sits today. And if I heard the gentleman correctly, earlier in the discussion, he indicated that he believes that that bill may be piecemealed, brought to the floor as little bits and that we will never get to address the comprehensive issue. Is that what I heard the gentleman saying?

Mr. DREIER. The gentleman is absolutely right. We have not only read this in the press, but in discussions that I have had with a number of our colleagues on the other side of the aisle. This is something that is regularly being discussed, because, for example, the issue of congressional compliance is clearly a hot button. Both Democrats and Republicans know that when they go to town hall meetings, when they look at public opinion surveys about this institution, one of the main original concerns that the American people have is the fact that we regularly exempt ourselves from the laws which are imposed on the American people.

Mr. WALKER. We did it just yesterday when we passed the independent counsel bill with a lot of fanfare here. I read a couple of news reports indicating that we had covered ourselves under the independent counsel law. We did so in an optional way, but it was mandatory on the other people.

So once again, Congress set itself up as a class apart at the same time that supposedly Congress is going to move toward some sort of strategy to cover us under the same laws that everybody else is covered under.

Mr. DREIER. The unfortunate thing that we have gotten in reports is that we will simply report out the item that was in the joint committee report on compliance, which basically calls for the establishment of an office of compliance. And that group will make recommendations back to us as to what regulations we might consider imposing on ourselves.

Mr. WALKER. This is not an office of compliance, then? It is an office to discuss compliance later?

Mr. DREIER. Right. And then see what regulations we might consider imposing on ourselves, providing loophole after loophole to continue this pattern of exemption.

□ 2020

We know that there are constitutional questions about the separation between the legislative and executive branches. We at length discuss those in the joint committee. We do not want the executive branch to have undue power, because they handle the regulatory agencies and the executive branch over the legislative branch. That is why we, Members on our side of the aisle, supported the establishment of an Office of Compliance, so that the implementation of those regulations on us would be handled within the legislative branch, so we have addressed the constitutional question.

Mr. WALKER. Our idea for the Office of Compliance, I would say to the gentleman that this would be a true Office of Compliance; that what they would do is take the laws on the books and assure that Congress was following those laws, and where Congress was not following those laws, they would, through a structure, make certain that the guilty parties were brought into compliance.

Mr. DREIER. That is not what it is.

Mr. WALKER. That is not what we ended up with.

Mr. DREIER. That is not what we ended up with at all. The tragedy here is that the majority leadership, knowing full well that the American people are very concerned about the fact that we regularly exempt ourselves from the laws we impose on them, they want to bring what will be called congressional reform down to the House floor here with that very weak establishment of a bureaucratic haze that would create a situation whereby we would consider imposing on ourselves the regulations.

Mr. WALKER. If the gentleman will yield further, so congressional compliance would become just another phony congressional coverage provision, like the phony congressional coverage provision that was in the independent prosecutor bill yesterday?

Mr. DREIER. That is the way it appears right now. They want to do that, from everything I have read and heard, on this, on the expedited rescission measure that is going to be coming up, on the entitlement review resolution which is going to be coming up. They want to break these things up into little bits and say, "Yes, day by day, we are reforming the institution," when in fact we have H.R. 3801.

And if we can consider at least the eight areas, subject matters that we offered, and my three colleagues here offered among the 25 amendments that we're defeated on 6 to 6 party line votes, if we had those votes down here on the House floor, I know my friends would agree with me, there is little doubt that they would pass.

Mr. WALKER. If the gentleman will continue to yield, this committee was known as the Hamilton-Dreier committee. The Speaker came in and testified in favor of comprehensive reform. What has the Speaker had to say, as one of the gentlemen who is a co-author of the bill, who voted for the bill, who in fact was a co-chairman of the committee, what has the Speaker had to say to you about his call for comprehensive reform that is now just being eaten alive in the back rooms of the Congress?

Mr. DREIER. As I said earlier, I probably had four, five, or six rather lengthy meetings with the Speaker last fall to discuss this. The last conversation that I had with Speaker FOLEY on this issue dealt with my request for at least a generous rule that would allow for full consideration of all of these measures.

Mr. WALKER. When was that meeting?

Mr. DREIER. It was a conversation that I had on the House floor here several months ago.

Mr. WALKER. He has not talked to you about this for several months?

Mr. DREIER. I have not had a meeting with Speaker FOLEY on the work of our committee for several months. I had several meetings with him in the fall of 1993 on this, and we met in his office and had several discussions.

Mr. WALKER. This is the summer of 1994?

Mr. DREIER. Yes. And other than a brief conversation that I had, basically saying that the gentleman from Indiana [Mr. HAMILTON] indicated to us on the record that he supported a generous rule that would allow for the consideration of our amendments, which were unfortunately defeated by the 6 to 6 party line vote that we had in the committee, other than that conversation, we really have not discussed this issue. But I have read in the press——

Mr. WALKER. Just one more question: Is there some chance that the Speaker is back in the back rooms here fighting viciously to try to make certain that we get comprehensive reform of the Congress, and he simply does not have time to discuss this with the gentleman because he is fighting so hard in those back rooms to make certain that comprehensive reform comes to the floor of the House before we quit?

Mr. DREIER. One can only infer from what we observed over the past several months, reports in the press, and other discussions that I have had, that the leadership, Speaker FOLEY and others, do not want H.R. 3801, the bill reported out of our committee, to come to the House floor under an open amendment process that would allow these items to be considered, because they know that as Members are forced to go on record here, a majority of this institution would support many of these institutional reforms which the American people want to have implemented. But as I said at the outset, there are too many Members here who thrive on the status quo.

I yield to the gentleman from Colorado [Mr. ALLARD].

Mr. ALLARD. Mr. Speaker, is that not so typical of the way Congress many times does business? We will set up a bureaucracy with no clear objectives, and here we are talking about a compliance board or an agency within the House of Representatives, within the Congress, that is going to make sure that the Members—is going to make recommendations to the Members. We do not see any guidelines as to how many recommendations or how long they are going to be in existence.

One of the striking things I heard in some of the testimony that sort of stuck in my mind, we have more than 37,000 employees that are here on the Capitol——

Mr. DREIER. Thirty-eight thousand.

Mr. ALLARD. Thirty-eight thousand employees that we have here on the Capitol grounds that are working, and we have a work force here in the Capitol itself, taking care of the House and Senate and the Library of Congress, that is as large as the community that I come from, Loveland, CO.

People do not understand how huge a bureaucracy we have built up, and here it is, typical of leadership of the House, to try and come through with a proposal that says we are just going to add more to the bureaucracy. Mr. Speaker, I don't think the American people really think that is the answer. I think they think the answer is less bureaucracy and more accountability.

Mr. DREIER. My friend is absolutely right. I would like to yield to my friend, the gentlewoman from Washington [Ms. DUNN].

Ms. DUNN. I thank the gentleman for yielding to me.

I want to say, too, from a very newcoming perspective, a freshman in Congress, as I watch this whole debate, we know what the problems are. We know what the solutions are.

I would like to know why we are not able to do what the people are asking us to do. They want this Congress to work efficiently. We can do that. They want this Congress to cut back on the amount of money it spends on its committees, and to give some fairness to the ratios that currently exist between the majority and the minority parties.

They want this Congress to open up its meetings so that the people who pay for the process can watch the process. It is only fair, it is only rational. I would ask why we do not do this.

I would also add, if the folks who are running this body now think it will always stay the same, they are going to be in for a big surprise. They are going to have an election this fall, and I have hope that if we are not able to debate our reform proposals on the floor in a comprehensive manner this year, that we will be the coalition that will begin the debate in January of next year, and we will be joined by a great number of new Members who are hearing the same call for reform that we have all heard, and certainly investigated, over the last year.

Mr. DREIER. My friend makes a very good point, Mr. Speaker. As we look at a class of now 117 new Members of the House of Representatives, clearly if we look at it, 25 percent of this body having been elected in this session of Congress, one-fourth of it being new Members, it seems to me that as I look back on that 1992 campaign, virtually every candidate, Democrat and Republican alike, ran on this issue of reform, change in the Congress.

Yet, unfortunately, we have seen more than a few on the majority side, on the Democrat side, fall into this trap of being part of the status quo. That is not to say that there are not any Members in the Democrat Party who want to bring about meaningful reform, as we believe the American people want. However, many of them have fallen into that trap.

I think that as we look at this question, I think that the American people should be asking, very appropriately, Did you in fact bring about reform of the institution following the House bank and the post office and the restaurant and the other problems that that institution has had? I think that is going to be a natural question which should be raised as we head into this fall.

I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

I want to go back to the point about those 38,000 employees. One of the points is that those people are pretty badly treated in some instances, and the way in which we deal in this Congress is really reprehensible.

The Capitol Police, most recently, have come under discussion as a result of the investigation they were conducting into the post office scandal. Now we find out that one of the top staff people working for the leadership at one point suggested that the Capitol Police would actually be totally dismissed if they did not stop their investigation of the scandal in the post office, and stop turning over evidence to the U.S. prosecutors.

What an outrage. That would be like in city hall, the mayor finding out that there was a scandal going on in his administration, having the city police begin investigating it, and when they do and start turning over material to the prosecutor, the mayor would have his counsel go to the police and suggest to them that he was going to disband the police force if they did not stop this investigation.

□ 2030

The fact is that in most communities across the country you cannot do that because there are civil service laws and all kinds of things to stop that from happening. Here on the last plantation it can take place. And it is an appalling kind of look at what really goes on in the U.S. Congress.

Ms. DUNN. Mr. Speaker, will the gentleman yield?

Mr. DREIER. I am happy to yield to my friend, the gentlewoman from Washington.

Ms. DUNN. Let me just say that as the ranking member of the Subcommittee on Police and Personnel I absolutely support everything the gentleman said. There have been very serious allegations. We have asked for hearings into that whole situation to decide whether the Capitol Hill Police were indeed influenced and what their role should be, because there is certainly a division of powers issue here.

But I think it is a very serious issue, and in fact our request for hearings has not been answered by the majority.

Mr. WALKER. This is interesting, because not only are they stonewalling us with regard to the legislation itself on reform, when incidents arise that require attention and should be done as a mater of reform simply because the institution is being so badly hurt by what is going on, they refuse the hearings, they refuse to look at the material. They try to shut down the process. They try to keep legitimate questions from being asked. They try to keep reforms from happening.

This is a pattern which I think the American people find more and more incomprehensible and unacceptable.

Mr. DREIER. My friend is absolutely right.

Mr. ALLARD. Mr. Speaker, will the gentleman yield?

Mr. DREIER. I am happy to yield to my friend, the gentleman from Colorado.

Mr. ALLARD. I thank the gentleman for yielding. He also will recall that I worked hard in the Committee on Reorganization of Congress where we looked at areas like the police, for example, the architect, landscaping, printing and all of these nonpolitical functions and why we could not begin to consolidate them and establish some clear lines of authority so somebody could be held responsible. The way it works now, the Speaker just talks directly to the police, or maybe it is on the Senate side where they have their own force over there and we have ours over here. We could reduce the number of employees we have by just consolidating these and make our system more uniform, and more accountable.

I am disappointed that it does not look like we are going to have an opportunity to address these kinds of issues on the floor. I am not sure from what the gentleman shared with me today that it is going to come in a very forthright manner. They are going to piecemeal it in, and certainly it is going to create less of an opportunity for Members to bring forward some ideas.

Mr. DREIER. Of course.

Mr. ALLARD. We heard a lot of those good ideas on that committee.

Mr. DREIER. And of course what they will try to do when we realized that that committee was charged with bringing about a comprehensive package, as my friend, has said, we are going to break it up so that reports can constantly trickle out to the media, getting to the American people that oh, yes, they are reforming, they are reforming. But the fact of the matter is, unfortunately, they are providing the weakest package possible.

Mr. WALKER. If the gentleman will yield, it goes to the heart of the question that the gentlewoman from Washington raised, and that is the question of what kind of amendments will come up. If you keep the packages that they bring to the floor very narrow, that will not allow the amendment process to go forward. We will have very limited opportunities then to try to address other reform issues.

Believe me, that is purposeful. That is what they are discussing in the back rooms right now: "How do we keep this thing from getting out of our hands, how do we make certain that there is no chance at all for anybody to do what the public really wants? How do we keep it all an inside game?" Breaking it up into little pieces they are making certain that then the rules of the House will apply, because what they will say is, "Well, I'm sorry, that amendment is not germane," or "That amendment goes beyond scope." There will be all kinds of excuses for not addressing the big issues of reform because of the narrow package they have brought to the floor. And the American people will still not get what they want.

Mr. DREIER. The interesting thing here is if you look at the history, I have been told by staff that every time a reform package has come to the House floor it has been under an open rule, an open amendment process allowing the House to work its will.

So if we see a restrictive rule on H.R. 3801, if by chance the comprehensive bill that we reported out were to get to the House floor, if we see a restrictive rule it will be the first time ever. But frankly, if you look at the pattern that we have observed over the past decade of dramatically increased numbers of rules which prevent Members from offering amendments to legislation, I would not be surprised if this were to happen for the first time.

Mr. ALLARD. If the gentleman will yield, open rule is part of the problem. The other part is waiving points of order. The gentleman from Pennsylvania spends a good deal of his time bringing up these kinds of issues related to open rules and points of order. Again, I just have to share some of my experiences here today as we had unauthorized funding, but yet they would not allow me to raise a point of order because they waived points of order. This is the problem that we have, is that debate and the rules of the House are restricted. A point I made not too long ago was the reason we have rules in the House is so that Members have a certain amount of predictability about what is going to happen, both the majority and the minority party. But when we begin to ignore those rules, then that is where a lot of injustices occur, and that is where a lot of things occur around here that create special advantage for somebody, or their district or whatever. This House needs to focus on issues that are of general public good for this country, and that is why we have those rules.

Ms. DUNN. If the gentleman will yield, the fact that they waive often the rule that we have to be presented with a copy of the legislation before we vote on it I think is the most obvious waiver of all. We often do not have access to those documents, and we are not able to read the legislation. We pass monstrous bills that apply to the rest of the country without knowing the details.

Mr. DREIER. That happens on a regular basis. In fact, exactly 2 hours ago we did it upstairs in the Rules Committee on the Commerce, State, Justice appropriations bill. We waived the so-called 3-day layover requirement.

I mentioned earlier that one of the amendments I had offered when we had our markup was to have a supermajority if we are going to waive rules, basically a three-fifths vote. But based on the rule that has been reported out of the Rules Committee, scheduled to come up I suspect tomorrow or Friday as we see the schedule unfold here, they have waived the 3-day layover requirement, basically preventing Members from having the opportunity to look at this legislation.

So I found it rather fascinating upstairs that they keep saying over and over to us, "Gosh, you all are not supporting our open rules," because they are on these appropriation bills having an open amendment process, allowing cuts to be made. But when it comes to the bill itself that has been reported out, members of the Appropriations Committee are treated differently, really above the rest of us because they have been able to get provisions in the bill which require waivers to make them in order. Again, I referred earlier to our deceased colleague, Mr. Natcher, who again, if he said it to me once he said it 100 times, "David, we should bring all appropriation bills to the House floor under the standard rules of the House," whereby we allow for an open amendment process, without waivers so that points of order can be raised against items where there is legislating in an appropriation bill. Tragically, the leadership regularly stood up to Mr. Natcher, telling him that they had to impose these rules which would prevent Members from being able to do the kinds of things that the gentleman from Colorado [Mr. ALLARD] has attempted to do on the Interior appropriation bill.

Mr. WALKER. If the gentleman will yield, in the time I have been in the Congress I know of a number of instances where the American people have become outraged when they found some provision was down in some bill that we passed that no one knew was in there. Members of Congress then will say, "Well, I had no idea that was down in there. How did this possibly happen?" Well, it happened, and the reason it happens is that no one does consider the bills. I remember some months back when we had a conference report brought to the floor. All of the rules were waived, the 3-day layover, and as a matter of fact, it had just been completed. They brought it in and it was a stack of papers about this high. They dumped it on the front desk down here. That was the only copy that was available anywhere in the House. And when some of us questioned, "Well, how are we to study this?" They said, "Well, there it is. You can go over there and leaf through it if you want to." And when we said, "Well, how are we to understand everything that is in this huge pile of papers?" "Well, there it is. You can go over and look."

In other words, it was nonsense. Yet, we waived the rules, we passed it, and we depended upon the fact that a few Members made representations about that pile of papers and what was in it. But no one knew exactly what was down in there. The staff that had prepared the papers did not know all of the things that were down in it. And we only found out later many of the items.

In all honesty, I have a hard time voting for that kind of legislation. In that case I did not vote for it because I did not think I had any understanding at all about what we were about to do.

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Mr. DREIER. We regularly waive the 3-day-layover requirement, preventing Members or staff members from having the opportunity to look at this legislation, and this is one of the things we tried to address here.

Mr. WALKER. Some of it they do not want anybody to look at because they are afraid of what they will find.

Mr. DREIER. That is exactly right. I yield to the gentleman from Colorado [Mr. ALLARD].

Mr. ALLARD. There is no doubt we have to do a lot to continue to push for change in the House.

I have mentioned before and will again mention in this discussion tonight we have a tremendous reservoir of information that we can draw on from all the various State legislators. You know, I served in the Colorado State Legislature, which has done a lot on congressional reform.

In fact, you may not want to hear this, but we have actually done away with the rules committee in the State of Colorado. The house functions. It is a more open process. Everybody understands the rules. There are no waivers. There is no limit on debate. They get the job done.

The people of the State of Colorado understand what is going on. But, you know, States have tried a lot of innovative things, and we need to look and see what is working and what is not working. I just wanted to make that last point, because I know our time is running out.

Mr. DREIER. Let me say I do not want to stand here as a defender of the Rules Committee, but it was the first committee established by the Founding Fathers. James Madison moved the Bill of Rights through the Rules Committee when it was put together, and I think there is acknowledgment that in a body of 435 Members there should be a structure.

But what we really should do is we should democratize the Rules Committee. I mean, there are not many Americans who understand the fact that we have a 9-to-4 ratio, while this House consists of 60 percent Democrats, 40 percent Republicans ratio, and in the Rules Committee upstairs it is 2 to 1 plus 1 against us, and that is why we should have some rules in the institution. But we should have a structure which allows Members to participate more than they do now, and that is again underscoring Lord Acton's very famous line that power corrupts, and absolute power corrupts absolutely.

The arrogance of power with which they prevent Members, rank-and-file Democrats and Republicans, from being able to offer amendments, that is what really creates the outrage here.

Ms. DUNN. If the gentleman will yield, I want to add one thing. The way the House is currently composed, the way the rules read and the way the committees are structured serves to support an example that was given by a colleague and friend of mine here in the House that, I think, it is simply outdated, and that is that his statement was that the majority is here to run the country, and the minority's job is to become the majority, and I think things have changed since that belief was accurate years ago.

I think the people out there are telling us they want both parties to work together to solve the problems of the country.

Mr. DREIER. The unfortunate thing is every Member of this institution represents roughly the same number of constituents, about 600,000 people, based on the population across the country, and the unfortunate thing is there are many members of the minority who are not able because of the arrogance of the majority to offer the kinds of amendments and proposals that their constituents might want them to. I think that that really hits the process.

Our time has expired, and in 16 minutes we will begin the process of determining who the National Basketball Association champion is. We hope this was a warmup for the NBA playoffs. I thank my colleagues for their participation in this special order and for the tenacity that they have used on this issue of reform of the institution.

Where there is life, there is hope. We hope very much that in this Congress we will be able to bring about what Speaker FOLEY has called for, and that is comprehensive reform of this institution.

THE POST-NAFTA ERA

The SPEAKER pro tempore. (Mr. ABERCROMBIE). Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 60 minutes.

Ms. KAPTUR. Mr. Speaker, I am often asked by constituents back in Ohio, when we address the House this late in the evening and there are not other Members peopling the floor, why we do this. Generally what I explain to them is it is about the only time during the day when we have a chance to put into the RECORD information that may not be a part of legislation currently on the floor. It is a quieter time of day, a time when we have a chance to think together, and so this evening I wanted to talk about some of the outcomes of a profound debate that occurred here in the Congress last year, in fact, the proposed then treaty between the United States, Canada, and Mexico known as NAFTA.

During that debate the administration and the former administration as well and the treaty supporters argued that our country would accrue enormous jobs and economic benefits from the passage of NAFTA and the average American worker would be better off because of NAFTA.

I rise tonight though, 6 months into the post NAFTA era, to help set the record straight and to state to those who supported NAFTA that they had better take another hard look.

We intend to do this every quarter following the signing of that treaty. Already under NAFTA in just the first 3 months of this year, the United States has actually suffered a huge decline in our trade advantage with Mexico. The New York Times recently ran a front-page story on the subject. It was pointed out that America's previous trade advantage with Mexico prior to NAFTA has been cut in half. I repeat, cut in half.

In fact, America's trade surplus with Mexico has been reduced by nearly 50 percent just during the first 3 months of this year. A slim margin of $560 millions all that is left of our much ballyhooed surplus. That means that more trade is coming in from Mexico to the United States, more imports into here, than our exports going down there.

In fact, the little advantage that remained amounts to about $560 million which, and how much is that, about as much as our army spends in an annual year on buying bullets. Yet that $560 million is all that keeps the United States from running a trade deficit with another one of America's trade competitors.

If you look at the fourth month of this year, April, our trade surplus with Mexico, our advantage, fell to only $7 million in that month alone. What that means is that imports to our country from Mexico are now growing at a much faster rate than United States exports to Mexico. It means that more jobs are being created in Mexico than jobs being created here in the United States.

Yet the administration and the former administration still attempt to claim that NAFTA has been good for our country. The U.S. Trade Ambassador was quoted in the New York Times as saying, "NAFTA has increased trade substantially." I would say to Mr. Kantor, it has increased trade, but in what direction and for whose benefit?

Across our country, NAFTA is hurting our people. As of June 6, 126 petitions from different companies across this country, across 26 States, have been received from workers in those companies whose jobs are moving to Mexico, whose companies are moving to Mexico. These petitions are filed with our U.S. Department of Labor under NAFTA's trade adjustment assistance for our workers who have been thrown out of work because of these corporate relocations, and they usually refer to this help for our workers as NAFTA TAA, NAFTA-Trade Adjustment Assistance.

This program is our Government's attempt to give American workers some compensation for losing their jobs because of NAFTA.

Now, when the administration tells us that NAFTA has benefited our country, I wonder if they have talked to the workers who are losing their jobs at companies like Emerson Electric in Logansport, IN, or the workers who worked at Simmons Furnishings in Redmond, WA. I hope some of those workers are listening, because someone here in Washington understands what you are up against, or at the Johnson Co. in Bennington, VT. How about the 8,000 workers in Martinsville, VA, who are losing their jobs because Sara Lee is moving its factories to Mexico? Or how about the workers in my own State of Ohio who worked at Walker Manufacturing Co. in Herbon, OH, and who used to build exhaust systems for automobiles? I wonder if this administration or the one that preceded it has figured out how to explain to these Americans how losing their jobs because of NAFTA is good for them and good for our country.

Even though the number of these petitions from workers thrown out of jobs in our country gives some indication of the suffering that NAFTA is already causing our workers in just the first quarter of this year, the NAFTA compensation program for workers is but a weak measure of the damage.

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For I have been told by numerous frustrated workers from around the country that either the various State unemployment offices have not made these petitions available in their State or they were not even aware that this NAFTA TAA worker compensation program even existed. That means that of the 100 companies that I am going to read into the RECORD tonight, probably dozens and probably hundreds more are being affected across our country who do not even know they can file in order to try to help the workers being thrown out of their job. In fact, the very program which is supposed to help the average United States workers who have lost their jobs to Mexico is in great need of assistance itself.

Because, of this, there is really no way of knowing how many U.S. workers have already lost their jobs because of NAFTA.

Further, lost contracts for field production in agricultural goods are not counted in the numbers. So, for all the tomato farmers out there losing acreage, for all the citrus farmers, for all the fruit farmers, for all the sugar growers, all of these production opportunities that are being moved to Mexico because of its cheap field labor system, there is no one keeping tabs on lost production in our country. The only people that really know are the farmers and the workers who are being thrown out of their jobs across this country. So the losses of income in agricultural America are a story that is not even being written. It was not on the front pages of any newspaper. If the administration does not have the time to get an accurate reading of how many U.S. workers have lost their jobs, it is becoming clearer who is benefiting from the passage of NAFTA. The big U.S. corporations who formed USA NAFTA, a business lobbying group and who also pushed the hardest for the passage of NAFTA, seem to be doing very nicely.

These corporations who regularly sent parts and materials to Mexico to be assembled but then to return their finished goods back here all report substantial profits for their shareholders, not profits for the workers, and just as we cautioned, these United States corporations moved much of their operations across the border to parlay cheap Mexican wages into higher profits.

Moreover, the country of Mexico is doing what we projected it to do: Increasing its imports to the United States at a much faster rate than our exports there. In the automobile sector alone, imports of motor vehicles from Mexico increased 48.3 percent to reach $728 million, nearly 50 percent. In the first 3 months of this year, Mexico shipped 81,328 vehicles to the United States while we shipped only 5,848 south of the border. In other words, Mexico shipped approximately 15 times more vehicles to the United States than we did to them. Not a good deal for the American people, but a good deal for those who own stock in the multinationals.

Mr. Speaker, what has been hollowing out is the middle class of our country and our people know it. Wages have not been going up, benefits have not been going up, so what is going on is the hollowing-out of production in manufacturing and agriculture in this Nation. NAFTA has been very good for some United States corporations and for Mexico, but in speaking of the good for our country, the post-NAFTA era has resulted in growing job losses and a worsening trade balance with Mexico.

And for America, the post-NAFTA era has resulted in more growing job losses, losses that no one here in Washington seems to care about. Well, I care. For America, the post-NAFTA era has been the era of broken promises for prosperity for the many and profits for a few.

Tonight, Mr. Speaker, I want to read into the RECORD the names of those companies and workers that have already been certified under this program:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 17, 1994.

DEAR COLLEAGUE: Please find attached a list of U.S. companies that have moved production to Mexico since January and already applied for NAFTA Trade Adjustment Assistance for their U.S. workers. The list contains 126 firms located in 29 States, with Pennsylvania, Washington and New York having had the largest number of moves to date. It is only a partial list though. The list does not include the farmers that have been hurt by NAFTA. Furthermore, given the multiple problems experienced in implementing the NAFTA-TAA program, many workers and firms have been forced to turn to the Labor Department's general Trade Adjustment Assistance program without regard to the specific needs of the affected workers. There really is no way of knowing how many U.S. workers have lost their jobs because of NAFTA. I hope this list offers some perspective to all of the spurious news accounts of NAFTA's benefit to our country. The truth of the matter is that many U.S. firms from around the United States have packed up and gone to Mexico leaving thousands of U.S. workers in their wake.

Sincerely,

MARCY KAPTUR,
Member of Congress.

THE POST-NAFTA EXODUS

PETITION ACTIVITY

As of June 6, NAFTA-TAA petitions have been received for workers in 126 firms located in 29 States. The distribution of petitions by State is as follows:

Alabama (2), Arizona (6), California (6), Delaware (1), Florida (5), Georgia (5), Illinois (2), Indiana (4), Kentucky (2), Maine (1), Massachusetts (6), Minnesota (1), Mississippi (1), New Jersey (7), New York (10), North Carolina (4), North Dakota (1), Ohio (1), Oregon (3), Pennsylvania (19), South Carolina (3), Tennessee (7), Texas (7), Vermont (1), Virginia (1), Washington (15), West Virginia (2), Wisconsin (2), Wyoming (1).

NAFTA No.	Firm	Location	Decision and date
00001	Swingster Co.	Ocean Spring, MS	Denial (1/31/94).
00002	Emerson Elec.	Logansport, IN	Cert (2/7/94).
00003	Simmons Furn.	Vancouver, WA	Cert (2/15/94).
00006	Nintendo	Redmond, WA	Cert (2/3/94).
00010	Steward	East Ridge, TN	Cert (2/14/94).
00013	Hubbell-Bell	Fogelsville, PA	Cert (2/23/94).
00019	N.A. Philips	Fairmont, WV	Term (2/22/94).
00005	ACA Lumber	Beaver, WA	Denial (2/24/94).
00007	Worzalla	Eatontown, NJ	Denial (2/24/94).
00009	Uniroyal	Woodburn, IN	Denial (2/25/94).
00004	Seattle Shake	Forks, WA	Cert (2/25/94).
00020	No. Telecom	Stone Mt. GA	Cert (2/25/94).
00012	Stolle Co.	Phonix, OR	Denial (3/4/94).
00021	Xerox Imaging	Peabody, MA	Cert (3/10/94).
00014	Alcatel	Mt. Laurel, NJ	Cert (3/11/94).
00015	Parkway	South Amboy, NJ	Cert (3/11/94).
00011	P&G Mfg. Co.	Quincy, MA	Denial (3/11/94).
00016	Metacomet Mfg	Fall River, MA	Denial (3/14/94).
00017	Hollywood	Forks, WA	Denial (3/14/94).
00032	Niagara	Buffalo, NY	Cert (3/15/94).
00018	Kemet/Phillips	Greenville, SC	Cert (3/18/94).
00023	Bonis Sport	Tampa, FL	Denial (3/18/94).
00025	D & R Cedar	Forks, WA	Cert (3/18/94).
00022	Clifton/Litton	Clifton Hts, PA	Denial (3/18/94).
00024	Praxair, Inc.	Tonawanda, NY	Cert (3/21/94).
00050	Eaton Corp	Arden, NC	Cert (3/21/94).
00028	McCreary Roof	Erie, PA	Denial (3/22/94).
00029	Wundies	Williamsport, PA	Denial (3/23/94).
00046	Sears Logist.	Philadelphia, PA	Denial (3/23/94).
00027	ACI/VVP Amer	Memphis, TN	Denial (3/24/94).
00030	Dee Fashions	Centralia, PA	Cert (3/24/94).
00026	Gandalf Sys	Cherry Hill, NJ	Cert (3/25/94).
00031	Bus Industries	Oriskany, NY	Denial (3/25/94).
00033	Fisher-Price	East Aurora, NY	Denial (3/25/94).
00034	Ferranti-Pack.	Dunkirk, NY	Cert (3/28/94).
00054	National Steel	Keewatin, MN	Denial (3/29/94).
00056	Bristol Consol	Indianola, PA	Denial (3/29/94).
00039	J.C. Penney	Newark, DE	Denial (3/30/94).
00008	Allied Signal	Eatontown, NJ	Denial (3/31/94).
00035	Armco	Bridgeville, PA	Denial (4/1/94).
00036	Key Tronic	Cheney, WA	Cert (4/5/94).
00042	Samson Cordage	Anniston, AL	Cert (4/6/94).
00055	N.D. Grocers	Bismark, ND	Denial (4/6/94).
00037	True Temper	Harrisburg, PA	Cert (4/8/94).
00038	Heater Wire	El Paso, TX	Denial (4/8/94).
00052	Creat. Ceramics	Eagle Pass, TX	Cert (4/8/94).
00040	Peterson Shake	Amanda Park, WA	Cert (4/11/94).
00041	Owens-Brockway	Huntington, WV	Denial (4/14/94).
00043	Cooper Ind.	Cansonburg, PA	Cert (4/14/94).
00044	Gerber	Reedsburg, WI	Denial (4/14/94).
00048	Gould Elec.	Newburgport, MA	Denial (4/14/94).
00053	Simkins Ind.	Russell, MA	Cert (4/18/94).
00066	Internat Paper	Presque Isle, ME	Denial (4/18/94).
00047	Concurrent	Oceanport, NJ	Denial (4/19/94).
00057	J.E. Morgan	Wadesboro, NC	Denial (4/21/94).
00049	Rowe Internatl	Whippany, NJ	Denial (4/22/94).
00051	Valeo Climate	Fort Worth, TX	Cert (4/22/94).
00045	Johnson	Bennington, VT	Cert (4/25/94).
00058	Frigidaire	Athens, TN	Cert (4/25/94).
00068	Innotech, Inc.	Roanoke, VA	Cert (4/26/94).
00059	Boss Mfg.	El Paso, TX	Cert (4/28/94).
00060	B&B Garment	Parsons, TN	Denial (4/28/94).
00061	Wotco, Inc.	Casper, WY	Cert (5/2/94).
00062	RELIANCE COMM	St. Stephen, SC	Cert (5/2/94).
00073	Cargill, Inc.	Buffalo, NY	Denial (5/3/94).
00067	Stan. Products	Schenectady, NY	Cert (5/4/94).
00074	Formglas, Inc.	San Jose, CA	Cert (5/5/94).
00063	USA	Conyers, GA	Cert (5/6/94).
00071	USA	Bamberg, SC	Cert (5/6/94).
00072–72A	USA	Spencer/Sparta, TN	Cert (5/6/94).
00064	Abbott & Co.	Manchester, TN	Cert (5/6/94).
00065	Layne & Bowler	Memphis, TN	Denial (5/6/94).
00075	C & R Cedar	Forks, WA	Cert (5/10/94).
00076	TTX Company	Tucson, AR	Denial (5/10/94).

NAFTA No.	Firm	Location	Decision and date
00070	Quartet Fash	Bath, PA	Denial (5/12/94).
00102	Quartet Fash	Nazareth, PA	Denial (5/12/94).
00103	Quartet Fash	Nazareth, PA	Denial (5/12/94).
00077	Data Products	Norcross, GA	Cert (5/18/94).
00077A	Staffing Res	Norcross, GA	Cert (5/18/94).
00077B	ATS Staffing	Norcross, GA	Cert (5/18/94).
00077C	Maristaff	Atlanta, GA	Cert (5/18/94).
00080	Sunshine Rope	Miami, FL	Denial (5/18/94).
00079	Swiss	Lake Havasu, AR	Denial (5/19/94).
00078	Radform Tool	East McKeesport, PA	Denial (5/19/94).
00092	Indal Limited	Indiana, PA	Denial (5/19/94).
00109	Wilmington St	New Castle, PA	Denial (5/19/94).
00086	Pope & Talbot	Port Gamble, WA	Cert (5/23/94).
00105	Fruit of Loom	Osceola, AR	Denial (5/24/94).
00083	Miami Trim	Miami, FL	Term (5/25/94).
00081	Allied Signal	El Paso, TX	Cert (5/26/94).
00082	Otis Elevator	Tucson, AR	Cert (5/27/94).
00088	Andrea Mfg	Decatur, IL	Denial (5/27/94).
00089	Lyons Falls	Lyons Falls, NY	Denial (5/27/94).
00106	Viskase Corp	Osceola, AR	Cert (5/27/94).
00093	Mallinckrodt	New Athens, IL	Cert (5/31/94).
00069	Rudolph miles	El Paso, TX	Denial (6/1/94).
00085	Beaver Dam	Beaver Dam, WI	Denial (6/1/94).
00090	Kraft	Avon, NY	Denial (6/1/94).
00091	L. Grief	Shippensburg, PA	Cert (6/1/94).
00099	Grief Com.	Lehigh Valley, PA	Cert (6/1/94).
00098	Waynesboro Ap	Waynesboro, GA	Cert (6/1/94).

NAFTA CASELOG

NAFTA petition	Petitioner (workers, union, firm)	Location	State receipt	Affected articles
00118	Laurel Street Art Club Inc.; Art Works Division (Wkrs)	Hebron, KY	05/20/94	Production of art works for furniture retailers.
00119	DeSoto, Inc. (Wkrs)	Stone Mountain, GA	05/24/94	Liquid soap for automatic dishwashers.
00120	Walker Manufacturing Co.; Newark Plant (UAW)	Hebron, OH	05/26/94	Exhaust systems; manufacturing of welded assemblies including pipes, flanges, mufflers, and resonators.
00121	Kayser-Roth Corp.; No Nonsense Factory Outlet, Inc. (Wkrs)	Greensboro, NC	05/31/94	Panty hose and socks.
00122	Pacific Sound Resources, Inc.; Seattle and Bainbridge Island (AFL–CIO).	Seattle, WA	05/31/94	Pressure preserved lumber, poles and pilings.
00123	Safeway, Inc.; M.I.S. (Wkrs)	Oakland, CA	05/31/94	Programming services (ie: HIS systems).
00124	S & H Fabricating and Engineering, Inc. (GMP)	Sanford, FL	06/01/94	Air-conditioners for automobiles.
00125	Wells Lamont Corp.; Portland Glove Co. (ACTWU)	Carlton, OR	05/24/94	Leather gloves.
00126	Zentek, Inc. (Co.)	San Marcos, CA	05/27/94	Electric transformers manufacturing.

SARA LEE CUTS 8,000 JOBS—BUT FEW, IF ANY, IN MEXICO

WINSTON-SALEM (AP).—In the battle of Martinsville vs. Mexico, Martinsville lost. Few if, any, of the more than 8,000 jobs that Sara Lee plans to cut during the next several months will be in Mexico.

At domestic plants that knit fleece or sweat suit material and hosiery, 490 jobs will be lost, said Nancy Young, a personal products group spokeswoman in Winston-Salem. Two of four factory shifts will be cut at a plant in Martinsville, Va., and a plant in High Point will close.

That means a greater share of Sara Lee's production capacity for pantyhose and fleece production will be in Mexico when the company's $495 million restructuring is completed, the Winston-Salem Journal reported Thursday.

But a Sara Lee official said there wasn't a choice between Martinsville or Mexico.

"The Martinsville plant complemented one of our Mexican plants" said spokeswoman Anne McCarthy in Chicago. "They didn't compete."

On Tuesday, John Ward, senior vice president for Sara Lee's Winston-Salem operation, said the company needs to shed 15 percent of its U.S. sweat shirt production and 5 percent of its sheer hosiery.

Sara Lee officials did not detail how much of the company's fleece or hosiery production capacity is in Mexico, or how many employees the company has there.

Union officials representing Sara Lee workers in California estimate that Sara Lee pays between $4 and $6 a day in Mexico. Minimum wage in the United States is $4.25 an hour

Sara Lee's choice of job cuts and closings is not related to wage rates, McCarthy said.

Young said Sara Lee officials decided to cut 290 American workers from the payroll in Martinsville because of the Virginia knitting plant's advanced age and higher operating costs. Sara Lee has no plans to add knitting capacity in Mexico, she said.

Sara Lee has no sock plants in Mexico such as the 350-worker Adams-Millis plant in Kernersville that will close. And Young said the company has no plans to open sock factories in Mexico.

Sara Lee has not filed a petition with North Carolina's Employment Security Commission that would help laid-off workers qualify for the Trade Adjustment Assistance program, a federal program to help workers displaced by foreign competition after NAFTA. The program provides retraining funds.

ESC spokesman David Sherrill said he does not know whether Sara Lee workers will qualify.

□ 2100

NIGERIA

The SPEAKER pro tempore (Mr. ABERCROMBIE). Under the Speaker's announced policy of February 11, 1994, the Chair recognizes the gentleman from Louisiana [Mr. JEFFERSON] for 30 minutes.

Mr. JEFFERSON. Mr. Speaker, I come before the House today, in my capacity as chairman of the Congressional Black Caucus Task Force on Democratization of Nigeria, in order to register our full support for Chief M.K.O. Abiola, President-elect of the Federal Republic of Nigeria, and his ongoing formation of Nigeria's new Government of National Unity.

On June 12 of last year, Chief Abiola won the Presidential election held in Nigeria. He received 58 percent of the popular vote and won a majority of the vote in 20 of Nigeria's 30 States in what hundreds of international observers determined to be the freest and fairest election in the history of Nigeria.

Unfortunately, the presiding military dictator at that time, Gen. Ibrahim Babangida, arbitrarily annulled the election. The result was absurd and an insult to the 14,000,000 Nigerians who voted in the election. We can only imagine the magnitude of the crime against the people of Nigeria, for nowhere, in modern recorded history, has an annulment of a free and fair election occurred. The election return counting was stopped after 90 percent of the vote was counted with Mr. Abiola the obvious winner.

To this day, 1 year later, the election count has neither been completed nor reported. And to add injury to insult, General Babangida, after invalidating the election, left his office as President, due to protests against the annulment, and appointed an unelected civilian crony to head a so-called interim government in a brief and unsuccessful attempt to cover up his crime against the people. Months later, Mr. Speaker, another military despot, General Sani Abacha, forced his way into power toppling the "interim Government." But, he did even General Babangida one better. Abacha promptly gave orders to dissolve the Senate, the House of Representatives, and the Supreme Court and replaced the nation's 50 Governors with military generals and admirals.

Mr. Speaker, as bizarre as this sounds, it is precisely what has happened in Nigeria over the past year. Indeed, this analysis is an unthinkable occurrence to the American people, but it is a nightmare come alive in Nigeria, destroying the dream of democracy and self-rule that the Nigerian people so eloquently expressed when millions of them went to the polls to elect a President on June 11, 1993. In the 2 years leading up to the Presidential elections, the Nigerian people displayed a great capacity for negotiating and sustaining the democratic process by freely, fairly, and peacefully electing over 500 local governments, more than 1,100 State legislators, 30 Governors, and a 600-member National Assembly.

All of these democratic institutions and office holders were eliminated and replaced on one single day—November 18, 1993—at gunpoint, by Nigeria's current dictator, General Sani Abacha.

The United States, Canada, and Great Britain responded to this cruel and unusual crime against democracy and the people of Nigeria by issuing sanctions against the military regime. The U.S. sanctions included the expulsion of Nigeria's military attache to the United States, termination of financial assistance for military training and U.S. visa restrictions on General Abacha, members of his provisional ruling council, and their family members.

Mr. Speaker, while these measures make a strong diplomatic statement, stronger action is needed to isolate and expose the illegitimate, illegal behavior of General Abacha and his government.

Congressman DONALD PAYNE, a host of other congressmen, and I responded to this crisis by introducing Concurrent Resolution 151, which recognizes the June 12th mandate of the people and calls for extending the limited sanctions now in place against the Abacha regime. Resolution 151 has already passed the Africa Subcommittee, and I understand a stronger, updated version of Resolution 151 is being marked up for full committee consideration.

On Tuesday of last week, Africa Subcommittee chairman, Congressman HARRY JOHNSTON, along with Mr. PAYNE, sent a letter to Secretary Christopher requesting that a special envoy be sent to Nigeria immediately to "help resolve the political conflict and avoid further deterioration in Nigeria." The Congressional Black Caucus supports that request, and I would like to submit a copy of that letter for the RECORD.

Mr. Speaker, even as we address this matter today, the military regime in Nigeria continues to provide fraudulent excuses to our Government and the international community regarding its intent to return to civilian, democratic rule. The latest scheme is that of a "constitutional conference," which, reportedly, is scheduled to start in January of 1995 and last for several months. On May 23 of this year, General Abacha staged an election for delegates to this conference which the Nigerian people successfully boycotted, rendering the conference an irrelevant, nonviable vehicle to establish democracy, for it was unsanctioned by the will of the Nigerian people.

Even in the process of setting up this so-called constitutional conference, Abacha has exposed his lack of sincerity in transitioning to civilian rule by violating his own conference rules and appointing, not electing, close to one third of the conference delegates!

Under Abacha's rule, Nigeria is sinking into economic problems and is daily losing international respect. The latest and most embarrassing blow the Abacha regime delivered to the Nigerian people was its failing to cooperate with international drug interdiction efforts. This resulted in Nigeria's placement on the dreaded decertification list by the United States, disqualifying the country from any form of assistance from the United States and branding it as an outlaw nation whose leaders either sanction or permit rampant drug trafficking.

Finally, Mr. Speaker, on June 11, 1994, President-elect Abiola decided enough was enough. He took matters into his own hands. In response to the mandate of the people of June 12, 1993, he declared himself President of the Federal Republic of Nigeria and announced the formation of the Government of National Unity. In doing so, Chief Abiola showed tremendous courage and commitment to Nigeria and to democracy. He deserves the support of this Congress and our Nation.

Just last Wednesday, I received a letter from President-elect Abiola along with the full text of his Presidential proclamation. I would like to share with my colleagues and the American people portions of that letter which describe the dictators' response to Chief Abiola's courageous effort to advance the democratic process in Nigeria as well as his description of the current state of affairs in Nigeria:

> On June 11, 1994, in response to the mandate given to me by the Nigerian people, I officially declared the Presidency of the Federal Republic of Nigeria and announced the formation of The Government of National Unity. As a result the military regime has shut down the independent press in Nigeria and the entire country is now in a police state. I, the freely and fairly elected President of the Federal Republic of Nigeria am currently enduring the irony of being treated as a "fugitive" and being "wanted" by criminals, thieves and drug pushers for advancing the process of democracy.
>
> White minority rule in former apartheid South Africa was found to be obscene and intolerable and the free world isolated that evil so that the will of the people could prevail. The obscene and oppressive black minority rule of Nigeria's military dictators over ninety million people should not, in any manner, be allowed to continue. The major weapons used against the Nigerian people by the dictators are global neglect of the Nigerian people and the massive abuse of Nigeria's resources which they continue to plunder in order to criminally fortify themselves.
>
> Over the past twelve months the Nigerian economy has slumped to an all time low, unemployment has risen from twenty eight percent to seventy two percent, the value of the Naira, our local currency has plummeted by sixty five percent. Security of life and property has worsened with a murder being committed every 40 minutes. Kidnapping has increased and the state of hopelessness has led to massive recruitment of our people into the drug courier trade.
>
> The current atmosphere in Nigeria is charged with indications that General Abacha will respond with deadly force on innocent Nigerians that will not reverse their course in bringing democracy to Nigeria. Mr. Chairman, one out of five Africans in the world is Nigerian. The conflict resulting in massive humane carnage in Bosnia, Rwanda, Haiti and other parts of the world will pale in comparison to an unchecked Nigeria.
>
> I am appealing to the Congressional Black Caucus, Africa's strongest advocate in the United States government and the free world, to respond to our call for attention and support at this critical juncture in our nation.

Mr. Speaker, I would also like to submit these documents in their entirety for the RECORD.

In closing, Mr. Speaker, I would like to share with this body the conversation that I had with the President-elect this morning in which he assured me that he is trying every available avenue to create a peaceful transition to democracy, but that the people are confronted with a desperate dictator who is likely to lash out at any moment. Abacha has already jailed an 80-year-old former Senator for allegedly participating in the boycott of the constitutional conference election. Over 200 people were killed in the demonstrations following the annulment of the June 12th election and hundreds more political prisoners remain in Nigerian jails today. Predictably, General Abacha has declared Mr. Abiola a traitor and has forced him into hiding in his own country.

Mr. Speaker, it is time we start treating the military tyrants in Nigeria with the same political and economic isolation that was imposed on apartheid South Africa and that is being applied on the illegitimate leadership in Haiti today.

Nigeria is Africa's largest producer of crude oil and the second largest supplier of crude oil to the United States. The $12 billion annually in crude oil sales generates approximately 90 percent of Nigeria's revenue. The annual income of the ordinary Nigerian is less than $250 per year. So, it is clear that the masses of the people do not benefit from the country's enormous wealth.

In the interest of democracy and the right of the Nigerian people to live free, let us put an end to this outrageous corruption, public larceny, and global embarrassment that the military generals continue to inflict on Nigeria and her decent and wonderful people.

We can start by strategic embargoes on the purloin crude oil and place an immediate freeze on private and government bank accounts of the military regime in the United States and request that our allies in Canada, Great Britain, Germany, and France do the same. Let us start, Mr. Speaker, by recognizing the Government of National Unity and its duly elected President, Chief M.K.O. Abiola.

THE WAY FORWARD

(By Bashorun M.K.O. Abiola, President and Commander-In-Chief of the Armed Forces, Federal Republic of Nigeria, On Wednesday, June 22, 1994)

My fellow Nigerians, on 11th of June, 1994, at your request, I claimed the sacred and popular mandate which you gave me as President and commander-in-chief of the Nigerian armed forces at the presidential election of June 12, 1993. I invoked the mandate bestowed upon me by my victory in the said election, to call on all members of the armed forces, and the police, the civil and public services throughout the Federal Republic of Nigeria, to obey only the government of national unity that is headed by me, your duly elected President. My government of national unity from that date remains the only legitimately constituted authority in the Federal Republic of Nigeria.

Since the above address, Gen. Abacha has intensified his efforts at the old Jamboree of one-way consultations with the top echelon of our people in a futile effort to hang on to power forgetting that after the Nigerian people have spoken in a free and fair presidential election, piecemeal approach to national consultation becomes irrelevant. I have deliberately withdrawn for a few days in order to devote myself along with members of the transition committee to the process of concrete planning of the structure and model of the government that would satisfy and meet the grave socio-economic and political challenges faced by Nigerians in the last few years as particularly occasioned by graft, mismanagement, incompetence and insensitivity of the military dictators of the last 10 years who have turned Nigeria and Nigerians into the spoils of their conquests. I have also taken the opportunity to move round and talk to Nigerians in all walks of life to get their own impression on the way forward.

We are all aware of the oft-repeated recognition by the leadership of our armed forces that their role is to protect the territorial integrity of the nation from the barracks. The time is long past when the armed forces leadership should rescue itself with honour by returning to those barracks they have vacated for 24 out of our 33 years of independence.

My government will accept full responsibility for all actions, legal, contractual or otherwise, of the outgoing regime up to and including today's date. Persons who transact business with the illegal regime thereafter do so at their own risk.

In the light of the unwarranted economic and political crisis which the various military juntas have imposed on the Nigerian peoples, there is sufficient evidence to all concerned patriots that in the composition and allocation of functions under the government of national unity, we must operate a policy that brings on board the major political tendencies, platforms and interest groups.

Consequently, after a thorough consultation with the transition committee and respected leaders of various interest groups in the country, we have decided that allocation of ministerial and ambassadorial positions, various commissions, boards and parastatals would be distributed equitably among the major zones of the country and interest groups in such a way as to ensure that as from now, Nigerians will be equitably treated. Furthermore, access to political and economic opportunities shall, as a matter of national policy, be open to all Nigerians as of right. My government rejects the winner-take-all approach and will invite to serve notable, credible and committed patriots of both political parties and also include worthy non-partisan people.

In setting up a cabinet, all the zones in the country will be represented, labour will be represented, women will be represented, the human rights organisations will be represented, the professional organisations such as the bar association, the medical association, etc., will be represented. I will set up a student affairs commission in which students, elected by students, will be represented.

As indicated in my proclamation address, the only constitutional body charged with approval of nominees to cabinet positions is the senate of the Federal Republic of Nigeria which had not been allowed by the military junta to resume as proclaimed by its president, Senator Ameh Ebute. Our government will ensure that the senate holds its meeting soon to consider the list of ministers that will be submitted for their approval. Pending the appointment of ministers, the directors-general will take charge of each ministry and extra-ministerial department.

Within 3 months, the government of national unity will ensure that Nigerians are back to work again, with factories operating at full capacity, with foreign investments flowing in and new factories springing up. Because Nigeria will no longer pursue dubious economic policies like a lone economic ranger in the world, we have clear assurance that prevailing crisis in our relationship with the international financial authorities will be resolved quickly. We will join the rest of the world in pursuing sound economic policies to resolve our problems.

Within 30 days, we shall resume the federal system of government which the armed forces have failed to operate for 24 out of the 33 years of our independence because of their central command and vertical hierarchical structures.

For now onwards, all Nigerians will be equal before the law. There will be equality of opportunity and freedom to pursue the course of happiness as every individual desires.

From now onwards, every Nigerian will be involved in decisions of government that affect him. Prices of essential commodities like fuel will be based on full discussion through committees of the national assembly so that not only prices, but costs of production and consequences of price hikes whether on fuel, telephone or any other item would have been considered.

With immediate effect, education throughout Nigeria will be made available to all children free of fees, levies or any imposition to give equality of opportunity to all our children regardless of the circumstances of their parents. Education is an investment in the future. We owe that to our children. All arrears of salaries to teachers and all outstanding awards will be paid to all teachers within 60 days.

Very soon, health care delivery from primary to tertiary level will be seen as a right by all our people so that both urban and rural Nigerians will get equal treatment. All outstanding awards and salary arrears to all personnel in the medical departments will be paid within 60 days.

Within 100 days, food at affordable prices will be available, if necessary by temporary importation. Urgent studies have been commissioned and preliminary arrangements are already being made in that direction.

After proper consultation, our traditional institutions will flourish and be made to constitute meaningfully to governance. There will be ample opportunities for our god-given culture to bloom, and to flourish not for the sake of nostalgia but to encourage tourism and increase our foreign exchange earnings.

From now onwards, all impediments to the growth and development of all Nigerians shall be a matter of the past so that is the next few years not even the sky shall be the limit to the ambition of any of our citizens.

In the shortest possible time, our reputation as 49ers, drug pushers and as a citadel of corruption will be wiped out and a new image substituted of a people who fought gallantly for democracy, press freedom, an independent, well-funded and incorruptible judiciary, respect for life and property, and a modern, powerful renascent Africa.

As a matter of priority, my government will put an end to the current deprivations of the rank and file of the Nigerian Armed Forces and the Nigerian police some of whose salaries have not been paid for up to 3 months. We shall improve their housing and welfare provision commensurate with the sacrifice they make for the safety and security of the Nation.

Our government will tackle the issue of corruption very strongly by ensuring enhanced degree of transparency in our governance. We shall publish monthly report and values of oil liftings, all government contracts shall be by public tender and all major contract awards will be published with details of the report of the tenders' board and comparable prices of similar contracts awarded by African or other nations. All enterprises involved in public expenditure must have public auditors, who must publish annual reports. It will be a criminal offence, punishable by a jail term, for any public officer to refuse to cooperate with a public auditor. All public officers involved in major contract awards must publish their net worth statement annually. Government will not give any protection whatsoever to any official to prevent the press from doing their duties of holding any official accountable for his stewardship. These measures are in addition to what already exists, all of which we pledge to enforce rigorously.

I will later address the nation on the issue of sovereign national conference, which proceedings will start within the 100 days of my inauguration.

Within 30 days, all democratic structures will return to office to perform their constitutional duties in accordance with their oath of office and allegiance based on the people's mandate. Military officers posted to political duties shall return to their formation for re-posting.

From now onwards, all ministers, governors, legislators, members of the Nigerian Armed Forces, security services, police as well as officers and men of the civil and public services will truly be servants and not masters of the people.

Our main objective is to ensure that, by the end of our first year in office, every Nigerian, everywhere in the global village will be able to say "Yes, I am a Nigerian and I am proud of it".

I must pay special tribute to the international community for their concern to see democracy restored in Nigeria. We recognise that their countries which have remained the beacons of democracy do not recognise individuals or personalities. We, however, expect them to continue their support for the democratic forces in Nigeria and to accord prompt recognition to our Government of National Unity.

I extend our hands of fellowship to all Nigerians no matter their political preferences to identify with and participate in this Government of National Unity. The crucial lesson that Nigerians must have learnt from the event of the last 9 years is that credible political leaders of whatever persuasions, must abandon the policy of winner-take-all and so provide unity and consensus on fundamental issues of public interest. The tiny clique of military adventurers who have consistently and illegally used the military institution to forcefully overthrow constituted authorities must never be allowed at another gamble in our nation.

Nigerians must rise up to protect democracy and our divine right to elect leaders to govern us and for specified period of time. We must adopt an immutable twin policies of non-recognition and non-fraternization with any military dictators whose only authority is based on their misuse of guns and ammunitions bought by Nigerians for the defence of our territorial integrity.

We salute all Nigerians for their patience and courage in the face of this intimidation and provocation by the military clique who are desperate to remain in office. We remember, in particular, the gallant heroes and heroines of democracy who paid the supreme price in the struggle against military dictatorship. We are committed to ensuring that their sacrifice is not in vain.

We assure all Nigerians and our friends of our determination to ensure that the nightmare of military dictatorship is finally over.

God bless Nigeria!

ADDRESS TO THE PEOPLE OF NIGERIA BY BASHORUN M.K.O. ABIOLA, PRESIDENT OF THE FEDERAL REPUBLIC OF NIGERIA, JUNE 11, 1994

People of Nigeria: Exactly one year ago, you turned out in your millions to vote for me, Chief M.K.O. Abiola, as President of the Federal Republic of Nigeria. But politicians in uniform, who call themselves soldiers but are more devious than any civilian would want to be, deprived you of your God-given right to be ruled by the President you had yourselves elected.

These soldier-politicians introduced into your body politic, a concept hitherto unknown to our political lexicography; something strangely called the "annulment" of an election perceived by all to have been the fairest, cleanest and most peaceful held in our Nation.

Since that abominable act of naked political armed robbery occurred, I have been constantly urged by the people of goodwill, both in Nigeria and abroad, to put the matter back into the people's hands and get them to actualize the mandate they gave me at the polls.

But mindful of the need to ensure that peace continues to reign in our fragile Federation, I have so far tried to pursue sweet reason and negotiation. My hope has always been to arouse whatever remnants of patriotism are left in the hearts of these thieves of your mandate, and to persuade that they should allow their personal desire to rule to usher our beloved country into an era of political instability and economic ruin.

All I have sought to do, in seeking dialogue with them, has been to try and get them to realize that only real democracy can move our nation forward towards progress, and earn her respect she deserves from the international community.

However, although this peaceful approach has exposed me to severe censure by some who have mistaken it for weakness on my part, those with whom I have sought to dialogue have remained like stones, neither stirred to show loyalty to the collective decision of the people of their own country, nor to observe Allah's injunction that they should exhibit justice and fair play in all their dealings with their fellow man.

Appeals to their honour as officers and gentlemen of the gallant Nigerian Armed Forces, have fallen on deaf ears. Instead, they have resorted to the tactics of divide and rule, bribery and political perfidy, disinformation and black propaganda. They arrest everyone who disagrees with them. Even the 71-year-old hero of our Nation, Chief Anthony Enahoro was not spared.

How much longer can we all tolerate all this?

People of Nigeria, you are all witnesses that I have tried to climb the highest mountain, cross the deepest river and walk the longest mile in order to get these men to obey the will of our people. There is no humiliation I have not endured, no snare that has not been put into my path. No set-up that has not been designed for me, in my endeavour to use the path of peace to enforce the mandate that you bestowed on me one year ago.

It has been a long night. But the dawn is here. Today, People of Nigeria, I join you all in saying "Enough is Enough!"

We have endured 24 years of military rule in our 34 years of independence. Military rule has led to our Nation fighting a civil war with itself. Military rule has destabilized our Nation today as never before in its history. Military rule has impoverished our people and introduced a dreadful trade in drugs which has made our country's name an anathema in many parts of the world.

Even soccer fans going to watch the Green Eagles play in America are being made to suffer needlessly because Nigeria's name is linked with credit card fraud and "419".

Politically, military rule has torn to shreds the prestige due our country because of its size and population. The permanent seat at the United Nations Security Council that should be rightfully ours is all but lost. For who will vote for Nigeria to get the seat if Nigeria's military rulers do not respect the votes of their own people? Enough of military rule.

We are sickened to see people who have shown little or no personal achievement, either in building up private businesses, or making a success of any tangible thing, being placed in charge of the management of our Nation's economy, by rulers who are not accountable to anyone. Enough of square pegs in round holes.

We are tired of the military's repetitive tendency to experiment with our economy. Today, they say: "No Controls" Tomorrow, they say: "Full controls". The day after they say: "Fine tuning". The next day, they say: "Devaluation". A few days later they say: "Revalue the same Naira upwards again". Abi?

All we can see are the consequences of this permanent game of military "about-turns": high inflation; a huge budget deficit; and an enormous foreign debt repayment burden; dying industries; high unemployment; and a demoralized populace. Our youth, in particular, can see no hope on the horizon, and many can only dream of escaping from our shores to join the Brain Drain. Is this the Nigeria we want?

We are plagued also by periodic balance of payment crises, which have led to a perennial shortage of essential drugs, that has turned our hospitals and clinics into mortuaries. A scarcity of books and equipment has rendered our institutions of higher learning into desolate deserts of ignorance.

Our factories are crying for machinery, spare parts and raw materials. But each day that passes, instead of these economic diseases being cured they are rather strengthened as an irrational allocation of foreign exchange based on favoritism and corruption becomes the order of the day.

Enough, oh enough of economic mismanagement!

People of Nigeria, during the election campaign last year, I presented you with a programme entitled "HOPE 93". This programme was aimed precisely at solving these economic problems that have demoralized us all. I toured every part of Nigeria to present this programme to you, the electorate. I was questioned on it at public rallies and press conferences and I had the privilege of incorporating into it much of the feedback that I obtained from the people.

Because you knew I would not only listen to you, but deliver superb results from the programme, you voted for me in your millions and gave me an overwhelming majority over my opponent.

To be precise, you gave me 58.4% of the popular vote, and a majority in 20 out of 30 States, plus the Federal Capital, Abuja. Not only that, you also enable me to fulfill the constitutional requirement that the winner should obtain ⅓ of the votes in ⅔ of the States. I am sure that, when you cast an eye on the moribund state of Nigeria today, you ask yourselves, "What have we done to deserve this, when we have a President-elect who can lead a government that can change things for the better?

Our patience has come to an end, as of now, from this moment on a new Government of National Unity is in power throughout the length and breadth of the Federal Republic of Nigeria, led by me, Bashorun M.K.O. Abiola, as the President and Commander-in-Chief. The National Assembly is hereby reconvened. All the dismissed Governors of the States as reinstated. The State Assemblies are reconstituted, as are all Local Government Councils. I urge them to adopt a bi-partisan approach to all the issues that come before them. At the national level, a bi-partisan approach will be our guiding principle.

I call upon the usurper, General Sani Abacha, to announce his resignation forthwith, together with the rest of his illegal ruling Council. We are prepared to enter into negotiations with them to work out the mechanics for a smooth transition of power. I pledge that if they hand over quietly, they will be retired with all their entitlement, and their positions will be accorded all the respect due to them. For our objective is neither recrimination nor witch-hunting, but an enforcement of the will of the Nigerian people, as expressed in free elections conducted by the duly constituted authority of the time.

I hereby invoke the mandate bestowed upon me by my victory in the said election, to call on all Members of the Armed Forces and the Police, the Civil and Public Services throughout the Federal Republic of Nigeria, to obey only the Government of National Unity that is headed by me, your only elected President.

My Government of National Unity is the only legitimate constituted authority in the Federal Republic of Nigeria as of now.

People of Nigeria, these are the most challenging times in the history of our continent. Africa, and we in Nigeria must not allow ourselves to be left behind. Our struggle is the same as that waged by the people of South Africa, which has been successfully concluded, with the inauguration of Mr. Nelson Mandela as the first African President of that country.

Nelson Mandela fought to replace minority rule with majority rule. We in Nigeria are also fighting to replace minority rule, for we are ruled by only a tiny section of our Armed Forces. Like the South Africans, we want majority rule today; that is—rule only by those chosen by all the people of Nigeria as a whole in free and fair elections. The only difference between South Africa and Nigeria is that those who imposed minority rule on the majority were white, while the majority were black. But minority rule, whether it is black or white, remains minority rule, and must be booted out.

I call on you, heroic people of Nigeria, to emulate the actions of your own brothers and sisters in South Africa and stand up as one people to throw away the yoke of minority rule forever.

The antics of every minority that oppresses the majority are always the same. They will try to intimidate you with threat of police action. But do not let us fear arrest.

In South Africa, so many people were arrested, during the Campaign Against the Pass Laws, for instance, that the jails could not hold all of them. Today, apartheid is gone forever. So let it be with Nigeria. Let us say goodbye for ever to minority rule by the military.

They talk of treason. But haven't they heard of the Rivonia treason trials in South Africa? Did those treason trials halt the march of history?

People of Nigeria, our time is now. You are the repository of power in this land. No-one can give you power. It is yours. Take it! From this day, show to the world that anyone who takes the people of Nigeria for fools is deceiving himself and will have the people to answer to.

God Bless you all.

Long Live the Federal Republic of Nigeria.

Long Live the Government of National Unity.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HOUGHTON (at the request of Mr. MICHEL), for today after 2 p.m., on account of attending the christening of Amory Taylor Houghton.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. STEARNS) to revise and extend their remarks and include extraneous material:)

Mr. STEARNS, for 5 minutes, today.

Mr. WELDON, for 5 minutes, today and on June 23.

Mr. HOEKSTRA, for 5 minutes, today.

Mr. SHAYS, for 5 minutes, today.

Mr. RAMSTAD, for 5 minutes, today.

(The following Members (at the request of Ms. KAPTUR) to revise and extend their remarks and include extraneous material:)

Mr. FOLEY, for 5 minutes, today.

Mr. GEPHARDT, for 5 minutes, today.

Mr. LAUGHLIN, for 5 minutes, today.

Mr. FROST, for 5 minutes, today.

Mr. WISE, for 5 minutes, today.

Ms. DELAURO, for 5 minutes, today.

Mr. REYNOLDS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. STEARNS) to include extraneous matter:)

Mr. SHAW.

Mr. FIELDS of Texas.

Mr. GOODLING.

Mr. HYDE.

Mr. LEWIS of California in two instances.

Mr. HOBSON.

Mr. STUMP.

Mrs. JOHNSON of Connecticut.

Mr. DREIER.

Mr. MCCOLLUM in two instances.

Mr. HEFLEY.

Mr. ROGERS.

(The following Members (at the request of Ms. KAPTUR) and to include extraneous matter:)

Mr. HAMILTON in two instances.

Mr. FORD of Michigan.

Mr. ORTIZ in two instances.

Mrs. BYRNE.

Mr. HOAGLAND.

Ms. WATERS.

Mr. CARDIN.

Mr. STARK.

Mr. KENNEDY.

Mr. BLACKWELL in two instances.

Mr. WILSON.

Mr. BACCHUS of Florida.

Mr. BROWN of California.

Mr. WHEAT.

Mr. OBEY.

Mr. TRAFICANT in two instances.

Mr. BARCIA of Michigan.

Mr. LANTOS in two instances.

Mr. MANN.

Mr. KLINK.

Mr. BARRETT of Wisconsin.

Ms. FURSE.

Mr. BISHOP.

Mr. ACKERMAN.

Mr. COSTELLO in five instances.

Mr. VALENTINE.

Mr. KASICH.

ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 1183. An act to validate conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to the Central Pacific Railway Company.

ADJOURNMENT

Mr. JEFFERSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 14 minutes p.m.), the House adjourned until tomorrow, Thursday, June 23, 1994, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3409. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Packers and Stockyards Act, 1921, to provide for the establishment of a statutory trust for the benefit of livestock sellers to livestock dealers and market agencies buying on commission; to the Committee on Agriculture.

3410. A letter from the Secretary, Housing and Urban Development, transmitting a report entitled "Revised Methods of Providing Federal Funds for Public Housing Agencies," pursuant to Public Law 101-625, section 524 (104 Stat. 4215); to the Committee on Banking, Finance and Urban Affairs.

3411. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-254, "Repeat Offender Life Without Parole Amendment Act of 1994," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3412. A letter from the Secretary of Health and Human Services, transmitting the final report on the validation and effectiveness study of legal representation through guardian ad litem, pursuant to 42 U.S.C. 5105 note;; to the Committee on Education and Labor.

3413. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions by E. Michael Southwick, of California, to be Ambassador to the Republic of Uganda, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3414. A letter from the Federal Housing Finance Board, transmitting the 1993 management reports of the 12 Federal Home Loan Banks and the Financing Corporation, pursuant to Public Law 101-576, section 306(a) (104 Stat. 2854); to the Committee on Government Operations.

3415. A letter from the Librarian of Congress, transmitting the report of the activities of the Library of Congress, including the Copyright Office, for the fiscal year ending September 30, 1992, pursuant to 2 U.S.C. 139; to the Committee on House Administration.

3416. A letter from the Administrator, General Services Administration, transmitting informational copies of various lease prospectuses, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STOKES: Committee on Appropriations, H.R. 4624. A bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995, and for other purposes (Rept. 103–555). Referred to the Committee of the Whole House on the State of the Union.

Mr. BEILENSON: Committee on Rules. House Resolution 461. Resolution waiving certain points of order against the bill (H.R. 4603) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes (Rept. 103–556). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BATEMAN:

H.R. 4622. A bill to authorize the Secretary of Transportation to convey for scrapping to the Mariner's Museum in Newport News, VA, a vessel in the National Defense Reserve Fleet that is scheduled to be scrapped; to the Committee on Merchant Marine and Fisheries.

By Mr. OBEY (for himself, Mr. Sarpalius, Ms. Shepherd, Mr. Bonior, Mr. Wise, and Mr. Derrick):

H.R. 4623. A bill entitled, "The Anti-Hypocrisy Deficit Reduction Act," to provide for anti-hypocritical adjustments for fiscal year 1994; jointly, to the Committees on Government Operations and Appropriations.

By Mr. STOKES:

H.R. 4624. A bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995, and for other purposes.

By Mr. BISHOP (for himself, Ms. Long, Mr. Hilliard, and Mr. Kingston):

H.R. 4625. A bill to make technical corrections to the Egg Products Inspection Act; to the Committee on Agriculture.

By Mr. CARDIN (for himself and Mr. Archer):

H.R. 4626. A bill to amend the Internal Revenue Code of 1986 to clarify the treatment of foreign source income of U.S.-owned multinational insurance agents and brokers; to the Committee on Ways and Means.

By Mr. CARR:

H.R. 4627. A bill to provide for the negotiation of prisoner transfer treaties in order to relieve overcrowding in Federal and State prisons; to the Committee on Foreign Affairs.

By Mr. de LUGO:

H.R. 4628. A bill to amend the Harmonized Tariff Schedule of the United States to extend certain provisions relating to verification of wages and issuance of duty refund certificates to insular producers in the U.S. Virgin Islands, Guam, and American Samoa; and for other purposes; to the Committee on Ways and Means.

By Mr. KILDEE:

H.R. 4629. A bill to amend the Truth in Lending Act to impose a civil penalty on a creditor under an open end consumer credit plan that engages in a pattern of unlawfully billing any obligator under the plan; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MINETA (by request):

H.R. 4630. A bill to amend title 23, United States Code, to improve safety at rail-highway grade crossings and railroad rights-of-way, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. ORTIZ:

H.R. 4631. A bill to direct the Secretary of the Interior to enter into negotiations on the Nueces River project, TX; to the Committee on Natural Resources.

By Mr. PETERSON of Florida:

H.R. 4632. A bill to establish a program to provide Federal payment to States for the operation of programs for long-term care services for needy individuals with disabilities, to amend the Internal Revenue Code of 1986 to revise the tax treatment of expenses for long-term care insurance and services, to reform standards for the long-term care insurance market, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Ms. EDDIE BERNICE JOHNSON of Texas (for herself, Ms. Waters, Mrs. Mink of Hawaii, Mr. Walsh, Mr. LaFalce, Mrs. Meek of Florida, Ms. Pelosi, Mr. Flake, Mr. Emerson, Mr. Barrett of Wisconsin, Mr. Hughes, Mr. Klein, Mr. Scott, Mr. Hilliard, Mr. Pete Geren of Texas, Mr. Blackwell, Mr. Sanders, Mr. Fingerhut, Mr. Jefferson, and Mr. Dellums):

H.J. Res. 382. Joint resolution designating September 11, 1994, as "National Neonatal Nurses Day"; to the Committee on Post Office and Civil Service.

By Mr. BROWN of California (for himself, Mr. Berman, Mr. Sanders, Mr. Miller of California, Mr. Edwards of California, Mr. Torres, Mr. LaFalce, and Mr. Hinchey):

H. Con. Res. 257. Concurrent resolution commending the work of the U.S. Labor Attache Corps, and for other purposes; jointly, to the Committees on Foreign Affairs and Education and Labor.

By Mr. OBEY (for himself, Mr. Sarpalius, Ms. Shepherd, Mr. Bonior, Mr. Wise, and Mr. Derrick):

H. Res. 460. Resolution providing for the consideration of the Anti-Hypocrisy Deficit Reduction Act of 1994 (H.R. 4623); to the Committee on Rules.

By Mr. BARTLETT of Maryland:

H. Res. 462. Resolution expressing the sense of the House of Representatives with respect to the funds needed to compensate for decreased revenues resulting from the implementation of the Uruguay round of the General Agreement on Tariffs and Trade; to the Committee on Government Operations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. ROTH introduced a bill (H.R. 4633) to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade and on the Great Lakes and their tributary and connecting waters in trade with Canada for each of 2 barges; to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1080: Mr. Castle.

H.R. 1106: Mrs. Unsoeld.

H.R. 1171: Mr. Sangmeister, Ms. Eddie Bernice Johnson of Texas, and Mr. Jacobs.

H.R. 1295: Mr. Neal of North Carolina.

H.R. 1349: Mr. Sanders.

H.R. 1815: Mr. Bishop and Mr. Grams.

H.R. 1843: Mr. Gallegly.

H.R. 1961: Mr. Fingerhut.

H.R. 2207: Mr. Herger.

H.R. 2355: Mr. Hutchinson.

H.R. 2467: Mr. Weldon.

H.R. 2623: Mr. Visclosky and Mr. Roth.

H.R. 2710: Mr. Frost and Mr. Solomon.

H.R. 2717: Mr. Hall of Texas, Mr. Moorhead, Mr. Baker of California, Mr. Pombo, Mr. Herger, Mr. Parker, Mr. Kyl, and Mr. Dreier.

H.R. 2720: Mr. Thompson and Mr. DeFazio.

H.R. 2741: Mr. Shays.

H.R. 2759: Mr. Thomas of California and Mr. Paxon.

H.R. 2929: Mr. Lucas.

H.R. 3017: Mr. Klink and Mrs. Thurman.

H.R. 3293: Mr. Hoyer.

H.R. 3397: Mr. Hinchey, Mr. Talent, and Mr. Thompson.

H.R. 3439: Mr. Horn and Mr. Fish.

H.R. 3475: Mr. Moorhead.

H.R. 3490: Mr. Hoyer and Mr. Hall of Texas.

H.R. 3725: Mr. Solomon, Mr. Ballenger, Mr. Klug, and Mr. Fields of Texas.

H.R. 3739: Mr. Burton of Indiana and Mr. Miller of Florida.

H.R. 3785: Mr. Engel and Mr. Evans.

H.R. 3951: Mr. Cramer, Mr. Pickett, Mr. Conyers, and Mr. Hilliard.

H.R. 4036: Mr. DeLay.

H.R. 4118: Mr. Frost.

H.R. 4124: Mr. Brown of Ohio.

H.R. 4142: Mr. Washington, Mr. Sanders, Mr. Porter, Mr. Visclosky, Mr. Gallegly, Mr. Serrano, Mr. McDermott, and Mrs. Morella.

H.R. 4148: Mr. Yates.

H.R. 4158: Mr. Boehlert.

H.R. 4161: Mr. Hefley.

H.R. 4238: Mr. Frost.

H.R. 4260: Mr. Neal of North Carolina, Mr. Murphy, Mr. Frost, and Mr. Price of North Carolina.

H.R. 4345: Mr. Bonior.

H.R. 4370: Mr. Gutierrez, Mr. Traficant, Mr. Rangel, Mr. Rush, and Mr. Reynolds.

H.R. 4384: Mr. Costello, Mr. Hilliard, Mrs. Morella, Mr. Moran, and Mrs. Unsoeld.

H.R. 4386: Mr. Mann, Mr. Peterson of Florida, Mr. Engel, Mr. LaFalce, Mr. Inglis of South Carolina, Mr. Moakley, and Mr. Synar.

H.R. 4411: Mr. Foglietta.

H.R. 4412: Mr. Sarpalius, Mr. Oxley, and Mr. Fawell.

H.R. 4423: Ms. Furse.

H.R. 4464: Mr. Andrews of Texas, Mr. Bacchus of Florida, Mr. Becerra, Mrs. Clayton, Mr. Coppersmith, Mr. Dellums, Mr. Dingell, Mr. Dixon, Mr. Farr, Mr. Gejdenson, Mr. Kleczka, Mr. Mfume, Mr. Roemer, Mr. Rogers, Ms. Roybal-Allard, Mr. Sanders, Mr. Saxton, Mr. Schumer, Mr. Sharp, and Mr. Hughes.

H.R. 4493: Mr. Dicks.

H.R. 4507: Mr. Hughes.

H.R. 4512: Ms. Eddie Bernice Johnson of Texas and Mr. Frost.

H.R. 4527: Mr. Parker and Mr. Bartlett of Maryland.

H.R. 4540: Mr. JACOBS and Mr. SYNAR.

H.R. 4548: Mr. EHLERS.

H.R. 4557: Mr. PARKER, Mr. GREENWOOD, Mr. EVERETT, and Mr. BLUTE.

H.R. 4592: Mr. CALVERT.

H.J. Res. 90: Mr. SPENCE, Mr. WISE, and Mr. TOWNS.

H.J. Res. 131: Mr. LAUGHLIN.

H.J. Res. 230: Mr. MCCOLLUM, Mr. RICHARDSON, Mr. TRAFICANT, Mr. BORSKI, Mr. MORAN, Mr. LEWIS of Georgia, Mr. FOGLIETTA, and Mr. HALL of Ohio.

H.J. Res. 374: Mr. KREIDLER, Mr. COOPER, Mr. HOAGLAND, Ms. NORTON, Mrs. JOHNSON of Connecticut, and Mr. MCNULTY.

H.J. Res. 378: Mr. ANDREWS of Maine, Mr. TEJEDA, Mr. MANN, Mr. QUINN, Mr. LIPINSKI, Mr. LEVY, Mr. SOLOMON, Mr. SAWYER, Mr. PETERSON of Florida, Mr. SYNAR, Mr. POSHARD, Mr. HALL of Texas, Mr. MACHTLEY, and Mr. MCHUGH.

H. Con. Res. 148: Mr. CANADY and Mr. RUSH.

H. Con. Res. 210: Mr. SANTORUM.

H. Con. Res. 214: Mr. BERMAN.

H. Con. Res. 247: Mr. MCNULTY, Mr. VISCLOSKY, Mr. BROWN of Ohio, Mrs. ROUKEMA, Mr. SENSENBRENNER, Mr. BLUTE, Mr. ANDREWS of New Jersey, Mr. DELLUMS, Mr. TRAFICANT, Mr. LEVIN, Mr. COSTELLO, Mr. MACHTLEY, Mr. DOOLITTLE, Mr. OBERSTAR, Mr. GEJDENSON, Mrs. MORELLA, and Mr. GILMAN.

H. Con. Res. 256: Mr. DORNAN and Mrs. BYRNE.

H. Res. 432: Mr. MCCLOSKEY, Mr. MEEHAN, Mr. WATT, Mrs. MORELLA, Mr. ABERCROMBIE, Mr. FROST, Mr. FILNER, Mr. JEFFERSON, Ms. WOOLSEY, Mr. BARRETT of Wisconsin, Mr. SCOTT, and Mr. VENTO.

H. Res. 446: Mr. PARKER, Mr. POSHARD, Mrs. VUCANOVICH, Mr. HUTTO, and Mr. ORTIZ.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2866: Mr. STUPAK.

EXTENSIONS OF REMARKS

NATIONAL HEALTH CARE INFORMATION TECHNOLOGY

HON. LESLIE L. BYRNE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mrs. BYRNE. Mr. Speaker, I rise today to call attention to the importance of ensuring that information technology is included in any solution that results from the national debate on health care reform.

Information technology is a vitally important industry to the constituents of my district, to all northern Virginia, and to our Nation. Recently, I had the pleasure and opportunity to host a roundtable discussion with key information technology executives and Vice President AL GORE to share common concerns and issues relating to the future of this strategic industry.

Out of this discussion came many helpful suggestions and recommendations. We learned that the future success of reforming our Nation's health care problems may be closely tied to using available information technology.

One participant prepared a concept paper on his vision of why our Nation needs to initiate a national health care information and telecommunications testbed now. I would like to share this concept paper with all my colleagues in the House and encourage them to consider the possibilities that already exist to both expand accessible and quality health care by using resources already developed, tested, and approved by the Federal Government.

WHY OUR NATION NEEDS A NATIONAL HEALTH CARE INFORMATION AND TELECOMMUNICATIONS TESTBED

(By Dr. John Warner, Jr.)

President Clinton and Vice President Gore have proposed three major national initiatives which are interdependent in the health care information and telecommunications technology areas. The three initiatives are the Health Security Act of 1993, the National Information Infrastructure (NII) and the National Performance Review (NPR). The establishment of a national health care information and telecommunications testbed using the Department of Defense (DoD) health care system would address all three simultaneously and do so with DoD's strength in these key technologies. This national testbed represents a unique opportunity for DoD to be an important and visible contributor to these executive initiatives through efforts on improving health care information and telecommunications, efforts similar to what DoD has ongoing already and which must be continued anyway in order to improve health care quality and cost control in the large DoD health care system.

The Health Security Act of 1993 depends on the use of health care information and telecommunications technologies to achieve a number of its important objectives. It includes efforts with increased focus on clinical systems and on establishing practice guidelines, computerized patient records, outcomes management, managed care, regionalization, smart cards, patient information security and privacy, as well as on many other areas which depend on these technologies. It also has efforts which will require a reduction in administrative paperwork with standardized forms and systems, as well as electronic transfer of information. At present, the Department of Defense leads the nation in many of these areas, particularly in the clinical information area as a result of the ongoing full deployment of the Composite Health Care System (CHCS) and other initiatives. The GAO agrees and many members of Congress see the tremendous benefits of these initiatives.

It is important to note that many of the alternative health reform proposals under consideration also have recognized the importance of better utilization of information and telecommunications technologies to achieve increased access, improved quality and improved control of health care costs. As a result, though the health care reform debates and eventual compromises will evolve, a national health care information and telecommunications testbed using the DoD health care system would have general applicability. Additionally, health reform would not be delayed by the existence of a testbed. Other issues dominate this reform. The testbed addresses key health care information and telecommunications technologies and provides a means for structured tests, feedback and continuous improvement in these important areas to provide both short term and long term benefits to our nation.

A key to improved health care is to get accurate and timely clinical information on the patient to the health care providers at the time of key decisions both to improve the effectiveness of health care provider teams and to help control the growth in costs. DoD has programs to do this now for their own health care system. This system continues to consume an increasing share of the DoD budget (approximately 5.5% in FY 1994) because health care costs are increasing as the DoD budget is decreasing. There is the opportunity for DoD to continue these programs while playing a much larger role in supporting national health reform initiatives with a national health care information and telecommunications testbed. This can be done with a relatively small additional investment. Also, if started now, and if based on current DoD programs, initial results could become available within a year. Simultaneously, a longer term program could be established. The testbed also would have obvious benefits to DoD personnel because its implementation would have greatest benefit to the active and retired military personnel and their dependents. It would improve DoD health care. Furthermore, large testbeds have been very useful in DoD in the past to explore very complex problems and health reform certainly is a complex problem.

A DoD national health care information and telecommunications testbed offers many advantages because: (1) DoD has the second largest medical system in the U.S. with about 9 million beneficiaries, (2) DoD controls the facilities, the providers and many of the beneficiaries, (3) DoD beneficiary demographics are close to the national demographics, (4) DoD is well along in key information and telecommunications technologies already and is implementing CHCS as a standard, centrally controlled, fully integrated medical information system which applies across all services, (5) DoD has many computer literate health care professionals who can contribute to the testbed in a very positive fashion, (6) DoD has the management experience to make such a testbed a success, (7) the DoD health care system has many similarities to a civilian staff model HMO and (8) DoD must invest in these areas anyway.

Obviously, various parts of the DoD health care system could be used in a testbed fashion for various objectives. However, with CHCS currently in the full deployment phase, over 140 DoD hospitals and their associated clinics will have CHCS by the end of the current fiscal year, and these hospitals provide care to about 7 million beneficiaries. CHCS is also presently used at the White House Physician's Office. Therefore, with comprehensive, standard format data being collected on various health care problems for such a large population, there is the opportunity for significant directed efforts within CHCS such as in the areas of computerized patient records, outcomes management, regionalization and management care.

The increased electronic networking capabilities associated with a national testbed has one other important advantage to the DoD. As the DoD base closure process continues, electronic networking in health care will have increasing importance for providing care to beneficiaries in areas where health care facilities are closed. This applies not only to direct care but also through managed care support contracts. Areas with prototype, regional networks would benefit in this manner if some facility closures were to occur in these areas.

Eventually, once the testbed was expanded with automated health care information available in very large regions, there would be an opportunity to aggregate the results applicable not only for the nation but also for specific states with high DoD beneficiary populations. For example, nine states have DoD beneficiary populations of about 200,000 or greater. These states are California (1,144,000), Colorado (196,000), Florida (635,000), Georgia (349,000), Maryland (279,000), North Carolina (387,000), South Carolina (239,000), Texas (690,000) and Virginia (622,000). Furthermore, although having smaller DoD beneficiary populations, some states have significant percentages of their state populations as DoD beneficiaries. These include Alaska (14.9%), Hawaii (14.3%), Washington (6.1%), New Mexico (5.5%), Nevada (5.5%) and North Dakota (5.3%). As a result there is the potential for testbed evolution to very cooperative, beneficial testbed efforts in all of these states.

This type of testbed effort also supports the NII initiative. Although much of NII is focused on efforts for industrial initiatives, it still is a technology driven effort. Health

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

care is a key concern. Efforts on the part of DoD, through a national health care information and telecommunications testbed, could be very beneficial to the NII, particularly if they include the areas of electronic transfer of medical records, telemedicine (e.g, image transfer such as X-rays, color videos of patients and patient problems, etc.) and patient information security and privacy. Efforts on the part of DoD in these areas could play a strong role in NII initiatives while demonstrating technology key to the national health reform for areas such as rural health care. For example, telemedicine (e.g., teleradiology, teleconsulting for diagnosis and surgery, telepathology, etc.) will be critical to improve health care in rural and disadvantaged urban areas because of the difficulty in providing a sufficient number of health care professionals in these areas. Telemedicine also is an important future capability for DoD, not only for the regional type of networks discussed previously, but also for medical consultation with deployed air, land and sea forces. There are some initial DoD prototypes already ongoing in this latter area (e.g., Walter Reed with Somalia and Macedonia, Tripler with the Pacific area). Prototype, regional networks could include such capabilities to prove important concepts in telemedicine within regions and extending to deployed forces.

Finally, there is the National Performance Review initiative. One NPR initiative subset is NPR Code DoD 09 which is to maximize the efficiency of DoD health care operations. This initiative proposes the use of emerging technologies to upgrade care at DoD health care facilities. It includes efforts to maximize automation and telecommunications, to optimize administrative support and to move to paperless records. Therefore, testbed efforts to support improvement in DoD health care simultaneously supports national health care reform, the NII and the NPR.

A national information and telecommunications testbed based on the DoD health care system also would be beneficial to other Federal Departments, such as Veterans' Affairs (VA) and Health and Human Services (HHS). For example, prototype, regional networks might be expanded to include VA medical facilities. CHCS started with modifications to the VA hospital information system. This facilitates increased VA/DoD information sharing because with the recent advent of gateways, the two systems can be allowed to transfer data relatively easily. There are obvious potential benefits from increased VA/DoD information sharing in the medical area. The Indian Health Service (IHS) in HHS is slated for expanded roles in the Health Security Act of 1993 and can benefit from DoD information and telecommunications technologies. IHS utilizes versions of the VA hospital information system. HHS also will need to develop practice guidelines, outcomes management concepts and information standards. Such efforts could receive valuable support from a national health care information and telecommunications testbed. There also is the potential for some very productive interactions between Federal Departments to support health reform initiatives with DoD playing a strong role.

The above presents the reasons why the nation has an opportunity to leverage what the Department of Defense must do anyway for its own benefit and simultaneously become a stronger contributor for key aspects of the President's health care reform initiative, the NII, the NPR and other health reform initiatives. This would be accomplished with a national health care information and telecommunications testbed utilizing the DoD health care system. Furthermore, DoD's efforts would also support other Federal Departments, as well as the more important broader national and specific state interests as the information obtained from a national health care information and telecommunications testbed is collected, analyzed and distributed.

Now is the time to seize the initiative and establish a National Health Care Information and Telecommunications Testbed. Our nation demands no less.

RUSSIAN-AMERICAN ENTERPRISE FUND

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. HAMILTON. Mr. Speaker, one of the innovative assistance mechanisms that the United States has developed in its programs for Eastern and Central Europe is the enterprise fund. Under this mechanism, the U.S. Government provides grant funds to a privately incorporated entity, with a board of directors approved by the executive branch, to fund private sector investment projects and related technical assistance for the purpose of energizing the private sector in a formerly statist economy. While intended to support only financially viable enterprises and to make a profit itself, an enterprise fund is able to make investments at an early stage in the transformation process before most private investors would take an equivalent risk, thereby serving as a demonstration and to encourage those few investors willing to risk their time and money.

This experience from Eastern Europe is now being transfered to Russia in the form of the Russian-American Enterprise Fund. The fund is just beginning to operate. The president of the fund, Bob Towbin, recently made a speech outlining the purposes and operating procedures of the fund. In order to inform members of the operations of this important component of United States assistance to Russia, Mr. Towbin's speech is reprinted below.

REMARKS BY A. ROBERT TOWBIN, PRESIDENT & CEO, RUSSIAN-AMERICAN ENTERPRISE FUND

Thank you for inviting me to participate in this program today. I want to say something about the goals and objectives of the Russian-American Enterprise Fund, tell you a little about the present stage of our activities, and describe briefly the programs that we are implementing to fulfill our mandate.

PHILOSOPHY AND ORIGINS

As part of the US government's efforts to assist Russia in its transition to a market economy, President Clinton announced the intention to create the Fund last spring. Modeled on similar Funds that were established in Eastern Europe, the Russian-American Enterprise Fund was intended to assist in the development of the private sector in the Russian Federation by committing capital and mobilizing other investors and technical assistance to support private firms and entrepreneurs.

There is, of course, no blueprint for how the private sector will develop in Russia. A transition of this type in a country of this scale would, in itself, be difficult enough to conceive, but is an even more formidable task to execute. The Fund brings one important element to the process—external investment capital for small and medium sized private sector businesses. Foreign investment was central to the development of our own economy, and still is today, and we expect it will play an important role in the Russian transformation as well. Ultimately, however, the key to success in Russia will be the energy and resourcefulness of the Russian people, complemented by working with individuals and companies from abroad that are willing to invest in the future prosperity of Russia and its people.

Through the Fund, in other words, the United States is committed to a long term process to assist Russian businessmen and women from European Russia and Siberia to the northern Pacific Rim—the Far East Republics—in the reorientation of their activities from a planned economy to one in which market factors and individual initiative play a key role.

How can public sector funding help create private sector institutions? The structure of the Fund reflects both elements. By its funding, the Fund is the child of the US Government. With $340 million of funds appropriated by Congress—$40 million of which is to be devoted to projects in the Russian Far East, your neighboring region—the Fund is currently the largest pool of US investment capital available for projects in Russia. By its legal structure, the Fund is a private entity—a not-for-profit corporation. The corporation is required under its by-laws to make investments and loans to companies on sound economic principles—that is, the investments must be made in companies that have a reasonable chance of succeeding as private companies in the new Russia. The investments are not grants, gifts or any form of governmental subsidy—if the Fund were to view its activities in that way, it would fail to meet the very specific mandate under which it was created, but more importantly would fail to impart the business fundamentals essential to long term success.

At the same time, it is clear that the Fund is operating in an environment in Russia that does not fit standard Western investment criteria, and the criteria for investment decisions must reflect the extremely difficult conditions under which the Russian managers, investors and owners are operating. The well-known list of issues facing investors in Russia today—lack of a clear legal and regulatory environment, lack of the full range of banking capabilities, limited enforceability of contracts—is precisely the reason why the Enterprise Fund can play a constructive role in this period. The Russian-American Enterprise Fund exists to take a level of risk that typically would not be acceptable by Western norms and, through the demonstration effect of these investments, encourage the development of a stronger and healthier private sector.

It is our intention that the Fund be an example to other private investment pools of capital that are considering investing in the Russian Federation. Some of the experiences of the Fund's management can be passed on to these potential investors as an aid to their initial forays into this immense country and her economy. In order to do this, however, we recognize that we must do two things: first, we must approach our investments with a long-term view of the prospects of potential investments and of the private sector more generally. Second, we must take care to develop standards and criteria that are appropriate to the unique Russian environment, and not attempt to impose what we are accustomed to in the West for its own sake. Only if we approach our task in this spirit will we succeed in making worthwhile investments that will stand the test of time and serve as a constructive example to other investors, both Russian and foreign.

STARTUP

Before getting into some of the details of where we stand now, I want to just briefly review what has been accomplished over the past nine months in getting the Fund underway. The startup process has been complex, and often frustrating. Nevertheless, I believe that we have come a very long way in a short time.

Since September, when the Fund was incorporated, we have concentrated on a number of key organizational and start-up tasks to lay the groundwork for the Fund's investment activities. This work took place in three distinct phases. First, the basic scope of activity and legal structure were agreed with the U.S. government. A wide range of contacts were initiated with relevant Russian government entities to clear the way for the Fund to initiate operations there. The Board began the process of sketching out how the Fund would pursue its goals and the attributes and responsibilities of key staff, and the search for a president and other senior staff got underway.

In early January, after I was named as president, the focus shifted to creating the personnel and administrative infrastructure for the Fund and beginning to build the networks and conduct the outreach that we would need to identify and assess investment possibilities. Temporary offices were opened in both Moscow and New York and permanent office space was located. Staff was hired for both locations such that the Fund now employs about 35 individuals of which more than half are Russian nationals, nearly all are Russian speaking, and most are based in Russia. A series of visits to cities all over Russia were undertaken by Fund staff to meet local businessmen and officials and familiarize ourselves with the issues we would confront in undertaking investments.

Beginning in March, within six months of incorporation, and with staff and basic administrative support in place, we were able to begin the process of reviewing proposals and identifying concrete business opportunities consistent with the Fund's mandate and philosophy. Many inquiries and proposals from US and Russian companies had already been received; these were responded to where appropriate with requests for further information. Basic procedures for submitting investment proposals to the Fund—emphasizing accessibility and flexibility—were put into place. As of today, the process of reviewing proposals and examining and structuring transactions is fully underway.

As mentioned below, we intend to complement our financing efforts with technical assistance. In addition, we want to leverage our own resources with co-financing by other investors—Russian, Western, official and private. We will also cooperate with the sister funds involved in Russia—the Fund for Large Enterprises in Russia, and the Demilitarization Enterprise Fund. While these funds are separately managed, and each of us has a separate focus, we are cooperating wherever possible to economize.

PROGRAM ORIENTATION

The Fund is committed to working with businesses and entrepreneurs representing the entire range of small and medium sized businesses, from the smallest start-ups to larger firms being modernized or restructured.

At the smaller end, one of the Fund's first initiatives will be a small business lending program for firms with no more than a few dozen employees and often less than that. Such loans could be as small as a few thousand dollars to as much as $100,000. Maturities will be six to 24 months for purchases of equipment or key inputs. Typical loans might be to a small food processor or business services enterprise to improve productivity or quality by upgrading equipment; the loan would be paid back from the proceeds of the business. For the most part, loans of the sort contemplated by this program are not now available to small firms for these purposes through Russian banks. Under this program, we will work with Russian banks as partners and provide the great bulk of the funding to support this lending.

Aside from the direct and immediate benefits to small businesses, a key objective of the program will be providing training and experience to Russian bankers, which will enhance the capabilities of the participating Russian banks to locate small business clients and develop products to meet their needs.

The small business lending program will begin within the next two weeks on a trial basis with two banks. Within a month we expect to get a $2 million pilot program underway with an additional 4-5 banks in 2-3 cities. By year end we think it is certainly within the realm of possibility that the program could grow to include several more cities, another dozen banks and $10 million or more in loanable funds. If we think in terms of an average loan size of $40-50 thousand, this implies a revolving fund supporting more than 200 loans at any one time. Depending on the success of the program, it is conceivable its scope could be enlarged even further. Eventually, we hope, the program will induce an ongoing commitment to similar types of lending by Russian banks on a much larger scale.

A second major focus of our activities is direct loans and investments in emerging small and medium sized companies. In this case, the Fund is actively seeking out business opportunities requiring investments that might range from a few hundred thousand dollars up to several million. While we will be flexible, we expect the typical enterprise receiving support with this facility will have several hundred workers, although some will be larger.

We are open to and are actively exploring a wide range of financial structures, including loans, loans with equity and equity investments. In at least several cases, we are actively looking for co-financing partners. We are looking at investments in a wide range of sectors, all over the Russian Federation. The process is, as you can imagine, a painstaking one in an environment where there are few of the traditional guideposts for investment decision-making. Indeed, while we recognized this process would be labor intensive, if anything we underestimated the extent to which this is proving to be true.

As of today we have developed a solid inventory of proposals, 6-8 of which we are very actively pursuing as I speak. These projects and others under consideration cover sectors such as furniture manufacturing, apparel manufacturing, chemical processing equipment, timber processing, retailing, electronic components, food processing, data processing, and telecommunications. They are located throughout the country, including Moscow, St. Petersburg, Nizhny Novgorod, Yekaterinburg, Omsk, Novosibirsk, Chuvashia, Tula, Khabarovsk and Nahodkha.

Without being repetitive, what I want to emphasize about the Fund's activities to date are their breadth; we are looking at proposals in many sectors, cities and of very different sizes and structures. There is no limit to how small a company in which we will invest either directly or through our small loan program can be. The only real requirement is that projects be sensible, well documented and have a reasonable prospect for viability over time. It goes without saying that to the extent that they are viable, they will be profitable and will provide returns to the Fund, returns which I want to strongly emphasize, will be reinvested to broaden the scope and reach of the Fund's activities over time. And if a project proves profitable to the Fund, it should also be profitable for its Russian partners as well as other partners, like you.

TECHNICAL ASSISTANCE

So far, I have addressed mostly the financial side of the Fund's investments. However, in all the Fund's investments, ranging from small lending to larger equity or debt investments, the Fund's goal is to combine financial support with critical investments in human capital, training, management systems and, where necessary, technology. In many cases we expect that the human capital or technical assistance component of the package will prove more critical to the success of an investment than the financial capital.

This technical assistance can take many forms. Help with Western financial formats used worldwide is one important need; aid in building to international design standards and creating products that are acceptable to both the Russian and the world consumer is another. In conversations with potential joint venture partners it has become apparent that these companies want to have feasibility studies made to convince them of the viability of proceeding with major activities in Russia. We intend to help in this area as well.

A final example involves marketing of products produced in Russia. The challenge of bringing products to a market in an efficient, customer-driven manner was non-existent in the past; consequently technical assistance in this very important area, focusing on both the domestic as well as the international market, is paramount to the Fund's strategy.

JOINT VENTURES

A word about joint ventures might be appropriate. As representatives of American companies you may desire to take advantage of the Russian market and its ability to manufacture products at a lower cost with pride in quality workmanship, and we at the Fund can help to share your risk in investing there. I can visualize any number of specific formulations or structures that have promise or potential and that we are open to consider. For example, a Russian company might supply the plant, equipment and people, the American company might supply technical assistance sent as production and design talent along with financial support, and the Fund would provide a larger share of capital and expertise in appraising and structuring the transaction. This new, jointly owned business could be a brand new company offering a fresh approach to the market for our Russian partner. We have been looking at several projects like this and we are encouraged with what we have seen.

ACTIVITIES IN THE RUSSIAN FAR EAST

With respect specifically to the Russian Far East, the Fund is actively seeking investment opportunities in the region. We have visited Khabarovsk on the Chinese border several times, and Fund staff was there again just last week. We have established excellent relations with the local business community, bankers, officials and various Western groups, including the Peace Corps. and the International Executive Service Corps. We visit both Vladivostok and Khabarovsk again next week and will open our Far East office shortly. We will also be interviewing candidates for key personnel in those cities.

The Russian Far East is dominated by trading, fishing, extractive industries and timber. It is an immensely rich area with enormous natural resources and natural beauty, much of which is underdeveloped. It obviously presents enormous investment opportunities. The future of areas like the Russian Far East will become increasingly important to the success of the overall Russian economy. With these facts in mind, I feel confident that the Fund will more than achieve its goal of investing $40 million in this region.

Obviously, some of the people in this room have experience working in the Russian Far East. We at the Fund look forward to working with you closely as we move ahead with investments in this region.

A TRIBUTE TO WILLIAM E. LEONARD

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. LEWIS of California. Mr. Speaker, I would like to call your attention to the fine work and outstanding public service of William E. Leonard of San Bernardino, CA. Bill, who has demonstrated a remarkable dedication to the businesses and organizations in his community, will be honored on August 11, 1994, by the California Inland Empire Council, Boy Scouts of America with "The Distinguished Citizens Award."

Bill graduated from my alma mater San Bernardino High School in 1940. While earning a Bachelor of Science Degree from University of California at Berkeley, Bill served his country overseas in the Philippines and Japan as a first lieutenant in the Army from 1943 to 1946. Following this he returned to the San Bernardino area, and he and his wife, Barbara, had three children.

In 1946 Bill began his life long career and business by establishing the Leonard Realty & Building Co. Through the years as a businessman he has been involved in the development of San Bernardino and its community. His distinguished career is further highlighted by his active involvement in numerous organizations in the community. In addition to serving as a member and one of the past directors on the San Bernardino Valley Board of Realtors, Bill has served as the president of the National Orange Show Board of Directors, the founder and president of Inland Action, Inc., a trustee on the St. Bernardine's Hospital Foundation, and an elder for the First Presbyterian Church of San Bernardino.

Mr. Speaker, I ask that you join me, our colleagues, Bill's family, and his community in honoring this unique individual for outstanding citizenship as a member of the San Bernardino community. Throughout his life he has shown a commitment to the people in his community and it is only fitting that the House recognize him today.

GI BILL 50TH ANNIVERSARY

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. ORTIZ. Mr. Speaker, today I join my colleagues in commemorating the 50th anniversary of the Servicemen's Readjustment Act of 1944. Commonly known as the GI bill, it, and the GI bills that succeeded it, have been stalwarts of the transition between service in our Armed Forces and civilian life.

The lives and exploits of those who answered the call to serve their country in the armed services have long challenged our imaginations. These last few weeks, during the 50th anniversary of D-day, we have been reminded of their courage and valor, and how wars and those who fight them can change the world.

Even so, most of us cannot begin to fathom how difficult it is for warriors to come home. In the service of their country, they missed educational opportunities, delayed careers, and may have suffered disabling injuries that prevented them from pursuing jobs for which they were trained. In the earlier chapters of our Nation's history, when soldiers returned from battle they were just expected to somehow reincorporate themselves into society. Many simply could not. The GI bill was the first major legislative attempt to begin to repay our soldiers for their sacrifice.

The GI bill is responsible for helping veterans reenter society in a great many ways. When we speak of the GI bill, we generally think only of the continuing education aspects of the bill. However, the GI bill has also made possible the purchase of over 14 million homes. Each home bought, each skill taught, and each college degree earned, is a piece of the American dream richly deserved by those who risked life and limb in the defense of freedom and democracy.

Perhaps the most important, and the most overlooked, contribution of the GI bill is the part it played in the creation of the American middle class. Without the jobs it created, without the skills it enhanced, and without the educational base created by the GI bill, America would be a far different place today.

Today, my colleagues, as we remember the valor displayed on D-day and every conflict since, from the Korean conflict through the Vietnam war to the Persian Gulf war, let us remember once again our obligation to those who served.

FOREVER YOUNG

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. TRAFICANT. Mr. Speaker, I rise today to honor an outstanding young man in the 17th Congressional District of Ohio, Joseph S. Norha, Jr. Mr. Norha received the 1993 Associated Press Northeast Ohio, Inland District, Division V High School Football Coach of the Year. Under Joe's tutelage, Lowellville High School achieved its most successful season in 8 years. These accomplishments, in our Nation's most competitive region for high school football northeast Ohio, asserts highly of Joe's talents.

Joe instilled in his players dedication, hard work, and ethics, qualities that a young person carries much further than the football gridiron. Joe's leadership is a shining example of the positive influence adults must impose on our young students. These accolades, for the most part, are bestowed upon veteran coaches, but the fact of the matter is Joe Norha is 22 years old, the youngest coach in the State of Ohio. May Joe be blessed with continued success, and may his model be one that will be followed by both young and old.

A TRIBUTE TO ANDREW HENSHEL, MAKING A DIFFERENCE WITH VOTERS

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. BLACKWELL. Mr. Speaker, I rise today on the floor of the U.S. House of Representatives to pay tribute to Andrew Henshel, president of the Pennsylvania Young Democrats and vice president for programs of the Young Democrats of America.

In a day and age when the concepts of community service and activism are becoming a scarce commodity, Andrew has been and continues to be a dedicated citizen for both causes. During President Clinton's 1993 campaign, Andrew earned the name "Mr. Voter Registration" because of his volunteer efforts. Andrew is personally responsible for registering more than 25,000 new voters over the past few years. He has also been nationally recognized as an advocate and campaigner for the motor-voter national voter registration law.

Donna J. Campbell, Esq., chairwoman of the board of directors of the Pennsylvania Young Democrats states, and I would agree that our Nation is fortunate to have citizens of Andrew Henshel's caliber who are willing to share their time, talents, and knowledge to assist others. Andrew has truly set a standard of excellence in community service and involvement in the affairs of government for others to know and strive to emulate.

Mr. Speaker, I ask my colleagues to rise and join me in paying our greatest tributes to Andrew Henshel. I would also like to extend my deepest appreciation to Mr. Henshel for mobilizing a vital part of our society; the youth. May God continue to bless and smile on this truly dedicated man, enabling him to continue to encourage political participation and involvement among the youth of today and tomorrow.

CHURCHVILLE JUNIOR HIGH SCHOOL

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. HYDE. Mr. Speaker, one of the outstanding junior high schools in Illinois, Churchville, is located in Elmhurst, a fine community in my district.

On May 27 of this year, I had the pleasure of addressing their eighth grade students. Their teacher, Robert Caldwell, chairman of the social studies department, asked the students to compose an essay describing why they would like to attend a luncheon with their Congressman.

I have read these essays, and they are remarkably creative. Last week, I provided three of them for my colleagues to read. Today I will provide three more. I commend them to your attention.

WHY I WOULD LIKE TO HAVE LUNCH WITH REPRESENTATIVE HYDE

(By Joe Pajak)

I would like to have lunch with Representative Hyde because I would like to find out more about the type of work he does and to get to know my representative on a more personal basis. These two things would help me better understand what government is like and how he represents us.

I would like to find out his opinions on the issues of building a third airport in the Chicago land area and having river boat gambling on Lake Michigan because of the affects of these issues on our community. I would like to ask about his life in Washington and the things he does there. I would also like to ask about what type of bills and laws he would sponsor, promote, and vote for or against.

I think I should be picked to go because I am interested in politics and law. I am also planning on entering these fields and this would help teach me how to become involved in government and help our great country.

WHY I WOULD LIKE TO MEET REPRESENTATIVE HYDE

(By Ajay Rod)

I think that meeting with Representative Henry J. Hyde will be an honor. Not too many people get to see or meet with their Representative. I think that I will be a good choice to have lunch with him. Since I highly respect any political person this would interest me. This would be a great experience.

I would like to meet our Representative because I'm thinking of going in to politics. This would be a great learning experience for me. Talking to a respectful person would be a good chance to learn how things work. He would tell me about the inside of politics. I would like to know how everybody works together to make this a great country. Our Representative does very well in representing his congressional district.

Bringing up many current issues would be very important in our conversation. The gun issue is one I would like to discuss. Since I'm against guns it interests me what his opinion is. I would also want to know what he can do to help our economy. Many other issues would also be talked about.

On my part many questions will come up. Do you like your job would be one and how did you decide to go into politics? I will also ask, have you met any Presidents yet? I will also ask questions about the topics I will bring up.

A good pick for meeting Representative Hyde would be me. Since I would bring up many issues, ask many questions, and learn more about politics. Meeting this man would be one of the greatest things. I feel I'm very patriotic. I think you should pick me.

WHY I WOULD LIKE TO HAVE LUNCH WITH HENRY HYDE

(By Dawn Redden)

I have many things to talk about with Henry Hyde. I'm very interested in what he does. I would like to know more about him though. Does he like his job? Is it hard? Does he do a lot of traveling? I've always wondered what his family thinks of his job. Does he like to travel a lot? I have many questions to ask but no one with answers. I would like to know about his good terms and his bad terms. What are the hardest things to do in your title?

I would imagine it would be hard to be our representative. I wouldn't want to be away from home or my family. I would think that that would be hard for him. Don't people ever get mad at you for any decisions you make? You have been (Henry Hyde) a great representative and people know that now because you have represented us for a long time but how did you get your name known in the first place. The first time you ran for office?

I think I should be chosen to go to lunch with Henry Hyde because I have many questions and can start conversations easily. I will represent our school in a positive way. I'm very interested in what he does and would like to find out more about him. All I really know is he goes to my church all the time and is a good representative.

TRIBUTE TO CHRISTIAN M. GANTT, DRUNK DRIVER VICTIM

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. GOODLING. Mr. Speaker, I am deeply saddened to speak to you today about one of my constituents, Mr. Christian M. Gantt, who was killed by a drunk driver on Thursday, June 9, in my district. Christian was 24 years young. He was to have graduated in December with a bachelor of science degree in mechanical engineering which he was to have used in the U.S. Navy. Christian enlisted in the Navy after high school and then joined the Reserve Officer Training Corps at Pennsylvania State University

The senselessness of this crime is incomprehensible and must come to an end. Over the years I have pressed for legislation to combat drunk driving. The 100th Congress passed legislation which declared drunk driving to be a national crisis, prompting Surgeon General Koop to convene a national workshop on drunk driving. Recently, I introduced House Concurrent Resolution 108, which encourages States to enact comprehensive laws prohibiting an individual under 21 years of age from obtaining alcohol.

Nothing can be done to bring Christian back. However, his death must not go unnoticed. Drunk drivers can kill at any time, in any place. When a young man whose whole life was ahead of him, who was intelligent and giving, and who faithfully served to defend his country is taken away from us because of a drunk driver, we must refocus our energy into making our streets safe for our children.

I want to express my most sincere condolences to Christian's family. I urge my colleagues to support legislation to end this crisis. The memories of victims of drunk drivers must not be forgotten.

RECOGNIZING LISA SZYMCZAK OF COLLEGE STATION, TX

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. FIELDS of Texas. Mr. Speaker, I would like to take a moment to salute a resident of Texas' 8th Congressional District: Lisa Szymczak, a May 1994 graduate from Texas A&M University, who is a recent winner of a prestigious James Madison Fellowship.

Miss Szymczak is one of just 61 individuals nationwide to receive James Madison Fellowships this year. The fellowships, presented by the James Madison Memorial Fellowship Foundation in Washington, DC, allow outstanding college graduates who wish to become history, government or social studies teachers in our Nation's secondary schools to continue their educations in American history. Experienced secondary school teachers in those same subjects may also compete for James Madison Fellowships.

Miss Szymczak was born in Houston and raised in Spring, TX. A former engineering student who switched her major to education, at A&M she was inducted into the Kappa Delta Pi education honor society. She made the dean's list, received a distinguished student certificate and was the recipient of a Polish National Alliance academic scholarship from 1988 to 1994.

While at A&M, Miss Szymczak served as a committee leader at the Memorial Student Center, working on subjects as diverse as world hunger, Native American Week, and adult literacy. She also served as a world history tutor at a local high school.

In her fellowship application, Miss Szymczak stated that she wishes to enter the field of teaching because of the influence of one of her high school history teachers. She stated that she desires to introduce her future students to a subject she loves, to make them think about history, to make them remember it and to help them enjoy it.

Named after James Madison—the United States' fourth President and the "Father of the Constitution and the Bill of Rights"—each fellowship is valued at $24,000, allowing recipients to pursue master's degrees. Their course of study must emphasize the history and principles of the United States Constitution.

Applicants from each of the 50 States competed for fellowships, which are funded by income from a trust fund in the Treasury of the United States and from additional private gifts, corporate contributions and foundation grants. In exchange for a fellowship, each winner promises to teach American history or social studies in a secondary school for at least 1 year for each year of fellowship support. The award is intended to recognize promising and distinguished teachers, to strengthen their knowledge of the origins and development of American constitutional government, and thus expose the Nation's secondary school students to accurate knowledge of the Nation's constitutional heritage.

Mr. Speaker, I have every confidence that Lisa Szymczak will make an outstanding history teacher, and an outstanding addition to one of our Nation's public schools. Her enthusiasm, together with the new perspectives that her James Madison Fellowship will allow her to obtain as she pursues her master's degree, will contribute to an improved and revitalized public school system. Her love of history will, I believe, inspire her future students to do their very best in that and other subjects, and will instill in them both a love of history and a better understanding of how past events shape our lives even today.

I hope you will join with me, Mr. Speaker, in saluting this remarkable young woman and wishing her the very best in the years ahead.

CONGRATULATIONS TO WISCONSIN DAIRY FARM FAMILIES

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. OBEY. Mr. Speaker, I want to take this opportunity to congratulate the Martin and Elaine Mueller, Tom and Lorene Mueller and Scott and Kathy Trimner families of Athens, WI for their selection as the Central Region winners for the 1994 Dairy Farm Family of the Year Award.

The past 10 years have not been easy for dairy farmers, especially small family sized dairy operations typical of Wisconsin and the upper Midwest. Federal dairy price supports have been cut dramatically and assessments have been levied on dairy farmers to bring down the cost of the dairy program, consumer health concerns have mandated profound changes in the sale and marketing of dairy products, and innovations in technology have required farmers to become much more adaptable to a rapidly changing environment.

The Mueller and Trimner families, residents of the largest dairying county in Wisconsin, have shown what it takes to stay in the business of dairy farming and still turn a profit. They are being recognized for their farm and business-management skills as well as their leadership in the dairy industry, as members of Manitowoc Milk Producers, and their local community.

Miltrim Farms, which is jointly operated by the Muellers and Trimners, is a 890-acre farm with 210 cows. Installation of a new free-stall barn ensures excellent herd health and good management has helped Miltrim Farms produce milk at the lowest possible cost while improving production with new facilities and additional cows. Newly installed bunker silos have improved both economic and labor efficiencies.

The Muellers and Trimners are among six winning regional families who will be honored at a recognition banquet in Madison, WI on July 7. To all those families, and especially to the Muellers and Trimners I want to extend my congratulations.

HONORING TWO HEROS OF PUBLIC SERVICE

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise today to pay tribute to two men who have provided the town of Thomaston, CT, in my district, a combined total of 123 years of volunteer service. Charles Glennon and Wilfred Gillman have served 63 and 60 years respectively in the Thomaston Fire Department protecting the lives of Thomaston's citizens from fires and other emergencies.

Charles Glennon joined the department on April 6, 1931, became a 2d lieutenant on January 3, 1934, and moved his way up the ladder, eventually becoming chief on January 1, 1969. Wilfred Gillman joined the force on November 5, 1934 and was promoted up the ladder to captain on January 9, 1950.

As an all-volunteer force founded in 1884, the Thomaston Fire Department should be commended for its proud heritage of community service. That Mr. Glennon and Mr. Gillman served over half of the department's history, selflessly protecting the community for over six decades, serves as a model for all of us in public service.

I am very pleased to recognize their outstanding achievement as they receive commendations from the Thomaston Fire Department for their distinguished careers this Saturday, June 25, 1994.

ILLEGAL IMMIGRATION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, June 22, 1994, into the CONGRESSIONAL RECORD.

ILLEGAL IMMIGRATION

Hoosiers are increasingly concerned about the effects of illegal immigration on our country. I hear frequently from people who fear that our country is being besieged by a wave of illegal immigrants who come here to take jobs from American citizens, commit crimes, or exploit government programs. Their view is that the federal government is not adequately securing our borders.

WHO IS AN ILLEGAL IMMIGRANT?

Aliens who violate immigration law are illegal immigrants. Most illegal immigrants bypass inspection points when entering the country. Some enter the country legally—for example, to seek political asylum or study-but then violate the terms of their stay. The Constitution grants citizenship to children born to illegal immigrants.

HOW MANY ILLEGAL IMMIGRANTS ARE THERE?

The Immigration and Naturalization Service (INS) estimates the number of illegal immigrants in the U.S. at 3.8 million, and estimates that the illegal immigrant population increases by about 300,000 per year. In 1993, the INS apprehended 1.3 million illegal immigrants. About 1.2 million of these were Mexicans. The INS estimates that 86% of all illegal immigrants reside in seven states: California, New York, Texas, Florida, Illinois, New Jersey, and Arizona. On the other hand, 29 states were estimated to have fewer than 10,000 illegal aliens. In 1992, the INS estimated that between 3,000 and 5,500 illegal immigrants lived in Indiana.

HOW DO ILLEGAL IMMIGRANTS ENTER THE COUNTRY.

Most illegal immigrants enter over land borders by bypassing inspection points. Others enter through inspection points by using fraudulent documents, or are guided into the country by extensive worldwide smuggling rings.

CAN ILLEGAL IMMIGRANTS RECEIVE PUBLIC ASSISTANCE?

Illegal immigrants are prohibited by law from receiving aid through the major public assistance programs, such as Aid to Families with Dependent Children (AFDC, commonly known as welfare), food stamps, public housing, and Medicaid (except in emergencies). The law passed by Congress to provide assistance to those affected by the Los Angeles earthquake earlier this year, also restricted disaster relief for illegal immigrants. Illegal immigrants may participate in the Woman, Infants, and Children (WIC) supplemental nutrition program, Head Start, and the school lunch program. U.S.-born children of illegal immigrants may be eligible for AFDC and Medicaid. In 1992, about to percent of all AFDC benefits—$479 million—went to citizen children of illegal aliens. A Supreme Court ruling requires public schools to educate children regardless of their immigration status.

CAN ILLEGAL IMMIGRANTS HOLD A JOB?

No. Employers who hire illegal immigrants are subject to mandatory penalties. But these sanctions have been difficult to enforce and largely ineffective. Critics believe that the employer sanctions have led to employment discrimination, particularly against Hispanic Americans, Of course, illegal immigrants may also be punished for holding a job.

WHAT IS THE COST OF ILLEGAL IMMIGRATION TO THE ECONOMY

Some say that illegal immigrants benefit our economy by taking low-wage jobs that no one else will accept, creating new jobs by spending their wages, and increasing tax revenues by paying sales and payroll taxes. Others argue that they cost the country much more by taking jobs from Americans and burdening the public health, education, and criminal justice systems. Local, state, and federal governments spend an estimated $7 billion on illegal immigrants. At least two-thirds of this amount goes toward education and emergency medical care. Several states recently sued the federal government for reimbursement for the costs of illegal immigration they incur.

WHAT IS BEING DONE TO CURB ILLEGAL IMMIGRATION?

With 6,000 miles of relatively open borders, and a force of under 5,000 Border Patrol agents, keeping the illegals out is extremely difficult. Funding for the Border Patrol has increased by more than 100% since 1986.

President Clinton has requested a $327 million increase in funding for the INS in 1995. These funds would be focused on strengthening border control, particularly in the Southwest, and increasing enforcement of sanctions against employers who hire illegal aliens. The President's goal is to add more than 1,000 new Border Patrol agents by the end of 1995. In addition, the plan calls for 200 new Immigration Inspectors to staff inspection points. The proposal also calls for tightening employment sanctions by making work authorization documents harder to counterfeit, focusing investigations on industries which have historically employed illegal labor, and providing better information to employers on their legal obligations.

The INS has proposed regulations to tighten the asylum process. The crime bills passed by the House and Senate increase the penalties for crimes involving immigration documents. The State Department is currently in the process of improving access to visa eligibility information for its consular offices around the world, so that decisions on whether to admit or deny admission to the U.S. can be made based on the most comprehensive and up-to-date information. In addition, the INS has initiated a program in some foreign airports to screen U.S.-bound passengers to prevent unqualified aliens from travelling by air to this country. In addition, construction is now proceeding on fences in certain key locations along the U.S.-Mexico border. In San Diego, 14 of the 15 miles of open border between the Pacific Ocean and nearby mountains have been fenced. Where the fence has been completed, illegal entries and other crimes have dropped sharply.

Other suggestions include prosecuting smugglers more vigorously, using U.S. military forces to assist in border enforcement efforts, charging a border toll for everyone entering the U.S., or requiring all U.S. citizens to carry an identification card. Another proposal would amend the Constitution so that children born to illegal immigrants would not automatically receive citizenship.

OUTLOOK.

It is clear that border security is currently inadequate, and that improvements must be made. The long-term solution to the problem of illegal immigration, though, lies in the answer to the question, "Why do illegal immigrants come here?" We can improve border enforcement, strictly limit financial assistance, and punish employers who hire illegal aliens. But there is broad agreement that in the long run the solution to our illegal immigration problems depends on expanding economic opportunities in the countries from which immigrants come.

A TRIBUTE TO PATRICIA LARSEN

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention the outstanding citizenship of Patricia "Corky" Larsen of Riverside County, CA. Corky, who has demonstrated a remarkable dedication to her family, career, and community throughout the years, will be honored on August 11, 1994, by the California Inland Empire Council, Boy Scouts of America, with the Distinguished Citizens Award.

Corky graduated from my alma mater, the University of California at Los Angeles, with a bachelor of science degree in 1949. Over the years she has been committed to her six children, and in recent years she attended the Citrus Belt Law School in Riverside, CA. In 1990 Corky earned her juris doctorate and was admitted to the California Bar.

The field of education has been the focus of Corky's efforts in her community, and throughout the years she has been committed to serving the schools of Riverside County. Corky has demonstrated outstanding leadership by serving as a former president of the Palm Springs Board of Education, and the Riverside County School Board Association. Following this she was elected as the fourth district supervisor for the Riverside County Board of Supervisors, and she is currently serving as the board chairman.

Corky's dedication to her community goes far beyond her career. She is currently serving as a member of many organizations including the Executive Committee of the Coachella Valley Association of Governments, the Riverside County Housing Authority, and the Riverside County Transportation Commission.

Mr. Speaker, I ask that you join me, our colleagues, Corky's family, and her community by honoring this special woman for her extensive and dedicated service. Corky has served and she continues to serve the people of her community and it is only fitting that the House recognize her today.

WATER AND THE CITY OF CORPUS CHRISTI

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. ORTIZ. Mr. Speaker, I introduce a bill today to correct a long-standing problem involving the U.S. Bureau of Reclamation and the city of Corpus Christi.

In 1976, the city of Corpus Christi and the Nueces River Authority contracted with the Bureau of Reclamation for the construction of the Choke Canyon Reservior—Nueces River Project—on the Frio River near Three Rivers, TX. The primary purpose of the project was to provide additional water supply for the city of Corpus Christi through the year 2040. Since project completion in 1982, however, subsequent studies have determined that the current supply to the city from the project is less than contracted for and additional water supplies may be required by the year 2003. The local sponsors are proposing that the repayment agreements be recalculated to reflect the diminished water supply derived from the project and the unanticipated expenses that the local sponsors are incurring to acquire additional water supplies to compensate for the projected shortfall in the Choke Canyon/Lake Corpus Christi system. After reallocating project costs and/or negotiating a fair settlement of project repayment obligations, the local sponsors are prepared to initiate a project buy-out and transfer of title utilizing a discounted prepayment of their fair share of project costs.

Mr. Speaker, I am concerned about this situation and ask support for this legislation because, not only is the city not receiving the water it contracted for, they are facing very real water needs for the citizens of the Corpus Christi area. It is now expected that regional water demand for our area will exceed the supply within the next 10 years and will amount to a 100,000 acre-feet per year shortfall by the year 2050. While already preparing to implement additional water conservation and system operating measures aimed at extending the life of its existing water supplies, the city is aggressively seeking to identify and develop additional water supplies to make up for this projected shortfall. As part of these efforts, the city is currently participating in a regional water supply planning study, the "Trans-Texas Water Program," which will identify economically and environmentally sound options for meeting the region's long-term water needs. Whatever option is decided on, the Bureau of Reclamation needs to help by adjusting the Choke Canyon project so that the city is paying only for what it receives. Key to the city's ability to afford these new water supplies will be a fair resolution of project repayment liabilities for the Choke Canyon Reservoir.

Of the original $81.3 million in estimated project costs, the local sponsors provided $24.5 million in advance payments over the period of project construction. However, the city still owes the bureau approximately $72 million, based on estimated current total project costs of $133 million, which are 64 percent greater than the original contract amount. The city has requested the Bureau to complete its final accounting on the Nueces River Project, making every attempt to reallocate project benefits from M&I to recreation and fish and wildlife on the basis of the diminished yield for M&I use.

The issue becomes one of making it affordable for the city to acquire new water supplies to offset the anticipated shortfall in system yield. The city has already made attempts to minimize the effects of the original repayment schedule on water rates. By setting up a special Choke Canyon Debt Reserve Fund, the city began setting aside moneys each year while some of the interest on the project debt had been deferred, intending to eventually have the sinking fund help stabilize the amount of annual payments funded by utility revenues. This fund currently has approximately $22 million in reserves. If the local sponsors' share of project costs could be revised to reflect the diminished system yield,, this reserve fund could be used to facilitate a local sponsor buy out of the project through a discounted prepayment of the debt obligation. One method of approaching the calculation of a fair repayment obligation on the project for buyout purposes is to reduce the original local sponsor costs to reflect the actual amount of incremental yield realized by the construction of Choke Canyon Reservoir, and then applying a discount factor to that amount. Again, Mr. Speaker, the city of Corpus Christi is taking a very responsible position on this problem. The numbers and figures in this bill were calculated by the city engineers and represent what I understand from the city to be as accurate an assessment of the water supply shortfall as can be obtained at this time.

In addition, the city's position can have real economic and environmental benefits for the citizens of our area. First, if the city uses the $22 million in its reserve fund to pay off the Choke Canyon debt in advance, it can provide economic benefits at the local, regional, and Federal level. A cash payment to the Bureau to retire the debt would allow the Federal Government to transfer title to the local sponsors, therefore removing any long term liability, both in terms of the debt and tort claims. By reducing the amount the city owes on Choke Canyon Reservoir, the city can afford to finance the critical projects to import new water and to undertake other water resource management projects that both assure the long-term water supply for the region and protect the health of the Nueces Estuary. While no new reservoirs are expected to be built to provide additional water supplies, the construction of conveyance facilities to transport water from existing sources will require major capital investments and create hundreds of new jobs. Perhaps most importantly, the assurance of a long-term water supply for municipal and industrial demands will also encourage economic development in the region.

Second, the release of freshwater from the reservoir system is designed to protect the ecological health of the Nueces Estuary by controlling salinities and providing nutrients and sediments. Currently, some 60,000 acre-feet per year of wastewater return flows are credited toward the 151,000 acre-feet per year release requirements. These return flows are primarily discharged into areas that are outside Nueces Bay, and it is felt that they have less benefit than freshwater inflows that enter Nueces Bay and the prime nursery areas provided by the marshes of the Nueces River Delta.

One of the alternatives that the city has been studying is the diversion of treated wastewater effluent discharges to the Nueces Delta to provide maximum benefit of the freshwater and nutrients in enhancing estuarine productivity. The city is preparing to construct a project to demonstrate the feasibility of diverting wastewater return flows into the Nueces Delta. This $1 million dollar demonstration, if it proves successful, could lead to the city's routing a significant portion of the existing effluent discharges into the Nueces Delta so as to achieve the maximum environmental benefit of freshwater withdrawn from the reservoir system. This project complements the Bureau's own Rincon Bayou—Nueces Marsh Wetlands Restoration and Enhancement Project which is designed to provide more frequent freshwater inundations of areas within the Nueces Delta.

As a part of these two demonstration projects, the city and the Bureau have been looking at the possibility of acquiring ownership of most of the properties in the Nueces Delta, some 8,000–10,000 acres of land. The concept has received the support of State and Federal resource agencies and local environmental interests who are concerned about the overall protection of fish and wildlife habitat within the Delta and the rest of the estuary. It is anticipated that a partnership of local, State, and Federal entities, along with environmental groups, could coordinate efforts to acquire and manage the properties in the delta for these various projects and purposes. This property acquisition could also help to resolve the long-standing dispute over the Bureau's failure to acquire the approximately 8,000 acres of upland brush habitat that were stipulated as mitigation for the inundation of comparable habitat in the Choke Canyon Reservoir area.

Mr. Speaker, the basis of this legislation is a proposal based on the compelling need to develop additional water supplies and to make the acquisition of those supplies affordable to the ratepayers in the Choke Canyon/Lake Corpus Christi service area. The city of Corpus Christi and the Nueces River Authority propose that the Bureau of Reclamation act promptly to restructure the local sponsors' debt obligations on Choke Canyon to reflect the actual yield of the project, and to transfer title of the project to the local sponsors in return for a discounted prepayment of the remaining debt.

Without additional supplies, this region is facing potential water shortages within the next 10 years. In water supply planning timeframes, that is essentially tomorrow. The additional supplies available from Lake Texan need to be on line within that period. Without the economic savings that can be realized from restructuring the city's debt obligations on Choke Canyon Reservoir, it is going to be extremely difficult for the city to proceed with options for water supply.

Mr. Speaker, I urge you and my fellow colleagues in the House of Representatives to support this measure and to allow the city of Corpus Christi to move forward on their water supply plans for the region.

TRIBUTE TO MARINE CORPS JUNIOR ROTC IN LISBON, OH

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to the Marine Corps Junior Reserve Officers Training Corps [ROTC] at Beaver Local High School in Lisbon, OH, of my 17th Congressional District of Ohio. I want to recognize the JROTC for their service to the Lisbon community at large and for the duties they have performed in past years in Columbiana County.

This past Memorial Day, the Moving Wall tribute to our heroes from the Vietnam war came to Columbiana County, and the cadets represented the American Legion Post 736. Many in attendance at Memorial Day parade felt that the students performed just as well as the active duty military personnel. Yet, the cadets of the JROTC do more than march in parades. Under the direction of 1st. Sgt. S.S. Boorse III and M. Sgt. Robert Mack, the cadets at Beaver Local High School have many important duties that they perform with skill and honor.

Aside from their duties representing American Legion 736, the cadets are responsible for all flags in the Beaver local school district. The cadets are responsible for pregame activities in conjunction with the Beaver local high school band. As I noted before, the proud young men and women of the JROTC perform in all local parades and ceremonies. I know I speak for my entire district when I commend these fine young Americans for the poise and precision while performing at these events.

Mr. Speaker, being in the JROTC is also about community service. I am proud to say these fine students also actively participate in the Toys for Tots program. In the past few years, the cadets have collected over 9,000 toys for underprivileged children. Recently, they were awarded a letter of appreciation from the commanding general of the 4th Marine Division. The cadets also collect food stuffs for needy families in my district with the Salvation Army. And finally, the cadets conducted the Marine Corp Ball ceremonies for the Marine Corps League and conducted the annual Marine Corps Ball for parents of cadets and the general public.

Mr. Speaker, I could go on about the high caliber of these students, and how their leadership in the school community sets them apart as role models to other students and youngsters, but I know I don't need to remind the students or their proud parents of these facts. I would like to enter the names of the following cadets who have participated in all Junior Reserve Officers Training Corps activities and thank them for all the hard work they have done for the community: Rebecca Allison, Dusty Anderson, Bessie Arter, Melanie Bailey, Melissa Bailey, Loretta Banicki, Robert Beabout, Robyn Beabout, Jason Beaver, Melissa Boorse, Richard Cable, Nicole Campbell, Aaron Colkett, Randy Culler, Randy Doughty, Scott Doughty, Michael Giambroni, Jack Giratico, Jessica Goins, Michelle Hoon, Josh Hunt, Heather Kerns, Genine Knapkiewicz, Christopher Lake, Denver Mays, Josh Morris, David Moore, Fred Moore, Robert Moore, Rebecca Nicholson, Peggy Nolder, Stacy Rhodes, Jarrod Richter, Jeremy Rizer, Jason Rizer, Alexis Rogers, Jarrod Rogers, Kellie, Salmons, Daniel Shafer, Ian Wade, Mary Williams, Judy Wynn.

A TRIBUTE TO THE WASHINGTON CENTER FOR INTERNSHIP AND ACADEMIC SEMINARS

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. BLACKWELL. Mr. Speaker, I rise today in support of The Washington Center for Internship and Academic Seminars' [TWC] efforts to build a partnership with The National Black Caucus of Local Elected Officials [NBC–LEO] for the purpose of facilitating an exchange program with the Embassy of South Africa.

The Washington Center for Internships and Academic Seminars, a not-for-profit corporation with offices in the District of Columbia, is an educational organization that was founded in 1975. It has served over 750 colleges and universities across the country, representing over 20,000 students, many of whom are now in leadership positions in Washington, DC. Its mission is to utilize the resources of the Nation's Capital to provide participatory learning experiences in order to enhance the academic, civic, and professional development of the students who are fortunate enough to gain acceptance into the program. In this way, the Washington Center seeks to promote future leadership for the public, private, and nonprofit sectors of our society.

Mr. Speaker, because of its clear record of success with past endeavors and internship programs, I wholeheartedly offer my support for its vision to establish the NBC–LEO/Washington Center Cultural Exchange Program.

In 1993, imposed sanctions against South Africa were lifted, creating many opportunities for South Africans. With the advent of reinvestment in South Africa, it is important to spawn intercultural understanding, utilizing academia as a form of change. The program will provide opportunities for education and cultural exchanges, diverse perspectives, opinions and experiences—erasing barriers constructed by apartheid and United Nation's economic, cultural, and political sanctions. In light of the Washington Center's commitment to experiential education, participants are challenged to lend practice to theory by thinking, living, and working in a foreign environment.

For these and other reasons, I strongly offer my support for The NBC–LEO/Washington Center Exchange Program and would urge my colleagues to support this notable and truly historic endeavor.

EGG PRODUCTS INSPECTION ACT TECHNICAL AMENDMENTS OF 1994

HON. SANFORD D. BISHOP, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. BISHOP. Mr. Speaker, it is with great pleasure that I rise to introduce, along with my colleagues on the Agriculture Committee, Representatives JILL LONG from Indiana, EARL HILLIARD from Alabama, and JACK KINGSTON from Georgia, the Egg Products Inspection Act Technical Amendments of 1994. This bill would correct a few oversights with the original drafting of the shell egg temperature and handling amendments to the Egg Products Inspection Act. These minor flaws have created an unintentional obstacle to enforcing the amendments. Without the technical corrections that I am proposing, it will be impossible for USDA to enforce the amendments as originally intended.

The temperature and handling amendments to the Egg Products Inspection Act were originally passed in 1991. These amendments were requested by the egg industry to assure that shell eggs are properly stored and shipped under refrigeration. Since the amendments passed, however, the Department of Agriculture has found that it does not have the statutory discretion to enforce these new provisions on a workable basis.

By way of example, one problem which would be addressed by my legislation is the 45-degree cooling requirement for vehicles. Egg producers and handlers are required to cool their transportation vehicles to 45 degrees Fahrenheit while transporting eggs. The industry is in general compliance with this requirement. A problem arises, however, when a vehicle is opened and closed to deliver eggs. When this happens on a warm day, the temperature typically rises above 45 degrees. As the amendments are currently written, USDA's hands are tied and the Department has no discretion while enforcing this problem. Either the temperature is 45 degrees when the reading is taken or the act has been violated.

My bill would make a technical change necessary to allow USDA to enforce the amendments as it was originally intended. This change would keep the 45-degree standard, but base enforcement on the vehicle's ability to refrigerate to that temperature.

The second change my bill proposes is to exempt small vehicles from the 45 degree requirement. I want to assure my colleagues that this exemption would not weaken the act's safety standards. This exemption is intended to assist in the short haul delivery of eggs directly to the market. Vehicles of 1 ton or less are particularly suitable for short, local delivery runs. It is unrealistic to require mostly small producers to buy and maintain a refrigerated truck for local deliveries.

The final change my bill would make is to clarify that the 45-degree requirement is an average requirement. The temperature of air circulating in coolers often varies from one spot to another. These variations are not significant, and this change would assure that coolers which maintain an average temperature of 45 degrees would be in compliance with the amended act.

The egg industry initiated the 1991 amendments to the Egg Products Inspection Act, and it still strongly supports the act's requirements. My bill would simply allow practical implementation of the act, while maintaining high standards for the egg industry. I look forward to working with the cosponsors of my bill, our colleagues on the Agriculture Committee, and our distinguished chairman to assure its swift passage.

The text of the bill follows:

SECTON 1. SHORT TITLE.

This Act may be referred to as "The Egg Products Inspection Act Technical Amendments of 1994".

SEC. 101. INSPECTION.

(a) GENERAL AUTHORITY.—Section 5(e)(1) of the Egg Products Inspection Act (21 U.S.C. 1034(e)(1)) is amended to read as follows:

"(1) Subject to paragraphs (2), (3), and (4), the Secretary shall make such inspections as the Secretary considers appropriate of a facility or an egg handler to determine if shell eggs packed into containers destined for the ultimate consumer—

"(A) are being stored under refrigeration at an average ambient temperature no greater than 45 degrees Fahrenheit;

"(B) are being loaded or held in transport vehicles equipped with refrigeration units delivering air at a temperature no greater than 45 degrees Fahrenheit and capable of cooling such vehicles to a temperature less than or equal to 45 degrees Fahrenheit; and

"(C) contain labeling that indicates that refrigeration is required.".

(b) EXEMPTION.—Section 5(e)(4) of the Egg Products Inspection Act (21 U.S.C. 1034(e)(4)) is amended to read as follows:

"(4) The following shall be exempt from inspection under paragraph (1):

"(A) All egg producers with poultry flocks of not more than 3,000 layers.

"(B) All transport vehicles of one ton or less in size.".

SEC. 102. PROHIBITED ACTS.

Section 8(c) of the Egg Products Inspection Act (21 U.S.C. 1037(c)) is amended—

(1) by striking "stored and transported" and inserting "(1) stored";

(2) by striking "ambient" and inserting "average ambient"; and

(3) by striking "as prescribed by rules and regulations promulgated by the Secretary" and inserting "(2) transported in accordance with section 5(e)(1)(B), and (3) labeled to indicate that refrigeration is required.".

SEC. 103. IMPORTS.

Section 17(a)(3) of the Egg Products Inspection Act (21 U.S.C. 1046(a)(3)) is amended by striking "under refrigeration at an ambient temperature of not greater than 45 degrees Fahrenheit, as required by" and inserting "in accordance with the requirements of".

DIETARY SUPPLEMENT HEALTH AND EDUCATION ACT OF 1993

HON. ALAN WHEAT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. WHEAT. Mr. Speaker, I rise today to add my name as a cosponsor of H.R. 1709, the Dietary Supplement Health and Education Act of 1993. I commend Representative BILL RICHARDSON and Senator ORRIN HATCH on their diligent efforts to ensure that vitamins and nutritional supplements remain widely available to consumers throughout our Nation.

I also wish to commend Chairman DINGELL and Chairman WAXMAN, Senators KASSEBAUM and KENNEDY, and Representatives CARDISS COLLINS and ELTON GALLEGLY for their thoughtful efforts over the past year to forge a legislative consensus which would allow soundly manufactured dietary supplements to stay on store shelves while providing consumers with useful, accurate labeling information on those products. I applaud their commitment to ensuring that effective public health protections are contained in any bill passed by Congress.

Unfortunately, it appears that we have reached an impasse in our collective attempt to pass balanced, sensible legislation. The FDA's final regulations are scheduled to go into affect on July 15, but Congress has yet to reach a consensus on how best to safeguard the freedom of our constituents to choose alternative forms of medicine.

Guaranteeing uninterrupted access to a wide range of vitamins and supplement has long been by goal as I have worked with Representative RICHARDSON and Senator KASSEBAUM and other leaders on this issue to achieve that goal. Today, I am adding my name to the list of cosponsors because I believe that it is time for us to end the speculation and confusion over the regulation of dietary supplements by passing legislation. At the same time, we must make sure that the labeling information accompanying these products is accurate, and that there are sufficient provisions in the legislation to crack down on the few manufacturers who may engage in fraudulent or unsafe practices.

Make no mistake, H.R. 1709 is not a perfect bill. Many supporters and sponsors have publicly conceded that the bill's language does not currently go far enough to address public health concerns that have been raised. Even Senator HATCH, the sponsor of H.R. 1709's companion bill in the Senate, S. 784, and of the substitute bill passed by the Senate Labor and Human Resources Committee, recognized these safety issues and added provisions that give the FDA some authority to go after unsafe products. Additionally, the committee approved an amendment setting up a commission to create a process for expediting approvals for supplement claims.

Over the past year, I have heard from many constituents who, like me, use vitamins and supplements and want them to remain widely available. The citizens of the 5th District have worked long and hard to make sure that this issue remains on Congress' front burner. I want to commend them for keeping me informed of developments on this issue over the past year. I have received a great deal of input from my constituents, and I appreciate their commitment to sharing with me their diverse views on H.R. 1709. In an attempt to move this issue forward, I have decided to cosponsor H.R. 1709 and make clear my belief that supplements continue to be widely accessible.

It is my sincere hope that we can revive House debate on this important bill and enact dietary supplement legislation which ensures availability and accommodates legitimate public health concerns. I will continue to work to speed efforts to reach a consensus and pass legislation that accomplishes these goals.

THE CONGRESS MUST SUPPORT THE RETENTION AND EXPANSION OF THE U.S. LABOR ATTACHE CORPS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. BROWN of California. Mr. Speaker, I am joined by several of my distinguished colleagues today in sponsoring an overdue concurrent resolution to recognize and applaud the tremendous contributions that the U.S. Labor Attache Corps has made since its establishment in 1943. Furthermore, we firmly believe that the corps is needed now more than ever given the accelerating integration of the global economy.

Certainly the NAFTA and GATT debates most recently have brought into focus that issues affecting the needs and aspirations of working people at home and abroad are converging as issues of capital mobility, technology transfer, and property rights transcend national borders and regulation.

A revitalized U.S. Labor Attache Corps with a newly revised mandate will provide great insights and practical guidance in the post-cold-war era to government, business, and labor leaders everywhere on how to better manage global economic integration to the benefit of working people as well as financiers and corporate managers. But this new struggle first must be joined with a salute to what the corps' past achievements as well as a strong showing of congressional support for its current assignments and newly defined future missions in the 1990's and beyond.

I hope my colleagues will read this concurrent resolution carefully in order that we may refresh our institutional memory of the origins of the corps and its historic achievements. At the same time, this legislation also seeks to enhance understanding of the corps' unique niche in policymaking and the very important contributions it can make in the post-cold-war era.

GI BILL 50TH ANNIVERSARY

HON. PETER HOAGLAND

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. HOAGLAND. Mr. Speaker, colleagues, I rise today in honor of the 50th anniversary of the signing of the Servicemen's Readjustment Act of 1944, better known as the GI bill. Because of the GI bill, more than 20 million veterans have been educated and more than 14 million homes have been purchased.

U.S. society has been transformed, for the better, because of the GI bill and the efforts of the American Legion. The American Legion was instrumental in mobilizing support for the GI bill. Originally, the GI bill was intended to ease the return of demobilizing veterans to their hometowns. After five decades of success, the GI bill has made it possible for investment of billions of dollars in education, training, and housing opportunities for millions of veterans.

After coming home from World War II, the GI bill offered hope and a start at a new civilian life for these veterans. The GI bill has been there not only for the World War II veterans, but for all veterans.

The purpose of the GI bill was the prevention of any serious problems of unemployment, unrest, and dissatisfaction among veterans, and restoration of human resources lost or retarded by the war. I think we can all be proud that the purpose of the GI bill has sustained for these last 50 years. We must insure its continued success into the 21st century.

IN HONOR OF RICHARD P. MESA

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. STARK. Mr. Speaker, today I would like to take a few minutes to recognize Richard Pete Mesa's distinguished career of service to the schools and community of Oakland, CA.

Appointed in 1990, Pete Mesa immediately began to implement solutions to the troubled Oakland Unified School District's numerous problems. In the last 4½ years, Mr. Mesa has overcome severe State budget cuts to balance the district's budget without resorting to district budget cuts, layoffs, or program cuts. He has established partnerships within the community to provide support for the school system, involving parents, government agencies, churches, businesses, and community organizations. Mr. Mesa established a general education plan, with the consensus of hundreds of staff, students, parents, and community activities. He has allowed for the expansion of Oakland's nationally recognized School-to-Work Academy Programs, which were recently honored by the President.

Mr. Mesa is an active leader in the community, having increased the district's participation in local organizations and collaborating with those groups toward educational goals. He designed and instituted a core curriculum, increased classroom resources, and implemented a 5-year plan. His relationship with labor has been exemplary, having avoided any large layoffs or strikes while maintaining peaceful communication.

Mr. Mesa will be leaving the Oakland Unified School District this summer to move to Washington to lead a Federal program to improve science education in the Nation's largest cities. On June 23, 1994, Mr. Mesa's colleagues and friends will be holding a farewell reception to honor his commitment and accomplishments as OUSD superintendent. I would like to join with those who have recognized him for his excellent achievements.

Richard Mesa will be sorely missed by the district and the entire community of Oakland. I wish him much happiness and success in all of his future endeavors.

AWARD-WINNING COAL COMPANY

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. ROGERS. Mr. Speaker, I am very pleased to rise today and honor a successful small coal mining business. W.H. Bowlin Coal Co. in Saxton, KY, in Whitley County was nationally recognized by the Federal Office of Surface Mining Director Robert J. Uram at last week's National Coal Association Convention in Colorado Springs.

W.H. Bowlin received the 1993 Excellence in Surface Mining Reclamation Award given to companies who produce innovative and creative accomplishments in restoring coal-mined land to its natural state.

The Whitley County Coal Co. was honored specifically for its outstanding reclamation by a small mine operator. Before mining, this operation along the superhighway I–75 was covered with old spoil pits and ridges left from a mid-1940's operation. Bowlin's reclamation revegetated the whole site, making it capable and ready to produce hay.

Bowlin belongs in "the best of the best" according to Uram because of its "achievement of excellent land reclamation. It takes love for the land, solid technical know-how, a strong sense of pride, a respect for the land, and a sincere willingness to work closely with State regulatory agencies to achieve such excellent reclamation."

"Bowlin's efforts deserve commendation from all who care about protection and conservation of our natural resources heritage."

U.S. Secretary of Interior Bruce Babbitt also praised the 1993 award winner, saying "W.H. Bowlin has demonstrated they can extract a valuable mineral resource without causing permanent environmental damage, restoring the landscape as they go. I congratulate them for their achievements in preserving the natural environment for future generations of Americans."

I share the excitement and congratulations of Secretary Babbitt and OSM Director Uram about the fine work W.H. Bowlin has done and continues to do. They are a proud example of southern and eastern Kentucky mine operators and a model for all mine operators in America.

TRIBUTE TO HENRY MANCINI

HON. RON KLINK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. KLINK. Mr. Speaker, there is a saying that people who grow up in western Pennsylvania never leave. The people of western Pennsylvania have heart. They are loyal, loving, and know the significance of family.

Henry Mancini was a typical man from western Pennsylvania. I say typical because he never got away from his roots in West Aliquippa. Growing up in an area that was not well-off, one would think that this successful composer would run toward the glamour of Hollywood and never look back, but Mr. Mancini never let fame get to his head. That was probably what made him so special, even more so than his music. He succeeded against the odds, and remained humble.

Working from the bottom up, Mr. Mancini composed for B-movies before being discovered and launched into stardom with the memorable hit theme music for "Peter Gunn." His love for his work made the whole struggle worth it. Henry Mancini never gave up hope, never lost his dream. He is a wonderful example of a local boy making good.

Henry Mancini traveled all over the world but always considered western Pennsylvania his home. We were all his neighbors; he was a part of all of our lives. Our dear neighbor gave back to his community simply by doing what he did best, make music.

I feel that I must comment on his music, although it's difficult to find anyone who has never heard his masterpieces, Henry Mancini wrote for movies and television, even a cartoon. People from every age group can count themselves among his fans. Henry Mancini will be greatly missed, as a composer, as a musician, and as a friend. He was a man who loved his hometown as much as him hometown loved him. We will always remember him.

THE LOIS POPE INSTITUTE HONORED

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. SHAW. Mr. Speaker, I rise today to honor and pay tribute to Lois Pope and the outstanding achievements of the Lois Pope Institute for Teaching Commitment at Florida Atlantic University [FAU].

Ms. Pope's work demonstrates to us that with time, effort, and dedication, students who have been disaffected and discouraged can become gifted teachers and role models.

Ms. Pope proposed and funded the Lois Pope Institute for Teaching Commitment at Florida Atlantic University with the idea of bringing high school dropouts back to school and training them to become teachers. It is believed that these former dropouts will have the insight and understanding to prevent at-risk students from making the mistake of dropping out in the first place, and therefore, begin to make a difference in lowering the dropout rate.

Recruiting nationally, the young men and women selected as scholarship recipients are awarded an all expenses paid, 4 year college education at FAU. In return, they must agree to teach for at least 4 years after graduation. In essence, they are agreeing to become role models for others who are at risk of dropping out of school.

Currently FAU has ten Pope Scholars enrolled in the program, all of whom dropped out of school somewhere between the 9th and 12th grade. Careful monitoring of academic and personal performance for each student helps instill a high probability of success. The primary concerns are helping these students learn social skills and making needed attitudinal and behavioral changes, as well as teaching them the necessary academic skills.

The first Pope Scholars will begin teaching in fall 1995 in fields ranging from elementary education, special education, and math to foreign languages, history, and science.

Ms. Pope has provided the opportunity for students who otherwise would be receivers of assistance, but instead will be leaders and role models themselves.

I know all the Members of this body join me in applauding Ms. Pope, the institute, and her scholars for their outstanding efforts.

COMMEMORATION OF THE LIFE AND ACCOMPLISHMENTS OF COL. CHARLES A. YOUNG

HON. DAVID L. HOBSON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. HOBSON. Mr. Speaker, today I submit for the RECORD a speech delivered at Arlington National Cemetary on June 17, 1994 by Maj. Gen. Alvin Bryant, commander of the 310th Theater Army Area Command, in commemoration of the life of Col. Charles A. Young of Ohio.

I urge all members to read the text of this speech in order to better understand the trials faced by the Buffalo soldiers who fought bravely to defend our Nation and who's place in history must never be forgotten.

IN COMMEMORATION OF THE LIFE AND ACCOMPLISHMENTS OF COLONEL CHARLES A. YOUNG

(By Major Gen. Alvin Bryant)

Thank you General Gorden, Congressman Hobson of Ohio, Major North, Buffalo soldiers, friends and honored guests. Welcome to Virginia.

It is my honor today to be here with you to pay tribute to Colonel Charles Young, a man whose nickname "Follow Me" epitomizes leadership, a man whose life exemplifies the Spirit of America.

He was a man who faced adversity with determination; who faced death with courage; and who faced life with a burning desire to serve his Nation and his people.

By now we all know the story well.

Born of former slaves in a rural Kentucky log cabin during the heat of the Civil War, Charles Young was the third black American to graduate from the United States Military Academy at West Point.

Commissioned a Second Lieutenant in the all-black 10th Cavalry Regiment, a Buffalo soldier, he became a professor of military science, French and mathematics.

A veteran of numerous campaigns throughout the world, he charged up San Juan Hill with Teddy Roosevelt and his Rough Riders, and served with General John J. Pershing in the hunt for Pancho Villa.

Retired by the Army to quiet racial disharmony in a mixed-race unit, he was restored to active service after completing his 500-mile sojourn from Ohio to Washington, D.C.

Sent to Liberia to reorganize that nation's Army, he was to die in service to his country on an expedition to Nigeria.

Buried first on foreign soil, far from the Nation he loved, he was brought home to assume his rightful place in our Nation's history—to be given a hero's burial here at Arlington National Cemetery where we lay to rest the sons and daughters of America who have vigilantly served in the cause of freedom and liberty. A fitting tribute to a man who overcame many barriers, who accomplished so much, and who gave freely of himself in service to our great Nation.

This is the chronology of events in the life of Colonel Charles Young. And it would be only fitting for us to be here today honoring any man—or woman—who has made such extraordinary contributions to our Nation.

But Charles Young is not just "any man." He is a metaphor for American leadership.

So rather than simply looking at his accomplishments, I want to spend the next few minutes examining the character of the man we pay tribute to today.

What kind of man graduates with honors from high school and receives the second highest score on a West Point candidate's exam? A man of great intelligence.

What kind of man spends an extra year at West Point because of a deficiency in mathematical skills, only later to become a professor of mathematics? A man of uncommon determination.

What kind of man overcomes shunning from his fellow cadets, using his gift for foreign languages to establish friendships with West Point's immigrant janitors? A man of fortitude and humanity.

What kind of man is appointed a professor of tactics, military science, French and mathematics? A renaissance man.

What kind of man volunteers for active duty service during the Spanish American War? A patriotic man.

What kind of man regularly faces personal and institutional racism, yet maintains an abiding loyalty to the Nation and the principles for which it stands? A man of principle, pride, and conviction. A man grounded in the principles on which this country was founded.

What kind of man spends two years tutoring a senior NCO in geography, surveying and drill regulations to prepare him to become an officer in the U.S. Army, and later to become the Nation's first black general? A man who could see the worth in another human, who was willing to work to bring it to its fullest potential.

What kind of man serves as an officer in the Buffalo soldiers and earns the nickname "Follow Me" during dangerous anti-guerrilla operations in the Philippines? A man who is a born leader.

What kind of man can write a biography of Haiti's liberator, a handbook on Creole French as spoken in Haiti, and prepare maps of both Haiti and the Dominican Republic? A scholarly man who strived to learn about his world.

What kind of man can serve as a military attache to Liberia, lead a 100-man expedition to save an American officer from hostile native tribesmen, suffer a bullet wound in the process, then negotiate the groundwork for improved relations between the tribesmen and the government of Liberia? A man of courage and diplomacy.

What kind of man could earn the respect of American Military Icon, General Blackjack Pershing, who promoted him to the rank of Lieutenant Colonel? A world-class soldier, both technically and tactically proficient.

What kind of man would challenge a spurious medical discharge from the Army with a 500-mile march from Ohio to Washington, earning the respect and support of white and black Americans alike? A man of tenacity.

And what kind of man would die an ocean away from home, working to help the government of Liberia, a nation of former American slaves? A man who, in his own words, "was willing to aid in any work for the good of the country in general and our race in particular, whether the race be found in Africa or the United States."

Soldier, scholar, teacher, author, cartographer, diplomat, Colonel Charles Young was a man of extraordinary talent.

A born leader, filled with courage, fortitude and conviction. Patriotic, principled and proud. Intelligent and scholarly. Determined and diplomatic. Caring and humane. A tenacious, tactically and technically proficient soldier, with an abiding love for his nation and his people. Colonel Charles Young was a man of extraordinary character.

No tombstone can hold the weight of these accomplishments, no tomb can hold his soaring spirit.

In a day in which we strive to find role models for our children, Colonel Charles Young is an example that should be trumpeted throughout the land. A man who embodies the American ideals.

Sir Isaac Newton, the great English scientist, was often complimented for his great scientific accomplishments and discoveries. One day he responded to his admirers "If I have seen further than other men, it is because I have stood upon the shoulders of giants."

I stand here before you today—a black American—a surgeon—a major general in the Army of the United States.

If I have gone further than other black officers who preceded me in the USAR, it is because I too have stood upon the shoulders of giants. Giants like Crispus Attucks who stood with other colonists one cold morning in Boston, challenging the British soldiers as foreign occupiers. Before the day was over, shots rang out and Crispus Attucks lay dead, the first to lay down his life in the struggle for American independence.

Giants like Peter Salem, a black patriot who fought in our Nation's War for Independence in historic battles such as Lexington, Concord and at Bunker Hill where he slew the commander of British forces.

And those whose names we do not know—silent, anonymous giants—like the hundreds of brave black men of the 54th Massachusetts Infantry who gave their lives on behalf of the Union in the attack upon the Confederacy's Fort Wagner, settling once and for all the question "Would the black man fight?"

And of course, giants like Colonel Charles Young, who blazed a trail of freedom, democracy and opportunity for all Americans.

Upon his retirement, another great soldier, General Douglas MacArthur said, "Old soldiers never die, they just fade away."

If this is true, then it is fitting that Colonel Charles Young never became an old soldier, dying instead in service to his country at the age of 56. For a man like Colonel Charles Young was determined to never just "fade away," and today we do him justice by not letting him fade away into the history book—just another American pioneer entombed in the musty pages of some forgotten tomb. It is good that we bring new life to his memory.

Thank you, Colonel Young. Yours is a legacy from which all Americans can draw inspiration. Those of us who now hold the batons of leadership in our hands must continue the struggle for equality, justice and freedom and say, "Follow me."

At his funeral, Navy Secretary Theodore Roosevelt, Jr. said of Colonel Young: "No man ever more truly deserved the high repute in which he was held, for by sheer force of character, he overcame prejudice which would have discouraged a lesser man."

Truer words were never spoken.

"Follow me" was his nickname. Follow him we have; follow him we shall.

Thank you and God bless.

FORT CARSON

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. HEFLEY. Mr. Speaker, I would like to bring to the attention of my colleagues, America's premier army maneuver base. Fort Carson is located just south of Colorado Springs in my district. All the members of the Colorado congressional delegation recently sent a letter to the Secretary of the Army, Togo West. I would ask that the letter to Secretary West appear at the appropriate place in the RECORD.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 17, 1994.

Hon. TOGO D. WEST,
Secretary of the Army,
Washington, DC.

DEAR SECRETARY WEST: Even as our nation implements a military strategy to confront a new and challenging international environment, certain requirements of national defense remain unchanged. America's national security demands a well trained, rapidly deployable force composed of heavy, light, special operations and support units. Now and in the days ahead, there will be no substitute for the ability to put well-trained troops into combat.

The key element in meeting this requirement are installations that can accommodate demanding and realistic training; installations that permit the firing of all modern weapons systems' and installations that have adequate space for brigade level maneuver training. In these respects, Fort Carson is the Army's premier post. Carson's assets include: A 92,000 acre mechanized maneuver area on Fort Carson; A 236,000 acre maneuver area at the Pinon Canyon Training Area; 21,740 acres of live-fire impact area; Ranges with the ability to accommodate all of the Army's modern weapons systems; A bombing range which can be used by F–111, F–16, A–7, and A–10 aircraft.

With more than 300,000 usable acres available for maneuver and vast areas for ordnance drop zones, bombing ranges, and state-of-the-art tank gunnery ranges, it is no exaggeration to say that Carson is a valuable national asset. The comprehensive, integrated training environment cannot be duplicated at any price, at any installation, anywhere in the world.

Fort Carson's unrivaled training areas are complimented by superb deployment capability. In fact, Carson's deployment capability exceeds available airlift and sealift capacity. Fort Carson has extraordinary contingency airlift capability at Peterson Air Force Base; it is located only six miles from the post and is easily accessibly by rail and by road. If the adjacent Colorado Springs Airport runway is used along with Peterson, 48 C–5A and 84 C–141 sorties per day can be flown any day of the year.

Carson's rail deployment capability is equally impressive. The installation has its own rail facility on post and load 230 rail cars simultaneously. And it has direct rail access to the ports of Oakland, Beaumont and Seattle.

With the continuing drawdown in active duty forces, the ability to mobilize troops rapidly assumes ever greater importance. The facilities that make Fort Carson an outstanding divisional post also make it a superlative mobilization base for Reserve and National Guard units. Equally important Carson is one of only two major Army mobilization posts in the western U.S.

In addition to its deployment and training capacity, Fort Carson has outstanding on-post facilities with ample room and infrastructure for growth. Fort Carson has more than 2300 buildings with a value of nearly $600 million; five aviation and 33 vehicle maintenance facilities are located on the post and there are an additional 3100 acres with the infrastructure already in place making expansion cost-effective.

Moreover, the quality of life at Fort Carson is a powerful attraction to service members and their families. Fort Carson ranks first among all requests for assignment by Army officers and ranks third among posts requested by enlisted men. What makes Fort Carson such a desirable post? The answers are obvious: a location unrivaled in natural beauty and a moderate climate; an abundance of outdoor recreational activities; excellent schools, a low crime rate; and community support second to none. At a time when recruitment and retention issues are of the utmost importance, the attractions of Fort Carson contribute substantially to the ability of the Army to fulfill its missions.

In sum, Fort Carson is the Army's largest division based training area in the United

States, it is an effective base for mobilization and power projection around the world and it does so with remarkable cost efficiency. It is, in a word, irreplaceable.

Sincerely,

HANK BROWN,
U.S. Senator.
WAYNE ALLARD,
Member of Congress.
SCOTT MCINNIS,
Member of Congress.
PAT SCHROEDER,
Member of Congress.
BEN NIGHTHORSE CAMPBELL,
U.S. Senator.
JOEL HEFLEY,
Member of Congress.
DAN SCHAEFER,
Member of Congress.
DAVID SKAGGS,
Member of Congress.

SPACE STATION

HON. JIM BACCHUS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. BACCHUS of Florida. Mr. Speaker, as the House prepares to vote yet again on whether to move forward with the space station program, I want to share with my colleagues the following statement by the Hon. Tom Mariani, mayor of the city of Titusville, FL:

STATEMENT OF TOM MARIANI, MAYOR OF THE CITY OF TITUSVILLE, FLORIDA

Titusville is known as "Space City, USA." It is located at the entrance of the John F. Kennedy Space Center, Florida. Since the inception of the Space Program, the citizens of Titusville have witnessed "first hand" the manned and unmanned launches of our country's space missiles starting with the Mercury/Atlas series. For this reason and many more, the continued funding of the space station is a top priority for the vast majority of Titusville's space oriented citizens.

My comments are directed to those members of Congress who have turned their backs on, or who intend to turn their backs on, the dreams of many young students interested in space exploration, the aerospace workers throughout the country and the space research scientists.

Much has been said and much more has been written in the long debate to justify continuation of the Space Station Program. I would like to quote from the final report of the Advisory Committee on the "Future of the U.S. Space Program," dated December 1990.

"The question thus becomes one of what can and should the U.S. afford for its civil space endeavors in a time of unarguable great demands right here on earth, ranging from reducing the deficit to curing disease and from improving education to eliminating poverty. The answer to this question is made all the more difficult because the Space Program touches so many aspects of our lives and contributes to the accomplishment of goals ranging from improving education to enhancing our standard of living and from assuring national security to strengthening communications among the people of the world."

I believe this statement, in a nutshell, defines the issue of whether the space station should be supported. The question is clear, does Congress believe the future of our country's Space Program depends upon continuation of the Space Station? Consider this analogy, a basketball team depends upon five players working together to achieve success on the court. Experience has shown that if a team has at least one outstanding player they will be a winner and many times will be in the hunt for a national championship. When considering NASA's overall Space Program, the outstanding project is the Space Station. It is at the heart of the entire program around which the future of space exploration is dependent. The Station will provide the focus, the baseline, and a catalyst to achieve our Nation's space exploration goals and objectives. Congress has a decision to make. Do they want to be in the hunt for a national championship. We need a star player. The Space Station will provide that player on the NASA team. Cut the Space Station and NASA will be one of many of the fine teams playing the game, but not a champion. The ball is in the Congressional court. Support the Space Station and give our country a national champion.

NO WAY TO WIN

HON. CHARLES WILSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. WILSON. Mr. Speaker, colleagues, I recently received a poem written by a life-long friend and neighbor of mine from Liberty, TX. The message in this poem is timeless, but perhaps also timely, considering the problems we face today in Washington.

I request that my friend Pastor Eldon L. Reed's letter, and the poem by our mutual friend Dr. E. Winston Cochran, be entered into the RECORD.

WILDWOOD-VILLAGE MILLS
UNITED METHODIST CHURCH,
Wildwood, TX, May 11, 1994.

Hon. CHARLES WILSON,
Lufkin, TX.

DEAR CONGRESSMAN WILSON: Some years ago Dr. E. Winston Cochran, while on a deer hunt, came upon a spectacular scene in the woods near Lufkin. It was the skeletons of two big bucks whose horns had became interlocked in a fight and had died.

Dr. Cochran is widely known and very popular throughout the Southeast Texas areas, having been in the practice of Psychiatry for nearly forty (40) years.

He began writing poetry when he was a battalion surgeon with the Marines in World War II. He has had several books published.

Back to the finding of the skeletal remains of two bucks. He wrote a poem entitled "No Way to Win", which is a plea for reason and peace in human affairs. I am sending you a copy in the hope you can have it inserted into the Congressional Record and then have a much wider readership. Maybe thousands could benefit from the message.

Sincerely yours,

ELDON L. REED,
Pastor.

NO WAY TO WIN

I've always loved God's great outdoors,
So many things to see,
So much to learn about our world
That changes constantly,
And truths of life are all around
Awaiting our comprehension
If we will linger long enough
To give them our close attention.

Not long ago on one of my
Excursions through the wood
I shuddered that a tragic scene
Had transpired where I stood.
There on the bloodstained ground before me
Laid the last remains
Of two great bucks who died in conflict
Over their domains.

With antlers locked in deadly combat
Over who was boss,
The victims of their own aggression,
Both had suffered loss.
To death they struggled, on and on,
And neither could shake free,
'Til weak from hunger, thirst, fatigue,
They could no longer flee.

The predators could then close in
And deal the fatal blow.
Just what went on those final hours
We will never know.
Their skeletons laid end to end
With antlers still locked tight,
Mute evidence of what had been
A long and futile fight.

A fight for what? Who was the best?
Or who should rule the realm?
Or who should win the lady fair?
Or who should take the helm?
Whatever cause they sought to serve
They could not compromise.
Their inability to reason
Hastened their demise.

Aggression brought them to the brink,
The point of no return,
And how to extricate themselves
Became their prime concern,
But now defenseless, these great bucks
Became an easy prey
For creatures they would not have feared
On any other day.

We humans should have better sense,
But I'm not sure we do.
We conjure up all sorts of means
Of self destruction too.
We stockpile weapons in the fear
That others might attack,
Until one day we, too, might find
No way of turning back.

But surely our capacity
To reason should prevail.
Considering alternatives
We can't afford to fail.
Instead of piling up more weapons
We should all begin
To recognize on such a course
There is no way to win!

E. WINSTON COCHRAN

WESTSIDE LIGHT RAIL

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Ms. FURSE. Mr. Speaker, I rise today to call attention to an article which appeared in this month's Transit Connections magazine. Mr. William Middleton authored an article which appeared regarding the Westside Light Rail project in my district.

Ensuring that Westside Light Rail becomes a reality has been one of my top priorities here in Congress. I am proud that the legislation passed by the House last week, H.R. 4556, includes record funding for the Westside project. I am equally proud that H.R. 4556 marks the second straight year of record funding in the House for the Westside Light Rail project. These funding increases are critical at this time because the project is at its most expensive phase of construction.

The article, entitled "Portland: Light Rail Helps Shape Urban Growth," clearly states why the Westside project is key to my region's future, and is an outstanding review of the success we have had in Oregon with light rail. I commend it to my colleagues' attention:

PORTLAND: LIGHT RAIL HELPS SHAPE URBAN GROWTH

(By William D. Middleton)

Opened for service in September 1986, the Tri-County Metropolitan Transportation District of Oregon's MAX (Metropolitan Area eXpress) light rail line at Portland quickly established itself as another success story for modern light rail transit. Rail/bus coordination is a key element of that story.

Located in the Banfield Corridor on Portland's Eastside, the 15-mile line links downtown Portland with suburban Gresham. MAX ridership, now at a daily average of just over 24,000, has consistently exceed Tri-Met's original projections, and has proved to be a key tool in helping to shape the kind of urban growth and development that Portland wants.

The solid success of the city's new rail line has made light rail the preferred mode for a network of regional transit corridors that could eventually bring MAX LRVs to virtually every part of the Portland metropolitan area. Construction began last year for the initial section of an 18-mile, $994 million Westside MAX project that should have trains operating to S.W. 185th Avenue by September 1997, and all the way to suburban Hillsboro by 1998. To be linked with the initial Eastside line, the Westside project will create a 33-mile, 43-station route.

Work began late in 1992 on a South/North Transit Corridor study that is considering light rail transit for a corridor of as many as 35 miles extending from Clackamas County, south of Portland, through downtown Portland and across the Columbia River to Vancouver, Wash. Now at the alternatives analysis stage, the study could lead to a construction start-up as early as 1999, with a service startup around 2005. Looking beyond this extensive development, the regional Metro agency has identified still more light rail development.

FOR BUSES, A BIG SUPPORTING ROLE

Much of MAX's success is owned to an extensive restructuring to Tri-Met's Eastside bus services that has made light rail a "trunk line" route fed by a network of connecting bus routes. Bus transfers are available at a number of light rail stations, and major timed transfer points are established at five light rail/bus transit centers. At the Gateway Transit Center, for example, MAX trains connect with a dozen bus line. In downtown Portland, the rail line intersects the city's highly successful transit mall, where connections are available with Tri-Met routes serving all parts of the region.

Portland's first LRT was only one part of a transit development strategy designed to help reinvigorate downtown Portland and to encourage development along transit corridors (see sidebar below). Tri-Met's bus system was rebuilt into one of the best in the nation, and in 1977 the city completed its hugely successful 11-block downtown transit mall. Such strategies as zoning restrictions on downtown parking development, and the establishment of a 300-block downtown "Fareless Square," within which unlimited free transit service was provided, helped to more than triple Portland transit ridership over little more than two decades.

In the eight years since it opened, light rail has proved to be a major force in advancing the city's development objectives. Since the decision to build light rail was made, some seven million square feet of development valued at over $9 million has been completed or is under development along the MAX route, and plans for some $440 million more have been announced. Almost $400 million of the development completed thus far along the light rail line has been in the downtown area. Portland's new convention center, completed in 1990, is located in the Lloyd Center area east of downtown, adjacent to a new MAX station, and a new 20,000-seat downtown Oregon Arena for the NBA's Portland Trailblazers will open next year on an adjacent site.

THE TRI-MET ARTICULATED LRV

Tri-Met operates with a fleet of 26 articulated vehicles built by Canada's Bombardier, and outfitted with propulsion equipment supplied by BBC-North America, a Brown-Boveri Corp. subsidiary (now part of ABB). These are 87-foot vehicles capable of accommodating a total of 211 passengers (76 seated and 135 standing). Given the line's ridership success, some extraordinarily heavy demands have been placed on this vehicle fleet. In 1993, for example, the 26-vehicle fleet operated a total of 1.56 million revenue vehicle-miles, a monthly per-vehicle average of 4,650 miles that was more than double the industry average for light rail vehicles. Despite this intensive utilization, Tri-Met reports an availability rate for the Bombardier vehicles that has ranged from 96% to 100% since the line opened in 1986.

THE NEW WESTSIDE LINE

With its first light rail route up and running well, Tri-Met turned its attention to the development of a second major route in what was perceived as a regional light rail system that could help to maintain mobility in a Portland metropolitan area expected to grow by half a million over the next two decades. The Sunset Corridor extending west from downtown Portland was a natural for rail development.

Here, an extensive and fast-growing area of decentralized commercial and suburban residential development in Washington County was linked to downtown Portland by only one major route, the severely congested Sunset Highway (U.S. 26) through the West Hills, just west of downtown. The area that would be served by the new rail route was also one with significant potential for further development. This gave the region an unparalleled opportunity to develop coordinated and mutually supportive land use and transit planning for the corridor.

The Portland metropolitan area governments chose light rail for the corridor as early as 1983, but the project did not move ahead until after the initial Eastside light rail project was completed. Initially, the project comprised a 12-mile line from downtown Portland to S.W. 185th Avenue, but has since been expanded to add a six-mile extension to suburban Hillsboro. The $688 million budget for this project includes $516 million in 75% federal matching funds, with the balance coming from a combination of Oregon lottery, Metro-area bond measure, and local government funds. Another $256 million is budgeted for the Hillsboro extension.

The most challenging feature of the new line will be a three-mile twin bore tunnel that will carry trains through the West Hills, together with an underground station that will link the tunnel with Washington Park.

In downtown Portland, trackage in Jefferson and 18th streets will link the tunnel's east portal with the Morrison and Yamhill streets couplet used by the Eastside line to form a light rail "cross mall" to the downtown transit mall used by Tri-Met buses. Tri-Met plans to through-route the two rail lines.

West of the tunnel, the Westside line will follow the Sunset Highway to a new Sunset Transit Center in Cedar Hills, and then will parallel Oregon Highway 217 southward to Beaverton, where it will follow a new alignment to reach the existing Beaverton Transit Center and a new Beaverton Central station. The initial section of the line to S.W. 185th will have 13 stations, while the Hillsboro extension will add another eight.

Much like the earlier Banfield corridor project, the new Westside MAX line is being built in tandem with major improvements to the parallel highway system. Sunset Highway interchanges will be reconstructed, a section of the highway through the West Hills will get an extended westbound climbing lane, and major segments of both the Sunset Highway and Highway 217 will be widened to six lanes.

Initial construction activity for the Westside line began in mid-1993, while major work on the West Hills tunnel, which is on the project critical path, began early this year. The line's Washington Park station, located 260 feet below ground on the tunnel section, will represent the deepest transit station in North America. Four 30-passenger high-speed elevators will be capable of getting passengers between ground and platform level in only 35 seconds.

A 200-foot platform and trackway for each tunnel will be placed on a mined cavern with an internal radius of 16 feet. Short passageways at 45 degree angles will provide access to elevator lobbies at either end of each platform. In order to minimize excavation costs, most of the station head house facilities will be placed at ground level, where the architects, Portland's Zimmer Gunsul Frasca Partnership, have designed a station that will be integrated with a plaza and outdoor amphitheater, and with entrances to the Washington Park Zoo and other major visitor facilities in the park.

Planning for the six-mile Hillsboro extension is now at the final environmental impact study stage, with approval anticipated shortly. As soon as an anticipated $75 million of federal Section 3 funding is obtained, and an FTA letter of no prejudice issued, Tri-Met expects to "fold in" the project to the original contract with FTA. Construction should start in 1995, and the extension should open late in 1998.

Parsons Brinckerhoff has been the principal consultant for Portland light rail development since 1980, when the firm was selected to develop an alternatives analysis and draft environmental impact statement for the original Banfield Corridor project. Most recently, PB has been the final design consultant and construction manager for the Westside project, with Minneapolis-based BRW, Inc., and the Zimmer Gunsul Frasca Partnership, a Portland architectural firm, as principal subconsultants.

THE SOUTH/NORTH LINE

Next on Portland's light rail agenda will be a South/North line that will link suburban Clackamas County, south of Portland, through downtown Portland, with the urbanized area of Clark County, Washington, north of the Columbia River. Depending upon the specific alignment chosen, this line could be anywhere from 25 to 35 miles in length. Initial studies begun several years ago considered this and an alternate corridor that would have followed the north-south Interstate 205 corridor east of downtown Portland, with a link to Portland International Airports.

In April 1993, Oregon's Metro Council, together with Washington's C-Tran Board, selected the South/North line as the region's next high capacity transit corridor, and adopted the single broad corridor through downtown Portland for study.

Several alternate alignments, as well as alternate terminals at both ends of the route, will be studied. Oregon City, Clackamas Town Center, and Milwaukee are all candidates for the southern terminal, while the northern terminal could be located in downtown Vancouver, Wash., or any one of three alternate sites in suburban Clark County.

"We are taking advantage of the Westside construction period," says Metro Service District (the regional planning agency) Planning Director Andrew C. Cotugno, "to advance the south/north project through the alternatives analysis, preliminary engineering, and environmental studies work, and to put the funding together. When the full Westside line opens in 1998, we hope to be in a position to start the South/North line."

An alternatives analysis for the South/North corridor started in 1993 should be complete by late 1995, with the completion of preliminary engineering and development of a final environmental impact statement to follow two years later. The region hopes to have a funding contract in place by 1998, with construction to start the following year. Start up of Portland's third light rail route would come by about 2005.

EXPANSION PLANNING CONTINUES

Looking beyond completion of a south/north light rail line, Portland area planners have identified additional high capacity corridors that are likely candidates for light rail. A north-south line in the Interstate 205 corridor would link the Portland airport with the Eastside line at the Gateway Transit Center, and with the South/North line in Clackamas County.

A second north-south line in the Highway 217 corridor west of downtown Portland would link the Westside line and Beaverton with the fast growing suburban communities of Tigard and Tualatin, while two projected radial routes from downtown Portland would also reach the latter communities. Still other projected light rail additions would extend the current Eastside line beyond Gresham to Troutdale, while the new Westside line would be extended another seven miles westward from Hillsboro to Forest Grove.

TRIBUTE TO EVELYN STRODE

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. COSTELLO. Mr. Speaker, I rise today to introduce an outstanding program called Beat the Odds, which is sponsored by the Children's Defense Fund and Project Kids, Inc., to the U.S. Congress.

Beat the Odds celebrations strike a chord with community leaders and citizens who want to help children struggling to achieve their academic desires. Corporations donate prizes for nominees, educators work to nominate the exceptional students, and the media embrace the Beat the Odds concept with wide-ranging coverage. Beat the Odds has fostered successes in many, hard-working, outstanding students.

This Friday, June 24, 1994, I will have the opportunity to host the first East St. Louis Beat the Odds ceremonies at the Adams Mark Hotel in St. Louis, MO. Evelyn Strode is one of five distinguished students from East St. Louis, IL, that I will be honoring at this great celebration.

Evelyn, like many young adults, has set a goal for the next 4 years of her life. In these 4 years, Evelyn will be working toward her degree requirements for her bachelor's degree in journalism. While this may sound like the normal goal for a recent high school graduate, Evelyn has had to overcome extreme odds through her dedication and hard work to reach this point in her life. Unlike other students, Evelyn has had to overcome the everyday reality of alcohol and drug abuse that plagued her family and community.

Having recently graduated from East St. Louis High School with a 3.6 grade point average, Evelyn has certainly proved her strong will and determination for post-graduate study. Evelyn should be proud of her wonderful contributions to her family, school, and her surrounding community.

Mr. Speaker, it is with great honor that today I be given this opportunity to commend Evelyn for her outstanding academic achievements in this great body. I am certainly honored, and looking forward, to present Evelyn with a scholarship at the first East St. Louis Beat the Odds awards celebration.

A TRIBUTE TO THE 50TH ANNIVERSARY OF THE GI BILL IN AMERICA

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. McCOLLUM. Mr. Speaker, I rise today to recognize the impact of one of the truly great acts of Congress. The servicemen's Readjustment Act of 1944, better known as the GI bill celebrates it's 50th anniversary today. We in the United States should take this opportunity to credit Congress with having the vision and courage to pass this legislation.

The GI bill was first intended to lessen the impact of the veterans coming back to the United States after World War II. Many Americans, including the soldiers and sailors who had fought in World War II, feared that with the end of that conflict a recession was inevitable. As we know now history told a different tale.

The GI bill supplied money for low-interest loans that could be obtained with little or no money down. This money, in large part, was provided in an effort to try to maintain a level of economic prosperity for the citizens of the United States. With the opportunity to buy homes with low-interest loans, many young men were for the first time able to afford the American dream of owning a home.

However, of greater importance was the money supplied for education to interested members of the military in return for their heroic efforts on our behalf. This money paid dividends by making Americans the most educated people in the world, and fueled our economy for 50 years of spectacular economic growth. Peter Drucker points out in a 1992 edition of the Harvard Business Journal, "The veteran's enthusiastic response to the bill signals a shift by the world from an industrial society to a knowledge society."

Although the GI bill met with some resistance in the beginning, it is in my opinion one of the greatest acts of Congress. The GI bill was a tool that anchored the middle class into the fabric of American society. As George Bush stated,

> The GI bill changed the lives of millions by replacing old roadblocks with paths of opportunity. And, in doing so, it boosted America's work force, it boosted America's economy, and really, it changed the life of our Nation.

THE GI BILL

HON. TIM VALENTINE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. VALENTINE. Mr. Speaker, 50 years ago, our Nation was in a state of transition the likes of which we had never seen before—and will likely not see again. Collectively, we had survived the Great Depression; we had sent the sons of our country across the globe to fight and win, with our allies, the second "War to end all Wars." Fifty years ago, in June 1944, our country first saw light at the end of the tunnel. A generation of troubled times and the horror of war were about to end.

We were very fortunate to have leaders in this body, in the other body, and in the White House, who had the vision to know that the light ahead in the tunnel was not an end. It was a beginning—a beginning of a new era for our country and for the world—a new beginning which would define our place and our success for the rest of this century.

Within months, millions of our boys would be coming home from war, ready for a fresh start and motivated to make their world a better place. The leaders of this Nation were faced with a challenge to harness the energy and the drive this generation would bring home and to make this a truly new beginning for our Nation.

Today, we celebrate the 50th anniversary of legislation that was the foundation for that new beginning. On June 22, 1944, President Franklin Delano Roosevelt signed into law the Serviceman's Readjustment Act of 1944, better known as the GI bill of rights. This bill was meant to serve as a reward to the millions of American soldiers who had selflessly served their country and the cause of freedom in Europe, Africa, and the Pacific. But, the bill had a much broader, far-reaching impact than a simple gratification. It became the vehicle for an economic and intellectual stimulus that drove this country back to prosperity in the fifties, into the space age of the sixties, and on to the information age of today.

At the end of World War II, more that 8 million American servicemen chose to make use of the educational benefits offered by the GI bill. The vast majority of these young men would have had no other opportunity to advance their education. Before the war, a college education was, in effect, a luxury afforded only to the rich and the few students bright enough to win a scholarship.

The GI bill meant that 2 million young soldiers would go to college. Another 6 million would choose other types of education and training. This influx of students gave new life to our Nation's institutions of higher learning. And it gave a generation of working men the skills to move this country forward. And, since it's beginning some 50 years ago, over 20 million American servicemen and women have received their college education from the GI bill.

The GI bill had another, more immediate effect. It was a key element in one of history's fastest and largest economic expansions. The bill provided billions of dollars to millions of GI's to buy homes on their return to America. With the GI bill, for the first time in history a majority of Americans would become homeowners, instead of renters. The housing construction industry boomed. Sales of durable goods such as cars, washing machines, and other major appliances, put the Nation back to work like never before. The GI bill helped provide the education and the economic stimulus, and the economic stimulus provided the jobs, which further strengthened and improved our Nation's economy.

Mr. Speaker, despite the best rhetoric of legislative debate today, it is rare that we in Congress have the opportunity to craft truly landmark legislation. Rarer still do we pass legislation that has the scope of positive impact that the GI bill and its successors have had on our people and our economy. I am proud that this country's leaders had the vision to provide for our returning servicemen a half-century ago. It is truly appropriate that we recognize this monumental legislation on its anniversary today, and as a part of a year in which we honor those who fought and died to preserve freedom and democracy.

TRIBUTE TO MYKO SEQAUIA HAMMOND

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. COSTELLO. Mr. Speaker, I rise today to introduce an outstanding program called Beat the Odds, which is sponsored by the Children's Defense Fund and Project Kids, Inc., to the U.S. Congress.

Beat the Odds celebrations strike a chord with community leaders and citizens who want to help children struggling to achieve their academic desires. Corporations donate prizes for nominees, educators work to nominate the exceptional students, and the media embrace the Beat the Odds concept with wide-ranging coverage. Beat the Odds has fostered successes in many, hard-working, outstanding students.

This Friday, June 24, 1994, I will have the opportunity to host the first East St. Louis Beat the Odds ceremonies at the Adams Mark Hotel in St. Louis, MO. Myko Seqauia Hammond is 1 of 5 distinguished students from East St. Louis, IL, that I will be honoring at this great celebration.

Myko has weathered the hardships of a broken home throughout much of her life. At a young age, Myko had to endure life with her father who abused drugs and alcohol and which later lead to Myko's family having to rely on local shelters for adequate living quarters.

Although Myko has had to face much diversity, she recently graduated from East St. Louis High School with a 3.3 grade point average. Additionally, Myko is a member of the Principal's Scholars Program, Honor's Seminar, French Club and Math Society. Myko plans to attend Western Illinois University this coming fall, where she plans to pursue the necessary degree requirements to become an educator.

Mr. Speaker, it is with great honor that today I be given this opportunity to commend Myko for her outstanding achievements in this great body. I am certainly honored, and looking forward to presenting Myko with a scholarship at the first East St. Louis Beat the Odds awards celebration.

INSURANCE BROKER FOREIGN SOURCE INCOME CLARIFICATION ACT OF 1994

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. CARDIN. Mr. Speaker, I am today introducing the Insurance Broker Foreign Source Income Clarification Act of 1994. This bill is intended to clarify the treatment of changes in the international area included as part of the Omnibus Budget Reconciliation Act of 1993 as relates to their effect on U.S.-owned multinational insurance brokers and agents. The legislation is intended to treat U.S.-owned multinational insurance brokers and agents in a manner similar to that currently afforded to other similar financial services entities.

The 1993 act that passed the Congress last year contained changes in the international area that inadvertently could negatively impact U.S.-owned global insurance brokers. The changes could cause a broker's foreign subsidiaries to erroneously be treated predominantly as passive rather than active businesses.

These changes could cause two negative results: first, U.S.-owned foreign insurance brokers could be subject generally for the first time to the pre-1993 act law Passive Foreign Investment Company rules; and second, U.S.-owned foreign insurance brokers may be subject to the new rules of the 1993 act applicable to earnings invested in excess passive assets of U.S.-owned foreign subsidiaries, section 956A. As a result, the unrepatriated active earnings of U.S.-owned foreign insurance brokers, directly or indirectly, may be subject to current taxation.

Congress has never intended to tax financial services entities as PFIC's even though they may hold large client deposits. However, Congress has not always been careful and consistent in defining such financial services entities.

Banks and insurance companies had a specific provision under pre-1993 act law, which continues under the 1993 act, providing that their income is treated as active under the PFIC provisions and new section 956A.

In the case of securities brokers and dealers, the 1993 act adopts specific rules which provides for active treatment under both the PFIC provisions and new section 956A.

Insurance brokers, like securities brokers, were not specifically treated as earning active income under the pre-1993 act law PFIC provisions, but generally were not subject to PFIC status. This occurred generally by satisfying the active income and asset tests, substantially due to the fact that goodwill and other active intangible assets were valued based on their fair market values under pre-1993 act law.

The 1993 act substituted tax cost for fair market value in applying the PFIC asset test, thus eliminating the salutary impact of appreciated goodwill and other active intangibles, and potentially causing insurance brokers to be treated as PFIC's. A similar problem may arise under section 956A.

Insurance brokers should continue to be treated like other financial services entities. The legislation I am introducing today would accomplish that result by recognizing the active nature of insurance brokerage and agency income. The effect of my legislation will be twofold:

First, it will recognize the active nature of the insurance brokerage and agency business.

Second, it will treat insurance agents and brokers in a manner comparable to their counterparts in the global financial industry; e.g., banks, insurance companies, and securities brokers and dealers.

DETAILED ANALYSIS

A. DESCRIPTION OF THE INSURANCE BROKERAGE BUSINESS

Insurance brokers act as intermediaries between clients seeking insurance coverage and insurance companies who underwrite insurance policies. Insurance brokers advise clients on their needs and find the proper "fit" between the client and an insurance company or companies, for which services brokers charge a commission. Insurance brokers also deliver claims adjustment services and provide risk management and insurance company management services. In short, insurance brokers are engaged in a financial services business. As a consequence, they typically do not maintain large investments in fixed tangible assets.

Insurance brokers provide many services that are similar to those provided by insurance companies and securities brokers and dealers. Indeed, insurance brokers are recognized as within the same "financial services" network as banks, insurance companies and securities brokers. Thus, the foreign tax credit regulations assign income from insurance brokerage or agency services to the financial services income foreign tax credit limitation "basket."

As a regular business practice, insurance brokers temporarily hold insurance premiums that are in transit from clients to the insurers. They also may hold claim payments and return premiums that are in transit from the insurance companies to the insurers. These funds are held in a custodial capacity. Such "fiduciary funds" typically are subject to regulation, however, the nature of the regulation depends upon the country in which the insurance broker is based. For example, in the United Kingdom, the Insurance Broker Registration Council rules govern the treatment of fiduciary funds, designating the manner in which such funds may be held and restricting the use of such funds. These regulatory provisions, and the obvious practical limitation that the funds are held only on a short-term basis prior to being paid over, prevent any repatriation of such funds to a U.S. shareholder.

Additionally, insurance brokers often conduct directly, or indirectly through an affiliate, related services, including investment and financial advisory services, employee benefits services, securities brokerage and dealer services, and other financial-related services. These activities overlap extensively with the brokers' counterparts in the financial services industry, particularly with the activities of insurance companies and securities brokers. Moreover, these business activities (as is true for the brokerage business) do not require maintaining significant tangible fixed assets, although these businesses do require certain levels of working capital.

B. PRE-1993 ACT LAW REGARDING PFICS

Any foreign corporation, including a controlled foreign corporation, was treated as a PFIC under pre-1993 Act law if it met either one of two tests which target foreign corporations used as passive investment vehicles. Thus, a foreign corporation was treated as a PFIC if either: seventy-five percent or more of its gross income is passive income (the "income test"); or its passive assets equal or exceed fifty percent of its total assets (the "asset test"). Section 1296(a).

For purposes of the PFIC asset test, a passive asset was any asset that produced (or was held for the production of) "passive income." The asset test generally was based upon asset fair market values.

If a foreign corporation met either of those tests, any U.S. person owning its stock was subject to rules that accelerated income recognition or charged a deferred interest "penalty." Unless the U.S. person owning PFIC stock elected to be taxed currently, the shareholder generally was subject to ordinary income treatment upon receiving distributions from the PFIC or upon disposition of the PFIC stock, and was subject to an interest charge based upon the value of the tax deferral. Section 1291.

Congress recognized that active financial services businesses inadvertently may be drawn within the PFIC rules. Accordingly, Congress statutorily provided that corporations in the banking and insurance business were generally not subject to PFIC classification. This was effectively accomplished through the definition of "passive income," e.g., for purposes of the income test and the asset test, "passive income" did not include any income derived in the active conduct of a banking or insurance business. Section 1296(b)(2). The fact that this statutory provision under pre-1993 Act law was limited to banks and insurance companies did not impact U.S.-owned insurance brokerage companies that did business outside the United States because of the substantial goodwill and other active intangible assets taken into account at fair market value in the PFIC asset test. Accordingly, foreign insurance brokers under pre-1993 Act generally were not treated as PFICs.

In addition, it had been generally assumed that funds held by insurance brokers to pay premiums, return premiums, and claim payments did not count as assets of the insurance broker for purposes of the PFIC asset test because they were being held for customers of the broker either to be paid over to the insurance companies or to be paid to the customer. While this is not an issue on which the I.R.S. provided guidance, its resolution generally was not viewed as determinative of PFIC status due to the ability to value goodwill and other active intangibles at fair market value.

C. CHANGES UNDER THE 1993 ACT

The 1993 Act contained two specific proposals that may adversely affect the tax treatment of U.S.-owned foreign corporations in the insurance brokerage business.

First, the 1993 Act provides that, in the case of a controlled foreign corporation (or any other foreign corporation if the corporation were to so elect), the PFIC asset test is based upon adjusted tax basis of the assets (as determined for purposes of computing earnings and profits); i.e., fair market value no longer may be used in the asset test. The use of adjusted tax basis of assets rather than fair market value substantially eliminates goodwill and other active intangible assets from the asset test and may convert active insurance brokers into PFICs.

The second provision of the 1993 Act that may adversely affect the insurance brokerage industry is new section 956A. This provision requires a U.S. shareholder of a controlled foreign corporation to currently include in income its share of the corporation's accumulated earnings invested in "excess passive assets," defined as the extent to which passive assets exceed twenty-five percent of total assets. The determination of whether an entity has excess passive assets is made by reference to the PFIC asset test, as that test was amended by the above-referenced changes to use the adjusted tax basis of assets rather than their fair market value. This change, coupled with the uncertainty as to the treatment of fiduciary funds, may cause insurance brokers to be subject to section 956A notwithstanding their clearly active nature.

D. SECURITIES BROKERS' AND DEALERS' ACTIVITIES ARE SPECIFICALLY TREATED AS ACTIVE UNDER THE 1993 ACT

The Committee on Ways and Means (the "Committee") observed during its consideration of the 1993 Act that when the PFIC rules initially were enacted, Congress believed that foreign corporations conducting active businesses as dealers in stocks, securities and derivative financial products would be excluded under both the asset and income PFIC tests. However, the Committee indicated it had become aware that foreign securities dealers did not always earn sufficient gross income in the form of commissions to avoid the income test and did not maintain sufficient levels of nonpassive assets for the PFIC asset test. The Committee recognized the considerable overlap between activities conducted by foreign securities dealers and those conducted by banks.

Accordingly, the 1993 Act included a provision to treat foreign securities brokers and dealers under the PFIC rules in the same manner as banking and insurance companies by specifically providing that income earned in the active conduct of the securities business is not passive income. In this manner, securities brokers and dealers also are not subjected to the new deferred earnings rules of section 956A.

The securities brokers and dealers provision is based on the policy that the PFIC rules and the deferred earnings rules of new section 956A are not intended to apply to corporations that actively engage in the business of providing financial services to unrelated parties. *See* Ways and Means Committee Print (May 19, 1993) at 266. In that regard, the Committee recognized the significant and broad activities of an active securities business, which include purchasing and selling inventory securities, servicing mortgages, investment banking, and providing financial and investment advisory services, investment management services, fiduciary services, trust services, and custodial services.

E. U.S. OWNED FOREIGN BROKERAGE BUSINESSES SHOULD BE TREATED IN THE SAME MANNER AS SECURITIES BROKERS AND DEALERS

The active nature of taxpayers engaged in the insurance brokerage and agency business obviously demonstrates that these are not the type of businesses which should be subject to either the PFIC provisions or the excess passive asset provisions of section 956A. The Congress has already recognized that comparable financial services entities also should not be subject to these provisions through rules, under pre-1993 Act law or under the 1993 Act provisions, applicable to banks, insurance companies, and securities brokers ad dealers. A similar clarification should be provided for taxpayers engaged in the insurance brokerage and agency business.

My bill would accomplish this result by providing that the term "passive income" would not include any income derived from insurance brokerage or agency services, for purposes of section 956A and the PFIC provisions. The legislation would also provide that income earned on fiduciary funds held by an insurance agent or broker would not be passive income and that such funds would be treated as having a tax basis equal to their original purchase price.

This change would provide insurance brokers with treatment comparable to that provided for securities brokers or insurance companies. Moreover, this change ensures that the practical effect of the tax rules comports with congressional intent. It would establish that any income derived from insurance brokerage activities would be treated as active income under both the PFIC rules and the deferred earnings provisions of new section 956A. Moreover, it would clarify that cash and cash equivalents amounts representing premium payments held by insurance brokers for their customer on a temporary basis to be paid over to insurance companies—and return premiums and claims payments held to be paid over to their customers—are active assets for purposes of the PFIC provisions and the new section 956A rules, with a tax basis equal to their purchase price. This result correctly recognizes the active nature of these assets and the fact that they obviously are not available for repatriation to the United States.

In the global marketplace, the activities of bankers, insurance companies, securities brokers, and insurance brokers comprise a single financial services network. Many times, the lines between these industries become blurred and, as a result, these businesses often compete directly with each other. By treating these businesses in comparable fashion, competitive advantages and disadvantages will be avoided.

I urge Members to support prompt enactment of this legislation.

VETERANS CELEBRATE ANOTHER MILESTONE

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. STUMP. Mr. Speaker, this month has been one of great nostalgia for our country's veterans. On June 6, we observed the 50th anniversary of the Normandy invasion, and everyday since June 7 has been the 50th anniversary of the battle that continued just inland from the Normandy beaches—battles ongoing in the Italy campaign, as well as battles raging in the South Pacific.

Today, I rise to commemorate the 50th anniversary of the GI bill. On June 22, 1944, President Franklin D. Roosevelt signed into law the Servicemen's Readjustment Act of 1944. This landmark piece of legislation was aimed at easing the transition from wartime active duty to civilian life. The bill provided home loan guarantees without a down-payment and a very generous education benefits package that included tuition, board, and a monthly annuity.

It is worth noting the key role an Arizonan played in the formation of the GI bill. As a junior Member, Senator Ernest W. "Mac" McFarland introduced a bill that also provided home loan benefits and educational assistance to returning World War II veterans. Although his own bill did not succeed, Senator McFarland helped garner support for the GI bill that finally passed in the Senate.

During the past five decades, follow-on bills have been modified or updated to benefit subsequent generations of veterans. The World War II GI bill, which helped me attend Arizona State University, ended on July 25, 1956. The Korean conflict GI bill was approved by President Truman on July 16, 1952 and ended in January, 1955. President Johnson signed the Vietnam Era GI bill in March, 1966. During the years of that program, 1966–89, 6 million Vietnam era veterams, 1.4 million post Korean veterans, and 751,000 service members trained under the Vietnam Era GI bill, a total of 8.2 million.

Those who entered the Armed Forces after 1976 were eligible for the Post Vietnam Era Veterans Education Assistance Program. For the first time, the service member was required to contribute a portion of his paycheck each month to the program, with the Government matching the contribution. This program did not see the numbers of participants that the Vietnam era GI bill did; it was not as successful as past education programs.

The current education plan, the Montgomery GI bill—so named for our distinguished colleague, House Veterans Affairs Committee Chairman G.V. "SONNY" MONTGOMERY—replaced the Veterans Education Assistance Program. The program continues the service member contribution plan, but with improved benefits including for the first time, eligibility for military reservists. Since July, 1985, approximately 1.6 million service members have enrolled in this highly successful program.

The return on the Government's investment has been ten fold. The GI bill is credited with shaping and creating the American middle class. Veterans have been given the opportunity to achieve the American dream after national service—a good education, a rising standard of living, and a home of their own.

On this historical anniversary, I'd like to again thank our Nation's veterans for their commitment to our country.

GI BILL 50TH ANNIVERSARY

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. FORD of Michigan. Mr. Speaker, I rise today to commemorate the 50th anniversary of the signing of the GI bill.

Originally termed the Servicemen's Readjustment Act of 1944, the GI bill was a gamble which paid off for our Nation by providing education and opportunities to millions of young veterans. Before the passage of the GI bill, only about 10 percent of high school graduates attended college. Since then, about 50 percent of high school graduates attended college. Since then, about 50 percent have gone on to higher education, including 20 million Americans whose educations were paid for by the GI bill. Never before in its history has the Federal Government made as dramatic and sweeping an investment in itself and its people.

I was one of millions of World War II veterans whose lives were changed dramatically by this revolutionary program. At its establishment, the GI bill provided $500 per year for educational expenses which was sufficient to ensure that I never received a bill for tuition. I could not have gone to college, much less law school, without the Government supported program which allowed me to become the first person in my family to receive a college degree.

When this groundbreaking legislation was being considered, many in Congress expressed serious concern that it would prove too expensive and would lower standards in education. These same arguments are heard today in opposition to other education initiatives. The GI bill has succeeded in providing a stimulus to learning which has impacted the prosperity and productivity of our Nation and its citizens. Studies have shown that for every dollar which the Government spent on education under the GI bill, the Nation has received at least $5 worth of benefits in return—an astounding dividend on its investment. None of these benefits would have been possible, however, if Congress had not been able to overcome its misgivings and pass the legislation unanimously in both the House and the Senate. By taking a risk, our Nation was able to establish an initiative which has done more to empower and educate our citizens than any other program.

Mr. Speaker, I would like to request permission to include in the RECORD the text of an editorial which appeared in today's New York times commemorating the anniversary of this historic program.

[From the New York Times, June 22, 1994]

THE G.I. BILL, 50 YEARS ON

Not all the great victories in World War II took place on the battlefield. What proved a landmark triumph for America and its fighting forces had its start in the White House 50 years ago today when President Franklin D. Roosevelt signed the G.I. Bill of Rights. Few laws have done so much for so many, yet the anniversary of this political and social counterpart of D-Day has been all but forgotten.

Formally known as the Servicemen's Readjustment Act of 1944, this innovative bill was ambitious in design and laudable in purpose: to help 10 million veterans, and their country, adapt to peacetime. The measure offered guaranteed loans to buy a home, farm or business; 52 weeks of unemployment insurance of $20 per week, plus job placement services; and most enduringly important, up to four years of Federal aid for learning or training at any level, from grade to graduate school.

And so Americans who never dared dream of attending college joined a flood that crested in 1946–1947, when 2.5 million veterans qualified for $500 or more in annual tuition, plus monthly allowances of $65 for single students, $90 for married. Almost overnight on U.S. campuses, Quonset huts and prefab houses bloomed to accommodate this influx. In a stroke, the legislation kept a demobilizing army from engulfing the labor force, threw open cloistered academic doors and offered energizing plasma to schools of every kind, public or private.

The special genius of the law was that it bypassed old arguments over states' rights and tax aid to religious institutions by extending its benefits to individual citizens, who had wide freedom of choice. This notable home-front victory was chiefly the work of President Roosevelt. As early as November 1942, he had asked a panel of educators to design a comprehensive program for ex-servicemen and women. In summer 1943, in a message to Congress and in a radio fireside chat he urged approval of the panel's core recommendations, and got vital support from the otherwise staunchly conservative American Legion.

Even so, the school provisions were assailed by John Rankin, the race-baiting Mississippi Democrat who headed the House Veterans Committee; he protested that blacks were incapable of benefiting from college. Less predictably, President Robert Maynard Hutchins of the University of Chicago gloomily warned that "colleges and universities will find themselves converted into intellectual hobo jungles. And veterans unable to get work and equally unable to resist putting pressures on colleges and universities will find themselves educational hoboes."

Such prophecies were wildly off the mark. So popular and successful was the law that many of its benefits were extended to Korea and Vietnam veterans, and are now available to those who serve in peacetime. As a Federal stimulus to learning and opportunity, the G.I. Bill ranks with the Land Grant College Act of 1862, which promoted the growth of the state universities.

It is useful to be reminded periodically that Federal spending is not always wasteful, and that taxes, to paraphrase Mr. Justice Holmes, can be the agent of civilization.

TRIBUTE TO LATONYA GRIFFIN

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. COSTELLO. Mr. Speaker, I rise today to introduce an outstanding program called Beat the Odds, which is sponsored by the Children's Defense Fund and Project Kids, Inc., to the U.S. Congress.

Beat the Odds celebrations strike a chord with community leaders and citizens who want to help children struggling to achieve their academic desires. Corporations donate prizes for nominees, educators work to nominate the exceptional students, and the media embrace the Beat the Odds concept with wide-ranging coverage. Beat the Odds has fostered successes in many, hard-working, outstanding students.

This Friday, June 24, 1994, I will have the opportunity to host the first East St. Louis Beat the Odds ceremonies at the Adams Mark Hotel in St. Louis, MO. LaTonya Griffin is 1 of 5 distinguished students from East St. Louis, IL, that I will be honoring at this great celebration.

For 17 years of her life, LaTonya has been in foster care. She has resided in 10 different homes and attended 9 different schools. During high school, LaTonya has had to work to provide herself with the basic necessities of life. Working as many as 40 hours a week at two part-time jobs, LaTonya's graduation from East St. Louis High School can certainly be seen as a great achievement.

LaTonya plans to attend the Missouri School for Doctors and Medical Assistants in the fall of this year, as her long-term goal is to enter the health care profession. LaTonya should certainly be proud of her accomplishments.

Mr. Speaker, it is with great honor that today I be given this opportunity to commend LaTonya for her outstanding achievements in this great body. I am certainly honored, and looking forward, to present LaTonya with a scholarship at the first East St. Louis Beat the Odds awards celebration.

PATENT PROTECTIONS

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. DREIER. Mr. Speaker, once again our throughful friend from Huntington Beach, Mr. ROHRABACHER, has offered some incisive thoughts on U.S. patent protections. I commend it to our colleagues.

[From the Journal of Commerce and Commercial, June 21, 1994]

KEEPING U.S. PATENT PROTECTIONS

(By Dana Rohrabacher)

America's greatest asset is not found in its vast natural resources, or even its great universities. The mainspring of our progress is due to our people's creative genius and entrepreneurial spirit, and their willingness to invent, innovate and change.

America has led the world in revolutionary inventions such as the airplane, transistor and microprocessor. These, in turn, have created jobs, brought tremendous increases in our national output and lifted our standard of living. In large part, these results are due to America's recognition and protection of intellectual property.

Now there is a proposal that puts that protection in jeopardy. In the name of harmonization, foreign governments are pressuring our government to fundamentally change the patent rules that have served us so well.

The legislation, S. 1854, contains some of the worst aspects of Japanese and European patent law. It would, in essence, get the legal protection of our most innovative citizens, disenfranchising them from the benefits of their own creativity. It is a rip-off of American rights that should be opposed.

The American patent system is different from the European and Japanese patent systems, and we should not try to be more like them.

American patents are valid for 17 years after issue. They are kept confidential during the application process and cannot be contested until after issuance.

By contrast, European and Japanese patents have a life of 20 years after filing, are not condifential throughout the application procedure and can be challenged throughout that process.

One of the most frightening elements of this debate is that the White House is on the wrong side. According to Rufus Yerxa, deputy U.S. trade representative, the Clinton administration advocates changing the term of patent protection from 17 years after grant to 20 years after filing an application.

In Europe and Japan—and in the United States, if S. 1854 passes—the clock starts immediately at filing, and the patent application is published shortly afterwards. So what? So competitors are encouraged to copy and to oppose patents.

Patent applications on major innovations in Japan are often vigorously challenged by large companies, which can afford a battery of attorneys to pour over documents looking for weakness. The onus is on the creator to defend his invention.

Under the American system, the invention is kept confidential until the patent is issued. After that, the burden of proof is on the challengers to prove their case.

Similarly, when a Japanese inventor files a patent application on a major invention, it is not uncommon to witness a flood of patent applications on small-improvement "inventions" that essentially make minor changes in the breakthrough technology.

Through this whittling-away process, the financial rewards enjoyed by the original patent holder are substantially reduced. The deflated incentives for the Japanese to invent and patent revolutionary new products have ensured that Japan's industrial system is oriented to mere incremental developments.

By contrast, the American system is conscientious about protecting innovators by prohibiting the patenting of obvious variations in newly developed technology.

An American patent has an assured life of 17 years. It can be challenged, but only after it has issued and become enforceable and, as stated, the burden of proof is then on the challenger. As a result, Americans have had the incentive to forge ahead and develop the many revolutionary inventions that have made America a technology leader.

The hope that a revolutionary patent will recoup a large return to the inventor provides our nation with a ready source of capital for research and development of totally new products and technologies. A strong patent policy thus accomplishes more good than all the government sponsored jobs, technology transfer programs and other industrial policy schemes could ever hope to do. The American system works, and we are better for it.

Our people's well-being has been tied to new inventions since the days of the cotton gin, the reaper and the electric light. At the end of World War II, for example, there was tremendous concern about our economy's ability to create enough jobs for returning veterans. However, the invention of the transistor in 1948 made possible the aerospace, consumer electronics and computer industries, which in turn employed tens of millions of workers.

Today, as in yesteryear, America cannot take prosperity and progress for granted. We should absolutely not degrade our people's patent rights in the name of harmonization with other lands.

The protection of our inventors afforded by our intellectual property laws had enabled the genius of the U.S. inventor to develop bold new ideas and technology, which have provided our workers with jobs, kept our country competitive, and maintained our high standard of living.

Benjamin Franklin, an inventor and champion of American liberty, once lamented, "I have sometimes almost wished it had been my destiny to be born two or three centuries hence. For invention and improvement are prolific, and beget more of their kind. Many of great importance, now unthought of, will before that period be produced; and then I might not only enjoy their advantage, but have my curiosity gratified in knowing what they are to be." This reflects the faith Americans have had in a better future. It is part of our character.

America is and should continue to be the land of individual freedom. This emphasis, starting with Benjamin Franklin and Thomas Jefferson (also an inventor), has served us well, both in the political and economic arenas.

Changing that emphasis now to harmonize with societies like Japan, which stress conformity and distrust individualism, would be a fundamental mistake. We should be strengthening, not weakening, our protection of the rights of creators and innovators as we enter the new technological age. That's what will ensure a better tomorrow.

COMMENDING JACQUELINE TRAPP AND HER MOCK LEGISLATIVE SESSION

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. BARRETT of Wisconsin. Mr. Speaker, I commend Ms. Jacqueline Trapp, director of the American Government program at Brown Deer High School in Brown Deer, WI, for her work to communicate the workings of our democracy to her students. In 1991, Ms. Trapp developed a mock legislative session as a means of generating interest among her students in Congress and the legislative process.

Her program, the result of many hours of hard work each year for herself and her students, has a truly unique ability to motivate students. Participants in Ms. Trapp's legislative simulation assume the roles of legislators, lobbyists, and the media. They elect officers, examine complex social issues and draft, debate, and vote on related legislation in committees and on the floor of their legislature.

I have visited Ms. Trapp's mock legislative session several times and have developed a high regard for her work. I am very confident that this uniquely stimulating learning tool develops in participating students a genuine interest in and understanding of the legislative process and makes them better citizens. As the students themselves have said, Ms. Trapp's program makes the government real.

This program presents quite a challenge to participating students, who are asked to review a considerable amount of complicated material in preparation for the legislative session. These students also deserve our commendation for their genuine interest in civic affairs and the process of policy formation.

Mr. Speaker, our Nation's educational system is often criticized for its perceived failure to motivate students. Critics and reformers would do well to visit Ms. Trapp's mock legislative session. There, they would witness students captivated by the subject matter and eager to participate to the fullest. Who could ask for more?

GROW OHIO FUND

HON. JOHN R. KASICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. KASICH. Mr. Speaker, Ohio Department of Development Deputy Director John Damschroder has devised a new, imaginative proposal to spur economic expansion and job creation in our State. The following article from the May 9 edition of Forbes Magazine describes his proposed "Grow Ohio Fund."

MUTUAL AID

John Damschroder, deputy director of the Ohio Department of Development, has an idea that may well become standard fare around the country. He wants the Buckeye State to create a mutual fund dedicated to buying equities in companies that have a significant presence—100 or more employees—in Ohio. The Grow—Ohio Fund would be made available to investors around the state from financial institutions licensed to sell mutual funds. Equities in the fund would be traded on the New York or American stock exchange or Nasdaq.

The fund would be managed by an Ohio-based money management firm for a maximum fee of three-fourths of 1 percent of the funds under management, the State would get one-fourth of 1 percent. This revenue would be used to pay interest on bonds sold to finance infrastructure projects tied to economic development. "The idea is to give Ohioans a way to vote with their money for our own companies, thus strengthening our state economy." Damschroder sees the fund "as a barometer on the Ohio economy."

A little over a year ago Ohio broke development ground by luring companies with the promise of refunding them a portion of their new employees' state income tax liability. The State has attracted $1.2 billion of new investment and over 13,000 new jobs that it otherwise would not have had. Impressed, other States are following suit with similar programs.

TRIBUTE TO LA TOSHA MAGGARD

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. COSTELLO. Mr. Speaker, I rise today to introduce an outstanding program called "Beat the Odds," which is sponsored by the Children's Defense Fund and Project Kids, Inc., to the U.S. Congress.

Beat the Odds celebrations strike a chord with community leaders and citizens who want to help children struggling to achieve their academic desires. Corporations donate prizes for nominees, educators work to nominate the exceptional students, and the media embrace the Beat the Odds concept with wide-ranging coverage. Beat the Odds has fostered successes in many hard-working, outstanding students.

This Friday, June 24, 1994, I will have the opportunity to host the first East St. Louis Beat the Odds ceremonies at the Adams Mark Hotel in St. Louis, MO. La Tosha Maggard is one of five distinguished students from East St. Louis, IL, that I will be honoring at this great celebration.

Having been plagued by alcohol abuse and financial difficulties, it was an extreme achievement for La Tosha to have been one of the many recent graduates of East St. Louis High School this past spring. During her senior year, La Tosha was president of the Math Society and tutored junior high students in mathematics. Upon graduation La Tosha's achievements included: Maintaining a 3.8 grade point average, membership in the principal's Scholars Program and membership in the Honors Seminar.

La Tosha plans to attend Western Illinois University in the fall where she plans to major in either nursing or education. As a volunteer at a local nursing home, La Tosha says that she would like to help the unfortunate much in the same way as others have helped her.

Mr. Speaker, it is with great honor that today I be given this opportunity to commend La Tosha for her outstanding achievements in this great body. I am certainly honored, and looking forward, to present La Tosha with a scholarship at the first East St. Louis Beat the Odds awards celebration.

PAKISTAN SUPPORTS TERRORIST REBELS IN KASHMIR

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. McCOLLUM. Mr. Speaker, I rise today to bring to the attention of the House a very important matter. The role of Pakistan in aiding and abetting terrorism in Kashmir is well documented, so much so that the administration almost placed the Pakistani regime on the 1993 list of state sponsors of terrorism. However, the administration did not take such action because it was assured by Pakistan that Islamabad was taking credible steps to dissociate itself from the militants in Kashir.

Recent reports however, suggest that Pakistan never stopped its aid to the terrorists in Kashir. A report in the Washington Post dated, May 16, 1994, titled, "Pakistan Aiding Rebels in Kashmir: Muslims Reportedly Armed and Trained," by John Word Anderson, datelined Muzzaffarabad, gives a first-hand account of such assistance by Pakistan to terrorists in Kashmir.

The State Department has also confirmed this fact in its annual report titled, "Patterns of Global Terrorism" I quote, "* * * there were credible reports in 1993 of official Pakistani support to Kashmiri militants * * *."

This fact is further confirmed from a study conducted by The Task Force on Terrorism and Unconventional Warfare titled, "The Kashmir Connection," which I would like to place in the RECORD, immediately following these remarks which details the extent of Pakistani involvement in aiding the terrorists in Kashmir.

This House should take cognizance of this serious issue particularly as some of those who have indicted in the bombing of the World Trade Center had also received training in Pakistan.

THE KASHMIR CONNECTION

(By Yossef Bodansky and Vaughn S. Forrest)

Chief of staff's note: The following paper was prepared in light of the publication in the Monday, May 16 issue of The Washington Post of an article discussing Pakistan's extensive involvement in rendering support to terrorist elements in Kashmir. That piece revealed the fact of Pakistani involvement, but not the extent. In this paper, and in future papers, the Task Force will seek to explore in-depth Pakistan's role in international terrorism and its profound ramifications for the Central Asian region in general, and India in particular.

As the rivalry between India and Pakistan has intensified, perhaps no other region has taken on the significance of Kashmir. That province is unique among all the crisis points along the Indo-Pakistani border in that it is not just an area of strategic and economic importance, it is also the object of the ideological passions of the various states in the region. Thus, the following paper will briefly summarize the ongoing rivalry in Kashmir, focusing on Pakistan, Iran, the various Islamist movements, and the military/terrorist dimension of the conflict.

For Islamabad, the liberation of Kashmir is a sacred mission, the only task unfulfilled since the days of Pakistan's founder, Muhammad Ali Jinnah. However, Kashmir is equally important in that it serves the domestic interests of the Pakistani Government in three crucial respects. First, tension over Kashmir creates a diversion from frustrations at home. Second, the Kashmir cause allows Islamabad to rally the support of Pakistan's Islamist parties and their loyalists in the military and the ISI, and third, it serves the regime as an important access point to the markets of Central Asia.

Similarly, Iran considers an escalation of the Jihad for the liberation of Kashmir a key to the assertion of its own strategic prominence, particularly under the auspices of its Islamic Bloc. Indeed, Iran sees Kashmir, because it is the land of the Ayatollah Khomeynia's roots, as sacred ground and is using that fact to instill ideological zeal in the various nationals who make up Tehran's terrorist infrastructure. Not surprisingly, having taken the proverbial tiger by the tail and invested such prestige in the

"Islamization" of Kashmir, Tehran now finds itself committed to fighting for it.

Additionally, beyond Iran and Pakistan, the Armed Islamic Movement, as well as several Saudi, Gulf Arab, and other supporters of Islamist causes, put Kashmir high on their list of jihads to be fought. This is not only because of Kashmir's aforementioned material and "spiritual" importance, but also because it is seen as a relatively easy target. Being geographically isolated and chocked full of weapons and terrorists cells, many Islamist groups believe that the wresting of Kashmir from India would be a great prize acquired at minimal cost and would inspire their followers and further the cause.

Whatever the validity of such as assumption, all of the states and organizations engaged in Kashmir have large, highly trained and well equipped forces, and most have not yet been committed to the Kashmiri jihad. Thus, there exists an environment in which ideological zeal and strategic and political considerations have coalesced. Specifically, as already noted, Pakistan needs Kashmir as a distraction from its domestic problems, various terrorist "Afghan" groups are chomping at the bit to move, awaiting only a wink and a nod from the ISI, and Iran and various Arab states stand willing to finance the effort.

Thus, it is safe to assume that the fighting in Kashmir will escalate significantly, with numerous additional highly trained and well equipped mujahideen many of them professional special forces and terrorists, joining the fight and expanding the struggle into the rest of India. Indeed, there are already in place extensive stockpiles of weapons as well as large sums of money to sustain and support such a conflict.

Consequently, apparently reassured about the steadfastness of its Islamist support, Islamabad has acknowledged openly the futility of its negotiations with India over the Kashmir issue. At the same time, Pakistani Prime Minister Benazir Bhutto has begun to accede to demands from her military leaders for further increases in the Pakistaini defense budget.

THE TERRORIST DIMENSION

In fact, the rising militancy of Pakistani officials is far from empty rhetoric, for Ismanabad has used the increasing tension in Kashmir as pretext for expanding its terrorist training and support system for operations in Central Asia and elsewhere in the world.

To that end, the ISI has established the Markaz-Dawar, a center for world wide Islamist activities. Mulavi Zaki, the center's spiritual leader, has told the trainees that their destiny is to fight and liberate "the land of Allah from infidels" wherever they might be. The commanders and instructors at Markaz-Dawar are AIM members, primarily Ikhwan from Algeria, Sudan and Egypt, and most of them have more than a decade of combat experience in Afghanistan.

In early 1992, some of these 'Afghans' were transferred to Azzad Kashmir where new camps were being built for them by the Pakistani Army. By early 1993, there were over 1,000 'Afghan' mujahideen in the Markaz-Dawar alone. Following the completion of their advanced training, the 'Afghans' were sent to Kashmir, Algeria and Egypt. Furthermore, Islamabad's claims to the contrary notwithstanding, the main offices of the Islamist terrorist organizations have remained functioning in Peshawar.

In addition to the transfers noted above, a series of "raids" by police since October 1992 resulted in the shifting of some 200 terrorist operatives, including some wanted by Western police officials, to facilities near Jalalabad, just across the Afghan border. Indeed, in the fall of 1993, an Arab 'Afghan' with first hand knowledge of the situation confirmed that Pakistan had "pushed them out of the door only to open a window for them to return and they come and go as they wish in Peshawar."

In the meantime, in the summer of 1993, the ISI had in the Markaz-Dawar another force of some 200 Afghans—mainly Jallalluddin Haqqani's people from the Khowst area—operating under its direct command and earmarked for special operations in Kashmir. According to Muhammad Fazal al-Hajj, a PFLP [Popular Front for the Liberation of Palestine] terrorist captured in southern Kashmir in the summer of 1993, additional 'Afghans' and Afghan nationals were being prepared by the ISI for a forthcoming escalation in Kashmir. At least 400 'Afghans' and Afghan nationals were known to have been organized in one camp, where they were trained by the ISI to augment and provide a leadership core for the Kashmiri Hizb-ul-Mujahideen. There was also a corresponding expansion of the preparation of Islamist terrorists for operations in forward bases in Kashmir, with some 600 terrorists, about half of them veteran 'Afghans' and Afghans, already at the final phase of their training.

Indeed, many Arab volunteers continue to arrive in Peshawar almost every day. The preferred port of entry is the Karachi airport. There, a special department run by a Major Amir—an ISI Major with Afghan experience "turned" director of Immigration at the airport—oversees the volunteer's "proper" entry into Pakistan and quick dispatch to Peshawar. The main Ikhwan facility is the Maktaba-i-Khidmat [Services Offices], which was originally established by the late Shaykh Abd Allah Azzam and is now run by his successor, Shaykh Muhammad Yussaf Abbas. The Maktaba-i-Khidmat still processes volunteers for AIM, but at present many of the volunteers are dispatched to the numerous training camps run by Arab 'Afghan' militants inside Afghanistan. The ISI continues to provide the weapons and expertise necessary to support this operation.

Meanwhile, the Government of Afghanistan has also increased its support for terrorist training and preparation. This growing direct involvement is important because the main operating bases for the ISI's activities in Central Asia are in northern Afghanistan. The origins of this arrangement run back to the aftermath of the fall of Kabul. At that time, many Arab 'Afghans' returned to Peshawar where they were organized by the Pakistani government to support various Islamist causes in concert with Iran and Sudan. Many of these fighters later returned to Afghanistan as quality forces or to serve in personal guard details.

Subsequently, in early December 1993, during a state visit to Pakistan, the Deputy Prime Minister of Afghanistan, Maulana Arsalan Rahmani, elaborated on Kabul's perception of the Islamist struggles worldwide, and especially in south and central Asia. He hailed Afghanistan's active support for Islamist armed causes and stressed that "we don't consider this support as intervention in any country's internal affairs." Maulana Arsalan Rahmani also admitted that Afghanistan was providing military assistance to various insurgencies because, "we cannot remain aloof from what is happening to the Muslims in occupied Kashmir, Tajikistan, Bosnia, Somalia, Burma, Palestine and elsewhere. . . . We are not terrorists but Mujahideen fighting for restoring peace and preserving honor."

Rahmani acknowledged that Afghanistan has also played a major role in a recent development among the Islamist organizations fighting in Indian Kashmir, namely, the merger of the Harakat ul-Jihad Islami and Harakat ul-Mujahideen into the potent Harakat ul-Ansar group. This support for the unification of the two movements, according to Rahmani, was but part of the active support given by Afghanistan to the Islamist fighters in Kashmir, Tajikistan, and Bosnia. "There are about 8,000 members of Harakat ul-Ansar who are supporting the Kashmiri struggle against Indian occupation," Rahmani stated.

OF MEN AND ARMS

The ISI also provides these and other terrorists with new weapons. For example, in the summer of 1993, the Kashmiri mujahideen were provided with powerful long range missiles—called "chemical missiles" by the Sikhs who had learned about them while in training in Pakistan. At that time, the Kashmiri and ISI crews were being trained in the use of these missiles in Pakistani Kashmir. In fact, these are *Saqr* missiles which were developed in the 1980s with help from the United States for use by the mujahideen in Afghanistan.

Subsequently, there has been a significant expansion in the smuggling of quality weapons from Pakistan into Kashmir and as of late 1993 there has been a corresponding change in the tactics used by terrorists, including the use of hit and run strikes by highly trained and well equipped detachments. Among the new weapons now used in Kashmir are 107mm rockets, 60mm mortars, 40mm automatic grenade launchers (Soviet and Chinese models), a modification of the 57mm helicopter rocket pods with solar-powered timing devices for the delayed firing of rockets and a LAW-type tube-launched ATMs (Soviet and Chinese models).

In addition, the Kashmiri terrorists have also begun using sophisticated communications systems including small radios (systems with frequency hopping, selective broadcast, digital burst communications, etc.) and collapsible solar-panels for reload systems, as well as frequency scanning devices for detecting and homing in on military-type broadcasts. All the communication systems are of NATO/US origin, with some components made in Japan. All of these systems have been used by the Mujahideen in Afghanistan, having been provided via the ISI.

On top of all of this, there has been a large increase in the quantities of small arms provided to the Kashmiris, including Type 56 ARs (PRC AK-47s), several types of machine-guns, long-range sniper rifles, pistols and RPGs, all of Soviet and Chinese manufacture. Also, some of the Kashmiri terrorists have begun receiving highly specialized weapons for assassination projects.

Given this obviously high level of sophistication, it would seem safe to assume that the situation in Kashmir will become increasingly ominous. As Pakistan and India eye each other with rising suspicion, and as other powers come into play, the danger or outright war becomes ever more real. In future reports, the Task Force will examine the full extent of this danger and will explain its ramifications.

CONGRATULATING ANNELIESE FORBES

HON. DAVID MANN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. MANN. Mr. Speaker, I rise today to congratulate and thank Anneliese Forbes as she retires after 30 years of excellence as a teacher in the Cincinnati Public School system.

Frau Forbes, as she is known at Fairview Elementary German Bilingual School, has been the epitome of teaching excellence. She is recognized as a demanding teacher with a disciplined classroom atmosphere, but who tempers this with a loving heart.

Anneliese has conscientiously worked to determine exactly where each of her students needed help and what methods fostered the best results. She also regularly communicated with parents regarding their child's progress and was always accessible to discuss their concerns or answer questions. I can attest to the veracity of these reports, having had one of my children in her class. Anneliese's dedication and caring were of immeasurable help to me, my wife, Betsy, and our son, Marshall.

Frau Forbes' interest in her students extended beyond the classroom. She was a teacher representative on the school PTA; she was the leader of the Edelweiss Dancers—a student German folk dancing group—and chaperoned several trips to Germany with her students.

Frau Forbes' experience, dedication, and caring will be sorely missed at Fairview German Bilingual School. I join all of her friends, family, and former students in wishing her the very best as she retires.

TRIBUTE TO DONTRELL ANDERSON

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. COSTELLO. Mr. Speaker, I rise today to introduce an outstanding program called Beat the Odds, which is sponsored by the Children's Defense Fund and Project Kids, Inc., to the U.S. Congress.

Beat the Odds celebrations strike a chord with community leaders and citizens who want to help children struggling to achieve their academic desires. Corporations donate prizes for nominees, educators work to nominate the exceptional students, and the media embrace the Beat the Odds concept with wide-ranging coverage. Beat the Odds has fostered successes in many, hard-working, outstanding students.

This Friday, June 24, 1994, I will have the opportunity to host the first East St. Louis Beat the Odds ceremonies at the Adams Mark Hotel in St. Louis, MO. Dontrell Anderson is 1 of 5 distinguished students from East St. Louis, IL, that I will be honoring at this great celebration.

Dontrell has had to overcome great diversity throughout much of his life. Coming from a broken family, later being entirely displaced from his family, and battling a horrible drug addiction that plagued his family, Dontrell should certainly be proud of his recent graduation from East St. Louis High School. Additionally, Dontrell is fast making plans for his future achievements, as he has recently been accepted for enrollment at Southern Illinois University at Edwardsville, IL.

Mr. Speaker, it is with great honor that today I be given this opportunity to commend Dontrell for his outstanding achievements in this great body. I am certainly honored, and looking forward, to present Dontrell with a scholarship at the first East St. Louis Beat the Odds awards celebration.

CONGRATULATIONS BUTCH

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. BARCIA of Michigan. Mr. Speaker, I rise today in appreciation of the exceptional dedication to our community exhibited by Dorias "Butch" Helgren during his 25 years of service to the Saginaw community. As such, Lieutenant Helgren has developed the unique reputation as someone committed to his family, colleagues, and his profession. I would like to join his friends and family in honoring his retirement at the Candlelight Banquet Hall on June 23, 1994.

Butch worked for the Michigan State Police Fire Marshal Division in code enforcement and fire investigations until 1990, when he then became the Third District Saginaw unit supervisor. Lieutenant Halgren has represented the department and division on committees and legislative hearings, police and fire association meetings, kept the division and district commanders appraised of local current events, and trained subordinates in all areas of responsibility. He is to be commended for his tireless efforts and commitment to the Fire Marshal Division.

Lieutenant Helgren is a member of the Bay County, Genesee County, and Saginaw County Fire Fighters Associations and Fire Chiefs Associations. He is also involved with the IAAI, and the Michigan Fire Inspectors Society. His dedication to the Fire Marshal Division is above and beyond the call of duty. He has also received numerous awards for his loyalty. The Professional Excellence Award and Michigan Fire Inspector of the Year Award are only a few. He served on the Governor's Task Force on Fire Safety and on Housing, and has written numerous articles for the Fire Service News publication. Butch has been actively involved in developing education programs on wood stoves and AFC's Fire Dampers. Butch has a long list of accomplishments for his service to the division.

I know I speak for my friends in Saginaw and Michigan when I thank Lieutenant Helgren for his efforts to ensure our safety and protection. I urge all my colleagues to wish him, his lovely wife Rae, his three daughters, and his grandchild our very best.

EULOGY FOR EDITH BERGTRAUM

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 1994

Mr. ACKERMAN. Mr. Speaker, I rise today to bring to the attention of my colleagues the achievements of Edith Bergtraum, a teacher, school board member, and social leader in Flushing, Queens, who passed away in May. Below is the eulogy which I delivered at Mrs. Bergtraum's funeral. Edith Bergtraum served her community in many ways, and in her absence we now fondly remember the contributions which she made:

Edith Bergtraum wasn't just a hero. You see, a hero is an ordinary person who, for one brief instant of their life, rises above it all and, with tremendous courage, does something positive and extraordinary, causing us all to gasp and say something like, "Gee, I wish I could have done that."

Edith Bergtraum wasn't just a hero, she was a community giant. Her extraordinary acts were so constant and nonchalant, never giving us pause to think of how remarkable a person she was. She wanted it that way.

It was her love for children, her caring, her self-sacrificing, her lack of self-aggrandizing, her sincerity and warmth, that made us hardly notice how much of an impact she made.

I must confess I didn't always know her as the Edith Bergtraum she proved to be.

To us kids growing up in the neighborhood, she was a regular mom to people we called "Howie and the twins." That's Judy and Marcia.

Only Edith knew then that they were lawyers and doctors.

She was always so proud of them, as she was later of Susan and Dan—Dr. Dan.

If one is to be judged by their children, Edith hit a home run.

She was so proud—but never bragged. (Now her grandchildren—that was something else.)

To hundreds of other kids, she was Mrs. B, the creative and innovative teacher, in a career that spanned three decades.

To others, she was the PTA president, the community activist, the Hadassa leader.

She was a wonderful sister to Pearly, Janice and Adele, sister-in-law to Max and Nat, Stanley and Bernice. And she was just Aunt Edie to so many others.

And then, of course, we knew her as Mrs. Murry Bergtraum—wife and No. 1 supporter of a larger than life figure in our city.

So major was his contribution to our town that a high school bears his name, joining the ranks of Jefferson, Adams, Jackson, Dewey, Edison, and Cardozo.

Throughout those years, Edith Bergtraum played a superb, but supporting role to a powerful public figure.

I remember my first run for office—it was the school board. I lost. But it was close enough to try to get a recount.

For that I was told I had to serve papers on the President of the Board of Education by midnight. Serve papers on Murry Bergtraum? I was petrified. How do you serve papers on Murry Bergtraum?

The Board of Ed was closed. It was 7 p.m. I went over to the Bergtraum's house. The twins were teenagers then. They were sitting in front of the house. (I'm not sure where Howard was—probably trying to arrange a merger between North and South Carolina).

Judy said, "People sue him all the time." But I was a new teacher. "He'll be furious with me." Edith was in the house listening. She casually walked outside, took the papers out of my hand and said, "I'll serve him. He'll get over it quicker."

Nobody would have blamed Edith if when Murry passed away she did the ordinary thing. If she retired. If she took life easy. If she became a full-time grandmother to Jordan, Matthew, Andrea, Rellie and Mark, each of whom she cherished dearly.

But grandmother did the unexpected. She picked up the ball and ran. Literally. She was elected to the school board. (I don't know how she did that so easily.) She ran and won, over and over and over again. She set some kind of record for the number of votes and number of wins over such a large number of years.

And it had nothing to do with politics. It had to do with children. For the last twenty years she did exactly that!

She was one of those rare individuals who believed society has a collective responsibility to our schools and children. She dedicated her life to that proposition.

Not that she couldn't have run for another office. As a matter of fact, the entire political establishment breathed a collective sigh of relief when Edith announced each time that it was the school board she was running for.

To her it was a calling, and she answered the call. She was respected not just in our community but throughout the city. Mayors, political figures and chancellors sought her advice.

Integrity—you can't think of Edith without the word "integrity."

You see, she never needed or wanted anything for herself. Not even ego gratification. She didn't need the spotlight. She had headlights.

She always knew where she was going and only wanted to give.

So high were her standards, yet she was down to earth. So haimish.

And in the end she suffered. She had so much yet to give, yet wouldn't go along with the medical predictions. How many times did they say she couldn't last the week, the month, the day, another month?

She endured the pain; she had work to do, fights to fight.

At one of those times a few months ago, when told again she couldn't last the week, the family had again gathered to say their goodbyes, to hear Edith's last instructions. (Don't mourn too long for me. I've had a great and happy life." Indeed she did; she was education's happy warrior.)

A few moments later she opened her eyes. "I've got to make a phone call. I don't want them to put the Special Ed kids in the basement of P.S. 165."

She wanted so much to keep on going. To keep on giving. She had so much more to give.

What do you call a person who every day, every day, every day was a hero?

In Edith Bergtraum's case you call her "TEACHER." Goodbye dear friend, our hero. Thanks for the lesson plans you gave us.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, June 23, 1994, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 24

9:00 a.m.

Joint Economic

To hold hearings to examine the future challenges facing the biotechnology and medical device industries.

SD–628

10:00 a.m.

Finance

International Trade Subcommittee

To hold hearings on the implementation of the Special 301 (section 182 of the Trade Act of 1974) trade remedy law, focusing on the prospects for the law after the creation of the World Trade Organization by the Uruguay Round agreement.

SD–215

Foreign Relations

To hold hearings on pending nominations.

SD–419

10:30 a.m.

Governmental Affairs

To hold hearings on the nomination of Phyllis Nichamoff Segal, of Massachusetts, to be a Member of the Federal Labor Relations Authority.

SD–342

JUNE 27

2:30 p.m.

Armed Services

To hear and consider the nomination of Lt. Gen. Buster C. Glosson, USAF, to retire in grade.

SR–222

JUNE 28

9:30 a.m.

Energy and Natural Resources

Energy Research and Development Subcommittee

To hold hearings on S. 2104, to establish within the National Laboratories of the Department of Energy a national Albert Einstein Distinguished Educator Fellowship Program.

SD–366

10:00 a.m.

Environment and Public Works

To hold hearings on S. 1834, authorizing funds for programs of the Comprehensive Response, Compensation, and Liability Act (Superfund).

SD–406

Finance

To hold hearings on the Administration's proposed welfare reform legislation.

SD–215

Foreign Relations

To hold hearings on the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (Treaty Doc. 103–24).

SD–419

Governmental Affairs

To hold hearings to examine issues relating to delinquent criminal debt.

SD–342

2:00 p.m.

Foreign Relations

Western Hemisphere and Peace Corps Affairs Subcommittee

To hold hearings to examine United States policy toward Haiti.

SD–419

JUNE 29

9:00 a.m.

Foreign Relations

To hold hearings on the nominations of Brian J. Donnelly, of Massachusetts, to be Ambassador to Trinidad and Tobago, and George Charles Bruno, of New Hampshire, to be Ambassador to Belize.

S–116, Capitol

9:30 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings on pending pesticide legislation, including S. 985, to revise the Federal Insecticide, Fungicide, and Rodenticide Act with respect to minor uses of pesticides, S. 1478, to revise the Federal Insecticide, Fungicide, and Rodenticide Act to ensure that pesticide tolerances adequately safeguard the health of infants and children, and S. 2050, to revise the Federal Insecticide, Fungicide, and Rodenticide Act.

SR–332

Governmental Affairs

To hold hearings on S. 29, to fully apply the rights and protections of Federal law to employment by Congress, S. 103, to fully apply the rights and protections of Federal civil rights and labor laws to employment by Congress, S. 579, to require Congress to comply with the laws it imposes on others, and S. 2071, to provide for the application of certain employment protection and information laws to the Congress.

SD–342

Rules and Administration

Business meeting, to consider the nominations of Lee Ann Elliott, of Virginia, and Danny Lee McDonald, of Oklahoma, each to be a Member of the Federal Election Commission.

SR–301

1:00 p.m.

Judiciary

To hold hearings on the nomination of Guido Calabresi, of Connecticut, to be United States Circuit Judge for the Second Circuit, and John R. Schmidt, of Illinois, to be Associate Attorney General, Department of Justice.

SD–226

2:30 p.m.

Commerce, Science, and Transportation

Communications Subcommittee

To hold hearings on S. 2120, to authorize appropriations for the Corporation for Public Broadcasting for fiscal years 1997 through 1999.

SR–253

Governmental Affairs

To hold hearings on the nomination of Zoe Bush, Rhonda Reid Winston, and

Judith Bartnoff, each to be an Associate Judge of the Superior Court of the District of Columbia.

SD-342

Labor and Human Resources

To hold hearings on proposed legislation to reform the Davis-Bacon Act.

SD-430

JUNE 30

9:30 a.m.

Governmental Affairs

To hold hearings on the nomination of John A. Koskinen, of the District of Columbia, to be Deputy Director for Management, Office of Management and Budget.

SD-342

10:00 a.m.

Foreign Relations

To hold hearings on foreign policy issues.

SD-419

JULY 13

9:30 a.m.

Commerce, Science, and Transportation

Foreign Commerce and Tourism Subcommittee

To hold hearings to examine current tourism policy activities.

SR-253

JULY 14

9:30 a.m.

Energy and Natural Resources

To hold oversight hearings to examine the scientific and technological basis for radon policy.

SD-366

POSTPONEMENTS

JUNE 23

9:30 a.m.

Energy and Natural Resources

To hold oversight hearings to examine the scientific and technological basis for radon policy.

SD-366

SD-215

Foreign Relations

To hold hearings on pending nominations.

SD-419

10:30 a.m.

Governmental Affairs

To hold hearings on the nomination of Phyllis Nichamoff Segal, of Massachusetts, to be a Member of the Federal Labor Relations Authority.

SD-342

JUNE 27

2:30 p.m.

Armed Services

To hear and consider the nomination of Lt. Gen. Buster C. Glosson, USAF, to retire in grade.

SR-222

JUNE 28

9:30 a.m.

Energy and Natural Resources

Energy Research and Development Subcommittee

To hold hearings on S. 2104, to establish within the National Laboratories of the Department of Energy a national Albert Einstein Distinguished Educator Fellowship Program.

SD-366

10:00 a.m.

Environment and Public Works

To hold hearings on S. 1834, authorizing funds for programs of the Comprehensive Response, Compensation, and Liability Act (Superfund).

SD-406

Finance

To hold hearings on the Administration's proposed welfare reform legislation.

SD-215

Foreign Relations

To hold hearings on the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (Treaty Doc. 103-24).

SD-419

Governmental Affairs

To hold hearings to examine issues relating to delinquent criminal debt.

SD-342

2:00 p.m.

Foreign Relations

Western Hemisphere and Peace Corps Affairs Subcommittee

To hold hearings to examine United States policy toward Haiti.

SD-419

JUNE 29

9:00 a.m.

Foreign Relations

To hold hearings on the nominations of Brian J. Donnelly, of Massachusetts, to be Ambassador to Trinidad and Tobago, and George Charles Bruno, of New Hampshire, to be Ambassador to Belize.

S-116, Capitol

9:30 a.m.

Agriculture, Nutrition, and Forestry

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SD-366

SENATE—*Thursday, June 23, 1994*

(Legislative day of Tuesday, June 7, 1994)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

In a moment of silence, let us pray for Leila Dais, who works in the dining room, serves in the dining room, on the loss of her father on Father's Day; and for Frank Smonskey, and his loved ones—he is an official reporter—in the tragic death of his great niece and her husband.

*How are the mighty fallen * * *.*—II Samuel 1:25.

Eternal God, as David joined the nation, Israel, in mourning the fall of King Saul, so our Nation has been traumatized by the fall of a great hero. We pray for O.J. Simpson. Whether he is innocent or guilty rests with our system of justice. But our hearts go out to him in his profound loss. Whatever the circumstances, he has got to be hurting deeply. As the wheels of justice slowly grind, may he be comforted by the sense of the presence of the God who loves him.

Give consolation, gracious Lord, to the unnumbered who have been disillusioned by the fall of their idol. We realize that leaders have much farther to fall than followers, and we ask for a special dispensation of grace for this American hero, his loved ones and all who are hurting irreparably by this event.

We ask, too, for Your comfort and consolation to the victims and their families and all those who loved them.

We pray in the name of Him who loved us and gave Himself for us. Amen.

The PRESIDENT pro tempore. The Senate will be in order.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business not to extend beyond the hour of 9:40 a.m., with Senators permitted to speak therein for up to 5 minutes each.

Mr. INOUYE addressed the Chair.

The PRESIDENT pro tempore. The Senator from Hawaii.

ORDER OF PROCEDURE

Mr. INOUYE. Mr. President, may Senator MCCAIN and I control 20 minutes?

The PRESIDENT pro tempore. Is there objection to the request? Hearing no objection, it is so ordered.

The Senator from Hawaii will control 10 minutes. Is that the Senator's wish? And the Senator from Arizona will control 10 minutes.

Mr. INOUYE. I thank the President.

(The remarks of Mr. INOUYE, Mr. MCCAIN, and Mr. WELLSTONE pertaining to the introduction of S. 2230 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDENT pro tempore. The bill will be received and appropriately referred.

The PRESIDENT pro tempore. The Senator from Minnesota [Mr. WELLSTONE] is recognized for not to exceed 5 minutes.

Mr. WELLSTONE. Mr. President, it is my understanding I have a bit more time to speak by prior agreement.

The PRESIDENT pro tempore. The Senator is correct.

The Senator from Minnesota, under the previous order, has control of up to 15 minutes.

Mr. WELLSTONE. I thank the President.

HEALTH CARE

Mr. WELLSTONE. Mr. President, I was going to propose an amendment to the Department of Defense bill which reads as follows:

> Congress should enact health care reform that guarantees everyone health care as good as the health care that will be available to Members of Congress under that reform.

Mr. President, it is very rare, at least in my 3½ years in the Senate—I have not quite had the long, distinguished career that the President pro tempore has had—that I have proposed a nongermane amendment. I really do not like to do that.

But I wanted to propose this amendment for a couple of reasons.

One, I am impressed with the strength of the President and the First Lady and what they have been saying, especially this last week, about the importance of universal coverage, decent coverage for people.

I have been listening to my colleagues on both sides of the aisle on the floor, and in reading reports back in their communities. It seemed to me that there was a consensus here that really, in the final reform bill that we pass—and I believe we will pass a health care reform bill that will be historic, and I am optimistic it will be a step forward for people in our Nation—that however our plan in the Federal employees benefit package is configured or reconfigured, basically, we want to use that as a yardstick and make sure the people we represent have the same quality plan in terms of what is covered, and in terms of making sure it is affordable and that the copayments are not too high.

So I thought this amendment, given the intensity of the debate and where we are in the debate, would be a real contribution with Senators really going on record saying: Yes, we agree with this principle, absolutely. When we look at our plan, we want to say to the people we represent that in the final reform bill, you should have the same, comparable quality plan.

Now, Mr. President, this is treading on sensitive ground. I do not want people who are listening to believe that our coverage right now, for example, is by any means great or perfect. It is not. It is not good on dental or vision care. Long-term care is not covered, at least institutional long-term care. It is by no means 100-percent comprehensive coverage for benefits.

On the other hand, when you look at inpatient and outpatient benefits, and look at well-child care, offering delivery at birth centers, coverage of care by nurses and midwives, prescription drugs, pap screening, home health care, and mammograms, and other such features, we have very good coverage, better, probably, than most people in the country.

So actually, Mr. President, I did not think this would be controversial.

I hear some of my colleagues talking about how we need to water down the benefits, saying that we really should not make decisions exactly what the coverage will be; we really cannot have universal coverage, it should be 91 percent. And I have to ask: Who is not covered? People with a disability? The poor? People who live in rural communities? Older people?—I worry about those kinds of comments.

So I thought what a positive statement for the Senate to make, just to go on record.

Mr. President, my colleagues on the other side of the aisle said that they would second degree this amendment, I think probably with a very specific amendment that would get us right into the specifics of the legislation that is now moving through committees.

I do not want for us to have that kind of long debate right now on the floor of the Senate when we are dealing with the Department of Defense bill. That, to my mind, just simply crosses the boundary, and I think it probably is not the direction we should go.

So with the understanding, Mr. President, that basically we are all going to operate within this framework of not really zeroing in on the health care right now, that that debate will take place in July—the majority leader has made it clear to all of us that bill will be on the floor in July—I am not going to put this amendment forward at this time. I think if I do so and then there is this second-degree amendment, we are going to get into a long, long debate about all sorts of specifics in health care, and at this point in time that would be a mistake.

The Finance Committee, I believe, is going to report out a bill and a bill will come to the floor.

So with the understanding that that is our framework and that these health care amendments are not going to be part of DOD, with that understanding, then, I am not going to put this amendment forward. Although I must say there will be a time to do so, certainly between now and July or maybe when the bill comes to the floor in July or maybe before, because this is such a—no pun intended—healthy statement for us to make.

I think we should, again, avoid all the sort of temptation to say, "Well, everybody in Congress has everything perfect." That is not true. There are places where our coverage should improve and could improve for ourselves and our family and loved ones.

But the real point, in the final reform bill, is let us just make sure, as all of this is reconfigured, whatever plan we have, that the people we represent have as good a plan.

So what do we have in general by way of summary? We have universal coverage. All of us are covered. Our employer, the Federal Government, contributes a significant percentage and we contribute. That seems to me to be fair. So you have, if you will, an employer mandate. All of us can afford the health care coverage that's available. There is no preexisting condition exclusion, which I think is extremely important. That is one of the things that outrages people in Minnesota—and I am sure in West Virginia—most, that because of a prior illness or condition of sickness you cannot even receive coverage and, if you can, the premium rate is so high you cannot afford it. And the final thing we have is a very good package of benefits.

That, I think, is a commitment we made to the people, that in the reform bill that is what we will include.

Mr. President, just on two other subjects, very briefly.

I do want to submit as a part of this statement a letter from many different health care consumer and provider organizations around the country to President Clinton, making it very clear to the President that we support universal coverage; we do not see how you can do it unless you have employers making a contribution, some kind of mandate; we want to make sure it is affordable; we want to make sure it is out in the communities; and, Mr. President, we want to make sure—and this is really, I think, a part of the consensus here, as I understand it—that States in our grassroots political culture will have the option to implement a single payer plan.

I ask unanimous consent to have this printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 23, 1994.

DEAR BILL: Last week several senators and I sent you a letter urging continuing firm support for universal coverage as a key feature of health care reform.

Several organizations of health care consumers and providers expressed their interest in communicating the same message to you.

I am pleased to present you with a list of the groups that offered to sign the letter. I'm certain we are both encouraged that this impressive list of groups support 100% universal coverage, employer mandates, affordable care, cost containment, and the option for states to implement a state single payer system.

Even more encouraging to me was the signal that so many groups and individuals are ready to respond to requests from Washington to show their support for these key issues.

Many of us in Congress, and millions of Americans around the country, are ready to stand up and make sure that health care reform will not be hijacked by big ticket special interests.

We know that we need health care reform, and we need it this year.

All of us appreciate the most recent comments you and Mrs. Clinton have made on the importance of passing a bill that is unequivocal on the issue of universal coverage. I know that I speak for us all in offering any help we can provide in assuring that we accomplish that goal in the 103rd Congress.

Sincerely,
PAUL DAVID WELLSTONE,
U.S. Senator.

JUNE 23, 1994.

President BILL CLINTON,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Our organizations have always shared with you a commitment that universal coverage must be the cornerstone of health care reform. That commitment cannot waver as we continue our progress in Congress to enact comprehensive health care reform legislation.

We are troubled by comments from the press and some Members of Congress that universal coverage is not a realistic goal.

Universal coverage is impossible unless it meets several critical tests. First, it must include meaningful, employer-based financing. Unworkable proposals that would put the burden on individuals to pay most of the costs of their care, or project employer contributions into some distant future, cannot achieve the health care reform that Americans are counting on.

Second, all Americans must be covered. Suggestions that universal coverage should be defined as something less than total coverage, such as 90 percent or 95 percent, would continue to leave millions of Americans vulnerable to the double plagues of illness and impoverishment. Anyone could lose the lottery: people who work and those at risk of losing their jobs, the elderly and people with disabilities and their families, people with cancer and people with AIDS, people in rural areas, women, men, children.

Third, coverage must be affordable. Meaningful cost containment must be included to protect businesses, individuals, and government entities contributing to the system.

Finally, states must have the ability to adopt a single-payer system if they determine through their own legislative processes that would be a fairer or more cost-effective approach to universal coverage.

Universal coverage is not only a humane goal, one which most industrialized countries have attained. It is also key to making health care affordable because it would end wasteful and inflationary cost-shifting, encourage preventive care, and allow more appropriate use of resources. Suggestions that we waste more years and more lives tinkering around the edges of almost covering everyone, trying to make health care almost affordable, are a diversion from the fair and workable framework you have presented. In addition, it would send an unwelcome signal to the country that its elected leaders are unwilling to take the long overdue step of guaranteeing that every American enjoys health security.

We ask that you remain strong in your commitment to universal coverage, affordable for all and fairly financed. While there will be areas for compromise during the legislative process, assuring universal and affordable coverage must not be among them. We will assist efforts toward the goal of true universal coverage for health care in any way that we can.

Sincerely,

Actors' Equity, Ron Silver, President.

ACTUP Washington.

AIDS Action Council.

American Association of Children's Residential Centers.

American Association for Marriage and Family Therapy.

American Association of Pastoral Counsellors.

American Association of Physicians for Human Rights.

American Association of University Women.

American College of Physicians.

American Counselling Association.

Americans for Democratic Action.

American Federation of State, County and Municipal Employees.

American Medical Students Association, Terrence Steyer, National President.

American Psychological Association.

American Public Health Association, Eugene Feingold, President.

Association of Maternal and Child Health Programs.

Association of Mental Health Administrators.

Judge David L. Bazelon Center for Mental Health Law.
California Society for Clinical Social Work.
Campaign for Women's Health.
Children's Defense Fund.
Churchwomen United.
Citizen Action.
Consumers Union.
Creative Coalition, Blair Brown, Co-President.
Family Service America.
Gray Panthers.
Health Care for the Homeless.
InterHealth, St. Paul, Minnesota.
International Association of Psychosocial Rehabilitation.
International Brotherhood of Teamsters.
Internatinal Union of Electronic, Electrical, Salaried, Machine and Furniture Workers (IUE), William H. Bywater, International President.
Legal Action Center.
Lutheran Medical Center, Brooklyn, N.Y., Jim Stiles, Executive Vice President.
National Association of Community Health Centers.
National Association of Homes and Services for Children.
National Association of Protection and Advocacy Systems.
National Association of Public Hospitals.
National Association of Social Workers.
National Association of State Alcohol and Drug Abuse Directors.
National Community Mental Health Care Council.
National Council of Churches of Christ in the U.S.A.
National Council of La Raza.
National Education Association.
National Federation of Societies for Clinical Social Work.
National Mental Health Association, Mike Saenza, Chief Executive Officer.
National Rainbow Coalition.
National Women's Health Network.
New York StateWide Senior Action Council, Inc., Ruby Sills Miller, Member of the Board.
Oil, Chemical and Atomic Workers International Union.
Older Women's League.
Protestant Health Alliance.
Screen Actors Guild, Barry Gordon, National President.
Service Employees International Union.
Sigerist Circle of Medical Historians, Elizabeth Fee, President.
Unitarian Universalist Association of Congregations.
United Automobile, Aerospace & Agricultural Implement Workers of America International Union.

(Mr. KOHL assumed the chair.)

FAMILY VIOLENCE

Mr. WELLSTONE. Finally, Mr. President, let me on the floor of the Senate express not my self-righteousness but nevertheless keen disappointment at the direction of at least part of the deliberations of the conference committee on crime.

I know people in the conference committee are very committed, and I appreciate their work. But, as I said yesterday on the floor of the Senate, there is this focus on family violence in our country, and there are some important initiatives right now that are in that crime bill. Senator BIDEN's Violence Against Women Act is so important, and other fine works.

There are two amendments that are extremely important. One deals with setting up safe visitation centers for children and for women that I talked about yesterday. I believe that would be part of the crime bill.

But, Mr. President, I do not understand for a moment the hesitancy or, for that matter, I would say, the efforts to block one other amendment. We had an amendment that we passed on the floor of the Senate that went into this crime bill. That amendment said—I introduced that amendment—if you have committed an act of violence against a spouse or a child, you will not be able to own or obtain a firearm; or if there is a restraining order against you, you will not be able to do so.

The problem, Mr. President, is that all too often and in all too many States if a man, if that was the situation, was to batter his neighbor's wife, it would be a felony; but if he battered his own wife, it would be a misdemeanor.

We say in our country, if you committed a felony, you should not be able to own a gun, but we do not consider battering to be a felony.

My understanding about what is going on in the conference committee is that some people in the conference committee are making the proposal that, yes, you cannot own a gun if, in fact, you have committed a felony and acts of violence that is considered a felony, but the problem is it is not considered a felony in so many States.

Mr. President, I have talked to many people in Minnesota who say, "Don't ever take our sporting rifles away from us." I agree. "Don't you go overboard on gun control."

You and I, Mr. President, both feel strongly about some of these measures. But I agree with people who say that.

Those same people say to me, "Yea, Paul, this is reasonable."

So many women murdered, I think about a third, because of a gun. The difference between being a battered woman and a dead woman is a gun.

"Yea, Paul, we agree. If someone has committed an act of violence against a spouse or child, he should not be able to"—or in some cases, rare cases, she should not be able to—"own a firearm."

And certainly, with a court order, that should be the case.

I do not understand the hesitancy about this. I do not know whether this amendment that I will bring to the floor of the Senate today or tomorrow will really get some national focus on this, or exactly what we do, but I think now is the time to pass this. And I believe it must be a part of the crime bill.

I think we have reached a conclusion in our country, as a people, that: First, for all too many women and their children, the home is a very dangerous place; second, family violence knows no boundaries; it happens everywhere in all communities; and, third, it is a crime, and people must be held accountable.

If it is a crime, then it strikes me this is a very reasonable proposal to take guns and firearms out of the hands of those who have perpetuated this violence.

So I hope that in the conference committee we will get a favorable result. But I have a feeling we are going to have to fight very hard for it; maybe I will have to fight on the floor of the Senate to create some of that national pressure.

I yield back the remainder of my time.

JACQUELINE KENNEDY ONASSIS

Mr. LIEBERMAN. Mr. President, "Many women do noble things, but you surpass them all," writes the author of Proverbs, chapter 31. The life of Jacqueline Kennedy Onassis was a life of nobility, in the finest sense of the word. She elevated a nation, especially so during a time of great crisis, and now that she is gone, we keenly feel the loss, as if a member of our family had passed away.

What is especially poignant about her life is that she never sought the kind of fame she attained. Rather, it was thrust upon her, first through marriage to a Senator with a growing national reputation. Then as First Lady, when Senator John F. Kennedy became president. But Jacqueline Kennedy was not content to simply suffer the limelight she never wanted. She went to work, in public ways and private, to the benefit of all the American people. She transformed the White House from a place to a national treasure; from an address to a destination. Its beauty today and through the ages to come are due in no small measure to Jackie Kennedy's sense of history, art and style.

Perhaps most important, Jacqueline Kennedy held a nation together at a time when the tragedy of John Kennedy's assassination threatened to pull us apart. Minutes after holding her dying husband in her lap, she stood by the side of the new President, as he was sworn into office, symbolizing the peaceful continuity of democracy that is at the heart of America's greatness. And in the difficult days that followed, the First Lady not only bore herself with grace and strength, she directed the funeral that will be remembered throughout history for its power, emotion, and meaning.

In the years since the triumph and tragedy of the presidency of John Kennedy, Jacqueline Kennedy Onassis dedicated her life to what she would probably consider her greatest accomplishment: loving and raising two wonderful children, whose own lives carry on the legacy of service exemplified by John and Jackie Kennedy.

The life of Jacqueline Kennedy Onassis is in itself a profile in courage, and a grateful nation will never forget her courage and all that she meant to us. "Give her the reward she has earned," it says in Proverbs 31, "and let her works bring her praise at the city gate."

WELCOMING RUSSIAN MEMBERSHIP IN PARTNERSHIP FOR PEACE

Mr. PELL. Mr. President, yesterday in Brussels, Russia became the newest member of NATO's Partnership for Peace, bringing to 21 the number of countries that have joined in this constructive and creative partnership. Yesterdays even was another significant milestone in the dismantlement of the Iron Curtain that divided Europe for a half a century.

The Partnership for Peace seeks to avoid drawing new lines in Europe; it is, in fact, specifically designed to create an undivided Europe; it also leaves open the possibility of NATO's eventual expansion. In coming in under the tent, Russia has signaled its willingness to work as an equal not only with its former enemies in NATO, but with the countries that were former victims of Soviet repression.

Russia, and each of the countries that have joined the partnership, have unique and important contributions to make. But perhaps more important than the joint exercises and consultations that membership in the partnership offers is the change in attitude that it represents. As an aside, I would note when I met with Russian Prime Minister Chernomyrdin yesterday, this new spirit of cooperation was extremely evident.

Secretary of State Christopher and Russian Foreign Minister Kozyrev, who signed the framework document, both took note of the historical nature of yesterday's signing. Secretary Christopher made an excellent statement in Brussels, and I would ask unanimous consent that at the end of my remarks, his speech be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PELL. In that statement, Secretary Christopher notes that:

> Russia's accession to the Partnership for Peace is a reflection of the Policy of extending to the East the institutions that have allowed the West to achieve unparalleled security and prosperity. Two weeks ago in Paris, Russia signed a cooperation agreement with the OECD. In two days in Corfu, President Yeltsin will sign an agreement with the EU that will open European markets to many Russian products. And next month in Naples, the G-7 will welcome President Yeltsin for broad political consultations.

As one who 3 years ago joined in a successful congressional effort to encourage the Bush administration to urge that former Soviet President Gorbachev be invited to meet with G-7 leaders during the London summit, I am particularly pleased that our relationship with Russia has evolved to the point where President Yeltsin will sit at the table with his colleagues during the summit's political meetings. The G-7 summit will demonstrate that Russia is assuming its rightful place among the world's most important economic and political process.

Mr. President, in closing, I would like to commend the administration for designing and putting forth the Partnership for Peace proposal. The Russians, as well as our other friends in Eastern and Central Europe deserve praise for seizing the opportunity to join in this cooperative effort.

EXHIBIT 1

REMARKS BEFORE THE NORTH ATLANTIC COUNCIL BY SECRETARY OF STATE WARREN CHRISTOPHER, JUNE 22, 1994

Mr. Deputy Secretary General, it is a great pleasure to join our NATO colleagues and Foreign Minister Kozyrev to mark this historic occasion, and to welcome Russia as the newest member of the Partnership for Peace.

Our meeting today is a powerful expression of Europe's remarkable transformation. Who could have imagined even a few short years ago that after forty years of bitter confrontation across the Iron Curtain, a newly democratic Russia and this alliance would join in a partnership of cooperation. Within our grasp lies the historic opportunity to build an undivided peaceful and democratic Europe. That is the dream that has animated this alliance and my country for more than four decades. That is the vision that President Clinton set forth when he proposed the Partnership for Peace. And that is the goal that the United States remains fully committed to achieving.

Today, as Russia joins the partnership, we take a major step toward building the bonds of cooperation that can secure the peace of a broader Europe. As an alliance, we are reaching out to Russia's Government and its military to establish a new, more constructive relationship. But no less important—as the alliance has done with other European neighbors—we are extending a hand of friendship to the Russian people.

Russia is and will remain a country of immense importance to the rest of Europe and the world. Its efforts to build democratic institutions and a market economy have profound implications for European security. A broad and constructive NATO-Russia relationship will serve the interests of this alliance. It will serve Russia's interests. And it will serve the interests of all the nations of Europe—particularly those that so recently won their freedom from Communist rule.

The Partnership for Peace is central to NATO's relationship with Russia. We also look forward to constructive dialogue and cooperation to supplement the partnership in areas where Russia has unique and important contributions to make. At the same time, President Clinton will continue to work closely with President Yeltsin to build a strong and cooperative U.S.-Russian bilateral relationship in the interests of both our peoples and the world.

Other European states may also have interests or capabilities that would warrant "sixteen plus one" consultations outside the partnership. We should welcome these possibilities. As NATO promotes security and stability in Central and Eastern Europe, that too will benefit all European nations—including Russia.

Russia's accession to the Partnership for Peace is a reflection of the policy of extending to the East the institutions that have allowed the West to achieve unparalleled security and prosperity. Two weeks ago in Paris, Russia signed a cooperation agreement with the OECD. In two days in Corfu, President Yeltsin will sign an agreement with the EU that will open European markets to many Russian products. And next month in Naples, the G-7 will welcome President Yeltsin for broad political consultations.

By widening the reach of the great postwar security and economic institutions, we can help ensure that war, poverty and oppression never again engulf this continent. We are committed to working for an integrated Europe where sovereign and independent states need not fear their neighbors.

Today we are taking another decisive step toward banishing Europe's historic divisions. We are building a security partnership that has the potential to encompass all the nations of the continent. With Russia's action, 21 countries have now joined the Partnership for Peace. Several have already entered close consultations with NATO to develop individual partnership programs, tailored to their unique capabilities and interests. By this fall, joint exercises will commence, with Poland hosting the first exercise on the soil of a partner country. In this way, the partnership will build the habits of cooperation that are the lifeblood of the alliance. It can thus pave the way for NATO's eventual expansion.

We cannot build the Europe we seek without a strong NATO alliance. We cannot build it without a democratic Russia. We cannot build it without the nations of Central and Eastern Europe. The "best possible future for Europe," which President Clinton invoked at the January summit, depends on all our nations working together in pursuit of common security interests and democratic ideals. That is the purpose of the partnership, and it is the spirit in which we welcome Russia as a partner today.

INDIAN GAMING AMENDMENTS MOVE TO RESOLVE PROBLEMS

Mr. PELL. Mr. President, I would like to join in commending my colleague, the senior Senator from Hawaii [Mr. INOUYE] for his work as chairman of the Senate Indian Affairs Committee. That work is partially reflected in the legislation he introduced today to amend the Indian Gaming Regulatory Act of 1988.

Senator INOUYE and his fellow committee members have worked hard to set a course through difficult issues raised by competing interests and the arguments of different advocates. It is clear that amendments are needed because many inequities and ambiguities have arisen since enactment 6 years ago.

Although I am impressed with his work and many of the amendments, I must also add I am disappointed that the legislation does not include any language addressing either the difficulties of settlement States, nor the specific dispute facing the State of Rhode Island.

I worked long and hard with the members of the Narragansett Indian Tribe to help hammer out the details of S. 3153, the Rhode Island Indian claims settlement in 1978. This agreement was not easy to reach, since it involved the Narragansett Indian Tribe, the town of Charlestown, the State of Rhode Island, and the U.S. Government.

In exchange for extinguishing its aboriginal land claims, the Narragansett Indian Tribe received 1,800 acres of land—half from the State of Rhode Island and half from the U.S. Government. The land was held in trust for the tribe, a trust later transferred to the U.S. Government.

As part of its purely voluntary agreement, the tribe specifically agreed that the settlement lands "shall be subject to the civil and criminal laws and jurisdiction of the State of Rhode Island." This was stated clearly in both the Settlement Act and in the 1978 report of the Select Committee on Indian Affairs that accompanied it.

I am proud of the agreement. It helped settle disputes and it advanced the cause of the Narragansetts, giving them a pristine land-base to which they had historic links. It also served as a tremendous help to me in paving the way for subsequent Federal recognition of the tribe.

Tribal representatives characterized the agreement, during Senate hearings in June 1978, as "the result of a course of fair and honorable dealings between Indians and non-Indians, which is rare in the history of this country."

When the Indian Gaming Regulatory Act came before us in the Senate, it was made clear to us by Senator INOUYE "that the protections of the Rhode Islands Indian Claims Settlement Act (Public Law 95-395) will remain in effect and that the Narragansett Indian Tribe clearly will remain subject to the civil, criminal, and regulatory laws of the State of Rhode Island."

In addition, in report language, the committee made its intention clear that nothing in the Indian Gaming Regulatory Act "will supersede any specific restriction or specific grant of Federal authority or jurisdiction to a State, which may be encompassed in another Federal statute, including the Rhode Island Indian Claims Settlement Act."

Mr. President, we thought that what we wrote—and said—spelled out congressional intent in clear, declarative language. We received formal assurances and the committee spelled out its intent in its report. Unfortunately, the courts are making a hash of our understanding.

One judge, however, noted that if Congress believed that an injustice had been done "it could provide a remedy through supplemental legislation." That is exactly what we hope will happen during further consideration of the amendments proposed today. An unjustice has been done and years of good faith have been negated.

I have already suggested two legislative remedies, either of which would do the job simply and quickly by codifying our expressed intent.

The first remedy would be a general cure: "Nothing in this act shall be construed to affect the applicability of any settlement act."

The second would be a specific cure, merely restate: "The Narragansett Indian Tribe will remain subject to the civil, criminal and regulatory laws of the State of Rhode Island."

Either remedy would cure the plague of misunderstanding, litigation and bad faith that has grown in Rhode Island as a direct result of the well-intentioned—but subsequently misinterpreted—Indian Gaming Regulatory Act. I am extremely disappointed that neither remedy was included in the legislation introduced today and would hope that one of them might be acceptable to Senator INOUYE and be included in the final bill.

I am convinced that these remedies are the only ones adequate for Rhode Island. I will continue to work with Senator INOUYE and I will press for a legislative remedy both in committee and in the Senate. Although I am disappointed, I will continue to pursue all options.

BRINGING US BACK FROM THE BRINK: PRESIDENT CARTER'S BREAKTHROUGH IN NORTH KOREA

Mr. PELL. Mr. President, President Clinton's announcement yesterday confirming the breakthrough agreement with North Korea achieved by former President Jimmy Carter should be applauded by all Americans.

At tremendous risk to his prestige, President Carter undertook on his own to go to North Korea to confront a country that for almost five decades has been one of America's greatest enemies. Rather than shouting and brandishing a stick, he offered the opportunity for dialog. He listened to North Korean views, and he presented the views of President Clinton and of the United States Government.

His personal diplomacy created an extraordinary opportunity to resolve the issue now dividing the Korean Peninsula. The North Koreans agreed to freeze their current nuclear program. They agreed to resume discussions with South Korea. And they agreed to joint teams with the United States to search for the remains of Americans still missing from the Korean war.

There has been much criticism of President Carter for his mission. Naysayers and nitpickers have been a dime a dozen. Many also criticized President Clinton for allowing this amazing journey to take place. President Carter and President Clinton took an enormous risk in attempting this delicate diplomatic maneuver. But that risk has paid enormous dividends in bringing America—and the world—back from the brink of nuclear war.

I was struck, too, by President Carter's observation that the most important lesson to be drawn from his efforts was to stress the importance, the necessity, of engaging in direct dialog between the two leading antagonists.

President Clinton last night warned of the pervasive cynicism that is permeating America today. Cynicism, masked as cold pragmatism, is eroding the idealism that once made it possible to recognize the accomplishments of one American as the accomplishments of all Americans. We should not forget that we all strive, even if by different paths, for the goal of peaceful conflict resolution.

What was started by President Carter is not the end of the crisis, but a new opening for peace and security on the Korean Peninsula. It took 2 years of difficult, often intense, negotiations to complete the Korean armistice signed on July 27, 1953. The negotiations now may be equally difficult and extended. President Clinton deserves the support of the American people and the Congress if those negotiations are to be successful.

The time has come for the critics and cynics to hold their tongues, and to give the peacemakers a chance to go forward.

A TRIBUTE TO PHILLIP STOLLMAN

Mr. LEVIN. Mr. President, Bar-Ilan University in Ramat Gan, Israel, will begin its 40th academic year in October of this year. At the same time, Phillip Stollman, one of the founders of the university, will be entering his 90th year. This will be a time of great celebration, as the Detroit Friends of Bar-Ilan University gather to honor this exceptional man.

Phil Stollman was approached in 1950 to discuss the establishment of a university in Israel that would combine religious studies with secular education, where science and religion would be taught together. By 1952, enough funds had been raised privately to begin construction, and in 1954 the university opened with 70 students. This was a remarkable achievement involving the participation of the entire Stollman family. Phil dreamed of a student enrollment that would eventually reach 1,000; today 17,000 students participate in all levels of study and research at Bar-Ilan.

It is not difficult to praise this man—but it is difficult to get him to accept this praise. He is a modest person who has quietly, but effectively, worked in countless charitable and communal organizations in Detroit, throughout the United States, and indeed, around the world.

Phil's closest friends and partners in all endeavors were his late brother and his sister-in-law, Max and Frieda Stollman. All three received honorary doctorates from Bar-Ilan, and Phil was the longtime chairman of Bar-Ilan's Global Board of Trustees and is now its honorary chairman for life. In Detroit, the names Stollman and Bar-Ilan University are synonymous.

Mr. President, I wish to congratulate Phil Stollman and simply note that the greatest tribute to the fulfillment of his dreams is the continuation of involvement with Bar-Ilan University by a second generation of Stollmans.

TRIBUTE TO ITALIAN AID SOCIETY ON ITS 100TH ANNIVERSARY

Mr. JEFFORDS. Mr. President, I rise today to pay tribute to the Italian Aid Society, of my home town of Rutland, which celebrates its 100th anniversary this Saturday. It is a great day for Rutland and the State of Vermont, as we pay tribute to the wondrous Italian heritage that has long been such an enriching presence in our community.

The society was founded in 1894 to lend support to Italian immigrants in Rutland and help them become part of the Vermont's larger community. They were drawn to Vermont to labor against the solid marbles and granite lodged beneath Vermont's scenic mountain landscapes. The society coordinated social services for many of the newcomers long before the enactment of such programs as social security, workmans' compensation, and civil rights protection.

Perhaps labor against is inaccurate—for to view the master artistry crafted by these mortal hands is to know the presence of a labor of love; an intimate respect by man of nature. Today, the works of art, along with the thousands of tons of marble and granite assembled into some of our most revered monuments, stand as a testimony to our immigrant forefathers.

There are numerous structures here in Washington that have benefited from the crafts of the members of the Italian Aid Society. The list includes the tomb of the Unknown Soldier, the Lincoln Memorial, the U.S. Supreme Court, the Jefferson Memorial, and the Andrew Mellon Library. In Vermont, certain cemeteries are sought out by tourists interested in viewing headstones uniquely crafted by the individual whose name it bears. Our towns are sprinkled with stout homes, libraries, and public buildings built of stone drawn from quarries carved by the Italian workers.

These items and more are the work of Italian craftsmen, Vermont residents; American citizens. As we can see, the entire Nation has benefited from the influences of the Vermont Italian Aid Society.

Today the society, 150 members strong, has weekly dinners and is a gathering point for families and friends to continue that legacy. Society members are our doctors, contractors, civil servants, shop keepers, neighbors, and friends. As a force of labor, the interests are now much more diverse. But as a thread in the fabric of our society, the Italian heritage in many ways binds our community. You cannot live in or visit Rutland without being touched by the heirs of those who founded the Italian Aid society. A familiar local greeting is simply "Been busy?," implying that any response in the negative runs contrary to the deeply ingrained work ethic of the community.

My congratulations on a wonderful century to the Italian Aid Society. May its members enjoy a happy and most meaningful birthday.

Buona fortuna to the Italian Aid Society.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE OF THAT

Mr. HELMS. Mr. President, as of the close of business on Wednesday, June 22, the federal debt stood at $4,597,074,632,951.03. This means that on a per capita basis, every man, woman, and child in America owes $17,632.84 as his or her share of that debt.

THE INDIAN GAMING REGULATORY ACT AMENDMENTS OF 1994

Mr. CHAFEE. Mr. President, earlier today, the distinguished chairman and ranking member of the Senate Indian Affairs Committee, Senators INOUYE and McCAIN, introduced comprehensive legislation to amend the Indian Gaming Regulatory Act of 1988 [IGRA].

I want to join my colleague from Rhode Island, Senator PELL, in congratulating them for attempting to tackle this extremely complicated and thorny issue. As they said in their introductory statements this morning, literally hundreds of hours of difficult negotiations have gone into the crafting of this legislation.

I am compelled, however, to let the Senate know how very disappointed I am that the bill, as introduced, does not contain language to remedy the terrible—and unanticipated—controversy that the IGRA has created in Rhode Island.

A little background for the benefit of my colleagues: Rhode Island has one federally recognized Indian tribe, the Narragansetts. In the late 1970's the Narragansetts asserted claims to several thousand acres of land in Charlestown, RI. When the State resisted, the tribe sued in Federal court. Fortunately, the tribe, State, and town of Charlestown were able to reach a settlement: roughly 1,800 acres of land in Charlestown were transferred to the tribe. At the same time, the tribe agreed that those lands would remain under the civil and criminal jurisdiction of the State. Subsequently, Congress enacted the 1978 Rhode Island Indian Claims Settlement Act, which codified the settlement in Federal law.

Under Rhode Island law, if an entity wants to conduct casino gambling, it first has to receive approval through both a local and statewide voter referendum. As my colleagues know, this is quite different from what the IGRA says. Therefore, when the Senate was debating the IGRA 6 years ago, Senator PELL and I wanted to make sure that the 1978 act would continue to be the controlling statute with respect to the rules that the Narragansetts would have to follow if they wanted to enter the casino business.

During debate on the IGRA, Senator PELL and I discussed this matter with Chairman INOUYE on the Senate floor. He provided assurances that, even after the enactment of the IGRA, "the protections of the Rhode Island Indian Claims Settlement Act (Public Law 95–395) will remain in effect and that the Narragansett Indian Tribe clearly will remain subject to the civil, criminal, and regulatory laws of the State of Rhode Island." In addition, language was included in the committee's report on the measure to make it clear that the IGRA was not intended to supersede the 1978 settlement Act.

Nevertheless, 2 years ago, the Narragansetts announced their plans to build and operate a full-scale gambling casino on their land, under the auspices of the IGRA. The State then petitioned a Federal court to declare that the IGRA was not meant to apply to the Narragansetts. To our dismay, however, both a district court judge and, most recently, the First Circuit Court of Appeals have ruled that since the statute itself is clear on its face, their interpretation of the law cannot be swayed by legislative history. Thus, they have ordered the State of Rhode Island to begin compact negotiations with the Narragansetts.

The State still has the option of appealing its case to the Supreme Court, but, given the decisions of the two lower courts, I am optimistic about the prospects for resolving this matter through the judicial process.

The only way to redress this problem, in my view, is to amend the IGRA to make it absolutely clear that that law does not supersede the 1978 Rhode Island Settlement Act. And it seems to me that if ever there were an appropriate vehicle for such an amendment, it is the bill that was introduced earlier today. So, as I said at the outset, I am disappointed that for the time being, the chairman and ranking member have opted not to deal with this matter in their legislation.

I recognize, however, that the introduction of this bill is only the beginning of a long process. In the coming weeks, I will continue to press the Indian Affairs Committee on this issue. I also look forward to working with Senators from the three other Settlement Act States, as I understand that a lack of consensus among our States on this matter was a deciding factor in the decision to leave the Settlement Act question unaddressed. In sum, this issue is of profound importance to Rhode Islanders, and I intend to do all I can to ensure that their voices are heard.

Mr. BINGAMAN. Mr. President, I ask unanimous consent I be allowed to continue for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico is recognized.

Mr. BINGAMAN. I thank the Chair.

(The remarks of Mr. BINGAMAN pertaining to the introduction of S. 2231 and S. 2232 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska [Mr. EXON].

Mr. EXON. Will the Chair be good enough to advise the Senator from Nebraska as to the present status of the measure before the Senate?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has expired.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The PRESIDING OFFICER. The Senate will now resume consideration of S. 2182, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2182) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The Senator from Pennsylvania [Mr. SPECTER], is recognized.

Mr. SPECTER. Mr. President, last evening the chairman, Senator NUNN, and I had discussed this morning's proceedings and we had agreed that my amendment would be the first one, which we had hoped would be reached at 9:30.

AMENDMENT NO. 1839

(Purpose: To amend the Defense Base Closure and Realignment Act of 1990 to provide for judicial review of compliance with disclosure of information requirements established in the act)

Mr. SPECTER. Mr. President, I therefore send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 1839.

The amendment is as follows:

At the appropriate place in title XXVIII of the bill, insert the following:

SEC. 28. JUDICIAL REVIEW OF REQUIREMENTS FOR DISCLOSURE OF INFORMATION BY THE SECRETARY.

Section 2903 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) is amended by adding at the end the following new subsection:

"(f) JUDICIAL REVIEW.—If the Secretary transmits recommendations to the Commission under subsection (c)(1), any person adversely affected thereby or any member of Congress may, upon a prima facie showing of not less than two documentary material acts of fraudulent concealment, bring an action in a district court of the United States for the review of the compliance of the applicable official or entity with the requirement that such official or entity make available to Congress, to the Commission, and to the Comptroller General all information used by or available to the Secretary to prepare the recommendations.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska [Mr. EXON].

Mr. EXON. Mr. President, I thank my colleague from Pennsylvania for offering the amendment as was agreed at or near the close of business as of yesterday. The Armed Services Committee has somewhat of a problem today with personnel because long ago, before we knew we would be taking up the defense authorization bill at this time, we had scheduled a very large, very important meeting with many witnesses for 9 o'clock this morning with regard to the difficult situation in Bosnia. Therefore we will be splitting our duties back and forth, members of the Armed Services Committee. We are prepared at this time to go ahead with any debate, whatever debate is necessary on the amendment offered by the Senator from Pennsylvania.

With due respect to the Senator, and fully understanding the position he finds himself in, we will be forced to vigorously oppose the amendment being offered by the Senator from Pennsylvania for the reason that we feel it might overturn, upset the Base Closure Commission proceedings and procedures that basically are very, very difficult—but I think most of the Members of the Senate recognize important decisions had to be made.

Therefore, I am wondering, in an effort to move this along, I will have two questions of the Senator.

About how long would he feel he would wish to debate in support of the amendment that he has just offered? And whether or not he is going to ask for a rollcall vote on that amendment?

A third part is, in consideration of the statements I have just made, to expedite matters could it and would it be possible to enter into a time agreement at this time on the Senator's amendment?

At the end of that time the Senator from Pennsylvania could make the determination, as is rightfully his, as to whether he wishes a rollcall vote on the amendment he has offered.

Mr. SPECTER. Mr. President, I will respond to my colleague from Nebraska, but I have a preparatory comment. I am a little surprised to hear about "vigorous objection" from the committee because when I talked to the chairman, Senator NUNN, yesterday, he had not reached a conclusion, and, in fact, on the floor referred me to Senator WARNER because Senator WARNER has been deeply involved in the base closure issues.

I do not believe as of this moment that there has been a consideration—at least not to my knowledge—of the specifics of this amendment, which is very, very closely circumscribed. It requires documentary evidence. It requires confirmation by at least two sources, on an analogy to the high-level proof required for the conviction of treason under the U.S. Constitution.

So it was my thought, perhaps hope, that there might be some chance that this amendment would be accepted by the managers of the bill in light of its very, very narrow construction.

Until there has been an opportunity to analyze it and consider it, I do not know—as I said, it is a surprise to hear about "vigorous opposition."

With respect to the handling of the amendment if it is not going to be accepted, it certainly would require a rollcall vote. As to the amount of time involved, at this juncture, I am not sure because there may be a number of other Senators who wish to support the amendment.

So it is very much an open question as to how long it would take. I ask the distinguished Senator from Nebraska, if he is going to be managing this, to at least take a look at it. I certainly would want to have Senator WARNER's input and Senator NUNN's input because I think we may well find an area of agreement.

To say why, in a nutshell, the Base Closure Act has in its preamble to establish a fair process, and this Base Closure Act was passed by the Congress in 1990 after many efforts in the past, especially the 1988 legislation. The Congress laid down a specific requirement that all the materials in the hands of the Department of Defense be turned over to the General Accounting Office so there can be an independent review of all the facts.

In the case involving the Philadelphia Navy Yard, there was a concealment of two reports by leading admirals who said the Navy yard should be kept open. Those reports were concealed from the General Accounting Office and they were concealed from the Members of Congress, so that when we made our presentations to the Base Closure Commission at the hearing, there really was not a hearing because we did not have the evidence.

The matter has been through the courts, which I will discuss later, perhaps at some appropriate length, where the Court of Appeals for the Third Circuit handed down two decisions saying that there should be judicial review of this sort of a matter.

When the case got to the Supreme Court of the United States, they said there was no direct statement by Congress on the issue of judicial review, but they declined to undertake that judicial review.

When this matter was considered after the work of the Base Closure Commission was completed at a hearing of a subcommittee, chaired by then Senator Alan Dixon, Senator Dixon heard the concerns which I have now raised about this documentary evidence and said: "Well, that is a matter for the courts," Senator SPECTER. He said, this subcommittee cannot take up the matter. Of course, I am prepared to document the transcripts as to what Senator Dixon said on that.

When Senator Dixon said the subcommittee could not take the matter up, we followed his suggestion and went to the courts. When the courts said Congress did not give us jurisdiction to consider this matter, now we are back in the Congress.

I think that the Congress certainly would not want to approve of acts by the Department of the Navy which are fraudulent. That is a strong word but that is the fact of the matter, because there were two reports by ranking admirals who knew this subject who said the yard should be kept open.

I can appreciate the comments of the distinguished Senator from Nebraska who expressed concern about opening up the process of the Base Closure Commission, but I do not think this will do that. It is very, very narrow and, to the extent this kind of conduct is undertaken by the Department of Navy, it seems to me a rather clear matter that we would not want to countenance or approve such conduct. We would not at the same time want to open up the whole process, but there is a way of keeping the process restricted and still allowing the narrow opening for remedying this kind of very flagrant misconduct by the Department of the Navy.

Mr. EXON. Mr. President, I appreciate the remarks by my colleague from Pennsylvania. I will say to my colleague from Pennsylvania that with all that has been going on, I had not had a chance to discuss this matter to any extent with Senator NUNN. However, I have worked very closely with him and other members of the Armed Services Committee all through the painful base closure process.

I will talk to Senator NUNN about this. From what I am advised, there is very little, if any, chance that the committee, including the chairman, is likely to agree to accept the amendment offered by the Senator from Pennsylvania for these briefly stated reasons:

The base closure process, as all know, has been a painful one, and many communities have been upset, justifiably so, by losing the economic benefit of many important military facilities.

However, in the view of this Senator, the amendment offered by the Senator from Pennsylvania would gut the basic premise of the Base Closure Commission that to date, with all of its warts, has served the intent of the Base Closure Commission that originally was proposed by former Secretary of Defense Frank Carlucci to a group of us on the Armed Services Committee several years ago.

Secretary Carlucci's thought was—and I think it was a good one—that there is no way we can make closure and reduction of unnecessary expenditures in a military budget unless we had a base closure commission that would hold hearings on and make determinations of the priorities for closing the bases after consultation, of course, with the Department of Defense.

It seems to me that I believe we can sum up the position of the amendment offered by the Senator from Pennsylvania, that it would gut the key features of the Base Closure Commission legislation which says that the Base Closure Commission will hold hearings and make a study and make a report to the President as to when bases should be closed and during what periods.

The President then has the option of reviewing this, and the President must choose the recommendations of the commission, all or nothing, without changes.

Likewise then, after the President has made that determination, the matter is forwarded to the Congress and the Congress finds themselves, under the law in effect, of doing the same thing that the President has done. They cannot amend, they cannot say this base will remain open and these others will be closed. It is all or nothing, as far as the Congress is also concerned.

Basically, as I understand the amendment, stripping away all of the rhetoric, if it is fair to say, I say to the Senator from Pennsylvania, that his amendment, if it would become law, would, in essence, allow the courts on a petition from any community, any individual, any Senator, to cherry pick, if you will, from the list of recommendations by the commission approved by the President and supposedly approved by the Congress.

Is it not true then that the Specter amendment is another way, with the aggressive effort that the Senator from Pennsylvania has been pursuing it—and I do not fault him for that—through the Supreme Court and other means that to date have failed, basically is it not true, I ask the Senator from Pennsylvania, if his amendment would become law, in essence, would it not allow Pennsylvania or any other entity to bring a petition of some type before an appropriate court and allow the court to cherry pick and make the decisions notwithstanding all of the recommendations of the Commission, the action by the President, and the actions of the Congress?

Mr. SPECTER. Mr. President, I shall be glad to respond to the question of the Senator from Nebraska, but first let me take slight issue with his use of the term "aggressive."

I do not think my conduct has been aggressive at all. I think it has been very modulated in the face of dishonesty by the Department of the Navy when they represent that they have turned over all the information and in fact they have committed fraud, have concealed information; in the face of that charge, they duck and evade.

It is a very modest response to say to the Secretary of Defense and the Secretary of the Navy, how can you undertake that sort of dishonest conduct? And when there is not an appropriate response, to take it to the Armed Services Committee, chaired by then Senator Dixon, and raise the issue. It is on the record. He said, "We can't handle this; it has to go to court." Then it is very modulated to go to court and say, in America, we do not tolerate dishonesty by anyone, especially the Government. So I would say that what I have done so far certainly is not aggressive at all.

Mr. EXON. If the Senator will yield for a minute, I did not intend to make the Senator from Pennsylvania an aggressor. I complimented the Senator from Pennsylvania on his actions thus far. If I were similarly situated to him, I might be doing exactly the same thing.

So if the Senator took from my comments any criticism of the actions that he has taken as being overly aggressive, I think I did not say that. And if I did, I apologize and take back the words. It may be that the Senator did not hear exactly what I said. I was simply saying that I recognize the position that the Senator is in. But I do not believe there is any real chance that the committee at least, or the committee leadership of the Armed Services Committee would agree to this amendment.

Then I went on to ask the question as to what was the basic thrust of the Senator's amendment. I hope he can answer that question. But I would simply say that I have not indicated, nor do I feel, any inappropriate action whatsoever by the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank my colleague for those remarks. I thought I heard the word "aggressive." Perhaps I was wrong. But I think if the Department of the Air Force sought to close Offutt Air Force Base and concealed from Senator EXON documents from Air Force generals who said the Air Force base should be kept open—I have known Senator EXON now 14 years—if they concealed documentary evidence Offutt Air Force Base should be kept open, I would expect at least some response from my distinguished colleague.

But to answer his question: Would this amendment allow the Federal courts to "cherry pick," the answer is no. And the reason that it would not allow the courts to cherry pick is that it sets a very high standard to permit judicial review. It requires documentary evidence which has been concealed, and it requires at least two instances of documentary evidence, of material fraudulent concealment.

There have been some 310 base closures and realignments so far, and I know of only three cases which have gone to court. I do not believe that either of the other two cases has the kind of documentary evidence which is involved with the Philadelphia Navy Yard. But I would say this to my colleague from Nebraska and to all those listening, my colleagues who I hope will follow this debate, because it is a very important question, that this is a level of conduct which we simply cannot countenance.

I have been very distressed as I have seen what has happened with the Navy, and I am just going to talk about the Navy—there is a lot more in the rest of the Government—what happened with the battleship *Iowa*, on turret 2—47 sailors killed, and false reports as to the cause of that blast—I am very much concerned, as well, about the cheating incident at the Naval Academy and the coverup, very much concerned about the recent disclosures about favoritism for the son of the Secretary of the Navy. We had a contested case about Admiral Kelso and his four stars. The admiral prevailed on a relatively close vote, more than 40 Senators, I think 43, voted no in a context where a military judge had filed a 49-page, single-spaced report with evidence implicating Admiral Kelso in what went on in Tailhook, and the inspector general said that there was no credible evidence when the record was full of credible evidence.

We have in the U.S. Congress, constitutionally, very, very serious oversight responsibilities. I think my colleague from Nebraska will agree that it is not possible for us to do the kind of oversight we would like to do because we have so many responsibilities. But there are some items which the Congress simply cannot take up, as Senator Dixon could not take up the question about this concealment when I brought it to his attention sitting in a subcommittee of the Armed Services Committee. He said to me take it to the courts, which is what I did.

So I would say, I would have a question for my colleague from Nebraska. Actually, I have two questions. Let me pose them one at a time. The first question is—and I do not expect the Senator to have evidence as to how many cases there would be of fraudulent concealment of two documents by ranking admirals who are experts in the field, but does the Senator have any reason to think that with that level of proof required, which copies the constitutional provision of at least two witnesses in cases of treason, that there would be any avalanche to the courts to enable the courts to cherry pick what the Commission has done?

Mr. EXON. Mr. President, I will be glad to answer the question posed by the Senator from Pennsylvania.

First, let me go back and correct any improper allegations that were not made by the Senator.

I am advised by my staff that I did use the word "aggressive." I used the word "aggressive" in the context of complimenting the Senator from Pennsylvania with regard to his aggressive activities in protecting what he feels is a very important naval facility in his State. I did not intend that in any context that it was wrong. I think the Senator from Pennsylvania would be the first to concede that I have certainly never known him, not in 14 years but for 16 years now, to be violent. The Senator from Pennsylvania is a very skilled, very experienced attorney going way back to the Kennedy assassination era, and I recognize and admire him for his talents.

With regard to the question the Senator has simply posed, the answer is no. Neither the Armed Services Committee nor any member of that committee are a part of—in fact, just the opposite is true. We have been investigating and have brought forth certain actions by the U.S. Navy top officials, and we have taken what we thought was appropriate action to correct them.

I hope that with the Senator's amendment, we are not going to place the U.S. Navy, though, on trial here on the floor of the U.S. Senate with regard to the amendment offered by the Senator from Pennsylvania.

I would simply point out that it was the Armed Services Committee, under its oversight responsibility, which has checked thoroughly, has held extensive hearings and, in the opinion of this Senator, has taken appropriate action on a whole series of matters involving the U.S. Navy.

It may not be well known to the Senator from Pennsylvania, but when some of the Navy brass mishandled the first big event, it was this Senator from Nebraska who pointed out that he simply did not believe the Navy's findings that the tragedy on the U.S.S. *Iowa* could be blamed on homosexual activity, or the allegations that were made that that whole tragedy was not the fault of the Navy, that it was not an accident; that it was somehow an attempt by two enlisted Navy people that were alleged to have had some homosexual conduct. That really was never proven. Certainly, it was later disproven; that is, the findings of high officials in the U.S. Navy with regard to the pending responsibility in the tragedy on the U.S.S. *Iowa* was, that they were somehow free from any fault or responsibility of the top brass of the Navy.

I would agree with the Senator from Pennsylvania that in recent days, with a whole series of unfortunate incidents, some of the leadership of the U.S. Navy has, at best, not performed up to the standards that many of us would like to see.

But to carry that so far as to say that the closure of any one base in the State of Pennsylvania or elsewhere was done, conceived, as a part of some kind of a Naval coverup or withholding of information I think is stretching the point on any problems that we might have had with the leadership of the U.S. Navy.

I appreciate the Senator's explanation of what his amendment does. And we can put in whatever window dressing or clothing we want. Basically, in the opinion of this Senator, the amendment offered by the Senator from Pennsylvania would gut the basic essence of the Base Closure Commission.

I am not necessarily for nor am I against the facility in Pennsylvania that the Senator from Pennsylvania feels is critical to our national defense.

I have not made a thorough investigation of that particular matter. But I do say, and I do believe, that matter is behind us. It has been so designated. The courts have refused to overturn it. It might well be that some people would agree with the Senator from Pennsylvania that this was a case that was so egregious that we must take action on the floor of the U.S. Senate, since the Senator from Pennsylvania and others were unsuccessful in trying to overturn this through the courts.

I would simply point to the recent decision by the Supreme Court in this matter that was adverse to the interests of those who would like to keep the Philadelphia Naval Facility open.

I guess then, probably, we have outlined the differences of opinion on the amendment. I would simply say to the Senator from Pennsylvania that I have nothing particularly further to say on this matter. If he does, of course, we would be glad to listen.

There are hopefully other amendments. I say to the Senator from Pennsylvania that it is the hope and the desire of the leadership of the Senate and the Armed Services Committee that we stay here tonight as late as necessary to complete this, if we can. If not, we are encouraging the majority leader to hold the Senate in session as long as is necessary tomorrow, Friday, to accomplish this because of other important matters; basically, appropriations bills that are stacked up behind the defense authorization bill.

So I would simply say, is it possible that the Senator might agree to proceed at this time with any further remarks or discussions that he has on his amendment, which I would say is entirely in order from a procedural position. I think that is why Senator NUNN did agree, in the interest of the Senator from Pennsylvania last night, that this would be the first matter taken up. I suggest, though, that as the Senator has said, there may be other Senators who wish to come and speak in behalf of and in support of the amendment of the Senator from Pennsylvania. Likewise, I am confident that there are many who will oppose this amendment who would like to come forth and do so.

The situation we are facing right now, though, is that maybe we could go ahead with other matters if the Senator from Pennsylvania will agree, at an appropriate time, to temporarily set aside his amendment so that we might hopefully proceed with other business, to move along. I see a period of a major logjam that is going to take hours and hours and make it most difficult for us to complete action on the defense authorization bill in a timely manner.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the Senator from Nebraska for his comments.

The first of two questions which I had directed to the Senator from Nebraska related to his argument earlier about cherry picking. I had asked him a question as to what evidence —if not evidence, indicators—he had or the committee had that there would be any rush on the courts with a standard for judicial review, which was as high as is provided for by this amendment.

There have been, to repeat, some 310 proceedings under base closures and realignments. As I understand it, only three cases were brought to court, and the other two do not match the standard here. I asked him that question. I did not hear anything about it in his reply. But let me pick up on a couple other matters which he commented about.

When he says that the Senator from Pennsylvania has been unsuccessful in keeping the Philadelphia Navy Yard open, the Senator from Pennsylvania has not even had a chance to address the merits of that question, because the Federal courts have said they would not hear the case. The Federal courts have said that they would not hear the case because the Congress did not provide for judicial review. When the matter was before the Armed Services Subcommittee, the presiding Senator, Senator Dixon of Illinois, said this is a matter for the courts; it is not a matter for the Senate. Which is why we went to the courts.

So when the Senator from Nebraska says there has been an unsuccessful effort to have the Philadelphia Navy Yard kept open, this statement is not really on target. We have not even been able to present the arguments about it.

I do not propose to discuss today the reasons why I think the Philadelphia Navy Yard should be kept open, because the question that I put to this body was much more narrow and a more limited question; and that is: Should there be judicial review so the courts can decide whether or not there has been fundamental fairness? Then it is a matter for the Base Closure Commission, under the law, to make a decision as to whether the Navy Yard should be kept open.

The Philadelphia Navy Yard never had a ghost of a chance to present the merits, when the Navy concealed two documents signed by high-ranking admirals that the yard should be kept open. That is what never happened.

I, again, address the first two questions to the Senator from Nebraska, if he cares to answer them: How many cases does he think there are where the Navy has kept two documents by ranking officers and concealed it from the parties in interest? How many cases are there that lead him to make the assertion that there will be cherry picking or an open floodgate of litigation in the Federal courts? I direct those questions to him.

Mr. EXON. Mr. President, I will try and answer the questions that I think are legitimate ones from the Senator from Pennsylvania, a very skilled lawyer who basically is trying to place the courts in a position, in one way or another, of overriding the actions of the Base Closure Commission, the President of the United States, and the Congress.

There is one thing that I think we generally agree to here in the Congress of the United States, both in the House and the Senate—that there has been far too much intervention in the courts. There are supposedly three equal branches of Government: executive, legislative and the judiciary. I happen to feel, as a nonlawyer, that there has been a whole series of instances where I think the judicial branch has overstepped its authority. Yet, of a latter date, there has been some indication that the courts are not overreaching as much as they once did.

I simply say that I do not know how many cases there are, obviously. And I think the Senator from Pennsylvania knows very well that I would not be in a position to know in how many such instances there has been of a coverup of information. I simply say that if we start down that road, then we are going to be back on that highway, the superhighway of the populace feeling that there is somehow a conspiracy about almost everything that happens today in the United States of America, including most of the actions that are taking place in the Congress of the United States. I reject that.

So I think that the Senator from Pennsylvania is doing a very professional, lawyerlike job of creating the conspiracy theory as to why he thinks the courts should be allowed to intervene not only in the case of the naval yard in Philadelphia, but also any other Base Closure Commission. I simply say that if the Senator's amendment is passed, I think we would open up a Pandora's box to every community that has a base closed. They could come forth citing the amendment offered by the Senator from Pennsylvania and passed by the Senate and the Congress as a means to delay, if not to eliminate the base closure, which is absolutely essential if we are ever going to make the tricky dollars that we have on defense do what defense is supposed to do, which is to provide for the legitimate national security interests of the United States.

I yield the floor.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio [Mr. GLENN] is recognized.

Mr. GLENN. Mr. President, I would like to make a couple of comments on this. I appreciate the views of the Senator from Pennsylvania. Obviously, no one wants fraud to be involved in a process like this. And there has to be a remedy for that. The Senator from Pennsylvania has taken the course that there should be a judicial review. I think it would be the demise of our whole base closure process if that were to go through. What community would not find something they claim fraudulent and put it into a court case, with the stipulation that the closing of the base be delayed until the final resolution in the courts?

The whole process would obviously come to a screeching halt. As Justice Souter noted in his concurring opinion in Dalton versus Specter:

> This mandate for prompt acceptance or rejection of the entire package of base closings can only represent a considered allocation of authority between the Executive and Legislative Branches to reach important, but politically difficult, objectives * * *. If judicial review could eliminate one base from a package the political resolution embodied in that package would be destroyed * * *. The very reasons that led Congress by this enactment to bind its hands from untying a package,

once assembled, go far to persuade me that Congress did not mean the courts to have any such power through judicial review.

That is Justice Souter's view on this. That does not take away, however, my agreement with the Senator from Pennsylvania that there should be means to address fraudulent behavior, and that is what his legislation talks about in the fifth and sixth lines, the third line up from the bottom of the page of his amendment—the copy of it I have, at least.

It says:

> * * * a prima facie showing of not less than two documentary material acts of fraudulent concealment * * *.

I agree that where there is fraudulent concealment, there has to be a remedy for that. But I also submit that we should not take the whole process and untie it by putting us into a judicial review process, because I believe we already have a way of looking at this and taking care of fraudulent concealment. Fraud is not conducted by some great body called "the Pentagon," or whatever. Fraudulent concealment is by individuals. Someone has to decide that he or she is going to fraudulently conceal something. Fraud is illegal right now under the Uniform Code of Military Justice—if it is a military member that we are talking about. Or under the criminal code, if a member of the civil service fraudulently conceals, then that person can be charged with such concealment.

The IG's, that I have a lot of faith in, are doing a good job, and it seems to me that a course in some situations, such as the one in which the Senator from Pennsylvania found himself, is to ask the IG's to look into it immediately. And, second, in whatever area of the country was involved, if there was fraudulent concealment, which is what his amendment deals with, fraudulent concealment, then a case would lie certainly against the member of the military through the Uniform Code of Military Justice, or against a civil service member through the criminal code, or against anyone else representing or acting on behalf of the Government, such as the BRAC closure commission; it would lie against them as representatives of the Government if they fraudulently concealed. So I think we do have that remedy, without knocking out the whole BRAC process.

The reason the BRAC process was set up to begin with was because Congress had, for many years, been unable to deal with the base closure process, and this was put together as a package—a "take it or leave it" type package. I do not think anybody—and certainly I would not advocate that if there is evidence of fraudulent concealment, that it should not be dealt with. I do not see why it has to go through a Federal court process when you can file a suit against a member of the military through the UCMJ, or you could file a suit against a civil servant, or somebody representing the Government, through the regular criminal code that does already cover fraudulent concealment in any situation like this.

I agree with my colleague, Senator EXON, who felt that this would undo the whole BRAC process, which we had so much difficulty putting together. And it was only put together after many years of ineffectually trying to close bases around the country. It is a process that proved contentious, obviously because no one wants to have bases closed in their area. I do not like what happened in some places in Ohio. The Senator from Pennsylvania does not like what happened in Philadelphia. The Senators from California, as we are well aware from their testimony on the floor, feel they have taken too many hits out there. No one likes to see these things happen in their home area.

Where there is fraud—fraud entered into part of this—it seems to me that that there is a remedy already there to address this through the UCMJ and the criminal code, and perhaps using the inspector general to investigate this.

There is one other factor here. If we put this back into the court for judicial review, you, in effect, are taking the judicial branch of Government and saying they will make the final determinations on what the military alignment of bases, the strategic locations of bases, should be around this country. And they would be deciding that by just the narrow consideration of whether fraud occurred. Major bases might or might not be kept open or closed on a basis quite apart from what the military needs of the United States are. I would not want to see that be tossed over into the judicial branch. They may have an interest in it, but they certainly are not qualified, I believe, to make those judgments.

So I believe that the legal remedy that the Senator from Pennsylvania seeks is there in the processes we have now with UCMJ and with the criminal code, the U.S. Criminal Code.

Those were not explored in this particular case. The Senator from Pennsylvania had every right to take his cause to the Supreme Court. They turned it down on the basis that Congress had put together this package and they did not want to get into destroying that package, and I agree with their decision on that.

Did the Senator from Pennsylvania consider going to the IG's? Did he consider going through the UCMJ, the Uniform Code of Military Justice to address a problem of fraudulent concealment, the words out of his amendment? Or did he go to the United States Code where fraudulent concealment, which happens by individuals—not just by some great case against the Pentagon, but individuals—had to be involved? And individuals could have a suit filed against them either under UCMJ or under the regular United States Code.

It would seem to me that that provides a remedy that is adequate without undoing the whole BRAC process, which is what this basically would do.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I think the Senator from Ohio has made a very important statement. It is really a concession when he says where there is a fraudulent concealment, there must be a remedy.

That is my point. Where there is fraudulent concealment, there must be a remedy.

When the Senator from Ohio suggests a remedy in a suit against someone in the military or a civilian, that does not remedy the problem of the closure of the Philadelphia Navy Yard.

I am not unaware of how to proceed on a criminal complaint for fraud. I know how to do that. But if I put someone in jail for fraud, which I have done, it is not a remedy for the Philadelphia Navy Yard. It is not a remedy for the importance of the yard to national defense or a remedy for the thousands of people who are thrown out of work.

Now, when the Senator from Ohio asks me have I asked the inspector general to look into it, I have asked everybody in the chain of command up to the Secretary of Defense, and that is Secretary of Defense Perry and that is Secretary of Defense Cheney, and the Secretaries of the Navy. The inspector general specifically has not been asked, but I have the question pending before the Secretary of Defense. But the inspector general lives in America. He knows of the controversy concerning the closure of the Philadelphia Navy Yard. There is hardly anybody who does not. And I asked the Secretary of Defense most recently in a letter which I sent to him on May 24, 1994, which I ask unanimous consent be printed in the RECORD so I do not have to read the whole letter.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, May 24, 1994.

Hon. WILLIAM J. PERRY,
Secretary of Defense,
Washington, DC.

DEAR SECRETARY PERRY: I ask that you personally review at least limited aspects of the conduct of the Department of the Navy on the recommendation to close the Philadelphia Naval Shipyard.

When I met with you in advance of your confirmation as Secretary of Defense, you advised me that you would not tolerate any misrepresentations or concealments by anyone in the Department of Defense. I did not pursue the issue on the Philadelphia Naval Shipyard since the matter was in litigation and it was, at that time, a matter for the lawyers.

When the Supreme Court of the United States ruled that the federal courts had no

> jurisdiction to review what the Department of the Navy did on the Philadelphia Naval Shipyard, the Court did not reach the merits of the case. I ask that you reach the merits of the case in accordance with the principles which you stated to me since those misrepresentations and concealments still stand.
>
> I enclose with this letter, two reports, one from Admiral Claman and one from Admiral Hekman, which were withheld from the GAO and Congress in violation of the Base Closing Act.
>
> This is only the tip of the iceberg.
>
> I submit that this documentary, undisputable evidence is sufficient on its face to have the Base Closing Commission reconsider its decision to close the Philadelphia Naval Shipyard.
>
> I ask that you agree to have the Base Closing Commission reconsider its decision on the Philadelphia Naval Shipyard in the 1995 round so that there may be compliance with the Base Closing Act.
>
> Sincerely,
>
> ARLEN SPECTER.

Mr. SPECTER. Mr. President, when the Secretary of Defense wanted consideration from this Senator, he got it within 24 hours. He came to my office when his nomination was pending, and I saw him very promptly. I did not talk to him about the details of the navy yard case because it was pending in court. He said to me that there would not be fraud on his watch. I did not ask him to take action because it was in court.

When the court said the courts do not have the authority to review it, it is a matter for congressional authorization to review it, that was that.

Then I wrote to him on May 24 and I said to him:

> When I met with you in advance of your confirmation as Secretary of Defense, you advised me you would not tolerate any misrepresentations or concealments by anyone in the Department of Defense. I did not pursue the issue at the Philadelphia Naval Shipyard since the matter was in litigation. It was at that time a matter for the lawyers.

When the Supreme Court of the United States ruled that the Federal courts had no jurisdiction to review what the Navy did on the shipyard, the courts did not reach the merits of the case, I asked that you reach the merits of the case in accordance with the principles which you stated to me, since those misrepresentations and concealments still stand. As yet, I have not gotten any answer to that, just as I haven't gotten any answer from the Navy for 3 years on the merits of this case.

When the Senator from Ohio says that this is going to affect the force structure, I say this respectfully because I know the Senator from Ohio is a real expert on military matters; I have deferred to him privately and I have deferred to him publicly and I do that again today.

I do not think the courts ought to review military matters, and in the lawsuit I specifically accepted the force structure promise behind the base closure process, and I wanted to make this as emphatic as I can. I am not asking the courts to decide whether the navy yard should be kept opened or closed. That is a matter for the Base Closure Commission.

What I am asking the courts to decide is whether the Philadelphia Navy Yard received fairness under the act which requires full disclosure. Courts are not equipped to make military decisions. Courts are uniquely equipped to make a decision as to whether the procedures of the act have been complied with. Was there fraudulent concealment by the Navy? That is what the court is designed to do.

If the court says, yes, there was, then our request for relief was for the court to say to the Base Closure Commission, "You have to give these folks fairness and look at these two reports."

I would ask the Senator from Ohio the same question I raised earlier—he is on his feet and wants to ask me a question and I will be glad to respond. I appreciate the comment by the Senator from Nebraska that he did not know how many cases would be involved if this amendment were passed, but I submit that it is pretty important to know that if you are going to say there is going to be cherry picking or a flood of litigation.

I submit to my colleagues that if you have the standard for a treason conviction under the Constitution of two witnesses, and require that it be documented, that is a very high standard, and it would be a very unique case and perhaps sui generis, perhaps only one. But I ask my colleague from Ohio this question: There are letters in the Navy files from Admiral Hexman dated December 19, 1990, which says "It is more appropriate to downsize the Philadelphia Naval Shipyard instead of closing it." You have a letter dated March 15, 1991, again from Admiral Hexman, and there is another letter from Admiral Claman in the files saying the yard should be kept open.

Is it not necessary in our system of justice and plain fairness that a defense base such as a navy yard not be closed if this kind of documentary evidence is not presented to the Commission and presented so that when Senators like Senator GLENN goes in for Ohio, or ARLEN SPECTER goes in for Pennsylvania, we can present this and at least have it considered? If the Commission says close the yards fairly, so be it. But does not basic fairness require that the remedy go to what happens to the shipyard as opposed to the prosecution of some individual?

Mr. GLENN. Mr. President, I am glad to respond to the Senator from Pennsylvania, because I think what he is talking about are specifics of the recommendations of one or more admirals in the Pentagon. That is part of an information gathering process of opinions by a great number of people, among whom those couple of admirals may have had a different opinion than the collective wisdom of the whole base closure process. Perhaps they are not aware of some other alignment that is going to be made, or whatever. No one or two people in the Pentagon have a lock on what the Base Closure Commission is to consider and to decide.

I agree that the letters probably should have been considered. But is it fraudulent that the Base Closure Commission did not agree with those two admirals? I do not believe it is.

What the Senator tries to address with his amendment is fraudulent concealment. That was the purpose of the Supreme Court case.

I am reading from the syllabus of Secretary of the Navy Dalton. It says:

> The act was seeking to enjoin the Secretary of Defense from carrying out the President's decision pursuant to the 1990 act to close the Philadelphia Naval Shipyard.

So that was the purpose of it. It was to just stop the closing of the shipyard.

I am certain the Senator from Pennsylvania will say, well, he did that because he thought there had been fraudulent concealment before that. If there is fraudulent concealment, it can be brought as a charge under UCMJ or it could be brought under the United States Code against those representing the Government of the United States, whether a temporary Base Closure Commission or civil servants working for the United States.

I do not see, still, why that is not a remedy.

I asked a little while ago if there had been a request made directly to the IG, and there was not a direct response to that. But I would point out that the IG is an independent assessor of activities over there that we may have a question about. They are not in the direct chain of command over there. The IG Act, which I was responsible for helping put into place—in fact, the expansion of it was my legislation—we had a 10-year experience with it. We very deliberately wrote that act with responsibilities to the Congress, as well as to the agencies that those IG's are part of.

So they are to take an independent role in making these assessments as to whether actions of the Department they represent are fair or not fair, whether they are being carried out correctly or not correctly. And the IG's have exhibited a rather fierce independence through the years in making those judgments because they know their responsibilities come both to the Congress and to the agency that they work for.

So it seems to me that an IG inspection, or whatever information is developed privately by the Senator from Pennsylvania, or whomever in whatever other case, could be properly brought before the UCMJ and/or the criminal code for others if, as he has in his amendment, there is fraudulent concealment.

Now, that does not mean if information comes out, as he has indicated in the letters that were in the files over there, that they are going to prevail, because BRAC closures are a collective wisdom of that whole board, and I would doubt very much that the letters from a couple of admirals who may have liked the Philadelphia yard and may have had a good case, some good reasoning there, I do not see any reason why we would automatically think the Philadelphia Naval Yard, had those letters been made part of the BRAC closure process—there are many people involved, many opinions in the BRAC closure process—I think to toss this whole thing back into the Federal courts when there are already remedies in the UCMJ or the criminal code, and the investigative capabilities of the IG can be brought to bear. To toss the whole BRAC closure out, which it seems to me is a step in the direction we are going, it seems to me would be unwise for the Senator to take.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, responding directly to what the Senator from Ohio has said, I am not representing that the Philadelphia Navy Yard would automatically have been kept open by the Base Closure Commission if these letters had been considered by the Base Closure Commission. But at least there would have been a chance. It would have been the most powerful evidence available for those of us who appeared on behalf of Philadelphia Navy Yard.

The Senator from Ohio said he is not happy with things that were done in Ohio. I can understand that.

The process was for Senators to appear before the Commission.

I referred to the letters from Admiral Hexman. There is an additional letter from Adm. J.C. Claman recommending that the Philadelphia Navy Yard be drawn down to a small size activity in the mid-1990's, the thrust of it being that the yard be kept open.

So there is no representation by me that automatically, as the Senator from Ohio says, the yard would have been kept open. But at least all of the evidence would have been considered.

I think there was at least a possibility that, with a very close question, as appeared before the Base Closure Commission, a very close question, if we had had these letters available to us to say to the Commission, "Commissioners, the two admirals who know the most about this in the Pentagon say the base ought to be kept open. Aren't we entitled to have that considered by the Base Closure Commission?"

That is what we are asking for. That is what we asked for when we said to the court: Let us submit this evidence to the Base Closure Commission.

We are not asking the court to keep the yard open. We are asking the Federal court to send this matter back to the Base Closure Commission with an opportunity for us to be heard in accordance with the fair process required by the act to consider all of the evidence.

The Senator from Ohio comes back again to the inspector general. I had not wanted to get into the matter in any detail, but I am going to.

I do not think it is necessary, when a Senator deals with the Secretary of Defense, to have to go to the inspector general.

But let me say to you very bluntly, Senator GLENN, I do not have any confidence in the inspector general of the Department of Defense. The reason I do not have any confidence in the inspector general of the Department of Defense was when he wrote a letter saying there was no credible evidence as to Admiral Kelso in the face of a 49-page report from a military judge which detailed evidence as to Admiral Kelso. I just do not have any confidence in him.

I believe that when I deal with the Secretary of Defense and I send the Secretary of Defense a letter and ask him to look into this matter and do not get a reply, and when I have dealt with the Secretary of Defense under the prior administration and have detailed this evidence, and have taken the matter up for hearings, that the Department of Defense has had a full opportunity to face up to this kind of a question.

When the Senator from Nebraska was dealing with the Battleship *Iowa* a few minutes ago, he made a very good point. He said his committee was dissatisfied with what the Navy did, claiming that it was a homosexual which caused the explosion in the deaths of 47 sailors. The Armed Services Committee looked into it and found out what the facts were, and did a good job of oversight. I think that is the kind of oversight that is necessary.

That is why I brought the Armed Services Committee my complaints about this fraudulent concealment. I was told to go to court. I went to court, and one court, the third circuit, said, "You're right, ARLEN SPECTER. You have a right to go to the court." The Supreme Court said no, because the Congress had not authorized judicial review.

Now I am back to the Congress. I am back to the Congress and I am saying, is this fair? Is it an adequate remedy to prosecute individuals or to sue individuals, as Senator GLENN says, under the UCMJ or the United States Code? Absolutely not. What does that do? That is a conviction, and somebody may go to jail. That is not a remedy.

Mr. GLENN. Will the Senator yield on that point for just a minute?

Mr. SPECTER. I will.

Mr. GLENN. Because I was saying, if that occurs, then you have a very good cause to bring that back to the attention of the Congress, and Congress can reverse this. Or you can bring it back to the BRAC Closure Commission, and they could say, "Yes, we were misled on this," and we could undo that.

So there is a remedy in this case if fraud—which is what you are dealing with here, fraudulent behavior—if that is proven. So there is recourse back here. We have the final approval over this.

If I knew fraudulent behavior had gone into a decision on a particular case, I would be the first to vote to overturn that particular decision until it can be further reviewed. So we do have recourse in this. It is not as though it is all final.

And just one other thing. I think we are mixing up apples and oranges here on the IG's, because—the Senator mentioned the *Iowa*? I believe that was the Naval Investigative Service that looked into that, and also a separate board of inquiry that was involved with that. The IG was not directly involved with the *Iowa* investigation at all, I do not believe.

Mr. SPECTER. The reference, if I may say to the Senator from Ohio, to the inspector general was not regarding the *Iowa*. The reference to the inspector general concerned Admiral Kelso. We had the 49-page single-spaced report from the military judge detailing evidence as to Admiral Kelso and you had a short report from the inspector general saying there was no credible evidence. A fantastic, remarkable, astounding, unreal conclusion by the inspector general. So pardon me if I do not take the case there.

But back to the first point the Senator from Ohio made when he asked me to yield—and I was glad to do that. I think it is good to do it because we get to the basic point.

The basic point is this: If Senator GLENN wants proof of fraud, why do I have to go to court and get a criminal conviction in order to prove fraud when he can read three letters—two from Admiral Hexman and one from Admiral Claman—read three letters that were concealed that said the yard ought to be kept open. If you dispute that is fraudulent concealment I will listen to that. If you dispute that I did not have a chance to argue it, that it was not before the Base Closure Commission, I will listen to that. If you say that some inappropriate agency is going to make the decision when I concede it goes to the Commission, the Base Closure Commission, and not the court—the court's narrow function under this amendment is to review the case and make a factual determination of whether there was fraudulent concealment that was material and rises to the level of two documents.

If Senator GLENN is prepared to deal with fraud, deal with this.

Mr. GLENN. Will the Senator yield?

Mr. SPECTER. I do.

Mr. GLENN. I ask, the Philadelphia Navy Yard was designated for closing in the 1991 Commission, is that correct?

Mr. SPECTER. That is correct.

Mr. GLENN. If this fraudulent material was there, why was this not brought before the 1993 Commission for reconsideration and reversal? I am sure they would be happy to deal with it. Was that attempted?

Mr. SPECTER. We brought this matter to the Base Closure Commission before 1993. This matter was brought to the Base Closing Commission.

Mr. GLENN. Which one, the 1991 Commission or the 1993? Because the 1993 Commission could have reviewed this whole thing—over again.

Mr. SPECTER. So could the 1991 Commission, after it was closed and after we found this evidence.

Senator GLENN—the Commission had this evidence. The Commissioners were named defendants in the case. The 1993 BRAC Commission was the same as the 1991 BRAC Commission and they were all parties defendant to the case and they did not lift a finger. When they were told about this fraud they looked the other way. They defend themselves in court by saying the court does not have jurisdiction. They have never looked at the facts.

Mr. GLENN. The fact that there were different opinions by some of the people in the Navy Department does not mean that there was necessarily fraud by the Commission. Or that fraud was permitted by the Commission.

Mr. SPECTER. I am not saying, I say to Senator GLENN, that there was fraud by the Commission. I am saying that the fraud was committed by the Department of the Navy and the Department of Defense. And the fraud was committed when the statute specifically says, "all materials to be turned over to the General Accounting Office," and "all the materials to be turned over to the Base Closure Commission so that Members of Congress can review it before the hearing"—that material was not turned over.

Is my colleague, Senator GLENN, saying that if three letters say the Navy yard should be kept open, and they are concealed, that that is not fraud?

Mr. GLENN. If it is fraud—I do not know whether it was fraud or not. But I am saying if there is fraud and that is the charge then it should be brought to the attention of the IG first, I think. And then, if it is fraud, then that could be charged and brought under UCMJ, or under the United States Code.

I do not plan to go on with this. I know the Senator from Nebraska wants to make another statement here. But let me just make one thing clear and give you my views on this.

I think there are remedies existing now for dealing with fraudulent behavior, which is what the amendment addresses. And so everyone is very clear about this, it would be my opinion that if this went through and if this was made law, then it would be the end of the BRAC process as we know it, which was set up after so many tortuous years of being unable to deal with this base closure process.

I have no doubt that if this amendment went through and became law this would be the end of the BRAC process. I think it is that serious, what we are considering here this morning. I think there is an adequate way of taking care of fraudulent behavior and I think it is in law right now. I hope everybody listening back in the offices, when it comes to a vote on this—I do not see how you can look at this any way but that it would be the end of the BRAC process. Because it would be a rare city that would not find something they could charge was fraudulent, put this into the Federal courts, and hold up the whole process. I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I am at a little bit of a loss to hear my colleague from Ohio say he does not know whether it was fraud or not. You have flat statements, three documents that the yard should be kept open. It is certainly material. They are concealed from the General Accounting Office. I am a little at a loss to understand how he says he does not know whether it is fraud or not.

Mr. GLENN. At a loss? It is this.

There are many documents that are brought or not brought to the attention of the Base Closure Commission. And the judgment of the Commission is in the totality of this. Did this fraud, which is claimed by the Senator from Pennsylvania, decide this case? I doubt that it did. Some admirals saying—I am sure almost any base to be closed can find some general, some admiral, who expresses an opinion that he thinks that is wrong and that particular base should be kept open. But that does not mean there is fraud involved because we have some differing opinion, whether it is brought to light to the Base Closure Commission or not.

Mr. SPECTER. I would say to my colleague from Ohio that generals and admirals may say a lot of things. And it is up to the Base Closure Commission to sift through them—a lot of documents, a lot of opinions, and a lot of judgments. But the act of Congress said all the material, all the material should be made available to the General Accounting Office and then to the Congress. And it is inconceivable to me how anybody can look at these three letters without saying that this is material and that this is fraud.

But, let me go one step further and say to the Senator from Ohio, this amendment does not ask the Senate to decide that this is fraudulent concealment. This amendment asks the Senate to allow a court to look at this evidence and say whether it is fraudulent concealment. In the course of our discussions here today we do not do what a court does, in terms of the analysis of fraudulent concealment, although I think on its face these letters demonstrate fraudulent concealment. And when the Senator from Ohio goes on and says this is going to destroy the base closing process, I would ask him—if I may have his attention—I would ask him the question I asked the Senator from Nebraska.

I understand he does not have a lot of details and a lot of facts at his disposal. It is a judgment call. The Senator made the assertion this amendment would destroy the closing process. There are 310 base closures and realignments, as I understand the facts. And only 3 lawsuits have been brought. I do not believe the other two lawsuits involve evidence of fraud at this level.

In seeking to open judicial review, I have done so on as narrow an ambit as I can devise. I have taken the constitutional provisions on treason, the most serious crimes at the time of the adoption of the Constitution. It requires two witnesses. And I have required that it be documentary evidence, not what somebody heard in a corridor or somebody testifies on oral evidence and might get into a "who struck John," who said what. The requirement is documentary evidence and at least two levels of documentary evidence. I would even make it three.

But the question for the Senator from Ohio is how many cases are there like this? Is there going to be a flood of litigation? Is there going to be an opportunity for the Federal courts to cherry pick?

Mr. GLENN. I have no way of knowing how many cases there would be, obviously. Nor do I think the Senator from Nebraska has any idea how many cases there would be. We have no way of knowing.

But I would submit, if you give a judicial review it is going to be a rare community that has concern about a base that does not find some papers somewhere that did not come to light at the proper time. They are going to claim that was critical. And they are going to file suit. And so the execution of the closure will not take place.

So that is the reason why I think the BRAC closure process would come to a screeching halt. We found it difficult to deal with this. It was impossible. This process was put forward. I think if there is fraud, the fraud was committed by an individual or a collection of individuals. If the case is there, file a suit under the United States Code right now, fraud against the Government. Or under UCMJ. It covers fraud also. So there is recourse right now. It is not as though we do not have recourse. It does not have to close up the whole BRAC closure process.

Mr. EXON addressed the Chair.

Mr. SPECTER. Mr. President, I believe I still have the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. SPECTER. Mr. President, when the Senator from Ohio says that communities are going to find evidence, I think that is just not so. You do not pick documentary evidence out of the air. You just do not pick documentary evidence, fraudulent concealment of material information out of the air.

Mr. GLENN. Will the Senator yield? Why did he not just file suit under UCMJ or civil service? Why does he not still do that to this day?

Mr. SPECTER. Because——

Mr. EXON. Mr. President, point of order. I ask the Parliamentarian to make a ruling as to who has the floor. We have not been following proper procedures under the rule.

Therefore, as the individual occupying the majority leader's chair, I do not wish to cut off debate. But I certainly feel that maybe under the rules I seek recognition and the right of the floor at this time.

The PRESIDING OFFICER. The Senator from Pennsylvania still retains the floor but may yield to questions.

Mr. SPECTER. I thank the Chair.

In response to the comment made by the Senator from Ohio, there are two comments pending. One comment is why have I not started suit under the UCMJ. Because it does not get me the remedy that I seek. It does not do me any good to put somebody in jail for fraud and then to wait all that time—and that process could take years—come back and face the same kind of arguments I raise here.

When the Senator from Ohio made a key concession, where there is fraudulent concealment, there must be a remedy, that I agree with. But it is hardly a remedy to sue an individual. A remedy is to deal with the closing of the Philadelphia Navy Yard.

When the Senator from Ohio raises the point, as I was about to finish when he last raised another question, about communities finding something to go to court with, I think he is wrong about that. It is not easy to find documentary evidence which says the yard should be kept open by a ranking admiral. It is not easy to find a second letter from a ranking admiral who says that or a third letter from a ranking admiral who says that. But let me add this, Mr. President: That if this is the way of the Department of Defense and communities can find documentary evidence of fraudulent concealment, then that ought to be acted upon.

If this body is going to say to the Department of Defense, the Philadelphia Navy Yard, in the light of what happens in Government, the kind of concealment that we have talked about here today with the battleship *Iowa*, the Academy cheating scandal, the son of the Secretary of the Navy, or Tailhook, and the hard facts of this case where we have documentary evidence about fraud, if this body is going to say that it intends to, in effect, sanction that by precluding the courts from judicial review, then so be it.

There has never been a consideration of this case on the merits by Secretary Cheney, who was Secretary of Defense, or by Secretary Perry, who is now Secretary of Defense, or by the Armed Services Committee, or when I took it to the subcommittee with Senator Dixon who said go to court, or by the Supreme Court of the United States which said it is up to the Congress to grant jurisdiction—we do not think the Congress has done it—or by the distinguished Third Circuit Court of Appeals which twice said that there ought to be review, not of force structure, not of military matters, but of procedures.

If my colleagues in the U.S. Senate are going to say to me that the courts are not open for this kind of fraud and that we are going to put the imprimatur of the Senate behind it, I will watch a rollcall vote.

I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Nebraska.

Mr. EXON. Mr. President, it seems to me that we have had a good discussion. It is becoming redundant because the same phrases are being used over and over again in the attempt of each side to proceed with explaining their position. I hope that we are about ready to come to a conclusion on debate on this matter.

I will simply say that I maintain the position that I made when we began this debate; and that is, regardless of the merits or demerits of the amendment offered by the Senator from Pennsylvania, if this was ever to become the law of the land, there is no question but what every community in the United States of America would find some reason to delay or stop the closure of any base. That would be a disaster, I suggest, given the diminishing resources to provide for the real national defense of the United States of America.

To move things along, I know that the distinguished Senator from South Carolina, the ranking member of the Armed Services Committee, and the chairman of the Armed Services Committee both would like to be heard on this matter.

I ask unanimous consent that the Senator from South Carolina be next recognized by the Chair, followed by the Senator from Georgia.

Mr. SPECTER. I object.

Mr. EXON. I yield the floor.

The PRESIDING OFFICER. Objection is heard.

The Senator from Nebraska has yielded the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise in opposition to this amendment. If closing bases was easy business, there would be no Base Realignment and Closure Commission. It is an extremely difficult task and there are always people who are unhappy and who lose a great deal because of the closing of military installations.

South Carolina knows that to be true, as well as many other States in the Union.

Charleston was hurt badly by what the Base Commission did. Charleston had been a Navy town for a 100 years and they wiped out everything down there with the Navy, practically. But, on the other hand, how are you going to handle this thing?

But providing for judicial intervention in the procedure is not the answer. It will only create additional problems.

My reasons for opposing this amendment are: First, litigation brings false hopes, expense, and it delays community readjustment.

Next, the Base Realignment and Closure Commission's effectiveness is totally dependent on the all or nothing acceptance of its results. Lawsuits would promote fragmentation of these results. Material provided to the Commission is also provided to GAO and Members of Congress. This provides sufficient review of the military departments' submissions and provides sufficient opportunity to determine the validity of the material.

This amendment would create a significant problem and solve nothing.

I urge my colleagues to oppose this amendment.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I know there has been a good debate. I regret I have not been able to be here for the entire debate. I thank the Senator from Nebraska, the Senator from Ohio, and the Senator from South Carolina for representing the Armed Services Committee's position on this bill. I know the Senator from Pennsylvania feels very strongly on this point, and I understand his point. I have to respectfully disagree.

There is not a weapons system that has ever been canceled that you cannot find some general or admiral who wanted to keep it. There is not any kind of weapon that goes out of business because it is outmoded that you cannot find a general or admiral who wants to keep it. And the same thing for military bases. You are always going to have some general or some admiral or some officer or somebody who has said somewhere that a base should not be closed.

The services have to weigh all of that, if they know about it. Sometimes they do; sometimes they do not. Then they have to make their recommendation to the Secretary of Defense. He has to make his recommendation to the President. The President has to make his recommendations to the Congress. And then we have to decide on the issue.

I know that where there has been any kind of deliberate withholding of information that is tantamount to fraud, and as the Senator from Ohio has pointed out, those kinds of offenses are punishable under the Uniform Code of Military Justice. If a military officer or other people subject to the Uniform Code of Military Justice have deliberately withheld information, committed fraud or committed any kind of false testimony, then those are punishable offenses.

But what we on the Armed Services Committee do not want to do is to see judicial review take place on the Base Closure Commission because we know that every community will do their very best to find some bit of misleading information, whether intentional or unintentional, and label it fraud and go to court and then the courts are going to be struggling, first, to try to determine whether there is fraud and, second, what to do about it after they determine it.

If you find two pieces of information that have been withheld under the amendment we now have pending, and the court then determines it might have been deliberate, then no matter what the overall weight of evidence is, the court could overturn that. And if it overturned it for one base, then the rationale of the Base Closure Commission can come unwound as to other bases.

So that is the reason we did not have judicial review. If there was a base in Arkansas that there were two bits of information, or two pieces of information that were not considered at the appropriate time and later it was determined by some court of law in a judicial review that that information was pertinent and relevant and should have been considered, then the base that was closed in Arkansas could be reversed and be pending and then a base closure somewhere else might make no sense at all, or base realignment somewhere else might make no sense at all. So in an effort to achieve perfect justice here, we would be basically exposing the whole base closing process to coming unwound.

Having been here long enough to know that there is never anything that is considered a closed question in Washington, including a weapons system that is canceled or a base that is closed, we would be involved in this over and over and over again, and we would be back where we were before we ever decided to go with the Base Closure Commission, which is the only way we are going to be able to close military bases.

No one wants to close military bases. No one enjoys telling a community they are going to lose personnel from the Department of Defense, whether it is a closure or realignment. I know that very well. But I also know what happens if we do not close military bases.

What happens is that we keep infrastructure which is not needed, and we end up having to cut either force structure or readiness or we sacrifice the modernization of the force. So this is not a free ride. We cannot keep bases open that are not needed and not pay a very big price in terms of military preparedness. The way the system works, the price is not paid immediately because you do not save money immediately in base closure. But what we do now will affect the kind of money we spend in infrastructure in 5 years, 6 years, 7 years, 8 years, 9 years, 10 years. So what we are doing right now in terms of closing military bases, as painful as it is, has a very big effect on military preparedness for 5 to 10 years.

For all those reasons, with great respect for the Senator from Pennsylvania—and I do not know anyone who wages a more effective battle than he does in these areas; he is a very forceful advocate, and I will always listen very carefully to his position, but in this case I must respectfully disagree and urge that the amendment be defeated. I hope we could vote on it as soon as the Senator from Pennsylvania feels he has completed his case, and I hope that would be in the next few minutes because we do have two other amendments that are awaiting presentation that are also very important.

I thank the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania I believe sought recognition.

Mr. SPECTER. While the Senator from Georgia is in the Chamber, if I may have the attention of the Senator from Georgia, there are a couple of issues I would like to discuss very briefly, and I am about ready to vote, as I stated to the Senator from Georgia informally on the floor a few minutes ago.

When the Senator from Georgia raises the contention that you cannot let the courts get involved in a closure because that might upset the whole string of interrelated closures, I think the Senator from Georgia does understand my point, but I would like his comment about it, that I am not asking the court to decide what base to close and what base to leave open. I am asking the court to make a decision as to whether there has been fraud so that the matter ought to go back to the Base Closure Commission, and the Commission would hear the evidence which was concealed, and the Commission would then make a decision. So the Commission keeps in mind all of the factors involved and on the whole sequence of base closures. I ask that question of my colleague.

Mr. NUNN. I do understand the distinction, and I think the Senator's point is one that is pertinent to the consideration. The problem is the time element. The whole Base Closure Commission has been set up on a very compressed time element. We have *x* number of days to decide in the Congress. The Secretary of Defense has to appoint a Base Closure Commission, I believe, by January 20 or 22. If he does not, and if that is not submitted to Congress by then, there is no Base Closure Commission at all. Therefore, all the statutes that are waived here are applicable. The President has so many days to review the consideration. Then Congress has so many days to review it after that.

So what happens is if you get a court intervening in the middle of all of this, the whole time schedule is compromised and makes it unworkable. I think everyone has to realize that bases can be closed more than one way. Bases can theoretically be closed without a Base Closure Commission, and that way the Congress has to approve it every step of the way. And there are all sorts of statutes that are set up in law that make that extremely difficult. That is the reason we have not had bases closed.

So this Commission concept that is the subject of this amendment is an extraordinary procedure because we had extraordinary difficulty in dealing with base closings under the existing law with all sorts of impediments.

So I would say to the Senator, the Senator's point is basically correct but the time schedule makes that in my view compromising to the effectiveness of the base closing concept.

Mr. EXON addressed the Chair.

Mr. SPECTER. The second point I want to discuss with my colleague from——

The PRESIDING OFFICER. The Senator from Pennsylvania asked permission to ask a question to the Senator from Georgia. The Senator from Georgia has responded to the question.

The Senator from Pennsylvania actually lost the floor when he propounded the question to the Senator from Georgia. The Senator from Georgia has responded to the question.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent that I may propound another question to the Senator from Georgia. It does not take long to——

The PRESIDING OFFICER. Does the Senator intend to propound that question and lose his right to the floor?

Mr. SPECTER. Well, I will ask unanimous consent that I might propound a question to the Senator from Georgia without losing the right. I understand the rule that someone else may intervene——

The PRESIDING OFFICER. The Chair asks, is there objection to the unanimous-consent request?

Mr. EXON. What is the unanimous-consent request?

The PRESIDING OFFICER. The Senator from Pennsylvania has asked a unanimous-consent request that he may be allowed to ask an additional question to the Senator from Georgia.

Mr. SPECTER. Without losing my right to the floor.

The PRESIDING OFFICER. Without losing his right to the floor.

Mr. EXON. If there would be no objection to that, then that would waive the right of this Senator to claim the floor under the rules, which I have been attempting to do on two or three occasions?

The PRESIDING OFFICER. While the question is being asked and until the answer is given to the Senator from Pennsylvania, the Senator from Nebraska is correct.

Mr. EXON. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SPECTER. Mr. President, I believe I have the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania had the floor.

Mr. SPECTER. I thank the Chair.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, none of us wishes to be difficult on this matter. We have been on this now for 2 hours. We have other amendments that are equally, if not more, important to dispose of. I have listened very intently for the last hour and 15 minutes, and I have not heard one single iota of new or informative information entered into on debate on either side of this issue.

It seems to me that about 9:30 or 9:40 o'clock tonight there are going to be all kinds of——

Mr. SPECTER. Parliamentary inquiry, Mr. President: Do I not have the floor?

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska has been recognized. The Senator from Nebraska has the floor.

Mr. SPECTER. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. SPECTER. Did not the Chair just rule that I had the floor before the Senator from Nebraska interceded?

The PRESIDING OFFICER. The Senator from Nebraska has been recognized, and it is the opinion of the Chair that the Senator from Nebraska at this time has the floor. The Senator from Pennsylvania has lost the floor. The Senator from Nebraska has the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, in order to ensure the Senator from Pennsylvania that the Senator from Nebraska or no one else is trying to cut him off, what we are trying to do is to move this bill along.

As I was saying, at 9:30 or 10 or 11 o'clock tonight there are going to be all kinds of Senators coming to whoever occupies this Chair and say, why does it take us so long to dispose of these important matters? Why are we called upon to interrupt what are our normal business hours in debate into the middle of the night? It is for reasons like this.

It seems to me that a good case has been made for his position by the Senator from Pennsylvania. I think those of us who oppose that amendment reasonably and strongly believe we have made our case. I am wondering at this time, to move this along, if I could ask a question of the Senator from Pennsylvania without losing my right to the floor, as to whether or not, in the interest of moving this along and coming to a vote, recognizing the fact that we would have the option, if we could dispose of this at this time to move to table which would cut off all debate.

I would like to inquire of the Senator from Pennsylvania, without losing my right to the floor, as to whether or not he would be interested in coming to some kind of a time agreement at this time of a reasonable timeframe so we could bring debate to a close and move to a vote on the matter, if that is his desire, either by a tabling motion here or an up-or-down vote.

I ask that without losing my right to the floor.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Nebraska? The Chair hearing no objection, the Senator from Nebraska will pose the question without losing the right to the floor.

Mr. EXON. Could I have a response of my friend from Pennsylvania?

Mr. SPECTER. I would be glad to respond, Mr. President. And I would be glad to say that the Senator from Nebraska does not have to make a unanimous-consent request on matters like that, that I am not going to raise an objection as to who has the right to the floor, whether the question is asked by someone who does not have the floor, or whether the question is asked by someone who has the floor.

I must say that I disagree with him very categorically when he says that nothing new has been raised, and when he makes any suggestion that this Senator has been dilatory, or that any undue time has been taken up by the Senate.

I was here promptly at 9:30 to undertake this debate. I was the only Senator on the floor. I conferred with the manager of this bill, Senator NUNN, in advance of this bill coming to the floor last week, and yesterday. And told him what I intended to do, so that I could cooperate.

I was on the floor yesterday. The Senator from Georgia is nodding yes. I was on the floor yesterday evening talking to the Senator from Georgia and the majority leader. And I was agreeable to being here at 9 o'clock. If they said 8 o'clock or 7 o'clock, I would have been here. When I am asked to be here, I am here on time. I do not think I am wasting any time. Maybe I am wasting a little right now.

I also think this is a matter of really great importance. We have not been quite 2 hours on this matter, and we have propounded some really important questions. I would hate to show the Senator from Nebraska what the law firm of Dillworth, Paxson, Kalish & Kaufman has done in Philadelphia with more than $1 million in pro bono work, and what this Senator has done by way of preparation of this case in working on it, in the course of less than 2 hours. This is a drop in the bucket.

We happen to be on something which is a lot more important than the Philadelphia Navy Yard. We happen to be on a subject about the conduct of the Department of Defense, and the conduct of the Department of Defense in concealment. The long, laborious process by the Congress in coming to terms on the Base Closure Act, which goes back to the sixties, carefully crafted, required that all the evidence be put forward so that people have a chance to see what the Department of the Navy is doing.

I have no doubt about the outcome of this debate, Mr. President, with the arraying on the other side, and with the concerns about unraveling the process, which I think is unfounded because no one has been able to make any generalization, let alone a firm representation of a flood of litigation or cherry picking here.

For a moment or two, I had decided to speak at length. But I am not going to do that.

I just would like to ask the Senator from Georgia one final question, and then maybe sum up in just a few minutes.

The PRESIDING OFFICER. The Senator from Pennsylvania was recognized to answer a question propounded by the Senator from Nebraska.

The Senator from Nebraska.

Mr. EXON. Mr. President, I am not sure my question was answered. But I think I got the thrust of the answer to the question from the statement that the Senator from Pennsylvania just made.

Let me correct the Senator once again. I think that when he indicated that I said there had been repetitious and dilatory statements, that was not any criticism of Senator from Pennsylvania. That was a criticism of the general debate on both sides of the aisle. Somebody can read the transcript for the last hour and make their own judgment as to whether or not people have been talking by, through, or at each other without making any essential points.

I take it that there is not going to be any time agreement. I speak for a great number of Senators who feel that we should move to a vote on this as quickly as possible. Therefore, I would ask again of my colleague and friend from Pennsylvania, putting in no caveat this time about losing my right to the floor, by asking him: Does he believe that he could agree to a vote in a reasonably near timeframe up or down on this matter, and about how long would he estimate it would take from his point of view and those representing him to give them a chance to make any remarks, if they so desire; and could we come to some general gentleman's agreement on you how long into the future this debate is likely to tie up the Senate?

Mr. SPECTER. Mr. President, I thank the Senator from Nebraska. I cannot come to a gentleman's agreement. I anticipated a question of Senator NUNN, which will last about 45 seconds. Knowing Senator NUNN as I do, I would anticipate about a 2-minute response. And then I would anticipate closing in maybe 3 or 4 minutes.

Mr. McCAIN. Mr. President, if the Senator will yield, I would like to speak on this.

Mr. SPECTER. Fine.

Mr. President, I would ask unanimous consent that Senator LAUTENBERG be added as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Maybe Senator LAUTENBERG will want to comment. But that is about as much time as I will take.

Mr. EXON. Mr. President, I yield the floor.

Mr. SPECTER. I may need time, depending on the gravity of the argument of the Senator from Arizona.

The other question I have from the Senator from Georgia was when he is talking about a weapons system, that he is sure he can find some admiral or—I certainly understand that. But, again, I suggest respectfully to my colleague from Georgia that that is off the mark. What is the mark here is that you have a series of letters.

I ask unanimous consent that the letter from Admiral Claman, dated March 29, 1991, and the two letters from Admiral Hexman, dated December 19, 1990, and March 13, 1991, be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE NAVY,
Washington, DC, December 19, 1990.

Ref: (a) COMNAVSEA ltr 5000 OPR: 07T3/F0373 Ser: 00/8224 of 20 Nov 90. (b) CINCLANTFLT ltr 4700 Ser N436/007378 of 14 Sep 90.
From: Commander, Naval Sea Systems Command.
To: Chief of Naval Operations (OP-04).
Subj: Realignment data for Philadelphia Naval Shipyard.

1. In reference (a), I provided information relative to the proposed realignment of Philadelphia Naval Shipyard, while maintaining the propeller shop and foundry, the Naval Ship Systems Engineering Station (NAVSSES) and the Naval Inactive Ship Maintenance Facility (NISMF). While I realize that the Secretary has been briefed and has concurred with the proposal to mothball Philadelphia Naval Shipyard, I strongly recommend that this decision be reconsidered. It is more prudent to downsize Philadelphia Naval Shipyard to approximately the size of a Ship Repair Facility (SRF) in order to support Navy ships in the New York and Earle homeport areas. In reference (b), CINCLANTFLT outlined the history of Atlantic Fleet depot maintenance problems with marginal ship repair contractors. A Navy industrial capability is required in the Philadelphia area to provide a safety valve when a private sector shipyard is unable to complete awarded ship work.

2. Further, recommend that the drawdown of Philadelphia Naval Shipyard to an SRF-size shipyard not be done until FY 95, as the shipyard is required to support scheduled workload until that time.

P.M. HEXMAN, Jr.

DEPARTMENT OF THE NAVY,
Washington, DC, March 13, 1991.

Ref: (a) CNO ltr Ser 431F/1U596599 of 11 Jan 91. (b) NAVSEA ltr Ser 00/5312 of 19 Dec 90.
From: Commander, Naval Sea Systems Command.
To: Chief of Naval Operations (OP-041).
Subj: Realignment of Philadelphia Naval Shipyard.

1. In reference (a), you indicated that my recommendation that Philadelphia Naval Shipyard be downsized rather than closed was not accepted by the Base Closure/Realignment Advisory Committee. The fleet needs the capability of a naval shipyard to provide a credible repair capability able to services the Newport, Philadelphia, New York and Earle area, as well as to provide a source of repair when a private sector shipyard is unable to complete the assigned work in the areas, as stated in reference (b).

2. Under the closure option and in interest of clarification, the 30 people mentioned in reference (a) were an estimate of the number of people required to man the *drydock* in a mothball status. In addition to this, 255 people would be required to man the remaining facilities: 135 to provide residual facilities support and 100 to run the propeller shop and foundry. This compares with approximately 1,200 personnel under the "small repair capability"; option: 135 residual facility support, 100 to run the propeller shop and approximately 945 to perform repair work for the fleet. Any required additional support for this facility would be from another larger naval shipyard such as Norfolk Naval Shipyard.

3. I continue to take the position that retention of a credible repair capability at Philadelphia for naval ships homeported in the Northeast area is the most cost effective solution:

(1) It provides the fleet with low cost, reliable repair capability.

(2) It helps spread the effects of the costs to Navy Programs of the other repair facilities (foundry, utilities, etc.).

Further, the workload distribution for naval shipyards in the 90's supports full operations at Philadelphia through mid FY 95. As previously briefed, executing a realignment of Philadelphia Naval Shipyard in FY 93 will cause significant perturbations to carrier overhauling yard assignments and could result in an East Coast CV overhauling on the West Coast.

P.M. HEXMAN, Jr.

DEPARTMENT OF THE NAVY,
Washington, DC, December 19, 1990.

From: Commander, Naval Sea Systems Command.
To: Chief of Naval Operations (CP-04).
Subj: Realignment data for Philadelphia Naval Shipyard.
Ref: (a) COMNAVSEA ltr 5000 OPR: 0733/T0373 Ser: 00/8224 of 20 Nov 10. (b) CINCLANTFLT ltr 4700 Ser N436/007378 of 14 Sep 90.

1. In reference (a), I provided information relative to the proposed realignment of Philadelphia Naval Shipyard, while maintaining the propeller shop and foundry, the Naval Ship Systems Engineering Station (NAVSSES) and the Naval Inactive Ship Maintenance Facility (NISMF). (While I realize that the Secretary has been briefed and has concurred with the proposal to mothball Philadelphia Naval Shipyard, I strongly recommend that this decision be reconsidered. It is more prudent to downsize Philadelphia Naval Shipyard to approximately the size of a Ship Repair Facility (SRF) in order to support Navy ships in the New York and Earle homeport areas. In reference (b), CINCLANTFLT outlined the history of Atlantic Fleet depot maintenance problems with marginal ship repair contractors. A Navy industrial capability is required in the Philadelphia area to provide a safety valve when a private sector shipyard is unable to complete awarded ship work.

2. Further, recommend that the drawdown of Philadelphia Naval Shipyard to an SRF-size shipyard not be done until FY 95, as the shipyard is required to support scheduled workload until that time.

P.M. HEXMAN, Jr.

DEPARTMENT OF THE NAVY,
Washington, DC, March 29, 1981.

Encl: (1) Philadelphia Naval Shipyard—Option 1. (2) Philadelphia Naval Shipyard—Option 2. (3) TAB A Report Documentation—Naval Shipyards.
From: Commander, Naval Sea Systems Command.
To: Chief of Naval Operations (OP-43).
Subj: Base closure final documentation.

1. Enclosures (1) and (2) provide the COBRA options for the naval shipyards as requested on 28 March 1991. They are as follows:

a. Philadelphia Naval Shipyard—Option 1. Close and preserve Philadelphia Naval Shipyard in FY 93 after completing the USS CONSTELLATION (CV 64) SLEP and the USS FORRESTAL (CV 59) dry docking availability. Retain the propeller facility, the Navy Inactive Ship Maintenance Facility (NISMF) and the Naval Ship Systems Engineering Station (NAVSSES) in Philadelphia. Move the USS JOHN F. KENNEDY (CV 67) overhaul to Norfolk Naval Shipyard.

b. Philadelphia Naval Shipyard—Option 2. Commence realignment of Philadelphia Naval Shipyard in FY 93 and complete downsizing to approximately 1200 people in FY 95. Retain the propeller facility, the Navy Inactive Ship Maintenance Facility (NISMF) and the Naval Ship System Engineering Station (NAVSSES) in Philadelphia.

3. Enclosure (3) provides the revised documentation for the above options.

4. We recommend that option 2 be approved for Philadelphia Naval Shipyard, i.e., that Philadelphia Naval Shipyard be drawn down to a small size activity in the mid 90's as workload declines in order to provide a government controlled CV dry dock site and ship repair capability for the northeast.

J.S. CLAMAN,
Rear Admiral, USN.

Mr. SPECTER. The questions I have for the Senator from Georgia are: Are these letters not really different than a statement by some admiral or general that he wants to keep the weapons system? And are they not really of a totally different quality when they are kept from the General Accounting Office and kept from Senators? And is this the kind of a sanction the Senate wants to give to the Navy to hide matters like this in order to get their way on the base closing?

Mr. NUNN. Mr. President, I say to my friend from Pennsylvania that he makes a good point. I believe his point is valid in the sense that, first of all, information should not be withheld. Second, if it is withheld and it is discovered, the people who withheld it should be punished under the appropriate procedures. Third, the information, if it is withheld and discovered, ought to be presented to the Commission itself, and if not the Commission in being, the next Commission. And I understand that in the case of these letters, they were presented to the 1993 Commission, even though the 1991 Commission took action. Fourth, immediately this information should be conveyed to the appropriate committees of the Congress of the United States and to Congress itself, which would be considering that, and to the President of the United States.

I agree with the Senator on everything he said, with one exception: I do not think we need the courts involved in this. I believe there are other vehicles, whether it is the IG or the General Accounting Office, or whether it is the Congress or the President, without getting judicial review which, as I repeat, would actually, I think, compromise the timing and overall cohesion of the process.

Mr. SPECTER. I thank my colleague from Georgia. I have more work to do. I am going to take this back to the Base Closure Commission when they are back in business in 1995. I am going to prove my case in all those other forums. As the Senator from Ohio suggests, I will bring it back to the Congress at a later date.

I note that the Senator from Arizona wants to comment. I will not speak long in wrapping up, but I will yield to the Senator from Arizona.

Mr. McCAIN. Mr. President, first of all, I congratulate the Senator from Pennsylvania, whose tenacity and dedication to ideals and goals that he believes in is well known in this body. I believe it is the first time in many years that a sitting Senator has gone so far as to argue the case before the U.S. Supreme Court. He has fought this issue very hard on behalf of the people of his State and the people of Philadelphia. I admire that and appreciate it. In the course of his zealous crusade, he has uncovered some clear problems that need to be adjusted in the process.

By the way, I intend to introduce a sense-of-the-Senate resolution that the 1995 BRAC process should go forward. I believe that strongly, unless there is some dramatic turnaround in the defense budget, because the situation as it exists today is that we have cut the defense budget over the last 7 or 8 years by some 40 percent in its force structure; and, at the same time, only 15 percent of the infrastructure has been cut. Frankly, no person can conduct business with a huge overhead that they are not using.

I will hear the arguments when I introduce this bill that the environmental cleanup costs have escalated and it is costing us more than anticipated. I fully agree with every one of those arguments. But we are going to—as it says in one of the advertisements we see on television—"pay now or pay later."

I know it is not the intent of Senator SPECTER's amendment, but I believe if we open this process up to judicial challenge and suits through the courts, in the facts of life of the world we live in today, judges would delay or block closures or realignments, and we would see argument after argument, not unlike that we saw pursued, albeit unsuccessfully, by the Senator from Pennsylvania.

So I want to work with the Senator from Pennsylvania in attempting to make this process more fair, clear. Clearly, the shortcomings will be revealed in up-to-date and accurate information being provided by the Commission. The Commission has made decisions literally with a few minutes of consideration in some cases. I would like to work with him in including the process so he does not have to go through what he went through.

So I reluctantly oppose this amendment. But, at the same time, I applaud the efforts of the Senator from Pennsylvania and give him my commitment that I will do everything I can to make this better. Those of us who are from States, frankly, that have bases in jeopardy are obviously concerned, and that happens to be the case with my State of Arizona.

THE CRISIS IN KOREA

Mr. McCAIN. Mr. President, if history teaches us anything about modifying the behavior of dictators, it is that the efficacy of incentives depends on the simultaneous employment of disincentives. To get a mule to move, you must show it the carrot and hit it with a stick at the same time.

Throughout the confusion and sudden reverses that have plagued the Clinton administration's attempts to curb North Korea's nuclear ambitions, one quality of administration diplomacy has remained constant. The administration's approach to resolving this crisis has consistently reflected the mirror opposite of North Korea's efforts to realize their aspirations for membership in the nuclear power club. Our diplomacy employs only carrots; theirs, only sticks.

On the many occasions when the administration's carrots have failed to prevent North Korea's violations of the Nuclear Non Proliferation Treaty, the Clinton administration has limited its choice of sticks to the withdrawal of the carrot. For instance, the administration responded to North Korea's discharge of the remaining fuel rods from the Yongbyon reactor by canceling their offer of a third round of high level talks.

Yes, they also began consulting with U.N. Security Council members about the imposition of sanctions against North Korea. But their attempts were half-hearted at best; were limited to the consideration of symbolic sanctions; and were, in effect, dropped once former President Carter succumbed to the charms of that avuncular dictator, Kim Il-song.

Using sticks such as their threatened withdrawal from the NPT and the International Atomic Energy Agency, North Korea has consistently intimidated administration diplomacy. To divert the administration from taking punitive measures in response to North Korea's violations of the NPT, Kim Il-song has raised, then withdrawn his stick, masking his forbearance in the disguise of a carrot. That tactic was on full display during the Carter visit.

Thanks to former President Carter's performance as an innocent abroad in North Korea, the administration now feels that it has no choice but to pursue the purported openings to resolve the crisis offered by Kim Il-song. The practical effect of President Carter's public embrace of the Great Leader is that the administration effort's to secure even a symbolic sanctions regime would fail at the present time. Thus, President Carter's effect on the international politics of this crisis requires President Clinton and the South Korean Government to spend the time necessary to call the North's bluff.

I can understand why President Clinton might have wanted to make a virtue of necessity, by announcing that North Korea's offer was tempting enough to explore in a third round of high level talks. But I had hoped that a sense of humility and an appreciation for North Korea's long record of broken promises would have restrained administration exuberance when announcing their decision to resume negotiations. That announcement should have been understated, released on paper, and colored with great skepticism about the North's sincerity.

Instead, President Clinton greeted North Korea's specific promise to freeze their nuclear weapons program and to refrain from expelling the last two IAEA inspectors as if North Korea had, at least, offered the United States a concession worth celebrating. The President publicly identified himself with the Carter initiative and all of the former President's overstated rhetoric about personally saving Korea from war.

Mr. President, what, in fact, has North Korea given up in this offer? Nothing. The fuel rods which North Korea would use to make weapons grade plutonium cannot be used until they cooled down for at least another month. Neither can the reactor be refueled until the rods have cooled. In other words, North Korea's nuclear program is, of physical necessity, frozen.

What North Korea has done is withdraw a threatened stick regarding the expulsion of the inspectors and offered to refrain from utilizing a capacity that it presently does not have. For this, they received a celebration in the White House press office, and President Clinton's enthusiastic embrace of President Carter's diplomacy. While the talks drag on, the North Koreans will be granted sufficient time to reach the point when they can convert the fuel into weapons grade plutonium. During this time they will not be constrained by economic sanctions or the buildup of United States military forces on the Korean peninsula. The most critical reinforcements necessary to diminish North Korea's ability to destroy Seoul with artillery fire will now be held in abeyance while the United States finds itself trapped in negotiations with the North, leaving Seoul a hostage to Pyongyang's future belligerence.

I say we will be trapped because the Carter initiative is now the Clinton initiative. Had it failed before yesterday, the administration could have plausibly blamed the whole mess on President Carter's naivete. Now, the blame will be placed squarely on President Clinton—as it should.

This political reality, I suspect, will cause President Clinton to become a coconspirator with Kim Il-sung in dragging the talks out even if it becomes apparent that North Korea is only stalling until it can develop four to six additional nuclear weapons.

After the President's overreaction to what is at best a dubious offer from North Korea, President Clinton's reputation as a world leader will be permanently injured in public opinion if the talks fail. He now has a rather significant personal political stake in preventing the perception that the talks have failed from taking hold in the public's mind. I greatly fear that the President will allow this political imperative to override national security concerns.

Yet, it is at least an even money bet that the talks will fail, Mr. President. Although the administration will attempt to obscure a failure, we will reach a point when it is apparent to all. That point will be apparent when North Korea suddenly violates the last of its obligations under the NPT by resuming operations in its reprocessing plant and converting the fuel now in cooling ponds into weapons-grade plutonium.

Should they begin reprocessing, our only means to deprive the North Koreans of an additional four to six nuclear weapons would be to immediately destroy the reprocessing plant with air strikes. President Clinton may have only hours to make that decision. Does anyone believe that he will choose air strikes?

He will not choose that necessary option, Mr. President, because he has neglected to reinforce our counter battery defenses to a level sufficient to spare the city of Seoul from complete destruction by North Korean artillery. He has done so irrespective of the concerns of military commanders in Korea. Consequently, the United States will have to learn to live with North Korea's possession of as many as eight nuclear weapons, just as the President is apparently prepared to live with their possession of two nuclear weapons.

Those who doubt the acuity of my speculation should know that we will have an early test of the administration's resolve. The first agenda item in the negotiations to begin the first week of July will be access to two nuclear waste sites where the IAEA might gain at least a partial understanding of how much plutonium was diverted to weapons production in 1989.

You will remember, Mr. President, that it was North Korea's destruction of the means for an accurate measurement of that past diversion that caused the administration to drop its original offer of a third round of talks and to go to the Security Council for a sanctions resolution. Administration officials have assured me that the first order of business in the forthcoming negotiations will be North Korea's commitment to partially remedying their violation of the NPT by allowing challenge inspections of the two waste sites. They assured me that if North Korea does not satisfy their concerns on this issue that the talks will not go forward.

As recently as last Friday, North Korea's Foreign Minister said that his government would never allow IAEA access to the waste sites. If the North Koreans stay true to form, they will reject the administration's first agenda item in Vienna. If the administration allows this priority to be set aside to discuss other items on the agenda, we will then know that President Clinton has abandoned his public commitment to a nonnuclear North Korea. North Korea will know that they have prevailed in the overmatched contest between Kim Il-song's and President Clinton's diplomacy. And the United States vital interests in Asia will have been almost irreparably damaged.

Mr. President, there may yet be a way to prevent this nightmare scenario I have outlined from becoming reality. It will require from the administration a greater degree of resolve than it has heretofore shown during this crisis. It will require the President to employ simultaneously both the carrot and the stick.

The United States should open the discussions with North Korea in Vienna by informing the North Koreans that while we welcome Kim Il-song's commitment to former President Carter, we are not relying on their good faith to make these talks successful by abiding by their obligations under the NPT. Accordingly, we have taken a precautionary and purely defensive action aimed at denying Pyongyang the capital of South Korea as a hostage. We have deployed additional counter battery artillery to our defenses north of Seoul sufficient to greatly diminish North Korea's present ability to reduce that city to ashes should they choose to pursue their nuclear ambitions by further violating the NPT.

This prudent and necessary approach should enlighten the North Koreans about our commitment to achieving a nonnuclear Korean peninsula by whatever means necessary. Should they suddenly commence the reprocessing of the fuel now in cooling ponds, the President's decision to exercise a military option will not be hindered by his concern over North Korea's present artillery advantage.

Should we fail to follow such a sensible course I expect that the North Koreans will delay a resolution of this crisis until it becomes impossible to resolve. They will then have the means to achieve the only strategic objective we have ever been certain that North Korea wants—the reunification of the Korean peninsula under Kim Il-song's authority.

To those who reject this dire prediction, I leave one historical anecdote. In the spring of 1950, Kim Il-song proposed that he and South Korean President Sygman Rhee hold summit talks in August 1950, just as he has now proposed to meet with the current South Korean President, Kim Young Sam in August.

In June 1950, the North invaded South Korea, and the United States was dragged into a long and bloody war for which we were not prepared. Should President Clinton wish to avoid such a fate for our country, he would be wise to exercise a little more caution and a little more resolve in his future dealings with the great leader, Kim Il-song.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I thank the Chair.

Mr. President, I wish to commend my distinguished colleague. That was a brilliant résumé of the situation today, and a clear direction of what procedures should be followed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The Senate continued with the consideration of the bill.

Mr. WARNER. Mr. President, I wish to inform the Senate that at the appropriate time, subject to the concurrence of the managers as to timing, it would be the intention of the Senator from Virginia to move to table the amendment of the Senator from Pennsylvania.

Mr. NUNN. Mr. President, I do not want to cut anyone off, if the Senator from Pennsylvania would like perhaps a couple minutes to close out his argument. We will have a motion to table. I have another amendment ready to come up at the moment.

Would the Senator from Pennsylvania like to have the final word here, and then we could go to the Warner motion to table?

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I thank the Senator from Georgia.

I would like to make a few concluding remarks, and they will not be long, so colleagues will be on notice we will be voting in the course of the next few minutes.

I frankly am a little bit at a loss on the whole procedure under the Base Closure Act, as to what is happening here and in the courts on, in effect, sanctioning concealment and fraud by the Department of the Navy. I am concerned about it because the fraud is blatant, it is obvious, and it is provable by documentation.

For a very brief personal aside, Mr. President, I think I became interested in being in the Congress of the United States when I was a youngster in Wichita, KS, and I heard my father comment about the veterans march on Washington in about 1932 or 1933, when the troops were called out and the veterans were marching for their bonus. In a sense, I think I have been on my way to Washington for a long time out of concern for that kind of injustice.

I think it is a rare opportunity to be a U.S. Senator, to speak out and to act on that kind of injustice.

I strongly, really fervently believe there is that injustice in this matter, and I have pursued it in the Federal courts, with the help of former Pennsylvania supreme court Justice Bruce Kauffman and the Dilworth law firm, which has invested more than $1 million in time pro bono; that is, free from public cost.

The Court of Appeals for the Third Circuit twice said that a very narrow ambit ought to be subject for review. The Supreme Court of the United States said there would not be judicial review because the Congress had not authorized it.

So I bring the matter back to the Congress to ask, on a very, very narrow ambit, for judicial review when there are two documents showing fraudulent concealment.

This is not the first time I have asked the Congress to review the matter. Because I asked the subcommittee of the Armed Services Committee to do so back in 1991 immediately after the base closure order came down, and was told at that time by the chairman of the subcommittee, then Senator Dixon, that it was a matter for the courts. So I pursued it in the courts, and I brought it back here today.

I am a little bit at a loss when I hear assertions about a volume of litigation. I have asked the question and gotten responses from two Senators that they really do not have any—I am not looking for evidence—they do not have any indicators that there would be an avalanche of litigation.

There were some 310 cases brought on base closures and realignment. There are only three lawsuits. And I do not know of any lawsuit that rises to the level of the documentary evidence which I have put in the RECORD here: three letters from admirals, two admirals, Claman and Hexman, saying the base ought to be kept open.

I am not saying that those letters would have carried the day, Mr. President, before the Base Closure Commission, but I am saying that they certainly should have been reviewed.

The Philadelphia Navy Yard was established in 1801. It is the anchor of the city. It is going to be closed here in a process which smacks of fraud, deceit, deception, and corruption. If this body puts its imprimatur of approval on that today, so be it.

I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wonder if I might ask the distinguished chairman, before making the motion with respect to the pending amendment, is the chairman in a position to advise the Senate on the likely order of amendments that would follow?

It is my hope that the amendment from the Senator from Wisconsin relating to CVN-76 could be brought up following whatever amendment is to be taken up now.

Mr. NUNN. I thank the Senator from Virginia.

My response is that there is no order by the Senate, but what the managers of the bill prefer is that we now have Senator JOHNSTON, Senator FEINSTEIN, and Senator LOTT on the floor, all concerning another amendment regarding sealift and amphibious ships.

After that debate is concluded and we vote on that, I hope we could get the carrier amendment up immediately thereafter. It would be a matter of whoever has that amendment coming to the floor. I have talked to Senator FEINGOLD, and I believe he would be prepared to do that.

It is my hope—and I will wait until we get on this other amendment, and I ask the Senator from Mississippi, perhaps, to give this some thought—it is my hope that after the debate starts on the second amendment after this rollcall vote, to think in terms of a time limit on this amendment. But I will leave that for a later moment.

Mr. WARNER. Mr. President, I thank the distinguished chairman.

Mr. WARNER. Mr. President, after consultation with the Senator from Pennsylvania, I move to table the amendment.

Mr. SPECTER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Virginia [Mr. WARNER] to table the amendment of the Senator from Pennsylvania [Mr. SPECTER]. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Connecticut [Mr. DODD] is absent because of illness in the family.

Mr. SIMPSON. I announce that the Senator from Wyoming [Mr. WALLOP] is necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "yea."

The PRESIDING OFFICER (Mrs. MURRAY). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 71, nays 27, as follows:

[Rollcall Vote No. 163 Leg.]

YEAS—71

Akaka
Baucus
Bingaman
Bond
Boren
Breaux
Bryan
Bumpers
Byrd
Campbell
Chafee
Coats
Conrad
Coverdell
Craig
Danforth
Daschle
DeConcini
Dorgan
Durenberger
Exon
Feingold
Ford
Glenn
Gorton
Graham
Gramm
Gregg
Harkin
Hatfield
Heflin
Helms
Hollings
Hutchison
Inouye
Johnston
Kassebaum
Kempthorne
Kennedy

Kerrey
Kerry
Kohl
Leahy
Levin
Lieberman
Lugar
Mack
Mathews
McCain
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Murkowski
Murray
Nickles
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Smith
Thurmond
Warner
Wellstone

NAYS—27

Bennett
Biden
Boxer
Bradley
Brown
Burns
Cochran
Cohen
D'Amato
Dole
Domenici
Faircloth
Feinstein
Grassley
Hatch
Jeffords
Lautenberg
Lott
McConnell
Moynihan
Packwood
Pressler
Riegle
Simpson
Specter
Stevens
Wofford

NOT VOTING—2

Dodd
Wallop

So the motion to lay on the table the amendment (No. 1839) was agreed to.

Mr. GLENN. Madam President, I move to reconsider the vote by which the motion was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Madam President, was leaders' time reserved?

The PRESIDING OFFICER. The Senator is correct.

RELIGIOUS BIGOTRY: GOP LETTER TO THE PRESIDENT

Mr. DOLE. Madam President, with the increasing unpopularity of the Clinton health care plan, confusion over American leadership on the world stage, and a long string of Democrat electoral losses, it's becoming increasingly clear that some members of the Democrat Party are resorting to campaign tactics based on religious bigotry to divert attention from these failings. That's regrettable. The essence of democracy is participation, and using terms such as "fire-breathing christian radical right" to label Americans who happen to go to church and go to the polls—to question their participation on religious grounds—only cheapens our democracy. These are the kinds of comments that bring to mind the unpleasant attacks faced by Al Smith in 1928 and John F. Kennedy in 1960.

As I said yesterday, the American people are much smarter than the Democrats who resort to these tactics realize. They care about where a candidate stands on the issues. They aren't concerned with whether or not a candidate is Catholic, Jewish, Episcopalian, Methodist, or Evangelical.

In my view, the American people will reject these appeals to religious bigotry, and I hope the President of the United States will do so, as well. President Clinton has spoken eloquently about the need for tolerance in our Nation, and the importance of religion in the lives of Americans. Accordingly, all 44 Senate Republicans sent a letter to the President today asking him to join us in repudiating the remarks of those in his party who have resorted to this strategy of religious bigotry.

Madam President, I ask unanimous consent that the letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. DOLE. Madam President, Republicans look forward to a healthy debate this campaign season on the challenges facing our Nation. The American people will cast their votes this November based on the issues and the quality of the candidates, not on manufactured political hysteria.

EXHIBIT 1

U.S. SENATE,
Washington, DC, June 22, 1994.

Hon. WILLIAM CLINTON,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: As the November elections draw closer, Americans will be looking to Republican and Democrat candidates to discuss their positions on the challenges facing our country. And we believe that a frank debate of our differences on issues like health care, taxes, crime, and foreign policy is the essence of a healthy democracy, and will be good for America.

What is not good for America, however, is questioning a candidate's fitness for office because of his or her religious beliefs. And that is precisely what several prominent members of your party have done in recent days, making comments that bring to mind the type of attacks faced by Al Smith in 1928 and John Kennedy in 1960.

Mr. President, you have spoken eloquently in the past about the need for tolerance in our lives, and about the importance of religion in the lives of Americans. We write to ask that you now join with us in repudiating the remarks of those who use terms like "fire-breathing Christian radical right," and who cheapen our democracy through religious bigotry.

Sincerely,

BOB DOLE.
PAUL D. COVERDELL.
KAY BAILEY HUTCHISON.
CONRAD BURNS.
LARRY E. CRAIG.
THAD COCHRAN.
SLADE GORTON.
MALCOLM WALLOP.
DON NICKLES.
PHIL GRAMM.
DANIEL COATS.
DIRK KEMPTHORNE.
R.F. BENNETT.
JIM JEFFORDS.
BILL ROTH.
JACK DANFORTH.
ARLEN SPECTER.
TED STEVENS.
LARRY PRESSLER.
FRANK H. MURKOWSKI.
NANCY LANDON KASSEBAUM.
CONNIE MACK.
KIT BOND.
MITCH MCCONNELL.
RICHARD G. LUGAR.
ALFONSE D'AMATO.
HANK BROWN.
BOB SMITH.
AL SIMPSON.
PETE V. DOMENICI.
JUDD GREGG.
ORRIN HATCH.
TRENT LOTT.
JESSE HELMS.
JOHN H. CHAFEE.
BILL COHEN.
LAUCH FAIRCLOTH.
DAVE DURENBERGER.
CHUCK GRASSLEY.
STROM THURMOND.
MARK HATFIELD.
JOHN MCCAIN.
JOHN WARNER.
BOB PACKWOOD.

CRIME CONFERENCE

Mr. DOLE. Madam President, after months of delay, the Senate and House have finally begun their conference deliberations on a crime bill.

The conference could not be more timely, for sadly, in the America of 1994, no community, no neighborhood, no city, no one person is completely safe. The scourge of crime is everywhere. Everyone is at risk.

So, Madam President, as the conference begins its work, the American people have a right to ask some important questions:

Will the conference report adopt a hard-headed approach to violent crime and violent criminals, or will it simply take a page out of the old and discredited root causes playbook, pumping billions and billions of additional Federal dollars into social welfare programs of dubious value?

Will the conference contain the so-called Racial Justice Act provisions, allowing criminal defendants to overturn their capital sentences using statistics alone? Or will it heed the warnings of the National Association of Attorneys' General, the National District Attorneys' Association, and other law enforcement groups who argue that these provisions would have the practical effect of abolishing the death penalty nationwide—at both the Federal and State levels?

Will the conference report devote enough resources to incarceration so that we can finally slam shut the revolving prison door? And will it emphasize truth-in-sentencing, so that a 15-year prison sentence means just that—15 years, and not 5 years or 10 years? Nothing does more to shatter public confidence in our system of criminal justice than the sight of a convicted violent criminal, released from prison into our communities, the beneficiary of a liberal parole policy.

Will the conference endorse tough mandatory minimum sentences for those who use a gun in the commission of a crime? And will it adopt a comprehensive three-strikes-and-you're-out provision that is not strapped with so many conditions and caveats, that it becomes virtually meaningless?

Madam President, when it comes to fighting crime, the American people do not want gimmicks. They want—and they deserve—tough, hard-headed solutions.

That is why this Senator is prepared to vote against any conference report that does not meet the tough-on-crime test: Substantial funding for prisons, a strong emphasis on truth-in-sentencing, no Racial Justice Act, including any compromise version, and a commitment to mandatory minimum sentences for violent criminals.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Madam President, I understand the Senator from Wisconsin has a unanimous consent request. I would like to yield to him for that purpose, and retain the floor.

PRIVILEGE OF THE FLOOR

Mr. KOHL. Madam President, I ask unanimous consent that Bill Brennan, a fellow in my office, be granted the privilege of the floor during consideration of the defense authorization bill.

Mr. JOHNSTON. I understand the junior Senator from Wisconsin also has a unanimous-consent request.

Mr. FEINGOLD. Madam President, I ask unanimous consent that Bob Gerber, a congressional fellow in my office, be granted the privilege of the floor during the consideration of the National Defense Authorization Act for fiscal year 1995, and all votes thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1840

(Purpose: To restore the level of funding for the National Defense Sealift Fund that was requested in the budget for fiscal year 1995 submitted by the President by reducing fiscal year 1995 funding for LHD-7)

Mr. JOHNSTON. Madam President, on behalf of myself, the Senator from California, Mrs. FEINSTEIN, and Senators BREAUX, BOXER, and KOHL, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for himself, Mrs. FEINSTEIN, Mr. BREAUX, Mrs. BOXER and Mr. KOHL, proposes an amendment numbered 1840.

Mr. JOHNSTON. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 249, line 7, strike out "1949" and insert in lieu thereof the following: 1949.

SEC. 1068. ACQUISITION OF STRATEGIC SEALIFT SHIPS.

(a) AMOUNT FOR SHIPBUILDING AND CONVERSION.—Notwithstanding section 102(3), there is hereby authorized to be appropriated for the Navy for fiscal year 1995, $5,532,007,000 for procurement for shipbuilding and conversion.

(b) NATIONAL DEFENSE SEALIFT FUND.—Notwithstanding section 302(2), there is hereby authorized to be appropriated for the Armed Forces and other activities and agencies of the Department of Defense $828,600,000 for providing capital for the National Defense Sealift Fund.

Mr. LOTT. Madam President, I observe the absence of a quorum.

Mr. JOHNSTON. Madam President, I believe I had the floor.

Mr. LOTT. Madam President, I do not believe the Senator keeps the floor after he submits an amendment. I ask for this time so I have an opportunity to at least take a look at the amendment. I have not had a chance to see it at all. I would like to at least have a chance to look at it before we proceed, so I would like to observe the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Madam President, has the amendment been reported?

The PRESIDING OFFICER. Yes.

Mr. JOHNSTON. Madam President, this amendment undoes an amendment adopted in error in the Armed Services Committee which transferred $600 million from the so-called fast sealift account to build an LHD-7, which is an amphibious attack ship.

Madam President, the action of the Armed Services Committee was opposed by the Navy, by the Secretary of the Navy, is opposed strongly by the Chairman of the Joint Chiefs of Staff, Gen. John Shalikashvili, whose letter I have that says that the fast sealift program is the centerpiece of Army doctrine now. It is opposed by the administration, and it is opposed by the chairman of the Armed Services Committee.

With that kind of lineup, Madam President, my colleagues may ask: How in the world did the Senate Armed Services Committee ever adopt the amendment? Well, the answer is very simple. They were given erroneous information about the U.S. Navy. I have a memorandum here by Mr. R.J. Natter of the Office of Legislative Affairs of the Department of the Navy, dated 13 June 1994, in which he described how the erroneous information came about. He says in the first sentence:

The attached memorandum describes the sequence of events which resulted in your staff being provided incorrect information regarding the option expiration date for new construction ships 2 and 3, awarded to NASSCO.

It goes on then describing how the Senate Armed Services Committee was given erroneous information.

In effect, Madam President, what the Senate Armed Services Committee was told was that you could fund both the sealift program and the LHD-7 amphibious attack ships within this budget without hurting the fast sealift program.

I ask unanimous consent that the letter from R.J. Natter be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE NAVY,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, June 13, 1994.

Memorandum for: Mr. Steve Saulnier and Mr. Creighton Greene.

Subject: Sealift new construction contract options.

1. The attached Memorandum describes the sequence of events which resulted in your staff being provided incorrect information regarding the option expiration date for new construction ships 2 and 3 awarded to NASSCO. Contrary to the initial information provided to OLA by NAVSEA on 9 June, the option expires on 31 December 1994 vice 31 December 1995. The correct option expiration date (31 Dec 94) was provided to my office on 10 June and passed immediately to you on that same date.

R.J. NATTER.

Mr. JOHNSTON. The letter points out that the information was in error.

Why is it, Madam President, that General Shalikashvili states: "However, this diversion would place at risk the centerpiece program of the MRS"—that being the Mobility Requirement Study—"despite the critical shortfall cited by many commanders in chief in congressional testimony. Further, it changes the priorities of an essential program developed with the Joint Chiefs of Staff and approved by the Secretary of Defense."

I ask unanimous consent that General Shalikashvili's letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE JOINT CHIEFS OF STAFF,
Washington, DC, June 22, 1994.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN, I am writing to express my concern about the current version of S. 2182 that would significantly damage our long-standing, integrated lift requirements as expressed in the 1992 Mobility Requirements Study (MRS) and supported in our budget request.

My primary concern is that the proposed legislation diverts *all* FY 1995 funding from construction of two Large Medium Speed RO/RO ships (LMSR) to an initial down payment for another multi-purpose amphibious assault ship (LHD) and also funds two Maritime Pre-positioning Ships (MPS) that the Department of Defense did not request. I understand this committee revision was based

> upon erroneous information, later corrected, which was provided to you by the department. However, this diversion would place at risk the centerpiece program of MRS despite the critical shortfall cited by many CINCs in congressional testimony. Further, it changes the priorities of an essential program developed with the Joint Chiefs of Staff and approved by the Secretary of Defense.
>
> Another concern I have is that the bill diverts $43 million in funding from the purchase of Ready Reserve Force (RRF) RO/RO ships which are key to the surge of early arriving forces. The SASC instead funds a subsidy program to incorporate defense features on future US-built commercial ships. This would sacrifice near-term readiness that supports early combat force deliveries in favor of an unproven concept designed to deliver follow-on materiel. At a minimum, I request the Senate provide the Department the legislative authority to acquire these ships.
>
> If enacted, these measures will unravel our carefully constructed sealift acquisition program. This measured and studied program has enjoyed wide support among military professionals, defense executives and the Congress as both absolutely essential and fiscally responsible. The MRS, a rigorous study which included over 90 warfighting analysis cases, also received the endorsement of each member of the JCS.
>
> Please reverse these actions to support our sealift requirements—the military strategy critically requires it. I strongly support the execution of the MRS program.
>
> Sincerely,
>
> JOHN M. SHALIKASHVILI,
>
> *Chairman of the Joint Chiefs of Staff.*

Mr. JOHNSTON. The last sentence states:

> Please reverse these actions to support our sealift requirements—the military strategy critically requires it.

Madam President, what is the fast sealift program? With the end of the cold war, we could no longer place troops in great numbers all around the world.

At one time we had 300,000 troops in Germany. We had troops all over the world. And fast sealift has always been important but not such critical importance as it has been since the demise of the cold war when we had to bring troops back to the continental United States, but with a critical fast sealift ability to be able to deploy them quickly to trouble spots around the world.

For example, the present difficulty with North Korea. We have reduced our number of troops in South Korea. I believe that we now have only 37,000 troops in South Korea, a tripwire amount. If hostilities should break out in South Korea, we would have to very quickly deploy troops and materiel to South Korea to defend them. We would have to deploy them very quickly.

My colleagues who are old enough will remember in 1950 when the North attacked the South how the North Koreans were able to chew up a huge amount of the South Korean Peninsula because it took our troops so long to get there.

Recognizing this difficulty, in 1991, the Chairman of the Joint Chiefs commissioned a study called the MRS, the mobility requirement study, to determine how much sealift we would need, of what kind and nature, to get what kind of requirements to what trouble spots in the world, at what costs, and on what time line.

They came up with a study that concluded that what we needed were some 36 ships which we called roll-on/roll-off ships. Some are fast sealift, some are medium-speed ships, having this ability to roll on and roll off ships. The 36 ships will allow some 2 million square feet of prepositioned materiel equipment within 15 days.

In other words, a balloon goes up in North Korea. Once we build this fast sealift, you could get 2 million square feet of materiel within 15 days to South Korea. It would also enable us to get two heavy divisions on site within 30 days. So, these were thought to be absolutely essential requirements to the new post-cold-war strategy. If you are going to bring the troops back to the United States, you must be able to get them to the trouble spots quickly.

As General Shalikashvili says, this fast sealift is a centerpiece of our strategy. Either you have to have the troops out there on site, which means you have to have many more troops at much greater costs, or you have to have the fast sealift capability.

In Operation Desert Storm we learned a great many things. We learned about the importance of smart weapons, about the importance of technology, and about the importance of having overwhelming force. We also learned about our difficulties in our sealift. It so happens that that was no problem in Operation Desert Storm because we had some 6 months within which to get our materiel and our manpower over into the desert location.

Madam President, President Clinton said last week that is probably the last conflict that we will have the luxury of that much time to get our troops over.

The next time the balloon goes up it will probably be on a much faster timeline, as in North Korea. If North Korea attacks, and we hope and pray as to that particular conflict the immediate danger has been taken out—we have had discussions here about that particular problem today. Some of our colleagues think that that issue is just as difficult as it ever was. But there are many other difficult places on the face of the Earth which will require a quick reaction.

It is, therefore, absolutely essential, Madam President, that we allow for these 36 roll-on/roll-off ships. Now there are 19 of these 36 ships that have yet to be built. There are six what we call options. An option really is an offer stating a price, stating a means to build a ship, with a specified time for acceptance of that offer. There are now six of those options at a shipyard in my State, Avondale; six at NASSCO, National Steel, I think, in California, in San Diego; five conversions of presently existing ships; and two yet to be determined.

The first two of those options at Avondale have been exercised. The first two at NASSCO have been exercised.

What the Armed Services Committee did was put in this budget $600 million to pay for those first two NASSCO and Avondale ships, so that we are just beginning on meeting these requirements for fast sealift. And the first $600 million was placed here in order to do that.

What the Armed Services Committee was told was that this amendment would not interfere with those first four ships going forward and being constructed. In fact, it would not only prevent those ships from being constructed, but the LHD–7, which is an excellent amphibious attack ship, which is the alternative funding provided by the Armed Services Committee. That is a $1.4 billion ship.

So you take the first $600 million, and you have an unmet obligation for the additional $800 million, which would probably not only take these four fast sealift ships, but take the next six or so fast sealift ships. So you would be saying probably so long to the whole fast sealift program.

Madam President, I am sure the Armed Services Committee would not have done that had they been given the correct information. I feel sure that the Senate would not do that based upon the correct information. It is rare that you can stand on the floor of the Senate and have an issue which is really clear, because usually by the time issues are here on the floor of the Senate they are hotly debated, highly controversial, with equities on both sides.

With respect to this issue, Madam President, I say without fear of contradiction there is no other position than the position of Senator FEINSTEIN and me with respect to this amendment. I hope that we will be able to find an alternative way of funding the LHD–7 which, as I mentioned earlier, is an excellent amphibious attack ship. Everyone would like to fund it, and I would like to cooperate with my distinguished friend from Mississippi, Mr. LOTT, in finding an alternative way to do that. But the fast sealift program Madam President, is the centerpiece of our new doctrine. You cannot have it both ways. You cannot reduce the size of your armed force and have a doctrine that depends upon a projection of power by fast mobility of those troops to a trouble spot quickly, and then deny the ability to get them there.

That is what the action of the Armed Services Committee, inadvertently, mistakenly, to be sure, in good faith, to be sure, but nevertheless that is exactly what the action of the Armed Services Committee has done.

All our amendment does is restore what General Shalikashvili says is the centerpiece of this program.

I would also like to print in the RECORD at this point, Madam President, a letter from Gen. Colin Powell, dated 9 July 1993, really to the same effect; the final sentence being: "Your continued support for the MRS"—that is the mobility requirement study—"recommendations is critical if we are to solve the identified mobility shortfalls."

Madam President, I ask unanimous consent to print that letter in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JOINT CHIEFS OF STAFF,
Washington, DC, July 9, 1993.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN, This letter reaffirms my full support for the recommendations of the Mobility Requirements Study (MRS). I understand that there are Congressional questions regarding whether a final decision on the MRS recommendations has been made and if additional analysis concerning alternative pre-positioning options is required.

A decision on the MRS recommendations was made when the Secretary of Defense signed Volume I of the MRS on 23 January 1992. The MRS remains the central defining mobility document within the Department of Defense, as evidenced by the recent Deputy Secretary of Defense approval of MRS Volume II. Exhaustive analysis during the study demonstrated the MRS recommendations to be the best solution for meeting warfighting requirements at moderate risk at the lowest possible cost. Further analysis is not needed and would either hold in abeyance or slow the acquisition of the MRS-recommended lift assets, and will delay implementation of the needed mobility improvements.

Your continued support for the MRS recommendations is critical if we are to solve the identified mobility shortfalls.

Sincerely,

COLIN L. POWELL,
Chairman of the Joint Chiefs of Staff.

Mr. JOHNSTON. Madam President, I would simply like to emphasize what the Chairman of the Joint Cheifs of Staff says in his letter of this month: "Please reverse these actions to support our sealift requirements. The military strategy critically requires it."

"The military strategy critically requires it."

Madam President, there is no other position, I submit, but to support the position of Senator FEINSTEIN and myself, and I urge the Senate to do so.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. FEINSTEIN. Madam President, I rise today as an original cosponsor of this amendment to restore $600.8 million to a high-priority military program—the National Defense Sealift Fund.

The Sealift Program is extremely important to U.S. national security. As fewer U.S. troops are deployed overseas, it becomes even more important to have the ability to quickly and effectively transport military personnel and equipment anywhere in the world.

The sealift program—and the National Defense Sealift Fund—addresses this high priority national security requirement and is strongly supported by the Joint Chiefs of Staff and the regional commanders in chief.

Before I get into the specifics of the sealift program and why it is so important to restore the funds requested by the President, let me briefly summarize how we got to this point.

INCORRECT INFORMATION

During its markup of the Defense Authorization Act, the Senate Armed Services Committee recommended shifting $600.8 million from the National Defense Sealift Fund to the LDH-7 amphibious assault ship, which was not requested by the President nor supported by the Pentagon.

However, as the chairman of the Armed Services Committee and others now realize, the committee's action was based on factually incorrect information provided to staff by the Navy.

In a recent memorandum to the committee, Admiral Natter, the Chief of Navy Legislative Affairs, states that certain events resulted "in your staff being provided incorrect information regarding the option expiration date for new construction ships * * * the option expires on December 31, 1994 vice December 31, 1995."

I ask unanimous consent that the memorandum be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1).

Mrs. FEINSTEIN. As a result of this error, fiscal year 1995 funds were shifted to the LHD-7 amphibious assault ship—which, by the way, will be incrementally funded at only 40 percent of the actual cost of $1.4 billion—on the assumption that new construction of the sealift ships would not be affected. However, without fiscal year 1995 funds for the National Defense Sealift Fund, options for new construction of sealift ships cannot be exercised, and this high-priority program will be unacceptably delayed.

So, I believe that if incorrect information had not been provided to the committee by the Navy, we would not be here today. This amendment corrects the Armed Services Committee's action, which was based on faulty information.

SUPPORT FROM THE JOINT CHIEFS OF STAFF

It is vitally important to restore money to the National Defense Sealift Fund. As I previously stated, this program is also strongly supported by the Joint Chiefs of Staff. Let me read from a recent letter from General Shalikashvili to the committee:

I am writing to express my concern about the current version of S. 2182 that would significantly damage our long-standing, integrated lift requirements as expressed in the 1992 mobility requirements study (MRS) and supported in our budget request.

My primary concern is that the proposed legislation diverts all fiscal year 1995 funding from construction of two large medium speed RO/RO ships (LMSR) to an initial down payment for another multi-purpose amphibious assault ship (LHD) * * *.

This diversion would place at risk the centerpiece program of the MRS despite the critical shortfall cited by many CINCs in congressional testimony. Further, it changes the priorities of an essential program developed with the Joint Chiefs of Staff and approved by the Secretary of Defense.

So, as you can see, General Shalikashvili, the Chairman of the Joint Chiefs of Staff, strongly supports restoration of the National Defense Sealift Fund.

I ask unanimous consent that this letter, as well as letters from General Fogleman, commander of U.S. Transportation Command, and A.J. Herberger, Maritime Administration, also be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mrs. FEINSTEIN. Madam President, the Sealift Program is also supported by the Secretary of the Navy.

I called the Secretary of the Navy last night and said, "Secretary Dalton, what about this program?"

He said, "It is our top priority."

I said, "What about the LHD-7?"

He said, "No question, it is a good ship; but this is our priority and this is what we are asking for."

I said, "May I quote you?"

He said, "Yes, you may quote me."

As you know, and has been said, as a result of the mistaken information, funding of $600 million was applied to the LHD-7.

I would very much like to accommodate my colleague from Mississippi. We have worked together on other matters. If an offset could be found, I would be happy to make this accommodation.

I was in the chair, Madam President, when the chairman of the Armed Services Committee, the distinguished Senator from Georgia, reported yesterday that the authorization is larger than the 602(b) allocation. So unless an offset can be found, when the issue comes to appropriations, there will be a real problem in terms of two competing programs.

REQUIREMENT FOR SEALIFT SHIPS

The requirement for the roll-on/roll-off ships is well documented. The Nation's deployment to Operation Desert Shield/Storm highlighted a significant shortfall in strategic sealift assets. Hence, Congress mandated the Pentagon to conduct a mobility requirements study to determine the Nation's strategic airlift and sealift requirements.

The study, concluded and approved by the Joint Chiefs of Staff in January 1992, states that the Nation should have the ability to deploy 2 million square feet of Army prepositioned afloat equipment sets available for combat operations within 15 days of the beginning of a conflict, and the ability to surge two Army heavy division ready for combat operations within 30 days of the beginning of a conflict.

These roll on/roll off ships, with a capacity of nearly 400,000 square feet per ship, have the ability to meet the requirements in the mobility requirements study.

IMPACT OF NOT FUNDING SEALIFT

Let me quote from a Defense Department point paper on the effects of not funding the National Defense Sealift Fund at the requested amount:

> Result: Increased risk of early casualties and loss of key facilities. Loss of deterrence value obtained through perception that United States will respond rapidly and with overwhelming capability if challenged.

The DOD point paper goes on to spell out the real risks to our fighting forces and the major threats to U.S. national security if these sealift ships are not funded in fiscal year 1995. As it states, any delay to sealift funding is detrimental to our military strategy—even a 1 year delay.

I ask unanimous consent that the DOD point paper also be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER.

Without objection, it is so ordered.

(See exhibit 3.)

SHIPYARD CONTRACTS

Mrs. FEINSTEIN. Let me now just briefly touch on what the actual impact to the shipyards and the new construction contracts will be if funding for the National Defense Sealift Fund is not restored and the contract options for the second and third ships are delayed.

The two shipyards that won the competitive bidding process to construct the sealift ships are the National Steel and Shipbuilding Company [NASSCO] in San Diego, and Avondale in New Orleans. So, this issue is particularly important to California and Louisiana, as well as many other states with various suppliers and subcontractors.

If the National Defense Sealift Fund is not fully funded in fiscal year 1995 and the contract options are not exercised by the expiration date of December 1994, the following would happen:

Most importantly, the high priority sealift program will be unacceptably delayed up to 14 months, which puts U.S. national security and our war fighting strategy at risk;

Any disruption in the program with the current contract options would result in increase program costs due to the loss of learning from ship to ship, higher overhead costs, layoff/rehire costs and other factors;

Contracts will have to be renegotiated, and then questions arise about increased cost, as well as contract disputes and protests; and

The 12 to 14 month gap between construction of ships 1 and 2 would disrupt the series construction of up to 5 additional ships and cause the shipyards to lay off and then rehire over 1,000 workers—something that would be devastating to the San Diego area and the entire State of California which has been hit hard by defense downsizing and military base closures.

The sealift contracts were justly competed and fairly won. Funds are needed in fiscal year 1995 to exercise the two planned options for additional RO/RO ships.

LHD-7 AMPHIBIOUS ASSAULT SHIP

While I do not necessarily oppose the LHD-7 amphibious assault ship, I do oppose the way its authorization is being proposed.

I strongly oppose funding the LHD-7 by shifting funds out of a higher priority military program—the National Defense Sealift Fund.

Additionally, the Pentagon does not plan to request funding for the LHD-7 until the year 2000. Yes, amphibious assault ships are important and they have a place in the U.S. military. But, priorities need to be determined and decisions need to be made.

The Secretary of Defense and the Joint Chiefs of Staff determined that sealift ships are a higher priority, and the President's fiscal year 1995 budget requests reflects this priority—it requested funds for sealift, and did request funds for the LHD-7.

The LHD-7 would be also incrementally funded at only 40 percent of its actual costs of $1.4 billion. Therefore, in addition to authorizing $600 million in fiscal year 1995, we will have to come up with the additional $800 million next year, plus find the $600 million in funding for this year's requested sealift ships.

As a result, funding the LHD-7 from the National Defense Sealift Fund becomes a $1.4 billion problem for the Department of Defense and Congress next year—funds that were not anticipated nor programmed. With a defense budget as tight as it is, I cannot justify placing a financial burden on tomorrow's defense budget simply to fund another, lower priority program, today.

CONCLUSION

The sealift program is extremely important to U.S. national security, as documented by the Defense Department's Mobility Requirement's Study. The sum of $600.8 million for the National Defense Sealift Fund was requested by the President in fiscal year 1995, is supported by our military leaders, and—if not for incorrect information being provided to the Armed Services Committee—would not have been shifted to fund the LHD-7 amphibious assault ship, which was not requested by the President nor supported by the Pentagon.

This amendment would simply restore the President's budget request by returning the $600.8 million from the LHD-7 to the National Defense Sealift Fund, thus protecting the sealift program and U.S. national security.

I strongly urge my colleagues to support the amendment.

EXHIBIT 1

DEPARTMENT OF THE NAVY,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, June 13, 1994.

Memorandum for Mr. Steve Saulnier and Mr. Creighton Greene.

Subject: Sealift New Construction Contract Options.

1. The attached Memorandum describes the sequence of events which resulted in your staff being provided incorrect information regarding the option expiration date for new construction ships 2 and 3 awarded to NASSCO. Contrary to the initial information provided to OLA by NAVSEA on 9 June, the option expires on 31 December 1994 vice 31 December 1995. The correct option expiration date (31 Dec 94) was provided to my office on 10 June and passed immediately to you on that same date.

R.J. NATTER.

JUNE 10, 1994.

Memorandum for the Chief of Legislative Affairs.

Subject: Sealift New Construction Funding.

1. Prior to the mark on 09 June, Mr. Steve Saulnier, PSM, SASC, requested the funding profile for the National Defense Sealift Fund and the sequence of contract option awards. The NAVCOMP SCN/NDSF analyst provided the attached table of NDSF obligations. Prior to providing the table, I contacted the Strategic Sealift Program Office and was referred to Mr. Jack Cameron, Director of New Construction (NASSCO). My specific question at this time was, "When does USN intend to award the options for the FY94 and FY95 new construction sealift ships?" I received the response that the first option for each yard was for two new construction ships, with the first award planned for August 94 (Avondale) and the second award planned for Feb 95 (NASSCO). My notes from this conversation were written on the bottom of the attached NDSF funding table. This table was provided to the SASC.

2. On 09 June (approx 1100), Mr. Saulnier asked the question, "For the option planned for award in Feb 95, when does that option expire, 30 Sep 95 or 31 Dec 95?" I again contacted Mr. Cameron for the answer. His response was the option expired on 31 Dec 95. I passed this information to Mr. Saulnier.

3. On 09 June at approximately 1630, Mr. Creighton Greene, PSM, SASC, called to confirm the information concerning the contract options. I called NAVCOMP NDSF/SCN analyst and her recollection was the options were calendar year options, but she requested I contact the program office to confirm. I again called Mr. Cameron and asked him the impact if the Sealift Procurement funds were delayed until FY96. His reply was that this would result in a delay of the award from Feb 95 to Dec 95, would cause a 10 month delay in the five NASSCO new construction ships, and would result in a cost escalation. I asked Mr. Cameron to provide an estimate of the cost impact, but he indicated the budget analysis would take time. He again confirmed the date of 31 Dec 95 for

the NASSCO options. I informed Mr. Greene the program office confirmed the dates and the deletion of the FY95 funds would delay the five NASSCO new construction ships approximately one year and cause a cost escalation.

4. On 10 June at approximately 0900, Mr. Cameron called me to state he had erred in his information concerning the contract option expiration dates and provided the attached memo.

M.E. FERGUSON, *CDR USN.*

MEMORANDUM

JUNE 10, 1994.

From: John Cameron (PMS3851).
To: Cdr. Mark Ferguson (OLA).
Subject: Strategic Sealift Option Exercise Dates.
Ref: (a) Phonecon Mr. Cameron/Cdr Ferguson of 9 Jun 94.

1. This memo provides clarification of the existing Contractual option exercise dates for the first two follow on ships for both new construction contracts awarded to Avondale and NASSCO. The option exercise dates for ships 2 & 3 for each contract is "not later than 31 December 1994". The current plan is to exercise the Avondale options with available funding provided through FY94 in the Aug/Sep 94 time frame and the NASSCO options with FY95 funds prior to 31 Dec 94. The FY95 HASC report, which deleted the FY95 funds but in turn would make available the same amount of the FY94 $1.2B of the carrier funds, thus would not impact the exercise of the two ship NASSCO option. Any adjudication of the stop work order resulting from the protest is not expected to shift the "exercise option date" to the right more than four and a half months. Therefore, FY95 funds are still required to exercise the NASSCO two ship option.

2. Any information that was passed to you during reference (a) that differs from this information was incorrect.

JOHN C. CAMERON,
Director,
NASSCO New Construction.

QUESTIONS CONCERNING SEALIFT AWARDS

Q1. What do the Avondale and NASSCO contracts specify as the expiration dates for options on ships 2 through 5?

A1. The contract option dates for AII and NASSCO ships are the same, and are as follows:

Ship Numbers:	*Option expiration date*
2 and 3*	12/31/94
4	12/31/95
5	12/31/96
6	12/31/97

*Contract requires exercising 2 ships and has no provision to exercise only one.

Q2. What is the impact of the contract protest resolution on the option expiration dates?

A2. The Navy is negotiating an extension to the option exercise dates for NASSCO option to reflect the 4½ months stop work order which was imposed as a result of the award protest to GAO. This adjustment is in process and exact extension and cost is to be determined.

Q3. What is the amount needed to exercise LHD-7 option prior to expiration?

A3. $1.4 billion is required to exercise the current option to produce LHD-7. (incomplete answer)

Q4. What is the cost associated with extending the option dates for the two NASSCO ships until FY96? Of extending one option each for Avondale and NASSCO until FY96? What are the contractual implications of extending the options?

A4. The costs for extending the first option for two ships for NASSCO and of extending one ship for each contractor of the first option for two ships would have to be investigated further. The contracts were not structured with those provisions.

NDSF FUNDING REQUIREMENTS

	FY 1993 and prior	Fiscal year—					
		1994	1995	1996	1997	1998	1999
NDSF funding	2,463.5	1,540.8	608.6	622.2	1,169.1	618.6	2.2
Conversions	5/1359.1						
New construction	2/757.2	2/581.6	2/600.8	2/603.1	4/1167.0	2/616.4	
R&D efforts		2.0	19.2	19.1	2.1	2.2	2.2
RRF procurements			43.0				
Loan guarantees		50.0					
Transfer to CVN-76		1,200.0					
End cost balance	*347.2	*54.4					

*Balances from prior year appropriations are used to offset fiscal year 1994/1995 funding requirements. Obligated to date is approximately $1819.1 million. Options for 2 ships will be awarded in both fiscal year 1994 and fiscal year 1995.

Note.—First option pickup is for 2 ships to 1 yard. Fiscal year 1994—August 1994; fiscal year 1995—February 1995.

EXHIBIT 2

CHAIRMAN OF THE
JOINT CHIEFS OF STAFF,
Washington, DC, June 22, 1994.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN, I am writing to express my concern about the current version of S. 2182 that would significantly damage our long-standing, integrated lift requirements as expressed in the 1992 Mobility Requirements Study (MRS) and supported in our budget request.

My primary concern is that the proposed legislation diverts all FY 1995 funding from construction of two Large Medium Speed RO/RO ships (LMSR) to an initial down payment for another multi-purpose amphibious assault ship (LHD) and also funds two Maritime Pre-positioning Ships (MPS) that the Department of Defense did not request. I understand this committee revision was based upon erroneous information, later corrected, which was provided to you by the department. However, this diversion would place at risk the centerpiece program of MRS despite the critical shortfall cited by many CINCs in congressional testimony. Further, it changes the priorities of an essential program developed with the Joint Chiefs of Staff and approved by the Secretary of Defense.

Another concern I have is that the bill diverts $43 million in funding from the purchase of Ready Reserve Force (RRF) RO/RO ships which are key to the surge of early arriving forces. The SASC instead funds a subsidy program to incorporate defense features on future US-built commercial ships. This would sacrifice near-term readiness that supports early combat force deliveries in favor of an unproven concept designed to deliver follow-on material. At a minimum, I request the Senate provide the Department the legislative authority to acquire these ships.

If enacted, these measures will unravel our carefully constructed sealift acquisition program. This measured and studied program has enjoyed wide support among military professionals, defense executives and the Congress as both absolutely essential and fiscally responsible. The MRS, a rigorous study which included over 90 warfighting analysis cases, also received the endorsement of each member of the JCS.

Please reverse these actions to support our sealift requirements—the military strategy critically requires it. I strongly support the execution of the MRS program.

Sincerely,

JOHN M. SHALIKASHVILI,
Chairman of the Joint Chiefs of Staff.

U.S. DEPARTMENT OF TRANSPORTATION, MARITIME ADMINISTRATION,
Washington, DC, June 16, 1994.

Hon. SAM NUNN,
U.S. Senate,
Washington, DC.

DEAR SENATOR NUNN: I am writing to express concern about the recent House Armed Services Committee reallocation of $43 million in the National Defense Sealift Fund (NDSF) for a National Defense Features (NDF) Program, in place of the acquisition of Roll-on/Roll-off (RO/RO) vessels for the Ready Reserve Force (RRF) in Fiscal Year 1995. This redirection of RRF acquisition funds would have a serious negative effect upon the implementation of the Department of Defense (DOD) integrated mobility plan proposed at the completion of the Mobility Requirements Study (MRS) and the Bottom-Up Review.

The MRS determined that 36 RRF RO/RO vessels, able for loading within 4 days, are required for strategic sealift. Although 12 RO/RO's were purchased for the RRF in FY 1993, seven ships are still needed to reach this fleet's RO/RO capacity. The Administration's program to add sealift capacity includes new construction, conversion of existing ships, and procuring ships available on the market today. The purchase of used ships is vital because it allows for the near term acquisition of commercial ships that are still in good condition and are useful for military operations.

This $43 million request for FY 1995 is necessary to continue these RRF acquisitions. Any reduction in funding for the RRF would seriously delay necessary enhancements to strategic sealift. At a time when sealift mobility is an increasingly important element of U.S. strategy, it is important that we proceed with a balanced program to acquire the most cost-effective mix of sealift vessels.

For these reasons, I strongly urge you to support the use of $43 million in the NDSF for the purchase of existing RO/RO's for the RRF in support of the DOD integrated mobility plan.

Sincerely,

A.J. HERBERGER,
Maritime Administrator.

U.S. TRANSPORTATION COMMAND,
Scott Air Force Base, IL, June 21, 1994.

Hon. SAM NUNN,
U.S. Senate,
Washington, DC.

DEAR SENATOR NUNN: The Commander-in-Chief of the United States Transportation Command is responsible for the readiness of America's Defense Transportation System—an integrated and balanced system of air, land, and sea assets. Responsibilities for readiness include both today's assets and the programs to ensure continued capability in the future. It is the latter that is of immediate and considerable concern.

The President's budget request provides for the necessary enhancements and modernization required to maintain a viable Defense Transportation System. However, if the current language contained in the Senate Armed Services Committee markup of the FY95 Defense Authorization Bill is not amended, it will seriously damage our sealift modernization program and threaten the viability of the entire Defense Transportation System.

Specifically, there are two issues of concern:

—the diversion of all FY95 funding from the construction of Large, Medium Speed Roll-on, Roll-off ships (LMSRs) to a down payment on an amphibious assault ship and two Maritime Prepositioned Ships (MPSs). This would seriously disrupt a key modernization program recommended in the Mobility Requirements Study and unanimously endorsed by the Secretary of Defense, the Chairman and the Joint Chiefs.

—the diversion of $43 million in funding from the purchase of Ready Reserve Force (RRF) RO/ROs to provide a subsidy program for defense features on future US built commercial ships. This would sacrifice near term readiness and early surge capability for an unproven concept designed to deliver follow-on forces.

All regional CINCs cite sealift as one of their critical shortfalls. The President's budget request will provide a significant near-term improvement in our sealift capability. However, the changes contained in the Senate Bill will eliminate these improvements and seriously threaten USTRANSCOM's capability to support the transportation requirements of America's war fighting CINCs. I request your support of the President's budget request on sealift enhancement.

Sincerely

RONALD R. FOGLEMAN,
General, USAF,
Commander in Chief.

EXHIBIT 3

INFORMATION PAPER—JUNE 21, 1994

Subject: Impact of the Senate's Mark of the FY 95 Defense Authorization Bill on the Recommendation of the Congressionally-mandated Mobility Requirements Study (MRS).

1. Purpose. To provide information regarding the Senate Mark and the MRS.

2. Background. Our Nation's deployment to OPERATION DESERT SHIELD highlighted a significant shortfall in strategic mobility assets. Congress mandated the Mobility Requirements Study to determine the Nation's strategic airlift and sealift requirements. The Mobility Requirements Study used approved scenarios which described a future where strategic mobility was the linchpin for successful power projection operations. The deploying US forces were joint and complementary, and employed decisive force to reduce the risk of high casualties. The MRS recommendations support Joint Doctrine where force projection is critical to achieving military objectives. The Senate Mark challenges this integrated strategic mobility plan and places at risk the MRS recommendations which allow for the timely deployment of decisive force and low casualties.

3. At Risk MRS Recommendations.

a. The MRS recommended the acquisition of up to 20 Large Medium Speed RO/ROs (LMSRs). When the actual ship design was finalized the number of LMSRs was fixed at 19. Eight of these ships represent the MRS recommended capability to place 2 million square feet of Army unit sets of equipment afloat. the remaining eleven LMSRs represented the MRS recommended capacity to surge three million square feet of units equipment sets from the US. The eleven surge LMSRs, when combined with the currently available (on-hand since the 1980s) eight Fast Sealift Ships (FSS) will be adequate to strategically lift the MRS recommended two Army heavy divisions from the US in thirty days.

b. The MRS recommended the acquisition through purchase off of the open market of 19 Ready Reserve Force (RRF) RO/ROs to bring the RRF RO/RO total to 36 ships. The MRS further recommended that all thirty-six ships be maintained in Reduced Operating Status—4 days (ROS-4) to meet surge sealift requirements. When combined with the eleven surge LMSRs and the eight FSSs the surge requirements—deployment of heavy forces rapidly—determined by the MRS are met. While acquisition of the additional RRF RO/ROs are necessary for surge sealift requirements, the MRS further recommended the modernization of the aging Breakbulk ships that contribute later in a deployment. Additionally, the MRS noted that alternative ship concepts such as Build and Charter, charter, and National Defense Features were possible alternatives for modernizing this slow shipping which follows surge.

c. The effect of the MRS recommendations provides the Nation with the ability to deploy two million square feet of Army Prepositioned Afloat equipment sets available for combat operations within fifteen days and the ability to surge two Army heavy divisions ready for combat operations within thirty days. The Senate Mark potentially places this surge capability at risk.

INFORMATION PAPER—JUNE 21, 1994

Subject: Senate Mark of the FY 95 Defense Authorization Bill

1. Purpose. To provide information regarding the Sealift issues concerning the Senate Mark.

2. Background. The Senate Mark of the FY 95 Defense Authorization Bill in essence eviscerates the strategic mobility sealift recommendations of the Congressionally-mandated Mobility Requirements Study (MRS). Volume I of this study, begun during the Nation's deployment to OPERATION DESERT SHIELD and completed in January 1992, identified our Nation's glaring strategic mobility shortfalls. The MRS recommended acquisition of up to 20 Large Medium Speed Roll-On/Roll-Off ships (LMSRs) through conversion or construction in US shipyards and 19 additional Ready Reserve Force (RRF) used RO/ROs purchased off the open market (for a total of 36 RRF RO/ROs). The LMSRs and RRF RO/ROs together meet the requirement to deploy heavy forces rapidly (surge sealift). The Senate Mark eliminates the planned exercise of contract options to initiate construction of two LMSRs scheduled for FY 95 and places the options for eight more at risk. While this superficially appears to simply delay the LMSR program, the impact of the mark may force the renegotiation of the LMSR contracts and destroys confidence that funding is assured. This sets a precedent for using critical sealift funds as a bill payer for other, not requested projects.

The Senate Mark also diverts funding for two RRF RO/ROs to subsidize an unproven program that, at best, several years in the future may provide some capability to deliver late arriving materiel. In conjunction with action by the House Merchant Marine and Fisheries Committee which similarly diverts funding from previously authorized and appropriated acquisition of five RRF RO/ROs, the Senate Mark is a major blow to near-term improvement in surge sealift capability. In short, the Senate Mark puts at risk the Nation's capability to meet the timelines to successfully fight one, much less two major regional conflicts.

3. Primary Impacts.

a. The mark reduces the number of LMSRs and RRF RO/ROs validated by the Congressionally-mandated MRS. These assets are a critical element of our Nation's power projection strategy. Result: Increased risk of early casualties and loss of key facilities. Loss of deterrence value obtained through perception that US will respond rapidly and with overwhelming capability if challenged.

b. The MRS recommended eleven LMSRs be added to Military Sealift Command's eight Fast Sealift Ships for surge sealift (the remaining 9 of the 20 being recommended for afloat prepositioning). The recommendation provided this surge sealift to move two heavy Army divisions anywhere within 15 sailing days. Because of this mark and its potential risk to the eight follow-on LMSR options (3 or 5 Avondale options and 3 or 5 NASSCO options), the Army would not be able to deploy two heavy divisions in the required time. Result: Increased risk of loss of early land dominance.

c. The MRS also recommended acquisition of 19 RRF RO/ROs. This number will bring the RRF RO/RO fleet total to 36 RRF RO/ROs with all ships in Reduced Operating Status—4 days (ROS-4). These ships surge additional Army equipment to support the first two Army heavy divisions. The USMC is allocated nine of the thirty-six ships for its surge requirements. Not purchasing the remaining seven ships directly impacts both the Army's and the USMC's capacity to reinforce and sustain our deploying forces. Result: Increased risk that forces will not receive necessary support.

d. The Senate Mark redirected the funds for the purchase of the two FY95 RRF RO/ROs to buy instead a concept known as National Defense Features or NDF. This concept is based on the government paying shipyards to install NDF (e.g. special heavy duty ramps and decks, communications installation kits, etc) on ships they may build in the future for the commercial market. This means that we are not buying RRF RO/RO shipping available today and instead are allocating funds for unbuilt ships for which there is neither a valid requirement or a certified market survey. Additionally, the MRS specifically noted that the alternative concept ships such as NDF were not a replacement for surge shipping but could be capable of replacing RRF shipping required for the middle to late delivery periods. In other words, the Senate Mark diverts funding from today's valid requirement for surge RRF RO/ROs to encouraging ship builders to build ships for which no valid requirement exists today, no commercial market survey supports, and, if built, will not meet the surge RO/RO requirement to deploy Army combat equipment rapidly to the conflict. Result: Increased Risk.

e. The Increased Risk noted after each paragraph can be directly correlated to increased American casualties. The Mobility Requirements Study's warfighting analysis demonstrated that the quicker US forces arrived in a theater the more successful they were regarding mission accomplishment and lower casualties. This mark guts DoD's ability to respond to threats to our Nation's vital interests in a timely fashion. A decreased ability to project forces results in an invitation to test our Nation's capabilities and resolve. Our ability to successfully deter threats diminishes as well.

Mr. LOTT. Mr. President, I think it is very important I be heard on this amendment. I appreciate the cooperation and the understanding of the Senator from California and the Senator from Louisiana of what I have been attempting to do here. I do think I need to further clarify the record of how we came to this point and the justification for this amendment being offered.

First, I want to talk a little bit about the DOD, Department of Defense, authorization bill as a whole. This amendment is a classic example of what we are getting into with the defense authorization and the defense funding for our country. We find ourselves more and more facing very difficult decisions, choosing between one very good, justified and needed program or another; one ship or the other; one aircraft or another. One after the other, I fear, we are making the wrong decisions or we are giving up, in an effort to deal with budget restraints, things we need for the future.

So I think this year we have reached a critical point, where we are not adequately funding the defense of our country. It has been developing now for several years. I think over the last 5 years we have reduced defense funding by about 25 percent. And we have come to the point now where we have just squeezed and squeezed until now we are affecting personnel, morale, capability, readiness. So I hope my colleagues will take a serious look at this overall bill because I think we are getting in real serious trouble and it is not going to get better. Next year will be tougher, and the next year after that, if we continue in the direction we are headed.

It is tough on the authorization committee and it is very tough on the appropriators. That is one of the reasons I think we are going to have to look at incrementally funding some of these larger, very badly needed programs if we are going to have carriers or LHD's or some of the aircraft that we badly need. Trying to get the large amount of money that it takes for some of these badly needed ships or aircraft is difficult to do in 1 year.

This ship that everybody says they want at the Pentagon, and more important that they need, costs $1.3 billion. Trying to get that in 1 year is awfully tough. The Appropriations Committee in their wisdom, in my judgment, funded the previous LHD, LHD–6, incrementally, in two parts. But they got the job done and the ship is being built now. But in program after program we are now in very serious trouble.

I think numbers of troops have been reduced too much. We are making decisions with regard to the National Guard that is affecting their capability. As we become more and more dependent on the National Guard and Reserves, we are at the same time cutting them back.

On Memorial Day in Kosciusko, MS, I was speaking at one of the Memorial Day services. An officer in the National Guard artillery came up to me and said, "We have a problem now because our funds are being cut back. They are not cutting as much as they should, maybe, in the administration, but we do not have adequate rounds to practice with." You do not get to be proficient in firing artillery, practicing with a tank, if you cannot have an adequate number of artillery rounds to fire. That is the point we are coming to.

In the case of aircraft—talk about sealift; yes, sealift is very important. So is airlift. The full Senate voted yesterday on C–17. I have mixed emotions about the decision. But what bothers me is will we make a decision? We have old aircraft, many of which have been grounded, that were worked to death, practically. The C–140's, during Desert Storm—they have had to have wing repairs, their engines have flamed out. Yet we are still depending on them, and Congress is still arguing over the C–17.

In instance after instance, the Armed Services Committee is wrestling with do we try to make the ones we have last a little longer? Do we go to some sort of a commercial reconfiguration, to use existing available commercial planes? Do we go on with this extremely expensive C–17, which has been nothing but a problem from day 1? It is a big, costly program and a lot of uncertainty about where we are headed.

Bombers. The Armed Services Committee, in the subcommittee I serve on, has spent a long time talking about bombers. What is going to be our capability for a long-range bomber? The administration requested, and I assume they are going to get, a significant reduction in B–52's. We are still using B–52's. We have the B–1B's that we never have quite decided what to do with or what we are going to be able to do in the future. We have not done the necessary modifications to really make use of them. And then we have the B–2, which we have agreed, I believe, to 20. But the debate later on this very day will be do we keep that program warm? Do we keep the capability to build more B–2's? Or do we just go ahead and kill that program?

The amendment that may be offered is we are going to take that money and move it over into the base closure area, of all ridiculous places to suggest putting it.

Again, the question is are we going to have to use the old B–52's? Are we really going to modify the B–1B's? Are we going to keep the B–2 option alive? We do not know, but we are putting good programs, people's jobs, and the future of this country and its defense at stake.

On ships, we have these great battles over do we need more *Seawolf*s? How many carrier groups do we need? How many carriers should we have? How many surface ships are we going to have? As a matter of fact, we now are down to producing about five or six surface ships for the Navy a year. At one point we were building for a 600-ship Navy.

Then we were told, "Well, 400." Then somebody said, "I think the position now is 330, approximately." The truth of the matter is, at the rate we are going, at the end of this decade, we will be lucky if we have 170 Navy ships. The lines are going right down.

That is one of the reasons why this ship is so important, the LHD–7. Are we going to have the ships to do the job? Check around the world now. I can show you a world map of where we have carriers or LHA's or LHD's sitting in critical places. We are going to reach the point very soon where the call will go out and the planes, the ships, the men and women will not be available, will not have the equipment they need, will not have the training they need.

That is where we are.

With base closure, I have a great deal of sympathy and concern for what has happened across this country on base closure in the first two rounds. California has been hit so hard. I sat next to the Senator from California during the last round. She had a list: "Oh, my goodness, if they do this, it is 5,000 jobs; if they do this, it is 2,000." And it is just getting whacked away. It is not just California, it is a lot of other States.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. LOTT. I will be glad to yield.

Mr. JOHNSTON. Will the Senator agree with me that the Exon-Grassley amendment, which I think takes something like a $500 million bite this year, but takes increasingly bigger bites out of the discretionary accounts—I think it is a total of around $30 billion over 5 years—is hurting defense, really hurting defense and agriculture probably more than any others, and that we really ought to take a look at that next year?

Mr. LOTT. As a matter of fact, I share the Senator's concern about that. The point was made repeatedly when that issue came up in the budget deliberations that it should not have been applicable to defense.

I offered an amendment on that, and the Senator from Virginia offered an amendment on that. There was real concern about the impact it would have on defense, and there is still great concern about that.

But at the same time, we have to find ways to deal with the overall budget issues. Yesterday, we passed the Treasury, Postal Service appropriations bill that was above last year's spending level. You would think maybe we could at least hold the spending at perhaps last year's level.

So you can debate what we do on the budget back and forth, but that is the problem here. The Senator is right.

We have been having to make the tough decisions. Discretionary spending is being squeezed down. The Appropriations Committee has done a great job with limited funds and with restrictions from the Budget Committee. I acknowledge that. We know the real driving force in the budget deficit is now being caused by entitlements, which the appropriators do not have direct control over.

But however we got there, we are being squeezed down in the defense spending for our country.

It is leading to these types of tough decisions. That is the only point I wanted to make. I am worried about that continued development because the world has not gone to utopia. Somebody had said on this floor last year, "Oh, have you missed it? The world has changed." No, I did not miss it. The world is still very dangerous. We do not know what is going to be the situation in the future with Russia; we do not know what is going to be the situation in North Korea; we do not know what is going to happen in Bosnia and Herzegovina. The list is long. So we have a real need to have the people and the equipment available we should need in case of emergency. It is getting harder and harder to fund that.

That is how we came to the point where we are today.

There is no question that sealift is very important. We were strapped in Desert Storm to be able to get the roll-on/roll-off ships, to get the equipment over there. The Senator from Louisiana talked about that, and he is absolutely right. We had to rely on a lot of ingenuity by the Navy. We had to get into, I am sure, foreign flag ships. We had to call out some old mariners to come in and help us do the job. It was a scary situation. We do not have that sealift capability today that we had then. We have lost it. It has gone down probably even more. So there is a real need for these sealift ships.

Mr. President, for the last 4 or 5 years, I have aggressively supported sealift, fast sealift. I do today. There is no question about that. I thought, though, we had an opportunity in the Armed Services Committee to get the fast sealift ships with only a short delay and a way to get the needed LHD-7. At the time, it looked like a magnificent solution to a problem that we all agreed we had —the Navy, the Marine Corps, the Joint Chiefs. Everybody would like to have the sealift ships and LHD-7, and I will talk more about that in a moment.

In fact, I think the record will show I was one of the most aggressive committee members on the Armed Services Committee in supporting sealift. I worked very closely on the subcommittee with Senator KENNEDY. We continued to provide authorizations for sealift going back several years. The sealift account, in fact, was first created in the Armed Services Committee under Senator KENNEDY's leadership as subcommittee chairman, but with a lot of support from all of us in the subcommittee and in the full committee.

Much of the testimony and history in the Armed Services Committee was established approving the importance of sealift, and a lot of the questions that built that history I had the opportunity to ask. For the first 2 or 3 years, I actually was sort of tagged with the moniker "Senator Sealift"—you keep talking about sealift—because I very aggressively supported it. I was an advocate of sealift before the Army became an advocate of it, before the mobility requirement study was even started and before we learned the lessons of the gulf war. So I want the record to be clear that I feel very strongly about sealift and supported putting funds in it when they were not being spent.

I remember spending a considerable amount of time with the Chairman of the Joint Chiefs, Colin Powell, urging that the Sealift Fund Program be moved forward, commitments be made. The Senators will remember it kind of languished there for about 2 years. They were not sure how to move it forward. I remember bending the ear of Secretary of Defense, Dick Cheney, saying, "Make a decision on this program, move it, award the contracts."

Finally, it did get going, and I want it to keep going. In fact, I would like to quote from one of the reports from the Armed Services Committee in the fiscal year 1991 authorization bill. On page 18 of the report it said:

> Current U.S. capabilities for intervention at a distance where there are few bases and limited infrastructure are not fully suited to U.S. needs. Today, the United States has the greatest force projection capability of any country in the world. However, in general, Army light forces are rapidly deployable but lack sufficient firepower, sustainability and ground mobility. Army heavy forces are too heavy and too slow to deploy and in recent years, Marine Corps forces have allowed their increase in equipment to outstrip their ability already available in the inadequate amphibious lift.
>
> To meet potential force projection missions, the United States must restructure forces in accordance with the following priorities:
>
> It must give priority to forces that are inherently mobile and rapidly deployable, maritime based expeditionary forces, long range and technical air forces and light combat forces that can be quickly transported using amphibious lift sealift and airlift assets.

The point I am trying to make is, as far back as 1991, the subcommittee, the full committee and the report emphasized the need for this sealift capability.

I do not want to undermine this part, but I had information from the Navy, which Senator BENNETT JOHNSTON has referred to, and others, that as a matter of fact, the contract option on the two ships for the next fiscal year does not expire until December of 1995. This is not information I fabricated or intentionally used to mislead the committee. This was assurance that I had gotten from the Navy as to when that contract option would expire.

So it looked to me like there was an opportunity to use that $600.8 million to begin the authorization to incrementally fund in two parts this LHD-7, because the LHD-7 contract expires in December 1994, this year.

Based on the information I was given about the sealift contracts, two more of the ships could be awarded in August of this year, to Avondale and two more would be available next year with a delay of only about 7½ months and provide the next two. The funds would be there for that and we could use the $600.8 million this year for this contract. It seemed like a brilliant stroke, a way to accomplish everything that we wanted to accomplish.

With regard to the LHD-7—talking about priorities—I understand that the very top priority of the Navy is the carrier. But there is no question that the Pentagon, the Army, the Joint Chiefs feel very strongly about the sealift, but they also have testified up and down the line that we need LHD-7. Not that they want it, they need it. If we are going to have the capabilities we are committed to in the Bottom-Up Review, we must have the seventh LHD.

Let me read you some of the quotes. These are what the leaders testified before the Armed Services Committee about LHD-7.

General Mundy, Commandant of the U.S. Marine Corps, on April 12, 1994, in testimony to the Senate Armed Services Committee Regional Defense Subcommittee: "12 ARG's are the minimum required." In order to have these

12 ARG's—Navy terminology, Marine terminology—you must have seven LHD's.

General Hoar, in testimony before the committee, March 3 of this year: We need LHD-7 and 12 of the amphibious-ready groups to make sure that "we maintain the naval posture that is the backbone of our forward presence."

Admiral Owens, Chairman, JROC, testified that 12 of these amphibious-ready groups "is the number we should continue to use as our goal."

Admiral Kelso, March 1993: "An additional LHD, the seventh, would be required to fully support the 12 ARG goal."

And the list goes on with similar quotes from Admiral Arthur, Admiral Jeremiah. Everybody agrees that this is something we need in order to do the job we are committed to do.

So that is why I am so committed to the LHD, because we have a time problem. December of 1994 the contract option expires. If we let this contract option expire and wait until the year 2000 to get this seventh LHD that everybody says we need now, it will cost $800 million more. That is what is at stake here—$800 million more to get a ship that we have the capability to get now and that we need now. We could build two other very vitally needed navy ships for what it is going to cost us if we wait until the year 2000.

Now, let me show my colleagues what we are talking about.

This LHD is an incredible vessel. It can do a lot of what it would take a combination of other ships to do. It can do a lot of what a carrier will do. When you move an LHD into position off the coast of some strife-torn country where we have a national security interest, it has an impact. You are talking about 2,000 marines on this vessel—2,000 marines—with helicopters, 46 large helicopters, I believe is the number, and Harrier jump jets. Aircraft can take off of this deck simultaneously. You can have aircraft taking off, helicopters taking off. It has the air cushion vessel that comes out of the end. You have landing craft.

You can do almost everything with one of these ships. It has a fully equipped hospital right at this level. So we are talking about an incredible, multipurpose, amphibious warship to take Marines wherever the need exists.

That is what we say we want. That is what everybody says they need. I have discussed this particular ship with the Chairman of the Joint Chiefs, with the Vice Chairman, Chief of the Navy, Commandant, Secretary of the Navy, right down the line. They all say, yes; it is just a question of where do we get the funds. That is what I have been working on. I worked on it at the subcommittee level and at the full committee level. I came up with an idea based on information I was given by the Navy, and I realize that has presented problems. But I will continue at this very moment to work with any and all Members of the Senate and the Pentagon to try to find a way to fund this ship because we do need it; it is an incredible ship.

Now, what is the alternative?

We need the fast sealift ships, and this is just a conceptual version of the ship because we do not have it yet. It is under contract, and it is moving forward. But you are talking about basically a cargo carrier. We need them; I do not deny that. But by delaying two of these, which are not going to fire a shot, you get one of these, a very incredible marine vessel—a pretty good tradeoff. Now, if you do not have this vessel show up at the critical time, you are never going to have a need for this one.

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. LOTT. I will be glad to yield.

Mr. JOHNSTON. The Senator said by delaying the two—he calls them cargo ships—fast sealift ships, you are getting one of the big ones. Actually, you get about 40 percent of the big one and you still owe about 60 percent or another $800 million after you spend this $600 million; is that not correct?

Mr. LOTT. That is correct. Incrementally funded, $600 million this year and then about $700 million in the second year. But the other side of it is, if we do not get this vessel now, we may never get it. That is a very important point that I think we have to think about and worry about. It is like an aircraft; the same is true with ships. You lose the capability, you may have lost it. It takes time certainly to get it back in place.

I wish to emphasize again the last one of these that was funded, it was incrementally funded, in the wisdom of the Appropriations Committee, in two pieces. That is all we are trying to do here, do it in two pieces. But the fact remains that for the price of those two fast sealift ships, you do get 40 percent of one of these.

Again, I emphasize, I acknowledge that the problem is, with this budget restraint we have, the cost of a large vessel like this. It is tough to do. But I just wanted to show you what was involved here, the ships we are talking about, and give you some concept of what we are talking about. I emphasize again that I support sealift. I want those ships built. I think we are going to need them. I think they are an important part of our military capability in the future. But I also know we need LHD-7 now, and the time is running out. The time is very short.

So I have worked diligently with every member of the committee and many Members of the Senate who have spoken today or will speak to try to find some other way to do it, and I am here today looking for another option, another source of funds, some way to accomplish this.

I have talked to the chairman of the Armed Services Committee repeatedly. He is familiar with the problem. He is sympathetic to the problem. But he says, as has always been the case, he is opposed to incremental funding. It is not this one. He has been consistently over the years. I acknowledge that. But I am here now acknowledging that we were given incorrect information by the Navy as to when the contract option on the sealift expired.

I state emphatically that I want sealift ships to move forward but urge my colleagues to think about the needs that we are giving up and urge that consideration and assistance be given to me and to us for the country's sake to find a way, some way, to keep the LHD program alive, some way to authorize it so that the appropriators will have the opportunity to look for a way to fund this program. They have proven in the past that they are ingenious in dealing with it. We do not know what the funding level is going to be for planes and ships and tanks and everything else. The appropriators may have a completely different mix by the time they get to their final choice. So I am trying to find a way to do here in the full Senate as I did in the Armed Services Committee, to keep that option available.

So I will yield at this point, but I do want to continue to work with my colleagues on the committees that are involved—and my colleague from Mississippi is very much involved—in trying to find a solution here, and we will be looking for that as the day goes forward.

I yield the floor at this point, Mr. President.

Mr. NUNN. Mr. President, I do not want to hold out false hope here about this ship this year, but I also want to add just the realistic picture of where we are now on this ship. That is that the House Armed Services Committee has some money in their bill for this ship. I believe it is $50 million. I believe it is $50 million. I am not sure whether it is $50 or $100 million. It is probably in the nature of long-lead item. They are incrementally I suppose funding this ship.

We normally have opposed that in conference. But it is a live issue in conference. At least by the time we get through conference, the appropriators, if they are going to find this kind of money—and I am sure the other Senator from Mississippi will be there diligently searching, and we would certainly be notified of that. But on this issue, if you were to move to this vote today, if this money were taken out today, it would be like a lot of other things in Washington. It would not be a concluded issue.

I will not make any pledges about where I would be on it. But I would certainly say it would be a live issue, and that we would certainly not—and we never have had—have a closed mind in conference when we go to conference, or we could not complete a bill.

We certainly always listen to our appropriators, particularly if they can come up with a bag of money. Sometimes the appropriators are good at doing that. We always have to look at where that bag of money comes from. There are two questions when you are dealing with these matters, whether it is our committee or the Appropriations Committee; that is, where is the bag of money they come up with going? And the other is where does it come from?

I think Senators find very quickly if the bag of money comes from a matter that is of concern to the Senator from California or the Senator from Louisiana, then we hear from them. If it is a bag of money which comes from someone else, there may be a more delayed reaction time than the alert colleagues from California and Louisiana. Nevertheless, at some point we hear from them. And the truth of it is that this defense bill and this budget has gotten not only tight, but it is underfunded in both the President's budget, and increasingly the Congress is cutting below the President's budget.

I would like just to make a few comments and particularly describe where the committee is on this now.

Mr. LOTT. Mr. President, will the distinguished chairman yield?

Mr. NUNN. Yes. I am happy to yield.

Mr. LOTT. I appreciate the chairman's comments, and I want to say here on the floor that I appreciate his consideration and his cooperation in the full committee.

The vote of 14 to 6 would never have occurred if the chairman had really put his foot down. He made it very clear that he is opposed to incremental funding. But he also, at the time, indicated that he thought that this was a way at least to keep it alive and consider it.

While always making very clear his reservations, the fact is that this was not in the President's budget request, and finding a way to fund it was very difficult. But he, as the chairman, certainly made it clear that he has a high regard for this vessel, recognized its need, but just cannot see how we can find the authorization funds at that point, as he said.

I appreciate his consideration.

Mr. NUNN. The Senator described my position very accurately. I appreciate that. I will have more to say about the ship itself in remarks that will be made.

I will say to my friends from Mississippi, while they are both on the floor, that there is probably not a single member of our committee that at one time or another has not used the argument—I do not remember the last time I used it. I certainly do not want to pretend I have not because I probably have. There are certain options going to expire, and if we do not do something quickly about that option the U.S. Government will forever lose that possibility. Usually the people who are pushing that behind the scenes are the people who have granted the option; that is, the contractors. The Government itself is perfectly willing to extend the option if the contractor is. So, really, all the contractor has to do is to extend an option.

Frankly, that applies to either side of this argument. Simply say to the Government that they will extend the option for another 6 months, and then you have that right to buy that ship.

Now, I understand the contractor's point of view. They have to get certain subcontracts lined up. They have certain costs that are involved. There is some inflation. There are those kind of considerations. But it is really not like you are forfeiting forever the opportunity to buy a vessel when an option comes close to expiring, because the contractor is the one who can extend that option if they choose to.

So I say that is another possibility.

Mr. President, let me just comment on a little background here because we have seen certain letters from the chairman of the Joint Chiefs and others justifiably from their perspective and being alarmed about the committee's action. I did not vote with the majority of the committee. But I do think that the majority of the committee proceeded in good faith. And I think they need a little defense against some of the charges and criticism that have been leveled.

I do not think anyone should be under the impression that the committee's action, the majority of the committee action, represents a position against sealift capability. The committee has approved over $2.8 billion in funding in the past several years. It was our committee, as well as the House side, that basically helped lead the way in sealift.

The appropriators in our committee, and basically Congress, led the way here. It was not the Department of Defense that led the way in the sealift. It was the Congress of the United States. So the committee has clearly seen and supports the need for sealift.

I want to emphasize that our committee, as well as the appropriations committee, got out in front of this issue several years before the Department of Defense or the Joint Chiefs or the Navy or the Army saw the need. We basically had provided for strategic sealift for 3 fiscal years before the Department of Defense was willing to recognize that it was a shortfall and include it in their own budget. Senator KENNEDY, chairman of the subcommittee, and Senator LOTT as the ranking member, have been real leaders in the overall push for sealift.

So sometimes it might be good if someone over in the Department of Defense writing those letters and submitting them might relate a little of history before they go wandering off to sort of consider them in statements that at least are not very informative about how these programs got started.

I believe the committee's action to provide two additional ships is enhancement to the Marine Corps maritime prepositioning of ship force—so-called MPS enhancement—is another case where the Congress will be ahead. I believe in General Shalikashvili's letter he emphasizes that we shift funds out of strategic sealift for both the vessel that the Senator from Mississippi is pushing, amphibious, and also MPS, and that simply is not true. That money for the MPS we found in other places: $200 million. It was strictly a shift of $600 million here between these two vessels.

So I find myself, Mr. President, in a position I am not in very much; that is, I am not in the position very often of disagreeing with the committee position. But in this case, I am not speaking for the majority of the committee, I am speaking only individually. I find that the amendment of the Senator from Louisiana and the Senator from California really has merit, and should be passed. I am aware about the misunderstanding the committee had in providing funds. I think that misunderstanding was regrettable. I do not think it was intentional on the part of anyone. The Navy simply gave wrong information, and erroneous information about when those options expire on the vessels that were taken out of the two sealift vessels, that were taken out in order to pay for this amphibious LHD-7.

I believe it was an honest mistake. But I do believe that there is an issue here that the Senator from Mississippi has already alluded to, that the Senate itself needs to focus on as they struggle with this issue. I hope we will all understand that, and that is the incremental funding issue.

I want to clearly indicate that I favor going forward with this ship. I hope we can find a way to do it. I hope we can find a way to do it responsibly. This class of amphibious ship carries helicopters, a large hospital, landing craft, and other items critical to supporting the Marine Corps in combat or in peacekeeping operations. It can operate independently of carrier battle groups. It can almost be an autonomous type of capability in certain parts of the world depending on the threat. So we need this LHD-7 to provide the needed 12 amphibious ready groups.

The committee has been concerned about amphibious for a period of time. We are working with the Navy to ensure that this program retains the required 2.5 marine expedition brigade lift capability. We are doing that to the extent that we have actually blocked the transfer of certain older amphibious vessels—at least temporarily that were going to go to other countries and were being declared surplus—until we can determine how the Navy is going to compensate for that lack of capability even though they are older vessels. So we have been very concerned about that.

I want to say in closing my remarks why I am opposed to incremental funding.

Incremental funding is basically getting started on a ship when you do not have the money to pay for it in that particular year. The reason that is so dangerous in the case of naval vessels is because you can take $50 million or $100 million and start the vessel, and in the next year, and the year after, and the year after, you have to pay for it. We can conceivably start probably 20 or 30 new Navy ships, and there would be supporters right here for doing that. We could take several hundred million dollars and get started on enough ships so that, basically, we would eat up the whole Navy budget within 2 or 3 years. Then somebody would say: What in the world were you doing back there? Why did you do this?

Everybody views their ship as unique, and the one they are interested in as unique. The military services do, also. But for the last several years, since I have been chairman of this committee, I have opposed incremental funding. Sometimes it is done by appropriators, but I do not recall when we have done it in our committee, under my chairmanship. The House committee has started down that road this year on this particular vessel, because they have money in their budget for incremental funding, for beginning it, but not paying for it.

The reason I opposed this particular amendment in committee is because the two ships that the Senator from Louisiana and the Senator from California are talking about—the sealift vessels are fully paid for; $600 million pays for those two ships. On this amphibious ship, that same $600 million that was shifted to pay for that in the committee bill pays for only 40 percent of that vessel. That means in the next year, and the year after, we are going to have a price tag that is going to be coming due, and no matter what we may think of the priorities, we will be $400 million into this vessel. And at that stage, it becomes almost impossible to stop.

I have had people favoring aircraft carriers in the last 2 years asking that we start with $100 million to build an aircraft carrier. My answer has been that we on the committees dealing with defense can find the money to pay for it, but we cannot afford to start it. We have plagued the budget with entitlement programs that people feel they are entitled to by law, and discretionary money goes down, down, down every year. This week or next week will tell us how difficult it is to deal with anyone's entitlements. Anybody who has an entitlement feels that it is basically in the U.S. Constitution. It is not, but that is the way they view it, as part of the Bill of Rights.

We do not want to get into that situation in shipbuilding. I am not saying we do not do it in other areas. We have done it in the intelligence area. We have the intelligence budget that has had so much incremental funding that the hardware and the bills we are having to pay to meet past decisions eats up a huge portion of the intelligence budget. It can happen in the space station and in the super collider. Those are the kinds of things that sound good when you are under urgent pressures but come back to haunt not only the Congress but also the Department of Defense budget.

Incremental funding removes the discipline to properly fund programs and consider the full cost in tight budget environments. Incremental funding prevents us from basically being able to stop something once we have started it. Nobody is going to want to stop a ship we have spent $400 million on, even though a year from now we may find some other priority that is much higher. It violates the principle and central premise of good management. I think full funding, particularly on naval vessels—because they are so large and the cost is so much and you can get started with such a small amount of money in the first year—more than probably any other category, is a valid management principle in naval vessels.

If we do not have some principle of full funding, what you do is give the services incentive to basically get a foot in the door on everything. Believe me, there are people in the military services that would love to start whatever program they are in favor of with incremental funding. And you also give them incentive not to come up with a correct cost estimate, because they probably will not even be around by the time the bills become due.

Incremental funding also keeps programs alive and contentious year after year. Most of all, it locks the Congress and the defense budget into commitments made in previous years.

So I think we should not start down this slippery slope of incremental funding on naval vessels. It is interesting that the first lecture I ever got on this subject was from a Senator from Mississippi by the name of John Stennis, who believed very deeply that if we started breaching that principle, we were going to regret it. I think that is absolutely correct.

So, Mr. President, I urge support of the Johnston-Feinstein amendment. I do so with every intent to work with both Senators from Mississippi in trying to find a way to make sure we keep this program going. I do not hold out hope that it can be done easily, or this year, but I would not foreclose any option as long as it sticks with the basic principle of trying to find a responsible way to fund the vessel.

Mr. President, in this case, not speaking for the committee, only individually, I urge adoption of the Johnston-Feinstein amendment.

Mr. INOUYE. Mr. President, the amendment proposed by the Senators from California and Louisiana presents to the Senate a most difficult choice. The Senators are asking us to undo an action taken by the Armed Services Committee. They seek to restore $608 million in funding requested by the President for the sealift fund and eliminate the same amount which the committee proposes to use to fund a portion of the amphibious assault ship requested by the Marine Corps, the LHD-7.

As chairman of the Defense Appropriations Committee, sensing that we may have to face this soon, I have given this matter very careful deliberation, and I have decided to support this amendment. I urge my colleagues to join with me. Allow me to explain my reasoning and to underscore my conclusion.

Mr. President, this issue juxtaposes the interests of the Marines to the interests of the Army. The smaller post-cold-war Army is increasingly dependent on improving its sealift capacity, while the Marines are trying to ensure that they will have 12 large-deck amphibious assault ships.

Mr. President, I have to point out to my colleagues that this is the type of choice that both the Armed Services Committee and the Defense Appropriations Subcommittee are facing and will face again and again—two worthy programs, two requirements which should be filled. However, the fiscal constraints require us to choose between them.

So let us consider the merits of each case. First, the LHD-7. The Marine Corps argues that it needs 12 large-deck amphibious assault ships to project power for two major regional contingencies. The corps points out that eventually some of its aging LHA ships will need to be replaced and that the LHD is the only ship class capable of meeting this requirement. The Marine Corps points to the Bottom-Up Review, which decided to increase the size of the Marine Corps—above the base force plan—as a sign that the Defense Department has ratified its force structure.

Furthermore, the Marines argue that if Congress fails to appropriate sufficient funds to purchase the LHD-7 this year, the Government will lose a price contract option. Under the Navy's plan, the LHD-7 would not be funded until the year 2000. The Marines and Navy both agree that the cost of waiting until then to purchase the ship will drive the cost up substantially, perhaps as much as 33 percent.

Last year, at the initiative of the Appropriations Committee, the Congress appropriated $50 million to initiate advanced funding for the LHD-7. The conferees of the defense appropriations bill noted that they expected the Navy to request funds in fiscal year 1995 for the balance of the ship before the Navy obligated the $50 million appropriated.

However, instead of requesting the additional funds, the Navy sought to rescind $50 million from this appropriations, and, Mr. President, as you know, we denied that request.

The Defense Department reviewed this issue in its fiscal year 1995 budget and determined that it could not afford to purchase the LHD-7 in fiscal year 1995. It argues that 11 large deck carriers fulfill 96 percent of the forward presence requirements of the Navy and Marine Corps. It also notes that the first LHA ship will not need to be retired until the year 2011, and therefore the Department recommends that the Navy and Marines wait until the turn of the century to build the LHD-7.

Mr. President, on sealift, I believe there is not much disagreement. If Desert Storm proved one point, it was that sealift is essential for U.S. forces. The only equipment that reached the theater in any sizable amount in the early days of the crisis was from equipment prepositioned on ships. It took 4 months to move all the remaining equipment needed into theater, primarily because there was insufficient sealift to respond more quickly. We were lucky, very lucky, that we had time to respond. But we also learned that the next time we might not be so lucky and we need to improve our sealift capability and we need to do it now.

Mr. President, it is ironic that Congress, before Desert Shield, had already recognized the problem and had created a sealift program to bolster our capability. I might add this congressional initiative, which the media would probably refer to as pork barrel, was designed to redress the growing shortfall and our program was initially opposed by DOD. However, after Desert Storm, DOD recognized the need and the Defense Department has embraced the program since that time.

The fiscal year 1995 budget requests $608.6 million to continue the sealift program. Of this amount $546.4 million is to acquire additional sealift ships. I must say that I believe this is one of the most critical needs of all of DOD.

Why then did the Armed Services Committee delete the funds for the program? In fairness to the proponents of the LHD and those members in the committee who voted to cut sealift and add funds for the LHD, may I respectfully suggest that it appears that they were misinformed.

Sources within the Navy had misinterpreted the contractual requirements for the Navy sealift program. They believed that the contract options for the next sealift ships could be delayed until December 1995. Had that been the case, the Navy could have used fiscal year 1996 funds to award that contract and could have used the 1995 funds for other purposes—in this case, the incremental payment for the LHD-7. After the committee action, the Congress was informed that the initial information was incorrect. The contract options on the sealift ships cannot be delayed until December 1995. A new contract would be required if funds were delayed until 1996, with higher costs most likely.

More importantly, the delayed award would mean a longer time until the needed ships became available. Mr. President, most respectfully, we cannot afford to wait. We need to press on with sealift now.

Mr. President, I realize this is a tough choice to make between meeting the goal of the Marines or the need of the Army. If additional funds were available, I believe the Department would like to do both. Unfortunately, that is not the case. We are functioning under strict fiscal constraints and additional funds are not available.

I concur completely with my friend from Mississippi when he says that we have cut too deeply and too fast. Having served in the great war 50 years ago, and having seen my Nation's Armed Forces dwindle down to almost nothing before June 25, 1950, when we had to send men into Korea untrained and unequipped and then suffering 10,000 casualties that were not necessary, I do not wish to see a repeat. But we are faced at this moment with decisionmaking time.

I must add one other technical concern that I have with the committee's position. As the Senator from Louisiana and the Senator from California have pointed out, the $600 million that has been set aside for the LHD is not sufficient for the Navy to award a contract for that ship. As everyone agrees, the LHD-7 is expected to cost about $1.3 billion or $1.4 billion. The committee position argues that we could fund the ship incrementally. As the chairman of the Armed Services Committee stated, I too would like to state that I oppose this incremental payment plan. The Congress has steadfastly argued that ships, because of their high cost and limited total numbers purchased, should be fully funded.

Yes, Congress did on one other occasion in the recent past allow for incremental financing to be used, but it was only with the understanding that the Navy would fully fund the balance of the ship in the next year.

Mr. President, we know that DOD does not plan to budget for the balance of the ship next year. The 1996 budget is already underfunded by $6 billion. This committee recommendation will only worsen that situation.

The Navy cannot award a contract for the ship unless it has the full $1.3 billion or $1.4 billion, or sufficient funds to cover its termination costs. The Navy would have to demonstrate that it intends to fund the ship before it proceeds with obligating the funds. Since it is very unlikely to do so, these funds could not be used.

Mr. President, as I said at the outset, this is a most difficult choice for us, but I believe the evidence lies in favor of supporting sealift and delaying the LHD for another time.

If I may at this juncture, as chairman of the Defense Appropriations Subcommittee, I will do my best, as I have done in the past, to look for sufficient funds at least for long lead time, and I can assure my colleagues and my beloved colleagues from Mississippi that the LLD will not be forgotten. This is the word that I give to my good friends. But at this juncture in this debate, I would have to urge my colleagues to support the amendment submitted by my dear friend from California and my colleague from Louisiana.

The PRESIDING OFFICER (Mr. MATHEWS). The Senator from Alaska.

Mr. STEVENS. Mr. President, I have come to the same conclusion as the Senator from Hawaii has. On the other hand, I support overwhelmingly the LHD-7.

I thought about this last evening, and I am here to suggest to the Senate that there is a way to do both. We do need to make certain we do not lose the fast sealift that is under contract now. It is absolutely essential to our defense, but we also need to find the money to assure that this LHD-7, which we provided long lead time money for, does meet its construction schedule.

I think the money is there. I am glad to see that the chairman of the committee is here. He is my good friend. He may disagree with me. But I think we need to make a structural change in an authorization bill to at least just literally take the money that is necessary from another area and commit it now to the LHD-7. As the Senator from Hawaii said, we can achieve that.

The area that I would take the money from is the area of the FFRDC activities. Those have already been reduced slightly by the Armed Services Committee, but I propose that they be reduced by 10 percent more, really. I propose a total reduction in the FFRDC in the level of about 19 percent. It would take $250 million from the $1.3 billion requested for these federally funded research and development centers.

I know that there will be a large scream heard around the world when I suggest that. But I believe that we are dealing with industrial base here as well as we do when we deal with things like the *Seawolf*. This LHD-7 is part of the national shipbuilding industrial base, and we need to send a signal that it will be continued, too. I think we can send that by reducing the amount that is committed to the federally funded research and development centers.

Those centers have played an interesting and valuable role during the period of the buildup of our forces and during the period of the expansion of our industrial base. Now that we have reduced our industrial base—as a matter of fact, we are reducing it too fast in many places—we do not have the luxury of continuing the federally funded research and development centers at the level proposed in the bill.

I am not critical of the Armed Services Committee—as a matter of fact, they are below the budget request—nor am I critical of the administration for requesting that amount. But there is no question now that we can reduce the amount that is committed to these federally funded research and development centers.

We had a period of time when our procurement reached a peak really, in about 1987, for defense of about $120 billion. Now we are going to be spending about $44 billion in procurement in 1995. That is a 60-percent cut over an 8-year period.

The federally funded research and development centers have had a very slight cut compared to the amount we are committing for procurement. From my point of view, I think we need to find a way to reduce these amounts.

I am going to have another amendment later to deal with the FFRDC's in terms of the compensation. I might say, I call attention of the Senate to a recent report in Science and Government, an independent publication that lists the salaries paid by these FFRDC's to the people who are working in terms of this type of analysis. Most of them are, in fact, retired from either the defense industry or from Government in general or from other industries. They are senior people who have a great deal to add to the review of our defense concept. But there is no reason for the kind of compensation that is being involved in those activities, particularly for people who I believe already are very adequately compensated in terms of their retirement years.

But that is just a sideline to this. What I am really saying to the Senate is, why should we argue, those of us who believe in a strong defense, why should we argue over whether we complete the contracts on the fast sealift or whether we put money to the LHD-7? We need both. I do not think there is anyone that has really reviewed the defense structure who would say we do not need both.

The LHD-7, I understand, has an initial operating capacity at about 1999 or 2000. The amendment I suggest will adequately fund that, because it would be structural, it would be taking out of the budget from now until that time about $1.2 billion to $1.3 billion. It would announce right now that we are not going to exceed that level during the coming period for FFRDC's.

Again, I say to the Senate to consider this. I do not know whether to offer this amendment right now or let the people react to it. But it does seem to me that, when we have reduced procurement by 60 percent, we should not be continuing at the 90 percent level of paying people to review the procurement policies. It is to me wrong to commit that kind of money. I think it is time now for us to make the decision that we should take money from these review organizations and from the think tanks and put it into steel, put it where it will be needed to aid our country in terms of our new concepts of trying to have the ability to have a mobile force, mobile but more modern, and I think LHD-7 is essential to that.

I do agree with the chairman of the committee, we cannot afford to cancel this fast sealift contract. My hope is we actually work this out before we are through and have an amendment that not only commits ourselves to the fast sealift, which is the intent, as I understand it, of the pending amendment, but commits ourselves equally to the LHD-7 and funds it now.

We can fund it now. There is no question that the money would be there if we just take the actions necessary to reduce another portion of this budget proportionally—not even proportionally; it would be one-third of the amount that the procurement has been reduced.

I believe that the FFRDC account is an excessive amount, and I am hopeful the Senate will consider reducing that and committing that to the LHD-7 and the fast sealift according to the current contract. We can do both within the budget, within the amount recommended by the committee and within the ceiling established by the President's budget and not be inconsistent with the Bottom-Up Review. It is something that could be done right here and now. We really do not need to argue as to which system should go forward now. We need both.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, let me first thank my distinguished colleague from Alaska for his strong argument in favor of moving forward with both of these programs. It is consistent with the findings of the Armed Services Committee in their report. It is consistent with the strong arguments that have been made earlier today by my State colleague Senator LOTT, who points out the reason why the issue was raised in the first place in the authorization committee.

I want to just read a portion of the committee report to confirm the fact that this committee has reviewed these programs and has come down strongly in favor of both of them. It starts out by discussing the fact that in written reports and testimony before their committee—Senator LOTT talked about questions and answers he elicited from various witnesses who appeared before the committee on this subject—that the Navy has indicated it is immensely important to the fulfillment of commitments and to the Navy's future that this LHD-7 be built. There is an option to build the ship that is available now, and it must be exercised by the end of December of this year.

I am going to read now from page 34 of the committee report:

> In written reports and testimony at committee hearings, a series of senior military leaders, including the Vice Chairman of the Joint Chiefs of Staff, the Commander-in-Chief of the U.S. Central Command, the Chief of Naval Operations, and the Commandant of the Marine Corps, have confirmed the strong military requirement for LHD-7 as the anchor for a twelfth amphibious ready group.

Now, even though the chairman of the committee, in his statements about this amendment, has indicated some reluctance to try to go forward with both programs at this time under the funding constraints, the committee which he chairs has come down very strongly in favor of doing just that.

It further provides on the same page:

> Assuming appropriations of the necessary funds, the committee authorizes LHD-7 with the understanding that the Navy will exercise its contract option for LHD-7 before the option expires, and include the residual increment of funding for the ship in its fiscal year 1996 budget.

The Senate should support that. That is a clear, unequivocal commitment. And based on the evidence before the committee, through its hearings and through discussion and markup, this is what the committee decided.

They have come to the floor with this bill and with this report, and now, if what I am hearing is correct—and maybe I misunderstood some statements—they are backing away from it.

They are backing away from the commitment that is spelled out in as unambiguous a statement as I have ever read in any committee report before this Senate. Let us help the authorization committee fulfill its commitment and its desires as expressed in its report and in its bill.

I am quick to add that I am just as supportive of the sealift program as any Senator in this Senate. At every opportunity since I have been on the Defense Appropriations Subcommittee, I have questioned witnesses before our subcommittee about that program, have urged that additional funds be made available for that program, and have in every way possible supported full funding of the effort to do what we have to do to be able to transport men, material, and equipment to places where our military should be when our national security interests are threatened.

So there is no question about needing the sealift money, the $600 million. We thought it would not be needed this year. Senator LOTT spelled out in his remarks why that suggestion for deferment of the exercise of options should be put into next year's bill—because the Navy said that the option did not expire until next year. Now we find out the Navy misspoke or they were mistaken in that assumption.

Let me just simply add my concerns to those expressed by Senator STEVENS. There has to be a way to do this, and that is the point here. Whether we agree to accept this amendment or accept it in some modified form is really beside the point. The point is, we need to proceed with both programs, and we need to figure out a way to do that. And before we vote on this amendment, we need to reach that agreement.

We have other things happening right now. For example, the Appropriations Committee is meeting in full committee to mark up the appropriations bills—for the Department of Agriculture, for the Department of Energy, for the Corps of Engineers—for next year. I need to be at that meeting, so I am going to leave the floor for a little while. But I certainly hope the Senate will not act on this amendment until we "come reason together," as a former majority leader of the Senate would say, and decide how we are going to proceed to build both LHD-7 and the sealift ships that are provided for in this bill.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHANGE OF VOTE

Mr. MITCHELL. Mr. President, on rollcall vote No. 158 yesterday, I voted aye. It was my intention to vote no. Therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The Senate continued with the consideration of the bill.

Mr. NUNN. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside and we move to the Feingold amendment, the amendment of the Senator from Wisconsin.

The PRESIDING OFFICER. Do I hear objection? The Chair hears none, and the amendment is laid aside. The Senator from Wisconsin is recognized.

AMENDMENT NO. 1841

(Purpose: To delay procurement of the CVN-76 aircraft carrier)

Mr. FEINGOLD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], for himself, Mr. SIMON, Mr. HARKIN, Mr. BUMPERS, Mr. SASSER, and Mr. WELLSTONE, proposes an amendment numbered 1841.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 22, between lines 9 and 10, insert the following:

SEC. 122. CVN-76 AIRCRAFT CARRIER PROGRAM.

No contract (including a contract for advance procurement of long lead items) may be entered into for procurement of a CVN-76 aircraft carrier on or after the date of the enactment of this Act and before October 1, 1999. Any such contract (other than a contract for procurement of long lead items) that has been entered into before the date of the enactment of this Act shall be terminated.

Mr. FEINGOLD. I thank the Chair. I thank the chairman of the committee for his courtesy in working with me to arrive at a time to bring up this amendment.

I offer this amendment on behalf of myself, Senators SASSER, SIMON, BUMPERS, HARKIN, and WELLSTONE. I rise again today to oppose the procurement of the Navy's CVN-76 nuclear aircraft carrier. Our amendment prohibits the expenditure of additional funds on the CVN-76 aircraft carrier until after fiscal year 1999 and, by implication, what this amendment does is assumes that our carrier force will be reduced from its current level of 12 to 11 carriers.

This amendment will reduce spending in this bill in this coming year by a total of $3.6 billion. This amendment alone will reduce this authorization bill by $3.6 billion.

Mr. President, the CVN-76 is the largest single military procurement reported out by the Armed Services Committee this year. Obviously, the question with this amendment is, should we do this? Should we go forward with it? I think it is time we face some hard facts. We simply do not have the resources to continue large program procurements indefinitely without having, out on this Senate floor, a serious and open debate on their value in the post-cold-war world.

The often cited statistics that our defense expenditures have fallen consistently since the 1980's are true, but they tell only half of the story. That is because, Mr. President, we won the cold war. We are in a new era. It is an era that is, of course, dangerous in its own right, but it is in many ways profoundly less dangerous than was the cold war era.

We should be able to expect defense expenditures to decline accordingly while the Pentagon adapts to the new threats of the post-cold-war era.

As my colleague from Iowa, Senator HARKIN, has pointed out, this bill proposes to spend more on defense than all other major military powers combined and four times the amount of all potential adversaries combined, including Russia and China.

Now, I do not think we need to tell anyone in this body that $3.6 billion is real money even for the Federal Government, particularly as we face threatening Federal deficits. We, in Congress, should be held responsible for allocating that money wisely to combat any threats to our national security. And, of course, our national security does include protection from external military threats.

Mr. President, it also includes threats to our economic health and well-being. It also includes, in my mind—

Mr. NUNN. Will the Senator from Wisconsin yield for a brief question?

Mr. FEINGOLD. I will yield.

Mr. NUNN. What I would like to propose is 45 minutes on each side on this amendment. I understand that has been generally acceptable to the Senator from Wisconsin.

Mr. FEINGOLD. That is acceptable.

Mr. NUNN. And I understand it is acceptable to the minority—90 minutes equally divided.

Mr. President, I ask unanimous consent that there be 90 minutes equally divided for debate on Senator FEINGOLD's amendment with the time equally divided and controlled in the usual form, with no amendment in order thereto or to any language which may be stricken; that when the time is used or yielded back, the Senate, without intervening action, vote on or in relation to the amendment of the Senator from Wisconsin.

The PRESIDING OFFICER. Do I hear objection?

Mr. LOTT. Reserving the right to object, Mr. President, and I do not intend to do so, I would like an opportunity to review the unanimous consent request.

Mr. President, in the absence of the ranking member, who is attending a hearing that the Armed Services Committee is having at this time on Bosnia, it is my understanding that this is an acceptable unanimous-consent request, and I will not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. I thank the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I thank the Chair and the ranking member for working out the time agreement.

Let me just return to my initial point. That is, of course, that national security includes external threats, but it also includes our own economic well-being in this country. And for me and for all the Members of this body, it has to include things like the ability to walk safely in the streets of Milwaukee, WI, without the fear of murder or assault.

Mr. President, $3.6 billion could cover so many causes which also need funding. It could be used to increase the DoD's readiness account, which many feel is underfunded; for less than $1 billion we could cover our arrearages at the United Nations; for $45 million a year, it is estimated we could provide the disability payments to those veterans who are afflicted with Persian Gulf war syndrome, an issue that I know the Armed Services Committee is addressing. For just $413 million, Mr. President, of this $3.6 billion, we could endow the Byrne Grant Memorial Fund to send State and local law enforcement agencies to assist in antidrug operations and for prevention programs such as D.A.R.E., a drug awareness program for youth; $3.6 billion could fund the Ryan White AIDS fund, research on Alzheimer's, combating cryptosporidium, which is a parasite that has invaded our water supplies in our State of Wisconsin and Milwaukee. And yet that amount is still only one-fiftieth of the amount we are wasting on paying the interest on the Federal debt this year.

Mr. President, we must carefully consider whether all of these causes are less of a priority than building a 12th carrier in the post-cold-war era.

This is the central question today. If we believe that a strong defense is essential for our country, and I do; if we believe that the Navy is an essential element in that defense, and I do; if we believe that this country deserves a strong shipbuilding industry, and I do; then when is the best time to build the next nuclear super carrier—not whether we will build one, but what is the best time? Some say it must be built in fiscal year 1995, claiming that delays in its construction will weaken the national defense and threaten the shipbuilding industry. But I do not agree with that.

Of course, there are some of my colleagues who oppose other excesses in this bill who may still want to support the CVN-76. After all, they can say that the President of the United States made it very clear in the State of the Union that he supported no more defense cuts, and he got a standing ovation. I did not join in that ovation, but certainly there were many who agreed.

Mr. President, I came to this body last year with a strong personal conviction that is really very simple. If the Government does not need to spend money on some project, then it should not spend the money. We cannot afford it, with a $4.5 trillion debt, that was $4.59190805316 trillion as of last Friday, as we find out in the Chamber; every day we are in session we get the new report.

Consequently, Mr. President, I do not believe that there can ever be a magic number, a dollar total etched in stone that shields any department or agency budget from the careful scrutiny of Congress. That is why I opposed firewalls in the budget debate and why I, frankly, believe that President Clinton was wrong to say "no more defense cuts" in his State of the Union Address.

In that same vein, I am reminded of the views expressed by my colleague from Nebraska, Senator EXON, during our debate on defense firewalls in the budget resolution. He claimed that they would undercut the role of the authorizers and appropriators in this body. I would extend that Exon argument to conclude that this doctrine of no more defense cuts will undercut the entire congressional role in budgeting. It will impair our constitutional efforts to provide for a defense befitting our available resources, as well as all threats, foreign and domestic.

So, Mr. President, today many say that we must build that CVN-76 and that we have to do it in fiscal year 1995. But I am not convinced that the case has been made strongly enough to warrant a huge $3.6 billion expenditure next year, in order to sustain a 12-carrier force, when it is very arguable that there are other more pressing demands on our very thin budget.

Does this make me or the proponents of this proposal any less committed to national security? Certainly not. Nobody opposes the strongest defense America can afford. Nobody opposes strengthening our forces to gird against any kind of attack, and nobody supports exposing our troops to unnecessary threats or leaving them anything less than being fully prepared for any kind of conflict. Rather, these kinds of debates ask and should turn on how to define national security. How do we balance all the demand and priorities our Nation faces each year, and how do we best reach what are really our similar goals?

Mr. President, the key to this is that less than a year ago, the then Secretary of Defense Les Aspin released the results of a comprehensive review of post-cold-war military requirements to ensure the security of the Nation.

That so-called Bottom-Up Review assumed that the United States might be faced with the requirement to fight two nearly simultaneous major regional conflicts or MRC's. And the assumption was that they would be fought without the help of our allies, although we had to have the help of our allies on many occasions. This whole report and analysis is based on the notion of the two MRC's without the help of allies.

To quote from page 51 of that report.

> * * * the analysis confirmed that a force of 10 carriers would be adequate to fight two nearly simultaneous MRC's. That assessment was based on many factors, from potential sortie generation capability and arrival periods on station to the interdependence of carrier-based aviation and its criticality if land-based air elements are delayed in arriving in the theater.

The Bottom-Up Review also states that, according to a different rationale, 12 carriers are needed—not 10 but 12—to maintain a peacetime presence in the Mediterranean Sea, the Indian Ocean, and the Western Pacific. Even the Armed Services Committee this year criticized the Navy for dragging its feet on a mandated study of alternatives for providing this peacetime presence since we do not have information, although it should have been provided to the committee.

But for the moment, let us focus on the number of 12 carriers as the Pentagon's requirement for peacetime operations.

Repeating again, the Bottom-Up Review itself said that 10 was sufficient for two simultaneous MRC's without allies.

Mr. President, the Navy will begin fiscal year 1995 with a force of 12 carriers: 5 conventionally powered and 7 powered with nuclear reactors. The Navy plans to retire two of its conventional carriers before the year 2000. Two nuclear carriers, the *Stennis* and the *United States*, are currently under construction, and will both be in operation by 2000. Now, to replace the *Kitty Hawk*, which will be retired by 2003,the Navy wants to begin building an additional nuclear-powered, *Nimitz*-class carrier, called CVN-76, next year. My amendment will terminate plans to procure the CVN-76 next year, and would, in effect, delay procurement of the next carrier until fiscal year 2000, when the Navy plans to procure still another nuclear carrier.

The authors of the Bottom-Up Review considered options which closely parallel the provisions of my amendment. They recognized that delaying CVN-76 procurement until fiscal year 2000 would produce significant savings in the near term. Yet they rejected postponing procurement of the CVN-76 because of the excessive costs of building carriers frequently enough after fiscal year 2000 to sustain a 12-carrier force. They appropriately called these excessive costs a procurement "bow wave." I agree, if we keep 12 carriers, that this bow wave could be excessive; it is also unnecessary. Under the provisions of my amendment, I would expect that the carrier force would drop from 12 to 11 in the year 2003 when the U.S.S. *Kitty Hawk* is retired.

Mr. President, my amendment would provide a carrier-force level equal to the 12 requested by the Pentagon for peacetime through the remainder of this century and 11 thereafter while saving $3.6 billion in fiscal year 1995. This amendment is a very moderate proposal which respects the Pentagon's own analysis of national security needs. Many outside experts challenge the 12-carrier requirement in today's post-cold-war world; after all, we had 12 carriers for much of the cold war and even through World War II. Alternative analyses from independent authorities like the Defense Budget Project, the Rand Corp., and the Brookings Institution conclude that post-cold-war requirements range between 6 and 10 carriers—not 11 and not 12. The Rand study, for instance, determined that 4 to 5 carriers would be needed for each of the two MRC's for a total of 8 to 10 carriers. The Brookings study considered three alternative scenarios to the Bush-Cheney baseline scenario for which the Cheney Pentagon claimed it needed 12 carriers. One Brookings scenario posited the emergence of a post-Soviet Russia which, in retrospect, was overly optimistic. Another Brookings scenario posited the existence of a strong post-cold war arms control environment in which advanced weapons technologies would be tightly controlled. Under both of these scenarios, the authors of the study determined that six carriers would be sufficient. The third Brookings scenario assumed the evolution of a reformed Pentagon culture and an enlightened understanding of the role of moral authority, diplomatic skills, and economic assets alongside military assets. It also provided a larger measure of active-duty ground forces and air forces to ensure favorable MRC outcomes and to permit rotation and reinforcement of deployed forces. Under that scenario, the authors determined that nine carriers were needed. Mr. President, my colleagues need not embrace any of these alternative assessments in order to support my amendment because my amendment permits a carrier-force level which exceeds all of these alternatives even after the year 2003. We would go from 12 to 11 carriers.

The question here today is whether a 12th supercarrier after 2003 is worth $3.6 billion in the fiscal year 1995 budget. What exactly do we get for our $3.6 billion investment in a twelfth supercarrier?

I have found the answers to those questions pretty hard to pin down. Let us begin with some hidden additional costs that we will know will happen if we build this 12th supercarrier. We know from the GAO analysis that we will get an additional bill each year after that supercarrier is in operation for about $1 billion; $1 billion per year as the operating costs for a 12th carrier battle group.

The story that many CVN–76 supporters would prefer we ignore in this debate is that along with the procurement of CVN-76 goes substantial operating costs as well as procurement costs not just for the CVN–76 itself but also for the aircraft in its airwing and the ships that have to escort this powerful and very valuable warship. And make no mistake about it, Mr. President, CVN–76 is a very powerful warship which would be coveted by any military commander in the world. By the way, which of the navies of the world have carriers on a par with U.S. supercarriers? Certainly there must be some potential opponent out there that shares our thirst for supercarriers and can threaten us. The answer, Mr. President, is none, no one. No country has that. There is no ship in the history of the world that has the kind of power of the U.S. supercarrier and, even without CVN–76, we will have 11 supercarriers.

CVN–76's power comes from its airwing, the dozens of aircraft which make up the supercarrier's central mission—the projection of airpower. Buying yet another supercarrier will get us more airpower but let us be specific, Mr. President. Spending $3.6 billion on CVN–76 will provide approximately only 60-days per year during which a supercarrier will be operating in the world's critical ocean areas. Sixty additional peacetime days during which naval aircraft would be immediately available in case of the sudden and unexpected outbreak of hostilities. Without the CVN–76, its supporters would like to paint a picture of oceans devoid of Navy ships and an Oval Office photograph of the President powerless to respond to the aggression of dictators around the world.

It is time to replace that imagery of a world without CVN–76 with some facts. By 2003, the Navy will have not only 11 supercarriers but 11 other aircraft carriers as well. These additional 11 carriers are specialized for marine operations and described in Navy literature as multipurpose amphibious assault ships, capable of operating helicopters and aircraft like the Harrier, a light attack aircraft. These additional 11 carriers are not supercarriers; they are much smaller but they are as capable as any foreign aircraft carriers. According to the Center for Naval Analyses, advanced aircraft technologies soon will permit similar smaller carriers to generate as many long-range aircraft sorties as CVN–76 and twice as many shorter range sorties as CVN–76—twice as many sorties.

These important concepts foretell powerful and more economical ways to deploy 21st century naval airpower but they are not in the images that today's CVN–76 supporters paint. Indeed, we would do better to spend at least part of the $3.6 billion in researching and developing more appropriate vehicles for the future than countering today's threats with excess supercarriers.

CVN–76 supporters also seem not to mention—and maybe even ignore—other powerful ships which the Navy has described as suitable to operate jointly or independently as flagships of maritime action groups which would and can provide long-range antisurface and strike capabilities. In 2003, the Navy will have over 20 Aegis cruisers and even more Aegis DDG–51 destroyers. The Navy proudly reminds us that during Desert Storm, Aegis cruisers fired 105 Tomahawk cruise missiles at Iraqi land targets, controlled tens of thousands of aircraft sorties, and even detected and tracked Iraqi Scud missiles. Soon, we are told, these cruisers will have a theater ballistic missile defense capability. Yet somehow they are off the books when we consider ships to patrol peacetime waters for several weeks each year in order to fill the relatively minor gap created not to go forward with building the CVN–76 and decide to live with 11 rather than 12 carriers.

So let us not be coaxed into believing that the nuclear supercarrier is the only response to every crisis in today's world. When we look at the danger of reducing our supercarrier force from 12 to 11 in 2003, to say that we must respond to every crisis with a supercarrier is to ignore our entire true record of the post-World War II experience. In 1978, for instance, Barry Blechman and Stephen Kaplan of Brookings found that during the first three decades of the cold war, when effective crisis management was paramount to nuclear deterrence, that the Navy responded to 177 crisis. Of these responses, carriers were involved in only about 60 percent of the crises. A 1991 study by the Center for Naval Analyses revisited the same question but in more detail. They found that between 1946 and 1990 Navy responded to 207 crises in which carriers were involved only 68 percent of the time.

Let us look at the other 32 percent of the cases—the one out of three cases in which a supercarrier was not needed and often was not even the best-suited ship to the mission at hand. During Desert Storm, for instance, there were six supercarriers involved. Yet, the first naval strikes were not aircraft but cruise missiles launched from the battleship U.S.S. *Wisconsin*. Even after the end of the war, the later strikes on Iraq were cruise missile strikes, presumably because the mission did not justify risking the lives of American pilots. Another example was the daring rescue of United States and Soviet diplomats from Somalia in January 1991, coincidentally during the buildup for Desert Storm. The marines were inserted by specialized helicopters from the U.S.S. *Trenton*, an amphibious ship, in spite of the fact that the region was bristling with supercarrier activity. Once again, the supercarrier was not the right ship for the mission. An amphibious ship was simply better suited to this operation than a mammoth supercarrier.

Mr. President, the military utility of replacing the U.S.S. *Kitty Hawk* with CVN-76 is not worth $3.6 billion. But there is another image which CVN-76 supporters paint as well and it has to do with preserving the shipbuilding industry. I recently received a strong and thoughtful letter from a consortium of nine Wisconsin companies who are vendors to the shipyard which builds our supercarriers, the Newport News Division of Tenneco. The Wisconsin consortium expressed what they called their profound disappointment on learning that I was opposed to the CVN-76 this year. I appreciate their views on this matter and understand the special sensitivity that changes from Washington can further threaten Wisconsin shipbuilders and suppliers.

Since 1981, Wisconsin shipbuilding has not been a growth industry. In spite of the Navy buildup we have seen severe impacts on many suppliers, and the demise of one of our three shipyards, Bay Shipbuilding in Door County. Door County alone has experienced some of the highest unemployment rates in Wisconsin because of the loss of Bay Shipbuilding. Furthermore, one of the two remaining Wisconsin shipyards is also in Door County, where projected labor force decline accounts for 5 percent of that county's entire work force. So I am not insensitive to the shipbuilding industrial base argument.

However, Mr. President, I would like to use the words from this letter to set the dire image portrayed by CVN-76 proponents.

> Any delay in funding would lead to the deterioration of the nuclear-shipbuilding industrial base. The labor force required for the construction of the carrier is both highly specialized and highly skilled. If funding for the carrier is delayed, this quality, specialized labor force will be dispersed, making it difficult if not impossible to reconstitute for future, high-technology shipbuilding programs.

Mr. President, let us assume for the moment that the assessments in the letter about the specific impacts on Wisconsin business are substantially accurate. I must say, however, that to conclude that the production of CVN-76 this year will alleviate these pressures misses perhaps the most important problem we face. The fact is that America's shipbuilding industry is gravely ill. So ill, in fact, that remedies like building another supercarrier are likely to be insufficient and, based upon past experience, might even do more harm than good to the industry.

The American shipbuilding industry has struggled since the end of World War II. By the late 1970's, the industry was so uncompetitive in the world market that it received Government price subsidies approaching 50 percent of the U.S. ship construction sold overseas. President Reagan stopped those subsidies in 1981 but offered his naval buildup as an alternative market. That was an attractive temporary fix for the 1980's but did little to help the American industry adapt to the world market. Meanwhile Germany, Japan, and Korea have set the pace in international shipbuilding. Now the cold war is over. The Navy shipbuilding boom market of the 1980's is now a bear market. Did that Navy business make America's shipbuilding industry more competitive? Apparently not.

Today this industry is in such bad shape that, even with CVN-76 construction, the Pentagon recently forecasted that several shipyards may be on the verge of failing over the next 5 years. In other words, without strong actions by the private as well as public sectors, the industry's only option will be to restructure and contract in response to reduced Navy business. Under those conditions, building CVN-76 in fiscal year 1995 is like rearranging the deck chairs on the *Titanic*. We need, instead, to have a concerted effort that rationally and aggressively intervenes with a wide range of remedies. Unfortunately, the Pentagon is giving us more confusion that coherence; more smoke than light.

For instance, the Navy says that a delay in CVN-76 procurement would risk the loss of specialized shipyard skills along with critical vendors. Yet the GAO recently testified before the House Armed Services Committee that:

> DOD and the Navy have not provided information needed to judge the overall cost/benefit implications of moving to nuclear shipyard consolidation. DOD has not identified which critical vendors and which skills would be lost, the cost of reconstituting those vendors and skills, or alternative ways of preserving them. Without these industrial base assessments it is difficult to determine the optimum approach to achieve the Navy's force and modernization objectives in the most cost-effective manner.
>
> We do not know what the impact of not building the CVN-76 would be on critical vendors. There is not even a consensus within the Department of the Navy as to how you define critical vendors.

The Bottom-Up Review claimed that the loss of specialized shipyard skills could be reconstituted. Last fall, they speculated that a delay to the year 2000 would cost $2.1 billion to recoup. Last spring, a Navy shipbuilding expert privately admitted to my staff, though, that the number was more like $1.5 billion. Last month, Tenneco lobbyists claimed the cost was $400 to $500 million for a 1-year dalay—yet this week some proponents of the CVN-76 are talking about an estimate of $300 million to delay CVN-76 to the year 2000—assuming that the force remains locked at 12. Suffice it to say, Mr. President, that the Pentagon is still searching for a serious assessment of the industrial base impact of delaying the procurement of CVN-76. Meanwhile, by simply pushing for the procurement of CVN-76 this year, the Navy shirks the gravity of the underlying industrial situation and prescribes a remedy which is too expensive and may not actually help.

There are, however, many options which are cheaper and more promising than doling out a $3.6 billion jobs bill to Newport News. There is even cause for some cautious optimism about these options. To begin with, Mr. President, this is a defense conversion problem that is more promising than many we face in other American industries.

There is a booming international commercial market of between 13,600 and 17,800 ship orders in the 10-year period ending in 2001. Last year, President Clinton seized the moment by inaugurating the first comprehensive national plan for strengthening America's shipyards. His program seeks to end foreign subsidies, eliminate unnecessary domestic regulations, provide loan guarantees for overseas orders, assist in international marketing, and improve shipyard competitiveness through a program called Maritech. Newport News is an aggressive participant in this program. They were recently awarded a substantial contract to transform their operation into a world-class commercial shipbuilder by 1996. This is a very promising step and the overseas markets have taken notice. The Greek shipping firm, Eletson, has announced intentions to buy up to four Double Eagle tankers contingent upon successful modernization at Newport News. There is also talk at Newport News of some promising leads on other international military orders.

The Eletson-Newport News deal is very promising but not enough. Commercial business alone or along with CVN-76 will not redeem the situation. The nuclear shipbuilding industry probably will not survive without restructuring in order to adapt to the reduced Navy demand for nuclear ships. The Pentagon's own analysis in the Bottom-Up Review concluded that a consolidation into one facility at Newport News would save about $1.8 billion through the end of the decade and would permit the delay of CVN-76 construction. So if we need to restructure to survive and restructuring permits us to do without CVN-76, then why are we being asked to build CVN-76 in fiscal year 1995. The most obvious step, instead, is to immediately consolidate nuclear shipbuilding operations which currently take place in two separate and each underutilized shipyards. Yet the Bottom-Up Review and the Armed

Services Committee avoid recommending that option. Consequently we will probably be asked this week to vote on *Seawolf* construction at one shipyard and then to vote on CVN-76 construction at the other shipyard as if the two issues were not part of the same underlying problem. Let me restate this critical point. Consolidation alone could solve the nuclear shipbuilding problem according to the Bottom-Up Review at substantial savings in the billions yet we are asked instead to buy CVN-76 in fiscal year 1995 and a third *Seawolf* in fiscal year 1996 in order to preserve our nuclear shipbuilding industrial base.

Furthermore, even without consolidation, there are other options which will at least mitigate the impact of delays to CVN-76 construction. To begin with, Mr. President, let me remind my colleagues that there are more than two shipyards involved in the critical Navy shipbuilding industrial base. The Pentagon counts a total of 16 facilities: 12 private shipyards which do construction and repairs and 4 public Navy yards which do repairs. The Pentagon lists a total of 97 new construction orders currently on the books. Newport News is unquestionably the largest and most diversified shipyard in America. Again, I would remind my colleagues that the authors of the Bottom-Up Review believe that Newport News could survive, even if the CVN-76 were delayed, if all future carrier and submarine construction were consolidated there. But even if that were not the case, then let the other Navy orders for construction and overhauls be optimally allocated according to our total national security needs including the welfare of our shipbuilding industry and its supplier base. We need a thorough and rational review of these industrial base questions rather than simply continuing to build ships that we do not need at prices that we cannot afford.

In conclusion, Mr. President, we do not need a 12th supercarrier. We do not need to buy CVN-76 next year. The shipbuilding industry is so gravely ill that another carrier may not be enough to save it without the consolidation of nuclear shipyards—a move which would make CVN-76 unnecessary for industry survival.

I have outlined three sources of relief to offset the impact of not building CVN-76, Mr. President. Let me summarize them in order to help clarify a very complex problem. First, we need to step out of the way of the private sector and do what we can to foster the prompt consolidation of the nuclear shipbuilding industry. The BUR claims this alone would mitigate the impact of a CVN-76 delay.

Second, we need to set up a BRAC-style process for the reallocation of Navy work among private and public yards nationwide in a manner that best serves America's economic security—the foundation of our national security. Finally, we need to continue strong support for defense conversion projects like Maritech, including the ongoing work at Newport News to become a class-commercial shipyard by 1996 in order to compete in today's booming international commercial market. Otherwise, to quote one shipbuilding executive, "We are just prolonging the misery."

This is a hard fact of the end of any war—even a cold one. I was recently in Angola, a country locked in 17 years of a vicious civil war. While there I visited a prosthetics factory for amputee victims of landmines. The factory is a wartime industry. When the war is over, the demand for prosthetics will hopefully decrease, and the workload in the factory will go down. The factory may even close, and some technicians will lose their jobs. Would we suggest a subsidy for the prosthetics factory in postwar Angola to keep the technicians employed? No. Similarly, the military-industrial-scientific complex in this country must right-size itself when its mission no longer fits our needs.

When all is said and done, however, I do not believe that we can delay CVN-76 procurement for 5 years or consolidate the nuclear industry without significant nationwide economic impacts. Some of those impacts may even be a shifting of individual companies and workers from one sector of the industry to another. These could be significant disruptions which could affect Wisconsin among other States. I have often said that in our search for cuts in unnecessary Government Programs, no State should be immune. But in order to be true to that commitment, the people of Wisconsin as well as the rest of America know that some dislocations are part of a concerted plan to improve our economy as well as our national security. We must not settle for doling out Navy public works projects. We need to make a commitment to actually turn the industry around. That is exactly the goal stated by President Clinton—to provide a healthy shipbuilding industry in order to provide for our military and economic welfare. I am committed to that goal and opposed to building the CVN-76.

Mr. President, I have more time, but I would like to use it later, after I listen to my colleagues speak. Let me simply say at this point that this is a modest proposal. It is not the 6 that some have suggested, it is not 6 supercarriers and not 7, it is not 9, and not even 10. It is just one less, and an opportunity in next year's budget to save $3.6 billion.

I yield the floor.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER (Mr. DORGAN). The Senator from Virginia [Mr. ROBB] is recognized.

Mr. ROBB. Mr. President, I yield myself such time as I may use.

Mr. President, I applaud the Senator from Wisconsin for his commitment to fiscal responsibility. I share that concern and have worked with him on a number of projects to accomplish that particular end. I do not question his motives in this particular case, but I believe that in this particular instance, attempting to save money in this particular way would be a little bit like eating our seed corn.

Mr. President, the Senator from Wisconsin has nonetheless raised a question on the floor that is important regarding when—if you accept the literal reading of the amendment, sometime after 1999—to build the next nuclear aircraft carrier—the CVN-76. This is obviously not an idle question or one of small import.

As the Senator from Wisconsin has indicated, it is a significant item in the President's budget request for fiscal year 1995, no question about it. Construction of the carrier has been requested, delayed, restored, debated, authorized, appropriated, both with and without authorization, and discussed in such strategic and financial detail that even a keen observer might be confused as to where we stand.

Where we stand is as the sole remaining superpower in the world.

Where we stand is as a Nation dependent on sea power to protect American interests abroad and to reliably project military force where and when it is needed.

Where we stand is at a point of decision, not solely on one ship but on the future of America's ability to ever build another nuclear aircraft carrier.

Let one point be clear, Mr. President: To delay CVN-76 to the year 2000 or beyond is to kill not only this carrier, but to cripple America's ability to ever build another one. I will not stand here and try to tell the Senate that CVN-76 is inexpensive. This is a big ticket item. But proper defense in this day and age is never inexpensive—although, I add that I would rather pay in dollars to maintain our strength and to deter a war than to pay in lives because that deterrence failed.

The facts are these: It will never be less expensive to build another carrier. America's interests and the threats to them are not shrinking, they are growing. A smaller Navy will require more capable ships, not less capable ships. They are going to have to be able to maintain the same levels of power projection that are needed to address those particular threats if we simply maintain the status quo. The endurance and flexibility of carriers has been proven time and again to be the most efficient and reliable way to meet those requirements.

I contend, Mr. President, that few in this body are more conscientious of the value of the Federal dollar than I am. The question, before we spend any dollar, should be: What do we get for this? What is its value?

Building CVN-76 on schedule yields sensible answers to those questions. First, America would get the finest ship possible, built with the best technology in the world and ready to meet any challenge. Challenges to America's interests did not evaporate with the end of the cold war. A look at the globe will show that instability and conflict are scattered as widely today as they ever have been.

In a sense, our challenge today is even greater than 10 years ago when then Navy Secretary John Lehman laid down the maritime strategy for offensive operations against the Soviet Union—the strategy, I might add, which called for a Navy nearly twice the size envisioned in the Bottom-Up Review. Then we knew where the challenges lay; today, they could be literally anywhere.

The world has not shrunk, so the patrol areas for aircraft carriers are every bit as large as they were 10 years ago or 50 years ago. To assert that the end of the cold war means the carrier force can be safely cut ignores that reality.

Second, completion of CVN-76 on schedule would allow the Navy to maintain its carrier fleet at strength, avoiding the crises of overworked crews and very high operational tempo, which already affect the readiness of our deployed forces.

A number of Navy captains and admirals have told the Armed Services Committee that current extended deployments are destroying morale and clobbering retention of skilled sailors and naval aviators.

The lengthy maintenance required by older carriers are a real driver in that OPTEMPO.

I urge my colleagues to remember that we are here today because the Bottom-Up Review found a need—not a desire, not a wish, but a military need—for 12 aircraft carriers.

The Navy and the administration are not looking for places to spend money willy-nilly.

The President requested this ship because the Navy needs it to maintain America's presence and deter aggression; if need be, to fight a war; and to train our sailors and naval aviators.

Consider, Mr. President, where that 12-carrier fleet is.

At any given time, one carrier is off the coast of Florida for training. That leaves 11. One carrier is in the Service Life Extension Program, being rebuilt so that the taxpayers can get an extra decade of service out of an existing hull. That is 10. Two carriers are in nuclear refueling or major overhaul. That leaves eight. Four are enroute to or from their patrol areas, or in their homeport building up for the next deployment and giving the crews some brief rotation ashore. That, in effect, at any given time, leaves four carriers to cover the world.

If we start cutting the number in the fleet, what capability do we lose? Should we stop training? Obviously, we cannot do that. Should we cancel rotations home and just keep the men and women of the fleet at sea 12 months a year? That obviously would not fly either. Should we cancel maintenance and just run the carriers into the ground? In some instances we are getting pretty close to doing that already.

In short, Mr. President, there is good reason to keep the fleet at 12. Building CVN-76 on schedule does that.

Third, completing CVN-76 on schedule keeps America's only facility capable of building these aircraft carriers open and operating efficiently. Whatever alternative opponents may have in mind can scarcely keep that vital, highly skilled work force anywhere near intact.

In a recent letter to Senators, the Senator from Wisconsin suggested "combining" nuclear submarine and surface ship construction in one yard might be the best way to preserve that unique work force.

I have to confess that that idea is not without appeal because Virginia is home to the only shipyard capable of doing just that.

But the same Bottom-Up Review the Senator cites so approvingly rejected this particular notion outright.

Fourth, about half of the funding for the ship has already been appropriated; indeed, some construction has begun.

I might suggest that to interrupt construction so that we can wait a few years, to pay more inflation-depleted dollars to rejuvenate the capability to build the ship and then to build the ship is simply not a fiscally responsible course.

Our Nation abides between two great oceans, which have given our Nation protection from so many of the conflicts which affected other areas of the globe. But those same oceans insulate America from many of those places where American people and American national interests can be found.

That is why, Mr. President, since the earliest days of our Republic, our Nation has maintained her maritime strength. And that is why, in these times of global upheaval and instability, we should not let that strength lapse.

Delaying the completion of the CVN-76 to the next century would not only represent a lapse of strength, it would be a sign to the world that the United States is prepared to stand aside and let other nations determine the course of world events.

It is my hope that those who might be tempted to strike the carrier authorization would look hard at four key issues: Military utility; operational tempo; maintenance of an industrial base recognized as vital by the Bottom-Up Review; and the financial consequences to the Government of such a delay.

I know that if these factors are viewed objectively, completing CVN-76 on schedule makes sense from every angle.

With that, Mr. President, I suggest that the option that is presented by my friend, the distinguished Senator from Wisconsin, while appealing in terms of the dollars which appear to be saved in the near term, is not cost effective and puts our ability to respond to the challenges that we face around the world today at risk and a risk that I do not think that we ought to take under the circumstances.

With that, Mr. President, I yield to my distinguished senior Senator and colleague from Virginia whatever time as he may take to address this same question.

The PRESIDING OFFICER. The Senator from Virginia [Mr. WARNER] is recognized.

Mr. WARNER. Thank you, Mr. President.

Mr. President, I thank my distinguished colleague from Virginia. We worked on this since the very first day he joined the Armed Services Committee.

I would like to reminisce a moment. In 1969 I was privileged to go to the Department of Defense as an Under Secretary of the Navy, and a great son of Wisconsin was the Secretary of Defense, Melvin Laird.

Few men or women in my lifetime have had a greater impact on my career and my thinking than Secretary Melvin Laird. He had served in the U.S. Navy in World War II, indeed, with distinction and bore the wounds of that war. He understood the full meaning of seapower.

I recall so well sitting with him one day with John Stennis. I was sort of in the background. Senator Jackson had come into the room. Secretary Laird was here visiting in the Congress. He had been a Member of the House of Representatives for many years, and he had been the ranking member of the Defense Subcommittee on Appropriations in the House.

They were talking about carriers. The story was along the lines that every President, when awakened in the middle of the night and has to reach for that telephone instinctively says, "Where are the carriers?" Where is that island of the United States from which we can project immediate response in the cause of freedom? Where are those carriers?

Let me point out some testimony that was given to the Senate Committee on Intelligence earlier this week, Mr. President.

This first chart represents global instability. I want to make certain my friend from Wisconsin can see this. There are charts used by the Director of the Defense Intelligence Agency, General Clapper, who testified this week to the Senate Intelligence Committee.

He indicated in the clearest of terms the conflicts that were of security interest to our country and those of our allies in 1989. Using the following criteria, these marks on this world chart were established. The first were political instability with violence, significant political instability with violence but without sustained combat not regarded as a threat. Second were civil war insurgencies, sustained combat levels ranging from small guerrilla operations to major combat. The latter were in the yellowish categories. The ones with the tinge of red were in the secondary category.

The point is there were roughly 30 conflicts in 1989 in which this Nation in varying levels had an interest.

Then to my astonishment the second chart was raised showing 1994.

These charts were not prepared for this debate on the aircraft carrier. These charts were prepared for a briefing to the Senate of the United States regarding the worldwide situation. The same criteria that I enumerated for 1989 were used for 1994. And it shows that today there has been roughly a doubling. This accounts for roughly 60 instances worldwide of some type of disturbance ranging from major combat to sustained internal civil war.

So often we refer as a baseline to the cold war, which was in the late eighties and reflected by 1989 or shortly before, and how the world has changed.

But it has changed, Mr. President, in that the threats are no longer centralized in terms of the Soviet Union or the Warsaw Pact. The threats now are fragmented. They are worldwide, but in many respects they are just as dangerous, if not more so, to the security of our country and that of our allies.

I did not realize, as closely as I try to follow this situation, the quantum increase in that brief period of but 5 years.

I say to my friend from Wisconsin, given the declining defense budgets, given in some respects the declining budgets in the field of intelligence, what is the justification that we could use in terms of a threat analysis—and indeed it is not that a budget analysis should ever determine the magnitude and the sizing of the Armed Forces of the United States; it is the threat to the security of this country and that of our allies.

I ask most respectfully of my colleague from Wisconsin, do you have any analysis that indicates that the worldwide threat is different than the charts—and I can put them back up if you so desire—than that brought forth by the Defense Intelligence Agency, an agency totally independent of sea power, carriers, or industrial base, an agency within the overall umbrella of our central intelligence network which has the task, the sole purpose of which is keeping the President, the Congress, and other policymakers fully advised as to the threat poised against our country and that of our allies?

I ask the question of my colleague.

Mr. FEINGOLD. Mr. President, in response to the question of the Senator from Virginia, I first grant his premise.

Mr. WARNER. I cannot hear the Senator.

Mr. FEINGOLD. I certainly grant, Mr. President, the notion that the world is a dangerous place; that the actual number of locations where there may be a conflict or crisis may be more than it was in 1989.

I rely, as I am sure the Senator from Virginia does, at least in part, on the Bottom-Up Review itself, which was obviously aware of the world situation in recommending and saying that we could handle the international situation, including two major regional conflicts, with 10 aircraft carriers in wartime and it suggested 12 in peacetime.

I do not dispute the assumption that there are serious problems out there. But we are suggesting there are other ways to achieve that.

Mr. WARNER. The problem is growing in number and not diminishing. Do you accept that?

Mr. FEINGOLD. The number of problems, yes, but I am not ready to concede that we are in a situation yet where it is more dangerous than the cold war. But I do not think I would care to debate whether or not it is more dangerous or less.

The question is, what is the best way, technologically and militarily, to deal with the threat that we face? My response is that, according to the Bottom-Up Review, they prefer and recommend 12 for peacetime but only 10 for wartime. And I believe that we could get the capacity of the additional carrier through the alternative means that I have suggested.

And, of course, I also would like to point out, in response, that we do not even have complete coverage of all the major oceans, even with the 12. That is not even contemplated. I have not even heard my colleague propose that. There is a gap even under the current proposal. Currently, there are 4 months in each of the two major oceans when we have no carrier coverage, even with the 12 carriers.

So I do not dispute your claim that the world is a troubled place, but I do not see what that has to do with whether we need 12 or 11 aircraft carriers when there are alternatives.

Mr. WARNER. Mr. President, if I may, I respectfully disagree with my distinguished colleague's analysis for the basis of cutting in his amendment such cuts as he directs. It is an unusual amendment in its language, but we will not bother to address that at this time.

I would just like to add a few concluding remarks, Mr. President. I am prepared to yield the floor if there are other colleagues who seek recognition at any time, because I intend to remain here until this debate is completed.

But the issue of aircraft carriers is vital because it gets to the very heart of our military power and how we use that power as a nation.

The amendment before us seeks to reduce the size of our Navy in a substantial way. No one disputes that a nuclear-powered aircraft carrier represents an awesome military capability. Its power and its mobility make it an effective instrument, both as a diplomatic tool and as a military tool.

No one disputes that the Navy's carrier construction program has been run efficiently over the past decade or more. There are not charges of cost overruns in this program. In fact, it is a model of efficiency.

The challenge to the carrier is the age old question of how much is enough? Senator FEINGOLD says we do not need it. The President of the United States, however, says, we do need it. And each of his principle advisers state we do need it. And now before us is a bill crafted very carefully by the Senate Armed Services Committee which likewise states unequivocally we do need it.

The question before the Senate is, should we vote here to kill the carrier and challenge the fundamental defense strategy and defense structure of the United States? That is the question.

I would argue such a fundamental shift is not called for and should not be undertaken, and there is nothing that has been presented—with all due respect to my colleague from Wisconsin—which would justify such a reversal of policy.

However, that is what this amendment seeks to do. In one quick flash, the junior Senator from Wisconsin is seeking to alter a fundamental part of our overall national security.

The Senator seeks to do this against the recommendations, as I said, of the President, the Secretary of Defense, and the committee of jurisdiction in the Senate.

Mr. President, for every academic study that can be quoted arguing for a smaller carrier force, there are other studies of at least equal merit, if not greater, that argue for a robust carrier force of at least 15 aircraft carriers.

I do not intend to engage in a duel with those who oppose the aircraft carriers, throwing quotes back and forth from academic studies. I do, however, want to point out that the Department of Defense and the Department of the Navy have engaged in rigorous analyses on the carriers almost continuously since the 1970's. They have studies on all aspects of carrier operational questions, industrial base questions, and they are all available should anyone desire to take the time to study them.

You could fill a small library with all the studies which support a defense strategy which relies on naval power and a larger carrier force. These are not all studies from cold war periods.

They are studies which had as their purpose determining the best strategy for the so-called "new world" order.

One of these studies was done recently by the Institute for Foreign Policy Analysis from Cambridge, MA. Dr. Davis, the author of the study, is a respected analyst on defense issues. The title of the study is Aircraft Carriers and the Role of Naval Power in the 21st Century.

In the Executive summary, I find this quote.

> The cost to the Nation of reducing the number of carriers below 12 will, in the long run, far outweigh any near term defense saving that some think can be derived.

The National Academy of Sciences completed a study in 1991 entitled "Carrier 21, Future Aircraft Carrier Technology," which analyzes the relevance of carriers in the future. The National Research Council completed a study in 1988 entitled "Implications of Advancing Technology for Naval Operations in the 21st Century," and that study concluded, "In the near future, carriers will be called upon continuously to fulfill this important national role and mission."

The mission referred to was " * * * to exercise military power in instances when the President has needed such an instrument."

Mr. President, the opposition to carriers doesn't quote from these and other credible studies. They rely on the analysis of others who don't support robust naval power for the United States.

In the interest of balance I believe Senators ought to be aware that there is a great deal of analysis which supports the important role of carriers and the need for 12 or more carriers.

Dr. Davis' study is worth reading for every Senator interested in this issue and therefore I ask unanimous consent that a short five page executive summary of just one of those studies be interested in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WARNER. Mr. President, the Feingold amendment seeks to alter U.S. defense strategy and reject the recommendation of the President and the Senate Armed Services Committee. I urge its defeat.

Mr. President, I see our colleague here, a distinguished carrier pilot himself in a former career. I hope he will at this time seek recognition and add to this debate.

EXHIBIT 1

EXECUTIVE SUMMARY

(By Dr. Jacqueline Davis)

The defining events of the 1990s—the end of the Cold War, the war in the Gulf, and the dismantling of the Soviet empire—have had a profound effect upon U.S. security planning. Reflected in the Defense Department's "Bottom-Up Review," the Clinton administration is undertaking a major reassessment of defense force structure and logistical support networks designed to meet the challenges of the post-Cold War world, while taking into account public sentiment for greater defense economies now that the Soviet threat has dissipated.

NEW RISKS

But the breakup of the Soviet Union does not mean that U.S. interests are free from risks. There have emerged new risks in the global security environment—risks that may require the employment of U.S. forces. As the one nation that remains uniquely capable of projecting substantial power beyond its shores—and, hence, having at least some impact on the shape of the post-Cold War world—the United States may find it necessary to deploy its forces to regions where vital U.S. interests may not be at stake, but in which broader humanitarian and democratic values are being challenged. Indeed, the deployment of U.S. contingents to such widely varied crisis settings as Somalia, Northern Iraq, Liberia, and recently Macedonia, has already demonstrated the importance of maintaining flexible forces able to respond to a variety of requirements. As peacekeeping and peace-making operations assume a greater priority in U.S. foreign policy planning, and missions of humanitarian relief and disaster assistance—both at home (as in the case of clean-up operations after Hurricanes Andrew and Iniki) and overseas as well—become the norm rather than the exception in the employment of U.S. forces, civilian and military planners will be compelled to find imaginative solutions to the problem of developing a range of force packages for use in multiple contingencies.

THE AIRCRAFT CARRIERS' ENABLING CAPABILITIES

Inevitably, the challenges of security in the 1990s will place greater emphasis on "jointness," both among the U.S. Services and in connection with allied and coalition planning. Because the aircraft carrier platform is large enough to integrate a mix of Marine, Army and Air Force assets with its own considerable striking power, it will be central to U.S. joint planning in the future—both for peacetime forward presence missions and wartime operations. By virtue of its geography, the United States is a maritime nation whose welfare and global role depends on unimpeded access to the world's sea lines of communication (SLOCs). Even though they may be relatively little direct threat to U.S. navigation on the open seas (now that the Soviet Union has been dismantled), the potential for conflict in key regional theaters is very real—conflicts that could escalate into open warfare either involving the engagement of U.S. forces, or posing a threat to U.S. (and allied) commercial and strategic interests, or both. With the proliferation of weapons technologies and the growing lethality of the forces of potential regional adversaries, the capability of the aircraft carrier battle group will provide to a joint commander or theater CINC an important enabling force to facilitate crisis response, sustained military operations, conflict escalation, and war termination.

In future theater contingencies—the primary planning focus of the new strategic guidance that is emerging from the Pentagon—there is likely to be a premium placed on those U.S. and allied forces that can: deploy to a theater of operations in a timely fashion; prevent minefields from being laid in the sea approaches to the area; protect sea-lift assets en route and at the point of arrival and departure; deliver firepower against an array of targets whose interdiction would give the adversary's leadership pause to reflect on the utility of proceeding further with its warfare objectives; and, offer a range of flexible options, in terms of strike planning, escalation control, and war termination.

Against any range of theater scenarios, the aircraft carrier and its associated systems' assets (including its battle-group combatants, but also its deployment of long-range precision-guided missiles and new generation sensor-fuzed munitions) contribute an unparalleled capability to meet any of these objectives, while providing a tangible demonstration of U.S. capability and will—thereby offering U.S. policymakers a unique crisis management and deterrent tool.

Pressured by defense budget cuts, which would be even more severe in the out years, the number of aircraft carrier platforms in the active inventory of the Navy is likely to be a subject of contentious debate. As a capability that could aptly be described as a moveable piece of "sovereign America," the aircraft carrier can steam to a crisis location without raising tensions in countries that are not involved. Operationally, it would also not be encumbered by the political debate that often accompanies requests for the overflight of national territory, or that is inherent in requests for access to local basing facilities. The aircraft carrier platform, moreover, can bring to the scene of a crisis tangible evidence of U.S. resolve, and provide the basis for coordinating joint and combined operations if a given situation warrants the use of military force.

CARRIER FORCE LEVELS

For all these reasons, it would be foolhardy for the United States to reduce its carrier force to a level that could not provide for a flexible forward presence policy. In view of the political-psychological mindset that forms a central aspect of national security decision-making, it may be more difficult to commit (and mobilize) U.S.-based forces for regional crisis deployment missions than it would be to put carrier-based assets already near or on in the area in question on alert status. Planning a force structure to fight in two major regional contingencies "nearly simultaneously" (to use Secretary Aspin's recent formulation) requires a prudent planner to retain the Navy's preferred minimum number of twelve carriers in the force structure. Reducing the number of carriers in the U.S. fleet to ten would result in significant deployment gaps, increased time at sea for sailors, and an inability to react to crises with the flexibility that is necessary to ensure a timely and effective response. Even with a twelve-carrier force, key regions—notably the Mediterranean, Persian Gulf, and the Western Pacific—could only be covered about eighty percent of the time.

In its search to make prudent decisions about force structure (while recognizing the need to achieve some, reasonable defense economies), the Clinton administration needs to appreciate the risks associated with a decision to reduce the number of carrier platforms below twelve. The costs to the nation of doing so will in the long run far outweigh any near-term defense savings that some think can be so derived. By themselves, the intangibles associated with the deployment of a credible forward presence posture centered around twelve carrier battle groups by far exceed (in value) the hoped-for defense economies of cutting the carrier program—and this includes the costs of building a new carrier, CVN-76, to bring to nine the number of *Nimitz*-class carriers.

DEFENSE INDUSTRIES BASE ISSUES

CVN-76 construction carries profound and far-reaching implications for the ability of the United States to sustain a nuclear shipbuilding industry. Construction of a nuclear-powered aircraft carrier entails special skills and a comprehensive base of second- and third-tier suppliers—all of whom are not common to the construction of a nuclear-powered submarine. A decision not to fund the new carrier, or to push off its funding until after fiscal year 1995, will likely result in the disappearance of critical job skills that are crucial to the nuclear carrier shipbuilding industry. If new carrier construction were delayed, or stretched-out—an alternative that is apparently being considered—the result is likely to be a far more expensive program, due to the need to accommodate the loss of key suppliers and to recreate and qualify skilled teams to do the work. Overhaul and refueling work on existing carriers simply would not provide enough work for major component suppliers in the industry to justify their staying in business. Thus, any decision delaying or canceling the construction of CVN-76 will have major implications for both the domestic economy and the defense industrial skill base. Moreover, such a step would affect adversely our ability to reconstitute and mobilize forces if confronted with a major global contingency or the need to fight in two theaters simultaneously.

One option that might be pursued is an incremental funding strategy for CVN-76. Under such an arrangement, the critical vendor base could be sustained through the authorization of funding on three or four "ship sets" of highly specialized equipment for the carrier (e.g., nuclear cores, special reactor pumps, and hydraulic plants). Such funding, in the form of another year of advanced procurement funding for CVN-76, would be a second-best means of preserving the vendor base; yet it would maintain the option to build the tenth nuclear carrier, and would moreover be consistent with the administration's domestic and global priorities.

BOTTOM-LINE ASSESSMENT

Viewed in this context, the carrier emerges as central to sustaining and adequate forward presence capability, and assuring a flexible maritime instrument for responding to the variety of potential local conflict and crisis situations—ranging from humanitarian assistance to peacekeeping, conflict management, and war termination. Clearly, the preferred option would be maintaining twelve carriers in the Navy's force structure—with earlier rather than later investment in CVN-76 production and development. At the very least, it is necessary to secure and sustain a degree of incremental funding sufficient to maintain the vendor base critical to future U.S. carrier construction. If CVN-76 is not funded, the United States may be forfeiting its future ability to build aircraft carriers in a cost-effective and timely manner. The operation implications of failing to move ahead with CVN-76 will undermine the Navy's ability to maintain adequate global presence, and could well hamper any President's ability to respond to unfolding crises swiftly and in an appropriate manner.

Mr. ROBB. Mr. President, may I inquire as to how much time is left on the side of the proponents of CVN-76?

The PRESIDING OFFICER. The Chair will advise the Senator that the time controlled by the Senator from Wisconsin is 25 minutes remaining; the time controlled by the Senator from Virginia is 19.5 minutes.

Mr. ROBB. Mr. President, I reserve the remainder of our time to give the Senator from Wisconsin an opportunity to respond, and then I am going to ask the Senator from Arizona, who has more than a little expertise in this particular area, to discuss the question.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wisconsin [Mr. FEINGOLD].

Mr. FEINGOLD. Mr. President, I yield myself a bit of the remaining time to respond again to the questions posed about the world situation; whether that post-cold-war situation justifies maintaining a 12 supercarrier force.

I do not think it is accurate to suggest that simply because there are more locations of conflict, that necessarily means that the supercarriers are the right response. It ignores the comments that I had the chance to make earlier about alternatives. Before I mention those, let us just remember, though, that even in many conflicts in the past, carriers were not always used. As we mentioned, the report from the Center for Naval Analyses, "The Use of Naval Forces in the Post-Cold-War Era," pointed out that from 1986 to 1990, in 32 percent of the cases of crises just of the kind the Senator from Virginia was pointing out on the map, we did not even use a carrier.

So the assumption that the carrier always has to be there whenever there is a problem—take, for example, Rwanda—it is not clear that is the way we are going to respond to the situation in Rwanda, even though you can tote it up as a number, another place in the world where there are problems.

The issue here is not whether the world is a troubled place. It sure is. The issue is whether the supercarrier is the best way to handle situations, understanding that we have not even used the carriers in all situations in the past.

I am curious to know what response my colleagues would have to the alternatives that have been suggested. Remember, what I am suggesting here, Mr. President, contrary to the statement of the Senator from Virginia, is not to get rid of all super carriers—certainly not to get rid of all carriers, certainly not to get rid of all supercarriers. This side is not opposed to supercarriers. We are suggesting eliminating 1 of 12. And that lost capacity of 60 days in each of two oceans can, according to credible sources, be made up for by the year 2003 with alternates—11 amphibious carriers and dozens of Aegis cruisers and destroyers.

It is my intention by this amendment to save us money, but also to achieve that capacity by other less expensive means that would in effect come from having the 12th carrier. That is my response to the chart. The world is a terribly difficult place, but that does not necessarily mean that 12 as opposed to 11 carriers is the right, most efficient, or most effective response to the problem.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ROBB. Mr. President, I might make one response before I yield to the Senator from Arizona. I understand the proposition that has been stated by the Senator from Wisconsin. But if we use this criteria—whether or not we actually use the specific weaponry or capability at any given context—I guess the ultimate would be we have not used nuclear weapons since the end of World War II. But having them has a very significant deterrent effect, and certainly maintains the peace in a way that I think all would agree accrues to our long-term benefit without actually using them.

With that, Mr. President, I have actually been on board, at one time or another, just about all of the carriers, certainly the ones that are in commission today, and many of those that have been retired. But the only Member of this body who has flown combat missions off of those aircraft carriers is the Senator from Arizona, to whom I yield 5 minutes at this time.

The PRESIDING OFFICER. The Senator from Arizona [Mr. MCCAIN] is recognized for 5 minutes.

Mr. MCCAIN. Mr. President, I have a question for my friend from Wisconsin, and I ask it: Has he ever been on board an aircraft carrier?

Mr. FEINGOLD. No, I have not.

Mr. MCCAIN. Let me suggest to the Senator from Wisconsin that, at minimum, before he recommends a fundamental change in the structure of our military establishment as envisioned by the Bottom-Up Review—which really was the best minds that we have available, including Gen. Colin Powell, former Chairman of the Joint Chiefs of Staff; Les Aspin, former chairman of the House Armed Services Committee, Secretary of Defense, and the best minds we could get together—came up with the belief with which, frankly, I do not totally agree—but that the United States would have to maintain an 11-plus-1 carrier force.

In all due respect to the Senator from Wisconsin, I suggest at least he go out and visit an aircraft carrier and find out what they do from those people. Perhaps it might be useful, before recommending such a fundamental change in this Nation's defense strategy, that he go out to an aircraft carrier, that he meet with the men and women who are on board—and there are men and women now—find out what their mission is, find out from the people what they are expected to do and can do in a contingency. And I would strongly suggest he might find out they do not believe, and he would not believe after he was there, that Aegis cruisers can take the place of an aircraft carrier.

An Aegis cruiser is a very valuable piece of military equipment. It is excellent for air defense. It really is superb. But its ability to project power over hostile shores is almost zero.

I do not know where the Senator from Wisconsin is getting his information, but to suggest that Aegis cruisers and amphibious vessels somehow replace the fundamental capacity—and the reason why we spend so much money for these aircraft carriers is their ability not only to project power, but to project sizable power into very hostile environments, which is the unique aspect about the aircraft carrier.

I know the argument has already been made the American empire is shrinking. We are withdrawing from Europe. Every day, we see more bases being closed. We even reduced our forces in Korea. Everywhere the empire is shrinking back, which leaves us with less and less ability to project this Nation's power in crises which we see pop up all over the world. There are 40 conflicts taking place in the world today as we speak.

Does the United States have to be involved in them? Rwanda? No, I do not think so. But I think the United States, as the last remaining superpower, had better have the capability to do so.

The amendment of the Senator from Wisconsin is going to lose. Let me recommend to the Senator, before he proposes another amendment next year on the same issue or perhaps on the appropriations bill, that he go out on an aircraft carrier. That might be a nice beginning. And that he go and visit the people that have been involved in this. Ask them what is the best for them—they are an all-volunteer force—the best way to carry out the protection of this Nation's vital national security interests. Then come back, maybe, and talk to people like Gen. Colin Powell—who is an Army officer, I might inform my friend from Wisconsin—and others who have the experience, who have the knowledge, who have spent their very lives—and I am not speaking of this Senator, but others—in defense of this country. They will tell the Senator that 11 plus 1 is the bare minimum of what we need for aircraft carriers.

I believe my time is nearly expired, but I oppose this amendment. I think it is wrong. I think there are a whole lot of areas the Senator from Wisconsin and I would agree on that need to be cut back, that are not vital in the post-cold-war era. I ask him to get a briefing on the Bottom-Up Review that I mentioned earlier in my remarks. And I ask him to consider carefully that the alternatives he and others are suggesting clearly are not compatible with this Nation's vital national security interests and our strategic requirements.

The PRESIDING OFFICER. The time of the Senator from Arizona has expired.

The Chair recognizes the Senator from Wisconsin [Mr. FEINGOLD].

Mr. FEINGOLD. Mr. President, I thank the Senator from Arizona for his comments, but I must say to the Senator from Arizona, I did not feel it was essential that I travel to Bosnia before I voted on the arms embargo. It would be nice if I had. I wish I had the opportunity to spend a lot of time in the California desert wilderness before we voted to protect that. But I think that is a bit of an unrealistic expectation.

We, as Senators, have a few things to do, and if we cannot rely on documents produced by our Government, such as the Bottom-Up Review—that is exactly the source of much of the information I am using here, and things like a GAO report on Navy carrier battle groups—it is this report that suggested that there are alternatives, that there are amphibious ships that can assist us in these situations.

I think this is important because we try to have an argument here and we say, Can we get away with 11 rather than 12? What does the other side say? That the Senator from Wisconsin is proposing eliminating all aircraft carriers; that he is saying that the alternatives are the same; that they can do the same thing as any aircraft carrier.

No statement we made has suggested that. It remains the case, though, that in many instances, supercarriers are not needed and are not used. The question is that difference between the 11 and 12 carriers and whether there are alternatives, as suggested by this GAO report, that can make up for that difference and save us some money.

So it is very easy to exaggerate what this amendment is all about. It is not the elimination of the carrier. It is not the six. It is not the seven. It is not the 9 or the 10 or the other proposals that have been made by some. It is suggesting, very consistent with the Bottom-Up Review itself, that we have the 11, which is more than is needed, for two simultaneous war situations, and it is one less than the 12 suggested by the Bottom-Up Review. But we have outlined some of the alternative ways that that difference can be made up with less cost to our country. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ROBB. Mr. President, I yield 4 minutes to my distinguished senior colleague from Virginia.

The PRESIDING OFFICER. Senator WARNER is recognized for 4 minutes.

Mr. WARNER. Mr. President, what the amendment does do is to create a giant scrap heap of rusting steel in which the American taxpayers have invested close to a billion dollars. That is not an insignificant action in consequence. It will put roughly 120,000 people, not just in the Commonwealth of Virginia but spread over 42 States throughout the country—it will put them out of work, all in the name of—I am not sure what.

It seems to me that that person who is the Commander in Chief of the Armed Forces of the United States should have a voice in this. I was privileged when I was aboard the U.S.S. *Theodore Roosevelt* on March 12, 1993, when our President saw fit to visit a carrier. He said the following. I quote the President of the United States, President Clinton:

> They are operating on station in strategic locations around the world protecting our interests and promoting stability, ready to meet the call. They have been doing this for most of the 20th century. When word of a crisis breaks out in Washington, it is no accident that the first question that comes to everyone's lips is: "Where is the nearest carrier?"

He continues:

> This means building the next new Nimitz class carrier in the mid-1990's as planned. But it also means retiring the older, less capable carriers. The breakup of the Soviet Union and the dramatically reduced possibility of this type of conflict allows some reduction in carriers, although they still play a vital role in meeting regional threats. With few carriers, we will have to be more flexible on the deployment schedule and operating tempo in order to ensure that sailors are not required to endure longer tours of sea duty than now expected.

That was in an interview with Defense Week, July 13, 1992.

One of my most vivid recollections of the war in Vietnam was in the fall of 1972, when as the Secretary, I was privileged to go out and visit our fleet. At that time, some of the carriers operating off station had been there for 7 months—7 months, Mr. President. It tested the mental endurance and the physical skill of those brave sailors, and particularly the airmen.

We were coming to a point where we were going to go beyond the physical endurance of those sailors to operate. The rotation base, the ability to replace those carriers had been shrunk.

This carrier comes to sea roughly in 2003, and this decision is trying to project ahead what is going to face the United States of America in that time period.

The Bottom-Up Review carefully went over that under the direction of the President of the United States and with the subsequent approval of the President of the United States. The Bottom-Up Review said 11 carriers plus 1 training carrier.

So the analysis has been made, the Commander in Chief of the U.S. Armed Forces has made his decision, and I say, with all due respect to my colleague from Wisconsin, we have not heard a case to overturn the decision of the President, the Secretary of Defense, the Armed Services Committee of this body.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ROBB. Mr. President, I yield myself 1 minute. I just might observe, in response to the remark made a few minutes ago by the Senator from Wisconsin, I understand and agree with his suggestion that we cannot always have participated actively or visited the sites or the activities that we are forming some judgment about. But in this particular case, and the way this body normally operates, we do yield to the committees of original jurisdiction a certain amount of responsibility to try to ferret out the most important questions and, in this particular case, this is not only the No. 1 priority for the Navy, it is not only done on the basis of the need through the Bottom-Up Review for the 11 plus 1 that has already been suggested, it is not only a matter of preserving the industrial base, it is not only a matter of saving taxpayer money, but with all of the disagreements that we have in the Senate Armed Services Committee, this provoked no disagreement whatever.

There was no dissent on this matter, even though there was considerable dissent with some of the things we will be discussing later on today, within the committee of original jurisdiction where extra time and staff expertise on a bipartisan basis was devoted to trying to make certain that this was appropriate as recommended by the President, by the Defense Department, by the Joint Chiefs and by the Navy.

Mr. WARNER. Will the Senator yield 1 minute to me?

Mr. ROBB. I yield 1 minute to the senior Senator from Virginia.

Mr. WARNER. Mr. President, in my statement, I referred to the impact of what this amendment would do. I want to emphasize that 42 States have subcontracts, and there are roughly 120,000 jobs that will be impacted directly by this amendment.

The PRESIDING OFFICER. Who yields time? The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from Wisconsin has 19½ minutes remaining; the Senator from Virginia has 7 minutes remaining.

Mr. FEINGOLD. Mr. President, I yield myself such time as I need at this point.

The senior Senator from Virginia asked why are we doing this? In the name of what? One answer is in the name of $3.6 billion. That is a pretty good answer to my constituents back home, at least as an opener, as an ante. That is money.

I have had the experience in only a year and a half of meetings with the Navy on a number of occasions—they were excellent meetings; the competence and ability of the people I had the meetings with was really very impressive—I had trouble ferreting out what is the top priority.

I had a very impressive group from the Navy in my office who told me the Trident II missile was the top priority when that was being discussed and questioned. That was the one they really cared about. That was No. 1.

I said, "Why can't we get rid of Project ELF in Wisconsin; nobody wants it there; it doesn't seem to have much to do with national security anymore?" They said, "No, we need that, too."

I understand their job is to protect this country. Now we are told that this additional carrier, 12 rather than 11, is the top priority. It is just a little difficult for me as a Member of this body. I might add to what the junior Senator from Virginia said, he may be on the committee but I still have to vote on it, I still have to discuss it. This is my opportunity to raise some questions and have a vote.

The Senator is right; he is going to win this vote. He does not look very worried. I understand there is even a pool in my office as to whether I will get 10, 15 or 20 votes. But I still think we have to talk about it.

The reason is that this is a very large expenditure, that every Senator should be involved in looking at it.

This item alone, if we cut this $3.6 billion, would bring this bill before us under the level of fiscal year 1994. Right now it is ahead. I think it is $2.4 billion over the 1994 level.

And I also know that sometimes you cannot get something done in the first attempt. I have already watched, over the years before I came here and since I have been here, the very difficult efforts to question the superconducting super collider, which have succeeded, the effort to question whether or not we need the whole space station program, which did not succeed last year but may well succeed now. And I know that this one is tougher because if we do not stop it now, basically next year a lot of it will be spent and it will be very hard to stop this program.

But perhaps this process will lead to what I think is an achievement of a much greater scrutiny of these programs. There needs to be more of this discussion out in the Chamber. So I would very respectfully disagree with the junior Senator from Virginia; that the ultimate place to ask these questions after we review the hard work of the committee is out in the Chamber and to discuss them.

I just want to remind my colleagues what kind of dollars we are talking about—$3.6 billion in 1995 alone. And the senior Senator from Virginia is correct; we have already spent almost $1 billion on this program. But when the argument then is we should keep going and spend the other $3.6 billion, I do not need to say that that is good money after bad.

There is more money involved here, though. Once this is up and operating, once we have the 12 supercarriers in the year 2003, the operating costs are $1 billion a year. So we have already put together those billions each year—the $3.6 billion next year—and it does not even take into account the very significant associated costs of the air wing and the protective ships that have to go with such an important piece of machinery as a supercarrier.

Mr. President, this is about something very real. In fact, I would even suggest to the Senators on the other side of this amendment that there are other military programs that could perhaps benefit from cutting this. I would prefer the money be used to reduce the deficit entirely. But perhaps there are chemical/biological defense programs, counter proliferation, base cleanup, chemical weapons destruction, other things that are underfunded in the military could obtain some of these funds that are going to be devoted to having 12 rather than 11 supercarriers.

In fact, in a meeting we had on this subject with some people who have analyzed this, the point was made there had been a cut in some recent development for antimine technology, minesweepers. We may be cutting spending on the very items that can protect the 11 carriers. Is it better to have 12 carriers that are vulnerable to mine attack or is it better to have 11 that are invulnerable?

Those are the real choices here, not between the Defense Department and the rest of the issues but within the defense concept. Spending this much money now on this particular supercarrier means, as the chairman of the committee indicated earlier on another amendment, that there will simply be less money available for other critical items for research and development that may ultimately have far more to do with national security than one supercarrier could ever have.

So, Mr. President, I recognize the partisan risks as well as the other risks of proposing an amendment like this, but I at this moment would like to appeal to my colleagues on the other side, some of whom I have worked with very closely, to try to find ways on a bipartisan basis to cut spending. We saw that happen in the Exon-Grassley amendment. I thought it was one of the best hours in the Senate, when we were able, on a bipartisan basis, to vote to say we can do better, we can cut $26 billion out of the budget.

I think we can do the same thing that the senior Senator from New Hampshire was trying to do on the Treasury bill. I voted to recommit the Treasury bill with that Senator from the other party. One of the reasons was that it was $1 billion over last year. That is not reason enough, but it is an important reason. Another was that it appeared to me we were restoring positions that we had just cut last year. And there were also items on that appropriations bill that were off budget. So I supported Senator SMITH on that item because he made an impassioned plea that we cannot just talk about across-the-board spending cuts, that we cannot just project a time in the future or say that all of the cuts have to come from entitlements or it will not mean anything. The real hard work is getting out here and having members of both parties vote, drop those party lines and say this one does not make sense; it is in the national interest to save the $3.6 billion and use it for other priorities.

Mr. President, I wish to reiterate this is not an attack on the idea of having supercarriers. Obviously, they are very important to our country. I do not even want to sign on to those analyses based on that assumption that may not come true that talk about six or seven. Our proposal does not even bring the number of supercarriers by the year 2003 down to 10, the level that the Bottom-Up Review itself says is sufficient for two virtually simultaneous major regional conflicts where we do not even have allies. I am not even trying to do that. We are just trying to see if we can go from 12 to 11.

I would like to take this opportunity to read the rest of what President Clinton said on the *Roosevelt*. He did make the statement that the senior Senator from Virginia pointed out. I might add before reading the rest of his comments, President Clinton during the campaign proposed we have only 10 supercarriers. Some of my friends here in this body are always criticizing him for breaking his promises. He is not doing that here, but I am doing better than he did in the campaign. I am only saying 11. But what did he say? He did say that, "when word of a crisis breaks out in Washington, it is no accident that the first question that comes to everyone's lips is: Where is the nearest carrier?" I do not dispute that that is what the President said. But in the same speech he also said this:

> A changed security environment demands not less security but a change in our security arrangements * * *. You have changed your crew and your equipment to reflect the new challenges of the post-cold-war era * * *. That enables you to operate perhaps with fewer ships and personnel but with greater efficiency and effectiveness. This isn't downsizing for its own sake; it's right-sizing for security's sake. The changes on board the *Theodore Roosevelt* preview the changes I believe we must pursue throughout the military.

So said the President—not downsizing for its own sake, not downsizing because the carriers are not important, but right-sizing in combination with other technologies, other military capability to still achieve the peacetime capacity that the Bottom-Up Review has recommended.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ROBB. Mr. President, I yield 2 minutes to the distinguished Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine [Mr. COHEN] is recognized for 2 minutes.

Mr. COHEN. Mr. President, first let me state that I have no parochial interest whatsoever in this particular ship. I do not know the 30 or 40 States that my colleague from Virginia has mentioned. I have no such interest in this particular aircraft carrier, but I do have an interest in the security it provides for this Nation.

I was interested to hear the Senator from Wisconsin say that candidate Clinton campaigned on the basis of having 10 carriers. I might point out that candidate Jimmy Carter campaigned on the basis of pulling 5,000 troops out of South Korea. And only when he became President and found that would have destabilized the region did he respond to the Senator from Georgia [Mr. NUNN], Senator Hart, Senator GLENN, myself, and others who urged him not to take that action which would have been precipitous and dangerous at that time, too.

President Clinton campaigned on no MFN for China. He found out after his year and a half in the White House that it was important to have MFN for China.

So we should not hark back to what candidates campaigned on and try to hold us to that particular standard. The fact of the matter is that a candidate who then becomes a President finds that more information makes them wiser in their deliberations.

I have heard it said in the past that "ideals without technique is a menace," and "technique without ideals is a menace." The same might be said about power: "Power without diplomacy is a menace or can be a menace." But diplomacy without power is the equivalent of capitulation in most examples. We have to have both power and diplomacy. And the aircraft carrier is the single most important component of providing us with both power and diplomacy.

We debated the issue of the C-17 yesterday at length, talking about the kind of airfields that we may be called upon to fly into in a hostile environment. These are our floating airfields. These are our fields that we have to fly off from and back to in a time of crisis. And if we have to err, we ought to err on the side of caution for the 12-carrier battle groups rather than the 11 that is being suggested by our colleague from Wisconsin.

So I urge the defeat of the amendment being offered.

I thank the Senator for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. ROBB. Mr. President, I yield such time as remains to the senior Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, how much time remains?

The PRESIDING OFFICER. Four minutes.

Mr. THURMOND. Mr. President, I ask unanimous consent for 1 more minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I rise to oppose Senator FEINGOLD's amendment to delay procurement of CVN-76 until fiscal year 2000.

The Senator asserts that our Nation does not really need CVN-76. My observation is that the chairman of the Joint Chiefs, every military secretary, former Secretary of Defense Aspin, and Secretary of Defense Perry, believe our Nation does need CVN-76. Further, the Congress has already expressed support for CVN-76 by approving $832 million in fiscal year 1993, and appropriating, subject to authorization, another $1.2 billion in fiscal year 1994 for this carrier.

Senator FEINGOLD asserts that the Bottom-Up Review confirmed that a force of 10 carriers would be adequate to fight two major regional conflicts, and that we can drop from 12 carriers to 11 or even 10 without weakening our defenses.

I would observe that the Bottom-Up Review rejected a force of 10 carriers and recommended 12 because they serve not just as instruments of war but as instruments of deterrence and diplomacy as well.

For the past 50 years, carriers have been used to preserve the peace. They have been called on more than 140 times since World War II to meet crises and protect our Nation's interests. As our overseas bases are reduced, the need for their mobility and power will become greater, not less. Witness the intense use in Bosnia and Somalia during the past year, not as relics of the cold war but as naval linchpins of its turbulent aftermath.

Senator FEINGOLD argues that the risk to our nuclear and shipbuilding industrial bases of delaying CVN-76 until fiscal year 2000 is acceptable. I do not agree. The Bottom-Up Review and other Navy assessments estimated that at least $2.1 billion and some 7 years would be required to restore the nuclear shipbuilding base if we let it lapse. Even a year's delay would cost $400 million or $500 million.

Additionally, many thousands of jobs could be adversely affected. The possible damage to the Nation's economy is more than I care to risk when I know that a strong need for CVN-76 exists right now.

Senator FEINGOLD's proposed legislation can harm our Nation's defense, will damage the nuclear shipbuilding industrial base, will risk the possibility of losing the ability to build nuclear aircraft carriers, and will weaken our Nation's ability to carry out its primary mission.

I urge my colleagues in the Senate to vote against it.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. ROBB. Mr. President, the Senator from Virginia reserves whatever time is remaining. I am prepared to yield back time depending upon the actions of the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin has 9½ minutes.

Mr. FEINGOLD. Mr. President, at the very end of the debate on this amendment, there have been very candid major arguments that the world is a very dangerous place—which I concede— that it is best to serve on the Armed Services Committee to debate this amendment, to even debate this issue, and that it probably is a little better if you tour a carrier.

But what I have not heard specifically are responses to the arguments that I have tried to make in support of the amendment, and virtually no recognition by the other side of just what $3.6 billion means to this country; what it means to kids in this country who have AIDS; what it means to cities that have their water virtually poisoned because we do not have the funds to clean up that water supply; what it means to families that have members who have Alzheimer's disease and cannot afford long-term care.

These are situations that need help and that could really use some of that $3.6 billion. But I do not leave it at that. I have also not heard a serious response to the question of: Is there not within the military itself a better use for some of these funds than to stay at 12 rather than having 11 carriers?

I repeatedly mentioned during the debate the fact that credible sources, including the GAO and others, have talked about real alternatives, Aegis cruisers, and others, that can provide the same kind of assistance that a carrier can in some situations.

I concede to the Senators from Virginia, not in all situations, but that in many situations it is possible that a lighter, different type of carrier or different type of ship could help provide the help that is needed without having to have the 12 carriers.

So we have not heard a single specific response other than saying the world is dangerous, and you have to have 12, you cannot have 11. It makes you wonder how we are going to survive without 15. Presumably there is no upper limit to how many carriers are needed to be absolutely secure.

Finally, Mr. President, I really do not see how I can stand here on the Senate floor and rely entirely on the committee when we do not talk seriously about what $3.6 billion means in lost research and development in future military capability. The world has changed. The cold war is over and military technology and the dangers in the world have changed. The senior Senator from Virginia made that point very well. Many believe that it has changed so much that the carriers themselves may not be as relevant to crises situations as they have been in the past. I have not reached that conclusion. But there are those who say that.

What we need to do here in the U.S. Senate is to start talking about what $3.6 billion means in terms of national security, including economic national security and the other issues which I have mentioned.

Just take that $3.6 billion and ask yourself: Are we really going to save more lives in a military situation by spending it on an additional carrier, or should we be doing a whole number of other things for readiness that this country may desperately need as we try to deal with those multiplying situations that the senior Senator from Virginia has identified, many of which I will argue may not be needed and conducive to a supercarrier at all?

Mr. President, $3.6 billion in one bill, in 1 year, will not even bring down the level of carriers from 12 to 11 until the year 2003. This is not an attack on the military. It is a strong suggestion that we can find another way to provide the same level of national security with less money and in a way that is more appropriate for the new era that we have entered since the end of the cold war.

I yield the floor.

Mr. BOND. Mr. President, I join in opposition to this amendment and express my support of the $2.4 billion funding authorization for the CVN-76. This funding was recommended by the Senate, approved by the House Armed Services Committee and the full House, as well as the Senate Armed Services Committee. It should also have the approval of the full Senate.

The pending amendment is about our ability to project force, not just today but into the next century. Approval of the pending amendment would severely impede our ability to project force and pursue our interests around the world.

American troops are leaving forward bases around the world and returning to the United States. We are giving up air and naval facilities around the world, further limiting our options in terms of projecting force. All of this is happening at a time when regional conflicts and threats to U.S. interests are multiplying at a staggering rate. One just has to read this morning's newspaper to see that we need to maintain the capability to get U.S. airpower to hotspots all over the globe.

Just looking at the past few months, we now have ships enforcing the embargo off Haiti, we have a carrier on call to respond to developments on the Korean Peninsula, we have had carriers operating in support of the no-fly zones in Bosnia and Herzegovina and Iraq. And that is while we are in a peacetime situation. The carriers are the most-used tool of a President seeking to send a message to a foreign leader or to respond quickly to a foreign crisis.

The importance of our carrier force is well-illustrated by looking at our experience in the gulf war. In that conflict, we had the good fortune of deploying our forces to a country with some of the best airfield facilities in the world, with the result that we were able to deploy a large amount of our land-based air forces. Despite that fact, we still sent six carriers to the gulf and all were heavily involved in the conflict.

The Bottom-Up Review found that a 12-carrier-force is the smallest that this country can deploy. If we are to deploy a force that size, then we must buy CVN-76. Personally, I have been one who has expressed some concern about many of the recommendations for force levels in the BUR. I think that in many places it recommends force cuts that go too far. With regard to carriers, I am not convinced they have made realistic assumptions about how many carriers would be needed to respond to a major regional contingency. I believe that is an important point even though the recommendation for 12 carriers is based on peacetime needs to maintain U.S. presence around the world because we cannot afford to make a mistake in terms of equipping our forces for the two MRC contingency. It certainly would be a mistake for the Senate to go beyond the BUR cuts, especially with regard to a system as critical as the carrier fleet.

It is also important to consider the impact of this amendment on the men and women who operate the ships in the carrier battle group. There is no question that our obligations around the world are not getting smaller. In fact, we are likely to see more conflicts in the coming years. That means we will have to continue to keep the carriers deployed. If we fail to replace aging carriers and allow the fleet to shrink, the result will be that the length of deployments will grow. We tried that in the seventies. It was bad for morale and it resulted in large numbers of qualified sailors leaving the Navy.

Our aircraft carriers and the aircraft they carry are a central part of our overall military force. They are and will continue to be the first to fight in any conflict. And they remain one of our most powerful tools for diplomacy and avoiding conflict. The point is—we use them a lot. That means we must invest in recapitalization of the force—we must regularly buy new ships and new aircraft.

When it comes into service in the year 2003, CVN-76 will replace the *Kitty*

Hawk, which will have served for 43 years. I would say we got our money's worth out of *Kitty Hawk* and that it's time to replace her.

I would like to turn for a moment to one of the arguments that has been made by the principal sponsor of this amendment—that no one else in the world has a supercarrier like that of the U.S. Navy, and that, by implication, we don't need another one. To that, my response is that I agree with the first part of his statement—I want our sailors and naval aviators to have the most capable systems in the world. I want them to have the best ship, the best airplane, and overwhelming power. I don't want them ever to have to be in a fair fight. I want them to have a bigger force, better weapons, and better training so that they have a better chance of winning and returning home safely.

Mr. President, it is clear to me that we need CVN-76. It takes 7 years to build a nuclear aircraft carrier. If we are to be able to deploy this ship when it is needed in the next century, we must get started now. For that reason and the other reasons stated above, I urge Senators to oppose the amendment before us and fund the new carrier.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia [Mr. ROBB] is recognized.

Mr. ROBB. Mr. President, let me just conclude by saying that I understand the appeal for an alternative means of spending. For almost any matter that we consider, there are attractive alternatives. But, in this case, the Department of Defense, the Navy, the President of the United States, and the Armed Services Committee considered a number of alternatives, considered options, and decided that this was the most important way that this particular money could be spent at this particular time.

I recognize that this is an appeal for those who want to get their fiscal responsibility quotient up, as I frequently do in other areas, to vote against the authorization of the carrier. But in this particular case we will be responding to the needs of our Commander in Chief, the services, and the committee of original jurisdiction.

With that, all time having been yielded back, I move to table the amendment offered by the Senator from Wisconsin and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Nebraska [Mr. EXON] is necessarily absent.

I also announce that the Senator from Connecticut [Mr. DODD] is absent because of illness in the family.

Mr. SIMPSON. I announce that the Senator from New Mexico [Mr. DOMENICI] and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 72, nays 24, as follows:

[Rollcall Vote No. 164 Leg.]

YEAS—72

Akaka
Bennett
Biden
Bingaman
Bond
Boren
Breaux
Bryan
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
Danforth
Daschle
Dole
Durenberger
Faircloth
Feinstein
Ford
Glenn
Gorton
Graham
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inouye
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Mikulski
Mitchell
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Shelby
Simpson
Smith
Stevens
Thurmond
Warner
Wofford

NAYS—24

Baucus
Boxer
Bradley
Brown
Bumpers
Byrd
Conrad
DeConcini
Dorgan
Feingold
Gregg
Harkin
Jeffords
Kohl
Lautenberg
Leahy
Metzenbaum
Moseley-Braun
Moynihan
Pryor
Sasser
Simon
Specter
Wellstone

NOT VOTING—4

Dodd
Domenici
Exon
Wallop

So the motion to table the amendment (No. 1841) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBB. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1840

Mr. JOHNSTON. Mr. President, what is the regular order?

The PRESIDING OFFICER. Amendment No. 1840.

Mr. JOHNSTON. Mr. President, amendment No. 1840, that is the Johnston-Feinstein amendment?

The PRESIDING OFFICER. It is the Johnston-Feinstein amendment.

Mr. JOHNSTON. Mr. President I understand that we are ready to go to a voice vote on that amendment.

Mr. LOTT. Mr. President, I ask the distinguished Senator from Louisiana to yield at this point.

Mr. JOHNSTON. For a question?

Mr. LOTT. Yes; for a question.

Mr. JOHNSTON. Yes; I yield for a question.

Mr. LOTT. Mr. President, I would like to say to the distinguished Senator from Louisiana that I understood from the Senator from Georgia that he was going to try to get up an amendment at this point right away.

We are running some numbers and trying to get information from the Pentagon on a solution that we think might be acceptable on this problem. I had indicated to the Senator from Louisiana that I would like to go ahead and get this matter resolved, but I would like to get a colloquy before we go to a final vote from the Senator from Georgia, the chairman of the committee, and see if we could get these numbers before we get a recorded vote.

In addition, my colleague from my State is not here at this point. I would like to get a chance to get him back to the floor before we would do that, if the Senator would be willing to give me just a few moments more.

Mr. JOHNSTON. Mr. President, I certainly want to accommodate my friend from Mississippi.

Do I understand that, as far as this amendment, that is, the restoration of the money for the fast sealift, that that essentially will be agreeable and the Senator is trying to work out the funding for the LHD-7?

Mr. LOTT. That is correct.

Mr. JOHNSTON. So that we can safely breathe easier on the refunding of the fast sealift?

Mr. LOTT. I think that the answer to that is yes, we want to get that done.

But we are trying to see if we can come to some agreement on how to continue the opportunity for the LHD-7. So that is where we are right now.

Mr. KOHL. Mr. President, I am troubled by the vote which took place in the Armed Services Committee to divert more than $600 million in funds designated for sealift to build a seventh amphibious assault ship of the LHD-7 *Wasp* class.

I am concerned about any further delay in awarding contracts for two large, medium roll-on and roll-off ships to preposition heavy equipment for the Army. The Army has made clear that this move will seriously hamper their efforts to meet longstanding lift requirements. The Chairman of the Joint Chiefs of Staff has weighed in noting that this diversion of funds to the LHD flies in the face of the conclusions of the mobility requirements study and that the committee's decision was based on erroneous information.

We now have the ability to correct that error. Initially, the members of the Armed Services Committee were led to believe that the Navy would have another year to exercise its options to initiate the sealift contracts. That is not true. The contract option on these two sealift ships expires this year, possibly requiring a renegotiation of the contract.

I understand that the LHD option is expiring as well, but we are designated to building the LHD–7 down the road. The Pentagon has made the difficult decision that exercising the sealift option at this time is the higher priority.

Mr. President, funding the LHD the way we have in this bill is bad policy. I am deeply concerned about the bad precedent we have been setting by partially funding LHD ships. For some time now, we have operated under the rule that we will not partially fund big ticket items so we know up front what we're buying and how much we're paying for it. The LHD–6 was the first major departure from this practice. It was a mistake. By proceeding in this fashion, we are watering down the full funding provision even further.

I have subcontractors in my State who suffer if these sealift ships are not built. But, frankly, there are Wisconsin winners and losers on both sides of this issue. There are LHD subcontractors in my State who have told me they will be hurt significantly if they do not begin work on the LHD this year.

Thus, on the merits alone, supporting these Sealift ships is the right thing to do. It is in the best interests of our national defense and it is sound fiscal policy.

I want to thank the Senators from California and from Louisiana for their work on the issue. I urge my colleagues to support this amendment.

Mr. SHELBY. Mr. President, I rise in opposition to the amendment offered by the Senator from Louisiana. I take this action, not because I believe that the Fast Sealift Program is unnecessary, instead because the LHD Program is more necessary.

The LHD is an amphibious assault ship that can perform functions similar to a carrier. It carries all types of Navy and Marine helicopters, Harrier jump jets, landing craft, amphibious vehicles, a fully staffed hospital, and landing craft. More importantly, it can carry 2,000 marines into harms way.

The LHD's are already in the fleet with three more currently in production. Funding for the LHD–6 was provided in two stages. First, in fiscal year 1993 and then last year in fiscal year 1994. We are now at a point where an option exists that would save the Navy about $800 million if the purchase is begun this year. We will also be able to provide the Marine Corps with the critical amphibious lift to support validated requirements for 12 amphibious ready groups.

The LHD–7 is currently in the Navy shipbuilding plan for the year 2000. I am afraid that there is no way that we can guarantee that this high priority will be funded at the turn of the century. That is why we are seeking funding for the LHD–7 this year.

The House Armed Services Committee has funded the LHD–7 at a level of $100 million in its defense authorization bill for fiscal year 1995. It also fully funds the sealift fund at $600.8 million. Therefore, I believe that there is a chance to compromise here or in the conference with the House of Representatives.

The committee, by a vote of 14–7, approved this initial step in funding the LHD–7. There has been much discussion in this Chamber that we gutted the Sealift Program. At the time the committee voted we were under the false impression that the options for the next two sealift ships would not expire until the end of next year. I do not believe that we can at this point determine that had we been provided correct information the vote would have been the same. What we do know, however, is that the committee was voting to begin funding the LHD–7 now in order to save $800 million.

Mr. President, I intend to vote against the Johnston-Feinstein amendment and urge my colleagues to vote against this amendment.

Mr. JOHNSTON. Mr. President, I have a copy of a letter from the Deputy Secretary of Defense, John Deutch, to Senator SAM NUNN, the comport of which is to say we object to the committee's action because it would force the Department to buy a ship we currently do not need and defer funding for the very ships we do need.

I ask unanimous consent that the text of that letter be printed in the RECORD.

There being no objection, the text of the letter was ordered to be printed in the RECORD, as follows:

THE DEPUTY SECRETARY OF DEFENSE,
Washington, DC, June 23, 1994.

Hon. SAM NUNN,
U.S. Senate, Washington, DC.

DEAR SENATOR NUNN: While we largely applaud the Defense Authorization Bill your Committee has reported, the Department strongly objects to the actions taken to accelerate construction of the LHD–7 amphibious assault ship, especially at the expense of the Department's ongoing program for sealift modernization. The Committee's recommendation on the LHD–7 is seriously flawed for two reasons.

First, the Department is opposed to incremental funding for major weapon systems. Full funding of investment programs is a bedrock premise for the funding integrity of defense programs. It was imposed by the Congress and embraced by the last six administrations. Unfortunately, departures from this principle have come from the legislative branch in recent years. We supported Congress' actions on the CVN–76 last year only because we had already been appropriated $800 million in advance procurement and had budgeted the full amount for construction in the very next year of our five year plan. The LHD–7, however, is not included in our plan until the end of the decade. We cannot accept this intentional erosion of the full funding principle, especially at a critical time when defense resources are stretched nearly to the breaking point.

Second, the Committee is recommending we buy the wrong amphibious ship at this time. The LHD is an impressive ship and contributes directly to our lift capacity for helicopters and landing craft. These are the two areas, however, where current amphibious capacity exceeds requirements. Amphibious shipping currently is deficient in capacity to carry vehicles, but this is the one area where the LHD–7 makes only a limited contribution. Instead, the Department is proposing a new class of amphibious ships designed precisely to address this shortfall. Buying an LHD at this point will likely divert funds from the amphibious ship the Marine Corps truly needs in the future and it diverts FY 1995 funds from the acquisition of critically needed, surge, sealift ships that will contribute to the force mobility so essential in today's national security environment. We object to the Committee's actions because it would force the Department to buy a ship we currently do not need and defer funding for the very ships we do need.

For these two reasons, we must ask that the Committee reconsider its actions, reverse the unwarranted cut to our sealift program, and avoid a needless distortion of the Department's amphibious modernization requirements.

Sincerely,
JOHN DEUTCH.

Mr. HEFLIN. Mr. President, I rise today to convey my strongest personal support for funding of the LHD–7 amphibious assault ship as a fiscal year 1995 procurement. The ship is unquestionably needed, and the cost of delaying the construction of this next ship in the WASP class is unacceptably high.

World events have demonstrated the need for flexible and responsive forward deployed forces capable of crisis response, peacekeeping, and humanitarian relief missions. The Navy/Marine Corps team of expeditionary naval forces, deployed as Amphibious Ready Groups aboard the LHD series of ships, is uniquely well qualified to perform these vital functions.

Mr. President, there seems to be some confusion here as to what we are debating. Some say the debate is about what type of ship is needed. Others say the issue is the cost of letting existing contract options expire. Still others point to the impact of SASC action on the fielding schedule of the sealift ships. My point is that regardless of which question you ask, funding the LHD–7 as a fiscal year 1995 procurement is still the best answer.

Let me begin by saying that the Department of Defense is clearly on record validating the need for the LHD–7, the regional CINC's testified to the Armed Services Committee that they need and want the LHD–7, and that the Marine Corps considers the ship to be critical to their ability to meet the Nation's naval forward presence needs. Amphibious lift is not the same as sealift. The issue is more than just lift; the issue is also an adequate number of the right types of ships with the right capabilities for flexibility and utility. The Marine Corps deploys its forces in Amphibious Ready Groups which use the big deck LHD–7 as their centerpiece. All of the relevant studies, the Roles and Missions Report, the Bottom-Up Review, and the Navy White Paper "* * * From the Sea" agree that 12 Amphibious Ready Groups are needed, and the LHD–7 is critical to that requirement.

The next issue is cost. Much has been said with regard to the fact that the contract option will expire on the two sealift ships if we delay them. The fact is, we face the expiration of contract options on all three ships this year. The question ought to be, since we can't afford to exercise all three—which one is going to cost us the most to let go? Just remember, every time a Senator says that the option will expire if we don't purchase those two sealift ships next year, what he or she is saying is that we will be forced to spend approximately $100 million more than planned to build these two ships a year later. That is what the contract option saves us, about $100 million.

Exercising the LHD–7 contract option, however, will save us over $700 million. Now, this is important—the savings to be achieved by purchasing the LHD–7 in 1995 are greater than the $600 million price tag of the two sealift ships. In fact, we could use those savings to purchase two more sealift ships than the Navy has planned.

Let me say that again. Using the funds now within the Navy POM, the Congress has two choices:

First, delay the LHD–7 and subsequently build only 20 sealift ships, or for the same amount of funding; and

Second, accelerate the LHD–7 and build not 20, but 22 sealift ships.

The financial choice is clear, the LHD–7 option should be exercised this year and the less costly sealift ship option should be allowed to expire.

The last argument presented by the opponents of LHD–7 is schedule. They feel that the delay of these two sealift ships is unacceptable. Well frankly, this argument just doesn't hold water.

First, the two sealift ships are already delayed approximately 5 months due to schedule slippage in the initial two boats. Pushing back the funding for these two ships until next year, will only delay the two ships in question an additional 7 months.

Second, the Navy's sealift program can hardly be described as schedule driven. It takes a shipyard approximately $350 million and 36 months to build a new sealift ship. The other option, doing a conversion of an existing ship, costs only $225 million and takes only 18 months. If the Navy really needed the ships as fast as they could be provided, they could have contracted for more conversions. This would have saved hundreds of millions in taxpayer money as well. But the Navy decided not to build the cheaper ships, and that an 18-month delay in the construction of each ship was acceptable.

By delaying purchase of the two sealift ships until 1996, we push back their completion date until 1999, 7 months behind schedule. If the Navy feels that this is unacceptable, then instead of contracting for two new ships in 1996, they could buy two additional conversion ships which, as I've said, can be built much faster. In fact the Navy could actually accelerate its schedule for fielding sealift ships by buying the LHD–7 in 1995 and two conversion sealift ships in 1996.

In conclusion, I ask my colleagues to remember these key points when making their decision.

First, delaying the two sealift ships and acquiring the LHD–7 will save the Navy and the taxpayer hundreds of millions of dollars. This is because the cost of letting the LHD–7 option expire is seven times larger than the cost of letting the option on the two sealift ships expire.

Second, delaying the two sealift ships will have a negligible impact on the Navy's schedule and the Navy has the option of getting back on schedule by purchasing two more conversion ships in 1996.

Third, the requirement for the LHD–7 is just as valid as the requirement for the sealift ships.

The choice is clear. I, therefore, encourage my fellow senators to join me in defeating this amendment.

Mr. JOHNSTON. Mr. President, I ask unanimous consent we temporarily lay aside the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona.

AMENDMENT NO. 1842

(Purpose: To terminate certain Department of Defense reporting requirements)

Mr. McCAIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN], proposes an amendment numbered 1842.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 223, beginning with line 14, strike out all through page 227, line 11, and insert in lieu thereof the following:

SEC. 1042. TERMINATION OF CERTAIN DEPARTMENT OF DEFENSE REPORTING REQUIREMENTS.

(a) IMMEDIATE TERMINATION.—Except as provided in subsection (c), notwithstanding the date set forth in subsection (a) of section 1151 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1758; 10 U.S.C. 113 note), the reporting requirements referred to in subsection (b) are terminated effective on the date of the enactment of this Act.

(b) APPLICABILITY.—Subsection (a) applies to each reporting requirement specified in enclosures 1 and 2 of the letter, dated April 29, 1994, by which the Director for Administration and Management, Office of the Secretary Defense, citing the authority of the provision of law referred to in subsection (a), submitted a list of reporting requirements recommended for termination by the Department of Defense.

(c) PRESERVATION OF REQUIREMENTS.—(1) The reporting requirements set forth in the provisions of law referred to in paragraph (2) shall not terminate under subsection (a) of section 1151 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1758; 10 U.S.C. 113 note.)

(2) Paragraph (1) applies to the following reports:

(A) Reports required under the following provisions of title 10, United States Code:

(i) Section 2662, relating to reports on real property transactions.

(ii) Section 2672a(b), relating to reports on urgent acquisitions of land.

(iii) Section 2687(b)(1), relating to notifications of certain base closures and realignments.

(iv) Section 2690(b)(2), relating to notifications of proposed conversions of heating facilities at United States installations in Europe.

(v) Section 2804(b), relating to reports on contingency military construction projects.

(vi) Section 2806(c)(2), relating to reports on contributions for NATO infrastructure in excess of amounts appropriated for such contributions.

(vii) Subsections (b) and (c) of section 2807, relating to notifications and reports on architectural and engineering services and construction design.

(viii) Section 2823(b), relating to notifications regarding disagreements between certain officials on the availability of locations for suitable alternative housing for the Department of Defense.

(ix) Subsections (b) and (c) of section 2825, relating to notifications regarding improvements of family housing or construction of replacement family housing.

(x) Section 2827(b), relating to notifications regarding relocation of military family housing units.

(xi) Section 2835(g)(1), relating to economic analyses on the cost effectiveness of leasing family housing to be constructed or rehabilitated.

(xii) Section 2861(a), relating to the annual report on military construction activities and family housing activities.

(xiii) Subsections (e) and (f) of section 2865, relating to notifications regarding unauthorized energy conservation construction projects and an annual report regarding energy conservation actions.

(B) Reports required under the following provisions of title 37, United States Code:

(i) Section 406(i), relating to the annual report regarding dependents accompanying members stationed outside the United States in relation to the eligibility of such members to receive travel and transportation allowances.

(ii) Section 1008(a), relating to the annual report by the President on adjustments of rates of pay and allowances for members of the uniformed services.

(C) Reports required under the following provisions of law:

(i) Section 326(a)(5) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2368; 10 U.S.C. 2301 note), relating to reports on use of certain ozone-depleting substances.

(ii) Subsections (e) and (f) of section 2921 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2687 note), relating to notifications regarding negotiations for payments-in-kind for the release of improvements at overseas military installations to host countries and an annual report on the status and use of the Department of Defense Overseas Military Facility Investment Recovery Account.

(iii) Section 1505(f)(3) of the Military Child Care Act of 1989 (title XV of Public Law 101–189; 103 Stat. 1594; 10 U.S.C. 113 note), relating to reports on closures of military child development centers.

(iv) Subsections (a) and (d) of section 7 of the Organotin Antifouling Paint Control Act of 1988 (Public Law 100–133; 102 Stat. 607; 33 U.S.C. 2406), relating to the annual report on the monitoring of estuaries and near-coastal waters for concentrations of organotin.

Mr. McCAIN. Mr. President, this amendment that I believe is going to be accepted is a very simple one. This amendment calls for the immediate termination of reports that we require the Department of Defense to submit annually to Congress. The Department of Defense identified and reviewed approximately 549 congressionally-mandated reports and produced a list as required, and of that list there was 106 reports that were presented by the Secretary of Defense for termination.

The Senate Armed Services Committee determined that 20 of those reports are necessary and they have been taken out of this list that I am submitting.

As I am sure my colleagues can tell, the focus of the amendment is to eliminate the excessive time and money that is spent on outdated, needless, reports.

An example of some of these reports is we require a report on the debarment of persons convicted of fraudulent use of "made in America" labels. This report was found to be essentially moot since there is no law requiring conviction for the fraudulent use of these labels. We have mandated a report titled "Collator Acquisition." Since all copying and duplicating equipment now come furnished with sorters, I do not think there is any doubt that this report is needless.

The list of unnecessary reports is extensive, but the key criterion for justifying the termination of these reports is descriptions such as "project completed," "redundant requirement," and "obviously could be replaced by internal reports."

You know, I had the privilege and pleasure of getting to know former Secretary of Defense Dick Cheney. Secretary Cheney mentioned to me there were a number of frustrations he experienced that he had very little appreciation for when he went from being a Member of Congress to be Secretary of Defense. One of the most wasteful in his view, and time consuming—and consuming of the taxpayers money—were these reports. There are presently now 549 mandated by the Congress to be submitted by the Department of Defense. We have literally hundreds of employees at the Secretary of Defense's office, in the Pentagon Building, whose only job is to generate these reports.

I believe many of them are necessary and many of them are required in order to keep the Congress apprised of the progress of the Department of Defense in carrying out our requests, orders, authorization, et cetera. But there are many which have been identified—as I say 86 of them—that I think should be removed immediately.

I mentioned a couple of them. Another one is Annual Plant Inventory Report; Jobs Which Exceed JCP Duplicating Limitations; Notice of Intent to Apply New Printing Processes; Collator Acquisition Report, et cetera—which just are not necessary.

Mr. President, if any of my colleagues feel there are any of these that are necessary after the staff of the Senate Armed Services Committee has reviewed them, I would be more than happy, within the next 24 hours or 48 hours—however long before this bill is finished—to put that report back in, eliminate it from this list. I have sent out a "Dear Colleague" to all my colleagues today, listing these reports that are in this amendment to be terminated. I would be more than happy to leave them in if there is any question whatsoever.

So I ask the distinguished managers of the bill if this amendment is acceptable to them? That way I think we can dispense with it in short order.

Mr. President, I ask unanimous consent the list of congressionally mandated reports recommended for termination, and a cover letter from D.O. Cooke, Director of Administration and Management at DOD, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF THE SECRETARY OF DEFENSE

Washington, DC, April 29, 1994.

Hon. JOHN MCCAIN,

U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: Enclosure 1 is the list of recurring Congressionally Mandated Reports recommended for termination by the Department of Defense (DoD) as required by Public Law 103–160, Section F, "Recordkeeping and Reporting Requirements," Section 1151. Enclosure 2 is a list of reports recommended for termination because we were unable to find a DoD sponsor.

Your staff was involved in the early planning stages of this reports review and their participation was greatly appreciated. Overall, 549 Congressionally Mandated Reports were identified, loaded into a system, validated for sponsorship, and sent to the DoD Components for review. As you can see from the results, the Components put a lot of thought and effort into the review, and have recommended 106 reports for termination.

The systematic management of Congressionally Mandated Reports was long overdue and steps have been taken to institutionalize the management of these reports. This includes quarterly updating of the data base using on-line legal searches, validating sponsors, reviewing reporting requirements periodically, and disseminating information about the reports on a regular basis. Thus, in the future, Congressionally Mandated Reports that have outlived their usefulness can be eliminated in a timely manner.

Please let us know if we can be of further assistance in the regard. My point of contact on this effort is Mr. Robert S. Drake, who may be reached at (703) 604–4569.

Sincerely,

D.O. COOKE,

Director.

Enclosures: As stated

CONGRESSIONALLY MANDATED REPORTS RECOMMENDED FOR TERMINATION

Title: Acquisition: Interests in Land When Need is Urgent.

Brief: The Secretary of a military department may acquire any interest in land that—(1) he or his designee determines is needed in the interest of national defense, (2) is required to maintain the operational integrity of a military installation; and (3) considerations of urgency do not permit delay necessary to include the required acquisition in an annual Military Construction Authorization Act. The Secretary of a military department contemplating action under this section shall provide notice, in writing, to the Committees on Armed Services of the Senate and House of Representatives at least 30 days in advance of any action being taken.

Justification for Termination: "Urgent" land acquisition report for ASCs; incompatible with efficient management (the 30-day defeats the statute's "considerations of urgency authority").

Title: Depot Level Reparables (DLR).

Brief: Level of funding and types of spares.

Justification for termination: The requirement for the OP–31 DLR display is found in the DOD financial management regulation (7000.14–R). H.R. 2521 DOD appropriation bill, 1992, Senate appropriations required the Army budget to identify these operating costs. There is no internal Army requirement for this data. This data does not assist the Army in the internal budget process. Therefore, having reviewed this exhibit and the requirement to submit the data, the requirement is unnecessary. If this were a one-time requirement or no longer needed at OSD, OMB, CBO, or the Congress, then the Army recommends termination.

Title: Minority Group Participation in Construction of the Tennessee-Tombigbee Waterway Project.

Brief: The Secretary of the Army, acting through the Chief of Engineers, is directed to make a maximum effort to assure the full participation of members of minority groups, living in the states participating in the Tennessee-Tombigbee Waterway Development Authority, in the construction of the Tennessee-Tombigbee Waterway Project, including actions to encourage the use, wherever possible, of minority owned firms. The Chief of Engineers is directed to report on July 1 of each year to the Congress on the implementation of this section, together with recommendations for any legislation that may be needed to assure the fuller and more equitable participation of members of minority groups in this project or others under the direction of the Secretary.

Justification for termination: This project has been completed.

Title: Real Property Transactions—Lease of Rental Property by GSA for DOD in Excess of $200,000.

Brief: No element of DOD shall occupy any general purpose space leased for it by the General Services Administration at an annual rental in excess of $200,000 (excluding the cost of utilities and other operation and maintenance services), if the effect of such occupancy is to increase the total amount of such leased space occupied by all elements of DOD, until the expiration of 30 days from the date upon which a report of the facts concerning the proposed occupancy is submitted to the Committees on Armed Services of the Senate and the House of Representatives.

Justification for termination: Individual reports to ASCs of land actions: Incompatible with efficient management (threshold of $200,000 is .00001% of proposed FY 95 budget) and unnecessary (statute is not an authority; any action must meet another statute's requirements).

Title: Real Property Transactions—Reports to Congressional Committees.

Brief: The Secretary of a military department, or his designee, may not enter into any of the following listed transactions by or for the use of that Department until after the expiration of 30 days from the date upon which a report of the facts concerning the proposed transaction is submitted to the Committees on Armed Services of the Senate and the House of Representatives: (1) an acquisition of fee title to any real property, if the estimated price is more than $200,000; (2) a lease of any real property to the U.S., if the estimated annual rental is more than $200,000; (3) a lease or license of real property owned by the U.S., if the estimated annual fair market rental value of the property is more than $200,000; (4) a transfer of real property owned by the U.S. to another Federal agency or another military department or to a State, if the estimated value is more than $200,000; (5) a report of excess real property owned by the U.S. to a disposal agency, if the estimated value is more than $200,000; and (6) any termination or modification by either the grantor or grantee of an existing license or permit of real property owned by the U.S. to a military department, under which substantial investments have been or are proposed to be made in connection with the use of the property by the military department.

Justification for termination: Individual reports to ASCs of land actions: Incompatible with efficient management (threshold of $200,000 or .00001% of proposed FY 95 budget) and unnecessary (statute is not an authority; any action must meet another statute's requirements).

Title: Real Property Transactions—Reports to Congressional Committees.

Brief: The Secretary of each military department shall report annually to the Committees on Armed Services of the Senate and the House of Representatives on transactions described in subsection (a) that involve an estimated value of more than the small purchase threshold under section 2304(g) of this title but not more than $200,000.

Justification for termination: Annual compilation for ASCs of land actions: Incompatible with efficient management (reports actions less than $200,000 or .00001% of proposed FY 95 budget) and unnecessary (statute is not an authority; any action must meet another statute's requirements).

Title: Written Agreement Requirement Regarding Water Resources Projects.

Brief: The Secretary of the Army, acting through the Chief of Engineers, shall maintain a continuing inventory of agreements and the status of their performance, and shall report thereon to Congress. This shall not apply to any project the construction of which was commenced before January 1, 1972, or to the assurances for future demands required by the Water Supply Act of 1958, as amended. Following the date of enactment, the construction of any water resources project, or an acceptable separable element thereof, by the Secretary of the Army, Chief of Engineers or by a nonfederal interest where such interest will be reimbursed for such construction under the provisions of the Flood Control Act of 1968 or under any other provision of law, shall not be commenced until each nonfederal interest has entered into a written agreement with the Secretary of the Army/COE to furnish its required cooperation for the project. The agreement may reflect that it does not obligate future State legislative appropriations for such performance and payment when obligating future appropriations would be inconsistent with State constitutional or statutory limitations.

Justification for termination: This annual report simply provides the total number executed (according to six types of agreements) and states whether maintenance of any projects has been found to be deficient. However, the inventory requires substantial effort to track agreements, and report relevant data. When this requirement was new Congress was curious as to its effectiveness. However, over 2,000 agreements have been executed since 1972, and Congress has shown no interest in this report. This report has outlived its usefulness.

Title: Administration of Military Construction and Military Family Housing Activities.

Brief: The SECDEF shall submit a report to the appropriate committees of Congress each year with respect to military construction and military family housing activities. Each report shall be submitted at the same time that the annual request for military construction authorization is submitted for that year. Otherwise, information to be provided in the report shall be provided for the two most recent fiscal years and for the fiscal year for which the budget request is made.

Justification for termination: The report data is available on an as needed basis from each of the services.

Title: Architectural and Engineering Services and Construction Design.

Brief: Within amounts appropriated for military construction and military family housing, the Secretary of the service concerned may obtain architectural and engineering services and may carry out construction design in connection with military construction projects and family housing projects. Amounts available for such purposes may be used for construction management of projects that are funded by foreign governments directly or through international organizations and for which elements of the Armed Forces of the United States are the primary user. In the case of architectural and engineering services and construction design to be undertaken for which the estimated cost exceeds $300,000, the Secretary concerned shall notify the appropriate committees of Congress of the scope of the proposed project and the estimated cost of such services not less than 21 days before the initial obligation of funds for such services.

Justification for termination: Design and project fees are up since enactment of this requirement. Notification process delays execution.

Title: Biological Defense Research Program—RDT&E Conducted by DOD During Previous Fiscal Year.

Brief: The SECDEF shall submit to Congress an annual report on research, development, test, and evaluation conducted by DOD during the preceding fiscal year for the purposes of biological defense. The report shall be submitted in both classified and unclassified form and shall be submitted each year in conjunction with the submission of the budget to Congress for the next fiscal year.

Justification for termination: Is now covered as a subset to the title 50 report requirement for a comprehensive CB defense report. The title 50 report is a comprehensive report now called the Department of Defense annual report to Congress on the research, development, test and evaluation of the chemical/biological defense program. The information in this report can now be integrated into the newly required CB defense annual report to congress, required by Public Law 103–160, the National Defense Authorization Act for fiscal year 1994, title XVII. Therefore, Atomic Energy recommends integrating the information required by title 10 and title 50, into the new FY 1994 authorization act requirement for a comprehensive annual CB defense report.

Title: Construction—Contingency.

Brief: The SECDEF may carry out a military construction project not otherwise authorized by law, or may authorize the Secretary of a military department to carry out a project, if the SECDEF determines that deferral of the project for inclusion in the next Military Construction Authorization Act would be inconsistent with national security or national interest. The SECDEF shall submit a report in writing to the appropriate committees of Congress on that decision. Each report shall include the justification for the project and the current estimate of the cost of the project, and the justification for carrying out the project. The project may then be carried out only after the end of the 21-day period beginning on the date the notification is received by the committees.

Justification for termination: This requirement is redundant. The only difference is in justifying construction and in a 21-day wait period.

Title: Construction Projects for Environmental Response Actions.

Brief: The SECDEF may carry out a military construction project not otherwise authorized by law (or may authorize the Secretary of a military department of carry out such a project) if the SECDEF determines that the project is necessary to carry out a response action under the comprehensive environmental response, compensation, and liability act. When a decision is made to carry out a military construction project, the SECDEF shall submit a report, in writing, to the appropriate committees of Congress on that decision. Each report shall include the justification for the project and the current estimate of the cost of the project; and the justification for carrying out the project.

Justification for termination: Environmental cleanup requirements are contained in the annual DOD budget justification material provided with the DOD budget each year. Cleanup requirements are identified in the DERP annual report to Congress required by PL 103–160.

Title: Contracts: Consideration of National Security Objectives.

Brief: If the SECDEF determines that entering into a contract with a firm or a subsidiary of a firm is not inconsistent with the national security objectives of the U.S., the head of an agency may enter into a contract with such firm or subsidiary after the date on which such head of an agency submits to Congress a report on the contract. The report shall include the following: (i) the identity of the foreign government concerned; (ii) the nature of the contract; (iii) the extent of ownership or control of the firm or subsidiary concerned or, if appropriate in the case of a subsidiary, by the foreign government concerned or the agency or instrumentality of such foreign government; and (iv) the reasons for entering into the contract.

Justification for termination: Report was required when SECDEF waived prohibition against awarding contract to firm or controlled by country in support of national terrorism. Report places unwarranted prior restraint on the procurement prerogatives of executive branch of Government because it must be submitted before a contract is awarded.

Title: Core Logistics Functions Waiver.

Brief: The SECDEF may waive in the case of such logistics activity or function and provide that performance of such activity or function shall be considered for conversion to contractor performance in accordance with OMB circular A-76. Any such waiver shall be made under regulations prescribed by the SECDEF and shall be based on a determination by the SECDEF that government performance of the activity or function is no longer required for national defense reasons. Such regulations shall include criteria for determining whether government performance of any such activity or function is no longer required for national defense reasons. A waiver may not take effect until the SECDEF submits a report on the waiver to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.

Justification for termination: This reporting requirement is eight years old—is no longer required and should be deleted. PL 100-320. OMB circular A-76 provides proper safeguards for contract conversions.

Title: Debarment of Persons Convicted of Fraudulent Use of "Made in America" Labels.

Brief: If the SECDEF determines that a person has been convicted of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the SECDEF shall determine, not later than 90 days after determining that the person has been so convicted, whether the person should be debarred from contracting with DOD. If the SECDEF determines that the person should not be debarred, the SECDEF shall submit to congress a report on such determination not later than 30 days after the determination is made.

Justification for termination: Recommend termination. Provision is essentially moot since there is no specific law requiring conviction for fraudulent use of "Made in America" labels. DDP will accumulate any reports and make them available when necessary.

Title: Defense Enterprise Programs: Milestone Authorization—Program Deviations.

Brief: If the SECDEF receives a program deviation report under 10 USC 2435(b) with respect to a defense enterprise program for which funds are authorized the SECDEF shall notify the Committee on Armed Services of the Senate and House of Representatives of the receipt of such report before the end of the 15-day period beginning on the date on which the secretary receives such report.

Justification for termination: Defense enterprise programs have not been an effective management tool for the Department. The section 800 report recommends cancellation of this legislation.

Title: Defense Enterprise Programs: Milestone Authorization—Submission of Baseline Descriptions.

Brief: The SECDEF may designate defense enterprise programs in each military department to be considered for milestone authorization. Not later than the end of the 90-day period beginning on the date that a defense enterprise program is designated, submit to the Committees on Armed Services of the Senate and House of Representatives the baseline description and request, from Congress, authority to obligate funds in a single amount sufficient to carry out the stage for which the baseline description is submitted.

Justification for termination: As stated above, all defense enterprise programs should be cancelled. Current acquisition reform activities include and subsume intent of this legislation.

Title: Determination of Availability of Suitable Housing for Acquisition in Lieu of Construction of New Family Housing.

Brief: Before entering into a contract for the construction of family housing units authorized by law to be constructed at a location within the United States, the Secretary concerned shall consult in writing with the Secretary of Housing and Urban Development as to the availability of suitable alternative housing at such location. The Secretary of Housing and Urban Development shall advise the Secretary concerned in writing as to the availability of such housing. If the Secretary of Housing and Urban Development does not advise the Secretary concerned as to the availability of suitable housing within 21 days of the date on which the request for such advice is made, the Secretary concerned may enter into a contract for the proposed construction. If the Secretary concerned and the Secretary of Housing and Urban Development disagree with respect to the availability of suitable alternative housing at any location, the Secretary concerned shall notify the appropriate committees of Congress, in writing, of the disagreement, of the Secretary's decision to proceed with construction, and the justification for proceeding with construction.

Justification for termination: Unnecessary. Can be replaced by internal reports, if needed by DOD.

Title: Elimination of Use of Class I Ozone-Depleting Substances in Certain Military Procurement Contracts.

Brief: No DOD contract awarded after June 1, 1993, may include a specification or standard that requires the use of a class I ozone-depleting substance or that can be met only through the use of such a substance unless the inclusion of the specification or standard in the contract is approved by the senior acquisition official (SAO) for the procurement covered by the contract. The SAO may grant the approval only if the SAO determines (based upon the certification of an appropriate technical representative of the official) that a suitable substitute for the class I ozone-depleting substance is not currently available. Each official who grants an approval shall submit to the SECDEF a report on that approval or determination. The SECDEF shall promptly transmit to the Committees on Armed Services of the Senate and House of Representatives each report submitted to him by the SAO. The SECDEF shall transmit the report in classified and unclassified forms.

Note: Beginning on October 1, 1993, and continuing for 8 calendar quarters thereafter, the report will be submitted to the Armed Services Committees not later than 30 days after the end of the quarter. Beginning on January 1, 1997, and continuing for 4 years thereafter, the report will be submitted not later than 30 days after the end of the year.

Justification for termination: The production of halons was phased out in January 1994. Only recycled/reclaimed products may now be procured. Production of class I ozone depleting substances, refrigerants, and solvents will be phased out on January 1, 1996. Report uses a large quantity of DOD resources and provides no useful management tool for DOD or Congress.

Title: Energy Savings at Military Installations.

Brief: The SECDEF shall designate an energy performance goal for DOS for the years 1991 through 2000. The achieve the goal designated, the SECDEF shall develop a comprehensive plan to identify and accomplish energy conservation measures to achieve maximum cost-effective energy savings. The SECDEF shall provide that the selection of energy conservation measures under the plan shall be limited to those with a positive net present value over a period of 10 years or less. The SECDEF shall provide that ⅔ of the portion of the funds appropriated to DOD for a fiscal year (FY) that is equal to the amount of energy cost savings realized by the DOD, including financial benefits resulting from shared energy savings contracts and financial incentives described for any FY, beginning after FY90 shall remain available for obligation through the end of FY following the FY for which the funds were appropriated, with additional authorization or appropriation. The SECDEF shall develop a simplified method of contracting for shared energy savings contract services that will accelerate the use of these contracts with respect to military installations and will reduce the administrative effort and cost on the part of DOD as well as the private sector. The SECDEF shall permit and encourage each military department, defense agency, and other instrumentality of DOD to participate in programs conducted by any gas or electric utility for the management of electricity demand or for energy conservation. Not later than December 31 of each year, the SECDEF shall transmit an annual report to congress containing a description of the actions taken to carry out energy savings at military installations and the savings realized from such actions during the FY ending in the year in which the report is made.

Justification for termination: This reporting requirement has been superseded by the Energy Policy Act of 1992 which established conservation goals for the year 2000 and requires annual agency reports to Congress through the Department of Education.

Title: Environmental Restoration Costs for Installation to be closed under 1990 Base Closure Law.

Brief: Each year, at the same time the President submits to Congress the budget for a fiscal year, the SECDEF shall submit to Congress a report on the funding needed for the fiscal year for which the budget is submitted, and for each of the following four fiscal years, for environmental restoration activities at each military installation separately by fiscal year for each military installation.

Justification for termination: Already contained in the Defense Annual Environmental Restoration Program report to Congress required by PL 103-160.

Title: Environmental Restoration Requirements at Military Installations to be closed.

Brief: The SECDEF, after consultation with the Administrator of the Environmental Protection Agency, may extend for a 6-month period of time in which the requirements must be met with respect to a military installation, within the scope of the Federal facility agreement governing cleanup at the installation. The SECDEF submits to Congress a notification containing a certification that, to the best of the Secretary's knowledge and belief, the requirements cannot be met with respect to the military installation by the applicable deadline because one of the conditions set forth exists; and a period of 30 calendar days after receipt by Congress of such notice has elapsed.

Justification for termination: Status of these installations is contained in the DERP annual report to Congress required by PL 103-160. EPA consultation is obtained by detailed coordination and teamwork between the EPA, state regulators, and DOD in the development of each closing installation's BRAC cleanup plan.

Title: General and Flag Officer Quarters—$25K annual maintenance limit.

Brief: Limit of total repair and maintenance to $25,000/year unless included in budget justification.

Justification for termination: This report can be replaced by an internal report if DOD so deems it necessary.

Title: Improved National Defense Control of Technology Diversions Overseas.

Brief: The SECDEF and the Secretary of Energy shall each collect and maintain a data base containing a list of, and other pertinent information on, all contractors with DOD and the Department of Energy, respectively, that are controlled by foreign persons. The data base shall contain information on such contractors for 1988 and thereafter in all cases where they are awarded contracts exceeding $100,000 in any single year by DOD or the Department of Energy. The SECDEF, the Secretary of Energy, and the Secretary of Commerce shall submit to Congress, by March 31 of each year, beginning in 1994, a report containing a summary and analysis of the information collected for the year covered by the report. The report shall include an analysis of accumulated foreign ownership of U.S. firms engaged in the development of defense critical technologies.

Justification for termination: Recommend termination. Are no existing data bases to identify which contractors are foreign controlled. Will place additional burdens on contractors and DOD.

Title: Improvements to Military Family Housing Units.

Brief: Funds may not be expended for the improvement of any single family housing unit, or for the improvement of two or more housing units that are to be converted into or are to be used as a single family housing unit, if the cost per unit of such improvement will exceed (A) $50,000 multiplied by the area of construction cost index as developed by the DOD for the location concerned at the time of contract award, or (B) in the case of improvements necessary to make the unit suitable for habitation by a handicapped person, $60,000 multiplied by such index. The Secretary concerned may waive the limitations if such Secretary determines that, considering the useful life of the structure to be improved and the useful life of a newly constructed unit the improvement will be cost effective, and a period of 21 days elapses after the date on which the Committees on Appropriations of the Senate and of the House of Representatives receive a notice from the Secretary of the proposed waiver together with the economic analysis demonstrating that the improvement will be cost effective.

Justification for termination: This report is unnecessary. Can be replaced by an internal report and is not needed for management purposes.

Title: Improvements to Military Family Housing Units—Construction in Lieu of Improving.

Brief: The Secretary concerned may construct replacement military family housing units in lieu of improving existing military family housing units if—(A) The improvement of the existing housing units has been authorized by law; (B) The Secretary determines that the improvement project is no longer cost-effective after review of post-design or bid cost estimates; (C) The Secretary submits to the Committees on Armed Forces and Appropriations of the Senate and the House of Representatives a notice containing (i) an economic analysis demonstrating that the improvement project would exceed 70 percent of the cost of constructing replacement housing units intended for members of the Armed Forces in the same paygrade or grades as the members who occupy the existing housing units and (ii) the replacement housing units are intended for members of the Armed Forces in a different pay grade or grades, justification of the need for the replacement housing units based upon the long-term requirements of the Armed Forces in the location concerned.

Justification for termination: This report is unnecessary. Can be replaced by an internal report.

Title: Kinds of Contracts: Multiyear Contract Certification.

Brief: A multiyear contract may not be entered into for any fiscal year for a defense acquisition program that has been specifically authorized by law to be carried out using multiyear contract authority unless each of the following conditions are satisfied: (1) The SECDEF certifies to Congress that the current 5-year defense program fully funds the support costs associated with the multiyear program; and (2) the proposed multiyear contract provides for production at not less than minimum economic rates given the existing tooling and facilities.

Justification for termination: Multiyear contracts are more difficult to sustain in post-cold war defense environment where emphasis is being placed on maintaining technology base capabilities. Comptroller must provide a justification package with the budget when any multiyear production contracts are requested. Beyond this requirement, all other reporting requirements associated with multiyear contracts should be terminated.

Title: Leasing—Foreign Leasing Cap Added to Semi-Annual Report.

Brief: Modifies semiannual reports on foreign leasing cap to include a column indicating the prior year's reported cap by location.

Justification for termination: This report is unnecessary. Can be replaced by DOD internal report, if needed for management purposes.

Title: Lobbying Activities Under the Byrd Amendment.

Brief: This report involves lobbying activity, and is provided by A&T.

Justification for termination: Reports on lobbying are currently running less than 10 a year. The reports are forwarded from each activity to the Director of Defense Procurement (DDP), consolidated, and sent to Congress. There is no reason these reports cannot reside at DDP. In addition, the reports being furnished are of little value, the main deterrent to the law being the prohibition on the expenditure of appropriated funds for lobbying. Over the past four years, no questions or queries have been received from Congress on the content of any of these reports.

Title: Long-Term Leasing of Military Family Housing To Be Constructed.

Brief: The Secretary of a military department may enter into a contract for the lease of family housing units to be constructed or rehabilitated to residential use near a military installation within the United States under the Secretary's jurisdiction at which there is a shortage of family housing. The budget material submitted to Congress by the Secretary of Defense shall include materials that identify the military housing projects for which lease contracts are proposed to be entered in such fiscal year.

Justification for termination: This report is unnecessary. It can be replaced by a DOD report, if needed for management purposes.

Title: Low-Rate Initial Production of Naval Vessel and Satellite Programs.

Brief: With respect to naval vessel programs and military satellite programs, low-rate initial production is production of items at the minimum quantity and rate that (a) preserves the mobilization production base for that system, and (b) is feasible as determined pursuant to regulations prescribed by the SECDEF. For each naval vessel program and military satellite program, the SECDEF shall submit to Congress a report providing (a) an explanation of the rate and quantity prescribed for low-rate initial production and the considerations in establishing that rate and quantity; (b) a test and evaluation master plan for that program; and (c) an acquisition strategy for that program approved by the SECDEF, which includes the procurement objectives in terms of total quantity of articles to be procured and annual production rates.

Justification for termination: In today's environment lower rates are being established for many types of environments besides naval vessels and satellites. Test and evaluation master plans and other normal acquisition oversight activities provide effective monitoring and oversight for all major programs. Special treatment for naval vessels and satellites is unnecessary. This reporting equipment should be terminated.

Title: Major Defense Acquisition Program Defined.

Brief: The SECDEF may adjust the amounts (and the base fiscal year) on the basis of Department of Defense escalation rates. An adjustment under this subsection shall be effective after the secretary transmits a written notification of the adjustment to the committees on armed services of the Senate and House of Representatives.

Justification for termination: This provision was utilized in the most recent update of DOD 5000.1 and DOD 5000.2. Annual reports are unnecessary.

Title: Management of Certain Defense Procurement Programs.

Brief: The SECDEF shall submit to Congress, at the same time as the budget for any fiscal year (FY), a statement of what the effect would be during the FY for which the budget is submitted on the stretchout of a major defense acquisition program if either of the following applies with respect to that program: (1) the final year of procurement scheduled for the program at the time of the statement is submitted is more than 2 years later than the final year of procurement for the program as specified in the most recent annual selected acquisition report for that program; and (2) the proposed procurement quantity proposed for the same FY in the most recent annual selected acquisition report for that program.

Justification for termination: Any necessary information should be included in the SAR (submitted under title 10 USC 2432). No additional report should be necessary.

Title: Manufacturing Technology.

Brief: National MANTECH plan. (class and unclass). SecDef report.

Justification for termination: Report recommended for termination according to 1993 legislation.

Title: Notification of Prime Contract Awards to Comply With Cooperative Agreements.

Brief: The SECDEF shall notify Congress each time he requires that a prime contract be awarded to a particular prime contractor or that a subcontract to be awarded to a particular subcontractor to comply with a cooperative agreement. The SECDEF shall include in each such notice the reason for exercising his authority to designate a particular contractor or subcontractor, as the case may be.

Justification for termination: Recommend termination. Less than a handful have been reported, and all but one part of the Arms Export Control Act. DOD has no need for such information and no one else is monitoring the reports.

Title: Promotion of Energy Savings at Military Installations.

Brief: Decision to carry out a military construction project for energy conservation. SecDef report.

Justification for termination: This is a notification requirement only and could be eliminated.

Title: Relocation of Military Family Housing Units.

Brief: The Secretary concerned may relocate existing military family housing units from any location where the number of such units exceeds requirements for military family housing to any military installation where there is a shortage. A contract to carry out a relocation of military family housing units may not be awarded until (1) the Secretary concerned notifies Congress of the proposed new locations of the housing units to be relocated and the estimated cost of and source of funds for the relocation, and (2) a period of 21 days has elapsed after the notification has been received by those committees.

Justification for termination. This report is unnecessary. Can be replaced by DOD report, if needed.

Title: Reporting Requirement—Domestic Leases.

Brief: Details of all new or renewed leases entered into that exceed $12,000, including certification that less expensive housing was not available.

Justification for termination: This report is unnecessary. It can be replaced by a DOD report, if needed.

Title: Requirement for Authorization of Number of Family Housing Units.

Brief: The Secretary of an Armed Force may not construct or acquire military family housing units unless the number of units to be constructed or acquired has been specifically authorized by law. The Secretary of the Armed Force must provide to the appropriate committees of Congress written notification of the facts concerning the proposed acquisition; and a period of 21 days elapses after the notification is received by those committees.

Justification for termination: This report is unnecessary. Can be replaced by a DOD internal report, if needed.

Title: Reverse Engineering.

Brief: Status on the program's progress.

(The requirement for this report was originated by Congress during the pilot reverse engineering program (1985–1988) to measure its effectiveness and to determine whether a permanent program should be established. The pilot program was successfully concluded in April 1988. Since that time, the services have been reverse engineering items on an as-needed basis, which is the intent. House Report 100–1002, which applauded the results of the pilot program, asked the department to maintain statistics and provide annual reports.

Justification for termination: Reverse engineering has now been recognized and the report has outlived its usefulness. The services maintain statistics for their own use, and if that information is ever required, it could be obtained. The effort required to consolidate this information and process the resultant report to Congress is not commensurate with the value of the report).

Title: Review of Contracts.

Brief: All contracts entered into, amended, or modified pursuant to authority contained in this act shall include a clause to the effect that the comptroller general of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment, have access to and the right to examine any directly pertinent books, documents, papers, and records of the contractor or any of his subcontractors engaged in the performance of and involving transactions related to such contracts or subcontracts. If the clause is omitted, after taking into account the price and availability of the property or services from United States sources, that the public interest would be best served, by the omission of the clause, the agency head will submit a report to Congress in writing.

Justification for termination: Recommend termination. This report is required when agency head determines that public interest would best be served by omitting the clause permitting examination of functional and other records as otherwise required for inclusion in contract where relief has been granted.

Title: Revisions to Contract Claims: Certification Regulations.

Brief: The SECDEF may propose, for inclusion in the Federal acquisition regulation, regulations relating to certification of contract claims, requests for equitable adjustment to contract terms and request for relief under PL 85–804 that exceed $100,000. If at any time the SECDEF proposes revisions to the relations, the SECDEF shall ensure that the proposed revisions are published in the Federal Register and, at the time of publication of such revisions, shall submit to Congress a report describing the proposed revisions and explaining why the regulations should be revised.

Justification for termination: Recommend termination. Any revisions to regulations will be published in the "Federal Register." No value is added to the regulation writing process.

Title: Selected Acquisition Reports for Certain Programs.

Brief: The SECDEF shall submit to the Committees on Armed Services of the Senate and House of Representatives a selected acquisition report for each of the following programs: (1) the advanced technology bomber program; (2) the advanced cruise missile program; and (3) the advanced tactical aircraft program.

Justification for termination: This report may be deleted. The program was terminated by the SECDEF. Selected acquisition report is no longer needed.

Title: Support of Science, Mathematics and Engineering Education—Master Plan.

Brief: At the same time that the President submits to Congress the budget for each of fiscal years 1993 through 1997, the Secretary of Defense shall submit to Congress a master plan for activities by the Department of Defense during the next fiscal year to support education in science, mathematics, and engineering at all levels of education in the United States. Each plan shall be developed in consultation with the Secretary of Education. The activities of the plan shall contribute to the achievement of the national education goals. Each such plan shall (a) define the programs of the military departments and defense agencies and, (b) allocate resources for such programs.

Justification for termination: Requirement for annual report unnecessary because it is overly burdensome and adds no value to DOD SME education efforts. DOD has always had an inherent interest in the SME education of our Nation's students and will continue to develop programs which will enhance the training of our future scientists and engineers.

Title: The Pacific Environmental Leadership Effort (PELE).

Brief: Progress report on implementation of PELE. SECDEF report.

Justification for termination: Will be addressed in the annual report to Congress on the status of the DOD legacy resource management program (Senate Report 103–153, pages 83–84). Recommend deletion.

Title: Waiver of 5-Year Prohibition on Persons Convicted of Defense-Contract Related Felonies.

Brief: A person who is convicted of fraud or any other felony arising out of a contract with DOD shall be prohibited from working in a management or supervisory capacity on any defense contract, or serving on the board of directors of any defense contractor, for a period as determined by the SECDEF, of not less than 1 year from the date of the conviction. The prohibition may apply with respect to a person for a period of less than 5 years if the SECDEF determines that the 5-year period should be waived in the interest of national security. If the 5-year period is waived, the SECDEF shall submit to Congress a report stating the reasons for the waiver.

Justification for termination: Recommend termination. The requirement is an unnecessary administrative burden. There have not been any requests for waiver. In the event of waiver, information will be maintained at the office of the Director of Procurement.

Title: Waiver on Prohibition on Contracting With Entities That Comply With the Secondary Arab Boycott of Israel.

Brief: It is the policy of the United States to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any other United States person consistent with the policy, DOD may not award a contract for an amount in excess of the small purchase threshold to a foreign entity unless that entity certifies to the SECDEF that it does not comply with the secondary Arab boycott of Israel. The SECDEF may waive the prohibition in specific instances when the SECDEF determines that the waiver is necessary in the national security interests of the United States. Within 15 days after the end of each fiscal year, the SECDEF shall submit to Congress a report identifying each contract for which a waiver was granted during that fiscal year.

Justification for termination: This reporting requirement is an unnecessary administrative burden. Waivers and foreign entity certifications of noncompliance with boycott become part of permanent contract file and can be made available for review at any time.

Title: A-10s for the U.S. Forest Service—Reasons for Dissatisfaction.

Brief: Reasons for dissatisfaction with the Forest Service plans to ensure A-10s will not be obtained by a foreign government.

Justification for termination: The U.S. Forest Service is no longer interested in acquiring these aircraft.

Title: A-10s to U.S. Forest Service—Excess to Air Force needs.

Brief: A-10 are excess to Air Force needs.

Justification for termination: The U.S. Forest Service is no longer interested in acquiring these aircraft.

Title: Activation or Moving a Printing Plant.

Brief: JCP requires their authorization before establishing or moving printing plants.

Justification for termination: Include in printing program plan.

Title: Annual Map and/or Chart Plant Report.

Brief: JCP form 4 reports map and chart printing plant operating costs and production.

Justification for termination: Include in printing program plan.

Title: Annual Plant Inventory.

Brief: JCP form 5 reports the inventory of printing equipment in each printing plant.

Justification for termination: Include in printing program plan.

Title: Coal—Kaiserslautern Military Community.

Brief: Progress made toward agreements on the use of U.S. anthracite coal.

Justification for termination: This reporting requirement was levied because of Congress' concern that the Air Force would not actively pursue heating supply agreements with local German authorities in Kaiserslautern. Since obtaining sole source authority, we have pressed hard to complete negotiations, as indicated in quarterly reports submitted to date. We have demonstrated our willingness to complete cost effective agreements and a quarterly progress report is no longer necessary. Also, if negotiations are successful, we are required to formally notify Congress prior to contract award.

Title: Collator Acquisition.

Brief: JCP form 3 reports acquisition of power operated collators for use in other than authorized printing plants.

Justification for termination: Copying and duplicating equipment now come furnished with sorters.

Title: Commercial Printing.

Brief: JCP form 2 reports printing procured from commercial sources other than the Government Printing Office or its contractors.

Justification for termination: Include in printing program plan.

Title: Equipment Acquisition or Transfer.

Brief: JCP requires their authorization before acquiring or transferring printing equipment.

Justification for termination: Set capacity and allow managers to move or acquire equipment up to capacity.

Title: Equipment Installation Notice.

Brief: JCP requires notification before the installation of new equipment.

Justification for termination: Include in printing program plan.

Title: Excess Equipment.

Brief: JCP form 7 reports the inventory of excess equipment in each printing plant. (An annual submission of this report also occurs).

Justification for termination: Include in annual plant inventory in printing program plan.

Title: Jobs Which Exceed JCP Duplicating Limitations.

Brief: Consolidated duplicating center and facilities report jobs which exceed limitations imposed by the JCP.

Justification for termination: Include in printing program plan.

Title: Notice of Intent to Apply New Printing Processes.

Brief: JCP requires notification before utilizing newly developed or improved processes.

Justification for termination: Include in printing program plan.

Title: Notice of Intent to Contract Printing Services.

Brief: JCP requires notification before including printing in services contracts.

Justification for termination: Include in printing program plan.

Title: Printing Plant Report.

Brief: JCP form 1 reports printing plant operating costs and production.

Justification for termination: Include in printing program plan.

Title: Research and Development Plans.

Brief: JCP requires advisement of plans to engage in applied research or development affecting printing or related fields.

Justification for termination: Include in printing program plan.

Title: Stored Equipment.

Brief: JCP form 6 reports the inventory of stored printing equipment in each printing plant.

Justification for termination: Include in annual plant inventory in printing program plan.

Title: Annual Authorization of Appropriations—O&M Funds Restriction in Support of Democratic Resistance of Nicaragua.

Brief: Notwithstanding title II of the Military Construction Appropriations Act, 1987, or any other provision of law, funds appropriated or otherwise made available to the Department of Defense for any fiscal year for operation and maintenance may not be used to provide assistance for the democratic resistance forces of Nicaragua. Funds for such purpose may only be derived from amounts appropriated or otherwise made available to the Department for procurement (other than ammunition). Before funds appropriated or otherwise made available to the DOD are released to be used for the purpose stated, the SECDEF shall submit a report to Congress describing the specific source of such funds.

Justification for termination: The Nicaraguan democratic resistance is no longer in operation.

Title: Burdensharing Contributions by Japan.

Brief: Contributions accepted.

Justification for termination: This report was modified in the FY 1994 DOD Authorization Act, Section 1402.

Title: Burdensharing Contributions by Japan and the Republic of Korea.

Brief: Amount of contributions accepted and expended. SecDef report.

Justification for termination: This report was modified in the FY 1994 DOD Authorization Act, Section 1402.

Title: Burdensharing Contributions by Korea.

Brief: Contributions received. SecDef report.

Justification for termination: This report was modified in the FY 1994 DOD Authorization Act, Section 1402.

Title: Burdensharing Contributions by Kuwait.

Brief: Contributions made, and explanation of the relationship between any "out-of-country" costs and "in-country" US military activities they support.

Justification for termination: This report was modified in the FY 1994 DOD Authorization Act, Section 1402.

Title: Closing Accounts—Obligations and Adjustment to Obligations.

Brief: Certification by the SECDEF to the Congress (1) that the limitations on expending and obligating amounts established pursuant to 31 USC 1341 are being observed, (2) that reports on any violations of such section, whether intentional or inadvertent, are being submitted to the President and Congress immediately and with all relevant facts and a statement of actions taken as required by 31 USC 1351. If the SECDEF cannot make the certification within 60 days the SECDEF must alternatively certify to Congress in writing that the SECDEF is unable to make the report setting forth the actions that the Secretary will take in order to make such certifications after the end of the period.

Justification for termination: This report was completed on January 1993.

Title: Operations of DOD Overseas Military Facility Investments Recovery Account.

Brief: Not later than January 15 of each year, the SECDEF shall submit to the congressional defense committees a report on the operations of DOD overseas military facility investment recovery account during the preceding fiscal year and proposed uses of funds in the special account during the next fiscal year.

Justification for termination: Should be included in the quarterly report to Congress on the status of residence value negotiations prepared by ODUSD (ES). The comptroller would have collateral action and coordinate on the report.

Title: Preparation of Budget Requests for Operation of Professional Military Education Schools.

Brief: Separate budget request for operation of each professional military education school.

Justification for termination: Nobody has requested the report in two years.

Title: Industrial Fund Management Reports.

Brief: The Department of Defense has five industrial funds. They are as follows: Navy industrial fund, Marine Corps Industrial Fund, Army Industrial Fund, Air Force Industrial Fund, and Defense Industrial Fund. Combined reports are required for each industrial fund accompanied by supporting reports by activity group. The term "activity group" is used herein to mean any number of activities financed under an industrial fund having similar missions or operating characteristics. It is required that annual reports be submitted to the president and to the Congress on the condition and operation of working-capital funds established under 10 USC 2208. The reporting requirements prescribed herein are designated as accounting report 1307.

Justification for termination: These reports no longer exist in DOD. Recommend termination.

Title: Reports on Price and Availability Estimates.

Brief: NLT fifteen days after the end of each calendar quarter submit a report on price and availability; LOA requests for $7M or more of MDE, $25M or more of defense articles or services or for air-to-ground/ground-to-air missiles.

Justification for termination: This report is redundant. The provision for this report requires reporting of potential foreign military sales which may or may not result in actual sales. Sales offers to foreign purchasers as well as actual sales are being reported in a broader scope at the $1 million threshold on a quarterly basis, as required by section 36(a) of the Arms Export Control Act, 22 USC 2765.

Title: Employees or Former Employees of Defense Contractors.

Brief: If a former or retired officer of the Army, Navy, Air Force, or Marine Corps who (1) has at least 10 years of active service, and (2) held for any period during that service a grade above captain or, if Navy, above lieutenant; and a former civilian official or employee (including a consultant or part-time employee) of DOD whose pay rate (at any time during the 3-year period before end of the last service of the person with DOD) was at least equal to the minimum rate at the time for GS-13, was employed by, or served as a consultant or otherwise to, a defense contractor at any time during a year at an annual pay rate of at least $25,000 and the defense contractor was awarded contracts by DOD during the preceding year that totaled at least $10,000,000, and within the 2-year period ending on the day before the person began the employment or consulting relationship, the person served on active duty or was a civilian employee for DOD, the person shall file or report with the SECDEF in the manner and form prescribed by the SECDEF. Before April 1 of each year, the SECDEF shall report to Congress the names of persons who have filed reports for the preceding year and the names shall be listed, by groups, under the names of appropriate defense contractors.

Justification for termination: Since the requirement for this report was enacted in November of 1969, there have been other laws passed which address the identical concerns. These included the Ethics in Government Act of 1978 (Public Law No. 95-521) and the Ethics Reform Act of 1989 (Public Law No. 101-194). These laws imposed stringent new "revolving door" restrictions on the entire executive branch. In addition, new post-government restrictions were imposed on departing DOD officers and employees by section 2397b of Title 10 United States Code in 1989. These additional restrictions have made this report lose any value that it may have had.

Title: Requirement Concerning Former DOD Officials.

Brief: Any contractor, that was awarded one or more contracts by DOD during the preceding fiscal year in an aggregate amount of at least $10,000,000 that is subject during a calendar year to contract provision shall submit to the SECDEF, not later than April 1 of the next year, a written report covering the preceding calendar years. Each report shall list the name of each person (together with other information adequate for the Government to identify the person) Who: (1) is a former officer or employee of DOD or a former or retired member of the Armed Forces; and (2) during the preceding calendar year was provided compensation by that contractor, if such compensation was provided within 2 years after such officer, employee, or member left service in DOD. The SECDEF shall make reports submitted under this requirement available to any member of Congress upon request.

Justification for termination: The report required of defense contractors by this law was intended to identify former DOD officers and employees who may be tempted to misuse sensitive procurement information that they had acquired while serving in DOD. This problem has been completely resolved by the Procurement Integrity Act (Public Law 100-679). In addition, implementation of the reporting requirement obligates all major DOD contractors to set up more complex personnel information systems than required for their own management purposes. Inevitably, the added costs of such internal systems must be born by the Department of Defense in terms of higher costs for goods and services.

Title: Health-Care Sharing Agreements Between Department of Veterans Affairs and Department of Defense.

Brief: For each of fiscal years (FYs) 1993 through 1996 the SECDEF shall submit a report on opportunities for greater sharing of the health care resources of the Veterans Administration and DOD which would be beneficial to both veterans and members of the Armed Forces and could result in reduced costs to the Government by minimizing duplication and under use of health care resources. The FY 1996 report will also include—(1) an assessment of the effect of agreements entered into on the delivery of health care to eligible veterans, (2) an assessment of the cost savings, if any, associated with provision of services under such agreements to retired members of the Armed Forces, dependents of members or former members, and beneficiaries, and (3) any plans for administrative action, and any recommendations for legislation, that the SECDEF considers appropriate.

Justification for termination: P.L. 97-174 requires the secretaries of the Departments of Veterans Affairs and Defense to submit a joint annual report to Congress on the status of health care resources sharing. After careful review of the reporting requirements of Congress, recommend combining this report wit the report entitled "Sharing of Department of Defense Health-Care Resources." Combining these reports will avoid redundancy and allow for a succinct review of health care resources sharing activity between the departments.

Title: Limitation on Reductions in Medical Personnel.

Brief: The SECDEF may not reduce the number of medical personnel of DOD below the baseline number unless the SECDEF certifies to Congress that the number of such personnel being reduced is excess to the current and projected needs of the military departments; and such reduction will not result in an increase in the cost of health care services provided under the civilian health and medical program of the uniformed services.

Justification of termination: Alternative mechanisms are being developed to backfill DOD needs. Manpower flexibility to retain sufficient military personnel by specialty and grade/experience to meet any wartime or contingency mission; to retain, hire or recruit military or civilian service personnel to meet peacetime health care needs, and to contract, where appropriate, to provide beneficiaries with needed health care services. Allowing DOD to tailor the force based on the needs of the population served is the most efficient and cost-effective method of providing health care.

Title: Podiatrists and Dentists.

Brief: Need for any reductions.

Justification for termination: This report is not required for force management purposes.

Title: Psychologists Prescribing Drugs.

Brief: Test program to train military psychologists to prescribe psychoactive drugs.

Justification for termination: The report on the first fellows to complete the program will be submitted in May or June 1994. This report will satisfy this requirement.

Title: Public Health Service Hospitals.

Brief: The SECDEF, in consultation with the Secretary of Health and Human Services, and the Secretary of Transportation when the Coast Guard is not operating as a service in the Navy, shall submit annually to the Committees on Appropriations and on Armed Services of the Senate and the House of Representatives a written report on the results of the studies and projects carried out. The first such report shall be submitted not later than one year after the date of enactment. The last report shall be submitted not later than one year after the completion of all such studies and projects.

Justification for termination: Assessment reports completed in the 1980s. No such studies and projects are underway or planned.

Title: Reductions in Army Reserve Component Medical Force Structure.

Brief: Reiterates FY91 requirement (101-923, p. 102, Sec. 711) that medical personnel are excess to current and projected requirements and will not result in an increase in CHAMPUS costs. SECDEF report.

Justification for termination: This report is not required for force management purposes.

Title: Special Pay to Officers of the Armed Forces Who Served in a Nursing Specialty.

Brief: The SECDEF may extend the special pay authorized to officers of the Armed Forces who serve in a nursing specialty (other than as nurse anesthetists) that—(A) is designated by the Secretary as critical to meet requirements (whether such specialty is designated as critical to meet wartime or peacetime requirements); and (B) requires postbaccalaureate education and training. The SECDEF may not implement these provisions unless the SECDEF submits to the Committees on Armed Services of the Senate and House of Representatives a report—(1) justifying the need of the departments for the authority provided; and (2) describing the manner in which that authority will be implemented.

Justification for termination: This report is not required for force management purposes.

Title: Special Pay: Nonphysician Health Care Providers.

Brief: The Secretary of Defense may authorize the payment of special pay at the rates specified to an officer who—(1) is an officer in the Medical Services Corps of the Army or Navy, a biomedical sciences officer in the Air Force, or an officer in the Army Medical Specialist Corps; (2) is a health care provider (other than a psychologist); (3) has a postbaccalaureate degree; and (4) is certified by a professional board in the officer's speciality. The SECDEF may not implement these provisions unless the SECDEF submits to the Committees on Armed Services of the Senate and House of Representatives a report—(1) justifying the need for the military departments for the authority provided; and (2) describing the manner in which that authority will be implemented.

Justification for termination: This report is not required for force management purposes.

Title: Contracts: Notice to Congress Required for Contracts Performed Over period Exceeding 10 years.

Brief: The Secretary of a military department shall submit to Congress a notice with respect to a contract of that military department for services for research or development in any case in which—(1) the contract is awarded or modified, and the contract is expected, at the time of award or as a result of the modification to be performed over a period exceeding 10 years or (2) the performance of the contract continues for a period exceeding ten years and no other notice has been provided to Congress.

Justification for termination: There are few, if any, contracts for services for research and development which extend over 10 years.

Title: Fuel Sources for Heating Systems; Prohibition on Converting Certain Heating Facilities.

Brief: The Secretary of the military department concerned shall provide that the primary fuel source to be used in any new heating system constructed on lands under the jurisdiction of the military department is the most cost effective fuel for that heating system over the life cycle of that system. The Secretary of a military department may not covert a heating facility at a United States military installation in Europe from a coal-fired facility to an oil-fired facility, or to any other energy source facility, unless the Secretary—(1) determines that the conversion is required by the government of the country in which the facility is located, or is cost effective over the life cycle of the facility; and (2) submits to Congress notification of the proposed conversion and a period of 30 days has elapsed following the date on which Congress receives the notice.

Justification for termination: The language directing the use of the least life cycle cost fuel should be retained. Since conversions from coal will be done only if they meet the least life cycle cost requirement, congressional notification should not be required.

Title: Monitoring and Research of Ecological Effects.

Brief: Regarding estuarine monitoring, the Secretary of the Navy, in consultation with the under Secretary of Commerce for Oceans and Atmosphere, shall monitor the concentrations of organotin in the water column, sediments, and aquatic organisms of representative estuaries and near-coastal waters in the United States. This monitoring program shall remain in effect until 10 years after the date of the enactment of this act (enacted June 11, 1988). The administrator shall submit a report annually to the Speaker of the House of Representatives and to the President of the Senate detailing the results of such a monitoring program for the preceding year. As such, the Secretary shall submit a report annually to the Secretary and to the Governor of each State in which a home port for the Navy is monitored detailing the results of such monitoring in the State. Regarding home port monitoring, the Secretary shall provide for periodic monitoring, not less than quarterly, of waters serving as the home port for any Navy vessel coated with an antifouling paint containing organotin to determine the concentration of organotin in the water column, sediments, and aquatic organisms of such water.

Justification for termination: The Navy currently has fewer than six ships organotin coatings. By the end of FY 1994, only two ships with organotin coatings will remain in the fleet. Current Navy policy does not allow use of organotin coatings. By FY 1998 no ships will have organotin coating. With organotin use going to zero, this report can be terminated.

Title: Mississippi-Camp Shelby-Land Transfer

Brief: Proposals concerning land acquisition at Camp Shelby.

Justification for termination: Proposed land exchange between army and forest service has been abandoned.

Title: Professional Military Education Center, TN.

Brief: Outline why this project was left out of the FY93 request and provide a written commitment that the project will be included in FY94 request.

Justification for termination: This report has been overtaken by events.

Title: National Security Agency—Report on Executive Personnel.

Brief: The director of the National Security Agency (NSA) shall each year submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, at the time the budget is submitted by the President to Congress for the next FY, a report on executive personnel in NSA. The report shall include the following: The total number of positions added to or deleted from the senior cryptologic executive service during the preceding FY; the number of executive personnel (including all members of the senior cryptologic executive service) being paid at each grade level and pay rate in effect at the end of the preceding FY; the number, distribution, and amount of awards paid to members of the senior cryptologic executive service during the preceding FY; and the number of individuals removed from the senior cryptologic executive service during the preceding FY for less than fully successful performance.

Justification for termination. This report duplicates the report entitled "National Security Personnel."

Justification for termination: This report entitled "National Security Personnel."

Title: Civilian Employment Master Plan.

Brief: The Secretary will prepare an annual civilian employment master plan to be submitted annually with budget materials.

Justification for termination: Title 10 requires that the Department of Defense submit a report on civilian employment annually along with budget materials. The report is to cover the budget year, the prior two years and the two years following the budget year (five year plan). The requirements of the report, as specified in 10 USC, exceed the level of detail used in DOD planning. The civilian work force is an open personnel system and not rigidly structured like the military personnel system. Also, civilians are a valued "resource" used to support essential DOD missions, but civilians are not a structured "program" managed in divisions, carrier groups and wings. Overall projected levels of employment, and other broad brush information, are provided to Congress through other means (O&M Justification Materials and the Defense Manpower Requirements Report).

Title: Closure of Military Child Development Centers for Uncorrected Inspection Violations.

Brief: The SECDEF requires that each military child development center be inspected not less than four times a year. Each such inspection will be unannounced. At least one inspection shall be carried out by an installation representative and one inspection a year by a representative of the major command. If a violation occurs and is not corrected within 90 days the military child development center shall be closed until the violation has been corrected. If a military child development center is closed the Secretary of the military department concerned shall promptly submit to the Committees of the Armed Services of the Senate and the House of Representative a report notifying those committees of the closing. The report shall include—(A) notice of the violation that resulted in the closing and the cost of remedying the violation; and, (B) a statement of the reasons why the violation had not been remedied as of the time of the report.

Justification for termination: OSD and the military departments have implemented a rigorous unannounced inspection process that includes a checks and balance system with inspections conducted at the installation, major command, service and DOD levels. Each child development center receives comprehensive inspections at least four times each year. These are in addition to the local fire, health and safety (HAS) inspections. Each installation is inspected annually by service has experts in child development. Additionally, a DOD multi-disciplinary team inspects random installations each year to check the military services inspection procedures. Although several centers were closed during the implementation phase of the inspections, extensive efforts to correct deficiencies have reduced the number of serious violations dramatically. The DOD inspection procedures are aggressive and a model for the country. These procedures address serious deficiencies, and the report requirement is no longer necessary.

Title: Educational Assistance Program.

Brief: Breakout of the costs associated with Montgomery GI Bill.

Justification for termination: Report 102-627 for the fiscal year 1993 appropriations bill asked that the Department of Defense report back to the committee with a cost breakout of the benefit, so they could entertain any reprogramming requests. However, the Department of Defense education benefits board of actuaries decided to post-fund that part of the benefit that was not paid for by the Department of Veterans Affairs. In effect, this means that funds would be borrowed from the Department of Defense education benefit fund and later reimbursed as amortization payments to the fund. The amortization payments would be included in the budget. Consequently, no special reprogramming or supplemental requests would be needed. As a consequence, there is no ongoing reporting requirement other than the normal budget process.

Title: Exceptions to Guidelines for Reductions in Civilian Positions.

Brief: The SECDEF may permit a variation from the guidelines established or a master plan prepared if the Secretary determines that such variation is critical to the national security. The Secretary shall notify Congress of any such variation and the reasons for such variation.

Justification for termination: Title 10 requires that the Department of Defense submit a report on civilian employment annually along with budget materials. The report is to cover the budget year, the prior two years and the two years following the budget year (five year plan). The requirements of the report, as specified in 10 USC, exceed the level of detail used in DOD planning. The civilian work force is an open personnel system and not rigidly structured like the military personnel system. Also, civilians are a valued "resource" used to support essential DOD missions, but civilians are not a structured "program" managed in divisions—carrier groups and wings. Overall projected levels of employment, and other board brush information, are provided to Congress through other means (O&M justification materials and the defense manpower requirements report).

Title: Foreign National Employees Salary Increases.

Brief: Notify Congress when salary increases of foreign national employees exceed certain thresholds.

Justification for termination: Section 1584 (b) of title 10 United States Code requires the report to Congress where we exceed certain salary amounts for foreign national employees. However, continuing annual appropriations acts have have limited these payments. As a result, the report to Congress has never been necessary. In practice, the reporting requirement is and should continue to be academic.

Title: Involuntary Reductions of Civilian Positions.

Brief: The SECDEF may not implement any involuntary reduction or furlough of civilian positions in a military department, defense agency, or other component of DOD until the expiration of the 45-day period beginning on the date on which the Secretary submits to Congress a report setting forth the reasons why such reductions or furloughs are required and a description of any change in workload or positions requirements that will result from such reductions or furlough.

Justification for termination: DOD already has in place (DODD 5410.10) procedures to notify Congress of involuntary reductions affecting 50 or more federal civilian employees or 100 or more contractor employees. This requirement to notify Congress, no matter how few employees are affected, could impose an administrative burden that would have a harsh impact on each of the services.

Title: Military Pay and Allowances.

Brief: This is an annual report on how military pay and allowances are doing relative to private wages and salaries.

Justification for termination: The pay adequacy report, required on an annual basis by 37 USC 1008(a), was mandated in an era where there was no regular annual military pay raise. The information in this report would provide information on a number of indicators, and when it was determined that an annual pay raise was needed it would be requested. That has changed. Current law (P.L. 101-509) pegs military pay raises to the employment cost index. Pay raises are annual and are based upon changes in private sector wages and salaries for the average worker. The information contained in the pay adequacy report is no longer needed and media coverage of the index itself is widespread.

Title: Military Relocation Assistance Programs.

Brief: Not later than March 1 each year, the Secretary of Defense, acting through the Director of Military Relocation Assistance programs, shall submit to Congress a report on the Military Relocation Assistance program. The report shall include the following: (1) an assessment of available, affordable private-sector housing for members of the Armed Forces and their families; (2) an assessment of the actual nonreimbursed costs incurred by members of the Armed Forces and their families who are ordered to make a change of permanent station; (3) information on the types of locations at which members of the Armed Forces assigned to duty at military installations live, including the number of members of the Armed Forces who live on a military installation and the number of those who do not; and (4) information on the effects of the relocation assistance programs established under this program on the quality of life of members of the Armed Forces and their families and on retention and productivity of members of the Armed Forces.

Justification for termination: The Department has met all the requirements of 10 USC, section 1056(f) on relocation assistance and specific information dealing with relocation can be made available, as needed by the Congress or other outside sources. Submitting specific responses as needed is more efficient and cost-effective in terms of manpower resources. For these reasons, recommend that the annual relocation assistance report be terminated.

Title: Pay Raise Allocations.

Brief: Report owed with quadriennial review of military compensation when president decides not to give equal percentage pay raise to all military members.

Justification for termination: This report is due from the quadrennial review group only when there is a reallocation of the basic pay raise. This rarely happens; when it does, it would not appear useful to require that such a fact be reviewed and reported by a quadrennial review group that meets every fourth year.

Title: Travel and Transportation Allowances; Dependents; Baggage and Household Effects.

Brief: The SECDEF shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report at the end of each fiscal year stating (1) the number of dependents who during the preceding fiscal year were accompanying members of the Army, Navy, Air Force, and Marine Corps who were stationed outside the United States and were authorized by the Secretary concerned to receive allowances or transportation for dependents; and (2) the number of dependents who during the preceding fiscal year were accompanying members of the Army, Navy, Air Force, and Marine Corps who were stationed outside the United States and were not authorized to receive allowances or transportation.

Justification for termination: Neither OSD nor the services have ever submitted such reports, insofar as we can determine. We are skeptical of the interest this report holds for Congress; therefore, this is a good candidate for discontinuance.

Title: U.S. Government Data Base on NATO and Warsaw Pact Forces and Equipment.

Brief: The Defense Authorization Act of 1989 required the President to submit to Congress annually on December 1 both classified and unclassified data bases of NATO and Warsaw Pact forces and equipment. The task of preparing these documents was assigned by the Secretary of Defense to the Net Assessment Coordinating Committee (NACC), which the Under Secretary of Defense for Policy (USDP) and the Director of the Joint Staff co-chaired. PA&E took on the task of assembling data and applying common counting rules. Classified and unclassified documents entitled "U.S. Government Data Base of NATO and Warsaw Pact Forces and Equipment" were produced in 1988 and 1989 showing data at the end of 1987 and 1988, respectively. (The 1988 versions were not released by the President until June of 1990 when he released the 1989 versions).

In September 1990, PA&E initiated preparation of the documents for 1990. Data on U.S. and non-U.S. NATO forces and on Warsaw Pact air and naval forces were assembled fairly promptly, but ground threat data were delayed due to the demands of the CFE data exchange. Although PA&E continued to work with the intelligence community throughout the early summer of 1991, rapid changes within the former Soviet Union precluded providing certain data at the level of detail of earlier documents. At that point, PA&E put the project aside for higher priority work.

Justification for termination: The Defense Authorization Act for 1989 required the President to submit to Congress annually on 1 December classified and unclassified date bases of NATO and Warsaw Pact Forces and Equipment. The Secretary of Defense was asked to prepare the report.

Documents entitled "U.S. Government Data Base of NATO and Warsaw Pact Forces and Equipment" were submitted for 1988 and 1989. During preparation of the report for 1990, rapid change within the former Warsaw Pact precluded acquisition of meaningful data. Since that time, the Warsaw Pact has been terminated; the Soviet Union has been dissolved; and NATO no longer faces a threat of invasion. Data on forces and equipment are now made available by all relevant nations under the Conventional Forces Treaty (CFE) treaty.

Title: DoD Offset Policy—Negotiations.

Brief: Progress of negotiations.

Justification for termination: This report is no longer needed.

Title: Panama Canal Administration.

Brief: Report to Congress regarding the following: (1) The condition on the Panama Canal and potential adverse effects on United States shipping and commerce; (2) the effect on canal operations of the military forces under General Noriega; and (3) the commission's evaluation of the effect on canal operations if the Panamanian Government continues to withhold its consent to major factors in the United States Senate's ratification of the Panama Canal treaties.

Justification for termination: The report has been overtaken by events and should be discontinued.

Title: Source of Funds—Other Issues.

Brief: Construction or engineering activity funded from any DoD sources in Zaire or Central America.

Justification for termination: Zaire is overtaken by events. El Salvador is overtaken by events. Therefore, the report should be terminated.

Title: Special Operations Advanced Technology Development.

Brief: Progress of the Mark-V.

Justification for termination: Program well advanced. Procurement Contract will be awarded this fiscal year. Staff members concur in release from reporting requirements.

Title: Special Operations Forces—Program Management.

Brief: Status on ASDS and Mark V: Joint Mission Analysis.

Justification for termination: This report is a duplicate requirement cited in Public Law 102-408. (Mark V).

CONGRESSIONALLY MANDATED REPORTS UNIDENTIFIED SPONSOR LISTING

Title: Contributions for North Atlantic Treaty Organization Infrastructure.

Brief: The SECDEF may make contributions for the U.S. share of the cost of multilateral programs for the acquisition and construction of military facilities and installations (including international military headquarters and for related expenses) for the collective defense of the North Atlantic Treaty area. Funds may not be obligated or expended in connection with the North Atlantic Treaty Organization infrastructure program in any year unless funds have been authorized by law for the program. If the SECDEF determines that the amount appropriated for contribution in any fiscal year must be exceeded by more than the amount authorized, the SECDEF may make contributions in excess of such amount, but not in excess of 125 percent of the amount appropriated after submitting a report, in writing, to the appropriate committees of Congress on such increase, including a statement of the reasons for the increase and a statement of the source of the funds to be used for the increase, and after a period of 21 days has elapsed from the date of receipt of the report.

Remarks: Not claimed by POL or A&T.

Title: International Nonproliferation Initiative—Proposed Obligations and Forms of Assistance.

Brief: Proposed obligations and forms of assistance. SecDef report.

Remarks: Not Claimed by POL or COMP.

Title: Participation of Developing Countries in Combined Exercises: Payment of Incremental Expenses.

Brief: The Secretary of Defense shall submit to Congress a report each year, not later than March 1, containing (1) a list of the developing countries for which expenses have been paid by the United States during the preceding year; and (2) the amounts expended on behalf of each government.

Remarks: Not claimed by POL or JS.

Title: Requirement for Authorization by Law of Certain Contracts Relating to Vessels and Aircraft.

Brief: The Secretary of a military department make a contract that is an agreement to lease or charter or an agreement to provide services and that is (or will be) accompanied by a contract for the actual lease, charter, or provision of services if the contract for the actual lease, charter, or provision of services is (or will be) a contract which will be a long-term lease or charter; or the terms of the contract provided for a substantial termination liability on the part of the U.S. The Secretary has been specifically authorized by law to make the contract; before a solicitation for proposals for the contract was issued the Secretary notified the Committees on Armed Services and on Appropriations of the Senate and House of Representatives of the Secretary's intention to issue such a solicitation; and the Secretary has notified the Committees on Armed Services and on Appropriations of the Senate and House of Representatives of the proposed contract and provided a detailed description of the terms of the proposed contract and a justification for entering into the proposed contract rather than providing for the lease, charter, or services involved through purchase of the vessel or aircraft to be used under the contract, and a period of 30 days of continuous session of Congress has expired following the date on which notice was received by such committees.

Remarks: Referral to the military departments recommended by A&T.

Title: SSBN Security Technology Program.

Brief: Specific technologies which are to be assessed and whether unresolved policy issues have been settled. SecDef report.

Remarks: Not addressed in any legislation, and not claimed by POL or A&T.

Title: Support for Peacekeeping Activities.

Brief: Proposed obligation, forms of assistance, and certification. SecDef report.

Remarks: Not claimed by POL or COMP.

Title: Training with Friendly Foreign Force.

Brief: Not later than April 1 of each year, the SECDEF shall submit to Congress a report regarding training during the preceding fiscal year for which expenses were paid by the U.S. Each report shall specify—(1) all countries in which that training was conducted; (2) the type of training conducted, including whether such training was related to counter-narcotics or counter-terrorism activities, the duration of that training, the number of the Armed Forces involved, and expenses paid; (3) the extent of participation by foreign military forces, including the number and service affiliation of foreign military personnel involved and physical and financial contribution of each host nation to the training effort; and (4) the relationship of that training to other overseas training programs conducted by the Armed Forces.

Remarks: Not claimed by P&R, SOLIC, or JS.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, this is an amendment we have worked on with the Senator from Arizona. As I understand it—correct me if I am in any way misinterpreting it—it would terminate certain Defense Department reporting requirements upon enactment of this authorization bill—that is by enactment rather than October 30, 1995. These are reports that are excess, not needed, that will reduce paperwork, reduce bureaucracy, and save money.

If I am correct in my assumption on this amendment I certainly urge its adoption.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1842) was agreed to.

Mr. McCAIN. I move to reconsider and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRIVILEGE OF THE FLOOR—S. 2182

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I ask unanimous consent that Jack Kennedy, a legislative fellow on my staff, be granted the privilege of the floor during debate on S. 2182.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 1843, 1844, 1845, 1846, 1847, AND 1848 EN BLOC

Mr. SMITH. Mr. President, on behalf of myself, Senator KERRY of Massachusetts, Senator DOLE, Senator McCAIN, Senator CONRAD, Senator WOFFORD, Senator LOTT, Senator HELMS, Senator GRASSLEY, and Senator THURMOND, I send to the desk six amendments and ask that they be considered en bloc. I ask for their immediate consideration.

The PRESIDING OFFICER. The Johnston-Feinstein amendment is set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. SMITH] for himself, Mr. KERRY, Mr. DOLE, Mr. McCAIN, Mr. CONRAD, Mr. WOFFORD, Mr. LOTT, Mr. HELMS, Mr. GRASSLEY, and Mr. THURMOND, proposes en bloc amendments numbered 1843–1848.

Mr. SMITH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 1843

(Purpose: To require disclosure of information concerning unaccounted for United States personnel from the Korean conflict, the Vietnam era, and the cold war)

On page 249, between lines 7 and 8, insert the following:

SEC. 1068. DISCLOSURE OF INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL FROM THE KOREAN CONFLICT, AND THE COLD WAR.

Section 1082 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 50 U.S.C. 401 note) is amended—

(1) in subsection (a), by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) Paragraph (1) applies to any record, live-sighting report, or other information in the custody of the official custodian referred to in subsection (d)(3) that may pertain to the location, treatment, or condition of (i) United States personnel who remain not accounted for as a result of service in the Armed Forces of the United States or other Federal Government service during the Korean conflict, the Vietnam era, or the Cold War, or (ii) their remains.";

(2) in subsection (c)—

(A) by striking out the first sentence in paragraph (1) and inserting in lieu thereof the following: "In the case of records or other information originated by the Department of Defense, the official custodian shall make such records and other information available to the public pursuant to this section not later than September 30, 1995.";

(B) in paragraph (2), by striking out "after March 1, 1992,"; and

(C) in paragraph (3), by striking out "a Vietnam-era POW/MIA who may still be alive in Southeast Asia," and inserting in lieu thereof "any United States personnel referred to in subsection (a)(2) who remain not accounted for but who may still be alive in captivity,";

(3) by striking out subsection (d) and inserting in lieu thereof the following:

"(d) DEFINITIONS.—For purposes of this section:

"(1) The terms 'Korean conflict' and 'Vietnam era' have the meanings given those terms in section 101 of title 38, United States Code.

"(2) The term 'Cold War' shall have the meaning determined by the Secretary of Defense.

"(3) The term 'official custodian' means—

"(A) in the case of records, reports, and information relating to the Korean conflict or the Cold War, the Archivist of the United States; and

"(B) in the case of records, reports, and information relating to the Vietnam era, the Secretary of Defense."; and

(4) by striking out the section heading and inserting in lieu thereof the following new section heading:

"SEC. 1082. DISCLOSURE OF INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL OF THE COLD WAR, THE KOREAN CONFLICT, AND THE VIETNAM ERA.".

AMENDMENT NO. 1844

In title X, insert the following new section:

SEC. . REQUIREMENT FOR CERTIFICATION BY SECRETARY OF DEFENSE CONCERNING DECLASSIFICATION OF VIETNAM-ERA POW/MIA RECORDS.

(a) FINDINGS.—Congress makes the following findings:

(1) The Senate, by Senate Resolution 324, 102d Congress, 2d session, agreed to on July 2, 1992, unanimously requested the President to "expeditiously issue an Executive Order requiring all executive branch departments and agencies to declassify and publicly release without compromising United States national security all documents, files, and other materials pertaining to POW's and MIA's.".

(2) The President, in an executive order dated July 22, 1992, ordered declassification of all United States Government documents, files, and other materials pertaining to American personnel who became prisoners of war or missing in action in Southeast Asia.

(3) The President stated on Memorial Day of 1993 that all such documents, files, and other materials pertaining to the personnel covered by that executive order should be declassified by Veterans Day of 1993.

(4) The President declared on Veterans Day of 1993 that all such documents, files, and other materials had been declassified.

(5) Nonetheless, since that Veterans Day declaration in 1993, there have been found still classified more United States Government documents, files, and other materials pertaining to American personnel who became prisoners of war or missing in action in Southeast Asia.

(b) REVIEW AND CERTIFICATION.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall—

(1) conduct a review to determine whether there continue to exist in classified form documents, files, or other materials pertaining to American personnel who became prisoners of war or missing in action in Southeast Asia that should be declassified in accordance with Senate Resolution 324, 102d Congress, 2d session, agreed to on July 2, 1992, and the executive order of July 22, 1992; and

(2) certify to Congress that all documents, files, and other materials pertaining to such personnel have been declassified and specify in the certification the date on which the declassification was completed.

AMENDMENT NO. 1845

In title X, insert the following new section:

SEC. . REQUIREMENT FOR SECRETARY OF DEFENSE TO SUBMIT RECOMMENDATIONS ON CERTAIN PROVISIONS OF LAW CONCERNING MISSING PERSONS.

(a) FINDINGS.—Congress makes the following findings:

(1) The families of American personnel who became prisoners of war or missing in action while serving in the Armed Forces of the United States and national veterans organizations have expressed concern to Congress for several years regarding provisions of chapter 10 of title 37, United States Code, relating to missing persons, that authorize the Secretaries of the military departments to declare missing Armed Forces personnel dead based primarily on the passage of time.

(2) Proposed legislation concerning revisions to those provisions of law has been pending before Congress for several years.

(3) It is important for Congress to obtain the views of the Secretary of Defense with respect to the appropriateness of revising those provisions of law before acting further on proposed amendments to such provisions.

(b) RECOMMENDATIONS REQUIRED.—Not later than 180 days after the date of enactment of this Act, the Secretary of Defense, in consultation with the Secretaries of the military departments, the national POW/MIA family organizations, and the national veterans organizations, shall—

(1) conduct a review of the provisions of chapter 10 of title 37, United States Code, relating to missing persons: and

(2) submit to Congress the Secretary's recommendations as to whether those provisions of law should be amended.

AMENDMENT NO. 1846

In title X, insert the following new section:

SEC. . CONTACT BETWEEN THE DEPARTMENT OF DEFENSE AND THE MINISTRY OF NATIONAL DEFENSE OF CHINA ON POW/MIA ISSUES.

(a) FINDINGS.—Congress makes the following findings:

(1) The Select Committee on POW/MIA Affairs of the Senate concluded in its final report, dated January 13, 1993, that "many American POW's had been held in China during the Korean conflict and that foreign POW camps in both China and North Korea were run by Chinese officials" and, further, that "given the fact that only 26 Army and 15 Air Force personnel returned from China following the war, the committee can now firmly conclude that the People's Republic of China surely has information on the fate of other unaccounted for American POW's from the Korean conflict."

(2) The Select Committee on POW/MIA Affairs recommended in such report that "the Department of State and Defense form a POW/MIA task force on China similar to Task Force Russia.".

(3) Neither the Department of Defense nor the Department of State has held substantive discussions with officials from the People's Republic of China concerning unaccounted for American prisoners of war of the Korean conflict.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should establish contact with officials of the Ministry of Defense of the People's Republic of China regarding unresolved issues relating to American prisoners of war and American personnel missing in action as a result of the Korean conflict.

AMENDMENT NO. 1847

(Purpose: To require the Secretary of Defense to submit to Congress certain information concerning unaccounted for United States personnel of the Vietnam conflict)

On page 249, between lines 7 and 8, insert the following:

SEC. 1068. INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL OF THE VIETNAM CONFLICT.

Not later than 45 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress the following information pertaining to United States personnel involved in the Vietnam conflict that remain not accounted for:

(1) A complete listing by name of all such personnel about whom it is possible that officials of the Socialist Republic of Vietnam can produce additional information or remains that could lead to the maximum possible accounting for those personnel, as determined on the basis of all information available to the United States Government.

(2) A complete listing by name of all such personnel about whom it is possible that officials of the Lao People's Democratic Republic can produce additional information or remains that could lead to the maximum possible accounting for those personnel, as determined on the basis of all information available to the United States Government.

AMENDMENT NO. 1848

In title X, insert the following new section:

Sec. . REPORT ON POW/MIA MATTERS CONCERNING NORTH KOREA.

(a) FINDINGS.—Congress makes the following findings:

(1) The Select Committee on POW/MIA Affairs of the Senate concluded in its final report, dated January 13, 1993, that "it is likely that a large number of possible MIA remains can be repatriated and several records and documents on unaccounted for POW's and MIA's can be provided from North Korea once a joint working level commission is set up under the leadership of the United States.".

(2) The Select Committee recommended in such report that "the Departments of State and Defense take immediate steps to form this commission through the United Nations Command at Panmunjom, Korea" and that the "commission should have a strictly humanitarian mission and should not be tied to political developments on the Korean peninsula".

(3) In August 1993, the United States and North Korea entered into an agreement concerning the repatriation of remains of United States personnel.

(4) The establishment of a joint working level commission with North Korea could enhance the prospects for results under the August 1993 agreement.

(b) REPORT.—The Secretary of Defense shall—

(1) at the end of January, May, and September of 1995, submit a report to Congress on the status of efforts to obtain information from North Korea concerning United States personnel involved in the Korean conflict who remain not accounted for and to obtain from North Korea any remains of such personnel; and

(2) actively seek to establish a joint working level commission with North Korea, consistent with the recommendations of the Select Committee on POW/MIA Affairs of the Senate set forth in the final report of the committee, dated January 13, 1993, to resolve the remaining issues relating to United States personnel who became prisoners of war or missing in action during the Korean conflict.

The PRESIDING OFFICER. Is there any objection to the Senate handling these amendments en bloc?

Without objection, it is so ordered.

Mr. SMITH. Mr. President, each of the six amendments that I have sent to the desk concerns the issue of American personnel still unaccounted for from past conflicts, to include the Korean war and the cold war, as well as Vietnam.

As my colleagues will recall, in January 1993, the Senate Select Committee on POW–MIA Affairs published its final report which contained several recommendations for followup. We stated in our report that to the extent there remain matters to be pursued, that we would ensure that they, indeed, were pursued.

This is really the basis of these six amendments. I want to say at the outset that I appreciate the cooperation of Senator JOHN KERRY, who was the chairman of that committee, and Senator NUNN and staff, Senator THURMOND, Senator MCCAIN, and others who have worked with me in a cooperative way to work these amendments out so that they could be approved.

As the former vice chairman of that committee, I am today offering these amendments because I believe there are still some items that need to be pursued as we try to bring closure to this issue and, basically, to determine the fate of those who are still missing.

I am pleased that Senators KERRY and McCAIN especially saw fit to join, as well as Senators GRASSLEY and HELMS, who were also on the select committee with me.

I understand there are no objections to the amendments by the chairman or the ranking member. At least, that is my understanding. So I am going to make a few brief comments on each of the amendments and will not be asking for the yeas and nays on this side.

For the benefit of my colleagues, I would like to start with the first amendment which amends section 1082 of the fiscal year 1992-93 Defense Department Authorization Act mandating the declassification of Vietnam-era POW-MIA records to include the Korean war and cold war POW-MIA records.

This amendment applies only to Defense Department records, to include those at the National Archives for which DOD is the originating agency. The National Archives might be surprised to hear estimates that there are up to 20,000 classified documents—not pages, but classified documents—pertaining to Korean war POW-MIA's alone. Estimates on classified POW-MIA-related information on the cold war are not available, although there are 130 individuals unaccounted for as a result of cold war incidents.

According to DOD, some 670,000 pages of Vietnam-era POW/MIA documents were declassified in 1992 and 1993 under the fiscal year 1992-93 DOD Authorization Act. This amendment requires DOD to declassify roughly 20,000 pages of Korean war POW records during fiscal year 1995, in addition to any cold war POW-MIA records that are still classified.

The Senate Armed Services Committee has already adopted language requiring DOD to assist any Korean war POW-MIA families trying to locate information on their loved ones, whether it is in classified or unclassified form.

My amendment, No. 1, ensures that all DOD's POW-MIA records are processed for declassification under the same procedures set forth with the fiscal 1992-1993 DOD authorization language on the Vietnam-era records. I thank Senator McCAIN for his continuing efforts on these issues over the years as he has worked on this same subject.

In amendment number two, this amendment requires the Secretary of Defense to certify to Congress within 60 days that a copy of all DOD Vietnam-era POW-MIA-related documents covered by Senate Resolution 324 of July 2, 1992, and President Bush's Executive order of July 22, 1992, have been declassified as they were supposed to be and deposited in the Library of Congress. If there are documents found that have not been declassified, then they should be immediately declassified in accordance with the Executive order. It is just a check through the system to be sure that nothing was missed.

In short, Mr. President, I have personally been involved with instances, including just last month, ironically, where a POW-MIA family learned that there was classified information in their file involving documents that they had never seen before. You can imagine the surprise and dismay, and whatever, at seeing documents that they did not know were there on a missing loved one. As a result of their persistent efforts, the documents, I am told, are now being declassified and provided to the family.

Bear in mind, this is some 6 months after our current President stated on Veterans Day that all Vietnam-era documents on POW's had been declassified. This amendment will simply ensure that this is done; that is, the Secretary of Defense and the new Deputy Assistant Secretary of Defense for POW-MIA Affairs, Gen. Jim Wold, will conduct a review and certify to Congress that everything should be declassified that is supposed to be.

I might also say that I have talked to General Wold, who has been extremely cooperative with me in every respect in attempting to comply with the declassification of documents.

My colleagues will recall that the last time the Senate acted on this matter was in July 1992, when we unanimously requested that the POW-MIA documents be declassified. This amendment now will ensure that a report is provided back to the Congress certifying that this work has been completed.

Amendment No. 3 requires the Secretary of Defense to provide a report to Congress within 180 days with recommendations from the military services as to the appropriateness of revising the Missing Persons Act of 1942. Legislation to amend the Missing Persons Act has been before Congress for several years. It is not new. But no hearings have been held in the Senate on this matter. The amendment simply requests that the Secretary of Defense formally provide the views of his Department to Congress on whether or not there should be changes in this law.

The National League of Families supports a DOD study on this issue, and there are indications that the military services are prepared, even as we speak, to come forward with recommendations if asked by the Secretary. So I hope this amendment will move that process along.

One of the central issues behind those pushing for change is whether a service member in a missing status should be declared dead by the military based primarily on the passage of a set period of time. This issue has been lingering since even my earlier days in the House of Representatives. Legislation addressing the issue is still pending in the House. But it is time that the Defense Department formally provide us its views on this matter. It is a very, very sensitive matter to the families, as you might expect. I think the Congress owes it to those families to get on with this report and resolve this matter.

Amendment No. 4 expresses the sense of the Congress that the Secretary of Defense should establish contacts with defense officials from the People's Republic of China to discuss the fate of American POW's and MIA's from the Korean war. The amendment contains sense-of-the-Congress language. The Senate Select Committee on POW-MIA Affairs made recommendations that the Chinese officials be approached about the Korean war POW-MIA issues in its final report in January 1993.

However, according to the State Department and the Defense Department, no real substantive decisions or discussions have taken place on this matter. This amendment does not require but it simply urges the Secretary of Defense to initiate such discussions with his counterparts in the Chinese Ministry of Defense.

I feel very strongly, based on my visits to North Korea and speaking to North Korean officials in December 1992, and earlier in 1991, that the Chinese have a great deal of information that they could provide on accounting for our missing military personnel from the Korean war. Frankly, the North Koreans indicated to me point blank that the Chinese would have such information.

So what we are trying to do is call this to the attention of the Secretary of Defense in such a way that we could perhaps open up some contact with the Chinese to get a process going where we could get some accounting, some answers on our men, which we know they have. I think, if you do not talk about it, you are never going to get it done.

So I hope that the Chinese will accept this in the spirit that it is offered and work with our Secretary of Defense to try to get some answers regarding our mission. We know they have them. It would be, I think, in the best interests of both of our countries' relations to see this happen.

Amendment No. 5 requires the Secretary of Defense to provide the Congress within 45 days a listing of Vietnam-era POW/MIA cases where Vietnamese and Lao officials possibly have more information under their control that could lead to the fullest possible accounting of these POW/MIA's.

There has been a lot of rhetoric concerning what Vietnam should still be expected to do unilaterally on the POW issue.

This amendment No. 5 simply requests the Secretary of Defense to provide us with a listing of those cases, individual cases where the Vietnamese and the Lao should be expected to possibly have more information that can help us to account for those men—not that they do, but possibly. That is the key word.

Amendment No. 6 and the final amendment requires the Secretary of Defense to provide regular reports to Congress on the status of efforts to obtain POW/MIA information or remains from North Korea.

It also requires the Secretary to actively seek, via the U.N. command in Korea, the establishment of a joint working-level POW/MIA commission with North Korea consistent with the recommendations of the Senate Select Committee in January 1993.

In my visit to North Korea, in discussions with the North Korean officials also in 1992 and in July 1991, this was a matter that was discussed with the North Koreans. I think they are interested in doing that. We need to get that process moving as well.

In the last year, we have seen reports of more remains of United States soldiers being returned from North Korea. That is a positive step. It gets us talking to the North Koreans on something that might give us the opportunity to talk with them more on other issues of major consequence such as the nuclear issue.

Just last week it is reported that North Korean President Kim Il-song told President Carter that he had authorized joint United States-North Korean search teams to recover soldier remains in North Korea. This is a very positive step on this issue. It is something that has been long overdue. For roughly almost 40 years all we have done really is exchange lists across the table in a very hostile way. I think this is very positive, and I think it is the type of thing that Kim Il-song is offering. I think we ought to take him up on his offer immediately.

It is clear, very clear, based on my discussions and the documents that I have seen, that the North Koreans can provide us more information on and remains of our POW/MIA's from the Korean conflict and, coupled with the Chinese connection, can provide us a lot of answers on the some 8,000 missing from the Korean war—something that should have been done a long time ago. And I urge my colleagues to support me on this.

Basically, also, it will ensure that Congress is fully informed on this issue. For so long, the information on the POW/MIA issue has pretty much remained only in the hands of those codels that go over, and there has been little formal structure other than the MIA Select Committee. This is an opportunity to get some reports back and let everybody in Congress know what is going on. Hopefully, it will lead to a better understanding with North Korea.

Let me conclude, Mr. President, by taking this opportunity to say that the executive directors of the American Legion and the National League of Families and the Korean/Cold War Family Organization fully support these amendments and have sent me letters so indicating. I ask unanimous consent, Mr. President, to print those letters in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE AMERICAN LEGION,
Washington, DC, June 21, 1994.

Hon. ROBERT C. SMITH,
U.S. Senate,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR SMITH: The American Legion continues to support positive efforts that will achieve the fullest possible accounting of American prisoners of war or missing in action (POW/MIA) from past wartime conflicts and the cold war. We were therefore, pleased to see your plan to introduce six amendments proposed for inclusion in the FY 1995 Defense Authorization Act which will soon be considered by the full Senate. If approved, these amendments would not only show a continuing national commitment to obtaining an accounting of missing American service personnel, but also demonstrate continued U.S. resolve to those nations who have information on our missing, have been than forthcoming in releasing all available data, and have diminishing incentive to do so.

Your sponsorship of these amendments now is extremely important. Since the trade embargo against Vietnam was lifted in early February, the emphasis in U.S./Eurasian relations has been motivated more by initiatives to increase because and trade than in the plight of unaccounted for American and the anguish of their families. Consequently, the Legion believes the U.S. has little bargaining leverage to compel foreign nations to disclose information on missing American service personnel, or to encourage them to relentlessly continue to pursue sighting reports or suspected burial sites.

The American Legion believes the best hope to obtain POW/MIA information is to allow U.S. contacts with these Eurasian nations to be governed by rules of conduct which mandate reports, release of formerly classified data and initiation of dialogues with foreign nations. Senate support of your amendments will revitalize the search for the remains of and information about missing Americans and reemphasize that this matter is the highest national priority.

Sincerely,
JOHN F. SOMMER, Jr.,
Executive Director.

NATIONAL LEAGUE OF FAMILIES OF
AMERICAN PRISONERS AND MISSING
IN SOUTHEAST ASIA,
Washington, DC, June 21, 1994.

DEAR SENATOR: The National League of POW/MIA Families urges full support for the amendments Senator Robert Smith plans to introduce for inclusion in the FY95 Defense Authorization Act.

Importantly, Senator Smith's amendments include provision of unclassified material, as well as declassification and release of classified information. It is our view that passage of these measures will further reinforce the bipartisan Congressional effort to ensure that all pertinent information on the POW/MIA issue is made available publicly, except that which would violate the privacy of the next of kin.

In our view, each of the proposed amendments enhance a spirit of openness and fall within the intent of language previously approved by the Congress and addressed in the executive orders of Presidents Bush and Clinton concerning declassification.

We also strongly support language which ensures that the Secretary of Defense will provide suggestions and recommendations to alter the U.S. Code statutes, developed in 1942, governing missing persons. The time for addressing these out-dated statutes is long overdue, and the League believes the most responsible means is for the Congress to obtain input directly from the Military Services before taking any action which will have long-lasting consequences.

Your support for Senator Smith's amendments will be extremely helpful as we continue to seek answers still being withheld, primarily in Hanoi, and not yet obtained on our relative still missing from the Vietnam War. These amendments will also ensure that thousands of American families who lost loved ones during earlier wars have access to relevant information.

Sincerely,
ANN MILLS GRIFFITHS,
Executive Director.

KOREAN/COLD WAR FAMILY
ASSOCIATION OF THE MISSING
Coppell, TX, June 21, 1994.

DEAR SENATOR BOB SMITH: The purpose of the Korean/Cold War Family Association of the Missing is "to account for all American personnel who are Prisoners of War or Missing in Action as a result of action in the Korean War and the Cold War." The Association genuinely thanks you for your six amendments to the FY95 Defense Authorization Act concerning the issue of unaccounted for U.S. personnel (POW/MIA) from the Cold War and the Korean War.

The Korean War/Cold War Family Association of the Missing unequivocally supports and endorses these amendments. The passage of these amendments would, for the first time ever, afford our missing the honor and dignity they so rightfully should expect from their country. These amendments make a real priority of a national commitment to obtaining an accounting for our POW/MIA's not only to our country but also to those foreign nations who have withheld information.

The passage of these amendments would set our nation on the path of correcting Section 555 of the Public Law, Missing Persons Act so misguidedly passed in 1942. Never did the Families wish to be paid by our government in lieu of searching for our loved ones, which was the result of this law, and never would we even remotely support such an idea much less a law. Many times this law has been challenged in our court systems by the Families. We have learned the only way to defeat it is to change it.

Most importantly, the language of these amendments, addresses the necessity of declassification and release of documents crucial to the Families' accessing all information regarding their loved ones; a right denied to us for far too many years. We have constantly been placed in the situation of educating our Senators and Congressmen to the fact the Executive Orders for declassification of POW/MIA documents did NOT include the Korean War or the Cold War. The Critical issue of declassification ensures that all DOD's POW/MIA records are processed for declassification for the purpose of providing the fullest possible accounting for the missing from the Korean War and the Cold War. It is important that the same procedures set forth in the FY 92 DOD Authorization language on Vietnam era records also be applied to those from the Korean War and the Cold War. Further we believe the declassification amendment enhances the accounting efforts of the US/Russian Joint Commission and any future working level negotiations with North Korea and China. In light of the cost in tax dollars for any POW/MIA accounting efforts with a foreign country, it seems only reasonable that accurate and complete records on the missing must be available prior to negotiations. Your amendments ensure this necessity will be met in the future.

Again, thank you Mr. Smith. You are an honorable and courageous man. Be assured that the Korean/Cold War Family Association of the Missing will do all in our power to make the other Senators aware of how vital it is to pass these amendments.

Most sincerely,

PATRICIA WILSON DUNTON,
Co-Founding Director.

NATIONAL LEAGUE OF FAMILIES OF
AMERICAN PRISONERS AND MISSING
IN SOUTHEAST ASIA,
Washington DC, May 20, 1994.

Hon. ROBERT C. SMITH,
Dirksen Senate Building,
Washington, DC.

DEAR BOB SMITH: I am writing to convey the position of the National League of Families regarding H.R. 291, "to establish procedures for determining whether members of the Armed Forces in a missing status," etc.

The league's board of directors met April 29–30th and discussed the merits of this bill. The League opposes the language in H.R. 291 however, we recognize the inadequacies in the current statutes of the U.S. Code. For this reason, the League supports Congressional action to require the Department of Defense to conduct a study for the purpose of recommending appropriate changes to the relevant statutes. It is our view that such a study should be reported to Congress no later than 180 days from its initiation.

Our board of directors recognizes the effort that many, including Top Holland, have dedicated to this issue, but continues to have serious concern over the retroactive provisions included in H.R. 291, as well as obvious, though amended, interference with the prerogatives of the primary next of kin.

It is our hope that Congress will proceed with directing the proposed study. I am confident that the Military Services also recognize problem areas and will come forth with recommendations to address them. In our view, the study should occur as soon as possible.

Should you deem it appropriate, we would appreciate your efforts to include relevant provisions in the Defense Authorization Bill during the upcoming conference.

Sincerely,

ANN MILLS GRIFFITHS,
Executive Director.

Mr. SMITH. Mr. President, I also at this point ask unanimous consent to add Senator REID as an original cosponsor to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SMITH. At this point I would simply call for a vote. I am not asking for the yeas and nays.

The PRESIDING OFFICER (Mr. BAUCUS). Is there further debate? The Senator from Georgia.

Mr. NUNN. Mr. President, first, I wish to thank the Senator from New Hampshire for his leadership on this issue. He is a stalwart in trying to do everything that we can possibly do to gain access to information relating to the POW/MIA's both individually and collectively. He has not only been zealous in his efforts on Vietnam era POW/MIA's but also on Korea. I have been with him when he has spent numerous hours on the subject in Russia and other places.

Each one of these amendments, as he has explained, I think can add to the knowledge that we have and that the families may have and give us the maximum amount of information.

We have reviewed each one of these amendments, and all of them have been worked out. There are two or three minor changes that have been made in them, but they have been presented as changed and as worked out. So I urge their acceptance.

Mr. SMITH. Mr. President, I thank the chairman of the committee. His cooperation in this matter has been outstanding. I am deeply grateful to him for his help in the recent Russian trips on some of the matters we discussed and also for his support and cooperation.

I also ask unanimous consent to add Senator KOHL as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection, the amendments en bloc are agreed to.

So the amendments (Nos. 1843, 1844, 1845, 1846, 1847, and 1848) were agreed to.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I ask unanimous consent that Senator LIEBERMAN be added as a cosponsor to the Smith amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, the pending amendment is the Johnston amendment?

The PRESIDING OFFICER. The Senator is correct, No. 1840.

Mr. NUNN. Mr. President, just so Senators will have some idea of the schedule. I know there are a lot of people who are inquiring, and the manager of this bill certainly cannot predict with certainty that Senators are going to come to the floor with amendments.

We have a number of amendments, obviously, that are going to be presented here in the course of this bill. We are trying to get people over now to present amendments, and I encourage anyone who has an amendment to come over at this time certainly if it relates to the defense bill. We will take it up this afternoon or this evening.

It is my hope that Senator KEMPTHORNE will be able to come over in a few minutes. He has indicated he hopes to be able to present an amendment around 5:30 on U.N. peacekeeping. There is a provision in the bill on U.N. peacekeeping that I believe Senator KEMPTHORNE will propose that we strike. So that will be a contested amendment. The committee will be in opposition to that amendment.

It is my belief, having discussed it with Senator KEMPTHORNE, that we can have a reasonable time limitation on that amendment. I would anticipate it would be about an hour. So assuming that we get started on that one about 5:30, it would be my view that we would vote somewhere in the neighborhood of 6:30 or 7.

I have also been informed by the leadership and by other Senators that there will be an invitation for Members of Congress and their families to go to the White House this evening. For that reason, we will have a window where there will be no rollcall votes after the Kempthorne amendment is voted on. I cannot say precisely when that will be. It will be, hopefully, between 6:30 and 7 o'clock, and we would not have votes between that hour and 9 o'clock tonight.

It would be my hope that during the period of time where some people may be attending the White House dinner that we would continue to have amendments presented. It would be my hope that we could then have the votes stacked until after that window, and that we would have some more rollcall votes after 9 o'clock tonight.

We will be on this bill tomorrow. Senator LEVIN was tied up in a hearing this afternoon on a matter relating to this bill, which will probably come up next week, on Bosnia. He was in a hearing and helping to preside over the hearing. He will be on the floor tomorrow morning prepared to present an amendment on the B–2.

It is my view that we would have a reasonable period of time for debate on that issue tomorrow, and that we would vote after a reasonable period of debate on the B–2.

It is also my understanding that the minority leader, Senator DOLE, will be making a presentation and laying down an amendment on Bosnia regarding lifting the arms embargo. But that amendment will not be actually voted on until next week.

I would hope we would have a number of other amendments that can be dealt with tonight and tomorrow. The committee will be here tomorrow. We will be voting tomorrow.

So I hope Senators will take that into account in making their plans, and that we can maximize the effectiveness of the time we spend here tomorrow.

I will certainly be consulting with the majority leader, Senator MITCHELL, on all of these matters. What I have said so far I think reflects the discussions that we have had and his instructions to me as far as managing this bill.

So that gives people some idea. I will now make certain remarks that can be interrupted in the event someone comes over to the floor with an amendment, and certainly when Senator KEMPTHORNE comes, I will complete my remarks on this particular subject at a later point in time.

PROCEEDINGS ON THE NOMINATION OF MORTON H. HALPERIN TO BE ASSISTANT SECRETARY OF DEFENSE FOR DEMOCRACY AND PEACEKEEPING

Mr. NUNN. Mr. President, last year the Committee on Armed Services considered the nomination of Dr. Morton H. Halperin to be Assistant Secretary of Defense for Democracy and Peacekeeping, a new position proposed to be established by former Secretary of Defense Les Aspin, but did not complete action prior to adjournment. The nomination was returned to the executive branch at the end of the first session of the 103d Congress, pursuant to Senate Rule 31. At that time, there were objections by a number of Republican members to inclusion of his nomination in the unanimous-consent request which retained a significant number of pending nominations in the Senate.

Following Secretary Aspin's resignation, the administration reevaluated the structure of the Department of Defense and determined that the position of Assistant Secretary of Defense for Democracy and Peacekeeping should not be established. On January 10, 1994, Dr. Halperin requested that the President not resubmit his nomination, and the President agreed. I ask unanimous consent that an exchange of letters between Dr. Halperin and the President be included at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. NUNN. Mr. President, anyone who followed this nomination knows that the nomination was controversial. The fact of controversy, however, should not stand as a judgment on the individual's qualifications or on the merits of the specific allegations that were brought to the attention of the committee. While the Senate has a responsibility to consider information that bears on the fitness or qualifications of a nominee, the fact that an allegation has been made should not stand as a judgment that the allegation is valid.

COMMITTEE PROCEEDINGS

Because the nomination was withdrawn before the committee acted on the nomination, I believe that it is important to summarize for the record the committee's proceedings on the nomination.

President Clinton announced his intent to nominate Dr. Halperin on March 31, 1993. The actual nomination, however, was not forwarded to the Senate until August 6, 1993, on the eve of the August recess. After we received the nomination, I advised the administration that the committee would proceed with a hearing during the week of September 13, following Senate floor debate on the National Defense Authorization Act. I noted that our ability to conduct a hearing was contingent upon submission of the standard nomination documents that the committee requires of all nominees, including: First, the committee's questionnaire; second, the conflict of interest opinion from the DOD general counsel; third, the conflict of interest opinion from the Director of the Office of Government Ethics [OGE]; and fourth, the responses to the committee's prehearing policy questions.

Although the committee received the nominee's questionnaire and the conflict of interest opinions prior to September, the committee did not have the answers to the prehearing policy questions during the week of September 13, the time for the planned hearing. the responses to the prehearing policy questions provide the basic foundation for our nomination proceedings. Because these were not available during the week of the planned hearing, under the committee's standard procedures we could not proceed with the planned hearing. Under the circumstances, I informed Secretary Aspin on September 16 that the hearing planned for that week would have to be postponed.

We received the responses to the prehearing policy questions on September 21. As a practical matter, it was not possible to conduct hearings on this nomination at that point because the committee was involved in the House-Senate conference on the National Defense Authorization Act for fiscal year 1994, which continued from mid-September until the report was filed on November 10.

The committee's standard procedure calls for the FBI report on the nominee to be reviewed by the chairman and the ranking Republican member or their designee. In view of the various issues that arose with respect to this nomination, the administration agreed to make the report available to all members of the committee. In addition, the Republican members of the committee submitted a series of requests to the administration for information.

The committee conducted a public hearing on the nomination on November 19, 1993. At that time, I noted: "We will proceed with this nomination in the same manner that the committee has handled all other nominations. If credible allegations are presented to the committee, we will pursue them." I also emphasized the importance of fairness to the nominee: "We will ensure that Dr. Halperin has a full opportunity to address all issues that are raised about his nomination."

I made it clear that the committee should not simply concern itself with allegations about the nomination, but should focus on the full range of policy issues related to the new position of Assistant Secretary for Democracy and Peacekeeping.

Dr. Halperin was introduced by a bipartisan group of Senators reflecting diverse views on national security issues—Senator MARK HATFIELD, Senator DAVID BOREN, and Senator JOSEPH BIDEN. In addition, numerous Senators on the committee made statements in support of or in opposition to the nomination.

At the outset of the hearing, I observed that,

> Dr. Halperin has an impressive background. He is a graduate of Columbia College and has a masters and doctorate from Yale. From 1966–1969, he served in the Johnson and Nixon Administrations in the Department of Defense, where he earned the Meritorious Civilian Service Award, and on the staff of the National Security Council. From 1974 until 1992, he served as the Director of the Washington Office of the American Civil Liberties Union, where he was an active participant in a wide variety of public policy debates concerning national security issues. In November 1992, he was appointed as a Senior associate at the Carnegie Endowment for International Peace. In January 1993, he was appointed to serve as a consultant in the Department of Defense, a position he has held pending confirmation.
>
> Dr. Halperin has taught and lectured widely on a variety of subjects related to national security, and he is a prolific writer. Indeed, it appears that some of my colleagues on the Committee have been among the most avid readers of his books and articles! Dr. Halperin's nomination has received the support of a number of distinguished Americans, including a bipartisan array of former government officials.

I also noted: "Notwithstanding Dr. Halperin's impressive résumé, it is clear that this nomination is controversial and will be contested." The issues concerning the nomination were explored in detail at the hearing. The committee's published record (S. Hrg. 103–446) contains the transcript of the November 19, 1993 hearing, as well as Dr. Halperin's answers to the committee's prehearing questions.

DR. HALPERIN'S RESPONSES TO ISSUES RAISED CONCERNING HIS NOMINATION

The committee's November 19, 1993 hearing began at 9:31 a.m. and lasted until 6:42 p.m., with a brief break for lunch. In that lengthy proceeding, involving challenging questions, Dr.

Halperin demonstrated dignity, seriousness of purpose, and broad understanding of national security issues—and patience.

In addition to setting forth his views on national security policy matters, Dr. Halperin directly addressed a variety of allegations concerning his fitness for office, and I would like to quote directly from his testimony because it deals with a number of charges that were reported in the news media and that I think he dealt with at the hearing:

> I have been accused of advising the Secretary of Defense not to send armor to Somalia. That is false. I had no knowledge of any request for armor until I read about it in the newspaper after the fact.
>
> I have been accused of ordering a regional Commander to terminate an exercise. That is false. I called General Joulwan only to obtain information, not to intrude into the chair of command.
>
> I have been accused of believing that the United States should subordinate its interests to the United Nations, never using force without its consent, and putting American forces at its disposal. That is false. I have never advocated these positions.
>
> I have been accused of believing that government officials have the right to disclose classified information. That is false. I have consistently stated that the government has the right to fire anyone who does and to impose criminal penalties for the disclosure of such information.
>
> I have been accused of opposing all counter-intelligence operations. That is false. I have supported effective counter-intelligence measures designed to protect sensitive information.
>
> I have been accused of aiding Daniel Ellsberg in the disclosure of the Pentagon Papers. That is false. I did not assist in, and had no knowledge of, his disclosure of the Pentagon Papers.
>
> I have been accused of aiding Philip Agee in the disclosure of the identities of intelligence agents and advocating the disclosure of such identities. That is false. I never assisted Philip Agee in those efforts, and I have condemned such action by him and others. (I did testify at his deportation hearing in England—a matter I would be glad to discuss with the committee.)
>
> Most recently, I have been accused of traveling abroad for secret meetings with terrorists. That is false. I have had no such meetings, and to my knowledge there are no CIA documents suggesting that I have.

Numerous questions were raised about these and other issues during the course of the hearing, and Dr. Halperin responded in a direct manner that reflected well upon his respect for the confirmation process. He also acknowledged that had undertaken activities as a DOD consultant that were inconsistent with the guidelines applicable to nominees, and that he regretted certain statements he had made in the early 1970's about U.S. intelligence operations—statements which he subsequently abandoned.

Mr. President, as chairman of the Senate Armed Services Committee, I believe that the record should reflect that aside from his acknowledged activities as a consultant which exceeded the limitations set forth in DOD guidelines and committee expectations, none of the allegations of improprieties were substantiated in the course of the standard report on the nominee by the FBI, in other investigations by the executive branch.

I want to repeat that, Mr. President, because I think the record ought to be clear. I believe that the record should reflect that aside from his acknowledged activities as a consultant which exceeded the limitations set forth in DOD guidelines and committee expectations, none of the allegations of improprieties were substantiated in the course of the standard report on the nominee by the FBI, in other investigations by the executive branch, or in any evidence submitted to the Armed Services Committee.

Mr. President, there is no question that Dr. Halperin's writings and activities in the field of national security affairs have provoked controversy, and there is no question that his views would have been the subject of spirited debate in the committee and on the Senate floor. His views on collective military intervention, the relationship between the United States and the United Nations, as well as views on covert action—all of which were explored in the committee's preconfirmation questions and in the hearing—are proper subjects of debate and would have been appropriate factors to take into account during the consideration of the nomination.

While no nominee looks forward to having his or her nomination become the focus of such a debate, I am confident Dr. Halperin understood and respected the role of the Senate in examining such issues. Dr. Halperin clearly thrives on public policy debate, and I was impressed by the care and attention that he gave to each question during the lengthy hearing.

Dr. Halperin currently is serving on the staff of the National Security Council. This does not require Senate confirmation. I believe that the confirmation process served as an opportunity for Dr. Halperin to reexamine and reevaluate his views in light of the experiences of the United States over the last quarter century and the challenges we face during the 1990's and the years ahead.

He is now in a position of significant responsibility, and he has the opportunity to apply his substantial talents to the cause of a strong and effective national defense. I wish him well in that endeavor.

EXHIBIT 1

WASHINGTON, DC, *January 10, 1994*.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: I write to respectfully request that you not resubmit my name in nomination for the position of Assistant Secretary of Defense for Democracy and Peacekeeping.

When my old friend Les Aspin told me that he wanted to recommend to you that I be nominated for an Assistant Secretary position in the Defense Department, I was pleased at the prospect of once again serving in the federal government. When you nominated me I was deeply honored.

At the same time, I believe that Cabinet officers should have the freedom to select their subordinates.

As I said at my confirmation hearing, I believe that there is no higher calling than to serve the nation, and I am at your disposal should you believe that I can be of assistance to you and your Administration.

Respectfully yours,

MORTON H. HALPERIN.

THE WHITE HOUSE,
WASHINGTON,
Brussels, January 10, 1994.

Mr. MORTON H. HALPERIN,
Washington, DC.

DEAR MORT: I have received your letter asking that I not resubmit your nomination to be Assistant Secretary of Defense for Democracy and Peacekeeping. With deep appreciation for your willingness to serve our country and with real regret, I accept your request.

Yours is a superb record of service and accomplishment dating back over 30 years. Your qualifications speak for themselves, and I am pleased to hear that your willingness to serve my Administration continues unabated.

At the same time, I appreciate your understanding of the circumstances involved in a new Secretary of Defense coming on board and the tradition of Cabinet officers having the freedom to select subordinates.

I am confident that this Administration will continue to benefit from your talent and counsel and hope that you will be available for other suitable assignments.

Sincerely,

BILL CLINTON.

Mr. NUNN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, my good friend, Chairman NUNN, has offered information to vindicate Mr. Halperin. I will take the opportunity to answer this at a later date. I did not realize this was coming up.

His name was sent over here. We presented statements to show that it would be dangerous to put him there, and the President withdrew the nomination, but he put him in, I believe, the National Security Office. We think it is a very unwise position to take. We think he made a mistake. And at a later time I will make a further statement on this subject.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The Senate continued with the consideration of the bill.

Mr. NUNN. Mr. President, I hope we can get this amendment up. Senator KEMPTHORNE will be able to present it. I appreciate him coming over.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I appreciate the chairman providing the opportunity so I can present the amendment.

The PRESIDING OFFICER. Without objection, the pending amendment, Johnston amendment, will be temporarily laid aside.

AMENDMENT NO. 1849

(Purpose: To redirect funds authorized to be appropriated for fiscal year 1995 for the Contributions for International Peacekeeping and Peace Enforcement Activities Fund)

Mr. KEMPTHORNE. Mr. President, I send an amendment to the desk on behalf of myself, Senator MCCAIN, Senator SMITH, and Senator COATS and ask for its immediate consideration

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE], for himself, Mr. MCCAIN, Mr. SMITH, and Mr. COATS, proposes an amendment numbered 1849.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 219, after line 19, insert the following:

(d) PURPOSES FOR WHICH FUNDS AVAILABLE.—Notwithstanding subsection (g) of section 403 of title 10, United States Code, as added by subsection (b)(1), funds appropriated pursuant to the authorization of appropriations in section 301(20) may not be expended for paying assessments for United Nations peacekeeping and peace enforcement operations (including any arrearages under such assessments). The funds so appropriated shall be credited, in equal amounts, to appropriations for the Army, Navy, Air Force, and Marine Corps for fiscal year 1995 for operation and maintenance in order to enhance training and readiness of the Armed Forces and to offset any expenditure of training funds for such fiscal year for incremental costs incurred by the United States for support of peacekeeping operations for such fiscal year.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, the amendment now before the Senate would alter the defense authorization bill's language regarding the use of DOD to pay for part of our U.N. peacekeeping assessment. Under the bill's current language, $300 million in DOD funds are authorized to reimburse ourselves when our troops support U.N. peacekeeping operations and to pay the U.S. share of the U.N. peacekeeping assessment in cases where our troops participate.

My amendment would alter this provision and direct that this $300 million be used to augment the Department of Defense's training and readiness accounts. Specifically, the $300 million authorized by this act would be made available to enhance the training and readiness of our Armed Forces. In addition, my amendment would prohibit the Department of Defense from using these funds to pay the U.S. share of the U.N. peacekeeping assessment and arrearages. My amendment would do nothing to alter the existing procedures that allow State Department funds from the foreign operations appropriations bill from being used to pay our U.N. peacekeeping assessment. Instead, my amendment would stop the effort to shift a portion of this significant responsibility to the Department of Defense.

My amendment is an effort to direct DOD funds away from the United Nations and focus our limited resources on the training and readiness of our Armed Forces. As the newspapers demonstrate every morning, we still live in a dangerous world and the men and women who wear the uniform of the United States troops may be sent to North Korea, Haiti or Bosnia and Herzegovina on any given day. Enhanced training and readiness means more of these American men and women will come back from those types of conflict.

My amendment also has two other objectives. First, we need to draw a line in the sand and say from now on defense dollars will be used for actual defense capabilities. No more using defense funds to pay for everyone's favorite project which cannot be funded in its own account.

Second, my amendment will put the United Nations on notice that America is paying more than its fair share for peacekeeping and we need to address this inequity.

Since the end of the cold war, the United Nations and the United States have embarked on an increasing number of peacekeeping operations. While we have participated in traditional peacekeeping operations for decades, with the end of the cold war peacekeeping and peace-enforcement operations seem to be assuming a greater and greater role in U.S. national security policy. The U.S. involvement in "peacemaking" operations raises serious questions about the criteria used to determine when we should participate in these operations and how these operations should be funded.

The administration has adopted a new peacekeeping policy, Presidential Decision Directive 25, which seeks to address these and other seminal questions. The fiscal year 1995 Defense Authorization Act seeks to implement this policy by establishing an account at the Department of Defense to pay a portion of the U.S. peacekeeping bill from the United Nations.

The fiscal year 1995 defense authorization bill now before the Senate represents, as has been stated repeatedly, the 10th straight year of reductions in defense spending, and I do not believe, given all of the tough choices the Armed Services Committee and the Senate must make regarding defense spending, that we should add the U.N. peacekeeping bill to the Department of Defense's responsibilities.

As I stated to Ambassador Albright earlier this year, I strongly oppose the proposal to force the Department of Defense to pay for U.N. peacekeeping operations. As I see it, someone determined that the Congress would not support increasing the foreign aid budget so the administration has targeted DOD funds to pay for its multilateral policies.

I suspect that the proposed $300 million installment in fiscal year 1995 will be the foot in the door and next year the administration will come back to us to request more DOD funds to pay our U.N. peacekeeping bill. In fact, I am told the administration was actually hoping the Congress would provide $600 million in DOD funds in fiscal year 1995 to pay for the U.S. share of U.N. peacekeeping operations.

Opponents of my amendment will say that we need DOD funds going to the U.N. so that DOD can take the lead on peacekeeping operations, a question of jurisdiction. Now I understand the concept of shared responsibility but I do not believe DOD funds must be contributed before the Department's military expertise can be brought to bear on U.N. and U.S. peacekeeping operations.

More importantly, I do not believe the rest of the world is paying its fair share of the world peacekeeping burden. I applaud the administration's effort to reduce our U.N. peacekeeping assessment from 31.7 percent to 25 percent but I believe this figure grossly underestimates the cost, to the American taxpayer, of the U.S. contribution to U.N. peacekeeping operations. Let me recite a few facts. In fiscal year 1994, the United Nations expects to spend about $3.5 billion on peacekeeping operations. Of this $3.5 billion, the United States will get a bill or "assessment" for over $1 billion. At the same time, United States military forces are supporting U.N. peacekeeping operations, humanitarian missions and Security Council resolutions in Iraq, Bosnia and Herzegovina and Haiti. Yet as I understand it, because we have wisely decided not to put our troops under the command of the United Nations, these military actions must be "donated" or "volunteered" by the United States. As a result, we will receive almost no compensation or credit for these deployments.

As members of this committee recall, earlier this year the administration requested, and the Congress approved, a $1.2 billion supplemental appropriation to cover the incremental costs of these donated peacekeeping operations. Officials from the DOD comptroller office tell my staff that we might get about $100 million back from the United Nations for these $1.2 billion expenses. So as I see, the United States is scheduled to pay about $2.1 billion of a total world peacekeeping bill of $4.7 billion. That is over 44 percent of the bill paid by the American taxpayer and that is too much and I believe that is wrong.

I want to urge my colleagues to support my amendment and help bring some equity and balance to the payment of the U.N. peacekeeping bill. I hope a majority of my colleagues will support this amendment because I believe that American people will not stand for a policy that asks them to pay for almost half of the world peacekeeping operations, and at the same time to take it from the DOD budget, where we are already seeing our 10th year of declining amounts in the Department of Defense budgets.

We have a chance here today to put pressure on the United Nations to fix its burden-sharing equation for international peacekeeping operations so that the other nations of the world pay their fair share. I hope that we do not miss this opportunity.

Mr. President, I yield the floor.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, could I propose to Senator KEMPTHORNE a unanimous consent agreement that there be a total of 40 minutes debate on this amendment, equally divided from this point on; that the time be equally divided and controlled in the usual form, with no amendment thereto, no amendment in order to the amendment, or any language which may be stricken; and that when the time is used or yielded back, the Senate, without any intervening action or debate, vote on or in relation to the amendment.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. I will be happy to agree to that.

The PRESIDING OFFICER. Is there objection?

Without objection, the request is agreed to.

Who yields time?

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I ask unanimous consent that the time allocated to the quorum call be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I am going to say a few words about this amendment. I know there are people who have been very involved in this, Senator LEVIN from Michigan and others, who may want to come over to speak.

Mr. President, I oppose this amendment.

We did substantially alter the administration's request in the peacekeeping area. The specific nature of the amendment, basically, as I understand it, takes $300 million that is in the bill that would pay for peacekeeping operations where U.S. combat forces are involved, and would be able to use $300 million to make sure those assessments are paid only where U.S. combat forces are involved and shifts that to the overall readiness accounts; am I correct in that interpretation?

Mr. KEMPTHORNE. Yes.

Mr. NUNN. Mr. President, section 1032 of the bill before us established up to $300 million in contributions to international peacekeeping and peace enforcement operations, so-called CIPA funds, to pay the United Nations assessment for U.N. operations in which U.S. combat forces participate.

The administration had originally requested that CIPA funds be used to fund assessments for those U.N. peacekeeping operations in which U.S. combat forces participate, as well as all U.N. peace enforcement operations. Our bill did not agree with the administration's request on the broader purposes and limited the use of CIPA funds to U.N. peacekeeping operations in which U.S. combat forces participate, since we believe that such operations are the ones in which we have an overriding interest to assure that they are properly funded.

Mr. President, if this amendment passes, the paradoxical result of it will be that because the United States is so far in arrears on our overall United Nations participation—and this bill does not catch up in any way on that—we could be in a position of having U.S. forces participating in a U.N. operation, but the other people who are asked to participate not having enough confidence that they are going to be reimbursed for their participation to be willing to commit.

I know that is not the Senator's intention. But it seems to me it is in our interest, when U.S. combat forces are sent to a U.N. peacekeeping operation, to assure that there is enough funding, enough robust funding so that all the United Nations kinds of reimbursements can be made and so that the other countries that we want to participate alongside of will be willing to commit their military forces.

We are reaching a point where the United Nations is so hard up for cash that we are going to have increasing difficulty getting other countries to participate. The last thing we want is the U.S. forces to be participating alone.

So I understand, based on some of the past actions of the United Nations, why there would be people who are skeptical about any commitment of U.S. forces. But this amendment, if it passes, does not prevent U.S. forces from being engaged in those operations. It simply prevents DOD funds from being used to pay for our part of those operations.

If that is the case, then we would have to look to the State Department budget, and all of us know that that budget itself is woefully short of the ability to pay for these kinds of operations.

I hope, at some point in the future, the State Department will be properly funded. But, in the meantime, I think it is in the United States interests for U.S. combat forces to be assured that, when they are called on to participate in U.N. peacekeeping, that they will have allies fighting alongside them and that the United Nations itself will be in a financial position to carry out the kind of contingency peacekeeping operations with effectiveness and efficiency.

So, for those reasons, I oppose the Kempthorne amendment.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Will the chairman yield for a question?

Mr. NUNN. I have yielded the floor. It is on the Senator's time. I am going to be short of time.

Mr. KEMPTHORNE. I will make it a short question.

I ask the chairman, would he agree that in order for the United States to be reimbursed, we have to put our troops under U.N. command, based on the requirements of current policy?

Mr. NUNN. I think the Senator is correct in that.

Mr. KEMPTHORNE. I see that as a very important element. We know that we have the finest fighting forces in the world. Therefore, why should we put them under U.N. command?

I think in Somalia we saw, unfortunately, the demonstration that the United Nations is not prepared for that type of command. We should not subject our troops to that same sort of situation. But in order to receive reimbursement we have to put them under U.N. command and I reject that.

Then the chairman made the point that we may be in arrears, and we will be paying off those assessments so we are equal with the other countries. But I will quote a statement that Ambassador Madeleine Albright made to a subcommittee of the Armed Services Committee on May 12.

"Successful U.N. peacekeeping operations serve our interests." And I do not disagree. "But they will more likely succeed if we have met fully our obligation to help pay for them, and if we encourage other member states who have fallen behind in their payments to do the same."

There are a number of countries who have not paid their assessments, yet the United States, both through its assessment and through the supplemental—and through the operations we have undertaken in Haiti and Bosnia and Iraq—we are not getting credit for that. So we are paying far more than our fair share. This helps us to correct that.

And, Mr. President, I make this point, too. I think we are very fortunate, I will say, to have Chairman NUNN as chairman of Armed Services and Senator THURMOND as the ranking member. I think we have great leadership of the Armed Services Committee. I am proud to be a member of that committee. I know the number of projects we are not able to pay for that I think we should be paying for both in readiness and equipment, so we can support the men and women in uniform. And now here is $300 million more that is being taken out of that account so we cannot cover those essential needs, the needs at home, first, with leadership that would direct it to the appropriate needs.

That $300 million is now taken away from us for that sort of use. That is why I believe we should adopt this amendment. We know best where that money can be spent in the Department of Defense.

I reserve the remainder of my time, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, on the subject of U.N. command, I hope our colleague will take a look at our provision, legislative provision in the bill where we state, in paragraph 7 of page 212 here, "United States combat forces should not be under the command and control of foreign commanders in peace enforcement operations conducted by the United Nations except in the most extraordinary circumstances."

So our intent here is that there be a U.S. commander but that U.S. commander would, in many cases, have a U.N. hat. The U.N. commander can be an American, and in many cases will be an American.

For instance, in Mogadishu the commander of forces is a U.N. commander, but is also an American commander. We have operated that way for a long time. We did that in Korea. The whole Korean war was fought under U.N. command, but America was in charge.

I think most people would acknowledge it is in our interests to have other countries in the world fighting with us. Under those circumstances it almost inevitably has to be a U.N. commander to basically get them to participate. But that commander will usually, except in extraordinary circumstances, be an American.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? If no Senator yields time, time will be deducted equally from both sides.

Who yields time? The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I would like to respond to what the chairman has stated. I agree with the provision he just read. But I also go back to what the policy states, and that is, in order for the United States to be reimbursed American troops have to be under U.N. command. It may be American command but it may not be. And I do not believe United States troops should be under U.N. command.

Again, we have seen in Somalia that that was not successful.

I know the chairman of the Armed Services Committee could present to us now a long list of items that we could more appropriately and effectively be spending $300 million on in our Department of Defense than giving this money to the United Nations. And that is the intent of this amendment.

Mr. President, I yield.

Mr. NUNN. Mr. President, if I could just take 30 more seconds and then I will yield the floor. In Somalia we went through those hearings very carefully. We had commanders, both Montgomery and Garrison, before us. It is clear, very clear from the record, our forces there during that period of time where there was the real trouble, the combat forces were not under U.N. command. They were under U.S. commanders. The record is abundantly clear on that. We had certain logistics forces under U.N. command, but the forces in the Somalia raid which ended up as a tragedy with so many Americans killed were under United States command. We had clear and abundant testimony on that. They were not under U.N. command. It was a tragedy and the overall—some of the overall policy was U.N. policy. U.N. policy was developed by the Security Council, that we voted on.

So whatever mistakes were made at the United Nations, we were fully in participation in those, as tragic as those results may have been. But the U.S. command, the combat command on the ground—it was not U.N., it was U.S.—General Montgomery was the overall commander, and then we had American commanders under him.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, in January of this year I went to Mogadishu and I met with General Montgomery. I also met with General Bier, who was the U.N. commander, the general from Turkey. Both gentlemen expressed their frustration with the structure that was in place—and I say both men because they were dealing with the structure from different aspects.

The important point I would like to make is that the support troops, to support our U.S. troops, were under General Bier, the United Nations. And that was a problem.

The PRESIDING OFFICER. Who yields time?

Mr. KEMPTHORNE. I yield time to the Senator from South Carolina. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator from Idaho has 14 minutes and 35 seconds remaining; the Senator from Georgia has 11 minutes, 16 seconds remaining.

Mr. KEMPTHORNE. I yield 8 minutes to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina has 8 minutes.

Mr. THURMOND. Mr. President, I rise in strong support of the amendment offered by the able Senator from Idaho. In the short time he has been in the Senate, Senator KEMPTHORNE has proved to be a most effective member of the Armed Services Committee. I commend him for bringing this amendment to the floor.

The Kempthorne amendment would reallocate the $300 million currently in the defense authorization bill for United Nations peacekeeping assessments to the Defense Department's operation and maintenance account. It would be used primarily to cover training shortfalls.

I believe the Defense budget should not have been burdened with $300 million for U.N. peacekeeping in the first place. If the peacekeeping account remains in the bill, the Defense budget will bear direct responsibility for payment of U.N. peacekeeping efforts for the first time. This is a major step—one that I believe is not in the best interests of the Nation or the armed services.

I am not opposed to U.N. peacekeeping in principle, nor is the Senator from Idaho. There are times when the United States should participate in such activities. But I feel strongly that our first priority is to be able to act unilaterally in our national interests when necessary.

In authorizing the peacekeeping account, the committee bill puts the seal of approval on the administration's expanded new policy for U.N. peace operations, as embodied in Presidential Decision Directive 25 [PDD–25]. But many members on both sides are not aware of the full implications of this new policy. PDD–25 and its doctrine of "assertive multilateralism" represent a quiet but significant revolution in U.S. security policy. The result of this policy may turn out to be increased subordination of American military forces and U.S. foreign policy to the United Nations. Before we embark upon such a sweeping new policy, we ought to examine its potential impact upon the Nation's interests and in particular on U.S. military capabilities.

I also believe that in the future there will be pressure to eliminate the restrictions placed by the committee on the peacekeeping account. Once the defense budget becomes a legitimate source of U.N. peacekeeping funds, there will be no principled argument in the future not to remove the restrictions on its use, or raise the amount. The result will be the expanding use of defense funds for U.N. activities, and a corresponding decrease in congressional accountability and control.

We need more congressional control and oversight of peacekeeping, not less. I hope that the peacekeeping account in the bill will not make it easier for the administration to embark upon dubious U.N. ventures, with possibly even more tragic results than those we suffered in Somalia.

To summarize the arguments in favor of the amendment:

Without the amendment, the Senate will appear to be giving tacit approval to PDD-25 without full knowledge of its provisions.

Without the amendment, the Department of Defense, for the first time, will be using its appropriations to pay the United Nations directly for a peacekeeping effort.

Some $300 million would be of substantial benefit to the forces in the area of training.

Without the amendment, there is a temptation to involve U.S. forces in peacekeeping efforts in order to recoup some of the funds sent to the United Nations.

We are already doing our share for peacekeeping. We will pay roughly $1 billion for peacekeeping for fiscal year 1994.

The United Nations has a questionable method of accounting for funds to include the accounting for peacekeeping funds.

Having crossed the threshold of putting peacekeeping funds directly in the DOD budget, the $300 million could grow from year to year, adding to pressure on the DOD budget.

Mr. President, for these reasons I favor the amendment and hope it will be adopted. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Georgia has 11 minutes 15 seconds remaining.

Mr. NUNN. I yield 6 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 6 minutes.

Mr. LEVIN. Mr. President, first, I thank the chairman for yielding some time to me.

We have received a very significant letter from General Shalikashvili and Secretary of Defense Perry. It is a letter which is addressed actually not to us but to the Vice President as President of the Senate. I want to read from this letter as it relates to this amendment because it seems to me it makes the critical point which should be made against the pending amendment.

> We write to express our support for the language in the National Defense Authorization Act for fiscal year 1995 relating to international peacekeeping and peace enforcement activities.

Then General Shalikashvili and Secretary Perry go on to say the following:

> The President's peacekeeping policy makes disciplined choices concerning which peace operations to support, reduces U.S. costs for U.N. operations, clearly defines the command and control arrangements for U.S. forces participating in U.N. peace operations, reforms the U.N.'s ability to manage peace operations, improves the way the U.S. Government manages and funds peace operations and establishes more effective cooperation between the executive branch, the Congress and the American public on peace operations.
>
> Pursuant to the President's policy directive, the Department of Defense has proposed the creation of a special Department of Defense account for international peacekeeping and peace enforcement activities, which includes a budget request of $300 million for fiscal year 1995 to fund U.S. assessed contributions for those operations in which the Department of Defense has the lead management responsibility for the United States Government. The Senate Armed Services Committee's legislative recommendation authorizes the creation of this account at the level requested by the President for U.N. operations in which we participate, either with forces or with logistics support and is an important step toward implementing the President's policy to reform U.N. peace operations.

And the bottom line, they say—again, we are talking about the Chairman of the Joint Chiefs and the Secretary of Defense:

> We urge you to support the language as reported by the Armed Services Committee and to oppose any amendments which seek to restrict the committee's proposed language.

The amendment before us does exactly that; it restricts the committee's proposed language. And that is why General Shalikashvili and Secretary Perry so strongly oppose it, for the reasons that they gave earlier.

We had General Zinni before us recently. He was the nominee to be commanding general of the 1st Marine Expeditionary Force. I think he was just confirmed this week. I think actually just 2 days ago. He has been involved in operations in Bangladesh, Iraq and Somalia. He has a lot of direct experience when it comes to peacekeeping and peace enforcement. He is, frankly, critical of many aspects of the United Nations recent performance running peace operations in particularly dangerous settings and skeptical of the United Nations current command-and-control capabilities, as many of us are. Indeed, I am critical of much of the United Nations command structure or the lack thereof.

General Zinni, who we just confirmed, is a hardnosed marine and he is a realistic observer. He believes that the United States has a responsibility and an opportunity to lead in improving the United Nations in trying to make multinational operations work. This is what he told the Armed Services Committee:

> The future is multinational operations. We ought to provide resources, leadership and personnel to do it right. The only alternative is to establish an isolationist position or to dangerously stretch our already thin military capability to meet unplanned forward commitments in an ad hoc manner. Regional instability, drug trafficking, threats to the environment, overwhelming human catastrophes, mass slaughter, threats to democracies are examples of events that could conceivably involve our interest. We should attempt to deal with them in an international context to promote burden sharing and to gain a sense of international legitimacy, but that will require our leadership and participation.

I urge all Members of this body to particularly read the letter from the Chairman of the Joint Chiefs of Staff and the Secretary of Defense that oppose any amendment which would restrict the committee's proposed language in this area, and the pending amendment surely falls into that category. I hope that it is rejected.

The PRESIDING OFFICER. Who yields time?

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER (Mr. SIMON). The Senator from Idaho is recognized.

Mr. KEMPTHORNE. I yield 2 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes.

Mr. COATS. Mr. President, I want to rise to support the amendment of my friend and colleague from Idaho, Senator KEMPTHORNE. $300 million is a lot of money. There is a broader question here, however, that I think needs to be addressed.

Clearly, we are stretching the limits of our ability to provide readiness and training for our troops, and directing these funds to that purpose is a worthy one. At the same time, I think it sends the very clear decision on the part of this Congress that there are other functions for which this money ought to be allocated. It should not come out of Department of Defense functions.

However, it is that broader question which most concerns me and one which I hope we can find the time to address.

The administration has proposed and has, in fact, now written a new directive, PDD-25, which outlines the when and how of U.S. involvement in U.N. and multilateral peacekeeping operations. It discusses peace enforcing as well as peacekeeping in both chapter 6 and chapter 7 of the United Nations Charter, and it raises a number of questions which I do not believe have been thoroughly aired and thoroughly discussed.

We do not have the time under this amendment to do that. I had hoped to be able to do that. Obviously, in 2 minutes that is not possible.

But I would hope that both the Armed Services Committee as well as the Foreign Relations Committee and the entire Senate could give some very serious attention to how and why and when we involve U.S. troops in conflicts around the world, and how and why and when we integrate them with U.N. peacekeeping and peace enforcing operations.

There are many questions that have not been answered. I hope we can do that. In the meantime, I hope my colleagues will support this amendment which moves us in that direction.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. KEMPTHORNE. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Idaho has 6 minutes 51 seconds remaining; the Senator from Georgia has 5 minutes 50 seconds remaining.

Mr. KEMPTHORNE. Mr. President, I would like to yield 3 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 3 minutes.

Mr. MCCAIN. Mr. President, I rise in support of the amendment. I appreciate the efforts put into this amendment by my colleague from Idaho.

A lot has been said about this amendment. I would like to just talk a little bit about the aspect of the peacekeeping impact on our training and readiness. Training is the backbone of readiness. The level of sophistication, quantity and quality of our military training structure is the means through which we guarantee that our Nation will be victorious under any conditions and that we will do so with minimal loss of life to our own troops. We proved this clearly during Desert Storm.

We no longer have the force structure with which we fought the war in the desert and the turnaround times for our carrier battle groups and divisions have compressed from 18 months to 12 months. These compressed training schedules do not violate requirements put in place to protect the morale of our troops, but we certainly have to wonder if today's schedules are in keeping with the spirit of our arrangements. We can still maintain a reasonable level of readiness with a reasonable amount of sacrifice on the part of our forces that will not riot, strike or sue. That is the type of people we attract. But the only thing our troops expect is we will send them forth inadequately prepared never.

Where this simple expectation starts to become impossible to fulfill is when we start committing our forces to peacekeeping operations that do not pass the tests set in other questions raised by the Senator from Idaho.

Mr. President, I ask unanimous consent to be allowed 3 additional minutes.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. Is there objection? The Senator from Georgia.

Mr. NUNN. Could we just basically propound a unanimous consent that there be an additional 10 minutes to be equally divided because we are going to give out time on both sides and that will give us a rollcall vote at 6:30, possibly, is that right? Am I correct in that?

The PRESIDING OFFICER. Is there objection to that request? Without objection, each side is given an additional 5 minutes.

Mr. STEVENS. Mr. President, will the Senator yield for just one moment?

Mr. MCCAIN. Could I just finish, please, I ask the Senator.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. KEMPTHORNE. Mr. President, I would yield an additional 3 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized for an additional 3 minutes.

Mr. STEVENS. I do not want to hold up the unanimous-consent request but there will be then no more votes until a time certain?

Mr. NUNN. Yes. We will vote at approximately 6:30, and there would be a window here with no rollcall votes until at least 8:30, and possibly as long as quarter of 9.

Mr. STEVENS. I thank the Senator.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. As I was saying, Mr. President, the expectations that our men and women in the military have start to become impossible when we start committing our forces to peacekeeping operations that do not, indeed, allow them to maintain the level of readiness that is necessary. A unit that is halfway through a 12-month training cycle that suddenly finds itself holding down an airport, beachhead or protecting peace workers is not half ready. Training is not divisible in clearly defined increments. It also follows that when that unit returns after 6, 8, or more months after peacekeeping duty, they will not be able to resume the training program at the point they left off.

Toward this end, this amendment seeks to protect the fiscal means through which our military can attempt to recoup some of its lost training. Training left incomplete as a result of commitments to U.N. missions cannot be readily replaced. It is simply gone at some cost to the price of peacekeeping.

My belief is that this amendment will offer DOD freedom from an additional injurious financial obligation incurred by paying a portion of U.N. assessments. DOD funds are intended to provide for the readiness of our services and ultimately the defense of this Nation.

Please bear in mind that money spent on these types of assessments are resources that should rightfully be programmed for refresher training. To reclaim readiness, refresher and proficiency training is necessary and should be required upon return. We are already asking our military to make do with less. We should not ask returning units to take refresher training funding out of hide.

The idea of requiring our services to in effect pay the price of admission for their own participation in a U.N. operation seems ludicrous.

Funding U.N. operations has traditionally been a responsibility of the State Department and is a tradition I am strongly in favor of perpetuating. As we see defense top lines free fall to mid-1980 levels, it is not the time to start adding new fiscal burdens on an already fragile defense budget.

I have serious concerns about the administration's foreign policy and its reliance upon the United Nations for foreign policy leadership and decisions. If we choose now to identify the defense budget as the cash cow that will support the ever-increasing number of U.N. peacekeeping operations that lie ahead, we are setting the stage for the demise of readiness and dooming our services to operate with even more austere resources than are offered under the current gutted defense budget.

In summary, for all these reasons, for the readiness of our Armed Forces and our Nation, I strongly urge the support of this amendment.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Georgia.

Mr. NUNN. I yield 2 minutes to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 2 minutes.

Mr. JEFFORDS. Mr. President, I rise in opposition to the Kempthorne amendment to the National Defense Authorization Act for fiscal year 1995.

This amendment would eliminate the provision in this bill that provides for Department of Defense funding of U.S. assessments for international peacekeeping activities involving U.S. combat troops.

Mr. President, I agree with the administration's view, as expressed in the Presidential Decision Directive 25 and the original version of this bill, that DOD should bear a share of the responsibility for international peacekeeping operations. I therefore add my voice to that of the Pentagon, Department of State and the Committee on Armed

Services in support of the bill as currently before the Senate, and I urge my colleagues to reject this amendment.

In the coming months, I will be taking a close look at the potential for the greater sharing of responsibilities between the Department of Defense and the State Department on matters related to peacekeeping.

The section of this bill, relating to peacekeeping, represents a step in the right direction. The adoption of the concept of shared responsibility is a significant development.

Pentagon funding of our peacekeeping assessments helps ensure that American military expertise is brought to bear on peacekeeping and peace enforcement operations, especially those that have a significant military component or involve U.S. troops. It also helps ensure that the United States meets its binding obligations to pay its share of peacekeeping costs. Continuing U.S. arrears in our assessments threaten to undermine U.N. peacekeeping efforts. Clearly, we must reassess the manner in which we respond to our peacekeeping obligations.

To those who fear a marked increase in DOD funding responsibilities, I note that the vast majority of U.N. peace activities fall under traditional chapter VI peacekeeping and do not involve U.S. forces. As this section of the bill obligates DOD to pay only assessments for U.N. peacekeeping or peace enforcement activities which include U.S. combat forces—defined as forces which have a primarily combat mission—most assessments would remain the responsibility of the State Department.

It is in our interests to support a strong United Nations capable of engaging in selective, but effective, peace operations. Yet the United States cannot call for greater international cooperation and coordination in resolving the world's conflicts while at the same time shirking its own responsibilities to the international community. The United States can and should provide vital leadership to strengthen the United Nations as a multilateral security institution.

U.N. peacekeeping operations can be important instruments for protecting and advancing U.S. interests. But our failure to support international efforts at conflict resolution today will sow the seeds of tomorrow's Rwandas and Bosnias.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, I yield the Senator from Florida 3 minutes.

The PRESIDING OFFICER. The Senator from Florida is recognized for 3 minutes.

Mr. GRAHAM. I thank the Chair.

Mr. President, I have listened with interest to the views expressed by my colleagues regarding our Nation's involvement in international peacekeeping operations.

I would like to take a moment to share my observations in this regard.

I believe that in this post-cold-war era, the United States has essentially three options for dealing with world conflicts and strife.

One, the United States can sit on the sidelines and watch events unfold in the world around us, doing nothing even when these events have a significant impact on our national interests.

Two, the United States can act unilaterally where and when we believe that it is in our national interest to do so.

Or three, the United States can contribute to the development of effective multinational capabilities to deal with these world events or crises.

I believe increasingly that third option will be the one we will wish to choose.

We have learned from our Nation's history that the first option—essentially, isolationism—has negative consequences which are not in our national interest.

To pull inward and watch from the sidelines would be failure to acknowledge our role as a world leader, and the fact that this world is becoming more interdependent and interconnected than ever before in human history.

It would lead to a loss of credibility in the international community and certainly undermines our ability to work together with other nations.

The second option—unilateral operations—also poses significant problems for us if we were to choose it.

For one, we do not have the national assets required for us to perform all of the operations in this world required to protect our national interests.

As we speak, and as in the past, our military continues to be involved in numerous exercises with foreign nations, training together and developing proficiencies so that we can coordinate our efforts in time of need.

And in these times of need, we would work closely, as we did in the past, with our allies to address whatever crisis with which we are dealing.

When we acted to thwart the aggression of Saddam Hussein during Desert Storm, we did it in concert with other nations, not on our own.

Therefore, I believe that the question that is before us now is how to make the third option as effective as possible in terms of strategic decisionmaking, organization, training, equipment, command and control, and the other requirements of political and military operations.

We have now had a number of experiences from which to learn what are the challenges and what are some of the means of more effectively preparing ourselves for yet future challenges.

We cannot afford to turn back from the lessons we have learned to date.

That is why I believe it is important that we, along with our allies, remain committed to the process, and effort, of developing a workable and mutually beneficial system for promoting and keeping peace.

One important part of that effort is ensuring that our Nation pays its share of legitimately assessed costs associated with peacekeeping operations.

There is widespread agreement with the administration that our assessments should be reduced to 25 percent from 31 percent, and that some of our allies should bear a larger share of the financial costs than they are currently.

However, with respect to paying what we have been legitimately assessed under current rules, there is no doubt that withholding such funds will unduly burden the United Nations and negatively impact efforts to promote reforms and enhancements within the organization.

That is why, if we are genuine in our desire to see the United States play a credible and productive role in international world affairs, it seems to me we need to be committed in our efforts to make the United Nations a viable organization.

The Senate has confirmed the nomination of Maj. Gen. Anthony Zinni, U.S. Marine Corps, to the grade of lieutenant general, and to be the commanding general of the First Marine Expeditionary Force.

He is an expert on this issue of U.N. peacekeeping.

Gen. Anthony Zinni has served in numerous multinational task forces, including a tour as the chief of staff and deputy commanding general of the combined task force Provide Comfort during the Kurdish relief effort in Turkey and Iran.

He served as the military coordinator for operation Provide Hope relief efforts in the former Soviet Union.

He served as the Director for Operations for the Unified Task Force Somalia for Operation Restore Hope and assistant to the U.S. Special Envoy in Somalia.

In other words, General Zinni is an experienced military expert with hands-on, up-close experience in this area of U.N. peacekeeping operations.

I would like to quote the general's recent response to questions asked him by the Senate Armed Services Committee.

His responses capture my opinion in this matter, and I agree with him to the letter.

I quote the general:

> I believe there are certain intervention operations that the U.S. must commit to that are in our national interest, and we must properly prepare our forces for them.
>
> We need a policy and strategy statement that clearly articulates what is expected of our military in these commitments much in the same way we have articulated the requirement in the two MRC strategy.
>
> As a result, we should fund the additive military forces and resources needed.
>
> The only alternative is to establish an isolationist position or to dangerously stretch

> our already thin military capability to meet unplanned for commitments in an ad hoc manner.
>
> We certainly should not involve ourselves in commitments not in our interests, but in today's world the things that threaten our national interests are growing more complex and subtle.
>
> Regional instability, drug trafficking, threats to the environment, overwhelming human catastrophes, mass slaughter, threats to democracies, are examples of events that could conceivably involve our interests.
>
> We should attempt to deal with them in an international context to promote burden-sharing and to gain a sense of international legitimacy, but many will require our leadership and participation.

I could not have said it better than General Zinni. He has been on the front lines, and he knows these issues well.

Clearly, we must work together with our allies to establish permanent and competent peacekeeping mechanisms.

An ad hoc approach cannot, and will not, provide us with a consistent and stable methodology and support system for dealing with these world conflicts.

A stable and effective, permanent system is what we need in this unstable, post-cold-war era.

Mr. President, I urge my colleagues to support retention of the provisions in the Defense authorization bill which support these efforts.

Mr. President, I oppose the amendment that is before the Senate at this time. I believe that it is an amendment which is out of reality with the world in which we are now living. This is a world in which we are going to be increasingly faced with the kinds of engagements that are currently underway in places whose names we hardly knew just a few years ago: Somalia, Bosnia, and other locations where the international community is going to be called upon to bring order and to defend democracy.

It is my strong belief to the extent the international community has a well-organized, well-commanded, equipped and trained capacity to undertake those kinds of initiatives, that it is less likely they ought to be called upon to do so. If, for instance, in September 1991, the world community had a capacity to carry out its rhetoric in support of the democratic institution, I think it would have been much less likely that the military in Haiti would have deposed the democratically elected president.

The options that we face, it seems to me, Mr. President, are essentially four. No. 1, we can either retreat into isolationism and deny ourselves the capacity to defend interests which are important to the United States; or, No. 2, we can only accept the capacity to respond to those attacks against our national interests on a unilateral basis; or, No. 3, we can do what we are doing today, participating in joint multinational exercises but typically being poorly organized, high-cost, and requiring supplemental appropriations beyond the budget caps to be financed for the U.S. operations; or, No. 4, we can begin to move toward some rational, coherent policy in terms of these types of operations.

I believe the language in the defense authorization bill takes that fourth road. It will lead to greater cost control. It will lead to the Department of Defense.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GRAHAM. Mr. President, will the Senator from Georgia yield 30 additional seconds?

Mr. NUNN. Mr. President, I yield 1 minute to the Senator from Florida, and then 3 minutes to the Senator from Massachusetts following that.

The PRESIDING OFFICER. The Senator from Florida may proceed for an additional 1 minute.

Mr. GRAHAM. Mr. President, I believe the language in the defense authorization bill will move us toward having an international capacity with major U.S. leadership involvement which is both effective in terms of its military capability and efficient in terms of cost, and places the responsibility for our combat troops where it should be placed—with the Department of Defense.

Mr. President, I close by suggesting that this debate is only an early chapter in the longer book, in which the United States will begin to find its way to participate in multinational operations. I hope that we do not close that book prematurely by adopting this amendment and frustrating our ability to be rationally involved in such an important engagement.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 3 minutes.

Mr. KERRY. Mr. President, thank you.

I rise to oppose this amendment, and ask colleagues to measure carefully the increase of responsibilities that we have assumed, all of us as a country, equally under the requirements of the United Nations and the votes that have taken place both here in the Senate and in the United Nations.

I also ask them to measure carefully what the President has undertaken here to separate the requirements of chapter 7 and the need to try to reflect the accuracies of our Federal budget crisis.

The State Department simply cannot afford, nor will Congress vote, to give the State Department adequate funding to cover all of peacekeeping. Congress likewise does not want to face up to the reality of what our requirements are under the Defense Department.

So the President has drafted a careful program to try to divide those responsibilities between Defense and State, and also to make certain that these funds would only be spent in those cases where American troops are in fact involved. And under the new requirements of our peacekeeping decisions, that will only be with consultation with Congress and through a process of public debate.

So, in effect, what the Senator is seeking to do is to deny us the very ability to be able to pay for what in the future we are going to decide. I do not think anything could be more irresponsible than precluding our capacity to fulfill our obligations for world leadership at this point in time.

The simple reality is that the United States, if we are going to fulfill our role in the world, is going to be called on to take part in peacekeeping and to support peacekeeping.

This particular measure goes to the question of where we take part in peacekeeping. If the Senator is deeply concerned about readiness of our troops and capacity of our troops to do the job and be protected, to have them participate, but not able to take the funding and to put the President in the predicament of not being able to adequately support them would be the worst of all worlds.

So I hope my colleagues will reject this amendment, recognizing that it simply runs contrary to the responsibilities that we have already accepted and that we face if we are going to protect the national interests of the United States.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, how much time is remaining on each side?

The PRESIDING OFFICER. The Senator from Georgia has 2 minutes and 9 seconds; the Senator from Idaho has 6 minutes and 51 seconds.

Mr. NUNN. Mr. President, I am prepared to yield back all the time on this side if the Senator from Idaho is. We do not see anyone else who wants to speak.

Mr. KEMPTHORNE. Mr. President, I would like to make closing comments.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. KEMPTHORNE. Mr. President, thank you very much.

First, may I ask that Senator CRAIG be made a cosponsor of this amendment?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent to have printed in the RECORD a letter signed by a number of Senators to the Assistant to the President for National Security.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
OFFICE OF THE REPUBLICAN LEADER,
Washington, DC, March 24, 1994.

Hon. ANTHONY LAKE,
Assistant to the President for National Security,
The White House, Washington, DC.

DEAR MR. LAKE: Pursuant to a request from your staff, we are writing to share our views on the Administration's pending peacekeeping policy review. This review is particularly timely in view of the recently released unclassified CIA assessment which details 36 current or proposed peacekeeping operations—far more than is generally recognized.

At the outset we want to express our support for your statement last month that "peacekeeping is not at the center of our foreign or defense policy." We also appreciate the opportunity to comment on this important policy initiative of the Clinton Administration. As a result of the consultation process begun last year, we have become familiar with the draft concepts and ideas on "Presidential Review Directive 13" (PRD-13). As you know, we have supported legislative proposals which would strengthen U.S. policy on peacekeeping, further bipartisan support for U.S. participation in United Nations and other peacekeeping operations, and advance the stated goals of your review.

In the spirit of furthering a cooperative approach to peacekeeping issues, we offer the following comments.

1. U.S. SUPPORT FOR AND PARTICIPATION IN PEACEKEEPING OPERATIONS

First, the proposed criteria for determining whether to support a U.N. operation omit, inadvertently we are sure, American national interest. Clearly, the U.S. should not commit its vote—or its funds or forces—to any operation which does not advance American interests. We urge you to explicitly include calculation of American national interests as the foremost criteria for all decisions to support any U.N. operations.

Second, it is unclear from briefings to date whether these "cumulative" criteria will be applied to U.S. support for extensions, revisions and renewals of ongoing operations. We urge you to apply any criteria just as rigorously to continuation or expansion of ongoing operations as to new or proposed operations.

Third, the criteria lack any reference to reining in the power of the U.N. Secretary General. In recent years, the ability of the U.N. Secretary General to make unilateral decisions directly and indirectly affecting American interests has dramatically increased. In our view, the role envisioned under the U.N. Charter for the Secretary General was for a chief administrative officer—not a chief executive officer, and certainly not a commander in chief. A recent example of such decisions by the Secretary General involves the U.N.-sponsored deployment of troops from countries with ethnic, historical, colonial or religious ties to any side of a conflict. The long-held U.N. position of using neutral troops appears to have been abandoned—with the deployment of Russians at the side of Bosnian Serbs in UNPROFOR, and the proposed deployment of Russians in the former Soviet colony of Georgia in UNOMIG. At the same time, the U.N. Secretary General has refused—apparently unilaterally—offers of troops from certain countries for certain operations. In our view, there are ample administrative duties which should occupy any Secretary General on a full-time basis, reserving politically and financially important decisions on troop deployment and many other issues for the Security Council. We urge you to make such a limitation of the Secretary General's authority a stated policy goal of PRD-13.

2. COST REDUCTION

Reduction of U.S. costs for peacekeeping operations is a goal we all share—especially in light of the exponential growth of such costs for assessed, voluntary and other contributions, and in the incremental costs of Defense Department activities in support of peacekeeping operations. The Administration sometimes justifies U.S. participation in peacekeeping activities as a form of "burden sharing" in the post-Cold War era; cost reduction, therefore, becomes even more important since the U.S. share of the peacekeeping burden keeps increasing. We are concerned, however, that the proposals in the draft PRD-13 will not achieve the goal of reducing U.S. costs.

First, there appears to be inadequate recognition of the waste, fraud, and abuse that accompany United Nations operations; an independent inspector general may be able to expose and limit malfeasance, but PRD-13 should not expect an inspector general to implement large-scale cost containment.

Second, there is no mention of the U.N.'s unilateral decision to raise the U.S. assessment to 31.7%—a decision made during the transition between the Bush and Clinton Administrations. While the Administration is properly refusing to recognize the irregularly increased assessment, this ongoing effort by the U.N. to overbill its largest contributor should be renounced in the PRD. And, the PRD should recognize clearly the implications of such overbilling as we seek to reform United Nations' financial practices.

Third, we urge you to include an explicit statement that the U.S. will no longer recognize U.N. assessments in excess of 25% beginning January 1, 1995. Simply stating the goal of reducing the assessment is not enough; we urge you to include such a clear statement in the PRD.

Fourth, the idea of making benefiting nations bear a greater share of the burden is attractive, but U.N. peacekeeping operations almost by definition occur in countries ravaged by natural and human disasters. The two examples used in briefings (Cyprus, Kuwait) have already assumed some greater burdens; we question whether Somalia, Mozambique, Georgia, Cambodia, Lebanon, Angola, Liberia, Haiti, etc. can bear a greater burden; in fact, including such a reference could very well have the effect of raising unrealistic expectations. We urge you to either specify new, proposed savings resulting from this concept or to delete the reference.

Fifth, the PRD is silent on an immediate and achievable step the U.S. could take which would realize significant cost savings: Seeking and receiving full credit for U.S. contributions to peacekeeping operations. For example, the U.S. is providing some $45 million this year for police and judicial programs in Somalia directly related to UNOSOM, yet the Administration has not even sought to have these contributions credited toward the U.S. assessment. Likewise, the U.S. is providing some $30 million in support of UNOMIL in Liberia, yet no credit for the U.S. assessment has been sought. We urge you to make receiving full credit for U.S. contributions directly related to U.N. peacekeeping operations a goal of PRD-13.

Sixth, we urge you to add termination of peacekeeping operations which are not achieving their stated purposes as an explicit cost reduction measure in the PRD. The PRD should delineate clear guidelines for evaluating the effectiveness of peacekeeping activities, and clear guidance for the U.S. to oppose extension of operations which do not meet those guidelines.

3. COMMAND AND CONTROL

We have grave reservations about the proposed provisions on command and control.

First, the PRD fails to recognize that the U.N. is not now, or for the foreseeable future, an organization that can conduct military combat operations—which are evidently part of your peacekeeping definition. Recent events in Bosnia make this point abundantly clear, given the delay of many hours in seeking U.N. officials' approval for close air support for U.N. forces under attack, and the shocking revelation that a U.N. official actually tried to contact the political leaders in control of the aggressor forces. Ultimately, no action was taken due to the delays and, possibly, the warnings given Bosnian Serb forces. This type of paralysis, warning to the aggressor, and lack of coordination should never occur in military operations and would be scandalous if it occurred in a U.S. operation; yet such events seem to typify current U.N. command and control arrangements. We urge you to recognize the U.N.'s institutional shortcomings in the PRD—not to simply gloss over them.

Second, the draft PRD does not appear to recognize the unique risk to Americans serving in U.N. operations. The experience in Macedonia—which so far has not resulted in the targeting of American peacekeepers—is not sufficient to warrant complacent treatment of this sensitive issue. In our view, the tragic experience of Lieutenant Colonel William Higgins in Lebanon serves as a reminder of both the risk to American personnel, and the inability of the U.N. to protect its peacekeepers even in Chapter VI operations. The ambiguous status of captured peacekeepers under international law—including questions over the applicability of the Geneva Conventions—should be clarified in the PRD. We urge you to add specific recognition of the unique risks to American military and civilian personnel to the criteria in the PRD to be addressed before any deployment of U.S. armed forces under foreign command.

Third, we are deeply disturbed over the apparent deletion of a reference to U.S. armed forces under foreign command being able to refuse militarily imprudent orders. The readiness, training, ability and leadership of U.S. military personnel is second to none; unfortunately, the same cannot be said of foreign commanders who will have operational or tactical control of U.S. forces in current or future peacekeeping operations under the Administration's proposed policy. It is our understanding that the draft PRD at one point included clear guidance specifying that militarily imprudent orders, as well as orders illegal under international or domestic law and orders outside the mandate of the mission, were to be rejected on the spot by American military personnel. We are disturbed that this has apparently been replaced by language directing American personnel placed under foreign command to "phone home" to consult on orders which are illegal or outside the mission's mandate—and that the crucial reference to militarily imprudent orders has been deleted. We urge you to grant express authority for U.S. personnel to refuse militarily imprudent orders as well as illegal orders; anything less than such clear authority in the PRD only increases the possibility of American casualties due to inept or incompetent foreign command.

Finally, we note that the conditions the PRD lays out for foreign command of U.S. forces are very similar to those included in section 4 of the Peace Powers Act (S. 1803). We urge you to specifically reference the certification process proposed by this legislation in the PRD, which would strengthen the partnership between the Executive and Congress on this issue.

4. UNITED NATION'S CAPABILITIES

We are disturbed by some elements of the proposed efforts to "strengthen" U.N. capabilities. First, we question the need to dedicate U.S. resources to the already bloated U.N. public affairs efforts. While some U.N. capabilities may deserve U.S. support, we do not believe U.S. support for U.N. public information, public affairs, or propaganda efforts is wise or appropriate.

We also question the prudence of support for U.N. intelligence capabilities. Any intelligence provided to the U.N. must be assumed to be subject to nearly immediate compromise. The issue of U.N. intelligence capabilities also beg important questions about how far such capabilities would extend—will the U.N. develop an independent intelligence collection capability? Will the U.N. develop a special operations, clandestine, or covert action capability? These and other concerns led us to propose section 16 of S. 1803, which would require any intelligence be shared with the U.N. only pursuant to an agreement that has been reviewed by the Senate Select Committee on Intelligence. We urge you to move very slowly on an expansion of U.N. intelligence activities, to spell out exactly what the PRD proposes on this sensitive issue, and to proceed with intelligence sharing only with the complete concurrence of all elements of the intelligence community.

5. U.S. FUNDING

The draft PRD does not adequately address the central issue of U.S. funding for peacekeeping—specifically the claimed shortfall of over $1,000,000,000 by the end of Fiscal Year 1994. We note the Administration only requested $617 million at the time of its FY 94 budget submission, and more than $400 million was appropriated. Just as current assessments were woefully underestimated, we are concerned that future estimates are likewise underestimated.

First, it seems clear that the Administration request of $300 million for FY 95 peacekeeping for all Chapter VII and Chapter VI operations with U.S. participation is insufficient to meet expected assessments; we note that the U.S. currently estimates an assessment of nearly $400 million for FY 95 for just one Chapter VII operation. Since it seems doubtful that U.N. costs will reduce in any significant fashion in FY 95, the $300 million request level needs revision to be considered seriously by the Congress. Accordingly, we urge you to consider all aspects of FY 94–95 funding as a priority issue within the PRD process.

Second, we note that incremental costs of DoD participation in peacekeeping operations is also not included in the PRD section on U.S. costs. The Congress has already appropriated $1.2 billion in an emergency supplemental for FY 94 costs already incurred, yet there is no effort to project, plan for, or request funds for incremental costs of DoD participation in peacekeeping operations. We urge you to do so as part of the PRD process.

Third, we have a number of serious questions—and practical concerns—over the proposed "Shared Responsibility" concept. Such questions include: how DoD will "manage". Chapter VII operations which have no American troops deployed; whether DoD will be responsible for unbudgeted costs incurred due to underestimates of assessments of Chapter VII (and Chapter VI operations with U.S. combat units deployed); whether DoD will have input into specific operations to be supported by the U.S. in the Security Council in keeping with DoD's proposed funding and management responsibilities; and how management of an operation would shift from State to DoD or vice versa if the U.N. authorization or U.S. force component changes after an operation has been initiated.

Because so many questions and issues associated with this proposal remain unresolved, we urge you to defer this portion of the PRD for the time being.

6. CONGRESSIONAL SUPPORT

While we appreciate the opportunity to comment on the proposed PRD through the consultation process, we note that consultation on peacekeeping operations themselves has been less than optimal. We also note that the Administration opposed every section of the Peace Powers Act, including the provisions on consultation, and has opposed related provisions added during Senate consideration of S. 1281, the Foreign Relations Authorization Act, despite great efforts on our part to accommodate stated Administration concerns. While the PRD no longer calls for revisions in the United Nations Participation Act, we believe that legislation needs substantial alteration. Finally, we note that despite the more than year-long review in the PRD process, no legislation has yet been submitted to the Congress.

We urge you to include precise clarification of the circumstances under which Congressional approval of deployment of U.S. armed forces in peacekeeping operations would be sought. We are concerned that the Administration's commitments on this vital issues are ambiguous. The PRD should clear up this ambiguity.

There are numerous issues related to U.S. participation in peacekeeping that are not addressed in our previous comments. For example, U.S. acquiescence in or support for Russian peacekeeping in the Newly Independent States is a matter of utmost national security interest for our country; yet, decisions appear to have already been made without serious Congressional consultation.

While the draft PRD is not yet finalized, we are aware that your review is nearly complete. We are also aware of your intention to release a modified, public version of the resulting PDD. We urge you to provide, on a classified basis if necessary, the actual PDD and all annexes to the appropriate committees of Congress before the document is finalized. We also urge you to provide the same documents in their final form. We hope we can work together to fashion a bipartisan U.S. approach to peacekeeping policy.

Thank you for the consideration of our views.

Sincerely,

Bob Dole, Ted Stevens, Mitch McConnell, Don Nickles, Richard Lugar, Thad Cochran, Pete Domenici, John Warner, Jesse Helms, Larry Pressler, Paul Coverdell, Strom Thurmond.

Mr. KEMPTHORNE. Mr. President, I think that during this debate, we have pointed out statistically that the United States is paying more than its fair share.

I will quote now from a letter from Anthony Lake, Assistant to the President for National Security Affairs. It states:

> The President's policy covers six major aspects of reform and improvement.

And one of these is:

> Reducing U.S. and U.N. costs for peacekeeping operations.

I applaud that. Here is an opportunity to reduce those costs. It has been stated also that we only have to pay where we have U.S. troops involved. But there is a very important distinction, and that is those U.S. troops have to be under U.N. command in order for the United States to receive reimbursement. That troubles me greatly.

Mr. President, we have also noted the letter that was written by General Shalikashvili. It was then referenced that somehow it applied to this amendment.

Let me also read to you from a report from the Chairman of the Joint Chiefs of Staff, General Shalikashvili, a report to the Congress on 1994 force readiness assessment. Here is what they say:

> The current pace of operations of U.S. forces throughout the world threatens our ability to maintain a high degree of readiness to meet all contingencies. The CINC's have noted that the transfer of operations and maintenance funds to support operations in Somalia, the Persian Gulf, the former Republic of Yugoslavia, and other contingencies has reduced operational readiness.

That is the Chairman of the Joint Chiefs of Staff.

I will note also, Mr. President, that the House of Representatives has rejected this provision of taking $300 million from the Department of Defense budget.

My closing remark is this, Mr. President. I do not think anybody disputes that we have a troubled world. The cold war may be over. But it is a troubled world with conflicts arising everywhere. We talk about the fact that for 10 years, we have been reducing the defense budget. We talk about the fact that we are probably approaching the point that we are going to have a hollow force because historically the United States has done this every time after we have disarmed from major conflict.

I am not saying we should not pay for peacekeeping with the United Nations. But pay for it from the State Department, not the Department of Defense.

Mr. President, that $300 million ought to remain in the Department of Defense budget to be directed with recommendations from people like the chairman, Senator SAM NUNN and the ranking member, Senator STROM THURMOND, based on recommendations by General Shalikashvili, rather than turning this over to the United Nations and having Boutros Boutros-Ghali determining where that $300 million is spent.

That is what this amendment does. It keeps the priorities where they should be, and that is, with regard to readiness, the $300 million remains in the Department of Defense.

I yield back my remaining time.

Mr. DOLE. Mr. President, this is an excellent amendment. There is no reason to pay for U.N. Secretary General Boutros Boutros-Ghali's adventures. In this fiscal year, the United States will spend far in excess of $2.2 billion for peacekeeping. Despite a much-publicized new policy on peacekeeping, this administration persists in approving and extending peacekeeping operations. In the course of the review which led to the new policy, Senate Republicans urged the administration to refrain from raiding the defense budget, and to reject using Defense Department funds to pay U.N. assessments. Unfortunately, the administration rejected our advice.

Many of us believe that we have cut too much from the defense budget already, especially for readiness. This administration has not requested enough money for the exploding international entitlement program of U.N. peacekeeping. While only $833 million is requested for fiscal year 1995, the United Nations will assess at least an additional $1 billion for the U.S. taxpayer to finance. We will soon be faced with a supplemental appropriation legislation with $670 million for peacekeeping costs this year.

There is no reason to spend our scarce defense dollars on U.N. peacekeeping. American readiness needs are too great. I would hate to see accidents or casualties in the future due to a lack of readiness funds—this amendment will help avert that outcome. The House explicitly prohibited using defense funds for U.N. assessments. We should follow the same prudent course and adopt the Kempthorne-McCain amendment.

Mr. NUNN. Mr. President, I will take 30 seconds in closing my argument, and I will yield.

I want everybody to understand that the only way this $300 million can be spent and can be sent to the United Nations is, if the President of the United States decides under the procedures we have set up in this bill, which requires advance notice to Congress—if the President decides to send American combat troops to the particular peacekeeping operation. In other words, if we have not decided to put in combat troops, this money will not be eligible to be sent to the United Nations.

At this stage, I yield the remainder of my time.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the Kempthorne amendment which is pending before the Senate.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUYE] is necessarily absent.

I also announce that the Senator from Connecticut [Mr. DODD] is absent because of illness in the family.

Mr. SIMPSON. I announce that the Senator from Idaho [Mr. CRAIG] and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 35, nays 60, as follows:

[Rollcall Vote No. 165 Leg.]

YEAS—35

Bennett
Bond
Brown
Burns
Coats
Cochran
Cohen
Coverdell
D'Amato
Danforth
Dole
Domenici
Faircloth
Gorton
Gramm
Grassley
Gregg
Hatch
Helms
Hutchison
Kempthorne
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Robb
Roth
Simpson
Smith
Stevens
Thurmond

NAYS—60

Akaka
Baucus
Biden
Bingaman
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Campbell
Chafee
Conrad
Daschle
DeConcini
Dorgan
Durenberger
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hatfield
Heflin
Hollings
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Rockefeller
Sarbanes
Sasser
Shelby
Simon
Specter
Warner
Wellstone
Wofford

NOT VOTING—5

Craig
Dodd
Exon
Inouye
Wallop

So the amendment (No. 1849) was rejected.

AMENDMENT NO. 1840

The PRESIDING OFFICER. The pending amendment before the Senate is amendment No. 1840, offered by Senator JOHNSTON.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, there will be no further rollcall votes this evening, as I am advised by the manager that good progress has been made during the day today and no further progress this evening is possible, except on amendments that will be accepted. I understand that the managers will be here to consider such amendments.

We have reached a point in this legislative session where the amount of work to be completed far exceeds the amount of time within which to do it. It is therefore necessary that we be in session tomorrow to ensure the presence of Senators.

There will be a vote at 9:30 a.m. and there will be more than one vote tomorrow. I repeat, there will be more than one vote tomorrow. There may be several votes tomorrow, including procedural votes, if necessary, to ensure the presence of Senators during the day, as it is imperative that we make further progress on this bill, and we have a number of other measures on which action must be taken before the Senate leaves for the July 4 recess next Friday.

In view of the fact that I would like to finish this bill tomorrow and the number of other matters on which action will be necessary to be completed, Senators should be aware and should expect very late sessions every night next week through and including Friday, unless the pace quickens in a way that has not been apparent and is not now apparent. So Senators should be aware of that.

I repeat, there will be a vote at 9:30 a.m. There will be more than one vote, possibly several, including procedural votes, if necessary, to ensure the presence of Senators, and votes are possible throughout the day tomorrow, at least until 3 p.m.

Next week, votes will be possible and votes will be likely throughout the day Tuesday through Friday and possibly on Monday. I issued a prior statement with respect to the possibility of votes on Monday and will make a decision and an announcement on that tomorrow, depending upon what progress is made on this bill during the day tomorrow.

Mr. MURKOWSKI. Will the leader yield for a question?

Mr. MITCHELL Yes.

Mr. MURKOWSKI. As I understood the leader's comments with regard to Monday, you are going to make a decision prior to 3 o'clock tomorrow on the schedule for Monday?

Mr. MITCHELL. That is correct.

Mr. MURKOWSKI. We have been notified that there may be votes on Monday, but I was not aware that they were going to start prior to the afternoon on Monday.

Mr. MITCHELL. That is correct; they will not start prior to 6 p.m.

Mr. MURKOWSKI. But you will advise us prior on your decision on how late we will go tomorrow and on the schedule for Monday?

Mr. MITCHELL. That is correct.

Mr. MURKOWSKI. It would be very helpful, because I am planning to go back to Alaska and the last plane I can catch is the 2:20 plane, but I can make that.

But if I come back and have to make votes on Monday—and I realize the Senate does not mind my inconvenience; but, nevertheless, I have to do what I have planned—if I leave there at 7 a.m, which is the first flight I can get, and fly all day Monday, I will get here at 8 o'clock.

So whatever the leadership can do, obviously, I would appreciate it.

I thank the leader.

Mr. MITCHELL. I will, as always, do my best to accommodate the Senator from Alaska, and will, of course, take his schedule into account in making the decision.

Because of its rules, the Senate schedule is inherently uncertain and not fully predictable. I will do my best to make it as certain and as predictable as possible, but, as you know, circumstances do not always permit that.

Further, I want to say that, at least in recent weeks, the practice has developed where enough Senators leave, simply leave, and then call back from wherever they have gone attempt to make it a self-fulfilling prophecy that there will not be any votes in their absence. That is the reason we are going to have to have votes tomorrow.

So any Senator who leaves and is not here tomorrow knows that he or she, with certainty, will miss a minimum of two votes and possibly more. It is the only way we can ensure the presence of sufficient Senators to conduct the business. Therefore, that is what we will have to do.

I thank the Senator from Georgia and my colleague, the Senator from Maine, for their work on this matter and hope we can make some progress on the bill tomorrow.

Mr. MURKOWSKI. I thank the majority leader.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I just want to let everyone know that we have a number of amendments that people have indicated they want to bring up, and we have a number of amendments that are going to require rollcall votes before this bill is completed.

The more we can get done now, that means the more likely it is we will not be staying here next Friday night until 11 or 12 o'clock. So I hope everyone who has an amendment would be willing to have a meaningful debate and a vote on that amendment tomorrow morning, if at all possible. We will have some discussion on a Bosnia amendment, but there will be no vote on that one until next week. We will have discussion on a B-2 amendment. I am not certain when a vote on that one will occur.

But there will be some important matters discussed tomorrow, and I hope we can—I know other amendments are going to require rollcall votes. For instance, the Senator from New Jersey, Senator BRADLEY, has an amendment to eliminate selective service. That will require a rollcall vote. We could handle that one tomorrow if the Senator from New Jersey could be here and present it. We could handle a Warner ABM amendment tomorrow if the Senator could be here and present that one. We could handle a Feingold amendment on uniform medical school tomorrow. I hope one or two or three of those amendments will be presented.

In addition to that, I want everyone to know I will be here at least for another hour, as long as we can do business tonight, to examine any amendment any Senator believes might be able to be accepted. We will discuss it with them. We will see if we can accept it. We will begin working on it on both sides, and we can make progress in that regard. So I plan to be here for at least an hour and as long as necessary tonight, as long as we can continue to work amendments.

I hope anyone who has an amendment that they want us to take a look at tonight or tomorrow, I hope they will come over and give it to us tonight and let us begin working on it.

The same can be said tomorrow morning. We will be here debating amendments that will probably require rollcall votes, but we will also be receptive to looking at any amendment that is presented. I hope people will take advantage of that. It is inevitable we are going to get into a time crunch next week. If Senators want due consideration of their amendments, this is the time to debate them, rather than waiting until we get into a crunch next week when there may be an urge to table people's amendments and with people voting almost automatically on those tabling motions without the same kind of careful consideration that can be done on the early stages of the bill.

My bottom line is we will be here an hour at least or longer if necessary on both sides to look at amendments, and I encourage those who have amendments to bring them over. I thank all Senators for their cooperation. We have had meaningful progress made today. There is going to be meaningful debate tomorrow morning on both Bosnia and on the B-2 strike amendment.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COHEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Without objection, it is so ordered.

Mr. COHEN. Mr. President, I ask unanimous consent that I be allowed to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

NUCLEAR SAFETY

Mr. COHEN. Mr. President, shortly after taking office last year, the Clinton administration undertook a significant reorganization of Department of Energy and some of the elements of DOE's reorganization many think were highly commendable. Others, I might point out, caused me some concern at the time and particularly the fate of the Nuclear Safety Office.

Under DOE's reorganization, the Nuclear Safety Office was folded into the Office of Environment, Safety, and Health. And the Office of Nuclear Safety is responsible for providing independent safety oversight of DOE's nuclear facilities. It is the only inhouse check on nuclear safety that is independent of those who manage DOE nuclear facilities.

Now, partly in response to the criticisms from Members of Congress and others, DOE transferred the Nuclear Safety Office intact without reducing its staffing, at least initially. And while this also was a welcome decision, the reorganization had other effects on nuclear safety oversight that were of continuing concern.

In order to have a sound basis for evaluating this matter, last April I asked the GAO to review DOE's restructuring of the nuclear safety oversight and to evaluate whether the proposed changes would improve or detract from DOE's ability to ensure nuclear safety. What the GAO found remains disconcerting. After its yearlong review, it reached three basic conclusions.

First, that DOE does not currently have an adequate number of qualified staff to oversee nuclear safety.

Second, DOE does not have a mechanism to ensure that nuclear safety issues are elevated up the chain of command until they are resolved. As a result, DOE may fail to take action to correct known safety problems "potentially posing unnecessary risk to workers and to the public." This organizational flaw is particularly important because nuclear safety oversight officials told GAO that some DOE nuclear plant managers have become less responsive since its reorganization was adopted last year.

Third, most importantly, GAO found that the independence of the nuclear safety oversight officials is compromised because they are now being directed to provide management assistance to those that they oversee. The regulators are, in effect, being told to become part of the plant management, undermining their ability to regulate in an objective, independent manner.

Mr. President, I am prepared—and I was prepared this afternoon even—to offer an amendment that would hopefully make improvements on what has taken place with this reorganization plan. Because of the GAO report which was released publicly, and because of the questions that it raised, I agreed to meet with some DOE officials this afternoon. And I spent considerable time listening to the counter arguments that were made on behalf of Secretary O'Leary. I must say that I think the arguments that were raised to counter the GAO's investigation had some merit.

So as a result of this afternoon's deliberations which consumed a good part of the latter part of the afternoon, I hopefully will be able to work out some kind of a compromise that will achieve the objectives certainly of the reorganization plan that the Secretary has in mind but also to ensure that there really is objective, independent oversight.

It is sort of a catch-22 problem that they have. On the one hand, DOE would like to take the expertise of those individuals who go on to the plants to go to the on-line plant managers, assist them, and give technical assistance.

There is a commendable aspect to that. But once you become part of the so-called management team, or even appear to be part of the team to ensure safety, then you tend to lose at least some measure of that independence that you are the overseer, and you are the one to be critical. It is hard to be critical of the team approach to this.

I think the Secretary is very much aware, and she would like to see a separation of that function. Essentially, I believe what will be arrived at through this compromise will be a separate, independent office of nuclear safety oversight that a number of individuals within that office may from time to time be assigned to individual nuclear plant sites perhaps to give technical assistance. Those same individuals would not however be in a position to then conduct any oversight of that facility.

So, in other words, we will be dividing up the personnel to send individuals who might be giving technical assistance to on-line plant managers' recommendations to ensure the safety of the workers and the public and to separate them from then being part of the oversight process for that plant.

It sounds to me like, at least in theory, I hope in practice, that we can achieve the maintaining of that independent spirit within the oversight board as such.

In theory, I say it may work out. We will have to wait and see how it is worked out in practice. But I am prepared to work with the administration to achieve a common goal; that is, to make sure that we provide the best possible safety measure that we can take for the workers and for the surrounding communities and the public at large.

So I will offer an amendment, not this evening, but perhaps not even tomorrow, but only after we have worked this with the administration, to come up with what I believe will be an acceptable compromise.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, apparently, no one is going to come over to present any amendments this evening. I see no need to keep these hardworking people around here, Senators excepted.

CHANGE OF VOTE

Mr. NUNN. On rollcall vote No. 165, Senator EXON was present and voted "no." The official record listed him as "absent". Therefore, I ask unanimous consent that the official record be corrected to accurately reflect his vote. This will in no way change the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. NUNN. Mr. President, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein for up to 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

GREG SCHNACKE

Mr. DOLE. Mr. President, I rise today to recognize a member of my staff who is leaving. He comes from my home State of Kansas. I have known his father. I have known Greg Schnacke as he grew up in Topeka, KS. But after 9 years of dedicated service to me in my Kansas office and the Hart Building and the U.S. Senate, Greg is going to move on to Colorado.

The people of Kansas know Greg as someone who can get the job done. Whether it was working with Kansas communities on major legislative issues, making sure that small towns had tornado sirens to help protect the lives of their residents, or assisting individual Kansans with day to day problems, Greg always gave 110 percent.

On the legislative front Greg Schnacke is a recognized expert in a variety of complex issues ranging from transportation to environmental issues. During debate on the 1990 Clean Air Act, he worked tirelessly to help me ensure that the legislation struck a balance between legitimate environmental concerns and the needs of small businesses and communities in Kansas and across the country. From energy to airports, Greg Schnacke was sought out by Members of the Senate for his expertise and sound judgment.

My loss is the Colorado Oil and Gas Association's gain. Greg will be the first executive director of this new organization. I appreciate all of Greg's hard work over the years and I am certain that he will distinguish himself in his new role.

Mr. President, the Senate and I will greatly miss the assistance and presence of Greg Schnacke but I extend my best wishes and a heartfelt, thank you to Greg, his wife, and his children for a job well done.

TRIBUTE TO PAT WADE

Mr. DOLE. Mr. President, it has been said that the most important impression is the first impression. And for the last 9 years, the person making the first impression in the Office of the Republican Leader has been Pat Wade.

Pat recently joined Senator LOTT's staff, and I wanted to thank her publicly for the outstanding job she did for me—and for all Republican Senators.

A lot of people walk through the doors of the Republican Leader's office—Presidents, Prime Ministers, Hollywood celebrities, and tourists from every State in the Union visiting their Nation's capital.

And Pat treated every visitor exactly the same—with courtesy and with hospitality. Well, I do have to admit that she did treat some visitors differently—and that is anyone who was from Tennessee—her home State.

Pat is a native of Tennessee, and I think everyone in that State was her friend. But then, everyone who Pat greeted in the office instantly regarded her as a friend.

My office joins me in extending our thanks to Pat, and our best wishes as she continues to serve the U.S. Senate.

TRIBUTE TO MEGHAN McMURTRIE

Mr. DOLE. Mr. President, many talented young people begin their capitol hill experience as interns, and work their way up as they learn the ropes.

A year and a half ago, Meghan McMurtrie joined the staff of the Republican Leadership Office. And instead of giving her a chance to learn the ropes, we threw her right into the fire, as one of the receptionists in the outer office.

From the very beginning, Meghan was asked to handle the countless requests and phone calls that came to her desk, and to greet the constant flood of people who come into the office.

And from the very beginning, she handled all these duties with great skill and good humor.

On behalf of my office, and all Republican Senators who relied upon her, I want to thank Meghan for a job well done, and wish her luck as she leaves my office to enter graduate school.

THE 1994 ELLIS ISLAND MEDAL OF HONOR RECIPIENTS: RECOGNIZING PEOPLE DEDICATED TO ETHNIC DIVERSITY

Mr. PRESSLER. Mr. President, as I speak today, ethnic conflicts rage around the globe. Peace and unity among people of different races, religions, and ethnic heritage seem impossible in some regions of the world. Yet, despite ethnic turmoil and disputes, courageous people continue to dedicate their lives to achieving the goals of peace and prosperity.

I take this opportunity today to recognize and to congratulate several persons who have dedicated their work and efforts to creating unity among ethnically diverse people of the world. The National Ethnic Coalition of Organizations [NECO], through its Ellis Island medal of honor, recognizes the achievements and efforts of individuals who are committed to the appreciation of ethnic diversity. This prestigious award acknowledges the labors of those willing to dedicate themselves to unity and peace.

I offer special recognition for the work of William Fugazy, chairman of the board of the NECO, and Rosemarie Taglion, events manager for the Ellis Island award gala. The vision and leadership of these two individuals deserve the highest praise. Rosemarie and Bill have worked extremely hard to ensure that the beauty and tradition of the Ellis Island honor award continues.

The Ellis Island ceremony, which I attended in May 1994, was one of the most moving and beautiful I have ever experienced. As a U.S. Senator, I see a number of events here in Washington and abroad, but this event was especially wonderful. I was honored to receive the medal of honor, and I consider it one of the highest honors of my lifetime. Having three grandparents who were immigrants, I hold this honor dearly.

Mr. President, in recognition of the esteemed recipients of the 1994 Ellis Island Medal of Honor and those involved with the National Ethnic Coalition of Organizations, I ask unanimous consent to place a list of the recipients' names in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRATULATIONS TO THE 1994 ELLIS ISLAND MEDAL OF HONOR RECIPIENTS

Peter R. Abeson, Norwegian/German, Business/Community Leader.

Elena Diaz-Verson Amos, Cuban, Community Leader.

Carlos R. Barba, Cuban, Business Leader.

George E. Barbar, Lebanese, Business Leader.

M. Ann Belkov, Polish/Russian, Superintendent, Statue of Liberty & Ellis Island.

William C. Beutel, German/English, Television Broadcaster.

Dr. Jagdish Bhagwati, Asian Indian, Educator.

Owen Bieber, German, Labor Leader.

Hon. William J. Bratton, Irish, Police Commissioner.

Eric Breindel, French/Polish, Journalist.

Donald P. Brennan, Irish, Business Leader.

Hon. Stephen G. Breyer, Romanian/E. Prussian/German, Federal Judge.

Norman R. Brokaw, Russian, Theatrical Talent Agent.

Daniel D. Broughton, M.D., Irish, Physician/Child Advocate.

Stephen L. Bruce, Polish/German, Restaurateur.

Paul W. Bucha, Ukranian/Croatian/Slovak, Business/Community Leader.

Victor Cardoso, Portuguese, Business/Community Leader.

Hon. Robert P. Casey, Irish, Governor of Pennsylvania.

Narses J. Colmenares, Venezuelan, Electrical Engineer.

E. Gerald Corrigan, Irish, Business Leader.

Hon. Ramon C. Cortines, Mexican, Educator.

Joseph F. D'Angelo, Italian, Business Leader.

Raymond V. Damadian, M.D., Armenian/French, Scientist/Inventor.

Hon. Walter G. Danielson, Swedish, Consul General Emeritus.

Frank J. Defino, Sr., Italian, Business Leader.

Hon. William A. DiBella, Italian, Connecticut State Senator.

Jeannette B. DiLorenzo, Romanian, Educator/Labor Leader.

Hon. Angier Biddle Duke, English/Irish/Spanish (Former) US Ambassador.

Philip B. Dusenberry, English, Business Leader.

Siri M. Eliason, Swedish, Community Leader.

James C. Esposito, Swiss/Irish/Italian, Federal Law Enforcement Leader.

Steven T. Florio, Italian, Business Leader.

Hon. Raymond L. Flynn, Irish, U.S. Ambassador to the Vatican.

Steve E. Fochios, M.D., Hellenic Physician.

Eugene M. Freedman, Russian, Business Leader.

Nicholas Gage, Hellenic, Author.

Manuel Orlando Garcia, M.D., Argentinian, Educator/Radio Host.

Hon. Phil Gramm, German, United States Senator.

Richard A. Grasso, Italian, Business Leader.

Joseph M. Haggar, Jr., Lebanese, Community Leader.

Michel T. Halbouty, Lebanese, Scientist/Educator/Author.

John R. Hall, English/Welsh, Business Leader.

Mel Harris, Russian, Business Leader.

Lawrence Herbert, Russian, Business Leader.

Edgar M. Housepian, M.D., Armenian, Educator/Neurosurgeon.

Dolores Huerta, Mexican, Labor Leader.

Hon. Romolo J. Imundi, Italian, U.S. Marshal.

Niels W. Johnsen, Norwegian/English/French, Business Leader.

Daniel R. Kaplan, Lithuanian, Attorney/Community Leader.

Harold E. Kelley, Scottish/Irish, Attorney/CPA.

Jae Taik Kim, Ph.D., Korean, Community Leader.

Joseph C. Krajsa, Slovak, Editor/Publisher.

Kenneth F. Kunzman, German/Irish, Attorney.

Hon. Frank R. Lautenberg, Polish/Russian, United States Senator.

Haskell L. Lazere, Romanian, Community Leader.

Richard C. Leone, Italian, Business/Community Leader.

James R. Leva, Italian, Business Leader.

Edward Lewis, African-American, Business Leader.

James P. Linn, English/Irish, Attorney.

Thomas P. Maguire, Irish, Labor Leader.

Donald B. Marron, English, Business Leader.

Peter W. May, German/Hungarian, Business/Community Leader.

Daniel R. McCarthy, Irish/English, Attorney.

William P. McComas, Scottish, Business Leader.

James A. McManus, Scottish/Irish/English, Business Leader.

Lenore Miller, Polish, Labor Leader.

Arthur J. Mirante, II, Italian, Business Leader.

Magnus Moliteus, Swedish, Business Leader.

William J. Morin, French/German, Business Leader.

James T. Morris, Welsh, Business/Community Leader.

Bruce Morrow, Russian/Austrian/Polish, Radio Personality.

Josie C. Natori, Filipino, Business Leader.

Peter H. Nozensky, Polish/Russian, Business Leader.

Brian O'Dwyer, Irish, Attorney.

Richard E. Oldenburg, Swedish, Museum Director.

Harry Orbelian, Armenian, Business/Community Leader.

Edward Panarello, Italian, Labor Leader.

Nelson Peltz, Austrian/Russian, Business/Community Leader.

Peter G. Peterson, Hellenic, Business Leader.

Hon. Nicholas C. Petris, Hellenic, California State Senator.

Joseph J. Plumeri, II, Italian, Business Leader.

Hon. Larry Pressler, French/German, United States Senator.

Burton P. Resnick, Russian/Polish, Business Leader.

Jens M. Rommerdahl, Danish, Business Leader.

Peter M. Ryan, Irish, Business Leader.

H.E. Metropolitan Philip Saliba, Lebanese, Religious Leader.

James J. Schiro, Italian, Business Leader.

James S. Scofield, Hellenic, Community Leader/Journalist.

Marvin Scott, Austrian/Polish, Television Broadcaster.

Rosanna Scotto, Italian, Television Broadcaster.

Henry T. Segerstrom, Swedish, Community Leader.

Kay Lande Selmer, Norwegian, Entertainer.

Myung Hwan Seo, Korean, Community Leader.

Ted Shapiro, Russian/Polish, Business Leader.

Jerry J. Siano, Italian, Business Leader.

Muriel F. Siebert, Hungarian, Business Leader.

Jeffrey S. Silverman, Russian, Business Leader.

Aileen Riotto Sirey, Ph.D., Italian, Psychotherapist/Community Leader.

Alfred E. Smith, IV, Irish, Business Leader.

Irwin Solomon, Polish, Labor Leader.

Henry S. Tang, Chinese, Business/Community Leader.

Peter J. Tanous, Lebanese, Business Leader.

Chris Tomaras, Hellenic, Business Leader.

J. Rock Tonkel, English/German/French, Business Leader.

Rep. Robert G. Torricelli, Italian, Member of Congress.

Peter Tufo, Italian, Business Leader.

Alfons Ukkonen, Finnish, Community Leader.

Joseph A. Unanue, Hispanic, Business Leader.

Aleksandras Vakselis, Lithuanian, Community Leader.

Jack Valenti, Italian, Business Leader.

Stephen B. Van Campen, Dutch, Business/Community Leader.

Hon. Guy J. Velella, Italian, New York State Senator.

Harvey J. Weinstein, Austrian/Hungarian, Business Leader.

General Enoch H. Williams, African-American, Military Leader.

Frank D. Wing, Jr., Chinese/Hispanic, government Leader.

Henry C.K. Yung, Chinese, Business Leader.

THE HARKIN/LAUTENBERG TOBACCO LIABILITY BILL

Mr. FORD. Mr. President, today my colleagues from New Jersey and Iowa introduced legislation allowing lawsuits to be filed to recover Medicare and Medicaid costs from illnesses associated with smoking.

I believe the precedent this legislation sets is extremely alarming, but even more troubling are the ramifications this will have on other issues, like health care reform.

My question to them is: What taxes are you going to raise to pay for health care reform, if you are going to kill this industry?

Some of the pending health care reform proposals which rely on punitive levels of tobacco excise taxes for funding are like oversized houses built on cracked foundations. Financing health care reform on a declining revenue base is fundamentally dishonest in the first place. It only delays the inevitable for a few years at most—revising the issue to find additional tax increases or dramatically scaling back the health care package.

The Harkin-Lautenberg proposal being announced today would only accelerate this return for new taxes. The Congressional Budget Office will probably have a difficult time projecting the impact of these new attacks on an already declining source of revenues. But one thing is clear: they accelerate the decline.

It is ironic that some who are the most zealous in seeking punitive tobacco taxes to fund health care also are the most eager to find ways to destroy the very industry which is supposed to provide the revenue. But it is not surprising. The campaign for back door Prohibition is alive and well in Washington. As many of my State fear, Big Brother is very hungry these days.

Every member of the business community should shudder at the proposal being unveiled today, and should be asking "Who's next?" If we are going to start down the road of financing Federal programs through lawsuits, as their legislation would do, everyone should be on notice, from potato chip makers to automobile manufacturers to dairy farmers: You are all at risk.

And if we are going to start down this road, I will do all I can to make sure that the principles of this new proposal, however, flawed, are applied consistently and across the board.

SPEECHES AND EXOTIC CLIMATES

Mr. DOLE. Mr. President, what do Topeka, Kansas City, Hutchinson, Cleveland, Indianapolis, Battle Creek, Sioux Falls, Cedar Rapids, Des Moines, Fort Lauderdale, Newburgh, and Enid, OK, all have in common? According to some media reports, they are exotic climates to which this Senator traveled last year for speaking engagements.

Far from being exotic locations, these were hardly all-expense-paid junkets as some would lead you to believe. As publicly disclosed in the annual financial disclosure form I file each year with the Senate, out-of-town groups asking me to speak simply provided air travel for the purpose of making a speech. No golf. No tennis. No luxury accommodations. Just speeches. All publicly disclosed. In fact, the only night of accommodations provided to me was at the Ramada Inn in downtown Topeka for a speaking engagement.

And I am proud of the fact that some of the speeches I made last year to fine groups were able to benefit worthwhile charities to the tune of $69,450, most of them in my home State of Kansas.

If we are going to be effective Senators, we must get outside of Washington and talk to and listen to people in the real world. We should be able to do that without any media distortion and misleading impressions.

SPACE STATION—A FINANCIAL BLACK HOLE

Mr. COHEN. Mr. President, it has been claimed by the administration that Russian participation in the space station is going to save approximately $2 billion. The General Accounting Office, at my request, looked into the accuracy of the estimates of the National Aeronautics and Space Administration [NASA] that expanded Russian participation in the station would save us the $2 billion figure.

The findings of GAO underscore, once again, the need to terminate this project. I think the space station is a financial black hole. NASA is trying to salvage a project by asserting savings from Russian participation, but NASA's own figures do not support the claims. The space station is a loser, and the American taxpayers will lose even more if we have to continue to foot this bill.

NASA has already spent $10.5 billion on the space station, which is estimated to cost a total of $118 billion to build and to operate. Last November 1, NASA and the Russian space agency formally agreed on a plan to bring Russia into the program. The GAO has said that NASA's $2 billion claimed savings from this expanded Russian participation will be largely offset by an estimated $1.4 billion that would be spent from other portions of NASA's budget as a result of the Russian involvement.

When all the space station-related elements are considered, according to GAO,

> Current estimates would indicate that much of the savings NASA attributes to expanded Russian participation will not be achieved. And furthermore,

I am quoting from GAO:

> if only part of NASA's estimated $2 billion in savings is attributable to Russian participation, it is possible that expanded Russian involvement could result in little or no net savings.

The GAO has cited a number of additional costs that will result from Russian participation that NASA left out of its calculation of the space station's pricetag, and these will include:

The need for two additional shuttle flights to complete construction of the space station estimated by GAO to be $746 million; a $400 million contract between NASA and the Russian space agency covering fiscal years 1994 through 1997; a higher orbit for the space station which will require $185 million in enhancements to the space shuttle; $73 million to outfit a second orbiter for up to 10 flights to the Russian Mir space station, which is part of the agreement; $10 million to $20 million for increasing the probability of launching the shuttle within a smaller launch window; and because of the changed orbit, the shuttle's launch window of opportunity decreases from 50 minutes to 5 minutes on a given day.

The scientific and industrial benefits of the space station, I believe, have been grossly exaggerated. The money the Nation continues to pour into this project will be much better spent on reducing the deficit and engaging in more meaningful research for the future.

MESSAGES FROM THE HOUSE

At 11:56 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker makes the following modification in the appointment of conferees in the conference on the disagreeing votes of the two Houses on the amendments of the House to the amendment of the Senate to the bill (H.R. 3355) entitled "An Act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety":

In the paragraph naming additional conferees from the Committee on Merchant Marine and Fisheries, Mr. BATEMAN is appointed in lieu of Mr. YOUNG of Alaska.

ENROLLED BILL SIGNED

At 4:02 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 24. An Act to reauthorize the independent counsel law for an additional 5 years, and for other purposes.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-518. A resolution adopted by the Senate of the Legislature of the Commonwealth of Puerto Rico; ordered to lie on the table.

"S.R. 801

"Whereas Judge José A. Cabranes has been and is a professional with encompassing juridical knowledge and leadership qualities, with a clear perception of the judicial function in modern society.

"Whereas Judge José A. Cabranes has extensive experience within the American judiciary system and has performed these judicial functions with great efficacy.

"Whereas Judge José A. Cabranes represents the recognition of the Hispanic communities in the United States, of his capacity to perform high functions: Therefore be it

"*Resolved by the Senate of Puerto Rico:*

"Section 1. The Senate of Puerto Rico conveys to the President and to the Congress of the United States, its endorsement, support and recommendation of the appointment of Judge José A. Cabranes as Associate Justice of the Supreme Court of the United States.

"Section 2. A copy of this Resolution, translated into the English language, shall be remitted expeditiously to the President of the United States of America, the Honorable William Jefferson Clinton, to the Presidents and Members of the respective bodies that compose the Congress of the United States of America, and to Judge José A. Cabranes.

"Section 3. A copy of this Resolution shall be remitted to the communications media of the United States and Puerto Rico for its extensive diffusion."

POM-519. A resolution adopted by the Legislature of Rockland County, New York relative to federal subsidies; to the Committee on Agriculture, Nutrition, and Forestry.

POM-520. A resolution adopted by the General Assembly of the State of New Jersey; to the Committee on Agriculture, Nutrition, and Forestry.

"ASSEMBLY RESOLUTION NO. 68

"Whereas, the New Jersey Legislature has often recognized the need to assure clean and adequate drinking water supplies for the people of New Jersey; and

"Whereas, the New Jersey Legislature, in accordance with the mandate provided by the people of New Jersey, continues to support initiatives that would provide open space and outdoor recreation and preserve ecosystems and wildlife habitat; and

"Whereas, Sterling Forest, a 17,500 acre site in the State of New York, is under consideration for acquisition and permanent preservation by the Palisades Interstate Park Commission; and

"Whereas, the Palisades Interstate Park Commission is a respected, competent bi-state manager of parks and historic sites, has served in such capacity for almost a century, and has operated under a federally approved compact since 1937; and

"Whereas, nearly 100 percent of the land in Sterling Forest affects the watersheds that supply water to two million people in the State of New Jersey; and

"Whereas, the acquisition of Sterling Forest would protect the high quality and quantity of raw water supplies for the Monksville and Wanaque Reservoirs, which are managed and operated by the North Jersey District Water Supply Commission; and

"Whereas, this water supply is of major importance to the health and well-being of the people and the economy of the State of New Jersey; and

"Whereas, legislation currently pending in the Congress of the United States would authorize a federal appropriation of up to $35 million to the Palisades Interstate Park Commission for land acquisition at Sterling Forest, New York; Now, therefore, be it

"*Resolved by the General Assembly of the State of New Jersey:*

"1. The Congress of the United States is memorialized to enact proposed federal legislation to acquire, and permanently maintain as open space, that area of the State of New York known as Sterling Forest.

"2. Duly authenticated copies of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk thereof, shall be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the majority and minority leaders of the United States Senate and the United States House of Representatives, every member of Congress elected from the State of New Jersey and from the State of New York, the Governor of the State of New Jersey, the Governor of the State of New York, the Palisades Interstate Park Commission, the North Jersey District Water Supply Commission, and the Passaic River Coalition.

STATEMENT

"This resolution would memorialize the Congress of the United States to enact proposed federal legislation to acquire, and permanently maintain as open space, that area of the State of New York known as Sterling Forest.

"Sterling Forest, a mostly privately owned tract of open space approximately 20,000 acres in size located in southern New York and northern New Jersey, is one of the last major undeveloped areas in the New York City metropolitan area. Two important northern New Jersey drinking water sources, the Monksville Reservoir and the Wanaque Reservoir, are fed by streams with headwaters in Sterling Forest, and these reservoirs supply drinking water to almost two million people. Sterling Forest is imminently threatened with large-scale development that is likely to have severe environmental consequences and threaten water supplies such as the Monksville and Wanaque reservoirs.

"The State of New Jersey has already taken action to acquire the approximately 2,000 acres of Sterling Forest lying within New Jersey, but the major portion of the forest, consisting of about 17,500 acres, lies within New York. Recent studies conducted by the States of New Jersey and New York and by the United States Forest Service all recognize the importance of protecting Sterling Forest. Legislation has been introduced in Congress by members of the New Jersey and New York congressional delegations that would authorize up to $35 million to be used to commence the process of acquiring Sterling Forest for preservation and management as a park by the Palisades Interstate Park Commission."

POM-521. A joint resolution adopted by the Legislature of the State of California; to the Committee on Appropriations.

"ASSEMBLY JOINT RESOLUTION NO. 16

"Whereas, the planned closure of Fort Ord will result in a loss of 18,000 military personnel and will detrimentally impact approximately 25,000 nonmilitary jobs in the local work force; and

"Whereas, a substantial number of the employees who will lose jobs as a result of the closure of Fort Ord will require training to reenter the local job market; and

"Whereas, the Trustees of the California State University are interested in converting a portion of Fort Ord to a university campus beginning in 1994; and

"Whereas, the Regents of the University of California plan to propose the conversion of a portion of Fort Ord to a research and policy center in the future in coordination with the establishment of a California State University campus; and

"Whereas, under existing state law, the trustees may enter into agreements with any agency of the federal government that result in grants, matching funds, or any other kind of financial aid for construction of housing and other educational facilities for students and staff of any campus of the university under the jurisdiction of the trustees; and

"Whereas, the trustees intend to establish a campus of 500 students at Fort Ord beginning in 1994 and to expand into a campus of 15,000 students by the next decade; and

"Whereas, the trustees will need a minimum of $100 million in federal assistance for the 1993-94 fiscal year in order to transform existing housing at Fort Ord into student housing; and

"Whereas, the conversion at the present time of a portion of Fort Ord to a California State University campus and the conversion in the future of an adjacent portion to a University of California research and policy center will be an environmentally sound collaborative conversion project and the model for an effective reuse plan; and

"Whereas, there is strong support for this collaborative conversion project in the community surrounding Fort Ord; Now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorialize the President and Congress of the United States to enact legislation to appropriate $100,000,000 to convert a portion of Fort Ord to a California State University campus; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Secretary of Education, to each Senator and Representative from California in the Congress of the United States, and to the Trustees of the California State University."

POM–522. A resolution adopted by the General Assembly of the State of New Jersey; to the Committee on Appropriations.

"ASSEMBLY RESOLUTION NO. 52

"Whereas, the State of New Jersey is a maritime state with considerable economic and employment interests in marine transportation; and

"Whereas, the Report of the National Performance Review, referred to as "Reinventing the Government," has recommended that Federal funding for the United States Merchant Marine Academy be reduced by one-half and that the Academy charge tuition to cover expenses; and

"Whereas, such a recommendation, if implemented, would adversely affect the United States Merchant Marine Academy and in all probability result in the closing of this Federal Academy; and

"Whereas, as the single largest source of Reserve Navy officers and the undisputed leader in maritime education worldwide, the United States Merchant Marine Academy benefits America's maritime industry and serves the entire United States; and

"Whereas, the Merchant Marine is one of the few civilian industries that supports American military efforts by actually going to war, as was demonstrated during the Persian Gulf War; and

"Whereas, the unique relationship of the Merchant Marine going to war in America's times of need was the impetus for the establishing of the Academy; and

"Whereas, as the nature of American military involvements has evolved, so has the role and curriculum of the Academy, and the United States still requires a mechanism to produce trained Merchant Mariners to crew commercial ships and the Reserve Fleet called into service during crises; and

"Whereas, State maritime academies are beyond Federal control and are pursuing independent paths, including non-maritime programs, in an effort to meet diversified local educational needs; Now, therefore, be it

"*Resolved by the General Assembly of the State of New Jersey:*

"1. This House hereby recognizes this State's and our nation's need for skilled Merchant Mariners, and memorializes the United States Congress to continue full Federal funding for the United States Merchant Marine Academy and to maintain the Academy as a tuition-free educational institution.

"2. A duly authenticated copy of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk thereof, shall be transmitted to the President of the Senate, the Speaker of the House of Representatives, and every member of Congress elected from this State.

"This resolution memorializes the United States Congress to continue full Federal funding for the United States Merchant Marine Academy and to maintain the Academy as a tuition-free educational institution."

POM–523. A resolution adopted by the Fort McClellan Anniston Army Depot Community Task Force relative to Anniston Army Depot Chemical Stockpile; to the Committee on Armed Services.

POM–524. A resolution adopted by the Legislature of the Territory of Guam; to the Committee on Armed Services.

"RESOLUTION NO. 258

"Whereas, it has been the long-standing goal of Guam's leadership to seek the return to Guam's people of federal land on Guam which is excess to federal needs, such return of excess federal land being important to Guam's people as a basis for rectifying the historic injustice resulting from the post-World War II federal landtakings; and

"Whereas, given the huge scale of federal land ownership on Guam and the resulting denial of this land for use in civilian development, the return of excess land is vital to the island's continued economic growth and prosperity, one of the clearest illustrations of these vital interests being the need to expand civilian airport operations at the site currently utilized for Naval Air Station Agaña, the expansion of Guam's civilian airport being key to the promotion of the island's tourism industry and other segments of Guam's economy; and

"Whereas, it was as a consequence of these economic and historic imperatives that in 1993 Guam sought the removal and consolidation of Naval air operations at NAS Agaña, to Andersen Air Force Base, which is only eight miles away in northern Guam; and

"Whereas, in representations to the Base Closure and Realignment Commission ("BRAC"), Guam demonstrated that both NAS Agaña and Andersen Air Force Base were underutilized air bases and that the consolidation of their respective air operations at a single base would be in the best interests of the U.S. government in terms of cost savings, it also being made clear in its submission to BRAC that Guam was seeking this consolidation principally because of the island's pressing need for the land currently utilized for NAS Agaña in order to expand the civilian airport; and

"Whereas, BRAC subsequently ruled in favor of Guam's position in this matter, ordering that the Naval air operations at NAS Agaña be moved to Andersen Air Force Base and that, with the exception of the housing areas, this facility was to be closed and the excess land disposed of in accordance with existing base closure procedures, the public comments on this issue by the BRAC commissioners clearly stating their intention that NAS Agaña be returned to the people of Guam; and

"Whereas, subsequent to the BRAC '93 ruling, the U.S. Navy announced its intention to relocate two of the existing squadrons at NAS Agaña to off-island military bases, and to transfer only one squadron to Andersen Air Force Base, although this BRAC '93 ruling clearly ordered the relocation of all existing squadrons to Andersen Air Force Base, and thus the Navy's announced plans to transfer squadrons off-island is in clear violation of the BRAC '93 ruling; and

"Whereas, proposed regulations for the future disposition of NAS Agaña after its closure, in accordance with the Pryor Amendment to the 1994 National Defense Authorization Act, may impose an impediment to the return of this land to the people of Guam by requiring the open-market sale of the NAS parcels without regard to the wishes of the local community; and

"Whereas, from the outset, Guam's stated goal with respect to NAS Agaña has never been to reduce military operations on Guam but actually to foster its consolidation in order to permit the return of this land to the people of Guam, principally for the needed expansion of the civilian airport, and this remains Guam's principal goal even in light of the continued global downsizing of the U.S. military forces and of other identified uses for the NAS Agaña parcels: Now, therefore, be it

"*Resolved*, That the Twenty-Second Guam Legislature does hereby on behalf of the people of Guam convey Guam's support of the BRAC '93 decision to consolidate Naval air operations at NAS Agaña with Andersen Air Force Base and to close the NAS Agaña facility, with the exception of housing areas, making this land available to the people of Guam as intended by the 1993 Base Closure and Realignment Commission; and be it further

"*Resolved*, That the Legislature does also convey Guam's opposition to any actions by the Defense Department that diverge from the BRAC '93 decision, including relocation off-island of NAS Agaña-based squadrons and the implementation of any regulations that may impose additional impediments to the return of NAS Agaña to the people of Guam; and be it further

"*Resolved*, That the Legislature hereby requests and memorializes the Congress of the United States to investigate the reasons and rationale for the proposed relocation of NAS Agaña squadrons rather than their consolidation at Andersen Air Force Base, Guam; and be it further

"*Resolved*, That the government of Guam and the agency heads having jurisdiction over the matter be and they are hereby requested and memorialized to work closely with the military commands in Guam in order to make it possible for the NAS Agaña squadrons to remain on Guam after the closure of NAS Agaña; and be it further

"*Resolved*, That Guam's Delegate to Congress, the Honorable Robert Underwood, be and he is hereby respectfully requested and memorialized to take whatever congressional action is necessary to permanently exempt Guam from the provisions of the Pryor Amendment; and be it further

"*Resolved*, That the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the Secretary of Defense; to the Chairman of the Base Closure and Realignment Commission; to Congressman Robert Underwood; and to the Governor of Guam."

POM–525. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Armed Services.

"HOUSE CONCURRENT RESOLUTION

"Whereas, the State of Hawaii and the Okinawa Prefecture of Japan are sister-states; and

"Whereas, like Hawaii, Okinawa is the site of several important U.S. military bases, which take up approximately eleven per cent of the land area of the Prefecture, and which are the source of occasional complaints regarding live-fire exercises and aircraft noise; and

"Whereas, during World War II the United States military occupied Okinawa and constructed a number of military bases on the then rural island to strengthen the security of the entire region during the aftermath of the war and the disarming of Japan; and

"Whereas, since that time, the economic and military support provided by the U.S. have resulted in the development of Okinawa from a rural society to a modern urban culture, a development which has made the extensive U.S. military bases in Okinawa increasingly out of place; and

"Whereas, eleven per cent of the total land area of Okinawa Prefecture is devoted to the use of the U.S. military, including live-fire exercises and aircraft operations with military facilities in Okinawa representing seventy-four per cent of all U.S. Forces facilities in Japan; and

"Whereas, the population of Okinawa has increased since World War II to the point that Okinawa's population density is now almost 2,900 persons per square mile, or nearly twice the population density of the island of Oahu; and

"Whereas, like Hawaii, Okinawa's main industry is tourism, which is bringing in nearly 3 million tourists annually and which the Prefectural Government is trying to develop even further, but is hampered by the extensive presence and operations of the U.S. military on Okinawa; and

"Whereas, the extensive presence and operations of the U.S. military in Okinawa causes friction between the people of Okinawa and the various military components of the United States in Okinawa, and is interfering with the economic development of Okinawa; and

"Whereas, the following requests, which were presented to the Department of Defense by the Okinawan Prefectural Government in 1985 and 1988, have not jet been addressed:

"(1) The early return of Naha Port to the Naha city government for commercial use;

"(2) The release of Futenma Air Station, Ieshima Auxiliary Air Field, as well as the petroleum, oil, and lubricant pipeline between the cities of Urasoe and Ginowan;

"(3) The return of Awase Golf Course for joint use by the U.S. military and people of Okinawa;

"(4) Use of the access road on Kadena Air Force Base that directly links the Okinawan cities of Kadena and Okinawa City;

"(5) The termination of live-five exercises at Camp Schwab and Camp Hansen and the training on the water reservoir in the Northern Training Area; and

"(6) The reduction of aircraft noise at Kadena Air Base and Futenma Air Station; and

"Whereas, as a sister-state to Okinawa Prefecture, Hawaii seeks to promote better relations between the United States and Okinawa, Japan: Now, therefore, be it

"*Resolved by the House of Representatives of the Seventeenth Legislature of the State of Hawaii, Regular Session of 1994, the Senate concurring*, That the President of the United States is requested to reevaluate the need for the current level of facilities and area occupied by U.S. military forces in the Prefecture of Okinawa, and consider the expeditious return of lands and facilities to the government and peoples of Okinawa Prefecture, Japan; and be it further

"*Resolved*. That certified copies of this Concurrent Resolution be transmitted to the President of the United States, the Secretary of Defense, the Commander-in-Chief of the U.S. Pacific Command, the Governor of Hawaii, the Governor of Okinawa Prefecture, the Consul-General of Japan in Hawaii, the President of the United States Senate, the Speaker of the United States House of Representatives, Hawaii's congressional delegation, the Mayors of Naha City, Okinawa City, Ginowan City, Urasoe City, and Kadena City in Okinawa Prefecture, the Office of International Relations in Hawaii, and appropriate Okinawan organizations in Hawaii."

POM-526. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Armed Services.

"JOINT RESOLUTION

"Whereas, changes in national security interests have caused changes in the status of military facilities in the United States, to include closure, realignment and reduction in mission; and

"Whereas, future changes are likely to occur that will potentially affect military facilities in Maine; and

"Whereas, it is in the national security interest of the United States to preserve defense infrastructure during times of peace; and

"Whereas, the closure, realignment or reduction in the mission of military facilities may have a long-term impact on national security; and

"Whereas, military and civilian dual-use planning for military facilities is an effective method to preserve physical infrastructure and labor-force skills; and

"Whereas, the current base closure and realignment process discourages the State, communities, workers and businesses from working in partnership to develop military and civilian dual uses of military facilities; and

"Whereas, it is in our national interest to address disincentives or barriers to military and civilian dual use of military facilities, including disincentives caused by the base closure or realignment selection criteria; Now, therefore, be it

"*Resolved*, That We, your Memorialists, respectfully urge Maine's Congressional Delegation to convey the concerns contained in this memorial to the House Armed Services Committee and the Senate Armed Services Committee of the United States Congress, the President of the United States and the Secretary of Defense; and be it further

"*Resolved*, That Maine's Congressional Delegation advocate for changes to the base closure and realignment process to provide incentives for communities and military facilities to undertake military and civilian dual-use initiatives, including, but not limited to, positive military point value being assigned to military facilities that have undertaken dual-use planning to preserve physical infrastructure and work-force skills during times of peace; and be it further

"*Resolved*, That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable William J. Clinton, President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each Member of the Maine Congressional Delegation."

POM-527. A concurrent resolution adopted by the Legislature of the State of New Hampshire; to the Committee on Armed Services.

"A RESOLUTION

"Whereas, the New Hampshire general court has thoroughly considered the issues surrounding the transfer of the former Pease Air Force Base to the Pease Development Authority; and

"Whereas, the New Hampshire general court fully supports the transfer of the remaining land and buildings at the former Pease Air Force base to the Pease Development Authority at the earliest possible date; and

"Whereas, the New Hampshire general court finds that the transfer of the remaining land and buildings is vital for economic growth in the seacoast region as well as the entire state of New Hampshire, with the protection of the environment and the quality of life as predominant factors in planning for such economic growth; Now, therefore, be it

"*Resolved by the House of Representatives, the Senate concurring*, That the transfer of the remaining land and buildings be made at no cost to the state of New Hampshire; and

"That the federal government is strongly encouraged to provide significant funding for the redevelopment of the Pease International Tradeport; and

"That copies of this resolution be transmitted by the clerk of the New Hampshire house of representatives to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, the Chairman of the House Armed Services Committee and to each member of the New Hampshire congressional delegation."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BUMPERS, from the Committee on Appropriations, with amendments:

H.R. 4554. A bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1995, and for other purposes (Rept. No. 103–290).

By Mr. JOHNSTON, from the Committee on Appropriations, with amendments:

H.R. 4506. A bill making appropriations for energy and water development for the fiscal year ending September 30, 1995, and for other purposes (Rept. No. 103–291).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

H.R. 572. A bill for the relief of Melissa Johnson.

By Mr. BAUCUS, from the Committee on Environment and Public Works, without amendment:

H.R. 1346. A bill to redesignate the Federal building located on St. Croix, VI, as the "Almeric L. Christian Federal Building."

H.R. 2532. A bill to designate the Federal building and U.S. courthouse in Lubbock, TX, as the "George H. Mahon Federal Building and United States Courthouse."

By Mr. BAUCUS, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

H.R. 3567. A bill to amend the John F. Kennedy Center Act to transfer operating responsibilities to the board of trustees of the John F. Kennedy Center for the Performing Arts, and for other purposes.

By Mr. BAUCUS, from the Committee on Environment and Public Works, without amendment:

H.R. 3770. A bill to designate the U.S. courthouse located at 940 Front Street in San Diego, CA, and the Federal building attached to the courthouse as the "Edward J. Schwartz Courthouse and Federal Building."

H.R. 3840. A bill to designate the Federal building and U.S. courthouse located at 100 East Houston Street in Marshall, TX, as the "Sam B. Hall, Jr. Federal Building and United States Courthouse."

By Mr. BIDEN, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 153. A joint resolution to designate the week beginning on November 21, 1993, and ending on November 27, 1993, and the week beginning on November 20, 1994, and ending on November 26, 1994, as "National Family Caregivers Week."

S.J. Res. 172. A joint resolution designating May 30, 1994, through June 6, 1994, as a "Time for the National Observance of the Fiftieth Anniversary of World War II."

S.J. Res. 178. A joint resolution to proclaim the week of October 16 through October 22, 1994, as "National Character Counts Week."

S.J. Res. 187. A joint resolution designating July 16 through July 24, 1994, as "National Apollo Anniversary Observance."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Jerry J. Enomoto, of California, to be United States Marshal for the Eastern District of California for the term of four years.

(The above nomination was reported with the recommendation that he be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. INOUYE (for himself and Mr. MCCAIN):

S. 2230. A bill to amend the Indian Gaming Regulatory Act; to the Committee on Indian Affairs.

By Mr. BINGAMAN (for himself, Mrs. BOXER, Mr. DECONCINI, and Mrs. HUTCHISON):

S. 2231. A bill to amend the Federal Water Pollution Control Act (commonly known as the "Clean Water Act") to authorize appropriations for each of fiscal years 1994 through 2001 for the construction of wastewater treatment works to provide water pollution control in or near the United States-Mexico border area, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BINGAMAN (for himself and Mr. DECONCINI) (by request):

S. 2232. A bill to amend the Federal Water Pollution Control Act to authorize appropriations for each of fiscal years 1994 through 1998 for the construction of wastewater treatment works to serve United States colonias by providing water pollution control in the vicinity of the international boundary between the United States and Mexico, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BAUCUS (by request):

S. 2233. A bill to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BREAUX (for himself, Mr. JOHNSTON, Mr. PRYOR, Mr. BUMPERS, Mr. DURENBERGER, Mr. SASSER, Ms. MOSELEY-BRAUN, Mr. SIMON, and Mr. FEINGOLD):

S. 2234. A bill to amend the Mississippi River Corridor Study Commission Act of 1989 to extend the term of the commission established under that Act; to the Committee on Energy and Natural Resources.

By Mr. WELLSTONE:

S. 2235. A bill to authorize the establishment of an Accredited Lenders Program for qualified State or local development companies under the Small Business Investment Act of 1958 and an Accredited Loan Packagers Pilot Program for loan packagers under the Small Business Act; to the Committee on Small Business.

By Mrs. HUTCHISON:

S. 2236. A bill to direct the Secretary of the Interior to enter into negotiations concerning the Nueces River project, Texas, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GRAHAM:

S. 2237. A bill to amend the Immigration and Nationality Act to strengthen the criminal offenses and penalties for the smuggling of aliens; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. CHAFEE, Mr. AKAKA, Mr. JEFFORDS, Mr. BINGAMAN, Mr. PACKWOOD, Mrs. BOXER, Mr. BRADLEY, Mr. DODD, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GLENN, Mr. HARKIN, Mr. INOUYE, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. METZENBAUM, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mrs. MURRAY, Mr. PELL, Mr. RIEGLE, Mr. ROBB, Mr. SARBANES, Mr. SIMON, and Mr. WELLSTONE):

S. 2238. A bill to prohibit employment discrimination on the basis of sexual orientation; to the Committee on Labor and Human Resources.

By Mr. KENNEDY (for himself and Mrs. KASSEBAUM):

S.J. Res. 203. A joint resolution designating July 12, 1994, as "Public Health Awareness Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GRAMM (for himself and Mrs. HUTCHISON):

S. Res. 232. A resolution to congratulate the Houston Rockets for winning the 1994 National Basketball Association Championship; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. INOUYE (for himself and Mr. MCCAIN):

S. 2230. A bill to amend the Indian Gaming Regulatory Act; to the Committee on Indian Affairs.

INDIAN GAMING REGULATORY ACT AMENDMENTS ACT OF 1994

Mr. INOUYE. Mr. President, I rise today, with my colleague and vice-chairman of the Committee on Indian Affairs, Senator JOHN MCCAIN, to introduce a bill that is long awaited by many, and which represents the cumulation of hundreds of hours of negotiations over the past year between the leadership of State and tribal governments concerning a matter that has engendered more controversy than any other matter with which the committee has been charged in recent years.

This bill proposes to amend the provision of the Indian Gaming Regulatory Act of 1988, and is thus, accurately titled, "The Indian Gaming Regulatory Act Amendments Act of 1994."

Mr. President, we began the journey which leads us here today in 1985, when the committee undertook its first attempts to develop a regulatory framework for the conduct of gaming on Indian lands.

In May 1987, the Supreme Court issued its now famous ruling in the case of Cabazon Bank of Mission Indians versus California.

In that case, the Supreme Court held that civil regulatory gaming laws of the State of California, a Public Law 280 State, did not apply on Indian lands.

When the court's ruling in Cabazon was handed down, the pressure upon the Congress to enact legislation to regulate Indian gaming was intense.

By October 1988, we had a gaming bill signed into law, and almost from the very outset, the pressure to amend the act began to mount.

That pressure reached a feverish pitch in March last year when several Federal district court rulings prompted the Governors of several States to call upon the President to address what they viewed as a crisis.

Up until that time, I had continually expressed my reluctance to open up the act for amendment.

After all, although the gaming measure was enacted into law in 1988, it wasn't until April 1991 that the nominations to the Commission was completed, and the Commission could begin the work of promulgating regulations.

Final regulations were published in December 1992, so when the call came—3 months alter—to amend the act, my first reaction was that such action was premature.

I thought that we should give the parties time to operate under the act before we rushed to a judgment that the act wasn't working.

However, the States were not alone in their desire to see the act amended.

While the Federal courts were issuing rulings with regard to the scope of gaming that concerned the States, tribal leaders were equally forceful in their argument that the act must be amended to address the 10th and 11th amendment defenses that the States were successfully asserting to defeat Federal court jurisdiction.

Because of these rulings, tribes in several areas of the country found themselves thwarted in securing compacts to govern the conduct of class III gaming.

Nonetheless, as it is the charge of Members of this body to respond to the fervent requests of those who are elected to serve the people, in March of last year, JOHN MCCAIN and I called upon the Governors and the attorneys general of the 50 States, and the leadership of the Indian nations, to engage in discussions that might yield a consensus on how to proceed with amendments to the act.

In the hopes of initiating this process, we met with tribal government leaders on March 19, 1993, and we asked them to consider sitting down with the governors and the attorneys general.

That same day, representatives of the National Association of Attorneys

General, meeting here in Washington, advised us that they would welcome an opportunity for such dialog.

And later that same day, several governors, representing the National Governors Association, discussed the matter and they, too, informed us of their support for such a process.

Following our separate meetings with the tribal leaders, attorneys general, and the Governors in May of last year, a historic meeting of all of the principals was held here in the Senate, a little less than a year ago, on July 2, 1993.

The substantive concerns of all parties were openly expressed at that meeting, and the State and tribal government leaders agreed to proceed with further discussions.

Today, a substantial portion of the measure we introduce reflects the work of State and tribal representatives that has been produced over countless hours and days of negotiations that began in earnest the week of July 12, 1993.

Mr. President, some of my colleagues know that toward the end of the negotiations process, the parties began to feel that they had reached an impasse in their discussions.

However, Mr. President, when each side submitted their proposals to the committee a little over a month ago, we found those proposals to be very similar in many important respects.

However, I want to make clear our understanding that throughout the negotiations process, the parties maintained that there would be no agreement until there was agreement on all matters.

But when full agreement could not be reached, we felt that it was incumbent upon us to continue the work that the States and tribal governments had begun.

And so today, Mr. President, we submit this measure for the consideration of our colleagues in the Senate and in the House of Representatives, based upon our belief that it faithfully and straightforwardly attempts to address the principal concerns that were expressed by the State and tribal government leaders at the outset of this process.

For instance, when we had our first meeting with the governors of the several States representing the National Governors Association on May 18, it was made known to us that there were some States that did not wish to engage in the process that the Indian Gaming Regulatory Act established to regulate the conduct of class III gaming on Indian lands, and so we knew, almost at the outset, that we would have to formulate an alternative procedure that would involve the Federal Government, in lieu of the role a State would have assumed.

And, if the National Government was going to assume responsibility for the regulation of class III gaming, we knew that we would have to create a comprehensive regulatory capability in the Federal Government.

From the beginning, we learned that all parties shared a desire to reduce the amount of litigation that the act appeared to be spawning, and that we would need to provide a greater degree of certainty to the compacting parties in the tribal-State compact negotiation process—a matter which came to be known as the scope of gaming issue.

And so, Mr. President, the bill that Senator MCCAIN and I introduce today proposes the following:

The establishment of clear Federal standards for the conduct of class II and class III gaming on Indian lands;

An expanded Federal presence in the regulation of class III gaming on Indian lands;

A process that enables a State to exercise the option of entering into a tribal-State compact to oversee class III gaming on Indian lands, or of opting out of compact negotiations;

A means of which tribal and State compacting parties can seek assistance in clarifying the scope of gaming that is to be the subject of tribal State compact negotiations, thereby affording the parties the certainty they seek;

A process that enables a tribal government to enter into a compact with the Secretary of the Interior, when a State opts out of the compacting procedure;

A comprehensive licensing system to regulate the privilege of doing business in Indian country, similar to those systems employed in the States of Nevada and New Jersey;

A procedure for assuring the consideration of the interests of all parties when land is taken into trust for gaming purposes; and

A mechanism for assessing the costs of Federal regulation.

Nonetheless, Mr. President, we would be the first to acknowledge that we have not been able to address every matter that we brought to us for resolution.

In the final days before introduction of this measure, we received scores of phone calls from various representatives of the four Settlement Act States.

Conflicting positions on the part of Settlement Act States left us in the unenviable position of knowing that any language we put in the bill would in one way or another be offensive to one of those States.

Some want the bill to be silent on Settlement Acts—others want specific provisions on Settlement Acts.

One State has said that if any one of the Settlement Acts is addressed, then they all must be addressed.

It has become clear that we cannot satisfy one State without doing so at the expense of the desires of another State.

In addition, we have heard from the tribal governments in those States and have been advised that compact negotiations hold the potential for resolving the need for amendments to the act.

Accordingly, we have opted not to take any action at this time of introduction of this measure with regard to the Settlement Acts, in the hope that the Settlement Act States can come to some agreement on how they wish us to proceed.

Another unresolved area which we have not attempted to address at this juncture is the concern that has been expressed by at least one member of the Committee on Indian Affairs concerning the accountability of tribal governments to their citizens in the arena of gaming.

Respecting the sovereign nature of Indian tribal governments, it is my hope that they might come forward with a proposal that responds to this concern, rather than have a federally fashioned solution.

It is thus, within this context, that we ask our colleagues to view this measure not as a panacea to all problems, but as a foundation upon which additional solutions might be built.

Such is the nature of a highly controversial matter that gaming has become in this country.

The proliferation of State lotteries and commercial gaming in States across the Nation define the trend, of which Indian gaming represents but a small percentage.

Indian gaming is not the engine that will drive the national debate as to whether gaming is an acceptable means of funding essential Government functions.

What we do know is that Indian gaming has brought to historically impoverished Indian communities across the country, something that the Federal Government has never been able to provide in a meaningful way—

Job opportunities in communities where unemployment ranges from a low of 37 percent to a high of 95 percent;

Clinics and schools and day-care facilities, and long-term care for those in need;

Roads and housing and safe water and sanitation systems;

Fire and police protection;

And perhaps, most important of all, hope to those who have long ago given up hope that they could share in the American dream—that they could end the cycle of despair and devastation that has been wrought on their communities.

Mr. President, I am not one who supports gaming.

But I count myself amongst those who acknowledge our shameful treatment of America's Native people, and who recognize their rights as sovereigns, to employ the same tools of economic development that so many States have adopted.

The Committee on Indian Affairs will hold hearings on the measure on July 19 and July 25. Thereafter, we hope to proceed to consideration of the measure for report to the full Senate before the August recess if possible.

Mr. President, I urge my colleagues to give this measure their most careful consideration, as we once again, begin this debate.

Mr. MCCAIN. Mr. President, I am pleased to join today with the chairman of the Committee on Indian Affairs, Senator INOUYE, as a sponsor of the Indian Gaming Regulatory Act Amendments Act of 1994. I want to associate myself with Senator INOUYE's remarks regarding this legislation and the issue of Indian gaming. I commend Senator INOUYE for his outstanding leadership over the years on this complex issue.

The bill we are introducing today would provide for a major overhaul of the Indian Gaming Regulatory Act of 1988. It will provide for a direct Federal presence in the regulation and licensing of class II and class III gaming as well as all of the industries associated with such gaming. This will be accomplished through the establishment of an expanded Federal Indian Gaming Commission which will be funded through assessments on Indian gaming and fees imposed on license applicants. The bill also provides a new process for the negotiation of class III compacts which will allow the States to opt out of the negotiations if they so choose. Consistent with the 1987 decision of the U.S. Supreme Court in the case of Cabazon Band of Mission Indians versus California, the bill contains new provisions intended to reduce disagreements between tribes and States over the scope of gaming and to provide for prompt resolution of any disputes which may arise. Provisions of the Bank Secrecy Act would be applied to Indian gaming activities to the same extent that the act is applied to any other gaming activity.

Since the enactment of the Indian Gaming Regulatory Act in 1988, there has been a dramatic increase in the amount of gaming activity among the Indian tribes. Indian gaming is now estimated to yield gross revenues of about $4 billion per year and net revenues are estimated at $750 million. There are about 160 class II bingo and card games in operation and there are now over 100 tribal/State compacts governing class III in 20 States. Indian gaming comprises about 3 percent of all gaming in the United States. Gaming activities operated by State governments comprise about 36 percent of all gaming and the private sector accounts for the balance of the gaming activity in the Nation.

Indian gaming has become the single largest source of economic activity for Indian tribes. Annual revenues derived from Indian agricultural resources have been estimated at $550 million and have historically been the leading source of income for Indian tribes and individuals. Annual revenues from oil, gas and minerals are about $230 million and Indian forestry resources revenues are estimated at $61 million. The estimated annual earnings on gaming now equal or exceed all of the revenues derived from Indian natural resources. In addition, Indian gaming has generated tens of thousands of new jobs for Indians and non-Indians. On many reservations gaming has meant the end of unemployment rates of 90 or 100 percent and the beginning of an era of full employment.

Under the Indian Gaming Regulatory Act, Indian tribes are required to expend the profits from gaming activities to fund tribal government operations or programs and to promote tribal economic development. Profits may only be distributed directly to the members of an Indian tribe under a plan which has been approved by the Secretary of the Interior. Only a few such plans have been approved. Virtually all of the proceeds from Indian gaming activities are used to fund the social welfare, education and health needs of the Indian tribes. Schools, health facilities, roads and other vital infrastructure is being built by the Indian tribes with the proceeds of Indian gaming.

In the years before the enactment of the Indian Gaming Regulatory Act and in the years since its enactment we have heard concerns about the possibility for organized criminal elements to penetrate Indian gaming. Both the Department of Justice and the FBI have repeatedly testified before the Committee on Indian Affairs and have indicated that there is not any substantial criminal activity of any kind associated with Indian gaming. Some of our colleagues have suggested that no one would now if there is criminal activity because not enough people are looking for it. I believe that this point of view overlooks the fact that the act provides for a very substantial regulatory and law enforcement role by the States and Indian tribes in class III gaming and by the Federal Government in class II gaming. The record clearly shows that in the few instances of known criminal activity in class III gaming, the Indian tribes have discovered the activity and have sought Federal assistance in law enforcement.

Nevertheless, the record before the Committee on Indian Affairs also shows that the absence of minimum Federal standards for the regulation and licensing of Indian gaming has allowed a void to develop which will become more and more attractive to criminal elements as Indian gaming continues to generate increased revenues. The legislation we are introducing today includes strict minimum Federal standards which are patterned after the laws of Nevada and New Jersey—the two States with the most experience in regulating gaming and confronting gaming related criminal activity. Several of the larger Indian gaming operations have also looked to Nevada and New Jersey as models for their own regulatory systems.

The bill provides for a continued regulatory role for Indian tribes and States when the Federal standards are met or exceeded by State or tribal laws. The National Indian Gaming Commission will continuously monitor the regulation of all class II and class III gaming and will directly regulate these activities when the minimum Federal standards are being enforced by the Indian tribe or the tribe and State.

As most of our colleagues know, one of the areas which has caused the greatest controversy under the current law relates to what has come to be known as the scope of gaming. A related issue is the refusal of some States to enter into negotiations for a class III compact and their assertion of sovereign immunity under the 11th amendment to the Constitution when an Indian tribe seeks judicial relief as provided by the act. The bill we are introducing incorporates the explicit standards of the Cabazon decision to guide all parties in determining the permissible gaming activities under the laws of any State. State laws will continue to govern this issue. We have not pre-empted the gaming laws of any State.

In an effort to assist the application of the Cabazon criteria, we have included definitions for gambling devices, lottery games, parimutuel wagering and other games of chance and we have provided that each of these are distinct from each other. These provisions should help to resolve concerns which have come to be characterized by the phrase "any mans all." In addition, the scope of gaming provisions of the bill would establish new procedures for the resolution of disputes over which activities are subject to compact negotiations.

With regard to the issue of the refusal of some States to negotiate and the 11th amendment, the bill would establish a new process for compact negotiation which allows a State to choose to opt out of the negotiations. In such a circumstance, the Secretary of the Interior would negotiate the compact. If a State chooses to enter into negotiations, then that choice is voluntary and has the effect of waiving the State's sovereign immunity under the 11th amendment. In either case, the bill would establish firm timelines for the completion of negotiations and new procedures for the resolution of any disputes.

Mr. President, as Senator INOUYE stated I am sure that we will find many things to change in this legislation as it moves through the Senate. However, I believe that it provides a good foundation for our further consideration of this important issue. I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2230

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Gaming Regulatory Act Amendments Act of 1994."

SEC. 2. AMENDMENTS.

The Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) is amended as follows:

(1) Section 2 of the Act (25 U.S.C. 2701) is amended to read as follows:

"SEC. 2. FINDINGS REGARDING INDIAN GAMING.

"The Congress finds that—

"(1) Indian tribal governments are engaged in the operation of gaming activities on Indian lands as a means of generating tribal governmental revenue and are licensing such activities;

"(2) Clear federal standards and regulations for the conduct of gaming on Indian lands will assist tribal governments in assuring the integrity of gaming activities conducted on Indian lands;

"(3) A principal goal of the United States' federal-Indian policy is to promote tribal economic development, tribal self-sufficiency, and strong tribal government;

"(4) While Indian tribal governments have the right to regulate the operation of gaming activities on Indian lands if such gaming activities are not specifically prohibited by federal law and are conducted within a State which does not prohibit such activities as a matter of criminal law and public policy, the Congress has the authority to regulate the privilege of doing business in Indian country;

"(5) Systems for the regulation of gaming activities on Indian lands should conform to federally-established minimum regulatory requirements;

"(6) The operation of gaming activities on Indian lands has had a significant impact on commerce with foreign nations, among the several States and with the Indian tribes; and

"(7) The United States Constitution vests the Congress with the powers to '. . . regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes. . . ' and this Act is enacted in the exercise of those powers.".

(2) Section 3 of the Act (25 U.S.C. 2702) is amended as follows:

"SEC. 3. DECLARATION OF POLICY REGARDING INDIAN GAMING.

"The purpose of this Act is—

"(1) to provide a statutory basis for the conduct of gaming activities on Indian lands as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments;

"(2) to provide a statutory basis for the regulation of gaming activities on Indian lands by an Indian tribal government adequate to shield such activities from organized crime and other corrupting influences, to ensure that an Indian tribal government is the primary beneficiary of the operation of gaming activities, and to ensure that gaming is conducted fairly and honestly by both the operator and players; and

"(3) to declare that the establishment of independent federal regulatory authority for the conduct of gaming activities on Indian lands, the establishment of federal standards for the account of gaming activities on Indian lands, and the establishment of a National Indian Gaming Commission are necessary to address congressional concerns regarding the conduct of gaming activities on Indian lands and to protect such gaming as a means of generating tribal revenue.".

(3) Section 4 of the Act (25 U.S.C. 2703) is amended as follows:

"SEC. 4. DEFINITIONS.

"For purposes of this Act—

"(1) The term 'Attorney General' means the Attorney General of the United States.

"(2) The term 'banking game' means any game of chance that is played with the house as a participant in the game, where the house takes on all players, collects from all losers, and pays all winners, and the house can win.

"(3) The term 'Chairman' means the Chairman of the National Indian Gaming Commission.

"(4) The term 'Class I gaming' means social games played solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebrations.

"(5)(A) The term 'Class II gaming' means—

"(i) the game of chance commonly known as bingo or lotto (whether or not electronic, computer, or other technologic aids are used in connection therewith)—

"(I) which is played for prizes, including monetary prizes,

"(II) in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined, and

"(III) in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards,

including, if played in the same location, pull-tabs, punch boards, tip jars, instant bingo, and other games similar to bingo, and

"(ii) card games that—

"(I) are explicitly authorized by the laws of the State, or

"(II) are not prohibited as a matter of State criminal law and are legally played at any location in the State, but only if such card games are played in conformity with those laws and regulations (if any) of the State regarding hours or periods of operation of such card games or limitations on wagers or pot sizes in such card games.

"(B) The term 'Class II games' does not include—

(i) any banking card games, including baccarat, chemin de fer, or blackjack (21) or

(ii) gambling devices as defined in section 1(a)(2) or section 1(a)(3) of the Act of January 2, 1951 (15 U.S.C. 1171(a)(2) or (3)), or slot machines of any kind.

"(6) The term 'Class III gaming' means all forms of gaming that are not class I gaming or class II gaming.

"(7) The term 'Commission' means the National Indian Gaming Commission established pursuant to section 5 of this Act.

"(8) The term "compact" means the regulatory regime for operating class III gaming entered into either by a tribe and the Secretary, or a tribe and a State, published pursuant to section 10 of this Act, and includes procedures in lieu of a compact published by the Secretary prior to the effective date of the Indian Gaming Regulatory Act Amendments Act of 1994.

"(9) the term 'electronic, computer, or other technologic aid" means a device, such as a computer, telephone, cable, television, satellite, or bingo blower, which, when used—

"(A) is not a fame of chance, a gambling device, or a slot machine;

"(B) merely assists a player or the playing of a game; and

"(C) is operated according to applicable Federal communications law.

"(10) The term 'electronic or electromechanical facsimile' means any gambling device as defined in section 1(a)(2) or section 1(a)(3) of the Act of January 2, 1951 (15 U.S.C. 1171 (a)(2) or (3)).

"(11) The term 'gambling device' means any gambling device as defined in section 1(a)(2) or section 1(a)(3) of the Act of January 2, 1951 (15 U.S.C. 1171(a)(2) or (3)), including any electronic or electromechanical facsimile.

"(12) The term 'gaming activity' means a game of chance, whether electronic, electromechanical or otherwise, that is distinguished from another game of chance by its principal characteristics.

"(13) The term 'gaming-related contract' means any agreement under which an Indian tribe or its agent procures gaming materials, supplies, equipment or services which are used in the conduct of a class II or class III gaming activity, or financing contracts or agreements for any facility in which a gaming activity is to be conducted.

"(14) The term 'gaming-related contractor' means any person, corporation, partnership or other entity entering into a gaming-related contract with an Indian tribe or its agent, including any person, corporation, partnership or other entity among which there is common ownership.

"(15) The term 'gaming service industry' means any form of enterprise which provides goods or services which are used in conjunction with any class II of class III gaming activity, including, without limitation, travel services, security, gaming schools, manufacturers, distributors and servicers of gaming devices, garbage haulers, linen suppliers, maintenance and cleaning services, food and non-alcohol beverage purveyors and construction companies.

"(16) The term 'key employee' means any natural person employed in a gaming operation licensed pursuant to this Act in a supervisory capacity or empowered to make any discretionary decision with regard to the gaming operation, including, without limitation, pit bosses, shift bosses, credit executives, cashier supervisors, gaming facility managers and assistant managers, and managers or supervisors of security employees.

"(17) The term 'lottery game' means a scheme for the distribution of a prize by chance where multiple players pay for the opportunity to win the prize and select a chance either (A) from a finite number of chances where the winning combinations are predetermined but concealed prior to purchase and the selection of each choice depletes the number of chances remaining, or (B) where the winner or winners are determined by random selection after all entries are completed, including where a time limit for entry has passed, when a predetermined number of players have entered, or when a predetermined sum of money has been wagered.

"(18) The term 'net revenues' means gross revenues of an Indian gaming activity less amounts paid out as, or paid for, prizes and total operating expenses, excluding management fees.

"(19) The term 'notify' means the act of sending a notice in writing, delivered by certified mail, with receipt requested, to the chief executive officer, and the chief legal officer of a State or of an Indian tribe; and, for purposes of that Act, the date of notification shall be the actual date of receipt as evidenced by the return receipt.

"(20) The term "other games of chance" means any class III gaming activity which is not a gambling device, a lottery game, a banking game, or parimutuel wagering.

"(21) The term "parimutuel wagering" means a system of betting on contests involving human or animals in which bets are pooled and the winners are paid according to odds determined by the volume of betting on the entries, with or without a deduction for the operator.

"(22) The term "person" means an Indian tribe, individual, firm, corporation, association, partnership, trust, consortium, joint venture, or commercial entity.

"(23) The term "principal characteristics" means the pace of play, complexity or type of choices for the player, appearance of the activity, nature of the interaction with the operator, other players or machine, and other attributes of a gaming activity which would be perceived by and be significant to a player familiar with games of chance.

"(24) The term 'prohibited as a matter of State criminal law' means an activity in a State which, under the law of that State, is subject to prosecution and a criminal sanction.

"(25) The term 'Secretary' means the Secretary of the Interior.

"(26) The term "slot machine" means any player activated gaming device involving mechanical, electronic, electromechanical, or computer technology, or any combination thereof which—

(A) accepts anything of monetary value, whether coin, currency or tokens, to initiate the operation of the gaming device;

(B) has as an integral part, a system of generating infinite random numbers or combinations thereof, which determine the successful operation of the device;

(C) rewards the successful operation of the device with anything of monetary value; and

(D) rewards the successful operation of the device solely on the basis of chance.

"(27) The term 'social gaming activity' means a gaming activity which is not—

"(A) a commercial, governmental, charitable or systematic gaming enterprise;

"(B) where no person, organization or entity other than the participants obtains or receives money or something of more than minimal value from the gaming activity, whether by taking a percentage of wagers or winnings or by banking the game;

"(C) where no person, organization or entity charges admission or other fees to participate in the game; and

"(D) where such gaming activity is not conducted in places ordinarily and regularly used for gaming and is only played for nominal value.

(4) Section 5 of the Act (25 U.S.C. 2704) is amended to read as follows:

"SEC. 5. ESTABLISHMENT OF THE NATIONAL INDIAN GAMING COMMISSION.

"(a) There is established as an independent agency of the Untied States a Commission to be known as the National Indian Gaming Commission.

"(b)(1) Composition of the Commission.—The Commission shall be composed of five full-time members who shall be appointed by the President with the advice and consent of the Senate.

"(2) Each member of the Commission shall be a citizen of the United States.

"(3) Each member of the Commission shall devote his entire time and attention to the business of the Commission and shall not—

"(A) pursue any other business or occupation or hold any other office;

"(B) be actively engaged in or have any direct pecuniary interest in gaming activities;

"(C) have any pecuniary interest in any business or organization holding a gaming license under this Act or doing business with any person or organization licensed under this Act;

"(D) have been convicted of a felony or gaming offense; or

"(E) have any financial interest in, or management responsibility for, any gaming-related contract or any other contract approved pursuant to this Act.

"(4) Not more than three of such members of the Commission shall be members of the same political party and in making appointments, members of different political parties shall be appointed alternatively as nearly as may be practicable.

"(5) At least two members of the Commission shall be enrolled members of any Indian tribe.

"(6) The Commission shall be composed of the most qualified persons available, provided that—

"(A) one member of the Commission must be a certified public accountant with at least 5 years of progressively responsible experience in accounting and auditing, and comprehensive knowledge of the principles and practices of corporate finance; and

"(B) one member of the Commission must be selected with special reference to his training and experience in the fields of investigation or law enforcement.

"(7) The Attorney General of the United States shall conduct a background investigation on any person considered for appointment to the Commission, with particular regard to the nominee's financial stability, integrity, and responsibility and his reputation for good character, honesty, and integrity.

"(c) Terms of Office.—(1) Each member of the Commission shall hold office for a term of five years.

"(2) Initial appointments to the Commission shall be for terms as follows—

"(A) the Chairman for 5 years;

"(B) one member for 4 years;

"(C) one member of 3 years;

"(D) and the remaining members for terms of 2 years each.

"(3) After the initial appointments, all members shall be appointed for terms of 5 years; provided that no member shall serve more than two terms of 5 years each.

"(d) Vacancies.—(1) The persons appointed by the President to serve as Chairman and members of the Commission shall serve in such capacities throughout their entire terms and until their successors shall have been duly appointed and qualified, unless the Chairman or a member of the Commission has been removed for cause under paragraph (2) of this subsection.

"(2) The Chairman or any member of the Commission may only be removed from office before the expiration of their term of office by the President for neglect of duty, or malfeasance in office, or for other good cause shown.

"(3) Appointment to fill vacancies on the Commission shall be for the unexpired term of the member to be replaced.

"(e) Quorum.—Three members of the Commission, at least one of which is the Chairman or Vice-Chairman, shall constitute a quorum.

"(f) Chairman.—The President shall designate one of the five members of the Commission to serve as Chairman of the Commission.

"(g) Vice Chairman.—The Commission shall select, by majority vote, one of the members of the Commission to serve as Vice Chairman, The Vice Chairman shall serve as Chairman of the Commission in the Chairman's absence and shall exercise such other powers as may be delegated by the Chairman.

(h) Meetings.—(1) The Commission shall meet at the call of the Chairman or a majority of its members.

"(2) A majority of the members of the Commission shall determine any action of the Commission.

"(i) Compensation.—(1) The Chairman of the Commission shall be paid at a rate equal to that of level III of the Executive Schedule under section 5316 of title 5, United States Code.

"(2) The members of the Commission shall each be paid at a rate equal to that of level IV of the Executive Schedule under section 5316 of title 5, United States Code.

"(3) All members of the Commission shall be reimbursed in accordance with title 5, United States Code, for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties."

(5) Section 6 of the Act (25 U.S.C. 2705) is amended to read as follows—

"SEC. 6. POWERS OF THE CHAIRMAN.

"(a) The Chairman shall serve as the chief executive officer of the Commission.

"(b) Subject to the provisions of subsection (c) of this section, the Chairman shall—

"(1) employ and supervise such personnel as is deemed necessary to carry out the functions of the Commission, and assign work among such personel;

"(2) use and expend federal funds and funds collected pursuant to section 15 of this Act.

"(3) contract for the services of other professional, technical and operational personnel and consultants as may be necessary to the performance of the Commission's responsibilities under this Act;

"(c) In carrying out any of the functions pursuant to this section, the Chairman shall be governed by the general policies of the Commission and by such regulatory decisions, findings and determinations as the Commission may by law be authorized to make."

(6) Section 7 of the Act (25 U.S.C. 2706 is amended to read as follows—

"SEC. 7. POWERS AND AUTHORITY OF THE COMMISSION.

"(A) General Powers.—The Commission shall have the power to—

"(1) approve the annual budget of the Commission;

"(2) adopt regulations to carry out the provisions of this Act;

"(3) exercise the law enforcement powers necessary to fulfill the purposes of this Act and the regulations promulgated thereunder;

"(4) establish a rate of fees and assessments as provided in section 15 of this Act;

"(5) conduct investigations;

"(6) issue a temporary order closing the operation of gaming activities;

"(7) after a hearing, make permanent a temporary order closing the operation of gaming activities as provided in section 13 of this Act;

"(8) grant, deny, limit, condition, restrict, revoke or suspend any license issued pursuant to this Act or fine any person pursuant to this Act for any cause deemed reasonable by the Commission;

"(9) inspect and examine all premises located on Indian lands on which class II or class III gaming is conducted;

"(10) demand access to inspect, examine, photocopy, and audit all papers, books, and records of Class II and Class III gaming activities conducted on Indian lands and any other matters necessary to carry out the duties of the Commission under this Act;

"(11) use the United States mail in the same manner and under the same conditions as any department or agency of the United States;

"(12) procure supplies, services, and property by contract in accordance with applicable federal laws and regulations;

"(13) enter into contracts with federal, state, tribal, and private entities for activities necessary to the discharge of the duties of the Commission;

"(14) serve or cause to be served its process or notices in a manner provided for by the Commission or in a manner provided for the service of process and notice in civil actions in accordance with the rules of a tribal, state or federal court;

"(15) propound written interrogatories and appoint hearing examiners, to whom may be delegated the power and authority to administer oaths, issue subpoenas, propound written interrogatories, and require testimony under oath;

"(16) conduct all hearings pertaining to civil violations of this Act or regulations promulgated thereunder;

"(17) collect all fees and assessments imposed by this Act and the regulations promulgated thereunder;

"(18) assess penalties for the violation of provisions of this Act and the regulations promulgated thereunder;

"(19) provide training and technical assistance to Indian tribal governments in all aspects of the conduct and regulation of gaming activities; and

"(20)(A) In addition to its existing authority, the Commission shall have the authority to delegate, by published order or rule, any of its functions to a division of the Commission, an individual member of the Commission, an administrative law judge, or an employee, including functions with respect to hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter;

"(B) Nothing in this section shall be deemed to authorize the delegation of the function of the rule-making as defined in subchapter II of chapter 5 of title 5 of the United States Code, with reference to general rules as distinguished from rules of particular applicability, or the making of any rule;

"(C) with respect to the delegation of any of its functions, the Commission shall retain a discretionary right to review the action of any division of the Commission, individual member of the Commission, administrative law judge, or employee, upon its own initiative.

"(D) the vote of one member of the Commission shall be sufficient to bring any such action before the Commission for review;

"(E) if the right to exercise such review is declined or, if no such review is sought within the time stated in the rules promulgated by the Commission, then the action of any such division of the Commission, individual member of the Commission, administrative law judge, or employee, shall, for all purposes, including appeal or review thereof, be deemed the action of the Commission."

"(b) REGULATORY AUTHORITY.—The Commission shall—

"(1) approve all gaming-related contracts;

"(2) establish minimum regulatory requirements for background investigations, licensing of persons and licensing of gaming operations associated with the conduct of class II and class III gaming on Indian lands by tribal governments;

"(3) establish minimum internal control requirements for the operation of class II and class III gaming activities on Indian lands, including but not limited to—

"(A) surveillance and security personnel and systems capable of monitoring all gaming activities including the conduct of games, cashiers' cages, change booths, count rooms, movements of cash and chips, entrances and exists to gaming facilities and other critical areas of any gaming facility;

"(B) the rules for the play of games and controls related to such rules;

"(C) credit and debit collection controls;

"(D) controls over gambling devices and equipment; and

"(E) accounting and auditing;

"(4) inspect and examine all premises located on Indian lands on which class II or class III gaming is conducted;

"(5)(A) monitor and regulate the background investigations conducted by tribal governments of persons involved in a class II gaming operation, including but not limited to key employees of any licensed gaming operation, gaming-related contractors, and any persons who have a material involvement, either directly or indirectly, with a licensed gaming operation, to assure that background investigations are consistent with the minimum regulatory requirements for background investigations established by the Commission;

"(B) monitor and regulate the licensing by tribal governments of persons involved in a class II gaming operation, including but not limited to key employees of any licensed gaming operation, gaming-related contractors, gaming service industries, and any persons having a material involvement, either directly or indirectly, with a licensed gaming operation, gaming related contractor or gaming service industry, to assure that such licensing is consistent with the minimum regulatory requirements for the licensing of persons established by the Commission;

"(C) monitor and regulate the licensing by tribal governments of class II gaming operations to assure that such licensing is consistent with the minimum regulatory requirements for the licensing of gaming operations established by the Commission;

"(D) except the where a tribal government's system for the conduct of background investigation, the licensing of persons or the licensing of gaming operations fails to meet the minimum regulatory background investigation or licensing requirements established by the Commission, the Commission's authority to conduct background investigations, to license and directly regulate Class II gaming activities conducted on Indian lands shall be exclusive until such time as the Commission determines that the regulation of Class II gaming activities on Indian lands by a tribal government meets the established minimum regulatory requirements;

"(6)(A) monitor and regulate a tribal gaming operation and the tribal government's system for internal controls to assure that such system is consistent with the minimum regulatory requirements for internal controls established by the Commission;

"(B) except that where a tribal government's system for internal controls fails to meet the minimum internal control requirements established by the Commission, the Commission's authority to directly establish and regulate internal control systems associated with Class II gaming activities shall be exclusive until such time as the Commission determines that the regulation of Class II gaming activities on Indian lands by a tribal government meets the minimum internal control requirements established by the Commission;

"(7) monitor and regulate Class III gaming activities conducted on Indian lands, and have the exclusive authority to—

"(A) license

"(i) Class III gaming operations conducted on Indian lands;

"(ii) key employees of all licensed Class III gaming operations conducted on Indian lands;

"(iii) any persons having a material involvement, either directly or indirectly, with a licensed Class III gaming operation conducted on Indian lands;

"(iv) gaming-related contractors, including but not limited to any vendor or supplier of gaming equipment or gambling devices associated with a licensed class III gaming operation;

"(v) gaming service industries pursuant to which an Indian tribal government or its agent enters into an agreement in excess of $10,000 for the procurement of materials, supplies, equipment or services which are used in association with a licensed Class III gaming operation, or financing contracts or agreements with a gaming service industry in excess of $10,000 associated with any facility which is used in association with a licensed Class III gaming activity; and

"(vi) any other person or company or other entity for which the Commission may require licensure;

"(B) conduct background investigations on—

"(i) key employees of any licensed class III gaming operation conducted on Indian lands;

"(ii) principal investors having a material involvement, either directly or indirectly, with a licensed class III gaming operation;

"(iii) principal gaming-related contractors; and

"(iv) any other person or company or other entity for which the Commission may require a background investigation;

"(C) The Commission shall make a determination as to principal investors and principal gaming-related contractors;

"(8)(A) in the context of a compact entered into by a tribal government with a state government, monitor and regulate the conduct of background investigations of (i) non-principal investors having a material involvement, either directly or indirectly, with a licensed Class III gaming operation; (ii) non-principal gaming-related contractors, including but not limited to vendors or suppliers of gaming equipment or gambling devices associated with a licensed Class II gaming operation, and (iii) non-principal key employees of any licensed Class III gaming operation; either in conjunction with Indian tribal governments or state governments, or both;

"(B) except that where the regulatory system of a tribal government or a state government, or both, for the conduct of background investigations fails to meet minimum regulatory requirements established by the Commission for the conduct of background investigations, the Commission shall have the exclusive authority to conduct background investigations until such time as the regulatory system of a tribal government or a state government, or both, meet the minimum regulatory requirements established by the Commission for the conduct of background investigations;

"(9)(A) in the context of a compact entered into by a tribal government with the Secretary of the Interior, monitor and regulate the conduct of background investigations of (i) non-principal investors having a material involvement, either directly or indirectly, with a licensed Class III gaming operation; (ii) non-principal gaming-related contractors, including but not limited to vendors or suppliers of gaming equipment or gambling devices associated with a licensed Class III gaming operation, and (iii) non-principal key employees of any licensed Class III gaming operation; in conjunction with an Indian tribal government to assure that the tribal government's system for the conduct of background investigations is consistent with the minimum regulatory requirements for backgrounds investigations established by the Commission;

"(B) except that where the regulatory system of a tribal government for the conduct of background investigations fails to meet minimum regulatory requirements established by the Commission for the conduct of background investigations, the Commission shall have the exclusive authority to conduct background investigations until such time as the regulatory system of a tribal government meets the minimum regulatory requirements established by the Commission for the conduct of background investigations;

"(10)(A) monitor and regulate the internal control systems associated with a licensed class III gaming operation to assure that such systems are consistent with the minimum regulatory requirements for internal controls established by the Commission;

"(B) except that where the internal control systems fail to meet the minimum internal control requirements established by the Commission, the Commission's authority to directly establish and regulate internal control systems associated with a licensed class III gaming operation shall be exclusive until such time as the Commission determines that the internal control systems meet the minimum internal control requirements established by the Commission;

"(c) LICENSING.—A license approved by the Commission shall be required of—

"(A) any person having a material involvement, either directly or indirectly, with a licensed gaming operation;

"(B) any person having a material involvement, either directly or indirectly, with a gaming-related contract;

"(C) any gaming-related contractor, including but not limited to any vendor or supplier of gaming equipment or gambling devices associated with a licensed gaming operation;

"(D) any gaming service industry for which the Commission may require licensure;

"(E) any gaming operation, including the management of any gaming operation; and

"(F) any other person or company or other entity for which the Commission may require licensure;

"(2)(A) The Commission may issue a statement of compliance to an applicant for any license or for qualification status under this Act at any time the Commission is satisfied that one or more particular eligibility criteria have been satisfied by an applicant.

"(B) Such statement shall specify the eligibility criterion satisfied, the date of such satisfaction and a reservation to the Commission to revoke the statement of compliance at any time based upon a change of circumstances affecting such compliance.

"(3)(A) No gaming operation shall operate unless all necessary licenses and approvals therefor have been obtained in accordance with this Act.

"(B)(i) Prior to the operation of any gaming facility or activity, every agreement for the management of the gaming operation shall be in writing and filed with the Commission pursuant to section 11 of this Act.

"(ii) No such agreement shall be effective unless expressly approved by the Commission.

"(iii) The Commission may require that any such agreement include within its terms any provisions reasonably necessary to best accomplish the policies of this Act.

"(iv) The Commission may determine that any applicant who does not have the ability to exercise any significant control over a licensed gaming operation shall not be eligible to hold or required to hold a license.

"(4)(A) The Commission shall deny a license for the management of a gaming operation to any applicant who is disqualified on the basis of any of the following criteria—

"(i) Failure of the applicant to prove by clear and convincing evidence that the applicant is qualified in accordance with the provisions of this Act;

"(ii) Failure of the applicant to provide information, documentation and assurances required by the Act or requested by the Commission, or failure of the applicant to reveal any fact material to qualification, or the supplying information which is untrue or misleading as to a material fact pertaining to the qualification criteria;

"(iii) The conviction of the applicant, or of any person required to be qualified under this Act as a condition of a license for the management of a gaming operation, of any offense in any jurisdiction which is deemed by the Commission to disqualify the applicant; provided that—

"(B) the automatic disqualification provisions of this subsection shall not apply with regard to any conviction which did not occur within the 10-year period immediately preceding application for licensure and which the applicant demonstrates by clear and convincing evidence does not justify automatic disqualification pursuant to this subsection and any conviction which has been the subject of a judicial order of expungement;

"(5)(A) Upon the filing of an application for a license for the management of a gaming operation and such supplemental information as the Commission may require, the Commission shall conduct an investigation into the qualifications of the applicant, and the Commission shall conduct a hearing thereon concerning the qualifications of the applicant in accordance with its regulations;

"(B) After such investigation and hearing, the Commission may either deny the application or grant a gaming operation license to an applicant whom it determines to be qualified to hold such license.

"(C)(i) The Commission shall have the authority to deny any application pursuant to the provisions of this Act;

"(ii) When an application is denied, the Commission shall prepare and file an order denying such application with the general reasons therefor, and if requested by the applicant, shall further prepare and file a statement of the reasons for the denial, including the specific findings of facts.

"(iii) After an application is submitted to the Commission, final action of the Commission shall be taken within 90 days after completion of all hearings and investigations and the receipt of all information required by the Commission;

"(D) If satisfied that an applicant is qualified to receive a license for the management of a gaming operation, and upon tender of all license fees and assessments as required by this Act and regulations of the Commission, and such bonds as the Commission may require for the faithful performance of all requirements imposed by this Act or regulations promulgated thereunder, the Commission shall issue a license for the management of a gaming operation for the term of 1 year;

"(E)(i) The Commission shall fix the amount of the bond or bonds to be required under this section in such amounts as it may deem appropriate, by rules of uniform application;

"(ii) The bonds so furnished may be applied by the Commission to the payment of any unpaid liability of the licensee under this Act;

"(iii) The bond shall be furnished in cash or negotiable securities, by a surety bond guaranteed by a satisfactory guarantor, or by an irrevocable letter of credit issued by a banking institution of any state acceptable to the Commission;

"(iv) If furnished in cash or negotiable securities, the principal shall be placed without restriction at the disposal of the Commission, but any income shall inure to the benefit of the licensee;

"(6)(A)(i) Subject to the power of the Commission to deny, revoke, or suspend licenses, any license for the management of a gaming operation in force shall be renewed by the Commission for the next succeeding license period upon proper application for renewal and payment of license fees and assessments as required by law and the regulations of the Commission;

"(ii) The license period for a renewed license for the management of a gaming operation shall be up to one year for each of the first two renewal periods succeeding the initial issuance of a license for the management of a gaming operation pursuant to subsection (5) of this section;

"(iii) Thereafter, a license for the management of a gaming operation may be renewed for a period of up to two years, but the Commission may reopen licensing hearings at any time;

"(B)(i) Notwithstanding the other provisions of this subsection, the Commission may, for the purpose of facilitating its administration of this Act, renew the license for the management of a gaming operation of the holders of licenses initially opening after the date of enactment of this Act for a period of one year, provided the renewal period for those particular licenses for the management of a gaming operation may not be adjusted more than once pursuant to this provision;

"(ii) The Commission shall act upon any such application prior to the date of expiration of the current license;

"(C) Application for renewal shall be filed with the Commission no later than 90 days prior to the expiration of the current license, and all license fees and assessments as required by law shall be paid to the Commission on or before the date of expiration of the current license;

"(D) Upon renewal of any license the Commission shall issue an appropriate renewal certificate or validating device or sticker which shall be attached to each license for the management of a gaming operation;

"(7) Subject to the power of the Commission to deny, revoke or suspend any license, any license other than a license for the management of a gaming operation may be renewed upon proper application for renewal and the payment of fees in accordance with the rules of the Commission, but in no event later than the date of expiration of the current license.

"(d) HEARINGS.—(1) The Commission shall establish procedures for the conduct of hearings associated with—

"(A) licensing of gaming operations and the management of a gaming operation, including the denial, limiting, conditioning, restriction, revocation, or suspension of any such license;

"(B) licensing of—

"(i) key employees of gaming operations;

"(ii) any persons having a material involvement, either directly or indirectly, with a licensed gaming operation;

"(iii) gaming-related contractors, including but not limited to any vendor or supplier of gaming equipment or gambling devices associated with a licensed gaming operation;

"(iv) gaming service industries pursuant to which an Indian tribal government or its agent enters into an agreement in excess of $10,000 for the procurement of materials, supplies, equipment or services which are used in association with a gaming operation, or financing contracts or agreements with a gaming service industry in excess of $10,000 associated with any facility which is used in association with a gaming operation; and

"(v) any other person or company or other entity for which the Commission may require licensure;

including the denial, limiting, conditioning, restriction, revocation, or suspension of any such license;

"(2) Following a hearing for any of the purposes authorized in this section, the Commission shall render its decision and issue an order, and serve such decision and order upon the affected parties;

"(3)(A) The Commission may, upon motion made within 10 days after the service of a decision and order, order a rehearing before the Commission upon such terms and conditions as it may deem just and proper when the Commission finds cause to believe that the decision and order should be reconsidered in view of the legal, policy or factual matters advanced by the moving party or raised by the Commission on its own motion;

"(B) Following a rehearing, the Commission shall render its decision and issue an order, and serve such decision and order upon the affected parties;

"(C) The Commission's decision and order under subsection (2) of this section when no motion for a rehearing is made, or the Commission's decision and order upon rehearing shall constitute final agency action for purposes of judicial review under the Administrative Procedure Act;

"(4) The District of Columbia Circuit Court of Appeals shall have jurisdiction to review the Commission's licensing decisions and orders.

"(e) COMMISSION STAFFING.—(1) The Chairman shall appoint a General Counsel to the Commission who shall be paid at the annual rate of basic pay payable for ES–6 of the Senior Executive Service Schedule under section 5382 of title 5 of the United States Code.

"(2) The Chairman shall appoint and supervise other staff of the Commission without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Such staff shall be paid without regard to the provisions of chapter 51 and subchapters III and VIII of chapter 53 of such title relating to classification and General and Senior Executive Service Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for ES–5 of the Senior Executive Service Schedule under section 5382 of that title.

"(3) The Chairman may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for ES–6 of the Senior Executive Service Schedule;

"(4) Upon the request of the Chairman, the head of any federal agency is authorized to detail any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act, unless otherwise prohibited by law;

"(5) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

"(f) COMMISSION ACCESS TO INFORMATION.—(1) The Commission may secure from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Chairman, the head of such department or agency shall furnish such information to the Commission, unless otherwise prohibited by law;

"(2) The Commission may secure from any law enforcement agency of any State or Indian tribal government information necessary to enable it to carry out this Act. Upon request of the Chairman, the head of any State or tribal law enforcement agency shall furnish such information to the Commission, unless otherwise prohibited by law.

"(g) INVESTIGATIONS AND ACTIONS.—(1)(A) The Commission may, in its discretion, conduct such investigations as it deems necessary to determine whether any person has violated, is violating, or is about to violate any provision of this Act or the rules and regulations promulgated thereunder and may require or permit any person to file with it a statement in writing, under oath, or otherwise as the Commission shall determine, as to all the facts and circumstances concerning the matter to be investigated.

"(B) The Commission is authorized, in its discretion, to investigate any facts, conditions, practices, or matters which it may deem necessary or proper to aid in the enforcement of such provisions, in the prescribing of rules and regulations under this Act, or in securing information to serve as a basis for recommending further legislation concerning the matters to which this Act relates;

"(2)(A) For the purpose of any investigation or any other proceeding under this Act, any member of the Commission or any officer designated by the Commission is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records which the Commission deems relevant or material to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States or any State at any designated place of hearing;

"(B) In case of contumacy by or refusal to obey any subpoena issued to any person, the Commission may invoke the jurisdiction of any court of the United States within the jurisdiction of which an investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records.

"(C) Any such court may issue an order requiring such person to appear before the Commission or member of the Commission or officer designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof;

"(3) Whenever it shall appear to the Commission that any person is engaged or about to engage in acts or practices constituting a violation of any provision of this Act or rules or regulations thereunder, the Commission may—

"(A) in its discretion, bring an action in the proper district court of the United States or the United States District Court for the District of Columbia, to enjoin such acts or practices, and upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond; or

"(B) transmit such evidence as may be available concerning such acts or practices as may constitute a violation of any criminal laws of the United States to the Attorney General, who may institute the necessary criminal proceedings;

"(4) Upon application of the Commission, the district courts of the United States shall have jurisdiction to issue writs of mandamus, injunctions, and orders commanding any person to comply with the provisions of this Act and the rules and regulations thereunder;

(7) Section 8 of the Act (25 U.S.C. 2707) is amended to read as follows:

SECTION 8 REQUIREMENTS AND PROCEDURES FOR APPLICANTS AND LICENSEES

"(a) REQUIREMENTS OF APPLICANTS AND LICENSEES.—(1)(A) It shall be the affirmative responsibility of each applicant for a license and each licensee to establish by clear and convincing evidence their individual qualifications, and for an applicant for a license for the management of a gaming operation, the qualifications of each person or entity that is required to be qualified under this Act;

"(B) For purposes of this section, the terms "applicant" and "licensee" shall include any person, any entity, any corporation, any company or any other organization for whom the Commission requires an approved license pursuant to section 7(c) of this Act as a condition of doing business in Indian country;

"(2)(A) Any applicant or licensee shall provide all information required by this Act and satisfy all requests for information pertaining to qualifications and in the form specified by the Commission;

"(B) All applicants and licensees shall waive the liability of the Commission and its members, employees and agents, for any damages resulting from any disclosure or publication in any manner, other than a willfully unlawful disclosure or publication, of any material or information acquired during inquiries, investigations or hearings;

"(3) All applicants and licensees shall consent to inspections, searches and seizures and the supplying of handwriting exemplars as authorized by this Act and regulations promulgated thereunder;

"(4)(A) All applicants and licensees shall have the continuing duty to provide any assistance or information required by the Commission, and to cooperate in any inquiry or investigation conducted by the Commission and any inquiry, investigation, or hearing conducted by the Commission;

"(B) If, upon issuance of a formal request to answer or produce information, evidence or testimony, any applicant or licensee refuses to comply, the application or license of such person may be denied or revoked by the Commission.

"(5) No applicant or licensee shall give or provide, offer to give or provide, directly or indirectly, any compensation or reward or any percentage or share of the money or property played or received through gaming activities, except as authorized by this Act, in consideration for obtaining any license, authorization, permission or privilege to participate in any way in the operation of gaming activities;

"(6) Each applicant or licensee shall be photographed and fingerprinted for identification and investigation purposes in accordance with procedures established by the Commission;

"(7)(A) All applicants and licensees, and all persons employed by a gaming service industry licensed pursuant to this Act, shall have a duty to inform the Commission of any action which they believe would constitute a violation of this Act;

"(B) No person who so informs the Commission shall be discriminated against by an applicant or licensee because of the supplying of such information;

"(8)(A) Any person who must be qualified pursuant to this Act in order to hold the securities of a licensee or any holding or intermediary company of a licensee may apply for qualification status prior to the acquisition of any such securities;

"(B) the Commission may determine to accept such an application upon a finding that there is a reasonable likelihood that, if qualified, the applicant will obtain and hold securities of a licensee sufficient to require qualification;

"(C) Such an applicant shall be subject to the provisions of this section and shall pay for the costs of all investigations and proceedings in relation to the application unless the applicant provides to the Commission an agreement with one or more licensees which states that the licensee or licensees will pay those costs;

"(b) LICENSE FOR THE MANAGEMENT OF A GAMING OPERATION—APPLICANT ELIGIBILITY.

"(1) No corporation shall be eligible to apply for a license for the management of a gaming operation unless—

"(A) The corporation shall be incorporated in one of the fifty states or by an Indian tribe, although such corporation may be a wholly or partially owned subsidiary of a corporation which is incorporated in one of the fifty states or of a foreign country;

"(B) The corporation shall maintain an office of the corporation on the premises licensed or to be licensed;

"(C) The corporation shall comply with all of the requirements of the laws of the state or Indian tribe pertaining to corporations in which the corporation is incorporated;

"(D) The corporation shall maintain a ledger in the principal office of the corporation which shall at all times reflect the current ownership of every class of security issued by the corporation and shall be available for inspection by the Commission and authorized agents of the Commission at all reasonable times without notice;

"(E) The corporation shall maintain all operating accounts required by the Commission and shall notify the Commission of the financial institution in which such operating accounts are located;

"(F) The corporation shall include among the purposes stated in its certificate of incorporation the conduct of gaming operations and provide that the certificate of incorporation includes all provisions required by this Act;

"(G)(1) If the corporation is not a publicly-traded corporation, the corporation shall file with the Commission such adopted corporate charter provisions as may be necessary to establish the right of prior approval by the Commission with regard to transfers of securities, shares, and other interests in the applicant corporation; and

"(2) If the corporation is a publicly-traded corporation, provide in its corporate charter that any securities of such corporation are held subject to the condition that if a holder thereof is found to be disqualified by the Commission pursuant to the provisions of this Act, such holder shall dispose of his interest in the corporation, provided that nothing herein shall be deemed to require that any security of such corporation bear any legend to this effect;

"(H) If the corporation is not a publicly-traded corporation, the corporation shall establish to the satisfaction of the Commission that appropriate charter provisions create the absolute right of such non-publicly-traded corporations and companies to repurchase at the market price or the purchase price, whichever is the lesser, any security, share or other interest in the corporation in the event that the Commission disapproves a transfer in accordance with the provisions of this Act;

"(I) Any publicly-traded holding, intermediary, or subsidiary company of the corporation, whether the corporation is publicly traded or not, shall contain in its corporate charter the same provisions required under paragraph (H) for a publicly-traded corporation to be eligible to apply for a license for the management of a gaming operation; and

"(J) Any non-publicly-traded holding, intermediary or subsidiary company of the corporation, whether the corporation is publicly-traded or not, shall establish to the satisfaction of the Commission that its charter provisions are the same as those required under paragraphs (H) and (I) for a non-publicly-traded corporation to be eligible to apply for a license for the management of a gaming operation;

"(K) The provisions of this subsection shall apply with the same force and effect with regard to applicants for a license and licensees for the management of a gaming operation which have a legal existence that is other than corporate to the extent which is appropriate;

"(c) LICENSE FOR THE MANAGEMENT OF A GAMING OPERATION—APPLICANT REQUIREMENTS.—

"(1) Any applicant for a license for the management of a gaming operation must produce information, documentation and assurances concerning the following qualification criteria—

"(A) Each applicant shall produce such information, documentation and assurances concerning financial background and resources as may be required to establish by clear and convincing evidence the financial stability, integrity and responsibility of the applicant, including but not limited to bank references, business and personal income and disbursement schedules, tax returns and other reports filed with governmental agencies, and business and personal accounting and check records and ledgers; and

"(B) Each applicant shall, in writing, authorize the examination of all bank accounts and records as may be deemed necessary by the Commission;

"(C)(1) Each applicant shall produce such information, documentation and assurances as may be necessary to establish by clear and convincing evidence the integrity of all financial backers, investors, mortgagees, bond holders, and holders of indentures, notes or other evidences of indebtedness, either in effect or proposed, which bears any relation to the proposal of the management of a gaming operation submitted by the applicant or applicants, provided that this section shall not apply to banking or other licensed lending institutions and institutional investors;

"(2) Any such banking or licensed lending institution or institutional investor shall, however, produce for the Commission upon request any document or information which bears any relation to the proposal for the management of a gaming operation submitted by the applicant or applicants;

"(3) The integrity of financial sources shall be judged upon the same standards as the applicant;

"(4) In addition, each applicant shall produce whatever information, documentation or assurances as may be required to establish by clear and convincing evidence the adequacy of financial resources as to the completion of the proposal for the management of the gaming operation;

"(D)(1) Each applicant shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence the applicant's good character, honesty and integrity;

"(2) Such information shall include, without limitation, information pertaining to family, habits, character, reputation, criminal and arrest record, business activities, financial affairs, and business, professional and personal associates, covering at least the 10-year period immediately preceding the filing of the application;

"(3) Each applicant snall notify the Commission of any civil judgments obtained against any such applicant pertaining to antitrust or security regulation laws of the United States, or of any state, jurisdiction, province or country;

"(4) In addition, each applicant shall produce letters of reference from law enforcement agencies having jurisdiction in the applicant's place of residence and principal place of business, which letters of reference shall indicate that such law enforcement agencies do not have any pertinent information concerning the applicant, or if such law enforcement agency does have information pertaining to the applicant, shall specify what the information is;

"(5) If the applicant has managed gaming operations in a jurisdiction which permits such activity, the applicant shall produce letters of reference from the gaming or casino enforcement or control agency which shall specify the experiences of such agency with the applicant, his associates, and the gaming operation, provided that if no such letters are received within 60 days of request therefor, the applicant may submit a statement under oath that he is or was during the period such activities were conducted in good standing with such gaming or casino enforcement or control agency;

"(E)(1) Each applicant shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence that the applicant has sufficient business ability and gaming management experience as to establish the likelihood of creation and maintenance of a successful, efficient gaming operation;

"(2) The applicant shall produce the names of all proposed key employees of the proposed gaming operation as they become known and a description of their respective or proposed responsibilities, and a full description of security system and management control proposed for the gaming operation and related facilities;

"(F)(1) Each applicant shall produce such information, documentation and assurances to enable the Commission to comply with the National Environmental Policy Act, the

National Historic Preservation Act, and the Endangered Species Act.

"(d) ADDITIONAL REQUIREMENTS.—

"(1) In addition to other information required by this Act, a corporation applying for a license for the management of a gaming operation shall provide the following information—

"(A) the organization, financial structure and nature of all businesses operated by the corporation;

"(B) the names and personal employment and criminal histories of all officers, directors and principal employees of the corporation;

"(C) the names of all holding, intermediary and subsidiary companies of the corporation;

"(D) the organization, financial structure and nature of all businesses operated by such of its holding, intermediary and subsidiary companies as the Commission may require, including names and personal employment and criminal histories of such officers, directors and principal employees of such corporations and companies as the Commission may require;

"(E) The rights and privileges acquired by the holders of different classes of authorized securities of such corporations and companies as the Commission may require, including the names, addresses and amounts held by all holders of such securities;

"(F) The terms upon which securities have been or are to be offered;

"(G) The terms and conditions of all outstanding loans, mortgages, trust deeds, pledges or any other indebtedness or security devices utilized by the corporation;

"(H) The extent of the equity security holding in the corporation of all officers, directors and underwriters, and their remuneration in the form of salary, wages, fees or otherwise;

"(I) Names of persons other than directors and officers who occupy positions specified by the Commission or whose compensation exceeds an amount determined by the Commission, and the amount of their compensation;

"(J) A description of all bonus and profit-sharing arrangements;

"(K) Copies of all management and service contacts; and

"(L) A listing of stock options existing or to be created;

"(2) If a corporation applying for a license for the management of a gaming operation is, or if a corporation holding a license for the management of a gaming operation is to become, a subsidiary, each holding company and each intermediary company with respect thereto must, as a condition of the said subsidiary acquiring or retaining such license, as the case may be—

"(A) Qualify to do business is one of the fifty states or with a federally-recognized Indian tribe; and

"(B) If it is a corporation, register with the Commission and furnish the Commission with all the information required of a corporate licensee as specified in subsections (A) through (F) of this section and such other information as the Commission may require; or

"(C) If it is not a corporation, register with the Commission and furnish the Commission with such information as the Commission may prescribe;

"(3) No corporation shall be eligible to hold a license for the management of a gaming operation unless each officer; each director, each person who directly or indirectly holds any beneficial interest or ownership of the securities issued by the corporation; any person who in the opinion of the Commission has the ability to control the corporation or elect a majority of the board of directors of that corporation, other than a banking or other licensed lending institution which makes a loan or holds a mortgage or other lien acquired in the ordinary course of business; each principal employee; and any lender, underwriter, agent, employee of the corporation, or other person whom the Commission may consider appropriate for approval or qualification would, but for residence, individually be qualified for approval as a gaming operation key employee pursuant to the provisions of this Act;

"(4) No corporation which is a subsidiary shall be eligible to receive or hold a licensing for the management of a gaming operation unless each holding and intermediary company with respect thereto—

"(A) If it is a corporation, shall comply with the provisions of this section as if said holding or intermediary company were itself applying for a license for the management of a gaming operation, provided that the commission may waive compliance with the provisions of this section on the part of a publicly-traded corporation which is a holding company as to any officer, director, lender, underwriter, agent or employee thereof, or person directly or indirectly holding a beneficial interest or ownership of the securities of such corporation, where the Commission is satisfied that such officer, director, lender, underwriter, agent or employee is not significantly involved in the activities of the corporate licensee, and in the case of security holders, does not have the ability to control the publicly-traded corporation or elect one or more directors thereof; or

"(B) If it is not a corporation, shall comply with the provisions of this section as if said company were itself applying for a license for the management of a gaming operation;

"(5)(A) Any noncorporate applicant for a license for the management of a gaming operation shall provide the information required of this section in such form as may be required by the Commission;

"(B) No such applicant shall be eligible to hold a license for the management of a gaming operation unless each person who directly or indirectly holds any beneficial interest or ownership in the applicant, or who in the opinion of the Commission has the ability to control the applicant, or whom the Commission may consider appropriate for approval or qualification, would individually be qualified for approval as a key employee pursuant to the provisions of this Act;

"(6) Notwithstanding the provisions of this section, and in the absence of a prima facie showing that there is any cause to believe that the institutional investor may be found unqualified, an institutional investor holding either—

"(A) under 10% of the equity securities of a holding or intermediary companies of a licensee for the management of a gaming operation, or

"(B) debt securities of a holding or intermediary companies, or another subsidiary company of a holding or intermediary companies which is related in any way to the financing of the licensee for the management of a gaming operation, where the securities represent a percentage of the outstanding debt of the company not exceeding 20%, or a percentage of any issue of the outstanding debt of the company not exceeding 50%, shall be granted a waiver of qualification if such securities are those of a publicly-traded corporation and its holdings of such securities were purchased for investment purposes only and upon request by the Commission, it files with the Commission a certified statement to the effect that it has no intention of influencing or affecting the affairs of the issuer, the licensee for the management of a gaming operation or its holding or intermediary companies, provided that it shall be permitted to vote on matters put to the vote of the outstanding security holders;

"(C) The Commission may grant a waiver of qualification to an institutional investor holding a higher percentage of such securities upon a showing of good cause and if the conditions specified in this subsection are met;

"(D) Any institutional investor granted a waiver under this subsection which subsequently determines to influence or affect the affairs of the issuer shall provide not less than 30 days notice of such intent and shall file with the Commission an application for qualification before taking any action that may influence or affect the affairs of the issuer, provided that it shall be permitted to vote on matters put to the vote of the outstanding security holders;

"(E) If an institutional investor changes its investment intent, or if the Commission finds reasonable cause to believe that the institutional investor may be found unqualified, no action other than divestiture shall be taken by such investor with respect to its security holdings until there has been compliance with the provisions of this Act including the execution of a trust agreement;

"(F) The licensee for the management of a gaming operation and its relevant holding, intermediary or subsidiary company shall immediately notify the Commission of any information about, or actions of, an institutional investor holding its equity or debt securities where such information or action may have an impact upon the eligibility of such institutional investor for a waiver pursuant to this subsection;

"(7) If at any time the Commission finds that an institutional investor holding any security of a holding or intermediary company of a licensee for the management of a gaming operation, or, where relevant, of another subsidiary company of a holding or intermediary company of a licensee for the management of a gaming operation which is related in any way to the financing of the licensee for the management of a gaming operation, fails to comply with the terms of this section, or if at any time the Commission finds that, by reason of the extent or nature of its holdings, an institutional investor is in a position to exercise such a substantial impact upon the controlling interests of a licensee that qualification of the institutional investor is necessary to protect the public interest, the Commission may, in accordance with the provisions of this section of this Act, take any necessary action to protect the public interest, including requiring such an institutional investor to be qualified pursuant to the provisions of this Act;

"(d) LICENSING OF KEY EMPLOYEES OF GAMING OPERATIONS.—

"(1) No person may be employed as a key employee of a class III gaming operation unless he is the holder of a valid gaming operation key employee license issued by the Commission;

"(2) Each applicant must, prior to the issuance of any gaming operation key employee license, produce information, documentation and assurances concerning the following qualification criteria—

"(A) Each applicant for a gaming operation key employee license shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence the financial stability, integrity and responsibility of the applicant, including but not limited to bank references, business and personal income and disbursements schedules, tax returns and other reports filed with governmental agencies, and business and personal accounting and check records and ledgers;

"(B) In addition, each applicant shall, in writing, authorize the examination of all bank accounts and records as may be deemed necessary by the Commission;

"(C) Each applicant for a gaming operation key employee license shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence the applicant's good character, honesty and integrity;

"(D) Such information shall include, without limitation, data pertaining to family, habits, character, reputation, criminal and arrest record, business activities, financial affairs, and business, professional and personal associates, covering at least the 10-year period immediately preceding the filing of the application;

"(E) Each applicant shall notify the Commission of any civil judgments obtained against such applicant pertaining to antitrust or security regulation laws of the United States or of any state of any jurisdiction, province or country;

"(F) In addition, each applicant shall, upon request of the Commission, produce letters of reference from law enforcement agencies having jurisdiction in the applicant's place of residence and principal place of business, which letters of reference shall indicate that such law enforcement agencies do not have any pertinent information concerning the applicant, or if such law enforcement agency does have information pertaining to the applicant, shall specify what that information is;

"(G) If the applicant has been associated with gaming operations in any capacity, position or employment in a jurisdiction which permits such activity, the applicant shall, upon request of the Commission, produce letters of reference from the gaming or casino enforcement or control agency, which shall specify the experience of such agency with the applicant, his associates and his participation in the gaming operations of that jurisdiction, provided that if no such letters are received from the appropriate law enforcement agencies within 60 days of the applicant's request therefor, the applicant may submit a statement under oath that he is or was during the period such activities were conducted in good standing with such gaming or casino enforcement or control agency; and

"(H) Each applicant shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence that the applicant has sufficient business ability and gaming operation experience as to establish the reasonable likelihood of success and efficiency in the particular position involved;

"(3) The Commission shall endorse upon any license issued hereunder the particular positions as defined by this Act or by regulation which the licensee is qualified to hold;

"(4) The Commission shall deny a gaming operation key employee license to any applicant who is disqualified on the basis of the criteria contained in section 7(c)(4) of this Act;

"(5) For the purposes of this section, gaming operation security employees shall be considered key employees of a gaming operation;

"(6) Key employees of a gaming operation directly related to gaming operation shall include, but not be limited to, boxmen, floormen, dealers or croupiers, cage personnel, count room personnel, slot and slot booth personnel, credit and collection personnel, gaming operation surveillance personnel, and gaming operation security employees whose employment duties require or authorize access to the gaming operation facility;

"(e) LICENSING AND REGISTRATION OF GAMING-RELATED CONTRACTORS AND SERVICE INDUSTRIES.—

"(1)(A) All gaming-related contractors and gaming service industries offering goods or services which directly relate to a gaming operation, including gaming equipment manufacturers, suppliers and repairers, schools teaching gaming and either playing or dealing techniques, and gaming operation security services, shall be licensed in accordance with the provisions of this Act prior to conducting any business whatsoever with a gaming operation applicant or licensee, its employees or agents, and in the case of a school, prior to enrollment of any students or offering of any courses to the public whether for compensation or not, provided that upon a showing of good cause by a gaming operation applicant or licensee for each business transaction, the Commission may permit an applicant for a gaming-related contractor or gaming service industry license to conduct business transactions with such gaming operation applicant or licensee prior to the licensure of that gaming-related contractor or gaming service industry applicant under this subsection;

"(B)(i) In addition to the requirements of paragraph (A) of this subsection, any gaming-related contractor or gaming service industry intending to manufacture, sell, distribute or repair gambling devices, other than antique slot machines, shall be licensed in accordance with the provisions of this Act prior to engaging in any such activities, provided that—

"(ii) upon a showing of good cause by a gaming operation applicant or licensee for each business transaction, the Commission may permit an applicant for a gaming-related contractor or gaming service industry license to conduct business transactions with the gaming operation applicant or licensee prior to the licensure of that contractor or service industry applicant under this subsection, and provided further that—

(iii) upon a showing of good cause by an applicant required to be licensed as gaming-related contractor or gaming service industry pursuant to this paragraph, the Commission may permit the contractor or service industry applicant to initiate the manufacture of gambling devices or engage in the sale, distribution or repair of gambling devices with any person other than a gaming operation applicant or licensee, its employees or agents, prior to the licensure of that contractor or service industry applicant under this subsection;

"(2)(A) Each gaming-related contractor or gaming service industry in subsection (1) of this section, as well as its owners, management and supervisory personnel and other principal employees must qualify under the standards established for qualification of a gaming operation key employee under this Act;

"(B) In addition, if the business or enterprise is a school teaching gaming and either playing or dealing techniques, each director, instructor, principal employee, and sales representative employed thereby shall be licensed under the standards established for qualification of a key gaming operation employee under this Act, provided that nothing in this subsection shall be deemed to require, in the case of a public school district or a public institution of higher education, the licensure or qualification of any individuals except those instructors and other principal employees responsible for the teaching of playing or dealing techniques;

"(C) The Commission, in its discretion, may issue a temporary license to an applicant for an instructor's license upon a finding that the applicant meets the educational and experimental requirements for such license, that the issuance of a permanent license will be restricted by necessary investigations, and that temporary licensing is necessary for the operation of a gaming school;

"(3)(A) All gaming-related contractors and gaming service industries not included in subsection (1) of this section shall be licensed in accordance with rules of the Commission prior to commencement or continuation of any business with a gaming operation applicant or licensee or its employees or agents;

"(B) Such gaming-related contractors and gaming service industries, whether or not directly related to gaming operations, shall include any person, entity or enterprise contracting with gaming operation applicants or licensees or their employees or agents;

"(C) The Commission may exempt any person or field of commerce from the licensing requirements of this subsection if the person or field of commerce demonstrates—

"(i) that it is regulated by a public agency or that it will provide goods or services in insubstantial or insignificant amounts or quantities, and

"(ii) that licensing is not deemed necessary in order to protect the public interest or to accomplish the policies established by this Act;

"(D) Upon granting an exemption or at any time thereafter, the Commission may limit or place such restrictions thereupon as it may deem necessary in the public interest, and shall require the exempted person to cooperate with the Commission and, upon request, to provide information in the same manner as required of a gaming-related contractor or gaming service industry licensed pursuant to this subsection, provided that no exemption be granted unless the gaming-related contractor or gaming service industry complies with the requirements of this section of this Act.

(8) Section 9 of the Act (25 U.S.C. 2708) is amended to read as follows:

"SEC. 9. REQUIREMENTS FOR THE CONDUCT OF CLASS I AND CLASS II GAMING ON INDIAN LANDS.

"(a) CLASS I GAMING.—Class I gaming on Indian lands is within the exclusive jurisdiction of the Indian tribes and shall not be subject to the provisions of this Act;

"(b) CLASS II GAMING.—(1) Any Class II gaming on Indian lands shall continue to be within the jurisdiction of the Indian tribes, but shall be subject to the provisions of this Act;

"(2) An Indian tribe may engage in, or license and regulate class II gaming on Indian lands within such tribe's jurisdiction, if—

"(A) such Indian gaming is located within a State that permits such gaming for any purpose by any person, organization or entity;

"(B) such gaming is not otherwise specifically prohibited on Indian lands by Federal law; and

"(C) the Class II gaming operation meets the requirements of sections 7 and 9 of this Act;

"(3) The Commission shall insure that any class II gaming operation on Indian lands meets the following requirements—

"(A) a separate license is issued by the Indian tribe for each place, facility, or location on Indian lands at which Class II gaming is conducted;

"(B) the Indian tribe has or will have the sole proprietary interest and responsibility for the conduct of any Class II gaming activity, unless the conditions of subsection (3)(I) of this section apply;

"(C) net revenues from any Class II gaming activity are not to be used for purposes other than—

"(i) to fund tribal government operations or programs;

"(ii) to provide for the general welfare of the Indian tribe and its members;

"(iii) to promote tribal economic development;

"(iv) to donate to charitable organizations; or

"(v) to help fund operations of local government agencies;

"(D) annual outside audits of the gaming, which may be encompassed within existing independent tribal audit systems, are provided by the Indian tribal government to the Commission;

"(E) all contracts for supplies, services, or concessions for a contract amount in excess of $10,000 annually, except contracts for professional legal or accounting services, relating to such gaming shall be subject to such independent audits and audit by the Commission;

"(F) the construction and maintenance of a Class II gaming facility, and the operation of Class II gaming is conducted in a manner which adequately protects the environment and the public health and safety; and

"(G) there is an adequate system which—

"(i) ensures that background investigations are conducted on primary management officials, key employees and persons having a material involvement, either directly or indirectly, in a licensed Class II gaming operation, and gaming-related contractors associated with a licensed Class II gaming operation and that oversight of such officials and their management is conducted on an ongoing basis; and

"(ii) includes—

"(I) tribal licenses for persons involved in Class II gaming operations, including but not limited to key employees, gaming related contractors, gaming service industries, and any person having a material involvement, either directly or indirectly, with a licensed gaming operation in accordance with Section 8 of this Act;

"(II) a standard whereby any person whose prior activities, criminal record, if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming shall not be eligible for employment; and

"(III) notification by the Indian tribal government to the Commission of the results of such background investigation before the issuance of any of such licenses;

"(H) Net revenues from any Class II gaming activities conducted or licensed by any Indian tribal government may be used to make per capita payments to members of the Indian tribe only if—

"(i) the Indian tribe has prepared a plan to allocate revenues to uses authorized by paragraph (3)(C) of this section;

"(ii) the plan is approved by the Secretary as adequate, particularly with respect to uses described in clause (i) or (iii) of paragraph (3)(C) of this section;

"(iii) the interests of minors and other legally incompetent persons who are entitled to receive any of the per capita payments are protected and preserved and the per capita payments are disbursed to the parents or legal guardian of such minors or legal incompetents in such amounts as may be necessary for the health, education, or welfare of the minor or other legally incompetent person under a plan approved by the Secretary and the governing body of the Indian tribe; and

"(iv) the per capita payments are subject to federal taxation and tribes notify members of such tax liability when payments are made;

"(I)(i) A separate license is issued for any Class II gaming operation owned by any person or entity other than the Indian tribal government and conducted on Indian lands, and such license includes the requirements set forth in the subclauses of subparagraph (C)(i) and are at lest as restrictive as those established by State law governing similar gaming with the jurisdiction of the State within which such Indian lands are located;

"(ii) No person or entity, other than the Indian tribal government, shall be eligible to receive a tribal license to own a Class II gaming operation conducted on Indian lands within the jurisdiction of the Indian tribe if such person or entity would not be eligible to receive a State license to conduct the same activity within the jurisdiction of the State;

"(iii) The provisions of subparagraph (i) of this paragraph and the provisions of subparagraphs (B) and (C) of subsection (3) shall not bar the continued operation of an individually-owned Class II gaming operation that was operating on September 1, 1986, if—

"(I) such gaming operation is licensed and regulated by an Indian tribal government;

"(II) income to the Indian tribal government from such gaming is used only for the purposes described in paragraph (c)(3) of this subsection,

"(III) not less than 60 percent of the net revenues is income to the licensing tribal government, and

"(IV) the owner of such gaming operation pays an appropriate assessment to the Commission under section 15 for regulation of such gaming;

"(iv) The exemption from application of this subsection provided under this subparagraph may not be transferred to any person or entity and shall remain in effect only so long as the gaming operation remains within the same nature and scope as operated on October 17, 1988;

"(v) The Commission shall maintain a list of each individually-owned gaming operation to which clause (iii) applies and shall publish such list in the Federal Register;

"(d)(1) LICENSE REVOCATION.—If, after the issuance of a license by an Indian tribal government, reliable information is received from the Commission indicating that any licensee does not meet the standards established under section 8 and the regulations promulgated by the Commission, the Indian tribal government shall suspend such license and, after notice and hearing, may revoke such license.

(9) Section 10 of the Act (25 U.S.C. 2709) is amended to read as follows:

SEC. 10. CLASS III GAMING ON INDIAN LANDS.

"(a). REQUIREMENTS FOR THE CONDUCT OF CLASS III GAMING ON INDIAN LANDS.—

"(1) Class III gaming activities shall be lawful on Indian lands only if such activities are-

"(A) authorized by a compact that:

"(i) is adopted by the governing body of the Indian tribe having jurisdiction over such lands,

"(ii) meets the requirements of subsection (b) of this section, and

"(iii) is approved by the Secretary;

"(B) located in a State where the requirements of this section of the Act are satisfied, and the gaming activity is determined to be eligible for inclusion in a compact in accordance with the provisions of this section of the Act;

"(C) conducted in conformance with a compact entered into by the Indian tribe under paragraph (3) that is in effect.

"(D) the Class III gaming operation meets the requirements of Sections 7, 8, 10 and 11 of this Act.

"(2)(A) The governing body of an Indian tribe, in its sole discretion, may adopt an ordinance or resolution revoking any prior ordinance or resolution that authorized Class III gaming on the Indian lands of the Indian tribe. Such revocation shall render Class III gaming illegal on the Indian lands of such Indian tribe.

"(B) The Indian tribe shall submit any revocation ordinance or resolution described in subparagraph (A) to the Chairman. The Chairman shall publish such ordinance or resolution in the Federal Register and the revocation provided by such ordinance or resolution shall take effect on the date of such publication.

"(C) Notwithstanding any other provision of this subsection—

"(i) any person or entity operating a Class III gaming activity pursuant to this paragraph on the date on which an ordinance or resolution described in subparagraph (A) that revokes authorization for such Class III gaming activity is published in the Federal Register may, during the 1-year period beginning on the date on which such revocation ordinance or resolution is published under subparagraph (B), continue to operate such activity in conformance with the compact entered into under paragraph (3) that is in effect; and

"(ii) any civil action that arises before, and any crime that is committed before, the close of such 1-year period shall not be affected by such revocation ordinance or resolution.

"(3)(A)(i) Any Indian tribe having jurisdiction over the lands upon which a Class III gaming activity is to be conducted may request the Secretary to enter into negotiations for a compact.

"(ii) Such request shall be in writing and shall specify the gaming activity or activities to be included in the compact and within 30 days the Secretary shall determine if any such requested activities should not be included in the compact under the laws of the State in which the Indian tribe is located in conformity with the standards set forth in subparagraphs (C) and (D) of this subsection and shall so notify the Indian tribe.

"(iii) Such negotiations shall be completed within 120 days after the expiration of the 60-day period in subparagraph (B)(iii) of this subsection.

"(iv) Any compact negotiated under this paragraph shall be effective upon its publication in the Federal Register by the Secretary.

"(v) The Commission, pursuant to section 7, shall monitor, regulate and license Class III gaming with respect to any compact negotiated under this paragraph and published by the Secretary in the Federal Register.

"(vi) Any compact negotiated under this paragraph shall be for a fixed term of years, consistent with the purposes of this Act.

"(vii) A tribal request for a change in a compact shall be considered a request for purposes of this subsection.

"(B)(i) When an Indian tribe makes a request pursuant to subparagraph (A), it shall also notify the State within which the gaming activity is to be conducted.

"(ii) Such notice to the State shall include the specific gaming activities which the Indian tribe is requesting that the Secretary include in the compact.

"(iii) Within 60 days from such notification, the State may request the Indian tribe to enter into negotiations for a compact. The State and Indian tribe by mutual agreement may extend the 60-day period.

"(iv) When a State requests an Indian tribe to negotiate a compact within the designated time period, that request shall toll the operation of subparagraph (A), and shall be deemed to constitute a voluntary waiver of the sovereign immunity of the State for the purposes of this Act.

"(C) Any compact negotiated under subparagraph (A) may include provisions relating to—

"(i) the application of the criminal and civil laws and regulations of the Indian tribe or the State that are directly related to, and necessary for, the licensing and regulation of such activity;

"(ii) the allocation of criminal and civil jurisdiction between the State and the Indian tribe necessary for the enforcement of such laws and regulations;

"(iii) the assessment by the State of such activities in such amounts as are necessary to defray the costs of regulating such activity;

"(iv) taxation by the Indian tribe of such activity in amounts comparable to amounts assessed by the State for comparable activities;

"(v) remedies for breach of contract;

"(vi) standards for the operation of such activity and maintenance of the gaming facility, including licensing; and

"(vii) any other subjects that are reasonably related to the operation of gaming activities, and the impact on tribal, State, and local governments.

"(4) Except for any assessments for services agreed to by an Indian tribe in compact negotiations, nothing in this section shall be construed as conferring upon a State or any of its political subdivisions the authority to impose any tax, fee, charge or other assessment upon an Indian tribe, an Indian gaming operation or the value generated therein, or any person or entity authorized by an Indian tribe to engage in a Class III gaming activity in conformity with the provisions of this Act.

"(5) Nothing in this subsection shall impair the right of an Indian tribe to regulate Class III gaming on its Indian lands concurrently with the State and the Commission, except to the extent that such regulation is inconsistent with, or less stringent than, this Act or the laws and regulations made applicable by any compact entered into by the Indian tribe under paragraph (3) that is in effect.

"(6) The provisions of section 5 of the Act of January 2, 1951 (15 U.S.C. 1175) shall not apply to any gaming activity conducted pursuant to a compact entered into after the effective date of the Indian Gaming Regulatory Act Amendments Act, but in no event shall this paragraph, as amended by such Act, be construed as invalidating any exemption from section 5 under this Act prior to its enactment by the Indian Gaming Regulatory Act Amendments Act of 1994, or under any compact, or procedure in lieu of a compact, in effect on the date of enactment of the Indian Gaming Regulatory Act Amendments Act.

"(7)(A) The United States district courts shall have jurisdiction over—

"(i) any cause of action for a declaratory judgment brought by an Indian tribe or a State pursuant to subparagraph (C), or the review of any decision by the Secretary with regard to the gaming activities which are subject to inclusion in a compact or to resolve any dispute pursuant to subparagraph (E) or (F);

"(ii) any cause of action initiated by a State or Indian tribe to enjoin a Class III gaming activity located on Indian lands and conducted in violation of any compact entered into under paragraph (3) that is in effect; or

"(iii) any cause of action initiated by the Secretary to enforce any provision of a compact.

"(B)(i) Where a State elects to negotiate a compact, within 30 days after notice of the election, the State shall notify the tribe if it determines that any gaming activity requested is prohibited as a matter of State criminal law and is not otherwise subject to negotiation under this Act.

"(ii) Following the State's notification to the tribe of its determination, the parties shall have 30 days in which to meet and confer to resolve any dispute regarding the State's determination.

"(iii) Notwithstanding any declaratory judgment action pending under subparagraph (C), a tribe and State may negotiate and establish procedures for mediating any issue not subject to the declaratory judgment action.

"(C) No later than 120 days after the State has notified the tribe of its election to negotiate a compact, or such longer period as may be agreed to in writing by the parties, either party may initiate an action in an appropriate United States district court for a declaration whether the disputed gaming activity is subject to compact negotiation under this Act. In any such declaratory action, the court shall declare that the disputed gaming activity as a matter of Federal law shall be the subject of negotiation if it finds that—

"(i) the disputed gaming activity is not prohibited as a matter of State criminal law, or

"(ii) even if the disputed activity is prohibited as a matter of State criminal law, the gaming activity meets one or more of the following criteria:

"(I) Its principal characteristics are not distinguishable from a gaming activity that is not prohibited by State criminal law and there is no rational basis for differentiating between the disputed gaming activity and the activity not prohibited by the state;

"(II) State law permits the disputed gaming activity subject to regulation;

"(III) As a matter of State law any person, organization, or entity within the State may engage in the disputed gaming activity for any purpose, except that the permitting of a social gaming activity does not make that activity subject to negotiations pursuant to this section after the date of the enactment of the Indian Gaming Regulatory Act Amendments Act; provided that this exception shall have no effect on the continued validity of any compacts or procedures in lieu thereof which are in effect on the date of enactment of the Indian Gaming Regulatory Act Amendments Act;

"(D) In any determination of whether a gaming activity is subject to compact negotiation under this Act, the following categories of gaming activities are distinguishable from each other:

"(i) gambling device;

"(ii) lottery game;

"(iii) banking game;

"(iv) parimutuel wagering;

"(v) other games of chance.

"(E) Where the State elects to negotiate a compact under this Act, the negotiation shall be completed within 120 days after the expiration of the 60-day period in paragraph (3)(B)(iii) of this subsection, unless the State and Indian tribe by mutual agreement extend the time period.

"(F) The Secretary in consultation with the Indian tribes and the States shall develop a panel of independent mediators which shall be periodically updated. If after 120 days from a State's request for negotiations or a final declaratory judgment not subject to further review, the State and Indian tribe have not agreed to recommend a compact to the Secretary, the State and Indian tribe shall enter into compulsory mediation, pursuant to the following procedures:

"(i) The Secretary shall provide the State and Indian tribe with a list of names of 3 mediators randomly selected from the panel of independent mediators. The State and Indian tribe each shall remove a different 1 of the 3 from the list, and the remaining mediator shall conduct the mediation.

"(ii) The mediator shall attempt to achieve a compact within a 60-day period, which period may be extended at the agreement of the State and Indian tribe.

"(iii) If compulsory mediation fails, the State and Indian tribe shall submit their last best offer to the mediator, who shall evaluate the offers under the terms of the Act and recommend a compact to the Secretary, except that by mutual agreement the parties may substitute either compulsory arbitration, or a decision by the Secretary instead of a mediator's recommendation.

"(iv) The recommended compact also shall include such provisions which in the opinion of the mediator or arbitrator best meet the objectives of this Act and are consistent with any declaratory judgment issued pursuant to subparagraph (C).

"(G) If the parties or the mediator or arbitrator pursuant to this paragraph recommend a compact to the Secretary, the Secretary shall approve such compact and shall publish it in the Federal Register; except that the compact shall not be approved by the Secretary unless it contains provisions for internal controls which are consistent with this Act and the regulations promulgated by the Commission, including, without limitation, provisions relating to cash flow transactions, recordkeeping and reporting, accounting, security, licensing and training of employees, and related matters. The compact also shall not be approved if it violates—

"(i) any provision of this Act or the regulations promulgated by the Commission;

"(ii) any other provision of Federal law that does not relate to jurisdiction over gaming on Indian reservations; or

"(iii) the trust obligations of the United States to Indians.

"(H) Except for an appeal under subchapter II of chapter 5, of title 5, United States Code, by an Indian tribe or State on the publication of a compact, publication of a compact pursuant to this subsection which permits a form of Class III gaming shall, for the purposes of this Act, be conclusive evidence that such Class III gaming is an activity subject to negotiations under the laws of the State where the gaming is to be conducted, in any matter under consideration by the Commission or a Federal court.

"(I) If the Secretary does not approve or disapprove a compact under this subsection before the date that is 45 days after the date that the compact is submitted to the Secretary for approval, or after the expiration of the 180-day period with respect to the last compact proposal in subparagraph (3), the compact shall be considered approved, but only to the extent that the compact is consistent with the provisions of this Act and any regulations promulgated by the Commission.

"(J) The Secretary shall publish in the Federal Register notice of any compact that has been approved, or considered to have been approved, under this paragraph.

"(8)(A) The Secretary is authorized to approve any compact entered into between an Indian tribe and a State governing gaming on Indian lands of such Indian tribe.

"(B) The Secretary may disapprove a compact described in subparagraph (A) only if such compact violates—

"(i) any provision of this Act or the regulations promulgated by the Commission;

"(ii) any other provision of Federal law that does not relate to jurisdiction over gaming on Indian lands, or

"(iii) the trust obligations of the United States to Indians.

"(C) If the Secretary does not approve or disapprove a compact described in subparagraph (A) before the date that is 45 days after the date on which the compact is submitted to the Secretary for approval, the compact shall be considered to have been approved by the Secretary, but only to the extent the compact is consistent with the provisions of this Act and the regulations promulgated by the Commission.

"(D) The Secretary shall publish in the Federal Register notice of any compact that is approved, or considered to have been approved, under this paragraph.

"(b) Effect of Amendments.—Class III gaming activities that are as a matter of Federal law, lawful in any jurisdiction on the date of enactment of the Indian Gaming Regulatory Act Amendments Act of 1994, shall, notwithstanding any provisions of this Act, remain lawful for purposes of section 10.

(10) Section 11 of the Act (25 U.S.C. 2710) is amended to read as follows:

SEC. 11. REVIEW OF CONTRACTS.

"(a) Contracts Included.—The Commission shall review and approve or disapprove—

"(1) any management contract for the operation and management of any gaming activity that an Indian tribe may engage in under the Act; and

(2) gaming-related contracts

"(b) Management Contract Requirements.—The Commission shall approve any management contract between an Indian tribe and a person or entity licensed by an Indian tribe or the Commission which is entered into pursuant to this Act only if it determines that the contract provides for—

"(1) adequate accounting procedures that are maintained and for verifiable financial reports that are prepared by or for the governing body of the Indian tribe on a monthly basis;

"(2) access to the daily gaming operations by appropriate officials of the Indian tribe who shall have the right to verify the daily gross revenues and income derived from any gaming activity;

"(3) a minimum guaranteed payment to the Indian tribe that has preference over the retirement of any development and construction costs;

"(4) an agreed upon ceiling for the repayment of any development and construction costs;

"(5) grounds and mechanisms for the termination of the contract, but any such termination shall not require the approval of the Commission; and

"(6) such other provisions as the Commission deems necessary as provided for in regulations promulgated by the Commission.

"(c) Maximum Terms and Fees for Management Contracts.—The Commission may approve a management contract providing for a fee of up to 40 percent of net revenues from an Indian gaming activity determined in accordance with generally accepted accounting principles and a term of up to ten years, pursuant to regulations to be promulgated by the Commission. Such regulations shall take into consideration the nature of the management services being provided, the capital investment being made, the income projections for the particular gaming activity, and any other factors the Commission deems relevant.

"(d) Gaming-Related Contract Requirements.—The Commission shall approve a gaming related contract between an Indian tribe and a person or entity licensed by the Commission which is entered into pursuant to this Act only if it determines that the contract provides for—

"(1) grounds and mechanisms for termination of the contract, but such termination shall not require the approval of the Commission; and

"(2) such other provisions as the Commission deems necessary as provided for in regulations promulgated by the Commission.

"(e) Time Period for Review.—By no later than the date that is 180 days after the date on which a management contract or other gaming-related contract is submitted to the Commission for approval, the Commission shall approve or disapprove such contract on its merits. The Commission may extend the 180-day period by not more than 90 days if the Commission notifies the Indian tribe in writing of the reason for the extension of time. The Indian tribe may bring an action in a Federal district court to compel action by the Commission if a contract has not been approved or disapproved within the period required by this subsection.

"(f) Contract Modifications and Void Contracts.—The Commission, after notice and hearing, shall have the authority to require appropriate contract modifications or may void any contract if it determines that any of the provisions of this Act have been violated.

"(g) Interests in Real Property.—No contract regulated by this Act shall transfer or, in any other manner, convey any interest in land or other real property, unless specific statutory authority exists and such transfer or conveyance is clearly specified in the contract.

"(h) Authority of the Secretary.—The authority of the Secretary under section 2103 of the Revised Statutes (25 U.S.C. 81) does not extend to any contracts which are regulated pursuant to this Act.

"(i) Disapproval of Contracts.—The Commission shall not approve any contract if it determines that—

"(1) any person having a direct financial interest in, or management responsibility for, such contract, and, in the case of a corporation, those individuals who serve on the board of directors of such corporation and each of its stockholders who hold (directly or indirectly) 10 percent or more of its issued and outstanding stock—

"(A) is an elected member of the governing body of the Indian tribe which is the party to the contract;

"(B) has been or subsequently is convicted of any felony or gaming offense;

"(C) has knowingly and willfully provided materially important false statements or information to the Commission or the Indian tribe pursuant to this Act or has refused to respond to questions propounded by the Commission; or

"(D) has been determined to be a person whose prior activities, criminal record, if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto;

"(2) the contractor has, or has attempted to, unduly interfere or influence for its gain or advantage any decision or process of tribal government relating to the gaming activity;

"(3) the contractor has deliberately or substantially failed to comply with the terms of the contract; or

"(4) a trustee, exercising the skill and diligence that a trustee is commonly held to, would not approve the contract.

(11) Section 12 of the Act (25 U.S.C. 2711) is amended as read as follows:

"SEC. 12. REVIEW OF EXISTING COMPACTS AND CONTRACTS; INTERIM AUTHORITY.

"(a) Review of Existing Compacts.—(1) At any time after the Commission authorized by the Indian Gaming Regulatory Act Amendments Act has been sworn in and regulations have been promulgated for the implementation of the Act as amended, the Commission shall notify each Indian tribe and state which, prior to the enactment of the Indian Gaming Regulatory Act Amendments Act, entered into a compact that was approved by the Secretary, that the compact must be submitted to the Commission for its review within 60 days of such notification. Any such compact shall be valid under this Act and shall remain in full force and effect in accordance with its terms, unless the Commission determines that the regulatory and licensing provisions of the compact fail to meet the requirements of this Act and any regulations promulgated by the Commission.

"(2) If the Commission should determine that a compact fails to meet the regulatory and licensing requirements of this Act and any regulations promulgated by the Commission, then the Commission shall so notify the Indian tribe and the State and the Commission shall provide for the direct regulation and licensing of the gaming activities authorized by such compact pursuant to this Act until such time as the Indian tribe or the Indian tribe and the State have developed regulations and licenses to govern the gaming activity which meet or exceed the requirements imposed by this Act and any regulations promulgated by the Commission.

"(b) Review of Existing Contracts.—(1) At any time after the Commission authorized by the Indian Gaming Regulatory Act Amendments Act is sworn in and promulgated regulations for the implementation of the Act as amended, the Commission shall notify each Indian tribe and management contractor who, prior to the enactment of the Indian Gaming Regulatory Act Amendments Act, entered into a management contract that was approved by the Secretary, that such contract, including all collateral agreements relating to the gaming activity, must be submitted to the Commission for its review within 60 days of such notification. Any such contract shall be valid under this Act, unless it is disapproved by the Commission under this section.

"(2)(A) Within 180 days after the submission of a management contract, including all collateral agreements, pursuant to this section, the Commission shall subject such contract to the requirements and procedures under section 11 of this Act.

"(B) If the Commission determines that a management contract submitted under this section meets the requirements of section 11, and the management contractor obtains all of the required licenses, the Commission shall approve the management contract.

"(C) If the Commission determines that a contract submitted under this section does not meet the requirements of section 11, then the Commission shall provide written notification to the parties to such contract of the necessary modifications and the parties shall have 180 days to make the modifications.

"(c) Interim Authority of the National Indian Gaming Commission.—Notwithstanding any other provision of this Act, the Secretary and the Chairman and the associate members of the National Indian Gaming Commission who are holding office on the date of enactment of the Indian Gaming Regulatory Act Amendments Act shall continue to exercise those authorities vested in them by the Act until such time as the members of the Commission authorized by the Act as amended are sworn into office. The Commission authorized by the Act as amended shall exercise all of the authority conferred on it by the Act as amended and shall enforce all of the regulations previously promulgated under the Act until the same are revised or superseded by regulations promulgated by the Commission to implement the Act as amended.

(12) Section 13 of the Act (25 U.S.C. 2712) is repealed.

(13) Section 14 of the Act (25 U.S.C. 2713) is redesignated as section 13 and is amended to read as follows:

"SEC. 13. CIVIL PENALTIES.

"(a) Amount.—Any person who commits any act or causes to be done any act that violates any provision of this Act or the rules or regulations promulgated thereunder, or omits to do any act or causes to be omitted any act that is required by any provision or such rule or regulation shall be subject to a civil penalty not to exceed $50,000 per day for each such violation.

"(b) Assessment and Collection.—Any civil penalty under this section shall be assessed by the Commission and collected in a civil action brought by the Attorney General on behalf of the United States. Before referral of civil penalty claims to the Attorney General, civil penalties may be compromised by the Commission after affording the person charged with a violation of this Act, or the rules or regulations promulgated by the Commission an opportunity to present views and evidence in support thereof to establish that the alleged violation did not occur. In determining the amount of such penalty, the Commission shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior violations, ability to pay, the effect on ability to continue to do business, and such other matters as justice may require.

"(c) Temporary Closures.—(1) The Commission may order the temporary closure of all or part of an Indian gaming operation for substantial violations of the provisions of this Act or rules or regulations promulgated by the Commission.

"(2) Not later than 30 days after the issuance of an order of temporary closure, the Indian tribe or the individual owner of a gaming operation shall have the right to request a hearing before the Commission to determine whether such order should be made permanent or dissolved. A hearing shall be conducted within 30 days after the request for a hearing and a final decision shall be rendered 30 days after the completion of the hearing.

(14) Section 15 of the Act (25 U.S.C. 2714) is redesignated as section 14 and is amended to read as follows:

"SEC. 14. JUDICIAL REVIEW.

"Decisions made by the Commission pursuant to sections 7, 8, 9, 10, 11, 12, and 13 shall be final agency decisions for purposes of appeal to the appropriate Federal district court pursuant to chapter 7 of title 5".

(15) Section 16 of the Act (25 U.S.C. 2715) is repealed.

(16) Section 17 of the Act (25 U.S.C. 2716) is repealed.

(17) Section 18 of the Act (25 U.S.C. 2717) is redesignated as section 15 and is amended to read as follows:

"SEC. 15. COMMISSION FUNDING.

"(a) Annual Fees.—(1) The Commission shall establish a schedule of fees to be paid to the Commission annually by each Class II and Class III gaming activity that is regulated by this Act.

"(2) The rate of the fees imposed under the schedule established under paragraph (1) shall be not less than 0.5 percent nor more than 2 percent of the gross revenues of each gaming operation regulated by this Act.

"(3) The Commission, by a vote of a majority of its members, shall annually adopt the rate of the fees authorized by this section which shall be payable to the Commission on a monthly basis.

"(4) The fees to be paid by a gaming operation may be adjusted downward by the Commission to the extent that regulatory functions are performed by the tribe or the tribe and a state, pursuant to regulations promulgated by the Commission.

"(5) Failure to pay the fees imposed under the schedule established under paragraph (1) shall, subject to the regulations of the Commission, be grounds for revocation of the approval of the Commission of any license required under this Act for the operation of gaming activities.

"(6) To the extent that revenue derived from fees imposed under the schedule established under paragraph (1) are not expended or committed at the close of any fiscal year, such surplus funds shall be credited to each gaming activity on a pro rata basis against such fees imposed for the succeeding year.

"(7) For purposes of this section, gross revenue shall constitute the annual total amount of money wagered, less any amounts paid out as prizes or paid for prizes awarded and less allowance for amortization of capital expenditures for structures.

"(b) Reimbursement of Costs.—The Commission is authorized to assess any applicant, except the governing body of an Indian tribe, for any license required pursuant to this Act for the actual costs of conducting all reviews and investigations necessary to determine whether a license should be granted or denied pursuant to this Act.

"(c)(1) The Commission, in conjunction with the fiscal year of the United States, shall adopt an annual budget for the expenses and operation of the Commission.

"(2) The budget of the Commission may include a request for appropriations as authorized by section 16 of this Act.

"(3) A request for appropriations pursuant to paragraph (2) shall be submitted by the Commission directly to the Congress beginning in the first full fiscal year after the date of enactment of the Indian Gaming Regulatory Act Amendments Act.

(18) Section 19 of the Act (25 U.S.C. 2718) is redesignated as section 16 and is amended to read as follows:

"SEC 16. AUTHORIZATION OF APPROPRIATIONS.

"Subject to the provisions of section 15 of this Act, there are hereby authorized to be appropriated and to remain available until expended, $5,000,000 to provide for the operation of the Commission for fiscal years 1996, 1997 and 1998.

(19) Section 20 of the Act (25 U.S.C. 2719) is redesignated as section 17 and is amended to read as follows:

"SEC. 17. GAMING ON LANDS ACQUIRED AFTER ENACTMENT OF THIS ACT.

"(a) Gaming Proscribed on Lands Acquired in Trust.—Except as provided in subsection (b), gaming regulated by this Act shall not be conducted on lands acquired by the Secretary in trust for the benefit of an Indian tribe after the date of enactment of this Act unless—

"(1) such lands are located within or contiguous to the boundaries of the reservation of the Indian tribe on the date of enactment of this Act; or

"(2) the Indian tribe has no reservation on the date of enactment of this Act and—

"(A) such lands are located in Oklahoma and

"(i) are within the boundaries of the Indian tribe's former reservation, as defined by the Secretary, or

"(ii) are contiguous to other land held in trust or restricted status by the United States for the Indian tribe in Oklahoma; or

"(B) such lands are located in a State other than Oklahoma and are within the Indian tribe's last recognized reservation within the State or States within which such Indian tribe is presently located.

"(b) Exceptions.—Subsection (a) will not apply when—

"(1) the Secretary, after consultation with the Indian tribe and a review of the recommendations, if any, of the Governor of the State in which such lands are located, and any other State and local officials, including officials of other Indian tribes or adjacent States, determines that a gaming establishment would be in the best interest of the Indian tribe and its members, and would not be detrimental to the surrounding community; or

"(2) lands are taken in trust as part of—

"(A) a settlement of a land claim,

"(B) the initial reservation of an Indian tribe acknowledged by the Secretary under the Federal acknowledgment process, or

"(C) the restoration of lands for an Indian tribe that is restored to Federal recognition.

"(3) Subsection (a) shall not apply to—

"(A) any lands involved in the trust petition of the St. Croix Chippewa Indians of Wisconsin that is the subject of the action filed in the United States District Court for the District of Columbia entitled *St. Croix Chippewa Indians of Wisconsin v. United States*, Civ. No. 86–2278, or

"(B) the interests of the Miccosukee Tribe of Indians of Florida in approximately 25 contiguous acres of land, more or less, in Dade County, Florida, located within one mile of the intersection of State Road Numbered 27 (also known as Krome Avenue) and the Tamiami Trail.

"(c) AUTHORITY OF THE SECRETARY.—Nothing in this section shall affect or diminish the authority and responsibility of the Secretary to take land into trust.

"(d) APPLICATION OF THE INTERNAL REVENUE CODE.—(1) The provisions of the Internal Revenue Code of 1986 (including sections 1441, 3402(q), 6041, and chapter 35 of such Code) concerning the reporting and withholding of taxes with respect to the winnings from gaming or wagering operations shall apply to Indian gaming operations conducted pursuant to this Act, or under a compact entered into under Section 10 of this Act that is in effect, in the same manner as such provisions apply to State gaming and wagering operations, and any exemptions allowed to States from taxation of such gaming or wagering operations shall be allowed to Indian tribes.

"(2) The provisions of section 6050I of the Internal Revenue Code of 1986 shall apply to an Indian gaming establishment not designated by the Secretary of the Treasury as a financial institution pursuant to chapter 53 of title 31, United States Code.

"(3) The provisions of this subsection shall apply notwithstanding any other provision of law enacted before, on, or after the date of enactment of this Act unless such other provision of law specifically cites this subsection.

(20) Section 21 of the Act (25 U.S.C. 2720) is redesignated as section 18.

(21) Section 22 of the Act (25 U.S.C. 2721) is redesignated as section 19.

(22) Section 23 of the Act is redesignated as section 20.

(23) Section 24 of the Act is redesignated as section 21.

(24) At the end of the Act, add the following new section 22:

"SEC. 22. Section 5312(a)(2) of title 31, United States Code, is amended—

(1) by redesignating subparagraphs (X) and (Y) as subparagraphs (Y) and (Z) respectively; and

(2) by inserting after subparagraph (W) the following new subparagraph:

"(X) an Indian gaming establishment:".

Mr. WELLSTONE. Mr. President, let me commend my two colleagues, the Senator from Hawaii and the Senator from Arizona.

I am honored to serve on the Select Committee on Indian Affairs. There simply are not two Senators who are more committed to Indian people in this country, and they are dealing with an extremely difficult issue.

I appreciate their leadership. I am going to carefully examine this, and I hope to be able to work with them and be part of this effort.

I thank them and their staffs for really very, very important work.

By Mr. BINGAMAN (for himself, Mrs. BOXER, Mr. DECONCINI, and Mrs. HUTCHISON):

S. 2231. A bill to amend the Federal Water Pollution Control Act (commonly known as the "Clean Water Act") to authorize appropriations for each of fiscal years 1994 through 2001 for the construction of wastewater treatment works to provide water pollution control in or near the United States-Mexico border area, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BINGAMAN (for himself and Mr. DECONCINI) (by request):

S. 2232. A bill to amend the Federal Water Pollution Control Act to authorize appropriations for each of fiscal years 1994 through 1998 for the construction of wastewater treatment works to serve United States colonias by providing water pollution control in the vicinity of the international boundary between the United States and Mexico, and for other purposes; to the Committee on Environment and Public Works.

CLEAR WATER ACT AMENDMENT LEGISLATION

Mr. BINGAMAN. Mr. President, today I am introducing legislation to amend the Clean Water Act. I believe this bill is particularly important because it follows through on a critical commitment. That is a commitment that convinced many of my colleagues in the Senate to ultimately pass the North American Free-Trade Agreement. This pledge was to ensure the cleanup and future preservation of the environment along the United States-Mexico border—an area already suffering from a lack of infrastructure which is needed to provide the basic level of protection to human health and the environment.

The legislation I am introducing today—the United States-Mexico Border Water Pollution Control Act—will authorize funding for the specific construction of international wastewater treatment facilities in the vicinity of the United States-Mexico border.

Mr. President, the United States-Mexico border stretches 2,000 miles and consists of over 9 million people living within 65 miles of that border. Rapid population growth and industrialization in the border cities has overwhelmed existing wastewater, water supply, and solid waste infrastructure. Untreated domestic and industrial sewage currently flows north to the United States and into the Rio Grande River. Thousands of residents lack safe drinking water and adequate solid waste disposal facilities.

The Federal Government must meet NAFTA's promise that bilateral cooperation and funding of environmental cleanup projects will be a top priority. The NAFTA agreement establishes a new environmental infrastructure which gives United States-Mexico border communities a much greater role in determining their needs and how to fill them. Specifically, the NAFTA agreement establishes the Border Environmental Cooperation Commission [BECC]—which will assist border States and local communities to coordinate, design and finance environmental infrastructure projects with a crossborder impact.

The BECC will have a binational board of directors comprising of five members from each country. The U.S. members will consist of the Administrator of the Environmental Protection Agency, the Commissioner of the International Boundary and Water Commission, and three other border representatives. The BECC will include an advisory council with nine members from each country.

The main purposes of this organization is to help find the financing for high priority border projects. However, the Environmental Protection Agency will have to provide initial grants for wastewater projects. Mexico and the United States have each committed to provide $700 million in Federal grants over 7 to 10 years.

While the President has requested $100 million for fiscal year 1995 for border infrastructure funding, EPA must have congressional authorization to receive funding. The legislation I am introducing today would provide the needed authorization.

I want to make clear that while this funding is for binational projects, U.S. citizens will realize substantial benefits from potential border infrastructure improvements. About 6 million people live in metropolitan areas along the United States-Mexico border. This population is critically impacted by water pollution coming across the border from Mexico in areas such as the Tijuana River and New River in California, the Santa Cruz River in Arizona, and the Rio Grande in Texas and my home State of New Mexico. By investing in water pollution control in these areas, there is a direct and important benefit to U.S. citizens in terms of health protection, crop protection, and improved recreational benefits and increased property values.

I also want to stress how important the authorization of the BECC is for the entire population of the country. The United States has a strong competitive advantage for providing equipment, instrumentation and professional services for the construction of Mexico wastewater facilities along the border. With a potential need of almost $8 billion in border water-related facilities over the next decade, up to $2 billion of business could be generated in U.S. products and services. United States jobs will be generated in the equipment manufacturing and professional services sectors which are found in almost all 50 States.

For example, the Flyght Corp. which manufactures pumps in Norwalk, CT, supplies pumps for all the International Boundary Water Commission projects. In another border project, the concession was granted to the U.S. Filter Corp., which has manufacturing, processing, and assembling facilities located in Iowa, New Jersey, Minnesota, the State of Washington, Illinois, and Pennsylvania. Most pump manufacturers are located in the Northeast United States and in Midwestern States such as Wisconsin, Michigan, Kansas, Missouri, and Indiana. With the passage of this legislation and the authorization of the BECC, U.S. companies all over the country stand to benefit.

Specifically, the bill I am introducing today would allow EPA to provide financial or other assistance to the Border Environment Cooperation Commission, the International Boundary and Water Commission, the United States and Mexico, and any appropriate Federal Agency, State, or local governmental entity for the design and construction of wastewater treatment facilities in the vicinity of the United States-Mexico border.

Mr. President, this bill authorizes activities that are good for the environment along the United States-Mexico border and good for the economy of the entire United States.

I want to thank EPA Administrator Carol Browner for her leadership in assuring the administration's commitment that NAFTA would provide the needed infrastructure to cleanup and protect the environment of this rapidly growing area.

I look forward to working with my colleagues in the Senate to pass this important legislation.

Mr. President, I would also like to take this opportunity to introduce a bill on behalf of the administration. This legislation—the U.S. Colonias Water Pollution Control Act—would authorize funding for domestic wastewater facilities for colonias in States along the United States-Mexico border.

Mr. President, last July I introduced legislation S. 1286 the Colonias Wastewater Treatment Act of 1993 that would provide desperately needed funding to these U.S. communities. The bill I have been asked to introduce today differs from mine in the amount of funding a State is required to contribute. I am concerned about the State match requirement and have shared this with the Environmental Protection Agency. I am pleased that EPA Administrator Carol Browner has stated she is open to working this issue out so that the affected border States like my home State of New Mexico can participate in the great program. I look forward to working with the EPA and the other border States—Arizona, Texas, and California to reach a compromise on this important issue.

Mr. President, I ask unanimous consent that the text of the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2231

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "U.S.-Mexico Border Water Pollution Control Act".

SEC. 2. WASTEWATER TREATMENT WORKS IN U.S.-MEXICO BORDER AREA.

Title V of the Federal Water Pollution Control Act (33 U.S.C. 1361 et seq.) is amended by adding at the end the following new section:

"WASTEWATER TREATMENT WORKS IN U.S.-MEXICO BORDER AREA

"SEC. 520. (a) PURPOSE.—The purpose of this section is to protect the economy, public health, environment, surface water, ground water, and water quality of the U.S.-Mexico border area which is endangered and is being polluted by raw or partially treated sewage, in furtherance of the goals of the Agreement Between the Government of the United States of America and the Government of the United Mexican States Concerning the Establishment of a Border Environment Cooperation Commission and a North American Development Bank (signed November 16 and 18, 1993), and this Act. This section shall not be construed so as to affect or impair the provisions of any international agreement of the United States. Nor shall this section be construed so as to affect or impair any Federal legislation applicable to the Border Environment Cooperation Commission, the North American Development Bank, or the International Boundary and Water Commission, the United States and Mexico.

'(b) FINANCIAL ASSISTANCE FOR WASTEWATER TREATMENT WORKS.—The Administrator is authorize to provide financial and other assistance to the Border Environment Cooperation Commission, any appropriate Federal, State, or local governmental entity, and the International Boundary and Water Commission, the United States and Mexico, subject to such terms and conditions as the Administrator considers appropriate, for planning, design, and construction of wastewater treatment works for the purposes specified in subsection (a). The wastewater treatment works shall be located, regardless of the place of origin or ultimate destination of the wastewater, in the U.S.-Mexico border area (or near the U.S.-Mexico border area if the treatment works would remedy a transboundary environmental or health problem) and shall be planned, designed, and constructed in accordance with any applicable international agreement to which the United States is a party.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $20,000,000 for fiscal year 1994, $47,500,000 for fiscal year 1995, $100,000,000 for each of fiscal years 1996 through 2000, and $22,000,000 for fiscal year 2001.".

SEC. 3. DEFINITION OF U.S.-MEXICO BORDER AREA.

Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended by adding at the end the following new paragraph:

"(21) The term 'U.S.-Mexico border area' has the meaning the term has under Article 4 of the Agreement Between the United States of America and the United Mexican States on Cooperation for the Protection and Improvement of the Environment in the Border Area (signed on August 14, 1983; commonly known as the 'La Paz Agreement').".

S. 2232

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ASSISTANCE TO UNITED STATES COLONIAS.

Title II of the Federal Water Pollution Control Act (33 U.S.C. 1281 et seq.) is amended by adding at the end the following new section:

"SEC. 220. ASSISTANCE TO UNITED STATES COLONIAS.

"(a) PURPOSE.—The purpose of this section is to protect the economy, public health, environment, surface water, ground water, and water quality in the United States colonias areas, which are endangered and are being polluted by raw or partially treated sewage, in furtherance of the goals of this Act.

"(b) DEFINITON OF UNITED STATES COLONIA.—As used in this section, the term 'United States colonia'—

"(1) means any identifiable community that—

"(A) is in the State of Arizona, California, New Mexico, or Texas;

"(B) is in the area of the United States within 100 kilometers of the border between the United States and Mexico; and

"(C) is determined to be a colonia on the basis of objective criteria, including lack of potable water supply or lack of adequate sewage systems; and

"(2) includes a community within a standard metropolitan statistical area that has a population exceeding 1,000,000, but does not include the entire standard metropolitan statistical area.

"(c) FINANCIAL ASSISTANCE TO UNITED STATES COLONIAS.—The Administrator is authorized to provide financial assistance to any State of the United States along the United States-Mexico border, or to any entity designated by the President, for the construction of treatment works to service United States colonias.

"(d) APPROVAL OF PLANS.—Any wastewater treatment works to serve United States colonias for which financial assistance is provided under this section shall be constructed in accordance with plans approved by the State under appropriate standards required by the Administrator. The plans shall include construction cost estimates and identify responsible parties and the appropriate allocation of costs associated with operating and maintaining the treatment works.

"(e) COST SHARE.—The Federal share of construction costs for grants under this section shall be 50 percent. The non-Federal share shall consist of State funds from State sources.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $60,000,000 for fiscal year 1994 and $50,000,000 for each of fiscal years 1995 through 1998.".

Mrs. HUTCHISON. Mr. President, I would like to voice my strong support for S. 2231 the United States-Mexico Border Water Pollution Control Act, introduced by Senator BINGAMAN today. I am pleased to be an original cosponsor of this legislation.

This bill addresses a reality that citizens who live near the Rio Grande River, which is the United States-Mexico border in Texas, face every day: pollution from raw or partially treated sewage. The awfulness of this situation is hard for most Americans to imagine. It ranges from mere inconvenience—a malodorous breeze coming from the Rio Grande—to serious health concerns associated with untreated sewage in water supplies used for drinking water, irrigation, recreational, and industrial use.

This legislation recognizes the reality of cross-border pollution problems: Regardless of where the pollution originates, all the border area residents are endangered. Down along the Rio Grande, the river serves not so much to divide the nations but to link the communities inextricably through their mutual dependence on it. Inadequate sewage treatment facilities on the Mexican side of the border cause United States residents to suffer as much as the residents of Mexico. Therefore, our efforts to assist the 6 million U.S. residents on the border to live in a clean, pollution-free environment must reach across the border.

Congress recognized the reality of transborder pollution and the need for a bilateral solution when it authorized the Border Environment Cooperation Commission-NADBank Agreement in NAFTA implementing legislation. This agreement is intended to make wastewater treatment facility financing available where it is needed—in both the United States and Mexico. Under the BECC-NADBank Agreement, about $8 billion—from United States and Mexico public and private financing sources—will be available for United States-Mexico border environmental infrastructure financing over the next 10 years. The Border Environment Cooperation Commission will help find financing for needed wastewater treatment projects along the Rio Grande, using Federal EPA grants for initial project assistance, and for projects which cannot be financed by the NADBank or in the private market.

The United States-Mexico Border Pollution Control Act introduced today jumpstarts the new BECC-NADBank Agreement. The legislation provides the authorization for the EPA grants that will assist the BECC in coordinating and leveraging wastewater treatment facility financing on both sides of the border.

Specifically, this bill amends the Clean Water Act to provide authorization for the construction of international wastewater treatment facilities in the vicinity of the United States-Mexico border.

This legislation authorizes the appropriation of $20 million for fiscal year 1994, $47.5 million for fiscal year 1995, and $100 million for each of fiscal years 1996 through 2000, and $22 million for fiscal year 2001. Funding for these grants is paid for from the existing Clean Water Act hardship account.

The funding authorized in this legislation will assist with planning, design, and construction of wastewater facilities, which may treat wastewater without regard to its origin or destination. These grants may be provided to the Border Environment Cooperation Commission, Federal, State, and local entities, and the International Boundary and Water Commission, the United States and Mexico.

I support this legislation and will actively work for its enactment. I would like to point out that I am not a cosponsor of the second piece of legislation Senator BINGAMAN has introduced, The U.S. Colonias Water Pollution Control Act. I support the intent of Senator BINGAMAN's colonias legislation introduced today and will work closely with him and the administration to enact authorization for colonias grant funding as soon as possible. However, I have not cosponsored this legislation because it contains a one for one State matching requirement that I believe is counter-productive to the objectives of the legislation.

In closing, I comment Senator BINGAMAN for his unwavering interest in helping to improve the lives of border residents, and I look forward to working with him and the other cosponsors of this legislation to enact legislation that accomplishes that goal.

By Mr. BAUCUS (by request):

S. 2233. A bill to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; to the Committee on Environment and Public Works.

WATER RESOURCES DEVELOPMENT ACT OF 1994

• Mr. BAUCUS. Madam President, today I introduce at the request of the Assistant Secretary of the Army for Civil Works the Water Resources Development Act of 1994. This bill is the biannual reauthorization of ongoing and new water projects to be built and maintained by the Army Corps of Engineers in their civil works program. This legislation is critical to the orderly execution of the Army's civil works program.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

There being no objection, the material was ordered to the printed in the RECORD, as follows:

S. 2233

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the "Water Resources Development Act of 1994."

SEC. 2. TABLE OF CONTENTS.

The table of contents for the Act is as follows—

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Definitions.
Sec. 4. Project authorizations.
Sec. 5. Project modifications.
Sec. 6. Cost-sharing of environmental projects.
Sec. 7. Recovery of costs for cleanup of hazardous or toxic substances.
Sec. 8. Collaborative research and development.
Sec. 9. National inventory of dams.
Sec. 10. Hydroelectric power project uprating.
Sec. 11. Engineering and environmental innovations of national significance.
Sec. 12. Federal lump-sum payments for federal operation and maintenance costs.
Sec. 13. Cost-sharing for removal of existing project features.
Sec. 14. Technical advisory committee.
Sec. 15. Technical corrections.
Sec. 16. Project deauthorizations.
Sec. 17. Contract goals for small disadvantaged business concerns and historically black colleges and universities or minority institutions.
Sec. 18. Cost-sharing for dam safety work.
Sec. 19. Revocation of section 211, River and Harbor Act of 1950.
Sec. 20. Research and development in support of Army Civil Works Program.
Sec. 21. Interagency and international support authority.
Sec. 22. Expansion of section 1135 program.
Sec. 23. Regulatory program fund.

SEC. 3. DEFINITIONS.

For purposes of this Act, the term "Secretary" means the Secretary of the Army.

SEC. 4. PROJECT AUTHORIZATIONS

[Reserved.]

SEC. 4. PROJECT MODIFICATIONS.

[Reserved.]

SEC. 5. COST-SHARING OF ENVIRONMENTAL PROJECTS.

Section 103(c) of the Water Resources Development Act of 1986 [100 Stat. 4085] is amended by adding the following new subsection:

"(7) environmental protection and restoration: 25 percent.".

SEC. 6. RECOVERY OF COSTS FOR CLEAN UP OF HAZARDOUS OR TOXIC SUBSTANCES.

Amounts recovered under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) for any response action taken by the Secretary in support of the Army Civil Works Program shall be credited to the appropriate trust fund account from which the cost of such response action has been paid or will be charged.

SEC. 7. COLLABORATIVE RESEARCH AND DEVELOPMENT.

Section 7 of the Water Resources Development Act of 1988 [102 Stat. 4022] is amended by—

(1) redesignating subsections (b), (c) and (d) as paragraphs (1), (2) and (3);

(2) deleting subsection (e); and,

(3) adding the following new subsection:

"(b) PRE-AGREEMENT TEMPORARY PROTECTION OF TECHNOLOGY.—If the Secretary determines that information developed as a result of research and development activities conducted by the Corps of Engineers is likely to be subject to a cooperative research and development agreement within 2 years of its development and that such information would be a trade secret or commercial or financial information that would be privileged or confidential if the information had been obtained from a non-Federal party participating in a cooperative research and development agreement under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980, the Secretary may provide appropriate protection against the dissemination of such information, including exemption from subchapter II of chapter 5 of title 5, United States Code, until the earlier of the date the Secretary enters into such an agreement with respect to such information or the last day of the 2-year period beginning on the date of such determination. Any information covered by this subsection which becomes the subject of a cooperative research and development agreement shall be accorded the protection provided under 15 U.S.C. 3710a(c)(7)(B) as if such information had been developed under a cooperative research and development agreement".

SEC. 8. NATIONAL INVENTORY OF DAMS.

Section 13 of Public Law 92-367, 33 U.S.C. 467*l*, is amended by striking the second sentence in its entirety and replacing it with the following:

"There is authorized to be appropriated up to $500,000 each fiscal year for the purpose of carrying out this section.".

SEC. 9. HYDROELECTRIC POWER PROJECT UPRATING.

(a) In accomplishing the maintenance, rehabilitation, and modernization of hydroelectric power generating facilities at water resources projects under the jurisdiction of the Department of the Army, the Secretary is authorized to increase the efficiency of energy production and the capacity of these facilities if, after consulting with other appropriate Federal and State agencies, the Secretary determines that such uprating—

(1) is economically justified and financially feasible;

(2) will not result in significant adverse effects on the other purposes for which the project is authorized;

(3) will not result in significant adverse environmental impacts; and,

(4) will not involve major structural or operation changes in the project.

(b) This section does not affect the authority of the Secretary and the Administrator of the Bonneville Power Administration under section 2406 of the Energy Policy Act of 1992 (16 U.S.C. 839d-1).

SEC. 10. ENGINEERING AND ENVIRONMENTAL INNOVATIONS OF NATIONAL SIGNIFICANCE.

To encourage innovative and environmentally sound engineering solutions and innovative environmental solutions to problems of national significance, the Secretary may undertake surveys, plans, and studies and prepare reports which may lead to work under existing civil works authorities or to recommendations for authorizations. There is authorized to be appropriated up to $3,000,000 each fiscal year for the purpose of carrying out this section. The Secretary may also accept and expend additional funds from other Federal agencies, States, or non-Federal entities for purposes of carrying out this section.

SEC. 11. FEDERAL LUMP-SUM PAYMENTS FOR FEDERAL OPERATION AND MAINTENANCE COSTS.

(a) At a water resources project where the non-Federal interest is responsible for performing the operation, maintenance, replacement, and rehabilitation of the project and the Federal Government is responsible for paying a portion of the operation, maintenance, replacement, and rehabilitation costs, the Secretary may provide, under terms and conditions acceptable to the Secretary, a payment of the estimated total Federal share of such costs to the non-Federal interest after completion of construction of the project or a separable element thereof.

(b) The amount to be paid shall be equal to the present value of the Federal payments over the life of the project, as estimated by the Government, and shall be computed using an interest rate determined by the Secretary of the Treasury taking into consideration current market yields on outstanding marketable obligations of the United States with maturities comparable to the remaining life of the project.

(c) The Secretary may make a payment under this section only if the non-Federal interest has entered into a binding agreement with the Secretary to perform the operation, maintenance, replacement, and rehabilitation of the project or separable element. The agreement must be in accordance with the requirements of section 221 of the Flood Control Act of 1970 [84 Stat. 1818], and must contain provisions specifying the terms and conditions under which a payment may be made under this section and the rights of, and remedies available to, the Federal Government to recover all or a portion of a payment made under this section in the event the non-Federal interest suspends or terminates its performance of operation, maintenance, replacement, and rehabilitation of the project or separable element, or fails to perform such activities in a manner satisfactory to the Secretary.

(d) Except as provided in subsection (c), a payment provided to the non-Federal interest under this section shall relieve the Government of any future obligations for paying any of the operation, maintenance, replacement, and rehabilitation costs for the project or separable element.

SEC. 12. COST-SHARING FOR REMOVAL OF EXISTING PROJECT FEATURES.

After the date of enactment of this Act, any proposal submitted to the Congress by the Secretary for modification of an existing authorized water resources development project by removal of one or more of the project features which would significantly and adversely impact the authorized project purposes or outputs shall include the recommendation that the non-Federal sponsor shall bear 50 percent of the cost of any such modification, including the costs of acquiring any additional interests in lands which become necessary for accomplishing the modification.

SEC. 13. TECHNICAL ADVISORY COMMITTEE.

The Technical Advisory Committee established pursuant to section 310(a) of Pub. L. 101-640 shall no longer exist after the date of enactment of this Act.

SEC. 14. TECHNICAL CORRECTIONS.

(a) Section 203(b) of the Water Resources Development Act of 1992 [106 Stat. 4826] is amended by striking out "(8662)" and inserting in lieu thereof "(8862)".

(b) Section 225(c) of the Water Resources Development Act of 1992 [106 Stat. 4838] is amended by striking out "(8662)" in the second sentence and inserting in lieu thereof "(8862)".

SEC. 15. PROJECT DEAUTHORIZATIONS.

(a) Section 1001 of the Water Resources Development Act of 1986 as amended (33 U.S.C. 579a) is further amended by—

(1) striking "10" where it appears in the first sentence of paragraph (2) of subsection (b) and replacing it with "5";

(2) striking the word "Before" at the beginning of the second sentence of paragraph (2) of subsection (b) and replacing it with the words "Upon official"; and,

(3) inserting the words "planning, designing, or" immediately before the word "construction" in the last sentence of paragraph (2) of subsection (b).

(b) Section 52(a) of the Water Resources Development Act of 1988 [102 Stat. 4044] is repealed.

SEC. 16. CONTRACT GOALS FOR SMALL DISADVANTAGED BUSINESS CONCERNS AND HISTORICALLY BLACK COLLEGES AND UNIVERSITIES OR MINORITY INSTITUTIONS.

(a) GOAL.—Except as provided in subsection (c), the Secretary shall establish a goal of 5 percent of the total amount of civil works funds obligated for contracts and subcontracts entered into by the Department of the Army for fiscal years 1994 through 2000 for award to small business concerns owned and controlled by socially and economically disadvantaged individuals (as such term is used in section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and regulations under that section), the majority of the earnings of which directly accrue to such individuals, and to historically Black colleges and universities or minority institutions (as defined in paragraphs (3), (4), and (5) of section 312(b) of the Higher Education Act of 1965 (20 U.S.C. 1058)).

(b) COMPETITIVE PROCEDURE.—To the extent practicable and when necessary to facilitate achievement of the 5 percent goal in subsection (a)—

(1) the Secretary is authorized to enter into contracts using less than full and open competitive procedures, but shall pay a price not exceeding the fair market cost by more than 10 percent in payment per contract to contractors or subcontractors of contracts described in subsection (a).

(2) the Secretary shall maximize the number of small disadvantaged business concerns, historically Black colleges and universities, and minority institutions participating in the program.

(c) EXCEPTION.—The Secretary shall adjust the percentage specified in subsection (b)(1) of this section for any industry category if available information clearly indicates that nondisadvantaged small business concerns in such industry category are generally being denied a reasonable opportunity to compete for contracts because of the use of that percentage.

(d) NONAPPLICABILITY.—Subsection (a) does not apply if—

(1) the Secretary determines that the existence of a national emergency requires otherwise; and,

(2) the Secretary notifies the Congress of such determination and the reasons therefor.

SEC. 17. COST-SHARING FOR DAM SAFETY WORK.

Section 1203(a)(1) of the Water Resources Development Act of 1986 is amended by inserting the following language immediately after the first sentence:

"Where cost sharing was not based on a cost allocation, 15% of the modification costs shall be assigned among project purposes in the same manner as costs were originally assigned, as determined by the Secretary.".

SEC. 18. REVOCATION OF SECTION 211, RIVER AND HARBOR ACT OF 1950.

Section 211 of the River and Harbor Act of 1950, Public Law 516, 81st Congress, is hereby repealed.

SEC. 19. RESEARCH AND DEVELOPMENT IN SUPPORT OF ARMY CIVIL WORKS PROGRAM.

(a) In carrying out research and development in support of the Civil Works program of the Department of the Army, the Secretary may utilize contracts, cooperative research and development agreements, cooperative agreements, and grants with non-Federal entities, including State and local governments, colleges and universities, consortia, professional and technical societies, public and private scientific and technical foundations, research institutions, educational organizations, and non-profit organizations.

(b) With respect to contracts for research and development, the Secretary may include requirements that have potential commercial application and may also use such potential application as an evaluation factor where appropriate.

SEC. 20. INTERAGENCY AND INTERNATIONAL SUPPORT AUTHORITY.

The Secretary may engage in activities in support of other Federal agencies or international organizations on problems of national significance to the United States. The Secretary may engage in activities in support of international organizations only after consulting with the Department of State. The Secretary may apply the technical and managerial expertise of the Army Corps of Engineers to domestic and international problems related to water resources, infrastructure development and environmental protection. There is authorized to be appropriated up to $3,000,000 each fiscal year for the purpose of carrying out this section. The Secretary may also accept and expend additional funds from other Federal agencies or international organizations for purposes of carrying out this section.

SEC. 21. EXPANSION OF SECTION 1135 PROGRAM.

Section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a) is amended by—

(1) striking the period at the end of subsection (a) and inserting the following: "and to determine if the operation of such projects has contributed to the degradation of the quality of the environment.";

(2) striking the last two sentences of subsection (b); and,

(3) redesignating subsections (c), (d), and (e) as (e), (f), and (g) and inserting the following new subsections:

"(c) If the Secretary determines that operation of a water resources project has contributed to the degradation of the quality of the environment, the Secretary may also undertake measures for restoration of environmental quality, provided such measures are feasible and consistent with the authorized project purposes."

"(d) The non-Federal share of the cost of any modifications or measures carried out or undertaken pursuant to subsections (b) or (c) of this section shall be 25 percent. No more than $5,000,000 in Federal funds may be expended on any single modification or measure carried out or undertaken pursuant to this section.".

SEC. 22. REGULATORY PROGRAM FUND.

(a) There is hereby established in the Treasury of the United States the "Army Civil Works Regulatory Program Fund" (hereafter referred to as the "Regulatory Program Fund") into which shall be deposited fees collected by the Secretary of the Army pursuant to paragraph (b) of this section. Amounts deposited into the Regulatory Program Fund are authorized to be appropriated to the Secretary of the Army to cover a portion of the expenses incurred by the Department of the Army in administering laws pertaining to the regulation of the navigable waters of the United States as well as wetlands.

(b) REGULATORY FEES.—(1) To the extent provided for in appropriation Acts, the Secretary of the Army shall establish and collect fees for the evaluation of commercial permit applications; for the recovery of costs associated with the preparation of Environmental Impact Statements required by the National Environmental Policy Act of 1969; and for the recovery of costs associated with wetlands delineations for major developments affecting wetlands. Amounts collected pursuant to this paragraph shall be deposited into the Regulatory Program Fund established by paragraph (a) of this section.

(2) The fees described in paragraph (1) of this subsection shall be established by the Secretary of the Army at rates that will allow for the recovery of receipts at amounts as provided for in appropriation Acts.

DEPARTMENT OF THE ARMY,
Washington, DC, April 29, 1994.

Hon. ALBERT GORE, Jr.,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill entitled the "Water Resources Development Act of 1994." Accompanying the bill is draft report language.

The proposals included in the bill constitute the Department of the Army's Civil Works Legislative Program for the Second Session of the 103rd Congress. The items in the program are being submitted in the form of a Water Resources Development Act.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no object to the presentation of this proposal for consideration by the Congress and that its enactment would be in accord with the program of the President.

PURPOSE OF THE LEGISLATION

The legislation preserves and strengthens the critical cost-sharing reforms established in the Water Resources Development Act of 1986. Its purpose is to continue the biennial cycle for water resources authorizations, thereby serving the public's need for navigation, flood control and flood plain management, and storm damage reduction. It will also benefit the Nation's economic growth and enhance environmental protection.

The proposed water resources development bill contains a number of significant provisions which are important to the Civil Works program of the Department of the Army and which also reflect the Administration's goal of reinventing Government. For example the provision on regulatory fees is a part of Vice President Gore's national performance review.

All of the provisions are intended to improve the administration of the Army Civil Works program to allow for more efficient and effective utilization of available resources and to enhance mission accomplishment. Many of the provisions seek to eliminate unnecessary legislative requirements and to revise outdated legislation. For example, included is a provision which would eliminate the legislated requirement to impanel a board of advisors on matters pertaining to water management at Corps reservoirs. We believe this board is not needed for execution of the agency's water control mission, and by eliminating the board we would do away with the requirement to commit unnecessary funding or manpower. There is also a provision to amend the project deauthorization laws so as to streamline the process, thereby resulting in substantial cost savings to the Federal Government.

ENVIRONMENTAL AND CIVIL RIGHTS IMPACTS

These proposals will have no significant environmental or civil rights impacts.

Sincerely,

JOHN H. ZIRSCHKY,
Acting Assistant Secretary
of the Army (Civil Works)•

By Mr. BREAUX (for himself, Mr. JOHNSTON, Mr. PRYOR, Mr. BUMPERS, Mr. DURENBERGER, Mr. SASSER, Ms. MOSELEY-BRAUN, Mr. SIMON, and Mr. FEINGOLD):

S. 2234. A bill to amend the Mississippi River Corridor Study Commission Act of 1989 to extend the term of the Commission established under that act; to the Committee on Energy and Natural Resources.

MISSISSIPPI RIVER CORRIDOR STUDY COMMISSION ACT AMENDMENT ACT OF 1994

• Mr. BREAUX. Mr. President, I introduce legislation for myself and Senators JOHNSTON, PRYOR, BUMPERS, DURENBERGER, SASSER, MOSELEY-BRAUN, SIMON, and FEINGOLD, to amend the Mississippi River Corridor Study Commission Act of 1989 in order to extend the life of the Commission for a period of 2 years.

The Heritage Corridor Study Commission was established in 1990 to study the resources of the Mississippi River Valley and make recommendations to Congress on the boundaries of the proposed Mississippi River National Heritage Corridor stretching from the headwaters to the gulf. The Commission was authorized for a period of 3 years from the date of their first meeting which occurred in June 1991.

Since that time, the Commission has been working in cooperation with Federal, State and local units of Government to gather inventory data, develop boundaries and make recommendations to enhance the resources of the river valley. However, limited appropriations, the size of the study area—the largest heritage corridor in the United States—and the Commission's late start will prevent the Commission from completing the final study by the end of this month, when the authorization for the Commission is scheduled to expire.

As required by the original act, an interim heritage corridor study report is required to be submitted and was submitted to Congress last fall, which outlines the progress made to date. The interim study highlights the work remaining to complete the study, which includes finalizing a description of the corridor and its resources, proposing boundaries for the National Heritage Corridor, and conducting a public meeting in each of the 10 river States. A final study is required to be produced by June 1996.

While the original legislation—Public Law 101–398—authorized a total of $1.5 million for the Corridor Study Commission to complete its work, the

Commission has received $499,000, or one-third of the total amount authorized. This legislation, by extending the authorization, would give the Commission the time and resources needed to complete this important project.

Mr. President, the work of the Mississippi River National Heritage Corridor Study Commission holds great promise for promoting the historic, cultural, and economic resources of our 10 Mississippi River States. The final phase of this important project is at hand and the Commission must be allowed the time and resources it needs to prepare its final report to Congress, as required by the original act.

Mr. President, this legislation would extend the life of the Commission for 2 years so that its final report will be submitted to Congress in June 1996. I urge the Senate to act on this important issue as soon as possible so that the Commission can continue its work without any delay.•

By Mr. WELLSTONE:

S. 2235. A bill to authorize the establishment of an Accredited Lenders Program for qualified State or local development companies under the Small Business Investment Act of 1958 and an Accredited Loan Packagers Pilot Program for loan packagers under the Small Business Act; to the Committee on Small Business.

SMALL BUSINESS ACCREDITED LENDERS AND PACKAGERS ACT

• Mr. WELLSTONE. Mr. President, today I am introducing a bill to authorize the establishment of an Accredited Lenders Program [ALP] for qualified State or local development companies under the Small Business Investment Act of 1958 and an Accredited Loan Packagers Pilot Program for loan packagers under the Small Business Act.

As chairman of the Senate Small Business Subcommittee on Rural Economy and Family Farms, I learned about the importance of these programs from Terry Stone, the executive director of the Region 9 Development Commission. It is as a result of his testimony last year before my subcommittee that I am introducing this legislation today.

Mr. President, this bill seeks to make a significant improvement in the operation of the Small Business Administration's 504 and 7(a) loan guarantee programs, especially in rural areas. The bill would build on the efforts of the current Administrator, Erskine Bowles, to improve SBA loan programs by streamlining their service to the ultimate customer—small businesses. Specifically, the bill would authorize SBA district offices to provide expedited processing of applications for 504 and 7(a) guaranteed loans in certain cases.

The bill would establish a permanent Accredited Lenders Program within SBA's 504 Loan Guarantee Program. And it would further create a new pilot program, called the Accredited Packagers Pilot Program, within SBA's 7(a) Program. The concept in each case is modeled after the existing Certified Lender program in SBA's 7(a) Program.

Small businesses are currently responsible for the largest growth in job creation in the United States and their principal problem is access to credit. The 504 and 7(a) programs are the two key credit programs run by the Small Business Administration. In the last few years these programs have experienced a dramatic increase in demand which has placed pressure on the SBA and its credit programs.

This bill will help insure that credit can be delivered as quickly as possible to small businesses which are creating new jobs, especially in rural areas, without placing taxpayer money at greater risk.

THE ACCREDITED LENDERS PROGRAM

The Accredited Lenders Program would authorize SBA to expand and make permanent an SBA pilot program which is already in operation. The ALP program would allow the SBA to rely on the credit analysis performed by qualifying SBA 504 Certified Development Companies [CDC's] in order to complete documentation for and guarantee loans quickly, usually within 5 working days. Based on the proven lending record of an accredited CDC, SBA could process the loans without conducting its own credit analysis. Expedited turnaround would be accomplished by eliminating duplication of paperwork.

This program is currently operating as a pilot for approximately 25 community development corporations that make 504 loans. This is a proven program that should be expanded. My bill will turn this ALP from a pilot into a permanent authorization, expanded to cover the entire country.

THE ACCREDITED LOAN PACKAGERS PILOT PROGRAM

The second component of the bill would be to authorize the creation of an Accredited Loan Packagers Pilot Program to provide loan packaging service to rural small businesses. It would target a pilot program to qualified rural packagers of 7(a) loans in areas where there is a lack of SBA certified or preferred lenders. The provision would allow SBA to provide expedited processing, usually within 5 working days, in chosen locations for loan applicants whose applications have been packaged by development organizations with a proven record of success. This pilot program would authorize the SBA to provide pilot programs in areas of the country that are currently underserved or that have no providers—rural America.

Both programs call for expedited processing of loans. Under the existing ALP Pilot Program and under SBA's 7(a) Program the SBA relies on the credit analyses of others and is therefore able to process loans in an expedited fashion in 5 working days. In fact, the SBA's standard operating procedure for the ALP Pilot Program actually states that the "* * * SBA should be able to process a 504 loan within 5 business days." The intent of this legislation is that the SBA similarly expedite the processing of loans under the new ALP program and the Accredited Loan Packagers Pilot Program within 5 working days by eliminating the need for a duplicative credit analysis.

I urge my colleagues to join me in supporting this important legislation.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2235

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACCREDITED LENDERS PROGRAM.

Title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.) is amended by inserting after section 504 the following new section:

"SEC. 504A. ACCREDITED LENDERS PROGRAM.

"(a) IN GENERAL.—The Administration shall establish an Accredited Lenders Program for qualified State or local development companies that meet the requirements of subsection (b).

"(b) DESIGNATION OF ACCREDITED LENDERS.—The Administration shall designate a qualified State or local development company as an accredited lender if such company—

"(1) demonstrates adequate knowledge of applicable laws and regulations concerning the guaranteed loan program under section 504;

"(2) demonstrates proficiency in meeting the requirements of such guaranteed loan program; and

"(3) meets such other requirements as the Administration may prescribe by regulation.

"(c) EXPEDITED PROCESSING.—The Administration may expedite the processing of any loan application or servicing action submitted by a qualified State or local development company that has been designated as an accredited lender in accordance with subsection (b).

"(d) SUSPENSION OR REVOCATION OF DESIGNATION.—The designation of a qualified State or local development company as an accredited lender shall be suspended or revoked if the Administration determines that—

"(1) the development company is not adhering to the Administration's rules and regulations or is violating any other applicable provision of law; or

"(2) the loss experience of the development company is excessive as compared to other lenders;

but such suspension or revocation shall not affect any outstanding loan guarantee.

"(e) DEFINITION.—For purposes of this section, the term 'qualified State or local development company' has the same meaning as in section 503(e).

"(f) REGULATIONS.—The Administration shall promulgate such regulations as may be necessary to carry out this section.".

SEC. 2. ACCREDITED LOAN PACKAGERS PILOT PROGRAM.

Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following new paragraph:

"(22) ACCREDITED LOAN PACKAGERS PILOT PROGRAM.—

"(A) IN GENERAL.—The Administration shall establish an Accredited Loan Packagers Pilot Program (hereafter in this paragraph referred to as the 'Program') for loan packagers, which shall be administered in accordance with subparagraphs (B) through (G).

"(B) DESIGNATION OF ACCREDITED LOAN PACKAGERS.—

"(i) QUALIFICATIONS.—Subject to the limitation contained in clause (ii), the Administration may designate a loan packager as an accredited loan packager if such loan packager—

"(I) is located in a rural area in which, in the determination of the Administration, there is a severe shortage or an absence of lenders that have been designated as—

"(aa) certified lenders under the Certified Lenders Program authorized by paragraph (19); or

"(bb) preferred lenders under the Preferred Lenders Program authorized by section 5(b)(7);

"(II) demonstrates adequate knowledge of applicable laws and regulations concerning guaranteed loan programs under this subsection;

"(III) demonstrates proficiency in meeting the requirements of such guaranteed loan programs; and

"(IV) meet such other requirements as the Administration may prescribe by regulation.

"(ii) TOTAL NUMBER.—In carrying out the Program, the Administration shall designate not less than 10 and not more than 15 loan packagers as accredited loan packagers.

"(C) EXPEDITED PROCESSING.—During the 3-year period described in subparagraph (G), the Administration may expedite the processing of any loan application or servicing action prepared by a loan packager that has been designated as an accredited loan packager in accordance with subparagraph (B).

"(D) SUSPENSION OR REVOCATION OF DESIGNATION.—The designation of a loan packager as an accredited loan packager shall be suspended or revoked if the Administration determines that—

"(i) the loan packager is not adhering to the Administration's rules and regulations or is violating any other applicable provision of law; or

"(ii) the loss experience of the loan packager is excessive as compared to other loan packagers;

but such suspension or revocation shall not affect any outstanding loan guarantee.

"(E) DEFINITION.—For purposes of this paragraph, the term 'loan packager' means any—

"(i) qualified State or local development company, as such term is defined in section 503(e) of the Small Business Investment Act of 1958; or

"(ii) other regional or local development organization selected by the Administration.

"(F) REGULATIONS.—The Administration shall promulgate such regulations as may be necessary to carry out this paragraph.

"(G) SUNSET.—The Program shall terminate 3 years after the date of enactment of this paragraph.".•

By Mr. GRAHAM:

S. 2237. A bill to amend the Immigration and Nationality Act to strengthen the criminal offenses and penalties for the smuggling of aliens; to the Committee on the Judiciary.

ALIEN SMUGGLING ACT OF 1994

• Mr. GRAHAM. Mr. President, I introduce legislation to address the growing problem of alien smuggling. In the last several years, we have seen an unprecedented rise in the number of aliens being smuggled into the United States. Increasingly, newspapers and television news programs relate horror stories regarding the shipboard conditions experienced by these aliens. Too often they are smuggled aboard overcrowded-unseaworthy vessels, in deplorable, inhumane, and unsanitary conditions.

The legislation I am proposing today would increase the current penalty for alien smuggling from 5 to 10 years. We need to send a message to those who seek to profit from transporting aliens, without regard for human safety or lives.

A recent incident off the coast of south Florida underscores the potential for tragedy in smuggling aliens, and the need to increase the penalty for smuggling. On March 28, 1994, a smuggling ring operating out of the Bahamas arranged for the passage of 10 people on a 19-foot boat. The boat, clearly designed to safely transport a much lesser load, encountered severe weather conditions. One day later, the U.S. Coast Guard discovered the craft overturned. Clinging to its side were seven people. The three other passengers, including a 16-month old baby, were lost in the water. The baby was later found dead.

The captain of this boat has since been tried, and was sentenced to only 41 months in jail for three counts of alien smuggling and for involuntary manslaughter. The current law carries a penalty of 5 years for alien smuggling. Yet, had this smuggler been transporting drugs, he would have been sentenced to at least a mandatory 10 years.

It is time to bring the severity of the punishment in line with the seriousness of the crime, creating a strong disincentive for alien smugglers. Until we do so, smugglers will continue to pursue their trade and continue to jeopardize the health and lives of those so desperate to reach our shores.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

"(A) knowing that a person is an alien—

"(i) brings to or attempts to bring to the United States, in any manner whatsoever or at any place whatsoever, such person (other than a person who on has received prior official authorization to come to, enter, or reside in the United States), knowing or in reckless disregard of the fact that such coming to or entry is or will be in violation of law, or

"(ii) brings to or attempts to bring to the United States, in any manner whatsoever, such person at a place other than a designated port of entry or place other than as designated by the Commissioner, regardless of whether such alien has received prior official authorization to come to, enter, or reside in the United States and regardless of any future official action which may be taken with respect to such alien"'.

(b) ENHANCED PENALTY FOR SMUGGLING.—Section 274(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)) is amended by striking "shall be fined" and all that follows and inserting the following:

"shall—

"(i) in the case of a violation of subparagraph (A)(i), be fined in accordance with such title, or imprisoned not more than ten years, or both, or

"(ii) in the case of any violation of subparagraph (A)(ii), (B), (C), or (D), be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both,

for each alien in respect to whom such violation occurs.".

(c) REPEAT OFFENSES.—Section 274(a)(2)(B) of such Act is amended by inserting "(or, in the case of an offense described in clause (ii), ten years)" after "five years".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to offenses occurring on or after the date of enactment of this Act.•

By Mr. KENNEDY (for himself, Mr. CHAFEE, Mr. AKAKA, Mr. JEFFORDS, Mr. BINGAMAN, Mr. PACKWOOD, Mrs. BOXER, Mr. BRADLEY, Mr. DODD, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GLENN, Mr. HARKIN, Mr. INOUYE, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. METZENBAUM, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mrs. MURRAY, Mr. PELL, Mr. RIEGLE, Mr. ROBB, Mr. SARBANES, Mr. SIMON, and Mr. WELLSTONE):

S. 2238. A bill to prohibit employment discrimination on the basis of sexual orientation; to the Committee on Labor and Human Resources.

EMPLOYMENT NON-DISCRIMINATION ACT OF 1994

Mr. KENNEDY. Mr. President, I am pleased to introduce today the Employment Non-Discrimination Act of 1994.

From the beginning, civil rights has been the unfinished business of America—and it still is. In the past 30 years, America has made significant progress in removing the burden of bigotry from our land. We have had an ongoing peaceful revolution of change, and that change and its accomplishments are a tribute to our democracy and to the remarkable resilience of this Nation's founding principles.

Current Federal law rightly prohibits job discrimination on the basis of race, gender, religion, national origin, age, and disability. Establishing these essential protections was not easy or quick. But they have stood the test of time—and they have made us a better and a stronger nation.

Today, we move forward again by seeking to extend this protection to sexual orientation.

So I am proud to stand again with individuals—such as Coretta Scott King and Justin Dart—and organizations whose tireless commitment to freedom, justice, and opportunity for all has guided our national journey. In large part, we are here today, and America is America today, because of them.

We have been here before—and our work goes on.

The Employment Non-Discrimination Act is a great endeavor. It is another significant step on freedom's journey—another milestone in the civil rights march of our time.

The act parallels protections against job discrimination already provided under title VII of the Civil Rights Act. The bill prohibits employers, employment agencies, and labor unions from using an individual's sexual orientation as the basis for employment decisions, such as hiring, firing, promotion, or compensation. This prohibition on discrimination is familiar territory, and these well-established standards can be easily applied to sexual orientation.

The act is simple and straightforward. Its goal is to eliminate job discrimination against fellow Americans.

Under the act, no disparate impact claims would be permitted based on under-representation in the work force, and the religious exemption is broadly defined. In addition, the legislation makes clear that preferential treatment, including quotas, is prohibited, and benefits for domestic partners are not required. Finally, the act does not apply to members of the Armed Forces.

This bill is not about granting special rights—it is about righting senseless wrongs.

What it requires is simple justice for gay men and lesbians who deserve to be judged in their job settings—like all other Americans—by their ability to do the work.

Today, job discrimination on the basis of sexual orientation is too often a fact of life. From corporate suites to plant floors, qualified employees live in fear of losing their livelihood for reasons that have nothing to do with their skills or their performance. Yet there is no Federal prohibition on such discrimination.

This bill is not about statistics. It is about real Americans whose lives and livelihoods are being shattered by prejudice.

This bill is for the postal worker in Michigan who was verbally harassed and then beaten unconscious by his coworkers for being gay. He reported continued harassment to his superiors—but they did nothing. In a subsequent law suit, the court rejected his claim because discrimination based on sexual orientation is not covered under Federal law.

This bill is for a cook from Georgia who was fired despite a solid 3-year perfect performance record, after a nation-wide restaurant chain adopted a blanket policy excluding employees whose sexual orientation did not demonstrate normal heterosexual values. Her separation notice read: "This employee is being terminated due to violation of company policy. The employee is gay."

It doesn't get any clearer than that.

Job discrimination is not only un-American—it is unprofitable and counterproductive. It excludes qualified individuals, lowers work force productivity, and eventually hurts us all. If we are to compete effectively in a global economy, we have to use all our available talent and create a workplace environment where everyone can excel.

This reality had been recognized by many Fortune 500 companies, including General Electric, AT&T, and the Bank of Boston. They understand that ending discrimination based on sexual orientation is good for business and good for the country.

In the absence of a Federal remedy, many State and local governments have acted responsibly to prohibit job discrimination based on sexual orientation. Over a hundred mayors and Governors, Republicans and Democrats, have signed laws and issued orders protecting gay and lesbian employees.

Based on this successful State and local experience, it is time for the Federal Government to secure this fundamental promise of freedom by ensuring fairness throughout the workforce.

We know we cannot change attitudes overnight. But if we have learned anything from the burdens and the achievements of American history, it is that changes in the law are an essential step in breaking down barriers, exposing prejudice, and building a better tomorrow.

Today's action brings us one step closer to the ideals of liberty. I am pleased to be introducing the Employment Non-Discrimination Act of 1994 in the Senate along with Senator CHAFEE—and more than 30 Senators committed to this effort. And I am also grateful to Representatives FRANK, STUDDS, EDWARDS, and MORELLA for their leadership in the House.

The bipartisan coalition for civil rights in Congress has been a powerful force for justice and opportunity.

Our case is strong—our cause is just—and we intend to prevail.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2238

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Employment Non-Discrimination Act of 1994".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) an individual's sexual orientation bears no relationship to the individual's ability to contribute fully to the economic and civic life of society;

(2) historically, American society has tended to isolate, stigmatize, and persecute gay men, lesbians, and bisexuals;

(3) one of the main areas in which gay men, lesbians, and bisexuals face discrimination is employment;

(4) employment discrimination on the basis of sexual orientation violates fundamental American values of equality and fairness;

(5) the continuing existence of employment discrimination on the basis of sexual orientation denies gay men, lesbians, and bisexuals equal opportunity in the workplace and affects interstate commerce;

(6) individuals who have experienced employment discrimination on the basis of sexual orientation often lack recourse under Federal law; and

(7) gay men, lesbians, and bisexuals have historically been excluded from full participation in the political process, comprise a discrete and insular minority, and have historically been subjected to purposeful unequal treatment based on characteristics not indicative of their ability to participate in or contribute to society.

(b) PURPOSES.—It is the purpose of this Act—

(1) to provide a comprehensive Federal prohibition of employment discrimination on the basis of sexual orientation;

(2) to provide meaningful and effective remedies for employment discrimination on the basis of sexual orientation; and

(3) to invoke congressional powers, including the powers to enforce the 14th amendment to the Constitution and to regulate commerce, in order to prohibit employment discrimination on the basis of sexual orientation.

SEC. 3. DISCRIMINATION PROHIBITED.

A covered entity, in connection with employment or employment opportunities, shall not—

(1) subject an individual to different standards or treatment on the basis of sexual orientation;

(2) discriminate against an individual based on the sexual orientation of persons with whom such individual is believed to associate or to have associated; or

(3) otherwise discriminate against an individual on the basis of sexual orientation.

SEC. 4. BENEFITS.

This Act does not apply to the provision of employee benefits to an individual for the benefit of his or her partner.

SEC. 5. NO DISPARATE IMPACT.

The fact that an employment practice has a disparate impact, as the term "disparate impact" is used in section 703(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2(k)), on the basis of sexual orientation does not establish a prima facie violation of this Act.

SEC. 6. QUOTAS AND PREFERENTIAL TREATMENT PROHIBITED.

(a) QUOTAS.—A covered entity shall not adopt or implement a quota on the basis of sexual orientation.

(b) PREFERENTIAL TREATMENT.—A covered entity shall not give preferential treatment to an individual on the basis of sexual orientation.

SEC. 7. RELIGIOUS EXEMPTION.

(a) IN GENERAL.—Except as provided in subsection (b), this Act shall not apply to religious organizations.

(b) FOR-PROFIT ACTIVITIES.—This Act shall apply to a religious organization's for-profit activities subject to taxation under section 511(a) of the Internal Revenue Code of 1986 as in effect on the date of the enactment of this Act.

SEC. 8. NON-APPLICATION TO MEMBERS OF THE ARMED FORCES; VETERANS' PREFERENCES.

(a) ARMED FORCES.—

(1) For purposes of this Act, the term "employment or employment opportunities" does not apply to the relationship between the United States and members of the Armed Forces.

(2) As used in paragraph (1), the term "Armed Forces" means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(b) VETERANS' PREFERENCES.—This Act does not repeal or modify any Federal, State, territorial, or local law creating special rights or preferences for veterans.

SEC. 9. ENFORCEMENT.

(a) ENFORCEMENT POWERS.—With respect to the administration and enforcement of this Act—

(1) the Commission and the Librarian of Congress shall have the same powers, respectively, as the Commission and the Librarian of Congress have to administer and enforce title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.);

(2) the Attorney General of the United States shall have the same powers as the Attorney General has to administer and enforce such title; and

(3) the district courts of the United States shall have the same jurisdiction and powers as such courts have to enforce such title and section 309 of the Civil Rights Act of 1991 (2 U.S.C. 1209).

(b) PROCEDURES AND REMEDIES.—The procedures and remedies applicable to a claim for a violation of this Act are as follows:

(1) For a violation alleged by an individual, other than an individual specified in paragraph (2) or (3), the procedures and remedies applicable to a claim brought by an individual for a violation of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) shall apply.

(2) For a violation alleged by an employee of the House of Representatives or of an instrumentality of the Congress, the procedures and remedies applicable to a claim by such employee for a violation of section 117 of the Civil Rights Act of 1991 (2 U.S.C. 60*l*) shall apply.

(3) For a violation alleged by an employee of the Senate, the procedures and remedies applicable to a claim by such employee for a violation of section 302 of the Civil Rights Act of 1991 (2 U.S.C. 1202) shall apply.

SEC. 10. STATE AND FEDERAL IMMUNITY.

(a) STATE IMMUNITY.—A State shall not be immune under the 11th amendment to the Constitution of the United States from an action in a Federal court of competent jurisdiction for a violation of this Act. In an action against a State for a violation of this Act, remedies (including remedies at law and in equity) are available for the violation to the same extent as such remedies are available in an action against any public or private entity other than a State.

(b) LIABILITY OF THE UNITED STATES.—The United States shall be liable for all remedies under this Act to the same extent as a private person and shall be liable to the same extent as a nonpublic party for interest to compensate for delay in payment.

SEC. 11. ATTORNEYS' FEES.

In any action or administrative proceeding commenced pursuant to this Act, the court or the Commission, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorneys' fee, including expert fees and other litigation expenses, and costs. The United States shall be liable for the foregoing the same as a private person.

SEC. 12. RETALIATION AND COERCION PROHIBITED.

(a) RETALIATION.—A covered entity shall not discriminate against an individual because such individual opposed any act or practice prohibited by this Act or because such individual made a charge, assisted, testified, or participated in any manner in an investigation, proceeding, or hearing under this Act.

(b) COERCION.—A person shall not coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of or on account of his or her having exercised, enjoyed, assisted, or encouraged the exercise or enjoyment of, any right protected by this Act.

SEC. 13. POSTING NOTICES.

A covered entity shall post notices for employees, applicants for employment, and members describing the applicable provisions of this Act, in the manner prescribed by, and subject to the penalty provided under, section 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–10).

SEC. 14. REGULATIONS.

The Commission shall have the authority to issue regulations to carry out this Act.

SEC. 15. RELATIONSHIP TO OTHER LAWS.

This Act shall not invalidate or limit the rights, remedies, or procedures available to an individual claiming discrimination prohibited under any other Federal law or any law of a State or political subdivision of a State.

SEC. 16. SEVERABILITY.

If any provision of this Act, or the application of such provision to any person or circumstance, is held to be invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 17. EFFECTIVE DATE.

This Act shall take effect 60 days after the date of the enactment of this Act, and shall not apply to conduct occurring before such effective date.

SEC. 18. DEFINITIONS.

As used in this Act—

(1) the term "commerce" has the meaning given such term in section 701(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(g));

(2) the term "Commission" means the Equal Employment Opportunity Commission established by section 705 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4);

(3) the term "covered entity" means an employer, employment agency, labor organization, joint labor-management committee, an entity to which section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(a)) applies, an employing authority of the House of Representatives, an employing office of the Senate, or an instrumentality of the Congress;

(4) the term "employee of the Senate" has the meaning given such term in section 301(c) of the Civil Rights Act of 1991 (2 U.S.C. 1201(c));

(5) the term "employer" has the meaning given such term in section 701(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(b));

(6) the term "employment agency" has the meaning given such term in section 701(c) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(c));

(7) the term "employment or employment opportunities" includes job application procedures, hiring, advancement, discharge, compensation, job training, or any other term, condition, or privilege of employment;

(8) the term "instrumentalities of the Congress" has the meaning given such term in section 117(b)(4) of the Civil Rights Act of 1991 (2 U.S.C. 60*l*(b)(4));

(9) the term "labor organization" has the meaning given such term in section 701(d) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(d));

(10) the term "person" has the meaning given such term in section 701(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(a));

(11) the term "religious organization" means—

(A) a religious corporation, association, or society; or

(B) a college, school, university, or other educational institution, not otherwise a religious organization, if—

(i) it is in whole or substantial part controlled, managed, owned, or supported by a religious corporation, association, or society; or

(ii) its curriculum is directed toward the propagation of a particular religion;

(12) the term "sexual orientation" means lesbian, gay, bisexual, or heterosexual orientation, real or perceived, as manifested by identity, acts, statements, or associations; and

(13) the term "State" has the meaning given such term in section 701(i) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(i)).

REMARKS BY CORETTA SCOTT KING AT THE PRESS CONFERENCE ON THE INTRODUCTION OF THE EMPLOYMENT NON-DISCRIMINATION ACT OF 1994

Thank you for your gracious introduction. And I want to thank all of the members of the press for joining us today for this important press conference on the Employment Non-Discrimination Act of 1994.

Senator CHAFFEE, Senator KENNEDY, Representatives EDWARDS, FRANK, STUDDS, and MORELLA, distinguished guests, members of the press, today I am proud to join in supporting this much-needed legislation, which would provide some long-overdue protection to American workers from the injustice of discrimination based on sexual orientation.

I support this legislation because lesbian and gay people are a permanent part of the American work force, who currently have no protection from the arbitrary abuse of their rights on the job. For too long, our Nation has tolerated the insidious form of discrimination against this group of Americans, who have worked as hard as any other group, paid their taxes like everyone else, and yet have been denied equal protection under the law.

By including victims of discrimination based on sexual orientation, this bill would do much to rectify this injustice in the workplaces of America. I am much encouraged that a recent newsweek opinion poll found that 74 percent of the respondents favored protecting gay and lesbian people from job discrimination, and I am proud to stand with this overwhelming majority of Americans who recognize the justice of this cause.

This bill would grant the same rights to victims of discrimination based on sexual orientation that are extended to victims or racial, gender, and religious discrimination and those who have been unfairly treated in the workplace because of their age, ethnicity, or disability. The bill provides no preferential treatment or special rights that have been denied these groups.

I support the Employment Non-discrimination Act of 1994 because I believe that freedom and justice cannot be parceled out in pieces to suit political convenience. As my husband, Martin Luther King, Jr. said, "Injustice anywhere is a threat to justice everywhere." On another occasion he said, "I have worked too long and hard against segregated public accommodations to end up segregating my moral concern. Justice is indivisible." Like Martin, I don't believe you can stand for freedom for one group of people and deny it to others.

So I see this bill as a step forward for freedom and human rights in our country and a logical extension of the Bill of Rights and the civil rights reforms of the 1950's and 60's.

The great promise of American democracy is that no group of people will be forced to suffer discrimination and injustice. I believe that this legislation will provide protection to a large group of working people, who have suffered persecution and discrimination for many years. To this endeavor, I pledge my wholehearted support.

Remarks by Justin Dart, Former Chairman of the President's Committee on Employment of People With Disabilities, Press Conference, the Employment Non-Discrimination Act 1994

This is a great day for democracy. Mr. Jefferson and Martin Luther King are smiling.

On behalf of my colleagues in the Disability Rights Movement, I congratulate all the sponsors and other supporters of the Employment Non-Discrimination Act of 1994.

I call on the Members of Congress to pass and the President to sign this historic bill. I call on all who love the American dream to support it.

It is a special privilege to be here today with great patriots of justice like Coretta Scott King, Pat Wright and many others.

Senator Edward Kennedy is an authentic hero of the Civil and Disability Rights Movements.

Senator John Chafee and Representatives Connie Morella and Barney Frank have been consistent supporters of the rights of people with and without disabilities.

The Non-Discrimination Act of 1994 will be another landmark of justice in the great tradition of the Civil Rights Act of 1964, the age Discrimination in Employment Act of 1967, the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 and the Civil Rights Act of 1991.

Why am I, a disability Rights Advocate, supporting this bill on sexual orientation?

Because what Martin Luther King said is profoundly true. "Injustice anywhere is a threat to justice everywhere." None of us are truly free until all of us are free.

Because eventually every family in the United States will have one or more members whose basic constitutional rights will be protected by this law. This is not a law for "them." This is a law for us. All of us.

Historically, there has been opposition to civil rights. There is the assertion that civil rights is a kind of bothersome burden that do-gooders impose on sound business and sound government. This is a dangerous fallacy.

Civil rights and free enterprise are two sides of the same solid gold cultural currency that has revolutionized the productivity and the quality of human life.

Our forefathers and mothers came to this country because we offered extraordinary legal guarantees of equal opportunity. They got rich and America got rich. Every time we expanded those civil rights guarantees to include another oppressed minority, Americans got richer, America became more democratic.

Civil rights puts the "free" in free enterprise. America is not rich in spite of civil rights. America is rich because of civil rights.

The Non-Discrimination Act of 1994 will produce profits that will reduce deficits and enrich every citizen in terms of money and of quality of life.

It's the right thing to do. We will keep the sacred pledge of liberty and justice for all.

Let us join together, Republicans, Democrats, just plain Americans, to support the passage of this great law, and then to implement it in every heart and mind and community in America. Together, we shall overcome.

• Mr. PACKWOOD. Mr. President, I am pleased to be an original cosponsor of the Employment Non-Discrimination Act of 1994, a bill to prohibit job discrimination based on sexual orientation. It is surely time to ensure that the rights of all Americans simply to earn a living are protected. The key issue in employment decisions should be: Can the person do the job? No characteristics such as race, gender, age, or sexual orientation should in and of themselves have a bearing on such a determination.

I am concerned over what I see as a growing intolerance in this country for people and groups with different ideas or ways of life. The danger to the liberties of all Americans is most threatened by those who want to compel conformity of thought and deed. Conversely, our liberties are most secured by a decent respect for diversity, particularly on those subjects upon which there is no consensus.

The genesis of all civil rights in our great country is the U.S. Constitution. This document prohibits the Federal Government from depriving any person of life, liberty, or property without due process of law. Our Constitution also forbids States from denying any person the equal protection of the laws. States are further obliged to protect the rights of persons equally, that is, without discrimination against any class of persons.

The Constitution gives Congress the power to enforce our civil rights by appropriate legislation. The first Civil Rights Act, passed in 1866, guaranteed to every U.S. citizen the same rights that white citizens have to inherit, purchase, lease, and sell property. A series of other laws in years following the Civil War made it clear that our nonwhite citizens were to enjoy the same rights as whites in other areas such as contracting and sitting on juries.

Twentieth-century civil rights laws reflect the growing recognition of Congress and the American people of the need for equal protection in the areas of voting, public accommodation, education, employment, housing, credit, and access to Federal programs. In addition to the protection of these substantive rights, Congress has acted to extend constitutional protection beyond race to religion, sex, handicap, national origin, age, and marital status. Our history reflects a dynamic process, expanding protection to ensure that all basic rights of all groups are safeguarded.

Consistent with this pattern of extending protection to all citizen's liberties, or those perceived as such, it is time to end discrimination in the workplace against gays and lesbians. Employment should be based solely on merit. This bill does not create any special rights; rather, it protects a right that everyone should enjoy—the right to be free of discrimination based on irrational prejudice on the job.

It should be noted that the Employment Non-Discrimination Act of 1994 prohibits any form of preferential treatment, including quotas, based on sexual orientation. Also, the legislation does not require an employer to provide benefits, such as insurance, for the same-sex partner of an employee. And finally, the act does not apply to the uniform military and thus does not affect the military ban on gay men and lesbians.

Mr. President, I wish this legislation were not necessary, but unfortunately it is. We must now take steps to protect the gains of the last 25 years in eliminating employment discrimination. I am proud and pleased to be a cosponsor of the Employment Non-Discrimination Act of 1994.•

• Mrs. FEINSTEIN. Mr. President, today's introduction of the Employment Non-Discrimination Act of 1994, which will prohibit employment discrimination on the basis of sexual orientation, has in a way, been a long journey for me.

Twenty-five years ago, I ran for my first elected office as a supervisor for the city and County of San Francisco. When I did so, I was told of the very real problem of job discrimination on the basis of sexual orientation, and the need for antidiscrimination legislation.

Well, I won that election, and when I did, one of the first pieces of legislation that I authored was an amendment, to San Francisco's Human Rights Ordinance, to prohibit employment discrimination on the basis of sex or sexual orientation. Frankly, the legislation languished in committee for some time. Eventually, as president of the board of supervisors, I called it out of committee, whereupon it passed with strong support. As far as I know, it was the first such legislation in any major jurisdiction in the country.

After that ordinance was adopted, and over the years that I served as a supervisor and mayor of San Francisco, I came to know many gay and lesbian people who excelled in their professions. Attorneys, physicians, educators, judges, journalists, airline pilots, elected officials, one of whom is now an assistant secretary in the administration, and business men and women in virtually every endeavor.

Many of these people broke new ground. And many excelled.

It is interesting that, on more than one occasion, various people remarked to me that they could not have accomplished in their hometowns, what they were able to accomplish professionally in San Francisco.

Well, some 20 years later, I'm pleased to report that no businesses went bankrupt as a result of that ordinance. No employers faced hardships. On the contrary, many companies found that the principle of hiring and promoting the best-qualified employees, based solely on merit, yielded the most productive work force.

That principle which saw its beginning as a groundbreaking ordinance in a relatively small west coast city will, today, be introduced into the U.S. Senate. Crossing this frontier carries a very special significance for me.

These are tough economic times for our country. And I believe that nobody should be denied opportunity especially during these hard times. And I also believe that our society should be denied nobody's contribution. Employment decisions should be based on qualifications, and ability, and merit. Not on race, creed, color, disability, sex, or sexual orientation.

I want to commend the distinguished senator from Massachusetts. Clearly, a great deal of thought has gone into the crafting of this bill. It is simple in its approach. It anticipates legitimate concerns and, I feel, addresses them.

Simply stated—this legislation prohibits employment discrimination on the basis of sexual orientation.

Basically, the legislation follows the approach used in the Americans with Disabilities Act, and provides for the same enforcement powers and remedies as provided for by title VII of the Civil Rights Act of 1964.

Let us be clear about what this legislation does not do. It does not create special rights or suggest quotas. On the contrary, the act specifically prohibits preferential treatment or quotas.

The act does not apply to members of the Armed Forces.

There is an exemption for religious organizations and educational institutions which are attached to a religious organization.

Like the Civil Rights Act of 1964, small employers with less than 15 employees are not covered by this act.

The act does not apply to employee benefits for an employee's partner.

Finally, there can be no disparate impact claim, requiring employers to justify a neutral hiring practice absent any specific evidence of discrimination.

This is well-crafted legislation whose time has come.

Throughout my public life, I have had a simple vision for society. It is one of many different people living together in harmony without fear of bias. Also, throughout my public life, gay men and lesbians have been among my employees, and served in my administration when I was mayor. I am proud to have seen them grow and move on to advance in their respective careers.

Our Constitution guarantees equal protection. The promise of our Nation is one of equality and freedom—of life, liberty, and the pursuit of happiness.

Our commitment to equality cannot be a passing one, nor can it be selective. For too long, in too many parts of our country, too many people have suffered the pain of employment discrimination, and have been held back. Opportunity has been denied. And often, along with that lost opportunity, we have lost the contributions of some of our society's most gifted individuals. For the most part, these are losses we will never know. But we can do something to bring those losses to an end. We can pass this legislation.

I believe that a people, when allowed to be free, will make its greatest contribution. That is the vision of America. That is the promise for all. That promise is embodied in this legislation.●

By Mr. KENNEDY (for himself and Mrs. KASSEBAUM):

S.J. Res. 203. A joint resolution designating July 12, 1994, as "Public Health Awareness Day"; to the Committee on the Judiciary.

PUBLIC HEALTH AWARENESS DAY

Mr. KENNEDY. Mr. President, 50 years ago next month, Congress enacted landmark legislation consolidating the various public health activities of the Federal Government into the U.S. Public Health Service. Today, it consists of the Office of the Assistant Secretary for Health, the Agency for Health Care Policy and Research, the Agency for Toxic Substances and Disease Registry, the Centers for Disease Control and Prevention, the Food and Drug Administration, the Health Resources and Service Administration, the Indian Health Service, the National Institutes of Health, and the Substance Abuse and Mental Health Services Administration.

Together, these agencies are on the front lines of a wide range of public health activities, helping to prevent unnecessary death and disability, protecting the public against dangerous products, improving access to health care, enhancing the quality of life for large numbers of our citizens, and greatly reducing disparities in the health status of the poor and minorities in our society.

The U.S. Public Health Service has achieved these successes by working in partnership with State and local governments and private organizations. Americans are living longer and healthier lives due in large part to these activities.

The accomplishments of the U.S. Public Health Service over the past 50 years are among our Nation's greatest modern achievements. It is fitting for Congress and for the Nation to pay tribute to this proud organization on this auspicious anniversary.

I urge prompt action on this joint resolution, and I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 203

Whereas the modern United States Public Health Service was shaped by legislation passed by the Congress 50 years ago this month;

Whereas the Public Health Service has been at the vanguard of health: protecting the public from disease and epidemics and, in conjunction with the States, maintaining public health capacity;

Whereas the Public Health Service is a world leader in addressing the challenge of promoting and protecting health in America and worldwide;

Whereas the Public Health Service protects the safety and quality of foods, drugs, and medical devices for all Americans;

Whereas the Public Health Service provides emergency health services in response to America's natural disasters;

Whereas the Public Health Service is a world leader in health and medical research;

Whereas the Public Health Service is a world leader in the effort to immunize children and adults against preventable infectious diseases both in the United States and worldwide;

Whereas the Public Health Service is a world leader in the fight against AIDS and AIDS-related illnesses; and

Whereas the Public Health Service is comprised of 50,000 dedicated professionals: Now, therefore, be it

Resolved, That July 12, 1994, is designed as "Public Health Awareness Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate activities.

ADDITIONAL COSPONSORS

S. 1288

At the request of Mr. AKAKA, the names of the Senator from Maryland [Mr. SARBANES] and the Senator from Illinois [Ms. MOSELEY-BRAUN] were added as cosponsors of S. 1288, a bill to provide for the coordination and implementation of a national aquaculture policy for the private sector by the Secretary of Agriculture, to establish an aquaculture commercialization research program, and for other purposes.

S. 1495

At the request of Mr. INOUYE, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 1495, a bill to repeal the reduction in the deductible portion of expenses for business meals and entertainment.

S. 1539

At the request of Mr. INOUYE, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of

S. 1539, a bill to require the Secretary of the Treasury to mint coins in commemoration of Franklin Delano Roosevelt on the occasion of the 50th anniversary of the death of President Roosevelt.

S. 1889

At the request of Mr. CHAFEE, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 1889, a bill to amend title XIX of the Social Security Act to make certain technical corrections relating to physicians' services.

S. 1908

At the request of Mr. CRAIG, his name was added as a cosponsor of S. 1908, a bill to provide for a study of the processes and procedures of the Department of Veterans Affairs for the disposition of claims for veterans' benefits.

S. 1941

At the request of Mr. BUMPERS, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 1941, a bill to terminate the Milstar II Communications Satellite Program.

S. 2061

At the request of Mr. BUMPERS, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 2061, a bill to amend the Small Business Investment Act of 1958 to permit prepayment of debentures issued by State and local development companies.

S. 2071

At the request of Mr. LIEBERMAN, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 2071, a bill to provide for the application of certain employment protection and information laws to the Congress and for other purposes.

S. 2120

At the request of Mr. INOUYE, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 2120, a bill to amend and extend the authorization of appropriations for public broadcasting, and for other purposes.

SENATE JOINT RESOLUTION 157

At the request of Mr. SASSER, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Oklahoma [Mr. BOREN], the Senator from Indiana [Mr. COATS], the Senator from Illinois [Mr. SIMON], the Senator from Nevada [Mr. BRYAN], the Senator from Louisiana [Mr. JOHNSTON], the Senator from New Mexico [Mr. DOMENICI], the Senator from Mississippi [Mr. LOTT], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Nevada [Mr. REID], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 157, a joint resolution to designate 1994 as "The Year of Gospel Music."

SENATE CONCURRENT RESOLUTION 60

At the request of Mr. GRAMM, the names of the Senator from Indiana [Mr. COATS] and the Senator from Utah [Mr. HATCH] were added as cosponsors of Senate Concurrent Resolution 60, a concurrent resolution expressing the sense of the Congress that a postage stamp should be issued to honor the 100th anniversary of the Jewish War Veterans of the United States of America.

SENATE RESOLUTION 232—RELATIVE TO THE HOUSTON ROCKETS

Mr. GRAMM (for himself and Mrs. HUTCHISON) submitted the following resolution; which was considered and agreed to:

S. RES. 232

Whereas the Houston Rockets began the 1993–94 season with a 15–0 start, tying an NBA record;

Whereas the Rockets finished the 1993–94 season with a 58–24 record, second best in the NBA, and won the Midwest Division for the second consecutive year;

Whereas second-year coach Rudy Tomjanovich and his assistants helped transform the Rockets from a solid playoff team into the NBA's best;

Whereas Hakeem Olajuwon was named the NBA's most valuable player for the regular season, defensive player of the year, and most valuable player of the NBA Finals;

Whereas the Rockets won a hard-fought seven game series with the New York Knicks in which each game was decided by less than ten points;

Whereas the Rockets gave the City of Houston its first NBA Championship, a unique and special accomplishment in Houston sports history; Now therefore be it

Resolved, That the Senate congratulates the Houston Rockets for their outstanding heart, resolve, and determination in winning the 1994 National Basketball Association Championship.

AMENDMENTS SUBMITTED

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

SPECTER (AND OTHERS) AMENDMENT NO. 1839

Mr. SPECTER (for himself, Mr. WOFFORD, and Mr. LAUTENBERG) proposed an amendment to the bill (S. 2182) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the appropriate place in title XXVIII of the bill, insert the following:

SEC. 28. JUDICIAL REVIEW OF REQUIREMENTS FOR DISCLOSURE OF INFORMATION BY THE SECRETARY.

Section 2903 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) is amended by adding at the end the following new subsection:

"(f) JUDICIAL REVIEW.—If the Secretary transmits recommendations to the Commission under subsection (c)(1), any person adversely affected thereby or any member of Congress may, upon a prima facie showing of not less than two documentary material acts of fraudulent concealment, bring an action in a district court of the United States for the review of the compliance of the applicable official or entity with the requirement that such official or entity make available to Congress, to the Commission, and to the Comptroller General all information used by or available to the Secretary to prepare the recommendations.

JOHNSTON (AND OTHERS) AMENDMENT NO. 1840

Mr. JOHNSTON (for himself, Mrs. FEINSTEIN, Mr. BREAUX, Mrs. BOXER, and Mr. KOHL) proposed an amendment to the bill S. 2182, supra; as follows:

On page 249, line 7, strike out "1949" and insert in lieu thereof the following: 1949.

SEC. 1068. ACQUISITION OF STRATEGIC SEALIFT SHIPS.

(a) AMOUNT FOR SHIPBUILDING AND CONVERSION.—Notwithstanding section 102(3), there is hereby authorized to be appropriated for the Navy for fiscal year 1995, $5,532,007,000 for procurement for shipbuilding and conversion.

(b) NATIONAL DEFENSE SEALIFT FUND.—Notwithstanding section 302(2), there is hereby authorized to be appropriated for the Armed Forces and other activities and agencies of the Department of Defense $828,600,000 for providing capital for the National Defense Sealift Fund.

FEINGOLD (AND OTHERS) AMENDMENT NO. 1841

Mr. FEINGOLD (for himself, Mr. SIMON, Mr. HARKIN, Mr. BUMPERS, Mr. SASSER, and Mr. WELLSTONE) proposed and amendment to the bill S. 2182, supra; as follows:

On page 22, between lines 9 and 10, insert the following:

SEC. 122. CVN-76 AIRCRAFT CARRIER PROGRAM.

No contract (including a contract for advance procurement of long lead items) may be entered into for procurement of a CVN-76 aircraft carrier on or after the date of the enactment of this Act and before October 1, 1999. Any such contract (other than a contract for procurement of long lead items) that has been entered into before the date of the enactment of this Act shall be terminated.

MCCAIN AMENDMENT NO. 1842

Mr. MCCAIN proposed an amendment to the bill S. 2182, supra; as follows:

On page 223, beginning with line 14, strike out all through page 227, line 11, and insert in lieu thereof the following:

SEC. 1042. TERMINATION OF CERTAIN DEPARTMENT OF DEFENSE REPORTING REQUIREMENTS.

(a) IMMEDIATE TERMINATION.—Except as provided in subsection (c), notwithstanding the date set forth in subsection (a) of section 1151 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1758; 10 U.S.C. 113 note), the reporting requirements referred to in subsection (b) are terminated effective on the date of the enactment of this Act.

(b) APPLICABILITY.—Subsection (a) applies to each reporting requirement specified in enclosures 1 and 2 of the letter, dated April 29, 1994, by which the Director for Administration and Management, Office of the Secretary of Defense, citing the authority of the provision of law referred to in subsection (a), submitted a list of reporting requirements recommended for termination by the Department of Defense.

(c) PRESERVATION OF REQUIREMENTS.—(1) The reporting requirements set forth in the provisions of law referred to in paragraph (2) shall not terminate under subsection (a) of section 1151 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1758; 10 U.S.C. 113 note).

(2) Paragraph (1) applies to the following reports:

(A) Reports required under the following provisions of title 10, United States Code:

(i) Section 2662, relating to reports on real property transactions.

(ii) Section 2672a(b), relating to reports on urgent acquisitions of land.

(iii) Section 2687(b)(1), relating to notifications of certain base closures and realignments.

(iv) Section 2690(b)(2), relating to notifications of proposed conversions of heating facilities at United States installations in Europe.

(v) Section 2804(b), relating to reports on contingency military construction projects.

(vi) Section 2806(c)(2), relating to reports on contributions for NATO infrastructure in excess of amounts appropriated for such contributions.

(vii) Subsections (b) and (c) of section 2807, relating to notifications and reports on architectural and engineering services and construction design.

(viii) Section 2823(b), relating to notifications regarding disagreements between certain officials on the availability of locations for suitable alternative housing for the Department of Defense.

(ix) Subsections (b) and (c) of section 2825, relating to notifications regarding improvements of family housing or construction of replacement family housing.

(x) Section 2827(b), relating to notifications regarding relocation of military family housing units.

(xi) Section 2835(g)(1), relating to economic analyses on the cost effectiveness of leasing family housing to be constructed or rehabilitated.

(xii) Section 2861(a), relating to the annual report on military construction activities and family housing activities.

(xiii) Subsections (e) and (f) of section 2865, relating to notifications regarding unauthorized energy conservation construction projects and an annual report regarding energy conservation actions.

(B) Reports required under the following provisions of title 37, United States Code:

(i) Section 406(i), relating to the annual report regarding dependents accompanying members stationed outside the United States in relation to the eligibility of such members to receive travel and transportation allowances.

(ii) Section 1008(a), relating to the annual report by the President on adjustments of rates of pay and allowances for members of the uniformed services.

(C) Reports required under the following provisions of law:

(i) Section 326(a)(5) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2368; 10 U.S.C. 2301 note), relating to reports on use of certain ozone-depleting substances.

(ii) Subsections (e) and (f) of section 2921 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2687 note), relating to notifications regarding negotiations for payments-in-kind for the release of improvements at overseas military installations to host countries and an annual report on the status and use of the Department of Defense Overseas Military Facility Investment Recovery Account.

(iii) Section 1505(f)(3) of the Military Child Care Act of 1989 (title XV of Public Law 101–189; 103 Stat. 1594; 10 U.S.C. 113 note), relating to reports on closures of military child development centers.

(iv) Subsections (a) and (d) of section 7 of the Organotin Antifouling Paint Control Act of 1988 (Public Law 100–133, 102 Stat. 607; 33 U.S.C. 2406), relating to the annual report on the monitoring of estuaries and near-coastal waters for concentrations of organotin.

SMITH (AND OTHERS) AMENDMENTS NOS. 1843–1848

Mr. SMITH (for himself, Mr. KERRY, Mr. DOLE, Mr. CONRAD, Mr. WOFFORD, Mr. LOTT, Mr. GRASSLEY, Mr. HELMS, Mr. MCCAIN, Mr. THURMOND, Mr. KOHL, Mr. REID, and Mr. LIEBERMAN) proposed six amendments to the bill S. 2182, supra; as follows:

AMENDMENT NO. 1843

On page 249, between lines 7 and 8, insert the following:

SEC. 1068. DISCLOSURE OF INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL FROM THE KOREAN CONFLICT, AND THE COLD WAR.

Section 1082 of the National Defense Authorization Act for Fiscal Year 1992 and 1993 (Public Law 102–190; 50 U.S.C. 401 note) is amended—

(1) in subsection (a), by striking out paragraph (2) and inserting in lieu thereof the following:

(2) Paragraph (1) applies to any record, live-sighting report, or other information in the custody of the official custodian referred to in subsection (d)(3) that may pertain to the location treatment or condition of (i) United States personnel who remain not accounted for as a result of service in the Armed Forces of the United States or other Federal Government service during the Korean conflict, the Vietnam era, or the Cold War, or (ii) their remains.";

(2) subsection (c)—

(A) by striking out the first sentence in paragraph (1) and inserting in lieu thereof the following: "In the case of records or other information originated by the Department of Defense, the official custodian shall make such records and other information available to the public pursuant to this section not later than September 30, 1995.

(B) in paragraph (2), by striking out "after March 1, 1992,"; and

(C) in paragraph (3), by striking out "a Vietnam-era POW/MIA who may still be alive in Southeast Asia," and inserting in lieu thereof "any United States personnel referred to in subsection (a)(2) who remain not accounted for but who may still be alive in captivity,";

(3) by striking out subsection (d) and inserting in lieu thereof the following:

"(d) DEFINITIONS.—For purpose of this section:

"(1) The terms 'Korean conflict' and 'Vietnam era' have the meanings given those terms in section 101 of title 38, United States Code.

"(2) The term 'Cold War' shall have the meaning determined by the Secretary of Defense.

"(3) The term 'official custodian' means—

"(A) in the case of records, reports, and information relating to the Korean conflict or the Cold War, the Archivist of the United States; and

"(B) in the case of records, reports, and information relating to the Vietnam era, the Secretary of Defense."; and

(4) by striking out the section heading and inserting in lieu thereof the following new section heading:

"SEC. 1082. DISCLOSURE OF INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL OF THE COLD WAR, THE KOREAN CONFLICT, AND THE VIETNAM ERA.".

AMENDMENT NO. 1844

In title X, insert the following new section:

SEC. . REQUIREMENT FOR CERTIFICATION BY SECRETARY OF DEFENSE CONCERNING DECLASSIFICATION OF VIETNAM-ERA POW/MIA RECORDS.

(a) FINDINGS.—Congress makes the following findings:

(1) The Senate, by Senate Resolution 324, 102d Congress, 2d session, agreed to on July 2, 1992, unanimously requested the President to "expeditiously issue an Executive Order requiring all executive branch departments and agencies to declassify and publicly release without compromising United States national security all documents, files, and other materials pertaining to POW's and MIA's.".

(2) The President, in an executive order dated July 22, 1992, ordered declassification of all United States government documents, files, and other materials pertaining to American personnel who became prisoners of war or missing in action in Southeast Asia.

(3) The President stated on Memorial Day of 1993 that all such documents, files and other materials pertaining to personnel covered by that executive order should be declassified by Veterans Day of 1993.

(4) The President declared on Veterans Day of 1993 that all such document, files, and other materials had been declassified.

(5) Nonetheless, since that Veterans Day declaration in 1993, there have been found still classified more United States Government documents, filed more United States Government documents, files, and other materials pertaining to American personnel who became prisoners of war or missing in action in Southeast Asia.

(b) REVIEW AND CERTIFICATION.—Not later than 60 days after debate of the enactment of this Act, the Secretary of Defense shall—

(1) conduct a review to determine whether there continue to exist in classified from documents, files, or other materials pertaining to American personnel who became prisoners of war or missing in action in Southeast Asia that should be declassified in accordance with Senate Resolution 324, 102d Congress, 2d session, agreed to on July 2, 1992, and the executive order of July 22, 1992; and

(2) certify to Congress that all documents, files, and other materials pertaining to such personnel have been declassified and specify in the certification the date on which the declassification was completed.

AMENDMENT NO. 1845

In title X, insert the following new section:

SEC. . REQUIREMENT FOR SECRETARY OF DEFENSE TO SUBMIT RECOMMENDATIONS ON CERTAIN PROVISIONS OF LAW CONCERNING MISSING PERSONS.

(a) FINDINGS.—Congress makes the following findings:

(1) The families of American personnel who became prisoners of war or missing in action while serving in the Armed Forces of the United States and national veterans organizations have expressed concern to Congress for several years regarding provisions of chapter 10 of title 37, United States Code, relating to missing persons, that authorize the Secretaries of the military departments to declare missing Armed Forces personnel dead based primarily on the passage of time.

(2) Proposed legislation concerning revisions to those provisions of law has been pending before Congress for several years.

(3) It is important for Congress to obtain the views of the Secretary of Defense with respect to the appropriateness of revising those provisions of law before acting further on proposed amendments to such provisions.

(b) RECOMMENDATIONS REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense in consultation with the Secretaries of the military departments, the national POW/MIA family organizations, and the national veterans organizations, shall—

(1) conduct a review of the provisions of chapter 10 of title 37, United States Code, relating to missing persons; and

(2) submit to Congress the Secretary's recommendations as to whether those provisions of law should be amended.

AMENDMENT NO. 1846

In title X, insert the following new section:

SEC. . CONTACT BETWEEN THE DEPARTMENT OF DEFENSE AND THE MINISTRY OF NATIONAL DEFENSE OF CHINA ON POW/MIA ISSUES.

(a) FINDINGS.—Congress makes the following findings:

(1) The Select Committee on POW/MIA Affairs of the Senate concluded in its final report, dated January 13, 1993, that "many American POW's had been held in China during the Korean conflict and that foreign POW camps in both China and North Korea were run by Chinese officials" and, further, that "given the fact that only 26 Army and 15 Air Force personnel returned from China following the war, the committee can now firmly conclude that the People's Republic of China surely has information on the fate of other unaccounted for American POW's from the Korean conflict.".

(2) The Select Committee on POW/MIA Affairs recommended in such report that "the Department of State and Defense form a POW/MIA task force on China similar to Task Force Russia.".

(3) Neither the Department of Defense nor the Department of State has held substantive discussions with officials from the People's Republic of China concerning unaccounted for American prisoners of war of the Korean conflict.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should establish contact with officials of the Ministry of Defense of the People's Republic of China regarding unresolved issues relating to American prisoners of war and American personnel missing in action as a result of the Korean conflict.

AMENDMENT NO. 1847

On page 249, between lines 7 and 8, insert the following:

SEC. 1068. INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL OF THE VIETNAM CONFLICT.

Not later than 45 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress the following information pertaining to United States personnel involved in the Vietnam conflict that remain not accounted for:

(1) A complete listing by name of all such personnel about whom it is possible that officials of the Socialist Republic of Vietnam can produce additional information or remains that could lead to the maximum possible accounting for those personnel, as determined on the basis of all information available to the United States Government.

(2) A complete listing by name of all such personnel about whom it is possible that officials of the Lao People's Democratic Republic can produce additional information or remains that could lead to the maximum possible accounting for those personnel, as determined on the basis of all information available to the United States Government.

AMENDMENT NO. 1848

In title X, insert the following new section:

SEC. . REPORT ON POW/MIA MATTER CONCERNING NORTH KOREA

(a) FINDINGS—Congress makes the following findings:

(1) The Select Committee on POW/MIA Affairs of the Senate concluded in its final report, dated January 13, 1993, that "it is likely that a large number of possible MIA remains can be repatriated and several records and documents on unaccounted for POW's and MIA's can be provided from North Korea once a joint working level commission is set up under the leadership of the United States.".

(2) The Select Committee recommended in such report that "the Departments of State and Defense take immediate steps to form this commission through the United Nations Command at Panmunjom, Korea" and that the "commission should have a strictly humanitarian mission and should not be tied to political developments on the Korean peninsula.".

(3) In August 1993, the United States and North Korea entered into an agreement concerning the repatriation of remains of United States personnel.

(4) The establishment of a joint working level commission with North Korea could enhance the prospects for results under the August 1993 agreement.

(b) REPORT.—The Secretary of Defense shall—

(1) at the end of January, May, and September of 1995, submit a report to Congress on the status of efforts to obtain information from North Korea concerning United States personnel involved in the Korean conflict who remain not accounted for and to obtain from North Korea any remains of such personnel; and

(2) actively seek to establish a joint working level commission with North Korea, consistent with the recommendations of the Select Committee on POW/MIA Affairs of the Senate set forth in the final report of the committee, dated January 13, 1993, to resolve the remaining issues related to United States personnel who became prisoners of war or missing in action during the Korean conflict.

KEMPTHORNE (AND OTHERS) AMENDMENT NO. 1849

Mr. KEMPTHORE (for himself, Mr. MCCAIN, Mr. SMITH, Mr. COATS, Mr. CRAIG, Mr. LOTT, and Mr. NICKLES) proposed an amendment to the bill S. 2182, supra; as follows:

On page 219, after line 19, insert the following:

(d) PURPOSES FOR WHICH FUNDS AVAILABLE.—Notwithstanding subsection (g) of section 403 of title 10, United States Code, as added by subsection (b)(1), funds appropriated pursuant to the authorization of appropriations in section 301(20) may not be expended for paying assessments for United Nations peacekeeping and peace enforcement operations (including any arrearages under such assessments). The funds so appropriated shall be credited, in equal amounts, to appropriations for the Army, Navy, Air Force, and Marine Corps for fiscal year 1995 for operation and maintenance in order to enhance training and readiness of the Armed Forces and to offset any expenditure of training funds for such fiscal year for incremental costs incurred by the United States for support of peacekeeping operations for such fiscal year.

NOTICE OF HEARING

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will hold a hearing on the Federal Insecticide, Fungicide, and Rodenticide Act with respect to minor uses of pesticides, S. 1478, to revise the Federal Insecticide, Fungicide, and Rodenticide Act ensure that pesticide tolerances adequately safeguard the health of infants and children, and S. 2050, to revise the Federal Insecticide, Fungicide, and Rodenticide Act. The hearing will be held on Wednesday, June 29, 1994 at 9:30 a.m. in SR–332.

For further information, please contact Mary Dunbar at 224–5207.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, June 23, 1994, at 9 a.m., in open session, to receive testimony on the impact of lifting the U.N. Security Council arms embargo on the Government of Bosnia and Herzegovina.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Thursday, June 23, at 10 a.m. to hold a hearing on the Chemical Weapons Convention—Treaty Document 103–21.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Thursday, June 23, at 4:30 p.m. to hold a nomination hearing on Jeffrey Rush, Jr., to be inspector general, Agency for International Development.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, June 23, 1994.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, June 23, 1994, at 10:30 a.m., to hold an oversight hearing on the operations of the Office of the Architect of the Capitol.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. NUNN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, June 23, 1994 at 2:30 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER AND POWER

Mr. NUNN. Mr. President, I ask unanimous consent that the subcommittee on water and power of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., June 23, 1994, to receive testimony on the implementation of the Central Valley Project Improvement Act and the coordination of these actions with other Federal Protection and restoration efforts in the San Francisco/Sacramento-San Joaquin Delta.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TURKISH DEMOCRACY: ONE MORE STEP TOWARD THE ABYSS

• Mr. DECONCINI. Mr. President, I am compelled once again to voice my grave concerns over the state of affairs in Turkey. Were I not convinced that Turkey is one our Nation's most important allies, I would not express such frustration when the government contravenes its own constitution and international human rights commitments. Last Thursday, June 16, when Turkey's highest court banned the pro-Kurdish Democracy Party [DEP], and kicked 13 DEP members out of Parliament because of statements they made, my concern and frustration reached new heights.

The 13 duly elected members of Turkey's legislature have been removed from Parliament because of a party communique issued last year appealing for a peaceful solution to the Kurdish problem. Five deputies, who have been jailed since early March without being indicted, face the death penalty for speaking out for the rights of Turkey's Kurdish citizens. Six others have fled Turkey and, I am informed, will seek political asylum in Belgium. Two others face imminent arrest in Turkey. Mr. President, I have met with some of these individuals and others now in Turkish jails for simply expressing their views, and I am appalled. Mr. President, what kind of democracy finds its own legislators either in prison or fleeing arrest to seek political asylum?

A perhaps unintended consequence of the court decision relates to constitutional requirements that by-elections be held when 24 vacancies occur in the 450-seat Parliament. If the four Kurdish deputies who resigned from DEP before legal action was taken should leave Parliament, it would appear that elections would have to be held within 3 months. Mr. President, I want to make it clear from the outset, that should such elections take place, and it seems likely, our Government and the many non-governmental election monitors, should be prepared to send observers to ensure that international standards are met. Furthermore, in light of recent developments, the Helsinki Commission, of which I am chairman, will, in upcoming meetings of the Conference on Security and Cooperation in Europe [CSCE], press for official CSCE missions to be sent to Turkey to monitor the deteriorating rights situation.

Mr. President, what is most alarming about the deteriorating rights situation in Turkey is this increasingly frequent trend to criminalize free speech. Words and ideas, regardless of their content, are tolerated in democratic systems. As signatory to the Conference on Security and Cooperation in Europe [CSCE], the United Nations Universal Declaration on Human Rights and the International Covenant on Political and Civil Liberties, Turkey has obligated itself to protect all forms of nonviolent expression. The decision to remove 13 duly elected parliamentarians because of speeches they made or documents they sign is an affront to all democratic legislatures.

Mr. President, obviously no country, including our own, is immune from situations where human rights are jeopardized. Turkey's Kurdish issue has a long and complex history, which has unfortunately become increasingly clouded by violence. In the midst of a severe economic crisis, Turkey's government and military are spending over $7 billion a year to fight the PKK—yet the PKK continues to operate and draw followers. Regrettably the heavy-handed tactics of security forces, who have destroyed over 1,000 Kurdish villages in the past 18 months, alienate local Kurds and fuel sympathy and support for the radicals. Additionally, by criminalizing even moderate expressions of Kurdish discontent, the government stifles legitimate discourse within a democratic framework and denies its citizenry an outlet through which to legally articulate their frustration. And while no one denies Turkey's sovereign right to protect its citizenry from terrorism, this must not be pursued at the expense of other fundamental human rights.

Mr. President, in the interests of peace and regional stability, I appeal to Turkey's civilian and military leaders to reconsider increasingly intolerant and unproductive policies toward Turkey's Kurdish citizenry. There can be no hope of peace if voices on all sides are silenced and forced into more radical positions. Such policies raise serious questions about the ability of Turkish democracy to meet the pressing needs of a modern multiethnic society. Furthermore, Mr. President, despite a confluence of foreign policy interests with our Government on numerous issues, Turkey's deteriorating human rights situation makes it increasingly difficult to support a leading role for Turkey in regional political undertakings.

In conclusion, Mr. President, I would urge Turkey's government to pursue political solutions to the Kurdish situation. So as not to be criticized for simply pointing out the problem without offering my own thoughts on a solution, I will share some thoughts on defusing the mounting crisis. I believe a key element of any political approach must be official willingness to distinguish between PKK terrorism and nonviolent expression promoting rights for Turkey's Kurdish citizens. Similarly, the PKK must abandon the use of violence for political objectives and renounce aspirations for outright independence. A bilateral ceasefire could be a first step toward establishing a political dialog, not with the PKK, but with moderate Kurdish elements. In such a climate, I would urge the Turkish Government to take the following steps:

First, allow all nonviolent political parties to participate in political life.

Second, abolish restrictions on free expression including those within the Antiterror law.

Third, repeal the state of emergency.

Fourth, dismantle the village guard system.

Fifth, remove all restrictions on Kurdish linguistic and cultural expression.

Sixth, lift constraints on dissemination of Kurdish language television and radio broadcasts, print, music, and other mediums.

Seventh, develop a government-sponsored Institute of Kurdish Studies and allow schools to offer instruction in Kurdish, and

Eighth, convene an official, high-profile, conference examining all aspects of Turkish-Kurdish relations.

Mr. President, I believe such actions would bolster Turkey's civilian democracy, stem violence, marginalize the PKK by providing moderate alternatives, lift an oppressive climate which has stifled political and economic life throughout Turkey, and begin to reverse the destructive polarization of Turks and Kurds. I sincerely hope Turkey's government will seek to protect free speech and pursue nonmilitary approaches to the Kurdish dilemma to avoid plunging the nation into further turmoil.•

THE BIOMATERIALS ACCESS ASSURANCE ACT

• Mr. McCAIN. Mr. President, I am pleased to cosponsor S. 2215, the Biomaterials Access Assurance Act of 1994. This important bill would help to ensure the continued availability of materials for a wide variety of life-saving medical devices, such as brain shunts, heart valves, artificial blood vessels, and pacemakers.

Currently, the manufacturers and suppliers of such materials are subject to substantial legal liability for providing relatively small amounts of materials which generate small profits and are used for purposes beyond their control. This bill would substantially reduce their potential liability, and allow them to make their essential materials available. It will thereby address one important aspect of our broken medical products liability system.

This issue recently came to my attention when I was contacted by one of my constituents, Linda Flake Ransom, about her 7-year-old daughter Tara who requires a silicon brain shunt. Without a shunt, due to Tara's condition called hydrocephalus, excess fluid would build up in her brain, increasing pressure, and causing permanent brain damage, blindness, paralysis, and ultimately death. With the shunt, she is a healthy, happy, and productive straight-A student with enormous promise and potential.

Tara has already undergone the brain shunt procedure five times in her brief life. However, the next time that she needs to replace her shunt, it is not certain that a new one will be available due to the unavailability of shunt materials. This situation is a sad example that our medical liability system is out of control. It is tragic, but not surprising that manufacturers have decided not to provide materials if they are subject to tens of millions of dollars of potential liability for doing so.

It is essential that individuals such as Tara continue to have access to the medical devices they need to stay alive and healthy. Our bill would help to ensure the ongoing availability of materials necessary to make these devices. It would not, in any way, protect negligent manufacturers or suppliers of medical devices, or even manufacturers or suppliers of biomaterials that make negligent claims about their products. However, it would protect manufacturers and suppliers whose materials are being used in a manner that is beyond their control.

Mr. President, we must act quickly to pass the Biomaterials Access Assurance Act of 1994 to ensure that the lives of Tara and thousands of other Americans are not jeopardized. I request that a New York Times article which was reprinted in the Arizona Republic entitled "Implant Makers Facing Loss of Raw Materials," be included in the RECORD following my remarks.

The article follows:

[From the Arizona Republic, Apr. 25, 1994]

Implant Makers Facing Loss of Raw Materials: Chemical Firms Say Lawsuits Forcing Hand

Chicago.—Big chemical companies and other manufacturers of materials used to make heart valves, artificial blood vessels and other implants quietly have been warning medical-equipment companies that they intend to cut off deliveries because of fears of lawsuits.

The suppliers' new policies have not yet forced important products from the market, but medical-equipment manufacturers scrambling to protect themselves from the impending cutoffs say they are having trouble lining up replacement suppliers.

Industry executives and doctors say the trend eventually could make some lifesaving implants hard to come by and have a devastating effect on the development of new devices.

About 100 equipment companies already have had supply problems, according to the Health Industry Manufacturers Association, a Washington-based trade group for the equipment makers.

The materials manufacturers, including such giants as E.I. du Pont and Dow Chemical Co., are dropping the medical business in response to the high risk of being dragged into lawsuits filed against implant makers by consumers who say they have been injured by defective products.

Suppliers already have been named in hundreds of suits involving jaw implants, silicone breast implants and other devices.

Equipment makers say the litigation that has spurred the suppliers' withdrawals also has made it harder to obtain the materials indirectly through distributors or other middlemen.

In addition, some equipment companies say electronics companies and other important subcontractors that assemble high-tech components for the most-sophisticated implants increasingly are reluctant to take on such business.

"You can see a monster scenario where this gets totally out of hand," said Curtis Holmes, vice president for technology at Wilson Greatbatch Ltd. of Clarence, N.Y., a supplier of lithium batteries for heart pacemakers.

Wilson is scrambling to replace the pinch of Du Pont Teflon it uses in each battery. Replacing the Teflon ultimately could cost as much as $300,000 in testing and regulatory hearings and take researchers away from developing products. But that is not what really worries Holmes.

"What if the lithium companies decide they don't want to sell to us?" he asked. "Or the iodine, stainless-steel or titanium producers?"

Despite behind-the-scenes lobbying, equipment makers and medical groups so far have raised little concern in Washington about the trend.

Consumer groups say the chemical companies' moves simply are part of a broader campaign by industry to pressure Congress to limit the redress available in courts for those injured by defective products.

One leading supporter of product-liability-reform legislation is convinced the implant makers' plight is a special case.

"This is a public-health time bomb," said Sen. Joseph Lieberman, D-Conn., who said he hopes to hold hearings on the subject next month.

Lieberman said that although the proposed changes in product-liability laws would reduce materials suppliers' exposure to lawsuits, the problem might have to be dealt with in health-care-reform legislation being written on Capitol Hill.

The medical-equipment makers fear that partial protection from litigation will not be enough to bring back the big chemical and plastics suppliers, because they have so little to gain from the medical business.

Medical devices typically use small quantities of raw materials, compared with other applications.

Polyester yarn, for example, is used in artificial blood vessels, heart valves and sutures left in the body after internal surgery. Total annual sales for such uses are less than $200,000, a tiny fraction of 1 percent of the $9 billion market for such yarn in clothing, homes and industry, according to a recent study for the Health Industry Manufacturers Association.

Another material withdrawn by Du Pont and Hoechst Celanese is polyacetal resin. The automotive, industrial, plumbing and consumer-products sectors buy $1.3 billion of it annually; the implant industry buys just 550 pounds, valued at $3,300, for use in heart valves.

Pelletrane, a polyurethane that Dow Chemical began pulling from the medical market in 1990, is used in such products as automobile hoses and athletic shoes.

The medical market is so small that Dow said it did not realize that companies such as Medtronic Inc., the world's largest pacemaker manufacturer, used Pelletrane as a coating until three years after Dow acquired the business from Upjohn Co. in 1985.

In the past, companies such as Du Pont have made products available to medical companies accompanied by warnings that they had not been tested in any way to establish their suitability for medical applications.

"Everything is manufactured for industrial and consumer purposes," said Katherine Knox, the manager overseeing Du Pont's transition toward cutting off all such sales. "But for 30 years, we had a policy that we wouldn't withhold materials from the medical sector because we didn't want to inhibit development." •

TRIBUTE TO DR. RUTH SULLIVAN

• Mr. ROCKEFELLER. Mr. President, it is with great pleasure and pride that

I rise to recognize an outstanding West Virginian, Dr. Ruth Sullivan.

Fifteen years ago, Dr. Sullivan founded Autism Services Center—CRS—in Huntington, WV, at her dining room table. Currently, Dr. Sullivan is the director of the center and has spent her life advocating for services for autistic individuals. Ruth Sullivan turned a personal crisis into a dream of hope for countless others. She was trained as a nurse but when her 2-year-old son, Joseph, was diagnosed as autistic, she knew little about the disorder. However, instead of accepting the doctor's statement that nothing could be done for Joseph, Ruth Sullivan began researching. That research, along with a supportive family saved Joseph from an institution and helped him lead his own life.

At first, her goal was personal—to help her son. But, it was a 13-year-old, Katrina, who led her into direct services. Katrina was too aggressive to love at home and had been discharged from the last facility as not appropriate for our service. Katrina went to Dr. Sullivan in early November 1983, funded by the West Virginia Department of Health. This is when Dr. Sullivan began her residential services' program with a 2:1 staff client ratio, 24 hours a day. She hired a 14-member staff and rented an apartment.

Currently, the Autism Services Center has 220 employees and serves over 315 individuals with developmental disabilities as well as their families, guardians, or foster parents. The ASC now serves mentally retarded and developmentally disabled for Cabell, Wayne, Lincoln, and Mason Counties and operates six group homes in Huntington. Furthermore, it serves as a national and international clearinghouse for autism information.

On May 13, ASC celebrated its 15th anniversary. I am sure that my colleagues and my fellow West Virginians join me in congratulating Dr. Ruth Sullivan for her determination and dedication. The ASC has seen remarkable growth, received national exposure, and has helped hundreds of individuals with autism and other developmental disabilities discover their potential.•

CONGRATULATIONS, CORPUS CHRISTI COUGARS

• Mr. LUGAR. Mr. President, I rise today to recognize the girls 7th and 8th grade basketball team of Corpus Christi Parish School in South Bend, IN, for their 100th straight victory.

On Monday, March 28, 1994, the Corpus Christi Cougars rallied under coach Wayne Superczynski to defeat Christ the King 44–42, notching their 100th consecutive win. This streak has lasted through six different teams and three head coaches. Former head coach Lou Megyese began the series of wins by leading the Cougars to 50 straight victories. Donald Ciesiolka continued the pattern for an additional 14 in 1992. Current head coach, Wayne Superczynski, then took over the streak and led the girls to their 100th victory in a row.

I congratulate the Corpus Christi Cougars on their many seasons of excellence, in the Hoosier tradition of basketball. I further commend the players, coaches, and supporters for their dedication and enthusiasm, which has fostered an outstanding program in girls basketball.•

FACES OF THE HEALTH CARE CRISIS

• Mr. RIEGLE. Mr. President, I rise once again in my continuing effort to put a human face on the health care crisis in America. Today I would like to tell the story of Carol Kuiper of Jenison, MI.

Carol will celebrate her 30th birthday this July. Like so many young people across our country, Carol has spent a significant proportion of her young-adult years without health care insurance. Her story will make clear why, under our current health care system, going without health coverage, and therefore, without health care, is a choice so many young people make. But this choice leaves all of us vulnerable for the costs of their emergency care.

Carol entered Hope College in the fall of 1983 at age 19. She worked part time throughout her college years to pay for her education. As a dependent, she was covered by her parents health insurance until she turned 21. After that she went without health insurance.

While she was in school, Carol began to experience migraine headaches. She did not seek treatment immediately because she could not afford to pay any additional expenses, including medical bills. Her college infirmary was available for minor medical assistance free of charge, but was not equipped to offer treatment for migraine headaches. The infirmary nurse advised Carol to seek the help of a neurologist. The severity of the pain eventually compelled her to make an appointment. However, she walked out without seeing the specialist after she was told she must pay $90 that day for a consultation.

Other than experiencing migraines several times a month, Carol was healthy. She considered herself lucky because she did not get sick often. But if she had needed emergency treatment she could not have paid for it.

After graduating from college with a degree in German in the spring of 1989, Carol held a series of part-time jobs which did not offer insurance. These included waitressing and working in a greenhouse. In September of that year she was hired as a full-time employee in a department store, preparing visual displays. She finally had affordable health insurance coverage at a cost of $70 a month with a $10 copay on doctor's visits and prescriptions.

My colleagues may know that retail can be a very stressful business. After working for 4 years, Carol left the visual display job in June of 1993 because she could no longer handle the high stress of the position. She had the option of continuing her insurance coverage under COBRA, but, without assured full-time income and in addition to her student loan payments, she could not afford the $160 a month premium plus the required payments.

Not wanting to be completely without coverage, Carol did take out catastrophic coverage as a safety net. She paid $193 for 6 months of coverage. There was a $250 deductible for every catastrophic injury or illness. Although she now had coverage for a major accident or hospitalization, she was uninsured for minor illness or injuries and preventive treatment. Her migraine medication cost her an additional $70 a month, which she could not afford, she stopped treating her migraines. She has gone without normal medical visits when she had experienced tendinitis and sore throats.

In September 1993 Carol again found a job in retail, working part time at minimum wage. Again, she was not offered, and could not afford to purchase on her own, comprehensive health coverage. While working at this part-time job, she continue her effort to find full-time work which provided health care benefits.

In January of 1994, frustrated by the idea that she was paying for coverage that did not meet her basic health care needs, she opted to not renew the policy. Carol did this, knowing that if she were in any sort of accident or developed a more serious health condition, she would have no way to pay for her care.

I am pleased to report that Carol has recently been offered a full-time job which she will begin later this month. The position, again in retail, offers affordable health care benefits. But the benefits will not start until she has worked for 6 months. Although she must wait, Carol is happy to know she will have access to affordable health care. She is currently in the process of deciding whether to choose an HMO or a fee-for-service plan.

Carol's story is not unlike that of many of our young people. They realize the importance of having health insurance, but just cannot afford the cost. We need to help Carol and other young working people obtain affordable health care coverage so that they are not subject to the constant worry of becoming ill or of being in an accident. I will continue to work with my colleagues in the Senate to craft a health reform package that covers everyone.•

COMMENDING FIRST-GRADERS

• Mr. DURENBERGER. Mr. President, one of the most enjoyable aspects of my 16 years of service in the U.S. Senate has been the opportunity which it affords to recognize outstanding Minnesotans. This past Friday, one such group of first-graders representing Christ the King-St. Thomas the Apostle School was recognized for its achievements by being named a finalist for the 1994 Toshiba-NSTA ExploraVision Awards.

This competition, sponsored by Toshiba Corp. and administrated by the National Science Teachers Association, is designed to foster science learning. It challenges teams of students from across the United States and Canada to select a technology which currently exists and envision what it will look like 20 years in the future.

The technology which the students visualized was entitled "Smart Eyeglasses," and consisted of voice-activated eyeglasses that solve math problems before your very eyes, on the inside of your lenses. It is innovative thinking such as this which will assist these gifted young people in leading our Nation into the 21st century.

I hope my colleagues will join me in offering congratulations to the following gifted students who have shown us the power of the human mind: Jessica Friedlander, Rebecca Heistad, Zachary Morris, Bryn Thompson, and instructor J. Diane Wielinski.•

PARTNERSHIP FOR PEACE

• Mr. DECONCINI. Mr. President, in an historic marking of the anniversaries of the creation of NATO and Nazi Germany's attack on the USSR, the Russian Federation has joined Partnership for Peace [PFP]. Although NATO rejected any special formal conditions for Russia's entry, which could have been interpreted as a right to have a say in NATO decisionmaking, NATO foreign ministers have promised Moscow a relationship that goes beyond the purely military dimension of PFP. The joint declaration on Russia's entry recognizes Russia's significance, and NATO will consult with Russia on European security.

Many Russian politicians opposed joining the PFP. Not surprisingly, the Communist Party, and nationalist hardliners, such as Vladimir Zhirinovsky, bitterly protested the invitation as a national humiliation. Less expected, however, was the assessment of former Russian Ambassador to Washington, Vladimir Lukin, now the chairman of the Foreign Affairs Committee of the Russian Duma. He also objected to Russian accession, likening it last March to a rape of Russia. In fact, with anti-American sentiments increasingly popular today in Russian politics, plans to schedule joint United States-Russian maneuvers had to be canceled last month, and it seemed doubtful that Russia would join PFP.

Nevertheless, President Yeltsin and his Government have evidently decided that entry offers more pluses than minuses. Some commentators theorize that the Russian military did not want to be left out of security consultations, others fear that Russia will try to use its membership to curtail NATO's military and political options in crisis situations like Bosnia. Still others worry that Russia will attempt to realize its publicly stated hopes to turn NATO into the military arm of the CSCE, or will seek—or, in the worst case scenario, may have already received—tacit understanding from NATO about Russian peacekeeping operations in the Commonwealth of Independent States.

Mr. President, we must be mindful of these concerns, particularly the latter. It is especially important that the entry into PFP of the East-Central European countries and many former Soviet Republics be used to foster respect for the sovereignty and independence of all the member states. Though not formally an alliance system, PFP nevertheless presumes certain fundamental common values among participants, and it would defeat the very purpose of the enterprise if some members felt as threatened by their neighbors, or by their perception of their neighbors' intentions, as they did before joining.

These qualifications notwithstanding, I welcome Russia's entry into PFP. Having Russia in the West's new security arrangements is a positive breakthrough. It is preferable to worry about the implications of Russia in PFP than to have to worry about the consequences of Russia remaining outside, feeling isolated and threatened.•

CONGRATULATING THE HOUSTON ROCKETS FOR WINNING THE NBA CHAMPIONSHIP

Mr. NUNN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 232, a resolution to congratulate the Houston Rockets for winning the NBA championship, submitted earlier today by Senators HUTCHISON and GRAMM, that the resolution be deemed agreed to and the motion to reconsider laid upon the table, and the preamble agreed to, and any statements appear in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 232) was deemed agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 232

Whereas the Houston Rockets began the 1993-94 season with a 15-0 start, tying the NBA record;

Whereas the Rockets finished the 1993-94 season with a 58-24 record, second best in the NBA, and won the Midwest Division for the second consecutive year;

Whereas second-year coach Rudy Tomjanovich and his assistants helped transform the Rockets from a solid playoff team into the NBA's best;

Whereas Hakeem Olajuwon was named the NBA's most valuable player for the regular season, defensive player of the year, and most valuable player of the NBA Finals;

Whereas the Rockets won a hard-fought seven game series with the New York Knicks in which each game was decided by less than ten points;

Whereas the Rockets gave the City of Houston its first NBA Championship, a unique and special accomplishment in Houston sports history; Now therefore be it

Resolved, That the Senate congratulates the Houston Rockets for their outstanding heart, resolve, and determination in winning the 1994 National Basketball Association Championship.

ORDERS FOR TOMORROW

Mr. NUNN. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m., Friday, June 24; that following the prayer, the Journal of the proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; that immediately following the announcements of the chair, the Senate vote on a motion to instruct the Sergeant-at-Arms to request the presence of absent Senators, without intervening action.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I ask unanimous consent that it be in order to request the yeas and nays on the motion to instruct.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. NUNN. Mr. President, I now ask for the yeas and nays.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

RECESS UNTIL FRIDAY, JUNE 24, 1994, AT 9:30 A.M.

Mr. NUNN. Mr. President, if there is no further business to come before the Senate today, and I see no other Senator seeking recognition, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 7:43 p.m., recessed until Friday, June 24, 1994, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Thursday, June 23, 1994*

The House met at 10 a.m.

The Reverend Dr. William A. Holmes, senior minister, Metropolitan Memorial United Methodist Church, Washington, DC, offered the following prayer:

Almighty and loving God, Lord of all our houses, the personal ones in which we live our lives as families and to which we turn for shelter, rest, and comfort; Bless, we pray, our individual homes.

Lord of public places, including this representative House of all the people: Bless, we pray, the deliberations of this body. May the business conducted here truly be the people's business, may the issues debated here truly be the people's issues, and may the floor of this House so resonate with the sounds of a commitment to the common good, that it can be said of all who occupied this House: "They served You through serving others." O God of all our houses. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from Maine [Mr. ANDREWS] will please come forward and lead the House in the Pledge of Allegiance.

Mr. ANDREWS of Maine led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills and a concurrent resolution of the House of the following titles:

H.R. 3724. An act to designate the United States courthouse located in Bridgeport, CT, as the "Brien McMahon Federal Building";

H.R. 4568. An act making supplemental appropriations for the Department of Housing and Urban Development for the fiscal year ending September 30, 1994, and for other purposes; and

H. Con. Res. 222. Authorizing the placement of a bust of Raoul Wallenberg in the Capitol.

The message also announced that the Senate had passed with amendments, in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2739. An act to amend the Airport and Airway Improvement Act of 1982 to authorize appropriations for fiscal years 1994, 1995, and 1996, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 2739) "An act to amend the Airport and Airway Improvement Act of 1982 to authorize appropriations for fiscal years 1994, 1995, and 1996, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HOLLINGS, Mr. FORD, Mr. EXON, Mr. DANFORTH, and Mr. PRESSLER to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 2099. An act to establish the Northern Great Plains Rural Development Commission, and for other purposes; and

S.J. Res. 202. Joint resolution commemorating June 22, 1994, as the 50th anniversary of the Servicemen's Readjustment Act of 1944.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will recognize 10 Members on each side for 1-minute requests.

INTRODUCTION OF THE GULF OF MAINE ACT OF 1994

(Mr. ANDREWS of Maine asked and was given permission to address the House for 1 minute.)

Mr. ANDREWS of Maine. Mr. Speaker, today I am proud to introduce the Gulf of Maine Act of 1994, legislation that seeks to protect the future of this vital resource.

The Gulf of Maine is in trouble. We can see it in the crises facing Maine fishermen and women, with dwindling groundfish stocks, the contamination of sensitive wetlands, and the threat to a way of life for millions who depend on the Gulf of Maine for recreation and economic opportunities.

For too long our approach to saving this resource has been fragmented among various Federal agencies, States, provinces, businesses, and environmental and citizens groups who have a stake in its future. For too long the left hand of government has not known what the right hand is doing in dealing with the challenge before us.

Groundfish stocks will not be restored by limiting access to fishing if pollution continues to contaminate coastal waters. The Gulf of Maine Act of 1994 will assure that this precious resource is viewed as a whole, and that actions to protect it are taken as a whole. It focuses on four key areas—marine research, fisheries management, economic development, and environmental management. Action in these areas will be coordinated by the Gulf of Maine Council made up of representatives of each of the Gulf of Maine States and Canadian Provinces, with the involvement of a full range of groups and individuals and interests with a stake in the future of the Gulf of Maine.

This legislation is the result of the vision and hard work of a number of concerned people. Chief among them is GEORGE MITCHELL, who will introduce this bill in the Senate.

Mr. Speaker, the Gulf of Maine has been a vital resource for millions and millions of people for generations. It is time to do what needs to be done to make sure it is a vital resource for future generations.

THE MYTH OF SMALL BUSINESS SUPPORT FOR MANDATED HEALTH REFORM

(Mrs. MEYERS of Kansas asked and was given permission to address the House for 1 minute.)

Mrs. MEYERS of Kansas. Mr. Speaker, whenever the issue of mandated health care and the concerns of small business are discussed, someone always claims that those businesses who currently provide health insurance for their employees would support such a mandate to level the playing field. This is a fallacy.

Small business owners are fiercely independent by nature. Those who currently provide health insurance are able to determine the coverage they can offer and at what cost. A government mandate removes all future control from the small business owner over the type of benefit he will offer to his employee, and how much he will pay. The Government will specify the terms and conditions of coverage. The Government will tell the entrepreneur that he must pay 80 percent of the premiums. The Government will create a huge new bureaucracy to collect the new payroll taxes and administer health care reform that is supposed to

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

reduce the cost of health care. If anyone listening right now thinks that getting the Government more involved in health care will save money, I would love to talk to you about some beach front property I own in Kansas.

Small business owners know that the basic benefits package will continually expand, as interest groups appeal to Congress to add more and more services. They know that health care costs and paperwork burdens will increase in a big Federal bureaucracy. They know that mandated health care will cause some businesses to fold, and possibly millions of jobs to be lost.

Small business owners, including those currently offering health care, still believe that the Government that governs best, governs least. Let us heed their wisdom and real world experience—oppose employer mandates in health care reform.

NO TIME FOR PARTISAN POLITICS ON HEALTH CARE REFORM LEGISLATION

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, actions speak louder than words.

On health care reform, Republicans sound like they want to be part of the solution, but their actions—loudly and clearly—make them part of the problem.

While the Democrats are working to fashion a health care bill that will control costs and cover all Americans, the Republicans are trying to score political points by saying "no" to health care and "yes" to gridlock.

According to the New York Times, House Republicans, at the urging of their deputy leader, are trying to keep health care legislation from reaching the House floor in a form that could pass. With the goal of creating a health care train wreck, Republicans have been urged to vote against amendments that they actually support.

Unfortunately, instead of working for the best health care bill possible, many on the other side have placed politics over the best interest of the American people.

Mr. Speaker, it is time to put partisan politics aside and work honestly to deliver the health care reform that the American people want and deserve.

WORLD CUP HEALTH CARE

(Ms. PRYCE of Ohio asked and was given permission to address the House for 1 minute, and to revise and extend her remarks.)

Ms. PRYCE of Ohio. Mr. Speaker, The United States beat Columbia in World Cup soccer yesterday. So, why can we not pass commonsense health care reform in this session of Congress? We, in the House, could learn a few things from our American soccer team.

The Americans used teamwork to win. We need to drop the partisanship and work together for commonsense health care reform.

The Americans played tough defense, while moving forward on offense to score the two goals. We should be vigilant in defending our small businesses, and to protect the jobs of our workers as we move forward on health care reform.

Our soccer team, unlike the Colombians, did not shoot themselves in the foot by shooting into their own net. We should remember not to kill our small businesses by forcing a job-killing employer mandate on our private sector.

And most importantly, the American team never gave up in the face of long odds and limited expectations. I urge my colleagues to never give up in the effort to achieve commonsense health care reform.

[Mr. MAZZOLI addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

COMMONSENSE HEALTH REFORM

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, health care reform seems to be revolving around the Democratic Party's Big Brother-like mentality of more government-run systems. Being a proponent of individual accountability, I am particularly appalled by this reckless disregard for personal responsibility.

Specifically, President Clinton's proposal forces small businessmen to abdicate their right to design an employee benefits package that meets their employees' needs and makes good business sense. As a former small businessman, I find this very disturbing.

So who would fill this role? A new crop of State and Federal bureaucrats, equaling yet another unfunded Federal mandate for the States, a nightmare for employees and a bigger tax bill for American taxpayers.

These newly empowered State and Federal health care bureaucrats would be responsible for: Determining corporate and individual eligibility; setting subsidy amounts; formulating subsidy distribution; and even monitoring changes in eligibility status.

Mr. Speaker, it is quite clear to me that employer mandates are unacceptable. This explosive increase in State and Federal employees, and the lack of small business control over employee benefits design are not in the American public's best interest.

Let us make sure that health care reform today does not translate into bigger government tomorrow.

MEXICAN PIPE COMPANY STEALING AMERICAN JOBS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Japan is teaching, teaching, and teaching, and Mexico is learning, learning, and learning.

Tamsa, a Mexican pipemaker, is stealing the pipe business in America. American companies say that this Mexican pipemaker is selling pipe so low it looks like a loss leader at a fire sale. That is called dumping below production costs, killing American jobs.

And what does Congress do? Congress sits here and rearranges the deck chairs on the biggest Titanic we have ever seen, called NAFTA. Free trade with Mexico? This isn't free trade; this is a joke. And the laugh all over the world, especially in Mexico, is on the United States Congress.

Mr. Speaker, I yield back the balance of this tragic comedy.

THE COST OF THE CLINTON HEALTH CARE PLAN TO SMALL BUSINESS

(Mr. KIM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KIM. Mr. Speaker, I would like to note some of the things that small business owners are saying to me about the Clinton health care plan:

Mr. Chuck Keagle, who runs several small restaurants in my district, told me that "if the Clinton plan were enacted as it stands now, my problems as a small business owner would go away because we simply would not survive."

Barbara Price, owner of A-plus Mailing Systems, testified that "The plan is going to mean one of two things: we will be out of business, or we are going to severely reduce the number of employees."

These comments were not unique. In fact, I recently held a small business forum at which every small business owner told me that if the Clinton plan passes, they would have to either lay off employees or close entirely.

When you listen to this kind of testimony, which comes from real people running real businesses, it becomes extremely clear that the employer mandates in the Clinton plan pose a life-or-death threat to small businesses.

For this reason, I strongly urge my colleague to reject the Clinton administration's attempt to place a costly new burden on this Nation's small businesses, this ill-written employer mandate.

DENY GUNS TO SPOUSE ABUSERS

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, while America focuses on the tragedy of family violence, all eyes are riveted on spousal abuse, there is something real and substantive that this Congress can do. Contained in the crime bill, in the Violence Against Women Act, is a provision that the gentlewoman from Colorado [Mrs. SCHROEDER] and I have offered, to put a barrier to those who abuse their spouses in getting access to handguns.

A history of spousal violence, a court order to stay away from a spouse that has been abused, that individual would be denied the ability to buy a handgun.

America can mourn, we can debate the issue. But this Congress can do something real and lasting if the conference committee now considering the crime bill will take this commonsense approach that we have offered.

COMMONSENSE HEALTH CARE

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTCHINSON. Mr. Speaker, the chairman of the Senate Finance Committee predicted that if President Clinton wanted it, the Congress could pass a health care reform bill that would make insurance available to everyone within 10 years.

But it seems the administration does not want such reform. For the President, it is his way or the highway. And that is too bad.

The Clinton reform plan has many serious flaws. It has price controls which will diminish health care quality. It has employer mandates which will kill jobs. And it greatly enhances the presence of the Government in the health care delivery system which makes most Americans very nervous.

I urge the President to support commonsense health care reform. If Congress can agree on a plan that would extend coverage to millions of Americans now unprotected and contain costs, that bill should be signed.

Let us fix the problems that plague our current system, without resorting to job killing employer mandates or a huge Government bureaucracy. And let us do it now.

GUNS SHOULD BE DENIED TO PEOPLE WITH FAMILY VIOLENCE CONVICTIONS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I join with the gentleman from New Jersey [Mr. TORRICELLI] in pleading with the conferees on the crime bill to please keep in our provision vis-a-vis denying guns to people who have a long, long list of family violence convictions. Many States do not call these criminal, and so therefore it does not fall under the Brady bill. But if we have not seen the deadly, deadly outcome of so many family disputes this week, we will never see it.

We are asking Members of Congress to collect names of people who have been killed in family violence just in recent times in their area and start putting those in the RECORD. It is time this country finally brings this issue out into the sunshine and work to do something about it. We can in the crime bill, we must in the crime bill. And when we are seeing over 1,500 women a year killed, it is time that this stopped.

WHEN IS IT WARRANTED TO TREAT JUVENILES LIKE ADULTS

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, I wish to advise my colleagues about a case in Warwick, RI, where a convicted murderer is soon scheduled to be released from prison this coming October because he will then be 21 years old.

He was convicted of killing four females, was sentenced as a juvenile, and therefore will be released because of the way the law is written.

Upon his release from the juvenile detention center, his entire record will be expunged. Yes, you heard me correctly. Craig Price will have no criminal record at all. Not only does this add insult to injury, it makes a total mockery of our criminal justice system.

I cannot begin to imagine how shattered the families of these victims must be, knowing this killer, who robbed them of their loved ones, is due to be released after serving only 4 years for his crimes.

What is even more galling is that it has been widely reported by the press that Craig Price has shown absolutely no remorse for these brutal crimes.

It is imperative that the final crime bill that the House and Senate are currently trying to reconcile should contain a provision authorizing the prosecution of armed, violent, juveniles as adults.

An even more compelling reason to charge juveniles as adults is that the FBI is reporting a nearly fourfold increase in the murder arrest rate of people under 17 from 1965 to 1992.

□ 1020

A CALL FOR BIPARTISAN SUPPORT FOR HEALTH CARE REFORM

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, in the 1930's, the chairman of the Republican National Party went on a national radio network and before the microphone he started jingling a set of metal dog tags. And he said, "Ladies and gentlemen of America, what you hear are the dog tags that every American will have to wear if we pass Social Security."

He argued then that if Social Security were enacted, it would be a step toward socialism that would take away the personal freedoms of America. We do not hear that Social Security argument today from either side of the aisle. But we do hear the same slogans about big brother and big government and socialism, when it comes to the health care reform to date.

In the history of our country, there have been Members in this body who have risen above party discipline and above cynical slogans to respond to our national needs. In the weeks ahead, the Nation can only hope that some Republican Members will defy their party's marching orders to sabotage health care reform and join in to find a truly bipartisan solution to our Nation's health care problem.

The Republican National Committee is determined to defeat President Clinton's efforts to solve our health care crisis. But can anyone truly believe that the American people are more interested in political gridlock than in progress? American families across this Nation are looking for guaranteed private insurance coverage that can never be taken away. There has to be a bipartisan solution. We need Members on both sides to work together to make it happen.

FOREST SERVICE TIMBER SALES PROGRAM IS VITAL TO U.S. ECONOMY

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, I am asking Congress to continue at the present level the Forest Service timber sales program. We must remember that our actions have a tremendous impact not only on loggers, and people in the industry, but also on every American.

In 1995, the Nicolet National Forest may face a 25-percent reduction in board feet offered for sale.

These reductions profoundly affect the economy of the entire United States. The price of lumber has more than doubled in just over a year. The cost of the average home has been driven up an additional $4,000.

The timber sales program is also vital to forest management. Thinning of our national forests is essential to pest control, to wildlife habitat, and to prevent forest wildfire.

The timber sales program is good for the economy and for forest management. I ask Congress to consider these facts in its deliberations, and I ask Congress to continue the timber sales program at its present level.

SUPPORT URGED FOR THE REEMPLOYMENT ACT

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, the Reemployment Act is all about building a reemployment system that meets the needs of workers and businesses in the 1990's and beyond. The more than 2 million workers who will be dislocated this year and in the years to come need the assistance that this new system would bring.

At the heart of the Reemployment Act is an effort to improve our current unemployment offices which all too often offer little in the way of employment or services. The REA would put in their place one-stop career centers that would bring real help to workers struggling to find good jobs in a rapidly changing economy.

These career centers would offer immediate access to all of the programs available to workers looking for a new, or better job. Workers would be paired with career counselors who would work with them, guide them to the best programs, and commit themselves to seeing that workers succeed in finding that new and better job.

Mr. Speaker, we need to pass the Reemployment Act this year and get one-stop centers up and running in each of our communities. We need to work to put on the President's desk legislation that would put in the hands of all workers the information and assistance they need to make the jobs connections in the 1990's and beyond.

CONGRESSIONAL REFORM

(Mr. ALLARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLARD. Mr. Speaker, I rise today to address a source of frustration to me and others who served on the Joint Committee on the Organization of Congress: The lack of commitment by the leadership to true congressional reform.

I have here the only tangible product set forth by the committee, "A Guide to Training Programs for Congressional Staffers."

Mr. Speaker, I ask, where is the full report of the committee? Has the last year of work come to this one pamphlet? While the intentions may have been good, we cannot call this reform.

The leadership has not kept their commitment. After an understanding with the leadership, we were led to believe that they would act upon the recommendations early in the year. Now, the session is almost over and where is the full report? Why is the leadership so reluctant to send it to the floor?

It is time we take these reforms seriously. Not only does this institution need these reforms, the American people deserve them. They are tired of seeing Congress elevate itself above everyone else in the country.

This is not a partisan issue; Members on both sides of the aisle want congressional reform. I believe if we bring this matter to the floor, the Members in this body will respond.

Again I ask the leadership, where is the commitment to reform we were all led to believe? Now is the time for congressional reform.

HEALTH CARE REFORM

(Mr. OLVER asked and was given permission to address the House for 1 minute.)

Mr. OLVER. Mr. Speaker, many politicians present themselves as champions of change when, in reality, they are best friends of the status quo. A favorite trick for some of them is to sound like reformers while really playing politics as usual by preying upon people's fears.

When Social Security was proposed over half a century ago, Republicans tried to scare the American people out of supporting it. When Medicare was proposed in the 1960's they did the same. Last year, when we passed President Clinton's economic plan, the Republicans predicted doom and not a single Republican voted "yes." But one indicator after another shows an economy on the rebound. Almost 2½ million more jobs have been created since Bill Clinton became President than in the whole 4 years under President Bush.

Now the Republicans are at it again, Mr. Speaker. They put politics above people when they try to scare people out of making change. They would rather win partisan advantage than pass a bill that gives all Americans health care that can never be taken away. Mr. Speaker, I hope we will not give in to the fearmongers. Let us give American families the peace of mind they deserve by providing health care that's always there.

CONGRATULATIONS TO THE HOUSTON ROCKETS

(Mr. FIELDS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FIELDS of Texas. Mr. Speaker, I am enormously proud to announce, for anyone who may have missed the news, that the Houston Rockets last night won their first ever NBA championship, defeating the New York Knicks in game seven of the basketball finals. This was a great season, a great series, and a great victory for the Houston Rockets. I want to congratulate Coach Rudy Tomjanovich, series MVP Hakeem Olajuwon, who also won regular season MVP honors and was the defensive player of the year, the first time anyone has done that. I want to congratulate the entire Rockets squad and each and every Houstonian who cheered on the Rockets, even when it looked like victory was slipping away in the seven-game series.

The Rockets showed their strength, their determination and poise throughout the series, but particularly when they came back from being down 3 to 2, not only against the Knicks but also against the Phoenix Suns, to win the final two games of both series.

Finally, let me say that Houston has many nicknames. We are called the Bayou City. We are called Space City. Now we take pride in being known as Clutch City. We thank our Houston Rockets, the coaches, the players, and the fans alike, for the new nickname.

We like our new nickname, Mr. Speaker. We like the fact that Houston is now the home of the NBA champions, and we plan to repeat next year.

COMMEMORATING THE HOUSTON ROCKETS VICTORY

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, today the city of Houston and our Nation is celebrating the accomplishments of the Houston Rockets who have for the first time brought a national championship to Houston. The city of Houston has a great deal to be proud of including its position in world trade with the Port of Houston and its status as a world class city in energy, medicine, higher education, and space exploration.

Today we have one more reason for pride in our city because of the Houston Rockets. Just like the city of Houston, the Rockets have struggled in the past but always maintained their composure. The Houston Rockets serve as a shining example of a diverse group of people coming together and combining their talents to produce tremendous results. This Congress and this Nation can learn a great lesson in patience, perseverance, and professionalism from the Rockets and as we take time out from the constant deliberations of Federal spending, crime, and health care we are reminded that excellence and perfection are achievable through personal motivation and a commitment to succeed through teamwork.

□ 1030

EMPLOYER MANDATE "TRIGGERS"

(Mr. GRAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRAMS. Mr. Speaker, the President's health care reform scheme and its single-payer cousin are foundering on the rocks of intense public scrutiny. That is good news for America.

The bad news is that big government types in Congress are trying to throw a buy-now-pay-later life preserver to the plan in the form of a delayed mandate, commonly known as a trigger.

When will the Democrats in Congress and the White House realize that Americans are wise to their wily buy-now-pay-later ways? Deficit spending, for example, saddles future Americans with debt, but it makes politicians look good today. Similarly, imposing an employer mandate via a trigger kills jobs when it goes into effect down the road, but makes politicians look good today.

Study after study shows that an employer mandate will force between 600,000 and 3.8 million Americans out of work. With increased unemployment on the horizon it is no wonder the Democrat leadership and the White House are trying to delay implementing an employer mandate.

I always thought Trigger was Roy Rogers' horse. Now it means employer mandate. Now, it means job killing employer mandate. Now it means buy-now-pay-later job killing employer mandate.

If the Democrat leadership and the White House think that a trigger is the life preserver that will save Government-run health care, they are wrong. It is a lead weight that is going to sink that monstrosity.

REEMPLOYMENT ACT—ONE-STOP CAREER CENTERS

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, I rise today in support of the President's Reemployment Act and the one-stop career centers which are a critical provision.

These centers will provide all Americans—not just the unemployed—with an incredible amount of information on labor markets, training programs, job counseling, and job benefits.

In addition to providing benefits to a larger group of Americans, one-stop career centers will eliminate much of the bureaucracy which often saps the energy and drive of people looking for work. Under current programs, too many people spend their time moving from agency to agency, line to line.

One-stop centers simplify this process, so workers expend their energy using these programs instead of applying for them.

These centers are a simple idea which will hot-wire Americans into job markets and training opportunities. Let us keep Americans working: Support the Reemployment Act and its one-stop career centers.

THE NAYSAYERS WILL BE PROVEN WRONG AGAIN

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, what do Social Security, Medicare, minimum wage, the 1993 Budget Act, all have in common, spanning from 1935 to 1993? What they have in common, Mr. Speaker, is that the naysayers all stood on this floor and predicted dire economic gloom and doom, particularly saying that each was going to kill jobs in this country.

Yet, 30 years later, everyone lines up to support Social Security. Thirty years later, Medicare is a tenet of faith. Several years later, people acknowledge that the minimum wage increase did not kill jobs; and even though it will not be acknowledged right now by the naysayers, the studies are already coming back that show the Budget Act that passed here did not kill jobs, it created them, in fact, at a rate four times greater than the Bush administration in under 4 years.

What all that has in common is that they said all these things about some very important institutions of American Government and American society. Thirty years later, they always support them. We do not have 30 years to wait for health care. It needs to get done this year.

A TAX BY ANY OTHER NAME

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, to paraphrase Shakespeare, "A tax by any other name would cost as much."

Call them what you will—mandates, caps, triggers, they will still act like what they are: taxes. And they will cost America just as they always have in lost jobs, in increased costs, in foregone raises, in lost wages, in lost opportunities.

To get the right answers you have to ask the right question, the basic question such as, who pays? Regardless of how the administration tries to disguise it, the answer is: Everyone who works, everyone who aspires to work, and everyone who has had to work.

The something-for-nothing promise of Mr. Clinton and the liberal Democrats always degenerates into nothing-for-something for America.

As my friends will recall, Trigger was what Roy Rogers rode into the sunset. President Clinton appears saddled and ready to do the same. Of course, Mr. Rogers also now owns a fast-food restaurant chain, so perhaps the President is thinking ahead.

ILLEGITIMACY: AN UNPRECEDENTED CATASTROPHE

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, Illegitimacy: An Unprecedented Catastrophe.

"Illegitimacy—An Unprecedented Catastrophe." That was the headline of a column in yesterday's Washington Post written by David Broder. In the article Mr. Broder includes some interesting statistics. From 1940 to 1956, the national rate of illegitimacy stayed flat at about 4 percent. Starting in 1956, it went up, and since 1970 every year it has been worse than the year before.

Currently the national rate of illegitimacy is 30 percent, and is figured to be at least 50 percent by the turn of the century. In some parts of America, it is already exceeding 70 percent. This is catastrophic, according to Mr. Broder and to Senator MOYNIHAN, who has studied demographics for a long time.

There is even a new term called speciation, which describes the impending creation of a different breed of human being, one born and raised outside the mother-father relationship.

Illegitimacy is catastrophic as to cost, Mr. Speaker, catastrophic as to human cost and financial cost. While the welfare reform bill has some pregnancy prevention measures in it, and they would be welcome, until this Nation returns to values, to commonly shared values, commonly shared principles, I think we will continue to have a deepening, not a lessening, of this national catastrophe.

HOUR OF MEETING ON TOMORROW

Mr. WISE. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 9 a.m. tomorrow.

The SPEAKER pro tempore (Mr. VISCLOSKY). Is there objection to the request of the gentleman from West Virginia?

There was no objection.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION ACT, 1995

Mr. YATES. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4602) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1995, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

☐ 1037

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4602, with Mr. GLICKMAN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, June 22, 1994, the amendment offered by the gentleman from Illinois [Mr. CRANE] had been disposed of, and title II was open for amendment at any point.

Are there further amendments to title II?

AMENDMENT OFFERED BY MR. BACHUS OF ALABAMA

Mr. BACHUS of Alabama. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BACHUS of Alabama: Page 76, line 25, strike "$141,950,000" and insert "$49,293,100".

The CHAIRMAN. The gentleman from Alabama [Mr. BACHUS] is recognized for 5 minutes in support of his amendment.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. BACHUS of Alabama. Mr. Chairman, without losing my time and place, I would like the opportunity to discuss my amendment first, but I will enter into a discussion with the gentleman from Illinois [Mr. YATES] if I do not lose my time.

Mr. YATES. All I propose to do is fix a time limit, which I had understood the gentleman agreed to.

The CHAIRMAN. The Chair will protect the gentleman on his time.

Mr. BACHUS of Alabama. Mr. Chairman, I believe the arrangement with the gentleman from Illinois [Mr. YATES] is for 15 minutes on each side.

I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, I would say to the gentleman, that is correct. Is that satisfactory to the gentleman from Alabama?

Mr. BACHUS of Alabama. It is very satisfactory, Mr. Chairman.

Mr. YATES. With the gentleman controlling time on his side, and I on mine.

Mr. Chairman, I make that as a unanimous-consent request.

The CHAIRMAN. Is there objection to the unanimous consent request of the gentleman from Illinois that the debate on this amendment and all amendments thereto be limited to 30 minutes, 15 minutes on each side?

There was no objection.

The CHAIRMAN. The gentleman from Alabama [Mr. BACHUS] is recognized for 15 minutes.

Mr. BACHUS of Alabama. Mr. Chairman, my amendment strikes $91 million from the appropriation for the National Endowment for the Arts.

☐ 1040

That is the amount awarded in the program grants and administrative cost. It reserves $8 million in administrative cost. It preserves those funds awarded to the States to be disbursed at their discretion. It also reserves all matching funds. Currently our States are given only 23½ percent of the total amount that we appropriate for the NEA. I do support the arts, but I am finding it increasingly obvious that Jane Alexander's staff at the NEA is having real problems with these individual grants. I think the discussion yesterday about what happened in Minneapolis is evidence of that. I think every time the NEA appropriation comes up, there is a long list of very offensive projects that the NEA has funded. If we look at those projects, almost in their entirety they are projects of individual grants or program grants. On the other hand when we have awarded money to the States or given matching grants, matching funds, we seem to have no problem with that.

I think that is evidence, Mr. Chairman, that the States are in a much better position to distribute this money as opposed to some committee or panel over at the NEA.

Mr. Chairman, I also say that because to me it is outrageous that the administrative expenses at the NEA are $25 million. This House appropriates $171 million in program grants, both State programs and program grants. Yet it costs $25 million here in Washington to distribute that money. As opposed to that, I think that the States can make a much better decision on where that money is needed.

Yesterday we had a long discussion on the floor of this House about the merits and the benefits of the National Endowment for the Arts programs. Time and time again speakers came to the well of this House and they talked about a project in my home State. It was a Shakespeare Festival. In fact, the gentleman from Ohio in my party discussed a letter from a young gentleman who said that without this appropriation to the Shakespeare Festival in Montgomery, AL, he would never have an appreciation of Shakespeare, he would have never had an opportunity to hear a Shakespeare program. Mr. Chairman, in all respect for that statement, I think it is very condescending to the people of Alabama and it claims tremendous credit for a very small contribution.

I will say to the Members in all candor that I have a letter from the Shakespeare Festival saying to me, support this over $200 million appropriation to the National Endowment for the Arts, because we get some of this money. I requested from the National Endowment for the Arts a list of the appropriation.

Mr. DICKS. Mr. Chairman, will the gentleman yield just for a moment?

Mr. BACHUS of Alabama. Without losing my time and place. Let me say this. I would like to give an organized discussion. At the end of that, I would be glad to engage the gentleman in a discussion. Let me say this, then I will invite the gentleman's comment about this.

Mr. DICKS. Just on a fact.

Mr. BACHUS of Alabama. Let me tell the gentleman what a fact is. A fact is that all this talk about the Shakespeare Festival, last year they received $14,100 in a grant. We are talking about a multimillion-dollar budget for the Shakespeare Festival. Yet people stood in this very House and said without this appropriation, without these program grants, that this Shakespeare Festival would close and lock its doors. We are talking about a multimillion-dollar project. We are talking about many corporations in Alabama that support this project with greater grants. We are talking about a minuscule amount. Not that it is not appreciated, but what I am saying to the gentleman is let us give that money to the State, let them appropriate money, which they do out of their share. We get $5,000 for the opera in Mobile. We get $10,000 for the children's theater. Those are good projects. But there is no need for us to appropriate for what I am talking about, the program grants.

Mr. Chairman, with that, without yielding my time and place, I yield to the gentleman from Washington. I just yield for one fact.

The CHAIRMAN. The Chair will state to the gentleman that if the gentleman yields, he yields his time.

Mr. BACHUS of Alabama. Mr. Chairman, I reserve my time.

Mr. YATES. Mr. Chairman, I yield 1 minute to the gentleman from Washington.

Mr. DICKS. I just wanted to point out to the gentleman, that the budget for the National Endowment for the Arts is not over $200 million. It is $171 million. That is the only point I wanted to make. I would just say to the gentleman, that oftentimes an NEA grant serves as the Good Housekeeping Seal of Approval. When people see that the panel review and the NEA has approved a grant, then the private sector will come in and contribute money to it because they know that this is a quality production. So this does have a point.

Mr. Chairman, I would like to see the gentleman's Shakespeare Festival get more money for support of its festival.

But it is not going to happen if we cut $91 million out of this budget. What we are going to do is totally destroy a good quality program. In 1979, the budget for the National Endowment for the Arts was $146 million. This is not a budget that is growing.

Mr. YATES. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, the Bachus amendment is the Crane amendment in another form and for half that amount. If the Bachus amendment is accepted by the House, it proposes to reduce the NEA budget by 53 percent. That is what the effect of the $92.6 million would be. Obviously that would be an almost impossible reduction for the NEA to cope with.

With respect to the gentleman's assertion that more money should go to the States, that that is where the action is on the local level, the authorizing committee which authorized the extension of the National Endowments for the Arts and the Humanities recognized a part of the justice of the gentleman's position by allocating a change in the amount going to the States, from 25 percent to 35 percent. So that the States now get a third of all the moneys, slightly more than a third of the moneys that go to the National Endowment for the Arts.

Mr. Chairman, with respect to the gentleman's arguments about the Shakespeare Festival, let me read from the testimony before our committee of a fellow Alabamian, the respected former Postmaster of the United States, Red Blount, of Alabama, in which he said, on page 1205 of our hearings for fiscal year 1993:

> Funding from the National Endowment for the Arts program serves as a symbol of quality and an important endorsement of the Alabama Shakespeare Festival's other funding sources. NEA support also plays a crucial role in enabling the Alabama Shakespeare Festival to move in new directions to better serve the people in our arts in our region. An NEA investment of $36,000, only one-half of 1 percent of our budget, in the Alabama Shakespeare Festival this year is helping to create new southern artistry, provide professional theater for hundreds of thousands, generate $10 million in tourism, and educate 50,000 students a year. Where else do so few Federal dollars have such a large multiplier effect and enormous ultimate value? Any businessman would be happy with a fraction of such returns on their investment.
>
> I, therefore, trust that you will continue to invest precious Federal resources where such a high and valuable return is achieved.

□ 1050

The Bachus amendment would eliminate all support for the National Endowment for the Arts to the arts organizations throughout the Nation.

Finally, Mr. Chairman, the executive director of the National Assembly of state Arts Agencies, which represents all State arts agencies in the country, opposes the Bachus amendment. The executive director, Jonathan Katz, wrote, "The States' arts agencies want a strong and effective partner at the Federal level. The Bachus amendment would destroy that relationship."

I urge the defeat of the amendment.

Mr. BACHUS of Alabama. Mr. Chairman, I yield myself 1 minute to respond to the comments of the gentleman from Illinois.

Mr. Chairman, Members of the House, I think what the gentleman from Illinois said is a very succinct argument, and that is that the Shakespeare Festival has written and said that this is one-half of 1 percent of our budget, but it means so much to us. It attracts corporate donors.

I can tell you three of those major corporate donors have also stated that it makes absolutely no difference to them whether or not the NEA puts some stamp of endorsement on it or not.

Also, I would say this: The former Postmaster, who I have great respect for, has also written me and urged me on several occasions to balance the budget. He very much believes that this deficit spending is putting obligations on our children and our grandchildren, and I would hope that the gentleman from Illinois would agree with me that when we have deficit financing and deficits that this is an extravagance we cannot afford.

Mr. Chairman, I yield 4½ minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Alabama [Mr. BACHUS]. Let me pick up where I left off yesterday. First the private sector supports the arts to the tune of $9 billion, so this $171 million is a drop in the bucket by comparison. Second, the vast majority of grant requests are turned down, including the Shakespeare Theatre in my district. The point is, this money is given out to self-proclaimed artists who should be able to compete in the marketplace.

All the money has dried up for my high school art programs, so I have not, in the last year, been able to run an art contest in my district to have a picture hung proudly in the tunnel leading to the Cannon Building.

But look where we do find allocations of our tax dollars. Porno jerk, jerk, porno jerk Tim Miller got almost $15,000. Holly Hughes, porno female jerk, she got $9,375. Kitchen Theater, porno scum, $20,000; Frameline, porno slime, got almost $20,000; Marlin Riggs, $50,000, used the taxpayers' money from both the NEA and public broadcasting, our tax dollars, to produce the pornographic, profanity-filled, prohomosexual documentary titled, "Tongues Untied," absolute gutter garbage.

The Walker Art Center: Now, the gentleman from Minnesota [Mr. SABO], got up and defended the Walker Art Center and said, "Leave it alone."

Let me put it in context. The gentleman from California [Mr. COX] grew up in Minneapolis. He explained to me that the Walker is the Dorothy Chandler Pavilion of Minnesota. It is the John F. Kennedy Center in Minneapolis. At that beautiful Walker Art Center is where Karen jerk scum Finley first came to national attention; Ron Athey recently sliced designs into the flesh of another man's back and soaked the blood up with paper towels. One of my distinguished colleagues said, "Well, there was not much blood, and it was only blotted up, and it went over the audience's head, but they did not drip on the audience," and the people who fled we are told, knew they were going to see this mutilation performance. I have seen attendees, moving images, sight, sound, motion, color, saying they did not know they were going to be subjected to this insanity.

The Walker Art Center got $210,800 of our tax dollars. Franklin Furnace Archive in New York, where Karen Finley, Holly Hughes, Tim Miller, and all the others have been using our tax money, they got $33,000.

This thing goes on and on and on.

Highway, Inc., in Santa Monica, they got $44,980. This is where Tim Miller, jerk develops his homosexual "shock" material and serves on their board of directors.

Then there is the Centro Cultural de la Raza, which gave away taxpayers' $10 crisp new bills and gave them to illegal immigrants.

And then Cavah Zahedi got $20,000 for a narrative film on the vagaries of sexual obsession. It goes on and on and on and on.

NEA's Jane Alexander has said we must gently introduce our Nation to homosexuality. I went to her introductory luncheon. She impressed me. I thought she was going to stop this nonsense, and here is what she says in response to an angry Senator, Democrat ROBERT BYRD, and an angry Senator, Republican DON NICKLES, with respect to the Athey performance: "His work is a study exploring modern-day martyrdom." This is Jane Alexander's moment to retract her confirmation conversion.

POINT OF ORDER

Mr. YATES. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. YATES. Mr. Chairman, my point of order is the gentleman is not allowed to refer to the Senators by name.

The CHAIRMAN. The gentleman may proceed in order, but he should be aware to avoid characterization of members of the other body.

PARLIAMENTARY INQUIRY

Mr. DORNAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DORNAN. It was a respectful reference, and I went on for a year referring to it as the other body. Somebody informed me, it must be 2 years ago, that now we were allowed to call it the U.S. Senate.

The CHAIRMAN. That is correct, But referring to individual Members of the other body——

Mr. DORNAN. I just wanted to indicate respectfully it was a bipartisan anger with the very distinguished head of the Appropriations Committee, Mr. BYRD.

The CHAIRMAN. The gentleman may proceed in order.

The gentleman has an additional 30 seconds.

Mr. DORNAN. With respect to the Athey performance itself, still quoting Jane Alexander, this excellent actress, "His work is a study exploring modern-day martyrdom as it relates to AIDS." So Athey cuts up the back of this person. Athey, of course, is HIV positive, and we will read in a little blip one day, "Great artiste, Ron Athey, dies of AIDS."

The whole thing, Mr. Chairman, is nuts.

I am voting for this amendment. We will cut 5 percent with the amendment offered by the gentleman from Florida [Mr. STEARNS]. Most people here are terrified of the homosexual lobby, but some of us are not.

Mr. YATES. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, would the gentleman, on my time, respond to a question? You mentioned that there are billions in private contributions, and I think that is great.

Mr. DORNAN. Will the gentleman yield?

Mr. REGULA. I yield to the gentleman from California.

Mr. DORNAN. Look at the last price of a Van Gogh painting.

Mr. REGULA. Yes. Those are all tax deductible, which, in effect, means the Government is subsidizing them in the form of tax deductions, and with $2 billion, it would be about a $600 million subsidy in the form of a tax deduction. Do you favor continuing tax deductions for contributions to our arts, cultural things similar to what NEA funds?

Mr. DORNAN. If the gentleman will yield further, absolutely, and that is how we should stimulate the Medicis of modern America, the patrons of the arts. I love the arts, and I voted for this for 10 years. That is the way to go.

Mr. REGULA. I thank the gentleman.

Just a couple of comments, because it was mentioned about the Shakespeare Arts Festival, which I discussed yesterday.

What I said yesterday was to quote the people from Alabama. It was not my statement at all. It was what people from there said during our hearing.

And I would quote again from that hearing, and I might say we had several witnesses from the Shakespeare Festival, and they point out, and I quote Mr. Thompson, the artistic director of the Shakespeare Festival, who said, "This grant from the National Endowment is vitally important to our theater, because we are the only major performing arts institution in Alabama. In short, the NEA helps us leverage $2.8 million in additional gifts and grants." And I think that is great. "Also here today in support of the NEA are two Members of the community we serve, Effie Cannon, a secondary-school teacher, and Clint Gullatte," who was a student.

□ 1100

Basically, what they said is that the grant was used to, in some instances, help students get there by giving a reduced price on the ticket. So there is no allegation that this was the key funding mechanism.

I think it is wonderful that the people down there support this theater in such a strong way.

Mr. BACHUS of Alabama. Mr. Chairman, I reserve the balance of my time.

Mr. YATES. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in strong opposition to the amendment of the gentleman from Alabama [Mr. BACHUS].

Mr. Chairman, let us focus on what the NEA really does: All over America, local artists and local arts groups rely on the National Endowment for the Arts for essential support. These groups are doing tremendous work, but they are struggling for survival.

No one has ever questioned the work of hundreds of groups around the Nation. They have enriched our community and the quality of life.

Let me tell you some of the things the NEA does in my district: Support for the Westchester Council for the Arts; support for the Hudson River Museum in Yonkers; support for the Emelin Theatre for the Performing Arts in Mamaroneck, and fellowship support for artists in Bronxville and City Island.

But this amendment could put many of them out of business. It will shut down deserving arts organizations all over this Nation, and it will do real damage to the cultural vitality of our Nation.

But that is not all. Abolishing the NEA would do damage to our local schools who rely on the endowment to expand arts education in difficult financial times. It would take funds out of our schools and away from our children, at a time when the NEA is developing innovative programs to reach and educate at-risk youth. The APPLE Corps Program, for example, is an innovative partnership of artists and law enforcement officials who understand that participation in the arts provides young people an opportunity to build self-confidence and self-esteem, and strengthens their resolve against drugs. This amendment would cripple programs like APPLE.

And finally, this amendment would also undermine the economy of many areas of this country.

Last year the Port Authority of New York and New Jersey released a study on the economic impact of arts activities on the New York economy. The findings were dramatic, and cannot be ignored: While the economy of the New York metropolitan region has suffered, one sector of the regional economy has grown—the arts; indeed, the arts directly employ over 40,000 people, and pump at least $9.8 billion a year into the economy of the New York area.

An amendment to cut the NEA is an amendment to undermine an important growth area in our economy. The arts are a lifeline not just for the creativity of many New Yorkers, but also a lifeline for the economy of our region.

Mr. Chairman, an amendment that will harm our Nation's schools, damage our cultural heritage, and damage local economies, at the same time, does not deserve the support of this House. I urge a "no" vote.

Mr. YATES. Mr. Chairman, I yield 3 minutes to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Chairman, I thank the gentleman for yielding this time to me, and I would just like to say that on this question of the controversial grant, anyone who knows anything about the granting process understands there is going to be some controversy. What is remarkable to me is that over the years since 1965, when the Endowment was created, over 100,000 grants have been awarded, and frankly only about 25 to 30 have been controversial.

Let me also point out this fact about the situation in Minnesota. The money is granted to the museum. They have 110 separate performances of which one is controversial. However, they did not tell the Endowment for the Arts what those 110 performances were going to be. That is a decision they make during that year.

The grant actually occurred in March of that year, and it was a year later that this performance actually occurred. So I do not think you should blame the Endowment if you have any questions about it. I think this institution has a reputation for excellence, unquestioned excellence, and so the Endowment was perfectly legitimate in making a grant to them.

Let me just read from the statement of Jane Alexander, chairman of the National Endowment for the Arts, about some of the specific things where young people have been helped by the Endowment.

She says:

> I've seen young Native American children in Tucson learning the history of their own

> culture from native storytellers in a public school. In Chicago, I saw a young African-American child, no older than eight playing the violin at the People's School, one of our grantees. He was not a virtuoso yet, but he was determined. In the inner city of Detroit, one of our artists-in-residence organized the Mosaic Youth Theatre and performed a Midsummer's Night Dream for us. In Birmingham's Space One Eleven young people were making Wedgewood-type bricks. In Colorado, I saw how the arts are helping at-risk children on the road to self-discovery through dance. In communities across the country, the arts are part of the lifelong learning process so vital to our health as a society.

Mr. Chairman, I would say to the gentleman that we have over the years restrained the funding for the Endowment. It used to be $149 million in 1979. This is not a program that is growing out of control. This is a program that has been under great restraint.

The purchasing power, from 1979 to the present, actually has been reduced by 46 percent. The State art organizations oppose the gentleman's amendment. They understand the importance of the National Endowment for the Arts.

In our State of Washington, my home area, art institution after art institution has been strengthened over the years because of challenge grants and matching grants that have been funded by the Endowment for the Arts.

In Washington State, arts have grown dramatically because of this.

So, I say to the gentleman this is a positive program. I would urge the gentleman to withdraw his amendment.

Mr. BACHUS of Alabama. Mr. Chairman, I yield myself such time as I may consume.

I would like to say to the House that if the gentleman from Washington [Mr. DICKS] had read my amendment, he would be aware that it does not address matching grants. But I appreciate the wonderful words that he said about them.

With my amendment in place, that wonderful program would go forward without any reduction.

I would also like to say to the gentleman that—which he brings up again—the performance in Minnesota, using that as a positive, saying that the NEA has absolutely no culpability in this, let me state to you what the art critic for the Minneapolis Star-Tribune said about the performance and about NEA:

> The Walker Art Center must defend its decision to stage a performance involving human blood-letting and multilation—or ritual, "ritual scarification" and "erotic torture," as the institution describes it. The NEA must defend its decision to endorse that program.

That is the Minneapolis, Minnesota, Star-Tribune. "The NEA must defend its position to endorse that program."

I also point out to the gentleman from Washington and to the body as a whole that on November 10, 1993, I introduced legislation in this body with 25 cosponsors, which would address, I think, the concerns that you have expressed and I have expressed, which simply reads as follows—and this would be a very positive step, and I would like your support in the future. It says,

> None of the funds received by the Endowment or by any State agency to provide financial assistance for a program production workshop can depict or describe in a patently offensive way sexual or excretory activities or organs or religion or religious symbol.

Let us get these offensive words out. The Supreme Court actually has interpreted "displaying in a patently offensive way," and I think it is time for this body to vote on this legislation and to end it, even if it is 100 projects.

These are taxpayer funded.

□ 1110

Mr. Chairman, let me point out very quickly that the Founders of our country considered whether to fund the arts or ask the taxpayers to do that, and they almost unanimously rejected that. These were the Framers of the Constitution. They realized—and it was true—that private funding of the arts was sufficient, and in fact the arts flourished, as did public education, all through the past century. And we are talking about less than 1 percent.

The claims of what the NEA does are to me totally outlandish. One would think that the whole economy of this country depended on it. I will say this: In truth, New York City does receive about $40 million in funding, so perhaps with the exception of New York City, I do not think that statement is true.

Finally, I would say this in conclusion: City Stages, Birmingham, AL, last weekend, 264,000 people attended an art festival there. There was not NEA funding, in fact. There was a private funding. It was the largest of its kind in the State.

Mr. Chairman, I would urge that my amendment be adopted.

The CHAIRMAN. The time of the gentleman from Alabama [Mr. BACHUS] has expired, and the gentleman from Illinois [Mr. YATES] has 2 minutes remaining.

Mr. YATES. Mr. Chairman, I yield myself 2 minutes, the balance of my time.

Mr. Chairman, in closing, just let me say that the gentleman from Illinois [Mr. CRANE] is interested in killing the appropriation for the National Endowment for the Arts. The gentleman from Alabama [Mr. BAUCHUS] is interested in killing the appropriation for the National Endowment for the Arts. He voted with Mr. CRANE yesterday in support of Mr. CRANE's amendment. This is the Crane amendment in lesser form.

Under this amendment the gentleman from Alabama proposes to take 53 percent of the appropriations away from the National Endowment for the Arts and give it to the States, in effect killing it again.

I do not think the House is going to accept the Bachus amendment, nor should it accept that amendment.

With respect to the comments of the gentleman from California—and I am sorry the gentleman is not on the floor at the present time—and the comments made by the gentleman from Alabama about the Minneapolis Tribune's critic, let me say that if she is the one who wrote the article that first appeared that was the basis of the protest by two Members of another body to which he referred and the gentleman from California referred, there is an editorial in today's Sun-Times to indicate the person who wrote that article did not even see the performance, that her article was written without benefit of actually seeing what the performance was like. Nevertheless, whoever wrote that said that the audience was horrified and many fled, knocking down chairs to get from underneath the clothes lines. That was obviously untrue. We discussed that yesterday.

Mr. Chairman, I urge the defeat of the Bachus amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama [Mr. BACHUS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BACHUS of Alabama. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 132, noes 297, not voting 10, as follows:

[Roll No. 265]

AYES—132

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Bartlett
Barton
Bereuter
Bilirakis
Boehner
Bonilla
Brown (OH)
Bunning
Burton
Buyer
Callahan
Calvert
Canady
Coble
Collins (GA)
Combest
Condit
Cox
Crane
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Emerson
Everett
Ewing
Fawell
Fields (TX)
Gallegly
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Grams
Greenwood
Hall (TX)
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Holden
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kasich
Kim
King
Kingston
Knollenberg
Kyl
Laughlin
Levy
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Manzullo
McCandless
McCollum
McCrery
McHugh
McKeon
Mica
Miller (FL)
Molinari
Moorhead
Myers
Nussle
Orton
Oxley
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce (OH)
Quillen
Quinn
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Royce
Sarpalius
Schaefer
Sensenbrenner
Shepherd
Shuster
Skelton
Smith (MI)
Smith (NJ)

Smith (OR)
Smith (TX)
Solomon
Stearns
Stenholm
Stump
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Valentine
Vucanovich
Walker
Wolf

NOES—297

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barlow
Barrett (WI)
Bateman
Becerra
Beilenson
Bentley
Berman
Bevill
Bilbray
Bishop
Blackwell
Bliley
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Bryant
Byrne
Camp
Cantwell
Cardin
Carr
Castle
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Crapo
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallo
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Goss
Grandy
Green
Gunderson
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Horn
Houghton
Hoyer
Huffington
Hughes
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Klug
Kolbe
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lazio
Leach
Lehman
Levin
Lewis (CA)
Lewis (GA)
Lipinski
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McHale
McInnis
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Michel
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Owens
Packard
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roemer
Rogers
Romero-Barcelo (PR)
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sawyer
Saxton
Schenk
Schiff
Schroeder
Scott
Serrano
Sharp
Shaw
Shays
Sisisky
Skaggs
Skeen
Slattery
Slaughter
Smith (IA)
Snowe
Spence
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Sundquist
Swett
Swift
Synar
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Traficant
Unsoeld
Upton
Velazquez
Vento
Visclosky
Volkmer
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—10

Chapman
Engel
Faleomavaega (AS)
Lloyd
Machtley
Schumer
Towns
Tucker
Underwood (GU)
Washington

☐ 1135

Mr. BARTON of Texas changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. STEARNS

Mr. STEARNS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STEARNS: Page 77, after line 19, insert the following:

REDUCTION FOR FUNDING

Each amount appropriated or otherwise made available by this title for "National Endowment for the Arts" is hereby reduced by 5 percent.

Mr. YATES. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto be limited to 30 minutes, with 15 minutes on each side, the time for the amendment to be controlled by the gentleman from Florida and the time on my side to be controlled by me.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. STEARNS. Mr. Chairman, reserving the right to object, would that mean that I would have the closing then?

Mr. YATES. Mr. Chairman, if the gentleman will yield, no, I have the closing, regardless of the time limitation. I would have the closing.

Mr. STEARNS. Mr. Chairman, I think 15 minutes apiece is satisfactory.

Mr. YATES. Mr. Chairman, I want to repeat my proposal to limit time on this amendment and to all amendments thereto to 15 minutes on each side.

Mr. STEARNS. Mr. Chairman, I would like to say to my colleague, I do not want my time to be taken away if for some reason the gentleman has an amendment to my amendment.

Mr. YATES. Mr. Chairman, the gentleman will have his full 15 minutes.

Mr. STEARNS. Mr. Chairman, I will have my full 15 minutes?

Mr. YATES. Mr. Chairman, that is correct.

Mr. STEARNS. So if, in fact, the gentleman comes in with an amendment to my amendment, he gets 15 minutes, and I get 15 minutes.

Mr. YATES. That will come from my time.

Mr. STEARNS. Mr. Chairman, with that understanding, that would certainly be acceptable to me.

The CHAIRMAN. The unanimous-consent request is the time limit of 30 minutes on this amendment and all amendments thereto, but the gentleman from Florida has reserved 15 minutes out of this time regardless of whether there is an amendment to the amendment.

☐ 1140

PARLIAMENTARY INQUIRY

Mr. DICKS. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DICKS. Mr. Chairman, I can offer my amendment to the gentleman's amendment after he makes his opening statement, is that correct?

The CHAIRMAN. The gentleman can offer it any time he is recognized after that, but under the unanimous-consent agreement, the gentleman from Florida [Mr. STEARNS] is protected for 15 minutes total out of the 30 minutes time period.

The gentleman from Illinois [Mr. YATES] has the other 15 minutes total out of the 30 minutes time.

Mr. STEARNS. Just to clarify, Mr. Chairman, I received a full 15 minutes. If the gentleman from Illinois [Mr. YATES] starts to use his time and his side amends my amendment, they have to take their time out of their time?

The CHAIRMAN. The gentleman is correct.

Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The gentleman from Florida [Mr. STEARNS] is recognized for 15 minutes.

Mr. STEARNS. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, I rise today to offer an amendment to reduce the NEA by a simple 5 percent. Such a savings would result in the amount of $8.6 million, taking the fiscal year 1995 funding level from $171.1 million to what I believe is still a generous amount of $162.5 million.

Mr. Chairman, for the past several years I have offered amendments to the Interior appropriations bill that would reduce the level of the NEA. My colleagues should realize when I offered 5 percent and we were successful last year, in the conference committee they cut it in half, so it resulted in 2.5-percent reduction. I judge from the conversation we just had, Mr. Chairman, that it appears that my colleagues on that side of the aisle are going to amend my amendment to reduce the 5 percent. I find that a little bit disconcerting, because if they cut my 5 percent down, and I do not know what the gentleman is going to offer, then the conference committee cuts it further, and there will be no cuts.

Mr. Chairman, let me be very clear about this, that that side of the aisle wants to move the 5 percent down to almost zero. Mr. Chairman, I do not want to concentrate the debate so much today on the controversy that was talked about earlier. I think we hashed that out. I do want to mention a little bit about it, because for the first time now we have the senior Senator BYRD of West Virginia involved, a Democrat, a distinguished Democrat on the Senate side. He focused his attention, as well as did Senator NICKLES and Senator HELMS, in a letter to the NEA chairwoman, Jane Alexander. The Senators wanted assurance from Jane Alexander that "projects are not funded, nor performances undertaken, which misuse taxpayer funding."

Mr. Chairman, we have been through this for at least the 6 years that I have been in the House. Controversy seems to stay with the NEA. We now have a senior Senator from the Democratic Party also coming onboard. This all involves the Walker Art Center in Minneapolis, which sponsored art exhibits at area night clubs.

Mr. Chairman, we have all talked about what happened with Ron Athey, an HIV-positive artist, in the scarification on another individual's back, and how he used the blood soaked rags on a clothesline. The audience panicked. Of course the audience would panic. They just witnessed a horrendous scene, one that not only disgusted them, but in their minds, put them in danger.

The question we would have to ask the taxpayer, the man who is a plumber, a farmer, a schoolteacher, is: Do they consider that art? I would think that they would say simply no, it is not art.

Mr. Chairman, I think what we see here is almost tortured art, and this art is not something we want to endorse. Art should provide us with a whiff of greatness, provide optimism, and instill a feeling of individuality. It should cultivate good taste and elevate the human spirit. It should not turn toward pessimism and negation, and be sponsored by the Federal Government.

Mr. Chairman, the simple question is, does a bloody towel represent the ideals of the American people? Does it ennoble us and give us a greater capacity for appreciation and understanding of the arts? Does it educate us for improvement of our souls and minds? Are we any better off having witnessed such a scene?

Mr. Chairman, the NEA should open up the way for the decent, hard-working American to enjoy art. There should be a renewed spirit and a strong commitment to traditional values, including the feeling, "I am glad that the Government is supporting this project. I am very proud of it."

This is a simple declaration that we are seeking, as I mentioned earlier, from the plumber, the electrician, the schoolteacher, the businessperson, and the farmer, and all other people across this country. Instead all I hear in my district is: "Enough is enough."

Mr. Chairman, I am asking in my 5-percent cut for the Members to send a signal, not only on this project, but also for fiscal responsibility, and all of us know that the Federal Government has a huge deficit. We must reduce and eliminate funding for those projects that are not vital to the economic well-being of our country. We must concentrate, Mr. Chairman, our scarce resources on what is absolutely necessary, not on what is simply desirable. I seriously question the validity of Federal funding for programs like this through the NEA.

Mr. Chairman, I reserve the balance of my time.

Mr. YATES. Mr. Chairman, I yield 2 minutes to the gentleman from Washington [Mr. DICKS].

AMENDMENT OFFERED BY MR. DICKS TO THE AMENDMENT OFFERED BY MR. STEARNS

Mr. DICKS. Mr. Chairman, I offer an amendment to the amendment.

The CHAIRMAN. The Chair will start the 2 minutes running after the amendment offered by the gentleman from Washington [Mr. DICKS] is read.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. DICKS to the amendment offered by Mr. STEARNS: On line 4 of the amendment, strike "5" and insert "1.5".

Mr. DICKS. Mr. Chairman, this amendment would reduce the budget for National Endowment for the Arts, which I think is a serious mistake, but we are faced with the prospect of a 5-percent cut, and I think that this cut is more rational and more reasonable.

Mr. Chairman, this would be 1.5 percent. It would total $2.56 million. This reduction would bring the Endowment's total budget down by $1 million below its current operating level of $170 million. This amount will reduce the National Endowment for the Arts' budget by $1.4 million below the level of the Subcommittee on the Interior of the Committee on Appropriations of $171.1 million, bringing the NEA's budget down to $169 million.

Therefore, the substitute amendment serves as a vehicle for fiscal restraint for those Members who want to make a cut in the name of deficit reduction and fiscal conservatism.

Mr. Chairman, the substitute amendment, however, is more responsible, in my judgment, than the Stearns amendment. The substitute will not devastate arts programs nor handicap critical initiatives. It will allow the chairman and the Endowment to, for example, use funding to allow for inner city youth outreach efforts with arts funding, an effort that can contribute to fighting crime, youth violence, and other urban problems.

Last year, when the 5-percent amendment was put in place, the NEA had to cut 18 programs, primarily dance programs and theater such as opera and ballet, areas of the arts that have never been controversial but have had to pay a price nevertheless because of the Stearns amendment.

A Stearns amendment for 1995 of a 5-percent cut would not actually be a 5-percent cut to a neutral base. On the contrary, it would mean a 10-percent cut over 2 years. This would be devastating to arts programs throughout the country that already have threadbare funding. I remind my colleagues that in fiscal year 1979, the NEA's total budget was only $149 million. Since that year, real purchasing power for the NEA has eroded by 46 percent.

Mr. Chairman, I urge my colleagues to support the Dicks amendment to the Stearns amendment.

Mr. STEARNS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just want to take a few moments to explain what has just happened.

The gentleman from Washington [Mr. DICKS] has amended my amendment by changing it from 5 percent to 1.5 percent, Mr. Chairman. I would like to ask the gentleman a question. Will the gentleman from Washington [Mr. DICKS] answer a question?

Mr. DICKS. Mr. Chairman, if the gentleman will yield, certainly.

Mr. STEARNS. Mr. Chairman, does the gentleman believe that with the 1.5-percent reduction, that he and his colleagues need to send a signal to the NEA that we need to cut the NEA now? Is that what the gentleman is saying by his amendment?

Mr. DICKS. If the gentleman will continue to yield, I think what we are trying to do is here is to minimize the damage to the National Endowment for the Arts. We have sent them a signal. There is language that the gentleman from Ohio [Mr. REGULA] and I and the gentleman from Illinois [Mr. YATES] agreed to a couple of years ago that said, "Go out and fund artistic excellence, and do not fund anything that is obscene under the law."

☐ 1150

Mr. STEARNS. Reclaiming my time, Mr. Chairman, I think what the gentleman is saying is that we do need to send a signal to the NEA. I believe it should be 5 percent, he believes it should be a 1½-percent reduction. My concern is what I saw in the conference committee last year when they cut my 5-percent reduction 1½ percent.

I ask my colleagues who are listening and on the House floor that obviously we want to vote no against the amendment to mine so that we can have the vote on the full 5 percent.

Mr. Chairman, I yield 2¼ minutes to my colleague, the gentleman from California [Mr. DORNAN].

Mr. DORNAN. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, the great movie producer Louis B. Mayer of Metro Goldwyn Mayer once said about movies with a message, if you want to use a message, he would tell his screen writers, "If you want to send a message, use Western Union."

The problem is, when we use the U.S. Mails or our faxes and write to the people at NEA, we get what two of our good Members from the other body have said, and that is diverting language.

Here is one of the Senators saying that Ms. Alexander has refused to respond in detail to a series of questions. He says:

> If she gives me the kind of half answers or non-answers that she's given to Senator BYRD, we really have a problem. I don't intend to let this slip through the cracks.

Mr. Chairman, what my pal, the gentleman from the great State of Washington, wants to do is send them a tiny little telegram, kind of a gentle little knock where Jane Alexander says:

> Who's that knocking at the gold-dang door?
>
> Norm Dicks, trying to give you a gentle little cut before a 5 percent axe comes down.

Mr. Chairman, how else do we rattle her cage? He wants to rattle it with a little gentle velvet glove. I just went from the bill of the gentleman from Alabama [Mr. BACHUS] to take away half their money.

Mr. Chairman, I am coming back next year with an amendment to give all this money, maybe an increase, to the high schools, because man does not live by bread alone. I will double this if it went to high school art classes, to put your wife in charge of this, a great patron of the arts. I cannot comprehend, and I repeat for the third time in two days, the mystery of how these porno freaks keep getting this money.

Listen to this that the gentleman from Alabama [Mr. BACHUS] read and it is worth reading again. Here is Ms. Alexander trying to blame the press.

Here is the angry letter from the Minneapolis Star Tribune who broke the Athey story about all the AIDS-infected blood. Actually this is Jane Alexander defending it:

> Walker Art Center must defend its decision to stage a performance involving human bloodletting and multilation—or ritual sacrifice and erotic torture as the institution describes it.

Mr. Chairman, everybody on that side is not telling the truth. Jane Alexander defends this slopping around of AIDS-infected blood.

Mr. YATES. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. HOUGHTON].

Mr. HOUGHTON. Mr. Chairman, I am going to disagree with the gentleman from Florida [Mr. STEARNS].

I have great respect for him. He knows how I feel about this. I think we are off on the wrong track. This is 0.02 percent of the Federal budget. This is education. This is the soul of many of the people who cannot get to the big cities to have the great arts education that is available there.

Mr. Chairman, I live in the rural community. I had nothing when I was growing up. Because of the NEA and the New York State Council of the Arts, my children are better educated, they are more sensitive to the human condition around us. I think it is absolutely crazy. Frankly, I do not think this is a simple 5 percent, as the gentleman from Florida [Mr. STEARNS] has said.

Let us take a look at this thing. In 1991, a 4.2 percent reduction was suggested. In 1992, there was a cut of $3 million. In 1993, there was a cut of 5 percent. The gentleman from Florida [Mr. STEARNS] said this is a simple 5 percent. Frankly, my colleagues, this is an ill-disguised attempt to absolutely eliminate the NEA, and I am against it.

Mr. YATES. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, I will reluctantly support the Dicks amendment because what we have here is a case where the NEA and the gentleman from Illinois [Mr. YATES], they have already been making cuts over the years. They have already squeezed this agency to the point where a lot of deserving arts projects throughout the country are not being funded. But I think the main reason that we should oppose the Stearns amendment is that we have an outstanding new director of the NEA, a world-renowned actress who is going all over the country and talking to the grassroots and dealing effectively with Republicans and Democrats. JESSE HELMS has praised her for her openness. She has got a good start. She has done a good job. Why are we going to hamstring her?

Let me tell Members what the 5 percent amendment does. What it does is it cuts $8.5 million from the program grant funds awarded by the arts endowment. It cuts $2.3 million from the basic State grants awarded to State arts agencies. Every one of our arts agencies is going to receive cuts between $32,000 and $42,000 a year. Cuts an undeserved almost $1 million from the rural communities that has been a new initiative of the NEA. Crime control programs that have been started through the arts would be severely cut by the 5 percent.

Mr. Chairman, we are all saying, it is only 5 percent, so let us go ahead and everybody can sustain a 5 percent cut. But the reality is that this agency has been getting cut, cut, cut, cut. They are already squeezed to the bone.

Let us have a little strength and let us have a little courage and reject all of these amendments. Support the Dicks amendment. I wish that he did not have to offer it, but we are talking about a political reality here. Let us stand behind Jane Alexander; let us stand behind the gentleman from Illinois [Mr. YATES], who has done an excellent job in already making cuts.

Mr. Chairman, I include for the RECORD documents in opposition to cutting funding for the NEA, as follows:

Statement by Bill Richardson, June 23, 1993, Opposing Stearns Amendment

Before my colleagues think about cutting funding for the NEA I want to remind you that federal arts funding benefits every district in the country. The national endowment benefits every region in the United States through state grants, arts education, and anti-crime programming.

35 percent of NEA funding goes to each state's art agency in the form of a block grant. This amendment automatically reduces the size of each states grants.

Of this 35 percent each state must spend 7.5 percent of these dollars on projects that serve rural, urban and underserved communities.

In New Mexico for the last seven years state grant monies have funded the "Churches" project. Over 100 communities have restored their historic churches because of the cultural and artistic beauty they represent.

A 5 percent cut in the NEA budget means reduced funding for arts education.

Last year a $22,000 grant to the Chamber Music Residencies pilot project which placed chamber music ensembles in rural communities for a school year. The chamber ensembles taught children in public schools in Tifton Georgia, Jesup Iowa and Dodge City Kansas who would not have otherwise had any music education.

The NEA will also have to reduce funding for crime control programs. A youngster with a paint brush or learning lines for a play is a lot less dangerous than one with a gun.

NEA Anti-crime funds provide for programs like Arizona's APPLE Corps which uses arts programs with anti-drug messages as after school alternatives. Other anti-crime projects the endowment funds include: Voices of Youth Throughout Vermont; First Step Dance Company in Lawrence, Kansas; Boise Family Center Project in Boise, Idaho; Arts in Atlanta Project; Alternatives in L.A. program; and the Family Arts Agenda in Salem Oregon.

Impact of 5 Percent Funding Reduction Amendment

A 5 percent reduction in the FY 1995 appropriation for the National Endowment for the Arts would:

Cut $8.5 million from the program grant funds awarded by the Arts Endowment.

Cut $2.3 million from the Basic State Grants awarded to state arts agencies. Individual state arts agencies would lose funding in a range of $32,000 to $42,000.

Cut $638,000 from the Underserved Communities initiative which supports projects in rural, innercity, and artistically underserved areas.

IMPACT OF 5-PERCENT FUNDING REDUCTION ON BASIC STATE GRANTS [BSG]

State	Reduced BSG FY 1995	FY 1994 BSG	Difference[1]
Alabama	$450,000	$486,000	$36,000

IMPACT OF 5-PERCENT FUNDING REDUCTION ON BASIC STATE GRANTS [BSG]—Continued

State	Reduced BSG FY 1995	FY 1994 BSG	Difference[1]
Alaska	411,000	447,000	36,000
Arizona	446,000	483,000	37,000
Arkansas	431,000	457,000	36,000
California	741,000	783,000	42,000
Colorado	442,000	479,000	37,000
Connecticut	442,000	477,000	35,000
Delaware	412,000	448,000	36,000
District of Columbia	411,000	447,000	36,000
Florida	551,000	590,000	39,000
Georgia	478,000	515,000	37,000
Hawaii	417,000	453,000	36,000
Idaho	416,000	452,000	36,000
Illinois	535,000	569,000	34,000
Indiana	468,000	503,000	35,000
Iowa	436,000	471,000	35,000
Kansas	433,000	468,000	35,000
Kentucky	447,000	482,000	35,000
Louisiana	453,000	488,000	35,000
Maine	419,000	454,000	35,000
Maryland	459,000	495,000	36,000
Massachusetts	473,000	507,000	34,000
Michigan	510,000	545,000	35,000
Minnesota	455,000	490,000	35,000
Mississippi	434,000	469,000	35,000
Missouri	453,000	498,000	35,000
Montana	414,000	449,000	35,000
Nebraska	423,000	458,000	35,000
Nevada	418,000	455,000	37,000
New Hampshire	417,000	453,000	36,000
New Jersey	492,000	527,000	35,000
New Mexico	422,000	458,000	36,000
New York	607,000	641,000	34,000
North Carolina	480,000	516,000	36,000
North Dakota	412,000	447,000	35,000
Ohio	528,000	562,000	34,000
Oklahoma	440,000	476,000	36,000
Oregon	437,000	473,000	36,000
Pennsylvania	540,000	573,000	33,000
Puerto Rico	446,000	479,000	33,000
Rhode Island	416,000	451,000	35,000
South Carolina	444,000	480,000	36,000
South Dakota	412,000	448,000	36,000
Tennessee	460,000	496,000	36,000
Texas	598,000	636,000	38,000
Utah	424,000	460,000	36,000
Vermont	411,000	447,000	36,000
Virginia	425,000	511,000	36,000
Washington	460,000	497,000	37,000
West Virginia	425,000	460,000	35,000
Wisconsin	461,000	496,000	35,000
Wyoming	411,000	446,000	35,000
American Samoa	201,000	201,000	0
Guam	201,000	201,000	0

[1] Amount each State will lose if the Stearns amendment passes.

FEDERAL ARTS FUNDING REACHES EVERY DISTRICT IN THE COUNTRY

Achieving geographic diversity in making grants is one of the National Endowment for the Arts' highest priorities.

The Arts Endowment continually makes a concerted effort to encourage applicants from all states, regions, and communities. Consequently, the success rate of applicants from less populous states in receiving grant awards is often much higher than for applicants from the large states.

For example, less than one-quarter of the applications received from California and New York are funded.

40% or more of the applications received from Alaska, Delaware, North Dakota, South Dakota, West Virginia, and Wyoming are funded.

Thirty-one states have 25–40% of their applications funded.

The Endowment's Underserved Communities Initiative, which is supported by 7.5 percent of the Endowment's program funds, specifically supports projects to broaden public access to the arts in rural and innercity areas and other areas that are underserved artistically.

Currently $8.7 million is earmarked for this initiative, administered through 5 Endowment programs—State & Regional, Local Arts Agencies, Folk Arts, Expansion Arts, and Presenting & Commissioning.

Since its implementation in FY 1991, grants have been awarded under this initiative in all 50 states to benefit their underserved communities.

Mr. STEARNS. Mr. Chairman, I yield 2 minutes to my colleague, the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I support Chairman YATES. I have supported every amendment and support his bill. I think the gentleman is one of the best chairmen, and the gentleman from Ohio [Mr. REGULA].

Mr. Chairman, I am going to support the amendment of the gentleman from Florida [Mr. STEARNS], however. I think it is time to ask, is an AIDS-tainted bloody towel strung out over a theater audience a work or a demonstration of art? Is a crucifix submerged in a vial filled with urine a work of art? Is a broomstick literally placed up the rectum of an individual captured on film a work of art? If so, Congress, then I say there is no art, there is no distinction from the type of art that our cultural roots compel us to fund.

Mr. Chairman, I have heard talk about this amendment must be reduced because we must minimize the damage of the Stearns amendment to the National Endowment for the Arts. I say the Congress should pass Stearns to minimize the damage to the American people by the National Endowment for the Arts. If we want to get their attention, the only way is in the pocketbook. I am asking everybody to vote for Stearns. It is a realistic message from a realistic Member on a goal that all Congress should support.

Mr. YATES. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I have served in the House for 8 years and it has been a great privilege to do so. Throughout those 8 years, I have watched every year as the appropriations bills come through this House and Congress decided what mattered and what did not to the people of the country.

□ 1200

We spent a lot of money on our military defense, one-third of our budget. Because of that, we are now the remaining superpower in the world.

But not once in these 8 years, as we voted for the military budget, did we ever fret about planes that would not fly, guns that would not shoot, troop carriers named *Bradley* that would not float. Were we concerned about fraud, cost overruns? No. We just throw in some more money for star wars.

But we have got this one little program here, $171 million to serve every nook and cranny of the United States. To put it in some perspective, that is less money than we spend yearly on military bands.

For every one of those dollars we spend, we get back $11, and the arts in the United States of America last year generated $36.8 billion.

I defy anyone who serves in this body to tell me that anything else we spend gives any kind of return even remotely like that.

But the return beyond the monetary is even more important. Every day we talk about what is happening to American children. We have reports daily about the condition of America's children. They have the lowest scores in the world as entry level college students. Their math scores are deplorable. They are damaged by the diet of violence they see every day. What shall we do about it? We have found one way to help.

We can prove conclusively that money we have spent on children who are involved in the arts receives new esteem, gives them the self-respect, they become better students, we can show it cuts out the dropout program, and we know that children who have been damaged can heal themselves when they have this kind of way to allow their emotions to surface and be expressed. Then they can deal with them.

I have watched children in the Bedford-Stuyvesant area of New York City as young as 3 years old learning the discipline of the dance. The lesson is if you care about yourself and you work hard, there is nothing in the world that will ever stand in your way.

If we want to turn children away from violence, if we want to make them better students, if we want to stop them from dropping out of school, if we want our country to be able to compete in the next century, and if this little pittance of money that we spend here will go at least part way in helping us do that, is that not money well spent? Does not our national security also depend on a population that is educated, that has some sense of giving back, that learns some decency, some humanity, some gentleness? Is there something wrong with that?

Where are the poets going to come from? The artists? Where are the people who chronicle who we are? Our history in every civilization rediscovered, we determine if they were civilized or educated of if they contributed by the art they leave behind.

For heaven's sakes, do not support the Stearns amendment. This program is already less than it was in 1979. It has been cut 43 percent since then. Enough.

Mr. STEARNS. Mr. Chairman, I yield 2 minutes to my colleague, the gentleman from Ohio [Mr. HOKE].

Mr. HOKE. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I come as a strong supporter of the arts who is going to reluctantly support this amendment.

I happened to have been a music major in college. I am on the Congressional Arts Caucus. I believe strongly in the place of the arts in American society. I have a son who is at the

Interlaken Music Camp for the summer. My children are all involved in the arts. I am involved with the Ohio Chamber Orchestra, the Cleveland Opera.

You could say that I am a sucker for the arts. I believe in it. Why? Because I think probably, next to religious education, artistic expression is the most important thing we can offer in terms of the redemption and the renewal and the giving back of America, the values that have made it great.

But it seems to me I had a very disturbing luncheon experience yesterday which leads me to want to support this amendment, and that is that I had lunch with the Congressional Arts Caucus, and we had the honor of being with the chairperson, Jane Alexander. We had lunch with Jane. Frankly, I have a tremendous amount of respect for Ms. Alexander and the work that she has done.

But I was extremely disturbed, first of all, when I found out about the Ron Athey exhibit in Minnesota. I had not been aware of it until that lunch yesterday, and I read the letter Ms. Alexander had written to Members of Congress in response to that, and I asked her specifically if Athey's performance, if Athey had personally directed his grant request to the NEA directly as opposed to the Walker Center, would the NEA have granted that kind of request. What we are talking about is the self-mutilation that was advertised as "erotic torture." That is how is was promoted by the Walker Center. And I said, "Ms. Alexander, would you or would you not have funded this from the NEA directly, this grant request?" And she could not say to me, "No, we would not. This does not match our standards."

And what is disturbing to me is that the idea is that we are going to fund artistic excellence, and if that is what we are doing, then what on Earth does this tell us about the leadership at the NEA? That is my concern. That is why I rise in strong support of this amendment.

I encourage my colleagues to also.

Mr. YATES. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. NADLER].

Mr. NADLER. Mr. Chairman, I am not going to comment on the economics of this cut, that we are already 43 percent behind inflation, that we cut 5 percent last year, and that we are starting from that base this year. I am not going to comment on the economics that the arts generate so much economic business for our country. We have heard all of that.

I am going to comment on the intent of this amendment in terms of censorship, in terms of the un-American goal of saying that we should exercise Federal censorship over the arts.

The National Endowment for the Arts promotes private art. It has committees to make decisions on who gets grants. There will always be one or two decisions, one or two grants that one can disagree with, that Members of this body will not like or that can be mischaracterized as obscene.

Some people think the art of Mr. Athey at the Walker Center is obscene. But it is not up to us to make that decision. Nor is it up to us to cut the budget of the NEA to send them a message.

Judgments will still have to be made by review committees, and we should not establish a political layer of censorship on top of the artistic decisions made as to who gets grants and for what.

In this case, the NEA gave a grant to the Walker Arts Center, one of the most prestigious arts centers in the Midwest. That grant was used for over 100 different arts events. One of them was a $150 grant to help Mr. Athey's exhibit, which some people here characterize as obscene, which some people slander and talk about HIV-positive blood and so forth, which was not the case.

But it is not up to us to make those decisions, and if we cut this budget by 5 percent, they are still going to have to make decisions.

And are we going to set up the Congress, a political body, a bunch of politicians, as a board of censors for the NEA?

The point is the NEA makes those decisions, and that is the only place they can be made.

Mr. YATES. Mr. Chairman, I yield 1 minute to the gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY. Mr. Chairman, I rise in opposition to the Stearns amendment to cut 5 percent of the budget for the National Endowment for the Arts.

* * *

Mr. WALKER. Mr. Chairman, I demand that the gentlewoman's words be taken down.

Mrs. MALONEY. I think the arts should not be censored. As Frederic Lewis Allen, the noted historian, said——

The CHAIRMAN. The gentlewoman will withhold for a moment.

Specifically what words does the gentleman demand be taken down? Her last sentence?

Mr. STEARNS. No. Mr. Chairman, when she started talking about women's breasts and who she ascribed that to, that comment. We would like to find out who she is saying said that comment.

The CHAIRMAN. The Clerk will report the last few sentences of the gentlewoman's remarks.

Mr. STEARNS. Mr. NADLER earlier said the same thing, but the point is we just want to establish who she is saying said this.

Mr. Chairman, can we have the——

The CHAIRMAN. The Clerk will report the words objected to.

Mr. YATES. I do not think Mr. NADLER did, made reference.

Mr. STEARNS. Mr. Chairman, we are just talking about the present speaker.

The CHAIRMAN. The request of the gentleman from Pennsylvania [Mr. WALKER] was made of the present speaker's remarks, and the Clerk is in the process of getting ready to read back the remarks of the gentlewoman from New York.

□ 1210

So let us wait until the Clerk has read.

The Chair would point out that the chairman of the Committee of the Whole does not rule on this kind of an objection.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WALKER. Mr. Chairman, this matter may be resolved by the words being withdrawn, is that not correct?

The CHAIRMAN. It would take unanimous consent.

Mr. WALKER. Since the words were offensive, all they have to do is be withdrawn by unanimous consent, and I doubt anybody would object to that.

Mr. YATES. Mr. Chairman, what are the offensive words? What are the words to be withdrawn?

Mr. WALKER. About the last two sentences.

The CHAIRMAN. The Clerk will report the words.

The Clerk read as follows:

> The Stearns amendments wants to censor, but what did Mr. STEARNS say to a Member of Congress who commented on the size of a woman's breasts?

Mr. STEARNS. Mr. Chairman, if I understand that, I do not believe I ever said something like that.

Mr. YATES. She did not say "you" did say it. She says "a Member of Congress."

Mr. STEARNS. Regular order. This is not debatable, as I understand.

The CHAIRMAN. It is not debatable. Does the gentleman from Illinois have a unanimous consent request?

Mr. STEARNS. Mr. Chairman, I object to it because I think she is ascribing motivations to me which are not there.

The CHAIRMAN. The Members will withhold until——

Mr. YATES. Mr. Chairman, I ask unanimous consent the words be read again. I do not think they appertain to——

The CHAIRMAN. The Clerk will read the words slowly.

The Clerk read as follows:

> The Stearns amendment wants to censor, but what did Mr. STEARNS say to a Member of Congress who commented on the size of a woman's breasts?

Mr. STEARNS. Mr. Chairman, I think it still sort of indicates some kind of motivation on my part, and I feel it is sort of negative.

Mr. FRANK of Massachusetts. Mr. Chairman, parliamentary inquiry.

The CHAIRMAN. At this point this is not debatable.

The gentleman from Massachusetts has a parliamentary inquiry.

Mr. FRANK of Massachusetts. The Chairman just answered it in response to the gentleman from Florida [Mr. STEARNS].

The CHAIRMAN. It is not debatable. So the Members will just withhold.

Mr. YATES. Mr. Chairman, I ask unanimous consent that the offending works, whatever they are, be withdrawn so that we may proceed.

The CHAIRMAN. The chairman of the subcommittee asks unanimous consent that the words that were read be withdrawn.

Is there objection to the request of the gentleman from Illinois?

Mr. STEARNS. No objection, Mr. Chairman.

The CHAIRMAN. The Chairs hears none.

The words are withdrawn.

The gentlewoman from New York [Mrs. MALONEY] may proceed.

Mrs. MALONEY. Mr. Chairman, as Frederick Louis Allen, the noted historian, said, "America has something special, a culture which we do not think of as something for the elite, but as something that is accessible to practically everyone."

Over the last 30 years the NEA has clearly and successfully made the arts more accessible to more of the American public. And there is a significant economic benefit to this investment.

According to the Department of Labor, more than 1.3 million people work directly in the field of the arts, and the nonprofit arts industry alone generates $3.4 billion alone in income tax revenue every year.

The total funding for the NEA is $171 million per year, or less than 70 cents per person.

For that 70 cents, all Americans share in theater, dance, and museums to which they might not otherwise have access.

Mr. Chairman, society defines itself by the way it preserves and presents its culture as much as by its investments in new technologies or in defense systems.

I urge my colleagues to vote "no" on this amendment.

Mr. YATES. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. HORN].

Mr. HORN. Mr. Chairman, I do not support the cut of 5 percent for the National Endowment for the Arts [NEA] unless every Federal agency will have a 5-percent cut. I regret disagreeing with my good friend from Florida, Mr. STEARNS. He and I went to the Rules Committee last year and we tried to get a proposal before this House which would have cut most Federal agencies across the board by limiting their growth.

I do support the 1.5-percent cut as the least bad alternative. This debate reminds me of some of those in this Chamber who waved the $800 hammer; they were not really talking about the stupidity of procuring the $800 hammer in the Department of Defense. What the hammer-wavers really wanted was to abolish most or all of the Defense Department. They simply did not like spending money on defense.

What we have here is an art exhibit in question that the NEA did not know about. The NEA gave a general support grant to the Walker Center in Minneapolis. It is one of America's distinguished museums. When the NEA gave that grant money to the Walker Center, it did not know that this exhibit would occur. So, if you adopt the Stearns amendment, you are punishing an agency that had no knowledge of this particular exhibit. And it sounds exactly like the $800 hammer nonsense, which was a way to get at the Defense Department.

The National Endowment for the Arts has had tens of thousands of grants which have brought enlightenment, hope, and joy to millions of our fellow citizens. That should be recognized.

I would simply say, "Let us support the Dicks amendment and then let us get on with the business of the day."

Mr. STEARNS. Mr. Chairman, I yield 1 minute to my colleague, the distinguished gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, in Escondido, CA, in my district, we have a very beautiful, brand new arts center in which the National Endowment for the Arts gave a grant. Many other people have contributed, just trying to get it going.

NEA has given some effort in that area. But most people in my district do not want their tax dollars going for a project like that. I personally gave $1,000 to the symphony, San Diego Symphony, and pledged to give money to the Escondido Arts Center, over $1,000. I give literally thousands of dollars out of my own pocket to education, but I feel it is wrong for me to force other people to take money out of their pockets for projects that they do not want to give money to. That is what the NEA does.

People want a chance to choose where they want to put their money, not to be forced by a bureaucracy to have money go for arts in areas they do not want it to go. So, for that reason I support the amendment and ask my colleagues to do the same.

Mr. YATES. Mr. Chairman, I yield I minute to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Chairman, I urge my colleagues here today to support my amendment to Mr. STEARNS' amendment. Again, I reiterate that it cuts 1.5 percent, which is a total of $2.55 million. Although that is a substantial reduction, I do it to minimize the damage to the National Endowment for the Arts.

Last year we adopted the Stearns amendment, which totaled about $9 million. It affected 18 separate programs in the Endowment.

□ 1220

Mr. Chairman, I ask my colleagues on the other side on both sides of the aisle, why doesn't somebody get up here and focus on the positive things that we have done with the National Endowment for the Arts with over 100,000 grants that weren't controversial, that help the operas, the ballets, help individual artists all over the country?

The Endowment has been a positive factor since 1965, not a negative factor, and this committee has fought to put in language that says, "You cannot fund anything that is obscene, and you must strive for artistic excellence."

Mr. Chairman, this program deserves the support of the Congress.

Mr. STEARNS. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Florida is recognized for 1½ minutes.

Mr. STEARNS. Mr. Chairman, let me say to my colleagues that in 1989 we funded NEA at $169 million. Today it is roughly $171 million. So, for all those colleagues that say we have cut, cut, cut, there have not been these cuts that they have talked about. So, frankly this 5 percent would bring it down a little bit lower than in 1989.

The second statement I hear continually is that this is a great investment. In fact, Mr. Chairman, the gentlewoman from New York talked about it and said that we are spending $171 million, and I think her words were "we are getting $138 billion back in return." Now obviously the return on this investment is because there is a lot of private investment, too, but that already exits, quite apart from NEA.

So, Mr. Chairman, I want to say, just in conclusion, what we have here. We in Congress have an amendment to cut 5 percent. There will be a vote on my amendment. So, for those Members who are scared they will not get another chance to vote for my amendment, they will, so I ask them to vote no on the amendment offered by the gentleman from Washington [Mr. DICKS] and yes on the amendment offered by myself, which is 5 percent. Surely we can cut 5 percent, and surely, if it goes to conference, it is going to be cut in half again. So, if we take 1½ percent, and take it to conference, it is going to come down to next to nothing. History has shown that the NEA has not been cut like my good friend from New Mexico said.

So, I urge my colleagues to vote no on the Dicks amendment, and then we will have a vote on the Stearns amendment which will follow to reduce funding by 5 percent.

Mr. YATES. Mr. Chairman, I yield myself the balance of my time.

The gentleman from Florida [Mr. STEARNS] was correct in stating what the NEA received in 1989. But unfortunately that does not tell the entire truth. In 1992, Mr. Chairman, the NEA received $175 million, $6 million more than the gentleman's figure for 1989. So, when he says that by recommending less, that he is not hurting the NEA much, the NEA is being hurt very, very much.

I have listened to the various gentlemen on the other side and on my side denouncing the NEA and Jane Alexander for the grant that was made to the Walker Arts Center in Minneapolis. The Walker Arts Center is one of the great art institutions of the city, and NEA, under its present practices, makes grants, and the Walker Arts Center and others in the country are given the opportunity to make subgrants. For a while some years back, Mr. Chairman, we put language in the bill which required that the subgrants come back to the NEA for approval. Perhaps we ought to do that again because NEA did not know how this money was going to be spent in the series of subgrants.

At any rate, Mr. Chairman, I take issue with charges that have been made against the NEA. I think NEA is one of the great agencies in our country. I think it has an outstanding staff. I think that Jane Alexander is one of the great administrators; she has proved that already in connection with her administration of NEA and, I think, if she is allowed to do her job properly without the attacks that are going on, that we will see a flourishing NEA. We will see an arts community in the country which will respond to and flower as a result of her efforts and NEA's efforts.

I hope that the efforts to cut this appropriation are defeated.

Mr. ENGEL. Mr. Chairman, I rise today in strong opposition to any sort of reduction or elimination of Federal funding for the National Endowment for the Arts.

As the primary sponsor of the Community Arts Partnership Act, a program which was included in House-passed H.R. 6, the reauthorization of the Elementary and Secondary Education Act, I understand the valuable role that the arts and humanities play in every American's life. Through my work on the Community Arts Partnership Act, I have become increasingly aware of the tremendous impact that the arts and humanities have in the education of our children.

In fact, national studies have dramatically shown that the arts and humanities play an invaluable role in educating our children. The arts have been shown to aid in the development of higher-order thinking skills; an increase in multicultural understanding; an enhanced learning environment; improved self-esteem and positive emotional responses to learning; and engagement of a variety of learning styles. In addition, children who receive instruction in the arts remain in school longer and are more successful than children who do not receive such instruction.

The important work undertaken by the NEA and the NEH significantly expands beyond the educational concept behind my Community Arts Partnership Act. Through the agencies' leadership, public participation and access to the arts and humanities has been enhanced, support for cultural diversity has been expanded, and local economies have been strengthened through jobs creation and tax revenues. In addition, for every Federal dollar allocated to the NEA and NEH, substantial funding is leveraged through private and other public resources. Without continued Federal leadership, thousands of communities across the Nation, and the quality of life for their residents, will be severely impacted through the elimination or reduction in local cultural programs.

I urge my colleagues to oppose any amendment which would weaken the important work undertaken by the NEA and NEH.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington [Mr. DICKS] to the amendment offered by the gentleman from Florida [Mr. STEARNS].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. STEARNS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Pursuant to rule XXIII, the Chair will reduce to a minimum of 5 minutes the time for a recorded vote, if ordered, on the amendment offered by the gentleman from Florida [Mr. STEARNS], as amended or not, following the vote on the amendment offered by the gentleman from Washington [Mr. DICKS] if there is no intervening debate or business.

The vote was taken by electronic device, and there were—ayes 240, noes 189, not voting 10, as follows:

[Roll No. 266]

AYES—240

Andrews (ME)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Blute
Boehlert
Boehner
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Castle
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Ehlers
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Frost
Furse
Gallo
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Grandy
Green
Gunderson
Gutierrez
Hamburg
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Horn
Houghton
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lazio
Leach
Levin
Lewis (CA)
Lowey
Maloney
Mann
Manton
Markey
Martinez
Matsui
Mazzoli
McDermott
McHale
McInnis
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Mfume
Michel
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moorhead
Morella
Murphy
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickle
Pomeroy
Price (NC)
Rahall
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roemer
Romero-Barcelo (PR)
Ros-Lehtinen
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schenk
Schroeder
Scott
Serrano
Sharp
Shays
Shepherd
Skaggs
Skeen
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swift
Synar
Tejeda
Thompson
Thornton
Torkildsen
Torres
Torricelli
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Walsh
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Young (AK)

NOES—189

Abercrombie
Ackerman
Allard
Andrews (NJ)
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chapman
Coble
Collins (GA)
Combest
Condit
Cooper
Cox
Crane
Crapo
Cunningham
Deal
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Emerson
Engel
Everett
Ewing
Fawell
Fields (TX)
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Geren
Gillmor
Gingrich
Goodlatte
Goodling
Gordon
Goss
Grams
Greenwood
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Holden
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kanjorski
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Laughlin
Lehman
Levy
Lewis (FL)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Long
Lucas

Manzullo
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McHugh
McKeon
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moran
Murtha
Myers
Nussle
Ortiz
Orton
Owens
Oxley
Packard
Parker
Paxon
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Ramstad
Roberts
Rogers
Rohrabacher
Roth
Roukema
Rowland
Royce
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Sisisky
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Thurman
Traficant
Upton
Volkmer
Vucanovich
Walker
Waters
Weldon
Wolf
Young (FL)
Zeliff
Zimmer

NOT VOTING—10

Faleomavaega (AS)
Harman
Hochbrueckner
Lloyd
Machtley
Margolies-Mezvinsky
Schumer
Towns
Underwood (GU)
Washington

☐ 1247

Messrs. EDWARDS of Texas, DORNAN, LEWIS of Georgia, McCOLLUM, GILLMORE, and ABERCROMBIE, changed their vote from "aye" to "no."

Messrs. CARR, HINCHEY, HILLIARD, KIM, FORD of Michigan, HOUGHTON, POMEROY, and PALLONE, and Ms. WOOLSEY changed their vote from "no" to "aye."

So the amendment to the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BACHUS OF ALABAMA AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. STEARNS, AS AMENDED BY MR. DICKS

Mr. BACHUS of Alabama. Mr. Chairman, I offer an amendment as a substitute for the amendment as amended.

The Clerk read as follows:

Amendment offered by Mr. BACHUS of Alabama as a substitute for the amendment as amended: Strike the language proposed and insert the following:

REDUCTION OF FUNDING

Each amount appropriated or otherwise made available by this title for "National Endowment for the Arts" is hereby reduced by 4.99 percent.

POINT OF ORDER

Mr. YATES. Mr. Chairman, I rise to a point of order.

The CHAIRMAN. This is a nondebatable substitute under the time limitation. Does the gentleman from Illinois [Mr. YATES] insist on his point of order?

Mr. YATES. Mr. Chairman, I insist on my point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. YATES. Mr. Chairman, the point of order is that it is not in order as an amendment to the substitute.

The CHAIRMAN. The Chair would rule that under rule XIX it is in order as a substitute for the Stearns amendment assembled by the Dicks amendment, but it is not debatable.

☐ 1250

AMENDMENT OFFERED BY MR. YATES TO THE AMENDMENT OFFERED BY MR. BACHUS OF ALABAMA AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. STEARNS, AS AMENDED.

Mr. YATES. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment, as amended.

The Clerk read as follows:

Amendment offered by Mr. YATES to the amendment offered by Mr. BACHUS of Alabama as a substitute for the amendment offered by Mr. STEARNS, as amended: On line 4 of the amendment, strike "4.99" and insert "1.0".

PARLIAMENTARY INQUIRIES

Mr. BURTON of Indiana. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BURTON of Indiana. Mr. Chairman, for those who have not been following the debate, does this mean 4.99 percent down to 1 percent?

The CHAIRMAN. The amendment is a reduction of the bill amount by 1 percent.

Mr. LINDER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. LINDER. Mr. Chairman, did the Chair say a reduction of 1 percent from 4.99 or a reduction to 1 percent from 4.99?

The CHAIRMAN. The amendment would change the reduction of 4.99 percent in the Bachus substitute to a reduction of 1 percent.

Mr. BACHUS of Alabama. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BACHUS of Alabama. Mr. Chairman, is it not an increase in total appropriations?

The CHAIRMAN. That may not be an appropriate parliamentary inquiry. The overall effect of the amendment would still be a reduction of amounts in the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. YATES] to the amendment offered by the gentleman from Alabama [Mr. BACHUS] as a substitute for the amendment offered by the gentleman from Florida [Mr. STEARNS] as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. YATES. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This is a 15-minute vote. Pursuant to rule XXIII, the Chair will reduce to 5 minutes the time for a recorded vote, if ordered, on the Bachus substitute, as amended, and following the vote on the Yates amendment thereto, if there is no intervening debate or business.

The vote was taken by electronic device, and there were—ayes 218, noes 214, not voting 7, as follows:

[Roll No. 267]

AYES—218

Abercrombie
Ackerman
Andrews (ME)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Costello
Coyne
Danner
Darden
de la Garza
de Lugo (VI)
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Ehlers
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Grandy
Green
Gutierrez
Hamburg
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Horn
Houghton
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Kopetski
Kreidler
LaFalce
Lambert
Lantos
LaRocco
Leach
Levin
Lewis (GA)
Lowey
Maloney
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McDermott
McInnis
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moran
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickle
Price (NC)
Rahall
Rangel
Ravenel
Reed
Reynolds
Richardson
Ridge
Roemer
Romero-Barcelo (PR)
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schenk
Schroeder
Scott
Serrano
Sharp
Shepherd
Skaggs
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swift
Synar
Tejeda
Thompson
Thornton
Torres
Torricelli
Tucker
Underwood (GU)
Unsoeld
Velazquez
Vento
Visclosky
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—214

Allard
Andrews (NJ)
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehner
Bonilla
Browder

Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chapman
Coble
Collins (GA)
Combest
Condit
Cooper
Cox
Cramer
Crane
Crapo
Cunningham
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grams
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Holden
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kanjorski
Kasich
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
Kyl
Lancaster
Laughlin
Lazio
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Long
Lucas
Mann
Manzullo
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McKeon
McMillan
McNulty
Meyers
Mica
Michel
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Myers
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Penny
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Ramstad
Regula
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Thurman
Torkildsen
Traficant
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—7

Faleomavaega (AS)
Ford (TN)
Lloyd
Machtley
Schumer
Towns
Washington

□ 1309

The Clerk announced the following pair:

On this vote:

Mr. Schumer for, with Mr. Machtley against.

Ms. ROS-LEHTINEN and Messrs. KIM, CRAMER, and CRAPO changed their vote from "aye" to "no."

Ms. SCHENK changed her vote from "no" to "aye".

So the amendment to the amendment offered as a substitute for the amendment, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Pursuant to clause 2(d) of rule XXIII, the Committee rises.

□ 1310

Pursuant to clause 2(d) of rule XXIII the Committee rose; and the Speaker pro tempore (Mr. BROWN of California) having assumed the chair, Mr. GLICKMAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4602) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1995, and for other purposes, directs him to report that on a recorded vote on an amendment the votes of the Delegates and of the Resident Commissioner from Puerto Rico were decisive.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. YATES to the amendment offered by Mr. BACHUS of Alabama as a substitute for the amendment offered by Mr. STEARNS, as amended: On line 4 of the amendment, strike "4.99" and insert "1.0."

The SPEAKER pro tempore. Pursuant to clause 2 of rule XXIII, the Chair will now put the question de novo on the amendment offered by the gentleman from Illinois [Mr. YATES] to the amendment offered by the gentleman from Alabama [Mr. BACHUS] as a substitute for the amendment offered by the gentleman from Florida [Mr. STEARNS], as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. STEARNS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 210, noes 216, not voting 8, as follows:

[Roll No. 268]

AYES—210

Abercrombie
Ackerman
Andrews (ME)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Costello
Coyne
Danner
Darden
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Ehlers
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Grandy
Green
Gutierrez
Hamburg
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Horn
Houghton
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Kopetski
Kreidler
LaFalce
Lambert
Lantos
LaRocco
Leach
Levin
Lewis (GA)
Lowey
Maloney
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McDermott
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moran
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickle
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Skaggs
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swift
Synar
Tejeda
Thompson
Thornton
Torres
Torricelli
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—216

Allard
Andrews (NJ)
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehner
Bonilla
Browder
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chapman
Coble
Collins (GA)
Combest
Condit
Cooper
Cox
Cramer
Crane
Crapo
Cunningham
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grams
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Holden
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kanjorski
Kasich
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
Kyl
Lancaster
Laughlin
Lazio
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lipinski
Long
Lucas
Mann
Manzullo
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McMillan
McNulty
Meyers
Mica
Michel
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Myers
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Penny
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Ramstad

Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Thurman
Torkildsen
Traficant
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—8

de la Garza
Ford (TN)
Livingston
Lloyd
Machtley
McKinney
Towns
Washington

□ 1334

Mr. CASTLE changed his vote from "aye" to "no."

Mr. PETERSON of Florida changed his vote from "no" to "aye."

So the amendment to the amendment offered as a substitute for the amendment, as amended, was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BROWN of California). Pursuant to rule XXIII, clause 2(d). The Chair declares the House in the Committee of the Whole on the State of the Union for the further consideration of the bill, H.R. 4602.

□ 1335

IN THE COMMITTEE OF THE WHOLE

Acordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4602, with Mr. GLICKMAN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the amendment offered by Mr. YATES to the Bachus substitute has been adopted on a recorded vote on which the votes cast by the delegates and the resident commissioner were decisive.

That result has since been reversed by the House. Accordingly, the amendment offered by Mr. YATES to the Bachus substitute is not agreed to.

AMENDMENT OFFERED BY MR. DICKS TO THE AMENDMENT OFFERED BY MR. BACHUS OF ALABAMA AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. STEARNS, AS AMENDED

Mr. DICKS. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment, as amended.

The Clerk read as follows:

Amendment offered by Mr. DICKS to the amendment offered by Mr. BACHUS of Alabama as a substitute for the amendment offered by Mr. STEARNS, as amended: In line 4 of the substitute amendment strike "4.99" and insert "2.0".

The CHAIRMAN. There is no debate on this amendment, pursuant to the unanimous consent request earlier on.

The question is on the amendment offered by the gentleman from Washington [Mr. DICKS] to the amendment offered by the gentleman from Alabama [Mr. BACHUS] as a substitute for the amendment offered by the gentleman from Florida [Mr. STEARNS] as amended.

The question was taken, and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BACHUS of Alabama. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question.

The vote was taken by electronic device, and there were—ayes 222, noes 204, not voting 13, as follows:

[Roll No. 269]

AYES—222

Abercrombie
Ackerman
Andrews (ME)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Brown (CA)
Brown (FL)
Bryant
Byrne
Cantwell
Cardin
Carr
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Costello
Coyne
Danner
Darden
de la Garza
de Lugo (VI)
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Dunn
Durbin
Edwards (CA)
Ehlers
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Foglietta
Ford (MI)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Grandy
Green
Gutierrez
Hall (OH)
Hamburg
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Horn
Houghton
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Leach
Levin
Lewis (GA)
Lipinski
Lowey
Maloney
Manton
Margolies-Mezvinsky
Martinez
Matsui
Mazzoli
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moran
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Pickle
Pomeroy
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Romero-Barcelo (PR)
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Skaggs
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swift
Synar
Tejeda
Thompson
Thornton
Torres
Torricelli
Tucker
Underwood (GU)
Unsoeld
Velazquez
Vento
Visclosky
Walsh
Waters
Watt
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wynn
Yates

NOES—204

Allard
Andrews (NJ)
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehner
Bonilla
Browder
Brown (OH)
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chapman
Coble
Collins (GA)
Combest
Condit
Cooper
Cox
Cramer
Crane
Crapo
Cunningham
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Edwards (TX)
Emerson
Everett
Ewing
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grams
Greenwood
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Holden
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kanjorski
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Laughlin
Lazio
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Long
Lucas
Mann
Manzullo
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Montgomery
Moorhead
Myers
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Thurman
Torkildsen
Traficant
Upton
Valentine
Volkmer
Vucanovich
Walker
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—13

Clay
Faleomavaega (AS)
Fawell
Flake
Ford (TN)
Lloyd
Machtley
Markey
Minge
Towns
Washington
Waxman
Wyden

□ 1353

So the amendment to the amendment offered as a substitute for the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment, as amended, offered by the gentleman from Alabama [Mr. BACHUS] as a substitute for the amendment offered by the gentleman from Florida [Mr. STEARNS], as amended.

The amendment, as amended, offered as a substitute for the amendment, as amended, was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. STEARNS], as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. STEARNS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 380, noes 41, not voting 18, as follows:

[Roll No. 270]

AYES—380

Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Bateman
Becerra
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
English
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (TX)
Fingerhut
Fish
Flake
Ford (MI)
Fowler
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hayes
Hefley
Hefner
Herger
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Long
Lucas
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Murphy
Myers
Neal (NC)
Nussle
Oberstar
Obey
Ortiz
Orton
Owens
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skeen
Skelton
Slattery
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Stokes
Stump
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Traficant
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Young (AK)
Young (FL)
Zimmer

NOES—41

Abercrombie
Beilenson
Berman
Clayton
Collins (IL)
de Lugo (VI)
Dellums
Dixon
Engel
Fields (LA)
Filner
Foglietta
Frank (MA)
Hamburg
Harman
Hastings
Hilliard
Hinchey
Johnston
Leach
Lewis (GA)
Lowey
Maloney
McKinney
Moran
Morella
Murtha
Nadler
Neal (MA)
Norton (DC)
Olver
Payne (NJ)
Pelosi
Sabo
Skaggs
Slaughter
Stark
Studds
Waters
Watt
Yates

NOT VOTING—18

Barton
Clay
Faleomavaega (AS)
Ford (TN)
Gonzalez
Istook
Lloyd
Machtley
Oxley
Romero-Barcelo (PR)
Rush
Serrano
Strickland
Towns
Tucker
Underwood (GU)
Washington
Zeliff

□ 1406

Messrs. ABERCROMBIE, DIXON, and DELLUMS, Ms. WATERS, Mrs. MALONEY, Mrs. LOWEY, Ms. NORTON, and Ms. SLAUGHTER changed their vote from "aye" to "no."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

Mr. YATES. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, I thank the gentleman for yielding. I have asked him to do so for the purpose of getting his and the subcommittee's clarification of the action regarding the road maintenance budget of the Forest Service.

Is it the chairman's intent that this bill includes funding for reconstruction of the Koocanusa Bridge, which is located on the Kootenai National Forest in Northwest Montana?

Mr. YATES. The committee understands the importance of this project to the gentleman from Montana and in providing a budget level for road maintenance which is $1 million less than the President's request, it is the committee's intention that under this bill the project will move forward next year.

Mr. WILLIAMS. Regarding the $1 million reduction in the road maintenance budget, was it the committee's intent that this be taken across the board or from one particular region?

Mr. YATES. The committee intended that this reduction be taken across the board, appropriately balanced among all regions of the Forest Service.

AMENDMENT OFFERED BY MR. KLUG

Mr. KLUG. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KLUG: Page 58, line 9, strike "$445,544,000" and insert "$418,271,000".

AMENDMENT OFFERED BY MR. KLUG

Mr. KLUG. Mr. Chairman, I offer a second amendment, and I ask unanimous consent it be considered en bloc with the amendment just offered.

The Clerk read as follows:

Amendment offered by Mr. KLUG: Page 59, line 9, strike "$824,585,000" and insert "$834,585,000".

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

Mr. YATES. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The gentleman from Wisconsin [Mr. KLUG] is recognized for 5 minutes on his first amendment.

Mr. YATES. Mr. Chairman, if the gentleman will yield, I understand the gentleman from Wisconsin is agreeable to a time restriction of 30 minutes for consideration of this amendment and all amendments thereto, with 15 minutes to be controlled by the gentleman from Wisconsin [Mr. KLUG] and 15 minutes to be controlled by the gentleman from Illinois.

Mr. KLUG. Mr. Chairman, I am agreeable, with the caveat that if this one passes, we will then discuss the second one.

Mr. YATES. Mr. Chairman, I offer this as a unanimous-consent request.

The CHAIRMAN. Without objection, the time limit is 30 minutes total time on this amendment and all amendments thereto, equally divided between the gentleman from Illinois [Mr. YATES] and the gentleman from Wisconsin [Mr. KLUG].

There was no objection.

The CHAIRMAN. The gentleman from Wisconsin [Mr. KLUG] is recognized for 15 minutes.

□ 1410

Mr. KLUG. Mr. Chairman, I yield myself such time as I may consume.

This series of amendments is an attempt to cut $28 million which represents the President's funding levels for coal technology research and to save roughly half of that money or a little bit more than half of that money and also shift, if we are successful in the original cut, about $10 million into additional conservation programs.

The administration requested $128 million for coal research and development, and the committee has put $155 million into this bill. So the Interior appropriation one more time is more than $27 million what the administration wanted.

Even under these cuts, we still continue to invest roughly 27 percent of the fossil fuel budget into coal research and technology. That is a reduction right now from a level of about 39 percent.

My colleagues should keep in mind that for the 1970's and through the 1980's, we funded a wide array of potential markets for coal from electric power to industrial processes to residential and commercial heating. If Members check the long history of these projects, we discovered we have funded some of them since the early 1940's. I believe that at a time when we have shrinking resources, it makes more sense to move to emerging technologies rather than to continue to fund technologies that have been worked since the 1940's.

This actually confirms what the authorizing committee has attempted to do. This is an October 5, 1992 colloquy between the gentleman from California [Mr. BROWN] and the ranking member, the gentleman from Pennsylvania [Mr. WALKER] on the Committee on Science, Space, and Technology on their understanding of the coal and research development authorization in the Energy Policy Act.

The gentleman from Pennsylvania [Mr. WALKER] said:

> In the titles XIII which authorizes coal research and development of $278 million, $139,000 is authorized for 1993. This is $42 million less than the current funding level and sets the policy of the Federal Government that starts with graduating that mature technology to the private sector.

In other words, the Government should be weaned from the program.

And then he asks, "Would the gentleman from California be good enough to confirm this is the intent of the committee?"

And the gentleman from California [Mr. BROWN], the chairman of the Science Authorization Committee says, "I thank the gentleman for yielding. I would like to state that this is exactly my understanding."

Now, one quick example, since the early 1940's, there has been an ongoing coal liquefaction research and development project. But the private sector cost of this program is only about 12 percent. So we have been doing it for 45 years, and the private sector still does not see enough of an investment that they really allow us to pay more than 88 percent of the cost of the research projects. If industry does not have any confidence in this program after more than 50 years, why should we? I do not think it is necessary for the Federal Government to continue to fund it, and that is why we would like to see a substantial cutback and also attempt to move some money into the conservation program itself.

Let me make it very clear that the Executive Office of the President, the OMB, sent a statement over yesterday saying, "The Administration urges the House to restore $27 million to fund important initiatives, and this could be achieved by reducing lower priority items funded under the Fossil Energy Research and Development Act."

That is exactly what we are attempting to do at this point.

Mr. Chairman, in brief, we have had similar cuts on this program in the past which have all passed. The gentleman from Pennsylvania [Mr. WALKER] was successful last year. The administration has attempted to reduce these funding levels. The Senate continues to protect them and so we find ourselves year after year after year having the same debate.

I think, clearly, since we have been funding projects since the 1940's which have not had commercial payoffs yet, since we are facing a $200 billion deficit, it is absolutely appropriate that we reduce the funding levels to the administration's concerns, bank a chunk of it and put the rest in conservation programs which, in my mind, have a priority, a higher priority. And it is the same higher priority in this case that the Clinton administration even supports the case.

Mr. Chairman, I reserve the balance of my time.

Mr. YATES. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, we have go to set the record straight here.

No. 1, this cut will come out of coal, oil, and gas, because they are lumped together in the bill.

The amount in the bill for coal is $155 million. The amount in the bill for oil and gas is $201 million.

This cut will come out of both.

It is important that we do the continuing research, because as stated by the Assistant Secretary for Fossil Energy, economic growth and clean environmental achievements in the 21st century, that is out the next 100 years, need high-efficiency fossil fuel technologies.

What we are talking about here is the research needed to perfect these fossil fuel technologies.

It was stated that there is a very small industry match. I would point out that the average is 20 percent industry, private sector; 80, public, and in the clean coal program, it is a minimum of 50/50.

We are not going to nuclear in this country. Let us face it. Fifty-five percent of our Nation's electricity comes from coal; 40 percent of the world's electricity comes from coal. We are going to be using coal and oil and gas as far into the future as we can see, because nuclear is off the board.

Therefore, it is vitally important that we continue the research. But let us also make it clear that this is not a reduction from the President's number in total. As a matter of act, it is down under last year's level by $2 million, and it is inconsistent with the President's request in terms of a total amount for coal and oil and gas.

I have got to emphasize that we are not just talking about coal here. We are talking about coal, oil, and gas. I would point out also that in terms of Btu's, the production of energy, from the U.S. coal reserves is equal, equal to all of the world's known oil reserves, all the oil in the world, we equal with coal.

But we have got to be able to use our coal in an environmentally safe way. That is what this research is all about.

I think it would be foolish at this juncture to go below last year, to go below the President's request and, certainly, for those of my colleagues that were here in the late 1970's, and even if they were not here, they remember the energy crisis. We were doing all kinds of things. People were sitting in gasoline lines and, as we look at the numbers prospectively, we will be dependent on foreign sources for oil and gas, up to about 70 percent. We are probably at about 50 percent today.

We absolutely need to use our coal to produce electricity. We need to think of ways to enhance the oil and gas reserves of this Nation so we are not dependent on foreign energy resources in a world of turmoil and particularly in the Middle East for 60 to 70 percent of our energy resources.

I think it is vitally important that we continue the research on the ways to burn coal environmentally safely, that we continue research to enhance our oil and gas production. There are millions of Btu's in the ground that can be recovered if we develop the right techniques.

I would lastly point out what the Assistant Secretary for Fossil Energy said in the committee hearing.

> The recommendations (for further reductions) appear to be based on the assumption of a rapid transition away from fossil fuels, particularly coal, to an energy infrastructure dominated by energy conservation and reliance on renewable energy sources. At some point in the future that transition may indeed occur, but it is doubtful it will occur as rapidly as assumed and, in any event, as shown by the EIA projections, it is not going to happen in the next 20 years. Further cuts in the coal R&D budget will delay or possibly eliminate the potential for use of cleaner, more efficient U.S.-based coal technology throughout the world. However, as projected by the EIA, worldwide coal use will continue to increase. In this event, the coal utilization technology employed will be existing, less environmentally sound systems, or, more likely, the technology gap will be filled by our European and Japanese competitors who continue to work aggressively on developing cleaner coal-power systems technology.

□ 1420

Mr. Chairman, it is vitally important to the energy future of this Nation, that we continue our research on coal, oil, and gas to make it environmentally safe and to extend the use and make our Nation independent of offshore sources.

Mr. KLUG. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I appreciate what was said in the committee hearing that the gentleman from Ohio [Mr. REGULA] quoted from, but also let me point out that the Executive Office of the President has sent down a letter telling us that they support the cut, and moving more money to additional programs in fossil energy and research. So for now, the administration is on our side, despite what was said in the earlier hearing.

Mr. Chairman, I yield 2 minutes to my good friend, the gentleman from Minnesota [Mr. RAMSTAD], one of the cosponsors of this bill, along with the gentleman from Wisconsin [Mr. KLECZKA].

Mr. RAMSTAD. Mr. Chairman, I join my colleagues, the gentlemen from Wisconsin [Mr. KLUG and Mr. KLECZKA] in offering this bipartisan amendment to reduce the appropriation for coal research and development.

Mr. Chairman, the President is right on this one. Last year the House was right in voting overwhelmingly to reduce this program by $49 million. Today we simply ask that the House cut this appropriation by $28 million and bring the appropriation in line with the President's request.

Coal is hardly a new energy source, Mr. Chairman. Research and development in the private sector is well established. It is high time Congress reduces subsidies to these mature technologies. With a projected deficit in this country in the $200 billion range, we simply cannot afford to continue these subsidies.

Our amendment is supported by several national taxpayers' groups, the National Taxpayers Union and Citizens Against Government Waste, to name but two. This would save the American taxpayers at least $18 million. Our amendment is also supported by several environmental groups: Friends of the Earth, the National Resources Defense Fund, and Environmental Action. It would dedicate $10 million to energy conservation, which is very, very crucial at this time.

Mr. Chairman, let us cast a vote for fiscal responsibility. Let us cast a vote for environmental responsibility at the same time. Let us bring the spending level down to President Clinton's request. Support the Klug-Ramstad-Kleczka amendment.

Mr. YATES. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. BOEHNER].

Mr. BOEHNER. Mr. Chairman, I know most of the Members will find this interesting, that I am opposing the amendment of my best friend in the Congress, but I think the amendment is going in the wrong direction. We are trying to cut funding in this Congress, we are trying to save money, but we also realize that we have a responsibility in this Congress to make sure that there is proper investment in our country in areas where the private sector cannot do it alone.

Mr. Chairman, when we look at the energy needs of this country, no one can look the other way when it comes to coal. We have vast resources of coal in this country, but because it has high sulfur in some cases, because of the particulate matter involved in it, if we can find ways to have cleaner coal technology developed in this country, we are going to do our children and their children in the next generations behind us a very, very big favor.

So while we want to reduce spending, and we want to cut expenditures, we should not be penny wise and pound foolish. That is exactly what this amendment does. This basic research that is done in clean coal technology will benefit our Nation.

In Ohio, we have a separate fund that has been developed, that takes the basic research that is done out of this program, adds more money to it to try to commercialize those process. I think this is exactly the type of program that the Federal Government ought to have.

Mr. Chairman, yesterday I opposed an amendment on the NEA because I did not think it was within the proper scope of the Federal Government to be involved in it. This is the kind of project, though, that is within the scope of what the U.S. Congress ought to be doing.

Mr. Chairman, I oppose the gentleman's amendment and I urge my colleagues to do so as well.

Mr. YATES. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. HOLDEN].

Mr. HOLDEN. Mr. Chairman, I rise in opposition to the amendment of my friend, the gentleman from Wisconsin [Mr. KLUG].

I am proud to represent a significant part of the largest anthracite deposit of coal in this country. Anthracite coal is a low-sulfur burning fuel that has a future. It has a future in industrial use, it has a future in domestic use. More importantly and most significantly, great progress has been made recently in the process of turning anthracite coal into a gasoline component.

As the previous speaker mentioned earlier, we are too dependent on foreign oil in this country, and we have large deposits of anthracite coal and bituminous coal that can be of great use to us if we face another energy crisis. I ask all my colleagues in the House to oppose the amendment and keep investing in our future, keep investing in research and development, in rich coal deposits that we have in this country.

Mr. YATES. Mr. Chairman, I yield 1 minute to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I appreciate the gentleman yielding time to me.

Mr. Chairman, I simply want to talk a little bit about the importance of this research in the energy future of this country. Just this morning we talked considerably about offshore oil. We talked about the domestic oil industry and its decline. We talked about what we are going to do in the longrun future. We talked about the future of gas, and particularly, coal, coal being, I suspect, the greatest volume of energy that we have available, particularly for electric power generation.

Mr. Chairman, we have to find ways to use this abundant energy resource in better ways than we do now. For example, we have coal that costs $5 or $6 in the Powder River Basin in Wyoming, but costs $27 or $28 in Texas. We need to find ways to make that more efficient.

We have to find ways to continue to reduce the water content, for example, and increase the Btu content so shipping costs can go down, so this can be more efficient. That is what this is designed to do.

Mr. Chairman, this kind of research is essential, it seems to me, to the future of our economy. I oppose the amendment.

Mr. KLUG. Mr. Chairman, I yield 2 minutes to my colleague, the gentleman from Pennsylvania [Mr. WALKER], the ranking Republican on the Committee on Science, Space, and Technology.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I also thank the gentleman for his amendment, and it is an amendment that I have brought to the floor on several occasions in the past. I want to agree with a lot of people who have talked about the importance of the coal research and what goes on.

Mr. Chairman, I never have had any doubt about that whatsoever. Coal is one of our most important natural resources. It is an energy source of the future. We need to figure out ways to utilize it better.

Mr. Chairman, here is my problem with the programs that we have in place right now. Instead of being leading edge R&D programs, what we have is a lot of programs that are basically on a research and development life support system. They are programs where we have proven the technology, where we know how to do it.

The problem is that what we have found out is that having gotten there, it is too expensive to put into the energy stream. In order to keep the technologies alive, we have put them on an R&D life support system, rather than going to the commercialization.

Mr. Chairman, my point is R&D always ought to be aimed at making certain that we are out on the leading edge, finding the new technologies that make things better. In this particular case, what we have is an inability to commercialize what we have already found out because it is too expensive, and therefore we are retaining it on life support.

Mr. Chairman, I think what we can do is assure that all of the money heads toward doing real leading edge R&D. That is fine. What we ought to do is withdraw the programs where we have already found out that they know how to do it and it is just too expensive to commercialize. That it seems to me to be something that the taxpayers can no longer afford to do. That is a subsidy which, in my view, does not constitute research and development.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am happy to yield to my friend, the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, in the committee we rejected an $18 million subsidy for fuel cells for the very reason the gentleman says, because it is commercial. Therefore, it should be sold and developed commercially. Coal, oil and gas research has not quite reached that point. That is our concern.

Mr. WALKER. Mr. Chairman, I thank the gentleman.

□ 1430

Mr. YATES. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Wisconsin.

They say in politics for every issue that is debated, there is a good reason and a real reason for a vote. I will leave it to those listening to reach their conclusion on what I have to say. I would like to at least preface my remarks by saying that when the gentleman from Minnesota and the gentleman from Wisconsin come before us and say we are talking about a subsidy to the coal industry, they are dead wrong. We are talking about a Federal investment in energy research to try to find a way to develop coal resources in an environmentally safe manner in the United States. Subsidy programs are historically programs like the dairy program in Wisconsin or the dairy program in Minnesota. This is not a subsidy program. This is a research investment program.

Let me tell Members why we should oppose the amendment offered by the gentleman from Wisconsin. First, what is at stake here are American jobs. In my home State of Illinois, about 10 years ago there were 20,000 men and women engaged in coal mining. It is a tough job, a dirty job, and a dangerous job, but it pays pretty well and the folks who went to work each day struggled and toiled to make a living, raise their families in communities all across Illinois, 20,000 of them. Today that number is down to around 5,000 because of new environmental standards nationwide, standards which I accept. We need cleaner air. America wants it. We must produce it. But we also ought to keep in mind that as we go through this transition and lose these jobs, we need to invest more in research to find ways to use the coal reserves already in America.

At this point what we are calling for is more fossil fuel energy research as my colleague from Ohio has asked for to reduce America's dependence on imported oil and gas.

Mr. Chairman, we remember not too long ago waiting in lines at gas stations, waiting to determine whether the OPEC cartel would say, "OK, America, it's OK to be in business another year." Does America want to return to those days? I think not.

In conclusion, we do not need to return to the days of energy dependence, to put our head in the sand, to ignore research which could produce energy sources right here in America. Energy dependence on foreign sources can lead us into all sorts of involvement, some say even the Persian Gulf war was created because of our energy dependence. We do not need that. If we are going to put research on a dubious questionable space station, if we are going to put research into Star Wars, for goodness sakes, should not we put research into energy sources to put Americans back to work?

The amendment of the gentleman from Wisconsin [Mr. KLUG] is a vote for energy dependence on foreign oil and gas and it is a vote to eliminate jobs in the United States. Please vote "no" on the Klug amendment.

Mr. KLUG. Mr. Chairman, may I inquire how much time I have remaining?

The CHAIRMAN. The gentleman from Wisconsin has 7 minutes remaining.

Mr. KLUG. Mr. Chairman, do I have the right to close debate?

The CHAIRMAN. The gentleman from Illinois [Mr. YATES] has the right to close debate.

Mr. KLUG. Let me take a couple of more minutes if I could, Mr. Chairman, to simply make a couple of final points before the other side has an opportunity to do this.

I appreciate the comments of my colleague, the gentleman from Illinois, who is the chairman of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and related agencies, who obviously has the ability to shape dairy policy differently if he disagrees with me. What we are talking about here, however, let me make this point one more time, we have subsidized, and I think that is the correct term, coal liquefication research since the 1940's. If it has not paid off in 50 years, how much more time will it take?

Mr. Chairman, it seems to me we are in the never-ending box that we always debate here about science research programs. It is never too early to kill it because we do not know the potential, and it is always too late to kill it because it may still pay off at some point in the future. I suggest after five decades of research and millions of dollars of Federal money, if it has not paid off to this point, it will never pay off in the future.

Again, the thrust of my amendment had I offered both of them together was to, first, cut some of the money devoted to coal research, save some of the money; and, second, shift some of the money to conservation research projects which is another way to reduce our dependence on foreign oil by reducing our need for energy use and, instead, shift to energy conservation. That is why I think in this case we get strong support from taxpayer groups like the Citizens Against Government Waste and the National Taxpayers Union because from an economic perspective, this program is tough to justify. From an environmental perspective, from folks like the Friends of the Earth or the Citizens Against Government Waste Research Project or the Natural Resources Defense Council, the sense is there is a better priority by spending money and shifting money into new energy technology, and, into technologies which will help us reach the goals of both global warming and also reach the goals that are stated in the Clean Air Act.

Mr. Chairman, again, I think from both an environmental perspective and from a taxpayer perspective, it makes sense to, first, make this cut; then, second, if we are successful in a few minutes, talk about shifting some of the money to another research project.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. KLUG. I yield to the gentleman from Ohio.

Mr. REGULA. I thank the gentleman for yielding.

Mr. Chairman, I would point out to our Members that we have increased the conservation budget $135 million over last year. So that we have recognized, as the gentleman points out, the importance of conservation with a very substantial increase already in the bill.

Mr. KLUG. I thank the gentleman.

Mr. Chairman, my point simply being I would still like to see even more money shifted into that program.

Mr. Chairman, I reserve the balance of my time.

Mr. YATES. Mr. Chairman, I yield 2 minutes to the gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Chairman, I rise in strong opposition to the Klug amendment to cut coal research and development funding. It reminds me of the old Hurt America First fuels approach. More than half of all the electricity in this country each day comes from coal. Coal makes up about 90 percent of our Nation's domestic fossil fuel resource. In North Dakota, lignite coal provides electricity for more than 2 million homes throughout the Upper Midwest and at present rates of production we can do this for the next 1,000 years, our resource is so plentiful. There is no doubt going to come a day when we will have alternative fuels. We will have solar, wind, renewables we have not even thought of. But that day is far away. Right now the choice is coal, or more dependence on foreign oil sources.

Mr. Chairman, a stand for domestic energy is a stand for coal. In that light it only makes sense to try and improve this resource further; cleaner burning, more efficient. It is not as though coal has not taken its hit in terms of trying to get this budget under control, the national budget under control. This year the committee recommendation was a full $12 million below funding for fiscal year 1994 which means it has been cut enough.

I urge my colleagues to reject the Klug amendment.

Mr. KLUG. Mr. Chairman, I yield 1 minute to my colleague, the gentleman from Wisconsin [Mr. BARCA].

Mr. BARCA of Wisconsin. Mr. Chairman, I believe that we should be doing research into the use of coal, but the question is at what level should this research support be at. That is where the basic question comes in. The OMB and President Clinton have recommended that we cut it back by $27 million more and this is the level at which I believe the private sector can begin to contribute more towards these R&D kinds of efforts.

Mr. Chairman, these are difficult times. The President is putting forward significant and substantial deficit reduction efforts in my estimation, but we have to support him in those efforts. This was one of his strong recommendations and I believe we should follow it.

Mr. KLUG. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, final points. I want to make it very clear to my colleagues as the gentleman from Pennsylvania [Mr. WALKER] said before, this is not a new fight. In fact, the Walker-Brown-Penny amendment to last year's appropriations bill passed 276 to 144 and that amendment cut $49 million from coal-related spending. This amendment only cuts $27 million.

Let me also point out that even that $40 million cut was eventually added back in in the conference committee with the Senate. For those Members who voted for the Penny-Kasich amendment, it rescinded funds for fossil energy research and development to 25 percent of its baseline level and this amendment before us is much tamer than that.

Let me also point out finally, the President requested $976 million in energy conservation. The committee actually delivered $824 million, which is $152 million in conservation levels below what the White House itself requested.

□ 1440

So one more time from the perspective of those of us in this Chamber who want to save money, I believe this amendment makes sense, which is why it has the endorsement of the National Taxpayers Union and the Citizens Against Government Waste, and again, for those of you in this Chamber who are motivated by environmental reasons, that is why we find a number of colleagues including Friends of the Earth and the National Resources Defense Council trying to make the case that this is technology we have funded for 50 years. It has not paid dividends, and increasingly we need to shift money away from coal research into other kinds of projects.

Mr. Chairman, I yield back the balance of my time.

Mr. YATES. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, this amendment would affect oil and gas programs which have been receiving increased emphasis in the research program.

Techniques to recover significant quantities of oil traditionally left in the ground as unrecoverable will be delayed or abandoned.

Promising work on advanced gas turbines and fuel cells, both of which are clean and efficient technologies, will be delayed.

The committee has recommended modest increases in this area, but still below the budget request.

I point out to my good friend, the gentleman from Wisconsin [Mr. KLUG], we have made progress in the field of coal research. A barrel of oil from coal which was $95 a few years ago is now down to $35 as a result of the research. It is very hopeful and expected that in the near future if the research programs are allowed to continue the cost will be reduced even further, perhaps to $25 a barrel.

I oppose the amendment, and I urge the committee to defeat it.

Mr. COSTELLO. Mr. Chairman, I want to urge my colleagues to vote against the amendment offered by my colleague from Wisconsin [Mr. KLUG]. The Klug amendment would cut $27 million from the coal research and development budget, a cut that would do great harm to our country's most abundant energy resource.

One of the byproducts of the 1990 Clean Air Act is to try and find ways and incentives to burn high-sulfur coal using clean, environmentally-safe methods. This is an issue close to the heart of my congressional district, where several coal mines—and thousands of miners—have lost their jobs since 1990. If Congress continues to cut funding for coal research and development, we will only see these losses continue at a faster pace.

Pick up a newspaper almost daily in my district and you can read about another mine closing, another hundred families shifting from private employment to public support. Without ways to use these abundant coal resources, without this research, we will continue to import more foreign oil, relying more and more on overseas imports to sustain our Nation's energy base, and more hard-working Americans will be unemployed.

This amendment makes an unjustified cut in a program that is shouldering more than its share of the deficit reduction burden. The committee, in this bill, is recommending an overall figure for fossil energy research that is less than what Congress approved last year. In addition, the committee is recommending for coal research and development a figure that is $11 billion less than what Congress approved last year. The coal program cannot sustain these cuts and keep this vital industry alive. I urge my colleagues to vote against the Klug amendment.

Mrs. LLOYD. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Wisconsin. In recent years we have seen the budget for coal research and development decrease as offsetting increases appeared in energy conservation. I applaud our new emphasis on energy efficiency but I want to add a cautionary note. The administration's request for the coal R&D programs reflects changing priorities but does not provide enough funding to complete ongoing programs.

As an example, the department has been funding a project to develop and construct a 1.6 megawatt pressurized fluidized bed facility. The department did not include funding for completion of the facility nor did it include operating funds needed to obtain testing results from the facility. The department's lack of foresight to bring this project to a logical conclusion is disturbing in terms of protecting our prior year investments and bringing new technologies forward to utilize our abundant coal resources. These technologies are also vital for our environmental future as the developing nations of the world continue to utilize their vast coal resources. By completing the development of more efficient and environmentally friendly coal technologies, we can provide technological leadership.

In restoring $28 million to the budget request, the committee allows current programs to continue. Even with the additional $28 million, the coal budget is reduced by $12 million from last years funding levels.

I urge my colleagues to oppose the Klug amendment.

Mr. BROWN of California. Mr. Chairman, I rise in support of this Department of the Interior and related agencies appropriations bill and I commend the gentleman from Illinois and the committee for their efforts.

I am pleased with the substance of the bill as it pertains to programs in the jurisdiction of the Committee on Science, Space, and Technology. I am pleased that it is relatively free of the kind of legislative language that should be left to the proper authorizing committees—but that nevertheless appears all too often in appropriations bills. And I am pleased that the committee has continued to be one that keeps inappropriate academic earmarks to a minimum.

With respect to the substance of the bill, I am pleased that the committee has produced a bill consistent with the administration's requests for energy R&D and consistent with the Energy Policy Act of 1992. Unfortunately, in this tight budget environment the committee's recommendation provides only half the increase in energy conservation R&D requested by the President. Still, the recommended funding represents a substantial increase over last year's level. R&D investments are critical to raising the Nation's productivity and standard of living, yet they all too often are singled out for reduction or elimination by zealous deficit cutters who overlook their longer term payoffs in order to achieve short-term budget savings.

The Interior appropriations bill is not entirely free of pork, but staff of the Science Committee has identified less than $10 million in academic earmarks, and Mr. YATES is to be recommended for his efforts to keep academic earmarking under control.

All in all, Mr. Chairman, this is a good bill and I urge all Members to support it.

Mr. POSHARD. Mr. Chairman, I rise in strong opposition to the Klug amendment.

Here is the headline in one of my newspapers this morning "Old Ben No. 25 To close—200 Jobs Lost by August."

Those are families in my district who have about 60 days to determine what they're going to do next—and perhaps they will have no choice but to leave a profession which has been in their families for generations.

The Clean Air Act has taken hope from these families.

What hope they have left is largely invested in the promise of research—research into promising technologies which will enable us to use these coal resources and provide jobs for our people.

The Interior appropriations committee has done difficult work in parceling out scarce resources.

We are already operating under very austere conditions and cannot afford additional reductions in this account.

Mr. Chairman, I urge opposition to the amendment.

OLD BEN NO. 25 TO CLOSE—200 JOBS LOST BY AUGUST

(By Nick Mariano)

Zeigler Coal Co. will stop mining coal at Old Ben No. 25 near West Frankfort in two months, the firm announced Tuesday.

Company officials told the mine's 200 employees about the decision on Friday, when the workers received 60 days' notice of the impending layoffs.

Company spokesman Vic Svec said the closing is a result of the 1990 Clean Air Act, which sets limits on sulfur dioxide emissions.

"We will cease mining operations in mid-August. This is a direct result of the Clean Air Act," he said.

The mine will remain open to recover equipment and to remove stockpiles of coal. Reclamation work also will continue, Svec said.

He said the contract with the mine's only customer, Georgia Power, expires on June 30 and will not be renewed.

The contract was in effect from the mid-1970s until 1993, and then was extended for one year. The mine produced 1.6 million tons of coal in 1993.

United Mine Workers Local 2250 President Kenneth Craig said the announcement was not a surprise. The closing has been rumored since the UMW strike ended in December.

He, too, blamed federal regulations.

"The Clean Air Act is the culprit behind the closing. Companies buying western coal will make Illinois suffer and Illinois will continue to suffer until politicians put scrubbers on power plants" he said.

Southern Illinois coal is high in sulfur, while that mined in the western United State contains less of the pollutant.

The union represents 160 of the employees at the mine. The remaining 40 employees hold management positions.

West Frankfort Mayor John Simmons said losing the mine will not only damage the income base in the city, but also eliminate revenue that the city receives from the mining company for water.

That money, he said, is used to maintain city property at the West Frankfort City Lake. Work will continue at the lake as it has been done, on an as-needed basis, he said.

The announcement did not surprise him either.

"The mining industry, has been dying for several years," he said.

According to Svec, unsuccessful attempts were made by Zeigler Coal Co., the mine's parent company, to find other customers for the high-sulfur coal.

It is unlikely, however, that the mine would reopen even if a customer were found after the mine closes.

"Conditions at the mine are probably not practical to reopen it," he said, citing problems with water leaking into the mine.

Repairs at the mine were made after a spring storm this year that ripped the roof off a washhouse at the mine and damaged about 20 mining vehicles.

The mine has coal reserves that would last another decade, Svoc estimated.

The last layoffs at No. 25 were in 1990 and involved 76 workers. At that time, there were 330 employees.

Two Zeigler Coal-owned mines will continue to operate in Franklin County, No. 24 near Benton and No. 26 near Sesser.

Svec said those mines are not in jeopardy now, but he added that it will be a challenge for all of Southern Illinois to keep mines open past the year 2000, when the second phase of the Clean Air Act goes into effect. That phase will require power companies to install scrubbers, devices used to remove sulfur dioxide.

"By the time Phase Two comes around, many of the mines will have been forced to exit the market," he said.

Mr. BARCA of Wisconsin. Mr. Chairman, I rise today in strong support of the amendment offered by Mr. KLUG, my colleague from Wisconsin.

We should be doing research into the use of coal, but the question is at what level should we support it.

The Office of Management and Budget, as well as President Clinton, have proposed to scale this program back by $27 million.

Certainly, some of this research could receive a greater contribution from the private sector.

I would urge my colleagues to support the President's efforts at cutting spending in this area.

In these times of high budget deficits, our first priority must be to put our fiscal house in order.

Mr. Chairman, passing this amendment would advance us toward our needed goal of balancing the budget.

We must continue making progress on meeting this goal. Passing this amendment would be a step in the right direction.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. KLUG].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. KLUG. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 182, noes 242, not voting 15, as follows:

[Roll No. 271]

AYES—182

Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Archer
Armey
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bereuter
Bilbray
Blute
Boehlert
Bonilla
Brown (FL)
Burton
Calvert
Camp
Canady
Cantwell
Castle
Coble
Collins (GA)
Condit
Coppersmith
Cox
Crane
Cunningham
DeFazio
DeLauro
Deutsch
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Ehlers
Engel
Farr
Filner
Fingerhut
Fish
Fowler
Frank (MA)

Franks (CT)
Franks (NJ)
Furse
Gallegly
Gekas
Gilchrest
Gilman
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gutierrez
Hamburg
Hancock
Harman
Herger
Hinchey
Hoagland
Hoekstra
Horn
Houghton
Huffington
Hunter
Hutchinson
Hutto
Inglis
Inslee
Jacobs
Jefferson
Johnson (SD)
Johnson, Sam
Kennedy
Kennelly
Kim
King
Kingston
Kleczka
Klein
Klug
Knollenberg
Kreidler
Kyl

LaFalce
Lambert
Lazio
Leach
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Linder
Maloney
Mann
Manzullo
Margolies-Mezvinsky
Markey
McCandless
McCollum
McCrery
McDermott
McHugh
McKeon
McKinney
McMillan
McNulty
Meehan
Menendez
Meyers
Miller (FL)
Minge
Molinari
Morella
Nadler
Nussle
Olver
Pallone
Paxon
Payne (NJ)
Penny
Petri
Pombo
Porter
Portman
Ramstad

Ravenel
Richardson
Rohrabacher
Ros-Lehtinen
Roth
Roybal-Allard
Royce
Sanders
Schenk
Schroeder
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shepherd
Skaggs
Slattery
Smith (MI)
Smith (NJ)
Smith (OR)
Snowe
Solomon
Spence
Stearns
Studds
Stump
Stupak
Swett
Talent
Thurman
Upton
Vento
Vucanovich
Walker
Walsh
Watt
Waxman
Weldon
Wolf
Wyden
Wynn
Young (FL)
Zimmer

NOES—242

Abercrombie
Ackerman
Applegate
Bacchus (FL)
Bachus (AL)
Barcia
Barlow
Bateman
Becerra
Beilenson
Bentley
Berman
Bevill
Bilirakis
Bishop
Bliley
Boehner
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (OH)
Bryant
Bunning
Buyer
Byrne
Callahan
Cardin
Carr
Chapman
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Combest
Conyers
Cooper
Costello
Coyne
Cramer
Crapo
Danner
Darden

de la Garza
de Lugo (VI)
Deal
DeLay
Derrick
Dicks
Dingell
Dixon
Dooley
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Emerson
English
Eshoo
Evans
Everett
Ewing
Fawell
Fazio
Fields (LA)
Fields (TX)
Flake
Foglietta
Ford (MI)
Ford (TN)
Frost
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings
Hayes
Hefley
Hefner
Hobson

Hochbrueckner
Hoke
Holden
Hoyer
Hughes
Hyde
Inhofe
Istook
Johnson (GA)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kasich
Kildee
Klink
Kolbe
Kopetski
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Lewis (KY)
Lightfoot
Lipinski
Livingston
Long
Lowey
Lucas
Manton
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDade
McHale
McInnis
Meek
Mfume
Mica
Michel
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery

Moorhead
Moran
Murphy
Murtha
Myers
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Ortiz
Orton
Owens
Oxley
Packard
Parker
Pastor
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Pryce (OH)
Quillen
Rahall
Rangel
Reed
Regula

Reynolds
Ridge
Roberts
Roemer
Rogers
Romero-Barcelo (PR)
Rose
Rostenkowski
Roukema
Rowland
Rush
Sabo
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schiff
Scott
Serrano
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (IA)
Smith (TX)
Spratt
Stark
Stenholm

Stokes
Strickland
Sundquist
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Torkildsen
Torres
Torricelli
Traficant
Tucker
Underwood (GU)
Unsoeld
Valentine
Velazquez
Visclosky
Volkmer
Waters
Wheat
Williams
Wilson
Wise
Woolsey
Yates
Young (AK)

NOT VOTING—15

Blackwell
Clay
Dellums
Faleomavaega (AS)
Gunderson

Hilliard
Johnson (CT)
Lloyd
Machtley
Quinn
Thornton

Towns
Washington
Whitten
Zeliff

□ 1504

The Clerk announced the following pair:

On this vote:

Mr. Gunderson for, with Mrs. Lloyd against.

Mr. GLICKMAN and Mr. FIELDS of Texas changed their vote from "aye" to "no."

Mr. DEUTSCH, Ms. FURSE, Messrs. HERGER, KENNEDY, and OLVER, Mrs. SCHROEDER, and Mr. HAMBURG changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to title II?

If not, the Clerk will read.

The Clerk read as follows:

TITLE III—GENERAL PROVISIONS

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contract where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 302. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: *Provided*, That nothing herein is intended to inhabit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 303. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 304. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 305. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

SEC. 306. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless notice of such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such Committees.

SEC. 307. (a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c; popularly known as the "Buy American Act").

(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available in this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in section 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 308. The Forest Service and Bureau of Land Management may offer for sale salvageable timber in the Pacific Northwest in fiscal year 1995: *Provided*, That for public lands known to contain the Northern spotted owl, such salvage sales may be offered as long as the offering of such sale will not render the area unsuitable as habitat for the Northern spotted owl: *Provided further*, That timber salvage activity in spotted owl habitat is to be done in full compliance with all existing environmental and forest management laws.

SEC. 309. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (sequoiadendron giganteum) which are located on National Forest System or Bureau of Land Management lands in a manner different than such sales were conducted in fiscal year 1994.

SEC. 310. None of the funds appropriated in this Act may be used to implement any increase in government housing rental rates in excess of 10 percentum more than the rental rates which were in effect on September 1, 1994, for such housing.

SEC. 311. None of the funds made available by this Act may be obligated or expended by the National Park Service to enter into or implement a concession contract which permits or requires the removal of the underground lunchroom at the Carlsbad Caverns National Park.

Mr. YATES (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 84, line 23, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMENDMENT OFFERED BY MR. RAHALL

Mr. RAHALL. Mr. Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. RAHALL: Page 84, after line 23, insert the following new section:

SEC. 312. The amounts otherwise provided by this Act are revised by reducing the amount made available for "Fossil Energy Research and Development", and increasing the amount made available for "Abandoned Mine Reclamation Fund", by $10,000,000.

Mr. RAHALL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. YATES. Mr. Chairman, I ask the gentleman from West Virginia [Mr. RAHALL] to agree to a time limitation of 10 minutes, 5 minutes to be controlled by the gentleman from West Virginia and 5 minutes to be controlled by myself.

The CHAIRMAN. Is the gentleman from Illinois making a unanimous-consent request that the time for debate on the amendment offered by the gentleman from West Virginia be limited to 10 minutes, 5 minutes to be controlled by the gentleman from West Virginia and 5 minutes to be controlled by himself?

Mr. YATES. Yes, Mr. Chairman.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. REGULA. Mr. Chairman, reserving the right to object, I would withdraw my reservation of objection if we can have half the time.

Mr. YATES. Mr. Chairman, if the gentleman will yield, I will be very glad to give the gentleman from Ohio [Mr. REGULA] 2½ minutes of my time.

Mr. REGULA. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Without objection, the time for debate on the amendment offered by the gentleman from West Virginia [Mr. RAHALL] is limited to 10 minutes, 5 minutes to be controlled by the gentleman from West Virginia [Mr. RAHALL], 2½ minutes to be controlled by the gentleman from Illinois [Mr. YATES] and 2½ minutes to be controlled by the gentleman from Ohio [Mr. REGULA].

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Chairman, I want to first commend Chairman YATES and ranking Republican member RALPH REGULA for the excellent work they have done on this bill in light of the extremely tight budget allocation they had to work under.

But with that said, I am compelled to offer this amendment.

This amendment would strike $10 million from the $446,544,000 proposed for fossil energy research and development.

This $10 million would then be added to the abandoned mine reclamation fund appropriation.

Let me be clear. I offer this amendment with no malice toward fossil energy research.

Indeed, I have always been very supportive of this research.

And if I had my preference, I would simply increase the Abandoned Mine Reclamation Program funding without this offsetting reduction.

This, however, is not a viable way to proceed under the existing budgetary situation.

And so it is appropriate, in my view, to slightly reduce the fossil energy research account in order to provide an increased appropriation for a program aimed at mitigating the health, safety, and environmental consequences of past fossil energy production, in this case, from coal mining.

This is what is financed under the abandoned mine reclamation fund.

Under the programs supported by this fund, jobs are created and immediate environmental benefits are received through the restoration of lands left unreclaimed by past coal mining practices.

We are talking about the letting of contracts and dirt being moved in a similar fashion to the highway program.

It is important to note that financing for this program is provided for through a fee assessed on every ton of coal mined in the United States.

These fees, paid by the coal industry, are deposited into the abandoned mine reclamation fund.

In effect, this fund serves as the coal industry's version of the Superfund.

However, enactment of the administration's request for this program would result in an unappropriated balance of over $1 billion in the abandoned mine reclamation fund.

That is $1 billion.

Now, I would suggest that the Congress did not impose these fees on the coal industry simply to allow these money to sit idle in a Government trust fund.

Money sitting idle, I might add, while people's homes and livelihoods are being threatened by burning refuse piles, landslides, and things of this nature.

While the Appropriations Committee increased the administration request slightly—by $5.7 million—the overall recommended amount of $172.4 million is still far below the $190 million in current fiscal year funding.

What I am proposing is a tradeoff. Fossil energy research should, in the future, lead to technologies that allow for the use of fossil fuels in a more environmentally sound fashion.

However, I do not think we can turn our backs on the very real and pressing problems that people face today, on the ground, in many regions of the country as a result of past coal mining practices.

And so I would transfer this $10 million to the abandoned mine reclamation fund, and it is my intent that this $10 million be made available for the Rural Abandoned Mine Reclamation Program, or RAMP.

Amounts appropriated from the fund are utilized through three delivery mechanisms: State grants, the Federal program and under RAMP.

While I believe the State grants program should also be increased, the RAMP Program would be wiped out under this bill. It is only proposed to receive $2.5 million rather than the $13 or so million normally appropriated for it.

So I say to Chairman YATES and to Mr. REGULA that it is my hope you will accept this amendment.

Mr. Chairman, I urge the adoption of this amendment.

□ 1510

Mr. Chairman, I reserve the balance of my time.

Mr. REGULA. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, the fossil energy R&D budget was already cut substantially at the committee level.

Further cuts will have two adverse consequences. First, the cuts will mean a decrease in natural gas research funding, the fuel the administration is pushing as the cornerstone of our Nation's energy policy, for good reason. Natural gas is clean and abundant.

The second adverse consequence of the cuts will be to threaten the research and development necessary to keep stripper wells open and operating. There are 1 million such marginal wells operating today and they produce nearly 20 percent of our domestic oil. Without additional research and technology to make them more efficient and profitable, the United States is likely to see oil and gas production eroded even further. This year the

United States already has set a dubious record of importing 50 percent of its energy. To protect our national security as well as our economy, we need to increase, not decrease, the funds spent on research and development.

In fact, recent Department of Energy estimates suggest that as much as 60 to 70 percent of the known remaining domestic oil resources could be abandoned in less than 15 years unless effective technologies are developed and utilized.

Mr. Chairman, I urge my colleagues to oppose this amendment.

Mr. REGULA. Mr. Chairman, I yield 2½ minutes to the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Chairman, I rise in strong support of the Rahall amendment which would reinstate funds to the Abandoned Mine Reclamation Program, better known as RAMP.

Mr. Chairman, coal operators have paid over $489 million into a trust fund which is used to reclaim lands left by past coal mine activities.

This is money that our coal communities have paid but cannot use to restore their land and protect their property because it is sitting by idle in a Government trust fund.

It is wrong to deny communities protection from these dangerous reclamation problems, and RAMP funds provide this protection.

We must take action now so that we can provide immediate help to people whose homes and lives are in danger, and restore funds to a program which addresses reclamation problems before they turn into emergencies.

In Kentucky, over 300,000 acres of abandoned mined lands have been reclaimed and another 102,000 acres of abandoned surface mined lands still need major reclamation work.

I see no justifiable reason for us to ignore the severe subsidence problems, property damage, and flooding that result when restoration of abandoned mine lands does not occur.

These problems can lead to serious slides or other emergencies which threaten the homes and lives of the families in my district.

Mr. Chairman, not only does RAMP funds provide assistance to families who have been affected by mine-related problems, but it also works to improve water quality in lakes and streams. It also improves the visual quality of lands that have been exposed due to the effects of strip mining.

Mr. Chairman, the list of program benefits goes on and on. This is a valuable program to eastern and southern Kentucky and other communities throughout this country.

I have seen first hand the excellent reclamation work that is accomplished through this program. The W.H. Bowlin Coal Co. in Saxton, KY, recently was awarded the national Surface Mining Reclamation Award for excellence in land reclamation. It is quality reclamation efforts such as these which benefit from RAMP funds.

Mr. Chairman, we have a responsibility to provide immediate help to those who need it and to insure the health and safety of those whose livelihood is threatened by mine related emergencies.

I urge my colleagues support the coal communities who need these funds to restore their land and protect their homes and property.

I urge my colleagues to support the Rahall amendment.

Mr. RAHALL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I conclude by reinforcing what I and the gentleman from Kentucky [Mr. ROGERS] have stated. We have gone to the mat on a number of occasions in Congress to authorize and to extend the life of the abandoned mine reclamation fund. We set up this fund in 1977 when Congress wisely enacted the Surface Mining Reclamation Act, and it has been on the books since. The industry has fought us in our efforts to extend this program. We have invoked their wrath a number of times, yet they have abided by the law as Congress has passed this legislation.

I would say that it is only fair to the American people, it is only fair to the Appalachian States, and only fair to the coal industry, now that they are abiding by the law, paying this tax into the fund, that this money not sit idle here in Washington, but be spent for the purposes for which the original legislation was enacted. The receipts into this fund have been increasing over the years, since 1987, yet the actual appropriations for the AML have been declining. This is a small step in trying to restore that balance in fairness.

Mr. Chairman, I urge adoption of the amendment.

Mr. YATES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am very sympathetic to the gentleman's amendment. I wish we could comply with his request. I recognize the importance of the RAMP Program, except we are prisoners of caps and of budget agreements. And in order for this program to be approved, it will be necessary to find an appropriate offset.

The gentleman suggests we take it out of coal research, out of research for fossil fuels. This would reduce fossil energy research by $10 million, and we have already reduced that program by $23 million below the President's request. It would have the effect of cutting oil and gas programs already reduced below the President's budget, and reducing coal programs that have already been reduced for the past 3 years.

I wish we could do it, Mr. Chairman, but the offsets that are suggested cannot be used for that purpose.

Mr. Chairman, I reluctantly have to oppose the gentleman's amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia [Mr. RAHALL].

The amendment was rejected.

The CHAIRMAN. The Clerk will read the last two lines of the bill.

The Clerk read as follows:

> This Act may be cited as the "Department of the Interior and Related Agencies Appropriations Act, 1995".

Mrs. COLLINS of Illinois. Mr. Speaker, I rise today in support of H.R. 4602, the fiscal year 1994 Interior appropriations bill, and in opposition to any damaging amendments which would eliminate or reduce funding for the National Endowment for the Arts [NEA] or the National Endowment for the Humanities [NEH].

Efforts to eliminate or slash funding for the NEA and NEH seems to have become an annual occurance in the U.S. Congress. Fortunately, many Members recognize the valuable contribution that these organizations make to our country and, as a result, efforts to terminate or cripple the NEA and NEH are usually unsuccessful. The reason that so many Members support funding for the NEA and NEH, including myself, is simple—the arts are important to the health and prosperity of all of American society and should be supported by the U.S. Congress. When we decide to appropriate a teeny speck of our Federal budget to the NEA and NEH, only 65 cents per American in 1993, these organizations are then able to expand these dollars and turn them into artistic appreciation and opportunities for millions of Americans.

To determine whether the NEA and NEH have any positive impact on our constituents, only one needs to take a look around one's congressional district. In the Seventh Congressional District of Illinois, which I represent, students from Bellwood, Berkely, Maywood, Oak Park, River Forest, Westchester, Hillside, and Elmwood Park attended special concerts by the world-renown Chicago Symphony. The Community Television Network in Chicago received a grant to support the neighborhood video program which is targeted at young people who have dropped out of public schools and have little exposure to the arts. I could go on and on and I am certain that many of my colleagues also have many examples of activities sponsored by the NEA and NEH in their districts.

Mr. Chairman, the arts are good for America and for that simple reason, we should continue to support Federal funding for the arts and oppose any efforts to cut NEA and NEH funding.

Mr. FRANKS of Connecticut. Mr. Chairman, I support the Interior appropriations bill before us today. It provides $13.2 billion to help preserve our important natural and biological resources. This bill funds the National Park System, the National Wildlife Refuge fund, and the U.S. Fish and Wildlife Service. Americans are visiting our national parks and appreciating the natural beauty of our country in record numbers. Money for the Interior has been reduced by $195 million less than last year, a reasonable reduction considering our national deficit. This cut will not hurt the ability of Americans to enjoy the natural assets of our country.

This bill comes close to home for my constituents because it provides the money needed to operate the Weir Farm National Historic site. Connecticut is proud of having been the summer home of the American impressionist painter J. Alden Weir. Volunteers and private donors have worked to make this park a place of beauty and historical meaning. I have introduced a bill to expand the boundaries of the Weir Farm Historic Site. Every member of the Connecticut delegation has cosponsored this bill.

This bill also funds the National Endowment for the Arts. In no way do I support the offensive performances that have been funded by the NEA. At the same time, I realize that the vast majority of projects funded by the NEA are respected and worthwhile. I feel it is best to handle the NEA controversy by cutting the program, but not completely eliminating it. I do not understand why these few offensive projects get chosen for funding, and we in Congress need to make sure that this problem stops.

Mr. EMERSON. Mr. Chairman, I rise today to voice my opposition to a little-known provision in the Interior appropriations bill that will effectively close an important research center in my district. With this language the Bureau of Mines Research Centers in Tuscaloosa, AL and Rolla, MO, the latter being in my district, will be closed over a 2-year period. This will happen under the guise of reorganization by the Bureau of Mines. In fact, this proposal is politically motivated and not based on scientific analysis. Furthermore, this proposal was done with hardly any input from rank-and-file employees of the Bureau of Mines. The proposed reorganization ignores the primary customer of the Bureau of Mines—the mining community. There is certainly no secret that this plan was put together with political considerations overriding any logical criteria.

Closing the Rolla facility would be a serious mistake. It would not only irreparably harm this rural community, but it would significantly undercut the Bureau's own efforts in environmental research. In fact, the Rolla Research Center devotes 75 percent of its budget to waste remediation and reuse investigations. It is also my understanding that about half of the Bureau's expertise in environmental remediation and pollution control and prevention—as related to mining and metallurgical problems—takes place at the Rolla Center. The Center has developed unique capabilities in the treatment of hazardous wastes through the use of innovative and selective systems to clean up contaminated sites resulting in clean soils plus valuable and usable byproducts.

This administration has emphasized the importance of cleaning up our past environmental mistakes with regard to the mining community and other areas. Missouri, as well as other States across the country have serious problems that must be addressed. The thrust of the Center's research is complimentary to the very ideals espoused by this administration. In my mind, the Bureau would better serve itself and the country by starting its reorganization efforts from the top down. The Bureau should first make cuts with the bureaucracy here in Washington, rather than with the people and the facilities in the field where the work and research is actually done.

Mr. Chairman, Missouri produces about 94 percent of the Nation's primary lead. The Roll Center is located approximately 60 miles from what's known as the New Lead Belt. The State is eighth in nonfuel minerals, with a mineral value of $1.5 billion. It is home to eight lead, silver, zinc, copper, cobalt, and iron mines with three smelters and six mills. All told, the industry employs about 12,000 people from all over the State, but undoubtedly the majority of them make their home and their livelihood in my district.

We in Missouri have benefited from our God-given natural resources. Lead which once contributed invaluably to the civilized world in the form of plumbing, shelter, and high-octane fuels, we now know to be a mixed blessing. It is still invaluable to us for the lead-acid battery found in every car and for extensive use in radiation shielding. Yet, it is a heavy-metal toxin. Research into its safe extraction and use is as necessary as research into stabilization and clean up of old waste piles and impoundments—something that we have plenty of in Missouri. The Rolla Center is involved in this technology.

The Center has worked closely over the years in coordination with the industry concerning some of the technologies I mentioned earlier. The industry in Missouri is strongly united in keeping the Center located in Rolla. Furthermore, the Center has worked closely with the USGS, the University of Missouri-Rolla—formerly the Missourian School of Mines—and State officials as well. I would challenge anyone to prove to me that the Rolla Research Center is not a good bang for the Federal buck. Furthermore, the Rolla Chamber of Commerce estimates that the economic value of the Center to this rural community is approximately $28 million—so for a little over $4 million of Federal funds, the Center is returning $28 million to the community in economic activity.

Mr. Chairman, as I conclude, I want to also point out that the work being done by the Research Center is unprecedented. While it gets 3 percent of the Bureau's research budget, it accounts for 30 percent of in-house R&D awards and 19 percent of the Bureau Center's awards overall. It would appear to me that the Center is doing something right. I seriously question the rationale and the criteria used by the Bureau of Mines to come to the conclusions it has reached regarding the Rolla Research Center.

In my mind, a prudent and complete examination of this plan will find that the Rolla Research Center is a good investment to guide us in future environmental technologies for the mining community.

Mr. DE LUGO. Mr. Chairman, I rise in support of the bill.

As chairman of the authorizing subcommittee with general jurisdiction over matters concerning the U.S. insular areas—including the smaller areas which receive special assistance through the Interior Department, I want to commend my friend and distinguished colleague, the chairman of the Interior Subcommittee, SIDNEY YATES, for his masterful work in putting this bill together.

In particular, I want to express my appreciation for his cooperation and sensitivity on several insular matters, especially a few which involved both authorizing and appropriating committee responsibilities.

One of these matters is the epidemic of violent crime which in the territory that I am privileged to represent, the Virgin Islands. It has become so serious that it justifies special assistance.

Much of it is due to the trafficking of illicit drugs from the outside through and in our islands.

The brutality of some crimes has imperiled our tourism-based economy. But, more importantly, violent crime rates which are far above the national average have substantially worsened the quality of life of every Virgin Islander.

Our Governor, Alexander Farrelly, was realistic enough to recognize that Federal resources are needed to help protect what in other ways is America's tropical paradise both for its people and our million visitors from the States each year.

Mr. Chairman, I am particularly pleased to see that H.R. 4602 includes funding for Guam and the Commonwealth of the Northern Mariana Islands to partially offset the costs that have been incurred by these two insular areas since implementation of the Compact of Free Association With the Micronesian States.

The Compact permits Micronesians open entry into the United States and insular areas. The law which actually defines the relationship, Public Law 99–239, included an amendment, which I and others authored, which authorized appropriations to cover the cost imposed on the educational and other social systems of insular governments by Compact migration.

The executive branch is supposed to calculate these costs and recommend appropriate reimbursement; but the Interior Department's territories office, OTIA, has consistently tried to avoid the responsibility to pay for the costs by saying that it didn't know what the cost were.

It also has tried to pass off the responsibility to calculate the costs to the insular governments involved—and then disputed insular estimates.

The gentleman from Illinois has moved to end this ruse by rejecting funds for more studying of the matter—and proposing the funding that the law actually intends: To reimburse the insular governments. I also want to note the role of the Delegate from Guam, ROBERT A. UNDERWOOD, in getting us to this point.

The bill also includes another reimbursement intended by Congress in establishing free association with the Marshall Islands through another provision that some of us helped write.

The Compact signed by a representative of President Reagan would have provided Federal tax and trade law exemptions to encourage economic activity in the Marshalls and Micronesia—which had been little developed by OTIA economically but which would need to become more self-reliant under self-government.

The incentive proposals were irresponsible, however. Outlandish loopholes that would have created tax havens were proposed. They would have provided greater encouragement for investment in essentially independent sovereign States than are provided in U.S. areas.

This House changed the provisions, still providing a very attractive investment climate but not violating defensible policy.

At the same time, we recognized that the peoples of the islands had been misled in approving the compact on the economic benefits that it would bring. We also recognized the need to provide assistance for economic development.

We added a number of Federal programs and capital to facilitate U.S. economic activity in the islands. Some of the capital was guaranteed; other amounts were authorized.

The bill includes a small portion of the funds we authorized to make up for what had not been done otherwise.

There is one other matter that Chairman YATES and our committee have worked on which involves the freely associated states that I should mention. It concerns the safety of the atoll of Rongelap, contaminated by a U.S. nuclear weapons test 40 years ago, and the health and welfare of the atoll's people.

In acting on the compact with the Marshalls, our committee insisted on a provision to commit our Nation to answer the people of Rongelap's questions about the seriousness of the contamination and take the measures necessary to overcome any problems.

The distinguished chairman of the full committee, GEORGE MILLER, and I have fought to get these commitments implemented.

We now know that there has been good reason for the concerns of the people of Rongelap—in spite of the assurances of safety provided by Federal bureaucrats. Way out of proportion cancer rates and heart-rendering birth defects prove that there is a problem.

The bill includes a portion of the further funding that will be needed to address it. We expect that some of the additional funds will come through the Defense Department appropriations bill due to the origin of the problem and also due to the understanding of our distinguished colleague who chairs that subcommittee, JOHN MURTHA. Other funds will have to be provided later.

Since all that needs to be done is still not clear, the funds—for cleanup and resettlement of Rongelap as well as other needs of the community—would be spent with the approval of OTIA. Given its record of relative insensitivity to problem, however, we will also expect to be given adequate notice of the spending plans. This will provide us with an opportunity to act if bureaucrats against try to push the people back to the island before the problems are sufficiently dealt with.

The people of Rongelap, who have been away from their homes for years now, can be more easily pressured to prematurely return because of the desperate conditions under which many are living in exile. We will expect their essential human needs to be met while they have to be away from Rongelap so that they can make truly free decisions about their future and they can live decently while a mess that our Government created is clean-up.

Mr. Chairman, as Members may know the administration expects to enter into free association with the last remaining part of the Pacific Islands Territory that we have been responsible for under an agreement with the United Nations—Palau—on October 1. This relationship is authorized to be implemented under a law and terms which I am very proud to have sponsored.

The bill includes the appropriate funding for this compact. It also, however, includes funds which I and others recommended, to fulfill responsibilities for developing these islands into self-reliance.

In noting this, I want to also note that we will have to provide further funds for Palau if the compact cannot actually be implemented as agreed October 1.

I also want to explain why the bill includes more special assistance than almost anyone had anticipated for the development of the one part of the Pacific Islands Territory that has become a part of the United States political family: The Northern Mariana Islands.

Current law requires $27,720,000 in such assistance annually until this requirement is changed; but the law also contemplated a change after Congress considered recommendations. OTIA recommended a $120 million commitment of assistance from fiscal year 1994 to fiscal year 2000.

We objected to a new commitment of special assistance without conditions related to the commonwealth's tax and alien labor policies. The tax policies fail to meet the Commonwealth's responsibilities for self-reliance.

The alien labor policies have let in massive numbers of nonresident workers, imposing costs on public services and threatening the social fabric of the community. They have allowed too many nonresidents to be treated inhumanely. And they use low-paid, nonresidents and the Commonwealth's free-trade relationship with the United States to unfairly compete with the garment industry in the States and other insular areas.

OTIA hindered agreement on a commitment with conditions last year, so the will of the House was to provide no funds rather than special assistance without conditions.

In spite of this, OTIA recently recommended a scaled-down package of assistance—$27 million between fiscal years 1995 and 1996 without real conditions. This was amazing in light of the insistence of Chairman MILLER and others that there be conditions.

OTIA's proposal is, obviously, unacceptable and, thus, $27,720,000 will continue to be provided.

Mr. Chairman, in all of the Pacific issues I have mentioned, OTIA has performed disappointingly. The office, perhaps fortunately, also, though, has much less of a role than it once did.

In fact, most of our frustrations with it relate to it interfering in areas outside of its real mandate in policies and programs which other agencies now handle directly with self-governing insular areas.

Further, OTIA will lose one of its most important remaining missions when the Compact with Palau is implemented, scheduled, as I mentioned earlier, for October 1. While OTIA now oversees and subsidizes the Government of Palau, relations will then be conducted by a State Department Office and most assistance will then be provided on an automatic basis.

OTIA once oversaw and subsidized the governments of all of the insular areas. But it now oversees none other than Palau and only subsidizes American Samoa with funds that involve any substantial work on its part. Most of its work is in providing the special assistance that I have mentioned.

In spite of this, OTIA spends a substantial amount of funds in ways that relate to its former role as an overseer of insular governments and lead agency on matters concerning them. These expenditures especially involve intergovernmental liaison, travel, and the responsibilities of other agencies.

At the same time, it doesn't attend to its real areas of responsibility well.

In case there is still any question about this, I want to mention an issue that is not covered by this bill because it doesn't require funding—but is one of OTIA's few remaining major responsibilities: Disposing of Water Island in the Virgin Islands.

The disposal was complicated by a deficient lease that the Department entered into in 1952. But legal complications arising from the lease really only involve a portion of the property and a settlement could have been worked out.

We have done everything possible to help OTIA find its way, from hearings, to a law requiring a plan, to House passage of a process, to an agreement with the Senate chairman on the parameters of a disposal.

I have given guidance on every policy question; but OTIA has tied itself in legal and political knots. And a year and a half after the end of the lease, the island still has not integrated into the local community, hundreds of people involved are in limbo, and some of the most precious property under the U.S.-flag cannot be put to its best uses.

OTIA's performance and reduced role does not justify the level of funds that have been provided for it. So, Chairman MILLER and I worked with Chairman YATES to reduce funding for OTIA's own expenses, while increasing funding as appropriate to meet needs in and Federal responsibilities regarding the insular areas themselves.

The reduction in the bill is the least that we believe should be agreed to.

In conclusion, I want to commend Chairman YATES and the ranking member of the subcommittee, RALPH REGULA, for the continued support they have shown to the peoples of the U.S. offshore areas. I also want to note the work and cooperation of the staff, especially Kathy Johnson.

I urge my colleagues to support this bill.

Ms. PELOSI. Mr. Speaker, I rise to reaffirm my full support of the National Endowment for the Humanities and in opposition to any amendments which would weaken either program. Both endowments support artistic excellence and expanded opportunities for all Americans to experience and participate in the arts and humanities.

Let me commend Chairman YATES of the Interior Appropriations Subcommittee for bringing us a bill clearly within the discretionary allocation for both budget authority and outlays. As we all know, the country's budget problems are not due to discretionary spending programs, particularly the important programs included in this bill.

The NEA's budget is less than $^{2}/_{100}$ths of 1 percent of the Federal budget and $20 million less than the budget for military bands.

Most endowment grants must be matched by nonfederal funds—from 1:1 to 1:4—and therefore generate significant revenue. For example, in 1992, the NEA awarded $123 million to 3,500 organizations. This resulted in generating an estimated $1.4 billion in matching funds or ten times as much as the NEA awards themselves. This is an example of a sound Federal program.

Investing in arts organizations creates jobs and more importantly, improves the quality of American lives. The NEA and NEH stimulate both private and public sector investment which further creates jobs and opportunities for both educational and enriching experiences. Mr. Chairman, I strongly urge my colleagues to support the NEA and NEH and to defeat the ill-conceived amendment attempting to weaken these programs.

Mr. YATES. Mr. Chairman, before I move that the committee rise, I just want to express the gratitude of myself and the members of our committee for the superb job that they did in conducting the administration of this bill. It was very well done.

Mr. Chairman, I move that the committee do now rise and report the bill back to the House with an amendment, with the recommendation that the amendment be agreed to, and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly, the committee rose; and the Speaker pro tempore [Mr. WISE] having assumed the chair, Mr. GLICKMAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill (H.R. 4602) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1995, and for other purposes, had directed him to report the bill back to the House with an amendment, with the recommendation that the amendment be agreed to, and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. MYERS OF INDIANA

Mr. MYERS of Indiana. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. MYERS of Indiana. Mr. Speaker, in its present form, I am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Motion to recommit offered by Mr. MYERS of Indiana: Mr. MYERS of Indiana moves to recommit the bill, H.R. 4602, to the Committee on Appropriations with instructions to that committee to report the same back to the House forthwith with the following amendment:

On Page 50, line 11, strike $62,131,000 and insert $61,131,000.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. MYERS] is recognized for 5 minutes in support of his motion to recommit.

Mr. MYERS of Indiana. Mr. Speaker, I will just take one minute to simply explain, this is a simple motion to recommit, striking $1 million from the land acquisition account for the Forest Service for acquisition of some property in the district of the gentleman from Tennessee [Mr. QUILLEN], in the Cherokee National Forest, and specifically for the highlands of Roan. The local authorities say that it is going to take the land off the taxing base. The Forest Service has not adequately taken care of the land they do have.

☐ 1520

It is a simple amendment.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, I have examined the amendment. I have discussed it with the gentleman from Indiana. We can accept this amendment.

Mr. MYERS of Indiana. Mr. Speaker, I thank the chairman. He has a good bill. With this, I will be able to vote for it.

The SPEAKER pro tempore (Mr. WISE). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was agreed to.

Mr. YATES. Mr. Speaker, pursuant to the instructions of the House, I report the bill, H.R. 4602, back to the House with an amendment.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment: On Page 50, line 11, strike $62,131,000 and insert $61,131,000.

The SPEAKER pro tempore. The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BUNNING. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 338, nays 85, not voting 11, as follows:

[Roll No. 272]

YEAS—338

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barlow
Barrett (WI)
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Blute
Boehlert
Bonilla
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Calvert
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grandy
Green
Greenwood
Gutierrez
Hall (OH)
Hamburg
Hamilton
Hansen
Harman
Hastert
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Hughes
Hutchinson
Hutto
Hyde
Inhofe
Inslee
Istook
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Long
Lowey
Lucas
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCrery
McDade
McDermott
McHale
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Packard
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Rahall
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Saxton
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano

Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Sundquist
Swett
Swift
Synar
Tanner
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)

NAYS—85

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Bartlett
Barton
Bliley
Boehner
Bunning
Burton
Buyer
Callahan
Camp
Coble
Combest
Condit
Cox
Crane
Crapo
Cunningham
DeLay
Dickey
Doolittle
Dreier
Duncan
Ehlers
Emerson
Fields (TX)
Franks (NJ)
Gekas
Grams
Hall (TX)
Hancock
Hefley
Herger
Huffington
Hunter
Inglis
Jacobs
Johnson, Sam
Kim
King
Kingston
Klug
Knollenberg
Levy
Lewis (KY)
Manzullo
McCollum
McHugh
Miller (FL)
Molinari
Moorhead
Oxley
Paxon
Petri
Pombo
Ramstad
Roberts
Rohrabacher
Roth
Royce
Santorum
Sarpalius
Schaefer
Sensenbrenner
Smith (MI)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stump
Talent
Tauzin
Taylor (MS)
Upton
Vucanovich
Walker
Zimmer

NOT VOTING—11

Bonior
Clay
Dornan
Gunderson
Lloyd
Machtley
McCurdy
Quinn
Towns
Washington
Zeliff

☐ 1543

The Clerk announced the following pair:

On this vote:

Mrs. Lloyd for, with Mr. Quinn against.

Mr. HANCOCK changed his vote from "yea" to "nay."

Mr. LEWIS of Florida changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. RUSH. Mr. Speaker, due to official business, I was not available for rollcall No. 270. Had I been present, I would have voted "aye" on No. 270.

PERSONAL EXPLANATION

Mr. FAWELL. Mr. Speaker, on rollcall vote 269, I was unavoidably detained and was unable to cast my vote. Had I been present, I would have voted "nay."

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 4602, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1995

Mr. YATES. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 4602, the Clerk shall be authorized to make any necessary technical corrections.

The SPEAKER pro tempore (Mr. WISE). Is there objection to the request of the gentleman from Illinois?

There was no objection.

WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 4603, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995, AND SUPPLEMENTAL APPROPRIATIONS, 1994

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 461 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 461

Resolved, That points of order against consideration of the bill (H.R. 4603) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes, for failure to comply with clause 2(1)(6) of rule XI or clause 7 of rule XXI are waived. During consideration of the bill, all points of order against provisions in the bill or failure to comply with clause 2 of rule XXI are waived except as follows: beginning with "notwithstanding" on page 3, line 18, through "Act," on line 19; beginning with "That" on page 36, line 16, through, "*Provided further*," on page 37, line 6; and beginning with ": *Provided*" on page 48, line 25, through "Treasury" on page 49, line 4. Where points of order are waived against only part of a paragraph, any point of order against matter in the balance of the paragraph may be applied only within the balance of the paragraph and not against the entire paragraph. The amendment printed in the report of the Committee on Rules accompanying this resolution shall have precedence over a motion that the Committee of the Whole rise and report the bill to the House with such amendments as may have been adopted, if the amendment is offered by a Member designated in the report.

The SPEAKER pro tempore. The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida [Mr. GOSS], pending which I yield myself such time as I may consume.

During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 461 is the rule providing for the consideration of H.R. 4603, the fiscal year 1995 appropriations for the Departments of Commerce, Justice, and State, and for the Judiciary and related agencies.

Mr. Speaker, this is an open rule. The rule waives clause 2(L)(6) of rule XI, requiring a 3-day layover, and clause 7 of rule XXI, requiring that relevant printed hearings and report be available for 3 days prior to consideration of a general appropriation bill, against consideration of the bill.

In addition, clause 2 of rule XXI, prohibiting unauthorized appropriations or legislative provisions in a general appropriation bill, is waived against all provisions in the bill with certain exceptions. This waiver, protecting certain sections of the bill against points of order, is necessary because the bill contains appropriations for several agencies that have not yet been reauthorized.

The bill also contains a number of general provisions, many of which have been carried for several years. This waiver we believe is reasonable, especially since the bill provides funding for agencies and activities for which authorizing legislation has not been finalized.

For example, authorization has not yet been enacted for most of the appropriations items in the Department of Justice needed for the war on crime and drugs, including the FBI, the DEA, the INS, the U.S. attorneys, and the Byrne grants for State and local law enforcement assistance.

In addition, the bill recommends over $2 billion in funding for programs included in the crime bill, which is currently awaiting action by a conference committee.

Several programs under the Department of Commerce also await reauthorization as do several independent agencies and commissions, including the Federal Communications Commission and the Federal Trade Commission.

Mr. Speaker, there are several exceptions to this waiver, as I mentioned all of which are clearly defined in the rule. The exceptions were made at the request of the authorizing committees with jurisdiction over those particular provisions; they are made in accordance with a longstanding tradition in the Rules Committee to honor such requests. The rule provides that if only a portion of a paragraph is protected, a point of order may lie only against the balance of the paragraph.

The provisions which remain unprotected under the rule deal with the Anti-Car Theft Act of 1992, a provision dealing with the Securities and Exchange Commission, and a provision dealing with user fees under the U.S. Travel and Tourism Administration.

☐ 1550

Finally, Mr. Speaker, the rule provides that the amendment printed in the report to accompany the rule, if offered by the designated Member, Mr. TAYLOR of North Carolina, will have precedence over a motion that the Committee on the Whole rise. The amendment made in order limits funds from being used to implement, administer, or enforce EEOC guidelines covering religious harassment.

Mr. Speaker, H.R. 4603, the bill for which this rule provides consideration is a $26.6 billion appropriation for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for fiscal year 1995. The bill is $1.2 billion below the President's request and $36 million below the subcommittee section 602(b) allocation.

A number of important programs are funded by this bill, including several for law enforcement and immigration, including substantial increases in the number of Border Patrol agents, which are among the most popular in Congress and the most important to our constituents. The committee is operating under severe budgetary restraints and has, unfortunately, been unable to fund some of the programs many of us had hoped to see funded.

As one Member who represents the area in Los Angeles that was hardest hit by the January earthquake, I would like to thank the committee for recognizing the need to transfer the unspent money from the Transportation account in the earthquake supplemental bill to the Small Business Administration.

The SBA has been faced with an overwhelming number of applications for loans from residents and businesses in the area whose homes and companies were damaged or destroyed by this disaster.

Mr. Speaker, we commend the new chairman of the subcommittee, the gentleman from West Virginia, Mr. MOLLOHAN, and his friend Mr. ROGERS, the ranking minority member, for their good work in bringing us a fiscally responsible measure for financing some of the most visible and important agencies of the Government. We know this has been a very difficult task for them under the budget constraints.

Mr. Speaker, to repeat, this is an open rule, and I urge my colleagues to support it so that we may proceed to consideration of the bill as soon as possible.

Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I begin by urging my colleagues to look closely at this bill—it is chock full of important programs, like immigration and border control and increased funding for prisons. And that is why I am disappointed that the arbitrary pressures of scheduling have forced the Rules Committee to waive the normal 3-day layover period and rush this bill to the floor.

Mr. Speaker, it seems we are on a roll in the Rules Committee—for the sixth time this year we have an open amendment process on an appropriations bill. That is good news for Members and good news for taxpayers, because it means we can make reductions where appropriate. But openness does not necessarily mean fairness and there is a disturbing aspect to the trend we seem to be setting. These appropriations bills are coming to the House floor through the Rules Committee, under special protections and waivers even though appropriations bills should not have to go through the Rules Committee at all. But the Rules Committee has been meeting just about daily to crank out these special exceptions, which have the effect of making some Members of this House more privileged than others. You see, at the same time as we grant permission to certain Members to violate the rules of this House, we are denying that same permission to the rest of the House membership.

Some of my colleagues on the other side of the aisle still do not seem to understand the fairness argument. But we are being consistent in our request: Either do not waive the rules of the House for anyone, or waive the rules of this House equally for all Members. In today's case, the rules are waived for most of the bill as written—with a few exceptions for provisions that step on the toes of the chairmen of the Energy and Commerce and Ways and Means Committees. And, in a welcome surprise, the rules have been waived to allow our colleague, Mr. TAYLOR, to offer an amendment suspending the highly questionable new religious harassment guidelines at the EEOC—these guidelines are outrageous and unworkable and they should not be implemented. Your friendly government is telling you you must work in a religious free environment. I congratulate Mr. TAYLOR for his persuasive testimony before the Rules Committee yesterday.

But the rules were not waived for other Members seeking the same opportunity—the chance to have important and relevant matters addressed on this floor. For instance, the House will not consider an important shift in priorities—cutting money from the antitrust division at Justice to ensure that sufficient funds are devoted to combating violent crime. Mr. SCHIFF was turned down despite the excellent case he made that this President and most Americans have asked for more funding and attention to violent crime—not antitrust crime. And we will not consider an amendment pertaining to deportation of felony criminals who happen to be from Mexico, and who end up turned loose in society rather than taken out of society because of problems with the law. LAMAR SMITH gave us a remedy. And we will not have a chance to consider a crucial amendment offered by the ranking member of the Appropriations Subcommittee, Mr. ROGERS, to cap the U.S. contribution to U.N. peacekeeping missions at 25 percent. This is a matter not just of U.S. funds, but also of U.S. involvement in potentially open-ended, ill-defined and dangerous multilateral peacekeeping adventures.

I doubt most Americans know the bill for peacekeeping right now is about $1.25 billion. A billion of that is already owed. A quarter of a billion is out there prospectively for other adventures that we may go into, things like Haiti that some of us do not think are such a great idea.

Mr. Speaker, I am especially troubled that we will not consider three different amendments dealing with United States involvement with Haiti. Mr. LIVINGSTON and Mr. LIGHTFOOT raised this issue to ensure that United States troops do not get sucked into a quagmire in Haiti. While some might say this bill is not the proper place for the Haiti debate—I warm my colleagues again that timeliness is a major issue here.

We have significant indication that the administration is heading toward unilateral military intervention in Haiti—apparently at the will of the Black Caucus, Randall Robinson and Haitian exile President Aristide. In the words of one unnamed administration official: "We are no longer in the negotiating business." As U.N. official Dante Caputo noted in his now infamous memo cited by ABC News and the Wall Street Journal, the United States has actually served as "a brake to a diplomatic solution" in Haiti. Caputo also concluded that the administration considers an invasion of Haiti a "chance to show, after strong media criticism of the administration, the President's decisionmaking capability and firmness of leadership in international political matters." Last month this House voted against military intervention in Haiti—a vote that was reversed after 2 weeks of heavy pressure on majority Members by their own leadership. With the House clearly divided on the issue of United States military invasion of Haiti, Members should be concerned that we may end up with troops in Harm's Way in Haiti in the coming weeks. That certainly makes the prospective peacekeeping funds in this bill, $222 million, which could be used for a Haiti operation, especially relevant. But under this rule, we won't have the opportunity to debate that question unless a procedural motion to rise is defeated—a rare occurrence on this floor.

Mr. Speaker, the unfair nature of this rule is not just a partisan problem—we were even prevented from extending fairness to majority Members seeking flexibility in one of their amendments. Members should be clear—just because something is labeled an "open rule" does not make it fair or mean it is the best it can be. In this case, we have certainly come up short of that mark.

ROLLCALL VOTES IN THE RULES COMMITTEE ON AMENDMENTS TO THE PROPOSED RULE ON H.R. 4603, COMMERCE, JUSTICE, STATE, JUDICIARY APPROPRIATIONS, FISCAL YEAR 1995, JUNE 22, 1994

1. Rogers—An amendment providing that no funds in the bill may be used to pay more than 25% of a U.N. peacekeeping operation. Vote (Defeated 3-6):Yeas: Quillen, Dreier, Goss. Nays: Derrick, Beilenson, Frost, Hall, Gordon, Slaughter. Not Voting: Moakley, Bonior, Wheat, Solomon.

2. Livingston—An amendment providing that U.S. troops may not be used against Haiti unless contingency plans for using U.S. troops against Cuba have been developed. Vote (Defeated 3-7): Yeas: Quillen, Dreier, Goss. Nays: Moakley, Derrick, Beilenson, Frost, Hall, Gordon, Slaughter. Not Voting: Bonior, Wheat, Solomon.

3. Livingston—An amendment providing that no funds in this bill may be used to support U.S. troops against Haiti unless contingency plans for using U.S. troops against Haiti have been developed. Vote (Defeated) 3-7): Yeas: Quillen, Dreier, Goss. Nays: Moakley, Derrick, Beilenson, Frost, Hall, Gordon, Slaughter. Not Voting: Bonior, Wheat, Solomon.

4. Lightfoot—An amendment to prevent peacekeeping funds from being used for a U.N. operation in Haiti including U.S. troops without first seeking authorization from Congress. Vote (Defeated 3-7): Yeas: Quillen, Dreier, Goss. Nays: Moakley, Derrick, Beilenson, Frost, Hall, Gordon, Slaughter. Not Voting: Bonior, Wheat, Solomon.

5. Smith (TX)—An amendment providing that no funds in the bill may be used to return to Mexico any Mexican national who is a prisoner convicted of a felony in the U.S. without a final order of deportation. Vote (Defeated 3-7): Yeas: Quillen, Dreier, Goss. Nays: Moakley, Derrick, Beilenson, Frost, Hall, Gordon, Slaughter. Not Voting: Bonior, Wheat, Solomon.

6. Schiff—An amendment to transfer funds from the Anti-Trust Division of the Justice Department to the U.S. Attorneys appropriation. Vote (Defeated 3-7): Yeas: Quillen, Dreier, Goss. Nays: Moakley, Derrick, Beilenson, Frost, Hall, Gordon, Slaughter. Not Voting: Bonior, Wheat, Solomon.

7. Condit/Thurman—An amendment to provide $600 million to reimburse states for costs of incarcerating illegal aliens to be paid for by an across-the-board cut of 2.3 percent. Vote (Defeated 4-6): Yeas: Quillen, Dreier, Goss, Beilenson. Nays: Moakley, Derrick, Frost, Hall, Gordon, Slaughter. Not Voting: Bonior, Wheat, Solomon.

8. Adoption of Rule—Vote (Adopted 7-3): Yeas: Moakley, Derrick, Beilenson, Frost, Hall, Gordon, Slaughter. Nays: Quillen, Dreier, Goss. Not Voting: Bonior, Wheat, Solomon.

Mr. Speaker, I yield 4 minutes to the gentleman from Kentucky [Mr. ROGERS], the distinguished ranking member of the subcommittee.

Mr. ROGERS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, unfortunately I have to rise in opposition to the rule, and I do so reluctantly.

The Commerce-Justice-State bill can be separated into two parts in my mind. One is the peacekeeping for the U.N. portion of the bill, part 1; part 2 is the rest of the bill.

Mr. Speaker, overall I strongly support the rest of the bill. But there is a grave deficiency with respect to the U.N. peacekeeping contributions that the United States is being asked to make that should concern every Member of this body and certainly every taxpayer in this country. This bill contains $1.2 billion to pay the bills the United Nations sends us for peacekeeping just for this year. Included in this amount is $670 million for a fiscal 1994 supplemental appropriations bill embedded in the 1995 appropriation bill.

□ 1600

This fiscal 1994 supplemental, Mr. Speaker, is being paid for by using the savings the Congress voted last February as part of the supplemental appropriation to aid the victims of the Los Angeles earthquake. Where did those savings come from, Mr. Speaker? They came from very hard-earned savings that Congress made, they came from popular domestic programs like education, low-income housing, among others.

Also included in this bill is another $533 million for both fiscal 1994 and 1995 U.N. peacekeeping bills handed to the United States by the United Nations. I would point out that the $670 million in the 1994 supplemental as well as the $28 million in the 1995 bill go to what the United Nations calls our arrearage to them, past-due bills they say we owe. There is only $222 million in the fiscal 1995 bill for prospective peacekeeping operations and we all know that that will be insufficient. Why are we providing all this money? Because the United Nations has sent us $1.1 billion in bills we have not appropriated and should not fully pay, in my view. And why should we not fully pay those bills? Mr. Speaker, because the number and the costs of peacekeeping missions voted by the United Nations have exploded without any regard for the budget constraints that the U.S. Congress faces. A mere two missions existed just 6 years ago, just two peacekeeping missions. And now they number 16 for which we are assessed. The price tag, 6 years ago, was $30 million. Today it is $1.5 billion. And because the United Nations continues to bill the American taxpayer for too much of these costs, the United Nations sends our taxpayers a bill for nearly one-third of the cost, 31.7 percent, and our allies do not pay enough. Japan is billed for only 12.5 percent, Germany for 8.9 percent, Great Britain for 6.4 percent, and China 0.9 percent. Is that fair burdensharing, I ask you? I do not think a single Member of this body could say, "yes."

If we are going to give the United Nations a billion dollars, is it not time that the Congress demanded fairness? This bill does not do that.

I asked the Committee on Rules to make in order an amendment to give us some fairness at the United Nations. My amendment would have kept the U.S. share at 25 percent at a savings to us of $214 million for use for other priorities, which we certainly have. The Committee on Rules refused. Now while I appreciate that the Committee on Rules made in order the Taylor amendment, and while I support the overall bill, Mr. Speaker, I cannot support this rule.

I reluctantly say that because I think the chairman and the subcommittee have done a very good job. But I rise to reluctantly oppose this rule.

Mr. GOSS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Iowa [Mr. LIGHTFOOT].

Mr. LIGHTFOOT. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in opposition to the rule. I am disappointed, although not surprised, that the Rules Committee has declined to grant the waiver Mr. LIVINGSTON and I requested with respect to an amendment concerning Haiti.

The Lightfoot-Livingston amendment limits funds in the peacekeeping section of the Commerce, Justice, State, and the Judiciary appropriations bill from being used for a U.N. peacekeeping operation in Haiti, in which United States troops are to be deployed, without first seeking authorization of Congress. For the House to consider this amendment we must now defeat a motion to rise and report at the end of consideration of the bill.

I do not offer this amendment out of any disrespect to the new chairman of the Commerce Appropriations Subcommittee and my friend, Mr. MOLLOHAN. He and HAL ROGERS have done a fine job in crafting a bill under difficult financial circumstances. As Mr. ROGERS has said previously, remove the sections on U.N. peacekeeping and we have ourselves a good bill.

But what an interesting brand of leadership the majority party brings this House. The leadership of the majority routinely defies the President on matters like Bosnia, NAFTA, and China. However, when American lives are potentially at stake, they twist arms to reverse votes and evade their responsibility as members of the legislative branch.

The Lightfoot-Livingston amendment does not prevent the President from committing the United States to acting unilaterally in Haiti. Nor does the amendment prejudge how this House would vote on such an invasion. But if the President decides time and policy allows the United States to work through the Security Council process, then time also allows for an authorization from Congress. By denying Mr. LIVINGSTON and me the opportunity to offer this amendment, the majority party is clearly showing its lack of confidence in the President's ability to persuade the American people why we should invade Haiti.

Let me also comment on the Rules Committee's decision to deny Mr. ROGERS the opportunity to offer his amendment to limit our contribution to peacekeeping operations to 25 percent of all U.N. peacekeeping expenses. The U.N. is headed down an expensive road and this administration is so enamored of multilateral solutions that it refuses to see the long-term costs and risks.

For example, the U.N. has increased its peacekeeping staff by 99 percent in last 9 months. You can be sure the U.N. did not reduce staff in other parts of its operation to cover that increase. This administration now provides intelligence information to the United Nations on a regular basis, the only nation that provides such information acknowledged to come from its intelligence service. Most alarming of all, U.N. Ambassador Albright does not feel that U.S. personnel are at any special risk in peacekeeping operations.

Frankly, there are other serious questions about the President's new peacekeeping policy. Despite the President's allegedly tough new criteria, which are actually no different than the criteria announced at the President's speech before the United Nations last fall, the United States has not voted against a single peacekeeping mission.

Second, despite these new criteria, allegations have arisen that the United States vote-swapped peacekeeping votes in the security council with the French last fall. Although we have requested the U.S./U.N. cables which might clarify this situation, so far the administration, citing executive privilege, has refused to supply Congress with those cables.

Finally, it appears that Colin Powell's language to protect U.S. soldiers serving in the field in U.N. operations was removed at the request of Ambassador Albright after U.N. Secretary General Boutros Ghali objected. Again, attempts to clarify this situation have been stonewalled.

I would hope this House, at the least, agrees that if we are going to deploy troops to Haiti, the people's elected representatives should be consulted before our sons and daughters are placed in harms way.

So I urge my colleagues to reject this rule and, if necessary, vote against the motion to rise at the end of this bill so this House can perform its constitutional duty with regard to Haiti.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to our friend, the gentleman from Arizona [Mr. COPPERSMITH].

Mr. COPPERSMITH. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise to speak because of a matter outside the scope of the bill to which this rule applies has a significant effect on an issue within the bill's scope. First, however, I wish to salute the subcommittee as well as its chairman, because I believe no prior Congress and no prior administration have done so much to help with the serious problems of illegal immigration in the United States, particularly in the Southwest.

The bill which we will take up following adoption of this rule provides for $54.5 million for up to 950 new and desperately needed Border Patrol agents. This legislation recognizes that illegal immigration patterns may have changed, possibly as a result of a shift away from locations that received additional Border Patrol positions in fiscal year 1994, the so-called bubble effect.

In Nogales, AZ, which did not receive supplemental new agents, we have seen a dramatic increase in undocumented immigrants and illegal border crossings. The resources we spend stemming illegal immigration at the border should pay great future dividends in the form of savings on medical, education, public safety, and corrections costs.

However, we face another problem even with the adoption of this bill. To fund the INS at the level called for in this bill, the crime bill conferees must increase the authorization for the INS from the Crime Control Trust Fund by at least $185.4 million for fiscal year 1995.

A draft conference report circulated by the crime bill conferees indicates that out of the $30.2 billion in the proposed crime control trust fund, only $400 million over 6 years would be authorized for the INS—approximately $66.6 million for fiscal year 1995.

The integrity of our immigration initiatives will be seriously undermined without an adequate authorization from the pending crime bill.

Today, I joined with 25 of my colleagues in a letter to the crime bill conferees urging them to provide at a minimum $252 million in fiscal year 1995 authorizations to the INS from the crime control trust fund.

Given what I believe will be strong support for the Commerce, Justice, and State appropriations bill coming before us today, I believe the crime bill conferees can increase the INS authorization levels knowing that this Congress and the country stand behind them.

Mr. GOSS. Mr. Speaker, I yield 3½ minutes to the distinguished gentleman from Louisiana [Mr. LIVINGSTON], a distinguished member of the committee.

□ 1610

Mr. LIVINGSTON. Mr. Speaker, I rise in opposition to the rule on the Commerce, Justice, State appropriations bill. The rule is allegedly open. Unfortunately, Mr. Speaker, the rules of the House do not allow funding limitation amendments unless the motion to rise is defeated, and that is a fact which confuses the issue so that we will not directly confront matters which, I believe, are extremely important.

The gentleman from Iowa [Mr. LIGHTFOOT] and I requested waivers from the Committee on Rules so that we could offer our important amendment requiring congressional approval for a peacekeeping invasion in Haiti. Without waivers, which we did not get, the administration's plans for the invasion of Haiti may never receive adequate scrutiny by this Congress.

President Clinton's administration has notified the United Nations that unless Mr. Aristide is reinstated, we may invade Haiti within a couple of months. In my opinion, Mr. Speaker, that is a very dangerous and ill-advised policy. If the President wants to use the United Nations as a tool to send United States troops to Haiti, he should have to seek authorization from Congress, just as President Bush did before the commencement of Operation Desert Storm.

There is no United States strategic national interests at stake in Haiti. The Haitian military force would be easy to defeat. But what happens afterwards? Our troops will be vulnerable to mob attack, sniping and terrorism. Furthermore, the CIA has briefed Members of Congress, evidently, that Aristide is mentally unstable and prone to violence. Mr. Aristide is not worth risking a single U.S. life in uniform.

Lawrence Pezzullo, the former special adviser on Haiti for the Clinton administration, claims that the United States backed away from a plan for national reconciliation in Haiti because of domestic pressure from supporters of Aristide. Writing in the Washington Post, Mr. Speaker, Mr. Pezzullo said:

> By abandoning the track of multilateral negotiations, which was forcing Haitians to take political responsibility for effecting change in their country, we have taken on full responsibility for Haiti's future.

Mr. Speaker, we should not put United States servicemen at risk so that President Clinton, by force of arms, can rescue his wholly failed policy of restrictive sanctions against the poor Haitians. The President should be required to seek approval from Congress if he wants to put more United States lives on the line in a United Nations peacekeeping expedition to Haiti.

Taking the administration's plans further, I think the administration could bring some much needed consistency to its foreign policy if it persists in this effort however. That is why I asked yesterday the Committee on Rules to make an amendment in order that, if the Clinton administration persists in its plans to invade Haiti, they should not stop there. They should go forward and also invade Cuba in which all of the horrors of Haiti also exist and have existed for so many years since the takeover by Fidel Castro.

Now I do not think we should invade Haiti or Cuba, but, if we are going to invade Haiti to restore democracy, we should do the same thing in Cuba. The Committee on Rules did not waive the rules necessary to offer this amendment obviously, or the one to force President Clinton to come to Congress before invading Haiti. I am not serious about the Cuban thing, but I do think and do believe that my colleagues should defeat this rule because, if it fails, they should defeat the motion to rise so that at least the gentleman from Iowa [Mr. LIGHTFOOT] can offer our important amendment on Haiti, and maybe the President will come to Congress before he launches that ill-advised invasion.

AMENDMENT TO H.R. —, AS REPORTED (COMMERCE, JUSTICE, STATE, AND JUDICIARY APPROPRIATIONS, 1995) OFFERED BY MR. LIGHTFOOT OF IOWA

At the end of the bill, add the following new title:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

SEC. 801. None of the funds made available in this Act may be used for the payment of any United States contribution for a United Nations peacekeeping operation, when it is made known to the Secretary of State that—

(1) such operation relates to Haiti;

(2) military personnel of the United States will be deployed in such operation; and

(3) such operation has not been specifically approved by the Congress.

Mr. GOSS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New Mexico [Mr. SCHIFF] who had an amendment before the Committee on Rules yesterday.

Mr. SCHIFF. Mr. Speaker, I thank the gentleman from Florida [Mr. GOSS] for yielding this time to me. I also rise to oppose this rule, and I also rise, as my colleagues have said before me, reluctantly.

Mr. Speaker, we have before us a proposed open rule, which is a welcomed development. We have seen several already this year, and I commend the Committee on Rules on making that recommendation to us.

Nevertheless, Mr. Speaker, the idea of an open rule, as has been stated, is not the only issue before us. It is not the only matter in which the Committee on Rules can influence the outcome of a bill. The other issue is, as in the word used by the gentleman from California; it is in the word "protection." The Committee on Rules can offer protection to the bill, or amendments, or parts of the bill. Protection of course in this context means protection from the otherwise rules of procedure in the House.

Mr. Speaker, I sought a protection in that I sought to be able to offer what should be two amendments and which will be two amendments as one amendment. I am seeking to transfer funds from the Antitrust Division of the Department of Justice to the U.S. Attorney's Office. If my plan is adopted, the Antitrust Division will still get an increase in funds for the next fiscal year. They will get an increase of 5 percent instead of the 13 percent now recommended by the subcommittee. The difference between 5 percent and 13 percent, which is about $5.5 million, will go to the U.S. Attorneys where their fight is against violent crime.

Now, in order to put these together; in other words, in order to consolidate them so the Members would have one vote, yes or no, on this idea, I needed to be allowed to offer an en bloc amendment. The Committee on Rules declined, and ordinarily I would walk away from that because no Member has a special right to special protection, even though, without this special protection, my amendments could be confusing to Members because the first amendment would be just a cut in the Antitrust Division without a specific reference to where the money will go if that cut is granted, a cut in the increase. Now, if that is all there were to it though, I would say these are the procedures that ought to be followed, but the rule is filled with protections for other parts of the bill and for another amendment. A number of provisions in the bill are protected against points of order. An amendment is being offered, an amendment that I believe I will support, that seems very reasonable under the circumstances. It is there because we have offered it through the Committee on Rules, a protection from the rules of the House.

Instead, Mr. Speaker, the bill that is being presented on the floor is in violation of the rules of a 3-day layover before it is presented, and the whole point is, Mr. Speaker, that all Members should be on a level playing field. Either everyone who requests a reasonable protection on a rule of procedure should be granted that protection or nobody should be granted such protection.

Mr. GOSS. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from New York [Mr. SOLOMON], the ranking member of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman from Florida for yielding the time, and I rise to join him in opposing this rule.

Mr. Speaker, I am mindful of the fact that my friends on the other side of the aisle are about to start asking, "What is it that will make you Republicans happy?"

Here we have a rule that permits all Members to exercise their right to offer amendments to cut or strike—and the one legislative amendment that is made in order is by a Republican.

"So, what do you Republicans want?"—I can hear it now.

Mr. Speaker, the reason why Republicans go before the Rules Committee to ask for legislative amendments on appropriations bills to be made in order is very simple: this is very often the only chance Members have to express the will of Congress concerning Federal agencies and programs.

If this House focused as much effort on conducting the public's business, as it does on preserving the prerogatives and interests of the one-party Democrat leadership, we would not be faced with appropriations bills such as this.

Fully 54 percent of the funds to be appropriated by this bill will go to agencies and programs that are acting without the cover of authorizing legislation.

Fifty-four percent. That is more than $14 billion in this bill alone.

That is not the fault of the appropriators.

The gentleman from West Virginia [Mr. MOLLOHAN] and the gentleman from Kentucky, [Mr. ROGERS], and their subcommittee members have done the best they could with this bill and the funds they have to work with.

The fault is with the one-party Democrat leadership that rules—and misrules—this House.

So, Republicans are going to continue to ask for legislative amendments on appropriations bills—for as long as large numbers of Federal agencies and programs continue to function without proper authorization because this House cannot do its job.

In conclusion, Mr. Speaker, I would, at least, like to thank the Rules Committee for making in order the very important amendment to be offered by the gentleman from North Carolina [Mr. TAYLOR].

The proposed guidelines—mandates—on so-called religious harassment in the workplace should not be enforced; indeed they should be trashed.

The Senate evidently thinks so, by a vote of 94 to 0. And the House will be given an opportunity to be heard on this same question when the Taylor amendment is presented.

There are several other important Republican-sponsored amendments that are not made in order under this rule: Amendments concerning the escalating costs of U.N. peacekeeping missions; possible United States military intervention in Haiti; the financial burden on State governments that is caused by illegal immigration; and the crushing caseload that is being carried by Federal prosecutors.

The issue of U.N. peacekeeping can be addressed, at least in part, by a straight amendment to cut. And I will offer such an amendment at the appropriate time.

But I do urge a "no" vote on this rule. A vote against this rule is a vote against the continuing abuse of power by the Democrat Party in this House.

□ 1620

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. DREIER] a member of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank my friend from Sanibel for yielding.

Mr. Speaker, as is more often than not the case, we are here talking about an issue of fairness. I know that my friend from California [Mr. BEILENSON] likes to refer to this as an open rule. It does call for an open amendment process. But the fact of the matter is, there are a great many items here that emerged from the Committee on Appropriations that require protection. By protection, it means that they cannot be struck down, because in the rule, we protect those items.

So what it means is that members of the Committee on Appropriations are treated above the rest of our membership here. I think that that is a major mistake and it is a very serious attack on the whole prospect of allowing Members to be able to work their will on this issue.

I would like to raise one particular item in this bill that concerns me as we proceed. We have reported out $1.2 billion for the U.N. peacekeeping forces, and at the same time there is a reduction in funding for the National Endowment for Democracy. It seems to me as we look at this issue, the work of the National Endowment and Democracy has been so important in trying to encourage democratic expansion and free markets, that if we had a greater opportunity to expand the work of the National Endowment for Democracy, it would naturally follow that the necessity for numbers like $1.2 billion for U.N. peacekeeping forces would be reduced.

I urge a "no" vote on this rule. It is not fair. It in fact does impinge on the opportunity that Members who are not on the Committee on Appropriations should have, and I hope we reject it and come back down on the floor under the standard operating procedures.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to correct the gentleman to a certain extent. Anything that anyone finds objectionable in the bill can be got at by a motion to strike. Under an open rule, everything in this bill can be got at by a motion to strike.

Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I am pleased we will be allowed to consider the Taylor-Wolf amendment to the Commerce, Justice, State appropriations bill.

The Taylor-Wolf amendment merely suspends any funding for the October 1, 1993 proposed guidelines that all sides agree are flawed. All sides oppose the present language and this amendment does not restrain the EEOC from proceeding on refining and improving new guidelines and does not stop the EEOC from proceeding on religious harassment cases under title VII of the Civil Rights Act.

The ACLU:

> Under the guidelines as originally proposed, an employer could conclude that the mere utterance of a religious reference or the sighting of a religious symbol, if offense to a single employee, must be expunged from the premises.

The American Jewish Congress:

> There is a danger that the guidelines will be used by some to justify suppression of legitimate religious speech in the workplace. There is, indeed, already evidence that the fear of lawsuits alleging religious harassment has already done so, as employers put prophylactic measures into effect in order to ward off potential religious harassment suits* * *.

Gary Bauer of the Family Research Council:

> The guidelines broaden employer liability for religious harassment to the point where it would be rational for an employer simply to impose a religion-free workplace * * * many of our constituents are very concerned that they will be forced to remove religious calendars, take the Bible off their office shelf, stop wearing a cross or a star of David * * *.

A major airline has already issued guidelines stating that all personnel are not to:

> Posses nor display, in any manner on * * * premises any material which may be construed by anyone to have racial, religious, or sexual overtones, whether positive or negative* * *.

In the majority of workplaces the employer does not independently know the religious beliefs of employees and should not be required to abide by such an overly broad standard that would force employers into a religious-free zone at the workplace.

Mr. Speaker, I include the following for the RECORD.

THE CHRISTIAN LIFE COMMISSION OF THE SOUTHERN BAPTIST CONVENTION,

June 22, 1994.

DEAR REPRESENTATIVE: I'm writing to urge you to oppose the motion to rise on the Commerce, Justice, State, and Judiciary Appropriations Bill in order for the House to be able to consider Taylor/Wolf amendment. As you know, this amendment would deny funding to the Equal Employment Opportunity Commission for the purpose of implementing, administering or enforcing the guidelines covering harassment in the workplace based on religion.

The Christian Life Commission is the public policy and religious liberty agency of the Southern Baptist Convention—America's largest Protestant denomination with 15.4 million members in more than 38,400 congregations nationwide.

On June 20, I sent a letter to Representative Wolf to inform him of our support for his amendment. We have now learned that the Taylor/Wolf amendment may be impeded from consideration due to parliamentary rules.

Last week the Southern Baptist Convention in its annual meeting overwhelmingly adopted a resolution which warned that the guidelines "pose a grave risk to religious freedom in the workplace." The resolution urged, "religion should be deleted from the proposed guidelines and that the subject of religious harassment should be addressed separately in the guidelines on religious discrimination."

The purpose of this letter is to inform you of our position that the motion to rise on this appropriations bill will be regarded by our organization as the critical vote on whether the House of Representatives opposes the EEOC proposed guidelines on religious harassment.

Please support the Taylor/Wolf amendment—by opposing the motion to rise—and protect religious liberty in the workplace.

Sincerely,

JAMES A. SMITH,
Director of Government Relations.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 22, 1994.

SUPPORT TAYLOR-WOLF AMENDMENT

DEAR COLLEAGUE: You may have received a letter recently from the ACLU, the People for the American Way and some religious groups regarding an amendment that we intend to offer to the Commerce, State, Justice Appropriations bill this week. This letter mischaracterized the reach and scope of the amendment we will be offering.

Our amendment will merely limit the funding for the EEOC's proposed guidelines of October 1, 1993 covering religious harassment in the workplace. The amendment reads as follows:

"None of the funds made available in this Act may be used to implement, administer, or enforce any guidelines of the Equal Employment Opportunity Commission covering harassment based on religion, when it is made known to the Federal entity or official to which such funds are made available that such guidelines do not differ in any respect from the proposed guidelines published by the Commission on October 1, 1993 (58 Fed. Reg. 51266)

The amendment applies to the October 1, 1993 proposed guidelines only. It is a very narrow amendment. It would prevent the implementation during the next year of the proposed guidelines that virtually all sides agree are misguided. This amendment would not prevent religious harassment claims from being pursued at the EEOC; it would only prevent these proposed guidelines from being used to do so.

If you have any questions regarding this amendment please call Caroline Choi (x56401) or Barbara Comstock (x55136).

Sincerely,

CHARLES TAYLOR,
FRANK R. WOLF,
Representatives.

HOUSE OF REPRESENTATIVES,
Washington, DC, June 22, 1994.

RELIGION-FREE—"WORKPLACE REALITY"

"Rather than wasting critical time resolving these conflicts * * * all personnel are requested to observe the following guidelines:

"Technical operations personnel should not possess nor display, in any manner, on * * * premises, any material which may be construed, by anyone, to have racial, religious, or sexual overtones, whether positive or negative, or which contain or suggest profanity or vulgarity.

"Supervisors are requested to conduct periodic inspections to ensure that all areas are clear of material * * *—Delta Airline guidelines, January 1994.

DEAR COLLEAGUE: A "religion-free" workplace is what is threatened by the EEOC proposed guidelines. The above guidelines have already been promulgated by a major airline under the current climate on this issue. (See memo on back.)

The "Taylor-Wolf" amendment rejects this notion that the workplace must be "religion free" and that supervisors must be engaged in "periodic inspections" to clear out Bibles or other religious items an employee might have at work just because they might be "offensive" to one employee. Religious freedom is a fundamental right enshrined in the First Amendment of our Constitution; it cannot be regulated away and should not be attempted by any government agency.

The "Taylor-Wolf" amendment will prevent the EEOC from using any funds to implement the guidelines as proposed on October 1, 1993. These proposed guidelines have been criticized as unduly broad by those across the ideological spectrum.

If the Rules Committee does not protect this amendment from a point of order, it will be necessary to DEFEAT THE MOTION TO RISE in order to consider and vote on this amendment. We would appreciate your support in this effort to ensure religious freedom in the workplace.

Sincerely,

CHARLES STENHOLM,
FRANK R. WOLF,
CHARLES TAYLOR,
BUCK MCKEON,
Representatives.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 22, 1994.

DEAR COLLEAGUE: Earlier today, leading NASCAR drivers came to Congress to express their support for the Taylor-Wolf amendment to the Commerce, Justice, State Appropriations bill. Their statement is reprinted below.

We urge you to support the Taylor-Wolf amendment when the House takes up the appropriations bill tomorrow. If the Rules Committee does not make the amendment in order it will be necessary to DEFEAT THE MOTION TO RISE in order to vote on this amendment.

Sincerely,

CHARLES TAYLOR,
FRANK R. WOLF,
Representatives.

LEADING NASCAR DRIVERS SUPPORT TAYLOR-WOLF AMENDMENT TO STOP EEOC'S ATTEMPT TO CURTAIL RELIGIOUS LIBERTY

Statement by: Darrell Waltrip, Ernie Irvan, Hut Stricklin, Jr., Lake Speed, Don Miller, and Max Helton.

The professional racing community, like many others in professional sports, participate in a number of religious activities in the workplace. Chapel services prior to Sunday races are an important part of our lives. Of necessity these services must take place within the confines of our somewhat unusual workplace.

We believe we speak for the vast majority of the drivers and other members of the racing community, as well as the sentiment of most of our millions of fans, when we say that we find any limitation upon our religious liberty to be absolutely unacceptable.

It is for this reason that we urge the Congress of the United States to pass the Taylor-Wolf Amendment to the budget bill which funds the EEOC and other agencies. The EEOC regulations, which are the target of this Amendment, have been criticized by religious and legal organizations from all sides of the political perspective. And in a non-binding vote last week, the Senate voted 94 to 0 to urge the EEOC to delete the so-called religious harassment guidelines from its proposed order.

We are here today to make sure that the EEOC's efforts which would curtail our religious liberty are stopped by binding legislation. Our freedoms are too precious to be left to non-binding votes alone. We want protection that is effective and that is why we urge the House to pass the Taylor-Wolf Amendment.

A major airline has already implemented the proposed guidelines by banning all religious speech whatsoever from the workplace. Legal departments of other agencies may reach similar conclusions. And it doesn't take a first class pit mechanic to understand that some Federal judge somewhere might eventually rule that any discussion of religion or display of religious symbols or materials violates the EEOC's rules.

No one favors true religious harassment. We are informed such harassment is already made illegal by Title VII and other federal laws. But voluntary chapel services, Bible studies, religious symbols, and discussions of the gospel and other religious topics among adults in the workplace would be threatened if these EEOC guidelines are allowed to become final.

In an effort to strain out the last gnat of religious harassment, the EEOC appears ready to swallow up major portions of our religious liberty. We are unwilling to remain in the stands when our liberty is at stake. The EEOC needs to have the brakes applied to this effort. And we hope that Congress will bring this sorry episode of big government intrusion upon our liberties to a screeching halt.

U.S. CATHOLIC CONFERENCE,
OFFICE OF THE GENERAL COUNSEL,
Washington, DC, June 13, 1994.

DOUGLAS A. GALLEGOS,
Chairman, Office of Executive Secretariat, Equal Employment Opportunity Commission, Washington, DC

DEAR MR. GALLEGOS: The United States Catholic Conference ("Conference") submits the following comments in response to the notice of proposed rulemaking regarding Guidelines on Harassment Based on Race, Color, Religion, Gender, National Origin, Age, or Disability ("Guidelines"). 58 Fed. Reg. 51266(1993) (comment period extended to June 13, 1994. 59 Fed. Reg. 24998 (1994)). The Conference advocates and promotes the pastoral teaching of the U.S. Catholic Bishops in many diverse areas of the nation's life, including the free expression of religious ideas and fair and equal opportunity in employment. The Conference is also an employer, as are the tens of thousands of Catholic institutions throughout the country. Thus, the Conference has analyzed the Guidelines from the dual perspectives of advocate for religious freedom and religious employer.

However, well-intentioned, in the area of religious harassment, the Guidelines need substantial revisions. In their present form, the Guidelines (i) create confusion which will have a chilling effect on religious expression in the workplace, (ii) fail to distinguish between secular employers and religious employers, and (iii) do not take into account the Supreme Court's recent decision in Harris v. Forklift Systems, Inc., 114 S. Ct. 367 (1993). Each of these three factors is discussed in more detail below.

CHILLING EFFECT ON RELIGIOUS EXPRESSION IN THE WORKPLACE

Plainly words, gestures, and other conduct designed to communicate negatively against a person on account of religion is harassing and illegal. What separates this actionable behavior from protectable behavior is intent. Employees deserve, in clear cases, the benefit of the law against the insults of others, when that behavior seeks to punish or coerce the employee on account of religious belief. For this reason, the Conference believes it appropriate to include "religion" in the categories of protected classes in the EEOC Guidelines. Excluding religion at this point could very well communicate the wrong conclusion, namely, that religion is less worthy of protection.

The difficulty for the EEOC is that positive actions about religion, including expression of personal belief, is at the core of the values protected by the Free Exercise Clause. The Guidelines do not allude to this distinction, although it is very real and, we submit, the cause (in part) of the recent confusion over these Guidelines. Without support for constitutionally protected religious speech, the Guidelines invite contentious behavior or employee zeal in creating a "religion free" environment, despite the Constitution.

Employers generally are pragmatic and cost-conscious. They like to avoid controversy and reduce expenses. One way to achieve these goals is by adopting policies designed to avoid costly litigation. In their present form, the Guidelines are likely to cause some employers to overreact and adopt workplace rules that will suppress religious expression on the part of employees and supervisors. By choosing to sanitize workplaces from religious expression, some employers will undoubtedly hope to avoid problems generated by those employees who might complain about religious expressions of others. This draconian approach is not farfetched—it has been reported that a major airline adopted just such an approach in reaction to the Guidelines.

Two factors primarily contribute to the Guideline's potential chilling effect on religious expression. First, the use of subjective and ambiguous terms (such as "denigrate", "aversion," "offensive") without concrete examples will only confuse employers. Second, the Guidelines do not even acknowledge the First Amendment rights of employees and employers to the free expression of religious ideas, either in words or through conduct. The Guidelines' emphasis on the alleged victim's perspective, see 1609.1(c), does not inform employers that other employees also have rights. An employer that sanitizes its workplace in response to the Guidelines may very well find itself in violation of Title VII by discriminating against employees who may, for example, wish to wear religious symbols, have religious pictures or materials at their work stations, or discuss religious issues. In short, the Guidelines need to be more balanced in areas involving religious expression.

The Guidelines can be improved in several ways to decrease their potential chilling effect on religious expression. First, reduce the number of ambiguous and subjective terms. They confuse, rather than clarify, matters for employers. Second, expressly state in the Guidelines that employees have rights to free religious expression that employers need to balance in adopting policies. Employers need to know that, if they overreact, they may find themselves in violation of Title VII. Finally, providing concrete examples of what is and what is not religious harassment would help employers immensely in understanding their Title VII responsibilities. This could be done with specific descriptions of actual situations, or by including questions and answers as was done in the case of the Pregnancy Discrimination Act, see Appendix to 29 C.F.R. Part 1604.

RELIGIOUS EMPLOYERS

Congress accorded religious employers special treatment in Title VII. Title VII has two provisions exempting religious organizations for activities which, if engaged in by secular employers, could constitute religious discrimination under Title VII. See 42 U.S.C. §§2000e-1, 2000e-2(e)(2). With regard to section 2000e-1, the U.S. Supreme Court noted that the exemption "is rationally related to the legitimate purpose of alleviating significant governmental interference with the ability of religious organization to define and carry out their religious missions." Corporation of the Presiding Bishop versus Amos, 483 U.S. 327, 339 (1987). Title VII does not require religious organizations to employ individuals who act contrary to the religious beliefs of the organization. See Little versus Wuerl, 929 F. 2d 944 (3rd Cir. 1991). It should be noted that the Americans with Disabilities Act of 1990 also contains exemptions for religious organizations. 42 U.S.C. §12113(c) (1) and (2). The Guidelines, however, do not even acknowledge the distinction between religious employers and secular employers.

The failure to acknowledge this distinction invites litigation to test whether the Guidelines or the exemptions control in particular situations. Although it might seem an obvious legal principle that statutes trump regulations (and certainly guidelines), some might even assert the Guidelines are an ultra vires action of the EEOC in not even noting the statutory exemptions. It is not too farfetched in this society to speculate about re-litigation of Amos as a religious harassment case. In that case, pressure was brought to bear on the gymnasium employee to correct his status vis-à-vis his church. The Guidelines invite their interposition as a defense against exempt behavior, a "non-adherent's veto". A simple reference to the preservation of the exemption would be of great assistance.

Beyond this scenario, there are other differences between a General Motors and a Catholic seminary, with regard to environment. Both are employers subject to Title VII. Many religious organizations will have religious symbols and artwork throughout their facilities. Often they may have religious activities during the workday. Title VII does not require a religious organization to change its religious mission activities because an employee may be offended by some aspect or another of his environment. It is not beyond the realm of possibility that some disgruntled employee might attempt to utilize the Guidelines to exercise a heckler's veto over the legitimate activities of religious organizations. See May 2, 1994 Press Release of American Atheists (calling for a strict standard of no religion in the workplace). The Guidelines' emphasis on the victim's perspective exacerbates this concern, as does the reality that there is constant litigation attempting to drive religion out of the public square.

The Guidelines must acknowledge the statutory exemptions for religious employers in Title VII. Religious employers must be allowed to conduct their operations and activities in a manner consistent with their religious beliefs and practices.

HARRIS VERSUS FORKLIFT SYSTEMS, INC.

After the EEOC published its Guidelines, the U.S. Supreme Court decided Harris versus Forklift Systems, Inc., 114 S. Ct. 367 (1993). There are some apparent inconsistencies between the Guidelines and the Harris decision. These include the following:

1. Quoting an earlier opinion the Court said that the "mere utterance of an epithet which engenders offensive feelings in an employee" does not implicate Title VII. Harris at 370. The Guidelines suggest otherwise in footnote 4.

2. The Guidelines adopt a purpose or effect standard, see section 1609.1(b)(1)(i) and (ii), while the Court adopted an objective and subjective standard, Harris at 370.

3. The Guidelines incorporate into the reasonable person standard the victim's perspective (relying of the "reasonable woman" standard adopted in 1991 by the Ninth Circuit in Ellison versus Brady, 924 F.2d 872). The Court in Harris used only a reasonable person standard, Id. at 370. While a reasonable woman standard may be appropriate in the sexual harassment context, its utilization in religious harassment cases may be unworkable. The religious affiliations of employees is not readily apparent to employers in contrast to gender. The multiplicity of religious denominations and sects further complicates the matter. How will an employer or the EEOC determine the perspective of the "reasonable" Catholic, Methodist, Jew, Muslim, etc.?

The Conference recommends that the EEOC review the Guidelines in light of Harris and make adjustments where appropriate.

CONCLUSION AND RECOMMENDATION FOR FUTURE RULEMAKING

While the Conference is recommending substantial revisions in the Guidelines, we do recognize that religious harassment can and has occurred. It is a proper area of concern for the EEOC. If handled appropriately, guidelines could be helpful to employers and employees alike. Therefore, we are not recommending that the EEOC withdraw from all efforts to address religious harassment through guidelines.

The task of balancing the free religious expression rights of employers and employees in the workplace with Title VII's goal of protecting employees from illegal religious harassment is a delicate one, as is evidenced by the enormous response to the Guidelines. For the reasons discussed above, we recommend that the EEOC address the distinctive nature of religious issues. We recommend that, given the diversity of opinions and the sensitive issues involved, that any future guidelines on religious harassment be published again in proposed form for public comment before they are finalized. Where important First Amendment liberties are involved, it is more important that guidelines are done correctly than quickly.

Thank you for the opportunity to submit these comments.

Sincerely,

MARK E. CHOPKO,
General Counsel.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to address the point that has been made by the gentleman from Virginia [Mr. WOLF] about EEOC, the religion-free environment problem. Some would say why do we bother to have these hearings at the Committee on Rules; it is all cut and dried and not worth going up there. Let me tell you, it was worthwhile. We had wonderful testimony yesterday. A lot of people were shocked to find out that in this place here, where we are now working—at least we think we are working, and I hope most people think we are, I feel we are—we would be in violation of that rule because of the inscription over the Speaker's chair that says "In God we trust." This is not a true religion-free workplace.

Now, that is an absurdity I think that most of America would say, "Come on, will you people please get real here?" And that is what we are trying to do. I think the gentleman from North Carolina [Mr. TAYLOR], bringing this process forward through the Committee on Rules, showed just how ridiculous some of these rules and guidelines have become. It is an area of unintended negative consequences, a good idea that went wrong.

I feel that that kind of thing does, indeed, deserve to be noticed, as it has been pointed out, and corrected. But, more important than that, the Committee on Rules hearing process does work, because that is how we got to this point. So there is hope.

Mr. Speaker, I also wanted to point out that we have a difference between an open rule and a fair rule. How we keep a rule open is one thing, and I congratulate the majority for helping us on that. How we make it fair, the way we protect things, is another matter. And that is the area of our opposition. It is merely in the protection and the inequity, the unequal treatment, the double standard for some Members as opposed to others. That is what we are asking that we change.

Mr. Speaker, I yield the balance of my time to the gentleman from Illinois [Mr. PORTER].

Mr. BEILENSON. Mr. Speaker, I yield 45 seconds to the gentleman from Illinois [Mr. PORTER].

The SPEAKER pro tempore (Mr. WISE). The gentleman from Illinois is recognized for 2 minutes and 45 seconds.

Mr. PORTER. Mr. Speaker, Chicagoans have been following some of EEOC's work through the Chicago Tribune and Mike Royko's columns and they are mad. And they have a right to be mad. A Government agency which is charged with the important role of enforcing the laws against job discrimination is proceeding, at least in one case, in a way that is just incredible.

Recently in Chicago, a restaurant owner, Hans Morsbach was notified by the EEOC in writing that he was guilty of hiring discrimination. The letter charged that he placed an ad with a hiring agency for someone who was "young" and "bub," and thus is guilty of age discrimination.

According to the Tribune, Morsbach was informed by EEOC that he must now hire four people over the age of 40, give them back pay and seniority, and post a notice in his restaurant stating that he will no longer discriminate because of age. The EEOC has decided he is guilty and determined his sentence and if he does not comply, he will be hauled into court and must hire an attorney to defend himself. What really galls, however, is that he is prevented from knowing anything about the genesis of the charge against him. EEOC refuses to give any information on this, citing confidentiality.

Well, Morsbach didn't place any such ad with a hiring agency and his hiring record is excellent—he has employed a diverse group of individuals in his restaurant. Morsbach doesn't know what hiring agency is involved, when the incident occurred, or what the word "bub" means. Regardless, Morsbach must invest time and resources into his defense when he goes to court to prove his innocence.

Mr. Speaker, this is crazy, crazy that out of the blue comes a charge the accused knows nothing about, crazy that the agency deems him guilty but at the same time refuses to tell him anything about the charge, and crazy that his only recourse is an expensive court proceeding.

This is an important agency charged with the role of protecting the civil rights of employees and protecting them against discrimination. But in this case, and apparently many others, it proceeds like the Spanish Inquisition.

☐ 1630

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

In concluding, let me remind my colleagues that this is in fact an open rule. The waivers that are included are there to protect agencies without authorization which I believe most of us are fully supportive of and for some general provisions which have been carried in this and similar bills for a great many years and which I think most, if not all Members, are supportive of. While they are protected against possible points of order, as our friends on the other side of the aisle have pointed out ad nauseam, they are all also still subject to a motion to strike.

Mr. Speaker, I urge our colleagues to support this very fair rule. It is in fact a fair rule.

Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. WISE). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LIVINGSTON. Mr. Speaker, I object to the vote on the grounds that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 243, nays 177, not voting 14, as follows:

[Roll No. 273]

YEAS—243

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Conyers
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—177

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Cooper
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Myers
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Porter
Portman
Pryce (OH)
Quillen
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Talent
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zimmer

NOT VOTING—14

Clay
Collins (MI)
Condit
Gunderson
Kaptur
Lloyd
Machtley
McCurdy
Quinn
Rangel
Towns
Washington
Watt
Zeliff

☐ 1654

The Clerk announced the following pair:

On this vote:

Miss Collins of Michigan for, with Mr. Quinn against.

Messrs. LEWIS of California, McKEON, and BUYER changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MOLLOHAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4603, and that I be permitted to include tabulations, charts, and other extraneous material.

The SPEAKER pro tempore (Mr. WISE). Is there objection to the request of the gentleman from West Virginia?

There was no objection.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995, AND SUPPLEMENTAL APPROPRIATIONS, 1994

Mr. MOLLOHAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4603) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these Departments and Agencies for the fiscal year ending September 30, 1994, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Kentucky [Mr. ROGERS] and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia [Mr. MOLLOHAN].

The motion was agreed to.

□ 1657

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4603, with Mr. BROWN of California in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN. Under the unanimous consent agreement, the gentleman from West Virginia [Mr. MOLLOHAN] will be recognized for 30 minutes, and the gentleman from Kentucky [Mr. ROGERS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. MOLLOHAN].

Mr. MOLLOHAN. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in strong support of this bill.

Mr. Chairman, I want to thank the Appropriations Committee and the Subcommittee on Commerce, Justice, State, and Judiciary, for their assistance in supporting four projects in western New York which I brought to their attention earlier this year. In particular, I want to thank Chairman OBEY and Chairman MOLLOHAN for their support in this regard. These four proposals are referenced in the committee report accompanying the fiscal year 1995 Commerce-Justice-State-Judiciary appropriations bill which the House is considering today.

First, the committee listed ten proposals, including the Project Connect Consortium, which is a proposed fiber optic, interactive video communication network in western New York, describing the projects as " * * * worthwhile projects for demonstration projects." I am pleased that the committee is urging the Commerce Department " * * * to examine the * * * proposals and provide grants if warranted, and report back its intentions to the Committee."

I have met several times, here in Washington and in western New York, with officials involved with the development of project connect. I am totally persuaded that it has the potential of forging new ground in the development of the information superhighway in the United States. It filed a grant application with the Department of Commerce on May 15, and I am hopeful that this action by the committee will help persuade the Department to look on that application favorably.

Second, Mr. Speaker, the committee supported my proposal to try to locate Federal prison facilities near existing or expanding State or local facilities in order to achieve savings through sharing of infrastructure and in other ways. Last year I worked hard to obtain $10.3 million to build a new Federal detention facility to serve the needs of both the Buffalo district of the Immigration and Naturalization Service and the U.S. Marshals Service, and this year I urged the committee to consider recommending that this new facility be sited adjacent to the existing and soon-to-be expanded Niagara County Jail in Lockport, NY. I have met with local officials as well as officials of the Federal agencies which are involved in this issue on numerous occasions. I am therefore very pleased that the committee report endorses this recommendation, suggesting that the U.S. Bureau of Prisons should " * * * work with local officials to determine the feasibility of such an approach." I believe that the Niagara County site will be an ideal one on which to test this cost-savings theory.

Third, in response to my concern about the need to curb haphazard land development and protect the natural beauty of Niagara Falls, I applaud the committee for including $100,000 for the State Department's Office of Canadian Affairs to " * * * analyze transboundary issues and propose a plan of action to guide New York and the Canadian province of Ontario in establishing a commission to develop a comprehensive zoning and development plan for the preservation of the area around Niagara Falls on both sides of the border." I have no doubt that this will be the start of a new and better approach toward protecting this wonder of the world.

Fourth and last, Mr. Speaker, I want to thank the committee for accepting my suggestion that the Justice Department's Office of Juvenile Justice Programs consider discretionary grants " * * * to a non-governmental, early intervention counseling program that works with the courts to assist young men and women charged with criminal offenses for the first time and who are at risk of stigmatization and recidivism." This describes what has been called the First Time-Last Time program which was founded in 1979 by the Erie County Sheriff's Department and the western New York Chapter of the National Conference of Christians and Jews [NCCJ] to deal with first-time offenders and seek ways of ensuring that recidivism will not occur.

I have met on several occasions with both public officials and representatives of NCCJ in western New York. They have a record of success that is worthy of emulation throughout the nation. Accordingly, I hope that the Justice Department will concur with the committee and support this excellent program when it submits an application for a discretionary grant from the Justice Department later this year.

Mr. Speaker, once again I want to thank Chairman OBEY and Chairman MOLLOHAN for their responsiveness to these ideas. I look forward to working with them and our colleagues as this bill moves forward toward enactment.

Mr. MOLLOHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is my privilege to present this evening the fiscal year 1995 appropriations bill for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies.

First, Mr. Chairman, I thank most sincerely my distinguished colleague, the gentleman from Kentucky [Mr. ROGERS], the ranking minority member on our committee, for his cooperation and active participation in developing this legislation.

□ 1700

He is an especially capable Member of this Congress. His suggestions has been very valuable and are certainly incorporated in this bill.

Mr. Chairman, I am particularly fortunate that the expertise of the chairman, the gentleman from Iowa [Mr. SMITH], has been on call, as he has been generous in making himself available to assist me since I have assumed these new responsibilities. His distinguished and capable leadership of this subcommittee for many years is widely admired, and I personally appreciate his friendship and continuing guidance.

Mr. Chairman, the members of our subcommittee are a talented group. To a person, each has made real contributions to this bill. They have been active in its crafting. Their input has been incorporated, and I appreciate their hard work and cooperation.

In addition to the chairman, the gentleman from Iowa [Mr. SMITH], and the gentleman from Kentucky [Mr. ROGERS], our subcommittee includes the chairman, the gentleman from Michigan [Mr. CARR], the gentleman from Virginia [Mr. MORAN], the gentleman from Colorado [Mr. SKAGGS], the gentleman from North Carolina [Mr. PRICE], the gentleman from Arizona [Mr. KOLBE], and the gentleman from North Carolina [Mr. TAYLOR].

Mr. Chairman, I am indebted to our new full committee chairman, the gentleman from Wisconsin [Mr. OBEY], for the assistance he has given to me on this bill. Despite his new responsibilities, he has always made himself available to work on the many challenges faced during the workup of this bill. He is doing an excellent job, and I appreciate his help.

Mr. Chairman, every Member involved in this legislative process knows how crucial are our hard-working, professional staff. Our subcommittee is blessed with an especially fine group of professionals headed by staff director John Osthaus, and assistants George Schafer and Sally Chadbourne, and on detail from the Commerce Department's Office of Comptroller is Soo Jin Kwon, and we appreciate all of their efforts.

Mr. Chairman, the bill provides a total of $26,549,129,000 in new budget authority for fiscal year 1995. This amount is $1,181,452,000 below the President's budget request for budget authority, and it is $35 million below the 602(b) budget authority allocation for the bill.

The bill provides a total of $25,298,000,000 in outlays for fiscal year 1995, and this amount is $771,668,000 below the President's budget request for outlays and $35 million below the outlay allocation for the bill.

Mr. Chairman, this bill is important to Members here and to their constituents. This bill funds most of this country's crime-fighting initiatives, and, my fellow Members, when your constituents ask what you are doing to fight crime, you can point to this bill for the substantive answer. We heard President Clinton's request to enhance Federal law enforcement, and paramount in our consideration was a commitment to employ effectively Federal resources and assets to reinforce the men and women on the front lines in the fight on crime across this great Nation. Addressing our Nation's crime problems is perhaps our most pressing national concern.

It is impossible to turn on the TV or radio, read a newspaper, open constituent mail, or attend a town meeting without hearing about the terrible problem of crime in our neighborhoods and people's fears and concerns about it. The House has responded by enthusiastically passing a comprehensive crime bill. That legislation is, as we speak, in conference with the Senate.

But, Mr. Chairman, it is this bill where we turn our words into action. We are committed to being as responsive as we can to this priority, and we have used every tool we have. We have used every bit of creativity to focus the money we have to where it is most needed and will be most effective—to the men and women who fight crime and to the communities who support them.

Mr. Chairman, this bill includes $1.3 billion for community policing, which will put on the street in our local communities 39,000 additional police officers. At the same time, Mr. Chairman, funding for the Federal Bureau of Investigation and the Drug Enforcement Agencies, two of our most crucial crime-fighting Federal agencies, has been restored to their fiscal 1994 levels, and we provide additional funding to enable the FBI to hire 160 new agents and the Drug Enforcement Agency to hire 132 new agents.

I am also extremely pleased the committee has restored and enhanced the Byrne formula grant program. The bill includes funding to more than double the size of this highly effective program. The expanded program will provide grants that States can use for law enforcement purposes, for incarceration of illegal aliens, and improved criminal recordkeeping as required by the Brady law.

All of this is done with an enhanced program which amounts to 125 percent more Byrne grant money to each State than they received last year. The effectiveness of the Byrne formula grant program is reflected by its popularity with your State and local law enforcement officials, the people who confront our crime problem every single day.

I know that more than half of you, more than half of my colleagues, more than half of the Members of this House of Representatives have signed petitions to this subcommittee in support of the Byrne program, and we have been responsive to those concerns.

We also responded to your concerns about prison space, and this bill includes almost $52 million to activate or expand 11 new Federal prisons.

The committee has also heard the concerns of Members from States along our southern border. We significantly enhance border control by providing an increase of $54 million to hire 700 new Border Patrol agents, to reassign 250 agents to the line, and to backfill those agents with 110 support personnel. This provision will provide a total of almost 1,000 new Border Patrol agents on the line in 1995. This is in addition to the 600 Border Patrol agents who were added to last year's bill.

Likewise, Mr. Chairman, the President's immigration initiative is of great importance to many Members. In addition to the enhancement of the Border Patrol, the committee nearly fully funded the request for expedited deportation and review of asylum cases.

Let us not forget that crime prevention is a critical component of our crime control efforts. This year the committee has provided a 35-percent increase for juvenile justice and delinquency prevention programs. We feel that it is imperative to fund programs which help our young people avoid the path to crime.

Mr. Chairman, of course this bill is responsible for much more than crime fighting. The bill contains funding for a reinvigorated Commerce Department. The Commerce programs are the centerpiece of the President's efforts to increase U.S. industrial competitiveness. The committee has strongly supported President Clinton's initiatives to create jobs through civilian technology and economic development initiatives by increasing levels of funding in certain strategic areas.

We have included $842 million for the National Institute of Standards and Technology, and within this amount we provided the full request of $61 million for the Manufacturing Extension Partnership Program. This funding will enable the Department to establish additional manufacturing technology centers and support services to help basic industry America introduce new technologies to shop floors. We also provide $431 million for the Advanced Technology Program, or ATP. ATP helps industry help itself. U.S. industry defines the research priorities, and then industry and the Federal Government share the costs of pursing high-risk technology development which holds a promise for new commercial products.

The committee included $70 million in the bill for the very popular information infrastructure grant program. This funding will provide for another round of demonstration projects to highlight innovative ways schools, hospitals, and other public service entities can gain access to the latest information technology available in the deployment of the information highway.

☐ 1710

We have funded the Economic Development Administration at $371 million, a $50-million increase over last year's level. EDA serves as the central agency for technical and financial assistance to economically distressed areas. Within this amount we have included $175 million for the traditional public works grant program and $80 million for targeted grants for defense conversion.

Turning to the National Oceanic and Atmospheric Administration, we have provided $1.8 billion for the agency's programs. We have provided almost $600 million related to the modernization of the National Weather Service, including the acquisition of improved radar and other automated systems associated with the modernization effort, the continuation of the NOAA geostationary and polar satellite systems necessary for collecting improved weather data, and staffing for the new radars and weather service facilities.

The committee has also included an increase of $43 million over fiscal year 1994 amounts for the National Marine Fisheries Service for enhancement of fisheries management programs. This funding is necessary to address the virtual collapse of fisheries in New England and the Pacific Northwest by building sustainable U.S. fisheries and protecting threatened and endangered species.

The amounts recommended in the bill also include restoration of funding for other NOAA programs important to Members, such as regional climate centers, national undersea research centers, and zebra mussel research.

SMALL BUSINESS ADMINISTRATION

Also on the job creation front, the bill provides a total of $796 million for the Small Business Administration, an increase of $10 million over the President's request.

In this time of economic recovery, the committee recognizes the importance of SBA. The growth of small business is truly critical to the economic health of our Nation, and SBA is the central U.S. Government agency responsible for encouraging and nurturing that growth.

Across America, traditional industries have been crippled, and we have begun to work to rebuild and diversify our economy. The success of our Nation's small businesses is integral to this process.

For those of you facing economic crisis in your district due to base closures or other Federal Government cutbacks, the loss of a major contractor or employer, or simply the effect of years of recession, I urge you to support this committee's funding recommendations for SBA.

In fiscal year 1993, loans made through the section 7(a) business loan program were responsible for creating or maintaining 380,000 jobs nationwide—across every one of my colleagues' districts. And this year, by providing $327 million for the business loans program account, we will leverage loans to small businesses totaling $10.5 billion.

Also, our recommendation will provide funding for many other valuable programs under the SBA—programs that provide assistance to women, minorities, handicapped individuals, and veterans trying to overcome barriers to achieve success.

FISCAL YEAR 1994 SUPPLEMENTAL

In title VII of the bill, the subcommittee has provided funding for important supplemental appropriations for fiscal year 1994. We have provided $400 million in emergency supplemental appropriations for fiscal year 1994 for the Small Business Administration's Disaster Loans Program account to meet the remaining disaster loan needs of the victims of the Los Angeles earthquake.

We have also provided $670 million in supplemental appropriations for fiscal year 1994 to pay a portion of the assessments for U.S. peacekeeping operations which are estimated to total $1.1 billion by the end of fiscal year 1994. In title V of the bill we have provided an additional $288 million for fiscal year 1995 to pay the second year of the multiyear plan to pay off the fiscal year 1994 peacekeeping arrearage.

Mr. Chairman, I would like to comment on the subject of peacekeeping because there will be some discussion during the debate on the bill. I would like to point out to the Members that beginning at page 114 of our report there is a rather lengthy, detailed, factual recitation of the history of peacekeeping. I think it would be instructive to the Members to read this prior to debate on the bill. There is also a table which sets forth the peacekeeping missions, the amounts related to those missions that represent deficits for the year 1994 and the date that those missions were committed to.

I would also note with regard to peacekeeping, Mr. Chairman, that legitimate concerns that Members have had for some time are certainly being addressed and I commend the authorizing committee for doing so.

There have been concerns about the rate which represents the United States' share of peacekeeping operations. The rate for some time has been 30.4 percent. There is certainly an effort to reduce that. That effort is agreed to by a broad cross section of the Members.

We commend the authorizers for providing in their bill, which we just passed in this House not very many weeks ago, a reduction of our share of the peacekeeping from that 30.4 percent rate down to 25 percent beginning with fiscal year 1996.

Mr. Chairman, I have talked about the increases provided in the bill and now I need to mention some of the reductions. As I noted earlier the 602(b) allocation for the bill was $1.2 billion below the President's request. Therefore, the subcommittee was forced to make a number of reductions which required very difficult choices. The committee cut the following amounts below the budget requests for each of the following. With regard to the Federal Judiciary, we reduced the President's request by 218 million; for the State Department, we reduced the President's request by $102 million; with respect to the U.S. Information Agency, we reduced the President's request by $78 million. We reduced the President's request for the Legal Services Corporation by $85 million. The Maritime Administration was reduced by $125 million. The Justice Department request was reduced by $402 million. The Commerce Department request was reduced by $175 million.

In closing, Mr. Chairman, we are pleased to bring this bill to you today. Our committee has worked very hard to draft a bill which achieves balance, balance between program demands and budget authority and outlay limitations; balance between the President's important crime and civilian technology investment initiatives and proven agency programs; balance between administration priorities and Congressional priorities on both sides of the aisle.

So I bring to you what I believe is unquestionably a fair bill. This bill is not everything to everyone, but given the fiscal constraints facing us today, Congress must strive for responsible compromise. This bill represents such responsible compromise.

Mr. Chairman, I urge the Members to support our work.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. MOLLOHAN. I yield to the gentleman from Iowa, certainly.

Mr. SMITH of Iowa. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman from West Virginia, and the gentleman from Kentucky and other members of the subcommittee for developing this bill. This is one of the most controversial bills and one of the most important bills that we have in the Congress. It includes the entire Judiciary, a separate branch of our Government that does not have a constituency. Members are always anxious to vote for more judgeships, but they do not want to pay for them. The subcommittee has to handle that problem in this bill.

This bill also handles the administration of the overseas officers of the State Department. Again, there are people who are quick to criticize what happens overseas, but they do not like to provide funds for the State Department.

Then there are the export programs, technology and research programs that are so important to our competition, to our being competitive in the world; and of course the business section of the bill, and the coastal programs.

Then there are 21 independent agencies in this bill including the SEC, the SBA, and the FCC. About one-half of this bill is not authorized, which is the highest percent of any bill brought to the floor. The authorization committees have not been able to get these programs authorized by the time the appropriations bill reaches the floor.

This makes it even more controversial and even harder to handle.

I just want to say that this one of the most important bills and I really commend the gentleman from West Virginia [Mr. MOLLOHAN] and the gentleman from Kentucky [Mr. ROGERS] for what they have done here in this bill.

Mr. Chairman, I urge support of the bill.

Mr. MOLLOHAN. Mr. Chairman, I reserve the balance of my time.

☐ 1720

Mr. ROGERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, before I begin my comments, I must first praise the gentleman from West Virginia [Mr. MOLLOHAN] the new chairman of the subcommittee. He has taken the helm of one of the most diverse and complex appropriations bills there is, as the former chairman, the gentleman from Iowa [Mr. SMITH] has just indicated, and while we miss the leadership of Chairman SMITH on this subcommittee, we are extremely pleased with the work of the new chairman. In just a few short months he has impressed all of us, particularly this Member, with his dedication, his knowledge and leadership on this subcommittee. He has done a tremendous job in a very difficult year, treating all Members with fairness and respect and working to accommodate a divergent set of needs and priorities. The chairman and all the members of the subcommittee are to be commended for their diligence in crafting a bill which, I believe, Members should support.

So, Mr. Chairman, I rise today in strong support of this bill. Having said that, I must divide the bill into two parts, as I have said before. There is the U.N. peacekeeping portion, and then there is everything else. I will have some words about peacekeeping at the conclusion, but first let me address the everything-else portion of the bill.

I must reiterate to the Members the diverse and competing needs of this subcommittee. One of the smaller appropriations bills in total dollars, this bill is certainly one of the most diverse and funds some of the Congress' highest priorities. The bill funds everything from the war on crime and drugs, one of the top issues facing our Nation today, to programs to promote economic development, increase our competitiveness, build democracy overseas, and promote our interests abroad.

Again this year, Mr. Chairman, like other subcommittees, pressing needs exceeded our limited resources. Due to a constrained 602(b) allocation we are $1.2 billion below the President's request for programs in this bill. Unfortunately, funding constraints did not permit us to do everything we would like to have done, and many programs are held at or below the fiscal 1994 level, but we have provided increases for the highest priorities, especially the war on crime and drugs.

For the Department of Justice, Mr. Chairman, this bill provides a total of $12 billion for the department, a 29-percent increase over fiscal 1994, including $2.4 billion to fund initiatives authorized in the crime bill such as community policing. In addition, we have not only restored, but given, a 125 percent increase in the Byrne formula grant program for law enforcement grants to all 50 States and their police and sheriffs' departments.

I am particularly pleased, Mr. Chairman, that the bill rejects the large cuts the administration proposed for our core Federal law enforcement programs. Not only does the bill reject the President's proposed cut of 790 people from the FBI, it adds resources to put an additional 760 agents on the street, and for the Drug Enforcement Administration, we rejected those proposed cuts and added an additional 132 agents, new agents, to stop drug traffickers in their tracks.

On immigration control, Mr. Chairman, we have built on the firm foundation established last year providing almost 1,000 more Border Patrol agents on the front lines. When this bill is signed into law, we will have added over 1,500 agents in the last 2 years to protect our borders from the flood of illegal immigrants, driving costs through the roof, not to mention other things.

For the Commerce Department, significant increases for the Administration's technology initiatives and the information superhighway. We continue National Weather Service modernization, as well as provide moneys for the EDA to assist economically distressed communities and those hard hit by defense cutbacks.

For the Judiciary, as the gentleman from Iowa [Mr. SMITH] noted, a 4-percent increase to help the courts cope with continuing demands to fight the war on crime.

Again this year the Department of State will be forced to live with less than current services. Cut by almost 8 percent last year, the State Department's request has been cut significantly, largely to fund U.N. peacekeeping activities, and that brings me to the second part of the bill, the part which troubles me greatly: U.N. peacekeeping.

Mr. Chairman, peacekeeping is simply a runaway fiscal train. Six years ago peacekeeping costs totaled a mere $30 million to the United States. This year that price tag, our share, is $1.5 billion, eating up big portions of the other priorities that we would like to fund in this bill, but simply cannot due to peacekeeping demands. Members must understand that for every dollar that goes to peacekeeping a dollar is taken away from other high priority programs right here in the United States. This bill contains $1.2 billion to pay for the U.S. assessed contribution for U.N. peacekeeping activities. That figure includes $222 million for expected 1995 requirements for peacekeeping, and we all know that is going to be way too little. In addition, $288 million is provided to partially pay for what the United Nations says is an arrearage that we owe for past bills, and then finally the bill includes a separate 1994 supplemental embedded in the fiscal 1995 bill providing $670 million, and that amount is, again, to cover only a portion of the fiscal 1994 peacekeeping bills they say are pass due.

Mr. Chairman, the total price tag for the arrearage is $1.1 billion. That is $1.1 billion in bills for which our fiscal 1994 appropriation could not cover. And let me put Members on notice now. This will not be the last supplemental for peacekeeping that we will face this year. There is only $222 million for fiscal 1995 peacekeeping requirements in this bill. The tab for this year, 1994, is $1.2 billion. So, we know we are going to be faced with a huge billion-dollar, roughly, supplemental for peacekeeping from the United Nations before the year is out. That is too much.

Sadly, Mr. Chairman, the American taxpayer is not being treated fairly at the United Nations. The United Nations continues to demand that we pay more than our fair share. Nearly one-third of the total peacekeeping U.N. operations are billed to Uncle Sam. All the while our allies pay a greatly reduced rate. The next biggest contributor to peacekeeping is Japan who pays only 12.5 percent; Germany, only 8.9 percent; Britain, a mere 6.4 percent; China, a member of the Security Council, nine-tenths of 1 percent. And Uncle Sucker is billed for 31.4 percent. It is too much.

In addition, Mr. Chairman, our taxpayers are footing the bill to pay for billions in military support for the United Nations for which we get no credit or thanks. The United Nations is putting us in a fiscal noose, and we simply cannot ask our citizens to sacrifice anymore. The time is long past due, Mr. Chairman, that we demand equity and burden sharing at the United Nations. Despite the good will and the best efforts of both the Bush and Clinton administrations and pleas from the Congress over the years, all attempts to reduce our share for peacekeeping have been met with a refusal, even to budge. In fact, we say our rate is 30.4 percent. The United Nations says, "no," it has been increased. It is now 31.7 percent. We asked for a reduction. We get an increase. History has shown that the only time the United Nations listens to us and reforms itself is when Uncle Sam pulls on these purse strings. In fact, that is how we got our U.N. general budget contribution reduced 20 years ago to 25 percent on a bill, an appropriations bill out of this subcommittee. We said we are going to pay 25 percent of the general budget of the United Nations and no more. The United Nations later came along and said, OK, they passed a resolution affirming that. I say it is time to do the same thing now with peacekeeping to reduce it to the same rate.

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It is time Congress stepped up to the plate and demanded burden sharing at the United Nations. I regret that this bill does not do that. How much longer can we justify sending billions to the United Nations when they refuse to treat us fairly.

Mr. Chairman, I planned to offer an amendment today to force the United Nations to treat the American taxpayer fairly and with respect. My amendment would have limited to no more than 25 percent the amount the United States could pay for a peacekeeping operation. Twenty-five percent is what is fair and what is right. Thirty percent, what we pay now, or 31.7 percent, what they are billing us, is too much. But the Committee on Rules refused to make that amendment in order so the Members of this House could work their will on the issue.

I hope as the House continues consideration of this bill, and, hear me out, I hope as we consider this bill, there will come a time during that debate where we will be able to address this critical issue, and I think we will, so hold your change.

Mr. Chairman, I support the bill, with the exception of the peacekeeping portion, and I reserve the balance of my time.

Mr. LIVINGSTON. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Chairman, I appreciate the gentleman yielding. I think the gentleman is raising a very, very important and significant point. As I understand it, not only do we pay all the expenses attendant to housing the United Nations in New York City and bringing all of the diplomatic corps to the United States for that purpose, but then for peacekeeping purposes, we pay 31.7 percent of all peacekeeping missions. And then, since the United States provides most of the military hardware and uniform personnel and operations, we pay all of the costs attendant with United States personnel involved in those peacekeeping missions as well, such as the feeding of the people in Bosnia and the feeding of the people in Northern Iraq. Is that correct?

Mr. ROGERS. As well as the transportation costs of personnel and equipment and food stuffs and all of that.

Mr. LIVINGSTON. You add all that in, we get no credit for all of those expenses. We still pay the highest proportion of any country in the world. It seems the U.S. taxpayer could get a better deal, and I think the gentleman has raised a very, very significant point. I hope the gentleman's amendment is not only allowed in order, but ultimately adopted.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I just wanted to say to the gentleman that you have increased the border patrol by almost 1,000 agents, which will take the total number of border patrol agents well over 5,000. I think we need ultimately 10,000, but you are right on track. The Republican Research Committee Task Force on Immigration worked out a schedule which is manifested in an amendment we passed on the crime bill of a little over 1,000 agents per year. You are following that, you are tracking that very effectively.

I might just say to the gentleman, as we put these agents in important places, like El Paso and San Diego, the smugglers start to try to go around the concentrations of agents. And in Imperial County in California, we are now seeing smuggling of both illegal aliens and cocaine surge. I know it is the gentleman's intention that the border patrol agents now be put at other strategic points where smuggling is beginning to increase as a result of the concentrations that we have already in place.

Mr. ROGERS. Mr. Speaker, reclaiming my time, let me briefly respond. The gentleman from California came to Chairman MOLLOHAN and myself early on pleading for more Border Patrol agents. We were able to shift around, and, through sacrifice of other priorities, and found moneys to do just that. So the gentleman is to be commended for his dedication to this issue, not just this year, but last year and previous years. Thanks mainly to his efforts, we now have, or will have by the end of this coming fiscal year, 1,500 new agents assigned to border patrol that we otherwise probably would not have had. So I thank the gentleman for his great work.

Mr. HUNTER. I thank the gentleman. He and the chairman have done a superb job in this area.

Mr. MOLLOHAN. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from West Virginia.

Mr. MOLLOHAN. Mr. Chairman, I would like to commend the gentleman from California for his input on this issue during the process of formulating this bill, and thank the ranking minority Member for bringing Mr. HUNTER's concerns to the committee. It was his amendment last year that enhanced the border patrol on this bill, and we appreciate his input.

Mr. ROGERS. Mr. Chairman, I reserve the balance of my time.

Mr. MOLLOHAN. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. MORAN], a distinguished member of our subcommittee.

Mr. MORAN. Mr. Chairman, I had a 21-minute statement, but I am going to try to wrap it into 2 minutes. Most of it was to just tell what a terrific job our new chairman has done, and of course the very talented staff of our full committee chairman. He already knows that, but the very talented staff of John Osthaus and Sally Chadbourne and George Schafer and Sue Jin Kwon, have done a wonderful job. They have been spending every day and weekend and evening working of this bill.

It was a tough bill, because the White House wanted $27 billion, if you put all of their requests together, and the budget resolution only gave us $26 billion. There was actually a gap of $1.2 billion that we had to make up. That was tough, because this really does fund the administration's principle initiatives: fighting crime, enabling our economy to grow, expanding international trade in a peaceful, stable world.

So what the subcommittee did, under the excellent leadership of the gentleman from West Virginia, Mr. MOLLOHAN, was in fact to expand our ability to fight crime, put 39,000 more police officers on the street. We did not accept cuts in the FBI, and in fact the subcommittee added almost 400 more FBI personnel. Instead of taking the requested cutback on the Drug Enforcement Agency, the subcommittee added another $20.5 million, and 75 new drug enforcement agents.

Conscious of the Members' concern about our poorest borders and the number of illegal immigrants coming in, we added nearly 1,000 border patrol personnel, on top of the 600 last year. So that gives us about 5,000, I think, total border patrol people. It is as much as the subcommittee could possibly fund, another priority, certainly, of the House of Representatives.

In terms of the economy, we leveraged more than $10 billion in new loans for small businesses, through a $79 million increase in appropriation. We doubled the appropriation for the National Institute of Standards and Advanced Technology Program. We nearly tripled the appropriation for the National Information Infrastructure Program.

The fact is this bill helps every single one of our constituents in every community, large and small, rich and poor. It is a good bill. It certainly deserves the support of every single one of our colleagues.

Mr. ROGERS. Mr. Chairman, I yield such time as he may consume to the very able leader of the subcommittee from our side, the gentleman from Pennsylvania [Mr. MCDADE].

Mr. MCDADE. Mr. Chairman, I thank my wise friend from Kentucky for yielding.

The fiscal year 1995 appropriations bill for Commerce-Justice-State is a bill that has a lot of provisions that many of my colleagues can support. I want to commend the newest cardinal, the gentleman from West Virginia [Mr. MOLLOHAN], for doing a superb job, along with the gentleman from Kentucky [Mr. ROGERS], in a very difficult and complex bill. To the maximum extent, they have taken care of a lot of programs that all of us are interested in, from Border Patrol to programs that bolster exports to initiatives that foster the development of emerging technologies to help us improve our country's competitive position.

However, as has been pointed out in this debate, we are spending an enormous amount on peacekeeping in this bill, $1.2 billion. In my opinion, this is an excessive amount, without thinking a bit about what we are doing in terms of long-term priorities.

In particular, there is a $670 million fiscal year 1994. I began my remarks by saying this is a 1995 bill. We are reaching back to 1994 to try to include $670 million in supplemental funds.

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I think it is important for my colleagues to understand why that 1994 money is available. It is there because when we acted on the emergency appropriation to help cover the cost of the Los Angeles earthquake; this Congress rescinded $3.2 billion in funds previously appropriated for some 64 programs, including education, agriculture, and home ownership for low-income programs, generating savings of nearly $600 million in outlays. We pulled the savings out of those programs and put them into this supplemental. How many of us have been on this floor looking at the appropriation bills as they have gone through and saying, we need more money to cover shortfalls in health, in housing, in education, and in crime, yet $700 million in this bill of 1994 money that is taken away from domestic and other programs is being sent up to pay assessments at the United Nations

Now, that is exactly where the money is coming from. I want to say to my colleagues that I think it is unjustified. I think it is unjustified because that $670 million is on top of, get this, $533 million in fiscal year 1995 money, making a total of $1.2 billion in this bill to pay up at the United Nations; $670 million of it from 1994 money, taken from domestic and other programs, and $533 million in this bill in new money.

My friends, before we make such a decision, we need to remember what happened when we passed the United Nations Participation Act with the understanding that we would be a full partner in financing decisions. Yet for 20 years, my friends, 20 years our Government has tried to get some equity on the United Nations assessment formula. It is not equitable. It is not fair, and they simply brush us off at the United Nations.

Listen to this now. We are being asked to vote in this bill to pay United Nations peacekeeping at an assessment rate of 30.4 percent, for a total of $1.2 billion. What is going on around the world, friends? The Japanese are paying 12.5 percent. Germany's assessment to the United Nations, 8.9; Russian federation, 8.6; United Kingdom, 6.3; France, 7.6. And China, who votes with us an equal member in the Security Council, 0.095 percent. United States, 30.4 percent. The United States is actually assessed at 31.7 percent but only pays 30.4 percent. We have a billion-dollar decision that we are going to have to make.

When we look at the Federal budget in total, we see that peacekeeping costs have risen from $30 million in 1989 to over $1.2 billion in 1994. It is time to begin to prioritize.

My friend from Kentucky is going to offer an amendment that will attempt to do that; applying the 25-percent rule which, my friends, we already voted for. It is in the authorization bill for fiscal year 1996 and beyond.

This amendment that my friend will offer will say, apply that formula, 25 percent, to the fiscal year 1994 and the fiscal year 1995 money. And if we do that, what we will be doing is saving several hundred million dollars.

At this point, all we have is a promise to negotiate a reduction in the assessment rate some time in the future. We know the phrase "manana," sometime tomorrow.

My friend's amendment will say, if we have to appropriate or even think of appropriating over a billion dollars in this bill, let us get the reduction now and let us put it into law. That is what this bill is. This is the law of the United States, and we are the Nation's stewards as lawmakers.

Let us vote to keep this payment at the rate of 25 percent and save the American taxpayer some dollars.

Mr. MOLLOHAN. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Chairman, I would like to engage the chairman in a colloquy on the subject of the Auto Parts Advisory Committee under the Commerce Department's supervision.

Mr. Chairman, the ongoing United States-Japan Framework Talks have reached a critical stage, and yet APAC has not met at all this year. I would urge Secretary Brown in the strongest possible terms to expedite the reformation APAC by reappointing APAC members of good standing and to set the first meeting of APAC for the earliest possible date.

The U.S. auto parts manufacturing sector is a diverse, $100 billion industry, with 4,000 firms directly employing over 700,000 U.S. workers. The Auto Parts Advisory Committee is a valuable forum in which this industry may be heard.

Mr. MOLLOHAN. Mr. Chairman, will the gentleman yield?

Ms. KAPTUR. I yield to the gentleman from West Virginia.

Mr. MOLLOHAN. Mr. Chairman, I understand the concerns of the gentlewoman from Ohio. It is my understanding that the Fair Trade in Auto Parts, Act, which was recently extended for 5 years, reauthorized the Auto Parts Advisory Committee. I also understand that the Department of Commerce has solicited congressional input on the appropriate membership of the advisory committee, and that the Department is in the process of appointing new members of the committee.

I join my colleague from Ohio in urging the Commerce Department to set the first meeting of the Auto Parts Advisory Committee at the earliest possible date. I thank the gentlewoman for bringing this matter to the subcommittee's attention.

Mr. ROGERS. Mr. Chairman, I yield 4 minutes to the gentleman from Arizona [Mr. KOLBE], a very hard-working member of the subcommittee.

Mr. KOLBE. Mr. Chairman, I thank the gentleman for yielding time to me.

I rise in support of the fiscal year 1995 Commerce, Justice, State, and Judiciary bill.

Mr. Chairman, all this talk that we have heard here about the installation of the newest member of the appropriations cardinal, I expect to see a red hat floating over his desk over there. But I join with my colleagues in commending him for the outstanding job that he has done, for his leadership, for his genuine efforts to accommodate Members' concerns.

He has assumed the chairmanship of this subcommittee midway through the process, a difficult circumstance, and he has proven to be a quick study. He has mastered the details of the bill in short order. In the process, we have established some new priorities that I think this House can enthusiastically support. We have produced a responsible bill that recommends a total of $26 million in discretionary budget authority. This is $1.2 million below the administration's budget and is within the subcommittee's 602(b) allocation.

Certainly this bill is not perfect—a statement that could be made about most legislation we consider in this House. But, on balance, this is a good bill, one that responds to the widely expressed priorities of this body, particularly in the area of law enforcement, which I will focus my remarks on.

The bill makes a clear statement that we are serious about curbing illegal immigration. It does so by increasing fiscal year 1994 levels for INS by $301.2 million.

Funding of $54.5 million is provided for the hiring of 700 new Border Patrol agents and 110 support personnel. $117 million is provided for improvements in technology in automation, communication systems, and information to enhance border enforcement. The additional support personnel and the technology improvements will enable the agency to redirect 250 other support personnel to line functions.

Put all these numbers together and you have 950 additional agents on our southern borders to help make them safer and more secure. The 950 new agents, according to INS bottom-up reviews, will enable the INS to implement the highly successful "El Paso" model with high-intensity, line of sight, operations.

At my request, the subcommittee has also included report language expressing concern about shifting illegal immigration patterns resulting from the reprogramming of agents in the current fiscal year. That reprogramming assigned 300 new agents to the San Diego sector and 50 to El Paso, but none in between. The result was predictable. The gentleman from California, [Mr. HUNTER] alluded to this.

Since that time, dramatic increases in alien apprehensions have occurred each month in Arizona. This March, for example, alien apprehensions were 77 percent higher than in March 1993. I will be watching closely to see that the INS assigns the new Border Patrol agents and makes adjustments with previously assigned agents to close this glaring gap on the border.

But the INS and this bill reflects concerns that go beyond simply preventing illegal entry into the United States. The INS also has a vital role in the processing of legal entry into our country. With the passage of NAFTA, it is important to improve efficiency for the legal transport of goods and people between the two countries. Unfortunately, long and financially damaging delays in processing have become the norm at many ports of entry from Mexico.

The bill moves in the right direction by including funds to expedite processing for regular land border crossings. Still more needs to be done to reduce the routine delays in border crossing—delays that ironically encourage illegal crossing. I will continue to work with the subcommittee and INS to resolve these problems.

The bill also recognizes that costs associated with illegal immigration are a Federal responsibility. For the first time we have stepped up to the plate and included funds for the State Criminal Alien Assistance Program. This fund reimburses States for the cost of incarcerating illegal aliens. It's high time we acknowledged that every illegal alien in our communities is the fault of the Federal Government—not local government. And its time we contributed to these skyrocketing and budget-breaking costs that local communities and States endure on a regular basis.

A total of $804.3 million is provided in the bill for an expanded Byrne program. These monies will be allocated to States for discretionary use on any of three Federal programs: State criminal alien assistance, Byrne formula grants; and State criminal records updates.

The Byrne formula grants have been of critical importance in all States with highly organized drug trafficking networks, such as Arizona.

The multijurisdictional task forces formed with funds from these grants have provided invaluable assistance in the war on crime. Under the expanded Byrne program, each State will receive a substantial increase in funding.

Finally, this bill goes a long way to restore funds that were cut in last year's bill from key law enforcement agencies. The FBI is funded at a level $47.2 million above the administration's request and $120 million above the fiscal year 1994 level. The additional funds will halt the proposed FTE cuts and allow the agency to hire 160 new agents and 234 support personnel over the fiscal year 1994 level.

Similarly, the Drug Enforcement Agency [DEA] is $22 million above the administration's request and $21.8 million above fiscal year 1994 levels. This will permit the hiring of 132 new agents above last year's level. The Organized Crime Drug Enforcement Task Force is funded at $13.3 million above the request and $869,000 above fiscal year 1994.

We cannot fight the war on crime without resources. This bill puts us back on track in the battle to make our communities safer. It sends a message that this subcommittee is serious about combating crime. Supporting this bill will send the same message from the entire House.

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Mr. MOLLOHAN. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. LIPINSKI].

Mr. ROGERS. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. LIPINSKI].

The CHAIRMAN. The gentleman from Illinois [Mr. LIPINSKI] is recognized for 3 minutes.

Mr. LIPINSKI. Mr. Chairman, I rise to engage the chairman of the Commerce, Justice, State and Judiciary Subcommittee in a colloquy regarding this bill.

Mr. Chairman, I know I can speak for the bipartisan membership of the Committee on Merchant Marine and Fisheries in thanking the gentleman for the inclusion of funds for title XI in this bill. I understand how difficult it is to find funding this year. I assure the gentleman this provision will support the construction of many ships in U.S. shipyards and will create U.S. jobs.

I would also like to address the issue of an appropriation from last year, Mr. Speaker, that at the present time remains unobligated. In fiscal year 1994, the Maritime Administration requested the authority to spend $118 million for the acquisition of foreign-built ships to expand the size of the Ready Reserve Force. Marad has failed to spend that money for that purpose. I believe that the $118 million can now be put to better use by providing initial funding for maritime reform.

Mr. BATEMAN. Mr. Chairman, will the gentleman from Illinois yield?

Mr. LIPINSKI. I yield to the gentleman from Virginia.

Mr. BATEMAN. Mr. Chairman, I associate myself with the comments of the gentleman from Illinois, and I would like to briefly expand on those comments.

Last year, the Committee on Merchant Marine and Fisheries opposed further funding for the acquisition of foreign-built vessels. The gentleman's predecessor also opposed the purchase of these foreign-built vessels by Marad without notification to the Appropriations Committee. It is my understanding that these funds remain unobligated.

Last year, the House passed H.R. 2151, the Maritime Security and Competitiveness Act of 1993. This bill would preserve a merchant marine fleet and will set up a program to help U.S. shipyards to convert to commercial work.

This year in our funding bill, H.R. 4003, our committee has established a program to raise $1.7 billion over 10 years by increasing tonnage fees for all vessels entering the United States from foreign ports. This bill is scheduled to be reported out of the Committee on Ways and Means on July 15. However, to fully fund this program, we had hoped that the unobligated funds for the RRF would be available as start-up money for maritime reform.

With $118 million, we can build 15 new U.S.-built vessels. If the money remains in the RRF fund, it will be used to purchase five used foreign-built ships.

Mr. LIPINSKI. On behalf of myself and the gentleman from Virginia, is it the Member's intent to keep these funds available until H.R. 4003, the Maritime Administration and Promotional Reform Act of 1993, reaches the House floor later this session.

Mr. MOLLOHAN. Mr. Chairman, I would like to thank the gentleman from Illinois [Mr. LIPINSKI] and the gentleman from Virginia [Mr. BATEMAN] for bringing this important matter to our attention. I recognize the importance of the maritime reform legislation and its potential for creating American jobs. I also share the gentlemen's concerns about the purchase of foreign-made ships for the Ready Reserve Force.

I assure both of the gentlemen that I will continue to work with them as this bill, the Commerce-Justice appropriations bill, and the authorization bill, H.R. 4003, continues to move through the Congress.

Mr. ROGERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, like the chairman of the subcommittee, I will be glad to work with the gentleman to work through the process to try to relieve the problem.

Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. TAYLOR], a very hard-working member of our subcommittee.

Mr. TAYLOR of North Carolina. Mr. Chairman, I would like to join with my colleagues in thanking the chairman of the subcommittee for the fine job he has done. It has been a tough bill. He has been fair in leading it through the committee and I appreciate that fact.

Mr. Chairman, there are many good things in the bill, many things I can support. There is one item that I hope we will address a little later in the bill. That will be the rules promulgated by the EEOC last October. They would virtually prohibit any religious activity in the workplace. When I am talking about activity, I am talking about members discussing among themselves, crosses, Bibles, any artifacts in the place.

Mr. Chairman, I met yesterday with the NASCAR drivers who asked to come and talk about this bill. Let us put things in perspective. Most people out in my district know that the Government would mess up a one-car funeral, and yet we have asked them to produce rules in a sensitive area such as religion in the workplace, and try to tell us how to micromanage our lives in this particular area.

The NASCAR drivers are saying, "We race on Saturday. We have a minister that comes in. We are about to get in a 4 by 4 piece of metal, it is about 140 degrees inside, and go somewhere between 100 and 200 miles an hour around the track many, many times. We would like to have a chaplain or a minister give a bit of time there for a service."

NASCAR approves it, certainly the race drivers want it, and yet the Government would say with these regulations, "You cannot do that." Who are we to tell that person who is participating in that sport and the hundreds of thousands of fans that are watching that sport that the Government knows best, the Government knows what should be done. They are making this illegal for that transaction to take place, for that race car driver to have that comfort, and we spread it on.

Mr. Chairman, I have a marine who wrote to me and said, "Listen, if this passes, I am not sure that chaplains will be able to talk to the troops, because that is their work place. We are not sure we will be able to keep the Marine motto, because it is 'Always Faithful to God and Country' and the word 'God' would have to be removed."

We see as we unravel this ball of twine, we get in people's minds and in their business where the Government should not be. Mr. Chairman, I hope we will have a chance to correct that.

Mr. MOLLOHAN. Mr. Chairman, I yield 2 minutes to our distinguished colleague, the gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong support of H.R. 4603, the Commerce, Justice, State, Judiciary, and related agencies appropriations bill for fiscal year 1995. I would like to commend Chairman MOLLOHAN for bringing this legislation forward.

Mr. Chairman, because of its history of supporting the competitiveness of U.S. industry, the President has assigned the Technology Administration of the Department of Commerce as the lead agency for civilian industrial technology development. I believe this is a wise and appropriate choice.

As a component of the Technology Administration, the National Institute of Standards and Technology's [NIST] explicit mission has always been to work with industry to develop and apply technology, measurements, and standards to promote U.S. economic growth. More than any other Government agency, NIST has the outlook and expertise necessary to help make U.S. industry, including small business, world-class competitors. NIST's core research and development programs make possible American high technology products manufactured with world-class precision.

Increased funding for NIST's industrial technology services, including the advanced technology program, will provide the necessary support for innovative industrial research projects. This model cost-sharing Government program has already proven its potential. Also, expansion of the Manufacturing Extension Centers can help more small manufacturers become more competitive through access to advanced equipment and processes they could not afford on their own.

Although the proposed funding levels for the programs of the Technology Administration are below the administration's request and the Science Committee's authorization contained in H.R. 820, the National Competitiveness Act, I realize that fiscal restraints have made an especially strong impact on the appropriations process this year. While I am sure that the larger sum would have been invested wisely, I accept the Appropriation Committee's budget allocation of cuts from the President's budget. However, I would strongly oppose any attempt to make any further cuts in these vital technology programs.

Mr. Chairman, I believe an investment in the Department of Commerce's technology programs is an investment in long-term economic growth, market expansion, new products new businesses, and new jobs, and I urge my colleagues to support this bill.

Mr. ROGERS. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. PACKARD].

Mr. PACKARD. Mr. Chairman, I rise in support of the bill, and I offer my deep gratitude to the chairman and the ranking member for their very careful attention to California issues.

Mr. Chairman, in his first year as chairman of the subcommittee, Mr. MOLLOHAN, and ranking member HAL ROGERS have done an excellent job addressing several items in this bill that are especially important to the people of California and to my constituents. I know the subcommittee had a difficult job working under very tight budget constraints and conflicting priorities. For that reason, I appreciate their willingness to address these important matters.

First, I would like to thank Mr. MOLLOHAN and Mr. ROGERS for including language regarding the San Clemente checkpoint, which is in my district. INS has been studying and planning expansion of the checkpoint since the Carter administration. Meanwhile, the checkpoint is only operating part of a day, creating traffic congestion, and causing dangerous, high-speed chases with the border patrol 60 miles from the Mexican border.

I appreciate that the committee included language to force decisive action on the checkpoint. If the INS does not intend to immediately upgrade the checkpoint so that it operates 24 hours a day, then the checkpoint should be closed and its resources and agents moved to the California border.

The committee also included funding in this bill to put 950 more border patrol agents on the border. Between 2 to 3 million illegal aliens come into the United States every year. Over 2,000 illegal immigrants come across the 14-mile stretch between San Diego and Mexico every single day. Overwhelmed by these massive numbers, the border patrol simply does not have the resources and agents to enforce the border. I am very pleased that the committee recognized the urgency of this situation. Illegal immigration is a problem that affects everyone and it needs national attention.

I am also pleased that the committee included funds to reimburse the city of San Diego for the costs of treating sewage from Tijuana. San Diego spends $3 million a year treating raw sewage from Mexico. Despite an agreement between the United States and San Diego, the Federal Government has been reluctant to reimburse the city for these costs forcing San Diegans to pick up the tab. I am pleased that for the second year in a row, the committee has found funds to reimburse San Diego.

I appreciate the tremendous effort by the chairman and Mr. ROGERS on this bill, and I urge my colleagues to support it.

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Mr. ROGERS. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I want to also congratulate the chairman and ranking member, in tight budget times, particularly for their emphasis on the National Institute of Standards and Technology and recognizing how important they are in U.S. competitiveness.

Mr. Chairman, the committee, especially the chairman and the ranking member, should be applauded for their efforts and hard work in developing this bill. In our current budget climate, the appropriations subcommittees have had an extremely difficult job to do, and I believe they have done it with fairness and deliberation.

This appropriation includes funding for one of the outstanding technical agencies of the Federal Government which is located in my district—the National Institute of Standards and Technology. As you know, NIST is the only Federal laboratory explicitly charged with helping U.S. industry, and is one of our Government's most important instruments in support of U.S. international competitiveness.

I am grateful for the special consideration given to NIST by Mr. MOLLOHAN and Mr. ROGERS in the subcommittee, and I appreciate that they both hold it in the same high regard as I do.

This bill provides a total of $842 million for NIST for fiscal year 1995. While this amount is a reduction of $92 million from the budget request, it is an increase of $322 million above the amounts appropriated for fiscal year 1994. This seems to be a substantial funding increase in a tight budget year, but let us put this funding level in context.

At this level, NIST appropriations would be approximately 1 percent of the Federal research and development budget. This compares, in recent years, to 55 percent for the Department of Defense and over 8.5 percent for the Department of Energy. I believe these increases are a modest step in the much needed reallocation of the Federal R&D budget between civilian and defense technologies.

In addition, Mr. Chairman, I believe there is, perhaps, no other place in the Federal Government, than NIST, where for so little money you can accomplish so much to stimulate good, long-term economic growth.

NIST's missions and approach is to work with industry right from the start. Priorities are focused by industry, and industry shares in the cost and conduct of the work. In this way, the yield is direct investments and benefits for our Nation's businesses.

NIST's laboratories are a critical component in the U.S. game plan for succeeding in the critical industries of the 21st century. NIST technologies speed market acceptance of advanced technologies by giving buyers and sellers objective, technically sound methods to agree on product performance and characteristics. The NIST labs serve all sectors of U.S. industry through tightly focused research programs and services that address industry's needs for measurement and scientific technology. While I appreciate the committee's efforts to provide as much funding as possible for NIST's laboratories, I hope, as this bill moves to the Senate, that the budget for its core missions will not be overlooked. The bill provides $279 million for NIST's laboratory programs, a reduction of $37 million from the budget request.

The committee, unfortunately, was forced to cut the request for badly needed renovations and modernization of facilities for the NIST Gaithersburg, MD, and Boulder, CO, facilities. This funding is vital for NIST's future. In the 25 years since NIST's Gaithersburg laboratories were completed, scientific laboratory facilities have changed dramatically.

The deterioration of NIST facilities has already made it impossible for NIST to provide some United States manufacturers with services on a par with our Japanese and European competitors. The deterioration of these facilities is continuing at an alarming rate. We simply cannot afford to let NIST drift into second-rate status.

Mr. Chairman, I would like to extend my appreciation again to the chairman and the ranking member for their efforts in providing funding for NIST in this very difficult budget environment. While we all share in efforts to cut Federal spending and reduce the Federal deficit, I believe we need to nurture and build on NIST's nearly unique-in-Government expertise in working with civilian industrial firms to bolster our international competitiveness.

Mr. ROGERS. Mr. Chairman, I yield 1½ minutes to the gentleman from Iowa [Mr. LIGHTFOOT], a member of the committee.

Mr. LIGHTFOOT. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, despite my opposition to the rule, I do rise in support of the bill. If, as Mr. ROGERS said, take away peacekeeping and we have a fine bill.

But, I am concerned about the President's new peacekeeping policy. For example, the United Nations has increased its peacekeeping staff by 99 percent in the last 9 months. You can be sure the United Nations did not reduce staff in other parts of its operation to cover that increase. This administration now provides intelligence information to the United Nations on a regular basis, the only nation that provides such information acknowledged to come from its intelligence service. Most alarming of all, U.N. Ambassador Albright does not feel that U.S. personnel are at any special risk in peacekeeping operations.

Frankly, there are other serious questions about the President's new peacekeeping policy. Despite the President's allegedly tough new criteria, which are actually no different than the criteria announced at the President's speech before the United Nations last fall, the United States has not voted against a single peacekeeping mission.

Second, despite these new criteria, allegations have arisen that the United States vote swapped peacekeeping votes in the Security Council with the French last fall. Although we have requested the U.S.-U.N. cables which might clarify this situation, so far the administration, citing executive privilege, has refused to supply Congress with those cables.

Finally, it appears that Colin Powell's language to protect U.S. soldiers serving in the field in U.N. operations was removed at the request of Ambassador Albright after U.N. Secretary General Boutros Ghali objected. Again, attempts to clarify this situation have been stonewalled.

So again I commend the subcommittee for their hard work, but I hope the subcommittee will continue to closely monitor proposed peacekeeping missions.

Mr. MOLLOHAN. Mr. Chairman, I yield such time as he may consume to my distinguished friend and colleague, the gentleman from Alabama [Mr. CRAMER].

Mr. CRAMER. Mr. Chairman, I rise in strong support of H.R. 4603. On behalf of child abuse victims, I want to congratulate the chairman, the ranking member and the staffs for their fine inclusion of these issues in this bill.

Mr. Chairman, I rise in support of H.R. 4603, the Commerce, Justice, and State, the Judiciary, and related agencies appropriations bill for fiscal year 1995.

First, I would like to commend Chairman ALAN MOLLOHAN for his leadership in moving through the Appropriations Committee and bringing to the House floor this important bill that will provide the necessary capital to address the problems of child abuse, to fund needed anticrime initiatives, to assist small and emerging businesses, and to support efforts in developing and implementing strategies to enable U.S. industry to fully realize the commercial benefits of new technology.

Additionally, I would like to commend the staff for their professionalism and attention to details.

Mr. Chairman, the Appropriations Committee has been charged with an almost insurmountable task: funding significant programs on the one hand and acting in accordance with budgetary limitations requirements on the other hand. Chairman MOLLOHAN and the other members of the subcommittee have performed admirably.

I am very supportive of one particular section of this bill. The bill includes funding for the Children's Advocacy Center Program that was authorized in the 1992 amendments to the Victims of Child Abuse Act. The administration included the Children's Advocacy Center Program in its 1995 budget request.

Why is this program important? It is important for several reasons. Based on 1990 revised data, States received and referred for investigation approximately 1.7 million cases of child abuse out of an estimated report of 2.6 million children who are the alleged subjects of child abuse and neglect. In 1991, the number of cases referred for investigation rose to nearly 1.8 million reports. The number reported in 1991 represents an increase of approximately 2.4 percent from 1990 data.

In 1992, approximately 918,263 substantiated and indicated victims of child maltreatment cases were reported from 49 States. Of these, approximately 14 percent (129,982) were sexually abused. The Carnegie Corporation of New York reported, in its publication Starting Points, that one in three victims of physical abuse is a baby less than 1 year old and that in 1990, more 1-year-olds were maltreated than in any previous year for which data are available. Additionally, Starting Points reported "almost 90 percent of children who died of abuse and neglect in 1990 were under the age of 5; and 53 percent were less than 1 year old." Further, based upon its annual telephone survey of States, the National Committee for Prevention of Child Abuse reported that at least three children a day die from physical abuse inflicted by a parent or caretaker.

The Children's Advocacy Center Program addresses this problem. The mission of this program is to provide technical assistance, training and networking opportunities to help communities establish and maintain child abuse prevention, intervention, prosecution and investigation programs which provide quality services for helping victims of child abuse, particularly child sexual abuse. The purpose of Children's Advocacy Centers is to help abused children by providing a safe and comfortable environment designed to meet their needs for support and protection.

The cornerstone of this program is the use of multidisciplinary teams. A multidisciplinary team consists of representatives from law enforcement, child protective services, prosecution, victim advocates, medicine and mental health who meet on a regular basis to review cases and issue joint recommendations in the best interest of each child. The multidisciplinary team concept that is incorporated in the Children's Advocacy Program works to coordinate the activity of all involved public and private agencies to intervene in the lives of abused children in a meaningful way and to ensure that the judicial system does not revictimize them through repeated interviews and examinations.

Preventing the inadvertent revictimization of an abused child by the judicial and social service systems in their efforts to protect the child is a major goal of this program. As a consequence of a coordinated response, child victims are spared the pain and confusion of multiple interviews by prosecutors, protective service workers and social workers.

This program may not be a panacea for the increasing problem of child abuse. However, it is more than a first step toward addressing the problem. This program has served and will continue to serve as a model for communities that are working to focus attention and efforts on the best interests of the child and nonoffending family members.

Funding this program speaks volumes to the House of Representatives' commitment to support a necessary profamily and anticrime initiative. Without question, this program improves the lives of communities, children and nonoffending family members. Communities from Hawaii to Vermont and cities as diverse as Miami and Salt Lake City have established multidisciplinary teams and mobilized professionals to respond to child sexual abuse. In every instance, when the model outlined in the 1992 amendments to the Victims of Child Abuse Act has been incorporated into a community's unique program, that community has seen positive results.

Mr. Chairman, the Children's Advocacy Center Program is an effective response to child abuse. I commend Chairman MOLLOHAN for his leadership efforts. I urge my colleagues to support the bill.

Mr. MOLLOHAN. Mr. Chairman, I yield 1 minute to my distinguished colleague, the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Chairman, in my district in the neighborhoods of Macomb and Oakland Counties, Byrne program funds in this bill support multi-jurisdictional anticrime task forces to crack down on drug dealers, auto theft rings, juvenile gangs and other criminals who operate across municipal borders.

In April, the Attorney General, Janet Reno, met with local chiefs in my district. She heard firsthand why it is so important to continue full funding for these local anticrime task forces. A number of us battled together to restore full funding. With the help and leadership of the chairman of the subcommittee, this has now been accomplished. Today the House has a chance to make sure that all of our local police departments have the resources they need to put criminals behind bars. I urge all of my colleagues to join me in strong support for this hard-won Byrne grant funding.

Mr. ROGERS. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. MCKEON].

Mr. MCKEON. Mr. Chairman, I rise today in support of the Taylor-Wolf amendment.

The guidelines promulgated by the EEOC are irresponsible; they redefine harassment beyond the established legal standard and will place employers in the awkward position of having to disallow religious expression in order to avoid litigious suits by disgruntled employees.

Religious expression has adequate protection under the Constitution and through numerous Supreme Court cases which have sided with the individual's right to the free expression of religion. Individuals have been protected from discrimination long before such guidelines were proposed. Title VII of the 1964 Civil Rights Act has provided that protection without these overzealous guidelines for the last 30 years—the Constitution has provided protection for the last 205.

The EEOC's efforts to regulate religious expression, however well intended, must be stopped. The Taylor-Wolf amendment is an important move in the right direction. I urge my colleagues to support this amendment.

Mr. ROGERS. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. MANZULLO].

Mr. MANZULLO. Mr. Chairman, they are the gangs who fight over turf, and who fuel their drug supplies by killing each other and those whose property they steal so they can buy more drugs. They broke into Nancy Slaughter's Washington, DC apartment looking for money; they took cd's, clothing, $25 worth of food stamps and a child's piggy bank. Nancy pleaded with the gunmen to spare her children, Denise, 16, Nancy 10, and Dennis, Jr, 3: "if you believe in God, please don't shoot my children, shoot me instead." A gunman replied, "I don't believe in God" before he put a gun to the head of Denise Slaughter, age 16, and fired once, killing her. Imagine, a child murdered in front of her mother by a gunman looking for money for drugs.

And in Chicago, there is one murder every 10 hours, much of which is caused by the battle for control of lucrative drug territories.

Drugs are killing our children, both by kids using drugs and dying on them, or gangs shooting our kids to get more drugs.

The majority of violent crimes are caused by the influx of drugs into the country. We must stop the drugs. The Justice Department bill that we are debating today provides programs to stop these drugs, and the money for these programs was added back by both parties after the administration proposed to reduce or cut them:

First, I am especially pleased that the Edward Byrne Memorial Block Grant Program received $804.3 million—a 125 percent increase over last year. This program funds statewide antidrug abuse strategies that support Federal drug priorities, including multijurisdictional task forces such as the SLANT program in northern Illinois.

Second, another tremendous boost is increased funding to hire more Drug Enforcement Agency, FBI and Immigration and Naturalization agents. We can't even wage a skirmish against drugs without these agencies help in stopping illicit drugs from entering this country. I'm pleased that the Appropriations Committee rejected the Clinton administration's request and added money to hire 75 additional DEA agents; 160 new special FBI agents; and 700 INS border patrol agents.

Mr. Chairman, I plead with the Members of this body to pass the Justice bill. The memory of Denise Slaughter commands it. The children of America deserve it.

Mr. ROGERS. Mr. Chairman, before I yield the final 30 seconds, I would like to urge support of this bill with the exception of the peacekeeping provision which we will have a provision on later in our consideration of the bill.

Mr. Chairman, I yield our final 30 seconds to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I commend the chairman on the bill.

Mr. Chairman, I would also like to thank them for the additional Border Patrol with the Hunter-Moore-Cunningham amendment. Why? There are 16,000 illegal aliens just in California prisons. There are 84,000 aliens nationwide. That costs with the health care, the law enforcement, and education, $37 billion a year for the U.S. Government. Take that times five and we have got about $185 billion. We are looking at a way to pay for health care in this country. Take just half of it, $93 billion, if we used the lowest absolute figure we could. We could go a long way to pay for health care, education, and the other things.

Mr. MOLLOHAN. Mr. Chairman, I yield our final 1 minute to the gentleman from Michigan [Mr. STUPAK], a distinguished new Member of Congress.

Mr. STUPAK. Mr. Chairman, as a former Michigan State police trooper, I support funding in the bill for the Byrne grant program. These funds will provide for 22 specific prevention programs.

Mr. Chairman, 153 Members of the House signed a letter to the Committee on Appropriations asking that the Byrne grants be funded at no less than the 1994 level.

I appreciate the chairman and his committee approval of that request. I urge my colleagues to support the Byrne grant formula and our Nation's 881 multijurisdictional drug task forces and vote against any amendments which would reduce the Bryne grant formula level.

Mr. Chairman, in summation we have a Federal program that works. We give the Federal money to the States, then the States decide which of the Bryne grant programs to fund. The Federal Government is not putting unfunded Federal mandates, we are not imposing mandates on States. Rather we are giving the States a discretionary pool of funds so they can best decide how to fight crime at the State and local level.

Mrs. MORELLA. Mr. Chairman, I rise to congratulate members of the committee for their recommendation of $70 million for the Information Infrastructure Grant Program under the National Telecommunications and Information Administration [NTIA] for demonstration of telecommunications technology applications. A firm investment in the technologies of the future is essential in keeping the United States economically competitive in the world market.

Nowhere is the need for advanced technologies greater than in today's educational system. Most school systems are just beginning to develop and implement new comprehensive educational technology policies. As local and State policies are incorporating the use of technologies such as fiber optic transmission and video and audio CD-ROM disks, teacher training in the use of these technologies is more than ever a primary focus. Boards of education are providing incentives to teachers and administrators to be more creative in their use of educational technologies to prepare their school systems to meet the challenges of the 21st century.

I believe that the creative use of technology in the classroom by students, teachers, businesses and the community will bring limitless opportunities and benefits to our educational system. I commend the committee for including report language, which I requested, which urges NTIA to provide a grant, if warranted, to the Modern Educational Technology Center, Inc. [METEC] located in Rockville, MD to coordinate school-business-community partnerships for the development of new and innovative educational technologies and training methods. I believe that METEC is uniquely positioned to be a model for the rest of the Nation of parent-school-business partnerships that promote our educational goals and foster economic development.

Again, I reiterate my support for the Appropriations Committee's recommendation of $70 million for the National Information Infrastructure Grant Program. The additional dollars that the committee has wisely appropriated will enable more communities to have access to the necessary Federal resources so that everyone will have the opportunity to become travelers on the national information infrastructure highway. The dollars we invest today will enable the U.S. to better educate its citizens and remain economically strong.

Mrs. LOWEY. Mr. Chairman, I rise in support of this bill, but I do wish to draw the attention of my colleagues to one area where we can—and should—achieve some savings.

Over 11 years ago, the Appropriations Committee included the following in its report:

> The committee * * * continues to be concerned about possible duplication or competition with private sector efforts * * *. The committee directs ITA to continue to take steps to ensure that private sector efforts for expanding the export markets of U.S. industries are enhanced and that ITA does not duplicate or compete with the private sector in those areas where the private sector can and does offer quality opportunities to U.S. firms. The committee expects ITA to work closely with the private sector, particularly private sector event organizers, and other Government agencies including the Small Business Administration to eliminate duplication and competition with private sector firms in the solicitation of participants for overseas trade shows and in the provision of marketing and exhibit services at such shows.

Mr. Chairman, 11 years later, the Department of Commerce still refuses to allow the private sector to participate in the Paris Air Show through the certification program. A constituent of mine who has extensive experience in this field has, in fact, just recently been denied certification for the Paris Air Show. The result is not only a total lack of cooperation and coordination, but head-to-head competition that undermines the ability of both private firms and the Federal Government to effectively and efficiently serve the needs of U.S. aviation exporters.

Furthermore, I want my colleagues to know that the Commerce Department's aviation trade show activities have cost $645,349 in the past 4 years when there are private firms who are ready and willing to bear the financial risk involved in many aspects of these air shows. Not only does running the pavilion incur direct expenses, but the Commerce Department actually charges other Federal agencies such as NASA and NOAA for display space adding to the total cost of these shows.

Mr. Chairman, the private sector is quite capable of running the U.S. pavilion at the Paris Air Show, as it does at other air shows around the world. Private sector involvement will not mean a reduction in quality of the pavilion; private companies will still need the Department's certification to perform this task and should still work closely with relevant U.S. Government agencies. Allowing private companies to compete to run the U.S. pavilion would save Federal funds without harming efforts to help promote American exports. It is a step that is long overdue.

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to the rule. Yesterday, I testified to have a limitation amendment made in order prior to the preferential motion to rise.

My amendment to the Commerce, Justice, State appropriations bill would have allowed no funds to be made available to carry out the return to Mexico of any Mexican national who is a prisoner convicted of a felony in the United States without a final order of deportation.

Under a 1977 treaty between the United States and Mexico, Mexican nationals convicted of an felony in the United States may be returned to Mexico to complete their sentences if they request it. While this can alleviate some prison overcrowding, unfortunately most transfers are being done on a voluntary departure basis rather than on a formal order of deportation.

There are immigration consequences to this shortcut. Persons who voluntarily depart can keep illegally re-entering the United States without threat of serious penalties. Formal deportation, however, carries the threat of 15-year imprisonment for those who break the law and re-enter.

The re-entry penalty was enacted to be a strong deterrent to criminal aliens who have been deported from our country. There's no use in having a strong deterrent law on the books if we are going to circumvent it by allowing voluntary departure for criminal aliens who should be deported.

Since I cannot offer my amendment before the preferential motion to rise, I am supporting the attempt to defeat the preferential motion to rise by Representatives LIGHTFOOT and LIVINGSTON and urge other Members to do so as well.

If this motion is defeated then I intend to offer my limitation amendment to clarify what the Nation's priorities should be in the handling of these transfers of criminal aliens.

Mr. STUDDS. Mr. Chairman, I rise to commend the gentleman from West Virginia, the subcommittee chairman, for the fine job that he has done in developing this legislation which provides funding for a number of important ocean, coastal, fisheries, and maritime programs.

In support of a key element of the National Shipbuilding Initiative passed by Congress last year to help revitalize U.S. commercial shipbuilding, the bill provide $25 million for the Title XI Loan Guarantee Program.

I want to thank the chairman of the Defense Appropriations Subcommittee, for working with me to include these funds. Although the amount is less than the request, I look forward to working with Chairman MOLLOHAN to improve upon this figure as the appropriations process continues.

Currently. U.S. shipyards are completely dependent on military ship construction, a rapidly declining market. Absent a revitalization of commercial shipbuilding, U.S. yards face the possibility of permanent closure, endangering our defense industrial base and our ability to meet future defense needs.

The President and Transportation Secretary Pena have proposed a five-step plan to assist U.S. shipyards in their transition from defense production to commercial construction. A vital part of this plan is adequate funding for the title XI program which now has been expanded to allow U.S. shipbuilders to utilize these loan guarantees for the export market.

Regulations for the expanded program have recently been issued and generated intense interest. By the end of the month the Maritime Administration expects to have received loan guarantee applications for over 1.9 million dollars' worth of ship construction—ships that will be built in U.S. yards. This means jobs for American workers—good paying jobs—and increased revenues for State and local governments and the Federal Government.

Without additional appropriations for this program, MarAd will temporarily have to cease consideration of applications for loan guarantees for vessels to be built in the United States.

In addition to these important maritime provisions, the bill also provides vital funds for the National Oceanic and Atmospheric Administration [NOAA] to begin rebuilding our decimated fisheries and to manage our threatened coastal resources. The bill provides desperately needed increases to improve the scientific basis for fisheries management, to build sustainable fisheries, to rebuild a healthy fishing industry, and to enhance seafood production through aquaculture. In addition, it provides support for the development and implementation of endangered species recovery plans and for the implementation of recent amendments to the Marine Mammal Protection Act.

The bill provides increases for marine sanctuaries, estuarine research reserves, and costal zone management. As the population increases in our coastal regions, these investments will pay large dividends because they provide recreational opportunities, conserve increasingly threatened marine resources, and promote managed growth in the coastal zone.

This bill provides necessary funding for many national priorities and I urge its passage.

The CHAIRMAN. All time has expired.

The Clerk will read.

The Clerk read as follows:

H.R. 4603

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1995, and for other purposes, namely:

Mr. SKAGGS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to commend our subcommittee's new chairman for his outstanding work in producing a bill that addresses our Nation's law enforcement and economic development needs as well as numerous other responsibilities, under very tight budgetary constraints. I also want to recognize and thank Mr. ROGERS for his exemplary contribution as the subcommittee's ranking minority member. Chairman MOLLOHAN and Mr. ROGERS deserve the appreciation of this House, and this bill deserves its support.

It is a good bill. We had some difficult choices to make, but under our chairman's direction, we made those choices well. The bill contains a total increase in spending of $2.8 billion over fiscal year 1994—almost all of which is targeted to fund programs created under the crime bill which is now the subject of a conference committee. This increase notwithstanding, the bill is still $1.2 billion less than the administration requested and contains a number of specific spending cuts and streamlining measures.

One good example is our broadcasts to Cuba, whose budgets have become increasingly difficult to justify in these tight fiscal times. I am leased that the subcommittee took the bull by the horns—acting unanimously to end funding for TV Marti and significantly reduce expenditures for Radio Marti. This represents a roughly $19 million victory for the American taxpayer.

The subcommittee based its decision to pull the plug on TV Marti and rein in spending at Radio Marti on the results of an independent panel report. The panel—created last year as a compromise between supporters and opponents of the program—was instructed to determine whether or not TV Marti is technically sound, cost-effective, and is consistently being received by such a significant Cuban audience as to warrant its continuation. In its March 31 report, the panel confirmed what experts have been telling us all along: the necessary operational conditions do not exist to make TV Marti work because of jamming by the Castro government.

In refusing to continue funding TV Marti, the subcommittee also specifically rejected spending any more money to make broadcasting enhancements to fix the failed program. The panel report proposed attempting to switch TV Marti's signal from a VHF to UHF frequencies. But this costly proposition was promptly and widely criticized by numerous technical experts—including the National Association of Broadcasters and MSTV, a national association of commercial and public television stations—as destined to fail.

Another place the subcommittee pursued ways of making the Government smarter and more discriminate in where and how it spends money is in our operations abroad. The report accompanying the bill contains a provision I authored directing the State Department to prepare a pilot program for co-locating support services for U.S. missions overseas. Such a joint administrative operation already exists in Vienna, where one main center serves the various missions headquartered there, including the United States missions to the International Atomic Energy Agency and the Commission on Security and Cooperation in Europe. I expect the benefits of replicating the Vienna model on a regional level will be increased efficiency and reduced expense in future fiscal years.

Improving operations is also the key goal of critical investments the subcommittee was able to make in supporting a number of Commerce Department programs within the National Oceanic and Atmospheric Administration [NOAA], the National Institute of Standards and Technology [NIST], and the National Telecommunications and Information Administration [NTIA]. Many of these initiatives will help revitalize the American economy and improve the environment for generations to come. One such project is NOAA's Health of the Atmosphere initiative, which promises to provide scientific information invaluable to implementation of the 1990 Clean Air Act amendments.

I'm also pleased that we were able to restore funding for the Wind Profiler Demonstration Network—a network which NOAA has called an unqualified success. Given the crippling economic and human costs of unexpected severe weather phenomena, it strikes me as unwise to shut down a system that's providing vital and accurate forecasting information. Were this network to be dismantled, it could also jeopardize our ability to route aircraft more efficiently, improve the safety of NASA launches, and to maintain a competitive edge in profiler technology.

The subcommittee was also able to provide a significant funding increase for NIST's scientific and technical research program, which represents NIST's core research function. This, coupled with an increase in funding for the industrial technology services program, will allow NIST to fund more of the research necessary to improve American industries' global competitiveness.

Funding for NTIA is vital to support the administration's efforts to help develop an information superhighway. NTIA is the lead agency working to make the information superhighway a reality. The subcommittee's support for NTIA will also go a long way to making up for a decade of neglect of public telecommunication facilities.

The subcommittee also made critical investments in some basic programs that matter to every American every day. Answering the call for safer streets, we've even been able to increase funding for the Federal Bureau of Investigation, the Drug Enforcement Administration, and for organized crime drug enforcement task forces—this means more agents on neighborhood streets.

In particular, the subcommittee has significantly enhanced funding for the Edward Byrne Memorial Formula Grant Program. Byrne grants have proven a valuable resource for State law enforcement programs, such as drug and alcohol treatment and programs to divert youth away from criminal activities. Under an expanded Byrne Program, which Chairman Mollohan worked with the authorizers to create, funding for States will more than double. For any State that's a big deal. For instance, Colorado received roughly $5 million in Byrne grants in fiscal year 1994. Under the expanded Byrne Program, Colorado would receive over $11 million next year. That's a positive step in our fight against crime.

I'm also pleased that we were able to restore funding—$14.491 million—for the Regional Information Sharing System [RISS]. The information received by State law enforcement agencies from the various RISS databases is immensely useful in tracking criminal activities across State lines.

The bill also includes funding for the National Institute of Corrections [NIC], which is located in Longmont, CO. The NIC is the national center where State correction departments can turn to for information on how to make their operations more efficient and cost effective, and I'm glad we were able to provide the funding that they need to continue their excellent work.

I'd also like to say a little about funding for the Legal Services Corporation [LSC]. The $415 million we propose is far less than LSC's $500 million request—and far less than it needs. One of the basic principles of our system of justice is that every American is entitled to a fair hearing in a court of law, and we have an obligation to provide legal representation to those who can't afford it. The poor are entitled competent representation, and this is as important in civil cases as it is in criminal. The LSC is an essential part of the effort to provide this assistance. I support their efforts and hope that we will be able to provide more resources for this valuable program in the future.

Another issue that each year attracts a strong divergence of views is the rising bill for the U.S. share of membership in various international organizations, including the United Nations [U.N.] and its affiliates. Our contributions to U.N. operations—particularly U.N. peacekeeping activities—is an issue of considerable debate within the subcommittee and, for that matter, across the Nation. Beyond controversies over U.S. participation in and financing of U.N. activities, however, is the frightening fact that the demand for peacekeeping operations is growing rapidly. The subcommittee's report includes language I requested which takes note of the need to address this dilemma by addressing a root cause.

Noting that arms sales stimulate arms races, which in turn undermine international security and increase the danger of regional conflicts, the subcommittee's report urges the administration to complete its ongoing review of U.S. policy on conventional arms sales as soon as possible. Further, the report language encourages the administration to consider initiating negotiations among all major arms supplier governments to agree on a code of conduct based on mutual restraint.

In sum, Mr. Chairman, the bill we present today deals realistically with the fiscal constraints every appropriations subcommittee was faced with in a way that provides the resources we need to continue important law enforcement and economic development programs. I urge its adoption. And, once again, I thank the chairman for his excellent work.

□ 1810

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE I—DEPARTMENT OF JUSTICE AND RELATED AGENCIES

DEPARTMENT OF JUSTICE

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and the Missing Children's Assistance Act, as amended, including salaries and expenses in connection therewith, and with the Victims of Crime Act of 1984, as amended, $94,100,000, to remain available until expended, as authorized by section 1001 of title I of the Omnibus Crime Control and Safe Streets Act, as amended by Public Law 102-534 (106 Stat. 3524), of which $750,000 of the funds provided under the Missing Children's Program shall be made available as a grant to a national voluntary organization representing Alzheimer patients and families to plan, design, and operate the "Safe Return" Program.

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, for State and Local Narcotics Control and Justice Assistance Improvements, notwithstanding the provisions of section 511 of said Act, $68,500,000, to remain available until expended, as authorized by section 1001 of title I of said Act, as amended by Public Law 102-534 (106 Stat. 3524), of which: (a) $50,000,000 shall be available to carry out the provisions of chapter A of subpart 2 of part E of title I of said Act, for discretionary grants under the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs; (b) $12,000,000 shall be available to carry out the provisions of chapter B of subpart 2 of part E of title I of said Act, for Correctional Options Grants; (c) $6,000,000 shall be available for implementation of the Federal Bureau of Investigation's National Instant Background Check System; and (d) $500,000 shall be available to carry out the provisions of subtitle B of title I of the Anti Car Theft Act of 1992 (Public Law 102-519), notwithstanding the provisions of section 131(b)(2) of said Act, for grants to be used in combating motor vehicle theft: *Provided*, That of the funds made available in fiscal year 1995 under chapter A of subpart 2 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended: (a) $2,000,000 shall be available for the activities of the District of Columbia Metropolitan Area Drug Enforcement Task Force; and (b) not to exceed $500,000 shall be available to make grants or enter contracts to carry out the Denial of Federal Benefits program under the Controlled Substances Act, as amended by the Crime Control Act of 1990 (21 U.S.C. 862): *Provided further*, That funds made available in fiscal year 1995 under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, may be obligated for programs to assist States in the litigation processing of death penalty Federal habeas corpus petitions.

AMENDMENT OFFERED BY MR. MOLLOHAN

Mr. MOLLOHAN. Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. MOLLOHAN: On page 3, strike everything after line 16 down to and including the word "theft" on line 20, and insert the following: the anti Car Theft Act of 1992 (Public Law 102-519), for grants to be used in combating motor vehicle theft, of which $200,000 shall be available pursuant to subtitle B of title I of said Act, and of which $300,000 shall be available pursuant to section 306 of title III of said Act.

Mr. MOLLOHAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. MOLLOHAN. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Chairman, we have had a chance to look at the amendment. We find it in order and agree to it and have no objection.

Mr. MOLLOHAN. Mr. Chairman, I urge the adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia [Mr. MOLLOHAN].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

In addition, for grants, contracts, cooperative agreements, and other assistance, to be allocated and distributed in accordance with section 506(a) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (42 U.S.C. 3756), notwithstanding the provisions of section 511 of said Act, $804,280,000, to remain available until expended, to carry out the provisions of—

(1) subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, for grants to States under the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs,

(2) section 501 of the Immigration Reform and Control Act of 1986, as amended (8 U.S.C. 1365), to reimburse States for costs of incarcerating illegal aliens, and

(3) section 106(b) of the Brady Handgun Violence Prevention Act of 1993, Public Law 103-159 (107 Stat. 1536) to upgrade State criminal history records.

JUVENILE JUSTICE PROGRAMS

For grants, contracts, cooperative agreements, and other assistance authorized by the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and expenses in connection therewith to be transferred to and merged with the appropriations for Justice Assistance, $146,500,000, to remain available until expended, as authorized by section 299 of part I of title II and section 506 of title V of said Act, as amended by Public Law 102–586, of which: (a) $100,000,000 shall be available for expenses authorized by parts A, B, and C of title II of said Act; (b) $7,500,000 shall be available for expenses authorized by sections 281 and 282 of part D of title II of said Act for prevention and treatment programs relating to juvenile gangs; (c) $15,000,000 shall be available for expenses authorized by section 285 of part E of title II of said Act; (d) $4,000,000 shall be available for expenses authorized by part G of title II of said Act for juvenile mentoring programs; and (e) $20,000,000 shall be available for expenses authorized by title V of said Act for incentive grants for local delinquency prevention programs.

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by the Victims of Child Abuse Act of 1990, as amended, $11,250,000, to remain available until expended, as authorized by sections 214B, 218, and 224 of said Act, of which: (a) $500,000 shall be available for expenses authorized by section 213 of said Act for regional children's advocacy centers; (b) $2,000,000 shall be available for expenses authorized by section 214 of said Act for local children's advocacy centers; (c) $2,000,000 shall be available for technical assistance and training, as authorized by section 214A of said Act, of which $1,500,000 is for a grant to the American Prosecutor Research Institute's National Center for Prosecution of Child Abuse, and of which $500,000 is for a grant to the National Network of Child Advocacy Centers; (d) $1,000,000 shall be available for training and technical assistance, as authorized by section 217(b)(1) of said Act for a grant to the National Court Appointed Special Advocates program; (e) $5,000,000 shall be available for expenses authorized by section 217(b)(2) of said Act to initiate and expand local court appointed special advocate programs; and (f) $750,000, notwithstanding section 224(b) of said Act, shall be available to develop and distribute model technical assistance and training programs to improve the handling of child abuse and neglect cases, as authorized by section 223(a) of said Act, for a grant to the National Council of Juvenile and Family Court Judges.

COMMUNITY POLICING

For grants, contracts, cooperative agreements, and other assistance authorized in H.R. 3355, the Violent Crime Control and Law Enforcement Act of 1994, for the Cops on the Beat Program, including salaries and expenses in connection therewith to be transferred to and merged with the appropriations for Justice Assistance, $1,332,000,000, to remain available until expended.

PUBLIC SAFETY OFFICERS BENEFITS

For payments authorized by part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796), as amended, such sums as are necessary, to remain available until expended, as authorized by section 6093 of public Law 100–690 (102 Stat. 4339–4340), and, in addition, $2,072,000, to remain available until expended, for payments as authorized by section 1201(b) of said Act.

Mr. MOLLOHAN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose and the Speaker pro tempore (Mr. HASTINGS) having assumed the chair, Mr. BROWN of California, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4603) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes, had come to no resolution thereon.

MOTION TO INSTRUCT CONFEREES ON H.R. 3355, VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994

Mr. McCOLLUM. Mr. Speaker, I offer a privileged motion to instruct conferees on the bill (H.R. 3355) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

> Mr. McCOLLUM moves that the managers on the part of the House at the conference on the disagreeing votes of the two houses on the House amendment to the Senate amendment to the bill H.R. 3355 be instructed not to agree to any provision similar to subtitle I, relating to the Local Partnership Act, of to any provision similar to it, of title X of the House amendment.

The SPEAKER pro tempore. Under the rule, the gentleman from Florida [Mr. McCOLLUM] will be recognized for 30 minutes, and a Majority Member will be recognized for 30 minutes.

Mr. CONYERS. Mr. Speaker, I rise to indicate that I will represent the opposition to this motion to instruct conferees.

The CHAIRMAN. The gentleman from Michigan [Mr. CONYERS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

This motion to instruct conferees of the House on the crime bill that is going on is to not agree to the Local Partnership Act or to anything similar to it based on a need that I believe, and I think, many Members do not set priorities in spending in this crime legislation.

The chairman's mark I have seen is going to spend about $30 billion of money. A good portion of that money is going to social or prevention programs, some of which are very good and noble, some of which I agree with.

The problem is that only a fraction of what needs to be spent of the total amount of money there for dealing with prisons and dealing with the real law enforcement issues is put off in the mark as we now see it.

In the House version that passed out to go to conference, over $10 billion was set aside for so-called prevention programs. Again, some of that is fine. If we had all the money in the world to spend, we would certainly do a lot of these programs. But I think every Member of this body understands that that is not the case.

When the conferees come down to it, they are going to have to make some very tough decisions. I am a conferee, a number of Members on both sides of the aisle are conferees to a conference that has not yet met. It seems to me we need to understand that and set those priorities at least to give some guidance to setting those priorities to our Members of the conference now.

This motion to instruct is an effort to do that. The $2 billion Local Partnership Act is a grant program for the cities and local communities that does purportedly a number of things. The money might be for education to prevent crime, for substance abuse treatment to prevent crime, for coordination of crime prevention programs funded under this title with other existing Federal program to meet the overall needs of communities that benefit from funds received under this section, of job programs to prevent crime, a pretty broad possibility here.

The bottom line of it is that it just does not make sense to go forward with a $2 billion program that is basically a jobs program, which is what I see this is being, when we have so many higher priorities, when we have such a high rate of crime and violent crime in this country and a better place to send the money.

There was a very interesting editorial in the June 13 issue of the Wall Street Journal written by Stephen Moore, and I will just quote a little bit from that particular op-ed piece Mr. Moore published.

He said:

> Don't look now, but after 18 months in office, Bill Clinton is finally going to get his long-awaited fiscal stimulus bill through Congress. This year the White House and big-city mayors have used an ingenious marketing strategy. They call it a crime bill. In fact, it is a well-kept secret on Capitol Hill that this year's crime bill is the largest urban cash program to come through Congress since Richard Nixon invented revenue sharing.

□ 1820

Mr. Moore goes on in part of his oped piece to point out the $2 billion program that I would wish us to instruct conferees to delete. He says:

> Some $2 billion would be allocated to the Local Partnership Act of LPA which is revenue sharing. The flow of Federal funds to State programs resurrected under another name. In truth it is worse than revenue sharing, because part of the formula for distributing the cash is based on local tax burdens.

> The more oppressive the local tax regime the more money the city get from Uncle Sam. This rewards cities for high taxation. For the cities this is a big gift. For the urban lobby, the LPA promises to become Uncle Sam's gift that never stops giving.

And that is exactly what I see that is wrong with this.

The Local Partnership Act with its focus on a community's affluence, unemployment level and rate of taxation should be considered as part of an economic stimulus package, not part of a crime bill. The limited resources of the violent crime reduction trust fund, which will be set up in this crime bill whenever a conference report is issued must not be used for this program. It just does not make sense. The Local Partnership Act contains a quota provision for disadvantaged business enterprises. Not less than 10 percent obligated by the local government must go to small business concerns controlled by socially and economically disadvantaged individuals and women, and historically black colleges and universities and other colleges and universities with a student body that is 20 percent Hispanic Americans or native Americans. Instead of setting quotas in social spending programs, the crime conferees should be concerned with the figures that really matter in the fight against violent crime. According to the FBI Uniform Crime Reports, in 1991, 22,540 people were murdered, 11,175 of those victims were black. In 1992, 21,505 people were murdered, 10,660 of these victims were black. Blacks account for 12.4 percent of the population but were 49.6 percent of the murder victims in 1991 and 1992. These are alarming statistics. Given these facts and the limited resources to fight violent crime in this country, would not those who are apt to be victims of crime want to have the limited resources spent to put these violent criminals behind bars instead of spending it on a new social program which we are talking about in this particular case?

As the gentleman, Mr. Moore, said in his column, especially that is so since the structure of this program is designed strictly for urban areas and skewed to those with the highest tax rates. It just does not make sense. Of all the prevention programs in this particular legislation, this 50-page one in the House version that we sent over to conference, is the one that clearly had the most problems. If we want to take some of the money out of the prevention area, and I certainly think we should, we cannot begin to fund it all, we should instruct the conferees that this is where we want them to look, this is where we want them to take it out and not somewhere else. Again, that is the purpose of this.

The overall chairman's mark that we have seen and again, we do not know what is going to come out of this conference. It was supposed to meet today, I do not know when it is going to meet. Every passing day is a problem for us. It is one violent crime every 22 seconds, one murder every 22 minutes, one forcible rape every 5 minutes, one aggravated assault every 28 seconds. And yet we cannot seem to get together as conferees and have a conference. It has been postponed a number of times.

But when we do get together on this, the chairman's mark indicates that even if we took this $2 billion out there would be nearly $6 billion left in prevention monies in the bill in addition to monies for prisons and so forth. We simply cannot afford to go this route. Beside this is a bad, bad particular program that this motion to instruct would strike or proposes to strike.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker and Members, we are here today on yet another motion to instruct conferees by my friend [Mr. MCCOLLUM], a member of the Committee on the Judiciary, who only yesterday offered yet another motion to instruct the House conferees.

Yesterday he insisted that the House revote the provision that we spend $13.5 billion for a particular part of the crime bill. today he comes forward again with yet another motion to instruct conferees, which is setting a new precedent for the use of this parliamentary tool in the House.

Now he says that $2 billion is an excessive amount in the bill and that it is his intention that in the name of fiscal responsibility that we strike these $2 billion. Why?

Well, because it is part of the prevention package in the crime bill which is one of the reasons that I supported the crime bill, because we have a balanced crime bill for the first time which deals not only with punishing criminals but creating additional police officers that would be federally funded. For the first time it is looking at the way that we might head off those who might be moving into criminal activities.

So I am here to urge that this motion be rejected because the Local Partnership Act reaffirms our confidence in local government. We are saying that local governments at the city level and at the county level know at least as much about preventing crime as Washington does. So this provision passed by the House, supported by the Committee on the Judiciary would give our most needy urban and rural governments flexible Federal funds so that they could decide after a public hearing how they best prevent crime.

Those who attack the Local Partnership Act at this stage of the game are really attacking their own local governments, they are really saying, we don't think you know how to prevent crime. We don't think the mayors and the police chiefs and the county law officers understand what this particular problem is. That is precisely why in a very specific prevention package we have the Local Partnership Act. We have determined by formula the way that this money should be going and it employs local self-help by giving more funds to local governments that have imposed high taxes upon themselves. I understand that is under criticism now by my friend. Who else would we want to reward more than those communities who have put a maximum tax upon themselves already. And that is now factored into the formula to determine how this money should be spread. It is a good idea. It is a very important concept.

I would urge that we very quickly, as quickly as possible, vote to keep this program in the crime package and not to give the conferees any further instructions.

As one of the conferees, I have been instructed to death on this bill. We had hearings, we had debate on the floor, we are now being confronted with a series of revisitations to the crime bill, one motion at a time. We have had a couple already. I do not know how many more are coming on.

I too urge that we get the conference under way. I would like at this point to bring to my colleagues' attention a letter received from attorney General Janet Reno, and I would like to quote one paragraph.

> The Local Partnership Act is one of the important prevention programs included in the House Crime Bill that make the bill a balanced and common sense approach to fighting crime. The program provides resources to local governments, which are most familiar with local needs, to take necessary steps to fight crime. It is supported by local officials from across the country.
>
> It is important for Congress to include prevention programs like the Local Partnership Act in the Crime Bill.
>
> Sincerely,
>
> JANET RENO.

The text of the complete letter is as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, June 23, 1994.

Hon. JOHN CONYERS,
Chairman, House Government Operations Committee, House of Representatives, Washington, DC.

DEAR CHAIRMAN CONYERS: I am writing to you and Chairman Brooks because I understand that a motion may be offered today which would seek to instruct the House of Representatives' conferees on the Crime Bill to reject the Local Partnership Act—which was included in the Crime Bill that passed the House in April. I urge the House to reject the Motion to Instruct.

The Administration supports passage of the Local Partnership Act as part of a comprehensive Crime Bill which should also include, among other key provisions, a funding mechanism to ensure that the bill's promises will be achieved; assistance to state and local communities to help them put an additional 100,000 police officers on our nation's streets; a ban on assault weapons; assistance to states to build necessary correctional facilities to ensure that violent offenders are incarcerated; tough and certain punishment for repeat and violent offenders, including the President's "three strikes" proposal and the death penalty for the most heinous offenses; and innovative crime prevention programs that give our young people something to say yes to.

The Local Partnership Act is one of the important prevention programs included in the House Crime Bill that make the bill a balanced and commonsense approach to fighting crime. The program provides resources to local governments, which are most familiar with local needs, to take necessary steps to fight crime. It is supported by local officials from across the country.

It is important for Congress to include prevention programs like the Local Partnership Act in the Crime Bill. I again urge defeat of the Motion to Instruct and prompt passage of the Crime Bill.

Sincerely,

JANET RENO.

□ 1830

Mr. BRYANT. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Texas.

Mr. BRYANT. Mr. Speaker, I appreciate the gentleman from Michigan [Mr. CONYERS] for yielding. I think he is aware of some concerns that have been expressed from my office to his with regard to the formula used in the Local Partnership Act, and I simply wanted to ask if, if I am correct in that regard, that he is familiar with those concerns, if there is any possibility that we might see a modification of this conference.

Specifically what I am asking about is the way the formula works. The city of Detroit gets about $29 million, and my city of exactly the same size gets about $2.3 million. There are a lot of complicated reasons in the formula for that, but the bottom line is it is very difficult for me to defend that kind of a formula when I go back home, and I think perhaps the gentleman or the other authors of the provisions——

Mr. CONYERS. Reclaiming my time, Mr. Speaker, I say to my colleague that I do not want to go city by city through the House of Representatives this evening, but could we not engage in how the formula is constructed, if we could meet, and how it might be modified, if it can be modified?

Mr. BRYANT. Certainly.

Mr. CONYERS. Mr. Speaker, I reserve the balance of my time.

Mr. MCCOLLUM. Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico [Mr. SCHIFF] a member of the Committee on the Judiciary.

Mr. SCHIFF. Mr. Speaker, I thank the gentleman from Florida [Mr. MCCOLLUM] for yielding this time to me.

Mr. Speaker, I join in the motion to instruct conferees to remove the Local Partnership Act from the crime bill because the Local Partnership Act, whether one chooses to support it or not support it, is not and has never been a crime prevention program. The Local Partnership Act, as included in the House passed version of the crime bill, was originally drafted as H.R. 581 by the distinguished chairman of the Committee on Government Operations, the gentleman from Michigan [Mr. CONYERS]. However that bill, as introduced on January 26, 1993, states 19 findings at the beginning of the bill as to why the Congress should pass the Local Partnership Act. Not one of the 19 findings mentions crime or crime prevention. The 19 findings deal solely with economic stimulation and the disparities of income, income readjustment.

Just to give an example:

Finding No. 2 in the original Local Partnership Act states effective local governments in the services they provide contribute to national economic growth. National economic growth, of course, is a laudable goal for the Congress of the United States, but not in a crime bill.

To give another example:

Finding No. 2 states the disparities and per capita income between cities and their suburbs accelerated in the 1980's, and it goes on in finding No. 12 to state there is a growing discrepancy in the ability of the Nation's local governments to provide these public services for their residents. Hence this weighted formula on how to distribute the Federal funds.

The point is that this bill was drafted for the purpose of economic stimulation and for the purpose of readjusting income to cities. Both of these are worthwhile topics. Both of these ideas deserve their forum, but not in a crime bill, in a crime prevention section, or any other section. To simply change one part of the bill and to say the programs going to be funded are for the purpose of preventing crime does not change the basic idea that the whole purpose of this bill is just to spend money as fast as possible. In fact, finding No. 4 states local governments would spend quickly and productively any additional Federal funds they receive under this act. In other words the whole idea is just to spend money just to jump money into the economy.

Mr. Speaker, a true crime prevention program would not be this broad, would not be this shotgun. It would take the time to analyze in much more specificity what kinds of programs are we taking about, how would they actually prevent crime. This is a substitution of an economic stimulus package that has not passed the House under the name, under the guise and pretense of crime prevention.

Mr. MCCOLLUM. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. CANADY].

Mr. CANADY. Mr. Speaker, I thank the gentleman from Florida [Mr. MCCOLLUM] for yielding this time to me.

Mr. Speaker, I rise today to speak in support of the motion to instruct conferees. The portion of the House crime bill to which this motion is addressed represents a classic example of how to throw money at a problem. The so-called Local Partnership Act does indeed throw money in the general direction of the crime problem, but unfortunately it gives the taxpayers no assurance that the money spent will produce the desired results.

The provisions of the legislation in fact add up to an elaborate revenue sharing program, Mr. Speaker, which may in the absolute discretion of local governments be used to fund a jobs program of some description. Although the funds may be used for other broadly defined purposes related to crime prevention, any recipient government may spend every single penny of the grant funds on a "job program to prevent crime." What kind of jobs programs will that be? How will such jobs programs operate? Who will receive the jobs? There are no answers to those questions in the language of the legislation. The bill simply says "a job program to prevent crime;" that is it.

Mr. Speaker, past experience shows that such an undefined jobs program will, in at least some places, in fact become a patronage program for political cronies. Now a patronage program for political cronies may be what some people want out of this bill, but it is not what the American people want, and it is certainly not something that will do anything to solve the urgent problem of crime in America.

The Members of this House need to pay close attention to this issue. I would suggest that the Members look at the CONGRESSIONAL RECORD of Monday, April 25, on page H2662, and they will see 13 lines there which describe the way these funds, the $2 billion, will be used. There are 13 lines to describe how we will use $2 billion.

That is ridiculous. This is a program that is out of control. The Members of the House need to focus on this. The legislative language in question here is a perfect formula for abuse and a waste of taxpayers' dollars. We need to put money into programs that have a proven record of success, not throw away money into political patronage programs.

Mr. Speaker, the House should adopt the motion to instruct and send a clear message to the conferees that we do not want to waste the public's money on this ill-conceived program.

Mr. CONYERS. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan [Mr. BONIOR], the distinguished majority whip.

Mr. BONIOR. Mr. Speaker, let us be clear what our colleagues will be voting for if they vote for this motion in this amendment. They will be voting to cut funds that will go to local DARE programs that have kept kids off the street and away from drugs. They will be voting to end Boys and Girls Clubs that give children in high-crime and high-risk areas an alternative to a life of crime. If our colleagues vote for this motion, they will be voting to take resources out of the hands of local crime control officials in their own district, both Republicans and Democrats who have asked for help in attacking crime at the root by preventing it before it happens. Our colleagues would be voting to take resources from local communities who would use these funds to bring metal detectors into schools to make them safer so kids can learn, to keep schools open later to give children an alternative to the streets and to counsel children to keep them away from drugs and violence.

By voting for this motion today, you will be sending a clear message that Washington knows better than local communities how to fight crime, that Washington bureaucracy knows what works better than local crime officials and that there is nothing Washington can do to help needy rural and urban communities to fight crime. By voting for this motion you will be voting against local police officers, sheriffs, citizens, all of whom support the balanced prevention package that we passed in the crime bill and all of whom want us to vote against this motion.

Mr. Speaker, let us be clear what this amendment is all about. This amendment is nothing but another delaying tactic by those who do not want a crime bill. They just want crime as a political issue.

□ 1840

Now, it is easy for all of us to say we want to help police officers and have our pictures taken with the policemen on the beat. But this motion offers us one simple challenge. What are we going to do to help those police officers fight crime before it happens?

This motion is one more effort to posture on crime. They could not kill the crime bill through the front door, so now they are trying to steal it away through the back door.

Mr. Speaker, the last time I checked, the American people wanted us to do more to prevent crime, not less. They want us to do more to keep kids off the streets, not less.

The crime bill we passed recently is a tough, smart package, that contains an effective balance between punishment and prevention. It focuses on punishment, including billions for the construction of new prisons. It focuses on policing, including resources to put between 50,000 and 100,000 policemen on the beat. And it focuses on prevention, by giving local communities the assistance they need to attack crime before it happens.

It is a smart, effective, balanced bill that passed overwhelmingly, with bipartisan support. And if you vote for this motion, you break that bond of those 3 trinity points in this bill, that are so important to get this bill through.

Now, if that has not convinced you, you ought to recognize that the money in your State for your local officials to make the local decisions to deal with crime is substantial.

To the gentlemen from Florida who have spoken this evening, they will lose $90 million, for every city, going to every major city and local community in Florida that needs to fight crime, Miami, Tampa, Clearwater, you name it. Gone, if this passes.

So I ask my colleagues this evening, as late as it may be, to help us get a good crime package by rejecting this amendment. I do not know for the life of me why anybody on this side of the aisle would vote for it. I do not know why you would want to go back to your district and say, "I cut out crime for the DARE Program, I cut out the crime package to help kids with drug abuse program, and I am proud of it. Because I think Washington knows better than my local communities."

Mr. Speaker, I urge my colleagues to vote no on the McCollum amendment, and let us get on with the business of our country.

Mr. McCOLLUM. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, what the whip just said on the other side of the aisle, I take some issue with. I respect him a great deal. But for one thing, he misrepresents what this motion does. This motion eliminates one program only, the Local Partnership Act. It has nothing to do with the DARE Program or the Byrne grants or the Community Policing Program. It leaves completely intact all the money for the new police we are going to have, and the prosecutors, and rural drug training. In fact, it leaves alone the Model Intensive Acts, the Ounce of Prevention School Programs, the violence against women money, the Yes grants, the prison treatment programs, the gang prevention, even midnight basketball and midnight sports, community youth activity money, youth gang prevention services. Boys and Girls Clubs moneys are not touched by this, police partnership moneys are not, safe low-income housing moneys are not touched, nor are the Olympic Youth Program and youth violence prevention.

All of these are separate titles in the bill. We do not touch at all the moneys for them. All we want to get out and all I am trying to get our of here tonight is a $2 billion boondoggle in here. A lot of this, local governments would love to have us give anything we give out. They do not know what is in here. But you say give them grant money, they are going to take it.

Mr. Speaker, I yield 4 minutes to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Speaker, I rise in support of this motion to instruct conferees.

The American people have demanded real action by this body on crime, and they should not be given big spending social programs as an alternative.

The LPA provides $2 billion of scarce crime fighting resources as a "no questions asked" grant to cities.

Mr. Speaker, the American people rightly recognize that the criminals who prey on the innocent in our society must be held accountable for their actions, not rewarded.

Unfortunately, the crime bill does not reflect this priority.

Nearly $2 billion of badly needed crime fighting funds are instead dedicated to the Local Partnership Act. Instead of taking the needed steps to stop violent crime in its tracks, the omnibus crime bill reestablishes revenue sharing.

Mr. Speaker, the $2 billion wasted on the LPA could be used to build 80 new State prisons or to place nearly 40,000 new police officers in our cities streets. Either of these two approaches would have a real impact on crime.

Let me remind this body of the nature of the problem in this country. Every year in this country, nearly 5 million Americans are victims of violent crime. A murder is committed every 21 minutes, a rape, every 5 minutes. Someone's car is stolen every 19 seconds.

The American people expect us to take serious actions to solve this problem. This revenue sharing proposal is not even a close solution. The criminals who prey on the innocent should expect one clear message from this body.

Their violent behavior will not be tolerated.

If they continue to commit these heinous acts they should expect to get caught.

When they get sentenced, they will serve real time.

And if they are repeat offenders they will be sentenced for life.

Handing out cash to fund various State crime prevention programs will not lock up recidivists. Insuring that failed root causes solutions continue won't put more police on the beat.

The LPA is a step in the wrong direction. It is a step in favor of big spending social programs, but it's not even a little step in real crime prevention.

To my colleagues on this side of the aisle, be aware—the American people are watching. They are looking to see who is working to make their streets safer and who is not. We will not be able to get away with saying we tried. We will not be able to say we meant well. We know what works—we know what can make a difference. And we also know what doesn't. If we do not use the opportunity to hold criminals accountable I can assure that the American people will hold us accountable. The American people do not want or need smoke and mirrors, and I say let us not be a party to ineffective pretensions.

I urge my colleagues to support this motion to instruct.

Mr. CONYERS. Mr. Speaker, I yield 4 minutes to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Speaker, I do not doubt the sincerity of Members of this side of the aisle, my side of the aisle, who want to eliminate the Local Partnership Act, but I have to tell you I am somewhat surprised with the logic. I am surprised with the logic because for years I have been part of a party that says allow local governments to decide how to deal with crime.

I want the city of Bridgeport in my community in my district to decide how to deal with crime. I want them to have the opportunity to spend their money as they see fit.

Why would we on our side of the aisle decide it is all right to have Federal mandates? Federal mandates are all right, when it is our kind of mandate, but when it is someone else's kind of mandate, we do not want it.

Why on our side of the aisle do we oppose allowing local communities to decide how to spend money when they want to deal with crime?

I do not understand it. What I do understand about this formula is it is targeted. Now, maybe we did not care as much about Los Angeles or New York City in past years because we did not represent them. But we have Republicans who have to run these cities, who need this kind of money to deal with crime.

I think prisons are important, and I vote to spend money for prisons. But I also think it is important to allow local communities to decide how they want to spend money to fight crime.

Bridgeport, CT needs the resources to deal with it. And what I particularly find important about this amendment is, they have tried to focus the money where it is needed, where crime exists.

In the past we have provided local revenue sharing money, and we have given to communities in my district that do not need it, like the Greenwiches of this world, like the Fairfields. They are in my district and I would love my communities to have more money, but they do not need it like Bridgeport needs it.

This formula focuses on urban areas that need the money to fight crime. For the life of me, I hope Republicans and Democrats can agree that once in a while it is nice not to have a large bureaucracy that is going to take some of the money, that this money can become quickly focused to communities so they can spend the monies on programs that meet their needs to fight crime.

I hear about local jobs. As far as I am concerned, the best antidote to fighting crime is a job. The best antidote in my city of Bridgeport this summer to fight crime is to help young people have a job. That will make a world of difference.

I have a lot of substance abuse in my district. I would like it to go to my local communities so they can use it to fight the crime of drugs.

□ 1850

I would like it to be done without a lot of administrative costs. It seems to me that this is a program that Republicans have been fighting for 4 years. Let local communities decide how to spend money to fight crime.

Mr. McCOLLUM. Mr. Speaker, I yield 7 minutes to the gentleman from Georgia [Mr. GINGRICH], our distinguished Republican whip.

Mr. GINGRICH. Mr. Speaker, I was going to ask for less time, but the gentleman from Connecticut [Mr. SHAYS] asked many good questions on top of the gentleman from Michigan [Mr. CONYERS] and the gentleman from Michigan [Mr. BONIOR] fine statements that I wanted to take a couple minutes to talk about where we are at.

Let me say, first of all, it is not a problem to mandate, if we pay for it. The Federal Government, when it is paying for something, has every right to say, since we are raising the money from the taxpayers, we have a legitimate right to say what we think ought to be done with the taxpayers' money. I do not blame local officials for calling our offices and saying, please, send me money that I do not have to raise taxes on. Please give me a gift so I can spend it locally. But we have no obligation, with a several hundred billion dollar deficit, to create a brand new port barrel patronage program.

First of all, I would just say that we do not have an obligation to go back to a program which failed, a program in which the Federal Government shipped checks to various cities.

Let me say, I am a little surprised at my good friend from Connecticut, who is usually at the cutting edge of these kind of changes, because if we go and talk to many of the best mayors of the country on both sides of the aisle, if we talk to Mayor Norquist of Milwaukee, who is a Democrat, he will tell us the problem is not money. The problem in the big cities is unionized bureaucracies, work rules that are crazy, regulations that are nuts, red tape that is destructive, waste and inefficiencies and a political system that is not responsive to small business and that kills jobs.

If we look at Guiliani, the Republican mayor of New York, he just cut spending for the first time in two decades. New York City will spend less money under Guiliani, and he worked out a bipartisan deal with the Democrats.

If we talk to King up in Rochester, NY, the county executive, he is cutting spending by applying quality to having better government. If we talk to Ed Rendell in Philadelphia, he is reforming the system by taking on the employee unions.

If we go out and talk to Dick Riordan and say to him, how did you get the expressway built after the earthquake, years ahead of schedule, he will tell us bluntly, he broke the law. And he counted on no L.A. jury indicting and convicting him, because he was getting them to work on time despite the fact that it was illegal under local law to do what he did, because he applied common sense. And he hired a contractor, and he worked him 7 days a week because it matters.

I would say to my good friend from Connecticut, this not a mandate. This is a question of whether the taxpayers of America, with the $200 billion deficit, should send $2 billion to local governments measured by how much they have already raised taxes to hire a larger bureaucracy to have a bigger political machine.

If Members look at number D on page 133, a job program to prevent crime. I know what that is going to translate into. In Washington, DC, a sick city, a city whose government is a travesty, a city which wastes money and ruins the lives of people, it is going to mean more political jobs for more city councilmen to get reelected.

So when Members come to me and say, do you want to fight crime, I will give, as we voted to yesterday, $13 billion to build prisons to lock up violent criminals, to save the women and children of this country from the kind of predatory behavior we have on our streets. That I am willing to go to my citizens and raise money for. But if they say to me, in the name of fighting crime, will I send a $2 billion check to cities, many of which are rife with corruption, many of which have destructive bureaucracies, to let the local politicians build a bigger machine with more patronage, my answer is "no".

For this amount of money, we can build 80 prisons to house 40,000 people. I think that is a legitimate use of Federal money. I am prepared to lock up the people who beat their wives. I am prepared to lock up the people who kill others. I am prepared to lock up the drug dealer. I am prepared to pass Federal money for the local purpose of helping every local government in this country. But I am not prepared to give a blank check to the local political machines who hire more politicians. And I do not think we have an obligation to take our taxpayers' money and to take the money of our children by deficit to send it to those local machines.

Mr. CONYERS. Mr. Speaker, I yield myself 1 minute.

I am astounded to find out how much corruption exists in the cities of the gentleman who has just spoken in the well. The League of Cities is comprised of mayors of small- and middle-sized cities whose records of trying to bring back a productive economy, a revitalized economy, to create jobs, to bring law and order, those are the kinds of mayors in cities that have voted in their conference to support this provision. And the National Conference of Mayors, Democratic, Republican, and nonpartisan mayors, have all agreed that this modest program would be something that they could use in a very important and constructive way.

I do not think it is appropriate for us to categorize with one paint brush the corruption that exists in our local cities.

Mr. McCOLLUM. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, I just want to say to my good friend from Michigan, when he looks at New York Times coverage of corruption in New York City, when he looks at Washington Post coverage of corruption here, he can see some of my references.

I want to make one other point. I expect every mayor in America, if asked the question, would you like the Federal Government to send you a check you can spend, to say, with enormous, warm enthusiasm, "Yes, send me the money."

I do not expect them to somehow say, "Oh, please, don't burden me with these dollars."

So I appreciate that they all want it. I am just not sure that has any reference to public policy. It has the normal reference to any politician eager to get resources from somebody else.

Mr. CONYERS. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, it should be clear to us that we cannot have it both ways. We are providing 100,000 policemen that are federally funded. I did not hear anybody, when we voted for that provision, saying that we did not want to furnish more policemen at the local level because there were Federal funds involved. We did it because it was the right thing to do.

If Members do not like the prevention package, they will not like the Local Partnership Act. But sending the money into the local communities for police is no less logical than sending in prevention programs to be determined by our local leaders.

Mr. BONIOR. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Michigan.

Mr. BONIOR. Mr. Speaker, I am a little confused by the remarks of my colleague from Georgia with respect to corruption in our big cities. After he just gave an impassioned speech on the floor, in the well of the House, talking about the mayor of New York, what a great job he did, talking about the mayor of Philadelphia, talking about the mayor of Los Angeles, which way is it? Are they corrupt, or are our big cities corrupt, or are they not corrupt?

He gets up in the well, my friend from Georgia, and argues with all his might and passion for a couple of billion dollars for Russia. And when it comes to taking care of crime in our cities right here at home, drug abuse, school programs, and as the gentleman from Connecticut correctly points out, giving people a job, that is not good enough.

I urge all of my colleagues, before they vote on this, particularly on this side of the aisle, to look at what they will be denying our own local officials in our own communities, in our own cities with respect to giving them the ability to fight crime independently.

Mr. McCOLLUM. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, I did not mean to confuse the distinguished gentleman from Michigan. My position is very simple. The best mayors in America are working to reform their cities. They are working to shrink the size of their bureaucracies. They are trying to change their regulations and apply common sense.

Many of them will tell Members, and I quoted Mayor Norquist, who said, quite publicly, Democrat from Wisconsin, mayor of Milwaukee, "The money is not the problem."

My point is that money given by us where we raise it from our taxpayers should be for a purpose that our voters understand we have responsibility for and that I think that if we have to choose between paying for a directed purpose such as building prisons, which, as I said, this $2 billion would build 80 prisons for 40,000 criminals, I can defend that.

□ 1900

What I cannot defend is sending a blank check to local politicians across the country for them to decide how to spend it, Mr. Speaker. I think that is a fairly clear distinction.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Speaker, I came to the floor because I think it is important for me to deal with one of the comments made by the gentleman from Georgia [Mr. GINGRICH] as it relates to the city of Los Angeles and Mayor Reardon. Our city is in deep trouble and falling apart. We almost had a police revolt. The mayor came to that city promising that he was going to expand the police department, that he was going to do something about crime, that he was going to put more police officers on the street. Believe me, he has worked at it. He cannot get it done because we do not have the dollars to do it.

Mr. Speaker, if we want officers on the street and in the schools, we need some support. This local partnership program will help us to fight crime. Please do not try to describe what the mayor is doing in Los Angeles if the gentleman does not know.

Let me tell the Members, as someone who comes from that city, the mayor of that city, Mayor Reardon, needs help. He needs to be able to support his officers, expand the police force, and fight crime.

For all of the Members who have talked about wanting to fight crime, being against what is going on in the cities, they need to support this. Members will not be able to explain to their constituents why they did not support spending some of their money to do what the American people want them to do, and that is fight crime.

We need the money in Los Angeles. I would ask the Members not to instruct the conference committee to delete the local partnership program from the crime bill. It would be a big mistake.

Mr. McCOLLUM. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I respect the gentlewoman from California [Ms. WATERS] very much. However, she does misspeak with regard to what this motion does.

First of all, Mr. Speaker, it is very clear, this motion to instruct does not affect the money for police that is in this bill, or in any conference report at all. There is $3.45 billion for community policing in the House bill. My motion to instruct conferees has nothing to do with that. There is $300 million for the police corps. My motion has nothing to do with that. There is $1.15 billion for Federal law enforcement. My motion to instruct has nothing to do with that.

Mr. Speaker, there is $33 million for rural law enforcement, and my motion to instruct has nothing to do with that. There is another $100 million for community prosecutors, so there is roughly $5.25 billion for community policing and police force in this bill which this does not have anything whatsoever to do with.

In fact, what we are dealing with here is a special entitlement program overlaid on a lot of other things that are in the bill, and some of these things maybe we should not have in the bill, either. As the gentleman from Georgia [Mr. GINGRICH] pointed out a moment ago, it is an entitlement program that we are dealing with here, a new one, a new grant program to the cities. We are in the process of supposedly doing an economic stimulus package with this, and maybe that is something we should do, but not as a part of the crime bill, not in addition to the monies that are already there for all these other things that I read off earlier.

Ms. WATERS. Mr. Speaker, will the gentleman yield?

Mr. McCOLLUM. I am glad to yield to the gentlewoman from California.

Ms. WATERS. Mr. Speaker, let me ask the gentleman, does he support the DARE Program?

Mr. McCOLLUM. Mr. Speaker, I do support the DARE Program.

Ms. WATERS. Mr. Speaker, how does the gentleman think he gets a DARE Program unless he has the resources to do it? We can put the money in the budget for the police force, but unless they have money and resources they cannot.

Mr. McCOLLUM. Reclaiming my time, Mr. Speaker, the DARE Program is not affected by my motion to instruct. The DARE Program comes under the Byrne grant and other programs in this bill not under this particular $2 billion.

Ms. WATERS. Mr. Speaker, that is absolutely not correct.

Mr. McCOLLUM. Mr. Speaker, the bottom line of this is, what we do is very narrow. We take out a $2 billion new revenue sharing program that is based on the cities and communities that have the highest tax rates that are in this country today, to go to that particular group by some formula that is really skewed. It is a crazy program, I think. We are not doing the job of what fighting crime is all about.

Mr. Speaker, our side of the aisle for the most part wants to do what is right. We are not interested in hurting the gentlewomen's city any more than we are anyone else. We want to help. However, to add an entitlement program of $2 billion is not the answer. DARE Programs are fine, more police on the streets are fine, more money for prisons is fine. We happen to be interested in helping the Boy Scouts, too, but this is a program for $2 billion more in entitlements to the cities that goes basically for a jobs program. That is what it is, pure and simple, and it should not be a part of the crime bill.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I would indicate that on this side of the aisle I think we have many Members who want to participate in the debate, but the fact of the matter is we are prepared to close the debate now and go to a vote at the earliest practicable moment.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I rise in opposition to the motion to instruct.

Mr. CONYERS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Florida [Mrs. THURMAN].

Mrs. THURMAN. Mr. Speaker, I rise in opposition to the motion to instruct offered by the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Speaker, A, I would like to inquire how much time each side has remaining, and, B, I would ask if I do not have the right to close. I have no other speakers but myself.

The SPEAKER pro tempore (Mr. HASTINGS). The gentleman from Florida [Mr. McCOLLUM] has 3 minutes remaining, and the gentleman from Michigan [Mr. CONYERS] has 9½ minutes remaining.

The gentleman from Florida [Mr. McCOLLUM] has the right to close debate.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Speaker, actually I think the distinguished gentleman wanted to yield to the gentleman from New York [Mr. FLAKE].

Mr. Speaker, I rise in support of the position of the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. FLAKE].

Mr. FLAKE. Mr. Speaker, I have sat in my office and watched this debate with great interest. As a person who is not just a Congressperson but a person who pastors a church in an urban community, it always appalls me that our arguments are reduced to trying to separate programs based on what we consider to be preventive and programs that we consider to be necessary, as it relates to trying to solve the problem of crime.

Mr. Speaker, I stand before the Members as a person who started an organization out of my church with the cooperation of two people, me and a secretary. Today I have 790 employees. We have demonstrated that in a community where resources are made available, we can actually create the kind of opportunities that remove people from the necessity of having to become a part of the increasing prison population.

Mr. Speaker, I hope the day will surely come when we understand the goods and services available in many of the communities in this land are not available in these urban communities. I would hope the day would come when we realize that if we make an investment early on in the lives of these young people, we will prevent the necessity for building jails.

Imagine what we are saying tonight. Approximately $100,000 to build a unit, $30,000 or $40,000 to keep a prisoner, and here we are arguing about a small portion of the resources in this bill. If we took those monies and invested them in young people, we would soon discover that we would not have to create the jobs program on the other side of this ledger.

Mr. Speaker, I keep hearing the arguments, "This $2.5 would be creation of a jobs program." What is more job creative than building jails, creating job opportunities for people, for persons from communities who do not live there to go and be guarded by persons who live in communities outside of urban America? What is more job creative than creating opportunities for vendor contracts, for laundry, for meat, for bread, and for other food.

Mr. Speaker, this argument is messed up. I would hope we would all stand opposed to this amendment.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida [Mrs. THURMAN].

Mrs. THURMAN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I just need to respond to the gentleman from Georgia [Mr. GINGRICH]. When I came to the Congress, let me tell the Members what my background was: Seven years on a city council with 2 years of serving as a Mayor, and then 10 years in the State Senate.

□ 1910

I have to tell Members that time that I served kept me closer to the people than I am in this body, because I served there every day, I was at home every day, and at that very same time, I taught school, 10, 12 hours of public hearings that we would bash out things in our community that were good for our community, that we needed to hear from our community.

These 13 lines about this particular issue, I say to the gentleman from Florida [Mr. CANADY], the reason there is only 13 lines is because of the fact that we want our local communities to make these decisions through public hearings. They know what is best for their communities and what is going to fight that crime and what kind of programs they need to do.

Mr. Speaker, I just ask for those Members who have never served in local government, please do not bash your local government because they really do a very fine job.

Mr. CONYERS. Mr. Speaker, I yield back the balance of my time.

Mr. McCOLLUM. Mr. Speaker, I yield myself whatever time I may consume in closing.

To close, I would just like to say a couple of words. I would like to bring us back to the focus of what this motion to instruct is so everybody understands it. It is a motion to instruct crime bill conferees that we would like to strike out the $2 billion Local Partnership Act and like them to do that when they meet with the Senate in a few days to work out the deal on the crime bill.

Mr. Speaker, we are talking now about $2 billion that is in addition to a lot of other things that are in this bill. I have heard a lot of debate tonight about how we need to have things besides prisons and besides some of the money for the police and so on. But a lot of confusion exists out here as to what all is involved. The fact of the matter is that even if we were to not have this $2 billion program, there would be at least $5 billion or $6 billion in programs for grants to local communities to do all kinds of things involving the youth.

Mr. Speaker, I do not happen to agree with all of those programs that we put into the legislation to begin with, but we would. Actually in the House version which is all we are instructing on, when we take the $2 billion out, we have still got $7 billion left. The $5 or $6 billion is what the Senate talks about.

Mr. Speaker, let me quote just a couple of thoughts on this. There would still remain in this bill besides the community policing monies and all the money for the police a Model Intensive Prevention Program, $1.5 billion; an Ounce of Prevention Council Program for $1.275 billion; a Youth Employment Program of about half a billion; Violence Against Women for about $700 million; safe schools, about $300 million; youth violence prevention grants of $200 million; $81 million for other youth prevention programs; Midnight Sports of $50 million; community youth academics, $50 million; police applicant recruitment, $30 million; Police Partnerships with Children, $10 million; Safety in Low-Income Housing, $10 million; $7 million for older Americans; Drug Treatment in Prisons, $450 million; $1.4 billion in drug courts and treatment; and $600 million in alternatives to incarceration that are not touched.

Mr. Speaker, I do not happen to agree with all those, but even after we take this $2 billion new entitlement out that some of those folks on the other side want tonight and have argued so much for, all of that is left in here. The bottom line is we cannot afford to do all this with $200 billion plus in deficits every year. We need to start somewhere in setting priorities. That is what we are about here to do.

Mr. Speaker, simply put, what this motion to instruct conferees does is simply delete $2 billion in a new entitlement program that is not needed. We need to spend the money instead on the prisons and on the law enforcement, on the other things in here. We do not need to do it on this. We do not need to have a new economic stimulus program for jobs in a crime bill of $2 billion in nature.

Mr. Speaker, I urge my colleagues to vote for the McCollum motion to instruct conferees.

Mrs. KENNELLY. Mr. Speaker, I rise in strong opposition to this motion to instruct conferees on the crime bill.

The Local Partnership Act, will provide direct formula grant funding to local governments for education and substance abuse programs to prevent crime. We can stand in this Chamber and talk about how to prevent crime on our streets, but it is the local governments that know best how to prevent crime in their own communities.

Congress is committed to enacting a balanced anticrime bill, which contains three essential ingredients, resources for police, punishment, and prevention. Striking the Local Partnership Act from this legislation will severely diminish the resources available for prevention programs. I urge my colleagues to defeat the motion to instruct the conferees to strike the Local Partnership Act from the Crime bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HASTINGS). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Florida [Mr. MCCOLLUM].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. MCCOLLUM. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 143, noes 247, not voting 44, as follows:

[Roll No. 274]

AYES—143

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Bonilla
Bunning
Burton
Callahan
Calvert
Camp
Canady
Castle
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
Deal
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fowler
Gallo
Gekas
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grams
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Huffington
Hunter
Hutchinson
Inglis
Inhofe
Istook
Johnson (GA)
Johnson, Sam
Kasich
Kim
King
Kingston
Knollenberg
Kolbe
Kyl
Lazio
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Moorhead
Myers
Nussle
Oxley
Packard
Paxon
Petri
Porter
Portman
Pryce (OH)
Quillen
Ravenel
Regula
Roberts
Rogers
Rohrabacher
Roth
Roukema
Royce
Santorum
Saxton
Schiff
Sensenbrenner
Shaw
Shuster
Skeen
Smith (MI)
Smith (TX)
Solomon
Spence
Stearns
Stump
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (FL)
Zimmer

NOES—247

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bevill
Bilbray
Bishop
Blackwell
Blute
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Buyer
Byrne
Cantwell
Cardin
Carr
Chapman
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (TN)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Grandy
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoke
Holden
Horn
Houghton
Hoyer
Hutto
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Johnston
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Klug
Kopetski
Kreidler
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman
Levin
Lewis (GA)
Lipinski
Long
Lowey
Mann
Manton
Margolies-
Mezvinsky
Markey
Matsui
Mazzoli
McCloskey
McDermott
McHale
McInnis
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moran
Morella
Neal (MA)
Neal (NC)
Obey
Olver
Ortiz
Orton
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pombo
Pomeroy
Poshard
Price (NC)
Rahall
Ramstad
Rangel
Reed
Reynolds
Richardson
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schaefer
Schenk
Schroeder
Scott
Serrano
Sharp
Shays
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Smith (NJ)
Smith (OR)
Snowe
Spratt
Stark
Stenholm
Stokes
Strickland
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Visclosky
Waters
Watt
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Young (AK)

NOT VOTING—44

Applegate
Bentley
Berman
Clay
Collins (MI)
Engel
Fish
Ford (MI)
Frank (MA)
Franks (CT)
Gallegly
Harman
Hayes
Hughes
Hyde
Kanjorski
LaFalce
Lloyd
Machtley
Maloney
Martinez
McCurdy
Murphy
Murtha
Nadler
Oberstar
Owens
Penny
Quinn
Ridge
Schumer
Slattery
Studds
Sundquist
Torricelli
Towns
Vento
Volkmer
Washington
Wheat
Whitten
Wilson
Yates
Zeliff

□ 1933

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ELDERS: THE MOST EXPLOSIVE MINE IN THE FIELD

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous material.)

Mr. DORNAN. Mr. Speaker, a few days ago in USA Today Richard Benedetto wrote an article that was titled by his paper "Doubts Dog President's Every Move, Every Poll." In the body of the article, which I will submit for the RECORD, Mr. Benedetto says:

> Clinton has little wiggle room as he maneuvers the political mine field toward reelection. Among the dangers Clinton faces over the next two-years:
>
> The fate of his health care reform legislation; the results of the 1994 elections——

Holy Haley Barbour, I will read that one again:

> the results of the 1994 elections; the long-term performance of the economy; the outcome of the sexual harassment lawsuit filed by Paula Jones, a former Arkansas State worker; hearings on his Whitewater land dealings; his ability to get a handle on foreign affairs.

Here is what he does not need as he negotiates his political minefield, Mr. Speaker. Here is today's paper, and here are dispatches from the culture war front: "Elders Taunts the Religious Right: Joycelyn Elders, Surgeon General, warming to a favorite target, yesterday rips religious conservatives."

The bottom of the front page, "Classifying homosexual couples as families was not what Virginia Governor Allen had in mind during his family values campaign."

Here is something we are going to discuss as soon as the 1-minutes are over: "NEA's Jane Alexander defends bloody performance on AIDS."

The next page, "Elders Lashes Out at the Religious Right."

Mr. Speaker, it is amazing that the President went to Georgetown, to a Jesuit university. I went to Loyola University, also a Jesuit school. Through his policies he is taking on the entire Catholic Church and every Protestant and Orthodox person in this country who focuses on religion and goes to church once a week. What the heck is going on here?

Mr. Speaker, I include for the RECORD the Wall Street Journal article and the article in USA Today written by Richard Benedetto:

[From the Wall Street Journal]

CATHOLIC VOTERS MAY BE PROBLEM FOR CLINTON TEAM

(By Gerald F. Seib)

When it comes to gauging the power of the Pope, the most famous commentary was offered 60 years ago by one Joseph Stalin. When somebody suggested that he encourage Roman Catholicism in the Soviet Union to please the Pope, Uncle Joe replied scornfully: "The Pope! How many divisions has he got?"

Mocking though it was, that very question is again relevant for the Clinton administration. For right now, the White House is locked in a quiet but emotional battle with the Vatican over something that normally produces only deep yawns and glazed-over eyes: a United Nations report.

By itself, this relatively obscure debate doesn't spell serious political trouble for the Clinton team. But the struggle is important, because it suggests that some deeper significant troubles with Catholic voters may be developing for the Clinton administration.

The immediate dispute is over the draft of a U.N. plan for international population control, which is to be approved at a conference in Cairo, Egypt, later this year. Pope John Paul II is deeply unhappy with the draft, which he thinks both encourages abortion and devalues the traditional family. More than that, the pontiff is clearly annoyed at the U.S. for supporting the plan as it takes shape, a point he made directly to President Clinton this month in Rome and in a series of other ways.

This argument alone isn't likely to set the political views of most American Catholics. After all, they don't move in lockstep with their church leadership on political issues.

No, the problem for Mr. Clinton is more subtle. After Mr. Clinton went some distance toward recovering the Catholic vote for Democrats in 1992, the struggle with the Vatican is just the latest addition to a series of issues—abortion, school choice, the very makeup of the administration—that threaten to undermine his bonds with Catholics.

In sheer political terms, this matters because the Catholic vote matters. Catholics—many of them urban, ethnic, working-class voters—traditionally fit most comfortably into the Democratic Party. Through the 1950s and 1960s, Democrats won the Catholic vote in one presidential election after another, sometimes overwhelmingly. That turned around with George McGovern's candidacy in 1972, which turned off many working-class Catholics. By 1984, Republican Ronald Reagan won more than six in 10 Catholic voters.

But in 1992, Bill Clinton began pulling back Reagan Democrats, and he recaptured the Catholic vote. That helped him win the crucial states such as Pennsylvania and New York.

Since then, though, the road has been bumpier. Prominent Catholics groused that the administration found a top job for a member of every big Democratic constituency except urban, ethnic, Northeastern Catholics. Meanwhile, there was a place for Surgeon General Jocelyn Elders, who has managed to insult Catholics of every stripe with thoughtless criticisms of the Vatican.

There is also the abortion issue, of course, where there is an inescapable rift between the administration's pro-choice policies and Catholic teachings. There also are tensions over school choice, and problems growing out of the president's personal life.

The administration knows it has a problem. Undersecretary of State Timothy Wirth, who is steering American policy toward the U.N. population conference, is holding a series of private meetings with all American cardinals to find common ground, administration aides say. Last month, Raymond Flynn, the ambassador to the Vatican, sent a letter to church leaders and prominent Catholic laymen, stressing Mr. Clinton's desire for good relations. While Mr. Clinton and the Vatican "do not always agree," he has "always been respectful of the church's position, both publicly and privately," Mr. Flynn wrote.

Certainly there is common ground between President Clinton and Catholics. The president, after all, was educated in a Catholic grade school and attended a Jesuit college, Georgetown University, and therefore knows Catholic sensibilities. And significantly, while sticking to Democratic pro-choice positions, he argues that his goal is to make abortion as rare as possible.

Mr. Clinton has good reason to tend to the Catholic front, for there is a growing political threat on the horizon if he doesn't. As the Religious Right rises in political power, some Republicans are trying to build bridges between its foot soldiers and American Catholics.

And there is one Republican who appears uniquely qualified to do the job. He is William Bennett, the former Education secretary and potential 1996 presidential candidate. He is both a practicing Catholic and a hit with the Religious Right because of his unflinching family values rhetoric. "I've been arguing that Catholics, when they look at the world of politics today and see the Clinton administration and the Christian Coalition, they'd better be clear which side they're on," Mr. Bennett says. "And it's the Christian Coalition side."

[From USA Today, June 9, 1994]

DOUBTS DOG PRESIDENT'S EVERY MOVE, EVERY POLL

(By Richard Bendetto)

Jobs are up, inflation's low. And, despite foreign fumbles, the USA is at peace.

By every traditional measure, President Clinton should be riding high in the polls, yet recent surveys find growing disquiet with his presidency.

A USA Today/CNN/Gallup Poll this week finds the electorate less interested in his accomplishments and more concerned about who Clinton might be.

Those doubts have helped keep Clinton's approval ratings low at a time he needs to be building beyond the 43% who elected him in 1992.

The degree to which Clinton is able to ease questions about his character will count as much as legislative achievements as he moves closer to 1996. And it could mean the difference between victory and defeat.

"Bill Clinton seems to have given people cause for specific cynicism," says Rutgers University political scientist Ross Baker: "And no president, given the sort of dispirit abroad in the country, will do well. Bill Clinton just does worse. He has to get his act together" for 1996.

Poll analysis finds many have reservations about his moral leadership, and genuine splits over whether he shares their values and is honest and trustworthy enough for the job.

More specifically:

35%, likely fueled by the continuing charges about financial dealings and extramarital affairs, say Clinton has tended to lower the stature of the presidency.

A third of the nation "strongly disapproves" of Clinton's presidency.

Only one in 10 say they'd "definitely" vote for him in 1996; 32% definitely won't.

Support is deep as well. One out of four say they like Clinton, but those numbers have not grown over the 16 months of his presidency.

About one in five make up a narrow band of undecided, swing voters who most likely will mean the difference between re-election in 1996 or a ticket back to Little Rock.

Duke University presidential scholar James David Barber says Clinton has a communications problem, that he needs to find more ways to talk directly to the American people and seriously explain to them in simple terms what he is trying to achieve, and how much he is accomplishing.

"People see a lot of him but they don't necessarily hear a lot of him," Barbar says. "He needs to do weekly, 15-minute talks like Franklin Roosevelt's fireside chats."

Barber says Clinton may not be getting credit for achievements because they're being obscured by so many "troubles" in the country that continue to keep people uneasy: rising crime, rampant poverty, economic displacement, declining education and continued dissatisfaction with government itself.

Clinton has little wiggle room as he maneuvers the political minefield toward reelection. Among the dangers Clinton faces over the next two plus years:

The fate of his health-care reform legislation.

The results of the 1994 elections.

The long-term performance of the economy.

The outcome of a sexual harassment lawsuit filed by Paula Jones a former Arkansas state worker.

Hearings on his Whitewater land dealings.

His ability to get a handle on foreign affairs.

"If this was 1996, and it was November, I'd say I was going to vote for him again. But with two years to go, it'll depend on what happens between now and 1996," says Gary Smith, 45, a Bristol, Ind., postal worker, a Republican who voted for Clinton in 1992.

Clinton political adviser Paul Begala insists Clinton has no character problem, just nasty politicial opponents who keep throwing mud and keep trying to fan the flames of discontent.

"Republicans and the radical right have made a conscious effort to undermine this president in a coordinated strategy," he says.

Everett Ladd of the Roper Center for Public Opinion Research attributes the galvanizing of Clinton detractors to two tenets: They are opposed to big government and have serious reservations about his character.

"It's a confluence of the personal and the political," he says.

White House communications director Mark Gearan generally agrees Clinton has a lot of work ahead but discounts the character issue.

"People will be looking at whether we have maintained faith with our commitment to create jobs, keep the economy going, provide health care and reduce crime," he says.

Indeed, those who support Clinton tend to be measuring him primarily on job performance. They like his willingness to tackle health care, his efforts to shake up the status quo, his hard work, his knowledge of the issues.

"I'm a registered Republican, but I voted for Clinton because I thought the country needed something different," says Smith.

But Clinton detractors appear to be judging him on a far more personal level. They say he's indecisive, a weak leader, unable to get a grip on foreign policy, a poor example of moral authority, a person who tells people what they want to hear.

"People are kind of iffy about him because they're not sure they can trust him," says Rosio Sanchez, 20, a San Diego college student.

A CRISIS WITHOUT A CRISIS

By most standards, President Clinton is not facing a major crisis.

But he can't seem to muster more than 43% of re-election support, the same percentage he got in the 1992 election. And 40% of the electorate appears to be solidly opposed to him.

And when people are asked to rate him on a 10-point scale of whether they like or dislike him, numbers suggest he's in deep trouble:

25% say they like him very much; 19% say they don't like him very much.

It's almost as if he's in a crisis without a crisis.

Indeed, Clinton's like-dislike numbers fall into a range similar to those measured for other presidents facing some of the toughest times in their tenures.

He's slightly lower than Lyndon Johnson in August 1967, when antiwar protests were building, body counts were mounting in Vietnam and the country was splitting. Seven months later Johnson decided not to seek re-election.

He's slightly higher than Richard Nixon in August 1973, when Senate Watergate hearings were causing people to pause from their vacations to watch. A year later, Nixon resigned.

He's a little better than Jimmy Carter in August 1980, when U.S. hostages were being held in Iran and a rescue attempt had failed. Three months later, Carter lost his re-election effort to Ronald Reagan.

And he's about where Ronald Reagan was in June 1982, when the nation, gripped by a recession, was in a sour mood. The economy eventually recovered and Reagan went on to win a second term.

VACATING SPECIAL ORDER FOR TODAY

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that the 5-minute special order granted for today to the gentleman from California [Mr. DORNAN] be vacated.

The SPEAKER pro tempore (Mr. TANNER). Is there objection to the request of the gentleman from Tennessee?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, and under a previous order of the House the following Members are recognized for 5 minutes each.

RUSSIA JOINS PARTNERSHIP FOR PEACE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. GEPHARDT] is recognized for 5 minutes.

Mr. GEPHARDT. Mr. Speaker, yesterday, the Western alliance realized an extraordinary achievement of international peace and partnership. Russia, our bitter adversary for more than 40 years of cold war struggle, joined the Partnership For Peace, and pledged to work with us to secure our common goals throughout the world.

Just 5 years ago, the thought that one day we would welcome Russia into the family of NATO would have been unthinkable. The thought that Russia would come to embrace democracy and freedom, and that it would come to pursue so many of our fundamental goals throughout the world, was unimaginable.

In taking this historic step, Russia and the United States are working together to heal the wounds that have divided Europe since the end of the Second World War. We are working together to bring to Eastern Europe the security and the stability that NATO has given Western Europe for nearly half a century.

In the coming weeks, Russia's relations with the West will continue to grow and to strengthen. President Yeltsin will sign an agreement with the European Union that will open European markets to Russian products. President Yeltsin will meet with the G-7 on a broad range of political and economic issues.

I believe that this is the time to reaffirm our commitment to democracy and freedom in Russia—and to reaffirm our determination to help Russia make real the promise of its political and economic reforms.

It's far too easy to take yesterday's progress for granted. But for half of this century, the fear of confrontation with Russia cast a shadow over all of our international relations, and all of our lives. Let's not turn our backs on this progress. Let's not take it for granted. Let's work to ensure that this unprecedented alliance grows even stronger, even closer, in the years and decades to come.

HEALTH CARE REFORM VOTES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. MICHEL] is recognized for 5 minutes.

Mr. MICHEL. Mr. Speaker, I submit for the RECORD the votes on health care reform which took place in full committee in the Appropriations Committee on June 21, and in the Ways and Means Committee on June 22, 1994:

The following vote was taken on June 21, 1994, in the Appropriations Committee during consideration of the Labor-HHS-Education Appropriations Bill for FY 1995:

An amendment offered by Mr. Porter to provide an additional $87.1 million for the Community Health Centers program in order to increase the availability of health for people in underserved areas. Defeated 28 to 15.

DEMOCRATS

Mr. Bevill, "nay."
Mr. Carr, not voting.
Mr. Chapman, not voting.
Mr. Coleman, "nay."
Mr. Darden, not voting.
Ms. DeLauro, "nay."
Mr. Dicks, "nay."
Mr. Dixon, "nay."
Mr. Durbin, "nay."
Mr. Fazio, "nay."
Mr. Foglietta, not voting.
Mr. Hefner, "nay."

Mr. Hoyer, “nay.”
Miss Kaptur, “nay.”
Mrs. Lowey, “nay.”
Mrs. Meek, “nay.”
Mr. Mollohan, not voting.
Mr. Moran, “nay.”
Mr. Murtha, “nay.”
Mr. Obey, “nay.”
Mr. Olver, “nay.”
Mr. Pastor, “nay.”
Ms. Pelosi, “nay.”
Mr. Peterson, “nay.”
Mr. Price, “nay.”
Mr. Sabo, “nay.”
Mr. Serrano, “nay.”
Mr. Skaggs, “nay.”
Mr. Smith (IA), “nay.”
Mr. Stokes, “nay.”
Mr. Thornton, not voting.
Mr. Torres, “nay.”
Mr. Visclosky, “nay.”
Mr. Whitten, not voting.
Mr. Wilson, not voting.
Mr. Yates, “nay.”

REPUBLICANS

Mrs. Bentley, not voting.
Mr. Bonilla, “yea.”
Mr. Callahan, “yea.”
Mr. DeLay, “yea.”
Mr. Gallo, not voting.
Mr. Hobson, not voting.
Mr. Istook, not voting.
Mr. Kolbe, “yea.”
Mr. Lewis (CA), “yea.”
Mr. Lightfoot, not voting.
Mr. Livingston, “yea.”
Mr. McDade, not voting.
Mr. Myers, “yea.”
Mr. Packard, “yea.”
Mr. Porter, “yea.”
Mr. Regula, “yea.”
Mr. Rogers, “yea.”
Mr. Skeen, “yea.”
Mr. Taylor, “yea.”
Mrs. Vucanovich, not voting.
Mr. Walsh, “yea.”
Mr. Wolf, “yea.”
Mr. Young (FL), not voting.

The following recorded votes were taken on June 22, 1994, in the Committee on Ways and Means during consideration of Acting Chairman Gibbons' substitute proposal for H.R. 3600, The Health Security Act of 1994:

An amendment by Mr. Santorum striking authority given to the Secretary of Health and Human Services under provisions establishing a new Medicare outpatient prescription drug benefit, to require advance approval for a covered outpatient drug if the Secretary determines the drug is subject to misuse or inappropriate use. The amendment would also strike provisions requiring the Secretary to study the advisability of mandating advanced approval in cases where a more cost-effective therapeutically equivalent drug is available, and to develop and update a list of drugs subject to misuse or inappropriate use, based on evidence of such problems. Defeated 24–14.

DEMOCRATS

Mr. Gibbons, “nay.”
Mr. Rostenkowski, “nay.”
Mr. Pickle, “nay.”
Mr. Rangel, “nay.”
Mr. Stark, “nay.”
Mr. Jacobs, “nay.”
Mr. Ford (TN), “nay.”
Mr. Matsui, “nay.”
Mrs. Kennelly, “nay.”
Mr. Coyne, “nay.”
Mr. Andrews (TX), “nay.”
Mr. Levin, “nay.”
Mr. Cardin, “nay.”
Mr. McDermott, “nay.”
Mr. Kleczka, “nay.”
Mr. Lewis (GA), “nay.”
Mr. Payne (VA), “nay.”
Mr. Neal (MA), “nay” by proxy.
Mr. Hoagland, “nay.”
Mr. McNulty, “nay.”
Mr. Kopetski, “nay.”
Mr. Jefferson, “nay.”
Mr. Brewster, “nay.”
Mr. Reynolds, “nay.”

REPUBLICANS

Mr. Archer, “yea.”
Mr. Crane, “yea.”
Mr. Thomas (CA), “yea.”
Mr. Shaw, “yea.”
Mr. Sundquist, “yea.”
Mrs. Johnson (CT), “yea.”
Mr. Bunning, “yea.”
Mr. Grandy, “yea.”
Mr. Houghton, “yea.”
Mr. Herger, “yea” by proxy.
Mr. McCrery, “yea.”
Mr. Hancock, “yea.”
Mr. Santorum, “yea.”
Mr. Camp, “yea.”

An amendment by Mr. Grandy to include coverage of hearing aids for children in the guaranteed national benefit package. Adopted 20–18.

DEMOCRATS

Mr. Gibbons, “nay.”
Mr. Rostenkowski, “nay.”
Mr. Pickle, “nay.”
Mr. Rangel, “nay.”
Mr. Stark, “nay.”
Mr. Jacobs, “nay” by proxy.
Mr. Ford (TN), “yea.”
Mr. Matsui, “nay.”
Mrs. Kennelly, “yea.”
Mr. Coyne, “nay.”
Mr. Andrews (TX), “nay.”
Mr. Levin, “nay.”
Mr. Cardin, “nay.”
Mr. McDermott, “nay.”
Mr. Kleczka, “nay.”
Mr. Lewis (GA), “yea.”
Mr. Payne (VA), “nay.”
Mr. Neal (MA), “yea.”
Mr. Hoagland, “nay.”
Mr. McNulty, “nay.”
Mr. Kopetski, “yea.”
Mr. Jefferson, “nay.”
Mr. Brewster, “nay.”
Mr. Reynolds, “yea.”

REPUBLICANS

Mr. Archer, “yea.”
Mr. Crane, “yea” by proxy.
Mr. Thomas (CA), “yea.”
Mr. Shaw, “yea.”
Mr. Sundquist, “yea.”
Mrs. Johnson (CT), “yea.”
Mr. Bunning, “yea” by proxy.
Mr. Grandy, “yea.”
Mr. Houghton, “yea.”
Mr. Herger, “yea” by proxy.
Mr. McCrery, “yea.”
Mr. Hancock, “yea.”
Mr. Santorum, “yea.”
Mr. Camp, “yea.”

An amendment by Mr. Santorum that would activate the sunset provision of the vaccine entitlement program created by the Omnibus Budget Reconciliation Act of 1993 upon enactment of the underlying bill. Defeated 23–15.

DEMOCRATS

Mr. Gibbons, “nay.”
Mr. Rostenskowski, “nay.”
Mr. Pickle, “nay.”
Mr. Rangel, “nay.”
Mr. Stark, “nay.”
Mr. Jacobs, “nay.”
Mr. Ford (TN), “nay.”
Mr. Matsui, “nay.”
Mrs. Kennelly, “nay.”
Mr. Coyne, “nay.”
Mr. Andrews (TX), “nay.”
Mr. Levin, “nay.”
Mr. Cardin, “nay.”
Mr. McDermott, “nay.”
Mr. Kleczka, “nay.”
Mr. Lewis (GA), “nay.”
Mr. Payne (VA), “nay” by proxy.
Mr. Neal (MASS), “nay.”
Mr. Hoagland “nay.”
Mr. McNulty, “nay.”
Mr. Kopetski, “nay.”
Mr. Jefferson, “nay.”
Mr. Brewster, “yea.”
Mr. Reynolds “nay.”

REPUBLICANS

Mr. Archer, “yea.”
Mr. Crane, “yea” by proxy.
Mr. Thomas (CA), “yea.”
Mr. Shaw, “yea.”
Mr. Sundquist “yea.”
Mrs. Johnson (CT), “yea.”
Mr. Bunning, “yea.”
Mr. Grandy, “yea” by proxy.
Mr. Houghton, “yea” by proxy.
Mr. Herger, “yea.”
Mr. McCrery “yea.”
Mr. Hancock, “yea.”
Mr. Santorum, “yea.”
Mr. Camp, “yea.”

An amendment by Mr. Kleczka providing that private health plans could exclude the coverage of services to terminate pregnancy in the guaranteed national benefit package of the underlying Chairman's mark. Defeated 33–5.

DEMOCRATS

Mr. Gibbons, “nay.”
Mr. Rostenkowski, “nay.”
Mr. Pickle, “nay.”
Mr. Rangel, “nay.”
Mr. Stark, “nay.”
Mr. Jacobs, “nay.”
Mr. Ford (TN), “nay.”
Mr. Matsui, “nay.”
Mrs. Kennelly, “nay.”
Mr. Coyne, “nay.”
Mr. Andrews (TX), “nay.”
Mr. Levin, “nay.”
Mr. Cardin, “nay.”
Mr. McDermott, “nay.”
Mr. Kleczka, “yea.”
Mr. Lewis (GA), “nay.”
Mr. Payne (VA), “nay.”
Mr. Neal (MASS), “yea.”
Mr. Hoagland, “nay.”
Mr. McNulty, “nay.”
Mr. Kopetski, “nay.”
Mr. Jefferson, “nay.”
Mr. Brewster, “yea.”
Mr. Reynolds, “nay.”

REPUBLICANS

Mr. Archer, “nay.”
Mr. Crane, “nay” by proxy.
Mr. Thomas (CA), “nay.”
Mr. Shaw, “yea.”
Mr. Sundquist, “nay.”
Mrs. Johnson (CT), “nay.”
Mr. Bunning, “nay.”
Mr. Grandy, “nay.”
Mr. Houghton, “yea” by proxy.
Mr. Herger, “nay.”
Mr. McCrery “nay.”
Mr. Hancock, “nay.”
Mr. Santorum, “nay.”
Mr. Camp, “nay.”

An amendment by Mr. Bunning that would exempt abortion from coverage of pregnancy-related services in the guaranteed national benefit package, unless a woman suffers from a physical disorder or disease that would, as certified by a physician, place her in danger of death if the fetus were carried to term; or where the pregnancy was the result of rape or incest. The amendment further provided that it was not to be construed to remove or diminish coverage of any reproductive health service, family planning service, or service for pregnant women otherwise provided for by the underlying bill, except abortion, and clarified that only an Act of Congress could expand the benefit package to include abortion, other than for the exceptions described above. Defeated 23–15.

DEMOCRATS

Mr. Gibbons, "nay."
Mr. Rostenkowski, "nay."
Mr. Pickle, "nay."
Mr. Rangel, "nay."
Mr. Stark, "nay" by proxy.
Mr. Jacobs, "yea."
Mr. Ford (TN), "nay."
Mr. Matsui, "nay."
Mrs. Kennelly, "nay."
Mr. Coyne, "nay."
Mr. Andrews (TX), "nay."
Mr. Levin, "nay."
Mr. Cardin, "nay."
Mr. McDermott, "nay."
Mr. Kleczka, "nay."
Mr. Lewis (GA), "nay."
Mr. Payne (VA), "nay."
Mr. Neal (MASS), "yea."
Mr. Hoagland, "nay."
Mr. McNulty, "yea."
Mr. Kopetski, "nay."
Mr. Jefferson, "nay."
Mr. Brewster, "yea."
Mr. Reynolds, "nay" by proxy.

REPUBLICANS

Mr. Archer, "yea."
Mr. Crane, "yea" by proxy.
Mr. Thomas (CA), "nay."
Mr. Shaw, "yea."
Mr. Sundquist, "yea."
Mrs. Johnson (CT), "nay."
Mr. Bunning, "yea."
Mr. Grandy, "yea."
Mr. Houghton, "nay" by proxy.
Mr. Herger, "yea."
Mr. McCrery, "yea."
Mr. Hancock, "yea."
Mr. Santorum, "yea."
Mr. Camp, "yea."

An amendment by Mr. Santorum providing that nothing in the bill shall be construed to conflict with any constitutionally permissible regulation of abortion by a state. Defeated 22–16.

DEMOCRATS

Mr. Gibbons, "nay."
Mr. Rostenkowski, "nay" by proxy.
Mr. Pickle, "nay."
Mr. Rangel, "nay."
Mr. Stark, "nay."
Mr. Jacobs, "yea."
Mr. Ford (TN), "nay."
Mr. Matsui, "nay."
Mrs. Kennelly, "nay."
Mr. Coyne, "nay."
Mr. Andrews (TX), "nay."
Mr. Levin, "nay."
Mr. Cardin, "nay."
Mr. McDermott, "nay" by proxy.
Mr. Kleezka, "nay."
Mr. Lewis (GA), "nay" by proxy.
Mr. Payne (VA), "nay."
Mr. Neal (MASS), "nay."
Mr. Hoagland, "nay."
Mr. McNulty, "yea."
Mr. Kopetski, "nay."
Mr. Jefferson, "nay."
Mr. Brewster, "yea."
Mr. Reynolds, "nay" by proxy.

REPUBLICANS

Mr. Archer, "yea."
Mr. Crane, "yea" by proxy.
Mr. Thomas (CA), "yea."
Mr. Shaw, "yea."
Mr. Sundquist, "yea."
Mrs. Johnson (CT), "nay."
Mr. Bunning, "yea."
Mr. Grandy, "yea."
Mr. Houghton, "yea" by proxy.
Mr. Herger, "yea."
Mr. McCrery, "yea."
Mr. Hancock, "yea."
Mr. Santorum, "yea."
Mr. Camp, "yea."

THE REPUBLICAN PARTY: WHAT IT IS AND WHAT IT IS NOT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, for many years, the national media has pushed the line that the Republican Party was or is the party of the rich, the fat cats, the wealthy.

However, so many extremely wealthy people are so liberal that this propaganda is just not effective anymore.

Too many people know that it is false.

So, the new line is that the Republican Party has been taken over by extremists and hatemongers.

The new propaganda of the liberal media is that the Republican party has been taken over by the religious right.

This, too, is false—totally, completely, absolutely false.

The Republican Party has been taken over by people who are fed up by the fact that government, at all levels, takes half of the average person's income.

Our party has been taken over by people who are sickened by the fact that the Federal Government wastes such unbelievable amounts of money.

The Republican Party has been taken over by people who understand that big government helps extremely big business with all of its rules, regulations, and red tape, while it drives small businesses out of existence or forces them to merge.

Our party has been taken over by people who believe in the things that made this Nation great—free enterprise, the private ownership of property, and individual freedom.

The Republican Party is a party today that does not believe that the Federal Government should control, dictate, or dominate everything.

And yes, our party is filled with people who are very concerned about the breakdown of our families, the unsafe, even violent conditions in our inner cities, and the declining quality of our educational system.

The vast majority of Republican, like the vast majority of Americans, believe in prayer in schools. They believe that prayer helps many people and really hurts no one, and that if the House and Senate can open each day with prayer, why not our schools.

Does this make the Republican Party religious right? Well, listen to what a very prominent woman says about prayer in schools:

> . . .School prayer advocacy, especially in inner cities, is a symptom of people trying to figure every way they can to reinforce people's ability to work together, to live together in families, to have a sense of purpose, a sense of self respect, a sense of regard for others, and how we get along with each other.

These are the words of that well-known member of the religious right—Attorney General Janet Reno.

And as another prominent member of the religious right, says: "It is not just possible that anti-religious bias, masquerading as religious neutrality, is costing us far more than we have been willing to admit."

Those are the words of William Raspberry, the very fine and very liberal columnist for the Washington Post.

The Republican Party has been taken over by people who believe that "our government would be better if policies were more directed by moral values." Those exact words were taken from a recent poll for U.S. News and World Report, which found that 84 percent of the American people hold that exact same belief, while only 9 percent disagree.

Yet at the same time that an overwhelming majority believe that, another liberal Yale professor, Stephen Carter, says in his book, "The Culture of Disbelief," We have pressed the religiously faithful * * * to act as though their faith does not matter."

The Republican Party is filled with people who believe in freedom rather than government and who know that government cannot solve all our problems.

It is filled with people who know that if our Nation is to survive, people will have to realize that they have responsibilities and not just rights.

Our party is filled with people who believe in freedom of speech, rather than political correctness, and who are being criticized simply because they have the courage of their convictions and do not need the national media to tell them how to think.

And yes, our party believes—as do an overwhelming majority—that homosexuality is not a healthy alternative lifestyle and should not be promoted as such to children in elementary school.

Those on the other side, the liberal side of the political spectrum, seem to know they are losing the arguments on the merits, so they are resorting to name calling.

They seem to think that if they say the words "hatemonger" or "religious right," that settles it—they don't need to discuss the merits, or lack thereof, of their positions.

Many people, though, are beginning to see that the real intolerance is coming, not from conservatives, but from the left.

In today's Roll Call newspaper, the very nonpartisan political commentator, Charles Cook, writes this:

> * * * Many of the Democratic attacks do come awfully close to religious intolerance, however. I was on a panel discussion earlier this week at a national College Democrats meeting (the next day I did one for the Republican National Committee, and both were for free), and someone on the panel made a passing reference to former Education Secretary William Bennett's recently published "Book of Virtues." I was stunned to hear at least one person in the audience hiss at the mention of the book * * *
>
> * * * I wonder what offended this person about Bennett's anthology. Was it Longfellow's "The Children's Hour" or "The Village Blacksmith"? Was it Martin Luther King, Jr.'s letter from the Birmingham city jail or his famous "I Have a Dream" speech? Maybe it was Lincoln's Gettysburg Address? * * *
>
> * * * I'd bet a dollar to a donut that the hisser hadn't the foggiest idea what was in the book. This is the kind of intolerance that causes many Democrats to be called cultural elitists, and it has put them out of touch with many working- and middle-class voters * * *

To sum up, Mr. Speaker, the Republican Party is filled with people who know that most Government programs, no matter how wonderful their title, really help primarily the people who work for the Government and do very little for the intended beneficiaries.

Our party has been taken over by people who believe that they can spend their own money better than the bureaucrats can spend it for them, and who believe Government should have to live within its means just as individuals and families do.

Ours is a party that believes in freedom, hope, and opportunity for all people, and that Government should be of, by, and for the people, not just of, by, and for the bureaucrats.

This is a positive, optimistic message, and one that will appeal to everyone if it is presented to them without the extreme bias of the national media.

As a national advertising campaign used to say, Americans want to succeed, not merely survive. Most Americans, and certainly almost all Republicans, do not want the enforced mediocrity that comes with Government control or domination of peoples' lives.

□ 1940

THE FDR MEMORIAL COIN BILL

The SPEAKER pro tempore (Mr. TANNER). Under a previous order of the House, the gentleman from New York [Mr. FISH] is recognized for 5 minutes.

Mr. FISH. Mr. Speaker, I rise to encourage my colleagues to cosponsor H.R. 3270, the FDR commemorative coin bill. Congress mandated the FDR Memorial Commission to raise funds from private sources for construction of a memorial for President Franklin Delano Roosevelt. The FDR commemorative coin can raise as much as $5 million of private, non-Federal funds for the purpose.

The FDR Memorial is not a new project. Congress created the FDR Memorial Commission in 1955 to plan and construct a memorial to our only 4-term President. The American people feel a deep debt of gratitude to President Roosevelt for his leadership in America's struggle for peace, well-being and human dignity. Because of its unique design, the FDR Memorial is not only a tribute to the life and work of the man, but more importantly, it will serve as a vivid reminder of the Great Depression and our fight for freedom in World War II. As our country commemorates WW II, it is appropriate that we honor the man who was our Commander in Chief during the time Americans fought against tyranny and defended democracy throughout the world.

1995 will mark the 50th anniversary of President Roosevelt's death. The plans for the memorial, which will be located near the Tidal Basin in Washington, DC, has been approved. The ground breaking has taken place. The time is now to raise the funds necessary to continue construction. The FDR commemorative coin gives the American people a wonderful way to support what will certainly be one of our Nation's greatest, most visited memorials.

I urge my colleagues to give the American people an opportunity to personally contribute to the memorial in honor of President Roosevelt. Please support H.R. 3270.

RELIGION

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, and because there is no designee of the majority leader, the gentleman from California [Mr. DOOLITTLE] is recognized for 60 minutes as the designee of the minority leader.

Mr. DOOLITTLE. Mr. Speaker, I appreciate the chance to discuss the important issues relating to the attack on people of faith being carried out by high officials in the Democrat Party. I think we need to address many of these issues, and I have with me colleagues tonight who are prepared to do that, and I would like to yield to the gentleman from North Carolina [Mr. TAYLOR] who has been a leader in addressing this issue of the EEOC guidelines on religion, and I would like to allocate such time as he may wish to share with us to him for his thoughts on that subject.

Mr. TAYLOR of North Carolina. Mr. Speaker, I would like to thank the gentleman from California [Mr. DOOLITTLE] for putting together this special order and addressing this subject. I think he has done an outstanding job on many occasions with these special orders in bringing to the public's attention a number of concerns. The one that I am speaking on this evening is the EEOC regulations that were promulgated last October, and made known through a hearing period, and in effect have been recognized by companies in this country so strongly that many of the private companies have issued regulations dealing with those proposed EEOC regulations. They issued rules for their companies.

Now what would these EEOC rules do? First of all, they would say that in the work place, under the guise of religious harassment, under title 7, that we could not have any mention of religion, either positive or negative, and that is essentially what the company that issued its regulations has said. That would include jewelry, artifacts, potential conversations of employees dealing in this area.

Now this is as much a question of first amendment protection as it is anything else. It is not the necessity to sponsor any religion under any particular name. It is not the necessity to be against any religion under a name. It is to say that the Framers of the Constitution gave us a Bill of Rights and that first amendment protected us in the area of religion. It was not that we wanted a state religion. On the contrary. The Framers of the Constitution had seen that experience before and wanted nothing to do with the state of religion, but they did want religion in the state. And over the 200 years of our history in this country we have recognized that fact.

And here comes today bureaucrats that have devised rules that say, "No, this is wrong. This is something that we cannot tolerate. It will be harassment if you mention any sort of religious activity, invite someone to Sunday school, do something else in the work place. That will be harassment."

Now this could have been stopped. The President with one phone call could have stopped this months ago. The President could have said, "This is wrong. This is something I don't want to see. It seems to be encouraging rather than discouraging, and let's see what the effect is."

Yesterday I met with a group of NASCAR drivers. They said they could have had a truckload if they had had time to put it together. But we had seven or eight come down and point out one of the things that concerns them about the EEOC regulations. They pointed out that each Sunday, since that is the day of the race at the track, they have a minister who has a special service for the drivers. Now they are about to get in about a four by four space of solid metal. It is about 140 degrees on a summer day out there, and they are going around laps between 100 and 200 miles per hour risking their life in a sport they love. If they want to have a special service conducted by a minister on Sunday morning before they start the race, who are we to say that they cannot? Who are we to tell the fans, the hundred thousands or so that are going to be watching that race, "I'm sorry. We can't have that race because we think there might be some religious harassment going on here in the stadium before the sports race starts"?

The necessity and the reason we have the freedom of a Bill of Rights is to let everyone make up their own mind in these areas, to let everyone have the freedom to do as they please in these areas. The government in my district, people recognize, would mess up a one-car funeral, and yet we are calling on them to devise regulations and tell us how to micromanage our lives in this most sensitive of areas. It is absolutely ridiculous that we are getting to this point.

I had a marine write a letter, an officer in the Marines. He said, first of all, we are going to have to change the Marine motto if this goes on because semper fidelis is just part of the motto. The motto is: Always faithful to God and country. Now we will have to remove God obviously because that will not be allowed in our workplace, and the chaplain may not be able to minister either in the battlefield or in the barracks because that is the workplace of those individuals.

So, Mr. Speaker, it is a situation where with each step we get more and more ridiculous.

I served on committees with the gentleman from California [Mr. DOOLITTLE] who has put together this special order, and I maintain that the depths of dumb cannot be fathomed in Washington, DC. That does not mean there are not good people here. I served with intelligent people in the House and in the Senate, people whose character is above reproach. But somehow, as we pass legislation and it becomes promulgated into ever finer regulations on the American people, all of us who have human weaknesses and fallacies are going to make the errors, and that is passed on and put on the American people as onerous rules and regulations.

□ 1950

Somehow, that comes about, and we continue to pile these on the American people day after day. We issue between 60,000 and 100,000 pages of regulations in the Federal registry every year. Those are regulations like the EEOC regulations that have to be recognized and obeyed as the law of the land.

One last comment I would like to make, and I know the gentleman from California is a cosponsor of this, and that is we have legislation, our amendment tomorrow, that will deny the EEOC funding to enforce the religious regulations that it has, and I hope that amendment will pass. It will give us a year to go in and change those regulations, abolish those regulations, if the House sees fit, and to correct that problem.

But what about the future? The gentleman has cosponsored with me a piece of legislation that would require whenever rules and regulations or whenever the bill is passed, and then goes to the appropriate bureaucracy for rules and regulations to be promulgated, they would have to come back to this House to be examined by this House and then approved or disapproved.

We could save the American people an enormous amount of grief and trouble if we would pass that regulation and if we pass that law and keep those regulations from being put on the public until we get a chance to assess them.

I want to tell the gentleman again how much I appreciate him and our colleagues for this program on the family and the threat to the family.

Mr. DOOLITTLE. I thank the gentleman, who has been a leader in this Congress in fighting for the rights of Americans. The bill you just mentioned is an outstanding piece of legislation that would probably, more than almost any other single piece of legislation that we might enact, do more to impact the average American. Because all of a sudden, the Congress would have to pass judgment before any of these regulations take effect. And there are thousands and thousands of pages of regulations, especially under this President, and it is just devastating.

I would like to ask the gentleman before he goes, because this is such an important issue, do you mean to say that under what the EEOC is doing, that conceivably an employer could be ruled in violation of the regulations for harassment because, for example, he might have a Bible on his bookshelf, or might wear the little pin, you know, the fish pin or maybe a cross, or might allow an employee to have one? Or maybe an employee has religious pictures at his desk, or maybe in the coffee room an employee witnesses to another about his or her faith? Are those the types of things that are conceivably are prohibited under these guidelines?

Mr. TAYLOR of North Carolina. Exactly. Or offers of scripture for someone who lost a family member that could bring some relief, or invites them to a service during the week for some relief. All of that would be prohibited, and the employer could be held liable for harassment in that particular circumstance.

Mr. DOOLITTLE. So what we are really facing is every employer in this country, what do we have, 6 million small businesses, give or take, every employer in this country could be the subject of an official governmental action against him, and have the privilege of paying $15, $20, $50, or $100,000 in attorney's fees to validate his first amendment rights? Is that what we are talking about?

Mr. TAYLOR of North Carolina. That is exactly what we are talking about. I hope in this body tomorrow we are going to be able to give 1 year's relief. It will not solve the problem. We need to follow with legislation to change or abolish the regulations. But this will say we get a year's relief from the regulations that have already been promulgated, and we will not have to live under them.

Mr. DOOLITTLE. The gentleman has done great work in this area, and we are anticipating a favorable result here in the House tomorrow. I thank the gentleman for taking the time to come down to the floor to explain this very important aspect of the attack on people of faith relative to the actions of the Clinton administration's EEOC.

Mr. TAYLOR of North Carolina. I thank the gentleman for his time.

Mr. DOOLITTLE. Well, we have a number of issues to talk about, and we have here my colleague from the East Bay in California, Mr. BILL BAKER, whom I would like to allocate some time to.

Mr. BAKER of California. Thank you very much, Mr. Speaker, and Mr. DOOLITTLE from California. It was a very big surprise to me when I came here to Washington and discovered that the problem was that the religious right was taking over. And here all the time my constituents and I thought that a weak national defense, a $4 trillion national debt, an arts program that has gone absolutely haywire, goals for education that have no relationship to the future or to science and math and hard subjects, and I learned it is not those things that are a problem, but we are on a witch hunt trying to find whether the religious right has taken over Washington.

Russia has recently undergone real change, and their leaders, JOHN, have said that we need more faith in our country. And they are passing out Bibles in their schools and are teaching their children to respect God, to respect themselves, and to have faith.

Now, this is in a country that formerly was highly alcoholic, people were bored to tears. There was no productivity increase because everyone was working for that nameless, faceless state.

Now that they are individuals again, and now that they have become free, they are talking about how to rebuild their country. And the way to rebuild their country is to rebuild their people. And the way to rebuild the people is to restore faith.

So they have gone back to the Bible and gone back to faith, at the same time the Clinton administration here in Washington is telling people, don't have a show of religious faith. Don't have any religious symbols in the workplace. Don't wear a crucifix or a Star of David. Don't show that you care about anything but the state.

We are repeating the mistakes of the last 70 years. The EEOC now is promulgating regulations for the workplace.

This is reminiscent of taking over health care. We are having a health care fiasco here where the health care providers are not being asked what can we do to provide increased health care. What we are asking is how can we provide more bureaucracy and government control over health care. So you know whatever comes out of Washington is not going to say how can you get through your doctor's office faster, how can you have a procedure at a hospital cheaper and better.

What they are saying is how can a regional health alliance control what kind of insurance you can have. How can a national health board control how much money is spent on health care. How can we fix pharmaceutical rates and hospital rates so no money will be invested in new plant and equipment and future wonder drugs.

The question here in Washington is over political control. It is not over faith, it is not over producing better quality medical care for the people, it is not even over the citizens themselves and how they can live better by keeping more of their income in their pockets. It is about government control.

So this whole battle is about whether they are going to control your life, JOHN, and your faith.

Mr. DOOLITTLE. So if I understand the gentleman, the gospel of bureaucracy, governmental control, spending by the government, and taxes, is favored under this administration, it would appear. But for people to profess faith or live by the values of the family is apparently disfavored, at least so far as we can tell by the actions of the Clinton Justice Department in supporting the EEOC regulations referenced by Mr. TAYLOR, which pose a threat to every employee in the country, and certainly to every employer, and other examples that we no doubt will cite later on here.

But the gentleman mentioned the health care plan. You know, it is interesting to me, we talk about the attack on people of faith. We have been branded the religious right. You know, it seems to me basically it is just whatever the ultra liberals who run this country don't like, they want to put an ugly name on it. To their way of thinking, what could be uglier than the religious right? What is so bizarre is, of course, look how many good people in this country, Democrats and Republicans, are people of faith. Are they all to be branded by the Democrat leadership religious right, and therefore cast aside?

Mr. POMBO. If the gentleman will yield, you mention the religious right and it has been mentioned in the previous statement by Mr. BAKER about the attack being on our religion. And I think it goes much deeper than that. The attack is not just on religious freedom and the fact that conservative religious people have decided to become involved politically because they see our country going down the drain. It also stretches out into many other areas. Some of the groups which have been attached to the radical right are groups such as National Taxpayers Union, a taxpayers watchdog group which oversees how every taxpayer's dollars are spent in this Federal bureaucracy.

It also reaches out to groups like Citizens Against Government Waste, who is a watchdog group who watches over wasteful government programs.

□ 2000

Those groups are being called radical right. You know what else is also called radical right? Term limits, U.S. term limits group, which has decided to get involved in educating people across this country about who is in favor of term limits and who is not. That is called radical right.

If you look at the American people, and I have looked at polls, public opinion polls across this country, and you ask them about taxpayers and you ask them about the tax rates that our Federal Government imposes upon its citizens, they are not happy. If you ask them about wasteful government spending, they are not happy. But does that mean that every person who agrees with the National Taxpayers Union or Citizens Against Government Waste is somehow castigated as radical right?

Mr. BAKER of California. They are just trying to paint any group that opposes the Great Society here in Washington as religious right. Imagine, we have two million employees we cannot even figure out when we steal 40 percent of a person's income that we are putting pressure on the family. And what are we spending that money on? Art that is obscene and of questionable value, a military that is now being demoralized because we have changed the standards of who gets in the military and what they can do when they are in the military. We are trying to destroy America from within, and we cannot even find out that overtaxation and overregulation are the cause for most of the people's lack of faith in their government. So is it strange that they turn their faith to a real God and to the Bible.

Mr. DOOLITTLE. I consider it to be one of the greatest moral issues in this country today, the destruction of the American family by government through overspending, overregulation and overtaxation which is forcing both parents out into the workplace so they can earn enough money to pay their taxes. And because I believe that and because millions of Americans across the country believe that, we are branded as the dangerous radical right.

Well, I just think people need to understand, we are not talking about a situation where someone is trying to impose their narrow religious views on everyone in this country. We are talking about fundamental notions in fairness, of what is appropriate for the relationship between the government and the people whom the government is supposed to serve. I think the gentleman from Tracy, from the 11th Congressional District, the gentleman from California [Mr. POMBO] and the gentleman from California [Mr. BAKER] have both made excellent points that we need to just stand up and say, wait a minute, folks, do not put some label on us so that you can dismiss the work that we are trying to do.

I think the American people need to understand what we are talking about. This is not an attack that is being waged in order to divert attention. Even in today's Roll Call, a Democrat author named Charles Cook wrote a very interesting article, if I might just presume upon my colleagues to quote this, because Roll Call is a little house liberal democrat newspaper that circulates up on Capitol Hill. And it serves as a vehicle for the Democratic congressional committee and others to use to put out their views.

But even this paper thought they had gone overboard. Let me just quote them. "Clearly, it is an expedient tactic for Democrats to employ," referring to this branding of the religious right or using that term, "particularly as the prospects for health care reform look increasingly grim, as foreign policy developments suggest ineptitude on the part of the Administration"—can you imagine that, with Bill Clinton in the White House and Jimmy Carter helping him out in Korea? This country is in deep trouble. And they do not want you to focus too much on that. I am diverting from the quote. Let us go back.

> Ineptitude on the part of the Administration and as the battle ranges with Republicans over Whitewater. In politics, you always need a devil to beat on, and by reminding everyone of the horror show of the 1992 GOP convention in Houston, Democrats can conjure up a very convenient demon.

I thought this thing about the demon was interesting, because I also read in People magazine, June 27, 1994, excerpts from this new book on the chaotic Clinton administration by Bob Woodward, very interesting book. I think it is called "The Agenda." And in this, there is a little reference to this idea of demonization. It is talking about Mrs. Clinton and how she operates. It says, "In an extraordinary White House meeting, she," meaning Mrs. Clinton, "told Clinton's advisors, 'we need to tell a story to sell our plan that has heroes and villains. You need to demonize things to sell something to people.'"

Mr. BAKER of California. Pretty hard to make your doctor a demon.

Could I just interject, after the Senate took one look at the EEOC guidelines, trying to overregulate the workplace and the people who work there, the Senate voted 94 to nothing to throw out the religious harassment guidelines. This is on June 17, 1994. So just very recently, after this was proposed, the Senate said, thank you, but no thank you. I am hoping that this House, Congressman DOOLITTLE, will take the same well-reasoned approach to the overregulation of the workplace by a greedy Congress.

Mr. DOOLITTLE. That is 94 to nothing. I do not know if TED KENNEDY even voted for that, but I presume a lot of established liberal Democrats did.

The SPEAKER pro tempore (Mr. TANNER). Members should refrain from referring to individuals of the other body.

Mr. DOOLITTLE. Mr. Speaker, I stand corrected. I will just refer to the liberal Senators who no doubt voted for this.

Still, though, the Clinton Administration has yet to direct its own bureaucrats in the EEOC to withdraw those, even after a 94 to nothing vote. We will have a vote offered by Mr. TAYLOR tomorrow on that and, hopefully, these people in the White House who say we are extreme, maybe they will get the message and will withdraw what I think to everyone but to them clearly is extreme.

Mr. BAKER of California. Let me quote the author of the 94 to nothing amendment, a Democrat named HOWELL HEFLIN who said, "It is a consensus on all sides of the political and religious spectrum that these guidelines as currently worded are seriously flawed at best."

Mr. DOOLITTLE. I yield to the gentleman from California [Mr. DORNAN].

Mr. DORNAN. I am a little late joining your special order, as I promised I would, because I was watching Crossfire. I would not mention a show in competition with us right here except that it is off the air now, but the guests were Haley Barbour, chairman of the Republican Party, and the distinguished Member from the other side of the aisle who is head of their Congressional Election Campaign Committee, VIC FAZIO. And I was watching VIC, who is a good-natured person, smiling throughout the whole thing, trying to figure out if he really understands the Pandora's box that he has opened here.

Now, you are a Mormon in the time that I have known you. I have known you as a family man, a man of faith who loves his Mormon faith. Some of us on the floor are Catholic. I do not even know the religious affiliation of second, brandnew, shiniest Member.

I usually do not know anybody's religious affiliation until years and years after I have served with them. But I can pick out very quickly, after 6 months of floor voting and debate, those who are concerned, as you just expressed it, about the destruction of the American family.

I have here the transcript of our friend, VIC FAZIO, at the National Press Club yesterday morning. And it is very revealing.

The press, I am happy to say, really put him up against it with a long Q and A period to try and figure out where he was headed with all this. I think he is going to crash into a stone wall and take his party with him, if they do not follow the advice I gave Vice President AL GORE at the back of the Chamber yesterday, to back off this divisiveness and what I think is clear and simple Christian bashing, much broader than the narrow focus that VIC FAZIO tried to give it on the Crossfire Show tonight.

The Catholic article in yesterday's Wall Street Journal, by Gerald Seed, who is not an ideologue in any way, I was told on the show by Bob Novak, he wrote an article, "Catholic Voters May Be a Problem for the Clinton Team." And I put this article in the RECORD yesterday. It is in the RECORD under all of our chairs today.

I think one of the things that I discussed with Speaker FOLEY yesterday, with DICK GEPHARDT and with Vice President AL GORE is they better understand how broad reaching this attack is.

I said, "Are you going to make a case to me that Pope John Paul the 2d is part of the religious left?"

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Or is he even some centrist moderate compromising group when he spoke in very forceful terms with the magisterian, the teaching authority of the Catholic Church behind him on homosexuality, on taking innocent human life in the womb and crushing it, killing it, flatlining it, stopping a heartbeat?

Here is one of the things VIC said, VIC FAZIO said in response to a question, that I think is revealing. The moderator for one questioning period said, "So you would say that in their agenda," the Christian right, "I mean, what would you classify as being radical?"

Mr. FAZIO responds, "Well, I guess I fear the intolerance, as I said earlier, the intolerance of people."

"Specifically," the moderator said, and Mr. FAZIO, "Well, as it comes down to books in the library, magazines and newspapers," and get the next line, "things that relate to people's sexual preference," ah ha, "places in which it is appropriate to express your faith," oh, you mean like praying here in the morning, praying at the Supreme Court, our brothers and sisters in the U.S. Senate opening every one of their days with a prayer?

Then he says, "The ways in which you might do it, express your faith. I certainly think these are kinds of things that trouble people who believe in the Constitution." You mean like the 56 men who signed the Declaration of Independence and they all lost their fortunes, that wrote their lives, their fortunes, and their sacred honor, and "with a firm reliance in Divine Providence" went right before that?

Then he says, "And those that believe in the separation of church and state, that is a true protection for those of religious faith as well as for those in the country who choose to practice theirs in another way."

Let me just read six titles of articles and then we will discuss.

Bob Novak today, a dynamite column: "Doctor Elders Is Safe," safe from being fired, but Bob Novak writes a great column that this country is not safe from her attacks on Christianity.

Joycelyn Elders, the sex guru general, "Condoms to Nine-Years-Olds," and here is where she is discussing, "We had a girl in Arkansas who at eight gave birth to twins." I wonder if this is really true. I will take her at her word. "We must teach them responsibility and make sure they have the availability of a condom," and that is an uninterrupted sentence.

"Condoms For Eight-Year-Olds," and that column is by my friend, Susan Fields, an excellent column.

Here is from today's newspaper. "Fazio Says Religious Right Is Pushing GOPs To Extreme." Of course, one of the things that everybody is questioning VIC about is, since when are we going to get all this free advice from VIC on how to save our Republican Party? He even talks in this Press Club Q and A period that he things if we are ever going to take the White House back, we have got to follow his advice. I know VIC wants us to take the White House back.

Mr. BAKER of California. Will the gentleman yield? Who won seven of the last seven special elections in 30 percent Republican districts, the last two?

Mr. DORNAN. And they were not always people who were pro-life. The Senator from Georgia got Christian Coalition help. He is pro-choice. So did the very talented Senator from Texas that won.

Mr. BAKER of California. If the gentleman will continue to yield, who won seven of the last seven elections?

Mr. DORNAN. The Republican Party, and not every candidate was alike, and the Christian Coalition weighed in to help people that they did not agree with across the board.

Mr. BAKER of California. Mr. Speaker, I would ask the gentleman, is the Republican Party the only party where you can have an open discussion on issues like homosexuality and abortion, where both sides are represented?

Mr. DORNAN. A darn good question, I would say to the gentleman, because when you try to get a discussion going like that in some Democrat groups across this country, you are shot down. There is only one viewpoint that is tolerated, and that viewpoint is pro-sodomy, and 95 percent of the Democratic clubs across this country are aware of this in the debate. You are screamed down. You could not even talk on the Democratic Convention platform, if you were the Governor of one of the biggest States in this Union, and I am talking about a Democratic pro-life hero, Bob Casey, but seven Republicans were put up on the platform at the Democratic Convention who had never done anything to walk a Democratic precinct in their life. They were given a platform and the Governor of Pennsylvania was told, "Get lost."

Mr. POMBO. Will the gentleman yield?

Mr. BAKER of California. I wonder if we could introduce our second newest Member?

Mr. POMBO. Before we do that, Mr. Speaker, I would like to ask the gentleman from California [Mr. DORNAN] a question. He says that not all the candidates were alike, that they had different viewpoints. What was it that tied all the candidates together? What was the central theme behind all seven of those?

Mr. DORNAN. To use Lee Atwater's big tent frame, one thing that brought all seven of these candidates together, and we have one of them right here with us, so we are going to give him the floor in a second, was the moral issue of passing massive debt on to our children and grandchildren and their children, massive debt. We have got into a bankruptcy type spending in this country that is so bad it is a moral issue. There is one.

Crime was an issue that brought everybody together. The health care issue was discussed in most of these races, because I think every one of them but one, maybe all seven, came after the Hilary task force had weighed in with its 1,364 page report.

Let us ask the gentleman from Oklahoma [Mr. LUCAS] what are the key issue in his campaign and how broad was his support?

Mr. DOOLITTLE. I yield to the gentleman from Oklahoma [Mr. LUCAS].

Mr. LUCAS. Mr. Speaker, I appreciate my colleague from California yielding to me.

Mr. Speaker, I believe if we actually take into consideration both of the House races, are we not nine for nine in major contests since election day in this country?

Mr. DORNAN. We were talking about big State races; nine for nine.

Mr. LUCAS. If the gentleman will continue to yield, I think quite clearly, and I suppose I should apologize to my colleagues, because from what I am able to gather and determine, a lot of this, whether you want to call it hysteria or this angle of attack that is now being used, really did not start to boil up to the top until after my election victory in the Sixth District of Oklahoma, and that of our new colleague, the gentleman from Kentucky [Mr. LEWIS]. So obviously we have gotten someone's attention.

Pounding up and down the trail in the Sixth District of Oklahoma, a district that was and is 65 percent Democrat in registration, a district full of very conservative Christian Democrats in both an urban and rural environment, it was a joy for me to run as a candidate who opposed massive tax increases, who supported term limitations, a candidate who did not want to nationalize health care, a candidate who was opposed to further intrusions in our private lives, be it gun control or other things of that nature; a candidate who said up and down the trail that things like our agricultural industry and our energy industry were being ignored by the present administration in favor of short-term social goals.

It was a pleasure campaigning out there because the people of western Oklahoma, of central Oklahoma, responded to me. Certainly I shared those conservative moral values and was never ashamed to say so, but they responded to me.

Mr. Speaker, if there is such a thing as a radical right in western Oklahoma in the Sixth District of Oklahoma, then those are just the common folks who earn a living, who send their children to school, who care about the issues. So what if they happen to go to church on Sunday, happen to be God-fearing people? I am proud of them. I am a pleasured person to serve them, to be one of them.

This statement that they are the radical whatever that sent FRANK LUCAS to Congress is just so unbelievable, so totally unbelievable, as to be laughable. I know out there that they know this.

Mr. Speaker, I apologize to my colleagues for creating this mass hysteria among the other side in their efforts to lash cut and try to put a different spin on things. Quite simply, my constituents, the salt of the earth, good, solid people who are still registered in the other party, are so because they are not ready to admit that they have been gone off and left in the political stream of life.

Mr. DOOLITTLE. Mr. Speaker, I would like to ask the gentleman a question. He was elected in a district, I believe, that has not had a Republican elected for over 20 years, is that correct?

Mr. LUCAS. That is correct, 19 years.

Mr. DOOLITTLE. OK, 19 years. What is the Democrat registration in your district, I would ask the gentleman?

Mr. LUCAS. Sixty-five percent Democratic. In fact, my home county, until a number of good people reregistered to help me in my primary, it was about 91 percent, 92 percent.

Mr. DOOLITTLE. When the gentleman from California [Mr. FAZIO], head of the Democratic Congressional Campaign Committee, and Mrs. Clinton, the First Lady, are out to "demonize," as the evidence shows that that is what they are out to do, they are basically saying to all the good Democrats, not just the Republicans, to all the Democrats in the gentleman's district in Oklahoma, "You are the religious right and we don't respect you." Is that what your impression is?

Mr. LUCAS. The very people we are speaking of are the folks who are the backbone of my district, and I believe the backbone of this country.

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Mr. DOOLITTLE. The overwhelming majority of the people in this country are God-fearing people. I think the statistics are that over half have prayer every week, go to church every week. So imagine the God-fearing people of this country, Republicans and Democrats, independents, all being labeled by the Democratic Party leadership as somehow less than worthy of full dignity because they are "religious right." Shocking, really.

Mr. DORNAN. Let me tell you again, looking at our colleague, VIC FAZIO, in his long appearance at the National Press Club, and let me see if I can try and figure out what he is saying. He is saying, and he said it again on Cross Fire tonight, he would say to the people in the Sixth District of Oklahoma, "Go ahead and practice your faith, go ahead and let your faith give you certain beliefs. But don't bring those beliefs or worries about values to the public marketplace in a voting situation and attempt to influence other people's opinions. If your value system is based on religion, keep your mouth shut. If your value system is just based on the simple law of the jungle that you do not want to be beaten up, so you want brutes put away in prison, well you can base it on that."

I think what is happening here, I said in my 1-minute today, read an article from the USA Today by Richard Benedetto, I am not that familiar with him, but I am starting to read a little of these news coverage stories just in the past month on other things other than religion. He says Clinton faces over the next 2 years, if he has any thoughts of a second term, he says he has "very little wiggle room," as he says it, the fate of his health legislation, the results of the 1994 elections, I guess the long-term performance of the economy, the outcome of a sexual harassment lawsuit filed by Paula Jones, a former Arkansas State worker, hearings in this Chamber and the U.S. Senate on the Whitewater land dealings and his ability to get a credible handle on foreign affairs. I added the word credible. He said get a handle on foreign affairs. Now if he has all of these worries, what can they come up with to divert, to stop this nine for nine onslaught against them of losing all of these elections? I think somebody without understanding at all, because they are not part of it, they are not part of the fear about the cultural meltdown and the worry about family values in this country, they thought that they could attack a segment of those who encourage voters to get out and vote, and attacked on a TV show Rev. Jerry Falwell, and former Rev. Pat Robertson. He wants to narrow it down to a few, and he does not understand, frankly. Two of my daughters, and I have three, but the two oldest ones who were married first have three kids each. They told me, "Dad, as plain, run-of-the-mill Roman Catholics who go to church every Sunday, we consider ourselves part of the religious right. We are part of that Christian coalition. We think government is making it hard for us to raise our children. We don't want condoms passed out in schools. We do not want value-free courses teaching sex such as straight old biology as though you are talking about animal husbandry." They said, "Don't these people understand they are insulting us?"

I know that there are Reagan Democrats, as they were called by the political pundits all across this country who rejected Bush for economic reasons and are now analyzing the common wheel, what is going on out there in the marketplace, and they are disgusted with the continual assaults upon the family. And they sit back and they say now let me see, was it the conservative philosophy that has caused this, the conservative judges, the conservative lawyers, the conservative district attorneys, the conservative movie producers or financiers, the conservative actors or actresses, the conservative show hosts, the conservative priests, the conservative rabbis, the conservative ministers, was it the conservative politicians who defended pornography down the line the last 30 years until they have turned our Nation into an open sewer in some cities? Who has defended abortion for all 9 months for any reason and told young teenage girls, 13, 14, 15 that they could have an abortion behind their mother's back, and that we as a party will fight to get them Federal money, and tell those who think it is murdering innocent life to just take a walk, we are going to get you Federal funding for this? Who has said the Boy Scouts should take in homosexuals? Who other than Joycelyn Elders?

And there is a column by Novak where he quotes the cardinal of Washington DC's archdiocese, Cardinal Hickey, who says we must now accept that everything that Elders says is Bill Clinton speaking. He now must come forward and admit this is everything that he stands for, or he would not tell a cardinal twice in two letters to back off, that he is going to support Elders.

Mr. BAKER of California. Mr. Speaker, if the gentleman will yield, the Attorney General has determined that we should not have multidistrict prosecution of child pornography. As the gentleman recognizes, child pornography is not a mom and pop industry. It is a large section of the organized crime, and in order to get rid of the Reagan administration attack where it had attacked in several districts at once in district courts, the Attorney General determined that we would not do that any longer.

Also, instead of having standards that disallow children to be involved at all in child pornography, they said the child had to be nude and performing a sex act. It was not just enough that they were in it.

This weakening of the child pornography laws was tossed out of court by a well-reasoned judge as she tried to get a conviction overturned so they could establish these new weaker standards.

My question is do you not believe that the first year and a half of the Clinton administration, with the ridiculous appointments and the weakening of our laws toward the family is reestablishing the Reagan revolution, and these nine victories were because people do have character, they respect family failures, and they are going to get that, they are going to elect Frank Lewis in a 30 percent Republican seat?

Mr. DORNAN. In direct answer to your question I would give names in the White House. When Christians and people of orthodox faith, and I have plenty of orthodox rabbis calling me, writing me, stopping me in the hall. I tell them, "Don't whisper. We're in the majority around here. You wouldn't know it from the news media."

But when you look at appointments like Donna Shalala, Roberta Actenberg, Christine Gibby, Joycelyn Elders, Patsy Thomason, when you look at the trooper 4, the Rosegate law firm 4, money changers in the Arkansas temple 4, that is my name for them, the condom 4, the pro-Hanoi 4, Strobe Talbot, Derek Shear, Sam Brown, and Morton Halperin, when you look at the Fab 4, James Carville, Paul Begala, Mandy Grunwald, and Stan Greenberg, and battered wife Stephanopoulos Christians who are worried about their children, and worried about what's happening in the schools look at this and they say, "Where is our support?"

Novak in his column says where is there one traditional, upstanding Catholic who identifies with Mother Teresa, who agrees with every single bishop in America on life issues, even the liberal and moderate bishops, where are these people?

I want to get the exact words of Cardinal Hickey's spokesman, Monsignor William Lori. And he says, "I'm speaking for Cardinal Hickey.

"One can only really conclude from both Clinton's letters, May 6 and June 3 this month, that Dr. Elders is truly speaking for the administration."

When I got back from Normandy, one of my sons said to me, "Dad, is the press going to have the guts to question the President about what Elders said while he was gone?" and I asked what that was. I did not hear it over there in Europe. Elders told the press that Clinton stopped her somewhere during the month of May and said, "Joycelyn, I'm all for you. I'm backing you up. I love what you're doing. I'm with you all the way."

Then she says yesterday, "I taught your President," she should have at least said hers, ours, she said, "I taught your President an awful lot,' and got a standing ovation from about 300 lesbians.

I mean, what is going on here? As I said this morning, why does my pal, VIC FAZIO, who has a nice personality, think he can back up people who are insulting every Christian denomination in this country worthy of the name? I wish we had Ron Lewis here to join with Frank. The way he had been demonized, to use Hillary's word, in the press, I mean I was really looking forward to meeting a Christian bookstore owner from the great State of Kentucky. And here is just another good, hardworking Member who is worried about the country, worried about the massive accumulating debt, worried about the family, worried about his kids and whoever God has put in his care, and you would think by reading some of these columns that Frank here and Ron Lewis was the beginning of some sort of Middle Ages, Dark Ages takeover and crushing of the liberty of this country.

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Mr. DORNAN. The crushing and the oppression has been against the American family, not the other way around.

Mr. DOOLITTLE. I would like to inquire of the Chair, Mr. Speaker, how many minutes we have left.

The SPEAKER pro tempore (Mr. TANNER). The gentleman has 13 minutes remaining.

Mr. DOOLITTLE. Thirteen minutes. I thank the gentleman.

Mr. DORNAN. If the gentleman will yield, do not rush. Because I follow that with 60 minutes. But I want to let the Speaker pro tem make it down to the chowder crabfest down at the White House. I may go down there myself and tell them about our special order, give them an autographed transcript of the RECORD tomorrow. But we have got plenty of time. Let us not rush this.

Mr. BAKER of California. I think it is important to remember that when the gentleman from Oklahoma [Mr. LUCAS] was sworn in, the first thing he did was sign, not the scriptures, but the A to Z withdrawal petition to cut government and to balance this budget.

Mr. DORNAN. He did it before he spoke. He started to speak, went around and signed it, very dramatic moment, then came back and then made his introductory, very pleasant, remarks, to this Chamber.

Mr. BAKER of California. Very radical; very radical.

Mr. DORNAN. Let me get the reaction from everybody. My friend, the gentleman from California [Mr. FAZIO], was beating up on my friend Pat Buchanan, and they took a simple verbal slip of Pat Buchanan at the Republican Convention, and VIC used this again, said should we have a religious war in this country, and he starts beating up on one line of Pat Buchanan's at the Republican Convention. Here was Pat's line. Pat said, incorrectly, "We have a religious war in this country." He meant, and he has corrected it and said it ever since, "We have a spiritual war, a cultural war, in this country."

But Clinton went up to Notre Dame, very carefully had priests behind him with the good-looking Roman collars on, and he says, "We do not need a war, one religion against another," and got a standing ovation from the Notre Dame student body that was there. Pat was not calling for Mormon against Presbyterian against Methodist against Catholic against our Jewish brothers. That is not what he was saying at all.

What he was saying is we have a war of values, and do we. So here is Pat today, and let us everybody grab a piece of this.

Buchanan's column starts off by saying, "Bellicose barrage of Christian-bashing." Excuse me, this was last week. You would think that VIC FAZIO's staff would have put this in front of his face and tipped him off he is heading in the wrong direction. Pat starts off: "Are you now or have you ever been a Christian? The way things are going, congressional committees are likely to be asking that question in a few years. What is the Christian-bashing all about? Simple. A struggle for the soul of America is under way, a struggle to determine whose views, whose values, beliefs, and standards will serve as the basis of law, who will determine what is right and wrong in America, and the intensifying assault on the Christian right should be taken as a sign that these folks, the Christians, are gaining ground and winning hearts."

Jump forward to his closing two paragraphs: "If one would sit with these Christian folks and ask what they want for America, one would find that the answer is they simply want America to become again the good country she once was." Now, I think still is. "They want the right to life of unborn, preborn children protected. They want the popular culture to reflect the values of patriotism, loyalty, bravery, decency," and it sounds like the Boy Scout oath, does it not? "They want magazines, movies, and TV shows depolluted of raw sex, violence, and filthy language," and I know that Pat wants the marketplace to do that, not us in this Congress, "just as they want rivers and beaches detoxified of raw sewage. They want the schools for which they pay taxes to teach the values in which they believe," the values, by the way, that Alexis de Tocqueville saw in this country in the 1830's. Pat continues, "They want kids to have the same right to pray that they had, not a school-ordained prayer, kids' voluntary prayer from within the student body, and, yes, they do want chastity taught as morally right and traditional marriage taught as the God-ordained and natural norm. Is that so wicked and sinister an agenda?"

And, my colleagues, this very day, the Governor of Hawaii, because he thought his tourism was being threatened, had the guts to sign a law that bans same-sex homosexual lesbian marriage. He signed it. Now, it is probably going to go all the way to the Supreme Court.

Whose values will be reflected in those decisions, the values of the majority of Americans or the values of something that 10, 20, 30 years ago would have been considered bizarre and radical to the extreme, unworthy of public discourse?

Mr. DOOLITTLE. That was the Governor of Hawaii? Is that what the gentleman said?

Mr. DORNAN. That is right.

Mr. DOOLITTLE. He is a Democrat, is he not?

Mr. DORNAN. He is a Democrat.

Mr. DOOLITTLE. So the Governor of Hawaii, which has to be one of the Nation's most liberal States if not the most liberal State——

Mr. DORNAN. PATSY MINK told me, by way of helpful help, she said you had better rebuild your party in the State. There is no Republican Party in Hawaii. None.

Mr. DOOLITTLE. So he has just been branded by the Democrat leadership in the White House, basically, as religious right because he has signed something into law that does not agree with their values? Now that is exactly the point we are making, that to brand people religious right simply to "demonize" them, and I believe that was Mrs. Clinton's term in People magazine or, as Mr. Cook explained, that the gentleman from California [Mr. FAZIO] and the Democrat leadership is doing.

That is smearing them. That is basically using a personal attack in order to divert attention from the issues.

Let me tell you if supporting the line-item veto like I do, if supporting the balanced-budget amendment to the U.S. Constitution like I do, if supporting term limits like I do, if supporting private-property rights like I do, if supporting smaller government, less regulation, tax cuts for families, capital-gains cuts for jobs, strong family values, if supporting love of country and of God like I do, if that is to be deemed religious right, I plead guilty, and so do the vast majority of the people of this country, and it just goes to show you how vastly out of touch the Democrat leadership and the Clinton administration are to think they can get away with this kind of a smear campaign being waged across the national media and think that we are just going to sit back like little puppy dogs and take it and not strike back, because, Mr. Speaker, there are too many good people in this country who care deeply about these things, and they know that this is no kookie, far-right fringe set of values that we are talking about. This is mainstream America. Sadly, mainstream America is not represented very strongly in the United States House of Representatives.

Mr. BAKER of California. If the gentleman will yield, may I conclude by suggesting that the Democrat Party has brought us this majority coalition back together again that George Bush let slip through his fingers, and I would like to thank VIC FAZIO and wife of the President for focusing the public's attention on just what is wrong here in Washington, and that majority brought us FRANK LUCAS from Oklahoma, in an overwhelming vote in a special election. FRANK, it is great to have you with us.

Mr. LUCAS. My colleagues have summed up. You are entirely right.

In my district where I, too, read in all the publications in the Washington area about how it was such a great religious right-wing whatever, it flabbergasts me, but those are the same issues I campaigned up and down the trail, balanced-budget amendment, line-item veto, and my opposition to nationalized health care, my opposition to further tax increases, and the people responded, and they responded because they are not the radical Christian right. They are not the radical anything. They are just the average citizens out there who work for a living, who care about this country, who care about the Lord, who want to be able to prosper and to do well and to have Uncle Sam, in whatever guise that it might be, stay out of their life, stay out of their church, stay out of their pocket.

And when I spread that message across the Sixth District of Oklahoma, people responded, no matter what their skin color was or their economic background or which particular church they attended or whatever they did, because it is the views that reflect the good folks of the Sixth District of Oklahoma.

I think obviously in the other eight races they are the views that reflect this country, and the people who do not share those views had probably better spend more time focusing on why they are out of sync than just simply calling names as a way to cover their deficiencies.

Otherwise what has started with those nine races will continue through the summer and the fall, and we will see a different process here next year, because the people will speak just as they have already spoken nine times.

I thank my colleagues for the opportunity to participate in this discussion before this esteemed group this evening.

Mr. DORNAN. I say to the gentleman from California [Mr. DOOLITTLE], before you yield back your time, can I get in one line here from the Washington Post? I keep referring to yesterday. Actually the gentleman from California [Mr. FAZIO] made this speech Tuesday morning, on June 21. Here is the Washington Post, the liberal paper of record, one of America's three largest newspapers, here in the District of Columbia, a reporter whose political beliefs are unknown to me, which is the sign of a good reporter, Don Balz, and sometimes I like what I am reading when he reports, other times I do not. But he seems like a fair reporter. Here is what he says.

☐ 2040

Here is what he says, and he quotes VIC FAZIO directly. "The Republicans accept the religious right and their tactics at their own peril," again here is VIC helping us "For these activists are demanding their rightful seat at the table." Did he mean to say it that way? Why not?, "And that is what the American people fear most." That is what FAZIO said. VIC FAZIO is telling us that the greatest fear Americans have is that religious people are demanding their rightful seat at the table. Then Don Balz goes on to write, "Democrats are worried about major losses in the fall elections and FAZIO's speech indicated that he and other Democrats hope to shift the focus away from public dissatisfaction with incumbents in Congress by raising questions instead about what kind of candidates the Republicans will be offering." Outstanding candidates like FRANK here.

"Although FAZIO lumped a number of groups into what he called the radical right," and by the way that is what he has been saying for 2 days, the radical right, not any religious right. Then he slipped over and over and keeps saying the religious right. The article goes on, "His principal target was the role of religious conservatives in the Republican Party." That is me, that is including my five grown children. It is that entire section of the Catholic faithful that you can call "loyal."

Mr. DOOLITTLE. Nothing wrong with being religious, basically.

Mr. Speaker, let me yield to the gentleman from California in the few minutes we have left.

Mr. POMBO. I thank the gentleman for yielding. I appreciate the gentleman taking out the time tonight for this special order to talk about what is going on in this country today and what the agenda should be for this country and this government today.

I, like every other Member of this body represent about 575,000 people. In my district my constituents, the people that I live with, my neighbors, my friends, they all have a lot of fears. They have a lot of fears about this country and what is going on today. Their fears are not about the radical right or the religious leaders who have spoken in this country. Their fears are about the runaway deficit, their fears are that taxes seem to increase every year, and they have to work harder, longer hours just to continue on for the standard of living that they have.

The fears that they have are that their children are not going to have the same opportunities that they had; that they are not going to be able to hand their children and grandchildren a better world. That is what they are afraid of. But if we want to work together as a Congress, we need to look at what the real fears are and stop this fearmongering and finger-pointing that is going on right now. I thank the gentleman.

DR. ELDERS IS SAFE

The SPEAKER pro tempore. (Mr. TANNER). Under the Speakers's announced policy of February 11, 1994, and June 10, 1994, the Chair recognizes the gentleman from California [Mr. DORNAN] for 60 minutes.

Mr. DORNAN. I thank the Speaker.

Mr. Speaker, before the last crab is gone down there, let me try to be fair to you because you enjoyed this inspirational trip to Normandy with me and we got to be good friends. But let me just reemphasize some of the points on Dr. Elders, who seems to have a lock on her job partly, I guess, because of the dumping of Lani Guanier, another lady of African-American descent who had been appointed to something, and then Clinton, her friend from law school at Yale, suddenly discovered her writings, he said, and jerked her appointment.

I did a 1-minute speech today that I titled "In the Minefield, the Electoral Minefield" that Clinton has to go through the next year and a half," that the most explosive mine under the ground is Dr. Elders. She is the one who can blow his lights out.

I have before me again this Bob Novak column from today, and I want to underscore some of the things we missed during the four-way discussion.

Bob Novak writes—and he was terrific on Crossfire tonight, I might add—"President Clinton has rejected requests from the Catholic Archbishop of Washington to disavow Surgeon General Joycelyn Elders' comments about sexuality, signalling that she must be treated with kid gloves no matter how embarrassing her statements." The reason I want to do this, Mr. Speaker, is on the show our distinguished colleague, VIC FAZIO, said he never heard of these letters, this correspondence between the Catholic Cardinal, the Archbishop of Washington, DC, and all the surrounding environs that make up a better-than-your-average diocese and archdiocese. He said he never heard of it. So he is going to hear about it tomorrow with all the dates, because I am going to give him this article tomorrow. We are friends. I will give him the transcript of this colloquy tonight for some speed readings. "Senior Clinton officials," and I continue Novak, "have to follow suit; finessing options that Dr. Elders is apt to offer whenever she testifies before Congress. When she recently said that more Federal funds should be spent on AIDS than on cancer is that the victims are younger. Her superiors rolled their eyes but could not reprimand her."

To quote a high-ranking official "The President feels very strongly about Joycelyn Elders." Hence the reason he has not disowned what she said while he was gone but he backs everything she is saying.

"That's a clue to what's wrong with the Clinton presidency," Novak goes on. "He named as Surgeon General of the United States somebody her own colleagues admit is unqualified and undisciplined. But as an African American woman up from poverty and out of Arkansas, Elders need not worry about her job. Cardinal James Hickey of Washington found that out in a correspondence with Clinton. It began when Hickey learned that the Surgeon General, interviewed by a gay publication," the Advocate, "endorsed homosexual adoptions and called homosexual sex normal and healthy." Novak left out that she said "Particularly for young people."

"On March 21 the Cardinal wrote to the President to take strong exception to Elders' criticism of how religious leaders view human sexuality. Hickey accused the Surgeon General of 'encouraging life style which puts so-called homosexual unions on a partisan with marriage and family and condones homosexual behavior among young people.' He then asked the President 'publicly to disavow' Elders' remarks." He goes on, "That was not an easy letter for Clinton to answer. How to balance gays," homosexuals, "and blacks against traditional Catholics? On May 6, six weeks later," I find that insulting as a run-of-the-mill Catholic, "he replied that he is committed to building a society that promotes tolerance and acceptance of diversity." I guess he still wants to shove homosexuals who are active into places in the military."

Now this is Clinton's words. "Issues such as homosexual marriage 'are left to the individual states and are not under the jurisdiction of the Federal Government.'"

"The Cardinal responded May 16," within a few days that "Contrary to the Clinton formulation 'Dr. Elders, as a Federal official, continues to advocate a redefinition of the family.'"

Clinton is a little faster this time, 18 days later he responds with Clinton's June 3 reply. He "recited all his administration had done for the family starting with the Family Leave Act but left the Cardinal unsatisfied. Monsignor William Lori, speaking for Hickey, told this column 'One can only really conclude from both letters' from Mr. Clinton 'that Dr. Elders is truly speaking for the administration.'" I have a feeling that she is speaking for Hillary Rodham Clinton, but I guess it appears she is also speaking for her friend from Arkansas, Bill Clinton.

"In the midst of this correspondence, Elders before the Senate committee May 11 to be asked why the government plans to spend more against the number 9 killer, AIDS, than against number 1 cancer and number 2 heart disease. Her answer was stunning," and I think it is distasteful when talk show hosts kind of mock her accent.

□ 2050

So I will just kind of read this straight. She says:

"We know that AIDS is a ravishing disease in our country that is destroying our bright young people. I feel that if we do not find a vaccine, if we do not find a good drug * * *." By the way, thank God she is not saying "cure." There never will be a cure, not when that little, infinitesimal HIV virus is locked inside those helper T cells. No way are we ever going to get that out. That is beyond science for millions of years. But she wants that vaccine or to find a good drug. How that is going to help Africa, which has no pharmacies, I do not know.

She says, "If we don't, we are going to lose our entire society."

So, there is threat again of heterosexual AIDS transmission whipping through the whole of society, and all of that has been disproven.

Elders continues:

"Most of the people who die with heart disease and cancer are our elderly population, you know, and we will all probably die with something sooner or later."

What? Probably? It is an inevitability, Mr. Speaker. What is she saying? Sometimes her mind just wonders off. How did she get through medical school?

Now what does the Assistant Secretary, her boss, Assistant Secretary for Health, the respected, Bob Novak says, Dr. Philip Lee say? He quotes:

"A lot of things that Joycelyn says I don't agree with, but I still respect her right to say them," blah, blah, blah, blah. "I don't look at whether this will affect older people or younger people." I myself. "I look at whether this is an area where we can make progress in dealing with disease," unquote Dr. Philip Lee.

Novak continues:

"Elders' high-sounding job is low in the chain of command, subordinate to both Health and Human Services Secretary Donna Shalala and subordinate to Dr. Philip Lee. But they had no part in selecting the Surgeon General and cannot discipline her now. For all of her failings Joycelyn Elders is an appealing, compassionate person whom administration officials, the President included, would prefer to have had concentrate on antismoking and antiteenage pregnancy campaigns. The reality is that Dr. Elders is out of control, and nothing will be done about it, and this tells us much about the presidency."

Mr. Speaker, 50 years ago today our colleague, BOB MICHEL of Illinois, the Republican leader, was with his 9th Division fighting on the Cotentine Peninsula, the Cherbourg Peninsula. Up on the outskirts of Cherbourg the German defenders were digging in. The U.S. loss of life was tremendous. The British still had not gotten into Caen which we drove through, Mr. Speaker, several times from Deauville going to and from the very moving and thought provoking 50th anniversary commemorations along the beach of Utah, Normandy, Gold, Juneau, Seward. The British took St. Honorina; I wonder if that means St. Honore, the beautiful little city on the coast where Henry V landed.

Meanwhile in the Pacific, which I talked about last night, I put in some material on Saipan in the RECORD last night. It is in today's RECORD. The United States Marines, Japanese troops fought viciously on the slopes of Saipan's Mt. Tapotchau, T-a-p-o-t-c-h-a-u. We all know Omaha Beach, and we all know about Iwo Jima, but a lot of Americans died on Mt. Tapotchau.

Meanwhile, in the Biat caves, an island that most Americans do not know about, let alone young people; in the Biat caves the fighting went on. We had the upper hand, but meanwhile the Japanese troops on the mainland of New Guinea inflicted serious and heavy losses on American forces fighting in the Sarmi, S-a-r-m-i, area 50 years ago, and that is why, Mr. Speaker, I would like to close by asking to put in the RECORD a column from last Sunday's New York Times, June 19, by Maureen Dowd. I never met this reporter. She has called me a couple of times for a brief quote.

She has a column, I guess it is every week, called Dowd, D-o-w-d, Maureen Dowd on Washington. This one she simply calls "Beached," and it brings back some memories of our trip, Mr. Speaker, to Normandy.

It was cold and rainy as the Normandy invasion started, and nothing was going as planned.

As we hit the beaches, Helen Thomas was in the lead, charging off the aircraft carrier George Washington with toothbrush and tape recorder. Sam Donaldson provided air cover in a Chinook helicopter hovering over the English Channel. "General Hillary," as a British paper dubbed her, arrived on the field of battle with her hairdresser, Sylvan, one word.

Never mind destiny. President Clinton has a rendezvous with Wolf Blitzer.

The boys of Point du Hoc scaled their cliff under German fire in bad weather on June 6, 1994, but the boys on the bus never made it to Pointe du Hoc at all on June 6, 1994. The White House press corps missed the President's speech because their helicopters turned back because of bad weather and the backup buses did not leave in time to get to the coast from the landing at Le Havre.

The reporters, stranded at Colleville-sur-Mer, were in a panic. The Clinton lieutenants, who pride themselves on their high-tech virtuosity, said calmly that they would play a tape of the Pointe du Hoc speech. But when they put the tape in and Clinton began to speak, no words came out. "The sound," a White House official explained helpfully, "is coming later by bus."

The fog of war had given way to the fog of White House amateurism. As yuppies retraced the steps of heroes, one thing was certain: Midway into the first term, the Clinton White House has not yet gotten the knack of smoothly moving around hundreds of grouchy journalists, who pay handsomely to be ferried by the Government.

With comic timing worthy of Evelyn Waugh, the White House kept losing people. Tom Brokaw said he was 2 hours late for an interview with the President because Army helicopter pilots delivering him, Sam Donaldson and Harry Smith and CBS to the aircraft carrier, where Clinton was spending the night, got lost and could not find the largest ship in the world. After flying aimlessly over the English channel for 45 minutes, the pilots got low on gas and had to return to the airstrip in Deauville, call the ship for coordinates and start again. (The Navy was vastly amused.)

Another day, the White House marooned 24 reporters and staffers in the misty British countryside for 12 hours, unable to figure out a way to get our group 100 miles from Cambridge to Portsmouth, the next stop on the President's schedule.

I drove it the day before along with my wife and walked in Eisenhower's steps. It is funny that I did not have this problem.

A furious A.P. radio reporter was filing reports on a President he could only see on the telly in the Churchill pub, where the press had been dumped. White House aides paced the Tarmac, scanning the skies for a missing helicopter, and screamed into cellular phones with dying batteries.

I tried to call my boss in Portsmouth to warn him I would miss my deadline, but the instructions on the pay phone were in British. Sipping the Champagne ordered by the Paris March reporter, I fantasized about replacing the corner dart board with the head of one of Clinton's prepubescent press-minders.

Things were no better in Paris. After the state dinner at the Elysee Palace, the photographers were told that there would be a photo opportunity by a bridge, where the

First Couple would stroll "hand in hand" and gaze at the Eiffel Tower at midnight. (Take that, Paula Jones.) * * *

But when the Clintons got out of their limousine near the Pont des Arts, the Bridge of Arts, it was not exactly an intimate moment. They were surrounded by about 40 people—Bill staffers, Hillary staffers, the Secret Service and the French police. Security did not allow the American photographers off the bus, thus stymieing the scheme of the White House advance team to bathe the Clintons' bruised partnership in a little Paris moonlight. After a few confused seconds, the Clintons climbed back into the car and motored off for a tour of the Louvre.

With the exception of the First Lady, a tidy traveler, the Presidential operation has the smell of a dormitory about it, with everyone crashing for exams. Each White House reflects the personality of its leader, and this President, immune to punctuality and discipline, will always have a Pigpen cloud of chaos around him.

What you see traveling with the Clintons is what you already know: He is learning. She is searching. He is learning to be Commander in Chief. She is searching for a personal style, and for a way to blend old rituals with new power.

At the end of the day in Normandy, Bill Clinton walked down to the beach with the veterans of Omaha Beach—Joe Dawson, Walt Ehlers and Robert Slaughter. The tableau was appealing: the young President enjoying the company of the aging heroes. But suddenly the President's aides began tugging the veterans away, mid-conversation, so that Clinton could walk off at sunset down the beach in his dress shoes and have a preplanned meditative moment with the bluffs on one side and the sea dotted with warships on the other.

□ 2100

Mr. Speaker, what Maureen Dowd could not know is that major ship in the background, the U.S.S. *San Jacinto*, an Aegis cruiser, was named after George Bush's carrier, the U.S.S. *San Jacinto*, which 50 years ago tonight was launching George Bush, in the morning, Pacific time, against the Mariana Islands. We have the 50th anniversary of Bush's second loss of his airplane, and he lost all of his crew, his other two crew members, coming up, the 50th anniversary, on September 2, a few months from now.

Maureen closes:

"Originally, the White House told photographers they were considering a 'Where have all the flowers gone?' moment, where Clinton and children would throw flowers into the sea." I may barf, Mr. Speaker.

"But they settled on a moment of solitude. The President knew he was supposed to look reflective," as he had done at the Nettuno Cemetery, the Sicily-Italy cemetery south of Anzio.

"He knew he was supposed to look reflective for the three cameras and dozen photographers who joined him," this soulful moment.

"But after looking soulfully out at the ocean for a moment, he seemed at a loss for what to do next, according to a photographer on the scene, who was scared that Clinton was about to mouth the words, 'What do I do now?' Then spying the stones at his feet left by his advance staff to show him where his camera marks were, the President crouched down and began to arrange the stones into a cross. He gathered more stones to finish the cross, and then bent his head as though in silent prayer."

"The White House aides were ecstatic." These are the prepubescent young aides bumping into one another. "Wasn't it great?" they asked reporters.

Mr. Speaker, I will bet one of them said, "Awesome, dude."

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FALEOMAVAEGA (at the request of Mr. GEPHARDT), for today and tomorrow, June 24, on account of official business.

Miss COLLINS of Michigan (at the request of Mr. GEPHARDT), for today after 3:45 p.m., and tomorrow, June 24, on account of illness.

Mr. QUINN (at the request of Mr. MICHEL), after 2:30 today, on account of his addressing the West Seneca High School Graduation Ceremony in his congressional district.

Mr. FRANKS of Connecticut (at the request of Mr. MICHEL), for today after 6:00 p.m., and for June 24, on account of attending a funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders therefore entered, was granted to:

(The following Members (at the request of Mr. DUNCAN) to revise and extend their remarks and include extraneous material:)

Mr. DUNCAN, for 5 minutes today.

Mr. FISH, for 5 minutes today.

(The following Member (at the request of Mr. HINCHEY) to revise and extend his remarks and include extraneous material:)

Mr. GEPHARDT, for 5 minutes today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MILLER of California and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $2,222.

(The following Members (at the request of Mr. DUNCAN) and to include extraneous matter:)

Mr. WALSH.
Ms. SNOWE.
Mr. MICHEL.
Mr. BALLENGER.
Mr. TALENT.
Mr. SHUSTER.
Mrs. ROUKEMA.
Mr. STUMP.
Mr. LIGHTFOOT.
Mr. SUNDQUIST.
Mr. SOLOMON in six instances.

(The following Members (at the request of Mr. HINCHEY) and to include extraneous matter:)

Mr. LANTOS.
Mr. STOKES.
Mr. KLEIN in two instances.
Mr. LAFALCE.
Mr. EDWARDS of Texas in two instances.
Mr. MANN in four instances.
Mr. JOHNSON of Georgia.
Mr. MURTHA.
Mr. JACOBS.
Mr. MINETA.
Mr. PASTOR.
Mr. DE LA GARZA.
Ms. HARMAN.
Mr. OLIVER.
Mr. CHAPMAN.
Mrs. MALONEY in two instances.
Mr. MATSUI.
Mr. SERRANO.
Mr. STUDDS.

(The following Members (at the request of Mr. DOOLITTLE) and to include extraneous matter:)

Mr. BARRETT of Nebraska.
Mr. TANNER.
Mr. POMEROY.
Mr. DINGELL.
Mr. WAXMAN.

SENATE BILLS AND A JOINT RESOLUTION REFERRED

Bills and a joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1357. An act to reaffirm and clarify the Federal relationships of the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians as distinct federally recognized Indian tribes, and for other purposes; to the Committee on Natural Resources.

S. 2099. An act to establish the Northern Great Plains Rural Development Commission, and for other purposes; to the Committee on Agriculture.

S.J. Res. 202. Joint resolution commemorating June 22, 1994, as the 50th anniversary of the Servicemen's Readjustment Act of 1994; to the Committee on Post Office and Civil Service.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 24. An act to reauthorize the independent counsel law for an additional 5 years, and for other purposes.

ADJOURNMENT

Mr. DORNAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 1 minute p.m.), under its previous order, the House adjourned until tomorrow, Friday, June 24, 1994, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3417. A communication from the President of the United States, transmitting his request to make available appropriations totaling $45,550,000 in budget authority for the Departments of Commerce, Health and Human Services, Housing and Urban Development, and the Interior, and to designate these amounts as emergency requirements pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, pursuant to 31 U.S.C. 1107 (H. Doc. No. 103–276); to the Committee on Appropriations and ordered to be printed.

3418. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to Egypt for defense articles and services (Transmittal No. 94–32), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MOAKLEY: Committee on Rules. H.R. 4600. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority (Rept. 103–557, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MINGE:

H.R. 4634. A bill to amend the Internal Revenue Code of 1986 to provide that a taxpayer may elect to include in income crop insurance proceeds and disaster payments in the year of the disaster or in the following year, to provide for a technical correction regarding indexation of the threshold applicable to the luxury automobile excise tax, and for other purposes; to the Committee on Ways and Means.

By Mr. HAMILTON:

H.R. 4635. A bill to extend the Export Administration Act of 1979; to the Committee on Foreign Affairs.

By Mr. STUDDS (for himself, Mr. Frank of Massachusetts, Mr. Waxman, Mr. Edwards of California, Mr. Abercrombie, Mr. Ackerman, Mr. Andrews of Maine, Mr. Bacchus of Florida, Mr. Becerra, Mr. Beilenson, Mr. Berman, Mr. Blackwell, Mr. Bonior, Ms. Cantwell, Mr. Cardin, Mr. Clay, Mrs. Clayton, Miss Collins of Michigan, Mr. Conyers, Mr. Coppersmith, Mr. DeFazio, Ms. DeLauro, Mr. Dellums, Mr. Derrick, Mr. Deutsch, Mr. Dixon, Mr. Engel, Ms. English of Arizona, Ms. Eshoo, Mr. Evans, Mr. Farr of California, Mr. Fazio, Mr. Filner, Mr. Flake, Mr. Foglietta, Mr. Ford of Michigan, Ms. Furse, Mr. Gejdenson, Mr. Gonzalez, Mr. Gutierrez, Mr. Hamburg, Ms. Harman, Mr. Hastings, Mr. Hinchey, Mr. Hochbrueckner, Mr. Hoyer, Mr. Huffington, Mr. Jefferson, Mr. Johnston of Florida, Mr. Kennedy, Mr. Kopetski, Mr. Kreidler, Mr. Lantos, Mr. Lewis of Georgia, Mrs. Lowey, Mr. Machtley, Mrs. Maloney, Ms. Margolies-Mezvinsky, Mr. Markey, Mr. Martinez, Mr. Matsui, Mr. McDermott, Ms. McKinney, Mr. Meehan, Mrs. Meek of Florida, Mr. Menendez, Mr. Mfume, Mr. Miller of California, Mr. Mineta, Mrs. Mink, Mr. Moran, Mrs. Morella, Mr. Nadler, Ms. Norton, Mr. Olver, Mr. Owens, Mr. Pallone, Mr. Pastor, Mr. Payne of New Jersey, Ms. Pelosi, Mr. Rangel, Mr. Reed, Mr. Reynolds, Ms. Roybal-Allard, Mr. Rush, Mr. Sabo, Mr. Sanders, Ms. Schenk, Mrs. Schroeder, Mr. Schumer, Mr. Serrano, Mr. Shays, Mr. Skaggs, Ms. Slaughter, Mr. Stark, Mr. Stokes, Mr. Torricelli, Mr. Towns, Mr. Underwood, Mrs. Unsoeld, Ms. Velázquez, Mr. Vento, Mr. Washington, Ms. Waters, Mr. Watt, Ms. Woolsey, Mr. Wyden, Mr. Wynn, and Mr. Yates):

H.R. 4636. A bill to prohibit employment discrimination on the basis of sexual orientation; to the Committee on Education and Labor.

By Mr. BONILLA:

H.R. 4637. A bill to assure compliance with the guarantees of the 5th, 14th, and 15th amendments to the Constitution by prohibiting the intentional creation of legislative districts which favor or discriminate against individuals based on the race, color, national origin, or language of voters within such districts; to the Committee on the Judiciary.

By Ms. SNOWE:

H.R. 4638. A bill to consolidate the administration of defense economic conversion activities in the Executive Office of the President; to the Committee on Government Operations.

H.R. 4639. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives relating to the closure, realignment, or downsizing of military installations; to the Committee on Ways and Means.

By Mr. ANDREWS of Maine (for himself and Mr. Studds):

H.R. 4640. A bill to establish a Gulf of Maine Council to promote the economic development and ensure the environmental quality of the Gulf of Maine, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries, Foreign Affairs, and Public Works and Transportation.

By Mr. SUNDQUIST:

H.R. 4641. A bill to restore the previous tariff treatment accorded to hand-cast string-drawn fishing nets; to the Committee on Ways and Means.

By Mr. FOGLIETTA:

H.R. 4642. A bill to provide for the restoration of Washington Square in Philadelphia and for its inclusion within Independence National Historical Park, and for other purposes; to the Committee on Natural Resources.

By Mr. RICHARDSON (for himself, Mr. Fields of Texas, Mr. Bryant, and Mr. Grams):

H.R. 4643. A bill to amend the Solid Waste Disposal Act to provide and clarify the authority for certain municipal solid waste flow control arrangements; to the Committee on Energy and Commerce.

By Ms. SNOWE:

H.R. 4644. A bill to amend the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990 to give priority in the provision of community economic adjustment assistance to those communities most seriously affected by reductions in defense spending, the completion, cancellation, or termination of defense contracts, or the closure or realignment of military installations; jointly, to the Committees on Banking, Finance and Urban Affairs, Public Works and Transportation, Education and Labor, Armed Services, and Small Business.

By Mr. HILLIARD:

H. Con. Res. 258. Concurrent resolution expressing the sense of the U.S. Congress that the Citizen's Stamp Advisory Committee of the U.S. Postal Service would recommend to the Postmaster General that a postage stamp be issued honoring America's first African-American professional nurse, Mary Eliza Mahoney; to the Committee on Post Office and Civil Service.

By Mr. HILLIARD (for himself, Mr. Bachus of Alabama, Mr. Bevill, Mr. Browder, Mr. Callahan, Mr. Cramer, and Mr. Everett):

H. Con. Res. 259. Concurrent resolution expressing the sense of the U.S. Congress that the Citizen's Stamp Advisory Committee of the U.S. Postal Service should recommend to the Postmaster General that a postage stamp be issued honoring coach Paul "Bear" Bryant; to the Committee on Post Office and Civil Service.

By Mr. ZIMMER (for himself, Mr. Ehlers, Mr. Horn, Mr. Boucher, Mr. Sanders, Ms. Furse, Mr. Sam Johnson of Texas and Mr. Conyers):

H. Res. 463. Resolution requiring that LEGIS and TLS information be made available to the public on the Internet; to the Committee on Rules.

By Mr. DINGELL (for himself, Mr. Waxman, Mr. Moorhead, and Mr. Bliley):

H. Res. 464. Resolution designating July 12, 1994, as "Public Health Awareness Day"; to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 84: Mr. Browder.

H.R. 417: Mr. Duncan and Mr. Jacobs.

H.R. 647: Mr. Nadler.

H.R. 672: Mr. Diaz-Balart.

H.R. 795: Mr. Sanders, Mr. Ballenger, Mr. Cooper, Mr. Traficant, Mr. Rangel, Mr. Applegate, Mr. Derrick, Mr. Vento, Mr. Spratt, Mrs. Thurman, and Mr. Santorum.

H.R. 1080: Mr. Frost.

H.R. 1737: Ms. Margolies-Mezvinsky.

H.R. 1801: Mr. Ehlers.

H.R. 1955: Mr. Shays.

H.R. 2019: Mr. Yates.

H.R. 2418: Mr. Sawyer and Mr. Bishop.

H.R. 2586: Mr. Skeen.

H.R. 3039: Mr. Fields of Louisiana, Mr. Solomon, Mr. Jacobs, Mr. Murphy, Mr. Franks of Connecticut, and Mr. Paxon.

H.R. 3407: Mr. Upton and Mrs. Meek.

H.R. 3486: Mr. Torkildsen, Mr. Kolbe, and Mr. Emerson.

H.R. 3492: Mr. Boehlert, Mr. LaFalce, Mr. Livingston, Mr. Wilson, Mr. Flake, Mr. Baesler, Mr. Kasich, Mr. Clement, Mr. McNulty, Mrs. Bentley, Mr. de Lugo, Mr. Fazio, Mr. Foglietta, Mrs. Fowler, Mr. Gingrich, Mr. Stump, Mr. Johnson of South Dakota, Mr. Houghton, Ms. Velázquez, Mrs. Lowey, Mr. Canady, Mrs. Lloyd, Mr. Emerson, Mr. Hastings, Mr. McCloskey, Mr. Mazzoli, Mr. Oberstar, Mr. Murphy, Mr. Neal of Massachusetts, Mr. Kleczka, Mr. DeFazio, Mr. Quinn, Mr. Borski, Mr. Bevill, Mr. Hefner, Mr. Dornan, Mr. Hall of Texas, Mrs. Morella, Mr. Ravenel, Mr. Richardson, Mr. Johnson of Georgia, Mr. Hutchinson, Mr. Klein, Ms. Brown of Florida, Mr. Bereuter, Mr. Sam Johnson of Texas, Mr. Engel, Mr. Inhofe, Mr. Torricelli, Mrs. Maloney, Mr. Hansen, Mr. Peterson of Florida, Mr. Young of Alaska, and Mr. Jefferson.

H.R. 3546: Mr. Coleman.

H.R. 3634: Ms. Slaughter.

H.R. 3694: Mr. Kyl, Mr. Dixon, Mr. Hayes, Mr. Stenholm, Ms. Snowe, Mr. Oberstar, Mrs. Unsoeld, Ms. Schenk, Mrs. Thurman, and Ms. Furse.

H.R. 3731: Mr. Frost, Mr. Rangel, Mr. Jefferson, Mr. Walsh, Mr. Young of Alaska, Mr. Mineta, and Mr. Sanders.

H.R. 3875: Mr. Lehman, Mr. Lewis of Kentucky, and Mr. Lucas.

H.R. 3978: Mr. Calvert.

H.R. 4028: Mr. Fingerhut and Mr. Rowland.

H.R. 4056: Mr. Combest, Mr. Kyl, Mr. Duncan, Mr. Baker of Louisiana, Mr. Weldon, Mr. Manzullo, Mr. McCurdy, and Ms. Furse.

H.R. 4251: Mr. Fish and Mr. Rose.

H.R. 4257: Mr. Fish.

H.R. 4271: Mr. Smith of New Jersey.

H.R. 4353: Mr. Barrett of Wisconsin.

H.R. 4354: Mr. Hughes and Mr. Parker.

H.R. 4371: Ms. Snowe and Mr. Kasich.

H.R. 4386: Mr. Neal of North Carolina, Mr. Diaz-Balart, Mr. Barrett of Wisconsin, and Mr. Levy.

H.R. 4400: Mr. Fish.

H.R. 4402: Mr. Faleomavaega, Mr. Lipinski, Mr. Edwards of California, Ms. Pelosi, and Ms. Shepherd.

H.R. 4413: Mr. Abercrombie.

H.R. 4478: Mr. Vento, Mr. Torres, and Mr. Kolbe.

H.R. 4479: Mr. Vento, Mr. Torres, and Mr. Kolbe.

H.R. 4514: Mr. Neal of Massachusetts and Mr. Blackwell.

H.R. 4517: Mr. Farr and Mr. Frost.

H.R. 4519: Mr. Levy.

H.R. 4527: Mr. Montgomery.

H.R. 4589: Mr. Smith of New Jersey.

H.R. 4623: Mr. Brown of Ohio.

H.J. Res. 44: Mr. Ballenger.

H.J. Res. 311: Mr. Andrews of New Jersey, Mr. Cooper, Mrs. Kennelly, Mr. McCandless, Mr. Shaw, and Mrs. Unsoeld.

H.J. Res. 343: Ms. Furse and Mr. Hutchinson.

H.J. Res. 378: Mr. Kildee, Mr. Frost, Mr. Young of Florida, Mr. Dellums, Mr. Myers of Indiana, Mr. Dingell, and Mr. Towns.

H. Con. Res. 5: Mr. Torricelli.

H. Con. Res. 15: Mr. Orton.

H. Con. Res. 150: Mrs. Vucanovich.

H. Con. Res. 255: Mr. Yates, Mr. McHale, and Mr. Richardson.

H. Res. 446: Mr. Allard and Ms. Molinari.

H. Res. 460: Mr. Brown of Ohio.

EXTENSIONS OF REMARKS

DEFENSE CONVERSION AND THE RESPONSIBILITY OF THE FEDERAL GOVERNMENT

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Ms. SNOWE. Mr. Speaker, the challenges of defense conversion are enormous. But today, I am introducing legislation that will help the Federal Government face those challenges and continue to live up to its duty to assist industries, communities, and individuals adversely impacted by base closures and drastic cuts in defense spending.

Over 2 years ago, I introduced comprehensive legislation to assist the people of communities faced with the severe economic hardships caused by the closure of a major military installation. A year later, I was pleased to note that some of the ideas and provisions of my base closure recovery bill were later incorporated into the President's own base closure revitalization plan. I was also successful in getting two other provisions from my bill in the fiscal year 1994 Defense Authorization Act.

One provision would provide preference to qualified local and small businesses competing for contracts in connection with work at closing bases, particularly environmental cleanup work. The other provision would convey free-of-charge to the Loring Development Authority all title to Loring Air Force after it is closed. This last provision would ensure that the local communities will retain control of the redevelopment effort at Loring.

The dominant government agency involved in defense conversion has always been the Department of Defense. But virtually every one of its defense conversion programs were imposed upon it by either the Congress or the President.

Today I am introducing legislation that consolidates almost all of the Federal Government's defense conversion activities within the Executive Office of the President. In effect, this legislation creates a defense conversion czar who is directly responsible to the President for the coordination and implementation of this crucial national effort.

The point is that of all the agencies in the Federal Government, the Defense Department is the one most institutionally unsuited to oversee such an important government effort. The fundamental purpose of the Defense Department is to provide the military forces needed to ensure the security of the nation, to deter war, and to fight and win wars if deterrence fails. The institutional goals of the Defense Department run counter to the basic philosophy of defense conversion—and that is to help people, communities and industries become less dependent on defense spending.

The Pentagon's fundamental unsuitability to be responsible for the bulk of this Nation's defense conversion programs was reinforced by a recent General Accounting Office report. In that report, the GAO cited an evaluation of the Defense Department's defense conversion programs done by the Pentagon's own Inspector General. The IG had evaluated one of the Department's defense conversion programs and concluded that "ineffective planning and oversight had resulted in implementation problems."

In the fall of 1992, I, and other Members of Congress who have a strong interest in this important issue and whose districts and States have a big stake in the success of defense conversion, testified before the Defense Conversion Commission. In its final report, "Adjusting to the Drawdown," the Commission made an even stronger case for decreasing the influence of the Pentagon in defense conversion. The Commission noted that . . .

> While the Department of Defense has a large role to play, overall direction for defense conversion and transition actions must come from the Executive Office of the President.

I could not agree more with that statement.

The purpose of my legislation is to do what should have been done long ago—consolidate this country's defense conversion efforts within the Executive Office of the President. One individual directly under the President should be responsible for the effective coordination and implementation of this Nation's defense conversion strategy. This legislation would be a significant step in that direction.

The Economic Development Administration [EDA] of the Department of Commerce is actively involved in defense conversion efforts throughout the country. One of the bills I am introducing today slightly amends the Fiscal Year 1991 Defense Authorization Act which has provided the guidance for the EDA's defense conversion responsibilities dealing with funds authorized under defense bills.

Under this act, the EDA does not give any special preference to defense conversion projects. This legislation specifically directs EDA to "ensure that funds are reserved for communities identified as the most substantially and seriously affected by the closure or realignment of a military installation or the curtailment, completion, elimination, or realignment of a major defense contract or subcontract."

I have long believed that tax credits should be provided to help employers who hire displaced defense workers, and my comprehensive base closure legislation provides such tax credits for employers who hire workers laid off due to the closing of a military base. The legislation I am introducing today improves upon that measure by including those employees who have lost their jobs as a result of reductions-in-force at military installations.

Mr. Speaker, the State of Maine is the fourth highest recipient of defense spending per capita in the Nation, and defense is the State's third largest industry. But Maine has lost approximately 10,000 defense-related jobs since 1989, and there is a deep concern that thousands of more jobs are threatened by continued reductions in defense spending. Defense-related jobs in Maine reach into every county in the State, and include workers at defense industries and bases both large and small. Thousands more work for businesses that serve both military and civilian markets. Defense conversion is absolutely critical for the long-term health of Maine's economy.

I believe that the Federal Government has the responsibility to provide the economic policies, tools, and incentives that are needed to stimulate both the economy and defense conversion initiatives. Legislation that I have offered in the past and that I offer today will help the Federal Government live up to those responsibilities. As I said on the floor of the House in 1991, our responsibilities are not ending with the base closure process, they are only beginning.

THE FIRST BAPTIST CHURCH OF PATERSON'S 170TH ANNIVERSARY

HON. HERB KLEIN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. KLEIN. Mr. Speaker, I rise today to honor the First Baptist Church of Paterson, NJ on the distinguished occasion of its 170th anniversary celebration. A celebration mass, led by Dr. Paul Sandon, will be held on June 26, 1994.

The First Baptist Church was officially established on January 1, 1824 by a group of 17 people. The early meetings of the group were held in the homes of members and the temporary "Yellow House," a former tavern. The church's first official home was erected at the corner of Main Street and Broadway in Paterson in 1825.

Despite difficult times brought on by the Civil War, the church continued to surge in membership. In 1860, the second church building was created at Washington and Van Houten Streets, which seated over 800 people. Although the church was devastated by the Great Fire of 1902, the spirits of the congregation were not destroyed as they continued to meet at temporary locations. On February 12, 1905, the current church building on Washington Street was completed.

The First Baptist Church has been a leader for many community projects. The church members recognized the need beyond the limits of their building, and helped to organize new churches in the area. The Park Avenue Baptist Church and the Union Avenue Baptist Church are just two of the many successful products of these efforts. Through the years,

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the church has placed an emphasis on education, preparing several members for the ministry.

The First Baptist Church has prospered through a diverse 170 year history. This perseverance is a testament to the determination and selflessness of the congregation. It is with great pleasure that I ask my colleagues to join me in paying tribute to the First Baptist Church.

ANOTHER EXAMPLE OF UNFAIR COMPETITION

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. MURTHA. Mr. Speaker, recent news articles carried the story of yet another example of unfair competition by a foreign-controlled corporation doing business in this country.

On May 31, five top managers of USX Corp.'s Gary Works plant in Gary, IN, suddenly and without any advance warning, submitted their notices of resignation to USX. Within 24 hours, all five managers showed up for work at their new positions with the National Steel Corporation, a subsidiary of the Japanese NKK Corp.

This corporate raid apparently resulted from a well planned strategy by NKK to persuade top managers of the U.S. Steel Group of USX to jump ship, and in the process, to bring highly confidential business information with them. NKK of Japan has now gained access to the most sensitive kinds of trade secrets of its steelmaking competitor—marketing strategies, pricing information, profit margins, and even supplier and commercial lists. NKK is now in a position to do great harm to USX's commercial and strategic position. As NKK is only too well aware, USX ranks as NKK's most important competitor in the worldwide steel production marketplace.

NKK's actions represents a last ditch effort to prop up a failing company. Over the past few years, while USX and Gary Works have enjoyed a resurgence, NKK/National Steel has consistently reported operating losses. The USX managers were targeted by NKK because they had received industry-wide recognition for their innovation management strategies of USX's Gary Works. NKK's actions seems to be a systematic effort by NKK to replace its own executives by persuading senior USX managers to desert USX and to bring with them a wealth of confidential information and trade secrets.

Mr. Speaker, as long as we allow this type of hostile and anticompetitive attack to occur, American companies will be sitting ducks for well financed and aggressive foreign corporations. In the post-cold-war era, the American people demand that our Government protect its workers and their innovations. Unfortunately, there is evidence that this is not an isolated instance of anticompetitive activities against a U.S. firm. This month's actions mirrors a similar raid of several key General Motors personnel undertaken last year by Volkswagen A.G. That case is still pending in Germany, but a preliminary finding has found merit to General Motors' complaint.

I have no doubt that American firms can compete in the global marketplace. The resurgence of the domestic steel industry is strong evidence that the spirit of teamwork and innovation which has let America through the twentieth century, continues to thrive today.

With the likely liberalization of the world trading system later this year, international trade is entering a new phase of heightened competition. If a fail to step forward now to prevent incipient commercial espionage, we will be abandoning a critical domestic industry at a pivotal point in our economic history.

A recent article in the Pittsburgh Post-Gazette entitled "National Steel Rolls USX" describes the details of this unprecedented raid by NKK. I ask unanimous consent that the article be included in the RECORD at the conclusion of my remarks.

[From the Pittsburgh Post-Gazette, June 2, 1994]

NATIONAL STEEL ROLLS USX

(By Kerry Johnson)

In what USX Corp. termed an "insidious raid," troubled National Steel Corp. yesterday hired away the top six executives of USX's largest steel mill.

The move was unprecedented in the normally staid and clubby steel business. It also suggests that the Japanese, whose steel industry has been held up as a model of manufacturing efficiency, now think they could use a little Yankee ingenuity to fix their own troubles.

National Steel, headquartered in Pittsburgh until two years ago and owned by Japan's NKK Corp., fired president Ronald Doerr and chief financial officer Richard Newsted, replacing them, respectively, with V. John Goodwin, general manager of USX's Gary Works, and Robert Greer, controller of the Indiana facility and a 33-year veteran of USX.

Goodwin's 27-year career with USX included service as general manager of its Mon Valley Works from 1984 to 1987.

National Steel would not confirm the names of the executives who were also recruited along with Goodwin and Greer. However, industry sources identified them as metallurgist George Lukes, who was chief of quality control at Gary; Bob Pheanis, who run Gary's finishing operations; Dave Peterson, who oversaw raw steelmaking; and Dave Pryzbylski, Goodwin's chief of human resources.

U.S. Steel replaced Goodwin with the general manager of its Mon Valley Works, John H. Goodish, 45. Goodish has been with U.S. Steel since 1970.

The exodus from USX, which lost in one fell swoop the manager of its largest and most profitable steel making operation as well as his five top aides, was unlike any event even the industry's oldest veterans could recall.

A similar employment raid occurred just one year ago in the auto industry. In that instance, Volkswagen A.G. recruited Jose Ignacio Lopez de Arriortua, a tough, results oriented executive, and several key aides from General Motors Corp. GM subsequently sued Lopez, alleging in German court that he had stolen trade secrets. German law enforcement officials are still investigating the charges.

Although USX yesterday made no such accusations against NKK, the company said it is weighing its legal options.

Industry observers played down the impact the defections will have on USX. "It's not the end of the world for USX. They have lots of talent, but it sure came as a cold shock," said one steel executive.

It surely was. While several of the executives who left were known to be unhappy, and had shopped resumes privately, their mass departure was totally unexpected, and could give USX ammunition for a lawsuit if it decides to pursue one.

What kind of case USX might be able to mount is unclear. But mass recruitments have in some cases been enjoined by the court.

"The general law is that individual employees can move from one company to another, but in situation where there's been a mass hiring, courts will enjoin * * * if they believe it involved unfair competition or the hiring is occurring to obtain confidential information." said Arthur Schwab, who as chair of litigation for Buchanan Ingersoll PC a Downtown law firm, has tried such cases. National's bold grab for a talented team of managers who have the operating skills the company desperately needs marks a radical departs from the normally polite conduct of Japanese companies. "This is very un-Japanese," said one steel executive.

But industry sources said NKK, which has been trying to fix National ever since it bought a 50 percent stake in 1984, had simply lost all patience, Directors finally moved swiftly after tolerating years of indecision and missteps. Doerr the departing National chief executive who Goodwin replaces, had a back-ground in accounting, and had recently jettisoned several lieutenants in an effort to fix chronic operating difficulties.

"The board's decision was that it wanted to focus attention on operations and obviously John Goodwin is a good operations man," said National Steel spokesman Robert Toothman.

The raid come at a time when the U.S. steel industry, having shrunk its work force and investment heavily in new technology, is rebounding with a vengeance. That National is not capitalizing on the best industry conditions in more than 20 years is galling to NKK.

Analysts give Goodwin, 51, high marks for making Gary the premier U.S. steel mill. The plant can produce 7 million tons of steel a year, slightly more than National's entire capacity, and accounts for as much as two-thirds of USX's operating profits from steel. Goodwin's prospects for advancement at U.S. Steel were limited because he is the same age as his boss, U.S. Steel President Thomas J. Usher.

National's problems have been many. They began the day NKK bought into it. Although know as a savvy steelmaker in Japan, NKK early on was reluctant to assert its control.

In recent years, however, its problems have been more fundamental. National's strategy is to sell high-profit steels to the automotive, container and building industries. To be successful, National must meet tougher standards for quality, on-time delivery and customer service. Despite NKK's considerable investments, the company can't consistently produce the quality of steel its customers want As a result, National has been forced to sell rejected metal to less demanding, lower paying buyers.

The problems have been most acute at National's flagship steel operation, the Great Lakes division near Detroit that serves the auto industry. In the fourth quarter of last year National cut back shipments by 100,000 tons to compensate for its problems.

"I think they (NKK) have been a little bit embarrassed by how bad National's done. National's clearly been a loser," said Charles Bradford, a steel analyst for UBS Securities.

The nation's fourth-largest steel producer, National had operating losses of $215 million in 1993, $13 million in 1992 and $131 million in 1991, according to Salomon Bros. steel analyst Michelle Galanter Applebaum.

Another problem has been a 1986 labor pact National struck with the United Steelworkers that gave its union employees lifetime job security, a hallmark of Japan's own industry. Competitor's scoffed at the deal, saying it would come back to haunt the company.

While National's operating difficulties are complex. "It's safe to say [overmanning] is one of their problems," Plummer said.

Strife between National's Japanese owners and its U.S. managers has also plagued the company, industry observers say.

Doerr, in mid-1991, said National might be forced into bankruptcy without major and immediate cost reductions. Its losses were staunched by the end of that year.

In 1992, National moved its headquarters from Pittsburgh to Mishawaka, Ind., which would cut corporate overhead and put the company closer to its Midwest customer base.

Christopher Plummer, an industry analyst with Resource Strategies Inc., said the drastic overhaul at National reflects heightened urgency for the unit to perform at a time when its Japanese parent and other Japanese steel producers are still struggling with a recession.

Goodwin has his work cut out for him as the new president and chief operating officer, but industry observers say he will have an advantage his predecessor didn't enjoy: A clear mandate for change.

A TRIBUTE TO DR. JAMES L. BROCK

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. PASTOR. Mr. Speaker, today I pay tribute to the memory of Dr. James L. Brock, a man who dedicated his life to coaching the sport of baseball. Although he is no longer with us, his dedication has earned him top billing as one of the greatest collegiate coaches to ever grace the field. His peers consider him one of college baseball's coaching elite.

Winning, baseball, and Jim Brock go hand in hand. In 1970 and 1971 he led his junior college clubs to national titles. In addition, he earned coach-of-the-year honors for both of those championship seasons. The winning tradition continued at Arizona State University, where Brock led his team straight to the top. In 23 years Coach Brock led the Arizona State University Sun Devil's baseball squads to 11 conference championships and 2 national titles. Twenty-two of his twenth-three years with Arizona State were winning seasons. Thirteen times he led his team to appearances in the College World Series. With 1,100 wins at Arizona State, Jim is the seventh winningest coach in NCAA Division I baseball history. Coach Brock has the second-best win average in NCAA history with 47.8 wins per season. These grand accomplishments did not go unnoticed, for Coach Brock was named National Coach of the Year in 1977, 1981, 1984, and 1988. He was the only coach ever to win national titles at three major levels: The NCAA, junior college, and American Legion.

Jim Brock was not only a winner in baseball, but a winner in the game of life. He held the highest of principles and values and he passed these attributes on to his players and colleagues. Dr. Brock's most important coaching job was assuring that his players achieved success in the classroom as well as on the field. This was a role he took upon himself as the baseball program's academic liaison. Coach Brock was filled with an enthusiasm for education. He believed there was nothing more important than education. This is evident in the fact that he earned a bachelor's and master's degrees, as well as a doctorate in educational administration, all from Arizona State University.

On the field, Coach Brock was always a force. He lived by the credos "Commitment to Excellence" and "Just win, baby." This attitude personified him and the entire Sun Devil baseball program. He proved to be a source of tremendous motivation, continuously reminding his team to seek the smell of roses. He was a great mentor to players, assistant coaches, and staff. His knowledge and invaluable advice was constantly sought after. Coach Brock always stood by his team; coaching, cheering, and sharing his love of the game with them. Over 63 of his players reached baseball's major leagues. Some of his more well-known players are Barry Bonds, Oddibe McDowell, Bob Horner, Hubie Brooks, Floyd Bannister, Ken Landreaux, Alvin Davis, and Pat Listach. Baseball is what made Coach Jim Brock happy.

Baseball will miss Dr. James L. Brock. A man filled with a never-ending dedication and love of a game—baseball. He has left his mark on our national pastime and it gives me great pleasure to highlight the accomplishments of this great man to my colleagues. All of us from Arizona and college baseball share in the loss of the Brock family. Dr. Brock made Arizona State baseball a dynasty, and we will be forever in his debt.

TRIBUTE TO CAPT. JAMES J. WOODHEAD, AMERICAN AVIATOR

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. MINETA. Mr. Speaker, throughout my 20 years in Congress, which includes service throughout on the Public Works and Transportation Committee, I have come to admire and respect the intricacies of our aviation system here in the United States.

But more than admire a system, with its essential importance to our national economy and transportation network, I have now an unyielding admiration for the professionals who make that system the best in the world.

One such professional, Mr. Speaker, is Capt. James J. Woodhead, a leader in American aviation, who is to be congratulated for his hard work and dedication during his 27 years as an airline captain and 37 years as a pilot.

I was saddened to head recently of Captain Woodhead's forthcoming retirement from US Air and his concurrent departure from the Air Traffic Procedures Advisory Committee as a representative of the Air Line Pilots Association. Captain Woodhead's thoughtful, reasoned approach to problem solving has made him one of the most widely respected members of the committee since 1979.

In all that time, ATPAC has benefited in particular from his expertise in cockpit management and air operations, perhaps most especially when he chaired ATPAC from 1987 to 1992. Very simply, Captain Woodhead has helped to make our system safer over the years, and the loss of his guidance will be felt by ATPAC, by ALPA, and by all those who may not know him by name but who work in and rely upon our airports and airways every day.

Captain Woodhead's aviation history is a very proud one indeed. After his graduation from Stanford University in 1956, Captain Woodhead joined the U.S. Air Force and flew a total of 4,500 hours around the world as an aircraft commander and flight examiner until he left the service in 1965.

From 1967 through this year, Captain Woodhead has piloted a variety of aircraft for USAir and Pacific Southwest Airlines. He has logged 22,000 accident-free hours, an invaluable experience which has reinforced his stature in ATPAC and helped the practical side of the Pacific Southwest-Piedmont-USAir merger in the late 1980's. Captain Woodhead certainly merited the Associate Administrator Air Traffic Service Award in 1992, as well as the Air Traffic Control Association's Special Medallion Award that same year.

Mr. Speaker, individuals like Captain Woodhead are the key to a successful aviation system here in the United States. His retirement notwithstanding, I trust that we will be able to continue to draw upon his knowledge, expertise, and friendship in the years ahead. I ask that my colleagues join me in wishing him the very best in whatever endeavor he undertakes to make that possible, as I'm sure he will.

THE HOLOCAUST JOURNEY OF RACHEL GOTTSTEIN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. LANTOS. Mr. Speaker, we frequently deal with the horror of the Holocaust and the brutal Nazi atrocities of half a century ago in very broad terms—the death of 6 million men, women, and children, the mechanical mass-production efficiency of the extermination camps, and the scope of the monstrous atrocities committed by Nazi officials at all levels. Too seldom, however, do we confront the Holocaust in personal terms. We do not examine those horrors at an individual level.

Mr. Speaker, I would like to call to the attention of my colleagues a very personal account of the horror of the Holocaust—excerpts from the article, "The Nightmare and the Dream: The Holocaust Journey of Rachel Gottstein," which appeared in the April 17, 1994 issue of the journal "We Alaskans". The article tells the story of Rachel Landau—born in Krakow, Poland, in 1936. As a 5-year-old child, her parents were captured and murdered and managed to survive for an additional 4 years—from a life of hiding out to escape German troops, being shifted from the labor camp at Plazow, which was dramatized in the movie "Schindler's List," to camps in Ravensbrueck and Bergen-Belsen where she was finally liberated in 1945.

I ask that this excellent article about the Holocaust experiences of Rachel Landau Gottstein be placed in the RECORD, and I urge my colleagues to read it carefully.

[From We Alaskans, Apr. 17, 1994]

THE NIGHTMARE AND THE DREAM: THE HOLOCAUST JOURNEY OF RACHEL GOTTSTEIN

(By George Bryson)

Rachel Gottstein had a dream. She was sitting in a house with her husband, Barney, and all their children. Somehow they'd learned the Nazis were coming to get them, to take them away to kill them. There was nothing they could do about it, so they sat and talked and waited.

In reality, the children born through previous marriages to Anchorage's Barney and Rachel Gottstein weren't even alive during World War II when the Nazis murdered nearly 6 million European Jews. Barney was only a teenager then and Rachel was hardly a schoolgirl. Barney grew up in Alaska, where he would later develop the Carr-Gottstein grocery store empire. He never experienced the Holocaust directly.

But Rachel grew up in Poland. And Rachel remembers.

Rachel Landau was born in Krakow in 1936. She was 3 when Hitler's armed forces invaded Poland. She was 5 when her Jewish parents suddenly hid her in a basement with neighbors and said goodbye. She remembers crying and screaming after them as they left. She remembers hiding in another home with her aunt and uncle and cousin and being captured by the Gestapo and taken to her first concentration camp.

She witnessed murders in the camps from the very beginning. At first she wondered about it: Why did the Nazis want to kill Jewish people—all the Jewish people, even little girls like herself. But she could see clearly that they did. She saw parents murdered in front of their children. She saw children deliberately murdered in front of their parents.

"I saw people begging and crying for mercy. . . . It felt embarrassing, but anybody will do anything to live. And we tried to survive, even me as a 5-year-old. I would do things that you would think were impossible . . ."

Over the next three years, Rachel clung tightly to the hands of her aunt and cousin as she survived three concentration camps: from Plaszow, to Ravensbruck, to the infamous Bergen-Belsen where the British discovered 10,000 unburied corpses the day the camp was liberated in 1945.

They also found 8½-year-old Rachel, emaciated by typhus—just as a typhus-ravaged teenager named Anne Frank had died at Bergen-Belsen one month earlier. But Rachel survived the Holocaust, a witness. A half-century later, it haunts her still.

"I still live in this trauma of the concentration camps," Rachel Gottstein said recently, speaking carefully, deliberately. "I have all kinds of dreams about this even now . . . Things you can never forget."

So much that was horrible happened at night, she recalls. Maybe that explains the dreams. The lights would go out and they would fall asleep on the straw mattresses on the long, wooden bunk beds. Then it would begin.

"They would drag people out. They would beat people up. They would torture them. They would kill them. They would take people for experiments.

"They would do this in the night thinking that more people would be sleeping and there would be less screaming and crying and people going insane."

Now she hates to sleep at all, Rachel says. "I sit to fall asleep so I won't realize I'm going to. Because I still think that . . . maybe, maybe this nightmare is still going on. And if I fall asleep, this will happen."

Just as she fell asleep one night recently and dreamed that the Nazis were on their way to get her husband and children . . .

In the dream Barney seemed supportive and calm, but Rachel feared for their lives.

"And I dreamt that my husband said he was going to give us a drink. That we should have a wonderful time, a wonderful day, a wonderful evening—and he was going to give us a drink . . ."

She knew then that the drink would be poison. They would kill themselves before the Nazis got the chance to do it first. But she remembers saying no—they should try and live . . .

"I said, 'I think there's hope. There's *always* hope. And maybe we will survive . . .'"

But that was just a dream. The reality for Rachel was a nightmare.

* * * * *

When Germany invaded Poland on Sept. 1, 1939—setting the torch to World War II—Jewish families all over Eastern Europe awoke to find their lives in sudden peril. How had this happened?

* * * * *

Throughout the 1930s, the Nazis had enacted a long list of punitive laws discriminating against German Jews. Among them: laws prohibiting Jewish children from attending schools, laws confiscating Jewish property, laws boycotting Jewish businesses, laws stripping Jewish doctors and lawyers and teachers of their jobs, laws prohibiting marriage between Jews and "Aryans."

Anti-Semitic rallies were another signature of the Nazi regime. By the end of the decade, the gatherings had grown increasingly violent. In November 1938, the "Kristallnacht" rally—so-named for the thousands of windows shattered at night in synagogues and Jewish owned shops across Germany—culminated not with the arrest of the vandals but the victims. Thirty thousand Jewish men and boys were seized and deported to Buchenwald, Dachau and Sachsenhausen concentration camps.

After that, many Jews decided it was time to get out. Hitler had been forcefully deporting them (after seizing their property) for several years. Now Jewish men and women fled voluntarily, leaving as soon as they could. By 1939, Jews were only half a percent of the German population.

Then war broke out, and the relationship between Hitler and the Jews changed. First, the borders closed, making it harder to leave the country. Second, the Jewish population of Germany skyrocketed as the Third Reich systematically conquered and occupied Poland, Denmark, Norway, Belgium, Holland, France, Greece, Yugoslavia, Lithuania, Latvia and the western Soviet Union. There were 9 million Jews in Europe, and now nearly all of them fell under the cloak of Germany. Some 3½ million Jews were in Poland alone—15 times as many as existed in prewar Germany. To Hitler, this represented a problem.

Rachel's parents took the advice of her grandfather. They bought a home in Skavina and moved there with their only child. They lived there two years, the beginning of Rachel's memory.

Mostly she remembers her parents' faith. "I don't know if they knew what was about to happen, but they always used to teach me a prayer in Hebrew—just one sentence of this prayer: 'Shema Yisrael Adoshem, Eloheinu Adoshem Echad.' And that means, 'Hear O Israel, the Lord is our God, the Lord is One.' And that's what the Jewish religion is based on—that we have one God, and we should have faith in this God, and that's how we will get strength: In this faith."

The words of the prayer were so familiar to Rachel they almost sounded like her mother's voice. *Shema Yisrael Adoshem Eloheinu Adoshem Echad*. The prayer reassured her whenever she got scared.

Rachel also remembers what her mother and father told her about Palestine—though she didn't really understand what they were saying. "They said . . . there is a land called Palestine, and this is our homeland. And this is where I should go."

* * * * *

Just as she couldn't understand why now her parents were saying goodbye . . .

There'd been rumors in Skavina that the Germans were coming to take the Jews away. Rachel's parents were afraid for their daughter's life. They took her to the house of a friend, a non-Jewish neighbor. Maybe there she would be spared.

"And all I remember is my parents were saying to me, 'Goodbye . . .' And I couldn't understand why they were saying goodbye and why they were leaving me.

"And the neighbor took me into her basement where it was very dark. And I was crying and screaming. And the neighbors were scared that the Germans were coming . . . and that they couldn't keep me quiet."

Hitler's "solution" didn't begin with the gas chambers. It began by rounding up Jews all across Europe and consolidating them in ghettos and work camps in Poland.

In Western Europe, the specter of hundreds of Jewish citizens suddenly boarding freight trains headed east almost looked too orderly to be murderous. But the calm was calculated. The Nazis knew they had to operate more subtly in countries like France, Holland, Denmark and Norway. The non-Jewish public might turn sympathetic to the plight of the Jews if the Gestapo began murdering them in the streets.

But Eastern Europe was a different proposition. It was far more impoverished, more historically anti-Semitic, more shielded from the world view. Murderous *pogroms* against Jews were staged in Russia and Eastern Europe long before the Germans arrived. The precedent there was set. When the Gestapo showed up, they could literally get away with murder—and did. As the German soldiers invaded Poland, they were followed closely by the Gestapo's "Einsatzgruppen," special police units that systematically rousted the Jews from their homes, then shot them in the streets or along some country road. In all, 600,000 Polish Jews died that way.

Two of them were Rachel's parents. A third was her grandfather.

* * * * *

Rachel wouldn't hear whether her parents died until after the war. Then her uncle told her after hearing the account from an eyewitness.

"They had taken the people from Skavina to this very large area. It wasn't yet a concentration camp," Rachel says. "There was a very big hole dug in this camp. All the Jewish people had to get undressed. All their valuables were taken from them, their clothes. And they were told to stand around that hole."

The Gestapo put something like gasoline into the ditch, Rachel says. And then they shot everybody. Only there were so many people to shoot, they ran out of bullets. Either that, or they just didn't want to use any more ammunition.

"And that's why the gasoline—so they burned whoever didn't die by bullet. And that's how I was told my parents died."

Later, even that wasn't efficient enough for Hitler or Goering or Adolph Eichmann. It took too long to dig the holes. So about two years into the war—not long after Rachel's parents were executed—the Nazi commanders initiated their "final solution" with the advent of the extermination camps. Then the Holocaust began in earnest.

* * * * *

THE CAMPS

Scenes from the prison compound in the Krakow ghetto, as seen through a little girl's eyes:

"It had barbed wires around," Rachel recalls, "and it had a lot of big rooms with bunk beds where all the women stayed. And there were some men there, too.

"And every day they would have us all come out of these big rooms. And they had us stand in line, and they would call out, at random, different names. And those names had to go to a truck—big trucks."

The significance of the roll call wasn't immediately clear to her, Rachel says, until—right in front of her—an elderly woman started screaming when her name was called. I don't want to die! she cried. I want to live!

"And they said to her, 'If you don't come voluntarily, then we'll kill a hundred people instead of you!' And a lot of people were saying, 'Go! Please go! Please go!' And she didn't want to go. And then they started hitting her, and they took her into the truck. . . And of course they took many other people, too."

Rachel was only 5 then. But just having been torn away from her mother and father, her eyes were wide open:

"There was hardly any food. And a lot of people were getting beaten. And there was always screaming, and there was always crying. People were sick and there were no doctors."

She didn't like this place, even if it was the city where she was born. The only comfort was the remaining small circle of her family and friends—Aunt Gittel, Yossi's mother, the three other children. They still clung together.

"Then one day, in the morning again, everyone stood in these long lines—and they called my aunt's name, and (Yossi's mother's) name. . . And so they took us to a place call Plaszow."

* * * * *

Even as they survived, children of the Holocaust didn't stay children long. Neither did Rachel. The murders and the torture she witnessed began to etch her young memory.

There was a big building at Plaszow, she says, called the Gray House. The upstairs served as headquarters for the Gestapo, the Nazi police. The basement was an interrogation room for camp laborers. And the Jewish people who went in that room seldom came out alive.

Rachel lived in a large barracks with the children and the two older women. "There were a lot of people in this one room. . . There was no toilet, but a pail where people went (to) the bathroom. There was just one pail with water (for washing hands). And people were crying, and people were hungry.

"Every day in the morning some Nazi would open the door to this area and they would bring in bread. And sometimes some water and sometimes some kind of a soup. And every day they would take out some people. And we could hear after they were taken out, screams. . . And you could hear hitting, you know, blows. And we knew they were being hit and tortured.

"There was a blond lady there with a little girl. And she claimed that she was a Christian. And every day she would cross herself and tell the little girl to cross herself. And she would pray to Jesus. And the Nazis would every day come in and say, 'Tell us you are a Jew.' And she would say, 'I am not a Jew, I'm a Christian.' And they would hit her, and she would say, 'I'm not a Jew!' And they said, 'Even if your great-grandmother was a Jew, then you are a Jew, and you are going to die for it . . .' Then one day they just took here and she never came back.

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"It was a train that had no windows. There were no steps to go up. People were just pushed up. Children were just handed up by the adults. They pushed in as many people as they could push in—more than that. They squeezed people in, and there was no food and no light and just total chaos."

Worst of all, says Rachel, you knew that you were going to come out of this train "not to some happy reception with friends, but you were either going to be shot or put into another camp."

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As suffocating as the westbound train ride was, it may well have saved Rachel's life. Children were among the first to perish on the long marches. Few prisoners had the strength to carry their children for long.

After Rachel's train passed the pre-World War II border between Germany and Poland, it stopped at the town of Breslau. There everyone was ordered off the train and directed into a staging area full of prisoners.

"We say a lot of people," Rachel recalls. "And you could see from the way it was—you saw everybody crying, and everybody hugging and kissing—and I imagined that they had just been told they were going to be separated and sent to different camps.

"And I imagine that these people knew from the names they were told that these were terrible places to go. Because it was just very traumatic. People were giving each other their necklaces if they had any. And they said, 'For good luck.'".

There was a moment's joy. Out of the crowd, Aunt Gittel spotted her husband, Max, and ran to join him. They hadn't seen each other for years—not since that day they were captured in their own hometown. But the joy collapsed when they learned that their orders would soon send them in different directions.

* * * * *

Yossi's mother was strongly religious, and she had grown increasingly anxious about eating food that wasn't kosher. She also suffered deeply the shame of being forced to undress and walk naked in front of the Nazis.

"She was always crying," Rachel recalls. "And she started to really carry on. And (Aunt Gittel) was always saying, 'Don't be afraid, she'll be all right.'

"And I didn't understand what was not all right about her. But now looking back, I can see that she was starting to go crazy.

"Then one day they took all of us in another kind of truck, a big truck. And they took us to another kind of place: Ravensbruck."

There were a lot of dogs. She noticed that right away.

And the Nazi guards were yelling things as their convoy rolled into the barbed-wired compound at Ravensbruck, north of Berlin. The trucks stopped and the prisoners stepped out—to more curses from the Nazis.

"You dirty Jews! . . . Hitler is going to finish you all off! . . . We're going to have a world clean of all the Jews! . . ."

Even after all she'd been through, Rachel says, she still found all the verbal hate amazing and utterly inexplicable.

"And I just couldn't . . . I couldn't grasp it. I couldn't understand. What did we do? Why? What happened that would make people dislike us so much that they would want to destroy us like this?"

Other images from Ravensbruck: A woman tries to climb the barbed-wire fence and escape camp. But the barbed wire is electric—and it stops her in an instant, killing her. Then another woman tries to escape by climbing the same fence—and she dies, too.

The question then becomes, were these serious efforts to escape? Or prisoners gone mad? Or even calm, reasoned decisions to end all the misery in a quick, uncompromising act of suicide?

Sometimes the dogs—German shepherds—would pull them down before they ever reached the fence, Rachel says. "And they would bite people and there would be screaming . . ."

Eight years old now, Rachel was beginning to comprehend the nightmare more and more. The staggering cruelty of it. Instead of becoming enameled to the cruelty, she seemed to be growing even more sensitive to it, finding cruelties within the cruelties.

Like the way the Gestapo not only showed no reticence about shooting a Jewish child, but would deliberately shoot the child in front of his mother. Or how they enjoyed breaking up families during "selections" for new camp assignments. Mother to the right, daughter to the left . . .

"And in other buildings, you would always hear screams of children and screams of people, we were scared, scared, scared all the time. All the time."

* * * * *

"Anybody who wasn't completely perfect was taken away," Rachel says. "If somebody would limp, they were killed. If somebody would call out (in pain), they were killed. If somebody would have a little bit of a hunch, stooped ever, they were killed. Everybody who had anything the matter with them was killed."

So Aunt Gittel "treated" her niece by taking a piece of straw from a mattress in the barracks, wadding it into a tiny lump, and lodging it as gently as she could inside Rachel's ear canal to staunch the flow of pus.

It wasn't so much a health-care measure as a survival measure. But it worked, Rachel says. Her ear didn't leak, the Gestapo didn't notice her, and eventually she got better.

* * * * *

"And from there they took us to a camp called Bergen-Belsen. And in the camp it was really bad. There was no food. And you could always see a lot of people dead, lying in front of the barracks.

"I remember the worst thing was the hunger." We were always so, so hungry. . . I imagine it was coming toward the end of the war, because it was getting more and more desperate. . ."

* * * * *

The war was ending, and it was a desperate time all around. The allied forces were marching on Germany from the coast, approaching Belsen. The Soviet forces were advancing from the east.

By now most of the death camps in Poland had been emptied, one way or another. The rate of killing rose sharply in the end. Some Nazi commanders believed they could avoid prosecution if no witnesses were left alive.

In Germany, the greatest killer in the camps at the end was starvation and disease. By some accounts, the most desperate case of all was Bergen-Belsen.

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Aunt Gittel was sick. She'd mothered the children through all the camps so far and kept them alive, but now she was the one dying. And there was nothing that could be done. Everyone at Belsen was dying.

"She was lying there and they came and they took her away," Rachel says. "And so we were left, just the four children."

Rachel took care of them as best she could, but there was hardly any food at all.

I would always try when it came time for the slice of bread—I would take the slice of bread and let everyone eat a crumb at a time," Rachel says. "And they would hold it . . . and suck on it."

Then even that single slice of bread shared once a day between four children disappeared. According to the official British military report, Bergen-Belsen ran out of food and water five days before it was liberated.

"When, finally, British troops did enter Belsen in force," Gilbert writes, citing the report, "the evidence of mass murder on a vast scale became immediately apparent to them. Of 10,000 unburied bodies, most were victims of starvation. Even after liberation 300 inmates died each day during the ensuring week from typhus and starvation."

Rachel had come down with typhus, too. Two of the children had tuberculosis. Lying in her bunk when the first preliminary British convoys passed through—April 15, 1945—Rachel was frightened. She feared the Germans were coming to get her and the others because they were all sick.

She remembers going outside and hiding under the barracks. "I don't know if I fell asleep or what, but the next thing it's pitch dark. And I came out from under the barracks, and I went back in. It was half empty. I saw the three children lying there, and I was so happy. I went and I laid with them."

The next day, Rachel says, she noticed there weren't any Nazis around. "And the next thing I remember is that, we all looked at those doors that led into the barracks, and we saw a lot of soldiers. And these were the British soldiers that liberated Bergen-Belsen. And you could see they were all very, very shocked at what they saw. Because none of them were coming into the barracks. They were all standing by this door, just looking . . ."

FROM HERE TO THE HOLOCAUST

In the days that followed, many more people died. But Rachel and the children survived. They stayed at the camp for several weeks recovering.

The Red Cross had circulated a list of concentration-camp survivors all over Europe. At Buchenwald, Max Katz saw a copy of the Bergen-Belsen list and celebrated. There on the list of survivors were the names of all four children, including his 6-year-old daughter, Bilha—as well as his wife, Gittel. He hurried to Belsen to find them.

He found Bilha and hugged her, then hugged the others.

"Where is my wife?" he asked the children. As the oldest, Rachel answered first, "Aunt is dead," she said.

Max was stunned. He slapped Rachel on the face. "That's not true." he said. "You're lying."

Rachel gathered herself. "It's true," she said.

Not long after that, the children split for the first time in more than three years.

Seven-year-old Hanka, the rabbi's child, and 4-year-old Yossi were bound for Sweden. Both had lost both parents during the Holocaust, and now they had come down with tuberculosis. The Swedish government was offering treatment.

Rachel followed her Uncle Max and cousin Bilha to their new home in Czechoslovakia. After a few weeks, she approached her uncle with a question of her own: She wondered if he's heard any news about her mother or father. All through the concentration camps, there'd been no word about what became of them.

Now it was Max's turn to deliver bad news. He's spoken to someone who had witnessed their execution. As gently as he could, he explained this to Rachel.

The words shocked her, Rachel says. "I didn't believe him."

From Krakow to Plaszow, to Ravensbruck, to Bergen-Belsen—she always kept thinking that her parents would turn up. That they would run into each other's arms and hug.

"It just didn't penetrate . . . And to tell you the truth, to this day it still doesn't penetrate. Even though I'm a grown woman, in many ways I feel like I'm not a grown woman. I feel like I am a child. Because I don't understand these things, and I can't believe them.

"I just feel, 'Where are my parents' graves? Where can I go to see that it's really so? And why? Why did they die? I cannot understand why they died, I cannot understand why 6 million Jewish people were killed for no reason and the whole world stood by.

"And until this day, I don't believe this horrible nightmare really is possible. That it really happened."

A TRIBUTE TO PAUL DUKE

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. JACOBS. Mr. Speaker, as our friend, David Broder, says, Paul Duke is a very special person.

Paul Duke is a man of uncommon talent and uncommon modesty, the quintessential scholar and gentleman.

[From the Indianapolis News, Jan. 19, 1994]

RETIRING JOURNALIST EARNED RESPECT

(By David S. Broder)

WASHINGTON.—Every Friday evening at 8 p.m., Eastern time, millions of Americans interested in politics and public affairs tune their television sets to "Washington Week in Review" and watch some of this city's best journalists summarize and discuss what is happening in the U.S. government.

For the past 20 years, the moderator of this Public Broadcasting System program has been a mellow Virginian, Paul Duke, who is the embodiment of an endangered tone of civility and professionalism in the news business. Duke is retiring from the program at the end of February, and last Wednesday his colleagues hailed his work at the National Press Club. An out-of-town assignment kept me from attending, but—like last year's retirement of John Chancellor, a journalist of similar quality—this is not an occasion which should go unremarked.

There is never a surplus of sensible, nonstrident reporting and analysis, and "Washington Week" increasingly has stood out as a monument to that tradition in a landscape littered with "infotainment" and other forms of junk journalism.

As a very occasional participant in the show, I have enjoyed the gentle makeup room needling and obvious camaraderie of the regulars like Gloria Borger, Hedrick Smith, Jack Nelson, Haynes Johnson, Charles McDowell, Howard Fineman and Steve Roberts.

Far more often, when on the road, tuning in to "Washington Week" has been the closet thing to the "fix" I get when shooting the breeze in The Washington Post newsroom with the reporters covering the White House, Capitol Hill, the State Department, the Pentagon or the big investigative story of the week. In both cases, there is a minimum of bunk and a maximum of good-humored, skeptical but earnest effort to figure out exactly what the hell is going on.

The tradition was already established when Duke slid into the moderator's seat at "Washington Week" seven years after the program went on the air. He has done a huge amount to strengthen it. He came to the job as a first-rate reporter. When I met him, he was part of a trio of political/congressional reporters at the Wall Street Journal, with Alan L. Otten and Robert D. Nowak, that may have been as strong a team as any news organization has ever had on that beat.

He did the same kind of non-flamboyant but aggressive reporting for NBC News before shifting to public television. And he sought out the same kind of reporters for "Washington Week." Oddly, in opting for workhorses, rather than show horses, "Washington Week," found people like the late Peter Lisagor of the old Chicago Daily News, who became beloved figures to the weekly audience of 4.5 million people.

Duke spoke at the press club of the extraordinary bond that exists between the viewers and the regulars. Those viewers worry about the reporters' colds, criticize their clothes, name their children for their favorites. The trust that our colleagues on "Washington Week" engender benefits all of us in the journalist community. It's an offset to the cynicism and distrust bred by the sarcastic, smart-aleck shouters who dominate so many of the other Washington-based talk shows.

Duke spoke for many of us when he said: "It is our business, the press' business, to chronicle all the deeds and misdeeds (of public officials). And clearly the press is no more perfect than the politicians or the policy-makers. There is too much careless reporting today, too much cynicism, too much reliance on unnamed sources, and too much instant analysis which all too often turns out to be instant baloney."

And in specific reference to television, he added: "The notion that news is entertainment has spawned a flashy and slurpy brand of programming that leans heavily on sob stories or celebrity interviews, shows that are little more than video versions of the old

Hollywood movie magazines and the Police Gazette. What we've seen is the news business becoming more like show business."

Happily, the executives at WETA-TV, which produces "Washington Week," have chosen a successor to Duke who embodies the same values and virtues. Ken Bode is a political scientist by training, who left teaching to write politics very well for The New Republic magazine, then moved on to do a first-class job as NBC's political reporter. He always has eschewed the "glamour-puss" approach to television news in favor of dogged reporting. His crammed, looseleaf source book testified to his cultivation of grassroots political activists of all stripes.

A few years ago, Bode returned to academic life at DePaul University, while keeping his hand in journalism with special reports and documentaries for CNN. He is going to keep his home in Greencastle, Ind., while commuting to Washington several days each week. That's smart.

I've visited him there and joined him and his wild buddies at their regular after-breakfast cribbage game near the potbellied stove in an auto repair shop. If Bode or his "Washington Week" panelists ever threaten to become stuffy, the "boys" at the garage will razz him unmercifully.

Paul Duke's fine legacy will be in good hands.

GI BILL 50TH ANNIVERSARY

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. DE LA GARZA. Mr. Speaker, today marks the 50th anniversary of the signing of the Servicemen's Readjustment Act or as its known to most of us, the GI bill. It is hard to think five decades have passed since this became law, but the intervening years reflect what a resounding success this legislation has been.

Its purpose was threefold—to avoid high levels of veteran unemployment, as had occurred following World War I; to help alleviate shortages of trained manpower due to the postponement of education or large numbers of service persons; and to provide assistance in adjusting to civilian life for returning veterans. This measure provided the necessary stepping stones to realize these goals.

Our country and specifically higher education as we know it today would not be the same were it not for this legislation, and that is what makes the GI bill so special. This program raised the intellectual level of an entire generation thereby stimulating an unprecedented economic expansion in America. The first GI bill veterans turned out to be the best educated and best trained in the history of America.

This was a major investment, but what we have seen over the years is that the Nation has earned back its investment many times over. During the lifetime of the average veteran the U.S. Treasury receives from two to eight times as much in income taxes as paid out in GI bill education benefits. But the even greater benefit was the pool of talent that was nurtured and tapped and who eventually became the leaders of our Nation.

Since its inception, more than 20 million veterans and dependents have participated in GI bill education and training programs. This fact alone reflects the importance of this legislation. But even more importantly, and why I feel it is that the GI bill is so notable, is what it did to provide countless Americans with paths of opportunities.

To say that the founders of this program were very farsighted in their vision would be an understatement. Not only did they realize the great debt we as a nation owed our veterans and that this was one way to express our gratitude, but they first and foremost recognized that there is no greater gift than knowledge—that this above all else is the primary resource for individuals to achieve their aspirations and dreams.

As the years go by, I think we all recognize and more fully appreciate the contributions of the GI bill to our country. I know I do. I am a product of the GI bill, and along with thousands of veterans who I know share my sentiments I want to say our Nation could not be what it is had it not been for all who served and the GI bill.

OUTSTANDING ATHLETE OF THE YEAR

HON. HERB KLEIN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. KLEIN. Mr. Speaker, I rise today to join the John F. Kennedy High School students and faculty in honoring Nicole Carmichael as the recipient of the Outstanding Athlete of the Year Award.

Nicole Carmichael has just completed her junior year at Kennedy High School. She has demonstrated remarkable athletic achievement in the sport of track and field.

This winter during indoor track season, Nicole won several meets. She is the county and State champ in the 55 meters race and placed sixth in the 55 meters State Meet of Champions.

Nicole is not only a great indoor track athlete, but also an exemplary spring track athlete. She is undefeated in the dual meet competition and has been awarded the Girls Track Most Valuable Participant for the 190 half points she scored for her team this past season. Furthermore, Nicole placed first in the 100 and 200 meters NNJIL Meet and, in doing so, she broke the meet record set in 1986. She also won first place in the County Meet of Champions for the 100 and 200 meters race and helped her team take another first place by being the anchor leg in the mile relay.

In addition to those numerous awards, Nicole is the first girl from her high school to win first place in the State Track Meet of Champions in not one, but two events. She also possesses the school, county and league record and tied the sectional meet record for the 100 and 200 meter races. Moreover, Nicole is the first place 100 and 200 meter winner in the Girls Eastern States Track Championship.

It is with great pleasure that I ask my colleagues to join me in honoring this prestigious athlete on her extraordinary achievements.

TRIBUTE TO REV. NINH VAN NGUYEN

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to the Reverend Ninh Van Nguyen, a man who has dedicated his entire adult life to the service of God and his fellow man. On the evening of June 17 his family, his friends, and his colleagues will gather to recognize Reverend Nguyen's many contributions to the Presbyterian Church and the community at large.

The life of a refugee is a difficult one. Many make their way to this country after having their lives jeopardized by circumstances beyond their control. No one knows the uncertainty of a refugee's life like Reverend Nguyen does. He was a refugee not once, but twice. Uprooted from his homeland, Reverend Nguyen knows all too well that for a refugee to survive, he must find something to believe in, something that can never be taken away. Ninh Van Nguyen believed that he could make a difference in the lives of his fellow refugees.

After fleeing Communist forces in North Vietnam, Ninh Van Nguyen, settled in South Vietnam in 1954 and soon went to work for Vietnam Christian Service. Their mission was to alleviate the suffering of war victims—the orphans, the widows, the refugees, the sick, the wounded, the amputees. He did this work from 1955 to 1975, and as you can imagine, in Vietnam there was much work to do. He continued at this most difficult of jobs until, once again, he was uprooted by the forces of communism.

In his new country, America, Ninh Van Nguyen set out to continue assisting his fellow refugees. As a consultant to Lutheran Immigration and Refugee Services based in New York, he developed resettlement programs supervising orientation and crisis intervention services for Southeast Asian refugees.

Eventually, his work landed him in Sacramento, CA, where he founded the Southeast Asian Assistance Center, earned a degree in social welfare, a masters in social work, a master of divinity, and a doctor of ministry. Since 1983, he has served as pastor/director for Southeast Asian Ministries. In 1986 he became the first, and only, Vietnamese refugee to become an ordained minister in the Presbyterian Church.

Throughout his life's experiences, Reverend Nguyen has developed a genuine understanding of the many issues affecting the quality of people's lives. He has embraced leadership positions in numerous community organizations, including the YMCA, Interfaith Service Bureau, the Sacramento County Health Council, and numerous others dedicated to improving the quality of life for immigrants. It appears as through Reverend Nguyen has dedicated every waking hour to his life's work of service to man and service to God. In so doing he has become a well-rounded and highly educated individual with a wealth of real world experience. Sacramento is fortunate to be the home of such an outstanding spiritual and community leader.

Mr. Speaker, it is with great pleasure that I rise today to recognize Rev. Ninh Van Nguyen, who serves as a living definition of the word "dedication."

DEMOCRATIC RUSSIA JOINS THE PARTNERSHIP FOR PEACE WITH NATO

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. LANTOS. Mr. Speaker, yesterday marked an historic milestone in the post-cold-war partnership between the United States and Russia and an historic milestone for Europe and the world. On the 53d anniversary of Germany's invasion of Russia on June 22, 1941, the Foreign Minister of Russia signed documents making Russia a participant of NATO's Partnership for Peace.

While the United States-Russian relationship over the last 50 years has been dominated by friction, it is framed on both ends by beacons of cooperation and partnership. I am optimistic and confident that the future of United States-Russian cooperation will be peaceful, prosperous, and successful.

It is significant, Mr. Speaker, that the Government of Russia has signed the Partnership for Peace documents on June 22, because that day marks the 53d anniversary of Germany's invasion of the Soviet Union, a historic turning point of World War II which led to the establishment of the grand alliance of the United States, Britain, the Soviet Union, and other countries which ultimately led to the final and unconditional defeat of the Nazi invaders. Russia's contribution to the Allied effort was critical to the ultimate success, and was vital in bringing about the end of the domination of the Fascist regimes.

The signing of the Partnership for Peace documents brings to mind another key event of the World War II era of cooperation with the Soviet Union. On April 25, 1945, troops of the American and Soviet Armies met on the Elbe River in Germany. That meeting was an important symbol of our united cooperation in the final successful assault on Nazi Germany. Within a few weeks of the historic meeting of American and Soviet troops at Turgau on the Elbe River, Hitler and most of his lieutenants were dead, Nazi Germany was defeated, Europe was liberated, and the Allies were victorious.

Mr. Speaker, today, we have come full circle, and once again the United States and Russia, along with our European allies, have agreed to work together for the goal of maintaining peace in Europe and in the world. It is incumbent upon all of us to recognize the great opportunity which Russia's participation in NATO's Partnership for Peace now provides us—a better opportunity for contributing to peace and fostering democracy in Europe and around the world.

It brings me great pleasure—and relief—to see the world backing away from the threat of global war and nuclear conflict that we have faced during most of the past half century. It is reassuring to see our two nations moving toward cooperative solutions to the pressing problems that we both face. The implications of Russian participation in NATO's Partnership for Peace are enormous. If this leads to eventual NATO membership by Russia and the other members of the former Warsaw Pact, it will mark the true end of the barriers which have divided Europe since the end of World War II.

The security alliance stretching east from Vancouver to Vladivostok does not ensure that there will be no more Bosnias or no more Nagorno-Karabakhs, but it does a great deal to eliminate the risk that such tragic local conflicts will lead to large-scale conventional warfare, and it assures that there will be greater possibility for nuclear cooperation. Moreover, it enhances the international community's ability to deal with low-scale, localized conflict. Just as important, it means that resources previously devoted to military preparedness can now be allocated to more productive domestic uses which will contribute improved quality of life for the citizens of all countries.

Mr. Speaker, the Russian people and the Russian Government of President Boris Yeltsin are to be congratulated for their decision to join the Partnership for Peace. It required statesmanship and farsightedness for Russia now to cooperate closely with its former enemies—not a policy lightly undertaken by any nation, and certainly not one enduring the political and economic upheaval wracking Russia. I commend President Yeltsin, Prime Minister Viktor Chernomyrdin, and Foreign Minister Andrey Kozyrev for their enlightened action today.

Mr. Speaker, I also wish to commend our own administration for their critical and constructive contribution to the historic event that we marked yesterday starting with President Clinton and including Secretary of State Warren Christopher, Deputy Secretary of State Strobe Talbott, and the rest of the President's foreign policy team. These men and women are to be commended for their successful conclusion of painstaking negotiations for Russia's entry into the Partnership for Peace.

This long process has demanded vision, patience, perseverance, and diplomatic skills of the highest level as the administration sought to allay Russian fears about NATO expansion and alliance worries over possible Russian obstructionism once inside the partnership. Moreover, we're not out of the woods yet; rather, the signing ceremony initiated the start of another critical phase in the process of creating a peaceful, prosperous, and stable post-cold-war Europe. Disagreements and setbacks are to be expected along the way as the East European countries and Russia are integrated more thoroughly into the Atlantic Alliance, but the promise of closer consultation and coordination clearly argues well for the ultimate success of this undertaking.

Mr. Speaker, I would like to acknowledge this administration's contribution to establishing lasting peace and real security on the European continent, the very same cause that so many Americans and Russians fought and died for during World War II. The best way we can honor their sacrifice and achievement is to make the resort to arms unnecessary in Europe. This agreement brought us closer to that goal.

BROOKE BOTTUM ESSAY AMONG WINNERS IN SCHOOL-DAR FLAG ESSAY CONTEST

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. SOLOMON. Mr. Speaker, for more than 20 years, Nancy Vonic, English teacher at Oliver Winch Junior High School in South Glens Falls, NY, and with the help of the Jane McCrea Chapter of the Daughters of the American Revolution, has assigned her seventh-graders to write essays about the American flag.

I am proud to place the winning essays in today's RECORD, including the honorable mention essay submitted by Brooke Bottum, daughter of Diane Bottum, of 11 Lincoln Avenue East, in South Glens Falls. Congratulations go out to Brooke, and our grateful appreciation to Nancy Vonic and the Jane McCrea Chapter of the the DAR.

HONORABLE MENTION

THE AMERICAN FLAG

(By Brooke Bottum)

This essay is about what the United States flag means to me.

The United States flag is a symbol which stands for our country's land, people, government, and ideas. When I say the Pledge of Alligiance, I feel that I am honoring the men and women who died to protect our flag from dishonor and disgrace.

The flag was made in 1777. It has 13 stripes, which stand for the original 13 colonies. There are 50 stars inside a blue square that represent the 50 states. The first flag was made by Betsy Ross. A description of the flag is in the Journals of the Constitution.

I am very grateful to my grandfather. He fought for our country's rights during World War II. He was willing to die for our country. I like to listen to stories about when he was in the war. I can learn a lot from him.

Also a close elderly friend of mine was a woman who helped out during the Korean War. She died a couple of months ago. At her burial, there was a flag over her casket. Men shot off guns and there was a person playing slow trumpet music. The flag was folded a certain way and presented to her son. When they put up her headstone, there was a flag put next to it. She is buried in Our Lady of Angels Church (cemetery) in Whitehall.

As we learn more about the wars in Social Studies class, it makes me feel honored to be part of the United States and to be able to stand and honor our flag every day in school. It makes me realize how lucky I am to be in a country with so much freedom.

SALUTE TO EAGLE SCOUT DAVID HARVEY

HON. DAVID MANN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. MANN. Mr. Speaker, I rise today to congratulate David Harvey for earning the Boy Scouts of America Eagle Scout rank. David will be recognized for his achievement at a special court of honor ceremony on June 26, 1994, at Pleasant Ridge Presbyterian Church.

David joined Troop 6 after being a Cub Scout in Pack 33. He has held several positions of responsibility, including senior patrol leader. David has been inducted into the Scouts' honor campers group—the Order of the Arrow, and has completed junior leader training.

David, like all other Eagle Scout candidates, was required to complete a community service project. He worked with the Caring Place to raise money for Christmas toys for disadvantaged children. He then helped staff a special Christmas party thrown for the children.

David Harvey also has been persevering to perform to the best of his abilities outside of scouting. He is a student at Kings High School, and enjoys playing baseball.

I salute David on his accomplishment, as well as his parents and his scout leaders whose support helped make it possible.

TRIBUTE TO KRISTEN GOEHRING

HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. TANNER. Mr. Speaker, I want to take this opportunity to congratulate Kristen Goehring for being honored with Kristen Goehring Day in Jackson/Madison County, TN. It is certainly appropriate that someone as talented and skilled as Kristen be honored in such a manner so that children throughout the area can recognize the type of role model she is.

In today's competitive world, to excel in either athletics or academics is a terrific achievement. However, to excel in both is a truly remarkable feat. To take those achievements and apply them to a career that will bring pride and honor to one's home and family, and fulfill a vital need to the public is perhaps the greatest gift one can give back to society.

From an early age, Kristen was recognized as one of the best players in athletic competitions. As a teenager, she participated on AAU basketball teams and won numerous awards from school, camps, and athletic organizations. During her high school years, Kristen led Northside High School to its only undefeated season in school history and a ranking in the USA Today top 25 girls teams. Among her honors were All District, Most Valuable Player, TACA Player of the Year, Regional Tournament MVP, the All-West Tennessee and All State and All Mid-South teams, Street & Smith/USA Today All American, AAU All American on the 15 and under national championship team. Equally impressive was being named an Academic All-American by the National Secondary Education Council.

At the University of Mississippi, Kristen was named to the All SEC Freshmen Team, "Newcomer of the Year", All SEC, All SEC Academic Team, Chevrolet Player of the Game. She was also the 13th all time leading scorer in school history and team captain. Every year while at Ole Miss, Kristen was named a Scholar/Athlete and was on the Dean's List and the Chancellor's Honor Roll.

Kristen has now been named as the 1993–94 NCAA Women of the Year at Ole Miss. She has a 3.67 grade point average in pharmacy while entering pharmacy school as a sophomore. She has also been selected to serve as a member of Rho Chi, the highest honor society in pharmacy.

Kristen turned down an offer to play professional basketball in Europe, and numerous other work opportunities, to utilize her pharmacy degree in order to receive her doctorate and serve others by teaching. She is proof that academics, athletics, competitiveness, and success are intertwined. I think it is appropriate that we all recognize the achievements of Kristen Goehring and promote her as a role model for the youth of our Nation.

GLENS FALLS, NY, MOURNS LOSS OF OTTO WAHL, SR., FORMER YMCA HEAD

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. SOLOMON. Mr. Speaker, I'd like to say a few words about a man whose recent loss is mourned by everyone who knew him, Otto F. Wahl, Sr., of Glens Falls, NY.

Mr. Wahl was for many years executive director of the Glens Falls YMCA and held several posts in city government. But when I think of Otto Wahl, I think of a man who, without fanfare or recognition, made a difference in his community by being unfailingly generous with his time.

Mr. Wahl was an outstanding high school athlete who went on to serve as an Air Force cryptographer in World War II and earn a bachelor's degree from Syracuse University. He became associated with the Glens Falls YMCA in 1956, serving in such capacities as physical director, program director, assistant director, and finally executive director from 1970 to 1973.

He was instrumental in building the new Glens Falls YMCA in 1969. He also organized and coached YMCA Northeast District championship swim teams. His learn-to-swim campaigns ultimately involved thousands of local youngsters. Mr. Wahl also organized summer camping programs for underprivileged children.

The Glens Falls Optimist Club singled him out for his devotion to area youth, especially with the Optimist-sponsored Youth Appreciation Day and the Optimist Youth Basketball League. Older Americans were also beneficiaries of his civic spirit when he served as an active member of the Glens Falls Senior Citizen Center.

Mr. Wahl worked for the city as special-projects assistant from 1978 to 1982 and personnel officer from 1983 to 1987.

When he retired in 1973, the YMCA board of directors, in expressing their appreciation, noted that Wahl, "labored long and faithfully, many times far beyond the call of duty."

That's why, Mr. Speaker, I'm taking this opportunity to see that this man receives his due recognition. I ask everyone to join me in expressing our sympathies to his wife, Jane, and to the rest of the family, and in paying our last respects to a great friend and a great American, Otto Wahl, Sr., of Glens Falls, NY.

SALUTE TO EAGLE SCOUT REID SCHNEEMAN

HON. DAVID MANN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. MANN. Mr. Speaker, I rise today to congratulate Reid Schneeman for earning the Boy Scouts of America Eagle Scout rank. Reid will be recognized for his achievement at a special court of honor ceremony on June 26, 1994, at Pleasant Ridge Presbyterian Church.

Reid joined Troop 6 after receiving the Arrow of Light in the Cub Scouts. Since then, he has held several positions of responsibility. Reid has been inducted into the Scouts' honor campers group—the Order of the Arrow, and has helped staff the Brownsea Junior Leadership Training Camp.

Reid, like all other Eagle Scout candidates, was required to complete a community service project. He worked with the Pleasant Ridge Elementary School to renovate the World War I monument on the school grounds. The project involved new landscaping work and an effort to protect the monument from deterioration by the weather.

Reid also has been persevering to perform to the best of his abilities outside of scouting. He is a student at Walnut Hills High School, and enjoys soccer and baseball.

I salute Reid on his accomplishment, as well as his parents and his scout leaders whose support helped make it possible.

SURGICAL PROCEDURE: REMOVE DR. ELDERS

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. STUMP. Mr. Speaker, as one of the many Members who has signed Mr. STEARNS' letter to President Clinton calling for the resignation of the Surgeon General, I am hopeful that he will give our request his most serious consideration.

Dr. Elders has repeatedly crossed ethical boundaries and made statements many Americans find extremely offensive and indefensible. In fact, just yesterday while speaking at the Lesbian and Gay Health Conference, she lashed out at the un-Christian religious right.

Although, I find her latest attack unsettling to say the least, I must admit that it is not the most damaging statement she has made. I find it particularly worrisome that the Surgeon General, who is in a position to guide this Nation's youth and give them a sense of what is right and what is wrong, has made controversial and flippant remarks on issues involving drug abuse and sexuality.

We are all aware of the horrors of drug abuse and the terrible and destructive impact it has on our society. Yet, in the midst of this Nation's war on drugs, the Surgeon General has advocated a study of the possible legalization of illicit drugs. Equally as disturbing are her comments on sexuality. Her idea of responsibility is for "every young girl when she goes out on a date—put a condom in her purse."

Mr. Speaker, the Surgeon General of the United States should be dedicated to promoting public health and welfare. I believe that Dr. Elders has a much different agenda. Quite frankly, I am convinced that if she is not removed from her position, her actions will only get worse. I am hopeful that the President will heed our request and replace Dr. Elders with a Surgeon General who is dedicated to our common values and interests.

EXPLANATION OF VOTE ON INTERIOR APPROPRIATIONS

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. POMEROY. Mr. Speaker, although I voted for the fiscal year 1995 Interior appropriation bill because of the many programs important to my State, I have strong objections to the funding included for the National Biological Survey [NBS]. I voted for the Allard amendment which would have eliminated funding for activities for the NBS.

Mr. Speaker, when the authorization bill for the National Biological Survey was considered by the House, I supported a number of amendments to improve the bill—including those offered by Representatives TAYLOR and DOOLEY. Although these modifications were added, I felt compelled to vote against it on final passage. I believe the potential for infringing on private property rights was too great.

Further, this measure is not authorized. The Senate has yet to consider the measure and I believe our dollars can be better spent on the other worthwhile programs already underway at the Department of Interior.

TRIBUTE TO NOPI BARNARD

HON. DON JOHNSON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. JOHNSON of Georgia. Mr. Speaker, I rise today to honor the memory of a great citizen of the 10th District of Georgia, the late Nopi Barnard. As you recall, Mrs. Barnard was the wife of Representative Doug Barnard, who served this district well for 16 years.

Mrs. Barnard was a fine poet. In remembrance of her, Mrs. Elinor Petree Schadek, whom Mrs. Barnard befriended when she moved to Augusta, GA, has written a poem entitled "To Nopi." I would like for this poem to be entered into the RECORD.

TO NOPI

I was a stranger and she took me in.
She opened doors,
Gently led me by the hand,
And showed me how to live again.

I heard a knock upon my door
And went to find
Baskets of flowers, a note,
A book, a friendly face.
Earth Mother with a southern grace,
She melted all the northern ice
Around my frozen heart.

Some day, in green Elysian fields,
On a flower-strewn slope
In Paradise
I know I will find her.
Dear Nopi, of the soft brown eyes,
Patiently, lovingly standing by
Adjusting new halos, smoothing new wings
Helping new angels learn to fly.

NO. 1 ELKS LODGE IN NEW YORK STATE IS KINDERHOOK LODGE NO. 2530

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. SOLOMON. Mr. Speaker, I am very proud to be a member of the Benevolent and Protective Order of Elks, and on July 3, Kinderhook Lodge No. 2530, Benevolent and Protective Order of Elks, will participate in the national ritual contest at the grand lodge convention in Chicago.

To get to this point, Kinderhook Lodge No. 2530 had to earn the designation as "No. 1" lodge in New York State after competition with 7 other lodges in the north Hudson district and 12 other lodges in New York State. It is no small feat, indeed.

Elks lodges have been known for their fraternal spirit and civic-mindedness from the very beginning. Also unique are the distinctive Elk observances, headed by the elaborate initiation ceremony designed to impress and inspire the new initiate.

Charity, justice, brotherly love, and fidelity, those are the principles of the Benevolent and Protective Order of Elks, and those are the lessons imparted during the initiation ceremony. That is why the ceremony is conducted with such reverence, and why each lodge strives to be the best in its rendition of the rite.

The ritual contests test the skills of lodge officers to memorize and act out the role they assume in the ritual. Each officer individually and the team as a whole are judged for impressiveness, word accuracy, pronunciation, and deportment.

Mr. Speaker, after the district and State competition, Kinderhook Lodge No. 2530 emerged as the best in New York State. I am extremely proud of them, and I would ask all Members to join me, both in congratulating them and to wish them good luck at the grand lodge convention.

SALUTE TO EAGLE SCOUT RYAN SCHNEEMAN

HON. DAVID MANN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. MANN. Mr. Speaker, I rise today to congratulate Ryan Schneeman for earning the Boy Scouts of America Eagle Scout rank. Ryan will be recognized for his achievement at a special Court of Honor ceremony on June 26, 1994, at Pleasant Ridge Presbyterian Church.

Ryan joined Troop 6 in 1988, after his introduction to scouting as a Cub Scout. Since then, he has held several positions of leadership.

Ryan, like all other Eagle Scout candidates, was required to complete a community service project. He constructed a new swing set at Pleasant Ridge Methodist Church for the children's playground.

Ryan also has been persevering to perform to the best of his abilities outside of scouting. He is a new graduate of Purcell Marian High School, where he was a valued member of the soccer team and an honor student.

I salute Ryan on his accomplishment, as well as his parents and his scout leaders whose support helped make it possible.

DR. LARRY DECOOK ELECTED AOA PRESIDENT

HON. JIM LIGHTFOOT

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. LIGHTFOOT. Mr. Speaker, I would like to take a moment to commend a native Iowan, Dr. Larry DeCook, of Newton.

On June 28, Dr. DeCook will have the honor of being inducted as the 73d president of the American Optometric Association before his peers at AOA's 97th Annual Congress in Minneapolis, MN. Dr. DeCook's accomplishments are quite impressive and extend past his field of optometry. He was first elected to the 30,000 member organization's board of trustees in 1988. Dr. DeCook, a graduate of Pacific College of Optometry in Forest Grove, OR, is a past president of the Iowa Optometric Association and former chairman of the Iowa Board of Optometry.

In Newton, IA, he has served on the city council, the park commission, and the chamber of commerce board. He also is a past president of the Jasper County Tuberculosis and Health Association.

I am pleased to join Dr. DeCook's many friends and colleagues in congratulating him and am quite confident he will serve AOA well.

FATHER JAMES DEMSKE

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. LaFALCE. Mr. Speaker, Father James Demske of Buffalo died last week. Tributes of all sorts have been paid to him and his legacy. But few have been as heartfelt or as moving as the one written by my good friend Anthony Masiello, the mayor of Buffalo.

At this point I insert Mayor Masiello's comments.

Mayor Masiello's tribute to Father Demske follows:

I guess we should begin tonight by noting that if Father James Demske were alive, he wouldn't be very pleased about all the fuss he was generating. For all his passion, for his intellect, for all his dynamism, in serving his God, his country, and his college.

Father Demske was not someone who sought or was comfortable in the spotlight, except maybe when he had a trombone in his hands.

I recall the first time I saw him, I was heading into my first varsity basketball season when he came into the gym at the Villa. We had heard so much about the new president and his imposing academic credentials, but when I first met him, I was struck by his humanity, his caring, and his concern.

We all knew he would be at home in the classroom, but he surprised us by being equally at home in the community, in the locker room, and in the student union.

Father Demske was the rarest of scholars—one of those who was as secure in the gyms as he was in the ivory towers of academia, a man of both intellectual brilliance and such common decency that the force of his personality brought Canisius off the campus and into the community where it enjoys such primacy today.

I was a little surprised when I learned he had entered the priesthood after leading a combat company in Europe during World War II, but those of us who knew shouldn't have been. It certainly would have been just like him to take one of the most destructive human experiences and turn it into a life and a legacy of such dedication and devotion to God and Canisius College.

Last year, when I aspired to become the 57th mayor of Buffalo, I was credited with creating a campaign of consensus and inclusion—of practicing coalition politics that had not been seen in Buffalo in nearly two decades.

But truly, my campaign was little more than what Father James Demske had practiced throughout his tenure as our leader.

Therefore, in a very real sense, what I have become and what I able to do for this city will be a result of the example I learned from this truly gifted and giving man.

Father Demske, more than any other role model I've had, typifies the advice of the sages who tell us not to seek lives of comfort, but to seek, instead, lives of quality.

Father Demske was a scholar of exceptional brilliance. He was a priest of unsurpassed reverence, And he was a man committed to quality; quality in himself, quality for those he touched, and quality for Canisius College.

Since his death, I have recognized in his life many of the attributes that would have guaranteed him success in the field of politics. But longer reflection reveals to me that Father Demske wouldn't have been a very good politician because, unless it was a trombone, he was never very comfortable blowing his own horn.

I'm very pleased, proud, and privileged to have a chance to blow it for him a little bit tonight.

Rest in Peace, Father.

TRIBUTE TO JAMES D. HENRY

HON. JAMES M. TALENT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. TALENT. Mr. Speaker, I rise today to honor Mr. James D. Henry from Missouri's Second District. Mr. Henry was recently awarded the 1994 Small Business Person of the Year by the St. Charles Chamber of Commerce. This award recognizes small business owners and operators for their personal achievements and contributions to the community.

Mr. Henry is the owner of R.C. Wilson Co. He purchased the company in 1985, and under his leadership it has grown from 25 employees to 82 employees.

Mr. Henry's community contributions include serving on the Boards of Duchesne Bank and Four County Medical Health. He provides an annual scholarship to a deserving high school junior or senior for Missouri Business Week. His extensive list of personal awards includes "Leadership St. Louis" from the St. Charles Chamber of Commerce in 1988; president, Missouri Collectors Association in 1991; and the Beacon Award from the American Collectors Association for his work on legislation with the U.S. Congress.

Mr. Speaker, I commend Mr. Henry on his achievements and I am grateful for his service. I wish him luck in future endeavors. It is an honor to represent such a distinguished person.

RUSSIA AS NEW "PARTNER FOR PEACE"

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. MICHEL. Mr. Speaker, yesterday, June 22, 1994, Russia became the 21st country to join NATO's Partnership for Peace Program.

On a formal basis, this means Russia and NATO will cooperate in joint military exercises and peacekeeping operations.

But it has great symbolic importance as a new stage on the journey from cold war tensions to post-cold-war cooperation.

Russia is currently plagued by many difficulties, economic, social, and political. Becoming a member of the Partnership for Peace will not directly solve any of these problems.

And, of course, we have the question of Russian possession of nuclear arms, a legacy of the breakdown of the former Soviet Union.

Yes, Russia has problems.

But Russia's decision to enter into the Partnership for Peace is symbolic of what I believe to be widespread and genuine desire of the Russian people to enter into friendly and mutually beneficial relationships with the NATO countries.

This spirit of cooperation can transcend military matters and begin to invigorate and strengthen the cause of democracy and progress in Russia.

Who would have predicted years ago that in 1994, NATO and Russia would extend the hand of friendship to each other? It would have seemed impossible, but it has happened and we are glad it did.

JAMES WELLS WRITES FIRST PLACE ESSAY IN OLIVER WINCH DAR FLAG CONTEST

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. SOLOMON. Mr. Speaker, for more than 20 years, Nancy Vonic, English teacher at Oliver Winch Junior High School in South Glens Falls, NY, and with the help of the Jane McCrea Chapter of the Daughters of the American Revolution, has assigned her seventh-graders to write essays about the American flag.

I am proud to place the winning essays in today's RECORD, starting with the first place essay of James Wells, son of David Shearer of 56 Saratoga Road in Gansevoort. Congratulations go out to James, and our grateful appreciation to Nancy Vonic and the Jane McCrea Chapter of the DAR.

THE AMERICAN FLAG

(By James Wells)

Everyone in America has a memory of the American Flag. Some remember the Pledge of Allegiance. Others remember how their ancestors came to America. But most of them think of what the flag means to them.

To me, the American flag stands for freedom, liberty, and the country that I am proud to be a part of. I am proud of the way the flag was made, showing both what we are, with a star for each state, and what we were, with a stripe for each of the original 13 colonies.

I fill with pride when I see the colors of the flag, red, white, and blue and what they stand for: courage, honor, and high moral goals. Together, they stand for patriotism and national pride.

From the first animal skins strapped to poles, to the Union Jack, flags have stood for not only a rallying point for soldiers, but what the country stands for as well.

Every time I see the flag, I am reminded of the Revolutionary War, when we had to fight for our freedom. I am also reminded of a statue of another war, when our troops dropped their weapons to keep our flag from falling, for if it did, then all of the men would have lost all hope because that is what our flag meant to them.

Flag Day is a day to celebrate the history of flag and salute the morals and high goals it stands for. It should be a celebration that the American flag has become what it is. But most of all, it should be a reminder that we are all lucky to live in a nation that is democracy, has freedom, and gives you the right to be free, always.

SALUTE TO EAGLE SCOUT CHRIS QUALLEN

HON. DAVID MANN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. MANN. Mr. Speaker, I rise today to congratulate Chris Quallen for earning the Boy Scouts of America Eagle Scout rank. Chris will be recognized for his achievement at a special Court of Honor ceremony on June 26, 1994, at Pleasant Ridge Presbyterian Church.

Chris joined Troop 6 in 1988. Since then, he has held several leadership positions. Chris has completed the Brownsea Junior Leadership Training Program.

Chris, like all other Eagle Scout candidates, was required to complete a community service project. He worked with the Pleasant Ridge Community Council and Cincinnati Highway Maintenance Division to renovate and replant a perennial flower bed at a highly traveled interstate exit in his neighborhood.

Chris also has been persevering to perform to the best of his abilities outside of scouting. He is an honor student at Purcell Marian High School, where he is a valued member of the wrestling team, which won the Greater Cincinnati League this year.

I salute Chris on his accomplishment, as well as his parents and his scout leaders whose support helped make it possible.

WHO IS CRITICIZING THE NEA?

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mrs. MALONEY. Mr. Speaker, I rise this afternoon to discuss an exchange that took place earlier today on the House floor.

During debate on the Stearns amendment to cut funding for the National Endowment for the Arts, I expressed my anger over the hypocritical stance taken by many NEA critics.

While so many Members of this House are quick to thunder their outrage over NEA funding of programs they perceive to be obscene, these same people are deafeningly silent when lewd, sexist comments are made about women.

During my floor statement, I sought to ask a question of the author of the amendment about what he had said in the wake of the comments of a colleague who publicly remarked upon the size of a female television producer's breasts.

Unfortunately, my question was misunderstood and in the interest of comity, I agreed to the withdrawal of the controversial sentences.

The NEA has done a superb job for many years of fostering and expanding the arts in America. Those who seek to become self-styled guardians of public morality should be reminded of the Biblical admonition, "Judge not, lest ye be judged."

TRIBUTE FOR AILEEN ADAMS

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Ms. HARMAN. Mr. Speaker, tomorrow, a very special organization the Rape Treatment Center, will honor its legal counsel and founding board member, Aileen Adams, who has been nominated to serve as Director of the new Office for Victims of Crime in the U.S. Department of Justice.

A better appointment and a more able woman are hard to come by.

In 1962, Aileen and I set off from Los Angeles for Smith College. Though we came from different backgrounds, we became fast friends, and I've watched with admiration Aileen's accomplishments as mother and wife, her service on public boards, and her career as probation officer, police reserve officer, prosecutor, fire commissioner, protector of consumer and patent rights, and advocate for victims of rape and other violence against women.

Aileen helped build the Rape Treatment Center into a formidable institution. As the Nation has been riveted on the tragedy of Nicole Simpson and her family, the need for the center is all the more apparent. I was able to help the center in one instance involving a young rape victim who became stateless following the civil war in her native Yugoslavia. Aileen made clear to me that unless this young woman were permitted to return to Los Angeles to continue counseling, her emotional scars might never heal. The Clinton administration responded and, hopefully, the news is good.

Aileen makes good things happen, and the administration is fortunate to be getting the Adams/Cowan team.

Mr. Speaker, I salute this very dedicated woman and the organization she has served so well.

PARTNERS FOR RECYCLING PRAISED

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. SUNDQUIST. Mr. Speaker, As one with a longstanding interest in recycling as a way of reducing the amount of waste we need to landfill or burn, I am proud to share with my colleagues an innovative project undertaken in my State of Tennessee.

Partners For Recycling a mobile exhibit on integrated solid waste management, recycling and the 21st century landfill was part of the Second National Tribal Conference on Environmental Management, May 23–26, 1994, Cherokee, NC. Partners For Recycling is a public-private partnership developed by the State of Tennessee, the Tennessee Soft Drink Association and the Tennessee Valley Authority. Partners For Recycling is a permanently mounted, interactive exhibit housed inside a recycled over the road 45-foot trailer, designed to move easily from one place to another. The exhibit places recycling in the context of comprehensive solid waste management system, beginning with source reduction, and ending with a 21st century landfill. From statewide planning to information on how citizens may participate, the exhibit has three dimensional instructional wall panels, an multimedia kiosk, videos and a variety of resource materials. The exhibit is staffed by retired persons who are members of Bicentennial Volunteers, Inc. The exhibit itself demonstrates the practical use of recycled materials * * * such as recycled extruded aluminum framing, rubber door mats and carpet made from recycled PET—soft drink containers.

I applaud this effort to promote recycling and offer it as an example that other public-private partnerships might emulate.

WORLD CHAMPIONSHIPS OF CYCLING

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. SHUSTER. Mr. Speaker, I rise today to bring to the attention of my colleagues Altoona, PA's bid for the 1997 World Championships of Cycling. In 1992, Altoona was host of the U.S. Olympic Cycling Team Trial; which drew over 100,000 spectators. Altoona also acts as host for the annual "Tour de Toona" cycling race.

Altoona is a community of 50,000 people located in central Pennsylvania, surrounded by the Allegheny Mountains. The crime rate is among the lowest in the Nation, and the people pride themselves on being friendly, honest, and hardworking.

The area is easily accessible by car via Route 220; and by Amtrak for those traveling by rail. Altoona is conveniently close to Washington, DC, Pittsburgh, Philadelphia, Cleveland, and Buffalo.

Financial support for the Olympic trials from the region was overwhelming. The local utility companies acted as sponsors along with Conrail, who was the largest corporate investor. Conrail covered railroad crossings and provided Olympic decorum for the event. A local water bottling company supplied water for the racers, and a medical group offered their physical therapy services. Over 1,000 citizens volunteered their time and energy to insure the success of the Olympic trials.

In August of this year, a bid presentation will be made to the International Cycling Federation in Italy. If Altoona receives this bid I am confident that the community will once again come together and show visitors from around the world a glimpse of what a successful and prosperous American city is really like. Altoona has demonstrated its dedication as a host city for such an event in the past, and it would be in the best interests of the international cycling community to hold the 1997 World Championships of Cycling in Altoona, PA.

I call on my colleagues to support this bid, with the hope that this event will come to Altoona and benefit the Commonwealth of Pennsylvania and the United States.

TONY WALKUP AWARDED THIRD PLACE IN SCHOOL-DAR FLAG ESSAY CONTEST

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. SOLOMON. Mr. Speaker, for more than 20 years, Nancy Vonic, English teacher at Oliver Winch Junior High School in South Glens Falls, NY, and with the help of the Jane McCrea Chapter of the Daughters of the American Revolution, has assigned her seventh-graders to write essays about the American flag.

I am proud to place the winning essays in today's RECORD, including the third-place essay of Tony Walkup, son of Mr. and Mrs. Robert Walkup of 3 Moreau Drive, South Glens Falls. Congratulations go out to Tony, and our grateful appreciation to Nancy Vonic and the Jane McCrea Chapter of the DAR.

THIRD PLACE—THE AMERICAN FLAG

(By Tony Walkup)

> The American flag is one of a kind. Continental Congress decided there should be an emblem to represent the U.S. on June 14, 1777. They sent out Gen. George Washington with the designs of the first American flag. Washington picked Elizabeth Betsy Ross to make the first ever flag. The first flag consisted of 13 stripes and 13 stars. It had seven red stripes and six white stripes alternating. These 13 stripes were symbols of the 13 original colonies. The stars were arranged in a circle or 12 stars forming a circle surrounding one in a blue field. The Continental Congress never really indicated how the stars would be arranged.
>
> Every time a state joined the Union, the Continental Congress added a star and a stripe, but they realized it would soon become too complex.
>
> The colors of the American flag have special meanings. White stands for purity and innocence, red stands for hardiness and vigor, and blue stands for vigilance, perseverance, and justice.
>
> The Pledge was written by Francis Bellamy and first used on Oct. 12, 1892, at a festival in Chicago. On June 14, 1954, President Eisenhower signed a law which added the words "under God" to the Pledge. The Pledge is merely a salute to the flag to show your patriotism and to show that you care for your country.
>
> To me, the flag stands for liberty, independence, and all the rights granted to me. America gained its independence from the British in 1783 after the Revolutionary War. Proudly let it wave!!!

LEGISLATION TO FUND INNOVATIVE TECHNOLOGIES TO CLEAN UP COMBINED SEWER OVERFLOW POLLUTION

HON. JOHN W. OLVER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. OLVER. Mr. Speaker, earlier this week I introduced along with my colleague from Massachusetts [Mr. NEAL], H.R. 4614, legislation to help our communities, and to help our major rivers, with the problem of combined sewer overflow pollution.

As my colleagues may be aware, combined sewer overflows result from many communities having built single sewer collection systems for their sanitary sewers and their storm water sewers. This system works fine, except when a heavy rain increases the volume in the sewer system past the capacity of the treatment facility. When the treatment facility meets its capacity, the excess overflow, including untreated household waste, is discharged directly into a nearby waterway.

According to the Environmental Protection Agency, as many as 40 million Americans may live in communities with combined sewer overflows, or CSO's. Cleaning up these CSO's is a major goal for the EPA, in order to clean up our rivers and restore them to a fishable, swimmable standard. However, the major burden of compliance is falling upon the municipalities, many of whom are older cities, least able to afford environmental infrastructure improvements of this kind. For example, cities in western Massachusetts, such as Holyoke and Springfield, may have to pay hundreds of millions of dollars in order to eliminate combined sewer overflows into the Connecticut River.

The bill we introduced this week is not an effort to reduce the Clean Water Act standards for our rivers. I believe that our urban rivers are some of our most underutilized and underappreciated resources for our cities, and we need to do more to reclaim and restore them. This bill is an effort to find new—better and cheaper—ways to clean up CSO's, and to help communities implement and demonstrate those methods for use around the country.

It should be no surprise that there is great demand for less expensive technologies, but, more significantly, there is great potential for such technologies. Constructed wetlands and vortex separators are just two examples of technologies which could save money for communities across the country if we had more information on how they work in practice. There may be other, even simpler, practices or technologies which could help cities and towns. But we need to provide Federal support and encouragement for test sites if cities are to be able to avoid using the same old, expensive methods which the EPA has already approved.

The bill authorizes $100 million annually to fund CSO cleanup projects which use innovative and cost-effective methods or technologies to clean up waterways of interstate significance. Projects will have to include a technology transfer component, to spread the knowledge and use of these practices to other cities around the country, and will have to be in compliance with the EPA's national combined sewer overflow strategy, which promotes cost-effective cleanup of CSO's. Projects will be eligible for grants for feasibility studies, and for 80 percent funding for design and engineering and construction.

I believe this legislation is important to provide the national support which will enable cities and towns to find the cheapest way to clean up our waterways at the local level. We can save our cities significant funds, clean up our urban rivers, and support new environmental industries. I urge my colleagues to support this legislation, and I hope we will support the implementation of innovative CSO technologies in the reauthorization of the Clean Water Act.

INTRODUCTION OF H.R. 4636, THE EMPLOYMENT NONDISCRIMINATION ACT OF 1994

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. STUDDS. Mr. Speaker, this morning I joined with Congressman BARNEY FRANK and a bipartisan group of 105 original cosponsors in introducing H.R. 4636, the Employment Nondiscrimination Act of 1994. The introduction of this bill and its Senate counterpart, sponsored by Senators EDWARD M. KENNEDY and JOHN H. CHAFEE, marks the first time Federal legislation has been introduced specifically to provide redress for job discrimination based on sexual orientation.

I was particularly honored this morning to stand with Coretta Scott King, widow of the late Dr. Martin Luther King, Jr., and herself a revered leader of the civil rights movement; Justin Dart, who chaired the President's Committee on Employment of People With Disabilities during the Bush administration; and Ralph Neas, who serves as executive director of the Leadership Conference on Civil Rights, which has formally endorsed the bill, as together we began a new chapter in our Nation's long journey toward justice and equality for all our citizens.

This year we celebrate both the 40th anniversary of the Supreme Court's historic decision in Brown versus Board of Education and the 30th anniversary of the passage of the Civil Rights Act of 1964. During the past three decades, the Congress has built on those achievements by enacting a series of statutes to guarantee full civic equality for all Americans, regardless of race, religion, gender, national origin, age, or disability.

This is a legacy to be cherished and celebrated. Yet as we look at how far we have come as a society, we see also how far we have yet to go. Discrimination persists even where forbidden by statute. And millions of citizens still have no legal protection from discrimination at all. Each year, gay and lesbian Americans, and others who are perceived to be lesbian or gay, suffer job discrimination for which they have no recourse under Federal law.

That is why my colleagues and I have introduced the Employment Nondiscrimination Act. The act is simple, clear, and direct. It confers no special rights or privileges. Rather, it affirms that workers are entitled to be judged on the strength of the work they do, and should not be deprived of their livelihood because of the prejudice of others.

This is a principle with which every American can identify. Millions came to these shores in search of opportunity—the opportunity to build a decent life through one's own hard work and ingenuity. I believe that when our fellow citizens learn how frequently lesbians and gay men are denied that basic promise of the American dream, they will agree that something must be done.

In her remarks this morning, Mrs. King said:

> I support the Employment Nondiscrimination Act of 1994 because I believe that freedom and justice cannot be parceled out in pieces to suit political convenience. As my husband, Martin Luther King, Jr., said, "Injustice anywhere is a threat to justice everywhere." On another occasion he said, "I have worked too long and hard against segregated public accommodations to end up segregating my moral concern. Justice is indivisible." Like Martin, I don't believe you can stand for freedom for one group of people and deny it to others.

Mr. Speaker, such eloquent words say all one need say about the need for this legislation. I welcome the support of so many of my congressional colleagues, both Democrats and Republicans, and the scores of civil rights, labor, and religious leaders who have endorsed the bill. I am confident that H.R. 4636 will also find broad support within the business community and among decent, hardworking Americans from every walk of life.

TRIBUTE TO CHARLES E. REID

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mrs. ROUKEMA. Mr. Speaker, our communities and our country have always relied on the contributions of individuals who rise above and beyond the call of duty to make a difference in the lives of others. I pause today to join the borough of Paramus, NJ in paying tribute to one such hero, Charles E. Reid.

Charlie Reid is a lifelong resident of northern New Jersey. After serving 2½ years in the U.S. Navy during World War II, Charlie returned to New Jersey and married Elizabeth Bampton. Charlie and Betty settled in Paramus, NJ where they raised their three sons.

Over the course of his life, Charlie has served in a number of elected offices including mayor of Paramus, Bergen County Freeholder and as an assemblyman in the New Jersey State Legislature. I also value him as one of my first and strongest supporters, serving as chairman of my campaign committee. In each position he demonstrated the knowledge, compassion, and wisdom that have been the hallmark of the statesman's career. Today, however, I want to bring the attention of my colleagues to Charlie's lifetime dedication to education and, specifically, to strengthening our Nation's libraries.

In 1953, Charlie Reid first served as president of the Paramus Library Association. The following year, he began his tenure on the Paramus Board of Education. In the years since he has held positions on the local, State, and national level including president of the American Library Trustee Association, the National Book Committee, the National Archives Advisory Council, and more recently as the Chairman of the United States National Commission on Libraries and Information Science and as Chairman of the White House Conference on Library and Information Services.

In each capacity, Charlie has worked tirelessly to build our libraries, expand their collections, and make them more accessible to each and every member of the community. As President Bush's appointment to head the National Commission and the White House Conference, Charlie has literally led the Nation's efforts to improve information services.

For his commitment, Charlie Reid has been the recipient of numerous awards including the Paramus Public Library Service Award, the New Jersey Library Association Legislative Award, the Mid-Bergen Federation of Public Libraries Service Award, and the American Library Association Trustee Citation of Merit. Perhaps the most fitting tribute to Charlie Reid will be presented this Sunday, June 26 as the borough of Paramus names the borough's branch library the Charles E. Reid Branch Library.

Almost a half century ago, the physicist J. Robert Oppenheimer noted that an open society and unrestricted access to knowledge is the key to a world of human community. Charlie Reid is well aware of this and has spent the better part of his life making knowledge accessible to all. Today, I ask my colleagues in the House of Representatives to join with me and the borough of Paramus in saying a most grateful thank you.

COMMEMORATING THE U.S. PUBLIC HEALTH SERVICE

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. DINGELL. Mr. Speaker, today, I am pleased to introduce, with my colleagues, Mr. MOORHEAD, Mr. WAXMAN, and Mr. BLILEY, a resolution honoring the Public Health Service, its agencies, and its employees.

I think every Member of this House knows of the fine work of the agencies of the Public Health Service, such as the National Institutes of Health or the Centers for Disease Control and Prevention. Too often we think of these agencies in isolation, and do not recognize that much of their work is done in cooperation with, and depends on, that of sister agencies under the auspices of the parent Public Health Service. This resolution provides an opportunity to step back and acknowledge the collective work of this important component of the Department of Health and Human Services. So that Members will recall all of the diverse and essential parts of the Public Health service, I want to mention them here.

The Agency for Health Care Policy and Research, evaluates and makes recommendations to health care providers and the insurers about the effectiveness, costs, and benefits of both new and commonly used medical therapies, technology, and treatments.

The efforts of the Centers for Disease Control and Prevention to promote health and prevent and control disease and disability—in the community, the workplace, and the home—are critical to our State and local public health offices, and throughout the world.

The Food and Drug Administration reviews new drugs and medical devices to evaluate their safety and effectiveness and assures the safety of virtually every food product, medical device, cosmetic, and drug on the market in the United States, so that Americans can know that they may use these products without fear.

The Health Resources and Services Administration weaves together the fabric of our health care system to serve the poor and the medically underserved—through community health centers; migrant health centers; programs to provide health care for people with AIDS, native Hawaiians, the homeless, and those who reside in public housing; and support for training of health care providers to serve in urban and rural areas where residents otherwise have almost no hope of access to medical care.

The Indian Health Service serves as the primary or sole provider of health care for American Indians and Alaska Natives, both on reservations and in other areas, often challenging seemingly insurmountable obstacles to improve the health and quality of life for native Americans.

Research performed and supported by the National Institutes of Health, the premier biomedical research institution in the world, places it at the cutting edge of understanding the basic biology of health and the mechanisms to prevent, treat, and cure, the plethora of diseases and disorders which affect our citizens and those of the rest of the world.

The Substance Abuse and Mental Health Administration supports programs to prevent and treat mental illness and substance abuse, and to educate the public about the nature of these disorders and the need for compassion and understanding of those who are affected by them.

Mr. Chairman, I urge all of my colleagues to join me, Mr. MOORHEAD, Mr. WAXMAN, and Mr. BLILEY in saluting the Public Health Service by cosponsoring this commemorative resolution.

COMMEMORATING THE U.S. PUBLIC HEALTH SERVICE

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. WAXMAN. Mr. Speaker, I want to take a moment to join with my colleagues from the Energy and Commerce Committee to acknowledge the work of the employees of the U.S. Public Health Service. As we spend our time this Congress discussing the problems of financing treatment of illness, we sometimes overlook how much illness is actually avoided by public health efforts. Immunizations and preventive services, primary care clinics, research breakthroughs—these activities not only save money, they save lives. In fact, it has been argued by many epidemiologists that the true improvements in average American life expectancy have come not from hospital care but through the improvements in basic public health, biomedical research, and primary care. From infectious disease surveillance and prevention to the development and licensure of treatments for these diseases to the administration of such treatments to poor people, public health measures have made the real medical miracles of the 20th century.

Within the Federal Government, these activities are conducted by the U.S. Public Health Service, an agency comprised of several components: the Centers for Disease Control, the National Institutes of Health, the Food and Drug Administration, the Health Resources and Services Administration, the Indian Health Service, the Agency for Health Care Policy and Research, and the Substance Abuse and Mental Health Services Administration. These agencies and their staffs have carried on with this important work, often without headlines or appreciation but always with the clear results of improved public health, primary care, quality of life, and life expectancy. I join with my colleagues in introducing this measure to commemorate the Public Health Service's history and accomplishments and ongoing work.

COMMEMORATING JUAN AVILÉS, PUERTO RICO'S LEGENDARY POET

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. SERRANO. Mr. Speaker, it is with great sorrow that I rise to commemorate Juan Avilés, a legendary Puerto Rican poet who died in New York late Monday at the age of 90.

As most Members of this body know, I am a native of Puerto Rico who is extremely proud of his origins. Puerto Rico's history and its dynamic, multifaceted culture are a genuine source of joy to all of her daughters and sons. But that joy was never more clearly, thoughtfully and passionately expressed than in the poetry of Juan Avilés.

Though a resident of New York since 1927, Avilés wrote prolifically in the classical Spanish idiom of the customs and traditions of his homeland, which he visited frequently. Indeed, part of his mission as a writer was to use his artistry to impress upon other New Yorkers the importance of, and value in, holding onto their culture.

Juan Avilés celebrated Hispanic culture not only in his writing, but by directing such organizations as the Ibero-American Writers and Poets Circle and the Institute of Puerto Rico, and by sharing his wisdom and artistry with numerous audiences of writers and folk artists. His energetic contributions to such traditions as the Festival of San Juan Bautista was also legendary.

Mr. Speaker, as we all know, the American experience is an intermingling of people from different lands, with differing languages and customs. American society has been called "a gorgeous mosaic." Juan Avilés' great contribution was to help polish the majestic Puerto Rican tile of that mosaic. And for that, we all should remember and thank him.

A SPECIAL TRIBUTE TO EDWARD "POP" STEWART

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. STOKES. Mr. Speaker, I rise today to pay tribute to Edward "Pop" Stewart, a very special employee of the House, who recently passed away. Edward Stewart was loved and respected by all who knew him. As we gather today, we salute "Pop" for his dedicated service to this institution, and we mourn the loss of this close friend. I want to share with my colleagues and the Nation some information regarding Edward "Pop" Stewart.

Mr. Speaker, Edward Stewart began his career as a White House waiter in the 1920's. In later years, he was employed by the Merchant Marine and Southern Railroad. He also served as the service manager for the Burlington Hotel in Washington, DC. "Pop" came to Capitol Hill in the early 1960's and was employed in the Member's dining room. He left that assignment to join the House catering division, where he served until the time of his passing.

Those of us who knew "Pop" admired and respected him. He had a reputation for being early for his assignments; he was warm and cordial; and he was always cheerful and optimistic about life. I will personally remember Edward "Pop" Stewart as a gentleman whose friendship I cherished. I will also remember that he often went out of his way to be helpful. "Pop" gave freely of his time and energy. He took a special interest in young people, who looked up to "Pop" and respected his opinions. Edward "Pop" Stewart was 86 years old at the time of his passing, but he possessed a youthful, loving spirit that touched each of us.

Mr. Speaker, Edward Stewart was equally devoted to various social clubs and organizations throughout the area. During his lifetime, he was a member of the Pigskin Club of Washington, the Elks Club, the American Association of Retired Persons, and the NAACP. He was also a faithful brother of Masonry, holding the post of Senior Mason of Jefferson Lodge Number 20, in Charlottesville, VA.

On the occasion of his passing, we convey our deepest sympathy to his sister, Juanita Stewart Hargrove, and his daughter, Annie Harris. We join the family in mourning the passing of a great man, and our longtime friend, Edward "Pop" Stewart.

CHRISTINE BAUTISTA IS RUNNERUP IN SCHOOL-DAR FLAG ESSAY CONTEST

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. SOLOMON. Mr. Speaker, for more than 20 years, Nancy Vonic, English teacher at Oliver Winch Junior High School in South Glens Falls, NY, and with the help of the Jane McCrea Chapter of the Daughters of the American Revolution, has assigned her seventh-graders to write essays about the American flag.

I am proud to place the winning essays in today's RECORD, including the second-place essay of Christine Bautista, daughter of Mr. and Mrs. Alex Bautista of 1 Michael Terrace in Fort Edward. Congratulations go out to Christine, and our grateful appreciation to Nancy Vonic and the Jane McCrea Chapter of the DAR.

SECOND PLACE—THE AMERICAN FLAG

(By Christine Bautista)

The American flag is very important in everyone's life. In some ways, the feeling is the same, in other ways, they can be deeply personal. These are some of the reasons it is important in my life.

First of all, the 50 stars on the flag represent each of America's states. The colors of the flag are very important also. Red means courage, blue means loyalty, and white means truth. Each of which our country stands for.

Secondly, it represents unity. It represents exactly what our country is. That the 50 states are united.

Another reason is my grandfather was in World War II. I am sure that the flag means a lot to him. He fought for our flag and country.

The flag also represents all of the people who died in the war for the cause of freedom. It is a symbol of hope for people in unfortunate countries that wish someday they will have the same freedom. At national sports events it is a reminder to all of us where our prosperity came from.

When the flag flies at half staff, it is a reminder to me that we have lost someone great and highly respected that was dedicated to our common cause.

And, finally, it would feel very weird if, during the morning announcements, I did not participate in the Pledge of Allegiance. To start my day off thinking how lucky it is to live in this country.

SALUTE TO REV. JAMES EDGE OF COMO, TX

HON. JIM CHAPMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. CHAPMAN. Mr. Speaker, in every community across our great Nation, there are fellow Americans who have dedicated their lives to serving and helping their neighbors and community. This is particularly true in my hometown of Sulphur Springs and Hopkins County. I rise today to honor one remarkable American who has been a pillar in east Texas.

In Como, TX, Rev. James Edge will celebrate his 46th year in the ministry on Saturday, June 26, 1994. Reverend Edge has been serving as pastor and related duties for many local Hopkins County churches since 1958.

Reverend Edge has made a tremendous impact on thousands of east Texans over the years. This Saturday, many of Reverend Edge's family members and friends will gather at the Elm Ridge Baptist Church to celebrate his dedicated service.

In honor of his years of work to the members of his churches and the Hopkins County community, I would like to present him with this proclamation behalf of the Congress of the United States.

The proclamation follows:

Whereas, Reverend James Edge, since 1948, has been a constant and enduring source of faith, compassion and understanding; and

Whereas, Reverend James Edge, since 1958, as Pastor in many churches across Hopkins county, has made a lasting difference in the lives of all its residents; and

Whereas, Reverend James Edge has exhibited profound dedication to serving our Lord and His children; Now, therefore be it

Resolved, That the Congress of the United States honor Reverend James Edge for his faith and tireless service to the community of Hopkins County, Texas, and

Further resolved, that Jim Chapman on behalf of his colleagues, joins the many friends and family of James Edge In honoring his service and achievements and wishing for his many years of health and happiness.

VICTORY FOR U.S. NATIONAL SOCCER TEAM

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. WALSH. Mr. Speaker, last night the U.S. National Soccer Team did the impossible. They defeated the mighty Colombian team 2–1 at the Rose Bowl in Pasadena, CA. It was a magnificent victory that no one predicted and few even thought possible.

This collection of American boys from New Jersey and California, Holland, Germany, and South Africa played flawless defense. Goalkeeper Tony Meola stopped just about everything that came his way. Ernie Stewart's goal off a pretty pass from Tab Ramos put the nail in the Colombian coffin.

This victory may be the key to the U.S. chance to make the second round and maybe play here in Washington on July 2. I hope so; I have tickets. But even more important, this is the American World Cup, and we've shown the world that we belong in it.

Finally, American kids who play the game and their parents who have been following them around, watching all their games, have their own stars and heroes who wear red, white, and blue when they take the field against the world's best, in the world's game.

"V.P. GORE SPEAKS OF CYNICISM AND FAITH"

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 1994

Mr. MILLER of California. Mr. Speaker, I want to share with my colleagues the recent commencement speech given by Vice President ALBERT GORE, Jr., at Harvard University on the occasion of his own 25th graduation anniversary.

The Vice President's speech is one of the most cogent and insightful addresses ever delivered by a member of our political generation, one that came to maturity at a time of great skepticism and cynicism about many issues, including politics.

Our former colleague notes that while he, like many of us, have overcome that cynicism, much of America remains highly suspicious and hostile toward Government and towards those of us who serve. Public service, which has always been subject to humorous criticism, nevertheless has sunk so deeply in the public's esteem that this institution and other agencies of Government, and those who occupy them, are treated with scorn and derision by many of those we spend our lives trying to serve. In the last 30 years, the percentage of Americans who thought Government generally tried to do the right thing has plummeted from 60 percent to just 10 percent.

The Vice President rightly views that loss of trust in our leaders and our institutions as highly destructive of the essential framework of our democracy. And he offers insightful reasons why, individually and as a nation, we must purge ourselves of this crippling cynicism and replace it once again, with the sense of community and patriotism that has long characterized this Nation.

I hope every Member of this body will take the time to read Vice President GORE's commencement address.

A Harvard commencement is a special occasion. How could anyone not have been thrilled by this morning's assembly—25,000 people packed into Harvard Yard to celebrate one of the great occasions of life. I loved it all. And I have especially enjoyed my 25th reunion. I'm so proud of my class. It has been wonderful to have an opportunity to visit with so many friends.

I remember the 25th reunion class when they came in 1969 walking around the Yard with their children. They seemed like ordinary people. I remember that they seemed older to us then than we seem to ourselves now. But in fact they were responsible for one of the saving triumphs of modern civilization.

That was the class of 1944. They were part of the generation President Clinton commemorated this week in Normandy, the group that went from Harvard to boot camp and basic training and from there were transfused into the weary divisions battling across Europe. Only 11 members of the class were present at graduation; all the rest had by then already left to enlist. Some did not come back to their reunion. Their names are carved in stone in Memorial Church just behind me. Many did come back and some of them are here again today for their 50th reunion. We salute you.

Back in 1969 our graduating class was in no mood to salute or to celebrate your sacrifice, your achievement. But we understood then and understand now ever more clearly that without any question because of your service, the world changed in 1944. Indeed, our world a half century later is still shaped by the events of that tumultuous and triumphant year.

I want to describe today the reasons why I believe the world also changed in important and enduring ways because of the events of 1969, a year of contradiction and contrasts, of glory and bitterness.

In July 1969 one-quarter of the population of the world watched on live television while Neil Armstrong brought his space module Eagle down to the Sea of Tranquility, slowly climbed down a ladder and pressed his left boot into the untrod surface of the moon.

But 1969 was also the year Charles Manson and his followers made the innocent words Helter Skelter symbols of a bloodbath. It was the year of music in the rain at Woodstock and the year of the My Lai Massacre in Vietnam.

While we went to class and heard lectures and wrote papers and listened to music and talked and played sports and fell in love, the war in Vietnam was blasting that small country apart physically and ripping America apart emotionally. A dark mood of uncertainty from that tragic conflict clouded every single day we were here.

The year 1969 began with the inauguration of Richard Nixon, a ceremony that seemed to confirm for many of us the finality of a change in our national mood and ratify the results of a downward spiral that had begun with the assassination of President Kennedy 5 years, 2 months, and 2 days earlier.

Throughout our four years at Harvard the nation's spirits steadily sank. The race riot in Watts was fresh in our minds when we registered as freshmen. Though our hopes were briefly raised by the passage of civil rights legislation and the promise of a war on poverty, the war in Vietnam grew steadily more ominous and consumed the resources that were needed to make good on the extravagant promises for dramatic progress here at home.

The year before our graduation, our hopes were once again briefly raised by the political insurgency we helped inspire and that we hoped might somehow end our national nightmare. Then, months later, those hopes were cruelly crushed by the assassinations of Martin Luther King, Jr., renewed race riots—this time nationwide—and then the assassination of Robert Kennedy, and what seemed like the death of any hope that we might find our way back to the entrance of the dark tunnel into which our country had wandered. All of this cast a shadow over each of our personal futures.

My personal attitudes toward the career I have chosen changed dramatically during that time. I left Harvard in 1969 disillusioned by what I saw happening in our country and certain of only one thing about my future: I would never, ever go into politics.

After returning from Vietnam and after seven years as a journalist, I rekindled by interest in public service. Yet I believe the same disillusioning forces that for a time drove me away from politics have continued for the country as a whole.

After all, the war raged on for five more years and the downward spiral in our national mood reached a new low when the Watergate scandal led to the growing belief that our government was telling lies to our people.

The resignation of President Nixon, his subsequent pardon, the Oil shocks, 21 percent interest rates, hostages held seemingly interminably and then swapped in return for weapons provided to terrorists who called us "the Great Satan", a quadrupling of our national debt in only a dozen years, a growing gap between rich and poor, and steadily declining real incomes—all of these continued an avalanche of negative self-images which have profoundly changed the way Americans view their government.

A recent analysis of public opinion polling data covering the years since my class came to Harvard demonstrates the cumulative change in our national mood. When my class entered as freshmen in the fall of 1965, the percentage of people who believed that government generally tries to do the right thing was over 60 percent. Today it is only 10 percent. The percentage believing that government favors the rich and the powerful was then 29 percent. Today it is 80 percent. And it is important to note that these trends hold true for Democrats and Republicans, conservatives and liberals.

In fact, this may be an apocraphyl story, but someone actually claimed the other day the situation has gotten so bad that when they conducted a new poll and asked people about their current level of cynicism, 18 percent said they were more cynical than 5 years ago, 9 percent thought they were less cynical, and 72 percent suspected the question was some kind of government ploy, and refused to answer.

Democracy stands or falls on a mutual trust—government's trust of the people and the people's trust of the governments they elect. And yet at the same time democratic culture and politics have always existed in a strange blend of credulity and skepticism. Indeed, a certain degree of enduring skepticism about human nature lies at the foundation of our representative democracy.

James Madison argued successfully in the Federalist Papers that the United States Constitution should create a protective balance of power among the factions that were bound to rise in any society.

Democracy did not mean unity in the body politic. People do have reasonable differences. Human ignorance, pride, and selfishness would always be with us, prompting inevitable divisions and conflicting ambitions.

Yet, freedom and order could be protected with safeguards insuring that no one branch of government and no one group or faction would be able to dictate to all the rest. We were the first large republic to build a nation on the revolutionary premise that the people are sovereign and that the freedom to dispute, debate, disagree and quarrel with each other created a fervent love of country that could hold us together against the world. It is still a revolutionary premise. And it is still built on a skeptical view of human nature that refuses to believe in perfection in intellect, logic, knowledge, or morals in any human being.

And so the ceaseless American yearning for the ideal life has always stumbled uneasily over a persistent American skepticism about the parties and leaders who claim to have the wisdom and ability to guide us to our destiny. We revere our institutions, and at the same time we watch our leaders as though we were hawks circling overhead, eager to dive with claws extended on to any flaw or failure that we see.

Even our most beloved president, George Washington, wrote in his last letter to Thomas Jefferson, on July 6, 1796: I had no conception, that every act of my administration would be tortured, in such exaggerated form and indecent terms as could scarcely be applied to a Nero, a notorious defaulter or even a common pickpocket?

Our feelings about ourselves as a people are mixed. We Americans have often been proud to the point of cocky arrogance. But we have never been able to hide indefinitely from what we do wrong. Our failures eat at our conscience, and our sins itch under the showy garb of our achievements and prevent us from being complacent.

Faith in the future, and skepticism about every person or group who offers to lead us there. These conflicting forces work together to shape the American character.

And yet these forces must remain in a rough balance of emotional power. If we receive too heavy a dose of concentrated self-doubt and too many repetitive injuries to our confidence in self-government, then our normal healthy skepticism can fall into a mire of cynicism and we start to question the ability of any human community to live up to the democratic ideals that we proclaim.

Once it is widely accepted, cynicism—the stubborn, unwavering disbelief in the possibility of good—can become a malignant habit in democracy. The skeptic may finally be persuaded by the facts, but the cynic never, for he is so deeply invested in the conviction that virtue cannot prevail over the deep and essential evil in all things and all people.

The last time public cynicism sank to its present depth may have been exactly 100 years ago, when Mark Twain said, "There is no distinctly native American criminal class except class Congress." That was a time when Americans felt the earth moving under their feet. Debt and depression forced farmers off the land and into cities that they found cold and strange and into factories where human being became scarcely more than the extensions of machines. Cynicism was soon abroad in the land.

We are now in the midst of another historic and unsettling economic transformation. Now the information revolution is leading to a loss of jobs in many factories, as computers and automation replace human labor.

After World War II, 35 percent of America's employment was on the factory floor. Today fewer than 17 percent of our labor force works in manufacturing. Just as most of those who lost their jobs on the farm a hundred years ago eventually found new work in factories, so today new jobs are opening up in new occupations created by the information revolution—but this time the transition is taking place more swiftly and the economic adjustment is, for many, more difficult and disorienting.

In this respect we are actually doing better than most other nations. Every industrial society in the world is having enormous difficulty in creating a sufficient number of new jobs—even when their economies heat up. So, not surprisingly, public cynicism about leadership has soared in almost every industrial country in the world.

History is a precarious source of lessons. Nevertheless, I am reminded that similar serious economic problems prevailed in Athens in the 4th century B.C., when the philosophical school we now know as Cynicism was born. The Cynics were fed up with their society and its social conventions and wanted everybody to know it. The root of the word "cynic" is the same as the Greek word for "dog," and some scholars say the Cynics got their name because they barked at society. Sounds almost like some of our talk radio shows.

In a time of social fragmentation, vulgarity becomes a way of life. To be shocking becomes more important—and often more profitable—than to be civil or creative or truly original. Given the vulgarity that fragmentation breeds, cynicism seems almost irresistible. Sometimes it even looks like a refuge of sanity, a rational response to a world seemingly driven by the fast hustle, the pseudo-event, the rage for sensationalism.

In any event, cynicism represented then and represents now a secession from society, a dissolution of the bonds between people and families and communities, an indifference to the fate of anything or anyone beyond the self.

Cynicism is deadly. It bites everything it can reach—like a dog with a foot caught in a trap. And then it devours itself. It drains us of the will to improve; it diminishes our public spirit; it saps our inventiveness; it withers our souls. Cynics often see themselves as merely being world-weary. There is no new thing under the sun, the cynics say. They have not only seen everything; they have seen through everything. They claim that their weariness is wisdom. But it is usually merely posturing. Their weariness seems to be most effective when they consider the aspirations of those beneath them, who have neither power nor influence nor wealth. For these unfortunates, nothing can be done, the cynics declare.

Hope for society as a whole is considered an affront to rationality; the notion that the individuals has a responsibility for the community is considered a dangerous radicalism. And those who toil in quiet places and for little reward to lift up the fallen, to comfort the afflicted, and to protect the weak are regarded as fools.

Ultimately, however, the life of a cynic is lonely and self-destructive. It is our human nature to make connections with other human beings. The gift of sympathy for one another is one of the most powerful sentiments we ever feel. If we do not have it, we are not human. Indeed it is so powerful that the cynic who denies it goes to war with himself.

A few years ago Shelby Steele wrote about his pain as a child, when he was mistreated by a teacher who called him stupid. He said that the teacher's declaration created a terrible reality for him. If the teacher told him he was stupid, he thought he must be stupid. Let me quote what he says: "I mention this experience as an example of how one's innate capacity for insecurity is expanded and deepened, of how a disbelieving part of the self is brought to life and forever joined to the believing self. As children we are all wounded in some way and to some degree by the wild world we encounter. From these wounds a disbelieving anti-self is born, an internal antagonist and saboteur that embraces the world's negative view of us, that believes our wounds are justified by our own unworthiness, and that entrenches itself as a lifelong voice of doubt."

I believe that in a similar way, our nation's attitude towards itself can be and is shaped by national experiences. For example, the heady and triumphant victories of 1944 enlarged our confidence and helped us build the postwar world. And by contrast, during the years when my class was here at Harvard, America's capacity for insecurity was expanded and deepened by wounds to our national confidence. For example, an unnamed classmate of mine said in today's Boston Globe, "I lost faith in the United States as a force for good in the world."

We are still trying to help those wounds burned into our body politic by assassinations, the Vietnam war, the riots, the cultural conflicts and by the terrible conviction that people sworn to uphold our constitution were not telling us the truth.

F.J. Dionne, recently wrote, "Just as the Civil war dominated American political life for decades after it ended, so is the cultural civil war of the 1960s, with all its tensions and contradictions, shaping our politics today. We are still trapped in the 1960s. The country still faces three major sets of questions, left over from the old cultural battles; civil rights and the full integration of blacks into the country's political and economic life; the revolution in values involving feminism and changed attitudes toward childrearing and sexuality; and the ongoing debate over the meaning of the Vietnam War, which is less a fight over whether it was right to do battle in that Southeast Asian country than an argument over how Americans see their nation, its leaders, and its role in the world."

Dionne also argues that both conservatives and upper middle-class liberals have—for separate reasons—kept this cultural civil war alive. Partly for this reason, our national political conversation has been dominated by increasingly mean-spirited efforts to attack our leaders' motives, character and reputation.

As the public's willingness to believe the worst increases—that is to say—as cynicism increases—the only political messages that seem to affect the outcome of elections are those that seek to paint the opposition as a gang of bandits and fools who couldn't be trusted to pour water out of a boot if the directions were written on the heel.

This fixation on character assassination rather than on defining issues feeds the veracious appetite of tabloid journalism for scandal. And now wets the growing appetite of other journalistic organizations for the same sort of fare.

A few years ago, the Czech leader Vaclav Havel wrote these prescient words, "They say a nation has the politicians it deserves. In some sense that is true: Politicians are truly a mirror of the society and a kind of embodiment of its potential. At the same time, paradoxically, the opposite is also true. Society is a mirror of its politicians. It is largely up to the politicians which social forces they choose to liberate and which they choose to suppress, whether they choose to rely on the good in each citizen, or on the bad."

But it is crucial for us, especially those of us in public service, to understand that cynicism also can arise when political leaders cavalierly promise to do good things and then fail to deliver. The inability to redeem glib and reckless promises about issues like education, race relations, and crime can add to the disturbing and growing doubts among the American people about our ability to shape our destiny.

Over the long haul sustainable hope is as important to the health of self-government as sustainable development is for ecological health. Dashed hopes poison our political will just as surely as chemical waste can poison drinking water aquifers deep in the ground.

When hopes are repeatedly dashed and a nation's instinct for self-government is repeatedly injured, national cohesion can dissipate. The results are for all to see. At home and abroad the weakening of bonds between the individual and the larger society creates a vacuum quickly filled by other group identities—based on race, or clan, or sect, or tribe, or gang. Some distinguishing quality, often physical, is used to demarcate group identity. These differences become standards raised to summon the group to war against others slightly different from themselves. It is one of the strange perversities of this process that the smaller the difference, the more ferocious the hatred and the more hideous massacres that follow.

Look at our bleeding world! Hutus versus Tutsis, Bosnian Serbs versus Bosnian Croats and Bosnian Muslims, all of whom seem often to others indistinguishable, but who themselves are driven to mindless ferocity by what Freud called the narcissism of slight difference? What St. Augustine called pride, the mother of all sins, and about which William Butler Yeats said in a famous poem:

"Things fall apart, the centre cannot hold;
Mere anarchy is loosed upon the world,
The blood-dimmed tide is loosed, and everywhere
The ceremony of innocence is drowned;
The best lack all conviction, while the worst
Are full of passionate intensity."

Make no mistake: just as repeated injuries to our national esteem can seriously jeopardize our ability to solve the problems which confront us, so the convergence of too much chaos and horror in the world—of too many Bosnias and Rwandas—can seriously damage the ability of our global civilization to get a grip on the essential task of righting itself and regaining a measure of control over our destiny as a species.

Where then do we search for healing? What is our strategy for reconciliation with our future and where is our vision for sustainable hope?

I have come to believe that our healing can be found in our relationships to one another and in a shared commitment to higher purposes in the face of adversity.

At the 1992 Democratic Convention, I talked about a personal event that fundamentally changed the way I viewed the world: an accident that almost killed our son. I will not repeat the story here today except to say the most important lesson for me was that people I didn't even know reached out to me and to my family to lift us up in their hearts and in their prayers with compassion of such intensity that I felt it as a palpable force, a healing reaching out of those multitudes of caring souls and falling on us like a mantle of divine grace.

Since then I have dwelled on our connections to one another and on the fact that as human beings, we are astonishingly similar in the most important parts of our existence.

I don't know what barriers in my soul had prevented me from understanding emotionally that basic connection to others until after they reached out to me in the dark of my family's sorrow, but I suppose it was a form of cynicism on my part. If cynicism is based on alienation and fragmentation, I believe that the brokenness that separates the cynic from others is the outward sign of an inner division between the head and the heart. There is something icily and unnaturally intellectual about the cynic. This isolation of intellect from feelings and emotions is the essence of his condition. For the cynic, feelings are as easily separated from the reality others see as ethics are separated from behavior, and as life is cut off from any higher purpose.

Having felt their power in my own life, I believe that sympathy and compassion are revolutionary forces in the world at large and that they are working now.

A year after the accident, when our family's healing process was far advanced, I awoke early one Sunday morning in 1990, turned on the television set and watched in amazement as another healing process began, when Nelson Mandela was released from prison. Last month, I attended his inauguration when he was sworn in as President of the new South Africa in what was a stupendous defeat for cynicism in our time. Many were moved to tears as he introduced three men who had come as his personal guests—three of his former jailers—and described how they had reached across the chasm that had separated them as human beings and had become personal friends.

Nine months ago, I witnessed the healing power of a handshake on the South Lawn of the White house as Yitzhak Rabin and Yassir Arafat began the tentative process of reconciliation and peace in a relationship hitherto characterized by only hatred and war.

Less than 5 years ago, the world watched in amazement as the Berlin Wall was dismantled and statues of dictators were toppled throughout East and Central Europe and as authoritarian communist governments were replaced by market democracies alert to the needs of their people.

Less than 3 weeks ago, for the first time in almost 50 years, nuclear missiles were no longer targeted on American cities—a small but important step in the continuing reversal of the nuclear arms race that long served as the cynics' ace in the hole. There is, in other words, a respectable argument that the cynics who are barking so loudly are simply wrong.

For my part, in the 25 years since my Harvard graduation, I have come to believe in hope over despair, striving over resignation, faith over cynicism.

I believe in the power of knowledge to make the world a better place. Cynics may say: Human beings have never learned anything from history. All that is truly useful about knowledge is that it can provide you with advantages over the pack. But the cynics are wrong: we have the capacity to learn from our mistakes and transcend our past. Indeed, in this very place we have been taught that truth—Veritas—can set us free.

I believe in finding fulfillment in family, for the family is the true center of a meaningful life. Cynics may say: All families are confining and ultimately dysfunctional. The very idea of family is outdated and unworkable. But the cynics are wrong: it is in our families that we learn to love.

I believe in serving God and trying to understand and obey God's will for our lives. Cynics may wave the idea away, saying God is a myth, useful in providing comfort to the ignorant and in keeping them obedient. I know in my heart—beyond all arguing and beyond any doubt—that the cynics are wrong.

I believe in working to achieve social justice and freedom for all. Cynics may scorn this notion as naive, claiming that all our efforts for equal opportunity, for justice, for freedom have created only a wasteland of failed hopes. But the cynics are wrong: freedom is our destiny; justice is our guide; we shall overcome.

I believe in protecting the Earth's environment against an unprecedented onslaught. Cynics may laugh out loud and say there is no utility in a stand of thousand year old trees, a fresh breeze, or a mountain stream. But the cynics are wrong: we are part of God's earth not separate from it.

I believe in you. Each of you individually. And all of you here as a group. The cynics say you are motivated principally by greed and that ultimately you will care for nothing other than yourselves. But the cynics are wrong. You care about each other, you cherish freedom, you treasure justice, you seek truth.

And finally, I believe in America. Cynics will say we have lost our way, that the American century is at its end. But the cynics are wrong. America is still the model to which the world aspires. Almost everywhere in the world the values that the United States has proclaimed, defended, and tried to live are now rising.

In the end, we face a fundamental choice: cynicism or faith. Each equally capable of taking root in our souls and shaping our lives as self-fulfilling prophecies. We must open our hearts to one another and build on all the vast and creative possibilities of America. This is a task for a confident people which is what we have been throughout our history and what we still are now in our deepest character.

I believe in our future.

SENATE—*Friday, June 24, 1994*

(Legislative day of Tuesday, June 7, 1994)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable BEN NIGHTHORSE CAMPBELL, a Senator from the State of Colorado.

The PRESIDING OFFICER. This morning's prayer will be given by the Reverend Richard C. Halverson, Jr., of Arlington, VA.

PRAYER

The Reverend Richard C. Halverson, Jr., of Arlington, VA, offered the following prayer:

Let us pray:

Though I speak with the tongues of men and of angels, and have not charity, I am become as sounding brass, or a tinkling cymbal.

And though I have the gift of prophecy, and understand all mysteries, and all knowledge; and though I have all faith, so that I could remove mountains, and have not charity, I am nothing.

And though I bestow all my goods to feed the poor, and though I give my body to be burned, and have not charity, it profiteth me nothing.—I Corinthians 13:1–3.

And now abideth faith, hope, and charity, these three; but the greatest of these is charity.

Almighty God, as Members of the Senate assemble here for debate, many gifts accompany them: angelic speech, prophetic insight, faith to move mountains, knowledge, wisdom, good works, and hope. Yet Thy word declares that without charity all these speak as sounding brass which profiteth nothing.

Therefore, we pray Thee that charity, the greatest of all these, be the overruler of them all here.

We ask this of our heavenly Father who so loved the world that He gave His only begotten son. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 24, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BEN NIGHTHORSE CAMPBELL, a Senator from the State of Colorado, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. CAMPBELL thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

VOTE ON MOTION TO INSTRUCT THE SERGEANT AT ARMS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now vote on the motion to instruct the Sergeant at Arms to request the presence of absent Senators.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arizona [Mr. DECONCINI], the Senator from Ohio [Mr. GLENN], and the Senator from Hawaii [Mr. INOUYE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND], the Senator from Idaho [Mr. CRAIG], the Senator from Texas [Mr. GRAMM], the Senator from Vermont [Mr. JEFFORDS], the Senator from Oklahoma [Mr. NICKLES], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 80, nays 11, as follows:

[Rollcall Vote No. 166 Leg.]

YEAS—80

Akaka
Baucus
Biden
Bingaman
Boren
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Danforth
Daschle
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Feingold
Feinstein
Ford
Gorton
Graham
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Hollings
Hutchison
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mack
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Simpson
Stevens
Thurmond
Warner
Wellstone
Wofford

NAYS—11

Bennett
D'Amato
Faircloth
Helms
Kempthorne
Lott
McCain
McConnell
Murkowski
Smith
Specter

NOT VOTING—9

Bond
Craig
DeConcini
Glenn
Gramm
Inouye
Jeffords
Nickles
Wallop

So the motion was agreed to.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of S. 2182, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2182) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Pending:

Johnston amendment No. 1840, to restore funding for the National Defense Sealift Fund and reduce funding for the LHD-7 amphibious ship.

AMENDMENT NO. 1840

The ACTING PRESIDENT pro tempore. The Senate will resume the pending business, the Johnston amendment No. 1840.

The Senator from Alaska [Mr. STEVENS] is recognized.

Mr. STEVENS. Mr. President, I ask the pending amendment be set aside temporarily and I that I may offer an amendment at this time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 1850

(Purpose: Limitation on compensation)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 1850.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 34, line 12, strike "$52,650,000." and insert: "$52,650,000."

"(g) LIMITATION ON COMPENSATION.—No employee or executive officer of a federally funded research and development center named in the report required by subsection (b) may be compensated at a rate exceeding Executive Schedule Level I by that federally funded research and development center."

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

Mr. DOLE. Mr. President, as I understand it at this time it has been agreed to by the managers that myself, the distinguished Senator from Connecticut, Senator LIEBERMAN, Senator MCCAIN, and others would offer our amendment on lifting the arms embargo on Bosnia. If the Senator from Alaska has no objection, I wonder if he might be willing to set his amendment aside that we might proceed?

I ask the amendment be temporarily set aside.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The minority leader is recognized.

AMENDMENT NO. 1851

(Purpose: To terminate the United States arms embargo applicable to the Government of Bosnia and Herzegovina)

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] for himself, Mr. LIEBERMAN, Mr. THURMOND, Mr. DECONCINI, Mr. D'AMATO, Mr. LEVIN, Mrs. HUTCHISON, Mr. FEINGOLD, Mr. JEFFORDS, Mr. WALLOP, Mr. LUGAR, Mr. MCCONNELL, Mr. COVERDELL, Mr. HATCH, Mr. MCCAIN, Mr. SIMPSON, Mr. PRESSLER, Mr. DURENBERGER, Mr. BROWN, Mr. MURKOWSKI, Mr. HELMS, Mr. GORTON, and Mr. MOYNIHAN proposes an amendment numbered 1851.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 249, between lines 7 and 8, insert the following:

SEC. . BOSNIA AND HERZEGOVINA SELF-DEFENSE.

(a) SHORT TITLE.—This section may be cited as the "Bosnia and Herzegovina Self-Defense Act of 1994".

(b) FINDINGS.—The Congress makes the following findings:

(1) For the reasons stated in section 520 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), the Congress has found that continued application of an international arms embargo to the Government of Bosnia and Herzegovina contravenes that Government's inherent right of individual or collective self-defense under Article 51 of the United Nations Charter and therefore is inconsistent with international law.

(2) The United States has not formally sought multilateral support for terminating the arms embargo against Bosnia and Herzegovina either within the United Nations Security Council or within the North Atlantic Council since the enactment of section 520 of Public Law 103–236, Senate passage of S. 2042 of the One Hundred Third Congress, and House passage of sections 1401–1404 of H.R. 4301 of the One Hundred Third Congress.

(c) TERMINATION OF ARMS EMBARGO.—

(1) TERMINATION.—The President shall terminate the United States arms embargo of the Government of Bosnia and Herzegovina upon receipt from that Government of a request for assistance in exercising its right of self-defense under Article 51 of the United Nations Charter.

(2) DEFINITION.—As used in this section, the term "United States arms embargo of the Government of Bosnia and Herzegovina" means the application to the Government of Bosnia and Herzegovina of—

(A) the policy adopted July 10, 1991, and published in the Federal Register of July 19, 1991 (58 F.R. 33322) under the heading "Suspension of Munitions Export Licenses to Yugoslavia"; and

(B) any similar policy being applied by the United States Government as of the date of receipt of the request described in paragraph (1) pursuant to which approval is denied for transfers of defense articles and defense services to the former Yugoslavia.

(3) RULE OF CONSTRUCTION.—Nothing in this section shall be interpreted as authorization for deployment of United States forces in the territory of Bosnia and Herzegovina for any purpose, including training, support, or delivery of military equipment.

Mr. DOLE. Mr. President, I am pleased to be joined once again by the distinguished Senator from Connecticut, Senator LIEBERMAN, in proposing this amendment to lift the arms embargo on Bosnia and Herzegovina, and we are pleased to have a number of cosponsors again this time to an almost identical amendment.

The McCloskey-Gilman-Bonior-Hoyer amendment, which was almost identical, was adopted by the House, to the House defense authorization bill almost 2 weeks ago, by a substantial margin. We are probably going to hear again today, just as Members of the House heard, now is not the time to lift the arms embargo. Let me just suggest that you read the Washington Post today, if you think now is not the time to lift the arms embargo. They are preparing for war in that part of the world. I know there are these peace plans—51 to 49 percent—whatever the percentages now are. Just read the Washington Post piece today, "Winds of War Blow in Balkans Despite Latest American-Backed Peace Plan." Those who are most unprepared for war are the people in Bosnia and Herzegovina, and I ask at the appropriate time this article be printed in the RECORD.

The PRESIDING OFFICER (Mrs. MURRAY). Without objection, it is so ordered.

[See exhibit 1.]

Mr. DOLE. We have heard for the last 26 months now, usually with the same excuses—that this is not the time to lift the arms embargo, that we are going to table something at the United Nations, that something is going to happen, that allies with troops on the ground oppose lifting the embargo, that the Russians oppose lifting the embargo, that it is too late, that it will hurt the negotiations. We have heard all these arguments for a long time now and we have gone along with failed policies in the name of consensus. We have forsaken principle for 2 years and ignored international law in the naive hope this war will end by the good graces of the very perpetrators of this aggression.

It may be that once again we are on the brink of the signing of another settlement, but based on today's Washington Post story I am not certain that is the case. Once again we are pressuring the victims, the Bosnians, to accept ethnic partition. And, once again, the administration is using this as an excuse to do nothing.

Do not get me wrong. I have just been to Sarajevo recently and I would like to see a peaceful settlement. I would like to see an end to this brutal war. I have seen its consequences, as I will indicate later, personally, as has the distinguished Senator from Delaware, Senator BIDEN, along with the distinguished Senator from Virginia, Senator WARNER. Just 3 weeks ago I was in Sarajevo. I saw the victims of the Serbian assault on Gorazde and victims of sniper attacks in the Sarajevo hospital.

I believe everyone in this body would like to see an end to this war. But that is not the issue. The issue is how to get to a just peace—not just any peace—not surrender.

But for the moment, let us put aside issues of justice, morality, principle, or Bosnia's legal rights.

There is one big question that no one in this administration can answer, or anyone else who advocates denying the Bosnians a right to self-defense. And that is: Who or what is going to make the Bosnian Serbs withdraw from 70 percent of Bosnia to 49 percent, as proposed by the so-called contact group? The Bosnian Serbs are not going to do it. They have taken over 70 percent of this independent nation.

Again, I wish all of my colleagues could go to Sarajevo. They would not recognize Sarajevo. There is not much left in Sarajevo. They would recognize who occupies the high grounds.

If they go to the hospital there, they can see this little, beautiful girl who, the night before our visit to the hospital, was hit by a sniper. We also saw a 15-month-old baby girl, and we handed her a teddy bear, and we wondered why there was no reaction. Well, she was blind, in addition to other multiple injuries. We are trying to see if we can work out some way to bring her to the United States for medical treatment.

But this is happening every day: Discriminate fire hitting senior citizens, old people—nobody engaged in the war—children, babies.

What do the Bosnians tell us? They do not want American troops. They do not even want air strikes. They want the right to defend themselves. It seems to me that this right is rather basic in America.

We went up and down the streets of Sarajevo, and these little shops were opening, little shops, about the size of the table in front of me. That is about the size of their shops, about 6 feet by 5 feet. That was a shop. The people have a lot of courage—I guess is the right word—in Sarajevo. They understand what has happened to them.

And what do the Bosnian people want? They want American leadership. They want American leadership. They are not asking us for anything but the right to defend themselves, the same right any of us would want if our homes are threatened or if anything else was threatened that we possess. We would want the right to defend ourselves.

This is serious business—there have been 200,000 people killed. I want to repeat what I read in the paper this morning, what the Bosnian Vice President said. He said, "We are getting a little tired of big rhetoric and small deeds." And he was right; we have a lot of big rhetoric around here, a lot of big rhetoric. Go to Sarajevo and you will understand how important this issue is to the people who live there.

We Americans do have an interest. The interest that we have is that we believe in the right of self-defense. We understand Bosnia is an independent nation. We understand Bosnia is a member of the United Nations. We understand that article 51 of the United Nations Charter recognizes their right to self-defense. So what is all the argument about? The vote on this amendment should be 100 to 0. It ought to be 100 to 0. The President of the United States ought to persuade our allies to go along—We do not want anybody hurt; we do not want anybody in harm's way. Let the U.N. protection forces leave, but give the Bosnian people the ability to defend themselves.

So I do not see anything new happening. Maybe you can force the Bosnians to sign another peace agreement. We met with the President of Bosnia. He said, well, if you will not lift the arms embargo, maybe you can get the Serbs to come down to parity so they would reduce the weapons they have.

We were told—myself and the Senator from Connecticut, Senator LIEBERMAN—by the Bosnian Vice President, Mr. Ganic, the last time he was here, that they have one rifle for every four men—one weapon. The Bosnians want antitank guns.

It just seems to me we ought to do the right thing. About all the hope the Bosnians have is America. That is what they tell you, with tears in their eyes: "We're waiting for America; we're waiting for America." And that is what this debate is all about: Not American troops, not American air strikes, but American leadership, to say the Bosnians ought to have a right to defend themselves. It seems to me that is not too much to ask.

So, Madam President, I want to again urge my colleagues. I know there are some Members who voted against this proposal the last time who may join us this time. I understand that the administration feels strongly about this, and it may be very difficult for some to oppose the administration. But this is not a partisan effort. It should not be a partisan effort.

I just would like to take another look at some of the other arguments made against this amendment.

First, the impact on the negotiations. Again, I think if somebody reads this morning's Washington Post, that piece about war looming in that part of the world, I think they will understand. There are not going to be any negotiated settlements. At least, that was the sense I had when I left Bosnia.

History shows us that a stable peace can be achieved when there is a balance on the battlefield—a balance on the battlefield. Our own history of negotiations with the Soviets taught us that negotiating from a position of strength produced the best results.

The Bosnians are getting a little stronger; they are gaining a little more strength. They may have a little more negotiating power in the next weeks, months, or years. But again, if there was a balance, if we lift the arms embargo unilaterally, if the United States leads the way, they will have a chance. Good things happen when the United States leads the way; whether it is politics or economics or military, good things happen when the United States leads the way.

So it seems to me the only potential outcome that is furthered by the continued arms embargo on the Bosnians is surrender.

Some will say, "Oh, this can have a negative impact on NATO." It seems to me NATO has already suffered significant damage, but not as a result of our efforts to lift the arms embargo. NATO's credibility suffered because of decisions to subordinate NATO to the United Nations in Bosnia, allowing U.N. officials to have operational control over NATO forces. NATO's influence has been marginalized because of a failure to define a clear and independent role in the post-cold-war era.

I read a piece in the Los Angeles Times which reported that Mr. Akashi and other U.N. officials are building monumental structures as if they want to stay in Croatia and Bosnia forever. UNPROFOR has 3,000 civilian employees. They have a bureaucracy going and they do not want to leave.

I ask unanimous consent to print that article in the RECORD, too, in case some of my colleagues may have missed it. It tells what is really happening in Croatia and Bosnia and why some in the United Nations insist on staying there.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, June 22, 1994]

U.N. FORCE HAS A LIFE OF ITS OWN

(By Carol J. Williams)

ZAGREB, CROATIA.—In between the fierce squalls that usher in the Balkan summer, builders under contract to U.N. peacekeepers have been pouring cement and hammering arches for twin porticoes of faux Ionic columns outside the two most important doors at mission headquarters.

The embellished entrances, about 100 feet apart on Building A, lead to the offices of the U.N. mission chief, Yasushi Akashi, and to an administrative beehive that has swelled since his January arrival.

While the stab at re-creating antiquity's grandeur may seem pointless against a backdrop of squat military barracks, the colonnades and architectural substance to local fears that the U.N. Protection Force, or UNPROFOR, has metamorphosed from a temporary peacekeeping mission into a city-state with a life of is own. There is no name yet emblazoned on the frieze of the vaulted arches, but U.N. workers joke that it should read: Republic of UNPROFOR.

With nearly 40,000 troops and employees already deployed in the embattled former Yugoslav republics and 5,000 more on the way, the U.N. peacekeeping force has expanded during its mere two-year life span to become the largest and most expensive mission in U.N. history.

Its 3,164 civilian employees alone eclipse the work force of Vatican City.

Its proposed $1.5-billion budget for the next fiscal year is nearly 50% more than that of the U.N. Secretariat.

The mission has its own airline, with two daily flights to Sarajevo and regular service to Belgrade and other peacekeeper venues.

There are 11,527 white vehicles plying the roads from this Croatian capital to the trip-wire lookouts in northern Macedonia.

Thousands of portable living units—the postmodern version of the Quonset hut—have created hundreds of remote U.N. mini-bases.

A fleet of white buses shuttle translators and secretaries from the crammed headquarters complex to Zagreb hotels and to the airport, creating a transportation system parallel to the city's.

The mission is even developing its own radio-television network, hiring reporters and anchors and duplicating the broadcasting services of other international agencies.

While administrators justify the cost and sprawl as investments necessary because of the mission's broad scope, there are growing concerns in the mission area as well as in the West that the United Nations has built an empire that is more absorbed with keeping itself in business than restoring peace so it can disband and go home.

The mission that has neither the mandate nor the military means to stop the 3-year-old conflict is increasingly raising questions about the efficacy of peacekeeping in regions where there is no more peace to keep.

It is also prodding some Western analysts to wonder whether the ever-expanding and elusive quest for a negotiated resolution will end up costing more in foreign dollars and local lives than a swift and decisive military intervention would have if one had been undertaken at the start. The tab for food aid, humanitarian actions and peacekeeping is generally estimated at well over $2 billion a year. More than 200,000 lives have been lost.

"Not a single objective of this mission has been achieved, because it is compelled to remain neutral in the face of an obvious aggression," Bosnian Information Minister Ivo Knezevic complained during a recent interview in Sarajevo. "For UNPROFOR troops, overseeing our people's suffering has become a matter of jobs.

"We don't want to sound unfair or ungrateful for their endeavors and the aid that we do receive, but the negative aspects of this mission are now dominating."

His chief complaint, that the U.N. mission is trying to strong-arm the combatants into agreeing to an unjust peace, is, ironically, shared by all warring factions.

Serbian rebels in Bosnia-Herzegovina and Croatia accuse the U.N. troops of trying to reduce their territorial spoils, while Zagreb contends that the world body's presence here has firmed up the Serbs' hold on the one-third of Croatia that insurgents seized in a conflict three years ago.

The imperturbable Akashi smiles tolerantly through the accusations of bias, as he does through suggestions his massive mission has become an immovable force.

"We are in good shape when we are equally criticized by both parties," the 30-year veteran of U.N. bureaucracy said during an interview in his penthouse office atop the newly aggrandized Building A.

Among its assignments, the U.N. peacekeeping force overseas negotiations aimed at brokering peace both in the suspended war between Serbs and Croats in this republic and the Serbian rebellion in Bosnia that has been left to deteriorate into civil war.

But after nearly two years of attempts to cojole the factions into talking out a settlement, the latest team of mediators trying to achieve the elusive peace treaty has begun brandishing the threat of a U.N. pullout.

France and Britian, who together contribute nearly one-third of the U.N. force (36 other countries make up the rest), have warned they may withdraw their soldiers unless the factions agree to a negotiated settlement within a few months. But in Croatia and Bosnia, political leaders dismiss that ultimatum as diplomatic bluster.

"UNPROFOR, like any other bureaucratic organization, has the intention to perpetuate itself," said Bozo Kovacevic, a leader of the Croatian Social-Liberal Party. "It has to. There are too many jobs and careers at stake.

Western diplomats speculate that France and Britain may actually reduce the commitments to the peacekeeping force to calm fears at home that their soldiers are being exposed to the hazards of war while the people they were sent to help show no willingness to make the compromises necessary to end the conflict. The U.N. troops have suffered more than 1,000 casualites—84 of them fatal.

But without any international will to militarily impose a settlement, the United Nations must keep the fig leaf of a peacekeeping force in place, one Western envoy insisted.

"I see no chance whatsoever that UNPROFOR will leave before there is some kind of settlement here," he said. "They may have to restructure the force with more Third World troops if the British and the French do cut back, but that would probably be to the U.N.'s liking."

A protracted stay by the peacekeepers is also a boost for the Croatian economy, which was shattered by the six-month war with Serbian rebels in 1991 and has been shrinking with the loss of tourism income and key industrial sites that remain behind rebel lines.

Drazen Kalodjera, a senior research fellow at the Economics Institute of Zagreb, estimates that the missions housing, food, gas and other expenditures—an estimated $400 million a year—account for as much as 5 percent of Croatia's gross national product.

"Five percent of GNP is important for any economy," said Kalodjera, dismissing threats by the Croatian leadership to ask the U.N. mission to leave unless it restores Zagreb's sovereignty over Serb-occupied territory.

"In spite of all our dissatisfaction with the United Nations, these troops are here for a long time," the economist said.

U.N. activities more telling than the symbolic erection of the porticoes also suggest that the mission is hunkering down for the duration.

A U.N. press center has been built in central Sarajevo to spare public information officers the five-mile drive to forward headquarters from their offices nearer to town. Dozens of observation posts have been established over the last two months to monitor the on-again, off-again truces. Sophisticated radar equipment has just been moved in to trace the origin of cease-fire violations in northern Bosnia. And the search for more troops to bolster the burgeoning force continues.

Akashi waves away questions about how long he expects his mission to persevere, offering vague expressions of hope that it won't be too long.

"Not decades. Not like Cyprus," he said. "I completely identify myself with the parties to the conflict here. I do not want a reproduction of the stalemate we see in Cyprus," where the United Nations has been involved for three decades.

But it is just such a standoff that the Balkan populations and some troop-contributing nations have begun to fear.

"I worked at the United Nations for five years, so I'm familiar with its institutional mentality," said Slaven Letica, a political science professor at Zagreb University. "It is lazy, bureaucratic and institutionally stupid. The people who take part in these missions learn to accommodate the local suffering. They have to develop this indifference as a survival strategy, because they are nice young people who cannot really do anything to help. Their preoccupation becomes that of any other job—getting by, getting a paycheck, achieving career advancement."

Like most political and economic analysts in this host nation, Letica dismisses the threat of a pullout by the United Nations as "just for foreign show."

"We can probably expect a decrease in the scope of the deployment at some point, but withdrawal would be unacceptable for both the international community and the Croatian government," said Letica, a former chief adviser to Croatian President Franjo Tudjman.

With new responsibilities for patrolling and monitoring heaped on the peacekeepers with each U.N. Security Council resolution, the number of troops needed is likely to continue rising.

Akashi concedes that the mission's size is approaching its limit, not because the situation is stabilizing but because the international community's willingness to send armed forces to the Balkans is nearly exhausted.

A March appeal for 12,000 more troops to enforce cease-fires in Sarajevo and central Bosnia drew pledges of only 4,500, half of which have not arrived.

"We continue to assess in a very realistic and pragmatic manner what we can achieve with our limited resources," Akashi said. "We have to maximize our resources. We should not ask for more and more troops all the time, even though we are fully aware of the danger of being spread very thinly for our comfort."

In the unlikely event that the mediation efforts wring out a settlement, the North Atlantic Treaty Organization has promised to help implement it by sending 50,000 troops. That would more than double the mission's size.

As one European officer in Sarajevo quipped, "If the U.N. can keep 40,000 people busy without having produced a single agreement, imagine what the force will grow to if we ever get a real cease-fire."

Mr. DOLE. Madam President, in addition to NATO's other shortcomings, NATO has been weakened by its willingness to allow Russia to dictate the terms of our security relations with former Warsaw Pact countries like Hungary, Poland, the Czech Republic, and Slovakia.

I would like to address again the argument made by administration officials that unilaterally declaring this illegal arms embargo null and void will lead to the demise of legal U.N. embargoes against the perpetrators of aggression.

I think it is fairly clear that Bosnia is not a perpetrator, Bosnia is a victim of aggression, while Iraq and Serbia are the aggressors. The arms embargo against Bosnia violates its inherent right to self-defense, as I said, a right which is recognized in, but not limited to, article 51 of the U.N. Charter.

Whether or not the administration or other members of the U.N. Security Council choose to see it, right and wrong still exist in the world, legal and illegal actions still exist under international law. Obfuscation and moral equivalence may work in the short term, but will not work in the long term. History is going to judge our actions here. History will judge whether or not the United States exercised leadership in support of a just peace in Bosnia or not.

Some opponents of our amendment may argue that lifting the embargo would endanger the U.N. protection forces. In my view, that puts the cart before the horse. The U.N. protection forces have not protected Bosnia. They have not protected—they have been witnesses to all the suffering.

As this recent Los Angeles Times article pointed out, the U.N. protection forces have become " * * * an empire more absorbed in keeping itself in business than restoring peace so it can disband and go home." That is the article I made reference to earlier.

So for all the reasons I can think of, Madam President, this embargo must be lifted. And again, I know that one visit to Sarajevo does not make anybody an expert, but you can see the devastation, you can see the horror, you can see the tragedy, and it is still happening.

About 150 sniper rounds a day from the hills come in, and children are hurt, babies are hurt, old people are hurt. They are not participants in any conflict. They are innocent. Again, I am not now asking us to become involved at all. I retreated from that position. I thought air strikes might be a good idea. But, let us forget about air strikes. Let us talk about lifting the arms embargo; let us talk about providing leadership for the rest of the world; and let us do it by a big, big vote on this amendment.

EXHIBIT 1

WINDS OF WAR BLOW IN BALKANS DESPITE LATEST, AMERICAN-BACKED PEACE PLAN

(By David B. Ottaway)

ZAGREB, CROATIA—As the United States, Russia and Western Europe prepare to unveil with much fanfare their own partition plan for a Bosnian peace settlement, Western diplomats and U.N. mediators in the Balkans are expressing deep pessimism and total frustration.

The prevailing feeling among these diplomats is that the region is facing a widening war and that outside efforts to avert the storm are just about exhausted. All parties engaged in the overlapping Bosnian and Croatian conflicts, these sources say, are busy preparing for more war, not peace.

"I consider [a new outbreak of war in Croatia] a very real danger," said Peter Galbraith, the U.S. ambassador here. "If there is another Serb-Croat war, it is going to be unlike what we've seen so far. It could escalate to air raids on cities, rocket attacks and large-scale tank and artillery assaults.

"Such a war could lead to the direct involvement of the Yugoslav army. It is precisely such a catastrophe that our negotiating efforts have sought to forestall," he added.

The coming Western peace plan for Bosnia is counting heavily on high-level diplomatic hoopla—and a few new but slim carrots and sticks—to win the approval of the warring parties.

First, U.S. Russian and West European foreign ministers will put their stamp of approval on the plan at a meeting in early July, either in Geneva or Naples. Then, it is scheduled to be formally endorsed at the summit in Naples on July 9 and 10 of the Group of Seven major industrial nations, with Russia also taking part.

The crux of the plan consists of a map drawn by a "contact group" of U.S., Russian and West European diplomats for Bosnia's partition, with 51 percent going to the newly formed Muslim-Croat federation and 49 percent to the Bosnian Serbs' self-declared state.

The plan, however, may prove stillborn. At this point, it seems to have little to do with the realities on the ground and little prospect of being accepted by either the Bosnian Serbs, who hold more than 70 percent of the republic, or by the Muslim-led Bosnian government, which is pressing to retake strategic points from the Serbs.

In Bosnia, a U.N.-negotiated cease-fire between Muslims and Serbs that began on June 10 is already breaking down, with U.N. officials in Sarajevo confirming "major violations" of the truce by both sides, particularly by the Muslim-led Bosnian army in central Bosnia.

In Serb-surrounded Sarajevo, the Bosnian capital, Muslim forces are digging additional defensive trenches all around the city and sending spare troops to fight in central Bosnia, according to U.N. sources.

"Everybody is preparing for war," said a dejected U.N. relief official, Peter Kessler, who just returned here from Sarajevo.

Though under an international arms embargo, both Croatia and Serb-controlled Yugoslavia, the main players in the overall Balkan drama, are busy buying arms abroad for the next round of fighting.

Diplomats here say the Croatians continue to obtain MiG jet fighters—they have 16 now—and helicopters on the black market from East European countries. Diplomats in Belgrade, the Yugoslav capital, report that an engine for a MiG–29 was recently discovered by U.N. monitors hidden under a pile of loose detergent in a truck coming across the border from Bulgaria.

The cease-fire negotiated between Croatia and its Serb separatist minority that went into effect March 29 has held so far, with U.N. peacekeeping troops spread out along a 1.6-mile-wide corridor separating the rival forces. But a senior U.N. military official here predicted the truce would become "more and more fragile" with each passing day after the breakdown last week of the negotiating process here.

The combined efforts of U.S., Russian, West European and U.N. mediators to start direct talks between the Croatian government and the rebel Croatian Serbs reached a dead end last week when the Serbs refused to allow five Croatian reporters to cover the event.

The mediators say there is nothing more they can do until there is some change in attitude by the hard-line Croatian Serbs, who, one diplomat concluded, "simply are not interested in negotiations."

As a result, U.S. and other diplomats no longer can offer Croatian President Franjo Tudjman the hope of peaceful negotiations as an alternative to going to war to regain the quarter of the country held by the Serbs, as he has long threatened to so. Instead, the diplomats are warning him that the consequence of renewed war, with the prospect of intervention by neighboring Yugoslavia, could be a lot worse for Croatia than its current division.

The attitude of Bosnia's warring Serb and Muslim factions toward negotiations is not much different from that of the Croatian Serbs.

A nearly completed draft of the international mediators' proposed partition map, published in the Belgrade weekly Vreme on Monday, would require the Bosnian Serbs to hand back about 30 percent of the land they seized at the outset of the war 26 months ago, mostly in eastern and northern Bosnia.

The map's most contentious points would require the Serbs to give back to the Muslims substantial territory around the three remaining Muslim enclaves in eastern Bosnia—Srebrenica, Gorazde and Zepa—and to the Croats a broad swath of land in the north. The latter proposal, if implemented, would practically cut in half the corridor that connects Serb-held lands in northeastern and northwestern Bosnia.

The chances that the Bosnian Serbs will ever accept this plan are rated by Western diplomats here as close to nonexistent. Only enormous pressure from President Slobodan Milosevic of Serbia, Yugoslavia's dominant republic, might accomplish this, but they doubt he has the political will or clout to squeeze the Bosnian Serbs into compliance after his failure to deliver the far less powerful Croatian Serbs to the negotiating table.

The Clinton administration has drawn up a list of new carrots and sticks to persuade Serbia and the Bosnian Serbs to accept the proposal. The carrots rely mainly on an easing of two-year-old U.N. economic sanctions on them if they accept. If they refuse, the sticks include measures to tighten the sanctions—and possibly exempting the Bosnian Muslims from the arms embargo.

But if a recent U.S. government-sponsored survey of public opinion in Serbia is anything to go by, there is little support there for getting tough with the Bosnian Serbs and considerable confidence that the republic can withstand any additional U.N. sanctions.

The survey, based on a sample of 1,600 people interviewed in late May and early June, showed that 8 out of 10 Serbians say their government should support the Bosnian Serbs "at all costs," including the use of military force to help them seize the three Muslim enclaves in eastern Bosnia. Fully 90 percent said they believe a lasting peace is impossible as long as the Muslims keep those enclaves.

Two-thirds were of the opinion the Bosnian Serbs should either hold onto the 70 percent of Bosnia they now control or try to seize even more land. Only 32 percent favored giving up some territory to obtain a peace settlement.

The survey also showed that 84 percent of Serbians said they could withstand U.N. sanctions at least through the end of this year, "if not longer," and nearly the same percentage said Serbia's economic situation had improved over the past year.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Madam President, for a couple years now, some of us in this Chamber—Senator LIEBERMAN from Connecticut and others—have been urging that the arms embargo placed on Yugoslavia, and Bosnia, in particular, by the last administration, be lifted.

As a matter of fact, in the waning hours of the Bush administration we actually adopted an amendment that I authored not only urging the President to lift the embargo but authorizing then President Bush to expend up to $50 million in military arms to make available to the Bosnian Government. The Bush administration did not act.

The Clinton administration, although critical during the campaign of the Bush administration's position, came in and essentially adopted the same position. We have had no change. We have had herculean efforts on the part, I expect, of both administrations to try to negotiate something. But the essence of the negotiation always is, Bosnia, give up, as Czechoslovakia did in the thirties, part of your territory to the naked aggression sponsored by a foreign state, Serbia, in return for having the right to exist in any form as a nation state.

That is the deal the Bosnian Government is asked repeatedly to sign. I made my position very clear. I think that this administration should be directed to move that the United Nations table a resolution demanding the lifting of the embargo, force our NATO allies to stand up and be counted. I predict to you they will not veto such a resolution. I predict to you they will not have the courage to go down on the wrong side of history. I predict to you that vigorous American leadership could reverse the arms embargo and do it multilaterally. But it seems that is not going to be done.

This administration has not acceded to my pleas or those of others. We will be left in the Senate with the choice to vote for an amendment which I believe will be offered and, I suspect, supported by the administration—an amendment which is well-intended, may even be correct—although I happen to think not, but I suspect it will call for an interim step. That step will propose that if the Serbs do not agree to a negotiated settlement, then and only then will we lift the embargo. I know the Secretary of State, in talking to me, has been working vigorously to try to, if that route were taken, convince our allies that they would then join us in lifting the embargo.

Well, on its face that seems to be reasonable, Madam President, except for one important factor. We have been on record in this administration from the outset, and a critical element of my position on this issue has been, that we will not dictate the partitioning of Bosnia. We, the United States, will not be party to insisting on the partitioning of Bosnia.

The contact group proposal, the so-called contact group made up of the major European powers, our NATO allies and Russia, has put on the table for discussion a partitioning of Bosnia—49–51. It says that the Serbs must back off from the 70 percent they now control to 50 percent. The Serbs have no right to 1 percent, one-quarter of 1 percent.

Now, I am not naive enough to think we can dictate an outcome which allows the Bosnian Government to be fully reconstituted—multicultural and within the confines of the original nation of Bosnia-Herzegovina that we recognized several years ago. If we had acted when we should have, I believe we could have guaranteed that. But we are beyond that now.

Now the question is, do we get on the wrong side of history in two ways. Do we get on the wrong side of history by saying, in this Chamber, to the President of the United States that we not only condone this partition, but insist that the Bosnian Government give up 49 percent of its territory.

Now, the way it is going to be presented to us by the administration is that we are insisting the Serbs back off 20 percent of the 70 percent they now have.

Well, the truth is that we will be endorsing the fact that Bosnia will be split and roughly half of it will be under the effective control of a guy named Milosevic, who happens to be President of an independent and separate country called Serbia. That is what this is about, separate and apart from whether or not the chronic debates that my friend from Virginia and my friend from Arizona and I have had about the utility of air strikes. It has nothing to do with that. This is a fundamental decision we are going to be asked to participate in: Do we officially condone, as a matter of United States policy, the partitioning of Bosnia after 2 years of insisting the territorial integrity of Bosnia, under the control of a single multiethnic government in Sarajevo, remain intact? That is the position the contact group, at least in a de facto way, is abandoning.

So there is a principle at stake here that I caution the Senate not to go on record as supporting. Now, as often happens in complicated matters, we are presented with Hobson's choice here in the Senate. We get to this point because of inadvertence, bad policy, misguided policy or honest to goodness mistakes, well-intended in the beginning but nonetheless mistakes. We are left with several bad choices. The proposal of my friends, the Republican leader and my friend from Connecticut is, if taken in the abstract, misguided in my view. We should not be unilaterally lifting embargoes. We signed onto it with our allies. The Republican administration locked us into a position inherited by this administration. A position which is now not only inherited but now adhered to by this administration, compounding in my view the incredibly misguided judgment of the last administration and participating in that misguided judgment. And so we are left in this Chamber to vote on whether or not to unilaterally lift the embargo.

Now, the alternative will be to vote, I suspect, on recognizing that the underlying premise of an alternative is to support the position of the contact group. The position dictates that Bosnia accept half its country or suffer the consequences.

Now, fortunately for the contact group—and in Machiavellian political terms it is probably going to turn out to be this way—the Serbs will be stupid enough and greedy enough and vicious enough to reject even being handed half the country. They will probably insist on 70 percent of the country. And that is what Mr. Izetbegovic is going to bank on. I feel badly for the Bosnian Government. Mr. Izetbegovic is sitting over there along with Mr. Silajdzic and other leaders of the Bosnian Government and I bet you, after speaking with them for hours, their calculation of the discussion sounds something like this: Do we want to sign onto anything that says we voluntarily give up half our country? Then the counter will be, well, if we sign on, then the ball is in the Serbian court and they will be stupid enough not to sign, and then we will get help. Then someone will respond, and say, No, wait a minute. What if they accept? My Lord. Do I want to be a signatory to the demise of my country? Think about that in terms of what we would be doing—"we," us, political leaders—if put in a similar situation.

The one thing I have found is that there is little difference between political leaders all over the world.

So what are we left with? A choice of signing onto one alternative which has the possibility of lifting the embargo multilaterally because hopefully the administration will say that if the Serbs reject the contact group offer, they have agreement from the Russians and the other contact group members either to support lifting the arms embargo, or abstain from vetoing it. But that is a high risk, to actually say we support partitioning.

Then there is the alternative. What is going to happen here? If the Dole-Lieberman proposal passes, what will happen? We will have established a precedent of unilaterally lifting an embargo. Well, I think it is just as likely the following will happen. If Dole-Lieberman passes, I believe it is equally as probable that the President will have to do what we have been pleading with him to do for 2 years. He will go to the United Nations, and to NATO and say that this is for real. I have no choice. So unless you want to blow the whole alliance, unless you want to blow the whole Security Council, listen to me. Either abstain or vote with me. That is what I demand.

That is the alternative the President is going to be faced with. He is either going to be faced with vetoing this bill, if it passes—a solid piece of legislation its managers have worked impressively and incredibly hard to put together in the interest of this country, or he and the Secretary of State will be forced to step up to the ball. They will have to lay it out for the Europeans, no ifs, ands, or buts; take all the varnish off. This is the deal.

I doubt whether anybody in here really believes that the President of the United States and the Secretary of Defense and the Secretary of State will say this is it, that they cannot get the votes. But at a minimum, I predict they will require a new try, or veto this bill.

Let me say a few other things, and then I will yield the floor.

I recently returned to Sarajevo with Senator DOLE and Senator WARNER. I had been to Sarajevo a year earlier. I had been to Sarajevo, and I had been to a number of other areas in Bosnia that were under siege then and under siege now. We had a chance to see the country, unfortunately. It is a magnificently beautiful country.

We were riding back in the plane, Senator DOLE, Senator WARNER, and I. One of them asked me, "What has changed?" I remember saying on the plane that what has changed is the attitude of the people in Bosnia, the attitude of the Moslems and the Croats and the few Serbs who still live in Bosnia committed to the notion of a Bosnian government.

When I was there a year and a few months ago, people were pleading for the United States to help—pleading. It was obvious that the cities of Sarajevo, Tuzla, Srebrenica, the Bihac, the entire country, was in the process of disintegration. They saw what was coming, and they knew what was there, and they pleaded with us for air strikes, pleaded with us for help, pleaded with us to lift the arms embargo, pleaded with us to intervene with American forces.

Well, this time I went back to a group of realists. This time as I stood in the streets of Sarajevo with my colleagues, or in the hospital next to the hospital beds, or with the relief workers, or in the shops, they looked at us with steely eyes, and said, we need Americans help to lift this embargo. But I tell you, pal. You lift the embargo, we will take care of our ourselves. We will take care of ourselves. They have figured out that they have a bigger army. They have a more committed army. They have fighters who can fight.

I remember debating with some of my colleagues on the floor when I said send arms to them and other Members of this body argued that they do not know how to use those arms. Like heck they do not know how to use those arms. They have no problem. There was universal conscription in that country before it was divided up. The Moslems in Bosnia, the Croats in Bosnia are equally as tenacious and tough fighters as the Serbs in Bosnia and the Serbs in Serbia.

So what I found in the change in attitude was, give us a chance.

The second thing I found was, no matter what we sign, Senator, do not think we are going to permanently agree that Serbia has de facto control over half of our country. We may have to sign something here in order to get a cessation of hostilities. Part of their calculation will be that if they sign the agreement, my colleagues may say, do we keep the arms embargo on? Will we then agree to lift the arms embargo on Bosnia? My guess is we will be told we have to keep the arms embargo on. But the Bosnians are counting on it being lifted.

Does anybody in here, after seeing the state of affairs in Bosnia, think that the Bosnian government is going to, once the arms embargo is lifted, no matter what they agreed to, sit there and say that is OK, keep Bihac, do not worry about Tuzla, Srebrenica and all along the Drina River is not a problem for us. Does anybody believe that?

I want to make the point that what we want is a permanent settlement. I realize I sound like a broken record. I have been saying this for 2 years. The only way, in my reading of the history of that region, as well as in all Europe, is that there has only been a lasting—"lasting" meaning decades—peace when there is a stalemate on the battlefield, when both sides in the conflict conclude there is no more they can gain as a consequence of military engagement.

I challenge anyone who has been to Bosnia. I challenge anyone who has been to Croatia and not Bosnia, or Serbia and not Bosnia, to tell me that they think the Bosnian government thinks that if they had arms they could not do any better.

So the quickest road to peace is to let it be made clear to the Bosnian Government and to the Serbian Government and to the Serbian butchers, Karadzic and the military leader Mladic, that this is as far as they can go, and no sides go any further, not because of an international resolution, but because they are stopped on the battlefield.

That is the reality of conflict in Europe. People like to try to educate me about the reality of the Balkans. Well, I am sure there are people who know more than I know about the Balkans, but I challenge anybody in this Chamber who thinks they know any more than I know about the history of the Balkans. I may be wrong in the conclusions I reach after reading history, but I do not fail to know the history. The truth of the matter is that nothing is ever resolved by international accords, agreements signed under duress, or agreements that do not have the standing and backing of the principals who signed those agreements.

My second point is, purely from a pragmatic standpoint, it makes sense to allow the Bosnian Government to find out whether their present disposition is correct. I assure you if it is not, they will be at the table to sign for 49 percent.

Mr. WARNER. Will the Senator yield for a brief question?

Mr. BIDEN. Yes, I am happy to yield for a question.

Mr. WARNER. I had the privilege of traveling with you and the distinguished Republican leader. This debate today should focus on the choice between the United States unilaterally lifting the embargo, or lifting the embargo along the lines of an alternate amendment which the Senator from Georgia [Mr. NUNN] and myself and others will shortly introduce, whereby we do it in conjunction with our allies.

That is the key question, given the value of our alliance today, as it has been in the past, and will be in the future. This week, the Armed Services Committee had extensive testimony from Great Britain, France, Denmark, Spain, and others. Without exception, each witness told us that if you lift this unilaterally, this war becomes stamped "made in America." We cannot let that happen.

Would the Senator narrowly focus on that as he concludes his remarks, so that the distinguished majority leader and others may address the Senate?

Mr. BIDEN. I would be happy to. Unfortunately, I began this before the Senator was on the floor. I started off by saying that the choices were stark. They were Hobson's choices; neither was very good.

The reason I could not go the route the Senator from Virginia and others are going to propose is because an essential element of that resolution is signing on implicitly, if not expressly, to the contact group's requirement that the sides accept the 49–51 split. That is counter to American policy stated thus far. The alternative offered by my friend from Connecticut and our friend from Kansas, although not a good alternative, I believe has an equally or better chance of forcing the President to do what needs be done—going to the allies and saying that the embargo is going to be lifted, and you better join me now to do it multilaterally. I predict that will happen. I could be dead wrong. That is a very short version of what I took 10 or 15 minutes to explain prior to the Senator being on the floor.

I will conclude by making a much more parochial point. First, we cannot get on the wrong side of history and, as a nation and a Chamber, condone that an independent country we recognized, which was later invaded by another country and partitioned by and with the help of another country, be partitioned in any degree, whether 49–51, 60–40, or 10–90. That is a matter of principle, and we should not sign on to that.

Mr. NUNN. Will the Senator yield to me for approximately 30 seconds for the purpose of introducing a second-degree amendment?

Mr. BIDEN. Of course.

AMENDMENT NO. 1852 TO AMENDMENT NO. 1851

Mr. NUNN. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for himself, Mr. WARNER, Mr. MITCHELL, Mrs. KASSEBAUM, and Mr. ROBB, proposes an amendment numbered 1852 to amendment No. 1851.

Mr. NUNN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out everything after the first word and insert in lieu thereof the following:

"BOSNIA AND HERZEGOVINA

(a) PURPOSE.—To express the sense of Congress concerning the international efforts to end the conflict in Bosnia and Herzegovina.

(b) STATEMENTS.—The Congress makes the following statements of support:

(1) The Congress supports the use of international sanctions in the form of arms and economic embargoes imposed by the United Nations Security Council in appropriate circumstances.

(2) The Congress supports the imposition of an arms and economic embargo on the Government of Iraq by United Nations Security Council resolution 661 of August 6, 1990 to bring about compliance with a number of conditions, including in particular an end to Iraq's nuclear weapons program.

(3) The Congress supports the imposition of an arms, petroleum and economic embargo on Haiti by United Nations Security Council resolutions 875 of October 16, 1993 and 917 of May 17, 1994 to bring about compliance with the Governors Island Agreement.

(4) The Congress supports the imposition of an arms and civil aircraft embargo on Libya pursuant to United Nations Security Council resolution—of March 31, 1992 in order to convince Libya to renounce terrorism.

(c) FINDINGS.—The Congress makes the following findings:

(1) The United States took the lead in the United Nations Security Council to impose international sanctions in the form of arms and economic embargoes on Iraq, Haiti, and Libya.

(2) The security of the Republic of Korea with whom the United States has a mutual defense treaty and on whose territory there are more than 38,000 members of the United States Armed Forces is a vital interest of the United States.

(3) Should negotiations fail, the imposition of sanctions by the United Nations Security Council on North Korea, which would require the affirmative vote or abstention of China, Russia, Britain, and France, may be essential to stop North Korea's nuclear weapons development program and to end a nuclear threat to the Republic of Korea and Southeast Asia.

(4) The effective enforcement of sanctions on North Korea, once imposed by the United Nations Security Council, would require the cooperation of China, Russia, and Japan as well as other allies, including Britain and France, both permanent members of the United Nations Security Council.

(5) The United States voted for the international arms embargo imposed by United Nations Security Council resolution 713 of September 25, 1991 that was imposed on Yugoslavia.

(6) The imposition of the United Nations arms embargo on September 25, 1991 has not served to end the conflict in Bosnia Herzegovina, has provided a battlefield advantage to the Bosnian Serbs, who possess artillery, tanks, and other weapons left behind by the former Yugoslav Army or provided by Serbia and Montenegro, and has deprived the Government of Bosnia and Herzegovina from acquiring the adequate means of defending itself and its citizens.

(7) Our NATO allies have committed ground forces to the United Nations Protection Force (UNPROFOR) in former Yugoslavia. At the present time France has 5,518 troops, Britain 3,435, the Netherlands 2,073, Canada 2,037, Spain 1,417, and Belgium 1,000. Our NATO allies have thus far sustained 49 deaths and 931 wounded as a result of their participation in UNPROFOR.

(8) For the first time the so-called "contact group" composed of representatives of the United States, Russia, France and Britain is moving toward a unified position of using an incentives and disincentives "carrot and stick" strategy to bring about a peaceful settlement of the conflict in Bosnia and Herzegovina.

(9) Although lifting the arms embargo on the Government of Bosnia and Herzegovina by the United Nations Security Council is supported by the Congress, the unilateral lifting of the embargo by the United States would lead to the following consequences:

(a) disruption of the ongoing effort by the "contact group";

(b) withdrawal by our NATO allies of the forces detailed in subparagraph (7) above from former Yugoslavia;

(c) contradict United States efforts in the United Nations Security Council to impose sanctions on North Korea, should that become necessary;

(d) serious damage to the NATO alliance;

(e) loss of cooperation by other nations in the enforcement of sanctions, including the sanctions on Iraq, previously imposed by the United Nations Security Council; and

(f) damage to the authority and responsibility of the United Nations Security Council for the maintenance of international peace and security.

(d) It is the sense of the Congress—

That the United States should work with the NATO Member nations and the other permanent members of the United Nations Security Council to endorse the efforts of the contact group to bring about a peaceful settlement of the conflict in Bosnia Herzegovina, including the following:

(a) The preservation of an economically, politically and militarily viable Bosnian state capable of exercising its rights under the United Nations Charter.

(i) as part of a peaceful settlement, the lifting of the United Nations arms embargo on the Government of Bosnia and Herzegovina so that it can exercise the inherent right of a sovereign state to self-defense.

(b) If the Bosnian Serbs, while the contact group's peace proposal is being considered and discussed, attack the safe areas designated by the United Nations Security Council, the partial listing of the arms embargo on the Government of Bosnia and Herzegovina and the provision to that Government of defensive weapons and equipment appropriate and necessary to defend those safe areas.

(c) If the Bosnian Serbs do not respond constructively to the peace proposal of the contact group, the immediate lifting of the United Nations arms embargo on the Government of Bosnia and Herzegovina (and the orderly withdrawal of the United Nations Protection Force and humanitarian relief personnel).

(e) POLICY.—The Congress authorizes the President, upon the termination of the United Nations arms embargo on the Government of Bosnia and Herzegovina, to direct the drawdown of defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training, of an aggregate value of not more than $100,000,000, in order to provide assistance to the Government of Bosnia and Herzegovina so that it may exercise its inherent right of self-defense. Such assistance shall be provided on such terms and conditions as the President may determine.

Mr. NUNN. I thank the Senator from Delaware.

Mr. BIDEN. Madam President, let me conclude. The weapon of choice by the Serbs who are engaged in this carnage from day one has been indiscriminate terrorism.

First, setting up rape camps, concentration camps for the purposes of raping and permanently defiling Moslem women, because of the nature of the impact that has on the culture.

Second was indiscriminate shelling. Literally there are photographs of Serbian—I will not even call them soldiers—Serbs sitting in the hills where the Olympic ski jumps were, in shirtsleeves, sunning themselves and drinking wine and eating cheese, dropping in shells and indiscriminately firing on cities. I remember showing my colleagues where I had stood a year earlier, showing them the opening in the old city between the buildings up into the mountains where the clear shot of the gun was maneuvered for the express purpose of being able to hit an area where people were getting drinking water from a spigot or a pipe coming out of the side of a building.

Other forms of terror have been employed from the outside. I would like to add onto something the Republican leader said. The Senator from Virginia, the Senator from Kansas, and I, went to a hospital, and we observed the young children that Senator DOLE spoke of. It would break your heart to see them. But as leaders of a great country of 250 million, we cannot make foreign policy based upon our emotions, notwithstanding how wrenching the experience was to see that magnificent little girl, who until she looked at us looked perfectly normal and stared at us with these big blue eyes. The doctor said to us, "She cannot see you." When she turned her head, you could see that half the side of her head was gone where a sniper bullet had gone through. We walked over to a bed and were holding onto a magnificent looking little 9-year old girl whose leg had been shattered by a sniper's bullet, lying there whimpering, because it had only occurred the night before. We saw four men who were sniper victims two and three nights earlier.

I do not say this to give a catalog of horrors, because all you have to do is go to Rwanda and you would see horrors that far outstrip anything I have described. Let me tell you why I raise it. I think inadvertently the minority leader said "indiscriminate" firing. There was nothing indiscriminate about this. The only way these children were hit was intentionally. Snipers wait for children, get them in their sights with high-powered weapons, with night scopes, and deliberately shoot the children. None of these people we saw were hit as a consequence of a spray of bullets. They were all hit by a single shot, fired from a single weapon by a single terrorist, for the express purpose of terrorizing the community.

Few times in modern warfare has it been a matter of policy to bring down a government, break the moral resolve of a nation by singling out 9-year-old children. We were walking across a street where there were blankets hanging like you would see in the old movies of the lower east side of New York, laundry hanging from fire escapes, and some of the young people with us said, "What is this for?"

I explained to them. They put blankets across these streets to cut off the angle of the snipers so they cannot see their victim. That is why it is done. The snipers are not up there indiscriminately spraying machine guns. They are sitting in buildings waiting for children like they wait for rabbits.

And that I will say, Madam President, is the quintessential example of what characterizes the people waging the war to bring down this government and partition this nation.

As I said, people can cite for me and I can cite for you, in terms of quantity, evidence of brutality that far exceeds what we saw, but I doubt whether you can cite for me the policy condoned by a government, engaged in by a people, that is as brutal and as lacking in humankindness as this group of people who are attempting to bring down this government.

If, in 1935, it had been Lutherans or Catholics or Presbyterians who had been rumored to be in those death camps in Europe, I believe the world would have reacted differently. If we were not talking about Moslem children, if we were not talking about a Moslem-dominated government, I believe the world would also react differently.

Mr. McCAIN. Madam President, will the Senator yield?

Mr. BIDEN. I would be delighted to yield for a question.

Mr. McCAIN. I am curious as to how much longer the Senator from Delaware intends to speak.

Mr. BIDEN. I am finished.

Mr. McCAIN. I thank the Senator.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Madam President, this is an important debate and discussion, and I hope that it will occur in a manner that permits both sides to be fairly presented during the debate.

I would like to respond to several of the points made by the Senator from Delaware, but I would like to respond first to the last point made describing some of the horrors which have occurred in the former Yugoslavia.

Those horrors will be multiplied thousands of times over if this war widens. Yet that will be the inevitable result of the unilateral lifting of the arms embargo by the United States.

Is our revulsion against killing a reason to encourage more killing? If so, then emotion will have overwhelmed reason.

No one disputes the fact that this war has been harmful and catastrophic, but the course of action prescribed by those who support the unilateral lifting of the arms embargo will inevitably—indeed, according to the Senator from Delaware himself, the very reason for lifting it is to encourage the Bosnians to fight—the inevitable result will be a much wider war, much more killing, much more pillage and many more of the horrors against which he has understandably rebelled.

Madam President, this is an emotional argument, but let us not permit emotion to overwhelm reason. Some killing, horrible as it is, should not induce us to adopt a policy which encourages more killing.

The issue here is a narrow one, as the Senator from Virginia has noted. It is whether the arms embargo imposed by the United Nations on the former Yugoslavia with the support of the United States shall now be lifted unilaterally by the United States in defiance of the United Nations' action and contrary to the interests and views of our allies. That is the narrow issue.

The amendment offered by the Senator from Georgia [Mr. NUNN], and the Senator from Virginia [Mr. WARNER], points out that right now the United Nations has imposed sanctions on Iraq with the support of the United States, has imposed sanctions on Haiti with the support of the United States, has imposed sanctions on Libya with the support of the United States, has been discussing and may soon resume discussing sanctions against North Korea with the support of the United States.

If we now unilaterally lift the arms embargo in the former Yugoslavia, we will be saying to every participant in those other sanctioned countries, you can jump out whenever you see fit. We will completely undermine the international effort through the United Nations and with our allies to use sanctions as a means of attaining universally accepted international objectives.

Turkey wants out of the sanctions against Iraq. How are we going to insist that they stay in when we unilaterally get out of those sanctions that we do not like? Others want out of the sanctions against Libya and Haiti. And others do not want to join in the sanctions against North Korea. We will be sending a signal across this world that any international effort to impose sanctions can be disregarded by any nation at any time for any reason it chooses.

Madam President, it has been stated here several times by the proponents of this amendment that they have been to the former Yugoslavia and they are familiar with the history of the Balkans. That is useful and helpful. But I would note that many Senators have been to the former Yugoslavia, many Senators are familiar with the history of the Balkans, and a visit there imparts to no one special insight and knowledge. People who have been on both sides of the issue have been there and have reached different conclusions.

Madam President, there is much about this debate that is deeply disturbing, but from my standpoint nothing is more so than the manner in which our allies have been treated with what can only be described as condescension and insult.

We are told, in words demeaning to the British and French, that we simply have to tell them what to do. We are told what we have to do is lay it out for the Europeans. And we were told, in the previous debate last month on this subject, we are not the British or French, we are the Americans.

Well, I ask every Member of this Senate and every American to consider these facts: Right now in the former Yugoslavia there are more than 5,500 French troops, more than 3,400 British troops, more than 2,000 Dutch, more than 2,000 Canadians, nearly 1,500 Spanish, and more than 1,000 Belgians. And during the course of this tortured conflict, 936 of them have been wounded and 49 killed.

There are no American combat ground forces there. Talk is cheap. Action is expensive. While we talk, they act.

Who are we to insult and demean our allies? Who are we to preach at the British and French, as they send thousands and thousands of their young men there, see hundreds of them wounded, and dozens of them killed?

Every Member of this Senate knows, and every American knows, that if there were 15,000 American troops in Bosnia, if 936 Americans had been wounded and 49 Americans had been killed, these Senators who are out here giving these speeches today would be falling all over themselves to offer the first resolution to withdraw the Americans. Everybody knows that. And there is not one of these Senators—not one—who will vote to unilaterally lift the embargo who will stand up and say that he now favors sending thousands of Americans to replace the British and French. Not one. Talk is cheap. Action is expensive.

Who are we to preach to the British and French? They are sovereign nations. They are democracies. They are our allies. They are doing what we have been unwilling to do. Their men are being killed. Their men are being wounded. Their countries are spending hundreds of millions of dollars to try to bring about a resolution of this conflict. And here we are preaching at them, insulting them, telling them, "You've got to do what we say."

How would Americans feel if the British and the French Government said to the United States Government, "You do it our way"? No discussion; no debate.

We have a responsibility for leadership. We are not only the leader in the free world, we are the leader of the world. But we also have a responsibility to treat our allies with the same respect we expect from them, to encourage action in a multilateral way. But let us rid this debate of any condescension toward our allies.

Madam President, this is a fateful moment in the Balkans. War, which has raged intermittently for nearly 500 years based upon ancient religious and ethnic hostilities which have repeatedly erupted over that period of time, is now threatened on a scale much wider and much more devastating than that which has occurred before. Imperfect and halting and sometimes mistaken as they have been, our European allies, with very little support from us, have attempted to bring about a peaceful resolution. And, as I said, they have placed 15,000 of their men in risk, seen nearly 1,000 of them wounded, and 49 of them killed in the process.

They have made it clear beyond any doubt, in private and public statements, that if the United States unilaterally lifts the arms embargo, they will, as they must, withdraw all of their forces, and what has been a multilateral effort will then become an American effort.

I say to my colleagues that history will judge this action to have been a fateful error because, when that war widens, as it inevitably will, and when the horrors, described with such feeling by the Senator from Delaware, multiply by the thousands, and when the debate increases for the Government which has taken the step and has triggered this wider war to now do something about it, everybody here knows that those who vote for this unilateral lifting of the embargo will not be prepared to do anything. Not one will vote to send an American soldier over there to face injury and death.

We are not going to end the history of the Balkans by what we do here today. We are not going to eliminate or mitigate ancient religious and ethnic hostilities which have occurred for nearly 500 years and beyond. But we can take a sensible, prudent, responsible step, and that is to adopt the resolution offered by the Senators from Georgia and Virginia, which encourages the action underway to try to bring about a peaceful resolution and a containment of the war, and which provides for a multilateral effort to lift the arms embargo should those efforts at a peaceful resolution fail. That is the choice that we have.

There are very strong feelings on all sides. Americans have been moved by the televised scenes described by the Senator from Delaware. But I say to my colleagues, if this unilateral lifting of the arms embargo is adopted and, as they will, our allies withdraw all of their forces and, as it will, this war widens, there are going to be many, many more such televised scenes.

I ask my colleagues to tell us what it is they are prepared to do now. Tell us now whether they will vote to send thousands of Americans into the place now occupied by the British and the French and our other allies, risk those Americans to injury and death. I ask them to tell us that now. Because if they will not, then they ought to make that clear to the people in the region. This is a very, very difficult question. It is a very difficult issue. But I believe it is at a critical stage.

I hope that in the course of this debate the Senator from Virginia and the Senator from Georgia will describe in detail their amendment, which I strongly support and which I encourage all Senators to support because I believe it represents the most sensible and reasonable course to take in a very difficult situation.

Mr. WARNER. Madam President, will the Senator yield for one brief question?

Mr. MITCHELL. Yes, certainly, one question.

Mr. WARNER. Madam President, the remarks made by the distinguished majority leader covered all issues save one, which I think should be included, and that is that we are at a critical moment in history with respect to the relationships between the Western World and Russia.

Russia has made it very clear that if this unilateral lifting were to take place they would be constrained to align themselves with their allies through history, and that is Serbia.

I wonder if the distinguished majority leader would add that element to his otherwise very broad and carefully laid remarks, because I am deeply concerned that it would reverse the progress the Western World is now making with respect to Russia: Notably, this week, the Partnership for Peace. To my understanding the Russian Foreign Minister is in Corfu today, working again in a multilateral forum. Unilateral action by the United States could bring about a reversal of that progress.

Mr. MITCHELL. Madam President, I thank my colleague.

The most significant event, in my judgment, of the second half of the 20th century has been the collapse of communism and the demise of the Soviet Union and the end of the cold war—with the United States as the resultant lone superpower. We have a lot of foreign policy interests, but I think most Senators would agree that among the highest is the new relationship with Russia and the former states of the Soviet Union.

Reference was made earlier here today to the history of the Balkans. I urge all of my colleagues to go back and familiarize themselves with the history of the Balkans in the period immediately preceding the First World War. That war—which as the name suggests was the first truly global conflict—was triggered precisely because of the situation in the Balkans and the very powerful commitment of Russia to what are known as the south Slavs, the center in modern Serbia. It was the conflict between the south Slavs and the Austro-Hungarian Empire, the desire for the south Slavs to have a Slavic dimension to the Austro-Hungarian Empire, which was, as the name suggests, based primarily in Austria and Hungary, that triggered the events that led directly into the First World War.

The Russians aligned themselves with the south Slavs. The Germans aligned themselves with the Austro-Hungarians. And ultimately all of the nations of Europe and eventually the United States were drawn into a conflict that resulted in millions of deaths. That attraction, that relationship, is no less today. There is a very powerful imperative in Russia—political, historical, economic, and military—to strongly support the Serbs. And the Russians have made it clear, as the Senator from Virginia suggests, if we are going to lift the arms embargo and supply arms to the Bosnians, then they are going to supply arms to the Serbians. And we will then be back in a situation tragically reminiscent of the cold war, where the provision of arms by outside forces accelerates and widens conflict in different parts of the globe. And it will be a wider conflict. Everyone knows that.

Just in this mornings's Washington Post there is a report about the lengthening shadow of the prospect of wider war and how the only hope of preventing that is for some progress to be made by the so-called contact group in bringing about a peaceful resolution.

None of this is to condone any of the actions of the Serbs, the Bosnian Serbs or those residing in Serbia. There have been atrocities on all sides, but it is clear for all to see that the fundamental aggressors have been the Serbs and the primary victims have been the Bosnians, primarily Moslems but including some Bosnian Croats and some Bosnians Serbs. That is not the issue.

The issue is, how do we go about pursuing a policy most likely to produce a peaceful resolution without the prospect of wider war? It is a narrow difference. But this conflict has the potential not just for involving many others in the region, not just for expanding the number of dead and wounded dramatically, but also for causing a very serious break and rupture in relations between the United States and Russia. That is something that everyone ought to keep in mind as we debate this matter.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Madam President, while the majority leader is still on the floor, he asked the question several times as to whether proponents of this amendment are willing to send United States young men and women to Bosnia. The answer is, obviously, no. In fact, the only proposal I have heard to send American troops to Bosnia is that, I believe, supported by the majority leader—he can correct me if I am wrong—of sending 25,000 American troops in the unlikely event that there is some kind of peace agreement. I do not support sending troops because I do not believe any agreement is going to be enforceable. So my response——

Mr. MITCHELL. The Senator is wrong.

Mr. McCAIN. So my response, and I know that of the Senator from Kansas, who was the prime sponsor of this resolution, is "no." Our answer is "no." We will not support sending American troops to that region, nor would we countenance such a thing. The connection between the amendment of the Senator from Kansas and sending American troops there is spurious at best.

Mr. MITCHELL addressed the Chair.

Mr. McCAIN. On the issue of sanctions—I have just responded to the question by the majority leader. I did not interrupt his statement. But if he wishes to speak further, I will be glad to yield to him.

Mr. MITCHELL. The Senator just said, "Correct me if I am wrong." I took that to be an invitation to correct him if he is wrong, and my answer is he is wrong.

Mr. McCAIN. Do I understand that the Senator from Maine does not approve the administration proposal that, in the event of a peace agreement in the Balkans, we would send 25,000 troops? He does not support that?

Mr. MITCHELL. There has never been a number to which I have agreed. I said that if a peace settlement occurs, we should consider—I would consider the administration's request to send troops there, not in any numbers, and awaiting the context.

Mr. McCAIN. So my understanding is the majority leader's position is he would only consider such a thing?

Mr. MITCHELL. Yes.

Mr. McCAIN. Let me make clear to the majority leader that I would not consider such a thing. I would not consider such a move. It would be an exercise in foolishness and futility, and it would result in the death and wounding of thousands of young Americans.

Mr. MITCHELL. That is the answer I expected. That is why I asked the question.

Mr. McCAIN. The majority leader knows, since he likes so much to refer to history, that American casualties would be an inevitable result. American casualties would be the inevitable result of dispatching troops to an area which, as the majority leader mentioned, has been involved in a civil war for about 500 years.

I would like to address the comment about sanctions and the argument that if sanctions were removed and the arms embargo were lifted, sanctions in other places would also fall. The argument being that if we do not support these U.N. sanctions, that other sanctions would not be valid either.

Madam President, there is a fundamental difference between the sanctions that have been imposed on Yugoslavia—and by the way, the sanctions were imposed on Yugoslavia, not Bosnia—and the sanctions that have been imposed on Haiti, Iraq, and Libya.

The difference is, Madam President, that these nations are not trying to defend themselves. They are not under attack.

The U.N. charter says that every Nation has the right to self-defense, and no action on the part of the United Nations may impair that right to defend themselves. Madam President, not only is Bosnia under attack, but 70 percent of its territory has been absorbed by the enemy. What this embargo does is impair the ability of Bosnia to defend itself.

To me, it is incredible. It is incredible that we should sit here in judgment of the Bosnians, who are pleading and crying and begging for us to allow them to defend themselves.

Iraq is not under attack from another country. Haiti is not under attack from another country. Iran is not under attack from another country. Libya is not under attack from another country. But Bosnia is. And Bosnians should have the right to defend themselves.

To compare a nation that has seen hundreds of thousands of its people killed and millions of them displaced with other nations who are under U.N. embargo clearly begs logic and reason.

I do not believe there will be a settlement. In fact, the Washington Post, which has been referred to several times this morning, says: "Winds of War Blow in Balkans Despite Latest, American-Backed Peace Plan."

I ask unanimous consent that this and an article from the Washington Times be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

WINDS OF WAR BLOW IN BALKANS DESPITE LATEST, AMERICAN-BACKED PEACE PLAN

(By David B. Ottaway)

ZAGREB, CROATIA.—As the United States, Russia and Western Europe prepare to unveil with much fanfare their own partition plan for a Bosnian peace settlement, Western diplomats and U.N. mediators in the Balkans are expressing deep pessimism and total frustration.

The prevailing feeling among these diplomats is that the region is facing a widening war and that outside efforts to avert the storm are just about exhausted. All parties engaged in the overlapping Bosnian and Croatian conflicts, these sources say, are busy preparing for more war, not peace.

"I consider [a new outbreak of war in Croatia] a very real danger," said Peter Galbraith, the U.S. ambassador here. "If there is another Serb-Croat war, it is going to be unlike what we've seen so far. It could escalate to air raids on cities, rocket attacks and large-scale tank and artillery assaults.

"Such a war could lead to the direct involvement of the Yugoslav army. It is precisely such a catastrophe that our negotiating efforts have sought to forestall," he added.

The coming Western peace plan for Bosnia is counting heavily on high-level diplomatic hoopla—and a few new but slim carrots and sticks—to win the approval of the warring parties.

First, U.S., Russian and West European foreign ministers will put their stamp of approval on the plan at a meeting in early July, either in Geneva or Naples. Then, it is scheduled to be formally endorsed at the summit in Naples on July 9 and 10 of the Group of Seven major industrial nations, with Russia also taking part.

The crux of the plan consists of a map drawn by a "contact group" of U.S., Russian and West European diplomats for Bosnia's partition, with 51 percent going to the newly formed Muslim-Croat federation and 49 percent to the Bosnian Serbs' self-declared state.

The plan, however, may prove stillborn. At this point, it seems to have little to do with the realities on the ground and little prospect of being accepted by either the Bosnian Serbs, who hold more than 70 percent of the republic, or by the Muslim-led Bosnian government, which is pressing to retake strategic points from the Serbs.

In Bosnia, a U.N.-negotiated cease-fire between Muslims and Serbs that began on June 10 is already breaking down, with U.N. officials in Sarajevo confirming "major violations" of the truce by both sides, particularly by the Muslim-led Bosnian army in central Bosnia.

In Serb-surrounded Sarajevo, the Bosnian capital, Muslim forces are digging additional defensive trenches all around the city and sending spare troops to fight in central Bosnia, according to U.N. sources.

"Everybody is preparing for war," said a dejected U.N. relief official, Peter Kessler, who just returned here from Sarajevo.

Though under an international arms embargo, both Croatia and Serb-controlled Yugoslavia, the main players in the overall Balkan drama, are busy buying arms abroad for the next round of fighting.

Diplomats here say the Croatians continue to obtain MiG jet fighters—they have 16 now—and helicopters on the black market from East European countries. Diplomats in Belgrade, the Yugoslav capital, report that an engine for a MiG–29 was recently discovered by U.N. monitors hidden under a pile of loose detergent in a truck coming across the border from Bulgaria.

The cease-fire negotiated between Croatia and its Serb separatist minority that went into effect March 29 has held so far, with U.N. peacekeeping troops spread out along a 1.6-mile-wide corridor separating the rival forces. But a senior U.N. military official here predicted the truce would become "more and more fragile" with each passing day after the breakdown last week of the negotiating process here.

The combined efforts of U.S., Russian, West European and U.N. mediators to start direct talks between the Croatian government and the rebel Croatian Serbs reached a dead end last week when the Serbs refused to allow five Croatian reporters to cover the event.

The mediators say there is nothing more they can do until there is some change in attitude by the hard-line Croatian Serbs, who, one diplomat concluded, "simply are not interested in negotiations."

As a result, U.S. and other diplomats no longer can offer Croatian President Franjo Tudjman the hope of peaceful negotiations as an alternative to going to war to regain the quarter of the country held by the Serbs, as he has long threatened to do. Instead, the diplomats are warning him that the consequence of renewed war, with the prospect of intervention by neighboring Yugoslavia, could be a lot worse for Croatia than its current division.

The attitude of Bosnia's warring Serb and Muslem factions toward negotiations is not much different from that of the Croatian Serbs.

A nearly completed draft of the international mediators' proposed partition map, published in the Belgrade weekly Vreme on Monday, would require the Bosnian Serbs to hand back about 30 percent of the land they seized at the outset of the war 26 months ago, mostly in eastern and northern Bosnia.

The map's most contentious points would require the Serbs to give back to the Muslims substantial territory around the three remaining Muslim enclaves in eastern Bosnia—Srebrenica, Gorazde and Zepa—and to the Croats a broad swath of land in the north. The latter proposal, if implemented, would practically cut in half the corridor that connects Serb-held lands in northeastern and northwestern Bosnia.

The chances that the Bosnian Serbs will ever accept this plan are rated by Western diplomats here as close to nonexistent. Only enormous pressure from President Slobodan Milosevic of Serbia, Yugoslavia's dominant republic, might accomplish this, but they doubt he has the political will or clout to squeeze the Bosnian Serbs into compliance after his failure to deliver the far less powerful Croatian Serbs to the negotiating table.

The Clinton administration has drawn up a list of new carrots and sticks to persuade Serbia and the Bosnian Serbs to accept the proposal. The carrots rely mainly on an easing of two-year-old U.N. economic sanctions on them if they accept. If they refuse, the sticks include measures to tighten the sanctions—and possibly exempting the Bosnian Muslims from the arms embargo.

But if a recent U.S. government-sponsored survey of public opinion in Serbia is anything to go by, there is little support there for getting tough with the Bosnian Serbs and considerable confidence that the republic can withstand any additional U.N. sanctions.

The survey, based on a sample of 1,600 people interviewed in late May and early June, showed that 8 out of 10 Serbians say their government should support the Bosnian Serbs "at all costs," including the use of military force to help them seize the three Muslim enclaves in eastern Bosnia. Fully 90 percent said they believe a lasting peace is impossible as long as the Muslims keep those enclaves.

Two-thirds were of the opinion the Bosnian Serbs should either hold onto the 70 percent of Bosnia they now control or try to seize even more land. Only 32 percent favored giving up some territory to obtain a peace settlement.

The survey also showed that 84 percent of Serbians said they could withstand U.N. sanctions at least through the end of this year, "if not longer," and nearly the same percentage said Serbia's economic situation had improved over the past year.

[From the Washington Times, June 24, 1994]

IRANIAN WEAPONS SENT VIA CROATIA—AID TO MOSLEMS GETS U.S. 'WINK'

(By Bill Gertz)

Croatia has become a major transit point for covert Iranian arms shipments to Bosnia with the tacit approval of the Clinton administration, which publicly remains opposed to a unilateral lifting of the international arms embargo against the fractured Balkan states, according to intelligence sources.

Disclosure of Iranian arms shipments through Croatia comes as representatives of four NATO governments warned the Senate yesterday that Congress' lifting of an arms embargo against Bosnia unilaterally would have dire consequences.

A senior U.S. official said last night the U.S. government opposes the Iranian arms shipments because they undercut U.N. sanctions. "There is no U.S. support for what Iran is doing," the official said.

But intelligence sources said the U.S. government, which closely monitors Iran and in the past has halted a shipment of arms to Bosnia in September, has not protested Iran's transshipment of arms to Bosnia through Croatia that have increased dramatically since March.

The lack of protests caused the Croatians to assume the administration has "winked" at the arms shipments, one source said.

According to intelligence reports circulating to senior policymakers in the administration, Croatia's government is expanding ties to Iran following the agreement in Washington last March to form a Croatian-Bosnian federation.

As part of the growing ties, Croatia is now a conduit for Iran's arms shipments to Bosnian Muslims, battling Serbs in a bloody, 26-month-old civil war. The arms shipments violate the international embargo.

A Pentagon official familiar with the report said the CIA and Pentagon intelligence agencies have detected regular shipments of small arms and explosives being flown into Zagreb, the Croatian capital, from Iran on Boeing 747 transports.

Other shipments have been detected arriving at the port of Split, on Croatia's Adriatic coast. The weapons are then moved by truck to Bosnian Muslim forces.

Iran, also has supplied between 350 and 400 Revolutionary Guards that Tehran has ordered to help form terrorist groups similar to the terrorist group Hezbollah in Lebanon. Iran's government has denied sending the paramilitary forces.

Pentagon officials are concerned the Iranian arms, while helping muslims defend themselves, complicate peace efforts, which appear to be foundering due to widespread violations of a June 10 truce agreement.

According to the intelligence sources, the Croatian government is divided over allowing Iran to funnel arms to the Bosnian Muslims. Foreign ministry officials are distrustful of the growing ties to Iran, while the prime minister and defense ministry officials favor closer trade ties with Tehran.

Croatia's foreign minister believes the Iranian weapons shipments have the tacit support of the Clinton administration, which has said it favors lifting the arms embargo if Western allies go along, according to the sources.

Croatian defense officials support the Iranian arms shipments because a large portion of each arms shipment sent from Iran is siphoned off for use by the Croatian military.

Croatians seeking closer ties to Iran see the relationship as a way to build up Croatia's armed forces and reduce a trade deficit with Iran estimated at more than $200 million.

Kenneth Katzman, a specialist on Iran with the Congressional Research Service, said Iran has offered to send 10,000 troops to Bosnia as part of a U.N. force, but the world body does not want them there.

"They don't want to see an upsurge of Islamic fundamentalism there," Mr. Katzman said in an interview.

Any Iranian force would be made up of Revolutionary Guards, the radical Muslim forces that have established militias and terrorist groups in the Middle East and North Africa, Mr. Katzman said.

On Capitol Hill, defense officials from Britain, France, Spain and Denmark testified before the Senate Armed Services Committee yesterday that a unilateral lifting of the arms embargo against Bosnia by the United States would intensify the conflict.

"We believe that the lifting of the arms embargo would have the effect of pouring gasoline on fire and mean an all-out war," said Danish Undersecretary for Defense Anders Troldborg.

Mr. Troldborg appeared along with Jean Claude Mallet, director of strategic policy at the French Defense Ministry, Gen. Juan Martinez Esparza, deputy undersecretary at the Spanish Defense Ministry, and Maj. Gen. Rupert Smith, director of strategic policy at the British Defense Ministry.

The House recently voted in favor of a unilateral lifting of the arms embargo, and the Senate is expected to debate a similar measure this week.

Two other measures passed in the Senate last month. One ordered Mr. Clinton to lift the embargo unilaterally and the second ordered that he seek allied and U.N. agreement before doing so.

Senate Minority Leader Bob Dole, Kansas Republican, plans to introduce an amendment to the fiscal 1995 defense authorization bill, now being debated, that would direct the United States to lift the embargo unilaterally.

Opponents of the measure could again counter the action with a separate measure that would require obtaining allied support before lifting the ban.

Allied defense officials said lifting the arms ban would force the withdrawal of U.N. troops in Bosnia, a cutoff of humanitarian aid, and prompt new and more aggressive attacks by Bosnian Serbs.

If the United States acts alone in lifting the embargo, U.N. efforts to maintain troops in the country would be "difficult if not impossible," and would undermine current peace efforts, Gen. Smith said.

Mr. Mallet, the French defense official, said the United States would be placing itself above international law and would contribute to "international disorder in the post-Cold War world."

"This would probably mean the end of the game of the [U.N.] Security Council in the international context," Mr. Mallet said. "The future of European security is in many ways at stake."

State Department spokesman Mike McCurry said the administration shares the concerns of the four nations, who have troops on the ground in Bosnia.

Meanwhile, leaders of the United States, Russia and Europe are expected to endorse a peace plan dividing up Bosnia at an economic summit meeting next month, a senior administration official said.

The plan calls for giving Muslims and Croats 51 percent of Bosnian territory while Bosnian Serbs would get 49 percent. The Serbs currently control about 72 percent of Bosnia.

The Bosnian government has reacted negatively to the plan and will eventually resort to military action to obtain more territory by force rather than through negotiations, U.S. officials said.

Mr. McCAIN. Madam President, the reason why the winds of war are blowing in the Balkans, as all of us know, is because the settlement that is being imposed on Bosnia is unjust and unworkable.

(Mrs. BOXER assumed the chair.)

Mr. McCAIN. Madam President, it is unjust to tell a country they have to give up half their territory because another nation has come in and taken it from them and practiced genocide and ethnic cleansing and all the things we know about. It is unjust.

In the Middle East peace process, we are demanding that Israel give back the land that they gained as a result of the 1967 war. We have taken the position that there can be no peace in the Middle East until that happens.

Yet here we are in Bosnia supporting a settlement which requires that country, which now only has 30 percent of its territory, to give up half its territory. It is unjust.

Madam President, it is unworkable because it is unjust. Until the Bosnian people are able to regain their lost territory, there will be no prospects for peace in the region. Will there be an increase in casualties? Tragically, yes. Who will absorb at least half those casualties and probably more? The Bosnians. The Bosnian Government, freely elected democratic government leaders are telling us, as short a time ago as yesterday, "Please let us die fighting. We are dying; let us die fighting."

Is the embargo working, Madam President? According to the Washington Times this morning:

> Iranian Weapons Sent Via Croatia. Croatia has become a major transit point for covert Iranian arms shipments to Bosnia with the tacit approval of the Clinton administration, which publicly remains opposed to a unilateral lifting of the international arms embargo against the fractured Balkan States, according to intelligence sources.

We are enforcing an embargo which prevents us from helping the Moslems but allows one of the most dangerous nations on Earth, Iran, to provide those weapons, to gain the allegiance and loyalty of the Bosnians and others in the Balkans and throughout the world who are sympathetic to the plight of the Bosnians.

In every mosque, from Malaysia to Tehran, it is being said that Western nations, including the United States, are allowing the murder of Moslems. The legitimate question is being asked in these mosques all over the world: If Bosnia was a Catholic nation, if it was a Protestant nation, would the Western nations, including the United States of America, sit by and watch them be slaughtered?

I think it is a very legitimate question. I think it is an extremely legitimate one and one we may pay for in the alienation of the Moslem world in the months and years to come.

I want to repeat again, these sanctions were not imposed on Bosnia. They were imposed on Yugoslavia, which no longer exists. These sanctions directly violate the Charter of the United Nations, which says no action on the part of the United Nations will impair a nation's ability to defend iteself.

The fact is, according to news reports, that there are arms coming into Bosnia. The distinguished majority leader said, well, then the Russians will supply arms to the Serbs if we supply arms to the Bosnians. One thing the Serbs are not short of, Madam President, is weapons. They are not short of weapons. In fact, the overwhelming preponderance of weapons is on the Serbian side. This is the major complaint we have with these sanctions because it froze in place an unequal battlefield equation which has led to the deaths—needless deaths, in my view—of hundreds of thousands of Bosnians.

Finally, let me say, history, which has been referred to many times here, tells us one thing which is irrefutable. And that is, when an aggressor nation is faced with equal or greater force and cannot achieve its goals—which in this case the Serbian goals are the acquisition of Bosnia, or the large majority of it—then they cease that aggression. And if they are not assured of defeat or an extremely high cost on the battlefield, they will continue that aggression.

Unless the Serbs are absolutely convinced that the price of aggression in Bosnia is an unacceptable loss of treasure and blood on the Serbian part, their aggression will continue. I freely admit that the casualties will probably go up in the short term if this embargo is lifted. But should we not listen to the nation that is the victim of the aggression? Should we not pay attention to the pleas and cries of their freely elected leaders and citizens? I suggest we should.

Mr. WARNER. Will the Senator yield for a question?

Mr. McCAIN. I will be glad to yield.

Mr. WARNER. Madam President, the distinguished Senator from Arizona is particularly qualified to answer this question. As we are here today in this Chamber debating this very important issue, the command and control arrangements now governing the embargo are primarily in the hands of U.S. officers. We have the NATO South Command under Admiral Smith, we have the air command conducting the air cap, and so forth, under U.S. officers.

This debate today, I hope, can focus on what I perceive as a very important but clear distinction between the Republican leader, who wishes unilateral withdrawing, and the Nunn-Warner amendment which wants to do it in conjunction with our allies.

But the question to the Senator, a former distinguished Naval officer and one who understands command and control in NATO, what happens to the NATO structure now implementing the U.N. resolution through U.S. officers? Would we not have to withdraw our senior officers in the face of an adoption by this body of the resolution of the Senator from Kansas [Mr. DOLE]?

Mr. McCAIN. Madam President, I say to my friend from Virginia—and I thank him for his always kind remarks—what would happen is that the admiral would remain in Naples and the aircraft carrier would probably steam away and the Air Force assets that are flying out of Italy would probably remain on the ground or perform other functions.

But I want to say to my friend, I do not see that the Nunn-Warner resolution just calls for a multilateral lifting of the embargo. Very frankly, that is the preferred step, that is the preferred method. The embargo should be lifted multilaterally. But the resolution is not that simple.

As I read this,

> That the United States should work with the NATO member nations * * * to endorse the efforts of the contact group to bring about a peaceful settlement of the conflict, * * * including the following:
>
> a. The preservation of an economically, politically and militarily viable Bosnian state * * *.
>
> (i) as part of a peaceful settlement, the eventual lifting of the United Nations arms embargo on the Government of Bosnia and Herzegovina so that it can exercise the inherent right of a sovereign state of self-defense.

I read this, and I may be wrong, that the lifting of the embargo would not only be done multilaterally but only as part of a peaceful settlement and it would only happen eventually. I guess that is why the word "eventually" is there.

Mr. WARNER. Madam President, the word "eventually" is one I worked on in the draft. It is not a part of the amendment at the desk. I apologize to my distinguished friend from Arizona.

But if you read carefully, the Nunn-Warner proposal lays out sequential steps to be taken, which include, if the contact group fails or in some circumstances if it succeeds, a lifting of the embargo.

But the important thing is that it is done in partnership with the allies who have stood with us since 1917 through 1940, through many conflicts, including Korea. It is essential that the relationship between the United States of America and its principal allies be preserved.

Therefore, I plead with Senators to examine these two amendments very carefully, because the Nunn-Warner amendment moves further in the direction that the distinguished Republican leader has set as a goal for some period of time.

Mr. McCAIN. I thank my friend from Virginia. But I would also admonish my colleagues to do the same, to read this amendment as I read it. It says, "As part of a peaceful settlement, the lifting of the United States embargo."

"As part of a peaceful settlement." I say to my friend from Virginia, I see no prospects of a peaceful settlement. I see the prospects of a peaceful settlement being brought about by the Bosnians being able to defend themselves. So I read the Nunn-Warner amendment significantly different than just a multilateral lifting of the arms embargo. I read it as saying that it has to be part of a peaceful settlement.

Mr. WARNER. Madam President, if the Senator will read b. and c.——

Mr. NUNN. Will the Senator yield for a brief clarification on this question?

Mr. MCCAIN. I will be glad to yield.

Mr. NUNN. On this point, because this is an important point, the resolution, that is, the Nunn-Warner resolution has three different ways that the embargo can be lifted but all of them are under multilateral methods. That is the fundamental distinction. The Senators have just identified one of those ways. It is my view—and this is paragraph a. under (d) on page 3. I think the Senator from Arizona was just reading that—one of the ways of lifting the embargo—it can be done multilaterally in my view—is absolutely essential and that is as part of a peace agreement because no nation can defend itself without arms, and the Bosnian Government in my view has a right to those arms if it is going to be a sovereign state.

As the Senators know, I disagree with the embargo. I am not in any way disagreeing with the Dole position and McCain position in terms of the embargo. It is my fervent belief though to do it unilaterally is a mistake.

Now, the second way, the second way the embargo in my view can be lifted—and this is paragraph b.—is if during the course of these discussions—and they may go on for another 2 or 3 months or another couple years for all we know. It may be a long, long time before the parties come to any agreement. If during that period the Bosnian Serbs violate the safe havens, then paragraph b. makes it clear that the U.S. Government position should be that we would call for a limited lifting of the embargo so that each safe haven that is violated by the Bosnian Serbs would get defensive arms immediately on a multilateral basis. So that is the second way that I believe our Government should be vigorously pursuing it with NATO and with the U.N. Security Council.

The third way is paragraph c., and that is if the Bosnian Serbs do not respond constructively to the peace proposal of the contact group—and that is a subjective judgment. I would stipulate that—the immediate lifting of the arms embargo on the Government of Bosnia. And in my view it would be realistic about what has to happen in the event we do lift that embargo—the orderly withdrawal of the United Nations protection force and humanitarian relief personnel.

So really these are the ways that I believe we have to pursue it, these 3 ways, and none of them do it unilaterally but all of them could develop depending on the events there and depending on how successful American leadership is and how assertive we are in pursuing these avenues with our allies.

I just wanted to make sure that was clarified.

Mr. MCCAIN. I thank the distinguished chairman. Let me just point out with regard to the first option that the resolution says "including the following." I think perhaps you should make it "one of the following" or "either one of the following."

The second situation, if the Bosnian Serbs attack the safe areas designated by the United Nations? Yesterday, yesterday, I say to the chairman, and I can provide him with the information, they attacked the safe areas and they violated their commitments. So b. should be operative right now.

Mr. NUNN. I would agree with the Senator on that. I have been pushing for that for several months. I think b. should be operative now. That should be done in lieu of the threat on bombing or in addition to the threat on bombing because I would agree now our allies have not agreed to that nor has our Government proposed that. But that is what I would agree it should be.

Mr. MCCAIN. Then it would seem to me that the Senator from Georgia would support the Dole amendment because the Bosnian Serbs are, as we speak, attacking the safe areas designated by the U.N. Security Council. If the United Nations fails to take that into cognizance, or our allies take that into cognizance, I think we should.

Mr. NUNN. So do I, but I do not think we ought to do it unilaterally. That is the distinction.

Mr. MCCAIN. I see. So we really are getting down to whether the United States policy should be dictated by our allies or by what is in the best interests of the United States of America and Bosnia.

Mr. WARNER. Madam President, the word dictate is unfair.

Mr. MCCAIN. I would like to finish. I will be glad to yield later to my friend from Virginia.

The resolution states: "If the Bosnian Serbs do not respond constructively to the peace proposal of the contact group." Obviously, the Bosnians have not responded positively for quite a long period of time. But I would suggest over time that the Bosnian Serbs will probably act affirmatively since they have absorbed 70 percent of the country and will be allowed to have 50 percent of the country.

Since when is it U.S. national policy to endorse and ratify the aggression and absorption of half a country? In the Middle East peace process, as I mentioned earlier, we are demanding that Israel literally return every piece of land that they acquired as a result of the 1967 war. In Bosnia, however, we are going to say, well, you have taken 70 percent of the country and you have killed 200,000 people and you have displaced 2 million people, but as a reward for that we are going to give you half the country. Instead, instead, why can we not let these people defend themselves and gain that territory back?

Mr. WARNER. Madam President, if I could pick up with my second question to my colleague——

Mr. MCCAIN. Go ahead.

Mr. WARNER. And then I will yield the floor because there are many anxious to speak, and I have had a fair opportunity. I hope the Senator would revisit the word "dictate." The history of this country, certainly in this century, has been in working with our allies, and really the future of this country is predicated on our ability to form coalitions and work with our allies in trouble spots throughout the world. The Nunn-Warner resolution does not involve being dictated to but working in partnership with our allies.

But I come back to the earlier comment by my distinguished colleague, and that is if the United States, pursuant to the Dole resolution, were to trigger the unilateral lifting of the embargo—that means the withdrawal of U.S. officers from the NATO command, that means the withdrawal of the UNPROFOR forces, it means a total reversal of what has been put in place.

We were told yesterday by a distinguished officer from Great Britain that nowhere, where French and British and other UNPROFOR are now stationed, is there rape or pillage or killing. Certainly in those areas they have been able to contain it.

But if the United States is the triggering mechanism and this conflict then becomes stamped "Made in USA," I say to my friend, there will be a complete dichotomy between our work and our deeds. We will send nothing, no troops to fill the vacuum when the killing takes place. The pictures will then show the killing and the question will be: Where is the country that brought about the reversal that resulted in the greater killing?

How can we then withstand the pressures not to come in and try and in a material way aid the Bosnians? In all probability the Bosnians will call on us for technical expertise and training as is necessary to operate the arms they receive.

I ask my friend, How can we reject those pleas?

Mr. MCCAIN. First of all, I would say in response to the initial question about what would happen to our involvement with NATO. We would remain in NATO. Our officers and people would remain exactly where they are. As you know, they are not in Bosnia. They work in places like Naples and other places. I do not see them being withdrawn from anywhere except perhaps not involving themselves in the Bosnian conflict.

As far as the UNPROFOR forces are concerned, if the Europeans decide that they want to leave, that is a decision that is up to them, not up to the United States. As far as the issue of our relations with our allies, what has been missing here in this equation is leadership. We should lead our allies. We should be the ones, as we did during the Persian Gulf war, forming the coalition. If the administration believes that we should multilaterally lift the arms embargo, let us go to them and ask them, or say that we are not in favor of lifting the embargo. But for the President of the United States just to say, "Yes, I support lifting the arms embargo," and not instruct our Ambassador in the United Nations to do anything to try to bring that about is, frankly, not what I call leadership.

The second thing is where do we get this idea that if we lift the embargo and allow those people to defend themselves that somehow it is a "Made in the U.S.A." struggle? It was not a "Made in the U.S.A." struggle 500 years ago. It may not be, tragically, a "Made in the U.S.A." struggle 500 years from now. All we are proposing is allowing these people the sovereign right of all nations, and that is to defend themselves.

Back about 20 years ago, there was an invasion of Afghanistan. That country was invaded by Russia. We did not send American troops there. But we did arrange for the Afghan Freedom Fighters to have the equipment to repel the invader. Frankly, we did not expect to go in there with American troops. It was not stamped "Made in the U.S.A." But I tell you what it did. It made the Russians eventually leave Afghanistan and allow that country to sort out its affairs by itself. Admittedly it is a miserable situation. But at least they are not occupied by Russian troops, and that was a key factor, in the view of many of us, in the ending of the cold war.

So because the United States no longer enforces an unfair and unjust embargo on the Bosnian people and Government, who are pleading for it to be lifted, somehow we translate that into "Made in the U.S.A." that is clearly not logical to assume, in my view.

I would like to yield the floor because I know that the Senator from Connecticut and the Senator from Nebraska are waiting.

I thank my friend from Virginia.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Thank you, Madam President.

Madam President, I wish I could support the Nunn-Warner second-degree amendment because the right solution is clearly that all of our allies would come together to lift this embargo. But the reality is every one of us on the Armed Services Committee sat there yesterday and listened to the defense representatives of our allies. And they said, "Don't lift the embargo." They do not favor lifting the embargo.

I said to them: "I wish we could get your support because this is the right thing to do." And they said no. In fact, most of them said that they would probably in one degree or another leave Bosnia if we unilaterally lift the embargo.

We have been talking about lifting the arms embargo on these people while they see thousands of their countrymen die. They see their women raped. They see people in a marketplace on a Saturday morning killed, defenseless.

So we had the opportunity in the Armed Services Committee yesterday to hear from the Vice President of Bosnia, the duly elected leader of that country. And I asked him the question specifically.

> Do you want the embargo lifted?

He said,

> Yes. Let us defend ourselves. We know that some of us will die. 200,000 of our people have already died. When this is over, we will not even declare a victory because so many of our friends and neighbors have already died. But we want to die fighting for our country.

So we have the specter of our allies over there not defending them, not fighting with them, but sitting basically on our hands. We are doing the humanitarian mission, yes. Those people need defense. They need someone willing to fight for them. And if we are not willing to fight for them, let them fight for themselves.

So I asked the second question of the Vice President. "If the NATO forces leave, are you still prepared to say that is the best alternative, that you will be there by yourselves?" He said "yes."

The distinguished majority leader asked the question. "Are we willing to vote or support sending our troops into Bosnia?" The answer is emphatically "no." It is for that very reason that I believe we must let these people defend themselves. I am not willing to support spilling even one drop of American blood in Bosnia.

So how can we sit here and say that without saying we will give them the means to defend themselves, to die protecting the soil of their country? This is a war we should not be involved in. So we should let them settle it within their country.

I hope our allies will come around. I hope our allies will come with us and say let these people defend themselves. I hope that we will not leave them there.

But, Madam President, we cannot sit here debating month after month while these people are living this nightmare. They are the duly elected representatives of this country and they have asked us to lift this embargo. And I just think we must do it.

I hope that we can come to a resolution of this very quickly so that they will have the opportunity to do what every country inherently has the right to do; that is, defend themselves.

I wish we could do it with the support of our allies. We have waited too long. We have asked for their support for too long. The time has come for us to take this action, even if it must be unilaterally, which is not the best of circumstances. But it is the only alternative that we have.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. I thank the Chair.

Madam President, there is an old expression in the U.S. Navy: "Now hear this." I hope that all in the Senate, all in the House of Representatives, as much as is publicly possible, heard the tremendously moving statement that was made by the majority leader on this subject before the Senate within the hour. I wholeheartedly subscribe to the statements that the majority leader made. I wholeheartedly rise to endorse the best possible resolution to the dilemma offered by Senator NUNN and Senator WARNER.

Madam President, while there is sharp debate on this matter, I am rather proud of the U.S. Senate in the way this debate has been handled and has been broken out. There are obviously very strongly held views. Just as obviously, in the opinion of this Senator, there is no certain, definite road to go on the matter that we are debating.

This Senator had the opportunity or the obligation to chair one-half of the hearings that were held yesterday in the Armed Services Committee on this matter, where we had a great divergence of opinions and views from people on both sides of the issue, which I thought was confusing, but I also thought it was very informative.

While those hearings were not very well covered by the press, I think a copy of them would be available to anyone who is interested. It points up again the strongly held views, and some of the views that have been very thoroughly thought through by both sides on this issue, so that the public understands the importance of this debate, and also the importance of how it is eventually resolved.

I want to say before I continue with my comments, which will not be lengthy, Madam President, that interestingly enough, the partisanship is not running rampant on this debate, because there are Democrats and Republicans on each side of this issue. In fact, many of my closest associates and personal friends are on the other side of the issue, as the Senator from Nebraska sees it. That indicates, more than anything else, that I think there is room for differences of opinion and that all of those expressing opinions today, and those who will follow in expressing their opinions, I have great respect for.

But the problem we have before us is how do we cut through all of these clouds? What action do we take? Certainly, the majority leader, in his remarks, outlined the precarious situation that I think we find ourselves in. I believe that the majority leader outlined, as well as anyone could, the reasons why this Senator feels we should reject the Dole, et al, offer and accept the solution offered by the chairman of the Armed Services Committee, Senator NUNN, and our distinguished colleague from Virginia, Senator WARNER.

Madam President, I simply say that of the group that was before the Armed Services Committee yesterday—a group all Democrats, I might add—who were speaking for a very large group of Democrats and Republicans, important officeholders, and several previous Democratic and Republican administrations, all were basically taking the position that has been offered in support of the Dole amendment and the other Members of the Senate who have spoken very eloquently on why they think it is absolutely essential that the United States of America unilaterally lift the arms embargo.

I am not certain that I agree completely with everything that the present administration has done on this matter. However, I hope this matter will not deteriorate any further into a system of Presidential bashing, when it is not a political matter at all. It is a matter that concentrates on what we are going to do now. And what we do now has to do with our future relations and world peacekeeping efforts.

I was rather astonished at those very, very distinguished people that appeared yesterday afternoon in front of the committee holding the view that we should do it unilaterally, notwithstanding what our traditional partners want to do, which has been explained by Senator MITCHELL, Senator NUNN, and Senator WARNER. Do not pay any attention to them, they are wrong. We go full-blown ahead and lift the arms embargo. I asked those three representatives yesterday afternoon that if they are for lifting the embargo, and if they believe the outright commitments, if not assurances, that we have received from our traditional allies, then—and I will not mention again this morning their record, but they are well known to all.

I simply say that 2 days ago the Armed Services Committee also held a closed meeting with the Foreign Minister of Great Britain. He was not at the hearing yesterday in the Armed Services Committee. But what he told us in that closed meeting essentially tracks identically with what others have said, that if we move ahead unilaterally, our traditional allies that have many troops there, as outlined in great detail by the majority leader, would pull out.

Some people say that will not happen. I believe it will. At least that is what they have told us on numerous occasions, without any equivocation or mental reservation. If we lift the embargo, that is something I would eventually like to see happen, but not unilaterally. As has been explained by those who supported the Nunn-Warner proposition previously, including the majority leader, we all would like to see the embargo lifted to allow the Bosnians the wherewithal in the form of arms that they probably could obtain to defend themselves and maybe take back some of the territory that has been brutally taken over by the Serbs.

Let them fight for themselves. Who can argue with that, except those of us who would like to see action to stop the fighting? I believe that the contribution of men and women and facilities by our allies in the absence of any ground troops by the United States of America, those who are attempting to keep the peace there now, should be given some consideration.

If we lift the embargo unilaterally, and if our traditional allies—our partners in NATO, and our partners in the United Nations who have sanctioned the present situation—sit back and look and see what is happening because of the unilateral action by the Government of the United States of America, as suggested by the Dole amendment, then all of the peacekeepers would leave, and the Bosnians would be better off because they certainly would be in a position to obtain more arms than they have now to defend themselves.

But the basic proposition is that when the peacekeepers leave, however good a job they are doing or not doing, there is one calculation that I think is very clear, and that is that new bloodshed would break out. More deaths would occur. Possibly, very possibly, Madam President, that would allow, through all of that bloodshed and war, the good people of Bosnia to regain some of their territory. I simply say that it has been alluded to on many occasions.

I asked the three distinguished members representing a large group of great Nebraskans, who want unilateral action by the United States, that while I did not accuse any of them as being hypocrites —because they are very distinguished Americans and that is the last thing I would do—I did ask the question: Did it appear to anyone that the actions that they were taking turned out to be hypocritical in nature? I asked each and every one of them whether or not they felt that if the Dole amendment was accepted and we unilaterally lifted the embargo, we should as a result thereof—and since our traditional allies in Europe would be leaving—did they think it would be wise now or at some future date for us to send ground troops into Bosnia? Oh, no, that is the worst thought anybody could make.

It seemed a little hypocritical to me—hypocritical in action, Madam President—for those who propound a procedure that would force the leaving of the peacekeepers that are there now, to provide arms to the Bosnians that I would like to see happen for their good but simply at the same time saying: Oh, no; we will be party to a program that will remove any of the peacekeepers from the area now that have made some of the sacrifices, as very eloquently outlined by the majority leader, but we are not going to send in our ground forces.

Madam President, I do not think we should send in our ground forces either. But I am not going to be a party to what I consider hypocritical action by saying to our European allies that we are going to do this because we think it is the right thing, and if you want to take your peacekeeping forces out of there go ahead, but we are not going to send ours in.

I hope, Madam President, that we can have further mature discussion on this. I hope and I plead with the Senate, regardless of the strongly held feelings that I know are very sincere of my colleagues, both Democrats and Republicans, on this issue, we will stand back a little bit and take a look at this thing before we rush into anything, which I think is as irresponsible for both the short-term and the long-term interests of peace, NATO, and the United Nations, by taking overt action now in the heat of legitimate passion that we have in trying to help the Bosnians out of a most difficult situation.

Now hear this, hear the statement, and read the statement. It should be required reading for all, at least among the decisionmakers and I hope the public at large. I happen to feel that this is a healthy debate. I hope that the healthy debate turns out eventually in the acceptance of the resolution offered by Senator NUNN and Senator WARNER.

I think that is the reasonable, thoughtful way that we should proceed at this juncture.

Madam President, I yield the floor.

The PRESIDING OFFICER. The chairman of the committee.

Mr. NUNN. Madam President, we have had a lot of good debate this morning, and I am not sure whether the majority and minority leader want to bring this to a vote today or are going to wait until next week. Nevertheless, I think the debate has been healthy. I cannot say this on all debates of the U.S. Senate.

I think the people on both sides of this debate are absolutely dedicated to doing what they believe to be right. The difficulty in this situation is knowing what is right and what will be effective.

When I hear Senator LEVIN in the committee or on the floor, or Senator LIEBERMAN or Senator DOLE here, I hear a lot of words that I have been saying myself for the last 2½ years, and that makes it particularly frustrating for me to be on the other side of the issue from them because I think morally they are correct in terms of the overall position that they have.

I think that a nation should be able to defend itself. I believe that the embargo has been counterproductive. I do not think it was intended to be counterproductive, but I believe that without some kind of level playing field at some point in time, there is not going to be any hope of stability.

So on the central thrust of their resolution, I would have to say that I generally agree. The difficulty is that you cannot look at Bosnia without looking at a broader picture. The United States does not have the luxury of looking at only one aspect of a tragic situation, and tragic it is. We have to look at what happens around the world. We have to be able to distinguish between what is vital to the United States and what is important to the United States, and what is purely humanitarian.

In the case of Bosnia, we have important interests, we have humanitarian interests, and if the conflict spreads, we could have vital interests. But we do not have vital interests in Bosnia itself. By the term vital, I mean an interest that would warrant the commitment of U.S. military forces—if necessary, alone—always preferably with allies, but if necessary alone. We do not have that.

If we did, then we would have military forces there now. If we did, the Senator from Michigan, the Senator from Connecticut, and the Senator from Kansas would be on the floor saying: Let us put military forces in because this is unacceptable. This tragedy cannot be permitted to continue.

They are not doing that. I think they are right. I think they are right.

I would be joining them in that cry if it were a vital interest.

So it may be that some people disagree with this, but I think the first thing we need to understand as we debate this issue is that even though that conflict could spread in Macedonia, it could spread and involve our allies in NATO, even the Greeks and the Turks on the opposite side of the conflict, it could spread and you could have Russia involved with Serbia, perhaps not militarily, but directly in aid. You could have Russia squaring off on one side of the conflict and the United States on the other side of the conflict.

Then it becomes vital. Then it becomes vital. Then it is much bigger than important.

Madam President, if someone believes it is vital, then I think they ought to stipulate this on the floor of the Senate, and I think they ought to prepare to get a resolution that is unlike either the Dole-Lieberman resolution or the Nunn-Warner resolution, both of which make it clear we are not going to put combat forces into that country, as tragic as it is.

So I think the first thing in framing this debate is we have to understand the difference between vital and important. Other people may have a different definition, but my definition of vital is an interest so crucial to the United States that we are willing to send our young men—and increasingly, young women—to die in that conflict, if necessary, always hopefully with our allies side by side. But if it is truly vital, we have to be prepared to go it alone.

Madam President, I think it is important also as we frame this debate to understand what is in the vital interests of the United States. In the world that we are in now, it is very difficult sometimes when we read a headline and a whole set of news media questions one week on Haiti, the next week on Somalia, the next week it is on Rwanda, the next week it is back on Bosnia, the next week it may jump over to North Korea and South Korea. And then every now and then, you will see something in the paper about a possible potential conflict which could truly be a tremendous difficulty for us and for allies all over Europe and around the world, and that is a conflict between Russia and the Ukraine, which has not happened because of the leadership of President Yeltsin and President Kravchuk and others. We do not hear much about that, but it is there. It is looming.

I think it is important for us in the Senate, if we are going to get explicit about foreign policy resolutions and basically give instructions to the executive branch, and we are, that we understand that we have to look at a bigger scope. We have to look at a bigger picture. It has to be more than Bosnia and what is the right answer for Bosnia, as important as that is. It has to also concern what is the right answer for the United States where we do have vital interests.

Madam President, we have a vital interest in Korea. We have 38,000 combat forces in Korea. Those forces are near the DMZ. And if there is a conflict in Korea, we are in on day one, and we will have people dying on day one, and we are going to be killing North Koreans on day one, and our blood will be shed on day one. And everybody, I think, who has looked at Korea understands that. We have a vital interest there, and we have declared it to be vital. We even fought a war there. We kept some 40,000 to 60,000 combat forces on the ground there for years and years. We even had tactical nuclear weapons there for years and years and years, and they were pulled out in 1991, some believe prematurely, based on subsequent developments.

So, Madam President, we have a vital interest in Korea. What is the connection between Bosnia and Korea? There is a connection. What is the connection? The connection is that I think most people in this body would say that if the North Koreans do not comply with their recent commitments to stop their nuclear program while discussions take place, and to have that verified, then the first thing we are going to have to do is we are going to have to go to the Security Council and we are going to have to ask the Security Council to impose sanctions on the North Korean regime.

The second thing we are going to have to do, if they do vote for it, neither China nor Britain nor France nor Russia will veto it. Then we have to ask China and Russia and Japan, particularly, but others also, to join in an embargo and sanctions on that regime. And if that does not work, and we really believe that the North Korean Peninsula is vital, which I do, and we really believe that stopping North Korea from becoming an exporter of nuclear arms and becoming an armed nuclear power is vital to the United States, then I do think we have to be willing to take other steps.

And those other steps could very well include military action, and we all ought to be clear about that. And there I think there is no doubt that American military forces will be involved.

Now what is the connection? The connection is that in Bosnia the resolution before us, well-meaning though it may be—and I have already said I agree with the thrust of it—it calls on us to basically say to the U.N. Security Council, we do not care what is on the books at U.N. Security Council on Bosnia in terms of an embargo and on the overall form in Yugoslavia. It was passed with the United States voting for it in 1991. We do not care about that anymore because we are fixed on that country and we are going to come up with the right solution—the right solution—and we do not care what you think. We are basically going to have a unilateral lifting of the embargo.

And, guess what? The next day we may be before that same group saying, "Would you please vote to impose sanctions on North Korea?"

Madam President, it is easy to stand up on the floor and say—and I have read editorials to this effect—"Well, just tell the Russians and the Chinese and the British and the French what we want to do and march out and do it. Just tell them. And then tell them that we want them to vote for sanctions in the Security Council against North Korea. And then tell China that they better do it."

They do not ever say, "or what?"

Are we going to invade China? I do not think anybody is seriously thinking we are going to do anything like that. Are we going to threaten our allies with some kind of sanctions themselves if they do not go along with us breaking one embargo while we ask them for another one? No, I do not think anybody believes that.

Madam President, the truth of it is, whether we like it or not, the United States is not the only person on the Security Council. Can we be more assertive? Yes. Have we been assertive enough on Bosnia? No. Have we pushed hard enough lifting the embargo on Bosnia? No. Can the administration do better? Yes.

But should we do it alone? Should we march off and say to our friends and colleagues, the British and French that we fought two wars with, that we are going to basically disregard everything you say and think, even though, as the majority leader pointed out so vividly this morning so accurately, even though they are the ones on the ground in Bosnia, they are fighting and dying? Are we going to do it anyway?

But, by the way, we want you to help us on North Korea. And, by the way, to Turkey, who is suffering from the embargo on Iraq that we voted for—in fact, we were the ones who urged that embargo be placed on Iraq; and I support that also—are we going to say to Turkey, "Even though it is costing you money every day to keep the pipeline closed and not to have trade with Iraq, but we are going to break the embargo in Bosnia and we want you to keep the embargo on Iraq, even though it hurts you"?

Madam President, the first result of a unilateral breach of the embargo on Bosnia without getting our allies to go along, the first result may very well be the end of the embargo on Iraq.

Now that is not what the people on this resolution intend, but that is one of the things they have to accept as a probable, at least possible consequence.

Madam President, I do not agree with what we are doing in Haiti right now, but our country is on record and we voted at the Security Council to have an embargo on Haiti. I think it is counterproductive, because I think the poor people there that are either attempting or being tempted to have an exodus from that country are the ones who are suffering from that. That is another question.

Nevertheless, we are on record imposing an embargo on Haiti. On U.N. Security Council Resolution 875, the United States led the way.

We are also on record supporting an embargo on Libya, also voted by the United States at the U.N. Security Council.

So are we going to say to our friends on the Security Council, "Forget about Libya, forget about Iraq, forget about Haiti, forget about what we may have been asking you on North Korea if these negotiations don't now succeed. We have focused on Bosnia now and we know the right answer. We here in the Senate and House of Representatives, we know the answer on this and we are going to tell you what it is and we are not going to worry about any other consequence."

Madam President, we have to be able to distinguish what is vital and what is important, and we have to understand that if we unilaterally lift the embargo in one area, without—in fact, in defiance of—the Security Council and against most of our allies in NATO, then we are not likely to get their cooperation when it comes down to something that is truly vital like North Korea.

And if we do not get their cooperation now, then we may have to skip the sanctions step if the negotiations break down and we may end up having to move toward some other option which could certainly be a military option. That may be required anyway. I hope not. I hope the negotiations succeed and I hope North Korea will give up their nuclear quest.

But we would be foolish to believe that this situation in North Korea is over. We would be foolish to believe that it is over. The North Koreans play brinkmanship, they play games, they go right down to the brink. They have done it over and over again. Occasionally, they go over the brink—and they did so in the early 1950's—and then you have a war.

Madam President, what is vital and what is important and what is humanitarian? There is no easy answer in this post-cold-war world. But if this body cannot begin to distinguish between what is vital and what is important and what is humanitarian and make those differences, and if our own Government cannot distinguish between those, then we are going to be lost in the aftermath of the cold war and we are going to be bouncing from one foreign policy crisis to another with no principles guiding us—with no principles guiding us. Some of them may work out all right and some of them may be disasters. We have to have some principles. We have to have some things that are important.

Madam President, I hope out of this debate, the thing that I am most hopeful for, in terms of my own position, is that the administration downtown not misread it, because I am not satisfied with our position; I am not satisfied with the United States leadership in this area.

I think we have to be more assertive. I think we have to explain to the British and the French and even the Russians that the U.S. Government believes firmly that there are important moral principals here and that a country does have the right to defend itself. And I think we have to be very clear to the contact group that is now meeting and negotiating and trying to put together both carrots and sticks to both sides to try to bring about some peaceful resolution, I think we have to explain to them that, even if you get a peaceful resolution in Bosnia, even if both sides agree, that the embargo has to be lifted at some point during that peaceful transition or otherwise you have a country that does not have a right to defend itself.

Do the British and the French and the Russians think we are going to have an embargo on Bosnia forever? We cannot. We should not. We must not.

So, Madam President, just briefly, the resolution sets forth the alternative to the Dole resolution. It sets forth the history of the other embargoes the United States is participating in that we voted for at the Security Council. It also sets forth the important consideration of North Korea and what may happen there, the eventualities that may happen there. It also sets forth the fact that our allies, as the majority leader made clear, are already on the ground in Bosnia. And I have no doubt if we unilaterally lift the embargo that the French and perhaps the British, but certainly the French and I would say the likelihood of everyone on the ground there, are going to pull out. They are going to pull out and it is going to be real interesting to see how it works out. Because the United States is over there right now flying with our allies, putting an air cap over Bosnia, saying we are going to shoot down any aircraft, helicopters seem to be an exception—but shoot down any aircraft that flies in.

Madam President, if we lift the embargo, how are we going to get the arms in there? Because if the British and the French pull out, the Serb guns that have been collected are going to be available to them again. I hope they will destroy them before they leave but they may not.

The Serbs still have a lot of guns. It is going to be almost impossible to get enough guns in there to begin with to the Bosnians to let them defend themselves against what will be an onslaught by the Serbs before an embargo can be effectively phased out by the United States.

So we are going to have to put supplies in there by air. What happens to the air cover? Certainly with the United States we would pull out of that—we would have to pull out of that. Certainly we are not going to shoot down our own airplanes, so we would have to pull out of that. Do the allies keep their air cover there? Or take away the air cover? If they take away their air cover, who has the airplanes? It is not the Bosnian Moslems. Are we going to give them airplanes? What are we going to give them, F-18's? F-16's? Where are the airports?

You are talking about training people. So who is going to have the airplanes to fly? It will not be the Moslems. It will not be the Bosnians. It will be the Serbs. Are we going to be flying in supplies one way and are we going to be participating in the air cover the other way, shooting down some planes while we go in?

Has anybody thought through this? You have to think through it with your allies, that is the point.

Can it be done? It is possible it can be done but it has to be done with our allies. It cannot be done unilaterally, no matter what we pass on the floor of the Senate. It cannot be done unilaterally.

Madam President, what about the naval blockade? We have American military forces out there right now participating in a naval blockade. They are stopping ships, time after time after time, preventing arms from going anywhere in that part of former Yugoslavia.

What happens if the embargo is ended unilaterally? Are we going to tell our naval forces to come home? If so what do the allies do? Are they going to pull off the embargo on Serbia and let economic goods flow into Serbia? Are they going to stop ships? And say if this is oil for Serbia, we are not going to let it through? But if this is mortars for Bosnia we are?

What are we going to do? What are the practical implications of this? It has to be thought through with our allies.

I repeat we have to be more assertive. I repeat I believe the embargo should be lifted but I do believe there is a bigger world out there that we have to think about. It would be the ultimate irony if we end up damaging an American vital interest because we want to impose our own view on our allies unilaterally of what we should do in an area that is not vital but is, I would stipulate, important.

So Madam President, I think there are three ways the embargo can be lifted as a practical matter and I think the administration ought to think about all three of them. And I think they ought to be discussing this with our allies.

One way is, pursuant to a peace agreement. And one of the things we ought to be saying to the contact group—and if we are not we are making a mistake. I do not know what our position is there—that if there is going to be a peace settlement there has to be an end of the arms embargo. Bosnia has to be able to have enough arms to defend themselves. Unless the United States wants to be over there for the next 5 to 10 years with 20,000 or 30,000 military forces defending the borders between two factions that inevitably are going to end up, as they have for a long time, with a lot of animosity. The recent tragedies make that even more likely—in fact inevitable.

The second way we can end the embargo—and this is also part B of the resolution that is the alternative—if during the course of these discussions, moving hopefully toward some peace settlement that can be equitable and fair—if during the course of that the Bosnian Serbs, as they have in the past, start shelling in a substantial way—start shelling the safe havens and defy the United Nations once again, then it is my view that we ought to with our allies put in defensive arms immediately. And that will require flying some of them in, in all likelihood.

That would mean putting in antitank weapons where tanks are the threat. Or putting in enough counterbattery or mortar capability to counter the artillery sitting up on the hills. That does not have to be a complete lifting of the embargo. If the allies are concerned about that we could table the proposal of partially lifting the embargo depending on which safe haven is under threat and getting arms in there immediately to the safe haven that is under threat, that is where the United Nations resolution is being defied by the Bosnian Serbs. So that is the second way I think we could as a nation be assertive in our position.

The third way is if the contact group tables a proposal, that is fair and equitable and just—if those are achievable words in this case, and probably no one will ever agree to what that is—but if the contact group tables the proposal and the Bosnian Serbs say, no, we are absolutely not going to sign anything that is fair and just and leads to a coherent stable Bosnian border—if they do that, then it is my view that multilaterally we ought to lift the embargo much like the resolution calls for. But there is another side of that.

There is another side of that. Madam President, at some point our allies have to understand—and I think we have to understand—that you cannot have humanitarian aid in the middle of a war. You can do your best but you cannot have large deployments of ground forces sitting there under the gun at the same time you are either bombing or lifting an embargo that the Serbs interpret as being partial to one side—even though I think they would be wrong in that because I think we would be leveling the playing field—they would interpret that direct involvement. In that stage we have to have an orderly withdrawal of humanitarian forces and military forces and we have to get arms in there very rapidly because if we do not and we do not do it jointly it will not be done correctly. We have to put the Bosnian Government in a position to defend their own people. But when we do that we have to understand that the humanitarian mission is likely to be over. You cannot do both. I think we have to think through the consequences of this.

I welcome the debate. I hope there is no misinterpretation of my own view on this because I think the time has been—really is overdue, in terms of lifting the embargo. But I do believe it matters how we do it. I do believe it matters that we coordinate what we do with the British and the French, other members of the Security Council, members of NATO, and particularly as the majority leader said so well, those forces on the ground there who have already suffered substantial casualties.

Madam President, I hope people understand the resolution. I hope they read it. I hope they will give this careful consideration.

There is no good answer. None of this is perfect. I do not think anybody on either side is going to say we have the perfect answer. I would again stipulate what we have done so far, we being the Western community, has not in my view been the correct policy. We have done some good things. A lot of courageous people have sacrificed a lot. A lot of humanitarian workers have risked their lives every day and they have saved tens of thousands of lives. But overall I think we have not taken the correct course. But the fact that we have not does not mean that we cannot take a situation that is bad and turn it into an absolute disaster.

You can take a bad situation and make it worse. And I think that is what the Senate of the United States is going to have to contemplate. I thank the Chair.

The PRESIDING OFFICER (Ms. MOSELEY-BRAUN). The majority leader is recognized.

SCHEDULE

Mr. MITCHELL. Madam President, I will not address the pending matter. I have already spoken on that and will do so again at a later time. I expect this debate to resume shortly. But I wanted to set forth for the Members of the Senate the schedule for the remainder of the day and for next week, prior to the July 4 recess.

Madam President, at this moment the Senate is in a catch-22 situation. A substantial number of Senators have left. And, having arrived at their destinations, have contacted other Senators who are still here and urged those Senators not to permit any votes to occur.

So a majority of Senators stayed because it had been our hope and expectation that we could debate and vote on amendments to this bill, but some of the Senators who remained have made it clear to me that they will not permit votes to occur on amendments to the bill, either on the amendment with respect to Bosnia, on the B-2 amendment or any one of the other amendments.

So we are in a catch-22 where we have a very important bill, a very large number of amendments pending to the bill, with most Senators here prepared and willing and desirous of voting on the bill, but some Senators here indicating that in order to protect Senators who left, they will not permit a vote to occur. So it is a classic catch-22 situation.

We have already had one procedural vote, and we will shortly have another one. I cannot force a vote on an amendment to the bill because Senators have a capacity under the rules to prevent that. I can force a vote on a procedural matter and will do so.

I simply say to Senators that there are certain items which we will have to complete next week before we go on recess. Not being able to vote on any amendments to this bill today makes the burden of next week that much greater. But so there can be no misunderstanding on anyone's part as to next week, we will have at least two nominations and perhaps others on which we must act. I am required by unanimous-consent agreement entered into some weeks ago to proceed to the product liability bill before the close of business today, and I will, of course, honor that agreement and do so. We must complete action on that bill in one form or another.

We have pending two appropriations bills, the foreign operations appropriations bill and the energy appropriations bill, and we will complete action on those two bills before we leave next week. And, finally, of course, we have to finish the Department of Defense authorization bill.

So, therefore, the Senate will remain in session next week until we complete action on the measures which I have just described: Certain pending nominations, product liability, foreign operations appropriations bill, energy appropriations bill, and the Department of Defense authorization bill. Those Senators who have absented themselves today and then, having absented themselves, have gotten others here to protect them from votes have made it much more difficult for all of us next week, but that is the unfortunate situation we are in.

I have no authority to do anything other than to have the procedural vote, which we are now going to have, and to insist that we remain in session until we complete action on these measures.

In a moment, therefore, Madam President, I am going to suggest the absence of a quorum, and when the clerk reports that no quorum is present, I will move to instruct the Sergeant at Arms to request the presence of absent Senators and ask for a rollcall vote.

Mr. COATS. Madam President, could I just inquire of the majority leader a procedural question?

The PRESIDING OFFICER. The Senator may proceed.

Mr. COATS. If the majority leader will yield just for a question, how does this decision translate into our duties and activities scheduled for Monday of next week? I assume we will be in session, but if the majority leader can give us some indication.

Mr. MITCHELL. I am unable to do so now for two reasons. First, we are trying to get a finite list of amendments to this bill. We have had no success so far and, of course, the absence of such a list makes a Senate session on Monday with votes more likely than would otherwise be the case.

And second, I have yet to meet with the principal proponents of the product liability bill to determine how they wish to proceed before making a judgment on how to proceed on that bill. I will have an announcement on that before the close of business today, but I am unable to answer the question at this time.

Mr. COATS. I thank the Senator.

VISIT TO THE SENATE BY THE DEFENSE MINISTER OF MALAYSIA

Mr. MITCHELL. Madam President, before I suggest the absence of a quorum, I want to note the presence in the Senate and ask our colleagues who are present to greet a guest during the quorum call. With my friend and colleague from Maine, Senator COHEN, is Defense Minister Najib of the nation of Malaysia, a friendly country with which we have good political and economic relations.

I commend my colleague, Senator COHEN, for the outstanding leadership he has shown in advocating and enhancing that relationship.

I am pleased to welcome Defense Minister Najib, who is himself a Member of the Parliament of Malaysia. It is, of course, our practice to permit access to the Senate floor for Members of Parliament from other countries.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The Senate continued with the consideration of the bill.

QUORUM CALL

Mr. MITCHELL. Madam President, accordingly, I now suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll, and the following Senators entered the Chamber and answered to their names.

Coats
Cohen
Domenici
Exon
Johnston
Kennedy
Kerrey
Leahy
Mitchell
Moseley-Braun
Nunn
Sasser
Specter
Thurmond

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absent Senators.

Mr. MITCHELL. Madam President, I move that the Sergeant at Arms be instructed to request the presence of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO INSTRUCT

The PRESIDING OFFICER. The question occurs on agreeing to the motion to instruct the Sergeant at Arms to request the presence of absent Senators.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Mexico [Mr. BINGAMAN], the Senator from Oklahoma [Mr. BOREN], the Senator from Arizona [Mr. DECONCINI], the Senator from California [Mrs. FEINSTEIN], the Senator from Pennsylvania [Mr. WOFFORD], and the Senator from Ohio [Mr. GLENN] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Idaho [Mr. CRAIG], the Senator from Texas [Mr. GRAMM], the Senator from Oklahoma [Mr. NICKLES], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 76, nays 14, as follows:

[Rollcall Vote No. 167 Leg.]

YEAS—76

Akaka
Baucus
Biden
Boxer
Bradley
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Danforth
Daschle
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Feingold
Ford
Gorton
Graham
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mack
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Thurmond
Warner
Wellstone

NAYS—14

Bennett
Bond
Breaux
Coverdell
D'Amato
Faircloth
Helms
Kempthorne
Lott
McCain
McConnell
Murkowski
Smith
Stevens

NOT VOTING—10

Bingaman
Boren
Craig
DeConcini
Feinstein
Glenn
Gramm
Nickles
Wallop
Wofford

So the motion was agreed to.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Madam President, my colleagues in the Senate, I rise to indicate my concern about what is happening on the floor of the Senate at the moment. All of us are elected to this body. We come here to vote, to stand up and be counted on whatever the issue may be. Some Members of this body are not here today, and apparently they have asked other Members of this body to protect their positions, to see to it that no votes can occur. That is shameful. To me, it is a shameful way to conduct this body.

I think we ought to move forward. It is my understanding that the manager of the bill and ranking member of the committee are ready to move forward. Others are saying, no, we cannot vote because somebody is absent. So they are absent and they will miss the vote. But to prohibit or preclude this body from going forward and voting today is, in my opinion, demeaning to the U.S. Senate and those who are involved in the process. It is no credit to them.

I say to my colleagues, let us go on and do the business that we are elected to do. Is there some rule that says we cannot vote on Monday or we cannot vote on Friday? There is no reason for Members of this body to leave early. The leader of the Senate told all of us earlier that we would be in session, and there would be votes up until 3 o'clock today. I know that the manager of the bill and the ranking member of the committee are ready to move forward. The B–2 is an issue that is ready to be voted on. The Bosnia issue is ready to be voted on. I do not doubt that other issues are ready to be voted on. But some are saying, "no votes today."

I urge, as strongly as I can, those standing in the way of progress, those standing in the way of permitting this body to meet its responsibilities: I think it is time for you to change your position; I think it is time for you to vote any way you want on the issues. That is your concern. But to keep us from voting today on issues that are important to the United States and to the people of this country, in my opinion, is a shameful way to conduct this body.

I urge you to change your position.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina Mr. THURMOND is recognized.

Mr. THURMOND. Madam President, I have waited here all morning to get the floor to speak, and it seems impossible to do it. So I am going to wait and speak next week.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Madam President, we have heard many reasons on both sides relative to the amendments before us. I start with the basic right that people have a right of self-defense. I am going to end there as well. It is the beginning, and it is the ending. It is the fundamental guarantee of the U.N. Charter that every nation has a right to self-defense.

There is not a footnote there that says: Unless some other country thinks that might lead to some other complication in Korea.

There is no qualification in the U.N. Charter that says: Unless some other nation thinks that this might have a negative affect on NATO.

It says that every nation has a basic right to self-defense. It is fundamental; it is unqualified.

It does not say: Except Bosnia.

It says that every nation has a basic fundamental right to self-defense. Then we are told, yes, but there is a bigger picture—and I agree that we should look at the bigger picture. We start with the basic premise, a fundamental right to defend yourself when you are being slaughtered and raped and when genocide is going on. That is fundamental. That is what the U.N. is supposed to be all about.

Then, yes, we should look at the bigger picture, the affect on NATO. Will it be worse off or better off if America finally takes some leadership to end the shameful genocide in NATO's backyard by permitting Bosnia to defend itself? I think NATO is going to be a lot better off if we finally at least allow a nation in Europe to defend itself. We are not willing to go to its defense, and I understand that. I am not advocating that American soldiers go to Bosnia to fight. But it is because we are not willing to do that, surely, that we ought to allow them to defend themselves.

So I think NATO actually will become stronger. I know some NATO nations tell us, "No, do not do it." But I believe American leadership to at least lift this embargo so people can exercise a fundamental human right to defend themselves against slaughter, genocide, and rape will make NATO stronger if we permit that nation, recognized by the United Nations, to exercise that fundamental right. I think NATO is weak right now when it does not permit that nation in Europe to exercise that fundamental right. I think the waffling and wobbling of NATO on this issue has weakened NATO. The way to strengthen NATO is to allow Bosnia to defend itself.

We can argue back and forth what is going to make NATO stronger, and we can argue back and forth and ask: Will the Bosnians be better off if they are allowed to defend themselves? I have heard that argument, and that one really mystifies me, because the argument here goes that if we allow Bosnia to defend itself, if this embargo is lifted, then the U.N. troops are going to pull out; they are not going to be able to stay if this embargo is lifted. And then the argument goes: The Bosnians will be worse off because the protection force of the United Nations will probably leave.

Well, the Bosnians have spoken out on this. They said: Look, we appreciate the humanitarian assistance, we really do. But if allowing us to defend ourselves means that the U.N. leaves, so be it. Let us defend ourselves. We are being killed day by day. We appreciate the U.N., we welcome the U.N., and we hope the U.N. will stay. But if nations decide to pull out those ground forces, we will accept that as the price of exercising a fundamental right to defend ourselves, our families, our cities.

So the argument that the Bosnians will be worse off somehow if we lift the embargo, and we are doing them a favor, is an exercise in rationalization.

The Bosnians have taken a clear position in writing year after year. Last year an official document from Bosnia says that, "If the U.N. has to remove those troops in order to lift the embargo, it is our intention today to request the withdrawal of relief personnel to remove that final obstacle to the lifting of the arms embargo."

They have actually said: Leave, please, if that is the price. If that is what it is going to take to let us defend our country, leave with our best wishes, but do not use that excuse as the reason not to allow us to defend ourselves.

Then we have the question of international law. Here the argument goes there was a U.N. resolution imposing this embargo and it was only supposed to be lifted with the vote of the Security Council. The trouble with that argument is that respected international lawyers, including Max Kampelman, who testified yesterday before us, says that that resolution has no effect whatsoever on Bosnia because Bosnia was not in existence at the time that resolution was passed. That resolution related to Yugoslavia before the breakup of Yugoslavia. Respected international lawyers say that the resolution which is cited by the opponents of the lifting of the embargo say that that resolution that is cited has no effect in this situation whatsoever.

So, yes, look at the broader picture. We all have to do that. We have to look at that U.N. resolution and decide does it apply here or does it not. And there are legal arguments on both sides.

We can go through argument by argument in the broader picture, and you can argue the broader picture pieces back and forth, and there are a lot of pros and cons. I happen to agree with that one going in. If you look at the broader picture, particularly, it was a very complicated picture, and that is why you are going to come back, I believe, ultimately to the fundamental principle that people should have a right of self-defense.

That is the mother lode here. That is the fundamental issue with all of those other debates and rationalizations and justifications and arguments, as though we could know whether or not allowing Bosnia the right of self-defense will either help produce a peace settlement or hinder it. I do not know that for sure. My only feeling is the only way to get a fair and lasting peace there is if you have two parties that are relatively equal in strength. If you have one party that has all the strength that is slaughtering the other party, you will not get a just peace settlement. That is my own view.

Am I sure I am right? No. I think I am. I think the best way to a fair and lasting peace is to lift this embargo and not to maintain it. As long as you maintain it, as long as the Serbs know there is no credible threat against the maintenance of their aggression and the fruits of their aggression being kept by them, as long as they know that I do not believe we are going to get an equitable settlement.

So I think that not lifting the embargo is the recipe for continued battle and bloodshed in Bosnia.

But that can be argued both ways. What cannot be argued both ways, it seems to me, is that fundamental issue of whether or not a nation, a people should be able to defend themselves.

I am going to end my comments in a moment. I was hoping one of the sponsors of the amendment might be on the floor to answer a question, and I do not see either Senator NUNN or Senator WARNER on the floor. I wanted to just ask a question, but since they are not here, I will make a statement relative to the issue that I see, and perhaps when they get back to the floor they can comment on it.

Their amendment, it seems to me, is unclear on even the basic point of whether or not the sponsors of the Nunn-Warner amendment support the multilateral lifting of the embargo at this time. They insist that the only way this embargo should be lifted is if it is multilateral. That is the theme of this amendment.

It is a point that I disagree with. I think as long as the only way in which the arms embargo can be lifted is if it is lifted multilaterally it will not be lifted, and the Serbs know it will not be lifted. If it is going to take the agreement of European nations and Russians, and everybody else, to lift this embargo, you can be darn sure that this embargo is not going to be lifted. And I think it is also very clear that the Serbs would know that it is not going to be lifted.

But this amendment suggests that the United States should seek the multilateral lifting of this embargo under certain circumstances or at least the partial lifting of the arms embargo under certain circumstances.

I think that the way the amendment is worded it is not at all clear as to what we would do if the conditions are met.

Again, I do not see my friends from Georgia or Virginia on the floor. So I am not going to be able to press this at this point. So I will make a statement about it.

What they have done in this amendment in saying that the only way this embargo will be lifted is if it is done multilaterally is to signal to the Serbs it will not be lifted. We know it is not going to be lifted from history. We know that the Europeans and Russians are not going to agree to the lifting of the embargo. If we tie that condition to the lifting of it, that it be multilateral, we are telling the Serbs and the world, hey, you do not have to worry about this embargo being lifted.

But my point is that if you read subsection b. it is very unclear, even by the terms of the amendment as to whether or not the sponsors believe that it should be lifted multilaterally at this time, given the fact that the Senator from Georgia said that the condition set forth in b. has now been met. Subsection b. says that:

> * * * if the Bosnian Serbs, while the contact group's peace proposal is being considered and discussed, attack the safe areas designated by the United Nations Security Council, the partial lifting of the arms embargo on the Government of Bosnia and Herzegovina and the provision to that Government of defensive weapons and equipment appropriate and necessary to defend those safe areas.

I see my friend is back. Given the fact that he has acknowledged in previous debate this morning that in fact those safe areas are under attack, I ask whether or not this amendment then means that the administration should now seek the multilateral partial lifting of that embargo.

The PRESIDING OFFICER (Ms. MIKULSKI). The Senator from Georgia.

Mr. NUNN. Madam President, my answer to that, if I could say to the Senator from Michigan, is yes. I think we should. I think that is preferable to the threat of bombing, but it does not have to be in lieu of the threat of bombing. It can be in connection with.

The first thing I would suggest is that the multinational group let the Bosnian Serbs know that this is something that they are planning on doing if they do not respect the safe areas.

But, yes, I would think that this is an option that should be explored now with our allies. Again it is in the multinational context.

Mr. LEVIN. I appreciate that and again I think the fundamental difference here is when you limit the prospect of lifting this embargo in the situation where it is not multinational, in other words, with all our allies and Russia, you are, therefore, saying it is not going to be lifted.

I do not see any reasonable prospect that this embargo will be lifted multinationally and the Serbs know unless they realize there is a possibility of a multilateral lifting of the embargo it could happen and would happen regardless if they agree to it. I do not believe there is any equitable settlement. I am not attempting to persuade my friend of that because I think there is just a fundamental difference on that.

But the key point that I am now making is that it is the sponsor's interpretation of this amendment, which he and others have proposed, that it is calling now for the administration to seek the multinational partial lifting of this embargo because under condition b. safe areas are being attacked, and if I could just complete my thought.

Yesterday when I asked Strobe Talbott the question as to whether or not the administration favors now seeking multinational lifting of the embargo his answer was no.

So, there is a difference between this amendment and the administration's position on that fundamental issue.

At least Strobe Talbott's testimony yesterday reflected the administration position. What he was saying is that they want to keep that as a possible option to seek multinational lifting of the embargo, whereas this amendment appears to say, and I think that my friend from Georgia has now confirmed it, that because subsection b. is operative right now since the safe areas are under attack, that we should right now be seeking the multinational partial lifting of the embargo.

I thank my friend for that clarification.

Mr. NUNN. Madam President, if I could just respond briefly to my friend from Michigan, this amendment was not drafted by the administration. They have sent word that they can support this amendment.

I am giving the Senator my personal view, and I have felt for several months that a threat to partially lift the embargo on threatened safe areas with defensive weapons would spread all over the whole country, based on a case-by-case examination of that was the way to go.

I felt that that was a more credible threat than trying to believe that we can have precise bombing on mortar tubes sitting in churchyards in the mountains and terrain of Bosnia. My view of it is that this kind of move in the multinational group should be done and should have been done months ago. But I do not pretend to say I am speaking for the administration.

Mr. LEVIN. I thank my friend from Georgia for the clarification.

I do hope, between now and the time we vote on this resolution, that we can get the confirmation from the administration that Secretary Talbott's testimony yesterday in fact is their view, that they do not now favor seeking multinational lifting of the embargo. And if, in fact, they confirm that that is their position, we should all realize that, even if we adopt the Nunn-Warner sense-of-the-Senate amendment, we will then be urging the administration to do something which is not their current position, and we do not even have a prospect of that occurring if that resolution passes.

I yield the floor.

Mr. NUNN. I say to my friend from Michigan, if the Dole-Levin-Lieberman amendment is adopted, there is no assurance that that is going to bring about a change in the administration's policy, either.

The President has the right to veto a bill. Obviously, as one of the people trying to get a defense bill in place this year, I hope this bill is not vetoed. I will do everything I can to get the bill in a position where it will not be vetoed.

But if this Dole amendment is adopted, that does not mean the administration is going to change its position, either. Both of these are basically, in a way, trying to move the administration. My amendment, I am not pretending it is the administration's policy. What I am saying is, I think it should be the policy of the United States.

Mr. LEVIN. I thank the Senator.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, I wish to associate myself with the remarks of the distinguished Senator from Georgia.

I participated in the drafting of the amendment and indeed it is an independent effort of the Senator from Georgia and myself and others. I hope that, as we move forward in this debate, perhaps there may be some constructive suggestions with regard to the amendment which we could take into consideration.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Madam President, once again, the Senate is debating legislation regarding the unilateral lifting of the arms embargo against Bosnia and Herzegovina. We have been down this road twice before, and in my view, we need not and should not take up this issue again, particularly as our President heads to the Group of Seven summit early next month where he and his colleagues are expected to endorse a plan to end the Bosnia conflict. It appears I am swimming against the tide, and the Senate is indeed, going to address this issue once again. Accordingly, I would urge my colleagues to reject the Dole amendment, and instead support the amendment offered by Senators NUNN and WARNER, of which I am a cosponsor, as a more sensible, realistic approach to this difficult issue.

In January, the Senate voted overwhelmingly to adopt a sense-of-the-Senate amendment to the State Department authorization bill calling on—but not directing—the President to lift the United States arms embargo against Bosnia. I was one of a few Members who voted against that provision.

Last month, when the Senate took up and adopted a bill that had some teeth—that actually directed the President to lift the embargo, the results were less clear. When the Senate voted to direct the President to lift the embargo, it adopted a second, seemingly contradictory amendment on the very same day. The first, sponsored by Senator DOLE, directed the President to lift the arms embargo unilaterally. The other, sponsored by Senator MITCHELL, instructed the President to take a multilateral approach. I voted for Senator MITCHELL's amendment, and against Senator DOLE'S amendment. Some Members, however, opposed both amendments, while others supported both amendments. The two amendments produced legislation that directed the President to pursue two apparently different courses of action. The result was utter confusion, both here and abroad, about the Senate's intent.

Now Senator DOLE is offering his amendment again. If we adopt this amendment, the outcome would be harmful. Since the House of Representatives has already passed an identical amendment to the Defense Department authorization bill, we would be forcing the President to take very damaging action. There would be no turning back, no margin of error. And it would be the Congress that bore the ultimate responsibility for implementing a new, ill-conceived policy.

As we address this issue again today, I would like to review for my colleagues the points made previously in opposition to taking the reckless step of lifting the embargo unilaterally.

Lifting the embargo would put the United States in the position of abrogating a U.N. Security Council Resolution, and in essence, breaking international law. It could begin a process of unilateral United States involvement in the Bosnia conflict—or as some Senators have put it—start us down the slippery slope to greater engagement in the crisis. It could generate another cycle of violence and actually leave the Bosnian Government forces vulnerable to further Serbian obstruction of humanitarian assistance and brutal attack. Lifting the embargo at this time could upset the delicate peace process underway.

Many of my colleagues have made the point that the international community may be contributing to the problem by denying the Bosnian Government the right to defend itself. We have heard many times that we owe it to the people of Bosnia to level the playing field. Some of my colleagues have made powerful arguments to that effect.

Lifting the arms embargo seems like an easy, cost-free solution. It may make us feel better, but I believe it is bad policy that could yield disastrous results. Clearly, the Bosnian Government forces continue to be outgunned by the Bosnian Serb aggressors. There is a certain appeal to providing weapons in the hope of helping the victims gain back the land and fortune that the Serbian aggressors stole from them. I do not believe it is that easy, however.

Proponents of lifting the embargo argue that with the right weapons and equipment, the Bosnian Government will be able to regain more on the battlefield than it can at the negotiating table. I would argue that much of what the Bosnian Government and the Bosnian people have lost cannot be recaptured with United States-supplied guns. The lives that have been lost cannot be reclaimed. Even regaining territory would require more than U.S.-supplied weapons.

I would argue that the Nunn-Warner amendment takes a much more realistic approach than does the Dole amendment. It takes into account the reality—not only of the diplomatic situation—but of the circumstances on the ground. Yesterday, Senator NUNN chaired hearings on the implications of the lifting of the arms embargo. Witnesses included representatives of four defense ministries of countries with troops participating in the United Nations effort in Bosnia—Denmark, France, Spain, and the United Kingdom. All four opposed lifting the embargo. I must say that I was impressed to learn that, while each of them spoke of the danger that lifting the embargo would pose to their own troops, they focused to a much greater extent on the damage that would be dealt to the people of Bosnia.

This war has dragged on for more than 3 years at great cost to the people of Bosnia. At this time, forces in Bosnia are finally observing a delicate cease-fire. While in some areas, cease-fire violations still occur, often with horrible impact, the situation on the ground is quieter than it has been since the war began. Introducing more weapons at this time would likely touch off a new round of fighting, bloodshed, and suffering. Supply weapons at this point is, in all likelihood, too little too late.

That being said, if steps are to be taken, the United Nations, not the United States going it alone, should take them. The embargo is in place as a result of a binding U.N. Security

Council resolution and can only be abrogated by a subsequent U.N. Security Council action. A unilateral lifting of the arms embargo would set a dangerous precedent. Other countries could choose to ignore Security Council resolutions that we consider important—such as the embargo against Iraq and sanctions against Libya.

I would note that on May 13, the day after the Senate last acted on this issue, the Washington Post reported that Iran was engaging in embargo-busting by sending at least 60 tons of explosives and other raw materials for weapons production to Croatia. The Croatians were siphoning off one third of the cargo, and sending the remaining two thirds to Bosnia. The article suggested that this was the latest of a series of shipments. If the United States were to lift the embargo unilaterally, we too, would be engaging in embargo busting. We would be taking the same action as Iran. I would ask my colleagues: Do we want to be in that company? Is Iran a responsible player in the international community?

The answer, of course, is no. If the United States were to break the embargo on its own, we would destroy our credibility as a trustworthy leader in international affairs. A unilateral lifting of the arms embargo would undoubtedly strain our relations with Britain, France, Russia, and other countries with troops on the ground in Bosnia—and would undermine our trustworthiness in other international negotiations completely unrelated to the Bosnian tragedy.

A unilateral lifting of the arms embargo will inevitably be perceived as the beginning of a United States decision to go it alone in Bosnia. It is naive to think we can unilaterally lift the arms embargo, and then walk away. We instead would assume responsibility for Bosnia not only in terms of our moral obligation, but in practical terms as well. Delivering weapons to Bosnia would likely require sending in United States personnel. Granted, this legislation states that nothing should be construed as authorizing the deployment of United States forces to Bosnia and Hercegovina for any purpose. But I want to emphasize that this would be a U.S. decision to dismantle the embargo.

Lifting the embargo without international support would increase American responsibility for the outcome of the conflict. If we take unilateral action, we will assume the lead international role in Bosnia. If we were to take the initiative and supply arms on our own, our allies, who I admit, have not always been the most cooperative, could step back even further and say, "It may be our continent, but it's your job now to see this through; it's America's problem to solve."

Before we take any step that could lead to greater U.S. action—and I argue that unilaterally lifting the arms embargo would do just that—we need to answer some serious questions about where our interests lie. Regrettably, we still do not have a clear answer. Without a clear focus of where our interests lie, I cannot support any action that would launch us headlong into a military quagmire.

I am concerned too, about the negative impact that lifting the arms embargo could have on the Bosnian people. If the United States were to lift the embargo on our own, our allies with troops on the ground would very likely pull out of portions of Bosnia, leaving the Moslem enclaves even more vulnerable to Bosnian Serb attacks and the obstruction of the delivery of humanitarian relief supplies.

There would likely be a lag time too—anywhere from 6 weeks to 6 months by many estimates—for weapons to be delivered to Bosnia. During that lag time, the Serbs will undoubtedly move swiftly to crush Bosnian Government forces. Moreover, the United States will receive the brunt of the blame when hundreds, if not thousands, of Bosnians die from lack of basic supplies or from a new round of slaughter.

Finally, a unilateral lifting of the embargo could endanger progress on the international negotiations underway and jeopardize the gains made to date through diplomacy. Even pessimists agree that for the first time, there may be a breakthrough on the diplomatic front. The contact group, consisting of representatives of the United States, the European Community, and Russia have agreed on a map to present to the warring parties. The Nunn-Warner amendment acknowledges this reality, and tracks any decision on lifting the embargo with the work of the contract group.

The foreign ministers of the United States, Russia, Britain, France, and Germany are set to meet on July 1 and 2 in Geneva to endorse a peace plan for Bosnia. The heads of states of the Group of Seven industrialized nations will meet on July 8, and are scheduled to take up the plan as well. Then, as a United front, the contract group will present the plan to the warring parties in Bosnia. Members of the contact group have at their disposal a wide range of options to encourage the parties to accept the plan. This includes the threat of lifting the arms embargo. If we were to lift the arms embargo on our own, the hard-won consensus among the contact group would unravel, and all parties to the negotiations would lose incentives to reach a negotiated settlement.

Admittedly, the diplomatic process in the Balkans has not always been perfect. There continue to be setbacks, but there also have been some important accomplishments, including the breaking of the siege of Sarajevo, the signing of a peace agreement between Moslems and Croats in Bosnia, and most recently, agreement among the contact group on a Bosnian settlement. If we build upon these and other accomplishments, we have the hope of a comprehensive peace. I for now, believe it unwise to upset the sensitive negotiation process now underway.

I acknowledge that I see merit in some of the arguments of the Dole amendments proponents. This is a difficult problem that cuts across partisan lines and that slices to the heart of issues related to United States influence and power abroad. We are, as public servants, called upon to exercise our best judgment on this very difficult issue. My conscience tells me that unilaterally lifting the arms embargo is the wrong thing to do, and I therefore must oppose this amendment, and support the Nunn-Warner alternative.

Mr. COATS. Madam President, it is obvious we will not come to a final resolution and vote on the Bosnia amendments before us on lifting the embargo. That will be deferred until next week. In accordance with that, I will somewhat abbreviate what I was going to say and reserve some of my comments for when we once again take up that particular amendment.

I am going to support the amendment being offered by Senator DOLE. I did the last time it was on the floor, which was a shift in position for me from my earlier opinion on this. Former Secretary of Defense Les Aspin said, "All the options in Bosnia are bad; some are worse." I could not agree more with that statement. There are few if any acceptable solutions which would give any of us assurance that it would successfully resolve or bring a peaceful resolution to the conflict that has now raged in that area of the world for 3 years.

I support, however, Senator DOLE's amendment with some real sincere reservations. I listened carefully to the arguments propounded by the Senator from Virginia and the Senator from Georgia, Senator NUNN and others. The points that they make have a lot of validity. There is no question that United States unilateral action in lifting the embargo has implications, many of them potentially serious implications for NATO and our current cooperative efforts with NATO countries and potential future efforts with NATO countries. I think that is a serious question that deserves examination and certainly has a bearing on our final decision regarding these two options before us on lifting the embargo.

Clearly, the argument that it undermines our claim of credibility, in terms of asking others to enforce other embargoes—whether it be the embargo against Iraq or perhaps an embargo against North Korea or other nations—clearly it undermines the credibility we have and the authority we have to insist that other nations join with us in those efforts. Lifting the embargo unilaterally, or even multilaterally, may also bring Russia into the picture in a way that does not diminish attempts at resolving the conflict in Bosnia—but actually makes for a much more difficult situation, in terms of reaching agreement.

Clearly, the Russians do not see the situation as it exists in that part of the world the way we see it. There are historical ties with the Serbs; their view of the present conflict is different from ours.

If we lift that embargo, clearly they will be under a lot of pressure to supply the Serbians with arms. We discussed that with members of the Russian Parliament, the Duma, on the trip members of the Senate Armed Services Committee recently made. I think their response was quite clear in terms of their intention to do so. They do not speak necessarily for the Government, and what President Yeltsin might ultimately decide is not something that we were able to determine. However, members of the Duma clearly expressed the thought that they would proceed posthaste to attempt to address the question on the other side of the equation.

I think the claim that our lifting the embargo will intensify the conflict and potentially prolong the conflict is a claim that has some validity, because clearly there is not a defined line between the parties in this conflict. There are three factions which have literally been at war with each other for most of the last 600 years. There are animosities and hatreds and retributions and retaliations that go back for centuries and through generations.

It is not, as some have suggested, an easy conflict with which to say these are the good guys and these are the bad guys and we are on the side of the good guys, therefore, we need to do everything we can to prepare them to defend themselves against the bad guys. There is plenty of killing, plenty of rapes, plenty of aggression, plenty of atrocities to spread among all parties engaged in this conflict, and often what we see is the picture of that faction of the conflict which has the upper hand at the moment.

Lifting the arms embargo may change that equation, particularly with the coalition effort between the Bosnians and the Moslems. There could clearly be a change from what many perceive to simply be a defensive effort, allowing them to defend themselves, to die with dignity, as some have said, to an aggressor situation.

So prolonging the conflict and intensifying the conflict, and the consequence of more killing and more atrocities, is a very real question. I do not have all the answers to that. I am not an expert on the region. I have studied some of the history. My study of the history indicates to me that there is no simple, easy solution; that we are looking at a religious, ethnic, cultural, social, political conflict that goes back many, many centuries and throughout many, many generations.

It leads me to the conclusion that outside imposition of a so-called peace agreement will be fragile at best, and probably not accepted by one or more of the parties and, if accepted, will probably be on a temporary basis. At some point, whether it is months or years, there will be a resumption of the conflict because there are scores that have not been settled, there are boundary lines that are an anathema to one party or another. There are retributions that still exist and will continue to exist, whatever is outlined in a peace agreement.

So my conclusion several months ago, perhaps a year ago, is that this is a conflict which the United States is not going to be capable of resolving; that this is an area of the world and the type of conflict which does not directly fall within the category of vital U.S. interests.

Is it important? Yes. Is it necessary that the United States attempt through diplomatic means and other means to bring about a resolution? Yes. But is it a conflict with which the United States can take a direct involvement, undergo a direct involvement with one side or the other, impose its agreement or solution to the problem and rest with the assurance that that will be successful? I think the answer has to be no.

The reality is that over a tortured period of time over which we have had some tortured debate, I think it is quite clear that the U.S. Congress, and probably this administration, is not going to commit U.S. troops on the ground in the area that we know as the former Yugoslavia. We are not going to put those troops on the ground because we cannot define a specific mission; we cannot define a strategy which allows us to accomplish the goals we would like to accomplish without extraordinary risk to American lives. I do not believe this Congress nor the American people have made the commitment to risk those lives because they have not determined that this conflict is such a vital national necessity or interest to the United States that we will make that commitment.

As such, we have tried to patch together some type of level of support for one side or the other in an attempt to bring the parties either to a stalemate or bring them to the peace table, and those attempts have not been successful. What we are seeing now is just the latest of a series of promised or at least hoped-for resolutions to the conflict.

But the reality is that the United States will not commit ground troops to bring about this resolution. The reality is that we have entered into an extremely limited involvement in terms of air support, at least keeping the skies free of military air assets that one side might use against another. But even that is extraordinarily limited, and it is through a bifurcated decisionmaking and command-and-control-making process that involves not only the United States and NATO but also involves the United Nations that we have seen how difficult that can be, and we have seen how ineffective that can be.

I stated some time ago on the floor of the Senate that I think it is important that we at least be honest with the Moslems and with the Bosnians and state categorically that there is neither the commitment nor the will on the part of the Congress, probably the administration, and the American people for us to engage any more directly than we are currently engaged.

As such, the Bosnian Moslems should not hold out the hope that either actions that we precipitate or actions that are precipitated by the Serbians are going to cause a change of heart and a change of will on the part of the Americans. As such, and because I do not believe we will make that commitment, I think the least we can do is state that up front, and then give the Moslems the means with which to defend themselves.

While these other considerations that I mentioned are important—our relationship with NATO, future involvement and coordination with NATO on areas and issues that are in our vital interest, on the embargo question, on the Russian response question, on the intensifying of the conflict issue—all of those are important. But I think there is an issue of paramount importance, and that issue of paramount importance is a moral question, a question that has been raised and discussed this morning and at other times. And that is: Should a sovereign nation be allowed to have the wherewithal to defend itself against an outside aggressor? I think that is a paramount question. I think the moral issue is paramount to the other issues.

Some would argue that it was a mistake to recognize the sovereignty of Croatia. Perhaps it was; maybe it was not. I do not know. It certainly did not accomplish the purposes we thought it would.

But that is behind us. There is nothing we can do at this point to undo that. It is a sovereign nation. It does have rights, international rights, that I think ought to be guaranteed whether or not we agree that that nation should have been granted sovereignty and recognition in the first place. The fact is that it was, and the fact is that I believe we need to recognize rights that should enure to that sovereignty and to those people that are not only guaranteed under U.N. Charter but also ought to be just simply a matter of both international law and common respect and common decency.

So I reluctantly, not believing that it offers a perfect solution or anything close to a perfect solution, but I reluctantly join with the minority leader, Senator DOLE, in supporting an effort to unilaterally, if necessary, lift the arms embargo.

Now, the argument that the alternative resolution also allows a lifting of the embargo but simply in coordination with our NATO allies to me is an argument for the status quo. I see no movement underway to either seek agreement with our NATO friends or for their compliance in any type of agreement even if we were seeking it. The status quo to me is not acceptable, given the aggression of the Serbians and given the situation as it exists. A 51 to 49 split for that country I do not believe will resolve the problem, and so I do not think the current agreement is going to come to fruition.

As a consequence, I find I reluctantly conclude that the very best of a very bad series of options is the resolution offered by the Senator from Kansas [Mr. DOLE].

So for those reasons, Madam President, I will support that amendment. But I do not do so with any assurance it will resolve a tragic situation which has existed not for 3 years but 600 years in a part of the world which few of us fully understand and which we have not defined as in our vital national interests to commit our national assets and, more importantly, our own troops in uniform to attempt to resolve.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I ask unanimous consent that I be permitted to speak for up to 10 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I thank the Chair.

PLUMMETING VALUE OF THE DOLLAR

Mr. DOMENICI. Madam President, while discussion and debate about Bosnia or about Yugoslavia or any foreign affairs issue is very important, the truth of the matter is that something is going on in the international money markets that is far more important to the American economy and to the future of our jobs and growth and prosperity than any of these discussions that are going on today.

I rise to call to the Senate's attention and to the President's attention this issue. Now, obviously, I might have a different view than the President; he is clearly being advised on this issue, but I would like to share with the Senate the serious concern I have about the plummeting value of the American dollar in world markets, especially the markets and banking systems of Germany and Japan.

Lenin reportedly once told a group of economists that the best way to destroy the capitalist system is to debase the currency. He was, obviously, correct in observing that the currency is the fundamental foundation upon which we as a nation build our economy and provide for our people. In fact, a critical element of economic growth in any country is a stable, viable currency. Today, I rise to discuss a most serious circumstance which, left unresolved, threatens to derail our continued economic progress; it is the persistent slide in the American dollar.

Despite comments from President Clinton and Secretary Bentsen that "we're going to continue to monitor the situation," instability in the dollar is not to be ignored or dismissed as just a Wall Street problem. This past Monday, the mark/dollar exchange rate fell below 160, capping a substantial 4-percent 1 week decline, and I might say that today the mark fell yet more. It is now, today, at 1.585, and the stock market dropped 40 points, all while long-term interest rates rose from 7.4 to 7.51.

Incidentally, that 7.51 long-term rate is higher than when this President took office. Some have been talking about lower interest rates, but it is now higher than when he took office. Normally, higher interest rates on long-term 30-year bonds invite foreign investment, but in fact they are not.

Tuesday, the dollar plunged below 100 yen against the dollar for the first time since the Second World War. It has gone up slightly, came down, and is now just slightly above 100.

Let me tell you again how low that is: 100 yen against the dollar for the first time since the Second World War. Now, today, we are in a coordinated intervention mode which says that central banks of 10 countries, including the United States and Germany, are attempting to shore up the dollar. That means they are buying dollars, but it is not working. So far today, a continued lack of confidence in the U.S. dollar is pushing up interest rates on the long-term side, and pushing down asset values. This has occurred despite what Chairman Greenspan has described as a fundamentally strong economy.

Now, I am not arguing with Chairman Greenspan. I am taking his assessment as a reality, because if the economy is fundamentally strong from an economic standpoint, why is the American dollar falling so rapidly in the world money markets? In fact, the current recovery has been in the cards as I view it, for some time now, is the result of solid foundations of low inflation, low-interest rates, and high productivity growth, established over a long period of time including the last two Republican administrations.

If one looks at the economic statistics in a vacuum, as I indicated a while ago, the conclusion would, indeed, be that the U.S. economy is in good shape. But those who deal with the worldwide financial markets, Madam President, look at more than just the statistics, because if one just looks at the economic statistics this should not be happening. They must be looking at something else. Indeed, they do, and they tell us they do. They also look at the overall direction or lack thereof of where the leadership of this administration is taking us. I am among many others who attribute this recent, precipitous drop in the dollar to a worldwide lack of confidence in United States leadership that is threatening prospects for a sustained U.S. economic growth.

What is needed is for this administration to look at its international trade policies and all its international policies, and begin to conclude that they must be made more credible, and they must build confidence in the world's economic market.

What is required is that the administration provide that needed leadership to stabilize the dollar, and restore international confidence in the United States economy, and the extended expansion of it.

Let me turn to the next issue which I will call the vote of no confidence. Currency market instability is a global vote of no confidence. What is going wrong? I want to repeat that. My best summary of what is happening, and it is dead serious, is that currency market instability is a global vote of no confidence. The surprising thing is that foreigners are indicating the lack of confidence despite rising U.S. interest rates, which normally instill confidence and create investments of those American dollars which are accumulating overseas because of our balance of trade deficit. They have more dollars because they have sold more goods to us than we have sold to them. These dollars must be invested in America. Normally the confidence shows up when interest rates here are high, and the investment comes flowing back. The surprising thing is that this confidence is not reoccurring even with interest rates going up.

First, let me lay out what I understand sets exchange rates. In 1993, the U.S. purchased $109 billion more goods and services than foreigners did of U.S. products. That is called a current account deficit. That means we bought more than we sold, in summary. In 1993, that was $109 billion. The impact of this deficit is that foreign sellers were left with $109 billion in excess U.S. dollars that were not needed for purchases. These dollars are used to invest in U.S. securities and other investments that generate a return. These dollar investments by foreigners represent what we all call capital accounts.

Simply put, the exchange value of the dollar is set by whether foreigners want to hold more or less dollars in their capital accounts than the $109 billion they are required to hold—the result of the current account balance.

If the return on the U.S. investments is not sufficiently attractive, then they wish to hold fewer dollars which decreases its exchange value, pushing the dollar down. On the other hand, if the U.S. returns are sufficiently attractive, the reverse is true. But of course that is not the current situation. So something is amiss besides economics. A weak dollar means foreigners lack confidence in dollar investments despite current U.S. rates of return. Long-term interest rates have been rising in the United States by more than can be explained by the Federal Reserve Board's efforts to control inflation.

So far those who are now concerned about the 7.51 percent interest rate on 30-year bonds, it is now higher than what was caused by Federal Reserve action and higher now than when this administration took office. Yet, despite these higher rates of return, foreign investors now shun U.S. investments. Today, overseas investors would prefer not to hold assets denominated in dollars. It is too uncertain, too great a risk.

Consequently, foreign central banks time and time again have had to pick up the slack through intervention as the Bank of Japan did recently on Wednesday. G–7 intervention in May tried to halt the erosion in dollar confidence and that effort met with little success. Another round of intervention today does not appear to be any more successful because the exchange rate numbers I gave you in the opening comments as I indicated were after intervention by 10 international banks tried to change the valuation.

I believe there are a number of reasons for the instability that we are experiencing. First, the administration has created uncertainty in currency markets by taking a narrowly focused unilateral approach to trade policy. They have indicated a willingness to allow currency markets to be held hostage to United States-Japanese trade disputes. I believe the effect of the problem with Japan in terms of our trade relations is causing a very big ripple and many do not understand it yet. Perhaps the continued drop of the American dollar will expedite a solution to that problem. This is occurring at the same time that we are seeing an ominous widening of our trade deficit. In particular, this week's dollar plunge in part reflects Tuesday's release of the trade deficits.

The United States trade deficit rose to $8.4 billion in April, up from an average of $8 billion in the first quarter and $6.6 billion in the fourth quarter of last year. But no action has been taken to try to stabilize the dollar. In other words, just when we are asking those abroad to hold more trade-deficit generated dollars, the message here to foreign investors is the stability of the American currency cannot be trusted.

Second, there is a lingering concern about Federal deficits in spite of recent short-term good news, especially for those expert in analyzing what we are probably going to do to our deficit with an open-ended health care reform package. Under current projections and policies, we will become ever more dependent on foreign investments flowing into the United States after waiting for a short reprieve of 4 or 5 years.

Without confidence in the stability of the dollar we will be unable to close the gap between what we need to finance our Federal deficits and what we will be able to secure from abroad. As a result, interest rates will go even higher to close the gap dampening long-term growth and economic prospects. Madam President, we will not have to wait around for the Federal Reserve to raise interest rates. Interest rates will go up anyway if this situation continues dampening long-term U.S. economic prospects because it will go up to stabilize the American dollar. It will happen in the marketplace.

Allowing confidence in the stability of the U.S. currency to significantly erode is not just unfortunate, it must be solved. It will represent the poorest of leadership if we do not attempt to solve it.

When this administration came to office, they said they would provide domestic economic leadership. What I believe they are realizing today—and so are we—is that this cannot be done without coherent and competent international leadership as well. Let me repeat. To promise domestic economic leadership without coherent competent international leadership will not make the economy of America better. It will make it worse. And on the international front, from Korea to Bosnia to Somalia to Haiti, we have a troubling record before us which certainly does not promote confidence. Compounding this crisis of executive leadership is a forced crisis of monetary leadership. The more we as Senators take to the floor of the Senate and criticize the Federal Reserve Board, giving an indication that we as politicians might want to destabilize that entity's power, the more credibility weakens with reference to our currency in the international markets.

Calls from Congress to reign in the Federal Reserve are part of this credibility problem. If we cannot provide a firm, rock solid currency, our many other economic goals are in jeopardy.

So, today, I took this opportunity in the midst of a very heated debate regarding one area of international policy to beseech the administration to provide the needed leadership to stabilize this dollar and to recognize that economic leadership at home will not suffice if international leadership is not stable, consistent, and strong. I believe the facts are beyond dispute.

I yield the floor.

NATIONAL DEFENSE AUTHORIZATION ACT OF FISCAL YEAR 1995

The Senate continued with the consideration of the bill.

Mr. NUNN. Madam President, we have a few amendments that we can agree to now, I believe, on both sides. The Senator from Indiana is going to be here. I believe the Senator from Alaska has an amendment he is going to present, which is acceptable on my side of the aisle; I am not sure on the other side. There is an amendment by Senator HUTCHISON, the Senator from Texas, and I believe the Senator from Indiana will present that amendment.

I ask unanimous consent that the pending amendment be temporarily set aside so that other amendments may be offered.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1853

Mr. COATS. Madam President, I send an amendment to the desk on behalf of Mrs. HUTCHISON and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. COATS], for Mrs. HUTCHISON, proposes an amendment numbered 1853.

Mr. COATS. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert:

SEC. . REVISIONS TO RELEASE OF REVERSIONARY INTEREST, OLD SPANISH TRAIL ARMORY, HARRIS COUNTY, TEXAS.

(a) CLERICAL AMENDMENTS.—Section 2820 of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1894) is amended—

(1) in subsection (a), by striking out "1936" and inserting in lieu thereof "1956"; and

(2) in subsection (b)(1), by striking out "value" and inserting in lieu thereof "size".

(b) PAYMENT FOR SURVEY.—Subsection (c) of such section is amended by adding at the end the following: "The cost of the survey shall be borne by the State of Texas.".

Mrs. HUTCHISON. Madam President, the purpose of my amendment is to make a technical correction to a provision of the Department of Defense Authorization Act for fiscal year 1994. The original provision was contained in the House-passed bill. The Senate concurred with the amendment during the joint conference. Unfortunately, the provision contained an error in drafting that needs to be corrected. The Department of the Army supports this change, and I urge its adoption.

Mr. COATS. I understand this amendment has been cleared on both sides. We have no objection.

Mr. NUNN. I urge the amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1853) was agreed to.

Mr. NUNN. Madam President, I move to reconsider the vote.

Mr. COATS. I move to lay that vote on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1854

(Purpose: To provide credit under small business subcontracting plans for purchases from central nonprofit agencies designated by the Committee for Purchase From People Who Are Blind or Severely Disabled)

Mr. NUNN. Madam President, I send an amendment to the desk on behalf of Senators BINGAMAN and SMITH and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. BINGAMAN, for himself, and Mr. SMITH, proposes an amendment numbered 1854.

Mr. NUNN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 177, between lines 5 and 6, insert the following:

SEC. 816. TREATMENT UNDER SUBCONTRACTING PLANS OF PURCHASES FROM QUALIFIED NON-PROFIT AGENCIES FOR THE BLIND OR SEVERELY DISABLED.

(a) REVISION AND EXTENSION OF AUTHORITY.—Section 2410d of title 10, United States Code, relating to credit under small business subcontracting plans for certain purchases, is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

(i) by striking out "and" at the end of subparagraph (A);

(ii) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(iii) by adding at the end the following new subparagraph:

"(C) a central nonprofit agency designated by the Committee for Purchase From People Who Are Blind or Severely Disabled under section 2(c) of such Act (41 U.S.C. 47(c)).";

(B) by striking out paragraph (3); and

(C) by redesignating paragraph (4) as paragraph (3); and

(2) in subsection (c), by striking out "September 30, 1994" and inserting in lieu thereof "September 30, 1997".

(b) CONFORMING AMENDMENT.—Section 2301(d) of such title is amended by striking out "approved commodities and services (as defined in such section)" and inserting in lieu thereof "commodities and services".

Mr. BINGAMAN. Madam President, section 2301(d) of title 10, United States Code provides that it is the policy of Congress to provide opportunities for the blind or other severely handicapped to participate in defense procurements as subcontractors and suppliers. This policy is implemented in section 2410d of title 10, United States Code, which provides that subcontracts with qualified nonprofit agencies for the blind or severely disabled may be counted by contractors in terms of meeting their subcontracting goals.

Section 2410d expires on September 30, 1994. The amendment sponsored by Senator SMITH and myself would extend this important provision for 3 years. In addition, it would enhance the effectiveness of this provision by including central nonprofit agencies for the blind or severely disabled—the National Industries for the Blind and the National Industries for the Severely Disabled. The amendment would also remove the administrative burden imposed by current law, which provides subcontracting credit only for commodities and services expressly approved by the Committee for Purchase from the Blind and Severely Disabled. Finally, the amendment would make conforming changes in the statement of congressional policy in section 2301(d) of title 10, United States Code.

I urge the adoption of the amendment.

Mr. NUNN. Madam President, I urge adoption of this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1854) was agreed to.

Mr. NUNN. Madam President, I move to reconsider the vote.

Mr. COATS. I move to lay that on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1855

(Purpose: To transfer family housing located at a closed Air Force Radar Bomb Scoring Site in Holbrook, AZ, from the Air Force to the Department of the Interior)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of Mr. DECONCINI and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. DECONCINI, proposes an amendment numbered 1855.

Mr. NUNN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title XXVII, Subtitle C of the bill, add the following section:

SEC. . TRANSFER OF JURISDICTION, AIR FORCE HOUSING AT RADAR BOMB SCORING SITE, HOLBROOK, ARIZONA.

(A) TRANSFER AUTHORIZED.—As part of the closure of an Air Force Radar Bomb Scoring Site located near Holbrook, Arizona, the Secretary of the Air Force may transfer without reimbursement the administrative jurisdiction, accountability and control of the housing units and associated support facilities used in connection with the site to the Secretary of the Interior for use in connection with the Petrified Forest National Park.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be transferred under subsection (a) shall be determined by a survey satisfactory to the Secretary of the Air Force and the Secretary of the Interior.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Air Force may require such additional terms and conditions in connections with the transfer of real property under subsection (a) as the Secretary considers appropriate.

Mr. DECONCINI. Madam President. I offer this amendment to the fiscal year 1995 Defense authorization bill transferring family housing located at a closed Air Force Radar Bomb Scoring Site near Holbrook, AZ, from the Air Force to the Department of the Interior. The purpose of this transfer is to provide badly needed housing for employees of the Petrified Forest National Park at no extra cost to the American taxpayer.

The 11 townhouses at Holbrook, which have been listed as surplus by the Air Force, have stood vacant for nearly 1 year. During this same period, officials at the Petrified Forest National Park have been forced to house their employees in antiquated structures built in the 1930's. Most people think of Arizona as a hot, dry, desert, however, the area around Holbrook is in the White Mountains near one of the West's best ski areas. It gets quite cold in the winter. Adoption of this amendment would ensure that our hardworking Interior Department employees have adequate, and warm, housing for their families.

This amendment, offered in the House of Representatives by my Arizona colleague, freshman Representative KARAN ENGLISH, was adopted by the full House during its consideration of the fiscal year 1995 Defense authorization bill. I appreciate the courtesy of the Chairman of the Senate Armed Services Committee and his staff in working with my staff on this amendment, and I urge its adoption by the Senate.

Mr. NUNN. Madam President, this amendment transfers jurisdiction of 11 family housing units and in support facilities at the former Air Force Radar Bomb Scoring Site near Holbrook, AZ, from the Air Force to the Department of the Interior.

I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1855) was agreed to.

Mr. NUNN. Madam President, I move to reconsider the vote.

Mr. COATS I move to lay that on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1856

(Purpose: To authorize original appointments of limited duty officers of the Navy and the Marine Corps in grades in which such officers are serving on active duty pursuant to a temporary appointment)

Mr. NUNN. Madam President, I send an amendment to the desk for Mr. SHELBY and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. SHELBY, proposes an amendment numbered 1856.

Mr. NUNN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 124, between lines 4 and 5, insert the following:

SEC. 506. ORIGINAL APPOINTMENTS OF LIMITED DUTY OFFICERS OF THE NAVY AND MARINE CORPS SERVING IN TEMPORARY GRADES.

Section 5589 of title 10, United States Code, is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

"(f) Original appointments as regular officers of the Navy or Marine Corps may be made from among officers serving on active duty in a higher grade pursuant to a temporary appointment in that grade under section 5596 of this title. The grade in which an officer is appointed under this subsection shall be the grade in which the officer is serving pursuant to the temporary appointment. The officer's date of rank for the grade of the original appointment shall be the same as the date of rank for the grade of the temporary appointment.".

Mr. SHELBY. Madam President, I offer this amendment to give the Secretary of the Navy discretionary authority to redesignate certain "temporary" limited duty officers as "permanent" limited duty officers with the same grade and date of rank.

The Marine Corps has a number of officers designated as limited duty officers. These officers serve as "temporary" limited duty officers and as "permanent" warrant officers. Therefore, they compete for promotion both as limited duty officers and warrant officers.

This amendment would authorize the Secretary of the Navy to designate limited duty officers as "permanent" and to terminate their warrant officer status.

Mr. NUNN. Madam President, this amendment provides the Navy discretionary authority to redesignate certain "temporary" limited duty officers as "permanent."

I urge adoption of the amendment.

The PRESIDING OFFICER (Mr. LEAHY). The question is on agreeing to the amendment.

The amendment (No. 1856) was agreed to.

AMENDMENT NO. 1857

(Purpose: To authorize the Secretaries of the military department to waive administratively imposed time-in-grade requirements for purposes of computing retired pay under the provision of law that prevents pay inversions)

Mr. NUNN. Mr. President, I send an amendment to the desk for Mr. SHELBY and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. LEAHY). The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. SHELBY, proposes an amendment numbered 1857.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 138, between lines 11 and 12, insert the following new section:

SEC. 634. COMPUTATION OF RETIRED PAY TO PREVENT PAY INVERSIONS.

Section 1401a(f) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(f) PREVENTION OF PAY INVERSIONS.—"; and

(2) by adding at the end the following new paragraph:

"(2)(A) Subject to subparagraph (B), for the purpose of computing the monthly retired pay of a member or former member of an armed force under paragraph (1), the Secretary concerned may waive any provision of a regulation that, as such provision was in effect on the earlier date applicable to the member or former member under paragraph (1), required a member to serve for a minimum period in a grade as a condition for retirement in that grade.

"(B) Any waiver under subparagraph (A) shall apply in the case of a member or former member only to that part of the minimum period of service provided for a grade in the regulation that exceeds the minimum period of service in such grade that was authorized by a provision of this title to be required as a condition for retirement in that grade (as such provision of this title was in effect on the earlier date applicable to the member or former member under paragraph (1)).

"(C) The Secretary concerned may waive the provision of a regulation under subparagraph (A) in the case of a particular member or former member or for any group of members or former members.".

Mr. SHELBY. Mr. President, this amendment would protect the retired pay of certain military retirees who left military service in the 1970's.

An amendment known as the Tower amendment was enacted in 1975 and ensured that personnel who remained on active duty past their initial retirement eligibility date did not draw less retired pay than their peers who chose to retire. The Tower amendment was occasioned by adjustments to retired pay, that were based on the Consumer Price Indices, exceeding actual pay raises by substantial amounts.

The manner in which the Air Force applied the Tower amendment, though believed to be appropriate at the time, has recently been found to be administratively incomplete. Without the amendment I have introduced today, the Air Force would be forced to conduct a costly and time-consuming bureaucratic exercise to grant over 4,000 individual waivers to individuals affected by the Tower amendment in order to ensure these retirees will have their retired pay reduced, through no fault of their own, beginning on October 1, 1994.

Mr. NUNN. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1857) was agreed to.

AMENDMENT NO. 1858

(Purpose: To impose requirements regarding the management and budget responsibility for the space-based chemical laser program)

Mr. COATS. Mr. President, I send an amendment to the desk for Mr. WALLOP and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. COATS], for Mr. WALLOP, proposes an amendment numbered 1858.

Mr. COATS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 37, after line 25, add the following:

SEC. 224. MANAGEMENT AND BUDGET RESPONSIBILITY FOR SPACE-BASED CHEMICAL LASER PROGRAM.

(a) FINDINGS.—Congress makes the following findings:

(1) In section 243 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1615) Congress directed the Secretary of Defense to transfer management and budget responsibility for research and development regarding far-term follow-on technologies from the Ballistic Missile Defense Organization unless the Secretary certifies that it is in the national security interest of the United States for the Ballistic Missile Defense Organization to retain that responsibility.

(2) For purposes of section 243 of such Act, a far-term follow-on technology was defined as any technology that is not incorporated into a ballistic missile defense architecture and is not likely to be incorporated within 15 years into a weapon system for ballistic missile defense.

(3) The Secretary of Defense has recommended pursuant to section 243 of such Act that management and budget responsibility for chemical laser technology be retained in the Ballistic Missile Defense Organization.

(b) ASSIGNMENT OF RESPONSIBILITY.—Subject to subsection (c), the Ballistic Missile Defense Organization is authorized to retain management and budget responsibility for chemical laser technology programs.

(c) REQUIREMENTS.—(1) The Director of the Ballistic Missile Defense Organization shall ensure that, to the extent practicable, the conduct of research and development related to space-based chemical lasers reflect appropriate consideration of a broad range of military missions and possible nonmilitary applications for such lasers.

(2) If, as a result of budgetary limitations, the Director of the Ballistic Missile Defense Organization is unable to program sufficient funds to ensure that the space-based chemical laser program remains an option for the acquisition process within the next fifteen years, the Secretary of Defense shall—

(A) establish a new high energy laser research and development program outside of the Ballistic Missile Defense Organization;

(B) transfer $50,000,000 out of funds available for fiscal year 1995 for programs administered by the Ballistic Missile Defense Organization to the new high energy laser research and development program; and

(C) assign the duty to perform the management and budget responsibilities for the new program to the Secretary of the military department determined by the Secretary of Defense most appropriate to perform such responsibilities or, if the Secretary determines more appropriate, to the head of the Defense Agency of the Department of Defense that the Secretary determines most appropriate to perform such responsibilities.

Mr. WALLOP. Mr. President, this amendment would permit the ballistic missile defense organization to maintain management and budget responsibility for space-based lasers, subject to certain conditions.

The Senate Armed Services Committee had recommended in its report on the fiscal year 1995 Defense authorization bill the transfer of the laser program out of BMDO. In part, this recommendation was based on the fact that the Department of Defense had not yet submitted a recommendation on this matter, as required by last year's Defense Authorization Act. Since the committee issued its report, the Secretary of Defense has recommended that BMDO retain management of the laser program.

The committee was also concerned that, as a result of budgetary constraints, BMDO would not be able to adequately fund the laser program. I share this concern. As a result, I have proposed a solution that would allow BMDO to keep the laser program as long as the Director can continue to program sufficient funds to keep the laser program as a coherent effort that would allow us to make a decision within 15 years as to whether to allow the laser program to enter the acquisition process.

This solution takes into account the views of all concerned with the laser program and the BMDO technology base in general. I believe that it is acceptable. I urge its adoption.

Mr. COATS. Mr. President, this amendment would permit the ballistic missile defense organization to maintain management and budget responsibility for space-based lasers.

I understand that the amendment has been cleared by both sides, and I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1858) was agreed to.

Mr. COATS. I move to reconsider the vote.

Mr. NUNN. I move to lay that on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1859

Mr. NUNN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. SMITH, proposes an amendment numbered 1859.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . DEPARTMENT OF ENERGY DECLASSIFICATION PRODUCTIVITY INITIATIVE

Of the funds authorized to be appropriated to the Department of Energy under Section 3103, $3,000,000 shall be available for the Department of Energy's Declassification Productivity Initiative.

Mr. SMITH. Mr. President this amendment seeks to address certain deficiencies within the Department of Energy's Office of Declassification. The amendment authorizes $3 million to initiate the Department's Declassification Productivity Initiative which will introduce computer aided systems to improve productivity in declassifying documents.

The Department of Energy has reported that approximately 30 million documents are awaiting declassification review. Further the Department has received hundreds of request for information from specific documents that must go through this tedious review process. Because of the magnitude of classified and restricted documents, the Department's Office of Declassification is seriously constrained in time, money, personnel, and applicable technology to do the job in an efficient manner. Indeed, current declassification efforts entail only two specially trained declassifiers who laboriously review documents by manually checking them against the Department's 80 classification guidelines. These guidelines, which themselves are classified, enable the reviewer to decide what must remain classified.

While current efforts focus on individuals spending significant time and resources, the Declassification Productivity Initiative will increase the productivity of the review process through the introduction of incremental computer aided systems—most notable optical scanner systems—that will help the reviewers decisionmaking by reducing the amount of text they must review. The specific goals of the DPI also include reducing the high cost of declassification, providing timely and efficient access to the declassified records, and ensuring the safety and security protocols for retaining necessary classified information. In addition, the DPI will continue to develop the expert systems, advanced optical scanning, and computer software that will ultimately lead to complete automation of the declassification review process.

The primary benefits anticipated from the DPI are substantial reductions in both the time and cost of the declassification process. Though the Initiative is targeted toward the Department of Energy, there would be obvious benefits to other Federal agencies, as well. In fact, the products developed under the DPI would have much broader uses. In addition to high-speed document declassification, the DPI will ultimately develop advanced hardware and software programs applicable to information and data intensive industries in the private sector, including health care, banking, and petrochemicals.

Finally, Mr. President, the DPI promotes the efforts of our Government and the Armed Services Committee to encourage technology diversification and reinvestment, create new applications in high performance computing, develop new information infrastructure, and help promote our industrial competitiveness.

Though $3 million is a small investment for such a challenging task, it is a critically important first step. I am hopeful the Department of Energy will accelerate its efforts and increase resources for the DPI beyond the limited funds we provide in the bill. I would also hope that other Departments, including Defense, look toward the DPI as a model for framing their own declassification efforts.

Mr. President, I understand the amendment has been cleared on both sides. I thank my colleagues and staff for their assistance, and I move the amendment.

Mr. COATS. Mr. President, this amendment would require the Department of Energy to fund a $3 million effort to create a computer program to declassify documents.

I understand that this has been cleared on both sides, and I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1859) was agreed to.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska [Mr. STEVENS] is recognized.

AMENDMENT NO. 1850

Mr. STEVENS. Mr. President, I ask unanimous consent that my amendment that was previously put aside be brought before the Senate again.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I do not want to delay the managers of the bill. I would be happy to at any time have the motion to consider this amendment. I know the Senator from Georgia wants to get finished quickly.

Yesterday, I advised the managers of the bill my intent to offer an amendment reducing the authorization for the federally funded research and development centers, known as FFRDC's.

This Senator discussed that matter on the floor, in reference to the need to find a way to restore the authorization for the National Defense Sealift Fund, and initiate procurement of the LHD–7 amphibious assault ship.

At this time, the amendment I have sent to the desk addresses the compensation provided the officers and employees of the federally funded research and development centers.

I reiterate my comments of respect and recognition for the contributions made by the FFRDC's to our national defense. At MITRE, Rand, the Aerospace Corp. and all the rest, dedicated people are working to support our national defense.

Their contributions though do no exceed, and cannot have priority over, the military, warfighting needs of our forces.

Most of the employees at FFRDC's are paid less than these amounts. Their pay still exceeds comparable experts within the Department of Defense and the national labs.

We should not provide financial disincentives for people to engage in Government service, by providing quasi-governmental entities with superior pay and benefits—at taxpayer expense.

Again, this amendment is not an attack on the individuals who now manage and lead the FFRDC's. I know that many could command higher salaries in the private sector.

But that is my point—the FFRDC's are not part of the private sector. They are intimately involved in many aspects of our national defense policy—with much of their business obtained on a noncompetitive basis with the private sector.

Mr. President, this amendment represents only a first step to review and place the management and spending at FFRDC's on a rational level with other defense priorities.

I appreciate the managers' consideration of this amendment, and I join them in their efforts to ensure proper oversight of the federally funded research and development centers.

Despite the limited reductions in FFRDC spending initiated by the Appropriations Committees in 1989, these centers have continued very generous compensation packages for top executives.

In a recent report by the publication Science & Government Report, the salaries of managers at Rand, MITRE, and the Institute for Defense Analyses were detailed.

My comments are not critical of these individuals—I know several of them, and respect them personally. But their pay and benefits must fit within the framework for all Federal entities.

I do not want to attack any of the individuals cited in this report directly. But according to that report, pay in the amounts of $180,000, $200,000, even $295,000 is not uncommon.

This Senator does not accept, approve or countenance a pay system at these centers, derived from the defense budget, that exceeds the pay of the Secretary of Defense, Chairman of the Joint Chiefs, and the Chiers of Staff of the military services.

In several instances, pay of FFRDC executives exceeds that even of the President of the United States.

The Department of Defense should not underwrite this practice.

We have sustained funding for the FFRDC's over the past 5 years at a level far above the overall cutbacks to our defense program.

I do not propose that the FFRDC's to bear an unfair burden of those cuts—I only suggest that they at least share in our defense drawdown.

All FFRDC's are not alike. Some provide written studies and analyses. Others assist in the design and engineering of weapons systems. Some are directly involved in the management of defense development and acquisition programs.

Because these functions are so different, this Senator has not proposed specifying the cut against each of these entities. That responsibility should rest with the Department of Defense.

Unfortunately, as of this week, the Department was unable to provide the Defense Appropriations Subcommittee with a detailed breakout of the 1995 funding for these centers.

That problem is reflected in the language included by the Armed Services Committee—which I again commend the Committee for including in the bill and report.

It is time that these centers begin to compete for funding with other defense priorities.

Mr. President, I ask unanimous consent to print in the RECORD an excerpt from the report of the committee pertaining to the subject of FFRDC's.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Federally funded research and development centers

The committee is pleased that the Department of Defense has begun to implement the management reforms which the Congress has demanded for DOD federally funded research and development centers (FFRDCs) in recent years. The committee is also pleased that the individual FFRDCs are being managed to ceilings that collectively are less than the total ceiling imposed by the Congress for fiscal year 1994. The committee is aware that these individual ceilings were established by the Defense Department in accord with the general instructions provided by Congress for fiscal year 1994.

During the past year, the committee has become aware of two serious issues regarding the Defense Department's management of its FFRDC program. The first issue is the compensation of FFRDC employees, especially senior management. During the congressional review cycle last year, the committee proposed freezing the salary of FFRDC employees. This proposal was not enacted into law based on assurances from the Defense Department and from several top managers of individual FFRDCs that such a freeze would damage the FFRDCs and the Defense Department. Later in the year, the committee became aware of serious allegations that some FFRDCs had granted substantial raises to top management personnel while laying off lower ranking workers.

The second issue is the role of FFRDC derivative organizations in allowing FFRDCs to circumvent management ceilings and restrictions contained in sponsoring agency mission statements. Because contract awards to FFRDCs are excepted from the requirement for full and open competition, the creation of such entities, both as affiliated FFRDCs and non-FFRDCs, has resulted in an ambiguous legal, regulatory, organizational, and financial situation. For example, there have been allegations that government users granted inappropriate award preferences because they did not realize that a non-FFRDC affiliate of an FFRDC was not covered under the agency sponsorship agreement with the FFRDC.

In order to gain a better understanding of these two issues, the committee directs the Defense Department to provide a report identifying all FFRDCs and all affiliated entities, both FFRDCs and non-FFRDCs. The report shall include a discussion of the relationship between the statements of work of the original FFRDCs as well as those of their affiliated entities. The report shall also identify all sponsors and customers, the value of contracts with each, and approved and actual staffing levels for those entities over which the federal government has some cognizance. Finally, the report shall also include an analysis of the levels of compensation for FFRDC employees compared to their counterparts in similar for-profit companies. The portion of the report addressing FFRDCs and affiliated entities should be compiled from data from the organization's most recent fiscal year. The report should be submitted to the committee not later than April 1, 1995.

Based on the continuing decline in the Department of Defense budget for research and development and the fact that many FFRDCs will not reach funding ceilings in fiscal year 1994, the committee directs the Department to limit its funding for FFRDCs in fiscal year 1995 to $1.3 billion, a reduction of just under 4 percent. The committee again directs the Department to ensure adequate funding for the smaller FFRDCs that provide studies and analysis support to the Department.

Mr. STEVENS. Mr. President, let me summarize by saying yesterday I did discuss on the floor an amendment to reduce the authorization for federally funded research and development centers.

As pointed out here in my statement, I want to wait to pursue that until we see the committee's review of the various proposals that have been made to restore the initiative for sealift and the LHD–7. This is not that amendment. I just want to make sure there is no misunderstanding. This is not the amendment to reduce the authorization for FFRDC's. This is an amendment I offered at this time because of the statements made in the RECORD, and also because of the history of my concerns over the years with the compensation schedule for officers and employees of these FFRDC's.

I respect what they do, and I respect the fact that they are needed by the Department of Defense. But as I pointed out yesterday when we already reduced the procurement effort by 60 percent, to maintain the level of funding for these FFRDC's at the level set is not correct, and to allow these FFRDC's to set their salaries at levels far beyond the compensation schedule for Federal employees, to me, is wrong.

About 95 percent of the money these FFRDC's spend is taxpayers' money directly. I do not see any reason why we should allow the establishment of a system whereby Federal money is paid through an FFRDC to compensate people far beyond what they could receive if they were working within one of the agencies.

This amendment is for that purpose. It is to limit the total compensation for any officer or employee of FFRDC's to the executive level 1. Currently that is about $148,000, Mr. President, more than the compensation of Members of the House and Senate. I see no reason why we should have people being compensated in excess of that level.

By a report that has been circulated rather extensively, pay in these areas is routinely in excess of $200,000 and there are some even farther beyond that. As a matter of fact, several of these people are paid far in excess of the amount that we pay the President of the United States.

They are not just quasi-governmental, they are governmental. Primarily 95 cents on the dollar is taxpayer money.

Under those circumstances we should send the word to them that they are limited by the same schedule that applies to all people who are spending Federal taxpayers' money.

I have the full statement in the RECORD. That is the intent and purpose of this amendment.

I am aware this will cause a little consternation out there. I want to say to my good friend from Georgia, and I know Senator WARNER is going to be involved in this, and Senator THURMOND, when you get to conference I will understand and we all understand there has to be some fine-tuning of this amendment. I do hope the Senate will maintain its position that the limitations on the compensation follow the Federal taxpayers' dollar.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, there will be some consternation on this amendment. There is some uneasiness by some Senators on this, I think, on both sides of the aisle, because the original concept of these laboratories was to remove them somewhat from Government and thereby have their salaries more competitive with the free enterprise system rather than governmental.

It is very difficult, if not impossible, to justify some of the salaries that are being paid. For that reason, I think the Senator from Alaska makes a valid point.

I urge the adoption of the amendment. We may hear more about this before the conference, and I am sure the Senator from Alaska will be willing to listen to reason on this from people who may be concerned on both sides of the aisle.

So I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

The Senator from Indiana.

Mr. COATS. Mr. President, it is my understanding that a Senator on our side wishes to speak on this amendment, and has been notified and is on his way. So I do not believe we are ready to move to adoption of the amendment at this particular time. The same reservations that were expressed by the Senator from Georgia are apparently held by the Senator from Virginia, and he wants to come and address that issue.

Mr. President, the latest flash from the front indicates that it would be acceptable to go ahead and accept the amendment at this particular time, with the reservation expressed by the Senator from Alaska and the Senator from Georgia that there is some controversy regarding this but it is something that can be resolved during the conference on this.

With that we can go ahead.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 1850) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. COATS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1841

Mr. HATFIELD. Mr. President, I am deeply appreciative of the concerns raised by my colleague, Senator FEINGOLD, who sought to delay funding for the Navy CVN–76 *Nimitz*-class carrier. Like him, I believe that defense spending remains too high and that every military activity must be submitted to evaluation.

While I agree with the goal of reduced military spending and have spent my time in the Senate working for budget reductions, I respectfully disagreed with my colleague that delaying the aircraft carrier is in the best interest of the taxpayer.

As the ranking Republican on the Senate Appropriations Committee, I must evaluate Senator FEINGOLD's amendment in terms of funding as well. The Appropriations Committee has provided procurement funding for the CVN–76 for fiscal years 1993 and 1994. The Navy reported to Congress that the shipyard constructing this carrier states that a 1-year delay in the funding adds $400–$500 million to the cost, due to the necessity to reconstitute skills, facilities, and suppliers.

If I had more confidence that the carrier fleet would be reduced then I would have been sympathetic to Senator FEINGOLD's arguments. The decision to maintain a 12-carrier fleet, however, has been extensively considered. It has been determined that aircraft carriers are and will continue to be a valuable tool in our defense activities. Carrier task forces have proven themselves invaluable during times of war and also have served as a deterrent to hostilities.

Based upon the findings of the bottom-up review and continued support for the CVN–76 in Congress, I have concluded that a reduction in the carrier fleet is unlikely. Therefore, I believe it is incumbent that Congress achieve the greatest savings possible. For this reason I voted to continue funding the procurement of the CVN–76.

Mr. President, the Senate Armed Services Committee in its fiscal year 1995 authorization bill has included a provision which will strengthen oversight on nuclear weapons activities.

The provision, which was originally proposed in the House by Congresswoman ELIZABETH FURSE, assures that the Nation's nuclear weapons laboratories are receiving appropriate approval of nuclear weapons activities. As Congresswoman FURSE describes it, this provision puts sunshine on warhead activities.

This provision is a step forward in our effort to reduce our nuclear weapons activities. Although the Congress ended underground nuclear weapons testing nearly 2 years ago, I remain concerned that there does not exist a consensus on our weapons policy. Furthermore, because nuclear weapons activities undertaken by our Nation could have ramifications in our continuing efforts to achieve a Comprehensive Test Ban Treaty and the renewal of the Nuclear Non-Proliferation Treaty, I believe it is important that all nuclear weapons activities be approved by the Joint Nuclear Weapons Council.

In addition, I welcome the requirement that the Joint Nuclear Weapons Council provide a report to Congress annually. As the ranking Republican on the Subcommittee on Energy and Water Development, I believe this report will be valuable.

The PRESIDING OFFICER. Who seeks recognition?

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COATS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Mr. President, I ask unanimous consent to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH CARE

Mr. COATS. Mr. President, this morning's Washington Post feature story is headlined, "Health Bill Cleared for Floor Votes."

> In a victory for the President, the House Education and Labor Committee approved a modified Clinton health bill yesterday that provides health insurance for all Americans and compels employers to pay 80 percent of the premiums for their workers.
>
> "Today . . . for the first time ever, a committee in each House of Congress has reported a bill that guarantees universal coverage," President Clinton said, referring to a similar bill passed by the Senate Labor and Human Resources Committee 3 weeks ago.

Mr. President, at least according to the Washington Post, and at least according to the President of the United States and some others, the Clinton health plan is moving forward. Two committees now, one in the House and one in the Senate, have reported bills that are based on the same framework and very similar to what the President proposed in his Health Security Act. It was passed, admittedly, by two committees that are not deemed to have primary jurisdiction over health care, but it is touted on a front page article here today as a very important step forward for the President's health care bill.

I serve on the Senate Labor and Human Resources Committee. We spent three weeks analyzing, debating, and finally passing that bill. I did not support the passage of that bill, but it was passed by a pretty much partly line vote, with one exception.

I think it is fair to say that the bill that passed both the Senate Labor Committee and the House Education and Labor Committee represents the largest Government social experiment ever undertaken in this country. If passed and enacted into law, the President's plan, or something similar to the President's plan, will enact into law a sweeping new category of Government entitlements that far surpasses anything undertaken in the history of the United States.

I think it is ironic that this health care debate comes at a time when most now agree that the last great social experiment—welfare—has been a dismal failure. After 30 years and hundreds of billions of dollars, if not trillions of dollars, of Government expenditures, after all the planning and expertise this Congress and this Government could muster, our welfare system is a monument to failure. It is proof that programs can mean well and fail utterly. It is evidence that our best intentions can be transformed into an assault on human dignity.

Welfare, we were promised, will liberate us from want. Instead, we have seen children, so-called liberated children, "liberated" from the care of their parents; we have seen women "liberated" into dependence and destitution; whole communities "liberated" from order and hope.

And now, just at this moment, just at the moment when the conclusion, I think, on an almost universal basis—liberals, conservatives, people in between—just at this moment when we are concluding that this last great Government social experiment, designed and offered with all kinds of compassion and all kinds of hope, just when this is now being declared a dismal, miserable failure, just at this moment we are told the Government must now extend its reach into the lives of every American, determining their health care needs, controlling their health care costs, and making their health care choices.

We are sure that a health care utopia is just one law away, and the Washington Post this morning reports that that law is on a pretty fast track.

I think the question we have to ask is, where does this confidence come from? Where does this confidence that Government can, through social engineering, plan and dictate and lay out the solution to a problem that exists, one that affects every individual in this country, one that affects one-seventh of our economy?

Just a few weeks ago, I returned from a visit with members of the Armed Services Committee to Moscow. Our opening sessions were in a building that stands as a monument to the social, cultural, and economic failure that exists today in Russia.

I asked, as we walked in, "What building are we in?" They said, "This is the Office of Central Planning."

This was the building, this was the office, where, for decades, Government centrally planned the lives of nearly 200 million Russians and centrally planned the lives of all those other hundreds of millions that came under the Soviet's sphere. What a dismal failure, that central planning; assembling the best minds of Government, assembling the best expertise they could, and saying: We can, by ourselves, within the confines of this building, make decisions for all of our people in a rational way that will provide an economic utopia. Instead, it has provided them economic failure.

Now, the details of the health care debate are important, but I want to begin back at the beginning because I question the assumption that Government knows best. I question it on the basis of three decades of costly experience. I question it because there have been many, many casualties to our compassion.

I could spend all afternoon here listing the problems I have with the Kennedy-Clinton health care bill. Instead, let me focus on a few key areas of concern.

The first is the bureaucracy that this bill will create. When President Clinton first introduced his health care plan, he listed "simplification" as one of his six goals. Despite that goal, it is clear that the President's Health Security Act, all 1,330 pages of fine print, and the Kennedy bill, which is essentially the Clinton Health Security Act with some modifications, both those efforts are bureaucratic nightmares.

They are based on the assumption that Government is more efficient than the private sector. Yet, anyone who has dealt with any Government agency knows this assumption is false.

One need only spend a short amount of time at the Department of Motor Vehicles or the Post Office to understand the absurdity of the assumption that Government can deliver services more efficiently and more effectively than the private sector.

We were promised simplification by the President. Yet, the Clinton bill and the Kennedy bill create a national health care bureaucracy supported by 20 new Federal agencies and commissions—not 1, but 20.

Let me detail some of these on this chart.

New Federal bureaucracies, outlined under the Clinton health care plan and framework, adopted now by the Senate Labor Committee and by the House Education and Labor Committee include:

A national health board with more than 240 new powers. I will outline some of them in a moment.

It includes:

A new National Center for Consumer Advocacy; a National Practitioner Data Bank; a Federal Aid Violation Reform Group; Home and Community-Based Services for People with Disabilities; a Long-Term Care Advisory Committee; Long-Term Care Screening Councils; National Council on Graduate Medical Education; the National Council on Graduate Nurse Education;

the National Institute on Health Care Workforce Development; Healthy Students/Healthy Schools Task Force; a National Quality Council; National Health Information System; National Privacy and Health Data Council; Commission on the Integration of Health Benefits; the Federal Mediation and Conciliation Service/Health Care Board of Inquiry; Federal Health Plan Review Board; the Advisory Commission on Regional Variations in Health Expenditures; Physicians Payment Review Commission; Prospective Payment Assessment Commission; and the National Transitional Health Insurance Risk Pool.

These are the new Federal agencies and commissions that will be created under the Clinton health care—Clinton-Kennedy health care plan.

Each one of those agencies will require a building here in Washington. Each one will require probably hundreds of employees. Each one will require a vast new bureaucratic set of decisionmaking that affects every aspect of our health care system.

This is not the granddaddy of all the new boards. The granddaddy is the National Health Board. The National Health Board is a Board that is going to be an all-knowing, all-powerful nine-member Board whose collective wisdom is supposed to replace that of 250 million Americans, whose influence is being equated to that of the Supreme Court.

The powers of this Board are so vast that it is not inconceivable that individuals would be seeking appointments to the National Health Board and turning down opportunities to serve on the Supreme Court. That may be an exaggeration, but when you look at the powers that flow to the nine-member National Health Board, they are staggering. We have gone through the bill and identified nearly 250 powers. I cannot get them all—I would have to stretch boards all the way across for anybody to read these. I put 140 of them on these two boards here.

I will spare those watching and those listening from reading down through the powers of the new National Health Board. But I ask individuals to look at these. We had to put them in small print in order to get half—roughly three-fifths of them on the boards that are displayed here for the Senate Gallery in the Senate Chamber.

Each one of these powers is going to require an office headed by a director who will hire staff who will hire outside consultants who will branch out and develop their own little bureaucracy in order to fulfill the decisions and the power making that the Board has.

The National Board will determine what is medically necessary with respect to the comprehensive benefits package. I will talk about that in a moment. But for each medical service, and each prescription drug, and each procedure that is performed in a hospital and each procedure performed in a doctor's office that will have to be reimbursed—for every medical procedure this Board will have the power to determine whether or not it is medically necessary.

How many individuals are going to have to be hired to determine whether or not a particular procedure is medically necessary? And how many exceptions will there be to the rule of individuals who submit a particular, unique case only to have the Board say we do not believe that is medically necessary. That is one result. The other will be a vast bureaucracy, paperwork procedure, investigative procedure to render a decision whether or not that exception ought to be granted.

The National Board—instead of being a decision made between patient and doctor, the National Health Board will now determine what services and tests will be deemed medically necessary. The National Health Board will have the authority to expand or reduce the standard benefit package.

Can you imagine the individuals lining up outside the National Health Board to plead their case that their particular service—which is not yet covered under the Government comprehensive benefits package, guaranteed rights package, and therefore reimbursed—ought to be included in the package? Can you imagine the political pressure on Members of Congress saying "We are not in. Let us make our case." Can you imagine the response of Members of Congress? We will be standing here on the Senate floor arguing for including benefits that the National Health Board might not have considered or deemed medically necessary.

The National Health Board will have the authority to terminate a noncomplying State system. We are going to have to review the systems for all 50 States to make sure they are in compliance. This means the National Health Board will direct the Secretary of Health and Human Services to take over a State health care system and it empowers the Secretary of the Treasury to impose a payroll tax on all workers and businesses in that State.

In other words, if a State is deemed by the Secretary or by the Board to be noncomplying for one reason or another, not meeting the test, not meeting all the Federal qualifications, the Secretary of Health and Human Services has the power to take over the role of the State and the Secretary of the Treasury has the power to impose a tax on the workers and businesses in that State because the revenues did not match the expenditures.

The National Health Board will establish by regulation additional classifications of so-called permanent resident aliens and prisoners. This will give the National Board the authority to define population classifications currently under the jurisdiction of the Attorney General.

The National Health Board would establish such rules as may be necessary to carry out the act. Talk about a broad power, talk about a vague power—you have the power to establish such rules as may be necessary to carry out the act? This act governs one-seventh of the entire U.S. economy and this provision basically gives the National Health Board carte blanche to create any new rules it deems necessary to carry out the act or to manage one-seventh of the U.S. economy.

I saw the results firsthand. We have witnessed the results through the media, of what central planning has done for the Soviet Union and former States of the Soviet Union. Now we are going to give a national board, a central planning agency here in Washington, the decisionmaking power to control one-seventh of our economy.

I have just given 5 examples of the more than 250 examples of authority granted to the National Health Board under the Clinton plan and the Kennedy bill. The American people do want us to improve our current health care system. But what they do not want us to do is to improve it by supplanting it with a Government-run system.

I mentioned earlier I would talk about the standard benefits package because another problem with the bills that passed both the Education and Labor Committee, and the Senate Committee, is that Federal bureaucrats or Members of Congress will be the ones to determine what fits in the "one size fits all" package of benefits.

First of all, we are going to determine that a defined package of benefits is going to be available to all Americans regardless of whether or not they need them, regardless of age or family composition, illness, predisposition. "One size package fits all" and we are going to decide what fits in that one size package regardless of individual health care needs.

If Congress were to legislate such a package, you can be sure that future Congresses will expand it. Congress does not have a happy history of knowing when to draw the line and knowing when to say no. We are very good at saying yes. We are very poor at saying no.

Over the past year and a half or so all of us have been visited by representatives of various health provider groups. Each of them makes a very compelling case that their benefit must be included in the Government-mandated package. Some of them have been successful. The bill that was passed out of the Senate Committee expands the already generous package of benefits that the President proposed, which, as the Health and Human Services Secretary said, is a Fortune 500 company-plus package of benefits. It takes the very best insurance coverage in America and it adds to it. That is in the President's plan as described by his Health and Human Services Secretary. And then the plan that Senator KENNEDY offered took that as its base and added a whole package of additional benefits.

That package was calculated to cost an additional $32 billion over what the President's package has cost.

Last month, the House Education and Labor Subcommittee approved an amendment to extend preventive and diagnostic dental coverage to adults on the date of enactment rather than waiting, as the President had proposed, until the year 2001. This benefit alone will add an additional $7 billion annually to the cost of the benefits package.

The Senate package increased coverage for women, children, people with disabilities, low-income while substantially increasing benefits for mental health and substance abuse. Later in the day the House committee that added the dental benefits adopted an amendment to add coverage of smoking cessation classes for pregnant women. All Americans—male, female, pregnant or not—will pay for those classes. Are these benefits worthwhile? Yes, some of them are, maybe all of them are. But so are countless other benefits that are excluded currently from the bill. And the question is not whether or not a particular benefit is a valid benefit, even a medically necessary benefit or a worthwhile benefit. The question is whether or not that benefit should be included in the package, how much it is going to cost, who is going to pay for it, and who decides which benefits Americans are to receive?

Under the Kennedy-Clinton bill, Congress and the National Health Board would decide which benefits Americans receive, which medical tests are appropriate, which treatments are medically necessary.

Under our current health care system, for all its flaws—and I do not claim it to be perfect—these decisions are made by market forces. The field of medicine is always changing. New tests supersede old ones, new treatments render old treatments obsolete and the market responds to these innovations. But under the Clinton bill and under the Kennedy bill, innovation would respond not to the market, not to demand and supply but to the Congress and the National Health Board.

Before a new test could become readily available to patients, a huge health care bureaucracy would have to meet to hammer out new rules and new regulations, advisory boards would convene, congressional committees would hold hearings and Federal departments and agencies would undertake studies. Meanwhile, the patient sits and waits and waits for the bureaucracy to approve a treatment on which his or her life may depend.

Health reform will work only if it spurs innovation. Such innovation not only saves lives but it can actually reduce health care spending. Our market-based system has helped produced thousands of innovations that has improved health care quality while curbing health care costs.

For example, a new drug called Capoten is now being used to treat patients with diabetic nephropathy. The use of the drug could reduce health care spending by $2.4 billion over 10 years by keeping these patients from needing dialysis.

A sophisticated device known as the Pet scanner can cost several million dollars, but it provides physicians with information that can sometimes prevent open heart surgery which costs roughly $30,000 to $50,000 per surgery. And it could prevent a painful test for epilepsy that often costs more than $20,000 per test.

The average cost of coronary artery surgery is $41,000, but the annual cost to treat coronary artery disease with drug therapy is only $1,000.

These are decisions that the National Health Board and that Congress is going to have to decide. I suggest to you that that decision will not be made on a rational cost-benefit basis or what we can afford or what the need is. It will be made on a political basis. There will be constituencies advocating support for a particular test or a particular procedure over the other, and we will be arguing in this body, or the National Health Board will be under the pressure, to make determinations to satisfy political concerns rather than allowing the market to work as it should and as it must in order to provide us with these innovations and provide patients with a choice.

Market-spur innovation: Bureaucracy strangles innovation in a web of redTape. The Kennedy-Clinton bill puts medical innovation and the quality of care that Americans have enjoyed for so long at the mercy of bureaucracy, and anyone who has had experience with the Federal bureaucracy understands what it is like to be at the mercy of the bureaucracy.

Mr. President, let us talk a little bit about costs, because one of the concerns that we need to talk about and one of the greatest concerns with the Clinton-Kennedy bill is the fact that no one has any idea how much this is going to cost.

Oh, it is wonderful to play Santa Claus. It is wonderful to go back home and say, "You want these benefits? Sure, you can have these benefits; you're entitled to these benefits. These are great new ideas, new treatments. Let's include everybody."

It is tough to stand here and say, "But how much does it cost and who is going to pay for it?"

The fundamental question of the Clinton-Kennedy health care proposal is how much does it cost and who is going to pay for it. That question has not been answered by the White House, it has not been answered by Senator KENNEDY, it has not been answered by the Congress which loves to give benefits but hates to tell anybody how much it costs.

In that regard, I sat in the House Chamber the night the President said, and when we present our plan, we are going to present it with the costs as determined by the Congressional Budget Office, no more of this politically motivated and phony stuff coming out of the White House, we are not going to rely on the Office of Management and Budget, we are going to rely on the independent Congressional Budget Office.

Some doubt the independence of the Congressional Budget Office, but the President said at the very least we are going to rely on that.

Ordinarily, the Congressional Budget Office provides Congress with estimates of the costs of legislation before we vote on a bill. What household in America, what company in America would implement a new program without knowing how much it costs? It would be irresponsible.

On May 13, however, I received a letter from the Director of the Congressional Budget Office, Robert Reischauer, indicating that the Congressional Budget Office has not made any prepared estimates of the cost of the bill which the Senate Labor Committee, Senator KENNEDY's committee, was going to mark up. I have blown it up for those who are watching.

May 13, 1994, written to me:

> DEAR SENATOR: The Congressional Budget Office has received your letter requesting CBO's estimates and analysis of the chairman's health reform mark released by the Committee on Labor and Human Resources on May 9. CBO does not have detailed specifications or draft legislative language for the proposal and has not prepared any cost estimate or analysis. Therefore, please understand that we will be unable to answer your inquiry within the time you requested.
>
> ROBERT REISCHAUER,
> *Director.*

With a copy to Senator KENNEDY, who is chairman of that committee.

Despite that, despite the Coats amendment which says we should not report out this bill and send it to the Senate floor until we at least know how much it is going to cost—how can we vote on a bill in good conscience and say, "Move it along. We don't know how much it is going to cost. We'll worry about that later?" Does that sound familiar? How many entitlements, how many benefits, how many programs has Congress enacted and said, "We'll figure out the costs later; we'll pay it later." We now have a $4.6 trillion debt because we said we will not pay as we go, we will pay it later. It jeopardizes our economy and jeopardizes the future of every American, and it certainly imposes a debt load on the shoulder of our children and grandchildren that is unconscionable.

Yet, here we go with the largest single expansion of Government in the history of this country and the Director of the Congressional Budget Office says, "I can't tell you how much it costs," and our committee says, "Well, we're going to go ahead anyway, we'll worry about the cost later."

We are told we have some of this information from the Congressional Research Service. So I wrote the Congressional Research Service: We have not had an opportunity to evaluate the bill, and we do not have the costs.

Then we are told, well, look to the Office of Management and Budget. That is the group the President derided in his speech to the Congress and said you cannot trust those guys. But someone said they have the answers.

So I wrote them and I got their letter back. They said:

> * * * we did not provide the staff with a full cost analysis of all the features of the proposal.

So the three entities in this city that are designed for the purpose of telling us how much something is going to cost all have said we do not know how much it is going to cost, we have not had time to study it so, consequently, we cannot begin to give you the results.

What do the three letters mean? It means, once again, Congress is acting irresponsibly. They mean we are promising people benefits whose costs we do not know, benefits we plan to pay for with probably new taxes or with severe cuts in Medicare and Medicaid that I do not think this Congress is prepared to make or will make.

Despite the fact that the chairman does not know how much the bill will cost, I was told in committee time and time again cost is a mere technical detail; we will worry about it sometime in the future.

With the staggering deficits staring us in the face, with ballooning Federal programs, with decades of runaway entitlement spending as a guide, I am appalled that the Congress is proceeding so irresponsibly. We need to be honest with the American people about the costs of the promises that the Congress is making.

If anyone doubts that Congress has acted irresponsibly, let me just give you the record on a few of our existing health care programs. Between 1984 and 1990, the Congress approved 24 new initiatives that substantially increased Medicaid spending. A study by the Health Care Finance Administration estimates that congressional expansion of the program—not health care inflation—accounted for more than half of the exploding Medicaid costs of the 1980's.

Do you see the circular logic here? The President of the United States and the First Lady of the United States and the administration say we have to have health care reform written along our lines because the costs are exploding and we have to do this to control the costs. And yet the administration's own health care agency, the Health Care Finance Administration, says more than half of those exploding costs are because Congress has added benefits to the program.

And so Government is adding benefits, on the one hand, which drive up the costs and, on the other hand, they are saying we have to hold down the costs when we are our own worst enemy.

I doubt any more than a few Americans believe that Congress has a strong record for fiscal responsibility. And that skepticism is well placed. Even Senator KERREY commented not too long ago, "It's hard to make the case our Government can be trusted with a new entitlement program when we've let the old ones get so far out of control."

A perfect example is the Medicare Program. When Medicare was enacted in 1965, it was projected—someone stood up in Congress and said, should we not know how much this is going to cost the taxpayers? So they did a study, and they came back and reported the figures. It is in the CONGRESSIONAL RECORD; it was stated and printed. If Medicare was enacted in 1965, by 1990 it was going to cost the taxpayers $9 billion a year.

Congress weighed those numbers and said, well, that is a lot of money, but that is way out in 1990; we will be able to afford it by then.

What were the actual expenditures? The actual expenditures were $107 billion in 1990—not the $9 billion Congress had projected. So even if these agencies gave us what they thought the health care plan would cost, does anyone think that after 5 years or 10 years or 20 years of Congress and the National Health Board capitulating to the demands of people and interest groups to expand we would be able to come in at the costs they suggested?

Now, the ones they have preliminarily estimated are bad enough. The President vastly underestimated the impact on the deficit with his original program.

But when we look at the examples of what has happened in the past, where a program that was estimated to cost $9 billion a year actually cost $107 billion, that ought to stagger us and give us more than pause. It ought to put a big red light up to say, wait a minute, do we really know what we are doing?

Way back in 1936, when we started the Social Security Program, the Social Security Board said, "12 years from now"—they actually printed this up and sent it out in a brochure to every American—"you and your employer will each pay 3 cents on each dollar you earn up to $3,000 a year."

And this is the kicker. "That is the most you will ever have to pay," said the Social Security Board.

Social Security was originally financed with a 1 percent payroll tax. The Government said 1 percent. That is all you have to pay. The Clinton administration on health care, small business individuals, just a small, little percent. Well, if what happened to Social Security will happen to health care, I think it is going to be a staggering cost because today a self-employed person pays 15 percent of payroll, not the 1 percent the Social Security Board said "that is all you will ever have to pay." Today it is 15 percent. And while the Social Security Program began with only a payroll tax of 1 percent, Senator KENNEDY in his bill is proposing over 19 new taxes and tax increases to finance his health care bill, and these new taxes add up to a heck of a lot more than 1 percent of payroll.

I am putting up on the board now the new taxes under the plan passed by the Senate committee that the Washington Post this morning says is headed for a floor vote.

The chart lists 19 new taxes. Let me just read a few of them: A tax on employers of up to 12 percent of payroll—not 1 percent, 12 percent; a tax on employees of up to 3.9 percent of payroll, a 2-percent payroll tax on small employers who do not participate in the program; a 2.5-percent administrative expense allowance on premiums, a 1-percent surtax on all health care premiums, a $1.25 increase on cigarette taxes.

These are just some of the 19 new taxes employed in the President's bill and the Kennedy bill. These taxes I suggest will decrease wages, eliminate jobs, and strangle research and development. But the one thing we know from experience is that they will not fully pay for the promised benefits, and this Congress will be back here saying, now, we just have to bump this up a couple percent, or we just have to add this because we are short.

We do that on a regular basis here, and the American people are getting taxed to death. When you add up Federal and State and local and excise and personal property and sales tax and all the other taxes—gasoline tax and airplane fuel tax and airport fees and all the other taxes—it is also said that individuals just pay a small percent of their income in taxes. The accumulated nature of taxes is such that we are now working well into May of every year just to cover taxes before we start earning anything for ourselves.

This Congress is renowned for overpromising and underfunding programs. But Americans are tired of Congress making promises it cannot keep. The President tells us we are going to have a lavish package of benefits, but the taxes he has proposed will not be nearly enough to pay for them. And we do not even hear about how those benefits are going to be paid for. All we hear about is there is going to be an increase in cigarette taxes. So we are going to pay for new entitlements, we are going to pay for a comprehensive benefit package for every American, we are going to pay for a bureaucracy that—I cannot even post on the boards in small print because it will not fit—we are going to pay for by just charging everybody a little bit more on their cigarettes.

Madam President, let me talk just a minute about rationing. Rationing is not a word that we look upon kindly as an American public, but it is an underlying reality of the health care plan the President has proposed and the Senate has proposed through Senator KENNEDY's bill. Every State-sponsored health cooperative will have a budget established in Washington that is maintained by putting caps on insurance premiums. Those premiums eventually set the price of everything else in the system from tongue depressors to brain surgery. When prices are kept artificially low to meet a federally mandated budget, demand for health services chases a dwindling supply. The results are shortages and those shortages result in a rationing of care.

So we come to the reality of rationing, and rationing simply means that somebody loses. In England, for cost reasons, they deny kidney dialysis to anyone older than the age of 55. And so each year 1,500 patients in Great Britain die from treatable kidney ailments. In Canada, medical treatment is rationed with long waits—4 months for bypass surgery, 4 years for a cornea transplant. And while Canada was celebrating the Christmas season, the nation's hospitals closed their doors due to a lack of funds because it was near the end of the year. The rationing that results from Government price controls creates a health system that works well for everyone except the sick.

And so when rationing begins to occur, the inevitable pressure will come: Well, we cannot take this rationing; that is not what we are used to as Americans in health care, and so we are going to have to pick up some additional revenue and that means an increase in taxes.

Let us talk about quality of care. Under the bills that are being proposed, Federal bureaucrats will decide whether expensive technology should be used on the elderly. How about on premature babies with a slim chance of recovery? Who is going to make that decision? Are Government agencies really prepared to draw ethical lines on who gets treatment?

Under the administration's proposals, your choice of a doctor will be severely limited. More than likely, you will be forced into a managed-care situation. Under the Kennedy bill if passed, Federal bureaucrats and numerous others will have broad access to your private medical records. Under that bill, Federal bureaucrats will determine how many specialists there will be and in what field doctors will practice. The bottom line is that the Kennedy bill will radically change the way Americans receive their health care.

Mr. President, there is much more I could say about this. We have a massive notebook detailing page after page after page the proposals, the benefits, the costs, the bureaucracy, the new commissions, the new boards, the new responsibilities, the new powers.

It goes on and on. I could spend the afternoon and the evening detailing the fine print. "The Devil is in the details." It sounds wonderful for the President to stand up and say we want a simpler system, one that gives every American the right to medicine. The details are going to kill the health care system as we know it. They are going to deny choice. They are going to result in a massive new bureaucracy, expansive new taxes, and I think rationed care and the diminution of the quality of care that we have come to expect in this country.

We have much to lose because we have a health care system that is the world's envy. It is not perfect, and it can be improved. We can improve our current system. But I do not have any faith that it can be replaced by the plans of a Government that has proven its incompetence in social engineering. People, real individuals, suffer from the Federal Government's good intentions.

Humility learned from three decades of failed social experimentation is a demand of our recent history, and that is where our debate should begin. We can provide reforms to our health care system, reforms that we can agree on, reforms that can work in the marketplace, that can be implemented and tested and modified, if necessary. But we do not need to reinvent the whole system. We do not need a centrally planned system to fundamentally change the way health care is delivered to Americans.

I cannot endorse a proposal that adds layers of bureaucratic Government rules and regulations, more taxes on American families and businesses, and particularly legislation that adds many new Federal entitlements without first understanding the cost.

The President's proposal, as embodied in the Kennedy proposal, is ambitious but deeply flawed. It tries to swim against the tide of market forces, but the market is never cheated for long. Instead of price controls, rationing, and taxes, we need to examine reforms that use markets, not destroy them. That would be a healthier approach in every sense of the word.

Much is at stake. We are coming to the decision point of the health care debate. The next few weeks will be times of making determinations that will affect the lives of every American citizen. Americans need to understand what is in this health care proposal. We need to understand what the Congress is doing and imposing on them. If we will listen, if we will provide them with the information and listen to their response, I am convinced we will reject a Government plan, a one-size-fits-all, a centrally directed plan devised by the White House that reinvents the entire health care system, saying that the whole thing is rotten; throw it out; start all over; Government can do it better.

We will reject that approach, and we will proceed with sensible reforms that can bring more competition through the market, and provide and maintain the quality of health care for Americans that is the envy of the world.

Mr. President, I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. MATHEWS). The Senator from Utah.

Mr. HATCH. Mr. President, I want to compliment my colleague from Indiana. I listened to much of what he has said. He has outlined, I think, some of the problems in the current health care debate as well as anyone, and I think the charts have really shown why what he is saying is so true. I think the American people are sick and tired of the prospects of Government-run health care.

I want to compliment him because he played a very significant role in the Labor and Human Resources Committee, and I think certainly made a very cogent number of statements here today.

(The remarks of Mr. HATCH pertaining to the introduction of S. 2240 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. HATCH. Mr. President, I notice my friend and colleague from Nebraska is about to speak.

I yield the floor.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The Senate continued with the consideration of the bill.

Mr. EXON. Mr. President, will the Chair advise the Senator from Nebraska as to what is the pending matter before the Senate?

The PRESIDING OFFICER. The pending question is amendment No. 1852 in the second degree to amendment No. 1851.

Mr. EXON. That is under the Defense authorization bill?

The PRESIDING OFFICER. That is correct.

Mr. EXON. Mr. President, I welcome this opportunity to describe in more detail some of the programmatic decisions and guidance contained in S. 2182, which Chairman NUNN briefly highlighted earlier. The Subcommittee on Nuclear Deterrence, Arms Control, and Defense Intelligence, which I chair, encompasses a number of important Defense programs. Our subcommittee held 10 separate hearings on various defense issues prior to markup, and, on countless occasions, both members of the committee and the committee staff met with, were briefed by, or requested written information from Defense officials during the weeks preceding the committee's markup.

In the next few minutes, I want to outline for Members some of the major decisions taken by my subcommittee, decisions which have been ratified by the full committee, and are contained in the bill and report before the Senate today. Let me begin by covering the committee's action in two areas that have traditionally attracted considerable attention from Members—ballistic missile defenses, and heavy bombers.

In the areas of ballistic missile defenses [BMD], the subcommittee and full committee continued the new directions established during last year's conference. Chief among them were the need for the National Missile Defense Program to demonstrate a plan that would reduce the lead time to deployment of a thin, limited defense of the continental United States. The Congress mandated this because of the concern that we might suddenly discover that we do not have 10 or 12 years to develop a national missile defense [NMD]. The intelligence community's record for providing warning of developments a decade or more in advance is spotty, to say the least.

We also wanted to ensure that most of the BMD funding was directly concentrated on the half-dozen or so Theater Missile Defense [TMD] systems and components that comprise our near-term defense against the existing, relatively short-range missile threat—mostly Scuds and derivatives of Scuds. We have been telling the Ballistic Missile Defense Organization [BMDO] and the Secretary of Defense for several years to move the remnants of the old star wars—namely, research on high energy lasers, particle beams, and schemes like Brilliant Pebbles—out of BMDO and back into the tech base.

Let me now describe how the committee bill emphasizes this guidance. BMDO asked for $3.25 billion in funding, of which only $2.18 billion was allocated to the mainstream NMD and TMD programs. That meant that over $1 billion of the request was still programmed for technology explorations, management, and supporting research activities. The committee properly regarded that as an unacceptable reflection of its guidance. Therefore, the committee transferred $170 million in specific programs from BMDO to other service or agency managers, and reduced the overall BMDO request by an additional $251 million. This results in total BMD funding of $2.8 billion, a reduction of $421 million from the request. However, of the $2.8 billion, no less than $2.1 billion is directed to the high-priority NMD and TMD programs—the real defenses that Congress is seeking. The committee reduced the follow-on technologies request by $139 million, cut BMDO's management request by $70 million, and cut the research and support activities by $100 million.

The NMD program was reoriented, by directing BMDO to abandon its proposed technology readiness program in favor of an effort to build upon the successful technology demonstrations already achieved in the ERIS and LEAP programs. The objective is to build on this base, and to demonstrate on end-to-end intercept capability against strategic reentry vehicles at the earliest possible date consistent with an NDM funding level of $400–$500 million per year, which appears to be about all that will be made available during the future year defense program [FYDP].

In the TMD area, the committee bill fully funds all the mainstream TMD programs—patriot PAC–3, including ERINT; THAAD; the Navy Lower-Tier program; the GBR–T radar from PAC–3 and THAAD; the necessary battle management and C–CUBED; and the ongoing Hawk upgrades. The committee also fully funded the request for the three candidates TMD follow-ons—the Army's Corps SAM, the Navy's Upper Tier program, and the Air Force's Boost Phase Intercept program. Finally, the committee bill provides an additional $75 mill in risk-reduction funds, which can be used either within the PAC–3 program, or to accelerate progress on the three TMD follow-ons, which appear collectively to be somewhat underfunded.

The committee bill also requires the Department of Defense [DOD] to do the brilliant eyes compliance report again, as their first effort is unsatisfactory, and the committee provides its views on the urgency it attaches to early THAAD flight tests.

I believe the results of the committee's actions are to produce a lean and mean Ballistic Missile Defense program one keenly focused on early deployment of effective missile defenses.

Mr. President, in the bomber area, the committee found the administration's message confused and inconsistent, as Senator NUNN has already noted. DOD's budget plan, to maintain only 100 nonstealthy bombers in fiscal year 1995 and eventually reduce that further down to 80 nonstealthy bombers in the outyears, is at variance with no less than their own Bottom-Up Review, the Air Force's earlier bomber roadmap plan, and at least four other independent studies confirmed our concerns. A classified briefing to the committee by DOD and Joint Chiefs of Staff [JCS] witnesses on the Bottom-Up Review analysis was painfully inept. It provided no quantitative analysis of bomber requirements, and the only reason this Senator could find for its classification appeared to be to avoid embarrassing its authors.

The committee has great skepticism about the proposed DOD bomber plan, which, frankly, appears to be budget-driven rather than requirement-driven. Since there are several important activities like the administration's nuclear posture review and the independent roles and missions commission deliberations that are currently under way, the committee determined that it was not in a position to resolve future bomber force structure and bomber weapons issues in this bill. Accordingly, and because of that dilemma, the committee has acted to keep all options open for at least a year—by prohibiting DOD from sending any bombers to the scrapyard, by directing them to plan to install conventional weapons upgrades on all bombers to be retained, by preserving the bomber industrial base for a year, and by acquiring interim precision weapons over the next 2 years for whatever mix of bombers emerges as the preferred force structure. The committee bill also sets in motion several new analyses on various aspects of the bomber issue, to ensure that the committee and the Congress, and hopefully DOD itself, will have adequate information by this time next year to take definitive actions. Mr. President, now let me turn to some other highlights in the strategic area. I recommended strongly, and recommended in the committee, and I recommend strongly today on the floor of the Senate that the Milstar satellite program be continued but that it be transferred from the Air Force to the Navy. Three years ago, the Armed Services Committee decided to terminate the Milstar program unless the Department of Defense drastically restructured the program to: First, remove unneeded features designed for fighting a prolonged nuclear war; second, increase the satellite's capabilities to support our tactical, conventional forces; and third, reduce total program costs substantially.

The Secretary of Defense accepted the committee's position and restructured the Milstar program accordingly. While meeting the need for assured communications to our strategic forces, Milstar is now primarily a tactical program, providing high-volume communications to our tactical field commanders that cannot be jammed and that are difficult to intercept.

One outcome of the restructure of Milstar was to drop plans to place Milstar terminals on all our strategic bombers. At that point, the Air Force began to lose interest in the program. The Air Force operates from bases that are generally far removed from the front lines of battle. Air Force bases from which our tactical fighters would operate in wartime therefore enjoy a kind of sanctuary and do not face a jamming threat to their communications. The Air Force has, therefore, concluded that it does not need the capabilities that Milstar now provides.

It is very different for our ground and naval forces, which must operate right up against the enemy, and frequently do. These are the tactical forces that will benefit from the Milstar Program the most. All the regional combatant commanders, the Joint Chiefs of Staff, and the Secretary of Defense, and others similarly situated, all firmly support the Milstar Program strongly because of this support for ground and naval forces which I emphasize once again has been the welcome change at the suggestion of the committee that has been instituted by the Department of Defense. The Air Force, however, would prefer to see the money spent on more Air Force fighter aircraft, and I would simply say from the Air Force point of view I fully understand what they are trying to do because they, like all of the other members of our great Armed Forces, are being extremely pinched under the reduced budget. The committee believes, however, that there is an important roles and missions issue involved in this decision to transfer the Milstar Program. The Air Force has always been the lead service for space programs. Now, however, the Air Force is proposing in the major roles and missions review that the committee required in last year's bill, to become the sole acquirer, the one and only part of our armed services intricately involved in these operations, and the Air Force also wish to become the operator of space systems. Yet, here we have a space program that is needed by the Department of Defense as a whole, and the Air Force is advocating that it be terminated and let down—that is the Milstar Program. The Armed Services Committee does not believe that this Air Force position will inspire confidence that the Air Force can be solely trusted with a monopoly on space programs that support the other military services.

On other space issues, the committee supported the administration's emerging strategy to eliminate excess capacity in the space launch industrial base and to develop a family of space boosters by upgrading an existing system. The committee hopes that by reducing the number of different booster types, we can achieve more efficient production and launch rates. If this is successful, the costs of space access should decline and our industry should be more competitive in the international market. The committee also increased funds for technology development.

CHEMICAL AGENT AND MUNITIONS DESTRUCTION

The committee included a provision in the fiscal year 1993 Defense bill requiring the Army to submit a report to Congress on the potential alternatives to the baseline technology for the disposal of the chemical stockpile. In April, the Army submitted its report to the Congress endorsing many of the recommendations by the National Research Council.

Based on these recommendations and testimony before the committee, the committee recommended the obligation of $25 million of fiscal year 1994 funds for research and development of alternative technologies for the destruction of the U.S. chemical weapons stockpile.

In support of Army recommendations to implement updated risk assessments for storage, handling, and disposal activities at each site, enhancement of the stockpile surveillance program and a public outreach program, the committee recommended an $8 million increase to the operation and maintenance account.

The committee also recommended $22.5 million for procurement of carbon filtration systems and ancillary equipment for the pollution abatement system at Tooele Army Depot and for equipment modification design for all sites.

Lastly, in response to concerns raised by civilians in the communities surrounding the chemical storage depots, the committee recommended that up to $2 million in funds available in the research and development account be used to demonstrate programs for the detection of low-level exposure to chemical agent and for other pollution abatement technologies associated with chemical weapons destruction, such as reusable aerogels for toxic gas collection and stack emissions reduction.

NUNN-LUGAR

On the very important matter of Nunn-Lugar that was basically an initiative of the Armed Services Committee, the committee approved the budget request of $400 million for the cooperative threat reduction programs, also known as Nunn-Lugar programs, for the states of the former Soviet Union, subject to the program categories and notification and report requirements specified in last year's Defense Authorization Act. While expressing confidence that these programs will promote U.S. national security interests, the committee directed that subsequent budget requests for cooperative threat reduction be made as part of a comprehensive, multiyear strategy for assisting the states of the former Soviet Union to denuclearize and demilitarize.

DEPARTMENT OF ENERGY

With regard to the many programs that we administer in the Armed Services Committee, and particularly my subcommittee, in the Department of Energy, I think it is worthy to point out a few and the direction we are going and initiative that we are taking.

The overall funding for the national security program at the Department of Energy, including environmental restoration and waste management, infrastructure maintenance, and weapons dismantlement, is $10.3 billion, a reduction of $220 million below the request.

As the Department of Energy dismantles nuclear weapons retired from the inventory, it recovers plutonium that must be stored and ultimately disposed. Management and storage of weapons-grade plutonium and disposition of the excess weapons grade material is a difficult challenge facing DOE. To assist the Department, we have created a separate line item for fissile materials disposition and have provided $50 million for this effort. In addition, the bill contains a provision that would make statutory the Office of Fissile Materials disposition recently established by the Department of Energy.

The bill contains a provision that would transfer responsibility for new sources of tritium that might be required in the years beyond 2008, from the Department of Energy to the Defense Nuclear Agency. Fiscal year 1995 would become a transition year to ensure that the transition from DOE to DNA was smooth.

The bill includes a provision that would strengthen the role of the Nuclear Weapons Council, the joint DOD-DOE body responsible for nuclear weapons policy, to ensure that work undertaken by the DOE and direction provided by DOD is fully coordinated through the council.

To ensure improved financial management at the DOE, the bill contains a provision that would require the DOE to track spending on a fiscal year basis. In addition, the bill contains a provision that would require DOE to submit a conceptual design report for each construction project before DOE submits a request for funding for the construction project. This would improve the long-term planning for DOE construction projects and force a more complete understanding of the nature and scope of the project before it is begun.

The bill contains a third provision designed to improve financial management and accounting at DOE. This provision would restrict the DOE from spending 10 percent of the funds authorized and appropriated to the DOE until the DOE complies with existing law and prepares a 5-year budget plan. This would bring the DOE more in line with the financial management at the DOD. The DOD prepares an annual spending plan for the out years. This would help ensure that the DOE long-term spending decisions are sound.

The bill provides authorization for environmental restoration at the funding level requested, $5.235 billion. This level of funding represents a very slight increase over the fiscal year 1994 level of $5.182 billion. To keep the funding at this level, DOE has committed to find $900 million in savings during 1995.

Mr. President, this is but a summary of some of the highlights of the actions of the subcommittee and the Armed Services Committee as a whole. I hope other members of the committee will be able to address this later on. I hope that our colleagues on both sides of the aisle will realize and recognize the extraordinary work that has gone into the preparation of these budget recommendations in the bill before us and approve the actions that we have taken, with great pain and with a lot of scrutiny, to present the defense authorization bill to the Congress for its approval.

I thank the Chair and I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from the State of Alaska [Mr. STEVENS], is recognized.

Mr. STEVENS. I thank the Chair.

(The remarks of Mr. STEVENS pertaining to the introduction of S. 2243 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 409, S. 687, the product liability fairness bill; that immediately upon the reporting of the bill, Senator ROCKEFELLER, or his designee, be recognized to offer a cloture motion on the bill; that the cloture vote on that motion occur at 7 p.m. on Tuesday, June 28, with the mandatory live quorum being waived; that if a second cloture vote is needed, it occur on Wednesday, June 29, at 10 a.m., with the mandatory live quorum being waived; that if cloture is not invoked after that vote, that the bill be returned to the calendar and that no other bills, amendments, or motions relating to the subject matter of S. 687 be in order for the remainder of this Congress; that when the Senate completes its business today, it stand in recess until 1 p.m., Monday, June 27; that the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and that the Senate resume consideration of S. 687 immediately following the prayer.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, before proceeding, I want to state that it is my intention to proceed to consideration of the foreign operations appropriations bill on next Wednesday upon the disposition of the product liability fairness bill.

I also wish to make clear that the provision in the unanimous-consent request just approved, relating to no other bills, amendments, or motions relating to the subject matter of S. 687 be in order for the remainder of this Congress, does not apply to the aviation liability legislation and related amendments thereto, which the Senate acted on earlier this year.

Further, Mr. President, I wish to advise Senators that the Senate will be in session on Monday from 1 p.m. on to debate the product liability bill and to give Senators who wish to do so the opportunity to offer amendments to that bill on that day.

There will be no rollcall votes on Monday, and any rollcall votes required on amendments offered on Monday will be stacked to occur beginning at 10 a.m. on Tuesday, June 28.

The Senate will then have the entire day on Tuesday within which to receive, debate, and consider amendments which any Senator who wishes to do so may offer on that day.

So there will be 2 full days for Senators who wish to do so to offer amendments to the product liability bill—Monday, all day, beginning at 1 p.m. and extending for as long as Senators wish to offer amendments; and then Tuesday, beginning after any votes which occur at 10 a.m.

Next, I wish to make clear that the procedure which has just been agreed to by the Senate for the handling of this bill was based upon a proposal I made in an attempt to accommodate the competing interests of the Senators on the two sides of the issue. I met separately with Senators in groups—those who support the bill; those who oppose it. And after hearing their request for how best to proceed, I made this proposal which accommodates both, but also requires both to accept something other than the procedure that they would have preferred. That is to say, it is a compromise, and I think it represents the best and most reasonable way to proceed under the circumstances.

Finally, I wish to say that I earlier stated the Senate will complete action on certain measures before we leave for the Fourth of July recess at the end of next week. I wish to restate that now and to expand briefly on my remarks. Those measures include certain nominations, the product liability bill, the foreign operations appropriations bill, the energy appropriations bill, and the Defense Department authorization bill, which, of course, we have begun and been debating during this week, which will now be set aside for these other matters, and we will return to it later next week. I believe we can do this if Senators are present and voting on the days required. We are not going to be able to do it if Senators do not attend.

Earlier today, I commented on the catch-22 situation in which the Senate found itself today. That is a situation where a certain number of Senators leave the Nation's Capital and then prevail upon some Senators who remain not to permit any votes to occur during the absence of those absent Senators. The result is that the Senate is unable to dispose of any of its pending business.

The only alternative I have, since I cannot compel a Senator to be present in the Senate, and since I cannot compel a vote on a substantive matter under the Senate's rules, is to compel votes on procedural matters. Two such votes were held today.

But I hereby give notice to all Senators that from now until the rest of the year, if we are in a comparable situation, there will be no limit to the number of procedural votes which will occur. So that if a Senator takes it upon himself or herself to leave the Nation's Capital while the Senate is in session, there may be 6, 8, 10, 12 procedural votes which that Senator will miss in that circumstance.

As all Senators know, the number of procedural votes which have occurred since I have been majority leader have been very few—far fewer than at any previous time since I have been in the Senate. But we now have just a few months to go before this legislative session ends, and we have a very large amount of important business to act upon. Therefore, no alternative remains to me but to take whatever action is necessary to compel the presence of Senators so that we can act on that important business in the limited time available.

Therefore, I want it clearly understood that if we get a situation again as we had today, there will be no limit on the number of procedural votes which occur, and a Senator who leaves under those circumstances henceforth runs the risk of missing as many as 10 or 12 votes a day.

Mr. STEVENS. Mr. President, will the distinguished leader yield for just one comment?

Mr. MITCHELL. Yes.

Mr. STEVENS. I did note the listing of items that must be completed by next Thursday, if we are to have the recess as scheduled, and I am constrained to remark as I think my colleague did in the Chamber last night that we have reservations to go home for the Fourth of July, but we were told today that they are extremely limited. In other words, I do hope somehow or other we can get some certainty as to when we will be able to plan to leave Washington to go home for that holiday.

I do understand what the leader is saying. I count 9 weeks, Mr. President, that we will be in Washington according to the current schedule, and that is a very difficult proposition. But my real reason for inquiring is, does the leader still intend that we would finish by Thursday evening?

Mr. MITCHELL. Mr. President, under the previously announced schedule, the recess is scheduled to begin at the close of business on Friday.

Mr. STEVENS. Close of business on Friday.

Mr. MITCHELL. On Friday, July 1. Now, if we can somehow complete action on these items prior to that, then we will leave as soon as we complete action. I think it is possible, but, of course, it requires a degree of cooperation which has not existed.

I wish to make clear here, Mr. President, what I have been describing is not a matter of partisanship. Presence or absence is unrelated to party affiliation. I am not suggesting that the problems we encountered today have anything to do with either party. It is a problem that exists across the entire Senate.

We could have, for example, Mr. President—my colleague is here and I am—we could have disposed of important amendments today, but what happened, as the Senator knows, several Senators left and the Senators who were here, who had amendments to offer, would not offer them, or those who did would not permit a vote to occur on their amendments because they said, well, other Senators are not here. So the departures trigger a self-fulfilling prophecy of inaction.

If that is permitted to continue, as it did today, then 9 weeks would not be enough to do any bills. So what I am saying is that in this busy time it takes some cooperation, and it means a very busy week next week. But I believe we can get it done, Mr. President. I am advised that on both of the appropriations bills, the managers hope and expect that they can be completed in a relatively short period of time. I know they are important, and they may have some controversial aspects to them, but most of them are things we have debated many times before. As the Senator knows, we tend to debate the same issues year after year after year. And with the defense authorization bill, I know the managers hope with two or three major amendments—frankly, I had hoped we would have disposed of one of them today, but we did not—once we do those, they can complete action hopefully rather swiftly on the bill.

Mr. STEVENS. May I inquire, Mr. President, of the leader, is it the intent to go back to the defense authorization bill on Tuesday at any time?

Mr. MITCHELL. No.

Mr. STEVENS. It will not be until Wednesday now?

Mr. MITCHELL. It may be even later. What we hope to do is to complete action on the product liability bill by not later than Wednesday morning, then go to the foreign ops appropriations bill, then the energy appropriations bill, and then return to and complete action on the defense authorization bill.

Mr. STEVENS. That will be the last bill.

Mr. MITCHELL. That will be the last bill, yes. And we will stay until we finish it. As I said, I talked with the managers today and talked with the managers of both the foreign operations appropriations bill and the energy appropriations bill, and they are working very hard now and will early next week to try to limit the number of amendments and the length of time devoted to both bills, and they were reasonably hopeful that they could do so.

Mr. STEVENS. I thank the leader.

MODIFICATION OF ORDERS FOR MONDAY

Mr. MITCHELL. Mr. President, the life span of these agreements can often be relatively short. I obtained what I thought was the agreement of the principal proponents and opponents of this bill to the agreement I have just stated, but in the few minutes since the agreement has been obtained, I am advised that the proponents of product liability now do not wish to begin consideration of the bill at 1 p.m. on Monday but have asked for an hour's delay. I will, of course, accommodate that request.

I therefore now ask unanimous consent that on Monday, June 27, there be a period for morning business not to extend beyond 2 p.m., with Senators permitted to speak therein for up to 5 minutes each, with Senator BENNETT recognized for up to 30 minutes, and that at 2 p.m. the Senate resume consideration of S. 687.

The PRESIDING OFFICER. Without objection, it is so ordered. The modification is agreed to.

PRODUCT LIABILITY FAIRNESS ACT

Mr. MITCHELL. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MITCHELL. Is it now in order for the clerk to report S. 687 and to recognize Senator ROCKEFELLER or his designee?

The PRESIDING OFFICER. That is the regular order. The clerk will report.

The assistant legislative clerk read as follows.

> A bill (S. 687) to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

The Senate proceeded to consider the bill.

CLOTURE MOTION

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Senator ROCKEFELLER is not present and has asked me to offer the cloture motion on the bill, and to accommodate him and in his behalf I do so.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The legislative clerk read as follows:

> CLOTURE MOTION
>
> We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Calendar No. 409, S. 687, a bill to regulate interstate commerce by providing for a uniform product liability law:
>
> Jay Rockefeller, J. Lieberman, John Glenn, Clairborne Pell, Bob Kerrey, J.J. Exon, Harlan Mathews, Slade Gorton, Orrin G. Hatch, Strom Thurmond, Daniel Coats, Judd Gregg, Dirk Kempthorne, Pete V. Domenici, Larry Pressler, Kay Bailey Hutchison, Frank H. Murkowski.

Mr. MITCHELL. Mr. President, if I can amplify my earlier remarks, I want everyone to understand that the procedure we are pursuing with respect to this bill is one which I proposed in an attempt to reach a compromise to accommodate the conflicting demands of the two sides.

The proponents of the bill did not want a cloture motion filed immediately on the bill, wanting to permit some time to occur for amendments. In view of the large number of bills pending and the short amount of time next week in which to do it, and in view of the fact that they had anticipated, and I believe all had anticipated, that there would have to be a cloture motion on the motion to proceed which is obviously not now necessary, they have agreed to this compromise with respect to having the cloture motion filed now but having 2 full days next week, Monday and Tuesday, within which amendments can be offered, debated, and voted on.

Mr. President, does my colleague have any further comments?

Mr. STEVENS. Mr. President, I thank the majority leader. I am waiting for the clearance to have the bill we introduced on a bipartisan basis to be placed on the calendar. I have not any at this time. But I would request that that request be considered if it is properly cleared at a later time today.

Mr. MITCHELL. Mr. President, I therefore suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

TRIBUTE TO JACQUELINE KENNEDY ONASSIS

Mr. JOHNSTON. Mr. President, I would like to take this opportunity to say a few words about former First Lady Jacqueline Kennedy Onassis, a woman whom I admire greatly. Many Senators have risen over the last few days to pay tribute to this wonderful woman who has had such a great impact on the lives of so many Americans, and I would like to recognize Mrs. Kennedy for the contributions she made to a field very dear to me, that of historic preservation in the United States.

We often take for granted the numerous monuments, memorials, and historic buildings found throughout Washington, DC, but many of these structures are here today in no small part because of the efforts of Mrs. Kennedy. The Old Executive Office Building, the Renwick Gallery of Art, and other buildings lining Lafayette Square all owe their continued existence to Jackie Kennedy, and her lasting contributions to renovations in the White House are viewed by thousands every week. As Richard Moe, president of the National Trust for Historic Preservation, observed,

> Jackie Kennedy had a greater effect on the shape and spirit of the historic heart of the nation's capital than any architect or developer * * *. For more than any resident of the White House since Thomas Jefferson, she had a vision of what architecture and the arts can mean. In the end, she may be one of the more important preservationists in Washington's history.

It was Jackie Kennedy who, in 1962, convinced the chairman of the National Trust for Historic Preservation and Commission of Fine Arts, David Finley, not to replace the historic buildings surrounding Lafayette Park with modern highrise office towers. As a result, the Blair House, Decatur House, Dolley Madison's House, and the Renwick Gallery of Art are enjoyed by thousands of visitors to our Nation's Capital today. In addition, Mrs. Kennedy's plans for Lafayette Square became a model for future urban planning and development in the District of Columbia.

Who among my colleagues can forget Jacqueline Kennedy's redecoration of the White House and the television tour of her efforts. And Mrs. Kennedy ensured that her restorative endeavors would be continued after she left the White House by helping to establish a permanent curator's position there.

Jacqueline Kennedy's commitment to historic preservation did not cease after she left Washington. As a resident of New York City, she vigorously opposed the demolition of Penn Station. As a trustee of New York's Municipal Arts Society, she fought city officials all the way to the Supreme Court to save Grand Central Station. The Court's decision to uphold Grand Central terminal's status as a landmark building is often seen as a turning point in historic preservation in America.

I have always appreciated the inroads Mrs. Kennedy made in the field of historic preservation, an area to which my wife, Mary, and I have long been committed. I do not think it would have been possible to locate a National Center for Historic Preservation Technology in Natchitoches, LA, had Jackie Kennedy not brought the issue of historic preservation to the forefront of American consciousness. The construction of a Jazz Park in New Orleans to preserve jazz music and structures such as Armstrong Park associated with it and the preservation of the Cane River area in northern Louisiana both owe a great deal to the efforts of this former First Lady, who understood the importance of saving historic structures for future generations to learn from and enjoy.

As we remember Jacqueline Kennedy Onassis in the weeks and months following her death, I hope my colleagues will join with me in thinking of her whenever we travel on Pennsylvania Avenue between the Capitol and the White House or enjoy the beauty of the historic structures around Lafayette Park and will consider the fights she led to preserve America's heritage and remember the boost she gave to the historic preservation movement in this country. Although Mrs. Kennedy's death is a tragic loss for America, she will continue to live on through the lasting contributions she made to the preservation of America's heritage.

JACQUELINE KENNEDY ONASSIS

Mr. ROTH. Mr. President, there is not a lot that can be said about Jacqueline Kennedy Onassis that has not already been said in these past few weeks. Certainly the place this woman held in the consciousness of America was—and remains—somewhere very near our heart. Those who knew her cared deeply for her. We have heard many of their heart-warming remembrances. Those who did not know her personally admired from afar as she brought grace and elegance to a period Americans came to know as Camelot.

Indeed, she was a fitting Guenivere, a beautiful and noble woman who enriched the lives of those around her; a woman who believed in her husband and his vision—and who supported that vision in a quiet, regal way. In the process, she forever changed the role of First Lady and even the character of Washington.

About the same time America's political story was beginning, the German poet, Friedrich von Schiller was writing about the importance of art, beauty, and aesthetic education on democracy. A part of his conclusion was that, "Art is the daughter of Freedom * * *. If man is ever to solve the problem of politics in practice, he will have to approach it through the problem of the aesthetic, because it is only through Beauty that man makes his way to Freedom."

In a profound yet subtle way, Jacqueline Kennedy understood this, that "it is aesthetic culture that leads to moral nobility, and moral nobility is the precondition of a truly free society." Her successful efforts to bring art and culture to Washington forever bless our Nation. Not only was it ennobling, but at a very critical time in our history, it eased the realpolitiks of the tense cold war with softness, beauty, and joy.

It would be a grave mistake, however, to appreciate Jacqueline Kennedy Onassis only for the artistic contributions she made. Indeed, she did so much more. In fact, I believe it was in crisis that Americans fell in love with their First Lady. None who were alive and old enough to understand, will ever forget the courage of this woman as she stood beside Lyndon Johnson aboard Air Force One as he took the oath of office only hours after the assassination of her husband. At that moment, Jackie became a legend. And the life she led thereafter as a mother, concerned about living, nurturing, and raising her children beneath the stark glare of media light, only confirmed what we had already come to understand: This was an exceptional woman.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE OF THAT

Mr. HELMS. Mr. President, the incredibly enormous Federal debt is like the weather—everybody talks about the weather but nobody does anything about it. And Congress talks a good game about bringing Federal deficits and the Federal debt under control, but there are too many Senators and Members of the House of Representatives who unfailingly find all sorts of excuses for voting to defeat proposals for a constitutional amendment to require a balanced Federal budget.

As of Thursday, June 23 at the close of business, the Federal debt stood—down to the penny—at exactly $4,598,157,611,751.62. This debt, mind you, was run up by the Congress of the United States, because the big-spending bureaucrats in the executive branch of the U.S. Government cannot spend a dime that has not first been authorized and appropriated by the U.S. Congress. The U.S. Constitution is quite specific about that, as every school boy is supposed to know.

And pay no attention to the nonsense from politicians that the Federal debt was run up by one President or another, depending on party affiliation. Sometimes they say Ronald Reagan ran it up; sometimes they say George Bush. I even heard that Jimmy Carter helped run it up. All three suggestions are wrong. They are false because the Congress of the United States is the villain.

Most people cannot conceive of a billion of anything, let alone a trillion. It may provide a bit of perspective to bear in mind that a billion seconds ago, Mr. President, the cuban missile crisis was going on. A billion minutes ago, not many years had elapsed since Christ was crucified.

That sort of puts it in perspective, does it not, that Congress has run up a Federal debt of 4,598 of those billions—of dollars. In other words, the Federal debt, as I said earlier, stands today at 4 trillion, 598 billion, 157 million, 611 thousand, 751 dollars, and 62 cents.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Item Nos. 939, 941, 942, 943, and 1002.

I further ask unanimous consent that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that, upon confirmation, the motions to reconsider be laid upon the table en bloc; and, that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

DEPARTMENT OF THE TREASURY

Philip N. Diehl, of Texas, to be Director of the Mint for a term of five years.

FEDERAL RESERVE SYSTEM

Alan S. Blinder, of New Jersey, to be a Member of the Board of Governors of the Federal Reserve System for the unexpired term of fourteen years from February 1, 1982.

Alan S. Blinder, of New Jersey, to be Vice Chairman of the Board of Governors of the Federal Reserve System for a term of four years.

DEPARTMENT OF STATE

David Elias Birenbaum, of the District of Columbia, to be Representative of the United States of America to the United Nations for U.N. Management and Reform, with the rank of Ambassador.

DEPARTMENT OF JUSTICE

Jerry J. Enomoto, of California, to be United States Marshal for the Eastern District of California for the term of four years.

INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to Executive Calendar No. 22, the International Convention on the Elimination of All Forms of Racial Discrimination; that the treaty be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification; that the three reservations, an understanding, a declaration, and a proviso, recommended by the committee be considered as having been agreed to; that no other amendments, conditions, reservations, understandings, declarations, or provisos be in order; that any statements be inserted in the CONGRESSIONAL RECORD as if read; that the motion to reconsider be laid upon the table; that the President be notified of the Senate's action; and, that following disposition of the treaty, the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask for a division vote.

The PRESIDING OFFICER. All those in favor, please stand. Those opposed, likewise please stand.

In the opinion of the Chair, two-thirds of the Senators present having voted in the affirmative, the resolution of ratification is agreed to.

The resolution of ratification is as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the International Convention on the Elimination of All Forms of Racial Discrimination, adopted by the United Nations General Assembly on December 21, 1965 and signed on behalf of the United States on September 28, 1966 (Executive C, 95-2), subject to the following Reservations, Understanding, Declaration and Proviso:

I. The Senate's advice and consent is subject to the following reservations:

(1) That the Constitution and laws of the United States contain extensive protections of individual freedom of speech, expression and association. Accordingly, the United States does not accept any obligation under this Convention, in particular under Articles 4 and 7, to restrict those rights, through the adoption of legislation or any other measures, to the extent that they are protected by the Constitution and laws of the United States.

(2) That the Constitution and laws of the United States establish extensive protections against discrimination, reaching significant areas of non-governmental activity. Individual privacy and freedom from governmental interference in private conduct, however, are also recognized as among the fundamental values which shape our free and democratic society. The United States understands that the identification of the rights protected under the Convention by reference in Article 1 to fields of "public life" reflects a similar distinction between spheres of public conduct that are customarily the subject of governmental regulation, and spheres of private conduct that are not. To the extent, however, that the Convention calls for a broader regulation of private conduct, the United States does not accept any obligation under this Convention to enact legislation or take other measures under paragraph (1) of Article 2, subparagraphs (1)(c) and (d) of Article 2, Article 3 and Article 5 with respect to private conduct except as mandated by the Constitution and laws of the United States.

(3) That with reference to Article 22 of the Convention, before any dispute to which the United States is a party may be submitted to the jurisdiction of the International Court of Justice under this article, the specific consent of the United States is required in each case.

II. The Senate's advice and consent is subject to the following understanding, which shall apply to the obligations of the United States under this Convention:

That the United States understands that this Convention shall be implemented by the Federal Government to the extent that it exercises jurisdiction over the matters covered therein, and otherwise by the state and local governments. To the extent that state and local governments exercise jurisdiction over such matters, the Federal Government shall, as necessary, take appropriate measures to ensure the fulfillment of this Convention.

III. The Senate's advice and consent is subject to the following declaration:

That the United States declares that the provisions of the Convention are not self-executing.

IV. The Senate's advice and consent is subject to the following proviso, which shall not be included in the instrument of ratification to be deposited by the President:

Nothing in this Convention requires or authorizes legislation, or other action, by the United States of America prohibited by the Constitution of the United States as interpreted by the United States.

CONVENTION ON THE ELIMINATION OF RACIAL DISCRIMINATION

Mr. PELL. Mr. President, the International Convention on the Elimination of All Forms of Racial Discrimination, which we are now considering, is one of several instruments designed by the international community to implement the human rights articles of the U.N. Charter. The Convention was adopted unanimously by the U.N. General Assembly in December 1965. It is a widely accepted treaty, with more than 135 States as parties.

The Convention is rooted in Western legal and ethical traditions. For the most part, its provisions are consistent with existing U.S. law.

The United States signed the convention in September 1966, shortly after it came into force. The Carter administration transmitted it to the Senate in February 1978. The Foreign Relations

Committee held a hearing on the convention but unfortunately, domestic and international events at the end of 1979 prevented the committee from moving to a vote on it.

Neither the Reagan nor the Bush administrations supported ratification of the convention. Fortunately the Clinton administration has taken a different view. The administration supports ratification of the convention with a limited number of conditions: three reservations, one understanding, and one declaration. In many respects, these are similar to the conditions proposed by the Carter administration.

The Foreign Relations Committee held a hearing on the convention and the administration's proposed conditions on May 11, 1994. Although some of the public witnesses questioned some of the conditions, all of those who testified before the committee strongly supported ratification.

On May 25, the committee voted unanimously to report favorably to the Senate the convention with a resolution of ratification containing the reservations, understanding, and declaration proposed by the Clinton administration and a proviso offered by Senator HELMS. This proviso clarifies the relationship between the convention and the U.S. Constitution. Since this relationship is a matter of U.S. domestic law, the proviso will not be included in the instrument of ratification deposited by the President. The proviso is identical to the Helms proviso adopted by the committee last year during consideration of the International Covenant on Civil and Political Rights.

The convention is an important instrument in the international community's struggle to eliminate racial and ethnic discrimination. As a nation which has gone through its own struggle to overcome segregation and discrimination, we are in a unique position to lead the international effort. Our position and the credibility of our leadership will be strengthened immeasurably by ratification of this convention—ratification, I might add, that is long overdue. Moreover, ratification will also enable the United States to participate in the work of the Committee on the Elimination of Racial Discrimination established by the convention to monitor compliance.

Mr. President, this is a good treaty and one that the United States can be proud of ratifying. I urge all of my colleagues to support ratification of this treaty.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

REPORT ON THE CHEMICAL WEAPONS CONVENTION—MESSAGE FROM THE PRESIDENT—PM 129

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations.

To the Senate of the United States:

Upon transmitting the Chemical Weapons Convention (CWC) to the Senate November 23, 1993, I indicated that the Administration was reviewing the impact of the Convention on Executive Order No. 11850, of April 8, 1975, which specifies current U.S. policy regarding the use of riot control agents (RCAs) in war, and would submit the results of that review separately to the Senate. The purpose of this letter is to inform the Senate of the outcome of that review.

Article I(5) of the CWC prohibits Parties from using RCAs as a "method of warfare." That phrase is not defined in the CWC. The United States interprets this provision to mean that:

—The CWC applies only to the use of RCAs in international or internal armed conflict. Other peacetime uses of RCAs, such as normal peacekeeping operations, law enforcement operations, humanitarian and disaster relief operations, counter-terrorist and hostage rescue operations, and noncombatant rescue operations conducted outside such conflicts are unaffected by the Convention.

—The CWC does not apply to all uses of RCAs in time of armed conflict. Use of RCAs solely against noncombatants for law enforcement, riot control, or other noncombat purposes would not be considered as a "method of warfare" and therefore would not be prohibited. Accordingly, the CWC does not prohibit the use of RCAs in riot control situations in areas under direct U.S. military control, including against rioting prisoners of war, and to protect convoys from civil disturbances, terrorists, and paramilitary organizations in rear areas outside the zone of immediate combat.

—The CWC does prohibit the use of RCAs solely against combatants. In addition, according to the current international understanding, the CWC's prohibition on the use of RCAs as a "method of warfare" also precludes the use of RCAs even for humanitarian purposes in situations where combatants and noncombatants are intermingled, such as the rescue of downed air crews, passengers, and escaping prisoners and situations where civilians are being used to mask or screen attacks. However, were the international understanding of this issue to change, the United States would not consider itself bound by this position.

Upon receiving the advice and consent of the Senate to ratification of the Chemical Weapons Convention, a new Executive order outlining U.S. policy on the use of RCAs under the Convention will be issued. I will also direct the Office of the Secretary of Defense to accelerate efforts to field non-chemical, non-lethal alternatives to RCAs for use in situations where combatants and noncombatants are intermingled.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 23, 1994.*

MESSAGES FROM THE HOUSE

At 12:58 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4602. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1995, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 4602. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1995, and for other purposes; to the Committee on Appropriations.

MEASURES HELD AT THE DESK

The following bill was ordered held at the desk by unanimous consent:

S. 2243. A bill to amend the Fishermen's Protective Act of 1967 to permit reimbursement of fishermen for fees required by a foreign government to be paid in advance in order to navigate in the waters of that foreign country whenever the United States considers that fee to be inconsistent with international law, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary for the Senate reported that on June 24, 1994, she had presented to the President of the United States, the following enrolled bill:

S. 24. An act to reauthorize the Independent Counsel Law for an additional 5 years, and for other purposes.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-528. A joint resolution adopted by the Legislature of the State of California; to the Committee on Banking, Housing, and Urban Affairs.

"ASSEMBLY JOINT RESOLUTION NO. 19

"Whereas, the safety and soundness of the banking system within the United States is important to the well-being and financial security of businesses and individuals in all the states; and

"Whereas, the State of California and the federal government, through a system of state and federal bank regulation, oversee the safety and soundness of the state and national banks in California; and

"Whereas, the commercial banks of California rate as being among the best managed and best capitalized in the United States; and

"Whereas, sound economic growth in the communities of California is desirable and needed; and

"Whereas, restrictive laws and government regulations, such as documentation and policy requirements governing real estate lending, have resulted in increased compliance costs and often inappropriate requirements for California financial institutions which have decreased the availability for credit for California businesses and individuals; and

"Whereas, many borrowers, including women and communities of color, are finding it more difficult or impossible to obtain credit from California's banks because of unnecessary government regulations; and

"Whereas, lending to women and communities of color is an important action directly leading to improving the economy in areas of traditionally high unemployment and job displacement; and

"Whereas, economic growth can best be encouraged and maintained by reducing the costs of borrowing money and allowing more reasonable credit to be extended to all businesses and individuals; and

"Whereas, the viability and the safety and soundness of the banking system would not be harmed by eliminating many unneeded laws and regulations; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature urge the United States Congress to review those laws which regulate the banking system; to repeal those laws found to be unduly restrictive, burdensome, and unnecessary to protect the safety and soundness of the banking system; to further direct the federal agencies responsible for banking regulations to review regulations that may inhibit lending to small businesses, women, communities of color, and agricultural borrowers; and to modify and rescind those regulations; and be it further

"*Resolved*, That the President of the United States is urged to use the authority of the executive branch of the federal government to reduce overregulation of the banking system by administrative act and to seek necessary legislative changes; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-529. A resolution adopted by the House of the Legislature of the Commonwealth of Massachusetts; to the Committee on Banking, Housing, and Urban Affairs.

"HOUSE RESOLUTION

"Whereas, the One Dollar Coin Act of 1993 (H.R. 1322) under consideration in the United States Congress would, if enacted in its present form, mandate the elimination of the one dollar bill, and the replacement of the bill with a one dollar coin; and

"Whereas, the Commonwealth of Massachusetts has, for over 100 years, produced the paper from which U.S. currency, including the one dollar bill, is made, and takes great pride in the product; and

"Whereas, the elimination of the one dollar bill would have a severely negative impact on the local economies of the western region, to include job cutbacks, and on the Commonwealth's economy in general; and

"Whereas, the economies of the western region have suffered greatly in past years due to manufacturing job reductions and attendant economic impacts; and

"Whereas, the "benefits" claimed by proponents of the dollar coin are highly suspect, and would come at the overall expense of the people of the Commonwealth; and

"Whereas, the paper from which currency is made comes from renewable resources and recycled industrial products, while the metals to produce coins come from environmentally damaging hardrock mining; and

"Whereas, the prices of coin operated machines will likely rise with the replacement of the dollar bill with a dollar coin, thereby negatively impacting those least able to afford such price rises; and

"Whereas, the overwhelming majority of Americans have consistently opposed replacing the dollar bill with a dollar coin; therefore be it

"*Resolved*, that the Massachusetts House of Representatives calls upon the members of its Congressional delegation to withdraw any support of H.R. 1322, and to work actively to defeat such legislation or any other measure which mandates elimination of the one dollar bill; and be it further

"*Resolved*, that a copy of these resolutions be forwarded by the clerk of the House of Representatives to the presiding officer of each branch of Congress and to the members thereof from this Commonwealth."

POM-530. A resolution adopted by the Legislature of the State of New Hampshire; to the Committee on Banking, Housing, and Urban Affairs.

"SENATE CONCURRENT RESOLUTION 10

"Whereas, billions of board feet of unprocessed logs are exported annually from United States ports to other nations; and

"Whereas, it has been calculated that each one million board feet of unprocessed logs exported represents an estimated 3 to 4 jobs potentially lost from the domestic manufacturing economy; and

"Whereas, unprocessed logs are being exported from the port of Portsmouth, New Hampshire and other eastern ports including Portland, Maine, Providence, Rhode Island and Albany, New York and that it is projected that the volume of exported unprocessed logs will continue to increase; and

"Whereas, states west of the 100th meridian are authorized under the Forest Resources Conservation and Shortage Relief Act of 1990, as amended to regulate the export of unprocessed logs from state, county, or municipal lands; and

"Whereas, the people of the state of New Hampshire have long been staunch advocates of states' rights, now, therefore, be it

"*Resolved by the Senate, the House of Representatives concurring*, That the general court of New Hamsphire hereby urges the United States Congress to authorize states east of the 100th meridian to regulate the export of unprocessed logs from state, county and municipal lands, pursuant to authority provided under the Forest Resources Conservation and Shortage Relief Act of 1990, as amended which now exits for states west of the 100th meridian; and

"That the general court further urges the United States Congress to extend the ban which now exists on exports of unprocessed logs from federal lands west of the 100th meridian to federal lands east of the 100th meridian, also pursuant to authority under the Forest Resources Conservation and Shortage Relief Act of 1990, as amended; and

"That copies of this resolution, signed by the president of the senate and the speaker of the house, be forwarded by the senate clerk to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the New Hampshire Congressional delegation."

POM-531. A resolution adopted by the Senate of the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation.

"SENATE RESOLUTION NO. 41

"Whereas, the Space Station program will provide a research facility in space for materials science, biotechnology, and fundamental sciences, as well as life sciences research in operation medicine and life support system development; and

"Whereas, it is critical that America improve its competitive advantage in the global economy by having a strong educational program in the fields of science and math; and

"Whereas, America needs to stimulate interest in the pure sciences to improve its educational system, and the Space Station program will inspire young Americans to excel by illustrating future employment opportunities in the fields of science and math; and

"Whereas, the Space Station program is the largest international venture in science and technology ever undertaken, with 12 countries—including 9 countries in the European Space Agency, as well as Japan, Russia, and Canada—having already contributed more than $3 billion to the program and having agreed to contribute more than $8 billion to the program; and

"Whereas, the Space Station program has more than 500 suppliers in 37 states, and employs tens of thousands of people in highly skilled, and well-paid manufacturing positions; and

"Whereas, the Space Station program has created more than 4,500 jobs in California and more than $600,000,000 has been spent annually in the state in connection with the program; and

"Whereas, the aerospace industry is one of America's most competitive and vibrant industries, generating more than $30 billion in surplus international trade annually; and

"Whereas, some members of the Congress of the United States are unwisely considering eliminating funding for the Space Station program; now, therefore, be it

"*Resolved by the Senate of the State of California*, That the Legislature hereby expresses its support for the continued funding of the Space Station program; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the President pro Tempore of the United States Senate, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-532. A joint resolution adopted by the Legislature of the State of Tennessee; to the Committee on Commerce, Science, and Transportation.

"HOUSE JOINT RESOLUTION NO. 371

"A resolution to urge the United States Congress to regulate the sale of violent and offensive video games.

"Whereas, it is a lawful purpose of the United States Congress to enact laws to protect and promote the general welfare, health, safety, and morals of the citizens of this great nation; and

"Whereas, Congress is empowered to enact such laws pursuant to the Constitution; and

"Whereas, violence has become an all too common occurrence in our daily lives; and

"Whereas, violence is invading our homes through a variety of sources and affecting our most precious resource—our children; and

"Whereas, video games depicting violent acts, offensive behavior, and degrading actions are readily available for purchase; and

"Whereas, such games provide no educational, emotional, or ethical benefit; now, therefore,

"*Be it resolved by the House of Representatives of the Ninety-Eighth General Assembly of the State of Tennessee, the Senate Concurring,* That we strongly urge the Congress of the United States to regulate the sale of violent, offensive and degrading video games.

"*Be it further resolved,* That copies of this resolution be sent to President Bill Clinton, Vice President Al Gore, each member of the Tennessee Congressional Delegation, the Clerk of the United States House of Representatives, and the Secretary of the United States Senate."

POM–533. A resolution adopted by the Chamber of Commerce of the City of Ketchikan, Alaska relative to Federal lands; to the Committee on Energy and Natural Resources.

POM–534. A joint resolution adopted by the Legislature of the Commonwealth of the Northern Marianas; to the Committee on Energy and Natural Resources.

"SENATE JOINT RES. NO. 9–6

"Finding, that Section 901 of the Covenant (approved by U.S. Public Law 94–241, 90 Stat. 263), provides for the appointment or election of a Resident Representative to the United States;

"Finding, that the current status of Commonwealth-federal relations, which is marred by miscommunication, misinterpretation, and misinformation is further exacerbated by the lack of a constant and vigilant Commonwealth voice and presence in the House of Representatives and its various committees and subcommittees;

"Taking note that the Covenant negotiating history makes it clear that Section 901 does not preclude the Government of the Northern Marianas from requesting that the Resident Representative be given non-voting delegate status in the Congress of the United States;

"Finding further that Article V, Section 2, of the Commonwealth Constitution as amended by Constitutional Amendment 24, provides that the United States may confer the status of non-voting member delegate in the United States Congress on the Resident Representatives;

"Observing that P.L. 3–92 (Title 1, CMC, Division 4, §4101) provides that the Resident Representative shall function pursuant to Article V of the Constitution and the terms and conditions set forth in Division 4;

"Observing further that P.L. 3–92, §2(b)(Title 1, CMC, Division 4, §4202(b)) prescribes the following duties for the Resident Representative: "To represent the Commonwealth and the people of the Commonwealth on a full-time basis before the Congress of the United States, its committees and subcommittees. . . ."

"Holding it to be true that non-voting delegate status for the Resident Representative would neither diminish the full force and effect of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America nor in any sense abrogate, qualify, or release rightful claims to local self-government contained in Article I, Section 103 of the Covenant; it is

"*Resolved by the Senate of the Ninth Northern Marianas Commonwealth Legislature, the House of Representatives concurring,* That the United States of America:

"(a) Confer the status of non-voting delegate in the United States Congress on the Resident Representative;

"(b) Provide that the Resident Representative for the Northern Mariana Islands receive the same compensation, allowance, and benefits as a member of the United States House of Representatives, and be entitled to at least those same privileges and immunities granted to the non-voting Delegate from the Territory of Guam;

"(c) Work closely with the present Resident Representative in the drafting of federal legislation necessary to confer non-voting delegate status; and

"*Resolving further,* That the President of the Senate and the Speaker of the House shall certify and the Senate Legislative Secretary and the House Clerk shall attest to the adoption of this Resolution and thereafter transmit certified copies to the Honorable Bill Clinton, President of the United States; the Honorable Froilan C. Tenorio, Governor of the Commonwealth of the Northern Mariana Islands; the Honorable Thomas Foley, Speaker of the U.S. House of Representatives; the Honorable Al Gore, Vice President of the United States of America and President of the U.S. Senate; the Honorable Bruce Babbitt, Secretary of the United States Department of the Interior; the Honorable J. Benett Johnston, member of the House of Representatives, United States Congress; the Honorable George Miller, member of the House of Representatives, United States Congress; the Honorable Ron de Lugo, member of the House of Representatives, United States Congress; and the Honorable Leslie Turner, Assistant Secretary, Office of Territorial and International Affairs, U.S. Department of the Interior."

POM–535. A resolution adopted by the Legislature of the Commonwealth of Massachusetts; to the Committee on Energy and Natural Resources.

"RESOLUTION

"Whereas, the National Park Service is considering consolidating its ten regional offices into six centers in order to streamline its operations and cut employees, thereby creating a consolidated "super region" in the northeast with Philadelphia as the headquarters; and

"Whereas, professionals in Boston provide critical services to the parks and national treasures in New England and New York State, and without a regional office in Boston, all park units in New England would have to be served from Philadelphia; and

"Whereas, many of the best of the regional office staff of two hundreds and fifty people would lose their jobs or be forced to work out of an office in Philadelphia which would be serving up to one hundred parks instead of forty-two, and a population area of sixty-four million people; and

"Whereas, park support would be more cumbersome and difficult and contrary to the decentralizing concepts at the core of Vice President Gore's National Performance Review; and

"Whereas, the Boston Office is considered a center of innovation and National Park Service sites now served from Boston draw over thirty million people per year and construction projects managed from the Boston office total over sixty million dollars; and

"Whereas, many of the sites now rely on the regional office for considerable help with administration, training, law enforcement, and public information, and by virtue of its location in Boston, the North Atlantic Regional Office has provided a high level of service to communities, especially in New England, engaging local grassroots initiatives in protecting what New Englanders feel is important; and

"Whereas, the regional office currently has well over five hundred formal partnerships with State, local and nonprofit organizations, more than any other region of the National Park Service and last year, one million dollars in National Park Service funding leveraged over three and one-half million dollars in this region; now therefore be it

"*Resolved,* That the Massachusetts General Court urges the Department of the Interior to retain the National Park Service Regional Headquarters in Boston, Massachusetts; and be it further

"*Resolved,* That a copy of these resolutions be transmitted forthwith by the Clerk of the Senate to Bruce Babbitt, Secretary of the Department of the Interior and to the Presiding Officer of each branch of Congress and to the Members thereof from this Commonwealth."

POM–536. A concurrent resolution adopted by the Legislature of the State of Kansas; to the Committee on Energy and Natural Resources.

"SENATE CONCURRENT RESOLUTION NO. 1628

"Whereas, the national security of the United States of America is threatened by the ever-increasing reliance on imported offshore crude oil and the sharp decline in domestic production within the producing states; and

"Whereas, the United States' annual energy import bill is about $55 billion and projected to be over $100 billion by the year 2000, creating a huge negative balance of trade; and

"Whereas, conservation of America's finite oil resources is dependent on our oil producers receiving a fair price; and

"Whereas, along with the current national crisis relating to crude oil production throughout the United States, as a result of current devastating crude oil price decrease, the infrastructure consisting of drilling rigs, equipment, and jobs relating directly to the industry is quickly disappearing and is no longer readily available; and

"Whereas, the employment in the United States oil and gas exploration and production industry has decreased 50% over the past six years, from 700,000 to 350,000 today; and

"Whereas, increasing regulation by the federal and individual state governments is contributing to this national crisis in crude oil production by mandating implementation of new and expanded regulations and shifting the cost of these regulations to domestic operators; and

"Whereas, failure by national, state and congressional political leadership to take corrective action to stimulate crude oil production and ensure price stability with tax incentives, minimum price guarantees, import duties on crude oil and refined products or other appropriate means has, is and will continue to allow the domestic oil producing industry to collapse to the point where the industry will no longer be a viable national industry able to contribute to the well-being of its citizens; and

"Whereas, any program designed to conserve and maximize the production of domestic oil reserves must be in the national interest: Now, therefore,

"*Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein*, Urges the President of the United States, the Secretary of the United States Department of Energy and Congress to take immediate action to help alleviate a national crisis in crude oil production and price stability; and

"*Be it further resolved*, That the Secretary of State be directed to send an enrolled copy of this resolution to the President of the United States, the Secretary of the United States Department of Energy and each member of the United States Congress."

POM-537. A resolution adopted by the Senate of the Legislature of the Commonwealth of Puerto Rico; to the Committee on Energy and Natural Resources.

"SENATE RESOLUTION No. 947

"To express the concern of the Senate of Puerto Rico with respect to the allegations of irregularities and fraud in the electoral process in the Dominican Republic and thus notify this matter to the President of that country.

"The Senate of Puerto Rico is deeply concerned about the allegations of irregularities and fraud in the electoral process of the Dominican Republic.

"According to reports from international observers and as acknowledged by the Central Electoral Board of the Dominican Republic, a large number of qualified voters were excluded from the electoral lists, a decisive fact in an electoral process which will be decided by a lesser number of votes than the number of electors that have been excluded.

"The Congressional Hispanic Caucus and the Congressional Black Caucus of the United States have reacted to this situation by stating that: 'Given the reliable reports of widespread and systematic fraud throughout the country * * * it is our opinion that the true will of the Dominican people is, at present, unknown * * *'

"On its part, the National Democratic Institute, an organization of great prestige linked to the Democratic Party of the United States, concluded that 'the delegation has observed a sufficiently large degree of disenfranchisement to cause serious concern * * * The pattern of disenfranchisement suggest the real possibility of a deliberate effort to alert the electoral process.'

"The Senate of Puerto Rico, as an institution committed to democratic values, establishes as a basic principle the absolute respect to the electoral will, through processed free of tarnish and suspicion.

"*Be it resolved by the Senate of Puerto Rico:*

"Section 1.—To express to the President of the Dominican Republic, Dr. Joaquín Balaguer, our deep concern about the circumstances in which the elections recently held there were conducted.

"Section 2.—The Senate of Puerto Rico calls upon the Central Electoral Board of the Dominican Republic to investigate and correct the allegations of irregularities and fraud without disregarding the possibility of new elections, whether partial or total, should it be necessary to obtain clear and unchallengeable results.

"Section 3.—A copy of this Resolution shall be remitted to Dr. Joaquín Balaguer, President of the Dominican Republic and to Dr. Manuel García Lizardo, Chairman of the Central Electoral Board of that country."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1513. A bill entitled "Improving America's Schools Act of 1993" (Rept. No. 103-292).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

H.R. 2144: A bill to provide for the transfer of excess land to the Government of Guam, and for other purposes (Rept. No. 103-293).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PRYOR (for himself and Mr. SASSER):

S. 2239. A bill to implement pharmaceutical marketplace reform, and for other purposes; to the Committee on Finance.

By Mr. HATCH:

S. 2240. A bill entitled the "Rape Victims' Protection Act"; to the Committee on the Judiciary.

By Mr. MITCHELL:

S. 2241. A bill to establish a Gulf of Maine Council to promote the economic development and ensure the environmental quality of the Gulf of Maine, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DASCHLE (for himself, Mr. PELL, Mrs. BOXER, Mr. DURENBERGER, Mr. JEFFORDS, Mr. REID, Mr. SARBANES, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, and Mr. BUMPERS):

S. 2242. A bill to establish a National Institute for the Environment, to improve the scientific basis for decisionmaking on environmental issues, and for other purposes; to the Committee on Environment and Public Works.

By Mr. STEVENS (for himself, Mrs. MURRAY, Mr. GORTON, Mr. MURKOWSKI, and Mr. PACKWOOD):

S. 2243. A bill to amend the Fishermen's Protective Act of 1967 to permit reimbursement of fishermen for fees required by a foreign government to be paid in advance in order to navigate in the waters of that foreign country whenever the United States considers that fee to be inconsistent with international law, and for other purposes; ordered held at the desk.

By Mr. BRYAN:

S. 2244. A bill to amend the Nuclear Waste Policy Act of 1982 to allow commercial nuclear utilities that have contracts with the Secretary of Energy under section 302 of that Act to receive credits to offset the cost of storing spent fuel that the Secretary is unable to accept for storage on and after January 31, 1998; to the Committee on Energy and Natural Resources.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S.J. Res. 204. A joint resolution recognizing the American Academy in Rome, an American overseas center for independent study and advanced research, on the occasion of the 100th anniversary of its founding; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL:

S. Res. 233. A resolution to authorize representation of Members of the Senate in Bahre v. Butler, Case No. 9410917-05 (Super. Ct. Cobb County, GA); considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PRYOR (for himself and Mr. SASSER):

S. 2239. A bill to implement pharmaceutical marketplace reform, and for other purposes; to the Committee on Finance.

THE PHARMACEUTICAL MARKETPLACE REFORM ACT OF 1994

Mr. PRYOR. Mr. President, today, along with the distinguished Senator from Tennessee [Mr. SASSER], I am introducing comprehensive legislation that will ensure that older Americans pay fair prices for vital prescription medications. I am introducing the Pharmaceutical Marketplace Reform Act of 1994. For the past 5 years as chairman of the Special Committee on Aging, I have focused much of my attention on prescription drug prices. I have particularly studied the impact of rapidly escalating medication prices on older Americans. I have recited over and over again these very disturbing statistics for my colleagues:

For three out of four older Americans, prescription drugs are their highest out-of-pocket medical cost;

In order to meet the costs of prescription drugs, 13 percent of older Americans have had to go without food;

Nearly half of all older Americans completely lack coverage for payment of their prescription drugs;

Drug manufacturers charge citizens of other industrialized nations much lower prices for their prescription drugs. In fact, a recent General Accounting Office report found that citizens of the United Kingdom pay 60 percent less for the same drugs purchased by citizens of the United States.

But now, Mr. President, the time for talk is over, and the time for action is upon us. In this very important year of health care reform, we can finally ensure that, once and for all, Americans pay fair prices for medications. Let me state that I support a market-based approach to containing drug costs. And, the key to an efficient marketplace is good, up-to-date information.

Unfortuantely, information about drug costs has been sorely lacking in our health care system. Therefore, this bill will ensure that all purchasers of prescription drugs—Medicare, Medicaid, HMO's, hospitals, community pharmacies, chain pharmacies, and others—are given the information that they need to make good purchasing decisions.

I can predict the reaction of the drug industry to this bill. They will call this bill, like they call any other bill that attempts to inject fairness into the prescription drug market, movement toward price controls. Let me make it clear that this bill does not impose any price controls on drugs. In fact, I have said time and time again that I do not believe that price controls work.

When market economics proves effective in containing drug costs, I believe the market should be allowed to function on its own. However, when the market fails to restore skyrocketing drug prices to a stable equilibrium, I believe that we have a responsibility to ensure that drugs are priced reasonably and fairly for people who depend on medications.

I have not been convinced that the market can work to contain drug costs, and particularly the costs of new, breakthrough drugs. Because generic substitutes for these kinds of drugs do not exist, forces of competition that typically work to contain prices are ineffective. We therefore need another way to ensure that these drugs are priced reasonably. This bill will provide information to buyers about these new, breakthrough medications so that more informed purchasing decisions can be made.

In addition, the drug industry has refused to negotiate discounts or price breaks with large community and chain pharmacy buying groups. While a hospital of HMO will pay $1 for an inhaler, a community pharmacy might pay $20 for the very same product. This is market distortion at its worst, since many of these community pharmacy buying groups purchase millions of dollars worth of drugs each year. This bill would try to address this type of distortion of the market.

The legislation also recognizes the expanded role that pharmacists should have in any reformed health care system. Pharmacists are the most underused health professionals in our Nation. In OBRA 90 we recognized the pharmacists' role in educating Medicaid recipients on how to use their medications properly. This was a good start. This bill would provide that all health care plans—including Medicare—make patient counseling and other pharmacy services an integral part of the benefits that they offer.

Mr. President, I know that we have many twists and turns in the long road ahead toward health care reform. No one said that it would be easy. But I want to work with my colleagues on enacting a major health care reform bill this year. I hope that the proposals put forth in this legislation provide some food for thought to my colleagues as we move through the health reform process and make important decisions about pharmaceutical coverage. I encourage my colleagues to review the bill, and join me in cosponsoring this important legislation.

Mr. President, I ask unanimous consent that the text of the bill and a summary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2239

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE TO ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Pharmaceutical Marketplace Reform Act of 1994".

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; reference to Act; table of contents.
Sec. 2. Findings.
Sec. 3. Purposes.

TITLE I—MEDICARE PROGRAM

Subtitle A—Covered Outpatient Prescription Drugs and Rebates

Sec. 101. Covered outpatient prescription drugs.
Sec. 102. Rebates for covered outpatient drugs.

Subtitle B—Drug Use Review

Sec. 111. Medicare drug use review.

Subtitle C—Effective Date

Sec. 121. Effective date.

TITLE II—MEDICAID PROGRAM

Sec. 201. No Federal financial participation with respect to certain innovator multiple source drugs.
Sec. 202. Rebate for certain covered outpatient drugs.
Sec. 203. State regulation of outpatient prescription drug benefits covered by health care plans.

TITLE III—COMMISSIONS

Sec. 301. Pharmaceutical Marketplace Information Commission.
Sec. 302. Prescription Drug Payment Review Commission.

TITLE IV—ADDITIONS TO THE MASTER AGREEMENT

Sec. 401. Equal access to discounts.
Sec. 402. Provision of information to the Pharmaceutical Marketplace Information Commission.
Sec. 403. Conforming amendments.
Sec. 404. Effective date.

SEC. 2. FINDINGS.

The Congress finds that—

(1) any medicare outpatient prescription drug benefit should be structured to take advantage of market forces and should use the same principles as other managed care pharmacy benefit programs;

(2) there is a lack of information in the health care system about the price and quality of pharmaceutical products, resulting in a significant level of market distortions and a lack of price competition;

(3) the availability of more information about price and quality of medications would make the pharmaceutical marketplace more competitive, and minimize the need for more regulatory pharmaceutical cost containment mechanisms;

(4) in the absence of competing new pharmaceutical products in the market, there is a need for the health care system to have information about the price of new pharmaceutical products to assure that the prices are reasonable;

(5) price concessions and discounting offered by pharmaceutical manufacturers have not been offered on equal terms to all purchasers, resulting in higher prices for pharmaceutical products at the retail level, and ultimately for consumers; and

(6) under health care reform, all Americans should have access to high quality drug use review and coordinated pharmaceutical care services.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to establish the medicare outpatient prescription drug program as a pharmaceutical care benefit using principles of managed care;

(2) to improve the quality and timeliness of information provided in the health care marketplace about the relative price and value of currently marketed and new pharmaceutical products;

(3) to assure that prices for new breakthrough pharmaceutical products in the United States are reasonable;

(4) to provide that all pharmaceutical buyers have access to manufacturer price discounts and concessions on equal terms and conditions; and

(5) to assure that drug use review and pharmaceutical care becomes an integral part of the delivery of prescription drugs in health care programs.

TITLE I—MEDICARE PROGRAM

Subtitle A—Covered Outpatient Prescription Drugs and Rebates

SEC. 101. COVERED OUTPATIENT PRESCRIPTION DRUGS.

(a) COVERED OUTPATIENT DRUGS AS MEDICAL AND OTHER HEALTH SERVICES.—

(1) IN GENERAL.—Section 1861(s)(2)(J) (42 U.S.C. 1395x(s)(2)(J)) is amended to read as follows:

"(J) covered outpatient drugs;".

(2) DEFINITION OF COVERED OUTPATIENT DRUGS.—Section 1861(t) (42 U.S.C. 1395x(t)), as amended by section 13553(b) of the Omnibus Budget Reconciliation Act of 1993 (hereafter in this subtitle referred to as "OBRA–1993"), is amended—

(A) in the heading, by adding at the end the following: "; Covered Outpatient Drugs";

(B) in paragraph (1), by striking "paragraph (2)" and inserting "the succeeding paragraphs of this subsection"; and

(C) by inserting after paragraph (2) the following new paragraph:

"(3) The term 'covered outpatient drugs' means—

"(A) drugs and biologicals (which cannot, as determined in accordance with regulations, be self-administered) furnished as incident to a physician's professional service, of kinds which are commonly furnished in physicians' offices and are commonly either rendered without charge or included in the physician's bill;

"(B) prescription drugs used in immunosuppressive therapy furnished to an individual who receives an organ transplant for which payment is made under this title, but only in the case of drugs furnished—

"(i) before 1995, within 12 months after the date of the transplant procedure,

"(ii) during 1995, within 18 months after the date of the transplant procedure,

"(iii) during 1996, within 24 months after the date of the transplant procedure,

"(iv) during 1997, within 30 months after the date of the transplant procedure, and

"(v) during any year after 1997, within 36 months after the date of the transplant procedure;

"(C) erythropoietin—

"(i) for dialysis patients competent to use such drug without medical or other supervision with respect to the administration of such drug, subject to methods and standards established by the Secretary by regulation for the safe and effective use of such drug; and

"(ii) administered in a renal dialysis facility.

"(D) an oral drug (which is approved by the Federal Food and Drug Administration) prescribed for use as an anticancer chemotherapeutic agent for a given indication, and containing an active ingredient (or ingredients), which is the same indication and active ingredient (or ingredients) as a drug which the carrier determines would be covered pursuant to subparagraph (A) or section 1861(s)(2)(B) if the drug could not be self-administered; and

"(E) any other outpatient drug or biological described in section 1927(k) for which payment may be specially allowed.".

(3) CONFORMING AMENDMENTS.—(A) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)), as amended by section 13553 of OBRA–1993, is amended—

(i) in subparagraph (A), by striking "(including drugs and biologicals which cannot, as determined in accordance with regulations, be self-administered)",

(ii) by adding "and" at the end of subparagraph (O),

(iii) by amending subparagraph (P) to read as follows:

"(P) items related to the administration of erythropoietin.", and

(iv) by striking subparagraph (Q).

(B) Section 1881(b)(1)(C) (42 U.S.C. 1395rr(b)(1)(C)), as amended by section 13566(a) of OBRA–1993, is amended by striking "section 1861(s)(2)(P)" and inserting "section 1861(t)(3)(C)(i)".

(b) ADDITION OF MEDICARE TO MASTER PLAN REQUIREMENTS.—Section 8126(a)(4) of title 38, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting ", or"; and

(3) by adding at the end the following new subparagraph:

"(D) the medicare program under title XVIII of the Social Security Act.".

SEC. 102. REBATES FOR COVERED OUTPATIENT DRUGS.

(a) IN GENERAL.—Part B of title XVIII is amended by adding at the end the following new section:

"REBATES FOR COVERED OUTPATIENT DRUGS

"SEC. 1849. (a) REQUIREMENT FOR REBATE AGREEMENT.—In order for payment to be available under this part for a covered outpatient drug of a manufacturer dispensed on or after January 1, 1995, the manufacturer must have entered into and have in effect a rebate agreement with the Secretary meeting the requirements of subsection (b).

"(b) TERMS, IMPLEMENTATION, AND ENFORCEMENT OF REBATE AGREEMENT.—

"(1) PERIODIC REBATES.—

"(A) IN GENERAL.—A rebate agreement under this section shall require the manufacturer to pay to the Secretary for each calendar quarter, not later than 30 days after the date of receipt of the information described in paragraph (2) for such quarter, a rebate in an amount determined under subsection (c) for all covered outpatient drugs of the manufacturer described in subparagraph (B).

"(B) DRUGS INCLUDED IN QUARTERLY REBATE CALCULATION.—Drugs subject to rebate with respect to a calendar quarter are covered outpatient drugs which are dispensed by a pharmacy during such quarter to individuals (other than individuals enrolled with an eligible organization with a contract under section 1876) eligible for benefits under this part, as reported by such pharmacies to the Secretary.

"(2) INFORMATION FURNISHED TO MANUFACTURERS.—

"(A) IN GENERAL.—The Secretary shall report to each manufacturer, not later than 60 days after the end of each calendar quarter, information on the total number, for each covered outpatient drug, of units of each dosage form, strength, and package size dispensed under the plan during the quarter, on the basis of the data described in paragraph (1)(B) reported to the Secretary.

"(B) AUDIT.—The Comptroller General may audit the records of the Secretary to the extent necessary to determine the accuracy of reports by the Secretary pursuant to subparagraph (A). Adjustments to rebates shall be made to the extent determined necessary by the audit to reflect actual units of drugs dispensed.

"(3) PROVISION OF PRICE INFORMATION BY MANUFACTURER.—

"(A) QUARTERLY PRICING INFORMATION.—Each manufacturer with an agreement in effect under this section shall report to the Secretary, not later than 30 days after the last day of each calendar quarter, on the average manufacturer retail price for each dosage form and strength of each covered outpatient drug for the quarter.

"(B) BASE QUARTER PRICES.—Each manufacturer of a covered outpatient drug with an agreement under this section shall report to the Secretary, by not later than 30 days after the effective date of such agreement (or, if later, 30 days after the end of the base quarter), the average manufacturer retail price, for such base quarter, for each dosage form and strength of each such covered outpatient drug.

"(C) VERIFICATION OF AVERAGE MANUFACTURER RETAIL PRICE.—The Secretary may inspect the records of manufacturers, and survey wholesalers, pharmacies, and institutional purchasers of drugs, as necessary to verify prices reported under subparagraph (A).

"(D) PENALTIES.—

"(i) CIVIL MONEY PENALTIES.—The Secretary may impose a civil money penalty on a manufacturer with an agreement under this section—

"(I) for failure to provide information required under subparagraph (A) on a timely basis, in an amount up to $10,000 per day of delay;

"(II) for refusal to provide information about charges or prices requested by the Secretary for purposes of verification pursuant to subparagraph (C), in an amount up to $100,000; and

"(III) for provision, pursuant to subparagraph (A) or (B), of information that the manufacturer knows or should know is false, in an amount up to $100,000 per item of information.

Such civil money penalties are in addition to any other penalties prescribed by law. The provisions of section 1128A (other than subsections (a) (with respect to amounts of penalties or additional assessments) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(ii) SUSPENSION OF AGREEMENT.—If a manufacturer with an agreement under this section has not provided information required under subparagraph (A) or (B) within 90 days of the deadline imposed, the Secretary may suspend the agreement with respect to covered outpatient drugs dispensed after the end of such 90-day period and until the date such information is reported (but in no case shall a suspension be for less than 30 days).

"(4) LENGTH OF AGREEMENT.—

"(A) IN GENERAL.—A rebate agreement shall be effective for an initial period of not less than one year and shall be automatically renewed for a period of not less than one year unless terminated under subparagraph (B).

"(B) TERMINATION.—

"(i) BY THE SECRETARY.—The Secretary may provide for termination of a rebate agreement for violation of the requirements of the agreement or other good cause shown. Such termination shall not be effective earlier than 60 days after the date of notice of such termination. The Secretary shall afford a manufacturer an opportunity for a hearing concerning such termination, but such hearing shall not delay the effective date of the termination.

"(ii) BY A MANUFACTURER.—A manufacturer may terminate a rebate agreement under this section for any reason. Any such termination shall not be effective until the calendar quarter beginning at least 60 days after the date the manufacturer provides notice to the Secretary.

"(iii) EFFECTIVE DATE OF TERMINATION.—Any termination under this subparagraph shall not affect rebates due under the agreement before the effective date of its termination.

"(iv) NOTICE TO PHARMACIES.—In the case of a termination under this subparagraph, the Secretary shall notify pharmacies and physician organizations not less than 30 days before the effective date of such termination.

"(c) AMOUNT OF REBATE.—

"(1) BASIC REBATE.—Each manufacturer shall remit a basic rebate to the Secretary for each calendar quarter in an amount, with respect to each dosage form and strength of a covered outpatient drug (except as provided under paragraph (5)), equal to the product of—

"(A) the total number of units subject to rebate for such quarter, as described in subsection (b)(1)(B); and

"(B) the greater of—

"(i)(I) in the case of a single source and innovator multiple source drugs (as defined in section 1927(k)(7)), 17 percent of the average manufacturer retail price for the calendar quarter;

"(II) in the case of a noninnovator multiple source drug (as defined in section 1927(k)(7)) that has an average manufacturer retail price which is greater than 50 percent of the average manufacturer retail price of the corresponding innovator multiple source drug, 11 percent of the average manufacturer retail price for such noninnovator multiple source drug for the calendar quarter;

"(ii) the amount determined pursuant to paragraph (2); or

"(iii) the amount determined pursuant to paragraph (3).

"(2) NEGOTIATED REBATE AMOUNT FOR NEW DRUGS.—

"(A) IN GENERAL.—The Secretary may negotiate with the manufacturer a per-unit rebate amount, in accordance with this paragraph, for any covered outpatient drug (except as provided under paragraph (5)) first marketed after June 30, 1993, if one of the following criteria apply:

"(i) The medicare program will be a primary payer for the drug or biological in the outpatient market or will incur significant expenditures for the drug or biological.

"(ii) The Drug Use Review Board (established under section 1850(b)) determined that the drug (whether or not a new chemical entity) is a significant clinical or therapeutic advance over other drugs on the market to treat a particular medical condition.

"(iii) The manufacturer has provided insufficient evidence to the Drug Use Review Board that the drug is cost-effective at the current price charged by the manufacturer.

"(iv) The price of the drug is higher in other industrialized nations as compared with the price in the United States.

"(v) The Federal Government had a substantial role in the research and development of the drug.

"(B) AGREEMENT TO NEGOTIATE REBATE FOR SUBSEQUENT NEW DRUGS.—Any manufacturer entering into an agreement with the Secretary under this paragraph for any covered outpatient drug shall agree to enter into good-faith negotiations for the rebate amount under this paragraph for any other covered outpatient drug which is first marketed after such drug.

"(C) OPTION TO EXCLUDE OR LIMIT COVERAGE.—If the Secretary is unable to negotiate with the manufacturer an acceptable rebate amount with respect to a covered outpatient drug pursuant to this paragraph, the Secretary may—

"(i) exclude such drug from coverage under this part; or

"(ii) limit the use of the drug based on treatment or protocol guidelines (as recommended by the Drug Use Review Board).

"(D) EFFECTIVE DATE OF EXCLUSION OR LIMITATION FROM COVERAGE.—An exclusion or limitation of a drug pursuant to subparagraph (C) shall be effective on and after the earlier of—

"(i) the date 6 months after the effective date of marketing approval of such drug by the Food and Drug Administration (but in no event earlier than July 1, 1996), or

"(ii) the date the manufacturer terminates negotiations with the Secretary concerning the rebate amount.

"(3) HIGHER NEGOTIATED REBATES.—The Secretary shall have the authority to negotiate with a manufacturer a per-unit rebate amount on an annual basis for any covered outpatient drug (except as provided under paragraph (5)) that is greater than the per unit rebate amount determined under clause (I) or (II) of paragraph (1)(B)(i).

"(4) ADDITIONAL REBATE.—Each manufacturer shall remit to the Secretary, for each calendar quarter, an additional rebate for each dosage form and strength of a covered outpatient drug (except as provided under paragraph (5)), in an amount equal to—

"(A) the total number of units subject to rebate for such quarter, as described in subsection (b)(1)(B), multiplied by

"(B) the amount (if any) by which—

"(i) the average manufacturer retail price for the covered drug of the manufacturer, exceeds

"(ii) the average manufacturer retail price of the covered drug for the base quarter, increased by the percentage by which the Consumer Price Index for all urban consumers (United States city average) for the month before the month in which the calendar quarter begins exceeds such index for the last month of the base quarter.

"(5) NO REBATE REQUIRED FOR CERTAIN GENERIC DRUGS.—Paragraphs (1) through (4) shall not apply with respect to a covered outpatient drug that is a noninnovator multiple source drug which is not described in paragraph (1)(B)(i)(II).

"(6) DEPOSIT OF REBATES.—The Secretary shall deposit rebates under this section in the Federal Supplementary Medical Insurance Trust Fund established under section 1841.

"(d) CONFIDENTIALITY OF INFORMATION.—Notwithstanding any other provision of law, information disclosed by a manufacturer under this section is confidential and shall not be disclosed by the Secretary, except—

"(1) as the Secretary determines to be necessary to carry out this section,

"(2) to permit the Comptroller General to review the information provided, and

"(3) to permit the Director of the Congressional Budget Office to review the information provided.

"(e) GENERIC DISPENSING INCENTIVES.—

"(1) ESTABLISHMENT OF DISPENSING POLICY.—The Secretary shall establish a generic-only dispensing policy for any drug described in subparagraph (A), subject to Federal upper limit for each such drug described in subparagraph (B), which shall ensure that expenditures for innovator multiple source drugs (determined after taking into account any rebates with respect to such drugs under this section) account for no more than 10 percent of the total expenditures made under this part for multiple source drugs (determined after taking into account any rebates with respect to such drugs under this section).

"(A) GENERIC-ONLY POLICY APPLICABLE.—A drug described in this paragraph is any covered outpatient drug which is a multiple source drug (as defined in section 1927(k)(7)) for which there are three or more therapeutically and pharmaceutically equivalent brands of the drug sold and marketed in the United States.

"(B) FEDERAL UPPER LIMIT.—The Secretary shall establish a Federal upper limit for each drug described in subparagraph (A) by using the prices of each of the therapeutically and pharmaceutically equivalent brands of such drug that is sold and marketed in the United States.

"(2) DESCRIPTION OF GENERICS-ONLY POLICY.—The Secretary shall exclude from payment under section 1862(a)(17) any innovator version of a multiple source drug described in paragraph (1)(A) unless—

"(A) a written prescription for the drug contains, in the handwriting of the physician or other person prescribing the drug, the phrase 'brand medically necessary' indicating that the particular brand of the innovator drug product must be dispensed; and

"(B) at the option of the Secretary, a medical justification is provided for the covered outpatient drug described in subparagraph (A).

The Secretary may require prior authorization for payment for any innovator version of a multiple source drug described in paragraph (1)(A) unless the net cost of the innovator multiple source drug to the program under this part is less than or equal to the Federal upper limit (as established by the Secretary under paragraph (1)(B)).

"(3) PUBLICATION OF INFORMATION.—The Secretary shall publish on no less than a semiannual basis a prescription resource guide for physicians and pharmacists for the outpatient prescription drugs most commonly prescribed for medicare beneficiaries. The guide would indicate when generics are available for a particular brand name drug and indicate the net cost to the medicare program for the furnishing of each drug in the therapeutic class of such drug. Such information shall also be available on any electronic claims prescription processing system established by the Secretary.

"(f) PRIOR AUTHORIZATION PROGRAM.—The Secretary may establish, as a condition of coverage or payment for a covered outpatient drug for which payment is available under this part, a system which requires the approval of the drug before its dispensing for any medically accepted indication (as defined in section 1927(k)(6)) but the system providing for such approval must—

"(A) provide a response by telephone or other telecommunication device within 24 hours of a request for prior authorization; and

"(B) provide for the dispensing of at least a 72-hour supply of a covered outpatient prescription drug in an emergency situation (as defined by the Secretary).

"(g) DEFINITIONS.—For purposes of this section:

"(1) AVERAGE MANUFACTURER RETAIL PRICE.—The term 'average manufacturer retail price' means, with respect to a covered outpatient drug of a manufacturer for a calendar quarter, the average price (inclusive of discounts for cash payment, prompt payment, volume purchases, and rebates (other than rebates under this section), but exclusive of nominal prices) paid to the manufacturer for the drug in the United States for drugs distributed to the retail pharmacy class of trade.

"(2) BASE QUARTER.—The term 'base quarter' means, with respect to a covered outpatient drug of a manufacturer, the calendar quarter beginning October 1, 1993, or, if later, the first full calendar quarter during which the drug was marketed in the United States.

"(3) MANUFACTURER.—The term 'manufacturer' means, with respect to a covered outpatient drug, the entity holding legal title to or possession of the National Drug Code number for such drug.

"(4) NOMINAL PRICE.—The term 'nominal price' means any price which is less than 10 percent of the average manufacturer's retail price for the covered outpatient drug of the manufacturer for the calendar quarter.".

(b) EXCLUSIONS FROM COVERAGE.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) by striking "or" at the end of paragraph (15),

(2) by striking the period at the end of paragraph (16) and inserting "; or", and

(3) by inserting after paragraph (16) the following new paragraph:

"(17) in the case of a covered outpatient drug (as described in section 1861(t)) which—

"(A) is furnished during a year for which the drug's manufacturer does not have in effect a rebate agreement with the Secretary that meets the requirements of section 1849 for the year, "(B) is excluded from coverage during the year by the Secretary pursuant to subparagraphs (C) and (D) of section 1849(c)(2) (relating to negotiated rebate amounts for certain new drugs), or

"(C) is not furnished in accordance with treatment protocols developed by the Secretary (based on recommendations from the Drug Use Review Board)".

(c) CONFORMING AMENDMENTS TO MEDICAID PROGRAM.—Section 1927(a) (42 U.S.C. 1396r-8(a)) is amended—

(1) in the first sentence of paragraph (1), by striking "and paragraph (6)" and inserting ", paragraph (6), and (for calendar quarters beginning on or after January 1, 1995) paragraph (7)"; and

(2) by adding at the end the following new paragraph:

"(7) REQUIREMENT RELATING TO REBATE AGREEMENTS FOR COVERED OUTPATIENT DRUGS UNDER MEDICARE PROGRAM.—A manufacturer meets the requirements of this paragraph if the manufacturer has in effect an agreement with the Secretary under section 1849 for providing rebates for covered outpatient drugs furnished to individuals under title XVIII during the year.".

Subtitle B—Drug Use Review

SEC. 111. MEDICARE DRUG USE REVIEW.

Part B of title XVIII is further amended by adding at the end the following new section:

"MEDICARE DRUG USE REVIEW

"SEC. 1850. (a) DRUG USE REVIEW.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (C), the Secretary shall provide, by not later than January 1, 1996, for a drug use review program for covered outpatient drugs which—

"(i) meets the requirements of paragraph (2), and

"(ii) assures that prescriptions for covered outpatient drugs are appropriate, medically necessary, and not likely to result in adverse medical results.

"(B) DRUG USE REVIEW ALLOWANCE.—Not later than 180 days after the date of the enactment of the Pharmaceutical Marketplace Reform Act of 1994, the Secretary shall establish a methodology to provide payment to pharmacists for prospective drug review and pharmaceutical care activities required under subparagraphs (A) through (H) of paragraph (2).

"(C) TREATMENT OF NURSING FACILITIES.—The Secretary is not required to provide for drug use review with respect to drugs dispensed to residents of nursing facilities which are in compliance with the requirements of subsections (b)(4)(A)(iii) and (c)(1)(D) of section 1819.

"(2) REQUIREMENTS OF PROGRAM.—

"(A) PROSPECTIVE DRUG USE REVIEW.—

"(i) IN GENERAL.—The drug use review program shall provide for a review of drug therapy before each prescription for a covered outpatient drug is filled or delivered to an individual receiving a covered outpatient drug. The review shall be designed to identify potential drug therapy problems due to therapeutic duplication, drug-disease contraindications, drug interactions (including serious interactions with nonprescription or over-the-counter drugs), incorrect drug dosage or duration of drug treatment, drug-allergy interactions, and clinical abuse or misuse.

"(ii) STANDARDS FOR COUNSELING BY PHARMACISTS.—As part of the prospective drug use review program, the Secretary (in consultation with the Drug Use Review Board) shall establish standards for counseling by pharmacists of individuals receiving covered outpatient drugs. Such standards shall include, at a minimum, the following:

"(I) The pharmacist must offer to discuss (in person, face-to-face whenever practicable, or through access to a telephone service which is toll free for long-distance calls) with each individual receiving covered outpatient drugs or caregiver of such individual who presents a prescription, matters which in the exercise of the pharmacist's professional judgment (consistent with any applicable State law respecting the provision of such information), the pharmacist deems significant, which may include the following:

"(aa) The name and description of the medication.

"(bb) The dosage form, dosage, route of administration, and duration of drug therapy.

"(cc) Special directions and precautions for preparation, administration, and use by the patient.

"(dd) Common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur.

"(ee) Techniques for self-monitoring drug therapy.

"(ff) Proper storage.

"(gg) Prescription refill information.

"(hh) Action to be taken in the event of a missed dose.

"(II) A reasonable effort must be made by the pharmacist to obtain, record, and maintain at least the following information regarding individuals receiving benefits under this title:

"(aa) Name, address, telephone number, date of birth (or age) and gender.

"(bb) Individual history where significant, including disease state or states, known allergies and drug reactions, and a comprehensive list of medications and relevant devices.

"(cc) Pharmacist comments relevant to the individual's drug therapy.

Nothing in this clause shall be construed as requiring a pharmacist to provide consultation when an individual receiving benefits under this title or caregiver of such individual refuses such consultation.

"(B) RETROSPECTIVE DRUG USE REVIEW.—The program shall provide for the ongoing periodic examination of claims data and other records in order to identify patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care, among physicians, pharmacists and individuals receiving benefits under this title, or associated with specific drugs or groups of drugs.

"(C) STANDARDS.—

"(i) IN GENERAL.—The program shall, on an ongoing basis, assess data on drug use against explicit standards determined by the Secretary upon the recommendations of the Drug Use Review Board (using the sources described in clause (ii) as the basis for determining the standards for such assessment). Such assessment shall include monitoring for therapeutic appropriateness, overutilization and underutilization, appropriate use of generic products, therapeutic duplication, drug-disease contraindications, drug-drug interactions, incorrect drug dosage or duration of drug treatment, and clinical abuse or misuse, and introduce remedial strategies in order to improve the quality of care and to conserve program funds or personal expenditures.

"(ii) SOURCES.—The sources described in this clause are the American Hospital Formulary Service Drug Information, the United States Pharmacopeia-Drug Information, the American Medical Association Drug Evaluations, peer-reviewed medical literature as approved by the Secretary, and other sources as determined by the Secretary in consultation with the Drug Use Review Board.

"(D) EDUCATION AND INTERVENTION.—The program shall provide for, either directly or through contracts with accredited health care educational institutions, medical societies or pharmacists' associations or societies, or other organizations as specified by the Secretary, and using data provided by the Drug Use Review Board on common drug therapy problems—

"(i) ongoing educational outreach programs to educate practitioners on common drug therapy problems with the aim of improving prescribing or dispensing practices; and

"(ii) ongoing interventions for physicians and pharmacists targeted toward common drug therapy problems or individuals identified in the course of retrospective drug use reviews performed under this subsection, including, in appropriate instances, at least the following:

"(I) Written, oral, or electronic reminders containing patient-specific or drug-specific (or both) information and suggested changes in prescribing or dispensing practices, communicated in a manner designed to ensure the privacy of patient-related information.

"(II) Use of face-to-face discussions between health care professionals who are experts in rational drug therapy and selected prescribers and pharmacists who have been targeted for educational intervention, including discussion of optimal prescribing, dispensing, or pharmacy care practices, and follow up face-to-face discussions.

"(III) Intensified review or monitoring of selected prescribers or dispensers.

"(E) HIGH RISK INDIVIDUALS.—The program shall provide for case management of drug therapy (under protocols established by the Secretary) for individuals receiving covered drugs who are identified as being at high risk for potential medication-related problems.

"(F) INTERCHANGEABLE PHARMACEUTICALS.—The program shall when appropriate provide for the interchange of therapeutically equivalent pharmaceutical products by a pharmacist after approval of the prescribing physician.

"(G) PATIENT INCENTIVE COMPLIANCE PROGRAMS.—The program shall provide for the management of patient incentive compliance programs.

"(H) OTHER SERVICES.—The program shall contain such other services that the Secretary finds to be standard of pharmacy practice consistent with the provision of pharmaceutical care.

"(b) DRUG USE REVIEW BOARD.—

"(1) ESTABLISHMENT.—The Secretary shall establish a Drug Use Review Board (hereafter in this subsection referred to as the 'DUR Board') without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

"(2) MEMBERSHIP.—

"(A) COMPOSITION.—The DUR Board shall consist of 9 members of whom—

"(i) 4 are individuals who are practicing physicians;

"(ii) 4 are individuals who are practicing pharmacists; and

"(iii) 1 is an individual who receives benefits under this title.

"(B) TERMS.—Members of the DUR Board shall first be appointed by no later than July 1, 1995, for a term of 3 years, except that the Director may provide initially for such shorter terms as will ensure that (on a continuing basis) the terms of no more than 4 members expire in any 1 year.

"(3) CHAIR AND VICE CHAIR.—The DUR Board shall select a Chair and Vice Chair from among its members.

"(4) MEETINGS.—

"(A) IN GENERAL.—The DUR Board shall meet at the call of the Chair.

"(B) INITIAL MEETING.—No later than 30 days after the date on which all members of the DUR Board have been appointed, the DUR Board shall hold its first meeting.

"(C) QUORUM.—A majority of the members of the DUR Board shall constitute a quorum, but a lesser number of members may hold hearings.

"(5) DUTIES OF THE DUR BOARD.—The DUR Board shall—

"(A) recommend policies and procedures to the Secretary for the operation of the outpatient prescription drug program for the purpose of optimizing therapeutic outcomes in individuals who receive benefits under this part;

"(B) suggest appropriate model criteria and standards of prescribing and dispensing of covered outpatient prescription drugs (prioritized by medical relevance) through an evaluation of the FDA approved labeling of the covered outpatient drug, the medical literature, other clinical data available from pharmaceutical manufacturers, and expert advice;

"(C) categorize covered outpatient drugs by therapeutic class, and evaluate the relative efficacy and cost-effectiveness of new and existing pharmaceuticals within established and new therapeutic classes of drugs for the outpatient drug program under this part;

"(D) make recommendations, based on the clinical literature, of classes of pharmaceuticals or specific pharmaceuticals that should be added to or deleted from the list of excludable drugs for the medicaid program under section 1927(d);

"(E) recommend to the Secretary those covered outpatient drugs which, based on data collected about the potential for the drug's clinical misuse, abuse, or economic impact on the medicare program under this title should be subject to prescribing protocols or treatment guidelines;

"(F) assist in the development of pharmaceutical care programs for recipients of outpatient drugs under this part; and

"(G) suggest operational and evaluative performance standards for the drug use review program under this section and the State drug use review programs under title XIX.

"(6) REPORTS.—

"(A) ANNUAL REPORTS.—Not later than July 1, 1996, and annually thereafter on July 1, the DUR Board shall deliver an annual report to Congress, the Secretary, the States, and other interested parties which shall contain recommendations for appropriate administrative and legislative action that will—

"(i) ensure the cost-effectiveness and quality of care of drug therapy provided under this title and title XIX; and

"(ii) improve the effectiveness of the drug use review program under this title and the State drug use review programs under title XIX.

"(7) SPECIAL REPORTS.—The DUR Board shall deliver special reports on any of the matters under paragraph (5) at the request of Congress.

"(8) CERTAIN PROVISIONS APPLICABLE.—Section 1845(c)(1) shall apply to the DUR Board in the same manner as it applies to the Physician Payment Review Commission.

"(9) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.".

Subtitle C—Effective Date

SEC. 121. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this title shall apply to items and services furnished on or after January 1, 1995.

TITLE II—MEDICAID PROGRAM

SEC. 201. NO FEDERAL FINANCIAL PARTICIPATION WITH RESPECT TO CERTAIN INNOVATOR MULTIPLE SOURCE DRUGS.

(a) IN GENERAL.—Section 1903(i) (42 U.S.C. 1396b(i)) is amended—

(1) in paragraph (14), by striking the period at the end and inserting a semicolon; and

(2) by adding at the end the following new paragraphs:

"(15) with respect to an innovator multiple source drug unless—

"(A) a written prescription for the drug contains, in the handwriting of the physician or other person prescribing the drug, the phrase 'brand medically necessary' indicating that a particular brand of the innovator drug product must be dispensed; and

"(B) the physician or other person prescribing the drug provides a medical justification to the State agency for prescribing such drug; or

"(16) with respect to expenditures made by the State for the dispensing of innovator multiple source drugs (determined after taking into account any rebates with respect to such drugs under section 1927) that exceed an amount equal to—

"(A) for 1995, 15 percent, and

"(B) for 1996 and succeeding years, 10 percent,

of the expenditures made by the State for the dispensing of all multiple source drugs (determined after taking into account any rebates with respect to such drugs under section 1927).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective for calendar quarters beginning on or after January 1, 1995.

SEC. 202. REBATE FOR CERTAIN COVERED OUTPATIENT DRUGS.

(a) IN GENERAL.—Section 1927(c)(3)(B) (42 U.S.C. 1396r-8(c)(3)(B)) is amended to read as follows:

"(B) APPLICABLE PERCENTAGE.—

"(i) IN GENERAL.—Except as provided in clause (ii), for purposes of subparagraph (A)(i), the 'applicable percentage' for rebate periods beginning—

"(I) before January 1, 1994, is 10 percent, and

"(II) after December 31, 1993, is 11 percent.

"(ii) SPECIAL RULE.—For purposes of subparagraph (A)(i), if a covered outpatient drug is a noninnovator multiple source drug and the average manufacturer price of such drug does not exceed 50 percent of the average manufacturer price for the corresponding innovator multiple source drug, the 'applicable percentage' for rebate periods beginning—

"(I) after December 31, 1994, and before January 1, 1996, is 9 percent,

"(II) after December 31, 1995, and before January 1, 1997, is 7 percent, and

"(III) after December 31, 1996, is 5 percent.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective for rebate periods beginning after December 31, 1994.

SEC. 203. STATE REGULATION OF OUTPATIENT PRESCRIPTION DRUG BENEFITS COVERED BY HEALTH CARE PLANS.

(a) IN GENERAL.—Title XIX (42 U.S.C. 1396 et seq.) is amended—

(1) by redesignating section 1931 as section 1932; and

(2) by inserting after section 1930 the following new section:

"STATE REGULATION OF OUTPATIENT PRESCRIPTION DRUG BENEFITS COVERED BY HEALTH CARE PLANS

"SEC. 1931. No payment shall be made to a State under section 1903 for any calendar quarter in which such State fails to have in effect regulations requiring each health care plan offered in such State that covers outpatient prescription drugs—

"(1) to establish a pharmacy and therapeutics committee or drug use review board consisting of physicians and pharmacists which shall make recommendations to the plan in order to assure that outpatient prescription drugs used by individuals enrolled in the plan are medically appropriate and likely to result in positive medical outcomes;

"(2) to establish a therapeutic formulary of outpatient prescription drugs which are approved by the pharmacy and therapeutics committee or drug use review board for use by individuals enrolled in the plan;

"(3) to establish a pharmaceutical care services program which shall ensure that services provided by a pharmacist licensed to practice in the State result in positive medical and therapeutic outcomes and which shall include—

"(A) drug use review including—

"(i) prospective review consisting of counseling provided by pharmacists to individuals enrolled in the plan on the appropriate use of outpatient prescription drugs and identification and avoidance of potential adverse medication-related outcomes before an outpatient prescription drug is dispensed to an individual enrolled in the plan;

"(ii) retrospective review consisting of an organized process to collect and analyze data concerning the drug use patterns of individuals enrolled in the plan and provider prescribing and dispensing patterns under the plan; and

"(iii) education of, and interventions for, health care professionals to provide for optimal use of outpatient prescription drugs among individuals enrolled in the plan;

"(B) management of drug therapy and case management of patients that are identified as at high risk for potential medication-related problems;

"(C) preapproved or protocol-approved interchange of pharmaceutical products;

"(D) management of patient compliance incentive programs; and

"(E) other services that are consistent with standard pharmacy practice and consistent with providing pharmaceutical care; and

"(4) to establish a system under which any pharmacist who provides outpatient prescription drugs to individuals enrolled in the plan is provided payment for services required to comply with any requirements imposed on such pharmacist by this section.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) shall be effective for calendar quarters beginning on or after January 1, 1996.

(2) DELAY IF STATE LEGISLATION REQUIRED.—In the case of a State which the Secretary determines requires State legislation (other than legislation authorizing or

appropriating funds) in order to comply with the amendments made by subsection (a), the State shall not be regarded as failing to comply with such amendments solely on the basis of its failure to meet the requirements of such amendments before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

TITLE III—COMMISSIONS

SEC. 301. PHARMACEUTICAL MARKETPLACE INFORMATION COMMISSION.

Part A of title XI (42 U.S.C. 1301 et seq.), as amended by section 13581(a) of the Omnibus Budget Reconciliation Act of 1993, is amended by adding at the end the following new section:

"PHARMACEUTICAL MARKETPLACE INFORMATION COMMISSION

"SEC. 1145. (a) IN GENERAL.—

"(1) ESTABLISHMENT.—The Secretary shall provide for the appointment of the Pharmaceutical Marketplace Information Commission (in this section referred to as the 'Commission'), without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

"(2) MEMBERSHIP.—The Commission shall consist of 9 individuals. The membership of the Commission shall include recognized experts in the fields of pharmacoeconomics, industrial cost accounting, medicine, pharmacy, and science, a consumer, a representative of a patient advocacy group.

"(3) TERMS.—Members of the Commission shall first be appointed by no later than July 1, 1995, for a term of 3 years, except that the Director may provide initially for such shorter terms as will ensure that (on a continuing basis) the terms of no more than 4 members expire in any 1 year.

"(4) CHAIR AND VICE CHAIR.—The Commission shall select a Chair and Vice Chair from among its members.

"(5) MEETINGS.—

"(A) IN GENERAL.—The Commission shall meet at the call of the Chair.

"(B) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

"(C) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

"(b) DUTIES OF THE COMMISSION.—The Commission shall have the following duties:

"(1) DOMESTIC PHARMACEUTICAL PRICES.—

"(A) PUBLICATION OF PRICING INFORMATION.—The Commission shall annually publish the weighted average price of each dosage form and strength of each single source drug and innovator multiple source drug sold to all purchasers of such drug in the United States and the average manufacturer's price for each such drug distributed to the retail class of trade.

"(B) INFORMATION SOURCE ON PRICE CONCESSIONS.—The Commission shall—

"(i) serve as a source of information for purchasers on the policies and procedures of drug manufacturers concerning the terms under which manufacturers provide rebates, discounts and other price concessions to pharmaceutical purchasers; and

"(ii) receive and investigate information (provided by purchasers) relating to instances in which manufacturers are not offering and providing products on similar terms and conditions to all purchasers.

"(2) INTERNATIONAL PHARMACEUTICAL PRICES.—The Commission shall monitor, analyze, and publish price information relating to currently marketed and new pharmaceutical prices for drugs, biologicals, and vaccines in other industrialized nations, including those nations described in section 802(b)(4)(A) of the Federal Food, Drug, and Cosmetic Act. Such information shall include the average price in all classes of trade, and the average price sold to the retail class of trade in each country. The Commission shall also monitor mechanisms used by other industrialized nations to contain pharmaceutical expenditures.

"(3) PRICES OF CERTAIN PHARMACEUTICALS.—

"(A) IN GENERAL.—The Commission shall review the price of drugs and biologicals and provide information to purchasers to determine whether the price of the drug or biological is reasonable if such drug or biological product—

"(i)(I) is a new drug or biological which is a significant clinical advance or breakthrough over pharmaceutical products currently available to treat a particular condition, whether or not the product is a new chemical or biological entity;

"(II) a new drug or biological which has received a designation of 1–AA or 1–P by the Food and Drug Administration;

"(III) is an orphan drug product;

"(IV) is a currently marketed drug for which there are no other therapeutic alternatives on the market; or

"(V) the Federal Government had a substantial role in the development of the drug or biological, and such support was essential to the approval of the drug by the Food and Drug Administration; and

"(ii) a request is made to review the price of such drug or biological by—

"(I) the Secretary;

"(II) a member of the Commission;

"(III) not less than 3 groups representing consumers or patient advocates, or

"(IV) not less than three health plans providing such drug or biological, where such plans present evidence that the price is excessive.

"(B) GUIDELINES FOR DETERMINATION.—The Commission shall use the following information to determine whether the price of the drug or biological is reasonable:

"(i) DOMESTIC COMPARISON.—The Commission shall compare the price of the drug or biological with the price of drugs or biologicals in the same therapeutic class used to treat similar therapeutic conditions in the United States.

"(ii) INTERNATIONAL COMPARISON.—The Commission shall compare the price of the drug or biological with the price of the drug or biological in section 802(b)(4)(A) of the Federal Food, Drug, and Cosmetic Act.

"(iii) MANUFACTURER INFORMATION.—The Commission shall consider the following information provided by the manufacturer of the drug or biological:

"(I) The manufacturer's costs of manufacturing, researching, and developing the product.

"(II) The anticipated revenue from the sales of the product in the United States and international markets.

"(III) The manufacturer's anticipated costs of marketing and advertising for the product.

"(IV) Anticipated revenue from off-label uses of the product.

"(V) Extraordinary circumstances that justify the price charged in the United States market.

"(VI) the expected period of patent life or market exclusivity for the product.

"(VII) Profit expected by the manufacturer as a result of the sales of the product in the United States and other industrialized nations.

"(VIII) Other relevant factors that the manufacturer would like the Commission to consider.

"(iv) INVESTIGATIONS PAID FOR BY FEDERAL GOVERNMENT.—Funds expended by the Federal Government either directly or indirectly to support investigations that were significant to the application made to the Food and Drug Administration to approve the drug or biological.

"(v) COST-EFFECTIVENESS.—The cost-effectiveness of the pharmaceutical relative to other medical treatment alternatives, including nonpharmaceutical treatments, such as devices.

"(vi) QUALITY OF LIFE IMPROVEMENT.—The improvements in the quality of life offered by the product, including the ability to return to work and other appropriate measures of improvement in the quality of life.

"(C) DETERMINATION.—

"(i) HEARING.—The Commission shall hold a public hearing to collect information and data from groups interested in the price of the drug or biological before making a report described in subparagraph (B).

"(ii) REPORT.—The Commission shall publish a report on the reasonableness of a drug or biological as determined under this paragraph, with all available information and justification for its findings.

"(iii) APPEAL.—The Commission shall develop a process for an interested party to appeal the report of the Commission.

"(iv) NO BINDING EFFECT.—No report of the Commission issued under this subparagraph shall have binding effect upon any manufacturer or purchaser.

"(D) CONFIDENTIALITY OF PROPRIETARY INFORMATION PROVIDED TO THE COMMISSION.—Any proprietary information provided by a manufacturer to the Commission under this subsection shall be held confidential.

"(4) UTILIZATION OF GENERIC PHARMACEUTICALS.—The Commission shall—

"(A) monitor the rate of dispensing generic drugs in the United States;

"(B) publish (at least semiannually) and make available to health care providers information about the availability and relative costs of generic drugs compared to the costs for the equivalent innovator versions of these drugs; and

"(C) monitor the pricing patterns of generic drugs, and the extent to which domestic and international trade policies affect the ability of generic pharmaceutical manufacturers to obtain materials for the purpose of manufacturing and selling generic drugs in the United States.

"(5) PHARMACEUTICAL PATENT EXTENSIONS.—Not less than 90 days before the expiration of a pharmaceutical patent for which the holder of the patent has sought an extension of that patent, the Commission shall provide to the Congress and the Office of Patents and Trademarks an analysis of the feasibility and desirability of extending the patent as provided in the terms of the Drug Price Competition and Patent Term Restoration Act of 1984.

"(6) PHARMACOECONOMIC AND COST-EFFECTIVENESS ANALYSIS.—The Commission shall—

"(A) develop a standard methodology for the purpose of conducting pharmacoeconomic and cost-effectiveness analyses of pharmaceutical and biological products; and

"(B) collect and disseminate information to purchasers about the relative cost-effectiveness and cost-benefit of various pharmaceutical products as compared to other pharmaceutical products and other medical technologies, including making evaluations of the new savings to the health care system as a result of new pharmaceutical and biological products.

"(c) CERTAIN PROVISIONS APPLICABLE.—Section 1845(c)(1) shall apply to the Commission in the same manner as it applies to the Physician Payment Review Commission.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.".

SEC. 302. PRESCRIPTION DRUG PAYMENT REVIEW COMMISSION.

Part A of title XI (42 U.S.C. 1301 et seq.), as amended by section 301, is amended by adding at the end the following new section:

"PRESCRIPTION DRUG PAYMENT REVIEW COMMISSION

"SEC. 1146. (a) ESTABLISHMENT.—The Director of the Congressional Office of Technology Assessment (in this section referred to as the 'Director' and the 'Office', respectively) shall provide for the appointment of a Prescription Drug Payment Review Commission (in this section referred to as the 'Commission') without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

"(b) MEMBERSHIP.—

"(1) COMPOSITION.—The Commission shall consist of 11 individuals with expertise in the provision and financing of prescription drugs under federally funded health care programs.

"(2) TERMS.—Members of the Commission shall first be appointed by no later than July 1, 1995 for a term of 3 years, except that the Director may provide initially for such shorter terms as will ensure that (on a continuing basis) the terms of no more than 4 members expire in any 1 year.

"(3) CHAIR AND VICE CHAIR.—The Commission shall select a Chair and Vice Chair from among its members.

"(c) MEETINGS.—

"(1) IN GENERAL.—The Commission shall meet at the call of the Chair.

"(2) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

"(3) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

"(d) DUTIES OF THE COMMISSION.—

"(1) IN GENERAL.—The Commission shall—

"(A) monitor the scope of coverage, reimbursement, expenditure levels, and financing of prescription drugs under Federal health care programs;

"(B) monitor the prices for prescription and nonprescription drugs (on the retail level and manufacturer level) used in Federal health care programs;

"(C) recommend modifications and changes in cost containment measures and payment and reimbursement rates under Federal health care programs;

"(D) monitor and analyze the extent to which pharmaceuticals and pharmacy services are available to specific populations, including citizens in rural areas of the United States;

"(E) evaluate technologies available for efficient administration of Federal health care programs and other third party prescription drug programs; and

"(F) determine the annual cost of dispensing a prescription for various classes of pharmacies to assist in the development of reimbursement and payment rates to providers.

"(2) REPORTS.—

"(A) ANNUAL REPORTS.—Not later than July 1, 1996, and annually thereafter on July 1, the Commission shall deliver an annual report to Congress which shall contain the findings and conclusions of the Commission, on each of the matters under paragraph (1).

"(B) SPECIAL REPORTS.—The Commission shall deliver special reports on any of the matters under paragraph (1) at the request of Congress.

"(e) CERTAIN PROVISIONS APPLICABLE.—Section 1845(c)(1) shall apply to the Commission in the same manner as it applies to the Physician Payment Review Commission.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.".

TITLE IV—ADDITIONS TO THE MASTER AGREEMENT

SEC. 401. EQUAL ACCESS TO DISCOUNTS.

(a) IN GENERAL.—Section 8126(a) of title 38, United States Code, as amended by section 101(b), is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph:

"(4)(A) each manufacturer of single source and innovator multiple source drugs (as described in section 1927(k) of the Social Security Act) shall offer such pharmaceuticals for sale to every purchaser on equal terms and conditions including any rebates, free merchandise, discounts, and other similar adjustments (excluding any terms offered to the Department of Veterans Affairs, the Department of Defense, entities that receive funding under the Public Health Service, any other entity receiving discounts under section 340(b) of the Public Health Service Act, and any other Federal or State government agency that directly procures pharmaceuticals);

"(B) each manufacturer of single source and innovator multiple source drugs may only offer rebates, free merchandise, discounts, and other similar adjustments, if the manufacturer experiences savings as a result of efficiencies in purchasing, such as volume buying (including programs to increase volume buying through influencing physician prescribing practices or by making an agreement to place drugs on a formulary), prompt delivery, single-site delivery, and prompt payment;

"(C) each manufacturer of single source and innovator multiple source drugs shall make information describing the terms and conditions described in subparagraph (A) available to the public and the Pharmaceutical Marketplace Information Commission (established under section 1145 of the Social Security Act); and

"(D) each manufacturer that knowingly violates the requirement under the preceding subparagraphs shall be subject to a civil fine of not more than $100,000 per violation; and".

SEC. 402. PROVISION OF INFORMATION TO THE PHARMACEUTICAL MARKETPLACE INFORMATION COMMISSION.

(a) IN GENERAL.—Section 8126(a) of title 38, United States Code, as amended by sections 101(b) and 401, is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following new paragraph:

"(5)(A) each manufacturer of a single source and innovator multiple source drug (as defined in section 1927(k) of the Social Security Act) shall report to the Pharmaceutical Marketplace Information Commission (established under section 1145 of the Social Security Act) such information as the Commission may require to compile the data necessary to publish the domestic pricing information described in section 1145(b)(1)(A) of the Social Security Act and the international pricing information described in section 1145(b)(2) of such Act no later than 30 days after the end of each calendar quarter, and

"(B) each manufacturer shall make available to the Pharmaceutical Marketplace Information Commission any additional information required by the Commission; and".

SEC. 403. CONFORMING AMENDMENTS.

(a) ADDITIONAL REQUIREMENTS FOR PARTICIPATION.—Section 8126(a)(6) of title 38, United States Code, as redesignated in section 402(a)(2), is amended by striking ", and (3)" and inserting "(3), (4), and (5)".

(b) AMENDMENTS TO EFFECTIVE DATE PROVISIONS.—

(1) MEDICAID.—Section 1927(a) is amended—

(A) in paragraph (5)—

(i) in subparagraph (D), by striking "title VI of the Veterans Health Care Act of 1992" and inserting "the Pharmaceutical Marketplace Reform Act of 1994"; and

(ii) in subparagraph (E), by striking "immediately after the enactment of this paragraph)" and inserting "immediately after the enactment of the Pharmaceutical Marketplace Reform Act of 1994)"; and

(B) in paragraph (6)—

(i) in subparagraph (B), by striking "title VI of the Veterans Health Care Act of 1992" and inserting "the Pharmaceutical Marketplace Reform Act of 1994"; and

(ii) in subparagraph (C), by striking "immediately after the enactment of this paragraph)" and inserting "immediately after the enactment of the Pharmaceutical Marketplace Reform Act of 1994)".

(2) PUBLIC HEALTH SERVICE.—Section 340B(d) of the Public Health Service Act is amended by striking "the Veterans Health Care Act of 1992" and inserting "the Pharmaceutical Marketplace Reform Act of 1994".

(3) VETERANS' AFFAIRS.—Section 8126(g) of title 38, United States Code, is amended—

(A) in paragraph (1), by inserting ", except that such reference shall include any amendments to the Social Security Act made by the Pharmaceutical Marketplace Reform Act of 1994" before the period at the end; and

(B) in paragraph (2)—

(i) by striking "this section)" and inserting "the Pharmaceutical Marketplace Reform Act of 1994)"; and

(ii) by striking "date of the enactment of this section" and inserting "date of the enactment of the the Pharmaceutical Marketplace Reform Act of 1994".

SEC. 404. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this title shall apply on and after December 31, 1994.

SUMMARY OF PROVISIONS

TITLE I—MEDICARE PROGRAM

Medicare covered outpatient prescription drugs

This section would incorporate managed care principles into Medicare's mechanism for covering outpatient prescription drugs. It would provide for prudent pharmaceutical cost containment mechanisms and the development of standards for drug use review and pharmaceutical care for Medicare beneficiaries.

(I) Medicare Drug Program cost containment

This section would provide Medicare—the largest purchaser of medications in the United States—with the same pharmaceutical cost containment management tools currently used by a wide variety of fee-for-service and managed care plans.

As a condition of coverage for their products under Medicare, brand name pharmaceutical manufacturers would be required to pay a rebate or a discount to Medicare of 17 percent off the average manufacturers retail price (AMRP). Manufacturers could negotiate higher rebates with the Secretary of Health and Human Services (HHS), and physicians would be encouraged to utilize these higher rebated drugs for Medicare beneficiaries when medically appropriate. No rebate would be required for generic drugs except where the price of the generic drug is greater than 50 percent of the price of the innovator's brand of the drug. In such cases the manufacturer of the generic drug would pay an 11-percent rebate.

The Secretary of HHS would be permitted to negotiate rebates with manufacturers of new drugs that are covered by Medicare. These negotiations would occur if (1) the Medicare program is a primary payer for the new drug, (2) the new drug is not cost effective at the price the manufacturer is charging, (3) the new drug is less expensive in other major industrialized countries, or (4) the federal government had a substantial role in developing the new drug. If a manufacturer will not negotiate in good faith with the Secretary, the Secretary has the option not to cover the new drug or to require prior authorization before the new drug can be used.

Generic versions of brand name drugs would be dispensed to Medicare beneficiaries when they are available, but only if the Food and Drug Administrtion (FDA) has determined the generic version to be equivalent to its brand name counterpart.

The brand name version of a drug with generic equivalents would still be available if the physician writes "brand medically necessary" on the prescription. The Secretary of HHS has the option to require medical justification from the prescribing physician for requiring use of the brand name drug.

The Secretary could utilize prescribing protocols or guidelines for any drug covered under Medicare.

(II) Drug use review and coordination pharmaceutical care

The legislation develops a program to optimize the user of medications among Medicare beneficiries and to improve therapeutic outcomes.

Standards are established for drug use review (DUR) and pharmaceutical care programs for Medicare beneficiaries. Under the DUR program, Medicare beneficiaries would be counseled by pharmacists on how to use medications properly. Pharmacists would be required to check prescriptions before dispensing in order to prevent purchasers from experiencing adverse reactions. A program would be established to provide feedback to physicians and pharmacists about the use of drugs by Medicare beneficiaries.

Under the pharmaceutical care program, pharmacists would be utilized to monitor and manage the drug therapy of certain Medicare beneficiaries that are identified as at high risk for potential medication problems. The Secretary would be required to develop a methodology to compensate pharmacists for these cost-saving services.

A Medicare DUR Board consisting of physicians and pharmacists would be established. The Board would be responsible for recommending policies and procedures to the Secretary for the operation of the Medicare drug program. The Board's recommendations would work toward the maximization of medication outcomes in Medicare beneficiaries.

TITLE II—MEDICAID PROGRAM

Modifications to the Medicaid Prescription Drug Program

Although the Medicaid program may eventually be incorporated into the overall reformed health care system, the provisions in this legislation would produce Medicaid savings over the next few years by maximizing the use of generic medications.

This section would allow brand name medications that have generic equivalents to be dispensed only when the physician has indicated in his own handwriting on the prescription that the brand name drug is "medically necessary" for the patient, and has provided medical justification to the state Medicaid agency.

In addition, it would require that the state Medicaid program increase its expenditures on generic pharmaceuticals (as a percentage of all multiple source drug expenditures by the state) to 85 percent in 1995 and 90 percent in 1996 and thereafter. (Currently, the rate of generic dispensing in Medicaid is only about 70 to 75 percent, costing Medicaid millions of dollars each year.) State Medicaid agencies would lose part of their federal matching funds if they exceeded the allowable rate of brand name dispensing.

If the price of a generic drug is more than 50 percent of the price of the brand name drug, the rebate to Medicaid for the generic drug would be 11 percent. For other generics, the rebate would decrease from 11 percent in 1994 to 9 percent in 1995, 7 percent in 1996, and 5 percent in 1997 and thereafter.

Standards for pharmaceutical care provisions related to outpatient prescription drug benefits

As a condition of receiving federal Medicaid matching funds, states must require that all health care plans in the state meet minimum standards for providing pharmaceuticals to their enrollees. These standards would require plans to:

Use therapeutic drug formularies;

Establish a Pharmacy and Therapeutics Committee to develop the therapeutic formulary and provide oversight regarding drug use in the plan; and

Develop a program of pharmaceutical care to optimize the use of prescription medications among plan enrollees. This program would include DUR to ensure that enrollees know how to use their medications properly and to help avert potential adverse reactions.

Pharmacists would be utilized to monitor and manage the drug therapy of certain Medicare beneficiaries that are identified as high risk for potential medication problems. The plans would compensate pharmacists for performing these cost-saving services.

TITLE III—COMMISSIONS

Establishment of the Pharmaceutical Marketplace Price Information Commission

A critical component in helping the pharmaceutical marketplace work more effectively is providing buyers with information about prices. To date, a lack of good, reliable price information in the pharmaceutical marketplace has hindered buyers from making the best possible purchasing decisions. To assist buyers in purchasing pharmaceuticals prudently, a nine-member "Pharmaceutical Marketplace Price Information Commission" would be established within HHS.

The Commission would have the following responsibilities:

To provide general information about pharmaceutical prices in the United States market;

To provide general information about pharmaceutical prices in international, industrial-based markets, such as England and Japan;

To provide information to buyers about whether the prices of new drugs are "reasonable" based on: the prices of similar drugs in this country, the prices of the new drug in other countries, information about the costs of making the drugs, the improvements that the use of the drug make in an individual's quality of life, and the cost-effectiveness of the drug;

To monitor the utilization and prices of generic drugs; and

To make recommendations to Congress concerning the desirability of extending patents on certain pharmaceutical products.

The Commission would act purely as an information source. It would not have the authority to regulate or control drug prices.

Prescription Drug Payment Review Commission

An 11-member Prescription Drug Payment Review Commission would be established with functions similar to those assigned by Congress to the Prospective Payment Commission (ProPAC), and the Physician Payment Review Commission (PPRC). These Commissions were established to monitor the Medicare Part A program (hospital services) and the Medicare Part B program (physician services), respectively. The Commission would monitor Medicare drug program operations, conduct studies, and make recommendations to Congress on the operation of the Medicare drug program in general.

TITLE IV—ADDITIONS TO THE VA MASTER AGREEMENT

Equal access to pharmaceutical manufacturers' discounts

This section would require drug manufacturers to treat all buyers of their products equitably and fairly when negotiating price concessions and price discounts. It would require manufacturers to offer price concessions on the same terms and conditions to all purchasers. Any purchaser meeting the manufacturer-specified terms would have access to the discounted prices. In addition, these terms could be offered only if they result in savings to the manufacturers based on volume purchase, prompt pay, or prompt delivery terms.

Currently, drug manufacturers tend to negotiate price concessions with buyers based on the "class of trade" to which the buyers belong, rather than economic savings that the buyers produce for the manufacturer. Under this proposal, manufacturers could no longer provide preferential pricing or discounts based solely on the "class of trade" to which the buyer belongs.

Discounts could be provided for institutions and purchasers that use drug formularies as long as the formulary results in an increase in volume of drugs bought by the purchaser and the terms under which the manufacturer gives these discounts are provided on an equal basis to all purchasers.

Mr. SASSER. Mr. President, I rise today in strong support of the Pharmaceutical Marketplace Reform Act of

1994. I would like to congratulate my good friend from Arkansas, Senator PRYOR, on his work in bringing this important legislation to the floor of the Senate. I am honored to join him today as an original cosponsor of this timely measure.

As most of my colleagues are aware, the distinguished chairman of the Senate Special Committee on Aging has worked long and hard to make this body and the general public aware of the many pressing issues facing senior citizens today. The bill we are introducing in the Senate today, in my view, addresses a critical problem which disproportionately affects older Americans. That problem is the high and rapidly rising cost of prescription drugs.

I will not repeat the facts and statistics so concisely reviewed by my colleague from Arkansas. They speak for themselves. But I want my colleagues to know that when I go home to Tennessee and talk about prescription drugs, the statistics do not surprise my older constituents.

Senior citizens in my State—and probably across the entire Nation—know that most of their older friends and loved ones have no insurance coverage for prescription drugs. And, of course, Medicare does not presently pay for outpatient prescription medicines.

They know—as Senator PRYOR stated—that prescription medicines are far and away the highest out-of-pocket medical expense facing older Americans.

Practically to the person, each of them, or an older family member or friend, have had to choose between buying food, paying utility bills, or purchasing the medications prescribed by their doctor.

And Mr. President, they become angry and upset when I talk about the unfair prices they have to pay.

They do not understand how we here in Washington can allow drug makers to charge Americans 50 or 60 percent more than citizens of Britain, Canada, and other countries for the same drugs.

They don't understand how drug companies can charge their community pharmacist 10 times more for a heart drug than they charge the hospital down the highway.

And they don't understand why inflation for prescription drugs at the producer level has been 4½ times the inflation rate of other producer prices for the last 14 years.

Mr. President, the legislation we bring before the Senate today provides a moderate and commonsense approach to this urgent problem facing older Americans and all of our constituents. What consumers want is simple and reasonable. They want fair prices for prescription drugs. And they want the information they need to make sound, economical decisions.

Our bill will ensure that all payers—Medicare and Medicaid, hospitals, nursing homes, local supermarkets and drug stores—and individual buyers of prescription drugs—have the cost information they need, but previously have found unavailable.

Senator PRYOR has gone through the specifics of the legislation, so I will just focus on two of the provisions that I consider particularly important.

First is the title relating to any future Medicare prescription drug benefit. I want to state clearly today that I support the inclusion of outpatient prescription drugs for Medicare beneficiaries in the health care reform legislation we will consider later this year.

Today, without drug coverage from either Medicare or private insurance, too many seniors either go broke trying to pay for medicines, or do without them because they cannot afford the high prices. Many seniors have told me they will buy a month's supply of pills, and stretch them out to 2 months by taking one a day instead of two a day, as prescribed by their doctor. Some will cut tablets in half instead of taking a whole tablet, as indicated on their prescription. And as we all know, when people don't take their medicines as prescribed, their condition may deteriorate. It goes without saying that costs for hospitalization and physician services—Medicare payments, insurance payments, out-of-pocket payments—all go up when people get sicker or don't get well because they can't afford their prescription medicines.

So providing an outpatient Medicare prescription drug benefit is the right thing to do, and it makes sense for the program and its beneficiaries. But if we are going to provide prescription drugs under Medicare, we must make sure the program includes the proper cost-containment mechanisms needed to ensure this benefit is affordable.

This bill gives Medicare the same cost-containment tools currently used by many private insurance companies and managed care plans. It requires brand name drug manufacturers to pay a 17-percent rebate or discount to Medicare. Generic drugs would cost Medicare no more than half of the price of the comparable brand name drug, or be subject to an 11-percent rebate. The Secretary of Health and Human Services would be able to negotiate rebates with manufacturers of new drugs that are covered by Medicare.

Importantly, the Medicare Program would ensure the full participation of pharmacists in counseling patients, monitoring and managing the drug therapy of high risk beneficiaries, and helping establish utilization review policies and procedures for the drug program.

The Medicare provisions included in our legislation will improve medical outcomes, and add substantially to the value and cost-effectiveness of the prescription drug benefit.

I would note that recent studies have shown that these types of cost-containment mechanisms will reduce the cost of a Medicare drug benefit by more than half.

The second provision I would like to highlight here today is the requirement on drug manufacturers to treat all buyers of their products in a fair and equitable manner with regard to pricing practices.

Presently, drug makers negotiate prices with buyers based on what is generally referred to as the class of trade to which they belong, rather than on economic savings the purchasers produce for the manufacturer. Retail pharmacists—both chain drug stores and independent pharmacists—are forced to pay far more than hospitals, managed care plans, mail order firms, and other buyers for the same volume of products shipped under identical conditions. The result of current drug manufacturers' discriminatory pricing policies is a distortion of the market. Examples of this problem make the case for our provision:

Community pharmacies are charged $48.31 for 100 60-milligram tablets of the common blood pressure medicine, Inderal, made by the Wyeth Co. Noncommunity pharmacies receive a discounted price on the same package of $4.12. So a neighborhood pharmacy may pay 1,073 percent more for the same drug made by the same company bought under the same conditions.

Searle makes another heart medicine, Calan. The price difference is $22.91 for community pharmacies and $3.90 for institutional pharmacies. That difference is 487 percent.

Our measure would require manufacturers to offer price concessions on the same terms and conditions to all purchasers. It's that simple. Any purchaser that buys the same quantity of a particular product, pays as promptly, and takes the same prompt delivery, gets the same discount. No longer would drug companies be able to use the class of trade distinction as a means to unfairly overcharge community pharmacies for drugs. I believe this provision will serve to restore a level playing field to the prescription drug market and provide all of our citizens with a fair price for the prescription drugs they need.

So Mr. President, let me conclude by once again commending my colleague from Arkansas for his work in this area and in crafting this badly needed legislation. I pledge to work with him to ensure that our legislation receives full consideration by the Senate and ultimately passes into law.

By Mr. HATCH:

S. 2240. A bill entitled the "Rape Victims' Protection Act"; to the Committee on the Judiciary.

RAPE VICTIMS' PROTECTION ACT

Mr. HATCH. Mr. President, I rise today to introduce legislation to remedy an unacceptable and outrageous development for women across this country as reported in the Washington Post this morning.

This week, the YWCA chapter in Springfield, MA, was ordered by a Massachusetts court to turn its rape counseling files over to the defense attorney of an accused rapist. The rape counseling center had previously refused to turn over the files. The lower court ordered that if they did not turn over the files, the then-current board of directors, all volunteers, would each have to pay $500 per day until they turned over those files. They ultimately had to do because none of those citizens who were acting as volunteers on the board had the money or the wherewithal to be able to pay the $500 a day to uphold the principle that these types of files should not be disclosed to the perpetrator of the crime, or at least, in this case, the alleged perpetrator of the crime.

Mr. President, as a result of this decision, women seeking rape counseling will do so knowing that everything they say to their counselor is, in effect, available ultimately to an alleged attacker.

By the way, the lower court decision yesterday was upheld by the supreme court of the State of Massachusetts. This is one of the more liberal States of the Union.

I am basically shocked by the decision. But I have to add a caveat here. The court may not have had any choice because the State of Massachusetts may not have provided for a privilege against such action by the defense attorney on behalf of the rape crisis counseling center and counselors not to have to disclosed the confidential remarks and counseling that the victim had with them.

The impact on women is obvious. Rape counseling services offered by the YWCA or other organizations offer an invaluable service to women victimized by sexual assaults. There are at least 300 YWCA's across this country offering these wonderful services to women who have nowhere else to turn. And our own rape crisis center, our own YWCA organization out in Salt Lake City, just to single one out—we have them in a number of cities—has converted the whole YWCA into helping these battered and tortured and abused women, many of whom have suffered from rape.

They provide an invaluable service to women, and in many respects it is the only kind of counseling these unfortunate women are going to get. These counselors are professionals. They are effective. But there can be no question that the removal of any confidentiality between the rape victim and her counselor will discourage these women from seeking desperately needed help in a time of real need and distress.

Mr. President, the bill I am introducing today is direct and straightforward. It provides that.

> In any criminal or civil action for rape or sexual assault, no court, State or Federal, shall order the disclosure of the records of rape counseling or battered women centers, or shall compel testimony from the agents or employees of such centers with respect to the substance of their counseling, unless the moving party demonstrates a compelling need for such records or testimony.

It is not a total privilege. But we do provide the highest legal standard. They would have to show a compelling need for such records or testimony before any court could order this. This would be an inestimable protection to women and these centers and these counselors as we go into the future.

As counsel for the Springfield YWCA pointed out in the Washington Post article this morning, currently rape counseling records must be turned over if the judge finds them relevant. According to the article, she advocates that defendants should face a higher standard in order to obtain rape crisis files.

We believe this bill will provide that higher standard. It is imperative that we act swiftly in this area as we all understand rape and sexual assault are seriously unreported crimes. Victims of such crimes deserve to know that they can reach out to a professional for badly needed assistance, and they deserve no less.

Mr. President, I am very concerned about this subject, because I see more and more of this type of treatment of women across the country. I have seen plenty of it over the years. I have nothing but respect for these YWCA's that provide this voluntary counseling for the women who have nowhere else to turn, to live, or to go, and in many cases who are brutalized by husbands or boyfriends, or whomever. In the case of rape victims, I think there is little or no reason to not invoke a privilege on the part of, or on behalf of, the rape crisis center, or the counseling center, from having to give those types of records to the courts; and especially they should not have to give them to the counsel for the alleged perpetrator of the crime.

Mr. President, I ask unanimous consent that the article entitled "YWCA, Ordered To Release Rape Counseling Files To Seek New Law," by Christopher B. Daly, a special to the Washington Post, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 24, 1994]

YWCA, ORDERED TO RELEASE RAPE COUNSELING FILES, TO SEEK NEW LAW

(By Christopher B. Daly)

BOSTON.—The YWCA, an organization that has provided rape and domestic violence counseling to millions of American women, said today it now must warn clients their records may not be confidential after the state's highest court ordered it to turn over files in a rape case.

But the group's national leadership vowed to fight in Congress and state legislatures for laws that would cloak rape counseling files with legal confidentiality.

"Women are raped, beaten and murdered every day in this country. If courts will not protect them, the YWCA will," said executive director Prema Mathai-Davis. "To ask for confidential files is sending a dangerous message to girls and women everywhere—that if you are raped, you have no place to turn to."

Late Wednesday, the YWCA chapter in Springfield, about 100 miles west of Boston, reluctantly surrendered counseling files to the defense attorney representing accused rapist Luis Figueroa. YWCA officials said they had no choice after the state Supreme Court upheld a trial court's contempt order that imposed $500 daily fines.

Figueroa was indicted in January. Shortly before trial was to begin earlier this month, the defense subpoenaed the alleged victim's file from the local YWCA.

When the YWCA refused the papers, citing the victim's constitutional right to privacy, Superior Court Judge Constance Sweeney found the group in contempt on June 9 and imposed a $500 daily fine. Effective today, the fine also would have applied to the local YWCA's 12 board members personally.

The YWCA immediately sought relief from the state Appeals Court, which refused. The state Supreme Judicial Court, acting through a single justice, upheld the contempt ruling Wednesday morning.

Andrew Klyman, head of the Springfield public defender's office, said his staff, which represents Figueroa, was following a court-ordered procedure for obtaining relevant documents.

"What we're looking for is whether the alleged victim is telling the same story to everybody," Klyman said. "If she's telling the truth, she's got nothing to worry about."

Mary Reardon Johnson, executive director of the YWCA of Western Massachusetts, said the Springfield chapter had "used all the resources and means available to us." She said any further resistance to the court order could be so costly that it would jeopardize the group's other activities.

"We've lost the battle but not the war. We're not done," Johnson said, adding that three legislators have agreed to seek a new state confidentiality law.

The Springfield YWCA's attorney, Wendy Murphy, said the case is important because, while legal advocates have been seeking and winning legal protections for rape counselors in recent years, only a handful of states grant them a legal confidentiality comparable to that of a doctor or priest.

"Rape crisis centers can't function without confidentiality," Murphy said. She said the YWCA was not seeking an absolute privilege.

Now, she said, defense attorneys may request the files and judges must order their release if the judge finds them "relevant." Instead, Murphy said, defendants should face a higher standard and be able to obtain rape crisis files only if they can show a "material need" to have the documents.

"In effect, the rule forces victims to choose between prosecution and healing. If they choose prosecution, they must suffer in silence," Murphy said. The lower standard allows defense attorneys to seek "victory by intimidation," she said.

The attorney also complained that the private, nonprofit YWCA would have faced nearly $250,000 in fines during the year it would take to have the organization's views heard through a formal appeal.

YWCA officials said more than 1 million girls and women receive counseling for rape and domestic violence at more than 300 YWCAs annually.

By Mr. MITCHELL:

S. 2241. A bill to establish a Gulf of Maine Council to promote the economic development and ensure the environmental quality of the Gulf of Maine, and for other purposes; to the Committee on Environment and Public Works.

THE GULF OF MAINE ACT OF 1994

Mr. MITCHELL. Mr. President, today I am introducing the Gulf of Maine Act of 1994. This legislation is identical to a bill introduced by Representatives ANDREWS and STUDDS in the House of Representatives.

The Gulf of Maine is a semienclosed sea bordered by the States of Maine, Massachusetts, and New Hampshire, and the Provinces of New Brunswick and Nova Scotia.

My home State of Maine has over 3,000 miles of coastline bordering the gulf. Commercial fishing is an important part of Maine's economy and way of life. Recreational fishing and wildlife dependent tourism activities are becoming increasingly valuable to the region. Here are some facts about the Gulf of Maine:

Commercial fisheries in the gulf are valued at over $800 million each year;

The value of the aquaculture industry in the gulf region is about $60 million and rapidly increasing;

Some 75 million people live within 1 day's drive of the gulf;

Approximately $6 billion is spent by about 10 million tourists visiting the region each year;

The gulf region contains three national parks and one marine sanctuary;

The gulf supports a wide range of species: 100 species of birds, 73 species of fish, and 26 types of whales, porpoises, and seals, including 30 federally listed endangered and threatened species such as the humpback whale and the bald eagle.

All these statistics would lead one to believe that the Gulf of Maine is a pristine and healthy ecosystem. In many ways, it is one of the most productive marine ecosystems in our Nation. Unfortunately, there is growing evidence of environmental contamination, loss of habitat, and species decline in the Gulf of Maine. Unusually high levels of toxins in the tamale of lobsters, PCB's and heavy metals in the sediments gulf-wide, decreased harvests of shellfish in Downeast Maine, and increased coastal development all threaten the environmental and economic health of the region.

I have long been concerned about coastal and marine issues. As a member of the Environment and Public Works Committee, I held hearings on environmental trends in the Gulf of Maine in 1987 and 1988. I have sponsored marine reserach and coastal protection legislation. I have worked with the fishing community in Maine to ensure that Maine families will continue to benefit from the bounty of the Gulf of Maine. I have authored wetlands conservation and oilspill prevention legislation.

But although much good work has been done in the gulf by a variety of interests, it is becoming clear that a better coordinated strategy for the Gulf of Maine is necessary. The legislation I am introducing today provides a coordinating mechanism for the various entities in the region working toward protecting the environment quality and economic resources of the Gulf of Maine.

The legislation authorizes a Gulf of Maine Council to be comprised of representatives appointed by the Governors of the three States and exofficio representatives of the two Canadian Provinces. The council will develop a Gulf of Maine agreement which will establish general goals and priorities to guide efforts to protect and manage the gulf over a 10-year period.

The council will facilitate coordination among governments and nongovernment organizations regarding management of the gulf in four key subject areas:

Environmental assessment and management.—The legislation establishes a program to coordinate environmental assessment and management efforts in the gulf.

Economic assistance.—The legislation creates an Economic Development Board to coordinate sustainable economic development activities in the Gulf of Maine region. The Board will identify projects and activities with the greatest potential of furthering the economic and environmental health of the region.

Fisheries management.—The council will make recommendations to the New England Fisheries Management Council and provide the management council with relevant information being collected by other entities working under the umbrella of the Gulf of Maine Council.

Marine research.—The council will work with the existing Gulf of Maine Regional Marine Research Board to integrate its research efforts with related management efforts.

The legislation also will facilitate environmental education activities in the gulf and creates a citizen advisory group to ensure broad input into council activities.

Citizens and governments of the Gulf of Maine region need a mechanism through which they can express their diverse opinions and set forth a vision for an environmentally and economically healthy Gulf of Maine region. I hope that my colleagues, particularly my colleagues from the Gulf of Maine region, will join me in supporting this legislation.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2241

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Gulf of Maine Act of 1994".

SEC. 2. FINDINGS.

(a) ECONOMIC FINDINGS.—Congress makes the following findings regarding economic activities in the Gulf of Maine region:

(1) The Gulf provides significant commercial benefits to the United States and Canada. The commercial fishing industry of the Gulf is valued at more than $800,000,000. Approximately 20,000 United States and Canadian citizens fish the marine resources of the Gulf.

(2) The Gulf is an important recreational resource because the Gulf—

(A) is within 1 day's drive of 75,600,000 people;

(B) contains 3 United States and Canadian national parks and 1 United States national marine sanctuary; and

(C) attracts approximately 10,000,000 visitors annually.

(3) The Gulf provides diverse livelihoods ranging from tourism-based employment to seaweed harvesting.

(b) ECOLOGICAL FINDINGS.—Congress makes the following findings regarding the ecological status of the Gulf of Maine region:

(1) The Gulf supports a wide diversity of marine life, including 100 species of birds, 73 species of fish, and 26 types of whales, porpoises, and seals, including 30 federally listed endangered species including the bald eagle, sea turtle, humpback whale, and sperm whale.

(2) The Gulf of Maine region is experiencing environmental problems, including—

(A) high levels of toxic contaminants in deep basin sediments of the Gulf, as well as in organisms within the Gulf of Maine ecosystem, including the bald eagle and the American lobster;

(B) concerns about human health that have resulted in the closure of about ⅓ of Gulf shellfish beds, resulting in economic losses in communities around the Gulf;

(C) the increasing loss of habitat in the Gulf region, which results in diminished coastal and estuarine habitats important to migratory waterfowl and commercially valuable fish species; and

(D) the escalating impact of recreational use on the Gulf ecosystem.

(c) MANAGEMENT FINDINGS.—Congress makes the following findings regarding the management of the Gulf of Maine region:

(1) The natural resources of the Gulf are interconnected, forming an ecosystem that transcends political boundaries and that is a public resource that needs national attention.

(2) The efforts of the States of Maine, Massachusetts, and New Hampshire, and of the Canadian Provinces of Nova Scotia and New Brunswick, to form a Gulf of Maine Council on the Marine Environment have laid a foundation for future efforts to protect and conserve the Gulf.

(3) There is a need to continue and expand the research, monitoring, management, and

development activities within the Gulf and to coordinate the activities.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) AGREEMENT.—The term "Agreement" means the Gulf of Maine Agreement developed under section 4(c)(1).

(3) COMMISSION.—The term "Commission" means the St. Croix International Waterway Commission established under chapter 8 of title 38 of the Maine Revised Statutes.

(4) GULF OF MAINE COUNCIL.—The terms "Gulf of Maine Council" and "Council" mean the Gulf of Maine Council established under section 4.

(5) GULF OF MAINE REGION.—The term "Gulf of Maine region" means the Bay of Fundy, the Gulf of Maine, including Georges Bank, and the streams, rivers, lakes, and other bodies of water, and the associated land mass of the bodies of water, within the drainage basin of the Gulf of Maine, together with the ecological community of the Gulf of Maine.

(6) MANAGEMENT COUNCIL.—The term "Management Council" means the New England Fishery Management Council established under section 302(a)(1) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1)).

(7) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

SEC. 4. GULF OF MAINE COUNCIL.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is authorized to be established a Gulf of Maine Council to promote the environmental and economic health of the Gulf of Maine region.

(2) PURPOSE.—The purpose of the Gulf of Maine Council shall be to facilitate the coordination of governmental and nongovernmental activities related to the Gulf of Maine region, including—

(A) economic development, including the coordination and prioritization of applications for assistance submitted under section 5;

(B) environmental assessment and management;

(C) fisheries habitat improvement and management;

(D) marine research; and

(E) education and understanding concerning ecological and cultural resources.

(3) INITIAL ORGANIZATION.—On receiving a written agreement of the Governors of Maine, Massachusetts, and New Hampshire, and the Premiers of Nova Scotia and New Brunswick, that is jointly signed by each such Governor and Premier, to establish the Gulf of Maine Council in accordance with this section, and the nominations of the Governors and the Premiers to the Gulf of Maine Council, Congress shall consider the Gulf of Maine Council to be established.

(4) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App. 2) shall not apply to any entity established under this Act.

(b) MEMBERSHIP, AUTHORITY, AND FUNDING OF COUNCIL.—

(1) MEMBERSHIP AND PERSONNEL.—

(A) MEMBERSHIP.—Not later than 180 days after the date of enactment of this Act, the Governors of Maine, Massachusetts, and New Hampshire and the Premiers of Nova Scotia and New Brunswick shall each appoint 3 representatives to the Gulf of Maine Council. The representatives of the Provinces shall be ex officio members of the Council.

(B) TERMS.—The term of each member of the Gulf of Maine Council shall be 3 years, except that, in the case of initial appointments, the Governors and Premiers shall each appoint 1 member to a term of 2 years, 1 member to a term of 3 years, and 1 member to a term of 4 years.

(C) EXECUTIVE SECRETARY AND STAFF.—The Gulf of Maine Council may employ an executive secretary and such support staff as are necessary to assist the Council, and the Boards and Councils referred to in sections 5 through 8, in carrying out their duties, including the coordination of plans and programs developed under sections 5 through 8.

(D) TRAVEL EXPENSES.—A member of the Gulf of Maine Council who is not an employee of the Federal Government or a State government, while away from the home or regular place of business of the member in performing a duty of the Council, shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as a person employed intermittently in the Government service is allowed expenses under section 5703 of title 5, United States Code.

(2) DECISIONMAKING.—The Gulf of Maine Council—

(A) may establish such bylaws and decisionmaking processes as the Council determines are necessary; and

(B) shall meet not less often than annually.

(3) FINANCIAL SUPPORT.—

(A) IN GENERAL.—

(i) ANNUAL BUDGET.—The Gulf of Maine Council shall annually adopt by consensus a budget for the activities of the Council.

(ii) STATE SUPPORT.—Each State represented on the Gulf of Maine Council shall provide to the Council a payment in an amount equal to the quotient obtained by dividing—

(I) the United States portion of the budget adopted under clause (i); by

(II) the number of States represented on the Council.

(iii) FEDERAL CONTRIBUTIONS.—The Government of the United States may make the payment required of a State under clause (ii).

(B) SUPPLEMENTAL FUNDING.—The Gulf of Maine Council may accept, from the Government of the United States, the Government of Canada, other agencies, corporations, organizations, and individuals, funds for activities or projects to supplement funds made available to the Council under subparagraph (A).

(4) GULF OF MAINE ADVISORY GROUP.—

(A) IN GENERAL.—The Gulf of Maine Council shall establish a Gulf of Maine Advisory Group (referred to in this section as the "Advisory Group") to advise the Council, the Governors of Maine, Massachusetts, and New Hampshire, and the Premiers of Nova Scotia and New Brunswick on the implementation of this Act.

(B) COMPOSITION.—The members of the Advisory Group shall be appointed by the Governors and Premiers in coordination with the Gulf of Maine Council and shall include not more than 15 members, including representatives of the public, the fishing community, the scientific community, nonprofit organizations, and local governments.

(c) GULF OF MAINE AGREEMENT.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Gulf of Maine Council shall develop and adopt a Gulf of Maine Agreement. The Agreement shall set forth general priorities and guidelines for the protection, assessment, management, and sustainable development of the Gulf of Maine region for the 10 years after the date of adoption of the Agreement. The Gulf of Maine Council shall oversee the implementation of the Agreement.

(2) ELEMENTS OF AGREEMENT.—The Agreement shall, at a minimum—

(A) describe long-term goals for environmental protection and sustainable economic development in the Gulf of Maine region;

(B) identify opportunities for improved coordination of activities relating to—

(i) economic development;

(ii) fisheries management;

(iii) environmental assessment and protection;

(iv) marine research; and

(v) education;

(C) be consistent with all relevant Federal and State laws;

(D) incorporate, to the maximum extent practicable, ongoing planning efforts being conducted by coastal communities and members of the fishing community;

(E) establish parameters and criteria to monitor and evaluate the effectiveness of actions taken under this Act and measures to respond to evaluation results; and

(F) facilitate and coordinate public education and awareness concerning the environment and economy of the Gulf of Maine region.

(3) REVIEW.—

(A) ADVISORY GROUP.—The Gulf of Maine Council shall provide for the participation of the Advisory Group in the development of the Agreement.

(B) PUBLIC REVIEW AND COMMENT.—The Gulf of Maine Council shall provide for public review and comment on the Agreement prior to adoption, including, at a minimum, a public hearing in each State and Province represented on the Gulf of Maine Council.

(4) ADOPTION.—After considering the comments of the Advisory Group and the public, the Gulf of Maine Council shall make appropriate changes to the Agreement and adopt the Agreement with appropriate implementation mechanisms if the Agreement is consistent with this Act.

(5) PROGRESS REPORT AND REVISION OF AGREEMENT.—Not later than 5 years after the date of adoption of the Agreement, the Gulf of Maine Council shall prepare a report that assesses the extent of progress in attaining the goals of this Act and make such revisions to the Agreement and the structure of the Council as the Council determines are appropriate. The report shall identify opportunities to enhance mutual cooperation and coordination between the United States and Canada concerning the Gulf of Maine region. The report shall be submitted to Congress, the Secretary, the Secretary of the Interior, the Administrator, and the heads of other appropriate Federal, State, and local agencies and organizations.

(6) EXTENT OF AUTHORITY.—

(A) IN GENERAL.—Subject to subparagraph (C), the Gulf of Maine Council may review, to the extent consistent with applicable law, the activities of international, Federal, State, and Provincial entities in the Gulf of Maine region and make recommendations to the entities regarding the compatibility of the activities with the Agreement.

(B) REVIEW OF PLANS.—The Gulf of Maine Council shall review plans prepared by the Boards and Councils referred to in sections 5 through 8 to ensure that the plans are consistent with each other and with the goals and priorities established in the Agreement.

(C) LIMITATIONS.—No action or recommendation authorized under this section—

(i) binds or obligates any department, agency, officer, or Act of the Federal Government, any State government, any Indian tribe, or any international entity established by treaty with authority relating to the Gulf of Maine region, unless this Act specifically provides otherwise; or

(ii) limits the authority of the United States to enter into treaties.

(d) REPORT.—Not later than 12 years after the date of enactment of this Act, the Gulf of Maine Council shall submit a report to Congress and the President on the activities of the Gulf of Maine Council and the effectiveness of this Act in promoting the economic and environmental health of the Gulf of Maine region. The report shall include recommendations for such administrative and legislative action as the Council considers advisable.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 5. ECONOMIC ASSISTANCE FOR THE GULF OF MAINE REGION.

(a) ECONOMIC DEVELOPMENT BOARD.—

(1) ESTABLISHMENT.—The Gulf of Maine Council, in cooperation with the Economic Development Administration and the National Oceanic and Atmospheric Administration of the Department of Commerce, shall establish an Economic Development Board (referred to in this subsection as the "Board") to develop and implement a long-term plan for coordinating environmentally sound economic assistance for the Gulf of Maine region provided under this section and from other sources.

(2) PURPOSE AND DUTIES.—The purpose of the Board shall be to identify economic assistance priorities and projects with the greatest potential to aid the restoration of both the economic and ecological health of the Gulf of Maine region. The Board shall provide grantmaking agencies and organizations with the information referred to in the preceding sentence and shall carry out the responsibilities of the Council referred to in section 4(a)(2)(A).

(3) MEMBERS.—The Board shall consist of such individuals as the members of the Gulf of Maine Council determine are appropriate and should include representatives of the Economic Development Administration, the Office of Sustainable Development, and the Small Business Administration of the Department of Commerce, the Department of Labor, and State agencies and private entities involved in economic development activities in the Gulf of Maine region. The individuals who represent Provinces shall be ex officio members of the Board.

(4) ANNUAL PLAN.—The Board shall prepare an annual plan that identifies goals and objectives for environmentally sound economic assistance (including high-priority projects), describes the status of any ongoing projects, and reflects the goals and priorities established in the Agreement. The Board shall provide for public review of and comment on the plan. Prior to release of the plan for public review, the Boards and Councils referred to in sections 6 through 8 shall review and comment on the plan.

(b) PLANNING GRANTS.—

(1) IN GENERAL.—In accordance with this subsection, the Secretary may provide planning grants to the Gulf of Maine Council for a period of 1 year for 100 percent of the total project cost, as determined by the Secretary. In carrying out this paragraph, the Secretary may enter into a cooperative agreement with the Council.

(2) ELIGIBLE ACTIVITIES.—A cooperative agreement under this subsection shall be made available through the Economic Development Administration of the Department of Commerce for the planning of economic development programs designed specifically to retain or create full-time permanent jobs and income for individuals who are unemployed or underemployed as a result of the implementation of fishery management regulations imposed by the Federal Government that have a severe economic impact on communities in the Gulf of Maine region.

(c) TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—In accordance with this subsection, the Secretary may provide grants for local technical assistance to the Gulf of Maine Council through the Economic Development Administration of the Department of Commerce in an amount equal to not more than 75 percent of the total project cost, as determined by the Secretary.

(2) ELIGIBLE ACTIVITIES.—Activities eligible for assistance under this subsection include—

(A) enabling the building and expansion of local organizational capacity;

(B) technical or market feasibility studies;

(C) collecting and disseminating information relevant to diversification efforts, including stock projections, market forecasts, international trade opportunities, and technology needs assessment;

(D) conversion assistance for new nonfishing occupations, including financial support for regional business development efforts, and technology needs assessment;

(E) restoration of natural resources, such as the building of fish passages and the restoration of wetlands and shellfish harvesting areas, that will enhance economic opportunities for Gulf of Maine communities; and

(F) otherwise responding to developmental opportunities for individuals unemployed or underemployed as a result of the implementation of fishery management regulations imposed by the Federal Government that have a severe economic impact on communities in the Gulf of Maine region.

(d) ELIGIBLE APPLICANTS.—

(1) GRANTS.—The sole eligible applicant to receive grants under this section shall be the Gulf of Maine Council, on behalf of the Gulf of Maine region which shall be deemed to be an economic development district for the purpose of part B of title IV of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3171 et seq.).

(2) SUBGRANTS.—The Gulf of Maine Council shall use grants received under this section to provide assistance for activities referred to in this section to eligible applicants, including public and private nonprofit national, State, area, district, and local organizations, units of local government, and public and private colleges and universities.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 6. FISHERY MANAGEMENT PLANS.

(a) COORDINATION WITH EXISTING PROGRAM.—

(1) IN GENERAL.—The Gulf of Maine Council shall cooperate with the New England Fishery Management Council established under title III of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1851 et seq.).

(2) AUTHORITY.—The Management Council shall continue to exercise the authorities and responsibilities established in title III of such Act (16 U.S.C. 1851 et seq.) and shall also participate, as described in subsection (b)(1)(A), with the Gulf of Maine Council and with other organizations established under this Act in cooperative efforts to promote the environmental and economic health of the Gulf of Maine region.

(b) RECOMMENDATIONS BY THE GULF OF MAINE COUNCIL.—

(1) RECOMMENDATIONS.—

(A) TO MANAGEMENT COUNCIL.—The Gulf of Maine Council may, after notice and opportunity for public comment, develop recommendations to submit to the Management Council on any fishery management plan being considered by the Management Council, if the Gulf of Maine Council determines that the recommendations are necessary to make the fishery management plan reflect the goals and priorities established in the Agreement. The recommendations shall be submitted during the applicable public comment period established under title III of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1851 et seq.).

(B) TO SECRETARY.—The Gulf of Maine Council may, after notice and opportunity for public comment, develop recommendations, based on the Agreement, to submit to the Secretary regarding any fishery management plan of the Management Council being considered by the Management Council or submitted to the Secretary, including asking the Secretary to convene a negotiated rulemaking provided for under subchapter III of chapter 5 of title 5, United States Code, for the management plan. The recommendations shall be submitted during the applicable public comment period established under section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854).

(2) APPROVAL BY THE COUNCIL.—The Gulf of Maine Council may submit recommendations under paragraph (1) only if the recommendations are approved by a majority of the voting members of the Gulf of Maine Council.

(3) REVIEW.—If the Secretary receives recommendations prepared by the Gulf of Maine Council, the Secretary shall commence a review of the recommendations to determine whether the recommendations are necessary to make any fishery management plan consistent with the Agreement.

(4) CONSULTATION.—In undertaking the review required under paragraph (3), the Secretary shall—

(A) give careful consideration to the comments and recommendations of the Gulf of Maine Council; and

(B) provide the Gulf of Maine Council, upon request, the opportunity to meet with and present the comments or recommendations of the Council directly to the Secretary during the applicable public comment period established under section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854).

(5) NONACCEPTANCE BY THE SECRETARY.—If the Secretary does not accept the recommendations reviewed under paragraph (3), the Secretary shall specify the reasons the recommendations were not accepted.

(6) FINDINGS.—Notwithstanding any other law, if the Secretary concurs with the recommendations submitted by the Gulf of Maine Council under this subsection, the Secretary shall issue a finding to the Management Council requesting that the Management Council review the fishery management plan in light of the recommendations of the Gulf of Maine Council not later than 180 days after the issuance of the finding. The Secretary shall also inform the Gulf of Maine Council of the finding.

SEC. 7. ENVIRONMENTAL MANAGEMENT AND ASSESSMENT PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established an Environmental Management and Assessment

Program (referred to in this subsection as the "Program") for the Gulf of Maine region.

(2) MANAGEMENT OF PROGRAM.—

(A) IN GENERAL.—The Program shall be managed by the Gulf of Maine Council on the Marine Environment Working Group in existence on the date of enactment of this Act (referred to in this section as the "Working Group").

(B) MEMBERS.—The Working Group shall consist of such individuals as the members of the Gulf of Maine Council who represent States determine are appropriate. Membership should include representatives of Federal, State, and local governments and nonprofit organizations that have environmental management and assessment programs in the Gulf of Maine region.

(3) PARTICIPATION IN THE PROGRAM.—The Gulf of Maine Council shall ensure that—

(A) all Federal and State agencies that have environmental management and assessment programs in the Gulf of Maine region have an opportunity to participate in the Program; and

(B) the Program includes representation of the environmental management and assessment efforts being carried out by nongovernmental entities in the Gulf of Maine region.

(b) ENVIRONMENTAL MANAGEMENT AND ASSESSMENT PLAN.—

(1) IN GENERAL.—Not later than 2 years after the Agreement is adopted, and after providing for public review and comment, the Working Group shall publish a plan for improved environmental management and assessment in the Gulf of Maine region. Prior to release of the plan for public review, the Boards and Councils referred to in sections 5, 6, and 8 shall review and comment on the plan.

(2) CONTENTS OF PLAN.—The plan required under paragraph (1) shall—

(A) establish a comprehensive program for the long-term monitoring and assessment of the Gulf of Maine region, based on the Gulf of Maine Monitoring Plan established in 1990 by the Governors of Maine, Massachusetts, and New Hampshire, and the Premiers of Nova Scotia and New Brunswick;

(B) identify environmental protection and management programs being carried out in the Gulf of Maine region and make recommendations for improving the effectiveness of the programs and coordination among programs;

(C) identify and monitor priority habitat for the fish and wildlife species in the Gulf of Maine region and recommend measures for habitat conservation, including protection and restoration; and

(D) reflect the goals and priorities established in the Agreement.

(3) PLANNING AND IMPLEMENTATION GRANTS.—The Administrator, the Secretary of Commerce, and the Secretary of the Interior may provide planning and implementation grants to the Gulf of Maine Council in an amount equal to not more than 75 percent of the total project cost, as determined by the Administrator or the Secretary, respectively, for planning and implementing environmental management and assessment projects under this section. In carrying out this paragraph, the Administrator and each Secretary may enter into a cooperative agreement with the Council.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 8. GULF OF MAINE RESEARCH.

(a) COORDINATION WITH EXISTING PROGRAM.—

(1) IN GENERAL.—The Gulf of Maine Council shall cooperate with the Regional Marine Research Board for the Gulf of Maine region established under title IV of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1447 et seq.) and the Regional Association for Research on the Gulf of Maine.

(2) NEW AUTHORITY.—The Regional Marine Research Board for the Gulf of Maine region shall continue to exercise the authorities and responsibilities established in title IV of such Act (16 U.S.C. 1447 et seq.) and shall also participate with the Gulf of Maine Council and with other organizations established under this Act in cooperative efforts to promote the environmental and economic health of the Gulf of Maine region.

(3) REGIONAL MARINE RESEARCH PLANS.—

(A) SCHEDULES.—The Regional Marine Research Board for the Gulf of Maine region may, in cooperation with the Gulf of Maine Council and with the approval of the Secretary, revise schedules for the development of research plans under section 404 of such Act (16 U.S.C. 1447c) as appropriate to ensure the effective coordination of the plans and programs carried out under such Act with the activities and plans carried out under this Act.

(B) GOALS AND PRIORITIES.—The research plans referred to in subparagraph (A) shall reflect the goals and priorities established in the Agreement. Each research plan shall be reviewed by the Boards and Councils referred to in sections 5 through 7 prior to approval of the plan.

(4) CONTINUATION OF PROGRAM.—Notwithstanding section 403(f) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1447b(f)), the Regional Marine Research Board for the Gulf of Maine region shall continue to exist until the termination date specified in section 10.

(b) MEMBERSHIP.—

(1) CURRENT STRUCTURE.—The membership of the Regional Marine Research Board for the Gulf of Maine region shall be as established under section 403 of such Act (16 U.S.C. 1447b).

(2) RESEARCH ADVISORY GROUP.—The Gulf of Maine Council may establish a Gulf of Maine Research Advisory Group consisting of such individuals as the members of the Gulf of Maine Council who represent Provinces identify as appropriate to represent the marine research interests, including fisheries science and environmental quality, of the Provinces. The members of the Research Advisory Group shall, to the extent practicable, be selected in a manner consistent with paragraphs (1) and (2) of section 403(b) of such Act (16 U.S.C. 1447b(b)).

(c) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding section 407 of such Act (16 U.S.C. 1447f), there are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 9. ST. CROIX INTERNATIONAL WATERWAY COMMISSION.

(a) IN GENERAL.—The Administrator may award grants to the St. Croix International Waterway Commission to support the activities of the Commission.

(b) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of a grant awarded under this section shall be 50 percent of the amount of the grant award.

(2) NON-FEDERAL SHARE.—The non-Federal share of a grant awarded under this section shall be 50 percent of the amount of the grant award. Any person, including the State of Maine, the Province of New Brunswick, the Government of Canada, or any political subdivision thereof, may pay the non-Federal share.

(c) REPORTS.—

(1) SUBMISSION BY COMMISSION.—As a condition of receiving a grant award under this section, the Commission shall submit to the Administrator, by a date specified by the Administrator, an annual report on the activities of the Commission and the use by the Commission of the grant award.

(2) SUBMISSION BY ADMINISTRATOR.—As soon as practicable after receipt of the report under paragraph (1), the Administrator shall submit a copy of the report and any written recommendations concerning the report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Environmental Protection Agency to carry out this section $100,000 for each of fiscal years 1995 through 2000.

SEC. 10. TERMINATION OF AUTHORITY.

The authority provided by this Act (except for section 9) shall terminate on the date that is 13 years after the date of enactment of this Act.

By Mr. STEVENS (for himself, Mrs. MURRAY, Mr. GORTON, Mr. MURKOWSKI, and Mr. PACKWOOD):

S. 2243. A bill to amend the Fishermen's Protective Act of 1967 to permit reimbursement of fishermen for fees required by a foreign government to be paid in advance in order to navigate in the waters of that foreign country whenever the United States considers that fee to be inconsistent with international law, and for other purposes; ordered held at the desk.

THE FISHERMEN'S PROTECTIVE ACT AMENDMENT OF 1994

Mr. STEVENS. Mr. President, today the White House had a briefing for those of us from the West Coast on the issue of negotiations on the salmon treaty with Canada. I am pleased to report that the Vice President has met with the Canadian Ambassador, Ambassador Chrétien. I quote from a State Department release today which says: "The Vice President and Ambassador Chrétien had a frank, candid and constructive discussion of the Pacific salmon issue."

It was clear to us that there is an attempt to resolve the issue of the fees that have been imposed by Canada on American fishermen transiting Canadian waters to get to Alaska fishing grounds. We are hopeful this will be resolved soon.

I am pleased the Vice President is giving his direct personal attention to this issue, which is of great concern to the residents of the West Coast in general, and to my constituents in particular.

I ask unanimous consent I be permitted to introduce for myself and Senator MURRAY, Senator GORTON, Senator MURKOWSKI, and Senator PACKWOOD, a bill to amend the Fishermen's Protective Act of 1967 to permit reimbursement of fishermen for fees imposed by Canada on them in order to have the privilege of transiting Canadian waters to get to Alaska. That, in my opinion as someone who has been involved with maritime law for years, is not a valid imposition of fees by Canada. It is contrary to the traditions of the uniform maritime laws. And I hope we will be able to convince our neighbors—northern neighbors to some, southern neighbors to me—that they should desist from the practice of imposing these transit fees on our fishermen as they go back and forth through Canadian waters after the fishing is over, and in order to get to our State to fish in the first place.

I hope Members who are interested in this issue will join me in stating that we will be very persistent in our feeling that the fee issue ought to be resolved before we return to the bargaining table on the salmon treaty.

Mr. President, I do wish to thank Eileen Claussen of the National Security Council, Kathleen McGinty of the White House Office of Environmental Policy, Doug Hall of NOAA, and Greg Burton of the State Department for their consideration.

With regard to the bill that I have introduced, I would ask that the clerk not refer that yet. We are trying to work out an arrangement to see if we can hold that at the desk. It is a bipartisan bill of great urgency to Pacific State Senators.

This fee issue ought to be resolved and we ought to let our Canadian neighbors know that we will not pay tribute to our northern neighbor.

Mr. President, I ask unanimous consent that the announcement of the State Department concerning what happened at the negotiations between the Vice President and the Canadian Ambassador be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Question. What happened at the meeting between Vice President Gore and Canadian Ambassador Chrétien regarding Pacific salmon?

Answer. The Vice President and Ambassador Chrétien had a frank, candid, and constructive discussion of the Pacific salmon issue. The Vice President reiterated the U.S. position that the Canadian fee on U.S. fishing vessels is unacceptable. The Vice President assured the Ambassador that this matter would continue to receive White House attention, and both agreed that a resolution is required very soon. Ambassador Chrétien agreed to convey the Vice President's message immediately to his authorities in Ottawa. Both the Vice President and Ambassador Chrétien expressed the view that the negotiations should be resumed and intensified with new resolve and determination to succeed.

• Mr. MURKOWSKI. Mr. President, this bill is a measured, appropriate response to actions taken by Canadian officials that are, in the words of Canada's Fisheries Minister, "to Canada's advantage and the United States' disadvantage".

I am very pleased to join other members of the Senate from the Pacific Northwest and Alaska in introducing this measure. It will both provide guidance to the administration as it deals with Canada, and respond to serious problems arising from Canadian Government action.

Canada has attempted to influence the United States posture in ongoing negotiations under the Pacific Salmon Treaty by establishing a transit license for United States fishing vessels passing through the Inside Passage to and from Alaska.

This license, which costs each American vessel approximately $1,100 each time the captain uses the Inside Passage, is clearly illegal under international law, under bilateral fishing treaties on halibut and albacore tuna, under the North American Free-Trade Agreement and under the General Agreement on Tariffs and Trade.

In addition, by forcing more small U.S. vessels to consider traveling to and from Alaska in the unsheltered outside waters of the ocean, it contributes to a very real danger for U.S. citizens.

Mr. President, let me note that I do not like the idea of anyone paying this Canadian charge—whether United States fisherman or United States Government. Such a fee is strictly illegal, and I am confident that Canada will have to accept this fact and ultimately will reimburse those who were forced to pay it.

However, the important thing right now is to avoid disruptions in U.S. fisheries by ensuring that all American fishermen needing to use the Inside Passage will be able to do so. This bill will accomplish that by amending the Fishermen's Protective Act to allow the State Department to reimburse vessel owners for their costs.

We are also strongly suggesting that the administration review its current policy with regard to allowing Canadian fishing vessels virtually unrestricted access to anchorages in United States waters in Alaska—a privilege not reciprocally offered to United States vessels by the Government of Canada.

We are also asking the administration to ensure that the safety and economic opportunities of U.S. citizens are protected along the border, in order to guard against any incident that would make a final solution to the treaty process even harder to attain.

Mr. President, Vice President GORE recently met with the Canadian Ambassador to the United States to inform him that the United States considers the transit license to be illegal and to urge that Canada repeal it. I have also spoken with the Vice President, and have strongly recommended that no further talks be held with Canada until the transit license has been withdrawn. We in the United States are not in the habit of negotiating with an opponent who is attempting to threaten us. The proper way to resolve these issues is at the bargaining table, but it was Canada that walked away, and Canada that must return. As soon as the transit license is rescinded, they will be welcome.•

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S.J. Res. 204. A joint resolution recognizing the American Academy in Rome, an American overseas center for independent study and advanced research, on the occasion of the 100th anniversary of its founding; to the Committee on the Judiciary.

THE 100TH ANNIVERSARY OF THE AMERICAN ACADEMY IN ROME.

• Mr. MOYNIHAN. Mr. President, I introduce a joint resolution recognizing the American Academy in Rome, on the 100th anniversary of its founding, for fostering international cultural relations between Italy and the United States and for contributing to the development of America's cultural and intellectual life. At its inception, the academy became the premier American overseas center for the study of the fine arts and the humanities. Over the course of its history, it has expanded upon that tradition to now serve over 3,000 people annually with programs ranging from fellowships and residencies to concerts and symposia, and with its renowned research library.

Through the awarding of its Rome Prize Fellowship, the academy has remained committed to its central purpose of identifying and fostering the most gifted and promising American talent. Over 2,500 fellowships and residencies have been awarded, providing participants the opportunity to develop and refine their talents in the fine arts and the humanities through independent projects and through interaction with the Italian and European scholarly and artistic communities.

The academy can claim 4 United States Poets Laureate, 2 Nobel Prize winners, 7 National Medal of Arts winners, 9 MacArthur fellows, 30 Pulitzer Prize winners, and numerous other distinguished alumni.

The American Academy in Rome can take special pride in its accomplishments in Roman archaeology, having been committed to this lofty and exacting pursuit from the academy's very inception. The academy's excavations at Cosa in Etruria vastly expanded our understanding of the history of Roman republican architecture and town planning.

Funding for the Academy in Rome comes entirely from its endowment and from the financial support of philanthropic individuals, foundations, corporations, universities and colleges across the United States, and from the National Endowment for the Arts and for the Humanities. The academy is committed to ensuring the availability of the Rome Prize Fellowships to future generations of Americans as the United States approaches the 21st century.

Mr. President, this is a joint resolution to recognize, on the 100th anniversary of its founding, the American Academy in Rome. The academy plays a pivotal role in the transference of culture between the United States and Italy, fostering international cultural relations between the two countries and contributing mightily to the cultural and intellectual life of America.●

ADDITIONAL COSPONSORS

S. 1443

At the request of Mr. GRASSLEY, his name was added as a cosponsor of S. 1443, a bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on luxury passenger vehicles.

S. 1976

At the request of Mr. DODD, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 1976, a bill to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the act.

S. 2062

At the request of Mr. INOUYE, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 2062, a bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to permit the movement in interstate commerce of meat and meat food products and poultry products that satisfy State inspection requirements that are at least equal to Federal inspection standards, and for other purposes.

S. 2114

At the request of Mr. BIDEN, the names of the Senator from Indiana [Mr. LUGAR] and the Senator from New York [Mr. D'AMATO] were added as cosponsors of S. 2114, a bill to provide for the payment to States of plot allowances for certain veterans eligible for burial in a national cemetery who are buried in cemeteries of such States.

S. 2134

At the request of Mr. FAIRCLOTH, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 2134, a bill to restore the American family, reduce illegitimacy, and reduce welfare dependence.

At the request of Mr. FAIRCLOTH, the name of the Senator from South Dakota [Mr. PRESSLER] was withdrawn as a cosponsor of S. 2134, supra.

SENATE JOINT RESOLUTION 167

At the request of Mr. SIMON, the names of the Senator from Connecticut [Mr. DODD] and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 167, a bill to designate the week of September 12, 1994, through September 16, 1994, as "National Gang Violence Prevention Week."

SENATE JOINT RESOLUTION 189

At the request of Mr. ROTH, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of Senate Joint Resolution 189, a joint resolution designating October 1994 as "National Decorative Painting Month."

SENATE JOINT RESOLUTION 199

At the request of Mr. COCHRAN, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of Senate Joint Resolution 199, a joint resolution proposing an amendment to the Constitution of the United States relative to the free exercise of religion.

SENATE RESOLUTION 233—AUTHORIZING THE REPRESENTATION OF MEMBERS OF THE SENATE IN BAHRE VERSUS BUTLER

Mr. MITCHELL submitted the following resolution which was considered and agreed to:

S. RES. 233

Whereas, in the case of *Bahre* v. *Butler*, Case No. 9410917–05, pending in the Superior Court for Cobb County, Georgia, the plaintiff has caused to be issued subpoenas for the testimony of Senators Bob Dole, Sam Nunn, and Paul Coverdell;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent himself from the service of the Senate without leave: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senators Bob Dole, Sam Nunn, and Paul Coverdell in connection with the Subpoenas in *Bahre* v. *Butler*.

AMENDMENTS SUBMITTED

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

STEVENS AMENDMENT NO. 1850

Mr. STEVENS proposed an amendment to the bill (S. 2182) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 34, line 12, strike "$52,650,000." and insert: "$52,650,000.

"(g) LIMITATION ON COMPENSATION.—No employee or executive officer of a federally funded research and development center named in the report required by subsection (b) may be compensated at a rate exceeding Executive Schedule Level I by that federally funded research and development center."

DOLE (AND OTHERS) AMENDMENT NO. 1851

Mr. DOLE (for himself, Mr. LIEBERMAN, Mr. THURMOND, Mr. DECONCINI, Mr. D'AMATO, Mr. LEVIN, Mrs. HUTCHISON, Mr. FEINGOLD, Mr. JEFFORDS, Mr. WALLOP, Mr. LUGAR, Mr. MCCONNELL, Mr. COVERDELL, Mr. HATCH, Mr. MCCAIN, Mr. SIMPSON, Mr. PRESSLER, Mr. DURENBERGER, Mr. BROWN, Mr. MURKOWSKI, Mr. HELMS, Mr. GORTON, and Mr. MOYNIHAN) proposed an amendment to the bill S. 2182, supra; as follows:

On page 249, between lines 7 and 8, insert the following:

SEC. . BOSNIA AND HERZEGOVINA SELF-DEFENSE.

(a) SHORT TITLE.—This section may be cited as the "Bosnia and Herzegovina Self-Defense Act of 1994".

(b) FINDINGS.—The Congress makes the following findings:

(1) For the reasons stated in section 520 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), the Congress has found that continued application of an international arms embargo to the Government of Bosnia and Herzegovina contravenes that Government's inherent right of individual or collective self-defense under Article 51 of the United Nations Charter and therefore is inconsistent with international law.

(2) The United States has not formally sought multilateral support for terminating the arms embargo against Bosnia and Herzegovina either within the United Nations Security Council or within the North Atlantic Council since the enactment of section 520 of Public Law 103-236, Senate passage of S. 2042 of the One Hundred Third Congress, and House passage of sections 1401—1404 of H.R. 4301 of the One Hundred Third Congress.

(c) TERMINATION OF ARMS EMBARGO.—

(1) TERMINATION.—The President shall terminate the United States arms embargo of the Government of Bosnia and Herzegovina upon receipt from that Government of a request for assistance in exercising its right of self-defense under Article 51 of the United Nations Charter.

(2) DEFINITION.—As used in this section, the term "United States arms embargo of the Government of Bosnia and Herzegovina" means the application to the Government of Bosnia and Herzegovina of—

(A) the policy adopted July 10, 1991, and published in the Federal Register of July 19, 1991 (58 F.R. 33322) under the heading "Suspension of Munitions Export Licenses to Yugoslavia"; and

(B) any similar policy being applied by the United States Government as of the date of receipt of the request described in paragraph

(1) pursuant to request described in paragraph (1) pursuant to which approval is denied for transfers of defense articles and defense services to the former Yugoslavia.

(3) RULE OF CONSTRUCTION.—Nothing in this section shall be interpreted as authorization for deployment of United States forces in the territory of Bosnia and Herzegovina for any purpose, including training, support, or delivery of military equipment.

NUNN (AND OTHERS) AMENDMENT NO. 1852

Mr. NUNN (for himself, Mr. WARNER, Mr. MITCHELL, Mrs. KASSEBAUM, Mr. ROBB, and Mr. PELL) proposed an amendment No. 1851 proposed by Mr. DOLE to the bill S. 2182, supra; as follows:

Strike out everything after the first word and insert in lieu thereof the following:

BOSNIA AND HERZEGOVINA

(a) PURPOSE.—To express the sense of Congress concerning the international efforts to end the conflict in Bosnia and Herzegovina.

(b) STATEMENTS.—The Congress makes the following statements of support:

(1) The Congress supports the use of international sanctions in the form of arms and economic embargoes imposed by the United Nations Security Council in appropriate circumstances.

(2) The Congress supports the imposition of an arms and economic embargo on the Government of Iraq by United Nations Security Council resolution 661 of August 6, 1990 to bring about compliance with a number of conditions, including in particular an end to Iraq's nuclear weapons program.

(3) The Congress supports the imposition of an arms, petroleum and economic embargo on Haiti by United Nations Security Council resolutions 875 of October 16, 1993 and 917 of May 17, 1994 to bring about compliance with the Governors Island Agreement.

(4) The Congress supports the imposition of an arms and civil aircraft embargo on Libya pursuant to United Nations Security Council resolution of March 31, 1992 in order to convince Libya to renounce terrorism.

(c) FINDINGS.—The Congress makes the following findings:

(1) The United States took the lead in the United Nations Security Council to impose international sanctions in the form of arms and economic embargoes on Iraq, Haiti, and Libya.

(2) The security of the Republic of Korea with whom the United States has a mutual defense treaty and on whose territory there are more than 38,000 members of the United States Armed Forces in a vital interest of the United States.

(3) Should negotiations fail, the imposition of sanctions by the United Nations Security Council on North Korea, which would require the affirmative vote or abstention of China, Russia, Britain, and France, may be essential to stop North Korea's nuclear weapons development program and to end a nuclear threat to the Republic of Korea and Southeast Asia.

(4) The effective enforcement of sanctions on North Korea, once imposed by the United Nations Security Council, would require the cooperation of China, Russia, and Japan as well as other allies, including Britain and France, both permanent members of the United Nations Security Council.

(5) The United States voted for the international arms embargo imposed by United Nations Security Council resolution 713 of September 25, 1991 that was imposed on Yugoslavia.

(6) The imposition of the United Nations arms embargo on September 25, 1991 has not served to end the conflict in Bosnia Hercegovina, has provided a battlefield advantage to the Bosnian Serbs, who possess artillery, tanks, and other weapons left behind by the former Yugoslav Army or provided by Serbia and Montenegro, and has deprived the Government of Bosnia and Hercegovina from acquiring the adequate means of defending itself and its citizens.

(7) Our NATO allies have committed ground forces to the United Nations Protection Force (UNPROFOR) in former Yugoslavia. At the present time France has 5,518 troops, Britain 3,435, the Netherlands 2,073, Canada 2,037, Spain 1,417, and Belgium 1,000. Our NATO allies have thus far sustained 49 deaths and 931 wounded as a result of their participation in UNPROFOR.

(8) For the first time the so-called "contact group" composed of representatives of the United States, Russia, France and Britain is moving toward a unified position of using an incentives and disincentives "carrot and stick" strategy to bring about a peaceful settlement of the conflict in Bosnia and Hercegovina.

(9) Although lifting the arms embargo on the Government of Bosnia and Hercegovina by the United Nations Security Council is supported by the Congress, the unilateral lifting of the embargo by the United States would lead to the following consequences:

a. disruption of the ongoing effort by the "contact group";

b. withdrawal by our NATO allies of the forces detailed in subparagraph (7) above from former Yugoslavia;

c. contradict United States efforts in the United Nations Security Council to impose sanctions on North Korea, should that become necessary;

d. serious damage to the NATO alliance;

e. loss of cooperation by other nations in the enforcement of sanctions, including the sanctions on Iraq, previously imposed by the United Nations Security Council; and

f. damage to the authority and responsibility of the United Nations Security Council for the maintenance of international peace and security.

(d) It is the sense of the Congress—

That the United States should work with the NATO Member nations and the other permanent members of the United Nations Security Council to endorse the efforts of the contact group to bring about a peaceful settlement of the conflict in Bosnia Hercegovina, including the following:

a. the preservation of an economically, politically and militarily viable Bosnian state capable of exercising its rights under the United Nations Charter.

(i) as part of a peaceful settlement, the lifting of the United Nations arms embargo on the Government of Bosnia and Hercegovina so that it can exercise the inherent right of a sovereign state to self-defense.

b. if the Bosnian Serbs, while the contact group's peace proposal is being considered and discussed, attack the safe areas designated by the United Nations Security Council, the partial lifting of the arms embargo on the Government of Bosnia and Hercegovina and the provision to that Government of defensive weapons and equipment appropriate and necessary to defend those safe areas.

c. if the Bosnian Serbs do not respond constructively to the peace proposal of the contact group, the immediate lifting of the United Nations arms embargo on the Government of Bosnia and Hercegovina (and the orderly withdrawal of the United Nations Protection Force and humanitarian relief personnel).

(e) POLICY—

The Congress authorizes the President, upon the termination of the United Nations arms embargo on the Government of Bosnia and Herzegovina, to direct the drawdown of defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training, of an aggregate value of not more than $100,000,000, in order to provide assistance to the Government of Bosnia and Hercegovina so that it may exercise its inherent right of self-defense. Such assistance shall be provided on such terms and conditions as the President may determine.

HUTCHISON AMENDMENT NO. 1853

Mr. COATS (for Mrs. HUTCHISON) proposed an amendment to the bill S. 2182, supra; as follows:

At the appropriate place, insert:

SEC. . REVISIONS TO RELEASE OF REVERSIONARY INTEREST, OLD SPANISH TRAIL ARMORY, HARRIS COUNTY, TEXAS.

(a) CLERICAL AMENDMENTS.—Section 2820 of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1894) is amended—

(1) in subsection (a), by striking out "1936" and inserting in lieu thereof "1956"; and

(2) in subsection (b)(1), by striking out "value" and inserting in lieu thereof "size".

(b) PAYMENT FOR SURVEY.—Subsection (c) of such section is amended by adding at the end the following: "The cost of the survey shall be borne by the State of Texas.".

BINGAMAN (AND SMITH) AMENDMENT NO. 1854

Mr. NUNN (for Mr. BINGAMAN, for himself and Mr. SMITH) proposed an amendment to the bill S. 2182, supra; as follows:

On page 177, between lines 5 and 6, insert the following:

SEC. 816. TREATMENT UNDER SUBCONTRACTING PLANS OF PURCHASES FROM QUALIFIED NONPROFIT AGENCIES FOR THE BLIND OR SEVERELY DISABLED.

(a) REVISION AND EXTENSION OF AUTHORITY.—Section 2410d of title 10, United States Code, relating to credit under small business subcontracting plans for certain purchases, is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

(i) by striking out "and" at the end of subparagraph (A);

(ii) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(iii) by adding at the end the following new subparagraph:

"(C) a central nonprofit agency designated by the Committee for Purchase from People Who are Blind or Severely Disabled under section 2(c) of such Act (41 U.S.C. 47(c)).";

(B) by striking out paragraph (3); and

(C) by redesignating paragraph (4) as paragraph (3); and

(2) in subsection (c), by striking out "September 30, 1994" and inserting in lieu thereof "September 30, 1997".

(b) CONFORMING AMENDMENT.—Section 2301(d) of such title is amended by striking out "approved commodities and services (as defined in such section)" and inserting in lieu thereof "commodities and services".

DECONCINI AMENDMENT NO. 1855

Mr. NUNN. (for Mr. DECONCINI) proposed an amendment to the bill S. 2182, supra; as follows:

At the appropriate place in Title XXVIII, Subtitle C of the bill, add the following section:

SEC. . TRANSFER OF JURISDICTION, AIR FORCE HOUSING AT RADAR BOMB SCORING SITE, HOLBROOK, ARIZONA.

(a) TRANSFER AUTHORIZED.—As part of the closure of an Air Force Radar Bomb Scoring Site located near Holbrook, Arizona, the Secretary of the Air Force may transfer without reimbursement the administrative jurisdiction, accountability and control of the housing units and associated support facilities used in connection with the site to the Secretary of the Interior for use in connection with the Petrified Forest National Park.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be transferred under subsection (a) shall be determined by a survey satisfactory to the Secretary of the Air Force and the Secretary of the Interior.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Air Force may require such additional terms and conditions in connection with the transfer of real property under subsection (a) as the Secretary considers appropriate.

SHELBY AMENDMENTS NOS. 1856–1857

Mr. NUNN (for Mr. SHELBY) proposed two amendments to the bill S. 2182, supra; as follows:

AMENDMENT NO. 1856

On page 124, between lines 4 and 5, insert the following:

SEC. 506. ORIGINAL APPOINTMENTS OF LIMITED DUTY OFFICERS OF THE NAVY AND MARINE CORPS SERVING IN TEMPORARY GRADES.

Section 5589 of title 10, United States Code, is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

"(f) Original appointments as regular officers of the Navy or Marine Corps may be made from among officers serving on active duty in a higher grade pursuant to a temporary appointment in that grade under section 5596 of this title. The grade in which an officer is appointed under this subsection shall be the grade in which the officer is serving pursuant to the temporary appointment. The officer's date of rank for the grade of the original appointment shall be the same as the date of rank for the grade of the temporary appointment.".

AMENDMENT NO. 1857

On page 138, between lines 11 and 12, insert the following new section:

SEC. 634. COMPUTATION OF RETIRED PAY TO PREVENT PAY INVERSIONS.

Section 1401a(f) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(f) PREVENTION OF PAY INVERSIONS.—"; and

(2) by adding at the end the following new paragraph:

"(2)(A) Subject to subparagraph (B), for the purpose of computing the monthly retired pay of a member or former member of an armed force under paragraph (1), the Secretary concerned may waive any provision of a regulation that, as such provision was in effect on the earlier date applicable to the member or former member under paragraph (1), required a member to serve for a minimum period in a grade as a condition for retirement in that grade.

"(B) Any waiver under subparagraph (A) shall apply in the case of a member or former member only to that part of the minimum period of service provided for a grade in the regulation that exceeds the minimum period of service in such grade that was authorized by a provision of this title to be required as a condition for retirement in that grade (as such provision of this title was in effect on the earlier date applicable to the member or former member under paragraph (1)).

"(C) The Secretary concerned may waive the provision of a regulation under subparagraph (A) in the case of a particular member or former member or for any group of members or former members.".

WALLOP AMENDMENT NO. 1858

Mr. COATS (for Mr. WALLOP) proposed an amendment to the bill S. 2182, supra; as follows:

On page 37, after line 25, add the following:

SEC. 224. MANAGEMENT AND BUDGET RESPONSIBILITY FOR SPACE-BASED CHEMICAL LASER PROGRAM.

(a) FINDINGS.—Congress makes the following findings:

(1) In section 243 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1615) Congress directed the Secretary of Defense to transfer management and budget responsibility for research and development regarding far-term follow-on technologies from the Ballistic Missile Defense Organization unless the Secretary certifies that it is in the national security interest of the United States for the Ballistic Missile Defense Organization to retain that responsibility.

(2) For purposes of section 243 of such Act, a far-term follow-on technology was defined as any technology that is not incorporated into a ballistic missile defense architecture and is not likely to be incorporated within 15 years into a weapon system for ballistic missile defense.

(3) The Secretary of Defense has recommended pursuant to section 243 of such Act that management and budget responsibility for chemical laser technology be retained in the Ballistic Missile Defense Organization.

(b) ASSIGNMENT OF RESPONSIBILITY.—Subject to subsection (c), the Ballistic Missile Defense Organization is authorized to retain management and budget responsibility for chemical laser technology programs.

(c) REQUIREMENTS.—(1) The Director of the Ballistic Missile Defense Organization shall ensure that, to the extent practicable, the conduct of research and development related to space-based chemical lasers reflects appropriate consideration of a broad range of military missions and possible nonmilitary applications for such lasers.

(2) If, as a result of budgetary limitations, the Director of the Ballistic Missile Defense Organization is unable to program sufficient funds to ensure that the space-based chemical laser program remains an option for the acquisition process within the next fifteen years, the Secretary of Defense shall—

(A) establish a new high energy laser research and development program outside of the Ballistic Missile Defense Organization;

(B) transfer $50,000,000 out of funds available for fiscal year 1995 for programs administered by the Ballistic Missile Defense Organization to the new high energy laser research and development program; and

(C) assign the duty to perform the management and budget responsibilities for the new program to the Secretary of the military department determined by the Secretary of Defense most appropriate to perform such responsibilities or, if the Secretary determines more appropriate, to the head of the Defense Agency of the Department of Defense that the Secretary determines most appropriate to perform such responsibilities.

SMITH AMENDMENT NO. 1859

Mr. NUNN (for Mr. SMITH) proposed an amendment to the bill S. 2182, supra; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . DEPARTMENT OF ENERGY DECLASSIFICATION PRODUCTIVITY INITIATIVE

Of the funds authorized to be appropriated to the Department of Energy under Section 3103, $3,000,000 shall be available for the Department of Energy's Declassification Productivity Initiative.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that a field hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place Friday, July 15, 1994, beginning at 9 a.m. and concluding at approximately 4 p.m. The hearing will be held at the Three Trails Summit Room at the Casper Events Center, One Events Drive, Casper, WY 82601.

The purpose of the hearing is to receive testimony on the Department of the Interior's proposed rule to amend the Department's regulations concerning livestock grazing.

A number of witnesses representing a cross-section of views and organizations will be invited by the committee to testify. Time will also be set aside to accommodate as many other individuals as possible who would like to make a brief statement in support of, or opposition to, these proposed regulations. Those wishing to make such a statement should contact Senator WALLOP's Casper office at (307) 261-5098, no later than 3 p.m. on July 11, 1994.

Although the committee will attempt to accommodate as many individuals desiring to speak as time permits, it may not be possible to hear from all those wishing to testify.

Written statements may also be submitted for the hearing record. It is only necessary to provide one copy of any material submitted for the record. Comments for the record may be brought to the hearing or submitted to the Committee on Energy and Natural Resources, room 304 of the Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact Tom Williams of the committee staff at (202) 224-7145.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Friday, June 24, 1994, at 10 a.m. to hold nomination hearings.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee for authority to meet on Friday, June 24, at 11:30 a.m. for a nomination hearing on Phyllis Segal, to be member, Federal Labor Relations Authority.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

PUBLIC HEALTH AWARENESS DAY

• Mrs. KASSEBAUM. Mr. President, I am pleased to join my colleague, Senator KENNEDY today in introducing a resolution designating July 12, 1994, as Public Health Awareness Day. This resolution honors the Public Health Service on its 50th anniversary.

Since its creation, the Public Health Service has been in the vanguard of efforts to protect and improve human health in this Nation and worldwide. It is in large part due to the efforts of the Public Health Service that this Nation enjoys the highest quality health care in the world and that many diseases which once caused untold illness and suffering have been controlled and even conquered in this Nation and around the world. It is to the Public Health Service that we look for the protection of our Nation's food supply and the assurance of the safety and quality of prescriptions and medical devices. In these and many other ways, the Public Health Service has contributed immeasurably to improving the health and quality of life of the people of this Nation and of individuals the world over.

I encourage my colleagues to cosponsor this resolution and join us in recognizing 50 years of outstanding public service by the dedicated men and women of the Public Health Service.•

EQUITABLE ESCHEATMENT ACT

• Mr. JOHNSTON. Mr. President, as a cosponsor of S. 1715, I rise to express my support of the current settlement negotiations between New York, Delaware, and the 47 States that support the Equitable Escheatment Act. A negotiated compromise acceptable to all States is preferable to either the status quo of 2 States dividing $100 million annually to the virtual exclusion of 47 other States, or a bruising floor fight among sister States.

If the negotiations do not result in an equitable compromise in the near future, however, I will support the Senate acting on S. 1715. New York and Delaware should not be permitted to continue escheating interest paid by Louisiana taxpayers on bonds issued by the State of Louisiana and its municipalities.•

IFR/ALMR SUPPORTS U.S. NON-PROLIFERATION OBJECTIVES

• Mr. SIMON. Mr. President, recently a prestigious independent commission evaluated the role of the Integral Fast Reactor/Advanced Liquid Metal Reactor Program as a nonproliferation tool. The Commission concluded that the IFR/ALMR Program benefits both the U.S. energy and nonproliferation policy and should be continued.

Mr. President, I ask that the executive summary of this study, "Proliferation Aspects of the Integral Fast Reactor," be included in the RECORD.

The summary follows:

EXECUTIVE SUMMARY

The Integral Fast Reactor (IFR) has positive non-proliferation features in two important aspects:

First, the entire reactor and fuel cycle system itself is strongly proliferation resistant, and

Second, the system can limit, reduce, and, in due course, eliminate the world's excess plutonium, including that from nuclear weapons and that from commercial power reactors.

The proliferation resistance of the IFR system results largely from the fact that the plutonium in the system never exists in its pure form. Rather, it is always a part of a mixture of intensely-radioactive fission products and actinides which is unusable for an explosive. Thus, (1) diversion of the mixture by any subnational group would be very difficult (and easy to detect) because of the deadly health hazards and the shielding requirements for handling it, and (2) the necessary further step of chemically-separating the plutonium from the mixture to obtain explosives material is of the same order of difficulty as separating weapons-usable plutonium from commercial-reactor spent fuel.

The metal fuel used in the IFR allows fuel processing on such a small scale that the entire system can be co-located on one site. The concept for a plant is to have only depleted uranium enter the plant boundary and electricity produced from the IFR and radioactive wastes (for burial) leave the plant, but the highly-radioactive fuel would be protected against subnational theft or diversion whether reprocessed integrally or separately.

The IFR concept continually recycles the plutonium in the fuel mixture through the reactor until it is all destroyed. In this case the IFR is designed as a net consumer of plutonium (a "burner"), and plutonium must continually be fed into the system for the reactor to operate.

The significance of the IFR as a means to destroy (or "burn") plutonium can be seen from consideration of present and anticipated world supplies. The U.S. and Russia have announced plans to release about 100 tons of pure plutonium metal from excess weapons. However, plutonium is also made as a byproduct in commercial nuclear power plants (primarily light water reactors, LWRs), and by the year 2000, over 10 times more LWR-manufactured plutonium will exist in the "spent" fuel of LWRs than the 100 tons above. This quantity will grow as the use of nuclear power inevitably expands in many countries worldwide.

While the U.S. does not do so, several nations currently reprocess spent fuel chemically to recover the plutonium and recycle it through the reactor to take advantage of its high energy content. In the process pure plutonium, free of a radiation barrier, exists, and this presents a proliferation concern. Many more nations retain this option by storing spent fuel rather than burying it.

Recent studies, including a National Academy of Sciences (NAS) report [Ref. 1], have shed new light on a key question of whether only moderately advanced nations could produce a dangerous nuclear explosive from such material. The NAS report answers this question, stating that "even with relatively simple designs such as that used in the Nagasaki weapon—which are within the capabilities of many nations and possibly some subnational groups—nuclear explosives could be constructed (from reactor-grade plutonium.)" [Ref. 1. p. 4] Such explosives would be expected to have a significantly lower yield than comparable explosives produced from weapons-grade plutonium, but the yield could still be significant. Even though an inexperienced nation might not succeed on a first try, non-proliferation policy must consider the possibility of success.

For the released weapons plutonium, the NAS panel recommends mixing the plutonium in fresh LWR fuel rods and exposing the latter in reactors. The fuel rods would become intensely-radioactive during such exposure, and the plutonium would thereby become resistant to diversion by subnational groups. There are two problems, however: (1) only about half of the plutonium would actually be destroyed when exposed in an LWR, and (2) the remaining plutonium would once again be weapons-usable after reprocessing, making the material subject to the risk of national proliferation. This risk arises soon after discharge from the reactor, and increases with time with the decay of radiation. The NAS stated "While the spent fuel standard is an appropriate goal for excess weapons plutonium disposition, further steps should be taken to reduce the proliferation risks posed by all of the world's plutonium stocks, including plutonium in spent fuel." [Ref. 1, p. 209] The NAS panel further recommended investigation of concepts for the near-complete elimination of the world's plutonium stocks.

Both types of plutonium can be destroyed in conventional liquid metal reactors (LMRs), of which one large unit exists in France, and several smaller units exist elsewhere in the world. However, the plutonium fuel must be reprocessed chemically (as with the LWR process) and recycled several times before total destruction occurs. With recycle by current reprocessing plants, pure plutonium exists without a high radiation barrier. This system would typically include the shipment of spent fuel to a reprocessing center, the shipment of pure plutonium to a fuel fabrication facility, and the shipment of essentially non-radioactive fuel rods back to the reactor.

In contrast, the IFR system offers the potential to destroy all of the plutonium which crosses the plant boundary and enters the system, while simultaneously keeping it in an intensely-radioactive mixture throughout its life in the system. Thus, the IFR system offers the potential for unique non-proliferation advantages as a method for the management and elimination of plutonium. We know of no other method anywhere on the horizon which offers equal potential to respond to the NAS recommendations to reduce the proliferation risks of the world's stockpile of plutonium.

Argonne National Laboratory is currently completing the assembly of an entire IFR Fuel Cycle system in Idaho; the intention of this research and development project is to demonstrate feasibility on an engineering scale. The successful demonstration (including the EBR-II reactor, which substitutes for an IFR) would provide the world with a demonstrated option for limiting plutonium stocks and thereby minimize proliferation concerns via burning significant quantities of plutonium in a highly-proliferation-resistant system.•

AMENDING THE FISHERMEN'S PROTECTIVE ACT OF 1967

• Mrs. MURRAY. Mr. President, last week Canada began collecting an $1,100 fee from United States fishing boats sailing each way through Canadian waters between Alaska and Washington State. The Canadian action was precipitated by a breakdown in the negotiations with the United States over the Pacific Salmon Treaty. So far, about 200 boats have been forced to pay the Canadian fee.

Senator STEVENS and I have both already introduced bills to respond to the fee problem by reimbursing the owners of the boats through the Fishermen's Protective Act. Since that time, we have worked together to refine our bills into this legislation to provide relief to these fishermen as quickly as possible. As I just mentioned, this bill is a bipartisan effort between the Senators from the Pacific Northwest, Alaska, and the administration. At a meeting today, the National Security Council affirmed their support for financial reimbursement to boat owners through the Fishermen's Protective Act. I have worked closely with the Office of Management and Budget to ensure that they had no objections to this bill.

Yesterday, Vice President GORE met with Canadian Ambassador Chretien about restarting the stalled negotiations over the Pacific Salmon Treaty. The Vice President promised to continue to be personally involved in these important negotiations. The Canadian Ambassador said that he felt that the elevation of these negotiations is a very positive sign. I hope that the Government of Canada responds quickly to this new commitment by the administration.•

LAW ENFORCEMENT TRAINING IN RUSSIA

• Mr. LEAHY. Mr. President, in the near future I will be presenting the foreign operations bill for fiscal year 1995 to the Senate for its consideration. At that time, I will join with Senator MITCH MCCONNELL and Senator ALFONSE D'AMATO on a provision to make funds available to support law enforcement in Russia and elsewhere in the former Soviet Union.

As anyone who reads the newspapers knows, in the past couple of years crime has burst into the open in Russia and other parts of the NIS. The murder rate in Russia is up 41 percent in just the past 12 months. More than 50 bombings have taken place in Moscow this year, compared to 61 in all of 1993. Gangs dominate the streets, and organized crime has become rampant as the mafia competes for territory and control. Private enterprise, for which the United States provides assistance, is being undermined with high tributes that must be paid to the Mafia in order to stay in business. Drug-related crime is skyrocketing.

The Russian police lack the skills and equipment to prevent this rash of violence and fraud, and the criminal justice codes are outdated. These weaknesses have the potential to erode the foundations of democracy in Russia.

The program that Senators MCCONNELL, D'AMATO, and I will recommend is designed to reinforce the development and professionalization of Russia's criminal justice agencies, as well as improve police investigative and forensic capabilities which are currently woefully inadequate. Strengthening basic police practices that improve administration and management skills and emphasize democratic principles, including respect for human rights and the rule of law, will help build a stable foundation to fight the rampant crime and corruption in Russia.

Our amendment will make funds available to the International Criminal Investigative Training Assistance Program and the Federal Bureau of Investigation for law enforcement development and training programs. The goal of these programs is to assist in the implementation of reforms and to improve the Russian police agencies' crime fighting capabilities.

These programs will also benefit the United States. It is in our interest to help build the foundations for a stable democracy in Russia, an essential element of which is an effective, independent justice system. As Russian law enforcement improves, American businesses will have less reason to fear that their investments will be undermined by dishonest brokers or that their families will be risking their lives walking down the street. We will also benefit because of the enhanced cooperation between American and Russian law enforcement in combating drug trafficking, terrorism, and other international crime.

Mr. President, I met recently with FBI Director Louis Freeh, and we discussed his upcoming trip to Europe, Russia, Ukraine, and the Baltics. While he is there, Director Freeh will be laying the groundwork for cooperation between officials in the former Soviet Union, the FBI, and other American law enforcement agencies. They will discuss the possible theft of nuclear weapons or nuclear materials, the spread of organized crime and drug trafficking. Their work together will provide a valuable connection to combat the rising crime scourge in Russia. The assistance we provide through the FBI and other American law enforcement agencies will provide Russian leaders with a preferable alternative to issuing decrees that threaten due process, which have recently provoked broad public protest in Russia.

Mr. President, I want to commend Director Freeh and his delegation for undertaking this important trip, and to urge all Senators to support our amendment on this issue to the foreign operations bill.•

WALK FOR JUSTICE 1994

• Mr. CAMPBELL. Mr. President, Dennis Banks, cofounder of the American Indian Movement, is presently leading the Walk for Justice—a 5-month, 3,800-mile spiritual walk that began February 11 at Alcatraz near San Francisco. The group, now consisting of 102 walkers, including native Americans and nonnative participants from the United States, Canada, Japan, Australia, and Europe, is traveling cross-country and scheduled to arrive in Washington, DC, July 15.

The purpose of the Walk For Justice is to bring public attention to a variety of native issues: Western Shoshone land claims and nuclear testing on their lands; Nevada and Utah prisoner rights, including matters of ceremony and hair length; the recent U.S. Supreme Court decision that stripped the Northern Utes of 2.9 million acres of land; the fishing struggles in Minnesota, Wisconsin, and Washington State, where State legislation has attempted to subvert native sovereignty; sports team mascots and names that are offensive to Indian people; the proposed use of tribal lands for nuclear waste dump sites; concerns at Big Mountain involving water contamination, confiscation of livestock and wood, strip mining of sacred land, and forced relocation of traditional people from ancestral homes, and other important concerns and issues around Indian country.

In addition, the walk is collecting signatures requesting Executive clemency for Leonard Peltier, who has served 18 years in prison for a crime his supporters, including Amnesty International, Members of Congress, and many world citizens, believe he did not commit.

On July 15, the Cheyenne Keeper of the Arrows will lead the walk into Washington, and that evening, after an afternoon rally and closing ceremony, there will be an overnight prayer vigil on The Mall. The next day, on July 16, a concert will be held at the Lincoln Memorial for the public.

On Monday, July 18, a meeting is scheduled on Capitol Hill, at the Senate Russell Office Building, room 325, from 1 to 4 p.m. At this time, a walk document will be presented outlining each of the native issues presented during the walk's 5-month journey and the collected signatures for Mr. Peltier will be turned over to representatives of the administration.

I am planning to attend this important session with representatives of the Walk For Justice and congressional and administration representatives, to listen to and discuss these crucial issues of justice and fairness to Indian people, and urge my colleagues who share our concerns to attend as well.●

ARIZONA WILDERNESS LAND TITLE RESOLUTION ACT OF 1994

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 445, S. 1233, relating to a land claim dispute in Arizona; that the committee amendments be agreed to; that the bill be read a third time, and passed; that the motion to reconsider be laid upon the table; and, that any statements appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 1233) was deemed read for a third time, and passed, as follows:

S. 1233

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Arizona Wilderness Land Title Resolution Act of 1994".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Act entitled "An Act granting Lands to aid in the Construction of a Railroad and Telegraph Line from the States of Missouri and Arkansas to the Pacific Coast", approved July 27, 1866 (14 Stat. 292), granted a right-of-way in Arizona to the Atlantic and Pacific Railroad Company, together with certain alternate sections of public lands on both sides of the right-of-way;

(2) patents were not issued to some of the lands in the grant described in paragraph (1);

(3) as successors in interest to the Atlantic and Pacific Railroad Company, the Santa Fe Pacific Railroad, and Perrin Properties, Inc., a California corporation—

(A) claim rights to approximately 14,632.72 acres of the lands described in paragraph (1), and

(B) applied to the Secretary of the Interior for a patent to the lands;

(4) the Secretary of the Interior denied the application for the patent, which was filed in the name of the Santa Fe Railroad Company for the benefit of Perrin Properties, Inc., on the ground that the claim had been extinguished by failure to record the claim in accordance with the Act entitled "An Act to require the recordation of scrip, lieu selection, and similar rights", approved August 5, 1955 (69 Stat. 534; 43 U.S.C. 274 note) (commonly known as the "Recordation Act");

(5) on appeal the United States Court of Appeals for the District of Columbia Circuit ruled in Santa Fe Pacific Railroad Company, et al. v. Secretary of the Interior, 830 F.2d 1168 (D.C. Cir. 1987), that such Act was not applicable and did not bar the issuance of a patent;

(6) ultimate resolution of the question of the title to the 14,632.72 acres may require years of additional litigation;

(7) the Arizona Wilderness Act of 1984 (Public Law 98-406) designated certain lands in the Prescott National Forest in Arizona as components of the National Wilderness Preservation System established by the Wilderness Act (16 U.S.C. 1131 et seq.), including the Apache Creek Wilderness and the Juniper Mesa Wilderness;

(8) the 14,632.72 acres are in the Prescott National Forest and comprise large portions of the Apache Creek and Juniper Mesa Wilderness areas; and

(9) if the 14,632.72 acres are patented to private owners, the creation of a checkerboard ownership pattern over the wilderness areas will effectively preclude management of the areas as wilderness.

(b) PURPOSES.—The purposes of this Act are—

(1) to resolve the status of the title to the approximately 14,632.72 acres in the Prescott National Forest described in section 3(c);

(2) to ensure that the lands are permanently retained in Federal ownership; and

(3) to preserve the integrity of the Apache Creek and Juniper Mesa Wilderness areas consistent with the Arizona Wilderness Act of 1984 (Public Law 98-406).

SEC. 3. RESOLUTION OF STATUS OF LANDS.

(a) PAYMENT BY THE SECRETARY OF THE TREASURY.—

(1) PAYMENT.—Subject to subsection (b), the Secretary of the Treasury shall pay to Perrin Properties, Inc., the sum of $3,854,000 from the permanent judgment appropriation established pursuant to section 1304 of title 31, United States Code.

(2) INTEREST.—No funds shall be made available for the payment of interest on the amounts payable under paragraph (1).

(b) CONDITIONS OF PAYMENT.—The Secretary of the Treasury shall make the payment described in subsection (a) if the Attorney General of the United States notifies the Secretary of the Treasury that the appellants in Santa Fe Pacific Railroad Company, et al. v. Secretary of the Interior, 830 F.2d 1168 (1987), and Perrin Properties, Inc., have executed in forms satisfactory to the Attorney General all documents necessary—

(1) to dismiss with prejudice all litigation involving the title to the lands described in subsection (c); and

(2) to release and quitclaim to the United States all right, title, and interest of the appellants and of Perrin Properties, Inc., arising out of the Act entitled "An Act granting Lands to aid in the Construction of a Railroad and Telegraph Line from the States of Missouri and Arkansas to the Pacific Coast", approved July 27, 1866 (14 Stat. 292), in and to lands in the Prescott National Forest.

(c) DESCRIPTION OF LANDS.—The lands described in this subsection are the approximately 14,632.72 acres of land in the Prescott National Forest in Arizona described in the decision by the Interior Board of Land Appeals, Santa Fe Pacific Railroad Co., No. 82-449, 72 IBLA 197 (April 19, 1983).

(d) MANAGEMENT OF LANDS.—Upon the execution of documents and dismissal of the litigation as described in subsection (b), the lands described in subsection (c) shall be managed in accordance with the laws, rules, and regulations pertaining to the National Forest System. Lands described in subsection (c) that lie within the boundaries of a wilderness area, as designated on or before the date of enactment of this Act, shall also be managed in accordance with the applicable provisions of the Wilderness Act (16 U.S.C. 1131 et seq.).

THE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed, en bloc, to the immediate consideration of Calendar Nos. 485, 486, 487, and 488; that the joint resolutions be read three times, and passed, and the motions to reconsider laid upon the table, en bloc; that the preambles be agreed to, en bloc; further, that any statements relating to these calendar items appear at the appropriate place in the RECORD, and, that the consideration of these items appear individually in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL FAMILY CAREGIVERS WEEK

The joint resolution (S.J. Res. 153) to designate the week beginning on November 21, 1993, and ending on November 27, 1993, and the week beginning on November 20, 1994, and ending on November 26, 1994, as "National Family Caregivers Week" was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 153

Whereas the number of Americans who are age 65 or older is growing dramatically, with an unprecedented increase in the number of frail elderly age 85 or older;

Whereas approximately 5,200,000 older persons have disabilities that leave them in need of help with their daily tasks, including food preparation, dressing, and bathing;

Whereas families provide help to older persons with such tasks, in addition to providing between 80 and 90 percent of the medical care, household maintenance, transportation, and shopping needed by older persons;

Whereas 80 percent of disabled elderly persons receive care from their family members, most of whom are their wives, daughters, and daughters-in-law, who often must sacrifice employment opportunities to provide such care;

Whereas family caregivers are often physically and emotionally exhausted from the amount of time and stress involved in caregiving activities, and therefore need information about available community resources for respite care and other support services;

Whereas the contributions of family caregivers help maintain strong family ties and assure support among generations; and

Whereas there is a need for greater public awareness of and support for the care that family caregivers are providing older persons: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on November 21, 1993 and ending on November 27, 1993, and the week beginning on November 20, 1994 and ending on November 26, 1994, are each designated "National Family Caregivers Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such weeks with appropriate programs, ceremonies, and activities.

THE 50TH ANNIVERSARY OF WORLD WAR II

The joint resolution (S.J. Res. 172) designating May 30, 1994, through June 6, 1994, as a "Time for the National Observance of the Fiftieth Anniversary of World War II" was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 172

Whereas the brave men and women of the United States of America made tremendous sacrifices during World War II to save the world from tyranny and aggression;

Whereas the winds of freedom and democracy sweeping the globe today spring from the principles for which over four hundred thousand Americans gave their lives in World War II;

Whereas World War II and the events that led up to that war must be understood in order that we may better understand our own times, and more fully appreciate the reasons why eternal vigilance against any form of tyranny is so important;

Whereas the World War II era, as reflected in its family life, industry, and entertainment, was a unique period in American history and epitomized our Nation's philosophy of hard work, courage, and tenacity in the face of adversity;

Whereas, between 1991 and 1995, over nine million American veterans of World War II will be holding reunions and conferences and otherwise commemorating the fiftieth anniversary of various events relating to World War II; and

Whereas June 4, 1994, marks the anniversary of the Battle of Midway, and June 6, 1994, marks the anniversary of D-Day: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 30, 1994, through June 6, 1994, is designated as a "Time for the National Observance of the Fiftieth Anniversary of World War II", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe that period with appropriate ceremonies and activities.

NATIONAL CHARACTER COUNTS WEEK

The joint resolution (S.J. Res. 178) to proclaim the week of October 16 through October 22, 1994, as "National Character Counts Week" was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 178

Whereas young people will be the stewards of our communities, Nation, and world in critical times, and the present and future well-being of our society requires an involved, caring citizenry with good character;

Whereas concerns about the character training of children have taken on a new sense of urgency as violence by and against youth threatens the physical and psychological well-being of the Nation;

Whereas more than ever, children need strong and constructive guidance from their families and their communities, including schools, youth organizations, religious institutions and civic groups;

Whereas the character of a Nation is only as strong as the character of its individual citizens;

Whereas the public good is advanced when young people are taught the importance of good character, and that character counts in personal relationships, in school, and in the workplace;

Whereas scholars and educators agree that people do not automatically develop good character and, therefore conscientious efforts must be made by youth-influencing institutions and individuals to help young people develop the essential traits and characteristics that comprise good character;

Whereas character development is, first and foremost, an obligation of families, efforts by faith communities, schools, and youth, civic and human service organizations also play a very important role in supporting family efforts by fostering and promoting good character;

Whereas The Congress encourages students, teachers, parents, youth and community leaders to recognize the valuable role our youth play in the present and future of our Nation, and to recognize that character is an important part of that future;

Whereas, in July 1992, the Aspen Declaration was written by an eminent group of educators, youth leaders and ethics scholars for the purpose of articulating a coherent framework for character education appropriate to a diverse and pluralistic society;

Whereas the Aspen Declaration states that "Effective character education is based on core ethical values which form the foundation of democratic society";

Whereas the core ethical values identified by the Aspen Declaration constitute the Six Core Elements of Character;

Whereas these Six Core Elements of Character are—

(1) trustworthiness;

(2) respect;

(3) responsibility;

(4) justice and fairness;

(5) caring; and

(6) civic virtue and citizenship.

Whereas these Six Core Elements of Character transcend cultural, religious, and socioeconomic differences;

Whereas The Aspen Declaration states that "The character and conduct of our youth reflect the character and conduct of society; therefore, every adult has the responsibility to teach and model the core ethical values and every social institution has the responsibility to promote the development of good character.";

Whereas The Congress encourages individuals and organizations, especially those who have an interest in the education and training of our youth, to adopt these Six Core elements of Character as intrinsic to the well-being of individuals, communities, and society as a whole; and

Whereas The Congress encourages communities, especially schools and youth organizations, to integrate these Six Core Elements of Character into programs serving students and children: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 16 through October 22, 1994, is designated as "National Character Counts Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States and interested groups to embrace these Six Core elements of Character and to observe the week with appropriate ceremonies and activities.

NATIONAL APOLLO ANNIVERSARY OBSERVANCE

The joint resolution (S.J. Res. 187) designating July 16, 1994, as "National Apollo Anniversary Observance" was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 187

Whereas President Kennedy in 1961 called upon the United States to face the challenge of those extraordinary times by sending a mission to the Moon;

Whereas the United States Government, the National Aeronautics and Space Administration, and the American people committed great resources, time, and human labor within one decade to span the 238,700 miles between the Earth and the Moon;

Whereas the United States rose to the challenge and formulated the Apollo missions culminating in the liftoff on July 16, 1969, of the Apollo 11 Mission to the Moon;

Whereas 25 years ago astronaut Neil Armstrong, with the help of Colonel Edwin (Buzz) Aldrin, Jr. (USAF) and Lieutenant Colonel Michael Collins (USAF), took that first significant step and became the first human to set foot on the surface of another world;

Whereas that small step furthered the development of space technology for the lasting benefit of all mankind; and

Whereas such an event united the world and our many cultures for a brief moment under the flag of peaceful exploration: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 16, 1994, through July 24, 1994, is designated as "National Apollo Anniversary Observance", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such period with appropriate ceremonies and activities.

AUTHORITY FOR REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 233, a resolution authorizing representation by the Senate legal counsel, submitted earlier today by myself; that the resolution be agreed to; the preamble adopted; that the motion to reconsider be laid upon the table; and, that my explanatory statement appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 233) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 233

Whereas, in the case of *Bahre* v. *Butler*, Case No. 9410917-05, pending in the Superior Court for Cobb County, Georgia, the plaintiff has caused to be issued subpoenas for the testimony of Senators Bob Dole, Sam Nunn, and Paul Coverdell;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent himself from the service of the Senate without leave: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senators Bob Dole, Sam Nunn, and Paul Coverdell in connection with the subpoenas in *Bahre* v. Butler.

Mr. MITCHELL. Mr. President, the plaintiff in a child custody action against her former spouse has caused subpoenas to be issued for the testimony of Senators DOLE, NUNN, and COVERDELL in the Superior Court for Cobb County, GA.

None of the Senators has any relevant testimony to contribute to the disposition of this case. This resolution would authorize the Senate legal counsel to represent the Senators in order to move to quash the subpoenas.

FILING OF FIRST-DEGREE AMENDMENTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the time for filing of first-degree amendments to the pending matter be extended from the 1 p.m. under the current rule until 2 p.m. on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the following amendments be the only first-degree floor amendments remaining in order to S. 2182, the Defense authorization bill; that they be subject to second-degree amendments provided they are relevant to the first-degree amendments to which they are offered; that no motion to recommit be in order during the pendency of this agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

The list of amendments is as follows:

REPUBLICAN LIST

Bennett: Civilian leave.

Hatfield: Selective Service System.

Brown: C-130 distribution; GEOSAT study; Force structure; Burdensharing; NATO benefits; Visas for Taiwan officials; White House; Relevant (2).

Bond: Reserve component readiness.

Coats: Funding Army family housing; Planning/design DFAS; Relevant (3).

Cohen: Relevant (3); Nuclear safety at DOE; Medicare.

D'Amato: 5.5m fuel hydrant system—Niagara; Transfer Guadal canal.

Dole: Defense review; Relevant (8); 1851; Army medical equipment; North Korea; Land management/Training center; Humanitarian aid.

Domenici: Counterproliferation improvements; Spouse abuse; Delete SSTO transfer.

Faircloth: Upgrade facility—Ft. Bragg.

Bond: Delete/modify bill requirement transfer M1A1 Tank to MC.

Gorton: Land conveyance, Seattle, Washington.

Helms: (1) Relevant, (2) Relevant.

Faircloth: Relevant (1).

Gramm: Relevant (3).

Grassley: FYDP funding.

Gregg: Haiti.

Hatfield—Military Institute of Pathology, MILCON.

Hutchison: Relevant (3).

Kempthorne: Gowan Field Hanger, add/alter Doms AF Academy; Relevant (1).

Lott: Relevant (3), Armed Forces Retirement Home.

McCain: Academy/ROTC Obligation; Cap cost Seawolf; Concurrent receipt; Delete DOD support athletic events; Seawolf termination; MILCON Antina; BDM; BRAC 95; Relevant (3); TRP renew; and Korea.

Mack: MaypA; Relevant (1).

McConnell: NATO, NATO admission.

Nickles: U.N. command Forces; Depots/as contractors, Reserve quarters; MILCON.

Thurmond: Fines and penalties.

Roth: F-22 Livefire; OT&E; S.O.C.-NATO; Delete funding for submarines.

Smith: TMD; Relevant (3).

Specter: MILCON; Hearings.

Stevens: Upgrades, Ft. Richardson; Relevant (2); FFRDC (2); MILCON.

Thurmond: Relevant (15); National Guard; DFAS planning design; Whistleblower protection; Clarify testing prohibition.

Wallop: 6.2m MILCON; Peacekeeping; TMD and ABM Treaty.

Warner: Airborne TV warfare; ABM Treaty; COLA Equity; TRICARS; Relevant (7); USACOM; Excess defense articles; ABM; ABM.

KNOWN DEMOCRATIC AMENDMENTS TO DOD AUTHORIZATION

Biden: (1) Relevant; (2) Relevant.

Bingaman: (1) Intergovernmental personnel act; (2) Relevant; (3) Relevant.

Boxer: (1) Spouse abuse—military; (2) Military depots; (3) Base cleanup; (4) Military construction.

Bradley: Selective service.

Bumpers: (1) Milstar; (2) Trident; (3) Trident; (4) National Guard; (5) National Guard construction projects.

Byrd: (1) Relevant; (2) Relevant; (3) Relevant.

Daschle: Military construction.

DeConcini: (1) Sexual misconduct investigations unit.

Dodd/D'Amato: Army Procurement. (2) Bunker Defeat munition, (3) Milcon Yuma Marine Corps facilities.

Feingold: Uniformed services university health services (notify Inouye).

Feinstein: (1) Delay base closure; (2) Base reuse; (3) Restore sealift funding (W/Johnston); (4) Report on SELENE; (5) Troop deployment in Europe; (6) AFMC consolidation; (7) Base Closure Commission staff; (8) LA AFB milcon; (9) Fort Irwin Milcon; (10) Codevelopment of ATRJ; (11) 146th airlift wing aircraft, (12) McClellan AFB; (13) Defense conversion loan guarantees; (14) Relevant.

Ford: (1) Military Construction virtual brigade; (2) Prohibit equipment sale foreign countries prior to National Guard review, (3) Transfer military Army equipment, (4) Require 2 add'l positions for roles and mission of Armed Forces; (5) Delete $189 million in technology and upgrades 42 M1 tanks for Marines; (6) Prohibit transfer of M1A1 tanks; (7) Delete $20M from technology and adds $100M to Army National Guard and $100M Air Force National Guard; (8) Transfer M1 tanks from Army to Marines; (9) Transfer M1 tanks from Army to Marines.

Glenn: (1) Planning and design; (2) Joint training; (3) Section 3158 DOE excepted service physicians; (4) Study cost of low enriched uranium to power naval reactors.

Graham: (1) Foreign military training; (2) Western Hemisphere military training; (3) Relevant; (4) Land conveyance/foreign military.

Heflin: SDI.

Johnston: (1) Relevant; (2) Sealift (w/Feinstein) #1840).

Kennedy: Relevant.

Kerry: Policy sharing info w/Latin American nations to permit aircraft interception.

Kohl: (1) Relevant; (2) Relevant; (3) Burdensharing (w/Brown); (4) Community environmental grants.

Lautenberg: (1) Relevant; (2) Relevant; (3) Relevant.

Leahy: (1) Land mines; (2) B-2.

Levin: (1) Relevant; (2) B-2.

Mitchell: (1) Relevant; (2) Relevant; (3) Relevant.

Moseley-Braun: (1) Sexual harassment; (2) Sexual harassment.

Murray: (1) Sexual harassment; (2) Sexual harassment; (3) Sexual harassment; (4) Sexual harassment; (5) Relevant.

Nunn: (1) Army reserve; (2) Joint military education; (3) Acquisition; (4) Mobility; (5) Armor; (6) Roles and missions; (7) Bosnia; (8) Technical; (9) Technical; (10) Relevant; (11) Relevant; (12) Training; (13) Relevant; (14) Relevant.

Pell: (1) Relevant; (2) Relevant.

Pryor: (1) Sense of Senate base closure; (2) "Fly Before You Buy Act" (w/Roth); (3) ASPJ (airborne self-protection jammer); (4) Cost comparisons; (5) Relevant; (6) Notice workers defense contract termin; (7) Laid off defense export workers JTPA service eligibility.

Reid: (1) Relevant; (2) Relevant.

Riegle: Gulf War Syndrome.

Robb: (1) COLA equity; (2) SBP equity.

Rockefeller: Gulf War syndrome.

Wellstone: (1) Relevant, (2) Relevant; (3) Relevant.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE HELD AT DESK—S. 2243

Mr. MITCHELL. Mr. President, I ask unanimous consent that a bill introduced earlier today by Senator STEVENS, and now at the desk, be held at the desk until the close of business Monday, June 27.

The PRESIDING OFFICER. Without objection, it is so ordered. S. 2243 will be held at the desk.

RECESS UNTIL MONDAY, JUNE 27, 1994, AT 1 P.M.

Mr. MITCHELL. Mr. President, I now ask unanimous consent that the Senate stand in recess until 1 p.m. on Monday, June 27, as under the previous order.

There being no objection, the Senate, at 4:20 p.m., recessed until Monday, June 27, 1994, at 1 p.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 24, 1994:

DEPARTMENT OF STATE

DAVID ELIAS BIRENBAUM, OF THE DISTRICT OF COLUMBIA, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS FOR U.N. MANAGEMENT AND REFORM, WITH THE RANK OF AMBASSADOR.

DEPARTMENT OF THE TREASURY

PHILIP N. DIEHL, OF TEXAS, TO BE DIRECTOR OF THE MINT FOR A TERM OF 5 YEARS.

FEDERAL RESERVE SYSTEM

ALAN S. BLINDER, OF NEW JERSEY, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR THE UNEXPIRED TERM OF 14 YEARS FROM FEBRUARY 1, 1982.

ALAN S. BLINDER, OF NEW JERSEY, TO BE VICE CHAIRMAN OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF 4 YEARS.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF JUSTICE

JERRY J. ENOMOTO, OF CALIFORNIA, TO BE U.S. MARSHALL FOR THE EASTERN DISTRICT OF CALIFORNIA FOR THE TERM OF 4 YEARS.

HOUSE OF REPRESENTATIVES—*Friday, June 24, 1994*

The House met at 9 a.m., and was called to order by the Speaker pro tempore (Mr. MONTGOMERY).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 24, 1994.

I hereby designate the Honorable G.V. (SONNY) MONTGOMERY to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The Reverend Canon Patricia M. Thomas, diocesan administrator, Episcopal Diocese of Washington and canon of the Washington National Cathedral, Washington, DC, offered the following prayer:

O God, You have bound us together in a common life. You have so linked our lives one with another that all we do affects, for good or ill, all other lives. Give the Members of this House of Representatives courage, wisdom, and foresight to provide for the needs of all the people of this land and to fulfill our obligations in the community of nations. Guide and direct them in the work they do this day, granting them vision to see Your purpose for our Nation and filling them with compassion and understanding. Strengthen them with an abiding commitment to seek Your truth in all their deliberations and actions. This we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair will ask the gentleman from New York [Mr. LAZIO] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. LAZIO led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate has passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4539. An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1995, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4539) "An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1995, and for other purposes" requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. DECONCINI, Ms. MIKULSKI, Mr. KERREY, Mr. BYRD, Mr. BOND, Mr. D'AMATO, and Mr. HATFIELD, to be the conferees on the part of the Senate.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces he will recognize five 1-minutes on each side.

GUILTY UNTIL PROVEN INNOCENT

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Jeffrey Dahmer killed 17 young boys, adolescents, ate their flesh. He was innocent until proven guilty. Son of Sam, mass murderer, Charles Manson, mass murderer, Richard Speck, mass murderer, innocent until proven guilty. But when your mother and father or grandparents or the businessman or the teacher in your community gets called down to the IRS office, they are guilty and must prove themselves innocent.

Unbelievable, Congress. No American should fear their Government. People fear the IRS because Congress has allowed the IRS to intrude on their constitutional rights.

Shame, Congress. Discharge Petition No. 12 says a taxpayer is innocent until proven guilty. And if it is good enough for the Son of Sam, it is good enough for mom and dad. One hundred and nine Members signed Discharge Petition No. 12, and the big shots in Congress are not going to do anything with it.

No reason to fear our Government. Discharge Petition No. 12.

EMPLOYER MANDATES WILL HURT BUSINESS AND AMERICA

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, the word is getting out.

American businesses are finally starting to hear what the proposed Clinton health care plan and it's job-killing employer mandates will cost them and their employees.

The U.S. Chamber of Commerce has said, overwhelmingly that Clinton's employer mandates are unacceptable.

The proposed mandates will kill jobs and drive down wages.

Employers will have no choice but to reduce either wages or their work force in order to cover their losses.

It just does not make sense to risk losing your job for government-run health care when there are health care reform proposals like the Republican's Michel-Lott bill, which fixes what is wrong with our health care system, while keeping what is right with it, and it does this without killing American jobs.

Mr. Speaker, the business of America is business and employer mandates will hurt business and America.

SMALL BUSINESSMEN: MANDATES EQUAL UNEMPLOYMENT

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, I have heard from community leaders and small business leaders alike, employer mandates now, equal unemployment lines tomorrow.

And my district is not unique. Nationally, more than a third of all small business owners say that contributions mandated by President Clinton and some of my colleagues on Capitol Hill would either force them out of business or significantly cut their work force.

A number of studies indicate that employer contributions would cost the United States more than 15 million jobs, during the first 5 years alone. We simply cannot afford this type of social experiment in health care roulette.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Additionally, these numbers fail to estimate the chilling effect that this type of job-killing legislation would have on small business hiring.

Our economy has anemic growth now. Are we supposed to believe that passing health care reform with employer mandates will spur further economic recovery?

Let us stop kidding ourselves and the American public, and start working on a bipartisan health care reform plan. We need health care reform, but we need to make sure that we do not ruin small businesses in the process.

HONORING GENERAL KICKLIGHTER

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, as our great country and the remainder of the free world remembers the historic 50th anniversary of the Normandy invasion, I rise today to honor and salute Lt. Gen. Claude Kicklighter on his outstanding job organizing the commemoration of the 50th anniversary of D-day.

Lt. Gen. Claude Kicklighter assumed the duties of special assistant to the Secretary of the Army and executive director of the Department of Defense 50th anniversary of World War II Commemoration Committee on August 7, 1991. He was directly responsible for managing a program designed to assist the Nation in thanking and honoring the veterans of World War II, their families, and those who served on the homefront. In addition, he developed programs and materials that provided a greater understanding of the lessons and history of World War II. It was evident from the very beginning that General Kicklighter's top priority was honoring the 8.2 million surviving World War II veterans. When describing his job, he reflects that "It's been a labor of love."

Over the past few weeks, I have received hundreds of letters from World War II veterans who attended the Normandy anniversary and from those who watched the ceremonies on television. It is overwhelmingly clear that the 50th anniversary of D-day has rekindled the spirit of patriotism all over America and has touched each of us in some way. The success of this moving and emotional anniversary could not have been achieved without the dedication and professional effort of General Kicklighter.

General Kicklighter has a distinguished record of service to his country at numerous locations in the United States and overseas. His assignments included duty with three Army Schools and service in Vietnam, Iran, Europe, Washington DC, and at numerous posts in the United States, including ROTC duty at Wofford College in South Carolina.

General Kicklighter has commanded at every level, from company through division, having commanded the 25th Infantry Division (Light) at Schofield Barracks from June 1984 until September 1986. He commanded the U.S. Army Security Assistance Center, Alexandria, VA, and served in staff assignments from battalion to Department of the Army, the Joint Staff, and the Office of the Secretary of Defense. He served as Director of the Army Staff from May 1987 to July 1989.

General Kicklighter's awards include the Distinguished Service Medal with two oak leaf clusters, the Defense superior service medal, the Legion of Merit with three oak leaf clusters, the Bronze Star, the Meritorious service medal with oak leaf clusters, the Army Commendation Medal with four oak leaf clusters, the Secretary of Defense identification badge, the Joint Chiefs of Staff identification badge, the Army general staff identification badge, Order of Aaron and Hur, the Argentina Order of May, the French Order National Du Merite, and the Korean Order of National Security Gugseon Medal. And finally, General Kicklighter received the Eisenhower liberation medal, presented by the U.S. Holocaust Memorial Council, on April 6, 1994.

Mr. Speaker, I ask you and my colleagues to join me in commending the accomplishments of General Claude Kicklighter. It is my sincere hope that future generations will have a full comprehension of the magnitude of the sacrifice that those in the military took on June 6, 1994. Thanks to General Kicklighter, I do not think we have to be concerned about our Nation forgetting this most profound day in our Nation's history and the world's history as well.

Again, I thank and applaud General Kicklighter for his outstanding dedication to all war veterans as our grateful Nation remembers.

EMPLOYER MANDATES

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, the President's own competitiveness council reported to Congress last week that with regard to healthcare reform "Ultimately it is the worker who pays for most of the healthcare system, through lower wages and lower quality healthcare.

All Americans should be concerned about bearing the burden of healthcare reform. If Congress imposes employer mandates, quality of care will decrease, wages will be lower, and there will be less jobs due to layoffs to pay for the mandates.

Small business owners from all over the country have said employer mandates mean weaker businesses and fewer jobs. We have a choice—we can ruin the American economy so that people can pay more for less—or we can pass responsible reforms that preserve our superb health care system and keep America's small businesses strong.

EMPLOYER MANDATES: THE CLINTON JOB KILLER

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, when big government comes calling and says it wants to do you a favor, you would do well to tread very carefully. There is usually a catch.

The catch in the Clinton-government-run health care proposal is something called an employer mandate. That means a payroll tax on American businesses—big and small. That means smaller profits, lower wages and fewer jobs. In fact, a survey of some 40 studies has found estimates running from 600,000 to 3.8 million jobs destroyed by imposition of a new payroll tax.

So, what our Democratic colleagues are promising is a government-run health care system paid for by the jobs of American working men and women. Does that sound like a good deal? I do not think so.

Mr. Speaker, Republicans have offered alternatives to the Clinton-socialized medicine schemes—without the new taxes and without the terrible job loss. It is time to reject the big government approach and give the Republican alternatives a fair hearing. The American people deserve a fair shake.

□ 0910

RELIGION

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, I am very concerned about some of the trends that I have seen politically in this country, and there are a lot of people with more middle class and traditional values that share those concerns.

First of all, we see funding for the National Endowment for the Arts going to very clearly antireligious works of art. This is at the same time when no manger scenes are legally being able to be placed in the front of city hall. So we have the Government subsidizing antireligious art on one side and, on the other hand the same people making the argument, if someone so much as places a manger scene in front of city hall, that they are subsidizing religion.

We saw a bill passed in this session that says: "If you are prolife, you do not have the same rights to protest as someone who is prochoice or other people who want to protest other things in our society."

We now hear, coming from the other side of the aisle, a vicious attack on politically active people who happen to have religious convictions. This is an attack on the rights of people who go to church, ordinary American citizens, stalwarts of our community, who are politically active, simply because they believe in their religion.

I think the other side better think twice about limiting the rights of honest middle-American religious people in our society.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995, AND SUPPLEMENTAL APPROPRIATIONS, 1994

Mr. MOLLOHAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4603) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the motion offered by the gentleman from West Virginia [Mr. MOLLOHAN].

The motion was agreed to.

□ 0912

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4603, with Mr. MONTGOMERY (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Thursday, June 23, 1994, the bill had been read through page 7, line 22.

The Clerk will read.

The Clerk read as follows:

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $119,904,000; of which not to exceed $3,317,000 is for the Facilities Program 2000, to remain available until expended: *Provided*, That of the off-setting collections credited to this account, $37,000 are permanently canceled.

AMENDMENT OFFERED BY MR. SMITH OF TEXAS

Mr. SMITH of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Texas: Page 7, line 26, strike "$119,904,000" and insert "$118,979,000".

Mr. SMITH of Texas. Mr. Chairman, my amendment makes a small cut of $925,000 in the General Administration account of the Department of Justice. This reduction represents a 5-percent reduction in the money provided for the Department leadership and the executive support subaccounts, which are responsible for formulating policy at the Department of Justice.

This cut misses the crime fighting components of Justice, like the FBI and INS, but hits squarely that part of the Department that is just as likely to work against our crime prevention efforts as for them. This amendment will not in any way muzzle the Nation's watchdog, but hopefully it will serve to rouse the ACLU's lapdog.

Nothing serves as a better point of comparison between the crime-fighting end and the policy making end of the Department of Justice than its ability to staff its top positions. While our jails overflow, the Department of Justice—now 2 years deep into the Clinton administration—is still unable to fill its leadership positions. As of today, Justice has over a 34-percent vacancy rate in its Presidential appointee positions requiring confirmation. That is an unbelievable record coming from an administration professing to be tough on crime.

To quote from the C.R.S. report concerning Clinton administration appointees:

> While unfilled positions accounted for 20.6 percent of all positions, the situation in each department varied considerably. Eight departments had more than 20.6 percent of their positions vacant, led by the Justice Department * * *

Being first amongst the worst is not the kind of leadership we need.

Then again, considering the kind of policies the Justice Department has formulated, maybe America should count its blessings. Its litany of lulus reads like a Ripley's Believe It or Not.

Despite a debate by both the House and Senate on the largest crime bill in years, the Justice Department never bothered to deliver a crime bill for the administration. Based on this performance, if Justice had been a television show, it would not have been "America's Most Wanted," but "America's Funniest Home Videos." Thanks to the Department of Justice, the administration played no role in the crime debate.

While the Department of Justice was doing nothing when it came to a crime bill, it was doing less than nothing when it came to child pornography. Perhaps the sickest, most depraved crime most Americans can think of, child pornography should have no defenders. Yet the Department of Justice, through its handling of the Knox case, gave pornographers a helping hand by making it harder to convict someone on child pornography charges. Rather than fighting on the grounds of the tough standards, which had already won numerous convictions, the Justice Department incredibly requested that the case be sent back to a lower court to be tried under a looser standard.

It's record on immigration is no better than it's record on litigation. Despite the fact that State after State has filed suit against the Federal Government for allowing a flood of illegal immigrants to continue to enter America, Justice has done nothing as far as proposing a solution to the problem. Again nothing was their best performance on the issue.

Just a few months ago, aptly on April Fool's Day, the INS moved to discontinue fingerprint checks that had resulted in stopping thousands of criminals from reaching our shores illegally. The INS' rationale for discarding this $3 million program? Cost. Yet, at the same time, Justice was able to fund a $30 million campaign to advertise alien naturalization.

If that were not enough, the INS Commissioner recently claimed at an Immigration Subcommittee hearing that the INS did not even need the 6,000 additional border patrol agents that the House had already passed overwhelmingly. Tell that to California, to Florida, to Texas, and to every local government that is struggling just as hard to meet the costs of illegal immigration as Justice is in avoiding any solutions.

Just like the Justice Department ignores the problem of illegal immigration, so too it has ignored the will of this Congress when it has come to allowing HIV-infected individuals to enter the United States legally. Last year, Congress overwhelmingly passed and the President signed a resolution maintaining the bar to HIV-infected individuals entering the country. It was ignored this year when the Attorney General granted a blanket waiver for participants of the Gay Games taking place right now in New York. While it is a terrible precedent for U.S. immigration policy because of the potential for fraud and abuse, it is not new for Justice to substitute social policy for immigration policy.

Almost a year ago to this day, Justice likewise decided not to appeal a Federal judge's decision to allow 158 HIV-infected Haitian immigrants to enter the United States. Again, despite a clear immigration policy to the contrary.

I could go on, but the trust is that 5 minutes is not enough time to do justice to the injustice that the Department of Justice has done to its watchdog role.

This amendment says one thing to the people at Justice who need to hear it: with a multibillion-dollar deficit, we can no longer afford to reward bad behavior and poor performance. It will not cut one cent from the law enforcement part of the Justice Department. Instead, hopefully, it will serve to separate the Keystone from the Cops.

Mr. MOLLOHAN. Mr. Chairman, I rise in opposition to the gentleman's amendment.

Mr. Chairman, the gentleman's amendment sets forth a litany of concerns with regard to the Justice Department, its administration, and problems that are occurring in the country with regard to immigration. The point, I think, of his amendment is to, in some indirect way, punish the Justice Department through the cutting general administration account of that Department.

Mr. Chairman, he represents that it will get to the concerns that he expressed. I would submit, Mr. Chairman, that this cutting amendment will do actually just the opposite. And while he represents that the amendment will not hit the crime-fighting components of the Justice Department, indeed, the amendment will hit the crime-fighting components of the Justice Department. Over half the funds in this bill are for costs associated with immigration judges. In this area and other areas of the bill we are enhancing appropriations for immigration initiatives.

Mr. Chairman, his amendment would cut that. This amendment will reduce enhancements placed in the bill to increase the number of immigration judges as a part of the President's expedited deportation initiative. I am sure that the gentleman is extremely supportive of the President's expedited immigration deportation initiative, and I know that to the extent that this amendment would cut that, it has an unintended result as far as he is concerned. I think he should understand that.

Indeed, the amendment will cut seven new immigration judges, which are badly needed, and I know that my colleague would agree that they are badly needed. Certainly he would agree they are badly needed because of the concerns he expressed in support of his amendment.

Mr. Chairman, we need those judges badly to remove illegal aliens, criminal aliens from our country. I would hope that his amendment would be opposed.

Mr. Chairman, I would refer the gentleman to page 20 of the report, which is—the page in the report that describes funding for general administration. I would refer him to the next to the last paragraph on that page where it says,

> In addition to the management and administrative functions of the Department, this account also funds two very important programs: (1), the Executive Office for Immigration Review [EOIR] which includes the Board of Immigration Appeals, Immigration Judges, and Administrative Law Judges. These judges decide whether to admit or exclude aliens seeking to enter the country, and whether to deport or adjust the status of aliens whose status has been challenged.

Indeed, while the gentleman was under the impression that the amendment would not cut in these areas, it certainly does. We would urge opposition to the amendment, Mr. Chairman.

Mr. SMITH of Texas. Will the gentleman yield?

Mr. MOLLOHAN. I am glad to yield to the gentleman from Texas.

Mr. SMITH of Texas. Mr. Chairman, I just want to point out again that the $925,000 cut is 5 percent of the Department leadership and executive support subaccounts, which goes directly to policy. If this money is taken out of the other accounts that my friend mentioned, for example, and adversely impacted immigration or expedited deportation, then certainly that would be because of the appropriations ignoring the intent of those who originated the amendment. I hope that would not be the case. I thank the gentleman for yielding.

Mr. MOLLOHAN. Reclaiming my time, the gentleman does understand however, that this is general cut to the fund and would cut the accounts that I represented.

Mr. SMITH of Texas. Will the gentleman yield one more time?

Mr. MOLLOHAN. I yield to the gentleman from Texas.

Mr. SMITH of Texas. I certainly do understand that, and I appreciate my friend pointing that out, but again if the appropriators do take into consideration the intent of those who offer the amendment, the money would not come out of the funds that would jeopardize immigration or efforts at deportation, it would come out of the funds for the Department leadership and executive support subaccounts.

Mr. MOLLOHAN. Reclaiming my time, Mr. Chairman, I understand the motives behind the gentleman's amendment. I would simply suggest that it is misdirected and could very well have an unintended result as it cuts these crime-fighting accounts. As a matter of fact, we are putting in these exact same accounts significant increases for immigration initiatives, a 25-percent increase, so I would hope that the amendment would be defeated.

Mr. BURTON of Indiana. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise to support this cut for a couple of different reasons. I want to send a signal to the Attorney General's office that they should not be stonewalling the Congress of the United States on critical issues facing this Nation.

Mr. Chairman, earlier this year there was a question about whether or not Mr. Ron Brown, the Secretary of Commerce, had received a payoff from the Vietnamese Government in the amount of $750,000, with more to come, to normalize relations with that country, even though we did not have a full accounting of our POW-MIA's, the 2,300 that were left behind over there.

A man named Binh Ly came to Congress and talked to me and many others, and he indicated, without any equivocation whatsoever, that there was substantial evidence from a man named Mr. Hao down in Florida that Mr. Brown had, in fact, agreed to this deal.

We even had evidence that there was a wire transfer, the FBI verified there was a wire transfer, of a large sum of money from the Vietnamese to a bank in Singapore, as Mr. Hao said there was, which was where the payoff point was to be. The FBI was investigating this case, they were called off the case, and there was a grand jury investigation down in Miami.

We asked for a special prosecutor for this. We were stonewalled by the Justice Department, and instead, the Attorney General sent one of her right-hand persons from the Justice Department down to Miami to conduct the grand jury investigation.

As a result, even though there was what I consider to be overwhelming evidence, they said there was not enough substantial evidence to indict, so they whitewashed that. We were stonewalled.

Now comes the investigation of Whitewater and Mr. Fiske. There is evidence, according to many sources, according to many sources there is evidence and allegations that there is a laundering of drug money, laundering of drug money through the Arkansas Development Finance Institution which was established under then President Clinton or then Governor Clinton, and that there were connections through banks to BCCI and others. We have asked Mr. Fiske, the special prosecutor, and the Attorney General to expand this investigation. Once again, we are being stonewalled.

Mr. Speaker, we have been stonewalled in the past regarding Mr. Brown, not only by Justice but by the White House, the Commerce Department. We on the Republican side cannot get any information out of this administration from any area of the Government.

Now here we have the Whitewater investigation, and there are a lot of people who believe that through the Mena Airport, there were millions of dollars' worth of drugs that came into Arkansas that were laundered through the Arkansas Development Foundation Corp., and we cannot get this investigation expanded. We cannot even have congressional hearings here on the floor of the House, and it is our responsibility.

The people of this country need to know the facts. Everything is being subpoenaed and kept in secret, and nobody can get the information. Documents are being shredded at the Rose law firm down there. There was a mysterious fire at one of the banks where the accounting was taking place as far as all the documents pertaining to Whitewater, and thousands of documents were destroyed. People have been killed, believe it or not, mysteriously. Murders have taken place of people that were supposed to give evidence regarding this.

What do we want? All we want are congressional hearings. If we cannot get that, which we should have, we should have an expansion of the Whitewater investigation, Mr. Fiske and Janet Reno, to go into all the details of this.

I am going to tell the Members that even if the Justice Department does not do this, we on the minority side of this aisle are going to keep after it until we get the answers. We are going to stay after it until we get the answers. If there was a laundering of drug money through governmental institutions in Arkansas, it needs to be made public.

If public figures like Patsy Thomasson over at the White House, there are questions that the chief personnel officer at the White House may have been involved in this kind of operation. She worked for the Lasater Co., as chief financial officer during the time Mr. Lasater was convicted of cocaine trafficking, and during the time he was being investigated for cocaine trafficking, the Governor of Arkansas, Bill Clinton, gave $665 million in bonds to him to sell, during the time he was being investigated.

☐ 0930

Patsy Thomasson knew of all the financial transactions of that firm and there was between $60 million and $107 million in money that went through a bonding account, and the man who handled the account did not even know about it, his name was Dennis Patrick, and the money was transferred to Lasater bank accounts in three different banks around this country and some of it, we believe, went offshore . We may have a person at the White House, Patsy Thomasson, that may have been involved in this. The Arkansas Development Foundation may have been laundering drug money and there are people who worked there, who worked in the institution, one of the leading people, Mr. Larry Nickles, who worked in the Arkansas Development Finance Institution, says that money was being laundered, drug money was being laundered through that governmental institution. Janet Reno, the Attorney General of the United States, should not stonewall this. Neither should Mr. Fiske. This investigation must be expanded. If there was laundering of drug money, then let the chips fall where they may. If it involves people at the White House, if it involves even the President himself, let the chips fall where they may.

Mr. Chairman, the fact of the matter is the people of this country have a right to know. We in the Congress have the right to conduct an investigation, and the reason I am supporting this amendment of cutting 900-some thousand dollars from the Justice Department is to send a signal to Janet Reno and the Justice Department and to Mr. Fiske that we want a thorough and complete investigation of all aspects of Whitewater and the possibility of laundering of drug money through the Arkansas Development Foundation. For us to do less as a Congress, for the Justice Department to do less as the Justice Department being the highest branch of the legal system in this country is a dereliction of their responsibility and our responsibility and we are not doing the job the American people sent us here to do.

For that reason I urge adoption of this amendment if for no other reason than to send a signal to Janet Reno and Fiske and everybody else connected with this that we want a complete and thorough investigation of Whitewater, drug trafficking, and everything else associated with it.

Mr. DELAY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think it is really sad that I have to come down here and support this kind of amendment. I think it is sad that we have a situation where we cannot seem to get the attention of the Attorney General in this country. We have an Attorney General that has decided to use her office to set social policy in this country. I think it is really unfortunate that we have to send a signal to the Attorney General of the United States.

Mr. Chairman, the purpose of this amendment is to send a very clear message to the policymakers at the Department of Justice that the American people and Members of Congress have had it with the irresponsible and destructive policies that seem to be coming out of the Attorney General's office. After just 2 years under the Clinton administration, the Department of Justice has decided last year not to send a crime bill to Congress, yet they are taking credit for the crime bill that is moving through the House and the Senate and now is sitting in the conference committee. They refuse to take a position and change their position on weakening its opposition to the child pornography after several votes of the House and the Senate sending them a very clear message that the Members of the House and the Senate do not think that the Attorney General is doing the right thing in weakening our child pornography laws. They have failed to make an effective effort to combat illegal immigration and do not seem to be very interested in stemming the tide that is crossing our borders illegally. They have allowed just recently HIV-infected individuals to enter the United States legally despite Congress' express intent that this not be done. Just recently they gave political asylum to a homosexual, setting a new policy for political asylees that if one is persecuted because of his or her sexual orientation, one can come to the United States under the protection of the United States for political asylum and all the benefits one receives for that. After 2 years into the Clinton administration, the Department of Justice has failed to even staff its top positions when the crime issue is at the top of the list of the concerns of the American public.

Mr. Chairman, as of December 1993, Justice had a 36.7-percent vacancy rate in its Presidential appointee positions requiring confirmation. As of May of this year, that figure has increased to 37.9 percent. How can the President claim to be tough on crime while at the same time failing to even fill these key crime fighting positions?

Mr. Chairman, I just think that my colleagues need to really look at this amendment. It is a serious amendment. This House needs to send a very serious message to this administration and particularly to the Department of Justice and Attorney General Janet Reno that it is time they got their act together and accurately represent what the American people support in the fight on crime. It is time that they stop setting social policy for this country using the Department of Justice.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. SMITH].

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SMITH of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 171, noes 212, not voting 56, as follows:

[Roll No. 275]

AYES—171

Allard
Andrews (NJ)
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Bateman
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cantwell
Castle
Clinger
Coble
Collins (GA)
Combest
Cooper
Cox
Crapo
Cunningham
DeFazio
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fingerhut
Fowler
Franks (NJ)
Gallo
Geren
Gilchrest
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grandy
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Inslee
Istook
Johnson, Sam
Kanjorski
Kim
King
Kingston
Klein
Klug
Knollenberg
Kreidler
Kyl
Lazio
Leach
Levy
Lewis (FL)
Lewis (KY)
Linder

Livingston
Lucas
Manzullo
Margolies-Mezvinsky
McCandless
McHugh
McInnis
McKeon
McMillan
Menendez
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Nussle
Orton
Oxley
Packard
Paxon
Petri
Pombo
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Sarpalius
Saxton
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Strickland
Stump
Sundquist
Swett
Talent
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (FL)
Zeliff
Zimmer

NOES—212

Abercrombie
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bevill
Bilbray
Bishop
Blute
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cardin
Carr
Clement
Clyburn
Coleman
Collins (IL)
Condit
Conyers
Coppersmith
Coyne
Cramer
Danner
Darden
Deal
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fish
Flake
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Gekas
Gibbons
Gillmor
Glickman
Gonzalez
Gordon
Hamburg
Hastings
Hayes
Hefner
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klink
Kolbe
Kopetski
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lehman
Levin
Lewis (CA)
Lightfoot
Long
Lowey
Mann
Manton
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDade
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Mfume
Michel
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Myers
Neal (MA)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rogers
Romero-Barcelo (PR)
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schenk
Schroeder
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Spratt
Stark
Studds
Stupak
Swift
Synar
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Traficant
Underwood (GU)
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Yates

NOT VOTING—56

Ackerman
Andrews (ME)
Barton
Bentley
Berman
Blackwell
Chapman
Clay
Clayton
Collins (MI)
Costello
Crane
de la Garza
de Lugo (VI)
Dingell
Engel
Faleomavaega (AS)
Ford (MI)
Ford (TN)
Franks (CT)
Gallegly
Gephardt
Grams
Green
Gutierrez
Harman
Hilliard
Kasich
Laughlin
Lewis (GA)
Lipinski
Lloyd
Machtley
Maloney
McCollum
McCrery
McCurdy
Nadler
Neal (NC)
Owens
Porter
Ridge
Schaefer
Schumer
Slattery
Smith (OR)
Stokes
Taylor (MS)
Torkildsen
Towns
Tucker
Washington
Waxman
Wheat
Wynn
Young (AK)

□ 1002

The Clerk announced the following pairs:

On this vote:

Mr. Taylor of Mississippi for, with Mr. Machtley against.

Mr. Grams for, with Mr. Ackerman against.

Mr. Smith of Oregon for, with Mr. Hilliard against.

Mr. Torkildsen for, with Mr. Tucker against.

Mr. WILSON and Mrs. JOHNSON of Connecticut changed their vote from "aye" to "no."

Messrs. PACKARD, GALLO, HALL of Texas, INSLEE, TAUZIN, STENHOLM, and SARPALIUS changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. GENE GREEN of Texas. Mr. Chairman, during rollcall vote No. 275, I was unavoidably detained and unable to register my vote. Had I been present, I would have noted "no."

PERSONAL EXPLANATION

Mr. PORTER. Mr. Chairman, I was unavoidably detained this morning and was unable to cast my vote on rollcall No. 275. Had I been present, I would have voted "aye."

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

In addition, for expenses necessary to implement the President's Immigration Initiative as authorized in H.R. 3355, the Violent Crime Control and Law Enforcement Act of 1994, or similar legislation, $24,060,000, of which not to exceed $6,000,000 shall remain available until September 30, 1996.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $30,500,000; including not to exceed $10,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and for the acquisition, lease, maintenance and operation of motor vehicles without regard to the general purchase price limitation: *Provided*, That of the offsetting collections credited to this account, $24,000 are permanently canceled.

WEED AND SEED PROGRAM FUND

For necessary expenses, including salaries and related expenses of the Executive Office for Weed and Seed, to implement "Weed and Seed" program activities, $13,150,000, to remain available until expended for intergovernmental agreements, including grants, cooperative agreements, and contracts, with State and local law enforcement agencies engaged in the investigation and prosecution of violent crimes and drug offenses in "Weed and Seed" designated communities, and for either reimbursements or transfers to appropriation accounts of the Department of Justice and other Federal agencies which shall be specified by the Attorney General to execute the "Weed and Seed" program strategy: *Provided*, That funds designated by Congress through language for other Department of Justice appropriation accounts for "Weed and Seed" program activities shall be managed and executed by the Inspector General through the Executive Office for Weed and Seed: *Provided further*, That the Attorney General may direct the use of other Department of Justice funds and personnel in support of "Weed and Seed" program activities only after the Attorney General notifies the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of this Act.

WORKING CAPITAL FUND

Of the offsetting collections credited to this account, $387,000 are permanently canceled.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission as authorized by law, $7,451,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and rent of private or Government-owned space in the District of Columbia; $411,786,000; of which not to exceed $10,000,000 for litigation support contracts shall remain available until expended: *Provided*, That of the funds available in this appropriation, not to exceed $50,099,000 shall remain available until expended for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys, the Antitrust Division, and offices funded through "Salaries and Expenses", General Administration: *Provided further*, That of the total amount appropriated, not to exceed $1,000 shall be available for the United States National Central Bureau, INTERPOL, for official reception and representation expenses: *Provided further*, That notwithstanding 31 U.S.C. 1342, the Attorney General may accept on behalf of the United States and credit to this appropriation, gifts of money, personal property and services, for the purpose of hosting the International Criminal Police Organization's (INTERPOL) American Regional Conference in the United States during fiscal year 1995: *Provided further*, That of the offsetting collections credited to this account, $99,000 are permanently canceled.

In addition, for expenses necessary to implement the President's Immigration Initiative as authorized in H.R. 3355, the Violent Crime Control and Law Enforcement Act of

1994, or similar legislation, $4,695,000, of which not to exceed $1,250,000 shall remain available until September 30, 1996.

In addition, for reimbursement of expenses of the Department of Justice associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed $2,500,000 to be appropriated from the Vaccine Injury Compensation Trust Fund, as authorized by section 6601 of the Omnibus Budget Reconciliation Act, 1989, as amended by Public Law 101–509 (104 Stat. 1289).

CIVIL LIBERTIES PUBLIC EDUCATION FUND

For research contracts and public education activities, and to publish and distribute the hearings, findings, and recommendations of the Commission on Wartime Re-location and Internment of Civilians, pursuant to section 106(b) of the Civil Liberties Act of 1988 (Public Law 100–383), $5,000,000, to remain available until expended.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $75,655,000; *Provided*, That notwithstanding any other provision of law, not to exceed $35,460,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended, *Provided further*, That the sum herein appropriated shall be reduced as such offsetting collections are received during fiscal year 1995, so as to result in a final fiscal year 1995 appropriation estimated at not more than $40,195,000: *Provided further*, That any fees received in excess of $35,460,000 in fiscal year 1995 shall remain available until expended, but shall not be available for obligation until October 1, 1995: *Provided further*, That of the offsetting collections credited to this account, $155,000 are permanently canceled.

AMENDMENT OFFERED BY MR. SCHIFF

Mr. SCHIFF. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SCHIFF: Page 12, line 6, strike "$75,655,000" and insert "$70,157,850".

Page 12, line 7, strike "$40,195,000" and insert "$34,697,850".

Mr. SCHIFF. Mr. Chairman, I have a second amendment which deals with the very next paragraph of page 12. I ask unanimous consent that the amendment which I just offered and my second amendment be considered en bloc.

POINT OF ORDER

Mr. MOLLOHAN. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. MOLLOHAN. Mr. Chairman, I make a point of order against en bloc consideration of amendments on two different paragraphs in the bill, and I think the precedents of the House are clear on that matter.

The CHAIRMAN. The gentleman needs only to object to the unanimous consent request of the gentleman from New Mexico.

Is there objection to the request of the gentleman from New Mexico?

Mr. MOLLOHAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The gentleman from New Mexico [Mr. SCHIFF] has offered two amendments and asked unanimous consent that they be considered en bloc. Unanimous consent is refused for that, and the gentleman may proceed with presenting his first amendment.

The Chair recognizes the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Chairman, I do intend to offer two amendments to this bill if the first amendment is passed. Therefore, I ask my colleagues to consider the two proposals for their final intent, which is to transfer $5.5 million, approximately, from the Antitrust Division of the Department of Justice to the U.S. attorneys in the Department of Justice. Mr. Chairman, I expect that the opposition to my proposal will turn out to be a defense of the Antitrust Division of the Department of Justice. I want to make it clear that I understand the important work of the Antitrust Division of the Department of Justice. In fact, it is currently headed by a very able antitrust attorney from New Mexico, Mrs. Ann Bingaman. If my two amendments are both adopted by the committee, the Antitrust Division will still receive an the bill a 5-percent increase in funding over the appropriation for the last fiscal year. But I raise this amendment as a matter of comparative priorities.

Mr. Chairman, I think that the appropriation committee under the gentleman from West Virginia and our ranking member from Kentucky have done an admirable job in attempting to set priorities in law enforcement, but I believe that there is one glaring example which must be addressed by these two amendments. The proposal in the bill is for the Antitrust Division of the Department of Justice to receive over a 13-percent increase in funding over the last fiscal year. While the U.S. attorney, even with funds from the proposed crime trust fund added in are proposed to receive only a 1.6-percent increase, by moving $5.5 million the Antitrust Division will still receive an increase of 5 percent, and the U.S. attorneys will be moved up only to 2.3 percent. But I feel it is important to narrow the gap between the two divisions.

Mr. Chairman, the emphasis by the President of the United States and by the Congress over and over again in talking about our fight against crime has been in the fight against violent crime, and it is the U.S. attorneys where the rubber meets the road in that fight. They are the front line prosecutors in prosecuting Federal violent crimes and other street kinds of offenses, along with other offenses. An article in USA Today just this week pointed out some problems in the U.S. attorney's office. Admittedly they have had increases in funding over the last number of years. But the number of cases has increased along with that increased funding, and they are still behind in many districts in prosecuting violent crimes, serious drug offenses and other serious crimes.

Mr. Chairman, the House and Senate hope to enact a crime bill this year. I certainly hope that we can reach a conference report that will be adopted by both the House and by the other body. But in both proposals that now exist from the two bodies there are numerous increases in Federal offenses, including Federal death penalty offenses. Who will prosecute these new cases if they become law?

I was a career prosecutor before coming to Congress. I was also a defense attorney for 2 years. I have to say that criminal prosecution remains one of the most labor intensive and nonautomated functions that we have.

□ 1010

No computer, no machine, can interview a witness or cross-examine a witness. No machine can question jurors. These have to be done by people. Positions for people have to be funded. And that is why I offer this amendment. If this amendment passes, I will offer the next amendment.

Mr. MOLLOHAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I oppose this amendment. I think it is particularly misdirected. I would like to point out to this body that, to begin with, our appropriation's bill increases funding for U.S. attorneys a total of $13.2 million. We think that all things considered, this increase gave the office a fair appropriation's level, particularly given our tight budget this year. We understand the important role that the U.S. attorneys play in crime fighting, but we have adequately funded them. We oppose the gentleman's amendment on that basis.

I understand that the gentleman intends, if successful with this amendment, to shift money to the U.S. attorneys from another office, and I think the area where the gentleman is targeting the cut is particularly misdirected.

I cannot think of an account in the bill, a crime fighting account or a law enforcement account, that would be a worse place to take money. The Antitrust Division in 1980 had 982 Antitrust Division personnel. By fiscal year 1989, that number was down by over half, to 509 personnel.

In 1990, President Bush began initiating a gradual expansion of the Antitrust Division.

The workload of this division has increased steadily over the past several years.

For example, since 1992, bank merger proceedings have increased by 43 percent; price fixing cases have increased by 46 percent; proposed merger transactions, Mr. Chairman, have increased by 275 percent; this is not an account that we can afford to cut.

Not only have the number of cases gone up, but the complexity of those cases has increased significantly.

Mr. Chairman, we have an excellent Assistant Attorney General of the Antitrust Division, Anne Bingaman. She has been particularly aggressive, and she is particularly capable. And if you have not had an opportunity to talk with her, my colleagues, about her plans and the way she is running this Division, I encourage you to do so. You will be impressed. She is a public servant who is doing an outstanding job.

She is totally committed to the task of protecting competition, which is critical in our free market economy. It is something I think the gentleman offering the amendment is committed to. She is very aggressive in this regard. As well, she is aggressive with respect to the other side of her job, protecting the consumer. She has undertaken major initiatives, and she needs additional resources.

In the past 10 months, in the areas of mergers, civil conduct, and international enforcement, she has made a very admirable record. She is seeking these additional resources to focus on critical industries such as telecommunications, as that industry matures and emerges. There is certainly a need for additional resources as they look at the complexities of antitrust questions there. Health care, banks, computers, software, financial markets—all of these are growing industries that need additional attention and additional resources. We are fortunate that she is putting together a marvelously capable organization to address these issues.

In order to enhance merger enforcement, especially involving international corporations and unfair trade practices, this bill provides a net increase, Mr. Chairman, of $8.4 million, which expresses our confidence in Mrs. Bingaman and the job she needs to do.

As part of this recommendation, with the support and encouragment of the gentleman from Texas [Mr. BROOKS] and the Committee on the Judiciary, the bill recommends an increase in the Hart-Scott-Rodino premerger filing freeze from $25,000 to $45,000 dollars. My colleagues ought to understand that because of Chairman BROOKS' support, we are able to increase the funding of the Antitrust Division by $8.4 million. And because we are raising an additional $14.8 million, we are able to reduce the overall Antitrust Division's appropriation, saving the Treasury $5.8 million compared to last year, and $1.4 million below the administration's request.

So I will end where I began. I think that this is the exact wrong place to take funds. I would also offer that the committee, recognizing the vital role that its U.S. attorneys play, has been as generous as we could be with our increase, given that our 602B allocation was $1.1 billion below the President's request. We increased the U.S. attorneys by a total of $13.2 million in the bill.

I would hope that the body would vote this amendment down.

Mr. ROHRABACHER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today in support of the proposal of the gentleman from New Mexico [Mr. SCHIFF]. I strongly support the proposal. I do not know of another one of my colleagues who has a better sense of how to control crime and what the challenges of crime to the average American is than the gentleman from New Mexico [Mr. SCHIFF]. The gentleman was a district attorney prior to being elected to Congress, he prosecuted many cases, and he understands the struggle that goes on at the local level in trying to protect our honest citizens. In fact, over the years I have served with the gentleman, he has demonstrated time and time again how he understands this issue, and I always looked to him, as do a number of my other colleagues, for guidance and advice when it comes to criminal justice matters.

Today the gentleman again has demonstrated his wisdom and commitment to protecting the honest citizens of our country, which has to be a No. 1 priority of Government, by suggesting that the priorities of the Department of Justice are a little out of whack. And he has suggested a tangible way of readjusting those priorities by shifting money from the Antitrust Division to the U.S. attorney's offices, which will permit funds to flow into those offices that are most closely involved with the battle against crime and those offices that are directly involved with protecting the well-being and the safety of our citizens across the United States.

The fact that this administration has set up the priorities so that there is a bigger increase in the antitrust section than the U.S. attorney section suggests to me that this administration reflects what those of us who have been complaining about liberal Democrats for a long time have said, that they have got their priorities screwed up, when you have a situation where you are focusing on the businessman, rather than focusing on thugs and rapists and other people who are creating such havoc throughout our country.

This is a decision between spending more money on regulation of business, as opposed to spending more money on controlling crime and the criminal element in America. I wholeheartedly support the proposal of the gentleman from New Mexico [Mr. SCHIFF]. I wholeheartedly support the priorities the gentleman would establish.

Mr. Chairman, I yield the balance of my time to the gentleman from New Mexico [Mr. SCHIFF] to answer some of the suggestions we have had from the other side.

Mr. SCHIFF. Mr. Chairman, I thank the gentleman from California for both his remarks and support, and also for yielding.

I want to say the factual statements made by the chairman, the gentleman from West Virginia, are, of course, true, but I think they have to be put in context. It is true that the number of antitrust cases and antitrust volume of work has increased for the Antitrust Division. But my amendments, if passed together, will still give the Antitrust Division a 5-percent increase in funding, which, I suspect, is above most divisions and agencies in our tight budget.

It is also true that the committee recommends an increase for the U.S. attorneys, but that increase is 1.6 percent, and that is to take care of not only the increase in prosecutions for violent crimes and drug crimes under current laws, but to take care of new offenses we hope to enact this year.

I guarantee, Mr. Chairman, that if we pass a crime bill with a 1.6-percent increase only for the U.S. attorneys, the laws we pass will just sit on the books unenforced.

☐ 1020

Mr. BROOKS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I must oppose this amendment. Bear in mind that the Antitrust Division is an integral part of Federal law enforcement. It must be adequately funded to effectively perform its mission, which is to protect our cherished economic system of vibrant competition and consumer choice. The antitrust laws have rightly been proclaimed the Magna Carta of American free enterprise.

The policies of the two previous Republican administrations left a legacy of budgetary pressures throughout the Government, from which the Antitrust Division has never recovered. Its funding was cut by more than a third during those years, and by 1992 its staffing was 38 percent below 1980.

Meanwhile, funding for other programs increased. For example, funding for U.S. attorneys doubled during the Reagan years and increased another 70 percent during the Bush years. In 1992 staffing was a whopping 120 percent above 1980.

Mr. Chairman, the Antitrust Division's increase results, not from cuts in other Federal programs, but from a new hike in the merger filing fee under Hart-Scott-Rodino. The Division's appropriations from the general treasury is actually being cut $5.8 million.

Anne Bingaman, the head of the Antitrust Division, has invigorated and revitalized that Division after a sluggish period of enforcement. Under her leadership, the Division is zeroing in on foreign violators of U.S. antitrust laws, who have previously had carte blanche to rape the American economy. Taking this money from the Division now will stop in mid-stream this extremely critical effort to assure that foreign business complies with the same laws in this country as do our own businesses.

I urge the House to oppose this effort to further cannibalize the Antitrust Division. Vote no on the amendment.

Mr. FISH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think my colleague from New Mexico knows the high respect in which I hold him, and particularly in the areas that concern or committee with respect to the criminal justice system.

And certainly, staffing of the U.S. attorneys is a matter that should be periodically reviewed and, of course, it has been reviewed by the Appropriations Subcommittee.

My problem is that my colleague's amendment increases funding for the U.S. attorneys at the expense of the Antitrust Division.

Now, colleagues, it is not as if the U.S. attorneys have been shortchanged over the years. The record shows very generous congressional treatment of the U.S. attorneys. And if my figures differ slightly from the chairman, it is simply because we are using different years.

In 1980, a total of $156 million was paid out for U.S. attorneys, total staff of 3,906; 13 years later, by 1993, there had been a 230-percent increase in funding in constant 1980 dollars and 131-percent increase in total staffing.

The record shows exactly the opposite with respect to the Antitrust Division. Today the Division has 311 lawyers. In 1980, it had 456 lawyers. And, my colleagues, at the peak of the Nixon administration, 1972, there were more lawyers in the Antitrust Division than there are today. The total then was 325.

No one here disputes that prosecution is central to law enforcement. It is also true that the Antitrust Division is crucial to our competitiveness. The Division protects competition in critical industries, reviews mergers and investigates allegations of anticompetitive conduct. It is also true that the Antitrust Division is responding to developments today that will require a very competent Division.

They will have new responsibilities very soon when this body acts and passes telecommunications legislation reforming basically our entire system. We are also actively moving in the direction advocated by former Attorney General Barr, and that is antitrust violations overseas, a whole new area of enforcement for the Department.

Mr. Chairman, I maintain that antitrust enforcement is good for the economy. And today, in a far more complex global economy, it is foolhardy not to have in place an Antitrust Division competent to respond.

We are at the threshold, not just of an expanding economy but of new responsibilities for the Antitrust Division, and this would be just the very wrong time to be cutting back on the staffing and the funding of the Division.

Mr. HUGHES. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I, too, rise in opposition to the Schiff amendment. I want to first of all congratulate the distinguished gentleman from West Virginia on, I think, his maiden voyage to the House as chairman of this appropriation subcommittee and wish him well and congratulate his ranking member for, I think, an excellent bill.

I serve with my colleague, the gentleman from New Mexico, on the Committee on the Judiciary. He is one of the valued members of my own particular subcommittee, the subcommittee I am privileged to chair, which deals with intellectual property and judicial administration. As such, one of our responsibilities is to oversee the operations of U.S. attorneys' offices and to authorize their budgets. And my colleague from New Mexico works very closely with us in attempting to address their issues.

I do not disagree with the gentleman from New Mexico [Mr. SCHIFF] when he says that we need to be very vigilant in ensuring that U.S. attorneys have adequate resources. They have had. They have received, as my colleague, the gentleman from New York [Mr. FISH], just indicated, very substantial increases.

And it was merited, because we have given them a lot of additional responsibilities. I did not realize that my colleague from New Mexico had such great concerns about the inadequacies of the U.S. Attorney's Office. He certainly did not discuss it with me, and we have prime responsibilities as an authorizing committee for their work.

I would also feel a little better if my friend, and he is my friend, the gentleman from New Mexico [Mr. SCHIFF], appeared before the Justice Appropriations Committees and testify to the inadequacies of that particular account. He did not, apparently. That is how we attempt to get more resources in the office of the U.S. attorney, is by appearing before those committees that appropriate those monies. And he did not do that.

What he does do, however, is come to the floor of the House and try to shift moneys from the Antitrust Division at probably one of the worst times to do that. He knows that during the 1980's, the Antitrust Division was decimated. They went from 456 attorneys in 1980 down to, with this mark, with the present mark, we are going to be at a level of 340. We are still below where we were in 1980, substantially below what we were previous to 1980, at a time in our history where we see a major restructuring of industries.

□ 1030

I see the gentleman from Massachusetts [Mr. MARKEY] on the floor.

The telecommunications industry is undergoing a major transformation. We are seeing major changes in the manner in which our Bell operating companies are involved in all kinds of additional services, including the cable industry.

Major realignments are taking place in the health care industry, where there are absolutely mind-boggling antitrust issues that we are going to have to address, and we are going to need the best of leadership that we can get out of the Antitrust Division.

Anne Bingaman, I think even the gentleman from New Mexico [Mr. SCHIFF] concedes is probably one of the finest heads of that department we have seen in many, many years, and she is assembling a professional staff that is second to none. We saw so many mergers slip by in the 1980's, unfortunately, that did not receive review because we had an inadequate Antitrust Division.

Mr. Chairman, historically Democrats and Republicans have taken the well of this floor to fight for more antitrust enforcement, because that is the Holy Grail, really, of our free enterprise system, competition. I realize there are a lot of big corporations and foreign corporations out there that do not want to see us rebuild this particular Antitrust Division because they know it spells disaster for them as they try to achieve an unlevel playing field. If we are going to do a better job in identifying foreign governments and foreign corporations that basically flout our antitrust laws, we are going to have to have a strong Antitrust Division.

I say to my friend, the gentleman from New Mexico [Mr. SCHIFF], I understand why he wants to build up the U.S. Attorney's Office. I do, too. I do not want to see us basically lose ground there, but they have not lost ground.

I am working with the gentleman in attempting to get the resources the U.S. Attorney's Office needs, but we cannot take it away from the Antitrust Division at this time in our history. I hope Members will defeat the Schiff amendment.

Mr. DOOLITTLE. Mr. Chairman I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. I thank the gentleman for yielding to me.

First of all, Mr. Chairman, I have to respond to the gentleman from New Jersey [Mr. HUGHES], with whom I have worked very closely on the Committee on the Judiciary, and with whom I share a very high regard, that I did bring law enforcement to the attention of the appropriations subcommittee. I circulated a letter among my colleagues in which 35 other Members of the House, both Democrats and Republicans, joined me in asking the appropriations subcommittee to keep law enforcement of violent crimes as the top priority. I have to assume that the gentleman from New Jersey's office for some reason did not receive my request for his signature on that letter.

Mr. Chairman, second, I have to say, in deference to the subcommittee, to the gentleman from West Virginia [Mr. MOLLOHAN], and to the ranking member, the gentleman from Kentucky [Mr. ROGERS], very largely they did exactly that. There were initial proposals, for example, to reduce the staffing at the FBI and DEA, Drug Enforcement Administration, that the subcommittee reversed. I think they are to be commended strongly for that.

However, Mr. Chairman, I still think this item is a glaring exception to establishing correct priorities. As I predicted at the beginning of the debate, Mr. Chairman, the basic opposition to my two amendments is a passionate defense of the Antitrust Division.

I do not quarrel with that defense of the Antitrust Division. Indeed, if my amendment passes, or if my two amendments pass, I should say, Mr. Chairman, the Antitrust Division will still receive a 5 percent increase in funding over the last fiscal year. The U.S. attorney's increase will be less than 2.35 percent. That is with my transfer. Right now the proposal is more than 13 percent increase for the Antitrust Division, less than 2 percent for the U.S. Attorney's Office.

Mr. Chairman, the percentage of increase, even if my amendments are adopted, will still give the Antitrust Division a significant increase over their funding over the current fiscal year. Here is the point, Mr. chairman. The point is the priorities. It is true that the Antitrust Division's work load has gone up. It is also true that the U.S. Attorney's Office's work load in violent crimes and serious drug offenses has gone up.

Mr. Chairman, equally significant with that, we are poised to pass a new anticrime bill with a variety of new offenses: new death penalties, new life in prison without parole for career serious criminals. The U.S. Attorney's Office, and not the Antitrust Division, is responsible for enforcing those new laws, those new laws if they become enacted.

Mr. Chairman, I share the priority as stated by the President of the United States. The President in public statements right here in this Chamber, Mr. Chairman, to a joint session of Congress, as well as numerous statements throughout the country, the President has said that our priority must be to combat violent criminals. The President has never, to the best of my knowledge, made any public statement that he is concerned about the effect of a smaller increase or the effect at all on the antitrust Division.

In other words, Mr. Chairman, the President has never said that "We are afraid of being mugged by a bunch of antitrust violators." Although I acknowledge the important contribution of the Antitrust Division, I think they should get an increase, but I think our first priority, as best we can, should be on the U.S. attorneys who will prosecute the violent criminals.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent and at the request of Mr. HUGHES, Mr. DOOLITTLE was allowed to proceed for 3 additional minutes.)

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from New Jersey.

Mr. HUGHES. I say to my colleague, the gentleman from New Mexico, that I appeared before the Subcommittee on Commerce, Justice, State, and Judiciary to testify for additional resources for law enforcement. My colleague, the gentleman from New Mexico [Mr. SCHIFF], if he had some serious concerns about the U.S. attorney's office, could have joined me in my appearance before the Committee on Appropriations. That is how we get resources for additional law enforcement efforts.

In this particular legislation, Mr. Chairman, I believe there is a little over $13 million additional dollars for U.S. attorneys. The gentleman from New Mexico [Mr. SCHIFF] is a member of the crime conference committee, as I am. I would be happy to work with the gentleman from New Mexico in attempting to get the additional resources, if we can identify them, for U.S. attorneys.

That is how we get additional resources for U.S. attorneys. We do not take it away from an Antitrust Division that is already inadequate. A 5-percent increase of a totally inadequate staff level is still very inadequate. We still are inadequate where we are with the monies, the increases, in this bill for antitrust. That is the point that I think most of us are trying to make on both sides of the aisle, the gentleman's side of the aisle and mine.

I thank the gentleman for yielding to me.

Mr. MARKEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from New Mexico [Mr. SCHIFF].

I want to compliment the gentleman from West Virginia [Mr. MOLLOHAN]. I think the leadership he has shown in putting in this additional money for the Antitrust Division is a historically correct decision. It reflects a consensus which we have developed in this country throughout this century, that vigorous competition in the marketplace is the ultimate protection of consumers.

The gentleman from West Virginia, the chairman, I think reflects the views which the gentleman from New Jersey [Mr. HUGHES] and the gentleman from Texas [Mr. BROOKS] have already made quite correctly out here on the floor.

Mr. Chairman, Teddy Roosevelt, a Republican President, spins in his grave as he hears this debate out here on the floor of Congress. Ann Bingaman, the Assistant Attorney General, is a direct lineal descendent of Teddy Roosevelt and his trust busters in the early part of this century.

When commercial cartels are able to control a particular marketplace, it not only hurts the other competitors in that marketplace, but it ultimately hurts the consumer in the United States and our ability to be competitive in the global competitive marketplace.

The increase in the budget which the gentleman from West Virginia is recommending out here on the floor today still does not restore the budget to where it was in the early 1970's, but nonetheless, it will augment the capacity of this Attorney General, of this Assistant Attorney General, Ann Bingaman, to fight the critical battles that will have to be fought in the 1990's.

Mr. Chairman, I stand here today to tell the Members that without a vigorous Antitrust Division, there would be no significant competition in the telecommunications marketplace today. Without the breakup of AT&T, without the dissolution of that monopoly, which had been constructed over a century, we would not be bringing out legislation this coming Tuesday with Bell South, with US West, with Southwestern Bell, Nynex, PacTel. We would not be bringing it out with MCI and Sprint. We would not be bringing it out with hundreds of competitors in this telecommunications industry which have all been spawned since the early 1980's as vigorous competitors to AT&T.

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We would still have for all intents and purposes one wire in America controlled by one company and one vision of one set of executives. We would not have seen a radical decline in the cost of long distance service in this country. We would not have seen a marketplace now where seven other competitors in regions across this country from PacTel and Bell South to Nynex and Southwestern Bell, now all competing with different visions of where this country should go in communications, all possible because of the Antitrust Division.

In cable, in long distance, in local, in information services and manufacturing, we are now seeing new competition emerge. At the same time we see new announcements: AT&T merging with McCaw British Telecom with MCI, Liberty Cable with TCI. We need an Antitrust Division that can keep pace with the ever-emerging challenges to this vigorous marketplace which we have created.

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield for a question?

Mr. MARKEY. I am glad to yield to the gentleman from California.

Mr. ROHRABACHER. Does the gentleman sense an outcry among the population throughout the United States, a cry from the people for more antitrust a legislation and enforcement? Or does the gentleman instead hear a cry, a plea for help from our citizens that they are being victimized by violent criminals?

Is that not what this debate is all about, is what priorities we have? Not eliminating the department the gentleman is talking about, not eliminating antitrust. My friend, the gentleman from New Mexico [Mr. SCHIFF], has no complaint about antitrust enforcement at all. He is just saying that the priorities are different.

Does the gentleman sense the American people do not want a priority on violent crime?

Mr. MARKEY. I will reclaim my time, and I will make this point as strongly as I can. The gentleman is setting up a Hobson's choice which the American people do not want to have to make and should not have to make. That is, that they should have very strong antitrust enforcement against monopolists who ratchet up prices, tip consumers upside down, shake dollars out of their pockets and do not give them the proper choices which they need, at the same time ensure that violent criminals are put behind bars.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. MARKEY] has expired.

(By unanimous consent, Mr. MARKEY was allowed to proceed for 2 additional minutes.)

Mr. MARKEY. It is that kind of false choice that masks what is really behind us. The real agenda here is to ensure that monopolists are able to recreate the kind of economic cartels which for this century have been the primary target of the antitrust division of the Justice Department. Those are the primary enemies of every consumer in America.

Mr. Chairman, I just mentioned the telecommunications industry here, but we could go on down the long litany of industries in this country, all of whom have an eagle eye on that Antitrust Division of the Justice Department at all times. Ultimately consumerism in this country is the byproduct of vigorous competition in the marketplace. If the gentleman for a minute thinks that the hundreds of thousands of companies, small, across this country that serve as the lifeblood and the creation of new jobs in this country could exist without a very strong antitrust division, then he misunderstands the American economy. If he thinks the consumers will have lower prices and better quality if the Antitrust Division is less vigorous, he misunderstrands the American economy. If he thinks that we should hand over to a small group of industry giants the economic agenda of this country, then he can side with the big business, but the small business agenda of this country, the 80 percent of the companies in this country that create 90 percent of the new jobs and force down prices and increase quality, then he should vote against this amendment. That is what this is all about. It is all about whether we want more economic concentration or we want more vigorous competition out in the marketplace to benefit the consumer.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I am glad to yield to the gentleman from New Jersey.

Mr. HUGHES. I do not think our colleague, the gentleman from California, wants to align himself with the major monopolists of this world, but let us get it back on track again, also.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. MARKEY] has again expired.

(On request of Mr. HUGHES and by unanimous consent, Mr. MARKEY was allowed to proceed for 1 additional minute.)

Mr. HUGHES. Mr. Chairman, if the gentleman will continue to yield, Members on the other side keep referring to muggers and rapists. We are talking about U.S. attorneys. They do a very, very important job. We work with them very closely. But they do not prosecute muggers and rapists. Ninety-five percent plus of the street crime is prosecuted by State and local government, not by U.S. attorneys. So, come on. Let us be honest about it.

Mr. MARKEY. Mr. Chairman, I reclaim the balance of my time.

Oppose this amendment. Small business want a no vote. A competitive marketplace wants a "no" vote. The consumers of America want a no vote on the Schiff amendment. It is the only way that we can be sure that we are going to guarantee a competitive marketplace.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. MARKEY] has again expired.

(On request of Mr. SCHIFF and by unanimous consent, Mr. MARKEY was allowed to proceed for 2 additional minutes.)

Mr. SCHIFF. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, this is still a debate about priorities. The more we increase the antitrust division of the Department of Justice, the more antitrust legal work that will be done. The more we increase the U.S. attorneys, the more violent crimes that will be prosecuted. It is true that the majority of violent crimes are still prosecuted by local prosecutors. Nevertheless, the U.S. attorneys enforce all Federal crimes involving a firearm. They even enforce Federal gun control laws. Further, the U.S. attorneys enforce Federal crimes against serious narcotics traffickers. What this is about is a choice between where we should place our priorities. It is not a matter of criticizing the antitrust division or any other portion of the Department of Justice. I am proposing an amendment that will change the priorities to say that instead of the antitrust division getting a 13-percent increase, they will get a 5-percent increase. Instead, they will be up to a 2.3-percent increase.

Mr. Chairman, with the existing laws we have on the books and with the increased violent crime measures we have already voted in this House to pass, somebody has to enforce those laws.

Mr. MARKEY. Mr. Chairman, I will reclaim my time at this point.

Mr. Chairman, the one mugging that 80 percent of most Americans have to worry about occurring in their lives over the next year is when monopolistic corporations tip them upside down and try to shake dollars out of their pockets. As they sit home in their suburban homes, their threat is less from a mugger than it is from a corporate cartel intent on overcharging them or breaking up some small company that they work in.

Mr. Chairman, this is a balance we are talking about here. We are having the largest increase in funding for fighting violent crime in the history of this country, but we should also ensure that we have proper protection for consumers in this country at the same time.

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if I can muster enough voice today, I want to rise as a conservative Democrat in opposition to this amendment.

If there are two enemies to the free enterprise system in America, the first is overzealous government regulation, but the second is monopolistic dominant market practices by dominant players and monopolies in our country. If we are to avoid a condition on this House floor where Members seek to reregulate industries in this country that we have fought desperately to return to the free market system, if we are to avoid overzealous government regulation of industry and business in our country, we most certainly need a watchdog agency at the Department of Justice ensuring that monopolistic, predatory practices by dominant monopoly players in our society are not allowed to stand.

Just last year in this Congress we debated a historic bill that re-regulated the cable industry. We should not have had to do that. We should not have had to come on this House floor and ask for new regulations on an industry as important as the cable industry. We had to do it because over the last 10 years, the Justice Department failed in its duty to this country to protect us from monopolistic practices. It was the lack of competition, the failure of the Justice Department to vigorously engage the vertically integrated monopolists in the cable industry who forced us to come to the floor and ask for a re-regulation of the cable industry.

Mr. Chairman, if my conservative brethren on the other side really want to avoid those instances where the Congress must come forward and reregulate, reinvigorate the regulators in American government agencies, then I suggest we ought to support a reinstitution of support to the antitrust division of the Justice Department and we ought to insist that it does its job. If Members are a defender of free enterprise, if Members believe in it as heartily as I know they do on the other side, I ask them to join with us in opposition to this amendment.

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If you want to support more support for the Criminal Justice Division of the Justice Department, we will join you in that effort. But I suggest you find another place to find the funds.

If ever the free enterprise system was threatened in America, it is threatened in America today as much from monopolist vertically integrated companies as it is from government regulation. I suggest to you that unless we pay close attention, unless we invigorate the Justice Department's attention to the efforts to prevent monopolies from developing in our society, all we will be left with is more and more efforts on the floor of this House to reregulate, in fact, to stick more regulations on business than they currently are burdened with and than they currently must comply with.

I suggest to my friend, come with an amendment to help us support more money for the Justice Department at the criminal law level, and we will help you with that. But do not take it out of this Department. This Department, as the chairman of the Committee on the Judiciary has stated on this House floor, has suffered too many cuts over the last 10 years.

This effort today is a small effort at restoring the capability by the Justice Department protection of the free market system by prevention of monopolistic dominant predatory practices of vertically integrated companies who should not be preying on smaller companies who are trying to give us competition, trying to give consumers choice in the marketplace.

I urge you, please, to defeat this amendment.

I yield to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Would the gentleman suggest that when we have this era when we have limited resources and where we spend those resources definitely indicates our priorities, then you would suggest then if we do have limited resources that the priorities should not be on violent crime but instead should be on this regulatory function?

My friend, the gentleman from New Mexico [Mr. SCHIFF] was a district attorney, fought crime locally, and pointed out that the only way the Federal Government does fight violent crime is through the U.S. Attorney's Office, and pointed out how it does that, that you think that now with these limited resources that we have that our priorities should be set on the regulatory task of Government rather than violent crime?

Mr. TAUZIN. Reclaiming my time, the gentleman will agree with my friend that high priority in the allocation of Federal funds ought to go to fighting crime. I and other conservative Democrats would join you in that effort.

What we are suggesting to you is that over the period of the last 10 years, which has seen more consolidation of businesses, more vertically integrated businesses the introduction of foreign businesses into the American economy at ever and ever greatly increasing rates, the gentleman suggests that the emphasis must be placed at the antitrust division as well to protect the consumers and free market system.

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. TAUZIN] has expired.

(At the request of Mr. MOLLOHAN and by unanimous consent, Mr. TAUZIN was allowed to proceed for 30 additional seconds.)

Mr. MOLLOHAN. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from West Virginia.

Mr. MOLLOHAN. Mr. Chairman, to the extent that there have been created an illusion that this bill does not apply Federal resources to fight violent crime, I want to clear that up.

This bill provides $2.4 billion of Federal funds, the lion's share of which goes to reinforce the front lines in the fight against crime. This bill funds 39,000 community policy officers and we increase the Border Patrol by over a thousand. This bill provides significant Federal funding to fight violent crime.

I would not want the impression lingering here that it does not.

Mr. KOLBE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not believe I would use the entire 5 minutes, but I know that the gentleman from New Mexico [Mr. SCHIFF] would like to make a final comment.

Mr. Chairman, I yield to the gentleman from new Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Chairman, I thank the gentleman for yielding to me.

I will be very brief and not use the whole 5 minutes.

This debate comes down still to a matter of priorities.

The President of the United States across the country said our major enemy is violent criminals. The President has not told the American people that our major opponent is antitrust violators, although I certainly agree that they should receive priority in prosecution and investigation.

My amendments would still leave them doing so. I am convinced, however, that if we keep up with the current increases in cases in violent crime and in addition to that pass new Federal laws making new Federal violent crimes, new Federal death penalties, and combine that with a 1.6-percent increase to the U.S. attorneys, which is where all of these cases go; every single case in Federal court in the street crime area basically goes to the U.S. Attorney's Office, if their offices cannot handle it, everything we are talking about with respect to a crime bill, everything the President is talking about with respect to a crime bill simply will not happen.

Mr. KOLBE. Reclaiming my time, I thank the gentleman for his comments and would just say that I think that he has touched on a very important point, one that I have expressed a lot of concern with both in our Committee on Appropriations, in the hearings we have had, as well as in the authorizing legislation, and that is our tendency to federalize so many crimes.

I disagree with that, but as long as we are doing that, we have to have the resources to prosecute these crimes that we are federalizing.

In one area that I am very aware of, both the health care fraud as well as the rising violent crimes on Indian reservations, 100 percent of which are prosecuted by Federal U.S. attorneys, we have severe problems, I know, in my own State and the inadequacy of the U.S. attorneys.

It is, as the gentleman from New Mexico [Mr. SCHIFF] said, a matter of priorities, and in this case, I think our priority really needs to be in the U.S. Attorney's Office, and I think there is merit to the proposal that he has made here.

Mr. COX. Mr. Chairman, I move to strike the requisite number of words.

I rise in strong support of the amendment offered by my colleague, the gentleman from New Mexico [Mr. SCHIFF], and I would make 2 points.

First, he is being modest in what he is proposing here. Even if the Schiff amendment passes, we are still giving a rate of increase to antitrust enforcement that is double the rate of increase that we would be giving to those who are actually fighting violent crime. Frankly, I think that this approach is overmodest.

I would like just to put real emphasis on fighting crime. But what is being proposed as things now stand is that fighting violent crime will be increased less than 2 percent, less than 2 percent, and 13 percent, 13 percent, increase will go to the antitrust division.

Now, there is a big distinction between fighting antitrust violations and prosecuting violent felons. If the Justice Department does not bring a marginal antitrust case, there is a private civil right of action that private parties can bring to do exactly the same thing. Computer companies are perfectly free to sue each other, and they often do.

But the individual citizens rely upon the government to protect and defend them against violent crime and self-help, at least technically, is illegal. It is ironic that private security is one of the fastest growing industries in America right now, because people simply cannot count upon the government to protect them against crime.

It is ironic even in an election year when people are talking about our commitment to fighting crime that we put so many billions of dollars for welfare programs in the crime bill, and here where we have a chance to fund the U.S. attorneys who are on the front line of fighting violent crime, we shortchange them.

I was reading with dismay in the newspaper the other day, when I saw the Justice Department has accepted a referral to investigate whether the Catholic Church is not perhaps violating the antitrust laws in its pricing of catechisms. Now, perhaps there is a fine lawyers' argument here. But quite frankly this is not what the American people are demanding their tax dollars be used for. They want what the gentleman from New Mexico [Mr. SCHIFF] wants, and that is a tough law enforcement program.

One of the reasons that everybody is watching with fascination, grisly though it is, the O.J. proceedings is that they are no longer certain after having seen what happened in, for instance, the Menendez brothers' trial, that our system is capable of apprehending and prosecuting and convicting violent felons and making those convictions stick and seeing the sentences executed.

We have got to get serious about crime, and a vote against the Schiff amendment will show that this Congress simply is not serious.

I congratulate my colleague.

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. COX. I yield to the gentleman from California.

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Mr. ROHRABACHER. Mr. Chairman, I would just like to note that again the gentleman from New Mexico [Mr. SCHIFF] has made it clear that he is a strong supporter of the Antitrust Division of the Department of Justice.

I would like to just note for the sake of discussion today that in a global economy when we have more and more foreign competition coming into our country, there is more and more competition; our friends on the other side of the aisle would have us believe that corporations are holding us up and shaking money out of the pockets of consumers. The consumers I know are less afraid of that then they are afraid of walking down the street going into the store in the first place because they are being mugged, they are being raped, and they are being murdered. We heard earlier about Teddy Roosevelt turning over in his grave if he heard this discussion.

The only people turning in their graves today are the victims of violent criminals who are victimizing the people of this country. We have got to set priorities at this time with limited resources. Mr. SCHIFF is in a very reasonable way suggesting that, yes, let us increase our enforcement of the antitrust laws but at the very least we should also make sure the U.S. attorneys who are involved in combating violent crime have a commensurate increase, an increase that suggests we have a priority here and we understand the pleas of our constituents who are saying, "Do something about violent crime," and are less concerned about perhaps when they get to the marketplace being shaken down as the fact that they are not even safe on the way to the market in the first place.

Mr. COX. I thank the gentleman from California.

I would just summarize by saying that what is at stake in the Schiff amendment is noting more or less than $5.5 million. The question is can we take $5.5 million from the largesse that is being extended to antitrust in a 13-percent increase and give it to fighting violent crime so we can at least have a 2.3-percent increase in fighting crime.

Mr. RICHARDSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will be very brief and make just three points.

First, in a comparison of constant 1980 dollars: between 1980 and 1993, the Antitrust Division of the Department of Justice had their budget cut by 28 percent and expense of a staff cut of 40 percent. On the other hand, in the U.S. attorney's office during the same period, 1980 through 1993, they benefited from a 230-percent increase in budget and a 137-percent increase in staff.

The second point I wish to make is that the Associate Attorney General for the Antitrust Division is Anne Bingaman, a New Mexican. If you read the major publications and you talk to attorneys, Members of Congress, and others who have dealt with Anne Bingaman and her Antitrust Division, you would see that she is doing an outstanding job, that she is fair, that she is hard-working, that she is honest, that she reaches out to Republicans and Democrats, and that her Antitrust Division has made a major difference already.

Mr. MOLLOHAN has already made many tough cuts, but we must keep these appropriations numbers for the Antitrust Division in order for Anne Bingaman to effectively do her job in the areas of merger enforcement, continuing investigations of international firms, continuing a program of providing guidance to health care, telecommunications, intellectual property, defense and other major industries and insure that we have a strategy on national and international criminal price fixing.

Mr. Speaker, my good friend and colleague, the gentleman from New Mexico [Mr. SCHIFF], is offering this amendment; he is an outstanding member of the Committee on the Judiciary and has a great deal of law enforcement background. I have supported him on many initiatives, but regrettably, on this one I think it makes sense to stay with the chairman's mark. In so doing the House of Representatives will send a strong message that it agrees with the work of Anne Bingaman, the Associate Attorney General, who as I mentioned, is doing an outstanding job.

Mr. Chairman, I include the following articles.

[From The New York Times, May 27, 1994]

UNITED STATES SUES BRITISH IN ANTITRUST CASE: A SETTLEMENT IS REACHED—STRATEGY FOR JAPAN SEEN

(By Keith Bradsher)

WASHINGTON, May 26.—Signaling a new tactic in the Clinton Administration's trade policy, the Justice Department won a settlement today from a British company that keeps the company from preventing American competitors' doing business overseas.

The antitrust suit against Pilkington P.L.C., the world's largest maker of flat glass, accused the British company of monopolizing the technology for making sheets of glass like those used in windowpanes or car windshields. The Justice Department argued that Pilkington fell under American legal jurisdiction because it owns 80 percent of an American glassmaker, the Libby-Owens-Ford Company.

The case had little to do with the glass market in the United States; instead it sought to insure that American companies could freely operate abroad.

Justice Department officials would not say whether they planned such antitrust cases against Japanese companies, in connection with the Clinton Administration's effort to open Japanese markets to American business. But they did say that other investigations of foreign companies were under way.

"As we received information of a similar nature, we will aggressively pursue it," said Robert Litan, a Deputy Assistant Attorney General in the antitrust division.

The Japanese Embassy here quickly denounced the new tactic as a violation of international law.

"We have expressed our concern over the change because it constitutes the exercise of extraterritoriality, which is a violation of international law," said Seilchi Kondo, the embassy's press secretary. "Today's action will raise further concern over this among all the United States' trading partners."

The British reaction was restrained. "We've noted the settlement, but it's really a matter for the Department of Justice and Pilkington," a British diplomat said today.

The settlement with Pilkington, which was filed by the Justice Department simultaneously with the lawsuit late Wednesday, "is the first under a 1992 policy change that permits the department to challenge foreign business conduct the harms U.S. export trade," Attorney General Janet Reno said.

That change was made by the Bush Administration, which reversed a four-year Justice Department policy of avoiding such cases. But the Bush Justice Department never filed any cases, although it did start the investigation into Pilkington.

The department has seldom interpreted American antitrust law so broadly, partly because of objections from the State Department that such cases would hurt relations with allies.

Pilkington in the late 1950's developed and patented its technology for producing flat glass and required licenses for the right to use the technology. It limited the licensees to a certain geographical area in their home countries.

Although many of Pilkington's patents have expired, the company has continued to require the licenses, contending that its production processes are protected by law as trade secrets. Virtually all of the world's glass factories operate under Pilkington licenses, including plants in Russia and China.

In announcing the settlement today, Ms. Reno said Pilkington had agreed that much of its technology is in the public domain.

Fines Not Involved

No financial penalties were imposed and Pilkington denied any wrongdoing.

But the settlement requires the company to drop its rule that American concerns cannot build factories outside the territories in the United States assigned in their licenses, and to State that some of Pilkington's technology is now publicly available.

One of Pilkington's eight American licensees, the Guardian Industries Corporation, won the right in a lawsuit eight years ago to several territories in Asia and Eastern Europe. But the seven other companies have been barred until now from going abroad, said K. Craig Wildfang, the Justice Department lawyer who filed the case.

Settlements without monetary damages are not unusual. The Justice Department broke up the old Bell System a decade ago that way.

But today's action is significant because of the American assertion of legal jurisdiction over how business is done in the rest of the world.

Ms. Reno said Pilkington fell under American legal jurisdiction because of its 80 percent ownership of Libbey-Owens-Ford, which is the second-largest American flat-glass maker. Mr. Wildfang said that even if Pilkington had not owned Libbey-Owens-Ford, the Justice Department would still have had jurisdiction through another subsidiary, Pilkington Holdings Inc., in Toledo, Ohio.

The case was filed in Tucson, Ariz., because the court there had already ruled in other cases that Pilkington P.L.C. was legally the same as Libbey-Owens-Ford and Pilkington Holdings, Mr. Wildfang said.

The settlement reached requires court approval.

It is virtually impossible for a international company to do business in the United States without setting up operations here, and the Justice Department is now asserting jurisdiction over the parent company through such subsidiaries.

Japanese officials have objected to this since the Bush Administration began considering such a move two years ago, Mr. Kondo of the Japanese Embassy said.

[From the Wall Street Journal, June 16, 1994]

MCI'S ALLIANCE WITH BRITISH TELECOM CLEARS HURDLE; SPRINT DEAL FACES FIGHT

(By Wall Street Journal reporters Mary Lu Carnecale in Washington and Richard L. Hudson in London)

After a year of U.S.-British skirmishing, the Justice Department cleared the proposed alliance of MCI Communications Corp. and British Telecommunications PLC, but signaled that Sprint Corp.'s newly announced transatlantic deal faces tough sledding.

The Justice Department's action—which came in the form of an antitrust lawsuit and a proposed consent decree that requires approval of a federal district court in Washington—paves the way for BT to make a $4.3 billion investment for a 20% stake in MCI later this year. The companies also will jointly operate a venture named Concert to provide telecommunications services to international companies.

The lawsuit, which named only Washington-based MCI and the joint venture, charged that the alliance could give BT an incentive to favor MCI over its U.S. rivals with better or cheaper connections to BT's network. While BT faces some competition in the United Kingdom, rivals generally don't have another network they can use to complete calls.

The proposed settlement aims to prevent BT from discriminating against other U.S. long-distance carriers. To that end, MCI and Concert promised to disclose to the Justice Department rates and other details of agreements to hook up to the BT network; the department can share the data with other U.S. carriers, which would face limits in making the data public.

STATE-OWNED MONOPOLIES

In announcing the action, the Justice Department signaled possible difficulties for Sprint as it tries to forge an alliance with France Telecom and Deutsche Bundespost Telekom; the two state-owned monopolies plan to invest $4 billion for a 20% stake in Sprint, based in Westwood, Kan.

In a news release, Anne Bingsman, assistant attorney general in charge of the antitrust division, said that "in the increasingly global economy, vigorous antitrust enforcement is critical to guaranteeing U.S. consumers the benefits of competition in international markets." She called the proposed decree "an example of how U.S. antitrust laws can be used to help protect U.S. competition from mergers that threaten the misuse of foreign monopoly power."

Steven Sunshine, deputy assistant attorney general, declined to comment on other proposed alliances, including the Sprint plan. But he said that "part of the reason why we think this decree works is that the U.K. has a fairly open telecommunications market and has a regulatory regime in place that believes in equal access," meaning that all telephone companies could connect with the BT network on equal terms and conditions. Without that degree of openness, he said, "we very well may have reached a different conclusion."

GREATER ACCESS IN U.K.

Unlike in Britain, where BT's monopoly was abolished in 1984, in France and Germany basic voice telephone service will remain a legal monopoly of the state phone companies until 1998.

In April, U.K. regulators helped push the BT–MCI plan toward approval by providing greater access by U.S. phone companies to the U.K. market. While declining to comment on the government-to-government discussions, BT Chief Executive Michael Hepher in an interview expressed "a sense of relief that we finally got over the last big hurdle" to starting the venture.

Gerald Taylor, president and chief operating officer of MCI Telecommunications Corp., a unit of MCI, said the Justice Department requirements "didn't change the deal at all," and that MCI and BT spent much of the past year ironing out a definitive agreement and legal issues.

Concert, which will be 75%-owned by BT and 25%-owned by MCI, opens with 700 to 800 employees and will receive investment of about $1 billion over "the next few years" from its two parents, Mr. Hepher said. "The biggest single component" of the $1 billion will go toward buying telephone exchanges, and installing and leasing long-distance lines for its international customers, he said.

Counting just the equipment and customers BT is contributing to the venture, Concert today claims 4,600 "access points" in about 30 countries for clients to plug into the BT–MCI's network. The venture is developing standardized software and product portfolios to promise customers—more than half of which are based in the U.S. or U.K.—uniform services for voice and data communications around the globe.

The BT–MCI alliance is one of four major phone-company partnerships girding for a global battle over the communications budgets of the world's international corporations. In addition to the Sprint plan announced on Tuesday, AT&T Corp. of New York leads another alliance, and the Swiss, Swedish and Dutch phone companies have also formed a venture.

Despite the restrictions, AT&T complained that the proposed decree fails to protect MCI's rivals. Among other things, AT&T said that "U.S. carriers can never have a level playing field to compete in the U.K. without the ability to own international facilities."

AT&T is certain to press its points as the transaction goes through final clearances. Approval still is needed from the Federal Communications Commission and the European Union Commission—though Mr. Hepher described those as unlikely to be "particularly troublesome" following the Justice Department's action. The BT executive said he expects his company to buy the 20% MCI stake in about 10 weeks, and for MCI to join Concert. In the meantime, he said, Concert will operate as a wholly owned unit of BT, which today began a global ad campaign promoting the Concert brand.

Despite all the publicity, analysts say, the venture isn't likely to produce much profit for BT or MCI for several years. "The jury will remain out" on the venture's value for some years, said Evan Miller, an analyst with Lehman Brothers in London. "They're thinking along the lines of five to 10 years" before a big impact on profit appears, he said.

BT's Mr. Hepher declined to forecast revenue or profit, but said generally that "multinational telecommunications are growing at a very rapid rate, and the total revenues that are flowing in are in the many billions. We're playing this game for some serious money."

[From the Wall Street Journal, Mar. 18, 1994]

SIX BIG AIRLINES SETTLE U.S. SUIT ON PRICE FIXING—SCHEME USING DATA SYSTEM MAY HAVE COST PUBLIC $2 BILLION IN 4 YEARS

(By Joe Davidson)

WASHINGTON.—Six major airlines settled federal charges that they fixed prices in a scheme that may have cost consumers nearly $2 billion between 1988 and 1992.

Under a consent decree filed in U.S. District Court here, the airlines agreed that they won't use Airline Tariff Publishing Co., an Industry-owned computerized fare-information system, to negotiate fare changes. The Justice Department charged that the airlines had used coded messages showing prospective price changes as a way of communicating with each other about fares.

The airlines actually stopped the practice when the suit was filed more than a year ago. But yesterday's agreement, which still must be approved by the court after a 60-day comment period, would prevent them from resuming it.

Anna Bingaman, assistant attorney general for antitrust, called the case a "critically important victory for American consumers and American business." She said, "The airlines used the ATP fare-dissemination system to carry on conversations just as direct and detailed as those traditionally conducted by conspirators over the telephone or in hotel rooms. Although their method was novel, their conduct amounted to price fixing, plain and simple."

J. Mark Gidley, a former Bush administration antitrust official who worked on the suit, said the case takes antitrust probes into the high-tech era by establishing that price-fixing agreements can be made using computers.

Airlines agreeing to the consent decree include Alaska Air Group Inc.'s Alaska Airlines, AMR Corp.'s American Airlines, Continental Airlines, Delta Air Lines, Northwest Airlines and Trans World Airlines. Airline Tariff Publishing also was part of the accord. The settlement is substantially the same as one reached with United Air Lines and USAir in December 1982 following a three-year Justice Department investigation.

NO REFUNDS IN PACT

Ms. Bingaman said yesterday's agreement provides for no refunds because the department isn't empowered to seek them. She said the administration is considering asking Congress for such authority in future cases.

The airlines didn't shield their bitterness at what they thought was a baseless attack. They said they settled to avoid the cost of litigation.

"We continue to believe that the pricing practices in question benefited the traveling public and were consistent with both the law and practice in many industries," American Airlines said. Delta Air Lines said the Justice Department "presented no evidence the industry's practices were illegal or added costs to ticket prices paid by consumers. It should be evident to anyone that the airlines are fiercely competitive in the pricing of their product."

Airlines have already shown that they can raise fares without the benefit of electronic signals. Ticket prices have gone up at least a half-dozen times since airlines stopped the signals. Instead, a carrier will raise fares on weekends, when few tickets are sold. If rivals don't match the increase, the carrier withdraws the fare hike on Monday. If everyone agrees, the increase sticks. The process may not be as smooth as electronic signals, but the effect is the same.

FIFTY AGREEMENTS IDENTIFIED

Ms. Bingaman said the department identified over 50 separate price-fixing agreements by the airlines. In one case, consumers paid $138 more for one-way travel between Chicago and Dallas because of the agreement. If coordination raised fares 5%–8% on an average ticket—the harm to consumers would have amounted to $1.9 billion, the department said.

Last year, nine major airlines settled a lawsuit that made essentially the same price-fixing allegations as the suit brought by the Justice Department. The airlines denied wrongdoing in the civil case, but issued $396 million in ticket coupons, plus $14.4 million in cash for lawyer fees.

After the government's suit was filed, representatives of travel agents and consumer groups were critical of the department's actions against the airlines, saying consumers could be denied information about when ticket prices would increase. But Ms. Bingaman said the information, more often than not, was bogus. It really was intended just to negotiate prices, she said, noting that more than 50% of the time, prices ended up being different than what was quoted.

(James Hirsch in Houston contributed to this article.)

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Mexico [Mr. SCHIFF].

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SCHIFF. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 160, noes 241, not voting 38, as follows:

[Roll No. 276]

AYES—160

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barca
Barrett (NE)
Bartlett
Barton
Bilbray
Bliley
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Camp
Canady
Castle
Coble
Collins (GA)
Combest
Condit
Cooper
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fingerhut
Fowler
Gallo
Gekas
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Gordon
Goss
Grandy
Greenwood
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
LaFalce
Lazio
Levy
Lewis (KY)
Linder
Livingston
Lucas
Manzullo
McCandless
McCrery
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (CA)
Miller (FL)
Molinari
Moorhead
Morella
Myers
Nussle
Orton
Oxley
Packard
Paxon
Peterson (MN)
Petri
Pombo
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Spence
Stearns
Stump
Sundquist
Swett
Talent
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—241

Abercrombie
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barcia
Barlow
Barrett (WI)
Bateman
Becerra
Beilenson
Bereuter
Bevill
Bilirakis
Bishop
Blackwell
Blute
Bonior
Borski
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Conyers
Coppersmith
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Fields (TX)
Filner
Fish
Flake
Foglietta
Ford (TN)
Frank (MA)
Franks (NJ)
Frost
Furse
Gejdenson
Geren
Gibbons
Gilman
Glickman
Gonzalez
Green
Gunderson
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman
Levin
Lewis (CA)
Lightfoot
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDade
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi

Penny
Peterson (FL)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Richardson
Roemer
Rogers
Romero-Barcelo (PR)
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Strickland
Studds
Stupak
Swift
Synar
Tanner
Tauzin
Taylor (NC)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Traficant
Tucker
Underwood (GU)
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—38

Ackerman
Bentley
Berman
Boucher
Calvert
Clay
Collins (MI)
Costello
Dingell
Faleomavaega (AS)
Ford (MI)
Franks (CT)
Gallegly
Gephardt
Grams
Gutierrez
Hilliard
Lewis (FL)
Lewis (GA)
Lipinski
Lloyd
Machtley
McCollum
McCurdy
Reynolds
Ridge
Schaefer
Schumer
Slattery
Smith (OR)
Solomon
Stokes
Taylor (MS)
Torkildsen
Towns
Washington
Waxman
Wheat

□ 1125

The Clerk announced the following pairs:

On this vote:

Mr. Calvert for, with Mr. McCollum against.

Mr. Grams for, with Mr. Ackerman against.

Mr. Lewis of Florida for, with Mr. Berman against.

Mr. Schaefer for, with Miss Collins of Michigan against.

Mr. Smith of Oregon for, with Mr. Hilliard against.

Mr. Taylor of Mississippi for, with Mr. Lipinski against.

Ms. MARGOLIES-MEZVINSKY and Mr. VENTO changed their vote from "aye" to "no."

Mr. BOEHLERT changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. MOLLOHAN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore. (Mr. RICHARDSON) having assumed the chair, Mr. BROWN of California, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4603) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes, had come to no resolution thereon.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON DISTRICT OF COLUMBIA APPROPRIATIONS BILL, FISCAL YEAR 1995

Mr. DIXON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report to accompany a bill providing appropriations for the Government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said district for the fiscal year ending September 30, 1995, and for other purposes.

Mr. WALSH reserved all points of order on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995, AND SUPPLEMENTAL APPROPRIATIONS, 1994

Mr. RAHALL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4603) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia [Mr. MOLLOHAN].

The motion was agreed to.

□ 1129

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4603, with Mr. BROWN of California in the chair.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the amendment offered by the gentleman from New Mexico [Mr. SCHIFF] has been disposed of, and the bill had been read through page 12, line 22.

□ 1130

Mr. MOLLOHAN. Mr. Chairman, I know of no amendment until page 23, line 1. Therefore, I ask unanimous consent that the remainder of the bill through page 22, line 22, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The text of the bill through page 22, line 22, is as follows:

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Office of the United States, Attorneys, including intergovernmental agreements, $820,177,000, of which not to exceed $2,500,000 shall be available until September 30, 1996 for the purposes of (1) providing training of personnel of the Department of Justice in debt collection, (2) providing services to the Department of Justice related to locating debtors and their property, such as title searches, debtor skiptracing, asset searches, credit reports and other investigations, (3) paying the costs of the Department of Justice for the sale of property not covered by the sale proceeds, such as auctioneers' fees and expenses, maintenance and protection of property and businesses, advertising and title search and surveying costs, and (4) paying the costs of processing and tracking debts owed to the United States Government: *Provided*, That of the total amount appropriated, not to exceed $8,000 shall be available for official reception and representation expenses: *Provided further*, That not to exceed $10,000,000 of those funds available for automated litigation support contracts shall remain available until expended: *Provided further*, That of the offsetting collections credited to this account, $180,000 are permanently canceled.

In addition, for expenses necessary to implement the President's Immigration Initiative as authorized in H.R. 3355, the Violent Crime Control and Law Enforcement Act of 1994, or similar legislation, $6,799,000, of which not to exceed $2,000,000 shall remain available until September 30, 1996.

UNITED STATES TRUSTEE SYSTEM FUND

For the necessary expenses of the United States Trustee Program,, $100,469,000, as authorized by 28 U.S.C. 589a(a), to remain available until expended, for activities authorized by section 115 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99-554), of which $61,593,000 shall be derived from the United States Trustee System Fund: *Provided*, That deposits to the Fund are available in such amounts as may be necessary to pay refunds due depositors: *Provided further*, That, notwithstanding any other provision of law, not to exceed $38,876,000 of offsetting collections derived from fees collected pursuant to section 589a(f) of title 28, United States Code, as amended by section 111 of Public Law 102-140 (105 Stat. 795), shall be retained and used for necessary expenses in this appropriation: *Provided further*, That the $100,469,000 herein appropriated shall be reduced as such offsetting collections are received during fiscal year 1995, so as to result in a final fiscal year 1995 appropriation estimated at not more than $61,593,000: *Provided further*, That any of the aforementioned fees collected in excess of $38,876,000 in fiscal year 1995 shall remain available until expended, but shall not be available for obligation until October 1, 1995, *Provided further*, That of the offsetting collections credited to this account, $218,000 are permanently canceled.

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109, $830,000.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including the acquisition, lease, maintenance, and operation of vehicles and aircraft, and the purchase of passenger motor vehicles for police-type use without regard to the general purchase price limitation for the current fiscal year; $390,185,000, as authorized by 28 U.S.C. 561(i), of which not to exceed $6,000 shall be available for official reception and representation expenses: *Provided*, That of the offsetting collections credited to this account, $95,000 are permanently canceled.

SUPPORT OF UNITED STATES PRISONERS

For support of United States prisoners in the custody of the United States Marshals Service as authorized in 18 U.S.C. 4013, but not including expenses otherwise provided for in appropriations available to the Attorney General ; $299,465,000, as authorized by 28 U.S.C. 561(i), to remain available until expended.

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses, for expenses of contracts for the procurement and supervision of expert witnesses, for private counsel expenses, and for per diems in lieu of subsistence, as authorized by law, including advances, $78,000,000, to remain available until expended; of which not to exceed $4,750,000 may be made available for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites; of which not to exceed $1,000,000 may be made available for the purchase and maintenance of armored vehicles for transportation of protected witnesses; and of which not to exceed $4,000,000 may be made available for the purchase, installation and maintenance of a secure automated information network to store and retrieve the identities and locations of protected witnesses.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, $20,379,000, of which not to exceed $10,001,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses necessary under section 501(c) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1809) for the processing, care, maintenance, security, transportation and reception and placement in the United States of Cuban and Haitian entrants: *Provided*, That notwithstanding section 501(e)(2)(B) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1810), funds may be expended for assistance with respect to Cuban and Haitian entrants as authorized under section 501(c) of such Act.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524(c)(1)(A)(ii), (B), (C), (F), and (G), as amended, $55,000,000 to be derived from the Department of Justice Assets Forfeiture Fund.

Amounts otherwise available for obligation in fiscal year 1995 are reduced by $92,000.

RADIATION EXPOSURE COMPENSATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses in accordance with the Radiation Exposure Compensation Act, $2,655,000.

INTERAGENCY LAW ENFORCEMENT

ORGANIZED CRIME DRUG ENFORCEMENT

For necessary expenses for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, to include intergovernmental agreements with State and local law enforcement agencies engaged in the investigation and prosecution of individuals involved in organized crime drug trafficking, $383,250,000, of which $50,000,000 shall remain available until expended: *Provided*, That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed from this appropriation: *Provided further*, That any unobligated balances remaining available at the end of the fiscal year shall revert to the Attorney General for reallocation among participating organizations in succeeding fiscal years, subject to the reprogramming procedures described in section 605 of this Act.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed 1,815 passenger motor vehicles of which 1,300 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; $2,178,218,000, of which not to exceed $35,000,000 for automated data processing and telecommunications and technical investigative equipment and $1,000,000 for undercover operations shall remain available until September 30, 1996; of which not to exceed $14,000,000 for research and development related to investigative activities shall remain available until expended; of which not to exceed $10,000,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to violent crime, terrorism, organized crime, and drug investigations; of which $84,400,000, to remain available until expended, shall only be available to defray expenses for the automation of fingerprint identification services and related costs; and of which $1,500,000 shall be available to maintain an independent program office dedicated solely to the relocation of the Criminal Justice Information Services Division and the automation of fingerprint identification services: *Provided*, That not to exceed $45,000 shall be available for official reception and representation expenses: *Provided further*, That of the offsetting collections credited to this account, $572,000 are permanently canceled.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; expenses for conducting drug education and training programs, including travel and related expenses for participants in such programs and the distribution of items of token value that promote the goals of such programs; purchase of not to exceed 1,265 passenger motor vehicles, of which 1,115 will be for replacement only, for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; $742,497,000, of which not to exceed $1,800,000 for research shall remain available until expended, and of which not to exceed $4,000,000 for purchase of evidence and payments for information, not to exceed $4,000,000 for contracting for ADP and telecommunications equipment, and not to exceed $2,000,000 for technical and laboratory equipment shall remain available until September 30, 1996, and of which not to exceed $50,000 shall be available for official reception and representation expenses: *Provided*, That of the offsetting collections credited to this account, $439,000 are permanently canceled.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; purchase for police-type use (not to exceed 346 of which 177 are for replacement only) without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; $1,098,602,000, of which not to exceed $400,000 for research shall remain available until expended, and of which not to exceed $10,000,000 shall be available for costs associated with the Training program for basic officer training: *Provided*, That none of the funds available to the Immigration and Naturalization Service shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000: *Provided further*, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further*, That not to exceed $5,000 shall be available for official reception and representation expenses: *Provided further*, That of the offsetting collections credited to this account, $1,240,000 are permanently canceled.

In addition, for expenses, not otherwise provided for, necessary to implement the President's Immigration Initiative as authorized in H.R. 3355, the Violent Crime Control and Law Enforcement Act of 1994, or similar legislation, to include purchase of uniforms and not to exceed 467 passenger motor vehicles for police-type use without regard to the general purchase price limitation for the current fiscal year, $251,157,000, of which not to exceed $116,842,000 for procuring automation, communications and technical systems and equipment shall remain available until expended.

The CHAIRMAN. Are there any amendments to the bill through page 22, line 22?

If not, the Clerk will read.

The Clerk read as follows:

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 736 of which 383 are for replacement only) and hire of law enforcement and passenger motor vehicles; and for the provision of technical assistance and advice on corrections related issues to foreign governments; $2,356,404,000: *Provided*, That there may be transferred to the Health Resources and Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: *Provided further*, That the Director of the Federal Prison System (FPS), where necessary, may enter into contracts with a fiscal agent/fiscal intermediary claims processor to determine the amounts payable to persons who, on behalf of the FPS, furnish health services to individuals committed to the custody of the FPS: *Provided further*, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further*, That not to exceed $6,000 shall be available for official reception and representation expenses: *Provided further*, That not to exceed $50,000,000 for the activation of new facilities shall remain available until September 30, 1996: *Provided further*, That of the amounts provided for Contract Confinement, not to exceed $20,000,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses authorized by section 501(c) of the Refugee Education Assistance Act of 1980 for the care and security in the United States of Cuban and Haitian entrants: *Provided further*, That any unobligated balances available for the care of Mariel Cuban detainees under the heading, "Salaries and Expenses, Community Relations Service" are transferred to this heading, and shall remain available until expended.

AMENDMENT OFFERED BY MR. SMITH OF TEXAS

Mr. SMITH of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Texas: Page 23, line 9, strike "$2,356,404,000" and insert "$2,355,404,000".

Mr. SMITH of Texas. Mr. Chairman, I rise today to offer an amendment to the Commerce-Justice-State appropriations bill that makes a $1 million cut in the Bureau of Prisons' appropriation level. This small cut is designed to make a large point: It is past time that the Federal Government cease to allow unnecessary, unjustified, and in this case, downright unusual spending to continue merely because it occurs in the dark recesses of the Federal budget.

My amendment cutting $1 million is designed to equal the difference in the cost of new Public Health Service Commissioned Corps hires and general schedule hires in the next fiscal year. This amendment will not affect a single individual now serving in the corps, nor will it even affect any person who will join the corps before October 1 of this year. What the amendment will do is to send a direct and indisputable signal that it is time the corps shipped out of the Bureau of Prisons.

Why is this necessary? First, let me provide some background on the corps itself. The Public Health Service Commissioned Corps was founded in 1798, back when John Adams was President, to treat disabled seamen. Today, there are about 6,500 total individuals in the corps and it is the 449 in the Bureau of Prisons that this amendment addresses.

The Commissioned Corps is one of the seven uniformed services and they receive the exact same benefits as the military. The section of the Public Health Service Act that deals with the corps states:

> Commissioned officers of the Service or their surviving beneficiaries are entitled to all rights, benefits, privileges, and immunities now or hereafter provided for commissioned officers of the Army * * *.

While the corps are equal to the military in their benefits, they are not in their duties. Corps officers are not subject to the uniform military code of conduct, which means they have the option of refusing an assignment or transfer simply by exiting the corps. In addition, the corps has not been activated for military service for a generation.

In the testimony of then-Assistant Secretary for HHS, James O. Mason, before the Energy and Commerce's Subcommittee on Health and the Environment, he explained the reason that none of the of corps' officers were activated or called up for Desert Storm as follows:

> The last time the Commissioned Corps was "militarized" was during the Korean conflict. Historically, this power has been used very sparingly by the President. It was not done during the Vietnam war even though the draft was in effect at the time * * *

So we have the Federal Government paying military-equal benefits for civilian-type service. And what is this unnecessary cost? As is usually the case with Government slip-ups, it is not cheap. A corps officer with 6 years of service receives approximately $15,000 more annually than a GS–13. This is neither fair to the military officers who make the military sacrifices for the same benefits, nor is it fair to the Bureau of Prisons' 23,000 civilian and 2,200 medical employees who do the same work as the Bureau of Prisons' 449 Commissioned Corps officers, but at much less cost.

Even if this basic unfairness between Federal employees did not exist, the basic unfairness to the American taxpayer would still remain. They are the ones required to pick up the tab for the day-to-day discrepancy of paying military benefits for a civilian job. In addition, the cost of retirement is not setaside now; it adds up to a huge unfunded liability that the corps is accumulating through their officers' retirement benefits. The Commissioned Corps is rewriting the old commercial phrase of "you can pay me now, or pay me later," into "you can pay me now and pay me later."

Unlike either the military or civilian employees they resemble, Commissioned Corps officers' retirement benefits are not prefunded as are other Federal workers. Instead, we rely on an antiquated accounting system, whereby we pay the current year's retiree costs while refusing to set anything aside for the future costs. This same ostrich approach virtually bankrupted the Social Security Trust Fund and is one we have wisely abandoned for all current Federal employees.

Except for the corps, that is. As a result, according to the independent audit of the corps' retirement system, the unfunded accrued liability for the corps was $3.6 billion as of September 1, 1992. Every day we do nothing to correct this, it increases. This amendment says that day has come today.

This amendment is about small money but big principles. It is time to get rid of patent unfairness. It is time we get rid of the pointlessness of two personnel systems doing one job. It is time to abandon an antiquated anachronism that racks up costs we do not need to be paying today, and makes no plans to pay them tomorrow.

We can correct this now by passing this amendment and we can do it without unfairly hitting anyone in the corps.

I urge Members of this House, who have supported government-wide reforms, to support this one today and vote to pass this amendment.

Mr. MOLLOHAN. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I believe that the gentleman is trying to make a point here that there is an unfunded liability that is in the Civilian Health Corps as they work in the Bureau of Prisons. He is expressing that concern. He is offering an amendment to cut a million dollars out of the account that funds the salaries and expenses account of the Federal Prison System.

I do not really see how his amendment gets to the problem that he is concerned with. As a matter of fact, as I read the statute and understand the funding of the retirement fund, this would not even be the appropriate appropriations bill to address the issue, if the $1 million cut had any impact on it at all. The gentleman's amendment does reduce the amount provided, however, in the bill for the activation of new Federal prisons.

I would refer the gentleman to page 33 of the committee report, which describes how the Federal Prison System is funded under this bill, under the salaries and expenses account.

□ 1140

Mr. Chairman, I would point out to the gentleman that his amendment would reduce that account by $1 million, and to that extent, in some way affect the activation of new prisons.

In this bill, as part of the crime fighting effort, we are activating 11 new Federal prisons. They are located all across the country, and it is very possible, and I think it is even true, that one of these prisons is being activated in the gentleman's home State.

Mr. Chairman, I just think the amendment is misdirected, and however sincerely concerned he is about this unfunded liability, I would suggest to him that it is an issue that he might better be advised to take up with the authorization committee, and not reduce funding that we have worked very hard to find to activate new prisons, to help in the President's and every Member of this body's efforts to fight crime.

Mr. SMITH of Texas. Mr. Chairman, will the gentleman yield?

Mr. MOLLOHAN. I yield to the gentleman from Texas.

Mr. SMITH of Texas. Mr. Chairman, I would like to reply to the points made. I understand the sincerity with which they have been made.

I would simply respond to two points, first by saying that if funds are taken out of prison construction, that is certainly not the intent of the amendment. I would expect that the appropriators, if this amendment would pass, would certainly honor the intent with which the amendment was offered.

Mr. MOLLOHAN. If I may reclaim my time, it is not prison construction, it is the salaries and expenses account that the gentleman is reducing. It is not prison construction. Out of that money is the activation of our prisons.

Mr. SMITH of Texas. Will the gentleman yield further?

Mr. MOLLOHAN. I am happy to yield to the gentleman from Texas.

Mr. SMITH of Texas. The intent of the amendment is clear. If the intent of the amendment is followed by the appropriators, then the money will be taken from the area that I have suggested.

Second, if the gentleman objects to the withdrawal of funds as being misdirected or too large or whatever, I would be happy to offer a limitation amendment with his support, if I was able to do so before the preferential motion.

Mr. MOLLOHAN. Mr. Chairman, I would say to the gentleman, I just cannot do that.

Mr. SMITH of Texas. I thank the gentleman for yielding to me.

Mr. ROGERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment of the gentleman from Texas [Mr. SMITH], although I sympathize with what he is trying to do, and I wish him success in that. I just think the appropriate place for this is in the authorizing committee. This is the first we have heard of this. We have had no hearings or no information about this.

Mr. Chairman, frankly, we do not know a lot about it. For that reason, among others, Mr. Chairman, I would hope the gentleman would take it to the authorizing committee, and I would be willing to help the gentleman in that respect, if I could. But to take the money, as this amendment does, from the ability of us to open up 11 new or expanded prison facilities should not be allowed. For that reason, I oppose the amendment.

Mr. Chairman, we are already $50 million below what was requested in this account, salaries and expenses, to open up those new prison facilities, 11 new or expanded facilities. So while this is not a huge amendment, it would take further from that account. We have scrimped and saved in every corner that we could in order to find the monies to put into this account so we could activate these prisons, which are desperately needed.

Mr. Chairman, in addition to that, this account also pays for the closing of the Federal prison facility at Tindall Air Force Base in Florida. We have a huge increase in inmate population, and we have to increase personnel to accommodate that, so this account is one of the most squeezed and imperative accounts in the whole Justice Department.

Mr. Chairman, therefore, I would hope we could defeat this amendment. I will be happy to work with the gentleman to correct the inequities that he has so eloquently described.

Mr. HUGHES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not take the full time.

I just want to say to my colleagues, who I serve with on the Committee on the Judiciary, that I understand what the gentleman is trying to do. However, I think, as both the ranking Republican and the chairman have indicated, the gentleman misses the mark. We have had difficulty opening up new prisons.

Can the Members imagine building new prisons, which is the clamor throughout the country, and then not having sufficient resources to open them? Last year the Bureau of Prisons came to us, and they were concerned because they did not have sufficient resources to open up a prison that had been completed. They had to do some reallocation within the Bureau of Prisons' budget to open up some new prisons.

On the second score, I understand the gentleman's point about unfunded liability. I think that is his major point in the Public Health Service, but I say to my colleague, as he knows, the entire military budget is unfunded. Much of our Federal retiree, civilian retiree budget is underfunded. It is underfunded.

Mr. Chairman, that is one point that I want to clear up.

Second, without the Public Health Service, as my colleague must know, we would have an awful time attempting to staff with medical personnel the prisons around the country. Mr. Chairman, we have some institutions where we have no physician. We are actually contracting out in many instances because we do not have sufficient personnel.

We have seen an increase in litigation over health care in the prison system, and without the Public Health Service, that dual system that enables us to operate these prisons, we could not operate the prisons. We would be subject to tremendous litigation, tremendous costs, and right now we are having an awful time trying to recruit physicians.

The gentleman says that the Public Health Service is not really the military. I want to tell the gentleman, a lot of the members of the Public Health Service believe they are on the front line when they accept duty in the prison system. It is tough duty. It is not the most attractive duty. Thank goodness we have a lot of Public Health Service personnel that are willing to serve in our prison system.

Take a look at the data that exists, I would say to the Members. We were criticized just within the past year or so by the General Accounting Office because of the lack of adequate health care facilities and adequate health personnel in our prison system. We are going to expand that system by 11 prisons, with the activation money that is in this particular budget.

We do not have the personnel, the health care personnel, to staff that, Mr. Chairman. We cannot recruit the health care personnel we have. If the gentleman made it impossible for the Public Health Service to operate in our prison system, we would have chaos in the system.

Mr. SMITH of Texas. Would my friend, the gentleman from New Jersey [Mr. HUGHES], yield?

Mr. HUGHES. I am happy to yield to the gentleman from Texas.

Mr. SMITH of Texas. Mr. Chairman, I just want to repeat the points of this amendment, and make it very, very clear that the cut that this amendment proposes does not adversely affect one current commissioned corps individual nor anyone that might be hired by October.

The cut that I had proposed is the difference in salary between commissioned corps individuals and all other general service, GS Federal employees. They do the same work, they ought to get the same pay, and my cut amendment is designed to do just that, cut the difference in salary. They have not been militarized in generations since the Korean war, they do not do anything more or less than other civilian employees, so they should not be paid any more.

Mr. HUGHES. To recapture my time, I would say that the gentleman's amendment misses the mark, however. The Bureau of Prisons has to reimburse Labor-HHS for the services of the Public Health Service, for their work in the prisons. Does the gentleman believe his amendment is going to stop that reimbursement?

The gentleman is not attempting to stop the deployment of personnel from the Public Health Service, but I am saying, if the gentleman is only attempting to send a signal, I think he should be sending the signal to the authorizing committee, not to the Committee on Appropriations. This misses the mark.

The $1 million the gentleman wants to cut will not do anything except to deny $1 million to a very important part of the budget, that part of the budget that assists us in opening up new prisons around the country. If the gentleman wants to restructure the Public Health Service, the gentleman ought to be talking to the authorizing committee.

Mr. SMITH of Texas. Will the gentleman yield once again?

Mr. HUGHES. I am happy to yield to the gentleman.

Mr. SMITH of Texas. Let me just repeat that this amendment and the cut that I proposed is not going to cut one individual from the commissioned corps. It is not going to adversely impact them, but the point is, we need to know the true cost of the Public Health Commissioned Corps.

That unfunded liability of $3.8 million is real, it is there, and this is the only group of individuals in the entire Federal Government who get that special consideration. We need to know as taxpayers what it is going to cost us up front, have the cost of the retirement set-asides up front, just like all the other employees. There is no reason for this unfunded liability.

I thank the gentleman for yielding.

Mr. HUGHES. The gentleman has made his point. I think he will agree that this misses the mark. I hope the gentleman will withdraw the amendment. I think he has sent a signal.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. SMITH].

The amendment was rejected.

The CHAIRMAN. The Clerk will read.

□ 1150

The Clerk read as follows:

NATIONAL INSTITUTION OF CORRECTIONS

For carrying out the provisions of sections 4351–4353 of title 18, United States Code, which established a National Institute of Corrections, and for the provision of technical assistance and advice on corrections related issues to foreign governments, $10,344,000, to remain available until expended.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; leasing the Oklahoma City Airport Trust Facility; purchase and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipped necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account; $238,094,000, to remain available until expended, of which not to exceed $14,074,000 shall be available to construct areas for inmate work programs: *Provided*, That labor of United States prisoners may be used for work performed under this appropriation: *Provided further*, That not to exceed 10 per centum of the funds appropriated to "Buildings and Facilities" in this Act or any other Act may be transferred to "Salaries and Expenses", Federal Prison System upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 605 of this Act: *Provided further*, That unless a notification as required under section 605 of this Act is submitted to the Committees on Appropriations of the House and Senate, none of the funds in this Act for the Cooperative Agreement Program shall be available for a cooperative agreement with a State or local government for the housing of Federal prisoners and detainees when the cost per bed space for such cooperative agreement exceeds $50,000, and in addition, any cooperative agreement with a cost per bed space that exceeds $25,000 must remain in effect for no less than 15 years: *Provided further*, That of the total amount appropriated, not to exceed $9,903,000 shall be available for the renovation and construction of United States Marshals Service prisoner holding facilities.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of (not to exceed five for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $3,463,000 of the funds of the corporation shall be available for its administrative expenses, and for services as authorized by 5 U.S.C. 3109, to be computed on an accrual basis to be determined in accordance with the corporation's current prescribed accounting system, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 101. In addition to amounts otherwise made available in this title for official reception and representation expenses, a total of not to exceed $45,000 from funds appropriated to the Department of Justice in this title shall be available to the Attorney General for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 102. Subject to subsection (b) of section 102 of the Department of Justice and Related Agencies Appropriations Act, 1993, authorities contained in Public Law 96–132, "The Department of Justice Appropriation Authorization Act, Fiscal Year 1980", shall remain in effect until the termination date of this Act or until the effective date of a Department of Justice Appropriation Authorization Act, whichever is earlier.

SEC. 103. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of, any abortion.

SEC. 104. Nothing in the preceding section shall remove the obligation of the Director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: *Provided*, That nothing in this section in any way diminishes the effect of section 103 intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

SEC. 105. Pursuant to the provisions of law set forth in 18 U.S.C. 3071–3077, not to exceed $5,000,000 of the funds appropriated to the Department of Justice in this title shall be available for rewards to individuals who furnish information regarding acts of terrorism against a United States person or property.

SEC. 106. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Justice in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided*, That this section shall not apply to any appropriation made available in title I of this Act under the heading, "Office of Justice Programs, Justice Assistance": *Provided further*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 107. In fiscal year 1995 and thereafter, amounts in the Federal Prison System's Commissary Fund, Federal Prisons, which are not currently needed for operations, shall be kept on deposit or invested in obligations of, or guaranteed by, the United States and all earnings on such investments shall be deposited in the Commissary Fund.

SEC. 108. (a) Of the budgetary resources available to the Department of Justice during fiscal year 1995, $23,830,000 are permanently canceled.

(b) The Attorney General shall allocate the amount of budgetary resources canceled among the Department's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account.

(c) For the purposes of this section, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

RELATED AGENCIES

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, $9,500,000: *Provided*, That not to exceed $50,000 may be used to employ consultants: *Provided further*, That none of the funds appropriated in this paragraph shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service exclusive of one special assistant for each Commissioner whose compensation shall not exceed the equivalent of 150 billable days at the daily rate of a level 13 salary under the General Schedule: *Provided further*, That none of the funds appropriated in this paragraph shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the Chairman who is permitted 125 billable days.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621–634), the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); nonmonetary awards to private citizens; not to exceed $26,500,000, for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act of 1964, as amended, sections 6 and 14 of the Age Discrimination in Employment Act, the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991; $238,000,000: *Provided*, That the Commission is authorized to make available for official reception and representation expenses not to exceed $2,500 from available funds: *Provided further*, That of the budgetary resources available in fiscal year 1995 in this account, $242,000 are permanently canceled: *Provided further*, That amounts available for procurement and procurement-related expenses in this account are reduced by such amount: *Provided further*, That as used herein, "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by 5 U.S.C. 5901–02; not to exceed $600,000 for land and structures; not to exceed $500,000 for improvement and care of grounds and repair to buildings; not to exceed $4,000 for official reception and representation expenses; purchase (not to exceed sixteen) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; $166,832,000, of which not to exceed $300,000 shall remain available until September 30, 1996, for research and policy studies: *Provided*, That $116,400,000 of offsetting collections shall be assessed and collected pursuant to section 9 of title I of the Communications Act of 1934, as amended, and shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced as such offsetting collections are received during fiscal year 1995, so as to result in a final fiscal year 1995 appropriation estimated at $50,432,000: *Provided further*, That any offsetting collections received in excess of $116,400,000 in fiscal year 1995 shall remain available until expended, but shall not be available for obligation until October 1, 1995: *Provided further*, That of the budgetary resources available in fiscal year 1995 in this account, $197,000 are permanently canceled: *Provided further*, That amounts available for procurement and procurement-related expenses in this account are reduced by such amount: *Provided further*, That as used herein, "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission as authorized by section 201(d) of the Merchant Marine Act of 1936, as amended (46 App. U.S.C. 1111), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–02; $18,569,000: *Provided*, That not to exceed $2,000 shall be available for official reception and representation expenses.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; $95,428,000: *Provided*, That notwithstanding any other provision of law, not to exceed $35,460,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced as such offsetting collections are received during fiscal year 1995, so as to result in a final fiscal year 1995 appropriation estimated at not more than $59,968,000: *Provided further*, That any fees received in excess of $35,460,000 in fiscal year 1995 shall remain available until expended, but shall not be available for obligation until October 1, 1995: *Provided further*, That section 605 of Public Law 101–162 (103 Stat. 1031), as amended, is further amended by striking "$25,000" and inserting in lieu thereof "$45,000": *Provided further*, That none of the funds made available to the Federal Trade Commission shall be available for obligation for expenses authorized by section 151 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102–242, 105 Stat. 2282–2285): *Provided further*, That of the budgetary resources available in fiscal year 1995 in this account, $145,000 are permanently canceled: *Provided further*, That amounts available for procurement and procurement-related expenses in this account are reduced by such amount: *Provided further*, That as used herein, "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses for the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, the rental of space (to include multiple year leases) in the District of Columbia and elsewhere, and not to exceed $3,000 for official reception and representation expenses, $238,131,000, of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Organization of Securities Commissions, and of which not to exceed $100,000 shall be available for expenses for consultations and meetings hosted by the Commission with foreign governmental and other regulatory officials, members of their delegations, appropriate representatives and staff to exchange views concerning developments relating to securities matters, development and implementation of cooperation agreements concerning securities matters and provision of technical assistance for the development of foreign securities markets, such expenses to include necessary logistic and administrative expenses and the expenses of Commission staff and foreign invitees in attendance at such consultations and meetings including: (i) such incidental expenses as meals taken in the course of such attendance, (ii) any travel or transportation to or from such meetings, and (iii) any other related lodging or subsistence: *Provided*, That immediately upon enactment of this Act, the rate of fees under section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) shall increase from one-fiftieth of 1 per centum to one twenty-ninth of 1 per centum and such increase shall be deposited as an offsetting collection to this appropriation, to remain available until expended, to recover costs of services of the securities registration process: *Provided further*, That the sum herein appropriated shall be reduced as such offsetting collections are received during fiscal year 1995, so as to result in a final fiscal year 1995 appropriation estimated at $0: *Provided further*, That any section 6(b) offsetting fee collections received in excess of $238,131,000 in fiscal year 1995 shall remain available until expended, but shall not be available for obligation until October 1, 1995: *Provided further*, That of the budgetary resources available in fiscal year 1995 in this account, $902,000 are permanently canceled: *Provided further*, That amounts available for procurement and procurement-related expenses in this account are reduced by such amount: *Provided further*, That as used herein, "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

POINT OF ORDER

Mr. FIELDS of Texas. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. FIELDS of Texas. Mr. Chairman, I am making a point of order to the fee provisions in this paragraph for lack of authorization.

The CHAIRMAN. Would the gentleman specify the page and line?

Mr. FIELDS of Texas. Mr. Chairman, I make a point of order against the series of provisos commencing on page 36, line 16 and continuing through page 37, line 6 on the ground these provisions violate rule XXI, clause 2 on the ground of legislating in an appropriations bill.

The CHAIRMAN. Does the gentleman from West Virginia [Mr. MOLLOHAN] desire to be heard on the point of order?

Mr. MOLLOHAN. Yes, Mr. Chairman, I concede the point of order.

The CHAIRMAN. The gentleman from West Virginia concedes the point of order and the point of order is sustained. The provisions specified will be stricken.

AMENDMENT OFFERED BY MR. MOLLOHAN

Mr. MOLLOHAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MOLLOHAN: On page 35, line 23, strike "$238,131,000" and insert "$900,000".

Mr. MOLLOHAN. Mr. Chairman, as a result of the point of order just offered and sustained by the Chair, the amounts in the bill now exceed the subcommittee 602(b) allocation for discretionary budget authority by $237,591,000. The provision stricken by the point of order, identical to the one that was included in the 1994 Appropriations Act, would have offset the appropriation for the Securities and Exchange Commission through collection of additional fees. This amendment reduces that budget authority for the SEC to $900,000 in order to conform the bill to the 602(b) allocation.

Mr. ROGERS. Mr. Chairman, I move to strike the last word.

Very briefly, Mr. Chairman, as the gentleman has indicated, this amendment is necessary now that the moneys have been stricken as has just been done. This amendment is necessary in order to bridge the bill back under 602(b) allocation due to the previous point of order. I regret that we have to do this, but we will continue to work in conference hopefully to try and resolve the issue.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia [Mr. MOLLOHAN].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read:

The Clerk read as follows:

In addition, upon enactment of legislation amending the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.), and subject to the schedule of fees contained in such legislation, such fees may be collected and shall be deposited as an offsetting collection to this appropriation to recover the cost of registration, supervision, and regulation of investment advisers and their activities: *Provided*, That such fees shall remain available until expended: *Provided further*, That any such fees collected in excess of $8,595,000 shall not be available for obligation until October 1, 1995.

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by The State Justice Institute Authorization Act of 1992 (Public Law 102-572 (106 Stat. 4515-4516)), $13,550,000 to remain available until expended: *Provided*, That not to exceed $2,500 shall be available for official reception and representation expenses.

This title may be cited as the "Department of Justice and Related Agencies Appropriations Act, 1995".

TITLE II—DEPARTMENT OF COMMERCE

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Institute of Standards and Technology, $279,420,000, to remain available until expended, of which not to exceed $8,500,000 may be transferred to the "Working Capital Fund."

INDUSTRIAL TECHNOLOGY SERVICES

For necessary expenses of the Manufacturing Extension Partnership, the Advanced Technology Program and the Quality Program of the National Institute of Standards and Technology, $495,960,000, to remain available until expended, of which $315,000,000 shall not be available for obligation until May 1, 1995; and of which not to exceed $1,600,000 may be transferred to the "Working Capital Fund".

CONSTRUCTION OF RESEARCH FACILITIES

For construction of new research facilities, including architectural and engineering design, not otherwise provided for the National Institute of Standards and Technology, as authorized by 15 U.S.C. 278c-278e, $64,686,000, to remain available until expended.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including acquisition, maintenance, operation, and hire of aircraft; not to exceed 439 commissioned officers on the active list; as authorized by 31 U.S.C. 1343 and 1344; construction of facilities, including initial equipment as authorized by 33 U.S.C. 883i; grants, contracts, or other payments to nonprofit organizations for the purposes of conducting activities pursuant to cooperative agreements; and alteration, modernization, and relocation of facilities as authorized by 33 U.S.C. 883i; $1,792,978,000, to remain available until expended: *Provided*, That notwithstanding 31 U.S.C. 3302 but consistent with other existing law, in addition to fees currently being assessed and collected, additional fees shall be assessed, collected, and credited to this appropriation as offsetting collections to be available until expended, to recover the costs of administering living marine resources, marine sanctuary, and aeronautical charting programs: *Provided further*, That the sum herein appropriated from the general fund shall be reduced as such additional fees are received during fiscal year 1995, so as to result in a final general fund appropriation estimated at not more than $1,751,978,000: *Provided further*, That any such additional fees received in excess of $41,000,000 in fiscal year 1995 shall not be available for obligation until October 1, 1995: *Provided further*, That in addition, $55,500,000 shall be derived by transfer from the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries": *Provided further*, That hereafter all receipts received from the sale of aeronautical charts that result from an increase in the price of individual charts above the level in effect for such charts on September 30, 1993, shall be deposited in this account as an offsetting collection and shall be available for obligation: *Provided further*, That of the offsetting collections credited to this account, $123,000 are permanently canceled.

AMENDMENT OFFERED BY MR. FIELDS OF TEXAS

Mr. FIELDS of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FIELDS of Texas:

Page 39, line 24, strike "$1,792,978,000" and insert "$1,785,978,000".

Page 40, line 10, strike "$1,751,978,000" and insert "$1,744,978,000".

Mr. FIELDS of Texas. Mr. Chairman, the simple explanation for this amendment is that it reduces the appropriation for NOAA by $7 million. That is the simple explanation. It is very important for this House to understand why $7 million. For me to answer the question, what is this amendment directed toward? This amendment is directed toward a program that goes by the acronym GLOBE. I have great respect and friendship with our Vice President, AL GORE. However, I disagree with a program that is a result of something that Mr. GORE wants us to enact today. It is a program that would be hosted by NOAA. It is a new interagency program which is designed to enhance the collective awareness of individuals throughout the world concerning the environment and the impacts of human activities on the environment. Second, it is to increase scientific understanding of the Earth by using the dense worldwide network of schools to collect environmental observations.

On its face, there appears to be nothing wrong with those particular goals until we get into the specifics and until we look at not only what is being requested this year in terms of appropriations but what will be requested in the following years.

Mr. Chairman, this program proposes to have school children around the world monitor the entire Earth daily by collecting observations of global climate change of dubious scientific value. For example, seventh graders will be taking air chemistry measurements. The majority of the measurements will be taken in foreign countries. In fiscal year 1995, NOAA projects that 30 schools in 20 countries will be involved. Although they cannot tell us exactly which particular schools or which particular countries, we do have an idea of who some of these countries are.

Mr. Chairman, a question for all of us sitting here today is why should the United States be funding foreign countries to participate in this particular project? Funds will be used to buy solar-powered television sets, to train foreign teachers, to buy satellite time, computers and software according to a White House briefing. The Vice President even suggests in his book an annual tree census. I think we have a better use for this particular money.

Mr. Chairman, let me give some examples:

In NOAA the money could be used for nautical charting, for fisheries enhancements, for fleet repair. For that matter, we could use the money for other existing programs such as national drug interdiction which has been cut by $95 million.

□ 1200

The boat safety account, which the administration has zeroed out, to keep open 14 Coast Guard search and rescue stations around the country, and to provide funds for U.S. shipbuilding; the projected expenditures for the GLOBE Program are frightening, as much as $100 million in the year 2000 with 100,000 schools participating, and in 2010, the goal is to have over 2 million schools participating in every nation. This means the United States investment, if you extrapolate, could be as much as $2 billion.

NOAA's GLOBE Program authorizes an initial 8 staff positions in fiscal year 1995 at a time when the agency is asked to reduce personnel to meet budget targets. The program's financial needs almost double in fiscal year 1996, because NOAA is estimating $12 million. And we have to ask, will those personnel requirements double also.

Some White House personnel have suggested corporate sponsorships with a 20-to-one matching ratio could be used to fund some of the programs, but as of this date, no names have been supplied.

NOAA is not proposing to reduce its budget for global climate change research or to cut back on its own observations in light of this new program. NOAA this year reprogrammed $500,000 in fiscal year 1994, to start this program without any notice to Congress until just a few days ago. We now have received notice after the fact and after objection has been raised.

But we also found that GLOBE already has an office, already has a director at NOAA. Other agencies are also expected to chip in, EPA, NASA, but it is unclear if the funds are included in the fiscal year 1995 budget for these agencies.

The countries that we think are interested in GLOBE and which would have the program directed toward them, countries like the Bahamas, Benin, Croatia, El Salvador, Gambia, Kurdistan, Latvia, Mauritania, and I just have to ask myself, Mr. Chairman, at a time when we have limited financial resources at our disposal, should we start a brandnew program, a foreign aid expenditure that has dubious value. I think the compelling answer is that we should not, and there is no question in this gentleman's mind that this $7 million should be reduced from NOAA. And that is what I am asking this House to do today.

The CHAIRMAN. The time of the gentleman from Texas [Mr. FIELDS] has expired.

(At the request of Mr. ROGERS and by unanimous consent, Mr. FIELDS of Texas was allowed to proceed for 5 additional minutes.)

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. FIELDS of Texas. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Chairman, I assume, this being a brandnew and potentially a large entitlement program, surely there have been hearings on this and we have aired out all of the pros and cons of this matter? Is that correct or not?

Mr. FIELDS of Texas. There have not been hearings. We had a markup but we have not completed the authorization process.

Mr. ROGERS. You mean there have been no hearings on this matter before any committee of the Congress?

Mr. FIELDS of Texas. No.

Mr. ROGERS. Has it been authorized by any of the authorizing committees of the House?

Mr. FIELDS of Texas. The Committee on Merchant Marine and Fisheries has voted on this particular program.

Mr. ROGERS. That was the authorization?

Mr. FIELDS of Texas. We have not gone through the House of Representatives and completed the authorization process.

Mr. ROGERS. So at this stage of the game, the House has not been allowed to act on whether or not we want to authorize such a program?

Mr. FIELDS of Texas. The gentleman is absolutely correct. Again, I want to state I have a great friendship for our Vice President, who has been very proactive on environmental matters. We have had discussions on this particular program. We certainly have a disagreement, not only as to process, but also as to Federal expenditures. I think in concept the idea is noble, but I think this is a perfect example where the private sector, if there is a good scientific value, should step forward and participate. We should not ask the taxpayers to shoulder this burden.

Mr. ROGERS. If the gentleman would yield further, this is basically an education program of sorts, is it not?

Mr. FIELDS of Texas. That is absolutely true, the way I understand it. The gentleman has to understand there are a lot of questions that have not be answered, that have not be fleshed out.

Mr. ROGERS. Has the Education Committee of the House had a chance to hold hearings on this and to flesh out whether or not it is a good expenditure of dollars?

Mr. FIELDS of Texas. My understanding is the Education Committee has not had hearings on this, and the Department of Education is not involved.

Mr. ROGERS. So the Merchant Marine Committee, which is the authorizing committee for NOAA, although it may have passed out a bill, it has not been acted on on the floor?

Mr. FIELDS of Texas. That is absolutely correct.

Mr. ROGERS. Authorizing or not authorizing this program? The Education Committee of the House has not had hearings and has made no recommendation on it?

Mr. FIELDS of Texas. This is the first floor activity for this particular program, the appropriation, but it is also important to point out to the gentleman that $500,000 has already been spent out of NOAA's budget in creating an office that has a director. Now, we just in the past several days have received that reprogramming notice after the fact and after we had raised objection.

Mr. ROGERS. If the gentleman will continue to yield, do I understand you that the projections are this program could cost up to $100 million a year in just a few short years?

Mr. FIELDS of Texas. That is absolutely correct.

Mr. ROGERS. Where would this money come from, from the NOAA budget?

Mr. FIELDS of Texas. It would be, I assume, additional appropriations, because NOAA is not planning to cut its functions for this particular program.

Mr. ROGERS. The gentleman has indicated that he has been in touch with the administration about this program. Is that correct?

Mr. FIELDS of Texas. I have talked with the Vice President.

Mr. ROGERS. Have you tried to work something out?

Mr. FIELDS of Texas. I told the Vice President I would be amenable if we could find some cost effective way to implement this particular program, and I will share with the gentleman the first response that we got was that this program would cost $7 million in fiscal year 1995, $25 million in fiscal year 1996, and $40 million per year thereafter. That was the first suggestion. The second suggestion was $7 million, in fiscal year 1995, $15 million in 1996, and $25 million in 1997. So I have to ask myself, is this one of those programs that is the bottomless pit where expenditures are going to continue, and again you have to come back and ask, is this a viable, productive program.

It is thought that much of what would be done would have dubious, questionable scientific value.

Mr. ROGERS. If the gentleman will yield further now, we have had to cut funds for everything from the FBI to the courts to U.S. attorneys to the State Department in our bill, and we have not done a lot of things we would have loved to have done in hundreds of agencies.

Is the gentleman saying here that we are being asked to appropriate some of those hard-saved dollars so that kids in Europe can go out and count trees?

Mr. FIELDS of Texas. Not just Europe. I gave a list of the countries just a moment ago, the 40 countries that we think would most likely have an interest in participating in the program, but it is important to point out to the gentleman we are not suggesting cutting some of the vital functions of NOAA. We are talking about reducing the level of funding for this brand-new program that had not gone through the authorization process.

Mr. ROGERS. I thank the gentleman.

Mr. MOLLOHAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I do rise in opposition to the amendment offered by the gentleman from Texas [Mr. FIELDS].

I think that he strikes funding for a program that has great merit and really looks in a couple of different directions.

We might look at this funding as having a couple of advantages; in one direction, this funding will provide a program to educate young people as to the importance of the environment, to make them concerned and aware about their environment. On the other hand, the program will provide very useful scientific information for our scientists and for agencies that are monitoring and evaluating global and climate change. This program, I think, conceptually is very useful.

We are providing funds that will establish a worldwide system where young people all around the globe will be able to go out and collect environmental information and feed it back into a system electronically through computers, and thus contribute to a global initiative.

Now there are some concerns being raised about why the United States should fund such a program around the world. Well, indeed, very little funding will come from the United States. Foreign governments, who have signed up for this program, will pay for their own country's participation to the extent that they are able. There may be in this program some U.S. Government funding used to pay for a small number of pilot sites overseas to demonstrate and to test the technologies, but it is not anticipated that we would fund the global initiative. We anticipate that countries around the world would fund their own participation.

The scientific data that is to be collected will be extremely useful. The student-acquired information will be used for environmental research activities globally. It will complement information which is retrieved with remote sensing by our satellites and aircraft data gathering mechanisms.

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And it will provide a detailed complement to that remote data by an on-the-ground, if you will, and probably very cheap and inexpensive way. For the purpose of involving scientists at the beginning—and scientists are going to be involved at the beginning of the program—is to make the program substantive, to insure that it is not simply an information-field-trip kind of exercise for youngsters. It will be designed with scientists involved in the beginning to insure that the kind of measurements made are meaningful, accurate, and that they will indeed be useful for scientific purposes.

The program involves youngsters from kindergarten up through graduation and high school. I think that is a marvelous concept that we involve these young people at an early age and involve them increasingly, as they mature and become increasingly sophisticated, the information they are allowed to retrieve and participate in and manipulate will be increasingly sophisticated.

Mr. Chairman, there are a number of countries already expressing an interest in GLOBE, some 40 countries I am advised. There are at least 200 schools and maybe as many as 500 that will participate in GLOBE in 1995 with the implementation of the program and the support of this funding.

Now it is important to ensure that individuals throughout the world understand the concern for our environment. I can think of no better way than to begin educating young people through this kind of program that makes them technologically and computer literate, that allows them to participate in a worldwide effort that they know other young people around the world are participating in and allows them to gather good quality information.

There is some concern expressed about the agencies which are involved in this program. I would advise the committee that the National Science Foundation is actively involved with this program as is the Department of Education, the Department of State, NASA, and NOAA.

So I would hope that this amendment would be defeated, Mr. Chairman, and that this very worthy program would receive this funding.

I might add that in the future the amount of funding requested for the program will always be reviewed by this committee and to the extent that funding is unreasonable it certainly will not be approved.

Mr. BATEMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and Members of the House, I rise in support of my colleague Mr. FIELDS' amendment to strike funding for the GLOBE Program. I do so reluctantly, but I think here we have a classic case of where good intentions take us on a path that leads to some very undesirable consequences which I am not sure are being adequately foreseen.

To spend $7 million to have schoolchildren around the world taking environmental measurements is to my mind something that would only occur to people inside the beltway. If this is a valid educational program we do not need to spend $7 million in fiscal year 1995 to accomplish it; we certainly do not need to spend the projected $100 million by the year 2000 to achieve it. All it takes is for the people in charge of the educational systems of this country and other countries to determine that this is a valid educational exercise that students and their school systems should go through. And almost without funds you have created it, if it is a valid educational exercise.

If you are trying to argue the case that these expenditures and this program are necessary or desirable because of its scientific and technical merit I would question the judgment that says if you want scientific technical data to enlarge the scope of human knowledge and our ability to deal with problems, do you really think you are going to get that data by sending kindergarten children or even seventh graders out to collect that data?

This is logic run amuck.

I know the good intentions which underlie it. I do not dispute the good intentions. But to the extent there are valid things to make our young people sensitive to environmental concerns you simply do not need the this program and these expenditures in order to do it.

It may be a bit in the way of hyperbole but I would suggest that during the Middle Ages zealots recruited and dispatched a Children's Crusade to make war on those they regarded as infidels in the Holy Land. Here again I think we are at risk of launching another Children's Crusade. I do not think this is a justifiable project. The budget and concerns of NOAA for other legitimate projects and activities are being stretched beyond the proper limit and we certainly should not distract from them by a new, untried, and to my mind unnecessary program whose lawful and proper objectives can be attained without the action of Congress in appropriating this kind of money now and the kinds of money that have been projected for the future.

Mr. Chairman, I urge a vote for the Fields amendment.

The account which is being diluted by the GLOBE appropriation provides funds for important regional research programs supported by many Members of the House. These programs have by and large not seen any increases in several years. The account also funds NOAA's mapping and charting efforts, an area where we are in some cases decades behind in work that needs to be updated. The Sea Grant Program which translates marine research into valuable real world applications is funded out of this account, as is long-term climate change research and oceanic observation and prediction work. All these programs are important in the here and now, and cannot afford to compete with a new education program that will consume $100 million a year by the year 2000. If you analyze the costs relative to the merits of this program, it is dramatically deficient. It is an idea whose time has not come.

Mr. SKAGGS. Mr. Chairman, I rise in opposition to the amendment and move to strike the requisite number of words.

Colleagues, if anyone thinks it is somehow a luxury to develop a worldwide understanding and appreciation of exactly what are the dimensions of the risk that this planet is in, I hope that they can be disabused of that notion because it is absolutely essential and important to this country, to our leadership in the world and to the planet as a whole that we be taking this kind of initiative.

I was visiting recently with some of this Nation's premier atmospheric scientists and they made a startling observation which was basically this: We do not know whether we may have already pushed the planet's ecosystems, its atmosphere, its other ecology past the point of no return. We do not know exactly what degree of peril the future of the planet may be in. It is clearly in the interests of the developed world with the United States in the leadership to induce, particularly, the underdeveloped world, the Third World, to get a stake in the solution to this problem. It is not going to be solved simply by the United States and Europe and those countries with high GDP doing their share. We have got to bring along the rest of the world.

So a program that deals with education in this area is critical. For us to sow the seeds around the world for schoolkids to start to get it, to start to understand their stake in the future of the planet and the measurements that inform judgments about what we do to make sure that we survive as a race and as a planet, could not be anything more profoundly in our national interest and in the international interest than helping move that process along.

So I hope that my colleagues, for all of the points on process and otherwise that have been raised in support of this amendment, I hope they will keep their eye on the ball, the GLOBE, and defeat this amendment.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. SKAGGS. I yield to the gentleman from Massachusetts.

Mr. STUDDS. I thank the gentleman for yielding to me.

Mr. Chairman, I want to associate myself with the gentleman's remarks. He I think very eloquently put his finger on what is at stake here. I of course am shocked at the distinguished gentleman from Texas [Mr. FIELDS] who is right an astonishing proportion of the time on these matters. This is most out of character for him. This is a very important, very inexpensive, very symbolic and I think very rewarding program. To raise consciousness around the world and achieve some scientific benefits simultaneously for a relatively small price, to bring forth a generation, not just in our country but in all the countries of the world who are aware of and are committed to environmental progress, I think is a pretty sound investment.

So I commend the gentleman [Mr. SKAGGS] for his eloquent defense of the program. I think this is something which I think Members know is personally dear to the heart of the Vice President who I suspect has made that abundantly clear even to the gentleman from Texas, whose phone must have been out of order. I hope very much with all due respect and affection for my ranking member this amendment ought to be rejected.

I thank the gentleman for yielding.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. SKAGGS. I yield to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. I thank the gentleman for yielding.

Mr. Chairman, I want to associate myself with the gentleman's remarks and just say when we look at many of these Third World countries where we believe we still have an opportunity, if we can help them choose the right environmental path that they will be able to secure a future of great economic independence should they make that choice. But that choice is going to come through education.

What we now see, unfortunately, is because of the lack of data, because of the lack of education on these issues of environmental concern, of environmental sustainability, economic sustainability, many of these countries are headed down the same path that other countries have gone, that end up being very, very costly for them in the long term, and then coming back with remediation, with trying efforts at mitigation. We have an opportunity in this program to take young children, make them environmentally aware, have them participate in understanding not only the environment of their own country but the environments of the other countries of the world and the interconnectiveness of those environments.

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We know, that as hard as we try in this country to clean up the air, to clean up the waters, to protect the oceans, that that can be swamped by what can take place in terms of environmental degradation in the Third World. If China does not choose the right path in terms of energy production, it can overwhelm everything we are doing here in terms of clean air. If other countries do not choose the right path in terms of ocean pollution, it can overwhelm what we are doing in this country. So, we can end up spending billions and billions of dollars, billions of dollars for remediation in this country, to have it be for naught if other countries do not start to take and choose those paths.

The CHAIRMAN. The time of the gentleman from Colorado [Mr. SKAGGS] has expired.

(On request of Mr. FIELDS of Texas and by unanimous consent, Mr. SKAGGS was allowed to proceed for 3 additional minutes.)

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. SKAGGS. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I would just say that that is the option that this program provides us in some small way and to try to provide some seed money so we can encourage others to participate in this, and I would hope that we would reject the amendment offered by the gentleman from Texas [Mr. FIELDS] to the bill.

Mrs. FOWLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Fields amendment. This amendment would cut $7 million from the Commerce appropriations bill. This money is earmarked for GLOBE, the Global Learning and Observation to Benefit the Environment Program. This program is part of Vice President GORE's book, "Earth in the Balance." The program calls for a worldwide system in which schoolchildren and their teachers would monitor the global environment.

Included in this is a tree census to monitor the worldwide tree population. In addition to the $7 million appropriation in this legislation, EPA and NASA are expected to contribute another $6 million for a total of $13 million in fiscal year 1995 funds. Mr. Chairman, I oppose funding this program for several reasons.

First, the program has never been authorized. In fact there have never even been hearings on this proposal. While we can think of many questions to ask of this program, there has never been an opportunity to do so.

Second, we simply cannot afford to begin funding yet another new program. Appropriations for the GLOBE program for fiscal year 1995 total $13 million. These costs soar to $100 million in the year 2000. This is money we could be using on drug interdiction, U.S. shipbuilding, crime, or welfare reform. Instead, the GLOBE program will force us to spend these funds on tree counting.

Finally, I oppose the program because it puts the United States in a position of funding schools and teachers in foreign countries to participate in this program. Given our Federal deficit and the need to wisely use Federal resources, it makes no sense to send our limited Federal tax dollars to unnamed foreign countries to use on their educational systems.

I urge my colleagues to support the Fields amendment and eliminate funding for the GLOBE Program.

Mr. FIELDS of Texas. Mr. Chairman, will the gentlewoman yield?

Mrs. FOWLER. I yield to the gentleman from Texas.

Mr. FIELDS of Texas. Mr. Chairman, I would like to respond for just a moment to some of the thoughtful statements that have been made by my friends from West Virginia, Colorado, Massachusetts, and California.

Conceptually we think this has much merit. We have a real problem, however, with process, that we did not complete the authorization process. We have heard some very good statements today. As my colleagues know, it would be nice to hear these statements at the subcommittees, the full committee level, and then finally here on the floor, before we rush to an appropriation. So, there is a process problem.

Second, Mr. Chairman, we have a real concern about the amount of Federal tax dollars that will not only be spent in this fiscal year, but that will be spent in years in the future. We are getting conflicting numbers from a number of different people. We know what it is this year, but we also have to remind the House that $500,000 was reprogrammed without any notice to this body until after the fact. That is a great concern to the minority.

Mr. Chairman, those are the reasons that we are standing here today saying that this is a program that should not be funded, it is a program that should be zeroed out, and this the opportunity.

Mrs. UNSOELD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to associate myself with the remarks of the chairman, and the gentleman from Colorado, and the gentleman from Massachusetts in opposition to this amendment.

We adults tend to overlook the real value that children and students can bring, not only to their own learning, but to the contribution they can make to the world's knowledge. In my own community we have a businessman, the Saturn dealer to be exact, who has had such a program as this where students are gathering information on the water quality, on fish-spawning habitat, supplying it to the Department of Natural Resources, actually doing the valuable work toward the improvement of the quality of the environment in their community and in the State. It not only enthuses them for what needs to be done and makes them potentially so much more likely to be leaders in their communities when they are adults in addressing some of these issues, but it translates also into greater action and involvement by their parents. This is an opportunity with a very small United States match to spread that concept around the globe and to give young people real opportunity to contribute to scientific knowledge and to contribute to benefiting this globe on which we share.

As the gentleman from California [Mr. MILLER] mentioned earlier, if we take inordinate measures to protect the environment in this country, if some other country has a totally different standard because the people are not enthusiastic about the protection, our efforts are in vain. The expenditures that our businesses and our people will make will be in vain. So, involving these young people while they are students, while they can become world citizens for the protection of the globe, now is the time to do it, and I oppose this amendment.

Mr. POMBO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today to support the amendment offered by the gentleman from Texas [Mr. FIELDS] to remove the funding for the GLOBE Program.

This appropriation bill appropriates $7 million for GLOBE—an unauthorized new Federal foreign aid program. I am very concerned about the projection that this new program may cost the American taxpayer as much as $2 billion by the year 2010.

Though I believe it is important that we should all work to take steps to preserve and protect the environment, this project is clearly the wrong approach.

The information gathered by these untrained foreign students will have dubious scientific value. In addition, the National Oceanic and Atmospheric Administration [NOAA] has indicated to the Merchant Marine and Fisheries Committee, in which I serve, that they are not sure how they are going to use this information that was collected.

Mr. Chairman, it is clear this program is a highly questionable expenditure of our scarce Federal dollars.

In these tight fiscal times—choice is the key word. NOAA is facing a reduced budget and could better use the money for such things as nautical charting or fleet repair. Or even better, my fellow colleagues can support the Fields amendment which will allow this Congress to direct the savings to job creation or fighting crime, a much higher priority for the American people.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. POMBO. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, I appreciate the gentleman's remarks, and I think the gentleman is right on in supporting the amendment offered by the gentleman from Texas [Mr. FIELDS]. I would just like to add a few things to what the gentleman from California has said.

As my colleagues know, the Democrats have the President and the White House and all that that implies, and I know that the Democrats have a vast majority in the House, and they have a majority in the Senate. But I just think it is really unfortunate that we now have a new process of government. If the Vice President of the United States wants a new program, we just slide it into a bill and kick it off, no hearings, nothing. We are just going to do it. No accountability is there, no real airing of what is going on here.

□ 1230

I take one issue with the gentlewoman from Washington, who has seemed to be very enthusiastic, and I think laudable, in the fact she wants to create world citizens to do this kind of work using school children.

I might tell the gentlewoman that I have a degree, a bachelor of science degree in biology. I have had a lot of work in sampling programs and sampling courses, and I have got to admit to the gentlewoman that college students that have been taught to do sampling and use sampling methods provide terrible data. College students, people over the age of 18. Yet what this proposal is is to have seventh graders out there collecting data.

Now, what that suggests to me is that you do not care what the data says. In fact, NOAA does not know how to use the data if you did collect it correctly.

But you do not care what the data says, and that has been shown to me time and time again in the Clean Air Act. I can remember vividly that we had a $100 million program that spent 10 years investigating acid rain. Yet we made sure that we passed the Clean Air Act before they published the conclusions on acid rain. And the conclusion was, by good scientists, Ph.D's out there collecting data, that acid rain was not the crisis that people on this floor wanted to portray.

I even asked Carol Browner, the Administrator of EPA, in our subcommittee, if she saw that science got in the way of her agenda on policy, what would she do? She virtually, and I am paraphrasing, said, that if science gets in the way, we will push it aside, because good policy is more important than good science.

That is what is happening here. And I think Members really ought to understand. We are going to spend millions of dollars collecting faulty data that will be assimilated so that we can prove a conclusion that has already been written in a book called "Earth In The Balance." That is the book that Vice President GORE wrote as a campaign piece. That is what is happening here, using taxpayer money, paying for a program that has not even been looked at and authorized by this House, to substantiate a conclusion written in a campaign book. That is what is happening here.

If you vote against the Fields amendment, you are supporting such nonsense.

Mr. POMBO. Mr. Chairman, reclaiming my time, in conclusion I would just like to say I am personally offended that we would use this process to further the unproven-by-scientists agenda of the Vice President, and try not only to inject that into the schools of America, but to inject that into schools worldwide, in order to further an agenda that scientists cannot even reach consensus on.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is important to stress a worldwide awareness that the ecosystems of the planet are being destroyed. Our oceans are being polluted, our rain forests are being destroyed, and I would think that foreign countries need to put an emphasis on our protecting those areas.

But to take $700 million away from NOAA, $6 million from NASA, with EPA contributing an amount of up to $2 billion, for kids to collect scientific data, we have got to draw the line.

Let us let NOAA and the scientists that have the responsibilities for doing these things do it. It is also important, I think I would rather have $7 million go for a tax cut for middle-class Americans.

We are trying to find a lot of dollars right now to fund a health care bill. We cannot do that right now. We have got a health care bill coming on the floor shortly that is underfunded. But yet we are going to spend up to $2 billion on this. We are going to spend over 5 years, $1 billion on the National Endowment for the Arts. We are going to have a California desert plan that is going to cost us billions of dollars. There is 336,000 acres. We do not have the money to pay for it, but it is OK, we will put it on the national debt, we will increase the deficit.

My constituents are telling me, "DUKE, do not raise my taxes and cut spending." Yet we continually find new ways to spend money. Nearly $5 trillion, that equates to $1.3 billion a day we pay on the national debt. That is just for the interest. That does not even include the principal.

Let us blame defense. We have cut defense $177 billion, but we still increase the national deficit, through programs like I just have spoken about.

$700 million, $6 million request from NASA, the EPA contributing, for kids collecting scientific data.

Mr. Chairman, if we are going to be serious in Congress about reducing spending, the President said he wants to reduce the deficit, we are not going to do it by adding and adding and adding for all these different programs for new spending. We have environmental programs. One of the good things that the President has done is focused on the environment.

A lot of our military bases today have dumped fuel oil and polluted the Earth, and a large part of it is companies that did not look ahead, and now it is costing us millions and millions of dollars to clean it up. Let us take the $700 million or the $2 billion and put it in something worthwhile, that is, a tax reduction, that is, for something that will help the environment. But to have foreign kids collect scientific data is not good for the American people.

Mr. GOODLATTE. Mr. Chairman, I rise to strike the requisite number of words.

Mr. Chairman, today I rise in support of Mr. Fields' amendment and urge my colleagues to join me.

The Fields amendment strikes $7 million from the National Oceanic and Atmospheric Administration appropriations for fiscal year 1995. This amount is equivalent to the funding level proposed for the GLOBE, the Global Learning and Observations to Benefit the Environment Program.

GLOBE was proposed by Vice President AL GORE in his book, "Earth in the Balance." NOAA would run the program to enhance the awareness of individuals throughout the world concerning humanity's impact on the environment.

Under this program, the United States would pay for schoolchildren around the world to take temperature, wind, and air chemistry measurements as well as to conduct an annual tree census.

But, one thing is certain—no matter how many trees are counted, the Vice President's program will not locate an oak, pine, or bamboo tree that has dollar bills as foliage. Money simply does not grow on trees.

While the concept of encouraging schoolchildren to take part in scientific experiments may be meritorious, this program is a highly questionable expenditure of our scarce Federal dollars.

In fact, GLOBE is so questionable that it has not been authorized by this Congress. Once again, however, the Appropriations Committee has adopted an elitist attitude and disregarded the decisions of the authorizing committee. This is an outrageous disregard for the rules of this body.

The authorizing committee is clearly in the best position to weigh the merits of the program and decide if it is worthy of Federal funding. I am confident that they had very good reasons for denying this program authorization.

For example, this year's requested funding for GLOBE is only $7 million in fiscal year 1995, but projections indicate that spending will skyrocket to $100 million in the year 2000. This means that the U.S. cumulative investment could total more than $2 billion.

Not only is this program an enormous expense, most of this money will be spent on other nations to train foreign teachers, buy satellite time, computers, and solar TV's.

With a ballooning national debt, Congress can hardly justify spending hardworking American taxpayers dollars on foreign schools.

Despite the expensive data to be collected by GLOBE, NOAA does not intend to reduce its budget for global climate research. This is a clear indication that the data obtained through GLOBE will be of dubious scientific value and that it is duplicative of other NOAA observations. In either case, it is obviously not worth the expenditure in a time when we should be pinching pennies.

Mr. Chairman, in addition to eliminating the $7 million, the Fields amendment prohibits the use of any dollars appropriated to NOAA for the GLOBE Program. This is clearly necessary because last year NOAA blatantly ignored and violated Public Law 102-567, which requires that notice be given to the Committee on Merchant Marine and Fisheries before the agency reprogrammed $500,000 of its fiscal year 1994 funds to start this program.

This is another example of the Congress disregarding its own rules of procedure. The GLOBE Program is unnecessary and wasteful and was denied authorization by the appropriate committee for very good reasons. I urge my colleagues to vote "yes" on the Fields amendment.

☐ 1240

Mr. ROGERS. Mr. Chairman, I move to strike the requisite number of words.

I have to rise in support of this amendment. There have been no hearings on this potentially very large project that eventually is supposed to reach every nation on Earth. This program has not been authorized by the House. The Committee on Education and Labor has not had hearings on the matter and by and large this is, if anything, an educational program. But the Committee on Education and Labor has had no hearings and has certainly not authorized this very new project.

No. 2, the money is being taken from the NOAA account.

NOAA is very precise in their mission. That is to make very scientific measurements of the environment, of research matters that are precise and that people depend upon even with their very lives in the case of the National Weather Service. No one is saying that the data to be collected worldwide by children will be anything near reliable scientific and research quality items. And yet, the money to be taken by this dubious project from the NOAA account would take money that we had to skimp to find from such things as the Modernization Program and the National Weather Service. We are underfunding that account by less than the money in this bill. We are underfunding the polar spacecraft and the geostationary spacecraft that the National Weather Service has to have for the safety of every single American. If we want to find the money from some other agency, go to the Education bill, go to the Committee on Education and Labor, that is where this belongs, if anywhere. It does not belong in the NOAA account, Mr. Chairman, because we are underfunding critical programs in the NOAA account to fund this very dubious tree-counting mission in Argentina.

Mr. FIELDS of Texas. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Texas.

Mr. FIELDS of Texas. Mr. Chairman, $59 million has been cut from drug interdiction. Fourteen Coast Guard search and rescue stations around the country have been eliminated. The Boat Safety Act has been zeroed out, and we will be coming before this body, as we have already, asking for funds for U.S. shipbuilding which is a high priority.

Mr. ROGERS. Mr. Chairman, I wish that we would pass this over for the time being. Vote for the Fields amendment. Let us eliminate this money so we can put it back in the National Weather Service to complete the Modernization Program and be able to launch the weather satellites in an appropriate way to fund them as we have. And let us pass the Fields amendment and have the Committee on Education and Labor, the authorizing committee, where this belongs, hold a couple of days of hearings, maybe 1 day of hearings. Let us know what we are dealing with. We are buying a pig in a poke here. The poke has some holes in it, because we have had to cut the NOAA account in so many other ways. I urge a vote for the Fields amendment.

Mr. MOLLOHAN. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from West Virginia.

Mr. MOLLOHAN. Mr. Chairman, I thank the distinguished ranking minority member for yielding to me.

I just wanted to clarify, I believe the gentleman from Virginia that preceded the distinguished ranking minority member, the gentleman from Virginia [Mr. GOODLATTE], probably misspoke and indicated that the authorization for this program had been denied. I am advised that the authorizing committee or one of the committees that would have jurisdiction, the Committee on Merchant Marine and Fisheries, has reported the bill and recommended an authorization of $7 million. So there obviously has been very serious consideration by the authorizing committee.

Also I would like to point out that this program was the subject in one of our hearings in which Dr. Baker, who is head of NOAA, indicated that the GLOBE Program, "is an opportunity for us to respond, to have a better educated public on environmental issues and also to engage our science and technology base in some educational activity." And then finally, "We see a real value-added activity here in terms of the data that will be produced."

So it obviously has the support of NOAA. It has had considerable consideration of the authorizing side while at the same time it has not gone completely through that process.

The CHAIRMAN. The time of the gentleman from Kentucky [Mr. ROGERS] has expired.

(By unanimous consent, Mr. ROGERS was allowed to proceed for 1 additional minute.)

Mr. FIELDS of Texas. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Texas.

Mr. FIELDS of Texas. Mr. Chairman, just to clarify very quickly, there were no hearings in the Committee on Merchant Marine and Fisheries. There was a subcommittee vote. There was a full committee vote.

Under a normal set of circumstances, this would now got to the Committee on Science, Space, and Technology.

That has not even taken up this particular piece of legislation. This is not completed, the normal authorization process wherein we have debate, wherein we can flush out issues and Members have an opportunity to act on a particular piece of legislation.

Mr. GOODLATTE. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Mr. Chairman, I thank the gentleman from Kentucky for yielding to me and to clarify my remarks, which were what I gave in the RECORD, I stated that this House had not authorized this program. I stand by those remarks.

Mrs. BENTLEY. I rise in support of the amendment offered by Mr. FIELDS which eliminates the $7 million from the unauthorized GLOBE Program.

Under GLOBE, the American taxpayer soon will pay for a worldwide education program under which schoolchildren from 20 foreign countries will monitor the earth daily by taking air chemistry measurements and conduct an annual global tree census.

Further, the $7 million will be used, in part, to purchase solar-powered television sets, buy satellite time so children around the planet can compare data, train foreign teachers, and establish a new office under NOAA.

Mr. Chairman, why should the U.S. taxpayer provide the funding for foreign schools to participate in such a program? I am sure the American people would much rather see this money used for schools and schoolchildren here in the United States.

During a time of skyrocketing debt and when illiteracy is running rampant among our school-age children, we should not be spending $7 million on GLOBE.

GLOBE may be a good concept; however, the private sector should finance it, not the cash-strapped American Government.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. FIELDS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FIELDS of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 190, noes 192, not voting 57, as follows:

[Roll No. 277]

AYES—190

Allard
Andrews (NJ)
Applegate
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Bunning
Burton
Byrne
Callahan
Camp
Canady
Castle
Chapman
Clinger
Coble
Collins (GA)
Combest
Condit
Coppersmith
Cox
Crane
Crapo
Cunningham
DeLay
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fowler
Franks (NJ)
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grandy
Greenwood
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Holden
Horn
Huffington
Hunter
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kyl
Lambert
Laughlin
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (KY)
Linder
Livingston
Lucas
Mann
Manzullo
Margolies-Mezvinsky
McCandless
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mfume
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Morella
Myers
Neal (NC)
Nussle
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Penny
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Quinn
Ramstad
Regula
Roberts
Roemer
Rogers
Rohrabacher
Roth
Santorum
Saxton
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Spence
Spratt
Stearns
Stenholm
Stump
Swett
Talent
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Thurman
Torkildsen
Traficant
Upton
Volkmer
Vucanovich
Walsh
Wolf
Young (AK)
Young (FL)
Zimmer

NOES—192

Abercrombie
Andrews (ME)
Andrews (TX)
Bacchus (FL)
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski

Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Cantwell
Cardin
Carr
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Conyers
Cooper
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dixon
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Foglietta
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Hamburg
Hastings
Hefner
Hinchey
Hoagland
Hochbrueckner
Houghton
Hoyer
Hughes
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Kopetski
Kreidler
LaFalce
Lancaster
Lantos
LaRocco
Levin
Long
Lowey
Maloney
Manton
Markey
Martinez
Mazzoli
McCloskey
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moran
Murphy
Murtha
Nadler
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pickle
Poshard
Price (NC)
Rangel
Ravenel
Reed
Richardson
Romero-Barcelo (PR)
Ros-Lehtinen
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Scott
Serrano
Sharp
Shepherd
Skaggs
Slaughter
Smith (IA)
Stark
Strickland
Studds
Stupak
Swift
Synar
Tanner
Tejeda
Thompson
Thornton
Torres
Torricelli
Tucker
Underwood (GU)
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Walker
Watt
Weldon
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—57

Ackerman
Berman
Boucher
Buyer
Calvert
Clay
Collins (MI)
Costello
Deal
Dingell
Ehlers
Faleomavaega (AS)
Flake
Ford (MI)
Franks (CT)
Gallegly
Gephardt
Grams
Gutierrez
Hall (OH)
Hilliard
Hutchinson
Jacobs
Klink
Kolbe
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Machtley
Matsui
McCollum
McCurdy
Mica
Michel
Norton (DC)
Quillen
Rahall
Reynolds
Ridge
Roukema
Royce
Schaefer
Schumer
Slattery
Smith (OR)
Solomon
Stokes
Sundquist
Taylor (MS)
Towns
Washington
Waters
Waxman
Wheat
Zeliff

□ 1310

Messrs. GLICKMAN, EDWARDS of Texas, and STRICKLAND changed their vote from "aye" to "no."

Messrs. GOODLING, SPRATT, POMEROY, and WALSH changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRY

Mr. ROGERS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. ROGERS. Mr. Chairman, did the Delegates to this body make the difference in this vote in the Committee?

The CHAIRMAN. The gentleman is correct.

The Chair was just about to address that matter.

Mr. ROGERS. I thank the Chairman.

The CHAIRMAN. Pursuant to clause 2(d) of rule XXIII the Committee rises.

Pursuant to clause 2(d) of rule XXIII the Committee rose; and the Speaker pro tempore (Mr. HUTTO) having assumed the chair, Mr. BROWN of California, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 4603) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes, directs him to report that on a recorded vote on an amendment the votes of the Delegates and of the Resident Commissioner from Puerto Rico were decisive.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. FIELDS of Texas: Page 39, line 24, strike "$1,792,978,000" and insert "$1,785,978,000".

Page 40, line 10, strike "$1,751,978,000" and insert "$1,744,978,000".

The SPEAKER pro tempore. Pursuant to clause 2(d) of rule XXIII, the Chair will now put the question de novo on the amendment offered by the gentleman from Texas [Mr. FIELDS].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. FIELDS of Texas. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 184, noes 184 not voting 66, as follows:

[Roll No. 278]

AYES—184

Allard
Andrews (NJ)
Applegate
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Barca
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Bunning
Burton
Byrne
Callahan
Camp
Canady
Castle
Chapman
Clinger
Coble
Collins (GA)
Combest
Condit
Coppersmith
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (NJ)
Gallo
Geren
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grandy
Greenwood
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Holden
Horn
Huffington
Hunter
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kyl
Laughlin
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (KY)
Linder
Livingston
Lucas
Mann
Manzullo
Margolies-Mezvinsky
McCandless
McCrery
McDade
McHugh
McInnis
McKeon
Meyers
Mfume
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Morella
Myers
Neal (NC)
Nussle
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Penny
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Quinn
Ramstad
Ravenel
Regula
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Santorum
Saxton
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Stenholm
Stump
Swett
Talent
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Thurman
Torkildsen
Traficant
Upton
Vucanovich
Walsh
Wolf
Young (AK)
Zimmer

NOES—184

Abercrombie
Andrews (ME)
Andrews (TX)
Bacchus (FL)
Baesler
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Brooks
Browder
Brown (CA)
Brown (OH)
Bryant
Cantwell
Cardin
Carr
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Conyers
Cooper
Coyne
Cramer
Danner
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dixon
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (TN)
Frank (MA)
Furse
Gejdenson
Gekas
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Hall (OH)
Hamburg
Hefner
Hinchey
Hoagland
Hochbrueckner
Houghton
Hughes
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Kopetski
Kreidler
LaFalce
Lancaster
Lantos
LaRocco
Levin
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Lowey
Maloney
Manton
Markey
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McDermott
McHale
McKinney
McNulty
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Miller (CA)
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Mollohan
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Murtha
Nadler
Neal (MA)
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Olver
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Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pickle
Poshard
Price (NC)
Rangel
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Richardson
Rose
Rostenkowski
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Roybal-Allard
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Sabo
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Sangmeister
Sarpalius
Sawyer
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Schroeder
Scott
Serrano
Sharp
Shepherd
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Slaughter
Smith (IA)
Spratt
Stark
Strickland
Studds
Stupak
Swift
Synar
Tanner
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Thompson
Torres
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Vento
Visclosky
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Waters
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Williams
Wilson
Wise
Wyden
Wynn
Yates

NOT VOTING—66

Ackerman
Ballenger
Berman
Bilirakis
Boucher
Brown (FL)
Buyer
Calvert
Clay
Collins (MI)
Costello
Deal
Dingell
Ehlers
Ford (MI)
Franks (CT)
Frost
Gallegly
Gephardt
Grams
Gutierrez
Hastings
Hilliard
Hoyer
Hutchinson
Jacobs
Klink
Kolbe
Lambert
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Machtley
Matsui
McCollum
McCurdy
McMillan
Mica
Michel
Owens
Quillen
Rahall
Reynolds
Ridge
Roukema
Schaefer
Schumer
Slattery
Smith (OR)
Solomon
Spence
Stearns
Stokes
Sundquist
Taylor (MS)
Thornton
Towns
Washington
Waxman
Weldon
Wheat
Woolsey
Young (FL)
Zeliff

□ 1332

The Clerk announced the following pairs:

On this vote:

Mr. Deal for, with Mr. Ackerman against.

McCollum for, with Mr. Berman against.

Mr. Calvert for, with Miss Collins of Michigan against.

Mr. Grams for, with Mr. Dingell against.

Mrs. Roukema for, with Mr. Hilliard against.

Mr. Schaefer for, with Mr. Mica against.

Mr. VOLKMER and Mr. GEKAS changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. MICA. Mr. Speaker, I would like the RECORD to reflect that I was unavoidably detained for rollcall Nos. 277 and 278.

PERSONAL EXPLANATION

Mr. BALLENGER. Mr. Speaker, I was absent for rollcall vote No. 278. I would have voted "aye" on rollcall vote No. 278.

The SPEAKER pro tempore (Mr. HOYER). Pursuant to clause 2(d), rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4603.

□ 1333

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4603) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes, with Mr. BROWN of California in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the amendment offered by the gentleman from Texas [Mr. FIELDS] had been rejected on a recorded vote on which the votes cast by the Delegates and the Resident Commissioner were decisive. That result has since been affirmed by the House. Accordingly, the amendment offered by the gentleman from Texas [Mr. FIELDS] was rejected.

Mr. OBEY. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin [Mr. OBEY] for 5 minutes.

Mr. OBEY. Mr. Chairman. I would just like to take this time to discuss the time situation that we are in. I know that the gentleman from West Virginia [Mr. MOLLOHAN] has been asked to rise because of the natural gas situation at National Airport. Evidently a large traffic jam is developing because of that problem out there, and it is the Committee's intention to rise. But before that happens, Mr. Chairman, I simply want to make this point:

Before we adjourn in July for the July 4th recess, we have to finish this and all remaining appropriations bills, and that is going to mean that we are going to need the utmost cooperation of the membership with respect to limiting the time taken to discuss each of the amendments on each of the bills before us, and it is also going to mean that we are going to have to be here until midnight virtually every night next week.

So, Mr. Chairman, I simply take this time to bring to the attention of the House the fact that we are going to need that cooperation or we are going to be here substantially later than midnight every night next week.

Mr. Chairman, I yield back the balance of my time.

Mr. ORTON. Mr. Chairman, I rise today for the purpose of stressing the importance of fully funding for the National Instant Criminal Background Check System [NICBCS] and to support the passage of this legislation. While this bill does not appropriate as much funding for the background check system as I would have liked, it is a step in the right direction. What we all have to realize is that in our efforts to reduce our Nation's enormous budget deficit, the amount of available funding sources are becoming more and more scarce. I also recognize the extraordinary pressures that members of this subcommittee, and every appropriations subcommittee for that matter, are facing when trying to craft a specific appropriations act.

This year's Commerce-Justice-State Appropriations Act, as reported to the House, provides a $6 million appropriation for the FBI to complete their NICBCS efforts. More importantly, however, is the expansion of the traditional Byrne law enforcement grants that will now allow States to use this funding source to upgrade criminal history records in their respective States. I view this as a major victory for every State across the Nation, since Congress is actually getting around to appropriating the funds that are needed to carry out the mandate that was incorporated as a part of the Brady bill. Unfunded Federal mandates have probably caused more friction between the U.S. Congress and our individual States than almost any other specific issue. This appropriations act will send a strong message to our State governments that Congress is starting to get serious about unfunded Federal mandates.

However, my overriding goal in obtaining full funding for the NICBCS is to sunset the 5-day waiting period before the 5-year moratorium on the waiting period is reached. I believe this goal is good public policy for two distinct reasons. First of all, it will accomplish what the Brady bill set out to do—to check the criminal background histories of potential gun buyers. Under the current law, before the NICBCS is fully operational, the local and State governments are not even mandated to check the criminal background records of every gun buyer—they are only required to make a good faith effort to run the background check within 5 days, and if it is not completed within the 5 day timeframe the gun sale may still go through. This is very different from the provisions of the current law which mandates that once the NICBCS is on-line, a criminal background check must take place before the sale can be completed. Second, the NICBCS will not infringe on the rights of law-abiding gun owners in the same onerous way that the Brady bill does.

Again, I thank the subcommittee and acting Chairman MOLLOHAN for their efforts and hard work on this legislation.

Mr. BROWN of California. Mr. Chairman, I rise in support of this Commerce, Justice, and State, the Judiciary, and related agencies appropriations bill and I commend the gentleman from West Virginia and the committee for their efforts.

I am pleased with the substance of the bill as it pertains to programs in the jurisdiction of the Committee on Science, Space, and Technology. I am pleased that it is relatively free of the kind of legislative language that should be left to the proper authorizing committees—but that nevertheless appears all too often in appropriations bills. I wish I could say that I am pleased that the bill is free of earmarks, but I cannot—a point I will return to later.

With respect to the substance of the bill, I am extremely pleased that the committee has produced a bill consistent with the administration's requests for substantial increases in technology investment programs. Increasingly, economists and other public policy analysts have come to recognize that arguments for Government support of research and development activities apply not only to basic research but also farther down the R&D scale toward commercial development. R&D investments like those in the Advanced Technology Program, for example, are critical to raising the Nation's productivity and standard of living, yet they all too often are singled out for reduction or elimination by zealous deficit cutters who overlook their longer term payoffs in order to achieve short-term budget savings. I am also pleased that the committee was able to increase funding for NOAA operations, research, and facilities above the fiscal year 1994 level in a tight budget environment.

Mr. Chairman, the Committee on Science, Space, and Technology has been investigating the practice of academic earmarking of appropriations bills for some time now. We have achieved some successes and we have run into some roadblocks in trying to keep this practice under control. This bill provides a good illustration of what has been happening. First, the good news. Last year we identified almost $80 million in 63 earmarks in the Commerce, Justice, State conference report. This year, many of those earmarks are missing from the House report, and I commend Mr. MOLLOHAN for his efforts to keep academic earmarking under control. Unfortunately, this is a bill that is prone to earmarking by the other body and in conference. Also, some report language funds programs that have been authorized in House bills but not enacted into law.

As my colleagues may be aware, I do not count as earmarks those projects which have been requested by the President or have been authorized and signed into law. It is with some regret that I include the National Undersea Research programs five regional centers as an earmark. These centers, which are funded at $16 million out of NOAA, have been authorized by the House in the past. The Merchant Marine and Fisheries Committee has finished their markup of a new authorization and that bill is ready for floor consideration. I fully expect the House to deal with that bill in the near future. However, we often cannot get the other body to act on NOAA authorizations and rarely have our authorizations become law. So long as that is the case, I must continue to report NURP as an earmark. I hope that my good friend from West Virginia recognizes that no blame accrues to him for funding this program. The House does the responsible thing. I want to commend my colleagues on the Merchant Marine and Fisheries Committee who moved the authorization this year and my colleagues on the Appropriations Subcommittee who are funding the program for their actions. However, I also ask that my friend from West Virginia point out to his counterparts from the other body that we in the House expect them to move these authorizations. Until that happens, I will continue to count such programs as earmarks and continue to complain about a process which effectively denies our authorizing committees and the members of those committees a voice in legislation.

Notwithstanding these concerns, Mr. Chairman, this is a good bill and I urge all Members to support it.

Mr. MOLLOHAN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose and the Speaker pro tempore (Mr. TORRES) having assumed the chair, Mr. BROWN of California, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4603) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes, had come to no resolution thereon.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO FILE REPORTS ON H.R. 3636, NATIONAL COMMUNICATIONS COMPETITION AND INFORMATION INFRASTRUCTURE ACT OF 1993, AND H.R. 3626, COMMUNICATIONS REFORM ACT OF 1993

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce have until midnight tonight to file a report on the bill (H.R. 3636) to promote a national communications infrastructure to encourage deployment of advanced communications services through competition, and for other purposes, and on the bill (H.R. 3626) to supersede the modification of final judgment entered August 24, 1982, in the antitrust action styled United States versus Western Electric, civil action No. 82-0192, U.S. District Court for the District of Columbia; to amend the Communications Act of 1934 to regulate the manufacturing of Bell operating companies, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. FIELDS of Texas. Mr. Speaker, reserving the right to object, and I will not object, but I do so to yield to the gentleman from Massachusetts [Mr. MARKEY], my good friend, for further explanation.

Mr. MARKEY. Mr. Speaker, the Committee on Energy and Commerce intends to file the reports on H.R. 3636 and H.R. 3626 before the end of the day, but, because the House may not be in session at that time, we are affording the committee the opportunity to file the report today. It is our hope that these bills can be considered by the full House next week, and we want to give the Members the opportunity to review the report in a timely fashion.

Mr. FIELDS of Texas. Mr. Speaker, further reserving the right to object, and I am not going to object, but I want to inform the Members on this side that the minority has had the opportunity to review this and there is no objection.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO FILE REPORTS ON S. 1458, GENERAL AVIATION REVITALIZATION ACT OF 1994, AND ON H.R. 3626, COMMUNICATIONS REFORM ACT OF 1993

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary have until 6 p.m. today to file a report on the Senate bill (S. 1458) to amend the Federal Aviation Act of 1958 to establish time limitations on certain civil actions against aircraft manufacturers, and for other purposes, and midnight tonight to file a report on the bill H.R. 3626 to supersede the Modification of Final Judgment entered August 24, 1982, in the antitrust action styled *United States* v. *Western Electric*, Civil Action No. 82-0192, United States District Court for the District of Columbia; to amend the Communications Act of 1934 to regulate the manufacturing of Bell operating companies, and for other purposes. I do not believe the other side has any objection to these requests.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 1340

COMMUNICATION FROM THE HONORABLE TOM DELAY, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable TOM DELAY:

HOUSE OF REPRESENTATIVES,
Washington, DC, June 23, 1994.

Hon. THOMAS S. FOLEY,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER, This is to inform you pursuant to Rule L (50) of the Rules of the House that an employee in my office has been served with a subpoena issued by the United States District Court for the Eastern District of Virginia.

After consultation with the General Counsel, it was determined that compliance was consistent with the privileges and precedents of the House.

Sincerely,

TOM DELAY,
Member of Congress.

LEGISLATIVE PROGRAM

(Mr. DREIER asked and was given permission to address the House for 1 minute.)

Mr. DREIER. Mr. Speaker, I take this opportunity to address the House for 1 minute so that I might inquire of my very dear friend and Rules Committee colleague, the majority whip, the program for next week and our plans as we begin to head toward the July 4 district work period.

I yield to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. I thank my friend for yielding. I will read the schedule for next week.

We will meet at noon on Monday, after a restful and happy weekend. We will have suspensions, 11 of them, as follows:

S. 1458, General Aviation Revitalization Act;

H.R. 2238, Federal Acquisition Improvement Act;

H.R. 4635, to extend the Export Administration Act of 1979 until August 20, 1994;

H.R. 4595, Marian Oldham Post Office;

H.R. 4596, John L. Lawler, Jr., Post Office;

H.R. 4400, Postal Inspection Service and Inspector General Act;

H.R. 2559, to designate a Federal building located in Kansas City, MO, as the "Richard Bolling Federal Building;

H.R. 3567, the John F. Kennedy Center Act Amendments of 1994;

H.R. 4576, to designate a Federal building in Washington, DC, as the "Jamie L. Whitten Federal Building";

H.R. 4577, to designate a Federal building and U.S. courthouse in Bowling Green, KY, as the "William H. Natcher Federal Building"; and

S. 832, to designate the plaza on the Federal Triangle Property in Washington, DC, as the "Woodrow Wilson Plaza."

We expect to conclude debate on those somewhere in the neighborhood of 2 to 3 o'clock. If votes are asked on any of the 11, we will roll them until Tuesday.

At approximately 2 or 3 o'clock, whenever we get there, we will recommence the Commerce-Justice-State appropriations bill and complete that, successfully, and then we will move on to the Labor, HHS, and Education appropriation bill for fiscal year 1995.

On Tuesday, Members should expect we will be working late every day next week, with hopefully a reasonable hour on Thursday. But we want to complete all 13 appropriation bills before the recess.

Tuesday, June 28, and Wednesday, June 29, and Thursday, June 30, the House will meet at 10:30 in the morning on Tuesday for morning hour, and then on Wednesday and Thursday we will meet at 10 a.m. There will be on suspension two bills, H.R. 3626, the Antitrust Reform Act, and H.R. 3636, the National Communications Competition and Information Infrastructure Act.

Then we plan to move, if we are at that point, having finished the Labor, HHS, and Education appropriations bill, we plan to move to the VA, HUD, and independent agencies bill, subject to a rule, and, of course, then to finish the others, the District of Columbia appropriations bill, and the Defense appropriation bill. In addition to that, Expedited Rescissions Act of 1994, subject to a rule, the California Desert Protection Act could continue, and there is some discussion of the Antiredlining and Insurance Disclosure Act, subject to a rule, also being part of the week.

That is what we intend to do.

Mr. DREIER. If I could reclaim my time and ask my friend a couple of questions, for starters, will we not be holding the morning hour on Monday? Am I correct in assuming that, that the House will convene at noon, but without having gone through a morning hour on Monday?

Mr. BONIOR. That is my information.

Mr. DREIER. The schedule now calls for Tuesday evening our Oxford style debate on trade and human rights. I was wondering if that is still scheduled, as the plan calls for us to go late each night?

Mr. BONIOR. Well, given what we have before us and the schedule that I read, I really think that we have to have further discussions with the minority on that. It seems to me it would be very difficult to fit that in. Before that decision is finally made, we obviously want to consult with the minority on that.

Mr. DREIER. I would be happy to yield to my friend, the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. I thank the gentleman for yielding. I have had discussions with the gentleman from Pennsylvania [Mr. WALKER], and as the distinguished majority whip has said, because of the schedule and because of the fact we do not want the debates to start, say, at 10 or 11 o'clock at night, it is a problem.

Mr. DREIER. Which would be prime time for California, I should say.

Mr. HOYER. I do not want to debate the gentleman's definition of prime time, of course. But notwithstanding that, in discussing it with the gentleman from Pennsylvania [Mr. WALKER] and others, I think we believe we will probably put it over until after we come back. The majority whip is correct that that is under consideration. But I think that will be the result.

Mr. DREIER. Also, that provides an opportunity for the two of us to hone our arguments in advance of that debate and keep us busy over the break.

I would like to further inquire of my friend from Michigan, as we look at the Expedited Rescissions Act of 1994, what kind of rule can we anticipate on that Expedited Rescissions Act?

Mr. BONIOR. Well, I do not know. I cannot tell my colleagues. The Committee on Rules will have to hear it. As you know, we have upstairs in the Committee on Rules, as members of that committee, original jurisdiction on that bill. Of course, we also have the ability to set the procedures by way of the rule. And that, I do not know what we will do. It will depend upon the will of the majority of the committee.

Mr. DREIER. Let me also inquire, if I might, the second suspension on the list, the Federal Acquisition Improvement Act, I understand there are a number of members of the Committee on Armed Services who are still making an attempt to work that issue out. Is that in fact going to be the number two item on the suspension calendar?

Mr. BONIOR. We understand there are still discussions ongoing between the ranking member and its chairman, and, of course, as always, if the committee asks us to pull that, we will pull it.

Mr. DREIER. I would also like to ask, as I look at the schedule, it states that the votes on the suspensions on Monday will take place at the end of debate on that. You have said that we would have those votes postponed until Tuesday.

Mr. BONIOR. The latter is correct. I will restate that for my friend. The suspensions, the votes if ordered, will be taken on Tuesday, and not at the end of the day on Monday.

Mr. DREIER. So on Monday we can anticipate beginning sometime after 3 o'clock?

Mr. BONIOR. We expect these 11 suspensions will run their total out at probably 2 to 3 o'clock. Then we will get into the amendment process. Of course, we do not know how long the debate will take on the first amendment. Three o'clock I think is probably a safe hour for Members to plan on.

Mr. DREIER. I have been told by some of my fellow California colleagues that we most likely will not see the California Desert Protection Act coming up next week. Is there any indication as to that?

Mr. BONIOR. As you can tell from the heavy schedule that I have outlined, it is going to be very difficult to get all this work and get back to California desert. But the Committee on Appropriations and its members and its leadership and its chairman are moving with good speed, and we may just finish early enough that we might want to consider that important environmental bill.

Mr. DREIER. Now, while we are planning to work late each night next week, what time could we anticipate completing our work on Thursday? A number of my colleagues on this side have been asking.

Mr. BONIOR. People should not count on an early finish on Thursday. It would be nice, that would be our goal, that is what we will aim for so people can travel for the 4th of July recess period. But we will stay, as of right now, to finish the important appropriation work, and that may take us late into the evening.

Mr. DREIER. Just one final question. We have discussed this issue before, but as we all know, in a bipartisan way, we spent calendar year 1993 and until the Joint Committee on the Organization of the Congress and successfully marked up H.R. 3801 just before Thanksgiving and our adjournment of the first session of the 103d Congress. There have been plans for the reform package, H.R. 3801, to come to the floor on four or five different occasions, and I was wondering if my friend might give us any indication as to when we might have the measure, with the generous rule intact, so that the full House can take up the package that was worked on so diligently by Members of our joint committee?

Mr. BONIOR. Well, the description that my colleague has just given with respect to how it will reach the floor will obviously be altered by what type of rule we provide and where we go with the package in its aggregate or individually. Those decisions have not been made yet. We hope to get something to the floor by the August recess, as I told the gentleman when we discussed this last week in this very same exercise.

□ 1350

Mr. DREIER. Mr. Speaker, I thank the gentleman.

ADJOURNMENT TO MONDAY, JUNE 27, 1994

Mr. BONIOR. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore (Mr. PENNY). Is there objection to the request of the gentleman from Michigan?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BONIOR. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

KEEPING FATHERS AT HOME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] will be recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, tonight 15 million children, about one-third of the children in America, will go to bed in a house where no father lives. In many cases they do not even know who their father is. Yet 90 percent of the children on public assistance are in this situation. They live in fatherless homes.

The Journal of Research and Crime and Delinquency, which indicates and tracks the correlation between crime and family structure, has said that the real predicter of crime in a neighborhood is not income level and it is not education. But it is how many fathers live at home and how many do not.

Seventy percent of the children in long-term juvenile homes grew up in households without fathers. It goes on and on about the impact of what it is like to grow up in a family without a father.

One of the interesting cases is that of abused children—the odds that if the father abuses that child—it is 40 to 1 that that father is not the child's biological father. This is a tremendous problem, Mr. Speaker. It is something that I do not feel we as a body have done enough to address, because if you look at these statistics and you track along teenage pregnancy, drop-out rates, lower grades, crime problems, emotional problems and so forth, yes, there is a relationship between living in a household with a father and living without one.

We talk about welfare reform. We debate it over and over again. Yet we are missing the basic component of it, and that is getting the dad back at home.

Now, if you look at our society and what we have done to fathers, look at them on television. Fathers are depicted as being silly, superfluous buffoons. They are overgrown children and silly or, if not, they are the greedy, malicious person who is the protagonist in the story and one who is causing all the problems. That is the Hollywood depiction of a father.

Of course, then there is the politically correct depiction of a father, one who cries and whines, really, not just at proper times but incessantly as a way to diminish his masculinity. He will just show emotions at all costs and basically to try to run from what I would say would be his masculine role in the family structure.

But the government's view is the worst, Mr. Speaker, because what we say is that if a dad lives at home, the family welfare units, his income added to the total income is what causes the family to have to go back out on the streets, what causes the family not to be eligible for public assistance and what causes the family in most cases to break up, his income.

I believe that is, we are going to do something about crime, do something for education, something for teenage pregnancy and so forth, we have to start with the dad. We have to have the father at home.

If we do reform welfare and, based on some of the things around here, I do not know that we ever will get significant welfare reform done, but if we do, a chief component has to be getting dad's income in there. That father has to become part of the formula. He cannot act like an alley cat, get some woman pregnant or in some cases a girl, that is what they are, children, and then run off to the next conquest. We have to say to that young 17-year-old boy that, you are indeed on the hook, just as much as the 17-year-old mother is, and as long as that child is a member of the minority, until she becomes 21 years old, she is your responsibility. And regardless of where you are, a portion of your paycheck and energy is going to be going to raise that family.

But where he is, I hope, is at home under the same roof with the biological mother. Because, Mr. Speaker, statistics tell us that we have to do this if we are going to rebuild the family structure and bring down crime and the education dropout and so forth.

What I would like to see, as a Member of Congress, is a study on bringing the dad back in. Let us forget a traditional conservative view of welfare reform. Let us forget the traditional liberal view of welfare reform. Let us just talk about family reform and getting that father back at home, getting them under one roof.

I think the first thing we have to start with is rent reform that will allow the dad to live with the family and not have his income throw them out of public housing. There is a bill on that. I have cosponsored that. But that is only a step.

I think the second thing is saying that if you get someone pregnant and you are a man that you are on the hook for 21 years. We are going to track you down and so forth. We do not have a bill on that right now, but I want to look into it. And I am trying to separate this from a sweeping welfare reform and only target on where I believe the critical need is.

MFN FOR CHINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 5 minutes.

Mr. DREIER. Mr. Speaker, I have taken this time to talk about a critically important foreign policy issue which is going to be debated in the next several weeks here in the Congress. I am talking about a decision that President Clinton made with which I agree, and that happens to be his very wise and thoughtful choice to proceed with the granting or renewal of most-favored-nation trading status for the People's Republic of China.

Let me, at the outset, say that it is extraordinarily surprising to me to see the top leaders of the Democratic Party standing up and opposing their President on what is clearly a very important foreign policy question. I am referring, of course, to the majority leader of the U.S. Senate, Mr. MITCHELL, and to the leaders here in the House, the gentleman from Michigan [Mr. BONIOR] and the gentleman from Missouri [Mr. GEPHARDT] and others who have chose to, in fact, try to defeat President Clinton in his very wise decision to proceed with MFN for China. Obviously, every one of us are concerned about the human rights situation as it exists in China. I am one who has proudly said on many occasions that I joined with Democrats and Republicans alike in marching up to the Chinese Embassy 5 years ago this month and demonstrating, joined in demonstrating our concern and outrage over the Tiananmen Square massacre which took place on the 4th of June 1989.

□ 1400

Having done that, Mr. Speaker, I came to the conclusion that if we really want to deal effectively with the human rights problems that exist in China, and they are very serious, they have been and they continue to be, the best way for us to effectively address that, and President Clinton has decided the same thing, is to proceed with most-favored-nation trading status, basically strengthening, strengthening the exposure of Western values to the people of China. Most everyone has concluded that.

In fact, Mr. Speaker, if we look at a recent quote from Nicholas Christoff, who happens to be the Beijing bureau chief from the New York Times, he said it very clearly, having traveled throughout the country, of a country of between 1.2 and 1.3 billion people, he said "If you talk with the peasants, if you talk with workers in China, if you talk with the intellectuals, they all unite in one simple statement: Do not curb trade."

They know that as we look toward the future of the most populous country on the face on the earth, that we do no want to see an economically devastated country. We have to realize that $8 billion a year is being exported from the United States to the People's Republic of China, so jobs are created here in this country, and at the same time the relationship that we have with China allows consumers here in the United States to have the chance to purchase goods at prices which are more affordable, basically enhancing the standard of living right here in the United States.

Of course, having referred to those benefits, one cannot say that we have those as priorities over human rights. I happen to believe that human rights are very important there, but as we look at the past decade in China, we have seen improvements in human rights. After all, if we look at the statements that have been made by many Chinese dissidents, they have acknowledged that it has been the involvement of the United States which has improved the standard of living there.

Mr. Speaker, I have told this story before. When I was in China a couple of months ago, one of the people who was with us, a tour guide, when we were outside of Beijing, was reminded of how devastating the quality of life has been in the former Soviet Union, and he responded by saying, "That was the way things were in China 10 years ago."

If you look at the standard of living in the People's Republic of China, clearly it has seen improvements, steady improvements, and the elimination of most-favored-nation trading status I sincerely believe would not only reduce the standard of living for the 1.2 billion people in China, but in fact would exacerbate, rather than improve, the human rights situation there.

That is why, Mr. Speaker, I find it absolutely shocking that the leadership on the majority side, the Democrat leadership in both the House and Senate, have chosen to stand up to President Clinton in this decision. I hope that when we face what certainly will be a motion here of disapproval for the President's decision, that in a bipartisan way we will be able to come together in the name of improving human rights in the People's Republic of China and improving the standard of living for people in China, the United States, and other countries throughout the world.

SILLINESS ABOUT SOVEREIGNTY?

The SPEAKER pro tempore (Mr. PENNY). Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 5 minutes.

Mrs. BENTLEY. Mr. Speaker, President Clinton is urging the public to pressure Congress into passing the expanded General Agreement on Tariffs and Trade [GATT] this year, not next. That, despite estimates that tariff cuts negotiated in the treaty could cut $12 to $14 billion from Federal revenue over 5 years.

The loss of revenue is a major concern. However, what is more distressing is the loss of sovereignty of the United States under the agreement.

Individual States and American citizens are waking up to the truth about GATT. According to the North Carolina Winston-Salem Journal, the new GATT can be used to overturn tax laws that foreigners consider unfair.

American citizens understand this fact and also are loudly voicing concerns about the loss of sovereignty of the United States under the World Trade Organization [WTO], one of the 200 agreements included in GATT. Those concerns are legitimate.

GATT supporters insist they will be able to make up the revenue loss through eventual economic growth. However, once you've lost your sovereignty, it is gone.

Countries assuming the right to reject GATT rulings as a sovereign prerogative were criticized by Peter Sutherland, director general of the GATT, in a June 16 Reuters story.

In his interview, Mr. Sutherland said countries assuming the right to reject GATT rulings as a sovereign prerogative "amounts to a country choosing to be above the law whenever it is inconvenient to observe the law and this option would not be open to countries under the WTO."

That means the United States of America is expected to abide by and live under the WTO law—laws made by international bureaucrats, trade lawyers and other approved representatives from 118 nations and not—I repeat—not your elected representatives.

Proof of this fact is in a Wall Street Journal story which reported on a letter written about the telecommunications bill by U.S. Trade Representative Mickey Kantor.

In his letter, Ambassador Kantor warned Members of Congress who sought to require jobs for Americans in the bill,

> That the local manufacturing and local content requirements [in the telecommunications bill] would be inconsistent with existing U.S. obligations under the GATT.

When he was questioned about what the United States could do if it violated the WTO provision, Ambassador Kantor replied by citing both NAFTA and GATT that

> If a dispute settlement panel found the provision [the U.S. law] to be inconsistent with the NAFTA, the United States would have the choice of either bringing the provision into conformity with the NAFTA, through congressional amendment or agreeing on alternative trade compensation.

In other words, the United States has no other choice but to adhere to regulations set up by an organization made up of 118 nations.

Under the new GATT, Congress will have limited power over trade. If passed, the WTO and GATT commission will supersede U.S. law. We cannot allow this to happen.

In criticizing opponent to the GATT, one newspaper headline read, "Silliness About Sovereignty."

I disagree heartily that protecting the rights of Americans is silly. To quote Thomas Jefferson in a March 1809 address to the citizens of Washington County, MD, "The care of human life and happiness, and not their destruction, is the first and only legitimate object of good government."

It seems to me that a sovereign nation is obligated to act to protect its citizens. Not after the NAFTA and not under the WTO.

Florida found out what happens with the dumping of Mexican tomatoes into the State which is destroying the Florida farmers. Now, the fresh-cut flower industry is suffering because of the dumping of roses from South America at below market prices. Neither the State nor the Federal Government can act to protect those businesses.

Our Founding Fathers would turn over in their graves if they knew what is happening to this country under these international agreements.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. JACOBS (at the request of Mr. GEPHARDT), for today, after 12:15 p.m., on account of family problems.

Mr. DEAL (at the request of Mr. GEPHARDT), for today, after 12:30 p.m., on account of official business.

Ms. WATERS (at the request of Mr. GEPHARDT), for today, after 12 noon, on account of attending a funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DREIER) to revise and extend their remarks and include extraneous material:)

Mr. KINGSTON, for 5 minutes, today.

Mr. DREIER, for 5 minutes, today.

(The following Member (at the request of Mr. BONIOR) to revise and extend his remarks and include extraneous material:)

Mr. OWENS, for 5 minutes, today.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Mrs. BENTLEY, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DREIER) and to include extraneous matter:)

Mr. CAMP.
Mr. SOLOMON.

(The following Members (at the request of Mr. BONIOR) and to include extraneous matter:)

Mr. TRAFICANT.
Mr. EDWARDS of Texas.
Mr. SHARP.
Mr. BOUCHER.
Mr. RUSH.
Mr. RICHARDSON.
Ms. WATERS.
Mr. RANGEL.
Mr. STARK.
Mr. PAYNE of New Jersey.
Mr. BONIOR.
Mr. BARLOW.

ADJOURNMENT

Mrs. BENTLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 9 minutes p.m.), under its previous order, the House adjourned until Monday, June 27, 1994, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3419. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting the June 1994 semi-annual report on the tied aid credits, pursuant to Public Law 99–472, section 19 (100 Stat. 1207); to the Committee on Banking, Finance and Urban Affairs.

3420. A letter from the Assistant Secretary for Vocational and Adult Education, Department of Education, transmitting notice of final priority—Cooperative Demonstration Program (Manufacturing Technologies), pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3421. A letter from the Secretary of Transportation, transmitting the semiannual report of the inspector general for the period October 1, 1993, through March 31, 1994, and management report, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

3422. A letter from the Public Printer, U.S. Government Printing Office, transmitting the Office's management report for the 6-month period ending March 31, 1994, pursuant to Public Law 101–576, section 306(a) (104 Stat. 2854); to the Committee on Government Operations.

3423. A letter from the Chairman, Federal Election Commission, transmitting proposed regulations governing nominating conventions, pursuant to 2 U.S.C. 438(d); to the Committee on House Administration.

3424. A letter from the Assistant Secretary of the Interior for Indian Affairs, transmitting a proposed plan for the use of the Pueblo of Nambe's judgment funds in Docket 358, before the U.S. Court of Federal Claims, pursuant to 25 U.S.C. 1402(a), 1404; to the Committee on Natural Resources.

3425. A letter from the Secretary of Commerce, transmitting the Department's report regarding bluefin tuna for the periods 1987–1988, 1989–1990, and 1991–1992, pursuant to 16 U.S.C. 971i; to the Committee on Merchant Marine and Fisheries.

3426. A letter from the Chairman, Competitiveness Policy Council, transmitting the Council's third report to the President and the Congress on the current state of U.S. competitiveness and recommendations for needed policy changes, pursuant to 15 U.S.C. 4803; jointly, to the Committees on Ways and Means, Energy and Commerce, Education and Labor, Science, Space, and Technology, and Banking, Finance and Urban Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on the Judiciary. S. 1458. An act to amend the Federal Aviation Act of 1958 to establish time limitations on certain civil actions against aircraft manufacturers, and for other purposes; with an amendment (Rept. 103–525, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 8. A bill to amend the Child Nutrition Act of 1966 and the National School Lunch Act to extend certain authorities contained in such Acts through the fiscal year 1998; with amendments (Rept. 103–535, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. DIXON: Committee on Appropriations. H.R. 4649. A bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1995, and for other purposes (Rept. 103–558). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3626. A bill to supersede the modification of final judgment entered August 24, 1982, in the antitrust action styled U.S. versus Western Electric, Civil Action No. 82–01982, U.S. District Court for the District of Columbia; to amend the Communications Act of 1934 to regulate the manufacturing of Bell operating companies, and for other purposes; with an amendment (Rept. 103–559, Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 3626. A bill to supersede the modification of final judgment entered August 24, 1982, in the antitrust action styled U.S. versus Western Electric, Civil Action No. 82–0192, U.S. District Court for the District of Columbia; to amend the Communications Act of 1934 to regulate the manufacturing of Bell operating companies, and for other purposes; with amendments (Rept. 103–559, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3636. A bill to promote a national communications infrastructure to encourage deployment of advanced communications services through competition, and for other purposes; with an amendment (Rept. 103–560). Referred to the Committee of the Whole House on the State of the Union.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

The Committees on Armed Services and the Judiciary discharged from further consideration of H.R. 4299; H.R. 4299 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BOUCHER (for himself, Mr. SHARP, Mr. MARKEY, and Mr. DINGELL):

H.R. 4645. A bill to amend the Federal Power Act to authorize the Federal Energy Regulatory Commission to disallow recovery of certain costs incurred by public utilities pursuant to transactions authorized under section 13(b) of the Public Utility Holding Company Act of 1935, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DEAL (for himself, Mr. JOHNSON of Georgia, Mr. GENE GREEN of Texas, Mr. PARKER, and Mr. SANDERS):

H.R. 4646. A bill to amend title XIX of the Social Security Act to make optional the requirement that a State seek adjustment or recovery from an individual's estate of any medical assistance correctly paid on behalf of the individual under the State plan under such title, and to raise the minimum age of the individuals against whose estates the State is permitted to seek such adjustment or recovery; to the Committee on Energy and Commerce.

By Ms. SCHENK:

H.R. 4647. A bill to direct the Secretary of the Interior to convey to the city of Imperial Beach, CA, approximately 1 acre of land in the Tijuana Slough National Wildlife Refuge; to the Committee on Merchant Marine and Fisheries.

By Mr. VENTO:

H.R. 4648. A bill to amend the Internal Revenue Code of 1986 to provide an exclusion from gross income for that portion of a governmental pension received by an individual which does not exceed the maximum benefits payable under title II of the Social Security Act which could have been excluded from income for the taxable year; to the Committee on Ways and Means.

By Mr. BEREUTER:

H. Con. Res. 260. Concurrent resolution calling for the United States to propose and seek an international conservatorship in Haiti; to the Committee on Foreign Affairs.

By Mr. HALL of Texas (for himself, Mr. CRAMER, Mr. SAM JOHNSON, Mr. BACCHUS of Florida, Mr. DEAL, Mr. BOEHLERT, Mr. BOUCHER, and Mr. TANNER):

H. Con. Res. 261. Concurrent resolution to honor the U.S. astronauts who flew in space as part of the program of the National Aeronautics and Space Administration to reach and explore the Moon; to the Committee on Science, Space, and Technology.

MEMORIALS

Under clause 4 of rule XXII,

432. The SPEAKER presented a memorial of the Legislature of the State of Missouri, relative to unfunded Federal mandates; jointly, to the Committees on Government Operations and the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 65: Mr. MENENDEZ, Ms. ENGLISH of Arizona, and Mr. GEKAS.

H.R. 291: Mr. THOMAS of Wyoming, Mrs. LLOYD, Mr. APPLEGATE, Mr. WELDON, Ms. DELAURO, Mr. STENHOLM, and Mr. JACOBS.

H.R. 1277: Mr. KNOLLENBERG.

H.R. 1500: Ms. VELAZQUEZ.

H.R. 1532: Mr. SCHAEFER and Mr. ALLARD.

H.R. 1671: Mr. GONZALEZ, Mr. APPLEGATE, and Ms. ESHOO.

H.R. 1900: Mr. KENNEDY.

H.R. 2229: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. OWENS, Mr. FRANK of Massachusetts, Mr. MARTINEZ, Mr. OLVER, Mr. LEWIS of Georgia, Mrs. MINK of Hawaii, Mr. FOGLIETTA, Mr. HOCHBRUECKNER, Mr. DEFAZIO, Mr. FLAKE, Mr. TOWNS, Mr. ABERCROMBIE, and Mr. DELLUMS.

H.R. 2420: Mrs. UNSOELD.

H.R. 2443: Mr. KYL, Ms. ENGLISH of Arizona, and Mr. HILLIARD.

H.R. 2672: Mr. WILLIAMS.

H.R. 3472: Mr. JOHNSTON of Florida.

H.R. 3507: Mr. BREWSTER, Mr. SPENCE, and Mr. CLYBURN.

H.R. 3523: Mrs. ROUKEMA.

H.R. 3594: Mr. ZELIFF.

H.R. 3626: Mr. FISH, Mr. MOORHEAD, Mr. MARKEY, and Mr. FIELDS of Texas.

H.R. 3835: Mr. CRANE and Mr. ORTON.

H.R. 3913: Mrs. MEYERS of Kansas.

H.R. 3940: Mrs. MEYERS of Kansas and Mr. SOLOMON.

H.R. 3967: Mr. FRANKS of Connecticut, Mr. ZELIFF, and Mr. FRANKS of New Jersey.

H.R. 3990: Mrs. BYRNE, Mrs. CLAYTON, Ms. LOWEY, and Mr. ROYCE.

H.R. 4068: Mr. HERGER and Mr. DOOLEY.

H.R. 4069: Ms. VELAZQUEZ, Mr. BRYANT, Mr. FROST, Mr. DELLUMS, and Mr. HILLIARD.

H.R. 4070: Ms. VELAZQUEZ, Mr. BRYANT, Mr. FROST, Mr. DELLUMS, and Mr. HILLIARD.

H.R. 4071: Ms. VELAZQUEZ, Mr. BRYANT, and Mr. DELLUMS.

H.R. 4188: Mr. KOPETSKI, Mr. RAHALL, and Mr. LEACH.

H.R. 4195: Mr. COLEMAN.

H.R. 4198: Mr. ARMEY, Mr. ARCHER, Mr. SAXTON, and Mr. DELAY.

H.R. 4315: Mr. FROST.

H.R. 4345: Mr. CANADY, Mr. ABERCROMBIE, and Mr. OXLEY.

H.R. 4347: Mr. SANDERS.

H.R. 4386: Mr. GILMAN.

H.R. 4399: Mr. MORAN.

H.R. 4404: Mr. HOUGHTON, Mr. DREIER, Ms. LONG, and Mr. MACHTLEY.

H.R. 4507: Mr. OWENS.

H.R. 4517: Mr. MURPHY.

H.R. 4527: Mrs. ROUKEMA, Mr. DICKEY, and Mr. CRAMER.

H.R. 4565: Mr. SCOTT, Mr. JACOBS, and Mr. ANDREWS of New Jersey.

H.R. 4582: Mr. SHAYS.

H.J. Res. 287: Mr. GENE GREEN of Texas, Mr. WOLF, Mr. BONIOR, Mr. MOLLOHAN, Mr. UPTON, Mr. KNOLLENBERG, Mr. FAWELL, Mr. MARTINEZ, Mr. LAFALCE, Mr. GORDON, Mr. KILDEE, Mr. PALLONE, and Mr. GRAMS.

H.J. Res. 326: Mr. HALL of Ohio and Mr. MARTINEZ.

H.J. Res. 332: Mr. PICKLE, Mr. GINGRICH, and Mr. HAYES.

H.J. Res. 353: Mrs. KENNELLY, Mr. BARCIA of Michigan, Mr. TORKILDSEN, Mr. SANGMEISTER, Mr. FAZIO, Ms. WOOLSEY, Mr. STARK, Mr. DIXON, Mr. BERMAN, Mr. DREIER, Mr. TORRES, Mr. BLACKWELL, Mr. BECERRA, Mr. HUTTO, Mr. SWETT, Mr. ZELIFF, Mr. LAUGHLIN, Mr. SHARP, Mr. FORD of Tennessee, Mr. ANDREWS of New Jersey, Mr. HOCHBRUECKNER, Mr. MOAKLEY, Mr. HOLDEN, Mr. CONYERS, Mr. MONTGOMERY, Mr. EWING, Mr. EVANS, Mr. UNDERWOOD, Mr. DEFAZIO, Mr. GONZALEZ, Mr. MURTHA, Mr. QUILLEN, Mr. ROSE, Mr. DEUTSCH, Mr. HAYES, Mr. LIGHTFOOT, Mr. KLECZKA, Mr. MOORHEAD, Mr. LEWIS of California, Mr. SCOTT, Mr. COYNE, Mr. MURPHY, Mr. FORD of Michigan, Mr. COBLE, Mr. DEAL, Mr. DIAZ-BALART, Mr. FIELDS of Texas, Mr. GILCHREST, Mr. HUNTER, Mr. INHOFE, Mr. KIM, Mr. KREIDLER, Mr. LAROCCO, Mr. MACHTLEY, Mrs. MALONEY, Mr. MCINNIS, Mr. MICHEL, Mr. POMBO, Mr. RAVENEL, Miss COLLINS of Michigan, Mr. SPENCE, Mr. STUMP, Mr. TALENT, Mr. SAM JOHNSON, Mr. KINGSTON, Mr. PASTOR, Mr. PAYNE of Virginia, Mr. SLATTERY, Mr. TAUZIN, Mr. YOUNG of Alaska, Mr. MCDERMOTT, Mr. RIDGE, Mr. ORTON, Mr. OBEY, Mr. CLYBURN, Mr. DOOLITTLE, Mr. FALEOMAVAEGA, Mr. GALLO, Mr. REED, Mr. ROWLAND, Mr. GALLEGLY, Mr. SPRATT, Mr. MANTON, Mr. COSTELLO, Mr. HORN, Mr. TUCKER, Mr. PETERSON of Florida, Mr. JOHNSON of Georgia, Mr. STENHOLM, Mr. BEREUTER, Mr. BOEHLERT, and Mr. PORTER.

H.J. Res. 378: Mr. BALLENGER, Mr. LIGHTFOOT, Mr. MOORHEAD, Mr. JACOBS, Mr. CRAMER, and Mr. CLEMENT.

H. Con. Res. 84: Mr. SOLOMON and Mr. BARRETT of Wisconsin.

H. Res. 451: Ms. LONG, Mr. COOPER, Mr. MEEHAN, Mr. BARRETT of Wisconsin, Mr. SCOTT, Mr. JACOBS, and Mr. ANDREWS of New Jersey.

DISCHARGE PETITIONS

Under clause 3 of rule XXVII, the following discharge petitions were filed:

Petition 22, June 21, 1994, by Mr. INHOFE on House Resolution 409, has been signed by the following Members: James M. Inhofe, Peter Hoekstra, Michael A. "Mac" Collins, Y. Tim Hutchinson, Bill Baker, Tillie K. Fowler, Peter Blute, Peter G. Torkildsen, Joe Knollenberg, Michael Huffington, Richard W. Pombo, Cass Ballenger, Lamar S. Smith, Dana Rohrabacher, Edward R. Royce, Ken Calvert, Howard P. "Buck" McKeon, Thomas W. Ewing, Jennifer Dunn, and Timothy J. Penny.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 12 by Mr. TRAFICANT on H.R. 3261: Frank D. Lucas.

Petition 15 by Mr. BILIRAKIS on House Resolution 382: Sam Johnson and Christopher H. Smith.

Petition 18 by Mr. HASTERT on House Resolution 402: Michael A. "Mac" Collins.

Petition 19 by Mr. EWING on House Resolution 415: Bill Paxon, Robert K. Dornan, Peter G. Torkildsen, Ernest J. Istook, Jr., Jim Lightfoot, Joe Barton, Richard K. Armey, and Henry Bonilla.

EXTENSIONS OF REMARKS

RUSSIAN CHEMICAL WEAPONS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1994

Mr. SOLOMON. Mr. Speaker, a recent New York Times article reveals that administration officials believe that Russia is continuing to develop advanced chemical weapons, despite assurances to the contrary. I do not know why anyone would be surprised by this, Mr. Speaker. We already know that Russia is in violation of the CFE accords, as well as the Biological Weapons Convention.

Let the record also show, Mr. Speaker, that what worries the Clinton administration most is not the security threat from these weapons or the dubious light that this finding sheds on our so-called partnership with Russia. No, as the article states, what worries the Clinton team most is that this new evidence might give ammunition to those of us in Congress who might oppose the global treaty on chemical arms, to be debated in the Senate shortly.

How typical of this administration's foreign policy, Mr. Speaker. National interests, security threats, and well-grounded alliances mean nothing, but appearances mean everything.

I would hope that the Senate would take a good look at the Russian chemical program before ratification. Regardless of how the debate on this treaty unfolds however, this news underscores the importance of the Senate adopting the Kyl amendment to the Defense authorization bill, which would deny any DOD funds from being used for the purpose of helping Russia destroy weaponry to meet her treaty obligations. If either the Senate or the conferees do not adopt the Kyl amendment, they will have to explain to their constituents why they voted to give American defense dollars to a country that is spending a lot of money in violation of several treaties and agreements.

Conventional weapons, biological weapons, and now chemical weapons. How about three strikes and you're out for Russia, Mr. Speaker?

[From the New York Times, June 23, 1994]

RUSSIA HIDES EFFORT TO DEVELOP DEADLY POISON GAS, U.S. SAYS

(By Michael R. Gordon)

WASHINGTON.—Russia is concealing efforts to develop advanced chemical weapons, despite its pledge to disclose details of its poison gas program to the United States, Clinton Administration officials said today.

That assessment illustrates the problems that Washington has in dealing with the new Russia, as Moscow has pledged to cooperate with the West, but has been dragging its feet on putting some important arms control accords into effect.

It also has important ramifications for the Senate, which is considering whether to approve a global treaty banning poison gas. Suspicions about Russia's poison gas program and Moscow's difficulties in devising an effective plan to destroy the stocks—at 40,000 tons, the largest arsenal in the world—have become an important issue in the Senate debate.

EXCHANGE OF DATA

Administration officials said Washington's concerns arose in recent weeks when Russian and American officials carried out a long-planned exchange of data on their past efforts to develop, produce and stockpile chemical weapons.

Administration officials looked forward to receiving the information—the most comprehensive accounting of the Russian chemical weapons program—with more than usual interest: American intelligence has long concluded that the Russians have worked to develop binary chemical weapons, but Moscow has never formally acknowledged the effort. Binary weapons are an advanced munition in which two different types of chemical agents are mixed together to produce a deadly type of poison gas.

"We have long believed the Russians have been pursuing a binary weapons capability," a senior Administration official said, referring to Russian efforts to develop and test the weapons.

ASSERTION BY RUSSIAN CHEMIST

The American concerns over Russian's chemical program were also underscored when Vil Mirzayanov, a Russian chemist, was charged by Russian authorities with revealing state secrets after he asserted Moscow had not only developed binary weapons but had produced an especially potent type.

Mr. Mirzayanov also asserted that the Russian military and civilian officials who invented the binary weapons planned to cite a technicality in the global agreement banning poison gas to keep working on them.

Mr. Mirzayanov was jailed in 1992 and 1993. Washington protested his arrest, and Russian authorities have since dismissed the case against him.

Some Administration officials are skeptical about some of the Mr. Mirzayanov's more alarming claims, but American officials believe his statements that Russia has sought to develop binary weapons are credible.

NOT DISCLOSED INFORMATION

In any event, Administration officials who are reviewing the new Russian information say there is an important gap in the data—there is nothing in it about binary weapons.

"Our preliminary assessment is that the Russians have not disclosed information about what we believe to be a binary chemical weapons program," an Administration official said.

Some officials say the failure to provide the information could be an oversight or the result of bureaucratic confusion. But since Washington has asked Moscow to provide a full accounting of the binary program as a result of Mr. Mirzayanov's assertions, the weight of opinion among Administration experts is that Russia is well aware of American concerns and is concealing data about the program.

One official said Washington planned to go back to the Russians and insist on a clarification of the matter. "We plan to seek urgent consultations," an official said.

The exchange of data, which is the focus of the dispute, was called for by a understanding on chemical weapons that the United States and Russia hammered out in 1989.

MAY HELP CRITICS

The agreement on sharing the data is not part of the global treaty banning chemical weapons. But Administration officials are nonetheless concerned that the dispute over the gaps in the data may be used as ammunition by Congressional critics of the global treaty, some of whom have argued the accord cannot be effectively verified.

Supporters of the chemical weapons treaty argue, however, that the accord will strengthen the legal barriers against possible cheating and put pressure on the Russians to provide a more thorough accounting of their chemical weapons program.

So far the Administration's effort to build support in the Senate for the treaty have gone smoothly. John Holum, the director of the Arms Control and Disarmament Agency, said today that he hoped the Senate will approve the accord by early July.

Seven nations have already ratified the treaty. If 65 nations ratify the treaty by mid-July, the accord would legally take effect next January.

CONGRATULATIONS TO CHARLES JOHNSON

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1994

Mr. PAYNE of New Jersey. Mr. Speaker, I would like my colleagues here in the House of Representatives to join me today in honoring the achievements of a very special person, Mr. Charles Johnson, on the occasion of his retirement.

Mr. Johnson received a B.S. in biological sciences from Morgan State University where he served as president of his class, was chosen as an all conference selection in football, was also a member of a championship basketball team and a member of the Omega Psi Phi fraternity. Upon graduation, Mr. Johnson enrolled in the graduate education program at New York University.

Charles Johnson started his Newark, NJ, teaching career at Cleveland Junior High School and embarked on a lifelong commitment to helping youth. While at Cleveland, he served as a science and mathematics teacher, guidance counselor, and recreation director. In 1959, he was transferred to West Kinney Junior High School, where he served in various teaching positions and is presently the coordinator of a program for disruptive children and field supervisor for the after school youth development program for the Newark Board of Education.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Upon his retirement at the end of this school year, many Newark youth will miss his presence. Over the past decades, Mr. Johnson utilized his skills to make significant contributions to student athletes by channeling them into classrooms and assisting them in meeting the challenge of the mainstream job market.

Mr. Speaker, I know my colleagues join me in congratulating Mr. Charles Johnson on his retirement and in wishing him every success in the years ahead.

TRIBUTE TO ST. DANIEL PARISH IN CLARKSTON, MI

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1994

Mr. CAMP. Mr. Speaker, It is with great pleasure I rise today to congratulate St. Daniel Parish of Clarkston, MI on their 25 years of community service and development.

In 1958, in response to a growing Roman Catholic community in northern Oakland County, the Archdiocese of Detroit purchased land in Independence Township to establish St. Daniel Parish to serve the community. This parish was to serve the residents and help them better their lives through spiritual guidance.

From its humble beginnings on June 24, 1961, the parish enjoyed the unwavering support of the area residents with 70 families celebrating the first mass in the gymnasium of Clarkston Junior High School.

On January 30, 1965, a church building was constructed to house St. Daniel. Soon after, St. Daniel was granted parish status, with Father Francis A. Weingartz as its first pastor and grew to include over 1,300 families.

The parish enjoyed continual growth as it expanded its relationship with the community and touched the lives of many people. Throughout its 25-year history, the parish has displayed the commitment and caring which has made Clarkston the wonderful city it is today.

St. Daniel has been instrumental in improving the community and the lives of its residents. By sponsoring biannual blood drives, providing meeting rooms for social events, collecting toys for needy children, collecting canned goods for the hungry, and providing counseling for those in need, St. Daniel has demonstrated the leadership and guidance that strengthens communities and enhances the lives of its residents.

From the many events in which they sponsor and participate, to providing an outlet for those giving generously of their time and efforts to improve the lives of those around them, St. Daniel is an outstanding parish.

It is this spirit of selfless giving and community strength that makes Clarkston, MI a sterling example of a friendly, caring community. We can all learn how to give unselfishly by following the example St. Daniel has given us.

Mr. Speaker, I know you will join me in congratulating St. Daniel on this special day and in wishing the residents of Clarkston, MI and St. Daniel Parish success for years to come.

THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

HON. PHILIP R. SHARP

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1994

Mr. SHARP. Mr. Speaker, I am happy to cosponsor this important legislation, which will restore to millions of electric ratepayers an important economic protection Congress conferred 59 years ago which recently was lost as a result of an unfortunate court decision. I appreciate my colleague RICK BOUCHER's leadership on this matter, and his persistence in ensuring the practical problems of this somewhat arcane issue are addressed.

In 1935, following years of speculation and abuse in the electric utility industry, Congress enacted two statutes designed to protect both utility customers and investors. The Public Utility Holding Company Act of 1935, known as PUHCA, and the Federal Power Act, were crafted to work in concert, and assigned complementary powers and responsibilities to two newly created agencies.

For five decades the Securities and Exchange Commission [SEC] and the Federal Power Agency, followed by its successor the Federal Energy Regulatory Commission [FERC], issued decisions guiding the electric industry and protecting consumers from unscrupulous or imprudent decisions on the part of utilities. Among the most important functions the agencies performed was to scrutinize transactions between affiliated entities within large registered utility holding companies. These transactions, which typically involved a subsidiary selling fuel, goods, or services to its parent, had been prime candidates for pre-1935 abuses in the form of sweetheart deals. The temptation, which persists today, is for the sale price to be set at a higher than fair-market level—so that the utility's shareholders receive a handsome payoff funded by captive ratepayers with no alternative source of electricity.

Prior to the 1992 Ohio Power court decision, the temptation for affiliates of registered holding companies to enter into such sweetheart deals was moderated by the knowledge that both the SEC and FERC would review the affiliate transaction to ensure consumer interests were not jeopardized. SEC review took place before the contract went into effect; FERC review occurred when the parent utility sought to flow through the costs of the contract to its customers. As in all electric rate cases, if FERC found the resulting cost to consumers was not "just and reasonable," it would deny recovery of some or all of the utility's rate request.

In 1992, however, the D.C. Court of Appeals decided in the Ohio Power case that FERC could not review an affiliate transaction involving a coal purchase, based on an interpretation of the agency's administrative rules. While FERC has now addressed this administrative problem, it also has interpreted somewhat ambiguous dicta in the case as requiring it to dismiss similar rate complaints.

As a result, some 49 million households in 30 States which are served by large registered holding companies do not enjoy the protection of FERC rate review in cases where the fuel is sold between affiliates of a registered holding company. While the SEC's review role continues, this alone cannot fully protect ratepayers from a utility's actions after the initial approval of the contract. For example, while the original contract price for fuel purchased from an affiliate may be reasonable, market conditions can change and warrant a price renegotiation. While it is to be fervently hoped that no utility would take advantage of the absence of FERC review, Congress would not be doing its duty if it did not close the door to the temptations that led to the enactment of PUHCA and the Federal Power Act nearly 60 years ago.

This bill has three parts. First, it makes clear that the Federal Power Act authorizes FERC to review affiliate contracts, to ensure that rates are just and reasonable. Of course, the requirement that the SEC approve such transactions is maintained.

Second, the bill establishes a rebuttable presumption that FERC will adopt the SEC's prior finding with respect to an interaffiliate transaction. This provision expresses Congress preference for complementary agency policies, but also acknowledges the fact that the SEC and FERC's responsibilities are distinct and may result in different findings.

Third, the bill grandfathers the costs of affiliate transactions to the extent they have been recovered from ratepayers—in other words, if a utility in good faith has billed its customers for certain costs on the date of enactment, pursuant to a FERC-approved rate, FERC could not compel the utility to refund the costs.

Finally, it is particularly important to restore FERC's authority now, at a time when registered holding companies are seeking a PUHCA amendment to permit them to diversify into the telecommunications business. While my subcommittee has not yet held a hearing on the merits of that proposal, and I have not reached a conclusion about it, I would be extremely reluctant to support such a change without the protection that this bill affords.

While I do not expect all of the affected utilities to welcome this bill with open arms, I believe it should come as no surprise. This legislation merely restores the regulatory environment which existed for 57 years, and will not result in unfairness to any registered holding company. Indeed, any utility which is fulfilling its obligation to its customers has nothing to fear from the restoration of FERC's authority. I commend Mr. BOUCHER for his leadership in pursuing this important issue, and look forward to working with him to enact the legislation.

KENTUCKY SENATE RESOLUTION NO. 9

HON. THOMAS J. BARLOW III

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1994

Mr. BARLOW. Mr. Speaker, I rise today to submit for the record a resolution adopted by the State Senate of Kentucky. Senate Resolution No. 9 urges Congress to oppose any increase in the Federal excise tax on cigarettes or other tobacco products.

Mr. Speaker, the Commonwealth stands united behind our farmers and workers in opposition to further tobacco taxes. Proposed increases in the tax on tobacco products threaten our well-being and our way of life.

KENTUCKY SENATE RESOLUTION NO. 9

A Resolution opposing any increase in the federal excise tax on cigarettes or other tobacco products.

Whereas, in 1993, $12.9 billion in excise taxes were paid by consumers of cigarettes and other tobacco products to federal, state, and local governments; and

Whereas, the tobacco industry produced a net positive contribution of $4.1 billion to the nation's balance of trade; and

Whereas, increased taxes on tobacco would reduce tobacco production; and

Whereas, a reduction in tobacco production would have a devastating effect on Kentucky's agricultural economy and social fabric; and

Whereas, present taxes on tobacco are already excessive; and

Whereas, no single group such as smokers, no single commodity such as tobacco, or no specific states should be singled out to bear the cost of health care reform; Now, therefore, be it

Resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Kentucky General Assembly opposes any increase in the federal excise tax on cigarettes and other tobacco products.

Section 2. That this Resolution be transmitted to the Governor of Kentucky, the President of the United States, and the Congressional Delegations of Kentucky and other tobacco-growing states.

INTRODUCTION OF THE MUNICIPAL SOLID WASTE FLOW CONTROL ACT OF 1994

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1994

Mr. RICHARDSON. Mr. Speaker, my colleague JACK FIELDS and I have introduced H.R. 4643, the Municipal Solid Waste Flow Control Act of 1994. I am pleased that Representatives JOHN BRYANT and ROD GRAMS have joined us in support of this legislation. Our bill sets a historic precedent by simultaneously addressing the needs of local governments, the business community, and the environmental community.

The flow control issue has taken on a new urgency in light of the Supreme Court's recent Carbone decision dealing with municipal solid waste flow control. Flow control is the authority by which local governments require trash to be disposed of at waste management facilities that they specify. In many cases, these facilities have been municipal waste combustors. In the 1980's, local governments concluded that they needed to direct waste to these facilities to keep them in business and satisfy the demands of the contracts they had signed for financing of the facilities.

In the late 1980's, several legal challenges were filed to flow control laws around the country as an unconstitutional interference with interstate commerce. On the basis of that argument, several courts struck down flow control laws around the country. The issue finally reached the Supreme Court in the context of the Carbone case. The Supreme Court's ruling made clear as a national matter what these other courts had already said—flow control represents a clearly unconstitutional interference with interstate commerce.

The urgency of this situation is made real by the hundreds of local governments now seeking relief from Congress as a result of the Supreme Court decision. Without flow control authority, they argue, they cannot hope to maintain successful waste management policies without bankrupting their local customers. While it makes sense that municipalities need limited relief from the effects of the Carbone decision, unlimited flow control in the future will have a damaging effect on competition, waste reduction, recycling, and effective waste management polices.

There are many reasons against conferring unlimited flow control authority on State and local governments. For one, I believe that open competition is preferable to the monopolization of waste management disposal. With flow control, waste management decisions are often based not on best management practices or the most environmentally preferable disposal options, but on the cheapest method possible with the least financial risk for the local government.

The free market is better able to address solid waste needs than is a government monopoly. A small business owner would presumably prefer to have the benefit of competition which drives down collection rates for his trash than doing business in a marketplace where disposal costs are established by the local government.

There is evidence already that waste collection prices for small businesses will decrease in the absence of flow control. With the many pressures already facing small businesses, isn't it only fair that we give them the benefits of competition to control their waste disposal costs in the future rather than saddling them with a regime that could increase their costs?

Second, flow control is counter to the liability scheme we have developed under Superfund. This law confers on waste generators, transporters and disposers liability for their role at Superfund sites. As a result, waste generators and transporters now must take steps to avoid sending waste to sites that either are or could be on the national priorities list. It would seem to make little sense to maintain such a liability scheme while giving local governments the power to direct waste to the site of their choice, perhaps against the wishes of waste generators concerned that such a site could make them a potentially responsible party under Superfund. So long as the liability system under the Superfund places responsibility on waste generators to follow the safest disposal practices possible, flow control will render waste generators unable to fully control their liability.

Flow control can be used to mask the full cost of waste management services in a community by lumping together the separate costs for recycling, household hazardous waste collection, and other waste management-related services in addition to disposal. Waste reduction is most likely to take place when consumers receive clear signals from the marketplace about what the actual cost is for waste collection and disposal. When, as under flow control, the prices for a number of separate waste management practices are jumbled together, consumers receive totally nuclear price signals and therefore have little understanding about the extent to which waste reduction will benefit them. Waste reduction and recycling goals are actually impeded by flow control.

Scrap recyclers, paper recyclers, and others in the recycling business feel that flow controlling recyclables might actually reduce—not increase—recycling. The best way to advance recycling is to encourage utilization of postconsumer recyclables in new products and packaging and to eliminate impediments to the movement of recyclables to locations at which there is the greatest demand for them.

Finally, perhaps my biggest concern is that the strongest proponents of flow control are companies, local governments, and others with a stake in securing financing for large municipal waste-to-energy combustion facilities. My opposition to waste combustion is widely known. In fact, Congressman ED TOWNS and I have introduced H.R. 2488, legislation which would impose a temporary moratorium on waste incinerators in this country and establish tough conditions for new construction or expansion. There is no question that with flow control there will be more waste incinerators built. Without it, there will be fewer. My colleagues who have cosponsored H.R. 2488 or who oppose excessive waste-to-energy combustion should think carefully about supporting flow control. The Sierra Club has endorsed H.R. 4643 for the same reasons.

Notwithstanding my opposition to flow control, I am sympathetic to the situation facing local governments today that have invested substantial sums of money in facilities dependent on flow control. For Congress to take no action is to leave these communities in the lurch, unsure whether their flow control laws are enforceable and therefore unsure whether billions of dollars in municipal bonds can be paid off.

Contrary to the claims of flow control proponents, there are many States today that do not have flow control authority but that do have quite sophisticated solid waste management systems. These States are as committed to waste reductions, recycling, and composting—rather than incineration and landfiling—as States that have flow control. I am uncomfortable with Congress dictating solid waste policies for State and local governments and I do not believe that Congress should micromanage the local solid waste management business.

If you want to assure that local governments are held harmless from the effects of the Supreme Court's Carbone decision and also are committed to the virtues of the competitive market in the future, this legislation deserves your support. I urge my colleagues to add their names to the growing chorus for real flow control reform by cosponsoring H.R. 4643.

GALLAUDET: A NATIONAL TREASURE

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1994

Mr. BONIOR. Mr. Speaker, last month, President Clinton gave a stirring address for Gallaudet University's 125th commencement. As a trustee of Gallaudet, I was deeply moved by the President's words. I am honored to share a copy of his speech with my colleagues:

THE PRESIDENT: Thank you. Thank you so much for the warm reception and for the honorary degree.

I must tell you at the beginning that I have been deeply moved by the wonderful statements of your students, Jeanette and Andre. I think they have already said everything I could hope to say as well or better. And I wish only that I could say it to you in their language as well. (Applause.)

I'm delighted to be here with Dr. Jordan, whom I have admired so much; and Dr. Anderson, a native of my home state; with my great friend and your champion, Senator Tom Harkin—(applause); with many Members of Congress, including Major Owens, who will receive an honorary degree; Congressman David Bonior; Congressman Steve Gunderson; and your own representative in Congress, Eleanor Holmes Norton. (Applause.)

I honor, too, here the presence of those in the disability rights community, the members of our own administration, but most of all, you the class of 1994, your families and your friends. You have come to this extraordinary moment in your own life at a very special moment in the life of your country and what it stands for.

Everywhere, nations and peoples are struggling to move toward the freedom and democracy that we take for granted here. Our example is now over 200 years old, but it continues to be a powerful magnet, pulling people toward those noble goals. This week we all watched and wondered as a former prisoner stood shoulder to shoulder with his former guards to become a president of a free and democratic South Africa. (Applause.)

Yet, each day across the—from Bosnia to Rwanda and Burundi, and here in America in neighborhood after neighborhood, we wonder whether peace and progress will win out over the divisions of race and ethnicity, of region and religion, over the impulse of violence to conquer virtue. Each day we are barraged in the news as mutual respect and the bonds of civility are broken down a little more here at home and around the world.

It is not difficult to find in literature today many who suggest that there are large numbers of your generation who feel a sense of pessimism about the future. People in my generation worry about that. They worry whether young people will continue to try to change what is wrong, continue to take responsibility for the hard work of renewing the American community.

I wish everyone who is worried about America could see your faces today and could have heard your class speakers today. Our whole history and our own experience in this lifetime contradict the impulse to pessimism. For those who believe that nothing can change I say, look at the experience of Rabin and Arafat as the police representing the Palestinians begin to move into Gaza and to Jericho. (Applause.)

For those who proclaim there is no future for racial harmony and no hope in our common humanity, I say look at the experience of Mandela and de Klerk. For those who believe that in the end people are so vulnerable to their own weakness they will not have the courage to preserve democracy and freedom, I say look to the south of our borders where today of almost three dozen nations in Latin America, all but two, are ruled by democratically-elected leaders. (Applause.)

Here at home, with all of our terrible problems, for every act of craven violence, there are 100 more acts of kindness and courage. To be sure, the work of building opportunity and community of maintaining freedom and renewing America's hope in each and every generation is hard. And it requires of each generation a real commitment to our values, to our institutions and to our common destiny.

The students of Gallaudet University who have struggled so mightily, first for simple dignity and then for equal opportunity—you have built yourselves and in the process, you have built for the rest of us, your fellow citizens of this country and the world, a much better world. You have re-given to all of us our hope. Gallaudet is a national treasure.

It is fitting, as Dr. Anderson said, that President Lincoln granted your charter because he understood better than others the sacrifices required to preserve a democracy under diversity. And ultimately, Lincoln gave his life to the cause of renewing our national rights. He signed your first charter in the midst of the Civil War where he had the vision to see not just farmland and a tiny school, but the fact that we could use education to tear down the walls between us, to touch and improve lives and lift the spirits of those who for too long had been kept down.

Over the years, pioneers have built Gallaudet—sustained by generations of students and faculty, committed to the richness and possibility of the deaf community, and the fullness of the American Dream. This school stands for the renewal that all America needs today.

Lincoln's charter was an important law. But let me refer to another great president to make an equally important point—that just as important as laws are the attitudes that animate our approach to one another. The president that I'm referring to is approach to one another. The president that I'm referring to is your president, King Jordan. (Applause.) When the Americans with Disabilities Act passed, he said—and I quote—we now stand at the threshold of a new era for all Americans—those of us with disabilities and those of us without. He went on to say that in this pursuit, as in every pursuit of democracy, our task is to reach out and to educate each other about our possibilities, our capabilities and who we are.

I ran for President because I thought we were standing on the threshold of a new era, just as President Jordan says. I felt we were in danger of coming apart when we ought to be coming together; of arguing too much about going left or right, when we ought to be holding hands and going forward into the future together.

I grew weary of hearing people predict that my own daughter's generation would be the first generation of Americans to do less well than their parents. I was tired of hearing people say that our country's best days were behind us. I didn't believe it in 1992, and I sure don't believe it after being here with you today.

My responsibilities to you and your generation are significant. That's why all of us have worked hard to restore the economy, to reward work, to bring down the deficit, to increase our trade with other nations, to create more jobs; why we've worked to empower all Americans to compete and win in a global economy through early education and lifetime training and learning, through reforming the college loan program, to open the doors of college to all Americans; why we have worked to strengthen the family through the Family and Medical Leave Act; why we have worked to create a safer America with the Brady Bill, and the ban on assault weapons, and putting more police on the street, and punishing and preventing more crime as well. (Applause.)

But I say to you that, in the end, America is a country that has always been carried by its citizens, not its government. The government is a partner, but the people, the people realize the possibility of this country and ensure its continuation from generation to generation.

I think there is no better symbol of this than the program which I hope will be the enduring legacy of our efforts to rebuild the American community, the National Service Program. Six Gallaudet students, including four members of this class, will be part of our National Service Program, Americorps' very first class of 20,000 volunteers. I am very proud of you for giving something back to your country. (Applause.)

By joining the Conversation Corps and committing yourselves to rebuild our nation, by exercising your freedom and your responsibility to give something back to your country and earning something for education in return, you have embodied the renewal that America must seek. As King Jordan reminded us, government can make good laws, and we need them. But it can't make good people. In the end, it's our values and our attitudes that make the difference. Having those values and attitudes and living by them is everyone's responsibility and our great opportunity.

Look at the changes which have occurred through that kind of effort. Because previous generations refused to be denied a place at the table simply because others thought they were different, the world is now open to those of you who graduate today. Most of you came here knowing you could be doctors, entrepreneurs, software engineers, lawyers or cheerleaders. (Laughter.)

Because over the years, others spoke up for you and gave you a chance to move up. And you have clearly done your part. You have made a difference. You have believed in broadening the unique world you share with each other by joining it to the community at large and letting the rest of us in on your richness, your hearts, your minds and your possibilities. For that, we are all in your debt.

Perhaps the greatest moment in the history of this university occurred in 1988 when the community came together and said, we will no longer accept the judgment of others about our lives and leadership in this university—these are our responsibilities and we accept the challenge. In days, what was known as the "Deaf President Now" movement changed the way our entire country looks at deaf people. The nation watched as you organized and built a movement of conscience unlike any other. You removed barriers of limited expectations. And our nation saw that deaf people can do anything hearing people can, but hear. (Applause.)

That people's movement was a part of the American disability rights movement. Just two months after King Jordan took office, the Americans with Disabilities Act was introduced with the leadership of many, including my friend, Tom Harkin. In two years it became law, and proved once again that the right cause can unite us. Over partisanship and prejudice we can still come together.

For the now more than 49 million Americans who are deaf or disabled, the signing of the ADA was the most important legal event in history. For almost a billion persons with disabilities around the world it stands as a symbol of simple justice and inalienable human rights.

I believe that being deaf or having any disability is not tragic, but the stereotypes attached to it are tragic. Discrimination is tragic. (Applause.) Not getting a job or having the chance to reach your God given potential because someone else is handicapped by prejudice or fear is tragic. It must not be tolerated because none of us can afford it. We need each other, and we do not have a person to waste. (Applause.)

The ADA is part of the seamless web of civil rights that so many have worked for so long to build in American—a constant fabric wrapped in the hopes and aspirations of all right-thinking Americans. As your President I pledge to see that it is fully implemented and aggressively enforced—in schools, in the work place, in government, in public places. It is time to move from exclusion to inclusion, from dependence to independence, from paternalism to empowerment. (Applause.)

I mention briefly now only two of the many tasks still before me as your President, and you as citizens. Our health care system today denies or discriminates in coverage against 81 million Americans who are part of families with what we call preexisting conditions, including Americans with disabilities. It must be changed. (Applause.) If we want to open up the workplace, and if we are serious about giving every American the chance to live up to his or her potential, then we cannot discriminate against which workers get health care and how much it costs. If you can do the job, you ought to be able to get covered. It's as simple as that. (Applause.)

And that simple message is one I implore you to communicate to the Congress. We have fooled around for 60 years. Your time has come. You are ready. You are leaving this university. You want a full, good life and you do not wish to be discriminated against on health care grounds. Pass health care reform in 1994. (Applause.)

The last thing I wish to say that faces us today also affects your future. The Vice President has worked very hard on what is called the information superhighway. We know that America is working hard to be the technological leader of the information age. The technologies in which we are now investing will open up vast new opportunities to all of our people. But information, which will be education, which will be employment, which will be income, which will be possibility, most flow to all Americans on terms of equal accessibility without regard to physical condition. And we are committed to doing that. (Applause.)

Finally, let me just say today a personal word. A few days ago when we celebrated Mother's Day; it was my first Mother's Day without my mother. And so I have been thinking about what I should say to all of you, those of you who are lucky enough still to have your parents and perhaps, some of you who do not.

On graduations, it is important for us to remember that none of us ever achieves anything alone. I dare say as difficult as your lives have been, you are here today not only because of your own courage and your own effort, but because someone loved you and believed in you and helped you along the way. I hope today that you will thank them and love them and, in so doing, remember that all across this country, perhaps our biggest problem is that there are too many children, most of who can hear just fine, who never hear the kind of love and support that every person needs to do well. And we must commit ourselves to giving that to those children. (Applause.)

So I say, there may be those who are pessimistic about our future. And all of us should be realistic about our challenges. I used to say that I still believed in a place called Hope, the little town in which I was born. Today I say, I know the future of this country will be in good hands because of a place called Gallaudet. (Applause.)

For 125 years, young people have believed in themselves, their families, their country and their future with the courage to dream and the willingness to work to realize those dreams. You have inspired your President today and a generation. And I say to you, good luck and Godspeed. (Applause.)

ST. STEPHEN: 125 YEARS OF EXCELLENCE IN EDUCATION

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1994

Mr. TRAFICANT. Mr. Speaker, I rise today to honor the staff, student body and alumni of St. Stephen School. For 125 years, St. Stephen School has been an intrical part of the education of the youth in my district. Established in 1868, it has served over six generations of students with a quality that is unequalled. Of 3,000 graduates, 98 percent have graduated from high school. The concept of individual attention, coupled with providing an atmosphere in which one can teach, learn and be happy in school, is their simple key to success. St. Stephen School has already accomplished and surpassed President Clinton's educational goals for the year 2000.

Mr. Speaker, St. Stephen School is the oldest Catholic school in Mahoning, Trumbull, Columbiana, and Astabula Counties. It is a model for all schools, and I am extremely proud to recognize their excellence on this anniversary year. May their current staff, led by Principal Judy Conti, alumni, and student body be blessed with continued success in the constant pursuit to educate our young.

EXPEDITED RESCISSIONS: C-Y-A FOR A-Z

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1994

Mr. SOLOMON. Mr. Speaker, next week the House is scheduled to take up H.R. 4600, the Expedited Rescissions Act, reported from the Rules Committee yesterday on a 5–3 party-line vote.

The bill is identical to a bill passed by the House last year. Why then are we doing it again? Our chairman tells us it is to impress the Senate with the importance we attach to it and the need for action. However, it is no secret that this is part of a deal the Democratic leadership cut with some Democrats to keep them off the A–Z discharge petition.

At this point in the RECORD, Mr. Speaker, I include my opening statement from yesterday's markup, our minority views, a summary of the reported bill, and a summary of the substitute we offered embodying the text of Republican leader MICHEL's true legislative line-item veto bill. The materials follow:

OPENING STATEMENT ON EXPEDITED RESCISSION MARKUP, COMMITTEE ON RULES, HON. GERALD B. SOLOMON OF NEW YORK, THURSDAY, JUNE 23, 1994

Mr. Chairman, I have searched the draft committee report on this expedited rescissions bill in vain for a *rational* explanation as to why we are reporting a bill identical to one we passed last year that is now pending in two Senate committees.

Instead of a rational explanation, all I could find were these words, and I quote: "Senate inaction on these bills [referring to entitlement reform and expedited rescissions] has prompted the House to reconsider these measures . . . The House hopes to impress upon the Senate the importance of its own support for and action on these budget process reforms."

Mr. Chairman, it seems to me if the House really wants to impress upon the Senate the importance of its support for and action on this bill, it would be much cheaper and more compelling if the Speaker sent a strongly worded letter to the Senate majority leader urging prompt action on the first bill we passed.

I don't think the Senate will be any more impressed by House passage of a bill identical to one already referred to it since, as far as I know, they don't operate under rule requiring action when they reach a certain saturation point with identical House bills.

Mr. Chairman, I think we all know the real reason we are here and that is that this is part of a publicly announced deal between your leadership and a few "deficit chicken hawks" to keep them off the A to Z discharge petition.

Instead of A to Z, they have been bought-off by what I would call C-Y-A that says, "Let the House consider a number of budget process reforms instead of being forced to consider real spending cuts under an open amendment process." They think that somehow these budget process reforms will give them enough political cover to hide behind. But I think we can all see through that transparent fig leaf: it offers no real cover.

Mr. Chairman, instead of wasting our time and that of the House in recycling this warmed over piece of bad sausage—and this is a tainted bill—we should be considering the congressional reform bill that has been languishing in this Committee since last February 3rd.

And, if you really want to get the attention of the Senate and the American people, we should be reporting a real legislative line item veto like the Michel bill which would ultimately require two-thirds of both Houses to block a presidential rescission or veto of a targeted tax provision. This bill instead permits just a simple majority of either House to block a rescission.

That's not the kind of line-item veto Candidate Clinton had in mind when he promised during the campaign he would seek line-item veto authority from Congress. I regret that he has flip-flopped on that campaign pledge, as he has on so many others. But at least you are helping to remind the American people of that flip-flop by bringing-up again this non-line-item veto bill. At least for that we can thank you.

MINORITY VIEWS OF HON. GERALD B. SOLOMON, HON. DAVID DREIER, HON. JAMES H. QUILLEN, AND HON. PORTER GOSS ON H.R. 4600

Reasonable people might wonder why the Rules Committee would take its time, and that of the House, to consider a bill that is identical to one already passed by the House in this same Congress while not finding time to consider a major congressional reform bill that has been languishing in the Rules Committee since last February 3rd (H.R. 3801, the "Legislative Reorganization Act of 1994").

The apparent answer is that we are never too busy to recycle meaningless budget process reforms in an election year to give certain Members political cover for not making real spending cuts. But we are always too busy to get around to making meaningful changes in the institution of the Congress. In short, this bill is part of a political deal the majority leadership has cut with a small coterie of "deficit chicken hawks" to substitute C-Y-A for A-Z (the Andrews-Zeliff spending cut plan and discharge petition).

While this may seem less than a small price to pay for keeping a comprehensive spending-cut process off the floor, what mystifies us is the willingness of the Democrat Leadership to embarrass its own President by reminding everyone of his flip-flop on the issue of the line item veto.

Candidate Clinton, in his campaign book, "Putting People First," pledged that, "To eliminate pork-barrel projects and cut government waste, we will ask Congress to give the line item veto" (p. 25). But, shortly after becoming President, Mr. Clinton caved-in on that campaign promise in favor of this weak alternative known as the "Expedited Rescission Act."

Unlike a real line-item veto whereby a President can cancel wasteful spending items, subject to override by two-thirds of both Houses of Congress, this bill requires that a majority of both Houses must approve any veto of appropriations items. Put another way, instead of two-thirds of both Houses being necessary to reverse an item veto, under H.R. 4600, a majority of either House can block such a veto.

We do credit the sponsors of the "Expedited Rescission Act" for truth-in-labeling. They do not claim this is a true line-item veto bill and have admitted in the past that they oppose the line-item veto because they think it gives the President too much power.

Just as they have been consistent in opposing the true line item veto under both Republican and Democratic Presidents, we have consistently supported the true line item veto under Presidents of both parties. During the markup of this bill, for instance, we offered a substitute consisting of the text of H.R. 493, "The Enhanced Rescissions/Receipts Act of 1993," introduced by Representative Michel on January 20, 1993, and have even filed a discharge petition on it (Discharge Motion #1).

Under the Michel bill, any presidential rescission of budget authority or veto of a targeted tax benefit (defined as one which gives differential treatment to either a particular taxpayer or limited class of taxpayers) would take effect unless a majority of both Houses of Congress pass a disapproval bill within 20 days of session. The President would then have 10 calendar days to sign or veto the disapproval bill, and Congress would have an additional five days of session to override a veto.

In short, this is a true legislative line-item veto in that ultimately a two-thirds vote of both Houses would be necessary to override a likely presidential veto of any bill disapproving his rescissions or special tax benefit veto.

Moreover, the Michel bill gives the President this new, enhanced rescission and special tax veto authority on a permanent basis, whereas H.R. 4600 gives the President expedited rescission authority only with respect to appropriations bills enacted during the 103rd Congress. Given the fact that the 103rd Congress is rapidly drawing to a close, and that the previously-passed identical House bill (H.R. 1578) has yet to be reported from either of the two Senate committees to which it was referred, the chances are nil to none that the authority will ever take effect during the limited period to which it applies.

While the proponents of the expedited rescission approach boast that it will force the Congress to act on these special presidential rescission messages or the money cannot be spent, the House Parliamentarian's Office issued a contrary interpretation when the identical bill was pending last year (see attached Memoranda of April 19 and 21, 1993, from Jerry Solomon to House Members).

First, the bill, by reference to section 904 of the Budget Act, makes clear that it is enacted as part of the rulemaking authority of Congress "with full recognition of the right of either House to change such rules . . . at any time." This means that a majority of the House, by a special rule from the Rules Committee, could change any of the rules contained in the bill and thereby avoid the so-called action-forcing mechanisms to either table consideration of the President's bill or vote first (rather than second) on a substitute bill reported by the Appropriations Committee.

Second, in the view of the Parliamentarian, if the House did not act within the required 10-legislative days, and a special rule could block such action, the money would be released. So there are no penalties or disincentives for inaction.

In summary, H.R. 4600 suffers from the same deficiencies as the current rescission process. While it may expedite the consideration of rescissions, it is still prone to either blockage or substitution by alternative rescissions, thereby thwarting the President's recommendations either way.

Instead of addressing these obvious flaws, or confronting the need for a real line-item veto, the Rules Committee has chosen instead to report the same old toothless tiger that was passed last session. This may be a sufficient sop to keep some Members from signing the A-Z spending cut discharge petition, but it does nothing to put in place a meaningful spending cut process which spawned the need for such a discharge petition in the first place. The American people will not be fooled by such hollow gimmicks. The proof is in the pudding. And this recipe for instant, expedited rescission pudding is lacking in all the ingredients except one—it just adds water to water.

[Memorandum]

April 19, 1993.

To: House Republican Members

From: Jerry Solomon, Rules Committee Ranking Member

Subject: The Truth about H.R. 1578, the expedited Rescission Bill

Introduction: We have received several inquiries from Members and staff as to whether the process established by H.R. 1578, the "Expedited Rescissions Act of 1993," could easily be waived, suspended, altered or otherwise circumvented without changing the law. The purpose of this memo is to address those questions. The short answer is, "yes."

Provisions: H.R. 1578 (as proposed to be amended by the modified Spratt substitute printed in the Rules Committee's report on the rule) amends Title X of the Congressional Budget and Impoundment Control Act by inserting a new section providing for "expedited consideration of certain proposed rescissions." It permits the President, within 3-days after the enactment of any appropriations bill during the 103rd Congress, to submit to the House a rescission message canceling budget authority in whole or in part for any items contained in the bill, together with a draft bill that would rescind the budget authority upon enactment.

The House majority or minority leaders would be required to introduce the rescission bill "by request" within two legislative days of the receipt of the message, and, if they do not, any other Member may do so on the third legislative day.

The rescission bill would be referred to the House Appropriations Committee which would be required to report it without change within seven legislative days after receipt of the message. If it does not report, it is automatically discharged of the bill which is then placed on the appropriate calendar of the House.

The Appropriations Committee may simultaneously report an alternative rescission bill with respect to the same message and appropriations bill, provided it contains the same or a greater amount of rescissions as the President's proposal.

A motion to proceed to the consideration of a proposed rescission bill is highly privileged and not subject to debate. If adopted, the House proceeds to consider the bill subject to four hours of general debate divided between proponents and opponents. The bill is not subject to amendment in the House.

The House must vote final passage of the rescission bill not later than the tenth legislative day after receipt of the message. If the bill is defeated, the alternative rescission bill, if one is reported by the Appropriations Committee, is subject to the same procedures and must be voted on by the eleventh legislative day, provided the Appropriations Committee calls it up.

In the Senate, a bill received from the House shall be referred to the Appropriations Committee which must report it by the seventh legislative day after its receipt or it is automatically discharged. The Senate Committee may report an amendment in the nature of a substitute to the bill if it goes to the same appropriations bill and is of the same or greater amount in rescissions, or if it contains the text of the President's bill.

[MEMO]

APRIL 21, 1993.

Re the effect of non-action on rescissions under H.R. 1578.

To: House Members.

From: Jerry Solomon.

Introduction: The question has been raised as to whether the failure of Congress to act on a proposed rescission under the new process established by H.R. 1578 would prevent the money from being released. Notwithstanding an interpretation to the contrary in an April 21st memo from Charlie Stenholm's LA claiming the funds would continue to be impounded, *our reading from the Parliamentarian's Office is that at the funds would be released if the House has not acted within 10 legislative days.*

Discussion: At first blush, it would seem there would be no way to avoid a vote on a presidential rescission package since:

The majority or minority leader shall introduce the President's bill by request within two legislative days of its receipt, or, if they don't, any other Member may;

The Appropriations Committee shall report the bill within seven legislative days or it is automatically discharged;

A motion to proceed to consideration is highly privileged (and may be offered by any Member);

There are no amendments and debate time is limited to four hours; and

The House must vote on final passage before the close of the tenth legislative day.

However, as was pointed out in our April 19th memo on the "Truth About H.R. 1578," the House may set aside all these requirements by the adoption of a special rule.

What may be confusing is the provision in section 1013(e) of the Budget Act as amended by the bill that "Any amount of budget authority proposed to be rescinded . . . shall be made available for obligation on the earlier of" House rejection of the President's bill and an Appropriations Committee alternative, if any, or the Senate rejection of the President's bill.

However, this provision does not say that the budget authority proposed to be rescinded shall only be made available for obligation if the House rejects both bills or the Senate rejects the President's. It simply allows for the earlier release of funds than the 10-day House time frame for consideration or the additional 10-day time frame for Senate consideration.

In discussing this with the Parliamentarian's Office, they agree that if the House doesn't act on anything within the 10-day period, the money shall be made available for obligation.

The bill and any amendments are subject to not more than ten hours of debate divided equally between the majority and minority leaders. The Senate must vote on final passage not later than the tenth legislative day after the bill has been received from the House. It is not in order in the Senate to consider an alternative rescission bill or amendment unless it first rejects a substitute containing the President's proposal.

Subsection 1013(e), "Amendments and Divisions Generally Prohibited," prohibits any motion or unanimous consent request to suspend the application of the subsection (which prohibits amendments in the House, narrowly limits and prescribes the amendment process in the Senate, and prohibits a division of the question in either House). However, this provision does not preclude consideration of a special rule changing the amendment process as the discussion below will demonstrate.

The Procedural Escape Hatch: Section 2(b) of the bill makes this new section 1013 rescission process under the Budget Act subject to the provisions of Section 904 of the Budget Act. That section indicates that the specified sections of the Act are enacted as an exercise of the rule-making power of the House and Senate, "with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner and to the same extent as in the case of any other rule of such House."

The above paragraph makes it quite clear that any of the procedural requirements for either House in section 1013 may be changed by the adoption of a simple resolution of either House, so long as they only change the procedures that apply to that House alone.

In the House of Representatives, this would take the form of a special rule from the Rules Committee. That special rule could alter any of the procedures contained in section 1013 including (but not limited to) any of the following deviations:

Permitting amendments to be offered to a rescission bill;

Providing for the consideration of the alternative rescission bill reported from the Appropriations Committee before the President's rescission bill is considered and voted on;

Preventing the automatic discharge of a bill not reported from the Appropriations Committee within seven days, thereby blocking its consideration; or

Suspending the application of all of the procedures with respect to any individual presidential rescission message, or for all such messages for the entire Congress.

Conclusion: The so-called expedited and mandatory consideration and voting procedures contained in H.R. 1578 can easily be waived, suspended, circumvented, ignored or otherwise violated so long as either House passes a simple resolution to do so. And this is exactly how the House majority leadership and Rules Committee in the 102nd Congress used the "rule-making authority" of the House under the existing rescission process to avoid separate votes on President Bush's rescissions and provided instead for the consideration of an alternative rescission package reported by the Appropriations Committee. In short, this bill has less teeth than a commemorative bill since at least the latter cannot be altered by a special rule of the House.

SUMMARY OF H.R. 4600, EXPEDITED RESCISSIONS ACT

H.R. 4600 is identical to H.R. 1578 as passed by the House last session. That bill is still pending in the Senate Budget and Government Affairs Committees. The bill as introduced amends the Budget Act to provide that:

In addition to the existing rescission process, the President may submit special rescission messages within 3 calendar days of the enactment of any appropriations bill during the remainder of the 103rd Congress;

Within two legislative days after the receipt of the message by Congress, the majority or minority leader of the House must introduce, by request, the draft rescission approval bill submitted with the President's message, and if the bill is not introduced, any Member may introduce the bill on the following day;

The bill would be referred to the Appropriations Committee in the House which shall report it without substantive revision, and with our without recommendation, within seven legislative days after receipt of the message, and, if not reported, the committee is automatically discharged and the bill shall be placed on the appropriate calendar;

The House Appropriations Committee may also report an alternative rescission bill within the same seven day period with respect to the same appropriations measure, containing rescissions of the same or greater amount than the President's bill. The alternative bill would be privileged for consideration in the House only if the President's bill is rejected by the House;

A motion to proceed to the consideration of either rescission bill in the House is highly privileged, the bill is debatable for four hours divided between proponents and opponents, no amendments are in order, a motion to recommit is not in order, nor is a motion to reconsider the final passage vote;

The House must vote on final passage of the President's bill no later than 10 legislative days after receipt of the message, and, if rejected, the alternative bill must be voted on no later than the 11th legislative day;

In the Senate, the bill shall be referred to the Committee on Appropriations which shall report it within seven legislative days of its receipt, without substantive change, or with an amendment in the nature of a substitute consisting of equal or greater rescissions in the same appropriations act; and if the bill is not reported, it shall be discharged and placed on the appropriate calendar;

The bill is debatable in the Senate for not more than 10-hours divided equally between the majority and minority leaders, and no amendment are in order except an amendment in the nature of a substitute reported by the Appropriations Committee or an amendment in the nature of a substitute consisting of the text of the President's bill, and the latter shall have priority over a vote on any alternative;

A vote on final passage in the Senate must take place no later than 10 legislative days after the bill has been transmitted to the Senate;

The funds shall be available for expenditure on the day after either House defeats the rescission approval bill;

Any Member of Congress may file suit challenging the constitutionality of the Act, and such suit shall be considered under expedited judicial review procedures.

SUMMARY OF MICHEL-SOLOMON AMENDMENT TO H.R. 4600

(Text of H.R. 493, the Enhanced Rescissions/Receipts Act of 1994)

The President may submit to Congress a special message for each appropriation bill or revenue bill within 20-days of their enactment, proposing to rescind all or part of any budget authority or veto any targeted tax benefit (defined as a benefit for the differential treatment to a particular taxpayer or limited class of taxpayers).

The budget authority shall be rescinded dor the tax benefit vetoed unless a bill of disapproval is passed by Congress within 20 days of session and enacted into law. The President would have the constitutional 10 days to sign or veto a disapproval bill and Congress would have 5 days of session to override a veto.

If the last session of Congress adjourns sine die before the expiration of the 20 day period, the rescission of tax veto will not take effect but will be considered to be automatically retransmitted on the first day of the next Congress.

Each rescission or tax veto message shall be referred to the appropriate committees of the House and Senate.

Any disapproval bill introduced shall be referred to the appropriate committees of the House and Senate.

disapproval bills in the Senate would be limited to not more than 10 hours of debate equally divided between the majority and minority leaders.

It would not be in order in either House to consider a disapproval bill that relates to any matter other than the President's message; nor shall it be in order in either House to consider an amendment to a disapproval bill; and these requirements may not be waived or suspended in the Senate except by a vote of three-fifths of the duly sworn Members of that body.

INTRODUCTION OF A BILL TO RESTORE FEDERAL ENERGY REGULATORY COMMISSION JURISDICTION

HON. RICK BOUCHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1994

Mr. BOUCHER. Mr. Speaker, today I am pleased to be joined by Mr. DINGELL, Mr. SHARP, and Mr. MARKEY in introducing legislation that will restore a measure of protection for utility ratepayers served by the operating subsidiaries of multistate public utility holding companies known as registered holding companies.

The 1992 Federal appeals court ruling in Ohio Power Co. versus FERC removed the authority of the Federal Energy Regulatory Commission [FERC] to review the costs of goods and services that are supplied as part of a registered holding company interaffiliate contract. The court held that the Securities and Exchange Commission [SEC] has sole authority to regulate such transactions.

The SEC does not have the expertise or the resources to protect consumers from potential abuses of the interaffiliate relationship. Therefore, the effect of this ruling is to allow the affiliates of a registered holding company to purchase goods and services from each other with little review of whether the costs associated with these transactions are reasonable, prudent, or comparable to the cost of similar goods and services from unaffiliated suppliers.

Prior to the Ohio Power decision, the FERC had authority to review, and did review, the costs of goods and services, including fuel, supplied as part of a registered holding company interaffiliate transaction. The decision placed these costs, which make up a significant portion of the electric rates ultimately charged to the consumers of some companies, outside of FERC's purview. As a result, affiliates of registered holding companies are now in a position to overcapitalize and goldplate functions that are performed for their sister companies and thereby enjoy an increased and uncontestable rate of return as these costs are passed on to ratepayers. This regime represents a major assault on FERC's ratemaking responsibilities and a threat to all customers of these companies. It must be corrected.

The legislation that I am introducing today makes the necessary correction by restoring the essential regulatory tools necessary to protect adequately utility consumers. My bill effectively reverses the Ohio Power decision. Section 318 of the Federal Power Act is amended to provide FERC with jurisdiction to disallow recovery in rates of any costs incurred through an interaffiliate transaction that it determines are not just and reasonable and are unduly discriminatory or preferential. The SEC retains its jurisdiction pursuant to the Public Utility Holding Company Act to review and approve interaffiliate transactions prior to consummation. The bill provides that there will be a rebuttable presumption in FERC rate cases that these costs, once approved by the SEC, are just, reasonable and not unduly discriminatory or preferential. Moreover, so as not to apply this legislation retroactively, the authority conferred on FERC will not apply to any cost incurred and recovered prior to the date of enactment.

At the hearing convened to examine the policy issues presented by the Ohio Power decision, one registered holding company testified that the reversal of the decision would result in disparate treatment of the registered companies, whose interaffiliate fuel contracts would then be reviewed by the SEC at a cost standard as well as by the FERC at a market comparability standard, and the nonregistered companies who would be subject only to FERC review. Under this scenario, the registered companies could recover only the lower of cost or market price, whereas the nonregistered companies could recover market price, regardless of whether it was above or below their cost. In its testimony, the SEC indicated that it will issue a proposed rule designed to harmonize the SEA standard with that used by FERC. Given this testimony, I do not believe it is necessary to address the appropriate standard of review in legislation, and I look forward to an administrative resolution of this matter.

It is, however, critical that we address the regulatory gap created by the Ohio Power decision. I urge my colleagues to join me in supporting this measure.

THE NATION CELEBRATES 50 YEARS OF THE GI BILL

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1994

Mr. EDWARDS of Texas. Mr. Speaker, with the stroke of his pen on June 22, 1944, President Roosevelt transformed the face and future of American society, giving us a prudent and profitable domestic program, originally called the Servicemen's Readjustment Act of 1944—currently referred to as the GI bill of rights. Yesterday several Members of the House and Senate joined President Bill Clinton and Secretary of Veterans' Affairs Jesse Brown in celebrating the 50th anniversary of the GI bill of rights with a ceremony at the Department of Veterans Affairs.

The distinguished chairman of our Committee on Veterans' Affairs, the Honorable G.V. (SONNY) MONTGOMERY, joined President Clinton and Secretary Brown on the platform. The President and Secretary Brown were warm in their praise of the chairman's leadership and his lifetime of dedication to the cause of our Nation's veterans. In 1984, Chairman MONTGOMERY led the effort to enact the current Montgomery GI bill.

They gathered to commemorate the GI bill, which was created to ease the transition of World War II veterans into civilian life. Housing, education, employment, and corporate America are all areas of our society that have directly benefited from the assistance provided under this landmark legislation.

After our Armed Forces returned from World War II, the hopes and expectations of young Americans of modest economic means were no longer restricted because the key to advancement—higher education—was available to them through the GI bill.

Higher education and home ownership, which were privileges of the fortunate few, were no longer beyond reach. They became part of the American dream available to all citizens who served their country through military service.

Today's Montgomery GI bill, which is available to active-duty military personnel and members of the Selected Reserve, continues the tradition established in 1944 and is currently enabling hundreds of thousands of young veterans to further their education. Since 1944, 20 million veterans, including Vice President AL GORE, have earned and used benefits under the GI bills.

Today's GI bill serves as a tremendous incentive for bright young men and women to join our Armed Forces. Their desire for higher education and an improved quality of life has resulted in the strongest and brightest military in U.S. history.

Yesterday was a very important date in our history—the 50th anniversary of the signing of the GI bill of rights. I would like to share with my colleagues the following statements made by the Honorable Jesse Brown, Secretary of Veterans' Affairs; Mr. Garnett Shropshire, a veteran of World War II who used the GI bill following his service; and President Bill Clinton.

HON. JESSE BROWN, SECRETARY OF VETERANS AFFAIRS

President Clinton, my colleagues from the veteran community, distinguished guests, my fellow VA employees, ladies and gentlemen, good afternoon.

This is truly a month of celebrations for those who put veterans first.

A few weeks ago, I joined our Commander in Chief, President Clinton, in Europe. We commemorated the fiftieth anniversary of D-day.

Never have I been in a place where the debt America and the world owe our veterans was more clear; 50 years after D-day, I stood at Pointe du Hoc.

I looked out at the sea, which carried so many young men to an uncertain destiny. I looked to Omaha Beach, where every foot of sand was paid for with the blood of our veterans. I looked at the cliffs, where the American Rangers achieved the impossible.

And I heard our President speak so movingly of "the thousands of people who gave everything they were or might become."; I heard him tell the veterans of World War II that "We are the sons and daughters you saved from tyranny's reach. We are the children of your sacrifice."

His words on that day and in that place made it clear that these men and women changed the course of history. And for that, we are most thankful.

Today, we mark another anniversary of importance to veterans and the nation. It is the fiftieth anniversary of one of the greatest programs ever passed by Congress—the GI Bill of Rights

And it is a special pleasure for me to be here for this event with several gentlemen who are strong supporters of the VA's mission: Senator George Mitchell, Senator Pat Moynihan, Senator Strom Thurmond, Senator Frank Murkowski and Congressman Sonny Montgomery. The current version of the GI Bill is called the Montgomery GI Bill in his honor. I would like to ask these gentlemen to stand and be recognized—and any other Members of Congress who are here with us today.

The impact of the GI Bill cannot be overstated. It helped veterans make the transition from military to civilian life; it changed the course of higher education in America; and it stimulated economic growth and development in the United States

Since the passage of the original bill: More than 20 million veterans have received education or training, and over 14 million home loans, valued at more than 400 billion dollars, have been issued.

Clearly, the GI Bill has been good for the nation. The billions of dollars spent to educate veterans have been recovered many time over.

The home loan feature of the bill has pumped billions of dollars into the Nation's economy. The GI Bill shows us what happens when we invest in the American people. It shows us what happens when we invest in veterans. It shows us the importance of VA's mission.

The Administration, the Congress, VA employees and Veterans Service Organizations are and will continue to work hard to make sure that our veterans receive their benefits. This is as it should be—for our veterans have earned those benefits.

We in the VA understand that our nation is built upon the contributions and sacrifices of our veterans. And therefore, we consider it an honor to work on their behalf.

We must be certain: That our veterans continue to receive the benefits that they are entitled to; that they enjoy the fruits of their sacrifices; and that they never suffer because of their service.

That was the purpose of the GI Bill. That is our purpose at VA. We are proud to be a part of the process that helps those who have secured and protected our liberty. Thank you all—and keep up the good work

At this time, I would like to introduce two special guests. Our first guest was born here in Washington. He graduated from High School in 1987 and enlisted in the Marine Corps. He saw combat in the Persian Gulf and was honorably discharged in December, 1991. He is currently attending college under the GI Bill and works part-time with VA.

Ladies and gentlemen, I am proud to introduce to you—Mr. Hugo Mendoza, Jr.

Our second guest was born in North Carolina and graduated from high school at the age of 17. He enlisted in the Navy in 1943, and served on Guam during World War II. When he returned home, he attended college under the GI Bill. He became a pioneer in the computer field, and has been very successful. He also used the GI Bill to purchase his first home. I am proud to introduce him to you.

Ladies and gentlemen: Mr. Garnett Shropshire.

STATEMENT OF GARNETT SHROPSHIRE

Mr. President, Mr. Secretary, Members of Congress, ladies and gentlemen:

It is difficult for me to describe my emotions as I stand here today.

Many years ago, when I decided to attend college, I never dreamed that one day I would be in Washington, representing millions of fellow veterans.

But here I am today—and I am very proud to be representing veterans from across this great country.

I recently returned from Europe, where our President spoke at the Colleville Cemetery—and, I might add, with dignity befitting all Americans who died there.

Also, I visited Omaha and Utah Beaches. What a feeling—as if you were there on D-day, June 6, 1944.

I was 17 years old when I joined the Navy. Almost everyone I knew was joining up. It was the thing to do.

We didn't think about what was in it for us. We didn't think about asking Uncle Sam for anything in return.

Our country was at war, and we knew we were needed.

Most of us never thought about going to college or owning a home. These were impossible dreams for many of us.

Then President Roosevelt signed something called the GI Bill of Rights. And everything changed.

When I came home, the GI Bill helped make my dreams come true.

Two of the proudest days of my life were the day I graduated from college, and the day my wife and I moved into our first home.

My friends have similar stories. And the GI Bill is still helping those who serve.

My fellow veterans and I were proud of what our service men and women did in the Persian Gulf.

They proved that America still stands up for freedom, and that we still stand tall.

We were proud of young men like Hugo Mendoza. And we believe they deserve the same help we got.

I thank our elected representatives for realizing that this is true—and I thank our President for his help and support.

Ladies and Gentlemen, I have the great honor to introduce a man whom I believe to be a great friend of veterans—a man who is not afraid to tackle tough issues to make things better for all Americans—the President of the United States: the Honorable Bill Clinton.

REMARKS BY THE PRESIDENT AT THE COMMEMORATION OF THE 50TH ANNIVERSARY OF THE GI BILL

THE PRESIDENT. Thank you so much, Mr. Shropshire, for that introduction and for your service to your country and for making the most of the GI Bill. And thank you, Mr. Mendoza, for your service to your country and for reminding us of the future of the GI Bill.

Thank you, Secretary Brown, leaders of veteran service organizations, and staff of the Department of Veterans Administration who are here; to all the members of Congress—Senator Robb, Senator Thurmond, Senator Jeffords, Congressman Price, Congresswoman Byrne, Congressman Sangmeister, Congresswoman Brown, Congressman Bishop. And thank you especially, Congressman Sonny Montgomery, for a lifetime of devotion to this cause.

I'd like to also acknowledge three of Congressman Montgomery's colleagues in the Senate and House on the relevant committee who could not be with us today; Senator Rockefeller, Senator Murkowski, and Congressman Stump.

Before I begin, if I might, I'd like to say a brief word about a development in Brussels this morning that is in so many ways a tribute to the men and women who have worn the uniform of this country over the last 50 years. Today Russia took an important step to help shape a safer and more peaceful post-Cold War world.

As all of you know, it wasn't very many days ago that we and the Russians were able to announce that, for the first time since both of us had nuclear weapons, our nuclear weapons were no longer pointed at each other. Today, Russia made a decision to join 20 other nations of the former Soviet Union and Eastern Europe and Western Europe in NATO's Partnership for Peace—to work together on joint planning and exercises, and to commit themselves to a common future, to a unified Europe where neighbors respect their borders and do not invade them, but instead, work together for mutual security and progress.

I want to join with the Secretary of State, who was on hand for the signing in Bussels, in commending the Russian people and their leaders on this farsighted choice. And I think that all of us will join them in saying this is another step on our long road in man's everlasting quest for peace. We thank them today.

As Secretary Brown and Mr. Shropshire said in their eloquent remarks, I had the opportunity not long ago of commemorating the service of our veterans at Normandy and in the Italian campaign. Joined by some of the veterans who are here today, including General Mick Kicklighter, who did such a wonderful job in heading the committee that planned all those magnificent events, we remembered the sacrifices of the brave Americans and their allies who freed a continent from Tyranny.

Almost everything we are trying to do is animated by the spirit and the ideas behind the GI Bill. Give Americans a chance to make their own lives in the fast-changing world. They will secure the American Dream. They will secure our freedom. They will expand it's reach if you give them the power to do it.

At Normandy I was able to pay special tribute to the first paratroopers to land in the D-Day operation, called the Pathfinders, because they lighted the way for those who followed. Today, it is up to us to be the pathfinders of the 21st century. The powerful idea behind the Bill of Rights for the GIs is still the best light to find that path.

Our job now is to do everything we can to help Americans to have the chance to build those better lives for themselves. That is the best way to prove ourselves worthy of the legacy handed down by those who sacrified in the second world war, those who have worn our uniform since, and those who have been given their just chance at the brass ring through the Bill of Rights for the GIs.

Thank you very much.

AFRICAN-AMERICAN WOMEN WISH TO BE CONSIDERED DURING CONGRESSIONAL ACTION ON HEALTH CARE

HON. MAXINE WATERS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1994

Ms. WATERS. Mr. Speaker, I would like to include in the RECORD a letter sent to me by Ms. Lillian Mobley, a constituent in my district, the director of the South Central Multi-Purpose Senior Citizens Center, the chair of the Black Women's Forum Health Task Force, and a long time friend. Ms. Mobley wrote the letter in response to an invitation to attend the Women's Health Forum on June 16, 1994. I believe it is critically important that the concerns she raises, on behalf of African-American women, are taken into account during congressional action on health care reform.

There are several types of cancers that afflict Black women in disproportionate numbers. These include: breast cancer, cervical cancer and leukemia. Just this past week alone, we lost three very close friends to this disease. If other non-Black women are alarmed that there is a lack of research, resources, education and services for women who are afflicted by this disease, you can imagine what the conditions are for African American women. Just before one of the women mentioned above passed away, she called the South Central Multi-Purpose Senior Citizens Center. She was confronted with a situation in which the cost of her prescription drugs was $150.00. She only had $400 and she needed that to pay her rent. Everyday poor Black women who are ill are confronted with having to make this kind of cruel and inhuman choice.

As African American people we face discrimination and neglect daily. We are served by physicians who are culturally insensitive. We have to virtually insist on information about our medical condition from them that they should, as a matter of basic primary care, provide to us on their own accord. Catastrophic illness causes a tremendous hardship on the families and friends of Black women who are victims of cancer. Many find it extremely difficult to adjust to the changes in their activities of daily living and the stresses that accompany their medical condition. They have to drastically alter their social agendas. Many can no longer drive automobiles and, hence, they cannot attend church.

I request that my letter be entered into the CONGRESSIONAL RECORD in memory of attorney Linda Taylor Ferguson, a brave sister who struggled for women's rights in the 35th Congressional District until she succumbed to breast cancer.

A TRIBUTE TO EDWARD "POP" STEWART

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1994

Mr. RANGEL. Mr. Speaker, I would like to bring to your attention and to the attention, of my colleagues here in the House, the life of a special man, one who was a fixture here in these Halls of Congress until his recent passing on Sunday, June 19, 1994. That man is Edward "Pop" Stewart.

Cheerful and ever-optimistic, "Pop" was an institution at the House of Representatives, where he worked as a banquet waiter for many years. He started his working career in the 1920's at the White House as a waiter. In the 1930's, he worked for the merchant marine and in various clubs. During the war years, he was a dedicated worker for Southern Railroad where he was a dining car steward, and in the 1950's, he worked at the old Burlington Hotel here in Washington as its service manager.

"Pop" Stewart came to the House of Representatives in the early 1960's, where he worked as a waiter in the Members' Dining Room. As the years passed, he would come to work in the House Office Building catering operation, where he was employed until the day he died at the age of 86.

Edward "Pop" Stewart was born in Troy, NY, on September 12, 1907. During his lifetime, he was a member of the Pigskin Club of Washington, the Elks Club, the NAACP, and the AARP. Perhaps his most-loved association was as a senior Mason. He was the oldest living member of Lodge 20, Jefferson Lodge, in Charlottesville, VA, and had been a respected member for over 60 years.

"Pop" leaves behind to mourn a sister, Juanita Stewart Hargrove; a daughter, Annie Harris; 8 grandchildren; 21 great grandchildren; 2 great-great-grandchildren; and a host of loving and caring friends. He will be sorely missed by all those who had the pleasure of knowing him and hearing him say, "You're the best!"

RECOGNIZING RAUL JARAMILLO FOR HIS 18 YEARS OF SERVICE TO THE ALAMEDA COUNTY OFFICE OF EDUCATION

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 24, 1994

Mr. STARK. Mr. Speaker, today, I would like to congratulate Raul Jaramillo for his successful tenure with Alameda County Office of Education. After 18 years, he will be retiring as their deputy superintendent.

Mr. Jaramillo's career, however, expands well beyond his years of service at the Alameda County Office of Education. He started teaching in 1965 with the Menlo Park Elementary School District in California. It was immediately evident that Mr. Jaramillo was to have an enormous impact because he was quickly selected as Teacher of the Year. Soon afterwards, he was recruited by Alum Rock Union Elementary School District in San José, CA, as their project coordinator. Within a few years he became their assistant superintendent.

As a member of Alameda County Office of Education, Mr. Jaramillo has administered all their programs at one time or another. These include the establishment and expansion of community schools which assist with the transition process for delinquents from juvenile hall back into a regular school setting, a program for chemically dependent youth, and a program for the developmentally delayed infants. Mr. Jaramillo has also been a prominent advocate of affirmative action. He has been sought by many organizations at all levels to assist them in minority teacher recruitment.

Raul Jaramillo has made many other contributions to our community through other organizations. The one I am most familiar with is his vital role with the Hispanic Community Affairs Council. As one of the Padrinos of HCAC, he was instrumental in initiating a scholarship program for Latino students and is one of the reasons it's so successful today. This year, HCAC awarded $37,500 in scholarships to 36 Latino students. He is also active in the Puente and Camino Nuevo Project, both mentorship programs, the Alameda County Hispanic Chamber of Commerce, the National Hispanic Foundation, and the Latino Community Policy Group.

Mr. Jaramillo has been recognized with many awards for all his contributions to education. These include: The Don Quixote Award for exemplary contributions to the Hispanic Community Affairs Council, the Association of California School Administrators for outstanding service, Alameda Technical College for outstanding service, and special recognition from the Comprehensive Teen Age Pregnancy Prevention Program for his contribution to Oakland's teen parents and their children.

Mr. Speaker, I come before you today to recognize Raul Jaramillo for his 29-year commitment to our youth and all his accomplishments. I hope you and my colleagues will join me in congratulating this educational leader for all his accomplishments and tenacious spirit and wish him well in all his future endeavors.

SENATE—*Monday, June 27, 1994*

(Legislative day of Tuesday, June 7, 1994)

The Senate met at 1 p.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The prayer will be led by Richard C. Halverson, Jr., the son of the Senate Chaplain.

Mr. Halverson.

PRAYER

The Reverend Richard C. Halverson, Jr., of Arlington, VA, offered the following prayer:

Let us pray:

Almighty God, it is written of the prophet Elijah that he came to the mount of God to hear the voice of God. "And, behold, the Lord passed by, and a great and strong wind rent the mountains, and break in pieces the rocks before the Lord; but the Lord was not in the wind: and after the wind an earthquake; but the Lord was not in the earthquake; and after the earthquake a fire; but the Lord was not in the fire: and after the fire a still small voice. And it was so * * * Elijah heard * * *."—I Kings 19:11–13.

Lord, cause us to discern Thy voice as we must and teach us to hear one another as we should. In the signs of the times we see a gathering storm of abuse and violence, unforgiveness, and judgmentalism.

We are grateful for the many calls which have come our way for, in them, we hear the voice of pain, resentment, anger, and concern which must be heeded if a storm is to be abated and healing is to come. Once again we ask for Thy comfort and wisdom for those who suffer neglect, abuse, and violence, even within their homes.

And as we seek to discern the way of peace, open our ears to Thy voice—not in the winds of deceitful doctrines, not in the earthquakes of changing popular appeals, not in the fires of gossip, slander, and divisive speech—but in the still, small voice of Thy spirit within.

We ask this in the name of the Prince of Peace. Amen.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 2 p.m., with Senators permitted to speak therein for up to 5 minutes each.

QUORUM CALL

The PRESIDENT pro tempore. The Chair in its capacity as a Senator from the State of West Virginia suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Under the order entered previously, the Senator from Utah [Mr. BENNETT], is recognized to speak up to 30 minutes.

MEASURE PLACED ON THE CALENDAR—S. 2243

Mr. BENNETT. Mr. President, before beginning the 30 minutes, I ask unanimous consent I be allowed to offer two unanimous-consent agreements.

Mr. President, I ask unanimous consent that S. 2243, introduced by Senator STEVENS on Friday and now at the desk, be placed on the calendar.

The PRESIDENT pro tempore. Is there objection? Hearing no objection, it is so ordered.

AMENDING THE JOHN F. KENNEDY CENTER ACT

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 492, H.R. 3567, a bill relating to the operating responsibilities of the John F. Kennedy Center, that the committee substitute amendment be agreed to, the bill read a third time, passed, and the motion to reconsider be laid on the table; further, that any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDENT pro tempore. Without objection, the several requests are granted.

If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The amendment was agreed to.

The PRESIDENT pro tempore. The question is on the engrossment of the committee amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 3567), as amended, was passed.

The PRESIDENT pro tempore. The Senator from Utah is recognized for 30 minutes.

HEALTH CARE REFORM

Mr. BENNETT. Mr. President, the issue of health care reform has been the top issue before the Congress. Indeed, as I listen to some of my more senior colleagues, they suggest it is perhaps the top issue to come before this Congress during their service and perhaps even—not to put too fine a point on it—in the history of the Nation, because we are talking about a bill that will create a social entitlement of a size unknown.

We spent a good part of last year in this body talking about entitlements and the impact of entitlements on the budget, and the possibility that entitlements could indeed break the budget and force the country on the verge of bankruptcy. It is perhaps not overstating the matter, therefore, to say that health care that would create a huge new entitlement, is, indeed, one of the most serious social issues that we have ever debated within this body.

We are talking about regulating one-seventh of the total economy. Our transportation system is not that big. Our communications system is not that big. We do not have public utilities that are that big. Nothing approaching the size and complexity of this issue has ever come before us.

Given the importance of that, I have decided before I entered into a final vote on this matter that I had better do my homework, and I have tried to do that. I have talked to my constituents in town meetings all over my home State. I have talked to people outside of my home State. I have spent time with the various think tanks and study groups across the ideological spectrum, listening to their arguments—some of them in favor of a single-pay system, some of them in favor of alliances, some of them violently opposed to these things. I spent hours with the lobbyists who come to see us, presenting their points of view on this issue, including the lobbyists from the White House. Indeed, I have probably

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

spent as much time with the White House lobbyist as I have with any individual lobbyist. And I have spent time with my colleagues. Senator CHAFEE, on the Republican side, has held breakfasts every week to discuss health care and I have attended whenever possible. We have gone off on retreats and talked about it. I have spent time with my Democratic colleagues, talking about it, trying to understand the complexities of this issue.

Now that the time has come that we are nearing a vote, I think I need to rise and report what I have found and where I stand on this particular issue. This is what I have found.

First, there is, indeed, a problem. Our health care system needs fixing. Those who say, "Oh, minor tune ups" are wrong, in my view. President Clinton deserves credit for forcing the Nation to confront this basic fact. Indeed, others have talked about it and have worked around the fringes of it, but President Clinton is the one who has looked the issue in the eye and forced us to confront the seriousness of this problem. Whatever passes, whatever ultimately happens will be a tribute to President Clinton's courage. And as a Republican Senator I want to add my personal tribute to his willingness to confront this particular challenge.

Second, a major reason why there is a problem in health care is the fact that market forces do not work in health care. In order to operate, a market requires informed and empowered consumers and we do not have either one in the health care system. We are not informed as consumers because we do not have the proper medical training. When a doctor says, "You need a procedure," I cannot confront him and challenge him and say, "No, doctor, that is too expensive, I would prefer something else," the way I can challenge a used-car salesman. So the market does not work on the information side.

The market does not work on the empowered side. I am not empowered, as a consumer, to control my own destiny. Why is that? Because the health care coverage that I receive in the form of an insurance policy is determined by my employer. I do not get to decide what is in that policy. My employer decides.

Oh, you say, in the Government you have your choice. Yes, I have my choice of those plans that the employer—in this case the Federal Government—has decided would be good for me to make. When people say to me, we wish we could all have the health care plans that you in the Senate have, my response is, I wish I could have the health care plan I had before I came to the Senate, because I had a better plan prior to coming to the Senate. But because my current employer does not endorse that plan, I do not have that choice.

So as I say, market forces do not work because we do not have an informed consumer and we do not have an empowered consumer.

How did we get into this mess? You can go all the way back to the Second World War, and you will find that in one of its periodic attempts to repeal the law of supply and demand, the Government, in its wisdom, said we will enforce wage-and-price controls throughout the economy.

You have a booming economy. You are an employer, Mr. President, and I am your employee. Somebody offers me a job at a higher wage than you can pay and you cannot match it; the Government has forbade you from matching it. So you say to me: "Tell you what I'll do, Mr. BENNETT. I'll keep you as my employee. Instead of giving you a wage raise, which is illegal, I'll buy a health insurance plan for you, and that means I am increasing your compensation by the amount of the worth of that plan, but it will not be charged as a wage increase and this is the way I will get around wage controls."

So we started down the road of tying health coverage to the employer; we started down the road of giving the employer the right to determine what health care coverage the employee would have.

If I am right, the principal thing that is wrong with the system is that the market does not work. What is the solution? I have referred to the Second World War and how we got into our circumstance. If the Government caused the problem, the Government can solve the problem, and the solution is this, Mr. President: We must take the control of the health care payment system away from the employer and put the control in the hands of the individual consumer. Simply put, Mr. President, we must trust the American people.

The Clinton plan does not do this. The plan that we have received from President Clinton, from his wife, and from Ira Magaziner, and the others who have worked with him, does not break the link between employer ownership of health care policies. On the contrary, it cements it and perpetuates it. Market forces will never appear under the Clinton plan, which is why the Clinton plan will never achieve the kinds of savings that politically are being advertised.

The Clinton people themselves know this. There has been a recent book published that is the buzz of Washington. It is called "The Agenda" by Robert Woodward. Everybody is all abuzz because it shows that the decisionmaking process in the White House is untidy. My reaction to that is the decisionmaking process in every White House is untidy. Why is this news?

But within the book, there is news. And the news is, with respect to health care, that the Clinton advisers realize that wage-and-price controls are necessary for them to be able to claim the kinds of savings they are talking about.

If I may take you to page 122 of the Woodward book and quote, referring to Ira Magaziner, the principal author and architect of the Clinton health care plan. The book says:

> Magaziner said they had to consider some form of price controls on health care costs. He did not like explicit Government controls and knew all the arguments against them. He preferred to let competition in the marketplace set costs, but they needed health savings, and for the Government to clamp on controls by fiat would be more certain to pull in savings in the near future. The administration could not continue to allow health care costs to skyrocket while they wrote their detailed plans.
>
> There was silence around the table. No one favored the controls, but no one seemed to want to speak up. Who was going to fall on the sword first? Alice Rivlin stepped forward and ripped the notion hard. "Nixon had tried price controls and they failed," she said. "An intricate health care system would require equally intricate price controls, a complicated task that would take weeks or months to figure out." Her remarks started an avalanche. Laura Tyson wondered how price controls might be put in place. "How would the Government gather the data? How would doctors and hospitals and others report? It probably would take a year to 18 months to implement even short-term price controls," she said, "and that would presumably be the point at which full reform would begin and price controls supposedly not be needed."
>
> Alan Blinder said that one of the first messages from the new Democratic administration should not be to put one one-seventh of the American economy under the command and the control of the Federal Government. That would only reinforce the notion that Democrats didn't like free markets. Hillary was noncommittal.

Mr. President, Alice Rivlin was right. Laura Tyson was right. Alan Blinder was right. Price controls have never worked, do not work and will never work. Any bill that is founded on the forlorn hope that this time they just might work will produce dislocations in the economy that will be ruinous to us all.

Again, even the understanding of this began to dawn on some of President Clinton's people. Going back to the Woodward book, on page 120, it says:

> During the transition, a 16-member team had sent an 84-page health care reform memo to Clinton warning that reform would be expensive and its actual cost would hinge on the extent to which you employ short-term price controls. It listed four options for proceeding. Each one included an analysis of 1996 election politics and each forecast a dreary road ahead.

And then, a little later on the same page, referring to James Carville, the President's primary political consultant:

> This was serious, Carville realized. After the meeting, Carville told Magaziner, "I now see this as real. When I do a campaign and foul up, someone just loses. But if you foul up, you foul up the country." Magaziner just rolled his eyes.

I should note for the sake of historic accuracy, Mr. President, that in the book, Mr. Carville does not use the word "foul." He has another verb which I understand is improper for me to use on the Senate floor.

The Clinton plan and its clone, the Kennedy plan, are, in my view, poison. They are based on the assumption that the only way they can work is through Government-imposed price controls. They must be defeated even at the cost of gridlock. Yes, filibuster if that is what it takes. This Senator is prepared to engage in that to see to it that neither of these plans comes to be law.

And to my friends on the Democratic side of the aisle who wish to lambaste us for talking about gridlock and filibuster, I say the American people are with us on this one. The latest poll shows that 70 percent of the American people are willing to wait until next year for health care reform if they are convinced that that is what it takes in order to get it right. It is more important that we do it right than that we do it now.

How did the Clintons go so far astray? They had a 500-person task force to go through all of the data and sift through all of this and give them guidance as to how this plan should be put together.

Once again, it is clear from the Woodward book that the task force was window dressing. The Clinton people already had their minds made up before the task force was convened. Quoting once again from "The Agenda":

> On Friday, February 5—

February 5, Mr. President, this is less than a month after Mr. Clinton's inauguration, before he has come to the Congress with his proposals.

> On Friday, February 5, Bob Rubin sent a short memo to the President saying that the economic team was going to meet over the weekend to discuss Hillary and Ira Magaziner's desire to incorporate health care reform into the economic plan.

Mr. President, we passed the economic plan in this body well over a year ago. We passed it under reconciliation, and one of the ideas that arose during that time was the possibility that it be included in reconciliation so that it not be subject to a filibuster. The 500-person task force was window dressing; it was giving lipservice to receive input from other places. On the 5th of February, they already knew what it was they were going to propose.

I said that the solution was to trust and, therefore, empower the American people on health care. How do we do that? As I said, the Government created the employer control of health care in the first place, back in the Second World War. The Government can uncreate it by changing the tax laws now. Today, compensation for a worker comes in two forms: Taxable and untaxable—the the wages that are reported on your W-2 form that are taxable and the benefits that the employer deducts as part of his payroll costs that are untaxable. But make no mistake, both of these are compensation to the individual. It makes no difference to the employer whether the compensation is in one category or the other. There are costs he has to pay and costs he can deduct in either case. But the difference is to the employee because the employee currently has no control over how the nontaxable portion is spent.

Let us change that. Let us give the employee tax-free dollars deductible to the employer but not taxable to the employee as long as the employee spends them on a health care plan of his or her choice. Let the individual decide what to do with those nontaxable dollars.

The individual, therefore, controls and owns the policy and affordability in the health care issue goes away because the employee takes the policy with him or her wherever the job trail may lead. Cost control I believe would be automatic. Problems with preexisting condition, of course, would go away along with affordability.

Why do I think cost control would be automatic? Because the individuals would now be measuring the cost to themselves. They would not be thinking they were spending other people's money as they do in the present circumstance. They could make the decision on their own: Do I want this kind of coverage or do I not?

I believe very quickly we would see individuals beginning to create a gap between catastrophic coverage and everyday, routine aches and pains kinds of coverage.

Let me give you an analogy which I realize is imperfect as all analogies are but which makes the point. Let me talk about homeowner's insurance. Now, in this country there is no Federal mandate that everyone have homeowner's insurance. The Government does not interfere and require this, and yet every homeowner has it because the market forces are so strong that it makes sense for everyone to have it. You have virtually universal coverage. What does your homeowner's insurance cover?

Well, in a time of catastrophe—my house burns down—it covers everything. My homeowner's insurance will not only replace the house; it will replace the carpet; it will replace the dishes and the shelves; it will replace the blankets on the beds; it will replace the pictures on the wall. I have absolute total coverage.

There is nothing, however, in my homeowner's policy that covers the cost of mowing the lawn or repainting the front door or replacing a broken window.

Now, I suppose I could get a policy like that, but the premiums would be astronomically high. Therefore, I choose to take care of those things myself and save the premiums.

I have talked to insurance executives and said: What would happen if you provided only catastrophic? And they said: We could cover catastrophic insurance for everybody in the country for approximately 10 percent of the premiums now being paid.

An individual American faced with that fact would be intelligent enough to make the right kind of choice as to how much catastrophic he needed, where to draw the line, and where to say this much I will cover. If the individuals knew what first dollar coverage costs, the individuals would immediately make wise choices as to the size of deductibles and copays and the level of insurance that makes sense for them.

Now, moving in this direction, uncoupling the control of health insurance from the employer and passing it to the individual by changing the tax laws would be true structural and basic reform. Indeed, to use the language of the 1992, this would be real change of the kind for which President Clinton campaigned. It would require very careful study. It would require deliberate implementation over time because it is not a quick fix. But it is the right fix.

Now we come to the legislative situation. As I have said earlier, the Clinton bill and the Kennedy bill move entirely in the wrong direction in this matter, and I am prepared to fight them as firmly and totally as I know how. But it is becoming clear that neither the Clinton bill nor the Kennedy bill will be offered. The morning newspaper tells us of Senator MOYNIHAN's desire to offer a bill, Senator CHAFEE and some others working to fashion a bill. Senator DOLE has indicated his willingness to consider offering a bill.

So we come to the question should we pass one of these bills even as we reject the Clinton and Kennedy bill? I have not seen the details of them. I have not read them. But I ask this question of every bill that comes before us: What is the basic structural thrust of your proposal? Is it to perpetuate the notion that the American people cannot be trusted to decide their own health care future, that someone else—an employer, a Government agency, or a mandatory alliance—must do it?

If that is the thrust of your bill, I will not vote for it, and I would rather have no bill this year than that kind of a bill. However, I would say to a Senator offering a bill, if the basic thrust of your proposal is for a system that will move us toward the goal of allowing market forces to work their will, increasing the freedom of Americans to choose for themselves, then, yes, I would be willing to vote for a bill that goes in that direction.

In sum, Mr. President, the health care issue is tortuously complex and huge in its implications. The chances that we might produce enormously difficult and costly problems if we do it wrong are overwhelming. But complex as it is, it can be solved as other complex social challenges have been solved throughout our history. Trust Americans to make their own individual decisions. That is the key. If we do, we will wend our way through the health care thicket as we always have when we have made liberty our full star. This has been the sum and essence of our success as a people. It will not fail us here.

I yield the floor.

GROUND-BREAKING CEREMONIES FOR NEW WALTER REED ARMY INSTITUTE OF RESEARCH, FOREST GLEN, MD

Mr. INOUYE. Mr. President, on Friday, June 24, I participated in ground-breaking ceremonies for the new Walter Reed Army Institute of Research at Forest Glen, MD. This facility will provide laboratories and associated equipment for military medical scientists and researchers who are working on the critical infectious diseases of our time.

This facility is being erected because of the dedicated efforts and good work of Maryland's two very effective Senators—Senator BARBARA MIKULSKI and Senator PAUL SARBANES. Indeed, my good friend and colleague, the senior Senator from Maryland, was one of the speakers at the event. I was quite impressed by Senator SARBANES' remarks and wish to make them a part of the CONGRESSIONAL RECORD for today.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR PAUL S. SARBANES

I am delighted to join in this ceremony marking the ground breaking for the new Walter Reed Army Institute of Research and dedication of WRAIR's new Vaccine Pilot Plant.

Today is indeed a very special or "rare" occasion and one which many of us have awaited with considerable anticipation.

At the very outset, I want to pay tribute to Senator Daniel Inouye and Congressman Jack Murtha, who have been longstanding proponents of WRAIR and the research conducted at the Institute. As Chairs of the Defense Appropriations Subcommittees in the Senate and House, their support and assistance with funding for WRAIR has been instrumental in bringing the modernization of WRAIR's facilities to fruition.

Senator Inouye has also been a leader in efforts to stave off attempts to close another outstanding institution in Montgomery County—the Uniformed Services University of Health Sciences—known as USUHS—and I have had the great pleasure of working with him in these efforts. We in Maryland are grateful to both Senator Inouye and Congressman Murtha for your help.

Today's ceremonies mark not only an important milestone in the effort to modernize WRAIR's facilities, but also in a larger sense, in the Institute's long and distinguished history. As you know, we are celebrating today the 101st anniversary of WRAIR. WRAIR was established on June 24, 1893 as the Army Medical School, the first such school of preventive medicine in the United States. Over the past century, WRAIR has compiled an impressive record of success and has earned a world-wide reputation for its contributions to tropical medicine, military psychiatry, and drug and vaccine development, to name only few.

In addition to Walter Reed's world famous research on yellow fever, WRAIR scientists developed the first mechanical liquid chlorine water purifier now in world-wide use; were the first to isolate Asian flu and measles viruses; developed the first large scale HIV screening program and successful HIV vaccine test; developed the first drugs and vaccines used against meningitis, typhoid fever, cholera, and malaria, and other diseases.

I think it is important to point out that the research conducted at WRAIR has not only benefited American soldiers, but people throughout our country and the world. It is not only in the forefront of efforts to address major international health crises such as AIDS, but has helped fight infectious diseases which have been the scourge of the third world.

Unfortunately, WRAIR's laboratories and other facilities have not kept pace with the outstanding research conducted here. Many of WRAIR's facilities are over 70 years old and completely inadequate for WRAIR's scientists and physicians to continue producing their extraordinary work. Today we are taking a significant step forward in addressing this situation. By breaking ground for the new WRAIR laboratory and dedicating the Pilot Vaccine Facility, we are laying the foundation for the military's medical research program for the 21st Century. When completed, this new $147 million state-of-the-art research and development laboratory will provide WRAIR with the facilities and tools it needs to fulfill its important mission for years to come.

In addition to maintaining high standards of excellence for the military's biomedical research activities, the new WRAIR lab and Pilot Vaccine facility will play a major role in the high-tech future of Montgomery County and Maryland. WRAIR has among the highest number of Cooperative Research and Development Agreements or CRADAs with private industry of any federal institution including four right here in Montgomery County and has been a major catalyst for the burgeoning biotechnology and vaccine industry in Maryland. With the completion of the new WRAIR lab and the opening of the Pilot Vaccine Facility, we anticipate even more activity in this area. The new WRAIR and Pilot Plan will also provide a major boost to the local economy and the actions underway to revitalize the downtown Silver Spring area.

Senator Inouye, Senator Mikulski, Congressman Murtha, Congresswoman Morella, Congressman Wynn and I worked very hard to secure the authorization, funding and approvals necessary to move this project forward. It wasn't easy, despite the clear need for the new facility. I personally took this issue to two Secretaries of Defense, the Deputy Secretary, the Secretary of the Army, the White House and numerous other officials, Congressional Committees and the floor of the Senate. But today we have reached a critical milestone in the effort to preserve WRAIR's status as the military's preeminent center for biomedical research and medical readiness.

I want to close by commending the Secretary of the Army, Togo West, who, early on, recognized the need for this new facility and played a key role in moving its approval through the Pentagon; Col. Salvado, the director of WRAIR; Marv Rogul, WRAIR's Associate Director for Research, Marketing and Policy Development; the scientific, technical and support staff at WRAIR; and the many, many others who have worked to protect and foster the scientific mission of WRAIR and make the institute truly a national treasure.

I also want to thank Montgomery County Executive Neal Potter and the Members of the Montgomery County Council; Jorge Ribas, Sally Sternback, Bruce Lee, Dick Kauffunger, Nancy Schneider and all the other members of the Greater Silver Spring Chamber of Commerce, the Montgomery County Civil Federation, and the Committee for Montgomery. The strong support of the local community for this project was critical.

We take great pride in the accomplishments of WRAIR, in the people who work at WRAIR, and in having this outstanding facility located here in Maryland. I am confident that, with this new facility, WRAIR will continue to be on the frontier of medical research necessary to protect the health of our American soldiers and the American people alike.

Mr. SARBANES. Mr. President, today I had the great privilege of joining with my distinguished colleague from Hawaii, Senator INOUYE, in a ceremony in Forest Glen, MD, marking the ground breaking for the new Walter Reed Army Institute of Research laboratory on the occasion of the institute's 101st anniversary.

Throughout his career in the Congress, Senator INOUYE has worked tirelessly to ensure that our military medical research and health care for American soldiers are second to none in the world. He has been a stalwart supporter of WRAIR and the Uniformed Services University of the Health Sciences and has been instrumental in protecting and enhancing these important institutions.

I commend to my colleagues his insightful remarks on this occasion and ask unanimous consent that the full text of his speech be included in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR DANIEL K. INOUYE

Thank you for your warm introduction.

I am very pleased to be able to join you today and to participate in this most happy occasion. One of the things that I love about my work as a United States Senator is the opportunity to work with good, hard-working, and dedicated people who serve, not just their own interests, but also the good of the community.

This building is a milestone in such an effort. It marks a point along the path of human progress; a point from which we can measure our renewed commitment to medical research in the military and from which we can measure both how far we have come and how far we must go in the future. It is also a signpost indicating the commitment that our Government and military are making to ensure that military medical research is unparalleled in dedication and in achievement. The United States Army, the Congress, and now the executive branch—all have worked together on this. Today, we break ground on a common endeavor which I believe will bring uncommon success.

In 1991, during a public witness hearing before the subcommittee which I am privileged to chair, one witness, Dr. Robert Shope, spoke about the condition of the WRAIR facilities located at and near Walter Reed Army Medical Center. He stated that the facilities did not meet minimum occupational safety and health standards, nor did they meet environmental quality or laboratory animal care standards.

Frankly, it was difficult for me to believe then that our Government would allow a premier research facility to become so decrepit and run down. But, Dr. Shope spoke with such conviction and such sincerity that I told him, "We were not aware the Walter Reed research facility was in such bad shape. We will look into that immediately. If it turns out that is really bad, we will make this an emergency matter."

Well, "really bad" is an understatement of classic proportions. Things were terrible. Some of the most sophisticated medical research in this country was being done in a facility that should probably have been torn down; top scientists were working in labs not much bigger than large closets—some so small it was difficult for two people to move around in the labs at the same time. I was shocked to learn that wild animals—raccoons—had fouled labs and destroyed research files. The conditions were appalling and, unfortunately, in many places, they remain so. But, today, we begin anew.

It pleases me that, after listening to you and learning of your plans, I was able to convince my colleagues of the merit of the restoring WRAIR to its rightful position as the premier medical research laboratory in the Department of Defense. The construction of a new facility here—starting now—will open the way for consolidation and continued improvement of the facilities the WRAIR scientists and medical researchers need to conduct their very important work.

We were able to secure funding for WRAIR because of the support and assistance of those who are sharing this platform, and, of course, many others.

Who knows, when I look at the power of the House of Representatives on this platform, it occurs to me that it just might be possible for us to find additional funding for WRAIR and Army research activities in next year's bill. I think it is safe for me to say that, for as long as I am chairman of the Senate Subcommittee on Defense Appropriations, the Army and WRAIR will get a generous share of Federal Government support for programs and projects which serve our national medical research objectives.

I am pleased to have had an opportunity to work with many of you who are gathered here on this project. I am particularly pleased that my colleagues had faith in the future of WRAIR and faith in the commitment and ability of the people who study and work here. We will not forget the contribution your efforts have made to the betterment of mankind.

To me, this is how things should be: people of good will coming together to create, to build, to grow. I thank all of you for giving me the opportunity to join with you.

Mahalo and aloha.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE OF THAT

Mr. HELMS. Mr. President, before we ponder today's bad news about the Federal debt, let us have a little pop quiz: How many million would you say are in a trillion? And when you figure that out, just consider that Congress has run up a debt exceeding 4½ trillion.

To be exact, as of the close of business on Friday, June 24, the Federal debt stood—down to the penny—at $4,600,321,064,126.02. This means that every man, woman, and child in America owes $17,645.29, computed on a per capita basis.

Mr. President, to answer the question (how many million in a trillion?) there are a million, million in a trillion. I remind you, the Federal Government, thanks to the U.S. Congress, owes more than $4½ trillion.

TRIBUTE TO MAJ. GEN. JOHN G. CASTLES, VIRGINIA NATIONAL GUARD

Mr. WARNER. Mr. President, today I ask that my colleagues join with me in paying tribute to an outstanding individual as he prepares to retire following an illustrious and dedicated career. Maj. Gen. John G. Castles, Adjutant General of Virginia's National Guard, agency head of the Virginia Department of Military Affairs, has devoted a lifetime to serving his country and his State. Since 1982, he has been responsible for the management of the 8,800-member Virginia Army National Guard and the 1,200-member Virginia Air National Guard.

General Castles' record of accomplishment was best summarized by his successor, Brig. Gen. Carroll Thackston. Gen. Thackston recently pointed out that, when Gen. Castles assumed the Adjutant General's position in 1982, the Virginia National Guard was ranked 51st in the country in the management of its resources; national recognition was nonexistent.

Three years later, thanks to Gen. Castles' leadership and management, Virginia ranked No. 1 in the Nation, a position it has maintained since that time. Additionally, national awards too numerous to mention have been bestowed on Virginia units during Gen. Castles' 12 years of stewardship. The Kerwin Trophy, given to the most outstanding Battalion-size unit in the National Guard and Army Reserve, has been awarded to Virginia in two of the past 4 years. Thanks to Gen. Castles' guidance and command, Virginia enjoys a well-deserved reputation nationwide as a leader.

Gen. Castles' commitment to military service began early: he was graduated from Valley Forge Military Academy in Pennsylvania in 1943. He enlisted in the U.S. Army in May of that year, completing Infantry Officer Candidate School and earning a commission as second lieutenant in 1944. He was first assigned as a rifle platoon leader in the 345th Infantry, 87th Infantry Division, 3d Army during the Ardennes campaign. Following subsequent assignments as battalion patrol leader and weapons platoon leader through the Rhineland and Central Europe campaigns, he served in the 30th and 4th Infantry Divisions prior to being discharged on April 15, 1946.

General Castles joined the Virginia Army National Guard while a student at the University of Virginia. He was assigned to the Monticello Guard, Company K, 116th Infantry located in Charlottesville, VA. After serving as commander of this company, he was assigned as the logistics officer of the 3d Battalion, 116th Infantry Regiment for 4 years. This was followed by 7 years as operations officer at the battalion, battle group and brigade levels.

In 1964, he took command of the 2nd Battalion, 116th Infantry, headquartered in Lynchburg. Four years later he was assigned to the Virginia Emergency Operations Headquarters as operations officer and, later, as chief of staff. He then assumed command of the 224th Field Artillery Group, where he remained until he was named chief of staff of the Virginia Army National Guard.

On February 8, 1974, he was given Federal recognition and promoted to the rank of brigadier general. In 1977, he assumed command of the 116th Infantry Brigade (Separate), best known as the Stonewall Brigade. He held that post until his retirement in 1979.

In August of 1982, he was appointed adjutant general by the then-Governor of Virginia and now my colleague, Senator ROBB. He was promoted to major general the following year.

The roster of General Castles' military decorations and awards is as impressive and illustrious as that garnered by Virginia under his command. They include the Army Distinguished Service Medal; the Legion of Merit with oak leaf cluster; the Bronze Star; the Meritorious Service Medal; the American Campaign Medal; the European-African-Middle Eastern Campaign Medal with three stars; the World War II Victory Medal; the Army of Occupation Medal (Germany); the Humanitarian Service Medal; the Armed Forces Reserve Medal; the Army Reserve Components Achievement Medal; the combat infantry badge; the National Guard Bureau Distinguished Service Medal; the Virginia Distinguished Service Medal with gold dogwood blossom; Virginia Service Medal with six gold dogwood blossoms; the American Legion District of Virginia Distinguished Service Medal; the McArthur Chapter of the Association of the U.S. Army Meritorious Service Medal; the Order of Founders and Patriots of America Distinguished Service Medal. Appropriately enough, he is also a member of the Infantry Officers' Candidate School Hall of Fame.

A beef cattle farmer in civilian life, General Castles and his wife, the former Dorothy T. Rowe, make their home in Caroline County. He has passed his love of military life on to his children: his daughter, Sally, is a captain in the Individual Ready Reserve, and his son, John, is an Army captain in the 2d Ranger Battalion, 75th Ranger Regiment at Fort Lewis, WA.

General Castles' civic affairs reflect his career commitments. He is a member of the National Guard Association of the United States, the Virginia National Guard Association, and the Alumni Association of Valley Forge Military Academy. Additionally, he serves as a member of the Virginia Military Institute Board of Visitors.

Few individuals have given so much to the service of their country, on active duty in wartime, with the National Guard and ultimately as adjutant general. General Castles' record of achievement will long be remembered, and emulated, by those who follow in his footsteps.

I am pleased to have this opportunity to pay tribute to General Castles, to thank him for his many contributions, and to extend every best to him and to his family for joyous, fruitful and prosperous years ahead. I know that my colleagues join with me in this well-deserved recognition for a lifetime of service.

IN RECOGNITION OF DAVID T. CHASE OF CONNECTICUT

Mr. LIEBERMAN. Mr. President, I rise today to honor a close friend and one of Connecticut's leading citizens, Mr. David T. Chase. Few people have as impressive a record of professional accomplishment and community service as David Chase. It is indeed fitting that he has been selected by the Joint Commission on the American Promenade in Israel as a Founding Father from the State of Connecticut.

The United States and Israel enjoy a strong and productive relationship because of our historic ties and our common political, economic, and cultural values. Ours is a relationship of two great democracies which understand the importance and need to maintain a vibrant and open strategic partnership. The people of Israel are building a national park called the American Promenade at the gateway to the city of Jerusalem as an expression of the warm friendship which flourishes between our two countries. The park will consist of 50 marble, 20-foot high monuments to exhibit the flags and official seals of each of the States, as well as a United States-Israel Friendship Botanical Garden. A stainless steel time capsule containing historical documents and materials will be buried 25 feet below each State's monument and these will be opened in the year 2048 at the celebration of Israel's 100th anniversary.

In addition to the names of the current Governor and U.S. Senators, each State obelisk will have permanently inscribed on it the name of an outstanding person from that State who has been designated a Founding Father. David T. Chase has been chosen from the State of Connecticut for this honor in recognition of the leadership role he has played in strengthening the United States-Israeli relationship. This is an honor which David deserves.

David Chase was born on May 6, 1929, in Poland. At the age of 14, he was placed in a concentration camp. He escaped from Auschwitz during a forced death march and immigrated to the United States with the assistance of the United Jewish Appeal. David moved to Hartford, CT, to pursue his education where he attended both Hillyer College and the University of Connecticut. In 1952, he established Chase Enterprises in Hartford, where he remains chairman and chief executive officer.

David's memberships and affiliations are numerous. He is the chairman of the board of the Rabbinical College of America and Machine Israel Development Fund and a founder of the U.S. Holocaust Memorial Museum and the David T. Chase Free Enterprise Institute at Eastern Connecticut State University. In addition, he belongs to the board of the Polish Investment Agency in Warsaw, Poland. David is affiliated with the Hartford Ballet, Hartford Arts Council, Greater Hartford Chamber of Commerce, Juvenile Diabetes Foundation, Greater Hartford Jewish Federation and Community Center, Chabad House of Greater Hartford, and Connecticut Opera, among many other organizations. His honorary degrees include a doctor of laws from the Rabbinical College of America, doctor of laws from the University of the District of Columbia, and doctor of humane letters from Eastern Connecticut State University.

The American Promenade is a testament to the strength of the relationship between the United States and Israel and it has been embraced by Americans and Israelis alike. It is with great pride that I recognize David Chase as the designated Founding Father from Connecticut. He is a man of strength and integrity who has overcome hardship to achieve the success he has today. The Joint Commission of the American Promenade in Israel is to be commended for its choice of David T. Chase as Connecticut's Founding Father for the American Promenade and David is to be congratulated for this well-earned honor.

THE AGENCY FOR AMERICAN DEVELOPMENT?

Mr. LEAHY. Mr. President, over the past year I have made several statements on the need for the Agency for International Development to redefine its goals now that the cold war is behind us. No longer is the threat of communism our primary security threat and motivation for providing foreign assistance. With the end of the cold war, the most serious problems facing us today are unchecked population growth, widespread poverty, ethnic and regional conflicts, degradation of the Earth's environment, and the proliferation of conventional and, still, nuclear arms.

Under the strong leadership of Brian Atwood, AID has begun to redefine its mission and address some of the management problems that have plagued it for years. Administrator Atwood has tackled not only the bureaucratic morass that has impeded AID's effectiveness, he has refocused the agency's efforts on promoting sustainable economic growth, supporting democratic institutions and building foreign markets for American exports, and addressing basic humanitarian needs facing vulnerable groups like children and refugees.

Mr. President, as chairman of the Foreign Operations Subcommittee, I know that foreign aid is not popular. But I have never believed that is because the American people are not generous. There is ample evidence that they are. Rather, it is due to foreign aid being used to prop up corrupt dictators or wasted on grandiose projects that fall into disrepair after a few years. None of us want to see that, and Administrator Atwood is determined to see that it does not happen.

But while it is always easy to criticize, and there are grounds to do so, too little attention has been given to AID's accomplishments. Foreign aid not only helps people around the world who are less fortunate than we are, it also promotes American exports and it can even contain lessons for people here at home.

Recently AID cosponsored a conference in Baltimore entitled "Lessons Without Borders: Local Problems, Global Solutions." The conference focused on issues like family health and economic entrepreneurship, and how we can apply lessons learned through our foreign aid programs to problems here in the United States. Vice President GORE was the keynote speaker. Senator SARBANES, Representative MFUME, and Mayor Kurt Schmoke also took part in what has become a partnership between AID and the city of Baltimore, a partnership AID hopes to duplicate with other American cities.

The theory behind these partnerships is that some lessons are universal. In areas like agriculture, health and small-business development, America can learn from its foreign assistance programs. In fact, AID has been working closely with community leaders nationwide in an effort to find solutions to problems which know no borders.

An example of this interactive sharing between cities in the United States and abroad is a program in Sarasota, FL, called school year 2000. It was sponsored by Florida State University, funded through an AID grant, and directed toward a change in the school system in South Korea. The project created a new model for public education centered around the learner, based on competency and supported by technology. Originally started to reduce costs, the focus has expanded to improving the quality of education. The results of the program were so impressive that Florida legislators and organizations have used it to justify further investment in educational reform in their own State.

In Baltimore, research has been carried out to combat diarrheal disease, which kills millions of children each year. As many as 600 children in the United States die each year from this disease which, left untreated, can cause dehydration, while thousands of others are hospitalized. A solution of oral rehydration salts, developed through AID-funded research in Bangladesh, is being used to reduce these common ailments inexpensively.

The lesson here is that many of Baltimore's citizens are not aware of the availability of this low-cost remedy. An astonishing 150,000 of Baltimore's 730,000 inhabitants are functionally illiterate, and unable to read the signs that were meant to inform them of programs to protect their childrens' health. AID, which routinely works in countries with high illiteracy rates, has years of experience in innovative communication techniques for getting the message out about child health, family planning and other programs. These same methods are now being used to educate needy people in Baltimore.

These are just two examples of how what we are accomplishing with our foreign aid dollars abroad can be used for our own benefit here at home.

The Florida State interactive program and the Baltimore conference show how AID is taking seriously its role in the global community. The focus is on solving problems that do not pay attention to State, national, or international borders. The Lessons Without Borders Conference demonstrates how our foreign aid programs can help us find solutions to current American problems, and to current foreign problems which may become future problems in our country. I applaud the Agency for International Development's efforts. While I do not suggest that it should change its name to the Agency for American Development, American taxpayers should be encouraged that it is putting these lessons to good use here at home as well as abroad.

Mr. President, I ask unanimous consent that an article from this Sunday's New York Times about "Lessons Without Borders" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times National, June 26, 1994]

FOREIGN-AID AGENCY SHIFTS TO PROBLEMS BACK HOME

(By Thomas L. Friedman)

BALTIMORE, June 22.—It is hard to know whether this a good news story or a bad news story, but here it is: The Agency for International Development, which spent the cold war fighting Communism with foreign aid and helping poor countries like Bangladesh immunize children, has found a new customer for its services: America's inner cities.

The good news is that A.I.D. has something to offer. The bad news is that parts of Los Angeles, Boston and Baltimore now need it as much as Bangladesh.

Over the years A.I.D. developed a reputation in Washington as a bloated and ineffective bureaucracy. But the Clinton Administration has been engaged in a major overhaul of A.I.D. The Clinton team is trying to shed what the agency did worst, supporting anti-Communist dictators, and focus on what it did best—fostering cheap, low-tech methods for accelerating immunization, literacy and agricultural development and for nurturing small businesses.

The agency's shift in focus from Bangladesh to Baltimore was an accident waiting to happen. With no cold war, it was eager to justify its usefulness to taxpayers dubious of foreign aid, and it discovered American mayors so beleaguered by the problems of their inner cities that they were ready to take help from anywhere, even if it meant comparisons between their inner cities and the third world.

While A.I.D.'s charter prohibits it from actually financing programs money in the United States, nothing prevents the agency from sharing its expertise.

While talking this past spring with Marian Wright Edelman, the longtime head of the Children's Defense Fund, about the health problems faced by American children, the agency's director, J. Brian Atwood, was struck by the similarities with the problems his agency was fighting in Mali and Egypt, he recalled on Tuesday in an interview.

Ms. Edelman, he said, was struck by how in some respects Mali and Egypt seemed to be doing much better than the United States.

In particular, Mr. Atwood recounted, they noted that measles vaccination rates among inner-city children under age 2 were averaging around 40 percent in the United States. Yet, Governments in Egypt, the Philippines, India, Sri Lanka and Indonesia, using some of their own programs and some financed and planned by A.I.D., had achieved childhood immunization rates in the high 70 percent range, according to the Unicef Progress of Nations report.

During an interview on C-span a few days later, Mr. Atwood mentioned this discussion and mentioned that his agency hoped to become more involved in sharing ideas with American cities.

An aide to Mayor Kurt L. Schmoke of Baltimore happened to be watching, and the city immediately contacted Mr. Atwood and volunteered Baltimore for the first test case. Other cities followed.

Mr. Atwood, recognizing a new market for his agency's expertise, ordered aides to come up with a program, eventually christened "Lessons Without Borders." On June 6, a team of the agency's senior health and development experts held a day-long seminar with their Baltimore counterparts at Morgan State University, discussing A.I.D. programs that had worked or, often just as important, had not worked.

Another conference is now planned for Boston this fall, and the agency is laying out a two-year schedule for other cities that have asked for advice.

Still, it was not an easy thing for Mayor Schmoke. The headline in The Baltimore Sun the day of the conference read: "Baltimore to Try Third World Remedies." In fairness to Baltimore, it is one of the most thriving cities on the East Coast, with its rebuilt inner harbor, National Aquarium and downtown stadium of Camden Yards, anchoring a real urban renaissance.

But that renaissance is a work in progress. Just a few miles from the inner harbor, areas of Baltimore's inner city are rife with AIDS, illiteracy, family breakdown, joblessness and drugs.

LIKE A THIRD WORLD COUNTRY

"We have to let everybody know that we are not suggesting that our entire city has the same problems as a third world country," said Mayor Schmoke. "But we ought to recognize that there are sections of the city that are similar to the problems of less-developed countries."

Baltimore officials say they learned a number of things from their A.I.D. visitors. Although Baltimore has well-financed social programs, many people do not come in to use them. One reason is that 150,000 out of Baltimore's population of 730,000 are functionally illiterate.

"We found that people could not read the signs," said Mr. Tawney. A.I.D. operates in so many countries where illiteracy is taken for granted, and at the conference A.I.D. officials discussed many of the techniques they have developed for getting around illiteracy and promoting immunization, population control and other remedies. These ranged from using soap opera characters to entice people into clinics, to cartoons, to jingles, to having beer truck drivers distribute condoms as they drop off beer kegs at pubs in Jamaica. They also discussed A.I.D.'s "barefoot factor" program of paying local villagers to go out and recruit people to come to clinics.

"You want to know what the real irony is?" asked Dr. Peter Beilenson, Baltimore's Commissioner of Health. "The company that develops these communications programs for A.I.D. is from Baltimore. Its office is about three blocks from here."

A SMALL GRANT GOES FAR

Another big issue discussed was job creation. Twenty years ago, the biggest employer in Baltimore was Bethlehem Steel, with about 35,000 employees. Today, the biggest employer in Baltimore is Johns Hopkins University Medical Center. Twenty years ago, a high school dropout was able to get a job at the steel plant, and buy a house and raise a family. Today, even a college degree would not guarantee a job at Johns Hopkins. This has left many inner city youth in Baltimore stranded, but one of the things discussed by A.I.D. and the Baltimorians, was trying to fill the void with a program A.I.D. has fostered with third world governments, called microenterprise development.

In Bolivia, for instance, the Banco Sol, partially supported by A.I.D., has been giving tiny loans, sometimes only $10 or $20, to men, and particularly women, who are working out of their homes and who, with just a little capital, might not only be able to sustain their own business but employ others as well. Sometimes the money goes for a sewing machine, sometimes it goes for teaching bookkeeping or commercial laws.

Michael A. Gaines Sr., head of Baltimore's Council for Economic and Business Opportunity, said What he learned from the AID seminar was that "Third world governments did not provide a social security net, but their policies increasingly allow for free flowing microentrepreneurship. We provide a social security net, but it comes with policies, restrictions and guidelines that preclude entrepreneurship."

Mr. Gaines is now running a pilot project in Baltimore intended to show how microentrepreneurs—the mother who does hair styling out of her home or the mechanic who works out of his garage—can grow with a small loan and a business plan.

Mr. Gaines said he would like not only A.I.D.'s advice, but also a slice of its $7 billion budget. Indeed, there is such a hunger for its expertise, and money, that it may justify itself right out of existence or be asked to become A.A.D.—"Agency for American Development."

Mr. Gaines said: "If your were able to fold some of those AID resources and knowledge with the Housing and Urban Development agency and the Commerce Department, and start working in a coordinated way in this country, oh man, the potential would be tremendous."

BUDGET SCOREKEEPING REPORT

Mr. SASSER. Mr. President, I hereby submit to the Senate the Budget Scorekeeping Report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through June 24, 1994. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the concurrent resolution on the budget (H. Con. Res. 287), show that current level spending is below the budget resolution by $4.9 billion in budget authority and $1.1 billion in outlays. Current level is $0.1 billion above the revenue floor in 1994 and below by $30.3 billion over the 5 years, 1994–98. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $311.7 billion, $1.1 billion below the maximum deficit amount for 1994 of $312.8 billion.

Since the last report, dated June 21, 1994, Congress has approved for the President's signature the Federal Housing Administration supplemental (H.R. 4568), changing the current level of budget authority and outlays.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 27, 1994.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the 1994 budget and is current through June 24, 1994. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Concurrent Resolution on the Budget (H. Con. Res. 64) This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated June 20, 1994, Congress has approved for the President's signature the Federal Housing Administration Supplemental (H.R. 4568), changing the current level of budget authority and outlays.

Sincerely,
ROBERT D. REISCHAUER, *Director*.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1994, 103D CONGRESS, 2D SESSION, AS OF CLOSE OF BUSINESS JUNE 24, 1994

[In billions of dollars]

	Budget resolution (H. Con. Res. 64) [1]	Current level [2]	Current level over/under resolution
On-budget:			
Budget Authority	1,223.2	1,218.4	−4.9
Outlays	1,218.1	1,217.1	−1.1
Revenues:			
1994	905.3	905.4	0.1
1994–1998	5,153.1	5,122.8	−30.3
Maximum Deficit Amount	312.8	311.7	−1.1
Debt Subject to Limit	4,731.9	4,512.3	−219.6
Off-budget:			
Social Security Outlays:			
1994	274.8	274.8	(3)
1994–1998	1,486.5	1,486.5	(3)
Social Security Revenues:			
1994	336.3	335.2	−1.1
1994–1998	1,872.0	1,871.4	−0.6

[1] Reflects revised allocation under section 9(g) of H. Con. Res. 64 for the Deficit-Neutral reserve fund.

[2] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[3] Less than $50 million.

Note.—Detail may not add due to rounding.

Mr. ROCKEFELLER. I am very pleased to be able to celebrate veterans' employment today on this 50th anniversary of the Veterans Preference Act. We have had much to celebrate over the past days as we have commemorated passage of the GI bill and taken stock of what education and home loan benefits have meant in the lives of veterans and to our society.

The importance of being able to find work upon returning from the service of our country has also long been recognized by veterans and by a grateful citizenry. Public support for the employment of veterans dates back to the Civil War. Efforts to promote the hiring of veterans were motivated by a sense of obligation and the desire to compensate for the disruption of careers and the financial setback that military service meant for many veterans.

Historically, that support has taken the form of preferential treatment in hiring by Government agencies. Veterans preference has made it possible for many veterans to find employment in the Federal work force. Veterans are employed in the Federal Government at twice the rate of the private sector. Disabled veterans are seven times more likely to be employed by the Government.

Today, the importance of helping veterans adjust to a civilian labor market has taken on a new dimension. Service members leaving the modern military still deserve our gratitude. Their service continues to ensure our security and freedom in an increasingly unpredictable world. But these individuals are also highly skilled. They receive exceptional training and experience in a variety of occupational specialties in the modern military. They are a valuable resource that we cannot afford to waste.

Veterans entering today's complex and changing labor market must be programs designed to help them meet today's challenges.

One such program, the Transition Assistance Program initiated in 1990, helps service members adjust to the civilian work force by providing job search assistance and information on the types of civilian jobs that require their skills.

Another program, the Service Members Occupational Conversion and Training Act, encourages employers to hire and retrain separating service members for skilled positions by helping to defray the cost of retraining.

Support of these programs, both in terms of resources and commitment at all levels, will enable service members to make the transition to a civilian labor force with minimal hardship, and will enable the economy to take full advantage of the skill and abilities these individuals have acquired while in the Armed Forces.

The Defense Department's Defense Diversification Program, enacted in 1993, was designed to help involuntarily separated service members get training assistance, if needed, to find civilian employment. The program recognizes that many people entered the modern military intending to provide lifetime service. The U.S. military was to be their career.

Because of the defense downsizing, however, they were not able to continue in their chosen career. The Defense Diversification Program will terminate with the end of the drawdown. Involuntary separation will continue to occur after the drawdown, however, to the extent necessary to maintain the mix of skills and rank required by our Armed Forces. The people involuntarily separated after the drawdown will experience the same trauma and face the same difficulties that those separated during the drawdown faced. That is why I am working to make sure that involuntarily separated service members will be served under the administration's proposed worker adjustment program known as the Reemployment Act.

Because employment for all veterans continues to be our goal, and all veterans—particularly disabled veterans—deserve assistance in finding work regardless of when they served, we must maintain, and, in fact, strengthen, the ability of local veterans' employment representatives [LVER's] and Disabled Veterans' Outreach Program staff [DVOP's] to serve veterans, and only veterans. LVER's and DVOP's have been instrumental in reaching out to unemployed veterans and developing job opportunities for veterans. They inform employers who do not yet know about the advantages of hiring veterans. There is, as we all know, no such thing as an idle LVER or DVOP.

Just as the work of LVER's and DVOP's is never finished, we must never stop recognizing the debt we owe our veterans, the contribution they have made to our security and that they can make to our economy, and the value of work in providing structure and meaning to their lives.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

PRODUCT LIABILITY FAIRNESS ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 687, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 687) to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

The Senate resumed consideration of the bill.

Mr. HOLLINGS. Mr. President, our distinguished colleague, Senator ROCKEFELLER, will lead for the committee majority as the primary sponsor of this product liability measure. I happen, as chairman, to be among the minority. The distinguished Senator from Missouri, the ranking member, is with the Senator from West Virginia on this particular matter. I did not want to preempt his presentation and was awaiting his attendance here on this particular matter. The committee is ready.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I understand my distinguished colleague is momentarily on his way and could be delayed. So to save a little time, I will begin.

With regard to product liability, I would quote former President Ronald Reagan in a different context: "Here we go again."

Some 17 years ago, Mr. President, the Senator from Kansas, Senator Pearson, a standing member of our Commerce Committee, presented a product liability measure, and it was referred for study. Incidentally, when we say "referred," we have had over 50-some hearings in both the House and the Senate. We have had over 28 hearings, 20 bills of one kind or another, in 17 years. Of course, a bill has never been on the floor seriously on the House side. We never have received a bill from the House side. It has been received and heard over 28 times between the Committees on Commerce and Judiciary on this side of the Capitol. It has been turned back on four different occasions here on the floor.

The bill has been changed somewhat, but its general thrust remains the same, Mr. President. It seeks to raise the hurdles for the injured party who seeks to take his case to court, to prove his case. Numerous burdens are imposed.

In the original instance—to give you a feel for this particular measure—it was totally unconstitutional. It has been very interesting to watch the development of the bill, because after Senator Pearson first proposed it, after President Carter with a special commission made his report on product liability for the States to model their changes, and after another 17 years, 43 States have changed their laws one way or the other.

And now there is no—none whatsoever—Federal problem whatever with respect to product liability.

They have politically gained commitments over the years on this particular measure. They originally argued, back in the late seventies and early eighties, that this bill was needed because you could not get insurance. The argument, then, was that there was a tremendous crisis, whereby Little League playgrounds were being closed down, hospitals were being closed; you could not obtain product liability insurance. Of course, that line of argument was fabricated out of the whole cloth. It was not the case whatsoever. Insurance companies were in trouble at that time, much the same as in the 1980's, when the S&L's that had invested in real estate ran into financial difficulties. But the cause was not product liability.

Proponents of this bill then changed their tune. Now they argued that their bill was needed because the Nation was in the midst of a litigation explosion, with everybody suing or being sued. Vice President Quayle said there were 100 million cases, with 70 percent of them involving product liability. That, too, was fabricated totally out of the whole cloth. Only 10 percent of people injured from a defective product ever make a claim, and less than 1 percent of the 10 percent ever get to court. So there was not a litigation explosion.

We cooled the tempers and politics momentarily in the mideighties with the help of a GAO inquiry. The General Accounting Office concluded that there was not a litigation explosion.

Then proponents shifted to the argument of competitiveness, competitiveness. You remember when that disease hit and everybody was going to be competitive and every bill around had the word "competitive" in the title, everything to make America more competitive.

They were trying to cite, at that particular time, the European Economic Community. We found that, to the contrary, the European Economic Community was following the United States' example with respect to strict liability and punitive damages. And these are the measures adopted in EC–92.

The best proof, of course, for this particular Senator, has been in the role of product liability laws in attracting the blue chip corporations of America and of attracting foreign investment. I never, in my 40 years of work in this particular field, ever had any of the blue chip corporations come and say, Senator—or, Governor at that particular time—we are worried about product liability laws, their effect and impact on our competitiveness.

I remember when the distinguished Emperor of Japan came down the gangway last week in my hometown of Charleston. We rolled out the red carpet. South Carolina has 48 Japanese plants. We have over 100 German plants in little South Carolina.

I never heard a single one of those foreign entities say, wait a minute, we cannot relocate to your State on account of your product liability laws. We are protected in Europe, but we do not get the protection here.

The Rand Corp. finally got the executives together, 287 of them. Of the 287, the risk managers for those corporations, the vice president and chairman of this particular endeavor, found that the costs of product liability amounted to less than 1 percent of their sales; it was not a problem.

So, they then abandoned the competitiveness argument and went to the uniformity argument. It was their last-ditch argument. In this bill, S. 687, you will see it in black and white, because we said at the time that if you really want uniformity, make it a Federal cause of action. Every other day we are on the floor of the Congress making this or that crime a Federal offense.

When the Supreme Court justices came before the subcommittee of State, Justice, and Commerce on appropriations asking for their 1995 budget, the cry was, Senators, for Heaven's sake cool down. You are making everything a Federal crime, everything a Federal offense, and you are turning the U.S. Supreme Court into a police court. We just cannot handle the volume. We are having a tough enough time with respect to uniformity with our own circuit courts of appeals, the interim courts of appeals on the way up to the U.S. Supreme Court. But for Heaven's sake everybody who is trying to get reelected or identify with a cause wants to make this, that, and the next thing, a Federal offense.

You would think in 17 years, Mr. President, they would have said there is here, by a finding by the Congress, a need that we create a Federal cause of action, and that would end it. And you would not have the discombobulation of S. 687.

Some people never have read the bill. We will go through it. But it is not that long a bill. I do not read it to kill time. I read it to show the discombobulation, the contradictions.

You have 50 States interpreting Federal guidelines to be appealed to their own supreme courts; legal language that has been interpreted many years now under the common law and the various product liability statutes. These are to be thrown out the window now and States must take these particular words.

If you want to see real confusion, look to the Association of State Supreme Court Justices. The Chief Justice of the Supreme Court comes to the Government and says, for Heaven's sake, kill this bill. The National Association of Attorneys General from the different States come and say, for Heaven's sake, kill this bill. It is not needed. It is in the wrong direction. It is just political. That is why the National Conference of State Legislators comes and says, kill this bill. That is why law professors say kill this bill, and they are good at picking out this and picking out that. They were picking out real hurdles in this bill, and they said this is bad law and kill this bill.

You begin to understand, Mr. President, why we have been on it 17 years. The only thing driving this bill now is the politics, because they finally come now not because of the inaccessibility of insurance, not on account of a litigation explosion, not on account of competitiveness, not on account of uniformity, which if there were any uniformity it has been totally destroyed now. But now they come after lawyers. They are on to what, reading political polls, they know is a great hot-button issue, red meat. They have a bill against lawyers.

I have an editorial—they know how to put them out when they want them—entitled "Lawyer Heaven" in the Washington Post of last week. We are going to show you that particular one because I am sure my friend from West Virginia will be showing it. But if we can get to the lawyers, and not to the facts of the case, they tie into this thing, we will just vote it and go on and get it through, get it passed, and really destroy any uniformity, and put in these insurmountable hurdles for an injured party. And corporate America will sit back and smile to themselves and say, well, we really have them now because it just will not pay to sue.

With the workmen's compensation provisions in here, we have pitted the employer against the employee. We have the employer's lawyer on the side of the insurance company's lawyer, so the employee has two lawyers bearing down, and the pressure is being brought on him to settle, settle, settle; get out of this. And he says, "Well, I'm not taking care of my injury, but I want to keep my job. I guess I had better go ahead and settle this thing."

I mean, it is just outrageous when you come right down to it.

Let us see what American industry looks like today in Business Week, the July 4 issue. Here is what the business community reads, their bible, so to speak. In the economic trends lead article, there is nothing at all on product liability. I think this ought to be read because it is good. Listening to debate here in Congress, you would think like Chicken Little that the sky is falling. Instead, the headline reads, "American Industry Looks Like It's Boosting Capacity"; the sky is up and blue.

And I quote from Business Week:

> Don't look now, but there are growing signs that the U.S. manufacturing sector may finally be starting to raise its capacity at a more rapid pace.
>
> Over the past eight quarters, capital investment has accounted for some 36 percent of the economy's growth, and capital spending plans for 1994 remain strong.

Mr. President, the article goes on to paint an exceptionally rosy picture. And I just emphasize that there is no reference at all to any need to change product liability laws. If we need anything, we need, as we all agree, the strengthening of the dollar. We are all watching that very closely.

But all the different rationales and subterfuges of nonaccessibility, of litigation explosion, of uniformity, of competitiveness, of lawyer bashing and the rest, none of that is the case. The States are handling it well and, as a result, we are prepared, I take it, to move on.

My distinguished colleague here, the author of the bill, is present, and I yield the floor.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Missouri [Mr. DANFORTH].

Mr. DANFORTH. Mr. President, the issue of product liability has been lingering in the Senate for many, many years. I had not realized the long history described by the Senator from South Carolina, our chairman, until he stated it. But I did know that, certainly, since I arrived in the Senate, it has been an issue which has been around for a very long period of time without anything significant happening to it.

Since 1981, the Senate Commerce Committee has held 21 days of hearings on product liability and it has reported six product liability reform bills to the floor of the Senate. So it has been a matter that has been contentious. It has been a matter that has been exhaustively considered.

The bill that is now before us is barebones legislation, but at least it is something; at least it is a start. My hope would be that the Senate could pass this legislation and we could at least do something with respect to the present system that exists on product liability.

I do not understand any group in the country that is benefiting from the present state of affairs, except for the trial lawyers. Even the plaintiffs are not benefiting from this situation. It is estimated by the General Accounting Office that it takes today 3 years to resolve a product liability lawsuit—3 years. And, of course, some of them go much longer than that.

But anytime you have a wrong—a tort—and it takes 3 years to make that wrong right, that in itself is a miscarriage of justice. Justice delayed is justice denied. The problem is that when there is a long period of time between an occurrence and when it is resolved in court, the people who are the most vulnerable, the most severely injured people, are the ones who have to have a resolution and, therefore, they are liable to settle for anything. And that, in fact, is what the facts show. If a person is severely injured and has great losses and medical expenses and lost employment opportunities and is in very desperate condition, that person settles, and settles quickly, and settles for an estimated 15 percent of his losses.

It is the people that are not so seriously injured that turn it into a lottery. They can afford to wait. They do not have to have an instant resolution. The people with relatively minor injuries who can wait around can enter what has been referred to as the product liability lottery and they can strike it rich. The Insurance Services Office says that the victim of a product liability-related injury can expect to receive nearly nine times his losses if his injuries are minor—nine times your losses if you have had minor injuries;

15 percent of your losses if it is a major injury. What is right with that? What is good about that from the standpoint of plaintiffs?

This is not simply a matter that pertains to employers or manufacturers or people who develop new products and are worried about developing new products. Even if the debate pertained only to injured people, only to plaintiffs and lawsuits, the present state of affairs is unfair. It rewards those who are not injured much and it penalizes those who are injured a lot, and it creates such unpredictability that it is hard to know what is going to happen.

There was a famous case a few years ago of a 70-year-old man who lost the eyesight in his left eye. Now, the loss of eyesight in one eye is not a minor matter. But what is the just result of a 70-year-old man losing the eyesight in one eye? What is the reasonable compensation that such an individual should receive? Should it be in the thousands of dollars? In the tens of thousands? The hundreds of thousands? Should it be in the millions of dollars?

This person filed a lawsuit, a product liability case, against the Upjohn Co. and his recovery was $127 million. A quirky case; yes, it was a quirky case. But the fact of the matter is that quirky cases are what drive insurance rates.

We are having a major debate right now—in fact Senator ROCKEFELLER and I are both on the Finance Committee and it is meeting right now on the question of health care and health care reform, the cost of health care. One of the issues there is medical malpractice. But when you consider the cost of health care—one of the components of the cost of health care is the 70-year-old man who lost the sight of one eye. And he recovered $127 million. It is quirky, it is unpredictable, and clearly it has negative effects on America's competitiveness.

The U.S. machine tool industry says that it has lost nearly 25 percent of its market share to foreign competitors in recent years due, in its opinion, mainly to excessive product liability costs.

Forty-seven percent of the companies surveyed in 1988 by The Conference Board indicated that they had discontinued product lines; 16 percent have laid off workers; and 21 percent have discontinued research and development. They will not even bring products to the market, and they will not even proceed with research. One company in my State spent years developing a product line and the chief executive officer of the company—at the 11th hour, just before the product was to be brought into the marketplace, without any doubts at all on the part of the company about the efficacy of the product or the safety of the product—the chief executive officer made his own decision not to bring the product to the market because, he said, it was just too risky. There would be lawsuits.

People are shellshocked by litigiousness. They are shellshocked. They are afraid to act, afraid to bring new products to the marketplace. I do not know that this legislation does enough, but at least it is a start. At least it is a recognition of the fact that the product liability system does not serve the interests of justice, it does not serve the interests of people who are injured, and it does not serve the interests of manufacturers to continue with the same product liability system that we have today.

One study says defending a product liability claim costs 70 cents for every $1 of compensation paid. That is the cost to the defendant alone. Add to that the cost of the plaintiffs in a typical contingent fee case and the cost to litigate the matter is already over the amount paid out in damages. It cannot be in the interest of justice to have such high transaction costs as we have today.

Then we consider the fact that people we do not even know are suffering from the present system. One of the great disasters—scourges, really, of modern times is the scourge of AIDS. People are frantic about it, desperate—where is the cure going to be for AIDS? What are we doing to develop a cure? The chief executive officer of a company called Biogen testified before the Commerce Committee last year that Biogen canceled plans to develop an AIDS vaccine because he was unwilling to, in his words, "bet the future of Biogen on the random lottery of the American product liability system." He would not develop an AIDS vaccine because he would not bet the future of his company on it, despite the fact that the whole reason for the Food and Drug Administration is to test vaccines, drugs, and medical devices to see whether they work or not and to determine whether they are safe or not. I do not know of anybody who has criticized the Food and Drug Administration for not being careful enough in what it does. It takes a long time to get products cleared by the FDA.

One of the things this legislation does is to say if your product is approved by the FDA, you have some measure of protection so long as you did not proceed fraudulently or hide information from the FDA. But under the present state of the product liability law, it does not matter if you have been cleared by the FDA or not. If you have conducted your own research and presented the evidence of that research to the Food and Drug Administration and the Food and Drug Administration has analyzed and cleared it, that is no protection today. Some lawyer will take you to court.

So the Biogen company says it is not even going to proceed to develop an AIDS vaccine because it is frightened of lawyers. Is that not a state of affairs? To be frightened of lawyers? I am a lawyer. When I went to law school I thought the purpose of my profession was to serve people, serve their interests. Not to scare them to death. Not to create a system which is described as a lottery. Not to keep products off the market, even though they have been cleared by the Food and Drug Administration. Not to deny seriously injured people their just compensation and to overcompensate those who have not been seriously injured. That is not the purpose of the legal profession.

So I congratulate Senator ROCKEFELLER and Senator GORTON and all those who have worked on this legislation so hard for such a long period of time. It is an idea whose time came a long time ago.

My hope is that this legislation is going to be enacted into law.

The PRESIDING OFFICER (Mr. FORD). Who seeks recognition?

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, today the Senate has been given another chance to debate whether to make changes designed to improve a very important aspect of our legal system—or alternatively, whether to leave it alone entirely, with all of its problems that hurt America's consumers, workers, and businesses. We have, happily, at least the next 2 days to consider this legislation—which is interesting. It has grabbed the attention of a lot of people. It is Senate bill 687, the Product Liability Fairness Act, and it was introduced March 31, 1993, by myself, by Senators GORTON, LIEBERMAN, DANFORTH, and DODD.

This particular quintet of Senators does not find itself working this closely together very often on a single piece of legislation. But because we do share a common view that reform is urgently needed and a collective commitment to a balanced system, we have pursued this legislation together every single step of the long way.

I must say, I regret the fact that even before debate began on this bill, which it now just has, it was made obvious that it might wreak havoc with the Senate's ability to get to other important business. For those of us who have pushed for product liability reform, we are more than used to finding ourselves on the Senate floor when there is too little time to deal with this issue and far too many important issues waiting in the wings. That is why we accepted the limited time available for consideration of this bill.

I want to say that, basically, Mr. President, so that colleagues and people who work for my colleagues on both sides of the aisle understand that it was not our desire to have just 2 days. We were hoping we could have more, but that is the way it had to work out.

It is also why I hope Senators will resist the temptation to pursue issues or amendments that have nothing to do with our product liability system during this short period of time. The problems of the system as they affect or hurt American consumers, businesses, workers and injured people are serious enough, and they have earned our undivided attention. So let us keep our focus on them.

As Senator DANFORTH just said, the time has finally come when this body in a bipartisan way should demonstrate its intent to actually do something about these problems. Well, there is that old adjective: "If it ain't broke, don't fix it." Mr. President, the product liability system is most definitely broke.

We present Senate bill 687 as our blueprint for making some of the most obvious repairs. Our goals are to make the system more fair, more responsive and more predictable to everyone whom it is designed to serve. We believe that it will promote the development of a safer, even life-saving range of products; that it will reduce or stabilize legal costs that are the great sponge of the current system; it will speed up compensation to injured men, women, and children, who are now waiting years for justice.

One can argue, was it 3, 4, or 5 years? But if you have a mangled hand, what difference does it make if you have no recompense for your injury and that is the situation now. We want to bring recompense to those injured more quickly and also that it will curb one of the biggest disadvantages that saddle American industries and workers in trying to survive rather than compete in the global marketplace against foreign companies and those foreign companies' foreign workers.

It should be noted that since 1981, the Senate Commerce Committee has favorably reported six product liability reform bills to the full Senate. Over these 13 years, interested Senators have worked together to make many changes to the legislation in response to input, advice and new information and criticisms of the legislation.

In the last Congress, which was the 102d, the bill began to kind of pick up steam, pick up support and finally won time on a very crowded Senate agenda in the final weeks of the session. Even in these circumstances, with no possibility of further result, 58 Senators were recorded through a cloture vote in favor of considering the bill. Though, once again, we continue to face the challenge of jumping a hurdle called a cloture vote, another effort to block the very possibility of dealing with the problems of our product liability system, I want to emphasize that a great deal has changed.

This time, most Senators have demonstrated that they recognize the need or obligation, or both, to pay close attention to the issues involved with the current form of product liability. It really has hit our radar screen. People understand something does have to be done. An enormous amount of education has taken place through hearings and two committees in this body over the past year and a half, through contact from constituents and advocacy groups, through meetings among Senators—a lot of those—and through discussions of every conceivable form.

The bill itself is different from earlier versions. To somebody who is stuck with this process now for 8 years, I believe it is the most balanced reform proposal we have ever had before us. Each provision is carefully targeted and, frankly, is very carefully thought through. It also includes six major changes to the version of the previous Congress, all in direct response to constructive input, some very specifically designed to make our system even more responsive to consumers and injured people.

And in November, this bill was approved in the Senate Commerce Committee by a vote, Mr. President, of 16 to 4, which is not inconsequential. Now a total of 45 Senators are now signed on as cosponsors of the bill.

I regret, obviously, very much that our very distinguished chairman of the Commerce Committee still has not been persuaded by our arguments and proposal, but he has not been. I do want to emphasize we have pursued this effort openly through the regular legislative process and have gained increasing support as we have gone along. I want to thank the chairman of the Commerce Committee, Senator HOLLINGS, for his cooperation and even temper in dealing with this issue once again.

But I want to suggest that it does not make sense any longer to use procedural means to stifle or to thwart this effort with the hope that it will disappear into thin air. We, the sponsors of this bill, are not responsible for the problems that we are trying to solve. We are simply trying to fix them. We believe the problems are real—that is our view; it is sincerely held—and that they affect and even harm in different ways American consumers, business, workers, injured women, men, and children.

As legislators, we feel a very strong obligation to deal with these problems and feel we absolutely must attempt to make whatever changes are possible to serve the objectives of justice and fairness.

In fact, here is where I want to say something about my own coming at this matter, my own commitment to this issue. The explanation is really very simple. As somebody who has served in different elected offices in behalf of West Virginia and, like the Presiding Officer, served as a Governor, I always have been bothered by situations when the system stops serving the people for which it is designed. I do not like that. I am extremely familiar with the arguments against trying to change a system and keep the existing rules of bureaucracy or patterns just the way they have always been. But let me give you an example.

I was first sworn in for Governor on one of the coldest days in the history of this continent on the steps of the Capitol in Charleston, WV, in 1977. I made the inaugural address which was listened to by several very cold people, but I made only four points in my inaugural address. You would think I would kind of lay out the plan. I did not. I stuck to four points. You can guess roads, education, and jobs were three of them. What you might not guess is that the third one was something I was passionately committed to then and was totally frustrated by because at that time it took an injured worker in West Virginia 77 days on average to receive compensation for an injury that he or she had received in the workplace. I pledged in my inaugural address, as sort of a basic tenet of what my administration was going to serve for, that I would reduce that time from 77 days down to 4 days. And to the Presiding Officer and a former fellow Governor, I am very proud to say that I was able to do that, and it is one of the proud achievements of my life.

But I was furious that a bureaucracy—in this case a State bureaucracy—and a system—in this case a State system—could do that. I wanted it changed.

Then, Mr. President, when I joined the Senate, I was horrified to learn of the backlogs that were keeping people suffering from black lung waiting for months and even years, as the Presiding Officer knows even better than I do. I helped to force the Department of Labor to change its rules and hire the necessary judges to speed up that system. And ever since I have been in the Senate I have tried to convince every part of our health care system that it is in our collective interest to make major reforms.

Soon after coming to the Senate, I began running into a steady slew of complaints and reports about the impact of the current product liability system. What I heard from the manufacturers of West Virginia was a catalyst for me. Like the experience of the McJunkin Co. in Charleston, WV, which is our State capital, that had to close a manufacturing facility when it could not handle its liability costs. Was the victim a high-paid CEO or a huge corporation? No, of course, not. The losers were the 25 men and women, not great in number but in their lives very great in significance, 25 men and women in West Virginia who lost their jobs—and they were good-paying ones—after the plant closed down as a result of the costs of a broken tort system.

Now, this story and many like it led me to dig in much harder. It led me to try to figure out why, Mr. President, a patchwork system of 55 State and territorial product liability laws, with confusing and conflicting signals to American manufacturers, should be defended.

When 70 percent of U.S. products are in fact sold outside of the State where they were made, one begins to understand why even the National Governors Association endorses the idea of making the rules more uniform, predictable and consistent by federalizing them. The Governors have been on record in so saying. In fact, I believe—I am not entirely sure of this—our President, as a Governor, twice voted for uniform product liability reform as a Member of the National Governors Association.

The status quo is not the friend of consumers, Mr. President, or victims, whether they be men, women or children. We now have studies, testimony, and specific examples endlessly that tell of companies dropping or fleeing the pursuit of new drugs, new drugs that we need, perhaps safer products, and the parts needed for medical devices because of the excessive costs of the system or the fear that they will get hammered by any one of the system's capricious rules. The status quo is what keeps people, men and women, waiting for years to get justice in the form of compensation for their injuries. And as the Senator from Missouri said, justice delayed is justice denied.

Also, this system allows lawyers on both sides—you will not find this Senator speaking of trial lawyers or defense lawyers; I talk about lawyers on both sides—lawyers who eat up more money themselves than whatever eventually gets to successful plaintiffs, the ones who are injured. Yes, that is true. Lawyers get more money from this system than do the people that they are defending who are injured. That is true. That has been true. That always will be true until we change the system.

These are the reasons that we want to take a hard look at the current system and consider the modest changes in the bill that has evolved over many, many years and built such strong, as it appears now, support. Sometimes reform can help everybody affected by a system, or institution. And I think that this is one of those times.

As a result, now outside this body S. 687 enjoys widespread public support and the endorsement of leading academics who have studied the bill and who know what they are talking about, such as Cornell Law School Professor James Henderson, a noted tort law scholar and reporter for the American Law Institute's Project on Products Liability; the American Legislative Exchange Counsel; and, as I mentioned, the Governors Association, groups that are usually fiercely protective of States rights, who are against Federal intervention. But these groups are saying endorse Federal product liability reform, do something about it, federalize some of it, not all of it, not the majority of it, but just where you have to.

The idea of this bill is to remove some of what is unfair and arbitrary in the law and substitute reasonable and uniform, nationwide rules in a few more areas within our product liability system. A reading of S. 687 should convince even the most skeptical observer that this bill will not impose confusing or widespread changes in the product liability laws of the States or affect the ability of litigants to obtain full recovery for damages in anything but the frivolous or rare case.

Our legislation is intended, Mr. President, to also promote long-term economic growth. We do not base our case on this, but it is a factor. We want to protect U.S. competitiveness. Some people call this a jobs bill. Our legislation will encourage the development and distribution of innovative new products from protective sporting goods equipment to lifesaving drugs and medical devices, among countless others, without depriving injured persons of redress for their harms. And that is why I call it a consumers bill.

I wish to emphasize again there is nothing in this bill anywhere but pure daylight between any clause in the bill and the right of a jury trial—clear daylight. Numerous examples exist of safe and effective products that go unmarketed, Mr. President, or withdrawn from the market because of liability concerns. Senator DANFORTH gave one. I will give one. Last July, for example, Abbott Laboratories announced that because of liability fears, it was dropping plans for human trials of a drug to prevent HIV-infected mothers from transmitting the deadly virus to their unborn children. Similar explanations have been reported by the American Medical Association and the Brookings Institution, the National Academy of Sciences, the New England Journal of Medicine, and many others. S. 687 seeks to benefit consumers in additional ways—not defendants I am talking about but consumers, plaintiffs.

We include a proplaintiff discovery rule, a statute of limitations that will apply in all product liability actions in every State. An example: In Virginia today—I believe in Virginia; in Arkansas it is 3 years, in Virginia I think it is 2 years—you only have 2 years from the date of your injury in Virginia to bring a case.

What if your injury is something that comes from medicine, or some drug, or something that you are breathing, and you do not know about your injury for a long period of time? The cause may have started at a certain time, but you do not know that you were injured or what the cause was of your injury until much, much later. We, therefore, wrote this bill so that people will have that ability. We say that you can now have 2 years to bring a case from the time that you found out about your injury, and knew the cause of your injury. From that point, the 2-year statute of limitation runs. That is very, very significant.

More generally, the bill will remove the product liability tax now incorporated into the price of many products, making them more affordable. Employees will benefit from the provision intended to encourage employers to maintain safe workplaces.

Some have suggested that the legislation to help business is, by definition, harmful to the public; just the fact that a bill might have in it some parts which help business means that the bill is automatically against the interests of the consumer; victims, so to speak. I think this is untrue. Of course, it could be true if one set out to do that. But I think it is very untrue in this case. And I think we should, frankly, reject that kind of what I call blanket cynicism. If the system is unfair to business, that unfairness is what is wrong, not the fact that somebody runs or works for a business.

Study the bill, I say to my colleagues. Know the bill. You will see that each of the proposed reforms is clear, reasonable, and carefully targeted. The bill does not repeal the doctrine of strict liability. It does not abolish or impose caps on punitive damages or caps on anything else. And it does not abolish or impose caps on noneconomic damages. There are some who would like to do that. And I consistently have said no, as I will when we get to medical malpractice.

Fixing a broken system can—and under S. 687 will—be a win-win proposition, a victory for our Nation's businesses and for its consumers. It was 1978 when the Federal Interagency Task Force suggested the need to stabilize our product liability law. It was in 1981 when Congress began to develop uniform product liability law. The Europeans began around the same time, and they already have uniform product liability standards—not in just their provinces or their states, but they have uniform liability laws for all 13 countries.

This is what we will be competing against in the future if we do not make adjustments to help our workers. It is time to separate the suspicion and cynicism from reality and the willingness to try to solve difficult problems.

The reality is that S. 687 will reduce legal costs. Will it end them? No. Will it reduce them? Yes—through a push for alternative dispute resolution, and something called expedited settlement procedures. We can discuss those later.

This bill will place incentives for injury prevention on employers when necessary, on manufacturers when necessary, on wholesalers when necessary, on people who use products when they are drunk or subject to illegal drugs. It will not let wrongdoers off the hook. It will not let manufacturers of drugs or medical devices who fail to comply with law escape punishment; full punishment. It will create positive incentives for the manufacture of good and useful drugs, medical devices and other products.

I urge my colleagues to take a hard look at the actual contents of this legislation. I am not a lawyer. But I went through and I read the bill. It does not take very long. It is all right there. Except for a few clauses, I understood it. So it is available. I urge my colleagues to actually look at this legislation and not the deceptive labels that are being slapped on by others to mask what we are sincerely trying to fix and sincerely trying to improve.

There were press conferences held in this city last week saying that DES, the Dalkon shield, and breast implants would no longer be subject to punitive damages under this bill. All of that is untrue, Mr. President; absolutely untrue. But it was said by responsible people at public press conferences, and some of our colleagues heard that and believed that.

I can understand that because these were so-called responsible people saying that, people who are lawyers. They were saying something that was not true: That somebody who had DES, or problems with the Dalkon shield, or breast implants—jell or otherwise—could not sue the manufacturer for punitive damages. Under this bill, one could and should sue for punitive damages.

I also make a plea to all of my colleagues to help avoid the bill becoming an avenue for issues that have not been considered in connection with this particular legislation which we have been considering for well over a decade.

So I hope that there are amendments that will be germane and on point. We do not have a lot of time. This is the Senate's opportunity to make a clear and coherent statement to the American people as consumers, as workers, and manufacturers, and to our trading partners throughout the world. We stand for fairness in product liability by passing S. 687, the Product Liability Fairness Act.

Mr. President, I thank the Presiding Officer, and I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER (Mr. REID). The Senator from Ohio.

Mr. METZENBAUM. Mr. President, there are few Members of this body for whom I have greater respect than my colleague from West Virginia. It is only fair to say that I do not think that this bill is quite as good as he would represent it to be. In fact I rise in opposition to S. 687, the so-called Product Liability Fairness Act. The bill is anything but fair, and the Senator should not move forward with this legislation.

Proponents of this bill attempt to characterize it as a moderate bill, as a watered-down version of draconian measures rejected by the Senate year in and year out. They say that because it is less draconian than it was, we should accept it now. They even had the audacity to proclaim that it is somehow proconsumer.

Let me set the record straight. This bill has gotten better. It has gone from horrible to very bad. No matter how hard proponents try to justify this bill as needed to stem supposedly out-of-control insurance rates, out-of-control litigation, out-of-control legal fees, or to prevent the decline of American competitiveness, there is no hiding the fact that it is nothing but a base attempt by manufacturers and product sellers to escape liability for defective products that injure or kill innocent Americans.

No matter how far proponents stretch to characterize this bill as proconsumer, it is still the most comprehensive anticonsumer piece of legislation that has been or will be considered in this Congress. Let no one be fooled about that.

This bill is opposed by every major consumer protection organization in this country. It is opposed by dozens of leading groups representing senior citizens, labor, the environment, and victims of defective products. It is opposed by the AFL-CIO; the American Bar Association; the American Association of Retired Persons; the Conference of State Chief Justices; the National Conference of State Legislatures opposes this bill; the American Public Health Association opposes this bill; and 100 law professors around the country. This is a bad piece of legislation.

Who is on the other side supporting this bill? The corporate world—big and small. This alignment should tell you a lot. This legislation intrudes upon an area of law that, for over 200 years, has been reserved to the States, and suddenly those who always talk about States rights are now coming here to the Congress and saying that we should intrude upon those States rights. That is why the Conference of State Chief Justices and the National Conference of State Legislatures oppose this bill.

I am not saying the Federal Government should never preempt State law, but the changes proposed in S. 687 represent an unjustified and unprecedented usurpation of the States long-established authority over tort law. If we do it here, where else do we move in? The former candidate of the States Rights Party of the United States, who ran as their Presidential candidate, will oppose this bill. What a contradiction in terms to run as a candidate of the States rights people in this country and then support this bill, which intrudes upon those very same States rights.

This bill is being driven by myths and anecdotes and wornout scare tactics. The original justification for this bill was that it was necessary to forestall an insurance crisis and to prevent an alarming increase in insurance costs. But that argument went out the window after the insurance industry publicly testified that the bill would have virtually no effect on insurance costs, and evidence showed that the availability of affordable insurance is governed by insurance companies' underwriting practices rather than product liability. That should have put that argument to bed. But you still hear proponents resorting to it.

Another justification traditionally offered for this bill is that there is an "explosion" of product liability suits. That simply is not true. That is not in accord with the facts. Proponents focus on increases in product liability claims between 1980 and 1988, but there was a specific reason for that. That was due to the cases filed by reason of asbestos claims, Dalkon Shield, and Copper-7 IUD legislation. What they ignore is the fact that the number of product liability cases in Federal courts, other than asbestos cases, has been shrinking steadily in recent years. The 1991 annual report for the National Center for State Courts reports that the number of tort filings fell by 1 percent between 1990 and 1991.

If proponents were really concerned with an increase in suits, they would be acting against commercial litigation. Business-against-business suits have increased in recent years. Businesses suing businesses in contract disputes accounted for nearly half of all the Federal court cases between 1985 and 1991. In State courts, such suits accounted for 14 percent of filings, while product liability suits accounted for less than 4 percent of filings in 1991.

But business has craftily exempted itself from this bill. This means that if a defective machine explodes in a factory, a worker who was killed or injured would be forced to sue under the severe constraints of this bill, while the employer could sue completely free of any such restrictions. The worker would not even be able to recover a penny if the machine was more than 25 years old, because the bill cuts off the right of consumers—but not businesses—to recover for 25-year-old capital goods.

So businesses want to preserve their suits against each other; they just do not want injured consumers to sue them.

It is the little guy who is left out. It is the average individual person who is precluded from going forward with his litigation. But the businesses are still left in a position to sue one another.

Yet, another traditional justification for this bill has been that jury awards are erratic and excessive, giving windfalls to undeserving plaintiffs. Again, the facts show otherwise. In fact, under our current system, injured people absorb and pay for much, if not most, of their injuries themselves. A recent Rand Corp. study found that only 1 out of every 10 Americans that are injured due to product hazards ever seeks compensation through the tort system. Of these cases, two-thirds involve motor vehicle accidents. In addition, injured Americans recover only about 60 percent of their costs of nonfatal injuries through public and private sources. They, the individuals, must shoulder the remaining 40 percent out of their own pockets. The 1992 report by the National Insurance Consumer Organization showed that the average payment to victims of all claims closed during the previous decade was $3,767.

Punitive damages are not out of control, as proponents of this bill would have you believe. There have been only 355 punitive damage verdicts in State and Federal product liability cases since 1965. Did you hear that? Only 355 punitive damage awards since 1965—almost 30 years ago.

Would the proponents think that the punitive award of $5 million for the death of a family member was excessive? Or $1 million for the permanent loss of sight or fertility? What if it were your mother, or your sister, or your brother, or your father, or your child?

Over one-quarter of these punitive award cases involved asbestos. Asbestos aside, that means there have only been 266 cases in which punitive damages have been awarded in a product liability case in nearly 30 years. With the exception of asbestos, the number of punitive verdicts in product liability cases has been declining in the last 6 years.

Another holdover theme from the Bush administration shifts blame away from manufacturers of defective products and onto lawyers. This amounts to little more than lawyer bashing. The 1992 report by the National Insurance Consumer Organization estimated the average fee paid to victims' attorneys for all product liability claims during the previous decade at $1,256. That is the average fee.

The bill's proponents claim that S. 687 will create a nationwide uniform product liability law. It will do nothing of the kind. The provisions of S. 687 would be grafted onto the different product liability laws and standards in the 50 States. The result will be a hodgepodge of State and Federal standards which will create new uncertainties for tort litigation in State courts and diminish the authority of State judicial systems to define and enforce their own rules governing product liability

Mr. President, there is much more that I have to say about this particular piece of legislation. I think there are others waiting to be heard. I do not wish to assume up to myself all of the time that is available, and I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, there are a few things that should be clarified.

One, with respect to the claim made by my distinguished colleague to the effect that punitive damages do not have any cap. Oh, no, they are indirectly capped.

If you look at the particular bill as introduced, you will find two things with respect to punitive damages—and they know exactly what they are. Incidentally, this is a point that should be remembered. On page 18, line 11 of the bill, "punitive damages may, if otherwise permitted by applicable law, be awarded."

Here they are talking about uniformity. That in and of itself "if otherwise applicable." In some States there are punitives but in other States there are not. There is no uniformity. There is no intent to be uniform here.

But when you come down to the caps, here is what they put in lieu thereof. They say that, first, the harm suffered by the claimants must be proved as a result of conduct manifesting a manufacturer's or product seller's conscious, flagrant indifference to the safety of those persons who might be harmed—product seller's conscious, flagrant indifference to safety.

And how should that be proved? Not by the greater preponderance of the evidence but rather by clear and convincing evidence.

So they have raised the hurdles. They have raised the barriers. They have increased the burdens, and that should be recognized throughout the comments made.

I was somewhat amused by the remarks concerning a lottery, by the distinguished Senator from Missouri, joining in support of product liability. I have never found that. I have three on staff looking for it. I do not know about any lottery that they get into that they make a lot of money.

I can tell you and explain firsthand why the conclusion was made that perhaps plaintiffs are compensated more for slight injuries and not sufficient compensation, let us say, for serious injuries.

I practiced, and I must qualify now, Mr. President, on a personal basis of having tried cases on both sides of the aisle. I have represented plaintiffs. I have represented defendants. I have organized the State Life Insurance Co., the Equity Life Insurance Co. I came to Washington with Guaranty Insurance Trust and before the Securities and Exchange Commission set an all-time record of 13 days of wanting a corporation. No water, no monkeyshines, no options, and all of those things that go into one of these prospectuses.

On the contrary, it was clean and went through the Securities and Exchange Commission in 19 days an insurance company, and I was the general counsel for that particular company.

So I represented on both sides, and I know the lawyers on both sides. And I became the lawyer for the local power company at one time. I had been suing them on personal injury cases, and a good friend of mine who was a professor at the law school came to me, and talking friend to friend, I said, "Well, the reason you lose is your crowd is so lazy."

He said, "What do you mean?"

I said, "You won't try the cases. You know, that stuffed shirt crowd. They are up with the big offices with the big mahogany desk and oriental rugs and secretaries running to an fro. They do not like to get out in the field and investigate a case and if the adjuster had not investigated, they just blame it on him, and when it comes to actually going to court to try the case, they are not about to do that. They are a lazy bunch."

And he said, "Why don't you try them?"

It was an unfortunate moment for me, because I said, "I could save you millions of dollars if I started trying the case."

To cut the story short, I did. And we got what we called the Christmas Club. At that time, just after Thanksgiving everybody starts falling down and slipping down in the bus. They get their arms caught in the door. I call it the Christmas Club for the local bus company. You just could not get a bus down the streets without everybody falling, slipping, tripping over the step, the driver was closing the door on them, and everything was going wrong. And they had all these cases backed up, and heretofore where they had settled them all out and that is the blame not of the plaintiff's lawyer or the poor injured party, that is the blame of the defense attorneys.

I saved millions of dollars. That is a matter of record in my own hometown.

So I know exactly what he is talking about. And when he is not receiving enough, heaven's above, that is like the famous couplet: "A politician makes his own little laws and sits in attendance to his own applause."

That is this crowd; it is the defendant lawyers, not the plaintiff lawyers, who are responsible for that.

That goes right to the heart, Mr. President, to this article, Robert J. Samuelson's "Lawyer Heaven." You see that is the advertisement to get the votes for this bill. Robert J. Samuelson does not know from sic'um about law cases, but he is a good economist and we give him credit for that. I read this first little paragraph:

> Seventy percent of manufactured products are sold outside the State where they are

> made. If interstate commerce means anything, this fact alone warrants a national product liability law to govern defective and dangerous products. Instead companies can be sued under a bewildering array of State laws. In 1992, there were an estimated 40,000 such suits. Congress may now curb this chaos by adopting a national law. The Senate takes up a proposal this week and if it passes, the House may do likewise.

Do they get a national law? He obviously had not read the bill. He could not have read it here because it does not leave any doubt, and there are 20-some laws like this submitted over the years now in the 17-year period.

They used to have a little debate as to whether we had a national law, whether there was a Federal cause of action. But now we can look right here on page 11 at the top of the page, section 5, "Jurisdiction of Federal Courts."

> The district courts of the United States shall not have jurisdiction over any civil action pursuant to this Act based on section 1331 or 1337 of title 28, United States Code.

Now, Mr. President, where do you get a national law when you have, as I have explained to the distinguished colleagues here and their staffs, hopefully, and anyone else within the sound of my voice, heaven's above, they say specifically affirmatively no chance of this being a national law. All they had to do was institute a Federal cause of action. If they had done that, we would not have had all this gobbledygook back and forth. They intentionally do not form a national cause of action.

Now, Mr. President, I speak as chairman of the Committee on Commerce, Science, and Transportation which has jurisdiction over what? Insurance—insurance.

President after President, company after company have come to this Senator as the committee chairman, and said, "Don't let them federalize insurance. We don't want to get under the Federal system."

Oh, when they have to try their cases, "Senator, really, now, they have got a multiplicity here." As this gentleman says here, 40,000 such suits in 50 States.

Well, how many policies do you think they have to register and get approved, like trying a case in the 50 States? Literally hundreds of different fire, casualty, property and life policies, but they all come. They have their lawyers hired. They keep them down at the State insurance. In fact, they control them too much.

I found that out in the State of South Carolina. And that is one thing, as Governor, I was known for of having cleaned that one up.

We had, I say to the Senator, 38,000 life insurance agents licensed to sell insurance. The State of New York, substantially larger, had only 32,000. If you were on skid row, if you were down and out, if you were in the gutter, you could do one thing: You could still be licensed for insurance in South Carolina. In fact, when I was there, I had to start cleaning it up with a blue ribbon commission.

But this crowd, they say they want uniformity. On, no, they keep coming to me and say, "Don't give me no uniformity. I don't want any Federal law."

Now, over here, they have all kinds of provisions. I hear all the debate on health insurance, I say to the Senator. They say, "No, we are not going to get President Clinton's bill· for national health insurance to cover everybody. We are going to get insurance reform." Insurance reform. So they have all kinds of requirements about portability, about preexisting conditions. They have everything, but no Federal law.

They have had the initiatives over on the House side with respect to the fiscal responsibility and the investments. The Senator from Ohio had that bill. There have been nibblings all around the edges. Every time a nibble, they come running to the chairman of Commerce, Science, and Transportation, and they say, "Look, we don't want a Federal insurance thing." We will have to do something about this fiscal responsibility when all of them are going broke. "We don't want to do this. We don't want to do that."

In fact, the Senator from West Virginia—and I have got a little amendment I take it he will accept, with respect to making the records available. We never could find out. They would give you a bunch of papers. You could not make heads or tails about it. We did not want to get into any expenses or anything else. It is the famous Rockefeller amendment, where they ask the insurance companies to please come and report their data so we can know the effect of this particular bill.

But I can tell you here and now from hard experience that it is the defendant's lawyers, they are the ones who are responsible for the high transaction costs.

Permit me to read from a May 25, 1990 letter from the General Accounting Office:

> Specific factors that make these cases time-consuming are the steps required in the legal process. In the vast majority of cases we reviewed, we noted that defendants often used the maximum amount of time legally required. Delays caused by defendants were also common. In most cases manufacturers have little incentive to settle cases, as we said in response to the first question, although some may be concerned about adverse publicity regarding their products. In the typical case in our review, the defense was first granted 30 days to respond to a petition. The defense typically argued at the end of the 30-day period that the plaintiff did not use the product or that negligence was the cause, at least in part, of the harm. Thus began the legal process known as discovery in which the burden was on the plaintiff to build a record by collecting data on product design, specifications, and other often proprietary information from defendants. The preparation of interrogatories, testimonial evidence from eyewitnesses, expert witnesses, and others was another lengthy process needed for the record. We also found frequent motions to extend and delay late court dates.

So here they come and they talk about the lawyers' heaven. It is the defendant's lawyers' heaven. He has got his office, he has got his rent paid for, he has his light and water bill paid for. He has all his investigators paid, he has his oriental rug and his mahogany desk and his clubs paid for. He does not ever see any injured parties, any investigators or anything. It is always done for him.

The poor rascal that gets run into and injured, or take one of these defective product cases, the poor female victims in the case of Dalkon Shield, Copper 7, breast implants, and so on. But the poor person who gets injured due to a defective product, they do not have a lawyer. They sit there hurt and injured. And then when it comes down to the case itself, they have got to find a lawyer. They do not have the money for a lawyer or the office or the investigators or anything else. And they are finally so bad off they get to a plaintiff's lawyer long after the case has been investigated by the corporate defendant with all of their adjustors and interrogatories and everything, and they finally get to that lawyer.

Let me cite a GAO report which concluded that over half of drugs approved by FDA still contained various defects. I quote:

> In studying the frequency and seriousness of risks identified after approval, GAO found that of the 198 drugs approved by the FDA between 1976 and 1985 for which data were available, 102 had serious postapproval risks, as evidenced by labeling changes or withdrawal from the market.

Now of the 198 approved by the FDA, 102, that is over 50 percent, had serious postapproval risk.

So we know and understand that they are not approved. But here we go again with that defendant's attorney who is trying to delay.

Now if you are injured and do not have a lawyer and are trying to get money; if you are self-employed, for example, you are out of an income or any source to keep the family going, you are lucky to get a lawyer who will take the risk.

And, incidentally, they have a provision realted to in here about fees. As someone recently suggested, perhaps we ought to adopt the British system that would assess the cost against the party that did not win the case.

Of course, that is the case now, as a plaintiff's lawyer. I hope the lawyers and Members around understand law practice. As a plaintiff's lawyer on a contingent fee basis, you accept the case on the contingency of winning. That means that the client puts up nothing. You are taking care of all the costs of investigation, the costs of discovery, the costs of interrogatories, the court costs, all the costs of the trial, the printing of briefs—and, of course, the cost of your time. It's not like these Washington lawyers paid by the hour. How many dollars an hour? Every time we look around we have the President, he is paying one law firm $450 a hour and another lawyer $500 an hour, whatever it is.

No hourly fee. I practiced 20 years and never got any hourly fee. I had to win the case. Or if I did not, I had to eat the expenses and the costs and go back home and say, "I am sorry, kids, we just lost that one. We have to try to work harder next time."

But that is the case today. And that is the crowd, the plaintiffs' lawyers, who want to hurry it up, get to trial, get a settlement. They are the ones who pay for delay, where witnesses disappear, persons get sick, others die and what have you. The defense lawyers are the ones who have to delay here. That is the lawyers' heaven that they talk about.

They say here, "It is about time. The Carter administration first suggested standards in 1978." Well, that is true. And 43 States have followed. He says, "Nothing happened since." Well, no Federal law has been passed since. We do not have a Federal cause of action here. That is the whole point that the gentleman does not understand.

He then talks about the power of the 60,000 trial lawyers. In the previous paragraph he said 40,000 suits. We know a lot of those are Dalkon shield, breast implant, particularly asbestos. Those are the ones that have been going up. So there are not 40,000; at best there are 30,000. But if you have 60,000 lawyers, we have half the trial lawyers on welfare. They are not trying any of these product liability cases. I do not know what they are doing because they have 60,000 lawyers and according to his figures only 40,000 cases. So I guess these trial lawyers are sure not making it on product liability. That is pretty good proof to me.

He says, "What has been preserved is a system whose main beneficiaries are the lawyers who live off of it." Amen—the defendants' lawyers. Not the plaintiffs' lawyers. Of course, the thrust here is that it is the plaintiffs' lawyers, but the lawyers who live off of this are the defendants' lawyers.

The defendants' lawyers establish every kind of hurdle you can possibly think of. For one thing, if you read this bill, you find the settlement provision. The first thing under settlements is they require a settlement offer. That is not required under the present law today.

If you come to me and you have been injured by a defective article, I hope to get a settlement. In fact, I am duty bound as an officer of the court and as your attorney, if they have made an offer—if I want you to refuse it, I can tell you—but if I do not tell you about the offer, I can be sued for malpractice. That is coming about already. Lawyers are suing lawyers. In fact, in California, lawyers are suing ministers. The ministers tell them to go home and pray, and they are suing the ministers for malpractice. No, instead they should have told them to see a psychiatrist. So those are the lawyers.

And, incidentally, those are mostly company lawyers. I will get to the company lawyers in a minute. I want to stick to the idea of what has been so cleared up. The first thing they do is bring the employer against the employee if he is employed. If you are employed, then I can tell you the employer has to be notified when you bring the claim of how much and whatever else it is. Then he has to be in lockstep with the injured party. Of course, you know the employer, with workmen's comp that is, is paying insurance premiums. His thrust is not to help the employee, but to keep his workmen's comp costs down. So he buddies up with the others, the injured company's insurance carrier. Those two get together and bring the pressure on the employee. That is the first step in the wrong direction, as a hurdle.

Then, if the offer is made and the verdict is less, $1 less, even though the plaintiff won the case—if it is $1 less, the winner loses all collateral benefits. If you have health insurance—if you have disability insurance, my suggestion to the Senator from Montana, if this bill passes, is scrap it, scratch it. Because if you do and you get hurt, you are going to have to pay for it all or you are going to lose everything by getting it, so there is no use to pay the premium because all the collateral benefits are gone. So that is the two companies working together.

Then, of course, the attorneys' fees, that is another one where they have capped it off for the defendants' attorneys but they do not do that on the plaintiff's side.

With respect to punitive damages, as I cited before, you have to have proof of conscious, flagrant indifference and you have to prove it by clear, convincing evidence. They shortened the statute in my State from 3 years to 2 years, and they put the burden on plaintiff to prove separate culpability of each defendant, in the provision with respect to joint and several liability. So you have to prove it on each one of them.

I am sitting in my office and the injured party from a defective product comes in and I shake my head. I say, "I have to see a case where they must have made some substantial offer to you. I have to see a good case. I just cannot afford it. I hope you can go down to Legal Services."

We never used to do that. We used to take them all. We did not have any Legal Services. But I will say I guess you will have to do it because I just have so much time.

That is the way all these lawyers talk now. "I have only so much time and time is money in the bank to me. And I cannot take a year and a half, as they say, or 2 years carrying you." I have to have a bank account to keep going. If I have 5 or 10 product liability cases, I have to have $200,000 or $300,000 in the bank just as carrying, hoping to win later on. I can tell you right now, this is not an easy thing whatsoever.

But let us go to where the violation and the abuse really is. The abuse is with respect to contract cases. You go to the contract cases and you go to punitive damages. Just in the year 1993, the largest verdicts, Melridge, Inc., securities litigation in Oregon, a jury award of $88 million. American Carriers Inc. versus Westinghouse Credit Corp, a jury award of $70 million.

That is not runaway awards on behalf of a poor little injured party. That is just the corporate crowd suing each other.

Exxon Chemical Patents Co. versus the Lubrizol Corp., $66 million. They do not have any bill in here that says you cannot get any punitive damages on these corporations. It is only for the injured parties, because they have runaway juries with injured parties, supposedly, but not runaway juries with corporate America.

Data General versus Grumman Systems Support Corp., a jury award for $52 million.

Sullivan versus the National Football League, $51 million. Litton Systems versus Honeywell, a $1.2 billion verdict. Rubicon Petroleum versus Amoco, a jury award of $500 million with $250 million in punitive damages.

They have no bill in here for the last 17 years to cut back on this, not corporate America. Weller versus Deloitte & Touche, jury awarded $77 million in punitive damages and $112 million in compensatory damages—$77 million in punitive damages, malpractice.

Amoco Chemical Co. versus Certain Underwriters at Lloyds of London, jury award of $425 million with $341 million in punitive damages.

Avia Development Group DFW Inc. versus American General Realty Investment, $309 million; only $47 million in actual compensatory damages with $262 million in punitive damages.

Arntz Contracting Co. versus Saint Paul Fire and Marine Insurance Co., $127 million; only $16 million in compensatory but $100 million in punitive.

Mr. President, where is the national problem, if there is one, on punitive damages? There is the record. That is just last year. And this is the crowd now that they want to put you in the hands of with respect to corporate America.

I read their actions. I have never seen cases of $200 million and $300 million and $42 million. I was just looking, over the weekend, at the record with regard to defense companies.

This is just in the last 18 months, and this is entitled "Examples of Major Indictments, Convictions, or Recoveries Obtained by the Department of Defense Criminal Investigative Organizations." I will read that again. I want everybody to listen to this. This is the crowd that you are going to turn over everything to and put up all the hurdles for the poor little independent fellow that does not even have a lawyer. Here is how they act: "Examples of Major Indictments, Convictions, or Recoveries Obtained by the Department of Defense Criminal Investigative Organizations":

Maryland Assemblies, Inc., racketeering;

Sooner Defense of Florida, false claims;

Surety Bond Services, surety bond fraud;

Teledyne Electronics, $5 million civil settlement, $5 million in repairs for false testing;

Natel Engineering, $1.1 million criminal fine, $1.2 million in civil settlement, false certifications;

McDonnell Douglas Helicopter, defective pricing, $1.4 million civil settlement;

Robinson Laboratories, $250,000 in civil and criminal penalties for false testing;

Atlas Grinding and Machine, $150,000 criminal fine for false testing;

Donco Industries, company fined $10,000, environmental crimes;

The purchasing agent for GE and Martin Marietta. The agent got 39 months imprisonment, $329,500 criminal fine; Martin Marietta and GE paid $179,000 in reimbursements.

Health One Transportation Services, health care fraud, $2.9 million civil settlement;

Bicoastal Corp., former Singer Co., $1 million fine; false certification.

AEL Defense Corp., $2.2 million civil settlement for defective pricing;

Phillips Components, $9.6 million restitution for product substitution;

SPS Technologies, $2.5 million civil settlement for product substitution;

Lucas Aerospace Power Equipment, $850,000 settlement for cost mischarging;

Martin Marietta, labor mischarging, $1.12 million civil settlement;

National Airmotive Corp., false claims, $1.25 million criminal fine, $1.75 million civil penalty;

National Technology Associates for labor mischarging, $250,000 settlement;

Clark Surgical for bribery and false claims, $3 million civil settlement.

Buffalo Pumps, a $750,000 settlement for product substitution;

Teledyne Industries, false claims, $1.5 million criminal fine.

Creutz Plating, environmental crime, convicted and ordered to pay $165,000;

Preston Dairy, antitrust, $200,000 criminal fine;

Mountain Oil, criminal antitrust, $100,000 criminal fine;

Medley Tool and Model Co., defective pricing;

Hughes Aircraft Co., $3.5 million criminal fine;

Teledyne Relays, Inc., product substitution;

Battenfield Grease and Oil Co., product substitution;

Systems Engineering, 46-count indictment, not disposed of;

Milspec Fasteners Corp., product substitution, company fined $250,000;

Goodyear Tire and Rubber, defective pricing, $9.1 million, civil settlement;

Westinghouse Electric Corp., manager, kickbacks and money laundering, 56-count indictment, awaiting trial;

Tura Machine Co., kickbacks in gratuities, company fined $800,000;

Former purchasing agent for United Technologies, kickbacks, purchasing agent for GE, pled guilty to 39-count indictment, environmental crimes

Plas-Chem Coatings, indicted for environmental crimes;

Delta Pride Catfish, price fixing, $1 million criminal fine;

Chemical Waste Management, environmental crimes, $11 million criminal fines, penalties, restitution, and civil settlement;

Bartley Construction, environmental crimes, fined;

Teledyne—here we go again—false claims testing, $2.2 million civil settlement;

National Health Laboratories, false claims, company fined a million bucks.

Owner of the Brussel Steel American Company, Buy American Act violation;

Blue Cross/Blue Shield of Mississippi, $690,000 civil settlement;

Ultrasonic Research and Testing Laboratory, falsified test reports, $300,000 fine;

LTV Aerospace and Defense, reduced contract prices by $100,000;

Score Construction, false claims, false statements, convicted;

United Technical Electronics, product substitution, company pleaded guilty to conspiracy and mail fraud;

Monroe Wire and Cable, product substitution, $532,000 civil settlement;

Computer Tape Source, $146,000 civil settlement;

Raytheon Co., defective pricing, $3.7 million civil settlement;

Raymond Engineering Co., defective pricing, $265,000 civil settlement;

Exxon Chemical, false claims, $3 million fine;

Hyde, Inc., false claims, $1 million in fines;

Laurel Optical Systems, $595,000 administrative settlement;

DOT Systems, false statements, company debarred for 3 years and on.

Aikin Advance Systems, Inc., false statements.

Environmental crimes by Martin Electronics, 3 years probation, $175,000 fine;

Martin Marietta, cost mischarging, $6.7 million civil settlements;

AGF Food, cost mischarging, $776,000 administrative settlement;

Lieberscope, $1.5 million in damages and civil penalty;

Lockheed, $1.5 million civil settlement for cost mischarging —on and on and on.

John P. O'Brien, CEO of Grumman Corp., Operation Upwind, pleaded guilty. Grumman agreed to pay $20 million settlement;

Litton Systems, operation Ill Will, $1.5 million criminal fine. I better go over and get that ill wind.

When this Congress talks about the Pentagon and Pentagon appropriations in defense, you can see it is a veritable "open sesame" of corporate America on our defense institution in this country. That struck me just reading the papers.

I have been in law work, like I said. I represented defendants and insurance companies. I represented injured parties. But I have never seen a heyday of legal work around here—fines and penalties and violations such as those coming for defense work for our best of the best, our Armed Forces. That is cases covering just 18 months; I just pulled them. I said: Just go over and pull the file that is official. I do not want to spread any rumors.

These are the companies; this is corporate America that they are talking about that is so belabored that now, oh, they want to cut out the multiplicity and the time consuming litigation and so on. That is exactly what they want. They have Workmen's Comp matters in here; they have the adjudication of cases, settlement controversy in here; they have different burdens of proof; they have that all interpreted by 50 States and the U.S. Supreme Court, and you can go on and on and on.

There is no question, in my mind, that what we are doing is falling into a trap that is easily discerned by those in the profession. Ask the American Bar Association. I can tell you, trial lawyers usually go to ATLA. They do not go out to the American Bar.

I used to do both. I can tell you the railroad companies would give you a pass. I had one friend who later ended up Chief Justice of our Supreme Court—we used to ride to the legislature, but his retainer was the railroad car card, and he and his wife could get on the railroad train any time in the world and ride free, get up in that Pullman and eat all of those good meals. He was the happiest fellow in Charleston, SC. And, of course, when they had the American Bar he would get the train and go West all the way out to San Francisco. When they had it in Reno, or Las Vegas, they would take the train and go on out that way.

The corporate utility lawyers with their club dues, yacht clubs, and country clubs and everything else like that, now they are coming. They are the ones who go to the American Bar, I can tell you. I was a friend of the head of the division there of bonds and securities, none other than the former Attorney General of the United States. That is where I met him, when he was the chairman of the bond division, John Mitchell, of Caldwell, Trimble and Mitchell. But they are the lawyers—he was head of the Chase Club down there, where you go way up to the roof to get your martini and talk about settling cases. That is what they do.

And they want to get on a poor little plaintiff's lawyer who has all these burdens, and he has to get all 12 jurors. All you have to do as a defendant's lawyer is convince one juror and you are home free. You have to get all 12 on that jury, Mr. President, and it is not easy, and you have to be clear and convincing. You have to have a mighty strong case.

And then you can find that the juries now, they know all about insurance, as is now reported just last week in the New York Times on the front page, "U.S. Juries Grow Tougher on Plaintiffs in Lawsuits."

Well, they have done that long ago. The New York Times, I am glad they are catching up maybe in New York because they are caught up in the State of South Carolina. We have tough juries.

The lottery, I never heard of such nonsense in my life as to get into the product liability lottery. I just never heard it until we got here this morning, about getting into a lottery. The research shows awards have leveled off. And even then they say of all the defective products less than 10 percent actually bring a case and only 1 percent of those go to court. And if you take that figure, it is still less again that actually receive a recovery.

So, Mr. President, this is not a national problem whatever.

Proponents of the bill claim that product liability laws are the reason we don't yet have an AIDS vaccine. Absolutely false. This is a letter from Project Inform. Founding Director, Project Inform, Mark Delaney.

To whom it may concern:

Some groups have suggested that product liability laws are the principal reason we don't yet have a vaccine for AIDS. In response, they suggest that greatly relaxing such laws would result in quick or immediate marketing approval of such a vaccine. This is simply not the case. The principal reason that we don't yet have an approved AIDS vaccine is that no such vaccine has demonstrated the ability to protect humans against the normal routes of infection by HIV, the virus which causes AIDS, and no vaccine has yet been proven to be completely safe. No vaccine has yet reached the stage of testing where product liability issues are even a significant concern.

Instead, the committee voted against approval of wide scale testing primarily because the vaccines hadn't shown sufficient evidence of efficacy in initial trials, and secondarily because some safety questions remain, principally the question of whether such a vaccine might accelerate the course of the disease in someone who became infected despite vaccination.

Product liability concerns are not presently an obstacle to such testing.

That is June 22, 1994. I ask unanimous consent the letter in its entirety be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

PROJECT INFORM,
San Francisco, CA

TO WHOM IT MAY CONCERN: Some groups have suggested that product liability laws are the principal reason we don't yet have a vaccine for AIDS. In response, they suggest that greatly relaxing such laws would result in quick or immediate marketing approval of a such vaccine. This is simply not the case. The principal reason that we don't yet have an approved AIDS vaccine is that no such vaccine has demonstrated the ability to protect humans against the normal routes of infection by HIV, the virus which causes AIDS, and no vaccine has yet been proven to be completely safe. No vaccine has yet reached the stage of testing where product liability issues are even a significant concern.

Last week, as a member of the NIAID AIDS Research Advisory Committee, I voted against initiating widescale human testing of two proposed vaccines for AIDS, products of Genentech and Biocene, a division of Chiron Corporation. Liability issues never once entered the discussion. Instead, the committee voted against approval of wide scale testing primarily because the vaccines hadn't shown sufficient evidence of efficacy in initial trials, and secondarily because some safety questions remain, prinically the question of whether such a vaccine might accelerate the course of disease in someone who because infected despite vaccination. Because these concerns remain unanswered, and because of the financial and human resources costs of the proposed trials, it was felt that the public interest would be best served by waiting for the availability of additional promising vaccine candidates which might be tested comparatively. These two vaccines, despite their weaknesses, are the products in the most advanced stage of testing and development for AIDS. Questions of safety and efficacy are thus larger still for any other vaccine candidates, which have not yet had even the level of human testing of these two.

There are many possible ways to build a vaccine for AIDS and I am in no position to argue that one approach is inherently better than another. Only a graduated, step-by-step testing process can determine which is the safest and most effective approach. Product liability concerns are not presently an obstacle to such testing, which must precede any marketing approval of a vaccine. Regardless of product liability concerns, the availability of a vaccine for AIDS is many years away.

MARK DELANEY,
Founding Director.

Mr. HOLLINGS. I yield the floor.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER (Mr. MATHEWS). The Senator from Alabama.

Mr. SHELBY. Mr. President, first of all, I want to commend the distinguished Senator from South Carolina [Mr. HOLLINGS], for his defense of what I say is people's access to court in America. He has worked on the Senate floor for many years before I even came to the Senate, and I commend him for his steadfast service.

Mr. President, I rise today in strong opposition to S. 687, the so-called product liability fairness bill. Listen to the label—product liability fairness bill. This bill not only has nothing to do with fairness, Mr. President, but represents what I view as Washington's standard surgical prescription for the common cold that we hear every day. Indeed, S. 687 is the product of a growing and I believe a dangerous trend in Washington to force Federal solutions to every purported problem no matter how big or how small, how real or how tenuous.

Mr. President, this bill carefully selects out and subjects certain product liability suits historically governed by State law for 200 years under our constitutional scheme to a uniform Federal law—something that is unprecedented in America.

One of the justifications given for this drastic encroachment on States rights is that product liability is responsible for hampering U.S. innovation and competitiveness.

Now, Mr. President, aside from a wealth of studies and evidence refuting any such causal link, it remains beyond me and many other Senators how the Federal Government believes that by cutting off individual rights in America it is somehow going to resolve these problems. It is deceiving to characterize the creation of uniform product liability laws as beneficial and fair to consumers, workers, and citizens in America. It is deceiving because it not only misconceives the tradeoffs being made but it presumes the need for such a tradeoff in the first place.

Are State and individual rights valued so little in this Senate? Why should the first response always be to federalize the system, particularly when there is so little evidence to suggest that federalizing State product liability laws will have any beneficial impact on either competitiveness or innovation, much less solve the so-called insurance crisis that we hear about. In fact, according to the American Insurance Association, commenting on a similar bill to federalize product liability law, "The bill is likely to have little or no beneficial impact on the frequency or severity of product liability claims. It is not likely to reduce insurance claims or improve the insurance market."

Mr. President, in 1990, the Office of Technology Assessment found that four factors—four factors—were most responsible for influencing U.S. competitiveness. They are capital cost, the quality of human resources, technology transfer, and technology diffusion. No mention was made of litigation costs, much less product liability litigation.

The fact is that these costs are only a small percentage of the overall costs that businesses bear in this country.

If we are concerned with U.S. innovation and competitiveness—which we are—why not, Mr. President, start first by relieving the economy and the American businesses of Federal regulatory burden and compliance costs, or lowering the costs of capital by cutting capital gains taxes rather than stripping individuals of their day in court?

Mr. President, these are all factors that the Federal Government can positively effect without taking the unfounded, unprecedented steps of depriving American citizens of their indispensable civil right to seek full and fair redress in court?

Mr. President, this bill promises so little for taking so much away from our citizens and our democratic system. It sets a bad precedent, and leaves everyone more vulnerable and less protected under the law. All litigation imposes some costs on society. So why stop at product liability law if you are going to do this? Why not federalize all personal injury suits, or would this be the first step? Mr. President, tort law could not be more firmly grounded in our State law and prerogative thereto, and yet with so little fanfare we could convert it to Federal purposes.

Whenever the Federal Government steps in and strips the States of their role in the Federal system by preempting State law, the Federal Government has diminished the civil liberties of every citizen in a real and a substantial way.

Mr. President, before we undertake to overturn 200 years of carefully crafted State tort law, let us be sure the cure is not more deadly than the disease. More and more, Mr. President, the States are being deprived of their ability to protect their citizens. More and more the role of State legislatures and State courts are trivialized by Federal preemption, and more and more, Mr. President, citizens are being told that Washington knows best. I wish we could be so sure.

I oppose Senate bill 687, and I urge my colleagues to do likewise.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, we heard today the opening arguments on S. 687. As one who does not have a law degree, I would take a look at this and hear both of these arguments. Both of them are very compelling. I support this legislation. It is my hope that after 14 years of consideration this important reform measure can be enacted into law.

I first want to thank Senator ROCKEFELLER of West Virginia for his leadership on this issue. No one has been more diligent than he has in seeking this reform. There is a reason for it. Firsthand, he knows about the formation of new products and new technologies. He is my chairman on the Science, Technology, and Space Subcommittee of the Commerce Committee. We had testimony on the development of new technologies with particular interest in new materials, new composites, new ways of doing business, and new technologies that would further this country and put us in a better competitive position.

We see firsthand, and we hear firsthand, testimony about how product liability is a deterrent, not only in the decision to make the investment in new technologies but also can we get it into the marketplace without the fear of litigation.

So I support this fairness act because it does not bar anybody from the courts. It does not infringe on any rights. With the patchwork of laws across the States, I believe that Congress needs to act now to remove some of the barriers that are infringing upon the economic growth in this country. The economy has rebounded some on its own. But the need for Congress to take action has not diminished.

The first time I walked into these Halls of the Senate in 1989, this was being discussed—almost 6 years ago, and still no action. The fact is the need for reform of our product liability system becomes more urgent every day as new products are being developed. The current system drives up costs in nearly every sector of our economy, and does very little to improve the quality or to increase safety.

This is a competitiveness issue. And when you talk about competition, both in the domestic market and on the international market, it most definitely is a jobs issue. Currently, the typical American manufacturer faces product liability costs that are 20 to 50 times higher than its foreign competitors. These just are not figures that are pulled out of the air. The additional cost makes American companies less competitive, and they lose market share to foreign competition. So they raise prices, lay off workers, which in aggregate—as they say, a cumulative effect—spells recession for the American economy. In effect, small business is just as vulnerable to this as so-called big businesses. In my State of Montana, we are all small business. We try to attract small manufacturers, and have small manufacturers in my State. They are affected too. So it is just not confined to the big corporations or America's big business. It affects all of them.

There was an 1,100 percent rise in the number of Federal product liability cases in the 1970's and the 1980's, which has driven up the cost of liability insurance. The burden of this increased cost is proportionately much greater for small businesses than it is for big corporations. It can be a make-or-break issue for the small manufacturer. The development of the high-technology communities in Montana to deal with biochemistry and the new technology is just now starting to grow. They do it on a shoestring with very, very limited access to investment capital. So it is a make or break for my State of Montana.

The issues have been presented here today, this is a consumer issue. They say if you are for product liability reform then you cannot be for the consumer. Well, that is not the way I interpret this law. Nobody is denied if they are harmed. Consumers do not benefit when the business community has to protect itself from runaway lawsuits. They are for it. That is our money. The additional costs are passed on to the consumer. The people who benefit most from this current system, and you guessed it, are the lawyers.

The General Accounting Office recently noted that more than half of the jury awards in the product liability trials go to attorneys. Other studies say that 50 to 70 cents of each dollar of jury awards to an injured person goes to—you guessed it—the attorneys. So it hardly seems like a system that benefits the consumer.

I would also echo and associate myself with the words of my colleague from Alabama. My chairman of the Commerce Committee has been the champion of the entree of every citizen into the courts of the United States of America. But there is a time when the system itself has to be more regarding of all facets of it. We must protect people from the careless manufacturers and defective products. This bill does not compromise that objective. It just ensures that we do it in a fashion that still allows American business to compete and grow in a global economy.

I hope that now when Congress once again is given the opportunity to reform this product liability system, we will do it. There are those who would say that we do not want to be in a global economy, we do not want to compete with other countries around the world. But those are folks who are living in a dream world, because there have been three inventions that cast us into that arena, whether we wanted to be a part of it or not. And if we have to do certain things to keep us competitive in that market, then we should do so.

So, for 14 years, maybe Congress, given this opportunity, will now pass this legislation, which I think—and this is a blue-collar thought—is not a draconian change from the system we are now using in product liability.

I thank the Chair and yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada [Mr. REID], is recognized.

Mr. REID. Mr. President, I rise in opposition to this so-called Product Liability Fairness Act, and I will vote against cloture. We have seen this legislation before. It is really just the latest version of a piece of special-interest legislation. A group of chemical companies, drug firms, and other manufacturers in the drug industry have been trying to push it through this body for many, many years.

It is often the case that one can best understand the impact of proposed legislation by looking at who supports the legislation and who opposes the legislation. Well, the greatest supporters of this legislation are a handful of very large anticonsumer corporate entities. What has been distorted in all of the memoranda circulating in this legislation is the opposition. I listened to the chairman of the Commerce Committee lay out in some detail this afternoon the myth regarding the litigation and who it is that benefits from the litigation.

Who really is opposed to this legislation? In the State of Nevada, Mr. President, it is the consumer groups. It is groups of people who feel they will not be treated right in the future if this legislation passes—especially women's groups and consumer groups. Also opposed, Mr. President, is the National Conference of State Legislatures and over 70 law professors from around the country. As I indicated, almost all the women's rights groups—and, in fact, every major consumer rights organization—are opposed to this legislation. It is a diverse but formidable opposition that seeks to protect the rights of people injured by defective products. What the opponents of this legislation do not have is the ability to control advertising and public relations by paying high-paid media people to put out propaganda about how bad the product liability problem is in this country. This is a myth. It is also those who oppose this legislation that are dedicated to ensuring that the products we use are safe and practicable.

Mr. President, prior to coming here, I was an attorney. I tried lawsuits, over 100 jury trials. I represented insurance companies for the first decade, and, thereafter, I represented plaintiffs. So I have seen both sides of this type of litigation. I can say that there are very few product liability cases filed, for the reasons outlined by the chairman of the Commerce Committee. They are extremely difficult and very expensive. The plaintiffs' attorneys normally cannot handle the costs associated with them. I can remember one case where I sued a major oil company when I was a new attorney out of law school and thought I knew the law, which I did fairly well. But what I did not know is how it worked practically. I could not handle all the depositions, all the discovery that they did just to bill the hours. I was being paid on a contingent figure, and I could not handle that. Even though I had a case of merit, the case did not wind up that way. I had to settle the case for almost nothing because I could not handle the costs. My client had no money to advance the costs.

It is a big myth that product liability litigation is clogging the courts. There are a lot of things we need to do to streamline what goes on in courts. One thing we could do is get rid of all the prisoner litigation in our Federal court system. In Nevada, about 40 percent of all the cases that our Federal judges initially deal with are cases filed by prisoners. We could really do something to streamline that. I ask all the people who have said they are supporting product liability legislation as a remedy for unclogging the courts to join with me on legislation I am going to soon introduce to speed up the process of prisoner litigation by setting up an administrative tribunal to handle those.

Mr. President, this institution—the Senate—rightly or wrongly, is often accused of favoring corporate and other special interests at the expense and concerns of ordinary Americans. Thus, the true opponents of this bill are our constituents, the hard-working Americans and families who make up the consuming public. Everyone should understand that those people in this body who are opposing this legislation are not supporting corporate interests or special interests, that we are supporting the small guy who cannot afford to handle litigation against these massive corporations.

The legislation pending before the Senate today is anticonsumer. Product liability law is the cornerstone of consumer protection in America. Since the industrial revolution, our laws have moved steadily forward to protect the rights of victims in our industrial and retail economy. The common law of the 50 States was developed to reflect the customs and values of our society. That is the true value of the common law.

What is the common law? The common law is a body of law that was developed originally in England, primarily from judicial decisions, based on custom and precedent. They were unwritten, as far as statutes. And judges would go back and say, well, this court decided this way, and that is the law of the land here, and we might change it a little bit, but we are going to base our decisions on those made by previous courts. When we formed as a country, we had all of the foundations of the English judicial system, and we brought that over here. We have our own common law, the foundation of which came from England and has been developed here for over 200 years. Product liability has also developed within the common law. We have based a lot of what we do in the courts on precedent set by other courts. That is the true value of following common law.

In Nevada, in the State and local courts, just like in every other State, the common law has developed over time, reflecting the sentiments and values of the communities of the State of Nevada as they have evolved over time. We have a set of laws in the State of Nevada that has taken into consideration product liability that has developed in Nevada. We believe that we in Nevada have followed the right system. We have product liability that is not like in the State of South Carolina, that is not like in the States of Tennessee or West Virginia. Our system has developed since 1864, since we have been a State, and we want to keep it that way. We do not think the Federal Government should step in and say, "You should handle your product liability litigation the way we think you should do it in the District of Columbia."

So we like the way we have done things in the State of Nevada. But despite the way we like it in the State of Nevada, the proposed law, the bill in this instance, says to the State of Nevada and every other Senator's State, that we in the Senate know better than they do. It preempts long-established laws that reflect the beliefs and sentiments of our States and local communities.

It undermines the legal values that have developed in our States over time. In short, it subverts State rights to such an extent that I must oppose it.

As I indicated, I practiced law before I came here. I appreciate the value of Nevada's product liability precedents, the laws, and I honestly believe if there is a need to reform this body of law, it should be done in the Nevada State Legislature, not by the Congress of the United States.

Aside from the Federal preemption issue, this bill severely weakens the product liability law and threatens to expose consumers to a more dangerous marketplace and an unfair legal system.

There are a number of anticonsumer provisions that I find particularly disturbing in this legislation. It restricts compensation for pain and suffering. The bill eliminates joint and several liability for pain and suffering awards. The arguments in favor of eliminating these awards seem to assume, or suggest, that noneconomic losses are some sort of fuzzy or unreal damages not worthy of strict legal protection.

A lot of things have changed in this country since we became a country 200 years ago, but one thing that has not changed is the basic makeup of our jury system. As I indicated, I tried lots of cases. Juries did not always arrive at the right decision, but the vast, vast majority of the time they did. As I say, they almost always arrived at the right decision, not always for the right reason, but juries have the sense of right and wrong, and that is why our justice system allows noneconomic losses, and rightfully so, because it protects the small person.

One of the more pernicious provisions of this bill is section 206. It is offensive because it denies the reality of, and is completely without sympathy for, the pain and suffering that can accompany a product-related injury.

I agree that pain and discomfort are not easily quantified.

But just as certain as pain and suffering is hard to quantify, pain and suffering is a real problem, and it is very real to an injured victim.

The case must be made for noneconomic losses. I think one of the more eloquent statements made on behalf of noneconomic losses came in a legal opinion from the California Supreme Court in the case of Fein versus Permanente, which I think was an insurance company. There the court said:

> For a child who has been paralyzed from the neck down, the only compensation for a lifetime without play comes from non-economic losses. Similarly, a person who has been hideously disfigured receives only noneconomic damages to ameliorate the resulting humiliation and embarrassment. Pain and suffering are afflictions shared by all human beings, regardless of economic status. For poor plaintiffs, non-economic damages can provide the principle source of compensation for reduced life-span or loss of physical capacity * * *. Often these plaintiffs may be unable to prove substantial loss of future earnings or other economic damages.

That says just about all of it.

So, by making joint and several liability unavailable for noneconomic damages, it is those victims with the worst injuries that would end up being undercompensated. In order to receive full compensation, such victims would be forced to pursue each party who had been responsible for their injury. It is clear that this provision would have a disproportionate impact on the poorest victims, as indicated in the example I gave to the chairman of the Commerce Committee involving one of my early lawsuits as a young attorney in Las Vegas. Really, what this provision attempts to do is shift costs from the strongest and wealthiest corporations to the poorest and weakest of our society.

Another provision of this bill which unfairly shortchanges the consumer is the virtual elimination of punitive damages. Here again, the consumer is the one who loses. There is no doubt that this bill makes it more difficult to recover punitive damages from manufacturers who recklessly and knowingly market unsafe products.

Mr. President, punitive damages are necessary to punish and deter manufacturers who consciously or recklessly market a dangerous product.

Mr. President, I remember the first verdict I got for punitive damages. I can still remember the woman's name. I can still remember the name of the case. It was against Safeway Stores. This woman was working as a cocktail waitress in one of the hotels in Las Vegas. The police came, arrested her off the floor in her little costume that she was wearing, and took her to jail, charging her with writing bad checks.

I was able to show that Safeway was willfully negligent. They had recklessly arrested this woman. How do you stop Safeway Stores from doing this? To stop Safeway from doing this, the jury assessed Safeway punitive damages. In those days, it was a lot of money—hundreds of thousands of dollars. Safeway Stores stopped doing their bad check processing the way they did. The effect of this case, the name of which was Marganus versus Safeway Stores, is they stopped processing their bad check cases this way. They, in effect, did it differently. They would not pick some innocent person off their job. But for these punitive damages in this Safeway account they would be arresting other people just the way they arrested her. It is no more because of punitive damages. Punitive damages have the ability to set a social standard. That is what they are there to do.

They are necessary to punish and deter those who consciously or recklessly, in this instance, this litigation marketed a dangerous product and in the instance of Safeway Stores stop doing business the way they did. The logic and importance of punitive damages are quite simple. Without the threat of punitive damages, and the uncertain financial costs associated with them, manufacturers would be able to factor in as a cost of doing business the compensation to be paid for death and injury caused by their products.

This was the disturbing lesson that this country should have learned in the case of Ford Motor Co.'s marketing of the Pinto automobile. This bill, however, shows that we did not learn that lesson or we did not learn it well enough. In the Pinto case, Ford's own engineers determined that a lethal defect in the Pinto's gas tank would cause the car to ignite in a low impact rear end collision. However, Ford officials, doing a cold cost/benefit analysis, decided not to invest the $11 per car that it would have taken to make the Pinto safe. Instead, Ford executives calculated that the cost of compensating injured and killed Pinto victims would be less than the price of fixing the defect. The Pintos were recalled only after a jury awarded stiff punitive damages to one victim's family. What is clear from this awful tragedy is that punitive damages literally save lives by preventing future injury and death.

Now, in the case I indicated about Safeway Stores, there was no death involved, but there was injury that needed to be compensated. And it is the same principle as the Pinto case.

Section 203 of the bill, which will result in a near prohibition of punitive damages, is really only a surreptitious way of shifting costs to consumer and worker victims.

Section 203(c) and (d) of the bill are no different. This section provides blanket immunity even for knowing and willful marketing of dangerous products so long as the products in question comply with relevant government standards. Unless overt fraud is involved, manufacturers of Government approved drugs, medical devices, and aircraft are given an absolute shield against punitive damages.

This overly broad protection is simply unfair to consumers. Government approval of a product should not give a manufacturer the license to recklessly market a product which it knows is unsafe or defective.

Why? At best, Government standards can become outdated, can become under-protective, and often do not reflect the state of knowledge of experts concerning safety.

One of my responsibilities in the Senate is chairman of a subcommittee on environment and public works. We have worked now for a couple of years. We are having some more hearings this month and next month. We have been working with TOSCA. TOSCA, as we know around here, is a shortened name about a law that was passed here to deal with chemicals that go into the marketplace.

Well, if we went by Government standards in approving those chemicals, it would give comfort where it should not be given. The Government's standards in TOSCA are not very good standards. So at best, Government standards can become outdated, can become underprotective, as with TOSCA, and often do not reflect the state of knowledge of experts concerning safety. Government agencies often lack the resources, as with this TOSCA legislation, or the capability to respond in a timely manner to report the safety defects.

And, at worst, government agencies are overly susceptible to the pressures of corporate lobbyists who will now have even greater incentive to achieve agency blessings for their clients products. The government approval standard is simply too blunt an instrument. For instance, there are many examples of FDA approved products causing injury. A recent GAO report found that approximately one-half of the drugs approved by the FDA had "serious postal-approval risks."

I do not mean to suggest that the FDA is not doing its job. It is doing the best it can. Rather, that we are faced with a system that is not meant to accomplish what this bill asks it to do. The process of approving drugs is difficult and time consuming. The Government is often under enormous pressure to put drugs on the market and is not always the first to know when problems begin to appear with a particular product.

The Government standards defense will encourage manufacturers to take an approach to safety which focuses only on Government approval. There will be too little incentive to pursue safety measures beyond that level.

Punitive damages as I have tried to illustrate, Mr. President, serve important societal interests. These interests achieve the dual goals of punishment of specific faulty parties and creation of industry wide deterrents against future misconduct. In short, they create incentives to upgrade the quality of goods and services.

Even corporations themselves have recognized the important role of punitive damages. In 1987, the Conference Board surveyed risk managers of 232 major U.S. manufacturing, trade, and service corporations about the affect of product liability on their companies. In report No. 893, the corporate risk managers admitted that as a result of the impact of punitive damages and the tort system, "products have become safer, manufacturing procedures have been improved, and labels and use instructions have become more explicit." That is pretty good.

Mr. President, the proponents of this bill argue that without reform we will never be able to curtail the alleged products liability "litigation explosion." Here is where I want to talk a little more about what the chairman of the Commerce Committee said. While our courts are saddled with many lawsuits, I question the existence of a products liability litigation explosion. And, notwithstanding the facts proving otherwise, even if you are in favor of reducing litigation, you have to ask yourself whether trading away the rights of consumer and worker victims is the best solution.

As I said, however, I believe that the facts evidence that we are not experiencing an explosion of product liability cases. In fact, the number of nonasbestos related product liability cases in this country is actually declining. Prof. Mark Galanter of the University of Wisconsin School of Law recently conducted a comprehensive review of statistics for the Federal courts. He found that if asbestos cases are excluded, the number of product liability cases in the Federal courts has declined in the last 5 years from 8,268 cases in 1985 to 4,992 cases in 1991, a 40-percent decrease.

Similarly, the National Center for State Courts recently published statistics showing that in the State court system there have not been dramatic increases in tort cases. The statistics show that tort filings make up less than 1 percent of all cases filed in State courts and less than 10 percent of most States civil case load. Of course, product liability cases, which are only a subset of all tort cases, would make up an even smaller percentage of this total.

If any kind of litigation explosion does exist, perhaps it is the fault of internecine corporate battles. Professor Galanter's—the man from the University of Wisconsin who I previously quoted—found that the real increase in litigation in recent years has been business suing business, the corporate free-for-alls. And is it not interesting, as the chairman of the Commerce Committee pointed out, this legislation covers everybody but them. They want to still be able to have their corporate free-for-alls. The chairman of the Commerce Committee ran out of breath trying to relate all the numbers of dollars that corporations have been paying each other.

Disputes involving contract filings in the Federal courts increased by 232 percent between 1960 and 1988. And in 1988, that was the largest category of all civil cases in the Federal courts. Perhaps the corporate proponents of this bill need to shift costs to consumers in order to pay their lawyers while they sue each other.

Advocates of the bill say the current system unfairly benefits plaintiffs in product liability cases. A recent study by Cornell Law School Professors James Henderson and Theodore Eisenburg proves otherwise.

Mr. President, what we are talking about here are empirical studies. One done by the University of Wisconsin and this one I am going to talk about from professors at Cornel. After examining all product liability cases, this study found that product liability lawsuits clearly favor the defendants, favors the corporations.

They found that from 1976 through 1983, defendants benefited in roughly 51 percent of product liability cases. By 1988, the figure had increased to almost 65 percent. It keeps getting better for the corporate defendants, Mr. President.

The other argument made by the proponents of this legislation is that we ought to sacrifice the rights of consumer and worker victims in order to eliminate what are purported to be erratic and excessive awards. However, studies have shown that the total awards for compensatory damages bear a strong relationship to the severity of the injury and the underlying economic loss. That does not sound too bad to me—the worse the damages, the more the award. That sounds fair.

In other words, our jury system works as it should: The greatest damages are awarded to the victims with the greatest losses.

That is the common law system that I have talked about here today, carried across the ocean when the colonists came here—mostly from England—and then developed in the last 200 years that we have been a country.

A 1989 General Accounting Office report on product liability confirmed this. The General Accounting Office found that the size of compensatory awards varied by type and severity of injury in a manner consistent with the underlying economic loss. GAO concluded that compensatory awards were neither erratic nor excessive. Even in the case of punitive damages, the GAO study found that the amount of punitive damages awarded was correlated very highly with the size of compensatory damages.

Mr. President, it is important that further light be shed on some of the buzzwords being thrown around by the proponents of this bill. These corporations advocate the passage of this legislation because it will increase "competitiveness" and "innovation." These corporations have developed these buzzwords in the backrooms and in their public relations shops. The fact of the matter is, their theory is, "The best defense is a good offense," and they can pretty well get by with this because they have the corporate bucks to spread this propaganda around. People, who have benefited from the imposition of significant damages, like the woman at Safeway, they are not able to get their message out like the corporate moguls of this country.

Passage of this bill will do nothing to make American business more competitive. In 1990, the Office of Technology Assessment issued a report on the competitiveness of the U.S. manufacturing sector. The Office of Technology Assessment was developed in the Congress by bipartisan support—principally, Senators HATCH, KENNEDY, and STEVENS—to give Congress the ability to have an independent watchdog to handle the advance of technology that is taking place in this country. OTA was called upon to talk about competitiveness. They found that the four major factors influencing U.S. manufacturing competitiveness were, first, capital costs; second, the quality of human resources; third, technology transfer; and fourth, technology diffusion.

Beyond these four factors, OTA listed a host of other contributing factors. Conspicuously absent from their list and their report was any finding that the U.S. product liability system played any role in harming U.S. competitiveness—any role. It seems simply incredible to me to assert that a system that condemns products produced in a grossly negligent, fraudulent, or dangerous manner could be called destructive to the competitive posture of our great country.

The allegation that product liability law-stifled innovation is equally groundless and self-serving. Proponents of this bill cite the pharmaceutical industry as an industry in which product liability lawsuits have hindered the development of new products. However, argument in this regard is undermined by the Pharmaceutical Manufacturing Association itself and their claims. The Pharmaceutical Manufacturing Association has recently run a national advertising campaign, touting its world leadership in research and development. Their ad boasts the "* * * pharmaceutical industry leads America's R&D efforts."

They cannot have it both ways. But, however, they have it, they certainly do not say that they cannot produce and do medical research.

I believe current liability laws promote innovation and competitiveness and benefit the consuming public. It spurs innovations in safe products by deterring the production of harmful products. How can it be to the interests of competitiveness to discourage innovations and safety?

If that is their idea of competitiveness, then that is not the kind of competitiveness that America needs. I ask my colleagues to join me not only in opposing this clearly anticonsumer piece of legislation, but to join me in not invoking cloture.

The PRESIDING OFFICER (Mr. HOLLINGS). The Senator from Wisconsin.

AMENDMENT NO. 1930

(Purpose: To amend chapter 111 of title 28, United States Code, relating to protective orders, sealing of cases, disclosures of discovery information in civil actions, and for other purposes)

Mr. KOHL. Mr. President, on behalf of myself, Senator COHEN, and Senator MURRAY, I rise to offer an amendment to S. 687. This is an amendment that will help protect public health and safety; the amendment gives balance to the product liability bill, which I support and intend to vote for. As I begin, I would like to commend Senators ROCKEFELLER, DANFORTH, and LIEBERMAN for their diligent and positive efforts to reform our Nation's tort system.

The amendment I know turn to addresses the troubling use of court secrecy. Far too often, the court system allows vital information that is discovered in litigation—and which directly bears on public health and safety—to be covered-up: to be shielded from mothers, fathers, and children whose lives are potentially at stake, and also from the public officials we have appointed to protect our health and safety. That is not only wrong, Mr. President, I believe it is unacceptable.

This happens because of the use of so-called protective orders which are really gag orders issued by courts designed to keep information discovered in the course of litigation secret and undisclosed. Typically, injured victims agree to a defendant's request to keep lawsuit information secret. They are because defendants threaten that without secrecy, they will refuse to pay a settlement. And victims understandingly cannot afford to take such chances. While courts in these situations actually have the legal authority to deny requests for secrecy, typically they do not—because both sides have agreed, and judges have other matters they feel they must attend to.

To respond to this problem, we drafted anti-secrecy legislation last year. I note, however, that today's amendment differs from that original bill. Working closely with all sides on this issue—including the business community—we have modified the original legislation so that it is more responsive to the needs of defendants in court cases.

The amendment we offer is simple, effective, and straightforward. In cases that do not affect public health and safety, existing practice would continue, and courts could still issue protective orders as they do today. But in cases affecting public health and safety, courts would apply a balancing test: they could permit secrecy only if the need for privacy outweighs the public's need to know about potential health or safety hazards. Moreover, courts could not under this amendment, issue protective orders that would prevent disclosures to regulatory agencies.

In this way, our amendment will bring crucial information out of the darkness and into the light.

The need for change is clear. As we speak, the details of a $4 billion breast implant litigation settlement are being ironed out. Most Americans do not know that studies indicating the hazards of breast implants were uncovered as early as 1984 in litigation; but the sad truth is that because of a protective order that was issued when that case was settled, this critical knowledge remained buried, hidden from public view, and from the FDA.

Ultimately, it was not until 1992—more than 7 years and literally tens of thousands of victims later—that the real story about silicon implants came out. How can anyone tell the countless thousands of breast implant victims that court secrecy isn't a real problem that demands our attention?

And the breast implant case is not the only one in which protective orders have operated to the detriment of public health and safety.

For over a decade, Miracle Recreation, a U.S. playground equipment company, marketed a merry-go-round that cause serious injuries to scores of small children—including severed fingers and feet. Lawsuits brought against the manufacturer were confidentially settled, preventing the public and the Consumer Products Safety Commission from learning about the hazard. It took more than a decade for regulators to discover the hazard and for the company to recall the merry-go-round.

There are yet more cases like these. In 1973, General Motors began marketing vehicles with dangerously placed fuel tanks that tended to rupture, burn, and explode on impact more frequently than regular tanks. Soon after these vehicles hit the American road, tragic accidents began occurring, and lawsuits were filed. More than 150 lawsuits were settled confidentially by GM.

For years, this secrecy prevented the public from learning of the dangers of these vehicles. It was not until a trial in 1993 that the public began learning of the alleged dangers of GM sidesaddle gas tanks and the GM crash test data which demonstrated these dangers.

Another case involves Fred Barbee, a Wisconsin resident whose wife, Carol, died because of a defective heart valve.

We learned in a Judiciary Committee hearing from Mr. Barbee that months and years before his wife died, the valve manufacturer had quietly, without public knowledge, settled dozens of lawsuits in which the valve's defects were demonstrated. When Mrs. Barbee's valve malfunctioned, she rushed to a health clinic in Spooner, WI, thinking, as did her doctors, that she was suffering from a heart attack. As a result of this misdiagnosis, Mrs. Barbee was treated incorrectly and died. To this day, Mr. Barbee believes that but for the secret settlement of heart valve lawsuits, he and his wife would have been aware of the valve defect, and his wife would be alive today.

We could go on to list more examples. But perhaps the more troubling question is, what other secrets are currently held under lock and key which could be saving lives if they were made public? Having said all this, we must in fairness recognize that there is another side to this problem. Privacy is a cherished possession, and business information is an important commodity. For this reason, the courts must, in some cases, keep trade secrets and other business information confidential.

However, in my opinion, today's balance of these interests is entirely inadequate. This amendment will ensure that courts do not carelessly and automatically sanction secrecy when the health and safety of the American public is at stake. At the same time, it will still allow defendants to obtain secrecy orders when the need for privacy is significant and substantial.

To attack the problem of excessive court secrecy is not to attack the business community. Most of the time, businesses seek and get protective orders for legitimate reasons.

And although a few opponents of product liability reform may dispute that businesses care about public health and safety, as a former businessman, let me tell you that they do care. Business people want to know about dangerous and defective products, and they want regulatory agencies to have the information necessary to protect the public. So this amendment is in no way anti-business.

Before closing, Mr. President, let me briefly address a claim that may be made regarding our amendment. Some may say that this amendment somehow kills S. 687. With all due respect such an allegation is not true. The amendment does not, in any way, modify or restrict S. 687, and it does not conflict with the broader aims of tort reform, which I strongly support.

It simply says that we must protect not only the rights and interests of product liability defendants, but the interests of all Americans who are subject to health and safety hazards.

Indeed, it is perfectly reasonable and consistent to recognize both that the tort system needs fixing, and that the public and regulators need to be better informed about health and safety hazards. In fact, this amendment belongs on the product liability bill. S. 687 is about product safety and striking the right balance between consumers and manufacturers. And that is exactly what our court secrecy amendment is intended to do.

In closing, Mr. President, let me say that we in this country take pride in our judicial system for many good reasons. Our courts are among the finest, and the fairest in the world. But the time has come for us to ask: fair to whom?

Of course, the courts must be fair to defendants, and S. 687 helps move us in this direction. But because the courts are public institutions, and because justice is a public good, our court system must also do its part to help protect the public when necessary, and not just individual plaintiffs and defendants.

My amendment takes a step toward achieving this important goal—it helps ensure that the public and regulators will learn about hazardous and defective products.

So the bottom line is this: a vote against this amendment is a vote in favor of darkness and secrecy, and ignoring health and safety hazards, while a vote for this amendment is a vote for public safety and the public's right to know. And so I urge my colleagues to support this proposal on behalf of myself, Senator COHEN, and Senator MURRAY.

At this point, Mr. President, I send this amendment to the desk.

The PRESIDING OFFICER (Mr. MATHEWS). The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Wisconsin [Mr. KOHL], for himself, Mr. COHEN, and Mrs. MURRAY, proposes an amendment numbered 1930.

Mr. KOHL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place add the following new title:

TITLE —PROTECTIVE ORDERS AND SEALING OR CASES AND SETTLEMENT RELATING TO PUBLIC HEALTH OR SAFETY

SEC. . PROTECTIVE ORDERS AND SEALING OF CASES AND SETTLEMENTS RELATING TO PUBLIC HEALTH OR SAFETY.

(a) SHORT TITLE.—This title may be cited as the "Sunshine in Litigation Act of 1994".

(b) PROTECTIVE ORDERS AND SEALING OF CASES AND SETTLEMENTS RELATING TO PUBLIC HEALTH OR SAFETY.—Chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1659. Protective orders and sealing of cases and settlements relating to public health or safety

"(a)(1) A court shall enter an order under rule 26(c) of the Federal Rules of Civil Procedure restricting the disclosure of information obtained through discovery or an order restricting access to court records in a civil case only after making particularized findings of fact that—

"(A) such order would not restrict the disclosure of information which is relevant to the protection of public health or safety; or

"(B)(i) the public interest in disclosure of potential health or safety hazards is clearly outweighed by a specific and substantial interest in maintaining the confidentiality of the information or records in question; and

"(ii) the requested protective order is no broader than necessary to protect the privacy interest asserted.

"(2) No order entered in accordance with the provisions of paragraph (1) shall continue in effect after the entry of final judgment, unless at or after such entry the court makes a separate particularized finding of fact that the requirements of paragraph (1) (A) or (B) have been met.

"(b) The party who is the proponent for the entry of an order, as provided under this section, shall have the burden of proof in obtaining such an order.

"(c)(1) No agreement between or among parties in a civil action filed in a court of the United States may contain a provision that prohibits or otherwise restricts a party from disclosing any information relevant to such civil action to any Federal or State agency with authority to enforce laws regulating an activity relating to such information.

"(2) Any disclosure of information to a Federal or State agency as described under paragraph (1) shall be confidential to the extent provided by law.".

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 28, United States Code, is amended by adding after the item relating to section 1658 the following:

"1659. Protective orders and sealing of cases and settlements relating to public health or safety.".

(d) EFFECTIVE DATE.—The amendments made by this title shall take effect 30 days after the date of the enactment of this Act and shall apply only to orders entered in civil actions or agreements entered into on or after such date.

Mr. KOHL. I yield the floor. I thank the Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, the Senator from Iowa, Senator GRASSLEY, is currently on his way to the floor to engage in discussion of the amendment of the Senator from Wisconsin. Until he arrives, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, in working out litigation, protective orders are an important part of the entire picture because they are necessary in order to provide that litigants are protected from, for example, making proprietary information public or making very personal matters public where it is not necessary to resolving the matter in litigation.

The issue of protective orders is dealt with in rule 26 of the Federal Rules of Civil Procedure, and this amendment is an effort to amend the Federal Rules of Civil Procedure on the floor of the Senate.

There is a process for taking up questions of whether or not the Federal Rules of Civil Procedure are to be amended. The process is that the Committee on Rules of Practice and Procedure of the Judicial Conference analyzes the proposed change or the need for changes to rules, then makes recommendations to the U.S. Supreme Court. If the Supreme Court approves the change, then the proposal is sent to Congress and the Congress has 7 months to modify or reject the proposal.

So there is this established process of addressing the question of whether or not to change the Federal Rules of Civil Procedure.

In fact, the precise subject that is brought up in this proposed amendment is a matter that at this very minute is being analyzed by the Judicial Conference.

For that reason, even if a Senator were convinced that this is a meritorious amendment—that would be debatable, but even if a Senator were convinced of that fact—still it would be a circumvention of the established process which has the judicial conference and the U.S. Supreme Court being part of the picture of when and whether and how to change the Federal Rules of Civil Procedure.

This issue has been raised in connection with legislation that has been introduced in the Senate, S. 1404, and the administration has taken a position in opposition to the legislation. I would like to read from a letter dated April 18, 1994, from Sheila F. Anthony, assistant attorney general, to Senator HEFLIN.

DEAR MR. CHAIRMAN: In anticipation of the hearing the subcommittee has scheduled for April 20 regarding S. 1404, the "Sunshine in Litigation Act of 1993," this letter proffers the views of the Department of Justice on the bill.

This bill would restrict the ability of Federal courts to craft appropriate protective orders in the course of litigation pending before them. Because the Department is currently considering protective orders in the context of a comprehensive civil justice reform study, we request that the subcommittee consider deferring further action on S. 1404 pending completion of our work during the summer of this year. However, we would be pleased to work with the Congress on this

> proposal and similar proposals in the interest of forging an equitable approach to the use of protective orders.
>
> In addition, we note that the Civil Rules Advisory Committee currently is considering changes in the Federal rule of civil procedure regarding protective orders. The Committee on Rules of Practice and Procedure of the Judicial Conference of the United States has circulated for comment a proposed change to Rule 26(c) and will hold public hearings in late April on that and other proposed rule changes. The Department of Justice has supported the use of the judicial rulemaking process to address such issues, rather than the introduction of legislation.

So, Mr. President, I think the real issue that is raised at least for the moment before the Senate is the issue of process, the correct way of addressing proposed rules changes to the Federal Rules of Civil Procedure, and for that reason it is my hope that this amendment will be defeated.

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. In response to Senator DANFORTH, who suggested we should leave the problem to the Judicial Conference, while that conference has been studying this issue since at least way back in 1990, which is when we first convened a hearing on this subject, it has failed so far to propose any changes that seriously tackle the problem.

So the question I think is legitimately asked: How many more years must we wait for the Judicial Conference to wake up to this problem before it becomes appropriate for Congress to act? The rules enabling act does not stop Congress from making needed changes in the law. We have not given that power away, nor should we.

With respect to the judges conference, some people say that it is even slower getting things done than the Clinton administration is in making its appointments. I believe the bottom line is that this issue is fundamentally about the health and safety of the American people, and health and safety issues are for the Congress to decide, not for a small group of unelected judges and academics who concern themselves with technical procedural changes to the law. And even judges have made this comment. Judge Abner Mikva, for example, has testified that "this problem is too important to leave simply to rule changes."

With respect to my colleague's second point, I am surprised that the Justice Department has sent a letter asking us to go slow. In fact, Attorney General Reno has told me privately that she supports our effort, and so I am not sure why the letter asks us to go slow when it comes to protecting public health and safety and facilitating our Government's regulatory responsibilities. Maybe the Justice Department is simply trying to get its ducks in order. It seems as if the Department of Justice is forgetting that its ultimate responsibility is to protect the public.

So I think it is time that we act. We have waited for the judges conference to act now for 4 years. They have not. I am afraid that when they do act, it will be too little too late, and it will not take into consideration what we are charged to do here in the Senate, which is to protect the public health and the public safety. That is what this amendment is intended to do, and so I feel very strongly that we in the Senate should support this amendment.

Mr. SIMON. Mr. President, I am pleased to rise in support of this amendment offered by my colleague from Wisconsin. This amendment is a good illustration of why HERB KOHL is such a valuable Member of this body. He is speaking up for the public interest. The public interest is very clear on this.

Let me give you an illustration. There is a company called Miracle Recreation that built a playground piece of equipment—the pages would have a good word for it—called Bounce Around the World. One little girl lost three fingers. Several people had their legs cut and their bones crushed. Seventy-five people at the ages of 4 and 5 suffered serious injury. The Consumer Product Safety Commission heard about only one case and tried to check it out, but they did not know about the other cases because of court secrecy.

We were not protecting the public as we should have been protecting the public. Whom were we protecting? Well, we were protecting a company that is manufacturing something, and as long as that product is manufactured, if it is safe for the public, fine. But the public is entitled to know when something is not safe.

Just as a general rule, Mr. President—and you have been in Government, forgive me, quite a few years, as have I—when there is a marginal question about whether something should be kept secret or not, inform the public and the public will be well served. I believe that, whether it is foreign policy, military, or whether we are talking about the kind of thing from which Senator KOHL is trying to protect the public.

The public is entitled to know what is going on unless there is a major reason for not knowing. That major reason should be more than just protecting the hide of some company that has a product which is injurious to the public.

Senator KOHL is doing this body and this Nation a favor through this amendment. I hope it will pass and pass resoundingly, Mr. President.

I yield the floor.

Mr. GRASSLEY. Mr. President, I would like to speak in opposition to the amendment by the Senator from Wisconsin. He is dealing with a very technical area of the law. I wish to congratulate him for tackling it. However, I must oppose him. It is just as technical for me as it is for him, and probably this is something that two lawyers ought to be arguing about instead of having a businessman on his side and a farmer on this side speaking about these technical issues of the law.

But, regardless, he has proposed to take on this very technical area, and as a member of the Judiciary Committee, I am well aware of the process that is in place to take care of it.

It has already been mentioned by two previous speakers. I think it is important that process be preserved.

I would like to urge the Senator from Wisconsin to think of some way on the floor of this body that we could help him make the points that he wants to make without short-circuiting the process that has been in place for 60 years.

I know that Senator KOHL is very sincere about making important information about health and safety hazards available. But there is another process in place which will address this issue.

Sixty years ago Congress enacted the Rules Enabling Act. That is a law that governs the process for making changes to the various Federal Rules of Procedure which operate in the Federal courts.

As Judge Patrick Higginbotham explained when he was speaking before a hearing that we had on this bill, I would like to quote the judge:

> The act establishes a partnership between the courts and the Congress designed to handle the daily business of the courts which matters are concerned to all the branches of government.

Congress delegated to the judiciary the drafting of proposed changes to these Federal Rules of Procedure. The Judicial Conference publishes the proposed changes and it solicits comments from the public.

After the public hearings—and there can even be some revisions after the public hearings—then the proposed rules are transmitted to the Supreme Court for the Supreme Court's review. And then Congress has 6 months in which to disapprove any proposed rule changes. It is only under those circumstances that changes become effective.

Senator KOHL's amendment has the effect—I am sure he knows this—of short-circuiting that process. He would have Congress legislate this matter right now, and avoid the process of careful consideration by the judges. He would have us go around the careful process of public hearings that are involved and consideration by the Supreme Court and then Congress. I think this would have the effect of undermining the Rules Enabling Act.

If Congress wants the responsibility for monitoring the effectiveness of the Federal rules, then I think we should abolish the Rules Enabling Act. Otherwise, we should not be engaged in reviewing the rules on a piecemeal, case-by-case basis.

In fact, the Judicial Conference is reviewing the issue of protective orders under the Federal rules. I think Senator DANFORTH mentioned this. It is very likely that later this year the Judicial Conference will issue a proposed change to the Federal rule. It would then be transmitted to Congress, and at that time, Senator KOHL will have an opportunity to offer changes if he does not like the way the Judicial Conference handles this issue.

I want to at the end of my remarks put a May 12, 1994, letter from Judge Patrick Higginbotham to Senator KOHL explaining the Judicial Conference process and have that printed at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRASSLEY. Mr. President, it is also important to know that the Justice Department opposes Senator KOHL's bill now before the Judiciary Committee. I heard Senator KOHL speak about Attorney General Reno's voicing support to him about his legislation. But the official communications we have had is the opposite; that his amendment is contrary to the official position. Most of their position is based upon the proposition that they believe in the rule enabling process.

In April, just before our hearing on Senator KOHL's bill, the same hearing that Judge Higginbotham spoke and addressed, Assistant Attorney General Sheila Anthony sent out to our subcommittee a letter opposing Senator KOHL's bill for two reasons.

First, in this letter, Ms. Anthony stated that the Department of Justice is working on a major civil justice reform initiative that will address the issue of protective orders.

And, second, Ms. Anthony wrote in support of the process underway within the Judicial Conference to address the issues raised in the Kohl bill. In other words, it sounds to me like she is backing up the position I just took that we should not short-circuit that process through the Judicial Conference.

Just 2 weeks ago, Ms. Anthony wrote to Congressman HUGHES explaining the administration's opposition to his bill, meaning Congressman HUGHES' bill, but which bill is similar to Senator KOHL's bill before us now. The Hughes bill, as I understand it, addresses disclosure in settlements and would prohibit sealed or confidential settlement agreements where the health and safety is at issue. Ms. Anthony wrote:

> We oppose H.R. 3138 because the bill is an unwarranted restriction of the power of the Federal courts to enter non-disclosure orders when the balance of interests, including the public interest, support entry of such an order.

In her letter she also noted that court involvement in the settlements "could well result in significant burden on the Federal courts."

Everybody knows that we should not be doing anything that is going to burden our courts to any greater extent.

I would also like to place in the RECORD following my remarks the letters that I just referred to from Ms. Anthony.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. GRASSLEY. Mr. President, I hope it is clear, now that there are two branches of Government, the executive branch and the judicial branch, that are asking Senator KOHL to wait on this matter. They are not making any judgment on the worthiness of his suggestions, but, rather, respect for the process, and that process would preclude our acting at this particular time.

I have four issues that I would like to discuss in regard to Senator KOHL's amendment so I can state on a substantive basis my opposition to it as opposed to the procedural basis that I just stated which is also a basis for my opposition.

First, there is no crisis in court secrecy.

Second, this amendment will lead to more unnecessary litigation.

Third, it will impede settlements.

Fourth, we should learn from State experimentation.

In regard to the fact that there is no crisis in secrecy, Senator KOHL says that we cannot wait for the rules change to work its way through the cumbersome system. He argues that there is too much secrecy in the Federal court system. I respectfully disagree. I was a member of the Federal Court Study Committee appointed by Justice Rehnquist. Senator HEFLIN also served on that committee. That was set up for the years 1989 and 1990, to study the court system—the first time there was any study of it in the entire 200-year history of the judiciary.

Among the issues that the Federal Court Study Committee looked at—there were only four members of Congress on there, and there were 16 judges, lawyers, et cetera on there in addition to us. But among the issues that we looked at was that of protective orders.

Quite frankly, to my colleagues on the floor here, we did not find a crisis in secrecy. We cautioned in that report against legislative proposals called sunshine laws, finding they "would distort the discovery process and disregard the legitimate, privacy interests of the parties." We are talking about sunshine laws as they apply to the courts, not sunshine laws as they apply to the executive branch and the congressional branch. Those are two different issues entirely.

The leading scholarly work in this area has been done by Harvard Prof. Arthur Miller in regard to whether or not there is too much secrecy in our courts.

He testified at the court subcommittee hearing in 1990, and he has written very extensively on the issues. In a 1991 ABA Journal article, Professor Miller warned:

> Allowing public access or public interest in litigation to assume an importance greater than the interests of the private litigants skews the traditional balance, transforming the courts into something other than dispute-resolution agencies.

The fact is the overwhelming majority of the public health and safety litigation is already out in the public domain. First, all pleadings—that is the complaints, answers, motions and briefs—are on the public record. Second, the news media follow these issues very closely, and information about defective products is accessible to the public, of course, through the newspaper articles and through investigative television programs.

Second is the issue of whether or not we need more unnecessary litigation. Senator KOHL has tried to tailor his amendment in a very narrow fashion. I share the concern about public health and safety hazards, but allow me to explain the complications his amendment will cause for Federal judges and the burden it will add to the already backlogged Federal courts. Under current Federal Rules of Civil Procedure, 26(c), a Federal judge can enter a protective order "which justice requires to protect a party * * * from annoyance, embarrassment, oppression, or undue burden or expense * * *"

Protective orders in discovery, then, are fundamental to our judicial system. In the discovery phase of a case, parties are required to exchange information relevant to the lawsuit. But that information, Mr. President, is not always admissible in the trial under the Rules of Evidence. Protective orders help move a case along while respecting the privacy rights of the parties. As Professor Arthur Miller has noted; parties do not lose their rights to privacy when they are subjected to the jurisdiction of a Federal court.

Senator KOHL would require that before a judge enter a protective order, he or she have a separate hearing and decide that the protective order "would not restrict the disclosure of information which is relevant to the protection of public health and safety."

Alternatively, Senator KOHL would allow a Federal judge to balance the potential health and safety hazards with the need for confidentiality. This is a very broad standard, Mr. President. It has a potential to generate volumes of additional litigation. I wish we had a chance to have the benefit of a judicial impact statement from the Administrative Office of the U.S. Courts so Congress could be fully informed as to the new litigation that we would be creating for our Federal judiciary.

The examples Senator KOHL has raised and the witnesses who have appeared at our hearings, of course, are very moving and very compelling. But this language would apply to much more than these forceful personal stories. Every patent or every trademark case which involved trade secrets or confidential commercial information would have a separate hearing on the issue of health or safety. In addition, confidential, personal records in a case of sex or race discrimination or harassment could wind up as public information under this language. And contract dispute cases in the construction of a power plant would fall within Senator KOHL's amendment.

Finally, defendants who are brought into a lawsuit and who might willingly comply with discovery requests if it is done under a protective order, may be more likely to fight every discovery request with all of the resources that are available to them.

The result, then, will be more rancor. There will be more hostility to this process. And for a needy plaintiff, it might be extra years of litigation with no compensation for injury. Elizabeth Du Fresne of the Miami law firm of Steel, Hector, Davis, testified to these possible scenarios at our April hearing. She stated in her answers to the written questions:

> Among the biggest losers, if protective orders are limited, will be those members of the public in the long line awaiting entree to the chambers of justice. Already overburdened judges will have to divert more judicial resources to hearings on discovery motions and will have less time available to consider the growing backlog of cases.

I think it will also impede settlements. Senator KOHL's amendment also prohibits settlements from being kept confidential. This will directly impede and will directly interfere with settlements at a time when Federal judges, with the blessing of Congress—and that was through Senator BIDEN's 1990 Civil Justice Reform Act—are trying to encourage settlements. What will be the incentive for a company to terminate litigation and settle a case if the company has to make the settlement agreement public?

As Professor Miller wrote in his 1991 ABA Journal piece:

> The settlement process would be impaired if the parties could not rely on the assurance of confidentiality reached voluntarily in the settlement agreement. In fact, the greater incentive to litigate, simply to postpone or avoid public access to confidential information, would work to the disadvantage of poorer litigants.

Thus, Senator KOHL's amendment is likely to hurt precisely the people he seeks to help. Corporations have the resources to fight a case through the legal system. Often a plaintiff does not and could put the money achieved in a settlement to good use.

Let me give an example. In April, the Roman Catholic archdiocese in Cincinnati settled a case of alleged sexual abuse. The terms of the settlement are confidential, although the fact of the settlement was reported in the April 19, 1994, Washington Post. I believe that sexual abuse is a public health and safety hazard. But is there really a public need to know about the terms of that settlement agreement? I do not believe so.

Senator KOHL's amendment, although well-intentioned, really would change the nature of our legal system. Judges would be more involved than ever in two aspects that were designed to operate without judicial supervision: discovery and settlement. This will breed enormous amounts of satellite litigation and unfairly burden our Federal judges at a time when the number of cases and backlogs are mounting anyway.

Lastly, I would like to point out that this type of provision that we are talking about here is in three States: Texas, Washington, and Florida. It has been rejected in many others, including California, Louisiana, and Rhode Island. At our April hearing, Ms. Du Fresne testified to the difficulties of the Florida provision. Texas State Judge J. Michael Bradford has written about all of the unanswered questions the Texas sunshine provision has raised and the extra litigation that will take place to clarify the Texas rule.

In fact, the Texas Civil Justice League, in 1992, wrote to the State of Washington Bar Association cautioning against adopting a similar rule.

This is quoting from that letter to the Washington Bar Association.

> In light of the confusion, expense and delay that rule 76a has caused litigants and courts here in Texas, and the significant risks that such a rule poses to those involved in litigation, we feel compelled to advise you of our experience under the law and to caution you against the adoption of CR 26.

This, I might add, is from a State that has awarded some of the highest damage amounts to plaintiffs and is not shy about the activism of its courts.

In sum, Mr. President, Congress should not stick its nose where it does not belong. I am not saying we do not have a right to consider this, but we have another process. We ought to let that process work. We have an opportunity at that point if we do not like that process to amend those rules that come to us from the Supreme Court.

So, this kind of rule change is better left then to the Federal judges in the first instance, and then to our modification and our alteration or any suggestions that we have at that particular time when it comes to us. It is premature for the Senate to act today.

EXHIBIT 1

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE OF THE JUDICIAL CONFERENCE OF THE UNITED STATES,
Washington, DC, May 12, 1994.

Senator HERB KOHL,
Juvenile Justice Subcommittee, Senate Hart Office Building, Washington, DC.
Attn: Jack Chorowsky.

DEAR SENATOR KOHL: As I explained in my letter of April 27, 1994, I deferred until after the Advisory Committee meeting full response to your letter of April 25, 1994, regarding the proposed amendments to Civil Rule 26(c) on protective orders. I now respond and also answer the additional questions submitted after the hearing before your committee.

At its meeting in Washington, D.C. on April 28–29, 1994, the Advisory Committee discussed at length the public comments submitted on the proposed amendments to Rule 26(c), including the comments in your letter. Every public comment had been sent to each committee member prior to the meeting for careful consideration. At the meeting, the committee also heard the testimony of a witness in favor of the proposed amendments. A member of your staff, Jack Chorowsky, also attended the meeting and ably responded the concerns expressed in your letter.

The Advisory Committee decided to defer taking action on the proposed amendments to Rule 26(c) until its next meeting on October 20–22, 1994. The committee wanted to study further: (1) recommendations that a court consider additional factors in modifying or dissolving a protective order, (2) other suggestions for clarifying the rule or present practice, and (3) suggestions that more empirical data be sought on the use of protective orders.

The committee shares your concerns about the risks of sealing information, recognizing the considerable public interest both in privacy and disclosure. We must respond appropriately to any mischief worked by discovery protective orders. As we see it, the issue is one of adjustment, balance, and proportion. Relatedly, we recognize important distinctions between Rule 26(c), which involves the disclosure of discovery material, and sealing orders that control the disclosure of information submitted to the court on motion or at trial. Much of the anecdotal evidence of abuse appears to involve sealing orders and not discovery protective orders.

The Advisory Committee tentatively believes that this matter should be addressed not by changing the standards in Rule 26(c) for granting protective orders, but by adding explicit language regarding the alteration or dissolution of such orders. The committee was persuaded that, although the basic concept underlying the proposed amendment remains valid, more empirical data should be obtained on the actual use and possible abuse of protective orders, as suggested in your letter. And it found very useful the preliminary data supplied by the Federal Judicial Center in its overview of the use of protective orders in the District of Columbia.

At the committee's request, the Federal Judicial Center has now agreed to enlarge its preliminary study. It will survey the dockets of several federal district courts to examine the number and resolution of motions for protective orders. The study should be completed in time for the committee to consider it at its October meeting. The committee also welcomed the offer of Jack Chorowsky to assist with documented examples of discovery orders concealing information affecting public health and safety.

The goal of the rulemaking process, as prescribed under the Rules Enabling Act, is to evaluate the need for a rule change and then to produce the very best rule possible. The process is neither easy nor swift. But all persons affected by a proposed rule, and other interested persons and organizations, are ensured ample opportunity to express their views for the consideration of the rules committees, the Judicial Conference, the Supreme Court, and Congress.

The proposed amendments to Rule 26(c) affect substantial competing interests among claims of privacy, public interest, and efficiency. Continuing the dialogue between Congress and the judiciary on this important matter can only lead to a fuller understanding of all the issues. I appreciate your spirit of shared concern, and I look forward to working with you and other members of Congress on this matter.

Sincerely,

PATRICK E. HIGGINBOTHAM.

EXHIBIT 2

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, June 15, 1994.

Hon. WILLIAM J. HUGHES,
Chairman, Subcommittee on Intellectual Property and Judicial Administration, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN, this provides the views of the Department of Justice on H.R. 3138, the Federal Court Settlements Sunshine Act of 1993. For the reasons set forth below, the Department of Justice recommends against enactment of this legislation.

Subsection 2(a) of H.R. 3138 would bar any settlement made in a civil action to which the United States or its agencies are a party from being sealed and require that each settlement shall be available for public inspection, unless the court determines that there is clear and convincing evidence of a compelling "public interest" in limiting such availability. Thus, the provisions of a settlement that name a child that has been molested, a person who has tested HIV positive or who has contracted AIDS, or a settlement of great concern to private parties to litigation to which the United States or its agencies may also be a party, could not be withheld from public disclosure unless there was clear and compelling evidence of a "compelling public interest in limiting such availability." There is no apparent justification for restricting federal courts' authority in this extreme manner. Indeed, the proposed legislation articulates such a high standard for sealing a settlement agreement, it is difficult to imagine how a court could ever make the requisite finding to seal records.

We are not aware that a significant problem has been presented by the courts' exercise of their discretion to restrict access to settlements when a showing has been made warranting the entry of an order limiting access to a settlement in litigation in which the United States is a party. The United States clearly has an interest in protecting the confidentiality of sensitive personnel matters, law enforcement undercover operations and other substantial national security and related interests; private persons likewise often have important interests implicated in litigation to which the United States is a party. However, any outline of interests cannot serve as a complete catalog of the many different kinds of litigation to which the United States has been, or might be, a party. H.R. 3135 does not take into account the broad spectrum of litigation involving the United States. This militates against enactment because section 2(a) would apply across-the-board to all litigation, so long as the government is a party.

To be sure, the United States does not generally seek to seal settlements to which it is a party. In some instances, such as settlements pursuant to 15 U.S.C. §16(b)-(h), involving the Antitrust Division of the Department of Justice, and proposed consent judgments regarding discharge of pollutants into the environment (28 C.F.R. §50.7), the government actively ensures that there is wide dissemination of the terms of the proposed settlements or consent judgments. Thus, we do not oppose H.R. 3138 because we dispute the notion that most settlements and judgments to which the United States is a party should be public. We oppose H.R. 3138 because the bill is an unwarranted restriction of the power of federal courts to enter nondisclosure orders when the balance of interests, including the public interest, supports entry of an order.

Subsection 2(b) would bar dismissal without a court order of cases to which the United States or any agency is a party. This provision would prevent the application of Rule 41(a) of the Federal Rules of Civil Procedure to cause dismissal of cases by agreement of the parties without a court order as to cases (and only those cases) to which the government is a party. We do not believe that the courts should be encumbered with additional ministerial work. If the provision is intended to encompass more substantive review by the courts, we question whether the additional workload imposed upon the judiciary is warranted by any perceived benefit attendant to this extraordinary limitation on voluntary termination of litigation. Since voluntary dismissal of civil actions is a very common means of resolving cases, the change in procedure could well result in significant burdens on federal courts.

In addition, the mandate that a court order approve any dismissal necessarily would delay termination of litigation. In cases dismissed pursuant to settlement agreements, one affect of the delay would be to lengthen the time from the date of the settlement agreement to the receipt of check or other benefits of the settlement. Such a delay does not seem to be a fair result, especially since private litigation would not be subject to a comparable delay, regardless of whether the government is the plaintiff or the defendant in a particular case.

For the foregoing reasons, we oppose enactment of H.R. 3138. The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

SHEILA F. ANTHONY,
Assistant Attorney General.

EXHIBIT 3

OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, April 18, 1994.

Hon. HOWELL HEFLIN,
Chairman, Subcommittee on Courts, and Administrative Practice, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN, In anticipation of the hearing the Subcommittee has scheduled for April 20 regarding S. 1404, the "Sunshine in Litigation Act of 1993," this letter proffers the views of the Department of Justice on the bill.

This bill would restrict the ability of federal courts to craft appropriate protective orders in the course of litigation pending before them. Because the Department is currently considering protective orders in the context of a comprehensive civil justice reform study, we request that the Subcommittee consider deferring further action on S. 1404 pending completion of our work during the summer of this year. However, we would be pleased to work with Congress on this proposal and similar proposals in the interest of forging an equitable approach to the use of protective orders.

In addition, we noted that the Civil Rules Advisory Committee currently is considering changes to the Federal Rule of Civil Procedures regarding protective orders. The Committee on Rules of Practice and Procedure of the Judicial Conference of the United States has circulated for comment a proposed change to Rule 26(c) and will hold public hearings in late April on that and other proposed Rule changes. The Department of Justice has supported the use of the judicial rulemaking process to address such issues, rather than the introduction of legislation.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

SHEILA F. ANTHONY,
Assistant Attorney General.

Mr. GRASSLEY. I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I wish to respond briefly to my colleague from Iowa.

I want to point out again that the judicial conference has been considering this matter now for 4 years and it has failed to act, failed to recommend any change. We are told now that they are about to consider making a recommendation. Why have they waited for 4 years? When it comes to public health and safety not anybody, not the Senator from Iowa, or the Senator from Missouri, has suggested that the Congress does not have the perfect right to act to enhance and preserve public health and safety, as suggesting we ought to let the conference act, but nobody is suggesting that the Congress does not have the right to act.

What this amendment of mine and Senator COHEN and Senator MURRAY is saying that when it comes to a secrecy, a court secrecy proceeding, before the judge can allow that to occur, he simply has to balance the competing interests of the defendant who has a trade secret or information that is important to that company to balance that off against the public interest and the public's right to know. If in fact we are dealing with a defective product that could have wide ramification across the broad spectrum of the American public and the judge would make a decision. He would be required to consider the competing interests and then to make an appropriate decision.

The Senator from Iowa says that it would cause all kinds of problems, backlogs. Who knows how long this would take to add more judges?

I do not know the answers to those questions, but what is a court except a public institution that must serve among competing interests, must serve the public interests or it is not a public court.

In closing, I would just like to read a comment from Federal Chief Judge Abner Mikva. He said recently:

> I side with Senator Kohl in believing there is excess of court secrecy in civil litigation, and that it presents a serious problem for the health and safety of our population * * *.
>
> I think that many scholars, and lawyers, and even judges forget that the courts are public institutions. They talk about privacy interests as if the only two parties in interest in the court system are the parties to the lawsuit. I have never been able to understand how we can justify the heavy expenditure of public funds and resources on the courts if the only interest to be served is that of the litigants * * *.
>
> Courts are public institutions and any effort to close up the matters that occur in these institutions ought to be reviewed with a hefty jaundice. I hope that Congress can act.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the distinguished Senator from Iowa referred to the diocese of Cincinnati and the settlement of a sexual harassment case and said that secrecy was appropriate, I do not know anything about the sexual harassment cases in the Cincinnati diocese. I liken it to the time when the cardinal himself, Cardinal Joseph Bernadine of Chicago was charged and he took the exact opposite tack. He said, "I want an immediate trial. I want public disclosure of the facts."

And it was upon that that the plaintiff's so-called repressed memory was found to be no memory at all and the charges were withdrawn.

The cardinal, as a preacher and a pastor for his flock, prayed for the person who charged him.

But I disagree very strongly with the distinguished Senator from Iowa in that regard.

Incidentally, the Senator from Iowa says there is no crisis in secrecy. If you have secrecy in the first place how do you manufacture a crisis in it?

Well, I will make a stab at it, and it goes right to the issue of those who cannot bring their cases. We need to remove secrecy to help people bring their cases.

I never heard so much distorted logic on the floor of the U.S. Senate as we have this afternoon.

Let me give an example:

> Two police officers were killed in Florida when their small traffic-control airplane crashed. Both of their widows sued the aircraft manufacturer. The manufacturer settled one of the lawsuits, then used the confidential settlement agreement to deny essential information about the crash to the second widow, who needed it to prove her case.
>
> Both widows alleged that the design of the airplane's fuel system allowed water contamination of the fuel, and so caused the crash. The first widow's case was settled under a confidential agreement which sealed all documents in her case, including reports of destructive testing of airplane wreckage, which had permanently changed the evidence of product failure. These reports were the only existing evidence of any defect in the airplane.
>
> The second widow requested copies of the test reports. The manufacturer claimed that it could not produce the reports because of the secret settlement agreement! The second widow was forced to litigate her case for six years, going to an appellate court in one instance. During that time the plane manufacturer worked to get her case dismissed on grounds that she had not been able to show that there was any defect in the airplane—this despite the fact that the manufacturer held the only existing evidence of the cause of her husband's death!
>
> When the courts finally agreed that the second widow had a right to the reports, the airplane manufacturer admitted that it was liable in the case and offered a settlement, thus making the reports irrelevant to her case and continuing to protect them from public disclosure.
>
> The reports, and what they show about alleged susceptibility to fuel contamination of this aircraft type, are still secret. The aircraft type is still flying.

There you are, Mr. President, with respect to that one.

That one swallow does not make a spring; let us go on.

Here is a second example:

> Michael McClenon, 8, McDill Air Force Base, Florida, became a paraplegic when the family car in which he was riding was involved in a collision in Liberty, Florida on June 13, 1987. His sister, Shenique, 12, died in the crash. The Nissan automobile was not equipped with rear shoulder harness seat belts. The manufacturer has repeatedly employed court secrecy practices to make it difficult or impossible for attorneys litigating Nissan restraint system cases to share information about their cases.
>
> In the course of investigating the case and conducting discovery, their attorney learned of similar cases which had been settled in Texas and Hawaii. However, when he contacted the attorneys involved in those cases to see what they had learned about the alleged Nissan seat belt problem, he was told that they could not share their information with him because of protective orders entered in their cases. After the McClenon case began, a protective order was also entered in it and, because of it, the McClenons' attorney is prohibited from sharing his information with other attorneys handling identical cases.
>
> The cars in question have not been recalled for retrofitting of shoulder harness restraints. Legal secrecy is impeding justice and public safety.

Another case:

Rhonda Bustamonte, a 21-year-old single mother, was horribly burned when her Chevette's fuel tank exploded as a result of a collision in her home State of Virginia in 1989. She survived the fire, but suffered massive scarring. Hundreds of thousands of Chevettes are still on the road. And many are equipped with the same fuel system used in Rhonda's car. But widespread scrutiny of the safety problem continues to be limited by court secrecy practices.

Rhonda's car was a 1980 Chevrolet Chevette, first produced in 1975 with a design similar to that of the Ford Pinto. Since the late 1970's, a series of suits against General Motors have alleged that the fuel system used in GM cars designed and built before the early 1980's was dangerous because of the location of the fuel tank, the type of fuel filler neck used, and the tendency of the doors to jam in rear-end collisions. In 1985, the Alabama Supreme Court upheld a jury's finding that a 1980 Chevette with that design, the same model as Rhonda's, was defective.

In defending Chevette fuel tank fire suits, GM systematically obtained protective orders that kept internal documents on the fuel system from public scrutiny. An attorney who has handled several Chevette cases states that all of his cases have involved protective orders which require secrecy about the settlements and return of all documents, and which bar sharing information with any other attorneys. Most other attorneys representing Chevette fire victims have had to conduct discovery from scratch as he did initially, and typically GM insists on, and gets, similar protective orders in those cases.

The Chevette is no longer produced. But its fuel-fed fires continue to occur and court-sanctioned secrecy continues to conceal the hazard.

Still another case:

Fred Barbee of Minong, WI, believes that his wife Carol would be alive today were it not for secrecy practices allowed by the courts. He believes that the process of court secrecy kept thousands of artificial heart valve patients, their doctors, and the news media from learning about a deadly defect in the valves.

The defective valves were manufactured by Shiley, Inc., a subsidiary of Pfizer, Inc. Barbee says that, in 1988, well after Pfizer began settling cases involving the valves and requiring promises of confidentiality in return, his wife's heart valve failed and she died as a result. He states that they had no notice of the problem with the heart valves and that, had they known there was a problem, they would have sought medical advice as to whether to have the valve replaced or what to do should it fail.

According to Pfizer's own statements, nearly 250 deaths have been caused by defective heart valves manufactured by Shiley. Pfizer has paid millions of dollars to settle numerous lawsuits in return for secrecy agreements. The company's heart valves are still implanted in some 50,000 people, though they were withdrawn from further use in 1986. A 1985 report on the defective heart valve has been withheld from the medical community and the public because of protective orders.

The Pfizer heart valve tragedy is still news. Another Pfizer heart valve case is presently pending in Houston, TX, with a major contest over disclosure of documents. The case is Lauterbach versus Pfizer. ATLA appeared as amicus curiae in the case in March 1990, urging the court to make heart valve documents public so that heart valve patients, medical personnel, and scientists will have access to critical information.

Litigation was filed in Federal court in Florida against Pfizer, Inc., the manufacturer of a widely-prescribed anti-inflammatory drug, Feldene, alleging that the drug caused internal bleeding and that Pfizer failed to warn of that side effect. One of the plaintiff's principal allegations was that Pfizer withheld information about side effects from the FDA. But Judge William Zloch entered a protective order which prohibited the plaintiff's attorney from disclosing any information obtained from Pfizer to any governmental agency, including the FDA!

The case was later settled. But the FDA cannot have access to knowledge acquired by the plaintiff's attorney.

One further case:

Devra Davis, Ph.D., of Washington, DC., suffered a near-fatal allergic reaction to the painkiller Zomax in 1983. Davis required emergency room treatment for her anaphylactic reaction—a side effect not disclosed in the drug's package insert or in the then-current Physician's Desk Reference. Zomax was removed from the market about 2 months after Dr. Davis' reaction.

Davis is a toxicologist and epidemiologist who is presently Scholar in Residence at the National Academy of Sciences. She says that, following her own allergic reaction, she learned that the drug's producer, McNeil Pharmaceutical, had known for some time that fatal allergic reactions to the drug had occurred. But, she says, the company has used judicially sanctioned secrecy to keep this information from the public.

Davis states that secrecy orders and confidential settlements of litigation resulting from Zomax reactions have, in effect, severely hindered scientific research about Zomax's dangers. Scientists have no access to the buried information. Yet Zomax differs by just one molecule from Tolectin-DS, currently one of the most widely prescribed pain medications in the United States.

We could go on, Mr. President, but my frustration is that we have presented good sources and professional support for the defeat of this bill, from the American Bar Association, from all the legal councils, the retired persons organizations, the State Association of Attorneys General, the State Association of National Legislative Conference, and even the Conference on Chief Justices of the State Supreme Courts.

Yet, now, proponents of S. 687 come and plead on the floor, "Wait a minute, wait a minute, now. You have the Federal judicial conference that we want you to give sanctified regard, and we cannot even discuss it here and we should not even have this antisecrecy amendment up. It should be defeated on account of that conference."

But then, when the very same Conference of Chief Justices of the State Supreme Courts oppose Federal product liability, and they say we are handling product liability just fine at the State level and please do not start taking away the rights of injured parties with this discombobulated S. 687, then they don't want to follow the advice of the Conference of Chief Justices and say, "Oh, no, that is all right. What we have got is a crisis."

They cannot have it both ways. They cannot ask us to regard in any sense the position of the Conference of Chief Justices with respect to this amendment, but not with respect to the bill itself!

Yes, Mr. President, there is a crisis, but it is in secrecy, if there could be such a thing, not a crisis with respect to product liability.

I think the distinguished Senator from Wisconsin has done a great service for the U.S. Senate and injured parties in America in bringing this amendment to the floor.

I yield the floor.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, what we are talking about here are the settlement provisions under section 101 of S. 687.

I have read this bill carefully and it has language in it about an expedited process for settlement; but this bill really is a deterrent for settlements.

This bill has language, for example, that you cannot settle a case without having the consent of your employer; that means his insurance company. There are certain, proven statistics which show that a claimant wins slightly over 50 percent of those cases that go to court and are tried before a jury.

So, therefore, there is a question as to whether a claimant should seek to settle. So a claimant negotiates a settlement but finds out that he cannot settle because of the language on page 26, line 22.

> The employee shall not make any settlement with or accept any payment from the manufacturer or product seller without the written consent of the employer and no release to or agreement with the plaintiff or product seller shall be valid or enforceable for any purpose without such consent. However, the preceding sentence shall not apply if the employer or workers' compensation insurer of the employer is made whole for all benefits paid in workers' compensation benefits.

So a claimant is forced to settle on the basis of 50 cents on the dollar. But the employer—or, rather, his insurance company—under this law is entitled to be made whole, 100 percent, for all benefits. Fairness? A deterrent towards settlement?

Then let us look at the language of the bill and how it has been written. The proponents call it fairness. In the expedited settlement provision they say that either party can make an offer of settlement and it is filed in court. If the other party does not accept it, the case goes to trial. In the event that the plaintiff gets less than the offer of settlement, there is a penalty. What is that penalty? That penalty calls for the defendant to pay a reasonable attorney's fee, not to exceed $50,000. Then it says, a final judgment, and this is done by the court, not the jury, "* * * a final judgment is entered in an amount less than the specific dollar amount of such offer of judgment, the court shall reduce the amount of the final judgment in such action by that portion of the judgment that is allocated to economic loss for which the claimant has received or is entitled to receive collateral benefits."

That is nice, good language. But what is the definition of collateral benefits in this so-called fairness bill? One of the provisions of a collateral benefit is a person's life insurance. The injured person has been paying on his life insurance for 30 years. Then what happens? Under this bill, the amount of the life insurance that he has paid for during all his life—in the event that he is killed as a result of this accident—can be deducted from the amount of the judgment.

What about health insurance? An injured party will have doctor bills and hospital bills. Suppose, before he dies from his injuries, and is in a hospital for a month and incurs $100,000 worth of bills. So we will say, therefore, if he had a $200,000 life insurance policy and paid the premiums on them; however he cannot collect them; they go to the benefit of the defendant, the manufacturer. Talking about fairness, this is a misnomer if there ever was one.

Fairness? Let us read a little bit in this language of the bill and let us see if what is good for the goose is good for the gander:

> A civil action brought against a manufacturer or product seller for loss or damage to a product it sells or for commercial loss is not subject to this act and shall be governed by applicable commercial or contract law.

A defective piece of machinery, sold to a factory, causes an explosion. Under this law the plaintiff, the owner of the factory, is entitled to receive all that commercial law allows under existing and applicable commercial and contract law, and this bill would not apply to him. But if an individual is injured or killed, he would be subject to this bill. If that factory blows up, under this bill's exclusion, the company would be entitled to a replacement of the factory, including damages to replace the equipment, and all loss of profits.

The business people do not want to come under this bill. The manufacturers do not want to come under this bill. They want to sue under existing law. And what do we see? That they are allowed to do so by excluding themselves from the provisions of this bill.

What is good for the goose is good for the gander. What is good for the gander is good for the goose. If it is so desperately needed, where have all of the tremendous judgments occurred? They have not occurred in the personal injury law. They have occurred in commercial law. The $11 billion judgment that Penzoil got against Texaco did not involve one bit of personal injury or any death. It was a commercial case involving punitive damages and that has attracted attention.

I think of further aspects of fairness that I want to refer to, as we go along, but I just wanted to mention this in the beginning. I think we ought to carefully read this bill and see all of these exclusions, all of these advantages, all of this fine print that is made for somebody's advantage. And it is certainly not the injured party's advantage. The advantage is to the insurance company, to the manufacturer, and other defendants who might have a suit brought against them in regard to personal injury.

I will be speaking about this later. I ask unanimous consent as many times as I might talk, that it be considered one speech.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Without objection, it is so ordered.

Mr. HEFLIN. I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. GORTON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, today the Senate will begin consideration of S. 687, the Product Liability Fairness Act. We must reform the product liability system because it fails to provide injured persons adequate compensation in a timely fashion. In addition, the inordinate costs of the product liability system are a major burden on the competitiveness of American industry, and the unpredictable patchwork of inconsistent laws deters the development of innovative products.

I will deal with each of these three separate rationales for the passage of this bill later.

Since 1981, the Commerce Committee has reported six product liability reform bills. S. 687 takes a moderate, sensible approach to product liability reform, and it has strong bipartisan support with a total of 45 sponsors.

Product liability reform is essential because the current product liability system is inefficient and unfair. The tort system should award fair compensation in a timely fashion, but it does not do so. Cases can drag on for years. More than 20 percent of seriously injured persons receive no compensation for 5 years. A 1989 GAO study indicates that the average case takes nearly 3 years to resolve, longer if there is an appeal. When compensation is awarded, too much money goes to pay transaction costs, such as attorneys' fees, rather than to the injured persons. Former Commerce Secretary Robert Mosbacher testified that as much as 75 percent of the costs of the system go to transaction costs. This bill would provide both plaintiffs and defendants with meaningful incentives to settle product liability suits.

Not only does the present product liability system generate excessive costs and delays, it does not compensate injured persons in proportion to their losses. An injured person can expect to receive a windfall of nearly nine times his losses if his injuries are minor. Yet, if his injuries are severe, however, he can ordinarily expect to receive only 15 percent of those losses. A severely injured person cannot afford to gamble on the outcome of lengthy litigation. As a result, many are forced to settle for amounts far less than their injuries merit.

Product liability litigation arising out of workplace injuries demonstrates how costly litigation is and how little actually goes to injured persons. According to a 1994 survey by the Association of Manufacturing Technology, the average 100 claims filed against its members result in outlays of $4.45 million in defense costs and $3 million in subrogation paid to employers or their insurers. Claimants receive only $3.35 million, which after the standard contingent fee of one-third, is reduced to only $2.2 million. Thus, injured persons in these cases receive $2.2 million, while total transaction costs exceed $8.6 million, almost four times as much.

Injured persons are not the only ones who are treated unfairly by the tort system. It imposes inordinate costs on U.S. businesses and the entire American economy. Consider the case of just one company that wrote me last month. Lamb-Grays Harbor Co. of Hoquiam, WA, manufacturers materials handling equipment that is used in the pulp and paper industry. It employs 260 people in a very depressed county that has been devastated by the crisis in the timber and fishing industries. But the Lamb Co. carries a larger financial burden for product liability insurance than it does for taxes. As David Lamb said, "at least taxes require profits." The Lamb-Grays Harbor Co. has never been found to have designed or built defective equipment yet it is forced to settle rather than risk corporate death at trial. Fully 85 percent of the claims against the company for product liability involve equipment installed more than 30 years ago. As Mr. Lamb stated,

> The system is broken. The effect is that honest manufacturers bear a crushing financial burden that diverts funds from investment in development. Unscrupulous companies fold and reappear to avoid the expense. Injured individuals pay huge legal expenses on awards or get nothing. Everyone benefits from rational reform.

Mr. Lamb, I could not agree with you more. Mr. Lamb's experiences are not unique; his story is one that we hear over and over again and is one of the principal reasons that we must pass the bill.

The total cost of the American tort system is exorbitant. According to a 1989 study by the Tillinghast insurance consulting firm, total tort costs in 1987 were $117 billion. This represents 2.5 percent of GNP. According to Prof. Robert Tollision of George Mason University, this figure is nearly double the level of U.S. net national savings and one-fourth the amount of gross private investment. A study by John Sophocleus and David Labano of Clemson University found that each new lawyer today in the United States reduces GNP by $2.6 million. They reason that the work of such lawyers causes businesses to divert to transaction costs resources from undertakings that generate wealth and create jobs.

The excessive costs of the tort system put U.S. companies at a competitive disadvantage in world markets. According to a study conducted for the Department of Commerce, domestic manufacturers may face product liability costs up to 20 to 50 times higher than those paid by foreign competitors. Harold Mathers, president of Mathers Controls, Inc., of Burlington, WA, informed me that product liability insurance costs for his firm, which manufactures pilothouse controls for boats, are 10 times higher for products sold in the United States than they are for those sold overseas.

Important sectors of our domestic economy are losing substantial market shares to foreign competitors because the excessive costs of the product liability system put American enterprises at a competitive disadvantage in world markets. For example, the Association of Manufacturing Technology estimates that it has lost nearly 25 percent of its market share to foreign competitors in recent years. Much of this loss is attributed to the excessive costs of the current product liability system, which takes resources from and inhibits the development and marketing of innovative products. The U.S. machine tool industry spends seven times more on product liability costs than on research and development. Seven times more, Mr. President, on product liability costs than on research and development.

Higher prices are just one aspect of our competitiveness problem. The current product liability system often leads manufacturer to decide not to market new products at all. The problem is particularly pronounced in the area of medical products and technology. The American Medical Association stated in 1988: "Innovative new products are not being developed or are being withheld from the market because of liability concerns or inability to obtain adequate insurance." More recently, James Vincent, chief executive officer of Biogen, Inc., testified before the Commerce Committee that he canceled development of an AIDS vaccine because of liability concerns. The conference board found in a survey of chief executive officers that nearly half of the firms in the survey have discontinued products as a result of the product liability system. In addition, 39 percent had decided not to introduce new product lines, and 25 percent had discontinued product research as a result of the system. Prof. Michael Porter of the Harvard Business School, author of a recently published book entitled "The Competitive Advantage of Nations," told the Commerce Committee: "American liability law as it is now structured causes companies to slow the rate of innovation." With a patchwork of 50 State laws, manufacturers often do not know what legal standards will be applied by a court in an economy where more than 70 percent of manufactured products move in interstate commerce.

The uncertainty of the current system extends beyond product manufacturing and into the scientific community. It stifles the scientific research that is essential for the development of innovative products. Dr. Malcolm Skolnick, a professor of biophysics at the University of Texas Health Science Center, who is also a lawyer, told the Commerce Committee at a April 5, 1990 hearing on product liability:

> Scientific inquiry is stifled. Ideas in areas where litigation has occurred will not receive support for exploration and development. Producers fearful of possible suit will discourage additional investigation which can be used against them in future claims.

Former Secretary Mosbacher told the Commerce Committee that the unpredictability of the current system discourages research universities from licensing patents to business firms for fear of being sued as a "deep pocket."

This bill will restore fairness to the product liability system. It encourages the settlement of lawsuits without litigation based on rule 68 of the Federal Rules of Civil Procedure and through the use of Alternative Dispute Resolution procedures already on the books under current State law. Such procedures will help injured persons receive compensation for their losses quickly without incurring substantial legal fees. These provisions do not in any way restrict an individual's right to a jury trial.

The bill also modifies the rule of joint and several liability with respect to noneconomic damages. This provision limits a defendant's liability to his percentage of fault for damages such as pain and suffering and emotional distress.

The bill changes the standard of proof for awarding punitive damages based on the recommendation of the American College of Trial Lawyers and the American Bar Association. The bill also provides for a separate proceeding on punitive damages, reflecting the fact that they are a quasicriminal type of penalty.

Mr. President, I have long supported efforts to reform the product liability system. I have opposed, however, earlier bills which I considered to be anticonsumer and too extreme. S. 687 is a modest proposal. It bears minimal resemblance to the pro-defendant product liability bills initially supported by business groups in the early 1980s. Very significant changes have been made over the years. Prof. James Henderson of Cornell Law School, a leading product liability scholar testified that S. 640, the predecessor legislation was a balanced, pro-consumer proposal.

Let me briefly mention the principal changes which have been made in this bill over the years that lead me to claim that this is a moderate bill.

It does not restore negligence as the basis of liability for manufacturers. In fact, it no longer preempts State law standards of liability for manufacturers. Those standards are left to the State and are developed in accordance with State statutes and the common law.

This bill does not create a "state-of-the-art" defense for manufacturers.

It does not create a defense for manufacturers of products that are inherently dangerous or unavoidably unsafe.

It does not modify or eliminate the doctrine of offensive collateral estoppel, a doctrine that permits a new plaintiff to utilize a result against a defendant from a prior case the defendant lost.

It does not require the claimant to identify the manufacturer of the product that injured him or her.

It does not contain any caps on damage awards.

It does not create a defense against liability for compensatory damages for products that comply with government standards.

It does not preclude courts from allowing evidence about product improvements to be admitted in cases.

It does not limit the amount of punitive damages awards, does not limit multiple punitive damage awards from being imposed on a manufacturer for the same product, and it does not take away the jury's right to decide punitive damage awards.

It does not contain a broad statute of repose for consumer products.

It is important for me to intercede here, Mr. President, in saying that while a number of those provisions in earlier bills were ones with which I disagreed as being too anticonsumer, there are a number of these provisions which I would have included in the bill had it been up to me and up to me alone.

What that shows is that the distinguished acting President, this Senator and other proponents of the bill have listened very carefully to those who have objected to certain provisions in original proposals and have a truly modest and moderate proposal which may well not go as far as many of the proponents of legislation of this sort would like to do in an ideal world.

The proposal before the Senate today contains an extremely important provision that was included at the request of consumer groups. A discovery rule statute of limitations was added that will preserve a claimant's right to sue until he knows, or through reasonable diligence should know, both that he has been harmed and the cause of the harm. The provision would apply in both personal injury and wrongful death cases. In wrongful death cases, many states today automatically cut off a survivor's right to sue 1 or 2 years after the death occurred. The bill will preserve the survivor's right to sue until 2 years after the cause of death is discovered.

Mr. President, this bill allocates responsibility for injuries equitably. The current system does not do so. The current system is a lottery. A severely injured plaintiff is required to take a chance on the lottery in order to be compensated. Too often it is the victim who loses when this unpredictable system produces an unfair result. The system should encourage quick settlements that allocate responsibility equitably. This legislation accomplishes that. Moreover, by reducing transaction costs, this legislation should improve our manufacturers' competitive position in world markets. It is these excessive costs that pose an undue burden on manufacturers and discourage the development of innovative products.

I urge my colleagues to support this legislation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SIMON). Without objection, it is so ordered.

Mr. ROCKEFELLER. Mr. President, there is no person in this body for whom I have greater personal affection and, I guess more importantly, respect than Senator HERB KOHL from Wisconsin. He and I agree on most issues. There is this kind of an automatic understanding between the two of us as we pass in the hall, almost kind of like talking without having to talk.

He has an amendment this afternoon on protective orders. I am not a lawyer. I am not an expert on that subject. But I do know this: There will come a time tomorrow morning when I will have to very reluctantly move to table his amendment to which the distinguished Presiding Officer also spoke. I want to just very briefly explain why because I do not wish to have to do that. I will not enjoy it. I will not like it. And it will not please me in any way.

But I will have to do it for a couple of reasons. One is because, if it were to pass—and I want my colleagues, those who might be here at this late hour or more probably their very able associates, to hear this very clearly—if it were to pass, if the Kohl amendment were to pass, it would in fact, for a variety of reasons, have an extremely bad effect on the prospects of the overall legislation, S. 687, passing.

It is just sort of a fact under the current law that the basis of settlements between litigants is often kept private. Often litigants want that to be the case because they do not want to open themselves to other potential suits, and they will feel very strongly about it. I mean a settlement is a rather personal matter. I suppose if it were taking place between giant corporations, one could feel differently. But many of these are very personal, and people have those feelings about it. It is also interesting that judges—I am not in a position to speak on the wisdom of judges, but judges are judges—very much want to be able to keep discretion as to this matter of protective orders, discretion of sealed appeals.

Having said that, that is not really the reason that I would move to table the amendment—which I will have to do at an unpleasant moment tomorrow—of my very good friend, Senator KOHL, from the State of Wisconsin. The primary reason is that his amendment simply is not related at all to the substance and the problems that a very careful coalition of Democrats and Republicans have worked for a very long time to put together, which is S. 687. It is a fragile balance that we have tried to strike.

I spoke earlier about the anger inside of me, even going back to my first inaugural address when I was Governor back in 1977, when people who are due money because they are injured—in this case State workers' compensation—do not get that money. They do not get it for a long period of time. So that their injury, their pain and suffering, and their economic loss or their lack of being able to go to a job, their lack of being able to take care of their family, is simply unspoken to in terms of financial reward that they are deserving of because of the system. I spoke about that.

I am equally dismayed that, depending upon whom you talk to—and it is interesting that figures can vary in all of this—that litigants, victims, who sue under our current product liability laws will wait maybe 2½, 3, 4, 5 years or longer, but they will wait a very long time before they have any judgment that returns to them money. What is money to them? Money is healing. It is almost ludicrous to make this argument, but if somebody mangles his or her hand in a machine and 4 years later they are rewarded in compensation, of course, it means nothing. They have lost the use of their hand. It is academic, it is cruel, and it is the status quo; it is the system we have. It makes me very, very angry.

Another thing that makes both the distinguished Senator from Washington and myself very angry is the fact—and I would think this would make all Senators angry and upset, and at the very least contemplative, sharply, on the subject—that lawyers on both sides make more money than the victims do. That is a natural consequence of there being so much time taken to settle these cases, or if they ever go on—as 4 percent do—to juries, it takes so long. Lawyers make a lot of money and injured people make much less. That sounds like it might apply to a Third World country and not to the United States of America, but it is true.

So what a number of us have tried to do on both sides of the aisle in this legislation, in a very delicate balance which has been worked out through a period of 7 or 8 years—this being really the first time we have ever had a chance to discuss it on the floor of the Senate over a period of 13 years—is to try and shorten that time. Looking at the Presiding Officer, I can speak freely and easily about coal mines, because the Presiding Officer is very familiar with them. I can remember in my own State of West Virginia, in the 1970's and 1960's, there were constantly things called temporary restraining orders, because there would be a dispute between management and labor about a work rule or something within the mine. There was an automatic mindset that you just went right to the courts to get a temporary restraining order, and strikes would occur and ill feeling would grow even deeper, and nothing would be worked out, and lawyers would set to work and time would pass. It was ridiculous.

A number of us were involved in working out a system which we called settling the problem at the face of the mine—in the mine, where the dispute would happen. Because both union and management bought into this, during the period of the 1980's, Mr. President, it was quite wonderful, and even the late 1970's, because there were no temporary restraining orders. Problems were settled at the face. What would normally take 2 or 3 years of litigation to settle would be settled in 2 hours or 2 days. That seems like a small thing but, of course, it is an enormous thing.

That is what the Senator from Washington, the Senator from Connecticut, myself, and others, are trying to change. We are dealing with very serious problems. It is a delicate balance we have struck. We must be honest about this. Not all manufacturers and businesses are happy about this bill. Those who oppose us would give the impression that this is a special interest bill. Well, it is not. I know from personal experience that there has been a long period of time when business, so to speak, was not happy with this compromise because it did not go far enough. I was insistent, as was the Senator from the State of Washington; I did not want to see a cap on punitive damages, and I was not going to vote for that—not on any kind of damages. I did not want to see any kind of denial of the jury process.

We have something called alternative dispute resolution. I have read some testimony or discussion of where alternative dispute resolutions were used in States and problems were settled in 2 days—2 days versus 4 years—and the effect on an injured person receiving compensation for a mangled hand. It is extraordinary what can happen if we pass this bill.

But if the amendment of the Senator from Wisconsin, which I as a nonlawyer cannot comment on—and as I listened to the Senator from Wisconsin and indeed the Senator from Illinois discuss it, there were many things that seemed attractive about it. I know very well that it would have a terrible effect on the result of this bill. I say that clearly and loudly, and I hope as many people in their offices hear that as possible. The Clinton administration, for example, which has remained silent on the bill, is very much against this amendment. The judicial conference, which has spent a long time already in discussing this matter—and the Senator from Wisconsin made reference to that, saying already for 4 years they have worked on that. I discussed that with some lawyers, and they said actually 4 years is not that long. Sometimes these things can take 8 or 9 years. I was not happy with that answer. But then I suggested that perhaps we could have a sense-of-the-Senate resolution in which the Senate would go on record encouraging the judicial conference and those attending to sort of hurry it up and give a series of reasons why.

The Senator from Wisconsin, I think, wisely declined to do that, because he said I would like to have an up-or-down vote on my amendment.

That reminds me that I promised the Senator from Wisconsin—therefore, I will not yield from this promise—that he would have 45 minutes tomorrow morning before the vote to discuss this amendment further. I cannot instruct either the Chair, obviously, or anybody else to make that happen. But I want people listening to this to understand that it is very important to this Senator and the Senator from the State of Washington that this happen, that the Senator from Wisconsin come to the floor at 9 o'clock, or whatever the designated time would be; that he be there promptly at that time; and we will discuss his amendment further for a period of—I suggested 45 minutes, which was comfortable to him. I would like very much to see that happen. We could ask for a unanimous consent agreement, but we might not get it; I cannot guarantee that. But if he comes to the floor, I am sure he will have that time. I want him and his staff, and others listening to this, to understand that.

If judges do feel that they want to have this discretion, and if litigants do feel they do not always want to have what has resulted from this process opened up to the public, then there would appear to be a legitimate argument on the other side. In any event, notwithstanding anything that I have said, it is nevertheless still true that were this amendment to pass, it would have a terrible effect on the passage of the bill. I can only say that, and plead with my colleagues and their associates who are listening as I talk that this is the case.

There are so many things that we need to get done in this bill. I recognize not all support this bill, although I think a majority does, and more than a majority support this bill. Redressing some of the wrongs in our status quo is tremendously important to me. This is an act of deep conscience and sincerity on my part. I am not a lawyer, and I do not practice that craft. I do come from West Virginia, and I have seen justice denied and the effect of what happens when people who deserve do not get. That hurts. It hurts me personally, and it hurts—much more importantly—them.

So I just say at this point that I hope the associates of Senators who are listening will counsel their Senators that when this vote comes tomorrow, when I make the motion to table, that the motion to table be successful, and the judicial conference has a chance to work this out. And that, in any event, the amendment is not relevant to the product liability tort reform bill. That I can say in my knowledge with confidence.

So having made that point, Mr. President, I would like to remind our colleagues—and I am sure I am joined by my very distinguished friend and Senator from the State of Washington—that we are here and that amendments are due. Amendments were filed this afternoon. There is nothing that of which I know that is particularly illegal or unconstitutional about someone coming to the floor and offering an amendment. That does not appear to be the case.

The Senator from the State of Washington and myself and the distinguished Senator from Illinois in his captive position are the only three Senators on the floor, and we would welcome those who come and offer their amendments.

This is a very, very important bill. A lot of work has gone into it over many, many years, and it has been deeply and profoundly misrepresented in public by consumer groups and it has been, frankly, stunningly misrepresented by speeches that I heard myself from other Senators on this very afternoon. But that is the way one battles on legislation and I understand that.

In any event, if there are Senators who have amendments, I would wish that they would come to the floor and offer them. We are open for business, and with that less than Shakespearean pronouncement, I suggest the absence of a quorum.

Mr. GORTON. No. Hold.

Mr. ROCKEFELLER. I withhold that for a moment.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, my distinguished friend from West Virginia has spoken both to the Kohl amendment, which is before us at the present time, and more generally to some of the considerations in favor of the bill itself.

I should like to take this opportunity to thank him for his absolutely dogged pursuit of this very, very important issue, under difficult circumstances, circumstances which have on a number of occasions separated him from some of his friends and allies in this body. But his feeling for the public interest in this reform and our litigation system is very much to be commended and is equally important to this country.

The Senator from West Virginia spoke about transaction costs. Let us put that simply. When we have a system in the country pursuant to which people are to be compensated for injuries, in which 50 percent, two-thirds, 75 percent of all of the money which funds the system goes to transaction costs, that is to say, mostly to lawyers, to investigators, to people surrounding the system itself, and as little as 25 percent to injured victims, something is broken that needs fixing. We should not have a system of justice in which the great bulk of the money goes into transaction costs rather than to victims.

A number of major provisions in this bill are designed to lessen the amount of money which goes into the transaction costs and to increase the share that goes to victims themselves.

The second principal reason for this bill is its impact on American competitiveness and on individual businesses. The record is now replete with stories that are much more than merely anecdotal with respect to the costs imposed on our American economic system of our particular form of product liability.

Amounts of money, many times in excess of the amount of money we put into research and development, more money in many cases than comes to the Federal Government in taxes from the business enterprises at issue, tremendous amounts of money successfully defend against such litigation.

We have already, in this body, passed a bill relating rather narrowly to private, primarily piston-driven aircraft in which it has been noted, without refutation, that close to 90 percent of all the employment in that industry has disappeared, closely to 90 percent of all of the production of aircraft in that industry has disappeared by reason of product liability litigation.

I shared with my colleagues at the time of the debate on that bill figures which, as my memory serves me, of an average of $500,000 on the part of one manufacturer to defend each and every lawsuit brought against it based on a claim of product liability, not one of which was successful, not a single instance in litigation was successful, and yet at a cost to that company which has come very close to driving that company out of business.

Manufacturing efficiency, manufacturing competitiveness is clearly harmed by the present state of product liability law in the United States. This bill is designed in part to rectify that inhibition to our competitiveness. Will it do it all the way? By no means. Is it going to be a drastic 180-degree turn? No, it will not be. But I believe it clear that it will increase American competitiveness.

But perhaps more significant than either of these outlines is what it does to product development and particularly product development in the medical and the health care field.

This Congress and predecessor Congresses are rightly pleased and satisfied with themselves by reason of their encouragement of our investment in the United States in research and development in the broadest sense of that term. It is an appropriate way in which to work our tax laws, for example.

But when at the same time we permit a product liability system which may inhibit research and development more than any tax incentives we can provide will help, if we have our priorities mixed up, and when we have company after company telling us that it has cut back on research and development in certain areas, abandoned it in certain other areas, utilized it to the point at which a development decision needs to be made and then abandoned development in even other areas because of the fear because of the expense of product liability litigation, we cannot then but be troubled about our future both in technological development and in the development of expanded and better health care systems in the country.

These are the three areas at which this legislation is aimed. It is not a perfect answer in any one of them but it is a step forward in each of them.

Will it encourage more research and development? The answer is yes.

Will it make us more competitive as a country? Yes.

Will it see to it that a larger percentage of the money that does go into the product liability system actually gets to victims? The answer to that question is also yes.

At this point, Mr. President, I join with my colleague from West Virginia in speaking against the amendment by the distinguished senior Senator from Wisconsin, Senator KOHL, in part of course because the amendment is not directly relevant to the legislation with which we are dealing here, in part because I think that its very theory is flawed and that it will be another step in encouraging more litigation rather than less which is the aim of this bill, but primarily because this is neither the time nor the place to deal with that subject of what happens to the records of civil litigation, whether that litigation has been concluded.

This Congress, or a predecessor of this Congress, has given primary responsibility for the rules of civil procedure in Federal courts to the courts themselves and to the Judicial Conference. During a period of 4 years that Judicial Conference has been studying this issue, I think it is about ready to come up with recommendations in connection with it. I do not believe that that is an excessive period of time during which all of the ramifications of this kind of issue ought to be studied. But in any event, the degree of knowledge about the actual way in which this proposal will work is certainly greater among the judges and the lawyers who must deal with it every day that it is here in this body. And that is particularly the case when we are dealing with it as a floor amendment to another bill.

A bill to do exactly this has been in the Committee on the Judiciary of this U.S. Senate for a considerable period of time and has not been acted upon. That in and of itself ought to warn us that perhaps there are considerations which cannot well be covered in a debate of a half a day on the subject.

As a consequence, whatever the merits of this proposal, Mr. President, it ought to be dealt with at least in the normal course of business in the operation of this U.S. Senate, but most appropriately by the way in which the Congress of the United States over a period of years has dealt with changes in the Federal Rules of Civil Procedure.

Mr. President, at this point, I have here a 3-page essay, both on the procedures involved in dealing with this amendment and on its merits, which was prepared in the form of a Senate speech by a Victor Schwartz, an attorney of great erudition and experience in this field who has been a great help to me and to my staff and, for that matter, all of the members of the Commerce Committee of the U.S. Senate.

Rather than read it out and claim it as my own, I will simply state that I agree with everything that is included in it and I ask unanimous consent that that statement be printed in the RECORD at this point, with due credit to Mr. Schwartz.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

The proposal of the Senator from Wisconsin sounds attractive at first blush, upon reflection, it will have onerous, far-reaching consequences that neither the courts nor the litigants can bear. At a time when the federal court system is in crisis, when litigation costs have escalated uncontrollably, this amendment would add a crushing new burden to federal judges' dockets. Under the current system, the vast majority of protective orders are agreed-to by the parties—the judge merely signs off on the order. This amendment, however, would require the judge to become fully involved in every protective order in every case. It would require that the federal district courts conduct, before entering any protective order, an intensive factual review of all material to be protected to ensure that the material does not affect the public health or safety. Judges will have to review every document (potentially thousands in any one case), that would be subject to a protective order, even where both sides have agreed to confidentiality between themselves.

What this means in practical terms is hundreds and thousands of additional hours of review by federal judges, often of extremely technical or scientific information. An entire new level of the judiciary would need to be created in order to conduct these inquires. Moreover, far from encouraging the free flow of information among the parties, the amendment will create a major disincentive for litigants to provide sensitive information to each other since there is no guarantee that it can be protected against public disclosure.

These problems with the amendment are not unrecognized. Despite a 5 year campaign by the plaintiffs' lawyers to pass similar protective order legislation in over 35 states, only one has enacted restrictive legislation. Three state Governors have vetoed protective order legislation because of the adverse impact on the courts and their states' business climate.

I'd like to make the stakes clear. The drain on judicial and private resources that this amendment will effect is a certain outcome. In contrast, the benefits to be obtained from the amendment are far from clear. The anecdotal evidence proffered in support of the need for this amendment thus far is just that—anecdotal. Not conclusive, not methodical, not directly related to specific instances of abuse of protective orders. These are tragic stories, but they do not demonstrate any link between protective orders and the alleged concealment of dangerous products. Further, there is no evidence supporting the proposition that judicial review of uncontested protective orders will create a more informed consuming public—the courts are not information clearinghouses.

My disagreement with the amendment, however, goes beyond its merits, for I am extremely troubled at the prospect of the Senate considering this amendment at the same time at which the Judicial Conference is in the midst of studying the very same issue and proposing amendments to Federal Rule of Civil Procedure 26, which governs the issuance and dissolution of confidentiality agreements. Legislative action on this amendment at this time would directly contravene the rules amendment process established under the Rules Enabling Act. Our action would be particularly inappropriate in light of the express requests of both the Judicial Conference and the Department of Justice that Congress not act on this amendment until these organizations have finished their respective studies of this issue and have formulated recommendations for Congress' review.

Both organizations have independently been studying this issue for some time. The Advisory Committee on Civil Rules, in response to the concerns expressed by supporters of this amendment, is extending its empirical studies of protective order to include five district courts. These studies will augment the Committee's original empirical studies showing that there is no need to change the federal rule relating to the issuance of protective orders. The studies are expected to be complete in time for the October meeting of the Committee. Similarly, the Justice Department is studying the use of protective orders as part of a comprehensive civil justice reform study and has asked that action on the bill be suspended until the Department has had an opportunity to complete its study.

It is folly for the Senate to act now, before these studies are finished and before we have these expert agencies' recommendations, which might be utterly inconsistent with this amendment. I do not feel that we have enough information, with regard to either the existence of a problem or to its possible solutions to feel confident that this amendment is the right thing to do. Especially in light of the severe consequences that would result from adopting this amendment, I believe the Senate should insist on waiting for the results from the ongoing studies before we act.

So, in deference to the Judicial Conference, the Justice Department, and the Rules Enabling Act, I strongly urge that the Senate not act at this time on Senator Kohl's amendment. It is premature and it should be tabled. The consequences of acting now are too grave and the benefits too tenuous to justify anything more. I thank the Chair and yield the floor.

Mr. GORTON. Mr. President, I yield the floor.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, some time ago, I suggested that Senators were free to come forward and offer amendments. As clear as my vision allows me to see, I do not see that phenomenon happening. I am not sure that there is an enormous amount of point for the three Senators on the floor, and, more importantly, the extremely hard working Senate staff on the floor, to wait here for the rest of the night. I would be happy to, but I am not sure that that will produce amendments.

So, I will, for the moment, suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. ROCKEFELLER. Mr. President, I send a cloture motion to the desk and ask that it be stated.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION NO. 2

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Calendar No. 409, S. 687, a bill to regulate interstate commerce by providing for a uniform product liability law:

Jay Rockefeller, J. Lieberman, Bob Kerrey, Herb Kohl, John Glenn, Harlan Mathews, Claiborne Pell, J.J. Exon, Slade Gorton, John Danforth, Nancy Landon Kassebaum, Phil Gramm, Paul Coverdell, Dirk Kempthorne, Conrad Burns, Lauch Faircloth, Connie Mack, Orrin G. Hatch.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that Senators be permitted to file first-degree amendments until 12:30 p.m., Tuesday, with regard to the cloture motion just filed.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

MORNING BUSINESS

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein for up to 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

An in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MEASURE REFERRED

The Committee on the Judiciary was discharged from further consideration of the following measure which was referred to the Committee on Foreign Relations:

S.J. Res. 204. Joint Resolution recognizing the American Academy in Rome, an American overseas center for independent study and advanced research, on the occasion of the 100th anniversary of its founding.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent and placed on the calendar:

S. 2243. A bill to amend the Fishermen's Protective Act of 1967 to permit reimbursement of fishermen for fees required by a foreign government to be paid in advance in order to navigate in the waters of that foreign country whenever the United States considers that fee to be inconsistent with international law, and for other purposes.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-538. A resolution adopted by the Missouri Chapter of the American Fisheries Society relative to the White River Reservoir operations; to the Committee on Environment and Public Works.

POM-539. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on Environment and Public Works.

"HOUSE JOINT RESOLUTION 94-1036

"Whereas, a modern, well maintained, efficient, and interconnected transportation system is vital to the economic growth and health and the global competitiveness of our state and the entire nation; and

"Whereas, a highway network is the backbone of a transportation system used for the movement of people, goods, and intermodal connectivity; and it is critical to effectively address highway transportation needs through appropriate transportation plans and program investments; and

"Whereas, the 1991 "Intermodal Surface Transportation Efficiency Act" (ISTEA) established the concept of a 155,000-mile National Highway System (NHS) that includes the Interstate System; and

"Whereas, on December 9, 1993, the United States Department of Transportation transmitted to Congress a 159,000-mile proposed National Highway System that identified 104 port facilities, 143 airports, 191 rail-truck terminals, 321 Amtrak stations, and 319 transit terminals; and

"Whereas, ISTEA requires that the NHS and Interstate Maintenance funds not be released to the states if the NHS is not approved by September 30, 1995; and

"Whereas, the uncertainly associated with the future of the NHS precludes the possibility of Colorado effectively establishing a transportation system necessary for the state through the proper development of planning and programming activities: Now, therefore, be it

"*Resolved by the House of Representatives of the Fifty-ninth General Assembly of the State of Colorado, the Senate concurring herein:*

"That the General Assembly hereby requests the Congress of the United States to accelerate the process of developing and approving the National Highway System. The General Assembly also requests the Congress of the United States to pass legislation designating and approving the National Highway System no later than September 30, 1994; and be it further

"*Resolved,* That copies of this Resolution be sent to the President of the United States, the President of the Senate of the United States Congress, the Speaker of the House of Representatives of the United States Congress, and all the members of the Colorado delegation of the United States Congress."

POM-540. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on Environment and Public Work.

"SENATE JOINT RESOLUTION 94-4

"Whereas, the current authorization of the Endangered Species Act (ESA, 16 U.S.C. 1531 et seq.) has expired and Congress will be considering legislation to reauthorize the ESA; and

"Whereas, the ESA's current emphasis on enforcement of penalties, and listing of species already on the verge of extinction rather than on measures which prevent species decline, is counterproductive; and

"Whereas, the Colorado Division of Wildlife's Nongame and Endangered Wildlife Program has been successful in its efforts to recover the sandhill crane, the peregrine falcon, the bald eagle, greenback cutthroat trout, the river otter, and the squawfish, demonstrating the need to incorporate grater state primacy into the ESA; and

"Whereas, the ESA should be implemented, like other federal statutes, to minimize adverse social and economic impacts; and

"Whereas, where the implementation of the ESA potentially results in the taking of private property rights, the injured person should receive fair and just compensation; and

"Whereas, the ESA should be implemented in a manner which respects interstate water compacts, equitable apportionment decrees, and the water allocation laws and water rights laws of the affected states; and

"Whereas, it is important that the State of Colorado be proactive in identifying solutions to existing and future endangered species problems which minimize the ESA's potential for interference with land and water use: Now, therefore, be it

"*Resolved by the Senate of the Fifty-ninth General Assembly of the State of Colorado, the House of Representatives concurring herein:*

"That we, the members of the General Assembly, request that the United States Congress consider that:

"(1) If a species is listed and a state has a recovery plan in place, individual permits for proposed actions and projects may proceed in that state unless the state decides that they are in direct conflict with the state recovery program;

"(2) Populations of a nonlisted species established under a state recovery program be treated as experimental populations if the species were later listed under the ESA, in order to provide incentives for prevention of the species' decline;

"(3) A State Wildlife Commission not list species as threatened or endangered under a state program unless the listing is accompanied by a viable recovery plan that is fully funded;

"(4) The ESA be amended to require that the United States Fish and wildlife Service take progress toward recovery of endangered species into account when administering the ESA, and that the definition of species "recovery" be expanded accordingly by a new subdivision specifically dealing with progress toward recovery of species;

"(5) Reauthorization of the ESA should contain a provision for state jurisdiction over "candidate" and "sensitive species" so designated by federal agencies;

"(6) The reauthorization of the ESA contain a provision for delaying a federal listing in states where a funded state recovery plan is in place;

"(7) The ESA be amended to provide for compensation for any diminution in the value of private property which results from the application of the ESA. "Private property" for this purpose should be defined to include all traditional property rights including, but not limited to, rights in land, water, and minerals; and be it further

"*Resolved*, That the State of Colorado is considering building a fish hatchery dedicated to native fish species primarily for the reproduction and stocking of species which are listed under the ESA; and be it further

"*Resolved*, That copies of this Resolution be sent to the President of the United States, the Chairman and Ranking Minority Members of the Senate Environment and Public Works Committee, the Administrator of the Environmental Protection Agency, and the Colorado Congressional Delegation."

POM–541. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on Environment and Public Works.

"SENATE JOINT RESOLUTION 94–5

"Whereas, Federal environmental statutes frequently place substantial mandates upon state governments; and

"Whereas, under federal statutes, state governments are called upon to develop environmental regulatory programs which substantially adopt the requirements of such federal statues; and

"Whereas, the burden of proof that the state environmental regulatory programs meet federal statutory requirements has traditionally fallen upon the state governments: Now, therefore, be it

"*Resolved by the Senate of the Fifty-ninth General Assembly of the State of Colorado, the House of Representatives concurring herein:*

"That the Colorado General Assembly believes that each state government should explicitly be given the responsibility and authority to enact legislation and to adopt regulations and policies which implement federal environmental statues including the "Clean Water Act", the "Clean Air Act", the "Resource Conservation and Recovery Act of 1976", and the "Safe Drinking Water Act" and which achieve the goals of such federal statues while conforming to the unique circumstances of the individual state; and be it further

"*Resolved*, That upon enactment of legislation and adoption of regulations and policies by a state government, it shall be the duty and responsibility of the federal government and each federal department and agency to facilitate the enforcement of any such state law under the applicable federal statue; and be it further

"*Resolved*, That in the case of a conflict between state law, regulation, or policy and federal law, regulation, or policy, the federal government may disapprove such state law, regulation, or policy, if it consults and negotiates with such state and provides proof based upon clear and convincing evidence and accept scientific information that such state law, regulation, or policy does not meet the requirements of the federal statue; and be it further

"*Resolved*, That copies of this Resolution be sent to the members of the Colorado congressional delegation, the leadership of the United States House of Representatives and Senate, the National Conference of State Legislatures, the Energy Council, and the Western Legislative Council."

POM–542. A resolution adopted by the House of the Legislature of the State of Michigan; to the Committee on Environment and Public Works.

"HOUSE RESOLUTION NO. 718

"Whereas, in 1977, Congress granted authority to the state of California to establish its own more stringent automobile emissions standards to protect human and environmental health. This authority is contingent upon the determination of the California Air Resources Board and the federal Environmental Protection Agency (EPA) that the state standards are at least as protective of public health and welfare as the federal standards and upon the state's need for extreme measures to control air pollution in serious ozone non-attainment areas; and

"Whereas, under the Clean Air Act, this authority is granted only if the EPA finds that the determination of the state is not arbitrary and capricious, that the proposed state standards are required for compelling and extraordinary conditions, and that the accompanying enforcement procedures are consistent with preventing the endangerment of public health and welfare; and

"Whereas, in January 1993, California was granted an EPA waiver of federal preemption, allowing the implementation of the California Air Resources Board-Low Emission Vehicle (CARB–LEV) program. This LEV program includes a mandate for the production and sale of zero emission vehicles. However, the authority for this mandate is not found in the Clean Air Act. The state gained the authority for the mandate through the waiver of federal preemption which permitted the implementation of the CARB–LEV program; and

"Whereas, evidence now suggests that California is using its special standards-setting authority to go beyond the boundaries of protecting environmental and human health that were intended in granting this authority. Some observers feel that the special authority granted California could be used to solicit commitments from carmakers to build electric vehicle assembly plants in California. In return for a substantial investment in manufacturing base and jobs in the state, the evidence indicates that California is prepared to offer an easing of auto emission standards. The authority to establish more stringent emissions standards was only granted California in order that the state could address its unique smog problems and not for any other purpose. Clearly, the easing of these stringent standards to obtain commitments from automobile manufacturers to invest in assembly plants and jobs which would be located in California is a misuse of the Clean Air Act. It could also result in the loss of jobs in other states. Now, therefore, be it

"*Resolved by the House of Representatives*, That we hereby memorialize the United States Congress, the President, the Vice President, and the Environmental Protection Agency to oppose any attempt by the state of California to use its special authority granted under the Clean Air Act to create an uneven playing field in exchange for automotive manufacturing plants and jobs; and be it further

"*Resolved*, That a copy of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the members of the Michigan congressional delegation, the President of the United States, and the head of the Environmental Protection Agency."

POM–543. A concurrent resolution adopted by the Legislature of the State of Kansas; to the Committee on Environment and Public Works.

"HOUSE CONCURRENT RESOLUTION NO. 5024

"Whereas, in recent years the number of federal "riders" or conditions attached to federal funds earmarked for the states has increased dramatically; and

"Whereas, these riders threaten the states with subsequent loss of the federal funds if they do not adopt certain policies or laws; and

"Whereas, according to the National Governors' Association, states currently faced 13 different financial penalties under which they can lose from 5% to 100% of their highway funds for failure to comply with federal requirements; and

"Whereas, the government of the United States has a difficult time conceiving of the proposition that each state is a sovereign general purpose government and the proposition that the government of the United States is a limited purpose government; and

"Whereas, it is imperative that the State of Kansas assist in the education of the government of the United States with regard to the concept of sovereignty of the states; and

"Whereas, under the provisions of Section 333 of the Department of Transportation and Related Agencies Appropriations Act of 1991, the Congress of the United States has mandated that the Secretary of Transportation is required to withhold 5% of a state's portion of the federal aid to highway funds where the state has not enacted a law which complies in every respect with the federal concept of revoking or suspending the driving privileges of convicted drug offenders; and

"Whereas, under the provisions of Section 333 of the Department of Transportation and Related Agencies Appropriations Act of 1991, the Congress of the United States has provided that so as not to lose its federal aid to highway funds a state's legislature may adopt a resolution expressing its opposition to being coerced by the federal government into enacting a law to revoke or suspend the driving privileges of convicted drug offenders; and

"Whereas, in order not to lose federal aid to highway funds, the Governor of the state must also certify to the Secretary of Transportation that the Governor's state is opposed to being forced by the federal government into the enactment and enforcement of a law revoking or suspending the driving privileges of convicted drug offenders solely for the purposes of avoiding federal sanctions: Now, therefore, be it

"*Resolved by the House of Representatives of the State of Kansas, the Senate concurring therein,* That the Kansas Legislature certifies to the Secretary of Transportation, under the provisions of Section 333 of the Department of Transportation and Related Agencies Appropriations Act of 1991, that it is opposed to the enactment and enforcement of a law relating to the revocation, suspension, issuance and reinstatement of the drivers' licenses of convicted drug offenders set forth in 23 U.S.C. 159; and be it further

"*Resolved,* That the Kansas Legislature, so as not to lose federal aid to highway funds, and in order to help the government of the United States understand its limited mission, urges the Governor of the State of Kansas also to certify to the Secretary of Transportation that this state is opposed to being forced by the federal government to enact and enforce a law revoking or suspending the driving privileges of convicted drug offenders; and be it further

"*Resolved,* That copies of this Concurrent Resolution be transmitted to the Secretary of Transportation, the President of the Senate and the Speaker of the House of Representatives of the United States Congress, the Kansas congressional delegation and the Governor of the State of Kansas."

POM-544. A concurrent resolution adopted by the Legislature of the State of South Carolina; to the Committee on Environment and Public Works.

"A CONCURRENT RESOLUTION

"Whereas, a modern, well maintained, efficient, and interconnected transportation system is vital to the economic growth and health and the global competitiveness of our State and the entire nation; and

"Whereas, the highway network is the backbone of a transportation system for the movement of people, goods, and internodal connectivity; and

"Whereas, it is critical to effectively address highway transportation needs through appropriate transportation plans and program investments; and

"Whereas, the 1991 Internodal Surface Transportation Efficiency Act (ISTEA) established the concept of a one hundred fifty-five thousand mile National Highway System which includes the Interstate System; and

"Whereas, on December 9, 1993, the United States Department of Transportation transmitted to Congress a one hundred fifty-nine thousand mile proposed National Highway System which identified one hundred four port facilities, one hundred forty-three airports, one hundred ninety-one rail-truck terminals, three hundred twenty-one Amtrack stations, and three hundred nineteen transit terminals; and

"Whereas, ISTEA requires that the National Highway System and interstate maintenance funds not be released to the states if the system is not improved by September 30, 1994; and

"Whereas, the uncertainty associated with the future of the National Highway System precludes the possibility of the State to effectively undertake the necessary and properly developed planning and programming activities: Now, therefore, be it

"*Resolved by the House of Representatives, the Senate concurring:* That the members of the General Assembly memorialize the Congress of the United States to develop and approve quickly the National Highway System no later than September 30, 1994; and be it further

"*Resolved,* That a copy of this resolution be forwarded to the President of the United States, the Clerk of the United States House of Representatives, the President of the United States Senate, and the South Carolina Congressional Delegation."

POM-545. A resolution adopted by the Board of Supervisors of Fulton County, New York relative to health care reform; to the Committee on Finance.

POM-546. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on Finance.

"LEGISLATIVE RESOLUTION NO. 31

"Whereas the Omnibus Budget Reconciliation Act of 1993 changed the point of collection of the federal highway tax and, effective January 1, 1994, requires dyeing of diesel fuel that is exempt from the federal diesel fuel tax; and

"Whereas a regulation of the Internal Revenue Service requires dye to be added to nontaxable diesel fuel in the state; and

"Whereas the use of diesel fuel for taxable purposes in Alaska is substantially below that used in the rest of the United States; the State of Alaska has determined that less than five percent of all diesel fuel sold in the state is sold for taxable purposes for use in onroad vehicles and recreational boats, which means that 95 percent of the diesel fuel in Alaska will have to be dyed; and

"Whereas compliance with the requirement imposes a special hardship in rural Alaska in that the ability to meet the requirement in some rural areas is threatened due to the logistical limitations of available tankage and controls; and

"Whereas in a state in which there is a high per capita usage of private aircraft, the dye requirement poses a particular problem for private aircraft users in that dyed diesel is very similar in color to one or more fuels, which could lead to inadvertent mixing or substitution of fuels and increases the probability of improper fuel handling and potential for accidents, serious bodily injury, or death; and

"Whereas the Federal Aviation Administration is very concerned about these serious public health issues and associated safety risks; and

"Whereas the penalties for failure to comply with this legislation can be very high; and

"Whereas there is no indication of any tax fraud in the state related to the improper use of nontaxable fuel for taxable purposes; and be it

"*Resolved,* That the Alaska State Legislature urges the United States Congress to take appropriate action to assure the elimination of the safety threats imposed by the current requirement that nontaxable diesel fuel offered for sale in Alaska be dyed by providing a waiver of the requirement."

POM-547. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on Finance.

"HOUSE JOINT RESOLUTION 94-1005

"Whereas, it is imperative that patients and consumers of health care services be brought back into the financial equation if the cost of providing such services is to be brought under control; and

"Whereas, patients and consumers will reduce health care costs if they are allowed to benefit from prudent individual spending decisions and if they use pre-tax dollars to establish individual medical accounts or individual medical savings accounts; and

"Whereas, it is important to preserve the excellent quality of American medicine by giving Americans the freedom to choose their own health care provider and not limiting their choice to employer- or government-designed health benefit packages: Now, therefore, be it

"*Resolved by the House of Representatives of the Fifty-ninth General Assembly of the State of Colorado, the Senate concurring herein:*

"That we, the members of the Colorado General Assembly, hereby urge the members of the United States Congress to consider programs to encourage and facilitate the use of individual medical savings accounts, which will enable Americans to plan for their future health needs; and be it further

"*Resolved,* That copies of this Resolution be sent to the President of the United States, the Speaker of the House of Representatives of the United States Congress, the President of the Senate of the United States Congress, and each Member of Congress from the State of Colorado."

POM-548. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Finance.

"A CONCURRENT RESOLUTION

"Whereas, the Gulf of Mexico is the most promising oil and gas province in the continental United States; and

"Whereas, the development of oil and natural gas resources is vital to the state of Louisiana and the United States; and

"Whereas, the search for new oil and gas reserves requires exploration further away from shore and at deeper depths; and

"Whereas, the increased distances, increased depths and other factors tremendously increases the cost of deepwater oil and gas exploration and production; and

"Whereas, without the development of the deepwater reserves in the Gulf of Mexico the United States will grow more dependent on foreign oil and natural gas to supply our daily energy needs; and

"Whereas, it would be most beneficial to the state of Louisiana and to all states in the nation to encourage and promote the development of these deepwater offshore resources; and

"Whereas, the oil and gas industry has encountered a difficult period of low prices, increased employee layoffs and a general reduction in size: And therefore, be it

"*Resolved* That the Legislature of Louisiana memorializes the Congress of the United States promote the expedient development of these deepwater reserves by enacting tax credits, royalty relief and other similar steps that will encourage the immediate development of these vital resources found in the Gulf of Mexico: And be it further

"*Resolved* That the Legislature of Louisiana memorializes the Congress of the United States to prevent unnecessary and burdensome regulatory requirements that would halt, hinder or impair the development of these offshore deepwater resources: And be it further

"*Resolved* That a copy of this Resolution shall be transmitted to the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation."

POM-549. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Finance.

"A CONCURRENT RESOLUTION

"Whereas, the Tax Fairness for Main Street Business Act of 1994, also known as Senate Bill 1825, authored by Senator Bumpers, will remove some of the unfair advantages mail order companies now enjoy and allow "main street" firms to compete on a more equal footing; and

"Whereas, this proposed federal legislation is designed to promote equal competition between businesses located both within the state and around the country without placing an undue burden on any business; and

"Whereas, the National Governor's Association, the National Conference of State Legislatures, the National League of Cities, the U.S. Conference of Mayors and many other state and local government associations do endorse and support this legislation: Therefore, be it

"*Resolved*, That the Legislature of Louisiana hereby memorializes the Congress of the United States to enact Senator Bumpers' Tax Fairness For Main Street Business Act of 1994: And be it further

"*Resolved*, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation."

POM-550. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Finance.

"A CONCURRENT RESOLUTION

"Whereas, approximately six-hundred million dollars in local sales taxes and two billion, four-hundred million dollars in state sales taxes go uncollected each year as a result of the United States Supreme Court decision in Bellas Hess vs. Department of Revenue; and

"Whereas, the recent United States Supreme Court's decision in North Dakota vs. Quill Corporation held that the Congress of the United States has the authority to authorize state and local governments to collect sales taxes from interstate sales transactions; and

"Whereas, United States Senator Dale Bumpers has introduced legislation which would require mail marketers with annual United States revenues of three million dollars or more to collect state and local sales, or use taxes on all transactions; and

"Whereas, if this federal legislation is enacted, the estimated tax revenues for the state of Louisiana are thirty million, seven-hundred thousand dollars for the state and twenty-four million, nine-hundred million for local governments within the state; and

"Whereas, Louisiana retailers are at a distinct competitive disadvantage regarding the out-of-state retailers' exemption from the payment of state and local taxes: And therefore, be it

"*Resolved*, That the Legislature of Louisiana hereby memorializes the Congress of the United States to enact legislation authorizing states and local governments to collect sales taxes on interstate sales transactions: And be it further

"*Resolved*, That a copy of this Resolution be transmitted to the secretary of the United States Senate and clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation."

POM-551. A resolution adopted by the House of the Legislature of the State of Oklahoma; to the Committee on Finance.

"RESOLUTION NO. 1042

"Whereas, the U.S. annual trade deficit was over $115 billion for 1993; and

"Whereas, the trade imbalance in the United States has increased 37 percent over the past two years; and

"Whereas, the value of imported goods into the U.S. has grown at a rate twice that of exported goods to other nations; and

"Whereas, the annual trade deficit with Japan grew in 1993 to nearly $60 billion, an increase of 23.7 percent over the previous year, which represents more than one-half of the United States' annual deficit with the world; and

"Whereas, numerous imported goods from Japan are sold openly throughout the United States; and

"Whereas, trade policies in Japan currently prevent the sale of many American products; and

"Whereas, Japan has failed to negotiate objective criteria concerning open trade practices with the U.S.; and

"Whereas, recent circumstances have caused federal officials to consider imposing trade sanctions: Now, therefore, be it

Resolved by the House of Representatives of the 2nd session of the 44th Oklahoma legislature: That the Oklahoma House of Representatives urges Congress to support President Clinton's policy on imposing trade sanctions on Japan for not opening its markets to U.S. products.

"That the Oklahoma House of Representatives encourages Congress to support international economic and trade policies which provide U.S. businesses access to foreign markets, measurable objectives, and which create a level playing field for the sale of U.S. goods abroad.

"That copies of this resolution be distributed to the President of the United States, the Secretary of the United States Senate, the Clerk of the United States House of Representatives, and the State of Oklahoma Congressional Delegation."

POM-552. A concurrent resolution adopted by the Legislature of the State of South Carolina; to the Committee on Finance.

"A CONCURRENT RESOLUTION

"Whereas, thirty-seven million Americans are without health insurance and many more are under-insured because of the effects of rising health care costs. The costs of health care are escalating by as much as seventeen percent each year. This has forced employers to trim the level and availability of health care benefits to their employees; and

"Whereas, polling of citizens shows that a substantial majority feel that affordable health care is the number one economic issue facing them; and

"Whereas, over-utilization of medical services for relatively small claims is one of the most significant causes of health care cost increases. More than two-thirds of all insurance claims for medical spending are less than three thousand dollars each year for families in this country; and

"Whereas, the concept of medical savings accounts has developed in response to the runaway cost increases of health care in this country. This initiative is designed to bring market forces to bear on health care and its financing. It is predicated on providing incentives to eliminate unnecessary medical treatment and encourage competition in seeking health care; and

"Whereas, through employer-funded medical care savings and reduced cost catastrophic insurance policies, millions of Americans could insure themselves for both routine and major medical services. Under the concept of medical care savings accounts, an employer making annual premium payments of four thousand five hundred dollars per employee each year, the national average, would invest three thousand into a medical care bank account for each employee. From this amount, the employee would pay the first three thousand dollars of medical expenses. The remaining one thousand five hundred dollars of the employer's contribution would go toward the purchase of a group policy to cover catastrophic medical costs up to a specified limit. Any of the three thousand dollars not used to pay incurred medical bills belongs to the employee. This could be a strong incentive for people not to abuse health expenditures, and this concept also makes it more feasible for low income workers to seek preventive care and early intervention which they might otherwise be forced to forego due to high deductibles in traditional policies; and

"Whereas, by making medical care decisions the employee's prerogative, individuals have a strong stake in reducing costs. This simple financial mechanism also will expand health insurance options to others who presently have no insurance. Most importantly, this move to decrease health care cost burdens in this country would require no new federal bureaucracy and would be revenue neutral to employers: Now, therefore, be it

"*Resolved by the House of Representatives, the Senate concurring:* That the members of the General Assembly of South Carolina hereby memorialize the Congress of the United States to promptly enact legislation to enable Americans to establish medical care savings accounts: Be it further

"*Resolved*, That copies of this resolution be forwarded to the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the South Carolina Congressional Delegation."

POM-553. A resolution adopted by the House of Legislature of the Commonwealth of Puerto Rico; to the Committee on Finance.

"STATEMENT OF MOTIVES

"In 1930, the Congress of the United States, through section 319 of the Tariff Act of Coffee authorized the Legislature of Puerto Rico to establish a tariff duty for imported coffee.

"Said section has been amended several times and at present the tariff duty for imported coffee is $250.00 per quintal of unprocessed coffee and $300.00 dollars per quintal of processed coffee.

"Recently, in the Free Trade Agreement between the United States, Canada and Mexico, known as "NAFTA", it was agreed that this tariff duty would be eliminated within a ten (10)-year period. Subsequently, the fact that this measure would not be implemented and that the Legislature of Puerto Rico would continue with this responsibility was discussed.

"Aware of the importance this tariff duty has for the coffee industry of Puerto Rico, it is recommended that after a study is conducted, the Congress of the United States be notified of the official position of Puerto Rico regarding the power of the Legislature to continue fixing the tariff duties on this product; And be it

"*Resolved by the House of Representatives of Puerto Rico:*

"Section 1. To direct the Committee on Agriculture of the House of Representatives to analyze the impact of the Free Trade Agreement, known as "NAFTA", on the coffee industry of Puerto Rico, without excluding section 319 of the Tariff Act of Coffee of the United States Congress.

"Section 2. The Committee shall render a report of the analysis directed with its findings, conclusions and recommendations, within one hundred and twenty (120) days following the approval of this Resolution.

"Section 3. This Resolution shall take effect immediately after its approval."

ADDITIONAL COSPONSORS

S. 277

At the request of Mr. SIMON, the names of the Senator from Virginia [Mr. WARNER] and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 277, a bill to authorize the establishment of the National African American Museum within the Smithsonian Institution.

S. 359

At the request of Mr. DECONCINI, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 359, a bill to require the Secretary of Treasury to mint coins in commemoration of the National Law Enforcement Officers Memorial, and for other purposes.

S. 1063

At the request of Mr. HATCH, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 1063, a bill to amend the Employee Retirement Income Security Act of 1974 to clarify the treatment of a qualified football coaches plan.

S. 1404

At the request of Mr. KOHL, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 1404, a bill to amend chapter 111 of title 28, United States Code, relating to protective orders, sealing cases, disclosures of discovery information in civil actions, and for other purposes.

S. 1669

At the request of Mrs. HUTCHISON, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 1669, a bill to amend the Internal Revenue Code of 1986 to allow homemakers to get a full IRA deduction.

S. 1676

At the request of Mr. MACK, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 1676, a bill to provide a fair, nonpolitical process that will achieve $65,000,000,000 in budget outlay reductions each fiscal year until a balanced budget is reached.

S. 2091

At the request of Mr. SARBANES, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2091, a bill to amend certain provisions of title 5, United States Code, in order to ensure equality between Federal firefighters and other employees in the civil service and other public sector firefighters, and for other purposes.

S. 2120

At the request of Mr. INOUYE, the names of the Senator from Vermont [Mr. LEAHY] and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 2120, a bill to amend and extend the authorization of appropriations for public broadcasting, and for other purposes.

S. 2178

At the request of Mr. DASCHLE, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 2178, a bill to provide a program of compensation and health research for illnesses arising from service in the Armed Forces during the Persian Gulf war.

S. 2192

At the request of Mr. BENNETT, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Florida [Mr. MACK], and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of S. 2192, a bill to amend the Securities Exchange Act of 1934 with respect to the extension of unlisted trading privileges for corporate securities, and for other purposes.

SENATE CONCURRENT RESOLUTION 66

At the request of Ms. MIKULSKI, the names of the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of Senate Concurrent Resolution 66, a concurrent resolution to recognize and encourage the convening of a National Silver Haired Congress.

AMENDMENTS SUBMITTED

PRODUCT LIABILITY FAIRNESS ACT

HEFLIN AMENDMENTS NOS. 1860 THROUGH 1875

(Ordered to lie on the table.)

Mr. HEFLIN submitted 16 amendments intended to be proposed by him to the bill (S. 687) to regulate interstate commerce by providing for a uniform product liability law, and for other purposes; as follows:

AMENDMENT NO. 1860

On page 31, line 1, strike out all through line 13.

AMENDMENT NO. 1861

At the appropriate place strike the section relating to several liability for noneconomic loss.

AMENDMENT NO. 1862

On page 8, line 22, strike out all after the period through line 2 on page 9.

AMENDMENT NO. 1863

At the appropriate place strike out the following: "A civil action brought against a manufacturer or product seller for loss or damage to a product itself or for commercial loss is not subject to this Act and shall be governed by applicable commercial or contract law.".

AMENDMENT NO. 1864

On page 5, line 11, beginning with the semicolon, strike out all through line 12, and insert in lieu thereof ", or any commercial loss or harm or loss or damage to a product itself;".

AMENDMENT NO. 1865

At the appropriate place strike out the following:

SEC. . Notwithstanding any other provision of this Act, the definition of the term "harm" shall include any commercial loss or harm or loss or damage to a product itself.

AMENDMENT NO. 1866

On page 5, line 20, insert before the semicolon "and who employs fewer than 20 employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year".

AMENDMENT NO. 1867

On page 6, line 4, insert before the semicolon "and who employs fewer than 20 employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year".

AMENDMENT NO. 1868

On page 31, insert between lines 13 and 14 the following new subsection:

(c) LIMITATION.—This section shall apply only to defendants found to be less than 25 percent responsible for the claimant's harm.

AMENDMENT NO. 1869

On page 18, line 25, beginning with "conscious" strike out all through the period on line 2 of page 19 and insert in lieu thereof "willful, wanton, or reckless conduct or conduct representing conscious indifference to safety.".

AMENDMENT NO. 1870

At the appropriate place in the section relating to uniform standards for award of punitive damages, strike out "conscious, flagrant indifference to the safety of those persons who might be harmed by the product" and insert in lieu thereof "willful, wanton, or reckless conduct or conduct representing conscious indifference to safety.".

AMENDMENT NO. 1871

On page 11, beginning with line 23, strike out all through line 18 on page 14.

AMENDMENT NO. 1872

At the appropriate place, strike the section relating to expedited product liability judgments.

AMENDMENT NO. 1873

On page 13, line 16, strike out all after the period through line 18.

AMENDMENT NO. 1874

At the appropriate place in the section relating to expedited product liability judgments, strike out the following: "Such fees shall be offset against any fees owed by the claimant to the claimant's attorney by reason of the final judgment.".

AMENDMENT NO. 1875

On page 19, insert between lines 6 and 7 the following:

(b) LIABILITY FOR CERTAIN CLAIMS RELATING TO DEATH.—In any civil action in which the alleged harm to the claimant is death and the applicable State law provides, or has been construed to provide, for damages only punitive in nature, a defendant may be liable for any such damages regardless of whether a claim is asserted under this section. The recovery of any such damages shall not bar a claim under this section.

On page 19, line 7, strike out "(b)" and insert in lieu thereof "(c)".

On page 20, line 17, strike out "(c)" and insert in lieu thereof "(d)".

On page 22, line 7, strike out "(d)" and insert in lieu thereof "(e)".

On page 22, line 17, strike out "(e)" and insert in lieu thereof "(f)".

MOSELEY-BRAUN AMENDMENTS NOS. 1876 THROUGH 1878

(Ordered to lie on the table.)

Ms. MOSELEY-BRAUN submitted three amendments intended to be proposed by her to the bill, S. 687, supra; as follows:

AMENDMENT No. 1876

On page 18, strike out line 23 and all that follows through page 20, line 7.

On page 21, line 23, strike out "(d) SEPARATE PROCEEDING.—" and insert in lieu thereof "(c) SEPARATE PROCEEDING.—".

On page 22, beginning on line 8, strike out "(e) DETERMINING AMOUNT OF PUNITIVE DAMAGES.—" and insert in lieu thereof "(d) DETERMINING AMOUNT OF PUNITIVE DAMAGES.—"

AMENDMENT No. 1877

On page 20, strike out line 8 and all that follows through page 21, line 22.

On page 21, line 23, strike out "(d) SEPARATE PROCEEDING.—" and insert in lieu thereof "(c) SEPARATE PROCEEDING.—".

On page 22, beginning on line 8, strike out "(e) DETERMINING AMOUNT OF PUNITIVE DAMAGES.—" and insert in lieu thereof "(d) DETERMINING AMOUNT OF PUNITIVE DAMAGES.—"

AMENDMENT No. 1878

On page 18, strike out line 23 and all that follows through page 21, line 22.

On page 21, line 23, strike out "(d) SEPARATE PROCEEDING.—" and insert in lieu thereof "(b) SEPARATE PROCEEDING.—".

On page 22, beginning on line 8, strike out "(e) DETERMINING AMOUNT OF PUNITIVE DAMAGES.—" and insert in lieu thereof "(c) DETERMINING AMOUNT OF PUNITIVE DAMAGES.—"

HOLLINGS AMENDMENT NO. 1879

(Ordered to lie on the table.)

Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill, S. 687, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . PRODUCT LIABILITY INSURANCE REPORTING.

(a) REPORT TO CONGRESS.—The Secretary of Commerce (hereafter in this section referred to as the "Secretary") shall provide to the Congress before June 30 of each year after the date of enactment of this Act a report analyzing the impact of this Act on insurers which issue product liability insurance either separately or in conjunction with other insurance; and on self-insurers, captive insurers, and risk retention groups.

(b) COLLECTION OF DATA.—To carry out the purposes of this section, the Secretary shall collect from each insurer all data considered necessary by the Secretary to present and analyze fully the impact of this Act on such insurers.

(c) REGULATIONS.—Within 120 days after the date of enactment of this Act, the Secretary shall issue such regulations as may be necessary to implement the purposes, and carry out the provisions, of this section. Such regulations shall be promulgated in accordance with section 553 of title 5, United States Code. Such regulations shall—

(1) require the reporting of information sufficiently comprehensive to make possible a full evaluation of the impact of this Act on such insurers;

(2) specify the information to be provided by such insurers and the format of such information, taking into account methods to minimize the paperwork and cost burdens on such insurers and the Federal Government; and

(3) provide, to the maximum extent practicable, that such information is obtained from existing sources, including, but not limited to, State insurance commissioners, recognized insurance statistical agencies, the Administrative Office of the United States Courts, and the National Center for State Courts.

(d) SUBPOENA.—The Secretary may subpoena witnesses and records related to the report required under this section from any place in the United States. If a witness disobeys such subpoena, the Secretary may petition any district court of the United States to enforce such subpoena. The court may punish a refusal to obey an order of the court to comply with such a subpoena as a contempt of court.

FEINGOLD AMENDMENTS NOS. 1880 THROUGH 1882

(Ordered to lie on the table.)

Mr. FEINGOLD submitted three amendments intended to be proposed by him to the bill, S. 687, supra; as follows:

AMENDMENT No. 1880

On page 6, line 15, insert before the semicolon "or injury, illness, disease, or death of an individual who is less than 18 years of age".

AMENDMENT No. 1881

On page 7, line 15, insert before the semicolon ", or any product designed or marketed primarily for the use of children".

AMENDMENT No. 1882

On page 7, line 15, insert before the semicolon ", or any product marketed primarily for the use of children".

ROCKEFELLER (AND GORTON) AMENDMENTS NOS. 1883 THROUGH 1885

(Ordered to lie on the table.)

Mr. ROCKEFELLER (for himself and Mr. GORTON) submitted three amendments intended to be proposed by them to the bill, S. 687, supra; as follows:

AMENDMENT No. 1883

On page 8, line 20, after the period insert the following: "A civil action for negligent entrustment is not subject to this Act and shall be governed by applicable State law. For purposes of the preceding sentence, the term 'negligent entrustment' means causes of action under applicable State law that subject product sellers to liability for their failure to meet the applicable standard of care under State law in selling a product to a person who, because of his youth, inexperience, or otherwise, is likely to handle the product in a manner to cause harm to himself or others."

AMENDMENT No. 1884

At the appropriate place insert the following new section:

SEC. . SUBSEQUENT REMEDIAL MEASURES.

(a) EVIDENCE GENERALLY INADMISSIBLE.—In any civil action subject to this Act, evidence of any measure taken after an event, which, if taken before the event would have made the event less likely to occur, is not admissible.

(b) LIMITED ADMISSIBILITY FOR IMPEACHMENT.—Such evidence may be admitted, however, in a civil action subject to this Act in which it is alleged that a product was unreasonably dangerous in design or formulation, but solely for the purpose of impeaching the credibility of a witness for the manufacturer or product seller whose testimony has expressly denied the feasibility of such a measure.

AMENDMENT No. 1885

On page 21, line 17, strike "or" and insert "and".

ROCKEFELLER (AND KERREY) AMENDMENT NO. 1886

(Ordered to lie on the table.)

Mr. ROCKEFELLER (for himself and Mr. KERREY) submitted an amendment intended to be proposed by them to the bill, S. 687, supra; as follows:

On page 13, line 20, after the period insert the following: "The amount of any such reduction may not exceed $50,000."

BOXER AMENDMENTS NOS. 1887 THROUGH 1888

(Ordered to lie on the table.)

Mrs. BOXER submitted two amendments intended to be proposed by her to the bill, S. 687, supra; as follows:

AMENDMENT No. 1887

On page 6, line 15, insert before the semicolon "or any harm, injury, illness or disease caused to reproductive organs or capacity".

AMENDMENT No. 1888

At the appropriate place insert the following:

SEC. . Notwithstanding any other provision of this Act, the definition of the term "noneconomic loss" shall not include any harm, injury, illness or disease caused to reproductive organs or capacity.".

LAUTENBERG AMENDMENT NO. 1889

(Ordered to lie on the table.)

Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill, S. 687, supra; as follows:

At the end of section 202, add the following:

(d) NONAPPLICABILITY.—This section shall not apply to a civil action for harm caused by a firearm that was transferred unlawfully or negligently by a product seller.

LAUTENBERG (AND HARKIN) AMENDMENT NO. 1890

(Ordered to lie on the table.)

Mr. LAUTENBERG (for himself and Mr. HARKIN) submitted an amendment intended to be proposed by them to the bill, S. 687, supra; as follows:

At the appropriate place, insert the following new title:

TITLE III—MEDICARE AND MEDICAID THIRD PARTY LIABILITY

SEC. 301. SHORT TITLE.

This title may be cited as the "Medicare and Medicaid Third Party Liability Act".

SEC. 302. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) illnesses and diseases that result from the use of tobacco products cost Federal Government health care programs billions of dollars, including at least $16,000,000,000 in the medicare program and $3,000,000,000 in the medicaid program for inpatient hospital services in fiscal year 1994;

(2) over the next 20 years, such illnesses and diseases will cost the medicare trust funds at least $800,000,000,000;

(3) in April 1994, the trustees of the medicare trust funds concluded that such funds may be insolvent in 7 years, with $128,000,000,000 of expenditures due to such illnesses and diseases;

(4) recent discoveries, including documents, patents and patent applications, and testimony, have shown that—

(A) the tobacco industry has known for years that the nicotine in cigarettes is addictive,

(B) the industry has attempted both to conceal this information from the public and the Government and to manipulate the amount of nicotine in cigarettes, and

(C) it is possible to manufacture cigarettes which are far less dangerous to consumers;

(5) more than 36 percent of medicare recipients are former smokers and 20 percent are current smokers;

(6) approximately 43 percent of medicaid recipients smoke, compared to 26 percent of the general public; and

(7) the medicare population is much more at risk of contacting illnesses and diseases that result from the use tobacco products than younger smokers, because such population has smoked longer;

(8) legal scholars and courts are increasingly agreeing that it is appropriate to use statistical evidence to prove causation; and

(9) in view of the large number of Americans killed, disabled, or otherwise injured each year as a result of smoking cigarettes, the addictiveness of the nicotine in cigarettes, and the absence of any significant benefits to society from smoking cigarettes are an unreasonably dangerous product and cigarette manufacturers are engaged in abnormally dangerous activities.

(b) PURPOSE.—The purpose of this title is to allow the American taxpayers to recoup billions of dollars in Federal Government health care funds spent on tobacco related illnesses and diseases.

SEC. 303. CLASS ACTION TO RECOVER COSTS TO FEDERAL GOVERNMENT HEALTH CARE PROGRAMS OF TOBACCO RELATED ILLNESSES AND DISEASES.

(a) IN GENERAL.—(1) With respect to payments made under any applicable Federal Government health care program to or on behalf of more than one recipient with a disease, illness, condition, or complication caused, in whole or in part, by the use of tobacco products, the Attorney General of the United States may seek recovery for such payments from third parties (or any successors to such third parties) that manufacture tobacco products. The Attorney General (after consultation with the appropriate Secretaries who administer such programs) may bring an action in the name of the United States in United States district court to recover such payments made to or on behalf of all such recipients in one proceeding.

(2) Any action to enforce the rights of the Attorney General under this section with respect to any payment described in paragraph (1) shall be commenced within 5 years of such payment.

(3) For purposes of paragraph (1), the term "applicable Federal Government health care program" includes—

(A) the medicare program under title XVIII of the Social Security Act;

(B) the medicaid program under title XIX of such Act;

(C) the veterans health care program under title 28, United States Code; and

(D) any other similar Federal health care program.

(b) NOTICE UNDER THE CLASS ACTION.—(1) In any action brought under this section, no notice to recipients described in subsection (a)(1) is required, and such recipients shall have no right to become a party to such action. Such action is independent of any rights or causes of action of such recipients.

(2) In any such action in which the number of recipients described in subsection (a)(1) is so large as to cause it to be impracticable to join or identify each claim, the Attorney General shall not be required to so identify the individual recipients for which payment has been made, but rather can proceed to seek recovery based upon payments made to or on behalf of an entire class of recipients.

(c) RULES OF EVIDENCE.—In any action brought under this section, the Federal Rules of Evidence shall be construed, regarding the introduction and probative value of evidence on the issues of causation and damages, in order to effectuate the purposes of this Act to the greatest extent possible. The issues of causation and damages in any such action may be proven by use of statistical analysis or epidemiological evidence, or both.

(d) SHARE OF LIABILITY.—In any action brought under this section in which a third party is liable due to its manufacture, sale, or distribution of a tobacco product, the Attorney General shall be allowed to proceed under a market share theory, if the products involved are substantially interchangeable and substantially similar factual or legal issues would be involved in seeking recovery against each liable third party individually. In the alternative, the Attorney General shall be allowed to proceed under a theory of concerted action or enterprise liability, or both, if warranted by the facts presented to the court.

(e) DISTRIBUTION OF RECOVERY.—Amounts recovered under any action brought under this section shall be paid to the United States and disposed of as follows:

(1) In the case of amounts recovered arising out of a claim under title XIX of the Social Security Act, there shall be paid to each State agency an amount bearing the same proportion to the total amount received as the State's share of the amount paid by the State agency for such claim bears to the total amount paid for such claim.

(2) Such portion of the amounts recovered as is determined to have been paid out of the trust funds under sections 1817 and 1841 of the Social Security Act shall be repaid to such trust funds.

(3) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States.

LAUTENBERG (AND SIMON) AMENDMENT NO. 1891

(Ordered to lie on the table.)

Mr. LAUTENBERG (for himself and Mr. SIMON) submitted an amendment intended to be proposed by them to the bill, S. 687, supra; as follows:

At the end of the bill, add the following:

TITLE III—FIREARMS

SEC. 301. VICTIM COMPENSATION FROM PERSONS WHO UNLAWFULLY PROVIDE FIREARMS TO JUVENILES, FELONS, AND OTHER DISQUALIFIED INDIVIDUALS.

(a) VICTIM COMPENSATION.—Section 924 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(j) VICTIM COMPENSATION.—

"(1) IN GENERAL.—Any person who sells, delivers, or otherwise transfers—

"(A) a firearm in violation of section 922(d) or section 922(b)(1); or

"(B) a handgun to a person who the transferor knows or has reasonable cause to believe is a juvenile, except as provided in paragraph (6),

shall be liable for damages caused by a discharge of the transferred firearm by the transferee.

"(2) CIVIL ACTION.—An action to recover damages under paragraph (1) may be brought in a United States district court by, or on behalf of, any person, or the estate of any person, who suffers damages resulting from bodily injury to or the death of any person caused by a discharge of the transferred firearm by the transferee.

"(3) DISENTITLEMENT TO RECOVERY.—There shall be no liability under this subsection if it is established by a preponderance of the evidence that—

"(A) the damages were suffered by a person who was engaged in a criminal act against the person or property of another at the time of the injury; or

"(B) the injury was self-inflicted, unless the plaintiff establishes that, at the time of the transfer, the transferor knew or had reasonable cause to believe that the transferee had not attained the age of 18 years or had been adjudicated as a mental defective or committed to a mental institution.

"(4) PERIOD OF LIABILITY.—No action under this subsection may be brought for damages that are caused more than 5 years after the date of the transfer of a firearm upon which an action could otherwise be based.

"(5) ATTORNEY'S FEES AND PUNITIVE DAMAGES.—A prevailing plaintiff in an action under this subsection—

"(A) shall be awarded reasonable attorney's fees and costs, and

"(B) may be awarded punitive damages.

"(6) JUVENILES.—Paragraph (1)(B) does not apply to—

"(A) a temporary transfer of a handgun to a juvenile if the handgun is used by the juvenile—

"(i) in the course of employment, in the course of ranching or farming related to activities at the residence of the juvenile (or on property used for ranching or farming at which the juvenile, with the permission of the property owner or lessee, is performing activities related to the operation of the farm or ranch), target practice, hunting, or a course of instruction in the safe and lawful use of a handgun;

"(ii) with the prior written consent of the juvenile's parent or guardian who is not prohibited by Federal, State, or local law from possessing a firearm, except—

"(I) during transportation by the juvenile of an unloaded handgun in a locked container directly from the place of transfer to a place at which an activity described in clause (i) is to take place and transportation by the juvenile of that handgun, unloaded and in a locked container, directly from the place at which such an activity took place to the transferor; or

"(II) with respect to ranching or farming activities as described in clause (i), with the prior written approval of the juvenile's parent or legal guardian and at the direction of an adult who is not prohibited by Federal, State, or local law from possessing a firearm;

"(iii) if the juvenile keeps the prior written consent in the juvenile's possession at all times when a handgun is in the possession of the juvenile; and

"(iv) in accordance with State and local law;

"(B) issuance of a handgun to a juvenile who is a member of the Armed Forces of the United States or the National Guard who possesses or is armed with the handgun in the line of duty;

"(C) a transfer by inheritance of title (but not possession) of a handgun to a juvenile;

"(D) a delivery of a handgun by a juvenile to be used in defense of the juvenile or other persons against an intruder into the residence of the juvenile or a residence in which the juvenile is an invited guest; or

"(E) a transfer of a handgun for consideration if the transfer is made in accordance with State and local law and with the prior consent of the juvenile's parent or legal guardian who is not prohibited by Federal, State, or local law from possessing a firearm.

"(7) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit or have any other effect on any other cause of action available to any person.".

(b) DEFINITION.—Section 921(a) of title 18, United States Code, is amended by adding at the end of the following new paragraph:

"(30) The term 'juvenile' means a person who is less than 18 years of age.".

(c) APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall apply to damages resulting from a firearm that was transferred as described in section 924(j)(1) of title 18, on or after the date of enactment of this Act.

HARKIN AMENDMENTS NOS. 1892 THROUGH 1894

(Ordered to lie on the table.)

Mr. HARKIN submitted three amendments intended to be proposed by him to the bill, S. 687, supra; as follows:

AMENDMENT NO. 1892

On page 6, line 15, insert before the semicolon "or loss resulting in maiming, severe physical disfigurement, or permanent disability".

AMENDMENT NO. 1893

On page 7, line 15, insert before the semicolon "or any tobacco product".

AMENDMENT NO. 1894

On page 5, line 13, insert "(other than a manufacturer of tobacco products)" after "means".

DORGAN (AND MOSELEY-BRAUN) AMENDMENTS NOS. 1895 THROUGH 1898

(Ordered to lie on the table.)

Mr. DORGAN (for himself and Ms. MOSELEY-BRAUN) submitted four amendments intended to be proposed by them to the bill, S. 687, supra; as follows:

AMENDMENT NO. 1895

On page 19, beginning with line 7, strike out all through line 6 on page 22.

AMENDMENT NO. 1896

At the appropriate place insert the following:

SEC. . Notwithstanding any other provision of this Act, no limitation for the award of punitive damages concerning certain drugs and medical devices or certain aircraft and components, under this Act shall take effect.

AMENDMENT NO. 1897

On page 19, beginning with line 7, strike out all through line 16 on page 20.

AMENDMENT NO. 1898

On page 20, beginning with line 19, strike out all through line 6 on page 22.

McCAIN (AND OTHERS) AMENDMENT NO. 1899

(Ordered to lie on the table.)

Mr. McCAIN (for himself, Mr. LIEBERMAN, and Mr. DURENBERGER) submitted an amendment intended to be proposed by them to the bill, S. 687, supra; as follows:

At the appropriate place in the bill, insert the following:

"SEC. . SENSE OF THE SENATE.—

Whereas every year millions of Americans depend on the availability of life-saving or life enhancing permanently implantable medical devices;

Whereas a continued supply of raw materials and component parts is necessary to the invention, development, improvement and maintenance of the supply of such devices;

Whereas most of these devices are made with raw materials and component parts that are not designed or manufactured specifically for use in implantable devices, but which have uses in a variety of non-medical products as well;

Whereas small quantities of these raw materials and component parts are used, so that sales of raw materials and component parts for medical devices are an extremely small portion of the overall market for such raw materials;

Whereas manufacturers of medical devices are required under the Federal Food, Drug and Cosmetics Act to demonstrate that their products are safe and effective, including being properly designed and having adequate warnings or instructions, and existing tort law requires manufacturers of medical devices to ensure they are properly designed and have adequate warnings;

Whereas, notwithstanding the fact that raw materials and component parts suppliers do not design, produce or test the final implant, they have been sued in cases alleging inadequate design and testing of, or warnings related to use of, permanently implanted medical devices;

Whereas even though raw materials and component parts suppliers have almost never been held liable in such suits, because the cost of litigating such suits to a favorable judgment exceeds the total potential sales of such raw materials and component parts to the medical device industry, raw materials and component parts suppliers have begun to cease supplying such raw materials and component parts for use in permanently implanted medical devices;

Whereas the unavailability of raw materials and component parts will, unless alternative sources of supply can be found, lead to unavailability of life-saving and life enhancing medical devices;

Whereas the prospects for development of new sources of supply for the full range of threatened raw materials and component parts are remote, as other suppliers around the world are refusing to sell raw materials or component parts for use in manufacturing permanently implantable medical devices in the United States, and it is unlikely that such a small market could support the large investment needed to develop new suppliers and attempts to do so will raise the cost of medical devices;

Whereas courts that have considered the issue have generally found that raw materials and component part suppliers do not have a duty to evaluate the safety and efficacy of the use of a raw material or component part in a medical device, and also do not have a duty to warn concerning the safety and effectiveness of a medical device;

Whereas attempts to impose such duties will cause more harm than good by driving raw materials and component part suppliers to cease supplying manufacturers of permanently implantable medical devices;

Whereas immediate action is necessary to ensure the availability of raw materials and component parts for medical devices so that Americans have access to the devices they need;

Whereas the products liability concerns that are causing the unavailability of raw materials and component parts for medical implants is part of a larger products liability crisis in this country;

It is the sense of the Senate that prior to the conclusion of the 103rd Congress the Senate should take action to ensure the availability of raw materials and component parts for medical devices by appropriately limiting the liability of suppliers of such materials and parts and providing expeditious procedures to dispose of unwarranted suits against those suppliers."

FORD (AND McCONNELL) AMENDMENT NO. 1900

(Ordered to lie on the table.)

Mr. FORD (for himself and Mr. McCONNELL) submitted an amendment intended to be proposed by them to the bill, S. 687, supra; as follows:

At the appropriate place, insert the following:

SEC. . UNIFORM STANDARDS FOR INTERSTATE WASTE.

(a) This section may be cited as the "Interstate Transportation of Municipal Waste Act of 1994."

(b) INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE.—

Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end the following new section:

"INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE

"SEC. 4011. (a) AUTHORITY TO RESTRICT OUT-OF-STATE MUNICIPAL WASTE.—(1)(A) Except as provided in subsection (b), if requested in writing by both an affected local government and an affected local solid waste planning unit, if the local solid waste planning unit exists under State law, a Governor may prohibit the disposal of out-of-State municipal waste in any landfill or incinerator that is subject to the jurisdiction of the Governor or the affected located government.

"(B) Prior to submitting a request under this section, the affected local government and solid waste planning unit shall—

"(i) provide notice and opportunity for public comment concerning any proposed request; and

"(ii) following notice and comment, take formal action on any proposed request at a public meeting.

"(2) Beginning with calendar year 1993, a Governor of a State may, with respect to landfills covered by the exceptions provided in subsection (b)—

"(A) notwithstanding the absence of a request in writing by the affected local government and the affected local solid waste planning unit, if any,—

"(i) limit the quantity of out-of-State municipal waste received for disposal at each landfill in the State to an annual quantity equal to the quantity of out-of-State municipal waste received for disposal at the landfill during the calendar year 1991 or 1992, whichever is less; and

"(ii) limit the disposal of out-of-State municipal waste at landfills that received, during calendar year 1991, documented shipments of more than 50,000 tons of out-of-State municipal waste representing more than 30 percent of all municipal waste received at the landfill during the calendar year, by prohibiting at each such landfill the disposal, in any year, of a quantity of out-of-State municipal waste that is greater than 30 percent of all municipal waste received at the landfill during calendar year 1991; and

"(B) if requested in writing by the affected local government and the affected local solid waste planning unit, if any, prohibit the disposal of out-of-State municipal waste in landfill cells that do not meet the design and location standards and leachate collection and ground water monitoring requirements of State law and regulations in effect on January 1, 1993, for new landfills.

"(3) In addition to the authorities provided in paragraph (1)(A), beginning with calendar year 1997, a Governor of any State, if requested in writing by the affected local government and the affected local solid waste planning unit, if any, may further limit the disposal of out-of-State municipal waste as provided in paragraph (2)(A)(ii) by reducing the 30 percent annual quantity limitation to 20 percent in each of calendar years 1998 and 1999, and to 10 percent in each succeeding calendar year.

"(4)(A) Any limitation imposed by the Governor under paragraph (2)(A)—

"(i) shall be applicable throughout the State;

"(ii) shall not discriminate against any particular landfill within the State; and

"(iii) shall not discriminate against any shipments of out-of-State municipal waste on the basis of State of origin.

"(B) In responding to requests by affected local governments under paragraphs (1)(A) and (2)(B), the Governor shall response in a manner that does not discriminate against any particular landfill within the State and does not discriminate against any shipments of out-of-State municipal waste on the basis of State of origin.

"(5)(A) Any Governor who intends to exercise the authority provided in this paragraph shall, within 120 days after the date of enactment of this section, submit to the Administrator information documenting the quantity of out-of-State municipal waste received for disposal of the State of the Governor during calendar years 1991 and 1992.

"(B) On receipt of the information submitted pursuant to subparagraph (A), the Administrator shall notify the Governor of each State and the public and shall provide a comment period of not less than 30 days.

"(C) Not later than 60 days after receipt of information from a Governor under subparagraph (A), the Administrator shall determine the quantity of out-of-State municipal waste that was received in each landfill covered by the exceptions provided in subsection (b) for disposal in the State of the Governor during calendar years 1991 and 1992, and provide notice of the determination to the Governor of each State. A determination by the Administrator under this subparagraph shall be final and not subject to judicial review.

"(D) Not later than 180 days after the date of enactment of this section, the Administrator shall publish a list of the quantity of out-of-State municipal waste that was received during calendar years 1991 and 1992 at each landfill covered by the exceptions provided in subsection (b) for disposal in each State in which the Governor intends to exercise the authority provided in this paragraph, as determined in accordance with subparagraph (C).

"(b) EXCEPTIONS TO AUTHORITY TO PROHIBIT OUT-OF-STATE MUNICIPAL WASTE.—The authority to prohibit the disposal of out-of-State municipal waste provided under subsection (a)(1) shall not apply to—

"(1) landfills in operation on the date of enactment of this section that—

"(A) received during calendar year 1991 documented shipments of out-of-State municipal waste; and

"(B) in compliance with all applicable State laws (including any State rule or regulation) relating to design and location standards, leachate collection, ground water monitoring, and financial assurance for closure and post-closure and corrective action;

"(2) proposed landfills that, prior to January 1, 1993, received—

"(A) an approval from the affected local government to receive municipal waste generated outside the country or the State in which the landfill is located; and

"(B) a notice of decision from the State to grant a construction permit; or

"(3) incinerators in operation on the date of enactment of this section that—

"(A) received, during calendar year 1991, documented shipments of out-of-State waste;

"(B) are in compliance with the applicable requirements of section 129 of the Clean Air Act (42 U.S.C. 7429); and

"(C) are in compliance with all applicable State laws (including any State rule or regulation) relating to facility design and operations.

"(d) DEFINITIONS.—As used in this section:

"(1)(A) The term 'affected local government', with respect to a landfill or incinerator, means the elected officials of the city, town, borough, county, or parish in which the facility is located.

"(B) Within 90 days after the date of the enactment of this section, the Governor shall designate which entity listed in subparagraph (A) shall serve as the affected local government for actions taken under this section. If the Governor fails to make a designation, the affected local government shall be the city, town, borough, county, parish, or other public body created pursuant to State law with primary jurisdiction over the land or the use of land on which the facility is located.

"(2) The term 'affected local solid waste planning unit' means a political subdivision of a State with authority relating to solid waste management planning in accordance with State law.

"(3) With respect to a State, the term 'out-of-State municipal waste' means municipal waste generated outside of the State. To the extent that it is consistent with the United States-Canada Free Trade Agreement and the General Agreement on Tariffs and Trade, the term shall include municipal waste generated outside of the United States.

"(4) The term 'municipal waste' means refuse (and refuse-derived fuel) generated by the general public or from a residential, commercial, institutional, or industrial source (or my combination thereof), consisting of paper, wood, yard wastes, plastics, leather, rubber, or other combustible or noncombustible materials such as metal or glass (or any combination thereof). The term 'municipal waste' does not include—

"(A) any solid waste identified or listed as a hazardous waste under section 3001;

"(B) any solid waste, including contaminated soil and debris, resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9604 or 9606) or a corrective action taken under this Act;

"(C) any metal, pipe, glass, plastic, paper, textile, or other material that has been separated or diverted from municipal waste and has been transported into the State for the purpose of recycling or reclamation;

"(D) any solid waste that is—

"(i) generated by an industrial facility; and

"(ii) transported for the purpose of treatment, storage, or disposal to a facility that is owned or operated by the generator of the waste, or is located on property owned by the generator or a company with which the generator is affiliated;

"(E) any solid waste generated incident to the provision of service in interstate, intrastate, foreign, or overseas air transportation;

"(F) any industrial waste that is not identical to municipal waste with respect to the physical and chemical state of the industrial waste, and composition, including construction and demolition debris;

"(G) any medical waste that is segregated from or not mixed with municipal waste; or

"(H) any material or product returned from a dispenser or distributor to the manufacturer for credit, evaluation, or possible reuse.".

(c) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Solid Waste Disposal Act is amended by adding at the end of the items relating to subtitle D the following new item:

"Sec. 4011. Interstate transportation of municipal waste.".

FEINSTEIN (AND LIEBERMAN) AMENDMENT NO. 1901

(Ordered to lie on the table.)

Mrs. FEINSTEIN (for herself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by them to the bill, S. 687, supra; as follows:

On page 18, beginning with line 23, strike out through line 7 on page 20 and insert the following:

"(b) LIMITATION CONCERNING CERTAIN DRUGS AND MEDICAL DEVICES.—

"(1) A manufacturer or product seller of a drug (as defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. 321(g)(1)) or medical device (as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. 321(h)) which caused the claimant's harm has not engaged in conduct manifesting conscious, flagrant indifference to the safety of those persons who might be harmed by the product, and shall not be subject to an award of punitive damages pursuant to this section, where—

"(A) such drug or device was subject to pre-market approval by the Food and Drug Administration pursuant to section 505 (as amended by the New Drug Amendments of 1962, P.L. 87–781), 506, 507, 512, or 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355, 356, 357, 360b, or 360e) or section 351 of the Public Health Service Act (42 U.S.C. 262) with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm or the adequacy of the packaging of labeling of such drug or device, and such drug or device was actually approved by the Food and Drug Administration; or

"(B) the drug or device is generally recognized as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations.

"(2) The provisions of paragraph (1) shall not apply in any case in which the claimant proves by a preponderance of evidence that—

"(A)(i) the defendant, before or after premarket approval of a drug or device, failed to submit or misrepresented to the Food and Drug Administration or any other agency or official of the Federal government required information, including required information regarding any death or other adverse experience associated with use of the drug or device, and (ii) the information that defendant failed to submit or misrepresented is material and relevant to the performance of such drug or device and is causally related to the harm which the claimant allegedly suffered; or

"(B) the defendant made an illegal payment to an official of the Food and Drug Administration for the purpose of either securing or maintaining approval of such drug or device; or

"(C) the Food and Drug Administration has determined in a formal administrative proceeding (by a final order not subject to further review) or a court has determined in an action brought by the United States (by a final judgment not subject to further review) that the drug or device failed to conform to conditions of the Food and Drug Administration for approval (except for changes permitted without prior approval under applicable law, including Food and Drug Administration regulations), and such failure is causally related to the harm which the claimant allegedly suffered.

"(3) The provisions of paragraph (1) shall not apply with respect to a claim for punitive damages based on a defect in manufacturing which causes the drug or device to depart from its intended design."

LIEBERMAN AMENDMENT NO. 1902

(Ordered to lie on the table.)

Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill, S. 687, supra; as follows:

On page 18, beginning with line 23, strike out through line 7 on page 20 and insert the following:

"(b) LIMITATION CONCERNING CERTAIN DRUGS AND MEDICAL DEVICES.—

"(1) A manufacturer or product seller of a drug (as defined in section 201 (g) (1) of the Federal Food, Drug, and Cosmetic Act; 21 U.S.C 321 (g) (1)) or medical device (as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. 321(h)) which caused the claimant's harm has not engaged in conduct manifesting conscious, flagrant indifference to the safety of those persons who might be harmed by the product, and shall not be subject to an award of punitive damages pursuant to this section, where—

"(A) such drug or device was subject to pre-market approval by the Food and Drug Administration pursuant to section 505 (as amended by the New Drug Amendments of 1962, P.L. 87–781), 506, 507, 512, or 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355, 356, 357, 360b, or 360e) or section 351 of the Public Health Service Act (42 U.S.C. 262) with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm or the adequacy of the packaging of labeling of such drug or device, and such drug or device was actually approved by the Food and Drug Administration; or

"(B) the drug or device is generally recognized as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations.

"(2) The provisions of paragraph (1) shall not apply in any case in which the claimant proves by a preponderance of evidence that—

"(A)(i) the defendant, before or after premarket approval of a drug or device, failed to submit or misrepresented to the Food and Drug Administration or any other agency or official of the Federal government required information, including required information regarding any death or another adverse experience associated with use of the drug or device, and (ii) the information that defendant failed to submit or misrepresented is material and relevant to the performance of such drug or device and is causally related to the harm which the claimant allegedly suffered; or

"(B) the defendant made an illegal payment to an official of the Food and Drug Administration for the purpose of either securing or maintaining approval of such drug or device; or

"(C) the Food and Drug Administration has determined in a formal administrative proceeding (by a final order not subject to further review) or a court has determined in an action brought by the United States (by a final judgement not subject to further review) that the drug or device failed to conform to conditions of the Food and Drug Administration for approval (except for changes permitted without prior approval under applicable law, including Food and Drug Administration regulations), and such failure is causally related to the harm which the claimant allegedly suffered.

"(3) The provisions of paragraph (1) shall not apply with respect to a claim for punitive damages based on a defect in manufacturing which causes the drug or device to depart from its intended design."

McCONNELL AMENDMENTS NOS. 1903 THROUGH 1904

(Ordered to lie on the table.)

Mr. McCONNELL submitted two amendments intended to be proposed by him to the bill, S. 687, supra; as follows:

AMENDMENT NO. 1903

At the end of the bill, add the following new section:

SEC. . LITIGATION IMPACT STATEMENT.

Paragraph 11 of rule XXVI of the Standing Rules of the Senate is amended by—

(1) in subparagraph (c), by striking "paragraphs (a) and (b)" and inserting "paragraphs (a), (b), and (c)";

(2) by redesignating subparagraph (c) as subparagraph (d); and

(3) by adding after subparagraph (b) the following:

"(c) Each such report (except those by the Committee on Appropriations) shall also contain a litigation impact evaluation made by such committee which shall include—

"(1) an estimate of any increase in litigation which would result from the enactment of the bill or joint resolution;

"(2) an estimate of any increase in private liability which would result from the enactment of the bill or joint resolution; and

"(3) an estimate of any increase in liability insurance costs which would result from the enactment of the bill or joint resolution.".

AMENDMENT NO. 1904

At the appropriate place, insert the following:

SEC. ___. INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE.

(a) IN GENERAL.—Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end the following new section:

"INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE

"SEC. 4011. (a) AUTHORITY TO RESTRICT OUT-OF-STATE MUNICIPAL WASTE.—If requested in writing by an affected local government, and by an affected local solid waste planning unit if the local solid waste planning unit exists under State law, a Governor may prohibit the disposal of out-of-State municipal waste in any landfill or incinerator that is subject to the jurisdiction of the Governor or the affected local government.

"(b) DEFINITIONS.—As used in this section:

"(1)(A) The term 'affected local government', used with respect to a landfill or incinerator, means the elected officials of the city, town, borough, county, or parish in which the facility is located.

"(B) Within 90 days after the date of enactment of this section, the Governor shall designate which entity listed in subparagraph (A) shall serve as the affected local government for actions taken under this section. If the Governor fails to make a designation, the affected local government shall be the city, town, borough, county, parish, or other public body created pursuant to State law, with primary jurisdiction over the land or the use of land on which the facility is located.

"(2) The term 'affected local solid waste planning unit' means a political subdivision of a State with authority relating to solid waste management planning in accordance with State law.

"(3) The term 'municipal waste' means refuse (and refuse-derived fuel) generated by the general public or from a residential, commercial, institutional, or industrial source (or any combination thereof), consisting of paper, wood, yard wastes, plastics, leather, rubber, or other combustible or noncombustible materials such as metal or glass (or any combination thereof). The term 'municipal waste' does not include—

"(A) any solid waste identified or listed as a hazardous waste under section 3001;

"(B) any solid waste, including contaminated soil and debris, resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of

1980 (42 U.S.C. 9604 or 9606) or a corrective action taken under this Act;

"(C) any metal, pipe, glass, plastic, paper, textile, or other material that has been separated or diverted from municipal waste (as otherwise defined in this paragraph) and has been transported into a State for the purpose of recycling or reclamation;

"(D) any solid waste that is—

"(i) generated by an industrial facility; and

"(ii) transported for the purpose of treatment, storage, or disposal to a facility that is owned or operated by the generator of the waste, or is located on property owned by the generator or a company with which the generator is affiliated;

"(E) any solid waste generated incident to the provision of service in interstate, intrastate, foreign, or overseas air transportation;

"(F) any industrial waste that is not identical to municipal waste (as otherwise defined in this paragraph) with respect to the physical and chemical state of the industrial waste, and composition, including construction and demolition debris;

"(G) any medical waste that is segregated from or not mixed with municipal waste (as otherwise defined in this paragraph); or

"(H) any material or product returned from a dispenser or distributor to the manufacturer for credit, evaluation, or possible reuse.

"(4) The term 'out-of-State municipal waste', used with respect to a State, means municipal waste generated outside of the State. To the extent that it is consistent with the United States-Canada Free-Trade Agreement and the General Agreement on Tariffs and Trade to so define the term, the term shall include municipal waste generated outside of the United States.".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding at the end of the items relating to subtitle D the following new item:

"Sec. 4011. Interstate transportation of municipal waste.".

KERREY AMENDMENT NOS. 1905 THROUGH 1906

(Ordered to lie on the table)

Mr. KERREY submitted two amendments intended to be proposed by him to the bill, S. 687, supra; as follows:

AMENDMENT NO. 1905

On page 18, line 20, beginning with the comma strike out all through the comma on line 21.

AMENDMENT NO. 1906

On page 24, insert between lines 16 and 17 the following paragraph:

(3) No State statute of repose shall apply to any civil action subject to this Act.

KOHL AMENDMENTS NOS. 1907 THROUGH 1908

(Ordered to lie on the table.)

Mr. KOHL submitted two amendments intended to be proposed by him to the bill, S. 687, supra; as follows:

AMENDMENT NO. 1907

Section 4(a) is amended as follows:

Strike the period concluding the first sentence and add at the end of the sentence, "but only those civil actions in which the provisions of paragraphs (1) and (2) have been satisfied."

Then add the following:

(1)(A) In any civil action brought pursuant to this Act, a court shall enter an order under applicable State or Federal rules of civil procedure restricting the disclosure of information obtained through discovery or an order restricting access to court records in a civil case only after making particularized findings of facts that—

(i) such order would not restrict disclosure of information which is relevant to the protection of public health or safety; or

(ii) the public interest in disclosure of potential health or safety hazards is clearly outweighed by a specific and substantial interest in maintaining the confidentiality of the information or records in question; and the requested protective order is no broader than necessary to protect the privacy interest asserted.

(B) No order entered in accordance with the provisions of paragraph (1) shall continue in effect after the entry of final judgment, unless at or after such entry the court makes a separate particularized finding of fact that the terms of paragraph (1)(A)(i) or (ii) have been met.

(C) The party who is the proponent for the entry of an order, as provided under this section, shall have the burden of proof in obtaining such an order.

(2)(A) No agreement between or among parties in a civil action pursuant to this Act filed in a State court or court of the United States may contain a provision that prohibits or otherwise restricts a party from disclosing any information relevant to such civil action to any Federal or State agency with authority to enforce laws regulating an activity relating to such information.

(B) Any disclosure of information to a Federal or State agency as described under paragraph (1) shall be confidential to the extent provided by law.

AMENDMENT NO. 1908

Section 4(a) is amended as follows:

Strike the period concluding the first sentence and add at the end of the sentence, "but only those civil actions in which the provisions of paragraph (1) have been satisfied."

Then add the following:

(1)(A) No agreement between or among parties in a civil action pursuant to this Act filed in a State court or court of the United States may contain a provision that prohibits or otherwise restricts a party from disclosing any information relevant to such civil action to any Federal or State agency with authority to enforce laws regulating an activity relating to such information.

(B) Any disclosure of information to a Federal or State agency as described under paragraph (1) shall be confidential to the extent provided by law.

HEFLIN AMENDMENT NO. 1909

(Ordered to lie on the table.)

Mr. HEFLIN submitted an amendment intended to be proposed by him to the bill, S. 687, supra; as follows:

At the appropriate place insert the following:

SEC. . LIABILITY FOR CERTAIN CLAIMS RELATING TO DEATH.

In any civil action in which the alleged harm to the claimant is death and the applicable State law provides, or has been construed to provide, for damages only punitive in nature, a defendant may be liable for any such damages regardless of whether a claim is asserted under this section. The recovery of any such damages shall not bar a claim under this section.

METZENBAUM AMENDMENTS NOS. 1910 THROUGH 1922

(Ordered to lie on the table.)

Mr. METZENBAUM submitted 13 amendments intended to be proposed by him to the bill, S. 687, supra; as follows:

AMENDMENT NO. 1910

At the appropriate place add the following new title:

TITLE —REGULATION OF TOBACCO PRODUCTS

SEC. . REGULATION OF TOBACCO PRODUCTS.

(a) AUTHORITY.—The Secretary of Health and Human Services shall issue regulations for products containing tobacco to protect children and teenagers from the harmful consequences of tobacco use and to protect the public health.

(b) CONTENT.—Regulations under subsection (a) may regulate the manufacture, introduction or delivery for introduction into interstate commerce, distribution, sale, labeling, advertising, promotion, and content of products containing tobacco, except that no such regulation may ban all sales of cigarettes or other products containing tobacco. Any person subject to such regulations shall at all reasonable times permit an officer or employee duly designated by the Secretary access to their places of business (including research facilities and facilities of persons under contract) and provide an opportunity to inspect their facilities, inventories, and records and to copy any records and take any samples necessary to enforce such regulations.

(c) ENFORCEMENT.—The manufacture (including actions respecting the content of products containing tobacco), introduction or delivery for introduction into interstate commerce, distribution sale, labeling, advertising, or promotion of products containing tobacco in violation of regulations issued under subsection (a) or the failure to make any report required under such regulations shall be considered to be a violation of a prohibited act under section 301 of the Federal Food, Drug, and Cosmetic Act. In any action brought to enforce such regulations, the connection with interstate commerce required for jurisdiction in such action shall be presumed to exist.

(d) CONSTRUCTION.—This section shall not be construed as limiting the authority of the Secretary under the Federal Food, Drug, and Cosmetic Act over products containing tobacco which the Secretary has without the enactment of this section.

AMENDMENT NO. 1911

At the appropriate place add the following:

TITLE —FIREARMS

SEC. . CIVIL LIABILITY FOR VIOLATION OF FIREARM LAW.

Section 924 of title 18, United States Code, is amended by adding at the end of the following new subsection:

"(i)(1) A licensed manufacturer, licensed importer, or licensed dealer who sells, delivers, or otherwise transfers or who imports any firearms or ammunition in violation of Federal law shall be liable for all damages proximately caused by such sale, delivery, or other transfer or importation.

"(2) An action to recover damages under paragraph (1) may be brought in a United

States district court by, or on behalf of, any person, or the estate of any person, who suffers bodily injury or death as a result of the discharge of a firearm or ammunition sold, delivered, or transferred in violation of Federal law. A prevailing plaintiff in such an action shall be awarded costs and a reasonable attorney's fees. Punitive damages shall be recoverable by the plaintiff if the defendant is found to have intentionally or recklessly violated the law.

"(3) No action under paragraph (2) may be brought by or on behalf of a person who was engaged in a criminal act against the person or property of another person at the time of the injury.

"(4) Nothing in this subsection shall be construed to preempt or otherwise limit any other cause of action available to any person.".

AMENDMENT NO. 1912

On page 9, at the end of line 2 insert: "A civil action brought against a manufacturer or product seller is not subject to this Act if—

"(1) there is an agreement between or among parties that contains a provision that prohibits or otherwise restricts a party from disclosing any information relevant to the civil action to any Federal or State agency with authority to enforce laws regulating an activity; or

"(2) a court enters an order restricting the disclosure of information obtained through discovery or an order restricting access to court records, without making particularized findings of fact that—

"(A) such order would not restrict the disclosure of information which is relevant to the protection of public health or safety; or

"(B)(i) the public interest in disclosure of potential health or safety hazards is clearly outweighed by a specific and substantial interest in maintaining the confidentiality of the information or records in question; and

"(ii) there exists no less restrictive means than the requested protective order of adequately and effectively protecting the specific interest asserted.".

AMENDMENT NO. 1913

At the appropriate place insert the following:

SEC. . Notwithstanding any other provision of this Act, a civil action brought against a manufacturer or product seller is not subject to this Act if—

(1) there is an agreement between or among parties that contains a provision that prohibits or otherwise restricts a party from disclosing any information relevant to the civil action to any Federal or State agency with authority to enforce laws regulating an activity; or

(2) a court enters an order restricting the disclosure of information obtained through discovery or an order restricting access to court records, without making particularized findings of fact that—

(A) such order would not restrict the disclosure of information which is relevant to the protection of public health or safety; or

(B)(i) the public interest in disclosure of potential health or safety hazards is clearly outweighed by a specific and substantial interest in maintaining the confidentiality of the information or records in question; and

(ii) there exists no less restrictive means than the requested protective order of adequately and effectively protecting the specific interest asserted.

AMENDMENT NO. 1914

At the appropriate place add the following:

TITLE —FIREARMS

SEC. . FIREARMS AND CHILD SAFETY.

(a) UNLAWFUL ACT.—Section 924 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(i)(1) A person that manufacturers, sells, delivers, or otherwise transfers a firearm that does not have as an integral part a device or devices specified in paragraph (5) shall be liable for all damages proximately caused by the firearm.

"(2) An action to recover damages under paragraph (1) may be brought in United States district court by, or on behalf of, any person, or the estate of any person, who suffers bodily injury or death as a result of the discharge of a firearm manufactured, sold, delivered, or transferred in violation of paragraph (1). Prevailing plaintiffs in such actions shall be awarded costs and reasonable attorneys' fees. Punitive damages shall be recoverable by the plaintiff if the defendant is found to have intentionally or recklessly violated the law.

"(3) No action under paragraph (2) may be brought by, or on behalf of, a person who was engaged in a criminal act against the person or property of another person at the time of the injury.

"(4) Nothing in this subsection shall be construed to preempt, or otherwise limit, any other cause of action available to any person.

"(5) For purposes of this section, the term 'childproof safety devices' shall mean a device or devices that—

"(A) prevent a child of less than 7 years of age from discharging the firearm by reason of the amount of strength, dexterity, cognitive skill, or other ability required to cause a discharge;

"(B) prevent a firearm that has a removable magazine from discharging when the magazine has been removed; and

"(C) in the case of a handgun other than a revolver, clearly indicate whether the magazine or chamber contains a round of ammunition.".

(b) EFFECTIVE DATE.—This section shall take effect 6 months after the date of the enactment of this Act.

AMENDMENT NO. 1915

On page 23, insert between lines 17 and 18 the following new subsection:

(f) NONAPPLICABILITY TO CERTAIN CIVIL ACTIONS.—This section shall not apply to a civil section if—

(1) there is an agreement between or among parties that contains a provision that prohibits or otherwise restricts a party from disclosing any information relevant to the civil action to any Federal or State agency with authority to enforce laws regulating an activity relating to such information, or

(2) a court enters an order restricting the disclosure of information obtained through discovery or an order restricting access to court records, without making particularized findings of fact that—

(A) such order would not restrict the disclosure of information which is relevant to the protection of public health or safety; or

(B)(i) the public interest in disclosure of potential health or safety hazards is clearly outweighed by a specific and substantial interest in maintaining the confidentiality of the information or records in question; and

(ii) there exists no less restrictive means than the requested protective order of adequately and effectively protecting the specific interest asserted.

AMENDMENT NO. 1916

At the appropriate place insert the following:

SEC. . Notwithstanding any other provision of this Act, no provision of this Act relating to uniform standards for the award of punitive damages shall apply to a civil action if—

(1) there is an agreement between or among parties that contains a provision that prohibits or otherwise restricts a party from disclosing any information relevant to the civil action to any Federal or State agency with authority to enforce laws regulating an activity relating to such information, or

(2) a court enters an order restricting the disclosure of information obtained through discovery or an order restricting access to court records, without making particularized finding of fact that—

(A) such order would not restrict the disclosure of information which is relevant to the protection of public health or safety; or

(B)(i) the public interest in disclosure of potential health or safety hazards is clearly outweighed by a specific and substantial interest in maintaining the confidentiality of the information or records in question; and

(ii) there exists no less restrictive means than the requested protective order of adequately and effectively protecting the specific interest asserted.

AMENDMENT NO. 1917

On page 31, at the end of line 9, insert "This subsection shall not apply—

"(1) with respect to any defendant who enters into an agreement between or among parties that contains a provision that prohibits or otherwise restricts a party from disclosing any information relevant to the civil action to any Federal or State agency with authority to enforce laws regulating an activity relating to such information; or

"(2) if a court enters an order restricting the disclosure of information obtained through discovery or an order restricting access to court records, without making particularized findings of fact that—

"(A) such order would not restrict the disclosure of information which is relevant to the protection of public health or safety; or

"(B)(i) the public interest in disclosure of potential health or safety hazards is clearly outweighed by a specific and substantial interest in maintaining the confidentiality of the information or records in question; and

"(ii) there exists no less restrictive means than the requested protective order of adequately and effectively protecting the specific interest asserted.".

AMENDMENT NO. 1918

At the appropriate place insert the following:

SEC. . Notwithstanding any provision of this Act, no provision of this Act relating to several liability for noneconomic loss allocated to a defendant in direct proportion to such defendant's percentage of responsibility shall apply—

(1) with respect to any defendant who enters into an agreement between or among parties that contains a provision that prohibits or otherwise restricts a party from disclosing any information relevant to the civil action to any Federal or State agency with authority to enforce laws regulating an activity relating to such information; or

(2) if a court enters an order restricting the disclosure of information obtained through discovery or an order restricting access to court records, without making particularized findings of fact that—

(A) such order would not restrict the disclosure of information which is relevant to the protection of public health or safety; or

(B)(i) the public interest in disclosure of potential health or safety hazards is clearly outweighed by a specific and substantial interest in maintaining the confidentiality of the information or records in question; and

(ii) there exists no less restrictive means than the requested protective order of adequately and effectively protecting the specific interest asserted.

AMENDMENT NO. 1919

On page 9, at the end of line 2 insert "In any civil action brought against a manufacturer or product seller, on any theory, for harm caused by a product—

"(1) there shall be no agreement between or among parties that contains a provision that prohibits or otherwise restricts a party from disclosing any information relevant to the civil action to any Federal or State agency with authority to enforce laws regulating an activity; and

"(2) a court, if otherwise authorized to issue an order restricting the disclosure of information obtained through discovery or an order restricting access to court records, shall enter such an order only after making particularized findings of fact that—

"(A) such order would not restrict the disclosure of information that is relevant to the protection of the health or safety of the public; or

"(B)(i) the public interest is disclosure of potential health or safety hazards is clearly out-weighted by a specific and substantial interest in maintaining the confidentiality of the information or records in question; and

"(ii) there exists no less restrictive means than the requested protective order of adequately and effectively protecting the specific interest asserted.".

AMENDMENT NO. 1920

At the appropriate place insert the following:

SEC. . Notwithstanding any other provision of this Act, in any civil action brought against a manufacturer or product seller, on any theory, for harm caused by a product—

"(1) there shall be no agreement between or among parties that contains a provision that prohibits or otherwise restricts a party from disclosing any information relevant to the civil action to any Federal or State agency with authority to enforce laws regulating an activity; and

"(2) a court, if otherwise authorized to issue an order restricting the disclosure of information obtained through discovery or an order restricting access to court records, shall enter such a order only after making particularized findings of fact that—

"(A) such an order would not restrict the disclosure of information that is relevant to the protection of the health or safety of the public; or

"(B)(i) the public interest is disclosure of potential health or safety hazards is clearly out-weighed by a specific and substantial interest in maintaining the confidentiality of the information or records in question; and

"(ii) there exists no less restrictive means than the requested protective order of adequately and effectively protecting the specific interest asserted.

AMENDMENT NO. 1921

At the appropriate place, add the following:

SEC. . UNIFORM STANDARDS FOR PROTECTIVE ORDERS AND SEALING OF COURT RECORDS.

In any civil action brought against a manufacturer or product seller, on any theory, for harm caused by a product—

(1) there shall be no agreement between or among parties that contains a provision that prohibits or otherwise restricts a party from disclosing any information relevant to the civil action to any Federal or State agency with authority to enforce laws regulating an activity; and

(2) a court, if otherwise authorized to issue an order restricting the disclosure of information obtained through discovery or an order restricting access to court records, shall enter such an order only after making particularized findings of fact that—

(A) such an order would not restrict the disclosure of information that is relevant to the protection of the health or safety of the public; or

(B)(i) the public interest in disclosure of potential health or safety hazards is clearly outweighed by a specific and substantial interest in maintaining the confidentiality of the information or records in question; and

(ii) there exists no less restrictive means than the requested protective order of adequately and effectively protecting the specific interest asserted.

AMENDMENT NO. 1922

At the appropriate place add the following new title:

TITLE —REIMBURSEMENT OF PAYMENTS MADE FOR TOBACCO-CAUSED ILLNESS, INJURY, OR DEATH

SEC. . REIMBURSEMENT OF PAYMENTS MADE FOR TOBACCO-CAUSED ILLNESS, INJURY, OR DEATH.

(a) JURISDICTION.—

(1) The Federal Government or any department or agency thereof or any State or political subdivision, department, or agency thereof, may bring an action in any United States District Court against a manufacturer of cigarettes to recover reimbursement for the full amount of medical assistance provided by medicare or medicaid under titles XVIII or XIX of the Social Security Act on behalf of a recipient for illness, injury, or death that may have been caused by cigarette smoking.

(2) In the event that medical assistance has been provided to more than one recipient, and the government elects to seek recovery from cigarette manufacturers due to actions by the manufacturers or circumstances which involve common issues of fact or law, an action may be brought under paragraph (1) to recover sums paid to all such recipients in one proceeding.

(b) CAUSE OF ACTION FOR REIMBURSEMENT.—

(1) In an action under subsection (a), a manufacturer of cigarettes shall be held strictly liable in tort for medicare and medicaid expenditures arising from illness, injury, or death caused by cigarette smoking, to the limit of legal liability up to the amount of medical assistance paid by medicare or medicaid.

(2) The Federal Rules of Evidence and principles of common law and equity shall be broadly construed to ensure full reimbursement. Issues of causation and aggregate damages may be proven by use of statistical analysis and epidemiological estimates. Recovery against cigarette manufacturers may be sought under a market share theory. Where joinder or identification of each claim is impacticable, recovery may be sought based upon payments made on behalf of an entire class of recipients.

(3) An action under subsection (a) is independent of any rights or causes of action of a recipient and no action of a recipient shall prejudice or impair an action for reimbursement under subsection (a).

(c) DISTRIBUTION OF RECOVERY.—Any recovery in an action under subsection (a) shall be distributed to the Federal and State governments in accordance with the Federal and State shares of the expenditures.

SPECTER AMENDMENTS NOS. 1923 THROUGH 1926

(Ordered to lie on the table.)

Mr. SPECTER submitted four amendments intended to be proposed by him to the bill, S. 687, supra; as follows:

AMENDMENT NO. 1923

On page 23, beginning on line 23, strike out "unless the complaint" and all that follows through the period and insert in lieu thereof "unless the harm occurs within the longer of (A) the 25-year period beginning on the date of the delivery of the product, or (B) the period of the useful life of the product as expressly defined by the manufacturer, whichever is longer."

AMENDMENT NO. 1924

On page 31, between lines 4 and 5, insert the following:

(c) EXEMPTIONS.—Notwithstanding subsection (a), liability for noneconomic loss shall be joint and several in any action subject to this Act in which the plaintiff has suffered blindness, deafness, brain injury paralysis, disfigurement, or loss of a limb.

AMENDMENT NO. 1925

On page 23, between lines 8 and 9, insert the following:

(f) DISCOVERY FROM APPROVING OR CERTIFYING AGENCY.—(1) Subject to paragraph (2), the claimant or the defendant in any action in which the defendant asserts a limitation on the award of punitive damages under subsection (b) or (c) may obtain discovery from the Food and Drug Administration or the Federal Aviation Administration, as the case may be, of any evidence under the jurisdiction of the agency relating to such assertion.

(2) A court may make an order with respect to discovery authorized under paragraph (1) that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way.

AMENDMENT NO. 1926

On page 32, below line 12, add the following:

(e) APPLICABILITY OF DEFENSES TO CERTAIN DEFECTS AND CRASHWORTHINESS CLAIMS.—(1) The defense set forth in subsection (a) shall not be available to a defendant referred to in that subsection if the claimant proves by clear and convincing evidence that the claimant harm's in the accident or event was greater than it would otherwise have been by reason of a defect in the product concerned.

FEINSTEIN AMENDMENT NO. 1927

(Ordered to lie on the table.)

Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill, S. 687, supra; as follows:

(a) Any corporation, or person who is a manager with respect to a product, facility, equipment, process, place of employment, or business practice, is guilty of a criminal offense punishable by imprisonment for a term not exceeding three years, or by a fine not exceeding twenty-five thousand dollars ($25,000), or by both that fine and imprisonment; but if the defendant is a corporation the fine shall not exceed one million dollars ($1,000,000), if that corporation or person does all of the following:

(1) Has actual knowledge of a serious concealed danger that is subject to the regulatory authority of a state or federal agency and is associated with that product or a component of that product or business practice.

(2) Knowingly fails during the period ending 15 days after the actual knowledge is acquired, or if there is imminent risk of great bodily harm or death, immediately, to do both of the following:

(A) Inform the appropriate government agency in writing, unless the corporation or manager has actual knowledge that the division has been so informed.

Where the concealed danger reported pursuant to this paragraph is subject to the regulatory authority of an agency other than the agency to which it was reported, it shall be the responsibility of the agency which has received the information, within 24 hours of receipt of the information, to telephonically notify the appropriate government agency of the hazard, and promptly forward any written notification received.

(B) Warn its affected employees in writing, unless the corporation or manager has actual knowledge that the employees have been so warned.

The requirement for disclosure is not applicable if the hazard is abated within the time prescribed for reporting, unless the appropriate regulatory agency nonetheless requires disclosure by regulation.

Where the appropriate government agency was not notified, but the corporation or manager reasonably and in good faith believed that they were complying with the notification requirements of this section by notifying another government agency, as listed in paragraph (B), no penalties shall apply.

(b) As used in this section:

(1) "Manager" means a person having both of the following:

(A) Management authority in or as a business entity.

(B) Significant responsibility for any aspect of a business which includes actual authority for the safety of a product or business practice or for the conduct of research or testing in connection with a product or business practice.

(2) "Product" means an article of trade or commerce or other item of merchandise which is a tangible or an intangible good, and includes services.

(3) "Actual knowledge," used with respect to a seriously concealed danger, means has information that would convince a reasonable person in the circumstances in which the manager is situated that the serious concealed danger exists.

(4) "Serious concealed danger," used with respect to a product or business practice, means that the normal or reasonably foreseeable use of, or the exposure of an individual to, the product or business practice creates a substantial probability of death, great bodily harm, or serious exposure to an individual, and the danger is not readily apparent to an individual who is likely to be exposed.

(5) "Great bodily harm" means a significant or substantial physical injury.

(6) "Serious exposure" means any exposure to a hazardous substance, when the exposure occurs as a result of an incident or exposure over time and to a degree or in an amount sufficient to create a substantial probability that death or great bodily harm in the future would result from the exposure.

(7) "Warn its affected employees" means give sufficient description of the serious concealed danger to all individuals working for or in the business entity who are likely to be subject to the serious concealed danger in the course of that work to make those individuals aware of that danger.

(8) "Appropriate government agency" means any state or federal agency, including but not limited to those on the following list, that has regulatory authority with respect to the product or business practice and serious concealed dangers of the sort discovered:

(A) The Federal Occupational Safety and Health Administration.

(B) The U.S. Department of Health and Human Services.

(C) The U.S. Department of Agriculture.

(D) The U.S. Consumer Product Safety Commission.

(E) The United States Food and Drug Administration.

(F) The United States Environmental Protection Agency.

(G) The National Highway Traffic Safety Administration.

(H) The Federal Trade Commission.

(I) The Nuclear Regulatory Commission.

(J) The Federal Aviation Administration.

(K) The Federal Mine Safety and Health Review Commission.

(c) Notification received pursuant to and in compliance with this section shall not be used against any manager in any criminal case, except in a prosecution for perjury or for giving a false statement.

PRESSLER AMENDMENT NO. 1928

(Ordered to lie on the table.)

Mr. PRESSLER submitted an amendment intended to be proposed by him to the bill, S. 687, supra; as follows:

At the appropriate place insert the following:

SEC. . DISTRIBUTION OF PUNITIVE DAMAGE AWARDS.

Notwithstanding any other provision of this Act, if punitive damages are awarded in any civil action subject to this Act, 50 percent of the amount of punitive damages (before any attorney's fees are paid) shall be deposited—

(1) in miscellaneous receipts of the General Treasury of the United States, if such action is filed in Federal court; or

(2) in any fund as provided by State law of the applicable State, if such action is filed in State court.

DOMENICI AMENDMENT NO. 1929

(Ordered to lie on the table.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill, S. 687, supra; as follows:

On page 32, after line 12, insert the following new title:

TITLE III PRIVATE SECURITIES LITIGATION AND FINANCIAL DISCLOSURE

SEC. 301. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This title may be cited as the "Private Securities Litigation Reform Act of 1994".

(b) Table of Contents.—The table of contents for this title is as follows:

Sec. 301. Short title; table of contents.

Subtitle A—Private Securities Litigation

Sec. 311. Elimination of certain abusive practices.

Sec. 312. Alternative dispute resolution procedure; time limitation on private rights of action.

Sec. 313. Plaintiff steering committees.

Sec. 314. Requirements for securities fraud actions.

Sec. 315. Amendment to Racketeer Influenced and Corrupt Organizations Act.

Subtitle B—Financial Disclosure

Sec. 351. Safe harbor for forward-looking statements.

Sec. 352. Fraud detection and disclosure.

Sec. 353. Proportionate liability and joint and several liability.

Sec. 354. Public Auditing Self-Disciplinary Board.

Subtitle A—Private Securities Litigation

SEC. 311. ELIMINATION OF CERTAIN ABUSIVE PRACTICES.

(a) Receipt for Referral Fees.—Section 15(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78*o*(c)) is amended by adding at the end the following new paragraph:

"(7) Receipt of referral fees.—No broker or dealer, or person associated with a broker or dealer, may solicit or accept remuneration for assisting an attorney in obtaining the representation of any customer in any implied private action arising under this title.".

(b) Prohibition on Attorneys' Fees Paid From Commission Disgorgement Funds.—Section 21(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended by adding at the end the following new paragraph:

"(4) Prohibition on attorneys' fees paid from commission disgorgement funds.—Except as otherwise ordered by the court, funds disgorged as the result of an action brought by the Commission in Federal court, or of any Commission administrative action, shall not be distributed as payment for attorneys' fees or expenses incurred by private parties seeking distribution of the disgorged funds.".

(c) Additional Provisions Applicable to Class Actions.—Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended by adding at the end the following new subsections:

"(i) Recovery by Named Plaintiffs in Class Actions.—In an implied private action arising under this title that is certified as a class action pursuant to the Federal Rules of Civil Procedure, the share of any final judgment or of any settlement that is awarded to class plaintiffs serving as the representative parties shall be calculated in the same manner as the shares of the final judgment or settlement awarded to all other members of the class. Nothing in this subsection shall be construed to limit the award to any representative parties of reasonable compensation, costs, and expenses (including lost wages) relating to the representation of the class.

"(j) Conflicts of Interest.—In an implied private action arising under this title that is certified as a class action pursuant to the Federal Rules of Civil Procedure, if a party is represented by an attorney who directly owns or otherwise has a beneficial interest in the securities that are the subject of the litigation, the court shall make a determination of whether such interest constitutes a conflict of interest sufficient to disqualify the attorney from representing the party.

"(k) Restrictions on Settlements Under Seal.—In an implied private action arising under this title that is certified as a class action pursuant to the Federal Rules of Civil Procedure, the terms and provisions of any settlement agreement between any of the parties shall not be filed under seal, except that on motion of any of the parties to the settlement, the court may order filing under seal for those portions of a settlement agreement as to which good cause is shown for such filing under seal. Good cause shall only exist if publication of a term or provision of a settlement agreement would cause direct and substantial harm to any person.

"(l) Restrictions on Payment of Attorneys' Fees From Settlement Funds.—In an implied private action arising under this title that is certified as a class action pursuant to the Federal Rules of Civil Procedure, attorneys' fees awarded by the court to counsel for the class shall be determined as a percentage of the amount of damages and prejudgment interest actually paid to the class as a result of the attorneys' efforts. In no event shall the amount awarded to counsel for the class exceed a reasonable percentage of the amount recovered by the class plus reasonable expenses.

"(m) Disclosure of Settlement Terms to Class Members.—In an implied private action arising under this title that is certified as a class action pursuant to the Federal Rules of Civil Procedure, a proposed settlement agreement that is published or otherwise disseminated to the class shall include the following statements, which shall not be admissible for purposes of any Federal or State judicial or administrative proceeding:

"(1) Statement of potential outcome of case.—

"(A) Agreement on amount of damages and likelihood of prevailing.—If the settling parties agree on the amount of damages per share that would be recoverable if the plaintiff prevailed on each claim alleged under this title and the likelihood that the plaintiff would prevail—

"(i) a statement concerning the amount of such potential damages; and

"(ii) a statement concerning the probability that the plaintiff would prevail on the claims alleged under this title and a brief explanation of the reasons for that conclusion.

"(B) Disagreement on amount of damages or likelihood of prevailing.—If the parties do not agree on the amount of damages per share that would be recoverable if the plaintiff prevailed on each claim alleged under this title or on the likelihood that the plaintiff would prevail on those claims, or both, a statement from each settling party concerning the issue or issues on which the parties disagree.

"(C) Inadmissibility for certain purposes.—Statements made in accordance with subparagraphs (A) and (B) shall not be admissible for purposes of any Federal or State judicial or administrative proceeding.

"(2) Statement of attorneys' fees or costs sought.—If any of the settling parties or their counsel intend to apply to the court for an award of attorneys' fees or costs from any fund established as part of the settlement, a statement indicating which parties or counsel intend to make such an application, the amount of fees and costs that will be sought, and a brief explanation of the basis for the application.

"(3) Identification of representatives.—The name, telephone number, and address of one or more representatives of counsel for the plaintiff class who will be reasonably available to answer questions from class members concerning any matter contained in any notice of settlement published or otherwise disseminated to class members.

"(4) Other information.—Such other information as may be required by the court, or by any guardian ad litem or plaintiff steering committee appointed by the court pursuant to section 38.

"(n) Special Verdicts.—In an implied private action arising under this title in which the plaintiff may recover money damages only on proof that a defendant acted with a particular state of mind, the court shall, when requested by a defendant, submit to the jury a written interrogatory on the issue of each such defendant's state of mind at the time the alleged violation occurred.

"(o) Named Plaintiff Threshold.—In an implied private action arising under this title, in order for a plaintiff or plaintiffs to obtain certification as representatives of a class of investors pursuant to the Federal Rules of Civil Procedure, the plaintiff or plaintiffs must show that they owned, in the aggregate, during the time period in which violations of this title are alleged to have occurred, not less than the lesser of—

"(1) 1 percent of the securities which are the subject of the litigation; or

"(2) $10,000 (in market value) of such securities.".

SEC. 312. ALTERNATIVE DISPUTE RESOLUTION PROCEDURE; TIME LIMITATION ON PRIVATE RIGHTS OF ACTION.

(a) Recovery of Costs and Attorneys' Fees.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new section:

"SEC. 36. ALTERNATIVE DISPUTE RESOLUTION PROCEDURE.

"(a) In General.—

"(1) Offer to proceed.—Except as provided in paragraph (2), in an implied private action arising under this title, any party may, before the expiration of the period permitted for answering the complaint, deliver to all other parties an offer to proceed pursuant to any voluntary, nonbinding alternative dispute resolution procedure established or recognized under the rules of the court in which the action is maintained.

"(2) Plaintiff class actions.—In an implied private action under this title which is brought as a plaintiff class action, an offer under paragraph (1) shall be made not later than 30 days after a guardian ad litem or plaintiff steering committee is appointed by the court in accordance with section 38.

"(3) Response.—The recipient of an offer under paragraph (1) or (2) shall file a written notice of acceptance or rejection of the offer with the court not later than 10 days after receipt of the offer. The court may, upon motion by any party made prior to the expiration of such period, extend the period for not more than 90 additional days, during which time discovery may be permitted by the court.

"(4) Selection of type of alternative dispute resolution.—For purposes of paragraphs (1) and (2), if the rules of the court establish or recognize more than 1 type of alternative dispute resolution, the parties may stipulate as to the type of alternative dispute resolution to be applied. If the parties are unable to so stipulate, the court shall issue an order not later than 20 days after the date on which the parties agree to the use of alternative dispute resolution, specifying the type of alternative dispute resolution to be applied.

"(5) Sanctions for dilatory or obstructive conduct.—If the court finds that a party has engaged in dilatory or obstructive conduct in taking or opposing any discovery allowed during the response period described in paragraph (3), the court may—

"(A) extend the period to permit further discovery from that party for a suitable period; and

"(B) deny that party the opportunity to conduct further discovery prior to the expiration of the period.

"(b) Penalty for Unreasonable Litigation Position.—

"(1) Award of costs.—In an implied private action arising under this title, upon motion of the prevailing party made prior to final judgment, the court shall award costs, including reasonable attorneys' fees, against a party or parties or their attorneys, if—

"(A) the party unreasonably refuses to proceed pursuant to an alternative dispute resolution procedure, or refuses to accept the result of an alternative dispute resolution procedure;

"(B) final judgment is entered against the party; and

"(C) the party asserted a claim or defense in the action which was not substantially justified.

"(2) Determination of justification.—For purposes of paragraph (1)(C), whether a position is 'substantially justified' shall be determined in the same manner as under section 2412(d)(1)(B) of title 28, United States Code.

"(3) Limited use.—Fees and costs awarded under this paragraph shall not be applied to any named plaintiff in any action certified as a class action under the Federal Rules of Civil Procedure if such plaintiff has never owned more than $1,000,000 of the securities which are the subject of the litigation.".

(b) Limitations Period for Implied Private Rights of Action.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new section:

"SEC. 37. LIMITATIONS PERIOD FOR IMPLIED PRIVATE RIGHTS OF ACTION.

"(a) In General.—Except as otherwise provided in this title, an implied private right of action arising under this title shall be brought not later than the earlier of—

"(1) 5 years after the date on which the alleged violation occurred; or

"(2) 2 years after the date on which the alleged violation was discovered or should have been discovered through the exercise of reasonable diligence.

"(b) Effective Date.—The limitations period provided by this section shall apply to all proceedings pending on or commenced after the date of enactment of this section.".

SEC. 313. PLAINTIFF STEERING COMMITTEES.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new section:

"SEC. 38. GUARDIAN AD LITEM AND CLASS ACTION STEERING COMMITTEES.

"(a) Guardian Ad Litem.—Except as provided in subsection (b), not later than 10 days after certifying a plaintiff class in an implied private action brought under this title, the court shall appoint a guardian ad litem for the plaintiff class from a list or lists provided by the parties or their counsel. The guardian ad litem shall direct counsel for the class and perform such other functions as the court may specify. The court shall apportion the reasonable fees and expenses of the guardian ad litem among the parties. Court appointment of a guardian ad litem shall not be subject to interlocutory review.

"(b) Class Action Steering Committee.—Subsection (a) shall not apply if, not later than 10 days after certifying a plaintiff class, on its own motion or on motion of a member of the class, the court appoints a committee of class members to direct counsel for the class (hereafter in this section referred to as the 'plaintiff steering committee') and to perform such other functions as the court may specify. Court appointment of a plaintiff steering committee shall not be subject to interlocutory review.

"(c) Membership of Plaintiff Steering Committee.—

"(1) Qualifications.—

"(A) Number.—A plaintiff steering committee shall consist of not less than 5 class members, willing to serve, who the court believes will fairly represent the class.

"(B) Ownership interests.—Members of the plaintiff steering committee shall have cumulatively held during the class period not less than—

"(i) the lesser of 5 percent of the securities which are the subject matter of the litigation or securities which are the subject matter of the litigation with a market value of $10,000,000; or

"(ii) such smaller percentage or dollar amount as the court finds appropriate under the circumstances.

"(2) Named plaintiffs.—Class members who are named plaintiffs in the litigation may serve on the plaintiff steering committee, but shall not comprise a majority of the committee.

"(3) Noncompensation of members.—Members of the plaintiff steering committee shall serve without compensation, except that any member may apply to the court for reimbursement of reasonable out-of-pocket expenses from any common fund established for the class.

"(4) Meetings.—The plaintiff steering committee shall conduct its business at one or more previously scheduled meetings of the committee at which a majority of its members are present in person or by electronic communication. The plaintiff steering committee shall decide all matters within its authority by a majority vote of all members, except that the committee may determine that decisions other than to accept or reject a settlement offer or to employ or dismiss counsel for the class may be delegated to one or more members of the committee, or may be voted upon by committee members seriatim, without a meeting.

"(5) Right of nonmembers to be heard.—A class member who is not a member of the plaintiff steering committee may appear and be heard by the court on any issue in the action, to the same extent as any other party.

"(d) Functions of Guardian Ad Litem and Plaintiff Steering Committee.—

"(1) Direct counsel.—The authority of the guardian ad litem or the plaintiff steering committee to direct counsel for the class shall include all powers normally permitted to an attorney's client in litigation, including the authority to retain or dismiss counsel and to reject offers of settlement, and the preliminary authority to accept an offer of settlement, subject to the restrictions specified in paragraph (2). Dismissal of counsel other than for cause shall not limit the ability of counsel to enforce any contractual fee agreement or to apply to the court for a fee award from any common fund established for the class.

"(2) Settlement offers.—If a guardian ad litem or a plaintiff steering committee gives preliminary approval to an offer of settlement, the guardian ad litem or the plaintiff steering committee may seek approval of the offer by a majority of class members if the committee determines that the benefit of seeking such approval outweighs the cost of soliciting the approval of class members.

"(e) Immunity From Liability; Removal.—Any person serving as a guardian ad litem or as a member of a plaintiff steering committee shall be immune from any liability arising from such service. The court may remove a guardian ad litem or a member of a plaintiff steering committee for good cause shown.

"(f) Effect on Other Law.—This section does not affect any other provision of law concerning class actions or the authority of the court to give final approval to any offer of settlement.".

SEC. 314. REQUIREMENTS FOR SECURITIES FRAUD ACTIONS.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new section:

"SEC. 39. REQUIREMENTS FOR SECURITIES FRAUD ACTIONS.

"(a) Intent.—In an implied private action arising under this title in which the plaintiff may recover money damages from a defendant only on proof that the defendant acted with some level of intent, the plaintiff's complaint shall allege specific facts demonstrating the state of mind of each defendant at the time the alleged violation occurred.

"(b) Misleading Statements and Omissions.—In an implied action arising under this title in which the plaintiff alleges that the defendant—

"(1) made an untrue statement of a material fact; or

"(2) omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances in which they were made, not misleading;

the plaintiff shall specify each statement alleged to have been misleading, the reason or reasons why the statement is misleading, and, if an allegation regarding the statement or omission is made on information and belief, the plaintiff shall set forth all information on which that belief is formed.

"(c) Burden of Proof.—In an implied private action arising under this title based on a material misstatement or omission concerning a security, and in which the plaintiff claims to have bought or sold the security based on a reasonable belief that the market value of the security reflected all publicly available information, the plaintiff shall have the burden of proving that the misstatement or omission caused any loss incurred by the plaintiff.

"(d) Damages.—In an implied private action arising under this title based on a material misstatement or omission concerning a security, and in which the plaintiff claims to have bought or sold the security based on a reasonable belief that the market value of the security reflected all publicly available information, the plaintiff's damages shall not exceed the lesser of—

"(1) the difference between the price paid by the plaintiff for the security and the market value of the security immediately after dissemination to the market of information which corrects the misstatement or omission; and

"(2) the difference between the price paid by the plaintiff for the security and the price at which the plaintiff sold the security after dissemination of information correcting the misstatement or omission.".

SEC. 315. AMENDMENT TO RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT.

Section 1964(c) of title 18, United States Code, is amended by inserting ", except that no person may bring an action under this provision if the racketeering activity, as defined in section 1961(1)(D), involves fraud in the sale of securities" before the period.

Subtitle B—Financial Disclosure

SEC. 351. SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS.

(a) Consideration of Regulatory or Legislative Changes.—In consultation with investors and issuers of securities, the Securities and Exchange Commission shall consider adopting or amending its rules and regulations, or making legislative recommendations, concerning—

(1) criteria that the Commission finds appropriate for the protection of investors by which forward-looking statements concerning the future economic performance of an issuer of securities registered under section 12 of the Securities Exchange Act of 1934 will be deemed not to be in violation of section 10(b) of that Act; and

(2) procedures by which courts shall timely dismiss claims against such issuers of securities based on such forward-looking statements if such statements are in accordance with any criteria under paragraph (1).

(b) Commission Considerations.—In developing rules or legislative recommendations in accordance with subsection (a), the Commission shall consider—

(1) appropriate limits to liability for forward-looking statements;

(2) procedures for making a summary determination of the applicability of any Commission rule for forward-looking statements early in a judicial proceeding to limit protracted litigation and expansive discovery;

(3) incorporating and reflecting the scienter requirements applicable to implied private actions under section 10(b); and

(4) providing clear guidance to issuers of securities and the judiciary.

(c) Securities Act Amendment.—The Securities and Exchange Act of 1934 (15 U.S.C. 78a et seq.), is amended by adding at the end the following new section:

"SEC. 40. APPLICATION OF SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS.

"(a) In General.—In any implied private action arising under this title that alleges that a forward-looking statement concerning the future economic performance of an issuer registered under section 12 was materially false or misleading, if a party making a motion in accordance with subsection (b) requests a stay of discovery concerning the claims or defenses of that party, the court shall grant such a stay until it has ruled on any such motion.

"(b) Summary Judgment Motions.—Subsection (a) shall apply to any motion for summary judgment made by a defendant asserting that the forward-looking statement was within the coverage of any rule which the Commission may have adopted concerning such predictive statements, if such motion is made not less than 60 days after the plaintiff commences discovery in the action.

"(c) Dilatory Conduct; Duplicative Discovery.—Notwithstanding subsection (a) or (b), the time permitted for a plaintiff to conduct discovery under subsection (b) may be extended, or a stay of the proceedings may be denied, if the court finds that—

"(1) the defendant making a motion described in subsection (b) engaged in dilatory or obstructive conduct in taking or opposing any discovery; or

"(2) a stay of discovery pending a ruling on a motion under subsection (b) would be substantially unfair to the plaintiff or other parties to the action.".

SEC. 352. FRAUD DETECTION AND DISCLOSURE.

(a) In General.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting immediately after section 10 the following new section:

"SEC. 10A. AUDIT REQUIREMENTS.

"(a) In General.—Each audit required pursuant to this title of an issuer's financial statements by an independent public accountant shall include, in accordance with generally accepted auditing standards, as may be modified or supplemented from time to time by the Commission—

"(1) procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the determination of financial statement amounts;

"(2) procedures designed to identify related party transactions which are material to the financial statements or otherwise require disclosure therein; and

"(3) an evaluation of whether there is substantial doubt about the issuer's ability to continue as a going concern during the ensuing fiscal year.

"(b) REQUIRED RESPONSE TO AUDIT DISCOVERIES.—

"(1) INVESTIGATION AND REPORT TO MANAGEMENT.—If, in the course of conducting an audit pursuant to this title to which subsection (a) applies, the independent public accountant detects or otherwise becomes aware of information indicating that an illegal act (whether or not perceived to have a material effect on the issuer's financial statements) has or may have occurred, the accountant shall, in accordance with generally accepted auditing standards, as may be modified or supplemented from time to time by the Commission—

"(A)(i) determine whether it is likely that an illegal act has occurred; and

"(ii) if so, determine and consider the possible effect of the illegal act on the financial statements of the issuer, including any contingent monetary effects, such as fines, penalties, and damages; and

"(B) as soon as practicable, inform the appropriate level of the issuer's management and assure that the issuer's audit committee, or the issuer's board of directors in the absence of such a committee, is adequately informed with respect to illegal acts that have been detected or have otherwise come to the attention of such accountant in the course of the audit, unless the illegal act is clearly inconsequential.

"(2) RESPONSE TO FAILURE TO TAKE REMEDIAL ACTION.—If, having first assured itself that the audit committee of the board of directors of the issuer or the board (in the absence of an audit committee) is adequately informed with respect to illegal acts that have been detected or have otherwise come to the accountant's attention in the course of such accountant's audit, the independent public accountant concludes that—

"(A) the illegal act has a material effect on the financial statements of the issuer;

"(B) the senior management has not taken, and the board of directors has not caused senior management to take, timely and appropriate remedial actions with respect to the illegal act; and

"(C) the failure to take remedial action is reasonably expected to warrant departure from a standard auditor's report, when made, or warrant resignation from the audit engagement;

the independent public accountant shall, as soon as practicable, directly report its conclusions to the board of directors.

"(3) NOTICE TO COMMISSION; RESPONSE TO FAILURE TO NOTIFY.—An issuer whose board of directors receives a report under paragraph (2) shall inform the Commission by notice not later than 1 business day after the receipt of such report and shall furnish the independent public accountant making such report with a copy of the notice furnished to the Commission. If the independent public accountant fails to receive a copy of the notice before the expiration of the required 1-business-day period, the independent public accountant shall—

"(A) resign from the engagement; or

"(B) furnish to the Commission a copy of its report (or the documentation of any oral report given) not later than 1 business day following such failure to receive notice.

"(4) REPORT AFTER RESIGNATION.—If an independent public accountant resigns from an engagement under paragraph (3)(A), the accountant shall, not later than 1 business day following the failure by the issuer to notify the Commission under paragraph (3), furnish to the Commission a copy of the accountant's report (or the documentation of any oral report given).

"(c) AUDITOR LIABILITY LIMITATION.—No independent public accountant shall be liable in a private action for any finding, conclusion, or statement expressed in a report made pursuant to paragraph (3) or (4) of subsection (b), including any rules promulgated pursuant thereto.

"(d) CIVIL PENALTIES IN CEASE-AND-DESIST PROCEEDINGS.—If the Commission finds, after notice and opportunity for hearing in a proceeding instituted pursuant to section 21C, that an independent public accountant has willfully violated paragraph (3) or (4) of subsection (b), the Commission may, in addition to entering an order under section 21C, impose a civil penalty against the independent public accountant and any other person that the Commission finds was a cause of such violation. The determination to impose a civil penalty and the amount of the penalty shall be governed by the standards set forth in section 21B.

"(e) PRESERVATION OF EXISTING AUTHORITY.—Except as provided in subsection (d), nothing in this section shall be held to limit or otherwise affect the authority of the Commission under this title.

"(f) DEFINITION.—As used in this section, the term 'illegal act' means an act or omission that violates any law, or any rule or regulation having the force of law.".

(b) EFFECTIVE DATES.—With respect to any registrant that is required to file selected quarterly financial data pursuant to item 302(a) of Regulation S-K of the Securities and Exchange Commission (17 CFR 229.302(a)), the amendments made by subsection (a) shall apply to any annual report for any period beginning on or after January 1, 1994. With respect to any other registrant, the amendment shall apply for any period beginning on or after January 1, 1995.

SEC. 353. PROPORTIONATE LIABILITY AND JOINT AND SEVERAL LIABILITY.

(a) SECURITIES ACT AMENDMENT.—The Securities and Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new section:

"SEC. 41. PROPORTIONATE LIABILITY AND JOINT AND SEVERAL LIABILITY IN IMPLIED ACTIONS.

"(a) APPLICABILITY.—This section shall apply only to the allocation of damages among persons who are, or who may become, liable for damages in an implied private action arising under this title. Nothing in this section shall affect the standards for liability associated with an implied private action arising under this title.

"(b) APPLICATION OF JOINT AND SEVERAL LIABILITY.—

"(1) IN GENERAL.—A person against whom a judgment is entered in an implied private action arising under this title shall be liable jointly and severally for any recoverable damages on such judgment if the person is found to have—

"(A) been a primary wrongdoer;

"(B) committed knowing securities fraud; or

"(C) controlled any primary wrongdoer or person who committed knowing securities fraud.

"(2) PRIMARY WRONGDOER.—As used in this subsection—

"(A) the term 'primary wrongdoer' means—

"(i) any—

"(I) issuer, registrant, purchaser, seller, or underwriter of securities;

"(II) marketmaker or specialist in securities; or

"(III) clearing agency, securities information processor, or government securities dealer;

if such person breached a direct statutory or regulatory obligation or if such person otherwise had a principal role in the conduct that is the basis for the implied right of action; or

"(ii) any person who intentionally rendered substantial assistance to the fraudulent conduct of any person described in clause (i), with actual knowledge of such person's fraudulent conduct or fraudulent purpose, and with knowledge that such conduct was wrongful; and

"(B) a defendant engages in 'knowing securities fraud' if such defendant—

"(i) makes a material representation with actual knowledge that the representation is false, or omits to make a statement with actual knowledge that, as a result of the omission, one of the defendant's material representations is false and knows that other persons are likely to rely on that misrepresentation or omission, except that reckless conduct by the defendant shall not be construed to constitute 'knowing securities fraud'; or

"(ii) intentionally rendered substantial assistance to the fraudulent conduct of any person described in clause (i), with actual knowledge of such person's fraudulent conduct or fraudulent purpose, and with knowledge that such conduct was wrongful.

"(c) DETERMINATION OF RESPONSIBILITY.—In an implied private action in which more than 1 person contributed to a violation of this title, the court shall instruct the jury to answer special interrogatories, or if there is no jury, shall make findings, concerning the degree of responsibility of each person alleged to have caused or contributed to the violation of this title, including persons who have entered into settlements with the plaintiff. The interrogatories or findings shall specify the amount of damages the plaintiff is entitled to recover and the degree of responsibility, measured as a percentage of the total fault of all persons involved in the violation, of each person found to have caused or contributed to the damages incurred by the plaintiff or plaintiffs. In determining the degree of responsibility, the trier of fact shall consider—

"(1) the nature of the conduct of each person; and

"(2) the nature and extent of the causal relationship between that conduct and the damage claimed by the plaintiff.

"(d) APPLICATION OF PROPORTIONATE LIABILITY.—Except as provided in subsection (b), the amount of liability of a person who is, or may through right of contribution become, liable for damages based on an implied private action arising under this title shall be determined as follows:

"(1) DEGREE OF RESPONSIBILITY.—Except as provided in paragraph (2), each liable party shall only be liable for the portion of the judgment that corresponds to that party's degree of responsibility, as determined under subsection (c).

"(2) UNCOLLECTIBLE SHARES.—If, upon motion made not later than 6 months after a final judgment is entered, the court determines that all or part of a defendant's share of the obligation is uncollectible—

"(A) the remaining defendants shall be jointly and severally liable for the uncollectible share if the plaintiff establishes that—

"(i) the plaintiff is an individual whose recoverable damages under a final judgment are equal to more than 10 percent of the plaintiff's net financial worth; and

"(ii) the plaintiff's net financial worth is less than $200,000; and

"(B) the amount paid by each of the remaining defendants to all other plaintiffs shall be, in total, not more than the greater of—

"(i) that remaining defendant's percentage of fault for the uncollectible share; or

"(ii) 5 times—

"(I) the amount which the defendant gained from the conduct that gave rise to its liability; or

"(II) if a defendant did not obtain a direct financial gain from the conduct that gave rise to the liability and the conduct consisted of the provision of deficient services to an entity involved in the violation, the defendant's gross revenues received for the provision of all services to the other entity involved in the violation during the calendar years in which deficient services were provided.

"(3) OVERALL LIMIT.—In no event shall the total payments required pursuant to paragraph (2) exceed the amount of the uncollectible share.

"(4) DEFENDANTS SUBJECT TO CONTRIBUTION.—A defendant whose liability is reallocated pursuant to paragraph (2) shall be subject to contribution and to any continuing liability to the plaintiff on the judgment.

"(5) RIGHT OF CONTRIBUTION.—To the extent that a defendant is required to make an additional payment pursuant to paragraph (2), that defendant may recover contribution—

"(A) from the defendant originally liable to make the payment;

"(B) from any defendant liable jointly and severally pursuant to subsection (b)(1);

"(C) from any defendant held proportionately liable pursuant to this subsection who is liable to make the same payment and has paid less than his or her proportionate share of that payment; or

"(D) from any other person responsible for the conduct giving rise to the payment who would have been liable to make the same payment.

"(e) NONDISCLOSURE TO JURY.—The standard for allocation of damages under subsections (b)(1) and (c) and the procedure for reallocation of uncollectible shares under subsection (d)(2) shall not be disclosed to members of the jury.

"(f) SETTLEMENT DISCHARGE.—

"(1) IN GENERAL.—A defendant who settles an implied private action brought under this title at any time before verdict or judgment shall be discharged from all claims for contribution brought by other persons. Upon entry of the settlement by the court, the court shall enter a bar order constituting the final discharge of all obligations to the plaintiff of the settling defendant arising out of the action. The order shall bar all future claims for contribution or indemnity arising out of the action—

"(A) by nonsettling persons against the settling defendant; and

"(B) by the settling defendant against any nonsettling defendants.

"(2) REDUCTION.—If a person enters into a settlement with the plaintiff prior to verdict or judgment, the verdict or judgment shall be reduced by the greater of—

"(A) an amount that corresponds to the degree of responsibility of that person; or

"(B) the amount paid to the plaintiff by that person.

"(g) CONTRIBUTION.—A person who becomes liable for damages in an implied private action arising under this title may recover contribution from any other person who, if joined in the original suit, would have been liable for the same damages. A claim for contribution shall be determined based on the degree of responsibility of the claimant and of each person against whom a claim for contribution is made.

"(h) STATUTE OF LIMITATIONS FOR CONTRIBUTION.—Once judgment has been entered in an implied private action arising under this title determining liability, an action for contribution must be brought not later than 6 months after the entry of a final, nonappealable judgment in the action, except that an action for contribution brought by a defendant who was required to make an additional payment pursuant to subsection (d)(2) may be brought not later than 6 months after the date on which such payment was made.".

(b) EFFECTIVE DATE.—Section 41 of the Securities Exchange Act of 1934, as added by subsection (a), shall only apply to implied private actions commenced after the date of enactment of this Act.

SEC. 354. PUBLIC AUDITING SELF-DISCIPLINARY BOARD.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting immediately after section 13 the following new section:

"SEC. 13A. PUBLIC AUDITING SELF-DISCIPLINARY BOARD.

"(a) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) PUBLIC ACCOUNTING FIRM.—The term 'public accounting firm' means a sole proprietorship, unincorporated association, partnership, corporation, or other legal entity that is engaged in the practice of public accounting.

"(2) BOARD.—The term 'Board' means the Public Auditing Self-Disciplinary Board designated by the Commission pursuant to subsection (b).

"(3) ACCOUNTANT'S REPORT.—The term 'accountant's report' means a document in which a public accounting firm identifies a financial statement, report, or other document and sets forth the firm's opinion regarding such financial statement, report, or other document, or an assertion that an opinion cannot be expressed.

"(4) PERSON ASSOCIATED WITH A PUBLIC ACCOUNTING FIRM.—The term 'person associated with a public accounting firm' means a natural person who—

"(A) is a partner, shareholder, employee, or individual proprietor of a public accounting firm, or who shares in the profits of a public accounting firm; and

"(B) engages in any conduct or practice in connection with the preparation of an accountant's report on any financial statement, report, or other document required to be filed with the Commission under any securities law.

"(5) PROFESSIONAL STANDARDS.—The term 'professional standards' means generally accepted auditing standards, generally accepted accounting principles, generally accepted standards for attestation engagements, and any other standards related to the preparation of financial statements or accountant's reports promulgated by the Commission or a standard-setting body recognized by the Board.

"(b) ESTABLISHMENT OF BOARD.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the Commission shall establish a Public Auditing Self-Disciplinary Board to perform the duties set forth in this section. The Commission shall designate an entity to serve as the Board if the Commission finds that—

"(A) such entity is sponsored by an existing national organization of certified public accountants that—

"(i) is most representative of certified public accountants covered by this title; and

"(ii) has demonstrated its commitment to improving the quality of practice before the Commission; and

"(B) control over such entity is vested in the members of the Board selected pursuant to subsection (c).

"(2) ALTERNATIVE ELECTION OF MEMBERS.—If the Commission designates an entity to serve as the Board pursuant to paragraph (1), the entity shall conduct the election of initial Board members in accordance with subsection (c)(1)(B)(i).

"(c) MEMBERSHIP OF BOARD.—

"(1) IN GENERAL.—The Board shall be composed of 3 appointed members and 4 elected members, as follows:

"(A) APPOINTED MEMBERS.—Three members of the Board shall be appointed in accordance with the following:

"(i) INITIAL APPOINTMENTS.—The Chairman of the Commission shall make the initial appointments, in consultation with the other members of the Commission, not later than 90 days after the date of enactment of this section.

"(ii) SUBSEQUENT APPOINTMENTS.—After the initial appointments under clause (i), members of the Board appointed to fill vacancies of appointed members of the Board shall be appointed in accordance with the rules adopted pursuant to paragraph (5). Such rules shall provide that such members shall be appointed by the Board, subject to the approval of the Commission.

"(B) ELECTED MEMBERS.—Four members, including the member who shall serve as the chairperson of the Board, shall be elected in accordance with the following:

"(i) INITIAL ELECTION.—Not later than 120 days after the date on which the Chairman of the Commission makes appointments under subparagraph (A)(i), an entity designated by the Commission pursuant to subsection (b) shall conduct an election of 4 initial elected members pursuant to interim election rules proposed by the entity and approved by the 3 interim members of the Board and the Commission. If the Commission is unable to designate an entity meeting the criteria set forth in subsection (b)(1), the members of the Board appointed under subparagraph (A)(i) shall adopt interim rules, subject to approval by the Commission, providing for the election of the 4 initial elected members. Such rules shall provide that such members of the Board shall be elected—

"(I) not later than 120 days after the date on which members are initially appointed under subparagraph (A)(i);

"(II) by persons who are associated with public accounting firms and who are certified public accountants under the laws of any State; and

"(III) subject to the approval of the Commission.

"(ii) SUBSEQUENT ELECTIONS.—After the initial elections under clause (i), members of the Board elected to fill vacancies of elected members of the Board shall be elected in accordance with the rules adopted pursuant to paragraph (5). Such rules shall provide that such members of the Board shall be elected—

"(I) by persons who are associated with public accounting firms and who are certified public accountants under the laws of any State; and

"(II) subject to the approval of the Commission.

"(2) QUALIFICATION.—Four members of the Board, including the chairperson of the Board, shall be persons who have not been associated with a public accounting firm during the 10-year period preceding appointment or election to the Board under paragraph (1). Three members of the Board who are elected shall be persons associated with a public accounting firm registered with the Board.

"(3) FULL-TIME BASIS.—The chairperson of the Board shall serve on a full-time basis, severing all business ties with his or her former firms or employers prior to beginning service on the Board.

"(4) TERMS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), each member of the Board shall hold office for a term of 4 years or until a successor is appointed, whichever is later, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term.

"(B) INITIAL BOARD MEMBERS.—Beginning on the date on which all members of the Board have been selected in accordance with this subsection, the terms of office of the initial Board members shall expire, as determined by the Board, by lottery—

"(i) for 1 member, 1 year after such date;

"(ii) for 2 members, 2 years after such date;

"(iii) for 2 members, 3 years after such date; and

"(iv) for 2 members, 4 years after such date.

"(5) RULES.—Following selection of the 7 initial members of the Board in accordance with subparagraphs (A)(i) and (B)(i) of paragraph (1), the Board shall propose and adopt rules, which shall provide for—

"(A) the operation and administration of the Board, including—

"(i) the appointment of members in accordance with paragraph (1)(A)(ii);

"(ii) the election of members in accordance with paragraph (1)(B)(ii); and

"(iii) the compensation of the members of the Board;

"(B) the appointment and compensation of such employees, attorneys, and consultants as may be necessary or appropriate to carry out the Board's functions under this title;

"(C) the registration of public accounting firms with the Board pursuant to subsections (d) and (e); and

"(D) the matters described in subsections (f) and (g).

"(d) REGISTRATION AND ANNUAL FEES.—After the date on which all initial members of the Board have been selected in accordance with subsection (c), the Board shall assess and collect a registration fee and annual dues from each public accounting firm registered with the Board. Such fees and dues shall be assessed at a level sufficient to recover the costs and expenses of the Board and to permit the Board to operate on a self-financing basis. The amount of fees and dues for each public accounting firm shall be based upon—

"(1) the annual revenues of such firm from accounting and auditing services;

"(2) the number of persons associated with the public accounting firm;

"(3) the number of clients for which such firm furnishes accountant's reports on financial statements, reports, or other documents filed with the Commission; and

"(4) such other criteria as the Board may establish.

"(e) REGISTRATION WITH BOARD.—

"(1) REGISTRATION REQUIRED.—Beginning 1 year after the date on which all initial members of the Board have been selected in accordance with subsection (c), it shall be unlawful for a public accounting firm to furnish an accountant's report on any financial statement, report, or other document required to be filed with the Commission under any Federal securities law, unless such firm is registered with the Board.

"(2) APPLICATION FOR REGISTRATION.—A public accounting firm may be registered under this subsection by filing with the Board an application for registration in such form and containing such information as the Board, by rule, may prescribe. Each application shall include—

"(A) the names of all clients of the public accounting firm for which the firm furnishes accountant's reports on financial statements, reports, or other documents filed with the Commission;

"(B) financial information of the public accounting firm for its most recent fiscal year, including its annual revenues from accounting and auditing services, its assets and its liabilities;

"(C) a statement of the public accounting firm's policies and procedures with respect to quality control of its accounting and auditing practice;

"(D) information relating to criminal, civil, or administrative actions or formal disciplinary proceedings pending against such firm, or any person associated with such firm, in connection with an accountant's report furnished by such firm;

"(E) a list of persons associated with the public accounting firm who are certified public accountants, including any State professional license or certification number for each such person; and

"(F) such other information that is reasonably related to the Board's responsibilities as the Board considers necessary or appropriate.

"(3) PERIODIC REPORTS.—Once in each year, or more frequently as the Board, by rule, may prescribe, each public accounting firm registered with the Board shall submit reports to the Board updating the information contained in its application for registration and containing such additional information that is reasonably related to the Board's responsibilities as the Board, by rule, may prescribe.

"(4) EXEMPTIONS.—The Commission, by rule or order, upon its own motion or upon application, may conditionally or unconditionally exempt any public accounting firm or any accountant's report, or any class of public accounting firms or any class of accountant's reports, from any provisions of this section or the rules or regulations issued hereunder, if the Commission finds that such exemption is consistent with the public interest, the protection of investors, and the purposes of this section.

"(5) CONFIDENTIALITY.—The Board may, by rule, designate portions of the filings required pursuant to paragraphs (2) and (3) as privileged and confidential.

"(f) DUTIES OF BOARD.—After the date on which all initial members of the Board have been selected in accordance with subsection (c), the Board shall have the following duties and powers:

"(1) INVESTIGATIONS AND DISCIPLINARY PROCEEDINGS.—The Board shall establish fair procedures for investigating and disciplining public accounting firms registered with the Board, and persons associated with such firms, for violations of the Federal securities laws, the rules or regulations issued thereunder, the rules adopted by the Board, or professional standards in connection with the preparation of an accountant's report on a financial statement, report, or other document filed with the Commission.

"(2) INVESTIGATION PROCEDURES.—

"(A) IN GENERAL.—The Board may conduct an investigation of any act, practice, or omission by a public accounting firm registered with the Board, or by any person associated with such firm, in connection with the preparation of an accountant's report on a financial statement, report, or other document filed with the Commission that may violate any applicable provision of the Federal securities laws, the rules and regulations issued thereunder, the rules adopted by the Board, or professional standards, whether such act, practice, or omission is the subject of a criminal, civil, or administrative action, or a disciplinary proceeding, or otherwise is brought to the attention of the Board.

"(B) POWERS OF BOARD.—For purposes of an investigation under this paragraph, the Board may, in addition to such other actions as the Board determines to be necessary or appropriate—

"(i) require the testimony of any person associated with a public accounting firm registered with the Board, with respect to any matter which the Board considers relevant or material to the investigation;

"(ii) require the production of audit workpapers and any other document or information in the possession of a public accounting firm registered with the Board, or any person associated with such firm, wherever domiciled, that the Board considers relevant or material to the investigation, and may examine the books and records of such firm to verify the accuracy of any documents or information so supplied; and

"(iii) request the testimony of any person and the production of any document in the possession of any person, including a client of a public accounting firm registered with the Board, that the Board considers relevant or material to the investigation.

"(C) SUSPENSION OR REVOCATION OF REGISTRATION FOR NONCOMPLIANCE.—The refusal of any person associated with a public accounting firm registered with the Board to testify, or the refusal of any such person to produce documents or otherwise cooperate with the Board, in connection with an investigation under this section, shall be cause for suspending or barring such person from associating with a public accounting firm registered with the Board, or such other appropriate sanction as the Board shall determine. The refusal of any public accounting firm registered with the Board to produce documents or otherwise cooperate with the Board, in connection with an investigation under this section, shall be cause for the suspension or revocation of the registration of such firm, or such other appropriate sanction as the Board shall determine.

"(D) REFERRAL TO COMMISSION.—

"(i) IN GENERAL.—If the Board is unable to conduct or complete an investigation under this section because of the refusal of any client of a public accounting firm registered with the Board, or any other person, to testify, produce documents, or otherwise cooperate with the Board in connection with such investigation, the Board shall report such refusal to the Commission.

"(ii) INVESTIGATION.—The Commission may designate the Board or one or more officers of the Board who shall be empowered, in accordance with such procedures as the Commission may adopt, to subpoena witnesses, compel their attendance, and require the production of any books, papers, correspondence, memoranda, or other records relevant to any investigation by the Board. Attendance of witnesses and the production of any records may be required from any place in the United States or any State at any designated place of hearing. Enforcement of a subpoena issued by the Board, or an officer of the Board, pursuant to this subparagraph shall occur in the manner provided for in section 21(c). Examination of witnesses subpoenaed pursuant to this subparagraph shall be conducted before an officer authorized to administer oaths by the laws of the United States or of the place where the examination is held.

"(iii) REFERRALS TO COMMISSION.—The Board may refer any investigation to the Commission, as the Board deems appropriate.

"(E) IMMUNITY FROM CIVIL LIABILITY.—An employee of the Board engaged in carrying out an investigation or disciplinary proceeding under this section shall be immune from any civil liability arising out of such investigation or disciplinary proceeding in the same manner and to the same extent as an employee of the Federal Government in similar circumstances.

"(3) DISCIPLINARY PROCEDURES.—

"(A) DECISION TO DISCIPLINE.—In a proceeding by the Board to determine whether a public accounting firm, or a person associated with such firm, should be disciplined, the Board shall bring specific charges, notify such firm or person of the charges, give such firm or person an opportunity to defend against such charges, and keep a record of such actions.

"(B) SANCTIONS.—If the Board finds that a public accounting firm, or a person associated with such firm, has engaged in any act, practice, or omission in violation of the Federal securities laws, the rules or regulations issued thereunder, the rules adopted by the Board, or professional standards, the Board may impose such disciplinary sanctions as it deems appropriate, including—

"(i) revocation or suspension of registration under this section;

"(ii) limitation of activities, functions, and operations;

"(iii) fine;

"(iv) censure;

"(v) in the case of a person associated with a public accounting firm, suspension or bar from being associated with a public accounting firm registered with the Board; and

"(vi) any other disciplinary sanction that the Board determines to be appropriate.

"(C) STATEMENT REQUIRED.—A determination by the Board to impose a disciplinary sanction shall be supported by a written statement by the Board setting forth—

"(i) any act or practice in which the public accounting firm or person associated with such firm has been found to have engaged, or which such firm or person has been found to have omitted;

"(ii) the specific provision of the Federal securities laws, the rules or regulations issued thereunder, the rules adopted by the Board, or professional standards which any such act, practice, or omission is deemed to violate; and

"(iii) the sanction imposed and the reasons therefor.

"(D) PROHIBITION ON ASSOCIATION.—It shall be unlawful—

"(i) for any person as to whom a suspension or bar is in effect willfully to be or to become associated with a public accounting firm registered with the Board, in connection with the preparation of an accountant's report on any financial statement, report, or other document filed with the Commission, without the consent of the Board or the Commission; and

"(ii) for any public accounting firm registered with the Board to permit such a person to become, or remain, associated with such firm without the consent of the Board or the Commission, if such firm knew or, in the exercise of reasonable care should have known, of such suspension or bar.

"(4) REPORTING OF SANCTIONS.—If the Board imposes a disciplinary sanction against a public accounting firm, or a person associated with such firm, the Board shall report such sanction to the Commission, to the appropriate State or foreign licensing board or boards with which such firm or such person is licensed or certified to practice public accounting, and to the public. The information reported shall include—

"(A) the name of the public accounting firm, or person associated with such firm, against whom the sanction is imposed;

"(B) a description of the acts, practices, or omissions upon which the sanction is based;

"(C) the nature of the sanction; and

"(D) such other information respecting the circumstances of the disciplinary action (including the name of any client of such firm affected by such acts, practices, or omissions) as the Board deems appropriate.

"(5) DISCOVERY AND ADMISSIBILITY OF BOARD MATERIAL.—

"(A) DISCOVERABILITY.—

"(i) IN GENERAL.—Except as provided in subparagraph (C), all reports, memoranda, and other information prepared, collected, or received by the Board, and the deliberations and other proceedings of the Board and its employees and agents in connection with an investigation or disciplinary proceeding under this section shall not be subject to any form of civil discovery, including demands for production of documents and for testimony of individuals, in connection with any proceeding in any State or Federal court, or before any State or Federal administrative agency. This subparagraph shall not apply to any information provided to the Board that would have been subject to discovery from the person or entity that provided it to the Board, but is no longer available from that person or entity.

"(ii) EXEMPTION.—Submissions to the Board by or on behalf of a public accounting firm or person associated with such a firm or on behalf of any other participant in a Board proceeding, including documents generated by the Board itself, shall be exempt from discovery to the same extent as the material described in clause (i), whether in the possession of the Board or any other person, if such submission—

"(I) is prepared specifically for the purpose of the Board proceeding; and

"(II) addresses the merits of the issues under investigation by the Board.

"(iii) CONSTRUCTION.—Nothing in this subparagraph shall limit the authority of the Board to provide appropriate public access to disciplinary hearings of the Board, or to reports or memoranda received by the Board in connection with such proceedings.

"(B) ADMISSIBILITY.—

"(i) IN GENERAL.—Except as provided in subparagraph (C), all reports, memoranda, and other information prepared, collected, or received by the Board, the deliberations and other proceedings of the Board and its employees and agents in connection with an investigation or disciplinary proceeding under this section, the fact that an investigation or disciplinary proceeding has been commenced, and the Board's determination with respect to any investigation or disciplinary proceeding shall be inadmissible in any proceeding in any State or Federal court or before any State or Federal administrative agency.

"(ii) TREATMENT OF CERTAIN DOCUMENTS.—Submissions to the Board by or on behalf of a public accounting firm or person associated with such a firm or on behalf of any other participant in a Board proceeding, including documents generated by the Board itself, shall be inadmissible to the same extent as the material described in clause (i), if such submission—

"(I) is prepared specifically for the purpose of the Board proceedings; and

"(II) addresses the merits of the issues under investigation by the Board.

"(C) AVAILABILITY AND ADMISSIBILITY OF INFORMATION.—

"(i) IN GENERAL.—All information referred to in subparagraphs (A) and (B) shall be—

"(I) available to the Commission and to any other Federal department or agency in connection with the exercise of its regulatory authority to the extent that such information would be available to such agency from the Commission as a result of a Commission enforcement investigation;

"(II) available to Federal and State authorities in connection with any criminal investigation or proceeding;

"(III) admissible in any action brought by the Commission or any other Federal department or agency pursuant to its regulatory authority, to the extent that such information would be available to such agency from the Commission as a result of a Commission enforcement investigation and in any criminal action; and

"(IV) available to State licensing boards to the extent authorized in paragraph (6).

"(ii) OTHER LIMITATIONS.—Any documents or other information provided to the Commission or other authorities pursuant to clause (i) shall be subject to the limitations on discovery and admissibility set forth in subparagraphs (A) and (B).

"(D) TITLE 5 TREATMENT.—This subsection shall be considered to be a statute described in section 552(b)(3)(B) of title 5, United States Code, for purposes of that section 552.

"(6) PARTICIPATION BY STATE LICENSING BOARDS.—

"(A) NOTICE.—When the Board institutes an investigation pursuant to paragraph (2)(A), it shall notify the State licensing boards in the States in which the public accounting firm or person associated with such firm engaged in the act or failure to act alleged to have violated professional standards, of the pendancy of the investigation, and shall invite the State licensing boards to participate in the investigation.

"(B) ACCEPTANCE BY STATE BOARD.—

"(i) PARTICIPATION.—If a State licensing board elects to join in the investigation, its representatives shall participate, pursuant to rules established by the Board, in investigating the matter and in presenting the evidence justifying the charges in any hearing pursuant to paragraph (3)(A).

"(ii) REVIEW.—In the event that the State licensing board disagrees with the Board's determination with respect to the matter under investigation, it may seek review of that determination by the Commission pursuant to procedures that the Commission shall specify by regulation.

"(C) PROHIBITION ON CONCURRENT INVESTIGATIONS.—A State licensing board shall not institute its own proceeding with respect to a matter referred to in subparagraph (A) until after the Board's determination has become final, including completion of all review by the Commission and the courts.

"(D) STATE SANCTIONS PERMITTED.—If the Board or the Commission imposes a sanction upon a public accounting firm or person associated with such a firm, and that determination either is not subjected to judicial review or is upheld on judicial review, a State licensing board may impose a sanction on the basis of the Board's report pursuant to paragraph (4). Any sanction imposed by the State licensing board under this clause shall be inadmissible in any proceeding in any State or Federal court or before any State or Federal administrative agency, except to the extent provided in paragraph (5)(D).

"(E) SANCTIONS NOT PERMITTED.—If a sanction is not imposed on a public accounting firm or person associated with such a firm, and—

"(i) a State licensing board elected to participate in an investigation referred to in subparagraph (A), the State licensing board may not impose a sanction with respect to the matter; and

"(ii) a State licensing board elected not to participate in an investigation referred to in subparagraph (A), subparagraphs (A) and (B) of paragraph (5) shall apply with respect to any investigation or proceeding subsequently instituted by the State licensing board and, in particular, the State licensing board shall not have access to the record of the proceeding before the Board and that record shall be inadmissible in any proceeding before the State licensing board.

"(g) ADDITIONAL DUTIES REGARDING QUALITY CONTROL.—After the date on which all initial members of the Board have been selected in accordance with subsection (c), the Board shall have the following duties and powers in addition to those set forth in subsection (f):

"(1) IN GENERAL.—The Board shall seek to promote a high level of professional conduct among public accounting firms registered with the Board, to improve the quality of audit services provided by such firms, and, in general, to protect investors and promote the public interest.

"(2) PROFESSIONAL PEER REVIEW ORGANIZATIONS.—

"(A) MEMBERSHIP REQUIREMENT.—The Board shall require each public accounting firm subject to the disciplinary authority of the Board to be a member of a professional peer review organization certified by the Board pursuant to subparagraph (B).

"(B) CRITERIA FOR CERTIFICATION.—The Board shall, by rule, establish general criteria for the certification of peer review organizations and shall certify organizations that satisfy those criteria, or such amended criteria as the Board may adopt. To be certified, a peer review organization shall, at a minimum—

"(i) require a member public accounting firm to undergo peer review not less than once every 3 years and publish the results of the peer review; and

"(ii) adopt standards that are acceptable to the Board relating to audit service quality control.

"(C) PENALTIES.—Violation by a public accounting firm or a person associated with such a firm of a rule of the peer review organization to which the firm belongs shall constitute grounds for—

"(i) the imposition of disciplinary sanctions by the Board pursuant to subsection (f); and

"(ii) denial to the public accounting firm or person associated with such firm of the privilege of appearing or practicing before the Commission.

"(3) CONFIDENTIALITY.—Except as otherwise provided by this section, all reports, memoranda, and other information provided to the Board solely for purposes of paragraph (2), or to a peer review organization certified by the Board, shall be confidential and privileged, unless such confidentiality and privilege are expressly waived by the person or entity that created or provided the information.

"(h) COMMISSION OVERSIGHT OF THE BOARD.—

"(1) PROPOSED RULE CHANGES.—

"(A) IN GENERAL.—The Board shall file with the Commission, in accordance with such rules as the Commission may prescribe, copies of any proposed rule or any proposed change in, addition to, or deletion from the rules of the Board (hereafter in this subsection collectively referred to as a 'proposed rule change') accompanied by a concise general statement of the basis and purpose of such proposed rule change. The Commission shall, upon the filing of any proposed rule change, publish notice thereof together with the terms of substance of the proposed rule change or a description of the subjects and issues involved. The Commission shall give interested persons an opportunity to submit written data, views, and arguments concerning the proposed rule change. No proposed rule change shall take effect unless approved by the Commission or otherwise permitted in accordance with this subsection.

"(B) APPROVAL OR DISAPPROVAL.—

"(i) IN GENERAL.—Not later than 35 days after the date on which notice of the filing of a proposed rule change is published in accordance with subparagraph (A), or such longer period as the Commission may designate (not to exceed 90 days after such date, if it finds such longer period to be appropriate and publishes its reasons for such finding or as to which the Board consents) the Commission shall—

"(I) by order approve such proposed rule change; or

"(II) institute proceedings to determine whether the proposed rule change should be disapproved.

"(ii) DISAPPROVAL PROCEEDINGS.—Proceedings for disapproval shall include notice of the grounds for disapproval under consideration and opportunity for hearing and shall be concluded not later than 180 days after the date of publication of notice of the filing of the proposed rule change. At the conclusion of the proceedings for disapproval, the Commission, by order, shall approve or disapprove such proposed rule change. The Commission may extend the time for conclusion of such proceedings for—

"(I) not more than 60 days, if the Commission finds good cause for such extension and publishes its reasons for such finding; or

"(II) such longer period to which the Board consents.

"(iii) APPROVAL.—The Commission shall approve a proposed rule change if it finds that such proposed rule change is consistent with the requirements of the Federal securities laws, and the rules and regulations issued thereunder, applicable to the Board. The Commission shall disapprove a proposed rule change if it does not make such finding. The Commission shall not approve any proposed rule change prior to the expiration of the 30-day period beginning on the date on which notice of the filing of a proposed rule change is published in accordance with this subparagraph, unless the Commission finds good cause to do so and publishes its reasons for such finding.

"(C) EFFECT OF PROPOSED RULE CHANGE.—

"(i) EFFECTIVE DATE.—Notwithstanding subparagraph (B), a proposed rule change may take effect upon filing with the Commission if designated by the Board as—

"(I) constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the Board;

"(II) establishing or changing a due, fee, or other charge imposed by the Board; or

"(III) concerned solely with the administration of the Board or other matters which the Commission, by rule, consistent with the public interest and the purposes of this subsection, may specify.

"(ii) SUMMARY EFFECT.—Notwithstanding any other provision of this subsection, a proposed rule change may be put into effect summarily if it appears to the Commission that such action is necessary for the protection of investors. Any proposed rule change put into effect summarily shall be filed promptly thereafter in accordance with this paragraph.

"(iii) ENFORCEMENT.—Any proposed rule change which has taken effect pursuant to clause (i) or (ii) may be enforced by the Board to the extent that it is not inconsistent with the Federal securities laws, the rules and regulations issued thereunder, and applicable Federal and State law. During the 60-day period beginning on the date on which notice of the filing of a proposed rule change if filed in accordance with this paragraph, the Commission may summarily abrogate the change in the rules of the Board made thereby and require that the proposed rule change be refiled in accordance with subparagraph (A) and reviewed in accordance with subparagraph (B), if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Federal securities laws. Commission action pursuant to the preceding sentence shall not affect the validity or force of the rule change during the period it was in effect and shall not be reviewable under section 25 of this Act nor deemed to be 'final agency action' for purposes of section 704 of title 5, United States Code.

"(2) AMENDMENT BY COMMISSION OF RULES OF THE BOARD.—The Commission, by rule, may abrogate, add to, and delete from (hereafter in this subsection collectively referred to as 'amend') the rules of the Board as the Commission deems necessary or appropriate to ensure the fair administration of the Board, to conform its rules to requirements of the Federal securities laws, and the rules and regulations issued thereunder applicable to the Board, or otherwise in furtherance of the purposes of the Federal securities laws, in the following manner:

"(A) PUBLICATION OF NOTICE.—The Commission shall notify the Board and publish notice of the proposed rulemaking in the Federal Register. The notice shall include the text of the proposed amendment to the rules of the Board and a statement of the Commission's reasons, including any pertinent facts, for commencing such proposed rulemaking.

"(B) COMMENTS.—The Commission shall give interested persons an opportunity for the oral presentation of data, views, and arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.

"(C) INCORPORATION.—A rule adopted pursuant to this subsection shall incorporate the text of the amendment to the rules of the Board and a statement of the Commission's basis for and purpose in so amending such rules. Such statement shall include an identification of any facts on which the Commission considers its determination to so amend the rules of the Board to be based, including the reasons for the Commission's conclusions as to any of the facts that were disputed in the rulemaking.

"(D) REGULATIONS.—

"(i) TITLE 5 APPLICABILITY.—Except as otherwise provided in this paragraph, rulemaking under this paragraph shall be in accordance with the procedures specified in section 553 of title 5, United States Code, for rulemaking not on the record.

"(ii) CONSTRUCTION.—Nothing in this subsection shall be construed to impair or limit the Commission's power to make, modify, or alter the procedures the Commission may follow in making rules and regulations pursuant to any other authority under the Federal securities laws.

"(iii) INCORPORATION OF AMENDMENTS.—Any amendment to the rules of the Board made by the Commission pursuant to this subsection shall be considered for purposes of the Federal securities laws to be part of the rules of the Board and shall not be considered to be a rule of the Commission.

"(3) NOTICE OF DISCIPLINARY ACTION TAKEN BY THE BOARD; REVIEW OF ACTION BY THE COMMISSION.—

"(A) NOTICE REQUIRED.—If the Board imposes a final disciplinary sanction on a public accounting firm registered with the Board or on any person associated with a firm, the Board shall promptly file notice thereof with the Commission. The notice shall be in such form and contain such information as the Commission, by rule, may prescribe as necessary or appropriate in furtherance of the purposes of the Federal securities laws.

"(B) REVIEW.—An action with respect to which the Board is required by subparagraph (A) to file notice shall be subject to review by the Commission, on its own motion, or upon application by any person aggrieved thereby, filed not later than 30 days after the date on which such notice is filed with the Commission and received by such aggrieved person, or within such longer period as the Commission may determine. Application to the Commission for review, or the institution of review by the Commission on its own motion, shall not operate as a stay of such action unless the Commission otherwise orders, summarily or after notice and opportunity for hearing on the question of a stay (which hearing may consist solely of the submission of affidavits or presentation of oral arguments). The Commission shall establish for appropriate cases an expedited procedure for consideration and determination of the question of a stay.

"(4) DISPOSITION OF REVIEW; CANCELLATION, REDUCTION, OR REMISSION OF SANCTION.—

"(A) IN GENERAL.—In any proceeding to review a final disciplinary sanction imposed by the Board on a public accounting firm registered with the Board or a person associated with such a firm, after notice and opportunity for hearing (which hearing may consist solely of consideration of the record before the Board and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the sanction)—

"(i) if the Commission finds that—

"(I) such firm or person associated with such a firm has engaged in such acts or practices, or has omitted such acts, as the Board has found them to have engaged in or omitted;

"(II) such acts, practices, or omissions, are in violation of such provisions of the Federal securities laws, the rules or regulations issued thereunder, the rules adopted by the Board, or professional standards as have been specified in the determination of the Board; and

"(III) such provisions were applied in a manner consistent with the purposes of the Federal securities laws;

the Commission, by order, shall so declare and, as appropriate, affirm the sanction imposed by the Board, modify the sanction in accordance with paragraph (2), or remand to the Board for further proceedings; or

"(ii) if the Commission does not make the findings under clause (i), it shall, by order, set aside the sanction imposed by the Board and, if appropriate, remand to the Board for further proceedings.

"(B) CANCELLATION, REDUCTION, OR REMISSION OF SANCTION.—If the Commission, having due regard for the public interest and the protection of investors, finds after a proceeding in accordance with subparagraph (A) that a sanction imposed by the Board upon a firm or person associated with a firm imposes any burden on competition not necessary or appropriate in furtherance of the purposes of the Federal securities laws or is excessive or oppressive, the Commission may cancel, reduce, or require the remission of such sanction.

"(5) COMPLIANCE WITH RULES AND REGULATIONS.—

"(A) DUTIES OF BOARD.—The Board shall—

"(i) comply with the Federal securities laws, the rules and regulations issued thereunder, and its own rules; and

"(ii) subject to subparagraph (B) and the rules thereunder, absent reasonable justification or excuse, enforce compliance with such provisions and with professional standards by public accounting firms registered with the Board and persons associated with such firms.

"(B) RELIEF BY COMMISSION.—The Commission, by rule, consistent with the public interest, the protection of investors, and the other purposes of the Federal securities laws, may relieve the Board of any responsibility under this section to enforce compliance with any specified provision of the Federal securities laws, the rules or regulations issued thereunder, or professional standards by any public accounting firm registered with the Board or person associated with such a firm, or any class of such firms or persons associated with such a firm.

"(6) CENSURE; OTHER SANCTIONS.—

"(A) IN GENERAL.—The Commission is authorized, by order, if in its opinion such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Federal securities laws, to censure or impose limitations upon the activities, functions, and operations of the Board, if the Commission finds, on the record after notice and opportunity for hearing, that the Board has—

"(i) violated or is unable to comply with any provision of the Federal securities laws, the rules or regulations issued thereunder, or its own rules; or

"(ii) without reasonable justification or excuse, has failed to enforce compliance with any such provision or any professional standard by a public accounting firm registered with the Board or a person associated with such a firm.

"(B) REMOVAL FROM OFFICE.—The Commission is authorized, by order, if in its opinion such action is necessary or appropriate, in the public interest for the protection of investors, or otherwise in furtherance of the purposes of the Federal securities laws, to remove from office or censure any member of the Board, if the Commission finds, on the record after notice and opportunity for hearing, that such member has—

"(i) willfully violated any provision of the Federal securities laws, the rules or regulations issued thereunder, or the rules of the Board;

"(ii) willfully abused such member's authority; or

"(iii) without reasonable justification or excuse, failed to enforce compliance with any such provision or any professional standard by any public accounting firm registered with the Board or any person associated with such a firm.

"(i) FOREIGN ACCOUNTING FIRMS.—A foreign public accounting firm that furnishes accountant's reports on any financial statement, report, or other document required to be filed with the Commission under any Federal securities law shall, with respect to those reports, be subject to the provisions of this section in the same manner and to the same extent as a domestic public accounting firm. The Commission may, by rule, regulation, or order and as it deems consistent with the public interest and the protection of investors, either unconditionally or upon specified terms and conditions, exempt from one or more provisions of this section any foreign public accounting firm. Registration pursuant to this subsection shall not, by itself, provide a basis for subjecting foreign accounting firms to the jurisdiction of the Federal or State courts.

"(j) RELATIONSHIP WITH ANTITRUST LAWS.—

"(1) TREATMENT UNDER ANTITRUST LAWS.—In no case shall the Board, any member thereof, any public accounting firm registered with the Board, or any person associated with such a firm be subject to liability under any antitrust law for any act of the Board or any failure to act by the Board.

"(2) DEFINITION.—For purposes of this subsection, the term 'antitrust law' means the Federal Trade Commission Act and each statute defined by section 4 thereof as 'Antitrust Acts' and all amendments to such Act and such statutes and any other Federal Acts or State laws in pari materia.

"(k) APPLICABILITY OF AUDITING PRINCIPLES.—Each audit required pursuant to this title of an issuer's financial statements by an independent public accountant shall be conducted in accordance with generally accepted auditing standards, as may be modified or supplemented from time-to-time by the Commission. The Commission may defer to professional standards promulgated by private organizations that are generally accepted by the accounting or auditing profession.

"(l) COMMISSION AUTHORITY NOT IMPAIRED.—Nothing in this section shall be construed to impair or limit the Commission's authority—

"(1) over the accounting profession, accounting firms, or any persons associated with such firms;

"(2) to set standards for accounting practices, derived from other provisions of the Federal securities laws or the rules or regulations issued thereunder; or

"(3) to take, on its own initiative, legal, administrative, or disciplinary action against any public accounting firm registered with the Board or any person associated with such a firm.".

KOHL (AND OTHERS) AMENDMENT NO. 1930

Mr. KOHL (for himself, Mr. COHEN, and Mrs. MURRAY) proposed an amendment to the bill, S. 687, supra; as follows:

At the appropriate place add the following new title:

TITLE —PROTECTIVE ORDERS AND SEALING OF CASES AND SETTLEMENTS RELATING TO PUBLIC HEALTH OR SAFETY

SEC. . PROTECTIVE ORDERS AND SEALING OF CASES AND SETTLEMENTS RELATING TO PUBLIC HEALTH OR SAFETY.

(a) SHORT TITLE.—This title may be cited as the "Sunshine in Litigation Act of 1994".

(b) PROTECTIVE ORDERS AND SEALING OF CASES AND SETTLEMENTS RELATING TO PUBLIC HEALTH OR SAFETY.—Chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1659. Protective orders and sealing of cases and settlements relating to public health or safety

"(a)(1) A court shall enter an order under rule 26(c) of the Federal Rules of Civil Procedure restricting the disclosure of information obtained through discovery or an order restricting access to court records in a civil case only after making particularized findings of fact that—

"(A) such order would not restrict the disclosure of information which is relevant to the protection of public health or safety; or

"(B)(i) the public interest in disclosure of potential health or safety hazards is clearly outweighed by a specific and substantial interest in maintaining the confidentiality of the information or records in question; and

"(ii) the requested protective order is no broader than necessary to protect the privacy interest asserted.

"(2) No order entered in accordance with the provisions of paragraph (1) shall continue in effect after the entry of final judgment, unless at or after such entry the court makes a separate particularized finding of fact that the requirements of paragraph (1) (A) or (B) have been met.

"(b) The party who is the proponent for the entry of an order, as provided under this section, shall have the burden of proof in obtaining such an order.

"(c)(1) No agreement between or among parties in a civil action filed in a court of the United States may contain a provision that prohibits or otherwise restricts a party from disclosing any information relevant to such civil action to any Federal or State agency with authority to enforce laws regulating an activity relating to such information.

"(2) Any disclosure of information to a Federal or State agency as described under paragraph (1) shall be confidential to the extent provided by law.".

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 28, United States Code, is amended by adding after the item relating to section 1658 the following:

"1659. Protective orders and sealing of cases and settlements relating to public health or safety.".

(d) EFFECTIVE DATE.—The amendments made by this title shall take effect 30 days after the date of the enactment of this Act and shall apply only to orders entered in civil actions or agreements entered into on or after such date.

1995 DEFENSE AUTHORIZATION ACT

WARNER (AND OTHERS) AMENDMENT NO. 1931

(Ordered to lie on the table.)

Mr. WARNER (for himself, Mr. SARBANES, Mr. HARKIN, Mr. COCHRAN, Mr. GORTON, Mr. D'AMATO, Mr. BINGAMAN, and Mr. SMITH) submitted an amendment intended to be proposed by them to the bill (S. 2182) to authorize appropriations for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the appropriate place in the bill, insert the following section:

SEC. . ELIMINATION OF DISPARITY BETWEEN EFFECTIVE DATES FOR MILITARY AND CIVILIAN RETIREE COST-OF-LIVING ADJUSTMENTS FOR FISCAL YEAR 1995.

(a) IN GENERAL.—The fiscal year 1995 increase in military retired pay shall (notwithstanding subparagraph (B) of section 1401a(b)(2) of title 10, United States Code) first be payable as part of such retired pay for the month of March 1995.

(b) DEFINITIONS.—For the purposes of subsection (a):

(1) The term "fiscal year 1995 increase in military retired pay" means the increase in retired pay that, pursuant to paragraph (1) of section 1401a(b) of title 10, United States Code, becomes effective on December 1, 1994.

(2) The term "retired pay" includes retainer pay.

(c) LIMITATION.—Subsection (a) shall be effective only if there is appropriated to the Department of Defense Military Retirement Fund (in an Act making appropriations for the Department of Defense for fiscal year 1995 that is enacted before March 1, 1995) such amount as is necessary to offset increased outlays to be made from that fund during fiscal year 1995 by reason of the provisions of subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 1995 to the Department of Defense Military Retirement Fund the sum of $376,000,000 to offset increased outlays to be made from that fund during fiscal year 1995 by reason of the provisions of subsection (a).

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Monday, June 27, 1994, at 2:30 p.m. in executive session, to receive testimony on and to consider the nomination of Lt. Gen. Buster C. Glosson, USAF to retire in grade.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Monday, June 27, at 4 p.m. to receive a closed briefing on United States policy toward China, Taiwan, and Vietnam.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

KAHUKU HIGH SCHOOL FINALISTS IN "WE THE PEOPLE * * * THE CITIZEN AND THE CONSTITUTION"

● Mr. AKAKA. Mr. President, I rise today to recognize the outstanding accomplishments of the students from Kahuku High School. Ms. Sandra Cashman, along with her students, Ursula Aiu, Dana Barnhill, Beth Frederick, Amber Grigsby, Kalli Kamauoha, Maria Kritikos, Larie Langi, Nadya Leinau, Kimberly Miller, Marci Ostrowski, Christian Palmer, Jesse Palmer, Ian Parnell, Taliana Pasi, Mariaha Peters, Emily Shumway, Maren Smith, Leah Taala, Israel Temple, Carrie Tilley, and Kanani Yang, represented the State of Hawaii at this year's "We the People * * * the Citizen and the Constitution" national finals.

"We the People * * * the Citizen and the Constitution," administered by the Center for Civil Education, is the most comprehensive program ever developed to assist students in understanding the history and principles of the U.S. Constitution and the Bill of Rights. Students who participate in this program learn the important responsibilities Americans must uphold to ensure the future of our democracy. It is only through the understanding of our Constitution and the Bill of Rights that we will be able to perpetuate the democratic foundation upon which this great Nation was built.

The national competition, held in Washington, DC, from April 30 through May 2, 1994, brought together the best and brightest students from 47 classes throughout the Nation. These dedicated young people demonstrated a remarkable understanding of the fundamental ideals and values of America's constitutional government. For the second straight year, Kahuku High School has won the State competition and the honor of representing Hawaii at the national competition. I would like to commend the students and faculty of Kahuku High School for their outstanding achievements.●

THE CONTRACTING OF AMERICAN FOREIGN POLICY

• Mr. D'AMATO. Mr. President, I rise today to question what this administration is doing with regard to Korea. Has this administration sunk so low as to use others to conduct our foreign policy because it is unable to do so itself? Are we contracting out our Nation's foreign policy?

It is outrageous that not only did former President Carter go to North Korea to concede American foreign policy to the world's last Stalinist dictator, but that the administration allowed him to do so.

The President wonders if Mr. Carter pulled off a miraculous diplomatic move. I fail to see the miracle in Kim Il-Sung's concession to Carter's highly publicized and grandstanding mission to North Korea. Kim could surely afford to agree to wait, while his nuclear fuel rods cool and his technicians plan their next move to build his nuclear arsenal for sale or threat against his neighbors.

It all comes down to this. What we all again witnessed was an administration that is out of its element in foreign affairs, constantly outwitted and outmatched on every front by our opponents, North Korea being only the latest failure of American foreign policy under this administration.

In the beginning of this administration, the policy was to simply ignore foreign affairs. After facing criticism, the policy changed to active engagement. Despite the attendant problems, I suggest that the administration go back to the old policy. Our foreign policy was better then—doing nothing got us in less trouble.

Mr. President, I ask that the text of the article "Jimmy Clinton," by William Safire, that appeared in the New York Times, be included in the RECORD, following the conclusion of my remarks.

The article follows:

JIMMY CLINTON

(By William Safire)

WASHINGTON.—"It was kind of like a miracle," breathed Jimmy Carter, about his conversion of North Korea's dictator from lion to lamb.

No wonder Kim Il Sung denied entry to special envoys chosen by President Clinton last month. Senators Sam Nunn and Richard Lugar would have presented a strong American position on his nuclear bomb production.

North Korea much preferred the eager courtship of Jimmy Carter, who as President wanted to remove U.S. troops from the South. Carter went not as a representative of the U.S., but as one who opposed the imposition of pressure on the North that would have made it costly for Kim to break the nuclear treaty.

Amazingly, as Carter proudly brought a CNN crew into his meeting with the North Korean strongman, the world could see and hear the American blatantly misrepresent the U.S. position: Clinton would not continue to press for sanctions, Carter declared, in direct contravention of instructions.

Even more amazing was the reaction of what is laughingly called the Clinton national security team to this usurpation of Presidential authority. At the urging of Vice President Gore, Mr. Clinton grasped for some reason to believe that Carter's appeasement had worked, and that North Korea was using the Carter brokerage as a face-saving device to make a concession on its plutonium production.

Enter what Kennedyites liked to call "the Trollope ploy." In the 19th-century romantic novels of Anthony Trollope, heroines deliberately misinterpret a squeeze of the hand as a proposal of marriage. Last week, Clinton chose to view Kim's promise of a temporary suspension of his plutonium-making—a pause required anyway to let rods cool—as the long-sought verifiable "freeze."

In response to this televised manipulation, Clinton then embraced his loose cannon as his savior. We caved in to Kim's demands to resume high-level talks that had been denied North Korea after its repeated double-crossing of negotiators. Crisis declared over.

Here, on the vital interest of the United States in stopping rogue states from becoming nuclear powers, we have an amalgam of the worst of two Presidents.

Jimmy Carter, truster of Leonid Brezhnev until Afghanistan, truster and promoter of the B.C.C.I. banker until thousands of depositors were bilked of their savings, makes his pilgrimage to the last Stalinist—and again bets on the contagion of his own indisputable goodness.

Bill Clinton, passive in Bosnia, paper tiger in China, other-directed about Haiti—is again hoping for a break to distract the world's attention and to kick the can ahead for decision by his nuclear-threatened successor.

Result: the creation of President Jimmy Clinton, with the return of the malaise of leaderlessness.

Reaction of doves to this latest visit to Trollope is: What's wrong with talking? If Kim wants meetings, give him summits. Since we can't get China and Japan to help lean on him, why not test his promise to "suspend" his nuclear buildup, in return for recognition, trade and aid?

The reason for not getting suckered into another year's cat-and-mouse is the ticking of a clock. For safety's sake, we should negotiate from strength; betting on our hopes is irresponsible.

North Korea is in the business of secretly building nuclear bombs. It deceived the world by producing plutonium in the past; the C.I.A. and the U.N. inspectors believe North Korea has at least one device ready. From Moscow we learn that the K.G.B. was convinced of Kim's impending capability four years ago.

Remember how wrong the world nuclear police turned out to be in underestimating the advanced state of Saddam Hussein's buildup? The odds are that the experts are just as wrong about North Korean nukes today; a closed society can keep big secrets.

By pretending to be insulted by the world's nosiness, Kim has already prevented the world from checking on his past production of plutonium. Maybe it's in untested weapons; maybe some has been sold to Iran; maybe more is being made secretly beyond Yongbyon.

We are today giving him the time to make a fresh five-bomb supply. If we do not accede to his demands this fall, Kim will add to the stockpile beyond our reach.

That's the position Jimmy Clinton has placed us in. With no basis for trust, we're trusting North Korea with precious time. It's kind of like a miracle.•

TRIBUTE TO GEORGETOWN TOYOTA TEAM

• Mr. McCONNELL. Mr. President, I rise today to pay tribute to a company that has brought automotive excellence and a tremendous economic boost to central Kentucky. For the third time in 5 years and for the second consecutive year, the Georgetown, KY, employees of Toyota Motor Manufacturing, U.S.A., Inc. [TMM] have earned the J.D. Power & Associates Gold Plant Quality Award for the highest quality automobile facility in North America. This outstanding achievement is due to the hard work, pride, and commitment of the 5,200 team members who work in the Georgetown plant producing the renowned Toyota Camry.

Toyota Motor Manufacturing, which utilizes 43 suppliers in the State, is responsible for generating over $600 million in annual revenue for Kentucky. The result is more than 20,000 jobs for Kentuckians, and a company-citizen partnership that instills civic pride and strengthens the economy of the entire State.

On a national scale, TMM has been directly and indirectly responsible for more than 70,000 jobs. This number will grow as an estimated 22,000 more Americans will obtain jobs directly related to TMM's business by 1996. Working with more than 237 U.S. suppliers in 31 States, TMM has added billions of dollars to our Nation's economy.

The J.D. Power award is a reflection of the extraordinary effort that has led to the completion of an expansion plant at Toyota's Georgetown facility.

The Georgetown Toyota operation underscores the remarkable evolution of the world marketplace where international partnerships bring countries, companies, and communities together. Nearly 7,000 miles separate Toyota's home office from Georgetown, KY. However, the shared goal to make a quality product links them. Toyota's Kentucky team members build some of the world's best automobiles and have given their State another accomplishment of which to be proud.•

MEASURE REFERRED—SENATE JOINT RESOLUTION 204

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that Senate Joint Resolution 204, a joint resolution to recognize the contributions of the American Academy in Rome, be discharged from the Judiciary Committee and referred to the committee of jurisdiction, the Committee on Foreign Relations.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR STAR PRINT—S. 2143

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that S. 2143, a bill to impose a value-added tax, be star printed to reflect the change I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR COMMITTEES TO REPORT

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that during the recess or adjournment of the Senate that Senate committees may file committee-reported legislative and Executive Calendar business on Thursday July 7 from 11 a.m. to 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR—H.R. 4506

Mr. ROCKEFELLER. Mr. President, on behalf of Senator JOHNSTON, I ask unanimous consent that Dr. Robert Simon, Science Fellow to the Committee on Energy and Natural Resources, be granted floor privileges for the duration of H.R. 4506, a bill making appropriations for energy and water development for fiscal year ending September 30, 1995, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

Mr. ROCKEFELLER. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., Tuesday, June 28; that following the prayer, the Journal of proceedings be deemed approved to date and the time for the 2 leaders reserved for their use later in the day; that immediately thereafter, the Senate resume consideration of S. 687, the Product Liability Act; that amendment No. 1930 be limited to 1 hour, equally divided and controlled in the usual form—that is the Kohl amendment; that at 10 a.m., without intervening action, the Senate vote on or in relation to the Kohl amendment No. 1930, with no intervening amendment in order prior to disposition of amendment No. 1930; and that on Tuesday, the Senate stand in recess from 12:30 p.m. to 2:15 p.m. in order to accommodate the respective party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. ROCKEFELLER. Mr. President, if there is no further business to come before the Senate today, and I see no other Senators seeking recognition, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 7:08 p.m., recessed until Tuesday, June 28, 1994, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate June 27, 1994:

DEPARTMENT OF JUSTICE

AILEEN CATHERINE ADAMS, OF CALIFORNIA, TO BE DIRECTOR OF THE OFFICE FOR VICTIMS OF CRIME. (NEW POSITION)

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. ROBERT M. ALEXANDER, [redacted] U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. JAMES A. FAIN, JR. [redacted] U.S. AIR FORCE.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. CARMEN J. CAVEZZA [redacted] U.S. ARMY.

THE FOLLOWING-NAMED ARMY NATIONAL GUARD OF THE U.S. OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTIONS 593(A) AND 3385:

ARMY PROMOTION LIST

To be colonel

ROBERT F. ANDERSON II [redacted]
EVERETT W. BARNES [redacted]
WILLIE E. BUFFINGTON [redacted]
DONALD L. CLARY [redacted]
RICHARD M. COACHYS, [redacted]
HOWARD A. DILLON, JR. [redacted]
DAVID C. GODWIN, [redacted]
RAY J. GRAHAM [redacted]
RICHARD B. GREEN [redacted]
EDWIN E. HALL [redacted]
JAMES L. HOBGOOD, JR. [redacted]
BRUCE M. LAWLOR [redacted]
EDWARD F. MARTIN III [redacted]
ROBERT G. MASKIELL [redacted]
JAMES F. PERRY, JR. [redacted]
FOREST L. RAMSEY II [redacted]
RICARDO RUIZ, [redacted]
JOHN H. SCHAMBURG, [redacted]
JOHN R. SLONINA [redacted]
GERALD C. STEWART [redacted]
CALVIN J. WASHISPACK [redacted]

THE JUDGE ADVOCATE GENERAL'S OFFICE

To be colonel

RANDALL T. ENG, [redacted]
JOHN S. TANNER [redacted]
WILLIAM F. WEIR [redacted]

MEDICAL SERVICE CORPS

To be colonel

JAMES D. CLARK, [redacted]
MICHAEL W. KIMBERLY, [redacted]
RICHARD L. LAUER, [redacted]
ROBERT H. SPELL, JR. [redacted]

THE FOLLOWING-NAMED ARMY NATIONAL GUARD TO THE U.S. OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C. SECTIONS 593(A) AND 3385:

ARMY PROMOTION LIST

To be colonel

MICHAEL J. BACINO, [redacted]
DONALD E. BROWN, JR. [redacted]
JOSEPH F. DANNENFELSER [redacted]
RICHARD D. DUFFY, [redacted]
GARY P. HALE, [redacted]
ELMO C. HEAD, JR. [redacted]
JOHN A. LATOURRETTE [redacted]
WALTER A. PAULSON, [redacted]
ROGER G. THORSTENSON, [redacted]
GORDON D. TONEY, [redacted]
RUDOLF R. WALTER III [redacted]
WILLIAM D. WORTMAN, [redacted]

THE JUDGE ADVOCATE GENERAL'S CORPS

To be colonel

BRUCE D. SCHRIMPF, [redacted]

MEDICAL CORPS

To be colonel

TALMAGE L. BOURNE, [redacted]
DOUGLAS R. COOMBS, [redacted]

MEDICAL SERVICE CORPS

To be colonel

ROGER A. HEALY, [redacted]

ARMY NURSE CORPS

To be colonel

THOMAS T. FLAHERTY, [redacted]

ARMY PROMOTION LIST

To be lieutenant colonel

MICHAEL D. BEDWELL, [redacted]
ROBERT F. BISCHKE, [redacted]
ARNULFO ESQUEDA, [redacted]
RALPH K. HALL, [redacted]
GEORGE E. IRVIN, [redacted]
BENSON S. LANE, [redacted]
JEROME A. MURPHY, [redacted]
ROBERT M. NICHOLAS, [redacted]
BARRY D. NIGHTINGALE, [redacted]
ROBERT E. OLSON, [redacted]
KENNETH R. WARNER, [redacted]

MEDICAL CORPS

To be lieutenant colonel

ROBERT L. JORDAN, JR. [redacted]
EARL C. WOOD III, [redacted]

MEDICAL SERVICE CORPS

To be lieutenant colonel

GARY P. WATERS, [redacted]

HOUSE OF REPRESENTATIVES—*Monday, June 27, 1994*

The House met at 12 noon, and was called to order by the Speaker pro tempore [Mr. MONTGOMERY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 27, 1994.

I hereby designate the Honorable G.V. (SONNY) MONTGOMERY to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are reminded in the Scriptures that there is faith and hope and love and that the greatest of these is love. We pray, O gracious God, that those who live in a relationship of love will find their lives nourished by Your spirit and strengthened by Your presence. With the very real difficulties in our world and communities and the strains and tensions between people, we pray today that our hearts and minds will be raised above our own private interests to see how the gift of love can bind us together and connect us in ways that celebrate Your whole creation. May people receive the gifts of love and devotion, of respect and kindness so they will cherish each other in all the seasons of life. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio [Mr. TRAFICANT] please come forward and lead the House in the Pledge of Allegiance.

Mr. TRAFICANT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

VICTIMS FORGOTTEN WHILE MURDERS INCREASE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, America is still in shock. O.J. Simpson is charged with murder—two murders. On television and in the news print the media keeps asking about O.J. Did O.J. do it? Could O.J. have taken such a large knife and cut his wife's throat? Was O.J. on cocaine? Was there another side of O.J.?

O.J., O.J.—on and on about O.J. You are innocent until proven guilty, but the fact remains, Mr. Speaker, that Nicole Simpson and Ron Goldman were brutally murdered in southern California and everybody keeps talking about the accused.

In America how soon we forget the victims, with tombstones jumping up like mushrooms all over the country. With 25,000 murders a year, everybody is preoccupied with the accused.

Maybe it is time, I say to the Congress, to reflect on victims and what is happening in our country. Maybe that is why we have so many murders and so many victims.

THE NUMBERS BEHIND CLINTON'S HEALTH BILL

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, America should see the numbers behind President Clinton's health care plan.

I do not mean the incomprehensible billions of dollars and millions of jobs the plan will cost the country.

I mean the very same numbers that come out of what his health care plan actually says.

Within its 1,342 ponderous pages, the word "mandatory" is used 24 times.

The word "prohibit" is there 51 times; "restrict," 54 times.

The plan uses the word "obligation" 56 times, "penalty" 59 times, and "enforce" 87 times.

And the President's plan uses "limit" an incredible 269 times.

I ask those listening to consider, if you had a choice—and if this plan passes you will not—are those the words you would want to describe your health plan? The President would, Republicans would not.

URANIUM STOCKPILES IN COLORADO A REAL CAUSE FOR CONCERN

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I continue to be amazed at the new, new era at the Department of Energy. I just came from a briefing held by Hazel O'Leary that really makes me breathe much easier. The news is not good, but at least we finally have the truth in front of us.

Hazel O'Leary announced today that there are 6.7 metric tons of highly enriched uranium right outside my district in Rocky Flats. We never knew about this. This has been highly classified since 1945. Everybody has been very worried about the plutonium, and we now find that there is also this huge pile of highly enriched uranium that is still there.

Now at least we can get on with what we really need to do to clean it up, and it is time we realized that all these things we had out there to scare the Soviet Union during the cold war is now terrifying America's citizens now that that war has stopped. But we must do everything we can to change that, get it cleaned up, and put the West back the way it was.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, June 28, 1994.

GENERAL AVIATION REVITALIZATION ACT OF 1994

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1458) to amend the Federal Aviation Act of 1958 to establish time limitations on certain civil actions against aircraft manufacturers, and for other purposes, as amended.

The Clerk read as follows:

S. 1458

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

SECTION 1. SHORT TITLE.

This Act may be cited as the "General Aviation Revitalization Act of 1994".

SEC. 2. TIME LIMITATIONS ON CIVIL ACTIONS AGAINST AIRCRAFT MANUFACTURERS.

(a) IN GENERAL.—Except as provided in subsection (b), no civil action for damages for death or injury to persons or damage to property arising out of an accident involving a general aviation aircraft may be brought against the manufacturer of the aircraft or the manufacturer of any new component, system, subassembly, or other part of the aircraft, in its capacity as a manufacturer if the accident occurred—

(1) after the applicable limitation period beginning on—

(A) the date of delivery of the aircraft to its first purchaser or lessee, if delivered directly from the manufacturer; or

(B) the date of first delivery of the aircraft to a person engaged in the business of selling or leasing such aircraft; or

(2) with respect to any new component, system, subassembly, or other part which replaced another component, system, subassembly, or other part originally in, or which was added to, the aircraft, and which is alleged to have caused such death, injury, or damage, after the applicable limitation period beginning on the date of completion of the replacement or addition.

(b) EXCEPTIONS.—Subsection (a) does not apply—

(1) if the claimant pleads with specificity the facts necessary to prove, and proves, that the manufacturer with respect to a type certificate or airworthiness certificate for, or obligations with respect to continuing airworthiness of, an aircraft or a component, system, subassembly, or other part of an aircraft knowingly misrepresented to the Federal Aviation Administration, or concealed or withheld from the Federal Aviation Administration, required information that is material and relevant to the performance or the maintenance or operation of such aircraft, or the component, system, subassembly, or other part, that is causally related to the harm which the claimant allegedly suffered;

(2) if the person for whose injury or death the claim is being made is a passenger for purposes of receiving treatment for a medical or other emergency;

(3) if the person for whose injury or death the claim is being made was not aboard the aircraft at the time of the accident; or

(4) to an action brought under a written warranty enforceable under law but for the operation of this Act.

(c) GENERAL AVIATION AIRCRAFT DEFINED.—For the purposes of this Act, the term "general aviation aircraft" means any aircraft for which a type certificate or an airworthiness certificate has been issued by the Administrator of the Federal Aviation Administration, which, at the time such certificate was originally issued, had a maximum seating capacity of fewer than 20 passengers, and which was not, at the time of the accident, engaged in scheduled passenger-carrying operations as defined under regulations in effect under the Federal Aviation Act of 1958 (49 U.S.C. App. 1301 et seq.) at the time of the accident.

(d) RELATIONSHIP TO OTHER LAWS.—This section supersedes any State law to the extent that such law permits a civil action described in subsection (a) to be brought after the applicable limitation period for such civil action established by subsection (a).

SEC. 3. OTHER DEFINITIONS.

For purposes of this Act—

(1) the term "aircraft" has the meaning given such term in section 101(5) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(5));

(2) the term "airworthiness certificate" means an airworthiness certificate issued under section 603(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1423(c)) or under any predecessor Federal statute;

(3) the term "limitation period" means—

(A) 15 years with respect to piston-powered general aviation aircraft and the components, systems, subassemblies, and other parts of such aircraft;

(B) 18 years with respect to turboprop-powered general aviation aircraft and the components, systems, subassemblies, and other parts of such aircraft; and

(C) 22 years with respect to other general aviation aircraft (including jet-powered general aviation aircraft) and the components, systems, subassemblies, and other parts of such aircraft; and

(4) the term "type certificate" means a type certificate issued under section 603(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1423(a)) or under any predecessor Federal statute.

SEC. 4. EFFECTIVE DATE; APPLICATION OF ACT.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF ACT.—This Act shall not apply with respect to civil actions commended before the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from New York [Mr. FISH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such times as I may consume, and pending that, I yield 10 minutes to the gentleman from Minnesota [Mr. OBERSTAR] and ask unanimous consent that he may control that 10 minutes of time and yield blocks of time to other Members as he sees fit.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. FISH. Mr. Speaker, I wish to make a similar request, and that is that I ask unanimous consent that I may yield 10 minutes to the gentleman from Pennsylvania [Mr. CLINGER], the ranking member of the committee, and that be may control that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, S. 1458 would impose a federally mandated statute of repose with regard to general aviation liability actions. It would eliminate a claimant's right to bring a State tort action against a manufacturer for accidents that occur more than a specified number of years after the date of manufacture.

Previous versions of S. 1458 read more like a textbook on how to rewrite all of product liability law than as a measured response to the special needs of this distinctive and once-vibrant U.S. industry. And, as the Members know, I have long cautioned against radical surgery by the Federal Government of this traditional province of State law.

However, I have always maintained that when proponents for change make a compelling case for legislation, I am willing to consider it. In this Congress, some of the supporters have wisely abandoned the generic reform strategy for a more narrowly focused approach. It is because of this realism that many in Congress feel that a carefully crafted legislative response is appropriate.

I would also like to recognize the absolutely crucial contribution of Congressman DAN GLICKMAN in brining us to this point. He has represented his constituency very well indeed—especially by his good judgment in seeking a measured response that avoids extremes. He has markedly increased the chances of enactment in this Congress by his actions.

Finally, the leadership of Congressmen MIKE SYNAR and RICK BOUCHER in helping to fashion a very balanced substitute amendment is much appreciated. The amendment they offered at subcommittee—subsequently approved by voice vote in the subcommittee and full committee with Mr. GLICKMAN'S support—provides for a statute of repose of 15 years for piston-powered general aviation aircraft, 18 years for turboprops and 22 years for jets. This amendment thus provides the greatest relief in the area which will produce the most jobs—production of piston-powered aircraft.

I think the bill before the House represents a product that was enhanced by the committee process, and vindicates that process. It is a lesson worth remembering.

☐ 1210

Mr. Speaker, I reserve the balance of my time.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. FISH. Mr. Speaker, the issue of liability reform for the manufacturers of general aviation aircraft has been pending in Congress for nearly a decade. During this period, the general aviation industry has lost thousands of jobs. Today, that industry is manufacturing only a fraction of the airplanes it was building just 15 years ago. Congress must act this year to affirmatively address this problem.

I have been a cosponsor of legislation to reform our liability laws with respect to general aviation for four consecutive Congresses. I have been pleased to join in this long-standing effort with my good friend and colleague from Kansas, Mr. GLICKMAN. He has been a very effective advocate for the general aviation industry and deserves high praise for his patience, determination, and perseverance.

General aviation is an industry that has come to symbolize our Nation's finest qualities—inventiveness, imagination, technological innovation, individualism, self-reliance, and quality workmanship. Many of these companies—Cessna, Beech, Piper—have been building airplanes for decades. Unfortunately, it is an industry that has become the victim of its own success. The better it built the planes, the longer they lasted; the longer they lasted, the greater the potential liability because of judicial interpretations, such as strict liability, that altered tort law.

General aviation is in a classic catch-22 situation—a quality industry that is being punished because of its success. For example, about 120,000 Cessnas are still in operation and their average age is 27 years. Since 1986, that company has spent over $20 million a year—$160 million over the last 8 years—defending lawsuits, involving aircraft as old as 47 years. it is simply time to draw a reasonable time line that allows these companies to get back to their real business.

The bill before us would establish a Federal statute of repose to protect general aviation manufacturers from long-term liability in those instances where a particular aircraft has been in operation for a considerable number of years. A statute of repose is a legal recognition that, after an extended period of time, a product has demonstrated its safety and quality, and that it is not reasonable to hold a manufacturer legally responsible for an accident or injury occurring after that much time has elapsed. Fifteen States now have statutes of repose, some as long as 12 years and others as short as 6 years.

S. 1458 does not preclude an individual's ability to bring a lawsuit regarding an aircraft. It merely provides some relief to the manufacturer of the original frame and parts from liability, after the product has left the manufacturer's possession and control for a reasonable period of time. Furthermore, this bill provides for, what is in effect, a rolling statute of repose for all replacement parts—component, system, subassembly, or other part—on an aircraft.

Legislation analogous to S. 1458 has received overwhelming support in terms of cosponsorship in virtually every Congress since 1986. However, to date, the opponents of general and specific product liability reform legislation have been successful in blocking a vote in the House of Representatives. Fortunately, the logjam has now been broken and the House will finally get to vote on this important matter tomorrow.

It is important to point out that the version of S. 1458 before the House today is not the same version that passed the Senate earlier this year. The original Senate language was amended in the Judiciary Committee and that substitute language is before us today. I must admit that I would have preferred that the Judiciary Committee report out S. 1458 as passed by the Senate. I say that because there is, of course, strong opposition on the part of the trial bar to any type of product liability legislation. In fact, the delays that have affected this bill reflect how effective that opposition can be. By sending this bill back to the Senate, we risk giving the bill's opponents yet another opportunity to use procedural tactics to block its consideration there—and its ultimate enactment.

However, aside from my parliamentary concerns, I would observe that the committee substitute is an acceptable bill. Instead of a uniform 18-year statute of repose provided in the Senate bill, this substitute contains a sliding scale—a trifurcated approach. For piston-powered aircraft, the statute of repose would be 15 years; for turboprop-powered aircraft, the statute of repose would be 18 years; and for jet-powered and other remaining aircraft, the statute of repose would be 22 years. The bill will apply to suits brought in either Federal or State court. Furthermore, the substitute language makes it clear that this act will not apply to suits filed prior to the date of enactment.

It is my expectation that legal challenges, based upon constitutional arguments, could be made against this legislation. Presumably these challenges would be based either upon 7th amendment grounds, that is, jury trial—or upon 14th amendment grounds, that is, due process and equal protection. These challenges will not be successful. As the Nation's legislature, Congress is making a reasonable and appropriate policy choice similar to selecting a specific statute of limitations. That is our prerogative in this type of circumstance, and there is nothing unconstitutional about it. This bill simply says that a product cannot be considered a defective product in a legal sense after it has left the control of the manufacturer beyond a specified period of time. Once the statute of repose has expired, the Federal Aviation Agency's standards on air safety will still apply and the flying public will continue to be protected.

I support S. 1458 and urge my colleagues to vote in favor of the bill. It is a reasoned response to a liability system that has crippled a once dynamic industry. I sincerely hope that the Senate will move quickly to consider our substitute language and send a bill to the President this summer.

Mr. Speaker, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I yield myself 4½ minutes.

Mr. Speaker, this day may well be known as the day in which the liberation of general aviation aircraft manufacturing began; a day in which we moved toward enactment of legislation that is the culmination of a 7-year effort to take up legislation to relieve the general aviation manufacturing industry from excessive product liability costs. It is legislation that is also noteworthy for its fair treatment of those who are injured in general aviation aircraft accidents.

Much of the credit for success toward this objective goes to our colleague, the gentleman from Kansas [Mr. GLICKMAN], who introduced the first House legislation in 1987, and has been dogged and persistent ever since in working toward this day, along with our colleague from Utah, Mr. HANSEN, who also has given the issue his total time and attention, to shape what is essentially a compromise from the originally introduced legislation to one that I would call, focused, targeted, and workable.

The Committee on Public Works and Transportation has been a strong supporter of this legislation for many years. In 1988 and 1989, we reported general aviation product liability legislation to the House. In this Congress, again, we held hearings and reported the bill.

This is jurisdiction we share with the Committee on the Judiciary, and this year the Judiciary Committee has fashioned, together with our colleagues in the other body, modifications to the bill which I believe improve it, and, most importantly, make it possible to get this bill through the House, through the Senate, and on to the President for signature.

Our full committee chairman, the gentleman from California [Mr. MINETA], who was chair of the Subcommittee on Aviation, has been a strong supporter of this legislation, was the first subcommittee chair to report such legislation, and has been a champion of it ever since.

There has been strong bipartisan support in our committee. The gentleman from Pennsylvania [Mr. CLINGER], my partner on the Subcommittee on Aviation, the ranking member of the full committee, the gentleman from Pennsylvania [Mr. SHUSTER]; and, frankly, all of the Members on our subcommittee, have worked together to bring this legislation to the point where we are today.

□ 1220

We believe very strongly this legislation can play a major role in reversing the decline in the Nation's general aviation manufacturing sector. General aviation aircraft sales by U.S. manufacturers dropped from 17,000 aircraft built in 1979 to 954 such aircraft in 1993.

For single engine, piston aircraft, the decline has been even more significant, from 14,000 units in 1978 to 555 in 1993.

Along with the loss of production there has been, more importantly, the loss of over 100,000 jobs in general aviation manufacturing and the related industries.

The decline in general aviation manufacturing has worsened our position in international trade. In 1980, we exported $120 million surplus in single engine piston aircraft, but that surplus declined to a bare $5 million in 1992.

In fact, unless this legislation is enacted and general aviation manufacturing increases, we will have a whole generation of American pilots being trained on foreign aircraft, as aviation schools and, universities are buying aircraft such as the French ATR on which to train a whole new generation of pilots.

We do not want that to happen. America must maintain its preeminence in aviation manufacturing and aviation technology.

This legislation strikes a fair balance between manufacturers, consumers and persons who are injured in aircraft accidents. It is very unlikely that there would be a valid basis for a suit against the manufacturer of an aircraft more than 15 years old. Nearly all defects are discovered, we have learned in our hearings, during the early years of an aircraft's life. Design and manufacture are regulated by the FAA, which will order corrective action where defeats are revealed. The regulatory system has been very effective.

Data by the National Transportation Safety Board shows that only 1 percent of general aviation accidents are caused by design or manufacturing defects.

However, even though a claimant is unlikely to be successful with a lawsuit against the manufacturer of an older aircraft, these suits are frequently filed. Manufacturers incur substantial expenses in defending or settling the cases.

The best evidence for the fairness of the 18 years statute of repose is that the bill now before us is enthusiastically supported by the Aircraft Owners and Pilots Association, the Experimental Aircraft Association, the National Business Aircraft Association, and the National Air Transport Association. The members of these groups are the persons most likely to be injured in a general aviation accident. They are also the consumers that are damaged by the high aircraft prices resulting from excessive product liability costs.

In sum, I strongly believe that the bill now before us will curb excessive liability costs and at the time afford fair treatment to persons injured in aircraft accidents. The bill can make a major contribution towards reversing the decline in our once powerful general aviation manufacturing industry. The result will be a significant increase in jobs, including the resumption of production of single engine piston aircraft by Cessna. Cessna estimates that this will create 25 thousands jobs.

Again, I commend Chairman BROOKS and his committee for enabling us to go forward with this extremely important legislation. I strongly urge my colleagues to support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. CLINGER. Mr. Speaker, I yield myself such time as I may consume.

I think it is no secret that the general aviation manufacturing industry has been decimated. If it is not dead, it is clearly on life support.

As the gentleman from Minnesota has said, since 1978, shipments of new piston aircraft have dropped about 95 percent to about 500 in 1993 and Cessna, which once produced about 6,500 aircraft per year stopped building, totally stopped building small piston aircraft.

Piper Aircraft, which once employed 3,000 people in my district in Lock Haven, PA, is basically out of business. They are bankrupt. They are not manufacturing airplanes at all. The jobs have been lost to foreign manufacturers.

In 1980, there were 29 U.S. manufacturers of general aviation aircraft and 15 foreign manufacturers. Now that ratio has been reversed. In 1992, there were 29 foreign manufacturers of general aviation aircraft and only 9 U.S. manufacturers.

One of the main reasons, the principal reason for the drop in domestic production is the enormous cost of product liability and the insurance to cover that.

Beech Aircraft spent over $100 million in legal fees over four years to defend itself from 203 product liability lawsuits. This, despite the fact that in none of those cases did the National Transportation Safety Board find Beeches' Aircraft to be defective. These added costs have forced many manufacturers to curtail production and have forced many potential aircraft purchasers completely out of the market.

The increase in product liability costs has occurred even though the safety of the general aviation aircraft has been improving, consistently improving over recent years. The number of fatal general aviation accidents has dropped a staggering 700 percent since the end of World War II. The general aviation accident rate itself has dropped about 30 percent just since 1981.

Most general aviation accidents are not caused by defects in the aircraft or the parts but are caused by pilot error, weather or poor maintenance. So the legislation we are considering today would help to address the problem, just address the problem, and turn the general aviation manufacturing industry around.

Here I want to commend the gentleman from Kansas [Mr. GLICKMAN], the gentleman from Utah [Mr. HANSEN], who have been instrumental in bringing this issue, persisting in bringing this issue to the Congress and ultimately to the floor of this House.

As has been indicated, the legislation would establish a 15 to 18 or 22-year statute of repose depending on the type of aircraft which has been discussed. The statute of repose would free manufacturers from the threat of eternal liability for aircraft that long ago have passed from their control or any ability that they have to really monitor that aircraft.

The statute of repose would limit manufacturers' liability exposure and allow them to plan for the future and, thank heaven, begin building aircraft again and hiring workers again, something that we have not seen for 20 years.

Legislation is really limited in scope. It does not place a cap on the amount of damages that an injured person can receive. It does not prohibit contingencies fees or limit the fees an attorney can collect in any other way. And as a result, I think this legislation actually represents a more moderate approach than other product liability reform measures that have been suggested.

In 1988 and 1989, the Committee on Public Works and Transportation approved general aviation product liability reform measures, but those measures were blocked by a very effective effort of the American Trial Lawyers Association. And those versions were killed, which is why today is such an important, significant change.

But now, our committee has worked out a compromise with the Committee on the Judiciary and that is the bill that is before us this morning. Similar legislation has already passed the other body. Hopefully, hopefully with the very reasonable legislation that we should pass today, there will be no difficulty in getting it through the other body one more time so that the general aviation industry can get back on the path of growth once again.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes and 30 seconds to the distinguished gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I rise today to urge my colleagues to support S. 1458, the General Aviation Revitalization Act. I am the sponsor of the companion legislation in the House, H.R. 3087, along with my colleague, JIM HANSEN of Utah, which has 304 Democrat and Republican Members of the House as cosponsors.

After a long journey to get this bill to the floor, I want to extend my deep appreciation to Judiciary Committee Chairman BROOKS and ranking member HAMILTON FISH, Public Works Committee Chairman NORM MINETA and ranking member BUD SHUSTER, Aviation Subcommittee Chairman OBERSTAR and Congressman BILL CLINGER for all their work on this issue over the past several years, as well as to Congressman MIKE SYNAR and RICK BOUCHER, who helped craft the substitute bill which passed the Judiciary Committee by voice vote last week.

I also want to give special thanks to my friend and colleague, JIM HANSEN of Utah, for his help and dedication to get this bill passed. I also wish to thank my Senate colleague, Senator NANCY KASSEBAUM, for her special role in pushing this bill.

As many of you know, this legislation limits the time that civil liability suits can be brought against general aviation manufacturers. The compromise bill creates a 15-year statute of repose for piston engine aircraft, 18 years for turbo-powered aircraft, and 22 years for all other general aviation aircraft, including jet-powered aircraft. The Senate overwhelmingly passed a bill with an 18-year limit on civil suits for all manufacturers. Both versions contain exceptions for cases involving fraud.

This legislation has the strong support of the Aircraft Owners and Pilots Association, the General Aviation Manufacturers Association, the International Association of Machinists and the Air Line Pilots Association.

This particular liability bill is unique because the aviation industry is exclusively regulated by the Federal Government. Planes, manufacturers, pilots, airspace—everything related to the industry must be certified by the FAA. Airplanes are not the same as cars, or toasters or rollerblades.

There is no other industry selling products to the public in which all of its segments are exclusively regulated by the Federal Government.

Furthermore, this bill will create thousands of jobs shortly after passage. We have already been assured by at least one major manufacturer, Cessna Aircraft, that the assembly lines will be reopened immediately upon passage of this legislation, creating thousands of jobs in a very short time period. Ten years ago, Cessna had more than 1,000 dealers worldwide selling their aircraft. Today, they have none.

This bill is a narrow, focused approach to a problem we have been trying to solve for over 8 years. Unlike earlier versions of the bill, this is a simple time limit on suits against manufacturers. This bill is not about general tort reform. It is about providing some predictability to an industry which has stopped building small airplanes because of liability costs.

But this is not just about small planes. The small plane industry is the genesis of the entire aviation industry. That is why companies like Boeing and McDonnell Douglas see this bill as critical to U.S. preeminence in the commercial aviation industry.

And most importantly, it is about putting thousands of people back to work in a high tech, highly skilled industry without costing the Federal Government a single penny. Not many bills we vote on these days can make that claim.

Just in Wichita alone, Beech Aircraft employed 9,000 workers in 1980. Today they employ 5,000. Cessna Aircraft employed 15,000 people in 1981. Today Cessna employs 5,300. And Piper Aircraft, of Vero Beach, FL, while they had 8,500 people working in 1979, today just has 360 employees. These statistics represent the human side of this bill, not to mention the increase in sales by foreign manufacturers, which have filled the void created by the U.S. decline.

In 1980, there were 29 manufacturers of piston aircraft in the United States and 15 foreign manufacturers. In 1992, there were 9 U.S. manufacturers and 29 foreign manufacturers of piston aircraft.

If we do not relcaim this industry which was once the exclusive domain of American companies, young pilots who are today learning to fly in foreign-built aircraft will never have the opportunity to climb into a new Cessna, Beech or Piper, Aerospatiale of France is now the leading supplier of flight training aircraft in the United States.

These foreign companies have not and will not be hindered by the liability tail of tens of thousands of aircraft still in the marketplace which were built 30, 40, and 50 years ago.

There is one small point I would like to clarify with regard to component parts, which are covered under the bill. The bill covers new component parts installed as replacements for original components. The component, when newly manufactured, receives the same limitation period as the airplane it is installed on.

For example, a used propeller which has 3 years left on its applicable limitation period would still have only 3 years, if installed in its used condition on a different airplane.

I urge you to join me and over 300 cosponsors of this legislation and vote for the General Aviation Revitalization, Act, and help get our manufacturing sector working again while giving not just small planes, but the entire U.S. commercial aviation industry a much-needed shot in the arm.

□ 1230

Mr. FISH. Mr. Speaker, I am very happy to yield 5 minutes to the gentleman from Utah [Mr. HANSEN], who, along with the gentleman from Kansas [Mr. GLICKMAN], has been the driving force, and to whom the industry and former employees who are about to get their jobs back should be very grateful.

Mr. HANSEN. Mr. Speaker, I thank my friend, the gentleman from New York, for yielding time to me.

Mr. Speaker, I appreciate the opportunity to be a small part of what we are discussing today, which I think is one of the most enormous things that is going to happen this year, because it is truly a jobs bill.

Mr. Speaker, since the time of Wilbur and Orville up to the time of Neal Armstrong, aviation in America has taken a real twist. At the time of the Wright brothers, it was kind of a novelty, kind of like telephones. They were a novelty at that point. What a funny idea, to think that man can actually fly, that idea. Then we saw Neal Armstrong step on the Moon.

Mr. Speaker, everything we do in this body right here, we could not make it without airplanes. Each one of us depends on them.

I think back, and as a young boy myself, I was looking up and looking at airplanes, and knowing that my dad used to fly the Curtis Jenny during World War I, a real old airplane. I remember being an airport bum, standing around airports, wanting to see if I could ever get the chance to do it. I still remember at the ripe old age of 16 sitting in an Aeronca Champ, 65 horsepower, it was what we used to refer to as two-blocking that throttle and going down the runway, with that all or nothing feeling when the fence is coming up and wondering if I have enough speed to get over the fence, kind of an interesting feeling. A lot of us in America have done that. A lot of people started out in Piper J-3's, Aeronca Champs, Aircoupes, Stinsons, you name it, Mooneys, and those people today are flying the DC-10's, MD-12's, they are flying the 747's, because they have a chance to do it.

When I look back at those days and all the friends I had who were flying when I learned to fly, then what happened to this great industry? We can go around America, go around the world, go into Thailand, and what do we see? We see the L-19 Bird Dog with that 213 Continental engine in it. Go into anyplace and we will see them. Go up to Alaska. How could they ever maintain the transportation they have in Alaska without light aircraft?

It was pointed out by previous speakers, this is an old, old fleet. These are old airplanes. Now we are giving an opportunity for this to come back and be a dynamic industry. The trouble is through the years people have not looked at liability. They have looked at sympathy.

I used to fly for the Civil Air Patrol. I know we would find somebody stacked in a peak, and the man had only VFR, visual flight rule training, but he is in instrument flight rule weather. He is in a place he has never flown in the mountains, but he is there, and unfortunately, there is something that is not predicated on liability. We find out that 92 percent of these accidents were caused by pilot error.

Like anything, we have to learn to drive a car or anything we use. We have to know, and I still think of an instructor who was working with me when I was trying to get a commercial ticket. He said this, "Know your own ability and know the capacity of your aircraft. That is important."

Mr. Speaker, unfortunately, like in cars and motorcycles and other things, occasionally these accidents happen. Now we are going to see ourselves bring back a great industry that is so important to America.

Mr. Speaker, I thank my friend, the gentleman from Kansas [Mr. GLICKMAN]. What a tenacious, good man to work with.

Mr. Speaker, we have had a lot of ups and downs in this bill. Together we and all of the good Members here, we came up with 305 cosponsors, and a discharge petition with 185 names on it. I think America wants to see this industry come back.

I do not want it to go overseas. I do not want other nations to say, "We took that industry away from you." We have seen enough of that happen since the Second World War.

This is an industry that is basically American. It started here. We go back, and this is where our roots and genesis is in aviation. We should stay at the head of this. We are doing it by helping bring this back at this particular time.

It does not only pertain to aircraft, though. Think about it. It is avgas, it is avionics, it is tires, and then go beyond that; it is motels, it is hotels, it is people such as that.

Mr. Speaker, this will bring back an industry and help everything we are doing in this area. I would urge my colleagues to vote for it. I think this is an excellent piece of legislation.

Mr. Speaker, I would hope Members would keep in mind as we look at this particular piece of legislation, what are we going to do for America on this? Please do not get channel vision and say that this is only for airplanes. This is going to help us all.

From now on when we go up to the area of our friend, the gentleman from Alaska [Mr. YOUNG], we will see new airplanes in the air. I do not know if it makes Members nervous, but most of us fly in 757's, 767's, DC-10's, the modern and new stuff. For those of us, and I do not fly anymore, but I do take the controls occasionally from the right seat, and we are flying in things that are old as can be. We are flying in things where we wonder about the spars, we wonder about other things. Now we have a chance to rejuvenate it.

Mr. Speaker, I thank the gentleman from New York [Mr. FISH] for yielding time to me. I surely hope we have an overwhelming vote on this today. This is the thing America ought to do. This is right for America.

Mr. OBERSTAR. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. BROOKS. Mr. Speaker, I also yield 1 minute to the gentleman from Kansas [Mr. SLATTERY].

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from Kansas [Mr. SLATTERY] is recognized for 3 minutes.

Mr. SLATTERY. Mr. Speaker, I rise today in strong support of S. 1458, the General Aviation Revitalization Act. I am an original cosponsor of this legislation in the House and have cosponsored it in every Congress since it was first introduced in 1986. A similar measure passed the Senate earlier this year by a vote of 91 to 8.

Mr. Speaker, I also want to join my other colleagues in expressing my gratitude to my colleague, the gentleman from Kansas [Mr. GLICKMAN], who has worked tirelessly on behalf of his constituents in the aircraft industry.

Mr. Speaker, S. 1458 is a simple concept which will have impact on our Nation. Over 300 House Members support it, and I am pleased that this measure is at long last being considered by the full House here today.

Mr. Speaker, passage of this legislation means jobs for Kansas and it means jobs for this country. More than 1,500 jobs will be created in my State of Kansas alone, and according to other studies, nearly 25,000 jobs will be created nationwide. These will be good paying jobs. I would say to the Members, we are not talking about minimum wage jobs.

Cessna, Beach, Learjet, and other aircraft manufacturers have greatly reduced or altogether halted production of light aircraft because of product liability considerations. The General Aviation Manufacturers Association estimates that 100,000 jobs have been lost since 1980 due to U.S. piston airplane manufacturers going out of business or leaving the country. This was due in large part to fear of product liability.

The industry has gone from 17,000 small aircraft being sold in 1979 to less than 1,000 this past year. Over 100,000 workers have lost their jobs due to this decline, and the industry's liability insurance costs have skyrocketed to over $200 million per year. We must act to change this, and that is exactly what we are doing here today. This measure will enable light aircraft manufacturers to get back into the market, and they have pledged to do so.

□ 1240

This legislation means manufacturing employment opportunities, greater sales of aircraft parts and supplies, more flight instructors will be able to teach more students, and more tourism dollars will be spent all across the country.

Mr. Speaker, I have had the opportunity to visit with Kansas aircraft industry executives, labor leaders, workers on the assembly line, pilots, and they all stress the importance of passing this bill. By passing this legislation, the manufacturers will be relieved from focusing much of their time and attention on lawsuits and will be allowed to remain focused on their purpose and, that is, to build the safest and best airplanes in the world.

I strongly urge my colleagues to support passage of this legislation today. It is good for America, it is going to create thousands of jobs in this country. This is what we all should call a no-brainer and pass it immediately.

Mr. CLINGER. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, this Member rises in strong support of S. 1458, the General Aviation Revitalization Act. As an original cosponsor of the House version of this measure, H.R. 3087, and a cosponsor of similar bills in previous sessions of Congress, this Member is pleased to see this important legislation finally get off the ground.

This Member commends the distinguished gentleman from Kansas [Mr. GLICKMAN] for his persistence over the past 8 years as he has attempted to reform the aviation liability laws. This Member would also like to express his appreciation to the leading role of the distinguished gentleman from Utah [Mr. HANSEN] who has just spoken with such eloquence and passion for his crucial role in advancing the legislation and, who, along with Mr. GLICKMAN, initiated the discharge petition effort which served as the catalyst for today's consideration of S. 1458.

The aviation manufacturing industry in the United States has been devastated in recent years by unreasonable liability laws. The current law which allows for unlimited liability regardless of the age of the aircraft discourages manufacturers from producing planes and penalizes aircraft owners and pilots by increasing the costs of planes and parts.

S. 1458 injects common sense into the current law and will allow the United States to regain its leadership in the general aviation industry. It is estimated that passage of this legislation will create at least 25,000 jobs in the next 5 years. The legislation will also greatly aid U.S. exports of piston airplanes, which have declined more than 80 percent in 15 years.

U.S. production of general aviation aircraft dropped from 17,811 planes in 1978 to 880 planes in 1992. Also, since 1983, 100,000 American jobs have been lost in the general aviation industry and foreign manufacturers have stepped in to fill this void. In 1980, there were 29 manufacturers of piston aircraft in the United States and 15 foreign manufacturers. In 1992, however, there were 9 U.S. and 29 foreign manufacturers of piston aircraft. Such a reversal poses a significant threat to the future of U.S. commercial and military aviation.

Enactment of this legislation will create tremendous benefits not only for aircraft manufacturers—such as

Cessna, Beech, and Learjet—but also for pilots, machinists, suppliers, contractors, and prospective aircraft owners. This Member expects this legislation to greatly assist Nebraska's 4,700 pilots and businesses such as Duncan Aviation in Lincoln, NE, which is a major national commercial enterprise servicing, retrofitting and repairing commercial aircraft.

Mr. Speaker, this Member urges his colleagues to support S. 1458. General aviation liability reform is long overdue. The distinguished gentleman from New York [Mr. FISH] has rightly lamented and warned of the risk the committee unfortunately has been in amending S. 1458. It gives opponents of reform one more chance to stall this long overdue reform legislation. The American public should and will watch to see who acts or permits this legislation to be stalled before final enactment of S. 1458.

Mr. OBERSTAR. Mr. Speaker, I yield the balance of our time to the gentleman from California [Mr. MINETA], chairman of the Committee on Public Works and Transportation.

Mr. MINETA. Mr. Speaker, I appreciate the gentleman from Minnesota yielding me this time.

Mr. Speaker, I rise today in strong support for S. 1458, the General Aviation Revitalization Act of 1994. At the outset, I would like to express my thanks to several of my colleagues without whose efforts this extremely important piece of legislation would not be before us. First, I must acknowledge the tireless efforts of the original sponsors of the legislation, Congressman GLICKMAN and Congressman HANSEN. They have worked for years to bring this legislation to the House floor and I greatly admire their perseverance. Many others would have given up in the face of the opposition they have encountered over the years. I would also like to thank Congressman OBERSTAR and Congressman CLINGER, the chairman and ranking member of the Subcommittee on Aviation. They have worked hard on this issue, been party to countless meetings, and held several hearings in an effort to bring relief to general aviation aircraft manufacturers. As always, I would like to thank Congressman SHUSTER, the ranking member of the Committee on Public Works and Transportation, for his continued and unwavering support of this legislation. Finally, I would like to thank Chairman BROOKS and Congressman FISH, the chairman and ranking member of the Committee on the Judiciary, for their help with this legislation. I know that Chairman BROOKS had significant concerns about the potential effect of this type of legislation. I am very grateful for his willingness to compromise on this issue to help save an once thriving industry, the general aviation aircraft manufacturing industry.

The Committee on Public Works and Transportation has historically recognized the devastating effects of product liability litigation on the general aviation manufacturing industry. In both the 100th and 101st Congresses, this committee reported comprehensive bills that would have established both a statute of repose and standards of comparative and general liability.

S. 1458, which is not as broad as previous legislation in this area, enjoys overwhelming support within the House of Representatives, amassing 305 cosponsors. In addition, the support for this bill is bipartisan. Rarely does Congress have the opportunity to address the needs of a critical industry in a manner that has such significant bipartisan support.

This version of S. 1458 is slightly different from the version reported by the Committee on Public Works and Transportation. It establishes a three-tier statute of repose, depending on the type of aircraft. Piston aircraft would be subject to a 15-year statute of repose, turboprop aircraft would be subject to an 18-year statute of repose, and jet aircraft would be subject to a 22-year statute of repose. These limits would prevent litigants from suing general aviation manufacturers if the aircraft is older than the applicable time limit. The statute of repose would not apply to aircraft parts or components that are less than the applicable age. For example, if a piston aircraft hull is 20 years old, but the engine is only 10 years old, in the event of an accident, only the aircraft engine manufacturer could be sued.

This approach is both effective in limiting the number of lawsuits aircraft manufacturers must defend, and fair to litigants pursuing legitimate tort claims. Most aircraft are bought and sold repeatedly in a 15- or 20-year period. Different owners often provide different levels of aircraft maintenance. If an aircraft has performed without incident for many years, I believe the product has sufficiently proven itself. To require an aircraft manufacturer to repeatedly defend tort actions regarding aircraft for which the manufacturer has not had responsibility or control for more than a decade is unreasonable. To impose these statutes of repose allows litigants ample opportunity to uncover product defects and take appropriate action, if warranted.

It costs an aircraft manufacturer approximately $500,000 to defend itself in a lawsuit, even if the manufacturer prevails. The excessive cost of defending tort suits regarding aircraft that are 20, 25, or even 30 years old have directly attributed to the manufacturers' decision to limit the type of new general aviation aircraft produced.

The United States was once a major producer of general aviation aircraft. In 1979, U.S. companies manufactured more than 17,000 general aviation aircraft. In 1992, only 899 such aircraft were produced. The number of single engine piston aircraft manufactured declined from 14,000 aircraft in 1978 to about 500 in 1992. This market is now being supplied primarily by foreign manufacturers that do not have the same exposure to liability because they have not been manufacturing aircraft for as long as their U.S. counterparts.

This translates directly into jobs lost in the general aviation manufacturing industry. We know with certainty that if this bill is enacted, it will have an immediate and positive impact on general aviation manufacturing. A representative from Piper Aircraft testified at the hearing held on this bill before the Subcommittee on Aviation that if the bill is passed, Piper will resume manufacturing single engine piston aircraft which it has not built for several years.

I urge my colleagues to support this important piece of legislation which is long overdue, and will result in the revitalization of an entire industry.

Mr. FISH. Mr. Speaker, I yield my remaining 30 seconds to the gentlewoman from Kansas [Mrs. MEYERS].

Mr. CLINGER. Mr. Speaker, I yield an additional 1 minute to the gentlewoman from Kansas.

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentlewoman from Kansas [Mrs. MEYERS] is recognized for 1½ minutes.

Mrs. MEYERS of Kansas. Mr. Speaker, I rise in strong support of S. 1458, the General Aviation Revitalization Act and I would like to thank all those who have worked so hard to bring this bill to the floor. I am pleased the House finally has the opportunity to give its approval to this much-need legislation.

As my Kansas colleague noted earlier, product liability has not only been driving aviation manufacturing away from Wichita, it has also been pressing its heavy hand on avionics manufacturers in my Kansas congressional district, including Allied-Signal which employs 2,800 in Olathe, KS. The legislation before the House today will shield these jobs from being jeopardized because of the fear of questionable litigation. More importantly, it has the potential to create more jobs nationwide, since general aircraft manufacturing will likely increase after it is enacted. So the potential is there for job creation in all of our districts.

My support for this legislation is also spurred by Kansas constituents who are private pilots, for which this is one of their legislative goals. I urge my colleagues to support S. 1458.

Mr. CLINGER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield the balance of my time to the gentleman from Oklahoma [Mr. SYNAR], a distinguished member of the Committee on the Judiciary and one of the coauthors of this compromise that has received so much public acclaim.

Mr. SYNAR. Mr. Speaker, today's legislative effort, I think, should demonstrate to both Republicans and Democrats the proper deliberative way to solve problems on the floor of the House and in this country. That is in comparison to regrettably growing methods of mob rule, and there-ought-to-be-a-law type of movement. The gentleman from Kansas [Mr. GLICKMAN] and the gentleman from Utah [Mr. HANSEN] are to be commended as others have for their tenacious, dynamic, aggressive, never-say-die attitude to get this issue before us.

□ 1250

But also we should commend the chairman, the gentleman from Texas [Mr. BROOKS], and the gentleman from New York [Mr. FISH], for their sage, patient, and wise judgment in correcting legislation to make sure that it will work properly.

You know, I have been an active supporter of commonsense product liability reform for the better part of my career. But I have never forgotten, and I hope my colleagues will never forget, that we must strike a balance between the manufacturers as well as the consumers. Such a balance was struck with this legislation, because the General Aviation Revitalization Act, as its title suggests, will assist an ailing industry to create new jobs without jeopardizing the public interest.

That is good news for my State of Oklahoma, where we are in need of jobs. That is good news for my State of Oklahoma, where we have manufacturing. That is good news for my State of Oklahoma, because the aviation industry will continue to grow. But most importantly, it is good news for America, because jobs in manufacturing in aviation, a vital industry to this country, will be insured with the passage of this legislation.

I urge all of my colleagues to support this compromise agreement.

I rise today in support of the General Aviation Revitalization Act which has long been championed by my good friend from Kansas, DAN GLICKMAN. S. 1458 is unprecedented in its preemption of State tort law because it would, for the first time, impose a Federal statute of repose limiting suits brought more than a specified time period after the original date of manufacture for general aviation aircraft.

As a longtime supporter of commonsense product liability legislation that balances the needs for both manufacturers and consumers, I have always supported reform legislation that addressed a narrowly defined problem for manufacturers while affording comprehensive protections for consumers. I believe S. 1458 achieves this balance.

The narrowly focused goal of this legislation is to limit the general aviation manufacturers' liability to correct the financial disincentives of litigation which many claim have caused the decline of the general aviation industry. All sides to this debate agree that the House considers this bill in the midst of a long-term decline in the sales of general aviation aircraft and the job loss that accompanies such a decline.

Supporters of the legislation have promised to restart production of single engine, piston-powered airplanes in an attempt to restore our Nation's status as a world leader in aircraft manufacture. For this reason alone, we should give serious consideration to today's legislation.

While jobs are important, especially in my state of Oklahoma, where an already vibrant general aviation industry should be helped by this bill, my role as a policymaker who cares about his constituents forces me to consider whether this bill provides adequate protection for the consumer and all those who could be impacted by legitimate aircraft failures caused by manufacturers.

General aviation aircraft manufacture and maintenance is one of the most heavily federally regulated industries in our Nation. Federal guidelines, inspections, and licensing control almost every phase of aircraft manufacture, flight, and repair. In addition, during the lifespan of an aircraft, almost every major component will be replaced or updated. Because the bill provides for a new repose period each time a new component is installed, anyone who may suffer from a failure of any component would have legal recourse. Finally, the changes made during the Judiciary Committee's consideration of this legislation will help the balance of the bill and improve the legislation as passed by the Senate.

The General Aviation Revitalization Act is narrow enough in scope to ensure that it is a fair way to assist a devastated industry and create jobs without jeopardizing the public interest. I urge my colleagues to support this bill.

Mr. BARCA of Wisconsin. Mr. Speaker, I rise today to express my support for S. 1458, the General Aviation Revitalization Act of 1994, and to express my appreciation to Chairman BROOKS and the members of the Judiciary Committee for their diligent efforts to work through a compromise and bring S. 1458 to the House floor for passage. I would also like to thank Chair MINETA and Chairman OBERSTAR for their leadership in their effort to establish Federal limits on manufacturer's liability.

American Champion Aircraft and Jacobson are both industries in my district that have been hampered by liability that has helped lead to the decline of the general aviation aircraft manufacturing industry. I have heard from many pilots as well as business leaders that sales of general aviation aircraft have dropped from 17,000 planes in 1979 to just 954 planes in 1993 with sales of single engine piston aircraft alone dropping from 14,000 planes to 555 planes. This has resulted in the estimated loss of 20,000 aircraft manufacturing jobs and estimated 80,000 jobs in related aircraft sales and service industries.

This bill establishes a Federal statute of limitations on civil liability of manufacturers of general aviation aircraft. It is my hope that this Congress will be successful in codifying this legislation into law to help the U.S. general aviation manufacturing industry to increase its production of smaller aircraft.

Mrs. UNSOELD. Mr. Speaker, the amended version of S. 1458, the General Aviation Revitalization Act of 1994, passed by the House Judiciary Committee last week represents a compromise that will benefit the aviation industry without undermining safety. I have been working for such a compromise on this issue and am pleased that we seem to have found one.

The bill creates a 15-year statute of repose for piston engine aircraft, 18 years for turbo-powered, and 22 years for jets. There is also an exception for cases involving fraud. Although this legislation breaks new ground in product liability law by imposing a federally-mandated time bar to suits against a manufacturer, the aviation industry is exclusively regulated by the Federal Government and S. 1458 is not about tort reform.

Historically the U.S. aviation industry has led the world in sales and technological advances. Although a statute of repose alone will not return the general aviation industry to prosperity, this act should help to level the playing field with foreign competitors and set the stage for a gradual recovery. In the short term I am pleased that the Cessna Corporation has committed to reopening its piston engine assembly lines. This will create new high-tech, high-paying jobs, not just in Kansas, but around the country as general aviation begins to take off again.

This is a particularly important issue in my district which is home to the Soloy Corporation, a piston engine aircraft manufacturer. Joe Soloy is recognized as an innovator within the U.S. aviation industry, producing such technological achievements as the dual-pack modification kit for the Cessna Caravan. S. 1458 will benefit Joe and others around the country who hope this legislation will lead to an improved business climate, and allow them to pursue with confidence what is not just a business or career, but a passion as well.

I am pleased to support passage of this bill today.

Mr. INHOFE. Mr. Speaker, I have been anticipating this day since 1987 when I was first elected to Congress. As a naive freshman, I believed that once Members understood how uncontrolled product liability claims were killing the general aviation industry, they would support efforts to reform it. So I diligently worked at getting the message out but was frustrated that the bill did not get anywhere even though it enjoyed broad support. I have since learned what happened, the American Trial Lawyers Association did not want to reform product liability for general aviation because it would mean less dollars for them—in short, nothing happened.

Today the full House will finally get a chance to vote on reforming a liability structure that has systematically destroyed the general aviation industry in this country. Passage of S. 1458 means general aviation manufacturing will return and Americans will have an opportunity to once again be employed in high paying aviation jobs. S. 1458 is not just an aviation bill, it is the most significant jobs bill the 103d Congress will consider. Russ Meyer, of Cessna Aircraft, has stated publicly that if product liability reform for general aviation is passed, Cessna will build 2,000 aircraft a year. It is estimated by the General Aviation Manufacturing Association that this bill could mean 25,000 new jobs in the next decade. S.

1458 is a major victory for aviation and for jobs in America.

S. 1458 is also a victory for those who have been supporting process reform. S. 1458 is on the floor today because the threat of successfully discharging it from the Judiciary Committee, where it has languished for 9 years, convinced the chairman of the committee to finally work with us to craft a sensible and reasonable bill.

I applaud all by colleagues who have worked on making S. 1458 a reality: Mr. GLICKMAN, Mr. HANSEN, Chairmen MINETA and OBERSTAR, Mr. SHUSTER and Mr. CLINGER. All of these Members have been supporters of general aviation from the get-go, and have been tireless in their efforts to persuade our colleagues on the Judiciary Committee to work with us to reach this compromise.

I hope that our colleagues in the other body will quickly consider this compromise proposal. I want to be able to go home and let my constituents know that after 9 years Congress has finally acted on their request to allow general aviation manufacturing to once again be an American industry.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the Senate bill, S. 1458, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

EXTENDING THE EXPORT ADMINISTRATION ACT OF 1979 UNTIL AUGUST 20, 1994

Mr. HAMILTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4635) to extend the Export Administration Act of 1979.

The Clerk read as follows:

H.R. 4635

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 20 of the Export Administration Act of 1979 (50 U.S.C. App. 2419) is amended by striking "June 30, 1994" and inserting "August 20, 1994".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. HAMILTON] will be recognized for 20 minutes, and the gentleman from Nebraska [Mr. BEREUTER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. HAMILTON].

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill provides for a short-term extension of the Export Administration Act of 1979.

The current act expires this week on June 30. The bill we are considering today extends current law until August 20, 1994. It makes no other changes in current law.

On May 25 the Committee on Foreign Affairs reported H.R. 3937, the Omnibus Export Administration Act of 1994, which comprehensively reforms U.S. dual-use export controls.

H.R. 3937 was sequentially referred to five House committees, all of which have completed their work on the bill. The bill's Senate counterpart was reported last week by the Committee on Banking, Finance and Urban Affairs.

Because of the work we have been doing with other committees of jurisdiction and due to the press of business in the House prior to the July 4 district work period, we were not able to bring this comprehensive bill to the House floor this week as we has planned. I am told the other body has similar problems.

For these reasons, we need to extend current law for a very brief period. We expect H.R. 3937 to be scheduled for floor action during the first week after the July 4 break. Senate action is expected at that time as well.

We have made a lot of progress on H.R. 3937 in the last few months. Extending current law until August 20 should provide sufficient time for both Houses to complete consideration and a conference and to send the bill to the President.

Mr. Speaker, I urge adoption of this extension.

Mr. Speaker, I reserve the balance of my time.

Mr. BEREUTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to support consideration of this interim, but very important, authorization for the Export Administration Act through August 20 of this year.

The EAA is the principal law controlling the export of commodities and technology with both military and civilian uses. Under this act, the Department of Commerce has responsibility for the licensing of these dual use goods for export and shares responsibility with the U.S. Customs Service for enforcing controls over these items.

Congress must act expeditiously to ensure that there is no lapse in the legal authorities of the Commerce Department for licensing decisions and enforcement actions in the courts.

In the expectation that the House will very shortly consider the Omnibus Export Administration Act of 1994, overhauling our entire export control system, this short-term extender is intended to give sufficient time for Congress to act on this comprehensive export control legislation.

This Member commends the gentleman from Connecticut [Mr. GEJDENSON], the distinguished chairman of the House Foreign Affairs Trade and Environment Subcommittee, and the gentleman from Wisconsin [Mr. ROTH], the subcommittee's ranking member. Last week, the House Foreign Affairs Committee considered this legislation and sent it before the House without change.

Mr. Speaker, this legislation does not—in any way—amend the Export Administration Act of 1979 except to extend its authority for 51 days. It is important to note that the House Foreign Affairs Committee has been steadfastly working on significant and controversial legislation to reform our outdated export control laws; however, that work is not completely done. Therefore, it is extremely important that the authority to administer our export control laws does not lapse during our consideration of the more significant reform legislation.

Mr. Speaker, by extending the Export Administration Act for only 51 days, we accomplish two important tasks:

First, we maintain our authority to administer the export control laws of the United States.

In the past, Mr. Speaker, we have failed to extend the Export Administration Act and our Presidents have been forced to administer our export control system by Executive order and under the authority of the International Emergency Economic Powers Act [IEEPA].

Unfortunately, however, this residual authority has proven woefully inadequate and legal challenges to the use of emergency authority have seriously jeopardized the President's ability to effectively administer these export control laws.

Mr. Speaker, the seriousness of this potential problem cannot be overstated. If the legal challenges to the President's emergency authority are upheld, the U.S. Government would not be able to enforce its export control laws and proliferators could violate them without penalty. Most importantly, Mr. Speaker, countries like North Korea, Iran, and Libya could obtain extremely sensitive technology from United States exporters and the Federal Government would be without recourse.

Additionally, Mr. Speaker, even if the President's emergency authority were upheld, significant differences exist between the preferred Export Administration Act and the President's emergency authority under IEEPA. For example, emergency authority severely limits civil and criminal penalties for those found in violation of U.S. export control laws, and the investigative powers of the Department of Commerce's special agents are eroded. Finally, and most importantly, the confidentiality of information received from U.S. businesses who are cooperating with the U.S. Government on export control laws is endangered by the lapsing of section 112(c) of the Export Administration Act.

Mr. Speaker, this simple extension of the Export Administration Act performs yet a second valuable function. By limiting the extension to 51 days, this legislation provides a deadline and therefore an incentive for Congress to pass significant export control law reform legislation.

Mr. Speaker, in March of this year, Cocom, the international agency which coordinates national export control laws, disintegrated and its member countries resorted to policies of national discretion for approving export licenses for sensitive technologies. Meanwhile, the United States' outdated export control laws are estimated to cost U.S. businesses $20 billion annually while disproportionately penalizing our Nation's most promising high-technology goods and service exports.

Clearly, Mr. Speaker, with the demise of Cocom and the United States woefully outdated export control system, we must reach the fundamental conclusion that the United States cannot afford to attempt to unilaterally restrict exports that it cannot control.

Consequently, this Member is hopeful that by extending the Export Administration Act of 1979 for another 51 days, we can then pass appropriately reformed export control legislation.

In the meantime, Mr. Speaker, it would be irresponsible for Congress to force the President to administer the U.S. export control laws under questionable authority. This Member urges his colleagues to suspend the rules and pass H.R. 4635. This legislation is necessary to ensure that U.S. export control laws are enforced while maintaining a short deadline and incentive for Congress to pass significant and carefully crafted export control law reform legislation soon.

Mr. ROTH. Mr. Speaker, as the ranking Republican member of the Subcommittee on Economic Policy, Trade and Environment of the Foreign Affairs Committee, I support enactment of H.R. 4635. This bill will provide a temporary continuation of the current Export Administration Act through August 20.

This temporary measure should provide enough time for us to complete work on pending legislation to rewrite the Export Administration Act. The Foreign Affairs Committee has reported to the House a comprehensive revision of this statute. Several other committees have considered our bill and have reported to the House as well. The House is expected to debate and vote on our bill soon after we return from the upcoming July Fourth District Work Period.

The Foreign Affairs Committee's bill incorporates my reform legislation, H.R. 3412, which I introduced last autumn. It is supported by a national coalition of some 150 high-technology companies, the cream of America's cutting edge industries. Needless to say, I support the committee's reported bill and I anticipate that the House will vote to approve it.

In the other body, similar legislation has been reported by the Banking Committee and is ready for debate and votes.

Therefore, Members should be assured that, with the cooperation of the other body, we are in a position to complete work on revising the act by August 20, under the terms of this temporary extension.

In the interim, we must continue the current law in effect. While we do need a complete revision of this outdated statute, we must not allow any lapse in the authority of the executive branch to enforce our Nation's exports controls. There is no other legally sound statutory authority to fall back on during this interim period. The International Emergency Economic Powers Act does not clearly provide the authority to enforce the full scope of the Export Administration Act.

Therefore, I urge my colleagues to join me in supporting this temporary measure, and to join me in a few weeks in voting for a comprehensive revision of the Export Administration Act when we bring our bill to the House.

Mr. Speaker I have no further requests for time, and I yield back the balance of my time.

Mr. HAMILTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. HAMILTON] that the House suspend the rules and pass the bill, H.R. 4635.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4635, the bill just passed.

The SPEAKER pro tempo. Is there objection to the request of the gentleman from Indiana?

there was no objection.

FEDERAL ACQUISITION IMPROVEMENT ACT OF 1994

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2238) to amend laws relating to Federal procurement, to authorize functions and activities under the Federal Property and Administrative Services Act of 1949, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2238

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Acquisition Improvement Act of 1994".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—CONTRACT FORMATION

Subtitle A—Competition Statutes

PART I—ARMED SERVICES ACQUISITIONS

SUBPART A—COMPETITION REQUIREMENTS

Sec. 1001. References to Federal Acquisition Regulation.
Sec. 1002. Establishment or maintenance of alternative sources of supply.
Sec. 1003. Clarification of approval authority for use of procedures other than full and open competition.

SUBPART B—PLANNING, SOLICITATION, EVALUATION, AND AWARD

Sec. 1011. Source selection factors.
Sec. 1012. Solicitation provision regarding evaluation of purchase options.
Sec. 1013. Prompt notice of award.
Sec. 1014. Post-award debriefings.
Sec. 1015. Protest file.
Sec. 1016. Agency decisions on protests.
Sec. 1017. Award of multiple contracts.

SUBPART C—KINDS OF CONTRACTS

Sec. 1021. Repeal of requirement for secretarial determination regarding use of cost type or incentive contract.

SUBPART D—MISCELLANEOUS PROVISIONS FOR THE ENCOURAGEMENT OF COMPETITION

Sec. 1031. Repeal of requirement for annual report by advocates for competition.

PART II—CIVILIAN AGENCY ACQUISITIONS

SUBPART A—COMPETITION REQUIREMENTS

Sec. 1051. References to Federal Acquisition Regulation.
Sec. 1052. Establishment or maintenance of alternative sources of supply.
Sec. 1053. Clarification of approval authority for use of procedures other than full and open competition.

SUBPART B—PLANNING, SOLICITATION, EVALUATION, AND AWARD

Sec. 1061. Solicitation, evaluation, and award.
Sec. 1062. Solicitation provision regarding evaluation of purchase options.
Sec. 1063. Prompt notice of award.
Sec. 1064. Post-award debriefings.
Sec. 1065. Protest file.
Sec. 1066. Agency decisions on protests.
Sec. 1067. Award of multiple contracts.

SUBPART C—KINDS OF CONTRACTS

Sec. 1071. Repeal of agency head determination regarding use of cost type or incentive contract.
Sec. 1072. Multiyear contracting authority.
Sec. 1073. Severable services contracts crossing fiscal years.

PART III—ACQUISITIONS GENERALLY

Sec. 1091. Policy regarding consideration of contractor past performance.
Sec. 1092. Repeal of requirement for annual report on competition.
Sec. 1093. Discouragement of nonstandard contract clauses.

Subtitle B—Truth in Negotiations

PART I—ARMED SERVICES ACQUISITIONS

Sec. 1201. Stabilization of dollar threshold of applicability.
Sec. 1202. Exceptions to cost or pricing data requirements.
Sec. 1203. Right of United States to examine contractor records.
Sec. 1204. Consistency of time references.
Sec. 1205. Repeal of superseded provision.

PART II—CIVILIAN AGENCY ACQUISITIONS
Sec. 1251. Revision of civilian agency provisions to ensure uniform treatment of cost or pricing data.
Sec. 1252. Repeal of obsolete provision.

Subtitle C—Research and Development
Sec. 1301. Competition requirement for awards of grants and contracts to nonprofit organizations.

Subtitle D—Procurement Protests
PART I—PROTESTS TO THE COMPTROLLER GENERAL
Sec. 1401. Protest defined.
Sec. 1402. Review of protests and effect on contracts pending decision.
Sec. 1403. Decisions on protests.
Sec. 1404. Regulations.
PART II—PROTESTS IN PROCUREMENTS OF AUTOMATIC DATA PROCESSING
Sec. 1431. Revocation of delegations of procurement authority.
Sec. 1432. Authority of the General Services Administration Board of Contract Appeals.
Sec. 1433. Periods for certain actions.
Sec. 1434. Dismissals of protests.
Sec. 1435. Award of costs.
Sec. 1436. Dismissal agreements.
Sec. 1437. Matters to be covered in regulations.
Sec. 1438. Definition of protest.
Sec. 1439. Oversight of acquisition of automatic data processing equipment by Federal agencies.

Subtitle E—Policy, Definitions, and Other Matters
PART I—ARMED SERVICES ACQUISITIONS
Sec. 1501. Congressional defense procurement policy.
Sec. 1502. Definitions.
Sec. 1503. Delegation of procurement functions.
Sec. 1504. Determinations and decisions.
Sec. 1505. Restrictions on undefinitized contractual actions.
Sec. 1506. Repeal of requirement relating to production special tooling and production special test equipment.
Sec. 1507. Regulations for bids.
PART II—CIVILIAN AGENCY ACQUISITIONS
Sec. 1551. Definitions.
Sec. 1552. Delegation of procurement functions.
Sec. 1553. Determinations and decisions.
Sec. 1554. Repeals.
Sec. 1555. Cooperative purchasing.

TITLE II—CONTRACT ADMINISTRATION

Subtitle A—Contract Payment
PART I—ARMED SERVICES ACQUISITIONS
Sec. 2001. Contract financing.
Sec. 2002. Repeal of vouchering procedures section.
PART II—CIVILIAN AGENCY ACQUISITIONS
Sec. 2051. Contract financing.
PART III—ACQUISITIONS GENERALLY
Sec. 2061. Interest penalty on contract close-out lag-time.

Subtitle B—Cost Principles
PART I—ARMED SERVICES ACQUISITIONS
Sec. 2101. Allowable contract costs.
Sec. 2102. Repeal of authority for contract profit controls during emergency periods.
PART II—CIVILIAN AGENCY ACQUISITIONS
Sec. 2151. Allowable contract costs.
Sec. 2152. Revision of cost principle relating to entertainment, gift, and recreation costs for contractor employees.
PART III—ACQUISITIONS GENERALLY
Sec. 2161. Travel expenses of government contractors.

Subtitle C—Audit and Access to Records
PART I—ARMED SERVICES ACQUISITIONS
Sec. 2201. Consolidation and revision of authority to examine records of contractors.
PART II—CIVILIAN AGENCY ACQUISITIONS
Sec. 2251. Authority to examine records of contractors.

Subtitle D—Cost Accounting Standards
Sec. 2301. Repeal of obsolete deadline regarding procedural regulations for the Cost Accounting Standards Board.

Subtitle E—Administration of Contract Provisions Relating to Price, Delivery, and Product Quality
Sec. 2401. Clarification of provision relating to quality control of certain spare parts.
Sec. 2402. Contractor guarantees regarding weapon systems.

Subtitle F—Claims and Disputes
Sec. 2501. Certification of contract claims.
Sec. 2502. Shipbuilding claims.

TITLE III—MAJOR SYSTEMS AND SERVICE SPECIFIC STATUTES

Subtitle A—Major Systems Statutes
Sec. 3001. Weapon development and procurement schedules.
Sec. 3002. Selected Acquisition Report requirement.
Sec. 3003. Unit cost report requirement.
Sec. 3004. Requirement for independent cost estimate and manpower estimate before development or production.
Sec. 3005. Baseline description.
Sec. 3006. Repeal of requirement for competitive prototyping for major programs.
Sec. 3007. Repeal of requirement for competitive alternative sources for major programs.

Subtitle B—Testing Statutes
Sec. 3011. Authorization of less than full-up testing.
Sec. 3012. Limitation on quantities to be procured for low-rate initial production.
Sec. 3013. Operational test and evaluation of defense acquisition programs.

Subtitle C—Civil Reserve Air Fleet
Sec. 3021. Definition of contractor.
Sec. 3022. Consolidation of provisions relating to contractual commitment of aircraft.
Sec. 3023. Use of military installations by contractors.

Subtitle D—Miscellaneous
Sec. 3051. Regulations on procurement, production, warehousing, and supply distribution functions.
Sec. 3052. Repeal of requirements regarding product evaluation activities.
Sec. 3053. Codification and revision of limitation on lease of vessels, aircraft, and vehicles.
Sec. 3054. Repeal of application of Public Contracts Act to certain naval vessel contracts.

TITLE IV—SIMPLIFIED ACQUISITION THRESHOLD AND SOCIOECONOMIC, SMALL BUSINESS, AND MISCELLANEOUS LAWS

Subtitle A—Simplified Acquisition Threshold
PART I—ESTABLISHMENT OF THRESHOLD
Sec. 4001. Establishment of simplified acquisition threshold.
Sec. 4002. Federal acquisition computer network architecture.
Sec. 4003. Implementation in Armed Services.
Sec. 4004. Implementation in civilian agencies.
PART II—SIMPLIFICATION OF PROCEDURES
Sec. 4011. Procedures for purchases below micro-purchase threshold.
Sec. 4012. Procurement notice.
Sec. 4013. GAO test and report on performance of simplified acquisition threshold.
PART III—INAPPLICABILITY OF LAWS TO ACQUISITIONS NOT IN EXCESS OF SIMPLIFIED ACQUISITION THRESHOLD
SUBPART A—GENERALLY
Sec. 4021. Inapplicability of future enacted procurement laws to contracts not exceeding the simplified acquisition threshold.
SUBPART B—ARMED SERVICES ACQUISITIONS
Sec. 4031. Inapplicability of certain provisions of law.
Sec. 4032. Conforming amendments relating to inapplicability of certain provisions of law.
SUBPART C—CIVILIAN AGENCY ACQUISITIONS
Sec. 4041. Inapplicability of certain provisions of law.
Sec. 4042. Conforming amendments relating to inapplicability of certain provisions of law.
SUBPART D—ACQUISITIONS GENERALLY
Sec. 4051. Conformance of certain procurement integrity requirements.
Sec. 4052. Inapplicability of the Drug-Free Workplace Act of 1988.
PART IV—CONFORMING AMENDMENTS
Sec. 4071. Armed Services acquisitions.
Sec. 4072. Civilian agency acquisitions.
Sec. 4073. Office of Federal Procurement Policy Act.
PART V—REVISION OF REGULATIONS
Sec. 4081. Revision required.

Subtitle B—Socioeconomic and Small Business Laws
Sec. 4101. Small business provisions.
Sec. 4102. Payment protections for subcontractors and suppliers.
Sec. 4103. Extension of test program for negotiation of comprehensive small business subcontracting plans.
Sec. 4104. Small Business Procurement Advisory Council.
Sec. 4105. Maximum practicable opportunities for apprentices on Federal construction projects.

Subtitle C—Miscellaneous Acquisition Laws
Sec. 4151. Restriction on use of noncompetitive procedures for procurement from a specified source.
Sec. 4152. Repeal of obsolete provision.

TITLE V—STANDARDS OF CONDUCT
Sec. 5001. Contracting functions performed by Federal personnel.
Sec. 5002. Repeal of executed requirement for study and report.
Sec. 5003. Interests of Members of Congress.
Sec. 5004. Waiting period for significant changes proposed for acquisition regulations.
Sec. 5005. Repeal of superseded and obsolete laws.

TITLE VI—DEFENSE TRADE AND COOPERATION
Sec. 6001. Exception to Buy American Act for micro-purchases.
Sec. 6002. Policy on purchase of foreign goods.

Sec. 6003. Consolidation of miscellaneous procurement limitations.
Sec. 6004. Repeal of obsolete and redundant provisions.

TITLE VII—COMMERCIAL ITEMS

Subtitle A—Definitions and Regulations

Sec. 7001. Definitions.
Sec. 7002. Regulations on acquisition of commercial items.

Subtitle B—Armed Services Acquisitions

Sec. 7101. Establishment of new chapter in title 10.
Sec. 7102. Definitions.
Sec. 7103. Preference for acquisition of commercial items.
Sec. 7104. Exception to cost or pricing data requirements for commercial items.
Sec. 7105. Principle of construction with future laws.
Sec. 7106. Inapplicability of certain provisions of law.
Sec. 7107. Conforming amendments relating to inapplicability of certain provisions of law.

Subtitle C—Civilian Agency Acquisitions

Sec. 7201. Definitions.
Sec. 7202. Preference for acquisition of commercial items.
Sec. 7203. Exception to cost or pricing data requirements for commercial items.
Sec. 7204. Principle of construction with future laws.
Sec. 7205. Inapplicability of certain provisions of law.
Sec. 7206. Conforming amendments relating to inapplicability of certain provisions of law.

Subtitle D—Acquisitions Generally

Sec. 7301. Conforming amendment relating to inapplicability of certain provisions of law.
Sec. 7302. Flexible deadlines for submission of offers of commercial items.
Sec. 7303. Additional responsibilities for advocates for competition.
Sec. 7304. Provisions not affected.
Sec. 7305. Comptroller General review of Federal Government use of market research.

TITLE VIII—MISCELLANEOUS PROVISIONS

Sec. 8001. Test program.
Sec. 8002. Study of participation by certain small businesses in Federal procurement.
Sec. 8003. Furtherance of contract goal for small disadvantaged businesses and certain institutions of higher education.
Sec. 8004. Education and training.
Sec. 8005. Department of Defense acquisition of intellectual property rights.
Sec. 8006. Sense of Congress on negotiated rulemaking.
Sec. 8007. Vendor and employee excellence awards.
Sec. 8008. Codification of accounting requirement for contracted advisory and assistance services.
Sec. 8009. Technical and clerical amendments.

TITLE IX—EFFECTIVE DATES AND REGULATIONS

Sec. 9001. Effective dates.
Sec. 9002. Regulations.
Sec. 9003. Evaluation by the Comptroller General.

TITLE I—CONTRACT FORMATION

Subtitle A—Competition Statutes

PART I—ARMED SERVICES ACQUISITIONS

Subpart A—Competition Requirements

SEC. 1001. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 2304 of title 10, United States Code, is amended—

(1) in subsection (a)(1)(A), by striking out "modifications" and all that follows through "note)" and inserting in lieu thereof "Federal Acquisition Regulation"; and

(2) in subsection (g)(1), by striking out "regulations modified" and all that follows through "note)" and inserting in lieu thereof "Federal Acquisition Regulation".

SEC. 1002. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

(a) PROHIBITION ON USE OF CLASSES OF PURCHASES OR CONTRACTS.—Section 2304(b) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) A determination under paragraph (1) may not be made for a class of purchases or contracts."; and

(3) in paragraph (4), as redesignated by paragraph (1), by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraphs (1) and (3)".

(b) ADDITIONAL JUSTIFICATION FOR ESTABLISHING OR MAINTAINING ALTERNATIVE SOURCES.—Section 2304(b)(1) of such title is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(D) would ensure the continuous availability of a reliable source of supply of such property or service;

"(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

"(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.".

SEC. 1003. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.

Section 2304(f)(1)(B)(i) of title 10, United States Code, is amended by inserting before the semicolon at the end the following: "or by an official referred to in clause (ii), (iii), or (iv)".

Subpart B—Planning, Solicitation, Evaluation, and Award

SEC. 1011. SOURCE SELECTION FACTORS.

(a) CONTENT OF SOLICITATION.—Section 2305(a) of title 10, United States Code, is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)(i)—

(i) by striking out "(and significant subfactors)" and inserting in lieu thereof "and significant subfactors".

(ii) by inserting after "price-related factors" the following: "and subfactors", and

(iii) by inserting after "nonprice-related factors" the following: "and subfactors"; and

(B) in subparagraph (B)(ii), by striking out subclause (I) and inserting in lieu thereof the following:

"(I) either a statement that the proposals are intended to be evaluated with, and award made after, discussions with the offerors, or a statement that the proposals are intended to be evaluated, and award made, without discussions with the offerors (other than discussions conducted for the purpose of minor clarification) unless discussions are determined to be necessary; and"; and

(2) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3)(A) In prescribing the evaluation factors to be included in each solicitation for competitive proposals, an agency head—

"(i) shall clearly establish the relative importance assigned to the evaluation factors and subfactors, including the quality of the product or services to be provided (including technical capability, management capability, prior experience, and past performance of the offeror);

"(ii) shall include cost or price to the Federal Government as an evaluation factor that must be considered in the evaluation of proposals; and

"(iii) shall disclose to offerors whether all evaluation factors other than cost or price, when combined, are—

"(I) significantly more important than cost or price;

"(II) approximately equal in importance to cost or price; or

"(III) significantly less important than cost or price.

"(B) The regulations implementing clause (iii) of subparagraph (A) may not define the terms 'significantly more important' and 'significantly less important' as specific numeric weights that would be applied uniformly to all solicitations.

"(4) Nothing in this subsection prohibits an agency from—

"(A) providing additional information in a solicitation, including numeric weights for all evaluation factors and subfactors; or

"(B) stating in a solicitation that award will be made to the offeror that meets the solicitation's mandatory requirements at the lowest cost or price.".

(b) AUTHORITY TO APPLY AMENDMENTS EARLY.—The head of an agency may apply the amendments made by this section to solicitations issued before the effective date specified in section 9001(a) and to contracts awarded pursuant to those solicitations. The head of the agency shall publish in the Federal Register notice of any such earlier date of application at least 10 days before that date.

SEC. 1012. SOLICITATION PROVISION REGARDING EVALUATION OF PURCHASE OPTIONS.

Section 2305(a) of title 10, United States Code, as amended by section 1011, is further amended by adding at the end the following new paragraph:

"(4) The head of an agency, in issuing a solicitation for a contract to be awarded using sealed bid procedures, may not include in such solicitation a clause providing for the evaluation of prices under the contract for options to purchase additional supplies or services under the contract unless the head of the agency has determined that there is a reasonable likelihood that the options will be exercised.".

SEC. 1013. PROMPT NOTICE OF AWARD.

(a) SEALED BID PROCEDURES.—Paragraph (3) of section 2305(b) of title 10, United States Code, is amended—

(1) in the last sentence, by striking out "transmitting written notice" and inserting in lieu thereof "transmitting, in writing or by electronic means, notice"; and

(2) by adding at the end the following: "Within three days after the date of contract

award, the head of the agency shall notify, in writing or by electronic means, each bidder not awarded the contract that the contract has been awarded.".

(b) COMPETITIVE PROPOSALS PROCEDURES.—Paragraph (4)(B) of such section is amended in the second sentence—

(1) by striking out "transmitting written notice" and inserting in lieu thereof "transmitting, in writing or by electronic means, notice"; and

(2) by striking out "shall promptly notify" and inserting in lieu thereof ", within three days after the date of contract award, shall notify, in writing or by electronic means,".

SEC. 1014. POST-AWARD DEBRIEFINGS.

Section 2305(b) of title 10, United States Code, is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph (5):

"(5)(A) When a contract is awarded by an agency on the basis of competitive proposals, an unsuccessful offeror, upon written request received by the agency within five days after the date of receipt of notification of the contract award, shall be debriefed and furnished the basis for the selection decision and contract award. The head of the agency shall debrief the offeror within, to the maximum extent practicable, five days after receipt of the request by the agency.

"(B) Such debriefing shall include, at a minimum, the following:

"(i) The agency's evaluation of the significant weak or deficient factors in the offeror's offer.

"(ii) The overall evaluated cost of the offer of the offeror awarded the contract and the overall evaluated cost of the offer of the debriefed offeror.

"(iii) The overall ranking of all offers and the total technical and cost scores of all offers.

"(iv) A summary of the rationale for the award.

"(v) In the case of an offer by the debriefed offeror that includes a commercial item that is an end item under the contract, the makes and models of similar commercial items included in the offer of the offeror awarded the contract.

"(vi) Reasonable responses to questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency.

"(C) The debriefing shall not include point-by-point comparisons of the debriefed offeror's offer with other offers and shall not disclose any information that is exempt from disclosure under section 552 of title 5.

"(D) Each solicitation for competitive proposals shall include a statement that information described in subparagraph (B) may be disclosed in post-award debriefings.

"(E) The contracting officer shall include a summary of the debriefing in the contract file.".

SEC. 1015. PROTEST FILE.

Section 2305 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) PROTEST FILE.—(1) If, in the case of a solicitation for a contract issued by, or an award or proposed award of a contract by, the head of an agency, a protest is filed pursuant to the procedures in subchapter V of chapter 35 of title 31 and an actual or prospective offeror so requests, a file of the protest shall be established by the procuring activity and reasonable access shall be provided to actual or prospective offerors.

"(2) Information exempt from disclosure under section 552 of title 5 may be redacted in a file established pursuant to paragraph (1) unless an applicable protective order provides otherwise.

"(3) Regulations implementing this subsection shall be consistent with the regulations regarding the preparation and submission of an agency's protest file (the so-called 'rule 4 file') for protests to the General Services Board of Contract Appeals under section 111 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 759).".

SEC. 1016. AGENCY DECISIONS ON PROTESTS.

Section 2305 of title 10, United States Code, as amended by section 1015, is further amended by adding at the end the following new subsection:

"(f) DECISIONS ON PROTESTS.—If, in connection with a protest, the head of an agency determines that a solicitation, proposed award, or award does not comply with the requirements of law or regulation, the head of the agency—

"(1) may take any action set out in subparagraphs (A) through (F) of subsection (b)(1) of section 3554 of title 31; and

"(2) may pay costs described in paragraph (1) of section 3554(c) of title 31 within the limits referred to in paragraph (2) of such section.".

SEC. 1017. AWARD OF MULTIPLE CONTRACTS.

Section 2305 of title 10, United States Code, as amended by section 1016, is further amended by adding at the end the following new subsection:

"(g) AWARD OF MULTIPLE CONTRACTS.—In procuring any supply or service using competitive procedures, the head of an agency may award more than one contract for the same supply or service in any case in which the head of the agency determines that it is in the best interests of the Federal Government to award those contracts for the purpose of maintaining a continuous source for the supply or service.".

Subpart C—Kinds of Contracts

SEC. 1021. REPEAL OF REQUIREMENT FOR SECRETARIAL DETERMINATION REGARDING USE OF COST TYPE OR INCENTIVE CONTRACT.

Subsection (c) of section 2306 of title 10, United States Code, is repealed.

Subpart D—Miscellaneous Provisions for the Encouragement of Competition

SEC. 1031. REPEAL OF REQUIREMENT FOR ANNUAL REPORT BY ADVOCATES FOR COMPETITION.

Subsection (c) of section 2318 of title 10, United States Code, is repealed.

PART II—CIVILIAN AGENCY ACQUISITIONS

Subpart A—Competition Requirements

SEC. 1051. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended—

(1) in subsection (a)(1)(A), by striking out "modifications" and all that follows through "of 1984" and inserting in lieu thereof "Federal Acquisition Regulation"; and

(2) in subsection (g)(1), by striking out "regulations modified" and all that follows through "of 1984," and inserting in lieu thereof "Federal Acquisition Regulation".

SEC. 1052. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

(a) PROHIBITION ON USE OF CLASSES OF PURCHASES OR CONTRACTS.—Section 303(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(b)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) A determination under paragraph (1) may not be made for a class of purchases or contracts."; and

(3) in paragraph (4), as redesignated by paragraph (1), by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraphs (1) and (3)".

(b) ADDITIONAL JUSTIFICATION FOR ESTABLISHING OR MAINTAINING ALTERNATIVE SOURCES.—Section 303(b)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(b)(1)) is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(D) would ensure the continuous availability of a reliable source of supply of such property or service;

"(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

"(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.".

SEC. 1053. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.

Section 303(f)(1)(B)(i) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)(B)(i)) is amended by inserting before the semicolon at the end the following: "or by an official referred to in clause (ii), (iii), or (iv)".

Subpart B—Planning, Solicitation, Evaluation, and Award

SEC. 1061. SOLICITATION, EVALUATION, AND AWARD.

(a) CONTENT OF SOLICITATION.—Section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a) is amended—

(1) in subsection (b)(1), by amending subparagraph (A) to read as follows:

"(A) all significant factors and significant subfactors which the executive agency reasonably expects to consider in evaluating sealed bids (including price) or competitive proposals (including cost or price, cost- or price-related factors and subfactors, and noncost- or nonprice-related factors and subfactors); and";

(2) in subsection (b)(1)(B), by inserting "and subfactors" after "factors";

(3) in subsection (b)(2)(B), by striking out clause (i) and inserting in lieu thereof the following:

"(i) either a statement that the proposals are intended to be evaluated with, and award made after, discussions with the offerors, or a statement that the proposals are intended to be evaluated, and award made, without discussions with the offerors (other than discussions conducted for the purpose of minor clarification) unless discussions are determined to be necessary; and"; and

(4) by adding at the end the following new subsection:

"(c)(1) In prescribing the evaluation factors to be included in each solicitation for competitive proposals, an executive agency—

"(A) shall clearly establish the relative importance assigned to the evaluation factors and subfactors, including the quality of the product or services to be provided (including technical capability, management capability, prior experience, and past performance of the offeror);

"(B) shall include cost or price to the Federal Government as an evaluation factor that must be considered in the evaluation of proposals; and

"(C) shall disclose to offerors whether all evaluation factors other than cost or price, when combined, are—

"(i) significantly more important than cost or price;

"(ii) approximately equal in importance to cost or price; or

"(iii) significantly less important than cost or price.

"(2) The regulations implementing subparagraph (C) of paragraph (1) may not define the terms 'significantly more important' and 'significantly less important' as specific numeric weights that would be applied uniformly to all solicitations.

"(3) Nothing in this subsection prohibits an executive agency from—

"(A) providing additional information in a solicitation, including numeric weights for all evaluation factors and subfactors; or

"(B) stating in a solicitation that award will be made to the offeror that meets the solicitation's mandatory requirements at the lowest cost or price.".

(b) Evaluation and Award.—Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended—

(1) in subsection (a), by inserting ", and award a contract," after "competitive proposals";

(2) in subsection (c), by inserting "in accordance with subsection (a)" in the second sentence after "shall evaluate the bids"; and

(3) in subsection (d)—

(A) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) An executive agency shall evaluate competitive proposals in accordance with subsection (a) and may award a contract—

"(A) after discussions with the offerors, provided that written or oral discussions have been conducted with all responsible offerors who submit proposals within the competitive range; or

"(B) based on the proposals received and without discussions with the offerors (other than discussions conducted for the purpose of minor clarification), provided that, as required by section 303A(b)(2)(B)(i), the solicitation included a statement that proposals are intended to be evaluated, and award made, without discussions, unless discussions are determined to be necessary."; and

(B) by striking out paragraphs (2) and (3) and by redesignating paragraph (4) as paragraph (2).

(c) Authority To Apply Amendments Early.—The head of an executive agency may apply the amendments made by this section to solicitations issued before the effective date specified in section 9001(a) and to contracts awarded pursuant to those solicitations. The head of the executive agency shall publish in the Federal Register notice of any such earlier date of application at least 10 days before that date.

SEC. 1062. SOLICITATION PROVISION REGARDING EVALUATION OF PURCHASE OPTIONS.

Section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a), as amended by section 1061(a)(4), is further amended by adding at the end the following new subsection:

"(d) An executive agency, in issuing a solicitation for a contract to be awarded using sealed bid procedures, may not include in such solicitation a clause providing for the evaluation of prices under the contract for options to purchase additional supplies or services under the contract unless the executive agency has determined that there is a reasonable likelihood that the options will be exercised.".

SEC. 1063. PROMPT NOTICE OF AWARD.

(a) Sealed Bid Procedures.—Subsection (c) of section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended—

(1) in the last sentence, by striking out "transmitting written notice" and inserting in lieu thereof "transmitting, in writing or by electronic means, notice"; and

(2) by adding at the end the following: "Within 3 days after the date of contract award, the executive agency shall notify, in writing or by electronic means, each bidder not awarded the contract that the contract has been awarded.".

(b) Competitive Proposals Procedures.—Paragraph (2) of such section, as redesignated by section 1061(b)(3)(B), is amended in the second sentence—

(1) by striking out "transmitting written notice" and inserting in lieu thereof "transmitting, in writing or by electronic means, notice"; and

(2) by striking out "shall promptly notify" and inserting in lieu thereof ", within 3 days after the date of contract award, shall notify, in writing or by electronic means,".

SEC. 1064. POST-AWARD DEBRIEFINGS.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection (e):

"(e)(1) When a contract is awarded by an executive agency on the basis of competitive proposals, an unsuccessful offeror, upon written request received by the executive agency within 5 days after the date of receipt of notification of the contract award, shall be debriefed and furnished the basis for the selection decision and contract award. The executive agency shall debrief the offeror within, to the maximum extent practicable, 5 days after receipt of the request by the executive agency.

"(2) Such debriefing shall include, at a minimum, the following:

"(A) The executive agency's evaluation of the significant weak or deficient factors in the offeror's offer.

"(B) The overall evaluated cost of the offer of the offeror awarded the contract and the overall evaluated cost of the offer of the debriefed offeror.

"(C) The overall ranking of all offers and the total technical and cost scores of all offers.

"(D) A summary of the rationale for the award.

"(E) In the case of an offer by the debriefed offeror that includes a commercial item that is an end item under the contract, the makes and models of similar commercial items included in the offer of the offeror awarded the contract.

"(F) Reasonable responses to questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the executive agency.

"(3) The debriefing shall not include point-by-point comparisons of the debriefed offeror's offer with other offers and shall not disclose any information that is exempt from disclosure under section 552 of title 5, United States Code.

"(4) Each solicitation for competitive proposals shall include a statement that information described in paragraph (2) may be disclosed in post-award debriefings.

"(5) The contracting officer shall include a summary of the debriefing in the contract file.".

SEC. 1065. PROTEST FILE.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended by adding at the end the following new subsection:

"(h) Protest File.—(1) If, in the case of a solicitation for a contract issued by, or an award or proposed award of a contract by, an agency head, a protest is filed pursuant to the procedures in subchapter V of chapter 35 of title 31, United States Code, and an actual or prospective offeror so requests, a file of the protest shall be established by the procuring activity and reasonable access shall be provided to actual or prospective offerors.

"(2) Information exempt from disclosure under section 552 of title 5, United States Code, may be redacted in a file established pursuant to paragraph (1) unless an applicable protective order provides otherwise.

"(3) Regulations implementing this subsection shall be consistent with the regulations regarding the preparation and submission of an agency's protest file (the so-called 'rule 4 file') for protests to the General Services Board of Contract Appeals under section 111 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 759).".

SEC. 1066. AGENCY DECISIONS ON PROTESTS.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b), as amended by section 1065, is further amended by adding at the end the following new subsection:

"(i) Decisions on Protests.—If, in connection with a protest, an executive agency determines that a solicitation, proposed award, or award does not comply with the requirements of law or regulation, the executive agency—

"(1) may take any action set out in subparagraphs (A) through (F) of subsection (b)(1) of section 3554 of title 31, United States Code; and

"(2) may pay costs described in paragraph (1) of section 3554(c) of such title within the limits referred to in paragraph (2) of such section.".

SEC. 1067. AWARD OF MULTIPLE CONTRACTS.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b), as amended by section 1066, is further amended by adding at the end the following new subsection:

"(j) Award of Multiple Contracts.—In procuring any supply or service using competitive procedures, an executive agency may award more than one contract for the same supply or service in any case in which the executive agency determines that it is in the best interests of the Federal Government to award those contracts for the purpose of maintaining a continuous source for the supply or service.".

Subpart C—Kinds of Contracts

SEC. 1071. REPEAL OF AGENCY HEAD DETERMINATION REGARDING USE OF COST TYPE OR INCENTIVE CONTRACT.

Section 304(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(b)) is amended by striking out the second sentence.

SEC. 1072. MULTIYEAR CONTRACTING AUTHORITY.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 304 the following new section:

"SEC. 304A. MULTIYEAR CONTRACTS.

"(a) Authority.—An executive agency may enter into a multiyear contract for the acquisition of property or services if—

"(1) funds are available and obligated for such contract, for the full period of the contract or for the first fiscal year in which the contract is in effect, and for the estimated costs associated with any necessary termination of such contract;

"(2) the executive agency determines that—

"(A) the need for the property or services is reasonably firm and continuing over the period of the contract; and

"(B) a multiyear contract will serve the best interests of the United States by encouraging full and open competition or promoting economy in administration, performance, and operation of the agency's programs; and

"(3) such contract is awarded on a fully competitive basis.

"(b) Termination Clause.—A multiyear contract entered into under the authority of this section shall include a clause that provides that the contract shall be terminated if funds are not made available for the continuation of such contract in any fiscal year covered by the contract. Amounts available for paying termination costs shall remain available for such purpose until the costs associated with termination of the contract are paid.

"(c) Cancellation Ceiling Notice.—Before any contract described in subsection (a) that contains a clause setting forth a cancellation ceiling in excess of $10,000,000 may be awarded, the executive agency shall give written notification of the proposed contract and of the proposed cancellation ceiling for that contract to the Congress, and such contract may not then be awarded until the end of a period of 30 days beginning on the date of such notification.

"(d) Multiyear Contract Defined.—For the purposes of this section, a multiyear contract is a contract for the purchase of property or services for more than one, but not more than five, program years. Such a contract may provide that performance under the contract during the second and subsequent years of the contract is contingent upon the appropriation of funds and (if it does so provide) may provide for a cancellation payment to be made to the contractor if such appropriations are not made.

"(e) Rule of Construction.—Nothing in this section is intended to modify or affect any other provision of law that authorizes multiyear contracts.".

SEC. 1073. SEVERABLE SERVICES CONTRACTS CROSSING FISCAL YEARS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 303G the following new section:

"SEC. 303H. SEVERABLE SERVICES CONTRACTS FOR PERIODS CROSSING FISCAL YEARS.

"(a) Authority.—An executive agency may enter into a severable contract for procurement of services for a period that begins in one fiscal year and ends in the next fiscal year if (without regard to any option to extend the period of the contract) the contract period does not exceed one year.

"(b) Availability of Funds.—To the extent provided in appropriations Acts, funds obligated for a contract entered into under the authority of subsection (a) shall remain available until no longer needed to pay for such contract.

"(c) Severable Contract Defined.—In this section, the term 'severable contract' means a contract that contains a clause that makes the effectiveness of the contract for periods after the end of the fiscal year in which the performance of the contract begins subject to the availability of appropriations.".

PART III—ACQUISITIONS GENERALLY

SEC. 1091. POLICY REGARDING CONSIDERATION OF CONTRACTOR PAST PERFORMANCE.

(a) Policy.—Section 2 of the Office of Federal Procurement Policy Act (41 U.S.C. 401) is amended—

(1) by striking out "and" at the end of paragraph (12);

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(14) establishing policies and procedures that encourage the consideration of contractors' past performance in the selection of contractors.".

(b) Guidance Required.—Section 6 of the Office of Federal Procurement Policy Act (41 U.S.C. 405) is amended by adding at the end the following:

"(j)(1) Congress makes the following findings:

"(A) Past contract performance of an offeror is one of the relevant factors that a contracting official of an executive agency should consider in awarding a contract.

"(B) It is appropriate for a contracting official to consider past contract performance of an offeror as an indicator of the likelihood that the offeror will successfully perform a contract to be awarded by that official.

"(2) The Administrator shall prescribe for executive agencies guidance regarding consideration of the past contract performance of offerors in awarding contracts. The guidance shall include—

"(A) standards for evaluating past performance with respect to cost (when appropriate), schedule, compliance with technical or functional specifications, and other relevant performance factors that facilitate consistent and fair evaluation by all executive agencies;

"(B) policies for the collection and maintenance of information on past contract performance that, to the maximum extent practicable, facilitate automated collection, maintenance, and dissemination of information and provide for ease of collection, maintenance, and dissemination of information by other methods, as necessary; and

"(C) policies for ensuring that offerors are afforded an opportunity to submit information on past contract performance and that such information submitted by offerors is considered.

"(3) The Administrator shall prescribe for all executive agencies the policy regarding the period for which information on past performance of offerors may be maintained and considered.

"(4) In the case of an offeror with respect to which there is no information on past contract performance or with respect to which information on past contract performance is not available, the offeror may not be evaluated favorably or unfavorably on the factor of past contract performance.".

SEC. 1092. REPEAL OF REQUIREMENT FOR ANNUAL REPORT ON COMPETITION.

Section 23 of the Office of Federal Procurement Policy Act (41 U.S.C. 419) is repealed.

SEC. 1093. DISCOURAGEMENT OF NONSTANDARD CONTRACT CLAUSES.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

"SEC. 29. NONSTANDARD CONTRACT CLAUSES.

"The Federal Acquisition Regulatory Council shall promulgate regulations to discourage the use of a nonstandard contract clause on a repetitive basis. The regulations shall include provisions that—

"(1) clearly define nonstandard clauses; and

"(2) require prior approval for the use of a nonstandard clause on a repetitive basis by an official at a level of responsibility above the contracting officer.".

Subtitle B—Truth in Negotiations

PART I—ARMED SERVICES ACQUISITIONS

SEC. 1201. STABILIZATION OF DOLLAR THRESHOLD OF APPLICABILITY.

(a) Dollar Threshold Stabilization for Offerors for Prime Contracts.—Paragraph (1)(A) of section 2306a(a) of title 10, United States Code, is amended—

(1) in clause (i), by striking out "and before January 1, 1996,"; and

(2) in clause (ii), by striking out "or after December 31, 1995,".

(b) Adjustment of Dollar Threshold.—Such section is further amended by adding at the end the following new paragraph:

"(7) The dollar amount in each of subparagraphs (A), (B), (C), and (D) of paragraph (1) shall be adjusted on October 1 of each year divisible by 5 to the equivalent amount in constant fiscal year 1993 dollars (rounded to the nearest $10,000).".

SEC. 1202. EXCEPTIONS TO COST OR PRICING DATA REQUIREMENTS.

(a) Exceptions.—Subsection (b) of section 2306a of title 10, United States Code, is amended to read as follows:

"(b) Exceptions.—(1) This section shall not be applied to a contract or subcontract, or a modification to a contract or subcontract—

"(A) for which the price agreed upon is based on—

"(i) adequate price competition;

"(ii) established catalog or market prices of commercial items or of services regularly used for other than Federal Government purposes, as the case may be, that are sold in sufficient quantities to the general public; or

"(iii) prices set by law or regulation; or

"(B) in an exceptional case when the head of the procuring activity, without delegation, determines that the requirements of this section may be waived and justifies in writing the reasons for such determination.

"(2) The Federal Acquisition Regulation (issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall provide clear standards for determining whether the exceptions provided in paragraph (1)(A) apply. In the case of the exception provided in paragraph (1)(A)(i), the regulations shall specify the criteria to be used to determine whether adequate price competition exists. In the case of the exception provided in paragraph (1)(A)(ii), the regulations shall preclude the consideration of sales to the Federal Government, including the percentage of an item's overall sales that are made to the Federal Government, when determining whether the item has been sold in sufficient quantities to the public.".

(b) Limitation on Authority.—Subsection (c) of such section is amended to read as follows:

"(c) Authority To Require Cost or Pricing Data on Below-Threshold Contracts.—When cost or pricing data are not required to be submitted by subsection (a), such data may nevertheless be required to be submitted by the head of the procuring activity, but only if the head of the procuring activity determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract or subcontract. In any case in which the head of the procuring activity requires such data to be submitted under this subsection, the head of the procuring activity shall justify in writing the reason for such requirement. The head of the procuring activity may not require such data to be submitted under this subsection for any contract or subcontract, or modification to a contract or subcontract, covered by the exceptions in subsection (b). The head of the procuring activity may not delegate the functions under this subsection.".

SEC. 1203. RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.

Subsection (f) of section 2306a of title 10, United States Code, is amended to read as follows:

"(f) Right of United States To Examine Contractor Records.—For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this section, the head of an agency shall have the authority provided by section 2313(a)(2) of this title.".

SEC. 1204. CONSISTENCY OF TIME REFERENCES.

Section 2306a of title 10, United States Code, is amended—

(1) in subparagraphs (A)(ii) and (B)(ii) of subsection (d)(4), by inserting "or, if applicable consistent with paragraph (1)(B), another date agreed upon between the parties" after "(or price of the modification)"; and

(2) in subsection (g), by inserting "or, if applicable consistent with subsection (d)(1)(B), another date agreed upon between the parties" after "(or the price of a contract modification)".

SEC. 1205. REPEAL OF SUPERSEDED PROVISION.

Subsection (c) of section 803 of Public Law 101-510 (10 U.S.C. 2306a note) is repealed.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 1251. REVISION OF CIVILIAN AGENCY PROVISIONS TO ENSURE UNIFORM TREATMENT OF COST OR PRICING DATA.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended—

(1) in section 304, by striking out subsection (d); and

(2) by inserting after section 304A, as added by section 1072, the following new section:

"SEC. 304B. COST OR PRICING DATA: TRUTH IN NEGOTIATIONS.

"(a) Required Cost or Pricing Data and Certification.—(1) An executive agency shall require offerors, contractors, and subcontractors to make cost or pricing data available as follows:

"(A) An offeror for a prime contract under this title to be entered into using procedures other than sealed-bid procedures shall be required to submit cost or pricing data before the award of a contract if—

"(i) in the case of a prime contract entered into after the date of the enactment of the Federal Acquisition Improvement Act of 1994, the price of the contract to the United States is expected to exceed $500,000; and

"(ii) in the case of a prime contract entered into on or before the date of the enactment of the Federal Acquisition Improvement Act of 1994, the price of the contract to the United States is expected to exceed $100,000.

"(B) The contractor for a prime contract under this chapter shall be required to submit cost or pricing data before the pricing of a change or modification to the contract if—

"(i) in the case of a change or modification made to a prime contract referred to in subparagraph (A)(i), the price adjustment is expected to exceed $500,000;

"(ii) in the case of a change or modification made to a prime contract that was entered into on or before the date of the enactment of the Federal Acquisition Improvement Act of 1994, and that has been modified pursuant to paragraph (6), the price adjustment is expected to exceed $500,000; and

"(iii) in the case of a change or modification not covered by clause (i) or (ii), the price adjustment is expected to exceed $100,000.

"(C) An offeror for a subcontract (at any tier) of a contract under this title shall be required to submit cost or pricing data before the award of the subcontract if the prime contractor and each higher-tier subcontractor have been required to make available cost or pricing data under this section and—

"(i) in the case of a subcontract under a prime contract referred to in subparagraph (A)(i), the price of the subcontract is expected to exceed $500,000;

"(ii) in the case of a subcontract entered into under a prime contract that was entered into on or before the date of the enactment of the Federal Acquisition Improvement Act of 1994, and that has been modified pursuant to paragraph (6), the price of the subcontract is expected to exceed $500,000; and

"(iii) in the case of a subcontract not covered by clause (i) or (ii), the price of the subcontract is expected to exceed $100,000.

"(D) The subcontractor for a subcontract covered by subparagraph (C) shall be required to submit cost or pricing data before the pricing of a change or modification to the subcontract if—

"(i) in the case of a change or modification to a subcontract referred to in subparagraph (C)(i) or (C)(ii), the price adjustment is expected to exceed $500,000; and

"(ii) in the case of a change or modification to a subcontract referred to in subparagraph (C)(iii), the price adjustment is expected to exceed $100,000.

"(2) A person required, as an offeror, contractor, or subcontractor, to submit cost or pricing data under paragraph (1) (or required by the head of the procuring activity concerned to submit such data under subsection (c)) shall be required to certify that, to the best of the person's knowledge and belief, the cost or pricing data submitted are accurate, complete, and current.

"(3) Cost or pricing data required to be submitted under paragraph (1) (or under subsection (c)), and a certification required to be submitted under paragraph (2), shall be submitted—

"(A) in the case of a submission by a prime contractor (or an offeror for a prime contract), to the contracting officer for the contract (or to a designated representative of the contracting officer); or

"(B) in the case of a submission by a subcontractor (or an offeror for a subcontract), to the prime contractor.

"(4) Except as provided under subsection (b), this section applies to contracts entered into by an agency head on behalf of a foreign government.

"(5) For purposes of paragraph (1)(C), a contractor or subcontractor granted a waiver under subsection (b)(2) shall be considered as having been required to make available cost or pricing data under this section.

"(6) Upon the request of a contractor that was required to submit cost or pricing data under paragraph (1) in connection with a prime contract entered into on or before the date of the enactment of the Federal Acquisition Improvement Act of 1994, the agency head that entered into such contract shall modify the contract to reflect subparagraphs (B)(ii) and (C)(ii) of paragraph (1). All such modifications shall be made without requiring consideration.

"(7) The dollar amount in each of subparagraphs (A), (B), (C), and (D) of paragraph (1) shall be adjusted on October 1 of each year divisible by 5 to the equivalent amount in constant fiscal year 1993 dollars (rounded to the nearest $10,000).

"(b) Exceptions.—(1) This section shall not be applied to a contract or subcontract, or a modification to a contract or subcontract—

"(A) for which the price agreed upon is based on—

"(i) adequate price competition;

"(ii) established catalog or market prices of commercial items or of services regularly used for other than Federal Government purposes, as the case may be, that are sold in sufficient quantities to the general public; or

"(iii) prices set by law or regulation; or

"(B) in an exceptional case when the head of the procuring activity, without delegation, determines that the requirements of this section may be waived and justifies in writing the reasons for such determination.

"(2) The Federal Acquisition Regulation (issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall provide clear standards for determining whether the exceptions provided in paragraph (1)(A) apply. In the case of the exception provided in paragraph (1)(A)(i), the regulations shall specify the criteria to be used to determine whether adequate price competition exists. In the case of the exception provided in paragraph (1)(A)(ii), the regulations shall preclude the consideration of sales to the Federal Government, including the percentage of an item's overall sales that are made to the Federal Government, when determining whether the item has been sold in sufficient quantities to the public.

"(c) Authority To Require Cost or Pricing Data on Below-Threshold Contracts.—When cost or pricing data are not required to be submitted by subsection (a), such data may nevertheless be required to be submitted by the head of the procuring activity, but only if the head of the procuring activity determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract or subcontract. In any case in which the head of the procuring activity requires such data to be submitted under this subsection, the head of the procuring activity shall justify in writing the reason for such requirement. The head of the procuring activity may not require such data to be submitted under this subsection for any contract or subcontract, or modification to a contract or subcontract, covered by the exceptions in subsection (b). The head of the procuring activity may not delegate the functions under this subsection.

"(d) Price Reductions for Defective Cost or Pricing Data.—(1)(A) A prime contract (or change or modification to a prime contract) under which a certificate under subsection (a)(2) is required shall contain a provision that the price of the contract to the United States, including profit or fee, shall be adjusted to exclude any significant amount by which it may be determined by the agency head that such price was increased because the contractor (or any subcontractor required to make available such a certificate) submitted defective cost or pricing data.

"(B) For the purposes of this section, defective cost or pricing data are cost or pricing data which, as of the date of agreement on the price of the contract (or another date agreed upon between the parties), were inaccurate, incomplete, or noncurrent. If for purposes of the preceding sentence the parties agree upon a date other than the date of agreement on the price of the contract, the date agreed upon by the parties shall be as close to the date of agreement on the price of the contract as is practicable.

"(2) In determining for purposes of a contract price adjustment under a contract provision required by paragraph (1) whether, and to what extent, a contract price was increased because the contractor (or a subcontractor) submitted defective cost or pricing data, it shall be a defense that the United States did not rely on the defective data submitted by the contractor or subcontractor.

"(3) It is not a defense to an adjustment of the price of a contract under a contract provision required by paragraph (1) that—

"(A) the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted by the contractor or subcontractor because the contractor or subcontractor—

"(i) was the sole source of the property or services procured; or

"(ii) otherwise was in a superior bargaining position with respect to the property or services procured;

"(B) the contracting officer should have known that the cost and pricing data in issue were defective even though the contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the contracting officer;

"(C) the contract was based on an agreement between the contractor and the United States about the total cost of the contract and there was no agreement about the cost of each item procured under such contract; or

"(D) the prime contractor or subcontractor did not submit a certification of cost and pricing data relating to the contract as required under subsection (a)(2).

"(4)(A) A contractor shall be allowed to offset an amount against the amount of a contract price adjustment under a contract provision required by paragraph (1) if—

"(i) the contractor certifies to the contracting officer (or to a designated representative of the contracting officer) that, to the best of the contractor's knowledge and belief, the contractor is entitled to the offset; and

"(ii) the contractor proves that the cost or pricing data were available before the date of agreement on the price of the contract (or price of the modification), or, if applicable consistent with paragraph (1)(B), another date agreed upon between the parties, and that the data were not submitted as specified in subsection (a)(3) before such date.

"(B) A contractor shall not be allowed to offset an amount otherwise authorized to be offset under subparagraph (A) if—

"(i) the certification under subsection (a)(2) with respect to the cost or pricing data involved was known to be false when signed; or

"(ii) the United States proves that, had the cost or pricing data referred to in subparagraph (A)(ii) been submitted to the United States before the date of agreement on the price of the contract (or price of the modification) or, if applicable under paragraph (1)(B), another date agreed upon between the parties, the submission of such cost or pricing data would not have resulted in an increase in that price in the amount to be offset.

"(e) INTEREST AND PENALTIES FOR CERTAIN OVERPAYMENTS.—(1) If the United States makes an overpayment to a contractor under a contract with an executive agency subject to this section and the overpayment was due to the submission by the contractor of defective cost or pricing data, the contractor shall be liable to the United States—

"(A) for interest on the amount of such overpayment, to be computed—

"(i) for the period beginning on the date the overpayment was made to the contractor and ending on the date the contractor repays the amount of such overpayment to the United States; and

"(ii) at the current rate prescribed by the Secretary of the Treasury under section 6621 of the Internal Revenue Code of 1986; and

"(B) if the submission of such defective data was a knowing submission, for an additional amount equal to the amount of the overpayment.

"(2) Any liability under this subsection of a contractor that submits cost or pricing data but refuses to submit the certification required by subsection (a)(2) with respect to the cost or pricing data shall not be affected by the refusal to submit such certification.

"(f) RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.—For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this section, an executive agency shall have the authority provided by section 304C(a)(2).

"(g) COST OR PRICING DATA DEFINED.—In this section, the term 'cost or pricing data' means all facts that, as of the date of agreement on the price of a contract (or the price of a contract modification) or, if applicable consistent with subsection (d)(1)(B), another date agreed upon between the parties, a prudent buyer or seller would reasonably expect to affect price negotiations significantly. Such terms do not include information that is judgmental, but does include the factual information from which a judgment was derived.".

SEC. 1252. REPEAL OF OBSOLETE PROVISION.

Section 303E of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253e) is repealed.

Subtitle C—Research and Development

SEC. 1301. COMPETITION REQUIREMENT FOR AWARDS OF GRANTS AND CONTRACTS TO NONPROFIT ORGANIZATIONS.

Subsections (a) and (b) of section 2361 of title 10, United States Code, are amended by inserting "or nonprofit organization other than a federally funded research and development center (FFRDC)" after "college or university" each place it appears.

Subtitle D—Procurement Protests

PART I—PROTESTS TO THE COMPTROLLER GENERAL

SEC. 1401. PROTEST DEFINED.

(a) IN GENERAL.—Paragraph (1) of section 3551 of title 31, United States Code, is amended to read as follows:

"(1) The term 'protest' means a written objection by an interested party to any of the following:

"(A) A solicitation or other request by a Federal agency for offers for a contract for the procurement of property or services.

"(B) The cancellation of such a solicitation or other request.

"(C) An award or proposed award of such a contract.

"(D) A termination or cancellation of an award of such a contract, if the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the award of the contract.".

(b) TECHNICAL AMENDMENTS.—Section 3551 of such title is further amended—

(1) in paragraph (2)—

(A) by inserting "The term" after "(2)"; and

(B) by striking out "; and" and inserting in lieu thereof a period; and

(2) in paragraph (3), by inserting "The term" after "(3)".

SEC. 1402. REVIEW OF PROTESTS AND EFFECT ON CONTRACTS PENDING DECISION.

(a) PERIODS FOR CERTAIN ACTIONS.—Section 3553 of title 31, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking out "one working day of" and inserting in lieu thereof "one day after"; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking out "25 working days from" and inserting in lieu thereof "35 days after"; and

(ii) in subparagraph (C), by striking out "10 working days from" and inserting in lieu thereof "15 days after"; and

(2) in subsection (c)(3), by striking out "thereafter" and inserting in lieu thereof "after the making of such finding".

(b) SUSPENSION OF PERFORMANCE.—Subsection (d) of such section is amended to read as follows:

"(d)(1) A contractor awarded a Federal agency contract may, during the period described in paragraph (4), begin performance of the contract and engage in any related activities that result in obligations being incurred by the United States under the contract unless the contracting officer responsible for the award of the contract withholds authorization to proceed with performance of the contract.

"(2) The contracting officer may withhold an authorization to proceed with performance of the contract during the period described in paragraph (4) if the contracting officer determines in writing that—

"(A) a protest is likely to be filed; and

"(B) the immediate performance of the contract is not in the best interests of the United States.

"(3)(A) If the Federal agency awarding the contract receives notice of a protest in accordance with this section during the period described in paragraph (4)—

"(i) the contracting officer may not authorize performance of the contract to begin while the protest is pending; or

"(ii) if contract performance was authorized in accordance with paragraph (2) before receipt of the notice, the contracting officer shall immediately direct the contractor to cease performance under the contract and to suspend any related activities that may result in additional obligations being incurred by the United States under that contract.

"(B) Performance and related activities suspended pursuant to subparagraph (A)(ii) by reason of a protest may not be resumed while the protest is pending.

"(C) The head of the procuring activity may authorize the performance of the contract (notwithstanding a protest of which the Federal agency has notice under this section)—

"(i) upon a written finding that—

"(I) performance of the contract is in the best interests of the United States; or

"(II) urgent and compelling circumstances that significantly affect interests of the United States will not permit waiting for the decision of the Comptroller General concerning the protest; and

"(ii) after the Comptroller General is notified of that finding.

"(4) The period referred to in paragraphs (2) and (3)(A), with respect to a contract, is the period beginning on the date of the contract award and ending on the later of—

"(A) the date that is 10 days after the date of the contract award; or

"(B) the date that is 5 days after the debriefing date offered to an unsuccessful offeror for any debriefing that is requested and, when requested, is required.".

SEC. 1403. DECISIONS ON PROTESTS.

(a) PERIODS FOR CERTAIN ACTIONS.—Section 3554(a) of title 31, United States Code, is amended—

(1) in paragraph (1), by striking out "90 working days from" and inserting in lieu thereof "120 days after";

(2) in paragraph (2), by striking out "45 calendar days from" and inserting "60 days after";

(3) by redesignating paragraph (3) as paragraph (4); and

(4) by inserting after paragraph (2) the following new paragraph (3):

"(3) An amendment to a protest that adds a new ground of protest, if timely raised, should be resolved, to the maximum extent practicable, within the time limit established under paragraph (1) of this subsection for final decision of the initial protest. If an amended protest cannot be resolved within such time limit, the Comptroller General may resolve the amended protest through the express option under paragraph (2) of this subsection.".

(b) GAO RECOMMENDATIONS ON PROTESTS.—

(1) IMPLEMENTATION OF RECOMMENDATIONS.—Section 3554 of title 31, United States Code, is further amended in subsection (b) by adding at the end the following new paragraph:

"(3) If the Federal agency fails to implement fully the recommendations of the Comptroller General under this subsection with respect to a solicitation for a contract or an award or proposed award of a contract within 60 days after receiving the recommendations, the head of the procuring activity responsible for that contract shall report such failure to the Comptroller General not later than 5 days after the end of such 60-day period.".

(2) FEDERAL AGENCY PAYMENT OF COSTS.—Subsection (c) of such section is amended to read as follows:

"(c)(1) If the Comptroller General determines that a solicitation for a contract or a proposed award or the award of a contract does not comply with a statute or regulation, the Comptroller General may recommend that the Federal agency conducting the procurement pay to an appropriate interested party the costs of—

"(A) filing and pursuing the protest, including reasonable attorney's fees and consultant and expert witness fees; and

"(B) bid and proposal preparation.

"(2) If the Comptroller General recommends under paragraph (1) that a Federal agency pay costs to an interested party, the Federal agency shall—

"(A) pay the costs promptly out of funds available to or for the use of the Federal agency; or

"(B) if the Federal agency does not make such payment, promptly report to the Comptroller General the reasons for the failure to follow the Comptroller General's recommendation.

"(3) If the Comptroller General recommends under paragraph (1) that a Federal agency pay costs to an interested party, the Federal agency and the interested party shall attempt to reach an agreement on the amount of the costs to be paid. If the Federal agency and the interested party are unable to agree on the amount to be paid, the Comptroller General may, upon the request of the interested party, recommend to the Federal agency the amount of the costs that the Federal agency should pay.".

(3) REPORT.—Subsection (e) of such section is amended to read as follows:

"(e)(1) In any case in which a Federal agency fails to implement fully a recommendation of the Comptroller General under subsection (b) or (c), the Comptroller General shall promptly submit a report on the matter to the Committee on Governmental Affairs and the Committee on Appropriations of the Senate and to the Committee on Government Operations and the Committee on Appropriations of the House of Representatives. The report shall include—

"(A) a comprehensive review of the pertinent procurement, including the circumstances of the failure of the Federal agency to implement a recommendation of the Comptroller General; and

"(B) a recommendation regarding whether, in order to correct an inequity or to preserve the integrity of the procurement process, the Congress should consider—

"(i) private relief legislation;

"(ii) legislative rescission or cancellation of funds;

"(iii) further investigation by the Congress; or

"(iv) other action.

"(2) Not later than January 31 of each year, the Comptroller General shall transmit to the Congress a report containing a summary of each instance in which a Federal agency did not fully implement a recommendation of the Comptroller General under subsection (b) or (c) during the preceding year. The report shall also describe each instance in which a final decision in a protest was not rendered within 120 days after the date the protest is submitted to the Comptroller General.".

(4) REQUIREMENT FOR PAYMENT IN ACCORDANCE WITH PRIOR GAO DETERMINATIONS.—Amounts to which the Comptroller General declared an interested party to be entitled under section 3554 of title 31, United States Code, as in effect immediately before the date of the enactment of this Act, shall, if not paid or otherwise satisfied by the Federal agency concerned before such date, be paid promptly out of funds available to or for the use of the Federal agency.

(c) RECOVERY OF COSTS FOR FRIVOLOUS PROTESTS.—Section 3554 of title 31, United States Code, is further amended by adding at the end the following new subsection:

"(f) If the Comptroller General expressly finds that a protest or a portion of a protest is frivolous or has not been brought or pursued in good faith, the Comptroller may recommend that the protester or other interested party who joins the protest be liable to the United States for payment of all or that portion of the United States costs, for which such a finding is made, of reviewing the protest, including the fees and other expenses (as defined in section 2412(d)(2)(A) of title 28) incurred by the United States in defending the protest. The Federal Acquisition Regulation shall provide guidance under which the head of an agency may initiate action to obtain such costs, unless (A) special circumstances would make such payment unjust, or (B) the protester obtains documents or other information for the first time, after the protest is filed with the Comptroller General, which establishes that the protest or a portion is frivolous or has not been brought in good faith and the protester then promptly withdraws the protest or portion of the protest.".

(d) RESTRICTION ON ACCESS TO CERTAIN INFORMATION.—Section 3553(f) of title 31, United States Code, is amended—

(1) by inserting "(1)" after "(f)"; and

(2) by adding at the end the following:

"(2)(A) The Comptroller General may issue protective orders which establish terms, conditions, and restrictions for the provision of any document to a person under paragraph (1), that prohibit or restrict the disclosure by the person of information described in subparagraph (C) that is contained in such a document.

"(B) The penalties specified under section 27(i) of the Office of Federal Procurement Policy Act shall apply to the disclosure of information described in subparagraph (C) in violation of a term, condition, or restriction in a protective order under this paragraph by a person that is subject to the protective order.

"(C) Information referred to in subparagraphs (A) and (B) is procurement sensitive information, trade secrets, or other proprietary or confidential research, development, or commercial information.

"(D) A protective order under this paragraph shall not be considered to authorize the withholding of any document or information from the Congress or an executive agency.".

SEC. 1404. REGULATIONS.

(a) COMPUTATION OF PERIODS.—Section 3555 of title 31, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (d); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) The procedures shall provide that, in the computation of any period described in this subchapter—

"(1) the day of the act, event, or default from which the designated period of time begins to run not be included; and

"(2) the last day after such act, event, or default be included, unless—

"(A) such last day is a Saturday, a Sunday, or a legal holiday; or

"(B) in the case of a filing of a paper at the General Accounting Office or a Federal agency, such last day is a day on which weather or other conditions cause the closing of the General Accounting Office or Federal agency, in which event the next day that is not a Saturday, Sunday, or legal holiday shall be included.".

(b) ELECTRONIC FILINGS AND DISSEMINATIONS.—Such section, as amended by subsection (a), is further amended by inserting after subsection (b) the following new subsection:

"(c) The Comptroller General may prescribe procedures for the electronic filing and dissemination of documents and information required under this subchapter. In prescribing such procedures, the Comptroller General shall consider the ability of all parties to achieve electronic access to such documents and records.".

(c) REPEAL OF OBSOLETE DEADLINE.—Subsection (a) of such section is amended by striking out "Not later than January 15, 1985, the" and inserting in lieu thereof "The".

PART II—PROTESTS IN PROCUREMENTS OF AUTOMATIC DATA PROCESSING

SEC. 1431. REVOCATION OF DELEGATIONS OF PROCUREMENT AUTHORITY.

Section 111(b)(3) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(b)(3)) is amended by inserting before the period at the end of the third sentence the following: ", including the authority to revoke a delegation of authority with respect to a particular contract after award of the contract, except that the Administrator may revoke a delegation after the contract is awarded only when there is a finding of a violation of law or regulation in connection with the contract award.".

SEC. 1432. AUTHORITY OF THE GENERAL SERVICES ADMINISTRATION BOARD OF CONTRACT APPEALS.

The first sentence of section 111(f)(1) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(1)) is amended to read as follows: "Upon request of an interested party in connection with any procurement that is subject to this section (including any such procurement that is subject to delegation of procurement authority), the board of contract appeals of the General Services Administration (hereafter in this subsection referred to as the 'board') shall review, as provided in this subsection, any decision by a contracting officer that is alleged to violate a statute, a regulation, or the conditions of a delegation of procurement authority.".

SEC. 1433. PERIODS FOR CERTAIN ACTIONS.

(a) SUSPENSION OF PROCUREMENT AUTHORITY.—(1) Section 111(f)(2)(B) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(2)(B)) is amended—

(A) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(B) by inserting "(i)" after "(B)"; and

(C) by adding at the end the following:

"(ii) A suspension under this subparagraph shall not preclude the Federal agency concerned from continuing the procurement process up to but not including award of the contract if the Board determines such action is in the best interests of the United States.".

(2) Section 111(f) of such Act (40 U.S.C. 759(f)) is amended in paragraph (3) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A)(i) If, with respect to an award of a contract, the board receives notice of a protest under this subsection within the period described in clause (ii), the board shall, at the request of an interested party, hold a hearing to determine whether the board should suspend the procurement authority of the Administrator or the Administrator's delegation of procurement authority for the protested procurement on an interim basis until the board can decide the protest.

"(ii) The period referred to in clause (i) is the period beginning on the date on which the contract is awarded and ending at the end of the later of—

"(I) the tenth day after the date of contract award; or

"(II) the fifth day after the debriefing date offered to an unsuccessful offeror for any debriefing that is requested and, when requested, is required.

"(iii) The board shall hold the requested hearing within 5 days after the date of the filing of the protest.".

(b) FINAL DECISION.—Paragraph (4)(B) of such section 111(f) is amended—

(1) by striking out "45 working days" and inserting in lieu thereof "65 days"; and

(2) by adding at the end the following: "An amendment which adds a new ground of protest should be resolved, to the maximum extent practicable, within the time limits established for resolution of the initial protest.".

SEC. 1434. DISMISSALS OF PROTESTS.

Section 111(f)(4) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(4)) is amended by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) The board may dismiss a protest that the board determines—

"(i) is frivolous;

"(ii) has been brought in bad faith; or

"(iii) does not state on its face a valid basis for protest.

"(D) The board may impose appropriate procedural sanctions, including dismissal of the protest, if the board determines that the board's process has been willfully abused during the course of a protest.

"(E) If the board makes a determination under subparagraph (C), the board may impose appropriate sanctions. Such sanctions may include imposition of liability on the protester, or other interested party who joins the protest, for payment to the United States of all or that portion of the United States costs, for which such a finding is made, of reviewing the protest, including the fees and other expenses (as defined in section 2412(d)(2)(A) of title 28, United States Code) incurred by the United States in defending the protest. The Federal Acquisition Regulation shall provide guidance under which the head of an agency may initiate action to obtain such costs, unless (i) special circumstances would make such payment unjust, or (ii) the protester obtains documents or other information for the first time, after the protest is filed with the board, which establishes that the protest or a portion is frivolous or has been brought in bad faith and the protester then promptly withdraws the protest or portion of the protest.".

SEC. 1435. AWARD OF COSTS.

(a) AWARD.—Section 111(f)(5) of the Federal Property and Administration Services Act of 1949 (40 U.S.C. 759(f)(5)) is amended by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) Whenever the board makes such a determination, it may, in accordance with section 1304 of title 31, United States Code, further declare an appropriate prevailing party to be entitled to the cost of filing and pursuing the protest (including reasonable attorney's fees and consultant and expert witness fees), and bid and proposal preparation.".

(b) DEFINITION OF PREVAILING PARTY.—Section 111(f)(9) of such Act (40 U.S.C. 759(f)(9)) is amended by adding at the end the following:

"(C) The term 'prevailing party', with respect to a determination of the board under paragraph (5)(B) that a challenged action of a Federal agency violates a statute or regulation or the conditions of a delegation of procurement authority issued pursuant to this section, means a party that demonstrated such violation.".

SEC. 1436. DISMISSAL AGREEMENTS.

Section 111(f)(5) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(5)), as amended by section 1435, is further amended by adding at the end the following new subparagraphs:

"(D) Any agreement that provides for the dismissal of a protest and involves a direct or indirect expenditure of appropriated funds shall be submitted to the board and shall be made a part of the public record (subject to any protective order considered appropriate by the board) before dismissal of the protest. If a Federal agency is a party to a settlement agreement, the submission of the agreement submitted to the board shall include a memorandum, signed by the contracting officer concerned, that describes in detail the procurement, the grounds for protest, the Federal Government's position regarding the grounds for protest, the terms of the settlement, and the agency's position regarding the propriety of the award or proposed award of the contract at issue in the protest.

"(E) Payment of amounts due from an agency under subparagraph (C) or under the terms of a settlement agreement under subparagraph (D) shall be made from the appropriation made by section 1304 of title 31, United States Code, for the payment of judgments. The Federal agency concerned shall reimburse that appropriation account out of funds available for the procurement.".

SEC. 1437. MATTERS TO BE COVERED IN REGULATIONS.

Section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)) is further amended—

(1) by inserting after paragraph (6) the following:

"(7)(A) The board shall adopt and issue such rules and procedures as may be necessary to the expeditious disposition of protests filed under the authority of this subsection.

"(B) The procedures shall provide that, in the computation of any period described in this subsection—

"(i) the day of the act, event, or default from which the designated period of time begins to run not be included; and

"(ii) the last day after such act, event, or default be included, unless—

"(I) such last day is a Saturday, a Sunday, or a legal holiday; or

"(II) in the case of a filing of a paper at the board, such last day is a day on which weather or other conditions make the board or Federal agency inaccessible, in which event the next day that is not a Saturday, Sunday, or legal holiday shall be included.

"(C) The procedures may provide for electronic filing and dissemination of documents and information required under this subsection and in so providing shall consider the ability of all parties to achieve electronic access to such documents and records."; and

(2) by striking out paragraph (8).

SEC. 1438. DEFINITION OF PROTEST.

Section 111(f)(9) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(9)) is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) The term 'protest' means a written objection by an interested party to any of the following:

"(i) A solicitation or other request by a Federal agency for offers for a contract for the procurement of property or services.

"(ii) The cancellation of such a solicitation or other request.

"(iii) An award or proposed award of such a contract.

"(iv) A termination or cancellation of an award of such a contract, if the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the award of the contract."; and

(2) by capitalizing the first letter of the first word in subparagraph (B).

SEC. 1439. OVERSIGHT OF ACQUISITION OF AUTOMATIC DATA PROCESSING EQUIPMENT BY FEDERAL AGENCIES.

Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) is amended by adding at the end the following new subsection:

"(h) DATA COLLECTION.—(1) The Administrator shall collect and compile data regarding the procurement of automatic data processing equipment under this section. The data collected and compiled shall include, at a minimum, with regard to each procurement the following:

"(A) The procuring agency.

"(B) The contractor.

"(C) The automatic data processing equipment and services procured.

"(D) The manufacturer of the equipment procured.

"(E) The amount of the contract, to the extent that the amount is not proprietary information.

"(F) The type of contract used.

"(G) The extent of competition for award.

"(H) Compatibility restrictions.

"(I) Significant modifications of the contract.

"(J) Contract price, to the extent that the price is not proprietary information.

"(2) The head of each Federal agency shall report to the Administrator in accordance with regulations issued by the Administrator all information that the Administrator determines necessary in order to satisfy the requirements in paragraph (1).

"(3) The Administrator—

"(A) shall carry out a systematic, periodic review of information received under this subsection;

"(B) shall use such information, as appropriate, to determine the compliance of Federal agencies with the requirements of this section; and

"(C) may take appropriate corrective action regarding an agency's authority to lease and purchase automatic data processing equipment upon any substantial failure by the head of the agency to report to the Administrator in accordance with this subsection.

"(4) The Administrator shall take appropriate corrective action upon failure of a Federal agency to comply with the terms of any delegation of authority to lease or purchase automatic data processing equipment or failure to comply with any applicable law or regulation.

"(5) The Administrator shall require in the regulations implementing this subsection that (A) data collected pursuant to this subsection be drawn from existing Federal agency information; and (B) no new or additional information reporting requirements may be imposed on offerors or contractors to collect such data.".

Subtitle E—Policy, Definitions, and Other Matters

PART I—ARMED SERVICES ACQUISITIONS

SEC. 1501. CONGRESSIONAL DEFENSE PROCUREMENT POLICY.

Section 2301 of title 10, United States Code, is amended to read as follows:

"§ 2301. Congressional defense procurement policy

"(a) The Congress finds that in order to ensure national defense preparedness; conserve fiscal resources; enhance science and technology, research and development, and production capability; provide for continued development and preservation of an efficient and responsive defense industrial base; and ensure the financial and ethical integrity of defense procurement programs, it is in the interest of the United States that property and services be acquired for the Department of Defense in the most timely, economic, and efficient manner consistent with achieving an optimum balance among efficient processes, full and open access to the procurement system, and sound implementation of socioeconomic policies. It is therefore the policy of Congress that—

"(1) full and open competitive procedures shall be used by the Department of Defense in accordance with the requirements of this chapter;

"(2) to the maximum extent practicable, the Department of Defense shall acquire commercial items to meet its needs and shall require prime contractors and subcontractors, at all levels, which furnish other than commercial items, to incorporate to the maximum extent practicable commercial items as components of items being supplied to the Department;

"(3) when commercial items and components are not available, practicable, or cost effective, the Department of Defense shall acquire, and shall require prime contractors and subcontractors to incorporate, nondevelopmental items and components to the maximum extent practicable;

"(4) property and services for the Department of Defense may be acquired by any kind of contract, other than cost-plus-a-percentage-of-cost contracts, but including multiyear contracts, that will promote the interest of the United States and will provide for appropriate allocation of risk between the Government and the contractor with due regard to the nature of the property or services to be acquired;

"(5) contracts, when appropriate, shall provide incentives to contractors to improve productivity through investment in capital facilities, equipment, flexible manufacturing processes, and advanced and dual-use technology;

"(6) contracts for advance procurement of components, parts, and materials necessary for manufacture or for logistics support of a weapon system should, if practicable, be entered into in a manner to achieve economic-lot purchases and more efficient production rates;

"(7) procurement protests and disputes shall be fairly and expeditiously resolved through uniform interpretation of relevant laws and regulations;

"(8) the head of an agency shall use advance procurement planning and market research and develop contract requirements in such a manner as is necessary to obtain full and open competition with due regard to the nature of the property or services to be acquired, but may restrict competitions to suppliers of commercial items to foster accomplishment of this objective; and

"(9) the head of an agency shall develop and maintain an acquisition career management program to ensure a professional acquisition work force in accordance with the requirements of chapter 87 of this title.

"(b) Further, it is the policy of Congress that procurement policies and procedures for the agencies named in section 2303 of this title shall, in accordance with the requirements of this title—

"(1) be issued in accordance with and conform to the requirements of sections 22 and 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b and 421);

"(2) promote and implement the Congressional policies in subsection (a) and in section 2 of the Office of Federal Procurement Policy Act (41 U.S.C. 401);

"(3) be implemented to support the requirements of such agencies in time of war or national emergency as well as in peacetime;

"(4) promote responsiveness of the procurement system to agency needs by—

"(A) simplifying and streamlining procurement processes, and

"(B) providing incentives to encourage contractors to take actions and make recommendations that would reduce the costs of property or services to be acquired;

"(5) facilitate the acquisition of commercial items and commercial components at or based on commercial market prices, without requiring contractors to change their business practices; and

"(6) promote the acquisition and use of commercial items, commercial components, and nondevelopmental items by requiring descriptions of agency requirements, whenever practicable, in terms of functions to be performed or performance required.

"(c) Further, it is the policy of Congress that purchases and contracts entered into under this chapter should be placed with small business concerns and concerns that are small disadvantaged businesses in conformance with section 2323 of this title and subsection (g) of section 15 of the Small Business Act (15 U.S.C. 644).

"(d) It is also the policy of Congress that qualified nonprofit agencies for the blind or severely handicapped (as defined in section 2410d(b) of this title) shall be afforded the maximum practicable opportunity to provide approved commodities and services (as defined in such section) as subcontractors and suppliers under contracts awarded by the Department of Defense.".

SEC. 1502. DEFINITIONS.

Section 2302 of title 10, United States Code, is amended—

(1) by striking out paragraphs (3) and (7);

(2) by redesignating paragraph (6) as paragraph (12);

(3) by redesignating paragraphs (2), (4), and (5) as paragraphs (5), (8), and (9), respectively;

(4) by inserting after paragraph (1) the following new paragraphs:

"(2) The term 'procurement' has the same meaning provided such term in section 4(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(2)).

"(3) The term 'procurement system' has the same meaning provided such term in section 4(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(3)).

"(4) The term 'standards' has the same meaning provided such term in section 4(4) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(4)). ";

(5) by inserting after paragraph (5) (as so redesignated) the following new paragraphs:

"(6) The term 'full and open competition' has the same meaning provided such term in section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6)).

"(7) The term 'responsible source' has the same meaning provided such term in section 4(7) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(7)). "; and

(6) by inserting after paragraph (9) (as so redesignated) the following new paragraphs:

"(10) The terms 'item', 'item of supply', and 'supplies' have the meaning provided in section 4(10) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(10)).

"(11) The term 'simplified acquisition threshold' has the meaning provided that term in section 4A of the Office of Federal Procurement Policy Act.

"(12) The terms 'commercial item', 'nondevelopmental item', 'component', and 'commercial component' have the meanings provided those terms in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).".

SEC. 1503. DELEGATION OF PROCUREMENT FUNCTIONS.

(a) CONSOLIDATION OF DELEGATION AUTHORITY.—(1) Section 2311 of title 10, United States Code, is amended to read as follows:

"§ 2311. Assignment and delegation of procurement functions and responsibilities

"(a) IN GENERAL.—Except to the extent expressly prohibited by another provision of law, the head of an agency may delegate, subject to his direction, to any other officer or official of that agency, any power under this chapter.

"(b) PROCUREMENTS FOR OR WITH OTHER AGENCIES.—Subject to subsection (a), to facilitate the procurement of property and services covered by this chapter by each agency named in section 2303 of this title for any other agency, and to facilitate joint procurement by those agencies—

"(1) the head of an agency may, within his agency, delegate functions and assign responsibilities relating to procurement;

"(2) the heads of two or more agencies may by agreement delegate procurement functions and assign procurement responsibilities from one agency to another of those agencies or to an officer or civilian employee of another of those agencies; and

"(3) the heads of two or more agencies may create joint or combined offices to exercise procurement functions and responsibilities.

"(c) APPROVAL OF TERMINATIONS AND REDUCTIONS OF JOINT ACQUISITION PROGRAMS.—(1) The Secretary of Defense shall prescribe regulations that prohibit each military department participating in a joint acquisition program approved by the Under Secretary of Defense for Acquisition and Technology from terminating or substantially reducing its participation in such program without the approval of the Under Secretary.

"(2) The regulations shall include the following provisions:

"(A) A requirement that, before any such termination or substantial reduction in participation is approved, the proposed termination or reduction be reviewed by the Joint Requirements Oversight Council of the Department of Defense.

"(B) A provision that authorizes the Under Secretary of Defense for Acquisition and Technology to require a military department whose participation in a joint acquisition program has been approved for termination or substantial reduction to continue to provide some or all of the funding necessary for the acquisition program to be continued in an efficient manner.".

(2) The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2311 and inserting in lieu thereof the following:

"2311. Assignment and delegation of procurement functions and responsibilities.".

(b) CONFORMING REPEAL.—(1) Section 2308 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 137 of such title is amended by striking out the item related to section 2308.

SEC. 1504. DETERMINATIONS AND DECISIONS.

Section 2310 of title 10, United States Code, is amended to read as follows:

"§ 2310. Determinations and decisions

"(a) INDIVIDUAL OR CLASS DETERMINATIONS AND DECISIONS AUTHORIZED.—Determinations and decisions required to be made under this chapter by the head of an agency may be made for an individual purchase or contract or, except to the extent expressly prohibited by another provision of law, for a class of purchases or contracts. Such determinations and decisions are final.

"(b) WRITTEN FINDINGS REQUIRED.—(1) Each determination or decision under section 2306(g)(1), 2307(c), or 2313(c) of this title shall be based on a written finding by the person making the determination or decision. The finding shall set out facts and circumstances that support the determination or decision.

"(2) Each finding referred to in paragraph (1) is final. The head of the agency making such finding shall maintain a copy of the finding for not less 6 years after the date of the determination or decision.".

SEC. 1505. RESTRICTIONS ON UNDEFINITIZED CONTRACTUAL ACTIONS.

(a) CLARIFICATION OF LIMITATION.—Subsection (b) of section 2326 of title 10, United States Code, is amended—

(1) in the subsection heading, by striking out "AND EXPENDITURE";

(2) in paragraph (1)(B), by striking out "or expended";

(3) in paragraph (2), by striking out "expend" and inserting in lieu thereof "obligate"; and

(4) in paragraph (3)—

(A) by striking out "expended" and inserting in lieu thereof "obligated"; and

(B) by striking out "expend" and inserting in lieu thereof "obligate".

(b) WAIVER AUTHORITY.—Such subsection is further amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph (4):

"(4) The head of an agency may waive the provisions of this subsection with respect to a contract of that agency if such head of an agency determines that the waiver is necessary in order to support a contingency operation.".

(c) INAPPLICABILITY OF RESTRICTIONS TO CONTRACTS WITHIN THE SIMPLIFIED ACQUISITION THRESHOLD.—Subsection (g)(1)(B) of such section is amended by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold".

SEC. 1506. REPEAL OF REQUIREMENT RELATING TO PRODUCTION SPECIAL TOOLING AND PRODUCTION SPECIAL TEST EQUIPMENT.

(a) REPEAL.—Section 2329 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 137 of such title is amended by striking out the item related to section 2329.

SEC. 1507. REGULATIONS FOR BIDS.

Section 2381(a) of title 10, United States Code, is amended by striking out "(a) The Secretary" and all that follows through the end of paragraph (1) and inserting in lieu thereof the following:

"(a) The Secretary of Defense or the Secretary of a military department may—

"(1) prescribe regulations for the preparation, submission, and opening of bids for contracts; and".

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 1551. DEFINITIONS.

Section 309 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259) is amended by adding at the end the following new subsections:

"(d) The term 'simplified acquisition threshold' has the meaning provided that term by section 4A of the Office of Federal Procurement Policy Act.

"(e) The terms 'commercial item', 'nondevelopmental item', 'component', and 'commercial component' have the meanings provided such terms by section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).".

SEC. 1552. DELEGATION OF PROCUREMENT FUNCTIONS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1301, is further amended by adding at the end the following new section:

"SEC. 312. ASSIGNMENT AND DELEGATION OF PROCUREMENT FUNCTIONS AND RESPONSIBILITIES.

"(a) IN GENERAL.—Except to the extent expressly prohibited by another provision of law, the head of an executive agency may delegate, subject to his direction, to any other officer or official of that agency, any power under this title.

"(b) PROCUREMENTS FOR OR WITH OTHER AGENCIES.—Subject to subsection (a), to facilitate the procurement of property and services covered by this title by each executive agency for any other executive agency, and to facilitate joint procurement by those executive agencies—

"(1) the head of an executive agency may, within his executive agency, delegate functions and assign responsibilities relating to procurement;

"(2) the heads of two or more executive agencies may by agreement delegate procurement functions and assign procurement responsibilities from one executive agency to another of those executive agencies or to an officer or civilian employee of another of those executive agencies; and

"(3) the heads of two or more executive agencies may create joint or combined offices to exercise procurement functions and responsibilities.".

SEC. 1553. DETERMINATIONS AND DECISIONS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1552, is further amended by adding at the end the following new section:

"SEC. 313. DETERMINATIONS AND DECISIONS.

"(a) INDIVIDUAL OR CLASS DETERMINATIONS AND DECISIONS AUTHORIZED.—Determinations and decisions required to be made under this title by an agency head may be made for an individual purchase or contract or, except to the extent expressly prohibited by another provision of law, for a class of purchases or contracts. Such determinations and decisions are final.

"(b) WRITTEN FINDINGS REQUIRED.—(1) Each determination under section 305(c) shall be based on a written finding by the person making the determination or decision. The finding shall set out facts and circumstances that support the determination or decision.

"(2) Each finding referred to in paragraph (1) is final. The executive agency making such finding shall maintain a copy of the finding for not less 6 years after the date of the determination or decision.".

SEC. 1554. REPEALS.

The laws of the United States are amended to read as if the following sections of law had not been enacted:

(1) Section 630 of Public Law 102–393.

(2) Section 401 of Public Law 103–123.

SEC. 1555. COOPERATIVE PURCHASING.

Subsection (b) of section 201 of the Federal Property and Administrative Services Act of

1949 (40 U.S.C. 481), is amended to read as follows:

"(b)(1) The Administrator shall, as far as practicable, provide any of the services specified in subsection (a) of this section to any other Federal agency, mixed-ownership Government corporation (as defined in section 9101 of title 31, United States Code), or the District of Columbia, upon its request.

"(2)(A) The Administrator may provide for the use of Federal supply schedules of the General Services Administration by any of the following entities upon request:

"(i) A State, any department or agency of a State, and any political subdivision of a State, including a local government.

"(ii) The District of Columbia.

"(iii) The Commonwealth of Puerto Rico.

"(iv) The government of an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))).

"(B) Subparagraph (A) may not be construed to authorize an entity referred to in that subparagraph to order existing stock or inventory from federally owned and operated, or federally owned and contractor operated, supply depots, warehouses, or similar facilities.

"(C) In any case in which an entity listed in subparagraph (A) uses a Federal supply schedule, the Administrator shall require the entity to reimburse the General Services Administration for any administrative costs of using the schedule.

"(3)(A) Upon the request of a qualified nonprofit agency for the blind or other severely handicapped that is to provide a commodity or service to the Federal Government under the Javits-Wagner-O'Day Act, the Administrator may provide any of the services specified in subsection (a) to such agency to the extent practicable.

"(B) A nonprofit agency receiving services under the authority of subparagraph (A) shall use the services directly in making or providing an approved commodity or approved service to the Federal Government.

"(C) In this paragraph:

"(i) The term 'qualified nonprofit agency for the blind or other severely handicapped' means—

"(I) a qualified nonprofit agency for the blind, as defined in section 5(3) of the Javits-Wagner-O'Day Act (41 U.S.C. 48b(3)); and

"(II) a qualified nonprofit agency for other severely handicapped, as defined in section 5(4) of such Act (41 U.S.C. 48b(4)).

"(ii) The terms 'approved commodity' and 'approved service' mean a commodity and a service, respectively, that has been determined by the Committee for Purchase from the Blind and Other Severely Handicapped under section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47) to be suitable for procurement by the Federal Government.

"(iii) The term 'Javits-Wagner-O'Day Act' means the Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938 (41 U.S.C. 46-48c), that was revised and reenacted in the Act of June 23, 1971 (85 Stat. 77).".

TITLE II—CONTRACT ADMINISTRATION

Subtitle A—Contract Payment

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2001. CONTRACT FINANCING.

(a) REORGANIZATION OF PRINCIPAL AUTHORITY PROVISION.—Section 2307 of title 10, United States Code, is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"§ 2307. Contract financing";

(2) by inserting "PAYMENT AUTHORITY.—" after "(a)" in subsection (a);

(3) by inserting "PAYMENT AMOUNT.—" after "(b)" in subsection (b);

(4) by inserting "SECURITY FOR ADVANCE PAYMENTS.—" after "(c)" in subsection (c);

(5) by inserting "CONDITIONS FOR PROGRESS PAYMENTS.—" after "(d)" in subsection (d); and

(6) by striking out "(e)(1) In any case" and inserting in lieu thereof "(g) ACTION IN CASE OF FRAUD.—(1) In any case".

(b) TERMINOLOGY CORRECTION.—Such section is further amended in subsection (a)(2) by striking out "bid".

(c) EFFECTIVE DATE OF LIEN RELATED TO ADVANCE PAYMENTS.—Such section is further amended in subsection (c) by inserting before the period at the end of the third sentence the following: "and is effective immediately upon the first advancement of funds without filing, notice, or any other action by the United States".

(d) CONDITIONS FOR PROGRESS PAYMENTS.—Such section is further amended in subsection (d)—

(1) in the first sentence of paragraph (1), by striking out "work, which" and all that follows through "accomplished" and inserting in lieu thereof "work accomplished that meets standards established under the contract"; and

(2) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) This subsection applies to a contract for an amount equal to or greater than the simplified acquisition threshold.".

(e) CONDITIONS FOR PAYMENTS FOR COMMERCIAL ITEMS.—Such section is further amended by inserting after subsection (d) the following new subsection (e):

"(e) CONDITIONS FOR PAYMENTS FOR COMMERCIAL ITEMS.—(1) Payments under subsection (a) for commercial items may be made under such terms and conditions as the head of the agency determines are appropriate or customary in the commercial marketplace. The head of the agency shall obtain adequate security for such payments. If the security is in the form of a lien in favor of the United States, such lien is paramount to all other liens and is effective immediately upon the first payment, without filing, notice, or other action by the United States.

"(2) Advance payments made under subsection (a) for commercial items may include payments, in a total amount of not more than 15 percent of the contract price, in advance of any performance of work under the contract.

"(3) The conditions of subsections (c) and (d) do not apply to payments made for commercial items in accordance with this subsection.".

(f) NAVY CONTRACTS.—Such section is further amended by inserting after subsection (e), as added by subsection (e) of this section, the following new subsection (f):

"(f) CERTAIN NAVY CONTRACTS.—(1) The Secretary of the Navy shall provide that the rate for progress payments on any contract awarded by the Secretary for repair, maintenance, or overhaul of a naval vessel shall be not less than—

"(A) 95 percent, in the case of a firm considered to be a small business; and

"(B) 90 percent, in the case of any other firm.

"(2) The Secretary of the Navy may advance to private salvage companies such funds as the Secretary considers necessary to provide for the immediate financing of salvage operations. Advances under this paragraph shall be made on terms that the Secretary considers adequate for the protection of the United States.

"(3) The Secretary of the Navy shall ensure that, when partial, progress, or other payments are made under a contract for construction or conversion of a naval vessel, the United States is secured by a lien upon work in progress and on property acquired for performance of the contract on account of all payments so made. The lien is paramount to all other liens.".

(g) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 137 of title 10, United States Code, is amended by striking out the item relating to section 2307 and inserting in lieu thereof the following:

"2307. Contract financing.".

(h) REPEAL OF SUPERSEDED PROVISIONS.—

(1) PROGRESS PAYMENTS UNDER CERTAIN NAVY CONTRACTS.—

(A) REPEAL.—Section 7312 of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 633 of such title is amended by striking out the item relating to section 7312.

(2) ADVANCEMENT OF PAYMENTS FOR NAVY SALVAGE OPERATIONS.—

(A) REPEAL.—Section 7364 of such title is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 637 of such title is amended by striking out the item relating to section 7364.

(3) PARTIAL PAYMENTS UNDER NAVY CONTRACTS—

(A) REPEAL.—Section 7521 of such title is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 645 of such title is amended by striking out the item relating to section 7521.

(4) NAVY RESEARCH CONTRACTS.—Section 7522 of such title is amended—

(A) by striking out subsection (b); and

(B) by redesignating subsection (c) as subsection (b).

SEC. 2002. REPEAL OF VOUCHERING PROCEDURES SECTION.

(a) REPEAL.—Section 2355 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 139 of such title is amended by striking out the item relating to section 2355.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 2051. CONTRACT FINANCING.

(a) REORGANIZATION OF PRINCIPAL AUTHORITY PROVISION.—Section 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255) is amended—

(1) by striking out the section heading and the section designation and inserting in lieu thereof the following:

"SEC. 305. CONTRACT FINANCING.";

(2) by inserting "PAYMENT AUTHORITY.—" after "(a)" in subsection (a);

(3) by inserting "PAYMENT AMOUNT.—" after "(b)" in subsection (b); and

(4) by inserting "SECURITY FOR ADVANCE PAYMENTS.—" after "(c)" in subsection (c).

(b) TERMINOLOGY CORRECTION.—Such section is further amended in subsection (a)(2) by striking out "bid".

(c) EFFECTIVE DATE OF LIEN RELATED TO ADVANCE PAYMENTS.—Such section is further amended in subsection (c) by inserting before the period at the end of the third sentence the following: "and is effective immediately upon the first advancement of funds without filing, notice, or any other action by the United States".

(d) Revision of Civilian Agency Provision To Ensure Uniform Requirements for Progress Payments.—

(1) In general.—Such section is further amended by adding at the end the following new subsections:

"(d) Conditions for Progress Payments.—(1) The executive agency shall ensure that any payment for work in progress (including materials, labor, and other items) under a contract of an executive agency that provides for such payments is commensurate with the work accomplished that meets standards established under the contract. The contractor shall provide such information and evidence as the executive agency determines necessary to permit the executive agency to carry out the preceding sentence.

"(2) The executive agency shall ensure that progress payments referred to in paragraph (1) are not made for more than 80 percent of the work accomplished under the contract so long as the executive agency has not made the contractual terms, specifications, and price definite.

"(3) This subsection applies to a contract for an amount equal to or greater than the simplified acquisition threshold.

"(e) Conditions for Payments for Commercial Items.—(1) Payments under subsection (a) for commercial items may be made under such terms and conditions as the executive agency determines are appropriate or customary in the commercial marketplace. The executive agency shall obtain adequate security for such payments. If the security is in the form of a lien in favor of the United States, such lien is paramount to all other liens and is effective immediately upon the first payment, without filing, notice, or other action by the United States.

"(2) Advance payments made under subsection (a) for commercial items may include payments, in a total amount of not more than 15 percent of the contract price, in advance of any performance of work under the contract.

"(3) The conditions of subsections (c) and (d) do not apply to payments made for commercial items in accordance with this subsection.

"(f) Action in Case of Fraud.—(1) In any case in which the remedy coordination official of an executive agency finds that there is substantial evidence that the request of a contractor for advance, partial, or progress payment under a contract awarded by that executive agency is based on fraud, the remedy coordination official shall recommend that the executive agency reduce or suspend further payments to such contractor.

"(2) An executive agency receiving a recommendation under paragraph (1) in the case of a contractor's request for payment under a contract shall determine whether there is substantial evidence that the request is based on fraud. Upon making such a determination, the executive agency may reduce or suspend further payments to the contractor under such contract.

"(3) The extent of any reduction or suspension of payments by an executive agency under paragraph (2) on the basis of fraud shall be reasonably commensurate with the anticipated loss to the United States resulting from the fraud.

"(4) A written justification for each decision of the executive agency whether to reduce or suspend payments under paragraph (2), and for each recommendation received by the executive agency in connection with such decision, shall be prepared and be retained in the files of the executive agency.

"(5) Each executive agency shall prescribe procedures to ensure that, before the executive agency decides to reduce or suspend payments in the case of a contractor under paragraph (2), the contractor is afforded notice of the proposed reduction or suspension and an opportunity to submit matters to the executive agency in response to such proposed reduction or suspension.

"(6) Not later than 180 days after the date on which an executive agency reduces or suspends payments to a contractor under paragraph (2), the remedy coordination official of the executive agency shall—

"(A) review the determination of fraud on which the reduction or suspension is based; and

"(B) transmit a recommendation to the executive agency whether the suspension or reduction should continue.

"(7) Each executive agency who receives recommendations made by a remedy coordination official of the executive agency to reduce or suspend payments under paragraph (2) during a fiscal year shall prepare for such year a report that contains the recommendations, the actions taken on the recommendations and the reasons for such actions, and an assessment of the effects of such actions on the Federal Government. Any such report shall be available to any Member of Congress upon request.

"(8) An executive agency may not delegate responsibilities under this subsection to any person in a position below level IV of the Executive Schedule.

"(9) In this subsection, the term 'remedy coordination official', with respect to an executive agency, means the person or entity in that executive agency who coordinates within that executive agency the administration of criminal, civil, administrative, and contractual remedies resulting from investigations of fraud or corruption related to procurement activities.".

(2) Relationship to prompt payment requirements.—The amendment made by paragraph (1) is not intended to impair or modify procedures required by the provisions of chapter 39 of title 31, United States Code, and the regulations issued pursuant to such provisions of law, that relate to progress payment requests, as such procedures are in effect on the date of the enactment of this Act.

PART III—ACQUISITIONS GENERALLY

SEC. 2061. INTEREST PENALTY ON CONTRACT CLOSE-OUT LAG-TIME.

Section 3903(a)(1) of title 31, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (A);

(2) by inserting "or" after the semicolon at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

"(C) in any case in which the Government delays making final payment under the contract for more than one year after the date on which the contractor completes all obligations under the contract (including submission to the Government of final incurred costs for all years covered by the contract), the date on which the contractor completes such obligations;".

Subtitle B—Cost Principles

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2101. ALLOWABLE CONTRACT COSTS.

(a) Extension of Coverage to Coast Guard and NASA; Other Miscellaneous Amendments.—Section 2324 of title 10, United States Code, is amended as follows:

(1) Subsection (a) is amended—

(A) by inserting after "(a)" the following: "Indirect Cost That Violates a FAR Cost Principle.—";

(B) by striking out "Secretary of Defense" and inserting in lieu thereof "head of an agency";

(C) by striking out "Department of Defense" and inserting in lieu thereof "agency"; and

(D) by striking out "the Department of Defense Supplement" and inserting in lieu thereof "applicable agency supplement".

(2) Subsection (b) is amended—

(A) by inserting after "(b)" the following: "Penalty for Violation of Cost Principle.—";

(B) in subparagraph (B) of paragraph (1) by striking out "regulations issued by the Secretary" and inserting in lieu thereof "provisions in the Federal Acquisition Regulation"; and

(C) by striking out "Secretary" each place it appears and inserting in lieu thereof "head of the agency".

(3) Subsection (c) is amended—

(A) by inserting after "(c)" the following: "Waiver of Penalty.—"; and

(B) by striking out "The Secretary shall prescribe regulations providing" in the first sentence and inserting in lieu thereof "The Federal Acquisition Regulation shall provide".

(4) Subsection (d) is amended—

(A) by inserting after "(d)" the following: "Applicability of Contract Disputes Procedure to Disallowance of Cost and Assessment of Penalty.—"; and

(B) by striking out "the Secretary" and inserting in lieu thereof "the head of an agency".

(5) Subsection (e) is amended—

(A) by inserting after "(e)" the following: "Specific Costs Not Allowable.—";

(B) in subparagraph (D) of paragraph (1), by striking out "regulations of the Secretary of Defense" and inserting in lieu thereof "provisions of the Federal Acquisition Regulation";

(C) in subparagraph (M) of paragraph (1), by striking out "regulations prescribed by the Secretary of Defense" and inserting in lieu thereof "the Federal Acquisition Regulation";

(D) in subparagraph (A) of paragraph (2), by inserting "of Defense" after "Secretary" the first place it occurs;

(E) in subparagraph (C) of paragraph (2), by striking out "head of the agency" in the first sentence and inserting in lieu thereof "Secretary of Defense";

(F) in subparagraph (A) of paragraph (3), by striking out "regulations prescribed by the Secretary" and inserting in lieu thereof "the Federal Acquisition Regulation"; and

(G) by amending paragraph (4) to read as follows:

"(4) The provisions of the Federal Acquisition Regulation implementing this section may establish appropriate definitions, exclusions, limitations, and qualifications.".

(6) Subsection (f) is amended—

(A) in paragraph (1)—

(i) by striking out "(1)" and all that follows through "The amendments" and inserting in lieu thereof the following: "Required Regulations.—The Federal Acquisition Regulation shall contain provisions on the allowability of contractor costs. Such provisions", and

(ii) by striking out "These regulations" and inserting in lieu thereof "The regulations"; and

(B) in paragraphs (2), (3), and (4)—

(i) by striking out "defense" before "contract auditor" each place it appears, and

(ii) by striking out "regulation" each place it appears and inserting in lieu thereof "Federal Acquisition Regulation".

(7) Subsection (g) is amended to read as follows:

"(g) APPLICABILITY OF REGULATIONS TO SUBCONTRACTORS.—The regulations referred to in subsections (e) and (f)(1) shall require prime contractors of a covered contract, to the maximum extent practicable, to apply the provisions of such regulations to all subcontractors of the covered contract.".

(8) Subsection (h) is amended—

(A) by inserting after "(h)" the following: "CONTRACTOR CERTIFICATION REQUIRED.—";

(B) by striking out "by the Secretary" in paragraph (1) and inserting in lieu thereof "in the Federal Acquisition Regulation"; and

(C) by striking out "Secretary of Defense" in paragraph (2) and inserting in lieu thereof "head of the agency".

(9) Subsection (i) is amended by striking out "The submission to the Department of Defense" and inserting in lieu thereof "PENALTIES FOR SUBMISSION OF COST KNOWN AS NOT ALLOWABLE.—The submission to an agency".

(10) Subsection (j) is amended—

(A) by inserting after "(j)" the following: "CONTRACTOR TO HAVE BURDEN OF PROOF.—"; and

(B) by striking out "United States Claims Court" and inserting in lieu thereof "United States Court of Federal Claims".

(11) Subsection (k) is amended—

(A) by inserting after "(k)" the following: "PROCEEDING COSTS NOT ALLOWABLE.—";

(B) in paragraph (2), by striking out "decision by the Department of Defense—" and inserting in lieu thereof "decision—"; and

(C) in paragraph (4)—

(i) by inserting after "head of the agency" the following: "or Secretary of the military department concerned",

(ii) by striking out "under regulations prescribed by such agency head" and inserting in lieu thereof "in accordance with the Federal Acquisition Regulation",

(iii) by inserting "or Secretary" after "agency head", and

(iv) by inserting before the period at the end the following: "or military department".

(b) COVERED CONTRACT DEFINED.—Such section is further amended by striking out subsections (l) and (m) and inserting in lieu thereof the following:

"(l) DEFINITIONS.—In this section:

"(1)(A) The term 'covered contract' means a contract for an amount in excess of $500,000 that is entered into by the head of an agency, except that such term does not include a fixed-price contract without cost incentives or any contract for the purchase of commercial items.

"(B) The dollar amount in subparagraph (A) shall be adjusted on October 1 of each year divisible by 5 to the equivalent amount in constant fiscal year 1993 dollars (rounded to the nearest $10,000).

"(2) The term 'head of the agency' or 'agency head' does not include the Secretary of a military department.

"(3) The term 'agency' means the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration.".

(c) REGULATIONS.—The regulations of the Secretary of Defense implementing section 2324 of title 10, United States Code, shall remain in effect until the Federal Acquisition Regulation is revised to implement the amendments made by this section.

SEC. 2102. REPEAL OF AUTHORITY FOR CONTRACT PROFIT CONTROLS DURING EMERGENCY PERIODS.

(a) REPEAL.—Section 2382 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2382.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 2151. ALLOWABLE CONTRACT COSTS.

Section 306 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 256) is amended to read as follows:

"SEC. 306. ALLOWABLE COSTS.

"(a) INDIRECT COST THAT VIOLATES A FAR COST PRINCIPLE.—An executive agency shall require that a covered contract provide that if the contractor submits to the executive agency a proposal for settlement of indirect costs incurred by the contractor for any period after such costs have been accrued and if that proposal includes the submission of a cost which is unallowable because the cost violates a cost principle in the Federal Acquisition Regulation (referred to in section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)) or an executive agency supplement to the Federal Acquisition Regulation, the cost shall be disallowed.

"(b) PENALTY FOR VIOLATION OF COST PRINCIPLE.—(1) If the executive agency determines that a cost submitted by a contractor in its proposal for settlement is expressly unallowable under a cost principle referred to in subsection (a) that defines the allowability of specific selected costs, the executive agency shall assess a penalty against the contractor in an amount equal to—

"(A) the amount of the disallowed cost allocated to covered contracts for which a proposal for settlement of indirect costs has been submitted; plus

"(B) interest (to be computed based on provisions in the Federal Acquisition Regulation) to compensate the United States for the use of any funds which a contractor has been paid in excess of the amount to which the contractor was entitled.

"(2) If the executive agency determines that a proposal for settlement of indirect costs submitted by a contractor includes a cost determined to be unallowable in the case of such contractor before the submission of such proposal, the executive agency shall assess a penalty against the contractor in an amount equal to two times the amount of the disallowed cost allocated to covered contracts for which a proposal for settlement of indirect costs has been submitted.

"(c) WAIVER OF PENALTY.—The Federal Acquisition Regulation shall provide for a penalty under subsection (b) to be waived in the case of a contractor's proposal for settlement of indirect costs when—

"(1) the contractor withdraws the proposal before the formal initiation of an audit of the proposal by the Federal Government and resubmits a revised proposal;

"(2) the amount of unallowable costs subject to the penalty is insignificant; or

"(3) the contractor demonstrates, to the contracting officer's satisfaction, that—

"(A) it has established appropriate policies and personnel training and an internal control and review system that provide assurances that unallowable costs subject to penalties are precluded from being included in the contractor's proposal for settlement of indirect costs; and

"(B) the unallowable costs subject to the penalty were inadvertently incorporated into the proposal.

"(d) APPLICABILITY OF CONTRACT DISPUTES PROCEDURE TO DISALLOWANCE OF COST AND ASSESSMENT OF PENALTY.—An action of an executive agency under subsection (a) or (b)—

"(1) shall be considered a final decision for the purposes of section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605); and

"(2) is appealable in the manner provided in section 7 of such Act (41 U.S.C. 606).

"(e) SPECIFIC COSTS NOT ALLOWABLE.—(1) The following costs are not allowable under a covered contract:

"(A) Costs of entertainment, including amusement, diversion, and social activities, and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities).

"(B) Costs incurred to influence (directly or indirectly) legislative action on any matter pending before Congress or a State legislature.

"(C) Costs incurred in defense of any civil or criminal fraud proceeding or similar proceeding (including filing of any false certification) brought by the United States where the contractor is found liable or had pleaded nolo contendere to a charge of fraud or similar proceeding (including filing of a false certification).

"(D) Payments of fines and penalties resulting from violations of, or failure to comply with, Federal, State, local, or foreign laws and regulations, except when incurred as a result of compliance with specific terms and conditions of the contract or specific written instructions from the contracting officer authorizing in advance such payments in accordance with applicable provisions of the Federal Acquisition Regulation.

"(E) Costs of membership in any social, dining, or country club or organization.

"(F) Costs of alcoholic beverages.

"(G) Contributions or donations, regardless of the recipient.

"(H) Costs of advertising designed to promote the contractor or its products.

"(I) Costs of promotional items and memorabilia, including models, gifts, and souvenirs.

"(J) Costs for travel by commercial aircraft which exceed the amount of the standard commercial fare.

"(K) Costs incurred in making any payment (commonly known as a 'golden parachute payment') which is—

"(i) in an amount in excess of the normal severance pay paid by the contractor to an employee upon termination of employment; and

"(ii) is paid to the employee contingent upon, and following, a change in management control over, or ownership of, the contractor or a substantial portion of the contractor's assets.

"(L) Costs of commercial insurance that protects against the costs of the contractor for correction of the contractor's own defects in materials or workmanship.

"(M) Costs of severance pay paid by the contractor to foreign nationals employed by the contractor under a service contract performed outside the United States, to the extent that the amount of severance pay paid in any case exceeds the amount paid in the industry involved under the customary or prevailing practice for firms in that industry providing similar services in the United States, as determined under the Federal Acquisition Regulation.

"(N) Costs of severance pay paid by the contractor to a foreign national employed by the contractor under a service contract performed in a foreign country if the termination of the employment of the foreign national is the result of the closing of, or the curtailment of activities at, a United States facility in that country at the request of the government of that country.

"(O) Costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State, to the extent provided in subsection (k).

"(2)(A) Pursuant to the Federal Acquisition Regulation and subject to the availability of appropriations, an executive agency, in awarding a covered contract, may waive the application of the provisions of paragraphs (1)(M) and (1)(N) to that contract if the executive agency determines that—

"(i) the application of such provisions to the contract would adversely affect the continuation of a program, project, or activity that provides significant support services for employees of the executive agency posted outside the United States;

"(ii) the contractor has taken (or has established plans to take) appropriate actions within the contractor's control to minimize the amount and number of incidents of the payment of severance pay by the contractor to employees under the contract who are foreign nationals; and

"(iii) the payment of severance pay is necessary in order to comply with a law that is generally applicable to a significant number of businesses in the country in which the foreign national receiving the payment performed services under the contract or is necessary to comply with a collective bargaining agreement.

"(B) An executive agency shall include in the solicitation for a covered contract a statement indicating—

"(i) that a waiver has been granted under subparagraph (A) for the contract; or

"(ii) whether the executive agency will consider granting such a waiver, and, if the executive agency will consider granting a waiver, the criteria to be used in granting the waiver.

"(C) An executive agency shall make the final determination regarding whether to grant a waiver under subparagraph (A) with respect to a covered contract before award of the contract.

"(3) The provisions of the Federal Acquisition Regulation implementing this section may establish appropriate definitions, exclusions, limitations, and qualifications. Any submission by a contractor of costs which are incurred by the contractor and which are claimed to be allowable under Department of Energy management and operating contracts shall be considered a 'proposal for settlement of indirect costs incurred by the contractor for any period after such costs have been accrued', as used in this section.

"(f) REQUIRED REGULATIONS.—(1) The Federal Acquisition Regulation shall contain provisions on the allowability of contractor costs. Such provisions shall define in detail and in specific terms those costs which are unallowable, in whole or in part, under covered contracts. The regulations shall, at a minimum, clarify the cost principles applicable to contractor costs of the following:

"(A) Air shows.

"(B) Membership in civic, community, and professional organizations.

"(C) Recruitment.

"(D) Employee morale and welfare.

"(E) Actions to influence (directly or indirectly) executive branch action on regulatory and contract matters (other than costs incurred in regard to contract proposals pursuant to solicited or unsolicited bids).

"(F) Community relations.

"(G) Dining facilities.

"(H) Professional and consulting services, including legal services.

"(I) Compensation.

"(J) Selling and marketing.

"(K) Travel.

"(L) Public relations.

"(M) Hotel and meal expenses.

"(N) Expense of corporate aircraft.

"(O) Company-furnished automobiles.

"(P) Advertising.

"(2) The Federal Acquisition Regulation shall require that a contracting officer not resolve any questioned costs until the contracting officer has obtained—

"(A) adequate documentation with respect to such costs; and

"(B) the opinion of the contract auditor on the allowability of such costs.

"(3) The Federal Acquisition Regulation shall provide that, to the maximum extent practicable, a contract auditor be present at any negotiation or meeting with the contractor regarding a determination of the allowability of indirect costs of the contractor.

"(4) The Federal Acquisition Regulation shall require that all categories of costs designated in the report of a contract auditor as questioned with respect to a proposal for settlement be resolved in such a manner that the amount of the individual questioned costs that are paid will be reflected in the settlement.

"(g) APPLICABILITY OF REGULATIONS TO SUBCONTRACTORS.—The regulations referred to in subsections (e) and (f)(1) shall require prime contractors of a covered contract, to the maximum extent practicable, to apply the provisions of such regulations to all subcontractors of the covered contract.

"(h) CONTRACTOR CERTIFICATION REQUIRED.—(1) A proposal for settlement of indirect costs applicable to a covered contract shall include a certification by an official of the contractor that, to the best of the certifying official's knowledge and belief, all indirect costs included in the proposal are allowable. Any such certification shall be in a form prescribed in the Federal Acquisition Regulation.

"(2) An executive agency may, in an exceptional case, waive the requirement for certification under paragraph (1) in the case of any contract if the agency—

"(A) determines in such case that it would be in the interest of the United States to waive such certification; and

"(B) states in writing the reasons for that determination and makes such determination available to the public.

"(i) PENALTIES FOR SUBMISSION OF COST KNOWN AS NOT ALLOWABLE.—The submission to an executive agency of a proposal for settlement of costs for any period after such costs have been accrued that includes a cost that is expressly specified by statute or regulation as being unallowable, with the knowledge that such cost is unallowable, shall be subject to the provisions of section 287 of title 18, United States Code, and section 3729 of title 31, United States Code.

"(j) CONTRACTOR TO HAVE BURDEN OF PROOF.—In a proceeding before a board of contract appeals, the United States Court of Federal Claims, or any other Federal court in which the reasonableness of indirect costs for which a contractor seeks reimbursement from the United States is in issue, the burden of proof shall be upon the contractor to establish that those costs are reasonable.

"(k) PROCEEDING COSTS NOT ALLOWABLE.—(1) Except as otherwise provided in this subsection, costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State are not allowable as reimbursable costs under a covered contract if the proceeding (A) relates to a violation of, or failure to comply with, a Federal or State statute or regulation, and (B) results in a disposition described in paragraph (2).

"(2) A disposition referred to in paragraph (1)(B) is any of the following:

"(A) In the case of a criminal proceeding, a conviction (including a conviction pursuant to a plea of nolo contendere) by reason of the violation or failure referred to in paragraph (1).

"(B) In the case of a civil or administrative proceeding involving an allegation of fraud or similar misconduct, a determination of contractor liability on the basis of the violation or failure referred to in paragraph (1).

"(C) In the case of any civil or administrative proceeding, the imposition of a monetary penalty by reason of the violation or failure referred to in paragraph (1).

"(D) A final decision—

"(i) to debar or suspend the contractor,

"(ii) to rescind or void the contract, or

"(iii) to terminate the contract for default,

by reason of the violation or failure referred to in paragraph (1).

"(E) A disposition of the proceeding by consent or compromise if such action could have resulted in a disposition described in subparagraph (A), (B), (C), or (D).

"(3) In the case of a proceeding referred to in paragraph (1) that is commenced by the United States and is resolved by consent or compromise pursuant to an agreement entered into by a contractor and the United States, the costs incurred by the contractor in connection with such proceeding that are otherwise not allowable as reimbursable costs under such paragraph may be allowed to the extent specifically provided in such agreement.

"(4) In the case of a proceeding referred to in paragraph (1) that is commenced by a State, the executive agency that awarded the covered contract involved in the proceeding may allow the costs incurred by the contractor in connection with such proceeding as reimbursable costs if the executive agency determines, in accordance with the Federal Acquisition Regulation, that the costs were incurred as a result of (A) a specific term or condition of the contract, or (B) specific written instructions of the executive agency.

"(5)(A) Except as provided in subparagraph (C), costs incurred by a contractor in connection with a criminal, civil, or administrative proceeding commenced by the United States or a State in connection with a covered contract may be allowed as reimbursable costs under the contract if such costs are not disallowable under paragraph (1), but only to the extent provided in subparagraph (B).

"(B)(i) The amount of the costs allowable under subparagraph (A) in any case may not exceed the amount equal to 80 percent of the amount of the costs incurred, to the extent that such costs are determined to be otherwise allowable and allocable under the Federal Acquisition Regulation.

"(ii) Regulations issued for the purpose of clause (i) shall provide for appropriate consideration of the complexity of procurement litigation, generally accepted principles governing the award of legal fees in civil actions involving the United States as a party, and such other factors as may be appropriate.

"(C) In the case of a proceeding referred to in subparagraph (A), contractor costs otherwise allowable as reimbursable costs under this paragraph are not allowable if (i) such proceeding involves the same contractor misconduct alleged as the basis of another criminal, civil, or administrative proceeding, and (ii) the costs of such other proceeding are not allowable under paragraph (1).

"(6) In this subsection:

"(A) The term 'proceeding' includes an investigation.

"(B) The term 'costs', with respect to a proceeding—

"(i) means all costs incurred by a contractor, whether before or after the commencement of any such proceeding; and

"(ii) includes—

"(I) administrative and clerical expenses;

"(II) the cost of legal services, including legal services performed by an employee of the contractor;

"(III) the cost of the services of accountants and consultants retained by the contractor; and

"(IV) the pay of directors, officers, and employees of the contractor for time devoted by such directors, officers, and employees to such proceeding.

"(C) The term 'penalty' does not include restitution, reimbursement, or compensatory damages.

"(l) COVERED CONTRACT DEFINED.—(1) In this section, the term 'covered contract' means a contract for an amount in excess of $500,000 that is entered into by an executive agency, except that such term does not include a fixed-price contract without cost incentives or any contract for the purchase of commercial items.

"(2) The dollar amount in paragraph (1) shall be adjusted on October 1 of each year divisible by 5 to the equivalent amount in constant fiscal year 1993 dollars (rounded to the nearest $10,000).".

SEC. 2152. REVISION OF COST PRINCIPLE RELATING TO ENTERTAINMENT, GIFT, AND RECREATION COSTS FOR CONTRACTOR EMPLOYEES.

(a) COSTS NOT ALLOWABLE.—The costs of entertainment, gifts, or recreation for employees of a contractor or members of their families that are provided by the contractor to improve employee morale or performance or for any other purpose are not allowable under a covered contract unless, within 120 days of the date of the enactment of this Act, the Federal Acquisition Regulatory Council prescribes amendments to the Federal Acquisition Regulation specifying circumstances under which such costs are allowable under a covered contract. At a minimum, such amendments shall ensure that costs specifically not allowable under the entertainment cost principle (FAR 31.205–14) are not allowable under any other cost principle.

(b) DEFINITIONS.—In this section:

(1) The term "employee" includes officers and directors of a contractor.

(2) The term "covered contract" has the meaning given such term in section 2324(l) of title 10, United States Code (as amended by section 2101(b)), or section 306(l) of the Federal Property and Administrative Services Act of 1949 (as added by section 2151).

(c) EFFECTIVE DATE.—The provisions of subsection (a), including any amendments to the Federal Acquisition Regulation prescribed under that subsection, shall take effect in accordance with section 9001.

PART III—ACQUISITIONS GENERALLY

SEC. 2161. TRAVEL EXPENSES OF GOVERNMENT CONTRACTORS.

Section 24(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 420) is amended by inserting after "Under any contract" the following: "requiring submission of cost or pricing data or the negotiation of final indirect costs".

Subtitle C—Audit and Access to Records

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2201. CONSOLIDATION AND REVISION OF AUTHORITY TO EXAMINE RECORDS OF CONTRACTORS.

(a) AUTHORITY.—

(1) IN GENERAL.—Section 2313 of title 10, United States Code, is amended to read as follows:

"§ 2313. Examination of records of contractor

"(a) AGENCY AUTHORITY.—(1) The head of an agency, acting through an authorized representative, is authorized to inspect the plant and audit the records of—

"(A) a contractor performing a cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable contract, or any combination of such contracts, made by that agency under this chapter; and

"(B) a subcontractor performing any cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable subcontract or any combination of such subcontracts under a contract referred to in subparagraph (A).

"(2) The head of an agency, acting through an authorized representative, is authorized, for the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted pursuant to section 2306a of this title with respect to a contract or subcontract, to examine all records of the contractor or subcontractor related to—

"(A) the proposal for the contract or subcontract;

"(B) the discussions conducted on the proposal;

"(C) pricing of the contract or subcontract; or

"(D) performance of the contract or subcontract.

"(b) DCAA SUBPOENA AUTHORITY.—(1) The Director of the Defense Contract Audit Agency (or any successor agency) may require by subpoena the production of any records of a contractor that the Secretary of Defense is authorized to audit or examine under subsection (a).

"(2) Any such subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of an appropriate United States district court.

"(3) The authority provided by paragraph (1) may not be redelegated.

"(4) The Director (or any successor official) shall submit an annual report to the Secretary of Defense on the exercise of such authority during the preceding year and the reasons why such authority was exercised in any instance. The Secretary shall forward a copy of each such report to the Committees on Armed Services of the Senate and House of Representatives.

"(c) COMPTROLLER GENERAL AUTHORITY.—(1) Except as provided in paragraph (2), each contract awarded after using procedures other than sealed bid procedures shall provide that the Comptroller General and his representatives are authorized to examine any records of the contractor, or any of its subcontractors, that directly pertain to, and involve transactions relating to, the contract or subcontract.

"(2) Paragraph (1) does not apply to a contract or subcontract with a foreign contractor or foreign subcontractor if the head of the agency concerned determines, with the concurrence of the Comptroller General or his designee, that the application of that paragraph to the contract or subcontract would not be in the public interest. However, the concurrence of the Comptroller General or his designee is not required—

"(A) where the contractor or subcontractor is a foreign government or agency thereof or is precluded by the laws of the country involved from making its records available for examination; and

"(B) where the head of the agency determines, after taking into account the price and availability of the property and services from United States sources, that the public interest would be best served by not applying paragraph (1).

"(3) Paragraph (1) may not be construed to require a contractor or subcontractor to create or maintain any record that the contractor or subcontractor does not maintain in the ordinary course of business or pursuant to another provision of law.

"(d) LIMITATION ON PREAWARD AUDITS RELATING TO INDIRECT COSTS.—The head of an agency may not perform a preaward audit to evaluate proposed indirect costs under any contract, subcontract, or modification to be entered into in accordance with this chapter in any case in which the contracting officer determines that the objectives of the audit can reasonably be met by accepting the results of an audit conducted by any other department or agency of the Federal Government within one year preceding the date of the contracting officer's determination.

"(e) LIMITATION.—The authority of the head of an agency under subsection (a), and the authority of the Comptroller General under subsection (c), with respect to a contract or subcontract shall expire three years after final payment under such contract or subcontract.

"(f) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section does not apply to the following contracts:

"(1) Contracts for utility services at rates not exceeding those established to apply uniformly to the public, plus any applicable reasonable connection charge.

"(g) FORMS OF ORIGINAL RECORD STORAGE.—Nothing in this section shall be construed to preclude a contractor from duplicating or storing original records in electronic form.

"(h) USE OF IMAGES OF ORIGINAL RECORDS.—The head of an agency shall not require a contractor or subcontractor to provide original records in an audit carried out pursuant to this section if the contractor or subcontractor provides photographic or electronic images of the original records and meets the following requirements:

"(1) The contractor or subcontractor has established procedures to ensure that the imaging process preserves the integrity, reliability, and security of the original records.

"(2) The contractor or subcontractor maintains an effective indexing system to permit timely and convenient access to the imaged records.

"(3) The contractor or subcontractor retains the original records for a minimum of one year after imaging to permit periodic validation of the imaging systems.

"(i) RECORDS DEFINED.—In this section, the term 'records' includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.".

(2) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 137 of title 10, United States Code, is amended to read as follows:

"2313. Examination of records of contractor.".

(b) Repeal of Superseded Provision.—

(1) Repeal.—Section 2406 of title 10, United States Code, is repealed.

(2) Clerical amendment.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2406.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 2251. AUTHORITY TO EXAMINE RECORDS OF CONTRACTORS.

(a) Authority.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1251(2), is further amended by inserting after section 304B the following new section:

"SEC. 304C. EXAMINATION OF RECORDS OF CONTRACTOR.

"(a) Agency Authority.—(1) The head of an executive agency, acting through an authorized representative, is authorized to inspect the plant and audit the records of—

"(A) a contractor performing a cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable contract, or any combination of such contracts, made by that executive agency under this title; and

"(B) a subcontractor performing any cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable subcontract or any combination of such subcontracts under a contract referred to in subparagraph (A).

"(2) The head of an executive agency, acting through an authorized representative, is authorized, for the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted pursuant to section 304B with respect to a contract or subcontract, to examine all records of the contractor or subcontractor related to—

"(A) the proposal for the contract or subcontract;

"(B) the discussions conducted on the proposal;

"(C) pricing of the contract or subcontract; or

"(D) performance of the contract or subcontract.

"(b) Comptroller General Authority.—(1) Except as provided in paragraph (2), each contract awarded after using procedures other than sealed bid procedures shall provide that the Comptroller General and his representatives are authorized to examine any records of the contractor, or any of its subcontractors, that directly pertain to, and involve transactions relating to, the contract or subcontract.

"(2) Paragraph (1) does not apply to a contract or subcontract with a foreign contractor or foreign subcontractor if the executive agency concerned determines, with the concurrence of the Comptroller General or his designee, that the application of that paragraph to the contract or subcontract would not be in the public interest. However, the concurrence of the Comptroller General or his designee is not required—

"(A) where the contractor or subcontractor is a foreign government or agency thereof or is precluded by the laws of the country involved from making its records available for examination; and

"(B) where the executive agency determines, after taking into account the price and availability of the property and services from United States sources, that the public interest would be best served by not applying paragraph (1).

"(3) Paragraph (1) may not be construed to require a contractor or subcontractor to create or maintain any record that the contractor or subcontractor does not maintain in the ordinary course of business or pursuant to another provision of law.

"(c) Limitation on Preaward Audits Relating to Indirect Costs.—An executive agency may not perform a preaward audit to evaluate proposed indirect costs under any contract, subcontract, or modification to be entered into in accordance with this title in any case in which the contracting officer determines that the objectives of the audit can reasonably be met by accepting the results of an audit conducted by any other department or agency of the Federal Government within one year preceding the date of the contracting officer's determination.

"(d) Limitation.—The authority of an executive agency under subsection (a), and the authority of the Comptroller General under subsection (b), with respect to a contract or subcontract shall expire three years after final payment under such contract or subcontract.

"(e) Inapplicability to Certain Contracts.—This section does not apply to the following contracts:

"(1) Contracts for utility services at rates not exceeding those established to apply uniformly to the public, plus any applicable reasonable connection charge.

"(f) Form of Original Record Storage.—Nothing in this section shall be construed to preclude a contractor from duplicating or storing original records in electronic form.

"(g) Use of Images of Original Records.—An executive agency shall not require a contractor or subcontractor to provide original records in an audit carried out pursuant to this section if the contractor or subcontractor provides photographic or electronic images of the original records and meets the following requirements:

"(1) The contractor or subcontractor has established procedures to ensure that the imaging process preserves the integrity, reliability, and security of the original records.

"(2) The contractor or subcontractor maintains an effective indexing system to permit timely and convenient access to the imaged records.

"(3) The contractor or subcontractor retains the original records for a minimum of one year after imaging to permit periodic validation of the imaging systems.

"(h) Records Defined.—In this section, the term 'records' includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.".

(b) Repeal of Superseded Provision.—Section 304 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254) is amended by striking out subsection (c).

Subtitle D—Cost Accounting Standards

SEC. 2301. REPEAL OF OBSOLETE DEADLINE REGARDING PROCEDURAL REGULATIONS FOR THE COST ACCOUNTING STANDARDS BOARD.

Section 26(f)(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(3)) is amended in the first sentence by striking out "Not later than 180 days after the date of enactment of this section, the Administrator" and inserting in lieu thereof "The Administrator".

Subtitle E—Administration of Contract Provisions Relating to Price, Delivery, and Product Quality

SEC. 2401. CLARIFICATION OF PROVISION RELATING TO QUALITY CONTROL OF CERTAIN SPARE PARTS.

The second sentence of subsection (a) of section 2383 of title 10, United States Code, is amended to read as follows: "In establishing the appropriate qualification requirements, the Secretary of Defense shall use the Department of Defense qualification requirements that were used to qualify the original production part unless the Secretary determines in writing—

"(1) that there are other requirements sufficiently similar to those requirements that should be used instead; or

"(2) that any or all such requirements are unnecessary.".

SEC. 2402. CONTRACTOR GUARANTEES REGARDING WEAPON SYSTEMS.

(a) Repeal of Requirement for Report on Waivers.—Subsection (e) of section 2403 of title 10, United States Code, is amended—

(1) by striking out "(1)"; and

(2) by striking out paragraph (2).

(b) Provisions To Be Addressed by Regulations.—Subsection (h) of such section is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) The regulations shall include the following:

"(A) Guidelines for negotiating contractor guarantees that are reasonable and cost effective, as determined on the basis of the likelihood of defects and the estimated cost of correcting such defects.

"(B) Procedures for administering contractor guarantees.

"(C) Guidelines for determining the cases in which it may be appropriate to waive the requirements of this section.".

Subtitle F—Claims and Disputes

SEC. 2501. CERTIFICATION OF CONTRACT CLAIMS.

(a) DOD Certification Requirement in Conflict With Government-Wide Requirement.—

(1) Repeal.—Section 2410 of title 10, United States Code, is repealed.

(2) Clerical amendment.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2410.

(b) Repeal of Superseded Provision.—Section 813(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2453), is repealed.

(c) Restriction on Legislative Payment of Claims.—Section 2410e of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) Restriction on Legislative Payment of Claims.—In the case of a contract of an agency named in section 2303(a) of this title, no provision of a law enacted after the date of the enactment of the Federal Acquisition Improvement Act of 1994 that directs the payment of a particular claim under such contract, a particular request for equitable adjustment to any term of such contract, or a particular request for relief under Public Law 85-804 (50 U.S.C. 1431 et seq.) regarding such contract may be implemented unless such provision of law—

"(1) specifically refers to this subsection; and

"(2) specifically states that this subsection does not apply with respect to the payment directed by that provision of law.".

SEC. 2502. SHIPBUILDING CLAIMS.

(a) INCREASE IN TIME PERIOD DURING WHICH ADJUSTMENTS TO SHIPBUILDING CLAIMS MAY BE MADE.—Section 2405 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "entered into after December 7, 1983,"; and

(B) by striking out "occurring more than 18 months before the submission of the claim, request, or demand." and inserting in lieu thereof the following: "occurring—

"(1) in the case of a contract entered into after December 7, 1983, and before the date of the enactment of the Federal Acquisition Improvement Act of 1994, more than 18 months before the submission of the claim, request, or demand; and

"(2) in the case of a contract entered into on or after the date of the enactment of the Federal Acquisition Improvement Act of 1994, more than 6 years before the submission of the claim, request, or demand.".

(b) RESUBMISSION WITH CORRECTED CERTIFICATION.—Subsection (c) of such section is repealed.

TITLE III—MAJOR SYSTEMS AND SERVICE SPECIFIC STATUTES

Subtitle A—Major Systems Statutes

SEC. 3001. WEAPON DEVELOPMENT AND PROCUREMENT SCHEDULES.

(a) DEADLINE AND PURPOSE.—Subsection (a) of section 2431 of title 10, United States Code, is amended—

(1) in the first sentence—

(A) by striking out "at the same time" and inserting in lieu thereof "not later than 45 days after"; and

(B) by striking out "a written report" and inserting in lieu thereof "budget justification documents"; and

(2) in the second and third sentences, by striking out "report" and inserting in lieu thereof "documents".

(b) ADDITIONAL MATTERS TO BE INCLUDED.—Subsection (b) of such section is amended—

(1) by striking out "include—" and inserting in lieu thereof "include each of the following:";

(2) by capitalizing the first letter of the first word in each of paragraphs (1), (2), and (3);

(3) by striking out the semicolon at the end of paragraphs (1) and (2) and inserting in lieu thereof a period;

(4) by striking out "; and" at the end of paragraph (3) and inserting in lieu thereof a period; and

(5) by amending paragraph (4) to read as follows:

"(4)(A) The most efficient production rate, the most efficient acquisition rate, and the minimum sustaining rate, consistent with the program priority established for such weapon system by the Secretary concerned.

"(B) In this paragraph:

"(i) The term 'most efficient production rate' means the maximum rate for each budget year at which the weapon system can be produced with existing or planned plant capacity and tooling, with one shift a day running for eight hours a day and five days a week.

"(ii) The term 'minimum sustaining rate' means the production rate for each budget year that is necessary to keep production lines open while maintaining a base of responsive vendors and suppliers.".

SEC. 3002. SELECTED ACQUISITION REPORT REQUIREMENT.

(a) DEFINITION OF PROCUREMENT UNIT COST.—

(1) DEFINITION.—Paragraph (2) of section 2432(a) of title 10, United States Code, is amended—

(A) in clause (A), by striking out "for a fiscal year" and all that follows through "such program in such fiscal year";

(B) in clause (B), by striking out "with such funds during such fiscal year." and inserting in lieu thereof a period; and

(C) by striking out the last sentence.

(2) CONFORMING AMENDMENTS.—Section 2433 of such title is amended—

(A) in subparagraph (B) of subsection (c)(1), by striking out "current" before "procurement unit cost";

(B) in subsection (d), by striking out "current" before "procurement unit cost" each place it appears; and

(C) in subsection (e), by striking out "current" before "procurement unit cost" both places it appears.

(b) EXCLUSION OF FIRM, FIXED-PRICE CONTRACTS.—Subsection (a) of section 2432 of such title is amended in paragraph (3) by inserting before the period at the end the following: "and that is not a firm, fixed price contract".

(c) DEFINITION OF FULL LIFE-CYCLE COST.—Such subsection is further amended in paragraph (4) by striking out "has the meaning" and all that follows through the end of the paragraph and inserting in lieu thereof the following: "means all costs of development, procurement, military construction, and operations and support, without regard to funding source or management control.".

(d) NOTICE OF PROPOSED CHANGES IN SAR.—Subsection (c) of such section is amended in paragraph (2) by striking out the second sentence and inserting in lieu thereof the following: "Whenever the Secretary of Defense proposes to make changes in the content of a Selected Acquisition Report, the Secretary shall submit a notice of the proposed changes to such committees. The changes shall be considered approved by the Secretary, and may be incorporated into the report, only after the end of the 60-day period beginning on the date on which the notice is received by those committees.".

(e) ELIMINATION OF CERTAIN SAR REQUIREMENTS.—Such subsection is further amended in paragraph (3) by striking out subparagraph (C).

(f) UNIFORM IMPLEMENTATION OF LIFE-CYCLE COST ANALYSIS.—Such subsection is further amended—

(1) by striking out paragraph (5); and

(2) by adding at the end of subparagraph (A) of paragraph (3) the following: "The Secretary of Defense shall ensure that this subparagraph is implemented in a uniform manner, to the extent practicable, throughout the Department of Defense.".

(g) DEADLINE REVISION.—Subsection (f) of such section is amended by striking out "60 days" in the first sentence and inserting in lieu thereof "45 days".

(h) ELIMINATION OF PRELIMINARY REPORT.—Such subsection is further amended by striking out the second sentence.

(i) TERMINOLOGY CORRECTIONS.—Such section is further amended as follows:

(1) Subsection (b)(3)(A) is amended by striking out "full scale development or" in clause (i).

(2) Subsection (c)(3) is amended by striking out "full-scale engineering" in subparagraph (A) and inserting in lieu thereof "engineering and manufacturing".

(3) Subsection (h)(1) is amended by striking out "full-scale engineering" both places it appears and inserting in lieu thereof "engineering and manufacturing".

SEC. 3003. UNIT COST REPORT REQUIREMENT.

(a) REVISION OF BASELINE REPORT DEFINITIONS.—

(1) REVISION.—Section 2433(a) of title 10, United States Code, is amended—

(A) in paragraph (2)—

(i) by striking out "Baseline Selected Acquisition Report" and inserting in lieu thereof "Baseline Estimate"; and

(ii) by striking out "Selected Acquisition Report in which" and all that follows through the end of the paragraph and inserting in lieu thereof "cost estimate included in the baseline description for the program under section 2435 of this title."; and

(B) by striking out paragraph (4).

(2) CONFORMING AMENDMENTS.—Section 2433 of such title is further amended—

(A) in subsection (c)(1), by striking out "Baseline Report" in subparagraphs (A) and (B) and inserting in lieu thereof "Baseline Estimate"; and

(B) in subsection (d), by striking out "Baseline Report" in paragraphs (1) and (2) and inserting in lieu thereof "Baseline Estimate".

(b) CONTENTS OF UNIT COST REPORT.—Section 2433(b) of such title is amended in paragraph (3) by striking out "Baseline Report was submitted." and inserting in lieu thereof "contract was entered into.".

(c) ELIMINATION OF CERTAIN UNIT COST REPORT REQUIREMENT.—Section 2433(c) of such title, as amended by subsection (a), is further amended—

(1) by striking out paragraph (2);

(2) by striking out "(1)" after "(c)"; and

(3) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

(d) CONSTANT BASE YEAR DOLLARS.—Section 2433(f) of such title is amended by striking out "include expected inflation" and inserting in lieu thereof "be stated in terms of constant base year dollars (as described in section 2430 of this title)".

(e) CONTENTS OF SAR.—Subparagraph (I) of section 2433(g)(1) of such title is amended to read as follows:

"(I) The type of the Baseline Estimate that was included in the baseline description under section 2435 of this title and the date of the Baseline Estimate.".

SEC. 3004. REQUIREMENT FOR INDEPENDENT COST ESTIMATE AND MANPOWER ESTIMATE BEFORE DEVELOPMENT OR PRODUCTION.

(a) CONTENT AND SUBMISSION OF ESTIMATES.—Subsection (b) of section 2434 of title 10, United States Code, is amended to read as follows:

"(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations governing the content and submission of the estimates required by subsection (a). The regulations shall require—

"(1) that the independent estimate of the full life-cycle cost of a program—

"(A) be prepared by an office or other entity that is not directly responsible for carrying out the development or acquisition of the program; and

"(B) include all costs of development, procurement, military construction, and operations and support, without regard to funding source or management control; and

"(2) that the manpower estimate include the total personnel required—

"(A) to operate, maintain, and support the program upon full operational deployment; and

"(B) to train personnel to carry out the activities referred to in subparagraph (A).".

(b) TERMINOLOGY CORRECTION, ETC.—Subsection (a) of such section is amended—

(1) by striking out "full-scale engineering development" and inserting in lieu thereof "engineering and manufacturing development"; and

(2) by striking out "cost of the program, together with a manpower estimate, has" and inserting in lieu thereof "full life-cycle cost of the program and a manpower estimate have".

SEC. 3005. BASELINE DESCRIPTION.

(a) IN GENERAL.—Section 2435 of title 10, United States Code, is amended to read as follows:

"§ 2435. Baseline description

"(a) BASELINE DESCRIPTION REQUIREMENT.—(1) The Secretary of a military department shall establish a baseline description for each major defense acquisition program under the jurisdiction of such Secretary.

"(2) The baseline shall include sufficient parameters to describe the cost estimate (referred to as the 'Baseline Estimate' in section 2433 of this title), schedule, and performance of such major defense acquisition program.

"(3) No amount appropriated or otherwise made available to the Department of Defense for carrying out a major defense acquisition program may be obligated without an approved baseline description unless such obligation is specifically approved by the Under Secretary of Defense for Acquisition and Technology.

"(4) A baseline description for a major defense acquisition program shall be established—

"(A) before the program enters engineering and manufacturing development; or

"(B) before the program enters production and deployment.

"(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations governing—

"(1) the content of baseline descriptions;

"(2) the submission of reports on deviations of a program from the baseline description by the program manager to the Secretary of the military department concerned and the Under Secretary of Defense for Acquisition and Technology;

"(3) procedures for review of such deviation reports within the Department of Defense; and

"(4) procedures for submission to, and approval by, the Secretary of Defense of revised baseline descriptions.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 144 of such title is amended by amending the item relating to section 2435 to read as follows:

"2435. Baseline description.".

SEC. 3006. REPEAL OF REQUIREMENT FOR COMPETITIVE PROTOTYPING FOR MAJOR PROGRAMS.

(a) REPEAL.—Section 2438 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 144 of such title is amended by striking out the item relating to section 2438.

SEC. 3007. REPEAL OF REQUIREMENT FOR COMPETITIVE ALTERNATIVE SOURCES FOR MAJOR PROGRAMS.

(a) REPEAL.—Section 2439 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 144 of such title is amended by striking out the item relating to section 2439.

Subtitle B—Testing Statutes

SEC. 3011. AUTHORIZATION OF LESS THAN FULL-UP TESTING.

Section 2366(c) of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (4);

(2) by designating the second sentence of paragraph (1) as paragraph (3) and in that paragraph by striking out "such certification" and inserting in lieu thereof "certification under paragraph (1) or (2)"; and

(3) by inserting before paragraph (3) (as so designated) the following new paragraph:

"(2) In the case of a covered system (or covered product improvement program for a covered system), the Secretary may waive the application of the survivability and lethality tests of this section to such system or program and instead allow testing of the system or program in combat by firing munitions likely to be encountered in combat at components, subsystems, and subassemblies, together with performing design analyses, modeling and simulation, and analysis of combat data, if the Secretary certifies to Congress that the survivability and lethality testing of such system or program otherwise required by this section would be unreasonably expensive and impracticable.".

SEC. 3012. LIMITATION ON QUANTITIES TO BE PROCURED FOR LOW-RATE INITIAL PRODUCTION.

Section 2400(a) of title 10, United States Code, is amended—

(1) in paragraph (2)—

(A) by striking out "paragraph (1)" and inserting in lieu thereof "this section"; and

(B) by striking out "full-scale engineering development" and inserting in lieu thereof "engineering and manufacturing development";

(2) by redesignating paragraph (4) as paragraph (5) and in that paragraph by inserting after the first sentence the following: "If the quantity exceeds 10 percent of the total number of articles to be produced, as determined at the milestone II decision with respect to that system, the Secretary shall include in the statement the reasons for such quantity."; and

(3) by inserting after paragraph (3) the following new paragraph (4):

"(4) The quantity of articles of a major system that may be procured for low-rate initial production may not be less than one operationally configured production unit unless another quantity is established at the milestone II decision.".

SEC. 3013. OPERATIONAL TEST AND EVALUATION OF DEFENSE ACQUISITION PROGRAMS.

(a) AUTHORITY TO USE DIFFERENT PROCEDURES.—Section 2399(b) of title 10, United States Code, is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph (5):

"(5) The Secretary of Defense may, for a particular major defense acquisition program, prescribe and apply operational test and evaluation procedures other than those provided under subsection (a) and paragraphs (1) through (3) of this subsection if the Secretary transmits to Congress, before the milestone II decision is made with respect to that program—

"(A) a certification that such testing would be unreasonably expensive and impracticable; and

"(B) a description of the actions taken to ensure that the system will be operationally effective and suitable when the system meets initial operational capability requirements.".

(b) CROSS-REFERENCE CORRECTIONS.—Section 2399 of such title is further amended—

(1) in subsection (b)(6) (as redesignated by subsection (a)(1)) and subsection (c)(1), by striking out "section 138(a)(2)(B)" and inserting in lieu thereof "section 139(a)(2)(B)"; and

(2) in subsection (h)(1), by striking out "section 138(a)(2)(A)" and inserting in lieu thereof "section 139(a)(2)(A)".

Subtitle C—Civil Reserve Air Fleet

SEC. 3021. DEFINITION OF CONTRACTOR.

Section 9511(8) of title 10, United States Code, is amended—

(1) by striking out "or" at the end of clause (A); and

(2) by inserting before the period at the end the following: ", or (C) who owns or controls, or will own or control, new or existing aircraft and who, by contract, commits some or all of such aircraft to the Civil Reserve Air Fleet".

SEC. 3022. CONSOLIDATION OF PROVISIONS RELATING TO CONTRACTUAL COMMITMENT OF AIRCRAFT.

Chapter 931 of title 10, United States Code, is amended—

(1) in subsection (a) of section 9512, by inserting "AUTHORITY TO CONTRACT.—" after "(a)";

(2) in subsection (c) of section 9512, by striking out "(c)" and inserting in lieu thereof "(d) AUTHORITY TO CONTRACT AND PAY DIRECTLY.—";

(3) in subsection (b) of section 9512, by striking out "(b)" and inserting in lieu thereof "(c) TERMS AND REQUIRED REPAYMENT.—";

(4) by redesignating subsection (a) of section 9513 as subsection (b) and transferring such subsection (as so redesignated) to section 9512 and inserting such subsection after subsection (a);

(5) by redesignating subsection (b) of section 9513 as subsection (e) and transferring such subsection (as so redesignated) to the end of section 9512;

(6) in subsection (b) of section 9512, as redesignated and transferred to such section by paragraph (4)—

(A) by striking out "under section 9512 of this title" and inserting in lieu thereof "entered into under this section", and

(B) by inserting "CONTRACT REQUIREMENTS.—" after "(b)";

(7) in subsection (c) of section 9512, as redesignated by paragraph (3), by striking out "the terms required by section 9513 of this title and";

(8) in subsection (e) of section 9512, as redesignated and transferred to such section by paragraph (5)—

(A) by striking out "under section 9512 of this title" and inserting in lieu thereof "entered into under this section", and

(B) by inserting "COMMITMENT TO CIVIL RESERVE AIR FLEET.—" after "(e)"; and

(9) by striking out the heading of section 9513.

SEC. 3023. USE OF MILITARY INSTALLATIONS BY CONTRACTORS.

(a) AUTHORITY.—Chapter 931 of title 10, United States Code, as amended by section 3022, is further amended by adding at the end the following new section 9513:

"§ 9513. Use of military installations by Civil Reserve Air Fleet contractors

"(a) CONTRACT AUTHORITY.—(1) The Secretary of the Air Force—

"(A) may, by contract entered into with any contractor, authorize such contractor to use one or more Air Force installations designated by the Secretary; and

"(B) with the consent of the Secretary of another military department, may, by contract entered into with any contractor, authorize the contractor to use one or more installations, designated by the Secretary of the Air Force, that is under the jurisdiction of the Secretary of such other military department.

"(2) The Secretary of the Air Force may include in the contract such terms and conditions as the Secretary determines appropriate to promote the national defense or to protect the interests of the United States.

"(b) PURPOSES OF USE.—A contract entered into under subsection (a) may authorize use of a designated installation as a weather alternate, as a technical stop not involving the enplaning or deplaning of passengers or cargo, or, in the case of an installation within the United States, for other commercial purposes. Notwithstanding any other provision of the law, the Secretary may establish different levels and types of uses for different installations and may provide in contracts under subsection (a) for different levels and types of uses by different contractors.

"(c) HOLD HARMLESS REQUIREMENT.—A contract entered into under subsection (a) shall provide that the contractor agrees to indemnify and hold harmless the Air Force (and any other armed force having jurisdiction over any installation covered by the contract) from any action, suit, or claim of any sort resulting from, relating to, or arising out of any activities conducted, or services or supplies furnished, in connection with the contract.

"(d) RESERVATION OF RIGHT TO EXCLUDE CONTRACTOR.—A contract entered into under subsection (a) shall provide that the Secretary concerned may, without providing prior notice, deny access to an installation designated under the contract when the Secretary determines that it is necessary to do so in order to meet military exigencies.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking out the item relating to section 9513 and inserting in lieu thereof the following:

"9513. Use of military installations by Civil Reserve Air Fleet contractors.".

Subtitle D—Miscellaneous

SEC. 3051. REGULATIONS ON PROCUREMENT, PRODUCTION, WAREHOUSING, AND SUPPLY DISTRIBUTION FUNCTIONS.

(a) IN GENERAL.—Section 2202 of title 10, United States Code, is amended to read as follows:

"§ 2202. Regulations on procurement, production, warehousing, and supply distribution functions

"The Secretary of Defense shall prescribe regulations governing the performance within the Department of Defense of the procurement, production, warehousing, and supply distribution functions, and related functions, of the Department of Defense.".

(b) CLERICAL AMENDMENT.—The item relating to section 2202 in the table of sections at the beginning of chapter 131 of such title is amended to read as follows:

"2202. Regulations on procurement, production, warehousing, and supply distribution functions.".

SEC. 3052. REPEAL OF REQUIREMENTS REGARDING PRODUCT EVALUATION ACTIVITIES.

(a) REPEAL.—Section 2369 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 139 of such title is amended by striking out the item relating to section 2369.

SEC. 3053. CODIFICATION AND REVISION OF LIMITATION ON LEASE OF VESSELS, AIRCRAFT, AND VEHICLES.

(a) LIMITATION.—(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2401 the following new section:

"§ 2401a. Lease of vessels, aircraft, and vehicles

"The Secretary of Defense or the Secretary of a military department may not enter into any contract with a term of 18 months or more, or extend or renew any contract for a term of 18 months or more, for any vessel, aircraft, or vehicle, through a lease, charter, or similar agreement, unless the Secretary has considered all costs of such contract (including estimated termination liability) and has determined in writing that the contract is in the best interest of the Government.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2401 the following new item:

"2401a. Lease of vessels, aircraft, and vehicles.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 9081 of Public Law 101–165 (103 Stat. 1147; 10 U.S.C. 2401 note) is repealed.

SEC. 3054. REPEAL OF APPLICATION OF PUBLIC CONTRACTS ACT TO CERTAIN NAVAL VESSEL CONTRACTS.

(a) REPEAL.—Section 7299 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 633 of such title is amended by striking out the item relating to section 7299.

TITLE IV—SIMPLIFIED ACQUISITION THRESHOLD AND SOCIOECONOMIC, SMALL BUSINESS, AND MISCELLANEOUS LAWS

Subtitle A—Simplified Acquisition Threshold

PART I—ESTABLISHMENT OF THRESHOLD

SEC. 4001. ESTABLISHMENT OF SIMPLIFIED ACQUISITION THRESHOLD.

(a) ESTABLISHMENT.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by inserting after section 4 the following new section:

"SEC. 4A. SIMPLIFIED ACQUISITION THRESHOLD.

"(a) IN GENERAL.—The simplified acquisition threshold for purposes of Federal acquisitions is (except as provided in subsection (b)) the amount of $25,000, as adjusted pursuant to subsection (c).

"(b) AGENCIES WITH FACNET CAPABILITY.—In the case of an executive agency, or a procuring activity of an executive agency, or a procuring activity of an executive agency, for which there is in effect a certification under 2302b(c) of title 10, United States Code, or section 302B(c) of the Federal Property and Administrative Services Act of 1949 with respect to implementation of a FACNET capability, the simplified acquisition threshold is the amount of $100,000, as adjusted pursuant to subsection (c).

"(c) PERIODIC ADJUSTMENT FOR INFLATION.—The dollar amount in effect under subsection (a) shall be adjusted on October 1 of each year divisible by 5 to the equivalent amount in constant fiscal year 1990 dollars (rounded to the nearest $1,000). The dollar amount in effect under subsection (b) shall be adjusted on October 1 of each year divisible by 5 to the equivalent amount in constant fiscal year 1993 dollars (rounded to the nearest $1,000).

"(d) SPECIAL RULE FOR CONTINGENCY OPERATIONS.—In the case of a contract to be awarded and performed, or a purchase to be made, outside the United States in support of a contingency operation (as defined in section 101(a)(13) of title 10, United States Code), the amounts in effect under subsections (a) and (b) shall be two times the amounts otherwise applicable.".

(b) CONFORMING AMENDMENT TO DEFINITION.—Section 4 of such Act is amended by striking out paragraph (11).

SEC. 4002. FEDERAL ACQUISITION COMPUTER NETWORK ARCHITECTURE.

(a) FEDERAL ACQUISITION COMPUTER NETWORK ARCHITECTURE.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 1092, is further amended by adding at the end the following new section:

"SEC. 30. FEDERAL ACQUISITION COMPUTER NETWORK (FACNET) ARCHITECTURE.

"(a) IN GENERAL.—(1) The Administrator shall establish a program for the development and implementation of a Federal acquisition computer network architecture (hereinafter in this section referred to as 'FACNET'). The Administrator shall assign a program manager for FACNET and shall provide for overall direction of policy and leadership in the development, coordination, installation, operation, and completion of implementation of FACNET by executive agencies.

"(2) In carrying out paragraph (1), the Administrator shall consult with appropriate Federal agencies with applicable technical and functional expertise, including the Office of Information and Regulatory Affairs, the National Institute of Standards and Technology, the General Services Administration, and the Department of Defense.

"(3) The Administrator shall carry out paragraph (1) not later than the date that is 5 years after the date of the enactment of the Federal Acquisition Improvement Act of 1994.

"(b) FUNCTIONS OF FACNET.—The FACNET architecture shall provide for the following functions:

"(1) GOVERNMENT FUNCTIONS.—Allow executive agencies to do the following electronically:

"(A) Provide widespread public notice of solicitations for contract opportunities issued by an executive agency and of orders to be made by the agency.

"(B) Allow responses to solicitations and requests for information to be submitted to the procuring activity through such system.

"(C) Allow public notice of contract awards to be provided through such system.

"(D) In cases in which it is practicable, allow questions regarding solicitations to be answered through such system.

"(E) Allow orders to be made through such system.

"(F) In cases in which it is practicable, make payments to contractors by bank card, electronic funds transfer, or other automated methods.

"(G) Archive data relating to each procurement action made using such system.

"(2) USER FUNCTIONS.—Allow private users to do the following electronically:

"(A) Access notice of solicitations for contract opportunities issued by an executive agency and of orders to be made by the executive agency.

"(B) Selectively access and review solicitations and orders issued by the executive agency.

"(C) Respond to solicitations and notices of orders issued by the executive agency.

"(D) Receive orders from the executive agency.

"(E) Access information on contract awards made by the executive agency.

"(F) In cases in which it is practicable, receive payment by bank card, electronic funds transfer, or other automated means.

"(3) GENERAL FUNCTIONS.—

"(A) Allow the electronic exchange of procurement information between the private sector and the Federal Government.

"(B) Employ nationally and internationally recognized data formats that serve to broaden and ease the electronic interchange of data.

"(C) Allow convenient and universal user access through a single point of entry.

"(c) ARCHITECTURE DEFINED.—For purposes of this section, the term 'architecture' means an evolving description of all functions to be performed to achieve the mission of streamlining procurement through electronic commerce, the system elements and interfaces needed to perform the functions, and the designation of performance levels of those system elements.

"(d) ANNUAL REPORT TO CONGRESS.—The Administrator shall evaluate progress by executive agencies in implementing the FACNET under this section. The Administrator shall submit to the Congress, on the date that is one year after the date of the enactment of the Federal Acquisition Improvement Act of 1994 and on that date in each of the 5 years thereafter, a report on the overall progress by the executive branch and by each executive agency in implementing this section.".

(b) TECHNICAL AMENDMENTS.—Section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) is amended—

(1) in subsection (a)(1)(A), by striking out "notice" in the matter following clause (ii) and inserting in lieu thereof "notice of solicitation"; and

(2) in subsection (d), by striking out "a notice under subsection (e)" in the first sentence and inserting in lieu thereof "a notice of solicitation under subsection (a)".

SEC. 4003. IMPLEMENTATION IN ARMED SERVICES.

(a) ESTABLISHMENT IN TITLE 10.—Chapter 137 of title 10, United States Code, is amended by inserting after section 2302 the following new sections:

"§ 2302a. Simplified acquisition threshold

"(a) SIMPLIFIED ACQUISITION THRESHOLD.—For purposes of acquisitions by agencies named in section 2303 of this title, the simplified acquisition threshold is as specified in section 4A of the Office of Federal Procurement Policy Act.

"§ 2302b. Implementation of FACNET capability

"(a) IMPLEMENTATION OF FACNET CAPABILITY.—(1) The head of each agency named in section 2303 of this title shall implement the Federal acquisition computer network ('FACNET') capability required by section 30 of the Office of Federal Procurement Policy Act. In the case of the Department of Defense, the implementation shall be by the Secretary of Defense for the Department of Defense as a whole. For purposes of this section, the term 'head of an agency' does not include the Secretaries of the military departments.

"(2) In implementing the FACNET capability pursuant to paragraph (1), the head of an agency shall consult with the Administrator for Federal Procurement Policy.

"(b) DESIGNATION OF AGENCY OFFICIAL.—(1) The Secretary of Defense shall designate the Under Secretary of Defense for Acquisition and Technology to have responsibility for implementation of FACNET capability throughout the Department of Defense.

"(2) The head of each agency named in paragraph (5) or (6) of section 2303 of this title shall designate a program manager to have responsibility for implementation of FACNET capability for that agency and otherwise to implement this section. Such program manager shall report directly to the senior procurement executive designated for the agency under section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)).

"(c) CERTIFICATION OF FACNET CAPABILITY.—(1) When the senior procurement executive of an agency or, in the case of the Department of Defense, the Under Secretary of Defense for Acquisition and Technology, determines that a procuring activity of the agency has implemented an interim FACNET capability (as defined in subsection (e)), the executive or the Under Secretary shall certify to the Administrator for Federal Procurement Policy that such activity has implemented an interim FACNET capability.

"(2) When the head of an agency, with the concurrence of the Administrator for Federal Procurement Policy, determines that the agency has implemented a full FACNET capability (as defined in subsection (f)), the head of the agency shall certify to Congress that the agency has implemented a full FACNET capability.

"(3) The head of each agency shall provide for implementation of both interim FACNET capability and full FACNET capability, with priority on providing convenient and universal user access as required by section 30(b)(3)(C) of the Office of Federal Procurement Policy Act, in that agency as soon as practicable after the date of the enactment of the Federal Acquisition Improvement Act of 1994.

"(d) HIGHER SIMPLIFIED ACQUISITION THRESHOLD WHEN FACNET CAPABILITY CERTIFIED.—A certification to the Administrator for Federal Procurement Policy or Congress under subsection (c) shall be considered to be a certification for purposes of the higher simplified acquisition threshold under section 4A(b) of the Office of Federal Procurement Policy Act, except that a certification under paragraph (1) of subsection (c) shall not constitute such a certification in the case of solicitations issued after the end of the five-year period beginning on the date of the enactment of the Federal Acquisition Improvement Act of 1994.

"(e) IMPLEMENTATION OF INTERIM FACNET CAPABILITY.—A procuring activity shall be considered to have implemented an interim FACNET capability if—

"(1) with respect to each procurement expected to be in an amount greater than the micro-purchase threshold and less than the simplified acquisition threshold, the procuring activity has implemented the FACNET functions described in paragraphs (1)(A) and (2)(A) of section 30(b) of the Office of Federal Procurement Policy Act; and

"(2) with respect to each procurement expected to be in an amount greater than the micro-purchase threshold and less than the simplified acquisition threshold, the procuring activity issues notices of solicitations through a system with those functions for all contracting opportunities other than in cases covered by section 18(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(c)).

"(f) IMPLEMENTATION OF FULL FACNET CAPABILITY.—(1) An agency shall be considered to have implemented a full FACNET capability if (except in the case of procuring activities (or portions thereof) of the agency for which the head of the agency determines that implementation is not cost effective or practicable) the agency has implemented all of the FACNET functions described in section 30(b) of the Office of Federal Procurement Policy Act.

"(2) For purposes of paragraph (1), an agency may not be considered to have implemented a full FACNET capability if—

"(A) the head of the agency has determined that implementation of FACNET capability is not cost effective or practicable in the case of certain procuring activities (or portions thereof) of the agency; and

"(B) the percentage of the procurement actions in amounts greater than the micro-purchase threshold executed by the procuring activities (or portions thereof) referred to in subparagraph (A) for the preceding fiscal year is greater than 25 percent of the total number of procurement actions in amounts greater than the micro-purchase threshold executed by the agency for that year.

"(g) PROCURING ACTIVITIES ORIGINALLY EXCLUDED IN CERTIFICATION.—(1) If the head of an agency, in certifying under subsection (c) that the agency has implemented a full FACNET capability, determines that such implementation is not cost effective or practicable in the case of any procuring activity (or portion thereof) of that agency, then that certification shall not apply under section 4A(b) of the Office of Federal Procurement Policy Act to any procurement action by that procuring activity (or portion thereof).

"(2) If the head of an agency determines that an interim or a full FACNET capability has subsequently been implemented for that procuring activity (or portion thereof), the head of the agency shall make a certification to the Administrator for Federal Procurement Policy in the same manner as a certification under paragraph (1) or (2) of subsection (c), as applicable, and such certification shall have the same effect with respect to that procuring activity (or portion thereof) as if made under such paragraph of subsection (c).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 137 of such title is amended by inserting after the item relating to section 2302 the following new items:

"2302a. Simplified acquisition threshold.
"2302b. Implementation of FACNET capability.".

SEC. 4004. IMPLEMENTATION IN CIVILIAN AGENCIES.

Title III of the Federal Property and Administrative Services Act of 1949 is amended by inserting after section 302 the following new sections:

"SEC. 302A. SIMPLIFIED ACQUISITION THRESHOLD.

"(a) SIMPLIFIED ACQUISITION THRESHOLD.—For purposes of acquisitions by executive agencies, the simplified acquisition threshold is as specified in section 4A of the Office of Federal Procurement Policy Act.

"SEC. 302B. IMPLEMENTATION OF FACNET CAPABILITY.

"(a) IMPLEMENTATION OF FACNET CAPABILITY.—(1) The head of each executive agency shall implement the Federal acquisition computer network ('FACNET') capability required by section 30 of the Office of Federal Procurement Policy Act.

"(2) In implementing the FACNET capability pursuant to paragraph (1), the head of an executive agency shall consult with the Administrator for Federal Procurement Policy.

"(b) DESIGNATION OF AGENCY OFFICIAL.—The head of each executive agency shall designate a program manager to have responsibility for implementation of FACNET capability for that agency and otherwise to implement this section. Such program manager shall report directly to the senior procurement executive designated for the agency under section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)).

"(c) CERTIFICATION OF FACNET CAPABILITY.—(1) When the senior procurement executive of an executive agency determines that a procuring activity of the agency has implemented an interim FACNET capability (as defined in subsection (e)), the executive shall certify to the Administrator for Federal Procurement Policy that such activity has implemented an interim FACNET capability.

"(2) When the head of an executive agency, with the concurrence of the Administrator for Federal Procurement Policy, determines that the executive agency has implemented a full FACNET capability (as defined in subsection (f)), the head of the executive agency shall certify to Congress that the agency has implemented a full FACNET capability.

"(3) The head of each executive agency shall provide for implementation of both interim FACNET capability and full FACNET capability, with priority on providing convenient and universal user access as required by section 30(b)(3)(C) of the Office of Federal Procurement Policy Act, in that executive agency as soon as practicable after the date of the enactment of the Federal Acquisition Improvement Act of 1994.

"(d) HIGHER SIMPLIFIED ACQUISITION THRESHOLD WHEN FACNET CAPABILITY CERTIFIED.—A certification to the Administrator for Federal Procurement Policy or Congress under subsection (c) shall be considered to be a certification for purposes of the higher simplified acquisition threshold under section 4A(b) of the Office of Federal Procurement Policy Act, except that a certification under paragraph (1) of subsection (c) shall not constitute such a certification in the case of solicitations issued after the end of the five-year period beginning on the date of the enactment of the Federal Acquisition Improvement Act of 1994.

"(e) IMPLEMENTATION OF INTERIM FACNET CAPABILITY.—A procuring activity shall be considered to have implemented an interim FACNET capability if—

"(1) with respect to each procurement expected to be in an amount greater than the micro-purchase threshold and less than the simplified acquisition threshold, the procuring activity has implemented the FACNET functions described in paragraphs (1)(A) and (2)(A) of section 30(b) of the Office of Federal Procurement Policy Act; and

"(2) with respect to each procurement expected to be in an amount greater than the micro-purchase threshold and less than the simplified acquisition threshold, the procuring activity issues notices of solicitations through a system with those functions for all contracting opportunities other than in cases covered by section 18(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(c)).

"(f) IMPLEMENTATION OF FULL FACNET CAPABILITY.—(1) An executive agency shall be considered to have implemented a full FACNET capability if (except in the case of procuring activities (or portions thereof) of the executive agency for which the head of the agency determines that implementation is not cost effective or practicable) the executive agency has implemented all of the FACNET functions described in section 30(b) of the Office of Federal Procurement Policy Act.

"(2) For purposes of paragraph (1), an executive agency may not be considered to have implemented a full FACNET capability if—

"(A) the head of the executive agency has determined that implementation of FACNET capability is not cost effective or practicable in the case of certain procuring activities (or portions thereof) of the executive agency; and

"(B) the percentage of the procurement actions in amounts greater than the micro-purchase threshold executed by the procuring activities (or portions thereof) referred to in subparagraph (A) for the preceding fiscal year is greater than 25 percent of the total number of procurement actions in amounts greater than the micro-purchase threshold executed by the executive agency for that year.

"(g) PROCURING ACTIVITIES ORIGINALLY EXCLUDED IN CERTIFICATION.—(1) If the head of an executive agency, in certifying under subsection (c) that the agency has implemented a full FACNET capability, determines that such implementation is not cost effective or practicable in the case of any procuring activity (or portion thereof) of that executive agency, then that certification shall not apply under section 4A(b) of the Office of Federal Procurement Policy Act to any procurement action by that procuring activity (or portion thereof).

"(2) If the head of an executive agency determines that an interim or a full FACNET capability has subsequently been implemented for that procuring activity (or portion thereof), the executive agency shall make a certification to the Administrator for Federal Procurement Policy in the same manner as a certification under paragraph (1) or (2) of subsection (c), as applicable, and such certification shall have the same effect with respect to that procuring activity (or portion thereof) as if made under such paragraph of subsection (c).".

PART II—SIMPLIFICATION OF PROCEDURES

SEC. 4011. PROCEDURES FOR PURCHASES BELOW MICRO-PURCHASE THRESHOLD.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 4001, is further amended by inserting after section 4A the following new section:

"SEC. 4B. PROCEDURES APPLICABLE TO PURCHASES BELOW MICRO-PURCHASE THRESHOLD.

"(a) REQUIREMENTS.—(1) The head of each executive agency shall ensure that procuring activities of that agency, in awarding a contract with a price exceeding the micro-purchase threshold, comply with the requirements of section 8(a) of the Small Business Act (15 U.S.C. 637(a)) and section 2323 of title 10, United States Code, or section 315 of the Federal Property and Administrative Services Act of 1949, as applicable to that agency.

"(2) The authority under part 13.106(a)(1) of the Federal Acquisition Regulation (48 C.F.R. 13.106(a)(1)), as in effect on November 18, 1993, to make purchases without securing competitive quotations does not apply to any purchases with a price exceeding the micro-purchase threshold.

"(b) EXCLUSION FOR MICRO-PURCHASES.—A purchase by an executive agency with an anticipated value of the micro-purchase threshold or less is not subject to the Act of March 3, 1933, commonly referred to as the 'Buy American Act' (41 U.S.C. 10a–10c).

"(c) APPLICABILITY OF CERTAIN PROVISIONS.—For purposes of section 27, only subsections (a) and (b) shall apply with respect to purchases below the micro-purchase threshold. In applying such subsection (a), a contractor that enters into a contract under the micro-purchase threshold shall be considered to be a competing contractor. In applying such subsection (b), a civil officer or employee, and any member of the Armed Forces, who has authority to enter into contracts but whose contracting authority is limited to the amount of the micro-purchase threshold or less shall be considered to be a procurement official.

"(d) IMPLEMENTATION THROUGH FAR.—This section shall be implemented through the Federal Acquisition Regulation.

"(e) MICRO-PURCHASE THRESHOLD DEFINED.—For purposes of this section, the micro-purchase threshold is the amount of $2,500, adjusted on October 1 of each year divisible by 5 to the equivalent amount in constant fiscal year 1993 dollars (rounded to the nearest $100).".

SEC. 4012. PROCUREMENT NOTICE.

(a) CONTINUATION OF EXISTING NOTICE THRESHOLDS.—Subsection (a) of section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) is amended as follows:

(1) Paragraph (1) is amended—

(A) by striking out "the small purchase threshold" each place it appears and inserting in lieu thereof "the simplified acquisition threshold";

(B) by striking out "(c)—" in the matter preceding subparagraph (A) and inserting in lieu thereof "(c):";

(C) by striking out "an executive" at the beginning of subparagraphs (A) and (C) and inserting in lieu thereof "An executive";

(D) by striking out the semicolon at the end of subparagraph (A) and inserting in lieu thereof a period; and

(E) by amending subparagraph (B) to read as follows:

"(B) An executive agency intending to solicit bids or proposals for a contract for property or services for a price expected to exceed $10,000 but not to exceed the simplified acquisition threshold shall post a notice of solicitation described in subsection (b). The notice shall be posted at the contracting office issuing the solicitation or shall be made available through an electronic system with a FACNET capability that at least meets the requirements of paragraphs (1)(A) and (2)(A) of section 30(b). The notice shall be posted for a period of not less than 10 days, except that in the case of a posting made through an electronic system with such a FACNET capability, the posting may be for a period of less than 10 days as prescribed in the Federal Acquisition Regulation.".

(2) Paragraph (3)(B) is amended by inserting after "(B)" the following: "in the case of a contract or order for an amount expected to exceed the simplified acquisition threshold,".

(b) OPPORTUNITY FOR ALL RESPONSIBLE POTENTIAL OFFERORS.—Such subsection is further amended by adding at the end the following:

"(4) An executive agency intending to solicit offers for a contract for which a notice of solicitation is required to be posted under paragraph (1)(B) shall ensure that all potential offerors are permitted to respond to the solicitation for the contract within the period of time specified in the solicitation for the submission of offers.".

(c) ESTABLISHMENT OF DEADLINE FOR SUBMISSION OF OFFERS.—Such subsection is further amended by adding after paragraph (4), as added by subsection (b), the following new paragraph:

"(5) An executive agency shall establish a deadline for the submission of all bids or proposals in response to a notice of solicitation with respect to which no such deadline is provided by statute.".

(d) EXCEPTIONS.—Subsection (c) of such section is amended by adding at the end the following new paragraph:

"(4)(A) The requirements of subsection (a)(1) shall not apply in the case of an acquisition for which notice is accomplished through the use of FACNET, as described in section 30 and certified under section 2302a of title 10, United States Code, or section 302A of the Federal Property and Administrative Services Act of 1949.

"(B) The Federal Acquisition Regulation shall provide for minimum periods of time for submission of offers for acquisitions described in subparagraph (A). Such periods shall provide offerors a reasonable opportunity to respond.

"(C) A notice of solicitation of bids or proposals for an acquisition described in subparagraph (A) shall include the matter described in subsection (b).".

SEC. 4013. GAO TEST AND REPORT ON PERFORMANCE OF SIMPLIFIED ACQUISITION THRESHOLD.

(a) PERFORMANCE TEST.—The Comptroller General of the United States shall collect data and assess the effects of the simplified acquisition threshold, as established in section 4A of the Office of Federal Procurement Policy Act, on the participation of small business concerns (including small business concerns owned and controlled by socially and economically disadvantaged individuals) in procurement awards of less than $100,000 and the benefits and detriments, if any, to the procuring activities of the various Executive agencies.

(b) DATA TO BE COLLECTED.—Data collected under subsection (a) shall include data regarding whether the establishment of the simplified acquisition threshold has improved the acquisition process in terms of reduced paperwork, financial or other savings to the Federal Government, and any increase in the number of contractors participating in the contracting process.

(c) PERIOD.—Data shall be collected for purposes of subsection (a) during the period beginning with the first full fiscal year quarter after the effective date of the amendments made by section 3001 and ending on September 30, 1997.

(d) REPORT.—By March 1, 1998, the Comptroller General shall submit to Congress a report on the effects of the establishment of the simplified acquisition threshold by the amendments made by section 3001.

PART III—INAPPLICABILITY OF LAWS TO ACQUISITIONS NOT IN EXCESS OF SIMPLIFIED ACQUISITION THRESHOLD

Subpart A—Generally

SEC. 4021. INAPPLICABILITY OF FUTURE ENACTED PROCUREMENT LAWS TO CONTRACTS NOT EXCEEDING THE SIMPLIFIED ACQUISITION THRESHOLD.

(a) ARMED SERVICES.—Section 2302a of title 10, United States Code, as added by section 4003(a), is amended by adding at the end the following new subsection:

"(b) CONSTRUCTION WITH FUTURE ENACTMENTS.—A provision of law enacted after the date of the enactment of the Federal Acquisition Improvement Act of 1994 shall not be construed as applicable to purchases of property or services by an agency named in section 2303 of this title for an amount not in excess of the simplified acquisition threshold unless that provision of law specifically refers to this section and specifically states that such provision of law modifies or supersedes this section.".

(b) CIVILIAN AGENCIES.—Section 302A of the Federal Property and Administrative Services Act of 1949, as added by section 4004(a), is amended by adding at the end the following new subsection:

"(b) CONSTRUCTION WITH FUTURE ENACTMENTS.—A provision of law enacted after the date of the enactment of the Federal Acquisition Improvement Act of 1994 shall not be construed as applicable to purchases of property or services by an executive agency for an amount not in excess of the simplified acquisition threshold unless that provision of law specifically refers to this section and specifically states that such provision of law modifies or supersedes this section.".

Subpart B—Armed Services Acquisitions

SEC. 4031. INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

Section 2302a of title 10, United States Code, as amended by section 4021, is further amended by adding at the end the following new subsection:

"(c) INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.—The following provisions of law (and regulations prescribed under such provisions) shall not apply to any contract in an amount not greater than the simplified acquisition threshold:

"(1) Section 2306(b) of this title (relating to prohibition on contingent fees).

"(2) Section 2313 of this title (relating to examination of books and records of contractor).

"(3) Section 2384(b) of this title (relating to requirement to identify suppliers and sources of supplies).

"(4) Section 2393(d) of this title (relating to prohibition against doing business with certain offerors of contractors).

"(5) Section 2402 of this title (relating to prohibition on limitation of subcontractor direct sales).

"(6) Section 2408(a) of this title (relating to prohibition on persons convicted of defense-contract related felonies).

"(7) Section 2410b of this title (relating to contractor inventory accounting system standards).

"(8) Section 2534 of this title (relating to miscellaneous limitations on procurement).

"(9) Section 27(e) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(e)).

"(10) The Drug-Free Workplace Act of 1988 (subtitle D of title V of Public Law 100–690; 41 U.S.C. 701 et seq.).".

SEC. 4032. CONFORMING AMENDMENTS RELATING TO INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

(a) INAPPLICABILITY OF REQUIREMENT FOR CONTRACT CLAUSE REGARDING CONTINGENT FEES.—Section 2306(b) of title 10, United States Code, is amended by adding at the end the following: "This subsection does not apply to a contract that is for an amount not in excess of the simplified acquisition threshold.".

(b) INAPPLICABILITY OF AUTHORITY TO EXAMINE BOOKS AND RECORDS OF CONTRACTORS.—Section 2313 of title 10, United States Code, as amended by section 2201, is further amended by adding at the end of subsection (e) the following:

"(2) A contract that is for an amount not in excess of the simplified acquisition threshold.".

(c) INAPPLICABILITY OF REQUIREMENT TO IDENTIFY SUPPLIERS AND SOURCES OF SUPPLIES.—Section 2384(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) The regulations prescribed pursuant to paragraph (1) do not apply to a contract for an amount that does not exceed the simplified acquisition threshold.".

(d) INAPPLICABILITY OF PROHIBITION AGAINST DOING BUSINESS WITH CERTAIN OFFERORS OR CONTRACTORS.—Section 2393(d) of title 10, United States Code, is amended in the second sentence by striking out "above" and all that follows and inserting in lieu thereof "in excess of the simplified acquisition threshold.".

(e) INAPPLICABILITY OF PROHIBITION ON LIMITING SUBCONTRACTOR DIRECT SALES TO THE UNITED STATES.—Section 2402 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) This section does not apply to a contract that is for an amount not in excess of the simplified acquisition threshold.".

(f) INAPPLICABILITY OF PROHIBITION ON PERSONS CONVICTED OF DEFENSE-RELATED FELONIES.—Section 2408(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) In this subsection, the term 'defense contract' means a contract in an amount in excess of the simplified acquisition threshold.".

(g) INAPPLICABILITY OF CONTRACTOR INVENTORY ACCOUNTING SYSTEM STANDARDS.—Section 2410b of title 10, United States Code, is amended—

(1) by inserting "(a)" before "The Secretary"; and

(2) by adding at the end the following:

"(b) The regulations prescribed pursuant to subsection (a) shall not apply to a contract that is for an amount not in excess of the simplified acquisition threshold.".

(h) INAPPLICABILITY OF MISCELLANEOUS PROCUREMENT LIMITATIONS.—Section 2534 of title 10, United States Code, is amended by adding at the end the following:

"(g) INAPPLICABILITY TO CONTRACTS UNDER SIMPLIFIED ACQUISITION THRESHOLD.—This section does not apply to a contract for an amount that does not exceed the simplified acquisition threshold.".

Subpart C—Civilian Agency Acquisitions

SEC. 4041. INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

Section 302A of the Federal Property and Administrative Services Act of 1949, as amended by section 4021(b), is further amended by adding at the end the following new subsection:

"(c) INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.—The following provisions of law (and regulations prescribed under such provisions) shall not apply to any contract entered into by an executive agency in an amount not greater than the simplified acquisition threshold:

"(1) Sections 303G, 304(a), and 304C of this Act.

"(2) Section 27(e) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(e)).

"(3) The Drug-Free Workplace Act of 1988 (subtitle D of title V of Public Law 100–690; 41 U.S.C. 701 et seq.).".

SEC. 4042. CONFORMING AMENDMENTS RELATING TO INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

(a) INAPPLICABILITY OF PROHIBITION ON LIMITING SUBCONTRACTOR DIRECT SALES TO THE UNITED STATES.—Section 303G of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253g) is amended by adding at the end the following new subsection:

"(c) This section does not apply to a contract for an amount that is not in excess of the simplified acquisition threshold.".

(b) INAPPLICABILITY OF REQUIREMENT FOR CONTRACT CLAUSE REGARDING CONTINGENT

FEES.—Section 304(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a)) is amended by adding at the end the following: "The preceding sentence does not apply to a contract for an amount that is not in excess of the simplified acquisition threshold.".

(c) INAPPLICABILITY OF AUTHORITY TO EXAMINE BOOKS AND RECORDS OF CONTRACTORS.—Section 304C of the Federal Property and Administrative Services Act of 1949, as added by section 2251(a), is amended by adding at the end of subsection (e) the following:

"(2) A contract that is for an amount not in excess of the simplified acquisition threshold.".

Subpart D—Acquisitions Generally

SEC. 4051. CONFORMANCE OF CERTAIN PROCUREMENT INTEGRITY REQUIREMENTS.

Subsection (e)(7)(A) of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended by inserting after "$100,000" the following: "or the simplified acquisition threshold, whichever is greater".

SEC. 4052. INAPPLICABILITY OF THE DRUG-FREE WORKPLACE ACT OF 1988.

Section 5152(a)(1) of the Drug-Free Workplace Act of 1988 (subtitle D of title V of the Anti-Drug Abuse Act of 1988; Public Law 100-690; 41 U.S.C. 701(a)(1)) is amended by striking out "of $25,000 or more from any Federal agency" and inserting in lieu thereof "in excess of the simplified acquisition threshold (as defined in section 4A of such Act) by any Federal agency".

PART IV—CONFORMING AMENDMENTS

SEC. 4071. ARMED SERVICES ACQUISITIONS.

(a) SIMPLIFIED ACQUISITION PROCEDURES.—Section 2304(g) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out "small purchases of property and services" and inserting in lieu thereof "purchases of property and services for amounts not in excess of the simplified acquisition threshold";

(2) by striking out paragraph (2);

(3) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(4) in paragraph (2), as so redesignated—

(A) by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold"; and

(B) by striking out "small purchase procedures" and inserting in lieu thereof "simplified procedures"; and

(5) in paragraph (3), as so redesignated, by striking out "small purchase procedures" and inserting in lieu thereof "simplified procedures".

(b) SOLICITATION CONTENT REQUIREMENT.—Section 2305(a)(2) of such title is amended by striking out "small purchases)" in the matter preceding subparagraph (A) and inserting in lieu thereof "a purchase for an amount not in excess of the simplified acquisition threshold)".

(c) COST TYPE CONTRACTS.—Section 2306(e)(2)(A) of such title is amended by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold".

(d) CROSS REFERENCE AMENDMENT.—Section 9005 of Public Law 102-396 (10 U.S.C. 2441 note) is amended in the first sentence by striking out "small purchases covered by section 2304(g)" and inserting in lieu thereof "purchases for amounts not in excess of the simplified acquisition threshold covered by section 2304(g)".

SEC. 4072. CIVILIAN AGENCY ACQUISITIONS.

(a) SIMPLIFIED ACQUISITION PROCEDURES.—Section 303(g) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)) is amended—

(1) in paragraph (1)—

(A) by striking out "small purchases of property and services" and inserting in lieu thereof "purchases of property and services for amounts not in excess of the simplified acquisition threshold", and

(B) by striking out "regulations modified, in accordance with section 2752 of the Competition in Contracting Act of 1984," and inserting in lieu thereof "Federal Acquisition Regulation";

(2) by striking out paragraph (2);

(3) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(4) in paragraph (2), as so redesignated—

(A) by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold"; and

(B) by striking out "small purchase procedures" and inserting in lieu thereof "simplified procedures";

(5) in paragraph (3), as so redesignated, by striking out "small purchase procedures" and inserting in lieu thereof "the simplified procedures"; and

(6) by striking out paragraph (5).

(b) SOLICITATION CONTENT REQUIREMENT.—Section 303A(b) of such Act (41 U.S.C. 253a(b)) is amended by striking out "small purchases)" in the matter preceding paragraph (1) and inserting in lieu thereof "a purchase for an amount not in excess of the simplified acquisition threshold)".

(c) COST TYPE CONTRACTS.—Section 304(b) of such Act (41 U.S.C. 254(b)) is amended in the third sentence by striking out "either $25,000" and inserting in lieu thereof "either the simplified acquisition threshold".

SEC. 4073. OFFICE OF FEDERAL PROCUREMENT POLICY ACT.

Section 19(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 417(a)) is amended by striking out "procurements, other than small purchases," and inserting in lieu thereof "procurements for amounts in excess of the simplified acquisition threshold".

PART V—REVISION OF REGULATIONS

SEC. 4081. REVISION REQUIRED.

(a) FEDERAL ACQUISITION REGULATION.—(1) Not later than one year after the date of the enactment of this Act, the Federal Acquisition Regulatory Council established by section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)) shall—

(A) review the Federal Acquisition Regulation to identify regulations that are applicable to acquisitions in excess of a specified amount that is less than $100,000 (other than such an amount that is specified by law); and

(B) amend the regulations so identified to provide that such regulations do not apply to acquisitions that are not in excess of the simplified acquisition threshold.

(2) Paragraph (1)(B) does not apply in the case of a regulation for which such an amendment would not be in the national interest, as determined by the Council.

(b) SUPPLEMENTAL REGULATIONS.—Not later than 90 days after the date on which the review required by subsection (a)(1)(A) is completed, the head of each executive agency that has issued regulations, policies, or procedures referred to in section 25(c)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(2)) shall—

(1) identify any such regulation, policy, or procedure that is applicable to acquisitions in excess of a specified amount that is less than $100,000; and

(2) pursuant to section 22 of such Act (41 U.S.C. 418b), publish amendments to the regulations so identified to provide that each such regulation, policy, or procedure does not apply to acquisitions that are not in excess of the simplified acquisition threshold.

(c) RELATIONSHIP TO OTHER AUTHORITY.—None of the amendments to regulations made pursuant to subsections (a) and (b) apply to or in any way diminish the authority of the civil rights enforcement programs enforced by the Department of Labor.

(d) DEFINITIONS.—In this section:

(1) The term "simplified acquisition threshold" has the meaning given such term in section 4A of the Office of Federal Procurement Policy Act, as added by section 4001.

(2) The term "executive agency" has the meaning given such term in section 3(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 472(b)).

Subtitle B—Socioeconomic and Small Business Laws

SEC. 4101. SMALL BUSINESS PROVISIONS.

Section 6(d) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)) is amended—

(1) by striking out "and" at the end of paragraph (7);

(2) by redesignating paragraph (8) as paragraph (10); and

(3) by inserting after paragraph (7) the following new paragraphs:

"(8) developing policies, in consultation with the Administrator of the Small Business Administration, that ensure that small businesses and small businesses owned and controlled by socially and economically disadvantaged persons are provided with the maximum practicable opportunities to participate in procurements that are conducted for amounts below the simplified acquisition threshold;

"(9) developing policies that will promote achievement of goals for participation by small businesses and small businesses owned and controlled by socially and economically disadvantaged individuals;".

SEC. 4102. PAYMENT PROTECTIONS FOR SUBCONTRACTORS AND SUPPLIERS.

(a) REGULATIONS.—

(1) IN GENERAL.—The Administrator for Federal Procurement Policy shall prescribe in regulations the requirements described in paragraph (2).

(2) PROCEDURES RELATING TO COMPLIANCE WITH PAYMENT TERMS.—(A) Under procedures established in the regulations, upon the assertion by a subcontractor or supplier of a contractor performing a Government contract that the subcontractor or supplier has not been paid by the prime contractor in accordance with the payment terms of the subcontract, purchase order, or other agreement with the prime contractor, the contracting officer may determine the following:

(i) With respect to a construction contract, whether the contractor has made progress payments to the subcontractor or supplier in compliance with chapter 39 of title 31, United States Code.

(ii) With respect to a contract other than a construction contract, whether the contractor has made progress or other payments to the subcontractor or supplier in compliance with the terms of the subcontract, purchase order, or other agreement with the prime contractor.

(iii) With respect to either a construction contract or a contract other than a construction contract, whether the contractor has made final payment to the subcontractor or supplier in compliance with the terms of the subcontract, purchase order, or other agreement with the prime contractor.

(iv) With respect to either a construction contract or a contract other than a construction contract, whether any certification of payment of the subcontractor or supplier accompanying the contractor's payment request to the Government is accurate.

(B) If the contracting officer determines that the prime contractor is not in compliance with any matter referred to in clause (i), (ii), or (iii) of subparagraph (A), the contracting officer may, under procedures established in the regulations—

(i) encourage the prime contractor to make timely payment to the subcontractor or supplier; or

(ii) reduce or suspend progress payments with respect to amounts due to the prime contractor.

(C) If the contracting officer determines that a certification referred to in clause (iv) of subparagraph (A) is inaccurate in any material respect, the contracting officer shall, under procedures established in the regulations, initiate appropriate administrative or other remedial action.

(D) This paragraph shall apply with respect to any Government contract, other than a Department of Defense contract, that is in effect on the date of promulgation of the regulations under this subsection or that is awarded after such date.

(b) INAPPLICABILITY TO CERTAIN CONTRACTS.—The regulations prescribed under this section shall not apply to the following contracts:

(1) A contract that is for an amount not in excess of the simplified acquisition threshold (within the meaning of section 4A of the Office of Federal Procurement Policy Act).

(2) A contract for the acquisition of commercial items (as that term is defined in section 4(12) of the Office of Federal Procurement Policy Act).

(c) AMENDMENTS TO ARMED SERVICES PROVISION.—Section 806 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 10 U.S.C. 2301 note) is amended by striking out subsection (c) and inserting in lieu thereof the following:

"(c) INAPPLICABILITY TO CERTAIN CONTRACTS.—Regulations prescribed under this section shall not apply to the following contracts:

"(1) A contract that is for an amount not in excess of the simplified acquisition threshold (within the meaning of section 4A of the Office of Federal Procurement Policy Act).

"(2) A contract for the acquisition of commercial items (as that term is defined in section 2281 of title 10, United States Code).".

SEC. 4103. EXTENSION OF TEST PROGRAM FOR NEGOTIATION OF COMPREHENSIVE SMALL BUSINESS SUBCONTRACTING PLANS.

Section 834(e) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 15 U.S.C. 637 note) is amended by striking out "September 30, 1994." in the second sentence and inserting in lieu thereof "September 30, 1997.".

SEC. 4104. SMALL BUSINESS PROCUREMENT ADVISORY COUNCIL.

(a) ESTABLISHMENT.—There is hereby established an interagency council to be known as the "Small Business Procurement Advisory Council" (hereinafter in this section referred to as the "Council").

(b) DUTIES.—The duties of the Council are—

(1) to serve as a forum for discussion of issues and problems relating to, and ideas for improvement of, small business procurement matters within the Federal Government;

(2) to provide information to other departments and agencies of the Federal Government about small business procurement; and

(3) to issue advisory reports to the Office of Federal Procurement Policy and the Small Business Administration on small business procurement matters.

(c) MEMBERSHIP.—The Council shall be composed of the following members:

(1) The Administrator for Federal Procurement Policy (or the designee of the Administrator).

(2) The Administrator of the Small Business Administration (or the designee of the Administrator).

(3) The Director of the Minority Business Development Agency.

(4) The head of each Office of Small and Disadvantaged Business Utilization in each Federal agency having procurement powers.

(d) COCHAIRMEN.—The Council shall be cochaired by the Administrator for Federal Procurement Policy and the Administrator of the Small Business Administration.

(e) MEETINGS.—The Council shall meet at the call of the chairmen, but not less often than four times a year and once each quarter.

(f) DIRECTOR.—The Chief Counsel for Advocacy of the Small Business shall serve as the director of the Council. The director may not vote on matters before the council except in the case of a tie vote among the members. The duties of the director shall be determined by the chairmen of the Council. The Chief Counsel for Advocacy shall receive no additional pay by reason of the counsel's service as director of the Council.

(g) ANNUAL REPORT.—(1) Not later than 30 days after the end of each fiscal year, the Council shall submit to Congress a report detailing the activities of the Council during the preceding fiscal year in carrying out this section.

SEC. 4105. MAXIMUM PRACTICABLE OPPORTUNITIES FOR APPRENTICES ON FEDERAL CONSTRUCTION PROJECTS.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) contractors performing Federal construction contracts should, to the maximum extent practicable, give preference in the selection of subcontractors to subcontractors participating in apprenticeship programs registered with the Department of Labor or with a State apprenticeship agency recognized by such Department; and

(2) contractors and subcontractors performing Federal construction contracts should provide maximum practicable opportunities for employment of apprentices who are participating in or who have completed such apprenticeship programs.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit to the Congress a report on the extent to which contractors and subcontractors performing Federal construction contracts have increased subcontractor participation in registered apprenticeship programs.

Subtitle C—Miscellaneous Acquisition Laws

SEC. 4151. RESTRICTION ON USE OF NONCOMPETITIVE PROCEDURES FOR PROCUREMENT FROM A SPECIFIED SOURCE.

(a) ARMED SERVICES ACQUISITIONS.—Section 2304 of title 10, United States Code, as amended by section 1005, is further amended—

(1) in subsection (c)(5), by inserting "subject to subsection (k)," after "(5)"; and

(2) by adding at the end the following new subsection:

"(k)(1) It is the policy of Congress that no legislation should be enacted that requires a procurement by an agency to be made from a specified non-Federal Government source.

"(2) A provision of law may not be construed as requiring a procurement by an agency to be made from a specified non-Federal Government source unless that provision of law—

"(A) specifically refers to this subsection;

"(B) specifically identifies the particular non-Federal Government source from which the procurement is to made; and

"(C) specifically states that the procurement from that source is required by such provision of law in contravention of the policy set forth in paragraph (1).".

(b) CIVILIAN AGENCY ACQUISITIONS.—Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended—

(1) in subsection (c)(5), by inserting "subject to subsection (h)," after "(5)"; and

(2) by adding at the end the following new subsection:

"(h)(1) It is the policy of Congress that no legislation should be enacted that requires a procurement by an executive agency to be made from a specified non-Federal Government source.

"(2) A provision of law may not be construed as requiring a procurement by an executive agency to be made from a specified non-Federal Government source unless that provision of law—

"(A) specifically refers to this subsection;

"(B) specifically identifies the particular non-Federal Government source involved; and

"(C) specifically states that the procurement from that source is required by such provision of law in contravention of the policy set forth in paragraph (1).".

SEC. 4152. REPEAL OF OBSOLETE PROVISION.

Section 308 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 258) is repealed.

TITLE V—STANDARDS OF CONDUCT

SEC. 5001. CONTRACTING FUNCTIONS PERFORMED BY FEDERAL PERSONNEL.

(a) AMENDMENT OF OFPP ACT.—The Office of Federal Procurement Policy Act, as amended by section 1091, is further amended by inserting after section 22 the following new section 23:

"SEC. 23. CONTRACTING FUNCTIONS PERFORMED BY FEDERAL PERSONNEL.

"(a) LIMITATION ON USE OF CONTRACT ADVISORY AND ASSISTANCE SERVICES.—(1) An executive agency may not provide for an evaluation or analysis of any aspect of a proposal submitted for an acquisition by that executive agency to be conducted by a person who is not an employee of an executive agency or a member of the Armed Forces unless the executive agency determines that employees or members with adequate training and capability to perform the evaluation or analysis are not readily available within the agency or another Federal agency, as determined in accordance with standards and procedures prescribed in the Federal Acquisition Regulation.

"(2) In the administration of this subsection, the executive agency shall determine in accordance with the standards and procedures set forth in the Federal Acquisition Regulation whether—

"(A) a sufficient number of employees within the executive agency or another Federal agency are readily available to perform a particular evaluation or analysis for the executive agency making the determination; and

"(B) the readily available employees have the training and capabilities necessary to perform the evaluation or analysis.

"(b) DEFINITION.—For purposes of this section, the term 'employee' has the meaning given such term in section 2105 of title 5, United States Code.".

(b) REQUIREMENT FOR GUIDANCE AND REGULATIONS.—

(1) IN GENERAL.—The Federal Acquisition Regulatory Council established by section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)) shall—

(A) review part 37 of title 48 of the Code of Federal Regulations as it relates to the use of advisory and assistance services; and

(B) provide guidance and promulgate regulations regarding—

(i) what actions Federal agencies are required to take to determine whether expertise is readily available within the Federal Government before contracting for advisory and technical services to conduct acquisitions; and

(ii) the manner in which Federal employees with expertise may be shared with agencies needing expertise for such acquisitions.

(2) DEFINITION.—In paragraph (1), the term "employee" has the meaning given such term in section 2105 of title 5, United States Code.

SEC. 5002. REPEAL OF EXECUTED REQUIREMENT FOR STUDY AND REPORT.

Section 17 of the Office of Federal Procurement Policy Act (41 U.S.C. 415) is repealed.

SEC. 5003. INTERESTS OF MEMBERS OF CONGRESS.

Section 3741 of the Revised Statutes (41 U.S.C. 22) is amended to read as follows:

"SEC. 3741. No member of Congress shall be admitted to any share or part of any contract or agreement made, entered into, or accepted by or on behalf of the United States, or to any benefit to arise thereupon.".

SEC. 5004. WAITING PERIOD FOR SIGNIFICANT CHANGES PROPOSED FOR ACQUISITION REGULATIONS.

Section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b) is amended—

(1) by striking out "30 days" in subsection (a) and inserting in lieu thereof "45 days"; and

(2) by adding at the end of subsection (d) the following new paragraph:

"(3) A policy, regulation, procedure, or form described in subsection (a) may (notwithstanding that subsection) take effect earlier than 45 days after the date of publication thereof in the Federal Register pursuant to subsection (b) if the officer authorized to issue the procurement policy, regulation, procedure, or form determines that compelling circumstances make compliance with the 45-day requirement under subsection (a) impracticable. However, the policy, regulation, procedure, or form may not take effect earlier than 30 days after the publication date except as provided in paragraph (1).".

SEC. 5005. REPEAL OF SUPERSEDED AND OBSOLETE LAWS.

(a) REPEAL.—The following sections of title 10, United States Code, are repealed: sections 2207, 2397, 2397a, 2397b, and 2397c.

(b) CLERICAL AMENDMENTS.—

(1) The table of sections at the beginning of chapter 131 of such title is amended by striking out the item relating to section 2207.

(2) The table of sections at the beginning of chapter 141 of such title is amended by striking out the items relating to sections 2397, 2397a, 2397b, and 2397c.

TITLE VI—DEFENSE TRADE AND COOPERATION

SEC. 6001. EXCEPTION TO BUY AMERICAN ACT FOR MICRO-PURCHASES.

Section 2 of title III of the Act of March 3, 1933 (41 U.S.C. 10a), commonly referred to as the "Buy American Act", is amended by adding at the end the following: "This section shall not apply to manufactured articles, materials, or supplies procured under any contract the award value of which is less than or equal to the micro-purchase threshold under section 4B of the Office of Federal Procurement Policy Act.".

SEC. 6002. POLICY ON PURCHASE OF FOREIGN GOODS.

(a) IN GENERAL.—Section 2533 of title 10, United States Code, is amended to read as follows:

"§ 2533. Policy on the purchase of foreign goods

"(a) DETERMINATION UNDER BUY AMERICAN ACT.— In determining whether application of the Buy American Act is inconsistent with the public interest, the Secretary of Defense shall give adequate consideration to the following:

"(1) The bids or proposals of small business firms in the United States which have offered to furnish American goods.

"(2) The bids or proposals of all other firms in the United States which have offered to furnish American goods.

"(3) The balance of payments of the United States.

"(4) The cost of shipping goods which are other than American goods.

"(5) Any duty, tariff, or surcharge which may enter into the cost of using goods which are other than American goods.

"(6) The need to ensure that the Department of Defense has access to advanced state-of-the-art commercial technology.

"(7) The need to protect the national technology and industrial base, to preserve and enhance the national technology employment base, and to provide for a defense mobilization base.

"(8) The need to maintain the same source of supply for spare and replacement parts either for an end item that qualifies as an American good or to maintain or foster the integration of the military and commercial industrial base.

"(9) National security interests of the United States.

"(b) In this section, the term 'goods which are other than American goods' means—

"(1) an end product that is not mined, produced, or manufactured in the United States; or

"(2) an end product that is manufactured in the United States but which includes components mined, produced, or manufactured outside the United States the aggregate cost of which exceeds the aggregate cost of the components of such end product that are mined, produced, or manufactured in the United States.".

(b) CLERICAL AMENDMENT.—The item relating to section 2533 in the table of sections at the beginning of subchapter V of chapter 148 of such title is amended to read as follows:

"2533. Policy on purchase of foreign goods.".

SEC. 6003. CONSOLIDATION OF MISCELLANEOUS PROCUREMENT LIMITATIONS.

Section 2534 of title 10, United States Code, is amended—

(1) by striking out subsections (a) through (f);

(2) by redesignating subsection (g), as added by section 4032, as subsection (d); and

(3) by inserting after the section heading the following:

"(a) LIMITATION ON CERTAIN PROCUREMENTS.—The Secretary of Defense may procure an item listed in subsection (b) only if the item is manufactured by an entity that is part of the national technology and industrial base (as defined in section 2491(1) of this title).

"(b) COVERED ITEMS.—Subsection (a) applies to the following:

"(1) BUSES.—Multipassenger motor vehicles (buses).

"(2) CHEMICAL WEAPONS ANTIDOTE.—Chemical weapons antidote contained in automatic injectors (or components for such injectors), but only if the company that manufactures the item not only manufactures it in the United States but also meets the following requirements:

"(A) The company is an existing producer under the industrial preparedness program at the time the contract is awarded.

"(B) The company has received all required regulatory approvals.

"(C) The company has the plant, equipment, and personnel to perform the contract in existence in the United States at the time the contract is awarded.

"(3) VALVES AND MACHINE TOOLS.—(A) Items in the following categories:

"(i) Powered and non-powered valves in Federal Supply Classes 4810 and 4820 used in piping for naval surface ships and submarines.

"(ii) Machine tools in the Federal Supply Classes for metal-working machinery numbered 3405, 3408, 3410 through 3419, 3426, 3433, 3438, 3441 through 3443, 3445, 3446, 3448, 3449, 3460, and 3461.

"(B) Contracts for the procurement of items described in subparagraph (A) include contracts—

"(i) for the use of such items in any property under the control of the Department of Defense, including Government-owned, contractor-operated facilities; and

"(ii) entered into by contractors on behalf of the Department of Defense for the purposes of providing such items to other contractors as Government-furnished equipment.

"(C) In any case in which a contract for items described in subparagraph (A) includes the procurement of more than one Federal Supply Class of machine tools or machine tools and accessories, each supply class shall be evaluated separately for purposes of determining whether the limitation in this subsection applies.

"(D) This paragraph is effective through fiscal year 1996.

"(4) AIR CIRCUIT BREAKERS.—Air circuit breakers for naval vessels.

"(5) SONOBUOYS.—Sonobuoys.

"(6) BALL BEARINGS AND ROLLER BEARINGS.—Ball bearings and roller bearings, in accordance with subpart 225.71 of part 225 of the Defense Federal Acquisition Regulation Supplement, as in effect on October 23, 1992. This paragraph is effective through fiscal year 1995.

"(c) EXCEPTIONS.—The Secretary of Defense may waive the limitation in subsection (a) with respect to the procurement of an item listed in subsection (b) if the Secretary determines that any of the following apply:

"(1) Application of the limitation would cause unreasonable costs or delays to be incurred.

"(2) United States producers of the item would not be jeopardized by competition from a foreign country and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

"(3) Application of the limitation would impede cooperative programs entered into between the Department of Defense and a foreign country and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

"(4) Satisfactory quality items manufactured by an entity that is part of the national technology and industrial base (as defined in section 2491(1) of this title) are not available.

"(5) Application of the limitation would result in the existence of only one source for the item that is an entity that is part of the national technology and industrial base (as defined in section 2491(1) of this title).

"(6) The procurement is for an amount less than the simplified acquisition threshold and simplified purchase procedures are being used.

"(7) Application of the limitation is not in the national security interests of the United States.

"(8) Application of the limitation would adversely affect a United States company.

"(d) PRINCIPLE OF CONSTRUCTION WITH FUTURE LAWS.—A provision of law may not be construed as modifying or superseding the provisions of this section, or as requiring funds to be limited, or made available, by the Secretary of Defense to a particular domestic source by contract, unless that provision of law—

"(1) specifically refers to this section;

"(2) specifically states that such provision of law modifies or supersedes the provisions of this section; and

"(3) specifically identifies the particular domestic source involved and states that the contract to be awarded pursuant to such provision of law is being awarded in contravention of this section.".

SEC. 6004. REPEAL OF OBSOLETE AND REDUNDANT PROVISIONS.

(a) REPEAL OF REQUIREMENT FOR POLICY GUIDANCE.—Title III of the Act of March 3, 1933 (41 U.S.C. 10a et seq.), commonly referred to as the "Buy American Act", is amended in section 4(g) (41 U.S.C. 10b–1(g)) by striking out paragraphs (2)(C) and (3).

(b) REPEAL OF REPORTING REQUIREMENT.—Section 9096(b) of Public Law 102–396 (106 Stat. 1924; 41 U.S.C. 10b–2(b)) is repealed.

(c) REPEAL OF STUDIES OF WAIVERS.—Section 306 of the Trade Agreements Act of 1979 (19 U.S.C. 2516), relating to studies of certain employment effects and procurement effects of a waiver of the Buy American Act, is repealed.

TITLE VII—COMMERCIAL ITEMS

Subtitle A—Definitions and Regulations

SEC. 7001. DEFINITIONS.

(a) DEFINITIONS.—Section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403) is amended by adding at the end the following new paragraphs:

"(12) The term 'commercial item' means any of the following:

"(A) Any item of a type customarily used in the course of normal business operations for other than Federal Government purposes, that—

"(i) has been sold, leased, or licensed to the general public or to domestic State, or local government entities; or

"(ii) has been offered for sale, lease, or license to the general public or to domestic State, or local government entities.

"(B) An item intended to be used in the course of normal business operations for other than Federal Government purposes that is not yet available in the commercial marketplace, but will be available in the commercial marketplace in time to satisfy the delivery requirements under a Federal Government solicitation.

"(C) Any item that, but for—

"(i) modifications of a type customarily available in the commercial marketplace, or

"(ii) minor modifications made to meet Federal Government requirements,

would satisfy the criteria in subparagraph (A) or (B).

"(D) Any combination of items meeting the requirements of subparagraph (A), (B), or (C) that are of a type customarily combined and sold in combination to the general public.

"(E) Installation services, maintenance services, repair services, training services, and other services if such services are procured for support of an item referred to in subparagraph (A), (B), (C), or (D) and if the source of such services—

"(i) offers such services to the general public and the Federal Government contemporaneously and under similar terms and conditions; and

"(ii) offers to use the same work force for providing the Federal Government with such services as the source uses for providing such services to the general public.

"(F) Services offered and sold competitively, in significant quantities, in the commercial marketplace at established catalog prices or standard rates and under standard commercial terms and conditions.

"(G) Any item, combination of items, or service referred to in subparagraphs (A) through (F) notwithstanding the fact that the item, combination of items, or service is transferred between or among separate divisions, subsidiaries, or affiliates of a contractor.

"(13) The term 'nondevelopmental item' means any of the following:

"(A) Any previously developed item of supply that is in use by a department or agency of the United States, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement.

"(B) Any item of supply described in subparagraph (A) that requires only minor modification or modification of the type customarily available in the commercial marketplace in order to meet the requirements of the procuring department or agency.

"(C) Any item of supply currently being produced that does not meet the requirements of subparagraph (A) or (B) solely because the item is not yet in use.

"(14) The term 'component' means any item supplied to the Federal Government as part of an end item or of another component.

"(15) The term 'commercial component' means any component that is a commercial item.".

(b) STYLISTIC AMENDMENTS.—Such section is further amended—

(1) by striking out "Act—" in the matter preceding paragraph (1) and inserting in lieu thereof "Act:";

(2) by capitalizing the first letter of the first word in each of paragraphs (1) through (11);

(3) by striking out the semicolon at the end of each of paragraphs (1), (2), (3), (5), (6), (7), (8), and (9) and inserting in lieu thereof a period; and

(4) by striking out "; and" at the end of paragraphs (4) and (10) and inserting in lieu thereof a period.

SEC. 7002. REGULATIONS ON ACQUISITION OF COMMERCIAL ITEMS.

(a) IN GENERAL.—The Federal Acquisition Regulation shall provide regulations to implement paragraphs (12) through (15) of section 4 of the Office of Federal Procurement Policy Act, chapter 136 of title 10, United States Code, and sections 314 through 314D of the Federal Property and Administrative Services Act of 1949.

(b) TERMS AND CONDITIONS.—The regulations prescribed under subsection (a) shall contain a set or sets of terms and conditions to be included in contracts for the acquisition of commercial end items. Such terms and conditions shall, to the maximum extent practicable, include only those contract clauses that are—

(1) required to implement provisions of law applicable to commercial item acquisitions; or

(2) consistent with standard commercial practice.

(c) TERMS AND CONDITIONS FOR COMPONENTS.—Such regulations shall provide that a prime contractor furnishing commercial items or items other than commercial items as items or components shall not be required to apply to any of its divisions, subsidiaries, affiliates, subcontractors, or suppliers that are furnishing commercial items as components any clause, term, or condition except those that are—

(1) required to implement provisions of law applicable to subcontractors furnishing commercial items; or

(2) determined to be consistent with standard commercial practice.

(d) MARKET ACCEPTANCE.—The regulations prescribed under subsection (a) shall provide that, under appropriate conditions, the agency head may require an offeror to demonstrate, as a condition for being considered responsive, that the items offered meet, among other criteria, market acceptance criteria, unless such item has been satisfactorily supplied to an executive agency under current or recent contracts for the same or similar requirements.

(e) USE OF FIXED PRICE CONTRACTS.—The regulations prescribed under subsection (a) shall include a requirement that firm, fixed price contracts, or fixed price contracts with economic price adjustment provisions, be used for the acquisition of commercial items and components.

(f) TERM OF CONTRACTS.—The regulations prescribed under subsection (a) shall provide that, to the extent practicable, contracts for acquisition of commercial items shall not require contract performance for a term longer than customary industry practice for the item being acquired. A contracting officer may include in a contract provisions for economic price adjustment if an extended period of performance under the contract cannot be avoided.

(g) CONTRACT QUALITY REQUIREMENTS.—The regulations prescribed under subsection (a) shall include provisions that—

(1) permit, to the maximum extent practicable, a contractor under a commercial items acquisition to use the existing quality assurance system of the contractor as a substitute for compliance with an otherwise applicable requirement for the Government to inspect or test the commercial items before the contractor's tender of those items for acceptance by the Government;

(2) require that, to the maximum extent practicable, the executive agency take advantage of warranties (including extended warranties) offered by offerors of commercial items and use such warranties for the repair and replacement of commercial items; and

(3) set forth guidance regarding the use of past performance of commercial items and sources as a factor in contract award decisions.

(h) DEFENSE CONTRACT CLAUSES.—

(1) REPEAL OF DOD AUTHORITY.—Section 824(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 10 U.S.C. 2325 note) is repealed.

(2) SAVINGS PROVISION.—Notwithstanding subsections (b) and (c), a contract of the Department of Defense entered into before October 1, 1994, and a subcontract entered into before such date under such a contract, may include clauses developed pursuant to paragraphs (2) and (3) of section 824(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 10 U.S.C. 2325 note).

Subtitle B—Armed Services Acquisitions

SEC. 7101. ESTABLISHMENT OF NEW CHAPTER IN TITLE 10.

(a) ESTABLISHMENT.—Part IV of subtitle A of title 10, United States Code, is amended by inserting before chapter 137 the following new chapter 136:

"CHAPTER 136—PROCUREMENT OF COMMERCIAL ITEMS

"Sec.
"2281. Definitions.
"2282. Preference for acquisition of commercial items.
"2283. Exception to cost or pricing data requirement for commercial items.
"2284. Principle of construction with future laws.
"2285. Inapplicability of certain provisions of law.".

(b) CLERICAL AMENDMENT.—The tables of chapters at the beginning of subtitle A of title 10, United States Code, and the beginning of part IV of such subtitle are amended by inserting before the item relating to chapter 137 the following new item:

"136. Procurement of Commercial Items .... 2281".

SEC. 7102. DEFINITIONS.

Chapter 136 of title 10, United States Code, as added by section 7001, is amended by adding after the table of sections the following:

"§2281. Definitions

"In this chapter:

"(1) The terms 'commercial item', 'nondevelopmental item', 'component', and 'commercial component' have the meanings provided in section 4 of the Office of Federal Procurement Policy Act.

"(2) The term 'head of an agency' means the Secretary of Defense, the Secretary of Transportation, and the Administrator of the National Aeronautics and Space Administration.

"(3) The term 'agency' means the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration.".

SEC. 7103. PREFERENCE FOR ACQUISITION OF COMMERCIAL ITEMS.

(a) IN GENERAL.—Chapter 136 of title 10, United States Code, as amended by section 7102, is further amended by adding after section 2281 the following new section:

"§2282. Preference for acquisition of commercial items

"(a) PREFERENCE.—The head of an agency shall ensure that, to the maximum extent practicable—

"(1) requirements of the agency with respect to a procurement of supplies or services are stated in terms of—

"(A) functions to be performed;

"(B) performance required; or

"(C) essential physical characteristics;

"(2) such requirements are defined so that commercial items may be procured to fulfill such requirements; and

"(3) such requirements are fulfilled through the procurement of commercial items.

"(b) IMPLEMENTATION.—The head of an agency shall ensure that procurement officials in that agency, to the maximum extent practicable—

"(1) acquire commercial items to meet the needs of the agency;

"(2) require prime contractors and subcontractors at all levels under the agency contracts to incorporate commercial items as components of items supplied to the agency;

"(3) modify requirements in appropriate cases to ensure that the requirements can be met by commercial items;

"(4) state specifications in terms that enable and encourage bidders and offerors to supply commercial items;

"(5) revise the agency's procurement policies, practices, and procedures not required by law to reduce any impediments in those policies, practices, and procedures to the acquisition of commercial items; and

"(6) require training of appropriate personnel in the acquisition of commercial items.

"(c) EXISTING OR PRIOR SOURCES OF NONDEVELOPMENTAL ITEMS.—(1) Notwithstanding subsection (a), an agency may, until five years after the date of the enactment of the Federal Acquisition Improvement Act of 1994, determine that it is in the Government's interests to permit existing or prior sources of nondevelopmental items to participate in a competition for a commercial item in a case in which a nondevelopmental item will compete with a commercial item under the same terms, conditions, and evaluation and award criteria.

"(2) Nondevelopmental items furnished by an existing or prior source that must be modified to meet the requirements of a solicitation for commercial items may be offered under such a solicitation, but only in a case in which the modifications—

"(A) are necessary to comply with the Government's solicitation requirements; and

"(B) do not significantly alter the function or essential physical characteristics of the items to be supplied.

"(3) The policies, procedures, solicitation provisions, and contract clauses applicable to commercial items under this chapter also shall apply to nondevelopmental items furnished by an existing or prior source that is permitted to participate in a competition conducted under this title.

"(d) PRELIMINARY MARKET RESEARCH.—(1) The head of an agency shall conduct market research appropriate to the circumstances—

"(A) before developing new specifications for a procurement by that agency; and

"(B) before soliciting bids or proposals for a contract in excess of the simplified acquisition threshold.

"(2) The head of an agency shall use the results of market research to determine whether there are commercial items available that—

"(A) meet the agency's requirements;

"(B) could be modified to meet the agency's requirements; or

"(C) could meet the agency's requirements if those requirements were modified to a reasonable extent.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 2325 of title 10, United States Code, is repealed. The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2325.

SEC. 7104. EXCEPTION TO COST OR PRICING DATA REQUIREMENTS FOR COMMERCIAL ITEMS.

(a) IN GENERAL.—Chapter 136 of title 10, United States Code, as amended by section 7103, is further amended by adding after section 2282 the following new section:

"§2283. Exception to cost or pricing data requirements for commercial items

"(a) EXEMPTION FROM SECTION 2306a IF PRICE BASED ON ADEQUATE PRICE COMPETITION OR ESTABLISHED PRICES.—In any procurement of a commercial item, when the agreed-upon price of the commercial item is based on adequate price competition or on established catalog or market prices of items sold in sufficient quantities to the general public—

"(1) the procurement shall be exempt from section 2306a of this title; and

"(2) to the maximum extent practicable, the head of the agency conducting the procurement may not require any additional information from the offeror to determine price reasonableness.

"(b) REQUIREMENT TO DETERMINE PRICE REASONABLENESS FOR NONCOMPETITIVE PROCUREMENTS.—In any case in which it is not practicable to conduct a procurement of a commercial item on a competitive basis and the procurement is not covered by subsection (a) or by an exception in subsection (b) of section 2306a of this title, the contracting officer shall use price analysis to determine whether the price of the contract is fair and reasonable. If the contracting officer is able to determine through price analysis that the price is reasonable, the procurement shall be exempt from section 2306a of this title. Price analysis under this subsection shall be conducted by developing or obtaining from the offeror or contractor, or from another source or sources, in accordance with standards and procedures set forth in Federal Acquisition Regulations, information on prices at which the same or similar items have been sold in the commercial market that is adequate for evaluating the reasonableness of the price of the contract.

"(c) AUTHORITY TO REQUEST COST OR PRICING DATA WHEN PRICE REASONABLENESS CANNOT BE DETERMINED.—In any case in which a contracting officer is unable to determine under subsection (b) that a price is reasonable, the contracting officer, with the prior approval of the head of the procuring activity, may require cost or pricing data under section 2306a of this title.

"(d) RIGHT TO AUDIT.—(1) The head of an agency is authorized to audit all documentation provided by an offeror under subsection (b) or (c) and all books and records of the offeror directly relating to such documentation, except that, if the offeror has made no representation as to the completeness of the documentation supplied, the head of the agency is not authorized to audit for completeness.

"(2) The authority under this subsection shall expire—

"(A) one year after the date of commencement of performance of the contract, or one year after the date of commencement of performance of the modification of the contract, with respect to which the information was provided; or

"(B) on such other date agreed upon by the parties at the time of contract award or contract definitization.

"(e) LIMITATIONS ON REQUESTS FOR DATA.—The Federal Acquisition Regulation shall establish reasonable limitations on requests under this section for sales data relating to commercial items.

"(f) FORM OF INFORMATION.—In conducting a price analysis, or in requiring any additional information from an offeror, a contracting officer may request only that information from an offeror that is in the form regularly maintained by the offeror in commercial operations, adequate to demonstrate the market price of the item or items, or otherwise needed to establish a fair and reasonable price.

"(g) CONFIDENTIALITY.—All documentation received from an offeror, if not otherwise in the public domain and if requested by the offeror and marked as proprietary, shall be treated by the Government as confidential and exempt from disclosure to the extent permitted by section 552 of title 5.".

(b) CROSS REFERENCE.—Section 2306a of title 10, United States Code, is amended by adding at the end the following new subsection:

"(h) EXCEPTIONS REGARDING COMMERCIAL ITEMS.—For provisions relating to exceptions for procurements of commercial items, see section 2283 of this title.".

SEC. 7105. PRINCIPLE OF CONSTRUCTION WITH FUTURE LAWS.

Chapter 136 of title 10, United States Code, as amended by section 7104, is further amended by adding after section 2283 the following new section:

"§ 2284. Principle of construction with future laws

"A provision of law enacted after the date of the enactment of the Federal Acquisition Improvement Act of 1994 may not be construed as applicable to purchases of commercial items by an agency unless that provision of law specifically refers to this section and specifically states that such provision of law modifies or supersedes a provision of this chapter.

SEC. 7106. INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

(a) INAPPLICABLE PROVISIONS.—Chapter 136 of title 10, United States Code, as amended by section 7105, is further amended by adding after section 2284 the following new section:

"§ 2285. Inapplicability of certain provisions of law

"(a) PROVISIONS INAPPLICABLE TO PRIME CONTRACTORS.—The following provisions of law (and regulations prescribed under such provisions) shall not apply to any contract entered into by an agency for the procurement of a commercial item:

"(1) Section 2306(b) of this title (relating to prohibition on contingent fees).

"(2) Section 2320 of this title (relating to rights in technical data).

"(3) Section 2321 of this title (relating to validation of proprietary data restrictions).

"(4) Section 2324 of this title (relating to allowable costs).

"(5) Section 2384(b) of this title (relating to requirement to identify suppliers and sources of supplies).

"(6) Section 2393(d) of this title (relating to prohibition against doing business with certain offerors or contractors).

"(7) Section 2402 of this title (relating to prohibition on limitation of subcontractor direct sales).

"(8) Section 2408(a) of this title (relating to prohibition on persons convicted of defense contract-related felonies).

"(9) Section 2410b of this title (relating to contractor inventory accounting system standards).

"(10) Section 843 of Public Law 103–160 (107 Stat. 1720) (relating to reports of defense contractors of dealings with terrorist countries).

"(11) Section 26 of the Office of Federal Procurement Policy Act (41 U.S.C. 422) (relating to cost accounting standards board).

"(12) Section 27(e) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(e)) (relating to procurement integrity).

"(13) The Drug-Free Workplace Act of 1988 (subtitle D of title V of Public Law 100–690; 41 U.S.C. 701 et seq.).

"(b) PROVISIONS INAPPLICABLE TO SUBCONTRACTORS AND OTHER ENTITIES.—

"(1) LAWS INAPPLICABLE.—The following provisions of law (and regulations prescribed under such provisions) shall not apply to any entity described in paragraph (2):

"(A) Each provision of law listed under subsection (a).

"(B) Section 2534 of this title (relating to miscellaneous limitations on procurement).

"(2) COVERED ENTITIES.—Paragraph (1) applies to each of the following:

"(A) Any division, subsidiary, or affiliate of a prime contractor (other than the division, subsidiary, or affiliate that is contracting with the Government under the prime contract) or of a subcontractor of a prime contractor, if such division, subsidiary, or affiliate is furnishing a commercial item to the prime contractor or subcontractor for purposes of carrying out the prime contract or subcontract.

"(B) Any subcontractor or supplier of a prime contractor, if the subcontractor or supplier is furnishing a commercial item to the prime contractor for purposes of carrying out the prime contract.".

SEC. 7107. CONFORMING AMENDMENTS RELATING TO INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

(a) INAPPLICABILITY OF REQUIREMENT FOR CONTRACT CLAUSE REGARDING CONTINGENT FEES.—Section 2306(b) of title 10, United States Code, as amended by section 4032(a), is further amended by inserting before the period at the end of the sentence added by that section the following: "or to a contract for the acquisition of commercial items".

(b) INAPPLICABILITY OF REGULATIONS ON RIGHTS IN TECHNICAL DATA.—Section 2320 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) The regulations prescribed under subsection (a) shall not apply to contracts for the purchase of commercial items.".

(c) INAPPLICABILITY OF REQUIREMENT FOR VALIDATION OF PROPRIETARY DATA RESTRICTIONS.– Section 2321(a) of title 10, United States Code, is amended by inserting before the period at the end the following: ", other than a contract for supplies or services that are commercial items".

(d) INAPPLICABILITY OF REQUIREMENT TO IDENTIFY SUPPLIERS AND SOURCES OF SUPPLIES.—Paragraph (2) of section 2384(b) of title 10, United States Code, is amended to read as follows:

"(2) The regulations prescribed pursuant to paragraph (1) do not apply to a contract that requires the delivery of supplies that are commercial items.".

(e) INAPPLICABILITY OF PROHIBITION AGAINST DOING BUSINESS WITH CERTAIN OFFERORS OR CONTRACTORS.—Section 2393(d) of title 10, United States Code, as amended by section 4032(d), is further amended by adding at the end the following: "The requirement shall not apply in the case of a subcontract for the acquisition of commercial items.".

(f) INAPPLICABILITY OF PROHIBITION ON LIMITATION OF SUBCONTRACTOR DIRECT SALES.—Section 2402 of title 10, United States Code, as amended by section 4032(e), is further amended by adding at the end the following new subsection:

"(d) An agreement between the contractor in a contract for the acquisition of commercial items and a subcontractor under such contract that restricts sales by such subcontractor directly to persons other than the contractor may not be considered to unreasonably restrict sales by that subcontractor to the United States in violation of the provision included in such contract pursuant to subsection (a) if the agreement does not result in the United States being treated differently with regard to the restriction than any other prospective purchaser of such commercial items from that subcontractor.".

(g) INAPPLICABILITY OF PROHIBITION ON PERSONS CONVICTED OF DEFENSE-RELATED FELONIES.—Section 2408(a) of title 10, United States Code, is amended by adding at the end of paragraph (4), as added by section 4032(f), the following: "The term does not include a contract for the purchase of commercial items.".

(h) INAPPLICABILITY OF CONTRACTOR INVENTORY ACCOUNTING SYSTEM STANDARDS.—Section 2410b of title 10, United States Code, is amended by adding after subsection (b), as added by section 4032(g), the following:

"(c) The regulations prescribed pursuant to subsection (a) shall not apply to a contract for the purchase of commercial items.".

Subtitle C—Civilian Agency Acquisitions

SEC. 7201. DEFINITIONS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1553, is further amended by adding after section 313 the following new section:

"SEC. 314. DEFINITIONS RELATING TO PROCUREMENT OF COMMERCIAL ITEMS.

"As used in this title, the terms 'commercial item', 'nondevelopmental item', 'component', and 'commercial component' have the meanings provided in section 4 of the Office of Federal Procurement Policy Act.".

SEC. 7202. PREFERENCE FOR ACQUISITION OF COMMERCIAL ITEMS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 7201, is further amended by adding after section 314 the following new section:

"SEC. 314A. PREFERENCE FOR ACQUISITION OF COMMERCIAL ITEMS.

"(a) PREFERENCE.—The head of each executive agency shall ensure that, to the maximum extent practicable—

"(1) requirements of the agency with respect to a procurement of supplies or services are stated in terms of—

"(A) functions to be performed;

"(B) performance required; or

"(C) essential physical characteristics;

"(2) such requirements are defined so that commercial items may be procured to fulfill such requirements; and

"(3) such requirements are fulfilled through the procurement of commercial items.

"(b) IMPLEMENTATION.—The head of each executive agency shall ensure that procurement officials in that executive agency, to the maximum extent practicable—

"(1) acquire commercial items to meet the needs of the executive agency;

"(2) require prime contractors and subcontractors at all levels under the executive agency contracts to incorporate commercial items as components of items supplied to the executive agency;

"(3) modify requirements in appropriate cases to ensure that the requirements can be met by commercial items;

"(4) state specifications in terms that enable and encourage bidders and offerors to supply commercial items;

"(5) revise the executive agency's procurement policies, practices, and procedures not required by law to reduce any impediments in those policies, practices, and procedures to the acquisition of commercial items; and

"(6) require training of appropriate personnel in the acquisition of commercial items.

"(c) Existing or Prior Sources of Nondevelopmental Items.—(1) Notwithstanding subsection (a), the head of an executive agency may, until five years after the date of the enactment of the Federal Acquisition Improvement Act of 1994, determine that it is in the Government's interests to permit existing or prior sources of nondevelopmental items to participate in a competition for a commercial item in a case in which a nondevelopmental item will compete with a commercial item under the same terms, conditions, and evaluation and award criteria.

"(2) Nondevelopmental items furnished by an existing or prior source that must be modified to meet the requirements of a solicitation for commercial items may be offered under such a solicitation, but only in a case in which the modifications—

"(A) are necessary to comply with the Government's solicitation requirements; and

"(B) do not significantly alter the function or essential physical characteristics of the items to be supplied.

"(3) The policies, procedures, solicitation provisions, and contract clauses applicable to commercial items under this chapter also shall apply to nondevelopmental items furnished by an existing or prior source that is permitted to participate in a competition conducted under this title.

"(d) Preliminary Market Research.—(1) The head of an executive agency shall conduct market research appropriate to the circumstances—

"(A) before developing new specifications for a procurement by that executive agency; and

"(B) before soliciting bids or proposals for a contract in excess of the simplified acquisition threshold.

"(2) The head of an executive agency shall use the results of market research to determine whether there are commercial items available that—

"(A) meet the executive agency's requirements;

"(B) could be modified to meet the executive agency's requirements; or

"(C) could meet the executive agency's requirements if those requirements were modified to a reasonable extent.".

SEC. 7203. EXCEPTION TO COST OR PRICING DATA REQUIREMENTS FOR COMMERCIAL ITEMS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 7202, is further amended by adding after section 314A the following new section:

"SEC. 314B. EXCEPTION TO COST OR PRICING DATA REQUIREMENTS FOR COMMERCIAL ITEMS.

"(a) Exemption From Section 304B if Price Based on Adequate Price Competition or Established Prices.—In any procurement of a commercial item, when the agreed-upon price of the commercial item is based on adequate price competition or on established catalog or market prices of items sold in sufficient quantities to the general public—

"(1) the procurement shall be exempt from section 304B of this title; and

"(2) to the maximum extent practicable, the executive agency may not require any additional information from the offeror to determine price reasonableness.

"(b) Requirement To Determine Price Reasonableness For Noncompetitive Procurements.—In any case in which it is not practicable to conduct a procurement of a commercial item on a competitive basis and the procurement is not covered by subsection (a) or by an exception in subsection (b) of section 304B, the contracting officer shall use price analysis to determine whether the price is fair and reasonable. If the contracting officer is able to determine through price analysis that the price is reasonable, the procurement shall be exempt from section 304B of this title. Price analysis under this section shall be conducted by developing or obtaining from the offeror or contractor, or from another source or sources, in accordance with standards and procedures set forth in Federal Acquisition Regulations, information on prices at which the same or similar items have been sold in the commercial market that is adequate for evaluating the reasonableness of the price of the contract.

"(c) Authority To Request Cost or Pricing Data When Price Reasonableness Cannot Be Determined.—In any case in which a contracting officer is unable to determine under subsection (b) that a price is reasonable, the contracting officer, with the prior approval of the head of the procuring activity, may require cost or pricing data under section 304B.

"(d) Right To Audit.—(1) An executive agency is authorized to audit all documentation provided by an offeror under subsection (b) or (c) and all books and records of the offeror directly relating to such documentation, except that, if the offeror has made no representation as to the completeness of the documentation supplied, the executive agency is not authorized to audit for completeness.

"(2) The authority under this subsection shall expire—

"(A) one year after the date of commencement of performance of the contract, or one year after the date of commencement of performance of the modification of the contract, with respect to which the information was provided; or

"(B) on such other date agreed upon by the parties at the time of contract award or contract definitization.

"(e) Limitations on Requests for Data.—The Federal Acquisition Regulation shall establish reasonable limitations on requests under this section for sales data relating to commercial items.

"(f) Form of Information.—In conducting a price analysis, or in requiring any additional information from an offeror, a contracting officer may request only that information from an offeror that is in the form regularly maintained by the offeror in commercial operations, adequate to demonstrate the market price of the item or items, or otherwise needed to establish a fair and reasonable price.

"(g) Confidentiality.—All documentation received from an offeror, if not otherwise in the public domain and if requested by the offeror and marked as proprietary, shall be treated by the Government as confidential and exempt from disclosure to the extent permitted by section 552 of title 5.".

(b) Cross Reference.—Section 304B of the Federal Property and Administrative Services Act of 1949, as added by section 1251, is amended by adding at the end the following new subsection:

"(h) Exceptions Regarding Commercial Items.—For provisions relating to exceptions for procurements of commercial items, see section 314B of this title.".

SEC. 7204. PRINCIPLE OF CONSTRUCTION WITH FUTURE LAWS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 7203, is further amended by adding after section 314B the following new section:

"SEC. 314C. PRINCIPLE OF CONSTRUCTION WITH FUTURE LAWS.

"A provision of law enacted after the date of the enactment of the Federal Acquisition Improvement Act of 1994 may not be construed as applicable to purchases of commercial items by an executive agency unless that provision of law specifically refers to this section and specifically states that such provision of law modifies or supersedes sections 314 through 314D of this title.".

SEC. 7205. INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 7204, is further amended by adding after section 314C the following new section:

"SEC. 314D. INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

"(a) Provisions Inapplicable to Prime Contractors.—Procurements of commercial items shall not be subject to the following provisions of law (or regulations prescribed under such provisions):

"(1) Section 303G of this Act (relating to prohibition on limitation of subcontractor direct sales).

"(2) Section 304(a) of this Act (relating to prohibition on contingent fees).

"(3) Section 26 of the Office of Federal Procurement Policy Act (41 U.S.C. 422) (relating to cost accounting standards board).

"(4) Section 27(e) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(e)) (relating to procurement integrity).

"(5) The Drug-Free Workplace Act of 1988 (subtitle D of title V of Public Law 100–690; 41 U.S.C. 701 et seq.).

"(b) Provisions Inapplicable to Subcontractors and Other Entities.—

"(1) Laws inapplicable.—Each provision of law listed under subsection (a) (and regulations prescribed under each such provision) shall not apply to any entity described in paragraph (2).

"(2) Covered entities.—Paragraph (1) applies to each of the following:

"(A) Any division, subsidiary, or affiliate of a prime contractor (other than the division, subsidiary, or affiliate that is contracting with the Government under the prime contract) or of a subcontractor of a prime contractor, if such division, subsidiary, or affiliate is furnishing a commercial item to the prime contractor or subcontractor for purposes of carrying out the prime contract or subcontract.

"(B) Any subcontractor or supplier of a prime contractor, if the subcontractor or supplier is furnishing a commercial item to the prime contractor for purposes of carrying out the prime contract.

SEC. 7206. CONFORMING AMENDMENTS RELATING TO INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

(a) Inapplicability of Prohibition on Limiting Subcontractor Direct Sales to the United States.—Section 303G of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253g), as amended by section

4042(a), is further amended by adding at the end the following new subsection:

"(d) An agreement between the contractor in a contract for the acquisition of commercial items and a subcontractor under such contract that restricts sales by such subcontractor directly to persons other than the contractor may not be considered to unreasonably restrict sales by that subcontractor to the United States in violation of the provision included in such contract pursuant to subsection (a) if the agreement does not result in the Federal Government being treated differently with regard to the restriction than any other prospective purchaser of such commercial items from that subcontractor.".

(b) Inapplicability of Requirement for Contract Clause Regarding Contingent Fees.—Section 304(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a)), as amended by section 4042(b), is further amended by inserting before the period at the end of the sentence added by section 4042(b) the following: "or to a contract for the acquisition of commercial items".

Subtitle D—Acquisitions Generally

SEC. 7301. CONFORMING AMENDMENT RELATING TO INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

(a) Cost Accounting Standards Board.—Section 26(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 422) is amended in paragraph (2) by striking out "where the price negotiated" and all that follows through "(B)" and inserting in lieu thereof "(A) for the procurement of commercial items, or (B) for which the price negotiated is based on".

(b) Certification Requirements.—Subsection (e)(7)(A) of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423(e)(7)(A)), as amended by section 4051, is further amended by inserting before the period at the end the following: ", for the procurement of goods and services other than commercial items".

(c) Drug-Free Workplace Act of 1988.—Section 5152 of the Drug-Free Workplace Act of 1988 (subtitle D of title V of Public Law 100–690; 41 U.S.C. 701 et seq.), as amended by section 4054, is further amended by inserting after the matter inserted by such section 4057 the following: ", other than a contract for the procurement of commercial items as defined in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)),".

SEC. 7302. FLEXIBLE DEADLINES FOR SUBMISSION OF OFFERS OF COMMERCIAL ITEMS.

Section 18(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)) is amended by adding at the end the following new paragraph:

"(4) The Administrator shall prescribe regulations defining limited circumstances in which flexible deadlines can be used under paragraph (3) for the submission of bids or proposals for the procurement of commercial items.".

SEC. 7303. ADDITIONAL RESPONSIBILITIES FOR ADVOCATES FOR COMPETITION.

(a) Responsibilities of the Advocate for Competition.—Section 20(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 418(c)) is amended to read as follows:

"(c) The advocate for competition for each procuring activity shall be responsible for promoting full and open competition, promoting the acquisition of commercial items, and challenging barriers to such acquisition, including such barriers as unnecessarily restrictive statements of need, unnecessarily detailed specifications, and unnecessarily burdensome contract clauses.".

(b) Repeal of Superseded Provision.—Section 28 of such Act (41 U.S.C. 424) is repealed.

SEC. 7304. PROVISIONS NOT AFFECTED.

Nothing in this title shall be construed as modifying or superseding, or as intended to impair or restrict, authorities or responsibilities under—

(1) section 315 of the Federal Property and Administrative Services Act of 1949 or section 2323 of title 10, United States Code;

(2) section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759), popularly referred to as the "Brooks Automatic Data Processing Act";

(3) title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.), popularly referred to as the "Brooks Architect-Engineers Act";

(4) section 8(a) of the Small Business Act (15 U.S.C. 637(a)) or any other provision of that Act; or

(5) the Act of June 25, 1938 (41 U.S.C. 46–48c), that was revised and reenacted in the Act of June 23, 1971 (85 Stat. 77), commonly referred to as the "Javits-Wagner-O'Day Act".

SEC. 7305. COMPTROLLER GENERAL REVIEW OF FEDERAL GOVERNMENT USE OF MARKET RESEARCH.

(a) Report Required.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report on the use of market research by the Federal Government in support of the procurement of commercial items and nondevelopmental items.

(b) Content of Report.—The report shall include the following:

(1) A review of existing Federal Government market research efforts to gather data concerning commercial and other nondevelopmental items.

(2) A review of the feasibility of creating a Government-wide data base for storing, retrieving, and analyzing market data, including use of existing Federal Government resources.

(3) Any recommendations for changes in law or regulations that the Comptroller General considers appropriate.

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 8001. TEST PROGRAM.

(a) In General.—The Administrator for Federal Procurement Policy (in this section referred to as the "Administrator") may conduct a program of tests of alternative and innovative procurement procedures. To the extent consistent with this section, such program shall be conducted consistent with section 15 of the Office of Federal Procurement Policy Act (41 U.S.C. 413). No more than 6 such tests shall be conducted under this authority.

(b) Designation of Agencies.—Each test conducted pursuant to subsection (a) shall be limited to not more than 2 specific contracting activities in an agency designated by the Administrator. Each agency so designated shall select the contracting activities participating in the test with the approval of the Administrator and shall designate a procurement testing official who shall be responsible for the conduct and evaluation of tests within that agency.

(c) Test Requirements.—Tests conducted under subsection (a)—

(1) shall be developed and structured by the Administrator or by the agency senior procurement executives designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act in close coordination with the Administrator;

(2) shall be for a period of not greater than 4 years;

(3) shall be limited to specific programs of agencies or specific acquisitions;

(4) may not include any test with a total estimated life-cycle cost to the Federal Government greater than $100,000,000;

(5) shall include—

(A) a test by the National Aeronautics and Space Administration of simplified procurement procedures for acquisitions with an estimated annual total obligation of funds of $500,000 or less;

(B) a test by the General Services Administration of expedited methods for procuring automatic data processing equipment commodities; and

(C) a test by at least one agency of streamlined procedures for competition among interested sources participating in the tailoring of a solicitation for the purchase of commercial products; and

(6) shall not include any procurement the cost of which is expected to exceed $5,000,000 (including options).

(d) Limitation on Total Value of Contracts Under Program.—

(1) Limitation.—The Administrator shall ensure that the total amount obligated under contracts awarded pursuant to the program under this section does not exceed $600,000,000.

(2) Monitoring.—The Administrator shall monitor the value of contracts awarded pursuant to the program under this section.

(3) Prohibition on Awards in Excess of Limit.—No contract may be awarded under the program under this section if the award of the contract would result in obligation of more than $600,000,000 under contracts under this section.

(e) Procedures Authorized.—Tests conducted under this section may include any of the following procedures:

(1) Publication of agency needs before drafting of a solicitation.

(2) Screening of sources and competition among capable vendors.

(3) Issuance of draft solicitations for comment.

(4) Streamlined solicitations, with a minimized number of evaluation factors and information required from vendors, abbreviated periods for submission of offers, and page limitations on offers.

(5) Limitation of source selection factors to—

(A) cost to the Federal Government;

(B) past experience; and

(C) quality of the contents of the offer.

(6) Evaluation of proposals by small teams of highly qualified people, limited to 30 days.

(7) Competition among sources of preevaluated products.

(8) Alternative notice and publication requirements.

(9) A process in which—

(A) the competitive process is initiated by a notice in the Commerce Business Daily synopsizing the needs of the executive agency conducting the test, in functional and performance terms, with other specifications provided for guidance only;

(B) the notice invites interested sources to submit information or samples showing their product's suitability for those needs (with price quotations) or, if appropriate, showing the sources' technical capability, past performance, product supportability, or other qualifications (with appropriate consideration to rates and other cost-related factors);

(C) contracting officials develop a request for proposals (including appropriate specifications and evaluation criteria) after reviewing the submittals made by interested sources and, if the officials determine necessary, after consultation with those sources; and

(D) the contract is awarded after a streamlined competition limited to all sources that timely provided product information in response to the notice or, if appropriate, to those sources determined most capable based on those qualification-based factors included in an invitation to submit information pursuant to subparagraph (B).

(f) Test Plan.—Not later than 60 days before implementing any test program under this section, the Administrator shall—

(1) provide a detailed test plan, including lists of any regulations that are to be waived, and any written determination under subsection (g)(1)(B) to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate;

(2) provide a copy of the plan to the appropriate authorizing committees of the House of Representatives and the Senate; and

(3) publish the plan in the Federal Register and provide an opportunity for public comment.

(g) Waiver of Procurement Regulations.—

(1) In general.—For purposes of a test conducted under subsection (a), the Administrator may waive—

(A) any provision of the Federal Acquisition Regulation that is not required by statute; and

(B) any provision of the Federal Acquisition Regulation that is required by a provision of law described in paragraph (2), the waiver of which the Administrator determines in writing to be necessary to conduct any test of any of the 9 procedures described in subsection (e).

(2) Provisions of law described.—The provisions of law referred to in paragraph (1) are the following:

(A) Section 2304 of title 10, United States Code.

(B) Section 2305 of title 10, United States Code.

(C) Section 2319 of title 10, United States Code.

(D) Section 3709 of the Revised Statutes (41 U.S.C. 5).

(E) Section 3710 of the Revised Statutes (41 U.S.C. 8).

(F) Section 3735 of the Revised Statutes (41 U.S.C. 13).

(G) Subsections (e), (f), and (g) of section 8 of the Small Business Act (15 U.S.C. 637).

(H) Section 310 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 260).

(I) Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253).

(J) Section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a).

(K) Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b).

(L) Section 303C of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253c).

(M) Section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6)).

(N) Section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416).

(3) Proposal for additional waiver.—If the Administrator determines that the conduct of a test requires the waiver of a law not listed in paragraph (2) or requires approval of an estimated dollar amount not permitted under subsection (c)(4), the Administrator may propose legislation to authorize the waiver or grant the approval. Before proposing such legislation, the Administrator may provide and publish a test plan as described in subsection (f). If Congress does not authorize the waiver or grant the approval within 120 days after the date of receipt of the proposal, the proposal shall be deemed to be withdrawn. A proposal not approved within such 120 days may be resubmitted to Congress under this paragraph at any time.

(h) Reports and Reviews.—

(1) Administrator.—The Administrator shall report to the Congress on the results of each test conducted under subsection (a).

(2) Comptroller general.—The Comptroller General of the United States shall review each test conducted under subsection (a) and report to the Congress on each test and shall report annually to the Congress on the conduct of and results of all tests conducted under subsection (a).

(i) Expiration of Authority.—The authority to conduct tests under this section and to award contracts under such tests shall expire on October 1, 1998. Contracts entered into before October 1, 1998, pursuant to a test shall remain in effect, notwithstanding the expiration of the authority to conduct the test under this section.

(j) Federal Aviation Administration Acquisition Pilot Program.—(1) The Administrator shall delegate to the Secretary of Transportation authority to conduct a test of alternative and innovative procurement procedures in carrying out acquisitions for one of the modernization programs under the Airway Capital Investment Plan prepared pursuant to section 44501(b) of title 49, United States Code.

(2) The authority delegated under paragraph (1) shall include authority for the Secretary of Transportation—

(A) to apply any amendment or repeal of a provision of law made in this Act to the pilot program before the effective date of such amendment or repeal; and

(B) to apply to a procurement of noncommercial items under such program—

(i) any authority provided in this Act (or in an amendment made by a provision of this Act) to waive a provision of law in the case of commercial items, and

(ii) any exception applicable under this Act (or an amendment made by a provision of this Act) in the case of commercial items, before the effective date of such provision (or amendment) to the extent that the Secretary determines necessary to test the application of such waiver or exception to procurements of noncommercial items.

(3) Paragraph (2) applies with respect to—

(A) a contract that is awarded or modified after the date occurring 45 days after the date of the enactment of this Act; and

(B) a contract that is awarded before such date and is to be performed (or may be performed), in whole or in part, after such date.

(4) The Administrator may use the waiver authority provided under subsection (g) to waive the applicability of any provision referred to in paragraph (1) of that subsection to the program designated by the Secretary of Transportation under this subsection.

(l) Department of Defense Acquisition Pilot Programs.—

(1) In general.—The Secretary of Defense is authorized to designate the following defense acquisition programs for participation in the defense acquisition pilot program authorized by section 809 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2430 note):

(A) Fire support combined arms tactical trainer (FSCATT).—All contracts directly relating to the procurement of a training simulation system, including related hardware, software, and subsystems, to perform collective training of field artillery gunnery teams, with development of software as required to generate the training exercises.

(B) Joint direct attack munition (JDAM).—All contracts directly relating to the development and procurement of a strap-on guidance kit, using an inertially guided, Global Positioning System updated guidance kit to enhance the delivery accuracy of 1000-pound and 2000-pound bombs in inventory.

(C) Commercial-derivative aircraft (CDA).—

(i) All contracts related to acquisition or upgrading of commercial-derivative aircraft for use in meeting future Air Force airlift, tanker, and airborne warning and control system requirements.

(ii) For purposes of this subparagraph, the term "commercial-derivative aircraft" means any of the following:

(I) Any aircraft that is of a type customarily used in the course of normal business operations for other than Federal Government purposes, that has been issued a type certificate by the Administrator of the Federal Aviation Administration, and that has been sold or leased for use in the commercial marketplace or that has been offered for sale or lease for use in the commercial marketplace.

(II) Any aircraft that, but for modifications of a type customarily available in the commercial marketplace, or minor modifications made to meet Federal Government requirements, would satisfy the criteria in subclause (I).

(D) Commercial-derivative engine.—The commercial derivative engine program with respect to all contracts directly related to the acquisition of (i) commercially derived engines (including spare engines), logistics support equipment, technical orders, management data, and initial spare parts for use in supporting the purchase of commercial-derivative aircraft to meet future Air Force airlift and tanker requirements, including engine replacement and upgrades.

(2) Conduct of defense acquisition programs.—In the case of each defense acquisition program designated under paragraph (1) for participation in the Defense Acquisition Pilot Program, the Secretary of Defense shall—

(A) develop guidelines and procedures for carrying out the program and the criteria to be used in measuring the success of the program;

(B) evaluate the potential costs and benefits which may be derived from the innovative procurement methods and procedures tested under the program; and

(C) develop the methods to be used to analyze the results of the program.

(3) Special authority.—The authority delegated under paragraph (1) may include authority for the Secretary of Defense—

(A) to apply any amendment or repeal of a provision of law made in this Act to the pilot programs before the effective date of such amendment or repeal; and

(B) to apply to a procurement of noncommercial items under such programs—

(i) any authority provided in such Act (or in an amendment made by a provision of such Act) to waive a provision of law in the case of commercial items, and

(ii) any exception applicable under such Act (or an amendment made by a provision of such Act) in the case of commercial items, before the effective date of such provision (or amendment) to the extent that the Secretary determines necessary to test the application of such waiver or exception to procurements of noncommercial items.

(4) APPLICABILITY.—(A) Paragraph (3) applies with respect to—

(i) a contract that is awarded or modified during the period described in subparagraph (B); and

(ii) a contract that is awarded before the beginning of such period and is to be performed (or may be performed), in whole or in part, during such period.

(B) The period referred to in subparagraph (A) is the period that begins 45 days after the date of the enactment of this Act and ends on September 30, 1998.

SEC. 8002. STUDY OF PARTICIPATION BY CERTAIN SMALL BUSINESSES IN FEDERAL PROCUREMENT.

(a) STUDY.—The Administrator for Federal Procurement Policy shall conduct a study of—

(1) the degree of participation by small businesses owned and controlled by socially and economically disadvantaged individuals in procurements conducted by executive agencies, other than agencies in the Department of Defense; and

(2) the extent of compliance by those executive agencies with the goals for participation by such businesses required by Office of Federal Procurement Policy policy letter 91-1, relating to Government-wide small business and small disadvantaged business goals for procurement contracts.

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Administrator for Federal Procurement Policy shall submit a report on the study required under subsection (a) to the Committee on Government Operations and the Committee on Small Business of the House of Representatives, and to the Committee on Governmental Affairs and the Committee on Small Business of the Senate. The report shall include recommendations to facilitate the provision of authority to executive agencies, other than agencies in the Department of Defense, to conduct procurement set asides for small businesses owned and controlled by socially and economically disadvantaged individuals, and on improved outreach programs to increase the participation by such businesses in procurements conducted by those executive agencies.

"§ 2323. Contract goal for small disadvantaged businesses and certain institutions of higher education

"(a) GOAL.—(1) Except as provided in subsection (d), a goal of 5 percent of the amount described in subsection (b) shall be the objective of the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration in each of fiscal years 1987 through 2000 for the total combined amount obligated for contracts and subcontracts entered into with—

"(A) small business concerns, including mass media and advertising firms, owned and controlled by socially and economically disadvantaged individuals (as such term is used in section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and regulations issued under that section), the majority of the earnings of which directly accrue to such individuals;

"(B) historically Black colleges and universities; and

"(C) minority institutions (as defined in paragraphs (3), (4), and (5) of section 312(b) of the Higher Education Act of 1965 (20 U.S.C. 1058)), including any nonprofit research institution that was an integral part of a historically Black college or university before November 14, 1986.

"(2) The head of the agency shall establish a specific goal within the overall 5 percent goal for the award of prime contracts and subcontracts to historically Black colleges and universities and minority institutions in order to increase the participation of such colleges and universities in the program provided for by this section.

"(3) The Federal Acquisition Regulation (issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall provide procedures or guidelines for contracting officers to set goals which agency prime contractors that are required to submit subcontracting plans under section 8(d)(4)(B) of the Small Business Act (15 U.S.C. 637(d)(4)(B)) in furtherance of the agency's program to meet the 5 percent goal specified in paragraph (1) should meet in awarding subcontracts, including subcontracts to minority-owned media, to entities described in that paragraph.

"(b) AMOUNT.—

"(1) DEPARTMENT OF DEFENSE.—With respect to the Department of Defense, the requirements of subsection (a) for any fiscal year apply to the combined total of the following amounts:

"(A) Funds obligated for contracts entered into with the Department of Defense for such fiscal year for procurement.

"(B) Funds obligated for contracts entered into with the Department of Defense for such fiscal year for research, development, test, and evaluation.

"(C) Funds obligated for contracts entered into with the Department of Defense for such fiscal year for military construction.

"(D) Funds obligated for contracts entered into with the Department of Defense for operation and maintenance.

"(2) COAST GUARD.—With respect to the Coast Guard, the requirements of subsection (a) for any fiscal year apply to the total value of all prime contract and subcontract awards entered into by the Coast Guard for such fiscal year.

"(3) NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.—With respect to the National Aeronautics and Space Administration, the requirements of subsection (a) for any fiscal year apply to the total value of all prime contract and subcontract awards entered into by the National Aeronautics and Space Administration for such fiscal year.

"(c) TYPES OF ASSISTANCE.—(1) To attain the goal specified in subsection (a)(1), the head of the agency shall provide technical assistance to the entities referred to in that subsection and, in the case of historically Black colleges and universities and minority institutions, shall also provide infrastructure assistance.

"(2) Technical assistance provided under this section shall include information about the program, advice about agency procurement procedures, instruction in preparation of proposals, and other such assistance as the agency head considers appropriate. If the resources of the agency are inadequate to provide such assistance, the agency head may enter into contracts with minority private sector entities with experience and expertise in the design, development, and delivery of technical assistance services to eligible individuals, business firms and institutions, acquisition agencies, and prime contractors. Agency contracts with such entities shall be awarded annually, based upon, among other things, the number of minority small business concerns, historically Black colleges and universities, and minority institutions that each such entity brings into the program.

"(3) Infrastructure assistance provided by the Department of Defense under this section to historically Black colleges and universities and to minority institutions may include programs to do the following:

"(A) Establish and enhance undergraduate, graduate, and doctoral programs in scientific disciplines critical to the national security functions of the Department of Defense.

"(B) Make Department of Defense personnel available to advise and assist faculty at such colleges and universities in the performance of defense research and in scientific disciplines critical to the national security functions of the Department of Defense.

"(C) Establish partnerships between defense laboratories and historically Black colleges and universities and minority institutions for the purpose of training students in scientific disciplines critical to the national security functions of the Department of Defense.

"(D) Award scholarships, fellowships, and the establishment of cooperative work-education programs in scientific disciplines critical to the national security functions of the Department of Defense.

"(E) Attract and retain faculty involved in scientific disciplines critical to the national security functions of the Department of Defense.

"(F) Equip and renovate laboratories for the performance of defense research.

"(G) Expand and equip Reserve Officer Training Corps activities devoted to scientific disciplines critical to the national security functions of the Department of Defense.

"(H) Provide other assistance as the Secretary determines appropriate to strengthen scientific disciplines critical to the national security functions of the Department of Defense or the college infrastructure to support the performance of defense research.

"(4) The head of the agency shall, to the maximum extent practical, carry out programs under this section at colleges, universities, and institutions that agree to bear a substantial portion of the cost associated with the programs.

"(d) APPLICABILITY.—Subsection (a) does not apply to the Department of Defense—

"(1) to the extent to which the Secretary of Defense determines that compelling national security considerations require otherwise; and

"(2) if the Secretary notifies Congress of such determination and the reasons for such determination.

"(e) COMPETITIVE PROCEDURES AND ADVANCE PAYMENTS.—To attain the goal of subsection (a):

"(1)(A) The head of the agency shall—

"(i) ensure that substantial progress is made in increasing awards of agency contracts to entities described in subsection (a)(1);

"(ii) exercise his utmost authority, resourcefulness, and diligence;

"(iii) in the case of the Department of Defense, actively monitor and assess the progress of the military departments, Defense Agencies, and prime contractors of the Department of Defense in attaining such goal; and

"(iv) in the case of the Coast Guard and the National Aeronautics and Space Administration, actively monitor and assess the progress of the prime contractors of the agency in attaining such goal.

"(B) In making the assessment under clauses (iii) and (iv) of subparagraph (A), the agency head shall evaluate the extent to which use of the authority provided in paragraphs (2) and (3) and compliance with the requirement in paragraph (4) is effective for facilitating the attainment of the goal.

"(2) To the extent practicable and when necessary to facilitate achievement of the 5 percent goal described in subsection (a), the agency head shall make advance payments under section 2307 of this title to contractors described in subsection (a). The Federal Acquisition Regulation shall provide guidance to contracting officers for making advance payments to entities described in subsection (a)(1) under such section.

"(3) To the extent practicable and when necessary to facilitate achievement of the 5 percent goal described in subsection (a), the agency head may enter into contracts using less than full and open competitive procedures (including awards under section 8(a) of the Small Business Act) and partial set asides for entities described in subsection (a)(1), but shall pay a price not exceeding fair market cost by more than 10 percent in payment per contract to contractors or subcontractors described in subsection (a). The agency head shall adjust the percentage specified in the preceding sentence for any industry category if available information clearly indicates that nondisadvantaged small business concerns in such industry category are generally being denied a reasonable opportunity to compete for contracts because of the use of that percentage in the application of this paragraph.

"(4) To the extent practicable, the agency head shall maximize the number of minority small business concerns, historically Black colleges and universities, and minority institutions participating in the program.

"(5) The agency head shall prescribe regulations which provide for the following:

"(A) Procedures or guidance for contracting officers to provide incentives for prime contractors referred to in subsection (a)(3) to increase subcontractor awards to entities described in subsection (a)(1).

"(B) A requirement that contracting officers emphasize the award of contracts to entities described in subsection (a)(1) in all industry categories, including those categories in which such entities have not traditionally dominated.

"(C) Guidance to agency personnel on the relationship among the following programs:

"(i) The program implementing this section.

"(ii) The program established under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

"(iii) The small business set-aside program established under section 15(a) of the Small Business Act (15 U.S.C. 644(a)).

"(D) With respect to an agency procurement which is reasonably likely to be set aside for entities described in subsection (a)(1), a requirement that (to the maximum extent practicable) the procurement be designated as such a set-aside before the solicitation for the procurement is issued.

"(E) Policies and procedures which, to the maximum extent practicable, will ensure that current levels in the number or dollar value of contracts awarded under the program established under section 8(a) of the Small Business Act (15 U.S.C. 637(a)) and under the small business set-aside program established under section 15(a) of the Small Business Act (15 U.S.C. 644(a)) are maintained and that every effort is made to provide new opportunities for contract awards to eligible entities, in order to meet the goal of subsection (a).

"(F) Implementation of this section in a manner which will not alter the procurement process under the program established under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

"(G) A requirement that one factor used in evaluating the performance of a contracting officer be the ability of the officer to increase contract awards to entities described in subsection (a)(1).

"(H) Increased technical assistance to entities described in subsection (a)(1).

"(f) PENALTIES AND REGULATIONS RELATING TO STATUS.—(1) Whoever for the purpose of securing a contract or subcontract under subsection (a) misrepresents the status of any concern or person as a small business concern owned and controlled by a minority (as described in subsection (a)), shall be punished by imprisonment for not more than one year, or a fine under title 18, or both.

"(2) The Federal Acquisition Regulation shall prohibit awarding a contract under this section to an entity described in subsection (a)(1) unless the entity agrees to comply with the requirements of section 15(o)(1) of the Small Business Act (15 U.S.C. 644(o)(1)).

"(g) INDUSTRY CATEGORIES.—(1) To the maximum extent practicable, the head of the agency shall—

"(A) ensure that no particular industry category bears a disproportionate share of the contracts awarded to attain the goal established by subsection (a); and

"(B) ensure that contracts awarded to attain the goal established by subsection(a) are made across the broadest possible range of industry categories.

"(2) Under procedures prescribed by the head of the agency, a person may request the Secretary to determine whether the use of small disadvantaged business set asides by a contracting activity of the agency has caused a particular industry category to bear a disproportionate share of the contracts awarded to attain the goal established for that contracting activity for the purposes of this section. Upon making a determination that a particular industry category is bearing a disproportionate share, the agency head shall take appropriate actions to limit the contracting activity's use of set asides in awarding contracts in that particular industry category.

"(h) COMPLIANCE WITH SUBCONTRACTING PLAN REQUIREMENTS.—(1) The Federal Acquisition Regulation shall contain regulations to ensure that potential contractors submitting sealed bids or competitive proposals to the agency for procurement contracts to be awarded under the program provided for by this section are complying with applicable subcontracting plan requirements of section 8(d) of the Small Business Act (15 U.S.C. 637(d)).

"(2) The regulations required by paragraph (1) shall ensure that, with respect to a sealed bid or competitive proposal for which the bidder or offeror is required to negotiate or submit a subcontracting plan under section 8(d) of the Small Business Act (15 U.S.C. 637(d)), the subcontracting plan shall be a factor in evaluating the bid or proposal.

"(i) ANNUAL REPORT.—(1) Not later than December 15 of each year, the head of the agency shall submit to Congress a report on the progress of the agency toward attaining the goal of subsection (a) during the preceding fiscal year.

"(2) The report required under paragraph (1) shall include the following:

"(A) A full explanation of any progress toward attaining the goal of subsection (a).

"(B) A plan to achieve the goal, if necessary.

"(3) The report required under paragraph (1) shall also include the following:

"(A) The aggregate differential between the fair market price of all contracts awarded pursuant to subsection (e)(3) and the estimated fair market price of all such contracts had such contracts been entered into using full and open competitive procedures.

"(B) An analysis of the impact that subsection (a) shall have on the ability of small business concerns not owned and controlled by socially and economically disadvantaged individuals to compete for contracts with the agency.

"(C) A description of the percentage of contracts (actions), the total dollar amount (size of action), and the number of different entities relative to the attainment of the goal of subsection (a), separately for Black Americans, Native Americans, Hispanic Americans, Asian Pacific Americans, and other minorities.

"(j) DEFINITIONS.—In this section:

"(1) The term 'agency' means the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration.

"(2) The term 'head of an agency' means the Secretary of Defense, the Secretary of Transportation, and the Administrator of the National Aeronautics and Space Administration.".

SEC. 8004. EDUCATION AND TRAINING.

Section 6(d)(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(5)) is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking out the semicolon at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) establish policies and procedures for the establishment and implementation of education and training programs authorized by this Act, including the establishment and implementation of training, in conjunction with the General Services Administration, for critical procurement personnel designed to increase the participation of small business concerns owned and controlled by socially and economically disadvantaged individuals, women, and other minorities in procurement activities conducted by an executive agency.".

SEC. 8005. DEPARTMENT OF DEFENSE ACQUISITION OF INTELLECTUAL PROPERTY RIGHTS.

Section 2386 of title 10, United States Code, is amended by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

"(3) Technical data and computer software.

"(4) Releases for past infringement of patents or copyrights or for unauthorized use of technical data or computer software.".

SEC. 8006. SENSE OF CONGRESS ON NEGOTIATED RULEMAKING.

(a) FINDINGS.—The Congress finds the following:

(1) The use of negotiated rulemaking or similar policy discussion group techniques is an appropriate tool for—

(A) fostering effective implementation of, and compliance with, laws and regulations;

(B) avoiding litigation; and

(C) achieving more productive and equitable relationships between the Federal Government and the regulated segments of the private sector.

(2) The use of negotiated rulemaking or similar techniques in Federal procurement regulations could be appropriate given the extreme complexity and intricate interactions between buyer and seller in Federal procurements.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, in prescribing acquisition regulations, the Federal Acquisition Regulatory Council should consider using negotiated rulemaking procedures in accordance with sections 561 through 570 of title 5, United States Code, or similar techniques intended to achieve the benefits described in subsection (a)(1).

SEC. 8007. VENDOR AND EMPLOYEE EXCELLENCE AWARDS.

Section 6(d) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)) is amended—

(1) by striking out the period at the end of paragraph (10) (as redesignated by section 4011(b)(2)) and inserting in lieu thereof a semicolon; and

(2) by adding at the end the following new paragraphs:

"(11) providing for a Government-wide award to recognize and promote vendor excellence; and

"(12) providing for a Government-wide award to recognize and promote excellence in officers and employees of the Federal Government serving in procurement-related positions.".

SEC. 8008. CODIFICATION OF ACCOUNTING REQUIREMENT FOR CONTRACTED ADVISORY AND ASSISTANCE SERVICES.

(a) FUNDING TO BE IDENTIFIED IN BUDGET.—Section 1105 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) The Director of the Office of Management and Budget shall establish the funding for consulting services for each department and agency as a separate object class in each budget annually submitted to the Congress under this section.

"(2)(A) In paragraph (1), except as provided in subparagraph (B), the term 'advisory and assistance services' means the following services when provided by nongovernmental sources:

"(i) Management and professional support services.

"(ii) Studies, analyses, and evaluations.

"(iii) Engineering and technical services.

"(B) In paragraph (1), the term 'advisory and assistance services' does not include the following services:

"(i) Routine automated data processing and telecommunications services (as defined in the Federal Information Resources Management Regulation prescribed by the Administrator of General Services) unless such services are an integral part of a contract for the procurement of advisory and assistance services.

"(ii) Architectural and engineering services.

"(iii) Technical support of research and development activities.

"(iv) Research on basic mathematics or medical, biological, physical, social, psychological, or other phenomena.".

(b) REPEAL OF SOURCE LAW.—Section 512 of Public Law 102-394 (106 Stat. 1826) is repealed.

(c) REPEAL OF SUPERSEDED PROVISIONS.—

(1) DOD SPECIFIC LAW.—Section 2212 of title 10, United States Code, is repealed.

(2) GOVERNMENT-WIDE LAW.—Section 1114 of title 31, United States Code, is repealed.

(3) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 131 of title 10, United States Code, is amended by striking out the item relating to section 2212. The table of sections at the beginning of chapter 11 of title 31, United States Code, is amended by striking out the item relating to section 1114.

SEC. 8009. TECHNICAL AND CLERICAL AMENDMENTS.

(a) TABLE OF CONTENTS AMENDMENTS.—

(1) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—The first section of the Office of Federal Procurement Policy Act (41 U.S.C. 401 note) is amended to read as follows:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Office of Federal Procurement Policy Act'.

"(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

"Sec. 1. Short title; table of contents.
"Sec. 2. Declaration of policy.
"Sec. 3. Findings and purpose.
"Sec. 4. Definitions.
"Sec. 4A. Simplified acquisition threshold.
"Sec. 4B. Procedures applicable to purchases below micro-purchase threshold.
"Sec. 5. Office of Federal Procurement Policy.
"Sec. 6. Authority and functions of the Administrator.
"Sec. 7. Administrative powers.
"Sec. 8. Responsiveness to Congress.
"Sec. 9. Effect on existing laws.
"Sec. 10. Effect on existing regulations.
"Sec. 11. Authorization of appropriations.
"Sec. 12. Delegation.
"Sec. 14. Access to information.
"Sec. 15. Tests of innovative procurement methods and procedures.
"Sec. 16. Executive agency responsibilities.
"Sec. 18. Procurement notice.
"Sec. 19. Record requirements.
"Sec. 20. Advocates for competition.
"Sec. 21. Rights in technical data.
"Sec. 22. Publication of proposed regulations.
"Sec. 23. Contracting functions performed by Federal personnel.
"Sec. 24. Travel expenses of Government contractors.
"Sec. 25. Federal Acquisition Regulatory Council.
"Sec. 26. Cost Accounting Standards Board.
"Sec. 27. Procurement integrity.
"Sec. 28. Advocate for the Acquisition of Commercial Products.
"Sec. 29. Nonstandard contract clauses.
"Sec. 30. Federal acquisition computer network (FACNET).".

(2) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—The first section of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 471 et seq.) is amended to read as follows:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Federal Property and Administrative Services Act of 1949'.

"(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

"Sec. 1. Short title; table of contents.
"Sec. 2. Declaration of policy.
"Sec. 3. Definitions.

"TITLE I—ORGANIZATION

"Sec. 101. General Services Administration.
"Sec. 102. Transfer of affairs of Bureau of Federal Supply.
"Sec. 103. Transfer of affairs of the Federal Works Agency.
"Sec. 104. Records management: Transfer of the National Archives.
"Sec. 106. Redistribution of functions.
"Sec. 107. Transfer of funds.
"Sec. 109. General supply fund.
"Sec. 110. Information Technology Fund.
"Sec. 111. Automatic data processing equipment.
"Sec. 112. Federal information centers.

"TITLE II—PROPERTY MANAGEMENT

"Sec. 201. Procurement, warehousing, and related activities.
"Sec. 202. Property utilization.
"Sec. 203. Disposal of surplus property.
"Sec. 204. Proceeds from transfer or disposition of property.
"Sec. 205. Policies, regulations, and delegations.
"Sec. 206. Surveys, standardization, and cataloging.
"Sec. 207. Applicability of antitrust laws.
"Sec. 208. Employment of personnel.
"Sec. 209. Civil remedies and penalties.
"Sec. 210. Operation of buildings and related activities.
"Sec. 211. Motor vehicle identification and operation.
"Sec. 212. Reports to Congress.

"TITLE III—PROCUREMENT PROCEDURE

"Sec. 301. Declaration of purpose.
"Sec. 302. Application and procurement methods.
"Sec. 302A. Simplified acquisition threshold.
"Sec. 302B. Implementation of FACNET capability.
"Sec. 303. Competition requirements.
"Sec. 303A. Planning and solicitation requirements.
"Sec. 303B. Evaluation and award.
"Sec. 303C. Encouragement of new competition.
"Sec. 303D. Validation of proprietary data restrictions.
"Sec. 303F. Economic order quantities.
"Sec. 303G. Prohibition of contractors limiting subcontractor sales directly to the United States.
"Sec. 303H. Severable services contracts for periods crossing fiscal years.
"Sec. 304. Contract requirements.
"Sec. 304A. Multiyear contracts.
"Sec. 304B. Cost or pricing data: truth in negotiations.
"Sec. 304C. Examination of records of contractor.
"Sec. 305. Contract financing.
"Sec. 306. Allowable costs.
"Sec. 307. Administrative determinations and delegations.
"Sec. 309. Definitions.
"Sec. 310. Statutes not applicable.
"Sec. 311. Cooperative agreements for basic, applied, and advanced research.
"Sec. 312. Assignment and delegation of procurement functions and responsibilities.
"Sec. 313. Determinations and decisions.
"Sec. 314. Definitions relating to procurement of commercial items.
"Sec. 314A. Preference for acquisition of commercial items and other nondevelopmental items.
"Sec. 314B. Pricing documentation for commercial items.
"Sec. 314C. Principle of construction with future laws.
"Sec. 314D. Inapplicability of certain provisions of law.
"Sec. 315. Contract goal for small disadvantaged businesses and certain institutions of higher education.

"TITLE IV—FOREIGN EXCESS PROPERTY

"Sec. 401. Disposal of foreign excess property.

"Sec. 402. Methods and terms of disposal.
"Sec. 403. Proceeds; foreign currencies.
"Sec. 404. Miscellaneous provisions.

"TITLE VI—GENERAL PROVISIONS

"Sec. 601. Applicability of existing procedures.
"Sec. 602. Repeal and saving provisions.
"Sec. 603. Authorization for appropriations and transfer of authority.
"Sec. 604. Separability.
"Sec. 605. Effective date.

"TITLE VIII—URBAN LAND UTILIZATION

"Sec. 801. Short title.
"Sec. 802. Declaration of purpose and policy.
"Sec. 803. Disposal of urban lands.
"Sec. 804. Acquisition or change of use of real property.
"Sec. 805. Waiver during national emergency.
"Sec. 806. Definitions.

"TITLE IX—SELECTION OF ARCHITECTS AND ENGINEERS

"Sec. 901. Definitions.
"Sec. 902. Policy.
"Sec. 903. Requests for data on architectural and engineering services.
"Sec. 904. Negotiation of contracts for architectural and engineering services.
"Sec. 905. Short title.".

(b) AMENDMENTS FOR STYLISTIC CONSISTENCY.—

(1) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended so that the section designation and section heading of each section of such Act is in the same form and typeface as the section designation and heading of this section.

(2) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—The Federal Property and Administrative Services Act of 1949 (41 U.S.C. 471 et seq.) is amended so that the section designation and section heading of each section of such Act is in the same form and typeface as the section designation and heading of this section.

(c) REPEALS OF EXECUTED PROVISIONS.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended—

(1) by striking out section 13; and

(2) by striking out the first section 15.

(d) CROSS REFERENCE CORRECTIONS.—Section 3552 of title 31, United States Code, is amended—

(1) by striking out "section 111(h)" and inserting in lieu thereof "section 111(f)"; and

(2) by striking out "759(h)" and inserting in lieu thereof "759(f)".

(e) CONSISTENCY OF TERMINOLOGY WITH CUSTOMARY USAGE.—Section 304(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(b)) is amended by striking out "per centum" each place it appears and inserting in lieu thereof "percent".

(f) ENACTMENT OF POPULAR NAMES OF CERTAIN ACTS.—

(1) BROOKS ARCHITECT-ENGINEERS ACT.—Title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541–544) is amended by adding at the end the following new section:

"SEC. 905. SHORT TITLE.

"This title may be cited as the 'Brooks Architect-Engineers Act'.".

(2) BROOKS AUTOMATIC DATA PROCESSING ACT.—Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) is amended by adding at the end the following new subsection:

"(h) This section may be cited as the 'Brooks Automatic Data Processing Act'.".

(3) BUY AMERICAN ACT.—The Act of March 3, 1933 (41 U.S.C. 10a–10c), commonly referred to as the "Buy American Act", is amended by adding at the end the following new section:

"SEC. 5. This Act may be cited as the 'Buy American Act'.".

(4) JAVITS-WAGNER-O'DAY ACT.—The Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938 (41 U.S.C. 46–48c), that was revised and reenacted in the Act of June 23, 1971 (85 Stat. 77), is amended by adding at the end the following new section:

"SHORT TITLE

"SEC. 7. This Act may be cited as the 'Javits-Wagner-O'Day Act'.".

TITLE IX—EFFECTIVE DATES AND REGULATIONS

SEC. 9001. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendments made by this Act shall apply with respect to any contract for which a solicitation for bid or proposal is issued after—

(1) 30 days have expired after the issuance in final form of revisions to the Federal Acquisition Regulation pursuant to section 9002; or

(2) 270 days have expired after the date of the enactment of this Act;

whichever is earlier.

(b) SPECIFIC EFFECTIVE DATES.—(1) Titles III and VI of this Act, and the amendments made by such titles, shall take effect on the date of the enactment of this Act.

(2) Subtitle D of title I of this Act, and the amendments made by such subtitle (relating to procurement protests), shall apply with respect to any protest filed after the expiration of the 90-day period beginning on the date of the enactment of this Act.

SEC. 9002. REGULATIONS.

Not later than 240 days after the date of the enactment of this Act, the Federal Acquisition Regulation (referred to in section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c))) shall be revised, in final form, to implement this Act and the amendments made by this Act.

SEC. 9003. EVALUATION BY THE COMPTROLLER GENERAL.

(a) EVALUATION RELATING TO ISSUANCE OF REGULATIONS.—Not later than 180 days after the issuance in final form of revisions to the Federal Acquisition Regulation pursuant to section 9002, the Comptroller General shall submit to Congress a report evaluating compliance with such section 9002.

(b) EVALUATION OF IMPLEMENTATION OF REGULATIONS.—Not later than 18 months after issuance in final form of revisions to the Federal Acquisition Regulation pursuant to section 9002, the Comptroller General shall submit to Congress a report evaluating the effectiveness of the regulations implementing this Act in streamlining the acquisition system and fulfilling the other purposes of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan [Mr. CONYERS] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the House takes up consideration of H.R. 2238, the Federal Acquisition Improvement Act of 1994. This bill makes sweeping reforms to the Federal procurement system, reforms that will make it easier for businesses, large and small, to work with the Government, and reforms that will ultimately allow the Government to deliver services more professionally. It is the boldest modern-day attempt to revolutionize how the Government does business by greatly streamlining and simplifying its buying practices.

The Federal procurement system—including the way it is implemented—touches on every aspect of government. It affects the price agencies pay for the items they need to carry out their missions. It affects whether the Department of Defense has the right equipment on hand at the right time, and it affects whether agencies are able to properly serve the taxpayers. With over $200 billion flowing through the procurement system each year, it is imperative that we make every effort to eliminate the inefficiencies that frustrate the business of government and waste the taxpayers' money. H.R. 2238 will make these needed reforms a reality.

I am equally proud of the fact that H.R. 2238 makes these reforms without undermining key features of the current procurement statutes that protect the taxpayers. These features, such as full and open competition, help drive down costs. They help ensure that the taxpayers' dollar is spent, not on the basis of favoritism, but on the basis of fairness. They also allow small businesses to compete against large corporations—which is vital to the Nation's economy.

From the very start, our goal has been to simplify and streamline the process, while strengthening the principles that help keep government business dealings honest and above board. I am convinced that we have succeeded on both fronts.

Mr. Speaker, over the past several years the Committee on Government Operations has been a champion of the need for procurement reform. In the last Congress, the committee's procurement bill, H.R. 3161, passed the House in the final days of the session. Unfortunately, the Senate was unable to take up consideration of the bill in time to secure its final passage. It is gratifying, just the same, to see how much of that bill was ultimately adopted by the Senate and the Vice President's National Performance Review. H.R. 2238, the bill before us today, builds upon the committee's earlier efforts and is an unprecedented reform proposal.

Members of the Government Operations Committee and the staff have invested countless hours in the crafting of this bill. They have worked in a truly bipartisan spirit of cooperation. Our esteemed colleague from Pennsylvania and the ranking minority member on the committee, Representative BILL CLINGER, deserves special praise for all that he has done to make this effort succeed. His counsel has been invaluable and his dedication is very much appreciated.

We have worked closely with Chairman DELLUMS, and other members of the Armed Services Committee, to reform those portions of the procurement system that affect the Defense Establishment. We have worked with other interested Members of the House, and we have worked closely with our colleagues in the Senate—who earlier this month voted overwhelmingly in favor of S. 1587, the companion bill to H.R. 2238. We have worked closely with the administration which has made procurement reform a centerpiece in its effort to reinvent the way the Government does business. We have held hearings. We have met with representatives from Fortune 500 companies, small businesses, Federal agencies, and others who know first hand the many virtues and pitfalls of the current procurement system.

The result of this investment is apparent. H.R. 2238 enjoys bipartisan support from members of the Government Operations Committee, members of the Armed Services Committee, and many other Members of the House. The bill is supported by businesses throughout the country and it enjoys the full support of the administration.

In fact, President Clinton and Vice President GORE deserve an enormous amount of credit for the leadership they have shown. They have not only made Federal procurement reform a national priority through the National Performance Review, they have also taken action where they can. For example, President Clinton has directed executive agencies to transform the current procurement system from one that is based on mountains of paper, to one that is automated, efficient, and more accessible to all businesses. H.R. 2238 provides incentives for agencies to complete this promising initiative without delay.

The bill contains many provisions that are equally important and promising. For example, the bill would:

Encourage agencies to buy commercial goods and services—a measure that will eliminate redtape and lower costs;

Establish a simplified acquisition threshold at $100,000—streamlining thousands of contract actions; and

Authorize test programs that lay the groundwork for future innovative reforms to the procurement system.

□ 1300

We are delighted that this measure is now at the stage where it is ready to come before the full House for its final ratification.

Mr. Speaker, I reserve the balance of my time.

Mr. CLINGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in very strong support of the Federal Acquisition Improvement Act of 1994. It is also true that I had hoped we might have been able to delay consideration of this measure perhaps until tomorrow because of a matter that is still under discussion between the majority and the minority of the Committee on Armed Services. However, I am advised that there could be no guarantee that we would be able to consider this bill on suspension tomorrow. However, I am also advised that the matter is still in dispute or discussion between the majority and minority on the Armed Services Committee and would not be such that would cause Mr. SPENCE, the ranking member on the Armed Services Committee to vote against this legislation. I also regret he is not able to be here because of a scheduling conflict, to be here to participate in this debate, which is another reason I would have liked to have had this matter postponed until a time that Mr. SPENCE might be able to be here.

But I do understand the majority leadership wants to proceed with this matter, and I think indeed this is a matter that does need to be proceeded with. It is, frankly, overdue. I am referring to the glaring problems that we have had with the Federal procurement legislation. The legislation makes very significant improvements in a very complicated area, Federal procurement. Reforming the Federal procurement system is an extremely difficult and complex task because the procurement process is itself arcanely difficult and complex.

Nevertheless, this is an issue of prime importance to both American business and the American taxpayer.

The bill which we are considering today has been developed over a long period of time, as Chairman CONYERS indicated, over a long period of time and represents the coordinated efforts of the majority and minority of both the Government Operations Committee and the Armed Services Committee. It represents a balance of interests, I think, of both committees, and it does so in a bipartisan way. That was perhaps something we do not often see in this body to have that cooperation between two committees and between the majorities and minorities on both committees.

The bill builds upon H.R. 3161, which was approved by the House during the 102d Congress but was never passed by the other side of the Capitol. I commend and congratulate Chairman CONYERS for his relentless commitment to the matter of procurement reform and his dedication to pursuing this to its enactment, which I am confident is going to happen today. He has been the driving, leading force in this whole effort for many years.

The Federal Government spends approximately $200 billion a year on the procurement of goods and services. Despite this huge expenditure of money, the current procurement system remains complicated, confusing, and mind-boggling, frankly. It is burdened with an outmoded and fragmented statutory foundation and is encumbered by regulatory and procedural proliferation beyond comprehension. These burdens limit the Government's buying power, limit the pool of potential suppliers, including small businesses, by deterring thousands of firms from doing business with the Government, and jeopardize the financial health of those firms who are willing, in fact, to contract with the United States. And that number, frankly, is diminishing all the time because of the great complexity of the system. The time is now to overhaul the current system and greatly simplify and streamline it, goals which I think we have met in this legislation. The bill reflects many of the recommendations of the section 800 panel, a congressionally mandated panel of industry and Government officials charged with developing recommendations to streamline and simplify the procurement system. Consistent with the administration's National Performance Review, this bill contains many reforms advocated for years to enable the Government to act more like a business in the way that it buys its goods and services.

Mr. Speaker, as a cornerstone to this legislation is an emphasis on commercial product acquisition. The idea that the Government could benefit from broader use of commercial products has been discussed for many years. Numerous commissions, panels, and studies dating back more than 20 years, frankly, have recommended that Federal policies be revised to improve agencies' ability to buy off-the-shelf products. Cost savings, shortened delivery time, and improved access to privately developed advanced technology have been cited as the expected benefits from expanded procurement of commercial items. H.R. 2238 makes several amendments to Federal procurement law to encourage the purchase of commercial items by the Federal Government. This is perhaps the keystone of this legislation. It truly is the key to everything else that we accomplish. If we did nothing more than this, we would have made an enormous stride in reforming our procurement system.

□ 1310

But the bill also addresses certain problems faced every day by Government buyers and companies who sell goods and services to these buyers. Among other things, the bill first reduces paperwork burdens on the industry, something that we always talk about but rarely do. Second, it simplifies the acquisition process for contracts under $100,000, which are now subject to a thicket of antiquated and some redundant overlapping requirements in regulations. Third, it improves communication between Government buyers and industry sellers. There has been a whole range of suspicion that has grown up between those trying to sell to the Government and those doing the buying because of the lack of an ability to communicate. It strengthens the bid protest remedy process for contractors who believe they have been unfairly eliminated from contracts. And finally it provides pilot program test authority for certain agencies for alternative and innovative procurement procedures, and among those agencies would be the Federal Aviation Administration about which there has been much controversy about the procurement procedures followed in that agency.

Mr. Speaker, when we talk about Federal procurement reform as a subject, people's eyes tend to glaze over. It is a very arcane subject. It is not something that grabs people's attention. However when we talk about the $100 hammer, the $800 coffee urn, the $300 toilet seats, et cetera, that tends to focus the American taxpayer's attention very dramatically, and that is really what this bill is all about. We are trying to eliminate those stories that we have seen too often in the press and television talking about the waste and so forth.

Mr. Speaker, procurement reform is long overdue. The American taxpayers deserve and should demand a procurement system that does not add costs without adding value, does not impede the Government's access to state of the art technology and does not force businesses to alter standard procedures and raise prices when dealing with the Government.

Mr. Speaker, will passage of this bill eliminate all waste, fraud and abuse in Government procurement? Of course not. This is a human institution, and we are never going to eliminate waste, fraud and abuse entirely. But will it dramatically reduce the amount of waste, fraud and abuse that we see in the present system and result in enormous savings, enormous savings into the billions of dollars over the years that lie ahead? I think the answer to that is a resounding yes. Is it a perfect bill? No; it is not a perfect bill. Certainly, I think, all of us would have problems with some part or another of it. I would have preferred to have seen a provision dealing with recoupment, which is making us less competitive in terms of world markets for foreign military sales. I think there are some items the chairman alluded to with regard to small business access to Federal procurement that we would have liked to have seen included and, perhaps, can be addressed later. So, it is not a perfect bill. It is not one that we totally agree on.

Mr. Speaker, the point is that we all do agree on the essential building blocks which this bill contains, and I would just extend my congratulations again to the gentleman from Michigan [Mr. CONYERS] and to the gentleman from California [Mr. DELLUMS] who has been very cooperative throughout this entire process and has worked very hard to bring us to this day. Then there is the gentleman from South Carolina [Mr. SPENCE] who has been my counterpart on the Committee on Armed Services who has also played a very constructive role in this effort, and I think that we owe enormous thanks to the staff members, Julian Epstein, and Matt Fletcher, and particularly, particularly to Chuck Wheeler and Ellen Brown who have literally devoted I do not know how many hours; I mean its been a lifetime, I am sure that they would feel it has been; in bringing us to this conclusion and, hopefully, closure on this matter today.

So, Mr. Speaker, I support this legislation because it goes a long way toward making the Federal procurement system work better, work smarter and just plain work, and I urge Members to vote to adopt H.R. 2238, and I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I am delighted to yield 8 minutes to the chairman of the Committee on Armed Services, the gentleman from California [Mr. DELLUMS], and might I say that he and his stall have been indefatigable in their efforts to close all of the loops that have occurred in a reform acquisition bill that deals with agency-specific procurement activities and Governmentwide procurement activities; they make a very confusing mix, and I am honored to hear from my colleagues at this point.

Mr. DELLUMS. Mr. Speaker, I thank the gentleman from Michigan [Mr. CONYERS], and might I first begin by thanking the distinguished chairman of the Committee on Government Operations and the distinguished gentleman from Pennsylvania [Mr. CLINGER], the ranking minority member, for their generous and very kind remarks.

Mr. Speaker, I rise in support of H.R. 2238, the Federal Acquisition Improvement Act of 1994. This bill, which streamlines and reforms the costly Federal procurement system, is the result of an extensive bipartisan, and I underscore "bipartisan," joint committee effort between the Committee on Armed Services and the Committee on Government Operations. My partners in this effort, the gentleman from Michigan [Mr. CONYERS], the gentleman from South Carolina [Mr. SPENCE], the gentleman from Pennsylvania [Mr. CLINGER], the ranking minority members of the Committee on Armed Services and the Committee on Government Operations respectively, deserve tremendous credit, Mr. Speaker, for the work they have put into this bill and certainly for their perseverance in keeping us all on track.

Mr. Speaker, in drafting H.R. 2238, we had numerous discussions with the Department of Defense and other administration officials, as well as with representatives of large and small firms. I think it is fair to say that our efforts have met with support from these groups.

At any time, reducing the cost of doing business is a good thing. Indeed, we have talked about it for decades—dating all the way back to the Hoover Commission up to the Defense Management Review and the recent Section 800 Report. Now, declining budgets have made this a fiscal imperative.

Acquisition reform is particularly critical to the defense sector, especially since reductions in defense spending are causing the contraction of the defense industrial base. The cost of maintaining a dedicated defense industrial sector is an increasingly difficult challenge.

I do not believe this problem can be solved without meaningful acquisition reform. For the current defense industrial base, reform could be the right medicine for helping the defense industry streamline, diversify—and stay in business. And at the same time, other companies, long wary of the complexities of Government contracting, will be afforded new opportunities to participate in the Government market.

Acquisition reform will also help the Defense Department afford the technologies and manpower to carry it into the 21st century.

Indeed, as Defense Secretary Perry has testified, and I quote:

> Acquisition reform shares a common border with most of our national goals, saving the taxpayer money, reinventing government, strengthening our military and improving our economy.

Unfortunately, the Federal acquisition system we have inherited will not permit this. The complex and cumbersome maze of laws and regulations make it increasingly difficult for Federal personnel to exercise prudent discretion and good business judgment. Furthermore, because these burdens impact small business they limit the Government's buying power, limit the pool of potential suppliers by deterring thousands of firms from doing business with the Government, and jeopardize the financial health of those who are willing to contract with the United States.

This bill puts more responsibility into the system to do the right thing by the taxpayer. Contracting officials currently are straitjacketed by rules and regulations that have given us such things as $600 hammers. The existing rules and regulations have worked against using common sense or good old Yankee ingenuity to solve the problem and get the best item for the taxpayer.

H.R. 2238 removes many of the legal barriers that have kept many companies out of the Government sector. This should lower the cost of a significant portion of the Pentagon's procurements while retaining current and necessary highly regulated acquisition procedures for those defense-unique items that will continue to require careful Government management and oversight.

H.R. 2238 represents the most comprehensive Governmentwide acquisition reform in over a decade. The principal objective behind this legislation is to strike a more equitable balance between the multitude of Government-unique policy requirements imposed on Federal procurement and the need to lower the Government's cost of doing business, and save the taxpayer money. H.R. 2238 will accomplish this objective by increasing our reliance on the use of commercial practices, goods and services; by creating a new category of high-volume, low-value Federal procurements that can be accomplished with streamlined rules and regulations; and by improving access to contracting opportunities for small business and minority-owned small businesses.

Facilitating the procurement of commercial products and services is perhaps the single most important issue to be addressed in acquisition reform. It was, therefore, a major focus of our efforts.

Commercial companies have found it difficult to serve a Government customer because of the complex web of Government procurement requirements—requirements for cost data and other financial information, Government unique terms and conditions, Government audit rights, and unlimited Government rights to technical and proprietary data. Such practices are uncommon, or nonexistent, in the commercial marketplace.

Congressional direction to acquire commercial products dates back to the enactment of the Competition in Contracting Act of 1984. The Congress, through various Defense authorization acts, has also provided authority specifically to the Department of Defense to increase the use of commercial products or nondevelopmental items where such items would meet the Department's needs. This authority, however, has never been widely used.

The Defense Department must move away from its reliance on buying defense-unique items, using defense-unique specification, and using defense-unique contract terms and conditions. It must move toward operating like a world class commercial customer where possible.

Title VII or H.R. 2238 is aimed at facilitating greater use of commercial items and services. This section is based on the premise that the forces of the commercial marketplace may be relied upon as much by the Federal Government as they are by all of us when we spend our money—to ensure that product quality meets our requirements and that the prices and terms are fair and reasonable.

The preference for commercial products and services should help smaller companies as well. Small firms in particular are hurt by the problems that flow from the Government's use of detailed design specifications, many of which are substantially outdated or call for components no longer available in the marketplace.

Title IV of H.R. 2238 would raise the threshold from $25,000 to $100,000 for agency use of simplified contracting procedures. H.R. 2238 would link this new simplified acquisition threshold to having an electronic notice capability in place, through a Federal acquisition computer network capability. Our intent is to push the Federal Government toward embracing the use of electronic commerce as a primary means of simplifying the procurement process and ensuring greater contracting opportunities for small businesses.

I must stress that I firmly believe these electronic commerce provisions in H.R. 2238 complement the ongoing efforts by the administration, which resulted from the President's October Executive Order to transform the acquisition process from a paper-based acquisition system to an electronic one.

Further, I am pleased that the administration has recognized the need to extend the Defense Department's Minority Contracting Goal Program—commonly called the section 1207 program—to all Government agencies; this is an idea whose time is long overdue. However, because of objections from the Small Business Committee we could not include this very necessary provision in the bill.

This is unfortunate because civilian agencies are struggling to meet their minority business contracting goals. The Small Business Act establishes a 5-percent Governmentwide contracting goal for small disadvantaged businesses. And separate, higher goals have been established by Congress for several Government agencies. But civilian agencies have pointed out that reaching these goals is difficult because they do not have any of the tools provided to the Department of Defense under the section 1207 program—the ability to set aside contracts or pay a price differential. I believe that if the civilian agencies had these same tools they could improve their contracting with small disadvantaged businesses.

In closing, I lay down a challenge to the administration. Congress is stepping up to the plate and doing its part to reform the acquisition system. But much more can be done—and most of that can be done by the administration. I challenge the administration, and particularly the Department of Defense, to tackle its own rules and regulations, and to push for cultural acceptance among its workers. Without this, what we do here today will be for nought.

Mr. Speaker, H.R. 2238 is a significant contribution to acquisition reform. I urge my colleagues to support H.R. 2238.

□ 1320

Mr. CLINGER. Mr. Speaker, I have no requests for time at the moment, and I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the distinguished chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, I especially want to commend the chairman of the Committee on Government Operations, Representative JOHN CONYERS, who has been tenacious in seeking reform in Government contracting. H.R. 2238 is a monument to his efforts. It has been a pleasure to work with him and the ranking Republican, Mr. CLINGER. And I also want to commend my friend, the chairman of the Armed Services Committee, Mr. DELLUMS of California, for his true leadership.

Section 2152 of H.R. 2238 will prevent Government contractors from billing the taxpayer for entertainment, gifts, and recreation for employee morale.

Our Subcommittee on Oversight and Investigations has compiled a long list of contractor abuses. One firm billed more than $2,100 for a hospitality suite and golf tournament at the infamous Tailhook Convention. Another billed more than $5,500 for retirement gifts for watches, pearls, and grandfather clocks. A third billed more than $19,600 for entertainment for photographers, a dance band, and even a reindeer suit for a Christmas party.

I believe contractors should provide for employee morale at their expense, not at the expense of the taxpayer.

I urge support for H.R. 2238.

Mr. DINGELL. Mr. Speaker, let me provide more details.

ENTERTAINMENT, GIFTS, AND RECREATION

For years, hearings of the Subcommittee on Oversight and Investigations have documented outrageous charges to the Federal Government for contractor entertainment, gifts, and recreation. Our earliest work on these issues started in 1985 with a hearing on General Dynamics Corp., then the No. 1 defense contractor. We learned that the senior vice president of General Dynamics had gone on a retreat with other company executives from around the country to an island off the coast of South Carolina to play golf. They not only stayed in luxury, but they provided for the boarding of the executive's dog, all at taxpayer's expense.

Since that time, we have held scores of additional hearings and documented abuses at other Federal agencies, including the Department of Energy [DOE] and the Environmental Protection Agency [EPA]. A 1992 hearing on an OMB review of 12 major civilian agencies further confirmed a pattern of abuse.

Let me cite just a few of the more recent abuses we have learned about:

In March 1992, the General Accounting Office [GAO] questioned $167,000 for contractor employee parties and picnics claimed in 1990 by CH2M Hill, one the EPA's largest contractors. The amounts claimed included $19,600 for entertainment, $300 for party invitations, $850 for photographers, $100 for a dance instructor, $3,200 for a dance band, and even a reindeer suit for a Christmas party. The GAO review also disclosed extensive charges for employee recreation and gifts, including among other things, softball, baseball, basketball, soccer, bowling, and volleyball teams and equipment, and fees for ski racing and golf.

Another review completed by GAO in 1993 of EPA contractors revealed billings by Arthur D. Little, Inc., of $5,550 for retirement gifts, including among other things, pearls costing $467, two watches costing $1,466, and four grandfather clocks costing $2,815 including delivery and installation. Another EPA contractor had charged $4,379 for sports-related expenses, including season tickets to baseball, football, and basketball teams and payments for golf tournaments.

An October 13, 1993, hearing on overhead abuses by McDonnell Douglas disclosed that in 1 year alone the company had billed the Government $115,000 for employee recreation clubs, including the Beer Can Collectors Club, the Rockhound Club, and the Saddle Club. The GAO's hearing testimony also indicated that the company had charged $14,500 for entertainment, including $2,184 for a hospitality suite at the Tailhook Convention and charges for a golf tournament at the Tailhook Convention.

I believe that the legislation before us should be implemented to halt these types of abuses. Contractors have relied repeatedly on the employee morale loophole in the current procurement regulations to justify such outlandish charges for entertainment, gifts, and recreation by employees and their families. I have no objection to contractors providing for the morale of their employees at no cost to the taxpayer. It is simply time for the taxpayer to stop footing the bill.

Most taxpayers would be astonished to learn that tax dollars that were earmarked for environmental protection were financing a swimming pool or retirement gifts for EPA contractor employees or that tax dollars for the defense of our Nation were being funneled to pay for the Beer Can Collectors Club at McDonnell Douglas. It is time for real reform.

The bill provides that such costs are unallowable unless the FAR Council can clearly show that some such costs, in the case of gifts and recreation, but not entertainment, should be allowable. The bill establishes the presumption against allowability. The Subcommittee on Oversight and Investigations will be overseeing how and if the Council uses this limited exception.

PENALTIES FOR IMPROPERLY CLAIMED COSTS UNDER CIVILIAN AGENCY CONTRACTS

We must not only tighten the regulations governing unallowable costs but we also must increase the incentives for complying with these regulations. This legislation does so by extending to civilian agencies important new authority which should help deter the charging of unallowable costs. The bill would allow civilian agencies for the first time to assess penalties against contractors for including unallowable costs in billings submitted to the Government. To date, this authority only has been available to the Department of Defense [DOD].

Hearings by our Subcommittee on Oversight and Investigations have documented a catch-me-if-you-can attitude by Federal agency contractors in their billing of various unallowable costs, such as alcoholic beverages and lobbying activities. Knowing that auditors cannot review every item, some contractors rename unallowables and scatter them throughout their accounting system taking the chance that they will not be discovered. When these costs slip through, the taxpayer foots the bill. This situation must be changed, and this legislation takes an important step in doing so. However, the legislation must be vigorously enforced to achieve its full potential.

This legislative proposal was a direct outcome of our subcommittee's work. In response to subcommittee hearings in 1992 highlighting contract management problems at the EPA, the Office of Management and Budget [OMB] launched an interagency SWAT team to examine and assess the contract administration and audit practices of 12 civilian agencies. The penalty authority proposal was one of the major recommendations of the SWAT team effort, and this proposal was presented to the subcommittee in testimony by OMB officials in December 1992.

Mr. Speaker, these provisions are similar to those adopted by the Committee on Government Operations in connection with H.R. 3425, the Department of Environmental Protection Act legislation (see H. Rept. 103-355, November 10, 1993).

I strongly urge support for this bill.

Mr. CONYERS. Mr. Speaker, I am delighted to yield 2 minutes to the distinguished gentleman from Oklahoma [Mr. SYNAR], a member of the Committee on Government Operations.

Mr. SYNAR. Mr. Speaker, I rise in support H.R. 2238, the Federal Acquisition and Improvement Act of 1994. Among other things, this legislation will reform the way the Federal Government currently reimburses its contractors for cost related to so-called employee morale and welfare. Investigations by my Subcommittee on Environment, Energy and Natural Resources in April 1992, as well as those of the House Committee on Energy and Commerce, demonstrated that Government contractors have routinely engaged in high questionable billing practices which have resulted in millions of Federal tax dollars going toward things like lavish Christmas parties, limousine travel, and expensive retirement gifts for contractors employees and their spouses, rather than toward cleanup of our Nation's Superfund sites. What is worse is that many of these expenses are currently deemed allowable under Federal procurement guidelines as indirect contractor costs for entertainment, gifts and recreation to maintain employee morale.

Let me highlight just a few of the things we found that Federal tax dollars helped pay for at three EPA Superfund contractors—Bechtel, ICF Inc., and Roy F. Weston: Rolex watches and Tiffany clocks as retirement gifts for Bechtel contractor employees and their spouses; Masters Golf Tournament tickets and private club dues for Bechtel executives; a $115,000 corporate Christmas party for ICF, Inc.; tickets to Baltimore Orioles games and to Disneyland for ICF employees; $10,000 for settlement of an EEOC claim against Roy F. Weston, Inc.; $650 for a fishing boat rental and $4,600 for ruby charms and sapphire tie tacs for Roy F. Weston employees.

Mr. Speaker, these are not unique expenses charged to the Government by just these three EPA contractors. Auditors from the U.S. General Accounting Office [GAO] and the Defense Contract Audit Agency [DCAA] identified even more incredible contractor expenditures that were reimbursed in part by taxpayer dollars. For example, GAO found that CH2M Hill asked the Government to help pay the costs of contractor employee parties, including entertainment—and in one instance a reindeer suit. DCAA found that a contractor, Viar and Co., included the cost of employees renting the company president's beach house as an indirect expense to be reimbursed by the taxpayers. And the Energy and Commerce Committee has found numerous examples of similar contractor abuses in other Federal agencies.

Mr. Speaker, contractors argue that reimbursement of expenses for contractor employee morale and welfare is an appropriate cost of doing business that is passed on to the customer—the Federal taxpayer. I strongly disagree. We are not talking about minor expenses for plaques or certificates of appreciation, or even for a staff volleyball league. Here we are talking about big-league bucks. If contractors want to give their employees Rolex watches as retirement gifts, fine. But do not try to pass part of that cost off to the taxpayers. I think it is clear from the examples I have given today that Government contractors have abused the provisions in the current law, and we have to put a stop to it.

With this legislation, the House is sending a strong message to contractors that we will not tolerate millions of dollars of taxpayer money being spent on entertainment, gifts, and recreation for contractor employees. The bill eliminates altogether the loophole for contractor entertainment expenses, and prohibits reimbursement of contractor costs for gifts and recreation unless the Federal Acquisition Regulatory Council promulgates regulations governing such expenses within 6 months. Frankly, I think the evidence from our hearings show that all expenses for gifts and recreation should be completely unallowable. The American taxpayers should not pay for one penny of a contractor employee's Rolex watch or sapphire tie tac. I hope the FAR council remembers these examples and prohibits expenses for gifts and recreation in the regulations it is expected to issue.

Finally, I want to note that the legislation also strengthens the current law by extending to non-Defense agencies new authority to assess penalties against contractors that include unallowable costs in their billings to the Government. The Defense Department has had this authority for some time, and it has worked as a strong incentive for companies to establish aggressive internal screening procedures to catch any errors. This provision is especially important because civilian agencies increasingly rely on contractor employee to accomplish their mission. Of course, strong enforcement and oversight efforts by the agencies and Congress must continue to ensure that taxpayers are not inadvertently paying for expressly unallowable costs.

Mr. CLINGER. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Mr. Speaker, I wish to thank the ranking members and chairmen of both the Committee on Government Operations and the Committee on Armed Services for their efforts in developing Federal procurement reform legislation. It is exciting to get away from the bureaucracy as usual and start looking at how we can do a better job with the tremendous amount of taxpayer dollars we use and the way we purchase goods.

The Federal Government spends $200 billion on procurement every year—$800 for every American. With 142,000 Federal employees to implement over 4,500 pages of Federal procurement regulations and agency supplements, the system has long needed an overhaul and this legislation is a step in the right direction.

Mr. Speaker, I rise in support of H.R. 2238, the Federal Acquisition Improvement Act. As cochairman of the Bipartisan Freshman Procurement Task Force with the gentlewoman from New York [Mrs. MALONEY], we and the freshmen class have worked hard in this area to expand the reinvention of the way the Government buys goods and services. We heard many concerns from suppliers of goods and services about the tremendous amount of bureaucracy they have to endure in order to offer a bid. This legislation will begin to allow more goods to be purchased off-the-shelf without exceptional requirements. It will move the United States in the right direction.

This bill will encourage commercial product acquisition, enhance competition and reduce paperwork, and simplify thousands of small purchases. Federal managers will be able to make purchases of up to $100,000 without having to review tedious regulations.

While this bill is not perfect legislation, I think it moves this Government and this Congress in the direction of letting the American people know that we are making a decision to start reforming Government and making it more efficient.

So, Mr. Speaker, I support the bill, and urge my colleagues, along with the members of the freshman class, Republicans and Democrats, to support this bill.

□ 1330

Mr. CONYERS. Mr. Speaker, I am pleased to yield 1 minute to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, I want to thank the gentleman from Michigan, Chairman CONYERS, and the gentleman from Pennsylvania [Mr. CLINGER] for their excellent work on this bill, the Federal Acquisition Improvement Act, and the gentleman from California [Mr. DELLUMS] for his vital contribution.

This act contains many reforms and innovations that clear the decks of excess bureaucratic baggage that makes the Government pay more for what it buys. I know Chairman CONYERS is also interested in the other half of this problem—the half that deals with services.

This act deals with goods. We buy more services than goods. The next step must be to reform the purchase of services. I have three bills that need the same attention we are now giving this bill.

The GAO has found that agencies are actually paying more to contract out services in some instances than to do the work in-house. I have a bill that would require agencies to do a cost comparison before contracting out services.

I have a bill that would have the OMB determine just how many taxpayer-paid contracting employees we have. There is a shadow government out there that we know little about.

Finally, I have a bill prohibiting agencies from replacing bought-out Federal employees with contract employees.

I support this bill, H.R. 2238, and look forward to moving on to the services part of this problem.

Mr. BILBRAY. Mr. Chairman, I rise in strong support of H.R. 2238, the Federal Acquisition Improvement Act.

First, I would like to commend the work of Chairman DELLUMS and Chairman CONYERS. Despite the responsibilities that their two committees have had over the last year and a half, they have been able to give this legislation the priority and consideration it deserves.

Second, I want to commend them for the sensitivity they have shown to the role of the small business community and the effect that this legislation would have on them.

As chairman of the Subcommittee on Procurement, Taxation, and Tourism, of the Small Business Committee, my staff and myself have also spent the better part of the last year and half analyzing and discussing the impact this legislation would have on the small business community. Through countless negotiation sessions, and three hearings which my subcommittee has held, it has become clear to me that the product that we see before us today will not only simplify our cumbersome and inefficient procurement system but more importantly it will provide new and more dynamic business opportunities for small businesses.

There have been a number of misconceptions surrounding the impact this bill will have on small businesses. Let me state, once and for all, this bill is good for small business.

This legislation will ensure that small business gets access to contract opportunities—faster and more efficiently through the creation of an electronic commerce network. Second, it will increase the number of contracts available to small business by raising the small business reservation to $100,000. In addition, it will spread the benefits of programs such as the 1207, small business disadvantage program throughout the Government.

Finally, it will allow the Government to enter the commercial marketplace, buy goods directly off the shelf, thereby removing the cumbersome requirements that have kept small businesses from participating in the Government procurement system.

I want to take a moment to thank the staffs of both Armed Services and Government Operations Committees, Cathy Garman, Robert Rangel, Chuck Wheeler, and Ellen Brown for cooperating so fully and openly with my subcommittee staff.

Again, I urge my colleagues to support this legislation and look forward to seeing this bill signed into law this year.

Mr. SPENCE. Mr. Speaker, although this bill is not everything that it could and should be, it nevertheless is an initial step in the right direction of streamlining the laborious Federal procurement system. This bill will help to reduce the costs associated with doing business with the Government while maintaining standards of oversight necessary to protect the taxpayer's interests.

Putting this bill together has been an arduous process that has often pitted committee versus committee and Republicans versus Democrats. But, despite the many worthwhile proposals contained in this bill, I am deeply disappointed that it has failed to address the important issue of R&D recoupment for foreign military sales, and I am disturbed by the process associated with the handling of this issue since the Armed Services Committee marked-up its acquisition reform bill back in April.

Earlier this year, the administration proposed that the decades-old recoupment provision be stricken from the law. The draft Dellums-Spence Federal Acquisition Improvement Act of 1994, the basis for the House Armed Services Committee markup, struck the recoupment provision from the law. And, H.R. 4328, Mr. CONYERS' and Mr. CLINGER's acquisition reform bill likewise struck the recoupment provision from the law. Yet, the provision is not included in the bill before the House this afternoon.

Addressing the recoupment issue is important to the Department of Defense and to the U.S. defense industrial base. Striking the existing recoupment statute would do nothing more than slightly increase the competitiveness of, and level the playing field for, the U.S. defense industry. We ought to be particularly sensitive to the defense industrial base since it continues to erode after 10 consecutive years of defense cuts and the prospect of even more severe cutbacks under President Clinton.

According to the Bureau of Labor Statistics, the Clinton cuts will result in an average monthly loss in private sector defense-related jobs of 20,000 for the foreseeable future. U.S. aerospace companies have not employed so few workers since Jimmy Carter was President.

Contrary to the arguments one may hear in opposition to striking the recoupment law: It would in no way undermine any arms control efforts or agreements; it would in no way encourage arms sales or the proliferation of conventional weapons; and it would in no way alter the existing and rigorous congressional oversight policies governing foreign military sales.

Mr. Speaker, over the past 2 weeks I have been faced with the unenviable choice of ignoring an important issue and allowing this bill to proceed on the suspension calendar, or openly opposing the legislation and possibly derailing it under the two-thirds rule.

While recoupment is an issue we should not hide from due to its importance to a declining defense industrial base, this bill, as a whole, is also important to industry. Mr. Speaker, under any circumstances my enthusiasm for this bill is not what it once was. Nonetheless, I do not believe that throwing this bill off-track is in the interest of industry and therefore, I do not plan to oppose it.

Mr. Speaker, in closing I want to extend my thanks to Mr. CONYERS and Mr. CLINGER and to their staff for their efforts on this issue. We would not be here without their cooperation.

Closer to home, I also want to thank Chairman DELLUMS and, in particular, Robert Rangel and Cathy Garman of the HASC staff for their months of hard work. Their dedication and effort on this bill has truly been above and beyond the call of duty.

Mr. WELDON. Mr. Speaker, I rise in support of H.R. 2238, the Federal Acquisition Improvement Act. This far-reaching reform of Federal procurement laws is long overdue and instrumental to cost-cutting efforts.

As we work to reduce Federal spending, neither the Government nor industry can afford the nonvalue added requirements which burden the Federal procurement system. These rules, regulations, and requirements unnecessarily add 20 to 50 percent to the cost of Federal purchases. Given the $200 billion that the Government spends annually, the elimination of these unnecessary costs is significant.

Not only do we lose money by perpetuating the current system, but we limit Federal buying power and prevent many firms from doing business with the Government. Too often, companies which do sell commercially cannot afford to do business with the Government given all the unique paperwork and reporting requirements, and those who do a great deal of business with the Government miss commercial opportunities due to the many Government accounting and auditing requirements placed on Government contractors doing non-Government work.

As a member of the Armed Services Committee, I have taken a special interest in acquisition reform. The defense budget has been cut each year since 1985, and our ability to meet our security needs is becoming increasingly difficult. If we want the military to do more with less, we must give them more flexibility in purchasing. It is time that we preserved more funds for systems acquisition, training, and personnel and spend less on the bureaucracy required to administer the complex web of procurement laws.

We have set increasing number of laws to prevent waste, fraud, and abuse in our systems and to allegedly ensure the delivery of quality products. While these efforts were well-intended, they have not prevented all waste nor have they assured quality in every case. Added on incrementally over the years, they have resulted in a myriad of regulations and requirements, often working at cross purposes from one another. It is time to streamline the system, and set up a more orderly process by which to monitor Government programs and contractors.

Last year, I offered amendments to the Defense authorization which form the basis for the measure before us today. My amendments would have required the Department of Defense to buy off-the-shelf commercial and services whenever possible, and increased the simplified acquisition threshold to $100,000, allowing the Department to waive many burdensome requirements in law for purchases in law under that amount.

In deference to the work progressing through many committees on Government-wide acquisition reform, the Armed Services Committee deferred on my amendments last year. The product before us today is the compilation of those committee efforts. I urge my colleagues to support this critical, cost-saving legislation and am hopeful that House and Senate leaders will ensure that it becomes law this year.

Mrs. MALONEY. Mr. Speaker, the Federal Government spends over $200 billion on procurement every year—that's $800 for every American spent on goods and services. There are few areas of the Federal Government that are more important for controlling spending and better managing our limited resources.

As a cochair of the Bipartisan Freshman Task Force on Procurement Reform, I am enthusiastic about H.R. 2238, the Federal Acquisition Improvement Act of 1994, and I strongly urge its passage.

This legislation will simplify and streamline the Federal procurement process while ensuring its fairness, accountability, and integrity. It will reduce paperwork, especially for contracts under $100,000, and will help the Federal Government to buy commercial products at the fairest prices.

It also incorporates several of the Vice President's National Performance Review recommendations, such as providing for multiyear contracts, promoting excellence in vendor performance, and allowing State and local governments to use Federal supply services.

This legislation will help the Government save significant sums of money, and I strongly urge passage of this major procurement reform legislation.

Mrs. LLOYD. Mr. Speaker, today, the House of Representatives can be proud of the work it has done on H.R. 2238, the Federal Acquisition Improvement Act of 1994. This bipartisan effort gives a much needed common sense approach to the way our Government procures its goods and services. Benefactors of these new changes are the Federal agencies, private industry, and ultimately the American people.

Of particular significance is the effect the act of 1994 will have on the Department of Defense and our armed services. During this time of defense cutbacks and a diminishing defense industrial base, H.R. 2238 provides the armed services a more reasonable, more expeditious, and less costly process for acquiring equipment and supplies to carry out their mission. We have revised the burdensome restrictions that prevented DOD from being the smart consumer we expect ourselves and our fellow citizens to be. Now DOD can shop more responsibly with taxpayer money.

The American people expect their Congress to make laws that are sensible, fair, and cost-effective. I believe the House of Representatives has met those standards by passing the Federal Acquisition improvement Act of 1994.

Mr. CLINGER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CONYERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CONYERS] that the House suspend the rules and pass the bill, H.R. 2238, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid upon the table.

The title of the bill was amended so as to read: "A bill to revise and streamline the acquisition laws of the Federal Government, and for other purposes."

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2238, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CONYERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1587) to revise and streamline the acquisition laws of the Federal Government, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1587

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Acquisition Streamlining Act of 1994".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—CONTRACT FORMATION

Subtitle A—Competition Statutes

PART I—ARMED SERVICES ACQUISITIONS

SUBPART A—COMPETITION REQUIREMENTS

Sec. 1001. References to Federal Acquisition Regulation.
Sec. 1002. Establishment or maintenance of alternative sources of supply.
Sec. 1003. Clarification of approval authority for use of procedures other than full and open competition.
Sec. 1004. Task order contracts for advisory and assistance services.
Sec. 1005. Acquisition of expert services.

SUBPART B—PLANNING, SOLICITATION, EVALUATION, AND AWARD

Sec. 1011. Source selection factors.
Sec. 1012. Solicitation provision regarding evaluation of purchase options.
Sec. 1013. Prompt notice of award.
Sec. 1014. Post-award debriefings.
Sec. 1015. Protest file.
Sec. 1016. Award of costs and fees in agency settlement of protests.
Sec. 1017. Two-phase selection procedures.

SUBPART C—KINDS OF CONTRACTS

Sec. 1021. Secretarial determination regarding use of cost type or incentive contract.
Sec. 1022. Technical and conforming amendments.

SUBPART D—MISCELLANEOUS PROVISIONS FOR THE ENCOURAGEMENT OF COMPETITION

Sec. 1031. Repeal of requirement for annual report by advocates for competition.

PART II—CIVILIAN AGENCY ACQUISITIONS

SUBPART A—COMPETITION REQUIREMENTS

Sec. 1051. References to Federal Acquisition Regulation.
Sec. 1052. Establishment or maintenance of alternative sources of supply.
Sec. 1053. Clarification of approval authority for use of procedures other than full and open competition.
Sec. 1054. Task order contracts for advisory and assistance services.
Sec. 1055. Acquisition of expert services.
Sec. 1056. Continued occupancy of leased space.

SUBPART B—PLANNING, SOLICITATION, EVALUATION, AND AWARD

Sec. 1061. Solicitation, evaluation, and award.
Sec. 1062. Solicitation provision regarding evaluation of purchase options.
Sec. 1063. Prompt notice of award.
Sec. 1064. Post-award debriefings.
Sec. 1065. Protest file.
Sec. 1066. Award of costs and fees in agency settlement of protests.
Sec. 1067. Two-phase selection procedures.

SUBPART C—KINDS OF CONTRACTS

Sec. 1071. Agency head determination regarding use of cost type or incentive contract.
Sec. 1072. Multiyear contracting authority.
Sec. 1073. Severable services contracts crossing fiscal years.
Sec. 1074. Economy Act purchases.

PART III—ACQUISITIONS GENERALLY

Sec. 1091. Policy regarding consideration of contractor past performance.
Sec. 1092. Repeal of requirement for annual report on competition.

Subtitle B—Truth in Negotiations

PART I—ARMED SERVICES ACQUISITIONS

Sec. 1201. Stabilization of dollar threshold of applicability.
Sec. 1202. Exceptions to cost or pricing data requirements.
Sec. 1203. Limitation on authority to require a submission not otherwise required.
Sec. 1204. Additional special rules for commercial items.
Sec. 1205. Right of United States to examine contractor records.
Sec. 1206. Required regulations.
Sec. 1207. Consistency of time references.
Sec. 1208. Exception for transfers between divisions, subsidiaries, and affiliates.
Sec. 1209. Repeal of superseded provision.

PART II—CIVILIAN AGENCY ACQUISITIONS

Sec. 1251. Revision of civilian agency provisions to ensure uniform treatment of cost or pricing data.
Sec. 1252. Repeal of obsolete provision.

Subtitle C—Research and Development

Sec. 1301. Research projects.
Sec. 1302. Elimination of inflexible terminology regarding coordination and communication of defense research activities.

Subtitle D—Procurement Protests

PART I—PROTESTS TO THE COMPTROLLER GENERAL

Sec. 1401. Protest defined.
Sec. 1402. Review of protests and effect on contracts pending decision.
Sec. 1403. Decisions on protests.
Sec. 1404. Regulations.

PART II—PROTESTS IN THE FEDERAL COURTS

Sec. 1421. Nonexclusivity of remedies.
Sec. 1422. Jurisdiction of the United States Court of Federal Claims.

PART III—PROTESTS IN PROCUREMENTS OF AUTOMATIC DATA PROCESSING

Sec. 1431. Revocation of delegations of procurement authority.
Sec. 1432. Authority of the General Services Administration Board of Contract Appeals.
Sec. 1433. Periods for certain actions.
Sec. 1434. Dismissals of protests.
Sec. 1435. Award of costs.
Sec. 1436. Dismissal agreements.
Sec. 1437. Jurisdiction of district courts.
Sec. 1438. Matters to be covered in regulations.
Sec. 1439. Definitions.

Subtitle E—Definitions and Other Matters

PART I—ARMED SERVICES ACQUISITIONS

Sec. 1501. Definitions.
Sec. 1502. Delegation of procurement functions.
Sec. 1503. Determinations and decisions.
Sec. 1504. Undefinitized contractual actions: restrictions.
Sec. 1505. Production special tooling and production special test equipment: contract terms and conditions.
Sec. 1506. Regulations for bids.

PART II—CIVILIAN AGENCY ACQUISITIONS

Sec. 1551. Definitions.
Sec. 1552. Delegation of procurement functions.
Sec. 1553. Determinations and decisions.
Sec. 1554. Cooperative purchasing.

TITLE II—CONTRACT ADMINISTRATION

Subtitle A—Contract Payment

PART I—ARMED SERVICES ACQUISITIONS

Sec. 2001. Contract financing.
Sec. 2002. Contracts: vouchering procedures.

PART II—CIVILIAN AGENCY ACQUISITIONS

Sec. 2051. Contract financing.

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Sec. 6051. Contracting functions performed by Federal personnel.
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Sec. 6101. Armed services procurements.
Sec. 6102. Governmentwide whistleblower protections for contractor employees.

TITLE VII—DEFENSE TRADE AND COOPERATION

Sec. 7001. Purchases of foreign goods.
Sec. 7002. International cooperative agreements.
Sec. 7003. Acquisition, cross-servicing agreements, and standardization.

TITLE VIII—COMMERCIAL ITEMS

Sec. 8001. Definitions.
Sec. 8002. Preference for acquisition of commercial items and nondevelopmental items.
Sec. 8003. Acquisition of commercial items.
Sec. 8004. Class waiver of applicability of certain laws.
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Sec. 8006. Flexible deadlines for submission of offers of commercial items.
Sec. 8007. Advocates for acquisition of commercial and nondevelopmental items.
Sec. 8008. Provisions not affected.
Sec. 8009. Comptroller General review of Federal Government use of market research.

TITLE IX—MISCELLANEOUS PROVISIONS

Sec. 9001. Comptroller General review of the provision of legal advice for inspectors general.
Sec. 9002. Cost savings for official travel.
Sec. 9003. Prompt resolution of audit recommendations.
Sec. 9004. Uniform suspension and debarment.

TITLE X—EFFECTIVE DATES AND IMPLEMENTATION

Sec. 10001. Effective dates.
Sec. 10002. Implementing regulations.
Sec. 10003. Evaluation by the Comptroller General.
Sec. 10004. Data collection through the Federal procurement data system.

TITLE IX—WAIVER OF THE APPLICATION OF THE PREVAILING WAGE-SETTING REQUIREMENTS TO VOLUNTEERS

Sec. 11001. Short title.
Sec. 11002. Purpose.
Sec. 11003. Waiver.
Sec. 11004. Report.

TITLE I—CONTRACT FORMATION

Subtitle A—Competition Statutes

PART I—ARMED SERVICES ACQUISITIONS

Subpart A—Competition Requirements

SEC. 1001. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 2304 of title 10, United States Code, is amended—

(1) in subsection (a)(1)(A), by striking out "modifications" and all that follows through "note)" and inserting in lieu thereof "Federal Acquisition Regulation"; and

(2) in subsection (g)(1), by striking out "regulations modified" and all that follows through "note)" and inserting in lieu thereof "Federal Acquisition Regulation".

SEC. 1002. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

Section 2304(b) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking out "or" at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(C) by adding at the end the following new subparagraphs:

"(D) would ensure the continuous availability of a reliable source of supply of such property or service;

"(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

"(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.";

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(3) by inserting after paragraph (1) the following new paragraph (2):

"(2) The determination required of the agency head in paragraph (1) may not be made for a class of purchases or contracts."; and

(4) in paragraph (4), as redesignated by paragraph (2), by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraphs (1) and (3)".

SEC. 1003. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.

Section 2304(f)(1)(B)(i) of title 10, United States Code, is amended by inserting before the semicolon at the end the following: "or by an official referred to in clause (ii), (iii), or (iv)".

SEC. 1004. TASK ORDER CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES.

(a) AUTHORITY.—

(1) IN GENERAL.—Chapter 137 of title 10, United States Code, is amended by inserting after section 2304 the following new section:

"§2304a. Task order contracts for advisory and assistance services

"(a) AUTHORITY TO AWARD.—(1) Subject to the requirements of this section, the head of an agency may enter into a contract for advisory and assistance services that does not procure or specify a firm quantity of services (other than a minimum or maximum quantity) and that provides for the issuance of task orders during the specified period of the contract.

"(2) Except as provided in subsection (h), the head of an agency may enter into a contract described in paragraph (1) only under the authority of this section.

"(b) LIMITATION ON CONTRACT PERIOD.—The period of a contract referred to in subsection (a), including all periods of extensions of the contract under options, modifications, or otherwise, may not exceed 5 years unless a longer period is specifically authorized in a law that is applicable to such contract.

"(c) CONTRACT PROCEDURES.—(1) The head of an agency may use procedures other than competitive procedures to enter into a contract referred to in subsection (a) only if an exception in subsection (c) of section 2304 of this title applies to the contract and the use of such procedures is approved in accordance with subsection (f) of such section.

"(2) The notice required by section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)) shall reasonably and fairly describe the general scope, magnitude, and duration of the proposed contract in a manner that would reasonably enable a potential offeror to decide whether to request the solicitation and consider submitting an offer.

"(3) The solicitation shall include the following:

"(A) The period of the contract, including the number of options to extend the contract and the period for which the contract may be extended under each option, if any.

"(B) The maximum quantity or dollar value of services to be procured under the contract.

"(C) A statement of work, specifications, or other description that reasonably describes the general scope, nature, complexity, and purposes of the services to be procured under the contract.

"(4)(A) The head of an agency may, on the basis of one solicitation, award separate contracts under this section for the same or similar services to two or more sources if the solicitation states that the head of the agency has the option to do so.

"(B) If, in the case of a contract for advisory and assistance services to be entered into under the authority of this section, the contract period is to exceed 3 years and the contract amount is estimated to exceed $10,000,000 (including all options), the solicitation shall—

"(i) provide for a multiple award authorized under subparagraph (A); and

"(ii) include a statement that the head of the agency may also elect to award only one contract if the head of the agency determines in writing that only one of the offerers is capable of providing the services required at the level of quality required.

"(C) Subparagraph (B) does not apply in the case of a solicitation for which the head of an agency determines in writing that, because the services required under the contract are unique or highly specialized, it is not practicable to award more than one contract.

"(5) A contract referred to in subsection (a) shall contain the same information that is required by paragraph (3) to be included in the solicitation of offers for that contract.

"(d) ORDER PROCEDURES.—(1) The following actions are not required for a task order issued under a contract entered into in accordance with this section:

"(A) A separate notice for such order under section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

"(B) Except as provided in paragraph (2), a competition (or a waiver of competition approved in accordance with section 2304(f) of this title) that is separate from that used for entering into the contract.

"(2)(A) When multiple contracts are awarded pursuant to subsection (c)(4), all contractors awarded such contracts shall be provided a fair opportunity to be considered, pursuant to procedures set forth in the contracts, for each task order in excess of $2,500 that is to be issued under any of the contracts unless—

"(i) the agency's need for the services ordered is of such unusual urgency that competition would result in unacceptable delays in fulfilling the agency's needs;

"(ii) only one such contractor is capable of providing the services required at the level of quality required because the services ordered are unique or so highly specialized;

"(iii) the task order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a task order already issued on a competitive basis; or

"(iv) the order must be placed with a particular contractor in order to satisfy a minimum guarantee.

"(B) When a task order is issued in accordance with subparagraph (A), the order shall include a statement of work that clearly specifies all tasks to be performed under the order.

"(3) A protest is not authorized in connection with the issuance or proposed issuance of a task order except for a protest on the ground that the order increases the scope, period, or maximum value of the contract under which the order is issued.

"(e) INCREASES IN SCOPE, PERIOD, OR MAXIMUM VALUE OF CONTRACT.—(1) A task order may not increase the scope, period, or maximum value of the contract under which the order is issued. The scope, period, or maximum value of the contract may be increased only by modification of the contract.

"(2) Unless use of procedures other than competitive procedures is authorized by an exception in subsection (c) of section 2304 of this title and approved in accordance with subsection (f) of such section, competitive procedures shall be used for making such a modification.

"(3) Notice regarding the modification shall be provided in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

"(4)(A) Notwithstanding the limitation on the contract period set forth in subsection (b) or in a solicitation or contract pursuant to subsection (c), a contract entered into by the head of an agency under this section may be extended on a sole-source basis for a period not exceeding 6 months if the agency head determines that—

"(i) the award of a follow-on contract has been delayed by circumstances that were not reasonably foreseeable at the time the initial contract was entered into; and

"(ii) the extension is necessary in order to ensure continuity of the receipt of services pending the award of, and commencement of performance under, the follow-on contract.

"(B) A contract may be extended under the authority of subparagraph (A) only once and only in accordance with the limitations and requirements of this subsection.

"(f) TASK ORDER OMBUDSMAN.—Each head of an agency who awards multiple contracts pursuant to subsection (c)(4) shall appoint or designate a task order ombudsman who shall be responsible for reviewing complaints from the contractors on such contracts and ensuring that all of the contractors are afforded a fair opportunity to be considered for task orders when required under subsection (d)(2). The task order ombudsman shall be a senior agency official who is independent of the contracting officer for the contracts and may be the agency's competition advocate.

"(g) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section does not apply to a contract for the acquisition of property or services that includes acquisition of advisory and assistance services if the head of an agency entering into such contract determines that, under the contract, advisory and assistance services are necessarily incident to, and not a significant component of, the contract.

"(h) RELATIONSHIP TO OTHER CONTRACTING AUTHORITY.—Nothing in this section may be construed to limit the authority of the head of an agency to enter into single or multiple task order contracts, or single or multiple delivery order contracts, for property or services (other than advisory and assistance services) under other provisions of this chapter or under any other provision of law.

"(i) ADVISORY AND ASSISTANCE SERVICES DEFINED.—In this section, the term 'advisory and assistance services' has the meaning given such term in section 1105(g) of title 31.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2304 the following new item:

"2304a. Task order contracts for advisory and assistance services.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 2304 of title 10, United States Code, is amended by striking out subsection (j).

(c) CONFORMING AMENDMENT FOR PROFESSIONAL AND TECHNICAL SERVICES.—Section 2331 of title 10, United States Code, is amended by striking out subsection (c).

SEC. 1005. ACQUISITION OF EXPERT SERVICES.

Section 2304(c)(3) of title 10, United States Code, is amended—

(1) by striking out "or (B)" and inserting in lieu thereof "(B)"; and

(2) by inserting before the semicolon at the end the following: ", or (C) to procure the services of an expert for use, in any litigation or dispute (including any reasonably foreseeable litigation or dispute) involving the Federal Government, in any trial, hearing, or proceeding before any court, administrative tribunal, or agency, or in any part of an alternative dispute resolution process, whether or not the expert is expected to testify".

Subpart B—Planning, Solicitation, Evaluation, and Award

SEC. 1011. SOURCE SELECTION FACTORS.

Section 2305(a) of title 10, United States Code, is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)(i), by striking out "nonprice-related factors)" and inserting in lieu thereof "nonprice-related factors and subfactors)"; and

(B) in subparagraph (B)(ii), by striking out subclause (I) and inserting in lieu thereof the following:

"(I) either a statement that the proposals are intended to be evaluated with, and award made after, discussions with the offerors, or a statement that the proposals are intended to be evaluated, and award made, without discussions with the offerors (other than discussions conducted for the purpose of minor clarification) unless discussions are determined to be necessary; and"; and

(2) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3)(A) In prescribing the evaluation factors to be included in each solicitation for competitive proposals, the head of an agency—

"(i) shall clearly establish the relative importance assigned to the evaluation factors and subfactors, including the quality of the product or services to be provided (including technical capability, management capability, prior experience, and past performance of the offeror);

"(ii) shall include cost or price to the Government as an evaluation factor that must be considered in the evaluation of proposals; and

"(iii) shall disclose to offerors whether all evaluation factors other than cost or price, when combined, are—

"(I) significantly more important than cost or price;

"(II) approximately equal in importance to cost or price; or

"(III) significantly less important than cost or price.

"(B) Nothing in this paragraph prohibits an agency from—

"(i) providing additional information in a solicitation, including numeric weights for all evaluation factors; or

"(ii) stating in a solicitation that award will be made to the offeror that meets the solicitation's mandatory requirements at the lowest cost or price.".

SEC. 1012. SOLICITATION PROVISION REGARDING EVALUATION OF PURCHASE OPTIONS.

(a) OPTIONS FOR ADDITIONAL PURCHASES.—Subsection (a) of section 2305 of title 10, United States Code, as amended by section 1011, is further amended by adding at the end the following new paragraph:

"(4) The head of an agency, in issuing a solicitation for a contract to be awarded using sealed bid procedures, may not include in such solicitation a clause providing for the evaluation of prices for options to purchase additional property or services under the contract unless the head of the agency has determined that there is a reasonable likelihood that the options will be exercised.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 2301(a) of such title is amended—

(1) by striking out paragraph (7);

(2) by inserting "and" at the end of paragraph (5); and

(3) by striking out "; and" at the end of paragraph (6) and inserting in lieu thereof a period.

SEC. 1013. PROMPT NOTICE OF AWARD.

(a) SEALED BID PROCEDURES.—Section 2305(b)(3) of title 10, United States Code, is amended by adding at the end the following: "As soon as practicable after the date of contract award, the head of the agency shall, in accordance with procedures prescribed in the Federal Acquisition Regulation, notify all offerors not awarded the contract that the contract has been awarded.".

(b) COMPETITIVE PROPOSALS PROCEDURES.—Section 2305(b)(4)(B) of title 10, United States Code, is amended in the second sentence by striking out "source and shall promptly notify" and inserting in lieu thereof "source. As soon as practicable after the date of contract award, the head of the agency shall, in accordance with procedures prescribed in the Federal Acquisition Regulation, notify".

SEC. 1014. POST-AWARD DEBRIEFINGS.

Section 2305(b) of title 10, United States Code, is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph (5):

"(5)(A) When a contract is awarded by the head of an agency on the basis of competitive proposals, an unsuccessful offeror, upon written request received by the agency within 3 days after the date on which the unsuccessful offeror receives the notification of the contract award, shall be debriefed and furnished the basis for the selection decision and contract award. An employee of the agency shall debrief the offeror promptly after receipt of the request by the agency.

"(B) The debriefing shall include, at a minimum—

"(i) the agency's evaluation of the significant weak or deficient factors in the offeror's offer;

"(ii) the overall evaluated cost and technical rating of the offer of the contractor awarded the contract and the overall evaluated cost and technical rating of the offer of the debriefed offeror;

"(iii) the overall ranking of all offers;

"(iv) a summary of the rationale for the award;

"(v) in the case of a proposal for a commercial item other than a commercial component, the make and model of the item being provided in accordance with the offer of the contractor awarded the contract; and

"(vi) reasonable responses to questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency.

"(C) The debriefing may not include point-by-point comparisons of the debriefed offeror's offer with other offers and may not disclose any information that is exempt from disclosure under section 552 of title 5, including information relating to—

"(i) trade secrets;

"(ii) privileged or confidential manufacturing processes and techniques; and

"(iii) commercial and financial information that is privileged or confidential, including cost breakdowns, profit, indirect cost rates, and similar information.

"(D) Each solicitation for competitive proposals shall include a statement that information described in subparagraph (B) may be disclosed in post-award debriefings.

"(E) If, within one year after the date of the contract award and as a result of a successful procurement protest or otherwise, the agency seeks to fulfill the requirement under the contract either on the basis of a new solicitation of offers or on the basis of new best and final offers requested for that contract, the agency shall make available to all offerors—

"(i) the information provided in debriefings under this paragraph regarding the offer of the contractor awarded the contract; and

"(ii) the same information that would have been provided to the original offerors.

"(F) The contracting officer shall include a summary of the debriefing in the contract file.".

SEC. 1015. PROTEST FILE.

Section 2305 of title 10, United States Code, is amended by adding at the end the following:

"(e)(1) If, in the case of a solicitation for a contract issued by, or an award or proposed award of a contract by, the head of an agency, a protest is filed pursuant to the procedures in subchapter V of chapter 35 of title 31 and an actual or prospective offeror so requests, a file of the protest shall be established by the procuring activity and reasonable access shall be provided to actual or prospective offerors.

"(2) Information exempt from disclosure under the section 552 of title 5 may be redacted in a file established pursuant to paragraph (1) unless an applicable protective order provides otherwise.

"(3) Regulations implementing this subsection shall be consistent with the regulations regarding the preparation and submission of an agency's protest file (the so-called 'rule 4 file') for protests to the General Services Board of Contract Appeals under section 111 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 759).".

SEC. 1016. AWARD OF COSTS AND FEES IN AGENCY SETTLEMENT OF PROTESTS.

Section 2305 of title 10, United States Code, as amended by section 1015, is further amended by adding at the end the following new subsection:

"(f) If, in connection with a protest, the head of an agency determines that a solicitation, proposed award, or award does not comply with the requirements of law or regulation, the head of the agency may take—

"(1) any action set out in subparagraphs (A) through (F) of subsection (b)(1) of section 3554 of title 31; and

"(2) may pay costs described in paragraph (1) of section 3554(c) of title 31 within the limits referred to in paragraph (2) of such section.".

SEC. 1017. TWO-PHASE SELECTION PROCEDURES.

(a) PROCEDURES AUTHORIZED.—Chapter 137 of title 10, United States Code, is amended by inserting after section 2305 the following new section:

"§ 2305a. Two-phase selection procedures

"(a) PROCEDURES AUTHORIZED.—The head of an agency may use two-phase selection procedures for entering into a contract for the acquisition of property or services (other than a construction contract) when the head of the agency determines that three or more offers will be received for such contract, substantial design work must be performed before an offeror can develop a price or cost proposal for such contract, and the offerors will incur a substantial amount of expenses in preparing the offers.

"(b) PROCEDURES DESCRIBED.—Two-phase selection procedures consist of the following:

"(1) The head of the agency solicits proposals that—

"(A) include information on the offerors'—

"(i) technical approach; and

"(ii) technical qualifications; and

"(B) do not include—

"(i) detailed design information; or

"(ii) cost or price information.

"(2) The head of the agency evaluates the proposals on the basis of evaluation criteria set forth in the solicitation, except that the head of the agency does not consider cost-related or price-related evaluation factors.

"(3) The head of the agency selects at least three offerors as the most highly qualified to provide the property or services under the contract and requests the selected offerors to submit competitive proposals that include cost or price information.

"(4) The head of the agency awards the contract in accordance with section 2305(b)(4) of this title.

"(c) SOLICITATION TO STATE NUMBER OF OFFERORS TO BE SELECTED FOR PHASE TWO REQUESTS FOR COMPETITIVE PROPOSALS.—A solicitation issued pursuant to subsection (b)(1) shall state the maximum number of offerors that are to be selected to submit competitive proposals pursuant to subsection (b)(3).

"(d) RESOURCE COMPARISON CRITERION REQUIRED.—In using two-phase selection procedures for entering into a contract, the head of the agency shall establish a resource criterion or a financial criterion applicable to the contract in order to provide a consistent basis for comparing the offerors and their proposals.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2305 the following:

"2305a. Two-phase selection procedures.".

Subpart C—Kinds of Contracts

SEC. 1021. SECRETARIAL DETERMINATION REGARDING USE OF COST TYPE OR INCENTIVE CONTRACT.

Subsection (c) of section 2306 of title 10, United States Code, is repealed.

SEC. 1022. TECHNICAL AND CONFORMING AMENDMENTS.

(a) REPEAL OF UNNECESSARY CROSS REFERENCE.—Subsection (f) of section 2306 of title 10, United States Code, is repealed.

(b) CONFORMING AMENDMENT.—Such section is amended by redesignating subsections (d), (e), (g), and (h) as subsections (c), (d), (e), and (f), respectively.

(c) NEUTERIZATION OF REFERENCE.—Subsection (e)(1) of such section, as redesignated by subsection (b), is amended in the matter above clause (i) by striking out "whenever he finds" and inserting in lieu thereof "whenever the head of the agency finds".

Subpart D—Miscellaneous Provisions for the Encouragement of Competition

SEC. 1031. REPEAL OF REQUIREMENT FOR ANNUAL REPORT BY ADVOCATES FOR COMPETITION.

Subsection (c) of section 2318 of title 10, United States Code, is repealed.

PART II—CIVILIAN AGENCY ACQUISITIONS

Subpart A—Competition Requirements

SEC. 1051. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended—

(1) in subsection (a)(1)(A), by striking out "modifications" and all that follows through "of 1984" and inserting in lieu thereof "Federal Acquisition Regulation"; and

(2) in subsection (g)(1), by striking out "regulations modified" and all that follows through "of 1984," and inserting in lieu thereof "Federal Acquisition Regulation".

SEC. 1052. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

Section 303(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(b)) is amended—

(1) in paragraph (1)—

(A) by striking out "or" at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(C) by adding at the end the following new subparagraphs:

"(D) would ensure the continuous availability of a reliable source of supply of such property or service;

"(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

"(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.";

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(3) by inserting after paragraph (1) the following new paragraph (2):

"(2) The determination required of the agency head in paragraph (1) may not be made for a class of purchases or contracts."; and

(4) in paragraph (4), as redesignated by paragraph (2), by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraphs (1) and (3)".

SEC. 1053. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.

Section 303(f)(1)(B)(i) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)(B)(i)) is amended by inserting before the semicolon at the end the following: "or by an official referred to in clause (ii), (iii), or (iv)".

SEC. 1054. TASK ORDER CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES.

(a) AUTHORITY.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 303G the following new section:

"TASK ORDER CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES

"SEC. 303H. (a) AUTHORITY TO AWARD.—(1) Subject to the requirements of this section, the head of an executive agency may enter into a contract for advisory and assistance services that does not procure or specify a firm quantity of services (other than a minimum or maximum quantity) and that provides for the issuance of task orders during the specified period of the contract.

"(2) Except as provided in subsection (h), the agency head may enter into a contract described in paragraph (1) only under the authority of this section.

"(b) LIMITATION ON CONTRACT PERIOD.—The period of a contract referred to in subsection (a), including all periods of extensions of the contract under options, modifications, or otherwise, may not exceed 5 years unless a longer period is specifically authorized in a law that is applicable to such contract.

"(c) CONTRACT PROCEDURES.—(1) An agency head may use procedures other than competitive procedures to enter into a contract referred to in subsection (a) only if an exception in subsection (c) of section 303 applies to the contract and the use of such procedures is approved in accordance with subsection (f) of such section.

"(2) The notice required by section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)) shall reasonably and fairly describe the general scope, magnitude, and duration of the proposed contract in a manner that would reasonably enable a potential offeror to decide whether to request the solicitation and consider submitting an offer.

"(3) The solicitation shall include the following:

"(A) The period of the contract, including the number of options to extend the contract and the period for which the contract may be extended under each option, if any.

"(B) The maximum quantity or dollar value of the services to be procured under the contract.

"(C) A statement of work, specifications, or other description that reasonably describes the general scope, nature, complexity, and purposes of the services to be procured under the contract.

"(4)(A) An agency head may, on the basis of one solicitation, award separate contracts under this section for the same or similar services to two or more sources if the solicitation states that the agency head has the option to do so.

"(B) If, in the case of a contract for advisory and assistance services to be entered into under the authority of this section, the contract period is to exceed 3 years and the contract amount is estimated to exceed

$10,000,000 (including all options), the solicitation shall—

"(i) provide for a multiple award authorized under subparagraph (A); and

"(ii) include a statement that the agency head may also elect to award only one contract if the agency head determines in writing that only one of the offerers is capable of providing the services required at the level of quality required.

"(C) Subparagraph (B) does not apply in the case of a solicitation for which the agency head determines in writing that, because the services required under the contract are unique or highly specialized, it is not practicable to award more than one contract.

"(5) A contract referred to in subsection (a) shall contain the same information that is required by paragraph (3) to be included in the solicitation of offers for that contract.

"(d) ORDER PROCEDURES.—(1) The following actions are not required for a task order issued under a contract entered into in accordance with this section:

"(A) A separate notice for such order under section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

"(B) Except as provided in paragraph (2), a competition (or a waiver of competition approved in accordance with section 303(f)) that is separate from that used for entering into the contract.

"(2)(A) When multiple contracts are awarded pursuant to subsection (c)(4), all contractors awarded such contracts shall be provided a fair opportunity to be considered, pursuant to procedures set forth in the contracts, for each task order in excess of $2,500 that is to be issued under any of the contracts unless—

"(i) the agency's need for the services ordered is of such unusual urgency that competition would result in unacceptable delays in fulfilling the agency's needs;

"(ii) only one such contractor is capable of providing the services required at the level of quality required because the services ordered are unique or highly specialized;

"(iii) the task order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a task order already issued on a competitive basis; or

"(iv) the order must be placed with a particular contractor in order to satisfy a minimum guarantee.

"(B) When a task order is issued in accordance with subparagraph (A), the order shall include a statement of work that clearly specifies all tasks to be performed under the order.

"(3) A protest is not authorized in connection with the issuance or proposed issuance of a task order except for a protest on the ground that the order increases the scope, period, or maximum value of the contract under which the order is issued.

"(e) INCREASES IN SCOPE, PERIOD, OR MAXIMUM VALUE OF CONTRACT.—(1) A task order may not increase the scope, period, or maximum value of the contract under which the order is issued. The scope, period, or maximum value of the contract may be increased only by modification of the contract.

"(2) Unless use of procedures other than competitive procedures is authorized by an exception in subsection (c) of section 303 and approved in accordance with subsection (f) of such section, competitive procedures shall be used for making such a modification.

"(3) Notice regarding the modification shall be provided in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

"(4)(A) Notwithstanding the limitation on the contract period set forth in subsection (b) or in a solicitation or contract pursuant to subsection (c), a contract entered into by the head of an agency under this section may be extended on a sole-source basis for a period not exceeding 6 months if the agency head determines that—

"(i) the award of a follow-on contract has been delayed by circumstances that were not reasonably foreseeable at the time the initial contract was entered into; and

"(ii) the extension is necessary in order to ensure continuity of the receipt of services pending the award of, and commencement of performance under, the follow-on contract.

"(B) A contract may be extended under the authority of subparagraph (A) only once and only in accordance with the limitations and requirements of this subsection.

"(f) TASK ORDER OMBUDSMAN.—Each agency head who awards multiple contracts pursuant to subsection (c)(4) shall appoint or designate a task order ombudsman who shall be responsible for reviewing complaints from the contractors on such contracts and ensuring that all of the contractors are afforded a fair opportunity to be considered for task orders when required under subsection (d)(2). The task order ombudsman shall be a senior agency official who is independent of the contracting officer for the contracts and may be the agency's competition advocate.

"(g) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section does not apply to a contract for the acquisition of property or services that includes acquisition of advisory and assistance services if the agency head entering into such contract determines that, under the contract, advisory and assistance services are necessarily incident to, and not a significant component of, the contract.

"(h) RELATIONSHIP TO OTHER CONTRACTING AUTHORITY.—Nothing in this section may be construed to limit the authority of the head of an agency to enter into single or multiple task order contracts, or single or multiple delivery order contracts, for goods or services (other than advisory and assistance services) under other provisions of this title or under any other provision of law.

"(i) ADVISORY AND ASSISTANCE SERVICES DEFINED.—In this section, the term 'advisory and assistance services' has the meaning given such term in section 1105(g) of title 31, United States Code.".

(b) CLERICAL AMENDMENT.—The table of contents in the first section is amended by inserting after the item relating to section 303G the following new item:

"Sec. 303H. Task order contracts for advisory and assistance services.".

SEC. 1055. ACQUISITION OF EXPERT SERVICES.

(a) EXCEPTION TO REQUIREMENT FOR USE OF COMPETITIVE PROCEDURES.—Section 303(c)(3) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)) is amended—

(1) by striking out "or (B)" and inserting in lieu thereof "(B)"; and

(2) by inserting before the semicolon at the end the following: ", or (C) to procure the services of an expert for use, in any litigation or dispute (including any reasonably foreseeable litigation or dispute) involving the Federal Government, in any trial, hearing, or proceeding before any court, administrative tribunal, or agency, or in any part of an alternative dispute resolution process, whether or not the expert is expected to testify".

(b) PROCUREMENT NOTICE.—

(1) AMENDMENT OF OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—Section 18(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(c)) is amended—

(A) by striking out "or" at the end of subparagraph (D);

(B) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; or"; and

(C) by adding at the end the following:

"(F) the procurement is for the services of an expert for use in any litigation or dispute (including any reasonably foreseeable litigation or dispute) involving the Federal Government in any trial, hearing, or proceeding before any court, administrative tribunal, or agency, or in any part of an alternative dispute resolution process, whether or not the expert is expected to testify.".

(2) AMENDMENT OF SMALL BUSINESS ACT.—Section 8(g) of the Small Business Act (15 U.S.C. 637(c)) is amended—

(A) by striking out "or" at the end of subparagraph (D);

(B) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; or"; and

(C) by adding at the end the following:

"(F) the procurement is for the services of an expert for use in any litigation or dispute (including preparation for any foreseeable litigation or dispute) that involves or could involve the Federal Government in any trial, hearing, or proceeding before any court, administrative tribunal, or agency, or in any part of an alternative dispute resolution process, whether or not the expert is expected to testify.".

(c) REPEAL OF AMENDMENTS TO UNCODIFIED TITLE.—The following provisions of law are repealed:

(1) Section 532 of Public Law 101-509 (104 Stat. 1470) and the provision of law set out in quotes in that section.

(2) Section 529 of Public Law 102-393 (106 Stat. 1761) and the matters inserted and added by that section.

SEC. 1056. CONTINUED OCCUPANCY OF LEASED SPACE.

Section 303(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(d)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2)(A) For the purposes of applying subsection (c)(1) in the case of a follow-on lease to be entered into for the purpose of providing for continued occupancy of particular space in leased real property by a Federal agency, space may be treated as being available only from the lessor of such space and may be acquired through the use of procedures other than competitive procedures (without the justification otherwise required by subsection (f)) if a written determination is made by the contracting officer that—

"(i) the occupying agency has a continuing need for the space;

"(ii) the space meets the needs of the agency; and

"(iii) the lessor is willing to continue to provide the space at a fair market price determined by the contracting officer on the basis of a market survey or an appraisal conducted in accordance with generally accepted real property appraisal standards.

"(B) The authority under subparagraph (A) to use procedures other than competitive procedures to enter into a follow-on lease may be exercised not more than once to provide for continued occupancy of particular space in real property by a particular Federal agency. The period of such follow-on lease may not exceed 5 years.

"(C) Nothing in this paragraph may be construed to prohibit the use of procedures other than competitive procedures to enter into a follow-on lease of real property for continued occupancy of particular space in real property by a Federal agency when an exception set forth in subsection (c) applies and the use of such procedures is justified and approved in accordance with subsection (f).".

Subpart B—Planning, Solicitation, Evaluation, and Award

SEC. 1061. SOLICITATION, EVALUATION, AND AWARD.

(a) CONTENT OF SOLICITATION.—Section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a) is amended—

(1) in subsection (b)(1)(A)—

(A) by inserting "and significant subfactors" after "all significant factors"; and

(B) by striking out "(including price)" and inserting "(including cost or price, cost-related or price-related factors and subfactors, and noncost-related or nonprice-related factors and subfactors)";

(2) in subsection (b)(1)(B), by inserting "and subfactors" after "factors";

(3) in subsection (b)(2)(B), by striking out clause (i) and inserting in lieu thereof the following:

"(i) either a statement that the proposals are intended to be evaluated with, and award made after, discussions with the offerors, or a statement that the proposals are intended to be evaluated, and award made, without discussions with the offerors (other than discussions conducted for the purpose of minor clarification) unless discussions are determined to be necessary; and"; and

(4) by adding at the end the following new subsection:

"(c)(1) In prescribing the evaluation factors to be included in each solicitation for competitive proposals, an agency head—

"(A) shall clearly establish the relative importance assigned to the evaluation factors and subfactors, including the quality of the product or services to be provided (including technical capability, management capability, prior experience, and past performance of the offeror);

"(B) shall include cost or price to the Government as an evaluation factor that must be considered in the evaluation of proposals; and

"(C) shall disclose to offerors whether all evaluation factors other than cost or price, when combined, are—

"(i) significantly more important than cost or price;

"(ii) approximately equal in importance to cost or price; or

"(iii) significantly less important than cost or price.

"(2) Nothing in this subsection prohibits an agency from—

"(A) providing additional information in a solicitation, including numeric weights for all evaluation factors; or

"(B) stating in a solicitation that award will be made to the offeror that meets the solicitation's mandatory requirements at the lowest price or cost.".

(b) EVALUATION AND AWARD.—Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended—

(1) in subsection (a), by inserting ", and award a contract," after "competitive proposals";

(2) in subsection (c), by inserting "in accordance with subsection (a)" in the second sentence after "shall evaluate the bids"; and

(3) in subsection (d)—

(A) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) An agency head shall evaluate competitive proposals in accordance with subsection (a) and may award a contract—

"(A) after discussions with the offerors, provided that written or oral discussions have been conducted with all responsible offerors who submit proposals within the competitive range; or

"(B) based on the proposals received and without discussions with the offerors (other than discussions conducted for the purpose of minor clarification), provided that, as required by section 303A(b)(2)(B)(i), the solicitation included a statement that proposals are intended to be evaluated, and award made, without discussions, unless discussions are determined to be necessary.";

(B) by striking out paragraphs (2) and (3) and by redesignating paragraph (4) as paragraph (2); and

(C) in paragraph (2), as redesignated by subparagraph (B), by inserting "cost or" before "price" in the first sentence.

(c) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to—

(A) solicitations for sealed bids or competitive proposals issued after the end of the 180-day period beginning on the date of the enactment of this Act; and

(B) contracts awarded pursuant to those solicitations.

(2) AUTHORITY TO APPLY AMENDMENTS EARLY.—The head of an executive agency may apply the amendments made by this section to solicitations issued before the end of the period referred to in paragraph (1). The head of the executive agency shall publish in the Federal Register notice of any such earlier date of application at least 10 days before that date.

SEC. 1062. SOLICITATION PROVISION REGARDING EVALUATION OF PURCHASE OPTIONS.

Section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a), as amended by section 1061(a)(4), is further amended by adding at the end the following new subsection:

"(d) An agency head, in issuing a solicitation for a contract to be awarded using sealed bid procedures, may not include in such solicitation a clause providing for the evaluation of prices for options to purchase additional property or services under the contract unless the agency head has determined that there is a reasonable likelihood that the options will be exercised.".

SEC. 1063. PROMPT NOTICE OF AWARD.

(a) SEALED BID PROCEDURES.—Subsection (c) of section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended by adding at the end the following: "As soon as practicable after the date of contract award, the agency head shall, in accordance with procedures prescribed in the Federal Acquisition Regulation, notify all offerors not awarded the contract that the contract has been awarded.".

(b) COMPETITIVE PROPOSALS PROCEDURES.—Paragraph (2) of section 303B(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b(d)), as redesignated by section 1061(b)(3)(B), is amended in the second sentence by striking out "source and shall promptly notify" and inserting in lieu thereof "source. As soon as practicable after the date of contract award, the agency head shall, in accordance with procedures prescribed in the Federal Acquisition Regulation, notify".

SEC. 1064. POST-AWARD DEBRIEFINGS.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection (e):

"(e)(1) When a contract is awarded by the head of an executive agency on the basis of competitive proposals, an unsuccessful offeror, upon written request received by the agency within 3 days after the date on which the unsuccessful offeror receives the notification of the contract award, shall be debriefed and furnished the basis for the selection decision and contract award. An employee of the executive agency shall debrief the offeror promptly after receipt of the request by the agency.

"(2) The debriefing shall include, at a minimum—

"(A) the executive agency's evaluation of the significant weak or deficient factors in the offeror's offer;

"(B) the overall evaluated cost and technical rating of the offer of the contractor awarded the contract and the overall evaluated cost and technical rating of the offer of the debriefed offeror;

"(C) the overall ranking of all offers;

"(D) a summary of the rationale for the award;

"(E) in the case of a proposal for a commercial item other than a commercial component, the make and model of the item being provided in accordance with the offer of the contractor awarded the contract; and

"(F) reasonable responses to questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the executive agency.

"(3) The debriefing may not include point-by-point comparisons of the debriefed offeror's offer with other offers and may not disclose any information that is exempt from disclosure under section 552 of title 5, United States Code, including information relating to—

"(A) trade secrets;

"(B) privileged or confidential manufacturing processes and techniques; and

"(C) commercial and financial information that is privileged or confidential, including cost breakdowns, profit, indirect cost rates, and similar information.

"(4) Each solicitation for competitive proposals shall include a statement that information described in paragraph (2) may be disclosed in post-award debriefings.

"(5) If, within one year after the date of the contract award and as a result of a successful procurement protest or otherwise, the executive agency seeks to fulfill the requirement under the contract either on the basis of a new solicitation of offers or on the basis of new best and final offers requested for that contract, the agency head shall make available to all offerors—

"(A) the information provided in debriefings under this subsection regarding the offer of the contractor awarded the contract; and

"(B) the same information that would have been provided to the original offerors.

"(6) The contracting officer shall include a summary of the debriefing in the contract file.".

SEC. 1065. PROTEST FILE.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b), as amended by section 1064(1), is further amended by adding at the end the following:

"(h)(1) If, in the case of a solicitation for a contract issued by, or an award or proposed award of a contract by, an agency head, a protest is filed pursuant to the procedures in subchapter V of chapter 35 of title 31, United States Code, and an actual or prospective offeror so requests, a file of the protest shall be established by the procuring activity and reasonable access shall be provided to actual or prospective offerors.

"(2) Information exempt from disclosure under section 552 of title 5, United States Code, may be redacted in a file established pursuant to paragraph (1) unless an applicable protective order provides otherwise.

"(3) Regulations implementing this subsection shall be consistent with the regulations regarding the preparation and submission of an agency's protest file (the so-called 'rule 4 file') for protests to the General Services Board of Contract Appeals under section 111 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 759).".

SEC. 1066. AWARD OF COSTS AND FEES IN AGENCY SETTLEMENT OF PROTESTS.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b), as amended by section 1065, is further amended by adding at the end the following new subsection:

"(i) If, in connection with a protest, an agency head determines that a solicitation, proposed award, or award does not comply with the requirements of law or regulation, the agency head may take—

"(1) any action set out in subparagraphs (A) through (F) of subsection (b)(1) of section 3554 of title 31, United States Code; and

"(2) may pay costs described in paragraph (1) of section 3554(c) of such title within the limits referred to in paragraph (2) of such section.".

SEC. 1067. TWO-PHASE SELECTION PROCEDURES.

(a) PROCEDURES AUTHORIZED.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1054, is further amended by inserting after section 303H the following new section:

"TWO-PHASE SELECTION PROCEDURES

"SEC. 303I. (a) PROCEDURES AUTHORIZED.—The head of an executive agency may use two-phase selection procedures for entering into a contract for the acquisition of property or services (other than a construction contract) when the agency head determines that three or more offers will be received for such contract, substantial design work must be performed before an offeror can develop a price or cost proposal for such contract, and the offerors will incur a substantial amount of expenses in preparing the offers.

"(b) PROCEDURES DESCRIBED.—Two-phase selection procedures consist of the following:

"(1) The agency head solicits proposals that—

"(A) include information on the offerors'—

"(i) technical approach; and

"(ii) technical qualifications; and

"(B) do not include—

"(i) detailed design information; or

"(ii) cost or price information.

"(2) The agency head evaluates the proposals on the basis of evaluation criteria set forth in the solicitation, except that the agency head does not consider cost-related or price-related evaluation factors.

"(3) The agency head selects at least three offerors as the most highly qualified to provide the property or services under the contract and requests the selected offerors to submit competitive proposals that include cost or price information.

"(4) The agency head awards the contract in accordance with section 303B(d).

"(c) SOLICITATION TO STATE NUMBER OF OFFERORS TO BE SELECTED FOR PHASE TWO REQUESTS FOR COMPETITIVE PROPOSALS.—A solicitation issued pursuant to subsection (b)(1) shall state the maximum number of offerors that are to be selected to submit competitive proposals pursuant to subsection (b)(3).

"(d) RESOURCE COMPARISON CRITERION REQUIRED.—In using two-phase selection procedures for entering into a contract, the agency head shall establish a resource criterion or a financial criterion applicable to the contract in order to provide a consistent basis for comparing the offerors and their proposals.".

(b) CLERICAL AMENDMENT.—The table of contents in the first section of such Act, as amended by section 1054, is further amended by inserting after the item relating to section 303H the following new item:

"Sec. 303I. Two-phase selection procedures.".

Subpart C—Kinds of Contracts

SEC. 1071. AGENCY HEAD DETERMINATION REGARDING USE OF COST TYPE OR INCENTIVE CONTRACT.

Section 304(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(b)) is amended by striking out the second sentence.

SEC. 1072. MULTIYEAR CONTRACTING AUTHORITY.

(a) AUTHORITY.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1067, is further amended by inserting after section 303I the following new section:

"MULTIYEAR CONTRACTS

"SEC. 303J. (a) AUTHORITY.—The head of an executive agency may enter into a multiyear contract for the acquisition of property or services if—

"(1) funds are available and obligated for such contract, for the full period of the contract or for the first fiscal year in which the contract is in effect, and for the estimated costs associated with any necessary termination of such contract; and

"(2) the agency head determines that—

"(A) the need for the property or services is reasonably firm and continuing over the period of the contract; and

"(B) a multiyear contract will serve the best interests of the United States by encouraging effective competition or promoting economy in administration, performance, and operation of the agency's programs.

"(b) TERMINATION CLAUSE.—A multiyear contract entered into under the authority of this section shall include a clause that provides that the contract shall be terminated if funds are not made available for the continuation of such contract in any fiscal year covered by the contract. Amounts available for paying termination costs shall remain available for such purpose until the costs associated with termination of the contract are paid.

"(c) RULE OF CONSTRUCTION.—Nothing in this section is intended to modify or affect any other provision of law that authorizes multiyear contracts.".

(b) CLERICAL AMENDMENT.—The table of contents in the first section of such Act, as amended by section 1067, is further amended by inserting after the item relating to section 303I the following new item:

"Sec. 303J. Multiyear contracts.".

SEC. 1073. SEVERABLE SERVICES CONTRACTS CROSSING FISCAL YEARS.

(a) AUTHORITY.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1072, is further amended by inserting after section 303J the following new section:

"SEVERABLE SERVICES CONTRACTS FOR PERIODS CROSSING FISCAL YEARS

"SEC. 303K. (a) AUTHORITY.—The head of an executive agency may enter into a contract for procurement of severable services for a period that begins in one fiscal year and ends in the next fiscal year if (without regard to any option to extend the period of the contract) the contract period does not exceed one year.

"(b) OBLIGATION OF FUNDS.—Funds made available for a fiscal year may be obligated for the total amount of a contract entered into under the authority of subsection (a).".

(b) CLERICAL AMENDMENT.—The table of contents in the first section of such Act, as amended by section 1072, is further amended by inserting after the item relating to section 303J the following new item:

"Sec. 303K. Severable services contracts for periods crossing fiscal years.".

SEC. 1074. ECONOMY ACT PURCHASES.

(a) REGULATIONS REQUIRED.—Not later than six months after the date of the enactment of this Act, the Federal Acquisition Regulation shall be revised to include regulations governing the exercise of the authority under section 1535 of title 31, United States Code, for Federal agencies to purchase goods and services under contracts entered into or administered by other agencies.

(b) CONTENT OF REGULATIONS.—The regulations prescribed pursuant to subsection (a) shall—

(1) require that each purchase described in subsection (a) be approved in advance by a contracting officer of the ordering agency with authority to contract for the goods or services to be purchased or by another official in a position specifically designated by regulation to approve such purchase;

(2) provide that such a purchase of goods or services may be made only if—

(A) the purchase is appropriately made under a contract that the agency filling the purchase order entered into, before the purchase order, in order to meet the requirements of such agency for the same or similar goods or services;

(B) the agency filling the purchase order is better qualified to enter into or administer the contract for such goods or services by reason of capabilities or expertise that is not available within the ordering agency; or

(C) the agency or unit filling the order is specifically authorized by law or regulations to purchase such goods or services on behalf of other agencies;

(3) prohibit any such purchase under a contract or other agreement entered into or administered by an agency not covered by the provisions of chapter 137 of title 10, United States Code, or title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) and not covered by the Federal Acquisition Regulation unless the purchase is approved in advance by the senior procurement official responsible for purchasing by the ordering agency; and

(4) prohibit any payment to the agency filling a purchase order of any fee that exceeds the actual cost or, if the actual cost is not known, the estimated cost of entering into and administering the contract or other agreement under which the order is filled.

(c) MONITORING SYSTEM REQUIRED.—The Administrator for Federal Procurement Policy shall ensure that, not later than one year after the date of the enactment of this Act, systems for collecting and evaluating procurement data are capable of collecting and evaluating appropriate data on procurements conducted under the regulations prescribed pursuant to subsection (a).

(d) TERMINATION.—This section shall cease to be effective one year after the date on which final regulations prescribed pursuant to subsection (a) take effect.

PART III—ACQUISITIONS GENERALLY

SEC. 1091. POLICY REGARDING CONSIDERATION OF CONTRACTOR PAST PERFORMANCE.

(a) POLICY.—Section 2 of the Office of Federal Procurement Policy Act (41 U.S.C. 401) is amended—

(1) by striking out "and" at the end of paragraph (12);

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(14) establishing policies and procedures that encourage the consideration of contractors' past performance in the selection of contractors.".

(b) GUIDANCE REQUIRED.—Section 6 of the Office of Federal Procurement Policy Act (41 U.S.C. 405) is amended by adding at the end the following:

"(j)(1) Congress makes the following findings:

"(A) Past contract performance of an offeror is one of the relevant factors that contracting officials of executive agencies should consider in entering into contracts.

"(B) It is appropriate for a contracting official to consider past contract performance of an offeror as an indicator of the likelihood that the offeror will successfully perform a contract to be entered into by that official.

"(2) The Administrator shall prescribe for executive agencies guidance regarding consideration of the past contract performance of offerors in awarding contracts. The guidance shall include—

"(A) standards for evaluating past performance with respect to cost (when appropriate), schedule, compliance with technical or functional specifications, and other relevant performance factors that facilitate consistent and fair evaluation by all executive agencies;

"(B) policies for the collection and maintenance of information on past contract performance that, to the maximum extent practicable, facilitate automated collection, maintenance, and dissemination of information and provide for ease of collection, maintenance, and dissemination of information by other methods, as necessary; and

"(C) policies for ensuring that—

"(i) offerors are afforded an opportunity to submit relevant information on past contract performance, including performance under contracts entered into by the executive agency concerned, contracts entered into by other departments and agencies of the Federal Government, contracts entered into by agencies of State and local governments, and contracts entered into by commercial customers; and

"(ii) such information submitted by offerors is considered.

"(3) The Administrator shall prescribe for all executive agencies guidance regarding the period for which information on past performance of offerors should be maintained and considered.

"(4) In the case of an offeror regarding whom there is no information on past contract performance or regarding whom information on past contract performance is not available, the offeror may not be evaluated favorably or unfavorably on the factor of past contract performance.".

SEC. 1092. REPEAL OF REQUIREMENT FOR ANNUAL REPORT ON COMPETITION.

Section 23 of the Office of Federal Procurement Policy Act (41 U.S.C. 419) is repealed.

Subtitle B—Truth in Negotiations

PART I—ARMED SERVICES ACQUISITIONS

SEC. 1201. STABILIZATION OF DOLLAR THRESHOLD OF APPLICABILITY.

(a) REPEAL OF REVERSION TO LOWER THRESHOLD.—Paragraph (1)(A) of section 2306a(a) of title 10, United States Code, is amended—

(1) in clause (i), by striking out "and before January 1, 1996,"; and

(2) in clause (ii), by striking out "or after December 31, 1995,".

(b) ADJUSTMENTS FOR CHANGES IN DOLLAR VALUES.—Section 2306a(a) of such title is amended by adding at the end the following new subparagraph:

"(7) Effective on October 1 of each year that is divisible by 5, each amount set forth in paragraph (1) shall be adjusted to the amount that is equal to the fiscal year 1994 constant dollar value of the amount set forth. Any amount, as so adjusted, that is not evenly divisible by $50,000 shall be rounded to the nearest multiple of $50,000. In the case of an amount that is evenly divisible by $25,000 but not evenly divisible by $50,000, the amount shall be rounded to the next higher multiple of $50,000.".

SEC. 1202. EXCEPTIONS TO COST OR PRICING DATA REQUIREMENTS.

(a) EXCEPTIONS STATED.—Subsection (b) of section 2306a of title 10, United States Code, is amended to read as follows:

"(b) EXCEPTIONS.—(1) Submission of cost and pricing data shall not be required under subsection (a)—

"(A) in the case of a contract, a subcontract, or a contract or subcontract modification, for which the price agreed upon is based on—

"(i) adequate price competition;

"(ii) established catalog or market prices of commercial items or of services customarily used for other than Government purposes, as the case may be, that are sold in substantial quantities to the general public; or

"(iii) prices set by law or regulation; or

"(B) in an exceptional case when the head of the agency concerned determines that the requirements of this section may be waived and states in writing the reasons for such determination.

"(2) Submission of cost and pricing data shall not be required under subsection (a) in the case of a modification of a contract or subcontract for a commercial item if—

"(A) the contract or subcontract being modified is a contract or subcontract for which submission of cost and pricing data may not be required by reason of paragraph (1)(A);

"(B) the modification is not a case in which paragraph (1)(A) prohibits the head of an agency from requiring submission of cost and pricing data; and

"(C) the modification would not change the contract or subcontract, as the case may be, from a contract or subcontract for the acquisition of a commercial item to a contract or subcontract for the acquisition of a noncommercial item.".

(b) CONFORMING AMENDMENT TO REFERENCE.—Subsection (a)(5) of such section is amended by striking out "subsection (b)(2)" and inserting in lieu thereof "subsection (b)(1)(B)".

SEC. 1203. LIMITATION ON AUTHORITY TO REQUIRE A SUBMISSION NOT OTHERWISE REQUIRED.

Subsection (c) of section 2306a of title 10, United States Code, is amended to read as follows:

"(c) LIMITATION ON AUTHORITY TO REQUIRE COST OR PRICING DATA.—When cost or pricing data are not required to be submitted under this section by reason of a $500,000 threshold set forth in subsection (a) (as adjusted pursuant to paragraph (7) of such subsection) or by reason of an exception set forth in paragraph (1)(A) or (2) of subsection (b), submission of such data may not be required unless the head of an agency concerned determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract or subcontract to which the data relate. In any case in which the head of an agency requires such data to be submitted in accordance with the preceding sentence, the agency head shall document in writing the reasons for such requirement.".

SEC. 1204. ADDITIONAL SPECIAL RULES FOR COMMERCIAL ITEMS.

Section 2306a of title 10, United States Code, is amended—

(1) by redesignating subsections (d), (e), (f), and (g) as subsections (e), (f), (g), and (i), respectively; and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) ADDITIONAL EXCEPTION PROVISIONS REGARDING COMMERCIAL ITEMS.—(1) To the maximum extent practicable, the head of an agency shall conduct procurements of commercial items on a competitive basis.

"(2) In any case in which it is not practicable to conduct a procurement of a commercial item on a competitive basis and the procurement is not covered by an exception in subsection (b), the contracting officer shall nonetheless exempt a contract, subcontract, or modification of a contract or subcontract under the procurement from the requirements of subsection (a) if the contracting officer obtains, in accordance with standards and procedures set forth in the Federal Acquisition Regulation, information on prices at which the same or similar items have been sold in the commercial market that is adequate for evaluating the reasonableness of the price of the contract or subcontract for a commercial item, or the contract or subcontract modification, as the case may be. The contracting officer may obtain such information from the offeror or contractor or, when such information is not available from that source, from another source or sources.

"(3)(A) In accordance with procedures prescribed in the Federal Acquisition Regulation, the head of an agency shall have the right to examine all information provided by an offeror, contractor, or subcontractor pursuant to paragraph (2) and all books and records of such offeror, contractor, or subcontractor that directly relate to such information in order to determine whether the agency is receiving accurate information required under this section.

"(B) The right under subparagraph (A) shall expire 3 years after the date of award of the contract, or 3 years after the date of the modification of the contract, with respect to which the information was provided.".

SEC. 1205. RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.

Section 2306a of title 10, United States Code, is amended by striking out subsection (g), as redesignated by section 1204(1), and inserting in lieu thereof the following:

"(g) RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.—For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this section, the head of an agency shall have the rights provided by section 2313 of this title.".

SEC. 1206. REQUIRED REGULATIONS.

Section 2306a of title 10, United States Code, as amended by sections 1204 and 1205, is further amended by inserting after subsection (g) the following new subsection:

"(h) REQUIRED REGULATIONS.—The Secretary shall prescribe regulations concerning the types of information that offerors must submit for a contracting officer to consider in determining whether the price of a procurement to the Government is fair and reasonable when certified cost or pricing data are not required to be submitted under this section because the price of the procurement to the United States is not expected to exceed an applicable $500,000 threshold set forth in subsection (a) (as adjusted pursuant to paragraph (7) of such subsection). Such information, at a minimum, shall include appropriate information on the prices at which the same or similar items have previously been sold that is adequate for evaluating the reasonableness of the price of the proposed contract or subcontract for the procurement.".

SEC. 1207. CONSISTENCY OF TIME REFERENCES.

Section 2306a of title 10, United States Code, as amended by section 1204(1), is further amended—

(1) in subparagraphs (A)(ii) and (B)(ii) of subsection (e)(4), by inserting "or, if applicable consistent with paragraph (1)(B), another date agreed upon between the parties," after "(or price of the modification)"; and

(2) in subsection (i), by inserting "or, if applicable consistent with subsection (d)(1)(B), another date agreed upon between the parties" after "(or the price of a contract modification)".

SEC. 1208. EXCEPTION FOR TRANSFERS BETWEEN DIVISIONS, SUBSIDIARIES, AND AFFILIATES.

Subsection (i) of section 2306a of title 10, United States Code, as redesignated by section 1204(1), is amended to read as follows:

"(i) DEFINITIONS.—In this section:

"(1) The term 'cost or pricing data' means all facts that, as of the date of agreement on the price of a contract (or the price of a contract modification), a prudent buyer or seller would reasonably expect to affect price negotiations significantly. Such term does not include information that is judgmental, but does include the factual information from which a judgment was derived.

"(2) The term 'subcontract' includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractor.".

SEC. 1209. REPEAL OF SUPERSEDED PROVISION.

Subsections (b) and (c) of section 803 of Public Law 101–510 (10 U.S.C. 2306a note) are repealed.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 1251. REVISION OF CIVILIAN AGENCY PROVISIONS TO ENSURE UNIFORM TREATMENT OF COST OR PRICING DATA.

(a) IN GENERAL.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended—

(1) in section 304, by striking out subsection (d); and

(2) by inserting after section 304 the following new section:

"COST OR PRICING DATA: TRUTH IN NEGOTIATIONS

"SEC. 304A. (a) REQUIRED COST OR PRICING DATA AND CERTIFICATION.—(1) An agency head shall require offerors, contractors, and subcontractors to make cost or pricing data available as follows:

"(A) An offeror for a prime contract under this title to be entered into using procedures other than sealed-bid procedures shall be required to submit cost or pricing data before the award of a contract if—

"(i) in the case of a prime contract entered into after the date of the enactment of the Federal Acquisition Streamlining Act of 1994, the price of the contract to the United States is expected to exceed $500,000; and

"(ii) in the case of a prime contract entered into on or before the date of the enactment of the Federal Acquisition Streamlining Act of 1994, the price of the contract to the United States is expected to exceed $100,000.

"(B) The contractor for a prime contract under this chapter shall be required to submit cost or pricing data before the pricing of a change or modification to the contract if—

"(i) in the case of a change or modification made to a prime contract referred to in subparagraph (A)(i), the price adjustment is expected to exceed $500,000;

"(ii) in the case of a change or modification made to a prime contract that was entered into on or before the date of the enactment of the Federal Acquisition Streamlining Act of 1994, and that has been modified pursuant to paragraph (6), the price adjustment is expected to exceed $500,000; and

"(iii) in the case of a change or modification not covered by clause (i) or (ii), the price adjustment is expected to exceed $100,000.

"(C) An offeror for a subcontract (at any tier) of a contract under this title shall be required to submit cost or pricing data before the award of the subcontract if the prime contractor and each higher-tier subcontractor have been required to make available cost or pricing data under this section and—

"(i) in the case of a subcontract under a prime contract referred to in subparagraph (A)(i), the price of the subcontract is expected to exceed $500,000;

"(ii) in the case of a subcontract entered into under a prime contract that was entered into on or before the date of the enactment of the Federal Acquisition Streamlining Act of 1994, and that has been modified pursuant to paragraph (6), the price of the subcontract is expected to exceed $500,000; and

"(iii) in the case of a subcontract not covered by clause (i) or (ii), the price of the subcontract is expected to exceed $100,000.

"(D) The subcontractor for a subcontract covered by subparagraph (C) shall be required to submit cost or pricing data before the pricing of a change or modification to the subcontract if—

"(i) in the case of a change or modification to a subcontract referred to in subparagraph (C)(i) or (C)(ii), the price adjustment is expected to exceed $500,000; and

"(ii) in the case of a change or modification to a subcontract referred to in subparagraph (C)(iii), the price adjustment is expected to exceed $100,000.

"(2) A person required, as an offeror, contractor, or subcontractor, to submit cost or pricing data under paragraph (1) (or required by the agency head concerned to submit such data in accordance with subsection (c)) shall be required to certify that, to the best of the person's knowledge and belief, the cost or pricing data submitted are accurate, complete, and current.

"(3) Cost or pricing data required to be submitted under paragraph (1) (or in accordance with subsection (c)), and a certification required to be submitted under paragraph (2), shall be submitted—

"(A) in the case of a submission by a prime contractor (or an offeror for a prime contract), to the contracting officer for the contract (or to a designated representative of the contracting officer); or

"(B) in the case of a submission by a subcontractor (or an offeror for a subcontract), to the prime contractor.

"(4) Except as provided under subsection (b), this section applies to contracts entered into by an agency head on behalf of a foreign government.

"(5) For purposes of paragraph (1)(C), a contractor or subcontractor granted a waiver under subsection (b)(1)(B) shall be considered as having been required to make available cost or pricing data under this section.

"(6)(A) Upon the request of a contractor that was required to submit cost or pricing data under paragraph (1) in connection with a prime contract entered into on or before the date of the enactment of the Federal Acquisition Streamlining Act of 1994, the agency head that entered into such contract shall modify the contract to reflect subparagraphs (B)(ii) and (C)(ii) of paragraph (1). All such modifications shall be made without requiring consideration.

"(B) An agency head is not required to modify a contract under subparagraph (A) if that agency head determines that the submission of cost or pricing data with respect to that contract should be required in accordance with subsection (c).

"(7) Effective on October 1 of each year that is divisible by 5, each amount set forth in paragraph (1) shall be adjusted to the amount that is equal to the fiscal year 1994 constant dollar value of the amount set forth. Any amount, as so adjusted, that is not evenly divisible by $50,000 shall be rounded to the nearest multiple of $50,000. In the case of an amount that is evenly divisible by $25,000 but not evenly divisible by $50,000, the amount shall be rounded to the next higher multiple of $50,000.

"(b) EXCEPTIONS.—(1) Submission of cost and pricing data shall not be required under subsection (a)—

"(A) in the case of a contract, a subcontract, or a contract or subcontract modification, for which the price agreed upon is based on—

"(i) adequate price competition;

"(ii) established catalog or market prices of commercial items or of services customarily used for other than Government purposes, as the case may be, that are sold in substantial quantities to the general public; or

"(iii) prices set by law or regulation; or

"(B) in an exceptional case when the agency head concerned determines that the requirements of this section may be waived and states in writing the reasons for such determination.

"(2) Submission of cost and pricing data shall not be required under subsection (a) in the case of a modification of a contract or subcontract for a commercial item if—

"(A) the contract or subcontract being modified is a contract or subcontract for which submission of cost and pricing data may not be required by reason of paragraph (1)(A);

"(B) the modification is not a case in which paragraph (1)(A) prohibits the agency head from requiring submission of cost and pricing data; and

"(C) the modification would not change the contract or subcontract, as the case may be, from a contract or subcontract for the acquisition of a commercial item to a contract or subcontract for the acquisition of a noncommercial item.

"(c) LIMITATION ON AUTHORITY TO REQUIRE COST OR PRICING DATA.—When cost or pricing data are not required to be submitted under this section by reason of a $500,000 threshold set forth in subsection (a) (as adjusted pursuant to paragraph (7) of such subsection) or by reason of an exception in paragraph (1)(A) or (2) of subsection (b), submission of such data may not be required unless the agency head concerned determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract or subcontract to which the data relate. In any case in which the agency head requires such data to be submitted in accordance with the preceding sentence, the agency head shall document in writing the reasons for such requirement.

"(d) ADDITIONAL EXCEPTION PROVISIONS REGARDING COMMERCIAL ITEMS.—(1) To the maximum extent practicable, an agency head shall conduct procurements of commercial items on a competitive basis.

"(2) In any case in which it is not practicable to conduct a procurement of a commercial item on a competitive basis and the procurement is not covered by an exception in subsection (b), the contracting officer shall nonetheless exempt a contract, subcontract, or modification of a contract or subcontract under the procurement from the requirements of subsection (a) if the contracting officer obtains, in accordance with standards and procedures set forth in the Federal Acquisition Regulation, information on prices at which the same or similar items have been sold in the commercial market that is adequate for evaluating the reasonableness of the price of the contract or subcontract for a commercial item, or the contract or subcontract modification, as the case may be. The contracting officer may obtain such information from the offeror or contractor or, when such information is not available from that source, from another source or sources.

"(3)(A) In accordance with procedures prescribed in the Federal Acquisition Regulation, an agency head shall have the right to examine all information provided by an offeror, contractor, or subcontractor pursuant to paragraph (2) and all books and records of such offeror, contractor, or subcontractor that directly relate to such information in order to determine whether the agency is receiving accurate information required under this section.

"(B) The right under subparagraph (A) shall expire 3 years after the date of award of the contract, or 3 years after the date of the modification of the contract, with respect to which the information was provided.

"(e) PRICE REDUCTIONS FOR DEFECTIVE COST OR PRICING DATA.—(1)(A) A prime contract (or change or modification to a prime contract) under which a certificate under subsection (a)(2) is required shall contain a provision that the price of the contract to the United States, including profit or fee, shall be adjusted to exclude any significant amount by which it may be determined by the agency head that such price was increased because the contractor (or any subcontractor required to make available such a certificate) submitted defective cost or pricing data.

"(B) For the purposes of this section, defective cost or pricing data are cost or pricing data which, as of the date of agreement on the price of the contract (or another date agreed upon between the parties), were inaccurate, incomplete, or noncurrent. If for purposes of the preceding sentence the parties agree upon a date other than the date of agreement on the price of the contract, the date agreed upon by the parties shall be as close to the date of agreement on the price of the contract as is practicable.

"(2) In determining for purposes of a contract price adjustment under a contract provision required by paragraph (1) whether, and to what extent, a contract price was increased because the contractor (or a subcontractor) submitted defective cost or pricing data, it shall be a defense that the United States did not rely on the defective data submitted by the contractor or subcontractor.

"(3) It is not a defense to an adjustment of the price of a contract under a contract provision required by paragraph (1) that—

"(A) the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted by the contractor or subcontractor because the contractor or subcontractor—

"(i) was the sole source of the property or services procured; or

"(ii) otherwise was in a superior bargaining position with respect to the property or services procured;

"(B) the contracting officer should have known that the cost and pricing data in issue were defective even though the contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the contracting officer;

"(C) the contract was based on an agreement between the contractor and the United States about the total cost of the contract and there was no agreement about the cost of each item procured under such contract; or

"(D) the prime contractor or subcontractor did not submit a certification of cost and pricing data relating to the contract as required under subsection (a)(2).

"(4)(A) A contractor shall be allowed to offset an amount against the amount of a contract price adjustment under a contract provision required by paragraph (1) if—

"(i) the contractor certifies to the contracting officer (or to a designated representative of the contracting officer) that, to the best of the contractor's knowledge and belief, the contractor is entitled to the offset; and

"(ii) the contractor proves that the cost or pricing data were available before the date of agreement on the price of the contract (or price of the modification), or, if applicable consistent with paragraph (1)(B), another date agreed upon between the parties, and that the data were not submitted as specified in subsection (a)(3) before such date.

"(B) A contractor shall not be allowed to offset an amount otherwise authorized to be offset under subparagraph (A) if—

"(i) the certification under subsection (a)(2) with respect to the cost or pricing data involved was known to be false when signed; or

"(ii) the United States proves that, had the cost or pricing data referred to in subparagraph (A)(ii) been submitted to the United States before the date of agreement on the price of the contract (or price of the modification) or, if applicable under paragraph (1)(B), another date agreed upon between the parties, the submission of such cost or pricing data would not have resulted in an increase in that price in the amount to be offset.

"(f) INTEREST AND PENALTIES FOR CERTAIN OVERPAYMENTS.—(1) If the United States makes an overpayment to a contractor under a contract with an executive agency subject to this section and the overpayment was due to the submission by the contractor of defective cost or pricing data, the contractor shall be liable to the United States—

"(A) for interest on the amount of such overpayment, to be computed—

"(i) for the period beginning on the date the overpayment was made to the contractor and ending on the date the contractor repays the amount of such overpayment to the United States; and

"(ii) at the current rate prescribed by the Secretary of the Treasury under section 6621 of the Internal Revenue Code of 1986; and

"(B) if the submission of such defective data was a knowing submission, for an additional amount equal to the amount of the overpayment.

"(2) Any liability under this subsection of a contractor that submits cost or pricing data but refuses to submit the certification required by subsection (a)(2) with respect to the cost or pricing data shall not be affected by the refusal to submit such certification.

"(g) RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.—For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this section, the head of an agency shall have the rights provided by section 304B(a)(2).

"(h) REQUIRED REGULATIONS.—The Federal Acquisition Regulation shall include regulations concerning the types of information that offerors must submit for a contracting officer to consider in determining whether the price of a procurement to the Government is fair and reasonable when certified cost or pricing data are not required to be submitted under this section because the price of the procurement to the United States is not expected to exceed an applicable $500,000 threshold set forth in subsection (a) (as adjusted pursuant to paragraph (7) of such subsection). Such information, at a minimum, shall include appropriate information on the prices at which the same or similar items have previously been sold that is adequate for evaluating the reasonableness of the price of a proposed contract or subcontract for the procurement.

"(i) DEFINITIONS.—In this section:

"(1) The term 'cost or pricing data' means all facts that, as of the date of agreement on the price of a contract (or the price of a contract modification) or, if applicable consistent with subsection (e)(1)(B), another date agreed upon between the parties, a prudent buyer or seller would reasonably expect to affect price negotiations significantly. Such term does not include information that is judgmental, but does include the factual information from which a judgment was derived.

"(2) The term 'subcontract' includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractor.".

(b) TABLE OF CONTENTS.—The table of contents in the first section of such Act is amended by inserting after the item relating to section 304 the following:

"Sec. 304A. Cost or pricing data: truth in negotiations.".

SEC. 1252. REPEAL OF OBSOLETE PROVISION.

(a) REPEAL.—Section 303E of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253e) is repealed.

(b) CLERICAL AMENDMENT.—The table of contents in the first section of such Act is amended by striking out the item relating to section 303E.

Subtitle C—Research and Development

SEC. 1301. RESEARCH PROJECTS.

(a) AUTHORIZED MEANS.—Subsection (b) of section 2358 of title 10, United States Code, is amended to read as follows:

"(b) AUTHORIZED MEANS.—The Secretary of Defense or the Secretary of a military department may perform research and development projects—

"(1) by contract entered into with, grant made to, or cooperative agreement entered into with educational or research institutions, private businesses, or other persons in accordance with the provisions of chapter 63 of title 31;

"(2) through one or more military departments;

"(3) by using employees and consultants of the Department of Defense; or

"(4) by mutual agreement with the head of any other department or agency of the Federal Government.".

(b) CAPTION AMENDMENT.—The caption of subsection (c) of such section is amended by striking out "MILITARY" and inserting in lieu thereof "DEPARTMENT OF DEFENSE".

(c) ADVANCED RESEARCH PROJECTS.—

(1) RESTORATION AND REVISION OF FORMER STATEMENT OF AUTHORITY.—Section 2371 of title 10, United States Code, is amended—

(A) by redesignating subsections (a), (b), (c), (d), (e), and (f) as subsections (b), (c), (d), (e), (f), and (g), respectively; and

(B) by inserting before subsection (b), as so redesignated, the following new subsection (a):

"(a) The Secretary of Defense, acting through the Advanced Research Projects Agency and such other elements of the Department of Defense as the Secretary may designate, and the Secretary of each military department, in carrying out basic, applied, and advanced research projects, may enter into other transactions, in addition to contracts, grants, and cooperative agreements authorized by section 2358 of this title.".

(2) CONFORMING AMENDMENTS.—Such section, as amended by paragraph (1), is further amended—

(A) in subsection (b)—

(i) in paragraph (1), by inserting "or subsection (a)" after "section 2358 of this title"; and

(ii) in paragraph (2), by striking out "subsection (d)" and inserting in lieu thereof "subsection (e)";

(B) in subsection (c), by inserting "section 2358 of this title or" after "under";

(C) in subsection (d)—

(i) in paragraph (1), by striking out "this section" and inserting in lieu thereof "section 2358 of this title or subsection (a)"; and

(ii) in paragraph (3), by striking out "this section" and inserting in lieu thereof "section 2358 of this title or subsection (a)";

(D) in subsection (e), by inserting "or subsection (a)" in the first sentence after "section 2358 of this title"; and

(E) in subsection (f)—

(i) in the first sentence, by striking out "under this section" and inserting in lieu thereof "under section 2358 of this title or subsection (a)";

(ii) in paragraph (4), by striking out "subsection (a)" and inserting in lieu thereof "subsection (b)"; and

(iii) in paragraph (5), by striking out "subsection (d)" and inserting in lieu thereof "subsection (e)".

SEC. 1302. ELIMINATION OF INFLEXIBLE TERMINOLOGY REGARDING COORDINATION AND COMMUNICATION OF DEFENSE RESEARCH ACTIVITIES.

Section 2364 of title 10, United States Code, is amended—

(1) in subsection (b)(5), by striking out "milestone 0, milestone I, and milestone II decisions" and inserting in lieu thereof "acquisition program decisions"; and

(2) in subsection (c), by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

"(2) The term 'acquisition program decisions' has the meaning given such term in regulations prescribed by the Secretary of Defense for the purposes of this section.".

Subtitle D—Procurement Protests

PART I—PROTESTS TO THE COMPTROLLER GENERAL

SEC. 1401. PROTEST DEFINED.

Paragraph (1) of section 3551 of title 31, United States Code, is amended to read as follows:

"(1) 'protest' means a written objection by an interested party—

"(i) to a solicitation or other request by a Federal agency for offers for a contract for the procurement of property or services;

"(ii) to the cancellation of such a solicitation or other request;

"(iii) to an award or proposed award of such a contract; or

"(iv) to a termination or cancellation of an award of such a contract, if the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the award of the contract;".

SEC. 1402. REVIEW OF PROTESTS AND EFFECT ON CONTRACTS PENDING DECISION.

(a) PERIODS FOR CERTAIN ACTIONS.—Section 3553 of title 31, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking out "one working day of" and inserting in lieu thereof "one day after"; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking out "25 working days from" and inserting in lieu thereof "35 days after"; and

(ii) in subparagraph (C), by striking out "10 working days from" and inserting in lieu thereof "25 days after"; and

(2) in subsection (c)(3), by striking out "thereafter" and inserting in lieu thereof "after the making of such finding".

(b) SUSPENSION OF PERFORMANCE.—Subsection (d) of such section is amended to read as follows:

"(d)(1) A contractor awarded a Federal agency contract may, during the period described in paragraph (4), begin performance of the contract and engage in any related activities that result in obligations being incurred by the United States under the contract unless the contracting officer responsible for the award of the contract withholds authorization to proceed with performance of the contract.

"(2) The contracting officer may withhold an authorization to proceed with performance of the contract during the period described in paragraph (4) if the contracting officer determines in writing that—

"(A) a protest is likely to be filed; and

"(B) the immediate performance of the contract is not in the best interests of the United States.

"(3)(A) If the Federal agency awarding the contract receives notice of a protest in accordance with this section during the period described in paragraph (4)—

"(i) the contracting officer may not authorize performance of the contract to begin while the protest is pending; or

"(ii) if contract performance authorization to proceed was not withheld in accordance with paragraph (2) before receipt of the notice, the contracting officer shall immediately direct the contractor to cease performance under the contract and to suspend any related activities that may result in additional obligations being incurred by the United States under that contract.

"(B) Performance and related activities suspended pursuant to subparagraph (A)(ii) by reason of a protest may not be resumed while the protest is pending.

"(C) The head of the procuring activity may authorize the performance of the contract (notwithstanding a protest of which the Federal agency has notice under this section)—

"(i) upon a written finding that—

"(I) performance of the contract is in the best interests of the United States; or

"(II) urgent and compelling circumstances that significantly affect interests of the United States will not permit waiting for the decision of the Comptroller General concerning the protest; and

"(ii) after the Comptroller General is notified of that finding.

"(4) The period referred to in paragraphs (2) and (3)(A), with respect to a contract, is the period beginning on the date of the contract award and ending on the later of—

"(A) the date that is 10 days after the date of the contract award; or

"(B) the date that is 5 days after—

"(i) the debriefing date offered to an unsuccessful offeror for any debriefing that is requested and, when requested, is required; or

"(ii) in the case of a contract for which no debriefing is required, the date on which the unsuccessful offeror receives the notification of contract award.".

SEC. 1403. DECISIONS ON PROTESTS.

(a) PERIODS FOR CERTAIN ACTIONS.—Section 3554(a) of title 31, United States Code, is amended—

(1) in paragraph (1), by striking out "90 working days from" and inserting in lieu thereof "125 days after";

(2) in paragraph (2), by striking out "45 calendar days from" and inserting "65 days after";

(3) by redesignating paragraph (3) as paragraph (4); and

(4) by inserting after paragraph (2) the following new paragraph (3):

"(3) An amendment to a protest that adds a new ground of protest, if timely made, should be resolved, to the maximum extent practicable, within the time limit established under paragraph (1) of this subsection for final decision of the initial protest. If an amended protest cannot be resolved within such time limit, the Comptroller General may resolve the amended protest through the express option under paragraph (2) of this subsection.".

(b) GAO RECOMMENDATIONS ON PROTESTS.—

(1) IMPLEMENTATION OF RECOMMENDATIONS.—Section 3554 of title 31, United States Code, is amended—

(A) in subsection (b), by adding at the end the following new paragraph:

"(3) If the Federal agency fails to implement fully the recommendations of the Comptroller General under this subsection with respect to a solicitation for a contract or an award or proposed award of a contract within 60 days after receiving the recommendations, the head of the procuring activity responsible for that contract shall report such failure to the Comptroller General not later than 5 working days after the end of such 60-day period.";

(B) by striking out subsection (c) and inserting in lieu thereof the following:

"(c)(1) If the Comptroller General determines that a solicitation for a contract or a proposed award or the award of a contract does not comply with a statute or regulation, the Comptroller General may recommend that the Federal agency conducting the procurement pay to an appropriate interested party the costs of—

"(A) filing and pursuing the protest, including reasonable attorney's fees and consultant and expert witness fees; and

"(B) bid and proposal preparation.

"(2) No party (other than a small business concern (within the meaning of section 3(a) of the Small Business Act)) may be paid, pursuant to a recommendation made under the authority of paragraph (1)—

"(A) costs for consultant and expert witness fees that exceed the rates provided under section 504(b)(1)(A) of title 5 for expert witnesses; or

"(B) costs for attorney's fees that exceed the rates provided for attorneys under section 504(b)(1)(A) of title 5.

"(3) If the Comptroller General recommends under paragraph (1) that a Federal agency pay costs to an interested party, the Federal agency shall—

"(A) pay the costs promptly; or

"(B) if the Federal agency does not make such payment, promptly report to the Comptroller General the reasons for the failure to follow the Comptroller General's recommendation.

"(4) If the Comptroller General recommends under paragraph (1) that a Federal agency pay costs to an interested party, the Federal agency and the interested party shall attempt to reach an agreement on the amount of the costs to be paid. If the Federal agency and the interested party are unable to agree on the amount to be paid, the Comptroller General may, upon the request of the interested party, recommend to the Federal agency the amount of the costs that the Federal agency should pay."; and

(C) by striking out subsection (e) and inserting in lieu thereof the following:

"(e)(1) The Comptroller General shall report promptly to the Committee on Governmental Affairs and the Committee on Appropriations of the Senate and to the Committee on Government Operations and the Committee on Appropriations of the House of Representatives any case in which a Federal agency fails to implement fully a recommendation of the Comptroller General under subsection (b) or (c). The report shall include—

"(A) a comprehensive review of the pertinent procurement, including the circumstances of the failure of the Federal agency to implement a recommendation of the Comptroller General; and

"(B) a recommendation regarding whether, in order to correct an inequity or to preserve the integrity of the procurement process, the Congress should consider—

"(i) private relief legislation;

"(ii) legislative rescission or cancellation of funds;

"(iii) further investigation by Congress; or

"(iv) other action.

"(2) Not later than January 31 of each year, the Comptroller General shall transmit to the Congress a report containing a summary of each instance in which a Federal agency did not fully implement a recommendation of the Comptroller General under subsection (b) or (c) during the preceding year. The report shall also describe each instance in which a final decision in a protest was not rendered within 125 days after the date the protest is submitted to the Comptroller General.".

(2) REQUIREMENT FOR PAYMENT IN ACCORDANCE WITH PRIOR GAO DETERMINATIONS.—Costs to which the Comptroller General declared an interested party to be entitled under section 3554 of title 31, United States Code, as in effect immediately before the enactment of this Act, shall, if not paid or otherwise satisfied by the Federal agency concerned before the date of the enactment of this Act, be paid promptly.

SEC. 1404. REGULATIONS.

(a) COMPUTATION OF PERIODS.—Section 3555 of title 31, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (d); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) The procedures shall provide that, in the computation of any period described in this subchapter—

"(1) the day of the act, event, or default from which the designated period of time begins to run not be included; and

"(2) the last day after such act, event, or default be included, unless—

"(A) such last day is a Saturday, a Sunday, or a legal holiday; or

"(B) in the case of a filing of a paper at the General Accounting Office or a Federal agency, such last day is a day on which weather or other conditions cause the closing of the General Accounting Office or Federal agency, in which event the next day that is not a Saturday, Sunday, or legal holiday shall be included.".

(b) ELECTRONIC FILINGS AND DISSEMINATIONS.—Such section, as amended by subsection (a), is further amended by inserting after subsection (b) the following new subsection:

"(c) The Comptroller General may prescribe procedures for the electronic filing and dissemination of documents and information required under this subchapter. In prescribing such procedures, the Comptroller General shall consider the ability of all parties to achieve electronic access to such documents and records.".

(c) REPEAL OF OBSOLETE DEADLINE.—Subsection (a) of such section is amended by striking out "Not later than January 15, 1985, the" and inserting in lieu thereof "The".

PART II—PROTESTS IN THE FEDERAL COURTS

SEC. 1421. NONEXCLUSIVITY OF REMEDIES.

Section 3556 of title 31, United States Code, is amended by striking out "a district court of the United States or the United States Claims Court" in the first sentence and inserting in lieu thereof "the United States Court of Federal Claims".

SEC. 1422. JURISDICTION OF THE UNITED STATES COURT OF FEDERAL CLAIMS.

(a) CLAIMS AGAINST THE UNITED STATES AND BID PROTESTS.—Section 1491 of title 28, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (e);

(2) in subsection (a)—

(A) by striking out "(a)(1)" and inserting in lieu thereof "(a) CLAIMS AGAINST THE UNITED STATES.—";

(B) in paragraph (2), by striking out "(2) To" and inserting in lieu thereof "(b) REMEDY AND RELIEF.—To"; and

(C) by striking out paragraph (3); and

(3) by inserting after subsection (b), as designated by paragraph (2)(B), the following new subsection (c):

"(c) BID PROTESTS.—(1) The United States Court of Federal Claims has jurisdiction to render judgment on an action by an interested party objecting to a solicitation by a Federal agency for bids or proposals for a proposed contract or to a proposed award or the award of a contract. The court has jurisdiction to entertain such an action without regard to whether suit is instituted before or after the contract is awarded.

"(2) To afford relief in such an action, the court may award any relief that the court considers proper, including declaratory and injunctive relief.

"(3) In exercising jurisdiction under this subsection, the court shall give due regard to the interests of national defense and national security and the need for expeditious resolution of the action.

"(4) The district courts of the United States do not have jurisdiction of any action referred to in paragraph (1).".

(b) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended by inserting "**BID PROTESTS;**" after "**GENERALLY**;".

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 91 of title 28, United States Code, is amended by striking out the item relating to section 1491 and inserting in lieu thereof the following:

"1491. Claims against United States generally; bid protests; actions involving Tennessee Valley Authority.".

PART III—PROTESTS IN PROCUREMENTS OF AUTOMATIC DATA PROCESSING

SEC. 1431. REVOCATION OF DELEGATIONS OF PROCUREMENT AUTHORITY.

Section 111(b)(3) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(b)(3)) is amended by inserting after the third sentence the following: "The Administrator may revoke a delegation of authority with respect to a particular contract before or after award of the contract, except that the Administrator may revoke a delegation after the contract is awarded only when there is a finding of a violation of law or regulation in connection with the contract award.".

SEC. 1432. AUTHORITY OF THE GENERAL SERVICES ADMINISTRATION BOARD OF CONTRACT APPEALS.

The first sentence of section 111(f)(1) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(1)) is amended to read as follows: "Upon request of an interested party in connection with any procurement that is subject to this section (including any such procurement that is subject to delegation of procurement authority), the board of contract appeals of the General Services Administration (hereafter in this subsection referred to as the 'board') shall review, as provided in this subsection, any decision by a contracting officer that is alleged to violate a statute, a regulation, or the conditions of a delegation of procurement authority.".

SEC. 1433. PERIODS FOR CERTAIN ACTIONS.

(a) SUSPENSION OF PROCUREMENT AUTHORITY.—Section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)) is amended—

(1) in paragraph (2) by adding at the end the following new subparagraph:

"(C) If, in the case of a preaward protest, the board suspends the procurement authority of the Administrator or the Administrator's delegation of procurement authority, the Administrator or the delegate, as the case may be, may continue with the procurement action up to, but not including, the awarding of the contract if the Administrator or the delegate, as the case may be, determines that it is in the best interests of the United States to do so."; and

(2) in paragraph (3) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A)(i) If, with respect to an award of a contract, the board receives notice of a protest under this subsection within the period described in clause (ii), the board shall, at the request of an interested party, hold a hearing to determine whether the board should suspend the procurement authority of the Administrator or the Administrator's delegation of procurement authority for the protested procurement on an interim basis until the board can decide the protest.

"(ii) The period referred to in clause (i) is the period beginning on the date on which the contract is awarded and ending on the date that is 10 days after the date of the contract award or, if later, the date that is 5 days after—

"(I) the debriefing date offered to an unsuccessful offeror for any debriefing that is requested and, when requested, is required; or

"(II) in the case of a contract for which no debriefing is required, the date on which the unsuccessful offeror receives the notification of contract award.

"(iii) The board shall hold the requested hearing within 5 days after the date of the filing of the protest or, in the case of a request for debriefing under the provisions of section 2305(b)(5) of title 10, United States Code, or section 303B(e) of this Act, within 5 days after the later of the date of the filing of the protest or the date of the debriefing.".

(b) FINAL DECISION.—Paragraph (4)(B) of such section 111(f) is amended—

(1) by striking out "45 working days" and inserting in lieu thereof "65 days"; and

(2) by adding at the end the following: "An amendment which adds a new ground of protest should be resolved, to the maximum extent practicable, within the time limits established for resolution of the initial protest.".

SEC. 1434. DISMISSALS OF PROTESTS.

Section 111(f)(4) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(4)) is amended by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) The board may dismiss a protest that the board determines—

"(i) is frivolous;

"(ii) has been brought in bad faith; or

"(iii) does not state on its face a valid basis for protest.".

SEC. 1435. AWARD OF COSTS.

Section 111(f)(5) is amended by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) Whenever the board makes such a determination, it may, in accordance with section 1304 of title 31, United States Code, further declare an appropriate prevailing party to be entitled to the cost of filing and pursuing the protest (including reasonable attorney's fees and consultant and expert witness fees), and bid and proposal preparation. However, no party (other than a small business concern (within the meaning of section 3(a) of the Small Business Act)) may be declared entitled to costs for consultant and expert witness fees that exceed the rates provided under section 504(b)(1)(A) of title 5, United States Code, for expert witnesses or to costs for attorney's fees that exceed the rates provided for attorneys under section 504(b)(1)(A) of title 5, United States Code.".

SEC. 1436. DISMISSAL AGREEMENTS.

Section 111(f)(5) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(5)) is amended by adding at the end the following new subparagraphs:

"(D) Any agreement that provides for the dismissal of a protest and involves a direct or indirect expenditure of appropriated funds shall be submitted to the board and shall be made a part of the public record (subject to any protective order considered appropriate by the board) before dismissal of the protest. If a Federal agency is a party to a settlement agreement, the submission of the agreement submitted to the board shall include a memorandum, signed by the contracting officer concerned, that describes in detail the procurement, the grounds for protest, the Federal Government's position regarding the grounds for protest, the terms of the settlement, and the agency's position regarding the propriety of the award or proposed award of the contract at issue in the protest.

"(E) Payment of amounts due from an agency under subparagraph (C) or under the terms of a settlement agreement under subparagraph (D) shall be made from the appropriation made by section 1304 of title 31, United States Code, for the payment of judgments. The Federal agency concerned shall reimburse that appropriation account out of funds available for the procurement.".

SEC. 1437. JURISDICTION OF DISTRICT COURTS.

Section 111(f)(6)(C) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(6)(C)) is amended by striking out "a district court of the United States or".

SEC. 1438. MATTERS TO BE COVERED IN REGULATIONS.

Section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)) is amended by striking out paragraph (8) and inserting in lieu thereof the following:

"(7)(A) The board shall adopt and issue such rules and procedures as may be necessary to the expeditious disposition of protests filed under the authority of this subsection.

"(B) The procedures shall provide that, in the computation of any period described in this subsection—

"(i) the day of the act, event, or default from which the designated period of time begins to run not be included; and

"(ii) the last day after such act, event, or default be included, unless—

"(I) such last day is a Saturday, a Sunday, or a legal holiday; or

"(II) in the case of a filing of a paper at the board, such last day is a day on which weather or other conditions cause the closing of the board or Federal agency, in which event the next day that is not a Saturday, Sunday, or legal holiday shall be included.

"(C) The procedures may provide for electronic filing and dissemination of documents and information required under this subsection and in so providing shall consider the ability of all parties to achieve electronic access to such documents and records.

"(D) The procedures shall provide that if the board expressly finds that a protest or a portion of a protest is frivolous or has not been brought or pursued in good faith, or that any person has willfully abused the board's process during the course of a protest, the board may impose appropriate procedural sanctions, including dismissal of the protest.".

SEC. 1439. DEFINITIONS.

(a) PROTEST.—Section 111(f)(9)(A) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(9)(A)) is amended to read as follows:

"(A) the term 'protest' means a written objection by an interested party—

"(i) to a solicitation or other request by a Federal agency for offers for a contract for the procurement of property or services;

"(ii) to the cancellation of such a solicitation or other request;

"(iii) to an award or proposed award of such a contract; or

"(iv) to a termination or cancellation of an award of such a contract, if the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the award of the contract;".

(b) PREVAILING PARTY.—Section 111(f)(9) of such Act is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) the term 'prevailing party', with respect to a determination of the board under paragraph (5)(B) that a challenged action of a Federal agency violates a statute or regulation or the conditions of a delegation of procurement authority issued pursuant to this section, means a party that demonstrated such violation.".

Subtitle E—Definitions and Other Matters

PART I—ARMED SERVICES ACQUISITIONS

SEC. 1501. DEFINITIONS.

Section 2302 of title 10, United States Code, is amended—

(1) by striking out paragraphs (3), (4), (5), and (7);

(2) by redesignating paragraph (6) as paragraph (5); and

(3) by inserting after paragraph (2) the following:

"(3) The terms 'commercial item', 'commercial component', 'full and open competition', 'major system', 'nondevelopmental item', 'procurement', 'procurement system', 'responsible source', 'standards', and 'technical data', have the meanings given such terms in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

"(4) The term 'simplified acquisition threshold' has the meaning given that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403), except that, in the case of any contract to be awarded and performed, or purchase to be made, outside the United States in support of a contingency operation, the term means an amount equal to two times the amount specified for that term in section 4 of such Act.".

SEC. 1502. DELEGATION OF PROCUREMENT FUNCTIONS.

(a) CONSOLIDATION OF DELEGATION AUTHORITY.—Section 2311 of title 10, United States Code, is amended to read as follows:

"§ 2311. Delegation

"(a) IN GENERAL.—Except to the extent expressly prohibited by another provision of law, the head of an agency may delegate, subject to his direction, to any other officer or official of that agency, any power under this chapter.

"(b) PROCUREMENTS FOR OR WITH OTHER AGENCIES.—Subject to subsection (a), to facilitate the procurement of property and services covered by this chapter by each agency named in section 2303 of this title for any other agency, and to facilitate joint procurement by those agencies—

"(1) the head of an agency may, within his agency, delegate functions and assign responsibilities relating to procurement;

"(2) the heads of two or more agencies may by agreement delegate procurement functions and assign procurement responsibilities from one agency to another of those agencies or to an officer or civilian employee of another of those agencies; and

"(3) the heads of two or more agencies may create joint or combined offices to exercise procurement functions and responsibilities.

"(c) Approval of Terminations and Reductions of Joint Acquisition Programs.—(1) The Secretary of Defense shall prescribe regulations that prohibit each military department participating in a joint acquisition program approved by the Under Secretary of Defense for Acquisition and Technology from terminating or substantially reducing its participation in such program without the approval of the Under Secretary.

"(2) The regulations shall include the following provisions:

"(A) A requirement that, before any such termination or substantial reduction in participation is approved, the proposed termination or reduction be reviewed by the Joint Requirements Oversight Council of the Department of Defense.

"(B) A provision that authorizes the Under Secretary of Defense for Acquisition and Technology to require a military department approved for termination or substantial reduction in participation in a joint acquisition program to continue to provide some or all of the funding necessary for the acquisition program to be continued in an efficient manner.".

(b) Conforming Repeal.—(1) Section 2308 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 137 of such title is amended by striking out the item related to section 2308.

SEC. 1503. DETERMINATIONS AND DECISIONS.

Section 2310 of title 10, United States Code, is amended to read as follows:

"§ 2310. Determinations and decisions

"(a) Individual or Class Determinations and Decisions Authorized.—Determinations and decisions required to be made under this chapter by the head of an agency may be made for an individual purchase or contract or for a class of purchases or contracts. Such determinations and decisions are final.

"(b) Written Findings Required.—(1) Each determination or decision under section 2306(e)(1), 2307(e), or 2313(d)(2) of this title shall be based on a written finding by the person making the determination or decision. The finding shall set out facts and circumstances that support the determination or decision.

"(2) Each finding referred to in paragraph (1) shall be final. The head of the agency making such finding shall maintain a copy of the finding for not less than 6 years after the date of the determination or decision.".

SEC. 1504. UNDEFINITIZED CONTRACTUAL ACTIONS: RESTRICTIONS.

(a) Clarification of Limitation.—Subsection (b) of section 2326 of title 10, United States Code, is amended—

(1) in the subsection caption, by striking out "and Expenditure";

(2) in paragraph (1)(B), by striking out "or expended";

(3) in paragraph (2), by striking out "expend" and inserting in lieu thereof "obligate"; and

(4) in paragraph (3)—

(A) by striking out "expended" and inserting in lieu thereof "obligated"; and

(B) by striking out "expend" and inserting in lieu thereof "obligate".

(b) Waiver Authority.—Such subsection is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph (4):

"(4) The head of an agency may waive the provisions of this subsection with respect to a contract of that agency if such head of an agency determines that the waiver is necessary in order to support a contingency operation.".

(c) Inapplicability of Restrictions to Contracts Within the Simplified Acquisition Threshold.—Section 2326(g)(1)(B) of title 10, United States Code, is amended by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold".

SEC. 1505. PRODUCTION SPECIAL TOOLING AND PRODUCTION SPECIAL TEST EQUIPMENT: CONTRACT TERMS AND CONDITIONS.

(a) Repeal.—Section 2329 of title 10, United States Code, is repealed.

(b) Technical Amendment.—The table of sections at the beginning of chapter 137 of such title is amended by striking out the item related to section 2329.

SEC. 1506. REGULATIONS FOR BIDS.

Section 2381(a) of title 10, United States Code, is amended by striking out "(a) The Secretary" and all that follows through the end of paragraph (1) and inserting in lieu thereof the following:

"(a) The Secretary of Defense or the Secretary of a military department may—

"(1) prescribe regulations for the preparation, submission, and opening of bids for contracts; and".

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 1551. DEFINITIONS.

Section 309(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259(c)) is amended by striking out "and 'supplies'" and inserting in lieu thereof "'supplies', 'commercial item', 'commercial component', 'nondevelopmental item', and 'simplified acquisition threshold'".

SEC. 1552. DELEGATION OF PROCUREMENT FUNCTIONS.

(a) Authority.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended—

(1) by redesignating sections 309 and 310 as sections 312 and 313, respectively; and

(2) by inserting after section 308 the following new section 309:

"DELEGATION

"Sec. 309. (a) In General.—Except to the extent expressly prohibited by another provision of law, an agency head may delegate, subject to his direction, to any other officer or official of that agency, any power under this title.

"(b) Procurements For or With Other Agencies.—Subject to subsection (a), to facilitate the procurement of property and services covered by this title by each executive agency for any other executive agency, and to facilitate joint procurement by those executive agencies—

"(1) an agency head may, within his executive agency, delegate functions and assign responsibilities relating to procurement;

"(2) the heads of two or more executive agencies may by agreement delegate procurement functions and assign procurement responsibilities from one executive agency to another of those executive agencies or to an officer or civilian employee of another of those executive agencies; and

"(3) the heads of two or more executive agencies may create joint or combined offices to exercise procurement functions and responsibilities.".

(b) Clerical Amendment.—The table of contents in the first section of such Act is amended by striking out the items relating to sections 309 and 310 and inserting in lieu thereof the following:

"Sec. 309. Delegation.
"Sec. 312. Definitions.
"Sec. 313. Statutes not applicable.".

SEC. 1553. DETERMINATIONS AND DECISIONS.

(a) In General.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1552, is further amended by inserting after section 309 the following new section 310:

"DETERMINATIONS AND DECISIONS

"Sec. 310. (a) Individual or Class Determinations and Decisions Authorized.—Determinations and decisions required to be made under this title by an agency head may be made for an individual purchase or contract or for a class of purchases or contracts. Such determinations and decisions are final.

"(b) Written Findings Required.—(1) Each determination under section 305(e) shall be based on a written finding by the person making the determination or decision. The finding shall set out facts and circumstances that support the determination or decision.

"(2) Each finding referred to in paragraph (1) shall be final. The agency head making such finding shall maintain a copy of the finding for not less than 6 years after the date of the determination or decision.".

(b) Clerical Amendment.—The table of contents in the first section of such Act, as amended by section 1552, is further amended by inserting after the item relating to section 309 the following:

"Sec. 310. Determinations and decisions.".

SEC. 1554. COOPERATIVE PURCHASING.

Subsection (b) of section 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481), is amended to read as follows:

"(b)(1) The Administrator shall, as far as practicable, provide any of the services specified in subsection (a) of this section to any other Federal agency, mixed-ownership Government corporation (as defined in section 9101 of title 31, United States Code), or the District of Columbia, upon its request.

"(2)(A) The Administrator may provide for the use of Federal supply schedules or other contracts by any of the following entities upon request:

"(i) A State, any department or agency of a State, and any political subdivision of a State, including a local government.

"(ii) The District of Columbia.

"(iii) The Commonwealth of Puerto Rico.

"(iv) The government of an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))).

"(B) Subparagraph (A) may not be construed to authorize an entity referred to in that subparagraph to order existing stock or inventory from federally owned and operated, or federally owned and contractor operated, supply depots, warehouses, or similar facilities.

"(3)(A) Upon the request of a qualified nonprofit agency for the blind or other severely handicapped that is to provide a commodity or service to the Federal Government under the Javits-Wagner-O'Day Act, the Administrator may provide any of the services specified in subsection (a) to such agency to the extent practicable.

"(B) A nonprofit agency receiving services under the authority of subparagraph (A) shall use the services directly in making or providing an approved commodity or approved service to the Federal Government.

"(C) In this paragraph:

"(i) The term 'qualified nonprofit agency for the blind or other severely handicapped' means—

"(I) a qualified nonprofit agency for the blind, as defined in section 5(3) of the Javits-Wagner-O'Day Act (41 U.S.C. 48b(3)); and

"(II) a qualified nonprofit agency for other severely handicapped, as defined in section 5(4) of such Act (41 U.S.C. 48b(4)).

"(ii) The terms 'approved commodity' and 'approved service' mean a commodity and a service, respectively, that has been determined by the Committee for Purchase from the Blind and Other Severely Handicapped under section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47) to be suitable for procurement by the Federal Government.

"(iii) The term 'Javits-Wagner-O'Day Act' means the Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938 (41 U.S.C. 46-48c), commonly referred to as the Wagner-O'Day Act, that was revised and reenacted in the Act of June 23, 1971 (85 Stat. 77), commonly referred to as the Javits-Wagner-O'Day Act.".

TITLE II—CONTRACT ADMINISTRATION

Subtitle A—Contract Payment

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2001. CONTRACT FINANCING.

(a) REORGANIZATION OF PRINCIPAL AUTHORITY PROVISION.—Section 2307 of title 10, United States Code, is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"§ 2307. Contract financing";

(2) by striking out "(a) The head of an agency" and inserting in lieu thereof "(b) PAYMENT AUTHORITY.—The head of an agency";

(3) by striking out "(b) Payments" and inserting in lieu thereof "(d) PAYMENT AMOUNT.—Payments";

(4) by striking out "(c) Advance payments" and inserting in lieu thereof "(e) SECURITY FOR ADVANCE PAYMENTS.—Advance payments";

(5) by striking out "(d)(1) The Secretary of Defense" and inserting in lieu thereof "(f) CONDITIONS FOR PROGRESS PAYMENTS.—(1) The Secretary of Defense"; and

(6) by striking out "(e)(1) In any case" and inserting in lieu thereof "(h) ACTION IN CASE OF FRAUD.—(1) In any case".

(b) FINANCING POLICY.—Such section, as amended by subsection (a), is further amended by inserting after the section heading the following new subsection (a):

"(a) POLICY.—Payments authorized under this section and made for financing purposes should be made periodically or, when appropriate, on an advance basis and should be so made in a timely manner to facilitate contract performance while protecting the security interests of the Government. Government financing shall be provided only to the extent necessary to ensure prompt and efficient performance and only after the availability of private financing is considered. A contractor's use of funds received as contract financing and the contractor's financial condition shall be monitored. If the contractor is a small business concern, special attention shall be given to meeting the contractor's financial need.".

(c) PERFORMANCE-BASED PAYMENTS.—Such section, as amended by subsection (a), is further amended by inserting after subsection (b) the following new subsection (c):

"(c) PERFORMANCE-BASED PAYMENTS.—Whenever practicable, payments under subsection (b) shall be made on any of the following bases:

"(1) Performance measured by objective, quantifiable methods such as receipt of items by the Federal Government, work measurement, or statistical process controls.

"(2) Accomplishment of events defined in the program management plan.

"(3) Other quantifiable measures of results.".

(d) TERMINOLOGY CORRECTION.—Such section, as amended by subsection (a)(2), is further amended in subsection (b)(2) by striking out "bid".

(e) EFFECTIVE DATE OF LIEN RELATED TO ADVANCE PAYMENTS.—Such section, as amended by subsection (a)(4), is further amended in subsection (e) by inserting before the period at the end of the third sentence the following: "and is effective immediately upon the first advancement of funds without filing, notice, or any other action by the United States".

(f) CONDITIONS FOR PROGRESS PAYMENTS.—Such section, as amended by subsection (a)(5), is further amended in subsection (f)—

(1) in the first sentence of paragraph (1), by striking out "work, which" and all that follows through "accomplished" and inserting in lieu thereof "work accomplished that meets standards established under the contract"; and

(2) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) This subsection applies to a contract for an amount equal to or greater than the simplified acquisition threshold.".

(g) NAVY CONTRACTS.—Such section, as amended by subsection (a)(5), is further amended by inserting after subsection (f) the following new subsection (g):

"(g) CERTAIN NAVY CONTRACTS.—(1) The Secretary of the Navy shall provide that the rate for progress payments on any contract awarded by the Secretary for repair, maintenance, or overhaul of a naval vessel shall be not less than—

"(A) 95 percent, in the case of firms considered to be small businesses; and

"(B) 90 percent, in the case of all other firms.

"(2) The Secretary of the Navy may advance to private salvage companies such funds as the Secretary considers necessary to provide for the immediate financing of salvage operations. Advances under this paragraph shall be made on terms that the Secretary considers adequate for the protection of the United States.

"(3) The Secretary of the Navy shall ensure that, when partial, progress, or other payments are made under a contract for construction or conversion of a naval vessel, the United States is secured by a lien upon work in progress and on property acquired for performance of the contract on account of all payments so made. The lien is paramount to all other liens.".

(h) RELATIONSHIP TO PROMPT PAYMENT REQUIREMENTS.—Section 2307(f) of title 10, United States Code, as amended by subsection (f), is not intended to impair or modify procedures required by the provisions of chapter 39 of title 31, United States Code, and the regulations issued pursuant to such provisions of law, that relate to progress payment requests, as such procedures are in effect on the date of the enactment of this Act.

(i) CONFORMING AND CLERICAL AMENDMENTS.—

(1) CROSS REFERENCE.—Such section, as amended by subsection (a), is further amended in subsections (d) and (e) by striking out "subsection (a)" and inserting in lieu thereof "subsection (b)".

(2) TABLE OF CONTENTS.—The table of sections at the beginning of chapter 137 of title 10, United States Code, is amended by striking out the item relating to section 2307 and inserting in lieu thereof the following:

"2307. Contract financing.".

(j) REPEAL OF SUPERSEDED PROVISIONS.—

(1) PROGRESS PAYMENTS UNDER CERTAIN NAVY CONTRACTS.—

(A) REPEAL.—Section 7312 of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 633 of such title is amended by striking out the item relating to section 7312.

(2) ADVANCEMENT OF PAYMENTS FOR NAVY SALVAGE OPERATIONS.—

(A) REPEAL.—Section 7364 of such title is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 637 of such title is amended by striking out the item relating to section 7364.

(3) PARTIAL PAYMENTS UNDER NAVY CONTRACTS.—

(A) REPEAL.—Section 7521 of such title is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 645 of such title is amended by striking out the item relating to section 7521.

SEC. 2002. CONTRACTS: VOUCHERING PROCEDURES.

(a) REPEAL.—Section 2355 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 139 of such title is amended by striking out the item relating to section 2355.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 2051. CONTRACT FINANCING.

(a) REORGANIZATION OF PRINCIPAL AUTHORITY PROVISION.—Section 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255) is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"CONTRACT FINANCING";

(2) by striking out "(a) Any executive agency" and inserting in lieu thereof "(b) PAYMENT AUTHORITY.—Any executive agency";

(3) by striking out "(b) Payments" and inserting in lieu thereof "(d) PAYMENT AMOUNT.—Payments"; and

(4) by striking out "(c) Advance payments" and inserting in lieu thereof "(e) SECURITY FOR ADVANCE PAYMENTS.—Advance payments".

(b) FINANCING POLICY.—Such section, as amended by subsection (a), is further amended by inserting after the section heading the following new subsection (a):

"(a) POLICY.—Payments authorized under this section and made for financing purposes should be made periodically or, when appropriate, on an advance basis and should be so made in a timely manner to facilitate contract performance while protecting the security interests of the Government. Government financing shall be provided only to the extent necessary to ensure prompt and efficient performance and only after the availability of private financing is considered. A contractor's use of funds received as contract financing and the contractor's financial condition shall be monitored. If the contractor is a small business concern, special attention shall be given to meeting the contractor's financial need.".

(c) PERFORMANCE-BASED PAYMENTS.—Such section, as amended by subsection (a), is further amended by inserting after subsection (b) the following new subsection (c):

"(c) PERFORMANCE-BASED PAYMENTS.—Whenever practicable, payments under subsection (b) shall be made on any of the following bases:

"(1) Performance measured by objective, quantifiable methods such as receipt of items by the Federal Government, work measurement, or statistical process controls.

"(2) Accomplishment of events defined in the program management plan.

"(3) Other quantifiable measures of results.".

(d) TERMINOLOGY CORRECTION.—Such section, as amended by subsection (a)(2), is further amended in subsection (b)(2) by striking out "bid".

(e) EFFECTIVE DATE OF LIEN RELATED TO ADVANCE PAYMENTS.—Such section, as amended by subsection (a)(4), is further amended in subsection (e) by inserting before the period at the end of the third sentence the following: "and is effective immediately upon the first advancement of funds without filing, notice, or any other action by the United States".

(f) REVISION OF CIVILIAN AGENCY PROVISION TO ENSURE UNIFORM REQUIREMENTS FOR PROGRESS PAYMENTS.—

(1) IN GENERAL.—Such section, as amended by subsection (a), is further amended by adding at the end the following:

"(f) CONDITIONS FOR PROGRESS PAYMENTS.—(1) The agency head shall ensure that any payment for work in progress (including materials, labor, and other items) under a contract of an executive agency that provides for such payments is commensurate with the work accomplished that meets standards established under the contract. The contractor shall provide such information and evidence as the agency head determines necessary to permit the agency head to carry out the preceding sentence.

"(2) The agency head shall ensure that progress payments referred to in paragraph (1) are not made for more than 80 percent of the work accomplished under the contract so long as the agency head has not made the contractual terms, specifications, and price definite.

"(3) This subsection applies to a contract for an amount equal to or greater than the simplified acquisition threshold.

"(g) ACTION IN CASE OF FRAUD.—(1) In any case in which the remedy coordination official of an executive agency finds that there is substantial evidence that the request of a contractor for advance, partial, or progress payment under a contract awarded by that executive agency is based on fraud, the remedy coordination official shall recommend that the agency head reduce or suspend further payments to such contractor.

"(2) An agency head receiving a recommendation under paragraph (1) in the case of a contractor's request for payment under a contract shall determine whether there is substantial evidence that the request is based on fraud. Upon making such a determination, the agency head may reduce or suspend further payments to the contractor under such contract.

"(3) The extent of any reduction or suspension of payments by an agency head under paragraph (2) on the basis of fraud shall be reasonably commensurate with the anticipated loss to the United States resulting from the fraud.

"(4) A written justification for each decision of the agency head whether to reduce or suspend payments under paragraph (2), and for each recommendation received by the agency head in connection with such decision, shall be prepared and be retained in the files of the executive agency.

"(5) Each agency head shall prescribe procedures to ensure that, before the agency head decides to reduce or suspend payments in the case of a contractor under paragraph (2), the contractor is afforded notice of the proposed reduction or suspension and an opportunity to submit matters to the head of the agency in response to such proposed reduction or suspension.

"(6) Not later than 180 days after the date on which an agency head reduces or suspends payments to a contractor under paragraph (2), the remedy coordination official of the executive agency shall—

"(A) review the determination of fraud on which the reduction or suspension is based; and

"(B) transmit a recommendation to the agency head whether the suspension or reduction should continue.

"(7) Each agency head who receives recommendations made by a remedy coordination official of the executive agency to reduce or suspend payments under paragraph (2) during a fiscal year shall prepare for such year a report that contains the recommendations, the actions taken on the recommendations and the reasons for such actions, and an assessment of the effects of such actions on the Federal Government. Any such report shall be available to any Member of Congress upon request.

"(8) An agency head may not delegate responsibilities under this subsection to any person in a position below level IV of the Executive Schedule.

"(9) In this subsection, the term 'remedy coordination official', with respect to an executive agency, means the person or entity in that executive agency who coordinates within that executive agency the administration of criminal, civil, administrative, and contractual remedies resulting from investigations of fraud or corruption related to procurement activities.".

(2) RELATIONSHIP TO PROMPT PAYMENT REQUIREMENTS.—The amendment made by paragraph (1) is not intended to impair or modify procedures required by the provisions of chapter 39 of title 31, United States Code, and the regulations issued pursuant to such provisions of law, that relate to progress payment requests, as such procedures are in effect on the date of the enactment of this Act.

(g) CONFORMING AND CLERICAL AMENDMENTS.—

(1) REFERENCE.—Section 305 of the Federal Property and Administrative Services Act of 1949, as amended by subsection (a), is further amended in subsections (d) and (e) by striking out "subsection (a)" and inserting in lieu thereof "subsection (b)".

(2) TABLE OF CONTENTS.—The table of contents in the first section of such Act is amended by striking out the item relating to section 305 and inserting in lieu thereof the following:

"Sec. 305. Contract financing.".

Subtitle B—Cost Principles

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2101. ALLOWABLE CONTRACT COSTS.

(a) UNALLOWABILITY OF COSTS TO INFLUENCE LOCAL LEGISLATIVE BODIES.—Subsection (e)(1)(B) of section 2324 of title 10, United States Code, is amended by striking out "or a State legislature" and inserting in lieu thereof ", a State legislature, or a legislative body of a political subdivision of a State".

(b) COMPTROLLER GENERAL EVALUATION.—Section 2324 of such title is amended by striking out subsection (l).

(c) COVERED CONTRACT DEFINED.—Subsection (m) of such section is amended to read as follows:

"(l)(1) In this section, the term 'covered contract' means a contract for an amount in excess of $500,000 that is entered into by the Department of Defense, except that such term does not include a fixed-price contract without cost incentives.

"(2) Effective on October 1 of each year that is divisible by 5, the amount set forth in paragraph (1) shall be adjusted to the amount that is equal to the fiscal year 1994 constant dollar value of the amount set forth. An amount, as so adjusted, that is not evenly divisible by $50,000 shall be rounded to the nearest multiple of $50,000. In the case of an amount that is evenly divisible by $25,000 but is not evenly divisible by $50,000, the amount shall be rounded to the next higher multiple of $50,000.".

SEC. 2102. CONTRACT PROFIT CONTROLS DURING EMERGENCY PERIODS.

(a) REPEAL.—Section 2382 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2382.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 2151. ALLOWABLE CONTRACT COSTS.

(a) REVISION OF CIVILIAN AGENCY PROVISION TO ENSURE UNIFORM TREATMENT OF CONTRACT COSTS.—Section 306 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 256) is amended to read as follows:

"ALLOWABLE COSTS

"SEC. 306. (a) INDIRECT COST THAT VIOLATES A FAR COST PRINCIPLE.—The head of an executive agency shall require that a covered contract provide that if the contractor submits to the executive agency a proposal for settlement of indirect costs incurred by the contractor for any period after such costs have been accrued and if that proposal includes the submission of a cost which is unallowable because the cost violates a cost principle in the Federal Acquisition Regulation or an executive agency's supplement to the Federal Acquisition Regulation, the cost shall be disallowed.

"(b) PENALTY FOR VIOLATION OF COST PRINCIPLE.—(1) If the agency head determines that a cost submitted by a contractor in its proposal for settlement is expressly unallowable under a cost principle referred to in subsection (a) that defines the allowability of specific selected costs, the agency head shall assess a penalty against the contractor in an amount equal to—

"(A) the amount of the disallowed cost allocated to covered contracts for which a proposal for settlement of indirect costs has been submitted; plus

"(B) interest (to be computed based on regulations issued by the agency head) to compensate the United States for the use of any funds which a contractor has been paid in excess of the amount to which the contractor was entitled.

"(2) If the agency head determines that a proposal for settlement of indirect costs submitted by a contractor includes a cost determined to be unallowable in the case of such contractor before the submission of such proposal, the agency head shall assess a penalty against the contractor in an amount equal to two times the amount of the disallowed cost allocated to covered contracts for which a proposal for settlement of indirect costs has been submitted.

"(c) Waiver of Penalty.—In accordance with the Federal Acquisition Regulation, the agency head may waive a penalty under subsection (b) in the case of a contractor's proposal for settlement of indirect costs when—

"(1) the contractor withdraws the proposal before the formal initiation of an audit of the proposal by the Federal Government and resubmits a revised proposal;

"(2) the amount of unallowable costs subject to the penalty is insignificant; or

"(3) the contractor demonstrates, to the contracting officer's satisfaction, that—

"(A) it has established appropriate policies and personnel training and an internal control and review system that provide assurances that unallowable costs subject to penalties are precluded from being included in the contractor's proposal for settlement of indirect costs; and

"(B) the unallowable costs subject to the penalty were inadvertently incorporated into the proposal.

"(d) Applicability of Contract Disputes Procedure to Disallowance of Cost and Assessment of Penalty.—An action of an agency head under subsection (a) or (b)—

"(1) shall be considered a final decision for the purposes of section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605); and

"(2) is appealable in the manner provided in section 7 of such Act.

"(e) Specific Costs Not Allowable.—(1) The following costs are not allowable under a covered contract:

"(A) Costs of entertainment, including amusement, diversion, and social activities, and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities).

"(B) Costs incurred to influence (directly or indirectly) legislative action on any matter pending before Congress, a State legislature, or a legislative body of a political subdivision of a State.

"(C) Costs incurred in defense of any civil or criminal fraud proceeding or similar proceeding (including filing of any false certification) brought by the United States where the contractor is found liable or had pleaded nolo contendere to a charge of fraud or similar proceeding (including filing of a false certification).

"(D) Payments of fines and penalties resulting from violations of, or failure to comply with, Federal, State, local, or foreign laws and regulations, except when incurred as a result of compliance with specific terms and conditions of the contract or specific written instructions from the contracting officer authorizing in advance such payments in accordance with the Federal Acquisition Regulation.

"(E) Costs of membership in any social, dining, or country club or organization.

"(F) Costs of alcoholic beverages.

"(G) Contributions or donations, regardless of the recipient.

"(H) Costs of advertising designed to promote the contractor or its products.

"(I) Costs of promotional items and memorabilia, including models, gifts, and souvenirs.

"(J) Costs for travel by commercial aircraft which exceed the amount of the standard commercial fare.

"(K) Costs incurred in making any payment (commonly known as a 'golden parachute payment') which is—

"(i) in an amount in excess of the normal severance pay paid by the contractor to an employee upon termination of employment; and

"(ii) is paid to the employee contingent upon, and following, a change in management control over, or ownership of, the contractor or a substantial portion of the contractor's assets.

"(L) Costs of commercial insurance that protects against the costs of the contractor for correction of the contractor's own defects in materials or workmanship.

"(M) Costs of severance pay paid by the contractor to foreign nationals employed by the contractor under a service contract performed outside the United States, to the extent that the amount of severance pay paid in any case exceeds the amount paid in the industry involved under the customary or prevailing practice for firms in that industry providing similar services in the United States, as determined in accordance with the Federal Acquisition Regulation.

"(N) Costs of severance pay paid by the contractor to a foreign national employed by the contractor under a service contract performed in a foreign country if the termination of the employment of the foreign national is the result of the closing of, or the curtailment of activities at, a United States facility in that country at the request of the government of that country.

"(O) Costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State, to the extent provided in subsection (k).

"(2)(A) Subject to the availability of appropriations, the head of an executive agency, in awarding a covered contract, may waive in accordance with the Federal Acquisition Regulation the application of the provisions of paragraphs (1)(M) and (1)(N) to that contract if the agency head determines that—

"(i) the application of such provisions to the contract would adversely affect the continuation of a program, project, or activity that provides significant support services for employees of the executive agency posted outside the United States;

"(ii) the contractor has taken (or has established plans to take) appropriate actions within the contractor's control to minimize the amount and number of incidents of the payment of severance pay by the contractor to employees under the contract who are foreign nationals; and

"(iii) the payment of severance pay is necessary in order to comply with a law that is generally applicable to a significant number of businesses in the country in which the foreign national receiving the payment performed services under the contract or is necessary to comply with a collective bargaining agreement.

"(B) The head of the executive agency concerned shall include in the solicitation for a covered contract a statement indicating—

"(i) that a waiver has been granted under subparagraph (A) for the contract; or

"(ii) whether the agency head will consider granting such a waiver, and, if the agency head will consider granting a waiver, the criteria to be used in granting the waiver.

"(C) The agency head shall make the final determination regarding whether to grant a waiver under subparagraph (A) with respect to a covered contract before award of the contract.

"(3) The head of each executive agency shall implement this section with respect to contracts of that executive agency in accordance with the Federal Acquisition Regulation. The provisions of the Federal Acquisition Regulation applicable to the implementation of this section may include definitions, exclusions, limitations, and qualifications.

"(f) Required Regulations.—(1) The Federal Acquisition Regulation referred to in section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)) shall contain provisions on the allowability of contractor costs. Such provisions shall define in detail and in specific terms those costs which are unallowable, in whole or in part, under covered contracts. The regulations shall, at a minimum, clarify the cost principles applicable to contractor costs of the following:

"(A) Air shows.

"(B) Membership in civic, community, and professional organizations.

"(C) Recruitment.

"(D) Employee morale and welfare.

"(E) Actions to influence (directly or indirectly) executive branch action on regulatory and contract matters (other than costs incurred in regard to contract proposals pursuant to solicited or unsolicited bids).

"(F) Community relations.

"(G) Dining facilities.

"(H) Professional and consulting services, including legal services.

"(I) Compensation.

"(J) Selling and marketing.

"(K) Travel.

"(L) Public relations.

"(M) Hotel and meal expenses.

"(N) Expense of corporate aircraft.

"(O) Company-furnished automobiles.

"(P) Advertising.

"(2) The Federal Acquisition Regulation shall require that a contracting officer not resolve any questioned costs until the contracting officer has obtained—

"(A) adequate documentation with respect to such costs; and

"(B) the opinion of the executive agency's contract auditor on the allowability of such costs.

"(3) The Federal Acquisition Regulation shall provide that, to the maximum extent practicable, an executive agency's contract auditor be present at any negotiation or meeting with the contractor regarding a determination of the allowability of indirect costs of the contractor.

"(4) The Federal Acquisition Regulation shall require that all categories of costs designated in the report of an executive agency's contract auditor as questioned with respect to a proposal for settlement be resolved in such a manner that the amount of the individual questioned costs that are paid will be reflected in the settlement.

"(g) Applicability of Required Regulations to Subcontractors.—The regulations prescribed to carry out subsections (e) and (f)(1) shall require, to the maximum extent practicable, that such regulations apply to all subcontractors of a covered contract.

"(h) Contractor Certification Required.—(1) A proposal for settlement of indirect costs applicable to a covered contract shall include a certification by an official of the contractor that, to the best of the certifying official's knowledge and belief, all indirect costs included in the proposal are allowable. Any such certification shall be in a form prescribed by the agency head concerned.

"(2) The agency head concerned may, in an exceptional case, waive the requirement for certification under paragraph (1) in the case of any contract if the agency head—

"(A) determines in such case that it would be in the interest of the United States to waive such certification; and

"(B) states in writing the reasons for that determination and makes such determination available to the public.

"(i) Penalties for Submission of Cost Known as Not Allowable.—The submission to an executive agency of a proposal for settlement of costs for any period after such costs have been accrued that includes a cost that is expressly specified by statute or regulation as being unallowable, with the knowledge that such cost is unallowable, shall be subject to the provisions of section 287 of title 18, United States Code, and section 3729 of title 31, United States Code.

"(j) Contractor To Have Burden of Proof.—In a proceeding before a board of contract appeals, the United States Court of Federal Claims, or any other Federal court in which the reasonableness of indirect costs for which a contractor seeks reimbursement from the United States is in issue, the burden of proof shall be upon the contractor to establish that those costs are reasonable.

"(k) Proceeding Costs Not Allowable.—(1) Except as otherwise provided in this subsection, costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State are not allowable as reimbursable costs under a covered contract if the proceeding (A) relates to a violation of, or failure to comply with, a Federal or State statute or regulation, and (B) results in a disposition described in paragraph (2).

"(2) A disposition referred to in paragraph (1)(B) is any of the following:

"(A) In the case of a criminal proceeding, a conviction (including a conviction pursuant to a plea of nolo contendere) by reason of the violation or failure referred to in paragraph (1).

"(B) In the case of a civil or administrative proceeding involving an allegation of fraud or similar misconduct, a determination of contractor liability on the basis of the violation or failure referred to in paragraph (1).

"(C) In the case of any civil or administrative proceeding, the imposition of a monetary penalty by reason of the violation or failure referred to in paragraph (1).

"(D) A final decision—

"(i) to debar or suspend the contractor,

"(ii) to rescind or void the contract, or

"(iii) to terminate the contract for default, by reason of the violation or failure referred to in paragraph (1).

"(E) A disposition of the proceeding by consent or compromise if such action could have resulted in a disposition described in subparagraph (A), (B), (C), or (D).

"(3) In the case of a proceeding referred to in paragraph (1) that is commenced by the United States and is resolved by consent or compromise pursuant to an agreement entered into by a contractor and the United States, the costs incurred by the contractor in connection with such proceeding that are otherwise not allowable as reimbursable costs under such paragraph may be allowed to the extent specifically provided in such agreement.

"(4) In the case of a proceeding referred to in paragraph (1) that is commenced by a State, the agency head that awarded the covered contract involved in the proceeding may allow the costs incurred by the contractor in connection with such proceeding as reimbursable costs if the agency head determines, under regulations prescribed by such agency head, that the costs were incurred as a result of (A) a specific term or condition of the contract, or (B) specific written instructions of the agency.

"(5)(A) Except as provided in subparagraph (C), costs incurred by a contractor in connection with a criminal, civil, or administrative proceeding commenced by the United States or a State in connection with a covered contract may be allowed as reimbursable costs under the contract if such costs are not disallowable under paragraph (1), but only to the extent provided in subparagraph (B).

"(B)(i) The amount of the costs allowable under subparagraph (A) in any case may not exceed the amount equal to 80 percent of the amount of the costs incurred, to the extent that such costs are determined to be otherwise allowable and allocable under the Federal Acquisition Regulations.

"(ii) Regulations issued for the purpose of clause (i) shall provide for appropriate consideration of the complexity of procurement litigation, generally accepted principles governing the award of legal fees in civil actions involving the United States as a party, and such other factors as may be appropriate.

"(C) In the case of a proceeding referred to in subparagraph (A), contractor costs otherwise allowable as reimbursable costs under this paragraph are not allowable if (i) such proceeding involves the same contractor misconduct alleged as the basis of another criminal, civil, or administrative proceeding, and (ii) the costs of such other proceeding are not allowable under paragraph (1).

"(6) In this subsection:

"(A) The term 'proceeding' includes an investigation.

"(B) The term 'costs', with respect to a proceeding—

"(i) means all costs incurred by a contractor, whether before or after the commencement of any such proceeding; and

"(ii) includes—

"(I) administrative and clerical expenses;

"(II) the cost of legal services, including legal services performed by an employee of the contractor;

"(III) the cost of the services of accountants and consultants retained by the contractor; and

"(IV) the pay of directors, officers, and employees of the contractor for time devoted by such directors, officers, and employees to such proceeding.

"(C) The term 'penalty' does not include restitution, reimbursement, or compensatory damages.

"(l) Covered Contract Defined.—(1) In this section, the term 'covered contract' means a contract for an amount in excess of $500,000 that is entered into by an executive agency, except that such term does not include a fixed-price contract without cost incentives.

"(2) Effective on October 1 of each year that is divisible by 5, the amount set forth in paragraph (1) shall be adjusted to the amount that is equal to the fiscal year 1994 constant dollar value of the amount set forth. An amount, as so adjusted, that is not evenly divisible by $50,000 shall be rounded to the nearest multiple of $50,000. In the case of an amount that is evenly divisible by $25,000 but is not evenly divisible by $50,000, the amount shall be rounded to the next higher multiple of $50,000.".

(b) Clerical Amendment.—The table of contents in the first section of such Act is amended by striking out the item relating to section 306 and inserting in lieu thereof the following:

"Sec. 306. Allowable costs.".

PART III—ACQUISITIONS GENERALLY

SEC. 2191. TRAVEL EXPENSES OF GOVERNMENT CONTRACTORS.

Section 24 of the Office of Federal Procurement Policy Act (41 U.S.C. 420) is repealed.

SEC. 2192. UNALLOWABILITY OF ENTERTAINMENT COSTS UNDER COVERED CONTRACTS.

Not later than 90 days after the date of the enactment of this Act, the Federal Acquisition Regulatory Council shall amend the cost principle in the Federal Acquisition Regulation that is set out in section 31.205–14 of title 48, Code of Federal Regulations, relating to unallowability of entertainment costs—

(1) by inserting in the cost principle a statement that costs made specifically unallowable under that cost principle are not allowable under any other cost principle; and

(2) by striking out "(but see 31.205-1 and 31.205-13)".

Subtitle C—Audit and Access to Records

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2201. CONSOLIDATION AND REVISION OF AUTHORITY TO EXAMINE RECORDS OF CONTRACTORS.

(a) Authority.—

(1) In general.—Section 2313 of title 10, United States Code, is amended to read as follows:

"§ 2313. Examination of records of contractor

"(a) Agency Authority.—The head of an agency, acting through an authorized representative—

"(1) is entitled to inspect the plant and audit the records of—

"(A) a contractor performing a cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable contract, or any combination of such contracts, made by that agency under this chapter; and

"(B) a subcontractor performing any cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable subcontract under a contract referred to in subparagraph (A) or under any combination of such contracts; and

"(2) shall, for the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted pursuant to section 2306a of this title with respect to a contract or subcontract, have the right to examine all records of the contractor or subcontractor related to—

"(A) the proposal for the contract or subcontract;

"(B) the discussions conducted on the proposal;

"(C) pricing of the contract or subcontract; or

"(D) performance of the contract or subcontract.

"(b) Limitation on Preaward Audits Relating to Indirect Costs.—The head of an agency may not perform a preaward audit to evaluate proposed indirect costs under any contract, subcontract, or modification to be entered into in accordance with this chapter in any case in which the contracting officer determines that the objectives of the audit can reasonably be met by accepting the results of an audit conducted by any other department or agency of the Federal Government within one year preceding the date of the contracting officer's determination.

"(c) Subpoena Power.—(1) The Director of the Defense Contract Audit Agency (or any successor agency) may require by subpoena the production of records of a contractor, access to which is provided to the Secretary of Defense or Secretary of a military department by subsection (a).

"(2) Any such subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of an appropriate United States district court.

"(3) The authority provided by paragraph (1) may not be redelegated.

"(4) The Director (or any successor official) shall submit an annual report to the Secretary of Defense on the exercise of such authority during the preceding year and the reasons why such authority was exercised in any instance. The Secretary shall forward a copy of each such report to the Committees on Armed Services of the Senate and House of Representatives.

"(d) COMPTROLLER GENERAL AUTHORITY.—(1) Except as provided in paragraph (2), each contract awarded after using procedures other than sealed bid procedures shall provide that the Comptroller General and his representatives are entitled to examine any records of the contractor, or any of its subcontractors, that directly pertain to, and involve transactions relating to, the contract or subcontract.

"(2) Paragraph (1) does not apply to a contract or subcontract with a foreign contractor or foreign subcontractor if the head of the agency concerned determines, with the concurrence of the Comptroller General or his designee, that the application of that paragraph to the contract or subcontract would not be in the public interest. However, the concurrence of the Comptroller General or his designee is not required—

"(A) where the contractor or subcontractor is a foreign government or agency thereof or is precluded by the laws of the country involved from making its records available for examination; and

"(B) where the head of the agency determines, after taking into account the price and availability of the property and services from United States sources, that the public interest would be best served by not applying paragraph (1).

"(3) Paragraph (1) may not be construed to require a contractor or subcontractor to create or maintain any record that the contractor or subcontractor does not maintain in the ordinary course of business or pursuant to another provision of law.

"(e) LIMITATION.—The right of the head of an agency under subsection (a), and the right of the Comptroller General under subsection (d), with respect to a contract or subcontract shall expire three years after final payment under such contract or subcontract.

"(f) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section is inapplicable with respect to the following contracts:

"(1) Contracts for utility services at rates not exceeding those established to apply uniformly to the public, plus any applicable reasonable connection charge.

"(g) RECORDS DEFINED.—In this section, the term 'records' includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.".

(2) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 137 of title 10, United States Code, is amended to read as follows:

"2313. Examination of records of contractor.".

(b) REPEAL OF SUPERSEDED PROVISION.—

(1) REPEAL.—Section 2406 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2406.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 2251. AUTHORITY TO EXAMINE RECORDS OF CONTRACTORS.

(a) AUTHORITY.—

(1) IN GENERAL.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1251(a), is further amended by inserting after section 304A the following new section:

"EXAMINATION OF RECORDS OF CONTRACTOR

"SEC. 304B. (a) AGENCY AUTHORITY.—The head of an executive agency, acting through an authorized representative—

"(1) is entitled to inspect the plant and audit the records of—

"(A) a contractor performing a cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable contract, or any combination of such contracts, made by that executive agency under this title; and

"(B) a subcontractor performing any cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable subcontract under a contract referred to in subparagraph (A) or under any combination of such contracts; and

"(2) shall, for the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted pursuant to section 304A with respect to a contract or subcontract, have the right to examine all records of the contractor or subcontractor related to—

"(A) the proposal for the contract or subcontract;

"(B) the discussions conducted on the proposal;

"(C) pricing of the contract or subcontract; or

"(D) performance of the contract or subcontract.

"(b) LIMITATION ON PREAWARD AUDITS RELATING TO INDIRECT COSTS.—The agency head may not perform a preaward audit to evaluate proposed indirect costs under any contract, subcontract, or modification to be entered into in accordance with this title in any case in which the contracting officer determines that the objectives of the audit can reasonably be met by accepting the results of an audit conducted by any other department or agency of the Federal Government within one year preceding the date of the contracting officer's determination.

"(c) SUBPOENA POWER.—(1) The agency head may require by subpoena the production of records of a contractor, access to which is provided by subsection (a).

"(2) Any such subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of an appropriate United States district court.

"(3) The authority provided by paragraph (1) may not be delegated.

"(4) In the year following a year in which the head of an executive agency exercises the authority provided in paragraph (1), the agency head shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives a report on the exercise of such authority during such preceding year and the reasons why such authority was exercised in any instance.

"(d) COMPTROLLER GENERAL AUTHORITY.—(1) Except as provided in paragraph (2), each contract awarded after using procedures other than sealed bid procedures shall provide that the Comptroller General and his representatives are entitled to examine any records of the contractor, or any of its subcontractors, that directly pertain to, and involve transactions relating to, the contract or subcontract.

"(2) Paragraph (1) does not apply to a contract or subcontract with a foreign contractor or foreign subcontractor if the agency head concerned determines, with the concurrence of the Comptroller General or his designee, that the application of that paragraph to the contract or subcontract would not be in the public interest. However, the concurrence of the Comptroller General or his designee is not required—

"(A) where the contractor or subcontractor is a foreign government or agency thereof or is precluded by the laws of the country involved from making its records available for examination; and

"(B) where the agency head determines, after taking into account the price and availability of the property and services from United States sources, that the public interest would be best served by not applying paragraph (1).

"(3) Paragraph (1) may not be construed to require a contractor or subcontractor to create or maintain any record that the contractor or subcontractor does not maintain in the ordinary course of business or pursuant to another provision of law.

"(e) LIMITATION.—The right of an agency head under subsection (a), and the right of the Comptroller General under subsection (d), with respect to a contract or subcontract shall expire three years after final payment under such contract or subcontract.

"(f) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section is inapplicable with respect to the following contracts:

"(1) CONTRACTS.—For utility services at rates not exceeding those established to apply uniformly to the public, plus any applicable reasonable connection charge.

"(g) RECORDS DEFINED.—In this section, the term 'records' includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.".

(2) CLERICAL AMENDMENT.—The table of contents in the first section of such Act, as amended by section 1251(b), is further amended by inserting after the item relating to section 304A the following:

"Sec. 304B. Examination of records of contractor.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 304 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254) is amended by striking out subsection (c).

Subtitle D—Cost Accounting Standards

SEC. 2301. EXCEPTIONS TO COVERAGE.

Section 26(f)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(2)) is amended—

(1) by inserting "(A)" after "(2)";

(2) by striking out ", other than contracts or subcontracts" and all that follows and inserting in lieu thereof a period; and

(3) by inserting at the end the following:

"(B) Subparagraph (A) does not apply to the following contracts or subcontracts:

"(i) Contracts or subcontracts where the price negotiated is based on established catalog or market prices of commercial items sold in substantial quantities to the general public.

"(ii) Contracts or subcontracts where the price negotiated is based on prices set by law or regulation.

"(iii) Any other firm fixed-price contract or subcontract for commercial items which is excepted from the requirement to provide cost or pricing data pursuant to subsection (b) or (d) of section 2306a of title 10, United States Code, or subsection (b) or (d) of section 304A of the Federal Property and Administrative Services Act of 1949.

"(C) In this paragraph, the term 'subcontract' includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractor.".

SEC. 2302. REPEAL OF OBSOLETE DEADLINE REGARDING PROCEDURAL REGULATIONS FOR THE COST ACCOUNTING STANDARDS BOARD.

Section 26(f)(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(3)) is amended in the first sentence by striking out "Not later than 180 days after the date of the enactment of this section, the Administrator" and inserting in lieu thereof "The Administrator".

Subtitle E—Administration of Contract Provisions Relating to Price, Delivery, and Product Quality

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2401. PROCUREMENT OF CRITICAL AIRCRAFT AND SHIP SPARE PARTS; QUALITY CONTROL.

(a) REPEAL.—Section 2383 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2383.

SEC. 2402. CONTRACTOR GUARANTEES REGARDING WEAPON SYSTEMS.

Section 2403(h) of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) The regulations shall include the following:

"(A) Guidelines for negotiating contractor guarantees that are reasonable and cost effective, as determined on the basis of the likelihood of defects and the estimated cost of correcting such defects.

"(B) Procedures for administering contractor guarantees.

"(C) Guidelines for determining the cases in which it may be appropriate to waive the requirements of this section.".

PART II—ACQUISITIONS GENERALLY

SEC. 2451. SECTION 3737 OF THE REVISED STATUTES: EXPANSION OF AUTHORITY TO PROHIBIT SETOFFS AGAINST ASSIGNEES; REORGANIZATION OF SECTION; REVISION OF OBSOLETE PROVISIONS.

Section 3737 of the Revised Statutes (41 U.S.C. 15) is amended to read as follows:

"SEC. 3737. (a) No contract or order, or any interest therein, shall be transferred by the party to whom such contract or order is given to any other party, and any such transfer shall cause the annulment of the contract or order transferred, so far as the United States is concerned. All rights of action, however, for any breach of such contract by the contracting parties, are reserved to the United States.

"(b) The provisions of subsection (a) shall not apply in any case in which the moneys due or to become due from the United States or from any agency or department thereof, under a contract providing for payments aggregating $1,000 or more, are assigned to a bank, trust company, or other financing institution, including any Federal lending agency, provided:

"(1) That, in the case of any contract entered into after October 9, 1940, no claim shall be assigned if it arises under a contract which forbids such assignment.

"(2) That, unless otherwise expressly permitted by such contract, any such assignment shall cover all amounts payable under such contract and not already paid, shall not be made to more than one party, and shall not be subject to further assignment, except that any such assignment may be made to one party as agent or trustee for two or more parties participating in such financing.

"(3) That, in the event of any such assignment, the assignee thereof shall file written notice of the assignment together with a true copy of the instrument of the assignment with—

"(A) the contracting officer or the head of his department or agency;

"(B) the surety or sureties upon the bond or bonds, if any, in connection with such contract; and

"(C) the disbursing officer, if any, designated in such contract to make payment.

"(c) Notwithstanding any law to the contrary governing the validity of assignments, any assignment pursuant to this section shall constitute a valid assignment for all purposes.

"(d) In any case in which moneys due or to become due under any contract are or have been assigned pursuant to this section, no liability of any nature of the assignor to the United States or any department or agency thereof, whether arising from or independently of such contract, shall create or impose any liability on the part of the assignee to make restitution, refund, or repayment to the United States of any amount heretofore since July 1, 1950, or hereafter received under the assignment.

"(e) Any contract of the Department of Defense, the General Services Administration, the Department of Energy, or any other department or agency of the United States designated by the President, except any such contract under which full payment has been made, may, upon a determination of need by the President, provide or be amended without consideration to provide that payments to be made to the assignee of any moneys due or to become due under such contract shall not be subject to reduction or setoff. Each such determination of need shall be published in the Federal Register.

"(f) If a provision described in subsection (e) or a provision to the same general effect has been at any time heretofore or is hereafter included or inserted in any such contract, payments to be made thereafter to an assignee of any moneys due or to become due under such contract shall not be subject to reduction or setoff for any liability of any nature of the assignor to the United States or any department or agency thereof which arises independently of such contract, or hereafter for any liability of the assignor on account of—

"(1) renegotiation under any renegotiation statute or under any statutory renegotiation article in the contract;

"(2) fines;

"(3) penalties (which term does not include amounts which may be collected or withheld from the assignor in accordance with or for failure to comply with the terms of the contract); or

"(4) taxes, social security contributions, or the withholding or non withholding of taxes or social security contributions, whether arising from or independently of such contract.

"(g) Except as herein otherwise provided, nothing in this section shall be deemed to affect or impair rights of obligations heretofore accrued.".

SEC. 2452. REPEAL OF REQUIREMENT FOR DEPOSIT OF CONTRACTS WITH GAO.

Section 3743 of the Revised Statutes (41 U.S.C. 20) is repealed.

Subtitle F—Claims and Disputes

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2501. CERTIFICATION OF CONTRACT CLAIMS.

(a) DOD CERTIFICATION REQUIREMENT IN CONFLICT WITH GOVERNMENTWIDE REQUIREMENT.—

(1) INAPPLICABILITY OF REQUIREMENT TO CONTRACT CLAIMS.—Section 2410 of title 10, United States Code, is amended to read as follows:

"§ 2410. Requests for equitable adjustment or other relief: certification

"(a) CERTIFICATION REQUIREMENT.—A request for equitable adjustment to contract terms or request for relief under Public Law 85–804 (50 U.S.C. 1431 et seq.) that exceeds the simplified acquisition threshold may not be paid unless a person authorized to certify the request on behalf of the contractor certifies, at the time the request is submitted, that—

"(1) the request is made in good faith, and

"(2) the supporting data are accurate and complete to the best of that person's knowledge and belief.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2410 and inserting in lieu thereof the following:

"2410. Requests for equitable adjustment or other relief: certification.".

(b) RESTRICTION ON LEGISLATIVE PAYMENT OF CLAIMS.—Section 2410 of title 10, United States Code, as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(b) RESTRICTION ON LEGISLATIVE PAYMENT OF CLAIMS.—In the case of a contract of an agency named in section 2303(a) of this title, no provision of a law enacted after September 30, 1994, that directs the payment of a particular claim under such contract, a particular request for equitable adjustment to any term of such contract, or a particular request for relief under Public Law 85–804 (50 U.S.C. 1431 et seq.) regarding such contract may be implemented unless such provision of law—

"(1) specifically refers to this subsection; and

"(2) specifically states that this subsection does not apply with respect to the payment directed by that provision of law.".

(c) DEFINITION.—Section 2410, as amended by subsections (a) and (b), is further amended by adding at the end the following:

"(c) DEFINITION.—In this section, the term 'simplified acquisition threshold' has the meaning given that term in section 2302(4) of this title.".

(d) REPEAL OF RELATED PROVISIONS.—

(1) CERTIFICATION REGULATIONS FOR CONTRACT CLAIMS EXCEEDING $100,000.—

(A) REPEAL.—Section 2410e of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2410e.

(2) CONFORMING REPEAL.—Section 813(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484, 106 Stat. 2453), is repealed.

SEC. 2502. SHIPBUILDING CLAIMS.

(a) LIMITATION ON PERIOD FOR SUBMISSION.—

(1) INCREASED PERIOD.—Subsection (a) of section 2405 of title 10, United States Code, is amended—

(A) by striking out "after December 7, 1983," and inserting in lieu thereof "on or after the date of the enactment of the Federal Acquisition Streamlining Act of 1994"; and

(B) by striking out "18 months" and inserting in lieu thereof "6 years".

(2) SAVINGS PROVISION.—Notwithstanding the 6-year period provided in subsection (a) of section 2405 of title 10, United States Code, as amended by paragraph (1), the period applicable under such subsection in the case of a shipbuilding contract entered into after December 7, 1983, and before the date of the enactment of the Federal Acquisition Streamlining Act of 1994 shall continue to be 18 months.

(b) RESUBMISSION WITH CORRECTED CERTIFICATION.—Subsection (c) of such section is repealed.

PART II—ACQUISITIONS GENERALLY

SEC. 2551. CLAIMS JURISDICTION OF UNITED STATES DISTRICT COURTS AND THE UNITED STATES COURT OF FEDERAL CLAIMS.

(a) CONCURRENT JURISDICTION OF UNITED STATES DISTRICT COURTS UNDER THE LITTLE TUCKER ACT.—Subsection (a) of section 1346 of title 28, United States Code, is amended to read as follows:

"(a)(1) The district courts shall have original jurisdiction, concurrent with the United States Court of Federal Claims, of any civil action against the United States for the recovery of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or any penalty claimed to have been collected without authority or any sum alleged to have been excessive or in any manner wrongfully collected under the internal-revenue laws.

"(2)(A) Except as provided in subparagraph (B), the district courts shall have original jurisdiction, concurrent with the United States Court of Federal Claims, of any other civil action or claim against the United States, not exceeding $10,000 in amount, founded either upon the Constitution, or any Act of Congress, or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort.

"(B) The district courts shall not have jurisdiction over any civil action or claim against the United States or any Federal entity which relates in any manner to a contract to which the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.) applies, including a claim that seeks to establish the existence or nonexistence of such a contract, seeks to establish that such a contract is void, or seeks to determine and construe the terms of such a contract. The district courts do not have jurisdiction over any civil action or claim described in the preceding sentence pursuant to section 1331, 1334, or 1346(a)(2)(B) of this title, any provision of law giving a Federal entity the right to sue or be sued in its own name, or any other provision of law.".

(b) JURISDICTION OF THE UNITED STATES COURT OF FEDERAL CLAIMS UNDER THE TUCKER ACT.—Section 1491 of title 28, United States Code, as amended by section 1422, is further amended by inserting after subsection (c) the following:

"(d)(1) The United States Court of Federal Claims shall have jurisdiction over any civil action or claim against the United States which relates in any manner to a contract to which the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.) applies, including a civil action or claim that seeks to establish the existence or nonexistence of such a contract, seeks to establish that such contract is void, or seeks to determine and construe the terms of any such contract.

"(2) The jurisdiction of the United States Court of Federal Claims is, pursuant to section 1346(a)(2)(B) of this title, exclusive as to the district courts of the United States.".

SEC. 2552. CONTRACT DISPUTES ACT IMPROVEMENTS.

(a) PERIOD FOR FILING CLAIMS.—

(1) SIX-YEAR LIMITATION.—Section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605) is amended in subsection (a) by inserting after the second sentence the following: "Each claim by a contractor against the government relating to a contract and each claim by the government against a contractor relating to a contract shall be submitted within 6 years after the occurrence of the event or events giving rise to the claim. The preceding sentence does not apply to a claim by the government against a contractor that is based on a claim by the contractor involving fraud.".

(2) LIMITATION ON APPLICABILITY TO EXISTING CONTRACTS.—Notwithstanding the third sentence of section 6(a) of the Contract Disputes Act of 1978, as added by paragraph (1), if a contract in existence on the date of the enactment of this Act requires that a claim referred to in that sentence be submitted earlier than 6 years after the occurrence of the event or events giving rise to the claim, then the claim shall be submitted within the period required by the contract. The preceding sentence does not apply to a claim by the Federal Government against a contractor that is based on a claim by the contractor involving fraud.

(b) INCREASED THRESHOLD FOR CERTIFICATION, DECISION, AND NOTIFICATION REQUIREMENTS.—Subsection (c) of such section is amended by striking out "$50,000" each place it appears and inserting in lieu thereof "$100,000".

(c) INCREASED MAXIMUM FOR APPLICABILITY OF ACCELERATED PROCEDURES.—Section 8(f) of the Contract Disputes Act of 1978 (41 U.S.C. 607(f)) is amended by striking out "$50,000" in the first sentence and inserting in lieu thereof "$150,000".

(d) INCREASED MAXIMUM FOR APPLICABILITY OF SMALL CLAIMS PROCEDURE.—Section 9(a) of the Contract Disputes Act of 1978 (41 U.S.C. 608(a)) is amended by striking out "$10,000" in the first sentence and inserting in lieu thereof "$50,000".

(e) REDUCED PERIOD FOR FILING ACTION IN COURT OF FEDERAL CLAIMS.—Section 10(a)(3) of such Act (41 U.S.C. 609(a)(3)) is amended by striking out "twelve months" and inserting in lieu thereof "90 days".

SEC. 2553. EXTENSION OF ALTERNATIVE DISPUTE RESOLUTION AUTHORITY.

(a) EXTENSION OF AUTHORITY.—Section 6(e) of the Contracts Disputes Act of 1978 (41 U.S.C. 605(e)) is amended by striking out "October 1, 1995" and inserting in lieu thereof "October 1, 1999".

(b) AVAILABILITY OF PROCEDURES TO SMALL BUSINESS GOVERNMENT CONTRACTORS.—Section 6(e) of such Act is amended by inserting after the first sentence the following: "In any case in which the contracting officer rejects a contractor's request for alternative dispute resolution proceedings, the contracting officer shall provide the contractor with a written explanation, citing one or more of the conditions in section 572(b) of title V, United States Code, or such other specific reasons that alternative dispute resolution procedures are inappropriate for the resolution of the dispute. In any case in which a contractor rejects a request of an agency for alternative dispute resolution proceedings, the contractor shall inform the agency in writing of the contractor's specific reasons for rejecting the request.".

SEC. 2554. EXPEDITED RESOLUTION OF CONTRACT ADMINISTRATION COMPLAINTS.

(a) REGULATIONS REQUIRED.—The Federal Acquisition Regulation shall include provisions that require a contracting officer—

(1) to make every reasonable effort to respond in writing within 30 days to any written request made to a contracting officer with respect to a matter relating to the administration of a contract that is received from a small business concern; and

(2) in the event that the contracting officer is unable to reply within the 30-day period, to transmit to the contractor within such period a written notification of a specific date by which the contracting officer expects to respond.

The provisions shall not apply to a request for a contracting officer's decision under the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).

(b) RULE OF CONSTRUCTION.—Nothing in this provision shall be considered as creating any rights under the Contract Disputes Act (41 U.S.C. 601 et seq.).

(c) DEFINITION.—In this section, the term "small business concern" means a business concern that meets the requirements of section 3(a) of the Small Business Act (15 U.S.C. 632(a)) and the regulations promulgated pursuant to that section.

SEC. 2555. AUTHORITY FOR DISTRICT COURTS TO OBTAIN ADVISORY OPINIONS FROM BOARDS OF CONTRACT APPEALS IN CERTAIN CASES.

Section 10 of the Contract Disputes Act of 1978 (41 U.S.C. 609) is amended by adding at the end the following new paragraph:

"(f)(1) Whenever an action involving an issue described in paragraph (2) is pending in a district court of the United States, the district court may request a board of contract appeals to provide the court with an advisory opinion on the matters of contract interpretation at issue.

"(2) An issue referred to in paragraph (1) is any issue that could be the proper subject of a final decision of a contracting officer appealable under this Act.

"(3) A district court shall direct any request under paragraph (1) to the board of contract appeals having jurisdiction under this Act to adjudicate appeals of contract claims under the contract or contracts being interpreted by the court.

"(4) Within ninety days after receiving a request for an advisory opinion under paragraph (1), a board of contract appeals shall provide the advisory opinion to the district court making the request.".

TITLE III—SERVICE SPECIFIC AND MAJOR SYSTEMS STATUTES

Subtitle A—Major Systems Statutes

SEC. 3001. REQUIREMENT FOR INDEPENDENT COST ESTIMATES AND MANPOWER ESTIMATES BEFORE DEVELOPMENT OR PRODUCTION.

(a) CONTENT AND SUBMISSION OF ESTIMATES.—Section 2434 of title 10, United States Code, is amended by striking out subsection (b) and inserting in lieu thereof the following:

"(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations governing the content and submission of the estimates required by subsection (a). The regulations shall require—

"(1) that the independent estimate of the cost of a program—

"(A) be prepared by an office or other entity that is not under the supervision, direction, or control of the military department, Defense Agency, or other component of the Department of Defense that is directly responsible for carrying out the development or acquisition of the program; and

"(B) include all costs of development, procurement, and operations and support, without regard to funding source or management control; and

"(2) that the manpower estimate include the total personnel required to train for, operate, maintain, and support the program upon full operational deployment.".

(b) TERMINOLOGY CORRECTION.—Subsection (a) of such section is amended by striking out "full-scale engineering development" and inserting in lieu thereof "engineering and manufacturing development".

SEC. 3002. ENHANCED PROGRAM STABILITY.

(a) BASELINE DESCRIPTIONS AND DEVIATION REPORTING.—Section 2435 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out paragraph (2); and

(B) in paragraph (1)—

(i) by striking out "(1)"; and

(ii) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations governing—

"(1) the content of baseline descriptions, which shall include the program cost, the program schedule, and a program performance description;

"(2) the submission of reports on deviations of a program from the baseline description by the program manager to the Secretary of the military department concerned and the Under Secretary of Defense for Acquisition and Technology;

"(3) procedures for review of deviation reports within the Department of Defense; and

"(4) procedures for submission and approval of revised baseline descriptions.

"(c) BASELINE DESCRIPTION REQUIRED BEFORE OBLIGATION OF FUNDS.—(1) Except as provided in paragraph (2), no amount appropriated or otherwise made available to the Department of Defense may be obligated for a major defense acquisition program before a baseline description for the program is approved in accordance with the procedures prescribed pursuant to subsection (b)(4).

"(2) An obligation otherwise prohibited by paragraph (1) may be incurred if approved in advance by the Under Secretary of Defense for Acquisition and Technology.".

(b) TERMINOLOGY CORRECTION.—Subsection (a)(1) of such section, as redesignated by subsection (a)(1)(B)(ii), is amended by striking out "full-scale engineering development" and inserting in lieu thereof "engineering and manufacturing development".

SEC. 3003. REPEAL OF REQUIREMENT TO DESIGNATE CERTAIN MAJOR DEFENSE ACQUISITION PROGRAMS AS DEFENSE ENTERPRISE PROGRAMS.

Section 809 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2430 note) is amended—

(1) by striking out subsection (d); and

(2) by redesignating subsections (e), (f), (g), and (h) as subsections (d), (e), (f), and (g), respectively.

SEC. 3004. REPEAL OF REQUIREMENT FOR COMPETITIVE PROTOTYPING IN MAJOR PROGRAMS.

(a) REPEAL.—Section 2438 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 144 of such title is amended by striking out the item relating to section 2438.

SEC. 3005. REPEAL OF REQUIREMENT FOR COMPETITIVE ALTERNATIVE SOURCES IN MAJOR PROGRAMS.

(a) REPEAL.—Section 2439 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 144 of such title is amended by striking out the item relating to section 2439.

Subtitle B—Testing Statutes

SEC. 3011. DIRECTOR OF OPERATIONAL TEST AND EVALUATION TO REPORT DIRECTLY TO SECRETARY OF DEFENSE.

Section 139(c) of title 10, United States Code, is amended by inserting after "(c)" the following: "The Director reports directly, without intervening review or approval, to the Secretary of Defense and Deputy Secretary of Defense personally.".

SEC. 3012. RESPONSIBILITY OF DIRECTOR OF OPERATIONAL TEST AND EVALUATION FOR LIVE FIRE TESTING.

(a) CONDUCT OF LIVE FIRE TESTING.—Subsection (b) of section 139 of title 10, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(6) conduct the live fire testing activities of the Department of Defense provided for under section 2366 of this title.".

(b) ANNUAL REPORT ON LIVE FIRE TESTING.—Subsection (f) of such section is amended by inserting "(including live fire testing activities)" in the first sentence after "operational test and evaluation activities".

SEC. 3013. REQUIREMENT FOR UNCLASSIFIED VERSION OF ANNUAL REPORT ON OPERATIONAL TEST AND EVALUATION.

Section 139(f) of title 10, United States Code, is amended by inserting after the second sentence the following new sentence: "If the Director submits the report to Congress in a classified form, the Director shall concurrently submit an unclassified version of the report to Congress.".

Subtitle C—Service Specific Laws

SEC. 3021. GRATUITOUS SERVICES OF OFFICERS OF CERTAIN RESERVE COMPONENTS.

Section 279 of title 10, United States Code, is amended—

(1) by striking out "Notwithstanding" and inserting in lieu thereof "(a) ACCEPTANCE BY SECRETARY OF A MILITARY DEPARTMENT.—Notwithstanding"; and

(2) by adding at the end the following new subsection:

"(b) ACCEPTANCE BY SECRETARY OF DEFENSE.—Notwithstanding section 1342 of title 31, the Secretary of Defense may accept the gratuitous services of an officer of a reserve component (other than an officer of the Army National Guard of the United States or the Air National Guard of the United States) in consultation upon matters relating to the armed forces.".

SEC. 3022. AUTHORITY TO RENT SAMPLES, DRAWINGS, AND OTHER INFORMATION TO OTHERS.

Subchapter V of chapter 148 of title 10, United States Code, is amended in section 2541(a) by inserting "rent," after "sell," each place it appears in paragraphs (1) and (2).

SEC. 3023. CIVIL RESERVE AIR FLEET.

(a) DEFINITIONS.—Section 9511 of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting "'civil aircraft'," after "'person',";

(B) by striking out "meaning" and inserting in lieu thereof "meanings"; and

(C) by striking out "(49 U.S.C. 1301)" and inserting in lieu thereof "(49 U.S.C. App. 1301)";

(2) in paragraph (2), by striking out "passenger-cargo" and inserting in lieu thereof "passenger cargo";

(3) in paragraph (3), by striking out "cargo-capable" and inserting in lieu thereof "cargo capable";

(4) by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) The term 'cargo convertible aircraft' means a passenger aircraft equipped or designed so that all or substantially all of the main deck of the aircraft can be readily converted for the carriage of property or mail.";

(5) by striking out paragraph (6);

(6) by redesignating paragraph (7) as paragraph (6);

(7) by redesignating paragraph (8) as paragraph (7) and—

(A) in subparagraph (A) of such paragraph, by inserting "under section 9512 of this title" after "and who contracts with the Secretary";

(B) by striking out "or" at the end of such subparagraph (A); and

(C) by inserting before the period at the end of such paragraph the following: ", or (C) who owns or controls existing aircraft, or will own or control new aircraft, and who contractually commits all or some of such aircraft to the Civil Reserve Air Fleet";

(8) by redesignating paragraphs (9), (10), (11), and (12) as paragraphs (8), (9), (10), and (11), respectively; and

(9) in paragraph (11), as so redesignated—

(A) by striking out "interoperability" and inserting in lieu thereof "compatibility"; and

(B) by striking out "a cargo-convertible, cargo-capable, or passenger-cargo combined aircraft" and inserting in lieu thereof "an aeromedical aircraft or a cargo convertible, cargo capable, or passenger cargo combined aircraft".

(b) CONSOLIDATION OF PROVISIONS RELATING TO CONTRACTUAL COMMITMENT OF AIRCRAFT.—Chapter 931 of such title is amended—

(1) by redesignating subsections (b) and (c) of section 9512 as subsections (c) and (d), respectively;

(2) by redesignating subsection (a) of section 9513 as subsection (b), transferring such subsection (as so redesignated) to section 9512, and inserting such subsection after subsection (a);

(3) by redesignating subsection (b) of section 9513 as subsection (e) and transferring such subsection (as so redesignated) to the end of section 9512;

(4) in subsection (c) of section 9512, as redesignated by paragraph (1), by striking out "the terms required by section 9513 of this title and";

(5) in subsection (e) of section 9512, as redesignated and transferred to such section by paragraph (3), by striking out "under section 9512 of this title" and inserting in lieu

thereof "entered into under this section"; and

(6) by striking out the heading of section 9513.

(c) USE OF MILITARY INSTALLATIONS BY CONTRACTORS.—

(1) AUTHORITY.—Such chapter, as amended by subsection (b), is further amended by adding at the end the following new section 9513:

"§ 9513. Use of military installations by Civil Reserve Air Fleet contractors

"(a) CONTRACT AUTHORITY.—(1) The Secretary of the Air Force—

"(A) may, by contract entered into with any contractor, authorize such contractor to use one or more Air Force installations designated by the Secretary; and

"(B) with the consent of the Secretary of another military department, may, by contract entered into with any contractor, authorize the contractor to use one or more installations, designated by the Secretary of the Air Force, that is under the jurisdiction of the Secretary of such other military department.

"(2) The Secretary of the Air Force may include in the contract such terms and conditions as the Secretary determines appropriate to promote the national defense or to protect the interests of the United States.

"(b) PURPOSES OF USE.—A contract entered into under subsection (a) may authorize use of a designated installation as a weather alternate, a service stop not involving the enplaning or deplaning of passengers or cargo, or, in the case of an installation within the United States, for other commercial purposes. Notwithstanding any other provision of the law, the Secretary may establish different levels and types of uses for different installations for commercial operations not required by the Department of Defense and may provide in contracts under subsection (a) for different levels and types of uses by different contractors.

"(c) DISPOSITION OF PAYMENTS FOR USE.—Notwithstanding any other provision of law, amounts collected from the contractor for landing fees, services, supplies, or other charges authorized to be collected under the contract shall be credited to the appropriations of the armed forces having jurisdiction over the military installation to which the contract pertains. Amounts so credited to an appropriation shall be available for obligation for the same period as the appropriation to which credited.

"(d) HOLD HARMLESS REQUIREMENT.—A contract entered into under subsection (a) shall provide that the contractor agrees to indemnify and hold harmless the United States from all actions, suits, or claims of any sort resulting from, relating to, or arising out of any activities conducted, or services or supplies furnished, in connection with the contract.

"(e) RESERVATION OF RIGHT TO EXCLUDE CONTRACTOR.—A contract entered into under subsection (a) shall provide that the Secretary or, in the case of an installation under the jurisdiction of an armed force other than the Air Force, the Secretary concerned may at any time and without prior notice deny access to an installation designated under the contract if military exigencies require such action.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking out the item relating to section 9513 and inserting in lieu thereof the following:

"9513. Use of military installations by Civil Reserve Air Fleet contractors.".

SEC. 3024. EXCHANGE OF PERSONNEL.

(a) EXCHANGE AUTHORITY.—Subchapter II of chapter 138 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2350k. Exchange of personnel

"(a) INTERNATIONAL EXCHANGE AGREEMENTS AUTHORIZED.—Under regulations prescribed by the Secretary of Defense, the Secretary and the secretaries of the military departments are each authorized to enter into agreements with the governments of foreign countries for the exchange of military and civilian personnel of the Department of Defense and military and civilian personnel of the defense departments or ministries of such foreign governments.

"(b) ASSIGNMENT OF PERSONNEL.—Pursuant to such agreements, personnel of the foreign defense departments or ministries may be assigned to positions in the Department of Defense, and personnel of the Department of Defense may be assigned to positions in foreign defense departments or ministries. Agreements for the exchange of personnel engaged in research and development activities may provide for assignments to positions in private industry that support the defense departments or ministries. The specific positions and the individuals to be assigned must be acceptable to both the sending government and the host government.

"(c) RECIPROCITY OF PERSONNEL QUALIFICATIONS REQUIRED.—Each government shall be required under an agreement authorized by subsection (a) to provide personnel having qualifications, training, and skills that are essentially equal to those of the personnel provided by the other government.

"(d) PAYMENT OF PERSONNEL COSTS.—Each government shall pay the salary, per diem, cost of living, travel, cost of language or other training, and other costs (except for cost of temporary duty directed by the host government and costs incident to the use of host government facilities in the performance of assigned duties) for its own personnel in accordance with the laws and regulations of such government that pertain to such matters.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter II of such chapter is amended by adding at the end the following new item:

"2350k. Exchange of personnel.".

SEC. 3025. SCIENTIFIC INVESTIGATION AND RESEARCH FOR THE NAVY.

(a) REPEAL.—Section 7203 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 631 of such title is amended by striking out the item relating to section 7203.

SEC. 3026. CONSTRUCTION OF COMBATANT AND ESCORT VESSELS AND ASSIGNMENT OF VESSEL PROJECTS.

(a) REPEAL OF OBSOLETE AND INTERNALLY INCONSISTENT PROVISIONS.—Section 7299a of title 10, United States Code, is amended—

(1) by striking out subsection (a); and

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

(b) CONFORMING AMENDMENT.—Subsection (b) of such section, as redesignated by subsection (a)(2), is amended in paragraph (2) by striking out "subsection (a) or".

SEC. 3027. REPEAL OF REQUIREMENT FOR CONSTRUCTION OF VESSELS ON PACIFIC COAST.

(a) REPEAL.—Section 7302 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 633 of such title is amended by striking out the item relating to section 7302.

SEC. 3028. AUTHORITY TO TRANSFER BY GIFT A VESSEL STRICKEN FROM NAVAL VESSEL REGISTER.

Section 7306(a)(1) of title 10, United States Code, is amended by inserting "Territory," after "State,".

SEC. 3029. NAVAL SALVAGE FACILITIES.

Chapter 637 of title 10, United States Code, is amended—

(1) in section 7361—

(A) in subsection (a), by inserting "AUTHORITY TO PROVIDE FACILITIES BY CONTRACT OR OTHERWISE.—" after "(a)";

(B) in subsection (b), by inserting "CONTRACTS AFFECTING THE DEPARTMENT OF TRANSPORTATION.—" after "(b)"; and

(C) by striking out subsection (c) and inserting in lieu thereof the following new subsection (c):

"(c) LIMITATION ON TERM CONTRACTS.—Term contracts may be entered into for purposes of this section only after—

"(1) it has been demonstrated to the satisfaction of the Secretary of the Navy that available commercial salvage facilities are inadequate to meet national defense requirements; and

"(2) the Secretary of the Navy determines that adequate public notice of intent to exercise the authority under this subsection has been provided.";

(2) by designating the text of section 7362 as subsection (d) and transferring such text, as so designated, to the end of section 7361 of title 10, United States Code;

(3) in subsection (d) of section 7361 of such title, as so designated and transferred, by inserting before "The Secretary" the following: "COMMERCIAL USE OF NAVAL VESSELS AND EQUIPMENT.—";

(4) by designating the text of section 7363 as subsection (e) and transferring such text, as so designated, to the end of section 7361 of title 10, United States Code;

(5) in subsection (e) of section 7361 of such title, as so designated and transferred, by inserting before "Before any salvage vessel" the following: "CONDITIONS FOR TRANSFER OF EQUIPMENT.—";

(6) by designating the text of section 7365 as subsection (f) and transferring such text, as so designated, to the end of section 7361 of title 10, United States Code;

(7) in subsection (f) of section 7361 of such title, as so designated and transferred, by inserting before "The Secretary" the following: "SETTLEMENT OF CLAIMS.—";

(8) by designating the text of section 7367 as subsection (g) and transferring such text, as so designated, to the end of section 7361 of title 10, United States Code;

(9) in subsection (g) of section 7361 of such title, as so designated and transferred—

(A) by inserting before "Money received" the following: "DISPOSITION OF RECEIPTS.—"; and

(B) by striking out "this chapter" in the first sentence and inserting in lieu thereof "this section";

(10) by striking out the section headings for sections 7362, 7363, 7365, and 7367;

(11) by striking out the heading for section 7361 and inserting in lieu thereof the following:

"§ 7361. Navy support for salvage operations";

and

(12) in the table of sections at the beginning of such chapter—

(A) by striking out the item relating to section 7361 and inserting in lieu thereof the following:

"7361. Navy support for salvage operations."; and

(B) by striking out the items relating to sections 7362, 7363, 7365, and 7367.

Subtitle D—Department of Defense Commercial and Industrial Activities

SEC. 3051. ACCOUNTING REQUIREMENT FOR CONTRACTED ADVISORY AND ASSISTANCE SERVICES.

(a) FUNDING TO BE IDENTIFIED IN BUDGET.—Section 1105 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) The Director of the Office of Management and Budget shall establish the funding for advisory and assistance services for each department and agency as a separate object class in each budget annually submitted to the Congress under this section.

"(2)(A) In paragraph (1), except as provided in subparagraph (B), the term 'advisory and assistance services' means the following services when provided by nongovernmental sources:

"(i) Management and professional support services.

"(ii) Studies, analyses, and evaluations.

"(iii) Engineering and technical services.

"(B) In paragraph (1), the term 'advisory and assistance services' does not include the following services:

"(i) Routine automated data processing and telecommunications services unless such services are an integral part of a contract for the procurement of advisory and assistance services.

"(ii) Architectural and engineering services.

"(iii) Technical support of research and development activities.

"(iv) Research on basic mathematics or medical, biological, physical, social, psychological, or other phenomena.".

(b) REPEAL OF SOURCE LAW.—Section 512 of Public Law 102-394 (106 Stat. 1826) is repealed.

(c) REPEAL OF SUPERSEDED PROVISIONS.—

(1) TITLE 10.—

(A) REPEAL.—Section 2212 of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 131 of such title is amended by striking out the item relating to section 2212.

(2) TITLE 31.—

(A) REPEAL.—Section 1114 of title 31, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 11 of such title is amended by striking out the item relating to section 1114.

Subtitle E—Fuel- and Energy-Related Laws

SEC. 3061. LIQUID FUELS AND NATURAL GAS: CONTRACTS FOR STORAGE, HANDLING, OR DISTRIBUTION.

Section 2388(a) of title 10, United States Code, is amended by striking out "liquid fuels and natural gas" and inserting in lieu thereof "liquid fuels or natural gas".

Subtitle F—Fiscal Statutes

SEC. 3071. DISBURSEMENT OF FUNDS OF MILITARY DEPARTMENT TO COVER OBLIGATIONS OF ANOTHER AGENCY OF DEPARTMENT OF DEFENSE.

Subsection (c)(2) of section 3321 of title 31, United States Code, is amended by striking out "military departments of the" and inserting in lieu thereof "The".

Subtitle G—Miscellaneous

SEC. 3081. OBLIGATION OF FUNDS: LIMITATION.

Section 2202 of title 10, United States Code, is amended to read as follows:

"§ 2202. Obligation of funds: limitation

"The Secretary of Defense shall prescribe regulations governing the performance within the Department of Defense of the procurement, production, warehousing, and supply distribution functions, and related functions, of the Department of Defense.".

SEC. 3082. REPEAL OF REQUIREMENTS REGARDING PRODUCT EVALUATION ACTIVITIES.

(a) REPEAL.—Section 2369 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 139 of such title is amended by striking out the item related to section 2369.

SEC. 3083. CODIFICATION AND REVISION OF LIMITATION ON LEASE OF VESSELS, AIRCRAFT, AND VEHICLES.

(a) LIMITATION.—

(1) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2410l. Lease of vessels, aircraft, and vehicles

"The head of an agency named in paragraph (1), (2), (3), or (4) of section 2303(a) of this title may not enter into any contract with a term of 18 months or more, or extend or renew any contract for a term of 18 months or more, for any vessel, aircraft, or vehicle, through a lease, charter, or similar agreement without previously having considered all costs of such lease (including estimated termination liability) and determined in writing that such lease is in the best interest of the Government.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2410l. Lease of vessels, aircraft, and vehicles.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 9081 of Public Law 101-165 (103 Stat. 1147; 10 U.S.C. 2401 note) is repealed.

SEC. 3084. SOFT DRINK SUPPLIES FOR EXCHANGE STORES.

Section 2424 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) Paragraphs (1) and (2) of subsection (b) do not apply to contracts for the procurement of soft drinks that are manufactured in the United States. The Secretary of Defense shall prescribe in regulations the standards and procedures for determining whether a particular drink is a soft drink and whether the drink was manufactured in the United States.".

SEC. 3085. REPEAL OF PREFERENCE FOR RECYCLED TONER CARTRIDGES.

The following provisions of law, relating to a preference for procurement of recycled toner cartridges, are repealed:

(1) Section 630 of Public Law 102-393 (106 Stat. 1773) and the provision of law set out in quotes in that section (42 U.S.C. 6962(j)).

(2) Section 401 of Public Law 103-123 (107 Stat. 1238).

TITLE IV—SIMPLIFIED ACQUISITION THRESHOLD AND SOCIOECONOMIC, SMALL BUSINESS, AND MISCELLANEOUS LAWS

Subtitle A—Simplified Acquisition Threshold

PART I—ESTABLISHMENT OF THRESHOLD

SEC. 4001. SIMPLIFIED ACQUISITION THRESHOLD.

(a) TERM DEFINED.—Section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)) is amended to read as follows:

"(11) The term 'simplified acquisition threshold' means $100,000.".

(b) INTERIM REPORTING RULE.—Until October 1, 1999, procuring activities shall continue to report procurement awards with a dollar value of at least $25,000, but less than $100,000, in conformity with the procedures for the reporting of a contract award in excess of $25,000 that were in effect on October 1, 1992.

PART II—SIMPLIFICATION OF PROCEDURES

SEC. 4011. SIMPLIFIED ACQUISITION PROCEDURES.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

"SIMPLIFIED ACQUISITION PROCEDURES

"SEC. 29. (a) In order to promote efficiency and economy in contracting and to avoid unnecessary burdens for agencies and contractors, the Federal Acquisition Regulation shall provide for special simplified procedures for contracts for acquisition of property and services that are not in excess of the simplified acquisition threshold.

"(b) Regulations prescribed pursuant to subsection (a) shall include the following provisions:

"(1) A provision that a contract with an anticipated value not in excess of $2,500 is not subject to section 15(j) of the Small Business Act (15 U.S.C. 644(j)) and section 2 of title III of the Act of March 3, 1933 (commonly known as the 'Buy America Act') (41 U.S.C. 10a et seq.).

"(2) A provision that a civilian or military official, or employee of an agency, whose contracting authority does not exceed $2,500 is not a procurement official for the purposes of section 27 of this Act.

"(3) A provision that a purchase not in excess of $2,500 may be made without obtaining competitive quotations if the contracting officer determines that the price for the purchase is reasonable.

"(4) A requirement that purchases not in excess of $2,500 be distributed equitably among qualified suppliers.

"(5) A requirement that a contracting officer consider each responsive offer timely received from an eligible offeror.

"(c) A proposed purchase or contract for an amount above the simplified acquisition threshold may not be divided into several purchases or contracts for lesser amounts in order to use the simplified acquisition procedures required by subsection (a).

"(d) In using simplified acquisition procedures, the head of an executive agency shall promote competition to the maximum extent practicable.".

SEC. 4012. SMALL BUSINESS RESERVATION.

Section 15(j) of the Small Business Act (15 U.S.C. 644(j)) is amended to read as follows:

"(j)(1) Each contract for the purchase of goods and services that has an anticipated value in excess of $2,500 but not in excess of the simplified acquisition threshold and that is subject to simplified acquisition procedures prescribed pursuant to section 29 of the Office of Federal Procurement Policy Act shall be reserved exclusively for small business concerns unless the contracting officer is unable to obtain offers from two or more small business concerns that are competitive with market prices and are competitive with regard to the quality and delivery of the goods or services being purchased.

"(2) In carrying out paragraph (1), a contracting officer shall consider a responsive offer timely received from an eligible small business offeror.

"(3) Nothing in paragraph (1) shall be construed as precluding an award of a contract with a value not in excess of the simplified acquisition threshold under the authority of subsection (a) or (c) of section 8 of this Act, section 2323 of title 10, United States Code, or section 712 of the Business Opportunity Development Reform Act of 1988 (Public Law 100–656; 15 U.S.C. 644 note).".

SEC. 4013. FAST PAYMENT UNDER SIMPLIFIED ACQUISITION PROCEDURES.

(a) PAYMENT PROCEDURES.—The simplified acquisition procedures described in section 29(a) of the Office of Federal Procurement Policy Act (as added by section 4011) shall provide for use of the payment terms described in subsection (b), and for the disbursement of payment through electronic fund transfer, whenever circumstances permit.

(b) REQUIRED PAYMENT TERMS.—The payment terms for a purchase made pursuant to simplified acquisition procedures shall require payment, in accordance with the provisions of chapter 39 of title 31, United States Code, within 15 days after the date of the receipt of a proper invoice for products delivered or services performed, if—

(1) in the case of a purchase of property, title to the property vests in the Government upon delivery of the property to the Government or to a common carrier;

(2) in the case of property or services for which payment is due before the Government's acceptance of the property or services, the vendor provides commercial or other appropriate warranties assuring that the property or services purchased conform to the requirements set forth in the Government's purchase offer; and

(3) funds are available for making the payment.

(c) DISBURSEMENTS TO BE MATCHED WITH OBLIGATIONS.—The simplified acquisition procedures shall include procedures that ensure that each request for a disbursement is matched with a particular obligation before the disbursement is made under the payment terms provided for under subsection (a).

SEC. 4014. PROCUREMENT NOTICE.

(a) CONTINUATION OF EXISTING NOTICE THRESHOLDS.—Subsection (a) of section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) is amended—

(1) in paragraph (1), by striking out "the small purchase threshold" each place it appears and inserting in lieu thereof "$25,000"; and

(2) in paragraph (3)(B), by inserting after "(B)" the following: "in the case of a contract or order expected to exceed the simplified acquisition threshold,".

(b) CONTENT OF NOTICE.—Subsection (b) of such section is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following:

"(6) in the case of a contract in an amount estimated to exceed $25,000 but not to exceed the simplified acquisition threshold—

"(A) a description of the procedures to be used in awarding the contract; and

"(B) a statement specifying the periods for prospective offerors and the contracting officer to take the necessary preaward and award actions.".

(c) NOTICE NOT REQUIRED IN ELECTRONIC COMMERCE.—Subsection (c)(1) of such section, as amended by section 1055(b), is further amended—

(1) by redesignating subparagraphs (A), (B), (C), (D), (E) and (F) as subparagraphs (B), (C), (D), (E), (F), and (G), respectively; and

(2) by inserting above subparagraph (B), as so redesignated, the following new subparagraph (A):

"(A) the proposed procurement is conducted by means of electronic commerce pursuant to a system that, as determined by the Administrator for Federal Procurement Policy, has the capabilities described in subsections (a) and (b) of section 4015 of the Federal Acquisition Streamlining Act of 1994;".

(d) NOTICE UNDER THE SMALL BUSINESS ACT.—

(1) CONTINUATION OF EXISTING NOTICE THRESHOLDS.—Subsection (e) of section 8 of the Small Business Act (15 U.S.C. 637) is amended—

(A) in paragraph (1), by striking out "the small purchase threshold" each place it appears and inserting in lieu thereof "$25,000"; and

(B) in paragraph (3)(B), by inserting after "(B)" the following: "in the case of a contract or order estimated to exceed the simplified acquisition threshold,".

(2) CONTENT OF NOTICE.—Subsection (f) of such section is amended—

(A) by striking out "and" at the end of paragraph (4);

(B) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(C) by adding at the end the following:

"(6) in the case of a contract in an amount estimated to exceed the $25,000 but not to exceed the simplified acquisition threshold—

"(A) a description of the procedures to be used in awarding the contract; and

"(B) a statement specifying the periods for prospective offerors and the contracting officer to take the necessary preaward and award actions.".

SEC. 4015. ELECTRONIC COMMERCE FOR FEDERAL GOVERNMENT PROCUREMENTS.

(a) DEVELOPMENT AND IMPLEMENTATION OF SYSTEM.—The Administrator for Federal Procurement Policy, in consultation with the heads of appropriate Federal Government agencies having applicable technical and functional expertise, may take appropriate steps to develop and implement a Federal Governmentwide architecture or design for electronic commerce that provides interoperability among users.

(b) REQUIRED CAPABILITIES.—The requirements analysis prepared to implement the architecture or design of a system of electronic commerce referred to in subsection (a) shall have the following capabilities:

(1) The maximum practicable capability for electronic exchange of such procurement information as solicitations, offers, contracts, purchase orders, invoices, payments, and other contractual documents between the private sector and the Federal Government.

(2) Capabilities that increase the access of businesses, including small business concerns, socially and economically disadvantaged small business concerns, and businesses owned predominantly by women, to Federal Government procurement opportunities.

(3) Easy access for potential Federal Government contractors.

(4) Use of nationally and internationally recognized data formats that broaden and ease electronic interchange of data.

(5) Use of Federal Government systems and networks and industry systems and networks.

(c) NOTICE AND SOLICITATION REGULATIONS.—In connection with implementation of the architecture or design referred to in subsection (a), the Federal Acquisition Regulatory Council shall ensure that the Federal Acquisition Regulation contains appropriate notice and solicitation provisions applicable to acquisitions conducted through such architecture or design. The provisions shall specify the required form and content of notices of acquisitions and the minimum periods for notifications of solicitations and for deadlines for the submission of offers under solicitations. Each minimum period specified for a notification of solicitation and each deadline for the submission of offers under a solicitation shall afford potential offerors a reasonable opportunity to respond.

(d) LIMITATION OF PUBLICATION REQUIREMENT.—The requirement in section 18(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)) for publishing notice of a solicitation in the Commerce Business Daily shall not apply to acquisitions of a Federal agency or a component of a Federal agency that are made through electronic commerce and have a value not in excess of the simplified acquisition threshold if the Federal Acquisition Regulation contains the provisions specifically required by subsection (c) and the Administrator for Federal Procurement Policy certifies that such agency or component—

(1) has fully implemented the architecture or design referred to in subsection (a); and

(2) has procedures in place—

(A) to provide notice to potential offerors in accordance with the requirements of the Federal Acquisition Regulation prescribed pursuant to subsection (c); and

(B) to ensure that small business concerns are afforded an opportunity to respond to a solicitation of contract offers within the period specified in the solicitation.

(e) DEFINITION.—In this section, the term "simplified acquisition threshold" has the meaning given that term is section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).

PART III—APPLICABILITY OF LAWS TO ACQUISITIONS NOT IN EXCESS OF SIMPLIFIED ACQUISITION THRESHOLD

SEC. 4021. FUTURE ENACTED PROCUREMENT LAWS.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 4011, is further amended by adding at the end the following new section:

"APPLICABILITY OF CERTAIN LAWS TO CONTRACTS NOT EXCEEDING SIMPLIFIED ACQUISITION THRESHOLD

"SEC. 30. (a) IN GENERAL.—The applicability of a provision of law described in subsection (b) to contracts not in excess of the simplified acquisition threshold may be waived on a class basis in the Federal Acquisition Regulation. Such a waiver shall not apply to a provision of law that expressly refers to this section and prohibits the waiver of that provision of law.

"(b) REFERENCED LAW.—A provision of law referred to in subsection (a) is any provision of law enacted after the date of the enactment of the Federal Acquisition Streamlining Act of 1994 that, as determined by the Administrator for Federal Procurement Policy, sets forth policies, procedures, requirements, or restrictions for the procurement of property or services by the Federal Government.".

SEC. 4022. ARMED SERVICES ACQUISITIONS.

(a) REQUIREMENT FOR CONTRACT CLAUSE REGARDING CONTINGENT FEES.—Section 2306(b) of title 10, United States Code, is amended by adding at the end the following: "This subsection does not apply to a contract that is not in excess of the simplified acquisition threshold.".

(b) Prohibition on Limiting Subcontractor Direct Sales to the United States.—Section 2402 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) This section does not apply to a contract that is not in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)))."

(c) Authority To Examine Books and Records of Contractors.—Section 2313 of title 10, United States Code, as amended by section 2201, is further amended by adding at the end of subsection (f) the following:

"(2) A contract that is not in excess of the simplified acquisition threshold.".

(d) Requirement To Identify Suppliers and Sources of Supplies.—Section 2384(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) The regulations prescribed pursuant to paragraph (1) do not apply to a contract that does not exceed the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)))."

(e) Prohibition Against Doing Business With Certain Offerors or Contractors.—Section 2393(d) of title 10, United States Code, is amended in the second sentence by striking out "above" and all that follows and inserting in lieu thereof "in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)))."

(f) Prohibition on Persons Convicted of Defense-Contract Related Felonies.—Section 2408(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) The prohibition in paragraph (1) does not apply with respect to the following:

"(A) A contract referred to in subparagraph (A), (B), (C), or (D) of such paragraph that is not in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).

"(C) A subcontract referred to in such subparagraph that is under a contract described in subparagraph (A).".

SEC. 4023. CIVILIAN AGENCY ACQUISITIONS.

(a) Requirement for Contract Clause Regarding Contingent Fees.—Section 304(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a)) is amended by adding at the end the following: "The preceding sentence does not apply to a contract that is not in excess of the simplified acquisition threshold.".

(b) Prohibition on Limiting Subcontractor Direct Sales to the United States.—Section 303G of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253g) is amended by adding at the end the following new subsection:

"(c) This section does not apply to a contract that is not in excess of the simplified acquisition threshold.".

(c) Authority To Examine Books and Records of Contractors.—Section 304B of the Federal Property and Administrative Services Act of 1949, as added by section 2251(a), is amended by adding at the end of subsection (f) the following:

"(2) A contract that is not in excess of the simplified acquisition threshold.".

SEC. 4024. ACQUISITIONS GENERALLY.

(a) Limitation on Use of Funds To Influence Certain Federal Actions.—Section 1352(e)(2)(B) of title 31, United States Code, is amended by striking out "$100,000" and inserting in lieu thereof "the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)))".

(b) Requirement for Contract Clause Relating to Kickbacks.—Section 7 of the Anti-Kickback Act of 1986 (41 U.S.C. 57) is amended by adding at the end the following new subsection:

"(d) Subsections (a) and (b) do not apply to a prime contract that is not in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)))."

(c) Miller Act.—

(1) In general.—

(A) Contracts not exceeding simplified acquisition threshold.—The Act of August 24, 1935 (40 U.S.C. 270a et seq.), commonly referred to as the "Miller Act", is amended by adding at the end the following new section:

"Sec. 5. This Act does not apply to a contract in an amount that is not in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)))."

(B) Conforming amendment.—Subsection (a) of the first section of such Act is amended by striking out ", exceeding $25,000 in amount,".

(2) Alternative payment protections.—

(A) Protections to be specified in the FAR.—The Federal Acquisition Regulation shall provide alternatives to payment bonds as payment protections for suppliers of labor and materials under contracts referred to in subparagraph (C).

(B) Use of authorized protections.—The contracting officer for a contract shall—

(i) select, from among the payment protections provided for in the Federal Acquisition Regulation pursuant to subparagraph (A), one or more payment protections which the offeror awarded the contract is to submit to the Federal Government for the protection of suppliers of labor and materials for such contract; and

(ii) specify in the solicitation of offers for such contract the payment protection or protections so selected.

(C) Covered contracts.—

(i) Applicability.—The regulations required under subparagraph (A) and the requirements of subparagraph (B) apply with respect to contracts referred to in subsection (a) of the first section of the Miller Act that are in excess of $25,000 but not in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).

(ii) Miller act reference.—The Miller Act referred to in subparagraph (A) is the Act of August 24, 1935 (40 U.S.C. 270a et seq.), commonly referred to as the "Miller Act".

(d) Contract Work Hours and Safety Standards Act.—

(1) In general.—Section 103 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 329) is amended by adding at the end the following new subsection:

"(c) This title does not apply to a contract in an amount that is not in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)))."

(2) Conforming amendment.—Section 107(a) of such Act (40 U.S.C. 333(a)) is amended by inserting after "It shall be a condition of each contract" the following: "(other than a contract referred to in section 103(c))".

(e) Drug-Free Workplace Act of 1988.—Section 5152(a)(1) of the Drug-Free Workplace Act of 1988 (subtitle D of title V of the Anti-Drug Abuse Act of 1988; Public Law 100-690; 41 U.S.C. 701(a)(1)) is amended by striking out "of $25,000 or more from any Federal agency" and inserting in lieu thereof "in excess of the simplified acquisition threshold (as defined in section 4(11) of such Act (41 U.S.C. 403(11))) by any Federal agency".

(f) Certain Procurement Integrity Requirements.—

(1) Certification requirement.—Subsection (e)(7)(A) of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended by striking out "$100,000" and inserting in lieu thereof "the simplified acquisition threshold".

(2) Contract clause requirement.—Subsection (g)(1) of such section is amended by inserting after "awarded by a Federal agency" the following: "(other than a contract in an amount that is not in excess of the simplified acquisition threshold)".

(g) Solid Waste Disposal Act.—Section 6002(a) of the Solid Waste Disposal Act (42 U.S.C. 6962(a)) is amended by striking out all that follows "with respect to any" and inserting in lieu thereof "contract in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)))."

PART IV—CONFORMING AMENDMENTS

SEC. 4071. ARMED SERVICES ACQUISITIONS.

(a) Simplified Acquisition Procedures.—Section 2304(g) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out "small purchases of property and services" and inserting in lieu thereof "purchases of property and services not in excess of the simplified acquisition threshold";

(2) by striking out paragraph (2);

(3) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(4) in paragraph (2), as so redesignated—

(A) by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold"; and

(B) by striking out "small purchase procedures" and inserting in lieu thereof "simplified procedures"; and

(5) in paragraph (3), as redesignated by paragraph (3), by striking out "small purchase procedures" and inserting in lieu thereof "the simplified procedures".

(b) Solicitation Content Requirement.—Section 2305(a)(2) of title 10, United States Code, is amended by striking out "small purchases)" in the matter above subparagraph (A) and inserting in lieu thereof "purchases not in excess of the simplified acquisition threshold)".

(c) Cost Type Contracts.—Section 2306(e)(2)(A) of title 10, United States Code, is amended by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold".

SEC. 4072. CIVILIAN AGENCY ACQUISITIONS.

(a) Simplified Acquisition Procedures.—

(1) Property and services generally.—Section 303(g) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)) is amended—

(A) in paragraph (1), by striking out "small purchases of property and services" and inserting in lieu thereof "purchases of property and services not in excess of the simplified acquisition threshold";

(B) by striking out paragraphs (2) and (5);

(C) in paragraph (3)—

(i) by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold"; and

(ii) by striking out "small purchase procedures" and inserting in lieu thereof "simplified procedures";

(E) in paragraph (4), by striking out "small purchase procedures" and inserting in lieu thereof "the simplified procedures"; and

(F) by inserting after paragraph (1) the following new paragraph (2):

"(2)(A) The Administrator of General Services shall prescribe regulations that provide special simplified procedures for acquisitions of leasehold interests in real property at rental rates that do not exceed the simplified acquisition threshold.

"(B) For purposes of subparagraph (A), the rental rate or rates under a multiyear lease do not exceed the simplified acquisition threshold if the average annual amount of the rent payable for the period of the lease does not exceed the simplified acquisition threshold.".

(b) SOLICITATION CONTENT REQUIREMENT.—Section 303A(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a(b)) is amended by striking out "small purchases)" in the matter above paragraph (1) and inserting in lieu thereof "purchases not in excess of the simplified acquisition threshold)".

(c) COST TYPE CONTRACTS.—Section 304(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(b)), as amended by section 1071, is further amended in the second sentence by striking out "either $25,000" and inserting in lieu thereof "either the simplified acquisition threshold".

SEC. 4073. OFFICE OF FEDERAL PROCUREMENT POLICY ACT.

Section 19(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 417(a)) is amended by striking out "procurements, other than small purchases," and inserting in lieu thereof "procurements in excess of the simplified acquisition threshold".

SEC. 4074. SMALL BUSINESS ACT.

(a) DEFINITION.—Section 3(m) of the Small Business Act (15 U.S.C. 632(m)) is amended by striking out "'small purchase threshold'" and inserting in lieu thereof "'simplified acquisition threshold'".

(b) USE OF SIMPLIFIED ACQUISITION THRESHOLD TERM.—Section 8(d)(2)(A) of the Small Business Act (15 U.S.C. 637(d)(2)(A)) is amended by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold".

PART V—REVISION OF REGULATIONS

SEC. 4081. REVISION REQUIRED.

(a) FEDERAL ACQUISITION REGULATION.—The Federal Acquisition Regulatory Council established by section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)) shall review the Federal Acquisition Regulation to identify regulations that are applicable to acquisitions in excess of a specified amount that is less than $100,000. The Council shall amend the regulations so identified as necessary to provide that such regulations do not apply to acquisitions that are not in excess of the simplified acquisition threshold. The preceding sentence does not apply in the case of a regulation for which such an amendment would not be in the national interest, as determined by the Council.

(b) SUPPLEMENTAL REGULATIONS.—The head of each Federal agency that has issued regulations, policies, or procedures referred to in section 25(c)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(2)) shall identify any such regulations, policies, or procedures that are applicable to acquisitions in excess of a specified amount that is less than $100,000. The agency head shall amend the regulations so identified as necessary to provide that such regulations, policies, and procedures do not apply to acquisitions that are not in excess of the simplified acquisition threshold. The preceding sentence does not apply in the case of a regulation, policy, or procedure for which such an amendment would not be in the national interest, as determined by the agency head.

(c) COMPLETION OF ACTIONS.—All actions under this section shall be completed not later than 180 days after the date of the enactment of this Act.

(d) DEFINITIONS.—In this section:

(1) The term "simplified acquisition threshold" has the meaning given such term in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)), as amended by section 4001.

(2) The term "Federal agency" has the meaning given such term in section 3(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 472(b)).

Subtitle B—Socioeconomic and Small Business Laws

SEC. 4101. ACQUISITIONS GENERALLY.

(a) REPEAL OF EXECUTED REPORTING REQUIREMENT.—Section 306 of the Trade Agreements Act of 1979 (19 U.S.C. 2516) is repealed.

(b) WALSH-HEALEY ACT.—

(1) REPEAL OTHER THAN FOR CERTAIN DEFINITIONAL PURPOSES.—The Act of June 30, 1936 (41 U.S.C. 35 et seq.), commonly referred to as the "Walsh-Healey Act", is amended to read as follows:

"SECTION 1. (a) The Secretary of Labor may prescribe in regulations the standards for determining whether a contractor is a manufacturer of or a regular dealer in materials, supplies, articles, or equipment to be manufactured or used in the performance of a contract entered into by any executive department, independent establishment, or other agency or instrumentality of the United States, or by the District of Columbia, or by any corporation all the stock of which is beneficially owned by the United States, for the manufacture or furnishing of materials, supplies, articles, and equipment.

"(b) Any interested person shall have the right of judicial review of any legal question regarding the interpretation of the terms 'regular dealer' and 'manufacturer', as defined pursuant to subsection (a)."

(2) CONFORMING AMENDMENT.—Section 2304(h) of title 10, United States Code, is amended to read as follows:

"(h) For the purposes of the Act entitled 'An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes', approved March 3, 1931 (commonly referred to as the 'Davis-Bacon Act') (40 U.S.C. 276a et seq.), purchases or contracts awarded after using procedures other than sealed-bid procedures shall be treated as if they were made with sealed-bid procedures.".

(c) REPEAL OF REDUNDANT REQUIREMENT REGARDING APPLICABILITY OF THE DAVIS-BACON ACT AND THE WALSH-HEALEY ACT.—Section 308 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 258) is repealed.

SEC. 4102. ACQUISITIONS FROM SMALL BUSINESSES.

(a) SET-ASIDE PRIORITY.—Section 15 of the Small Business Act (15 U.S.C. 644) is amended by striking out subsections (e) and (f).

(b) CERTIFICATE OF COMPETENCE.—Section 804 of Public Law 103-484 (106 Stat. 2447; 10 U.S.C. 2305 note) is repealed.

SEC. 4103. CONTRACTING PROGRAM FOR CERTAIN SMALL BUSINESS CONCERNS.

(a) PROCUREMENT PROCEDURES AUTHORIZED.—Section 8 of the Small Business Act (15 U.S.C. 637) is amended by inserting after subsection (b) the following new subsection:

"(c)(1) To facilitate the attainment of a goal for the participation of small business concerns owned and controlled by socially and economically disadvantaged individuals that is established for a Federal agency pursuant to section 15(g)(1), the head of the agency may enter into contracts using—

"(A) less than full and open competition by restricting the competition for such awards to small business concerns owned and controlled by socially and economically disadvantaged individuals described in subsection (d)(3)(C) of this section; and

"(B) a price evaluation preference not in excess of 10 percent when evaluating an offer received from such a small business concern as the result of an unrestricted solicitation.

"(2) Paragraph (1) does not apply to the Department of Defense.".

(b) IMPLEMENTATION THROUGH THE FEDERAL ACQUISITION REGULATION.—

(1) IN GENERAL.—The Federal Acquisition Regulation shall be amended to provide for uniform implementation of the authority provided in section 8(c) of the Small Business Act, as added by subsection (a).

(2) MATTERS TO BE ADDRESSED.—The provisions of the Federal Acquisition Regulation prescribed pursuant to paragraph (1) shall include—

(A) conditions for the use of advance payments;

(B) provisions for contract payment terms that provide for—

(i) accelerated payment for work performed during the period for contract performance; and

(ii) full payment for work performed;

(C) guidance on how contracting officers may use, in solicitations for various classes of products or services, a price evaluation preference pursuant to section 8(c)(1)(B) of the Small Business Act, as added by subsection (a), to provide a reasonable advantage to small business concerns owned and controlled by socially and economically disadvantaged individuals without effectively eliminating any participation of other small business concerns; and

(D)(i) procedures for a person to request the head of Federal agency to determine whether the use of competitions restricted to small business concerns owned and controlled by socially and economically disadvantaged individuals at a contracting activity of such agency has caused a particular industry category to bear a disproportionate share of the contracts awarded to attain the goal established for that contracting activity; and

(ii) guidance for limiting the use of such restricted competitions in the case of any contracting activity and class of contracts determined in accordance with such procedures to have caused a particular industry category to bear a disproportionate share of the contracts awarded to attain the goal established for that contracting activity.

(c) TERMINATION.—Section 8(c) of the Small Business Act, as added by subsection (a), shall cease to be effective at the end of September 30, 1999.

SEC. 4104. PROCUREMENT GOALS FOR SMALL BUSINESS CONCERNS OWNED BY WOMEN.

(a) GOALS.—Section 15 of the Small Business Act (15 U.S.C. 644) is amended—

(1) by striking out "and small business concerns owned and controlled by socially and economically disadvantaged individuals" each place it appears in the first sentence and fourth sentences of subsection

(g)(1), the second sentence of subsection (g)(2), and paragraphs (1), (2)(A), (2)(D), and (2)(E) of subsection (h) and inserting in lieu thereof ", small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women";

(2) in subsection (g)—

(A) by inserting after the third sentence of paragraph (1) the following: "The Government-wide goal for participation by small business concerns owned and controlled by women shall be established at not less than 5 percent of the total value of all prime contract and subcontract awards for each fiscal year.";

(B) in the first sentence of paragraph (2), by striking out "and by small business concerns owned and controlled by socially and economically disadvantaged individuals," and inserting in lieu thereof ", by small business concerns owned and controlled by socially and economically disadvantaged individuals, and by small business concerns owned and controlled by women"; and

(C) in the fourth sentence of paragraph (2), by inserting after "including participation by small business concerns owned and controlled by socially and economically disadvantaged individuals" the following: "and by participation small business concerns owned and controlled by women"; and

(3) in subsection (h)(2)(F), by striking out "women-owned small business enterprises" and inserting in lieu thereof "small business concerns owned and controlled by women".

(b) SUBCONTRACT PARTICIPATION.—Section 8(d) of such Act (15 U.S.C. 637(d)) is amended—

(1) by striking out "and small business concerns owned and controlled by socially and economically disadvantaged individuals" both places it appears in paragraph (1), both places it appears in paragraph (3)(A), in paragraph (4)(D), in subparagraphs (A), (C), and (F) of paragraph (6), and in paragraph (10)(B) and inserting in lieu thereof ", small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women";

(2) by striking out subparagraph (D) in paragraph (3) and inserting in lieu thereof the following:

"(E) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as either a small business concern, a small business concern owned and controlled by socially and economically disadvantaged individuals, or a small business concern owned and controlled by women.";

(3) in paragraph (3), by inserting after subparagraph (C) the following new subparagraph (D):

"(D) The term 'small business concern owned and controlled by women' shall mean a small business concern—

"(i) which is at least 51 per centum owned by one or more women; or, in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by one or more women; and

"(ii) whose management and daily business operations are controlled by one or more women."; and

(4) in paragraph (4)(E), by inserting "and for small business concerns owned and controlled by women" after "as defined in paragraph (3) of this subsection".

(c) MISREPRESENTATIONS OF STATUS.—(1) Subsection (d)(1) of section 16 of such Act (15 U.S.C. 645) is amended by striking out "or 'small business concern owned and controlled by socially and economically disadvantaged individuals'" and inserting in lieu thereof ", a 'small business concern owned and controlled by socially and economically disadvantaged individuals', or a 'small business concerns owned and controlled by women'".

(2) Subsection (e) of such section is amended by striking out "or 'small business concern owned and controlled by socially and economically disadvantaged individuals'" and inserting in lieu thereof ", a 'small business concern owned and controlled by socially and economically disadvantaged individuals', or a 'small business concerns owned and controlled by women'".

(d) DEFINITION.—Section 3 of such Act (15 U.S.C. 632) is amended by adding at the end the following new subsection:

"(n) For the purposes of this Act, a small business concern is a small business concern owned and controlled by women if—

"(1) at least 51 percent of small business concern is owned by one or more women or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

"(2) the management and daily business operations of the business are controlled by one or more women.".

SEC. 4105. DEVELOPMENT OF DEFINITIONS REGARDING CERTAIN SMALL BUSINESS CONCERNS.

(a) REVIEW REQUIRED.—

(1) DEFINITIONS TO BE IDENTIFIED.—The Administrator for Federal Procurement Policy shall conduct a comprehensive review of Federal laws, as in effect on November 1, 1994, to identify and catalogue all of the provisions in such laws that define (or describe for definitional purposes) the small business concerns set forth in paragraph (2) for purposes of authorizing the participation of such small business concerns as prime contractors or subcontractors in—

(A) contracts awarded directly by the Federal Government or subcontracts awarded under such contracts; or

(B) contracts and subcontracts funded, in whole or in part, by Federal financial assistance under grants, cooperative agreements, or other forms of Federal assistance.

(2) COVERED SMALL BUSINESS CONCERNS.—The small business concerns referred to in paragraph (1) are as follows:

(A) Small business concerns owned and controlled by socially and economically disadvantaged individuals.

(B) Minority-owned small business concerns.

(C) Small business concerns owned and controlled by women.

(D) Woman-owned small business concerns.

(b) MATTERS TO BE DEVELOPED.—On the basis of the results of the review carried out under subsection (a), the Administrator for Federal Procurement Policy shall develop—

(1) uniform definitions for the small business concerns referred to in subsection (a)(2);

(2) uniform agency certification standards and procedures for—

(A) determinations of whether a small business concern qualifies as a small business concern referred to in subsection (a)(2) under an applicable standard for purposes contracts and subcontracts referred to in subsection (a)(1); and

(B) reciprocal recognition by an agency of a decision of another agency regarding whether a small business concern qualifies as a small business concern referred to in subsection (a)(2) for such purposes; and

(3) such other related recommendations as the Administrator determines appropriate consistent with the review results.

(c) PROCEDURES AND SCHEDULE.—

(1) PARTICIPATION BY CERTAIN INTERESTED PARTIES.—The Administrator for Federal Procurement Policy shall provide for the participation in the review and activities under subsections (a) and (b) by representatives of—

(A) the Small Business Administration (including the Office of the Chief Counsel for Advocacy);

(B) the Minority Business Development Agency of the Department of Commerce;

(C) the Department of Transportation;

(D) the Environmental Protection Agency; and

(E) such other executive departments and agencies as the Administrator considers appropriate.

(2) CONSULTATION WITH CERTAIN INTERESTED PARTIES.—In carrying out subsections (a) and (b), the Administrator shall consult with representatives of organizations representing—

(A) minority-owned business enterprises;

(B) women-owned business enterprises; and

(C) other organizations that the Administrator considers appropriate.

(3) SCHEDULE.—Not later than 60 days after the date of the enactment of this Act, the Administrator shall publish in the Federal Register a notice which—

(A) lists the provisions of law identified in the review carried out under subsection (a);

(B) describes the matters to be developed on the basis of the results of the review pursuant to subsection (b);

(C) solicits public comment regarding the matters described in the notice pursuant to subparagraphs (A) and (B) for a period of not less than 60 days; and

(D) addresses such other matters as the Administrator considers appropriate to ensure the comprehensiveness of the review and activities under subsections (a) and (b).

(d) REPORT.—Not later than May 1, 1995, the Administrator for Federal Procurement Policy shall submit to the Committees on Small Business of the Senate and the House of Representatives a report on the results of the review carried out under subsection (a) and the actions taken under subsection (b). The report shall include a discussion of the results of the review, a description of the consultations conducted and public comments received, and the Administrator's recommendations with regard to the matters identified under subsection (b).

Subtitle C—Miscellaneous Acquisition Laws

SEC. 4151. PROHIBITION ON USE OF FUNDS FOR DOCUMENTING ECONOMIC OR EMPLOYMENT IMPACT OF CERTAIN ACQUISITION PROGRAMS.

(a) REVISION AND CODIFICATION.—

(1) IN GENERAL.—Subchapter I of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2247. Prohibition on use of funds for documenting economic or employment impact of certain acquisition programs

"No funds appropriated by the Congress may be obligated or expended to assist any contractor of the Department of Defense in preparing any material, report, lists, or analysis with respect to the actual or projected economic or employment impact in a particular State or congressional district of an acquisition program for which all research, development, testing, and evaluation has not been completed.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2247. Prohibition on use of funds for documenting economic or employment impact of certain acquisition programs.".

(b) REPEAL OF SUPERSEDED LAW.—Section 9048 of Public Law 102-396 (106 Stat. 1913) is repealed.

SEC. 4152. RESTRICTION ON USE OF NONCOMPETITIVE PROCEDURES FOR PROCUREMENT FROM A PARTICULAR SOURCE.

(a) ARMED SERVICES ACQUISITIONS.—Section 2304 of title 10, United States Code, as amended by section 1005(b), is further amended—

(1) in subsection (c)(5), by inserting "subject to subsection (j)," after "(5)"; and

(2) by adding at the end the following new subsection:

"(j)(1) It is the policy of Congress that no legislation should be enacted that requires a procurement to be made from a specified non-Federal Government source.

"(2) A provision of law may not be construed as requiring a procurement to be made from a specified non-Federal Government source unless that provision of law—

"(A) specifically refers to this subsection;

"(B) specifically identifies the particular non-Federal Government source involved; and

"(C) specifically states that the procurement from that source is required by such provision of law in contravention of the policy set forth in paragraph (1).".

(b) CIVILIAN AGENCY ACQUISITIONS.—Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended—

(1) in subsection (c)(5), by inserting "subject to subsection (h)," after "(5)"; and

(2) by adding at the end the following new subsection:

"(h)(1) It is the policy of Congress that no legislation should be enacted that requires a procurement to be made from a specified non-Federal Government source.

"(2) A provision of law may not be construed as requiring a procurement to be made from a specified non-Federal Government source unless that provision of law—

"(A) specifically refers to this subsection;

"(B) specifically identifies the particular non-Federal Government source involved; and

"(C) specifically states that the procurement from that source is required by such provision of law in contravention of the policy set forth in paragraph (1).".

TITLE V—ACQUISITION MANAGEMENT

Subtitle A—Armed Services Acquisitions

SEC. 5001. PERFORMANCE BASED MANAGEMENT.

(a) POLICY AND GOALS FOR PERFORMANCE BASED MANAGEMENT OF PROGRAMS.—

(1) IN GENERAL.—Chapter 131 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2219. Performance based management: acquisition programs

"(a) CONGRESSIONAL POLICY.—It is the policy of Congress that—

"(1) the Department of Defense should achieve, on average, 90 percent of the cost and schedule goals established for the research and development programs and acquisition programs of the Department of Defense without reducing the performance or capabilities of the items being acquired; and

"(2) the average period necessary for converting an emerging technology into initial operational capability for the Department of Defense should not exceed 8 years.

"(b) ESTABLISHMENT OF GOALS.—(1) The Secretary of Defense shall approve or define the cost, performance, and schedule goals for major defense acquisition programs of the Department of Defense.

"(2) The Comptroller of the Department of Defense shall evaluate the cost goals proposed for each major defense acquisition program of the Department.

"(c) IDENTIFICATION OF NONCOMPLIANT PROGRAMS.—Whenever it is necessary to do so in order to implement the policy set out in subsection (a), the Secretary of Defense shall—

"(1) identify and consider whether there is a continuing need for programs that are significantly behind schedule, over budget, or not in compliance with performance or capability requirements taking into consideration—

"(A) the needs of the Department known as of the time of consideration;

"(B) the state of the technology or technologies relevant to the programs and to the needs of the Department;

"(C) the estimated costs and projected schedules necessary for the completion of such programs; and

"(D) other pertinent information; and

"(2) identify existing and potential research and development programs and acquisition programs that are suitable alternatives for programs considered pursuant to paragraph (1).

"(d) ANNUAL REPORTING REQUIREMENT.—The Secretary of Defense shall include in the annual report submitted to Congress pursuant to section 113(c) of this title an assessment of the progress made in implementing the policy stated in subsection (a). The Secretary shall use data from existing management systems in making the assessment.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2219. Performance based management: acquisition programs.".

(b) ENHANCED SYSTEM OF PERFORMANCE INCENTIVES.—Within one year after the date of the enactment of this Act, the Secretary of Defense shall review the incentives and personnel actions available to the Secretary for encouraging excellence in the defense acquisition workforce and provide an enhanced system of incentives for the encouragement of excellence in such workforce. The enhanced system of incentives shall, to the maximum extent consistent with applicable law—

(1) relate pay to performance (including the extent to which the performance of personnel in such workforce contributes to achieving the cost goals, schedule goals, and performance goals established for acquisition programs of the department pursuant to section 2219(b) of title 10, as added by subsection (a)); and

(2) provide for consideration, in personnel evaluations and promotion decisions, of the extent to which the performance of personnel in such workforce contributes to achieving the cost goals, schedule goals, and performance goals established for acquisition programs of the department pursuant to section 2219(b) of title 10, United States Code, as added by subsection (a).

(c) RECOMMENDED LEGISLATION.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress any recommended legislation that the Secretary considers necessary to carry out section 2219 of title 10, United States Code, as added by subsection (a), and otherwise to facilitate and enhance management of Department of Defense acquisition programs and the defense acquisition workforce on the basis of performance.

SEC. 5002. RESULTS ORIENTED ACQUISITION PROGRAM CYCLE.

The Secretary of Defense shall define in regulations a simplified acquisition program cycle that is results-oriented. The Secretary shall consider including in the regulations provisions for the following:

(1) Program phases as follows:

(A) An integrated decision team meeting which—

(i) may be requested by a potential user of the system or component to be acquired, the head of a laboratory, or a program office on such bases as the emergence of a new military requirement, cost savings opportunity, or new technology opportunity;

(ii) is conducted by an acquisition program executive officer; and

(iii) is usually completed within 1 to 3 months.

(B) A prototype development and testing phase which—

(i) includes operational tests and concerns relating to manufacturing operations and life cycle support;

(ii) is usually completed within 6 to 36 months; and

(iii) produces sufficient numbers of prototypes to assess operational utility.

(C) Product integration, development, and testing which—

(i) includes full-scale development, operational testing, and integration of components; and

(ii) is usually completed within 1 to 5 years.

(D) Production, integration into existing systems, or production and integration into existing systems.

(2) An acquisition program approval process for major program decisions which consists of the following:

(A) One major decision point—

(i) which occurs for an acquisition program before the program proceeds into product integration and development; and

(ii) at which the Under Secretary of Defense for Acquisition and Technology, in consultation with the Vice Chairman of the Joint Chiefs of Staff reviews the program, determines whether the program should continue to be carried out beyond product integration and development, and decides whether to commit to further development, to require further prototyping, or to terminate the program.

(B) Consideration of the potential benefits, affordability, needs, and risks of an acquisition program in the review of the acquisition program.

SEC. 5003. DEFENSE ACQUISITION PILOT PROGRAM DESIGNATIONS.

(a) PROGRAMS AND WAIVERS.—The National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160) is amended by inserting the following new section at the end of subtitle D of title VIII:

"SEC. 840. DEFENSE ACQUISITION PILOT PROGRAM DESIGNATIONS.

"(a) ELIGIBLE PROGRAMS.—The Secretary of Defense is authorized to designate the following defense acquisition programs for participation in the defense acquisition pilot program authorized by section 809 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2430 note):

"(1) Defense Personnel Support Center medical, clothing and textile, and subsistence programs with respect to the following:

"(A) All contracts for processed fruits and vegetables and frozen seafood items for both depot stock and direct vendor delivery.

"(B) All contracts in the subsistence prime vendor program for grocery items.

"(C) All contracts in the Mail Order Pharmacy Program, the prime vendor programs for pharmaceuticals and for medical surgical items for delivery to military hospitals.

"(D) All contracts in the medical electronic commerce program for acquisition for depot stock and direct vendor delivery.

"(E) All contracts for the following items: dress coats (small lots), dress coats, duffel bags, Navy work clothing, general purpose tents, suitcases, gloves for electrical workers, boot flyers, socks, drawers, undershirts, and items offered under the Broad Agency Announcements for Clothing and Textiles Advanced Business Practices Demonstration Program.

"(2) The Fire Support Combined Arms Tactical Trainer program with respect to all contracts directly related to the procurement of a training system (including related hardware, software, and subsystems) to perform collective training of field artillery gunnery team components with development of software as required to generate the training exercises and component interfaces.

"(3) The Joint Direct Attack Munition program (JDAM I) with respect to all contracts directly related to the development and procurement of a strap-on guidance kit, using an inertially guided, Global Positioning System updated guidance kit for inventory 1,000 and 2,000 pound bombs.

"(4) The Joint Primary Aircraft Training System (JPATS) with respect to all contracts directly related to the acquisition of a new primary trainer aircraft to fulfill Air Force and Navy joint undergraduate aviation training requirements, and an associated ground-based training system consisting of air crew training devices (simulators), courseware, a Training Management System, and contractor support for the life of the system.

"(5) The Commercial Derivatives Aircraft program with respect to all contracts directly related to the acquisition or upgrading of civil-derivative aircraft for use in (A) foreign military sales of Airborne Warning and Control Systems to foreign governments with modifications of a type customarily provided to commercial customers, or (B) future Air Force airlift and tanker requirements.

"(6) The Commercial Derivative Engine program with respect to all contracts directly related to the acquisition of (A) commercially derived engines (including spare engines), logistics support equipment, technical orders, management data, and initial spare parts for use in the C-17A production line, and (B) commercially derived engines to support the purchase of commercial-derivative aircraft to meet future Air Force airlift and tanker requirements, including engine replacement and upgrades.

"(b) WAIVER AUTHORITY.—Subject to section 809(c) of the National Defense Authorization Act for Fiscal Year 1991, the Secretary of Defense is authorized—

"(1) to apply any amendment or repeal of a provision of law made in the Federal Acquisition Streamlining Act of 1994 to the programs described in subsection (a) before the effective date of such amendment or repeal; and

"(2) to apply to a procurement of noncommercial items under such programs—

"(A) any authority provided in such Act (or in an amendment made by a provision of such Act) to waive a provision of law in the case of commercial items, and

"(B) any exception applicable under such Act (or an amendment made by a provision of such Act) in the case of commercial items, before the effective date of such provision (or amendment) to the extent that the Secretary determines necessary to test the application of such waiver or exception to procurements of noncommercial items.

"(c) PILOT PROGRAM IMPLEMENTATION.—In exercising the authority provided in section 809 of the National Defense Authorization Act for 1991, and in accordance with sections 833 through 839 of this Act, the Secretary of Defense, shall take the following actions:

"(1) MISSION-ORIENTED PROGRAM MANAGEMENT.—For one or more of the defense acquisition programs designated for participation in the defense acquisition pilot program, prescribe and implement procedures which—

"(A) provide for interaction between the program manager and the commander of the operational command responsible for the requirement for the equipment acquired;

"(B) include provisions for a determination by the commander that items proposed for procurement fulfill the need defined in approved requirements documents; and

"(C) may include a role for the operational commander in decision making for program milestone decisions and performance of acceptance testing of items acquired.

"(2) SAVINGS OBJECTIVES.—Not later than 45 days after the date of enactment of the Federal Acquisition Streamlining Act of 1994, identify for each defense acquisition program participating in the pilot program quantitative measures and goals for reducing acquisition management costs.

"(3) PROGRAM PHASES.—For each defense acquisition program participating in the pilot program, incorporate in an approved acquisition strategy a program review process that provides senior acquisition officials with reports that—

"(A) contain essential information on program results at quarterly intervals;

"(B) reduce data requirements from the current major program review reporting requirements; and

"(C) include data on program costs estimates, actual expenditures, performance estimates, performance data from tests, and, consistent with existing statutes, the minimum necessary other data items required to ensure the appropriate expenditure of funds appropriated for that program.

"(4) PROGRAM WORK FORCE POLICIES.—With regard to the review of incentives and personnel actions required under section 836 of this Act—

"(A) not later than 60 days after the date of the enactment of the Federal Acquisition Streamlining Act of 1994—

"(i) complete the review; and

"(ii) on the basis of the review, define one or more systems that relate incentives, including pay, to achievement of budgets, schedules, and performance requirements;

"(B) not later than 120 days after the date of the enactment of the Federal Acquisition Streamlining Act of 1994—

"(i) apply such a system of incentives to not less than one defense acquisition program participating in the pilot program; and

"(ii) provide for an assessment of the effectiveness of that system; and

"(C) incorporate the results of actions taken pursuant to this paragraph into the development of regulations for the implementation of section 5001(b) of the Federal Acquisition Streamlining Act of 1994.

"(5) EFFICIENT CONTRACTING PROCESS.—Take any additional actions that the Secretary considers necessary to waive regulations, not required by statute, that affect the efficiency of the contracting process, including, in the Secretary's discretion, defining alternative techniques to reduce reliance on military specifications and standards in contracts for the defense acquisition programs participating in the pilot program.

"(6) CONTRACT ADMINISTRATION: PERFORMANCE BASED CONTRACT MANAGEMENT.—For at least one participating defense acquisition program for which a determination is made to make payments for work in progress under the authority of section 2307 of title 10, United States Code, define payment milestones on the basis of quantitative measures of results.

"(7) CONTRACTOR PERFORMANCE ASSESSMENT.—Collect and evaluate performance information on each contract entered into for a defense acquisition program participating in the pilot program, including information on cost, schedule, and technical performance for each contractor supporting a participating program.

"(d) APPLICABILITY.—(1) Subsection (b) applies with respect to—

"(A) a contract that is awarded or modified during the period described in paragraph (2); and

"(B) a contract that is awarded before the beginning of such period and is to be performed (or may be performed), in whole or in part, during such period.

"(2) The period referred to in paragraph (1) is the period that begins 45 days after the date of the enactment of the Federal Acquisition Streamlining Act of 1994 and ends on September 30, 1998.".

(b) RULE OF CONSTRUCTION.—Nothing in section 840 of the National Defense Authorization Act for Fiscal Year 1994, as added by subsection (a), shall be construed as authorizing the appropriation or obligation of funds for the programs designated for participation in the defense acquisition pilot program under the authority of subsection (a) of such section 840.

Subtitle B—Civilian Agency Acquisitions

SEC. 5051. PERFORMANCE BASED MANAGEMENT.

(a) POLICY AND GOALS FOR PERFORMANCE BASED MANAGEMENT OF PROGRAMS.—

(1) IN GENERAL.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 301 et seq.), as amended by sections 1552 and 1553, is further amended by adding at the end the following new section:

"PERFORMANCE BASED MANAGEMENT: ACQUISITION PROGRAMS

"SEC. 311. (a) CONGRESSIONAL POLICY.—It is the policy of Congress that the head of each executive agency should achieve, on average, 90 percent of the cost and schedule goals established for the research and development programs and acquisition programs of the agency without reducing the performance or capabilities of the items being acquired.

"(b) ESTABLISHMENT OF GOALS.—(1) The head of each executive agency shall approve or define the cost, performance, and schedule goals for major acquisition programs of the agency.

"(2) The chief financial officer of an executive agency shall evaluate the cost goals proposed for each major defense acquisition program of the agency.

"(c) IDENTIFICATION OF NONCOMPLIANT PROGRAMS.—Whenever it is necessary to do so in order to implement the policy set out in subsection (a), the head of an executive agency shall—

"(1) identify and consider whether there is a continuing need for programs that are significantly behind schedule, over budget, or not in compliance with performance or capability requirements taking into consideration—

"(A) the needs of the agency known as of the time of consideration;

"(B) the state of the technology or technologies relevant to the programs and to the needs of the agency;

"(C) the estimated costs and projected schedules necessary for the completion of such programs; and

"(D) other pertinent information; and

"(2) identify existing and potential research and development programs and acquisition programs that are suitable alternatives for programs considered pursuant to paragraph (1).".

(2) CLERICAL AMENDMENT.—The table of contents in the first section of such Act, as amended by sections 1552 and 1553, is further amended by inserting after the item relating to section 310 the following new item:

"Sec. 311. Performance based management: acquisition programs.".

(b) ANNUAL REPORTING REQUIREMENT.—Section 6 of the Office of Federal Procurement Policy Act (41 U.S.C. 405), as amended by section 1091, is further amended by adding at the end the following new subsection:

"(k) The Administrator shall submit to Congress, on an annual basis, an assessment of the progress made in executive agencies in implementing the policy stated in section 311(a) of the Federal Property and Administrative Services Act of 1949. The Administrator shall use data from existing management systems in making the assessment.".

(c) ENHANCED SYSTEM OF PERFORMANCE INCENTIVES.—Within one year after the date of the enactment of this Act, the Administrator for Federal Procurement Policy, in consultation with appropriate officials in other departments and agencies of the Federal Government, shall, to the maximum extent consistent with applicable law—

(1) establish policies and procedures for the heads of such departments and agencies to designate acquisition positions and manage employees (including the accession, education, training and career development of employees) in the designated acquisition positions;

(2) extend to the acquisition workforce of the entire executive branch the acquisition workforce policies contained in chapter 87 of title 10, United States Code, relating to the acquisition workforce of the Department of Defense; and

(3) review the incentives and personnel actions available to the heads of department and agencies of the Federal Government for encouraging excellence in the acquisition workforce of the Federal Government and provide an enhanced system of incentives for the encouragement of excellence in such workforce which—

(A) relates pay to performance (including the extent to which the performance of personnel in such workforce contributes to achieving the cost goals, schedule goals, and performance goals established for acquisition programs pursuant to section 311(b) of the Federal Property and Administrative Services Act of 1949, as added by subsection (a)); and

(B) provides for consideration, in personnel evaluations and promotion decisions, of the extent to which the performance of personnel in such workforce contributes to achieving such cost goals, schedule goals, and performance goals.

(d) RECOMMENDED LEGISLATION.—Not later than one year after the date of the enactment of this Act, the Administrator for Federal Procurement Policy shall submit to Congress any recommended legislation that the Secretary considers necessary to carry out section 311 of the Federal Property and Administrative Services Act of 1949, as added by subsection (a), and otherwise to facilitate and enhance management of Federal Government acquisition programs and the acquisition workforce of the Federal Government on the basis of performance.

SEC. 5052. RESULTS-ORIENTED ACQUISITION PROCESS.

(a) DEVELOPMENT OF PROCESS REQUIRED.—The Administrator for Federal Procurement Policy, in consultation with the heads of appropriate Federal agencies, shall develop a results-oriented acquisition process for implementation by agencies in acquisitions of property and services by the Federal agencies. The process shall include the identification of quantitative measures and standards for determining the extent to which an acquisition of noncommercial items by a Federal agency satisfies the needs for which the items are being acquired.

(b) INAPPLICABILITY OF PROCESS TO DEPARTMENT OF DEFENSE.—The process developed pursuant to subsection (a) may not be applied to the Department of Defense.

Subtitle C—Miscellaneous

SEC. 5091. CONTRACTOR EXCEPTIONAL PERFORMANCE AWARDS.

The Office of Federal Procurement Policy Act, as amended by section 4021, is further amended by adding at the end the following:

"CONTRACTOR EXCEPTIONAL PERFORMANCE AWARDS

"SEC. 31. (a) ESTABLISHMENT.—There is hereby established an executive branch program to recognize and promote exceptional contract performance by Federal Government contractors.

"(b) SELECTION.—(1) The Administrator shall ensure the establishment of criteria for selection of contractors to receive exceptional performance awards under the program.

"(2) The head of an executive agency may select one or more agency contractors to receive an exceptional performance award under the program.

"(c) AWARD CEREMONY.—The Vice President, or the head of the executive agency selecting a contractor for an exceptional performance award, shall present the award to the contractor with such ceremony as the Vice President or head of the agency, as the case may be, considers appropriate.".

SEC. 5092. DEPARTMENT OF DEFENSE ACQUISITION OF INTELLECTUAL PROPERTY RIGHTS.

Section 2386 of title 10, United States Code, is amended by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

"(3) Technical data and computer software.

"(4) Releases for past infringement of patents or copyrights or for unauthorized use of technical data or computer software.".

TITLE VI—STANDARDS OF CONDUCT

Subtitle A—Ethics Provisions

SEC. 6001. AMENDMENTS TO OFFICE OF FEDERAL PROCUREMENT POLICY ACT.

(a) RECUSAL.—Subsection (c) of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended—

(1) in paragraph (1)—

(A) in the matter above subparagraph (A), by inserting "only" after "subsection (b)(1)"; and

(B) in subparagraph (A), by inserting "(including the modification or extension of a contract)" after "any procurement";

(2) by striking out paragraphs (2) and (3) and inserting in lieu thereof:

"(2) Whenever the head of a procuring activity approves a recusal under paragraph (1), a copy of the recusal request and the approval of the request shall be retained by such official for a period (not less than five years) specified in regulations prescribed in accordance with subsection (o).

"(3)(A) Except as provided in subparagraph (B), all recusal requests and approvals of recusal requests pursuant to this subsection shall be made available to the public on request.

"(B) Any part of a recusal request or an approval of a recusal request that is exempt from the disclosure requirements of section 552 of title 5, United States Code, under subsection (b)(1) of such section may be withheld from disclosure to the public otherwise required under subparagraph (A)."; and

(3) in paragraph (4), by striking out "competing contractor" and inserting in lieu thereof "person".

(b) APPLICABILITY OF CERTIFICATION REQUIREMENT.—Subsection (e)(7)(A) of such section is amended by adding at the end the following: "However, paragraph (1)(B) does not apply with respect to a contract for less than $500,000.".

(c) RESTRICTIONS RESULTING FROM PROCUREMENT ACTIVITIES OF PROCUREMENT OFFICIALS.—Subsection (f) of such section is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) No individual who, in the year prior to separation from service as an officer or employee of the Government or an officer of the uniformed services in a covered position, participated personally and substantially in acquisition functions related to a contract, subcontract, or claim of $500,000 or more and—

"(A) engaged in repeated direct contact with the contractor or subcontractor on matters relating to such contract, subcontract, or claim; or

"(B) exercised significant ongoing decisionmaking responsibility with respect to the contractor or subcontractor on matters relating to such contract, subcontract, or claim,

shall knowingly accept or continue employment with such contractor or subcontractor for a period of 1 year following the individual's separation from service, except that such individual may accept or continue employment with any division or affiliate of such contractor or subcontractor that does not produce the same or similar products as the entity involved in the negotiation or performance of the contract or subcontract or the adjustment of the claim.

"(2) No contractor or subcontractor, or any officer, employee, agent, or consultant of such contractor or subcontractor shall knowingly offer, provide, or continue any employment for another person, if such contractor, subcontractor, officer, employee, agent, or consultant knows or should know that the acceptance of such employment is or would be in violation of paragraph (1).

"(3) The head of each Federal agency shall designate in writing as a 'covered position' under this section each of the following positions in that agency:

"(A) The position of source selection authority, member of a source selection evaluation board, or chief of a financial or technical evaluation team, or any other position, if the officer or employee in that position is likely personally to exercise substantial responsibility for ongoing discretionary functions in the evaluation of proposals or the selection of a source for a contract in excess of $500,000.

"(B) The position of procuring contracting officer, or any other position, if the officer or employee in that position is likely personally to exercise substantial responsibility for ongoing discretionary functions in the negotiation of a contract in excess of $500,000 or the negotiation or settlement of a claim in excess of $500,000.

"(C) The position of program executive officer, program manager, or deputy program manager, or any other position, if the officer or employee in that position is likely personally to exercise similar substantial responsibility for ongoing discretionary functions in the management or administration of a contract in excess of $500,000.

"(D) The position of administrative contracting officer, the position of an officer or employee assigned on a permanent basis to a Government Plant Representative's Office, the position of auditor, a quality assurance position, or any other position, if the officer or employee in that position is likely personally to exercise substantial responsibility for ongoing discretionary functions in the onsite oversight of a contractor's operations with respect to a contract in excess of $500,000.

"(E) A position in which the incumbent is likely personally to exercise substantial responsibility for ongoing discretionary functions in operational or developmental testing activities involving repeated direct contact with a contractor regarding a contract in excess of $500,000.".

(d) Disclosure of Proprietary or Source Selection Information to Unauthorized Persons.—Subsection (l) of such section is amended—

(1) by inserting "who are likely to be involved in contracts, modifications, or extensions in excess of $25,000" in the first sentence after "its procurement officials"; and

(2) by striking out "(e)" each place it appears and inserting in each such place "(f)".

(e) Rules of Construction.—Subsection (n) of such section is amended to read as follows:

"(n) Rules of Construction.—Nothing in this section shall be construed to—

"(1) authorize the withholding of any information from the Congress, any committee or subcommittee thereof, a Federal agency, any board of contract appeals of a Federal agency, the Comptroller General, or an inspector general of a Federal agency;

"(2) restrict the disclosure of information to, or receipt of information by, any person or class of persons authorized, in accordance with applicable agency regulations or procedures, to receive that information;

"(3) restrict a contractor from disclosing its own proprietary information or the recipient of information so disclosed by a contractor from receiving such information; or

"(4) restrict the disclosure or receipt of information relating to a Federal agency procurement that has been canceled by the agency and that the contracting officer concerned determines in writing is not likely to be resumed.".

(f) Term To Be Defined in Regulations.—Subsection (o)(2)(A) of such section is amended—

(1) by inserting "money, gratuity, or other" before "thing of value'"; and

(2) by inserting before the semicolon "and such other exceptions as may be adopted on a Governmentwide basis under section 7353 of title 5, United States Code".

(g) Terms Defined in Law.—Subsection (p) of such section is amended—

(1) in paragraph (1) by striking out "clauses (i)-(viii)" and inserting in lieu thereof "clauses (i) through (vii)";

(2) in paragraph (3)—

(A) in subparagraph (A)—

(i) by striking out clause (i);

(ii) by redesignating clauses (ii), (iii), (iv), (v), (vi), (vii), and (viii) as clauses (i), (ii), (iii), (iv), (v), (vi), and (vii), respectively; and

(iii) in clause (i) (as redesignated by subclause (II) of this clause), by striking out "review and approval of a specification" and inserting in lieu thereof "approval or issuance of a specification, acquisition plan, procurement request, or requisition"; and

(B) in subparagraph (B), by striking out all after "includes" and inserting in lieu thereof the following: "any individual acting on behalf of, or providing advice to, the agency with respect to any phase of the agency procurement concerned, regardless of whether such individual is a consultant, expert, or adviser, or an officer or employee of a contractor or subcontractor (other than a competing contractor)."; and

(3) in paragraph (6)(A), by inserting "nonpublic" before "information".

SEC. 6002. AMENDMENTS TO TITLE 18, UNITED STATES CODE.

Section 208(a) of title 18, United States Code, is amended—

(1) by inserting "(1)" before "Except as permitted"; and

(2) by adding at the end the following new paragraph:

"(2) Whoever knowingly aids, abets, counsels, commands, induces, or procures conduct prohibited by this section shall be subject to the penalties set forth in section 216 of this title.".

SEC. 6003. REPEAL OF SUPERSEDED AND OBSOLETE LAWS.

(a) Repeal.—The following provisions of law are repealed:

(1) Sections 2207, 2397, 2397a, 2397b, and 2397c of title 10, United States Code.

(2) Section 281 of title 18, United States Code.

(3) Section 801 of title 37, United States Code.

(4) Part A of title VI of the Department of Energy Organization Act (42 U.S.C. 7211 through 7218).

(b) Clerical Amendments.—

(1) Title 10.—Part IV of subtitle A of title 10, United States Code, is amended—

(A) in the table of sections at the beginning of chapter 131, by striking out the item relating to section 2207; and

(B) in the table of sections for chapter 141, by striking out the items relating to sections 2397, 2397a, 2397b, and 2397c.

(2) Title 18.—The table of sections for chapter 15 of title 18, United States Code, is amended by striking out the item relating to section 281.

(3) Title 37.—The table of sections for chapter 15 of title 37, United States Code, is amended by striking out the item relating to section 801.

(4) Department of Energy Organization Act.—The table of contents for the Department of Energy Organization Act is amended by striking out the matter relating to part A of title VI.

SEC. 6004. IMPLEMENTATION.

(a) Regulations.—Not later than 180 days after the date of the enactment of this Act, regulations implementing the amendments made by section 6001 to section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423), including definitions of the terms used in subsection (f) of such section, shall be issued in accordance with sections 6 and 25 of such Act (41 U.S.C. 405 and 521) after coordination with the Director of the Office of Government Ethics.

(b) Savings Provisions.—

(1) Contractor certifications.—No officer, employee, agent, representative, or consultant of a contractor who has signed a certification under section 27(e)(1)(B) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(e)(1)(B)) before the effective date of this Act shall be required to sign a new certification as a result of the enactment of this Act.

(2) Federal procurement official certifications.—No procurement official of a Federal agency who has signed a certification under section 27(l) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(l)) before the date of enactment of this Act shall be required to sign a new certification as a result of the enactment of this Act.

(c) Inspector General Reports.—Not later than May 31 of each of the years 1995 through 1998, the Inspector General of each Federal agency (or, in the case of a Federal agency that does not have an Inspector General, the head of such agency) shall submit to Congress a report on the compliance by the agency during the preceding year with the requirement for the head of the agency to designate covered procurement positions under section 27(f)(3) of the Office of Federal Procurement Policy Act (as added by section 6001(c)).

Subtitle B—Additional Amendments

SEC. 6051. CONTRACTING FUNCTIONS PERFORMED BY FEDERAL PERSONNEL.

(a) Amendment of OFPP Act.—The Office of Federal Procurement Policy Act, as amended by section 1092, is further amended by inserting after section 22 the following new section 23:

"CONTRACTING FUNCTIONS PERFORMED BY FEDERAL PERSONNEL

"Sec. 23. (a) Limitation on Payment for Advisory and Assistance Services.—(1) No person who is not a person described in subsection (b) may be paid by an agency for services to conduct evaluations or analyses of any aspect of a proposal submitted for an acquisition unless personnel described in subsection (b) with adequate training and capabilities to perform such evaluations and analyses are not readily available within the agency or another Federal agency, as determined in accordance with standards and procedures prescribed in the Federal Acquisition Regulation.

"(2) In the administration of this subsection, the head of each agency shall determine in accordance with the standards and procedures set forth in the Federal Acquisition Regulation whether—

"(A) a sufficient number of personnel described in subsection (b) within the agency or another Federal agency are readily available to perform a particular evaluation or analysis for the agency head making the determination; and

"(B) the readily available personnel have the training and capabilities necessary to perform the evaluation or analysis.

"(b) Covered Personnel.—For purposes of subsection (a), the personnel described in this subsection are as follows:

"(1) An employee, as defined in section 2105 of title 5, United States Code.

"(2) A member of the Armed Forces of the United States.

"(3) A person assigned to a Federal agency pursuant to subchapter VI of chapter 33 of title 5, United States Code.

"(c) Rule of Construction.—Nothing in this section is intended to affect the relationship between the Federal Government and a federally funded research and development center.".

(b) REQUIREMENT FOR GUIDANCE AND REGULATIONS.—Not later than 90 days after the date of the enactment of this Act, the Federal Acquisition Regulatory Council established by section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)) shall—

(1) review part 37 of title 48 of the Code of Federal Regulations as it relates to the use of advisory and assistance services; and

(2) provide guidance and promulgate regulations regarding—

(A) what actions Federal agencies are required to take to determine whether expertise is readily available within the Federal Government before contracting for advisory and technical services to conduct acquisitions; and

(B) the manner in which personnel with expertise may be shared with agencies needing expertise for such acquisitions.

SEC. 6052. REPEAL OF EXECUTED REQUIREMENT FOR STUDY AND REPORT.

Section 17 of the Office of Federal Procurement Policy Act (41 U.S.C. 415) is repealed.

SEC. 6053. INTERESTS OF MEMBERS OF CONGRESS.

Section 3741 of the Revised Statutes (41 U.S.C. 22) is amended to read as follows:

"No member of Congress shall be admitted to any share or part of any contract or agreement made, entered into, or accepted by or on behalf of the United States, or to any benefit to arise thereupon.".

SEC. 6054. WAITING PERIOD FOR SIGNIFICANT CHANGES PROPOSED FOR ACQUISITION REGULATIONS.

(a) INCREASED PERIOD.—Section 22(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 418b) is amended—

(1) by striking out "30 days" and inserting in lieu thereof "60 days"; and

(2) by adding at the end the following: "Notwithstanding the preceding sentence, such a policy, regulation, procedure, or form may take effect earlier than 60 days after the publication date when there are compelling circumstances for the earlier effective date, but in no event may that effective date be less than 30 days after the publication date.".

(b) TECHNICAL AMENDMENT.—Section 22(d) of such Act is amended by designating the second sentence as paragraph (3).

Subtitle C—Whistleblower Protection

SEC. 6101. ARMED SERVICES PROCUREMENTS.

(a) WHISTLEBLOWER PROTECTIONS FOR CONTRACTOR EMPLOYEES.—Section 2409 of title 10, United States Code, is amended—

(1) by striking out subsection (d);

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following new subsection (c):

"(c) REMEDY AND ENFORCEMENT AUTHORITY.—(1) If the Secretary of Defense determines that a defense contractor has subjected a person to a reprisal prohibited by subsection (a), the Secretary may take one or more of the following actions:

"(A) Order the defense contractor to take affirmative action to abate the reprisal.

"(B) Order the defense contractor to reinstate the person to the position that the person held before the reprisal, together with the compensation (including back pay), employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.

"(C) Order the defense contractor to pay the complainant an amount equal to the aggregate amount of all costs and expenses (including attorney's fees and expert witnesses' fees) that were reasonably incurred by the complainant for, or in connection with, bringing the complaint regarding the reprisal, as determined by the Secretary.

"(2) Whenever a person fails to comply with an order issued under paragraph (1), the Secretary shall file an action for enforcement of such order in the United States district court for a district in which the reprisal was found to have occurred. In any action brought under this paragraph, the court may grant appropriate relief, including injunctive relief and compensatory and exemplary damages.

"(3) Any person adversely affected or aggrieved by an order issued under paragraph (1) may obtain review of the order's conformance with this subsection, and any regulations issued to carry out this section, in the United States court of appeals for a circuit in which the reprisal is alleged in the order to have occurred. No petition seeking such review may be filed more than 60 days after issuance of the Secretary's order. Review shall conform to chapter 7 of title 5.".

(b) RELATED LAW.—

(1) REPEAL.—Section 2409a of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2409a.

SEC. 6102. GOVERNMENTWIDE WHISTLEBLOWER PROTECTIONS FOR CONTRACTOR EMPLOYEES.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 5091, is further amended by adding at the end the following new section:

"CONTRACTOR EMPLOYEES: PROTECTION FROM REPRISAL FOR DISCLOSURE OF CERTAIN INFORMATION

"SEC. 32. (a) PROHIBITION OF REPRISALS.—An employee of an executive agency contractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a Member of Congress or an authorized official of the agency or the Department of Justice information relating to a substantial violation of law related to an agency contract (including the competition for or negotiation of an agency contract).

"(b) INVESTIGATION OF COMPLAINTS.—A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) may submit a complaint to the Inspector General of the executive agency. Unless the Inspector General determines that the complaint is frivolous, the Inspector General shall investigate the complaint and, upon completion of such investigation, submit a report of the findings of the investigation to the person, the contractor concerned, and the head of the agency. In the case of an executive agency that does not have an inspector general, the duties of the inspector general under this section shall be performed by an official designated by the agency head.

"(c) REMEDY AND ENFORCEMENT AUTHORITY.—(1) If the head of an executive agency determines that an agency contractor has subjected a person to a reprisal prohibited by subsection (a), the agency head may take one or more of the following actions:

"(A) Order the contractor to take affirmative action to abate the reprisal.

"(B) Order the contractor to reinstate the person to the position that the person held before the reprisal, together with the compensation (including back pay), employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.

"(C) Order the contractor to pay the complainant an amount equal to the aggregate amount of all costs and expenses (including attorney's fees and expert witnesses' fees) that were reasonably incurred by the complainant for, or in connection with, bringing the complaint regarding the reprisal, as determined by the Secretary.

"(2) Whenever a person fails to comply with an order issued under paragraph (1), the agency head shall file an action for enforcement of such order in the United States district court for a district in which the reprisal was found to have occurred. In any action brought under this paragraph, the court may grant appropriate relief, including injunctive relief and compensatory and exemplary damages.

"(3) Any person adversely affected or aggrieved by an order issued under paragraph (1) may obtain review of the order's conformance with this subsection, and any regulations issued to carry out this section, in the United States court of appeals for a circuit in which the reprisal is alleged in the order to have occurred. No petition seeking such review may be filed more than 60 days after issuance of the agency head's order. Review shall conform to chapter 7 of title 5, United States Code.

"(d) CONSTRUCTION.—Nothing in this section may be construed to authorize the discharge of, demotion of, or discrimination against an employee for a disclosure other than a disclosure protected by subsection (a) or to modify or derogate from a right or remedy otherwise available to the employee.

"(e) COORDINATION WITH OTHER LAW.—This section does not apply with respect to the Department of Defense. For the corresponding provision of law applicable to the Department of Defense, see section 2409 of title 10, United States Code.

"(f) DEFINITION.—In this section, the term 'Inspector General' means an Inspector General appointed under the Inspector General Act of 1978.".

TITLE VII—DEFENSE TRADE AND COOPERATION

SEC. 7001. PURCHASES OF FOREIGN GOODS.

(a) REPEAL OF EXECUTED REQUIREMENTS.—

(1) REQUIREMENT FOR POLICY GUIDANCE.—Title III of the Act of March 3, 1933 (41 U.S.C. 10a et seq.), commonly referred to as the "Buy American Act", is amended in section 4(g) (41 U.S.C. 10b–1(g)) by striking out paragraphs (2)(C) and (3).

(2) REPORTING REQUIREMENT.—Section 9096(b) of Public Law 102–396 (106 Stat. 1924; 41 U.S.C. 10b–2(b)) is repealed.

(b) REPEAL OF REDUNDANT PROVISION.—

(1) CONSIDERATION OF NATIONAL SECURITY OBJECTIVES.—Section 2327 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2327.

SEC. 7002. INTERNATIONAL COOPERATIVE AGREEMENTS.

(a) TERMINOLOGY REVISIONS.—Section 2531 of title 10, United States Code, is amended—

(1) in the subsection captions for subsections (a) and (c), by striking out "MOUS AND RELATED" and inserting in lieu thereof "INTERNATIONAL";

(2) in subsection (a), by striking out "proposed memorandum of understanding, or any existing or proposed agreement related to a memorandum of understanding," in the matter above paragraph (1) and inserting in lieu thereof "proposed international agreement,

including a memorandum of understanding,";

(3) by striking out "memorandum of understanding or related agreement" each place it appears and inserting in lieu thereof "international agreement";

(4) in subsection (b), by striking out "memorandum or related agreement" each place it appears in the second sentence and inserting in lieu thereof "international agreement"; and

(5) in subsection (c)—

(A) by striking out "A" after "AGREEMENTS.—" and inserting in lieu thereof "An"; and

(B) by striking out "memorandum or agreement" and inserting in lieu thereof "international agreement".

(b) EXPANDED SCOPE OF AGREEMENTS.—Section 2531(a) of title 10, United States Code, is amended by striking out "research, development, or production" in the matter above paragraph (1) and inserting in lieu thereof "research, development, production, or logistics support".

(c) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of section 2531 of title 10, United States Code, is amended to read as follows:

"§ 2531. Defense international agreements".

(2) TABLE OF SECTIONS.—The item relating to such section in the table of sections at the beginning of subchapter V of chapter 148 of such title is amended to read as follows:

"2531. Defense international agreements.".

SEC. 7003. ACQUISITION, CROSS-SERVICING AGREEMENTS, AND STANDARDIZATION.

(a) LIMITED WAIVER OF RESTRICTIONS ON ACCRUED REIMBURSABLE LIABILITIES AND CREDITS FOR CONTINGENCY OPERATIONS.—Section 2347 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) The Secretary of Defense may waive the restrictions in subsections (a) and (b) for a period not to exceed 180 days upon a written determination that the armed forces are involved in a contingency operation or that involvement of the armed forces in a contingency operation is imminent. Upon making such a determination, the Secretary shall transmit a copy of the determination to the Committees on Armed Services of the Senate and House of Representatives.".

(b) COMMUNICATIONS SUPPORT.—Section 2350f of title 10, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) Nothing in this section shall be construed to limit the authority of the Secretary of Defense, without a formal bilateral agreement or multilateral arrangement, to furnish communications support and related supplies to, or receive communications support and related supplies from, an allied country in accordance with this subsection.

"(2) The Secretary of Defense may furnish or receive such support and supplies on a reciprocal basis for a period not to exceed 90 days—

"(A) in order to meet emerging operational requirements of the United States and the allied country; or

"(B) incident to a joint military exercise with the allied country.

"(3) If interconnection of communication circuits is maintained for joint or multilateral defense purposes under the authority of this subsection, the costs of maintaining such circuits may be allocated among the various users.".

TITLE VIII—COMMERCIAL ITEMS

SEC. 8001. DEFINITIONS.

Section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403), as amended by section 4001(a), is further amended—

(1) by striking out "Act—"and inserting in lieu thereof "Act:";

(2) by capitalizing the initial letter in the first word of each paragraph;

(3) by striking out the semicolon at the end of each of paragraphs (1), (2), (3), (5), (6), (7), (8), and (9) and inserting in lieu thereof a period;

(4) in paragraphs (4) and (10), by striking out "; and" at the end and inserting in lieu thereof a period; and

(5) by adding at the end the following new paragraphs:

"(12) The term 'commercial item' means—

"(A) property, other than real property, that is of a type customarily used by the general public or by nongovernmental entities in the course of normal business operations for purposes other than governmental purposes and—

"(i) has been sold, leased, or licensed to the general public;

"(ii) has not been sold, leased, or licensed to the general public but has been offered for sale, lease, or license to the general public; or

"(iii) is not yet available in the commercial marketplace but will be made available for commercial delivery within a reasonable period;

"(B) any item that, but for—

"(i) modifications of a type customarily available in the commercial marketplace, or

"(ii) minor modifications made to meet Federal Government requirements,

would satisfy the criteria in subparagraph (A);

"(C) any combination of items meeting the requirements of subparagraph (A), (B), or (D) that are of a type customarily combined and sold in combination to the general public;

"(D) installation services, maintenance services, repair services, training services, and other services if such services are procured for support of an item referred to in subparagraph (A), (B), or (C) and if the source of such services—

"(i) offers such services to the general public and the Federal Government contemporaneously and under similar terms and conditions; and

"(ii) offers to use the same work force for providing the Federal Government with such services as the source uses for providing such services to the general public; and

"(E) any item, combination of items, or service referred to in subparagraph (A), (B), (C), or (D), regardless of whether the item, combination of items, or service is transferred between or among separate divisions, subsidiaries, or affiliates of a contractor.

"(13) The term 'nondevelopmental item' means—

"(A) any commercial item;

"(B) any previously developed item of supply that is in use by a department or agency of the United States, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement;

"(C) any item of supply described in subparagraph (A) or (B) that requires only minor modification of the type normally available in the commercial marketplace in order to meet the requirements of the procuring department or agency; or

"(D) any item of supply currently being produced that does not meet the requirements of subparagraph (A), (B), or (C) solely because the item—

"(i) is not yet in use; or

"(ii) is not yet available in the commercial marketplace.

"(14) The term 'component' means any item supplied to the Federal Government as part of an end item or of another component.

"(15) The term 'commercial component' means any component that is a commercial item.".

SEC. 8002. PREFERENCE FOR ACQUISITION OF COMMERCIAL ITEMS AND NONDEVELOPMENTAL ITEMS.

(a) PREFERENCE REQUIRED.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 6102, is further amended by adding at the end the following new section:

"PREFERENCE FOR ACQUISITION OF COMMERCIAL ITEMS AND NONDEVELOPMENTAL ITEMS

"SEC. 33. (a) PREFERENCE.—The head of each executive agency shall ensure that, to the maximum extent practicable—

"(1) requirements of the executive agency with respect to a procurement of supplies are stated in terms of—

"(A) functions to be performed;

"(B) performance required; or

"(C) essential physical characteristics;

"(2) such requirements are defined so that commercial items or, to the extent that commercial items suitable to meet the agency's needs are not available, other nondevelopmental items may be procured to fulfill such requirements; and

"(3) offerors of commercial items and other nondevelopmental items are provided an opportunity to compete in any procurement to fill such requirements.

"(b) IMPLEMENTATION.—The head of each executive agency shall ensure that procurement officials in that executive agency, to the maximum extent practicable—

"(1) acquire commercial items or other nondevelopmental items to meet the needs of the executive agency;

"(2) require prime contractors and subcontractors at all levels under the executive agency contracts to incorporate commercial items or other nondevelopmental items as components of items supplied to the executive agency;

"(3) modify requirements in appropriate cases to ensure that the requirements can be met by commercial items or, to the extent that commercial items suitable to meet the agency's needs are not available, other nondevelopmental items;

"(4) state specifications in terms that enable and encourage bidders and offerors to supply commercial items or, to the extent that commercial items suitable to meet the agency's needs are not available, other nondevelopmental items in response to the executive agency solicitations;

"(5) revise the executive agency's procurement policies, practices, and procedures not required by law to reduce any impediments in those policies, practices, and procedures to the acquisition of commercial items; and

"(6) require training of appropriate personnel in the acquisition of commercial items.

"(c) PRELIMINARY MARKET RESEARCH.—(1) The head of an executive agency shall conduct market research appropriate to the circumstances—

"(A) before developing new specifications for a procurement by that executive agency; and

"(B) before soliciting bids or proposals for a contract in excess of the simplified acquisition threshold.

"(2) The head of an executive agency shall use the results of market research to determine whether there are commercial items or, to the extent that commercial items suitable to meet the agency's needs are not available, other nondevelopmental items available that—

"(A) meet the executive agency's requirements;

"(B) could be modified to meet the executive agency's requirements; or

"(C) could meet the executive agency's requirements if those requirements were modified to a reasonable extent.

"(3) In conducting market research, the head of an executive agency should not require potential sources to submit more than the minimum information that is necessary to make the determinations required in paragraph (2).".

(b) Repeal of Superseded Provision.—

(1) Separate statement of preference for department of defense.—Section 2325 of title 10, United States Code, is repealed.

(2) Clerical amendment.—The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2325.

SEC. 8003. ACQUISITION OF COMMERCIAL ITEMS.

(a) Required FAR Provisions.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 8002, is further amended by adding at the end the following:

"FEDERAL ACQUISITION REGULATION PROVISIONS REGARDING ACQUISITIONS OF COMMERCIAL ITEMS AND COMPONENTS

"Sec. 34. (a) Contract Clauses and Other Clauses.—(1)(A) The Federal Acquisition Regulation shall include one or more sets of contract clauses containing the required terms and conditions for the acquisition of commercial items and commercial components by executive agencies and by contractors in the performance of contracts of executive agencies.

"(B) The contract clauses referred to in subparagraph (A) shall include only—

"(i) those clauses that are required to implement provisions of law or executive orders applicable to acquisitions of commercial items or commercial components, as the case may be;

"(ii) those contract clauses that are essential for the protection of the Federal Government's interest in an acquisition of commercial items or commercial components, as the case may be; and

"(iii) those contract clauses that are determined to be consistent with standard commercial practice.

"(2) Subject to paragraph (3), the Federal Acquisition Regulation shall require that, to the maximum extent practicable, only the contract clauses referred to in paragraph (1) be used in a contract, or be required to be used in a subcontract, for the acquisition of commercial items or commercial components by or for an executive agency.

"(3) The Federal Acquisition Regulation shall provide that a contract or subcontract referred to in paragraph (2) may contain contract clauses other than the contract clauses referred to in that paragraph only if the other clauses are essential for the protection of the Federal Government's interest in—

"(A) that contract or subcontract, as determined in writing by the contracting officer for such contract; or

"(B) a class of contracts or subcontracts, as determined by the head of an agency concerned, unless the determination of that head of an agency is disapproved by the Administrator.

"(4) The Federal Acquisition Regulation shall provide standards and procedures for waiving the use of contract clauses required pursuant to paragraph (1), other than those required by law, including standards for determining the cases in which a waiver is appropriate.

"(b) Market Acceptance.—(1) The Federal Acquisition Regulation shall provide that under appropriate conditions the head of an executive agency may require offerors to demonstrate that the items offered—

"(A) have either—

"(i) achieved commercial market acceptance; or

"(ii) been satisfactorily supplied to an executive agency under current or recent contracts for the same or similar requirements; and

"(B) otherwise meet the item description, specifications, or other criteria prescribed in the public notice and solicitation relating to the contract.

"(2) The Federal Acquisition Regulation shall provide guidance to ensure that the criteria for determining commercial market acceptance include the consideration of—

"(A) the minimum needs of the executive agency concerned; and

"(B) the entire relevant commercial market, including small businesses.

"(c) Use of Firm, Fixed Price Contracts.—The Federal Acquisition Regulation shall include a requirement that firm, fixed price contracts or fixed price with economic price adjustment contracts, be used, to the maximum extent practicable, for the acquisition of commercial items.

"(d) Contract Quality Requirements.—The Federal Acquisition Regulation shall include provisions that—

"(1) permit, to the maximum extent practicable, a contractor under a commercial items acquisition to use the contractor's existing quality assurance system as a substitute for compliance with a requirement for the Federal Government to inspect or test the commercial items before the contractor's tender of those items for acceptance by the Federal Government;

"(2) require that, to the maximum extent practicable, an executive agency accept commercial warranties (including extended warranties) offered by offerors of commercial items to commercial customers and use such warranties for the repair and replacement of commercial items; and

"(3) set forth guidance to executive agencies regarding the use of past performance of items and sources as a factor in contract award decisions.

"(e) Treatment of Transfers Between Affiliates.—The Federal Acquisition Regulation shall provide for a transfer of commercial items from one division, subsidiary, or affiliate of a contractor to another division, subsidiary, or affiliate of the contractor to be treated as a subcontract for purposes of section 35 of the Office of Federal Procurement Policy Act and the provisions of law amended by section 8005 of the Federal Acquisition Streamlining Act of 1994.".

(b) Defense Contract Clauses.—

(1) Termination of DOD authority.—Section 824(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 10 U.S.C. 2325 note) shall cease to be effective on the date on which the regulations implementing section 34 of the Office of Federal Procurement Policy Act, as added by subsection (a), become effective.

(2) Savings provision.—Notwithstanding section 34(a) of the Office of Federal Procurement Policy Act (as added by subsection (a)), contracts of the Department of Defense entered into before the date on which section 824(b) ceases to be effective under paragraph (1), and subcontracts entered into before such date under such contracts, may include clauses developed pursuant to paragraphs (2) and (3) of section 824(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 10 U.S.C. 2325 note).

SEC. 8004. CLASS WAIVER OF APPLICABILITY OF CERTAIN LAWS.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 8003, is further amended by adding at the end the following:

"CLASS WAIVER OF APPLICABILITY OF CERTAIN LAWS TO ACQUISITIONS OF COMMERCIAL ITEMS

"Sec. 35. (a) In General.—The applicability of a provision of law described in subsection (c) that is enacted after the date of the enactment of the Federal Acquisition Streamlining Act of 1994 to contracts for the acquisition of commercial items may be waived on a class basis in the Federal Acquisition Regulation. Such a waiver shall not apply to a provision of law that expressly refers to this section and prohibits the waiver of that provision of law.

"(b) Waiver of Applicability to Subcontracts.—(1) The applicability of a provision of law described in subsection (c) to subcontracts under a contract for the acquisition of commercial items or a subcontract for the acquisition of commercial components may be waived on a class basis in the Federal Acquisition Regulation. Such a waiver shall not apply to a provision of law that expressly refers to this section and prohibits the waiver of that provision of law.

"(2) Nothing in this subsection shall be construed to authorize the waiver of the applicability of any provision of law with respect to—

"(A) any contract with a prime contractor; or

"(B) any subcontract under a contract with a prime contractor who does not substantially transform the commercial items supplied under the contract.

"(c) Covered Law.—A provision of law referred to in subsections (a) and (b) is any provision of law that, as determined by the Federal Acquisition Regulatory Council, sets forth policies, procedures, requirements, or restrictions for the procurement of property or services by the Federal Government.".

SEC. 8005. INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

(a) Armed Services Acquisitions.—

(1) Prohibition on contingent fees.—Section 2306(b) of title 10, United States Code, as amended by section 4022(a), is further amended by inserting before the period at the end of the sentence added by section 4022(a) the following: "or to a contract for the acquisition of commercial items".

(2) Requirement to identify suppliers and sources of supplies.—Paragraph (2) of section 2384(b) of title 10, United States Code, is amended to read as follows:

"(2) The regulations prescribed pursuant to paragraph (1) do not apply to a contract that requires the delivery of supplies that are commercial items, as defined in section 2302 of this title.".

(3) Prohibition against doing business with certain offerors or contractors.—Section 2393(d) of title 10, United States Code, as amended by section 4022(e), is further amended by adding at the end the following: "The requirement shall not apply in the case of a subcontract for the acquisition

of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).".

(4) PROHIBITION ON LIMITATION OF SUBCONTRACTOR DIRECT SALES.—Section 2402 of title 10, United States Code, as amended by section 4022(b), is further amended by adding at the end the following new subsection:

"(d)(1) An agreement between the contractor in a contract for the acquisition of commercial items and a subcontractor under such contract that restricts sales by such subcontractor directly to persons other than the contractor may not be considered to unreasonably restrict sales by that subcontractor to the United States in violation of the provision included in such contract pursuant to subsection (a) if the agreement does not result in the Federal Government being treated differently with regard to the restriction than any other prospective purchaser of such commercial items from that subcontractor.

"(2) In paragraph (1), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

(5) CONTRACTOR INVENTORY ACCOUNTING SYSTEMS: STANDARDS.—Section 2410b of title 10, United States Code, is amended—

(A) by inserting "(a) REGULATIONS REQUIRED.—" before "The Secretary of Defense"; and

(B) by adding at the end the following new subsection:

"(b) INAPPLICABILITY TO ACQUISITIONS OF COMMERCIAL ITEMS.—The regulations prescribed pursuant to subsection (a) need not apply to a contract for the acquisition of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).".

(6) PROHIBITION ON PERSONS CONVICTED OF DEFENSE-CONTRACT RELATED FELONIES.—Paragraph (4) of section 2408(a) of title 10, United States Code, as added by section 4022(f), is amended—

(A) by inserting after subparagraph (A) the following:

"(B) A contract referred to in such subparagraph that is for the acquisition of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)))."; and

(B) by inserting "or (B)" before the period at the end of subparagraph (C).

(b) CIVILIAN AGENCY ACQUISITIONS.—

(1) RESTRICTIONS ON SUBCONTRACTOR SALES TO THE UNITED STATES.—Section 303G of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253g), as amended by section 4023(b), is further amended by adding at the end the following new subsection:

"(d) An agreement between the contractor in a contract for the acquisition of commercial items and a subcontractor under such contract that restricts sales by such subcontractor directly to persons other than the contractor may not be considered to unreasonably restrict sales by that subcontractor to the United States in violation of the provision included in such contract pursuant to subsection (a) if the agreement does not result in the Federal Government being treated differently with regard to the restriction than any other prospective purchaser of such commercial items from that subcontractor.".

(2) PROHIBITION ON CONTINGENT FEES.—Section 304(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a)), as amended by section 4023(a), is further amended by inserting before the period at the end of the sentence added by section 4023(a) the following: "or to a contract for the acquisition of commercial items".

(c) ACQUISITIONS GENERALLY.—

(1) FEDERAL WATER POLLUTION CONTROL ACT.—Section 508 of the Federal Water Pollution Control Act (33 U.S.C. 1368) is amended by adding at the end the following new subsection:

"(f)(1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the acquisition of commercial items in order to implement a prohibition or requirement of this section or a prohibition or requirement issued in the implementation of this section.

"(2) In paragraph (1), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

(2) CONTRACT WORK HOURS AND SAFETY STANDARDS ACT.—The Contract Work Hours and Safety Standards Act (title I of the Work Hours and Safety Act of 1962 (40 U.S.C. 327 et seq.)) is amended by adding at the end the following new section:

"SEC. 108. (a) No certification by a contractor, and no contract clause, may be required in the case of a contract for the acquisition of commercial items in order to implement a prohibition or requirement in this title.

"(b) In subsection (a), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

(3) OFFICE OF FEDERAL PROCUREMENT POLICY ACT REQUIREMENT RELATING TO PROCUREMENT INTEGRITY CERTIFICATIONS.—Section 27(e)(7) of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended by adding at the end the following new subparagraph:

"(C) This subsection does not apply to a contract for the acquisition of commercial items.".

(4) CERTAIN PROVISIONS OF THE ANTI-KICKBACK ACT OF 1986.—

(A) REQUIREMENT FOR CONTRACT CLAUSE.—Section 7 of the Anti-Kickback Act of 1986 (41 U.S.C. 57), as amended by section 4024(b), is further amended by inserting before the period at the end of subsection (d) the following: "or to a prime contract for the acquisition of commercial items (as defined in section 4(12) of such Act (41 U.S.C. 403(12)))".

(B) INSPECTION AUTHORITY.—Section 8 of such Act (41 U.S.C. 58) is amended by adding at the end the following: "This section does not apply with respect to a prime contract for the acquisition of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).".

(5) DRUG-FREE WORKPLACE ACT OF 1988.—Section 5152(a)(1) of the Drug-Free Workplace Act of 1988 (subtitle D of title V of Public Law 100-690; 41 U.S.C. 701(a)(1)), as amended by section 4024(e), is further amended by inserting after the matter inserted by such section 4024(e) the following: ", other than a contract for the procurement of commercial items (as defined in section 4(12) of such Act (41 U.S.C. 403(12))),".

(6) CLEAN AIR ACT.—Section 306 of the Clean Air Act (42 U.S.C. 7606) is amended by adding at the end the following new subsection:

"(f)(1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the acquisition of commercial items in order to implement a prohibition or requirement of this section or a prohibition or requirement issued in the implementation of this section.

"(2) In paragraph (1), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

(7) FLY AMERICAN REQUIREMENTS.—Section 1117 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1517) is amended by adding at the end the following new subsection:

"(e)(1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the transportation of commercial items in order to implement a requirement in this section.

"(2) In paragraph (1), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

SEC. 8006. FLEXIBLE DEADLINES FOR SUBMISSION OF OFFERS OF COMMERCIAL ITEMS.

(a) OFFICE OF FEDERAL PROCUREMENT POLICY ACT AMENDMENT.—Section 18(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)) is amended by adding at the end the following new paragraph:

"(4) The requirements of paragraph (3)(B) do not apply to contracts for the purchase of commercial items. The Administrator shall prescribe for such contracts appropriate limits on the applicability of a deadline for submission of bids or proposals that is required by paragraph (1). Such limits shall be incorporated in the Federal Acquisition Regulation. The Federal Acquisition Regulation shall specify a minimum period for submission of a response to a solicitation of offers for a contract for the acquisition of commercial items.".

(b) SAVINGS PROVISION.—The deadlines for submission of offers that are in effect in accordance with section 18(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)) shall continue to apply to contracts for the purchase of commercial items until the limits prescribed pursuant to paragraph (4) of section 18(a) of the Office of Federal Procurement Policy Act (as added by subsection (a)) are incorporated in the Federal Acquisition Regulation, as required by such paragraph.

SEC. 8007. ADVOCATES FOR ACQUISITION OF COMMERCIAL AND NONDEVELOPMENTAL ITEMS.

(a) RESPONSIBILITIES OF THE ADVOCATE FOR COMPETITION.—Section 20(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 418(c)) is amended to read as follows:

"(c) The advocate for competition for each procuring activity shall be responsible for promoting full and open competition, promoting the acquisition of commercial items and other nondevelopmental items, and challenging barriers to such acquisition, including such barriers as unnecessarily restrictive statements of need, unnecessarily detailed specifications, and unnecessarily burdensome contract clauses.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 28 of such Act (41 U.S.C. 424) is repealed.

SEC. 8008. PROVISIONS NOT AFFECTED.

Nothing in this title shall be construed as amending, modifying, or superseding, or as intended to impair or restrict authorities or responsibilities under—

(1) section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759), popularly referred to as the "Brooks Automatic Data Processing Act";

(2) title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.), popularly referred to as the "Brooks Architect-Engineers Act";

(3) subsections (a) and (d) of section 8 of the Small Business Act (15 U.S.C. 637); or

(4) the Act of June 25, 1938 (41 U.S.C. 46–48c), that was revised and reenacted in the Act of June 23, 1971 (85 Stat. 77), popularly referred to as the "Javits-Wagner-O'Day Act".

SEC. 8009. COMPTROLLER GENERAL REVIEW OF FEDERAL GOVERNMENT USE OF MARKET RESEARCH.

(a) REPORT REQUIRED.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report on the use of market research by the Federal Government in support of the procurement of commercial items and nondevelopmental items.

(b) CONTENT OF REPORT.—The report shall include the following:

(1) A review of existing Federal Government market research efforts to gather data concerning commercial and other nondevelopmental items.

(2) A review of the feasibility of creating a Government-wide data base for storing, retrieving, and analyzing market data, including use of existing Federal Government resources.

(3) Any recommendations for changes in law or regulations that the Comptroller General considers appropriate.

TITLE IX—MISCELLANEOUS PROVISIONS

SEC. 9001. COMPTROLLER GENERAL REVIEW OF THE PROVISION OF LEGAL ADVICE FOR INSPECTORS GENERAL.

(a) REVIEW AND REPORT REQUIRED.—Not later than March 1, 1995, the Comptroller General of the United States shall—

(1) conduct a review of the independence of the legal services being provided to Inspectors General appointed under the Inspector General Act of 1978; and

(2) submit to Congress a report on the results of the review.

(b) MATTERS REQUIRED FOR REPORT.—The report shall include the following matters:

(1) With respect to each department or agency of the Federal Government that has an Inspector General appointed in accordance with the Inspector General Act of 1978 whose only or principal source of legal advice is the general counsel or other chief legal officer of the department or agency, an assessment of the extent of the independence of the legal advisors providing advice to the Inspector General.

(2) A comparison of the findings under the assessment referred to in paragraph (1) with findings on the same matters with respect to each Inspector General whose source of legal advice is legal counsel accountable solely to the Inspector General.

SEC. 9002. COST SAVINGS FOR OFFICIAL TRAVEL.

(a) The Administrator of the General Services Administration, no later than 120 days after enactment of this section, shall issue guidelines to ensure that agencies promote, encourage and facilitate the use of frequent traveler programs offered by airlines, hotels and car rental vendors by Federal employees who engage in official air travel, for the purpose of realizing to the maximum extent practicable cost savings for official travel.

(b) Any awards granted under such a frequent traveler program accrued through official travel shall be used only for official travel.

(c) Within one year of enactment of this section, the Administrator shall report to the Congress on efforts to promote the use of frequent traveler programs by Federal employees.

SEC. 9003. PROMPT RESOLUTION OF AUDIT RECOMMENDATIONS.

Federal agencies shall resolve or take corrective action on all Office of Inspector General audit report findings within a maximum of six months after their issuance, or, in the case of audits performed by non-Federal auditors, six months after receipt of the report by the Federal Government.

SEC. 9004. UNIFORM SUSPENSION AND DEBARMENT.

(a) Within six months after the date of enactment of this Act, regulations shall be issued providing that provisions for the debarment, suspension, or other exclusion of a participant in a procurement activity under the Federal Acquisition Regulation, or in a nonprocurement activity under regulations issued pursuant to Executive Order No. 12549, shall have government-wide effect. No agency shall allow a party to participate in any procurement or nonprocurement activity if any agency has debarred, suspended, or otherwise excluded (to the extent specified in the exclusion agreement) that party from participation in a procurement or nonprocurement activity.

(b) The Regulations issued pursuant to subsection (a) shall provide that an agency may grant an exception permitting a debarred, suspended, or otherwise excluded party to participate in procurement activities of that agency to the extent exceptions are authorized under the Federal Acquisition Regulation, or to participate in nonprocurement activities of that agency to the extent exceptions are authorized under regulations issued pursuant to Executive Order No. 12549.

(c) DEFINITIONS.—For the purposes of this part—

(1) "Procurement activities" refers to all acquisition programs and activities of the Federal Government, as defined in the Federal Acquisition Regulation.

(2) "Nonprocurement activities" refers to all programs and activities involving Federal financial and nonfinancial assistance and benefits, as covered by Executive Order No. 12549 and the Office of Management and Budget guidelines implementing that order.

(3) "Agency" refers to executive departments and agencies.

TITLE X—EFFECTIVE DATES AND IMPLEMENTATION

SEC. 10001. EFFECTIVE DATES.

(a) EFFECTIVE DATE OF ACT.—Except as otherwise provided in this Act, this Act shall take effect on the date of the enactment of this Act.

(b) EFFECTIVE DATE OF AMENDMENTS.—Except as otherwise provided in this Act, the amendments made by this Act shall take effect on the date on which final implementing regulations are prescribed in accordance with section 10002.

SEC. 10002. IMPLEMENTING REGULATIONS.

(a) PROPOSED CHANGES.—Proposed changes to the Federal Acquisition Regulation and such other proposed regulations (or changes to existing regulations) as may be necessary to implement this Act shall be published in the Federal Register not later than 210 days after the date of the enactment of this Act.

(b) PUBLIC COMMENT.—The proposed regulations described in subsection (a) shall be made available for public comment for a period of not less than 60 days.

(c) FINAL REGULATIONS.—Final regulations shall be published in the Federal Register not later than 330 days after the date of enactment of this Act.

(d) APPLICABILITY.—(1) The amendments made by this Act shall apply, in the manner prescribed in such final regulations, to any solicitation that is issued or any unsolicited proposal that is received on or after the date described in paragraph (3).

(2) The amendments made by this Act shall apply, to the extent and in the manner prescribed in such final regulations, to any matter related to—

(A) a contract that is in effect on the date described in paragraph (3);

(B) an offer under consideration on the date described in paragraph (3); or

(C) any other proceeding or action that is ongoing on the date described in paragraph (3).

(3) The date referred to in paragraphs (1) and (2) is the date specified in such regulations, which—

(A) shall not be earlier than the end of the 30-day period that begins on the date the regulations required by subsection (c) are published; and

(B) shall not be later than October 1, 1995.

(e) REQUIREMENT FOR CLARITY.—Officers and employees of the Federal Government who prescribe regulations to implement this Act and the amendments made by this Act shall make every effort practicable to ensure that the regulations are concise and are easily understandable by potential offerors as well as by Government officials.

(f) SAVINGS PROVISION.—Nothing in this Act shall be construed to affect the validity of any action taken or any contract entered into prior to the date specified in the regulations pursuant to subsection (d)(3) except to the extent and in the manner prescribed in such regulations.

SEC. 10003. EVALUATION BY THE COMPTROLLER GENERAL.

(a) EVALUATION RELATING TO ISSUANCE OF REGULATIONS.—Not later than December 1, 1995, the Comptroller General shall submit to the committees referred to in subsection (c) a report evaluating compliance with the requirements in section 10002, relating to the issuance of implementing regulations.

(b) EVALUATION OF IMPLEMENTATION OF REGULATIONS.—Not later than December 1, 1996, the Comptroller General shall submit to the committees referred to in subsection (c) a report evaluating the effectiveness of the regulations implementing this Act in streamlining the acquisition system and fulfilling the other purposes of this Act. The report shall include the Comptroller General's evaluation of the extent to which the departments and agencies of the Federal Government, in implementing this Act and the amendments made by this Act, are reducing acquisition management layers and associated costs.

(c) COMMITTEES DESIGNATED TO RECEIVE THE REPORTS.—The Comptroller General shall submit the reports required by this section to the Committees on Armed Services and on Governmental Affairs of the Senate and the Committees on Small Business on Government Operations of the House of Representatives.

SEC. 10004. DATA COLLECTION THROUGH THE FEDERAL PROCUREMENT DATA SYSTEM.

(a) DATA COLLECTION REQUIRED.—The Federal Procurement Data System described in section 6(d)(4)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(4)(A)) shall be modified to collect from contracts in excess of the simplified acquisition threshold data pertaining to the following matters:

(1) Contract awards made pursuant to competitions conducted pursuant to section 2323 of title 10, United States Code, or section 8(c) of the Small Business Act (15 U.S.C. 637(c)).

(2) Awards to business concerns owned and controlled by women.

(3) Number of offers received in response to a solicitation.

(4) Task order contracts.

(5) Contracts for the acquisition of commercial items.

(b) DEFINITION.—In this section, the term "simplified acquisition threshold" has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

TITLE XI—WAIVER OF THE APPLICATION OF THE PREVAILING WAGE-SETTING REQUIREMENTS TO VOLUNTEERS

SEC. 11001. SHORT TITLE.

This title may be cited as the "Community Improvement Volunteer Act of 1994".

SEC. 11002. PURPOSE.

It is the purpose of this title to promote and provide more opportunities for people who wish to volunteer their services in the construction, repair or alteration (including painting and decorating) of public buildings and public works funded, in whole or in part, with Federal financial assistance authorized under certain Federal programs that might not otherwise be possible without the use of volunteers, by waiving the application of the otherwise applicable prevailing wage-setting provisions of the Act of March 3, 1931 (commonly known as the "Davis-Bacon Act") (40 U.S.C. 276a et seq.) to such volunteers.

SEC. 11003. WAIVER.

(a) IN GENERAL.—The requirement that certain laborers and mechanics be paid in accordance with the wage-setting provisions of the Act of March 3, 1931 (commonly known as the "Davis-Bacon Act") (40 U.S.C. 276a et seq.) as set forth in any of the Acts or provisions described in subsection (d), and the provisions relating to wages, in any federally assisted or insured contract or subcontract for construction, shall not apply to any individual—

(1) who volunteers—

(A) to perform a service for a public or private entity for civic, charitable, or humanitarian reasons, without promise, expectation, or receipt of compensation for services rendered other than expenses, reasonable benefits, or a nominal fee (as defined in subsection (b)), but solely for the personal purpose or pleasure of the individual; and

(B) to provide such services freely and without pressure or coercion, direct or implied, from an employer;

(2) whose contribution of service is not for the benefit of any contractor otherwise performing or seeking to perform work on the same project; and

(3) who is not otherwise employed at any time under the federally assisted or insured contract or subcontract involved for construction with respect to the project for which the individual is volunteering.

(b) EXPENSES.—Payments of expenses, reasonable benefits, or a nominal fee may be provided to volunteers described in subsection (a) if the Secretary of Labor determines, after an examination of the total amount of payments made (relating to expenses, benefits, or fees) in the context of the economic realities of the specific federally assisted or insured project, that such payments are appropriate. Subject to such a determination—

(1) a payment for an expense may be received by a volunteer for items such as uniform allowances, protective gear and clothing, reimbursement for approximate out-of-pocket expenses, or for the cost or expense of meals and transportation;

(2) a reasonable benefit may include the inclusion of a volunteer in a group insurance plan (such as a liability, health, life, disability, or worker's compensation plan) or pension plan, or the awarding of a length of service award; and

(3) a nominal fee may not be used as a substitute for compensation and may not be tied to productivity.

The decision as to what constitutes a nominal fee for purposes of paragraph (3) shall be made on a case-by-case basis and in the context of the economic realities of the situation involved.

(c) ECONOMIC REALITY.—For purposes of subsection (b), in determining whether an expense, benefit, or fee described in such subsection may be paid to volunteers in the context of the economic realities of the particular situation, the Secretary of Labor shall not approve any such expense, benefit, or fee that has the effect of undermining labor standards by creating downward pressure on prevailing wages in the local construction industry.

(d) CONTRACTS EXEMPTED.—For purposes of subsection (a), the Acts or provisions described in this subsection are the following:

(1) The Library Services and Construction Act (20 U.S.C. 351 et seq.).

(2) The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(3) Section 329 of the Public Health Service Act (42 U.S.C. 254b).

(4) Section 330 of the Public Health Service Act (42 U.S.C. 254c).

SEC. 11004. REPORT.

Not later than December 31, 1997, the Secretary of Labor shall prepare and submit to the appropriate committees of Congress a report that—

(1) identifies and assesses, to the maximum extent practicable—

(A) the projects for which volunteers were permitted to work under this title; and

(B) the number of volunteers permitted to work because of the compliance of entities with the provisions of this title; and

(2) contains recommendations with respect to Acts related to the Davis-Bacon Act that could be addressed to permit volunteer work.

MOTION OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. CONYERS moves to strike all after the enacting clause of the Senate bill, S. 1587, and to insert in lieu thereof the provisions of H.R. 2238, as passed by the House.

The SPEAKER pro tempore. Without objection, the motion is agreed to.

There was no objection.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid upon the table.

A similar House bill (H.R. 2238) was laid on the table.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 1587.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan.

There was no objection.

MARIAN OLDHAM POST OFFICE

Miss COLLINS of Michigan. Mr. Speaker, I move to suspend the rules and pass the bill H.R. 4595, to designate the building located at 4021 Laclede in St. Louis, MO, for the period of time during which it houses operations of the U.S. Postal Service, as the "Marian Oldham Post Office."

The Clerk read as follows:

H.R. 4595

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The building located at 4021 Laclede in St. Louis, Missouri, shall, for the period of time during which it houses operations of the United States Postal Service, be known and designated as the "Marian Oldham Post Office".

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Michigan [Miss COLLINS] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. PETRI] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Michigan [Miss COLLINS].

Miss COLLINS of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the passage of H.R. 4595, which will designate the U.S. Post Office building located at 4021 Laclede in St. Louis, MO, as the "Marian Oldham Post Office".

Mr. Speaker, Ms. Oldham was a pioneer in the civil rights movement. In 1957, she became a founding member of the St. Louis Committee of Racial Equality [CORE]. Her determination for equal rights for all eventually lead her to become the first black woman appointed to the University of Missouri Board of Curators.

I am pleased to join Congressman CLAY and other citizens of St. Louis, in their desire to name the postal facility located at 4021 Laclede in St. Louis, MO, as the "Marian Oldham Post Office". I support the passage of H.R. 4595, and I urge my colleagues to support the measure.

I reserve the balance of my time.

Mr. PETRI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to take this opportunity to rise in support of H.R. 4595, legislation reported from our Committee on Post Office and Civil Service introduced by our good full committee chairman, Mr. CLAY, to designate a postal facility in St. Louis, MO as the "Marian Oldham Post Office."

Mr. Speaker, the late Ms. Oldham as we have heard was a true pioneer of the civil rights movement, beginning her lifetime of work toward equality in the 1940's in St. Louis. While her physical efforts toward the goal of equality of the races ended with her passing last year, she had the foresight to take the fight into the next century by establishing a scholarship program for African-American students at the University of Missouri at St. Louis.

It can only be hoped that the students benefiting from that fund through their education will continue to strive toward the goals she set over 50 years ago, and I would hope that with the support of my colleagues we will be able to honor her memory and her life by designating this postal facility as the Marian Oldham Post Office.

Mr. CLAY. Mr. Speaker, Marian Oldham was a pioneer in the civil rights movement. Her activism began in the 1940's when she participated in sit-ins at the Stix, Baer & Fuller store in downtown St. Louis. In 1957 she became a founding member of the St. Louis Committee of Racial Equality [CORE]. In 1963 she was arrested and sent to jail for blocking the doors of Jefferson Bank & Trust. That bank had just fired the only two black clerks ever hired by a bank in St. Louis. She spent 11 days in jail, and on her release, she held prayer vigils outside the jail for those protesters who had yet to be released.

Her determination for equal rights for all eventually lead her to become the first black woman appointed to the University of Missouri Board of Curators, directors of the system that previously had rejected her application for admission because she was black. She founded a scholarship program for black students at the University of Missouri-St. Louis.

She brought that same determination to her students. The students at Washington Elementary School learned more than language, math, and history. Marian Oldham taught them how to live—how to enjoy life, and how to improve life. Her life touched the lives of many and made a difference in each. I was honored to be one whose life she touched and am pleased to honor her by naming the Post Office on Laclede in her memory.

I urge my colleagues to support H.R. 4595.

Mr. PETRI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Miss COLLINS of Michigan. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Michigan [Miss COLLINS] that the House suspend the rules and pass the bill, H.R. 4595.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

JOHN L. LAWLER, JR. POST OFFICE

Miss COLLINS of Michigan. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4596) to designate the building located at 2200 North Highway 67 in Florissant, MO, for the period of time during which it houses operations of the U.S. Postal Service, as the "John L. Lawler, Jr. Post Office."

The Clerk read as follows:

H.R. 4596

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The building located at 2200 North Highway 67 in Florissant, Missouri, shall, for the period of time during which it houses operations of the United States Postal Service, be known and designated as the "John L. Lawler, Jr. Post Office".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall, with respect to the period referred to in section 1, be deemed to be a reference to the John L. Lawler, Jr. Post Office.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Michigan [Miss COLLINS] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. PETRI] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Michigan [Miss COLLINS].

Miss COLLINS of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4596 will designate the U.S. Post Office building located at 2200 North Highway 67 in Florissant, MO, as the "John L. Lawler, Jr. Post Office".

Mr. Speaker, Mr. John L. Lawler, Jr. was a long standing business manager for Pipe Fitters Local 562, in St. Louis. He also was an alderman for the city of St. Louis and later became the Democratic committeeman for Spanish Lake Township in St. Louis County.

I am pleased to join Congressman CLAY and other citizens of St. Louis, in their desire to name the postal facility located at 2200 North Highway 67 in Florissant, MO, as the "John L. Lawler, Jr. Post Office".

I support the passage of H.R. 4596, and urge my colleagues to support the measure.

Mr. Speaker, I reserve the balance of my time.

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Mr. PETRI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to express my support for H.R. 4596, legislation reported from our Committee on Post Office and Civil Service and introduced by our full committee chairman, Mr. CLAY, to designate a postal facility in Florissant, MO, as the "John L. Lawler, Jr. Post Office."

The late Mr. Lawler was a dedicated trade unionist who at a young age rose to become the business manager of Pipe Fitters Local 562 in St. Louis. Mr. Lawler also served his country by becoming an alderman in the second ward of the city of St. Louis. Mr. Lawler's short life, which ended in 1985, was exemplary. He reached out to help others in his community find better opportunities through employment assistance and other local charities.

Mr. Speaker, I believe it is a fitting tribute to his memory and life to designate this facility as the John L. Lawler, Jr. Post Office and would urge my colleagues to support its passage.

Mr. CLAY. Mr. Speaker, John L. Lawler, Jr., was a journeyman pipefitter for many years and eventually became the business manager for Pipe Fitters Local 562, in St. Louis. John was involved with the union for his entire life. He was a dedicated trade unionist who learned the virtues of collective bargaining from his father who was a cofounder of local 562.

John was not only active in the labor movement. He was an alderman for the 2d ward in the city of St. Louis, Democratic committeeman for Spanish Lake Township in St. Louis County and chairman, St. Louis County Democratic central committee. He was a civic and political leader in Spanish Lake Township. He moved to provide greater opportunities for employment for the citizens of St. Louis area. He was active in the community, always looking to help others. He helped many, many charities in St. Louis to improve the lives of those who were less fortunate.

I was a life long friend of John's father and was a friend of John's for his entire life. I am pleased to name the Post Office in Florissant, Missouri, as the "John L. Lawler, Jr., Post Office" in honor of my friend and associate.

I urge my colleagues to support H.R. 4596.

Mr. PETRI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Miss COLLINS of Michigan. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentlewoman form Michigan [Miss COLLINS] that the House suspend the rules and pass the bill, H.R. 4596.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

POSTAL INSPECTION SERVICE AND INSPECTOR GENERAL ACT

Miss COLLINS of Michigan. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4400). To amend title 39, United States Code, to present the use of paid confidential informants by the U.S. Postal Service in certain narcotics investigations; to require that the appointment of the inspector general of the U.S. Postal Service be made by the President, with the advice and consent of the Senate; and for other purposes, as amended.

The Clerk read as follows:

H.R. 4400

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Postal Inspection Service and Inspector General Act".

SEC. 2. RESTRICTION ON THE USE OF PAID CONFIDENTIAL INFORMANTS BY THE POSTAL SERVICE.

(a) CONFIDENTIAL INFORMANTS.—

(1) RESTRICTION.—Section 404 of title 39, United States Code, is amended by adding at the end the following:

(c)(1) The Postal Service may not retain the services of a paid confidential informant for purposes of any investigation concerning the possible violation of any law relating to controlled substances, unless the unlawful use of the mails is involved.

"(2) The Postal Service shall render a semiannual report to the Congress concerning any investigation—

"(A) in which the Postal Service retains the services of a paid confidential informant; and

"(B) which results in the arrest of 1 or more individuals for violating any law relating to controlled substances.

"(3) For the purpose of this subsection—

"(A) the term 'controlled substance' has the meaning given such term by section 102(6) of the Controlled Drug Abuse Prevention and Control Act of 1970; and

"(B) a confidential informant shall be considered to be 'paid' if such informant receives, or is to receive, a monetary or nonmonetary benefit (including any forbearance from a civil or criminal action) for the services involved.".

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply with respect to any investigation commencing on or after the date of the enactment of this Act.

(b) OFFICERS.—

(1) IN GENERAL.—Section 204 of title 39, United States Code, is amended—

(A) by amending the section heading to read as follows:

"§ 204. Assistant Postmasters General; General Counsel; Judicial Officer; Chief Postal Inspector";

(B) in the first sentence by striking "and a Judicial Officer." and inserting "a Judicial Officer, and a Chief Postal Inspector."; and

(C) in the second sentence by striking "and the Judicial Officer" and inserting "the Judicial Officer, and the Chief Postal Inspector".

(2) CONFORMING AMENDMENT.—The table of sections for chapter 2 of title 39, United States Code, is amended by striking the item relating to section 204 and inserting the following:

"204. Assistant Postmasters General; General Counsel; Judicial Officer; Chief Postal Inspector.".

SEC. 3. INSPECTOR GENERAL OF THE UNITED STATES POSTAL SERVICE.

(a) DEFINITIONS.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1) by inserting "the Postmaster General;" after "the Attorney General;"; and

(2) in paragraph (2) by inserting "the United States Postal Service," after "Treasury;".

(b) TRANSFER OF FUNCTIONS.—Section 9(a) of the Inspector General Act of 1978, as amended by section 203(g)(3)(A) of the National and Community Service Trust Act of 1933 (Public Law 103-82; 107 Stat. 890), is amended—

(1) in paragraph (1)—

(A) in subparagraph (U) by striking "and" after the semicolon; and

(B) by adding at the end the following:

"(W) of the United States Postal Service, that portion of the Postal Inspection Service that is engaged in internal audit and program review activities; and"; and

(2) in paragraph (2) by inserting "(or, in the case of the United States Postal Service, the Postmaster General, in consultation with the Board of Governors)" after "head of the establishment involved".

(c) SPECIAL PROVISIONS.—The Inspector General Act of 1978 is amended—

(1) by redesignating the first section designated as section 8G as section 8H;

(2) by redesignating the second section designated as section 8G as section 8I; and

(3) by inserting after section 8F the following:

"SPECIAL PROVISIONS CONCERNING THE UNITED STATES POSTAL SERVICE

"SEC. 8G. (a) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the United States Postal Service shall have oversight responsibility for all activities of the Postal Inspection Service, including any internal investigation performed thereby. The Chief Postal Inspector shall promptly report the significant activities being carried out by the Postal Inspection Service to such Inspector General.

"(b) Nothing in this Act shall restrict, eliminate, or otherwise adversely affect any of the rights, privileges, or benefits of either employees of the United States Postal Service, or labor organizations representing employees of the United States Postal Service, under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations with the United States Postal Service, or any collective bargaining agreement.".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) RELATING TO THE INSPECTOR GENERAL ACT OF 1978.—Section 8H of the Inspector General Act of 1978 (as so redesignated by subsection (c)(1)) is amended—

(A) in subsection (a)(2) by striking "Tennessee Valley Authority," and all that follows through the semicolon and inserting "Tennessee Valley Authority, and the United States International Trade Commission;"; and

(B)(i) by striking subsection (f), and redesignating subsections (g) and (h) as subsections (f) and (g), respectively;

(ii) in paragraphs (3) and (4) of subsection (a) by striking "(h)(1)" and inserting "(g)(1)"; and

(iii) in subsection (c) by striking "Except as provided under subsection (f) of this section, the" and inserting "The".

(2) RELATING TO TITLE 39, UNITED STATES CODE.—Section 410(b) of title 39, United States Code, is amended—

(A) by striking "and" at the end of paragraph (9); and

(B) by amending paragraph (10) to read as follows:

"(10) the Inspector General Act of 1978; and".

(e) EFFECTIVE DATE; INTERIM SERVICE.—

(1) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect upon the expiration of the 3-month period beginning on the date of the enactment of this Act.

(2) INTERIM SERVICE.—The individual serving as Inspector General of the United States Postal Service on the day before this section takes effect may continue to serve in that capacity until—

(A) a successor has taken office, or

(B) such individual ceases to be the Chief Postal Inspector of the United States Postal Service.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Michigan [Miss COLLINS] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. PETRI] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Michigan [Miss COLLINS].

Miss COLLINS of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4400 creates an independent inspector general for the Postal Service to be appointed by the President, with the advice and consent of the Senate. Currently, the chief postal inspector is the inspector general for the Postal Service and is appointed by the Postmaster General.

Mr. Speaker, H.R. 4400 will also limit the U.S. Postal Service from hiring paid confidential informants during the course of investigations relating to controlled substances.

Finally, Mr. Speaker, H.R. 4400 has received the support and endorsement of several major mailers and Postal Unions such as the National Postal Mail Handlers Union, Alliance of Nonprofit Mailers and Advertising Mail Marketing Association.

Therefore, Mr. Speaker, I enthusiastically urge my colleagues to support the measure.

Mr. Speaker, I reserve the balance of my time.

Mr. PETRI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 4400, the Postal Inspection Service and Inspector General Act, and I want to commend Chairman CLAY for bringing this important legislation to the floor.

Since the Postal Service continues to be plagued by a variety of problems, it is of vital interest to postal management, employees and customers alike that we establish an independent inspector general for the Postal Service, as this bill does. Only with an independent IG in place, will sound, independent audits and reviews of Postal Service programs be possible.

Clearly, the chief postal inspector, who currently serves as IG and has broad responsibility for the security of postal personnel and facilities and the investigation of postal crimes, has been hard pressed to review his own organization objectively. And the lack of independent review coming from the Postal Inspection Service has proven costly to mailers, postal employees, and the public.

Furthermore, this bill prevents further travesties of justice like those the committee learned of in Cleveland, West Palm Beach, Los Angeles, Minneapolis, and elsewhere.

By preventing the Postal Service from using paid confidential informants in drug investigations, this legislation should ensure that no more innocent postal employees are entrapped by overly zealous postal inspectors.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Miss COLLINS of Michigan. Mr. Speaker, I yield 3 minutes and 30 seconds to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, I very much thank the chairwoman of the subcommittee for yielding time to me and congratulate her on her work in bringing forward this very significant reform.

Mr. Speaker, the Post Office and Civil Service Committee discovered through its own investigations and hearings that the Postal Service was retaining crooks who remained crooks to find crooks. Even without these investigations, Mr. Speaker, the Postal Service should not have been exempt from the requirement to have an independent inspector general like every other federally funded agency. Perhaps because of the Postal Service's special status, it fell between the cracks. Those cracks have become an embarrassingly large hole.

The Postal Service has a postal inspector. His job is to secure the mail and the personnel who deliver the mail. The job of an inspector general is to investigate the internal operations of an agency itself. Otherwise, the agency is left to self-policing, and we have learned long ago that that is insufficient.

Matters like narcotics enforcement, where revelations came forward in our hearings, are too important to be left to amateurs and crooks.

Federal law enforcement, of course, generally has a good reputation for professionalism. Who would have thought that within any Federal agency we could have had the notion of "dollars for collars" or convicted felons as confidential informants. No wonder the Postal Service lacks professionalism, however. It had no consultation with professional law enforcement agencies like the FBI, the Justice Department, and many others. No training was given to personnel in professional law enforcement work. The Postal Service was out there doing its thing on a lark on its own. The Service's activities became more than embarrassing; they destroyed lives, and we heard about those lives in graphic detail in the committee.

The Postal Service fought the rehiring of people who were clearly innocent. Ultimately, the crooks outsmarted the Postal Service. They implicated innocent employees and pocketed the money. There were some on drugs during the stings. One asked a postal employee to buy him drugs as a favor.

It should not take evidence of renegade operations or bogus criminal charges or dismissal of innocent employees to get an inspector general. An independent inspector general is now considered as vital to a Federal agency as the agency head herself. Lacking an inspector general, the Postal Service got stung by its own sting.

It is too late to undo the damage done to many, but we are in time to prevent more damage to others.

I strongly support the passage of H.R. 4400 and ask my colleagues to do the same.

Miss COLLINS of Michigan. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Ohio [Mr. STOKES].

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Mr. STOKES. Mr. Speaker, I thank the distinguished gentlewoman from Michigan for yielding time to me.

Mr. Speaker, I rise in strong support of H.R. 4400, the Postal Inspection Service and Inspector General Act. This measure will prevent the use of paid confidential informants by the U.S. Postal Service in certain narcotics investigations and will require the appointment of the inspector general of the U.S. Postal Service. As an original cosponsor of H.R. 4400 I want to take this opportunity to commend my distinguished colleague, the gentleman from Missouri, Chairman CLAY, for his leadership in crafting this intelligent and thoughtful legislation, and expeditiously bringing it before the House for consideration.

Mr. Speaker, I would like to take a moment to share how my office became involved in this issue initially. Last year my office was approached individually by several Postal employees who wanted me to inquire into their removal from the Postal Service. In each case, these individuals had been removed for alleged misconduct relating to illegal drug activity.

After talking amongst themselves, and realizing they all had the same problem and all has the same information used against them provided by the same U.S. Government paid informant, a group of these same individuals came to my office wanting, to file a class action suit and seeking my advice on the matter. Upon my direction, my staff began to collect statements from each of these individuals. Upon receipt of these statements I forwarded these documents to our colleague, and chairman of the Post Office and Civil Service Committee, Mr. CLAY, who has congressional oversight over such matters. What we learned, as the sordid details of the illegal sting operation have come out, has the distasteful makings of some script that one might expect to see utilized for television or a movie: The Postal inspectors hire informants to solicit supposed drug trafficking suspects; the informants run a scam on the Postal inspectors by implicating innocent employees, and the Government pays huge sums of money for bogus information.

It is a sad commentary that this matter is not only a real life situation, but that it involves the U.S. Post Office—a Federal Government entity and an institution supported by the American taxpayers. Moreover, the entire operation was conducted with the complete knowledge and control of top Post Office officials. In fact, as more and more information emerged, it became clear that this type of activity is not the first instance in which such an ill-conceived operation was carried out.

In addition, Mr. Speaker, the real travesty of this entire case is that this illegal and ill-advised operation has damaged the characters and reputations of many innocent individuals. For many of these persons, jobs were lost. As a result of this deprivation of income, private property and investments such as homes and automobiles were lost as well. Moreover, entire families have been placed under unnecessary and undue stress and censure. All apparently because of some conviction hungry and vindictive Postal inspectors. The events uncovered in this case show a complete disregard for due process.

Mr. Speaker, I was also disturbed to discover that this case has some serious racial implications. It became clear that all of the affected Postal employees whose rights had been compromised were African-American. Furthermore, had it not been for the persistence of many on the Post Office and Civil Service Committee, I am almost afraid to guess how long it would have been—if at all—before these activities were uncovered. I was also shocked to discover that even after the involvement of my office and the Post Office and Civil Service Committee, there was still a lack of cooperation and willingness by the Postal Inspection Service to provide complete and accurate facts.

That is why this bill being considered today, H.R. 4400, the Postal Inspection Service and Inspector General Act is an essential piece of legislation. With its enactment, the abuses I have already discussed will be prevented. Illegal and racially motivated sting operations conducted by federal agencies cannot be tolerated.

Mr. Speaker, in closing, I want to recognize all of those individuals who had the courage to approach me in the first place and those countless other innocent people who may have also been persecuted unfairly. H.R. 4400 is a fair and just bill which will help protect other citizens from unfair prosecution. I strongly urge all my colleagues to take a stand for preventing the egregious abuse of Government power, and vote for passage of H.R. 4400.

Mr. CLAY. Mr. Speaker, H.R. 4400, the Postal Inspection Service and Inspector General Act's primary purpose is the establishment of an independent inspector general for the Postal Service. Today, the Postal Service lacks such an independent inspector general. Currently, the chief inspector of the Postal Service, its chief law enforcement officer whose primary responsibility is security of personnel, facilities and the investigation of postal crimes, is given the additional role of performing inspector general functions. Although he performs inspector general duties he is the chief inspector not an inspector general. As a result of this unique situation, this agency's investigative responsibility is much broader than that of any other person who is an inspector general.

An independent IG is mandated to conduct independent audits and review. There is no independent review of Postal Service programs. The Postal Service reviews itself. An independent IG at the Postal Service would have found the systematic problems with the inspection service's drug enforcement program where felons paid by the inspection service have been allowed to ruin the lives of innocent postal employees for the past 10 years. The problems with the Postal Service's contracting procedures may have been uncovered by an independent IG. The Postal Service may have avoided an injunction on the billion dollar air contract. It may have avoided the embarrassment of having paid an outrageous $7.5 million profit to a St. Louis real estate company which eventually was convicted of fraud in that transaction. The Postal Service may never have purchased a virtually useless and expensive piece of land in Queens, NY, if an independent IG had reviewed the procurement process. In Chicago, an IG could have prevented the disastrous service failure 10 years earlier. He or she could have prevented a single manager from requesting and approving a $200,000 private office renovation.

An independent IG would have advised the Postmaster General and the Board of Governors that its automation program wasn't being properly implemented nor producing the expected savings. An independent IG may have determined that the PMG's restructuring would harm the automation program. Lack of independent review has proven costly to Mailers and Postal employees.

H.R. 4400 prevents the Postal Service from using paid confidential informants in drug investigations. The committee found that Postal inspectors are not equipped to oversee these investigations. Experts at DEA should run these investigations, if they are needed at all.

The Postal Service is the second largest agency in the Government. The only one without an IG. Its management, employees and customers deserve an independent review of its programs. The current Inspection Service framework cannot provide that review because it is not independent of management. This bill provides that review in the Postal Service just like every other Federal agency. Postal Service management will have greater accountability under H.R. 4400 which will benefit the Postal Service and the public it serves.

I urge my colleagues to support H.R. 4400.

Mr. SAWYER. Mr. Speaker, the House considered and passed H.R. 4400, the Postal Inspection Service and Inspector General Act. I want to commend Congressman BILL CLAY, chairman of the Committee on Post Office and Civil Service, for introducing this important legislation and moving it in an expeditious manner.

The Committee on Post Office and Civil Service conducted a lengthy investigation and held several hearings to review the activities of the Postal Inspection Service. The information uncovered during that process was disturbing, to say the least.

Over the years, the Postal Inspection Service spent a considerable amount of time and financial resources in its efforts to eliminate substance abuse in the postal workplace. I do not quarrel with the Inspection Service's goal. However, the operation, known as collars for dollars, was a disaster of execution from its inception. Postal Inspectors relied heavily on information provided by paid confidential informants, many of whom had questionable reputations.

Postal Service officials told the committee that this practice has ended. However, enactment of H.R. 4400 will ensure that future investigations are carried out in a responsible manner by individuals who are properly trained to conduct undercover drug stings.

H.R. 4400 also establishes an independent inspector general [IG] for the Postal Service. Currently, the Chief Postal Inspector is vested with this authority, thus allowing the Postal Inspection Service to operate without adequate, objective oversight. An independent IG will provide the Board of Governors and the Postmaster General with unbiased assessments of the operations of the Postal Service, including the Inspection Service.

As chairman of the Subcommittee on Census, Statistics and Postal Personnel, which has oversight responsibility for matters affecting the postal work force, I strongly supported passage of H.R. 4400. The legislation will ensure that unchecked drug stings, which disrupted the lives of many innocent postal employees, do not recur. At the same time, it will help restore the damaged reputation of the Postal Inspection Service.

Miss COLLINS of Michigan. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Michigan [Miss COLLINS] that the House suspend the rules and pass the bill, H.R. 4400, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Miss COLLINS of Michigan. Mr. Speaker, I ask unanimous consent all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the bills, H.R. 4595, H.R. 4596, and H.R. 4400.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentlewoman from Michigan?

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3567. An act to amend the John F. Kennedy Center Act to transfer operating responsibilities to the Board of Trustees of the John F. Kennedy Center for the Performing Arts, and for other purposes.

The message also announced that the Senate had passed a bill and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. 1233. An act to resolve the status of certain lands in Arizona that are subject to a claim as a grant of public lands for railroad purposes, and for other purposes;

S.J. Res. 153. Joint resolution to designate the week beginning on November 21, 1993 and ending on November 27, 1993, and the week beginning on November 20, 1994 and ending on November 26, 1994, as "National Family Caregivers Week";

S.J. Res. 172. Joint resolution designating May 30, 1994, through June 6, 1994, as a "Time for the National Observance of the Fiftieth Anniversary of World War II";

S.J. Res. 178. Joint resolution to proclaim the week of October 16 through October 22, 1994, as "National Character Counts Week"; and

S.J. Res. 187. Joint resolution designating July 16 through July 24, 1994, as "National Apollo Anniversary Observance."

RICHARD BOLLING FEDERAL BUILDING

Mr. TRAFICANT. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 2559) to designate the Federal building located at 601 East 12th Street in Kansas City, MO, as the "Richard Bolling Federal Building."

The Clerk read as follows:

Senate amendments:

Page 2, after line 5, insert:

SEC. 3. DESIGNATION.

The United States Courthouse located at North and Locust Streets in Kansas City, Missouri, shall be known and designated as the "Charles Evans Whittaker United States Courthouse".

SEC. 4. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the courthouse referred to in section 1 shall be deemed to be a reference to the "Charles Evans Whittaker United States Courthouse".

The SPEAKER pro tempore (Mr. COLEMAN). Pursuant to the rule, the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes, and the gentleman from Tennessee [Mr. DUNCAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on November 15, 1993, the House passed H.R. 2559, a bill to honor our esteemed, distinguished colleague, Richard Bolling, by designating the Federal building at 601 East 12th Street in Kansas City, MO, as the "Richard Bolling Federal Building." As we all know, Richard Bolling served in

Congress for 34 years—34 years of notable, enlightened participation and leadership in public service. In addition to his intelligence and insights into reforming the legislative and budgetary operations of the House, he was instrumental in the successful fight for passage of the 1957 civil rights legislation. In addition, Congressman Bolling chaired the Rules Committee, and the Joint Economic Committee, and was a member of the Democratic Steering and Policy Committee.

I am very proud to be associated with this bill. The Senate amendment, to which the committee has no objection, would designate the U.S. courthouse located at Ninth and Locust Streets in Kansas City, MO, as the "Charles Evans Whittaker United States Courthouse." Judge Whittaker served as president of the Missouri Bar Association, and was a judge for the U.S. District Court for the Western District from 1954 to 1956. In 1957, President Eisenhower nominated Judge Whittaker for the Supreme Court. He resigned from the Court in 1962.

Mr. Speaker, I reserve the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at the outset I would like to say it has been a pleasure to work with Chairman TRAFICANT on the naming bills before us today.

The gentleman from Ohio, Chairman TRAFICANT, is a good friend and an outstanding chairman of our Public Building and Grounds Subcommittee.

Mr. Speaker, I rise in support of H.R. 2559, as amended, an act to name the Federal building in Kansas City, MO, as the "Richard Bolling Federal Building, and the U.S. courthouse to be constructed in Kansas City, MO, as the "Charles Evans Whittaker United States Courthouse."

On September 13, 1993, the House of Representatives passed H.R. 2559, to name the existing Federal building in honor of our distinguished former colleague, Mr. Bolling, who served in this body with distinction from 1949 until his retirement in 1982. During his service, Mr. Bolling was chairman of the Rules Committee, chairman of the Joint Economic Committee, and authored serveral books on Congress and the congressional process.

On March 24, 1994, the other body passed H.R. 2559 with an amendment to name the U.S. Courthouse to be built in Kansas City, MO, as the "Charles Evans Whittaker United States Courthouse." Charles Evans Whittaker was a respected jurist who practiced law for 30 years in Kansas City, and in 1954 was named by President Eisenhower to the U.S. District Court, Western District of Missouri. In 1957, the President named Judge Whittaker as Associate Justice of the Supreme Court, where he served until retiring in 1961 for health reasons. Following retirement, Justice Whittaker served as legal counsel to General Motors, and in 1965 drafted a Code of Senatorial Ethics for the U.S. Senate.

I support the amendment to the original bill and I urge enactment.

Mr. WHEAT. Mr. Speaker, I rise today to support H.R. 2559, a bill to name two Federal installations in downtown Kansas City, MO. The Federal building in that city will be named after my friend and mentor, an esteemed late Member of this House, Richard Bolling.

Mr. Speaker, it is fitting that we should consider this legislation in the midst of remembrances for the 50th Anniversary of World War II. Dick Bolling fought in that war, and he represents the very best of that remarkable generation that battled economic depression, journeyed to foreign fields to secure the freedom of humanity, and came home to try and build a society based on lasting peace and prosperity, with equal opportunity for all.

The ideals of democracy and freedom that Dick Bolling defended so fiercely in these halls he first fought for valiantly in the Pacific theater of World War II. He enlisted as a private, and left as a lieutenant-colonel with a Bronze Star for heroism. Soon after, Dick embarked on a congressional career that was marked by tenacity, compassion, hard work, and an abiding intellectual interest in the inner workings of the Congress.

Dick Bolling was a force in passing the first civil rights law for African-Americans since Reconstruction, and his was a clear voice for opening the opportunities of American society to all citizens. Wherever there was a need for reform and fairness, Dick Bolling was there, lending his considerable oratorical and intellectual weight to the cause of progress.

When that fight for change came to Congress, an institution Dick revered, he did not hesitate to press for monumental reforms in rules and procedures that would make the Congress more responsive to the needs of the people.

Perhaps the greatest tribute to Dick Bolling, Mr. Speaker, is that whenever his name is mentioned in these halls, a great number of Members who have achieved positions of leadership and influence in Congress happily acknowledge his counsel and support in the early days of their careers.

They remember sitting on the floor of the House, listening as Dick shared his vast knowledge of the rules and history of the people's House. They remember sage advice that changed lives and careers, and they remember his constant, personal example of courage, intelligence, and devotion to the power of principle.

I ask this House to adopt this bill, and honor this Kansas Citian who served his Nation with distinction. I ask my colleagues to honor our old friend Dick Bolling and create a lasting tribute to his service to his community, State, and Nation in the form of the Richard Bolling Federal Building. I ask for your support for H.R. 2559.

Mr. MINETA. Mr. Speaker, I rise in strong support of H.R. 2559, a bill to designate the Federal building located at 601 East 12th Street in Kansas City, MO as the "Richard Bolling Federal Building" and to designate the U.S. courthouse located at Ninth and Locust Street also in Kansas City, MO as the "Charles Evans Whittaker United States Courthouse."

At the outset, I want to pay special recognition to the distinguished gentleman from Missouri, Congressman WHEAT for sponsoring this important legislation. I also want to comment Congressman TRAFICANT, chairman of our Subcommittee on Public Buildings and Grounds, and Congressman DUNCAN, ranking Republican member of the subcommittee, for their efforts on this important bill.

Mr. Speaker, H.R. 2559, which would name a Federal building in Kansas City, MO after Richard Bolling, already passed the House on November 15, 1993. Subsequently, it was amended by the Senate to include the naming of another building in Kansas City after Charles Evans Whittaker. The purpose of our action today is to concur in the Senate amendment.

Elected to Congress in 1948, Congressman Bolling served the people of Kansas City, MO for 17 consecutive terms, where he used his indepth knowledge of House rules to help achieve passage of such landmark legislation as the 1964 civil rights bill.

Moreover, as a member of the Rules Committee for 27 years and its chair for 4 years, Congressman Bolling championed national health insurance and congressional reform long before they became the important issues of today. The author of two books on House procedures, Congressman Bolling also chaired the bipartisan Congressional Reform Committee of 1973. In 1975, my first year in Congress, we instituted many of that committee's reform proposals realigning committee jurisdictions and designing the current budget process.

Mr. Speaker, as I mentioned, H.R. 2559 would also designate the U.S. courthouse located at Ninth and Locust Street in Kansas City, MO, as the "Charles Evans Whittaker United States Courthouse."

Supreme Court Justice Whittaker was born in 1901, on a modest farm in Troy, KS. He financed his education at the University of Kansas City Law School by selling the pelts of animals he had trapped on the Kansas plains, Although he had humble beginnings, Justice Whittaker, rose to a distinguished career as a jurist. He served as a Federal judge for the U.S. District Court for the Western District of Missouri from 1954 to 1956 and from 1956 to 1957 he served on the Eighth Circuit Court of Appeals. In March 1957, President Eisenhower nominated Justice Whittaker to the U.S. Supreme Court. He served until his retirement in March 1962 and was replaced by Justice Byron White. While in retirement, Justice Whittaker was asked by the Senate Committee on Standards and Conduct to help device a code of senatorial ethics.

Mr. Speaker, based on the two outstanding contributions of these two individuals to their professions, Kansas City and the Nation, it is only fitting and proper to name the Federal buildings in Kansas City, MO, as the "Richard Bolling Federal Building" and the "Charles Evans Whittaker United States Courthouse."

I urge concurrence in the Senate amendment and passage of this bill.

Mr. GEPHARDT. Mr. Speaker, I rise in support of H.R. 2559. This legislation, sponsored by my colleague, ALAN WHEAT, designates the Federal building in Kansas City as the Richard Bolling Federal Building.

In his 34 years of service to the House of Representatives, Richard Bolling served this body with the passion and dedication that we have come to identify in all of our Nation's great leaders. He was a gifted student of history, a wise instructor of the legislative process, and a good friend to many of us.

Dick Bolling began his public service as an Army private in World War II. His loyalty to our country was recognized with a Legion of Merit award and a Bronze Star for his courageous service in the Pacific theater. After the war, he accepted a position as a veterans adviser with the University of Missouri at Kansas City.

Throughout his service in this body, Dick never lost sight of his foremost responsibility in Congress—his constituents. He revolutionalized constituent accessibility when he established one of the first district offices in the Nation. His dedication to his constituents continued when he became one of the first to use a mobile congressional office.

As a Representative of the Fifth District of Missouri, Dick demonstrated a firm and sincere passion for social justice. In 1957, he proved instrumental in the passage of a landmark piece of civil rights legislation—the first such legislation since Reconstruction. Seven years later, Dick played an equally influential role in passing the legendary Civil Rights Act of 1964.

Dick returned to the Hill to become an informal adviser of mine in 1989. He was a good friend and a devoted confidant. All who knew Dick respected his integrity and precise judgment.

Mr. Speaker, we continue to miss his presence on this floor, and we are grateful for the legend he has left behind.

Mr. DUNCAN. Mr. Speaker, I yield back the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I concur with the gentleman from Tennessee [Mr. DUNCAN].

Mr. Speaker, I ask that we adopt the bill, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. TRAFICANT] that the House suspend the rules and concur in the Senate amendments to H.R. 2559.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendments to H.R. 2559.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

JAMIE L. WHITTEN FEDERAL BUILDING

Mr. TRAFICANT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4576) to designate the Federal building located at the northeast corner of the intersection of 14th Street and Independence Avenue SW, in Washington, DC, as the "Jamie L. Whitten Federal Building".

The Clerk read as follows:

H.R. 4576

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at the northeast corner of the intersection of 14th Street and Independence Avenue, Southwest, in Washington, District of Columbia, shall be known and designated as the "Jamie L. Whitten Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Jamie L. Whitten Federal Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes, and the gentleman from Tennessee [Mr. DUNCAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Mississippi [Mr. MONTGOMERY], chairman of the Committee on Veterans' Affairs.

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman from Ohio [Mr. TRAFICANT] for yielding me this time, as well as the gentleman from Tennessee [Mr. DUNCAN], and thank them for bringing this bill to the floor.

Mr. Speaker, I rise in strong support of this bill to name the Department of Agriculture building at the corner of 14th Street and Independence Avenue in Washington in honor of our colleague, JAMIE WHITTEN.

It is very fitting that we pay tribute to Mr. WHITTEN in this manner, given his lifetime of work on agricultural issues and programs in this country. He was chairman of the House appropriations Subcommittee on Agriculture for more than 40 years. From that position, he quickly became the leader in shaping our national agricultural policies.

He helped develop and fund farm programs that worked. They improved the standard of living in our farm communities and made the American farmer the most productive in the world. In conjunction with that, Mr. Speaker, he placed a high priority on research programs that have brought innovation and improvement to all sectors of the agricultural economy.

Those research efforts have enabled farmers to grow better crops and manage farm operations more efficiently, and these research programs are ongoing. They will help American agriculture meet the challenges of the 21st century.

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As we all know, the gentleman from Mississippi, Mr. JAMIE WHITTEN, is the dean of the House and, of course, the dean of our Mississippi delegation. As Mississippians, we are all very proud of his record of service in the Congress, both in leadership and in length of service. He is the longest serving Member of Congress in the history of our country and it is a record that we all agree surely will never be broken. All during that time, the gentleman from Mississippi, Mr. JAMIE WHITTEN, has served every day with great honor and integrity, and with an eye toward helping improve the lives of the people he represented. Not only did he represented the people of his district in Mississippi but he tried to work and help all the people of this country.

Mr. Speaker, I think this is great legislation. I certainly support it.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4576, a bill to designate the Department of Agriculture Headquarters building, located at the intersection of 14th and Independence Avenue, Washington, DC, as the "Jamie Whitten Federal Building." This tribute is fitting for the dean of the House of Representatives, who is serving in his 27th Congress as a Representative from the first district of Mississippi, a career that commenced in 1941, and continues to this day. During his career, our colleague, Mr. WHITTEN, served as chairman of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Subcommittee of the Committee on Appropriations, as well as chairman of the full Committee on Appropriations. His distinguished career has spanned 11 Presidents, and his tenure in the House of Representatives is longer than any Member of the House. During his career, he has helped many Members in countless numbers of ways, and he has also been very loyal to the people of north Mississippi, as they have been to him.

It is fitting and appropriate that we name the Headquarters of the Department of Agriculture in honor of Congressman JAMIE WHITTEN.

Mr. Speaker, I yield back the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield whatever time he may consume to the distinguished gentleman from Minnesota [Mr. PENNY], who has been a champion of looking at appropriation spending and a good friend of Chairman WHITTEN.

Mr. PENNY. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in support of this legislation. As has been stated by other speakers here this afternoon, there can be no more fitting choice than to name the Department of Agriculture building after our esteemed colleague, the gentleman from Mississippi, JAMIE L. WHITTEN. The gentleman from Mississippi [Mr. WHITTEN] has served here now, I think, in his 54th year, and he has served with great distinction. From his very first years in Congress, he has been deeply involved with agricultural appropriations measures, taking a direct and continuing interest in the welfare and the benefit of America's agricultural industry, our family farmers, and our food and fiber needs.

The gentleman from Mississippi [Mr. WHITTEN] continues in that interest and has provided tremendous leadership to this Nation in that regard. We are all in his debt for his many years of leadership on agricultural issues. We feel it only fitting that Americans on into the future are reminded of his contribution by naming this particular building in his honor.

Again, I offer my support for the legislation under consideration here today.

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I appreciate the gentleman yielding me the time.

Mr. Speaker, I rise in behalf of the measure naming a Federal building for the gentleman from Mississippi, Mr. JAMIE WHITTEN, our friend and longtime colleague. As the gentleman from Minnesota has said, the gentleman from Mississippi [Mr. WHITTEN] has been one of the great leaders of this body for a very long time, and he has really been the institutional history of the House of Representatives.

When I see JAMIE, of course, sitting in his familiar chair in the corner and know that he was here in this Chamber when President Franklin Roosevelt indicated, after the bombing of Pearl Harbor, that it was time for this country to go to war, that, of course, is a pretty large segment of American history which one individual in the person of the gentleman from Mississippi, Mr. JAMIE WHITTEN, has actually witnessed and taken part in.

I think it is very fitting and appropriate that there be physical and tangible evidence of his kind of leadership and his sort of devotion and that obviously would take the form of a building bearing his name.

Mr. Speaker, I want to thank the gentleman from Ohio, the chairman of the committee, for having arranged this measure and to indicate to him I think this building will always remind all of us who have ever served with the gentleman from Mississippi [Mr. WHITTEN], of just what a gentleman he is and has been and what a leader he is and has been in the Congress of the United States.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill really needs no further explanation. The gentleman from Illinois, Mr. RICHARD DURBIN, the chairman of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies of the Committee on Appropriations is also responsible. I know he would like to be here today and offer his remarks.

Mr. Speaker, Chairman WHITTEN is and was the Secretary of Agriculture for this country. In his 27th term he sits down there in his little corner as the gentleman from Kentucky, Chairman MAZZOLI, mentioned, seated with me.

Mr. Speaker, I was born about the time that Chairman WHITTEN entered this body and it is a different place because of he, a fine public servant, prodigious lawmaker, a learned and thoughtful scholar and a true gentleman if we have ever come to know one.

His contributions to the Congress of the United States are remarkable, numerous, enduring and immeasurable. He treated everybody with respect, freshmen to seniors he included, he did not exclude, and I think that is the stamp of a great chairman. He earned the trust of the citizens of his own State, Mississippi, at the young age of 23 when he was elected district attorney, and I had so many good talks with him. As the gentleman from Tennessee [Mr. DUNCAN] knows, the judges and the prosecutors always want to talk with the sheriff, and I think his early career is remarkable. His constitutents' faith in him continued through 27 terms in the U.S. Congress, ladies and gentleman. After serving with distinction as the chairman of the powerful Committee on Appropriations from 1979 to 1992, he has continued his dedication to that committee by becoming the senior Member and the dean of the House of Representatives.

Mr. Speaker, I want to enthusiastically endorse and support this bill. It is an honor to participate in the naming of the Department of Agriculture building on behalf of this great Member of the Congress of the United States. It truly honors one of our greatest, greatest Members.

Mr. CLEMENT. Mr. Speaker, I join my colleagues in supporting this measure to name a Federal building here in Washington after our colleague, JAMIE L. WHITTEN of Mississippi.

Few individuals who have served here in the Congress leave a legacy as distinguished as Chairman WHITTEN. During his more than 52 years here in the House, he shaped policies great and small.

As the longtime chairman of the Agriculture Appropriations Subcommittee, he ensured investment in the family farm and in agricultural research so our Nation could reap the bounty of its land. To his testament, no nation on Earth has the wealth and diversity of food products as does the United States.

Similarly, as chairman of the full Appropriations Committee, Chairman WHITTEN guided and shaped many of the programs that helped build our country. Through the power of the purse, he worked to ensure that our Nation was strong by making the necessary and appropriate investment in its people.

For me personally, Chairman WHITTEN has been a valued friend. Since the day I came to Congress in 1988, he has unselfishly offered his advice and counsel on the ways of this institution. But even before my election, Chairman WHITTEN was a friend of the Clement family. Both when my father was Governor of Tennessee and when I was a member of the Tennessee Valley Authority, Chairman WHITTEN responded to our concerns and our ideas. He gave us the benefit of his advice and often a helping hand.

I will miss Chairman WHITTEN and I know my colleagues will as well. He devoted his life to this institution and this Nation. I am sure that in his retirement he will reflect proudly on his many accomplishments and on the vast wealth of this Nation, which he helped build.

Mr. MINETA. Mr. Speaker, I rise in strong support of H.R. 4576, a bill to name the Federal building at the northwest corner of the intersection of 14th Street and Independence Avenue SW., in Washington, DC, as the "Jamie L. Whitten Federal Building."

I would like to commend Congressman TRAFICANT, chairman of our Public Buildings and Grounds Subcommittee for sponsoring this important legislation and for his efforts and those of Congressman DUNCAN, the ranking Republican member of the subcommittee, in moving this bill expeditiously.

Congressman WHITTEN was born in Cascilla, Tallahatchie County, MS, where he attended Cascilla and Charleston public schools. He then continued his studies at the Literary and Law Schools at the University of Mississippi and was admitted to the Mississippi State Bar with the highest average in 1932.

At the age of 20, Congressman WHITTEN was already the principal of Cowart Consolidated School in Tallahatchie County and at the youthful age of 21, began his long and distinguished career in public service when he was elected to the Mississippi House of Representatives. At the age of 23, Congressman WHITTEN was elected district attorney of the 17th District of Mississippi, where he served two terms before he resigned when he was elected to the 77th Congress in 1941 during a special election. He served continuously thereafter.

Currently, Congressman WHITTEN is serving in his 27th consecutive term. As a Member of Congress, Congressman WHITTEN has made a number of significant contributions to this institution, the State of Mississippi and this Nation. Presently, he serves as a senior member of the House Committee on Appropriations. From 1979 to 1992, Congressman WHITTEN served the Appropriations Committee with distinction as its chairman. From 1949 to 1992, he served that committee as the chairman of

Rural Development and Agriculture Appropriations Subcommittee. He was the youngest person in history to chair that subcommittee, after only 5 years of experience. In fact, the Federal building that would be named after him, houses the Department of Agriculture. He also serves as the dean of the House of Representatives.

Mr. Speaker, Congressman WHITTEN's career continues to be filled with many honors. As a loyal and active alumnus of Ole Miss, the University of Mississippi Law School has honored him by establishing the Jamie Lloyd Whitten Chair of Law and Government.

As all of you know, in Congressman WHITTEN's long and successful political career he has earned the kind of bipartisan respect accorded to only true statesmen. There are many examples of this including in 1982 when his colleagues voted him, "the most effective chairman in the Congress" and in 1984, when Members from both sides of the aisle gathered to make a rare tribute to Congressman WHITTEN with an official unveiling of a portrait of the Congressman in a ceremony in Statuary Hall.

Mr. Speaker, it is only fitting and proper to honor our colleague and good friend Congressman WHITTEN by naming the Federal Agriculture Building at the northeast corner of the intersection of 14th Street and Independence Avenue, SW., Washington, DC, as the "Jamie L. Whitten Federal Building." I urge passage of H.R. 4576.

Mr. TRAFICANT. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. COLEMAN). The question is on the motion offered by the gentleman from Ohio [Mr. TRAFICANT] that the House suspend the rules and pass the bill, H.R. 4576.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. DURBIN. Mr. Speaker, I rise in strong support of H.R. 4576, a bill to name the administration building of the U.S. Department of Agriculture after our colleague, JAMIE L. WHITTEN.

Mr. WHITTEN was elected to Congress in November 1941 and only 14 months later was elected to the Appropriations Committee. In 1949 he became chairman of the Subcommittee on Agriculture, a position which he held for the next 44 years, except for the 2 years during the Republican 83d Congress when H. Carl Andersen of Minnesota served as chairman. Anyone who has read the hearing record from those 2 years, however, would have had trouble telling that JAMIE was not still chairman.

Over the 44 years he chaired the subcommittee he always put great effort into personally writing the introduction to the committee's annual report. This report became known as the annual report on the state of American agriculture. He has always been a tireless supporter of agriculture and the American farmer. Some years ago the Wall Street Journal, in a front-page article, referred to JAMIE WHITTEN as the "Permanent Secretary of Agriculture." In farm country the name JAMIE WHITTEN has been a household word for the last four decades.

Mr. Speaker, I assumed the chairmanship of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies in January 1993. Chairing the subcommittee for the last two budget cycles has made me appreciate the enormous debt of gratitude farmers and ranchers owe to JAMIE WHITTEN for his over 40 years of service to American agriculture.

Last month, just before we marked up the Agriculture appropriations bill for fiscal year 1995 in subcommittee, I talked to my good friend, JIM TRAFICANT, chairman of the Subcommittee on Public Buildings and Grounds of the Committee on Public Works and Transportation, about naming USDA's administration building after JAMIE. I was considering adding a provision to the appropriations bill since the bill had been reported under JAMIE's name for over 40 years. JIM wholeheartedly agreed with the idea of naming the building after JAMIE. JIM introduced the bill the next day and has expeditiously guided it through subcommittee, full committee, and now, the floor. He has done an outstanding job in moving this bill.

Mr. Speaker, this bill is a fitting and well-deserved tribute to our colleague, JAMIE L. WHITTEN.

GENERAL LEAVE

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4576, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

WILLIAM H. NATCHER FEDERAL BUILDING AND UNITED STATES COURTHOUSE

Mr. TRAFICANT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4577) to designate the Federal Building and U.S. courthouse located at 242 East Main Street in Bowling Green, KY, as the "William H. Natcher Federal Building and United States Courthouse."

The Clerk read as follows:

H.R. 4577

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building and United States courthouse located at 242 East Main Street in Bowling Green, Kentucky, shall be known and designated as the "William H. Natcher Federal Building and United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the "William H. Natcher Federal Building and United States Courthouse."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes, and the gentleman from Tennessee [Mr. DUNCAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I yield whatever time he may consume to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, it is really a moment both of happiness and sadness on my part. And, I think I speak for all Members of the House, all in the Congress, who ever did serve with our late colleague, Bill Natcher.

It is a moment of happiness because we think it is a fitting tribute to have a building, something tangible, something physical, something which is enduring, to be named after a man such as Bill Natcher because of his many talents and many accomplishments here in the House. But, of course, when we name a building posthumously, it is done after the namesake passes away and that, of course, is sad to those of us who remember Chairman Natcher, and it was my privilege to serve with him for almost 24 years, for his jauntiness, his quick step, his straight-arrow bearing, his constant energy, his wonderful ability to be friends with all Members on both sides of the aisle, his courtliness, his charm, his intelligence, and his amazing mastery of the legislative, appropriations, and budgetary process.

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We in Kentucky always looked upon Bill Natcher, Mr. Speaker, as an icon, as a kind of symbol of what is best about public service, a symbol of what young men and young women could aspire to be if they chose a career in public service.

When he became ill and eventually, I think it was on March 3 when he missed his first vote in some 18,401 consecutive votes, we realized that things were changing, that an era was ending and that something had overtaken our friend which in the end was something he could not conquer. Death was the only thing, I believe, in his life that Bill Natcher never conquered and never mastered.

But what Bill did teach me, Mr. Speaker, and I think he taught all of us who worked with him, was that life is multifaceted, and the legislative process is multifaceted. As in life, we have to keep our priorities in Congress correctly arranged, or we get too deeply into one thing or too lightly into another.

I think the legislative and the political process is the same as the life process. It has many facets, and Bill was always able to maintain his decorum and his charm and courtliness, even in the midst of pressure when he sat in the very chair you, Mr. Chairman, are sitting in managing these big appropriations bills.

I think Bill taught me a lot, Mr. Speaker, of how to handle our responsibilities as people and as professionals, and his passing is a loss to the people of Bowling Green, his hometown, to all of the people in the Commonwealth of Kentucky, his home State, all the people of the Nation, all the people here in this body and in the other body.

It certainly is of great pride to all of us that in Bill's last hours the President of the United States made a trip out to the hospital to visit with Bill, and that the President actually came to Kentucky to be part of the funeral ceremonies, and then as we all know, Mr. Speaker, over in Statuary Hall, there was a commemoration at which the Vice President, the Speaker, and other leaders spoke.

So we in Kentucky have lost a wonderful man. We are happy, through your leadership, Mr. Chairman, there will be some lasting and long-lived evidence of our respect and friendship and our fondness for Bill Natcher in the form of a building bearing his name. I want you to know how much we in Kentucky appreciate that, Mr. Chairman, and how much we will remember and revere our late friend, Congressman Bill Natcher.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4577, a bill to designate the Federal building and U.S. Courthouse in Bowling Green, KY, as the "William H. Natcher Federal Building and United States Courthouse."

William Natcher served with great distinction in the House for over 41 years. During that time Mr. Natcher did not miss a record vote or a quorum call. He took no campaign contributions, as has been noted, and he was very proud of that.

He was also proud of the fact that he issued just one press release a year, and that was to announce the continuation of his unblemished voting record.

In short, Mr. Natcher was a model Member of the House of Representatives. He served his constituents by his devotion to his job, and his main priority was to cast the votes on matters before the House.

As the Congressional Quarterly, "Politics in America" book says, Chairman Natcher set the standard for collegiality in this body.

Earlier this year, after Mr. Natcher cast what was to be his last vote, the House paid tribute to this fine man. While he was unable to attend this fitting tribute, it was a genuine and heartfelt testimonial.

I doubt there will be another Member who will even come close to equaling the record amassed by Mr. Natcher.

This body and this country will miss him. He was a man who was greatly admired by all of the Members on both sides of the aisle and was a kind Member, a kind person, and helpful to all of us.

I strongly support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi [Mr. MONTGOMERY], the distinguished chairman of the Committee on Veterans' Affairs.

Mr. MONTGOMERY. Mr. Speaker, I rise in strong support of H.R. 4577, the bill to name our Federal courthouse at Bowling Green, KY, after Mr. Bill Natcher. I want to thank the chairman of this subcommittee, the gentleman from Ohio, and the minority ranking Member, the gentleman from Tennessee, for bringing this bill before us today.

Chairman Natcher meant so much to all of us. I had the privilege of, for several years, having breakfast with Bill Natcher every morning that we were in session.

As we all know, and it has been mentioned, he had never missed a vote. He, for many, many years, set some high standards for us, and I think this is very proper today that this legislation is before us to name this Federal courthouse after Mr. Natcher.

I am sure it will be a unanimous vote.

Mr. DUNCAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky [Mr. LEWIS].

Mr. LEWIS of Kentucky. Mr. Speaker, I rise in wholehearted support of H.R. 4577, designating the courthouse and Federal building in Bowling Green, KY, as the "William H. Natcher Federal Building and United States Courthouse."

No one knows any better than I what an awesome responsibility it is to follow the Congressman, Congressman Natcher, in the Second District of Kentucky. I have the utmost respect for the tremendous feat, realizing how easy it would be to miss a rollcall vote, that Congressman Natcher was able to accomplish over a period of 41 years, the fact that he never missed a vote, accumulating 18,401 continuous votes. What a great and dedicated servant he was and truly a Kentucky treasure.

His memory is more than deserving of this honor.

Mr. DUNCAN. Mr. Speaker, I yield such time as he may consume to my good friend, the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Speaker, like the other members of the delegation, the gentleman from Kentucky [Mr. MAZZOLI] and the gentleman from Kentucky [Mr. LEWIS], I would like to add my compliments to the committee and congratulations to the committee for this very special honor that you are paying to our beloved Bill Natcher.

No one really knows the contributions this man made to the Nation. For the most part, his work was done in subcommittee away from the television lights and the newspaper reporters. That is the way he liked it. But it is also the way he was most effective.

He wrote the biggest budget in the Committee on Appropriations. In fact, someone told me one time that the subcommittee's appropriations budget was the fifth largest budget of any nation in the world; if it were a separate nation, it would be the fifth largest national budget. He did it in a very unassuming and humble way, and yet he worked changes of dramatic proportions in the country's education systems, in all aspects of the bill that he supervised. And he did it with little, if any, fanfare.

I am just delighted that you are going to see now on the name of a building in the hometown of Bill Natcher the name on the most prominent Federal structure in that city; it will be a constant reminder to the people who sent him here for all of those years and to the rest of us of the tremendous contributions that Bill Natcher made.

I wish we could name perhaps something much, much larger, and I am glad to see his successor in this body working to continue the work to name that new bridge under way at Owensboro across the Ohio River in honor of Bill Natcher.

But I am proud of the committee for your work, Mr. Chairman, and Mr. Ranking Member, the gentleman from Tennessee [Mr. DUNCAN], and I appreciate the remarks of our colleagues, the gentleman from Kentucky [Mr. MAZZOLI] and the gentleman from Kentucky [Mr. LEWIS], in his behalf, and I want to extend my compliments to them and congratulations on this notable achievement.

Let me say that the work of this man will not ever go unnoticed, because I hope that we will continue to be reminded here in this body of the tremendous impact he had on each of our personal lives and our service to the country and the House.

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Mr. PENNY. I thank the gentleman for yielding.

Clearly it is agreed by all of us here in the House of Representatives that Bill Natcher was an example of public service at its best. Mr. Natcher arrived in this institution in a special election back in 1953 and served some 41 years. He rose to power as is the case with seniority around here, but he never once allowed that power to go to his head. He never once forgot where he came from or who he came here to serve.

Mr. Natcher waited his turn to take the reins of power. Others are driven by ambition, his only ambition was to serve his constituents and to serve his country.

In all the years that he served on the Committee on Appropriations he could have taken truckloads of port back to his home district in Kentucky. But that is not the way he played the game. He eschewed the temptation to pork barrel spend, even though the power to do so was in his hands. In fact, he discouraged his colleagues on the Committee on Appropriations from practicing the art of pork-barrel spending.

He would not fund projects in his appropriations bill unless they were duly authorized. He believed in following the rules and sticking to our normal budget process, which is to say that spending measures can only be approved for those initiatives that have been duly authorized by the appropriate committee.

And when he brought his legislation to the House floor, he always brought that measure forward under an open rule, which allowed for a fair debate on any amendments filed by the membership.

He did not believe in manipulating the process in order to protect his own prerogatives or his own priorities. He believed in a fair and an open fight on policy questions. He believed in allowing the process to work.

Mr. Speaker, it was stated by an earlier speaker that Mr. Natcher set the standards for collegiality—and he certainly did. When he presided over the House floor or the House proceedings, it was his own knowledge of Roberts' Rules of Order and the rules of the House that dictated his work in the chair. He knew those procedures better than anyone here except perhaps the Parliamentarian, and I am not so sure that the Parliamentarian would have known the rules of the House as well as Mr. Natcher.

He handled his authority with a good sense of justice and fair play, and he always kept the focus of the debate on the issues and not on the personalities.

He was an example to all of us in gentlemanly behavior and respect toward all of his colleagues.

After casting 18,401 consecutive votes back in March of this year, he missed his first vote due to the illness that ultimately led to his death. I think all of us on that day felt a deep sense of sadness and loss to know that after serving so faithfully and casting his votes so faithfully through all those years, that he had to accept the limitations of his own physical condition and stay in the hospital bed that day and miss a vote on the House floor.

But we are encouraged to know that his record of 18,401 votes will forever stand. It will stand as a monument to someone who came to Washington to serve and who served capably, honorably, and with exceptional commitment to America's high deals.

We will all miss Mr. Natcher more than words can express. In fact, he needs no monument to his service here in Congress; no public building or structure named after him can present to America a higher monument than he himself established by the way in which he conducted his service to America.

He will be remembered for the kind of person he was. He will be remembered by generations yet to come in Kentucky. He does not need this building named after him to be remembered, but it is our small way of expressing how much we respected him and how much we will miss him.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume. I have no additional speakers, but I would in closing like to once again thank the chairman of the subcommittee for his outstanding work and leadership on these three bills. And I would also like to note that I do not think there is anyone who has spent more time with or shown more kindness to the gentleman from Mississippi, [Mr. WHITTEN] in these last couple of years than has the chairman of our subcommittee. That has not gone unnoticed by many people in this body.

Mr. Speaker, I urge support for all of these bills. I would especially like to second the very fine comments by the gentleman from Minnesota [Mr. PENNY] in regard to Mr. Natcher whom all of us admired so greatly.

Mr. Speaker, I yield back the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, if they ever develop a definition for a Congressman and place it in the Webster's Dictionary, it will be simply a photograph, a photograph of William Natcher. Bowling Green, KY: Known for Bill Natcher and the Corvette; both of them are American institutions.

Mr. Speaker, I want to concur with the comments made by the gentleman from Minnesota [Mr. PENNY]. In his fight to try to keep spending down, at times he brought amendments to Chairman Natcher's bill, and he was treated with respect and fairness and, wherever he could, a helping hand. To see Chairman MAZZOLI on the floor here, he is presently the dean of the congressional delegation from Kentucky, and he is moving on.

Mr. Speaker, this is a sad day for me as well. I think he too exemplifies the cut and the mold of the people from Kentucky. I think a big shadow has been cast over the State and cast over the entire Congress.

The record will reflect 18,401 votes, as the gentleman from Minnesota, stated; ladies and gentlemen, the first vote that Chairman Natcher missed was a rollcall vote on the Journal called for by JIM TRAFICANT from Ohio. I do not want the record to stand and to be memorialized in regard to my association with Bill Natcher as having been the congressman who called for a rollcall vote which due to illness Chairman Natcher was unable to cast his vote.

I would prefer that the record show that I will have been the Member to sponsor legislation to memorialize Bill Natcher and to name this building in Bowling Green, KY, after the great chairman.

Mr. Speaker, I think we all know what he stood for. We are all very proud to be associated with this legislation. We have been enriched by having known this great American.

Closing out, I want to thank the gentleman from Tennessee [Mr. DUNCAN] for his untiring effort in helping the country through many efforts and for supporting this legislation, for every Member who spoke on the floor, and for all of the staff who put together the details for us in bringing this legislation forward.

Mr. CLEMENT. Mr. Speaker, I am proud to speak in support of legislation naming a Federal courthouse in Bowling Green, KY, for our late distinguished colleague, William H. Natcher.

I was fortunate to know Mr. Natcher for many years prior to my election to the House in 1988. Both when my father was Governor of Tennessee and when I served as a member of the Tennessee Valley Authority, Mr. Natcher was a valued friend and adviser.

After my election, I often flew to Nashville with Mr. Natcher when we both returned to our respective districts. During those flights, Mr. Natcher often shared with me some of his great wealth of stories. More than any history book could, Mr. Natcher's stories brought life and color to the institution of Congress, its Members, and some of the controversies with which it dealt.

While Mr. Natcher's stories often included his judgments of people and events, more importantly they included an honest and heartfelt belief that the great majority of his House colleagues were sincere in their efforts to improve our Nation. Our democracy, he would say, is an amalgam, of different views and opinions. Congress reflected those differences and faced the great challenge of finding a way to accommodate them.

I know that many of my colleagues will have already spoken of Mr. Natcher's fairness and distinguished manner. Many will have commented on his respect for the institution, which was reflected in his unblemished voting record. But I will always remember Mr. Natcher for his commonsense approach to problems. It seemed that he had simple but concrete rules with which to evaluate issues and base his decisions. To be sure, they often were not easy decisions, but Mr. Natcher made them confident that they were his best and had the full support of the constituents of Kentucky's Second District.

Mr. MINETA. Mr. Speaker, I rise in strong support of H.R. 4577, a bill to name a Federal building and courthouse located at 242 East Main Street in Bowling Green, KY, as the William H. Natcher Federal Building and U.S. Courthouse.

At the outset, I would like to once again commend both Congressman TRAFICANT, chairman of our Public Buildings and Grounds Subcommittee and the ranking Republican Member Congressman DUNCAN for their efforts in moving this bill today.

Congressman Natcher, was a universally respected and distinguished Member of Congress who made an impression on this institution that will never be forgotten.

Congressman Natcher was born in Bowling Green, KY. He was educated in the public school system of Warren County, received his undergraduate degree from what was then Western State College, today Western Kentucky University and he then received his law degree from Ohio State University.

Congressman Natcher began both practicing law and his long distinguished career in public service in 1934. He served as Federal Conciliation Commissioner from 1936 to 1937. During World War II he served in the Navy from 1942 to 1945. When he returned home, he continued his career in public service by serving as county attorney for Warren County for almost twelve years and commonwealth attorney from 1951 to 1953. In 1953, Congressman Natcher was elected to Congress and served this body with distinction until this year.

Throughout his service in Congress, Congressman Natcher was widely respected for his gentlemanly nature, gentility, and gracious manners. He was also well-known and admired for never missing a vote until he became gravely ill earlier this year. He proudly cast 18,401 consecutive votes. He is also greatly admired because he never took any political funds from any source, including political action committees. In a time of multimillion-dollar campaigns, Congressman Natcher financed his own campaigns. He campaigned by putting up signs and visiting and speaking with the people of his district.

Congressman Natcher did not have an extensive staff nor did he believe in becoming a hostage to the information superhighway of fax machines, copiers, and cellular phones. He believed in honest communication with his fellow Members, staff, constituents, and the people of this Nation. He was a devoted family man and wrote regularly to his grandchildren. Every day he faithfully made an entry into his journal.

From 1992 until 1994 he served as chairman of the Committee on Appropriations. During his tenure on that committee Congressman Natcher also served as the chair of Labor, Health and Human Services and Education Subcommittee. He loved being involved with social service issues and he was regarded with great respect and affection by all who were involved in working with him on these significant national issues.

Mr. Speaker, it is only fitting and proper to honor Congressman William Natcher by naming the Federal building and courthouse located at 242 East Main Street in Bowling Green, KY, as the William H. Natcher Federal Building and U.S. Courthouse. It is the least we can do for one who gave so much to this institution, and I urge passage of this bill.

Mr. DIXON. Mr. Speaker, I rise today in support of a bill (H.R. 4577) introduced by Congressman JAMES TRAFICANT, to name the Federal Building and U.S. Courthouse in Bowling Green, KY after the Honorable William H. Natcher, who died March 29, 1994.

Former Appropriations Chairman Natcher was the guardian of our appropriations legislation, and a champion for the values and ethics that are essential to the success of this institution. In 1978 I was named to serve on the Appropriations Committee and found the chairman to be extremely helpful in guiding me through the appropriations process. As many of you may be aware, Mr. Natcher chaired the Appropriations Subcommittee on the District of Columbia—the subcommittee which I now chair. In 1979, he was elected chairman of the Appropriations Subcommittee on Labor, Health and Human Services, and Education. As the ranking member of the Appropriations Committee, Mr. Natcher was chosen to chair the Appropriations Committee following a long illness by then-Appropriations Chairman Jamie Whitten. He chaired the committee and subcommittee until his death.

Chairman Natcher was a true southern gentleman, an esteemed public servant, and rare politician. His modest demeanor belied the tremendous influence he wielded in Congress. One could always find Mr. Natcher working in his office in the Rayburn House Office Building or in his subcommittee office in the U.S. Capitol. He never missed a rollcall vote until he became seriously ill earlier this year. Chairman Natcher set a world voting record of 18,401 consecutive votes. In recognition of his many accomplishments, President Bill Clinton awarded Mr. Natcher the Presidential Citizens Medal in March of this year.

Congressman Natcher was an exceptional politician in other ways. He accepted no campaign contributions. Instead, Mr. Natcher would place a few newspaper advertisements announcing his candidacy. He also prided himself on remaining in direct contact with his constituents, often driving from town to town to meet with them personally.

Throughout his tenure in Congress and as chairman of the Appropriations Subcommittee on Labor, Health and Human Services, and Education, Mr. Natcher was a staunch supporter of programs to improve education in rural and urban communities, and provide quality, affordable health care. He was an advocate for providing funds for medical research, and supported funding for the job corps and training of displaced workers. It is clear that Chairman Natcher placed his mark on this Nation's social policy.

Mr. Speaker, I urge my colleagues in the House of Representatives to join me in supporting H.R. 4577, which will be named in honor of the distinguished career and leadership of Honorable William H. Natcher. Chairman Natcher served nobly in the U.S. Congress for over 40 years, and his reputation as the consummate, committed statesman remains a challenge to all of us.

Mr. TRAFICANT. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Ohio [Mr. TRAFICANT] that the House suspend the rules and pass the bill, H.R. 4577.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

□ 1430

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995, AND SUPPLEMENTAL APPROPRIATIONS, 1994

Mr. MOLLOHAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4603) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes.

The SPEAKER (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from West Virginia [Mr. MOLLOHAN].

The motion was agreed to.

□ 1431

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4603, with Mr. BROWN of California in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Friday, June 24, 1994, the amendment offered by the gentleman from Texas [Mr. FIELDS] had been disposed of, and the bill had been read through page 40, line 24.

AMENDMENT OFFERED BY MR. PENNY

Mr. PENNY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PENNY: Page 39, line 24, insert "(less $39,000,000)" before ", to".

Page 40, line 10, insert "(less $39,000,000)" before the colon.

Mr. MOLLOHAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Chair will allocate the time evenly between the gentleman from Minnesota [Mr. PENNY] and the gentleman from West Virginia [Mr. MOLLOHAN].

Mr. MOLLOHAN. Mr. Chairman, I will share half of my 5 minutes with the ranking minority member, the gentleman from Kentucky [Mr. ROGERS].

The CHAIRMAN. The Chair will allocate the time, as follows:

The Chair will recognize the gentleman from Minnesota [Mr. PENNY] for 5 minutes, the gentleman from West Virginia [Mr. MOLLOHAN] for 2½ minutes, and the gentleman from Kentucky [Mr. ROGERS] for 2½ minutes.

The Chair recognizes the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, the amendment presented to the House today is targeted at the following programs: The Columbia River hatcheries with a $9.5 million appropriation, regional climate centers, $3 million appropriations, the wind profiler program at $4.35 million, the Federal-State weather modernization program, $3.3 million, zebra mussel research program, $2.8 million, and the undersea research program at $16 million. These programs were slated by the Clinton administration for elimination. My amendment simply conforms with the request of the Clinton administration.

The National Oceanic and Atmospheric Administration funding for research programs totals more this year by 5.5 percent than was appropriated last year. By adopting this amendment, we will reduce by $39 million that increase of $98 million which has been included in this appropriations bill. Among the specific projects denied by the Clinton administration were the Columbia River hatcheries. The administration proposed allowing the Bonneville Power Administration to generate the necessary funds for the operation and maintenance of this hatchery program. In this way we would back the U.S. Government out of the obligation to continue funding in this area.

The regional climate centers' funding is designated for six regional climate centers located in New York, Illinois, Nebraska, Nevada, South Carolina, and Louisiana. The funding responsibility, according to the administration, should be shifted to the direct beneficiaries since the weather service is attempting to focus its limited resources on development of national and international weather models, and these regional weather stations are not deemed to be a national priority.

The wind profiler project has been proposed for a decrease in spending in order to discontinue the operation. NOAA in its budget document says that although the value of this data in operational weather forecasting has been demonstrated, it is not likely that acquisition and operation of a national system can be supported given the current budgetary climate. Therefore they no longer need to operate this particular program.

In addition, the amendment cancels certain State weather modernization grants. This program is actually getting an increase over fiscal year 1994 levels, but the administration has requested a $3 million cut to terminate the North Dakota, Utah, Nevada, Illinois, Arizona, and Texas modernization grants. This type of State oriented cloud physics, according to NOAA is more appropriately the responsibility of the individual States and does not need Federal financing.

In addition, the zebra mussel program is an item which the administration also wanted to cancel. According to NOAA "to the extent that funding is needed for this activity, the peer review competitive process of the Sea grant can fund these activities." We do not need, in other words, a special line item appropriation in this particular legislation.

That describes several of the cuts which I have proposed for this bill.

I again would remind my colleagues that these were cancellations and reductions requested by the Clinton administration. This is an area in the budget that has been slated for an increase. Even with these reductions there will be an increased level of funding for NOAA research. I would urge favorable consideration of the amendment.

Mr. MOLLOHAN. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Minnesota [Mr. PENNY].

The CHAIRMAN. The Chair recognizes the gentleman from West Virginia for 2½ minutes.

Mr. MOLLOHAN. Mr. Chairman, I rise in strong opposition to this amendment to cut $39 million from the NOAA operations account. The gentleman has targeted six programs. Each of these NOAA programs was funded in the fiscal year 1994 bill and all have been included for many years in the appropriations act.

Mr. Chairman, these are especially important programs to the Members and citizens across this country. Let me just briefly highlight a few of them:

The Columbia River hatcheries. These hatcheries are designed to maintain salmon and other fish stocks which have had their habitats degraded or destroyed by Federal activity such as dams. This program is vital to regional strategies dealing with the problems facing salmon fisheries in the Pacific Northwest.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. MOLLOHAN. I yield to the gentleman from the State of Washington who came before our committee and testified so effectively on behalf of this particular appropriation.

Mr. DICKS. Mr. Chairman, I just want to say we in the Pacific Northwest are extraordinarily concerned. We have the imposition of the Endangered Species Act. We are taking extraordinary measures to try and protect these salmon; and the Columbia River hatcheries, the so-called Mitchell hatcheries, are absolutely crucial to this effort.

The gentlewoman from Washington [Mrs. UNSOELD] is on the floor, and she has been as concerned about this as I am, and I just hope the Committee will reject the amendment offered by the gentleman from Minnesota [Mr. PENNY] and stay with the chairman.

Mr. Chairman, I rise in strong opposition to this amendment, which would reduce $40.5 million for activities of the National Oceanic and Atmospheric Administration.

I take specific issue with the portion of the amendment that would delete $9.5 million for operation of Columbia River fish hatcheries authorized by the Mitchell Act. The Mitchell Act, enacted in 1938, authorizes funding for 10 Oregon and 15 Washington State hatcheries to maintain migratory fish in the Columbia Basin because of degradation and destruction to habitat caused by nonpower aspects of Federal dams, such as navigation, irrigation, flood control, and recreation.

For the last 56 years, these hatcheries have provided more than 1 million adult salmon, steelhead, and cutthroat trout to sport, commercial, and tribal subsistence fisheries annually from Alaska to California. The hatcheries produce 50 to 70 percent of the salmon released into the Columbia River.

Some have suggested that the operation of these hatcheries be paid for by the Bonneville Power Administration. But this public investment represents a modest complement to what is now a $350 million annual mitigation effort undertaken by Bonneville Power Administration, reflected in the rates it charges customers. This mitigation program has more than doubled over the last 3 years.

Even if you think that BPA should pay, it can not under current law. If this amendment is adopted there will be no choice but to cease hatchery operations.

As many of my colleagues know, we face a significant fisheries management crisis in the Pacific Northwest. We are witnessing the lowest number of returning adult salmon on record. Endangered Species Act concerns, along with the effects of El Niño and ongoing disputes with Canada over fisheries harvest, have combined to produce a profound impact on the Pacific Northwest.

The response to these problems has already involved the termination of ocean commercial fishing off Oregon and Washington, with severe restrictions on sport salmon fishing. It is impacting operations of, and rates charged by, the Bonneville Power Administration. Terminating the operation of these hatcheries would further threaten an industry that produces between $100 to $150 million in economic activity to the Pacific Northwest.

Finally, terminating these hatchery operations would likely put us in violation of our international agreements with Canada, Japan, and Russia to preserve the North Pacific

Salmon fishery. At a time when tensions with Canada are reaching serious levels, this amendment would fundamentally undermine our bargaining position.

Recognizing all these factors, the Commerce Department's Chief Financial Officer has proposed redistribution of $10.3 million within NOAA to address a critical fisheries management operations issue. The Department is proposing to reduce the proposed increase for the Marine Fisheries Service to offset the funding needed for hatchery operations. I am also assured that the administration expects to continue requesting funding in future years. The proposal is currently under review at OMB, with prompt approval expected.

In light of all these factors, it is apparent that the Penny amendment is ill advised and should be rejected by the House. Oppose the Penny amendment.

Mr. MOLLOHAN. Mr. Chairman, I thank the gentleman for his testimony before the committee on this.

Mr. SKAGGS. Mr. Chairman, will the gentleman yield?

Mr. MOLLOHAN. I also yield to the gentleman from Colorado [Mr. SKAGGS], a distinguished member of our subcommittee.

Mr. SKAGGS. Mr. Chairman, I appreciate the gentleman from West Virginia [Mr. MOLLOHAN] yielding to me.

On a different piece of this amendment, Mr. Chairman, I just want to point out to my colleagues how critical it is that we also maintain the wind profiler program within the National Oceanic and Atmospheric Administration. It is an absolutely critical element in the future of highly precise measurement of the upper atmosphere winds. This was not included in the President's budget request, essentially by error, which everyone now recognizes.

Mr. Chairman, we have got to continue this program for aviation safety, the application of this technology in the commercial area, and many, many other reasons, and I appreciate the gentleman from West Virginia for having yielded on this point as well.

Mr. MOLLOHAN. Mr. Chairman, we appreciate the work of the gentleman from Colorado [Mr. SKAGGS] on this. He has been particularly effective in bringing this program to our attention.

Mrs. UNSOELD. Mr. Chairman, I rise in opposition to the amendment and thank the chairman for his work.

Congress authorized the Mitchell Act in 1938 to mitigate the impact of Federal hydroelectric projects in the Columbia River Basin.

The Mitchell Act Hatcheries Program has focused funds on fish hatcheries in-stream improvements—fishways and irrigation screening—and research related to improving the quantity and quality of fish produced in the system. The Federal Government has invested significant financial resources in this program, and until alternative funding for the hatcheries is assured, the Federal Government must continue its commitment to the program. Last year, $18.5 million was appropriated.

Congressional funding has growth from a one-half million dollar appropriation in 1938, to about $8.5 to $9.5 million annually. These funds support the Columbia River Fish Development Program administered by the National Marine Fisheries Service. Between $6.5 and $7.5 annually of these funds go to the Washington Department of Fish and Wildlife and Oregon Department of Fish and Wildlife to run 25 hatcheries. These hatcheries produce 3 to 3.5 million pounds of juveniles, or about 100 million smolts each year, mostly on the lower Columbia River. In addition, this program has funded the construction of approximately 800 irrigation diversion screens; it continues to maintain about 600. Through this program, 45 fish ladders have been built, of which 43 are still operating.

We are currently facing a salmon crisis in the Pacific Northwest. The decline of Northwest salmon stocks can be attributed to a variety of human-related activities, including damage to habitat, hydropower operations, and fishing, but two recent natural events have contributed signficantly to the sudden decrease in overall numbers: consecutive years of drought and El Niño conditions. While there are no direct actions that U.S. fisheries managers can take to alleviate these natural problems, the present situation generates more pressure to take steps over which we do have control, particularly fishing harvest levels and hydropower operations.

Due to the prediction of unprecedented low escapement numbers for Coho and Chinook, the Pacific Fisheries Management Council has closed the coastal harvest season for the first time in history. There will be little if any Columbia River commercial or recreational harvest allowed this season, and tribal fishing will also be significantly reduced or curtailed.

Although not originally in the fiscal year 1995 budget request, the administration has now committed to funding the Mitchell Act for fiscal year 1995 at the level of $10.3 million. This funding will be taken from existing NOAA programs and will not represent an increase in NOAA's overall fiscal year 1995 budget. This change reflects a recognition of the serious problems facing the Columbia River Basin salmon runs.

The Mitchell Act Hatcheries Program is vital for the continued availability of harvestable salmon stocks for tribal and other fishing interests while we continue to address recovery of weak stocks. I urge my colleagues to oppose the Penny amendment and support the continued funding of this important program.

□ 1440

The CHAIRMAN. The time of the gentleman from West Virginia [Mr. MOLLOHAN] on this amendment has expired.

Mr. ROGERS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the gentleman from Minnesota is trying to cut several very important programs within the NOAA count. The cuts would have a drastic effect on critical programs affecting public health and safety as well as economic growth. It would eliminate 7 important scientific and environmental programs of NOAA, impacting 29 States.

In addition, it would zero out the National Undersea Research Program, a critical part of NOAA's mission since 1971. This program supports research on the world's oceans and large lake ecosystems. Sea Grant research on zebra mussels is vital to understanding and protecting marine systems and the Great Lakes ecosystems as well as many more freshwater streams around the country. In fact, zebra mussels are now as far south as my district in Kentucky. They have been discovered in Lake Cumberland. This is a very damaging animal that must be researched.

So this amendment would be destructive of some very important research programs with which the Congress disagrees with the administration. There is nothing new about that, but the Congress wants these programs, and that is the reason we are opposing this amendment on a bipartisan basis.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield briefly?

Mr. ROGERS. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Speaker, I appreciate the gentleman's singling out the Zebra Mussel Research Program which the Committee on Public Works and Transportation authorized to deal with this extraordinarily destructive mollusk that has invaded the Great Lakes. It was carried in ballast from the Black Sea and is now destroying the food chain in Lake Erie. It has moved into Lake Michigan. We find it also in Lake Superior, and it has moved down the river systems and into the inland lakes.

The mollusk cleanses the water by destroying and eating all the vital plankton in the water column, which leaves clear water but no food for fish to feed upon. The only way we are going to get at the cause or the means of controlling this terrible organism is through research.

I do not know how well-intentioned the gentleman's amendment is or what the gentleman's purpose is, but it certainly misses the point of dealing with a very destructive organism which is in 20 percent of the world's fresh water. The amendment just does not make any sense.

Mr. Chairman, I appreciate the gentleman's yielding.

Mr. GEJDENSON. Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from Minnesota [Mr. PENNY] to cut $39 million from the budget of the National Oceanic and Atmospheric Administration [NOAA]. I urge my colleagues to defeat this amendment.

The amendment would, among other things, eliminate $16 million of the National Undersea Research Program [NURP]. NURP is administered by six centers across the Nation, including one at the University of Connecticut Avery Point campus. These centers are responsible for important marine research in our coastal waters and in the Great Lakes. The Avery Point Center alone conducts research in the Atlantic north of New Jersey and in the Great Lakes. The Avery Point Center is involved in research on marine habitat destruction, movement of pollutants in the food chain, and environmental technology development.

Mr. Chairman, the research conducted at Avery Point is especially important today in light of the collapse of the New England groundfishery. As many of my colleagues from New England know, groundfish populations in waters off our coasts are at alltime lows. In January of this year, the Commerce Department issued emergency rules which will reduce harvests by 50 percent over the next several years. The Department has also committed $30 million to assist fishermen in dealing with these drastic cutbacks. These restrictions will have substantial adverse effects on fishermen and communities which depend on fishing.

The Avery Point Center is engaged in research on groundfish habitat which is designed to determine where it has been degraded and where productive habitat can be utilized. The center is making special use of underwater robots to produce habitat surveys which are many times more detailed than traditional trawl methods. This research has vitally important implications for our efforts to rebuild groundfish stocks. It would be foolhardy to terminate the center's research at such an important juncture.

Mr. Chairman, the subcommittee already cut NURP's budget by $2 million in its bill. This will require the centers to trim their already razor-thin budgets and reject worthy research projects because of lack of funding. I firmly believe that marine research is worth a $16 million investment and I urge my colleagues to reject this amendment.

Mr. RAHALL. Mr. Chairman, I rise in opposition to the amendment offered by our friend and colleague, Representative PENNY, to cut 20 percent of the funds appropriated in H.R. 4603 for the Economic Development Administration, better known as the EDA.

In this bill, while the funding level of $371 million for the EDA is $20 million more than last year, the fact is that it is $41 million less than the President requested, and of that amount $80 million is set aside for defense conversion grants.

Little more than a month ago, the bill reauthorizing the EDA was passed on this floor by a resounding vote of 328 for to 89 against. Now our responsibility is to fund it.

As stated during the reauthorization bill's passage, the bill provides for important, even vital, new approaches for the EDA to move forward in time, putting a greater emphasis on leveraging EDA funds with non-Federal funds, all of which will be used to target areas with the greatest needs, that are suffering dire economic distress.

Most important of all, these funds, which will leverage billions in private sector funds, will be used for jobs, jobs, jobs—both creation of jobs, and retention of jobs. This is especially true in areas hit hard by base closures, but also in areas that have been and will be in the future, hit hard by natural disasters.

The biggest disaster of all, however, in the context of EDA funding, is that it is needed overall to help rebuild and rehabilitate our infrastructure, and to find new and innovative ways in which to lead long-term, economically distressed areas to economic recovery along with the rest of this Nation.

The money in the bill is tightly targeted. Gone is the old grandfathering of eligibility. In its place is a new requirement that eligibility must be proven each time an economic development project application is submitted. This change was in response to charges heard in the House that the old grandfather clause made 85 percent of the entire country eligible for EDA grants, instead of only chronically distressed areas as originally envisioned.

I urge my colleagues to reject the Penny amendment to cut 20 percent of the EDA funding in H.R. 4603, the Commerce, State, and Justice appropriations bill.

Ms. LOWEY. Mr. Chairman, I rise in opposition to the amendment being offered by the gentleman from Minnesota, which would eliminate funding for a series of programs administered by the National Oceanic and Atmospheric Administration [NOAA].

I share my colleague's desire to reduce the deficit, and I am proud to have supported last year's historic deficit reduction plan, which will reduce our budget shortfall by nearly $500 billion.

But in opposing this amendment, I want to remind my colleagues of a fundamental reason for reducing the deficit—to enable the Federal Government to respond to pressing national problems. The Penny amendment would reduce Government expenditures. But at the same time, it would gut the Federal Government's effort to respond to an emerging environmental and economic crisis caused by the infestation of zebra mussels in inland waterways across much of the East and Midwest.

Zebra mussel infestation is fast becoming a serious national problem. This prolific species fouls and shuts down water utility systems, beaches, and navigational locks, and can cause serious harm to aquatic ecosystems. The Office of Technology Assessment [OTA] estimates that the power industry alone may face a cost of more than $3.3 billion because of the zebra mussels. The U.S. Fish and Wildlife Service has estimated that the zebra mussel could cause an additional $500 million in damage to fisheries and other ecosystems.

Let's not kid ourselves, American taxpayers, as consumers, will pay those bills if this problem is not effectively addressed. Also, this is clearly an interstate problem. We would be irresponsible to turn our backs.

The Penny amendment would eliminate the $2.8 million set aside in the bill for research on zebra mussels. Mr. Chairman, the only way we can avoid the devastation caused by zebra mussels is to learn more about them. A $2.8 million investment that can help avert billions in economic and environmental damage strikes me as a sound investment.

I urge my colleagues who share my strong belief in deficit-reduction to remember that not all cuts are created equal. The savings promised by the Penny amendment will be overwhelmed by the cost of failing to respond to the spread of zebra mussels and other nuisance species. Vote no.

Mr. STUPAK. Mr. Chairman, I stand today in strong opposition to the amendment offered by Representative PENNY which would cut the NOAA Undersea Research Program and sea grants for zebra mussel research.

The health of the Great Lakes is important to the entire Nation and the zebra mussels threaten commerce and the environment of the Great Lakes.

Introduced in 1986 by a Russian flagged ship, the zebra mussel invasion could cost this country $5 billion by the year 2000. The utility industry alone, stands to lose approximately $3.3 billion in the next decade. Due to zebra mussels.

With last year's Mississippi River floods, the zebra mussels have spread from Congressman PENNY's home State of Minnesota through the inland waterways and lakes of 19 States and it continues to spread. They attach to the hulls of recreation & fishing boats, with the boat operator unknowingly spreading the zebra mussel problem to other inland waters.

One female mussel can produce over one million eggs per year.

Zebra mussels collect PCP's and distribute them to unsuspecting birds and fish who eat them. The mussels are suffocating the fresh water clam population. Zebra mussels further threaten the Great Lakes, inland lakes because they feed on tiny organisms, tiny organisms which keep our lakes free of algae.

The tiny thumbnail size mollusk attaches itself to any hard surface including the hulls and rudders of cargo ships, affecting navigational ability. It clogs intake valves of water treatment centers and power plants attaching themselves to create barriers as thick as 8 inches.

Great Lakes sea grant programs are developing ways to cope with this problem. Most biologists believe the zebra mussel cannot be eradicated, only controlled. They have taken the lead in developing techniques to deal with this national problem and we should not stop this research.

The Great Lakes provide the United States with 95 percent of its fresh water with nearly 25 million people tapping the Great Lakes for their drinking water.

Two hundred million tons of commodities pass through the Great Lakes every year and 20 billion kilowatt-hours of electricity is produced by Great Lakes water.

We cannot tamper with the health of not only the Great Lakes but our Nation's waterways. For the sake of our environment, for the sake of shipping and boating industry, all of us depend on the Great Lakes.

I urge the Members to defeat this amendment.

Mr. WELDON. Mr. Chairman, I rise in opposition to the Penny amendment which would cut $39 million from the National Oceanic and Atmospheric Administration's [NOAA] fiscal year 1995 appropriation. I would also like to compliment the Appropriations subcommittee Chairman ALAN MOLLOHAN and ranking Republican HAROLD ROGERS for their efforts to adequately fund NOAA's programs.

As the ranking member on the Oceanography, Gulf of Mexico, and Outer Continental Shelf Subcommittee of the Committee on Merchant Marine and Fisheries, I have had the opportunity to hear hours of testimony on NOAA's budget. NOAA's ocean science, education and protection programs are among the most important Federal environmental initiatives in existence.

Covering well over two-thirds of the world's surface, oceans control our weather and climate, and hold vast but finite supplies of food and energy. All life originated in our oceans, and our oceans still hold the key to the continued health of our planet's environment.

NOAA, as our Nation's steward of the oceans, plays a critical role in assuring that we understand and protect this valuable resource. Through programs which range from strictly scientific, such as the National Undersea Research Program [NURP], to educational, such as the Global Learning and Observations to Benefit the Environment [GLOBE] program, to regulatory, such as the administration of the Coastal Zone Management Act [CZNA], NOAA has a broad ocean, Great Lakes and coastal science, education and protection portfolio which it manages on a shoestring budget.

Historically, the United States has spend little on enhancing our understanding of the marine environment, while at the same time expending billions of dollars on the exploration of space. The irony is that we have probably spent more money searching for water bodies on other planets than we have on understanding our own oceans.

The fiscal year 1995 budgets are no different. Next year, the National Aeronautics and Space Administration [NASA] will receive over 20 times the funding for NOAA's wet programs.

Already, NOAA's budget in the Commerce, justice, State bill is decreased by roughly $90 million from its fiscal year 1994 appropriated total. The numbers for specific ocean science programs are even worse. The total budget for NOAA's Oceans and Great Lakes programs, which include programs such as NURP and Sea Grant zebra mussels research, is only $81 million, a $4 million decrease from fiscal year 1994.

Today, even these small sums are coming under assault. The Penny amendment, although well intentioned, would zero-out important initiatives such as NURP and Sea Grants zebra mussel research, cutting NOAA's Ocean and Great Lakes programs by almost 25 percent. Both these programs support the work of our Nation's leading academic institutions and are scientifically peer review.

Eliminating NURP would cripple NOAA's undersea research programs. Undersea research has been a critical part of NOAA's mission since 1971. NURP supports research on the world's oceans and large lake ecosystems. The initiative is one of the most successful marine science programs administered by NOAA.

Likewise, the Sea Grant research program on zebra mussels is an important project which should be maintained. The research has been vital to understanding and protecting marine and Great Lakes ecosystems. Zebra mussels cause millions of dollars in damage to infrastructure and crowd out indigenous species. Spending limited sums on studying the program today will save the taxpayers millions in the future.

If we expect NOAA to continue to carry out its most important missions and continue to supply us with the science necessary to protect our marine resources, we must not let such amendments prevail.

Mr. Chairman, NOAA's programs, especially its ocean science, educational, and protection programs, cannot afford another cut. I urge all my colleagues to oppose the Penny amendment.

Mr. HUGHES. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Minnesota. This amendment would eliminate important scientific and environmental programs from an agency that has already been cut some $87 million below its fiscal year 1994 level.

In particular, I am disturbed because the amendment would eliminate funding for NOAA's National Undersea Research Program or NURP.

The NURP program is a highly competitive and progressive program which assists leading scientists with research in the great lakes, the oceans, and on the sea floor using the most modern technology. NURP centers, located throughout the country, focus their research on the identification, distribution, and impact of contaminants in the marine environment; sediment dynamics; recruitment of economically important fish and invertebrates; and beach erosion. This work has enhanced our knowledge of the dynamic process governing our oceans, increased our understanding of fisheries, and expanded our general knowledge of the deep sea environment.

NURP has consistently proven its important role in providing opportunities for the scientific community to conduct research not possible within the limits of traditional ship-based research and laboratories.

NURP has also contributed to advances in biotechnology and gear design, advanced underwater technology, and fostered the development of small businesses.

Furthermore, the program is taking a lead role in addressing questions associated with global environmental change. Indeed, NURP offers a distinct advantage compared to the traditional oceanographic approaches to global climate change programs. With advanced undersea technology, NURP is able to obtain precise measurements ocean processes at spatial and temporal scales not attainable with conventional techniques. This information can be used to complement the broad-scale time-series information currently obtained from the various global change programs.

These are important scientific efforts. And they are important to Members of this body because NURP provides the opportunity to study the processes governing our oceans and great lakes so that we and others in government can make the appropriate decisions regarding proper management and protection of these valuable resources.

Over the years, NURP has enjoyed very strong support by the Merchant Marine Committee as well as by the House of Representatives as a whole. We must continue our support and I urge my colleagues to join with me and defeat this amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Minnesota [Mr. PENNY].

The amendment was rejected.

AMENDMENT OFFERED BY MR. GOODLATTE

Mr. GOODLATTE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOODLATTE: Page 39, line 24, insert "(less $26,060,000)" before ", to".

Page 40, line 10, insert "(less $26,060,000)" before the colon.

Mr. ROGERS. Mr. Chairman, I wonder if we could establish a limitation on debate on this amendment, allowing, say, no more than 20 minutes, 10 minutes per side on the amendment.

Mr. Chairman, if that would be agreeable to all around, I make that as a unanimous-consent request.

Mr. MOLLOHAN. Mr. Chairman, reserving the right to object, the request is certainly agreeable on this side.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky for a limit of 20 minutes to be divided equally between the proponent and an opponent of the amendment?

There was no objection.

The CHAIRMAN. The gentleman from Virginia [Mr. GOODLATTE] will control 10 minutes, and the gentleman from West Virginia [Mr. MOLLOHAN] will control 10 minutes.

Mr. MOLLOHAN. Mr. Chairman, I will share half of my time with the gentleman from Kentucky [Mr. ROGERS].

The CHAIRMAN. The Chair recognizes the gentleman from Virginia [Mr. GOODLATTE].

Mr. GOODLATTE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to offer an amendment that would strike $26,060,000 from the NOAA budget for operations, research, and facilities. This amount reflects the sum appropriated to four projects that weren't authorized. The House hasn't passed authorizing language for the Atlantic bluefish tuna research, the fishery observation training, and the National Institute for Environmental Renewal. The House has passed authorization for the National Weather Service, but this bill appropriates $25,140,000 over the lawful amount.

Appropriating funds for these programs violates the rules of the House which ban appropriations to unauthorized projects. Under the rules of the House, any Member should be able to strike these projects on a point of order, however, these rules have been waived for this bill.

H.R. 4603 includes $300,000 for the Atlantic bluefish tuna research. This program's goal is to ensure that American fishermen are in compliance with international trade regulations for the bluefish tuna. The Department of Commerce regulates this trade, yet the National Oceanic and Atmospheric Administration [NOAA], a branch of the

Commerce Department, hasn't requested funding for this program.

The fishery observer training program trains people to accompany fishing vessels for the purpose of data collection and to prevent throwback waste. The training is mandated by the Magnuson Fisheries Conservation and Management Act, and H.R. 4603 appropriates $120,000 for the continuation of this program. But, NOAA already has a program in place to cover this training and fulfill the Magnuson requirements. This program duplicates the NOAA program and is much smaller in scope.

The National Institute for Environmental Renewal was appropriated funds last year without authorization. They are trying to do it again this year. The program was given $500,000 by the appropriators to continue its study on nonpoint pollution runoff into the Chesapeake Bay. Even though this study might benefit my home State of Virginia, we must strike the funding from H.R. 4603. It has not been authorized and, I will say it again, we can not appropriate funds for unauthorized programs.

The House passed H.R. 2811, the NOAA reauthorization bill, on November 20, 1993, by a voice vote. This bill authorized $458,305,000 for the National Weather Service, yet H.R. 4603 appropriates $483,445,000, $25,140,000 above what the House approved. Since all points of order have been waived, we have to strike this violation of House rules via amendment. The Goodlatte amendment does just that.

Members who oppose this amendment will come down to the well here and sing the praises of these programs. If they were authorized programs I might be a member of that chorus. I do not intend for these programs to fall because they are not worthy of merit. Rather, they must be zeroed out because this is a procedural abuse. Someday, Congress may realize that the low esteem of the public is earned by actions such as including unauthorized pork in appropriation bills.

As I started the research for this amendment, I knew I would encounter opposition. More impressive, however, than the predicted dissenters are those who have offered their support. The bipartisan Porkbusters Coalition, cochaired by Mr. FAWELL and Mr. PENNY were quick to offer their support. The over 250,000 members of the Citizens for a Sound Economy and the more than 600,000 members of the Citizens Against Government Waste endorse this amendment. They sent me a letter of support, in which they write:

> While the programs in question may have some merit, they have not been authorized and as such are objectionable. As with other pork-barrel spending, they cannot be justified . . . unless they pass muster with the authorizing committee of jurisdiction.

The Citizens Against Government Waste will consider this vote for their congressional ratings this year.

I urge every Member of this House to do the right thing and obey the rules we have set to govern ourselves. If we ignore the rules that we pass to govern this House, why should the public obey the rules we pass to govern the country.

Mr. Chairman, I reserve the balance of my time.

□ 1450

Mr. MOLLOHAN. Mr. Chairman, the amendment offered by the gentleman from Virginia [Mr. GOODLATTE], I oppose very strongly. It cuts a total of $26 million from the NOAA operating account.

Now, that means a $25 million cut from National Weather Service staffing, 17 percent below the amounts recommended in the bill. Mr. Chairman, a cut of that magnitude would force the closure of 44 part-time weather services offices in 30 States across this great Nation, States including Alaska, California, Indiana, Mexico, Oregon, Texas, and Virginia. You can see that it affects in a very dramatic and negative way the Weather Service, which is something that I do not think this Congress can tolerate.

The cut would also mean that 21 Weather Service offices receiving new NEXRAD radars could not be staffed in fiscal year 1995, including stations in Florida, Texas, New York, Illinois, Nebraska, and California.

The Congress has already made a commitment to modernization of the National Weather Service. This amendment would severely delay the modernization effort and cause further cost increases in future years.

Mr. Chairman, I reserve the balance of my time, and oppose the amendment.

Mr. ROGERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am opposed to the amendment as well. This amendment would cut the operations, research, and facilities part of NOAA, in my judgment the most important part, by this amount of money. My greatest concern about the intent of the amendment would be the cut that would be imposed, as the chairman has said, on the Weather Service, on the modernization.

Every single American relies upon the National Weather Service through their local television channel, as well as the radio, newspapers, and, of course, the weather radio service, to learn about dangerous weather, as well as we hope sometimes even pleasant weather. But even our lives can depend upon an effective National Weather Service.

This amendment would cut what is already a weak amount of money for the National Weather Service modernization program. Congress has invested over $1 billion in modernization. This amendment would force premature closure or cutbacks in the Weather Service offices before these new modernized offices are brought on line. So I think the amendment would pose a threat to public health and safety, because it would degrade services in many areas. It would also delay staffing in 43 Weather Service offices coming on line in 1995, increasing, not decreasing, the costs for modernization.

Mr. Chairman, I urge a "no" vote on the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. GOODLATTE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Virginia [Mr. GOODLATTE]. The amendment strikes three unauthorized projects which are included in the NOAA account. These include $300,000 for Atlantic bluefin tuna research, $120,000 for fishery observation training, and $500,000 for the National Institute for Environmental Renewal. These projects are not authorized by the Committee on Merchant Marine and Fisheries. I understand they are not even requested by NOAA, so they cannot be of tremendous importance.

In the case of the Atlantic bluefin tuna, NOAA does not support the existence or continuation of this program. This is an express violation of House rules.

Also addressed in this amendment is a $25 million appropriation above the authorized level of funding for the National Weather Service. In the days of limited budget resources, we cannot afford unauthorized increases like that.

Mr. Chairman, the Committee on Merchant Marine and Fisheries and the Committee on Science, Space, and Technology, the committees of oversight for these programs, have not authorized these appropriations. They are appropriated in violation of House rules which specifically ban unauthorized appropriations. The gentleman from Virginia should have been able to rise on the floor and simply make a point of order. But, like is oftentimes the case, he is forced to come out here and have the burden of presenting an amendment.

Mr. Chairman, I urge the support of the House rules. As Members of the House of Representatives, we should have zero tolerance for misappropriated funds. I urge a "yes" vote for fiscal responsibility. I urge a "yes" vote to save taxpayers $26 million. I urge Members to vote in favor of the Goodlatte amendment.

Mr. MOLLOHAN. Mr. Chairman, I yield 1½ minutes to the distinguished chairman of the Committee on Merchant Marine and Fisheries, the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Chairman, I rise in very strong opposition to the amendment. With all due respect to the previous speaker, this a bluefin tuna, not bluefish tuna. I think that that pretty much gives away the amount of knowledge that stands behind the amendment.

I do not know much or anything about soybeans, but I do know something about bluefin tuna. Let me assure the gentleman while this may appear on the surface to one not familiar with the problem to be an easily mocked item, first of all, it is extraordinarily important.

There is a multimillion dollar commercial and recreational industry based on the Atlantic bluefin tuna. It is of enormous importance to most of the east coast of the United States, at least to the northern part of the east coast. Our science is not up to telling us why these stocks are crashing. There needs to be international management of the stocks.

The United States is party to an international convention, and we do not know enough to manage these stocks wisely. If we fail, we will have lost a very, very important industry. You are targeting, among other things, in this amendment, $300,000 for the New England Aquarium for research on the Atlantic bluefin tuna.

This is authorized. The standing authority of the National Marine Fisheries Service to conduct fisheries research is more than adequate general authorization for any fisheries research on commercial stocks.

This is precisely what it is. It is the core of the responsibility of the National Marine Fisheries Service. It is enormously important. And although it may be easy to make fun of, it is not very amusing to someone whose livelihood depends on this. It is a small and very important item.

Mr. GOODLATTE. Mr. Chairman, I yield myself such time as I may consume.

I would point out to the distinguished chairman of the subcommittee that the report of the subcommittee on page 47 refers to Atlantic bluefish tuna research. So I think the gentleman from Illinois was in good faith in comments that he made. But bluefish or bluefin, it is unauthorized.

Mr. Chairman, I yield 1½ minutes to the gentleman from Illinois [Mr. MANZULLO].

Mr. MANZULLO. Mr. Chairman, we are once again seeing business as usual in this Congress. Why do we time and time again reinforce to our constituents the worst stereotype about Members here? Four programs, all unauthorized, all unrequested by the President, snuck through the process and made their way to the House floor to protect some very small but influential interests.

For any Member who has cosponsored the A to Z initiative, think of this amendment as B for bluefin tuna and F for fishery training.

Mr. Chairman, would somebody please explain to me why it is of vital national importance that we spend $300,000 on Atlantic bluefin tuna research? Why do we need to spend $120,000 for fishery observation training? At a time when our national debt is over $4 trillion and certain Members claim victory on our annual budget deficit, we cannot just justify spending all this money on the programs just to appease Charlie Tuna.

Everybody seems to look to the Federal Government to solve our problems. Why cannot the fishing industry itself raise their own money to do their own research, instead of coming to Congress and saying we need the money?

The people in this country have had it. They are tired of all this spending. Bring an end to it, stop the unauthorized spending, and let us go with the Fawell amendment.

□ 1500

Mr. MOLLOHAN. Mr. Chairman, I yield myself such time as I may consume.

There have been several references to this program not being authorized. I would like to make it very clear that that amendment represents a decrease in funding for the National Weather Service by more than $25 million. The gentleman says this funding is not authorized. I believe the gentleman is probably referring to an authorization level set in H.R. 2811, which passed the House in November of last year. The chairman of the authorizing committee, is very familiar with this. It set a fiscal year 1995 authorization level for the Weather Service prior to actual budget estimates being developed and submitted for consideration by the Congress.

That authorization bill was never taken up by the Senate and was never enacted into law. I am certain the Committee on Science, Space, and Technology, the authorizing committee for the Weather Service, would consider the actual fiscal year 1995 funding requirements and change their authorization levels for this program should further action be taken on the NOAA authorization bill.

So it is really quite a technicality that the gentlemen who are offering this amendment raise. I would like to point out that this amendment would cut a significant number of weather services. It would have an incredibly negative impact on the ability to predict weather and to man these weather stations. One of them which would be cut that the gentleman ought to appreciate is in Lynchburg, VA. I am sure that that would be an unintended result for the gentleman who, I understand, represents part of that area.

Mr. Chairman, I reserve the balance of my time.

Mr. ROGERS. Mr. Chairman, I have no further requests for time and will be in a position to yield back the balance of my time. I want to reassert my opposition to the amendment of my good friend, the gentleman from Virginia. I wish him well in all other respects except this one.

Mr. Chairman, I yield back the balance of my time.

Mr. GOODLATTE. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I thank the gentleman from Kentucky for his well wishes. I will remember all those other respects.

I would say to the gentleman from Kentucky and to the gentleman from West Virginia that we are doing what both the authorizing committees that he has referred to have asked for. In fact, we are not cutting one penny of the amount that was authorized by these committees. We are simply suggesting that when we add an additional $25 million that has not been authorized by any committee, that that clearly violates the rules of the House.

We would look to the National Weather Service to operate within the budget that is appropriately due them under those rules. There is nothing specified in these cuts as to where Weather Service offices would be closed or where personnel might be cut back. That is something that would have to be determined by future legislation and by future action of that agency and so no Member should fear that this cut will take place in their particular congressional district or in their particular State.

I would also suggest that the rules of the House are very clear that the appropriating committee has three alternatives when presented with an authorization. They either accept that authorization, they can reduce it, or they can eliminate it. But they are not under the rules of this House authorized to increase it by $25 million. It is particularly important that we observe that in this very, very difficult fiscal time when we are having budget deficits in excess of $250 billion a year and a national debt in excess now of $4.5 trillion.

Mr. Chairman, I urge my colleagues to vote in favor of this amendment and show some fiscal responsibility.

Mr. MOLLOHAN. Mr. Chairman, I yield myself such time as I may consume.

I would just submit that every Member who is voting on this amendment should be concerned about the effect of a $25 million cut on the Weather Service across this Nation and certainly on the Weather Service in their geographical area.

I would submit that the gentleman ought to be concerned about it, because as I said, Lynchburg is going to be one of those areas that is going to be subject to these cuts.

Mr. Chairman, I yield the balance of my time to the distinguished gentleman from Massachusetts [Mr.

STUDDS], chairman of the Committee on Merchant Marine and Fisheries.

Mr. STUDDS. Mr. Chairman, somebody mentioned A to Z. This is a perfect example of the problem with A to Z, because we would be faced with amendments and we would not know anything about them.

Let me say to the gentleman that the fact that he does not know the difference between a blue fish and a bluefin is a superb example of the problem here. I wish I had a blue fish. They are very hungry. They are very aggressive, and they are very mean. And one would immediately make it clear to the gentleman that he was not a bluefin tuna. Bluefin tuna are more placid, more gentle. They grew to 1,100 pounds.

A lot of people make their livelihood out of this. This is a very small item. I did not hear the gentleman from Illinois, who was complaining here earlier, complain about the millions of dollars we spend to support crops in Illinois. I have no problem with that. But one ought to know what one is talking about on the floor of this House.

(By unanimous consent, Mr. GOODLATTE was allowed to proceed for 1 additional minute.)

Mr. GOODLATTE. Mr. Chairman, I would say to the gentleman that I know full well that we are talking about bluefin tuna. I was simply coming to the defense of the gentleman from Illinois and pointing out that it was the chairman's own committee report that referred to it as blue fish tuna. I think the gentleman from Illinois was acting in good faith in making that mistake in reliance upon the erroneous report.

Mr. BROWN of California. Mr. Chairman, I rise in opposition to the Goodlatte amendment to H.R. 4603, which would reduce the appropriation for the National Weather Service by $25 million.

Mr. Chairman, I would like to remind everyone about the critical importance of providing adequate funding for NOAA and the National Weather Service.

Just last year many of our colleagues witnessed firsthand the utter devastation brought on by the floods in the midwestern region of the United States. In recent years we have witnessed the brutality of Hurricanes ANDREW and INIKI; the winter "Storm of the Century" which pounded the eastern half of the United States and disrupted air transportation throughout the Nation; and this spring the Palm Sunday tornadoes that devastated areas in Alabama and Georgia.

Mr. Chairman, the out-of-date technologies currently employed by the National Weather Service continue to be the largest barrier to improving our understanding and forecasting of severe weather events.

The National Weather Service still relies on a number of vacuum tube radars installed around 1957. The communications and data processing equipment used by National Weather Service meteorologists is less capable than the current line of desk top computers. The United States in recent years has had to borrow a weather satellite from the Europeans as the last remaining United States Geostationary weather satellite was operated beyond its 5-year designed lifetime.

The National Weather Service is now well into a program to modernize its technology with new NEXRAD Doppler radars, the successful launch and deployment of the next generation Geostationary weather satellite—GOES–8—and the installation of new computers and automated systems.

That National Weather Service, however, cannot operate on equipment alone. It must depend upon the dedicated efforts of its highly skilled personnel, and the training and education needed for the operation of new technologies. The Goodlatte amendment strikes at the heart of that need by cutting National Weather Service personnel and training by $25 million.

Mr. Chairman, this amendment would result in closure of 44 part-time weather service offices in 30 states; reduce numerous other offices to part-time status; and require an NWS-wide furlough of some 16 days. Any one of these actions would put NOAA in violation of the service degradation and/or closure provisions of Public Law 102–567, the Weather Service Modernization Act of 1992.

In addition, the National Weather Service would be required to put on hold any additional modernization and restructuring related activity which provides the staffing and training for new NEXRAD radar offices.

Mr. Chairman, providing the funds necessary to modernize the National Weather Service clearly is an investment in America's future. It is an investment in life-saving equipment. It is also a wise economic investment.

In fact, a National Institute of Standards and Technology study conducted last year indicated that the economic benefits to the Nation of weather service modernization are about eight times greater than the costs. The study also shows that, once the modernized weather system is in place, we will realize benefits of over $7 billion primarily through efficiency gains in key industrial sectors of the U.S. economy, such as commercial aviation, agriculture, construction, communications, electric power generation, and manufacturing.

Mr. Chairman, I understand that Mr. GOODLATTE claims that the appropriation for the National Weather Service is $25 million over our authorization. The gentleman well knows that the authorization process has not been completed, and that the Senate has not yet acted, on the NOAA Authorization bill passed by the House of Representatives last year. That bill, which passed the House several months before this year's budget was submitted by the President, did not fully anticipate the staffing and training requirements which would result from maintaining all existing weather offices while new modernized offices are brought into operation, as required by Public Law 102-567. Obviously, I cannot guarantee that the House would have authorized the full Presidential request had we acted earlier this year rather than last year. But I think that this is very likely what would have happened.

Mr. Chairman, I urge my colleagues to oppose this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. Goodlatte].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. GOODLATTE. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1517

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have responded. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Mr. GOODLATTE. Mr. Chairman, I renew my demand for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

COASTAL ZONE MANAGEMENT FUND

Of amounts collected pursuant to 16 U.S.C. 1456a, not to exceed $7,800,000, for purposes set forth in 16 U.S.C. 1456a(b)(2).

CONSTRUCTION

For repair and modification of, and additions to, existing facilities and construction of new facilities, and for facility planning and design and land acquisition not otherwise provided for the National Oceanic and Atmospheric Administration, $52,000,000, to remain available until expended: *Provided*, That subject to the availability of appropriations provided in advance for these purposes, the Secretary of Commerce is granted approval to enter into a contract with Florida State University which shall: (1) provide the University with funds to assist in the construction and associated expenses, including parking, of a meteorological sciences building on its Tallahassee, Florida, campus; and (2) include a space agreement with the University at no cost to the Government, other than for operational expenses, for space in this building for use as the Weather Forecast Office: *Provided further*, That if the Secretary of Commerce determines that the property that was transferred to the United States by the City of Clovis, California, by a deed dated November 20, 1984, for use as a weather forecasting office, is no longer needed for such use, title to that property, and improvements thereto, shall revert to the City of Clovis, California.

FLEET MODERNIZATION, SHIPBUILDING AND CONVERSION

For expenses necessary for the repair, construction, acquisition, leasing, or conversion of vessels, including related equipment to maintain and modernize the existing fleet and to continue planning the modernization of the fleet, for the National Oceanic and Atmospheric Administration, $23,040,000, to remain available until expended.

Mr. MOLLOHAN. (during the reading). Mr. Chairman, I know of no amendment until page 48, line 4. Therefore, I ask unanimous consent that the remainder of the bill through page 48, line 3, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The text of the bill, through page 48, line 3, is as follows:

FISHING VESSEL OBLIGATIONS GUARANTEES

For the cost, as defined in section 502 of the Federal Credit Reform Act of 1990, of guaranteed loans authorized by the Merchant Marine Act of 1936, as amended, $459,000.

FISHING VESSEL AND GEAR DAMAGE COMPENSATION FUND

For carrying out the provisions of section 3 of Public Law 95–376, not to exceed $1,273,000 to be derived from receipts collected pursuant to 22 U.S.C. 1980 (b) and (f), to remain available until expended.

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95–372, not to exceed $999,000 to be derived from receipts collected pursuant to that Act, to remain available until expended.

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96–339), the Magnuson Fishery Conservation and Management Act of 1976, as amended (Public Law 100–627) and the American Fisheries Promotion Act (Public Law 96–561), there are appropriated from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed $400,000, to remain available until expended.

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce provided for by law, including not to exceed $3,000 for official entertainment, $36,510,000: *Provided*, That of the offsetting collections credited to this account, $17,000 are permanently canceled.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1–11 as amended by Public Law 100–504), $16,900,000.

BUREAU OF THE CENSUS

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, $141,272,000: *Provided*, That of the offsetting collections credited to this account, $225,000 are permanently canceled.

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to collect and publish statistics for periodic censuses and programs provided for by law, $142,576,000, to remain available until expended.

ECONOMIC AND STATISTICAL ANALYSIS

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs of the Department of Commerce, $48,615,000, to remain available until September 30, 1996: *Provided:* That of the offsetting collections credited to this account, $2,000 are permanently canceled.

ECONOMICS AND STATISTICS ADMINISTRATION REVOLVING FUND

There is hereby established the Economics and Statistics Administration Revolving Fund which shall be available without fiscal year limitation. For initial capitalization, there is appropriated $1,677,000 to the Fund: *Provided*, That the Secretary of Commerce is authorized to disseminate economic and statistical data products as authorized by 15 U.S.C. 1525–1527 and, notwithstanding 15 U.S.C. 4912, charge fees necessary to recover the full costs incurred in their production. Notwithstanding 31 U.S.C. 3302, receipts received from these data dissemination activities shall be credited to this account as offsetting collections, to be available for carrying out these purposes without further appropriation.

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce provided for by law, and engaging in trade promotional activities abroad, including expenses of grants and cooperative agreements for the purpose of promoting exports of United States firms to include a grant of $9,000,000 for the National Textile Center University Consortium, without regard to 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas and employees temporarily posted overseas; travel and transportation of employees of the United States and Foreign Commercial Service between two points abroad, without regard to 49 U.S.C. 1517; employment of Americans and aliens by contract for services; rental of space abroad for periods not exceeding ten years, and expenses of alternation, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $327,000 for official representation expenses abroad; purchase of passenger motor vehicles for official use abroad, not to exceed $30,000 per vehicle; obtain insurance on official motor vehicles; and rent tie lines and teletype equipment; $268,723,000, to remain available until expended: *Provided*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply to carrying out these activities without regard to 15 U.S.C. 4912; and that for the purpose of this Act, contributions under the provisions of the Mutual Educational and Cultural Exchange Act shall include payment for assessments for services provided as part of these activities.

EXPORT ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $15,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $38,823,000, to remain available until expended: *Provided*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $42,428,000, of which $30,300,000 shall remain available until expended.

The CHAIRMAN. Are there any amendments to that portion of the bill up to page 48, line 3?

If not, the Clerk will read the next paragraph.

The Clerk read as follows:

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration including travel and tourism promotional activities abroad for travel to the United States and its possessions without regard to 44 U.S.C. 501, 3702 and 3703, including employment of American citizens and aliens by contract for services abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; advance of funds under contracts abroad; payment of tort claims in the manner authorized in the first paragraph of 28 U.S.C. 2672, when such claims arise in foreign countries; and not to exceed $15,000 for official representation expenses abroad; $17,907,000, to remain available until expended: *Provided*, That none of the funds appropriated by this paragraph shall be available to carry out the provisions of section 203(a) of the International Travel Act of 1961, as amended: *Provided further*, That in addition to fees currently being assessed and collected, the Administration shall charge users of its services, products, and information, fees sufficient to result in an additional $3,000,000, to be deposited in the General Fund of the Treasury.

POINT OF ORDER

Mr. DINGELL. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state his point of order.

□ 1520

Mr. DINGELL. Mr. Chairman, I raise a point of order against the provision beginning with the word "provided" on line 24, page 48, through the end of and including all of line 4, page 49.

The CHAIRMAN. The Chair will advise the gentleman that the word "provided" is on line 25, not line 24.

Mr. DINGELL. I am sorry. Line 25, Mr. Chairman.

The CHAIRMAN. Does the gentleman from Minnesota [Mr. OBERSTAR] desire to be heard on the point of order?

Mr. OBERSTAR. Yes, Mr. Chairman.

Mr. DINGELL. Mr. Chairman, can I make the point of order before the gentleman from Minnesota responds?

The CHAIRMAN. The gentleman has made his point of order.

Mr. DINGELL. Mr. Chairman, I have not made it yet. The point of order is that the paragraph violates rule XXI, clause 2. It changes existing law by directing an agency to assess and collect user fees.

Mr. OBERSTAR. Mr. Chairman, the gentleman makes a point of order which I believe will be conceded knowing the rules as I do.

My question for the gentleman from Michigan is, the point of order he raises deals with fees to be collected by the U.S. Travel and Tourism Administration.

Mr. DINGELL. That is correct.

Mr. OBERSTAR. The U.S. TTA has been ordered to collect these fees, these user fees, but has never been able to do so because it has been ruled that U.S. TTA as a subagency of the Department of Commerce does not have the authority to collect fees though the Department of Commerce has authority to collect fees.

The question is, the gentleman objects to the Committee on Appropriations directing U.S. TTA to collect such fees, but will the gentleman then move legislation to give such authority, framing it however the gentleman wishes to do, to collect those fees and help this agency do its very substantial and useful job of bringing tourism into the United States?

Mr. DINGELL. If the gentleman will recall, the Committee on Energy and Commerce reported out legislation which dealt with this question which was ruled to be unconstitutional. We are still trying to figure out ways of addressing that particular question and it is, I want to observe with a great sense of sorrow that I rise to raise this point of order because my dear friend, the gentleman from West Virginia, who like all the rest of our good members in the Committee on Appropriations loves to legislate.

The CHAIRMAN. The Chair is dubious that this last conversation relates to the point of order.

The Chair recognizes the gentleman from West Virginia [Mr. MOLLOHAN].

Mr. MOLLOHAN. Mr. Chairman, I concede the point of order.

The CHAIRMAN (Mr. BROWN of California). The gentleman concedes the point of order. The point of order is accepted, and the proviso is stricken.

AMENDMENT OFFERED BY MOLLOHAN

Mr. MOLLOHAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MOLLOHAN: On page 48, line 21 of the bill, strike the sum "$17,907,000" and insert in lieu thereof "$14,907,000".

Mr. MOLLOHAN. Mr. Chairman, this amendment is necessary in order to keep the bill within the 602(b) allocation. The gentleman's point of order puts us above the 602(b) allocation. I look forward to working with the gentleman from Michigan, the distinguished chairman of the Committee on Energy and Commerce, in resolving this issue for the U.S. TTA as the bill progresses.

Mr. Chairman, I ask adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia [Mr. MOLLOHAN].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office provided for by law, including defense of suits instituted against the Commissioner of Patents and Trademarks; $88,329,000, to remain available until expended, to be derived from deposits in the Patent and Trademark Office Fee Surcharge Fund as authorized by law: *Provided*, That the amounts made available under the Fund shall not exceed amounts deposited; and such fees as shall be collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376, shall remain available until expended.

TECHNOLOGY ADMINISTRATION UNDER SECRETARY FOR TECHNOLOGY/OFFICE OF TECHNOLOGY POLICY

SALARIES AND EXPENSES

For necessary expenses for the Under Secretary for Technology/Office of Technology Policy, $10,000,000, of which not to exceed $2,000,000 shall remain available until September 30, 1996.

NATIONAL TECHNICAL INFORMATION SERVICE

NTIS REVOLVING FUND

For expenses necessary to implement the American Technology Preeminence Act, $12,000,000, to remain available until expended: *Provided*, That of the offsetting collections credited to this account, $140,000 are permanently canceled.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration, $21,056,000, to remain available until expended: *Provided*, That of the offsetting collections credited to this account, $2,000 are permanently canceled.

PUBLIC BROADCASTING

FACILITIES, PLANNING AND CONSTRUCTION

For grants authorized by section 392 of the Communications Act of 1934, as amended, $26,000,000, to remain available until expended as authorized by section 391 of said Act, as amended: *Provided*, That not to exceed $2,200,000 shall be available for program administration as authorized by section 391 of said Act: *Provided further*, That notwithstanding the provisions of section 391 of said Act, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year: *Provided further*, That notwithstanding the provisions of sections 391 and 392 of the Communications Act, as amended, not to exceed $700,000 appropriated in this paragraph shall be available for the Pan-Pacific Educational and Cultural Experiments by Satellite program (PEACESAT).

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BURTON of Indiana: Page 50, line 19, strike "$26,000,000" and insert "$24,000,000".

Mr. MOLLOHAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close is 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. The gentleman from Indiana [Mr. BURTON] will be recognized for 5 minutes, and the gentleman from West Virginia [Mr. MOLLOHAN] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this bill contains $26 million for planning and construction grants for public television, radio, and nonbroadcast facilities. This is 8-percent above fiscal year 1994 and it is about $2 million higher than 1994. This is almost 1½ times President Clinton's budget request. The budget request was $10.742 million. The Department of Commerce wants to scale back this program. We have a $4.5 trillion national debt, the deficit this year is going to be approximately $244 billion, and the deficit in about another 3 or 4 years is going to be over $400 billion. We must establish priorities. This is one area where we can save some money. We are not cutting back on the President's request. Originally I was going to propose an amendment to cut back what President Clinton wanted spent for this program. We decided not to do this because a lot of people feel this is very important. However, we do believe that it is reasonable to cut this back to the fiscal year 1994 budgetary request which was $24 million, so we can save $2 million here and it is not going to hurt a thing.

Mr. Chairman, I hope all of my colleagues will see fit to support this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. MOLLOHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the gentleman's amendment to cut the public broadcasting facilities, planning and construction program by $2 million. This is an excellent program. It is a competitive matching program that funds the construction, repair and replacement of public broadcasting facilities and extends, very importantly, Mr. Chairman, public radio and television signals to areas that are underserved or unserved. It also helps to upgrade and preserve services offered in existing stations. It is targeted to those areas that are underserved and have a very difficult time marshaling the resources to get on line with public radio and public television.

It is a partnership that works, Mr. Chairman. The Federal contribution leverages millions of dollars in private funds. The committee has received many requests from Members asking that this program be funded at the $35 million level, an amount included in a pending authorization bill.

□ 1530

I urge a "no" vote on the Burton amendment.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. MOLLOHAN. I am happy to yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Chairman, I likewise rise in opposition to the amendment in spite of the good friendship of mine with the mover.

I oppose the amendment, Mr. Chairman, because it would cut money from the bill that has funds for the public telecommunications and facilities program which primarily would benefit the more rural parts of the country. This program is critical to good-quality public broadcasting in rural and underserved areas, not the cities. We are talking about the underserved areas here.

This is a public-private partnership which has allowed the Federal Government to leverage a small amount of Federal dollars to create a $1.8 billion information infrastructure for the rest of the country. We cannot afford to jeopardize that investment by not maintaining the infrastructure.

This amendment would damage the maintenance and upgrading of this infrastructure. It would hit rural and poor areas especially hard, resulting in cutbacks in many of the stations around the country.

Mr. Chairman, in 1994 there were 325 applications for moneys under this program filed for a total of $97 million, and we were only able to fund, I think it was 24 million dollars' worth. This would keep us at that level in spite of the zooming applications for funds.

So I would hope that we would reject the amendment and be able to properly fund public broadcasting in the rural and poorer parts of the country.

Mr. BURTON of Indiana. Mr. Chairman, I yield myself such time as I may consume.

First of all, we are not cutting below last year's level. The President requested $10.7 million for this program. That was a dramatic cut.

My original amendment I was going to propose would cut it back to what President Clinton asked for, but we received a lot of phone calls from people who expressed their concern about public broadcasting. We said, OK, let us just cut it back to last year's level. That is only a $2 million cut.

If we did what President Clinton wanted to do, we would cut it in half. We would cut it more than in half, from $26 million down to $10.7 million.

This is not a draconian cut. This is reasonable. It is just taking it back to last year's level.

So if it is so important that this be funded at the level the chairman and ranking Republican thinks it should be funded at, then why is it the President of the United States said it should only be funded at $10.7 million?

I say to my colleagues this is a reasonable cut. It is not going to cut into the muscle and bone of the Public Broadcasting System. It is going to confine it to last year's spending level, and with the budget deficit being what it is, with the fiscal problems facing this Nation what they are, it seems to me it is reasonable to make a cut of only $2 million.

Mr. Chairman, I reserve the balance of my time.

Mr. MOLLOHAN. Mr. Chairman, I yield myself such time as I may consume.

I would point out this reduction of funding would bring down the level to that of 1980, $24 million, 15 years ago, without taking into account even inflation. The need for this program, the demand, is substantially more than we have appropriated.

Mr. Chairman, I yield 1 minute to my distinguished colleague, the gentleman from North Carolina [Mr. PRICE].

Mr. PRICE of North Carolina. Mr. Chairman, our distinguished subcommittee chairman makes a very important point here. The number of applications, the possible worthy uses of these funds every year, far exceed the annual appropriation.

For example, in 1993 the agency received 305 applications totaling $77 million. This year so far we are talking about 325 applications totaling $97 million. So the need is out there.

This modest appropriation also leverages a great deal of money from other sources. Our experience in North Carolina is perhaps typical of this where an award amount of $864,000 last year helped us meet a total project cost of over $2 million. Funds from other sources, public and private, helped us stretch the Federal grant and maximize its impact.

This is a modest appropriation, Mr. Chairman, and it should not be reduced further, for it is money well spent.

Mr. BURTON of Indiana. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, Let me conclude then by saying this is not a draconian cut. We are only cutting it back to last year's funding level. It is only $2 million. We are not cutting back to what President Clinton requested we do, which was $10.7 million, which is about a $13 million cut. This is reasonable.

I understand there is a need for public broadcasting, but to take it beyond last year's levels right now is fiscally irresponsible.

Mr. Chairman, I yield back the balance of my time.

Mr. MOLLOHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I urge opposition to the amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. BURTON].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BURTON of Indiana. Mr. Speaker, I demand a recorded vote and pending that, I make the point of order a quorum is not present.

The CHAIRMAN. The gentleman makes a point of order a quorum is not present. The Chair will count for a quorum.

Does the gentleman insist on his point of order?

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. SOLOMON. Is the gentleman going to be able to get a vote if he does withdraw his point of order, a recorded vote?

The CHAIRMAN. While the chair is now counting for a quorum, the chair observes 25 members standing.

Mr. BURTON of Indiana. I withdraw my point of order, and I thank the gentleman.

Mr. SOLOMON. Does the Chair think there are 25 Members here?

The CHAIRMAN. The point of no quorum has been withdrawn, a sufficient number having arisen, a recorded vote is ordered.

Mr. SOLOMON. You realize our nose is out of joint after that last episode.

The CHAIRMAN. The Chair apologizes if he miscounted.

Mr. SOLOMON. Your apology is accepted.

Mr. BURTON of Indiana. Mr. Chairman, I withdraw my point of order and thank my colleague, the gentleman from New York.

The CHAIRMAN. A sufficient number having arisen, a recorded vote is ordered.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 156, noes 230, not voting 53, as follows:

[Roll No. 279]

AYES—156

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Ballenger
Barca
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bentley
Bereuter
Bilirakis
Blute
Boehner
Bonilla
Bunning
Burton
Buyer
Calvert
Camp
Canady
Castle
Coble
Collins (GA)
Combest
Condit
Cooper
Coppersmith
Costello
Crane
Crapo
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fowler
Franks (CT)
Franks (NJ)
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Glickman
Goodlatte
Goss
Grams
Grandy
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Johnson (GA)
Johnson, Sam
Kasich
Kennedy
Kim
Kingston
Klug
Knollenberg
Kolbe
Kreidler
Kyl
Laughlin
Lazio
Levy
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Machtley
Manzullo
McCrery
McHugh
McKeon
Meyers
Molinari
Montgomery
Moorhead
Myers
Nussle
Orton
Oxley
Parker
Paxon
Penny
Petri
Porter
Portman
Poshard
Quillen
Ramstad
Ravenel
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Slattery
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Swett
Talent
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Walker
Weldon
Wolf
Young (FL)
Zimmer

NOES—230

Abercrombie
Ackerman
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barlow
Bateman
Becerra
Beilenson
Berman
Bilbray
Bliley
Boehlert
Bonior
Borski
Boucher
Brooks
Browder
Brown (CA)
Brown (OH)
Bryant
Byrne
Callahan
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Conyers
Coyne
Cramer
Cunningham
Danner
Darden
de la Garza
de Lugo (VI)
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fish
Flake
Foglietta
Frank (MA)
Frost
Furse
Gallegly
Gejdenson
Gephardt
Gibbons
Gilman
Gonzalez
Goodling
Gordon
Green
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hefner
Hinchey
Hoagland
Hochbrueckner
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennelly
Kildee
King
Kleczka
Klein
Klink
Kopetski
LaFalce
Lancaster
Lantos
LaRocco
Leach
Levin
Lewis (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCurdy
McDade
McDermott
McHale
McInnis
McKinney
McNulty
Meek
Menendez
Mfume
Mica
Michel
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Moran
Morella
Murtha
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Packard
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Price (NC)
Rahall
Reed
Regula
Roemer
Rogers
Romero-Barcelo (PR)
Rowland
Roybal-Allard
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swift
Synar
Tanner
Tauzin
Tejeda
Thornton
Thurman
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Young (AK)

NOT VOTING—53

Andrews (ME)
Andrews (NJ)
Baker (LA)
Bevill
Bishop
Blackwell
Brewster
Brown (FL)
Collins (MI)
Cox
Deal
Faleomavaega (AS)
Fields (TX)
Fingerhut
Ford (MI)
Ford (TN)
Gutierrez
Hastings
Hayes
Hilliard
Hoke
Hunter
Lambert
Lehman
Lewis (FL)
McCandless
McCloskey
McCollum
McMillan
Meehan
Miller (FL)
Murphy
Owens
Pombo
Pryce (OH)
Quinn
Rangel
Reynolds
Richardson
Ridge
Rose
Rostenkowski
Roukema
Rush
Smith (OR)
Thompson
Torres
Torricelli
Towns
Underwood (GU)
Washington
Waters
Zeliff

□ 1558

The Clerk announced the following pairs:

On this vote:

Mr. Deal for, with Mr. Rangel against.

Mr. Hunter for, with Mr. McCollum against.

Mr. Lewis (FL) for, with Mr. Quinn against.

Mr. Miller (FL) for, with Mr. Hastings against.

Mrs. Roukema for, with Mr. McCloskey against.

Mr. Smith (OR) for, with Mr. Towns against.

Mr. GALLEGLY changed his vote from "aye" to "no."

Messrs. CALVERT, ROBERTS, SLATTERY, and BEREUTER changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

INFORMATION INFRASTRUCTURE GRANTS

For grants authorized by section 392 of the Communications Act of 1934, as amended, $70,000,000, to remain available until expended as authorized by section 391 of said Act, as amended: *Provided*, That not to exceed $5,000,000 shall be available for program administration and other support activities as authorized by section 391 of said Act: *Provided further*, That of the funds appropriated herein, not to exceed 5 percent may be available for telecommunications research activities for projects related directly to the development of a national information infrastructure: *Provided further*, That notwithstanding the requirements of section 392(a) and 392(c) of such Act, these funds may be used for the planning and construction of telecommunications networks for the provision of educational, cultural, health care, public information, public safety or other social services.

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BURTON of Indiana: Page 51, line 10, strike "$70,000,000" and insert "$48,000,000".

Mr. MOLLOHAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes and that the time be equally divided between the gentleman from Indiana [Mr. BURTON] and myself.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. BURTON of Indiana. Mr. Chairman, reserving the right to object, I do not have an objection to limiting the time, but I think, if we could limit it to 15 minutes, 7½ minutes on each side, we may not use all of that, but it would be better.

Mr. MOLLOHAN. Mr. Chairman, if the gentleman will yield, I accept the time allocation offered by the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Then the unanimous consent request will be for limiting time for debate on this amendment to 15 minutes equally divided.

Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana [Mr. BURTON] for 7½ minutes.

Mr. BURTON of Indiana. Mr. Chairman, this bill contains $70 million for information infrastructure grants, and that is $44 million, over 1½ times what it was last year, in fiscal year 1994.

That is almost $30 million below the President's budget request. He wanted even more. Last year Congress appropriated only $26 million for this grant program, and this year it is $70 million. That is a 169 percent increase in one year.

□ 1600

Now, I am aware of the opportunities that will be created by the new information superhighway. The new telecommunications technology is exciting and its something that the Federal Government should support. However, we have a $4.5 trillion national debt and our kids are going to be saddled with this. The interest on the national debt alone is one of the largest expenditures in the budget.

The deficit for this year, as I said before, is going to be approximately $244 billion. If we do not do something pretty quick, it is going to climb to almost $420 billion in the next three to four years. Therefore, the Federal Government's role in building the information superhighway will have to be more limited than some of us would like.

Now, I am not sure we should be spending money on some of these demonstration projects listed on page 71 of the committee report either. Since my amendments in the past, Mr. Chairman, to freeze funding for various programs at previous years' levels, as the previous amendment was supposed to freeze at last year's level, have not been supported by the House, I am simply proposing to reduce this $44 million increase by half, so there will still be a $22 million increase if my amendment passes.

I hope all Members heard that. If my amendment passes, this will still be $22 million above last year's level. Under my amendment, funding will be almost $48 million, or an increase over last year of 85 percent. Now, that has to be reasonable. We are almost doubling the appropriation from last year. We can still save the taxpayer $22 million and do something for the information superhighway.

So I hope my colleagues will see fit to support this amendment. It is reasonable and fiscally prudent.

Mr. Chairman, I reserve the balance of my time.

Mr. MOLLOHAN. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I rise in opposition to the amendment. Mr. Chairman, the goal of the National Information Infrastructure Initiative is to ensure that all Americans have access to affordable information and telecommunications technology. I emphasize all Americans. Also, this is a key provision in President Clinton's investment initiative and it will assist in bringing enhanced communications services across the country, including low-income inner cities and rural residences.

Mr. Chairman, this is an extremely important item. Investing now in national information infrastructure will ensure that the United States does not become a nation of information have's and have not's. The National Information Infrastructure demonstration grants will serve as models to help spread the benefits of technologies in such critical areas as health care, education, and other social services, and spur overall growth of the information superhighway.

There are lots of entities that have the ability to access the information highway. There are lots that do not. These grants are targeted to those that do not have the resources to utilize this critical technology.

Mr. Chairman, I reserve the balance of my time.

Mr. ROGERS. Mr. Chairman, do I have time reserved in the debate?

Mr. MOLLOHAN. Mr. Chairman, the gentleman has half of my time. That is part of my unanimous consent request.

The CHAIRMAN. The gentleman from Kentucky [Mr. ROGERS] has 3¾ minutes.

Mr. ROGERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the amendment that my good friend offers.

Mr. Chairman, I am opposed to the amendment because this program is the one that will fund, if we fund them at all, distance learning operations which affect the rural parts of the country for such things as health initiatives for economic development work for all sort and manner of information on the new information highway.

Without these kinds of grants, and I think this is a modest figure in the bill for a national program, without these grants, rural parts of this country will not be able to afford to tie in to the Nation's information highway, especially on health matters.

So I would hope that we would defeat the amendment. I realize the gentleman is well-intentioned in his amendment, and he is a good friend who offers good advice all the time, except this one instance. I am asking that the gentleman's amendment be defeated.

Mr. Chairman, I reserve the balance of my time.

Mr. BURTON of Indiana. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just like to say that every time we have an increase spending amendment, I hear the same thing. "This is the most important thing that has ever come before this body, and if we do not do it, the sky is going to fall." And people are running around like Henny Penny saying, "Oh, my gosh, this is the end of the world."

The fact of the matter is, the information superhighway is not going to stop. That is the wave of the future. And whether government does it or the private sector does it, the information superhighway is going to continue to move ahead at a rapid rate.

Now, we have severe deficit problems. It portends severe economic problems in the future if we do not get control of our appetite for spending.

I just said in a couple of my remarks the deficit this year is going to be almost a quarter of a trillion dollars. They said that this is going to be a big reduction year. It is not. There will be a $244 billion shortfall this year.

Now, the amendment I am proposing is not cutting back the last year's level. Last year's level we spent $26 million for the information superhighway. This would be an increase of 169 percent if we pass the proposal made by the committee.

I am just trying to reduce it to half of that. This is going to be an 85 percent increase, if my amendment passes.

I hope everybody is getting that. If my amendment passes, you are still increasing spending by 85 percent. You are still increasing spending by $22 million over last year. This is not a cut. It is merely reducing the amount of the increase by $22 million.

So I say to my colleagues, if you believe we ought to spend more money on the infrastructure of the information superhighway, fine. You are going to get a $22 million increase if my amendment passes. But we do not need to increase it by 169 percent over last year.

Mr. Chairman, I reserve the balance of my time.

Mr. MOLLOHAN. Mr. Chairman, I yield 1¼ minutes to the gentleman from North Carolina [Mr. PRICE], a distinguished member of the subcommittee.

Mr. PRICE of North Carolina. Mr. Chairman, I rise in opposition to the amendment.

This initiative is one of the most important in the Department of Commerce that our bill will fund this year.

Last year, $26 million was appropriated for this program for the first time. That $26 million has generated over 7,000 inquiries to the National Telecommunications and Information Administration [NTIA], and NTIA expects from 1,000 to 1,500 applications to result from the inquiries.

Forty percent of the funds have been earmarked by NTIA for planning grants; 60 percent for demonstrations.

The purpose of the high allocation for planning is to encourage a wide range of entities—States, regions, municipalities, nonprofit organizations—and a wide range of applications, for example, hospitals, schools, libraries, governments—in rural, suburban, and urban settings across the United States.

Now, in fiscal year 1995, we are responding to the President's request to move this program forward with a generous increase for projects to demonstrate the enormous possibilities of the information superhighway.

This is an important investment, and just as the statistics for the limited fiscal year 1994 funds demonstrate the overwhelming interest in this endeavor, we can expect a similar outpouring of demand as we provide the funds to move from the planning to the operational stage.

I can't think of a better application of penny wise and pound foolish than the Burton amendment which cuts this level of funding.

This is a program where we want to encourage a wide variety of efforts to make America's economy more productive, to put information to use in our daily lives, and to bring the power of modern technology to bear in ways we can only dream of now.

To cut back on this commitment—which has been made after significant work by our subcommittee in a very tight budget year—would be to take a step backward in our economic, technical, and social progress.

I strongly oppose the amendment, and I urge the committee to sustain the level of funding provided by the committee.

Mr. MOLLOHAN. Mr. Chairman, I am very pleased to yield 1½ minutes to the very distinguished gentleman from Massachusetts [Mr. MARKEY], the knowledgeable chairman of the Subcommittee on Telecommunications and Finance of the Committee on Energy and Commerce.

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want to compliment the chairman of the subcommittee and the ranking minority member.

Mr. Chairman, this is a very central part of our ability to move to this new era where we capture the benefits of this telecommunications computer software revolution and ensure that it becomes accessible, not only to the wealthy, but to those who are in rural America, to those who are in the most isolated parts of our country.

□ 1610

A large part of this funding is going to be levering the applications that are going to come in from across the country to try to figure out how we are going to bring distance learning to the most rural parts of the country; how are we going to bring telemedicine, that is, how are we going to bring the consultations from Stanford and from Harvard Medical School into the most remote communities of the United States?

That is what these grants are all about. Right now we expect 800 million dollars' worth of leverage that this 70 million dollars' worth of grants will unleash in terms of investment in these kinds of projects. This ensures that the promise of the information superhighway just does not reach to the wealthy streets in the best communities in America but also to those parts of the country with those kinds of services which I think are the glittering promise of the information superhighway. That is, how with learning, with health care, with information we give it to every part of the country from inner cities to the most distant rural hamlet.

Mr. BURTON of Indiana. Mr. Chairman, I yield myself such time as I may consume.

I would like to ask the gentleman a question, if I may. Could the gentleman tell me, last year it was $26 million. This year it is a $70 million request. Can the gentleman give us a rough idea what we are looking at down the road next year and the following year as far as requests for moneys?

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, as the years go by, we expect this to be phased out. In these initial years, where the technologies are new and the concepts are new, we are trying here to create a mechanism by which we focus upon that part of the superhighway discussion which most likely will go unattended to, which is the rural American part of it, how we serve the inner city.

We do not have a specific amount that we are contemplating next year. To tell the gentleman the truth, the administration proposed $150 million in this year's budget. It is down to $70 million. But over time, this will be phased out because we expect for the market system to ultimately devise mechanisms, once we have identified and proven the ability for these technologies to reach these isolated problem areas.

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman.

Let me just reclaim my time and finish my discussion.

We have so many programs that are going to require more and more money as the years go by. They are all very worthwhile. And we do not seem to prioritize around here. And as a result, at some point in the future, we are going to reach a point of severe diminishing return on the entire investment of this Government.

It is estimated that the national debt will get to $7 trillion, maybe $8 trillion in the next 5 to 6 years. If it gets to that point, the interest alone on the national debt is going to be the largest expenditure that we have. We are going to saddle our kids and our grandkids with a budgetary problem that will be insolvable. So we have to prioritize. I have proposed amendments, over the years, time and time again, to cut out programs and trim programs that reduced them to last year's spending level. Every time we see those amendments go down.

This one allows for a $22 million increase over last year or an 85-percent increase over last year. It would save the taxpayers $22 million and help reduce this runaway Federal debt or deficit.

It appears as though we are falling on deaf ears again. I just would like to say to my colleagues, the information superhighway is going to go forward whether we make this cut or not. There is no doubt about it. That is the wave of the future. But can we continue to support these huge increases in program after program, running this country into debt to such a degree that we will never dig ourselves out and our kids will suffer? I hope not. I think not.

I would just like to say to my colleagues, this is going to be an 85-percent increase if my amendment passes. It is a $22 million increase if my amendment passes, but it will save the taxpayers $22 million over what the committee proposes. It is a good amendment. I urge it pass.

Mr. ROGERS. Mr. Chairman, I have no requests for time, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. BURTON].

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BURTON of Indiana. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 161, noes 227, not voting 51, as follows:

[Roll No. 280]

AYES—161

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Ballenger
Barca
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bentley
Bereuter
Bilirakis
Boehlert
Boehner
Bonilla
Browder
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Coble
Collins (GA)
Combest
Condit
Costello
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Ehlers
Everett
Ewing
Fawell
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Goss
Grams
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Horn
Huffington
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Johnson (CT)
Kaptur
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kreidler
Kyl
Lazio
Leach
Levy
Lewis (FL)
Lewis (KY)
Linder
Lucas
Machtley
Mann
Manzullo
McCrery
McHugh
McInnis
McKeon
Meyers
Mica
Michel
Minge
Molinari

Moorhead
Morella
Nussle
Oxley
Packard
Paxon
Penny
Peterson (MN)
Petri
Porter
Portman
Poshard
Ramstad
Ravenel
Regula
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Swett
Talent
Taylor (MS)
Taylor (NC)
Thomas (WY)
Torkildsen
Traficant
Vucanovich
Walker
Weldon
Wolf
Young (FL)
Zimmer

NOES—227

Abercrombie
Ackerman
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barlow
Bateman
Becerra
Beilenson
Berman
Bilbray
Bliley
Blute
Bonior
Borski
Boucher
Brooks
Brown (CA)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Conyers
Cooper
Coppersmith
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Emerson
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fish
Flake
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Grandy
Green
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hayes
Hefner
Hinchey
Hoagland
Hochbrueckner
Holden
Houghton
Hoyer
Hughes
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kolbe
Kopetski
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Levin
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey
Maloney
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCurdy
McDade
McDermott
McHale
McKinney
McNulty
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Orton
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pickle
Pomeroy
Price (NC)
Quillen
Rahall
Reed
Roemer
Rogers
Romero-Barcelo (PR)
Rowland
Roybal-Allard
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Sundquist
Swift
Synar
Tanner
Tauzin
Tejeda
Thomas (CA)
Thornton
Thurman
Tucker
Underwood (GU)
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Walsh
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Young (AK)

NOT VOTING—51

Andrews (ME)
Andrews (NJ)
Baker (LA)
Bevill
Bishop
Blackwell
Brewster
Brown (FL)
Collins (MI)
Cox
Deal
Faleomavaega (AS)
Fields (TX)
Fingerhut
Ford (MI)
Ford (TN)
Gutierrez
Hastings
Hilliard
Hoke
Hunter
Johnson, Sam
Lambert
Lehman
McCandless
McCloskey
McCollum
McMillan
Meehan
Miller (FL)
Murphy
Owens
Pombo
Pryce (OH)
Quinn
Rangel
Reynolds
Richardson
Ridge
Rose
Rostenkowski
Roukema
Rush
Smith (OR)
Thompson
Torres
Torricelli
Towns
Washington
Waters
Zeliff

□ 1635

The Clerk announced the following pairs:

On this vote:

Mr. Miller of Florida for, with Mr. McCloskey against.

Mrs. Roukema for, with Mr. Quinn against.

Mr. Smith of Oregon for, with Mr. Rangel against.

Mr. LIVINGSTON changed his vote from "aye" to "no."

Ms. KAPTUR changed her vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

ENDOWMENT FOR CHILDREN'S EDUCATIONAL TELEVISION

For expenses necessary to carry out the provisions of the National Endowment for Children's Educational Television Act of 1990, title II of Public Law 101–437, including costs for contracts, grants and administrative expenses, $2,500,000, to remain available until expended.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For grants for economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, Public Law 91–304, and such laws that were in effect immediately before September 30, 1982, and for trade adjustment assistance, $338,524,000: *Provided*, That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration: *Provided further*, That, notwithstanding any other provision of law, the Secretary of Commerce may provide financial assistance for projects to be located on military installations closed or scheduled for closure or realignment to grantees eligible for assistance under the Public Works and Economic Development Act of 1965, as amended, without it being required that the grantee have title or ability to obtain a lease for the property, for the useful life of the project, when in the opinion of the Secretary of Commerce, such financial assistance is necessary for the economic development of the area: *Provided further*, That the Secretary of Commerce may, as the Secretary of Defense regarding the title to land on military installations closed or scheduled for closure or realignment.

AMENDMENT OFFERED BY MR. PENNY

Mr. PENNY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Penny: Page 52, line 14, strike "$338,524,000" and insert "$270,819,000".

Mr. MOLLOHAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes, and that my time be equally divided between the gentleman from Kentucky [Mr. ROGERS] and myself.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. The gentleman from Minnesota [Mr. PENNY] will be recognized for 5 minutes, the gentleman from West Virginia [Mr. MOLLOHAN] will be recognized for 2½ minutes, and the gentleman from Kentucky [Mr. ROGERS] will be recognized for 2½ minutes.

The Chair recognizes the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment is quite straightforward. It represents a 20-percent cut in the funding level for the Economic Development Administration.

Mr. Chairman, the EDA provides grants to State and local governments for public works, technical assistance and jobs programs as well as loan guarantees to firms for business development.

One criticism of the EDA is that Federal assistance should not be provided for activities whose benefits are primarily local and, therefore, whose responsibility should be that of State and local governments. In addition, EDA programs have been criticized, I think legitimately, for substituting Federal credit for private credit and facilitating the relocation of businesses from one distressed area to another through the competition among local communities for Federal funds. In other words, we underwrite with Federal dollars the establishment of a facility in one community because they have better grant writers than another community, and that makes no economic sense.

Mr. Chairman, the EDA has also been criticized for its broad eligibility criteria which allows areas containing over 80 percent of all the U.S. population to compete for these funds. If we were to target the EDA more narrowly on communities that are in desperate need of urban or rural development, I think the EDA Program would be more defensible. But in our desire to pork barrel spend all over the country, 80 percent of the country is now eligible for EDA grants, making this program highly dubious.

Mr. Chairman, this level of funding reduction would not eliminate the program but it would send a very strong signal that we are determined to see this program more carefully targeted and better utilized. We offered this 20 percent reduction for the EDA as a part of the Penny-Kasich package last November.

I would urge favorable consideration of the amendment today.

Mr. Chairman, I reserve the balance of my time.

Mr. MOLLOHAN. Mr. Chairman, I rise in strong opposition to this amendment.

Mr. Chairman, I yield 2 minutes to the gentleman from West Virginia [Mr. WISE], chairman of the Subcommittee on Economic Development of the Committee on Public Works and Transportation.

Mr. WISE. Mr. Chairman, I thank the gentleman from West Virginia for yielding me the time.

The gentleman from West Virginia, chair of the subcommittee, has done a masterful job in his debut this year as chairman of this committee in bringing out a very, very important bill.

Basically in responding to the gentleman from Minnesota, I would first point to this chart, and this chart shows the EDA as it has evolved from 1966 in 1993 dollars. Its high was almost $1.5 billion, to 1995 when it is $365 million. Indeed, the last 10 years combined do not equal the first 2 years of funding.

No. 2, in terms of eligibility, the EDA while technically as the gentleman from Minnesota notes could apply to 80-some percent of the country, in truth and administratively, it has not been applied that way and, indeed, this House has passed an authorization bill that would limit it to 45 percent of the country.

□ 1640

Let me also note that the gentleman's amendment would cut 20 percent of the EDA funding. The EDA bill that the gentleman from West Virginia has brought to the floor is already significantly below both the authorized level and several, many millions, below, $38 million below, the President's proposal.

I would urge rejection obviously of this amendment. If you have got a water system that you are trying to get to an industrial park to create jobs, it is the EDA that is the linchpin. If you are trying to save your community because of defense closing, who is it you call? You call the EDA. If you have had a flood recently such as the Mississippi in the Midwest, who is it you have gone to? You have gone to the EDA.

This is not the place to be cutting funds.

I would urge rejection.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. WISE. I yield to the gentleman from Washington.

Mr. DICKS. This has been the most effective program in the Pacific Northwest over the last 26 years.

I commend the gentleman for his statement and rise in strong support of defeating the Penny amendment.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. WISE. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for yielding.

Since the beginning of EDA, this program has created or saved over 2 million jobs. Every year that EDA is in operation, the tax dollars generated by EDA-created jobs exceed the total the amount of money spent and invested in this program over the years.

Vote against the Penny amendment.

Mr. WISE. I urge rejection of the Penny amendment.

Mr. ROGERS. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, I am opposed to this amendment strongly. The EDA is a proven economic development and jobs program.

The House acknowledged that fact just last month when we passed overwhelmingly the EDA reauthorization bill by a vote of 328 to 69. This bill follows the intent of the House by funding all EDA programs at or below the House-passed authorization levels.

Many communities in this country are suffering from long-term distress, natural disasters, defense cutbacks, and what-have-you.

EDA gives these communities a helping hand, not a handout.

I might note the district of the gentleman from Minnesota, his own district just last year received almost $5 million from EDA for disaster assistance for help in recovering from the Midwestern floods. Surely, he would agree these communities need and deserve assistance, and, surely, he would also agree that an area like Floyd County in my district which has a 12-percent unemployment rate conservatively deserves assistance.

Because of an EDA grant, the county was able to attract 100 new jobs and an additional $1 million in annual revenue for the local economy.

A vote for the Penny amendment is a vote to ensure that these communities have less help and less hope.

I urge rejection of the amendment. Let us give these communities hope as well as some help.

Mr. PENNY. Mr. Chairman, I yield myself the balance of my time.

I would simply add in conclusion that the defense of this program is not surprising to me given the fact that 80 percent of America qualifies for assistance under this program.

Certainly, it has done some good in the years that it has been around. I question whether the program has done as much good as the appropriators would imply.

The appropriation level this year is over $300 million. The point has been made that this program is receiving far fewer funds than it received in its origin. I think that is clear evidence that in times of tighter and tighter budgets, this Congress has decided that this is one of the programs that could be reduced.

Clearly, budgets are not going to get any easier to deal with in the years ahead, and we ought to take those programs that have been reduced in recent years and follow that trend line down. It is a program that, frankly, could and should be canceled at some point. This is probably not the year to do that, but at least we ought to consider a 20-percent reduction as a way of signaling that an EDA program created some 30 years ago as part of a war on poverty does not suit or meet the needs of America in the 1990's.

I would again urge favorable consideration of the amendment.

Mr. MOLLOHAN. Mr. Chairman, I yield 30 seconds to the gentleman from South Carolina [Mr. CLYBURN], who as a freshman has distinguished himself by his hard work and effectiveness on the Committee on Public Works and Transportation.

Mr. CLYBURN. Mr. Chairman. I rise today in strong opposition to the amendment offered by my colleague, the gentleman from Minnesota.

The Economic Development Administration was established by Congress in 1965 as an agency to promote prosperity in economically deprived areas of the country. I represent a district which has many economically depressed areas which rely heavily upon the EDA, and other public agencies, for assistance in promoting job creation.

Mr. Chairman, infrastructure is essential to job creation in a manufacturing environment. Many communities in my State of South Carolina cannot meet the infrastructure requirements of manufacturers alone, and must rely on the EDA's assistance.

In addition, the EDA provides funding for regional planning assistance to identify local needs and priorities. Once again, many of the areas in my State rely upon these funds to undertake planning functions. The direct result of these planning activities is a more efficient and cost effective administration of local government.

Mr. Chairman, the appropriation for the Economic Development Administration is meager and inadequate at best. I strongly oppose any plan to reduce this much needed resource.

Mr. ROGERS. Mr. Chairman, I yield 1 minute, the balance of my time, to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, this amendment is well intentioned but ill advised.

Keep in mind that EDA is the one Federal agency which has as its sole mission helping communities create jobs. Keep in mind EDA has taken the lead in assisting communities suffering adverse impacts by base closings and realignment. Keep in mind that EDA helps leverage private, State and local money, and the Federal share is less than 50 percent for most of these projects. EDA is the one Federal agency helping communities create jobs at a time when the Federal Government is the biggest disemployer of America. I would submit it has inadequate funds. To talk about a 25-percent cut, I think, would be draconian and contrary to the best interests of all across America that send us here to represent their interests and to try and expand jobs and opportunity for all Americans.

Ms. SNOWE. Mr. Chairman, I rise in opposition to the Penny Amendment to reduce funding for the Economic Development Administration [EDA] by 20 percent. EDA contributes significantly to economic growth and job expansion. Clearly, EDA fulfills a key function in providing State and local governments, nonprofit organizations, and public institutions with vital economic grants and technical assistance. EDA is vitally important to those who depend on its resources.

Over the years EDA has proven to be a valuable source of economic assistance for regions all over the United States. EDA provided a total of $301.8 million in 1993 to various organizations across the country. This assistance was in the form of public works grants to public and private nonprofit organizations and technical grants and assistance to enable communities and firms to find solutions to problems that inhibit economic growth.

EDA also provided planning grants to States, cities, districts, and Indian reservations and special economic adjustment assistance to help State and local governments solve recent and anticipated severe adjustment problems, including defense conversion assistance.

I know that my home State of Maine has benefited from EDA funding. Last year, EDA provided economic assistance for 12 projects in Maine totaling over $2.5 million. Some of these projects assisted with EDA funds include the expansion of the international and domestic arrivals terminals at Bangor International Airport and the Eastport cargo facilities. EDA assistance has helped finance Maine businesses and developed revolving loan fund programs, as well. In short, Maine, like many areas of the country, benefits tangibly from EDA resources.

The challenges of defense conversion are enormous, and EDA is an agency that is helping the Federal Government face those challenges by assisting industries, communities, and individuals adversely impacted by base closures and drastic cuts in defense spending.

Over 2 years ago, I introduced comprehensive legislation to assist the people of communities faced with the severe economic hardships caused by the closure of a major military installation, and the role of EDA was a fundamental component of that legislation.

EDA is actively involved in defense conversion efforts throughout the country. I recently introduced legislation that slightly amends the guidance for the EDA's defense conversion responsibilities dealing with funds authorized under defense bills. Currently, the EDA does not give any special preference to defense conversion projects. My legislation specifically directs EDA to "ensure that funds are reserved for communities identified as the most substantially and seriously affected by the closure or realignment of a military installation or the curtailment, completion, elimination, or realignment of a major defense contract or subcontract."

The State of Maine is the fourth highest recipient of defense sending per capita in the Nation, and defense is the State's third largest industry. But Maine has lost approximately 10,000 defense-related jobs since 1989, and there is a deep concern that thousands of additional jobs are threatened by continued reductions in defense spending. The opportunities afforded by EDA are absolutely critical for the long-term health of Maine's economy.

I believe that the Federal Government has the responsibility to provide the economic policies, tools, and incentives that are needed to stimulate both the economy and defense conversion initiatives. And the Economic Development Administration plays a vital role in fulfilling that responsibility.

Mr. Chairman, as we consider funding for EDA for the upcoming fiscal year, we cannot overlook its valuable contributions to communities all across this Nation. I hope my colleagues will join me in supporting sufficient funding for EDA and opposing the Penny amendment.

Mr. MINETA. Mr. Chairman, I rise in opposition to the gentleman's amendment to H.R. 4603, the Commerce, Justice, State, and related agencies appropriations bill for fiscal year 1995. However, before I discuss the specific provisions of the amendment, I would like to commend the chairman of the Appropriations Subcommittee, Mr. MOLLOHAN, and its ranking member, Mr. ROGERS, for their excellent work on this bill.

The amendment offered by the gentleman from Minnesota would reduce total funding in the bill for the Economic Development Administration by 20 percent, cutting $67.7 million from EDA program funds.

Just last month, the House expressed its overwhelming support for EDA by passing H.R. 2442, the Economic Development Reauthorization Act of 1994, by a vote of 328 to 89. That bill reflected a bipartisan agreement of members of both the Public Works Committee and the Committee on Banking, Finance and Urban Affairs and was strongly supported by Members on both sides of the aisle. For the first time in more than a decade, Congress expects to enact EDA authorization legislation.

The House-passed authorization bill also launches EDA on a new effort founded on reform, responsibility, efficiency, and accountability. Gone are the programs and approaches of old. Gone are the inefficient bureaucracies; gone are the archaic eligibility requirements; gone are the time-consuming and cumbersome approval processes; and gone are the exorbitant authorization levels. The House-passed bill addresses both the concerns of the past and enables EDA to meet current and future challenges, keep our industries competitive in global markets, and maintain our quality of life.

Today, the gentleman from Minnesota offers an amendment to cut these programs' appropriations by 20 percent or $68 million. H.R. 4603 appropriates a total of $338.5 million for EDA programs. These programs appropriations are well within the authorization levels of the House-passed bill. In addition, this bill appropriates $38 million less than the President's request. This bill is fiscally responsible.

At a time when the infrastructure of distressed communities is crumbling, this amendment would cut much-needed public works funds. At a time when communities need assistance to determine how to compete in the global market, this amendment would cut critical planning and technical assistance. At a time when defense bases are closing, this amendment would cut defense economic adjustment assistance.

Before we cut these programs without due consideration to the effect, let's provide EDA with an opportunity to ensure that our Nation's economic development program is second to none.

Mr. Chairman, I urge Members, especially the 328 Members who voted for the EDA bill, to vote "no" on the Penny amendment.

Mr. MONTGOMERY. Mr. Chairman, I rise in opposition to this amendment to cut funding for the economic development administration by 20 percent.

I can tell you that EDA has been a very effective program in the State of Mississippi. EDA has been a key factor in helping bring jobs and better opportunities to our State.

The grants and technical assistance provided by EDA have enabled rural communities in Mississippi to develop industrial parks that have been so important to attracting new business and industrial ventures. The money has helped build roads, develop water and sewer systems and fund other projects that could not have been produced without it.

In Mississippi, EDA has truly had a positive impact. Much progress has been made and I look forward to continuing to work with EDA in the future on projects that will bring jobs and more economic opportunity to States like mine.

I hope you will oppose this cutting amendment and allow EDA to keep up the good work it has been doing in Mississippi and across the country.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. PENNY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GOODLATTE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 110—noes 282, not voting 47, as follows:

[Roll No. 281]

AYES—110

Allard
Andrews (TX)
Archer
Armey
Bachus (AL)
Baker (CA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bereuter
Bilirakis
Bliley
Boehner
Bonilla
Brown (OH)
Bunning
Burton
Calvert
Castle
Coble
Collins (GA)
Combest
Condit
Cox
Crane
Crapo
Cunningham
DeLay
Doolittle

Dornan
Dreier
Duncan
Dunn
Ehlers
Ewing
Fawell
Fowler
Gallegly
Gingrich
Goodlatte
Goss
Grams
Greenwood
Hancock
Hansen
Hastert
Hefley
Hoagland
Hoekstra
Huffington
Hyde
Inglis
Inhofe
Istook
Kasich
Kim
King
Klug
Knollenberg
Kolbe
Kyl
Leach
Levy
Lewis (FL)
Lewis (KY)
Linder
Livingston
Lucas
Mann
Manzullo
Margolies-Mezvinsky
McInnis
McKeon
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Nussle
Oxley
Packard
Paxon
Penny
Petri
Porter
Portman
Ramstad
Roberts
Rohrabacher
Roth
Royce
Schaefer
Sensenbrenner
Shays
Smith (MI)
Smith (TX)
Solomon
Stearns
Stenholm
Stump
Talent
Thomas (WY)
Walker
Weldon
Wolf
Young (FL)
Zimmer

NOES—282

Abercrombie
Ackerman
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Bateman
Becerra
Beilenson
Bentley
Berman
Bilbray
Blute
Boehlert
Bonior
Borski
Boucher
Brooks
Browder
Brown (CA)
Bryant
Buyer
Byrne
Callahan
Camp
Canady
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Eshoo
Evans
Everett
Farr
Fazio
Fields (LA)
Filner
Fish
Flake
Foglietta
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Grandy
Green
Gunderson
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hayes
Hefner
Herger
Hinchey
Hobson
Hochbrueckner
Holden
Horn
Houghton
Hoyer
Hughes
Hutchinson
Hutto
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kingston
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Levin
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Long
Lowey
Machtley
Maloney
Manton
Markey
Martinez
Matsui
Mazzoli
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McKinney
McNulty
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Orton
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Quillen
Rahall
Ravenel
Reed
Regula
Roemer
Rogers
Romero-Barcelo (PR)
Ros-Lehtinen
Rowland
Roybal-Allard
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shaw
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Spence
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Sundquist
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thornton
Thurman
Torkildsen
Traficant
Tucker
Underwood (GU)
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Young (AK)

NOT VOTING—47

Andrews (ME)
Andrews (NJ)
Baker (LA)
Bevill
Bishop
Blackwell
Brewster
Brown (FL)
Deal
Faleomavaega (AS)
Fields (TX)
Fingerhut
Ford (MI)
Ford (TN)
Gutierrez
Hastings
Hilliard
Hoke
Hunter
Johnson, Sam
Lambert
Lehman
McCandless
McCloskey
McCollum
McMillan
Meehan
Murphy
Owens
Pombo
Pryce (OH)
Quinn
Rangel
Reynolds
Richardson
Ridge
Rose
Rostenkowski
Roukema
Rush
Smith (OR)
Thompson
Torres
Torricelli
Towns
Washington
Zeliff

□ 1709

The Clerk announced the following pairs:

On this vote:

Mrs. Roukema for, with Mr. Hastings against.

Mr. Smith of Oregon for, with Mr. Deal against.

Mr. BROWN of Ohio and Mr. SHAYS changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. MOLLOHAN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mrs. UNSOELD) having assumed the chair, Mr. BROWN of California, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4603) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes, had come to no resolution thereon.

REPORT ON H.R. 4650, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1995

Mr. MURTHA, from the Committee on Appropriations, submitted a privileged report (Rept. No. 103–562) on the bill (H.R. 4650) making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. MCDADE reserved all points of order on the bill.

□ 1710

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995, AND SUPPLEMENTAL APPROPRIATIONS, 1994

Mr. MOLLOHAN. Madam Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4603) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes.

The motion was agreed to.

□ 1710

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House of the State of the Union for the further consideration of the bill H.R. 4603, with Mr. BROWN of California in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the amendment offered by the gentleman from Minnesota [Mr. PENNY] had been disposed of, and the bill had been read through page 53, line 9.

The Clerk will read.

The Clerk read as follows:

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, $32,205,000: *Provided*, That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 201. During the current fiscal year, applicable appropriations and funds made available to the Department of Commerce by this Act shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by said Act, and, notwithstanding

31 U.S.C. 3324, may be used for advanced payments not otherwise authorized only upon the certification of officials designated by the Secretary that such payments are in the public interest.

SEC. 202. During the current fiscal year, appropriations made available to the Department of Commerce by this Act for salaries and expenses shall be available for hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 203. None of the funds made available by this Act may be used to support the hurricane reconnaissance aircraft and activities that are under the control of the United States Air Force or the United States Air Force Reserve.

SEC. 204. None of the funds provided in this or any previous Act, or hereinafter made available to the Department of Commerce shall be available to reimburse the Unemployment Trust Fund or any other fund or account of the Treasury to pay for any expenses paid before October 1, 1992, as authorized by section 8501 of title 5, United States Code, for services performed after April 20, 1990, by individuals appointed to temporary positions within the Bureau of the Census for purposes relating to the 1990 decennial census of population.

SEC. 205. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Commerce in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers: *Provided,* That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 206. (a) Of the budgetary resources available to the Department of Commerce during fiscal year 1995, $12,355,000 are permanently canceled.

(b) The Secretary of Commerce shall allocate the amount of budgetary resources canceled among the Department's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account.

(c) For the purpose of this section, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

AMENDMENT OFFERED BY MR. GOODLATTE

Mr. GOODLATTE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOODLATTE:

Page 56, after line 2, insert the following new section:

SEC. 207. The amount otherwise provided in this title for "National Oceanic and Atmospheric Administration—Operations, Research, and Facilities" is hereby reduced by $26,059,999.

Mr. GOODLATTE. Mr. Chairman, I will be brief. I would like to call the attention of the Chair to the fact that this is an amendment similar to an amendment offered earlier on which we were not afforded the opportunity to have a recorded vote. This amendment reduces the NOAA budget by $26 million, including $300,000 for Atlantic bluefin tuna research, fishery observer training in the amount of $120,000, and $500,000 for the North American Institute for Environmental Renewal. None of these programs have been authorized by the appropriate authorizing committee. In addition, it provides for reduction in the National Weather Service by in excess of $25 million, which is over the amount appropriated.

This is not a specific cut in the National Weather Service. This is simply the amount that was authorized by the authorizing committee of $453 million. This amendment is offered for the purpose of making it clear that the Committee on Appropriations should not violate the rules of the House. That committee is authorized under the rules to accept the amounts from the authorizing committee, to cut those amounts, or to not fund the program, but they are not authorized for increased amounts.

This amendment is supported by the Citizens for a Sound Economy and by Citizens Against Government Waste, as well as by the Pork Busters Coalition. I urge my colleagues to vote in favor of this amendment.

Mr. MOLLOHAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment, as the distinguished gentleman who sponsors it indicated, has been debated previous to this. We rose in opposition to it and pointed out the importance of this money to the National Weather Service and its staffing. I think the amendment has been fully debated.

We had an unintended result earlier where the gentleman did not get a vote. We certainly want him to have a vote on the amendment. I urge all my colleagues to vote no on the Goodlatte amendment.

Mr. ROGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment, as I did earlier. This amendment would cut $25 million from the National Weather Service, the modernization program, which we have been fighting for for these several years. Congress has invested over $1 billion in that modernization, and this amendment would jeopardize the program.

Mr. Chairman, there is nothing that we spend money for in the Federal Government that sometimes is more important than to inform our people that there is dangerous weather out there. It saves lives. So I hope that we would reject this amendment as being threatening to the modernization of the National Weather Service, which we have been into now for several years. With all due respects to my good friend who offered the amendment, I would hope that we would oppose it.

Mr. GOODLATTE. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Mr. Chairman, I would simply like to correct a statement I have been informed I made. The authorization for the National Weather Service is $354 million, and this is a $25 million reduction to the authorized level.

I thank the gentleman for yielding.

Mr. FAWELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not think we have had any amendments which ask for cuts being approved here this afternoon. And no matter what fancy language we may have, the authorizing committees have not authorized these expenditures. There is always some reason by someone that would justify unapproved spending. What can we do, if we cannot take some of these very simple little steps here, when we know that the rules have been broken, and then the rules are waived. And, as was said last week, I think when you come right down to it, as far as our rules are concerned, they are a compilation of waivers. Once in a while you have a rule which is not waived. The big surprise is when you enforce a rule once in a while.

I think that if we cannot at least in this instance, and if there is authorization, then obviously we would approve this, but if we cannot in this instance make this little cut, when can we? We know that in this century and in the next century we have absolutely no plans to balance the budget, none whatsoever, and we go cavalierly along and spend another unapproved $26 million, and a billion dollars here and a billion dollars there. It is just insane. The people who listen in cannot comprehend what we are doing.

□ 1720

I think this time maybe we can rise to the occasion and for the first time today say, "yes, we think we can make a cut here". If the authorizing committees are not that interested in this, I do not know why we should come to the rescue of the appropriation committees when they obviously are breaking the rules. It is bad enough that a freshman Congressman has to get on his feet and take the burden of passing an amendment when he should be able to simply stand up and say, "Ladies and gentlemen, I simply raise a point of order." That is what he should have been able to do. He has had to go through sheer hell to even get to this point, and I think we ought to back him up. One of these days, Congress must get serious about the deficits we are creating, year by year. Budgets and rules obviously mean very little to this body.

Mr. ROGERS. Mr. Chairman, I yield the balance of my time to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Chairman, let us talk about cutting this budget and especially NOAA. I do not know how many of my colleagues have flown in Alaska and how many of them have to rely on those weather stations that are reporting to each pilot that takes off with passengers. We do not have highways and stoplights in the majority area of Alaska. We have to fly everywhere, and we depend wholly upon that weather reporting.

To cut this amount of money after we already invested a considerable amount in it, to delete the staff which is necessary to run the equipment they have already appropriated for would be absolutely wrong. I just ask all of my colleagues, keep in mind an area as large as all the east coast put together, all the east coast put together plus six more States without any appropriate weather reporting when they fly.

This is an impossibility for the pilot. It is an imposition upon the passengers. And keep in mind, my predecessor, he is not here today because of the fact of flying in bad weather.

Let us not cut this money today. Let us keep in mind the areas which we represent and the challenges to each pilot and the passengers that fly in those airplanes.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. GOODLATTE].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GOODLATTE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 128, noes 272, not voting 39, as follows:

[Roll No. 282]

AYES—128

Allard
Andrews (NJ)
Andrews (TX)
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Bartlett
Barton
Bliley
Boehlert
Boehner
Bonilla
Bunning
Burton
Calvert
Camp
Canady
Castle
Coble
Collins (GA)
Combest
Condit
Cooper
Coppersmith
Cox
Crane
Crapo
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Ehlers
Ewing
Fawell
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gilman
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hancock
Hansen
Harman
Hastert
Hoagland
Hoekstra
Horn
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kyl
Lantos
Lazio
Leach
Levy
Lewis (KY)
Linder
Mann
Manzullo
Margolies-Mezvinsky
McCrery
McHugh
McInnis
McKeon
Meyers
Mica
Michel
Miller (FL)
Minge
Molinari
Moorhead
Nussle
Orton
Oxley
Paxon
Payne (VA)
Penny
Petri
Porter
Portman
Poshard
Ramstad
Roberts
Rohrabacher
Roth
Royce
Santorum
Schaefer
Sensenbrenner
Shays
Shuster
Smith (MI)
Smith (TX)
Solomon
Stearns
Stenholm
Stump
Sundquist
Swett
Talent
Upton
Walker
Weldon
Wilson
Zimmer

NOES—272

Abercrombie
Ackerman
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bilbray
Bilirakis
Blute
Bonior
Borski
Boucher
Brooks
Browder
Brown (CA)
Brown (OH)
Bryant
Buyer
Byrne
Callahan
Cantwell
Cardin
Carr
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
Cunningham
Danner
Darden
de la Garza
de Lugo (VI)
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Emerson
Engel
English
Eshoo
Evans
Everett
Farr
Fazio
Fields (LA)
Filner
Fish
Flake
Foglietta
Fowler
Frank (MA)
Frost
Furse
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gingrich
Glickman
Gonzalez
Gordon
Green
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hayes
Hefley
Hefner
Herger
Hinchey
Hobson
Hochbrueckner
Holden
Houghton
Hoyer
Huffington
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kolbe
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
LaRocco
Laughlin
Lehman
Levin
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Machtley
Maloney
Manton
Markey
Martinez
Matsui
Mazzoli
McCurdy
McDade
McDermott
McHale
McKinney
McNulty
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Packard
Pallone
Parker
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Price (NC)
Quillen
Rahall
Ravenel
Reed
Regula
Richardson
Roemer
Rogers
Romero-Barcelo (PR)
Ros-Lehtinen
Roukema
Rowland
Roybal-Allard
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Saxton
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shaw
Shepherd
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Spence
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Traficant
Tucker
Underwood (GU)
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)

NOT VOTING—39

Andrews (ME)
Bevill
Bishop
Blackwell
Brewster
Brown (FL)
Chapman
Deal
Faleomavaega (AS)
Fields (TX)
Fingerhut
Ford (MI)
Ford (TN)
Gutierrez
Hastings
Hilliard
Hoke
McCandless
McCloskey
McCollum
McMillan
Meehan
Murphy
Owens
Pombo
Pryce (OH)
Quinn
Rangel
Reynolds
Ridge
Rose
Rostenkowski
Rush
Smith (OR)
Torres
Torricelli
Towns
Washington
Zeliff

☐ 1744

The Clerk announced the following pair:

On this vote:

Mr. Deal for, with Mr. Rangel against.

Mr. BUYER and Mr. HOBSON changed their vote from "aye" to "no."

Mr. LAZIO, Mr. MANN, and Ms. HARMAN changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. FINGERHUT. Mr. Speaker, due to business in my district I was unavoidably detained in returning to the Capitol today. As a result, Mr. Speaker, I missed several votes.

Had I been present for rollcall No. 279, I would have voted "aye."

Had I been present for rollcall No. 280, I would have voted "no."

Had I been present for rollcall No. 281, I would have voted "no."

Had I been present for rollcall No. 282, I would have voted "no."

PERSONAL EXPLANATION

Mr. TORRES. Mr. Chairman, I was unavoidably detained on official business earlier today and had to miss roll call votes on the floor of the House.

Had I been present, I would have voted "no" on roll call votes 279, 280, 281, and 282.

Mr. MOLLOHAN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mrs. UNSOELD) having assumed the chair, Mr. BROWN of California, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4603) making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes, had come to no resolution thereon.

POSTPONEMENT OF VOTES ON AMENDMENTS TO TITLE V OF H.R. 4603, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995, AND SUPPLEMENTAL APPROPRIATIONS, 1994

Mr. MOLLOHAN. Madam Speaker, I ask unanimous consent that during further consideration of H.R. 4603 the Chairman of the Committee on the Whole may, after consultation with the chairman and ranking minority member of the Committee on Appropriations or their designees postpone until a time during further consideration a request for a recorded vote on any amendment to title V of the bill, and reduce to not less than 5 minutes the time for voting by electronic device on any postponed question that immediately follows another vote by electronic device without intervening business, provided that the time for voting by electronic device on the first in any series of questions shall be not less than 15 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. ROGERS. Madam Speaker, reserving the right to object, and only for the purpose of verification because I do not intend to object, do I understand from my chairman that during the consideration only of title V would we be given the opportunity to reserve the votes on those amendments until some further time in the bill?

Mr. MOLLOHAN. Madam Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from West Virginia.

Mr. MOLLOHAN. Madam Speaker, the gentleman is correct, and the gentleman would also have a veto over consideration of those votes.

Mr. ROGERS. Do I understand correctly, further reserving the right to object, that during title V, if we wanted to have an immediate vote on that particular amendment, we could request that?

Mr. MOLLOHAN. At the gentleman's election.

Mr. ROGERS. Then at what time would the clustered vote take place, at the conclusion of title V?

Mr. MOLLOHAN. It would be anticipated to take place at the conclusion of title V. Again, the gentleman has the right of veto over that.

Mr. ROGERS. And at that time when the votes take place, the first vote would be at least 15 minutes, and any successive votes would be under 5-minute notice, is that correct?

Mr. MOLLOHAN. Under the request.

Mr. ROGERS. Madam Speaker, I have no further reservation and I agree to the proposal.

Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia.

There was no objection.

HOUR OF MEETING ON TOMORROW

Mr. GEPHARDT. Madam Speaker, I ask unanimous consent that when the House adjourn today, it adjourn to meet at 9:30 a.m. tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. SOLOMON. Reserving the right to object, Madam Speaker, and I would not intend to object, but just for clarification, I ask this of the majority leader: Tomorrow, being Tuesday, morning hour is normally on the floor, and I assume the gentleman is moving that up. There will still be morning hour, and we would go into regular session at 11 a.m.; is that correct?

Mr. GEPHARDT. Madam Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Missouri.

Mr. GEPHARDT. The gentleman is correct.

Mr. SOLOMON. Madam Speaker, that sounds very reasonable. I thank the gentleman.

Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995, AND SUPPLEMENTAL APPROPRIATIONS, 1994

Mr. MOLLOHAN. Madam Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4603), making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for those departments and agencies for the fiscal year ending September 30, 1994, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia [Mr. MOLLOHAN].

The motion was agreed to.

□ 1748

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4603, with Mr. BROWN of California in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the amendment offered by the gentleman from Virginia [Mr. GOODLATTE] had been disposed of.

The Clerk will read.

The Clerk read as follows:

TITLE III—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase or hire, driving, maintenance and operation of an automobile for the Chief Justice, not to exceed $10,000 for the purpose of transporting Associate Justices, and hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve, $24,157,000.

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a–13b), $3,000,000, of which $260,000 shall remain available until expended.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for necessary expenses of the court, as authorized by law, $13,438,000.

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges, salaries of the officers and employees of the court, services as authorized by 5 U.S.C. 3109, and necessary expenses of the court, as authorized by law, $11,685,000.

COURT OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the United States Court of Federal Claims, bankruptcy judges, magistrate judges, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, and necessary expenses of the courts, as authorized by law, $2,330,147,000 (including the purchase of firearms and ammunition); of which not to exceed $14,454,000 shall remain available until expended for space alteration projects; of which not to exceed $11,000,000 shall remain available until expended for furniture and furnishings related to new space alteration for furniture and construction projects, and of which $500,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other legal reference materials, including subscriptions.

□ 1750

AMENDMENT OFFERED BY MR. VISCLOSKY

Mr. VISCLOSKY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VISCLOSKY: On page 57, line 23, strike $2,330,147,000 and insert in lieu thereof $2,323,455,000.

Mr. VISCLOSKY. Mr. Chairman, I rise today to offer an amendment along with my colleague from Florida, Mr. YOUNG. However, before I explain my amendment, I would like to express my sincere gratitude to Mr. MOLLOHAN and Mr. ROGERS for the contributions they have made to this effort. This bill, among other things, recognizes that the Federal judiciary must begin to participate as an equal branch of the Federal Government in our collective efforts to control Federal spending. I commend the gentlemen for their attention to this issue.

As you know, last year, in an effort to reduce spending, President Clinton pledged to reduce the size of the Federal Government. While substantial progress is being made to reduce the size of the executive and legislative branches of Government, little attention has been focused on the third branch of our Government, the judiciary. Between fiscal years 1984 and 1993, staffing within the judiciary increased from 17,271 to 27,887 positions—a 62-percent increase.

The executive and legislative branches of our Government are in the process of work force downsizing. These personnel cuts are painful, but reflect the fiscal realities the Federal Government faces. To date, the judicial branch of our Government has managed to avoid having to make the tough choices being made in other branches. I recognize that the judiciary faces an increasing workload, but so do the other branches of Government. Like Government everywhere, the judiciary employs administrative and support staff. Instead of requesting increases in the size of the Federal judiciary in the form of more administrative staff, the judiciary should be following the example of the other branches of Government by making judicious reductions.

Mr. Chairman, this amendment is a simple one. It reduces by 1 percent the judiciary account for district clerks of court. The amendment would make a small deduction from the account for clerks, a total of $6.962 million. This would eliminate approximately 45 full-time equivalent [FTE] employees out of a staff of approximately 4,500.

We are reducing the clerks of the U.S. District Courts by 1 percent because overall workload statistics for U.S. District Courts reveal that the number of case filings has remained relatively stable for the better part of 10 years. Between 1987 and 1992, there was an increase of only 400 cases filed in U.S. District Courts; 265,234 cases versus 265,612 cases. With the judiciary's drive toward increased automation and more efficient paperwork procedures, I believe that this amendment is a reasonable step to reduce unnecessary staff. Greater efficiency must be achieved in support operations in the judiciary. This amendment will help streamline judicial branch staff and achieve more efficiency.

I would now like to take a moment to touch upon a specific staffing practice within the judiciary that concerns me, which, while not directly addressed by this amendment, demonstrates the need for increased congressional oversight of judicial staffing practices.

In January 1994, the Administrative Office of the U.S. Courts announced that there were a total of 674 overtarget positions within the judiciary. These are employees who were employed in excess of required staffing formula levels. They are considered to not be necessary for the continued operation of the judiciary.

Even though the AOC has finally begun the process of eliminating those overtarget positions, considerable concern remains regarding the overall revision of workload staffing formulas, which, in some instances, have not been modernized or updated from between 5 to 14 years.

The amendment offered by Mr. YOUNG and myself is needed because the judiciary should no longer be allowed to ignore the fiscal realities the Federal Government faces. This amendment is a reasoned, well thought-out step in the right direction. It is a small step. However, every little step adds up, and this step is in the direction that we absolutely must go.

The fundamental goal of this amendment is to bring attention to the fact that current employment trends in the judicial branch are inconsistent with the Federal Government's changing policies regarding personnel levels. Over the past 15 years, the total number of legislative branch employees has actually dropped by 8.6 percent. At the same time, employment in the executive branch has increased by 3.3 percent and employment in the judicial branch has risen by 97.5 percent. A 97.5-percent increase over the last 15 years. This is clearly illustrated by this chart. The bar on the left represents the increases in staffing levels of the judiciary over the last 15 years.

The legislative branch is taking a cut. The executive branch is taking a cut. These are tough cuts. We cannot allow the judiciary branch to avoid needed administrative reforms simply because they do important work. We all do important work. Our workload here in Congress certainly hasn't gotten any lighter. But we are still doing our share to reduce the cost of Government.

The American people are being asked to sacrifice to ensure that our country remains on track. The Federal Government has taken on the task of matching that sacrifice, and we have the obligation to ensure that scarce Federal resources are used wisely and fairly across all three branches of Government. I urge the adoption of this amendment.

Mr. YOUNG of Florida. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise in support of the amendment offered by my colleague the gentleman from Indiana [Mr. VISCLOSKY].

As he correctly points out, the American people are demanding that the Federal Government eliminate waste, fraud, and unnecessary bureaucracy in all Federal departments and agencies, including the judiciary. Through our work on the Appropriations Committee, we have made every effort to see that this is done in each of the appropriations bills we bring before the House this year. Congress has directed that sharp reductions be made in executive branch agencies and in our own legislative operations. The judiciary cannot be exempt from this effort.

There is no question that the judiciary can discharge its duties in a more efficient and cost effective manner. As my colleague from Indiana said before, staffing levels at the Department of Justice have risen by 62 percent in the past 10 years.

It is the responsibility of Congress and specifically the Appropriations Committee to decide the funding that will be made available to the judiciary each fiscal year. It is also the responsibility of the Congress to ensure that the American people have the greatest possible access to the courts.

As our colleague, the gentleman from Ohio [Mr. TRAFICANT], said so eloquently during debate last week, by authority of the Constitution, it is Congress that directs, and authorizes, where Federal courts will sit and the facilities they will use. Obviously, as with every Federal agency, there is consultation between the two branches of Government, but ultimately it is Congress that has the final authority to make these decisions.

Unfortunately, a tradition has seemed to evolve in which the courts have been left to decide where the courts will sit and in what facilities. The courts have been left to decide how many people they require to dispense justice and where they should be located.

The amendment today is a reaffirmation that Congress will make those decisions and that Congress is demanding that the judiciary join with the other two branches of the Federal Government to find a more efficient way to discharge their responsibilities.

It has long been my belief that the courts could operate more efficiently by bringing justice closer to the people. Rather than consolidate the court's operations in palatial facilities in a few select cities, court facilities should be established in those areas where the population and caseload demand.

This would not only make greater use of limited Federal resources but would also provide greater access and convenience for jurors, litigants, and attorneys who the courts are there to serve. It would be my hope, Mr. Chairman, that this amendment will send a message to the judiciary that Congress expects the courts to join the other branches of the Federal Government in finding ways to operate more efficiently—not only in the use of the time and resources of the Federal Government and employees, but in the use of the time and resources of the people the courts serve.

Mr. Chairman, I again want to compliment my colleague from Indiana for his work and research in this regard. We plan to work together in the months ahead to track the judiciary's effort to streamline their operations and ultimately bring justice closer to the people in the most efficient manner possible.

Mr. MOLLOHAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the gentleman from Indiana [Mr. VISCLOSKY] has cleared this amendment with the majority and the minority, and we accept it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. VISCLOSKY].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

In addition, for expenses of the United States Court of Federal Claims associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed $2,250,000 to be appropriated from the Vaccine Injury Compensation Trust Fund.

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, the compensation and reimbursement of expenses of persons furnishing investigative, expert and other services under the Criminal Justice Act (18 U.S.C. 3006A(e)), the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant was waived representation by counsel, the compensation and reimbursement of travel expenses of guardians ad litem acting on behalf of financially eligible minor or incompetent offenders in connection with transfers from the United States to foreign countries with which the United States has a treaty for the execution of penal sentences, and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by 28 U.S.C. 1875(d), $250,000,000, to remain available until expended as authorized by 18 U.S.C. 3006(I): *Provided*, That not to exceed $19,800,000 shall be available to Death Penalty Resource Centers.

FEES OF JURORS AND COMMISSIONERS

For fees and expenses of jurors as authorized by 28 U.S.C. 1871 and 1876; compensation of jury commissioners as authorized by 28 U.S.C. 1863; and compensation of commissioners appointed in condemnation cases pursuant to rule 71A(h) of the Federal Rules of Civil Procedure (28 U.S.C. Appendix Rule 71A(h)); $56,000,000, to remain available until expended: *Provided*, That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code.

AMENDMENT OFFERED BY MR. VISCLOSKY

Mr. VISCLOSKY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amedment offered by Mr. VISCLOSKY: On page 59, line 17, strike $56,000,000 and insert in lieu thereof $62,692,000.

Mr. VISCLOSKY. Mr. Chairman, I rise today to offer an amendment along with my colleague, the gentleman from Florida [Mr. YOUNG]. This amendment would restore $6.692 million to the fund for Federal juries. Specifically, this money would go towards fees and allowances of (grand and petit) jurors and for the compensation of land commissioners and jury commissioners.

As you may know, in recent years Congress has had to reexamine funding for Federal jurors. Specifically, in 1989, Congress was forced to pass a supplemental appropriation which included a provision adding money to the fund for jurors. This emergency supplemental addressed a serious shortfall that occurred in the jury fee account.

For fiscal year 1995, the Committee has recommended $56 million for jury fees, which represents a reduction of $21 million from the fiscal year 1994 amount, and $18 million less than the President's budget request. The $6.692 million increase provided for by this amendment will help to ensure that additional supplemental appropriations for jurors will not be needed for fiscal year 1995.

I urge the adoption of this amendment.

Mr. MOLLOHAN. Mr. Chairman, I rise in support of the amendment.

Again, the gentleman has discussed this with the majority and the minority sides and both of us are in agreement to support this amendment. We rise in support of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. VISCLOSKY].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities as authorized by section 1010 of the Judicial Improvement and Access to Justice Act (Public Law 100-702); $97,000,000, to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts as authorized by law, including travel as authorized by 31 U.S.C. 1345, hire of a passenger motor vehicle as authorized by 31 U.S.C. 1343(b), advertising and rent in the District of Columbia and elsewhere, $46,500,000, of which not to exceed $7,500 is authorized for official reception and representation expenses.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90-219, $18,828,000; of which $1,800,000 shall remain available through September 30, 1996, to provide education and training to Federal court personnel; and of which not to exceed $1,000 is authorized for official reception and representation expenses.

JUDICIAL RETIREMENT FUNDS

PAYMENT TO JUDICIARY TRUST FUNDS

For payment to the Judicial Officers' Retirement Fund, as authorized by 28 U.S.C. 377(o), $21,000,000, to the Judicial Survivors' Annuities Fund, as authorized by 28 U.S.C. 376(c), $6,900,000, and to the United States Court of Federal Claims Judges' Retirement Fund, as authorized by 28 U.S.C. 178(l), $575,000.

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $8,468,000, of which not to exceed $1,000 is authorized for official reception and representation expenses.

GENERAL PROVISIONS—THE JUDICIARY

SEC. 301. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 302. Appropriations made in this title shall be available for salaries and expenses of the Special Court established under the Regional Rail Reorganization Act of 1973, Public Law 93-236.

SEC. 303. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Judiciary in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers; *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 304. Notwithstanding any other provision of law, the salaries and expenses appropriation for district courts, courts of appeals, and other judicial services shall be available for official reception and representation expenses of the Judicial Conference of the United States: *Provided*, That such available funds shall not exceed $10,000 and shall be administered by the Director of the Administrative Office of the United States Courts in his capacity as Secretary of the Judicial Conference.

This title may be cited as "The Judiciary Appropriation Act, 1995".

TITLE IV—RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

OPERATING-DIFFERENTIAL SUBSIDIES

(LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended, $214,356,000, to remain available until expended.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $76,100,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, the Secretary of Transportation may use proceeds derived from the sale or disposal of National Defense Reserve Fleet vessels that are currently collected and retained by the Maritime Administration, to be used for facility and ship maintenance, modernization and repair, conversion, acquisition of equipment, and fuel costs necessary to maintain training at the United States Merchant Marine Academy and State maritime academies: *Provided further*, That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program in addition to any amount heretofore appropriated.

READY RESERVE FORCE

(INCLUDING RESCISSION)

For necessary expenses to acquire and maintain a surge shipping capability in the National Defense Reserve Fleet in an advanced state of readiness and for related programs, $179,415,000, to remain available until expended: *Provided*, That reimbursement may be made to the Operations and Training appropriation for expenses related to this program.

Of the amounts made available under this heading in Public Law 103–121, $27,000,000 are rescinded: *Provided*, That of the total amount rescinded, $9,000,000 shall be derived from amounts proposed to be reprogrammed from funds appropriated for Fleet Additions to Maintenance and Operations.

MARITIME GUARANTEED LOAN (TITLE XI) PROGRAM ACCOUNT

For the cost of guaranteed loans, as authorized by the Merchant Marine Act of 1936, $25,000,000, to remain available until expended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended.

In addition, for administrative expenses to carry out the guaranteed loan program, not to exceed $2,000,000, which shall be transferred to and merged with the appropriation for Operations and Training.

ADMINISTRATIVE PROVISIONS—MARITIME ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration, and payments received therefor shall be credited to the appropriation charged with the cost thereof: *Provided*, That rental payments under any such lease, contract, or occupancy for items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act or in any prior appropriation Act, and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

COMMISSION ON IMMIGRATION REFORM

SALARIES AND EXPENSES

For necessary expenses of the Commission on Immigration Reform pursuant to section 141(f) of the Immigration Act of 1990, $1,494,000, to remain available until expended.

COMMISSION OF SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94–304, $1,090,000, to remain available until expended as authorized by section 3 of Public Law 99–7.

COMPETITIVENESS POLICY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the Competitiveness Policy Council as authorized by section 5209 of the Omnibus Trade and Competitiveness Act of 1988, $1,000,000 to remain available until expended.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92–522, as amended, $1,320,000.

MARTIN LUTHER KING, JR. FEDERAL HOLIDAY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Martin Luther King, Jr. Federal Holiday Commission, as authorized by Public Law 98–399, as amended, $300,000.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $20,949,000, of which $2,500,000 shall remain available until expended: *Provided*, That not to exceed $98,000 shall be available for official reception and representation expenses.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the Small Business Administration as authorized by Public Law 101–574, including hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344, and not to exceed $3,500 for official reception and representation expenses, $258,900,000; *Provided*, That the Administrator is authorized to charge fees to cover the cost of publications developed by the Small Business Administration; certain loan servicing activities; and installing and servicing the agency's computer-based electronic bulletin board: *Provided further*, That notwithstanding 31 U.S.C. 3302, revenues received from all such activities shall be credited to this account, to be available for carrying out these purposes without further appropriation. Of the total amount appropriated in this paragraph, $73,300,000 shall be available for grants for performance in fiscal year 1995 or fiscal year 1996 for Small Business Centers as authorized by section 21 of the Small Business Act, as amended: *Provided further*, That not more than $500,000 of the total amount in this paragraph shall be available to pay the expenses of the National Small Business Development Center Advisory Board and to reimburse Centers for participating in evaluations as provided in section 20(a) of such Act, and to maintain a clearinghouse as provided in section 21(g)(2) of such Act.

None of the funds appropriated for the Small Business Administration under this Act may be used to impose any new or increased user fee or management assistance fee for the Small Business Development Center Program.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1–11 as amended by Public Law 100–504), $8,500,000.

BUSINESS LOANS PROGRAM ACCOUNT

For the cost of direct loans, $8,500,000, and for the cost of guaranteed loans, $321,067,000, as authorized by 15 U.S.C. 631 note of which $30,000,000 shall be used to pre-pay the Federal Financing Bank for debentures guaranteed by the Administration pursuant to section 503 of the Small Business Investment Act: *Provided*, That such cost, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $97,000,000, which may be transferred to and merged with the appropriations for Salaries and Expenses.

DISASTER LOANS PROGRAM ACCOUNT

For the cost of direct loans authorized by Section 7(b) of the Small Business Act, as amended, $52,153,000, to remain available until expended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided*, That none of the funds provided in this or any other Act may be used for the cost of direct loans to any borrower under section 7(b) of the Small Business Act to relocate voluntarily outside the business area in which the disaster has occurred.

In addition, for administrative expenses to carry out the direct loan program, $78,000,000, which may be transferred to and merged with the appropriations for Salaries and Expenses.

In addition, for the cost of emergency disaster loans and associated administrative expenses, $125,000,000, to remain available until expended: *Provided*, That these funds, or any portion thereof, shall be available beginning in fiscal year 1995 to the extent that the President notifies the Congress of his designation of any or all of these amounts as emergency requirements under the Budget Enforcement Act of 1990: *Provided further*, That Congress hereby designates these amounts as emergency requirements pursuant to section 251(b)(2)(D).

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $5,369,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note.

ADMINISTRATIVE PROVISIONS—SMALL BUSINESS ADMINISTRATION

SEC. 401. None of the funds provided by this Act for the Small Business Administration may be used to guarantee any participating securities authorized by Public Law 102-366 until legislation has been enacted which directly or indirectly prohibits the filing of a petition under the Bankruptcy Code by a small business investment company licensed under subsection (c) or (d) of section 301 of the Small Business Investment Act of 1958 or regulations implemented to reduce risks of the Small Business Administration from companies licensed under section (c) or (d) of section 301 of the Small Business Investment Act of 1958.

SEC. 402. (a) Of the budgetary resources available to the Small Business Administration during fiscal year 1995, $1,021,000 are permanently canceled.

(b) The Administrator of the Small Business Administration shall allocate the amount of budgetary resources canceled among the agency's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account.

(c) For the purposes of this section, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $415,000,000; of which $350,700,000 is for basic field programs, $9,390,000 is for Native American programs; $13,830,000 is for migrant programs; $1,435,000 is for law school clinics; $1,305,000 is for supplemental field programs; $870,000 is for regional training centers; $10,800,000 is for national support; $11,585,000 is for State support; $785,000 is for client initiatives; $1,145,000 is for the Clearinghouse; $655,000 is for computer assisted legal research regional centers; and $12,500,000 is for Corporation management and administration.

ADMINISTRATIVE PROVISION—LEGAL SERVICES CORPORATION

SEC. 403. (a) Funds appropriated under this Act to the Legal Services Corporation and distributed to each grantee funded in fiscal year 1995, pursuant to the number of poor people determined by the Bureau of the Census to be within its geographical area, shall be distributed in the following order:

(1) Grants from the Legal Services Corporation and contracts entered into with Legal Services Corporation under section 1006(a)(1) of the Legal Services Corporation Act, as amended, shall be maintained in fiscal year 1995 at not less than the annual level at which each grantee and contractor was funded in fiscal year 1994 pursuant to Public Law 103-121.

(2) 50 percent of new basic field funds shall be awarded to grantees and contractors funded at the lowest levels per-poor-person (calculated for each grantee or contractor by dividing each such grantee or contractor's fiscal year 1990 grant level by the number of poor persons within its geographical area under the 1990 census) so as to fund the largest number of programs possible at an equal per-poor-person amount.

(3) 50 percent of new basic field funds shall be allocated to grantees and contractors in an amount that is appropriate to the number of poor people in such grantee or contractor's service area as enumerated in the 1990 census.

(b) None of the funds appropriated under this Act to the Legal Services Corporation shall be expended for any purpose prohibited or limited by or contrary to any of the provisions of—

(1) section 607 of Public Law 101-515, and that all funds appropriated for the Legal Services Corporation shall be subject to the same terms and conditions as set forth in section 607 of Public Law 101-515, except that the funding formulas and provisos 15, 20 and 22 shall not apply, and all references to "1991" in section 607 of Public Law 101-515 shall be deemed to be "1995", unless subparagraph (2) applies; and

(2) authorizing legislation for fiscal year 1995 for the Legal Services Corporation that is enacted into law.

TITLE V—DEPARTMENT OF STATE AND RELATED AGENCIES

DEPARTMENT OF STATE

Mr. MOLLOHAN (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 74, line 17, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. Are there amendments or points of order to this portion of the bill?

If not, the Clerk will read.

□ 1800

The Clerk read as follows:

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For necessary expenses of the Department of State and Foreign Service not otherwise provided for, including expenses authorized by the State Department Basic Authorities Act of 1956, as amended; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c) and 22 U.S.C. 2674; and for expenses of general administration $1,703,000,000: *Provided*, That notwithstanding any other provision of law, during fiscal year 1995 the Secretary of State is authorized to charge a fee for processing passports on an expedited basis: *Provided further*, That in order to control workload demands on passport facilities, expedited passport processing will be available only to those applicants who can demonstrate and document the need to travel on an urgent basis and that such documentation would normally include already-purchased tickets and a formal itinerary: *Provided further*, That fees allocated under this provision shall be used to fund the cost of providing expedited passport processing and to enhance the quality and efficiency of consular services: *Provided further*, That the Secretary shall deposit such fees as an offsetting collection to this appropriation account, to remain available until expended, and shall expend not to exceed $18,000,000 in such fee collections during fiscal year 1995. Of the funds appropriated in this paragraph: not to exceed $3,000,000 shall be available for grants, contracts, and other activities to conduct research and promote international cooperation on environmental and other scientific issues; not to exceed $500,000 shall be available to carry out the activities of the Commission on Protecting and Reducing Government Secrecy; $300,000 shall be available for recruitment of Hispanic American students and for the training of Hispanic Americans for careers in the Foreign Service and in international affairs; and not to exceed $300,000 shall be available to carry out the activities of the Office of Cambodian Genocide Investigations. None of the funds appropriated in this paragraph shall be available to carry out the provisions of section 101(b)(2)(E) of Public Law 103-236.

AMENDMENT OFFERED BY MR. STEARNS

Mr. STEARNS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STEARNS: Page 75, line 5, strike "$1,703,000,000" and insert "$1,700,200,000".

Mr. STEARNS. Mr. Chairman, both the House and Senate of the U.S. Congress have gone on record on a matter of great concern to many Americans—ending the resettlement of Iraqi former prisoners of war in the United States. The fiscal year 1994 Defense authorization contained language expressing the sense of Congress that former Iraqi POW's should not be resettled in the United States, unless they directly helped American forces. That, according to State, would not apply to 4,000 persons eligible for resettlement.

Since 1991, American taxpayers have been resettling refugees from the Persian Gulf war. I have no objection to that. However, Americans do not believe that we should be resettling some of the soldiers who raped Kuwait and fought against our troops. And that is what we have been doing.

Using State Department statements that approximately 4,000 of the Iraqi refugees were true POW's, approximately 10 percent—or 400—of those refugees who have come to this country since 1992 would not fall into any of the groups whose entry into this country could be justified for any reason. On average, it costs $7,000 per refugee to conduct these resettlements.

And, in spite of the concerns raised by Congress, no significant safeguards to prevent entry of more former Iraqi soldiers have been implemented by the State Department.

This, in spite of the fact that, without an effort to match refugees' claims with military records, there is no information available to corroborate or disprove these claims, according to an informal review by the GAO.

At the same time, none of the other countries that participated in Operation Desert Storm or any of the Middle Eastern countries, whose survival the United States helped protect, have made any significant contribution to these resettlements.

I give great credit to the Scandinavian countries who have made substantial contributions in this regard. Iran, for less humanitarian reasons, has also accepted several thousand refugees. But State Department claims that many countries have accepted these refugees are false. The total number of refugees from all other countries was only 150 persons through 1993.

This failure to influence other countries to contribute their fair share is another fact that upsets my constituents and many Members of this House. To the best of my knowledge, in spite of promises by the State Department, this situation has not improved.

This is a source of continuing frustration for those of us whose constituents have written and called to express their opposition to the policy of allowing Iraqi POW's to be resettled in this country. In the past year, Members of both houses of Congress have gone on record in the form of resolutions to stop these settlements.

The CHAIRMAN. The time of the gentleman from Florida [Mr. STEARNS] has expired.

(By unanimous consent, Mr. STEARNS was allowed to proceed for 2 additional minutes.)

Mr. STEARNS. Mr. Chairman, that has not worked. Thus, I think we need to take the next step today and make a symbolic cut in the State Department's budget to send this message.

My amendment would reduce the expenses for general administration of the State Department by $2.8 million. This is equal to the cost of resettling 400 former Iraqi POW's.

I have had some difficulty deciding where to offer this amendment. My goal has been to avoid cutting our foreign operations or State Department budget in any way that might cause real pain to innocent persons.

That ruled out some more directly related international activities such as refugee resettlement or international peacekeeping.

Thus, I come to the floor today to offer an amendment making a modest $2.8 million reduction in the operating budget of the U.S. State Department. This is just a fraction of 1 percent of this budget. I believe that such a small cut could be absorbed without doing any unintended harm to our diplomatic mission.

In fact, the committee report states that administrative flexibility is built into this budget so that funds may be shifted between accounts where necessary. This general administration account also includes $11.9 million made available for the Bureau of Refugee Programs, money not normally a part of this appropriations bill.

Passing the Stearns amendment will send two important messages to the State Department. First of all, it will show that Congress will require compliance with the wishes it expressed in both the Defense authorization and the Iraqi Claims Act. That is, that only former POW's who could prove they assisted the United States would be eligible for refugee status. This could be done by establishing a valid screening program that checks U.N. records against U.S. military records.

Second, it will prod the Department to pressure the United Nations and participating countries to assist in resettling the many legitimate refugees still in the Middle East. Most importantly, it will send a message to the State Department that the will of Congress on an issue cannot simply be ignored.

Americans throughout the country have demanded some type of action on this issue and almost 100 members of this body, Democrats and Republicans, have cosponsored the resolution I introduced calling for an end to these resettlements.

The least we can do is find a way to save, for the taxpayers, an amount equal to the cost of resettling former enemy soldiers. We owe it to the American people, and we especially owe it to our veterans who cannot understand how we are spending money on Iraqi POW's while we are cutting veterans programs.

That is what this amendment does, and I ask for your support.

Mr. MOLLOHAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto be limited to 10 minutes, counting the time that the gentleman has already consumed. I will then use 2½ minutes and yield 30 seconds to the gentleman from Florida [Mr. STEARNS] to close.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from West Virginia [Mr. MOLLOHAN] for 3 minutes.

Mr. MOLLOHAN. Mr. Chairman, I rise in opposition to the amendment. There are a number of substantive reasons to oppose it. I am advised that neither the Bush nor the Clinton administration have admitted into the United States any person whose admission would justify legitimate concern as expressed by the gentleman. It is my understanding that no Iraqi has resettled in the United States without demonstrating under U.S. law a well-founded fear of persecution.

□ 1810

I know that the screening process has been very thorough. It has been very exacting, and in both President Bush's and President Clinton's administrations this program has been carried forward with the utmost care.

While being able to make those substantive arguments against the gentleman's amendment is possible, I simply want to point out, Mr. Chairman, that I think this is the wrong bill for the gentleman to offer this amendment. He is proposing a cut to the Commerce-Justice-State bill, and this program is funded in the foreign operations appropriation bill. So, I implore my colleagues to note that the State Department operating accounts that the gentleman's amendment is directed at are not used to pay for resettlement costs of refugees.

So, I am repeating that while there might be a number of substantive arguments that can be made against this amendment, the one that I want to advance most strongly here is that this program is not funded in this bill. So, we are in the wrong ballpark on this.

Mr. STEARNS. Mr. Chairman, will the gentleman yield?

Mr. MOLLOHAN. I yield my remaining 30 seconds to the gentleman from Florida.

Mr. STEARNS. Mr. Chairman, I would say to the gentleman from West Virginia that we asked for a GAO audit of the policy at the State Department, and the State Department has compiled some detailed information about the former POW's who were admitted in fiscal year 1993, and this is the key sentence:

> Information to corroborate or disprove the refugee statements about these activities is not available.

The State Department could not provide it. It is not available, so it is not clear how they made a decision to allow these Iraqi POW's in, and I understand what the gentleman is saying, but this is symbolic, and it is important to the people and the veterans in this country that we take this money out and say, "Look, we are not going to resettle any more Iraqi POW's."

Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. MANZULLO].

Mr. MANZULLO. Mr. Chairman, almost 2 months ago, my Democratic colleagues challenged Republicans to stop the resettlement of Iraqi soldiers into this country by offering a motion to recommit the Iraqi Claims Act with instructions to the committee to prohibit any more Iraqi POW's from being resettled. We met that challenge and offered a motion to recommit the bill. The language was changed and it passed unanimously.

Today, I rise again to challenge my Democratic colleagues to demonstrate that they agree with most Republicans, and most other Americans, to stop using taxpayer money to resettle former enemy prisoners of war from the Persian Gulf war.

I challenge my Democratic colleagues to support the Stearns amendment which will reduce $2.8 million from the State Department general administration account, which is the approximate amount that it cost the American taxpayer to resettle about 400 Iraqi enemy prisoners of war. I say approximate because to this date, we have not received a full accounting of this resettlement. The United States accepted a United Nations definition of refugee that included all Iraqis let in the Saudi Arabia camps, including all POW's. Since then, it has almost been impossible to find out if a former Iraqi soldier did fire on our troops or contributed significantly to our side of the war.

We have heard from our constituents how appalled they are that this dangerous policy continues. We have heard from our veterans how betrayed they feel that they must pay for the cost of resettling former enemy soldiers while their own veteran programs face constant budgetary restraints. We have also heard from our military retirees who are furious that they must foot the bill of this unfair policy while their own cost of living raises are delayed. And last weeks report from the Department of Defense finding no connection between service in the gulf war and the illnesses facing many American veterans only add fuel to the fire.

To those who say it will hurt State Department operations, I say they have a choice. They can fund essential functions or they can continue to resettle Iraqi POW's. I wish we had the opportunity to direct the State Department, but that would be out of order ruled by the Parliamentarian. This may be our only opportunity to send a message to the State Department to express our outrage at the inadequate change of direction in policy.

I urge my colleagues to show the American people that we have heard them, and have listened. Vote for the Stearns amendment to the Commerce, State, and Justice appropriations bill.

The CHAIRMAN. All time for debate of the amendment offered by the gentleman from Florida [Mr. STEARNS] has expired.

The question is on the amendment offered by the gentleman from Florida [Mr. STEARNS].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. STEARNS. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. In accordance with the unanimous-consent request that was granted by the House earlier, the Chair will postpone further proceedings on the amendment offered by the gentleman from Florida [Mr. STEARNS] until a later time. That means that at a later time the gentleman's request will be pending.

Mr. STEARNS. Mr. Chairman, as I understand it, a recorded vote is not automatic. I will have to go through this again.

The CHAIRMAN. The Chair will announce to the gentleman when it is an appropriate time for him to protect his request. The Chair will not overlook the gentleman.

Mr. STEARNS. Well, Mr. Chairman, I am just worried that I will not be here.

Can I make a point of order that a quorum is not present and go through the whole procedure so it becomes an automatic vote so I will not have to depend upon my presence, my being here?

Mr. Chairman, I am just saying that I want to make sure that this is an automatic vote and that it is not a vote dependent upon my being here.

The CHAIRMAN. Some Member will have to make a point of no quorum pending the request for a recorded vote, and at that point the Chair will put the request in the usual fashion.

In other words, if enough Members stand, the gentleman will get a recorded vote. This will just expedite the proceedings.

Mr. MENENDEZ. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I seek to engage in a colloquy with the distinguished gentleman from West Virginia [Mr. MOLLOHAN], chairman of the Appropriations Subcommittee on Commerce, Justice, State and Judiciary.

The State Department, Mr. Chairman, has the worst department of the executive branch in terms of solving its employment complaints. Hispanics, who represent almost 10 percent of America's population, represent less than 5 percent of the work force at the Department of State. They are also particularly underrepresented at the higher levels of State where only 10 Hispanic men and not one Hispanic woman served in the senior Foreign Service of over 850 and where only 2 ambassadors of over 160 are Americans of Hispanic descent. Of the $500,000 that was authorized for the recruitment of Hispanics in the Department of State authorization bill, the Appropriations Committee was only able to come up with $300,000. Since this was not a prejudicial cutback, would the chairman be willing to accede to a higher figure in the conference on this bill?

Mr. MOLLOHAN. Mr. Chairman, will the gentleman yield?

Mr. MENENDEZ. I yield to the gentleman from West Virginia.

Mr. MOLLOHAN. Yes, the Chair will assure the gentleman it will make every effort to accommodate the gentleman on this matter during conference.

Mr. MENENDEZ. Mr. Chairman, I thank the gentleman from West Virginia [Mr. MOLLOHAN] for his willingness to cooperate.

Mr. MOLLOHAN. I thank the gentleman for his leadership in this matter and for bringing this matter to our attention today.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

In addition, not to exceed $700,000 in registration fees collected pursuant to section 38 of the Arms Export Control Act, as amended, may be used in accordance with section 45 of the State Department Basic Authorities Act of 1956, 22 U.S.C. 2717; and in addition not to exceed $1,223,000 shall be derived from fees from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act (Public Law 90–553, as amended by section 120 of Public Law 101–246); and in addition not to exceed $15,000 which shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities in accordance with section 46 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2718(a)).

Notwithstanding section 502 of this Act, not to exceed 20 percent of the amounts made available in this Act in the appropriation accounts, "Diplomatic and Consular Programs" and "Salaries and Expenses" under the heading "Administration of Foreign Affairs" may be transferred between such appropriation accounts: *Provided further*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of State and the Foreign Service, provided for by law, including expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and the State Department Basic Authorities Act of 1956, as amended, $385,000,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1–11 as amended by Public Law 100–504), $23,850,000.

REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), $4,780,000.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314) and 3 U.S.C. 208, $9,579,000: *Provided*, That none of the funds appropriated in this paragraph shall be available to carry out section 101(b)(4)(A) of Public Law 103–236: *Provided further*, That of the funds appropriated in this paragraph, not to exceed $500,000 shall be available to carry out section 101(b)(4)(B) of Public Law 103–236.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292–300), and the Diplomatic Security Construction Program as authorized by title IV of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4851), $411,000,000 to remain available until expended as authorized by 22 U.S.C. 2696(c); *Provided*, That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies. Of the funds made available in this paragraph $92,864,000 shall be available for Maintenance of Buildings and Facility Rehabilitation.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service pursuant to the requirement of 31 U.S.C. 3526(e) $6,500,000, to remain available until expended as authorized by 22 U.S.C. 2696(c), of which not to exceed $1,000,000 may be transferred to and merged with the Repatriation Loans Program Account, subject to the same terms and conditions.

REPATRIATION LOANS PROGRAM ACCOUNT

For the cost of direct loans, $593,000, as authorized by 22 U.S.C. 2671: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974. In addition, for administrative expenses necessary to carry out the direct loan program, $183,000 which may be transferred to and merged with the Salaries and Expenses account under Administration of Foreign Affairs.

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96-8 (93 Stat. 14), $15,465,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $129,321,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, $913,941,000, of which not to exceed $40,719,000 is available to pay arrearages, the payment of which shall be directed toward special activities that are mutually agreed by the United States and the respective international organization: *Provided*, That 20 percent of the funds appropriated in this paragraph for the assessed contribution of the United States to the United Nations shall be withheld from obligation and expenditure pursuant to section 401(a)(2) of Public Law 103-236 until a certification is made under section 401(b) of said Act: *Provided further*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.

Mr. MOLLOHAN. Mr. Chairman, I ask unanimous consent that the remainder of title V through page 94, line 6, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. ROGERS. Mr. Chairman, reserving the right to object.

If I am not mistaken, does not the amendment of the gentleman from Illinois occur at page 91 of the bill, line 23?

Mr. MOLLOHAN. Mr. Chairman, I withdraw my unanimous-consent request.

PARLIAMENTARY INQUIRY

Mr. BERMAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BERMAN. Mr. Chairman, I understand that we are operating now under unanimous-consent request, as it applies to title V, in terms of rolling votes. How will that affect the ability to offer an amendment to any of the amendments that might be offered?

□ 1820

The CHAIRMAN. Would the gentleman restate his parliamentary inquiry?

Mr. BERMAN. The question is, we will now be proceeding to hear amendments to title V and rolling votes on any of the amendments where a vote is requested. If one wants to amend an amendment being offered to title V under this procedure, how would one do that and how would one get recognized?

The CHAIRMAN. As the Chair understands the situation, on an amendment to the amendment, the vote on that would still be postponed until the end of debate on other amendments to title V.

Mr. BERMAN. I have a further parliamentary inquiry. Could the Chair explain the order of votes on amendments? Are all votes on amendments being rolled? What is the first amendment that will be voted on when we go to a vote?

The CHAIRMAN. The only request that has been postponed following the Chair's announcement that there would be a rolling of the votes has been the amendment offered by the gentleman from Florida [Mr. STEARNS].

Mr. BERMAN. Mr. Chairman, is there any amendment which has been excluded from the unanimous consent to roll each vote?

The CHAIRMAN. No, not so far.

Mr. BERMAN. So what is the nature of the unanimous-consent request that was granted?

The CHAIRMAN. The unanimous-consent request was that the request for a recorded vote on amendments be postponed until the end of debate on further amendments to this title. This is to be done at the Chair's discretion, after consultation with the chairman and the ranking member of the appropriations subcommittee.

Mr. BERMAN. If I might make a last parliamentary inquiry, would it be in order after an amendment has been voted on, depending on the result of that amendment, to then offer an amendment, after all debate time has expired, to the next amendment, based on what had happened on an earlier amendment?

The CHAIRMAN. The chairman is informed by the parliamentarian that such a second degree amendment would not be in order, if the question had been put earlier on the first degree amendment and the voice vote announced.

AMENDMENT OFFERED BY MR. INSLEE

Mr. INSLEE. Mr. Chairman, I ask unanimous consent to offer an amendment at page 78.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

Mr. YATES. Mr. Chairman, reserving the right to object, has the Clerk not read beyond that?

The CHAIRMAN. The problem is that we had passed that in the reading, and unanimous consent is required to go back to it. The Chair was inquiring if there was any objection to going back to this point. The gentleman did not present his amendment in a timely fashion or the Chair may have been at fault for this.

Mr. YATES. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Without objection, the request of the gentleman from Washington [Mr. INSLEE] is agreed to.

There was no objection.

The Clerk read as follows:

Amendment offered by Mr. INSLEE: Page 78, line 23, strike "$411,000,000" and insert "$396,000,000".

Mr. MOLLOHAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes, and my time be equally divided between the gentleman from Kentucky [Mr. ROGERS] and myself.

The CHAIRMAN. Is there objection to the question of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. The gentleman from Washington [Mr. INSLEE] will be recognized for 5 minutes, and the gentleman from West Virginia [Mr. MOLLOHAN] and the gentleman from Kentucky [Mr. ROGERS] will be recognized for 2½ minutes each.

The Chair recognizes the gentleman from Washington [Mr. INSLEE].

Mr. INSLEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to congratulate the chairman and the committee in its productive efforts to meet the targets that we have set. Now it is the responsibility of all of us on the floor to share the burden of wringing out from the overseas embassy funds a reasonable and realistic reduction to help in reaching the deficit reduction goals. For this reason, I am submitting to my colleagues an amendment to cut the State Department Acquisition and Maintenance of Buildings Abroad Fund by an amount equal to 3.5 percent of the proposed appropriation, a $15 million reduction.

This reduction is entirely consistent with our need to request our agencies to tighten their belts to some modest degree in light of today's deficit. I am convinced that this minimal reduction will not result in the collapse of our diplomatic efforts abroad for several reasons.

First, it represents a 1-percent cut below funds actually spent for building acquisition and maintenance last year. In other words, out of the $400 million actually spent for building acquisition and maintenance last year, this amendment will cut only $4 million.

Second, it is clear that the proposed budget does not simply maintain existing levels of security and floor space.

Besides a new embassy in Ottawa, the proposed funding level would permit various upgrades such as perimeter controls, new backup generators, and new shatter-proof windows. In short, this amendment will permit continuation of existing floor space with existing security levels and existing types of power supplies. It will not put at risk our existing infrastructure.

Third, this area of Government is important to our national interests, but it is not one where we have experienced an emergency need for funding, as we have in our criminal justice system and our immigration system. Simply put, this is an area that can tolerate some modest reduction without jeopardizing our national goals.

Fourth, this level of reduction is consistent with the type of cuts we have required of our other agencies.

Two and one-half million dollars for new security fences and other items in Copenhagen may be something that we can do at some point, but we have a current-known threat pounding on our door right now in the shape of the deficit.

Additional generators at a cost of $5 million for places like Buenos Aires to use in case of a blackout might be desirable, but our foreign policy has functioned alright without this backup. Our fiscal status is in a blackout mode, here, right now.

Simply put, we must recognize that our bigger deficit is in the budget, not in our embassies.

I commend this amendment to you.

Mr. Chairman, I yield 1½ minutes to the gentleman from Michigan [Mr. KNOLLENBERG].

Mr. KNOLLENBERG. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise today in strong support of the amendment offered by the gentleman from Washington [Mr. INSLEE]. As stated, the amendment reduces the budget of the U.S. State Department by $15 million, which is 3.5 percent of their budget for embassies abroad. I believe it is important to note, as sometimes gets lost, that this amendment reduces the State Department appropriation for acquisition and maintenance of buildings abroad. While this is a very modest sum, maybe some would say paltry for this branch of the Government, we as the voice of the American public need to make a statement by reducing the State Department's budget because of a continued desire from the American public to be fiscally responsible, both here and on foreign shores.

Mr. Chairman, I urge all my colleagues to not only do what is fiscally responsible, but also what is legislatively accountable. America needs accountability and responsibility in its foreign affairs, just as we do with domestic matters. So please join me and vote yes on the Inslee amendment.

Mr. INSLEE. Mr. Chairman, I yield the balance of my time to the gentleman from Wisconsin [Mr. BARCA].

The CHAIRMAN. The gentleman from Wisconsin [Mr. BARCA] is recognized for 1 minute.

Mr. BARCA. Mr. Chairman, I would strongly urge passage of this amendment. As was indicated, this represents a fairly modest scaleback in the acquisition and maintenance building budget, because $10 million last year was used for salaries and expenses, so actually it represents probably closer to about a 1-percent cutback in this portion of the budget.

This would be consistent with what we have done in other portions of the budget. As you recall, we passed an amendment cutting back on our construction costs for courthouses here in the United States. So when we look at the budget dealing with building new chancellory buildings in Ottawa, furnishings and furniture acquisitions abroad, facility rehabilitation and other maintenance kinds of programs, this would represent a rather modest cutback, one that certainly I believe we can handle.

We made cutbacks here at home. Let us make some cutbacks abroad. I urge adoption of the Inslee-Barca amendment.

□ 1830

Mr. MOLLOHAN. Mr. Chairman, I yield myself such time as I may consume.

I rise in opposition to this amendment. I think it should be understood that, the ranking minority member and myself, along with our colleagues on the committee, carefully reviewed every State Department account, because it was the State Department, that was cut most in our bill.

We have very carefully gone through the accounts to ensure that every place that we could effect reductions, we did effect those reductions. As a matter of fact, the account regarding which the gentleman offers the amendment, we reduced by $11 million.

This is a construction account. It is always easy to say that there has to be some money in there someplace that we can reduce. Well, perhaps that may be true if those accounts have not been carefully reviewed, and all of the demand on those accounts have not been carefully considered. On this bill here before us this evening, they have been. We carefully combed through this bill so that we could apply every single dollar that we had to the priorities in this bill: crime fighting and the economic initiatives of the President.

I would urge my colleagues to oppose this amendment. It sounds like a small amount of money. And to represent that we can defer maintenance, that we can defer construction, I submit that deferring only creates problems next year and the year after. It also compounds those problems with these kinds of amendments which are very popular, and unfortunately, are offered year after year, because those maintenance, those upgrades, those equipment buys become accumulating liabilities.

I would encourage the body to oppose this amendment. It is crafted to be attractive and the appeal in the arguments of the gentleman have been eloquent.

Regardless of that, I would oppose the amendment and ask respectfully that the body do likewise.

Mr. ROGERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman has well stated the position of the subcommittee. As he said, we worked at great length on the State Department portion of our bill.

I would point out to the Members that the State Department budget is the only one that is actually cut from current levels. They are getting less money in this bill than they have right now for the current year.

Do Members want to know why? Because we are giving the United Nations 1.2 billion peacekeeping moneys that otherwise we did not know we were going to have to do. So we had to cut back the State Department. They have already been cut, including this account. So, in fact, we are $11 million below the administration request as the bill is right at this point.

So if we cut another 15 million from this maintenance of buildings account, I am afraid it is going to cost us more money down the road. Because if we cannot maintain these buildings now, we are going to spend twice as much or more down the road to repair them. I think we have made enough cuts already.

If we would find a way to cut back on the amount of money that we are having to give the United Nations for these 16 peacekeeping missions around the world, Uncle Sam is paying 31.7 percent of that or at least is billed that by the United Nations, and that has caused us to have to cut back on the State Department accounts. Unless we control in the future the percentage that we are required to give the United Nations for peacekeeping, we will not have any money in the State Department at all. We will have to close these embassies around the world, I am afraid.

Mr. Chairman, I oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington [Mr. INSLEE].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. INSLEE. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to the order of the House earlier today, further proceedings on the amendment offered by the gentleman from Washington [Mr. INSLEE] will be postponed.

The point of no quorum is considered withdrawn.

The Clerk will read.

The Clerk read as follows:

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For necessary expenses to pay assessed and other expenses of international peacekeeping activities directed to the maintenance or restoration of international peace and security, $533,304,000, of which not to exceed $288,000,000 is available to pay arrearage accumulated in fiscal year 1994 and not to exceed $23,092,000 is available to pay other outstanding arrearages.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, in addition to funds otherwise available for these purposes, contributions for the United States share of general expenses of international organizations and conferences and representation to such organizations and conferences as provided for by 22 U.S.C. 2656 and 2672 and personal services without regard to civil service and classification laws as authorized by 5 U.S.C. 5102, $6,000,000, to remain available until expended as authorized by 22 U.S.C. 2696(c), of which not to exceed $200,000 may be expended for representation as authorized by 22 U.S.C. 4085.

INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, or specific Acts of Congress, as follows:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the International Boundary and Water Commission, United States and Mexico, and to comply with laws applicable to the United States Section, including not to exceed $6,000 for representation; as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, $13,947,000.

CONSTRUCTION

For detailed plan preparation and construction of authorized projects, $6,644,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

Mr. MOLLOHAN. (during the reading). Mr. Chairman, I know of no amendment until page 92, line 4. Therefore, I ask unanimous consent that the remainder of the bill through page 92, line 3, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The text of the bill through page 92, line 3, is as follows:

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for the International Joint Commission and the International Boundary Commission, as authorized by treaties between the United States and Canada or Great Britain, and for the Border Environment Cooperation Commission as authorized by Public Law 103–182; $5,800,000, of which not to exceed $9,000 shall be available for representation expenses incurred by the International Joint Commission.

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, as authorized by law, $14,669,000: *Provided*, That the United States share of such expenses may be advanced to the respective commissions, pursuant to 31 U.S.C. 3324.

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, as authorized by section 501 of Public Law 101–246, $15,000,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

GENERAL PROVISIONS—DEPARTMENT OF STATE

SEC. 501. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchaper 59 of 5 U.S.C.; for services as authorized by 5 U.S.C. 3109; and hire of passenger transportation pursuant to 31 U.S.C. 1343(b).

SEC. 502. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of State in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided*, That not to exceed 5 percent of any appropriation made available for the current fiscal year for the United States Information Agency in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided further*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 503. Funds appropriated or otherwise made available under this Act or any other Act may be expended for compensation of the United States Commissioner of the International Boundary Commission, United States and Canada, only for actual hours worked by such Commissioner.

SEC. 504. (a) Of the budgetary resources available to the Department of State during fiscal year 1995, $5,566,000 are permanently canceled.

(b) The Secretary of State shall allocate the amount of budgetary resources canceled among the Department's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account.

(c) For the purposes of this section, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses not otherwise provided, for arms control and disarmament activities, $54,500,000, of which not to exceed $100,000 shall be for official reception and representation expenses as authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.): *Provided*, That of the budgetary resources available in fiscal year 1995 in this account, $122,000 are permanently canceled: *Provided further*, That amounts available for procurement and procurement-related expenses, in this account are reduced by such amount: *Provided further*, That as used herein, "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD

SALARIES AND EXPENSES

For expenses for the Commission for the Preservation of America's Heritage Abroad, $206,000, as authorized by Public Law 99–83, section 1303.

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $44,200,000, to remain available until expended.

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For expenses of the Japan-United States Friendship Commission as authorized by Public Law 94–118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, $1,247,000; and an amount of Japanese currency not to exceed the equivalent of $1,420,000 based on exchange rates at the time of payment of such amounts as authorized by Public Law 94–118.

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.) and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), to carry out international communication, educational and cultural activities; and to carry out related activities authorized by law, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $700,000 of this appropriation), as authorized by 22 U.S.C. 1471, and entertainment, including official receptions, within the United States, not to exceed $25,000 as authorized by 22 U.S.C. 1474(3); $476,362,000: *Provided*, That not to exceed $1,400,000 may be used for representation abroad as authorized by 22 U.S.C. 1452 and 4085: *Provided further*, That not to exceed $1,000,000 of the amounts allocated by the United States Information Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2452(a)(3)), shall remain available until expended: *Provided further*, That not to exceed $500,000 shall remain available until expended as authorized by 22 U.S.C. 1477b(a), for expenses and equipment necessary for maintenance and operation of data processing and administrative services as authorized by 31 U.S.C. 1535–1536: *Provided further*, That not to exceed $7,615,000 to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English teaching, library, motion pictures, and publication programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended: *Provided further*, That not to exceed $2,000,000 to remain available until expended may be used to carry out projects involving security construction and related improvements for agency facilities not physically located together with Department of State facilities abroad.

OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 3), and in accordance with the provisions of 31 U.S.C. 1105(a)(25), $4,300,000.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of Fulbright, International Visitor, Humphrey Fellowship, Citizen Exchange, Congress-Bundestag Exchange, and other educational and cultural exchange programs, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), $237,812,000, to remain available until expended as authorized by 22 U.S.C. 2455: *Provided*, That of the funds appropriated in this paragraph, $500,000 is for the American Studies Collections program.

EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND

For payment to the Eisenhower Exchange Fellowship Program Trust Fund as authorized by the Eisenhower Exchange Fellowship Act of 1990 (20 U.S.C. 5204–05), $2,100,000, to remain available until expended.

For necessary expenses of Eisenhower Exchange Fellowships, Incorporated to be derived from interest and earnings from the Eisenhower Exchange Fellowship Program Trust Fund as authorized by sections 4 and 5 of the Eisenhower Exchange Fellowship Act of 1990 (20 U.S.C. 5204–05), $300,000 to remain available until expended: *Provided*, That none of the funds appropriated herein shall be used to pay any salary or other compensation, or to enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376; or for purposes which are not in accordance with OMB Circulars A–110 (Uniform Administrative Requirements) and A–122 (Cost Principles for Non-profit Organizations), including the restrictions on compensation for personal services.

ISRAELI ARAB SCHOLARSHIP PROGRAM

For necessary expenses of the Israeli Arab Scholarship Program as authorized by section 214 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452), all interest and earnings accruing to the Israeli Arab Scholarship Fund on or before September 30, 1995, to remain available until expended.

INTERNATIONAL BROADCASTING OPERATIONS

For expenses necessary to enable the United States Information Agency, as authorized by the United States Information and Educational Exchange Act of 1948, as amended, and Reorganization Plan No. 2 of 1977, to carry out international communication activities; $476,796,000, of which not to exceed $10,000 may be used for official receptions within the United States as authorized by 22 U.S.C. 1474(3) and not to exceed $35,000 may be used for representation abroad as authorized by 22 U.S.C. 1452 and 4085; and in addition, not to exceed $250,000 from fees as authorized by section 810 of the United States Informational and Educational Exchange Act of 1948, as amended, to remain available until expended for carrying out authorized purposes: *Provided*, That $239,735,000 shall be transferred to the Board for International Broadcasting and shall remain available until expended for expenses authorized by the Board for International Broadcasting Act of 1973, as amended, of which not to exceed $45,000 shall be available for official reception and representation expenses: *Provided further*, That none of the funds appropriated in this paragraph for the Board for International Broadcasting may be used to relocate the offices or operations of RFE/RL, Incorporated from Munich, Germany: *Provided further*, That such amounts appropriated to the Board for International Broadcasting in fiscal year 1994 as are certified by the Office of Management and Budget to the Congress as gains due to the fluctuation of foreign currency, may be used in fiscal year 1995 and thereafter either to offset foreign currency losses or to offset unfunded RFE/RL costs associated with the implementation of Public Law 103–236: *Provided further*, That obligated but unexpended balances appropriated in fiscal year 1990 to fund planned transmitter modernization expenses may be expended in fiscal year 1995 for unfunded RFE/RL costs associated with the implementation of Public Law 103–236.

RADIO CONSTRUCTION

For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio and television transmission and reception as authorized by 22 U.S.C. 1471, $85,314,000 to remain available until expended as authorized by 22 U.S.C. 1477b(a).

The CHAIRMAN. Are there any amendments to the bill through page 92, line 3?

AMENDMENT OFFERED BY MR. PORTER

Mr. PORTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PORTER: Page 92, after line 3, insert the following:

RADIO FREE ASIA

"(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out the Radio Free Asia program, $10,000,000, to be derived from amounts provided in this Act for "Radio Construction".

PARLIAMENTARY INQUIRY

Mr. BERMAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BERMAN. Mr. Chairman, at what point would it be appropriate to offer an amendment to this amendment.

The CHAIRMAN. At any time while this amendment is pending.

Mr. BERMAN. Mr. Chairman, a further parliamentary inquiry: Is there a time limit?

The CHAIRMAN. There has been no time limit set on debate on this amendment. There may be in the very near future, however.

Mr. MOLLOHAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 60 minutes and that my time be equally divided between the gentleman from Kentucky [Mr. ROGERS] and myself.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. PORTER. Mr. Chairman, reserving the right to object, I would ask the gentleman a question. My concern at this point is that if I agree to this, there will be other amendments than the one to my amendment that we think may be in order. If that were the only on to be offered, then the 60 minutes is agreeable. But if there are other amendments or other amendments to that amendment, then I would have to object.

Mr. Chairman, I yield to the gentleman from West Virginia [Mr. MOLLOHAN].

Mr. MOLLOHAN. Mr. Chairman, I am unaware of any others.

Mr. PORTER. Mr. Chairman, further reserving the right to object, can the gentleman agree to that?

Mr. MOLLOHAN. Mr. Chairman, if the gentleman will continue to yield, yes, I am agreeable to that. The gentleman is saying that if there is more than the amendment from the gentleman from California, then the gentleman would want an extension of time which would be understandable at that point.

Mr. PORTER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. BERMAN. Mr. Chairman, reserving the right to object, if I may ask the Chair, assuming the time limit is agreed to and an amendment to the amendment is offered, will this amendment and the amendment to the amendment be voted on or will they be rolled pursuant to the previous unanimous-consent agreement until the end?

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The CHAIRMAN. Apparently it is in the discretion of the Chair, after consultation with the chairman and the ranking member of the subcommittee, to make a decision on that point. Such consultation and decisionmaking has not occurred as yet, however.

Mr. BERMAN. On whether or not the vote is rolled, Mr. Chairman?

The CHAIRMAN. That is correct.

Mr. ROGERS. Mr. Chairman, will the gentleman yield under his reservation of objection?

Mr. BERMAN. I am happy to yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Chairman, I think we can clarify this a bit for all parties. As I understand the unanimous consent order under which we are operating, Mr. Chairman, at the end of the debate when a vote would be requested by either party, at that point in time either the chairman of the committee or the ranking Republican could request the

Chair for an immediate vote, as opposed to rolling it to the later time, is that correct?

The CHAIRMAN. The gentleman is correct.

Mr. BERMAN. Reclaiming my time, Mr. Chairman, under my reservation of objection, it would be the intention of this gentleman to amend the gentleman's amendment to strike his $10 million cut in the radio construction account. That amendment would be subject to a point of order as exceeding the 602(b) allocations at this particular point.

However, earlier amendments have sought to strike money, and if any of them are successful, Mr. Chairman, there would be that existing allocation, and the question is whether a ruling on this amendment could be delayed until such time as we know the result of amendments offered earlier but not yet voted on.

The CHAIRMAN. The Chair will state that the gentleman has posed an interesting theoretical question which the Chair is unable to rule upon at this point, until the actuality develops.

Mr. PORTER. Mr. Chairman, will the gentleman yield under his reservation of objection?

Mr. BERMAN. I yield to the gentleman from Illinois.

Mr. PORTER. Mr. Chairman, I would say to the gentleman that the difficulty that has been posed by his amendment is that no one had notice of it in adequate time to make the proper objections. Had we known about it, Mr. Chairman, it might well have worked out that it would fall in the right sequence so that the 602(b)'s were there. Now we find ourselves in a very difficult position in not having any objection to the amendment if the 602(b)'s are there, but we do not know that they are there, because votes have not been taken on previous amendments, and I would suspect, given the record of where we have been over this entire bill, that the 602(b) may well not be there, Mr. Chairman.

I do not know where this leaves the gentleman's amendment, however, Mr. Chairman. The procedural quandary seems to me to be a very, very difficult one, and I suggest that maybe the gentleman should consider simply supporting the amendment the way it has been written, with the understanding that we will work this out in conference and make it correct on the construction side.

Mr. BERMAN. Mr. Chairman, reclaiming my time on my reservation of objection, I appreciate the gentleman's suggestion. I believe my friend, the gentleman from West Virginia [Mr. MOLLOHAN], the chairman of the subcommittee, would suggest that I do the exact same thing and support his opposition to the amendment, so there we are.

Mr. Chairman, if I might just add my reservation of objection, had I been on the floor when the unanimous consent request to roll votes was made, I would have objected for this very reason, but I was not, so I am trying myself to sort out what the Chair describes as an interesting theoretical problem.

Mr. PORTER. If the gentleman will yield further, Mr. Chairman, if he had told me he was going to offer the amendment I would have made objection at the appropriate time, but I did not know.

The CHAIRMAN. Does the gentleman from California [Mr. BERMAN] withdraw his reservation of objection?

Mr. BERMAN. To the limit, Mr. Chairman? The gentleman withdraws his reservation of objection, yes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia [Mr. MOLLOHAN] that there be a limitation of time?

Mr. ROGERS. Reserving the right to object, Mr. Chairman, suppose there is an amendment to the amendment. Do we get extra for that, Mr. Chairman?

The CHAIRMAN. The Chair is informed that we would not get extra time. It would come out of the time provided in the time limit.

Mr. PORTER. Reserving the right to object, Mr. Chairman, I think what we had agreed to, if I can correct the Chair on this, is that if there were other amendments beyond the amendment, the proposed amendment to my amendment offered by the gentleman from California [Mr. BERMAN], then we would have further time, is that correct?

The CHAIRMAN. We have not agreed on the initial time limitation, as of yet. That unanimous-consent request is still pending.

Is there objection to the request of the gentleman from West Virginia [Mr. MOLLOHAN]?

Mr. KOLBE. Reserving the right to object, Mr. Chairman, would the gentleman from West Virginia [Mr. MOLLOHAN], the chairman of the subcommittee, restate the unanimous-consent agreement?

Mr. MOLLOHAN. Mr. Chairman, if the gentleman will yield the unanimous consent agreement is that all debate be limited to 1 hour.

Mr. KOLBE. On what amendment, Mr. Chairman?

Mr. MOLLOHAN. On the amendment offered by the gentleman from Illinois [Mr. PORTER].

Mr. KOLBE. And all amendments thereto?

Mr. MOLLOHAN. And all amendments thereto.

Mr. PORTER. No, Mr. Chairman, just one amendment.

Mr. MOLLOHAN. Just the amendment offered by the gentleman from California [Mr. BERMAN].

Mr. KOLBE. And the amendment thereto offered by the gentleman from California [Mr. BERMAN]?

Mr. MOLLOHAN. Just the so-called Berman amendment thereto.

Mr. KOLBE. Further reserving the right to object, Mr. Chairman, then the time limit will not apply to any other amendments that could be offered?

Mr. MOLLOHAN. The gentlemen from Arizona [Mr. KOLBE] is correct.

Mr. KOLBE. Mr. Chairman, I thank the gentleman, and I withdraw my reservation of objection.

Mr. PORTER. Mr. Chairman, I withdraw my reservation of objection.

Mr. ROGERS. Mr. Chairman, I withdraw my reservation of objection.

Mr. BERMAN. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia [Mr. MOLLOHAN]?

There was no objection.

The CHAIRMAN. The gentleman from Illinois [Mr. PORTER] is recognized for 30 minutes.

Mr. PORTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentlewoman from Maryland [Mrs. BENTLEY] and I are offering an amendment today that will provide $10 million in funding for Radio Free Asia to provide surrogate broadcasts to China, North Korea, Vietnam, Burma, Tibet, and Laos. We are pleased to be joined by Ms. PELOSI, Mr. ABERCROMBIE, Mr. GILMAN, Mr. WOLF, and Mr. SMITH of New Jersey, showing broad support on both sides of the aisle for Radio Free Asia.

The United States has historically supported two types of international radio broadcasts to meet two very specific needs. The Voice of America has provided excellent programming designed to inform people in other nations about the United States. At the same time, surrogate broadcasting—like Radio Free Europe and Radio Liberty—has provided programming not about America, but truth about what is happening in that country and the world.

Both VOA and surrogate broadcasting are important foreign policy tools. Both have important missions and venues. Both have records of success. Both are extremely cost effective. Both are priorities and deserve strong support.

Mrs. BENTLEY and I have been working for the last 5 years to bring surrogate broadcasting—messages of truth and freedom—to the oppressed people of Asia. In 1990, Mrs. BENTLEY and I introduced separate pieces of legislation that would create Radio Free Asia and Radio Free China, respectively. In 1991, Radio Free Asia was endorsed by the President's Task Force on International Broadcasting. In 1992, the Congressional Commission on Broadcasting to the People's Republic of China followed suit, recommending the establishment of a new Asian broadcast service. RFA was authorized by the Foreign Relations Authorization Act, which become law in April, and President Clinton requested $10 million for

Radio Free Asia in his fiscal year 1995 budget request.

Mr. Chairman, less than a month ago, in his announcement that he would extend MFN to China, the President said,

> I am also pursuing a new and vigorous American program to support those in China working to advance the cause of human rights and democracy. This program will include increased broadcasts for Radio Free Asia . . .

I received assurances from the White House this morning and this afternoon that "the Administration is committed to pursuing the President's request for $10 million to fund Radio Free Asia."

Radio Free Asia is clearly a program whose time has come. The only problem is that the subcommittee failed to include it in this bill.

The amendment that I would offer adds no new funds. We get the funds from an associated account, the Radio Construction Account. The bill has a total of $85.3 million in this account for this year, which is $12.2 million more than last year. In addition, it is my understanding that the Radio Construction Account has nearly $50 million in unliquidated funds from previous years, at least a portion of which are unobligated. If this proves to be a higher priority than others, the matter can easily be sorted out in conference.

The Chairman has questions about whether Radio Free Asia can begin and operate effectively with only 10 million dollars. It could certainly be more effective if we could fund it at its full authorization level of $30 million. I am confident, however, that meeting the President's request level of $10 million will be enough to begin a high quality radio service. Frankly, I also believe that the Senate, which has a more generous 602(b) allocation for this bill, will be able to find additional funding.

This issue is better left to the experts in international broadcasting and the authorizers have put a safeguard in the bill that authorizes Radio Free Asia to ensure that money is not wasted. Section 309 of the Foreign Relations Authorization Act for fiscal years 1994 and 1995 says:

No grant may be awarded to carry out the provisions of this section unless the plan submitted by the [Broadcasting] Board [of Governors] includes a certification by the board that Radio Free Asia can be established and operated within the funding limitations provided for in subsection (d)(4) and (d)(5) which is the authorization levels.

If the Board finds that Radio Free Asia is impossible to implement—which I would find difficult to believe since two congressionally mandated studies in the last 3 years have said it is not only feasible, but in the national interest—it may submit recommendations for changes in law that would make it feasible. These are ample safeguards to ensure that everyone's concerns are addressed.

Mr. Chairman, the Commission on Broadcasting to the Peoples Republic of China said it best when they wrote, "the fate of America is intertwined with the fate of American ideals." For individuals around the world, knowledge is freedom. The 1.3 billion people in the counties to be served by Radio Free Asia have no freedom. With a very small investment in this tremendously cost-effective program, we can give them the key.

I urge members to vote for this amendment.

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Mr. Chairman, I reserve the balance of my time.

Mr. MOLLOHAN. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, I would like to give just a few reasons why I am opposed to this amendment. It is not that it is not an interesting subject or even a good idea.

The administration is making a very strong effort now to reorganize Radio Liberty/Radio Free Europe and move the organization out of Munich.

It will cost at least $30 million to establish a Radio Free Asia. it may very well be, and we do not know yet, that this Radio Free Asia could be established as a part of the Voice of America. Perhaps some of the equipment could be used jointly with VOA. We do not know yet. But we do know that it would probably cost $30 million to establish a separate Radio Free Asia.

Just look at what is happening with Radio Liberty/Radio Free Europe in Europe, that is $210 million now, and so we can expect that Radio Free Asia would probably eventually cost in the area of $150 million to $200 million to operate. That means another $150 million to $200 million will have to come out of State Department and other USIA funds in future years—before we have even reorganized the Radios.

Mr. Chairman, this amendment is premature. It is not that we may not need or want to do something like this in perhaps within the year, but it is premature to do it in this bill. To take $10 million now as a downpayment I think would be a bad mistake.

I hope we vote this amendment down today. When we vote no on this, we are not necessarily voting against Radio Free Asia. Instead we are saying that today is the wrong time to do it. We do not have the information we need today, and we may be getting ourselves into a big expense that could perhaps be handled in a much more efficient and less expensive way.

Mr. ROGERS. Mr. Chairman, I reserve the balance of my time.

Mr. PORTER. Mr. Chairman, I yield 5 minutes to the gentlewoman from Maryland [Mrs. BENTLEY], the cosponsor of the amendment.

Mrs. BENTLEY. Mr. Chairman, I thank the gentleman from Illinois for yielding me this time.

I want to point out, Mr. Chairman, that the gentleman from California [Mr. CUNNINGHAM] should be added to the group that the gentleman from Illinois [Mr. PORTER] read earlier.

Mr. Chairman, it should come as no surprise to anyone that the spread of democratic ideas serves the interests of the United States because democracies are far less prone to launch wars of aggression. As a prime vehicle for the dissemination of democratic ideas, international radio broadcasting is a cost-efficient, nonviolent means of communication that forms an essential part of our overall program of diplomacy.

As most Members know, the Congress appropriates funds for two separate and distinct radio broadcast services—the first of which is the Voice of America, the official U.S. Government broadcast service. The second broadcast service, operated by the quasi-independent Board for International Broadcasting, is Radio Free Europe/Radio Liberty—which for over 40 years broadcast into Eastern Europe and the former Soviet Union. The success of both broadcast services is well documented in bringing hard news and commentary to hundreds of millions of people whose only other information was that spoon-fed to them by their governments. Our commitment to radio broadcasting helped break that stranglehold—and helped to bring down the Iron Curtain.

It is unfortunate that, contrary to our long-standing policy of maintaining two separate broadcast services to Eastern Europe and the former Soviet Union, we have yet to make a parallel commitment to promoting democracy in Asia. Throughout much of Asia, well over 1 billion people are routinely denied access to accurate, timely information by their governments.

One glaring recent example of this occurred on the eve of the anniversary of the Tiananmen Square massacre. In this case, the Government of the People's Republic of China issued the demand that hotels temporarily shut off access to CNN programing because of concern about the impact of Tiananmen-related stories. Such blatant efforts to deny essential domestic and international news to their publics are the rule rather than the exception throughout much of Asia.

In 1992, then-Governor Clinton spoke in favor of a Radio Free Asia broadcast service in a speech delivered at Georgetown University. President Clinton included funds for Radio Free Asia in his fiscal year 1994 and 1995 budget submissions to the Congress. Three weeks ago, at a press conference dealing with MFN and China, the President spoke of increased Radio Free Asia broadcasts. The trouble is—there are no Radio Free Asia broadcasts to increase. There is no Radio Free Asia—and there is no money in this bill to create it. What we do have, is requests for more studies—which is exactly what we don't need.

Since my colleague JOHN PORTER and I first introduced Radio Free Asia legislation back in 1990, we've had 4-years worth of studies. In 1991, the President's Task Force on U.S. Government International Broadcasting issued a lengthy report, effectively endorsing Radio Free Asia. In 1992, the Commission on Broadcasting to Asia followed suit. The fiscal year 1995 State Department authorization bill which this body passed in April, authorized a Radio Free Asia broadcast service. We have had the studies, now it is time for action because we are losing valuable time in an increasingly unstable Asia. We should have had this service up and running several years ago. While the consequences of our failure to do so have yet to be fully realized, the writing is on the wall.

In Cambodia, 15 months after historic elections were held, the Chinese-backed Khmer Rouge are again on the offensive—waging war over the airwaves as well as on the ground. Members interested in seeing the daily regimen of inflammatory news broadcasts by Pol Pot's forces, need only refer to the Foreign Broadcast Information Service reports that many of our offices receive on a daily basis. The growing political chaos, fueled by Khmer Rouge broadcasts should be of serious concern to all who remember what happened inside Cambodia from 1975–1978. Radio Free Asia can play a positive role in helping Cambodia consolidate its tentative move toward democracy which is in danger of being suppressed again by the murderous Khmer Rouge.

In Vietnam, a country of 70 million people, the VOA broadcasts 2½ hours a day—certainly not enough for a country of such pivotal regional importance. In Vietnam, economic liberalization has not necessarily been followed by political liberalization. Yet, although the Vietnamese Government continues to prohibit free expression, there has been a range of nascent, democratic activities that must be nourished through access to a Radio Free Asia. Although the Congress has lifted economic sanctions, we must not falsely assume that trade, by itself, will foster democracy. While the VOA gives these countries a window to world events, a Radio Free Asia will address a full and fair colloquy of events of the day within each country and culture.

Then, there is the case of North Korea, a closed, militaristic society that has the potential to foment major instability throughout the region. In a closed society such as North Korea, international radio broadcasting is extremely important for another key reason—communication with the ruling elite. Contrary to the belief that North Koreas leaders are of only one mind, we know from past events that there are moderate as well as hard-line factions. Make no mistake about it, members of the ruling elite can and do listen to international radio broadcasts—perhaps behind closed doors—but listening nonetheless.

Kim Il-song will not live forever, and the succession is not yet clear. Through Radio Free Asia, we can implant the notion that a peaceful future is possible, with as much as the North Korean elite as can be reached. Must we wait for the outbreak of a second war on the Korean Peninsula before recognizing the need for a Radio Free Asia?

Radio Free Asia is an idea whose time has come. There is a vital need for Radio Free Asia to help the peoples of the Communist countries in Asia realize their own path to freedom. For these countries, we can highlight the successful experiences of Eastern Europe and the Soviet Union while emphasizing how countries such as South Korea, Taiwan, and Thailand have found their own path to greater economic and political freedom.

And let us be clear that we do not want Radio Free Asia to offend our friends in the region by fomenting destabilization in countries that are not as democratic as some would like. Radio Free Asia should not become a symbol of arrogance, nor should Radio Free Asia be sentenced to death by a thousand studies, which, unless we act today, is a distinct possibility. A vote in favor of our amendment is a vote in favor of democracy building throughout much of Asia. Radio Free Europe helped to bring down the Iron Curtain. Radio Free Asia can help bring down the Bamboo Curtain.

□ 1900

Mr. MOLLOHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the Porter amendment, strong opposition.

I would like to point out to the body that this issue is not one of first impression, so to speak, to the subcommittee or to the full committee. In the first instance, the subcommittee considered very carefully the administration's request which was $10 million for Radio Free Asia, and rejected it.

Mr. Chairman, the reason for rejecting the request is not that we are opposed to Radio Free Asia or to the purposes for which Radio Free Asia is proposed. The reason for our opposition is fiscal responsibility. This program is definitely well-intentioned, and there is obviously a need for such communication to Asia, but the program has just recently been authorized, and there has been no assessment of its cost.

Mr. Chairman, there has been no implementation plan developed yet, so we are being asked to fund this program purely on good faith.

We think, frankly, that it is irresponsible to do that. I do not think there is a member on the subcommittee, though I do not want to speak for them, who is opposed to Radio Free Asia per se. But we have had experience with unlimited funding of radio broadcast, and some of these experiences have been a bit unpleasant. Now we have to address them.

Therefore, we think it is crucially important that before we consider funding a program, we have an implementation plan so that we can assess the costs associated with this worthy and noble proposal. We do not have that, Mr. Chairman. We have no idea how the program would be implemented. We have no idea what the infrastructure needs are, and to what extent the infrastructure requirements can be shared with Voice of America facilities already in the area. We have no idea what the start-up costs are going to be.

Very importantly, Mr. Chairman, we do not know what this will ultimately cost. We have had a request of $10 million from the administration. We have an authorization of $30 million.

The gentleman offered amendments in committee for $22 million and $8 million, a combination of $30 million, but no one is able to tell us how much it will really cost. Are we dealing with a black hole here? Does this program cost $30 million a year? Does it cost $30 million to start-up? Is it going to cost $30 million next year? Is it going to be $50, $100, or $150 million?

We are not opposed to Radio Free Asia. We are opposed to appropriating money for a program for which we have seen no implementation plan.

We have had a number of discussions with the gentleman, and other distinguished Members who are interested in Radio Free Asia, about reviewing this request again when an implementation plan is made available to us. Even if it is between now and conference, we are willing to look at such a proposal so that we can begin to assess the costs. If we had that assessment between now and conference, I think the members of my subcommittee would be interested in looking at it to seek what we could do to support the program.

Mr. Chairman, I think it is irresponsible to act without an implementation plan. We have had many Members talk about fiscal conservatism and fiscal responsibility. We must question the request in the gentleman's amendment based upon the fact that we have not seen a program for implementation.

Therefore, we have no information on the scope either of the implementation or of the future operating funds.

So I encourage the body on a stand of fiscal responsibility to oppose this amendment. Give us a chance to look at an implementation plan and consider the funding based upon tangible material.

Mr. Chairman, I reserve the balance of my time.

Mr. PORTER. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. GILMAN], the ranking Member on the Committee on Foreign Affairs.

Mr. GILMAN. Mr. Chairman, I rise in strong support of the Porter/Bentley amendment to fund Radio Free Asia and I commend Mr. PORTER and Mrs. BENTLEY for their diligent efforts on this measure. I have endorsed this concept for a long time, and now more than ever, the people living in the closed Asian societies of China, Laos, Burma, North Korea, and Vietnam should have access to independent news sources. Increased international broadcasting provides valuable information on events in those countries and around the world.

Radio Free Asia was established in the recently passed State Department Authorization Act—Public Law 103-236. Mr. PORTER and Mrs. BENTLEY's amendment seeks to fund a program already approved by Congress.

China is a major target for these broadcasts. We gained few concessions from the Chinese in return for granting of most-favored-nation status. Yet, it was hoped that the administration would at least succeed in putting a stop to the deliberate jamming by the Chinese of Voice of America broadcasts. Discussions were abruptly ended because the Chinese were unhappy with White House statements on broadcasting to Asia. Once again, aggressive actions by the Chinese Government are taken at the cost of the basic civil liberties of their people.

The continued jamming of VOA reenforces the reasons to fund additional broadcasting as a wedge to help open this society.

Furthermore, we cannot rely on the commercial market to provide the vital alternative to controlled state news. Recent articles indicate Rupert Murdoch, owner of STAR-TV in Hong Kong has dropped the BBC World News Service from his network to placate Beijing. STAR-TV had been retransmitting the BBC service to about 1.8 million Chinese households.

Information can be a powerful motivator, and broadcasting is a valuable tool as our experience with Radio Free Europe and Radio Liberty has proven.

A compelling reason for Radio Free Asia is that it provides an alternative to government-controlled media. State managed news means censorship, and precludes opportunities for thought-provoking commentary and discussion that may present views contrary to the government.

Even though satellite technology has vastly increased the availability of Western news around the world, proper equipment is required to receive these programs.

The Chinese have prohibited satellite dishes specifically to reduce access to Western media.

Aggressive radio broadcasting is an attempt to fill the information vacuum imposed by these countries. Radio broadcasts can be tailored to meet the language and programming needs of the country.

The value of uncensored news and commentary is unquestioned—one only need look at the success of Radio Free Europe and Radio Liberty and its impact on Eastern Europe and the former Soviet Union.

I commend my colleagues for their efforts to provide funding for this program and strongly support increased broadcasting to the Asian region.

Mr. PORTER. Mr. Chairman, I yield 4 minutes to the gentleman from New Jersey [Mr. SMITH].

☐ 1910

Mr. SMITH of New Jersey. I thank the gentleman for yielding this time to me.

Mr. Chairman, a few weeks ago Mr. Clinton renewed the most-favored-nation trade status for the People's Republic of China. To our shock and dismay, Mr. Clinton flipflopped on his own human rights policy when he delinked trade with China from human rights in China. Mr. Chairman, as a result, millions of Chinese, victims of the ongoing and, in some areas, increasing repression and persecution have been betrayed. The President broke his word and, as a direct consequence, millions of Chinese will suffer and be victimized because he has chosen to coddle the Beijing dictatorship.

That having been said, in announcing his decision, Mr. Clinton also said that his administration would pursue "a new and vigorous American program to support those in China working to advance the cause of human rights and democracy." He went on to say that "this program will include increased broadcasts for Radio Free Asia and the Voice of America." This increase in broadcasting was the first point he mentioned in his renewed human rights activity in China.

This commitment was echoed by Secretary of State Warren Christopher and Assistant Secretary of State Winston Lord. Both of them said that the administration would move to step up the use of VOA and inaugurate Radio Free Asia.

Mr. Chairman, I have been a strong supporter of Radio Free Asia for years. When I testified before the Commission on Broadcasting to the People's Republic of China in 1992 I testified that the Chinese Government maintains one of the world's most effective monopolies on information. Mr. Chairman little has changed since then. The Chinese Government continues to deny the Chinese people knowledge of conditions in their own country. China faces serious environmental challenges; there are important policy choices on economic and regional development to be made; the Chinese people have a right to know the status of human rights in their country deplorable as it may be and China's citizens would benefit from an understanding of how policies are made, and who makes them. Instead of addressing these important matters, the official Chinese media highlight endless hosannas on achievement of production quotas, audiences for admiring foreign visitors, study of the latest party documents, exemplars of socialist rectitude, and the achievements of the revolution. They also present distortions of the United States, human rights, and the spirit of democratic capitalism.

The control of newspapers, magazines, radio and television by the Communist Party continues to deny the Chinese people the truth about their own country and the world.

In 1991, a President's task force on U.S. Government international broadcasting endorsed Radio Free Asia. In 1992 a congressional commission on broadcasting to the People's Republic of China recommended establishing a new service to act independently from VOA. 1993 has been reported by human rights organizations as one of the worst years for human rights in China. Given the deterioration of human rights in China over the past year which include the trials and detentions of journalists, the promulgation of new and more restrictive laws on religion, the continued and increasing use of forced abortion to enforce their draconian population control policies, the continued use of prison labor, and reports on the trafficking of prisoner's body parts, the need for a Radio Free Asia is greater now than it was in years past.

If we want to know how effective programs such as a Radio Free Asia could be, we need only remind ourselves about the role Radio Free Europe/Radio Liberty played in Eastern Europe and the former Soviet Union. Leaders of the new democracies have testified to the power of these broadcasts. When asked if the broadcasts were important to the democratic movement in Poland, President Lech Walesa responded "Would there be Earth without the Sun?" During the days and nights of the August 1991 coup attempt in Moscow, Voice of America, Radio Free Europe/Radio Liberty and the BBC were the lifelines of the people at the barricades.

Radio Free Asia could have the same powerful effect in Asia as RFE/RL had in Eastern Europe. An investment in RFA is an investment in the interests and security of the United States. But this investment must be substantial, not a token gesture.

I believe that extending MFN to China and disregarding the atrocious human rights record of the past year was wrong. Funding RFA is one step that we can take in righting that wrong. If we fail to fund RFA or if we fail to fund it adequately, if we fail to give it the opportunity to even get off the ground, we are only continuing a pattern of breaking our promises and commitments. We cannot continue turning our backs on the people of China. At some point we must stop coddling dictators and stand up for the victims of repression and persecution.

If RFA is left unfunded or is underfunded, it takes away one of the proposed cornerstones of our already watered down human rights policy toward China.

Mr. Chairman, in the days of the Ching dynasty, the feet of young girls were wrapped in tightly drawn cloth. As these women grew into maturity, the bindings noosed their feet, crushing the delicate bones under the pressure and hobbled these women for life. These footbindings sentenced these women to stunted lives that could only find happiness within the approved ambit and patriarchy of their homes. The Communist Party today seeks to bind the minds of its citizens. The cords of China's media monopoly crush the human aspiration and creativity as effectively as the bindings crushed the feet of Chinese women. Broadcasts, provided by our Nation, can help loosen these bonds.

Mr. Chairman, an investment in Radio Free Asia is a wise investment for America's future, and for the pursuit of democracy and human rights not only in China but in all of Asia. I support this amendment and I urge my Colleagues to support it as well.

Mr. PORTER. Mr. Chairman, I am pleased to yield 5 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in strong support of the Porter-Bentley amendment and in appreciation to the chairman of the subcommittee, the gentleman from West Virginia [Mr. MOLLOHAN] for the hard work in putting together fiscal year 1995 Commerce, Justice, State appropriations bill. I understand the competition for funds in this legislation, and with that full appreciation I come to the floor to support the transfer of funds to Radio Free Asia, as presented in the Porter-Bentley amendment.

Mr. Chairman, others of our colleagues have pointed out the need for us to have independent surrogate broadcasting into China. Others have stated that this legislation, this issue of Radio Free Asia, was endorsed by President Bush's task force on U.S. Government international broadcasting in 1991. In 1992 it was endorsed by the Congressional Commission on Broadcasting to the People's Republic of China, which recommended the establishment of a new broadcast service. It was authorized in the gentleman from California, Mr. BERMAN's, legislation and in addition to that President Clinton included a $10 million request for Radio Free Asia in his fiscal year 1995 budget request. Those of us who have been working on this issue for many years have gone by the book. We have waited for the commissions to speak, the legislation has been authorized, and it was in the President's budget, and for that reason I was disappointed that it did not appear in the subcommittee on Appropriations' markup for Radio Free Asia.

Mr. Chairman, the Chinese dissident movement is reeling from a recent decision by President Clinton to renew MFN without any tangible improvement in human rights in China. I would like to read part of a letter from the National Council on Chinese Affairs.

> Radio Free Asia is the best way that the U.S. Can help to break the Chinese Government's news embargo It can establish its credibility among Chinese people by its independence and diverse expertise other than from the U.S. Government. It can effectively penetrate into the Chinese society and let people know constantly what is happening around the country and around the world.

As you know, Mr. Chairman, this broadcasting will go into other closed societies as well.

Our colleague, Mr. SMITH, mentioned that Voice of America could perhaps do this. It cannot. We need Radio Free Asia as an independent surrogate to give the message of freedom into China.

In addition, Mr. Chairman, I would say I think Chairman MOLLOHAN's statement that he would like to see an implementation plan is a perfectly legitimate statement and the gentleman should have an implementation plan. We are asking our colleagues today to vote to let us move Radio Free Asia along.

As I said, Mr. Chairman, we have adhered to and abided by the commission report, getting our authorization, having the President's 1995 budget include this request if we do not pass this amendment today, we will be sending out a very bad message to the world. We will be saying that in spite of President Clinton's saying that this was one of the cornerstones of his Asia policy to have Radio Free Asia, that the Congress of the United States is rejecting the funding even though it is a modest amount of funding for Radio Free Asia.

This amendment is budget-neutral, and this amendment is one that deserves the support of our colleagues.

Recent newspaper reports have said because of or coinciding with the succession struggle in China, that a bamboo curtain in surrounding that succession struggle. On a day-to-day basis reporters are thrown in jail, and some of my colleagues, I believe, Mr. GILMAN, referenced the chilling effect that that Chinese policy has even in Hong Kong, where there is self-censorship of the press as well as discontinuation of free broadcasting into China.

So, in answer to my colleague, Mr. SMITH, saying it could possibly be done by Voice of America, this is different. We had Voice of America when the Iron Curtain was down in Europe, and we had Radio Free Europe and Radio Liberty as well. Please let us recognize the distinction.

Please recognize what the need is for Radio Free Asia.

Please let us not send the wrong message that the United States does not want to send a message of freedom to Asia as it did to Europe; please support the Porter-Bentley amendment.

The letter referred to is as follows:

NATIONAL COUNCIL ON CHINESE AFFAIRS [NCCA]
Washington, DC., June 27, 1994.

VOTE "YES" FOR PORTER AMENDMENT ON H.R. 4603 TO SUPPORT RADIO FREE ASIA

DEAR REPRESENTATIVES: The Chinese democracy movement urgently ask you to support the Porter amendment for the Commerce-Justice-State Appropriations for the FY95 (HR4603). This amendment will be voted on this afternoon which will reserve the funding for Radio Free Asia.

Chinese government is the only regime in the remaining communist bloc. After the Tiananmen massacre, the Chinese Communist Party tightened its control over the media and toughened its news embargo, making it more difficult than ever for ordinary Chinese people to understand the true situation in the world and other parts of the country. This information embargo is the only effective tool for the Chinese government to conduct its usual propaganda campaign and maintain its political power.

Radio Free Asia is the best way that the U.S. can help to break the Chinese government's news embargo. It can establish its credibility among Chinese people by its independence and diverse expertise other than from the U.S. government. It can effectively penetrate into the Chinese society and let people know constantly what is happening around the country and around the world. It is also the most economical way to promote democracy and freedom in China as well as in other remaining communist countries in Asia such as North Korea and Vietnam.

The U.S. has an important role to play in the next few years which are critical for China. The Chinese government will be experiencing a succession struggle which has the potential to change the face of China forever. The Chinese people look upon America as a great nation and have been inspired by America's founding values and its commitment to freedom and democracy worldwide. The U.S. Congress has been instrumental in the last five years to insist on linkage between MFN and human rights conditions. Now more than ever, we need your support for this very important and critical endeavor for the cause of human rights and democracy in China.

Sincerely,

HAICHING ZHAO, PH.D.
President/NCAA.

Mr. MOLLOHAN. Mr. Chairman, I yield 4 minutes to a distinguished member of the subcommittee, the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. I thank the gentleman for yielding this time to me.

First, I think it should be stated clearly for the record that all of us engaged in this debate want the same objective, and that is for individual freedoms to be enhanced and secured for the people of China, and in fact for the people throughout Asia.

□ 1920

That is our objective, and we are only debating what is the best means of achieving that objective. Certainly, Mr. Chairman, the gentlewoman from California [Ms. PELOSI] who we just heard from has been working for many years on that objective, and we strongly support what she wants to achieve, as well as the author of the amendment, the gentleman from Illinois [Mr. PORTER].

I just spoke to someone who has been working for most of their career to advance the cause of individual freedoms for people in Asia. He knew that I got somebody out of China after the Tiananmen Square massacre because I feared for his life given the repressive tactics of the Chinese Government. But it was particularly telling to me when he said, "You know, it breaks my heart that money that is so scarce for needs that are so great will be wasted through duplication."

It is no one's fault, but the reality is we do not have enough money to start up Radio Free Asia. The committee heard from expert witnesses that said that it will cost nearly a $100 million to set up the infrastructure to make this dream of Radio Free Asia work effectively. There is a consultant's report that substantiates that conclusion, and so the money we are talking about that will be coming from a program account that has already been cut below last year's level, that money will be used for startup costs for leasing physical facilities, for administrative costs, undoubtedly a lot for consultants, very little for actual broadcasting, while at the same time the Voice of America has a facility in Hong Kong, they have a bureau in Beijing, they just developed a one milliwatt transmitter in the Philippines, they have a new facility in Thailand, they are leasing facilities in the Russian Far East, they have greatly strengthened the coverage of Chinese affairs, particularly, and, in fact, they contributed to the desire on the part of so many people, particularly young people, to overthrow the repression of the Chinese Government. Their coverage of the most-favored-nation status debate in the House of Representatives; anyone who listened to that knows it was fair. It was just the kind of broadcasting that everyone involved in this debate wants to induce, and in fact the letters that came into the Voice of America, if anything the young people in China asked why they have to be so critical of the Chinese Government. We know that Radio Free Asia is going to be very critical of the Chinese Government, but that is because the House of Representatives and, I think, the American people will continue to be critical of the Chinese Government until the Chinese people have more freedom than they currently have today.

What we are talking about, Mr. Chairman, is the pragmatic economics of very limited money that have to be focused, targeted, on whatever is going to work, that is going to bring the most effective services to the most people. Voice of America is organized to do that. There is a board of governors, they call it the BBG, that is just being set up to ensure that there is no manipulation.

I would only suggest to my colleagues to look at Radio Free Europe and Radio Liberty. We are spending over $256 million for those programs. We are consolidated. We are now cutting back on them. It is very difficult to cut back. Let us use the little money we have in the most effective way possible.

For that reason, Mr. Chairman, I strongly oppose the amendment offered by the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Chairman, I say to my colleagues:

When you went to eastern Europe, nobody said Voice of America saved eastern Europe. They said that Radio Free Europe helped save eastern Europe. I spoke to so many Romanians who said when they would listen to the radio and hear what went on on Radio Free Europe, that is what made the difference. They never said Voice of America made the difference. It was Radio Free Europe.

Secondly, China. One-fifth of the world's population is in China. This Congress has debated China for a long time. You are not going to deal with China.

Vietnam. Thousands of American men and women died in Vietnam, and we are not willing to put up $10 million to deal with the issue.

And Korea. You can't pick up a paper any day without seeing stories of Korea, and now we are not willing to deal with this issue with regard to Korea.

Mr. Speaker and Members, I strongly support the Porter-Bentley amendment. It is good to push the democratic ideas in China, in Vietnam and in North Korea. To turn this down would be that we would be telling the people of China that we have basically forgotten about them. A good vote for democracy is a good vote for the Porter-Bentley amendment, and I urge Members on both sides of the aisle that this ought not be a partisan issue because the Clinton administration, the Clinton administration, the Clinton administration supports the Porter-Bentley amendment.

Mr. ROGERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to compliment the gentleman from Illinois [Mr. PORTER], the gentlewoman from Maryland [Mrs. BENTLEY] and the others who have proposed this money for Radio Free Asia because I think most, if not all of us, sympathize with the concept, and the idea, and the need for a Radio Free Asia just as we solve the tremendous success of Radio Free Europe and Free Liberty, and we heard Lech Walesa, and Vaclav Havel and others in what is now free eastern Europe say publicly that the reason for that was Radio Free Europe, Radio Liberty. So, Mr. Chairman, we know the effectiveness of the surrogate radio broadcasting operations.

The problem with this proposition at this very minute is, as the chairman of our subcommittee said, we do not have the money. We tried to find it. But we were confronted, Mr. Chairman, by the Congress' authorization act in the State Department that mandated, that made us, put the only money we had, or the first money we had, into the consolidation of the existing surrogate broadcasting services, Radio Free Europe, Radio Liberty. We do not have a choice.

This body told the appropriating committee in the authorization act, "You have got to put the first money you find toward consolidating these operations," and we were scrimping to find money for that when we were asked to fund a whole new surrogate broadcasting into Asia, and much as, perhaps, we all agree, and I certainly do, with the idea, we just simply could not find the money.

This amendment would cut the existing radio construction account for USIA broadcasting by 12 percent, and, if that takes place, we are going to have to delay completion of projects already under way at two new facilities serving Africa, the Middle East, and South Asia where radio towers are now being constructed. We would have to completely stop that and shift the moneys to a whole new operation, and it would not be enough to get it under way.

What the chairman has requested of those who are interested in Radio Free Asia to do is to give us just a few weeks and see what happens when we go to conference with the Senate; and, No. 2, to give us time to get some planning from USIA and from the various players here involved so that we know what we are dealing with.

□ 1930

We have not yet been given a game plan, a spending plan, if you will, for Radio Free Asia. It is sort of an open-ended process at this time. And we simply cannot plan that way, given the mandates we are under from the Congress to consolidate broadcasting of the existing surrogate stations. No. 2, these ongoing projects we would have to completely stop and perhaps nullify the contracts somehow and incur some expenses there.

So I would hope that we would put off this amendment, Mr. Chairman, until we have time in 6 weeks or so to see where we are and what the actual planning requests are of us for Radio Free Asia. I certainly sympathize and support the concept and pledge to help find the money for it, but we have to work within very tight constraints in this operation right now. I hope we could put this off.

Mr. Chairman, I reserve the balance of my time.

Mr. PORTER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I rise in support of the Porter-Bentley amendment. I do not think there is any question about what Radio Free Europe, Cuba, or Asia would do, and I have listened to my colleague, the gentleman from Kentucky [Mr. ROGERS]. But we nearly gave $1 billion over a 5-year period for the National Endowment for the Arts, but yet we are having trouble finding money for freedom and truth in countries that have been denied that information before.

I think we ought to call it "Truth or Consequences" and look at the consequences if they do not.

I would like to commend the gentlewoman from California [Ms. PELOSI] for her fight on human rights, especially with China. But if you go through China and see why that 5,000-year-old dog is changing, it is because information is becoming available to the people of China, and that is important.

What a difference this amendment will make. What a difference to hundreds of thousands of people that have been denied that type of information.

Let us make their day. Let us make their life, Mr. Chairman. Let us support this amendment.

Mr. MOLLOHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in continuing opposition to the amendment.

Mr. Chairman, I want to reiterate that the committee is not opposed to a Radio Free Asia for the purpose of carrying out the important communication requirements in that area of the world. Indeed, what we are trying to do is to review each of the subject categories in this account: funding for VOA, consolidations, and creation of a new board, to effect efficiencies in this whole range of initiatives. We are trying to support these initiatives in order to bring fiscal responsibility to our broadcasting efforts. We do not want to diminish the effectiveness of these programs. And once the committee receives an implementation plan for Radio Free Asia, we may be very receptive to funding that implementation plan.

At this point we do not know what it is going to look like. In a letter to me written June 3 from Mr. Duffy, Director of the U.S. Information Agency, he says, in part, that the newly authorized Broadcasting Board of Governors, which should be appointed soon, will be in a position later this year to review all broadcasting options and recommend appropriate fund shifts within broadcasting resources to meet primary requirements, including Radio Free Asia.

We simply want to see that documentation. We want to be able to apply the millions of dollars that this undertaking is going to require in the most efficient, effective way.

I urge, again, opposition to this amendment.

Mr. Chairman, I am pleased to yield time to a distinguished member of our subcommittee who has worked extremely hard in this area last year, looking critically at the various accounts under our jurisdiction. He has become a very informed gentleman in this area, and I know the body will remember his efforts with regard to Radio and TV Marti last year.

I yield the remainder of my time to the gentleman from Colorado [Mr. SKAGGS].

The CHAIRMAN. The gentleman from Colorado is recognized for 1½ minutes.

Mr. SKAGGS. Mr. Chairman, I want to pose a question, because one of the previous speakers made the point that this amendment had the support of the administration. I am wondering what the chairman's understanding is on that point.

Mr. MOLLOHAN. Mr. Chairman, I have no knowledge that the administration is supporting this amendment, and, indeed, if we rely upon Mr. Duffy's representation in this letter, the parts I did not read, he does not support the amendment.

Mr. SKAGGS. Mr. Chairman, that was my understanding as well. As many of the speakers this evening on this issue have pointed out, we really do not have a fundamental disagreement about ends. It is a disagreement about means. In the committee's proposal, we are increasing by $3 million moneys for broadcasting to Asia, which will be no doubt used in large part to deal with precisely the target countries that are the subject of the gentleman's amendment.

There is no difference of opinion about the fundamental objective of a more robust broadcasting program to the countries of Asia. But we have a very serious problem here with respect to the costs versus the benefits of this particular approach.

The costs, as have been pointed out, involve a hobbling of the Voice of America's radio construction account, which was already reduced by a quarter below the administration's request. And ironically, if we were to pass this amendment, we would be debilitating the capabilities of VOA to get to many of the same audiences that would be the subject of additional broadcasts through a Radio Free Asia, those in South Asia at least, but also hurting our capabilities in Africa and the Middle East. These are vital audiences for us to reach, too.

So while laudable in its objectives, I think this is the wrong way to proceed, and urge the defeat of the Porter-Bentley amendment.

Mr. PORTER. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, it seems to me just listening that this is somewhat of a turf fight between the VOA and Radio Free Asia, and we need both. There ought to be a way to have both. The Voice of America has one mission, which is to tell the world about America. Radio Free Asia has another mission, which is to tell the people of China and North Korea and Asia what is going on in their country, what they may never know from a perspective of democracy and freedom.

They are both indispensable if we are going to make progress in democracy. We are talking about human rights in China. How better to ameliorate that situation than through engagement, and how better to engage them, not only with trade, MFN, if that is the choice of this Congress and this President, but to communicate, to evangelize, to let them know what democracy means and how it can work in their great country.

I think we need both the Voice of America and Radio Free Asia. I am sure that the money will be spent wisely and well. If it is not, I am sure the oversight by this great subcommittee will be most effective.

Mr. Chairman, I support the Bentley-Porter amendment.

Mr. PORTER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. ROHRABACHER].

Mr. ROGERS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. ROHRABACHER].

The CHAIRMAN. The gentleman from California is recognized for 3 minutes.

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Mr. ROHRABACHER. Mr. Chairman, the future of mankind is being written in Asia. The economic growth in the Pacific rim represents the mainspring of wealth on this planet today. The dynamic forces that are at play will have much to do with the kind of world that emerges after the cold war era has been long forgotten.

The small investment in sharing the ideals of freedom is a worthwhile investment. During the last four decades, the cold war was won not just with force of arms but with ideas. Our broadcast outlets, Radio Liberty and Radio Free Europe, became and literally so beacons of hope, transmitters of freedom. In China, Burma, Vietnam, Korea, Tibet, and Laos, there are those who share our ideals. And they resist the tyranny that oppresses them. They do not want us to fight their fight. But our support, our broadcasts of truths and our international demands for justice, democracy, and human rights make a difference. Our demands, our commitment as seen by those people keep alive their spirit, their resistance.

I know when I worked in the White House, there was a man named Schransky in prison in the Soviet Union, Natan Schransky. Later he was freed from his prison. He came to visit Ronald Reagan. And when he told Ronald Reagan, when he met him for the first time, he said, "Whatever you do, do not tone down your speeches. They were smuggled to us in little tidbits, little pieces of paper which had quotes from your speeches that kept our hope alive in the Gulag."

What we say and what we do as free Americans keeps alive the hope of freedom of people we will never meet. It is part of our responsibility as Americans to keep lit the flame of liberty that will someday in a righteous conflagration destroy and burn down the battlements of tyranny throughout the world.

We have lifted the embargo on Communist Vietnam. We have extended again most-favored-nation status to the dictatorial regime on mainland China. Radio Free Asia is a statement to the oppressed that Americans may be trading and making a profit in dealing with people who suffer under this regime, but we are on the side of the oppressed. We are not on the side of the oppressor.

This is a time when we need to make that statement. The people in Asia need to hear us reaffirm that commitment, and they are listening to this debate tonight.

I say, let us send them a message that we are faithful to the principles of our forefathers and foremothers. Let us make them proud. Let us keep sending that message, broadcasting it. We here in America are for liberty. We are with you, the people of the world who are oppressed.

Vote "yes" on Porter-Bentley.

Mr. PORTER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I want to say that the gentleman from New York [Mr. GILMAN], the gentlewoman from Maryland [Mrs. BENTLEY], the gentleman from New Jersey [Mr. SMITH], the gentlewoman from California [Ms. PELOSI], the gentleman from Virginia [Mr. WOLF], the gentleman from California [Mr. CUNNINGHAM], the gentleman from Illinois [Mr. HYDE], the gentleman from California [Mr. ROHRABACHER], all on our side who have talked on this amendment, have been consistent fighters for human rights. They know the importance of beaming a message of truth and freedom to the people of Asia.

I have to say to the gentleman from Colorado that I talked to the people from NSC this afternoon, and my staff, this morning. The administration unequivocally supports providing funding to Radio Free Asia in the amount of at least $10 million, and the President spoke in his remarks on MFN saying that this is a part of the world where we will be broadcasting and where he is seeking support. The administration supports Radio Free Asia, but, sadly, has provided, once again, no guidance as to what account to cut to fund the President's $10 million request.

I would say to the gentleman that each of the people who have spoken against this have glossed over the great difference between Voice of America and the surrogate radios. They are not the same thing. The Voice of America is the official voice of the United States beamed about America all across this world, a very, very important broadcasting system. It is not surrogate radio. Surrogate radio was designed to operate within a country and to beam a message of what is happening in that country, in that society and in that society as it relates to the rest of the world to the people within that society, because information is censored by repressive governments and they do not have access to the truth.

These are quite different things. It is time that we got on with bringing Radio Free Asia into being. We have worked for the last 5 years to do this. It is authorized. The money is available. There is ample money in this account that is unobligated.

I would urge the members to support the Porter-Bentley amendment.

Mr. ROGERS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mrs. UNSOELD. Mr. Chairman, this amendment is a vital step if we are to bring the voice of freedom to those ruled by oppressive regimes in Asia. I congratulate the members who have brought it before us.

The amendment is a very modest investment—$10 million to fund an effort that the President has indicated is vital to promote the spread of democracy and human rights in Asia. It represents a small step in the giant footprints made by Radio Free Europe and Radio Liberty. All of us today recognize the huge role their broadcasts made in promoting freedom in central and eastern Europe. Radio Free Asia can play the same role on another continent equally important to our future.

This amendment is really about reaching out of those in China, Tibet, Burma and elsewhere whose governments try to keep the truth from them. With this small investment we can let them know that the world does care about their fate. We can bring some portion of freedom to them. We can—by sharing the truth with them—help them build a future for themselves and their children that is free of tyranny. I urge my colleagues to seize this opportunity and support this important amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Illinois [Mr. PORTER].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. MOLLOHAN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to the order of the House of today, further proceedings on the amendment offered by the gentleman from Illinois [Mr. PORTER] will be postponed.

The point of no quorum is considered withdrawn.

The Clerk will read.

The Clerk read as follows:

BROADCASTING TO CUBA

RADIO BROADCASTING TO CUBA

For expenses necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act, as amended (22 U.S.C. 1465 et seq.) (providing for the Radio Marti Program or Cuba Service of the Voice of America) , including the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, $8,625,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a).

EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960 (22 U.S.C. 2054–2057), by grant to the Center for Cultural and Technical Interchange Between East and West in the State of Hawaii, $20,500,000: *Provided*, That none of the funds appropriated herein shall be used to pay any salary, or to enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376.

NORTH/SOUTH CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the North/South Center Act of 1991 (22 U.S.C. 2075), by grant to an educational institution in Florida known as the North/South Center, $5,000,000, to remain available until expended.

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $33,000,000, to remain available until expended.

AMENDMENT OFFERED BY MR. HEFLEY

Mr. HEFLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HEFLEY: Page 93, strike lines 8 through 12.

Mr. MOLLOHAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes and that my time be equally divided between the gentleman from Kentucky [Mr. ROGERS] and myself.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. HEFLEY. Mr. Chairman, reserving the right to object, did the gentleman say 10 minutes total?

Mr. MOLLOHAN. Mr. Chairman, will the gentleman yield?

Mr. HEFLEY. I yield to the gentleman from West Virginia.

Mr. MOLLOHAN. Mr. Chairman, that was my request.

Mr. HEFLEY. Yes, Mr. Chairman, further reserving the right to object, I thought the agreement we had was 10 minutes on each side. I had wanted a little longer, but I am willing to do 10 minutes on each side if the gentleman would be amenable to that.

Mr. MOLLOHAN. Mr. Chairman, if the gentleman will continue to yield, does the gentleman think he could not do it in less than 20 minutes? Could he do it in 15 minutes?

Mr. HEFLEY. Mr. Chairman, that is not much time. We might be able to do it in less, but we might not either. It is an important issue.

Mr. MOLLOHAN. Mr. Chairman, the gentleman would agree to 20.

Mr. HEFLEY. Mr. Chairman, I withdraw my reservation of objection.

Mr. DREIER. Mr. Chairman, reserving the right to object, the agreement would be that the total amount of debate on this issue would last for 20 minutes. Who will control the time on either side?

The CHAIRMAN. The gentleman from Colorado [Mr. HEFLEY] would control 10 minutes; the gentleman from West Virginia [Mr. MOLLOHAN] 5 minutes, the gentleman from Kentucky [Mr. ROGERS] 5 minutes.

Mr. DREIER. Mr. Chairman, I know that there are a number of Members on our side, the gentleman from New York [Mr. GILMAN], the gentleman from California [Mr. ROHRABACHER] and others, who would like to speak. I have no problem with that myself. I do not know if anyone else objects to that unanimous-consent request.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Colorado [Mr. HEFLEY] for 10 minutes.

Mr. HEFLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment would strike the funding—$33 million—for the National Endowment for Democracy.

Last year, the House witnessed a remarkable lobbying campaign. Leading Democrats and Republicans, labor and big business joined together to support an obscure cold war holdover called the National Endowment for Democracy.

The Chamber of Commerce went so far as to score support for the NED as a vote for business, while the AFL–CIO scored the debate as support for labor—all on the same vote.

I don't think that's ever happened before, and I certainly don't expect to see it happen again.

What does the NED do to receive support from these remarkable bedfellows? Simple—it funds them.

In the last decade, the NED has distributed over $200 million dollars to private organizations, including groups affiliated with the Republican Party, the Democratic Party, the AFL–CIO, and the Chamber of Commerce.

This support partially explains why the NED has such diverse support. The other explanation is NED's mission.

The National Endowment for Democracy was created a decade ago with the mission of countering Soviet expansionism by educating foreign populations in the art of democracy. It was designed to be private entity funded through a combination of public and private funds.

Supporters of the NED argue that the endowment is uniquely positioned to carry out its overall mission of promoting democracy. I expect them to characterize this debate in those terms—support NED and you are a friend of democracy.

I disagree with that assessment. This is not a debate about democracy. Rather, it is a debate over the wisdom of giving quasi-private groups the authority and the funding to conduct their own independent foreign policy. It is a debate about accountibility.

Let me list some of my concerns.

First, there is no private in the public-private partnership. 95 percent of the NED's funding comes from the Federal Government, while the remaining 5 percent is spent on efforts unrelated to the NED. In other words, the NED is wholly funded by Uncle Sam.

This dearth of private funding is not from lack of trying. Some groups have made an effort to raise private funds—they just haven't been successful. This raises a red flag in my mind. If the NED is a worthwhile program, why does it not receive any private support?

Second, the bipartisan nature of NED is better described as multipartisan. Each recipient group—Republican, Democrat, labor, business—pushes its own agenda. Needless to say, these agendas don't always agree with one another.

Nor do they always comport with official U.S. policy. In the past, NED funds have reportedly been used to support a military-backed candidate in Panama, fund opposition to President Arias in Costa Rica, and promote fascists in France.

These efforts paint an unsavory picture of private groups, funded by the American taxpayer, supporting policies not only in conflict with each other, but sometimes in conflict with official U.S. policy.

Third, the NED has mismanaged its—or our—finances. Following its near death last year, the NED promised to reform its books and make its recipients more accountable. The NED made that same promise, however, after audits in 1986, 1991, and 1993 gave the endowment failing grades.

According to the inspector general's report last March, NED has failed to ensure that its grantees could account for their funds and failed to ensure that these funds were used in compliance with the grant terms.

NED supporters claim that these criticisms are inevitable in an organization designed to break through the redtape of official foreign policy. I agree.

But it is also inevitable that—without adequate oversight—taxpayer dollars will be misused.

That is the core contradiction of NED. Without adequate oversight, the taxpayers can't be protected. With adequate oversight, NED's mission is hamstrung and useless.

We have official programs with the same mission as NED's—USIA and AID. Their budgets dwarf the NED's. [See Chart] They are accountable to the President of the United States, who has the constitutional authority to conduct our foreign policy.

If we increase oversight and control on NED, how will it differ from these two programs?

If we do not, we run a great risk. We have hot-spots all over the world—Bosnia, Somolia, China, North Korea. NED has people working in many of these locations. Who are they, and in whose interest are they working?

Which brings me to my final point. The cold war is over.

The explicit purpose of NED was to combat Soviet expansionism. Only in a world where the Soviet Union lives and grows do the obvious compromises of NED make any sense. Without this counterweight, NED's activities smack of the same imperialism the endowment was created to combat.

Make no mistake, NED has had some successes. But I find myself wondering how many of these victories for democracy would have taken place without NED's assistance.

I also wonder how many "successes" will come back to bite us 5 or 10 years down the road.

How many Saddam Hussein's are receiving NED funds? How many spurned organizations will come to power with bitter feelings towards NED and the United States?

Foreign policy is a messy business when you have just one State Department. How messy is it when we have six or seven?

In conclusion, Mr. Chairman, I have no illusions that our post-cold war world is a safe place. The U.S. and its allies need to remain vigilant and strong.

The National Endowment for Democracy, however, has no place in a world without the Soviet Union. Soviet expansionism was the only excuse for funding the NED. The Soviet Union is gone. It is time for the NED to follow.

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Mr. Chairman, I reserve the balance of my time.

Mr. MOLLOHAN. Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from Colorado [Mr. HEFLEY], and would defer to a very distinguished member of this body, the chairman of the Subcommittee on International Operations of the Committee on Foreign Affairs. The gentleman from California [Mr. BERMAN] has distinguished himself. He just recently managed the authorization bill.

Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BERMAN] to lead off the opposition.

Mr. BERMAN. Mr. Chairman, I thank the gentleman from West Virginia [Mr. MOLLOHAN] for his very kind comments, as well as for his work on this bill.

Mr. Chairman, this bill, which reduces last year's level of appropriation by $2 million, is conceded by the author of the amendment to be eliminating a program that does many good things, but says we should eliminate it because of the way it does it, and because the cold war is over.

Mr. Chairman, I would suggest that now more than ever, as in the nonpolarized world, the notion of promoting fundamental concepts of democracy and doing it in exactly the way that this process sets it out, not through a Government program, where very direct U.S. interests are promoted and where an agenda is expected, but by people from the political parties, from the business community, from organized labor.

Yes, the AFL–CIO supports this. We can assume it is for some narrow, parochial kind of reason. I would suggest to the gentleman who made this amendment that it is because everyone would agree that a fundamental tenet of freedom and democracy is a free labor movement, free to organize, free to bargain collectively, and the fact that labor participates in seeking to create that freedom throughout the world is a tribute to them, it is a tribute to the work of the National Endowment for Democracy, and it would be a terrible, terrible thing to cut this very exciting, vibrant program that promotes our most fundamental values around the world.

Mr. Chairman, I urge a "no" vote.

Mr. ROGERS. Mr. Chairman, I yield 30 seconds to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Chairman, I rise in strong opposition to the Hefley amendment to strike the $33 million appropriated for the National Endowment for Democracy [NED].

The level of funding in the bill is already $12 million below the President's request and $2 million below last year's level.

There is broad bipartisan consensus that support for Democracy is one of the enduring principles in American foreign policy. We manifest that support through the National Endowment for Democracy.

The NED has the support of both parties, of conservatives and liberals, and of labor and business, all united to support the enduring goal of promoting democracy and political freedom.

The fall of communism has not created instant democracies. We should support the emerging democracies as they develop, by helping them build viable political parties, democratic institutions, and stable, peaceful, democratic countries.

It would be foolish to turn our backs on democracy after we worked so hard to defeat communism. A few small but wise investments in democracy today may help prevent the vast expenditure of defense dollars tomorrow.

For example, the NED has done successful work in Nicaragua, Poland, Chile, South Africa, and throughout the former Soviet Union.

The NED helps the United States export democracy, our most important commodity:

I urge my colleagues to oppose the Hefley amendment.

Mr. ROGERS. Mr. Chairman, I yield one-half minute to the gentleman from California [Mr. DREIER].

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Mr. DREIER. Mr. Chairman, there is $1.2 billion in this bill for peacekeeping measures in support of the United Nations, $33 million for the promotion of democracy. This is a very important, meager expenditure. I have the highest regard for my colleague, the gentleman from Colorado, Mr. JOEL HEFLEY, but I have to say having served on the board of the International Republican Institute, we are increasing the level of private sector involvement for this organization. We are seeing a very important effort here, promoting democracy in parts of the world that need it desperately, Russia, the Ukraine, South Africa. This is a key national security vote.

Vote "no" on the Hefley amendment, vote in favor of promoting democratization worldwide.

Mr. ROGERS. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Chairman, I rise in opposition to the amendment and in strong support of the NED.

Mr. Chairman, I rise in opposition to the amendment and to remind my colleagues of the old adage that an ounce of prevention is worth a pound of cure, and I am not talking health care. This bill appropriates $222 million for new peacekeeping operations, military operations designed to restore order after a political system breaks down. We have already seen the dangers associated with these operations in Somalia and we soon may see them in Haiti. My colleague asks us to cut the $33 million in funding for NED, a program with a proven track record in democracy-building that addresses the root causes of political instability so that likelihood of systemic breakdown, and the need for peacekeeping is reduced. It makes no sense, as the White House contemplates peacekeeping forays in Haiti and elsewhere, to cut the very program that offers preventive medicine. I urge my colleagues to vote no on the Hefley amendment and to support NED.

Mr. HEFLEY. Mr. Chairman, I yield 1½ minutes to the gentleman from Minnesota [Mr. RAMSTAD]

Mr. RAMSTAD. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise today in strong support of the Hefley amendment to strike $33 million in funding for the National Endowment for Democracy.

I know that NED has high-profile supporters across the political spectrum. But with a $4.4 trillion debt hanging over our heads, this is an expenditure we simply can't justify to the folks back home.

NED is not the public-private partnership it is often touted to be. I always thought the term "partnership" indicated some kind of equal arrangement, but 95 percent of NED's funding comes from the Federal Government alone.

Finally, repeated audits of NED's finances show that its track record is one of mismanagement, not cost-efficiency. Once again, the taxpayers are not getting the best bang for their buck.

Last year, the House decisively voted 247 to 172 to end funding for the NED. But, as happens all too often around here, $35 million for the NED was slipped back into the bill in conference.

I urge my colleagues to make another stand against wasteful spending. let us re-endow American taxpayers with their own money, not send it overseas. Let us support the Hefley amendment.

Mr. ROGERS. Mr. Chairman, I yield 30 seconds to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in strong support for the funding contained in this appropriations bill for the National Endowment for Democracy and urge my colleagues to defeat Mr. HEFLEY's cutting amendment. I commend the new subcommittee chairman, Mr. MOLLOHAN, and the ranking member, Mr. ROGERS, for their leadership in crafting this appropriations bill, in particular, for the continued support for a key tool of U.S. foreign policy—the National Endowment for Democracy.

One of the most important foreign policy challenges facing the United States today is to assist those countries transitioning to democracy. This is a long and difficult process. Many of those countries remain in turmoil and will for years to come. But the United States must stay in this for the long haul to allow democratic principles take root.

A return to authoritarian rule threatens our national interest and undermines any prospects for a peaceful world order.

That is why so many of us support NED. We support their programs to assist those trying to build democracy in former Soviet Union, and the other courageous countries who share our values. It will mean lower defense costs, more stable trading partners, fewer refugees who must flee tyranny, and a more stable world.

NED and the four core grantees provide cost effective programs that helps people learn how to manage and participate in democratic governments. Reliable support provided by NED is fundamental to establishing these democratic institutions and traditions.

Withdrawing from these commitments, and the programs which the organization and its grantees are currently running will undermine the goals which we all embrace.

We are reorienting our priorities in the post-cold-war era to support emerging democracies and to create politically and economically stable countries. NED is our frontline force to carry out these policies.

Accordingly, I urge my colleagues to reject any effort to cut funding for the National Endowment for Democracy.

Mr. ROGERS. Mr. Chairman, I yield 30 seconds to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Chairman, 12 years ago, Salvador, Guatemala, Nicaragua, and Panama were all dictatorships. I witnessed elections in every one of those working with the National Endowment for Democracy. This same effort can be made throughout the rest of the world. Democracy can advance, but it needs our help.

Mr. MOLLOHAN. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Maryland [Mr. HOYER].

Mr. HOYER Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in very strong support of NED and in opposition to the Hefley amendment.

Mr. Chairman, I rise today in strong opposition to the Hefley amendment.

We are witness to an unprecedented era of democratization across the globe. Happily, in our world today, more people than ever are living in free or partly free countries.

We have seen the dramatic overthrow of communism in East-Central Europe. By 1992, the U.S.S.R. no longer existed. And while there are serious problems confronting Russia its peoples continue to back President Yeltsin's vision of a Russia moving toward market reform and privatization. We have seen free elections in Nicaragua, and the triumph of the democratic opposition.

We have seen the bravery of men and women around the world, from Chile to China to Cambodia, raising their voices and risking their lives for freedom and justice and in some cases to exercise the fundamental right to vote for the type of government they choose to live under.

To accept the proposed amendment would destroy an organization that has actively and constructively furthered democracy worldwide and seriously cripple a major U.S. foreign policy objective to shore up democracies worldwide.

Mr. Chairman, we cannot afford to dilute our efforts at helping those activists and organization who seek to promote and strengthen democratic institutions.

This is not the time nor the program to scale back our efforts. If there is a cost-saving mechanism this is it. This is a small investment in people and programs that can yield extraordinary dividends in years to come if we but keep the vision within sight. The real fact is that we cannot afford the failure of those groups, individuals, and programs that NED supports.

It is in our national interests that democracy be actively promoted abroad.

Mr. Chairman, NED was created by the Congress in 1983. It has the support and cooperation of members of both political parties, of conservatives and liberals, of business leaders, and labor activists, and of thousands of citizens across the globe who are committed to democratic development.

Since its inception, NED has successfully assisted hundreds of organizations working for freedom and democracy in dozens of countries worldwide.

During the past year NED has provided assistance in almost 80 countries—in Africa, Asia, Europe, Latin America, and the Middle East. It has supported women's leadership conferences, election monitoring activities, political party training, programs, grassroots participation and technical assistance to local governments, political parties, parliaments, businesses, and civic groups. Our support for NED has been a small investment that has already delivered a tremendous return and promises much more.

As Cochairman of the Commission on Security and Cooperation in Europe, I am particularly familiar with NED's work in East-Central Europe and in Russia. Nobody needs to be reminded of the sweeping changes we have seen in those regions—changes that continue to impress and inspire.

But while communism seemed to collapse overnight, democracy will take years to secure. And while NED's assistance has directly contributed to the democratic changes that have already taken place in East-Central Europe, I want to stress that NED's continuing assistance will be vital to ensure that democracy survives.

Mr. Chairman, I understand my colleagues' concern that NED's funds be carefully and comprehensively accounted for and spent wisely. Certainly, we all have a responsibility to ensure that taxpayer dollars are responsibly spent. But killing the endowment is not the solution.

It will send a terrible signal to the numerous democratic organizations that depend on NED for assistance. It will send a terrible signal to the brave individuals around the world who rely on NED's commitment to democracy. It will send a terrible signal to the fledgling democracies at a time when they need our determined support. In short, it will be a terrible mistake.

In my experience, NED has been ready and wiling to work with the Congress, not against us. I urge my colleagues to support the cause of democracy and vote against the Hefley amendment.

Mr. MOLLOHAN. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Chairman, I rise to ask my colleagues to oppose this amendment to eliminate all, all of the funds, for the National Endowment for Democracy. The National Endowment is a good and valuable program worthy of our support.

Mr. Chairman, a few short months ago I traveled to South Africa. I was there just 3 weeks before the historic elections in which majority rule was finally won by the people of South Africa. During my stay in South Africa I had the opportunity to meet with many groups and individuals who were receiving funding through the National Endowment for Democracy.

Among the people I met with were voter education workers, both Americans and South Africans, who were teaching people the value of democracy, teaching them the importance of voting, teaching them how to mark their ballots and cast their vote. These may seem like basic things to all of us here in America, but in emerging democracies, these are the values we can share and teach. Freedom, democracy, voting rights, civil rights; surely, these are things worthy of appropriation.

Let us invest in democracy, let us invest in freedom, let us defeat the Hefley amendment.

Mr. ROGERS. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, this Government spends over $500 million a year on voluntary family planning programs overseas, which is essentially handing out condoms to poor people; $35 million on screwworm research, which has already been eradicated from the United States; and $168 million for the National Endowment for the Arts, which channels limited tax dollars to "artists" who, among other things, denigrate religion, and are often so weird that they can't sell their works to anyone who has a choice in the matter.

That's almost three-quarters of a billion dollars of useless Government spending, and I could go on, believe me. I have one of the highest ratings with the National Taxpayers Union, but we are not talking about cutting useless spending. We are talking about cutting a program which bolsters the cause of freedom and democracy.

This is not foreign aid, which I oppose, let's be clear about that. I do not support building dams, bridges, and roads overseas, when we are cutting essential services to our own people here in America. But, once again, NED should not be confused with foreign aid. This is not about cutting Government spending. This is about whether or not we are taking our commitment to democracy, freedom, and human rights seriously. Whether those who long for freedom can look to us, not for a handout, but for leadership, for a commitment.

This is the time to consolidate our victory during the cold war. A time in history when the potential for the expansion of freedom and democracy are at their highest. This is a time of dramatic change. New relationships and new governments are being formed across the globe. To shrink from this titanic battle of ideas is irresponsible. This time will pass us by, an opportunity to build a better world, a freer world will be lost, if we disengage.

If we vote to kill NED today, and tomorrow's world turns out to be haunted by despots and dictators, we will have only ourselves to blame. If our security is threatened by a world awash in tyranny, we can look to our own timidity and retrenchment.

This is exactly the time for vigorous support of democracy-building programs, and the efforts of the National Endowment for Democracy. If you want to cut spending, let's get the A-to-Z plan out here on the floor.

Ronald Reagan was NED's first advocate. He knew that NED would be symbolic of our values, of what we really stand for. He knew that these values would ultimately win the cold war. With the cold war won, it falls to us to continue the epic struggle for freedom.

NED is America's way to hold up our end of the bargain after having encouraged people worldwide to embrace democracy. NED allows America to be on the side of people who have, often times, followed the American example and put their lives on the line for freedom. If they are free, they can solve their own problems without U.S. largess.

Mr. Chairman, we should be willing to support this puny commitment. Vote "no" on the Hefley amendment.

Mr. ROGERS. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. PORTER]

Mr. PORTER. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, in the wake of the cold war, we have an historic opportunity to promote our Nation's values of human rights, rule of law, democracy, and free markets. I would be a tremendous disservice to our children and future generations if we were to squander this opportunity by withdrawing inward.

The National Endowment for Democracy is important in our effort to cultivate the fruits of the cold war. We provide funding to NED because it is in our Nation's best interest. It is to our strategic interest to have other democratic governments around the world. I cannot think of a time the United States has been at war with another democracy. It is to our economic interest to have new markets for our goods and strong trading partners to provide our markets with goods. And it is in our moral, human interest to promote human rights and rule of law to people in the far corners of the globe. Human rights are indivisible. Whenever anyone's human rights are violated, it is a threat to every one of us.

NED promotes U.S. interests in an incredibly cost effective way, too. In the area of human rights, for example, NED sponsors over 50 small human rights organizations in some of the most vicious dictatorships, including China, Burma, Indonesia, Vietnam, Zaire, Liberia, Iraq, and Cuba. These programs usually receive small grants of less than $25,000, but their impact is disproportionately great.

NED human rights programs have been endorsed by the Dalai Lama, Elena Bonner, the Vietnam Committee on Human Rights, Iraqi human rights activists, Fang Lizhi, the father of the Chinese human rights movement, Dr. Sein Win, cousin of Burma's jailed leader Daw Aung San Suu Kyi, and many others. The Vietnam Committee said, simply, "The NED enabled us to survive."

Mr. Chairman, this amendment is not in our Nation's best interest and I urge Members to oppose it.

Mr. MOLLOHAN. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Chairman, I rise in strong opposition to the Hefley amendment. I cannot think of a worse message we can send to democrats around the world who are reaching out to us for support. What would it say, for example, to those fighting to overcome authoritarian rule in a country such as Nigeria, where the military has refused to honor the will of the people as expressed in a free and fair election held a year ago?

As a Board member of the National Endowment for Democracy, I am familiar with its work in support of human rights and democracy in Nigeria. But you should not simply take my word for it. Listen to the words of the executive director of the highly acclaimed Civil Liberties Organization:

> For us in Nigeria who are struggling to enthrone democracy and permanently end military dictatorship, the National Endowment for Democracy is like oxygen. If it is scrapped, the democratization process in Africa would be seriously endangered.

Of course, the Endowment's work in Africa is not limited to Nigeria. In the current year it is supporting a broad range of groups that have joined the continent-wide movement for multiparty democracy that began several years ago. Certainly the inspiring events of the past year in South Africa, where the Endowment and its core grantees played an important role in helping the people prepare for the momentous election last April, have contributed significantly to that movement.

Nevertheless, the tragic events in Rwanda remind us that major challenges remain for those Africans seeking peaceful, democratic solutions to age-old problems. Among these challenges are:

Growing ethnic clashes in Kenya, where the Endowment is funding the work of Dr. Wangari Mothai's Greenbelt Movement to relieve the tensions and assist local residents in the Rift Valley;

Continued human rights violations in Zaire, where NED is supporting four separate groups documenting abuses, providing legal assistance, and rallying international support;

A lack of grassroots participation, particularly in rural areas and among women, a problem which is being addressed through NED-funded seminars and workshops in a wide range of countries from Ethiopia and Somalia in the East to Mali and Sierra Leone in the West.

One of our pioneers of the democracy movements in Africa, a young lawyer named Sadikou Alao, has parlayed Endowment support for a small civic organization which began in Benin 3 years ago into a network of chapters with over 2,000 members working in 20 African countries. He has called NED "one of the greatest props to the ongoing democratization process on the continent."

Mr. Chairman, I do not wish to leave the impression that the Endowment is working in only one part of the world. Indeed, it is an international program that reaches out to those everywhere who realize that freedom and human rights are not simply luxuries that only certain countries can afford. If time permitted I would discuss NED's current programs in the Middle East. It is working there with committed democrats who can be among the next generation's leaders if only we can help give them the support they so desperately need.

One thing I can guarantee: we cannot help them if we end this program. In fact, the costs to us by terminating funding for the National Endowment for Democracy are almost beyond calculation. I urge my colleagues to defeat this harmful amendment.

Mr. MOLLOHAN. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New Mexico [Mr. RICHARDSON].

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Mr. RICHARDSON. Mr. Chairman, I want to thank the gentlewoman from California for her outstanding work on human rights in Tibet, and the Dalai Lama, and China.

Mr. Chairman, I yield to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I rise in opposition to the Hefley amendment.

Mr. Chairman, I rise today in opposition to the Hefley amendment to eliminate all funds for the National Endowment for Democracy [NED]. NED plays an important role in promoting democratic reform in numerous locations around the world.

It is clear that the end of the cold war has presented the world with a new kind of challenge and a new level of ethnic and regional conflict. Establishing and strengthening democratic principles is an important cost-effective action. NED is well-positioned to advance democratic reforms and deserves adequate funding.

While I am aware of NED's good work to promote democracy in a number of countries, I will focus today on its contributions to the fight for freedom in China. In fiscal year 1994, the Endowment is spending under $1.5 million to support initiatives for its entire China program. It is stretching its limited funds to support a host of initiatives by dissidents both inside China and in exile. These activities include documenting human rights abuses; providing legal support for political prisoners inside the country, and promoting worker rights by supporting the work of leading labor activists, including Han Dongfang.

The acclaimed human rights activist Fang Lizhi has said,

> It would be wonderful if democracy did indeed grow automatically out of economic development, but history gives us, unfortunately, no such guarantees. In the actuality of China today, the economic growth that we see has not in the slightest moved the current leaders in China to alter their autocratic rule.

Mr. Chairman, the support for democratic activists provided by the National Endowment for Democracy is critical if China is going to move down a path of respect for the fundamental rights of its citizens.

Supporting the development and nourishment of democratic institutions offers us the best hope of providing long-term solutions to some of the world's most serious problems. I urge my colleagues to defeat the Hefley amendment.

Mr. RICHARDSON. Mr. Chairman, if the Dalai Lama were here, or Vaclav Havel, or Lech Walesa, or Yelena Bonner, or Aung San Suu Kyi, as my colleague from Illinois mentioned, they would urge defeat of this amendment.

With the National Endowment for Democracy, you have Republicans and Democrats standing behind democratic institutions, standing behind elections and promoting human rights and democratic values.

Mr. Chairman, the best case for the National Endowment for Democracy was made last week in the Dominican Republic. It is possible that the election there was not free and fair. Who is certifying the results? Who are the observers? It is the National Endowment for Democracy. They do good work and deserve our support.

Defeat the Hefley amendment.

I urge you to oppose the Hefley amendment to cut funding for the National Endowment for Democracy.

NED promotes democratic values, making U.S. national interests safer worldwide;

NED builds a coalition among U.S. business, labor, and Democrats and Republicans for strengthening democratic, legal, and human rights institutions.

NED supports democratic forces when the U.S. Government cannot;

NED provides Congress with timely information and has instituted management reforms;

NED provides grants to projects for strengthening democratic institutions and processes;

NED's budget has already been cut;

The fiscal year 1995 budget request is 27 percent less than the President's request and is significantly less than NED received for fiscal year 1994;

Funding for international affairs is scarce;

It is important that as the United States moves away from cold war spending, we invest in promoting democracy abroad.

The Dalai Lama, Vaclav Havel, Lech Walesa, Oscar Arias, Elena Bonner, and Fang Lizhi have praised NED's work and supported NED's efforts in their countries.

NED has worldwide reach—from Russia to Cambodia to South Africa—and is an effective tool for furthering United States interests abroad.

NED PROGRAMS IN BURMA

In fiscal year 1994, the Endowment is spending less than a half million dollars for programs in Burma, one of the world's harshest dictatorships. This funding has been used to provide infrastructure support to the National League for Democracy, the exiled democracy movement headed by Nobel Peace Laureate Aung San Suu Kyi, as well as support for radio broadcasting into Burma by the exiled democratic movement. It also supports a leadership training program, a newsletter and an award-winning video that provides information on human rights abuses in the country.

Dr. Sein Win, the Prime Minister-in-exile of the National Coalition Government of the Union of Burma, wrote last year that NED support has played a "vital role in the promotion of democracy" in Burma and throughout Asia. He goes on:

> We, the Third World people, in Asia, Africa, and Latin America still have to struggle for democracy, freedom and justice against ruthless dictatorships. The NED's coordination and support for our struggles, in the face of severely limited resources, is very crucial.

NATIONAL COALITION GOVERNMENT
OF THE UNION OF BURMA, OFFICE
OF THE PRIME MINISTER,
JULY 4, 1993.

Senator DANIEL P. MOYNIHAN,
Washington, DC.

DEAR SIR, Firstly, I would like to express my deep gratitude for your unwavering support and extend the best wishes on behalf of the National Coalition Government of the Union of Burma (NCGUB).

According to information reaching here, the House of Representatives have drastically reduced the allotment of fund to the National Endowment for Democracy (NED) on the assumption that the end of the cold war has made its role to be of less importance.

We, the Third World people, in Asia, Africa and Latin America still struggle for democracy, freedom and justice against ruthless dictatorships. The NED's coordination and support for our struggles, in the face of severely limited resources, is very crucial.

In 1992 and 1993 the NED has funded training of the democratic forces of Burma in non-violence action, international travels of leaders for lobbying activities, NLD information office through the International Republican Institute, the Democratic Voice of Burma radio broadcast station in Olso and the publication of newsletter "Burma Alert."

We have achieved much in our struggle because of the support given by the NED. In view of the fact that China and neighbouring countries are abetting the military junta of Burma directly or indirectly, the continued assistance from the NED for us is essential.

Accordingly, I would like to request you to kindly see to it that the NED receive enough budget allotment from the Congress so that it may continue its vital role of the promotion of democracy especially in Burma and Asia.

Very cordially yours,

Dr. SEIN WIN,
Prime Minister.

Mr. HEFLEY. Mr. Chairman, I yield 1½ minutes to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Chairman, communism and dictatorships; fund groups that overseas want to do those things, make sure human rights groups have resources, but for good, solid reasoning; tell me why the Republican Party should be the one to dole out the funds, the Democratic Party should be the one to dole out the funds, the AFL–CIO should be the one to dole out the funds.

I do not understand why we are asking these groups to do what is so very important. Why these groups instead of the Government of the United States?

The gentleman before us mentioned Mr. Arias and how he would be supportive. It just so happens in past years we helped defeat him out of NED. The problem is NED works at cross-purposes. It is not coordinated. It is political groups that are using these funds as they see fit.

In my judgment, it should not be that way. It should be with government doing government policy.

Mr. MOLLOHAN. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Indiana [Mr. ROEMER], who will end debate on our side.

Mr. ROEMER. Mr. Chairman, I often come to this floor to try to focus an eye on budget cuts.

Today I think we are out of focus, trying to cut the NED. This is a program that we need in America today.

As we are emphasizing reinventing government, we are emphasizing smaller rather than big, as we are emphasizing ways by which to remold the world and try to get United States interests in terms of democracy and human rights, as we are looking at ways in which to cut foreign aid or to refocus foreign aid, this is not the direction to go.

Right now in Mexico, the NED is working with a new civic alliance to promote free and fair elections in 1994. That is in our direct interest.

In Africa where we are experiencing drought in Zaire and Zambia and Rwanda, falling apart, we are investing in Kenya to try to ease ethnic tensions; please, ladies and gentlemen, vote to fund the National Endowment for Democracy.

Mr. Chairman, I rise today to oppose the Hefley amendment to eliminate funding for the National Endowment for Democracy.

If you vote to abolish funding for the NED, you are voting to end many important international projects in countries in which the United States has security and human rights interests. For example, with an NED grant, Mexico's Civic Alliance, a newly created coalition of over 300 organizations, is working on an extensive program of monitoring and observation for the 1994 presidential elections, which have been marred by accusations that the electoral authorities are controlled by the ruling PRI.

As the world watches helplessly as ethnic warfare tears apart Rwanda, the NED is working in other Central African countries to ensure that the Rwandan tragedy is not repeated. For 2 years, the agency has worked in Kenya to ease ethnic tensions through education programs. The NED has also made a small grant to a Ugandan organization to monitor the human rights situation in the region.

As my colleagues know, I often vote to reduce funding for unnecessary and outdated Government programs. I firmly believe that the NED is the wrong agency on which to focus our budget-cutting eye.

The NED takes a relatively modest amount of Federal money, invests it wisely, and works to ensure democracy. One need only look at South Africa and the Middle East to see that the NED truly gets results.

Support democracy—oppose the Hefley amendment.

Mr. HEFLEY. Mr. Chairman, I yield myself 30 seconds, the remainder of my time.

Mr. Chairman, let me just say in closing that I understand the arguments that have been made. I agree with the arguments that we want to promote democracy.

If you remember the one chart we have showed, we show we have all kinds of ways to promote democracy through this country without this private, and many times rather amateurish, kind of approach.

All over the world as we were researching this, we were told about the absolute bungling and mismanagement of amateurs who were sent into this field of very important foreign relations, and created all kinds of difficulties with it, in addition to good things that have been mentioned that have been talked about here tonight.

So I would renew my encouragement that we save this money and spend it in a much more meaningful way.

Mr. ROGERS. Mr. Chairman, I yield the balance of my time to the gentleman from Illinois [Mr. HYDE]

Mr. HYDE. Mr. Chairman, there are 13 words that describe why we need the National Endowment for Democracy. Those words are Russia, Ukraine, the former Yugoslavia, South Africa, Poland, Hungary, the Czech Republic, Cyprus, and I will cut it off at 13. We will leave out Nogorno-Karabakh and Azerbaijan and the rest.

But democracy is very painfully developing around the world. Some places it is not developing at all.

Yes, communism has been defeated, but Communists are showing up and winning elections in Central Europe and other places. Poland is far from out of the woods.

The National Endowment for Democracy is the private sector getting into places and doing things that government cannot do.

There is a suspicion of governmental agencies, the CIA, the FBI, but when labor, when management, when Republicans and Democrats, not as agents of the Government but of the private sector, want to help build democracy. I cannot think of a more useful mission extant in the world today.

Now, we fund the National Endowment for the Arts, we fund the National Endowment for Humanities seven times more than the little piddling sum we give the National Endowment for Democracy. Important as the humanities are, important as the arts are, they do not mean much without a democratic world. Moving toward that is the function of NED.

We ought to support it overwhelmingly. I say that with some dismay, because I have never known the gentleman from Colorado [Mr. HEFLEY] to be wrong except this time.

Mr. SMITH of New Jersey. Mr. Chairman, I rise in strong opposition to this amendment. To stop funding for the National Endowment for Democracy would deal a serious blow to people and organizations around the world who embrace the same ideals and values as our own and who struggle daily for the opportunities which we quite often take for granted.

The National Endowment for Democracy, far from being a cold war holdover, only having value if there exists a Soviet Union, enables the United States to support democratic movements throughout the world in peaceful and creative ways. It supports organizations which promote human rights, freedom of speech, free and fair elections, education in democracy, and development of private enterprise—organizations which share our values and ideals.

In the past year NED has supported such programs as the Center for Law and Human Rights Education in Liberia whose educational programs directly reached 45,000 students in Africa's oldest independent nation. This program provided rehabilitation and civic education, taught concepts of human rights to activists and law students, and supported the only legal aid clinic which represented victims of human rights abuse.

The Endowment enabled the NDI, IRI, CIPE, and FTUI to sponsor a seminar in Romania which brought together over 200 people representing trade unions, entrepreneurs, journalists and human rights activists from around the country in order to foster a culture of democracy.

In Slovakia, the Milan Simecka Foundation was able to develop a curriculum for human rights education on the secondary school level and training programs for educators.

The NED supported the work of the Laogai Research Foundation, which documented the use of prison labor in China. Last month, Harry Wu, a former prisoner and victim of the Chinese prison labor system, presented evidence that showed beyond doubt that China continues to violate the MOU with the United States and that products of prison labor continue to be exported to the United States.

The Tibet Fund was able to distribute materials inside Tibet where the distinctive religious and cultural heritage are threatened and where uncensored news and information are not available.

Among the programs funded in Vietnam, the Institute for Democracy in Vietnam was able to strengthen the democratic forces by publishing materials, supporting pro-democracy and human rights organizations, and radio broadcasts.

Grants from NED enable Freedom House to distribute humanitarian aid through independent human rights groups and books on pro-democratic topics in Cuba.

Mr. Chairman, these are only a few examples of the many programs which the National Endowment for Democracy funds each year; programs which enable the United States to support democratic reforms, human rights and free market economies. To say the NED "has no place in a world without the Soviet Union" ignores the millions of people world-wide who struggle every day for freedom, democracy, and human rights. The goal of NED was not only the defeat of communism, it should continue to exist to promote and expand the values and ideals of democracy around the world; and that task is far from complete.

Cutting NED support now would send the message that the United States no longer cares about the struggle to establish secure and stable democratic governments around the world. This, Mr. Chairman, is the wrong message to send. Investment in NED is not only a humanitarian investment, it is also a strategic investment that serves the interests and security of the United States.

Mr. Chairman, I oppose this amendment and I urge my colleagues to oppose it as well.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado [Mr. HEFLEY].

The question was taken; and the Chairman announced that the "noes" appeared to have it.

RECORDED VOTE

Mr. HEFLEY. Mr. Chairman, I demand a recorded vote.

PARLIAMENTARY INQUIRY

Mr. ROGERS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. ROGERS. Mr. Chairman, in the event there is a vote certified on this amendment, would we, after this vote, vote on the other remaining votes to be voted?

The CHAIRMAN. The Chair will announce that pursuant to the previous order of the House of today, after this 15-minute vote on the Hefley amendment, if ordered, the Chair will resume proceedings on the three postponed questions for possible 5-minutes votes if ordered.

Does that clarify the situation?

Mr. ROGERS. I have a further parliamentary inquiry, Mr. Chairman. Do we have to call for a vote on each of the successive 5-minute votes, and if so, how?

The CHAIRMAN. The pending business will be the pending request for a recorded vote on each of those questions.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 89, noes 317, not voting 33, as follows:

[Roll No. 283]

AYES—89

Allard
Andrews (ME)
Andrews (NJ)
Archer
Baker (LA)
Barca
Barrett (NE)
Barrett (WI)
Boehner
Callahan
Camp
Clay
Coble
Collins (GA)
Condit
Conyers
Crane
DeFazio
Duncan
Emerson
Fingerhut
Frank (MA)
Gekas
Gonzalez
Grams
Green
Hall (TX)
Hamburg
Hancock
Hansen
Hefley
Hoekstra
Holden
Inglis
Jacobs
Kanjorski
Kaptur
Kleczka
Klug
Knollenberg
Kreidler
LaRocco
Lazio
Lewis (FL)
Lightfoot
Mann
Manzullo
Margolies-Mezvinsky
Mazzoli
McInnis
McKinney
McNulty
Mica
Miller (CA)
Myers
Orton
Quillen
Quinn
Ramstad
Roth
Roukema
Sanders
Santorum
Schaefer
Schroeder
Sensenbrenner
Shays
Shuster
Sisisky
Smith (MI)
Snowe
Solomon
Stenholm
Strickland
Stump
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Thurman
Upton
Walker
Weldon
Wyden
Yates
Zeliff
Zimmer

NOES—317

Abercrombie
Ackerman
Andrews (TX)
Applegate
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Ballenger
Barcia
Barlow
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bilbray
Bilirakis
Blute
Boehlert
Bonilla
Bonior
Borski
Boucher
Brooks
Browder
Brown (CA)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Calvert
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Combest
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crapo
Cunningham
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Filner
Flake
Foglietta
Fowler
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grandy
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hamilton
Harman
Hastert
Hayes
Hefner
Herger
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoke
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inhofe
Inslee
Istook
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Klein
Klink
Kolbe
Kopetski
Kyl
LaFalce
Lambert
Lancaster
Lantos
Laughlin
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Machtley
Maloney
Manton
Markey
Martinez
Matsui
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McKeon
Meek
Menendez
Meyers
Mfume
Michel
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Nussle
Oberstar
Obey
Olver
Ortiz
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pomeroy
Porter
Portman
Poshard
Price (NC)
Rahall
Ravenel
Reed
Regula
Richardson
Roberts
Roemer
Rogers
Rohrabacher
Romero-Barcelo (PR)
Ros-Lehtinen
Rowland
Roybal-Allard
Royce
Sabo
Sangmeister
Sarpalius
Sawyer
Saxton
Schenk
Schiff
Schumer
Scott
Serrano
Sharp
Shaw
Shepherd
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Smith (TX)
Spence
Spratt
Stark
Stearns
Stokes
Studds
Stupak
Swift
Synar
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Torkildsen
Torres
Traficant
Tucker
Underwood (GU)
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Waters
Watt
Waxman
Wheat
Williams
Wilson
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOT VOTING—33

Bevill
Bishop
Blackwell
Bliley
Brewster
Brown (FL)
Faleomavaega (AS)
Fields (TX)
Fish
Ford (MI)
Ford (TN)
Hastings
Hilliard
McCandless
McCloskey
McCollum
McMillan
Meehan
Owens
Oxley
Pombo
Pryce (OH)
Rangel
Reynolds
Ridge
Rose
Rostenkowski
Rush
Smith (OR)
Torricelli
Towns
Washington
Whitten

□ 2039

Mr. GREENWOOD changed his vote from "aye" to "no."

Messrs. TAYLOR of Mississippi, YATES, GONZALEZ, SMITH of Michigan, and HALL of Texas, Ms. MARGOLIES-MEZVINSKY, Mr. MYERS of Indiana, and Mr. SWETT changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Pursuant to the order of the House of today, proceedings will now resume on those amendments to title V on which further proceedings were postponed in the following order: first, the amendment offered by the gentleman from Florida [Mr. STEARNS]; second, the amendment offered by the gentleman from Washington [Mr. INSLEE]; and, third, the amendment offered by the gentleman from Illinois [Mr. PORTER].

□ 2040

AMENDMENT OFFERED BY MR. STEARNS

The CHAIRMAN. The pending business is the demand of the gentleman from Florida [Mr. STEARNS] for a recorded vote on which further proceedings were postponed and on which the "noes" prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 284, noes 122, not voting 33, as follows:

[Roll No. 284]

AYES—284

Allard
Andrews (ME)
Andrews (NJ)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bentley
Bereuter
Bilbray
Bilirakis
Blute
Boehlert
Boehner
Bonilla
Brooks
Browder
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp

Canady
Cantwell
Castle
Chapman
Clayton
Clement
Clinger
Coble
Collins (GA)
Combest
Condit
Cooper
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (TX)
Ehlers
Emerson
Eshoo
Everett
Ewing
Farr
Fawell
Fields (LA)
Filner
Fingerhut
Fowler
Franks (CT)
Franks (NJ)
Frost
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Hefner
Herger
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Huffington
Hughes
Hunter
Hutchinson
Hutto
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson, Sam
Kanjorski
Kaptur
Kasich
Kildee
Kim
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kreidler
Kyl
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Lehman
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lloyd
Long
Lowey
Lucas
Machtley
Maloney
Manton
Manzullo
Margolies-Mezvinsky
Martinez
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McNulty
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Minge
Moakley
Molinari
Montgomery
Moorhead
Morella
Murphy
Myers
Neal (MA)
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pomeroy
Porter
Portman
Poshard
Quillen
Quinn
Rahall
Ramstad
Ravenel
Regula
Roberts
Roemer
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schenk
Schiff
Schumer
Sensenbrenner
Shaw
Shays
Shepherd
Shuster
Sisisky
Skeen
Skelton
Slattery
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thurman
Torkildsen
Torres
Traficant
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Weldon
Williams
Wise
Wolf
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—122

Abercrombie
Ackerman
Andrews (TX)
Bateman
Becerra
Beilenson
Berman
Bonior
Borski
Boucher
Brown (CA)
Brown (OH)
Bryant
Cardin
Carr
Clay
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Coyne
de Lugo (VI)
Dellums
Derrick
Dingell
Dixon
Edwards (CA)
Engel
English
Evans
Fazio
Flake
Foglietta
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Gonzalez
Gutierrez
Hamburg
Hinchey
Houghton
Hoyer
Hyde
Johnson (SD)
Johnson, E. B.
Johnston
Kennedy
Kennelly
King
Kolbe
Kopetski
LaFalce
Leach
Levin
Levy
Lewis (CA)
Lewis (GA)
Lipinski
Mann
Markey
Matsui
Mazzoli
McDermott
McKinney
Meek
Mineta
Mink
Mollohan
Moran
Murtha
Nadler
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Pastor
Payne (NJ)
Pelosi
Pickle
Price (NC)
Reed
Richardson
Rogers
Rohrabacher
Romero-Barcelo (PR)
Roybal-Allard
Sabo
Sanders
Sawyer
Schroeder
Scott
Serrano
Sharp
Skaggs
Slaughter
Smith (IA)
Stark
Stokes
Studds
Swift
Synar
Thompson
Thornton
Tucker
Underwood (GU)
Unsoeld
Velazquez
Vento
Visclosky
Waters
Watt
Waxman
Wilson
Woolsey
Wyden
Yates

NOT VOTING—33

Bevill
Bishop
Blackwell
Bliley
Brewster
Brown (FL)
Faleomavaega (AS)
Fields (TX)
Fish
Ford (MI)
Ford (TN)
Hastings
Hilliard
McCandless
McCloskey
McCollum
McMillan
Meehan
Owens
Pombo
Pryce (OH)
Rangel
Reynolds
Ridge
Rose
Rostenkowski
Rush
Smith (OR)
Torricelli
Towns
Washington
Wheat
Whitten

□ 2048

The Clerk announced the following pair:

On this vote:

Mr. Smith of Oregon for, with Mr. McCollum against.

Mr. ENGEL changed his vote from "aye" to "no."

Messrs. MILLER of California, CLEMENT, PORTER, HOCHBRUECKNER, DURBIN, BARLOW, NEAL of Massachusetts, VOLKMER, MOAKLEY, and BARLOW, and Ms. LAMBERT changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENTS OFFERED BY MR. INSLEE

The CHAIRMAN. The pending business is the demand of the gentleman from Washington [Mr. INSLEE] for a recorded vote on which further proceedings were postponed and on which the "noes" prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 268, noes 139, not voting 32, as follows:

[Roll No. 285]

AYES—268

Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bentley
Bilbray
Bilirakis
Blute
Boehlert
Boehner
Bonilla
Browder
Brown (OH)
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cantwell
Castle
Chapman
Clayton
Clement
Clinger
Clyburn
Coble
Collins (GA)
Combest
Condit
Cooper
Coppersmith
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Darden
Deal
DeLay
Deutsch
Dickey
Dicks
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Ehlers
Emerson
English
Everett
Ewing
Fawell
Fields (LA)
Fingerhut
Fowler
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Herger
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Huffington
Hunter
Hutchinson
Hutto
Inglis
Inhofe
Inslee
Istook
Jacobs
Johnson (GA)
Johnson, Sam
Kasich
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klug
Knollenberg
Kreidler
Kyl
Lambert
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (FL)
Lewis (KY)
Linder
Lipinski
Lloyd
Long
Lucas
Machtley
Mann
Manzullo
Margolies-Mezvinsky
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McKinney
McNulty
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Myers
Neal (NC)
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Penny
Peterson (MN)
Petri
Pickett
Pickle
Pomeroy
Porter
Portman
Poshard
Quillen
Quinn
Rahall
Ramstad
Ravenel
Reed
Regula
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Sanders
Santorum
Sarpalius
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skeen
Skelton
Slattery
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Traficant
Tucker
Unsoeld
Upton
Velazquez
Vucanovich
Walker
Weldon
Williams
Woolsey
Wyden
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—139

Abercrombie
Ackerman
Bacchus (FL)
Bateman
Becerra
Beilenson
Bereuter
Berman
Bonior
Borski
Boucher
Brooks
Brown (CA)
Bryant
Byrne
Cardin
Carr
Clay
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
de la Garza
de Lugo (VI)
DeFazio
DeLauro
Dellums
Derrick
Diaz-Balart
Dingell
Dixon
Durbin
Edwards (CA)
Engel
Eshoo
Evans
Farr
Fazio
Filner
Flake
Foglietta
Frank (MA)
Gejdenson
Gephardt
Gibbons
Gilman
Gonzalez
Hall (OH)
Hamburg
Hamilton
Hefner
Hinchey
Houghton
Hoyer
Hughes
Hyde
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Klink
Kolbe
Kopetski
LaFalce
Lancaster
Lantos
Lewis (CA)
Lewis (GA)
Lightfoot
Livingston
Lowey
Maloney
Manton
Markey
Martinez
Matsui
Mazzoli
McDermott
Meek
Menendez
Mfume
Michel
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moran
Morella
Murphy
Murtha
Nadler
Neal (MA)
Norton (DC)
Oberstar
Obey
Olver
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Price (NC)
Richardson
Rogers
Romero-Barcelo (PR)
Roybal-Allard
Sabo
Sangmeister
Sawyer
Scott
Serrano
Skaggs
Slaughter
Smith (IA)
Stark
Stokes
Studds
Swift
Synar
Torres
Underwood (GU)
Valentine
Vento
Visclosky
Volkmer
Walsh
Waters
Watt
Waxman
Wheat
Wilson
Wise
Wolf
Yates

NOT VOTING—32

Bevill
Bishop
Blackwell
Bliley
Brewster
Brown (FL)
Faleomavaega (AS)
Fields (TX)
Fish
Ford (MI)
Ford (TN)
Hastings
Hilliard
McCandless
McCloskey
McCollum
McMillan
Meehan
Owens
Pombo
Pryce (OH)
Rangel
Reynolds
Ridge
Rose
Rostenkowski
Rush
Smith (OR)
Torricelli
Towns
Washington
Whitten

□ 2058

The Clerk announced the following pair:

On this vote:

Mr. Smith of Oregon for, with Mr. Towns against.

Mr. BROWN of Ohio changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. PORTER

The CHAIRMAN. The pending business is the demand of the gentleman from West Virginia [Mr. MOLLOHAN] for a recorded vote on which further proceedings were postponed and on which the "ayes" prevailed by voice vote.

The Clerk will redesignate the amendment.

RECORDED VOTE

The CHAIRMAN. The gentleman from West Virginia [Mr. MOLLOHAN] has demanded a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 318, noes 89, not voting 32, as follows:

[Roll No. 286]

AYES—318

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Armey
Bacchus (FL)
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bilbray
Bilirakis
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Brown (OH)
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Castle
Clayton
Clement
Clinger
Clyburn
Coble
Collins (IL)
Collins (MI)
Combest
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Crane
Crapo
Cunningham
Danner
de la Garza
de Lugo (VI)
DeFazio
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dooley
Doolittle
Dornan
Dreier
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Foglietta
Fowler
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Herger
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Horn
Houghton
Hoyer
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
Lambert
Lancaster
Lantos
LaRocco
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lucas
Machtley
Maloney
Manton
Manzullo
Margolies-Mezvinsky
Markey
Mazzoli
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McNulty
Meek
Menendez
Meyers
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Molinari
Montgomery
Moorhead
Morella
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Pelosi
Penny
Peterson (FL)
Petri
Pickett
Pickle
Pomeroy
Porter
Portman
Poshard
Quinn
Ramstad
Ravenel
Regula
Richardson
Roberts
Roemer
Rohrabacher
Romero-Barcelo (PR)
Ros-Lehtinen
Roybal-Allard
Royce
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schumer
Scott
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thompson
Thornton
Torkildsen
Torres
Tucker
Underwood (GU)
Unsoeld
Upton
Valentine
Velazquez
Vento
Volkmer
Vucanovich
Walker
Walsh
Waxman
Weldon
Wheat
Williams
Wolf
Woolsey
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—89

Allard
Andrews (TX)
Applegate
Archer
Baesler
Barlow
Boucher
Brooks
Browder
Brown (CA)
Bryant
Carr
Chapman
Clay
Coleman
Collins (GA)
Condit
Cramer
Darden
Deal
DeLauro
Dellums
Derrick
Dixon
Duncan
Flake
Frank (MA)
Geren
Gibbons
Gonzalez
Green
Hefley
Hefner
Holden
Hughes
Hutto
Johnson, Sam
Johnston
Kanjorski
Klink
LaFalce
Laughlin
Lewis (GA)
Lowey
Mann
Martinez
Matsui
Mfume
Moakley
Mollohan
Moran
Murphy
Murtha
Myers
Oberstar
Obey
Olver
Pastor
Payne (NJ)
Payne (VA)
Peterson (MN)
Price (NC)
Quillen
Rahall
Reed
Rogers
Roth
Roukema
Rowland
Sabo
Schroeder
Sensenbrenner
Serrano
Skaggs
Smith (IA)
Stenholm
Stokes
Swift
Synar
Thomas (WY)
Thurman
Traficant
Visclosky
Waters
Watt
Wilson
Wise
Wynn
Yates

NOT VOTING—32

Bevill
Bishop
Blackwell
Bliley
Brewster
Brown (FL)
Faleomavaega (AS)
Fields (TX)
Fish
Ford (MI)
Ford (TN)
Hastings
Hilliard
McCandless
McCloskey
McCollum
McMillan
Meehan
Owens
Pombo
Pryce (OH)
Rangel
Reynolds
Ridge
Rose
Rostenkowski
Rush
Smith (OR)
Torricelli
Towns
Washington
Whitten

□ 2105

The Clerk announced the following pair:

On this vote:

Mr. Smith of Oregon for, with Mr. Hastings against.

Mr. ROTH changed his vote from "aye" to "no."

Mrs. LLOYD changed her vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

ADMINISTRATIVE PROVISION—UNITED STATES INFORMATION AGENCY

(a) Of the budgetary resources available to the United States Information Agency during fiscal year 1995, $1,440,000 are permanently canceled.

(b) The Director of the United States Information Agency shall allocate the amount of budgetary resources canceled among the Agency's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account.

(c) For the purposes of this section, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

This may be cited as the "Department of State and Related Agencies Appropriations Act, 1995".

Mr. LIVINGSTON. Mr. Chairman, I am having difficulty hearing. Could the Chair tell me exactly where we are in the bill?

The CHAIRMAN. The Clerk has just competed the reading of title V and is about to begin the reading of title VI, General Provisions.

Mr. LIVINGSTON. Has the Chair begun the reading of title VI?

The CHAIRMAN. No. Title VI will be read by section.

Mr. LIVINGSTON. Mr. Chairman, I ask unanimous consent that Title VI be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana [Mr. LIVINGSTON]?

Mr. MOLLOHAN. Mr. Chairman, would the Chair please repeat the request?

The CHAIRMAN. The gentleman from Louisiana [Mr. LIVINGSTON] has asked unanimous consent to open title VI at any point.

Does the gentleman from West Virginia [Mr. MOLLOHAN] concur in that request?

Mr. MOLLOHAN. Mr. Chairman, we have no objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana [Mr. LIVINGSTON]?

There was no objection.

The text of title VI is as follows:

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of each provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 605. (a) None of the funds provided under this Act or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Appropriations Committees on both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $500,000 or 10 per centum, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 per centum funding for any existing program, project, or activity, or numbers of personnel by 10 per centum as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress, unless the Appropriations Committees of both House of Congress are notified fifteen days in advance of such reprogramming of funds.

SEC. 606. (a) None of the funds made available in this Act may be used for the construction, repair (other than emergency repair), overhaul, conversion, or modernization of vessels for the National Oceanic and Atmospheric Administration in shipyards located outside of the United States.

(b) None of the funds made available in this Act may be used for the construction, repair (other than emergency repair), conversion, or modernization of aircraft for the National Oceanic and Atmospheric Administration in facilities located outside the United States and Canada.

Titles I through VI of this Act may be cited as the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1995".

The CHAIRMAN. Are there any points of order against title VI?

Are there any amendments to title VI?

Mr. LIVINGSTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am going to offer an amendment at the conclusion of my remarks.

Mr. Chairman, I hope that Members will come to order and attempt to listen to some of the things I have to say here, because I think that they will be very much interested in what I am about to do.

Mr. Chairman, I have an amendment that I hope to offer, and I hope it will be voted upon and accepted by the House. It will prevent the President of the United States from obligating funds for any international peacekeeping mission that would require the deployment of United States forces in Haiti. Basically, Mr. Chairman, my amendment intends to say that when we go off on our recess for July 4 for 2 weeks, we should not wake up and find out that we have invaded Haiti without at least an opportunity to express ourselves in Congress on whether or not that should happen.

Mr. Chairman, we are saying that the President of the United States should do essentially the same as did former President George Bush, when he came to Congress and asked for the authorization of Congress before going forward with Operation Desert Storm.

There are a lot of reasons, Mr. Chairman, I suppose, that we could justify an invasion of Haiti. We could say that it is geographically close.

We could say that there is no democracy there. We could say that it is totalitarian. We could say that there is great suffering in Haiti. All of those might be right. However, Members could, for those very same reasons make the very same arguments about Cuba.

□ 2110

If we are going to be invading places in the Caribbean, I suggest that in Cuba, there is abundant lack of democracy, a totalitarian government, tremendous suffering, and, of course, Cuba is much closer to us than Haiti is. Of course Cuba suffers under Fidel Castro, and has since 1959.

Mr. Chairman, I do not think that we have justification for invading Haiti, and I do not think for that matter we should be invading Cuba. The fact is, an invasion of Haiti is not in our national interest.

Mr. Chairman, I do not think that there will ever be a problem of whether or not the United States can take Haiti. Probably in 35 minutes, it will all be done. But what will happen then? We went into Haiti once before in this century, and we stayed 20 years. We could not get out. What will happen when our young men and women in uniform go to Haiti this time, and they find that there are riots and looting and sniping and terrorism? When they get shot, or when they get hacked with machetes, what are we going to tell their parents if we invade Haiti, and our people in uniform start dying with regularity?

Are we going to tell them it is because we are there to restore democracy and to restore Mr. Aristide, the man who has openly espoused necklacing? I saw him on a T.V. tape today. A lot of people say he did not espouse necklacing. I saw him do it. I watched that tape.

He said that necklacing, the practice of putting a rubber tire around a person's neck, filling it with gasoline and setting him on fire was "cute, pretty, that it had a good smell, and that young students should use it when you must."

Mr. Chairman, he is no "democrat" with a small "d," and we do not have any business risking the lives of our young men and women in uniform to restore him to power in Haiti. In fact, I say that Jean Bertrand Aristide is not worth one American life. Furthermore, if we are down there messing around in Haiti, what happens if things really go bad with that nuclear problem in North Korea? Are we going to be diverting our attention to one small insignificant place in the Carribean and all of a sudden find ourselves in real trouble on the other side of the globe? I do not think that is a very good way to spend the Fourth of July. I do not think that any of us want to explain to our constituents that we are in Haiti, invading Haiti, on our Independence Day.

Mr. Chairman, I am going to offer an amendment that I suspect may be stricken on a point of order, a rule or whatever, and we will not get an up or down vote. If, in fact, there is no objection, fine. We will get an up or down vote on my motion. Otherwise, I may have to resort to other means, perhaps a motion to recommit, or perhaps other technical means at my disposal. But we ought to have a vote on this issue—one way or another.

Mr. Chairman, I know that this House will not be doing its duty to the American people, if we go home for the Fourth of July recess without saying to the President of the United States:

"Before you go mucking around in the Caribbean and sending our kids to invade Haiti, you must first come to us for authorization."

Mr. LIGHTFOOT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the gentleman from Louisiana [Mr. LIVINGSTON] and I offered this amendment to the Committee on Rules and we were denied at that point. Basically all it does is limits its funds in the peacekeeping section of this bill from being used for U.N. peacekeeping operations in Haiti in which United States troops would be deployed without first seeking the authorization of the American people through the Congress.

Mr. Chairman, I have heard enough of U.N. Ambassador Albright to know that I want some insurance against the continued policy of aggressive multilateralism. I would bring to the House's attention a June 15 Washington Times story which indicates that Deputy Secretary of State Talbot told U.N. officials "the United States is poised to invade Haiti within 2 months." This was on June 15.

Mr. Chairman, anyone who doubts the Washington Times or this administration's commitment to aggressive multilateralism and invading small countries should take a look at the New York Times just this past Saturday. That story reports the administration is now trying to put together a U.N. peacekeeping force of 14,000 to nation-build in Haiti; 7,000 of those people are Americans.

Mr. Chairman, let me be very clear about one point that has caused some confusion about the amendment. The amendment does not, I underline, does not, prevent the President from committing the United States to acting unilaterally in this matter nor does the amendment prejudge what decision this House would make. But if the President decides time and policy allows the United States to work through the Security Council process with the blessings of Boutros Ghali, then I think time also allows for an authorization from the American people whose sons and daughters will be sent to Haiti and do that through the Congress.

Mr. Chairman, what scares me most is that this President seems to have learned nothing from the Somalian disaster. Rather than demonstrating a national interest in invading Haiti and securing the consent of Congress, he would rather circumvent Congress. Using the United Nations as a tool and working through the United Nations having received the proper authorization from Congress would work to the President's long-term advantage.

Mr. Chairman, all of us support the restoration of democracy in Haiti, but this House is very divided over the proper course. Twice we have voted on Haiti and twice we have reached a very different conclusion.

I would hope this House at least agrees that if we are going to deploy troops to Haiti, Congress should be consulted before our sons and daughters are placed in harm's way. It is a simple matter of asking the American people if they are willing to send their sons and daughters to a military invasion of Haiti. That is all we are asking that we do.

AMENDMENT OFFERED BY MR. LIVINGSTON

Mr. LIVINGSTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LIVINGSTON: On Page 96, after line 19, insert the following new section:

SEC. 607. None of the funds provided by this Act may be used for Contributions for International Peacekeeping Operations or Activities for any United Nations peacekeeping operation related to Haiti in which United States troops are deployed, without prior authorization of Congress.

POINT OF ORDER

Mr. MOLLOHAN. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. MOLLOHAN. Mr. Chairman, the amendment is a limitation to a general appropriation bill. Under the revised clause 2, rule XXI, such amendments are not in order during the reading of a general appropriation bill.

Mr. Chairman, the revised rule states in part.

Except as provided in paragraph (d), no amendment shall be in order during consideration of a general appropriation bill proposing a limitation not specifically contained or authorized in existing law for the period of the limitation.

Mr. Chairman, the gentleman's amendment is a limitation and is not specifically contained or authorized in existing law and therefore is in violation of clause 2(c) of rule XXI. It is also legislation in an appropriations bill.

I ask for a ruling from the Chair.

The CHAIRMAN. Does the gentleman from Louisiana [Mr. LIVINGSTON] desire to be heard?

Mr. LIVINGSTON. I do, Mr. Chairman,

The CHAIRMAN. The gentleman from Louisiana is recognized.

Mr. LIVINGSTON. Mr. Chairman, I do wish to be heard on the point of order.

Mr. Chairman, this amendment again prevents the President of the United States from obligating funds for any further peacekeeping mission that would require the deployment of United States forces in Haiti without first coming to Congress.

An identical amendment was offered during the full Committee on Appropriations consideration of the bill. Unfortunately, it was defeated 17 to 32 on largely a party line vote. I feel that we should allow the rest of the House to vote on this vital issue.

Mr. Chairman, if the President wants to use the United Nations as a tool to send United States troops to Haiti, he should be required to seek authorization from Congress.

The Chair may rule this amendment out of order because it is a funding limitation and is not offered at the appropriate time. However, I am offering this amendment to the general provisions title of the bill that funds our international peacekeeping efforts.

□ 2120

So as the President has already informed the United Nations that he wants a multilateral invasion of Haiti within 2 months if the sanctions do not unseat the military rulers, this is our only opportunity to send the President a message. It only seems appropriate that this amendment be made in order without defeating the motion on a ruling.

I hope that the Chair will, indeed, make a ruling that this amendment is, in fact, in order.

The CHAIRMAN. Does any other Member desire to be heard on the point of order?

Mr. MFUME. Mr. Chairman, I recognize the gentleman's desire, as he said, that we ought to vote on this.

But this House is governed by a set of rules some of which speak to the matter of germaneness.

I would ask the Chair to support the point of order raised by the previous gentleman and to rule this out of order.

The CHAIRMAN. The Chair is prepared to rule unless additional Members desire to speak on the point of order.

Mr. CUNNINGHAM. Mr. Chairman, only last week the Committee on Rules waived the rules on three Federal courthouses. I voted for those, because I thought it was important. If we are going to hide in this Chamber behind a point of order on not voting to invade Haiti, I think that is wrong, and I think that we require or need an up-or-down vote on this as our responsibility in Congress and not hide behind the rule.

If we can do it for three Federal courthouses, we can sure do it when it comes to an invasion of Haiti.

Mr. MFUME. Mr. Chairman, the discussion should, in fact, be on the point of order and not on hypotheticals. I would argue that we are out of order in that regard.

The CHAIRMAN (Mr. BROWN of California). The Chair is constrained to rule that the gentleman was not speaking to the point of order.

The Chair is prepared to rule on the point of order.

The Chair, for the reasons stated by the gentleman from West Virginia, namely, that while the amendment assumes the form of a limitation, it also actually contains legislation on an appropriation bill requiring subsequent congressional approval, is constrained to uphold the point of order made by the gentleman from West Virginia.

PARLIAMENTARY INQUIRY

Mr. LIVINGSTON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. LIVINGSTON. Mr. Chairman, if the Chair's ruling is sustained, is it not then in order for the gentleman from Louisiana to offer a similar amendment to limit funds on a motion to recommit?

The CHAIRMAN. The Chair cannot speculate on what could be in a motion to recommit in the House.

Mr. LIVINGSTON. I thank the Chairman. I look forward to offering such a motion.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Page 96, after line 19, insert the following new section:

SEC. 607. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contact with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, there is a lot of discussion on funds for a lot of reasons, to promote democracy overseas. I think my amendment would promote a little democracy in America with a few jobs.

I would appreciate it if the Committee would accept it and pass over this amendment without prejudice and keep it in the conference.

Mr. MOLLOHAN. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from West Virginia.

Mr. MOLLOHAN. Mr. Chairman, we have looked at the gentleman's amendment and have no objections to it. We accept it. It was in the bill last year. We have talked with the minority about this, and I think that we are in agreement to accept the amendment.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Chairman, we have no objection to the amendment.

Mr. TRAFICANT. Mr. Chairman, Radio Free Asia will be working when the Chinese start buying some Motorolas. I ask for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. CONDIT.

Mr. CONDIT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CONDIT: Page 96, after line 19, insert the following new section:

SEC. 607. There is appropriated out of any money in the Treasury not otherwise appropriated for fiscal year 1995 for expenses necessary to carry out section 501 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1365) to reimburse States for costs of incarcerating illegal aliens an amount equal to, and each amount appropriated or otherwise made available by titles I through VI of this Act (other than by this section) that is not required to be appropriated or otherwise made available by a provision of law is hereby reduced by, $600,000,000 and 2.5 percent, respectively.

Mr. CONDIT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. CONDIT. Mr. Chairman, my colleague, Congresswoman THURMAN and I are offering the Condit-Thurman Amendment to Commerce-Justice-State Appropriations for fiscal year 1995. This amendment provides $600 million to local and state governments which have born the cost of incarcerating criminal aliens. A cost which is a federal responsibility!

As you know Mr. Chairman, the Immigration Reform and Control Act of 1986 authorizes reimbursement to States for these costs in section 501, which is codified in 8 United States Code 1365. In addition, on April 20, the House approved our amendment authorizing reimbursement for incarcerating criminal aliens in an en-bloc amendment that was adopted by a vote of 402 to 22.

$600 million is the amount scored by the Congressional Budget Office as necessary to fully reimburse state and local governments in fiscal year 1995. Illegal immigration is a Federal responsibility Mr. Chairman, yet we are abdicating this responsibility.

The Condit-Thurman amendment give Congress the opportunity to own-up to its commitments and provides the funding for reimbursing State and local governments after many years of allocating scarce resources to their jails and prisons. Criminal aliens are in State and county jails because the Federal Government has failed to enforce immigration laws. The U.S. criminal alien population totals 4 percent of all the U.S. prison population. California alone incarcerates 55 percent of all criminal aliens in the United States and can no longer continue to be expected to pay for costs which the Federal Government has failed to pay. A 2.5 percent cut across the board is the only fair way of funding this program.

With regard to the Byrne Program, the $20.1 reduction could be considered the incarcerated alien portion of the $446 million increase of Byrne. Our amendment still leaves sizable amount of $784.2 million for State law enforcement programs under Byrne. Therefore, States without incarcerated criminal aliens do not lose under our amendment.

Another important provision of the Condit-Thurman amendment is that these funds would be appropriated directly to section 501 of the Immigration Reform and Control Act versus the current proposal of filtering criminal alien reimbursement moneys through the Byrne grant formula. This policy does not do justice to States because by filtering funds through the Byrne formula you force States to choose between reimbursing for criminal aliens and much needed law enforcement programs like additional police officers on crime prevention programs.

Lastly, under the formula currently mandated for the Byrne Grant Program, States with no criminal alien populations get a larger share of the moneys but will not have to make the tough choices that criminal alien impacted States will have to make. We must protect this reimbursement by separating it from other Department of Justice programs which may be subject to pressures from other programs within and outside the DOJ.

Mr. Chairman, the Condit-Thurman amendment is supported by national and international law enforcement organizations like California Peace Officers Association, California Highway Patrol, International Association of Chiefs of Police and the California Police Chiefs Association. Chiefs of Police from all the affected States met with me and many members of Congress to discuss this issue and to convey to us their inability to allocate their law enforcement resources to programs that really prevent further crime problems.

Should we not listen to law enforcement in our State and local governments? Aren't they the people whom we were elected to represent? Can we continue to strap local and state governments' budgets? We are not proposing a new program. We are not proposing new spending. The Federal Government should live up to its' commitments. This is not a California issue. It is not a Florida, Texas, or New York issue. It is an issue of fiscal responsibility. It is an issue of fairness to State and local governments. It is an issue of right versus wrong.

Mr. Chairman, I yield to the gentleman from California [Mr. BEILENSON].

Mr. BEILENSON. Mr. Chairman, I rise in support of the Condit-Thurman amendment, which would provide $600 million for the State Criminal Alien Assistance Program [SCAAP], the full amount needed by States to pay for the costs of incarcerating criminal aliens.

Nationwide, there are 35,000 or more criminal aliens incarcerated in State prisons. California alone houses more than 18,000 undocumented felons, at a cost projected to exceed $390 million this year. And California is not alone. New York spends an estimated $63 million annually in incarceration costs; Florida estimates its annual burden to be in excess of $58 million; and Texas calculates a 1993 liability of $52 million. Yet, while State and local governments have the responsibility for incarcerating criminal aliens and processing their cases, they have no jurisdiction, obviously, over the enforcement of immigration laws, no authority to deport aliens who are convicted of crimes, and no authority to ensure that those deported are not permitted to reenter the country.

As Mr. CONDIT pointed out, Congress recognized the unfairness of this situation in the 1986 Immigration Reform and Control Act [IRCA], where it acknowledged the Federal Government's responsibility for the criminal alien population. Section 501 of that Act specifically authorizes the reimbursement to States of costs incurred in the imprisonment of illegal aliens. Unfortunately, however, this commitment has yet to be fulfilled, because Congress has failed to appropriate any funding at all for that purpose.

Two months ago, the House of Representatives reaffirmed the Federal Government's responsibility for the criminal alien population when it approved an amendment I offered, along with Representatives BERMAN, CONDIT, and THURMAN, to H.R. 3355, the Omnibus Crime Bill. That amendment, which is currently being considered in the House-Senate conference committee, would ensure that if the Federal Government does not provide reimbursement to States for the cost of incarcerating criminal aliens through the regular funding process, beginning in 1998, that funding will be mandated by law. Our amendment provided, further, that local governments, as well as States, would be reimbursed.

In the wake of that vote, the Clinton administration sent to Congress a proposal to provide $350 million for the coming fiscal year for the State Criminal Alien Assistance Program. Although that proposal was not a sufficient amount to provide full reimbursement, it was significant, in that it marked the first time that a President has ever requested funding for this program, which Congress had authorized 8 years ago.

The Appropriations Committee's response to the Administration's request, which was already far below full funding has been a disappointment to many of us from States with large populations of incarcerated aliens. This appropriations bill merely allows states to use funds from the very popular Edward Byrne Formula Grant Program to pay for the cost of incarcerating criminal aliens. That means that California and other affected States will have to choose between using these funds for the costs of criminal aliens, or for other important purposes such as crime and drug prevention programs.

Under the bill, the Byrne program grants will be increased, but even if California, for example, chooses to use its full increase to pay costs of incarcerating criminal aliens, that amount would provide just $48 million, or about one-sixth of the amount the State needs for that purpose. Other States with large populations of incarcerated criminal aliens face a similar situation. This shortfall of funding can, and should, be rectified by passing this amendment, which will provide $600 million to reimburse States for the costs of incarcerating illegal aliens.

It is also important that we not set a precedent of reimbursing states for the incarceration of criminal aliens out of the Byrne grant program, which would force States to spend funds which have traditionally been used for effective local law enforcement programs to pay for a Federal responsibility. The Clinton administration requested that reimbursement to states for costs associated with criminal aliens be funded through a separate State Criminal Alien Assistance Program [SCAAP]. Unfortunately, the Appropriations Committee decided, instead, to fund this program in a manner that forces States to choose between local programs that work, and funds they are rightfully due.

Beyond passing this amendment, we also need to redouble our efforts to ensure that counties and cities are also eligible for these funds. It is critical that the House-Senate conference committee on the crime bill adopt the House-passed amendment that provides reimbursement for local government entities, as well as States.

I am sympathetic to the constraints that the gentleman from West Virginia [Mr. MOLLOHAN] and the members of his subcommittee faced in writing this bill—their budget allocation was a full $1.2 billion below the President's request—and I thank the gentleman for his subcommittee's efforts to increase the size of the border patrol above the level requested by the President. I also recognize that the reason we have had so much difficulty getting the Federal Government to assume the costs that California and many other States are unfairly burdened with is the Federal Government's very serious budget deficit problem. Getting the Federal Government to pay for something that States are currently paying for—even though it is the right thing to do—means operating at cross purposes with our efforts to reduce Federal budget deficits. But it is important to realize that States are also facing major budget shortfalls due in large part to the Federal Government's abdication of its responsibility for the incarceration of criminal aliens and for the provision of services to undocumented aliens.

To restate the basic point about reimbursing States for the costs of criminal aliens: incarcerating criminals who are here in the U.S. illegally is a Federal responsibility. The Federal Government is responsible for preventing people from entering the U.S. illegally, and if it fails to do so, then it should be obligated to assume the burden of paying for illegal entrants who commit crimes. It is unfair for States to be burdened with that responsibility.

Mr. Chairman, this amendment provides relief to States for the cost of incarcerating people who have entered our country in violation of Federal laws. This cost should be borne by all U.S. citizens, not just those who live in regions with large numbers of illegal immigrants.

I urge my colleagues to support this amendment.

Mr. MOLLOHAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 30 minutes.

Mr. SOLOMON. Reserving the right to object, and I may not object, but I just was wondering how we are going to allocate the time.

I would like to speak on behalf of the gentleman's amendment, and we do not want to be cut short on it either.

What is the intent of limiting the debate time? Are we still under the 5-minute rule?

Mr. MOLLOHAN. No. Mr. Chairman, if the gentleman will yield, I would say to the gentleman that under my unanimous consent request we would have 20 or 30 minutes, whatever we could agree on, for total time to debate this issue, debating the amendment and any amendments to the amendment.

Mr. SOLOMON. So the gentleman's recommending 20 minutes for the opponents and 20 minutes for the proponents?

Mr. MOLLOHAN. No. A total of 20. Let me get some sense: If it is 30 minutes' time limit, it would be 15 minutes on each side.

Mr. SOLOMON. I regrettably have to object to that at the present time. I do not think there is going to be that much time, but some of us coming from some of these States like New York, Texas, and California have serious problems, and we want to talk about it. So if the gentleman would just withhold briefly and make his request in about 10 minutes, I think it might very well go through.

The CHAIRMAN. Objection is heard.

Mr. SOLOMON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, much of the cost of this bill is contained in section 5 dealing with U.N. peacekeeping, and the gentleman's amendment cuts that as well as everything else in the bill by 2½ percent. The scale of assessments to pay for U.N. peacekeeping, and I think Members will be interested to find out a little more of what is being talked about.

I have here an itemized list showing the percentage of the U.N. peacekeeping budget that each U.N. member has been assessed to pay for 1994.

The United States comes in first and highest at 31.8 percent.

Moving on down the list, and rounding each number off to the nearest hundredth of a percent, we find Japan—in second place—at 12.5 percent, compared to America's assessment of almost 32 percent, then comes Germany at 9.0 percent, compared to America's assessment of almost 32 percent. Russia, 8.6 percent, France, 7.6 percent, Great Britain, 6.4 percent, Italy, 4.3 percent, Canada, 3.1 percent, Spain, 2.0 percent, Ukraine, 1.9 percent, Australia, 1.5 percent, The Netherlands, 1.5 percent, Sweden, 1.1 percent, and Belgium, 1.1 percent. Then, guess who? China weighs in with just under 1 percent—at number 15 on the list.

That's right. Belgium, with a population of only 10 million people, pays a higher assessment than does China.

But that's typical of the kind of problem we run into when the formulation and conduct of U.S. foreign policy is subcontracted to multilateral organizations.

Mr. Chairman, this list goes on and on. By my count, 153 members of the United Nations each pay less than one-tenth of 1 percent of the peacekeeping budget. Some 56 of these members each pay only one-hundredth of 1 percent.

This misguided reliance on multilateralism, as a substitute for clear-headed U.S. policy, has got to stop. Support the Rogers amendment and send a message.

U.N. PEACEKEEPING SCALE OF ASSESSMENTS

[In percent]

		Peace-keeping scale 1994	Regular budget scale 1992–94
1	China	0.978	0.77
2	France	7.615	6.00
3	Russian Federation	8.618	6.71
4	United Kingdom	6,372	5.02
5	United States	31.795	25.00
	Subtotal perm 5	55.219	43.50
6	Andorra	0.010	0.01
7	Australia	1.518	1.51
8	Austria	0.754	0.75
9	Bolarus	0.482	0.48
10	Belgium	1.065	1.06
11	Canada	3.125	3.11
12	Denmark	0.658	0.65
13	Finland	0.573	0.57
14	Germany	8.974	8.93
15	Iceland	0.030	0.03
16	Ireland	0.181	0.18
17	Italy	4.311	4.29
18	Japan	12.512	12.45
19	Liechtenstein	0.010	0.01
20	Luxembourg	0.060	0.06
21	Monaco	0.010	0.01
22	Netherlands	1.507	1.50
23	New Zealand	0.241	0.24
24	Norway	0.553	0.55
25	San Marino	0.010	0.01
26	South Africa	0.412	0.41
27	Spain	1.990	1.98
28	Sweden	1.116	1.11
29	Ukraine	1,879	1.87
	Subtotal group B	41.976	41.77
30	Albania	0.002	0.01
31	Algeria	0.032	0.18
32	Argentina	0.115	0.57
33	Armenia	0.026	0.13
34	Azarbaijan	0.044	0.22
35	Bahamas	0.004	0.02
36	Bahrain	0.005	0.03
37	Barbados	0.002	0.01
38	Bolivia	0.002	0.01
39	Bosnia/Hercegovina	0.006	0.04
40	Brazil	0.320	1.59
41	Brunei Darussalam	0.005	0.05
42	Bulgaria	0.025	0.18
43	Cambodia[1]	0.002	0.01
44	Cameroon	0.002	0.01
45	Chile	0.018	0.08
46	Colombia	0.025	0.15
47	Congo	0.002	0.01
48	Costa Rica	0.002	0.01
49	Cote D'Ivaire	0.004	0.02
50	Croatia	0.025	0.13
51	Cuba	0.018	0.09
52	Cyprus	0.004	0.02
53	Dem PR of Korea	0.010	0.05
54	Dominican Republic	0.004	0.02
55	Equador	0.006	0.09
56	Egypt	0.014	0.07
57	El Salvador	0.002	0.01
58	Estonia	0.014	0.07
59	Fiji	0.002	0.01
60	Gabon	0.004	0.02
61	Georgia	0.042	0.21
62	Ghana	0.002	0.01
63	Greece	0.071	0.35
64	Guatamala	0.004	0.02
65	Guyana	0.002	0.01
66	Honduras	0.002	0.01
67	Hungary	0.038	0.18
68	India	0.073	0.38
69	Indoniesia	0.052	0.16
70	Iran	0.155	0.77
71	Iraq	0.025	0.13
72	Israel	0.046	0.23
73	Jamaica	0.002	0.01
74	Jordan	0.002	0.01
75	Kazakhstan	0.071	0.35
76	Kenya	0.002	0.01
77	Kuwait	0.050	0.25
78	Kyrgystan	0.012	0.06
79	Latvia	0.025	0.13
80	Lebanon	0.002	0.01
81	Liberia[1]	0.002	0.01
82	Libya	0.048	0.24
83	Lithuania	0.030	0.15
84	Malaysia	0.024	0.12
85	Malta	0.002	0.01
86	Marshal Islands	0.002	0.01
87	Mauritius	0.002	0.01
88	Mexico	0.177	0.85
89	Micronesia (Fed States)	0.002	0.01
90	Republic of Moldova	0.030	0.15
91	Mongolia	0.002	0.01
92	Morocco	0.008	0.03
93	Nicaragua	0.002	0.01
94	Nigeria	0.040	0.20
95	Oman	0.006	0.03
96	Pakistan	0.012	0.06
97	Panama	0.004	0.02
98	Paraguay	0.004	0.02
99	Peru	0.012	0.06
100	Philippines	0.014	0.07
101	Poland	0.095	0.47
102	Portugal	0.040	0.20
103	Quatar	0.010	0.05
104	Republic of Korea	0.139	0.69
105	Romania	0.034	0.17
106	Saudi Arabia	0.193	0.96
107	Singapore	0.024	0.12
108	Slovania	0.016	0.09
109	Sri Lanka	0.002	0.01
110	Swaziland	0.002	0.01
111	Syria	0.008	0.04
112	Tejikistan	0.010	0.05
113	Thailand	0.022	0.11
114	The Former Yugoslav Republic of Macedonia	0.004	0.02
115	Trinidad & Tobago	0.010	0.05
116	Tunisia	0.006	0.03
117	Turkey	0.055	0.27
118	Tuskmanistan	0.012	0.06
119	United Arab Emirates	0.042	0.21
120	Uruguay	0.008	0.04
121	Uzbakistan	0.052	0.25
122	Venezuela	0.099	0.49
123	Vietnam	0.002	0.01
124	Yugoslavia[2]	0.028	0.14
125	Zaire[1]	0.002	0.01
126	Zambia[1]	0.002	0.01
	Subtotal group C	2.749	13.65
127	Afghanistan[1]	0.001	0.01
128	Angola	0.001	0.01
129	Antigua & Barbuda	0.001	0.01
130	Bangladesh[1]	0.001	0.01
131	Belize	0.001	0.01
132	Benin[1]	0.001	0,01
133	Bhutan[1]	0.001	0.01
134	Botswana[1]	0.001	0.01
135	Burkdna Faso[1]	0.001	0.01
136	Burundi[1]	0.001	0.01
137	Cape Verde[1]	0.001	0.01
138	Cent African Rep[1]	0.001	0.01
139	Chad[1]	0.001	0.01
140	Comoros[1]	0.001	0.01
141	Djibouti[1]	0.001	0.01
142	Dominica	0.001	0.01
143	Equatorial Guinea[1]	0.001	0.01
144	Enitrea	0.001	0.01
145	Ethiopia[1]	0.001	0.01
146	Gambia	0.001	0.01
147	Grenada	0.001	0.01
148	Guinea[1]	0.001	0.01
149	Guinea-Bissau[1]	0.001	0.01
150	Haiti[1]	0.001	0.01
151	Laos[1]	0.001	0.01
152	Lesotho[1]	0.001	0.01
153	Madagascar[1]	0.001	0.01
154	Malawi[1]	0.001	0.01
155	Maldives[1]	0.001	0.01
156	Mali[1]	0.001	0.01
157	Mauritania[1]	0.001	0.01
158	Mozambique[1]	0.001	0.01
159	Myanmar[1]	0.001	0.01
160	Namibia	0.001	0.01
161	Nepal[1]	0.001	0.01
162	Niger[1]	0.001	0.01
163	Papua New Guinea	0.001	0.01
164	Rwanda[1]	0.001	0.01
165	St. Kitts & Navda	0.001	0.01
166	St. Lucia	0.001	0.01
157	St. Vincent & Grenadines	0.001	0.01
168	Samoa[1]	0.001	0.01
169	Sao Tome e Principe[1]	0.001	0.01
170	Senegal	0.001	0.01
171	Seychelles	0.001	0.01
172	Sierra Leone[1]	0.001	0.01
173	Solomon Islands[1]	0.001	0.01
174	Somalia[1]	0.001	0.01
175	Sudan[1]	0.001	0.01
176	Surinam	0.001	0.01
177	Togo[1]	0.001	0.01
178	Uganda[1]	0.001	0.01
179	U. Rep. of Tanzania[1]	0.001	0.01

U.N. PEACEKEEPING SCALE OF ASSESSMENTS—Continued

[In percent]

		Peace-keeping scale 1994	Regular budget scale 1992–94
180	Varuaiu[1]	0.001	0.01
181	Yemen[1]	0.001	0.01
182	Zimbabwe	0.001	0.01
	Subtotal group D	0.056	0.56
	Grand total	100.00	[3]99.51

[1] Included in the list of least developed countries.

[2] Figures are net of deductions for Bosnia/Harcegovina, Croatia, Slovenia, and The Former Yugoslav Republic of Macedonia.

[3] Slovakia and the Czech Republic have been temporarily excluded from the peacekeeping scale, pending a decision on whether to place them in Group B or Group C. Their Regular Budget assessments are 0.19% and 0.42% respectively. Thus the Regular Budget scale of assessments actually adds to 100.06%.

□ 2130

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I would love to yield to my friend, the gentleman from California [Mr. BERMAN].

Mr. BERMAN. I thank the gentleman for yielding.

Mr. Chairman, the gentleman makes a very interesting point. Does he realize this amendment only takes 2 to 2½ percent of these peacekeeping costs for this purpose while it cuts the FBI, the Border Patrol, the cops on the street, the DEA agents, and all of those other programs funded in the Justice Department and in the Commerce Department, instead of focusing on the target that the gentleman from New York thinks is so tempting?

Mr. SOLOMON. Let me reclaim my time and say that the gentleman makes an excellent point, and that is why at the end of my little debate here he will see what I am driving at.

Let me tell you something: Belgium, with a population of only 10 million people, pays a higher assessment than does China. But that is typical of the kind of problem we have run into when in the formulation and conduct of U.S. foreign policy it is subcontracted out to multilateral organizations. That is exactly what we are doing here with all this peacekeeping business.

Mr. Chairman, this list goes on and on. By my count there are 153 members of the United Nations and each pays less than one-fifth of 1 percent of the peacekeeping budget.

Some 56 of these members pay only one-thousandth of 1 percent. Mr. Chairman, this misguided reliance on multilateralism as a substitute for clear-headed U.S. policy has got to stop.

Support the Rogers amendment, which will be coming up at the end when we establish a new section. That is what we ought to be doing, what the gentleman from California [Mr. BERMAN] is driving at. Support the Rogers amendment and I will go along with you.

Mr. MOLLOHAN. Mr. Chairman, I rise in opposition to the Condit-Thurman amendment.

Mr. Chairman, this amendment is really ill-conceived. I think the Members must fully understand the consequences of this across-the-board cut. First of all, Mr. Chairman, I think it is necessary to explain the Crime Control Fund and how we funded the Crime Bill in this bill and what it does for Members.

So let me attempt to do that.

The Crime Control Fund amounts to $2.4 billion, Mr. Chairman. Out of that $2.4 billion we were asked by the administration, among other things, to fund Community Policing, we were asked to fund and upgrade criminal history records, we were asked to fund the President's immigration initiative which included controlling the border, expedited deportation provisions, asylum reform provisions, and other crime-control initiatives.

Mr. Chairman, as the committee approached this challenge, we decided that we would try to fund the Crime Bill in a way that put resources into the line, that beefed up our front line of defense against crime. The first challenge of course was community policing. This is a very strong priority, a high priority of the President and certainly most Members in this body.

The President asked $1.7 billion to fund that. We were able to fund it I think very generously at $1.3 billion. These funds will put another 39,000 policemen, federally funded, into our communities, in that Community Policing Program, the "cops on the beat" program, if you will.

We also looked at how we could beef up that front line, reinforce it. We funded almost 1,000 additional Border Patrol on the line to try to help stem the influx of illegal aliens into our country. And to do that at the point that they enter this country. That increase is on top of a 600-person Border Patrol increase last year.

That was only one of the immigration initiatives. In addition, we funded very generously the expedited deportation, increasing the number of administrative law judges and judges to consider the cases of the challenges to undocumented aliens.

We also did likewise for asylum reform so that we could expedite consideration of asylum cases.

Now in the process of doing that, very importantly, we received on one petition, I think, 120 Members of Congress signing a petition to restore the Byrne Grant Program, Mr. Chairman, an extremely popular program because it has been effective. It is a discretionary grant program, formula grant to the States and then discretionary on the part of the governors, to fund efforts to coordinate drug enforcement task forces. Extremely popular, extremely effective program.

We were asked by Members all across this House to restore and increase that funding for the Byrne Program. A majority of the Members of the House contacted us requesting that we restore funding for the Byrne Program.

We have done that. We have looked at these challenges and our budget allocation and funded this in a way that gives us the greatest budget authority and outlays in fashioning this bill. The way we did it was by increasing the Byrne Grant Program through an expanded Byrne Grant.

The way it was funded, Mr. Chairman, it doubles the amount of money each and every congressional district, in each and every State gets for the Byrne Program.

For example, just picking a State, the first State on the list, Alabama: Under the 1994 Byrne Program, Alabama was allocated at $5.827 million. Under the Expanded Byrne Program, Alabama receives a 125-percent increase to $13 million, an increase of $7,264,000 for the Byrne Grant Program.

Now in developing the expanded Byrne Grant Program, we included a part of the President's request for incarceration of illegal aliens, $150 million, and we included the traditional Byrne Grant Program.

The CHAIRMAN. The time of the gentleman from West Virginia [Mr. MOLLOHAN] has expired.

(By unanimous consent, Mr. MOLLOHAN was allowed to proceed for 5 additional minutes.)

Mr. MOLLOHAN. Mr. Chairman, we included in the Byrne Grant Program not only the traditional 21 jurisdictions in the Byrne Grant Program but also the incarceration of illegal aliens and the upgrading of criminal history records.

By doing that we were able to get about $200 million more into the Crime Control Fund than we otherwise could have because of the BA/outlay challenge that we have. The Byrne Grant Program outlays at 22 percent, incarceration of illegal aliens outlays at 75 percent. By incorporating all of those programs within the Expanded Byrne Program we were scored at 22 percent outlays, which allowed us to put about $200 million more into crime-fighting than we otherwise would be able to do.

Mr. Chairman, the amendment that is offered by Mr. CONDIT, on which he has spoken, requires an across-the-board cut of the total bill and then funnel that money into incarceration of illegal aliens; $600 million I believe in rough numbers is the amount of money he is going to take out of all the other parts of the bill.

Now that is going to create a lot of mischief and damage to much of the bill that I want to articulate and speak to in just a moment.

Now there are a lot of programs in this bill that we are not fully funding. In fact, almost all of the programs in this bill we are not fully funding; even the crime-control programs. We would like to have 6,000 Border Patrol but we cannot afford it in this bill.

I submit to you that we cannot afford to fully fund illegal aliens no matter how meritorious the arguments of the States are. We received this request from the President in an amendment to his original budget. He requested $350 million. He is the first President to ask for funding for incarcerating illegal aliens. We are the first subcommittee to fund such a request of illegal aliens. Arguably we could not fully fund it, but we did provide funds for it in the expanded Byrne Program. If it is funded outside the expanded Byrne Program, it will take about $200 million out of crime fighting in the bill.

Now the way Mr. CONDIT has done it is not that way. He is having an across-the-board cut. That means instead of every State getting 125 percent more Byrne Grant money every State will get less Byrne Grant money by 2.3 percent. In addition, where the Committee increases the funding for the FBI, approximately 130-some agents, where we increase funding for the Drug Enforcement Administration, increase funding for the Marshals' Service, increase funding for the enhancement of our Border Patrol, every one of those accounts, those on the line, fighting crime in the streets, will be cut in order to fund incarceration of illegal aliens, which we cannot afford to fund at the full level we have been asked to do it.

I would implore Members to remember all those Members who asked us to enhance funding for the Byrne Grant Program, and appreciate our efforts to do so and in the process of doing it incorporated a program to fund as best we could the incarceration of illegal alien requests.

Mr. Chairman, I will speak to the specific accounts that are cut by the Condit-Thurman amendment a bit later in the debate. But I strongly rise in opposition to it, point out to Members that it will be to the disadvantage of each and every State in the Union as far as the Byrne Grant Program goes and will benefit only really California, if you assume a funding level of $150 million, but if you assume $600 million funding for incarceration of illegal aliens, seven States will be the only beneficiaries and every other State in the Union will lose significantly.

□ 2140

Mr. MOLLOHAN. Mr. Chairman, I ask unanimous consent that from this point forward all debate on this amendment and all amendments thereto close in 20 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. CUNNINGHAM. Reserving the right to object, Mr. Chairman, if the gentleman takes out his time since, he just spent 10 minutes on his side of the issue, then I will not object.

Mr. MOLLOHAN. Mr. Chairman, I consciously did that because those who were supporting the amendment had done likewise, had taken about 10 minutes, so I thought that that would be acceptable.

Mr. CUNNINGHAM. Mr. Chairman, we had one speaker who took 5 minutes, and he yielded time, so if the gentleman would take 5 minutes out of his time, then I would not object.

Mr. MOLLOHAN. I am sorry; those speaking for the amendment had very close to, but not quite exactly, 10 minutes.

Mr. CHAIRMAN. Objection is heard.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we are considering the crime bill, and, if we look, and I heard the figures, and I would like to dispute the figures because the gentleman from California said there is 18,000. If it includes aliens, it may be correct, but California has approximately 16,000 illegal aliens. Maybe the 18,000 included aliens. In the United States there is almost 84,000 aliens. Most of those are illegal, but some are in this country legally, and they have committed crimes, and they are in there also. But if he did not have those numbers in the jail, in the crime bill we are building new prisons. Think of the money we can save if we did not have them in our jails or at least if they were paid for, and I would like to thank the chairman.

Mr. Chairman, he is absolutely correct. He supported us with 600 Border Patrol, another thousand. We want 6,000. That is the best way to stop them at the border, and I thank the Chairman for doing that. But if my colleagues take a look, we are talking about States' dollars, and let me give an example:

Committee on Education and Labor, Federal dollars that go to education, we only give about 5 percent. California spends 95 percent of all State money to education. In fact, we only give them 5 percent. By law 40 percent of that budget has to go to education. Governor Wilson has asked for $4 billion to reimburse us for illegal immigration, which the 16,000 is a portion of that, Mr. Chairman. I say, "If you start off with $4 billion less than your account, then you're going to have less for education, for police and so on. If you take a look at those costs nationwide, that equates to almost $37 billion, and let me repeat that, $37 billion nationwide."

Now we are also trying to fund a health care bill. Take 5 years of $37 billion. We can fund any health care bill that comes up before us, and the gentleman may turn down this amendment, but I would ask for the support in dealing with a problem that we have of illegal immigration because it is not just law enforcement. The education costs, the health care costs, the welfare costs, and this is why we see so much debate on the issue itself.

California immigration, along with the other States, is not becoming just a border State problem. Take a look in each and every one of our States, and when the gentleman says it is going to cost money out of this committee, our point is, and he has helped us with the Border Patrol, that if this government mandates that we take care of illegal immigrants in our prison systems, and health care and the rest of it, and they cannot afford it, then they need to change their policy.

Governor Wilson 2 weeks ago asked and talked to the Senate. They said, "Governor, we would love to help you, but we don't have any money to help you." If that is the case, Mr. Chairman, then the Federal Government needs to change its policies, and even though the gentleman may not support this amendment, I would ask his help in supporting and helping us with illegal immigration problems, not only in the State of California, but nationwide.

Mr. MOLLOHAN. Mr. Chairman, I again ask unanimous consent that all debate on this amendment and all amendments thereto close in 20 minutes and that that time be equally divided between the gentleman from Kentucky [Mr. ROGERS] and myself.

Maybe there is some sense that we are at a more equal point, and there may be more receptivity for such a unanimous consent request.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. LIVINGSTON. Reserving the right to object, Mr. Chairman, could the gentleman tell me how this might affect motions to rise, motions to recommit?

Mr. MOLLOHAN. Mr. Chairman, if the gentleman will yield, it has absolutely nothing to do with it. I would submit to the distinguished gentleman from Louisiana [Mr. LIVINGSTON] that it has nothing to do with that. We are simply limiting debate on this amendment after we have already had a bit of debate.

Mr. LIVINGSTON. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. The unanimous consent request to limit the time of debate on the amendment offered by the gentleman from California [Mr. CONDIT] is agreed to, and, as I understand it, the limitation will be 20 minutes, 10 minutes on each side with the gentleman from West Virginia [Mr. MOLLOHAN] sharing his time with the gentleman from Kentucky [Mr. ROGERS]. The gentleman from California [Mr. CONDIT] will control the other 10 minutes.

Mr. CONDIT. Mr. Chairman, I yield 3 minutes to the gentlewoman from Florida [Mrs. THURMAN].

□ 2150

Mrs. THURMAN. Mr. Chairman, let me first respond to the gentleman from West Virginia a little bit here on some of his remarks.

Actually, in our count we found that most of our law enforcement actually around this country is supporting this amendment, because they see this is an issue of incarceration. And all the cops on the beat, and everything else you can have, actually does not allow them to incarcerate anybody, because their prisons are overflowing and they need these dollars to reimburse themselves to have more.

Let me remind the House on April 20 we actually passed the Beilenson-Berman-Condit-Thurman amendment by a vote of 403 to 22, in fact saying that we believe that we should in fact reimburse States for incarcerating criminal aliens.

Let me also remind you that in the Byrne amendment, we are not taking any money our except for the 2.5 percent we do across the board for everybody. That means that the increase that we went from $358 million to $804 million takes the same 2.5 cut as every other cut is taken in this, not destroying or hurting any of those States that were talked about.

Instead of getting 125 percent, they get 122 percent. I think that is a small portion to give back to those States who have been doing this burden.

Plus, remembering that the Byrne program in fact was never intended to be a reimbursement program for illegal alien criminals to put them in jail, it actually was used for another thing.

Let me also suggest to you something that really bothers me: Before I was here, this Congress, and the Congress before us, made a commitment under a 501 of the Immigration Reform and Control Act, to reimburse States for the problems that have been caused by the Federal Government through their policy, not through the State's policy.

Are we going to once again do what we have been doing and renege on exactly what we have said that we were going to do over the last years? Because we have not funded that one either.

So I am asking this House and my colleagues from those States, one, that have the same problems that Florida does, to please support us in this amendment, but, second, to remind States who are siting here today, you may not have the problem today, but you could have it tomorrow, and you may be coming and asking us for the same help.

Mr. Chairman, I support this amendment to provide $600 million specifically to reimburse States for costs of incarcerating criminal aliens. The amendment funds this program by a 2.5 percent across-the-board reduction in the remainder of the bill. We do this for several reasons.

On April 20, the House approved the amendment authorizing reimbursing for incarcerating criminal aliens in an en bloc amendment that was adopted by a vote of 402–22. We believe that $600 million is needed to fully fund this program in fiscal year 1994.

The administration earlier this year submitted a budget amendment to fund a portion of this program, but the Appropriations Committee rejected this request. The committee did include $804.3 million for Byrne formula grant programs and added reimbursement for incarcerating criminal aliens as a new purpose. This compares to the $358 million in fiscal year 1994. I want to acknowledge the recognition of a problem by the administration and the committee. I am indeed grateful.

But, the Byrne program is not the place for this funding. We believe that reimbursement—like the immigration policy that necessitates it—is a separate Federal responsibility; in fact it is authorized separately under section 501 of the Immigration Reform and Control Act.

States will be forced to choose between reimbursement for criminal aliens and other legitimate law enforcement programs. The additional $446 million easily could be used for other purposes, such as improved rural law enforcement, more urban police, and improved suburban street safety.

The committee report states that "these funds [are] to be distributed to the States under the formula currently mandated for the Edward Byrne Formula Grant Program." In order words, States with no criminal alien population get a share of this larger pie but will not have to choose between spending the funds on incarcerated aliens or other law enforcement programs.

I also fear that, without a separate appropriations, reimbursement will be lost in the federal bureaucracy. About 6 years ago, Congress appropriated money for the immigration emergency fund created in 1986. We are still awaiting the regulations to allow States to use this money. I do not want this new program to become another one of those that are funded but never implemented.

When it came to funding reimbursement, we considered reducing those programs to which the committee gave more than the budget request, including several outside the Justice Department. But, we concluded it would be easier for each agency to absorb a minor reduction.

Some have asked why we are not exempting other Justice Department programs from this reduction. Our answer it this: Many if not most of these incarcerated aliens are in this country because of some action or inaction by the United States. It was not unreasonable to include legislation to address this problem in the crime bill, and it is not unfair to require INS or the State Department to assume a portion of the cost in this bill.

With regard to the Byrne program, the modest $20.1 million reduction could be considered the incarcerated alien portion of the $446 million increase. It also leaves $784.2 million for State law enforcement programs under Byrne. Therefore, States without incarcerated criminal aliens do not lose under our amendment. They will receive the increased Byrne funding.

Since this amendment was drafted, Mr. Chairman, I have heard from groups in my State that might received less funding for their particular programs. This arguments can be summarized in one sentence: How can you reduce this program or that Federal responsibility by 2.5 percent? I am not insensitive to their concerns. But, this is only the first step in our process. When I reviewed the committee report, I noted appropriations of about $300 million above the budget request. Savings here could offset our reduction and protect programs in Florida and elsewhere. More importantly, however, for a long time I have been convinced that the problem of criminal aliens also is a federal responsibility that has been ignored for too many years.

Without a separate line, reimbursement could become subject to pressures from other programs within and outside the Justice Department budget. The only way to ensure that states receive the reimbursement to which they are entitled is to adopt our amendment.

I want to remind my colleagues that this funding comes from money that came from our constituents. It is their money that will be returned to the States to cover other taxes that the people now are paying to incarcerate criminal aliens. They did not ask to pay higher taxes to cover increased State costs associated with these criminal aliens. But, they deserve this relief.

Finally, it may be a problem in my State this year, but it could be your problem in a few years. That is one reason why everybody should support this amendment.

Mr. MOLLOHAN. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. DIXON], the distinguished chairman of the Subcommittee of the District of Columbia of the Committee on Appropriations, for a colloquy.

Mr. DIXON. Mr. Chairman, I would like to point out that for the first time this program has been funded at least partially. It was authorized in 1986, and, under the Clinton administration and the leadership of the subcommittee, for the first time we have provided funds for reimbursement.

I am pleased that we are here today at least talking about a first step forward.

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. DIXON. I yield to the gentleman from California.

Mr. FAZIO. Mr. Chairman, I simply want to associate myself with the remarks of the gentleman from California and the chairman in their colloquy.

Mr. DIXON. Mr. Chairman, reclaiming my time, if I may ask the gentleman from West Virginia [Mr. MOLLOHAN].

If I may ask the gentleman, it is my understanding that the $804 million appropriation for the expanded Byrne program is to be distributed to States under the formula currently mandated for the Edward Byrne Formula Grant Program.

Is it true that it will be up to the States' Governors to use their discretion in using these funds for the costs of incarcerating undocumented felons, or for other purposes such as law enforcement or drug prevention programs? I would appreciate the Chairman's comments.

Mr. MOLLOHAN. Mr. Chairman, will the gentleman yield?

Mr. DIXON. I yield to the gentleman from West Virginia.

Mr. MOLLOHAN. As the gentleman stated, the committee had a very difficult time trying to provide adequate funding for all of the requested programs within a 602(b) budget allocation that was $1.2 billion below the President's request. The super Byrne program allowed the committee to maximize the budget authority available to fund items in the crime bill while staying within our outlay allocation. And you are correct that the Governors may use their discretion in using the super Byrne funds for the incarceration of undocumented felons, or for other purposes such as law enforcement or drug prevention programs.

I would note that if a separate appropriation for incarceration of illegal aliens were to be carved out of the crime bill funding, then, in order to remain within our 602(b) outlay allocation, the committee would be forced to make significant reductions.

It is absolutely true that under the Byrne program, the governors of the states have discretion to fund incarceration of illegal aliens, the traditional Byrne grant program in the 21 jurisdictions, or the Brady bill, and any combination of all of them The gentleman is absolutely correct.

Mr. DIXON. I thank the gentleman for his remarks.

Mr. ROGERS. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I wanted to talk to the Members on this side of the aisle for a moment. You like to vote for these across-the-board cuts, I know that, and you like to do it because you think you are cutting the deficit. And I have joined you on many of those.

But hear me out now. This money is not going to cut the deficit. This money is going to just seven states. All 43 of the rest of you, I am sorry, you are going to get cut. How are you going to get cut? Your Byrne grant programs that fund your local police forces are going to get cut by this amendment. Hear me out. Mark it down. That is what is does.

Number two, this amendments cuts the FBI agents in your area, in your district, in your state. It cuts them. It cuts the drug enforcement agents on the street in your district. That is what this amendment does.

This amendment would cut prison construction funds, delaying construction. It would delay activation of new prisons next year. It would cut the attorneys representing indigent defendants in your courts. We would not have the money to pay for the defense of indigent defendants after August of 1995 if this amendment passes.

You would not have the money to pay the jurors in your civil trials in your courthouses in August 1995. That is what this amendment does.

The money goes to just seven states. And, yes, they need some money for these costs of jailing incarcerated aliens. There are other ways to do that. Do not penalize the 43 states that would be hurt under this amendment.

So I urge Members, there is another way to this, and you will hear it before the night is over. But do not penalize the FBI, the Drug Enforcement Agency, the prisons, the prosecutors, the jurors, the criminal indigent defendants' defense. That is what this amendment will do. Do not think you are cutting funds to cut the deficit. No, this money goes to just seven states, and the rest of you are out of the picture.

Mr. CONDIT. Mr. Chairman, I yield 2 minutes to the gentlewoman from California, Ms. HARMAN.

Ms. HARMAN. Mr. Chairman, I rise in strong support of the Condit-Thurman amendment to reimburse State and local governments for the cost of incarcerating illegal aliens. This measure is sorely needed and I urge its adoption. I heard the last Speaker, the gentleman from Kentucky [Mr. ROGERS], talk about police chiefs.

Police chiefs in my district, the South Bay of Los Angeles, have asked the Federal Government to reimburse California for the heavy costs of incarcerating illegal aliens. They have called for these payments to be provided as new funding, not siphoned away from existing crime-fighting programs. I stand with the chiefs.

A recent report on immigration by the Urban Institute found "serious questions about institutional capacity, fiscal fairness, and the direction of immigration policy," due to the fact that "most revenues from immigrants and natives alike flow to the Federal treasury, whereas services are the responsibility of local (and State) governments. This disparity has intensified over the past decade, as Federal support for the few Federal programs targeted to immigrants and to the communities in which they settle has declined sharply."

I agree with the sponsors of this amendment that when the Federal Government fails to ensure that immigrants enter legally, it must bear the consequences of its failure. With a criminal alien population fast approaching 18,000 inmates, at an annual cost of $375 million, California can no longer foot the bill for Federal failure to curb illegal immigration. Nor can other heavily impacted States.

During consideration of the crime bill, I supported the Berman-Condit-Beilenson amendment to provide mandatory reimbursement to the States for costs incurred for the incarceration of illegal aliens. This amendment delivers on that requirement. I urge my colleagues to support it.

□ 2200

Mr. ROGERS. Mr. Chairman, I yield 1 minute to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Chairman, I rise in reluctant opposition to this amendment. I am in opposition because I do believe this amendment, if adopted, would set aside the fine work of the subcommittee in improving funding for law enforcement. Earlier in this debate, I had opposition to one particular provision in the subcommittee bill. I felt that the antitrust division was raised too high in comparison with the U.S. attorneys who prosecute violent crimes of serious drug offenses. Nevertheless, I want to acknowledge that the subcommittee did improve the funding not only for the Byrne Grant Program but also for the FBI and for the Drug Enforcement Administration. That is why this amendment should be rejected.

However, I want to say to the gentleman from California [Mr. CONDIT], his point is well made, if we do not, as the Federal Government, keep our responsibility to assist the states who have the expense of incarcerating those individuals for crimes who should not be in the country in the first place, if we do not do it through this amendment, we will have to find some other way to do it in the budgetary process.

Mr. CONDIT. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. ORTIZ].

Mr. ORTIZ. Mr. Chairman, I rise in support of the amendment offered by the gentleman from California and the gentlewoman from Florida.

When we talk about the front lines, I used to be there. I used to be the sheriff of Nueces County in Corpus Christi. For many years we have seen the local taxpayers and the local government trying to fight crime that affects the Nation at the local level. When we talk about 43 other states, and I can understand that, but the other 43 states do not have the problem that we have in the border states.

My state of Texas jails over 3,000 criminal aliens at a cost to State and local taxpayers of over $56 million a year.

Some Members might think that we are talking about people from Mexico. No. We have something else known as OTM's, Other Than Mexican, coming across the border. In my district alone, illegal aliens represent 80 countries coming through my district. I think it is time that we do something to alleviate and help local government help the states.

I urge my colleagues to support the Condit amendment.

Mr. MOLLOHAN. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York [Mr. SCHUMER], chairman of the Subcommittee on Crime and Criminal Justice of the Committee on the Judiciary.

Mr. SCHUMER. Mr. Chairman, I thank the gentleman and want to compliment him on the job he has done here.

I think that we have to provide money to deal with the incarceration of illegal aliens and, in fact, have worked very hard on the crime bill to see it there. But I could not think of a more wrong-headed way to go about doing it.

If we are going to gut the FBI 818 personnel, if we are going to gut the DEA 160 new agents, if we are going to take away from the INS money for Border Patrol and money, even more importantly, to deal with the asylees who are coming into this country and unjustly claiming asylum, we are robbing Peter to pay Paul.

This is no way to find money for a worthy cause. I would certainly support an amendment that would take some of the pork and some of the less needed things to deal with these issues. But these cuts across the board kill us.

When the FBI was cut, we heard an outcry from law enforcement across the country. The committee voted to restore it. We cannot, we cannot rob Peter to pay Paul in this wrong-headed amendment.

I urge its defeat. It would greatly hurt crime fighting in America. I urge its defeat.

Mr. CONDIT. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. SCHENK].

Ms. SCHENK. Mr. Chairman, first I would like to say that the chairman of the subcommittee and the committee members have done solomon-like work in this particular appropriation. Sometimes we do feel like we are robbing Peter to pay Paul. I wish that we could go into other appropriations for this money because there certainly is opportunity. But unfortunately, the budget process here does not allow for that. We certainly need a budget reform process that would allow for it. But as the gentlewoman from Florida [Mrs. THURMAN] pointed out, several weeks ago voted overwhelmingly to require the Federal Government to reimburse the States for the cost of incarcerating undocumented felons. This is a long overdue commitment.

California does not set immigration policy, and my community of San Diego does not run the Border Patrol. Yet my State and my county pick up the tab when Federal immigration strategy fails.

For those who say that this affects only seven States, let me point out that those seven States contain probably a third of the population of this country.

Reimbursement is fair. It is the right thing to do. The choice really is simple. Either we do what is necessary to provide reimbursement, or we once again renege on our obligation.

This amendment is a reasonable attempt to reimburse the States that are suffering from undocumented felony shock. It is time to help them, and I urge my colleagues to support the Condit-Thurman amendment.

Mr. MOLLOHAN. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I am from California. I am from the state most heavily impacted by the cost of incarcerating illegal aliens. I am from the Los Angeles area, which has had massive impacts from this issue.

The only thing worse than doing nothing about this issue, and the gentleman from West Virginia has not done nothing. He has provided the first real money for this effort of anybody in all the years that I and the Governor of California served in this body have ever done. But the only thing worse than that is to strip half the increases in the Border Patrol, thereby creating the conditions in which there will be more criminal aliens.

I will be darned if I am going back to Los Angeles to say, I cut back on the cops in the street in the most underpoliced, undermanned city in the United States of America in order to help a governor solve his budget crisis problems. I would love to do it. We did it in an amendment to try and create an entitlement program for automatic reimbursements.

I would suggest that when the crime bill, in fiscal year 1996, starts to fund prisons, the first dollar of that money go to the States which have been impacted by illegal aliens. But I am not going to vote to take it from the Border Patrol. I am not going to vote to take it from cops in the street. I am not going to vote to take it from cuts throughout the whole law enforcement community. That makes no sense. That is not what we are trying to do here.

I urge a no vote on the amendment.

Mr. ROGERS. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MCKEON].

Mr. MCKEON. Mr. Chairman, I rise in strong support of the Condit-Thurman amendment.

This legislation provides for a 2.5 percent across the board cut in spending in the Commerce, Justice, State and Judiciary appropriations bill to provide much needed funds to reimburse states for the costs of incarcerating criminal aliens.

The State of California incarcerates a disproportionate number of criminal aliens. In fact, California incarcerates 55 percent of all criminal aliens in the United States. At an annual cost of $18,000 per year, per inmate, California and the other disproportionately impacted States can not afford to continue to provide for this unreimbursed expense.

This amendment does not propose to spend additional taxpayer money, rather it is funded by cutting other programs and projects. It is a responsible measure that is owed to the States which must enforce Federal immigration and judiciary policy but which have not received adequate Federal reimbursement for the cost of implementing those policies.

I urge my colleagues to support this much needed legislation.

Mr. CONDIT. Mr. Chairman, I yield 1 minute to my colleague, the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, I rise in support of the amendment on several different points: the point that has already been made, that the Federal Government is not doing its job to protect the borders of these United States. It is one of the highest priorities of the Federal Government to protect the borders of the United States. We are not doing it. The Federal Government acknowledged its responsibility to reimburse the States for all these costs by passing section 501 of the Immigration Reform and Control Act of 1986. Unfortunately, funding does not seem to find its way to take care of these very vital problems in these States.

It is more than seven States. These are States in which over 2 percent of the prison population are criminal aliens. They include anything from Alaska to Washington. There are 18 States, from our figures, that would participate in these funds.

Even though we have to do it in a draconian way of making cuts across the board, the point here is that the Federal Government is doing a lot of other things that they should not be doing and that should be left to the States. But they are not doing the one thing that they should be doing, and that is protecting our borders and protecting our States against illegal aliens in the commission of crimes in these States.

I urge support of the amendment.

□ 2210

The CHAIRMAN. The gentleman from Kentucky [Mr. ROGERS] has 1 minute remaining, the gentleman from California [Mr. CONDIT] has 30 seconds remaining, and the gentleman from West Virginia [Mr. MOLLOHAN] has 1½ minutes remaining.

Mr. ROGERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I urge a no vote on this amendment, which would cut 43 States and give the money to just 7. It would also cut the law enforcement Federal agencies of every one of the 50 States. I do not think any one of us wants that, in this year when the war on crime is uppermost in the minds of the people in our towns and counties and cities.

Mr. Chairman, I urge a no vote on the amendment, and I yield back the balance of my time.

Mr. MOLLOHAN. Mr. Chairman, I yield 15 seconds to the distinguished gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, very quickly, although I believe there is a great need to fund these programs that have gone unreimbursed for years, the Federal Government does have a responsibility. I do not believe the way to do this is to have the meat axe approach of cutting across the board on programs that are very worthwhile and are needed by our law enforcement agencies.

Mr. Chairman, I urge a no vote to this amendment.

Mr. MOLLOHAN. Mr. Chairman, I yield 15 seconds to the distinguished gentleman from California [Mr. TUCKER].

Mr. TUCKER. Mr. Chairman, I would like to associate myself with the remarks of my colleagues, the gentlemen from California [Mr. BERMAN and Mr. BECERRA]. This is a good concept, but the wrong way of doing it. Certainly we cannot borrow from Peter to pay Paul.

Mr. Chairman, I urge my colleague to vote "no" on this amendment.

The CHAIRMAN. The gentleman from West Virginia [Mr. MOLLOHAN] has 1 minute remaining.

Mr. MOLLOHAN. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I appreciate the debate and appreciate the good arguments made with regard to this amendment.

Mr. Chairman, I would like to close the debate by pointing out to the Members that we worked extremely, extremely hard to be responsive to their requests to fully fund the Byrne Grants, and we, I think, did that in a way that maximizes our dollars for law enforcement.

I would point out, in reiterating some of what has been said, that the Members should please ponder carefully before they vote for this amendment. In voting for this amendment, Members are voting for an 818-FTE reduction to FBI agents and FBI support personnel, and Members would be voting to decrease by 160 new FBI agents. Members would be cutting 132 new DEA agents. Members would be cutting $13 million recommended for Immigration and Naturalization Service initiatives, which equates to eliminating over half of the enhancement of $54 million put in to hire 700 new Border Patrol agents. We would be cutting that in half. We do not want to do that.

There has been some discussion about funding for U.S. Attorneys. This amendment would reduce by another 200 the number of U.S. Attorneys.

We would be reducing $6 million of the proposed increase for fisheries management. There was so much testimony on that.

Mr. Chairman, this amendment does damage throughout this bill. I urge its rejection by the body.

The CHAIRMAN. The time of the gentleman from West Virginia [Mr. MOLLOHAN] has expired.

The gentleman from California [Mr. CONDIT] has 30 seconds remaining.

Mr. CONDIT. Mr. Chairman, I yield myself my remaining time.

Mr. Chairman, I will try to wrap it up real quick.

Mr. Chairman, let me just tell the Members, this is not a meat axe approach. This is 2.5 percent across the board. This budget has a $300-million increase in it. This is $2.5 million across the board.

When we give that $600 million to the local law enforcement people, they will show us how to fight crime. They will keep people in jail and they will hire police officers on the street. That is what we are talking about. We are talking about giving them the discretion to hire people to fight crime, to build prisons, or to keep people in jail.

Mr. Chairman, this is a modest cut. It goes a long way in helping States and local governments, and those people that do come from those States, it may be them next time. The States have no options. The Federal Government is in control of the immigration policy. I ask for an aye vote on this amendment.

Mr. FRANKS of Connecticut. Mr. Chairman, I rise today to express my support for the fiscal year 1995 Commerce, Justice, State, and Judiciary appropriations bill. I am particularly pleased that the Committee was able to increase the Department of Justice budget by 26 percent over last year's level. Much of the increased funding will go toward crime fighting programs like Cops on the Beat which aims to put 100,000 more police officers on the street. Additionally, both the FBI and DEA will be able to hire additional agents in order to fight crime and drugs.

Criminals across this Nation continue to victimize the honest law-abiding citizens in our towns and cities, while drug dealers continue to supply drugs which are killing the youth of our Nation. We must not let this trend continue. It is time to take back our neighborhoods and our streets from the criminal.

Earlier this year Congress was finally able to address the national crime problem and adopt a comprehensive crime package. I believe that H.R. 4603 will help fund many of the critical crime fighting proposals included in the Omnibus crime bill—H.R. 4092.

While I believe that the committee did an excellent job crafting this legislation, I am very concerned about the escalating cost of the U.N. peacekeeping operations. In fiscal year 1988 United Nations peacekeeping operations cost the United States about $30 million. In fiscal year 1995 that figure has grown to $1.5 billion or 31.7 percent of the total U.N. peacekeeping expenditure. Earlier this year Congress approved the Kolbe amendment which will cap the U.S. burden at 25 percent beginning in fiscal year 1996. During consideration of this bill I supported the Rogers amendment which would have implemented this reduction in fiscal year 1995.

I believe that the United States has been picking up the United Nations's tab for far too long. Industrial nation's like Japan, Germany, and Great Britain are often paying less than a third of the United States' share. China, which has veto power in the United Nations Security Council pays only 1 percent of the peacekeeping budget. The U.N.'s free ride must come to an end now. I believe that U.S. forces are much better served by fighting under the American flag than that of the U.N. I would point to the Somalia debacle as clear example of why United States forces should not be subject to the command of the United Nations.

Finally Mr. Chairman, I am pleased that the committee is finally able to address the growing problem of illegal immigration. This bill will fund the Immigration and Naturalization Service [INS] at $301.2 million more than last year. This will allow INS to put more than 700 new agents on the border. In addition, for the first time this bill will allow for States to be reimbursed for incarcerating illegal aliens. In States like Florida, California, and Texas this is a tremendous problem. If we do not act now, it could become a serious problem for Connecticut. We must put an end to the practice of throwing precious Federal dollars to illegal immigrants. I supported the Condit-Thurman amendment which would appropriate $600 million to the States to cover the costs keeping these illegal aliens behind bars.

As with any appropriations bill this bill has strong points and weak points. However, Mr. Chairman, I believe that overall this is a good bill and I am going to urge its passage.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from California [Mr. CONDIT].

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CONDIT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 148, noes 256, not voting 35, as follows:

[Roll No. 287]

AYES—148

Ackerman
Andrews (NJ)
Andrews (TX)
Archer
Armey
Bacchus (FL)
Baker (CA)
Ballenger
Barcia
Bartlett
Barton
Beilenson
Bentley
Bilirakis
Blute
Bonilla
Brooks
Browder
Bryant
Bunning
Burton
Buyer
Callahan
Calvert
Canady
Castle
Chapman
Coleman
Combest
Condit
Cox
Crane
Crapo
Cunningham
de la Garza
DeLay
Deutsch
Diaz-Balart
Dooley
Doolittle
Dornan
Dreier
Dunn
Edwards (TX)
Engel
Eshoo
Everett
Ewing
Fawell
Filner
Fowler
Franks (CT)
Franks (NJ)
Frost
Gallegly
Gekas
Gilman
Gingrich
Goodling
Goss
Grams
Grandy
Green
Greenwood
Hall (TX)
Hancock
Harman
Hastert
Hayes
Hefley
Herger
Hochbrueckner
Hoke
Horn
Huffington
Hunter
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Johnson (CT)
Johnson, Sam
Johnston
Kasich
Kim
King
Kyl
Lantos
Laughlin
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Linder
Machtley
McHugh
McInnis
McKeon
Mica
Miller (CA)
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Neal (MA)
Nussle
Ortiz
Packard
Parker
Penny
Peterson (MN)
Petri
Pickle
Ravenel
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Santorum
Sarpalius
Saxton
Schaefer
Schenk
Shaw
Shays
Shuster
Smith (TX)
Solomon
Stearns
Stenholm
Stump
Swett
Tauzin
Taylor (NC)
Tejeda
Thomas (CA)
Thurman
Torkildsen
Walker
Walsh
Wilson
Young (AK)
Young (FL)
Zimmer

NOES—256

Abercrombie
Allard
Andrews (ME)
Applegate
Baesler
Baker (LA)
Barca
Barlow
Barrett (NE)
Barrett (WI)
Bateman
Becerra
Bereuter
Berman
Bilbray
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Brown (CA)
Brown (OH)
Byrne
Camp
Cantwell
Cardin
Carr
Clayton
Clement
Clinger
Clyburn
Coble
Collins (GA)
Collins (IL)
Collins (MI)
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Derrick
Dickey
Dicks
Dingell
Dixon
Duncan
Durbin
Edwards (CA)
Ehlers
Emerson
English
Evans
Farr
Fazio
Fields (LA)
Fingerhut
Flake
Foglietta
Frank (MA)
Furse
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Glickman
Gonzalez
Goodlatte
Gordon
Gunderson
Gutierrez
Hamburg
Hamilton
Hansen
Hefner
Hinchey
Hoagland
Hobson
Hoekstra
Holden
Houghton
Hoyer
Hughes
Hutchinson
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
LaRocco
Lazio
Leach
Levin
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCrery
McCurdy
McDade
McDermott
McHale
McKinney
McNulty
Meek
Menendez
Meyers
Mfume
Michel
Mineta
Mink
Moakley
Mollohan
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Orton
Oxley
Pallone
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Porter
Portman
Poshard
Price (NC)
Quillen
Quinn
Rahall
Ramstad
Reed
Regula
Richardson
Roberts
Roemer
Rogers
Romero-Barcelo (PR)
Roth
Rowland
Roybal-Allard
Sabo
Sanders
Sangmeister
Sawyer
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Snowe
Spence
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Sundquist
Synar
Talent
Tanner
Taylor (MS)
Thomas (WY)
Thompson
Thornton
Torres
Traficant
Tucker
Underwood (GU)
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waters
Watt
Waxman
Weldon
Wheat
Williams
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Zeliff

NOT VOTING—35

Bachus (AL)
Bevill
Bishop
Blackwell
Brewster
Brown (FL)
Clay
Faleomavaega (AS)
Fields (TX)
Fish
Ford (MI)
Ford (TN)
Hall (OH)
Hastings
Hilliard
McCandless
McCloskey
McCollum
McMillan
Meehan
Owens
Pombo
Pryce (OH)
Rangel
Reynolds
Ridge
Rose
Rostenkowski
Rush
Smith (OR)
Swift
Torricelli
Towns
Washington
Whitten

□ 2234

The Clerk announced the following pair:

On this vote:

Mr. Smith of Oregon for, with Mr. McCloskey against.

Mrs. MALONEY, Messrs. QUILLEN, MYERS of Indiana, HUTCHINSON, VOLKMER, PAXON, and KLUG, Ms. KAPTUR, and Mr. ROWLAND changed their vote from "aye" to "no."

Mr. ROHRABACHER changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there additional amendments to title VI? If not, the Clerk will read.

The Clerk read as follows:

TITLE VII—FISCAL YEAR 1994 SUPPLEMENTAL APPROPRIATIONS

The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1994, and for other purposes, namely:

CHAPTER I—EMERGENCY SUPPLEMENTAL APPROPRIATIONS

Small business administration

Disaster loans program account

For an additional amount for "Disaster Loans Program Account" for the cost of direct loans for the Northridge earthquake and other disasters and associated administrative expenses, $400,000,000, which shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress, to remain available until expended: *Provided*, That of this amount, not to exceed $135,000,000 is for administrative expenses of such loans: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DEPARTMENT OF TRANSPORTATION

Federal highway administration

Federal-aid highways

Under the head, "Federal-Aid Highways, Emergency Relief Program (Highway Trust Fund)" in title I of Public Law 103-211, delete beginning after "$950,000,000;" through "by the President to the Congress, all".

CHAPTER II—SUPPLEMENTAL APPROPRIATIONS

DEPARTMENT OF STATE

International organizations and conferences

Contributions for international peacekeeping operations

For an additional amount for "Contributions for International Peacekeeping Operations", $670,000,000 to be available for obligation and expenditure through September 30, 1994: *Provided*, That 50 percent of this amount shall be withheld from obligation and expenditure pursuant to section 401(a)(3) of Public Law 103-236 until a certification is made pursuant to section 401(b) of said Act.

AMENDMENT OFFERED BY MR. ROGERS

Mr. ROGERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROGERS: At the end of the bill, add the following new title:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS, TRANSFERRING FUNDS FROM INTERNATIONAL PEACEKEEPING PAYMENTS TO U.N. TO REIMBURSEMENT TO STATES FOR COSTS OF INCARCERATING ILLEGAL ALIENS AND COMMUNITY POLICING AT HOME

SEC. 801. Notwithstanding any other provision in this Act, the amount "Contributions for International Peacekeeping Activities" for fiscal year 1995 and the additional amount for "Contributions for International Peacekeeping Operations" for fiscal year 1994 in this Act are hereby reduced by $94,732,000 and $119,013,000 respectively and of those amounts, $87,500,000 are hereby transferred to reimburse States for fiscal year 1995 for costs of incarcerating illegal aliens as authorized by section 501 of the Immigration Reform and Control Act of 1986, as amended (8 U.S.C. 1365) and $119,000,000 to programs for fiscal year 1994 authorized by Chapter A of subpart 2 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, for an aggregate reduction of $7,245,000 in the amounts otherwise provided by this Act for fiscal years 1994 and 1995.

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. MOLLOHAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 30 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. SOLOMON. Mr. Chairman, reserving the right to object, we would have to object at this time. We would reconsider it in a few minutes maybe, but let the gentleman make his presentation.

Mr. MOLLOHAN. Mr. Chairman, I wonder if we could hear at least the discussion on my motion from the distinguished minority ranking member?

The CHAIRMAN. The gentleman did not make a motion. He made a unanimous consent request which was objected to.

Objection is heard.

Mr. MOLLOHAN. Would the gentleman be inclined to consider the request at a future time or at a different time? Would 40 minutes be somewhat more attractive?

Mr. SOLOMON. Mr. Chairman, I would just like the gentleman to make his presentation and then let us talk about it and try to be reasonable about it.

Mr. ROGERS. Mr. Chairman, my colleagues, let me mention first the main issue here, crime, it is strangling our communities. Every year 24 million Americans are the victims of violent crime.

The rate of violent crime in the country is the worst of any developed country. Our cities are crying for help, help to put more cops on the street, help to ease the burden of the illegal aliens crowding their prisons, as we have just heard.

Our communities are demanding action. Our President is demanding action.

Mr. Chairman, as I have said previously, overall I strongly support this bill. The gentleman from West Virginia has done yeoman's work to balance some very high priorities in very, very tight fiscal times including the war on crime.

□ 2240

But despite his best efforts and that of the subcommittee, this bill still falls short in two important programs in our fight on the war on crime.

Due to our fiscal constraints, this bill does not fully fund the President's request for more cops on the street. The bill is $368 million short. Nor does this bill fully fund the President's request for relief for States struggling with the burden of jailing illegal aliens. The question is why? Why did we fall a little short in the war on crime and repaying States for jailing illegal aliens? Because other items in the bill; namely, the demands of the United Nations in sending the American people a 31.7-percent share of the peacekeeping costs, are limiting our ability to wage the war on crime. It is that simple. This bill contains $1.2 billion to pay for the costs for the bills the United Nations is sending the American taxpayer for peacekeeping. This bill includes $222 million for expected fiscal 1995 requirements. But more telling is the $958 million included to partially pay for a fiscal 1994 charge the United Nations says we owe for arrearages. That is to say, past costs. A bill they say is now $1.1 billion.

This includes a $670 million fiscal 1994 supplemental appropriations embedded in the 1995 bill. Why is the bill so high? Because the United States pays too much. Let me show you why. In the chart over on the far side you will see the relative charges for all the major nations that contribute to the United Nations for peacekeeping operations. This chart will show you how much the United States has to pay: 31.7 percent. The next highest contributor is Japan, at 12.5 percent; the next is Germany, our poor friend in Europe, that only pay 8.9 percent. Guess where China places? Less than 1 percent of the total peacekeeping costs. And they are a member of the Security Council, with full veto powers.

Our share is too much. And where has that led us? In the last few years our bill has grown to $1.5 billion in fiscal 1994; just 3 years ago, $141 million, just 6 years $29 million. We had to cut the State Department's budget request this year. Why? Because of the peacekeeping charges that we were sent. It is eating up the bill.

We must do something about it.

Our allies simply do not pay enough. What do they pay? I just showed you. Is it fair? Of course it is not. Can we afford to pay this payment? The answer is of course "no." We did not pay it last year and we cannot pay it this year.

My colleagues, peacekeeping is a runaway fiscal train that is on a direct collision course headed for our critical domestic programs.

Just 6 years ago, we paid a mere $30 million. the price tag for fiscal 1994, $1.5 billion. It is time the Congress says enough is enough. History has proven that the only time the United Nations listens to the United States is when Uncle Sam pulls on the purse strings.

It is time the Congress told the United Nations that we will no longer pay an unfair share.

The time to act is now.

The CHAIRMAN. The time of the gentleman from Kentucky [Mr. ROGERS] has expired.

(By unanimous consent, Mr. ROGERS was allowed to proceed for 3 additional minutes.)

Mr. ROGERS. Mr. Chairman, the time to act is now. This fall the United Nations will set their budget for a 3-year term and they will set us in concrete at this rate unless we act now.

Mr. Chairman, our cities cannot afford to wait. How can any of us go back to our constituents and tell them we do not have the money to fight the war on crime when we can continue to pay more than our fair share at the United Nations? My amendment would solve the problem. It would allow us to fulfill our commitment to the United Nations, but more importantly, to fulfill our commitment to the American people, to start peacekeeping in the United States as well as peacekeeping around the world.

Very simply, my amendment reduces the amount of funding provided in the bill to the level we all agree is a fair share for U.N. peacekeeping, 25 percent, freeing up over $200 million in savings that would be used to keep peace on American streets. The amendment would use these savings to provide a $119 million fiscal 1994 supplemental to hire 1,600 more police on the beat in America. The Department of Justice already has pending 2,471 applications from States to hire almost 10,000 police officers. My amendment would allow us to hire 1,600 before the end of fiscal 1994.

If we can vote for a $550 million supplemental for the United Nations, we can vote for $119 million to put peacekeepers on the streets here at home.

The other portion of the amendment—listen, California, Texas, Pennsylvania, Illinois, all you seven States—my amendment would provide $88 million to those States who are saddled with the burden of jailing illegal aliens, committing crimes in their communities. If you can send money to the United Nations, we can send money to the States burdened and struggling with the skyrocketing costs of housing aliens in their jails. My amendment allows the Congress to make a clear choice: Do you continue to pay more than your fair share to the United Nations, or do you put 1,600 cops on the streets in this country, peacekeeping in America? Do you continue to pay more than your fair share in the United Nations, or do we help, California, Texas, Arizona, New York, New Jersey, Illinois, Florida, and others who are saddled with these extra costs?

My amendment is a vote for peacekeeping at the United Nations in a fair way and peacekeeping in America in a fair way, and I urge the adoption of the amendment.

Mr. MOLLOHAN. Mr. Chairman, I rise in opposition to the amendment.

Madam Chairwoman, I rise in opposition to this amendment, and I want to submit to the committee that this is an extremely important amendment, perhaps the most important one offered here tonight. The ranking minority member of our committee, for whom I have the highest esteem, has crafted an amendment that will mean a thoughtful choice to be made by Members. But I submit, that after going through the thought process, the Members will, in strong numbers, oppose it.

Madam Chairwoman, in my opening remarks introducing this bill, which was on Thursday of last week, I asked all Members to look at our committee report at page 114 through page 117, and then on more detail to other pages. The report goes into great detail because we knew that this was an important issue to the Members and one they would want to be fully informed about. We set out in detail the factual history behind peacekeeping. I referred Members to those pages last week and I refer Members to those pages right now. They might want to look at those pages as this debate proceeds.

Madam Chairwoman, peacekeeping is a crucially, vitally important function to this Nation. The cold war has ended and no longer do we have $425 billion defense bills. We have been able to reduce those dramatically. We are looking at challenges in many different countries, most of them nationalistic in nature.

☐ 2250

We need to have a way, a flexibility, to be able to meet these challenges without sending troops. If we want to send troops, we need to be able to work through the United Nations, when it is appropriate for us to do so with our dollars, when we do not want to enter into a particular area with our own forces. The alternative is really for us to withdraw, for us to become isolationists.

I say to my colleagues, if you read what we set out in the report, that becomes clear.

Now, with regard to the gentleman's purpose, Mr. Chairman, the gentleman from Kentucky [Mr. ROGERS] has for some time been very concerned about the rate that the United States pay at the United Nations. It is 30.4 percent for peacekeeping. This year through next year we have an agreement, a 3-year agreement, that is right now being renegotiated, but right now our rate is 30.4 percent. It is a contract. It is a contract pursuant to treaty. We have agreed to pay that much.

Now, Mr. Chairman, I submitted on past occasions in talking about this subject that, if the gentleman's goal, and I believe it is, is to reduce the United States' share from 30.4 to 25 percent. I do not think there is a lot of dispute on this floor about doing that. He ought to declare victory and go home—well, I do not mean go home. But he ought to declare victory because the gentleman from California [Mr. BERMAN], the very able gentleman along with his full committee chairman and his entire committee just a few short weeks ago in the authorizing bill, the bill that should deal with this issue, was successful in effecting a reduction in the authorizing bill. That was a statement to the United Nations that we were not going to pay, beginning in fiscal year 1996, any more than 25 percent of the total share on peacekeeping, a victory for the ranking minority member, I would submit.

So, Mr. Chairman, I really think that that is an authorizing issue. The authorizing committee addressed it, and how did it address it? It was very sensitive to this, my colleagues. It was very sensitive to our contractual obligation. It was very sensitive to the fact that we said to the international community, "We're going to pay 30.4 percent through 1995. But beginning in 1996 you're on notice, we are going to pay only 25 percent. Now get out there, Madam Ambassador, and negotiate it because the legislative branch is playing its role and it's giving you notice, not retrospectively. We're not going to abrogate our contract. We're giving you notice that beginning in 1996 it's 25 percent."

Now that is what the gentleman is trying to get at. We have in this bill money for peacekeeping arrearages, $670 million in 1994 supplemental funds. We have agreed to pay 30.4 percent. The gentleman's amendment abrogates that agreement.

The CHAIRMAN. The time of the gentleman from West Virginia [Mr. MOLLOHAN] has expired.

(By unanimous consent, Mr. MOLLOHAN was allowed to proceed for 2 additional minutes.)

Mr. MOLLOHAN. Additionally, Mr. Chairman, we have in the bill for fiscal year 1995, $288 million for arrearages. The gentleman's amendment would reduce that, abrogating our contractual commitment, and then we have $222 million for fiscal year 1995 plus $23 million for pre-fiscal year 1994 arrearages. So, Mr. Chairman, every dollar in this bill, the funding for arrearages and for peacekeeping in 1995, assumes a funding level of 30.4 percent, which is our contractual obligation. Next year, fiscal year 1996, it will be different. It will be 25 percent, what the gentleman wants.

The problem with the gentleman's amendment is that it violates our contract. He applies that 25 percent rate that we are going to do in 1996, to 1995, and even back further, 1994. That is wrong. That is simply wrong. It is not keeping our agreement. We are a piker in the eyes of the international community if we do this, and that is the nut of this issue. While he is very attractively, and it is attractive in many ways, associating this with what I submit will not be compelling to this body because they will recognize their obligations, he is associated with some attractive crime fighting, but as he has pointed out earlier in this bill, we have to the extent possible been extremely generous with crime fighting. I would submit to the body, let's be content with that success, let's meet our contractual obligations to the United Nations, and let's rely on the authorizers from 1996 on to reduce that U.S. rate to 25 percent, where it ought to be.

I urge defeat of the amendment.

Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto be limited to 30 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. CUNNINGHAM. Yes, Mr. Chairman, I object. However, Mr. Chairman, I would entertain such a request at a later time.

The CHAIRMAN. Objection is heard.

Mr. KOLBE. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Chairman, would the gentleman yield?

Mr. KOLBE. I yield to the distinguished ranking member, the gentleman from Kentucky [Mr. ROGERS], to complete his thoughts on this before I start mine.

Mr. ROGERS. Mr. Chairman, let me clarify, and I thank the gentleman from Arizona [Mr. KOLBE] for yielding, a couple of points which my distinguished chairman has made. I say to the gentleman, "First, if you say that we would be in violation of some treaty agreement if we only give the U.N. 25 percent on peacekeeping, I submit to you that you are in violation today. The U.N. has been billing us for 31.7 percent for peacekeeping. The administration has only been paying them 30.4."

So, Mr. Chairman, the administration, I gather, is already in violation of whatever treaty there is. Of course there is no treaty. This is not written anywhere. This is a custom that has grown up at the U.N. over the years.

Second, on the State Department Authorization Act for fiscal year 1994–1995, the gentleman is correct. In 1994 the authorization act that we passed cut the rate back to 25 percent in 1996. But the bill only applies to fiscal 1994–1995; we have got pass another authorization bill before 1996 in ensure that cut is effective.

Third, the U.N. adopts their 3-year budget this fall. Whatever the rate is this fall, we are locked into for 3 years; I do not care what the gentleman says. So this gentleman says to act now or never.

And finally, and then I will yield back, the debate here should be finding money for fighting crime and helping these States jail illegal aliens. That is what this amendment does. It makes a fair rate for our contribution to the U.N., which is what we pay to their general budget, 25 percent, and we did it in 1973, just like we are doing this. In an appropriation bill we said the general contributions to the United Nations shall no longer be more than 25 percent, and we did it, and they agreed to it, and that was that. Listen tonight on peacekeeping.

Mr. KOLBE. Mr. Chairman, I thank the gentleman from Kentucky [Mr. ROGERS] for his contribution.

Mr. Chairman, I do rise in support of the amendment offered by the gentleman from Kentucky [Mr. ROGERS]. I do so with some reluctance, reluctance because I acknowledged in the general debate the outstanding work that the chairman of the subcommittee has done to help other law enforcement programs, and he has been very, very attentive to the priorities of law enforcement in the areas of added funding for the FBI, for the DEA, for the OCDE, for more Border Patrol agents and, for the first time, funds for the incarceration of illegal aliens in States around the United States. So, I commend the gentleman, and I think he has made a tremendous effort.

But I think that the amendment offered by the gentleman from Kentucky [Mr. ROGERS] does improve on the bill. It cuts, as we have already heard, funding for U.N. peacekeeping forces by $200 million, and we have already heard that we pay almost a third of the total cost of U.N. peacekeeping around the world while this amendment would limit our contribution to 25 percent, and, as has been pointed out, that is what we have agreed to go to anyhow. It it not a contractual amount that we are talking about because we are not paying exactly the amount that we have been billed anyhow, and we have had past times when this Congress has not lived up to its commitments, and I have been concerned about that in paying our U.N. dues. But this is not a contractual, this is not a treaty, obligation.

The United States has an obligation to say to the United Nations, "We are going to pay our fair share, but we're going to pay our fair share." Twenty-five percent is more than double what Japan pays. It is three times, it is more than three times, what Germany pays, what Great Britain pays, and many, many times what China pays today.

The most important thing, however, is how we would pay these funds. We would take this $119 million savings, apply it to hiring 1,600 more police officers, and those are police officers, cops on the beat, I should add, and we take $88 million of it to reimburse States for the cost of incarcerating illegal aliens.

□ 2300

That is important to States like my own in Arizona, where we have a tremendous problem, a tremendous responsibility. Let us not forget, the illegal alien that is in any prison or jail in the United States is there because of a failure of the United States to enforce its immigration laws. So we have a responsibility as a Federal Government to pay some of those costs.

That is exactly what this legislation does. It is about establishing priorities. It is about say saying yes, we have a responsibility of leadership in the world, to keep the world safe for peacekeeping in the world, but we certainly have a responsibility for peacekeeping the United States, for peacekeeping on our streets, and that is what we are saying the first priority of this government ought to be, is peacekeeping on the streets of America.

That is what this amendment is all about, and that is why I urge your strong support for this amendment. It is a reasonable amendment. Vote aye for it.

Mr. MOLLOHAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 30 minutes.

Mr. CUNNINGHAM. Mr. Chairman, reserving the right to object, I would like to see how many Members are on that side of the aisle.

Mr. MOLLOHAN. Mr. Chairman, if the gentleman will yield, I would anticipate the time be divided 15 minutes to each side.

Mr. CUNNINGHAM. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia [Mr. MOLLOHAN]?

There was no objection.

The CHAIRMAN. The gentleman's request is for 30 minutes, equally divided, starting from now. The gentleman from West Virginia [Mr. MOLLOHAN] and the gentleman from Kentucky [Mr. ROGERS], will control the time?

Mr. MOLLOHAN. Yes, Mr. Chairman.

The CHAIRMAN. Without objection, the request is agreed to.

There was no objection.

Mr. MOLLOHAN. Mr. Chairman, I yield five minutes to the distinguished chairman of the full committee, the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I want to say that the amendment offered by the ranking member of the committee is clever, but it is basically irresponsible. The facts are these: From 1945 to 1987, the United Nations conducted only 13 peacekeeping operations.

From 1989 through 1992, under President Bush, they added 12 new ones. that means 84 percent of the money being requested is because of obligations which were first incurred under President Clinton's predecessors (this piece of the pie, Mozambique, Somalia, Cambodia, Yugoslavia, Iraq, El Salvador, and Angola).

Previous administrations to the Bush administration began the commitments for another 5 percent of the requests before us tonight, in Lebanon and Angola. The Clinton administration began the obligations for only 12 percent of the money before us tonight.

So what you have here today is a committee which is trying and an administration which is trying, largely, to meet obligations which were first begun under predecessors, and then to deal with a few problems of their own.

Now, the gentleman from Kentucky [Mr. ROGERS] says that he does not want us to pay more than 25 percent of costs until the UN has an inspector general and he wants us to lock in to 25 percent permanently. He has won that argument. The authorization bill withheld 10 percent of 1994 funds, 20 percent of 1995 funds, and 50 percent of the supplemental funds in this bill tonight, until the UN appoints an inspector general, and it prohibits paying more than 25 percent, period, beginnig with fiscal 1996. That is in permanent law. It is in permanent law. That is already on the books.

It is one thing for us to say, as the authorization correctly says, that in the future we will pay no more than 25 percent. But great nations do not welch on commitments, and we made a commitment that we would pay 31 percent up until this year is over. And that is what this bill tries to do.

Now, I want to make one additional point. It is not in the United States financial interest for us to renege on peacekeeping operations. Because when we do, we become the peacekeeper of last resort, and we get stuck with the bill.

This chart demonstrates that when we wind up with these regional problems exploding into military action, we pay the most of any country, $1,100 per capita, 40 percent more than any other nation. Under peacekeeping assessments, however, we fall back into the pack, with France, the United Kingdom, Germany, and Canada paying more as a percentage of their GDP than we do.

I would also make the point that while, yes, we are near the top, except for France, in the per capita assessment for peacekeeping operations (we are near the top, second from the top), we have a different kind of obligation very often than do our allies. Because while we provide more dollars, they provide more troops.

If you take a look at the peacekeepers under the United Nations, command today, the United States has 867, in comparison to 7,000 for France. There are different kinds of burden sharing. I think when you minimize the exposure of your own troops, it is a good deal for us.

I also want to point out that if you take a look at how these commitments began, in Salvador we paid $3.5 billion in aid during a war. We are now paying $7 million in peacekeeping. That is a much better deal. In Cambodia we paid

$915 million to Cambodia's neighbor, Thailand when it was a shooting war. Now we are paying $35 million. That is a much better deal.

In Lebanon, we are paying $77 million a year. But before we incurred those peacekeeping operations, we had 260 Americans who were killed and another 159 who were wounded. I think the $77 million is a whole lot better deal than losing those lives.

So I would suggest to you that while this is an enticing amendment, I would suggest to you that we have no choice but to meet our obligation. Great nations do that. If we were Bangladesh or some other minor country, we might be able to escape our historic responsibility. We cannot do that here tonight. Live up to our obligations. Support what the committee has asked you to do.

Mr. ROGERS. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, there is no politics involved here. I did not get into politics. I started working on this under President Bush. You will notice on the bottom of the lefthand chart, the number of missions began to grow several years ago. This is not a political matter.

As a matter of fact, if you wanted to talk about facts, 49 percent of this total obligation that we are talking about here are for new or expanded missions approved on Clinton's watch. Forty-six percent are on Bush's watch. We are not talking politics. We are talking about our budget getting eaten up.

No. 2, let us talk about where this money is going. We need this money in the States to help the States pay for the incarceration of illegal aliens. We need cops on the beat. This money will put peacekeeping in America, as well as fair peacekeeping in the U.N.

Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Chairman, I thank the gentleman for the time.

Mr. Chairman, I will say to the gentleman, I started back under Ronald Reagan as a delegate to the United Nations. But, Mr. Chairman, let me tell you something: For those of you who had some reservations about the last amendment, the Condit-Thurman amendment, which was a good amendment, but you had concerns because that was going to cut across the board and do similar to what our good friend the gentleman from Kentucky [Mr. ROGERS] wants to do, and yes, there were some good programs in this bill. It provides some moneys for district attorneys. It provides some money for law enforcement. This amendment does not cut any of those programs. It only cuts one program, and that program is called peacekeeping for the United Nations.

On the issue of United Nations peacekeeping, this is the right amendment for the right time. At a time when the administration is attempting to negotiate reductions in the assessment contribution the United States must make in support of U.N. peacekeeping, it is time for Congress, which has a lot more experience in the matter, to settle it once and for all. The fact of the matter is, Mr. Chairman, that negotiations with the United Nations do not work. They do not work.

□ 2310

I know it. Dan Mica, a Congressman from your side of the aisle and myself were delegates to the United Nations in 1985, and we tried to negotiate, along with the Reagan administration, and we could not do it. So we came back here and we passed the Kassebaum-Solomon amendments. And we withheld funding for 5 consecutive years.

It was not a question of any contractual obligation. It was what was right for the American taxpayers. We withheld those funds for 5 consecutive years. And do my colleagues know what happened? They woke up at the UN. They no longer paid those $175,000 salaries to people who were used to making $15,000 a year. They cut back on all of the payrolls, and they reformed the place, not to our total satisfaction, but they listened because we hit them upside the head with a two-by-four.

I pointed out earlier, Members are looking at those charts down there, that the United States pays 32 percent of the entire UN peacekeeping budget. Other industrialized nations like Japan and Germany pay peanuts by comparison. And China, look at it over there on the end, who has a veto power, one of the five countries in the UN Security Council, pays one percent. And they run a $24 billion trade surplus with this country. They cannot afford more than one percent.

We cut it down to 25 percent, my colleagues, we do it in this bill because this is where it counts. This is the dollars. Not in the authorizing bill. And we will send that message, and we will help President Clinton drive his negotiations home. We will win it for the American taxpayer.

Mr. MOLLOHAN. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Iowa [Mr. SMITH], chairman, of the Subcommittee on Labor-Health and Human Service-Education, who has served as chairman of this subcommittee for so many years.

Mr. SMITH of Iowa. Mr. Chairman, most of this debate is 2 or 3 years late. Most of the objectives that proponents of this amendment are talking about have already been done.

Let me point out that there are two assessments to the U.N. One the regular assessment, the other is peacekeeping.

Starting in the last year or two of the Reagan administration, they proposed to cut back until we were a year behind on the regular assessments. The subcommittee agreed to go along with that. We paid 25 percent less than we owed for each year for 4 years. And we did secure some reforms that we wanted in the U.N.

But about the same time or about 4 years ago, the administration started just willy-nilly approving every peacekeeping operation that came before them. No criteria at all, just approving every peacekeeping proposal proposed at the U.N.

Whenever a problem came up before the U.N. they said, well, we will take care of this. We will have a peacekeeping operation.

The bills started piling up. So it was 3 years ago that this subcommittee said, look, we have to do something about increasing bills for peacekeeping. Our subcommittee started approving and we started paying less than our assessment.

In this bill right here, and in the defense bill together, there is only enough to pay 20 percent, not 25 percent, not 30 percent, only enough to pay 20 percent of this year's peacekeeping assessment, 20 percent. So there is already pressure there that we need.

There is also $670 million in the bill to pay some of those arrearages that were built up over this number of years, $670 million. Even after paying that $670 million, we will still be at least $300 million behind. That is enough to keep the pressure on the U.N. for a leaner operation. The $300 million in arrearages is plenty to keep the pressure on, and we want to keep the pressure on.

When the new administration came in, and the Ambassador came to my office "Ambassador Albright," I said to her, "do something about peacekeeping." She agreed, and she has been doing it. I have been to the U.N. I have talked to all of them up there. They have been doing all they can for a year to get peacekeeping under control, to negotiate a new rate and not approve every new one. It is already being done. The Secretary General of the U.N. came to my office and I made clear to him that unlimited funds will not be forthcoming.

In April of this year, the President went up to the U.N. and laid down criteria. We are not going to agree to any more peacekeeping operations unless they meet the criteria and we do have a veto. These things have been done. They are 2 years too late with most of this talk.

What we are trying to do in this supplemental is to pick up some of the arrearages that we owe. We are not going to get out of them. They are a debt. There will still be $300 million owed on arrearages at least, and in this bill we pay only 20 percent, not 30 percent or 31 percent or even 25 percent for 1995.

We do not want to get completely out of the U.N.'s peacekeeping. I will tell my colleagues why. Just, for example, in a former Soviet province, Georgia, right now, they are having serious problems. If they do need to approve a peacekeeping operation, and if it is a legitimate thing to do, and we agree to it, that is better than not having a U.N. peacekeeping group there. Because if we do not, the Russians will put their soldiers in there by themselves. Do we want to start reestablishing the Soviet Union or a Russian Union? Do we want Russia to be in there with their soldiers by themselves in one of those former Soviet countries? I do not think so. We do not want to get clear out of the U.N. peacekeeping. This is in our interest. This is in our interest, not somebody else's interest, that we use this supplemental within the caps to pay the $670 million and that we pay the 20 percent of our assessment for 1995 that is in this bill. That is the responsible thing to do here tonight.

Mr. ROGERS. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. MCDADE], the very distinguished and hard-working ranking Republican on the full committee who is very knowledgeable on this subject because he has worked on it a number of years.

Mr. MCDADE. Mr. Chairman, I just want to make a couple of points to my colleagues as we come to the close of the debate. I think it has been a good debate for all of us as we make a decision on this amendment.

What is in front of the House tonight? In front of us on this amendment is the question of whether a billion two hundred million dollars will shuffle up to the U.N. or whether we will cut it by $200 million. That is what is here tonight.

I have just heard the former chairman of the subcommittee, my dear friend from Iowa, who knows this matter inside out, talk about what is waiting in fiscal year 1995. Members heard him mention the figure $300 million.

I will tell you what, friends—you vote this tonight and the next vote you will get is a billion dollars more in supplementals at the rate of 30.4 percent. And we as a body have said, we will pay no more than 25 percent beginning in fiscal year 1996. Mr. friends, your President and our President has signed it into law. That is the policy of this Nation.

So when Members vote tonight, and they have the question of whether or not the priority is going to be continued along at 30.4 percent or restricted to 25 percent, remember what you are doing. You have already voted to cut it to 25 percent. Now we are saying, apply that to the $1.2 billion in the bill, $1.2 billion, my friends, and potentially $1 billion coming down the pike at us in terms of a supplemental in fiscal year 1995.

The correct vote tonight, in my view the best vote for our constituency, is to reallocate that little bit, $200 million, and to assert the principle that we will not pay more than 25 percent. That is what this is all about. We have already done that for fiscal year 1996. Let us do it for fiscal year 1995.

I urge the adoption of the amendment.

Mr. MOLLOHAN. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. BERMAN], chairman of the authorizing subcommittee.

Mr. BERMAN. Mr. Chairman, I only want to make two points. I have great regard for the Members who have spoken on behalf of this amendment, and I do not want to go behind their statements to look at motivations. All I know is, I never saw an amendment like this when Ronald Reagan was President or George Bush was President.

Yes, we all tried to leverage certain reforms by holding back money.

□ 2320

We never sought to dis-fund one function and fund something else, to pick up some nice votes and to have a sexy-looking kind of an alternative, in order to gut our fundamental commitments to meet our most fundamental of all national security needs.

Mr. Chairman, every single one of these peacekeeping functions that are being undertaken, that we are asked to pay the money we owe for, was voted on by the United States. Every single one of them except for Rwanda and Haiti was started by a previous administration. The 30.4 percent share that our subcommittee has put into law to change next year has existed since President Nixon's time, Mr. Chairman.

It is a very dangerous game to turn this into a partisan issue. There were times in the Reagan administration, Mr. Chairman, and in the Bush administration, where Members came to some of us in the Democratic side who had the majority and said, "Do not analyze whether or not to use force in the Gulf based on partisan reasons. Do not vote for the fast track on NAFTA based on partisan reasons."

The notion of maintaining a bipartisan consensus on foreign policy is so, so important. This is a commitment. This is agreement. We have addressed the fundamental reforms for fiscal year 1996.

When the gentleman from New York, BEN GILMAN, and the gentleman from Iowa, JIM LEACH, and the gentleman from Nebraska, DOUG BEREUTER, joined in a letter with me and others to say, "It is important to emphasize what peacekeeping is not; it is not foreign aid, nor a contribution to the regular U.N. budget, but rather, payment for services already rendered. We strongly urge you to include this vitally needed funding in your mark, and stand ready to support you in any way we can to assure its enactment," that is what the ranking members of the Committee on Foreign Affairs, the gentleman from New York, BEN GILMAN, the gentleman from Iowa, JIM LEACH, and the gentleman from Nebraska, DOUG BEREUTER, three of the most respected people in foreign affairs, said to the gentleman from Iowa, NEAL SMITH, in 1992. The same thing holds true now. Vote against this amendment.

Mr. MOLLOHAN. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. HAMILTON].

Mr. HAMILTON. Mr. Chairman, I thank the gentleman for yielding time to me.

The first point I want to make, Mr. Chairman, is that all of us I think in this Chamber agree that we ought to cut our assessment down from the 31 percent to the 25 percent. I think the gentleman from Kentucky [Mr. ROGERS] deserves a lot of credit for that. Over a period of years he has been working toward that, and to reform the United Nations. He has made a very constructive contribution. I commend the gentleman for it.

Mr. Chairman, the question we confront tonight is when do we do that. We already decided that question once. We decided that we would do it in 1996. We have enacted that into law. What we are trying to do now with the amendment the gentleman is offering is to move the goal post.

That is not fair. The United Nations, members of the United Nations, now anticipate that we are going to cut back our contribution to 25 percent because we told them we are going to do it in 1996. Now we are going to come along and tell them we are going to do it in 1994, as well.

The second point, of course, is one that has already been made. That is, we have to understand how important to our national security interests are the U.N. peacekeeping operations.

Mr. ROGERS. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, first I thank the gentleman who last spoke for his kind words. However, in the fiscal 1994 Commerce, Justice and State, the Judiciary and Related Agencies conference report, we served notice last year that from henceforth we were only going to pay 25 percent of the peacekeeping costs. So we served notice a long time ago that this was coming, so there is no obligation, in my judgment, for the 1994 funds that have been mentioned here tonight.

Bear in mind, Mr. Chairman, where the money is going: Over $200 million for cops on the beat, and to help these States pay for jailing illegal aliens.

Mr. Chairman, I yield two minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I would like to thank the gentleman from West Virginia [Mr. MOLLOHAN]. I think he has done a good job, except for this one little small area, 31 percent to 25 percent, when the nearest contributor is down at 12.5 percent, and I have heard responsibility. We have a responsibility to repay the States what the Federal Government had said it owes them, but yet does not have the money to. This is a place to do that.

Mr. Chairman, I think we have a responsibility. I heard fairness to support more cops on the street for a crime bill. Motivation was mentioned. Let me tell Members what my motivation is: first, responsibility; second, fairness; and the third is that I do not want the U.S. military under control of Boutros-Boutros, by golly.

We look at what happened in Somalia, we look at what happened in Bosnia. It has not been effective. When we want to add peacekeepers, let us add them on the streets, and let us repay our States the responsibility we have.

The CHAIRMAN. The gentleman from Kentucky [Mr. ROGERS] has 7 minutes remaining, and the gentleman from West Virginia [Mr. MOLLOHAN] has 2 minutes remaining.

Mr. ROGERS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BAKER].

Mr. BAKER of California. Mr. Chairman, there are two questions in this amendment. The first is what will our percent of peacekeeping be when the budget is passed at the United Nations this fall? Will it be 25 percent that we have approved for 1996, or will it be 31.7 percent? The answer will be decided tonight.

Mr. Chairman, if Members want the percent to be 25 percent, they must approve this amendment. We continue to punish States with high numbers of illegal aliens. Several years ago we granted citizenship to 5 million illegal aliens. We promised the States, "You are in your mother's arms. We will take care of your health and welfare benefits, we will take care of your education costs, we will take care of your police service costs, trust us." That lasted less than 1 year. We stiffed the States.

Mr. Chairman, we failed to enforce our immigration laws. We further stiffed the States when those people come here and use health and welfare benefits, education benefits, and are incarcerated, as 18,000 illegal aliens are in California, eating up $375 million. That is money that should be used for police services in California.

The gentleman from Los Angeles is absolutely right, Los Angeles needs more police service; but because we stiffed the States for the 5 million illegal aliens we grandfathered into citizenship, because we stiff them every time we do not enforce our borders, because we have 18,000 in prison, we are robbing from our local budgets in health and welfare, in education, and in police services.

We passed trade laws that liberalize our trade with Mexico and other Latin American countries. Do we ask them to sign an agreement, when their citizens come here illegally and commit felonies, that we can return them? No. We cannot return them.

Vote for this budget amendment. Let us stop punishing States with high numbers of illegal aliens by robbing their police, prison, and health and welfare budgets. I ask for an aye vote.

Mr. ROGERS. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding.

Let me tell Members why I think the Rogers amendment is very reasonable. In reality, Mr. Chairman, the United States of America pays well over 50 percent of world peacekeeping costs. The airlift in Bosnia has now gone on for a longer period of time than the Berlin airlift, all paid for by the United States. We have flown more missions over Iraq since the war than during the war.

When we have an operation in which the United States not only gives its 30.4 percent to U.N. operations, but also unilaterally funds American airlift operations that help that same objective, we oftentimes go over 66 percent, or two-thirds of the total cost of the U.N. peacekeeping operation.

Mr. Chairman, this amendment is extremely reasonable. We should vote for it.

The CHAIRMAN. The gentleman from Kentucky [Mr. ROGERS] has 4 minutes remaining, and the gentleman from West Virginia [Mr. MOLLOHAN] has 2 minutes remaining.

Mr. ROGERS. Mr. Chairman, I have one speaker remaining.

Mr. MOLLOHAN. Mr. Chairman, we have two speakers remaining, and we would like to reserve our right to close.

Mr. Chairman, I yield 1 minute to the distinguished gentleman from Washington [Mr. DICKS], a distinguished member of the Subcommittee on Defense of the Committee on Appropriations.

□ 2330

Mr. DICKS. Mr. Chairman, on this particular issue, we have the gentleman from Pennsylvania [Mr. MURTHA], the gentleman from California [Mr. DELLUMS], and many of the people who serve on our defense related committees strongly supporting the committee's action.

After winning the cold war, we have now cut our defense budget dramatically. It is crucial that we support and keep our commitments under U.N. peacekeeping. We have got the room in this year's budget to put in about $670 million. If we do not do that, we are going to wind up the year with over a $1-billion obligation.

Let us face it. We have made a contractual commitment to pay this money. We have had these operations out there that are very important to U.S. security interests.

Mr. Chairman, I urge the committee to reject this amendment. No matter how cleverly it is drafted, it breaches our commitment to the United Nations, and I think it is bad for U.S. defense policy. That is why we have all of the major figures in defense in this House supporting the committee action.

Mr. ROGERS. Mr. Chairman, I yield the balance of our time to the gentleman from Illinois [Mr. HYDE].

The CHAIRMAN. The gentleman from Illinois [Mr. HYDE] is recognized for 4 minutes.

Mr. HYDE. Mr. Chairman, to my friend, the gentleman from California, Mr. HOWARD BERMAN, who is one of the really good legislators here among many good legislators, I would not say that his allegation that this is partisan politics is paranoia. That is too strong a word. I would just say hypersensitivity, because if it will please the gentleman, we will retroactively reproach the Reagan administration and the Bush administration for failing to scale down this figure to a fair and just figure, 25 percent, instead of the 30.4 percent that we pay. I hope that puts that to rest.

Mr. Chairman, the United Nations has its uses. Of course it does. I am not one of those members who says, "Get us out of the U.N." the United Nations has its uses. But we have to keep that in perspective. We cannot subordinate our foreign policy to the U.N. bureaucracy. It is just foolish.

Mr. Chairman, I have been here 20 years and I have heard every year that we have given our word, our commitment, whether it is to the IMF or to the World Bank or to some negotiators on the law of the sea, somebody is always committing us to something, and then we have to retroactively bail them out and pay the check.

We know if we read the Constitution, it says Congress appropriates the money and no money can be drawn on the Treasury unless first appropriated by Congress. Where does it say that State Department or the Treasury can obligate Congress? It cannot be done.

We are not welshing on any word at all. However, if welshing is the subject for this evening's discussion, we welsh by 1.3 percent whenever we pay less than the United Nations bills us at 31.7 percent, and we pay 30.4 percent.

Mr. Chairman, 25 percent is fair. It is fair to the American taxpayer. It may not be fair to the U.N. bureaucracy, but it is very fair to the people scrubbing floors tonight and having their taxes go to the United Nations for peacekeeping. Twenty-five percent of the peacekeeping charges is twice what Japan pays, and the last time I looked, we have a $59.4 billion trade deficit with Japan.

Mr. Chairman, if we bring this into some sense of proportion and reality, we will pay beginning now, not in 2 years, now, we should be fair to our constituents now. We will be paying 25 percent of peacekeeping expenses. That saves us $200 million. What are we going to do with the $200 million? We are going to put $119 million of it into community police, something we have been promising our constituents since we started running for public office.

We are going to take the rest and help pay for incarcerating those illegal aliens in jail, where they belong if they have broken the law.

Mr. Chairman, what is more important? A satisfied bureaucracy at Lake Success or a satisfied constituency with decent police protection and people who ought to be locked up, locked up?

Mr. Chairman, 25 percent is fair, it is defensible, it is just, and it ought to be what we agree to pay.

Please, ask the State Department, ask the Treasury Department not to commit us to things without taking us into their confidence.

Mr. MOLLOHAN. Mr. Chairman, I yield my remaining time to close debate to the distinguished gentleman from Minnesota, Mr. PENNY.

Mr. PENNY. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise today in opposition to the amendment to reduce funding for U.N. peacekeeping programs. I often stand on this floor to propose budget cutting propositions. In this case, however, I strongly urge Members to support the request of the President for regular and supplemental appropriations for the U.N. peacekeeping efforts.

I am joined in this request by the gentleman from Pennsylvania, Mr. MURTHA, the gentleman from Washington, Mr. DICKS, the gentleman from Mississippi, Mr. MONTGOMERY, the gentleman from Texas, Mr. STENHOLM, and other conservative Democrats who are concerned about America's national security interests as well as a responsible budget.

I ask Members to consider the following facts:

First, the supplemental appropriation for peacekeeping efforts in fiscal year 1994 is totally within the budget caps established in the fiscal year 1994 budget resolution.

Second, the United States is currently contributing about 900 troops compared to about 7,500 for Pakistan and 6,000 from India. Clearly when it comes to troops, we are not shouldering an unfair burden.

Finally, 82 percent of the current amount which the United States owes the United Nations is directly related to the 12 operations approved by the Bush administration. We could have as a member of the Security Council vetoed those decisions. We did not veto them, we supported them, and we must now honor our obligations.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky [Mr. ROGERS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ROGERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 178, noes 228, not voting 33, as follows:

[Roll No. 288]

AYES—178

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Cooper
Costello
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lucas
Machtley
Manzullo
Mazzoli
McCrery
McDade
McHugh
McInnis
McKeon
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Murphy
Myers
Nussle
Ortiz
Oxley
Packard
Paxon
Petri
Porter
Portman
Poshard
Quillen
Quinn
Ramstad
Ravenel
Regula
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Talent
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Traficant
Upton
Vucanovich
Walker
Walsh
Weldon
Williams
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—228

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Bonior
Borski
Boucher
Brooks
Browder
Brown (CA)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Coppersmith
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Glickman
Gonzalez
Gordon
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hefner
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman
Levin
Lewis (GA)
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
McCurdy
McDermott
McHale
McKinney
McNulty
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Orton
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Price (NC)
Rahall
Reed
Richardson
Roemer
Romero-Barcelo (PR)
Roukema
Rowland
Roybal-Allard
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Tucker
Underwood (GU)
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—33

Blackwell
Brewster
Brown (FL)
Conyers
Derrick
Faleomavaega (AS)
Fields (TX)
Fish
Ford (MI)
Ford (TN)
Gibbons
Hastings
Hilliard
Matsui
McCandless
McCloskey
McCollum
McMillan
Meehan
Owens
Pombo
Pryce (OH)
Rangel
Reynolds
Ridge
Rose
Rostenkowski
Rush
Smith (OR)
Torricelli
Towns
Washington
Whitten

☐ 2355

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. TAYLOR OF NORTH CAROLINA

Mr. TAYLOR of North Carolina. Mr. Chairman, I offer an amendment made in order under the rule.

The Clerk read as follows:

Amendment offered by Mr. TAYLOR of North Carolina: SEC. 801. None of the funds made available in this Act may be used to implement, administer, or enforce any guidelines of the Equal Employment Opportunity Commission covering harassment based on religion, when it is made known to the Federal entity or official to which such funds are made available that such guidelines do not differ in any respect from the proposed guidelines published by the Commission on October 1, 1993 (58 Fed. Reg. 51266).

Mr. TAYLOR of North Carolina (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. MOLLOHAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 40 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. The gentleman from North Carolina [Mr. TAYLOR] will be recognized for 20 minutes, and the gentleman from West Virginia [Mr. MOLLOHAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. TAYLOR].

Mr. TAYLOR of North Carolina. Mr. Chairman, just last October, the Equal Employment Opportunity Commission [the EEOC] proposed a new set of guidelines to title VII of the Civil Rights Act relating to harassment in the workplace.

Many members have heard about these proposed regulations from your constituents.

The EEOC received tens of thousands of comments on this issue during the comment period.

The proposed guidelines cover not only religious harassment, but also harassment based on race, gender, national origin, age, or disability.

I have joined FRANK WOLF, who serves with me on the Appropriations Committee, and a fellow North Carolinian MARTIN LANCASTER to express our concerns with the proposed EEOC guidelines.

My amendment focuses solely on the proposed religious harassment guidelines and would not seek to delay the implementation of the guidelines for those other purposes.

As currently written, the scope of the prohibited religious harassment guidelines are so broad and rest on such subjective factors, that constitutionally protected religious expression could be easily declared illicit harassment and punished.

A number of groups opposed the proposed religious harassment guidelines. These include: the family research council; the American Jewish Congress; the American Civil Liberties Union; the Christian Coalition, and the Traditional Values Coalition.

Ironically, if the proposed guidelines are implemented, they would not impact Congress.

We could still continue to start off each session with a prayer. We could still have "In God We Trust" positioned above the Speaker's chair.

We could still say "One Nation, Under God" when we recite the Pledge of Allegiance.

We would not have to remove Pope Gregory IX, Moses, or Mohammed from the freeze around the gallery.

But the American people's rights would be limited. Crosses could no longer be worn and Bibles left in desk drawers and lockers would not be allowed.

Last week, I joined with several NASCAR drivers at a press conference.

These drivers, their families, and their crews gather on Sundays for a service before their race. Should the EEOC religious harassment guidelines be implemented, they would no longer be able to hold Sunday services at the track, which is their workplace.

These drivers are about to crawl into a hot, small metal space—about a 140 degrees—and travel between 100 and 200 miles per hour in front of one hundred thousand cheering fans—and many times that watching on their TV sets. Who are we to tell them that they can't have a religious service before their race?

□ 2400

How arrogant of Government to think it can micro-manage your life under the guise of protection.

I also wonder how the proposed religious harassment guidelines will impact the military.

For members of the Armed Forces, the base or the battlefield is the workplace. Would prayer and services be allowed?

A constituent of mine wrote a letter to me expressing his concern with the guidelines.

He is in the Marine Corps and is concerned that the Marine Corps will have to change its motto—Semper Fi—Loyalty to God to Country, and to the Corps.

I could not assure him that his concerns were unfounded.

One major company has already implemented guidelines because the company could see the potential problems if the guidelines should be administered.

In a January 7, 1994 memo, the company stated:

> Technical operations personnel should not possess nor display, in any manner, or premises any material which may be construed, by anyone, to have . . . religious . . . overtones, whether positive or negative . . .

So what does my amendment do? It states that for the next fiscal year, the EEOC cannot implement, administer, or enforce the guidelines covering harassment based on religion that were published last October.

This will give the various groups an opportunity to come together and develop a compromise solution.

Religious harassment would continue to be protected under current title VII regulations, the Religious Freedom Restoration Act which became law last year, and the U.S. Constitution.

Many Members are aware that the Senate has already taken action on this issue.

The Senate has called on the commission to draft a new policy that would make explicitly clear that symbols or expressions of religious belief [are] consistent with the first amendment and the Religious Freedom Restoration Act of 1993, are not to be restricted and do not constitute proof of harassment.

Members of the House should go on the record in support of religious freedom in the workplace. My amendment gives the Members the chance to do so.

Again, my amendment deals only with the proposed religious harassment guidelines.

This is a simple amendment. It is supported by the American people—mainstream America. I urge the Members to support the American people and join me in voting for the amendment.

Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Chairman, I rise in strong support of this amendment and thank the gentlemen for the great work they did on this amendment.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. WOLF] who is a cosponsor along with the gentleman from North Carolina [Mr. LANCASTER] and myself.

Mr. WOLF. Mr. Chairman, I will take 30 seconds.

Mr. Chairman, I strongly support the amendment offered by the gentleman from North Carolina (Mr. TAYLOR).

All groups of all political persuasions, right and left and middle, support this and oppose the EEOC guidelines. Here is an opportunity to do something right. I ask for a unanimous vote on this amendment.

Mr. Chairman, I rise in support of this amendment. First I would like to thank our colleague BUCK MCKEON for bringing attention to the problem with the EEOC's proposed religious harassment guidelines. These concerns were originally dismissed by the EEOC but now most agree that the proposed guidelines are a severe threat to religious liberty. I appreciate my colleague's tenacity in pursuing this important issue.

The amendment we offer to the Commerce, Justice, State appropriations bill does one thing: it prevents the EEOC from imposing the proposed EEOC religious harassment guidelines of October 1, 1993. All groups on both the right and the left have serious problems with the language regarding religious harassment in these guidelines. This amendment will not restrain the EEOC from proceeding on refining and reevaluating these proposed guidelines.

This amendment also will not restrict any current rights. As J. Brent Walker, general counsel of the Baptist Joint Committee has pointed out, "Even if religion were deleted from the guidelines, title VII itself would still prohibit religious harassment." This amendment does not delete religious harassment entirely or permanently from the guidelines, it only restrains the EEOC from imposing the October 1993 proposed guidelines.

In a letter to the EEOC from People for the American Way, they point out that the October 1993 proposed guidelines "could be misinterpreted by some employers to impose unduly harsh and possibly illegal restrictions on free expression by employees and others in the workplace * * * Unless carefully designed and implemented, policies aimed at eradicating workplace harassment may produce tension with these goals."

Bob Peck of the ACLU testified recently in the Senate that "the proposed guidelines issued October 1, fail to reflect the law with sufficient sensitivity to constitutional problems * * *. The ACLU opposes promulgation of the proposed guidelines as originally issued on October 1. Because it was drafted so broadly, it is susceptible of a reading that a religion-free workplace is required to avoid liability for religious harassment." The ACLU said it would "welcome the clear congressional message" that the proposed guidelines should be revised. We agree and that is why we offer the amendment today. The October 1, 1993, guidelines regarding religious harassment should not be given any opportunity to go forward.

The U.S. Catholic Conference has pointed out that religious employers could have particular problems under these proposed guidelines since they were not provided with specific attention as they have been in the past with title VII and the Religious Freedom Restoration Act. Certainly we do not want to eliminate the right of those who work in soup kitchens or homeless shelters under religious auspices to be required to expunge any visible signs of their faith from their ministries. The Southern Baptist Convention in its annual meeting last week overwhelmingly adopted a resolution which warned that the guidelines "pose a grave risk to religious freedom in the workplace."

A letter from the American Jewish Congress also raises concerns about the guidelines as proposed on October 1,

> * * * there is a danger that the [proposed October 1993] guidelines will be used by some to justify suppression of legitimate religious speech in the workplace. There is, indeed, already evidence that the fear of lawsuits alleging religious harassment has already done so, as employers put prophylactic measures into effect in order to ward off potential religious harassment suits . . . if the Guidelines require (or are understood by employers to require) suppression of all speech concerning religion to avoid charges of harassment, Title VII would be at war with itself. . . . A wooden application of the Guidelines (as some corporations apparently have already done) can lead to a needless suppression of religious speech.

I offered as Exhibit I in this "needless suppression of religious speech" a policy that was promulgated earlier this year at a major airline. It requires that "rather than wasting critical time resolving conflicts or attempting to define precisely what might be offensive to anyone," all personnel are told not to "possess nor display, in any manner on * * * premises any material which may be construed by anyone to have racial, religious, or sexual overtones, whether positive or negative."

Is this what we want to happen in the workplace today? Restricting any material that might be construed to have religious overtones—even overtones that may very well be positive? Do we want to ban the wearing of a cross? Do we want to ban having a Bible on your desk? These concerns were dismissed earlier this year in a letter circulated by the EEOC in a response to congressional concerns. It was not until EEOC received more comments than it ever has before in the public comment period that they appeared to recognize that the proposed guidelines were seriously flawed. What this amendment does is provide insurance that the EEOC will not implement these flawed guidelines.

The proposed guidelines would also require employers to determine what constitutes religious harassment from the point of view of the reasonable person given their race, color, religion, gender, national origin, age, or disability. In the majority of workplaces the employer does not independently know the religious beliefs of employees, much less the beliefs of the other individuals contemplated by the proposed rules, that is their relatives, friends, and associates. Are we going to have a reasonable Baptist standard, a reasonable Catholic standard, a reasonable Moslem standard in determining what constitutes religious harassment? Will every employer have to become a student of comparative religions?

Religious harassment charges comprised 0.3 percent of total EEOC–State and local agencies claims during 1990–1991 and 0.4 percent during 1992–1993. This amendment will not restrict any of the provisions under title VII, it will only restrict the implementation of the ill-advised guidelines proposed by the EEOC on October 1, 1993. It makes sense and I urge your support for this amendment.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MCKEON].

Mr. MCKEON. Mr. Chairman, I rise today in support of the Taylor-Wolf amendment to the Commerce, Justice, State, and Judiciary appropriations bill.

Since the inception of the 1964 Civil Rights Act, employers have been prohibited under the law from discriminating against employees on the basis of religion. Under this law, the courts have consistently ruled in favor of the employee in religious discrimination cases. This has taken place without guidelines promulgated by the EEOC. Let me reiterate that point, employees have found adequate protection against religious discrimination without EEOC guidelines. In fact, this is the first time the EEOC has chosen to include religion in its guidelines, in spite of the fact that religious discrimination cases represent a mere one-half of 1 percent of its total caseload.

The Taylor-Wolf amendment applies to the proposed guidelines which many, from the ACLU to the Christian Coalition, have found to come in serious conflict with the constitutional right to the freedom of expression of religion. Under the Constitution, we are guaranteed the freedom of religion, not the freedom from religion. Yet, the EEOC's guidelines, as currently proposed could very well stymie religious expression in the workplace. If the people are protected under title VII, it is clearly unnecessary to put forth guidelines that could ultimately have the negative effect of stifling religious expression.

The EEOC's efforts to regulate religious expression, however well intended, must be stopped. The Taylor-Wolf amendment is an important move in the right direction. I urge my colleagues to support this amendment.

Mr. MOLLOHAN. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from North Carolina [Mr. LANCASTER], and I would like to note that we fully intend to accept this amendment after Members who feel compelled to speak on it have done so.

Mr. LANCASTER. Mr. Chairman, I join with my colleagues from North Carolina and Virginia in support of this amendment which we have offered that would guarantee that funds not be used for the enforcement of these guidelines promulgated by the EEOC to protect workers from religious harassment in the workplace.

I do not in any way question the good intentions of the EEOC or question their statement that these guidelines are designed specifically to guarantee that religious harassment will not take place in the workplace. However, Mr. Chairman, leading conservative ministers and the ACLU have found one point on which they can agree, and that is that these guidelines are so broadly drawn that the intended purpose will not be furthered, but the opposite result may flow from these guidelines. They believe, as do I, that these regulations, because of their overbroadness, would perhaps remove all symbols of faith as well as restrict the right of free speech and the right of the exercise of freedom of religion there. We should all feel comfortable in having our Bibles on our desk, in wearing a gold cross or Star of David around our neck, or in engaging in religious conversation with our coworkers.

Mr. Chairman, we must not in the guise of protecting religious freedom restrict that freedom instead. People of faith, all faiths, must be able to freely exercise that faith and not feel that they are going to be jeopardized by the possibility of complaints raised against them with the EEOC.

I urge my colleagues to vote for this amendment.

Mr. TAYLOR of North Carolina. Mr. Chairman, I thank the gentleman from North Carolina [Mr. LANCASTER] for his support.

Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Chairman, I rise today in strong support of the Taylor/Wolf amendment which will put an end to the absurd but potentially dangerous plans of the EEOC's "God Squad." The proposed guidelines on religious harassment are yet another example of the heavy hand of the Federal Government reaching into the everyday lives of people across the Nation.

While EEOC officials claim their intention is to make sure that unwelcome religious expressions are prohibited, groups as diverse as the ACLU and the Christian Coalition agree that these guidelines will silence religious expression and encourage lawsuits.

Ironically, 3 weeks ago a U.S. District Judge ruled that Playboy can be read on the job—but, the harassment guidelines being thrust upon the American public could make it illegal to invite a colleague to a prayer breakfast. This is simply unacceptable.

No one here supports religious harassment or bigotry. Such harassment is already illegal under title VII and other Federal laws. But, the EEOC's proposed guidelines go much further than what the law or common sense requires.

The EEOC's overzealous bureaucrats are out to undermine our constitutional right to freedom of religion. The EEOC's "God Squad" must be terminated, not workers who at the end of a hard week remark, "Thank God It's Friday." The Taylor/Wolf amendment will terminate the proposed guidelines on religious harassment. I strongly encourage all my colleagues to vote yes on this important amendment and stop the EEOC's "prayer patrol."

Mr. MOLLOHAN. Mr. Chairman, I yield 1 minute to the truly distinguished gentleman from Illinois [Mr. YATES].

Mr. YATES. Mr. Chairman, I rise in opposition to the amendment. Religious discrimination is still a very potent factor in the workplace. Many human rights organizations have recommended voting against this amendment. I shall do so.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Chairman, I rise today in support of the Taylor/Lancaster/Wolf amendment to prohibit funds in the bill from being used to implement the controversial Equal Employment Opportunity Commission [EEOC] regulations concerning religious harassment in the workplace.

These guidelines are controversial in the sense that many individuals and groups object to their content. They are not controversial in the sense that organizations as varied as the American Civil Liberties Union and the Christian Coalition have joined in expressing their view that they would serve to stifle constitutionally protected speech.

I support the concept of protecting against real religious harassment in the workplace, but it is my understanding that existing law already provides for this. It may even be possible to write acceptable regulations to codify religious harassment law.

Unfortunately, these regulations are far too broad and their effect would be to induce employers to create a religion-free workplace. Under the threat of large penalties for permitting harassment in the workplace, more and more businesses would take the safe route and prohibit their employees from keeping religious symbols on their desks, wearing a crucifix or Star of David or inviting a colleague to church.

That would be an unfortunate departure from our Nation's historic recognition of the role of religion in private life.

One should need look no further than the House itself to understand why we need to oppose these regulations. Many of us are members of the Congressional Prayer Breakfast. That might be endangered were these regulations imposed on the House. Each morning, we open our deliberations with a prayer, that too might be endangered.

Implementing these regulations with the religious provisions intact would do no good that I am aware of. The regulations have the potential of doing a great deal of harm. The Taylor/Lancaster/Wolf amendment is the prudent course. I ask you to join the Senate which voted unanimously in favor of delaying implementation of these regulations.

Mr. MOLLOHAN. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. SKAGGS], a distinguished member of our subcommittee.

Mr. SKAGGS. Mr. Chairman, let us stipulate that nobody should face on-the-job discrimination or harassment because of his or her religious beliefs. However, I am afraid this amendment does nothing to contribute to that objective. It has only symbolic significance. As a practical matter, it will make no difference. The amendment addresses implementation only of the draft EEOC guidelines with respect to religious harassment dated October 1, 1993, and by its terms applies only to that precise version, with no changes. The EEOC is already in the process of revising those guidelines. It is changing the guidelines in response to the many comments it received, which properly urged revisions to make sure the objective was eliminating religious harassment, not interfering with free expression of religion. Thus, the October 1, 1993, draft will not be issued as final guidelines. So, this amendment will have no effect. And we know that now, tonight.

The amendment is also without practical effect because the underlying law—Title VII of the Civil Rights Act—remains in force, and it is that law which prohibits religious harassment and discrimination in the workplace. With or without guidelines, the EEOC will still be obliged to enforce the law.

Nonetheless, some proponents of this amendment are intent on pursuing it, largely I fear because passions on this issue have been so inflamed by an almost willful effort to exaggerate and distort: frightening people into thinking their government was about to prohibit the exercise of their constitutional rights of expression of religion in the workplace, raising the specter, for instance, that you could not wear a cross or display a crucifix. That was never proposed or intended, and is the classic red herring.

Yet, this matter has been pursued with such vehemence that accuracy and facts became an early casualty. For example, a Delta Airlines personnel directive has been cited as having been the result of the EEOC draft even though Delta denies it and has affirmed that it has no interest in restricting its employees' religious beliefs. Similarly, an unauthorized "memo," attributed to the ACLU, was distributed by proponents of this amendment. Later, when the ACLU found out what happened, it issued a statement that the memorandum "should be dismissed as inaccurate and unauthorized."

It is important, therefore, to reaffirm that true freedom of religion, and true government neutrality in matters of religion, demand that we continue to make sure American factories and offices are both free for appropriate individual religious expression and free from intimidation for or against any particular religious belief or creed. That is why so many religious and civil rights groups opposed the previous formulation of this amendment, which was offered and defeated in committee. It is important to our tradition of religious freedom to keep a provision in the law proscribing religious harassment in the workplace.

Still, since this amendment will have no legal effect, there is also no point in aiding in any further confusion of the issue, confusion which would likely be aggravated in the process. This amendment, and most of the attendant remonstrances, are in the purest sense a rhetorical exercise. As we vote for it, all I ask is that we recognize what it is we're doing.

□ 2410

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Chairman, I am not going to take that 2 minutes, but I would like to say, after the treatment you gave my earlier amendment, I appreciate that. That is nice.

I would like to take exception to what Mr. SKAGGS said, and that is I think it is extremely important that we express the feeling of this House of Representatives about the kind of overstepping that the EEOC is doing. I think we are doing that tonight. They need to know that we as the representatives of the people of America think they are being ridiculous, the Founding Fathers never intended for us to overstep the bounds of the religious freedom in this way, and they do not intend, we do not intend to see it happen in this country.

I would encourage us to support this amendment and support it overwhelmingly.

Mr. MOLLOHAN. Mr. Chairman, I yield 1 minute to the distinguished chairman of the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary, the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, as we consider the Taylor-Wolf amendment, I think it is important to separate fact from the fiction surrounding the proposed EEOC guidelines.

The EEOC has proposed guidelines to clarify title VII of the Civil Rights Act of 1964. The guidelines make it clear that religious harassment, along with other forms of workplace harassment, is unacceptable. But, allegations that the proposed guidelines would prevent the wearing of a cross or a yarmulke, an expression of religious belief, or the display of a Bible or the Koran are simply untrue. However, to clarify this point and aid employers, I believe that the proposed guidelines should be revised to include specific examples and explanations of what is and is not legal under title VII.

While revising the guidelines, I believe it is important that religion not be deleted. It is troubling that those who profess to support religious liberty and expression would attempt to undermine the implementation of guidelines including religious harassment. These proposed guidelines exist to protect the religious believer. No one should be told "You killed Christ, Wally, so you'll have to hang from the cross" or physically assaulted in the workplace; and, no Catholic should ever be repeatedly referred to, among other things, as a "dumb Catholic." Unfortunately, these are real situations—the kind of situations title VII, together with the proposed guidelines, will prevent.

I urge you not to interfere with the EEOC as it develops its guidelines. I believe that the EEOC will be responsive to our concerns and it is not necessary to impose qualifications on their funding. However, I do hope that you will encourage the EEOC to clarify the proposed guidelines by signing the letter that Congressmen FORD, OWENS, FISH and I have drafted to Acting EEOC Chairman Gallegos.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would say religious harassment will continue to be protected under current title VII regulations, the Religious Freedom Restoration Act, which became law last year, and the U.S. Constitution. We think these proposed regulations have gone too far. Some companies have already begun to act on them.

I would like to yield two minutes to the gentleman from Wisconsin, Mr. ROTH.

Mr. ROTH. Mr. Chairman, this is a good amendment. I congratulate the authors of this amendment for the courage of their convictions. But due to the lateness of the hour and because this amendment has been accepted and it will pass, let me put my remarks into the RECORD and say that all of us took an oath to uphold the Constitution, and the Constitution of the United States does say that this Congress shall make no law respecting an establishment of religion, and I stress the words prohibiting the free exercise thereof. So we are going to carry through on our constitutional oath this evening and vote for this amendment.

I appreciate the author's introducing this amendment and again congratulate you for having the courage of your convictions.

Mr. Chairman, last November Congress passed the Religious Freedom Restoration Act. This new law specifically prohibits the Government from substantially burdening the exercise of a person's religion. No law could be plainer.

Yet less than a year later, the Equal Employment Opportunity Commission is considering issuing regulations that would effectively stop religious expression of any form in the workplace.

We must not stand by while one of our most basic freedoms is abridged. If the EEOC has its way, people in the workplace will not be able to: wear religious symbols like the cross or Star of David; have conversations about religion; have a party celebrating holidays such as Hanukkah or Christmas; or even keep religious books like the Bible or the Koran on a desk.

As Members of Congress, we have all taken an oath to uphold the Constitution. May I remind my colleagues of the words of the Constitution regarding religion? They are that "Congress shall make no law respecting an establishment of religion, or," and I stress these words, "prohibiting the free exercise thereof."

Without the right to express individual religious beliefs, whether in conversation, adornment, or action, there is no "free exercise" of religion. This is true in our homes, our churches, our temples, and yes, even in the workplace.

The proposed EEOC guidelines would have been typical in the former Soviet Union, but they have no place in a country founded upon religious freedom.

So I say to my colleagues—do your duty, uphold your constitutional oath as a Congressman, and vote to protect the free exercise of religion for all Americans. Vote for the Taylor/Wolf amendment and against the proposed EEOC guidelines.

Mr. MOLLOHAN. Mr. Chairman, I am pleased to yield three minutes to the freshman who has worked extremely hard and distinguished himself in his first year, the gentleman from New York [Mr. NADLER].

Mr. NADLER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I agree that the draft EEOC guideline of October 1, 1993, insofar as it addresses on-the-job harassment of individuals on the basis of religion, should not take effect and should not be enforced. On this point nearly every organization concerned with religious liberty in America agrees.

The EEOC is, as far as I understand it, working on a revised rule based on the many comments it has received during the comment period. That is the purpose of a comment period, and it seems to have worked in this case.

I want to make clear, however, that while I agree that the draft rule in question is overbroad, I strongly believe that the final guideline on harassment must not omit protection against harassment on the basis of religion. On-the-job harassment against religious Americans is a real and pressing problem. It is also illegal under existing law. Neither the EEOC's guidelines nor the gentleman's amendment change this important legal protection of every citizen's religious liberty as codified in current law. Harassment of devout Americans is a real problem with real remedies.

This House, by adopting this amendment, will not nullify those remedies, nor will we undermine the EEOC's authority to enforce the law. It would be dangerous for the Congress or the EEOC to suggest that the harassment of working people, because they are engaging in the practice of their first freedom, might be tolerated.

The EEOC should have a chance, should have time, to develop a properly drafted, carefully limited guideline, to define and prohibit harassment based on religion. A carefully drafted guideline prohibiting harassment of religious individuals would not create, as some have feared, a religion-free workplace. If, however, Congress or the EEOC failed to state with adequate clarity the full extent of the existing legal protection against on-the-job harassment, then we would have taken a giant, if misguided step, toward a religion-free workplace and a religion-free society.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I share the gentleman's comment. I hope in the future we will have regulations that will not impinge on religious rights.

Mr. Chairman, I yield one minute to the gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, we live today in a peculiarly strange era in which traditional American values are continually shelved, abandoned and trashed.

The Surgeon General appears to be the leading spokesperson in this tasteless effort. When she advises young Americans regarding their sexual activities, she places more significance upon their daily supply of condoms, rather than emphasizing abstinence. She believes we should consider legalizing illegal drugs, snorting coke, shooting heroin, but in the same breath she suggests that tobacco, a legal product, be declared unlawful.

Now she is offended when religious persons dare to become involved in the political process.

And this brings us to the matter of religious harassment. Sanity, a rare ingredient here, is detected in the contents of the Taylor amendment. It simply says to the EEOC there are more pressing problems plaguing us than displaying bibles in the workplace or the wearing of a cross or the Star of David.

I urge support of the Taylor amendment.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield one-half minute to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I was in my office and I heard my good friend the gentleman from California, DON EDWARDS, speak. You know, one man's harassment is somebody else's free exercise. If I wanted to wear a crucifix and you wanted to wear a Star of David, we both should be permitted under the Constitution to wear our symbols and not assume the other person is harassing us.

The Constitution protects free exercise. It does not say anything about harassment. That is a refinement that we have found within the parameters of the Constitution. But the free exercise of religion ought not be impaired by the EEOC or anybody. And if you want to wear a yarmulke, God bless you. And if I want to wear a rosary, God bless me. That is free exercise of religion.

□ 0020

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 30 seconds to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, I thank the gentleman for yielding time to me.

I rise in strong support of this amendment and would ask Members to vote in favor of it. When we saw the intolerance that was going on in Saudi Arabia when the simple wearing of a cross on the Army chaplain's uniform was barred, Americans were outraged. The seeds of that kind of intolerance are being sown by the proposed EEOC proposal.

This amendment stops it in its tracks. Hopefully, they can come up with a regulation that will comport with tolerance and the kind of religious freedom that we have known and loved in this country.

Mr. Chairman, it became known that U.S. military personnel deployed in Saudi Arabia as part of Operation Desert Storm were prohibited from wearing any religious symbols or from overt religious activities—Americans were outraged.

Even the U.S. Army chaplains in Saudi Arabia were barred from overt display or "expression" and had to conceal religious insignias on their uniform. The priest that married my wife and me 16 years ago—a chaplain in Desert Storm—told us stories of how this policy played out in everyday life. And it wasn't pretty.

Mr. Speaker, America is not Saudi Arabia. Religious tolerance is a hallmark of American democracy. Yet the regulations suggested by the Equal Employment Opportunity Commission may very well lead us in that direction. These proposed rules are sowing the seeds of religious intolerance, and the American people are not going to stand for it. Therefore, I urge my colleagues to vote yes on the amendment to be offered by my distinguished colleagues Mr. WOLF and Mr. TAYLOR. This amendment will in essence nullify the regulations proposed by the EEOC last October.

The EEOC claims these rules are necessary to prevent people from being persecuted because of religious beliefs, but the practical effect of these rules will be to simply eliminate religious expression.

Nobody questions the need to root out intolerant behavior in the workplace, and nobody objects to these rules on that basis. But these regulations are so broadly worked that the door will be opened to frivolous lawsuits against employers, which will in turn cause many businesses to adopt policies prohibiting any religious expression in the workplace, rather than risk expensive litigation.

In fact, there is evidence that this process has already begun, even before the EEOC regulations have been finalized. Earlier this year, a major U.S. corporation issued a sweeping personnel policy that stated in part:

> * * * personnel should not possess nor display, in any manner, on [company] premises any material which may be construed, by anyone, to have religious, overtones whether positive or negative.

This is not a proposal, this is not a first draft, this is final, Mr. Speaker. A major corporation has told its employees that wearing a crucifix or a Star of David symbol is prohibited. Bibles in employee lockers or on a desk in an office are now considered contraband. How about the carols at the office Christmas Party? That may have to fall by the wayside in our brave new America which has been sanitized of any religious expression.

Frankly, it is amazing that we have to revisit the issue of religious freedom in Congress. My colleagues could be forgiven for thinking that we settled this issue last year, with the amendment of the Religious Freedom Restoration Act. This was supposed to protect the religious practices of citizens from undue government interference.

The new EEOC regulations, if implemented, however will result in a real erosion of the freedoms that were supposed to be protected by the Religious Freedom Restoration Act. If implemented, the EEOC regulations will generate a flood of expensive and needless court cases.

But this is not inevitable. We can approve the Taylor-Wolf amendment and stop this misguided policy in its tracks. Most importantly, we can assure the American people that we do not take freedom of religion lightly, and that this Congress will not preside over any erosion of that precious right, I urge my colleagues to vote yes on the Taylor-Wolf amendment.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 15 seconds to the gentleman from Florida [Mr. CANADY].

Mr. CANADY. Mr. Chairman, I rise in support of the amendment.

I rise to speak in favor of the Taylor-Wolf amendment.

The first article of amendment to the U.S. Constitution provides unequivocally that Congress shall make no law prohibiting the free exercise of religion.

But the tradition of religious freedom in this land existed long before the First Amendment was proposed and adopted.

Indeed, the search for religious freedom was the primary reason many left their homes in Britain and traveled across the Atlantic to the American colonies.

They sought a land where they would be free to worship and serve God according to the dictates of their own conscience—without the interference of the King or any other civil authority.

The freedom they sought has been a reality throughout the history of this land. And it is the responsibility of the Members of this House to protect and preserve that freedom.

This Congress has many important responsibilities under the Constitution. But we have no higher duty than the duty to defend religious freedom.

The workplace harassment guidelines are totally at odds with the principle of religious freedom.

These guidelines evidence a cavalier disregard for the requirements of the first amendment.

They fail to take into account that the exercise of religion have a special protected status under the Constitution of the United States.

These guidelines would place an intolerable burden on religious expression in the workplace. They would, indeed, encourage employers to establish policies coating a religion-free workplace.

Every Member of this House took an oath to support and defend the Constitution of the United States.

We should remember that oath when we vote on this amendment tonight.

We should adopt the amendment and stop the EEOC's ill-conceived attempt to support the free exercise of religion in the American workplace.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 15 seconds to the gentleman from Alabama [Mr. BACHUS].

Mr. BACHUS of Alabama. Mr. Chairman, I rise in strong support of the Taylor amendment and in strong opposition to the EEOC attempt to hinder religious freedom.

This measure will send a clear message to the EEOC that any attempt to hinder religious freedom—guaranteed in the first amendment to our Constitution—is unacceptable to the American people and will not be tolerated by this Congress.

Anyone, employer or employee, appreciates the importance of a productive working atmosphere. However, the regulations proposed by the EEOC, undermine the ability of American businesses to independently create and foster a suitable working environment and unnecessarily restrict and hinder the freedom of expression of every American worker.

I have received hundreds of phone calls and letters from Alabamians—construction and factory workers, school teachers, secretaries and students, retirees and owners of small and large businesses. They want to know what their Congressman is going to do to stop the Government from further intruding into their lives and livelihoods. They accurately see the EEOC proposal as opening a "Pandora's Box." Out of the box will come costly litigation based merely on the opinion of a disgruntled employee. Out of that box will also come distrust and ill will in the workplace, where none, and let me stress none now exists, except in the imagination of the EEOC.

Our country was funded as a refuge and haven from religious persecution. The proposed action by the EEOC will in large part destroy that haven and wreck that refuge. I encourage my colleagues to support this amendment. Send a message to the EEOC and any other group that dares to breech the Constitution of the United States. The EEOC has gone too far. Let us hit the EEOC where it hurts—right in the pocketbook.

Mr. TAYLOR of North Carolina. Mr. Chairman, we appreciate the indulgence of the House. It has been a very important amendment, we think.

We urge Members to support it.

Mr. Chairman, I yield back the balance of my time.

Mr. BALLENGER. Mr. Chairman, I rise in support of the Taylor-Wolf amendment.

Hundreds of constituents have called and written to express their deep concern about the Equal Employment Opportunity Commission [EEOC] proposed guidelines on harassment in the workplace based on religion.

Basically the EEOC seeks to add religion to other categories of employee harassment, race, gender, age under Federal civil rights laws. These guidelines have serious constitutional implications and may violate the freedom of expression of religion guaranteed by the first amendment.

Freedom of religion is one of our most sacred rights and should not be compromised by the overzealous actions of the EEOC. To permit these guidelines to be implemented with the category of religion included is an open invitation to litigate against employers who allow their employees to exercise their first amendment rights.

I strongly support the Taylor-Wolf amendment. Join me in voting yes

Mrs. LLOYD. Mr. Chairman, I rise in strong support of the Wolf-Taylor amendment to the Commerce, Justice, and State Appropriations bill of 1994. The Wolf-Taylor amendment would prohibit funding for the Equal Employment Opportunity Commission [EEOC] to implement, administer, or enforce the proposed guidelines that would prohibit religious harassment in the workplace.

This amendment sends a clear message to the EEOC, that the ambiguous language of the proposed EEOC guidelines regarding religious harassment in the workplace has the potential to generate misinterpretations and frivolous litigation. This is not only a burden on employers and the courts, but the guidelines would create a rigid and awkward working environment, which could consequently lead to organizational inefficiency.

I feel the freedom of religion is a right that should not be denied to any American citizen. I have consistently supported efforts in Congress to preserve the right of freedom of religion. Earlier this year I supported the Religious Freedom Restoration Act [RFRA], which passed the House on May 11, 1993.

RFRA ensures the protection of the full exercise of religion, as defined in the first amendment of the Constitution. RFRA is narrowly tailored by expressly prohibiting a law from "substantially burdening a person's exercise of religion". This strict scrutiny of the RFRA and the first amendment protects employees' rights to exercise religion. The broad definitions apparent in EEOC's proposed guidelines on religious harassment may negate the entire intent of the RFRA. Moreover, the guideline's vague language challenges the first amendment of the Constitution.

Mr. Chairman, the freedom to exercise religion is a right that must not be denied to any American. The first amendment and passage of RFRA makes it clear that Americans' right to exercise religion shall not be infringed upon. The Wolf-Taylor amendment takes the necessary step to ensure that American's religious freedoms are not eviscerated. I urge my colleagues to support this measure.

Mr. MONTGOMERY. Mr. Chairman, I rise in support of the Taylor amendment.

We need to make it clear that EEOC regulations will not restrict religious freedom in the work place.

This is a very important amendment and it should be passed.

Mr. POSHARD. Mr. Chairman, I rise in support of the amendment offered by my colleagues which will prohibit funding appropriated for the Equal Employment Opportunity Commission to implement, administer, or enforce proposed guidelines that prohibit religious harassment in the workplace. I have heard from hundreds of my constituents who fear intolerable infringement on their rights under the first amendment should the guidelines, as proposed, be finalized, and I agree.

The proposed guidelines in fact promote a "religion free" workplace where companies, in order to avoid liability, may arbitrarily prohibit any display of a person's religion. In our country, where a primary purpose of its Founders was to seek a place of escape from religious persecution and harassment, the actions proposed by the EEOC are truly ironic and yes, even frightening. Unless the proposed guidelines can be revised to demonstrate no possibility of misguidance regarding religious harassment in the workplace, I believe the Taylor-Wolf amendment is imperative, and I urge Members to support this effort to assure every American the right to witness as a Christian or to have religious literature or symbols in the workplace.

Mr. BARTON of Texas. Mr. Chairman, I rise in strong support of the Taylor-Wolf amendment to the Commerce, State, Justice Appropriations bill.

This amendment will prevent the Equal Employment Opportunity Commission [EEOC] during the next year from implementing the proposed guidelines covering harassment based on religion. Its passage will help protect the Constitutionally protected religious liberty we all enjoy.

In an effort to protect the nonbeliever, the EEOC's proposed rules have overlooked the rights of the religious to freely express their beliefs. I believe the EEOC has a statutory responsibility to enforce the laws against prejudice in hiring, promotions and other aspects of employment on the basis of an employees's religious affiliation or beliefs. Nevertheless, the regulations proposed by the EEOC go much further than what the law or common sense requires.

Because the guidelines are so subjectively written, for an employer to follow them to the letter without fear or legal action, "religion free" workplaces would have to be created. To permit these guidelines to be implemented with the category of religion included is to invite litigation against employers who allow their employees to exercise their first amendment rights.

Freedom of religion is specifically protected by the first amendment. It is one of the foundations on which our Nation was built. In addition, the 1993 Religious Freedom Restoration Act bars the Government from burdening the free exercise of religion with regulations unless the State shows a compelling interest.

Existing law on harassment has, among other things, recognized that harassment on the basis of religion constitutes a violation of the law. This reinforces the EEOC's position that the same analysis applies to all hostile environment cases whether the harassment is based on gender, race, religion, or national origin. The courts have previously interpreted this to mean: "When an employee is repeatedly subjected to demeaning and offensive religious slurs before his fellows by a coworker and by his supervisor, such activity necessarily has the effect of altering the conditions of his employment within the meaning of Title VII."

There is a big difference between a person who ridicules a coworker's religious beliefs, and a person who expresses his or her religious beliefs by keeping a Bible on a desk or by wearing a cross on a chain. I suppose that an open Bible on a desk or a cross on a chain could be offensive to certain individuals. But being offended by seeing an object is not equivalent to being harassed by the person to whom the object belongs.

Referring to the conflict between the States, President Lincoln once said, "The central idea pervading this struggle is the necessity that is upon us of proving that popular government is not an absurdity." Mr. Speaker, these EEOC regulations come close to proving the absurdity of popular government. I urge passage of the Taylor-Wolf amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina [Mr. TAYLOR].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. McKEON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 366, noes 37, answered "present" 1, not voting 35, as follows:

[Roll No. 289]

AYES—366

Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brooks
Browder
Brown (CA)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Combest
Condit
Cooper
Coppersmith
Costello
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (TX)
Ehlers
Emerson
English
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fingerhut
Flake
Foglietta
Fowler
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Hefner
Herger
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Mazzoli
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McNulty
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pomeroy
Porter
Portman
Poshard
Price (NC)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Reed
Regula
Richardson
Roberts
Roemer
Rogers
Rohrabacher
Romero-Barcelo (PR)
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Sabo
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Traficant
Tucker
Underwood (GU)
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Weldon
Wheat
Wilson
Wise
Wolf
Wyden
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—37

Abercrombie
Becerra
Clay
Collins (IL)
Collins (MI)
Conyers
Coyne
Dellums
Edwards (CA)
Engel
Filner
Frank (MA)
Gejdenson
Gonzalez
Gutierrez
Hamburg
Hinchey
Johnston
Kopetski
Lewis (GA)
Mink
Nadler
Norton (DC)
Olver
Payne (NJ)
Pelosi
Roybal-Allard
Sanders
Stark
Stokes
Torres
Velazquez
Waters
Watt
Waxman
Woolsey
Yates

ANSWERED "PRESENT"—1

Skaggs

NOT VOTING—35

Andrews (TX)
Blackwell
Brewster
Brown (FL)
Cox
Derrick
Faleomavaega (AS)
Fields (TX)
Fish
Ford (MI)
Ford (TN)
Gibbons
Hastings
Hilliard
Matsui
McCandless
McCloskey
McCollum
McMillan
Meehan
Owens
Pombo
Pryce (OH)
Rangel
Reynolds
Ridge
Rose
Rostenkowski
Rush
Smith (OR)
Torricelli
Towns
Washington
Whitten
Williams

☐ 0040

Mr. BROOKS and Mr. PICKLE changed their vote from "no" to "aye."

Mr. TORRES changes his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

☐ 0040

Mr. MOLLOHAN. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation the amendments be agreed to and that the bill, as amended, do pass.

Mr. ROHRABACHER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I expect that soon the floor manager will be moving that the committee rise and report this bill back to the House. This is not just a procedural motion, Mr. Chairman. If his effort succeeds, it will mean that for another year the money in this Commerce, Justice, State Appropriations bill will go to illegal aliens, even as many American citizens have go without those same benefits.

This policy is wrong, Mr. Chairman. This policy is wrong because our country should not be handing out any benefits to illegal aliens on the same basis as American citizens. This policy is wrong because it entices more and more people to come into our country illegally.

And, Mr. Chairman, this policy is wrong because it is simply unfair to American citizens and legal residents, and U.S. citizens and legal residents who should always come first when taxpayer money is spent.

Yet the leadership on the other side wants a vote for a motion that will continue this failed policy. Because the point of this motion is to deny me the right to offer an amendment that says, no more. My amendment, which adoption of this motion would prevent me from offering, says that we are going to stop the nonsensical policy of giving benefits to illegal aliens.

Let me offer my colleagues examples of what will happen if the motion to rise passes. This bill funds the Small Business Administration and the Legal Services Corporation. Because there has never been enough money in those budgets, not everyone who is eligible for assistance from these agencies can be helped.

In the case of the Small Business Administration, there is no restriction on assisting people who are in this country illegally. In the case of the Legal Services Corporation, although there some restrictions, many illegal aliens are still eligible for assistance under the so-called "PRUCOL" provisions.

Because we don't have enough money to help everybody, every illegal alien who receives benefits under these programs is getting those benefits instead of an American citizen or legal resident.

Let us stop this insane policy of handing out taxpayer paid benefits to anyone who can make it into this country illegally. Vote "no" on the motion to rise.

Mr. SMITH of Texas. Mr. Chairman, I join with Representatives ROHRABACHER, LIGHTFOOT, LIVINGSTON, and ROGERS in opposition to the preferential motion to rise. Like many other Members, I testified to have a limitation amendment made in order prior to the preferential motion to rise.

My amendment to the Commerce, Justice, State Appropriations bill would have allowed no funds to be made available to carry out the return to Mexico of any Mexican national who is a prisoner convicted of a felony in the United States without a final order of deportation.

Under a 1977 treaty between the United States and Mexico, Mexican nationals convicted of a felony in the United States may be returned to Mexico to complete their sentences if they request it. While this can alleviate some prison overcrowding, unfortunately most transfers are being done on a voluntary departure basis rather than on a formal order of deportation.

There are immigration consequences to this shortcut. Persons who voluntarily depart can keep illegally re-entering the United States without threat of serious penalties. Formal deportation, however, carries the threat of 15 year imprisonment for those who break the law and re-enter.

The re-entry penalty was enacted to be a strong deterrent to criminal aliens who have been deported from our country. There's no use in having a strong deterrent law on the books if we are going to circumvent it by allowing voluntary departure for criminal aliens who should be deported.

Since I cannot offer my amendment before the preferential motion to rise, I am supporting the attempt to defeat the preferential motion to rise and urge other Members to do so as well.

If this motion is defeated, then I intend to offer my limitation amendment to clarify what the nation's priorities should be in the handling of these transfers of criminal aliens.

Amendment to H.R. 4603, as reported, offered by Mr. SMITH of Texas:

At the end of the bill, add the following new title:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

SEC. 801. None of the funds made available in this Act may be used to permit or carry out the return to Mexico of any Mexican national who is a prisoner convicted of a felony in the United States when it is made known to the Federal entity or official to which the funds are made available that the prisoner is not the subject of a final order of deportation.

Mr. KIM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today to strongly oppose the motion to rise which will prevent us from considering the Rohrabacher amendment to prohibit illegal aliens from continuing to receive benefits funded under this legislation.

In particular, the legal assistance and small business loans provided through the programs in this appropriations bill are intended to help needy American citizens and legal residents—not people who have broken the law by sneaking into our country illegally.

As someone who legally entered this country and became an American citizen, I cannot accept seeing American citizens and legal residents being denied the limited Federal money they desperately need just because Federal bureaucrats have given the money away to illegal aliens. This makes no sense. We must stop taking advantage of the generous nature of the American people.

Congress will be failing in its responsibilities to the American people by continuing to provide incentives that will simply increase the raging tide of illegal aliens that is breaking the budgets of our State and local governments.

The State of California now spends at least $2.5 billion a year to provide federally mandated services to illegal aliens, a skyrocketing cost that California taxpayers must pay that has driven my home State to the edge of economic chaos.

In addition, according to the California Board of Corrections, local governments last year spent almost $120 million to pay for the cost of incarcerating illegal aliens in local jails.

Thus, in order to meet our responsibility to the American people, we must defeat the motion to rise and support the Rohrabacher amendment.

Mr. MOLLOHAN. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. BONIOR] having assumed the chair, Mr. BROWN of California, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4603) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. LIGHTFOOT

Mr. LIGHTFOOT. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. LIGHTFOOT. I am, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. LIGHTFOOT moves to recommit the bill H.R. 4603 to the Committee on Appropriations with instructions to report back the same forthwith with the following amendment: On page 81, line 8, strike "$533,304,000" and insert "$507,871,000".

The SPEAKER pro tempore. The gentleman from Iowa [Mr. LIGHTFOOT] is recognized for 5 minutes.

Mr. LIGHTFOOT. Mr. Speaker, this motion to recommit is very straightforward. It strikes the $25 million in fiscal year 1995 funds which are budgeted as our contribution to United Nations peacekeeping operations in Haiti.

As we all read in the Saturday New York Times, the Clinton administration is now preparing a 14,000-member peacekeeping force, half to be made up of U.S. troops, to occupy Haiti in the event the Haitian military leaders decide to leave.

As many of you may recall, the Governors Island Accords envisioned a peacekeeping force of less than 600. Two weeks ago that force grew to 4,000. Now that force has grown to 14,000 troops because the Clinton administration wants to be prepared to deal with any eventuality.

Mr. Speaker, the Clinton administration has learned nothing from its nation-building adventure in Somalia, which cost some of my constituents their lives. The four stated goals of this proposed operation do not include any American exit strategy. Already the Pentagon is in opposition to this plan because they realize the force would have no mandate and they are uneasy with the prospect of maintaining civil order.

Canada has already declined to participate in this proposed force. And in a sad commentary on democracy in America, the Argentine President said Argentina's participation in a Haitian occupation force would depend upon the consent of the Argentine Parliament.

Maybe the NED should sponsor a grant to the leadership of the majority party and send them to Argentina to learn about democracy.

In Somalia, Congress did not exercise sufficient oversight and our troops paid the price. My friends, when the casualties from Bill Clinton's Haitian nationbuilding experiments start to mount, don't let it be said we did not have the opportunity to weight in on this matter.

Let's remove funds from this bill for Haitian peacekeeping now, and, once the President shows us a plan and demonstrates the national interest, consider adding the money back in. It's the only prudent course.

LARGE HAITI FORCE IS WEIGHED BY UNITED STATES

SIZE PUT AT 12,000 TO 14,000 WITH HALF FROM THE UNITED STATES

(By ELAINE SCIOLINO)

WASHINGTON—The Clinton Administration is preparing a plan for Haiti, if and when its military leaders leave power, to create an international peacekeeping force that would involve several thousand American troops, police and civilian contractors, senior Administration officials said today.

The size of the United Nations-mandated force is expected to be 12,000 to 14,000 troops, about half of them Americans, although the officials said the final number could change.

The size of such a force, which would be authorized by the United Nations if the ousted President, the Rev. Jean-Bertrand Aristide, is returned to office, is much larger than earlier anticipated. Less than two weeks ago, some senior Administration officials suggested that a force of 3,000 to 4,000 would be sufficient.

Following a number of intragency meetings in recent days, the Administration concluded that a much larger force was necessary.

Administration officials said that the United States would press the United Nations would press the United Nations to create the larger force because Washington wants to insure that it would be able to deal with any eventuality in Haiti, particularly in light of the polarization of Haitian society and the absence of civil institutions.

It is unclear how many of the thousands of Americans participating in the force would be armed troops. Buts in a recent classified memo to Washington, Madeleine K. Albright, the United States representative at the United Nations, said that Washington wanted to reduce its troop contribution to 3,000 very quickly after the force goes to into Haiti, said one Administration official familiar with the memo.

Some senior Pentagon officials remain strongly opposed to the formation of such a large force, because it would involve a large number of American soldiers and because there is no clear idea on what the force's mandate would be, Administration officials said.

Even though all relevant agencies of government have signed off on a plan for the international force, the plan could be modified or even shelved if opposition in some parts of the Pentagon is strong enough.

One indication of opposition to the plan came after State Department officials said early in the day that the Administration intended to present the new plan to Father Aristide and to begin consultations with key lawmakers next week.

There already have been some consultations with the United Nations and with foreign governments, and President Clinton discussed the new force with Argentina's President Carlos Menem at the White House today.

But later in the day, a White House official said that President Clinton has not yet signed off on the plan and that there would be no consultations with Congress next week.

FOUR GOALS

The plan, at least in its current form, has four goals for the peacekeepers: the protection of democratic leaders and institutions, the professionalization of the military and retraining of the military and retraining of the police, the protection of the international humanitarian and human rights workers and the maintainence of essential civil order.

Those goals were set out earlier this month at a meeting in Brazil of foreign ministers of the Organization of American States, and were endorsed by Father Aristide.

But the fourth task—maintaining civil order—is fraught with ambiguity and makes some officials uneasy.

Some senior officials said that about a dozen countries have expressed a willingness to take part in the force in small numbers, particularly in sending police officers and trainers, leaving the United States to provide the bulk of the military and logistical support.

Canada, for example, could probably be expected to contribute Royal Canadian Mounted Police officers and engineers and helicopters to the force. It has also announced that it will train about 500 Haitian exiles as police and police trainers in Canada.

REQUEST FOR BATALLION DENIED

But the Canadians have already refused an American request to contribute a combat batallion of about 800 soldiers, the Administration officials said.

At a press briefing at the White House today, Mr. Menem said that it would be up to the Argentine Parliament to decide whether his country would participate in an invasion force to restore Father Aristide to power. He said that he, as President, could decide on his own whether to send in peacekeeping troops after democracy was restored, but did not say whether he was prepared to do so.

There are currently 870 Americans serving in peacekeeping missions around the world. But the situation in Haiti and Bosnia could change that in the coming months.

If the Bosnian Government and the Serbs move closer to a peace agreement, there is the possibility that the United States would have to live up to its commitment to deploy peacekeeping troops to Bosnia as part of a force of perhaps 50,000 troops to implement the settlement.

Although senior Administration officials say it is unlikely, the United States could conceivably find itself in the position of suddenly having to contribute thousands of troops to both Haiti and Bosnia.

ARISTIDE'S SUPPORT NEEDED

As for Haiti, Ms. Albright, who is actively lobbying allies in Europe and in the hemisphere to offer troops to the force, is said to believe that Father Aristide's wholehearted support is necessary to win the endorsement of the United Nations and troop contributions from other countries.

A United Nations-brokered agreement, reached last July at Governor's Island in New York between Father Aristide and the military leadership, envisioned an international peacekeeping force of 600 American troops and engineers about 170 others.

But in helping to create that force, the United States assumed it would be warmly welcomed as the means to professionalize the military and retrain the police. That force did not have the maintenance of public security in its mandate.

But the agreement fell apart last October, after the destroyer Harlan County, carrying American and Canadian trainers and peacekeepers, was confronted with a mob demonstrating on the docks at Port au Prince and turned back.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. LIGHTFOOT. I am happy to yield to my friend, the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I support his motion. I just say Secretary Strobe Talbott and the President look like they are trying to invade Haiti. Why Haiti? Because it is close?

Cuba is closer. Why should we invade Haiti? Is there a lack of democracy? Cuba has a lack of democracy for even longer. There is greater suffering in Cuba. There is just as much immigration if not more from Cuba.

Mr. Speaker, if we are going to invade Haiti, the President should do exactly what the last President did and come to Congress and get authorization from us first. There is no national interest in invading Haiti, but let the President say what the national interest is before doing it on our July 4 recess or in September or at Christmas or at any time. Let him not deploy troops to Haiti. Let him not risk the life of one single person in uniform, male or female, for the likes of Jean-Bertrand Aristide. Let him not send our troops to Haiti without the authorization of every person in this House of Representatives.

I urge the adoption of the gentleman's motion to recommit.

Mr. Lightfoot. Mr. Speaker, in closing I would simply say that if Members want to vote in support of our men and women in uniform, an aye vote is the only vote we can have on this motion to recommit.

Mr. MOLLOHAN. Mr. Speaker, I rise in opposition to the amendment.

Mr. Speaker, I think the amendment is patently unwise for the same reason I have heard very cogent arguments made on the other side with regard to telegraphing our intentions with any international situation, thereby taking options off the table. They ought not to know what we are or are not going to do with regard to military force or nonmilitary force or U.N. options or peacekeeping options or peacemaking options. We should not be taking that away from the President as he is dealing with this very delicate international crisis situation.

Mr. Speaker, I have heard that argument made, as I said, very cogently on the other side with regard to other situations. It is equally applicable to Grenada, Panama, El Salvador as that argument is with regard to Haiti. This is an unwise amendment. We should not telegraph our intentions or take options away from the President as he deals with this matter.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. LIGHTFOOT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 185, noes 214, not voting 35, as follows:

[Roll No. 290]

AYES—185

Allard
Applegate
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Condit
Cooper
Cox
Crane
Crapo
Cunningham
Deal
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lloyd
Lucas
Machtley
Manzullo
McCrery
McDade
McHugh
McInnis
McKeon
Meyers
Mica
Michel
Miller (FL)
Minge
Molinari
Moorhead
Morella
Myers
Nussle
Orton
Oxley
Packard
Paxon
Peterson (MN)
Petri
Pomeroy
Porter
Portman
Quillen
Quinn
Ramstad
Ravenel
Regula
Roberts
Rogers
Rohrabacher
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Stupak
Sundquist
Swett
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—214

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Bacchus (FL)
Baesler
Barca
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Bonior
Borski
Boucher
Brooks
Browder
Brown (CA)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hamburg
Hamilton
Harman
Hefner
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (CA)
Lewis (GA)
Lipinski
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Mazzoli
McCurdy
McDermott
McHale
McKinney
McNulty
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Pickett
Pickle
Poshard
Price (NC)
Rahall
Reed
Richardson
Roemer
Ros-Lehtinen
Rowland
Roybal-Allard
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Studds
Swift
Synar
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—35

Blackwell
Brewster
Brown (FL)
Chapman
Derrick
Fields (TX)
Fish
Ford (MI)
Ford (TN)
Gephardt
Gibbons
Hall (OH)
Hastings
Hilliard
Matsui
McCandless
McCloskey
McCollum
McMillan
Meehan
Owens
Pombo
Pryce (OH)
Rangel
Reynolds
Ridge
Rose
Rostenkowski
Rush
Smith (OR)
Torricelli
Towns
Washington
Whitten
Williams

☐ 0105

Mrs. LLOYD changed her vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BONIOR). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ROGERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 286, noes 112, not voting 36, as follows:

[Roll No. 291]

AYES—286

Abercrombie
Ackerman
Andrews (ME)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Bonilla
Bonior
Borski
Boucher
Brooks
Browder
Brown (CA)
Brown (OH)
Bryant
Buyer
Byrne
Callahan
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Deutsch
Dickey
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Eshoo
Evans
Ewing
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Fowler
Frank (MA)
Franks (CT)
Frost
Furse
Gallegly
Gejdenson
Gekas
Geren
Gilchrest
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Grandy
Green
Gutierrez
Hamburg
Hamilton
Harman
Hayes
Hefner
Hinchey
Hoagland
Hochbrueckner
Holden
Horn
Houghton
Hoyer
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
King
Kleczka
Klein
Klink
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Mazzoli
McCrery
McCurdy
McDade
McDermott
McHale
McInnis
McKeon
McKinney
McNulty
Meek
Menendez
Meyers
Mfume
Michel
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Packard
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pickle
Pomeroy
Porter
Poshard
Price (NC)
Quinn
Rahall
Ravenel
Reed
Richardson
Roemer
Rogers
Roukema
Rowland
Roybal-Allard
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shaw
Shepherd
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Spratt
Stark
Stearns
Stokes
Strickland
Studds
Stupak
Swift
Synar

Tanner
Tauzin
Taylor (NC)
Tejeda
Thomas (CA)
Thompson
Thornton
Thurman
Torkildsen
Torres
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Waters
Watt
Waxman
Wheat
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Young (FL)

NOES—112

Allard
Andrews (NJ)
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Bartlett
Barton
Boehner
Bunning
Burton
Calvert
Camp
Coble
Collins (GA)
Combest
Condit
Cox
Crane
Crapo
DeLay
Diaz-Balart
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Everett
Fawell
Franks (NJ)
Gallo
Gillmor
Goodlatte
Goodling
Goss
Grams
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Huffington
Inglis
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Kasich
Kim
Kingston
Klug
Knollenberg
Lazio
Lewis (FL)
Lewis (KY)
Linder
Lucas
McHugh
Mica
Miller (FL)
Minge
Molinari
Moorhead
Myers
Nussle
Orton
Oxley
Paxon
Penny
Peterson (MN)
Petri
Portman
Quillen
Ramstad
Regula
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Royce
Santorum
Saxton
Schaefer
Sensenbrenner
Shays
Shuster
Smith (MI)
Smith (TX)
Solomon
Spence
Stenholm
Stump
Sundquist
Swett
Talent
Taylor (MS)
Thomas (WY)
Walker
Weldon
Young (AK)
Zeliff
Zimmer

NOT VOTING—36

Blackwell
Brewster
Brown (FL)
Derrick
Fields (TX)
Fish
Ford (MI)
Ford (TN)
Gephardt
Gibbons
Hall (OH)
Hastings
Hilliard
Matsui
McCandless
McCloskey
McCollum
McMillan
Meehan
Murtha
Owens
Pombo
Pryce (OH)
Rangel
Reynolds
Ridge
Rose
Rostenkowski
Rush
Smith (OR)
Torricelli
Towns
Washington
Whitten
Williams
Yates

☐ 0113

The Clerk announced the following pair:

On this vote:

Mr. Yates for, with Mr. Smith of Oregon against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. PRYCE of Ohio. Mr. Speaker, due to family considerations I was detained in my Ohio congressional district on Monday, June 27, 1994, and was not present to vote on the following amendments to H.R. 4603, the Commerce-State-Justice appropriations bill. Had I been here, I would have voted "Yes" on the Burton amendment recorded in the RECORD as rollcall vote No. 279, "Yes" on the Burton amendment recorded in the RECORD as rollcall vote No. 280, "Yes" on the Penny amendment recorded in the RECORD as rollcall vote No. 281, "Yes" on the Goodlatte amendment recorded in the RECORD as rollcall vote No. 282, "Yes" on the Hefley amendment recorded in the RECORD as rollcall vote No. 283, "Yes" on the Stearns amendment recorded in the RECORD as rollcall vote No. 284, "Yes" on the Inslee amendment recorded in the RECORD as rollcall vote No. 285, "Yes" on the Porter/Bentley amendment recorded in the RECORD as rollcall No. 286, "No" on the Condit amendment recorded in the RECORD as rollcall vote No. 287, "Yes" on the Rogers amendment recorded in the RECORD as rollcall No. 288, "Yes" on the Taylor amendment recorded in the RECORD as rollcall No. 289, "Yes" on the Lightfoot amendment recorded in the RECORD as rollcall No. 290, and "No" on final passage of H.R. 4603 recorded in the RECORD as rollcall No. 291.

PERSONAL EXPLANATION

Mr. FIELDS of Texas. Mr. Speaker, I was unavoidably detained during votes on H.R. 4603 on June 27, 1994. Had I been here, I would have voted in favor of the Burton amendment (Roll No. 279); against the Burton amendment (Roll No. 280); in favor of the Penny amendment (Roll No. 281); against the Goodlatte amendment (Roll No. 282); in favor of the Hefley amendment (Roll No. 283); in favor of the Stearns amendment (Roll No. 284); in favor of the Inslee amendment (Roll No. 285); against the Porter amendment (Roll No. 286); in favor of the Condit amendment (Roll No. 287); in favor of the Rogers amendment (Roll No. 288); in favor of the Taylor amendment (Roll No. 289); in favor of the Lightfoot amendment (Roll No. 290); and against final passage of the Commerce, Justice, State appropriations bill (Roll No. 291)

PERSONAL EXPLANATION

Mr. RUSH. Mr. Speaker, due to official business, I was unavailable for rollcall numbers 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, and 291.

Had I been present, I would have voted "nay" on 279, "nay" on 280, "nay" on 281, "nay" on 282, "nay" on 283, "nay" on 284, "aye" on 285, "aye" on 286, "nay" on 287, "nay" on 288, "nay" on 289, "nay" on 290, and "aye" on 291.

COMMUNICATION FROM THE HONORABLE GLENN POSHARD, MEMBER OF CONGRESS

The SPEAKER pro tempore (Mr. COPPERSMITH) laid before the House the following communication from the Honorable GLENN POSHARD, Member of Congress:

U.S. CONGRESS,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 24, 1994.

Hon. THOMAS S. FOLEY,
The Capitol,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that my office has been served with a subpoena for documents concerning constituent casework issued by the United States District Court for the Southern District of Illinois in connection with a civil case.

After consultation with the General Counsel, I will determine if compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

GLENN POSHARD
Member of Congress.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 4624, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND SUNDRY INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1995

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–563) on the resolution (H. Res. 465) waiving certain points of order against the bill (H.R. 4624) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995, and for other purposes, which was referred to the House Calendar and ordered to be printed.

HOUR OF MEETING ON TOMORROW

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10:30 a.m. today

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. SOLOMON. Reserving the right to object, Mr. Speaker, I am just concerned. This means that we do not come into session in the Congress until what time?

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Speaker, we would meet at 10:30 a.m.

Mr. SOLOMON. Mr. Speaker, I am wondering whether this has anything to do with morning hours. Earlier today the majority leader received unanimous consent to have us come in one hour early, at 9:30, in order to hold morning hours for an hour and a half, in which case we would have not started the regular session of Congress until 11 o'clock. Now I understand the gentleman is reversing that, and I am just wondering why.

Mr. MOAKLEY. It is because of the late hour we worked. We thought we would get out of here at a reasonable time, and we worked so late that we are just going to come in tomorrow morning at the usual time.

Mr. SOLOMON. Does this give some relief to the staff? Does this mean the staff can come in an hour later on the floor here?

Mr. MOAKLEY. The gentleman is correct.

Mr. SOLOMON. If that is the case, Mr. Speaker, I have no objection.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. POMBO (at the request of Mr. MICHEL), for today and Tuesday, June 28, 1994, on account of a death in the family.

Mr. FALEOMAVAEGA (at the request of Mr. GEPHARDT), for today and tomorrow (June 28), on account of official business.

Miss COLLINS of Michigan (at the request of Mr. GEPHARDT), for today between 3:30 p.m. and 4:45 p.m., on account of illness.

Mr. DEAL (at the request of Mr. GEPHARDT), for today before 8 p.m., on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. GOSS) to revise and extend his remarks and include extraneous material:)

Mr. BEREUTER, for 5 minutes, on June 28.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GOSS) and to include extraneous matter:)

Mr. CAMP.
Mr. SOLOMON.
Mr. SANTORUM.
Mr. TALENT.
Mr. SHUSTER.
Mr. FAWELL.
Mr. SHAW.
Mr. NUSSLE.
Mr. STUMP.
Mrs. MORELLA.
Mr. CALVERT.
Mr. GREENWOOD.
Mr. GRAMS.
Mr. COBLE.
Mr. TAYLOR of North Carolina.

(The following Members (at the request of Mr. FINGERHUT) and to include extraneous matter:)

Mr. DE LUGO.
Mr. SMITH of Iowa.
Mr. COLEMAN.
Mrs. MEEK of Florida.
Mr. BROWN of California.
Mr. HAMILTON.
Mr. RAHALL.
Mr. LANTOS.
Mr. GEJDENSON.
Mr. FAZIO.
Mr. TRAFICANT.
Mr. DURBIN.
Mr. BRYANT.
Mr. WAXMAN.
Mrs. BYRNE.
Mr. RICHARDSON.
Mr. MARKEY.
Ms. ENGLISH of Arizona.
Mr. TORRES.
Mr. BEVILL.

SENATE JOINT RESOLUTION REFERRED

Joint resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 153. Joint resolution to designate the week beginning on November 21, 1993, and ending on November 27, 1993, and the week beginning on November 20, 1994, and ending on November 26, 1994, as "National Family Caregivers Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 178. Joint resolution to proclaim the week of October 16 through October 22, 1994, as "National Character Counts Week"; to the Committee on Post and Civil Service.

S.J. Res. 187. Joint resolution designating July 16 through July 24, 1994, as "National Apollo Anniversary Observance"; to the Committee on Post Office and Civil Service.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1758. An act to revise, codify, and enact without substantive change certain general and permanent laws, related to transportation, as subtitles II, III, and V–X of title 49, United States Code, "Transportation", and to make other technical improvements in the Code.

H.R. 3724. An act To designate the U.S. courthouse located in Bridgeport, CT, as the "Brien McMahon Federal Building."

H.R. 4568. An Act making supplemental appropriations for the Department of Housing and Urban Development for the fiscal year ending September 30, 1994, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on Housing Administration, reported that that committee did on the following date present to the President, for his approval, a bill of the House of the following title:

On June 23, 1994:

H.R. 1183. An act to validate conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to the Central Pacific Railway Co.

ADJOURNMENT

Mr. FINGERHUT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 18 minutes a.m.), under its previous order, the House adjourned until Tuesday, June 28, 1994, at 10:30 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3247. A letter from the Comptroller of the Department of Defense, transmitting a report of a violation of the Anti-Deficiency Act which occurred in the Department of the Army, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

3428. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–258, "1425 T Street Co-op Association Equitable Real Property Tax and Assessment Relief Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3429. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–259, "Parental Leave Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3430. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–260, "Pan-Terra Associates Limited Partnership Equitable Real Property Tax Relief Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3431. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–261, "American Architectural Foundation Amendment Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3432. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–262, "Hacker's License Requirements Amendment Act of 1984 Temporary Amendment Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3433. A communication from the President of the United States, transmitting a report on arms control treaty compliance by the successor states to the Soviet Union and other nations that are parties to arms control agreements with the United States, as well as by the United States itself, pursuant to 22 U.S.C. 2592; to the Committee on Foreign Affairs.

3434. A letter from the National Council on Radiation Protection and Measurements, transmitting the 1993 annual report of independent auditors who have audited the records of the National Council on Radiation Protection and Measurements, pursuant to 36 U.S.C. 1103; to the Committee on the Judiciary.

3435. A letter from the Administrator, Federal Aviation Administration, transmitting the report of progress on developing and certifying the Traffic Alert and Collision Avoidance System [TCAS], pursuant to Public

Law 100–223, section 203(b) (101 Stat. 1518); jointly, to the Committee on Public Works and Transportation and Science, Space, and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CLAY: Committee on Post Office and Civil Service. H.R. 4400. A bill to amend title 39, United States Code, to prevent the use of paid confidential informants by the U.S. Postal Service in certain narcotics investigations; to require that the appointment of the inspector general of the U.S. Postal Service be made by the President, with the advice and consent of the Senate; and for other purposes; with amendments (Rept. 103–561, Pt. 1). Ordered to be printed.

Mr. MURTHA: Committee on Appropriations. H.R. 4650. A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes (Rept. 103–562). Referred to the Committee of the Whole House on the State of the Union.

[Submitted June 28 (legislative day, June 27), 1994]

Ms. SLAUGHTER: Committee on Rules. House Resolution 465. Resolution waiving certain points of order against the bill (H.R. 4624) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995, and for other purposes (Rept. 103–563). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MURTHA:

H.R. 4650. A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

By Mr. BRYANT:

H.R. 4651. A bill to require bottled water to meet maximum contaminant levels established under the Safe Drinking Water Act, and for other purposes; to the Committee on Energy and Commerce.

By Ms. FURSE:

H.R. 4652. A bill to establish a Science Start Grant Program, and for other purposes; to the Committee on Education and Labor.

By Mr. GEJDENSON:

H.R. 4653. A bill to settle Indian land claims within the State of Connecticut, and for other purposes; to the Committee on Natural Resources.

By Mr. GREENWOOD:

H.R. 4654. A bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the Medicare Program of drugs approved by the Food and Drug Administration for the treatment of individuals with multiple sclerosis; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. McNULTY (for himself and Mr. Bunning):

H.R. 4655. A bill to amend the Internal Revenue Code of 1986 to exclude length of service awards to volunteers performing firefighting or prevention services, emergency medical services, or ambulance services from the limitations applicable to certain deferred compensation plans, and for other purposes; to the Committee on Ways and Means.

By Mr. SANTORUM:

H.R. 4656. A bill to make the provisions of title IV of the Trade Act of 1974 applicable to Cambodia; to the Committee on Ways and Means.

By Mr. SANTORUM (for himself, Mr. Blute, Mr. Brewster, Mr. Camp, Mr. DeLay, Mr. Hayes, Mr. Herger, Mr. Shaw, Mr. Stenholm, and Mr. Talent):

H.R. 4657. A bill to eliminate certain welfare benefits with respect to fugitive felons and probation and parole violators, and to facilitate sharing of information with police officers; jointly, to the Committees on Energy and Commerce, Ways and Means, Agriculture, and Banking, Finance and Urban Affairs.

By Ms. SHEPHERD (for herself, Mr. Waxman, Mr. Durbin, Mr. Synar, Mr. Meehan, Mr. Barrett of Wisconsin, and Mr. Hilliard):

H.R. 4658. A bill to require the labeling, advertising, and promotion of tobacco products to disclose the additives to and constituents of the products and tobacco smoke, and for other purposes; to the Committee on Energy and Commerce.

By Mr. STUMP:

H.R. 4659. A bill to impose certain requirements on health care liability claims; to the Committee on the Judiciary.

By Mr. McNULTY (for himself, Mr. Fish, Mr. Coyne, Mr. McDade, Mr. Montgomery, Mr. Smith of New Jersey, Mr. Meehan, Mr. King, Mr. Kennedy, Mr. Walsh, Mr. Richardson, Mr. Applegate, Mr. Engel, Mr. Conyers, Mrs. Lowey, Mr. Evans, and Mr. Gilman):

H.J. Res. 383. Joint resolution to designate September 13, 1994, as "Commodore John Barry Day"; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

433. By the SPEAKER: Memorial of the General Assembly of the State of Delaware, relative to Federal taxes; to the Committee on the Judiciary.

434. Also, memorial of the Legislature of the State of Missouri, relative to approval of the National Highway System; to the Committee on Public Works and Transportation.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. GOSS introduced a bill (H.R. 4660) to authorize issuance of a certificate of documentation with appropriate endorsement for the vessel *Smalley 6808* amphibious dredge; to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 488: Mr. Engel and Mr. Lipinski.

H.R. 1164: Mr. Brown of Ohio.

H.R. 1182: Mr. Johnston of Florida and Ms. Furse.

H.R. 1386: Mr. Richardson.

H.R. 2147: Mr. Coppersmith.

H.R. 2292: Mr. Hamburg, Mr. Lancaster, and Ms. Slaughter.

H.R. 2556: Mr. Livingston and Mr. Porter.

H.R. 2708: Mr. Solomon and Mr. Slattery.

H.R. 2741: Mrs. Lowey.

H.R. 2959: Mr. Young of Florida.

H.R. 2985: Mr. Torres.

H.R. 3023: Mr. Volkmer, Mr. Quillen, Mr. Royce, Mr. Hoyer, Mr. Neal of Massachusetts, Mr. Quinn, Mr. Applegate, Mr. Crapo, Mr. Fawell, Mr. Gekas, and Mr. Deutsch.

H.R. 3044: Ms. Cantwell.

H.R. 3269: Mr. Hoagland, Ms. Slaughter, and Ms. Kaptur.

H.R. 3290: Mr. Engel.

H.R. 3293: Mrs. Roukema.

H.R. 3560: Mr. Stump.

H.R. 3633: Mr. Schaefer, Mr. Gallegly, Mr. Huffington, Mr. Schiff, Mr. Moorhead, and Mr. Andrews of New Jersey.

H.R. 3705: Mr. Shaw.

H.R. 3795: Mr. Torkildsen, Mr. Rohrabacher, Mr. Doolittle, Mr. Dornan, Mr. Sensenbrenner, Mr. Beilenson, and Mr. Schiff.

H.R. 3820: Mr. Andrews of Maine.

H.R. 3862: Mr. Johnson of Georgia.

H.R. 3978: Mr. Boehner.

H.R. 4050: Mr. Flake.

H.R. 4051: Mrs. Meek of Florida and Mr. Gonzalez.

H.R. 4057: Mr. Klein, Mr. Linder, Mr. Dickey, Mr. Bliley, Mr. Castle, and Mr. Saxton.

H.R. 4091: Ms. Slaughter.

H.R. 4095: Mr. Goodlatte and Mr. Buyer.

H.R. 4133: Ms. Furse.

H.R. 4142: Mr. Waxman, Mr. Evans, Mr. Wolf, Ms. Woolsey, and Ms. Norton.

H.R. 4158: Mr. Solomon.

H.R. 4189: Mr. Combest.

H.R. 4215: Mr. Fish.

H.R. 4256: Mr. Farr.

H.R. 4260: Mr. DeFazio and Mr. Wynn.

H.R. 4280: Mr. Evans.

H.R. 4345: Mr. Traficant.

H.R. 4375: Mr. Brown of California and Mr. Waxman.

H.R. 4393: Mr. Jacobs and Mr. Hughes.

H.R. 4395: Mr. Filner.

H.R. 4530: Mr. Santorum.

H.R. 4540: Mr. LaFalce, Ms. Furse, Mr. Neal of North Carolina, Ms. Woolsey, Mr. Upton, Mr. Owens, Mr. Hughes, and Mr. Minge.

H.R. 4557: Ms. Schenk, Mr. Packard, Mr. McCandless, and Mr. Castle.

H.R. 4570: Mrs. Thurman and Ms. Roybal-Allard.

H.J. Res. 347: Mr. Fish, Mr. Torres, Mr. McCollum, Mr. Skeen, Mr. Rahall, Mr. de Lugo, Mr. Bliley, Mr. Richardson, Mr. Tejeda, and Mr. Underwood.

H.J. Res. 353: Mr. Bachus of Alabama, Ms. DeLauro, Mr. Darden, Mr. Engel, Mr. Minge, and Ms. Molinari.

H.J. Res. 374: Mr. Frost, Mrs. Thurman, Mr. Lightfoot, Mr. Wise, Mr. Martinez, Ms. Pryce of Ohio, Mr. Greenwood, and Ms. DeLauro.

H. Con. Res. 253: Mr. Thompson, Mr. Deutsch, Mr. Smith of New Jersey, and Mr. Torricelli.

H. Res. 463: Mr. Frost and Mr. Taylor of North Carolina.

EXTENSIONS OF REMARKS

SOCIAL SECURITY AT RISK

HON. JAMES M. TALENT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1994

Mr. TALENT. Mr. Speaker, I rise today to share with my colleagues a thoughtful article on the Social Security Program written by Mr. Charles W. Disbrow, a constituent of mine from St. Louis, MO.

Social Security is at risk. It has certain, fundamental weaknesses built into it. To begin with, it is not based upon the whole truth. It is misrepresented, and we should be clear about how. In these financially strapped times, Social Security is sure to change along with the society it serves. If we understand it for what it is, we can make sure that it is changed for the better.

We are told that Social Security is not welfare, because we pay for it. It is there for us. We have a right to it. This is the beginning of the misrepresentation. It sounds like a savings plan, but it is not. The taxes we pay into it are not saved. They are spent immediately. We are told that Social Security is in surplus. There is no surplus. We are told that Social Security is preserved by a trust fund. The so-called trust fund is an empty account. All of this should be explained.

Social Security was set up to be preserved as a separate entity from the Government. It was to be managed off budget. While its funds were to be collected and disbursed by the Government, its financial standing was not to be compromised by other governmental functions.

Oddly, in the budget prepared by the Government, Social Security receipts and expenditures are commingled with Government operations, exactly the opposite of what was intended by law. Receipts are sometimes identified as being simply "off budget" funds. Since Social Security is running a surplus of almost $100 billion every year, these off budget funds make a significant contribution to our on budget spending excesses. In 1993, $92 billion in revenues were diverted from Social Security to other uses, reducing the deficit from $414 billion to $322 billion. Under present law, those "off budget" revenues were explicitly raised as Social Security taxes to pay for future retirement benefits. They should have been clearly labeled "diverted" funds, not "off budget" funds.

"Wait a minute," one might protest. "Our surplus contributions to Social Security were not spent by Congress; they were deposited in the Social Security trust fund. Our money was invested in U.S. Treasury bonds, the safest investment on the face of the Earth.

It is true that our taxes were invested in Government debt. The budget shows this debt as "trust fund surplus." This is an unconscionable misrepresentation. The proceeds from the sale of the debt—which come from our taxes—were spent, exactly as outlined above. Realistically, instead of showing a surplus in the trust fund for 1993, the budget should more honestly show a deficit. Technically, such honesty could be avoided, because, after swapping our cash for bonds, the Government still had $92 billion in certificates that it had just printed. Purely in theory, and the theory is wrong, these certificates offset the disappearance of the diverted cash.

To account for these new bonds, the budget shows an adjustment in the Federal Funds deficit from $322 billion back up to $414 billion. The implication that any normal person would draw from such accounting is that the Social Security surplus made the debt go up. In fact, had Social Security not been taxed in excess, the Federal funds deficit would have been $414 billion. But because Social Security taxes were excessive, and because the money could be used to pay bills, the deficit was actually only $322 billion. Technically, however, since the Government has chosen to keep track of the Social Security excesses, and since it can stomach calling a debt a surplus, the printing of bonds is required to make the accounts balance. In this sense, the surplus did make the deficit go back up to $414 billion.

The bond certificate had to be deposited as an asset in the trust fund. These assets were obtained simply by increasing the national debt. The bond certificates have no value. They are much like Treasury stock in a corporation, something authorized to be sold at a later date. Until the bonds are sold on the open market, they are a meaningless accounting double-entry of no economic consequence whatever. The asset which the bonds represent is offset by the liability which they also represent. Our Government economists know that it is absurd to think of these bonds as savings.

The simple truth is this: Our Government may be able to deficit spend, but there is no way in the world that it can deficit save. To some, the present method of book-entry bond accounting may have a very worthwhile function: It lets us know how much we were supposed to have saved, but didn't. This is exactly what the Social Security trust fund tells us. They bear little or no relationship to our future Social Security obligations. They are a history of past spending. Today, this trust fund totals $1.104 trillion.

In 1982, Congress increased Social Security taxes to prevent the bankruptcy of the trust fund and to ensure future benefits. This was a cynical deception. Social Security is vulnerable to the truth. Congress will surely face up to it soon. This will put Social Security in play.

In 1994, the essential prize is this: The congressional limit on the national debt is about $4.4 trillion. Congress has reached its limit. Putting Social Security on budget would make it possible to eliminate $1.104 trillion of bogus trust fund accounting, reducing the national debt to $3.3 trillion. Such a move would give Congress another $1.1 trillion for health care, which is within the legislative purview of Social Security as it was originally conceived.

INTRODUCTION OF OHIO POWER LEGISLATION

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1994

Mr. MARKEY. Mr. Speaker, I am pleased to join today, with the gentleman from Virginia, Mr. BOUCHER, the gentleman from Indiana, Mr. SHARP, and the gentleman from Michigan, Mr. DINGELL, in introducing legislation which would protect some 49 million households in 30 States from the threat of excessive utility rates.

In 1935, Congress simultaneously enacted the Public Utility Holding Company Act [PUHCA] and the Federal Power Act [FPA] in response to the myriad of abuses to utility ratepayers and investors that occurred in the 1920s. The SEC was assigned the primary mission of protecting utility shareholders from pyramiding holding company structures, self-dealing transactions that benefitted utility officers and directors at the expense of the shareholders, and fraudulent and deceptive financial reporting. The FERC and its predecessor agency was assigned the primary Federal role in protecting captive utility ratepayers from having to foot the bill for excessive charges resulting from interaffiliate transactions. The States, in turn, retained authorities to develop and enforce integrated resource planning regulations.

The court's decision in the *Ohio Power* v. *FERC* case, 934 F.2d 779, D.C. Cir. 1992, severely impacts the ability of FERC and the States to effectively regulate the rates charged by registered public utility holding companies. On May 26, 1994, the Subcommittee on Energy and Power, on which I serve, held a hearing to examine the consequences of the Ohio Power decision. This hearing clearly demonstrated the need for a legislative remedy to assure that captive utility ratepayers were not forced to pay higher electricity bills because FERC or the States were prevented from taking action to protect them from the effects of imprudent or abusive affiliate transactions.

As chairman of the Telecommunications and Finance Subcommittee, which has jurisdiction over the SEC's administration of PUHCA, I have been particularly concerned about the impact of the Ohio Power decision, since the SEC lacks the resources or the statutory mandate to take effective action to regulate wholesale or retail rates charged by public utility subsidiaries of a registered electric utility company.

I believe that this legislation provides an effective remedy to the regulatory gap opened by the Ohio Power decision, and I look forward to early action on this important legislation.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

TRIBUTE TO LAUREL MUTTI

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1994

Mr. SHUSTER. Mr. Speaker, I rise today to congratulate Laurel Mutti of Alexandria, PA on being selected by the U.S. Bureau of Mines and the American Zinc Association as the winner of the National Student Zinc Essay Contest for grades 7 to 9.

Laurel has written an extraordinary essay, especially when one considers that she is only in the 9th grade. Her work shows insights into her subject matter and solid command of the English language. I would ask that all of my colleagues join me in offering a warm congratulations to Laurel for her excellent work.

Mr. Speaker, at this time I would also ask that Laurel's essay be reprinted in the CONGRESSIONAL RECORD so that all of my colleagues will have access to her fine work.

ZINC

(By Laurel Mutti, Grade Nine, Alexandria, PA)

A few months ago, I knew practically nothing about zinc. I knew of its existence and had a vague awareness that it was useful industrially, but I had no idea of the many ways in which I depended on it every day. And my ignorance is not surprising, either. Zinc is not very obvious if you don't know how and where to look for it. Some zinc is on things, covering steel with a protective coating, but most of us do not recognize galvanized steel. And a lot of zinc is in things, such as die cast parts inside a car. Still more zinc is part of compounds or alloys. Such as brass, which we usually think of as distinct substances. Often zinc is not in things at all but important in making them. Much zinc is hidden from our view, and that which isn't is not usually notable by itself. But zinc is important. It shouldn't be taken for granted.

Once I learned something about zinc, though, I started to see it everywhere. It's kind of like when you find a new word and all of a sudden you start seeing it in everything you read. But that's partly an illusion. Zinc really is everywhere. for example, here's what I did last weekend.

On Saturday, I went with my family to a "sugar bush" to do maple sugaring. We drove there in our pickup truck; Automobiles contain lots of zinc. The underside and chassis where the truck isn't painted are often galvanized. Many of the engine parts are die-cast from zinc. And the rubber which makes up parts as diverse as tires, hoses, and windshield gasketing is treated with zinc oxide.

Maple sugaring is a very old process; the Indians did it long before colonists even arrived in America. Modern sugaring, though, uses new equipment. The Indians collected their sap in wooden troughs, but today we use galvanized steel buckets. This particular Saturday we were actually closing up the sugar bush for the season. We were going to collect, clean, and put away the buckets.

We took the sugar bush tractor down the sap road to collect the buckets. Like the truck, the tractor also had die-cast zinc parts, galvanized parts, and rubber tires. The collecting wagon had rubber tires, too, and we were wearing rubber boots to keep our feet dry. My sister was also wearing jeans, which had a brass zipper and brass rivets. Brass is an alloy containing zinc.

The buckets hang on the maple trees throughout the sugaring season, which can be as long as six weeks. They are usually rained on and snowed on many times, and as well as being wet on the outside, they are wet on the inside from holding the sap. If they were not galvanized, they would rust through in a few seasons. Obviously they would leak sap, but they would also be very expensive to replace. This season, about three hundred buckets were used.

When we had collected the buckets we had to wash them and stack them inside the sugar shack. The first step to this process involved scrubbing them. There was a spinning brush hooked up to an electrical motor that made this easier. The motor had a rubber drive band to turn the brush. The next job was rinsing the buckets with a hose. The hose was connected to the plumbing at the house, which had galvanized steel pipes to carry the water. Then the buckets could be stacked inside the sugar shed where they would be protected by a galvanized steel roof.

Then we took a break for lunch. We had whole wheat toasted cheese sandwiches. Cheese and whole grains are both good dietary sources of zinc.

When we resumed work we scrubbed out the holding tank where the sap is stored until it is boiled inside the sugar shack to make syrup. This too was galvanized steel.

We drove home again in the truck. On the way we stopped to buy chicken for supper, another good dietary source of zinc. We got some pennies back with our change. "Copper" pennies are really zinc covered with copper.

In the evening, after our meal of chicken, my grandfather called from Maine about visiting us next month. The telephones we used had die-cast zinc parts.

On Sunday morning I had a shower. The water for my shower came through galvanized steel pipes, and the showerhead was made of brass. The electricity which heated the water came over electrical lines on huge galvanized steel transmission towers. The soap and shampoo I used probably contained zinc; many do because zinc is effective at fighting bacteria.

On Sunday afternoon, we drove to a friend's house. He, my father, and I am part of a contra dance band, and we practice every Sunday afternoon. One of the instruments my father plays is an auto harp, and it has brass wound strings. The accordion I play has brass reeds. We all used photocopied sheet music. Photocopying machines use zinc oxide.

When we got home, we walked down to the bridge to look at the river, which was flooded. The snow had melted away from the galvanized guardrails at the edge of the road, and early spring plants were beginning to come up, drawing from extra zinc reserves in their roots and seeds.

On Sunday evenings, our family has a tradition of eating popcorn. We often also have apple slices with peanut butter. Both popcorn and peanut butter are good dietary sources of zinc, which tends to be concentrated in nuts and seeds.

Zinc is truly everywhere around us. Even the computer I am using to type this essay contains die-cast zinc parts. It is one of the most useful and versatile substances we have.

Historically, zinc's first use was in brass, first developed by the Romans around B.C. 200. Even after iron came into use, brass was the metal of choice for durable tools and weapons. It took part in the immense conquest and expansion of the Roman empire, which spread throughout Europe, Egypt, and the Middle East. The Romans did not however produce zinc as a free metal. This was first done in India and China about A.D. 1000. In the 1730's Europeans learned how to produce zinc from ore by distillation, which they had previously imported to meet the limited needs of their industry. The U.S. government built this country's first zinc furnace in 1834 at the Arsenal in Washington, D.C. for the production of brass (Wolfe, 1984, p. 1886).

Zinc today has many industrial uses. Its main use is in galvanized steel. The zinc coating on the steel keeps it from rusting and thus prolongs its usefulness. Its next major use is in die casting, the making of precision parts, such as those in automobiles, in a mold. Its third major use is in the alloy brass (Wolfe, 1984, p. 187). Zinc oxide is used in the rubber industry, photocopying, chemicals, ceramics, agriculture and paints. Its white color makes it a useful pigment in paints and cosmetics. Another zinc compound, zinc sulfate, is used in agriculture, rayon, flotation reagents, and chemicals (Minerals Yearbook, 1974, p. 1371).

Galvanizing is the largest use of zinc. Galvanized steel has a layer of zinc on it. The zinc covers the steel and prevents it from oxidizing (rusting) and corroding. Any steel tool or structure designed to be used outside, from garbage cans to suspension bridges, must be covered by some substance or it will soon rust out. While paint is often used, zinc remains the best metal for galvanizing, and the best steel protector in general. Galvanized steel is everywhere: from construction equipment, to water pipes, to signposts, to garage roofs. Steel is one of the best building and tool-making substances mankind has, but it is dependent on the protection of zinc. Much of what we depend on steel for, we also depend on zinc for.

We are also dependent on many machines requiring precision parts. Our automobiles are a major example of this, but zinc components are also used in telephones, computers, tape recorders and many household appliances. It even shows up in many toys. These parts are die-cast, or made by pouring molten metal into a mold. Zinc is usually the metal used.

Brass, too, contains zinc. This alloy of zinc and copper has many uses of its own, including hardware, electrical and plumbing components, metal decorations, musical instruments, and inexpensive jewelry. There is another zinc alloy called galfan (90% zinc, 5% aluminum, and rare earths) which outperforms galvanized steel, but is also more expensive (Kesler, 1994, p. 219).

Zinc production and demand has increased. Presently nearly half of all zinc is used in galvanizing. The use of galvanized steel in automobiles has quadrupled since 1980 (Kesler, 1994, p. 219). Another substantial share of zinc, 32% in 1984, is used in die-casting. That share has decreased in the years since as automobile manufacturers have sought lighter-weight components, such as those made of plastic (Wolfe, 1984, p. 187). So while zinc has lost some use in die-casting for automobiles, it has recovered by increased needs for galvanizing.

Where does zinc's future lie? Its usefulness in die casting and rust protection have tied it particularly to the automobile industry. Zinc holds continued promise to this industry as a component of nickel-zinc batteries, which may be used to power the electric "cars of the future". It still remains the best metal for galvanizing steel. Zinc is also such an inexpensive metal to produce that substituting other metals for it with a higher price per pound is only feasible when they have superior qualities, (Wolfe, 1984, p. 189). Given current heavy demand for zinc, another useful characteristic of this metal is that it can be recycled. More than one-third of the zinc we use is produced from recycled materials ("Zinc: Essentially Everywhere")

While we depend greatly on zinc for its usefulness in our industry, it also is so invaluable to our bodies that we depend on it for our very survival. Although zinc is used by the body in very small amounts it is nevertheless essential. Like other trace elements, its function is not that of making up the molecules of protoplasm, which "bulk" elements such as carbon and hydrogen do. Rather, zinc is part of many enzymes, as well as the nucleic acids, those string like macromolecules which contain all the information that allows cells to multiply, repair themselves, and obtain nutrients.

Zinc has some special chemical properties that make it so valuable to the cell. In cells, zinc takes the form of an ion (electronically charged particle) with a positive charge of +2. In fact, most of the major trace elements essential to the body are +2 ions, so zinc is in the right group. Ions with a charge of +1 don't have enough charge to serve as catalysts for most reactions, and +3 ions tend to become surrounded by negatively-charged ions and are unable to "escape" to participate in reactions. Most of the enzymes in living organisms require +2 ions. Among the +2 ions, zinc is the only one which can fit into certain geometric shapes in the structures of some groups of enzymes. Zinc is also useful as a "control" ion; it binds onto other ions and keeps them from reacting until they are needed (da Silva and Williams, 1991, 300–311).

Carbonic anhydrase is an example of an essential enzyme with zinc as its active component. It catalyzes the splitting of carbonic acid into water and carbon dioxide and vice versa. In animals, this enzyme is responsible for the rapid removal of carbon dioxide from the blood, and without it, the entire respiratory process would be slowed by the accumulation of wastes, or would require a much larger lung surface to achieve the same results. In plants, this same zinc-based enzyme functions to convert carbon dioxide to carbonic acid so that carbon dioxide, which is present in the air at very low concentrations can be absorbed more readily. Carbon dioxide is, of course, used in photosynthesis, the process by which plants build their food. Since all animals and other organisms are dependent on plant-made food or those who consume it, zinc affect the entire food chain (Shutte, 1964, p. 25).

As well as its key role in enzymes, zinc is a component of DNA and RNA. These molecules inside the nuclei of cells are the carriers of heredity. They contain all the information cells need for building proteins and enzymes and the structures the cells need to survive. Different parts of the molecules code for different things, and not all of the genes are actively coding in this manner at any given time. The "switches" which are responsible for turning genes off and on and hence regulating the timing and production of different substances contain zinc as their key component (da Silva and Williams, 1991, p. 306).

Zinc also has many roles in body tissues. It is crucial to the immune system. It detoxifies alcohol in the liver. It is used in the oil glands of skin, and the taste buds in the mouth. Its role in the nucleic acids gives it a profound effect on the healing of wounds, the prevention of cancer, and the general health of the body. Zinc fights bacteria, an individual function inside our bodies which is also taken advantage of for external healing ointments. It is also crucial to reproduction. The seeds of plants contain high levels of zinc, and so do animal reproductive tissues (Somer, 1992, p. 116).

Many of our food dietary sources of zinc are "seed foods", such as nuts and wheat germ. Whole grains are also good sources, but they must be leavened in bread. Similarly, milk products are a good zinc source. Oysters, seafood and lean meats are also high in zinc. The recommended daily allowance for zinc is 15 milligrams (Somer, 1992, p. 117–118). Many of our favorite foods, such as citrus and pecans, while not major zinc sources for us, depend on large amounts of zinc in the soil for proper growth. Zinc's role in photosynthesis, of course, ties it to all our food. Life as we know it could not exist without this essential element.

Zinc touches our lives in so many diverse and unique ways. From diving suits to soap to erasers to automobiles, from computers and trumpets to the lines which carry our water and electricity, zinc is all around us. And inside us, zinc is helping carry out the body processes we need to survive. Zinc is truly essential, and essentially everywhere. I suspect there may even be traces of zinc in maple syrup. Yum!

ROADLESS AREAS IN NATIONAL FORESTS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1994

Mr. BROWN of California. Mr. Speaker, I rise today to give my support to the Appropriations Committee's recommendations to the Forest Service on policy regarding roadless areas in our national forests. At a time when the Congress is facing tightening budget constraints, it is irresponsible to continue to ask the public to subsidize new road construction in the roadless areas of our national forests.

I recently joined 56 of my colleagues in sending a letter to Chairman SIDNEY YATES urging the Subcommittee on Interior Appropriations to provide a 1-year moratorium on entry into roadless areas of the national forests by the Forest Service in the fiscal year 1995 Interior appropriations bill. While unfortunately, this recommendation was not adopted, it is encouraging that the committee has recognized the need to curb additional road building in areas that have not already felt the damaging effects of such a disturbance by expressing their concern formally within the context of the bill's report language. The National Forest System already contains over 350,000 miles of roads, roughly eight times more than the Interstate Highway System.

Environmentally, roadless areas are extremely valuable in preserving ecological diversity and contributing to an overall healthy ecosystem. Roadless areas provide contiguous wildlife habitats that allow small animals easier and unrestricted movement across ecosystem boundaries. Construction of roads inevitably results in the alteration of watershed hydrology and in increased rates of soil erosion. Particularly in areas with steep terrain and shallow, erodible soils, these sediments fill streams and imperil native fish and other aquatic life. This in turn threatens commercial and recreational fishing industries that, in the Pacific Northwest alone, supply over 60,000 jobs.

Economically, road construction in our National Forest System is a burden to the U.S. taxpayer. Roadless areas have less timber relative to other lands and are associated with higher logging costs. Millions of dollars could be saved annually by reducing or restricting road construction in the roadless areas of the national forests due to the fact that the economic costs of building and maintaining logging roads often exceed the proceeds from timber sales that take place in these remote areas.

I thank the committee for their consideration of this issue and support their recommendation to the Forest Service to refrain from building roads in now roadless areas of our national forests.

REMARKS BY SECRETARY CHRISTOPHER: RUSSIA JOINS PARTNERSHIP FOR PEACE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1994

Mr. HAMILTON. Mr. Speaker, on June 22, 1994 Russian Foreign Minister Kozyrev signed the Partnership for Peace Framework Document at the North Atlantic Council meeting in Brussels.

I would like to bring to the attention of my colleagues Secretary Christopher's remarks on that historic and important occasion. The text of his remarks follows:

REMARKS BEFORE THE NORTH ATLANTIC COUNCIL

NATO HEADQUARTERS, BRUSSELS, BELGIUM—JUNE 22, 1994

(By Secretary of State Warren Christopher)

Mr. Deputy Secretary General, it is a great pleasure to join our NATO colleagues and Foreign Minister Kozyrev to mark this historic occasion, and to welcome Russia as the newest member of the Partnership For Peace.

Our meeting today is a powerful expression of Europe's remarkable transformation. Who could have imagined even a few short years ago that after forty years of bitter confrontation across the Iron Curtain, a newly democratic Russia and this alliance would join in a partnership of cooperation. Within our grasp lies the historic opportunity to build an undivided peaceful and democratic Europe. That is the dream that has animated this alliance and my country for more than four decades. That is the vision that President Clinton set forth when he proposed the Partnership For Peace. And that is the goal that the United States remains fully committed to achieving.

Today, as Russia joins the partnership, we take a major step toward building the bonds of cooperation that can secure the peace of a broader Europe. As an alliance, we are reaching out to Russia's Government and its military to establish a new, more constructive relationship. But no less important—as the alliance has done with other European neighbors—we are extending a hand of friendship to the Russian people.

Russia is and will remain a country of immense importance to the rest of Europe and the world. Its efforts to build democratic institutions and a market economy have profound implications for European security. A broad and constructive NATO-Russia relationship will serve the interests of this alliance. It will serve Russia's interests. And it will serve the interests of all the nations of Europe—particularly those that so recently won their freedom from Communist rule.

The partnership for peace is central to NATO's relationship with Russia. We also look forward to constructive dialogue and cooperation to supplement the partnership in areas where Russia has unique and important contributions to make. At the same time, President Clinton will continue to work closely with President Yeltsin to build a strong and cooperative United States-Russian bilateral relationship in the interests of both our peoples and the world.

Other European states may also have interests or capabilities that would warrant "sixteen plus one" consultations outside the partnership. We should welcome these possibilities. As NATO promotes security and stability in Central and Eastern Europe, that too will benefit all European Nations—including Russia.

Russia's accession to the partnership for peace is reflection of the policy of extending to the East the institutions that have allowed the West to achieve unparalleled security and prosperity. Two weeks ago in Paris, Russia signed a cooperation agreement with the OECD. In two days in Corfu, President Yeltsin will sign an agreement with the EU that will open European markets to many Russian products. And next month in Naples, the G-7 will welcome President Yeltsin for broad political consultations.

By widening the reach of the great postwar security and economic institutions, we can help ensure that war, poverty and oppression never again engulf this continent. We are committed to working for an integrated Europe where sovereign and independent States need not fear their neighbors.

Today we are taking another decisive step toward banishing Europe's historic divisions. We are building a security partnership that has the potential to encompass all the nations of the continent. With Russia's action, 21 countries have now joined the Partnership for Peace, several have already entered close consultations with NATO to develop individual partnership programs, tailored to their unique capabilities and interests. By this fall, joint exercises will commence, with Poland hosting the first exercise on the soil of a partner country. In this way, the partnership will build the habits of cooperation that are the lifeblood of the alliance. It can thus pave the way for NATO's eventual expansion.

We cannot build the Europe we seek without a strong NATO alliance. We cannot build it without a democratic Russia. We cannot build it without the nations of Central and Eastern Europe. The "best possible future for Europe," which President Clinton invoked at the January summit, depends on all our nations working together in pursuit of common security interests and democratic ideals. That is the purpose of the partnership, and it is the spirit in which we welcome Russia as a partner today.

REMEMBERING THE WAR IN THE WESTERN PACIFIC

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1994

Mr. DE LUGO. Mr. Speaker, last week, I took the floor to express concern about the administration's lack of response to the Delegate from Guam's efforts to have the sacrifices of the Marianas campaign of World War II properly honored on their 50th anniversary.

I urged that there be top representation at the commemoration he organized at Arlington National Cemetery and high-level participation in the ceremonies remembering the battles for Guam, the Northern Marianas, and Palau.

I am now pleased to report that the Secretaries of the Navy and the Interior spoke at the services at Arlington in which Congressman UNDERWOOD was joined in arranging by resident representative Babauta of the Northern Mariana Islands. The Commandant of the Marine Corps will go to the battle sites for the observances there.

I feel strongly about remembering the suffering that the people of Guam endured during the occupation of their island by the enemy because it was so great, because they so defiantly maintained their loyalty to the United States throughout their oppression, and because issues relating to that history still have not been fully resolved.

These issues have included the military's continued control of much more of the island than it needs to and the lack of recognition of the heroism and the heartbreak of Guamanians while captives of the enemy.

Our new colleague from Guam is having notable success in addressing this situation.

We have passed a bill to require that title to thousands of acres of land be transferred to the territory.

He is conducting a series of conferences on the Federal control of land issue that have found the military willing to give up thousands of acres more.

Guam's united leaders persuaded the Base Closure Commission that facilities on the island should be considered, freeing up valuable property needed for development by the airport named for Guam's great first Delegate, A.B. Won Pat, who began many of these efforts.

A monument paying tribute to all who sacrificed on Guam during the war is being constructed at the War in the Pacific National Park.

Finally, I also want to note the reasons to also acknowledge what the peoples of the Northern Marianas and Palau went through during World War II.

Their islands were controlled by Japan before the war; but not by their choice. Their islands were also the site of some of the bloodiest battles of the war; and they were caught in the middle. And the war also resulted in a relationship with our nation which led them to choose to unite with our country in the case of the Northern Marianas and to more freely associate with us in the case of Palau, relationships which are to the benefit of both them and us.

HONORING RYAN PATTERSON

HON. KARAN ENGLISH

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1994

Ms. ENGLISH of Arizona. Mr. Speaker, I rise today to honor Ryan Patterson of St. Johns, AZ. Ryan is a winner of the Asthma Athlete Scholarship. This scholarship program is a national competition designed to underscore the fact that asthma need not impede a student's quest for athletic excellence. Ryan was 1 of 10 students selected from 10,000 high schools across the country.

Ryan is an outstanding role model as illustrated by his accomplishments. Ryan competes in football, basketball, and track and has numerous championships and awards to his credit. He was named All-State and All-Conference in football, lead his team to the 1993 Arizona State 2A football championship, and was named 2A North Region Basketball Player of the Year for the 1993–94 season.

Ryan's accomplishments do not end on the field. Ryan's name is always on his school's honor roll. He is listed in "Who's Who Among American High School Students" and led St. Johns to victory in the Arizona State Academic Decathlon as the Highest Scoring Team Class 2A.

Ryan's goal is to become a physician. He says, "In this pursuit, the challenge I faced with asthma will help me to have compassion for those I treat." Ryan's message to young people is heartfelt and relevant to us all, "* * * the disease isn't a handicap and it isn't an excuse not to succeed."

I congratulate you Ryan, on your outstanding achievement. Thank you for being an inspiration to us all. I am proud to represent you.

HEALTH CARE REFORM

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1994

Mr. COLEMAN. Mr. Speaker, I rise today to decry the new Republican obstructionism that threatens to derail serious efforts to enact health care reform.

Last week, the Republican minority whip—the next minority leader—told a major newspaper that he had instructed members of his party to block any attempt to move even the most modest health care reform legislation to the floor.

The Republican minority leader in the other body followed up with his own threat to block all legislation important to the American people—including health care reform—unless Democrats in the Senate agreed to expanded hearings on Whitewater to accommodate their partisan witch hunt. The minority leader even criticized moderates in his own party for working on a health care compromise with Democratic colleagues. And finally, he asked for more time to complete a Republican health care reform measure here in the 11th hour of attempts to enact a bill.

Prior to these incidents the former Vice President and his former chief of staff publicly urged Republicans to refuse to participate in developing a health care reform package that will assure every American of affordable coverage that can never be taken away. They said Republicans could gain politically by killing health care reform legislation this year.

Mr. Speaker will our colleagues in the Republican Party, the masters of gridlock, never learn? Do they still not understand that President Clinton and this Congress were elected by the American people to act, not to stall and construct obstacles to real reform? And make no mistake, the Republicans in this body seek to delay and obstruct for partisan advantage. They offer no health bill of their own. They offer no compromise. They only offer obstruction and delay.

This Congress must act now. If we must do so without the participation of the Republicans, then so be it. Our worsening health care crisis requires that those of us who want to fix this system work together to cut costs and red tape and make health care available to all.

The number of uninsured now threatens to climb beyond 40 million Americans, up almost 10 percent in the past year. The ranks of the uninsured are growing even as the economy expands and good jobs become more plentiful under Clinton administration policies which were also roundly criticized and opposed by Republicans in both chambers. The growing number of the uninsured in an economy vastly improved since the departure of the Bush administration, is evidence that the system will not fix itself. We the U.S. Congress must put the health care needs of America before partisan political advantage.

With every month that passes due to inaction, another 100,000 Americans join the ranks of the uninsured, placing in jeopardy their homes and their future livelihood if a family member should become seriously ill or be injured in an accident.

In El Paso, thousands of children go everyday without the most basic preventive health care coverage. These children should not suffer another day because the Republicans Grand Old Party is holding out for some hoped for political advantage. The working people of this country who go without health coverage every day have been pushed aside by the Republican Party in pursuit of its own partisan interests.

I applaud President Clinton's resolve and courage in demanding universal coverage for all Americans. To cave in to the wanton political gamesmanship of Republican health care reform opponents would be a great disservice to this country and to the voters who placed their trust in President Clinton to fix this broken health care system.

The time is now for those of us who truly want to fix this system, this year, in this Congress to rise up and speak out. We must not let partisan calls for inaction carry the day against the very real needs of millions, upon millions of Americans. This Congress has shown the resolve to make tough decisions on behalf of the American people. In spite of Republican naysayers who paid lip service to Government economy for 12 years without doing a thing about it, this Congress chose to act on real deficit reduction. As a result, the Congressional Budget Office reports the deficit will again plummet by $55 billion this year. Let us not surrender that resolve in the face of this partisan political opposition to real health care reform, which is, of course, what our constituents want and deserve.

REV. MOSES GENERAL MILES, PUBLIC SERVICE ROLE MODEL, FRIEND OF STUDENTS, LOYAL FAMUAN.

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1994

Mrs. MEEK of Florida. Mr. Speaker, I rise today on a point of personal privilege, to honor a distinguished public servant from my home State of Florida, the Reverend Moses General Miles, who on July 8 will retire as president of the Florida A&M University [FAMU] Foundation.

Although Reverend Miles is a Floridian, through his work with and for the students at Florida A&M—he served as director of men's personnel, commandant, dean of men, mathematics instructor, director of public relations, director of student activities and dean of students—he has touched and influenced the lives of many throughout this Nation. A 1941 Florida A&M graduate, Reverend Miles has long been recognized as a catalyst for change that has resulted in the overall improvement of the quality of life for young people, their organizations and activities. He was the students' greatest advocate and disciplinarian.

A molder of men, Reverend Miles served as a role model for generations of FAMUANS from Charlie Manning to Bernard Hendricks to Charles Hobbs to the 1993 student government president, Roderick Stovall. Some 24 years after his retirement from the University, Reverend Miles continued to shape and mold the character of FAMU students. He took ordinary boys and girls and made strong women and men. He stressed duty, honor, courage, leadership, and service. He continues to be an immutable force whose exacting standards demand the best of all who come in contact with him.

A stern disciplinarian, he could never hide his love for the students he taught and counseled. No student anywhere had a stronger, more vocal advocate than Reverend Miles.

In times of crisis, FAMUANS everywhere have gained strength from his leadership and dogged determination. When some made omnious threats to merge FAMU, Reverend Miles made his now famous dictum:

> If anyone be he or she great or small, governor or legislator, administrator or faculty, staff or student, alumni, friend or foe, endeavor to do anything to keep FAMU from moving upwardly and onwardly toward achieving true greatness, let his or their right hand forget its cunning and his or her tongue cleave to the roof of his mouth. For FAMU must live on!

For more than four decades, Reverend Miles has waged a constant war against ignorance, hunger and bigotry. He has fought for the underprivileged and founded a home for the sick and brought hope to those in despair.

As President of the FAMU Foundation, Reverend Miles accepted the responsibility of helping the University build its endowment fund into one of the largest among the 107 historically black colleges.

A true servant of God, Reverend Miles, pastor of the Philadelphia Primitive Baptist Church in Tallahassee, recently retired as president of the Florida State Primitive Baptist Convention, a post he held for three decades. He also funded the Miracle Hill Nursing Home and the Primitive Baptist Church Camp.

Mr. Speaker, Reverend Miles is a public service role model, a beacon of light and hope, and a national treasure. Because he has lived a life of service to others our country is a better place to live.

CRIME DOES PAY

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1994

Mr. SHAW. Mr. Speaker, as we undertake the monumental task of welfare reform, I would like to call to Congress' attention an outrageous example of bureaucratic waste and inefficiency. As we speak, felons throughout the country who have skipped bail, violated parole or probation requirements, or have outstanding warrants for their arrest continue to receive welfare benefits.

The same system that doles out these benefits helps keep the criminals from being apprehended. Federal law prevents government agencies from sharing a welfare recipient's address with the police. In America, a felon running from the law can have his cake, and may eat it in freedom too.

We need to define what a "fugitive felon" is and establish a basis for much needed information sharing. This unbelievable situation can be remedied by a proposal to this effect by Congressman SANTORUM, which I urge all Members to support. With it, we can help get many fugitives off the lam and off the dole.

IN RECOGNITION OF JIM WALTON

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1994

Mr. DE LUGO. Mr. Speaker, I rise to recognize an outstanding individual and to express my appreciation of a real friend of the Virgin Islands, James C. Walton.

Jim Walton is the U.S. Postal Service's New York metro area manager, customer service and sales, and now is the top official directly responsible for postal services for the people of my district, the U.S. Virgin Islands.

His keen interest, in-depth knowledge and understanding, and strong support have been largely responsible for bringing substantial improvements in postal operations in the U.S. Virgin Islands.

Jim Walton is a 31-year veteran of government service. He was district director of mail processing in the districts of Long Island and

New York, and general manager of the Kennedy International Airport mail facility. He has served as Northeast regional director of mail processing and the general manager/postmaster of the Newark and Florida divisions. He led mail distribution in south Florida in the aftermath of Hurricane Andrew and did an extraordinary job that brought him well-deserved national recognition.

I have known and worked with Jim Walton for almost a decade, beginning back in 1984 when I was a member of the Post Office and Civil Service Committee and he was appointed by the Postmaster General to head up a task force that I requested so we could bring much needed improvements to postal operations in the Virgin Islands.

Jim recognized that we had real challenges in the logistics of delivering the mail, both within the islands and off-island. He also realized that our facilities were substandard and needed to be upgraded.

Over the next 10 years, we took on an ambitious modernization program for all three islands. On St. Thomas it included the complete renovation of the Veterans Drive Station in Frenchtown and creation of a new airport sorting station to speed up delivery on all three islands. Earlier this month, a new post office was opened to serve residents of the island's east end.

On St. Croix the Kingshill Station was modernized, the new Gallows Bay Station was built, Sunny Isle was expanded, and the Richmond Post Office was renovated. On St. John, the Cruz Bay Post Office was expanded, doubling its size.

Just 2 weeks ago, Jim Walton instituted a restructuring in Virgin Islands postal operations that I had long pressed the Postal Service to put in place, by removing the Virgin Islands out from under Puerto Rico and placing us directly under his office. He also formalized the reporting system that Virgin Islands postmasters follow.

Now, the Virgin Islands has the direct attention of a man who has an in-depth knowledge and understanding of our operations.

Jim Walton has the ability to assess problems, develop solutions, and implement them. He also recognizes that the post office is, in fact, the Postal Service. Its customers and its employees are people in whom he takes a genuine interest.

There are times when one person can make a real difference in the lives of many, and Jim Walton is one of them.

Today, Mr. Speaker, I recognize Jim Walton and I commend him for all he had done on behalf of the people of the Virgin Islands.

THE FEDERAL HEALTH CARE LIABILITY REFORM ACT OF 1994

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1994

Mr. STUMP. Mr. Speaker, today I am introducing legislation to establish fundamental tort system reforms. These reforms could be passed immediately and provide relief for mounting health care costs, even if other health system reforms are never enacted.

This legislation will: set a $250,000 cap on noneconomic and punitive damages; eliminate the collateral source rule that allows for double recovery; abolish joint and several liability, so only defendants who are actually at fault are liable; require periodic payment of damages over $50,000 as opposed to lump-sum payment; limit attorneys fees to 25 percent of the first $100,000 and reduce the allowable percentage as the award increases; establish a 1 year reasonable discovery rule and 3 year statute of limitation with special exceptions for minors; and require pretrial dispute resolution to encourage reasonable settlement.

Our current medical malpractice system is not effective in compensating injured individuals or at improving the quality of health care. It is a system with powerful incentives for wasteful spending. Plaintiffs are allowed to sue even if the facts do not merit a lawsuit, and cash payments of 3 to 4 times claimants' medical bills are awarded. The median verdict in medical liability claims was $150,000 in 1989, $450,000 in 1991, and jumped to $646,487 in 1992. The General Accounting Office reported that over half of total health care liability costs are spent defending against claims that result in no payment. A Rand Corp. study found that 57 percent of money spent in health care liability litigation never reaches injured patients.

Physicians and hospitals are forced to provide care, not for the well-being of the patient, but to protect themselves from lawsuits. Our physicians are the best trained and equipped, yet they are also the most often sued. Claims against doctors rose from 2 per 100 in the 1960's to 16 per 100 in the late 1980's. Physicians, fearing malpractice suits, are increasingly opting out of high risk specialities and medicine altogether. Those hurt most are disadvantaged pregnant women, rural communities, and senior citizens.

Medical malpractice liability adds at least $15 billion a year to the cost of health care, according to a recent study by the Competitiveness Center of the Hudson Institute. It is driving up the cost of treatments, services, medical devices and pharmaceuticals, and inhibits research and development of new product. It is a detriment to patients, providers and taxpayers, and if we allow medical malpractice suits to continue unrestrained, medical care will continue to become more expensive and there will be less access to care.

REGARDING H.R. 3626 AND H.R. 3636

HON. JIM NUSSLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1994

Mr. NUSSLE. Mr. Speaker, my colleagues on the Energy and Commerce Committee and the Judiciary Committee have been working very diligently over the past year and one-half to determine the Nation's communications policies for the 21st century. While the Communications Act of 1934 has been successful in many instances, it is evident to me this law needs to be updated to reflect the recent technological advancements in the communications industry. And I commend the members who serve on the Energy and Commerce Committee and the Judiciary Committee for their efforts to determine reasonable policies to reflect the recent changes in the industry.

The Energy and Commerce Committee approved two bills earlier this year: H.R. 3636, addressing the long distance and manufacturing restrictions on the Bell breakup agreement, and H.R. 3636, dealing with competition in the cable television and local telephone markets. The Judiciary Committee approved a slightly different version of H.R. 3626, and it is my understanding a compromise version of this legislation has been agreed to by both committees.

While I am pleased the House is scheduled to debate and vote on these pieces of legislation tomorrow, I want to pause for a moment at the outset of consideration of these bills by the full House of Representatives to raise an important issue which we should keep in mind throughout the debate on these bills. These bills are intended to promote competition and stimulate investment. While some regulatory oversight is needed over the new policies, it seems to me the bills should not be inundated with unreasonable regulations and requirements of the Federal Communications Commission and/or the Justice Department.

Increased competition in the telecommunications industry will lead to lower prices and more choices for consumers. Most importantly, rural areas will be better served if there is more competition in the industry. It seems to me the best way to foster more competition to lower prices, increase choices, and improve service to consumers is to minimize, to the extent practicably possible, regulatory requirements and bureaucratic red tape facing the industry.

I look forward to the debate that will ensue on these bills. And I am hopeful Congress will shape communications policies for the 21st century without imposing unnecessary regulations and bureaucratic red tape.

HONORING FRANK R. DUARTE IN RECOGNITION FOR HIS OUTSTANDING DEDICATION TO THE LATINO COMMUNITY

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1994

Mr. TORRES. Mr. Speaker, I rise to commend a special individual, dedicated community leader, and a dear friend, Frank Duarte, a gentleman affectionately known as the elder of east Los Angeles.

Born in 1910, in Chihuahua, Mexico, at a time of intense civic turmoil, Frank has lived to tell the history of both his adopted country, the United States, and his native Mexico. In 1911, his family emigrated to the United States, fleeing the Mexican Revolution. Frank's father, working on the railroads, eventually brought his family to Los Angeles, where they lived for 9 years before returning to Mexico. An event that left a lasting impression on Frank occurred at the tender age of 13, when he witnessed the death of Mexican Revolution hero, Pancho Villa, on July 20, 1923.

A year later, the Duarte family again moved to Los Angeles, living near Union Station. Having completed his high school education and needing to help his mother raise his younger siblings, Frank took odd jobs in construction and at a paint factory. During the Great Depression, Frank worked at a hosiery plant, where he became a union organizer, strongly advocating for his fellow workers. This was the beginning of the community leader we know and admire today. A man, who for more than 55 years has dedicated his life to the betterment of the Latino community as adviser, counselor, peacemaker, networker, innovator, and friend.

As a senior community relations liaison for the Los Angeles County's Department of Health Services, Frank has been one of the strongest advocates for affirmative action and health services for the Latino community. He has been instrumental in helping many individuals secure work as custodians, doctors, nurses, and administrators at the Los Angeles County–USC Medical Center, the largest public hospital in the Nation, and has created many health projects for his community.

In spite of his many commitments, Frank has given selflessly of his time to various commissions, committees and boards, including the Los Angeles Police Commission, American Red Cross, AIDS Planning Council, and the East Los Angeles Health District. Frank is also a founding member of the Los Angeles County Chicano Employees Association, the Department of Health Services Latino Managers, the Los Angeles Hispanic Managers Association and the Los Angeles County–USC Medical Center's Hispanic Festivities Committee.

Mr. Speaker, I ask my colleagues to join me in recognizing this distinguished gentleman, Frank Duarte, and in saluting him for his exemplary leadership and outstanding service to the residents of Los Angeles County.

GET OUT OF THE WAY

HON. RICK SANTORUM

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1994

Mr. SANTORUM. Mr. Speaker, I am particularly privileged to have among my constituents Dr. Ralph Reiland, assistant professor of economics at Robert Morris College in Pittsburgh, and his wife, Sarah McCarthy. Not only are Dr. Reiland and Ms. McCarthy among the sharpest writers I have seen on economic issues, but they speak from personal, practical experience, as they are co-owners of Amel's, a highly successful restaurant in suburban Pittsburgh.

Dr. Reiland and Ms. McCarthy have published countless incisive articles and editorials on the conditions small businesses require in order to flourish and provide the greatest possible prosperity for everyone. As we discuss health care reform and its potential impact on small business, I thought it would be especially timely to submit for the record an article they wrote for Small Business Forum, the journal of the Association of Small Business Development Centers, last winter. They were asked to address the question, "How Can the Federal Government Best Help Small Businesses?" Their characteristically penetrating, thoroughly documented answer was entitled, "Get Out of the Way." The full text of their article follows:

GET OUT OF THE WAY

Sarah J. McCarthy and Ralph R. Reiland

Health mandates, inequitable wage and retirement policies, higher taxes, and laws that stifle job creation all hurt small businesses. The policy makers in this administration need to lighten up on the regulations and the litigation that are strangling us, and get out of the way. Here, then, are six ways the government discourages small-business survival. The health "cure" is bad medicine.

As the Clinton campaign rhetoric heated up in 1992, we realized that we, as the owners of a small restaurant, were targets. We had become somewhat accustomed, even resigned, to the piling-on of government regulations, mandates, taxes and the feel of lawyers breathing down our necks. It was one thing to feel that Congress was micro-managing our business, but quite another to realize that we would now have a President who, through idealism or misinformation, might eliminate us with a penstroke. Health care mandates looked like the possible final straw.

When Candidate Clinton attacked "employers who dump their employees'; health care on the rest of us," we knew we were in for a bumpy ride. We currently pay for health insurance for eight of 48 employees. The premium for one cook with a wife and one child is $4,800 per year. Without a government subsidy, our health care bill for the other 40 employees could easily total over $150,000. With the government's record of controlling costs and weeding out fraud in other mandated programs, such as workers' compensation, there's no reason for us to assume that we could long survive mandated health care.

Each one of these taxes and mandates has a smothering effect on business expansion and job growth, and the cumulative effect is becoming overwhelming. When a well-established, thriving business like ours is struggling under these burdens, how can we expect new entrepreneurs to start businesses and expand jobs?

We, as employers arguing in our own behalf, are dismissed by this administration as "special interests" or "defenders of the status quo" or "the forces of greed." It's perverse politics that's turning mom-and-pop proprietors into robber barons. It's politics that doesn't produce confidence in government or faith that one's business can survive in such a hostile environment.

On just the Clinton health care proposal's cost to business, a University of New Hampshire survey of 611 economists shows 80 percent predict net job losses at the lower end of the job market due to health care mandates. In an Arthur Andersen survey of 687 businesses with under 500 employees, 81 percent state that increased payroll taxes for health care will have a "major negative impact" on their businesses and their ability to hire.

Nearly every new job since 1988 in the American economy was created in the small-business sector. Firms with over 5,000 workers cut 2.4 million jobs in the last five years, while companies with fewer than 100 workers created 5.9 million jobs, with the fastest growth in the firms with less than 20 employees.

Most of these small firms (and most of the companies with less than 100 workers) do not pay for health care coverage, and that's one reason they can afford to expand and provide jobs. The problem is that the reverse is also true, even if the Clintonites refuse to acknowledge it; government health mandates will hike costs that will trickle-down to cut job creation in our strong growth sector. General Mills recently announced the shutdown of 31 Olive Gardens and Red Lobsters to offset the higher Clinton taxes and anticipated health mandates.

Over-regulation creates economic failure. The anti-business bias of government policy makers has created an adversarial and destructive relationship between government and those who create the jobs. George McGovern laments that after his experience in the bed-and-breakfast business, he now realizes that laws and regulations pertaining to small business are actually hurting the lower-wage workers whom he had tried to help during his political career. Public policies, though well-intentioned, too often trickle-down to create economic failure and misery.

With McGovern's Stratford Inn in bankruptcy, he now says: "In retrospect, I wish I had known more about the hazards and difficulties of such a business. . . . I wish that during the years I was in public office I had had this firsthand experience about the difficulties business people face every day. That knowledge would have made me a better senator and a more understanding presidential contender. . . . To create job opportunities, we need entrepreneurs who will risk their capital against an expected payoff. Too often, however, public policy does not consider whether we are choking off those opportunities."

We can tell you what we are choking off: we are choking the small-business Golden Goose.

Ross Perot said during the 1992 campaign that the government should stop breaking the legs of our businesses. Paul Tsongas, too, warned Bill Clinton that you cannot love jobs and hate employers. Maybe they don't actually hate us—perhaps it's closer to mistrust. Increasingly, government has usurped our decision-making power over who and how we hire and fire, who can be promoted, who can have a tax-deferred pension, and who gets sick leave.

The Society of Professional Benefit Administrators states that each year there are 1,500 new laws, mandates, regulations, directives, and court decisions that affect employees' rights and benefits. A new study from Congress' Joint Economic Committee, "Derailing the Small Business Express," by Lowell Gallway of Ohio University and Gary Anderson of California State University, concludes that the government burden on business per worker in the form of taxes, regulatory costs and mandates declined slightly during the economic expansion of the 1980s, but increased from $3,900 to $5,300 during the economic downturn from 1989 to 1992. Business owners, like anyone else, buy less of anything that's more expensive, and that applies to their purchase of labor.

The workplace is a litigious minefield. If Congress seriously wanted to help, they could educate, mediate and arbitrate rather than unleash lawyers armed with $300,000 lawsuits that crush businesses. It seems that Congress doesn't seek to educate or provide managerial assistance when a lawsuit will do.

And they do sue. A jury in Portland, Oregon held a McDonald's restaurant liable for the fatal traffic accident of a 19-year-old employee who was driving home after a 12-hour split shift. The company had not compelled the hours and the shift violated no labor laws or company policies. Now, in addition to being responsible for drunk drivers, we're liable for sleepy ones as well.

"Everybody and his mother are now suing their employer for anything he does to them," says labor lawyer Richard G. Moon. The topless dancers at Pacer's in San Diego have charged the owner with creating a sexually harassing milieu. Richard Vetter, owner of the General Sutter Inn in Lititz, Pennsylvania, was sued by a customer for a handshake that was too enthusiastic.

There are now over 200,000 lawsuits a year for wrongful discharge, with the average jury award approaching $500,000 according to Theodore J. St. Antonine, professor of labor law at the University of Michigan Law School. A Rand Corporation study shows that even when companies win these cases, they pay legal fees averaging $84,000 and in a vigorously contested case, defense costs can easily hit $250,000.

For business owners, the workplace has become a litigious minefield where one misstep cab destroy everything they've worked for, for a generation. George McGovern says: "Today, despite bankruptcy, we are still dealing with litigation from individuals who fell in or near our restaurant. Despite those injuries, not every misstep is the fault of someone else. Not every such incident should be viewed as a lawsuit instead of an unfortunate accident."

A waitress at the Blue Coat Inn, Delaware who was abducted from her car in the restaurant's parking lot, raped and robbed was successful in suing the restaurant owner for negligent security. In fact, the restaurant had routinely provided escorts for waitresses to their cars, and in this case a busboy did accompany the waitress to her car. The criminal gained entry through the waitress's open car window as she sat counting her tips. The Delaware Supreme Court upheld a $600,000 jury verdict against the inn.

A McDonald's in Oak Forest, Illinois recently paid a $1,250,000 judgment for a robbery and murder for allegedly negligent security. A study by Liability Consultants of 197 lawsuits by crime victims charging inadequate security by business owners shows jury verdicts averaged $700,000 for robberies, $1.2 million for assaults, $1.8 million for rapes and $2.2 for wrongful deaths.

These jackpot awards and the oversupply of lawyers have turned "victimhood" into a growth industry and business owners into cash cows.

The wage and retirement laws hurt instead of help. Well-intentioned government mandates frequently harm the very people they're supposed to help. Restaurants, for example, usually have a small group of full-time workers and an ever-changing group of primarily part-timers who work as servers while attending college or until they land their "real job." Though teachers and other professionals are entitled to 401(k) and 403(b) retirement plants, workers at our restaurant are excluded from such advantages.

The law mandates that if 401(k)s are available to anyone at a business, they must be available to all. Since we can't afford contributions for all of the employees, we aren't permitted to provide them for the five or 10 of our longtime and hardest working people. Our full-time employees who have worked at the restaurant for over a decade should enjoy the same tax-deferred saving plans that are available to first-year teachers, but they are victims of this one-size-fits-all government mentality on benefits.

With time-and-a-half pay rules, we agree with the Department of Labor that a 40-hour work week is usually enough for anyone (especially in a restaurant). We discourage our employees from working over 40 hours, but occasionally someone who is extra ambitious or energetic or needs extra money for something like a down payment on a house will want overtime. As it now stands, we're penalized with a 50 percent labor cost increase if we approve the employee's request for longer hours.

Job creation is stifled With the family leave mandates, Labor Secretary Robert B. Reich says we should have "family friendly companies," but Ruth Stafford, president of Kiva Container in Phoenix, says, "Fifty is the magic number." She has 48 employees and won't hire any more full-timers. Stafford is not alone in trying to stay under the mandate levels. The Economic Policy Institute. Estimates that 60 percent of all new jobs created this year were part-time, up from 26 percent in the two years prior to the 1992 election. Survey after survey shows business owners reporting that Clinton's new taxes and mandates are killing full-time job creation.

Professor Reich may not like Ms. Stafford's approach, but she's in the real world and may have to worry about cheap Mexican containers coming into her market with NAFTA. On the other hand, we doubt that Professor Reich ever lost any sleep about Harvard's bottom line or his labor costs at the Labor Department. The Clintons, too, in making the quick jump from campus to the governor's mansion, haven't had to worry much about such mundane things as grocery prices or car repairs, let alone the rising costs of employees benefits or the costs of fraudulent lawsuits.

The cumulative tax picture spooks small business It's clear to us that Clinton's plethora of new taxes and mandates has spooked small business. The 4.8 percent annual growth rate he inherited from the final quarter of 1992 collapsed to an annual rate of 0.7 percent in the first quarter of 1993.

As the owners of a small restaurant, we're faced with the same new taxes and regulations as other business owners, plus new insurance liability increases, higher alcohol taxes and smaller entertainment deductions for our customers.

Unfortunately, we also have a more elastic demand curve for our product than the car repair shop does next door, since our customers can cook at home easier than their customers can install new brakes. That limits our ability to raise prices to cover new government costs. The bottom line is: we are being forced to fire some people who have done nothing wrong. They're the ones Bill Clinton promised to help, "the ones who do the work and play by the rules."

Clintonomics is an attack on the only sector of the economy that still works. Nearly three-fourths of those $200,000 family incomes targeted for the largest tax hikes are small-business owners' incomes. These are the people who invest and create nearly all our new jobs. That's the reality of trickle-down economics, even if Bill Clinton is in denial about it.

Before the election, Candidate Clinton had independent business owners on a pedestal: "My plan will not add new taxes on small businesses. I know that 85 percent of the new jobs in this country are generated by small businesses and I am committed to helping them prosper." Now we are on the receiving end of a class warfare campaign from the Oval Office—we've been turned into the "elite few" who haven't paid our "fair share." In Commerce Secretary Ron Brown's words, we're now the ones "who made out like bandits in the 1980s."

Our modest prescription—How much better it would be if the Clinton administration enlisted the *help* and *cooperation* of small-business owners instead of threatening and alienating them with class-envy rhetoric and economic penalties. This is no longer a Yale teach-in where everyone gets top scores by expanding the areas of litigation and sneering at the greed in the business sector.

It's time to junk the appeals to class envy and tell the truth. The top 10 percent of American income carners receive one-third of the national income, pay 58 percent of the federal taxes, and create nearly all of the jobs. They're not bandits, they pay more than their fair share, and they are the unique factor that separates our country from the failed statist economic systems of Eastern Europe, the Soviet Union, and Cuba.

This administration still has a chance to get out of the way and let what has shown to work, actually work. It's time the administration learns that it can't make good on its pledge to "grow this economy" by killing the Golden Goose of small business.

INTRODUCTION OF LEGISLATION TO EXTINGUISH THE LAND CLAIM OF THE MOHEGAN TRIBE OF CONNECTICUT

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1994

Mr. GEJDENSON. Mr. Speaker, I rise today to introduce legislation, backed by the State of Connecticut, Mohegan Tribe, and town of Montville, to extinguish the land claim of the Mohegan Tribe of Indians of Connecticut.

The Mohegans were one of the most powerful native American tribes in New England at the time when settlers first arrived in this country. The tribe was centered in what is now the town of Montville in southeastern Connecticut. Over successive years, the State of Connecticut, through numerous acts, disposed of certain portions of the Mohegan's ancestral land. In 1861, the State of Connecticut terminated the Mohegan reservation and dispersed its land to private owners. The State did this without the consent of the Federal Government.

Since 1977, the tribe has had a land claim suit pending in district court in Connecticut. The claim extends to more than 2,000 acres in southeastern Connecticut. The tribe has argued that the State violated the Indian Non-Intercourse Act of 1790 by taking its land without the authorization of the Federal Government, thereby making the transfer invalid. From any review of the facts, it is obvious that the Non-Intercourse Act was violated. If the district court rules in the tribe's favor, titles to property across my State will be clouded and the real estate market will come to a halt. This would be detrimental to the residents of Montville and surrounding towns, the tribe, and the entire State.

However, this will not be the case. In what I believe is a model of cooperation at all levels, the tribe, the town, the State, and residents have worked to develop several agreements which resolve outstanding issues and provided multiple benefits to each. The State and the tribe have reached an agreement on issues relating to land claims, gaming and several other issues. The tribe and the town recently signed an agreement which will provide the town with some important infrastructure financing and ensure that it will work with the tribe in securing a reservation and on other matters.

The legislation I am introducing today is necessary to resolve outstanding land claims issues in accordance with the Non-Intercourse Act. Under the bill, existing and any future tribal claims to any lands and natural resources in the State of Connecticut, based on aboriginal or recognized Indian title, are extinguished. The bill authorizes the Secretary of Interior to take nearly 850 acres of State and other lands into trust for an initial reservation for the Mohegans. I want to make it clear that the Mohegans will purchase the vast majority of this land from willing sellers. In fact, the tribe already has options to purchase nearly 300 acres and the Governor has made a commitment to sell the tribe approximately 170 acres of State land, including the tribe's ancestral burial ground, to the tribe. The legislation provides for State criminal jurisdiction over tribal members on lands taken into trust for the Mohegans. Moreover, the bill terminates any obligations to the tribe arising from any previous agreement or treaty incurred by the State of Connecticut and its political subdivisions.

I want to make some points about what the bill would not do. It would not provide Federal recognition to the Mohegan Tribe. The tribe received Federal recognition through the administrative process on March 15, 1994. The legislation does not involve any Federal funds or transfer of Federal lands. To put it simply this bill poses few burdens on the Federal Government.

Mr. Speaker, this bill is necessary under the Indian Non-Intercourse Act. Furthermore, it is the result of negotiations between all the parties involved. The State of Connecticut, town of Montville, and the Mohegan Tribe support this legislation and have requested that I introduce it in Congress. Passing this legislation is essential to tribal economic development which will allow it to provide for its nearly 1,000 members. Moreover, tribal development will provide jobs to hundreds, perhaps thousands, of residents from across southeastern Connecticut. Passing this bill will protect private property owners and provide certainty for the future. Finally, to reiterate, all the parties involved support of this bill. I urge my colleagues to support it as well.

TRIBUTE TO CAPT. FRED E. WAY, JR.

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1994

Mr. RAHALL. Mr. Speaker, I rise today in honor of the late Capt. Fred E. Way, Jr., U.S. Army, retired. Captain Way was the commanding officer of the 639th antiaircraft, battery C, which was attached to the First Army under the distinguished leadership of Gen. Omar Bradley in the Second World War.

The gallant Captain Way played a fundamental role in liberating the prisoners of the Buchenwald Concentration Camp on April 11, 1945. In addition to his valiant efforts in this campaign, Mr. Way directly assisted a prisoner, Leopold Lowy, who suffered both mentally and physically from the wrath of Hitler's Holocaust.

Captain Way took the famished and forlorn Lowy under his own personal care and adopted him into his own division for 7 months. Under Way's guardianship, Lowy served as an interpreter for the U.S. Army. Following the end of the war, Captain Way helped Lowy with his trip to America, and he was instrumental in finding Lowy's relatives who already lived in the United States.

After Lowy established himself in the United States, Way's benevolence did not cease, for Way remained one of Lowy's closest, personal friends.

Indeed, Captain Way was a man of the highest character. Not only did he display valor as a distinguished soldier, but he went beyond his duty to help a victim who endured one of the most brutal and inhumane purges of mankind. Captain Way gave Lowy an opportunity that millions of the persecuted Jewry could only dream of obtaining.

The founders of our great Nation were brave, virtuous, and benevolent; they put the welfare of other before their own. And it is men like Way who followed the footsteps of our glorious ancestors in preserving the legacy of this great Nation—liberty and justice. We should remember Captain Way for his service to our Nation and his contributions to humanity.

STATEMENT OF THE HONORABLE R. JAMES WOOLSEY, DIRECTOR OF CENTRAL INTELLIGENCE, ON INTERNATIONAL ORGANIZED CRIME AND NUCLEAR SECURITY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1994

Mr. LANTOS. Mr. Speaker, with the current preoccupation of the America media over the O.J. Simpson affair, it is useful and important for the American people to realize that there are other issues with an impatience that transcends the chase of the white Bronco on the Los Angeles freeways or the latest legal maneuvering of O.J. Simpson's high-powered defense team.

Today at a hearing on International Organized Crime and Nuclear Security, R. James Woolsey, the Director of Central Intelligence, presented a serious and very sobering statement on the threats now facing the international community.

Mr. Speaker, in view of the importance of this issue and its urgent threat to the security of the United States and other nations, I ask that Director Woolsey's statement be placed in the CONGRESSIONAL RECORD. I ask my colleagues to read and thoughtfully consider this critical statement.

STATEMENT BY R. JAMES WOOLSEY

Mr. Chairman, I welcome the opportunity to address the members of this committee on the subject of Russian organized crime. Today, I will describe the activity and nature of Russian organized crime, its growing influence in all levels of Russian institutions and society, and the danger it poses to the stability of Russia and US national security interests. I will also address the potential for Russian organized crime involvement in the acquisition and transport of weapons of mass destruction, particularly nuclear weapons and materials. Then I will address the role of intelligence to understand, and to help thwart, these criminal organizations.

With me this afternoon are Tony Williams, Deputy Chief of the Russian Affairs Division of the Office of Slavic and Eurasian Analysis; and Bryan Soderholm, Coordinator for International Organized Crime for the Directorate of Intelligence. After I finish my statement to your subcommittee, I will ask them to join me, and together we will endeavor to answer your question about these important issues.

In testimony before the Terrorism, and International Operations Subcommittee of the Senate Foreign Relations Committee in April, I discussed the world-wide threat posed by international crime. I described how powerful crime organizations were built upon narcotics trafficking, alien smuggling, and financial and bank fraud. With the huge resources derived from such activities, organized crime groups are able to forge international links and develop sophisticated technical and marketing expertise to further enhance their wealth and influence. Operating outside the law with a strong proclivity for violence to impose their will, international crime organizations work to undermine the authority of governments, disrupt local economies, and exponentially drive up the rate of violent crime.

There is a major difference between the challenge posed by organized crime and that posed by nations who have been our adversaries. As a rule, nations do not exist in a constant state of conflict. Even during the long struggle of the cold war, when cooperation was not feasible, communication was possible. From quiet diplomacy to public demarches. From hotlines to summitry, the means could be found to limit or settle disputes.

With organized crime, there is no possibility for diplomacy, demarches, hotlines, or summits. These tools have no meaning to groups whose business is the criminal exploitation of individuals and even governments through threats, intimidation, and murder. When the sheer size and power of international organized crime can endanger the stability of nations, the issues are far from being exclusively in the realm of law enforcement—they also become a matter of national security.

Russian organized crime is a unique subset of international organized crime that requires a special focus.

First, Russia is a country of enormous strategic interest to the United States, not the least because of its huge arsenal of weapons of mass destruction and significant inventory of weapons grade materials.

Second, we have a major stake in the outcome of Russia's painful effort to effect a transition from communism to democracy and a market economy, and therefore a significant interest in factors that could undermine stability, weaken civil institutions, and impede reform efforts.

Third, Russian organized crime has quickly become an international menace, conducting operations far beyond Russian borders and reaching even our own shores. For these reasons, we need to understand the complex role of Russian organized crime, the strength of its capabilities, and the extent of its influence on the evolution and development of public life and institutions.

Organized crime is not a new phenomenon in Russia or Soviet history. During the Soviet era, criminal groups and the black market often functioned as an extension of the Communist party and the KGB. In fact, the Communist party and KGB used criminal groups and the black market as a second, parallel economy to further their own goals and enrich their own organizations. They had their own codes, traditions, and loyalties.

In the late 1980's, we saw strong indications that state control had begun to wane. Many of these criminal organizations outlived the state which fostered them and took on a life of their own. This "old guard," however, has been severely challenged by a surge of upstarts.

Since the breakup of the Soviet Union, we have seen a dramatic rise in new criminal groups that operate independently without regard for whatever ground rules for criminal activity that might have existed before. The "new Mafia," as it if often referred to, does not abide by the old customs established by the traditional Russian underworld.

The diffuse nature of criminal activity in Russia and the other former Soviet republics presents a difficult adversary to track. The absence of readily identifiable or consistent profiles makes these Russian-style "Mafias" harder to define or categorize than their more tightly knit western counterparts. But taken together, they are often just as powerful, influential, and dangerous.

Complicating the problem for Russian law enforcement is the involvement of former KGB and military officers in organized crime. With their KGB and military background, special training, and contacts with former colleagues, these individuals offer valuable skills and access that can increase the power and influences of Russian criminal groups who tap into them.

To generate money, Russian organized crime groups are actively engaged in the illegal transport and sale of narcotics, weapons, antiques, icons, raw materials, stolen vehicles and some radioactive materials, and the transport of illegal immigrants. They are also targeting the financial sector, particularly the acquisition of banks in order to launder profits as well as fraudulently obtain government loans. They also engage in large scale extortion and brutally enforce their demands through deadly violence.

Recently, in fact, a national parliamentarian who had publicly exposed organized crime leaders was gunned down. This was not an isolated incident. Several city and provincial officials have also been assassinated by organized crime groups.

While these activities provide the cash that criminal organizations need to operate and build their empires, their ability to carry on such transactions is dependent in large part on co-opting or recruiting corrupt government officials. The low pay of public officials, the economic hardship they must endure, and the inherent uncertainty of the political system appear to have made some of these individuals quite vulnerable to cooperating with organized crime.

The growing strength and ability of Russian organized crime is evident. In his February address to the Russian Parliament, President Yeltsin stated that organized crime is now the number one problem facing Russia. Last month, in an address to members of the Russian Federation Counterintelligence Service. President Yeltsin warned that, "The criminalization of society is continuing." The statistics bear him out.

Of the 2000 banks in Russia today, a majority are controlled by organized crime, according to the Ministry of Internal Affairs. The Ministry says there are roughly 5,700 organized crime groups in Russia, with an additional 1,000 in the other former republics. To keep this in perspective, I want to point out that many of these organizations are actually small, local groups of petty thieves. They would not fit the Western definition of organized crime. However, of the 5,700, approximately 200 are large, sophisticated criminal groups engaged in criminal activity throughout the former Soviet Union and in 29 other countries, including the United States.

The perception of the power of organized crime among the citizens of Russia was made clear in a poll in March of this year. In response to the question, "Who controls Russia?" A plurality of 23 percent responded with "the Mafia." 22 percent responded with, "no one." 19 percent responded, "I don't know." And just 14 percent responded, "President Yeltsin."

The ramifications of the rapid growth of organized crime in Russia and elsewhere in the former Soviet Union are enormous. For Russia itself, there is a real threat that the surge in crime will sour the Russian people on President Yeltsin's reform program and drive them into the arms of Russia's hardline political forces. Public fear of crime has been cited as the primary motivation for about three-fourths of those who voted for Vladimir Zhirinovskiy in last year's legislative elections.

The threat of organized crime to civil society has become so great, in fact, that President Yeltsin issued a decree last month giving sweeping powers to law enforcement officials to investigate and detain suspected criminals. This far reaching decree has just now begun to be implemented in Moscow and St. Petersburg and, we believe, could lead to declarations of states-of-emergency in some cities and regions. Even the Russian military has been authorized to assist in the crackdown effort.

The decree has been challenged by the Russian Parliamentarians and other officials who warn that it contradicts the constitution and violates human rights. But this has not stopped the crackdown from going forward. If this effort is to have any real effect, however, it will have to attack corruption within the government. Otherwise, it will become simply a crackdown on low-level criminal gangs, while more sophisticated, better organized, and well-connected criminal groups survive virtually unscatched.

Substantial corruption within the government, especially within the law enforcement and security services, would, of course, seriously complicate our cooperative efforts with the government on matters of interest to the corrupting criminal groups.

The impact of President Yeltsin's decree will not be known for some time, but the strong influence of organized crime in all aspects of social, economic, and political life in Russia, as well as many of the former Soviet republics, suggests a difficult and agonizing future. It is not unreasonable to imagine a Darwinian process of survival of the fittest, with many of these criminal groups eventually eliminated or absorbed by stronger rivals. Those groups left could be very large, sophisticated, and influential. And they will pose a long-term threat to Russia—and to the international community.

When the security of weapons of mass destruction—nuclear, chemical, biological, advanced conventional, as well as nuclear materials such as highly enriched uranium and plutonium—is factored into the equation, the stakes can become dangerously high for Russia itself and for the U.S.

Russian criminal organizations have created an extensive infrastructure consisting of front companies and international smuggling networks. This infrastructure, built on ties to corrupt military, political, and law enforcement officials, could be used to facilitate the transfer and sale of these weapons and materials.

In addition, organized crime groups certainly have the resources to bribe or threaten nuclear weapons handlers or employees at facilities with weapons grade nuclear material. In many cases, employees at such institutes are poorly paid, or not even paid at all, for months on end.

Some of our traditional intelligence tools for monitoring nuclear weapons and the command and control infrastructure in the former Soviet Union are quite relevant. Also relevant are new intelligence techniques which we are continually developing on many types of proliferation problems. We use them and other techniques to piece together potential international webs of communications and transportation, front companies, and the like. Proliferation is among the most difficult of intelligence tasks, requiring all aspects of our world-wide intelligence networks—human intelligence, communications intelligence, and imagery from reconnaissance satellites.

But let me point out that despite considerable press speculation to the contrary, trading in nuclear weapons and materials is not the primary or even secondary business of organized crime groups in Russia today. The usual extortion, weapons and narcotics trafficking, and financial fraud activities currently are too lucrative to be abandoned for the high profile and risky acquisition weapons of mass destruction. But we can ill afford to assume that because brokering such transactions has not yet been an activity of consequence, we can relax our guard and be confident that such a contingency will not develop in the future.

Specifically, we cannot rule out the possibility that organized crime groups will be able to obtain and sell nuclear weapons or weapons grade materials as a target of opportunity. We are especially concerned that hostile states such as Iran, Libya, and North Korea may try to accelerate or enhance their own weapons development programs by attempting to acquire weapons of mass destruction or weapons grade material through organized crime groups.

While organized crime groups appear to be the logical brokers or purveyors of nuclear weapons and materials, individual criminal acts in this field must also be considered. Indeed, most of the cases of nuclear related smuggling that we are aware of involve desperate individuals or small groups, with no apparent links to organized crime, simply trying to make fast money. A disgruntled military officer where a nuclear weapon is stored, or an employee at a research institute with access to weapons grade nuclear materials are also in a position to steal and pass on the deadly contraband.

Earlier this month, Russian Counterintelligence Service officials announced the arrest of three men who were found to have in their possession three kilograms of enriched uranium. A janitor at an unspecified facility near Moscow apparently smuggled the material out of the plant where it was stored.

The Russian government has made it clear that they want to prevent the proliferation of all weapons of mass destruction and materials. President Yeltsin has said that, "The proliferation of nuclear and other categories of weapons of mass destruction within the country and beyond cannot be allowed."

We welcome the efforts of the Russian government, including particularly its security services, to play a key role in non-proliferation, and we support the priority they give to this effort. They face a daunting task: not only are political and economic pressures undercutting the ability of the central government to implement export guidelines and properly secure the facilities with nuclear weapons and materials, but the Russian law enforcement and security services must themselves battle with increasing difficulty against corruption.

To date, we have not detected any nuclear warheads or significant quantities of weapons-grade materials being smuggled out of the former Soviet Union. There are, however, numerous cases in which low-enriched uranium, medical and other radioactive isotopes, and scam materials, notably red mercury and osmium, have been offered for sale on the black market. Press reports routinely assert that Russian organized crime groups are intimately involved in some of these activities.

We cannot take these stories lightly even though the transactions in low grade nuclear materials and radioactive isotopes do not pose a proliferation threat per se because they cannot be used to make nuclear weapons. However, some of these materials and isotopes could be a terrorist tool if combined with a conventional bomb to produce low level, but still lethal, radioactive contamination.

Last Summer when I testified before this committee, I discussed my concerns about proliferation of weapons of mass destruction to rogue or hostile regimes. In my testimony, I noted that we must also anticipate the possibility that hostile groups, specifically terrorist groups, might also acquire these weapons with or without state sponsors. The bombing of the New York World Trade Center certainly heightened our sensitivity to the possibility that a terrorist incident could involve such weapons.

We have no evidence that Russian organized crime groups are supplying or even attempting to supply terrorist groups with highly destructive weapons. Nonetheless, we should not rule out the prospect that organized crime could become an avenue for terrorists to acquire a destructive weapon.

In sum, Mr. Chairman, the possibility of organized crime groups gaining access to nuclear weapons and materials has profound national security implications for the United States. The inherent difficulties of dealing with an essentially criminal target that affects our national security interests are compounded in Russia—a country that is still undergoing a radical transformation as it comes to grips with the staggering problems left in the wake of over 70 years of communism.

Russia's wrenching reform is a long-term problem, and we applaud the efforts being made by the Russian government to make meaningful change. But during this tumultuous time of change and uncertainty for Russia, and all of the republics of the former Soviet Union, it is essential that we continue to increase our efforts to collect and analyze intelligence that can help us understand and thwart the threat of organized crime.

Mr. Chairman, the intelligence community has been actively collecting information on international organized crime since the 1980's. Even prior to the breakup of the Soviet Union, we were particularly watchful of Russian organized crime. Let me now address the ways in which we are meeting the challenges posed by Russian organized crime.

To bring more resources to bear upon this problem, I have established in the National Intelligence Council the position of national intelligence officer for global and multilateral affairs. In this position, Dr. Enid Schoettle will be doing a strategic review of this issue and oversee estimates on organized crime. Our National Intelligence Officer for Strategic Programs, Keith Hansen, facilitates important analysis of nuclear security in the former Soviet Union for the whole intelligence community.

We are also devoting more resources to organized crime issues within the intelligence community, as well as to tracking of proliferation of weapons of mass destruction. The Nonproliferation Center, for example, works closely with the National Intelligence Council and elements of the Directorate of Intelligence and Directorate of Operations supporting new collection and analytic efforts. We have also formed several working groups in the intelligence community to pool and coordinate both collection and analytic resources on organized crime. These groups systematically brief and provide intelligence to the FBI as well as other agencies and policymakers. I intend continually to review our resource commitments to this important set of issues.

There is no one body of expertise that will win the battle against organized crime. Because of the complexity and diffuse nature of this problem, it will take the combined efforts of historians and sociologists, many of them with Russian and other language skills, to study these groups. It will take financial analysts and economists to understand and expose the transactions and money laundering schemes of these criminals. It will take technical experts to track efforts by organized crime to circumvent safeguards against proliferation of weapons of mass destruction. It will take political analysts and regional specialists to assess the impact of organized crime on political and economic stability in the former Soviet Union. And because of the transnational nature of this threat, it will take cooperation with law enforcement bodies, both here and abroad, including the FBI, Customs, Immigration, and foreign security services.

Let me conclude with a final point. Our battle against international organized crime will not be like wars we have fought against nations. The adversaries in this struggle are criminal enterprises that wear no uniforms and have no patriotic ideals. They feed off of societies' weaknesses, corrupting the normal course of life, and destroying civic culture. Their quest for profit mocks all laws, mores, and values. They erode what hope is left in nations newly emerged from totalitarianism that are desperately struggling toward stability, democracy, and a better life.

In what threatens to follow the Era of the Cold War—we may, sadly, come to call it the Era of Anarchic Proliferation—the danger of breakdown of legitimate authorities in many nations becomes even more alarming. The specter of these enormously destructive tools of war in the hands of criminal groups with the capability of passing them on to hostile powers compels our vigilance and commitment.

Winning this war will not be easy nor will it be quick. Victory will not be seen in decisive events, but will come in increments. In the end, I am confident we can prevail if we persist and work together on these new and very troubling problems.

Thank you, Mr. Chairman.

TRIBUTE TO GAYLE WOODY

HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1994

Mr. BEVILL. Mr. Speaker, I rise today to pay tribute to my long-time executive secretary and office manager, Gayle Woody. Gayle will leave Capitol Hill on June 30 after 27 years of outstanding service, including 19 years in my office.

Gayle began her career in the House Finance Office and then worked for former Congressman Maston O'Neal of Georgia. She came to work for me in 1975 and over the years, she has been one of my most trusted and valuable staffers.

I want to congratulate Gayle and to thank her for her hard work, dedication, and excellence on the job. I have been extremely fortunate to have her on my staff and her talents will be greatly missed.

Gayle has been on the front lines in my office for many years. Most often, she has been the first person my visitors have met or spoken with by telephone. She has always shown the utmost kindness, courtesy, friendliness, and professionalism toward everyone she meets.

I will always be grateful to Gayle for her loyalty, her valued assistance, and her grace under fire. Anyone who has ever worked in a congressional office knows the importance of a person like Gayle. It is hard to imagine getting along without her, but I know that she will enjoy her retirement and make the most of many vibrant years ahead.

I wish Gayle good health and every happiness in her future endeavors. I know that she will be successful at whatever she chooses to pursue.

AMERICA'S DISABLED VETERANS NEED TO BE HEARD

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1994

Mr. RICHARDSON. Mr. Speaker, I am honored to recognize Stephen Wolonsky, president of Uniformed Services Disabled Retirees, of Albuquerque, NM, who is an American committed to helping his fellow veterans receive due compensation for the sacrifices they made for this country. I want to share with my colleagues some valid points that Mr. Wolonsky makes regarding the concurrent receipt of military retired pay and veterans disability compensation to our Nation's disabled military retired veterans. I urge my colleagues to pay special attention to the words of Mr. Wolonsky and honorable disabled veterans like him throughout the country.

UNIFORMED SERVICES
DISABLED RETIREES,
Albuquerque, NM, May 11, 1994.
U.S. CONGRESS,
Washington, DC.

DEAR LEGISLATORS: Members of Congress continue to reward Civil Service and non-disabled military retirees with annual Cost of Living Allowances; yet penalize the service-connected disabled military retirees, especially those who are most seriously disabled, by denying them concurrent receipt of military retired pay and veterans' disability compensation.

Civil Service and non-disabled military retirees are given the opportunity to supplement their retired pay with a second career; but the disabled military retirees are denied this opportunity. True, the disabled military retirees receive an income tax break by waiving their retired pay in order to receive veterans' disability compensation. The advantage of the waiver grants the disabled retirees the amount of $250 per month while other 100% disabled veterans receive $1,800 per month in addition to their retired pay. Furthermore, COLAs are of NO value to the disabled military retirees due to the waiver requirement imposed upon them.

There are many misconceptions of why concurrent receipt should not be granted. For instance: It has been stated that only military retirees have generous benefits (Exchange, commissary and etc). This is erroneous as all 100% disabled veterans, regardless of years of service receive these same benefits. Military personnel retire at an early age. Again this is erroneous as average for officers is 47 and enlisted 43. Many civilians retire within these age brackets. Military personnel do not contribute towards retirement pay. Again this is erroneous as the military pay is reduced by 7% at budgetary talks, they are not compensated for overtime which Civil Service employees are, they receive NO BONUSES for doing their job which again Civil Service employees receive, the military personnel often face family separation, danger from our Nation's enemies, undesirable living conditions and other hazardous conditions which Civil Service employees do not face. Isn't this sufficient contribution toward retired pay? Even retired pay standards differ between Civil Service and Military retirement.

It is the responsibility of the United States of America and Congress to take care of our Nation's service-connected disabled veterans of which the disabled military retirees are regardless of length of service.

It is highly suggested that Members of Congress permit concurrent receipt of military retired pay and veterans' disability compensation for the service-connected disabled military retirees prior to paying Cost of Living Allowances (COLAs) to Civil Service and non-disabled military retirees. As I stated previously, the disabled military retirees are denied the opportunity to supplement their income with a second career due to the disability.

I highly recommend that concurrent receipt be granted to the service-connected disabled military retirees beginning with FY 95. This way, they would be on an even keel with all other disabled veterans.

Thank you.

Sincerely,

STEPHEN WOLONSKY,
President, USDR.

A TRIBUTE TO COMDR. JEFFREY FERGUSON

HON. LESLIE L. BYRNE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1994

Mrs. BYRNE. Mr. Speaker, I rise today before my colleagues in the U.S. House of Representatives to pay tribute to an outstanding American, Comdr. Jeffrey Ferguson. On July 10, 1994, Commander Ferguson will retire from the United States Navy after 24 years of dedicated service.

During more than 12 years of active service and 12 years of reserve duty, Commander Ferguson earned impressive decorations for his service, including the Navy Achievement Medal and two Navy Commendation Medals. From his commission on July 11, 1970, from the Naval Reserve Officers Training Corps at Rensselaer Polytechnic Institute, to his service as Assistant Chief of Staff to Battle Group 106, Commander Ferguson served his country with honor and selfless dedication. His career exemplifies the unwavering commitment of our American military personnel around the world.

Commander Ferguson began his seafaring career in 1971 as an Electrical Division Officer on the USS *Benjamin Franklin,* where he helped conduct missile tests and strategic deterrent patrols. Commander Ferguson then moved to the USS *Pargo,* where he was awarded the Navy Achievement Medal and the Navy Commendation Medal. After conducting WESTLANT operations, the ship was awarded the Navy Unit Commendation.

Commander Ferguson earned a second Navy Commendation Medal for his performance on the USS *Queenfish* as Operations Officer and Navigator. In 1980, he was promoted to Lieutenant Commander and became Assistant Material Officer for the Commander Submarine Force, U.S. Pacific Fleet. After resigning from active duty in October 1982, Commander Ferguson was assigned to COMSUBLANT Detachment 106, which was awarded the Meritorious Unit Commendation. With his numerous awards and decorations, Jeffrey Ferguson was promoted to Commander and completed his admirable career in the Naval Reserves in both Washington, DC and Norfolk, VA.

Mr. Speaker, it is indeed an honor and a pleasure for me to rise today to pay tribute to an outstanding military officer, Comdr. Jeffrey Ferguson. All Americans owe him a large debt of gratitude for his unselfish dedication to his Nation and to its color. I join his family, friends, and shipmates in saluting this extraordinary officer and his distinguished career.

TRIBUTE TO THE LOS ANGELES ZOO

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1994

Mr. WAXMAN. Mr. Speaker, I ask my colleagues to join me in paying tribute to the Los Angeles Zoo, which has been a member of the American Zoo and Aquarium Association since 1972. During the month of June, the Los Angeles Zoo and 160 other zoos and aquariums are celebrating Zoo and Aquarium Month. This celebration is designed to raise public awareness of the conservation practices of zoos and aquariums accredited by the American Zoo and Aquarium Association [AZA].

For more than 20 years, zoos and aquariums have made a great effort to educate the public on the importance of the balance between animals and their natural environment and of habitat conservation. In some cases, these facilities have become the last stand for species on the brink of extinction. The Los Angeles Zoo, for example, has assisted in the recovery of the Arabian oryx, golden lion tamarin, Bali mynah, and the Andean and California condors. Thanks in part to the Los Angeles Zoo's breeding successes, the California condor has rebounded from a low of 27 birds in 1987 to more than 90 today.

Every year more than 400,000 schoolchildren tour the Los Angeles Zoo. Education programs such as animal artifact carts, keeper talks, and natural behavior shows are provided at no cost to visitors. Schools can also visit the zoo through ZooReach, a program that recently demonstrated through pre and post tests the value of zoo field trips.

In conjunction with Zoo and Aquarium Month, the Los Angeles Zoo hosted its fifth annual "Kids Care About Conservation" on June 18 and 19. On these days, more than 20 environmental organizations were represented and tours were conducted that focused on the Endangered Species Act.

I ask my colleagues to join me in expressing appreciation to the Los Angeles Zoo for its outstanding work.

RELIGIOUS FREEDOM ON THE RACE TRACK

HON. CHARLES H. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1994

Mr. TAYLOR of North Carolina. Mr. Speaker, last week, I joined with several NASCAR drivers at a press conference to express our concerns with religious harassment guidelines proposed by the Equal Employment Opportunity Commission. One of the drivers who spoke at the press conference was Darrell Waltrip, the NASCAR Winston Cup champion in 1981, 1982, and 1985. Mr. Waltrip wrote an Op-Ed piece in today's Washington Times. As he so eloquently points out, the proposed religious harassment guidelines could lead to the termination of services at the track. I am pleased to share Mr. Waltrip's remarks on this issue.

[From the Washington Times, June 27, 1994]

RELIGIOUS FREEDOM ON THE RACE TRACK, AND OFF

(By Darrell Waltrip)

Professional race-car drivers rarely write opinion pieces. However, an issue has come to my attention of such importance that I felt compelled to do all I possibly can to stop what I see as a grave danger to my religious freedom and the religious freedom of all American citizens.

When I heard about the Equal Employment Opportunity Commission's (EEOC) proposed guidelines banning religious harassment in the workplace, I was deeply concerned. The professional racing community, like many others in professional sports, participate in a number of religious activities in the workplace. Chapel services prior to Sunday races are an important part of our lives. Of necessity, these services must take place within the confines of our somewhat unusual workplace.

My wife and two daughters join me for these religious services. The new EEOC guidelines would prevent our family from worshipping together and would certainly prevent many in the professional sports community from worshipping on Sundays at all.

I believe the vast majority of the drivers and other members of the racing community, as well as most of our millions of fans, find any limitation upon our religious liberty to be absolutely unacceptable.

Professional athletes in every sport are compelled to find opportunities within the workplace to exercise their faith or else it simply becomes impossible to worship God.

But my concern is for all Americans, not just athletes. American adults in the workplace should not be treated like criminals just because they believe in God and have the audacity to make some public mention of that fact on the job. No one should be able to punish a worker who bows his head over his lunch pail, just because some other worker is offended.

Even though I was troubled by this action by the EEOC, I wasn't sure what could be done about the seemingly imminent regulations. What should concerned NASCAR drivers do? Through contacts in Washington, I was told about the Taylor-Wolf Amendment to the Commerce, Justice, State Appropriations Bill that could be voted on in the House of Representatives as early as today. Some of my fellow drivers and I flew up to Washington this past week to hold a press conference urging Congress to pass the Taylor-Wolf Amendment, which prevents the EEOC from imposing the proposed religious harassment guidelines.

The EEOC regulations, which are the target of this amendment, have been criticized by religious and legal organizations from all sides of the political perspective. And in a recent non-binding vote, the Senate voted 94–0 to urge the EEOC to delete the so-called religious harassment guidelines from its proposed order.

However, members of the professional racing community and the sport community as a whole want to make sure that the EEOC's efforts, which could curtail religious liberty, are stopped by binding legislation. Our freedoms are too precious to be left to non-binding votes alone. We want protection that is effective, and that is why we strongly support the Taylor-Wolf Amendment.

A major airline has already implemented the proposed guidelines by banning all religious speech whatsoever in the workplace. Legal departments of other companies may reach similar conclusions. And it doesn't take a NASCAR crew chief to figure out that some Federal judge somewhere might eventually rule that any discussion of religion or display of religious symbols or materials violate the EEOC's rules.

No one favors true religious harassment. Such harassment is already made illegal by Title VII and other Federal laws. But voluntary chapel service, Bible studies, religious symbols, and discussions of the Gospel and other religious topics among adults in the workplace would be threatened if these EEOC guidelines are allowed to become final.

This seems like a time when the plain language if the First Amendment should be heard. "Congress shall pass no law . . . prohibiting the free exercise [of religion]." The Founders of our nation wanted the robust freedom that lets people exercise their religion in public. Are we so afraid of that freedom that we must ban religious activities just because one person is "sensitive"? True freedom means that we have the right to exercise our religion in public. This includes speaking and writing about our beliefs, and peaceably assembling to share them with others. We have this right whether we are at home, in church, in military service, or on the race track.

In an effort to swat the last gnat of religious harassment, the EEOC appears ready to swallow up major portions of our religious liberty. We are unwilling to remain in the stands when our religious liberty is at stake. The EEOC needs to have the brakes applied to this effort. And I hope that Congress will bring this sorry episode of big government intrusion upon our liberties to a screeching halt.

STANDARDS FOR BOTTLED WATER

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1994

Mr. BRYANT. Mr. Speaker, I am introducing legislation today that would require the Food and Drug Administration to adopt timely quality standards for bottled water. The bill is similar to legislation that I and a number of my colleagues have supported in the past. It mirrors an amendment that was unanimously approved during Senate passage of the Safe Drinking Water Act.

In the past, FDA has taken significantly longer to set quality standards for bottled water than the Environmental Protection Agency has to set standards for the public water systems. I am pleased that FDA has responded to Congress' concerns by proposing standards for those contaminants which were overdue. I am told that those standards will be finalized in the next couple of months and I encourage FDA to do so as soon as possible.

The language I am introducing today would simply ensure that in the future, FDA would keep up with its regulatory responsibilities of bottled water. My amendment provides that if the FDA fails to regulate a contaminant in bottled water in a timely manner after EPA regulates a contaminant found in municipal water systems, the EPA standard will apply to bottled water. This legislation also provides that FDA quality standards for bottled water must be at least as stringent as EPA drinking water standards. And in those cases where the FDA believes it is appropriate for public health protection, bottled water quality standards can be even tougher than EPA standards.

This proposal is increasingly important to consumers and bottlers alike as the industry continues to grow. Bottled water sales have reached an all-time high of $3 billion, with one in six households relying on bottled water as their source of drinking water.

The International Bottled Water Association and the States have helped assure the safety of bottled water. The language I am introducing today will complete the job we started several years ago by requiring timely adoption of Federal standards. I would therefore encourage my colleagues to pass this legislation as part of the Safe Drinking Water Act, or as a free-standing bill.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BOTTLED WATER STANDARDS.

(a) FDA RULES.—(1) At any time after the Administrator of the Environmental Protection Agency publishes a proposed maximum contaminant level under section 1412 of the Safe Drinking Water Act (title XIV of the Public Health Service Act) but not later than 180 days after the Administrator publishes a final maximum contaminant level, the Secretary of Health and Human Services, acting through the Commissioner of the Food and Drug Administration, after public notice and comment, shall promulgate a regulation establishing a quality level for the contaminant in bottled water or make a finding that such a regulation is not necessary to protect the public health because the contaminant is contained in water in the public water systems (as defined under section 1401(4) of such Act (42 U.S.C. 300f(4)) and not in water used for bottled water.

(2) The regulation shall include any monitoring requirements determined appropriate for bottled water by the Secretary.

(3) The regulation—

(a) shall require that the quality level for the contaminant in bottled water be as stringent as the maximum contaminant level for the contaminant published by the Administrator of the Environmental Protection Agency; and

(B) may require that the quality level be more stringent than the maximum contaminant level if necessary to provide ample public health protection under this Act.

(b) DEFAULT.—(1) If the Secretary fails to promulgate a regulation as provided in subsection (a) within the 180-day time period specified in subsection (a), the regulation with respect to the final maximum contaminant level published by the Administrator of the Environmental Protection Agency (as described in subsection (a)) shall be considered, as of the date on which the Secretary is required to establish a regulation under subsection (a), as the final regulation for the establishment of the quality level for a contaminant required under subsection (a) for the purpose of establishing or amending a bottled water quality level standard with respect to the contaminant.

(2) Not later than 30 days after the end of the 180-day period described in subsection (a), the Secretary shall, with respect to a maximum contaminant level that is considered as a quality level under paragraph (1), publish a notice in the Federal Register that sets forth the quality level and appropriate monitoring requirements required under paragraphs (1) and (2) of subsection (a) and that provides that the quality level standard and requirements shall take effect on the date on which the final regulation of the maximum contaminant level takes effect.

PRAISE FOR NORTH CAROLINA'S HIGH SCHOOL SOCCER TEAMS

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1994

Mr. COBLE. Mr. Speaker, as attention is focused on the World Cup being played here in the United States, the sport of soccer is in the spotlight more than ever. While the world cheers for its favorite soccer teams and players, I would like to use this opportunity to praise two soccer teams in our congressional district. The Sixth District is the proud home of two 1993–94 boys and girls North Carolina high school soccer champions.

When the girls team recently captured the combined 1A–2A–3A high school soccer championship, it completed a sweep for Ragsdale High School of Jamestown, NC. On June 4, 1994, Ragsdale defeated Southwest Guilford High School—another Sixth District team—to capture the combined 1A–2A–3A girls soccer title. On November 20, 1993, the Ragsdale boys defeated T.C. Robbins High School of Asheville to win their North Carolina 3–A high school soccer championship, too.

Who coached these two high school soccer teams to titles in the same school year? The same man, head coach Brien Braswell. Coach Braswell led the Tiger boys to an overall 23–2–1 record this school year. He followed that with an impressive 19–1–3 mark as head coach of the Tiger girls. Both seasons were capped off with State titles. In 5 years at Ragsdale, Brien Braswell has an overall record of 81–26–5 as head coach of the Tiger boys and an overall mark of 43–26–6 in leading the Tiger girls.

Coach Braswell will be the first to tell you, however, that neither State victory was a one-person effort. Both titles were won thanks to dedicated teamwork from the players, coaches, and support staff. For the Ragsdale girls victory, Coach Braswell was aided by Kirsten Schrader in her first year as assistant coach. Each member of the squad played her part in assuring the championship for the Ragsdale girls. The team included Siri Mullinix, Dagney Schiltz, Kelly Martin, Lauren Medley, Carmen Welch, Dana Flotkoetter, Vickie Cortes, Sumlee Payssoux, Susanna Hegner, Sunshine Canter, Amy Harman, Sarah Judy, Laura Pendergrass, Jennifer Yahn, Melissa Mullinix, Amanda Holtzman, Cadie Jessup, Sara Larrick, Valerie Jeffries, Amy Deinlein, and Ulrika Sandberg.

Coach Braswell had equal help in guiding the boys team to victory thanks to second-year assistant coach Gary Sabo. Every member of the Tiger boys squad contributed to the State championship including Darin Glass, Kenny Gregson, Joel Munns, Aaron Snell, Chris Maerlender, Brian Vaughan, Dan Nystrom, Jon Kenney, Jason Horlocker, Chan Sayaphet, J.D. Howard, Jeff Lawson, Todd Majors, Daniel Munns, Stuart Wilkins, Dennis Lain, Josh Jones, Joseph Norman, Jim Holtzman, Vil Sayaphet, Will Patnaud, Kyle Wittenborn, Wes Miller, Sean Muselman, Ibrahim Ihbais, Kenny Klopp, and Jason Spangler.

The soccer squads were ably assisted by the team managers Summer Wright and Renya Walters and announcer Kerry Miller. In addition, congratulations are in order for athletic director Bob Schuck, principal Dr. Kathy Rogers, the faculty, staff, and students at Ragsdale High School. Jamestown and the entire Sixth District is proud to be home for two of North Carolina's high school championship soccer teams.

TRIBUTE TO 8TH AIR FORCE

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1994

Mr. FAZIO. Mr. Speaker, I would like to take this opportunity to honor the 350,000 men and women of the 8th Air Force who fought and made the ultimate sacrifice for this country during World War II.

Finally, after 50 years, Dr. Eric Hawkinson will help memorialize the efforts of all who served in the mighty 8th Air Force during World War II. I would like to commend Dr. Hawkinson for his efforts on behalf of the 350,000 men and women of the mighty U.S. 8th Air Force who came to England during World War II to assist the United Kingdom in defeating Nazi Germany and its allies during the war. This Air Force suffered over 47,000 casualties. Let us never forget the bravery and gallantry shown by the brave men and women of the 8th Air Force.

I would also like to take that opportunity to recognize the commanders of the 8th Air Force.

May 1942: Maj. Gen. Carl A. Spaatz.
December 1942: Lt. Gen. Ira Eaker.
January 1944: Lt. Gen. James H. Doolittle.
May 1945: Maj. Gen. William A. Kepner.
June 1945: Maj. Gen. Westside T. Larson.
July 1945: Lt. Gen. James H. Doolittle.

The memorial dedication will take place on the weekend of July 23d and 24th, 1994, at the Wycombe Abbey School, High Wycombe, Buckinghamshire, England. At this site was the headquarters of the 8th Air Force and went by the code name of "Pinetree." Following the memorial service on the 23d, the official unveiling of the plaque and the symbolic planting of the "Pinetree" will take place. This will be followed the next day by a Glenn Miller concert played by the John and Herb Miller Orchestra. This concert will recreate the atmosphere made by the Glenn Miller Band who played at Wycombe Abbey, July 29, 1944.

It is with great honor and privilege that I am allowed to recognize the brave men and women of the 8th Air Force by submitting a copy of one of the Pinetree Memorial Prayers given by Dr. Hawkinson at the Abbey Chapel, High Wycombe, England.

Oh mighty creator of the universe and us all, we thank you for this day, for life, for families and friends, for this gathering of former members of the mighty 8th Air Force.

This day is the beginning of the rest of our lives.

While we left our youth behind us in the Great War and we are now relegated to dreaming big dreams, we know that it is you who created "the wild blue yonder" and there continues to be space and impact for each of us.

As we were brought together fifty or so years ago to stifle the evil of a mad man, now we voluntarily come together to seek new directions in which to serve our great nations, and the peoples in our countries. We were an effective team in the past as each of us made our contribution.

We ask you now to guide us as we conduct our memorial that we may do it with a team spirit, a continued sense of ethics and morality, and that we do not lose sight of our mutual challenges as we fly toward the horizon.

There are additional worthy goals for us to pursue. Give us the wisdom to identify these and that we and our fallen comrades will feel an abiding sense of pride in what we do here today in sustaining the wings of the Mighty 8th Air Force.

We ask these things in the name of your son who taught us to love, how to work for peace and to understand the worth and dignity of each man, each woman and each child.

Amen.

LEGISLATION TO PROVIDE MEDICARE ASSISTANCE TO VICTIMS OF MS

HON. JAMES C. GREENWOOD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1994

Mr. GREENWOOD. Mr. Speaker, I had the opportunity recently to meet my constituent, Greg Vellner, of Southampton, PA, who was named as this country's Father of the Year by the National Multiple Sclerosis Society. Greg has been able, through courage and perseverance, to direct his energy into the successful role as Mr. Mom as he takes the lead role in raising his daughter Jenny and his son Tommy.

Greg was diagnosed in 1984 with multiple sclerosis [MS], which is a chronic, often disabling disease of the central nervous system. The National Institute of Neurological Disorders and Stroke estimates that between 250,000 and 300,000 young adults have been stricken by MS. The disease generally strikes twice as many women as men. Approximately two-thirds of those people who have MS experience their first symptoms between the ages of 20 and 40. Although MS patients generally have a normal life expectancy, this disease can cause muscle weakness or rigidity, difficulty with balance, vision problems, and paralysis.

In Greg's case, MS has resulted in the loss of his vision. Unfortunately, there is no proven treatment to stop the disease or reverse its progression. Experimental drugs are being evaluated for their effects on reducing the frequency and severity of exacerbations, or slowing progression.

The Food and Drug Administration [FDA] approved the licensing of one drug, Betaseron, in July 1993. The FDA declared that a clinical trial which involved 372 patients with relapsing-remitting multiple sclerosis, indicated that administration of Interferon beta-1b by injection every other day decreased the frequency of flare-ups and kept more patients free of flare-ups over a 2-year treatment period.

Nearly 30 percent of MS patients suffer from a relapsing-remitting form of the disease in which symptoms disappear totally or partially after a flare-up and are followed by a period of stability that can last for months or years. Cost of the drug is estimated to be $1,000/month per patient. The National Multiple Sclerosis Society reports that few of their 42,000 members can afford the cost of self-administered Betaseron.

Under current law, Medicare currently covers the cost of self-administered drugs only in limited circumstances, that is, blood clotting factors, immunosuppressive drugs, Erythropoietin, osteoporosis drugs, and effective January 1, 1994, oral cancer drugs.

Today, in the hope of assisting Greg and others like him, I have introduced legislation to provide Medicare coverage for the cost of FDA-approved drugs for the treatment of MS. It is my hope that Betaseron is the first of many drugs to receive approval by the FDA, and that Congress will adopt this important legislation.

THANKS AND FAREWELL TO THE AIR FORCE BAND OF THE GOLDEN WEST

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1994

Mr. CALVERT. Mr. Speaker, today, I want to express my admiration and thanks for the men and women of the Air Force Band of the Golden West. For over 50 years, this band has fulfilled a musical mission. Originally called the Air Force Band, the unit was established October 1, 1941, at Scott Field, IL. During the early years of World War II, the band performed for parades, bond drives, concerts, and dances.

Redesignated the 523d Army Air Force Band, these musicians headed for Europe in late 1944, reaching their final wartime destination of Warton, England, in January 1945. While there, the band played for U.S. and allied troops at USO shows and service installations, as well as for the war torn British populace. In an era when military bands were only occasionally noted for their excellence, the 523d was praised for its competence and versatility in handling dances, concerts, and especially marches.

The band returned stateside to Camp Patrick Henry, VA, where it was inactivated on December 13, 1945. On September 26, 1947, just 8 days after the creation of the U.S. Air Force as a separate branch of the military, the inactive band was redesignated the 523d Air Force Band.

On December 1, 1952, the 523d was reactivated and placed under the Strategic Air Command at March Air Force Base, CA, where it has remained ever since. In 1991, it was officially designated as the 15th Air Force Band of the Golden West.

The band has received four Outstanding Unit Awards during its tenure with 15th Air Force, the latest for the period from July 1, 1989 to June 30, 1991, when the band was repeatedly called upon to perform for Presidents Reagan and Bush. During this same time period, the band made more than 650 appearances before a total audience of over 1.6 million people in the Southwestern United States, and twice fielded groups to entertain in the Middle East during Operation Desert Storm.

Over the years, the Air Force Band of the Golden West has released several recordings, including Sierra Winter, the first album conceived, composed, performed, and produced entirely by an Air Force band, and Center Stage, which features the unit's jazz ensemble with special guest trumpeter Arturo Sendoval.

On June 29, 1994, the Air Force Band of the Golden West will officially be inactivated with a traditional military ceremony at March Air Force Base.

As one who has heard this fine band on numerous occasions, and who is proud of its traditions and the quality of its performances, I want to congratulate the men and women who made the Air Force Band of the Golden West an organization of which all Americans could be proud. I am also pleased that the name will live on as the band at Travis Air Force Base, CA, will be redesignated the Air Force Band of the Golden West.

REGARDING THE INTRODUCTION OF THE MUNICIPAL SOLID WASTE FLOW CONTROL ACT OF 1994

HON. ROD GRAMS

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1994

Mr. GRAMS. Mr. Speaker, I rise today to express support of H.R. 4643, the Municipal Solid Waste Flow Control Act of 1994. I have joined with Mr. RICHARDSON of New Mexico, Mr. FIELDS of Texas, and Mr. BRYANT of Texas in introducing this legislation and would urge my colleagues in the House to act swiftly and enact it.

Many of my colleagues are all too familiar with the local effect of the U.S. Supreme Court's ruling in C.A. Carbone, Inc. versus Town of Clarkstown. In this 6-to-3 decision, the Court ruled that restrictions on the "services of processing and disposing of the waste" and not the "solid waste" per se, unlawfully burden the stream of commerce.

Today, local governments in some 29 States are now left footing the bill on waste flow control facilities. In my home State of Minnesota, county officials developed an integrated waste management system premised upon State waste flow control laws. They built incinerators or composting facilities with a mandate for a steady stream of waste to finance them. Yet as a result of the Carbone decision, these county commissioners are now faced with the unsavory options of cutting vital programs or raising residential taxes.

While I realize there are a number of flow control bills being circulated about the Congress, the Municipal Solid Waste Flow Control Act provides a win-win option for all parties. This bipartisan measure is backed by the Sierra Club and a segment of the waste management industry. Under the provisions of H.R. 4643, local governments that currently utilize flow control laws will be grandfathered for a limited time. This approach protects local government and local taxpayers without undermining the commerce clause. The Municipal Solid Waste Flow Control Act also provides us with a bill which could be enacted rapidly because of its narrow scope.

Therefore, I would urge my colleagues to join me in supporting H.R. 4643 and in providing relief to the local communities in Minnesota and in 28 other States. Thank you.

ITT TECHNICAL INSTITUTE GRADUATES

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 27, 1994

Mr. TRAFICANT. Mr. Speaker, I rise here today to pay tribute to the 1994 graduating class of the ITT Technical Institute in Youngstown, OH. It is through their hard work and dedication that they have received their diplomas. Not only do I want to recognize the graduates for their commitment, but their friends and family as well, for their endearing support. Mr. Speaker, I present to you the 1994 graduates of the ITT Technical Institute:

William Allegar
Walter Anderson
Jeremy Armer
Trevor Austin
Brian Bozlinski
Elizabeth Brady
David Braun
Sylvia Brown
Erik Bunnell
Julie Byrd
Dustin Cairns
William Carbone
Carol Carter
Richard Chambers
Edwin Cracraft III
Deana Dambrogio
Chris Dibacco
Shawn Dillon
Donna Dudek
Tracey Duffee
Valentine Ehmer
Phillip Frasso, Jr.
Paul Guyer
John Hoskinson
Frank Hudak, Jr.
Lewis Kline
Jody Klodt
Daniel Leatherman
John Lightner
Joscelyn Lilley
Alyssa Lipps
Donald McCormick
Brandi Mills
Shannon Mills
Sherry Painter
John Paradis
Louis Peterson
Jeffrey Price
Lori Ann Prinkey
Tracy Pyle
Lisa Rhoads
Ronald Runtas
Stacey Sheets
Shawn Slocum
Cynthia Smith
Melinda Stewart
Tina Timlin
Daniel Trisler
Robert Welch
Monica Wereb
George Wray III
Lee Yaist

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, June 28, 1994, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 29

9:00 a.m.
Foreign Relations
To hold hearings on the nominations of Brian J. Donnelly, of Massachusetts, to be Ambassador to Trinidad and Tobago, and George Charles Bruno, of New Hampshire, to be Ambassador to Belize.
S-116, Capitol

Governmental Affairs
To hold hearings on S. 29, to fully apply the rights and protections of Federal law to employment by Congress, S. 103, to fully apply the rights and protections of Federal civil rights and labor laws to employment by Congress, S. 579, to require Congress to comply with the laws it imposes on others, and S. 2071, to provide for the application of certain employment protection and information laws to the Congress.
SD-342

9:30 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on pending pesticide legislation, including S. 985, to revise the Federal Insecticide, Fungicide, and Rodenticide Act with respect to minor uses of pesticides, S. 1478, to revise the Federal Insecticide, Fungicide, and Rodenticide Act to ensure that pesticide tolerances adequately safeguard the health of infants and children, and S. 2050, to revise the Federal Insecticide, Fungicide, and Rodenticide Act.
SD-628

Governmental Affairs
To hold hearings on S. 29, to fully apply the rights and protections of Federal law to employment by Congress, S. 103, to fully apply the rights and protections of Federal civil rights and labor laws to employment by Congress, S. 579, to require Congress to comply with the laws it imposes on others, and S. 2071, to provide for the application of certain employment protection and information laws to the Congress.
SD-342

Rules and Administration
Business meeting, to consider the nominations of Lee Ann Elliott, of Virginia, and Danny Lee McDonald, of Oklahoma, each to be a Member of the Federal Election Commission, and other pending calendar business.
SR-301

Conferees on H.R. 322, to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims.
SD-366

10:30 a.m.
Appropriations
District of Columbia Subcommittee
Business meeting, to mark up provisions of H.R. 4649, making appropriations for the government of the District of Columbia and for other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1995.
SD-192

11:00 a.m.
Foreign Relations
Business meeting, to consider the Convention on Biological Diversity (Treaty Doc. 103-20), and pending nominations.
SD-419

1:00 p.m.
Judiciary
To hold hearings on the nomination of Guido Calabresi, of Connecticut, to be United States Circuit Judge for the Second Circuit, and John R. Schmidt, of Illinois, to be Associate Attorney General, Department of Justice.
SD-226

2:00 p.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 2120, to authorize appropriations for the Corporation for Public Broadcasting for fiscal years 1997 through 1999.
SR-253

2:30 p.m.
Governmental Affairs
To hold hearings on the nomination of Zoe Bush, Rhonda Reid Winston, and Judith Bartnoff, each to be an Associate Judge of the Superior Court of the District of Columbia.
SD-342

JUNE 30

9:00 a.m.
Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

9:30 a.m.
Governmental Affairs
To hold hearings on the nomination of John A. Koskinen, of the District of Columbia, to be Deputy Director for Management, Office of Management and Budget.
SD-342

Indian Affairs
Business meeting, to mark up S. 1757, American Health Security Act, S. 1936, to provide for the integrated management of Indian resources, S. 2067, to establish an Assistant Secretary of Health and Human Services for Indian Health, and S. 2075, to revise and authorize funds for programs of the Indian Child Protection and Family Violence Prevention Act.
SR-485

10:00 a.m.
Environment and Public Works
To hold hearings on proposals to reform current policies on floodplain management and flood control.
SD-406

Foreign Relations
To hold hearings on foreign policy issues.
SD-419

JULY 13

9:30 a.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold hearings to examine current tourism policy activities.
SR-253

JULY 14

9:30 a.m.
Energy and Natural Resources
To hold oversight hearings to examine the scientific and technological basis for radon policy.
SD-366

Rules and Administration
To hold oversight hearings on the operations of the Library of Congress.
SR-301

Indian Affairs
To hold hearings on proposed legislation relating to Native American cultural protection and free exercise of religion.
SD-G50

JULY 19

2:00 p.m.
Indian Affairs
To hold hearings on S. 2230, to revise the Indian Gaming Regulatory Act.
SD-G50

JULY 21

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on issues relating to international fisheries.
SR-253

JULY 25

2:00 p.m.
Indian Affairs
To resume hearings on S. 2230, to revise the Indian Gaming Regulatory Act.
SD-106

CANCELLATIONS

JUNE 28

10:00 a.m.
Finance
To hold hearings on the Administration's proposed welfare reform legislation.
SD-215

SENATE—*Tuesday, June 28, 1994*

(Legislative day of Tuesday June 7, 1994)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable PAUL D. WELLSTONE, a Senator from the State of Minnesota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Eternal God, perfect in love, in truth, in justice, and in wisdom, we thank You for the prayer of King David, one of the greatest sovereigns of the ancient world.

O Lord, thou hast searched me, and known me. Thou knowest my downsitting and mine uprising, thou understandest my thought afar off. Thou compassest my path and my lying down, and art acquainted with all my ways. For there is not a word in my tongue, but, lo, O Lord, thou knowest it altogether.

—Psalm 139:1–4.

Lord, Thou knowest our future, collectively and individually, and Thou knowest our need of transcendent wisdom. Enable us to live and accomplish the work to which Thou hast called us in the wisdom of King David. Grant us confidence in the assurance of Your leading and the ability to follow it.

We pray in the name of Him Who is the way, the truth, and the life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 28, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PAUL D. WELLSTONE, a Senator from the State of Minnesota, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WELLSTONE thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

PRODUCT LIABILITY FAIRNESS ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 687, the Product Liability Fairness Act, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 687) to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Kohl/Cohen/Murray amendment No. 1930, to instruct courts to balance the public interest in health and safety against any need for privacy before allowing for secrecy in civil litigation, and bans court orders and agreements that would prohibit parties from sharing litigation information with Federal and State regulators.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 10 a.m. will be for debate on the Kohl amendment, No. 1930, with the time equally divided in the usual form.

Mr. GORTON. Mr. President, I suggest the absence of a quorum, time to be divided evenly between the two sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROCKEFELLER. Mr. President, I have no particular announcements to make but I am very much aware that Senator HERB KOHL from Wisconsin has an amendment that he wished to discuss this morning. The time will be equally divided and I would just simply say to him or to others who might have amendments, it is very important they be here very quickly because we are going to vote at 10 o'clock. I ask the time I have just used be charged in the appropriate manner.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROCKEFELLER. Mr. President, in my previous remarks, I should have said that the remarks that I have made should be charged equally as to both sides, and that is within the quorum call.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROCKEFELLER. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The quorum call will be equally charged. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROCKEFELLER. Mr. President, as I listened to the arguments made during the course of yesterday by the opponents of this legislation, I think I was most surprised by the adamant view that the product liability system is working just fine and just dandy in its current form. Those of us who have worked hard on this legislation have tried to lay out every possible piece of evidence, testimony, and fact that we believe shows clearly and convincingly that the status quo of the current system of product liability is in dire need of reform and repair.

Let me share with my colleagues some examples of what West Virginia business leaders tell me about the need for product liability reform.

For these businesses, product liability reform is about jobs—and that is crucial for West Virginia. To give you some perspective in May, West Virginia's unemployment rate was 8.9 percent—that was a drop of three-tenths of 1 percent and good news for my State. But when unemployment is at almost 9 percent, protecting every job possible and creating new ones is a real priority.

One business in my State employs 150 people, and has a worldwide market. It's a family business, and when the current company owner first started to run the business over 25 years ago, the firm's liability insurance was $4,000 a year. Now the cost has skyrocketed to $500,000 a year. Liability insurance accounts for one-sixth to one-eighth of all payroll costs. Because this owner is so threatened by liability costs, I've been asked not to name the town or products, but in the trial outcomes over the history of this firm, the court

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

has yet to find any of their products at fault. The products are built to safety specification, yet their liability costs still soared.

Is this a balanced and fair system?

Another example comes from Princeton, WV. Mr. Don Downard is president of Downard Hydraulics. He has been in the hydraulics business about 30 years, and has owned his company since 1975. Downard Hydraulics employs 85 people to manufacture and rebuild hydraulic and mining components for the coal industry.

Mr. Downard says that his product liability costs are so high that equipment remains idle, and he simply cannot afford to expand his business or enter new markets with other products because of liability concerns—which means he won't be creating new jobs that are desperately needed in southern West Virginia.

Is this a balanced and fair system?

Let me tell you about J.H. Fletcher & Co. of Huntington, WV. This firm manufactures mining equipment, and employs 159 people and has 34 shareholders. Because J.H. Fletcher & Co. is a profit-sharing company and the costs of product liability litigation are withheld from the paychecks of each shareholder and employee. So far this year, an average of $6,000 has been deducted from each person. The company treasurer, Phil Cline says: "These costs are tremendous and undermine the very work ethic that our system has promoted." Mr. Cline also notes they are required to employ lawyers in almost every State where they have sales because of the current patchwork of product liability laws.

Each of these business leaders makes valid points about the need for balance and reform of our current product liability system.

My colleagues need to understand that there are real costs in maintaining the status quo—jobs aren't created, new products aren't brought to market, and workers ultimately pay the costs.

Mr. KOHL. Mr. President, we will vote on a bipartisan amendment that I introduced yesterday with Senator COHEN and Senator MURRAY. As a supporter of S. 687 who will definitely vote for the bill, let me say to my colleagues that this amendment gives balance to—and is completely consistent with—the product liability bill. Let me make it perfectly clear: Our amendment does not kill S. 687 in anyway; it makes S. 687 better.

The vote on our amendment will determine whether this body takes seriously its responsibility to protect public health and safety—by addressing the troubling problem of court secrecy.

The problem is this: Far too often, the court system allows vital information that is discovered in litigation—and which directly bears on public health and safety—to be covered up: to be shielded from families whose lives are potentially at stake, and from the public officials we have appointed to protect our health and safety. This happens through the excessive use of secrecy orders—which are really gag orders—issued by courts. This practice is not just wrong, Mr. President, it is unconscionable.

For example, 1 million women who received silicon breast implants in the 1980's were denied crucial information demonstrating the hazards of implants. The information was uncovered in a 1984 lawsuit but kept secret by court order until 1992.

What do we say to these women? How do we, as a civilized society, justify the secrecy orders that prevented them from making informed choices about what they were putting in their bodies?

And what do we say to the scores of young children injured while playing on defective merry-go-rounds that remained on the market for over a decade, Mr. President, because many lawsuit settlements concerning this sickening product were kept secret from the public and from the Consumer Products Safety Commission. These children—most under 6 years of age—lost fingers, hands, and feet.

Yesterday, I listed many more examples. Let me tell you about one example I did not mention. It involves a family which we must call the Does because they are under a secrecy order and were afraid to use their own names when talking to us.

The Does were the victims of a tragic accident which resulted in serious brain damage to their child. A friend of the Does is at similar risk, but Mrs. Doe is terrified of saying anything to her for fear of violating the secrecy order that governed her lawsuit settlement. Simply put, Mrs. Doe is afraid that if she talks, the defendant in her case will suspend the ongoing settlement payments that allow her to care for her injured child.

What sort of court system prohibits a woman from telling her friend that her child might be in danger? And, Mr. President, the more disturbing question is this: What other secrets are currently held under lock and key which could be saving lives if they were made public?

Our amendment is simple. It says that before courts allow for secrecy in lawsuits affecting public health and safety, they must look carefully at the circumstances and apply a balancing test: They may permit secrecy only if the need for privacy outweighs the public's need to know about potential health or safety hazards.

Moreover, courts could not, under this amendment, issue protective orders that would prevent disclosures to regulatory agencies. Because how can the FDA, the Consumer Product Safety Commission, and the Transportation Safety Board protect us if secrecy orders prevent them from knowing about safety problems?

Thus, our amendment—which we have modified in an effort to work with the business community—merely requires a reasonable balancing.

It says that because the courts are public institutions they need to consider—and only to consider—the public interest while dispensing justice. In cases where privacy interests are substantial—like trade secrets—confidentiality will still be allowed. So I ask, is this too much to ask? I do not think so.

At this point, let me say that our amendment is backed by the Consumer Product Safety Commission. In fact, even Prof. Jack Friedenthal, one of the country's leading experts on the courts who testified against our original anti-secrecy bill, now supports this measure. In response to the changes we made, Dean Friedenthal wrote that our amendment quote "makes a good deal of sense and eliminates my criticisms of the original bill."

Mr. President, again, this amendment does not—in any way—undermine S. 687. It does not modify or restrict the terms of S. 687 at all; that is, it would not change anything in the bill. Nor does it conflict with the broader aims of tort reform, which I support. It simply says that we must protect both the rights and interests of product liability defendants, and the interests of all Americans who are subject to health and safety hazards.

Mr. President, I have heard a lot of people tell me that my amendment would hurt S. 687. But no one has yet explained why. How can it be said that taking reasonable steps to prevent the senseless loss of life, and life-shattering injuries, hurts this bill? How can something that is good public policy hurt this bill? No one, so far, has argued against our amendment on the merits. At the conclusion of my remarks, will someone please explain why our amendment hurts S. 687?

In my view, this amendment most definitely belongs on the product liability bill. S. 687 is about product safety and striking the right balance between the rights of consumers and manufacturers. And that is exactly what our court secrecy amendment is about: product safety and striking a balance.

Our opponents have also repeatedly claimed that changes to the rules governing the courts should be made, in the first instance, by judges themselves, in the so-called rules-enabling process. According to them, Congress will have its chance to act when the judges submit to us their proposed judicial solution to the court secrecy problem—which, if we are lucky, will happen in a year or two or three.

Well, the Judicial Conference has been studying this issue for at least 4 years, and it has not proposed any solution of substance to the court secrecy problem.

So how much longer are we supposed to wait? Sometimes all we ever do in this city is study problems. It is time to start dealing with them. This fundamental health and safety matter is not the type of technical, procedural issue that we should leave for unelected judges and lawyer-lobbyists to address out of the public eye. Congress—all of us here—are responsible for health and safety policy. There should be no passing the buck.

Before concluding, let me also respond to the misleading statements that have been made regarding the Justice Department position on our amendment. First, Janet Reno has told me personally that court secrecy is a problem. But in truth, the Justice Department has never taken a position on this amendment. They have simply written a letter which, consistent with their way of doing business, asks us to go slow.

In closing, let me say that our courts are among the finest and the fairest in the world. But the time has come for us to ask: fair to whom? Yes, the courts must be fair to defendants, and S. 687 will move us in this direction. We should applaud Senator ROCKEFELLER for his efforts thus far. Because the courts are public institutions, however, our court system must also do its part to help protect the public.

Speaking as a strong supporter of S. 687, this is how I see the bottom line: A vote to table this amendment is a vote to ignore health and safety hazards. A vote for this amendment is a vote for public safety and the public's right to know. I believe it is that simple, and so I urge my colleagues to support our proposal.

I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. ROCKEFELLER. Mr. President, I do not know how many times I am going to have to point out I am not a lawyer, but I am not. But since I am the only person in the Chamber at this moment other than my friend from Wisconsin, I need to say a couple of things. One is that there are many things about his amendment which not only do not give me any trouble, but with which I can be quite comfortable.

The problem is twofold. One is that his amendment has nothing to do—civil rules of procedure—with product liability reform. It is just not a part of what we are discussing. It is not on product-liability legislation. It does not belong in this bill. If it were to pass, I have to tell my colleagues in the strongest possible terms it would have a disastrous effect on the overall bill, the underlying bill, S. 687. I simply have to say that. It would have a disastrous effect on the bill. That is often said, incidentally, when people are trying to scare colleagues, but this I say in measured tones. It really would end S. 687.

The other part, is that judges do have a problem with this. They like to be able to keep certain things private so that they can put more pressure on getting litigation to come to closure, to have a settlement. And there are also many defendants, plaintiffs, and individuals who do not want to have what they are going through exposed publicly, perhaps for personal reasons and perhaps also because they do not want others to gain information for that and therefore to sue them again.

It is interesting; 41 State legislatures have considered protective orders and 39 of them have rejected changes. So that this impression I am giving is not one which is unique to this argument.

But the main point is that it is not a part of this bill. It should not be on this bill. As much as I respect—and I cannot say that enough times—the Senator from Wisconsin and find many things in his amendment to be attractive, it would be disastrous for this bill.

So those would be my comments, and I yield the floor.

Mr. KOHL. Mr. President, I thank my colleague.

Before I yield to my friend from Maine for 10 minutes, I simply want to point out that Senator ROCKEFELLER has not said why it would be disastrous to S. 687. In fact, courts are public institutions, and I think we all agree in the Senate that courts have a primary responsibility to protect the public interest, and that is what this court secrecy amendment is all about.

So I do not see why it cannot be made an integral part of the product-liability bill. I think it is consistent with the aims of the product-liability bill, which is to have fairness in the system both to defendants and to plaintiffs. I believe it is entirely consistent with my attempting to attach it to this bill.

I yield 10 minutes to my friend from Maine, Senator COHEN.

Mr. COHEN. I thank Senator KOHL for yielding.

Mr. President, we have often heard it said that sunshine is the best disinfectant. This is one of the reasons why Congress changed its rules of operation. It used to be the rule that hearings were closed unless we voted to open them. We decided some years ago that it was far better to open committee hearings unless there was a good reason to close them. So we reversed the rule. Now the committee hearings are open unless we specifically vote to shut out the public.

That is precisely what Senator KOHL is attempting to do with this amendment, to reverse the presumption of operation. The way the system operates now is that once a settlement is agreed to, it has a confidentiality covenant contained within it; the courts simply yield to that process. They do not open it unless they are compelled to open it by overriding reasons. We want to reverse that presumption and say that sunshine is the best disinfectant, that sunshine is the best deterrent to putting defective products out in the marketplace.

It is an important issue to the victims of defective products, to the potential victims of defective products, and to the public at large. People would be shocked to find out that evidence of a defective product is often withheld from the public and from Government regulators with the sanction of the court. I do not think most people understand that we give the court's imprimatur to a confidentiality agreement when their public health is at risk.

The result is that hundreds—perhaps even thousands—of other innocent people can be injured or killed by the same defective product by virtue of these confidentiality agreements. Why would a manufacturer or a seller of a defective product insist on the confidentiality of a settlement? It is pretty obvious: to protect his or her or its financial interests because exposure of the defect of that product might lead to greater lawsuits and perhaps even to the elimination of that company or, at least, to the production of that product.

How about a plaintiff? Why would a plaintiff agree to a code of silence about what he or she has discovered over the defectiveness of a particular product? Obviously, to end years of litigation, to pay for necessary medical expenses, loss of wages, pain and suffering, and maybe even to preserve an element of privacy. Is not that participating in a coverup on the part of a plaintiff? The answer is yes. But a plaintiff has no legal obligation to do otherwise; maybe a moral obligation, but usually in these circumstances economic necessity outweighs any moral obligation to alert the general public as to what that plaintiff has discovered.

Congress has a higher duty. The courts have a higher duty than simply to cover up a particular defect. That duty is to protect the public interest, and the burden is there now but the practice has been to protect the confidentiality rather than the public interest.

So this amendment, as I indicated before, reverses the process. It allows the court to rule in favor of confidentiality, but it shifts the presumption in favor of disclosure. And as I pointed out just a moment ago, we have done precisely the same. Congress has decided to open its doors unless we vote to close them.

I would like to consider several types of cases. Senator KOHL has talked about the silicon breast implant case, and how many thousands of women had to go without notice of the potential threat to their lives for so many years because of a confidentiality agreement.

How about a case in which a manufacturer of a car produces a gas tank that is made of metal so thin it resembles onion skin and puts it behind the rear bumper of a car? Every time that car is hit or smacked from behind by a car going 5 or 10 miles an hour, it erupts into flames. We have had cases like that. The manufacturers have said, "Look. Let us settle this case, and, by the way, I will pay you x millions of dollars if you just don't reveal exactly what you discovered about our manufacturing process." Is that something that we want to endorse?

Or how about a sticky accelerator case? We had hundreds of cases of sticky accelerators, accelerators that go down and lock down while a car is in gear and cannot be pulled back. Do you want to sanction covering up those kinds of defects with the potential of injuring hundreds if not thousands of people? That is what has taken place in the past.

The role of the courts primarily is to resolve private disputes. That is clear. But it also is the duty of courts to take into account public interest when the public interest so demands. Once private parties cross the threshold into the public court system, it seems to me it is fair for the courts to consider the public interest. Obviously, the litigants lose a measure of confidentiality. The notion that we can call upon the public courts supported by millions of tax dollars and yet preserve our total private rights seems to me to be inconsistent with the public interest.

Do private litigants have a right to expect confidentiality? Maybe. If so, it is not a constitutional right. It is one that has evolved by practice rather than under the protection of the Constitution, and we have a right to change that practice, which is precisely what Senator KOHL is speaking to today.

The argument has been that this is going to bog down the courts. Possibly. I think it is unlikely. We are talking about a fairly small percentage in the cases dealing with product liability and defective products that are considered each year in the courts. It only applies to a small percentage of cases. It will not be a heavy burden for the courts to bear. But, even if it required more work on the part of the courts, according to Judge Abner Mikva, that is a responsibility the courts ought to be eager and willing to assume.

Perhaps there will be fewer settlements. But I think it is unlikely because it is in the economic interest for the parties to settle, without regard to whether or not this material is going to be disclosed.

But let me offer a counterview. I think perhaps even more cases will be settled without ever going into litigation as a result of this legislation. If parties are so concerned that a defect in their manufacturing process is going to get out into the public, they will probably want to settle without going to the court in the first instance. You can make the counterargument that you will have fewer cases clogging the courts because the parties will be more eager to settle out of court.

Are we rushing ahead of the Judicial Conference? No. We are not rushing ahead of them. We are tired of waiting for them. We are tired of waiting for the Judicial Conference. Four years have transpired already, and no action. We are not going to wait for Godot, and we are not going to wait for the Judicial Conference. This is what Senator KOHL is saying. We have had it in terms of waiting for them to resolve this issue.

I would like to conclude with a comment by one of our witnesses, Gerry Spence, who says:

> Everywhere nowadays we hear it argued that the public has a duty to protect itself. But none of us can protect ourselves without the necessary information with which to do so * * *. The state of the law, as practiced today, is much like a trap set along the trail. The hole in the ground is covered with branches and leaves. The unsuspecting falls in. Now, instead of sounding the alarm that a trap has been laid, we permit the trapper to quietly reset his trap in order to catch the next passer-by. This cannot be permitted in a civilized society.

This amendment should be adopted overwhelmingly because we cannot permit the current system to continue in a civilized society.

Mr. President, I yield the floor.

Mr. GORTON. Mr. President, will the Senator from West Virginia yield time to me?

Mr. ROCKEFELLER. Mr. President, how much time do the opponents have?

The ACTING PRESIDENT pro tempore. Sixteen minutes and 5 seconds.

Mr. ROCKEFELLER. I yield such time as the distinguished Senator may use.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

Mr. GORTON. Mr. President, the Senator from Maine has made an eloquent and persuasive argument in favor of at least the principles of disclosure which are contained in the bill. I believe it is important for not only the Senator from Maine but for all of the Members of the Senate to understand that in the last 4 years almost all of the public policies for which the Senator from Maine pleads are, in fact, the law. There is, of course, a Federal agency that is delegated the responsibility of dealing with product safety: the Consumer Product Safety Commission. In 1990, when the Consumer Product Safety Act was amended to require the manufacturers of products to report to the CPSC if a specific product model is the subject of three or more product liability suits alleging death or grievous body injury within a 2-year period.

In other words, the kind of information which the proponents here feel should be generally available in the case of dangerous products is in fact generally available through the very Federal agency which is designed to deal with product safety today. And it is made available in a way that does not undercut the private nature of litigation.

The Senator from Maine has made two points. Congress has now opened up its processes. Therefore, the courts ought to open up their processes. Congress is a public body elected by the people of the various States of the United States. The courts are opened by definition to private litigants. The Senator from Maine said once you go to court, you give up that right of privacy. But you go to court then at least in exactly 50 percent of the cases, Mr. President, because you were forced to do so, not because you wish to do so. The plaintiff in each case has gone to the courts because he, she, or it, wishes to do so. The defendant, by definition, does not wish to do so.

Under the proposal set out by this amendment, the only way to avoid this publicity is to settle before a lawsuit has even been brought, which means that you have to pay off every case whether it is well-founded or ill-founded.

The courts as a venue for private litigation between private parties who, in at least the case of the defendants, do not seek to be in that venue in the first place is profoundly different from the situation in any public venue. And when we have a law today which requires dangerous products—not even those that have been proven to have caused death or grievous bodily harm but just subject to three or more lawsuits in any given year to be made public, whatever the public policy for disclosing these defects, and maybe that public policy has already been debated and adopted—it is exactly for that reason, I suspect, that those who spend much of their careers studying an issue in the judicial council have taken a great deal of time to discuss what is obviously a very complicated issue with some good arguments on both sides of it. They have far more at stake and knowledge than we do.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. KOHL addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin is recognized.

Mr. KOHL. We have 7½ minutes.

Mr. President, I do not think Senator GORTON or Senator ROCKEFELLER would disagree that when we have the imperfect products on the market that have the capacity to injure thousands, if not hundreds of thousands of people, they should be off the market. That is what this bill attempts to do only, as Senator COHEN pointed out, when these cases reach the courts. This will not prevent these agreements from being reached outside the court. We are only talking about when cases like this reach the courts, and we are suggesting where you have imperfect products on the market and the cases reach the courts, the courts are public institutions that have a public responsibility to step in and do what is right for the American public. That is what this amendment is all about.

I yield the floor.

Mr. HEFLIN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Alabama is recognized.

Mr. KOHL. Mr. President, I yield 2 minutes to the Senator from Alabama.

Mr. HEFLIN. Mr. President, I rise somewhat with mixed feelings on this issue. I have always believed that the courts enabling act should be followed. But there is a bigger issue here involved, particularly because of certain language that is in this bill. That language deals with the Food and Drug Administration approval, and it gives a complete defense against punitive damages.

The language in the bill gives a drug or medical device manufacturer a complete defense against punitive damages, if it has Food and Drug Administration approval. Many pharmaceutical drugs come together to coalesce to either form a danger or a benefit. If court secrecy goes to the extent that it can affect matters relating to a proposed new drug to be approved, and there is found through discovery various elements that would cause great concern and would therefore probably cause FDA not to approve, or the Federal Aviation Administration not to approve in the case of aircraft, and that is kept secret because of a court protective order, then I think there is a major public policy issue that must be addressed.

I think the Kohl amendment has been crafted in a manner to take care of situations that should be addressed. Therefore, I think because of the language relating to the FDA and FAA, and the complete defense for certain industries—which, in my judgment, are wrong—we fail to realize that according to a GAO study, 51.2 percent of all FDA-approved drugs will have to have a recall after having received approval.

So I think that we should be cautious, and I think the Kohl amendment in this instance should be adopted.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. ROCKEFELLER. Mr. President, how much time does the opposition have?

The ACTING PRESIDENT pro tempore. They have 12 minutes.

Mr. ROCKEFELLER. I yield 5 minutes to the Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair and my colleague.

Mr. President, I rise to oppose the amendment offered by my friend from Wisconsin, Senator KOHL, and I do so reluctantly because I think he may be onto something here. And I do so reluctantly because he has done this in his normal thoughtful fashion. But there are reasons both of substance and procedure that lead me to oppose this amendment at this time, although it is possible at a later time that I would support such an amendment.

Let me talk very directly about the impact that this amendment might have on the underlying bill. It has been more than a decade that efforts have been made here in Congress to reform the product liability laws because of the costs they take out of our society, the impact they have on our economy, and the impact they have on people and consumers.

This bill before us, the underlying bill, S. 687, is a carefully crafted and balanced bill. It is a long way from the original bill proposed 10 or 12 years ago which, in many ways, was a defendant's wish list. It is not that now. One of the things that the sponsors of this bill, and this Senator as one of them, have tried to do is not take on every issue in the area of tort reform.

Unfortunately, this amendment offered by the Senator from Wisconsin threatens that carefully crafted compromise. I know that is not the intention of the Senator. I know he is specifically interested in this proposal that is the subject of the amendment. But the fact is that there are those who are opposed to the underlying bill who would like to see this amendment pass, not so much because they support the amendment, but because of the effect it will have on passage of the underlying bill. In fact, one of the lobbyist lobbying against product liability has described this amendment in a local legal newspaper as one that would create a tactical advantage for those opposing the underlying bill.

For that reason, I support the underlying bill because we have worked so hard on it, and I reluctantly oppose the amendment. There are other reasons, as well.

First—and this has been referred to before—Attorney General Reno's Department of Justice urged Congress not to enact protective order legislation immediately, such as in the amendment of the Senator from Wisconsin. We should not act immediately. We should step back and allow the process we in Congress have created to work its will. That is to stay, we should let the judicial rulemaking process of the Judicial Conference of the United States, which is considering this very subject, run its course.

That process is exactly what we contemplated would occur when we in Congress enacted the Rules Enabling Act, and we should let that process finish, then come back and evaluate its recommendations on this subject matter.

Mr. President, second, in reviewing the language of the amendment, this Senator feels that I would benefit by having more time to review the subject matter of the amendment on a complicated area of litigation.

For example, the amendment appears to be drafted so as to protect only information that encroaches upon a privacy interest. But what about proprietary business information? Is it the intent of this amendment to say that the courts cannot protect confidential business information or trade secrets? If this is true, the amendment will substantially chill the development of new, innovative products.

Another question is, what is the scope of information which is relevant to the protection of public health and safety—that is the language from the amendment—information relevant to the protection of public health and safety? Does that include, for instance, the formula for a new drug or synthesis process? Does it include detailed schematics on exactly how to build a cutting-edge product? Does it include the formula or manufacturing process for new materials?

So while the interest in public disclosure—which I support and I believe is commendable—is part of this amendment, the amendment raises questions about what would prevent competitors from mining these filings for what would otherwise be trade secrets.

I am also concerned this amendment can multiply litigation on collateral issues and, in that sense, expand litigation and costs related to litigation that this underlying bill is attempting to limit.

Mr. President, all of the issues need a thorough review. We should be extremely concerned about creating additional layers of costs. Product liability cases are already the most expensive cases to defend because of the defense costs in product liability cases.

Defense costs in product liability cases specifically are 70 cents for every dollar paid in claims, which is twice the level in defense costs in medical malpractice cases and seven times the defense costs in personal injury auto cases. I fear that this amendment could drive those out-of-control costs even higher.

For all these reasons, I think we need to be careful and cautious in this area. As I said at the outset, in the end I hope I can support the initiative that the Senator from Wisconsin has begun with this amendment, but I cannot do so today.

I want to hear from the Judicial Conference. I want to see some of the questions I have raised examined further. In the meantime, we need to get on with the consideration and passage of S. 687. And for that reason, I urge my colleagues to vote to table this amendment.

I thank the Chair.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Wisconsin is recognized.

Mr. KOHL. Mr. President, I ask unanimous consent for 10 minutes equally divided on this bill if it is OK with Senator ROCKEFELLER.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. ROCKEFELLER. Mr. President, there is no objection on both sides. We will be happy to do that.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KOHL. I thank the Senator.

I yield 3 minutes to Senator SPECTER and 3 minutes to Senator METZENBAUM, and then I will conclude.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I understand the controversial nature of the amendment by the distinguished Senator from Wisconsin, but I believe it is a good amendment.

In the course of litigation there are frequently settlements made which do contain underlying facts which are very important for public disclosure in the public interest.

With respect to the interest of the litigants, it is obviously of a much narrower scope. A plaintiff, understandably, through counsel is concerned about getting what he or she considers to be an appropriate sum of money, and the defendant is concerned about the amount of the award in that case or the amount of the settlement but is also concerned about the ramifications of the facts which may be disclosed on other matters which may be in litigation or potentially in litigation or might bring other lawsuits.

On questions of public safety concerning defective products, it is my view that very frequently the interest of society in having the facts subject to disclosure outweighs the interest of the private litigants to bring an end to their particular lawsuit and definitely outweighs the interest of the defendant in having that information shielded from public disclosure.

This amendment vests in the court the discretion to balance what is in the public interest against what the private concerns are. I believe that there can be realistic and reasonable confidence in the discretion of the Federal courts on this matter.

We have seen with disclosures about what is happening in the tobacco industry, evidence which should have been in the public domain a long time ago, and there are items which come to public attention on product safety which go far beyond the import of the specific case. So the public interest in knowing what defects are with particular products is very, very important.

We have had the examples of all-terrain vehicles which are causing tremendous injury, and if more information were available, that could be cut back upon. The judicial system has a broader range of concern than the interest of the specific litigants involved.

Although there is a great deal more to be said, I just asked for 2 minutes from my colleague from Wisconsin. This statement briefly constitutes why I think this is a sound amendment. So I intend to support it.

I thank the Chair and yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, I yield 5 minutes to the Senator from Utah.

The ACTING PRESIDENT pro tempore. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I rise to voice my strong objection to Senator KOHL's amendment on protective orders and confidentiality agreements.

While I respect Senator KOHL's efforts to address this issue, his amendment is procedurally premature. In fact, both the Department of Justice and the Administrative Conference have raised the same procedural concerns that form the basis of my objection to this amendment.

Under the Rules Enabling Act's rulemaking procedures, any proposed changes to the Federal rules must be circulated to the bench, bar, and public for comments and suggestions. These rules were designed to bring about a more open and public debate on potential Federal rule changes. Moreover, it ensures the rule changes are based on thoroughly debated and studied recommendations.

Procedurally, the Judicial Conference's committee of rules and practice is currently studying the issue of protective orders and confidentiality agreements. As we speak, the Federal Judicial Center, at the request of the Administrative Conference, is conducting empirical studies of selected Federal district courts to verify a preliminary determination by the conference that there is no need to modify the Federal rules.

In my view, we should defer our judgment of the proposed rule change until the Administrative Conference completes its study and makes an informed policy recommendation.

In his recent statement before the Subcommittee on the Courts, Judge Higginbotham, chair of the advisory committee, asked Congress not to undermine the integrity of the Rules Enabling Act and to respect the partnership established between the courts and Congress. More specifically, in his testimony, Judge Higginbotham asked Congress to withhold legislative action until the conference has completed its study and made appropriate recommendations based on thorough research and completed study.

I concur with Judge Higginbotham's views. Congress should respect the Courts and protect the sound working arrangement established between Congress and the courts. There is simply no urgency to act on this proposed amendment, and prudence dictates that we delay consideration of this issue until we are more fully informed.

The Judicial Conference's advisory committee on civil rules has taken the necessary steps to amend rule 26(c). The advisory committee, acting by the authority delegated to it by Congress in the Rules Enabling Act (28 U.S.C. 2072), has undertaken empirical studies, held public hearings, and drafted a proposed amendment to rule 26(c).

Their recommendations have been circulated to over 10,000 individuals and organizations for comment and criticism. Members of the bench, the bar, and the public have provided their insight to the committee. Further, the advisory committee is expected to complete its study and dispose of the proposed amendment to rule 26(c) in only 3 short months.

In my view, the preferred process for amending the Federal rules, a process we sanctioned and established, is functioning well and should be allowed to run its course. Ultimately, if Congress disagrees with the rule changes proposed by the Administrative Conference, then the rule can be returned to the advisory committee for further review or we may offer legislation to remedy the perceived deficiencies. In any case, we should give strong deference to the insights and judgments of the Administrative Conference, the advisory committee, the bench, the bar, and the public, all of whom participated in the process established by the Rules Enabling Act.

Legislative action by the Senate to correct the perceived deficiencies of rule 26(c), before the advisory committee's completes it's study of the rule, offends the spirit of the Rules Enabling Act. The Rules Enabling Act should not be undermined by direct legislative action that ignores and bypasses the Judicial Conference, the bar, and the public.

The Department of Justice has also requested that Congress defer action on protective order legislation until the Department has completed its pending study of and makes a recommendation concerning protective orders in the context of a comprehensive civil justice reform study, which includes an investigation into the deficiencies of rule 26(c). In addition, the Department has requested that the Senate allow the advisory committee to complete its study of protective orders and confidentiality agreements. I support the Department's recommendations in this matter.

I also have several substantive concerns with Senator KOHL'S amendment which I am compelled to outline. I am concerned with a provision in the Kohl amendment that requires a Federal judge to make a "particularized findings of fact" before a protective order to restrict the disclosure of information obtained through discovery or to restrict access to court records can be entered by the court. Likewise, I am concerned that after the entry of a final judgment, a separate order must be entered by the judge which finds that sealing records would not restrict the disclosure of information that is relevant to the protection of the public's health and safety. While laudable in its aims, the Kohl amendment is fundamentally flawed.

Currently, under Federal Rules of Civil Procedure 26(c), protective orders are permitted for "good cause shown" and do not require a particularized finding. Current law also permits the entry of a "consent order" on the basis of the parties' agreement, with the courts approval. Furthermore, courts are free to modify or dissolve protective orders. The Kohl amendment represents a misguided effort to correct alleged deficiencies in rule 26(c) of the Federal Rules of Civil Procedure.

Rule 26(c) currently permits a court to enter protective orders and to seal documents to protect trade secrets, privileged communications, and other classes of information from public disclosure following discovery. These protective orders allow the court and parties to concentrate on settling their real differences, rather than wasting time and money on ancillary discovery issues.

The Kohl amendment also adversely and substantially affects a private citizen's right of privacy. Under our Federal rules, litigants are allowed broad discovery of extremely private and personal information, including financial records or diaries. Intimate information one would never believe could reach the public domain. While this private information may be necessary for the defense or prosecution of a particular civil case, your confidential secrets will now all become public information. And this is true even if you prevail in the underlying case.

Supporters of the Kohl amendment offer anecdotal evidence to support their argument that rule 26(c) operates to conceal information affecting public health and safety. In response, the Kohl amendment seeks rigidly to prohibit courts from entering into any rule 26(c) protective orders, unless they first make "particularized findings of fact that such an order would not restrict the disclosure of information which is relevant to the protection of "public health."

As such, the Kohl amendment is overly broad and is certainly not limited to "a discrete subset of lawsuits filed in Federal court," as characterized by some supporters. Cases involving discovered information sweep the continuum of lawsuits filed in Federal court.

Relevant information will surface not only in products liability and medical malpractice lawsuits, but in every conceivable situation—for example, suits involving energy, natural resources, land use, hostile environment, toxic torts environmental contamination, contracts, intellectual property, shareholder derivative, and complex commercial claims. Such potentially broad application requires that we be extremely cautious in our approach, something the advisory committee was purposefully designed to accomplish.

Moreover, the Kohl amendment affects not only the procedural concerns of the Federal rules, but also substantive rights and remedies arising under privilege law, copyright law, and trade secret law. The full substantive effect of the Kohl amendment is still unknown. The amendment may also needlessly undermine multidistrict litigation policies which currently permit "blanket" protective orders in the interest of efficient case management.

This amendment will also further burden judges with discovery hearings and aggravate the congestion of our courts. Under the provisions in this amendment, every protective order will require a particularized finding of nonrelevance to public health and safety. If this standard were applied, litigation will multiply at great cost to our scarce judicial resources. To complicate matters, a second hearing and findings is required by the court after the entry of a final judgment.

It is unthinkable for this body to impose a new obligation on our already overburdened Federal judges. Litigants already wait too long for their day in court. The cost to taxpayers for these additional hearings and related activities would be staggering and cannot be justified.

I am not opposed to correcting deficiencies in rule 26(c), if they exist. I, too, want to protect the public interest by encouraging disclosure of information essential to our public's health and safety. I disagree, however, with the Senator KOHL's approach and timing.

In sum, the proposed Kohl standard is simply premature and unworkable. It will require judges to conduct complicated factual inquiries, straining our limited and precious judicial resources, with little or no change to existing standards. Our current approach offers the courts wide discretion to determine whether good cause is shown for the entry of a protective order. Our current system has fairly balanced the broader public interest in health and safety against the legitimate need of litigants and our citizens for confidentiality.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. KOHL. Mr. President, how much time do we have remaining?

The ACTING PRESIDENT pro tempore. Five minutes.

Mr. KOHL. I yield 3 minutes to Senator METZENBAUM.

The ACTING PRESIDENT pro tempore. The Senator is recognized.

Mr. METZENBAUM. I thank the Senator from Wisconsin.

Mr. President, I have heard some absurd arguments in my time in the U.S. Senate, but some I have heard this morning are really pretty hard to accept and understand.

We should not accept the amendment, the argument is made, because it is a good amendment but we ought to take some more time to study it or maybe the Judicial Conference ought to have an opportunity to take a look at it.

We are talking about an amendment that has to do with life and death of the people of this country. What the manufacturers are asking is to keep those records closed, sealed, so that nobody can know what their perfidy was, what their negligence was, what their intentional acts were, and they want that information sealed in a case that they have lost.

This amendment is about preventing information in lawsuits that affects public health and safety from being concealed, shielded from public scrutiny by court-sanctioned secrecy agreements or gag orders.

How can we possibly vote against this amendment? These secrecy arrangements prevent the public and regulatory agencies from learning about hazardous products and action to avoid further deaths and injuries from those products.

I suspect that many of my colleagues were unaware and perhaps shocked to learn of this widespread practice in the courts. As Gerry Spence, a renowned courtroom attorney, testified:

> In the course of over forty years in the courtroom I have never been able to settle a case unless the terms of the settlement and the facts surrounding it were kept secret.

Kept secret from whom? Kept secret from the American people so they may not learn about the kinds of faults and the kinds of actions that have been taken by manufacturers that have caused tremendous injury or death itself.

Whenever plaintiffs get access to damaging documents, the defense strategy is to close up the record, to seal the record. It is like a noose around the plaintiff's head—they cannot afford to pass up the premium settlement offer for secrecy and bear the expense and risk of trial, so they settle and agree to close the record.

Secrecy agreements and gag orders have prevented the public from gaining access to vital information about threats from defective heart valves, pharmaceuticals, breast implants, and automobiles. This has led to needless deaths, injuries, and illnesses.

I ask every one of my colleagues to imagine how they would feel about court secrecy if they had a family member killed or severely injured by a defective product, only to learn afterward that other victims had come before, that disclosure of the defect had been prevented by secrecy orders and secrecy agreements, and that the tragedy could have been avoided had you only known the facts ant the information that had been covered up.

Mr. President, this should be a no-brainer for us. Every one of us in this body ought to vote for it.

The only argument I hear against it is in some way it may jeopardize passage of the underlying bill. That is not a sufficient reason to vote against a quality amendment of this type.

How can we allow companies to pursue litigation strategies that permit heart valves to continue being implanted in patients while their life-threatening defects are kept secret?

Many of these secrecy agreements even prohibit plaintiffs from disclosing critical health and safety information to Federal and State regulators charged with ensuring the safety of the particular products. That is absured.

Mr. President, court secrecy keeps critical information from the public and from regulators charged with ensuring the public's safety. The upshot is that consumers cannot make wise choices, regulators cannot do their job, respect for the judiciary is undermined, and lives are senselessly lost. If we change anything in our legal system, it should be this insidious practice of keeping vital health and safety information out of the public's reach.

I would like to ask my colleagues to ask themselves why it is that the industries that support the product liability bill are claiming that passage of this amendment would kill the bill. Why would an amendment whose sole purpose is to prevent senseless injuries and deaths be so unpalatable to proponents of this bill?

Why would the industry groups pushing this bill object to this?

It is because if they could not keep evidence of their defective products secret, they will have to spend more money taking defective products off the market and compensating consumers injured by those products. It is that simple. But the manufacturers would not dare tell Senators the truth about why they oppose the Kohl amendment, because they would look like cold-blooded profit maximizers. Instead, they say the amendment would kill the bill. Just remember: That is their pocketbook talking.

I urge my colleagues to support the Kohl amendment to eliminate secrecy arrangements that undermine public health and safety.

The PRESIDING OFFICER (Ms. MOSELY-BRAUN). Who yields time?

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. How much time is remaining to the opponents?

The PRESIDING OFFICER. Four minutes and 50 seconds.

Mr. ROCKEFELLER. Madam President, I yield to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Madam President, during his remarks on this amendment, the distinguished senior Senator from Alabama, I believe, covered at least some of the reasons for a number of the supporters of the amendment, not including its primary sponsor, for being for the amendment. He spoke not so much to the merits of this particular proposal but of this proposal as a way to see to it that the overall bill did not pass. He spoke most particularly about the impact of punitive damages in cases of this nature. He spoke to the FDA and he spoke to the Federal Aviation Administration defending the present system.

We have already had an extensive debate in this body on the impact of product liability litigation and, for that matter, punitive damages on the private aviation manufacturing industry in this country. Nothing could be more clear than the fact that that enterprise has, for all practical purposes, been destroyed. In a 10-year period, the production of piston-driven private aircraft declined by some 90 percent; employment in the field declined by the same amount; several of the companies engaged in that business have gone out of business entirely; others have reported that the defense of this kind of litigation costs an average of $500,000 per case. Even in connection with one of the manufacturers when the manufacturer had never lost a product liability case, those costs were imposed upon him.

And the Senator from Ohio says, quoting a trial lawyer, that that trial lawyer would never be able to settle a case without an order of privacy, an order withholding the results of discovery in such a case.

Well, what does that mean? Does that mean that there will be less litigation or more? Does that mean that more cases will be settled or fewer?

Obviously, it means that fewer cases will be settled. If, in fact, all of the evidence is going to become public in any event, the defendant may just as well carry the case on as far as the defendant possibly can, adding to the costs to plaintiffs, adding to the amount of most contingent fee arrangements. So that where now we have 70 or 75 percent of all of the costs of product liability litigation going to other than the plaintiff, other than the victim, perhaps we can drive that up to 80 or 85 percent by making every one of these cases go to trial.

That would be the result of the adoption of this amendment—fewer settlements, more expenses, both to defendants and to plaintiffs, and less money getting through to victims of actual negligence or actual misconduct on the part of manufacturers.

It seems to me that the arguments of the Senators from Ohio and Alabama have been the best reason to turn down this amendment, as well as valid reasons to pass the bill overall. What they are asking us to do is to spend more money on litigation to discourage the settlement of lawsuits, rather than the opposite, which is clearly the goal of the overwhelming majority of the American people.

Madam President, I am finished and I suspect we are prepared to yield back the remainder of our time.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Madam President, I yield back the remainder of our time.

The PRESIDING OFFICER. The Senator from Wisconsin has 1½ minutes.

Mr. KOHL. Madam President, in closing, I want to point out that the Consumer Product Safety Commission is supportive of this amendment. It has been indicated that they are not supportive. They are supportive of this amendment.

I think it is very clear from our discussion this morning that there is a very serious problem with court secrecy. The opponents, for the most part, have said let us put it off; let us not decide it now; let us wait. There is no reason to wait.

I support S. 687, and to support S. 687 is consistent with supporting the intent of this amendment. This is an amendment that is in the public interest, and that will be met with approval by the great, great majority of all the American people.

We have a responsibility to them to put the public interest here where it belongs, not only first, but along with private interests. And that is what this balancing requirement of the amendment will do. It requires judges to balance the public interest with private interests before they allow a court secrecy arrangement to be put through.

So I think this is a very good amendment, and I urge the Senate to adopt this amendment.

Mr. ROCKEFELLER. Has all time expired on both sides?

The PRESIDING OFFICER. All time has almost expired. There are 16 seconds left—20 seconds left.

Mr. KOHL. I yield the remainder of my time.

The PRESIDING OFFICER. All time has expired.

Mr. ROCKEFELLER. On behalf of the Senator from Washington [Mr. GORTON] and myself, I move to table the Kohl amendment. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Kohl amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 51, nays 49, as follows:

[Rollcall Vote No. 168 Leg.]

YEAS—51

Bennett
Bond
Boren
Brown
Burns
Byrd
Chafee
Coats
Cochran
Coverdell
Craig
Danforth
Dodd
Dole
Domenici
Dorgan
Durenberger
Faircloth
Glenn
Gorton
Gramm
Grassley
Gregg
Hatch
Helms
Hutchison
Jeffords
Kassebaum
Kempthorne
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Murkowski
Nickles
Nunn
Pell
Pressler
Pryor
Robb
Rockefeller
Roth
Sasser
Smith
Stevens
Thurmond
Wallop
Warner

NAYS—49

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Campbell
Cohen
Conrad
D'Amato
Daschle
DeConcini
Exon
Feingold
Feinstein
Ford
Graham
Harkin
Hatfield
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Packwood
Reid
Riegle
Sarbanes
Shelby
Simon
Simpson
Specter
Wellstone
Wofford

So the motion to lay on the table the amendment (No. 1930) was agreed to.

Mr. DODD. Madam President, I move to reconsider the vote.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, I would yield to the distinguished manager of the legislation, the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I thank the Presiding Officer.

Madam President, I think what has happened in this vote is that the Senate has expressed itself with great sincerity and intensity that they want to see secrecy in the judicial process begin to disappear, and whereas the opponents of the amendment won, I think the argument of the proponents may have won. I congratulate Senator HERB KOHL. I would ask that the judiciary hear what the Senate has today said, that secrecy and the judicial process are not comfortably intertwined.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, I am just going to take a few minutes, if I could, to share some general thoughts on the legislation before us.

Let me at the outset commend our colleague from West Virginia for his leadership on this issue, along with my colleague from Connecticut, Senator LIEBERMAN and Senators DANFORTH and GORTON who have also been instrumental in crafting this legislation.

Madam President, I rise in strong support of the Product Liability Fairness Act. The balanced reforms in this measure would help restore fairness to the product liability system in our country. It would help injured people get the help that they need when they need it and put an end to the game of Russian roulette that our product liability system has become.

Madam President, it is very clear that our current product liability system does not work. People can argue about how to fix it, but it is broken and it needs to be fixed. If you ask the American people, they will put their fingers on the core of the problem. The results you obtain in a product liability case depend primarily on your ability to pay for a good lawyer. That is how the system works today. That is true whether you are a consumer, injured by an unsafe product, or a business person trying to defend yourself against an unjustified lawsuit.

The statistics confirm what our constituents are telling us. Under the present system injured citizens must wait years for compensation. For example, a recent study by the General Accounting Office found that it takes 5 years for victims with the average dollar loss to receive compensation.

The delays in the present system can and do lead to inadequate compensation. Many seriously injured victims who lack the resources to pay for their medical bills and support their families cannot afford to wait the 5 years for payment; they have no choice but to settle, and in many cases to settle for inadequate amounts.

The problem, Madam President, of inadequate compensation is well documented. This is not speculation. One study found that people with economic losses between $100,000 and $200,000 recovered an average of 150 percent of their losses, while those with losses of more than $1 million, arguably the more serious claims, recovered only 39 percent of their losses. Other studies confirm that victims with less severe injuries are vastly overcompensated while victims with major injuries are significantly undercompensated. If that is not a system that is broken, I do not know what is.

It is clear, Madam President, that the present system is not serving the needs of our injured citizens. At the same time, it is not serving the needs of American businesses.

Many businesses are reluctant to introduce new products because when they look at their potential liability what they see staring back at them are the different and distinct laws of 55 States and territories. This uncertainty is particularly difficult for small businesses which cannot afford the huge legal costs of the present system. And these are not legal costs that fall only on unscrupulous manufacturers. Many companies have run up enormous legal bills only to be vindicated by the courts.

If an American business is afraid to innovate or is forced to defer investment on research and development, is that business the only one to suffer? Of course not, Madam President. If American businesses are unable to bring innovative products to the marketplace or forced to take helpful products off the market, we all lose.

The search for an AIDS vaccine is a very good example of what we are talking about. At least one company, Biogen from Massachusetts, terminated its investment in an AIDS vaccine because of product liability fears.

Madam President, this is not just one company complaining. Dr. Jonas Salk has stated that, if he develops an AIDS vaccine, he doubts that an American manufacturer would actually market it.

But this problem is not limited to particular products. The current product liability system threatens entire industries. The contraceptive industry is one example. A 1990 report issued by the National Research Council and the Institute of Medicine concluded that "Product liability litigation has contributed significantly to the climate of disincentives for the development of contraceptive products."

The American Medical Association has documented this problem:

> In the early 1970s, there were 13 pharmaceutical companies actively pursuing research in contraception and fertility. Now, only one U.S. company conducts contraceptive and fertility research.

Is our country well-served by a system that prevents contraceptives, and other critical medical products, from coming to the market? Who benefits from that result? I would suggest then no one benefits, and that is why we can and must do better.

A STEP FORWARD

And with passage of the Product Liability Fairness Act, we will do better. This legislation may not solve all of the problems in the product liability system, but it will improve that system for everyone—for the injured people who need fast and fair compensation, for consumers who need quality products to choose from, for those American businesses who are at the cutting edge of international competition, and for workers who depend on a strong economy to support their families.

The moderate reforms in this measure will reduce the abuses in the current system without eliminating solid protections for those who are victimized by defective or dangerous products.

UNIFORM SYSTEM

Let me highlight some of the key provisions of this legislation. First, this measure will provide a more uniform system of product liability. By adding more certainty to the system, the excessive costs in the present system will come down.

This improvement is one of the reasons why the National Governors Association testified in support of product liability reform. The association has said:

> The United States needs a single, predictable set of product liability rules. The adoption of a Federal uniform product liability code would eliminate unnecessary cost, delay, and confusion in resolving product liability cases.

ALTERNATIVE DISPUTE RESOLUTION

The provisions in the bill that encourage fair settlements and the use of alternative dispute resolution will also help reduce the excessive costs in the current system. Currently, too much money goes to transaction costs—primarily lawyers fees—and not enough goes to victims.

A 1993 survey of the Association of Manufacturing Technology found that every 100 claims filed against its members cost a total of $10.2 million. Out of that total, the victims received only $2.3 million, with the rest of the money going to legal fees and other costs. Clearly, we need to implement a better system in which the money goes to those who need it—injured people.

BALANCED APPROACH

Most importantly, and I cannot emphasize this enough, the moderate reforms in this bill offer a balanced approach to the needs of both consumers and businesses. Consumers will benefit, for example, from a statute of limitations provision that preserves a claim until 2 years after the consumer should have discovered the harm and the cause, not when the harm occurred, which is the law in some States, but when they should have discovered it. That is a great advantage to consumers.

In many cases, injured people are not sure what caused their injuries, and by the time they figure it out, they have often lost their ability to sue. This legislation will provide relief for people in such situations and allow them adequate time to bring a lawsuit.

Businesses will also benefit from this legislation. For example, in order to recover punitive damages, the plaintiff will have to prove, by clear and convincing evidence, that the harm was caused by the defendant's "conscious, flagrant indifference to the safety of those persons who might be harmed by a product." This provision will allow defendants to have a clear understanding of when they may be subject to this quasicriminal penalty. At the same time, the bill does not institute arbitrary caps or limits that would restrict the rights of plaintiffs.

Many States have caps on punitive damages, but this bill does not.

Under this measure, defendants will have an absolute defense if the plaintiff was under the influence of intoxicating alcohol or illegal drugs and the condition was more than 50 percent responsible for the plaintiff's injuries. This provision, it seems to me, is nothing more than common sense.

PRODUCT SELLERS

Furthermore, product sellers would only be liable for their own negligence or failure to comply with an express warranty. This provision would help product sellers who are not at fault get out of cases before running up huge legal bills. But as an added protection for injured people, this rule would not apply if the manufacturer could not be brought into court or if the claimant would be unable to enforce a judgment against the manufacturer.

The provisions I have outlined demonstrate the balance this legislation strikes between consumers and businesses. In the final analysis, the reforms in the bill should strengthen the product liability system for everyone.

Of course, some of my colleagues are opposed to this measure. While I hope to respond to some of their arguments more extensively during debate, let me briefly address some of their claims.

A NATIONAL SOLUTION FOR A NATIONAL PROBLEM

First, some of my colleagues argue that this bill would undermine long-established principles of federalism and interfere with State liability standards. But I see an important rationale for Federal standards in this area: More than 70 percent of all products are sold beyond the borders of the State in which they are manufactured.

There was a time when the products that were sold were sold only or almost exclusively within the State that they were manufactured. Today, that is no longer the case.

Inconsistent State laws are a real burden for manufacturers, who are sometimes required to meet different standards in each different State and territory. Additionally, these inconsistent State laws encourage forum-shopping.

Because of the different laws, some people shop all over the country as to where to bring their lawsuit. That is not intelligent. That is not wise. That undermines the system. At the same time, Federal intervention into a specific area of liability is certainly nothing new.

For example, Congress has adopted Federal tort plans under the Jones Act for certain maritime accidents, and under the Federal Employers Liability Act which relates to railroad accidents.

Opponents of this legislation, Madam President, have also argued that there is no litigation explosion and that, therefore, there is no need for this legislation at all. There are conflicting statistics about how many product liability cases are filed each year and the amount of money involved. But there is no doubt, Madam President, whatsoever, that there are thousands of product liability cases involving billions of dollars filed annually in this country.

Clearly, there are enough cases and dollars to warrant making the system more fair and efficient. But to debate whether there has been a litigation explosion I think misses the critical question of whether injured people are being treated fairly under the present system. As I suggested previously, they are not being treated fairly, and this act would improve the system immeasurably.

Although there are disagreements about this legislation, I find it tremendously encouraging that we are at least having the opportunity to debate this bill. This is one of the first opportunities we have had to debate litigation reform. Senator DANFORTH and I, going back almost 10 years ago, offered legislation in this area. It never moved beyond committee. We never had the chance to deal with it. I point out that one of those involved in helping us draft the legislation was the dean of Yale Law School, Guido Calabresi, one of the great experts on tort law. Unfortunately, we were not able to get much done then.

At least today we are debating and discussing this issue. I am hopeful that this evening we will vote to invoke cloture and move forward on this measure.

With this bill, we can implement much-needed reform. The only question is whether or not a minority—and that is what it is in this body—will prevent us from completing action on this legislation. This is a critically important issue involving the rights and responsibilities of injured people, of workers, of American business and industry, and we ought to treat it with the seriousness it deserves.

I urge my colleagues to allow this debate to go forward and to give this body the opportunity to vote up or down on whether or not they think that product liability reform is necessary.

In closing, I encourage my colleagues to offer constructive amendments that will improve the bill. Let us debate the real issues and find solutions to the real problems in our product liability system. In my view, this legislation, with its balanced approach to reform, will improve the product liability system for everyone. I urge my colleagues to support it.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California [Mrs. BOXER] is recognized.

Mrs. BOXER. Madam President, I want to add my voice to those who oppose this bill, the Product Liability Fairness Act. I do not think it is fair. I do think it is about product liability. I want to point out why I not only think it is unfair, but also it is dangerous. I think it is dangerous for people in this country, particularly the women, in its present form. I also have to say the bill could have been improved by the Kohl amendment. But this Senate voted to keep settlement agreements secret—unbelievably, the Senate voted to keep settlement agreements secret.

I happen to know of some cases where there have been terrible products on the market. There were toys, for example, where a child was injured or paralyzed using them. But the agreement could never come to light, and that product stayed on the market, and who knows if other children are becoming paralyzed. But this body could not even vote for that amendment. They do not want to endanger the Product Liability Fairness Act.

I will tell you that it is bad medicine for the people of this country; it is bad for the women of this Nation. I agree that we must help our businesses keep costs down. I work with the businesses of California to make sure that they can compete, to make sure that they have incentives to win in this new global economy. But I do not believe we should pass a law that looks at the corporate bottom line only, and not at the bottom line of the people of this country who could be harmed.

I do not think we should ever sell off the rights of victims, who are too often women, whose lives have been torn apart by dangerous drugs and medical devices. I can tell you—and I will in this speech, I hope, effectively—that we are not just talking about theoretical issues here; we are talking about living, breathing people—Americans who have been harmed.

For the victims, the price tag on this legislation is far too high. Make no mistake about it. This bill, in my opinion, is not about reform; it is about putting the women of this country in a powerless position, powerless to fight against the horrible outcomes that have resulted from misrepresentations and broken promises.

I certainly do not accuse any of those colleagues who support this bill of doing this intentionally. But that is what this bill does. It is about making women and their offspring the guinea pigs of our future by giving a legal shield to those who should be held responsible for mistakes. This bill would do this by shielding manufacturers of dangerous drugs and medical devices from punitive damages, even in cases of recklessness and indifference to society. All these companies need to do to make them immune from these kinds of damages is get an FDA approval.

Madam President, this is a terrible mistake. In our society, the threat of punitive damages helps keep dangerous products off the market. If we turn around and shield these health product wrongdoers from liability for punitive damages, we will be helping to tear down our system's safeguards against danger of the most frightening kind.

Madam President, we are going to hear a lot of talk on both sides of this issue. But I think history speaks for itself. Let us remember DES, Copper-7 IUD's, and high-estrogen contraceptives. Maybe the men in this body do not remember them as well as the women do, but I think we ought to focus on those particular products which have wreaked havoc on the women of this Nation. They all had something in common: The FDA let those products onto the market.

There are those who will argue that, well, in those days, the FDA really did not approve the way they approve today. I agree that the approval process has gotten better. But let me tell you, mistakes have happened in the past when we thought there was a good approval process, and they will happen in the future.

In fact, Madam President, a GAO report examined data about drugs approved by the FDA between 1976 and 1985 and found that over 50 percent of them had serious postapproval risks that could lead to hospitalization, severe or permanent disability, or even death.

I do not think you need a law degree to know that 10 or 20 years from now, we will look back and think that our system was not perfect even today.

And in 50 years people will look back and say, gee, we thought we had it down right, but we did not. We will continue to see faces on the wall of history of people tragically, often fatally harmed by a whole list of drugs and medical devices that we incorrectly believed were safe.

Just yesterday Hazel O'Leary, the head of the Department of Energy, released documents that showed what this Government did to these people of this country without them knowing they were exposed to radiation. They thought everything was fine. Oh, it was the Department of Energy. It was the Federal Government. And pregnant women were exposed to radiation.

What is the connection I am making? The connection is that in this bill we give companies an FDA excuse. And the point I am making is this is government of, by, and for the people, but it is not perfect. This Government lied to its own people in order to do experiments. Who is to say there will not be a bureaucrat somewhere in the FDA who could be bought someday now or in the future and that approval is given to a product that maims? Oh, it is an FDA excuse, the company says.

Now most manufacturers try to do the right thing. We have some wonderful lifesaving products in our country. I support these companies. I support their research. I think the thing we need to do is expand research. But when it comes to safety, let us not leave the women of this country exposed.

Let me talk about my experience. For 10 years I was over in the House of Representatives, and the last few I was the chairman of the subcommittee that oversaw the FAA. Now in this bill there is an FAA exemption, also, a Federal Aviation Administration exemption given.

I have to tell you there were many times in my research that I accused the FAA of being a little too cozy with the industry. And when it came to safety that was true. If you look at the configuration of where exit doors are on planes in this country, you will see in comparison to foreign countries we do not do enough for safety. We do not leave enough room for people to escape a plane.

I will be darned if I am going to give a company an FAA excuse so that in case of a crash or a problem they can say, well, we did this the right way.

(Mr. CAMPBELL assumed the chair.)

Mrs. BOXER. I do not think that our Government is infallible, Mr. President, and I do not think it ever will be infallible. What I find amazing is a lot of my colleagues here who are always critical of the Government, particularly my friends on the other side of the aisle, are willing to trust the FDA and the FAA in this fashion and let companies hide behind that shield. I find that rather amazing.

In 1993, a GAO study found the FAA is not equipped to keep pace with new technologies and that its engineers are undertrained. If we allow an imperfect FDA and FAA process to serve as an absolute shield for manufacturers, what governmental entity will be next that we will put up as a shield?

I have a list here, Mr. President, of all the agencies in the Federal Government that have regulatory functions. I will not read them all.

Mr. President, one of them is the Nuclear Regulatory Commission. Maybe we ought to give a shield for that. Another is the Occupational Safety and Health Administration. That would probably come next. And pretty soon I will tell you we are going to be setting up the situation where all the companies have to do is cozy up to these bureaucrats, get a signoff on their product or plant, and duck behind that shield if there is a problem in the future. This to me is a slippery slope that we should not step onto.

When lives are at stake, we need to look for ways to increase, not decrease, our safeguards against flagrant misconduct. We cannot allow ever, in my opinion, the FDA to be a substitute for our jury system, or the FAA, or any other regulatory agency.

I think women will be disproportionately harmed by this bill, also because it has a provision barring joint liability for noneconomic damages. The doctrine of joint and several liability says that when more than one defendant is responsible for an injury but they all cannot contribute to the award, the plaintiff, the injured party, is allowed to recover fully from the remaining wrongdoers.

We are not talking about defendants who played a small or insignificant role in the damage. We are talking about companies whose actions alone were, at the very least, an essential factor in causing the injury.

The remaining responsible companies do not want to pick up the tab for the others who have either fled the country or declared bankruptcy or are in some other way judgment-proof. I ask my colleagues: Why should it be the injured party, the victim, who is forced to subsidize the wrongdoer?

Noneconomic damages help reimburse victims for the pain and suffering they experience when they are disfigured or lose their fertility. We have learned from our past tragic experiences that these damages are particularly important to women. And let me explain why I view this bill as harmful to women.

We all know that the economic status of women is not as high as men. According to 1993 data from the U.S. Department of Labor, a women still earns only 77 cents for every dollar earned by a man. Women make up 52 percent of the population, but there are 10 million more men working in this country than women.

By eliminating punitive damages in certain cases, we are increasing the vulnerability of women to dangerous products. We must always work to ensure equal justice under the law, regardless of earning capacity, professional status or gender.

Let us think for a minute about real people right here. Think about what happened to the women who trusted products like DES, silicone breast implants, Dalkon shield, and Copper-7 IUD's. This is what happened to them: Infertility, miscarriage, cancer, and disfigurement. Now you will hear a lot of talk on the Senate floor about legal theory. Let us talk about miscarriage, infertility, cancer, disfigurement. These injuries may not always carry a quantifiable economic price tag in a lawyer's mind or in the court.

They may not even result in any lost wages if the individual, say, works part time and is able to continue with that work. But that does not mean that they do not take a tremendous toll on the women, on the quality of their lives and the lives of the people around them.

We value families in this country—we certainly say we do. Imagine the pain and loss to a woman or a man who, because of a company's mistake, can never experience the joy of a child.

Mr. President, it is estimated that 5.3 million American men and women in this country are infertile—a full 10 percent of the population. Some of them became infertile because of dangerous products. I know if we asked them, they would tell us just how devastating it is. Maybe it is not considered an economic loss but it is, nonetheless, a devastating loss.

So as we debate this bill, I believe that we must listen to the real casualties of this bill: The victims—real people with lives worth protecting.

Mr. President, I do have about 4 more minutes I see my colleagues are standing and I just want to inform them 4 more minutes to wind down my conclusion.

Mr. President, I think the supporters of this bill should meet the real victims behind this issue.

They should meet Martha Cody of Santa Barbara, CA. At age 34, Martha was forced to have a hysterectomy. In Los Angeles, CA, Sherry Weinman lives with the knowledge that she is infertile. Then there's Patti Negri, of Hollywood, CA. Not only will this 37-year-old woman never have children, but she developed osteoporosis at the young age of 30.

Their injuries were caused by DES—DES, a drug that was placed on the market with the approval of the FDA. This bill will tell DES victims across America that the FDA premarket approval process, however inadequate, should excuse the manufacturers of drugs like DES from paying punitive damages.

I think the supporters of this bill should meet Sybil Goldrich of Los Angeles, CA. She now has chronic illness, tumors in her uterus and ovaries, and has lost her reproductive capacity. And all of this because, after having bilateral mastectomies for breast cancer, she received a silicone-gel breast implant.

Or Peggy Oglosby, a California resident who also had breast cancer and after receiving silicone implants, her life and her health has been dramatically altered. She has lupus, problems with her motor and sensory nerves, arthritis and she ultimately had to have major reconstructive spinal surgery. She wrote to me:

> Every day I am in extreme pain. My muscles form large painful knots, my joints are stiff, swollen and painful. I have debilitating headaches, severe back and neck aches. I have rashes all over my body. I get so hot I feel like my body will catch on fire. I cannot begin to tell you how difficult it is for me to try and prepare a simple meal, do a little laundry or any other normal everyday thing * * * My lifestyle and my husband's have been dramatically altered.

And then there's Brenda McLaughlin, a silicone breast implant victim from San Francisco, CA, who wrote to me and asked me to do the following. She said: "Please look at the human side of this issue."

"Look at the human side of this issue," she says.

If we pass this bill in its current form, we are turning away from the human side of this issue.

I ask my colleagues to honor these victims and do the right thing.

For too long the women of America have not been paid attention to. They do blood pressure experiments, but not on our blood pressure. They look into heart disease, but not at our hearts. Finally, we are paying attention to women's issues.

This bill would take us back in the other direction. I think the time has come to stand up for the women of this country and say that we count, too.

Because, if we do not, I will tell you, my colleagues, somewhere down the road at a community meeting when you meet one of these women, or in a hospital when you meet one of these women, or even a classroom when you meet one of the kids of one of these women, you will regret—you will regret—that you put into law an FDA shield. It is wrong and I hope we will beat this bill back.

I yield the floor.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. HEFLIN. Mr. President, I would like you to give some thought about the facts of a case that could come under this bill.

Two planes collide in the air, both of them built within the last year. Plane A is not defective. Plane B is clearly defective, clearly at fault. Some of the parts from plane B fall on Yankee Stadium, injure people, and destroy a section of the stands.

Plane A does not come under this bill in the suit. The owner of Yankee Stadium, which loses 500 or 600 seats and cannot have spectators in it, does not come under this bill.

This bill has a specific exclusion for businesses. It has an exclusion that the provisions do not apply to businesses.

Section 4:

> A civil action brought against a manufacturer or product seller for loss of damage to a product itself or for commercial loss is not subject to this Act and shall be governed by applicable commercial or contract law.

Pennzoil-Texaco, one of the largest verdicts ever rendered, $11 billion, was not a personal injury suit. It was a suit for commercial loss.

Commercial loss extends to replacement of the aircraft, replacement of the parts of the aircraft, loss of business of plane A, and loss of profits. It applies to the owner of the Yankee Stadium that loses a section of its grandstands where spectators cannot come.

This law does not control relative to that.

Now that is not fair. What is good for the goose is good for the gander and what is good for the gander is good for the goose.

Well, one of the people in plane B has bought a life insurance policy, paid for it for 30 years, and has a health insurance policy on which he has paid the premiums for 30 years. He is injured and goes to the hospital, stays a month, and incurs a $100,000 hospital bill. His life insurance policy, which he had paid for all of the time, is $200,000.

He ends up with a verdict of $500,000. Under this bill, under certain circumstances, his $500,000 verdict is reduced by the $200,000 life insurance that he has paid for over the years. It is further reduced by the $100,000 hospital bill that was paid from his health insurer because he lived 4 weeks before he died.

Now, somebody says, "How in the world could that happen?" The language in this bill provides for that.

The definition of collateral benefits includes any life insurance, any health insurance, any accident insurance or plan, wage or salary continuation plan, or disability income or replacement service insurance, result of participating in any prepaid medical plan or health maintenance organization.

There is a provision in the bill that says that if the defendant makes an offer of settlement and the claimant receives less, then any collateral benefit—which includes that life insurance policy and that health insurance policy—is deducted from the award.

And so it could well be that, instead of the $500,000 judgment that he gets, he finds it reduced by $200,000 of his own personal life insurance and $100,000 that had been paid out from his own health insurance company.

And the court has to do this, not the jury. It is after the verdict that the court makes this reduction under the language that is in this bill. And the injured party ends up with $200,000.

Now, with language like that in S. 687, how in the world did somebody have the audacity to call this the Product Liability Fairness Act?

Let us look at the fairness issue. We mentioned two things already. Is it fair that under this bill a seller of a product can impliedly warrant that product for an improper and dangerous use and not be found liable?

For example, if a consumer asked to purchase a product for use that the seller knows is improper and dangerous, unless the seller expressly verbalizes or says orally that the product is in fact safe for that use, the seller cannot be held liable. That is the issue of implied warranty. The product seller has to expressly say it. The law is that products are supposed to be put on the market in a fit and proper condition for the use for which they are intended.

Let us look at some of the other aspects of this bill. The proponents changed the law in regards to punitive damages, which has been standard over the years, from willful or wanton. They changed the standard and put in language for a superheightened standard of "conscious, flagrant indifference" to safety. Conscious and flagrant—far more than what has been the standard. Had Exxon been confronted by the big business protections of S. 687—that is this bill—they would have faced no punitive damages in the *Exxon Valdez* case where the punitive damages were awarded for reckless conduct.

Is it fair that a big drug company that markets a product that is horribly dangerous and injures many, many people should be granted immunity from punitive damages simply because the product was approved by a Federal bureaucracy? That immunity applies if the defendant has information or knowledge that the product was dangerous but the information was not required under some technical regulations drawn up by a bureaucrat who never dreamed such rules would lead to immunity for a drug company.

Let me point out the GAO study relative to the FDA approval. GAO recently issued a report on this issue which contains some alarming statistics:

> Of the 198 drugs approved by the FDA between 1976 and 1985 for which data was available, 102, or 51.5 percent, had serious postapproval risk as evidenced by label changing or withdrawal from the market. The serious postapproval risks are adverse reactions that could lead to hospitalization, increasing the length of hospitalization, and very possibly severe or permanent disability, or death.

I quote from the GAO study at page 3, which was issued, "FDA Drug Review, Postapproval Risk, 1976 to 1985," in April 1990.

Let us look, also, in regards to the FAA approval that is required. It also gives a complete defense. Additionally, there are real questions about the effectiveness of FAA safety inspection procedures. GAO, in a report released on November 13, 1989, is extremely critical of this system, noting that "inadequate oversight of the inspection program resulted from, one, FAA headquarters management being unaware that its inspection policies were not always followed by local FAA staff; and, second, inaccurate reporting to Congress of FAA's achievement."

The effects of this inadequate inspection system on the defects in the aircraft were recently recognized by the chairman of Cesna Aircraft, who stated that, "With tougher airworthiness requirements implemented aggressively by FAA, and with type-specific flight standards, I believe it is realistic to reduce the level of accidents by at least 50 percent."

If even the aircraft manufacturers believe there is room for a 50 percent improvement from FAA, it would not be appropriate to leave FAA as the only line of defense for the safety of the flying public.

On machines, we get into this issue of the statute of repose. Howard Falk, a member of the board of directors of the National Machine Tool Builders Association, testified that over 50 percent of the claims filed against machine tool builders involved machines over 25 years of age.

As we review each and every provision of this bill, it is clearly written for an advantage for certain manufacturers and not for the advantage of an injured person.

There is another provision in this bill that causes me a great deal of concern and raises the fairness issue. On page 26 of the bill, there is this statement:

> The employee shall not make any settlement with or accept any payment from the manufacturer or product seller without the written consent of the employer, and no release to or agreement with the manufacturer or the product seller shall be valid or enforceable for any purpose without such consent.

This provision deals with workers' compensation.

> However, the preceding sentence shall not apply if the employer, the workers' compensation insurer of the employer, is made whole from all benefits paid in workers' compensation benefits.

"Made whole" is 100 percent. Suppose a claimant feels there is a chance he will lose. And there are figures that have come out recently in a study that show that just slightly over 50 percent of all plaintiffs in lawsuits that are tried are victorious. So, therefore, he says, "I want to settle my case. I am willing to settle for 50 cents on the dollar." But an injured worker has to get his employer's consent, which is really his insurance company and the workers' compensation insurance company. And they say, "No, we are not going to take 50 cents on the dollar. Under this law, under this products liability fairness law, we are entitled to 100 percent."

Sometimes the insurance company who represents the defendant and the insurance company who represents the plaintiff can be the same, and they could use this language about failure to give consent in such a manner as to present hurdles and obstacles for plaintiff to go over. That is a very dangerous and very unfair provision that is in this particular bill.

There are other provisions which relate to the question of fairness. In my judgment, the provision dealing with the joint and several liability on noneconomic issues is very unfair. I thought Senator BOXER hit it very good. Her speech was very much to the point on it. But just say "disfigurement." Disfigurement is a noneconomic loss. In a clear case of liability, why is it that a severely disfigured claimant has to figure out which of several defendants is supposed to be recovered against? The defendants themselves ought to have the responsibility to determine and apportion damages among themselves, and contributions among joint tort feasors are recognized in a number of States, and this can be worked out, rather than putting the burden on the woman who is disfigured or the woman who is deprived of being able to have a child. That responsibility, when there is clear liability, ought not to require that the injured party has to figure out the proportion of liability between four, five, or six defendants. The defendants themselves can apportion that. They have understandings and agreements relative to these matters. But this puts an awful burden on the woman who is in a situation where she cannot bear a child in the future as a result of injury for which she bears no responsibility.

Children are also adversely affected by the bill's provision regarding noneconomic damages, because there is no standard by which you can measure their wages. A 10-year-old child who is made completely a vegetable, who does not have the ability to earn in regard to the future, how much wages would the person have? That child might have been a doctor. Maybe, on the other hand, that child might have been the executive of a large company. But there is no standard by which a court could measure their compensable damages.

Now, to me that is very unfair. The elderly, who are entitled to spend the last years, the sunset years of their life, in some peace, would also be the ones affected by the provisions of this section in the bill because their loss would be a noneconomic loss.

Now, the question is that certainly one ought not to have to bear the risk caused by potential bankrupt defendants and to bear the burden of apportioning the damages among the various defendants. Let the defendant themselves, and their insurance companies, have that responsibility.

This bill is one of the most unfair bills that I have ever seen. As it is written, the fine print has so many clauses which are designed to save the insurance company money. That is basically what it is. The title of S. 687 is certainly a misnomer.

I go back to the phrase what is good for the goose is good for the gander. Why does the bill exclude all commercial loss and all business defendants? They do not come under this proposed law. They do not want to be saddled with its obstacles and hurdles. They do not want to be saddled with the fine print that is contained herein and the provisions that are there. Therefore, they exclude themselves.

What is good for the goose is good for the gander. That lone provision convinces me that the word "fairness" is a misnomer and it ought to be the Product Liability Unfairness Act that the proponents are proposing in this case.

Mr. President, I think if a person reads this bill, or has staff read this bill, and sees the unfairness that comes out of all of this, it becomes apparent that this bill ought to be defeated, and that cloture ought not to be allowed in this case. S. 687 needs to go back to the drawing board.

Now, I think over the years the States have done a pretty good job. When I came here in the years of the Carter administration, the business community was afraid—and I agreed with them—that there was a big movement to have a federalized workmen's compensation law, and business interests always told me that anytime you get a Federal cure, it turns out to be a Federal plague.

Well, they come up here with this. I do not know what may happen in the future in regard to a plague, but after this bill were to become effective they may well come back and seek to liberalize it far more. But this area of the law ought to be left to the States, as it has for over 200 years. This is a strictly unfair bill. I urge my colleagues, when the vote comes up on cloture, to vote against cloture.

I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington [Mr. GORTON] is recognized.

Mr. GORTON. I thank the Chair.

Mr. President, the distinguished junior Senator from California might well be surprised at the degree of agreement with many of the points that she made across party lines and across the line of division over this bill.

Much of what she said about the right of people to make recoveries when they are injured by the negligent or purposeful action of others is extremely sound policy. Much of it, however, has already been anticipated over the course not just of the 2 years of this Congress, but the 12 or 14 years during which product liability litigation has been discussed in the Commerce Committee. Therefore, many of the serious cases and examples which she brought up in her speech would be unaffected, for all practical purposes, by this legislation.

When you get right down to it, legislative provisions on product liability, which were extremely expansive in the early years of the discussion of this subject, which to a certain extent federalized the laws relating to negligence and strict liability, which included many additional defenses, have in many cases been removed from this proposal, which now covers perhaps three or four major subjects. None of the opponents to this legislation, to the best of my knowledge, have objected to those provisions in the bill which deal with expedited settlements, which attempt to see to it that peaceful and prompt resolution of controversies is encouraged rather than discouraged.

None of the opponents of this bill, to the best of my knowledge, object to those elements in the bill which actually extend or preserve rights of injured parties, like a statute of limitations which becomes national in nature and which is based not on the date of the injury but the date on which the injured party should have known in due and reasonable course that he or she in fact was injured by the product in question.

Note that the substance of the bill, from the point of view of the way in which litigation is conducted and the way in which claims are dealt with, really comes down to two matters of considerable substance, one having to do with what is called joint and several liability and the other having to do with punitive damages.

It was, of course, to those two basic provisions in this act that most of the remarks of the Senator from California were directed. In this case, I hope that I can explain both to her and to our colleagues once again what we have attempted to explain as sponsors of this bill over an extended period of time.

Obviously, in any society, there are a number of competing interests. One vitally important interest is that courts be open to people who have claims. I cannot even say in that case legitimate claims, because that is what is the function of the Court to determine. Courts have to be very widely open to all kinds of claims, the legitimacy of which is to be determined during the course of proceedings by an impartial tribunal.

At the same time, of course, we have a wide range of other societal goals which we seek, and among those goals, of course, is seeing to it that a society is encouraged to change and to develop for the better.

Perhaps one of the elements in which we can have the greatest degree of pride as Americans is the fact that for a century or more we have led the world in industrial innovation, in a wide range of fields, with great competition from others, perhaps, in a number of those areas, but nonetheless remaining always on the cutting edge of technology.

Perhaps even more significant as we look at American leadership is the leadership of American companies in the development of new drugs for the treatment of certain kinds of diseases or conditions and the development of medical devices. And so the Senator from California has attacked particularly those elements in this bill which limit punitive damages in cases of items approved for aircraft by the Federal Aviation Administration and various kinds of medical devices and drugs which have been approved for their safety and effectiveness by the Food and Drug Administration.

It is, however, totally incorrect to say that either one of those defenses provides an "absolute shield"—and in using those two words, I am using two words which were presented to us by the Senator from California—from liability for negligence, or for that matter for a purposeful use of a product which in fact is harmful rather than helpful.

The defense which is presented to manufacturers and to researchers and developers under the so-called FDA and FAA defenses is a defense against punitive damages. It is a defense against punitive damages. It is not a defense and is totally irrelevant to the actual damages which an individual has suffered and can prove to the satisfaction of a court or the jury.

It is absolutely no defense whatsoever to noneconomic damages, the kind of damages to which the Senator from California mentioned and so eloquently testified. Each of those is unaffected by the FDA or the FAA defense. Only punitive damages are covered by this bill in that connection.

In that connection, Mr. President, I can speak with a background different from most other Senators. I was admitted to the bar, practiced law in, and was attorney general of a State which does not allow punitive damages at all in the great bulk of civil cases. There are four or five such States in the United States as a part of our experiment in the law. I do not believe that the citizens of my State and that other handful of States are without recourse. They bring lawsuits as far as I can tell just as frequently as the citizens of other States in connection with these high-profile items to which the Senator has testified. They get most cases settled. They win those cases before juries and before courts just as often as do others. Whatever impact there is on the manufacturers driving them toward safety by litigation is as present in the State of Washington as it is elsewhere.

There are very serious questions raised. I suspect that most academics in the field of justice and the law have serious reservations about the appropriateness of punitive damages in a civil justice system because of course one court in one State can impose them, another court in another State can impose them. Companies can be subjected for exactly the same products in multiple verdicts under our civil justice system. There are many, as is the case in many other countries, which seriously question whether they play or should play any role in our civil justice system at all.

We do not deal with that question of whether they should be present at all. In this bill we simply say that if a developer, if a company, has gone through the entire process which is laid out by the Government of the United States, in these two instances, matters which come before the Food and Drug Administration for its approval on the basis of safety and effectiveness, or to the Federal Aviation Administration for safety in connection with aircraft, that if the company has revealed everything relevant to the particular item for which it seeks approval, if it has held nothing back before or after the license—in other words, if it has operated within the frame of reference of all of the knowledge that it has available to it and has that approval—then it ought not to be subject to a single or a multiplicity of punitive damage judgments well after the fact, after something else has been learned or a jury has been persuaded of some other matter.

It would seem to me, Mr. President, that is a matter of simple justice. If we have a system—of course the system will not be entirely perfect. But if we have a system under which we require companies to go through the various hoops before they can market something, and if they do it and if they do it honestly, ought they not at least be preserved from punitive damage settlements? Just as a matter of abstract justice, it would seem to me that should be the case.

The Senator from California said, "Oh, you know, we don't trust Government. Government can make mistakes." Of course it can. Someone could pay off someone in the FDA. Well, there is a specific section here which takes that out of the exemption from punitive damages for bribery or payoff which seems highly unlikely in any event. But the company does not need to have gone so far as to have bribed someone to pull itself out of this prohibition against punitive damages. It simply needs to have withheld something. It simply needs to have acted in any way that was not appropriate at the time. It simply needs to have withheld knowledge that it had before or after that licensing.

This exemption from punitive damages fails, whatever law of a particular State at the present time. But there is a more important matter than even this narrow question of abstract justice. That has to do with the impact on people as investors, on research and development, divisions of our major companies or of our small startup companies and the like. What do we want to do? We say in our tax laws that research and development is important and is absolutely vital. We want people to engage in it. We have not conquered quite obviously all of the physical, mental, and otherwise ills of human beings in this world. We want the kind of research and development and product promotion that will in fact help people.

In instance after instance, for all practical purposes to a hundred percent of the instances, we are told by the companies which are engaged in this business that they are stopping research into certain fields. They are stopping the development of items that they researched and thought might work and could even get licensed because they simply are not willing to risk the entire future of their companies on a new product, even after it has been licensed by the Food and Drug Administration—risk in the case of a small company, absolute bankruptcy from count one of these judgments, and in the case of larger companies, grave and serious risks to their own future. Many large companies have found after the fact that they have been seriously penalized by the kind of litigation system that we have at the present time.

So this is not free, Mr. President. Obviously, if there were no other impact on society, I suppose we ought to allow unlimited damages in litigation. But when we have a situation in which many people who are suffering from incurable conditions today might very well be helped in the future were we to encourage companies to work in this area, to come up with some kind of pure or ameliorative situation for people in trouble, are we going to say because 99 out of 100 people would be helped that 1 out of 100 would be hurt; or 9 to 1 that we are going to allow not only all of the profits coming out of this research and development to be wiped out but more, and a company wiped out because a jury dealing with one individual in one instance after the fact determines that a huge punitive damage award is appropriate?

We at least have to recognize the fact that one idea is being laid up against another, and we do not simply have to take the word of people that we are not going to engage in this kind of research and development in the future. It has happened, and it is happening today. There are groups that have told us that we have stopped looking into a cure for AIDS because the risks under the present system are simply too great. No one will invest in that kind of research, because the risks are too great. This is the price that will be paid; this is the price that is being paid today by the unlimited nature of the present system, particularly in regard to punitive damages. That is a very high price, a price being paid by the very people whom the Senator from California says she is defending in this case.

If you look at an individual situation, you must also—I think more importantly—look at the situation of our entire society. Do we want to continue to tie the hands of those people who will invest in this, those physicians and researchers who will work toward cures of our multiplicity of ills in this world in order to protect the right for very, very good and skilled lawyers to persuade a particular jury in a particular case to award a huge punitive damages award? I think not. The proponents of this bill think not.

The proponents of this bill think society will be benefited by encouraging this kind of research and development. We think we defend the very people for whom the Senator from California purports this to be better than the present system of law does. We do have this weighing process in which we must engage if we are not simply to choke off and to bring to an end the kind of research and development we wish.

Perhaps to an even greater extent, we can see this in connection with the Federal Aviation Administration. Here we know what happened. We do not have to talk about any kind of theory; we know what has happened. We know that the present product liability laws in this country—the litigation in this country—have, for all practical purposes, destroyed that portion of our industry which builds propeller-driven and other small aircraft for the private market. It has simply destroyed it. There has been a 90-percent reduction in the number of aircraft produced, and up to half of the cost of the handful of aircraft still being produced is going to the cost of product liability. Lawsuits are being brought 20 and 30 years after the production of a particular item.

I gave an example, outside this approval area, of a manufacturer of logging and timber equipment in my own State in a very depressed area, which is defending lawsuits for equipment produced and installed 30 years ago, and in which the cost of defending product liability litigation, without ever having a verdict entered against it, are infinitely greater than the taxes that it pays for public purposes in the United States. Well, they are now out of business. This is just a huge cost of doing business.

In the case of the private aircraft companies, they are out of business in large measure because of the present system of litigation. Is that desirable? No. One of them reported to us that it has never lost a product liability case; yet, they keep coming up against them, and they cost $500,000 each to defend. That company says, "why should we be in this business anymore? We ought to go into something where you do not get sued all the time." Is that desirable that we should have no industry for building small aircraft in the United States? Of course, it is not desirable. Yet, it is what the Senator from Alabama wants to continue, and it is what the Senator from South Carolina wants to continue, and it is what the Senator from California wishes to continue. That is punitive damages, or it slopped over a little bit in the joint and several liability.

In the case of joint and several liability, the general common law rule has been that when more than one person or entity is at fault, the winner, the plaintiff, the victim, can collect the entire verdict against any one of them, rather than to have to divide it in proportion to the fault. That may have worked 30 or 40 years ago when I first became a lawyer when we had a doctrine called contributory negligence. That means if you and I were in an accident and I was 90 percent responsible and you were 10 percent responsible, you could not recover anything from me because some small fault was attributed to you. But that doctrine has long since disappeared. We now, through our juries and court systems, distribute the amount of fault in any particular connection and distribute the liability accordingly—except that we do not distribute the final money liability accordingly. Even the one which is 10 percent at fault in that connection, if he, she, or it were the only one who were financially responsible, would have to pay 100 percent of the damages.

Again, is that just? It seems very unlikely to be just. Obviously, justice would require a contribution related proportionately to the degree of fault to those who caused the injury in the first place.

Again, the Senator from California brings up, principally in this joint and several liability argument, a number of medical devices and the adverse impact they have caused, in reality, against many women. She omits to say that we have taken this proposal directly from the laws of the State of California, laws of her own State. This was a law not passed by a male-dominated legislature. This was a law passed by the people of California in a referendum or an initiative because of what the entire population of that State saw to be the tremendously damaging impact of the previous law on employment, on justice, and on the entire administration of law in the State of California.

But the real point is that this change in joint and several liability would, for all practical purposes, be totally unrelated to the cases about which the Senator from California speaks, because the fault was in the manufacture of the item. It is the manufacturer who is the defendant, and it is the manufacturer, for all practical purposes, who is 100 percent at fault; and the manufacturer, of course, in these cases will not be judgment proof. If you sue the manufacturer of the Dalkon shield, a termination and abolition of joint and several liability for noneconomic damages is not going to affect the liability of that manufacturer one whit. It has far more to do with items other than those. They were not good examples, because the recovery for noneconomic damages will not be significantly affected by the change of the joint and several liability rule. But where there are a multitude of people or organizations that are responsible, a change will take place. What is the change? The change just says: You are responsible for the share of damages you actually caused. What is wrong with that? That seems to me to be clear and obvious justice.

It is this joint and several liability rule, at the present time, which inhibits the development of new products totally outside of the FDA and the FAA provisions. In fact, it is the joint and several liability rule which is most significant to most manufacturers, who obviously do not come under either of those excesses for punitive damages. They are frustrated, and rightly frustrated, with the fact that they will be found 10 percent responsible or 1 percent responsible, but are the only deep pocket, so therefore they will be held to a very, very substantial verdict.

The present system hurts jobs in the United States, hurts research and development in the United States, and hurts product promotion and development in the United States. In the machine tool industry, where seven times as much money is spent on defending product liability litigation as on research and development, we see graphically what happens to the American economy by the present system.

This bill itself is only going to change that figure slightly. It will make it better and will leave a little bit more to research and development and will do better. But this is not a radical change in the law. It is not what the great bulk of the business community would like to have in this field by any stretch of the imagination. But over a period of a dozen years or more, it has been worked and stretched and has reached the point where it seems to be what is important, where it is balanced, and where it does do some things.

This Senator himself, as part of earlier bills, at least on one occasion voted against a products liability bill because he felt it was unbalanced. In this case, however, I feel that we do have an appropriate balance here. I think that all of the examples that were brought up by the Senator from California will be essentially unaffected by the bill, but that, by prohibiting the use of punitive damages only in cases where a company has done everything it can to assure safety and has gotten a Federal license for it, to say to companies that they are only responsible for the amount of damages they did will be encouraging to our economy and encouraging to the administration of justice.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I am only going to take 2 or 3 minutes to respond.

I talked about this bill making women and their offspring the guinea pigs of our future by giving a legal shield to those who should be held responsible for their mistakes.

I further said that this bill would do this by shielding manufacturers of dangerous drugs and medical devices from punitive damages, even in cases of conscious or flagrant recklessness and indifference to society. All these companies need to do to make them immune from these kinds of damages is get an FDA approval.

I stand by those comments. That is what this bill does. It creates an FDA excuse. And I would like to tell the Senator from Washington that the legislature in California rejected very firmly the FDA kind of excuse. It is making women guinea pigs. And if the Senator from Washington believes that we have to weigh between the company and the victims, I will tell you where this Senator from California comes out, because I think our most sacred obligation is to all the people—all the people—the people who could get hurt, because I have seen them in hospitals, I have seen them in my community meetings, and I see what happens to their families and to their lives. I have seen the DES victims. I have seen women who are infertile because of products that won FDA approval.

I further say to the Senator who says, "Well, the Senator from California," meaning me, "said that if there was bribery and it was proven, then in fact you could go and get punitive damages." Fine. I am very happy it is in the bill, although the Senator from Washington says, well, he cannot imagine it would happen. Then why is it in the bill? You put it in the bill. I assume some of you think it could happen.

But the fact is you do not always have a chance to prove bribery. And what is bribery? Has the Senator from Washington ever heard of the revolving door? I call that bribery.

I sat on the Armed Services Committee. I cannot tell you how many procurement officials work with companies in behalf of the Government and, boom, they were over working for those very same companies. Payoff. Payoff. Could you prove it? Could you put them in jail? Maybe. Maybe not. Probably not most of the time. When you are sitting across from a company man or woman and you have the power to regulate them and there is a wink and a nod of, gee, when are you retiring, Mr. Smith? Maybe you cannot prove bribery. I am saying it is the human condition. And I at least am not going to stand by quietly and see us give a legal shield to companies who in fact could be guilty but with a wink and a nod got an approval from some bureaucrat.

And that is just what this does, and it makes me sick, considering what I have seen of the victims. And I read about some of those victims in my prepared statement.

I also would like to print in the RECORD at this time a letter from Martin Delaney, founding director of Project Inform, one of the leading AIDS organizations, and I quote from the letter:

> Last week as a member of the NIAID AIDS Research Advisory Committee, I voted against initiating widescale human testing of two proposed vaccines for AIDS products * * *. Liability issues never once entered the discussion.

Let me repeat. "Liability issues never once entered the discussion." That is not the reason that the AIDS vaccine is being held up.

At the end of the letter, he says:

> Product liability concerns are not presently an obstacle to such [AIDS] testing.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD as well as an article from the Washington Post headlined, "NIH Delays Full-Scale Testing of Potential AIDS Vaccine."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

To whom it may concern: Some groups have suggested that product liability laws are the principal reason we don't yet have a vaccine for AIDS. In response, they suggest that greatly relaxing such laws would result in quick or immediate marketing approval of such a vaccine. This is simply not the case. The principal reason that we don't yet have an approved AIDS vaccine is that no such vaccine has demonstrated the ability to protect humans against the normal routes of infection by HIV, the virus which causes AIDS, and no vaccine has yet been proven to be completely safe. No vaccine has yet reached the stage of testing where product liability issues are even a significant concern.

Last week, as a member of the NIAID AIDS Research Advisory Committee, I voted against initiating widescale human testing of two proposed vaccines for AIDS, products of Genentech and Biocene, a division of Chiron Corporation. Liability issues never once entered the discussion. Instead, the committee voted against approval of wide scale testing primarily because the vaccines hadn't shown sufficient evidence of efficacy in initial trials, and secondarily because some safety questions remain, principally the question of whether such a vaccine might accelerate the course of disease in someone who became infected despite vaccination. Because these concerns remain unanswered, and because of the financial and human resources costs of the proposed trials, it was felt that the public interest would be best served by waiting for the availability of additional promising vaccine candidates which might be tested comparatively. These two vaccines, despite their weaknesses, are the products in the most advanced stage of testing and development for AIDS. Questions of safety and efficacy are thus larger still for any other vaccine candidates, which have not yet had even the level of human testing of these two.

There are many possible ways to build a vaccine for AIDs and I am in no position to argue that one approach is inherently better than another. Only a graduated, step-by-step testing process can determine which is the safest and most effective approach. Product liability concerns are not presently an obstacle to such testing, which must precede any marketing approval of a vaccine. Regardless of product liability concerns, the availability of a vaccine for AIDS is many years away.

MARTIN DELANEY,
Founding Director, Project Inform.

[From the Washington Post, June 18, 1994]

NIH DELAYS FULL-SCALE TESTING OF POTENTIAL AIDS VACCINE

(By David Brown)

The National Institutes of Health yesterday decided to put off sponsoring a full-scale AIDS vaccine trial until more promising vaccines are developed or the two versions now ready for testing show more laboratory evidence that they are likely to work.

As a result, vaccine testing in thousands of high-risk people almost certainly will not occur for at least two years. By then, entirely different strategies for immunization could compete head-to-head, something that would not be possible if the nearly identical "candidate" vaccine were tested now.

The advisory committee of the National Institute of Allergy and Infectious Diseases (NIAID) reached the decision after an eight-hour public meeting yesterday. The recommendation was passed on to Anthony S. Fauci, the institute's director, who immediately accepted it. NIAID oversees virtually all of NIH's clinical studies of AIDS.

The decision will erode the lead that two biotechnology companies, Genentech and Biocine, have in the race to be the first to develop an effective vaccine to prevent infection by the human immunodeficiency virus (HIV). The 28-member advisory panel concluded there was neither compelling scientific evidence nor sufficient enthusiasm in high-risk communities where volunteers would be recruited, to justify a trial now.

In a sea change from their familiar role of urging early testing of AIDS drugs, several AIDS activists advised against starting a large vaccine trial until there is greater scientific consensus that the candidates are very strong.

"Once we go down this road with a mediocre product . . . we may never have the chance to recruit a large number of people again," said Martin E. Delaney of Project Inform in San Francisco, a member of the advisory committee. He said much of the AIDS-ravaged gay community is discouraged by poor results of AIDS treatment drugs, and is much less likely to volunteer for clinical experimentation now than in the past.

"We have only one chance to test a vaccine in a large randomized trial, and this is not that chance," he said.

At a news conference after the meeting, however, Fauci emphasized the decision was essentially to delay testing the two vaccines, not to reject them as worthless.

"It is clear that the recommendation of the [advisory] group is not that there should be an abandonment of this concept [of immune protection that Genentech and Biocine have developed]," he said.

Both vaccines employ a protein from the virus's shell, or "envelope," to stimulate an uninfected person's immune defenses against HIV. Those defenses are antibodies—biochemicals that specifically target the virus—and a class of white blood cells that attacks and kills cells the virus invades immediately after infection.

The protein in the vaccine, called gp120, is made by genetic engineering techniques and is incapable of causing HIV infection itself. It is like the crystal of a watch. The watch's works—in this case, the reproductive machinery of the virus—form no part of the vaccine.

Numerous other vaccines are now in development. Some involve splicing HIV genes into another carrier ("vector") virus, such as vaccinia, which is the one used for smallpox vaccination. Replication of the vector then releases large amounts of harmless HIV protein into the body. Some scientists believe this strategy more closely resembles the real mechanism of HIV invasion, and will elicit a more robust defense.

Several panel members said they felt that a large trial testing a vector vaccine against an envelope vaccine would be a better use of time and money than a large trial testing only two envelope vaccines.

The two gp120 products have been used in small studies that allowed researchers to test their safety and to run numerous blood tests on volunteers to determine immune-system effects.

Those studies have shown that gp120 can stimulate a person to make antibodies and can cause proliferation of certain types of white blood cells. In laboratory experiments, however, those antibodies have not been able to prevent infection of cells by "wild" HIV virus.

Seven chimpanzees who were given the vaccines subsequently resisted infection when HIV was injected into their bloodstreams. Company representatives pointed to these experiments as proof of their products' promise. Many panel members, however, were unsure how much could be extrapolated from such a small sample of animals—and from a species known to respond very differently from human beings.

The largest of the gp120 studies done so far enrolled several hundred people at high risk for HIV infection because of their sexual practices or drug use. During the study, three persons—none of whom had gotten the full course of three shots—developed HIV infection through known routes of exposure. This did not prove that the vaccines were useless, but only that a single dose of them was not protective.

Numerous members of the advisory panel said that before moving to a larger trial, information should be learned about these "breakthrough" cases: what subtype of virus caused them; what their tests of immunity showed; and how their infections progressed.

The panel considered two possible trials it could have recommended for starting later this year. One would have required 9,000 high-risk volunteers, divided equally into three groups who would receive one of the two vaccines or placebo. It would have had the power to determine with a high degree of certainty whether a vaccine's effectiveness was 50 percent or greater. Such a study would take 3½ years to run, at a cost of up to $18 million a year.

The other option, enrolling 4,500 people, could reliably identify a useful vaccine only if it was protective 70 percent of the time. There seemed to be little confidence among panel members the gp120 candidates would perform that well. They concluded such a study (with a price tag as high as $9 million a year for two years) was not worth the money.

A recent survey of a community network of potential vaccine trial volunteers, set up under NIH auspices, showed that only 36 percent of gay men and injection drug users were "very willing" to participate in a vaccine trial.

Mrs. BOXER. Mr. President, in this article there is not a mention of liability law. He just cannot get enough candidates.

So I think it is very important that we not use faulty arguments here as we debate this, that we be honest about what the facts really are.

In closing my brief remarks here right now, I just want to say that the issues that are raised by the Senator from Washington surrounding my remarks were not correct, that I know the difference between punitive damages and compensatory damages very well, and we know punitive damages because of their very existence have put the fear of God into some folks. And that is important so that we do not have women walking around who cannot have babies and damaged human beings, because if the Senator from Washington weighs it another way, I have to tell him I weigh it the other way. I am here to speak for those people.

I yield the floor.

The PRESIDING OFFICER (Mr. BREAUX). The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, I thank the Chair.

I want to respond briefly to the Senator from California and then propose introducing an amendment.

The Senator is correct and this bill, like so many others, has been an educational process for so many of the Members of the Senate as to the difference between economic and noneconomic damages and compensatory damages and punitive damages.

But I think it is very important to focus on what punitive damages are because it is punitive damages for which a higher standard is being set by this bill, and, remember, the punitive damages might be looked at as something that comes after a lot else that precedes.

You have economic damages, which is to say that a person who is injured allegedly as a result of a defective product, gets all their out-of-pocket bills taken care of, not just medical bills, but lost wages, and all the rest. Then comes noneconomic damages, which are the so-called pain and suffering, a very broad category itself, subject to criticism for misuse, but not affected by the bill, and then on top of that comes punitive damages, which are basically a judgment by court or jury that we are going to punish the wrongdoer.

And it is that punitive side of it that has been subject to abuse, not just abuse, as has been suggested by opponents of the bill, but as a deterrent to negligence by producers. I mean, gee, the producers already have, hopefully, their own self-regard to avoid negligent behavior, their own ethical standards. But assume that happens. They then have the fear, not of paying out-of-pocket expenses to injured plaintiffs, but this broad and open category of pain and suffering.

And what has happened is that the abuse of the punitive damages element of awards in these cases has been one of the ways in which, frankly, the process has held up defendants. I mean held up, not in delay, but held up as at the point of a gun to settle cases for much more than they are worth just to avoid the enormous litigation expenses and the fear of the unknown that a jury will come along and award enormous punitive damages.

And, remember, the issue at point here is the FDA. Do we say to a company that goes through the process of FDA approval, multiyear process—7, 8 years, I believe, on the average—that if you do that and your product is found to have caused an injury, you are still subject to all these other elements of damage, economic, noneconomic? But is it really fair to say to a company that has gone through the FDA process that you can still be punished for what the law describes as a conscious and flagrant disregard of the public safety? I do not think so.

So we are all being educated, but that is the essence of what we are about.

AMENDMENT NO. 1938

(Purpose: To make negligent entrustment actions not subject to the act's provisions)

Mr. LIEBERMAN. Mr. President, I have given a copy of an amendment I am about to propose to Senator HOLLINGS. I am hopeful that we can have agreement on it. I intend to introduce the amendment on behalf of myself, Senator ROCKEFELLER, and Senator GORTON. We consider it to be technical, but a necessary clarification of the bill.

The idea of this amendment is to make it abundantly clear that this bill, the product liability bill, has absolutely no impact, not intended or unintentional, on an area of the law called negligent entrustment. Again, we are all going back to law school.

This area of law is completely distinct from product liability. It is the intention of the sponsors of the bill that this area of the law be left totally to the States and it is the intention of this amendment to make that clear.

Now, why even the need to make it clear? Well, questions were raised, as this bill, S. 687, was coming to the floor, from some surprising places about the bill's alleged affect on the ability to sue through the concept of negligent entrustment against certain categories of businesses, including particularly gun sellers, or what are called dram shops, which has to do with the liability of those who negligently sell alcohol to people.

These questions may have been encouraged by opponents of the bill; certainly they were raised by opponents of the underlying bill.

But the point that this amendment intends to make clear is it is not what the bill is about. The amendment clarifies two points.

First, that the bill does not make any change in State laws that apply to gun sellers who negligently sell guns to criminals, minors, or other people not allowed to buy guns. It is far away from our intention, but this specifically makes it clear. The bill passes no opinion on these laws and certainly has no affect on those laws.

Second, this amendment would ensure that the bill does not affect so-called dram shop laws that exist in many States, which hold the owners of businesses that sell alcoholic beverages responsible for accidents that are caused by selling that alcohol to people who the seller should have known were intoxicated or become so intoxicated that they are a danger to others.

With this amendment, I ask unanimous consent to enter into the RECORD copies of several letters from the sponsors of S. 687, the Product Liability Fairness Act, to organizations that have raised questions about these issues.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 27, 1994.

REBECCA A. BROWN,
Mothers Against Drunk Driving, Irving, TX.

DEAR MS. BROWN: We are writing to respond to your letter of June 22 regarding S. 687, the Product Liability Fairness Act. You stated correctly that it is not the intent of the legislation to preempt state dram shop laws. We strongly disagree with your analysis of the bill when you concluded that it does preempt such laws.

Dram shop laws are used by claimants who allege that a bartender and/or tavern provided alcohol to an individual that was drunk, and that drunk individual caused the harm that is the subject of the litigation. In such cases, the claimant alleges that the harm was caused by providing the alcohol to the individual. The harm was not caused by the product because the claimant would never allege nor be able to prove that the product was defectively designed or manufactured or that there was a failure to warn of the risks associated with the product or breach of a warranty—the bases for a product liability suit. As you pointed out in your letter, S. 687 covers only claims ". . . for harm caused by a product." Dram shop laws are outside the scope of S. 687.

As strong supporters of highway safety and anti-drunk driving initiatives, we would oppose any attempt to hinder ongoing efforts in this area. Although we disagree with your legal analysis, we intend to offer an amendment to S. 687 to clarify that the bill does not preempt dram shop laws. Attached is a copy of the amendment. Upon reviewing this proposal, we request that you contact our colleagues again to indicate that your concerns have been satisfied and that you withdraw your opposition to consideration of S. 687.

We appreciate the opportunity to work with you to clarify this matter.

JOHN D. ROCKEFELLER IV,
U.S. Senator.
SLADE GORTON,
U.S. Senator.
JOSEPH I. LIEBERMAN,
U.S. Senator.

U.S. SENATE,
Washington, DC, June 10, 1994.

Mr. JOSH SUGARMANN,
Executive Director, Violence Policy Center, Washington, DC.

DEAR MR. SUGARMANN: We were quite surprised to read that you believe S.687 would somehow frustrate lawsuits against gun dealers who sell to minors through intermediaries. We are quite mystified as to how you reached your conclusions. To the best of our knowledge, no one has ever raised this argument before, not even the Consumers Union which has submitted testimony with respect to this bill in the past.

Upon review of the bill, we simply do not see how you could interpret this legislation to arrive at the conclusion you reach. Moreover, the cause of action you appear to describe, one for negligent entrustment, is not normally considered to be within the realm of product liability law. The most reasonable construction of the bill is that it does not affect suits such as the one you describe. S.687 will not frustrate lawsuits against gun dealers who sell to minors through intermediaries.

We are also very disappointed with the manner in which you chose to raise your concerns. You did not attempt to contact us, or any members of our staffs prior to making these claims. We suspect that this issue is one that can be easily cleared up, if that is your goal. We invite you to contact our staffs to discuss this matter further.

Sincerely,

JOHN D. ROCKEFELLER IV.
JOSEPH I. LIEBERMAN.
JOHN C. DANFORTH.
SLADE GORTON.
CHRISTOPHER J. DODD.

U.S. SENATE,
Washington, DC, June 10, 1994.

MS. KRISTIN RAND,
Counsel, Consumers Union, Washington, DC.

DEAR MS. RAND: We were quite surprised to read that you believe S. 687 would somehow frustrate lawsuits against gun dealers who sell to minors through intermediaries. We are quite mystified as to how you reached your conclusions. You have never raised this in previous testimony with respect to this bill, and, to the best of our knowledge, neither has anyone else.

Upon review of the bill, we simply do not see how you could interpret this legislation to arrive at the conclusion you reach. Moreover, the cause of action you appear to describe, one for negligent entrustment, is not normally considered to be within the realm of product liability law. The most reasonable construction of the bill is that it does not affect suits such as the one you describe. S. 687 will not frustrate lawsuits against gun dealers who sell to minors through intermediaries.

We are also very disappointed with the manner in which you chose to raise your concerns. You did not attempt to contact us, or any members of our staffs prior to making these claims. We suspect that this issue is one that can be easily cleared up, if that is your goal. We invite you to contact our staffs to discuss this matter further.

Sincerely,

JOHN D. ROCKEFELLER IV.
JOSEPH I. LIEBERMAN.
JOHN C. DANFORTH.
SLADE GORTON.
CHRISTOPHER J. DODD.

Mr. LIEBERMAN. I thank the Chair. These letters provide very clear answers clarifying, as this amendment does, that the so-called area of negligent entrustment is not affected by this bill.

Mr. President, it is unfortunate that these concerns have been raised. The truth is that we could have saved people a lot of time and worry if those who were worried had come to the sponsors to express their concerns. But, in any case, this amendment is intended to put these concerns to rest.

Mr. President, at this time, I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from Connecticut.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN], for himself, Mr. ROCKEFELLER and Mr. GORTON, proposes an amendment numbered 1938.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 8, line 20, after the period insert the following: "A civil action for negligent entrustment is not subject to this Act and shall be governed by applicable State law. For purposes of the preceding sentence, the term "negligent entrustment" means causes of action under applicable State law that subject product sellers to liability for their failure to meet the applicable standard of care under State law in selling a product to a person who, because of his youth, inexperience, or otherwise, is likely to handle the product in a manner to cause harm to himself or others.

Mr. LIEBERMAN. I thank the Chair.

The PRESIDING OFFICER. Who seeks recognition?

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Thank you, Mr. President.

I am prepared to file an amendment in the second degree to the amendment offered by the Senator from Connecticut on the grounds, in the first instance, that this amendment does nothing; that it is ineffectual.

I appreciate the sincerity of the approach by the Senator from Connecticut, but, at the same time, it seems to me that national issues pertaining to health, and particularly women's health. As eloquently stated by the junior Senator from California, those issues are entirely too important to allow for a masquerade to be approved by this body. And this amendment, without a second-degree, I believe would be such a masquerade.

Let me talk for a moment about why the amendment in the first instance causes a problem. This amendment and the underlying legislation does nothing to remove what we call—Mr. President, I understand the Senator from Connecticut wants to discuss this amendment, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is noted.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the call of the quorum be suspended.

The PRESIDING OFFICER. Is there objection?

Ms. MOSELEY-BRAUN. There is objection.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue the call of the roll.

The legislative clerk resumed the call of the roll.

Ms. MOSELEY-BRAUN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MOSELEY-BRAUN. Mr. President, the Senator from Connecticut has just advised that this is another amendment and not the one regarding specifically the FDA.

So, while I would take this moment to discuss the substance of the amendment of the FDA excuse and to pick up where the junior Senator from California left off, my remarks however are intended to that part of the bill and not to the part of the bill relating to the amendment just filed by the Senator from Connecticut.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I wonder if my friend and colleague from Illinois would withhold a minute so I might move adoption of this amendment, unless there is objection.

Mr. HEFLIN. I think we are going to have some discussion of the amendment.

Mr. LIEBERMAN. There is some clear indication of that from the Senator from Alabama.

I withhold that and yield back to the Senator from Illinois.

Ms. MOSELEY-BRAUN. I thank the Senator from Connecticut for his graciousness.

I would like to pick up, however, with regard to a couple of points raised by the junior Senator from California.

First, with regard to the whole notion in this legislation of an FDA excuse, I would point out to my colleagues that this represents one of the first times that we will have provided absolute insulation from responsibility by the actions of an administrative agency.

In short, by the decisionmaking or not, as the case may be, of nameless bureaucrats at the FDA, an individual will be shielded, or a company, more to the point, will be shielded from responsibility for punitive damages which affect women's health. Those damages, of course, can, in many instances, be death, can be life threatening, can be the end of reproductive opportunities, can be the kind of situations and the particular situations as raised by the Senator from California.

I would point out further that the FDA excuse here provides for this insulation from responsibility in a context which the agency itself is not capable of handling.

In the first instance, the agency approval process, which we all know has been convoluted over time, is not adequate to the task of actually researching, analyzing, and understanding the particulars with regard to products which may cause damages. In fact, if anything, of all of the Federal agencies that we have authorized to have some regulatory authority, the FDA stands in this case singularly unprepared and incapable of providing the kind of protection for women's health that other agencies have.

Specifically, the FDA does not have subpoena authority. We have looked.

I will submit for the RECORD, Mr. President, a list of agencies in the Federal Government that have subpoena authority, which ranges from the administrative law judges, Advisory Commission on the Conferences in Ocean Shipping, all the way through the Department of Agriculture, Department of Commerce, Departments of Energy, Health and Human Services, Housing and Urban Development, Department of the Interior, Department of Justice, Department of Labor, Department of State, Department of Transportation, National Transportation Safety Board, Department of the Treasury, Environmental Protection Agency, Farm Credit Administration, FCC, Federal Deposit Insurance Corporation, Federal Election Commission, Federal Energy Regulator Commission, Federal Home Loan Bank Board, et cetera, et cetera—through the Veterans' Administration.

I would point out the FDA is nowhere in this allowed to subpoena documents and information that may go to the adequacy for marketing of products which can be as dangerous as the Dalkon shield, as DES, as silicon breast implants, as the Copper-7 IUD, which we know has caused huge damage to any number of people.

In fact, I would point out on this list of Federal agency subpoena authority, the Department of Agriculture can subpoena information regarding watermelon research, can subpoena information regarding egg research and promotion, and yet this legislation would preclude the FDA—the Food and Drug Administration—from subpoenaing information regarding the Dalkon shield, the IUD, Copper-7 IUD, or other devices, medical devices which have been shown to be inimical to women's health.

In that regard the absence of subpoena authority detracts from the capacity of this agency to do the job that this legislation suggests it can and should do.

Further, it is not only the absence of subpoena authority, but we have had discussions with the FDA—there is no question but there is inadequate staff to do the kind of thorough job that would give the kind of protection that this legislation calls on it to give. In fact, if anything, one of the frightening things about this legislation—and I believe the reason for the remarks by the Senator from California—is we are essentially ducking responsibility here, saying let the bureaucrats decide whether these products are safe or not. And in so doing, saying we are going to let the bureaucrats decide in a context in which they cannot even themselves ask for the information. And what is even worse about this legislation, it says if the bureaucrats decide based on information submitted by the manufacturer of these harmful products, that is fine by us.

It seems to me that is an inadequate standard for the protection of women's health particularly. That is an inadequate standard with regard to life-threatening drugs and medical devices.

I point out further in the discussion of punitive damages that it is important the Members of this body understand the fundamental use and the reason that we have such things—that we have punitive damages, that we have damage awards that go beyond just the basic compensatory damages, compensating someone for what has actually happened here.

Tort law—bottom line—is never value free. It relates to the values affecting the individual as well as the society as a whole. Over time, it has always been the case that punitive damages in tort law related specifically to providing protections for the public interest, as a way of giving something more, giving something extra.

I would say to the Presiding Officer, there is a term in Louisiana called "lagniappe." That means something extra. The reason for the something extra with punitive damages is precisely to say: This is society's interest here that has been violated. This interest goes beyond the interests of the individual who is specifically hurt. We want to make certain you get the message loud and clear that compensation requires compensation for the public. And that punitive damages will be awarded as a way of stopping future harmful action from occurring.

In the law books, what is called black letter law, describing punitive damages—I would like to give this description:

> Something more than the mere commission of a tort is always required for punitive damages. There must be circumstances of aggravation or outrage, such as a spirit of malice or a fraudulent or evil motive on the part of the defendant. Mere negligence is not enough, even though it is so extreme in degree as to be characterized as gross.

So punitive damages go to those instances where manufacturers, for example, in this instance, have taken a step that is in flagrant disregard, not only of the rights and interests of the individual, but of society as a whole.

I point out to my colleagues we have example after example of specific medical devices that were marketed precisely to vulnerable populations. The Copper-7 IUD was marketed in spite of the fact that there was already evidence that it affected negatively a specific population. It was targeted and marketed specifically to that population.

It seems to me the company that did that ought to be held to account, not only for its harm to the young women who themselves would be rendered incapable of having children, not only with regard to their medical bills and the specifics of their case, but also would be held to account to the public as a whole.

The Copper-7 IUD, I point out, did receive FDA approval. It was registered as a drug, not a medical device, because the trace amounts of copper in the product chemically interact with women's bodies. As a result, ultimately, it was shown the marketing of this product was causing real harm, that women suffered serious cases of infection, of loss of fertility, had to have surgery for the removal of organs. And that litigation went on and on, again because of a decision to market a product known to be harmful to the most vulnerable populations that would suffer their harm.

It seems to me that is exactly what punitive damages are calculated to address. The whole idea is to say you cannot do this to this individual, but more to the point, you should not do this in the future to the public at large. You have to have a level of responsibility and accountability.

I join my colleague's early remarks when he painted this in broad strokes and made the point about how important it is for us to have tort reform, that it is important for us to address job creation issues, and the like. But I urge my colleagues not to lose sight of the fact that this is not just a theoretical, abstract debate. This is not just a matter of the law and legalisms in the heaven of legal theory. This is something that applies specifically to women's bodies, applies specifically to the health and safety of the American people.

And as we address the balance of interests and the balance of rights, we must never lose sight of what is in the public interest. And we must, therefore, take those steps to make certain there is accountability, there is certainty, and there is responsibility in the law.

The FDA excuse removes that accountability. It removes that responsibility. And effectively it shields and insulates egregious conduct from the reach of the law, from the reach of punitive damages, from the reach of those who would want to see society's interests, as well as the interests of individuals, protected.

So I will address this point again later. The amendment of the Senator from Connecticut is on another point altogether, and I do not know whether he wants to call for a vote on that now.

Again I point out the most important thing about this document is not all the agencies that are named but the fact that the FDA is not named on here. The FDA does not have subpoena authority with regard to devices such as the Copper-7 IUD, such as the Dalkon shield, Accutane, high estrogen contraceptives, and any number of other drugs and instrumentalities that affect women's health.

I congratulate the Senator from California for her eloquent statement in behalf of women's health and the issues involved here and suggest to my colleagues we have a balancing to do here. I do understand the motivation. But at the same time we are dealing with peoples' lives and the safety and health of the American people, and I hope we do not rush to judgment here and avoid standard principles of law and avoid allowing the law to fill its highest purpose, which is the protection of public safety and the public order.

I ask unanimous consent to have printed in the RECORD this three-page document, "Federal Agency Subpoena Authority."

There being no objection, the list was ordered to be printed in the RECORD, as follows:

FEDERAL AGENCY SUBPOENA AUTHORITY

Administrative Law Judges.

Advisory Commission on Conferences in Ocean Shipping.

Corporation of Foreign Securities Holders.

Commission on Civil Rights.

Commodities Futures Trading Commission.

Department of Agriculture: Grain standards; Pesticide control; Perishable commodities; Tobacco inspection; Nonbasic commodities; General provisions, seeds; Cotton research and promotion; Potato research and promotion; Egg research and promotion; Beef research and promotion; Wheat research; Floral research and information; Dairy promotion; Port promotion; Watermelon research; Protection of horses; Endangered species; Interagency cooperation.

Department of Commerce: China Trade Act; Weather modification; Licensing of remote sensing systems; Endangered species; interagency cooperation; Fishery conservation; Antarctic conservation enforcement; Control of illegally taken fish and wildlife; Northern pacific halibut; Civil penalties.

Department of Energy: Gather energy information; Environmental protection and control; Energy conservation; Standards for consumer products.

Department of Health and Human Services: Appeals of cost; Reimbursement providers by providers of medical services.

Department of Housing and Urban Development: Real estate settlement procedures; Interstate land sales; Enforcement of fair housing laws; Enforcement manufactured home construction and safety standards.

Department of the Interior: Archaeological resources; Endangered species; Interagency cooperation; Antarctic conservation enforcement; Control of illegally taken fish and wildlife; Surface mining control; Oil and gas royalty; District land offices; Virgin Islands.

Department of Justice: Restraint of trade; Drug abuse prevention; Report on African National Congress; False claims investigations.

Department of Justice, Immigration and Naturalization Service: Enforcement of immigration laws; Enforcement of alien employment laws; Enforcement of prohibition against unfair immigration-related employment practices; Investigation of petitions for naturalization; Arbitration of commercial disputes.

Department of Labor: Relief from injury cased by import competition; Enforcement of Occupational Safety and Health Law (OSHA); Protection of migrant and seasonal workers; Mine safety and health (MSHA); Worker's compensation benefits.

Department of State: Accountability Review Board; Commission on Security and Cooperation in Europe; United Nations economic and communications sanctions; Foreign Claims Settlement Commission vesting and liquidation of Bulgarian, Hungarian, and Rumanian property international claims.

Department of Transportation: Automobile safety; Bumper standards; Consumer information; Odometer requirements; Automobile fuel economy standards; Regulation of deepwater ports; Outer Continental Shelf; Investigation of use and necessity for block-signal systems for railway systems; Safety appliances; Rail transportation unification and coordination projects.

National Transportation Safety Board: Airports and landing areas; Commercial space launch.

Department of the Treasury: Antarctic conservation enforcement; Smuggling of controlled substances.

Environmental Protection Agency: Automobile fuel economy; Toxic substance control; Pollution control; Noise pollution regulations; Enforcement of solid waste disposal laws and regulations; Enforcement of underground storage tank standards; Air pollution prevention; Air pollution control; Fuel and fuel additives; Investigation of employment effects of air pollution control; Enforcement of Superfund.

Farm Credit Administration.

Federal Communication Commission.

Federal Deposit Insurance Corp.

Federal Election Commission.

Federal Energy Regulatory Commission: Federal regulation and development of power; General investigatory power to monitor programs; Regulation of energy matters.

Federal Home Loan Bank Board.

Federal Labor Relations Authority.

Federal Maritime Commission.

Federal Reserve System.

Federal Savings and Loan Insurance Corp.

Federal Services Impasse Panel.

Federal Trade Commission: Investigation of unfair or deceptive practices affecting commerce.

Foreign Claims Settlement Commission.

General Accounting Office.

International Monetary Fund.

International Trade Commission.

Interstate Commerce Commission.

Judicial Conference of the U.S.

Judicial Councils of the Circuits.

Merit Systems Protection Board.

National Commission on Electronic Fund Transfers.

National Credit Union Administration.

National Guard.

National Labor Relations Board.

National Mediation Board.

National Oceanic and Atmospheric Administration.

National Science Foundation.
Nuclear Regulatory Commission.
Office of Technology Assessment.
Office of Personnel Management.
Pension Benefit Guarantee Corporation.
Railroad Retirement Board.
Securities Exchange Commission: Regulation of securities market industry; Regulation of the bond marketing industry; Regulation of securities exchanges; Enforcement of Public Utility Holding Company Act; Enforcement of Investment Company and Adviser's Act of 1940.
Small Business Administration: Aiding small business; Licensing of small business investment companies; Monitoring of small business investment company program.
Veterans' Administration.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I wish to speak on the bill. It is my understanding that we were going to recess at 12:30.

The PRESIDING OFFICER. The Senator is correct. Under the previous order, 12:30 was the recess time.

Mr. GRASSLEY. I ask unanimous consent that we extend it for 20 minutes. I would ask unanimous consent that I have 10 minutes and Senator WOFFORD have 10 minutes.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Iowa? The Chair hears none, and it is so ordered.

The Senator from Iowa is recognized for 10 minutes.

Mr. GRASSLEY. Mr. President, will the Chair please advise me when I have used 5 minutes because I have two subjects I wish to speak on, and I do not want to use all my time.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. GRASSLEY. Mr. President, widespread problems exist in our system of product liability. Our laws governing this important subject are not consistent.

The process for compensating victims is very slow and expensive. Because of the expense, more than half of the money designed to compensate victims instead goes to lawyers on both sides. Some beneficial products are never developed because of fear of liability.

Today, the product liability system operates as a lottery. The claimants win a windfall occasionally, but at a cost to everybody else. The litigation costs are passed on to consumers as a hidden tax on everything they buy. And the possibility of a windfall serves to encourage additional, less meritorious cases to be brought, which add further cost to the system.

The Product Liability Fairness Act is a step we need to take to begin to reduce the chaos of the current system of product liability. It is a balanced bill. And it will help restore the ability of American businesses to compete in the marketplace because our competitors have established uniform rules in their countries.

The bill will help consumers in more ways than reducing the hidden product liability tax. It will enable them to receive their compensation faster than under the current system. Expedited settlements will be encouraged. If a defendant refuses the claimant's settlement offer, and the claimant obtains more at trial than the offer, then the defendant will pay the claimant's reasonable attorney fees up to $50,000. If the claimant rejects the defendant's settlement offer and then recovers nothing at trial, he faces no penalty.

The bill also will encourage speedier and cheaper resolution of product liability claims through voluntary, nonbinding alternative dispute resolution. If the defendant unreasonably refuses to participate in ADR, it will be liable for the claimant's attorney fees if the defendant loses. The claimant faces no penalty for declining ADR.

Consumers benefit from other provisions in the bill as well. The discovery rule for the statute of limitations will apply. And the bill contains no damages caps and no exception for inherently dangerous products.

One of the most important reasons for the unpredictable nature of product liability law today is varying standards for the award of punitive damages. Punitive damages do not compensate claimants for their injuries. Standards for imposing punitive damages vary widely, although the bill before us adopts the plurality rule.

We may hear that setting substantive standards for punitive damages is unnecessary in light of the Supreme Court's decision last Friday in Honda Motor Co. versus Oberg. Because judges are now required under the due process clause to review punitive damage awards for arbitrariness, we may be told that there is no need for legislation to insure fairness in this area. That is not true.

The Supreme Court's ruling did not dictate any standard for the imposition of punitive damages. The absence of uniformity prevailing before the Honda decision still remains.

The Court did make a point relevant to this bill on the issue of burden of proof.

Under the State law applied in the Honda case, punitive damages can be awarded only if the claimant proves "by clear and convincing evidence" that the defendant exhibited strong disregard for the health, safety, and welfare of others. The majority opinion called the clear and convincing requirement "an important check against unwarranted imposition of punitive damages."

The bill before us would adopt both of these standards on a nationwide basis.

Punitive damages face few of our foreign competitors. Only in America do juries award punitive damages. Only in America can claimants receive damages for pain and suffering. And only in America does joint and several liability exist.

Our competitors enjoy uniform rules on product liability. Our own manufacturing companies and their employees deserve certainty in the law as well. The bill will ensure greater uniformity than now exists. All State and Federal courts within a region will be required to follow the Federal court of appeals in the area. This provision will quickly produce uniformity.

Moreover, it is constitutional. Congress has the power to pass this legislation under the commerce clause. Since Congress could divest State courts from hearing any cases under this statute, it can certainly require that State courts follow rules of decision established by the courts of appeals.

Mr. President, the American people deserve protection from injury, but they also deserve to keep the system that compensates for injury working fairly and efficiently. Today, that system performs badly by every measure for everyone except the lawyers for the parties.

S. 687 provides the first measure of relief to injured persons who now obtain justice too late or not at all, to businesses who are deterred from manufacturing products beneficial to society, and to consumers who pay more than necessary for those products. I urge my colleagues to vote for cloture and for the bill.

DOUBLE STANDARD IN NAVAL INVESTIGATIVE AND JUSTICE SYSTEM

Mr. GRASSLEY. Mr. President, I would like to speak briefly about a double standard that seems to be operating full bore within the naval investigative and justice systems.

The basis for my remarks today is an article that appeared on the front page of the Washington Post on June 15. The article was written by Mr. Barton Gellman and is entitled "Court Says Navy Brass Shielded Official's Son."

The information in the article was drawn from court documents.

The main document is an opinion by the U.S. Navy-Marine Corps Court of Military Review in Washington, DC. It was issued on June 13, 1994.

Mr. President, I ask unanimous consent to place the article in the RECORD.

The double standard works this way. It's very simple.

The big boys with political pull break all the rules and get rewarded for it. The little guys way down the line with no pull get hammered.

We saw the double standard in the Tailhook scandal. We saw it in the Naval Academy cheating scandal.

We saw it in the investigation of the explosion on the battleship *Iowa*. We saw it in the A-12 stealth bomber fiasco. And now we see it all over again in the case of Yeoman H. Lawrence Garrett IV.

The double standard in military justice has been around for a long time, but it is very hard to set a handle on it. When we are able to identify and document it, like in the Garrett case, we in Congress should stamp it out.

While Yeoman Garrett was at the bottom of the chain of command, he had high-level political connections. His father was the Secretary of the Navy, H. Lawrence Garrett III.

According to court documents, Yeoman Garrett admitted to repeated marijuana use, credit card fraud, theft, and lying under oath to investigators.

These crimes were committed in 1991-92, while his father was Secretary of the Navy. His father helped him skate.

A number of senior naval officers intervened in the investigation to protect the Secretary's son. These persons included Vice Adm. Jeremy Boorda, then Chief of Naval Personnel and now Chief of Naval Operations; and Rear Adm. DuVal M. Williams, commander of the Naval Investigative Service Command.

The court documents clearly indicate that Admiral Williams—the head Navy investigator—interfered and even obstructed the investigation.

But two more junior officers played a central role in the operation to shield Garrett. They did the dirty deed. These persons are Capt. Carlson M. LeGrand and Commander Peter Fagan. These two individuals, I am sure, were eager to please the Secretary.

Captain LeGrand and Commander Fagan were the political engineers. They designed the fix.

They rigged the review, and Yeoman Garrett got extremely lenient treatment.

Yeoman Garrett was restricted to the base for 30 days and fined $880 for crimes that normally bring hard jail time of up to 23 years.

Garrett's co-conspirator in the operation, Yeoman Seaman Apprentice Chad E. Kelly, by comparison, got hammered. They threw the book at him. Yeoman Kelly got 2 years in jail, a dishonorable discharge, and a $14,000 fine.

The Garrett caper fits the mold perfectly. It's a pattern of behavior that is repeated over and over again.

The big boys engage in abuse of power and political misconduct. They manipulate the system to their own advantage. They do the dirty work and get rewarded for it.

Captain LeGrand and Commander Fagan were rewarded handsomely for their faithful service. Both received important promotions earlier this year.

LeGrand was promoted in March 1994 to the rank of rear admiral. He is now Deputy Judge Advocate General of the Navy and commander of the Naval Legal Service Command. Fagan was promoted to the rank of captain at about the same time. He is in charge of the southwest division of Naval Legal Service Command.

LeGrand and Fagan were promoted in 1994.

The alleged misconduct occurred in 1991 or 1992.

Mr. President, there is a question that needs answering:

Was the Navy aware of the allegations against LeGrand and Fagan when these two officers were recommended for promotions and those nominations were sent to the Senate for confirmation? Was anyone aware of the alleged misconduct when these promotions were approved?

Mr. President, I would like the Navy to give me an answer to the questions.

This is another sad story about abuse of power and political misconduct at the highest levels of the Navy.

There is one standard of conduct for the brass with political muscle. There is another standard for enlisted men and junior officers who have none.

The leadership is setting a bad example. The double standard sends the wrong signal to the men and women serving in the Navy.

So long as the double standard is allowed to operate, it will have a corrosive effect on morale and discipline in the Navy.

Those at the top cannot break all the rules and then expect those at the bottom to follow them when the going gets tough.

I ask unanimous consent to place this story from the Washington Post in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 15, 1994]

COURT SAYS NAVY BRASS SHIELDED OFFICIAL'S SON: LENIENT TREATMENT IS LATEST BLIGHT ON SYSTEM

(By Barton Gellman)

A criminal case against the son of the Bush administration's Navy secretary was "infected throughout by senior naval officers" who acted improperly to protect him and "dispose of an awkward situation," according to a senior military appellate court.

The 26-page opinion by the Navy-Marine Corps Court of Military Review, issued Monday and made public yesterday, described a systematic attempt by the Navy chain of command to shield Yeoman H. Lawrence Garrett IV after he admitted to marijuana use and credit card fraud in 1991 and lying under oath in 1992.

The three-judge panel said Garrett received "extremely lenient" treatment on charges for which "any other sailor in the U.S. Navy" would have been court-martialed. Garrett was restricted to base for 30 days and fined $880. One of his collaborators in the credit card scheme received a two-year prison sentence, a bad conduct discharge and $14,000 in revoked pay.

The court's rebuke comes as another black mark on a naval justice system that repeatedly has been found wanting in cases involving suspects with rank or influence. Two of those singled out in the opinion, former Navy secretary H. Lawrence Garrett III and retired Rear Adm. Duvall M. Williams, former chief of the Naval Investigative Service (NIS), already had been forced out in part for failing to hold senior officers accountable in the Tailhook sexual abuse scandal.

Some of those criticized by the court in the Garrett case remain in important posts. Among them is Adm. Jeremy M. Boorda, then chief of naval personnel and now the Navy's top-ranking admiral, who granted the younger Garrett an unusual transfer to Washington at his father's behest.

Two officers who played far more central roles in shielding the sailor, according to the court, have since risen to the top of the Navy justice system. Rear Adm. Carlson M. LeGrand—who chose to try Garrett in a "captain's mast," a private administrative hearing reserved for minor infractions—is now chief of the Naval Legal Service Command. Capt. Peter Fagan, who was legal adviser to the Navy secretary, is about to become southwest regional chief of that command.

The court found that Fagan helped arrange for an extraordinary telephone call to the younger Garrett from his mother, the Navy secretary's wife, which interrupted a polygraphed interrogation and effectively ended it. At the senior Garrett's request, the court found Fagan also gave legal advice to the younger man and warned him about "NIS interrogation techniques."

The senior Garrett denied in a telephone interview that he asked Boorda to transfer his son from San Diego, where the investigation was centered. He said he did not recall asking Fagan to advise his son and did not know his wife planned to interrupt his son's interrogation, but added he saw "nothing sinister" about either event.

"I scrupulously avoided any involvement," Garrett said.

Rear Adm. Kendell Pease, the Navy spokesman, declined last night to make "any speculative remarks" about the effect of the case on Fagan and LeGrand. Fagan said he did nothing for Garrett that he would not have done for any other sailor. LeGrand was traveling in Japan and could not be located to comment. Williams, who declined to discuss the substance of the case, said the court made its findings without "any semblance of due process."

Because Garrett was punished administratively, the court had no authority over his case. Its opinion was issued in the appeal of Yeoman Seaman Apprentice Chad E. Kelly, an acquaintance of Garrett who was convicted of credit card theft following the same investigation and stood trial at a general court-martial.

The court found that the "disparate treatment" resulted "solely from [Garrett's] status as the son of the secretary of the Navy."

"Not only is it uncommon, but it is extraordinary that a sailor could be found to have used marijuana repeatedly, to have stolen property using credit cards taken from a Navy mail room, to have received stolen property stolen by using these cards . . . and to have lied to NIS agents under oath and then be retained on active duty without being processed for discharge," the court wrote of the younger Garrett.

"Based on our experience, we state with confidence that, absent extraordinary circumstances, any other sailor in the U.S. Navy who faced such charges would have been tried by court-martial," it said.

Mr. GRASSLEY. I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania [Mr. WOFFORD] for 10 minutes.

THE HEALTH CARE CHALLENGE

Mr. WOFFORD. Mr. President, for months now this Congress has wrestled with the most difficult, and the most important, challenge of our time: how to extend to all Americans guaranteed, affordable, private health insurance that can't be taken away.

During that time up in Pennsylvania—and here in our Labor Committee mark-up—I have been pressing a simple test for health care reform: We should extend to all Americans the same kind of guaranteed coverage and choice of private health plans that members of Congress have arranged for themselves.

I find that this test has almost the same impact on people as the proposition I put to the people of Pennsylvania in 1991: that health care is a right, not a privilege; that if those accused of a crime have a right to a lawyer, then it is even more fundamental if your are sick to have the right to a doctor.

That proposition reached and ignited people, like a self-evident truth. Similarly, the proposition that Congress ought to secure for all Americans the kind of guaranteed coverage and choice of private health care plans that Congress arranged for itself also has the power of a self-evident truth.

This is not just another anti-Congress broadside. On the contrary, it is an affirmative, clarifying argument that helps cut through the fog of confusion that has been spread by those who want to block any effective health care reform.

Nor is this just a symbolic point: the Federal Employees Health Benefits Program is a fact. It is real. It is available to all members of Congress—and millions of Federal employees and their families. It provides an actual, existing working model of how a reformed private health insurance system could work.

Listen to what Congress gets. It is right in this booklet:

> A choice of plans and options so that you can get the kind and amount of protection best suited to your personal and family health needs.
>
> Guaranteed protection that cannot be canceled by the plan.
>
> Coverage without medical examination or restrictions because of age, current health or preexisting medical conditions.

Everyone gets to choose for themselves from a menu of private health plans, from a full Blue Cross/Blue Shield choose-your-own-doctor plan to a lower cost HMO. The costs are reasonable. But members of Congress do not have to pay them all. Our employer contributes an average of 72 percent of the premiums and the employee pays the rest.

It is not government-run health care; it is a range of private health insurance options. It is not a one-size-fits-all system; it is a consumer choice system—more choice, in fact, than most Americans get from their employers today. That is, if they are lucky enough to have health insurance at work.

Now people here in Washington are having an abstract debate about whether universal coverage means 91 percent or 95 percent or 98 percent. Here is what I think it really means to people:

It means a guarantee that if you have a job, you also have health insurance. And if you lose a job, you will not lose your health insurance. If you change a job, you will not lose your health insurance. If you are on welfare and you take a job, you will not lose your health insurance. And if you retire early from a job, you will not have your promised health benefits become broken promises.

That is the practical meaning of universal coverage. It means filling the gaps that real people fall into every day in this country. These are gaps that any one of us in this body, who is not old enough for Medicare, might fall into if we lost our job—or that our children or parents might fall into at any time.

Many of us in the Senate and the House have reached beyond party labels to achieve bipartisan consensus on how to fill those gaps and we have made progress on a number of key points that will be critical to any reform plan.

At the same time, a minority of members in both Houses speak one way and act another when it comes to guaranteeing health coverage to all Americans. Some refuse even to discuss requiring employers to contribute to their workers' health insurance. Yet these same Members of Congress accept that same benefit from their own employers—the American people.

That is a simple fact the American people need to know: While a lot of Representatives and Senators are arguing that individuals and families ought to bear the entire burden of health care costs, those very Members of Congress are requiring the taxpayers—to pay about three-quarters of their health insurance.

Mr. President, I'm not one of them. Last week I announced that I'm returning the monthly contribution of $306.41 that the taxpayers make to my family's health insurance through the Federal Employees plan.

Each month I will continue to return that employer's share to the taxpayers and will pay the full monthly cost of my family's plan until we take action to extend the same kind of opportunities for affordable private health insurance for all Americans.

So I issue a challenge to those Members of Congress who don't think that employers should be asked to contribute anything to share the costs of their employees' health insurance: If you truly believe that, then practice what you preach.

Pledge to give back to the American taxpayers the money they contribute each month to your health insurance. Give it back. Pay your own premiums until we take action to guarantee affordable, private health insurance for the American people.

For me and any others who take this pledge, this is a symbolic act—a symbolic step. Over many years and many battles before I ever came to the Senate, I have found that sometimes we need to take symbolic action to spur us to change things in our country.

I propose this action today to put some more heat under our feet, so we do not rest content until we have completed action for universal private health insurance. I know some of my colleagues won't much appreciate this pressure.

They did not all appreciate it in 1991 when I said that it was wrong for Members of Congress to get free health care from the Capitol physician; that we should pay fair market rates for that kind of service. Now we do, and it is the right thing to do.

For some Members this would pose a hardship on their families. But let us think about the hardships of millions of American families who will continue to be forced to pay for their health insurance out of their own pockets or continue to go without insurance if some in Congress succeed in blocking real reform.

Let us think of the parents who already have to sit at the kitchen table at night trying to decide between paying for health insurance for themselves and their children or paying the mortgage. Think of the senior citizens who have to choose between food and the prescription drugs they need. Those are the people who sent us to Washington. They need our help—and they need it now.

Some in Congress have said it would not hurt them if we do nothing on health care reform this year. I can understand why. They are among the lucky ones with affordable health insurance guaranteed at their work.

But you who oppose employer's sharing the cost of health insurance, it is time to put your money where your mouth is. If you think American families should shoulder the burden of health care costs on their own, so should you and your families. Give back the share now paid by your employers, the American people.

Or, there is a better way—as our fictional TV friends Harry and Louise, of the Health Insurance Association of America TV ads, would put it.

Yes, there is a better challenge: Let us work together in these next months to extend to every American the kind of guaranteed, affordable coverage and choice of private health care plans that Members of Congress have arranged for themselves.

Meet that challenge, or give it back. That is the test being put to you. Let us pass that test, together.

The PRESIDING OFFICER. The Senator has consumed 8½ minutes.

Mr. WOFFORD. The Senator has finished his presentation.

The PRESIDING OFFICER. Does the Senator yield the remainder of his time?

Mr. WOFFORD. Yes.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:50 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. KOHL].

PRODUCT LIABILITY FAIRNESS ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington [Mr. GORTON].

Mr. GORTON. Mr. President, one of the subjects discussed at some length this morning was joint and several liability and its impact or possible impact on claimants.

In this connection, again we can speak from actual practice rather than from theory because the provisions on joint and several liability in the bill follow a California law on that subject. That provision was enacted by the people of the State of California in 1986, 8 years ago, by a vote of more than 60 percent.

Since then, there has been no effort on the part of any major interest group to repeal the California law. In spite of that fact, opponents argue that the provision is antiwomen because their economic damages may be lower than those of men and, for that reason, women depend more on noneconomic or so-called pain and suffering damages.

There is no showing in 8 years in California, which is both a large State and a litigious one, that this is true. In general, pain and suffering damages are found by juries to be proportionate to noneconomic damages, so that if there is a limit on noneconomic damages, its effect can be greater on a male than on a female. The key point is there has been no demonstration that the California approach discriminates against either gender or group.

According to testimony given on S. 687 by Suzelle Smith, an experienced California trial attorney who represents both victims and defendants in appellate work, the California law has been of help to all claimants and helped reach a fair result.

Under prior California law, where there was full joint and several liability for both economic and noneconomic damages, juries understanding that fact and understanding that finding a defendant liable in a small degree could nonetheless result in their having imposed on them a huge verdict—that is to say, a defendant who is 5 percent at fault in a $1 million case having to pay the entire $1 million instead of $50,000—those juries tended to shy away from imposing liability at all in such situations.

Under the current system, where juries appreciate the defendant less at fault will not be responsible for paying an award totally disproportionate to his responsibility, liability is more likely to be found.

The California approach is also the approach of Nebraska, with the same results.

At this point, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas.

Mrs. HUTCHISON. Thank you, Mr. President, and I thank Senator HOLLINGS very much.

Mr. President, I rise today as a cosponsor and supporter of S. 687, the Product Liability Reform Act. Congress has considered product liability reform legislation for almost 15 years, a decade and a half of thorough hearings, careful analysis, negotiations, compromises, and refinements by both the House and the Senate.

During that time, the need for product liability has only increased. Courts have expanded the scope of product liability law, and the number of product liability cases has exploded.

There is a great deal of unpredictability in the tort system which stems from the varying product liability laws and court opinions in the different States.

It is important to keep in mind that when citizens in one State, such as my home State of Texas, are injured by products, they may bring a lawsuit in Texas and the court will apply Texas law. But Texas' product liability laws have a limited effect on the State's businesses, because Texas manufacturers sell over 51 percent of their products in other States and they are sued in those other States. They are subject to unpredictable rules in many of these States that really prevents manufacturers from assessing their liability risks and jeopardizes rational business planning.

I believe that the legislation before us today is the right bill at the right time. It is a balanced and modest approach that provides substantial predictability for manufacturers and claimants by carefully targeting several areas of product liability law that would most benefit from national uniformity. These reforms will succeed in breaking gridlock in our courts, administering swift and just compensation to victims, punishing negligent manufacturers while protecting those that are not, enhancing product innovation, and increasing U.S. competitiveness.

I firmly believe that product liability lawsuits are the only means for allocating responsibility of harm caused by unsafe products. Consumers must be able to rely upon the tort system to receive swift, suitable and predictable compensation for their injuries. My concern, however, is that the current system of legal accountability for injuries due to unsafe products does not benefit consumers and, far from making them whole, subjects claimants to interminable delay in receiving rightfully owed compensation. Furthermore, the system exacts unacceptable transaction costs from a claimant's recovery. Claimants in the unreformed product liability system find themselves playing a game of legal roulette where a few lucky ones win big and everyone else goes home worse off.

The General Accounting Office reports that the average product liability case takes 2½ years to move from filing to a court verdict. Furthermore, those with the most severe injuries wait the longest and receive the least compensation. More than 62 percent of the most severely injured claimants wait more than 3 years for payment. At the same time, it appears that less seriously injured claimants are substantially over-compensated for their losses while those with the most serious losses are under-compensated. One study indicates that a claimant with damages of $1,000 generally recovers 859 percent of their losses, while those who legitimately suffer losses of over $1 million received on average 15 percent of their losses.

Delay results in under-compensation of claimants, particularly those with serious injuries. These victims generally have inadequate resources to pay for their medical and rehabilitation expenses, and they are forced to settle for far less than their full losses in order to get some payment because they cannot afford to wait for their compensation. The alternative dispute settlement mechanism contained in this bill create incentives to quickly resolve disputes and provide appropriate compensation.

Our Nation's manufacturing sector—and thereby our international competitiveness—is also a big loser in an unreformed product liability system. The unpredictability, inefficiency and high cost of our tort system handicaps the U.S. industrial sector. The enormous costs that the tort system imposes on business without reform impedes the creation of jobs. In Texas alone, the current liability system cost the State of Texas over $89 billion and 79,000 jobs in 1988, according to a Baylor University study.

These costs hinder our powerful manufacturing sector's efforts to be the world leader in design, construction and marketing of the next generation of high quality, high value-added products. Liability costs in the United States are 15 times greater than in Japan and 20 times greater than in Europe. Europeans have recognized the important impact of product liability reform on competitiveness and have implemented uniform product liability laws.

The expense of litigation claims and the high cost of liability insurance divert resources and research and productivity. Over the last 40 years, general liability insurance costs have increased at over four times the rate of growth of the national economy. A recent study found that between 1950 and 1988 liability insurance costs increased from $1.7 to $75 billion. Product manufacturers in some cases have witnessed as much as a 1,500 percent increase in their liability insurance costs.

These costs have consequences. They are either passed on to the consumer, where companies find themselves unable to pass them on, they are a leading reason for business failure. This is particularly true of small businesses, especially those involved in advanced technology—in other words, the innovators and job creators.

General consumers also lose in the legal lottery that is our product liability system. They ultimately pay for the cost of liability insurance, big ticket legal awards and—possibly most importantly—for forgone life-saving devices and procedures which never teach them because of unacceptable product liability costs.

According to the Rand Institute, product liability can "substantially decrease incentives to innovate in product areas for which large liability costs seem plausible or financial disaster from liability is believed to be even a slight possibility." In other words, innovation is being held hostage to the possibility of product liability claims. This is particularly prevalent and disturbing in the development of medical technologies.

A recent report by the American Medical Association states that innovative new products are not being developed or are being withheld from the market because of liability concerns or inability to obtain adequate insurance.

Rational business decisions to refrain from innovation or remove important medical devices from the market due to liability costs have a profound human cost. Recently, Mark Reilly and his 9-year-old son Thomas traveled from Houston to appear before a Senate subcommittee at a hearing on the impact of the product liability system on health care. Mr. Reilly told the subcommittee that an unreformed product liability system will result in the destruction of thousands of lives which are dependent on implanted medical devices in order to live. Thomas Reilly depends on a shunt tube, made of a pliable plastic material called silastic, to drain fluid buildup from his brain. Thomas will rely on this miraculous technology for the rest of his life, yet his parents are concerned that the biomaterial used in this device may not be readily available in the future. Stories similar to Thomas—involving pace makers, mechanical heart valves, bone and joint implants, vaccines and other miracles of modern medicine—are repeated thousands of times every day in this country.

I would like to say in closing that I have heard several of my colleagues raise concerns that this legislation disadvantages women claimants. In particular, there is concern about section 203(b), which provides that manufacturers of drugs or medical devices that have been approved by the Food and Drug Administration shall not be subject to punitive damages in product liability litigation, except under certain conditions. The provision does not apply if FDA approval was achieved as a result of bribery or if any relevant information required to be submitted was withheld before or after approval. The defense only applies if the manufacturer has complied fully with FDA requirements after the product is approved.

Opponents have stated that this provision will shield numerous products used by women, such as the Dalkon shield, DES, and silicone gel breast implants, from punitive damages. To the contrary, none of these products would benefit from the FDA defense because they have not been approved by the FDA. This provision will not provide a defense to punitive damages for those manufacturers who have not complied fully with FDA requirements. Furthermore, this legislation does not in any way impede a woman claimant's award of economic and noneconomic damages. In fact, the liberal discovery rule contained in this bill benefits female plaintiffs in such cases.

Manufacturers of products like silicone gel breast implants and other medical devices used by women will continue to have strong incentives to avoid placing defective products on the market because they will remain fully liable for all harm.

Furthermore, this provision provides additional powerful incentives for manufacturers to comply with FDA regulatory requirements and it improves the likelihood that FDA can effectively police dangerous drugs and devices. It effectively strengthens FDA's regulation of these products.

Mr. President, I believe we can and should enact uniform product liability legislation. I do not take legislation to preempt State law lightly. Neither does the National Governors Association and they, too, support this legislation because they are on the frontline and they see the harmful effects to the businesses and consumers in their States of not doing this. This legislation will benefit consumers, injured parties, and manufacturers that act in a responsible manner.

I am supporting S. 687 and I urge my colleagues to join me in voting for cloture.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Carolina, [Mr. HOLLINGS].

AMENDMENT NO. 1940 TO AMENDMENT NO. 1938

(Purpose: To provide for product liability insurance reporting)

Mr. HOLLINGS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS] proposes an amendment numbered 1940 to amendment No. 1938.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, add the following new section:

SEC. . PRODUCT LIABILITY INSURANCE REPORTING.

(a) REPORT TO CONGRESS.—The Secretary of Commerce (hereafter in this section referred to as the "Secretary") shall provide to the Congress before June 30 of each year after the date of enactment of this Act a report analyzing the impact of this Act on insurers which issue product liability insurance either separately or in conjunction with other insurance; and on self-insurers, captive insurers, and risk retention groups.

(b) COLLECTION OF DATA.—To carry out the purposes of this section, the Secretary shall collect from each insurer all data considered necessary by the Secretary to present and analyze fully the impact of this Act on such insurers.

(c) REGULATIONS.—Within 120 days after the date of enactment of this Act, the Secretary shall issue such regulations as may be necessary to implement the purposes, and carry out the provisions, of this section. Such regulations shall be promulgated in accordance with section 553 of title 5, United States Code. Such regulations shall—

(1) require the reporting of information sufficiently comprehensive to make possible a full evaluation of the impact of this Act on such insurers;

(2) specify the information to be provided by such insurers and the format of such information, taking into account methods to minimize the paperwork and cost burdens on such insurers and the Federal Government; and

(3) provide, to the maximum extent practicable, that such information is obtained from existing sources, including, but not limited to, State insurance commissioners, recognized insurance statistical agencies, the Administrative Office of the United States Courts, and the National Center for State Courts.

(d) SUBPOENA.—The Secretary may subpoena witnesses and records related to the report required under this section from anyplace in the United States. If a witness disobeys such a subpoena, the Secretary may petition any district court of the United States to enforce such subpoena. The court may punish a refusal to obey an order of the court to comply with such a subpoena as a contempt of court.

Mr. HOLLINGS. Mr. President, this amendment, for my colleagues' information, requires that the Secretary of Commerce annually report the effect of this particular legislation on insurance rates. We have had study after study, and invariably, whether you cite the Rand Corp. study or the GAO report, they complain, "We cannot get the information. We do not have the information." I can tell you firsthand, as the chairman of the Commerce Committee that has considered this over the past 17 years, that we have not been able to get the information.

One way to get the information is to federalize insurance. I happen to be an old States rights Senator and I have always favored the States regulating. However, I now see changes with the fiscal responsibility provisions as introduced by the distinguished Senator from Ohio on this side of the Capitol, or several bills on the House side, to abolish the McCarran-Ferguson exemption for the fixing of rates and in federalizing insurance. Now we have Members in the health reform debate saying look, we are not going to get a health care bill but we are going to get insurance reform.

Now, to return more specifically to the amendment at hand, we have tried and tried to achieve this objective, to the frustration of none other than the distinguished author of the bill, Senator ROCKEFELLER of West Virginia.

In the 99th Congress, Senator ROCKEFELLER did two things. With the distinguished Senator from Illinois, Senator SIMON and the distinguished Senator from West Virginia, Senator ROCKEFELLER introduced a bill, S. 2497, the Insurance Trends Forecasting Act of 1986. The two Senators jointly introduced the bill and also they introduced the amendment at the time that we considered product liability. I hope Senator ROCKEFELLER will accept my current amendment because I put it up as a second-degree amendment to Senator LIEBERMAN's. I am prepared to vote for Senator LIEBERMAN's amendment. I am not trying to frustrate Senator LIEBERMAN's amendment at all, but I think it can be strengthened with this provision, as is stated by none other than Senator ROCKEFELLER to myself. Let me read what Senator ROCKEFELLER stated at a Commerce Committee markup on product liability on June 26, 1986.

> Mr. Chairman, to enact tort reform without a means to measure what its impact might be on insurance and insurance rates would not do the job. One of the goals that has often been stated for product liability reform is to increase the affordability of liability insurance. Yet the way this bill stands at this moment, we will have no idea today, 5 years from today, 10 years from today, what the impact of this legislation will be on insurance practices.

So as a result of that motion made by him as an amendment, he had gotten together with the distinguished Senator from Kentucky, Senator FORD who is very knowledgeable on this score. They had worked to make sure that the amendment was not burdensome or extra costly or would not impede business in any way. None of us wanted to do that. We simply wanted to correlate the statistics as best we could. Then at the end of each year, we would have an idea of exactly what was going on.

Some information is already reported. It is available at the Insurance Statistical Agency for insurance companies and the courts, although it is not in a report form routinely made available to the Government. In those cases, the Commerce Department, of course, would just collect the data and put it together in a useful form for the Congress. However, there is crucial data that is not currently available, such as information about claims for companies that are self-insured, the use of captive insurers, or risk retention groups—categories encompassing some 30 percent of the cost average in product liability.

This amendment is not intended to frustrate the intent of this bill. It has nothing to do with the Food and Drug Administration. It has nothing to do with, for example, what they entitle the "negligent entrustment provisions," in which area Senator LIEBERMAN wants to make sure that the State laws apply. It has nothing to do with the alternative dispute resolution procedures. It has nothing to do with the settlement provisions. It just says overall, let us report these facts and figures so we will all know. We keep talking on the floor as though we were experts, when we will all have to agree on both sides of this measure that we are totally inexpert.

We heard from the National Federation of Independent Businesses, when somebody brought up the fact that these proposed data collection requirements might be a detriment to small business. This is what NFIB said.

> Data are used by both sides to make their respective cases. Different assumptions and subjective economic views are interwoven in the respective analyses, but neither seems to have an overwhelming credibility in providing objective data. We know that in our competitive economy there must be a connection for insurance firms between their costs of providing coverage and the amount they charge for the premium. The National Federation of Independent Businesses believes that the opposing parties in this debate will not be able to resolve their statistical differences. And in order to resolve this debate on the effect of tort reform on premiums, we need to have better data and objective analysis of that data. That is the rationale for the National Federation of Independent Businesses' support for data collection by the Commerce Department.

I could at random present scare pictures. I do not mind people making a profit.

We have right here, for example, one report of what we call the Insurance Information Institute. In an update as of May of this year, they report that for 1992 net after-tax income was $5.8 billion. But in 1993 net income went up to $18.5 billion, for a 219-percent improvement of business; 1993 over 1992.

We know they are doing good. We know it is not any major expense. But we need to have a correlation. They talk about the difficulty of lawyers in 50 States bringing 50 different causes of action. They do not complain, Mr. President, about filing their policies. I have been involved in this field for many decades. As Governor of South Carolina, I reformed the insurance department. I put in a blue ribbon commission. The vice president of one of the best and largest banks volunteered to serve as chairman. We veritably cleaned up insurance in my own State.

That has not occurred in all 50 States, and we need that nationally in my opinion. With the so-called insurance reform on the health end and fiscal responsibility on another end, the fixing of prices under McCarran-Ferguson, we keep nibbling around and around. Likewise, we willingly federalize a wide variety of crimes. But we will not federalize product liability.

They will not give the distinguished Presiding Officer the information that he sought on a very balanced amendment to try to cut out the shield of secrecy surrounding judges—judges who are quite impressed, of course, by the insurance lawyers.

Now comes another amendment. It is their own Rockefeller amendment brought back to life. And, of course, I would expect perhaps the distinguished Senator from West Virginia would want to accept this amendment because it is word for word his amendment that at one time was unanimously approved by the Commerce Committee. That is why I worded it exactly as he worded it, exactly as it was worked out on both sides with the interest that it not be a detraction or financial burden or otherwise. I bring it up now for no other reason than to find accurate information so we can make sound policy. I bring it up now with the support of the National Federation of Independent Businesses.

I yield the floor.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alabama [Mr. HEFLIN].

Mr. HEFLIN. I had some questions of Senator LIEBERMAN on his amendment. Senator LIEBERMAN is the author of the amendment. I really need to ask him some questions to clarify some matters.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes Senator GORTON.

Mr. GORTON. If the distinguished Senator from Alabama would state what his questions are, I will attempt to find the Senator from Connecticut and attempt to determine answers to them and give those answers as promptly as possible.

Mr. HEFLIN. Basically, as I understand the Lieberman amendment, it says:

> A civil action for negligent entrustment is not subject to this Act and shall be governed by applicable State law. For purposes of the preceding sentence, the term "negligent entrustment" means causes of action under applicable State law that subject product sellers to liability for their failure to meet the applicable standard of care under State law in selling a product to a person who, because of his youth, inexperience, or otherwise, is likely to handle the product in a manner to cause harm to himself or others.

Now, it is my understanding this was largely directed toward the dram act. The dram act is almost universally adopted in the States where a tavernkeeper or a seller of alcoholic beverages sells whiskey or beer or wine or whatever it might be to a person who is obviously intoxicated and that person who is obviously intoxicated goes out and he causes harm to himself or to others such as in driving an automobile. Or, on the other hand, the dram act in some of the States is to the effect that the keeper of a tavern sells it to a person under age, where it is a violation of the law to sell to a person under the age such as 18 years, and that therefore that develops into harm that is caused, and that therefore this negligent entrustment amendment that Senator LIEBERMAN has, as I understand it, is an attempt to reinstate—or if the bill were to pass, to allow it to say you go by the State law relative to this and that this bill would not preempt that.

Now, the Mothers Against Drunk Driving have expressed serious opposition to this bill, and part of it is on the basis of this dram act and the preemption that would take place relative to that matter which I have mentioned.

There are other aspects pertaining to this that I am sure the Mothers Against Drunk Driving oppose such as the provision on 50 percent of the harm being caused relative to a person from intoxication or drugs, which I think is wrong in the way that they have written this. And I think that Mothers Against Drunk Driving will, regardless of this, continue to oppose the bill.

But I have some other questions. This language is very poorly drafted, at least in my judgment, and it was directed in some way towards not to allow the Federal law to apply in certain cases such as those per se cases where a person by automatically selling it—you do not have to prove their incapacity or negligence involved in it—might not go far enough.

But it also has, in my trying to read this—and this is why I wish to ask Senator LIEBERMAN—it has the language here that "negligent entrustment for this section means causes of action under applicable State law that subject product sellers to liability for their failure to meet the applicable standards of care under State law in selling a product to a person who because of his youth, inexperience, or otherwise"—it does not say "intoxication." It just says "otherwise." I wish to be sure that, No. 1, it includes intoxication and the dram act because it does not talk about incapacity or intoxication. It speaks of youth and inexperience or otherwise.

Now, I do not know what he intends to mean by "otherwise." But the language also appears to me, as it is drafted, to go beyond. Suppose he sells a product which is cigarettes to someone who, because of his youth—maybe there is a law that you cannot sell cigarettes in a State below a certain level, that because of his youth he is likely to handle the product in a manner to cause harm to himself or to others.

I think on the one hand this language does not go far enough. Then on the other hand, I think it goes to the extent that it is far beyond what it was intended and is subject to that interpretation.

Let us use another example. He sells a product which is gasoline. The filling station operator or the service station operator sells gasoline to someone who is underage—youth—and is likely to handle the product in a manner to cause harm to himself or to others. Does this mean that negligent entrustment is to be extended under some applicable State law to mean by this to include a lot of people that may and may not be—I would think that the selling of gasoline by a filling station operator could well be since it is an underage person—underage to drive beyond 16 under the applicable State law? I just raise some question.

Maybe Senator LIEBERMAN can help me answer some of these questions. It seems to me that it is not broad enough to cover the dram laws. But the other hand it is too broad in regard to other possibilities.

Mr. GORTON. Mr. President, will the Senator yield?

Mr. HEFLIN. Yes.

Mr. GORTON. In behalf of Senator LIEBERMAN, Senator ROCKEFELLER, and myself, I should like to answer the question of the distinguished Senator from Alabama, and make a proposal.

First, it is the position of the sponsors, the proponents, of this bill that the bill does not affect causes of action for negligent entrustment under State law at all in its present form. We are quite convinced that is the case. But legitimate questions have been raised on that subject, particularly by the authors of the first-degree amendment which was offered this morning in response to that request on their part.

Since this morning, in connection with one of the questions which the Senator from Alabama has asked, they have asked us to make a further clarification which we are willing to do. But let me answer the second set of questions of the Senator from Alabama before I get back to that.

His question perhaps does not go far enough because maybe it does not cover what we have called dram shot laws. On the other hand, perhaps it goes too far, and he brings up the question of the sale of cigarettes to a minor, or the sale of gasoline to a minor. But if the distinguished Senator from Alabama would simply look at the first sentence of the first-degree amendment, it says a "civil action for negligent entrustment is not subject to this act and shall be governed by applicable State law."

Nothing could be clearer than the fact that it does not create new substantive Federal law. There is not the remotest possibility that it could be applied in the way the Senator guesses to cigarettes or to gasoline or the like unless some State passes a negligent entrustment statute to that effect. And, of course, if the State passes such a statute, the State ought to be allowed to pass such a statute.

So the second concern of the Senator that somehow or another this causes an extension of current law is an appropriate concern to raise. But there is no possibility under this clear language that it could. This just says negligent entrustment is not a subject of this act at all, one way or another, either for restricting or for expanding such State laws. States can conclude those as they will.

As I said, we think very clearly a dram shot law is a negligent entrustment law. But we have an additional sentence here which reads as follows. I will read it to the Senator. That would go ahead of the proposed first-degree amendment which reads:

> A civil action seeking recovery under a dram shot law, or a statute for seeking a recovery from the seller of alcohol products, based on the theory of common law negligence where the seller of the product knew or reasonably should have known that the person receiving the alcohol was intoxicated or not of legal age to purchase the product is not subject to this act.

There was an additional request of the Mothers Against Drunk Drivers.

Mr. HEFLIN. You read a little fast. You have it written down.

Mr. GORTON. We will get the Senator a copy of it.

As I say, this came in after the Lieberman first-degree amendment, and then there was prepared and submitted a request by Mothers Against Drunk Driving.

I think it totally answers that. We think the present amendment takes care of the issue. But certainly this additional sentence does so.

We will hand a copy of it to the Senator in a moment. I will simply ask unanimous consent that the first-degree amendment read in the fashion that I have read to the Senator.

The next two sentences, the two sentences of the Lieberman amendment as they stand, would remain unchanged and are identical to what has been requested of us by Mothers Against Drunk Drivers.

Mr. HEFLIN. In response to what the Senator said, let me say this: You say it is not a civil action, and negligent entrustment is not subject to this act.

Other than the dram act, the cause of action of negligent entrustment is not generally—other than the dram act—is not legislatively creative. It has been created by common law in a State, and it can vary from one to the other. But it seems to me that what you are doing here is defining negligent entrustment, and for States to mean causes of action. Then you say under the applicable State law, that subjects, product sellers are liable for their failure to meet the applicable standard of care under the State law in selling a product. This is in selling a product. This is in a definition that you are giving to the States in selling a product to a person who because of his youth, inexperience and otherwise is likely to handle the product in a manner to cause harm to himself or others.

That is a confusion that could be possibly clarified with better language. But in my judgment there is the possibility of having—through legislative enactments—judicial determinations of what is negligent entrustment, and that negligent entrustment therefore is being guided by this language that is here.

Maybe the Senator, the author of the amendment, might clarify that. I do not know whether he was here when I raised the issue that this would be a situation in which a product—we will say gasoline—is sold to a person who is underage or inexperienced. That would be an awful hard thing for a filling station operator to determine whether or not the person is inexperienced by driving up and buying gasoline for a car at a pump; is likely to handle the matter in a manner to cause harm to himself or otherwise.

So I raise this issue of tobacco being sold as likely to cause harm.

I just had not seen this other language that is clarifying. I want to look at this a little bit further. But on the one hand, it appears to me maybe you did not go far enough and maybe this clarifies it in regard to the dram acts. I have read it. But I have not fully comprehended, on the other hand, whether it goes far beyond what was intended but may include others. That is a problem that I am having with this.

Mr. LIEBERMAN. Mr. President, in response to the Senator from Alabama, the Senator from Washington as I have heard the debate has answered as I would have the intention—

Let me step back a little bit. As I believe the Senator knows, in the underlying bill, S. 687, there is a limitation on liability for sellers of products. If you run a hardware store, for instance, and you sell a hammer that is defective because of negligent manufacture, even though you had no way of knowing it, had nothing to do with the manufacturer, you can actually be held liable. We attempt to limit or exclude that liability where the seller, the owner of the hardware store, has no reason, in any exercise of reasonable care, to have known that the item was negligent. The liability should be on the manufacturer.

Some concerns were raised that inadvertently, unintentionally, that section may excuse other sellers from other kinds of liability under State law. For instance, some said: What about the liability of a seller of a gun, who breaks the law by selling it to a minor, or the dram shop action which puts some liability on an owner of a bar or liquor store for selling to a person that showed signs of being inebriated already.

Of course, those two situations, the gun selling and the alcohol selling, were totally out of the contemplation of those of us who fashioned S. 687. This amendment was intended to reassure everybody. That is not the intention at all. It is more directly to say that State law remains as it is. We do not mean to interrupt it in this whole host of other areas.

As always, legislative drafting is probably more an art than it is a science. I want to do two things: One, to assure my friend from Alabama that our intention is as stated; and, two, I will be glad to work with him to clarify that, and I hope that the clarifying amendment that the Senator from Washington shared with him will reassure him.

(Mrs. FEINSTEIN assumed the chair.)

Mr. GORTON. Madam President, simply to reiterate the points made by the Senator from Connecticut, this is not just a matter of intent. This is a matter of plain language. The plain language of the Lieberman amendment does not create and cannot possibly be construed to create a cause of action. It preserves State law, whether that State law comes from statute or from common law, or from a combination of the two. In the parade of horribles or examples the Senator from Alabama has set out, if some say the legislature wants to pass such a law, it is not going to be affected by this amendment one way or another. The State retains that right. If no State passed one to this point, I am not sure there is any real likelihood that it will do so.

But the Lieberman amendment itself preserves causes of action; it does not create causes of action. I do not think in any reasonable way it can be construed to do so. So as soon as the Senator from Alabama has had a chance to look at the new first sentence, which is on dram shop laws alone, I will ask unanimous consent that it be included in the first-degree amendment. Before we do that, I should like to speak briefly to the second-degree amendment of the Senator from South Carolina.

The Senator from South Carolina may very well have done so in his opening statement, but I point out that some time ago in committee, the Senator from Washington voted for the provision which the Senator from South Carolina has proposed here. The Senator from Washington does not think that it is of an overwhelming degree of use, but we are, as managers, I think prepared to accept the second-degree amendment.

I want to, in my own book here, go through not so much objections as concerns, and simply to ask the Senator from South Carolina whether or not he has reflected on those concerns in the way in which he has drafted the amendment. If he has, that is fine. As I have said, the bottom line is that we are prepared to accept the amendment.

Mr. HOLLINGS. In response to the distinguished Senator's question, the answer is yes. It certainly does not have any real difference with respect to those who are always concerned about too much reporting, bureaucracy, and impossible tasks, and those kinds of things, layering on requirements, regulations. In fact, you and I voted for it when we were trying to deregulate everything at that particular time. This was worked out, as I pointed out, by the distinguished Senator from Kentucky and Senator ROCKEFELLER, and some of us debated back and forth and had other ideas, refinements, and burdens, and I told the staff to let us take the amendment forward so there would be no misunderstanding. We have it completely across the board—independent business and other organizations. The answer is yes, I have taken into consideration all of those concerns and never changed a word.

Mr. GORTON. Let me go through the very specifics on it, if I can. If the Senator from South Carolina would be good enough to grace the RECORD with his answers, we can go forward. The four points that were raised as reservations, rather than as objections to the bill, were, first, that originally it came up when we were dealing with a product liability bill that actually had damage caps on it which already certainly would have reduced insurance costs. I would like the Senator's response to that question.

The second, he really already answered, and that was the question about just more reports and more paperwork that nobody ever looks at. The Senator has said he thinks this would be valuable paperwork that people would look at.

I guess the other consideration, the fact of simply getting reports from insurance companies falls a long way from determining the costs of product liability litigation, because, of course, many businesses self insure, and others are part of risk retention groups and reserves that often are going way, way out into the future, and reserves reported this year may not have much relationship to ultimate costs. If the Senator could comment on each of those, this Senator would appreciate it.

Mr. HOLLINGS. This is directed at 30 percent of the business. We debated this. And so the claims for companies that are self-insured and the use of captive insurance, the risk retention groups, the three categories, accomplish 30 percent of the product liability coverage. That information is needed, and that is the idea to try to get that. The companies do not have that information. Others do.

Some States have attempted to collect this data, but it has not been collected in a consistent fashion or analyzed in the way that a sound understanding of the product liability system could be gained from it. So the secretary would gather that information in the most cost-effective way. The relative data is not collected anywhere in a coherent fashion, and this amendment would require that the complete package of data be available in one report.

That is the whole idea. I think that would satisfy the distinguished Senator's concern.

Mr. GORTON. Pardon me. Did the Senator address the Senator from Washington with a question?

Mr. HOLLINGS. I think I have answered the Senator's question. The risk retention groups, self-insurer groups, comprise 30 percent. Some States do get that information, but they do not do it in a consistent fashion. Others States do not. The secretary would not only get it from all, but would put it into one document so we could all look at its effects.

Mr. GORTON. From the perspective of this Senator at least, the answers of my distinguished chairman are adequate answers. We are prepared to accept the second-degree amendment.

I would like to ask unanimous consent to modify our first-degree amendment in the method that I outlined.

Mr. HOLLINGS. It suits me on the modification. I listened to the dialog between the distinguished Senator from Alabama and the distinguished Senator from Washington. The distinguished Senator from Alabama is not here.

Mr. GORTON. Yes, he is.

Mr. HOLLINGS. Then the Senator has my approval, and I would join in his request. But let us see what the Senator from Alabama says. But it is now my amendment accepted in the second degree.

Mr. GORTON. I simply want to get the answer to that question and then I will accept it.

Will the Senator from Alabama accept the unanimous-consent to modify the first-degree amendment?

Mr. HEFLIN. Under the dram acts in some States, it covers straw men where you have straw people who go in and attempt to buy for someone else.

This is sometimes true in regards to guns and there have been cases. For example, in a case a Virginia jury found Guns Unlimited of Norfolk liable for $100,000 in damages for selling a 9-millimeter MAC assault pistol to a 15-year-old under a straw purchaser. The teen used the gun on a shooting rampage at a private school in which he killed one teacher and wounded another. The award was made to the husband of the murdered teacher. That is the example there.

The per se aspect of it in some States has it where with the Senator's language you would have to show that he knew or should have reasonably known the person receiving the alcohol was intoxicated and not of legal age; in other words, that he was not of legal age; that the burden to find out whether he was of legal age or was not of legal age should be placed upon the seller of alcoholic beverages.

I am not sure that this covers enough on this thing. My opinion is that the Senator has offered to work on it. Maybe we could do some work in regard to Senator LIEBERMAN and see if we could work out some language on this.

I think overall what the Senator is trying to do is admirable and what we want to do, and I certainly agree with the Mothers Against Drunk Drivers that this sort of thing ought to be done. But I am just feeling that the language here is inadequate to accomplish the purpose, and then in some instances I am still worried about the situation that this may extend and go to filling station operators, go to tobacco salesmen, and others who are involved in such as this.

If the Senator wants to withdraw his amendment—and we can get together later and work on it—I would be glad to do that. I think we could work something out on it because the concept is good, but I am fearful that the language does not accomplish it.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Washington.

Mr. GORTON. Mr. President, I am informed informally by the Parliamentarian that as the sponsor I have a right to modify the first-degree amendment.

I ask unanimous consent for it. I do not mean by doing it in that way to say that that necessarily means that the Senator from Alabama has to be for it. I would just like to perfect it under these sets of circumstances.

I have listened to the objections of the Senator from Alabama. I do not think we can do this in a clearer fashion.

What I would really like to do, because there are many important matters in this bill to be discussed, I would like to accept the second-degree amendment of the Senator from South Carolina; I would like to modify and have accepted the first-degree amendment of this Senator and go on with other subjects.

In any event, I am prepared right now to have a vote and to accept the second-degree amendment of the Senator from South Carolina. I will then just exercise my right to modify the first-degree amendment.

Mr. HEFLIN. Is it not right now the offer made with Senator LIEBERMAN that we get together and work this thing out?

Mr. GORTON. If there is something else we can do——

Mr. HEFLIN. When I file the language, I would like to modify it in the manner in which it covers the intent of what we are trying to achieve here and not to be as broad as wherever it is. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. GORTON. There is not that much to object to. I said I am willing to accept the second-degree amendment of the Senator from South Carolina and then exercise my right to modify the first-degree amendment; that is, not to pass the first-degree amendment. I do not want to pass it.

Mr. HEFLIN. I object to him modifying his first-degree amendment.

The PRESIDING OFFICER. The Chair will state the offeror of the first-degree amendment still retains his right to offer a modification to his amendment.

Mr. GORTON. Does that right exist even after the second-degree amendment has been accepted?

The PRESIDING OFFICER. Once the second-amendment is agreed to, the offeror would no longer have the right to modify.

Mr. GORTON. Then I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. HEFLIN. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will call the roll.

The bill clerk continued to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the cloture vote scheduled to occur at 7 p.m.

this evening occur at 6 p.m. and Senators have until the time of the vote to file second-degree amendments.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The vote will occur at 6 p.m.

Who yields time or who seeks recognition?

The Senator from Connecticut.

AMENDMENT NO. 1938, AS MODIFIED

Mr. LIEBERMAN. Mr. President, as the initial offerer of the underlying amendment being considered, I send language to the desk to modify that amendment.

The PRESIDING OFFICER. The Senator has that right and the amendment will be so modified.

The amendment, as modified, is as follows:

> On page 8, line 20, after the period insert the following: "A civil action for negligent entrustment is not subject to this Act and shall be governed by applicable State law. For purposes of the preceding sentence, the term "negligent entrustment" means causes of action under applicable State law that subject product sellers to liability for their failure to meet the applicable standard of care under State law in selling a product to a person who, because of his youth, inexperience, or otherwise, is likely to handle the product in a manner to cause harm to himself or others.

Mr. LIEBERMAN. I thank the Chair.

The modification is exactly the one described by the Senator from Washington. It is to clarify the intention of the law.

This modification was particularly suggested to us by the Mothers Against Drunk Driving group and obviously is aimed at clarifying the sections of the underlying bill that limit the liability of sellers of alcohol, and that they in no way affect State law which puts liability on the sellers of alcohol who act negligently.

AMENDMENT NO. 1940

Mr. LIEBERMAN. Mr. President, if there is no further debate, I ask for the adoption of the second-degree amendment, which I believe is the first in order.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. I think the thing is not drafted properly, but maybe in the meantime we can do some work on it and see what we can come up with.

I know that Senator LIEBERMAN has offered to work and see what we can do, so I am not going to object at this time. I will let it go ahead. But I would like to see if we cannot come up with the result that was intended and that you want to accomplish by this. I have some real questions.

I think it also opens up an area that is subject to judicial interpretation of what negligent entrustment is. I think this language restricts or, on the other hand, opens up the concept of negligent entrustment. But, anyway, at this time I do not have any objection.

Mr. LIEBERMAN. Mr. President, I appreciate the consent of the Senator from Alabama. I look forward to working with him as the process goes on to see if we can further clarify this to his satisfaction.

I would then restate my request to agree to the second-degree amendment offered by the Senator from South Carolina.

The PRESIDING OFFICER. Is there further debate on the Hollings amendment, amendment No. 1940? If not, the question is on agreeing to the amendment.

The amendment (No. 1940) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LIEBERMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1938, AS MODIFIED, AS AMENDED

Mr. LIEBERMAN. Mr. President, I would then ask for the adoption of the underlying amendment, as amended.

The PRESIDING OFFICER. Is there further debate on the amendment offered by the Senator from Connecticut, amendment No. 1938, as modified and amended?

If not, the question is on agreeing to the amendment, as modified, as amended.

The amendment (No. 1938), as modified, as amended, was agreed to.

Mr. LIEBERMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. LIEBERMAN. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to call the roll.

The bill clerk continued to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. GORTON. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to call the roll.

The bill clerk continued to call the roll.

Several Senators addressed the Chair.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Washington object?

Mr. GORTON. No, the Senator from Washington seeks recognition.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. HEFLIN. Mr. President, I do not want to speak long on this matter right here, but there was an interesting article by Robert Kuttner that appeared in the Washington Post on June 24, 1994. He says,

> According to promoters of "reform," product liability cases cost American business $100 billion a year. The actual figure, according to the National Association of Insurance Commissioners, is about $4 billion. That includes all insurance premiums paid by business to cover possible damages, all actual damages collected by injured consumers and all legal fees.
>
> To put that figure in perspective, $4 billion is less than what Americans spend annually on dog food. It is one-fifth of one percent of retail sales. It is less than corporations spend suing each other for commercial infringements.
>
> Supposedly, runaway juries are increasingly siding with consumers. In fact, according to a new authoritative study by Jury Verdict Research of Horsham, Pa., the proportion of personal injury cases won by plaintiffs dropped from 63 percent in 1989 to 52 percent in 1992. The average damage award has hardly changed.
>
> Supposedly, too, such cases are clogging the courts. In reality, according to the Conference of Chief Justices (of state courts), product liability suits are just three-tenths of one percent of all civil cases.

There have been those who try to say that America has 70 percent of the world's lawyers, but the fact is the United States has only 9 percent of the world's lawyers.

A handful of lawyers do reap large windfalls from a small number of spectacular damage awards. We might want to limit the percentage that lawyers can take as fees. But to achieve that reform, it is not necessary to undermine the citizen's right to collect damages for an injury he or she received.

The contingent fee system has allowed people, who have not been otherwise able to recover, to have access to the civil justice system. I think this issue must be looked at very carefully. Quoting further from an article by Mr. Robert Kuttner, he says:

> Some of the most infamous injuries inflicted on consumers were exposed and remedied mainly through lawsuits, not regulatory action. These included the Dalkon Shield, a contraceptive which rendered thousands of women infertile; the Pinto's exploding gas tank; the high absorbency tampons linked to toxic-shock syndrome; the damage to workers exposed to asbestos, and innumerable lesser-known cases.
>
> Foes of regulation say the common law is superior to government intervention. But,

hypocritically, when juries impose damage awards, the same critics want Congress to change the rules—hence this bill.

I ask unanimous consent this article by Robert Kuttner, appearing in the Washington Post of June 24, be printed in its entirety in the RECORD and I yield the floor.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PHONY LITIGATION CRISIS

(By Robert Kuttner)

One of the epic corporate public relations ploys of our time is now pending before the U.S. Senate. And it could well succeed.

This is the crusade by organized business to make it harder for citizens to win damages when they are maimed by dangerous products or by negligent doctors.

This crusade calls itself "product liability reform" or "tort reform." Under the common law, a tort is a wrongful act that allows a plaintiff to sue for damages.

For more than a decade, America's biggest businesses have painted a lurid picture of an overlawyered, overlitigated economy. Supposedly, an explosion of lawsuits has rendered American industry less competitive, has lined the pockets of trial lawyers and has inflated health costs.

Since the early 1980s the business lobbies have been promoting legislation—this year's version is called the "Product Liability Fairness Act"—to make it harder for people to collect damages. The highly technical bill would preempt a number of long-standing principles of common law.

But this supposed crisis in product-liability cases is based on several trumped-up claims.

According to promoters of "reform," product liability cases cost American business $100 billion a year. The actual figure, according to the National Association of Insurance Commissioners, is about $4 billion. That includes all insurance premiums paid by business to cover possible damages, all actual damages collected by injured consumers and all legal fees.

To put that figure in perspective, $4 billion is less than what Americans spend annually on dog food. It is one-fifth of one percent of retail sales. It is less than corporations spend suing each other for commercial infringements. As for medical malpractice, damage awards account for half of one percent of U.S. health outlays.

Supposedly, runaway juries are increasingly siding with consumers. In fact, according to a new authoritative study by Jury Verdict Research of Horsham, Pa., the proportion of personal injury cases won by plaintiffs dropped from 63 percent in 1989 to 52 percent in 1992. The average damage award has hardly changed.

Supposedly, too, such cases are clogging the courts. In reality, according to the Conference of Chief Justices (of state courts), product liability suits are just three-tenths of one percent of all civil cases.

Former vice president Dan Quayle is a highly visible spokesman for this crusade. In his speech to the 1992 Republican National Convention, he railed against trial lawyers, darkly insinuating that liberals and Democrats supported consumer protection laws because they were bankrolled by trial lawyers.

In an overheated speech to the American Bar Association, Quayle asked rhetorically whether America really needed "70 percent of the world's lawyers." No, Dan, we don't. But the fact is, the United States has 9 percent of the world's lawyers.

A handful of lawyers do reap large windfalls from a small number of spectacular damage awards. We might want to limit the percentage that lawyers can take as fees. But to achieve that reform, it's not necessary to undermine the citizen's right to collect damages.

Proponents also argue that it's neither necessary nor fair to expose industry to expensive litigation, since citizens are already protected by regulation. Don't the Food and Drug Administration and the Consumer Product Safety Commission provide adequate seals of approval?

Consumer regulation doubtless prevents a lot of injuries and deaths. But regulatory agencies are not clairvoyant. And the limitations on their budgets and powers are often the result of lobbying by the same industries that oppose consumer litigation.

Some of the most infamous injuries inflicted on consumers were exposed and remedied mainly through lawsuits, not regulatory action. These included the Dalkon Shield, a contraceptive which rendered thousands of women infertile; the Pinto's exploding gas tank; the high absorbency tampons linked to toxic-shock syndrome; the damage to workers exposed to asbestos, and innumerable lesser-known cases. The crusade to limit corporate liability is especially ill-timed, given what we are belatedly learning about the tobacco companies.

Foes of regulation say the common law is superior to government intervention. But, hypocritically, when juries impose damage awards, the same critics want Congress to change the rules—hence this bill.

The Senate is closely divided on this bill. A vote could come as early as Tuesday. It's all too understandable why large businesses would want to evade responsibility for the injuries they inflict. Its harder to understand why a majority of the Senate would go along.

The PRESIDING OFFICER. Has the Senator from Alabama yielded the floor?

Mr. HEFLIN. Yes.

AMENDMENT NO. 1941

(Purpose: To regulate interstate commerce by providing for a uniform product liability law, and for other purposes)

Mr. GORTON. Mr. President, I send an amendment to the desk on behalf of Senators LIEBERMAN and FEINSTEIN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Washington [Mr. GORTON], for himself, Mr. LIEBERMAN and Mrs. FEINSTEIN, proposes an amendment numbered 1941.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 19, beginning with line 7, strike out through line 16 on page 20 and insert the following:

(b) LIMITATION CONCERNING CERTAIN DRUGS AND MEDICAL DEVICES.—

(1) A manufacturer or product seller of a drug (as defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. 321(g)(1)) or medical device (as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. 321(h)) which caused the claimant's harm has not engaged in conduct manifesting conscious, flagrant indifference to the safety of those persons who might be harmed by the product, and shall not be subject to an award of punitive damages pursuant to this section, where—

(A) such drug or device was subject to premarket approval by the Food and Drug Administration pursuant to section 505 (as amended by the New Drug Amendments of 1962, P.L. 87–781), 506, 507, 512, or 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355, 356, 357, 360b, or 360e) or section 351 of the Public Health Service Act (42 U.S.C. 262) with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm or the adequacy of the packaging of labeling of such drug or device, and such drug or device was actually approved by the Food and Drug Administration; or

(B) the drug or device is generally recognized as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations.

(2) The provisions of paragraph (1) shall not apply in any case in which the claimant proves by a preponderance of evidence that—

(A)(i) the defendant, before or after premarket approval of a drug or device, failed to submit or misrepresented to the Food and Drug Administration or any other agency or official of the Federal government required information, including required information regarding any death or other adverse experience associated with use of the drug or device, and (ii) the information that defendant failed to submit or misrepresented is material and relevant to the performance of such drug or device and is causally related to the harm which the claimant allegedly suffered; or

(B) the defendant made an illegal payment to an official of the Food and Drug Administration for the purpose of either securing or maintaining approval of such drug or device; or

(C) the Food and Drug Administration has determined in a formal administrative proceeding (by a final order not subject to further review) or a court has determined in an action brought by the United States (by a final judgment not subject to further review) that the drug or device failed to conform to conditions of the Food and Drug Administration for approval (except for changes permitted without prior approval under applicable law, including Food and Drug Administration regulations), and such failure is causally related to the harm which the claimant allegedly suffered.

(3) The provisions of paragraph (1) shall not apply with respect to a claim for punitive damages based on a defect in manufacturing which causes the drug or device to depart from its intended design.

AMENDMENT NO. 1942 TO AMENDMENT NO. 1941

(Purpose: To regulate interstate commerce by providing for a uniform product liability law, and for other purposes)

Mr. ROCKEFELLER. Mr. President, on behalf of Senator FEINSTEIN I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is the amendment in the second degree?

Mr. ROCKEFELLER. That is correct.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from West Virginia [Mr. ROCKEFELLER] for Mrs. FEINSTEIN, proposes an amendment numbered 1942 to amendment No. 1941.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert in the appropriate place:

(a) Any corporation, or person who is a manager with respect to a product, facility, equipment, or process, is guilty of a criminal offense punishable by imprisonment for a term not exceeding three years or by a fine not exceeding twenty-five thousand dollars both ($25,000), or by both that fine and imprisonment; but if the defendant is a corporation the fine shall not exceed one million dollars ($1,000,000), if that corporation or person does all of the following:

(1) Has actual knowledge of a serious concealed danger that is subject to the regulatory authority of a state or federal agency and is associated with that product or a component of that product or business practice.

(2) Knowingly fails during the period ending 15 days after the actual knowledge is acquired, or if there is imminent risk of great bodily harm or death, immediately, to do both of the following.

(A) Inform the appropriate government agency in writing, unless the corporation or manager has actual knowledge that the division has been so informed.

Where the concealed danger reported pursuant to this paragraph is subject to the regulatory authority of an agency other than the agency to which it was reported, it shall be the responsibility of the agency which has received the information, within 24 hours of receipt of the information, to telephonically notify the appropriate government agency of the hazard, and promptly forward any written notification received.

(B) Warn its affected employees in writing, unless the corporation or manager has actual knowledge that the employees have been so warned.

The requirement for disclosure is not applicable if the hazard is abated within the time prescribed for reporting, unless the appropriate regulatory agency nonetheless requires disclosure by regulation.

Where the appropriate government agency was not notified, but the corporation or manager reasonably and in good faith believed that they were complying with the notification requirements of this section by notifying another government agency, as listed in paragraph (8), no penalties shall apply.

(b) As used in this section:

(1) "Manager" means a person having both of the following:

(A) Management authority in or as a business entity.

(B) Significant responsibility for any aspect of a business which includes actual authority for the safety of a product or business practice or for the conduct of research or testing in connection with a product or business practice.

(2) "Product" means an article of trade or commerce or other item of merchandise which is a tangible or an intangible good, and includes services.

(3) "Actual knowledge," used with respect to a seriously concealed danger, means has information that would convince a reasonable person in the circumstances in which the manager is situated that the serious concealed danger exists.

(4) "Serious concealed danger," used with respect to a product or business practice, means that the normal or reasonably foreseeable use of, or the exposure of an individual to, the product or business practice creates a substantial probability of death, great bodily harm, or serious exposure to an individual, and the danger is not readily apparent to an individual who is likely to be exposed.

(5) "Great bodily harm" means a significant or substantial physical injury.

(6) "Serious exposure" mans any exposure to a hazardous substance, when the exposure occurs as a result of an incident or exposure over time and to a degree or in an amount sufficient to create a substantial probability that death or great bodily harm in the future would result from the exposure.

(7) "Warn its affected employees" means give sufficient description of the serious concealed danger to all individuals working for or in the business entity who are likely to be subject to the serious concealed danger in the course of the work to make those individuals aware of that danger.

(8) "Appropriate government agency" means any state or federal agency, including but not limited to those on the following list, that has regulatory authority with respect to the product or business practice and serious concealed dangers of the sort discovered:

(A) The U.S. Department of Health and Human Services.

(B) The U.S. Department of Agriculture.

(C) The U.S. Consumer Product Safety Commission.

(D) The United States Food and Drug Administration.

(E) The United States Environmental Protection Agency.

(F) The National Highway Traffic Safety Administration.

(G) The Federal Trade Commission.

(H) The Nuclear Regulatory Commission.

(I) The Federal Aviation Administration.

(J) The Federal Mine Safety and Health Review Commission.

(C) Notification received pursuant to and in compliance with this section shall not be used against any manager in any criminal case, except in a prosecution for perjury or for giving a false statement.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I would like to explain what the second-degree amendment does and then touch on the first-degree amendment and then also touch on the bill, if I may.

What this amendment does is impose criminal liability on corporations and their managers for knowingly concealing serious dangers about consumer product defects from regulatory authorities. It would establish a criminal offense punishable by 3 years in prison and/or a $25,000 fine or up to $1 million for corporations.

Second, it would require corporations to notify the appropriate Government agency of any serious concealed danger within 15 days of having knowledge of it.

A classic example of how ineffective current laws are in deterring corporate crimes related to product safety is the now-infamous Ford Pinto case. I ask unanimous consent at the appropriate place to have printed in the RECORD the entire Ford Motor Co. internal memo entitled, "Fatalities Associated With Crash-Induced Fuel Leakage and Fires."

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mrs. FEINSTEIN. Mr. President, the Pinto had a serious design defect. If the car was hit from behind by another car traveling 20 miles per hour or more, the gas tank would rupture. Ford Motor Co. knew of this defect as early as 1971. It had filmed crash tests showing the test dummy being bathed in gasoline.

The company chose to conceal this defect because a coverup would save the company millions of dollars. Ford calculated that it would cost the company $11 per vehicle, or about $137 million, to recall and repair all of its defective Pinto's. If Ford did nothing, waiting for people to die or become injured, and then paid the necessary legal fees and settlements it estimated its costs at only $50 million. Ford based its decisions solely on cost, without respect for community values, the law, or human life.

According to a 1985 report by a George Washington University professor, roughly two-thirds of America's 500 largest companies were involved to some extent in illegal activities over the prior 10 years. California has already taken a lead on this important issue. The legislation that is introduced here today is very similar to legislation now in place in California since 1990.

AMENDMENT NO. 1941

Mrs. FEINSTEIN. If I may, on the first-degree amendment, Mr. President. There has been much confusion and alarm about whether section 203 could potentially immunize manufacturers of some products of the past and the future, such as DES, the Dalkon Shield, IUD's, silicone gel breast implants. This amendment's most important feature and would clarify that confusion by setting out more specifically the regulatory compliance required of drug and medical device manufacturers in order for the FDA defense to be available.

First, it amends section 203 by setting out what is meant by premarket approval, citing the relevant FDA statutory provisions as improved by the new drug amendments in 1962, medical device amendments in 1976, and further improved by FDA regulations in 1985.

Among other requirements, this revamped and rigorous process would require that the manufacturer demonstrate by substantial evidence that its product is both safe and effective, and to submit adverse reaction reports to the FDA within 15 days of the initial receipt of the information, and to report any significant increase in the frequency of such adverse reactions.

Unlike the FDA, which approved DES, the current premarket approval process requires the FDA to determine affirmatively that the product is safe and effective, and can be marketed.

Prior to 1962, the FDA only required that the manufacturer submit information on the safety of a product, and if the FDA did not otherwise notify the company, 60 days later they could proceed to the market.

This bill makes it clear that manufacturers cannot sit back after approval, especially if their products are causing serious injury or death. They cannot act in disregard of the public health and then raise in court that they received FDA premarket approval as a defense. Rather, they must continuously report in a timely and complete way in order to receive the benefit of the FDA defense.

Section 203, the FDA defense, as revised by this amendment, can be invoked only where the drug or device manufacturer abided by all the reporting requirements, submitted in a timely manner, any information about adverse reactions both before and after approval. And I stress that. Frankly, Mr. President, I would strongly support giving subpoena rights to the FDA in order to compel manufacturers to fulfill these requirements.

Let me comment for a moment on the bill itself.

I would like to read into the RECORD on behalf of California advocates of this product liability bill the following statement:

> The current unpredictable State-by-State system of product liability laws is a problem for all of California citizens. There are several reasons for this fact. First, most States have no statutory law on key issues. The rules are constantly changing through retroactive decisions made by judges. This uncertainty of product liability rules makes future liability risks difficult to predict and contributes to the high cost of liability insurance and higher prices of products. California consumers pay for the cost of these unreasonable and unstable rules in other States.
>
> Second, when California manufacturers drop product lines or close plants because of product liability problems in other States, jobs are at risk for California workers.
>
> Third, California manufacturers whose products are sold primarily in the United States are operating in a matrix of 51 sets of ever-changing and conflicting rules, and this puts them at a disadvantage in competing with foreign manufacturers. Their European and Australian counterparts do not face the same confusion and uncertainty at home because the European Economic Community and Australia have already adopted a directive which implements uniform product liability laws.

So we are at a disadvantage competitively because of the unevenness of product liability laws throughout the United States.

In order for a product liability statute to fully benefit California manufacturers and consumers, balanced product liability rules must exist on a uniform basis through the States.

This bill imposes a 2-year statute of limitations from the time the injury and its cause are discovered for a plaintiff to bring a lawsuit. This is a year longer than that provided under California's statute of limitations. An injured person would have the opportunity to bring suit up to 2 years after they discover the injury or the illness, such as cancer, and the cause, such as asbestos.

It would impose a 25-year statute of repose—an outer time limit—on litigation involving workplace capital goods.

It would eliminate product seller's liability for a manufacturer's error unless the seller modified the product or provided additional warranties. Why should a seller for a boxed product be liable for that product when in fact it is the manufacturer that has put it together and boxed it?

Fourth, it preserves a plaintiff's power to sue one defendant, theoretically the deep pocket, for the full amount of the economic damages but eliminates such joint and several liability for noneconomic damages. Therefore, one becomes responsible, according to one's degree of fault for the harm. This applies only to noneconomic damages.

It would encourage settlements by alternative dispute resolution by penalizing parties that refuse to settle or negotiate and then do worse at trial. That helps, I believe, a plaintiff rather than hinders that plaintiff.

It bars recovery of a plaintiff who is more than 50 percent responsible for causing the accident due to intoxication from alcohol or any drug.

In my opinion, the above-mentioned provisions of this bill are helpful to California consumers and product users, as well as to those who, unfortunately, become disabled as a result of a faulty product.

With reference to the FDA provisions, I must say, I will vote for this section. I will also vote for a motion to strike the entire section. It is clear to me that this section is not clear. I believe that the amendment that I have submitted clearly documents the responsibilities that a manufacturer would have to meet by clarifying what is meant by "premarket approval," by citing relevant provisions of the Food, Drug and Cosmetic Act, and clarify those circumstances when a medical device or drug manufacturer would lose protection from punitive damages where that manufacturer fails to fulfill the relevant reporting requirements.

In addition to clarification, I spoke earlier on our amendment, which adds a provision that withdraws any protection against punitive damages for any drug or device which the FDA has determined has failed to conform with the FDA's conditions or approval. And it narrows the scope of the protection by excluding actions based on manufacturing defects and assembly line error rather than defects in designs or warnings.

It also excludes from the scope of the FDA defense provisions, drugs approved prior to the passage of the more rigorous premarket approval process for drugs and medical devices.

Further, it clarifies that devices allowed on the market, because they were substantially equivalent to the devices that were on the market when Congress enacted medical device regulation in 1976, cannot be considered to have received premarket approval. This would clearly exclude the Dalkon shield, silicone gel breast implants, and super absorbency tampons from the scope of the protection.

I urge adoption of these amendments.

I thank you, Mr. President.

I yield the floor.

EXHIBIT L

FATALITIES ASSOCIATED WITH CRASH INDUCED FUEL LEAKAGE AND FIRES

(By E.S. Grush and C.S. Saunby)

PURPOSE AND BACKGROUND

The NHTSA has issued Notice 2 of Docket 70–20 and Notice 1 of Docket 73–20, both regarding fuel system integrity. In this study, information has been developed concerning two of the issues raised in the Notices: the frequency of fire-related fatalities and the distribution and likelihood of fuel spillage by impact direction and type.

CONCLUSION

The NHTSA estimate of 2000 to 3500 fatalities yearly in fire-involved motor vehicle crashes appears to overstate the seriousness of the fire problem. Examination of in-depth accident data sources indicates that most fatalities in fire-accompanied crashes die from injuries not associated with the fire itself. Thus the National Safety Council estimate of 600 to 700 fire deaths each year is probably more appropriate than the higher NHTSA figure.

The actual number of fuel leakage incidents is relatively evenly distributed into four basic crash types: frontal, side, rear, and rollover. However, the likelihood of a given crash resulting in fuel spillage is much higher for rear impacts (26 percent with spillage in the sample studied) than for other crash types, such as frontals (3.5 percent spillage).

The cost of implementing the rollover portion of the amended Standard has been calculated to be almost three times the expected benefit, even using very favorable benefit assumptions. The yearly benefits of compliance were estimated at just under $50 million, with an associated customer cost of $137 million. Analyses of other portions of the proposed regulation would also be expected to yield poor benefit-to-cost ratios.

TABLE 1.—DISTRIBUTION AND LIKELIHOOD BY IMPACT TYPE OF IMPACT-INDUCED FUEL SPILLAGE FOR PASSENGER CARS IN RURAL INJURY-PRODUCING ACCIDENTS

Impact direction	Number of fuel leaks	Percent of fuel leaks	Likelihood of fuel leak by percent
Front	33	25.8	35/933=3.5
Side, front half of car	8	6.2	8/169=4.7
Side, rear half of car	23	18.0	23/160=14.8
Rear	37	28.9	37/140=26.4
Rollover	27	21.1	27/333=8.1
Total	128	100.0	128/1735=7.3

Source.—Calspan report No. VJ–2839–K, dated April, 1970.

Note.—Accident cases in this file are significantly biased toward high severity collisions; they are all rural, and to qualify for filing, an injury had to occur. But injuries are not nearly so frequent in rear-end crashes, in general. As a result, the proportion of fuel leaks in rear-end crashes reported here, 29%, cannot be the nationwide average. Rather, in 29% of rural rear-end collisions sufficiently severe to cause an injury, fuel leaks occur.

The proportion of fuel leaks which occur in rollovers is indicated in Table 1 to be slightly less than one-fourth.[1] If this proposition is applied to the fire numbers themselves, the consequences of fire in rollovers can be estimated as 180 deaths, 180 non-fatal injuries, and 2100 other fire crashes. These values are predicated upon two postulations: rollover fuel leaks result in fire just as often as other fuel leaks, and rollover fires are just as likely to result in burns as other fires.

BENEFITS AND COSTS RELATING TO FUEL LEAKAGE ASSOCAITED WITH THE STATIC ROLLOVER TEST PORTION OF FMVSS 208

Benefits:

Savings—180 burn deaths, 180 serious burn injuries, 2100 burned vehicles.

Unit Cost—$200,000 per death, $67,000 per injury, $700 per vehicle.

Total Benefit—180x ($200,000) +180x ($76,000) +2100x ($700) = $49.5 million.

Costs:

Sales—11 million cars, 1.5 million light trucks.

Unit Cost—$11 per car, $11 per truck.

Total Cost—11,000,000x ($11) +1,500,000x ($11) = $137 million.

This analysis assumes that all these fires and the resultant casualties can be eliminated entirely through compliance with the rollover requirement. In addition, it is assumed that vehicle modifications designed to ensure compliance with non-rollover portions of the Standard will not reduce at all the number of rollover fires. The extent to which either of these assumptions is not completely accurate represents a measure of the extent to which benefits derived here are overestimates of the true values.

To compare the benefits of eliminating the consequences of these rollover fires with the requisite costs, the benefits and costs must be expressed in terms of some common measure. The measure typically chosen is dollars; this requires, then, converting the casualty losses to this metric. The casualty to dollars conversion factors used in this study were the societal cost values prepared by the NHTSA (6). These values are generally higher than similarly-defined costs from other sources, and their use does not signify that Ford accepts or concurs in the values. Rather, the NHTSA figures are used only to be consistent with the attempt not to understate the relevant benefits.

The NHTSA has calculated a value of $200,000 for each fatality. While the major portion of this amount relates to lost future wages, the total also includes some consideration for property damage. The NHTSA average loss for all injuries was about $7,000. Burn injuries which do occur tend to be quite serious, however, as discussed above. Thus a higher value of $67,000, which is the NHTSA estimate of partial disability injuries, was used for each of the 180 non-fatal burn injuries. The $700 property damage per vehicle is the NHTSA estimate of vehicle property damage costs in non-disabling injury crashes.

COSTS

The Retail Price Equivalent (the customer sticker price with no provision for Ford profit) of vehicle modifications necessary to assure compliance with the static rollover portion of the proposed Standard has been determined by Ford to be an average of $11 per passenger car and $11 per light truck. While these are Ford costs, they have been applied across the industry in this analysis. Total yearly sales estimates of 11 million passenger cars and 1.5 million light trucks (under 6,000 lbs GVW) were used in conjunction with the unit cost determinations.

BENEFIT AND COST COMPARISON

The total benefit is shown in Table 3 to be just under $50 million, while the associated cost is $137 million. Thus the cost is almost three times the benefits, even using a number of highly favorable benefit assumptions. As better estimates of the parameters used in the benefit analysis become available, they could be inserted into the general analysis framework. It does not appear likely, however, that such alternate estimates could lead to the substantial benefit estimate increase which would be required to make compliance with the rollover requirement cost effective.

BENEFITS AND COSTS FOR OTHER IMPACT MODES

The analysis discussed above concerns only rollover consequences and costs. Similar analysis for other impact modes would be expected to yield comparable results, with the implementation costs far outweighing the expected benefits.

E.S. GRUSH,
Impact Factors.
C.S. SAUNBY,
Impact Factors.

Concurred By:
J.D. Hromi, Principal Staff Engineer.
R.B. MacLean, Impact Factors Manager.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, the distinguished Senator from California has eloquently explained the rationale behind her second-degree amendment. This Senator intends to support it. I would like to speak briefly on the first-degree amendment and the general subject matter of the so-called FDA events.

The Feinstein-Lieberman amendment—that is to say, the underlying first-degree amendment here—clarifies exactly what is meant by premarket approval. The amendment adds language specifically to exclude from the scope of section 203(b) drugs such as DES that were allowed on the market before the passage of the new drug amendments of 1962. The amendment also makes clear that class 3 medical devices that are allowed on the market because they are substantially equivalent to the devices that were on the market when Congress enacted the medical device regulation in 1976 cannot be considered to have received premarket approval.

The Feinstein-Lieberman amendment clearly excludes the DES, Dalkon shield, silicon gel breast implants, and super absorbency tampons from the scope of section 203(b). The Feinstein-Lieberman amendment further clarifies that a manufacturer will remove any protection against punitive damages if the manufacturer fails to submit information required by the FDA, and that information is material and relevant to the performance of the drug or device and causally related to the claimant's harm. This change makes absolutely clear that there is no requirement for claimants to show that a manufacturer actually knew it should have supplied the information to the FDA.

The Feinstein-Lieberman amendment also adds a provision that withdraws any protection against punitive damages for any drug or device for which the FDA has determined that the drug or device failed to conform with FDA conditions for approval.

Finally, the Feinstein-Lieberman amendment narrows the scope of section 203(b) to exclude actions based on manufacturing defects rather than defects in designs or warnings. This change conforms to the scope of section 203(b) to the types of issues considered by FDA in approving a new drug for service.

In other words, Mr. President, these amendments made clear many of the objections which have been raised on the emotional level to this bill which were not intended to be covered by this bill and now are explicitly excluded from it by the Feinstein-Lieberman amendment.

I think it is very, very important to make a number of points about the overall bill. S. 687 does not change any of the bases for compensatory liabilities that exist under current law. Under S. 687 existing State law continues to define whether a drug or medical device is defectively designed, defectively manufactured, or has sufficient warnings. If the manufacturer of a drug or medical device can be successfully sued today, it can be successfully sued after the enactment of S. 687.

S. 687 does not affect recovery of noneconomic damages like pain and suffering in the vast majority of drug and medical device product liability cases. In that vast majority only one entity, the manufacturer, was allegedly responsible for the claimant's harm and only one entity is sued. When the judgment is against only one defendant and only one defendant is responsible for causing the harm, joint and several liability as a concept is inapplicable and irrelevant.

S. 687's punitive damages provisions do not shield manufacturers of products that did not actually receive formal FDA premarket approval unless the product was generally recognized as safe and effective.

S. 687 does not provide any punitive damage protection to manufacturers who do not submit required information to the FDA where such information was relevant and material to the claimant's harm—products, as I have already said, which allegedly withheld information, DES, Dalkon shield, silicon breast implant, Bjork-Shiley heart valve, CR catheters, Copper-7 IUD.

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[1] That is, the 21.1% associated with rollovers from Table 2. In this and subsequent calculations, figures have been rounded upward. In that way, not only are the statistical assumptions in a conservative direction, but also the arithmetic.

Moreover, S. 687 does not allow manufacturers to sit back after approval even when their products are causing serious injury or death. FDA regulations require medical device manufacturers to report any death or serious injury within 15 working days and drug manufacturers to report any death or serious, unexpected, and adverse reactions within 15 working days. And in order to continue to qualify for the defense against punitive damages, manufacturers must continue to adhere to FDA requirements to supply this information.

But, fundamentally, when we get beyond these details, the real question here is whether or not S. 687 will enhance the health of the American people, male and female combined, or undercut particularly with respect to the FDA defense. It is the position of those of us who are sponsors of this bill that it will clearly enhance the health of the American people because it will encourage in a way in which it has discouraged research and development of new and improved drugs, medical devices, and other forms of treatment.

Only if we were to adopt the proposition that medical science has reached its ultimate and final goal that there is nothing more to be discovered would it be appropriate to continue the current status of the law. The current status of the law may give to a tiny handful of plaintiffs—and not at all, incidentally, to their lawyers—windfall verdicts, lottery-type verdicts of huge amounts of money for punitive damages to that tiny handful. But a continuation of the present state of the law will penalize untold thousands and millions of people who will not benefit from the development of new drugs and new devices because the developers and researchers simply do not believe it worthwhile to subject themselves to the lottery of our present court system.

So in this case, a vote for the FDA exemption for the bill is a vote for a continued development in the health and protection of the American people.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank the Chair.

I rise to support both the second-degree amendment offered by my friend and colleague from California and the first-degree amendment which she and I have proposed together.

These are both attempts to clarify and, if I may say so, reassure those who may be concerned about the intention or in this case more likely the impact the various sections of this underlying bill, and particularly section 203 which makes clear that manufacturers of drugs and medical devices who have their products go through the full FDA premarket approval—that means they have to be approved by FDA before they can go out on the market and be sold—or whose products are generally recognized as safe and effective.

That is not just general language. That is specific from the statute, and it has a particular and rather precise and demanding meaning. In fact, I believe that not even aspirin at this point has formally been classified under the statute as generally recognized as safe and effective.

So it is a tough standard. Those who have passed those hurdles will not be held to have engaged in conscious, flagrant indifference to public safety which is the standard in the bill for not being liable for punitive damages. To me, this is obvious and self-evident—that, if you go through the entire FDA process to get a drug or a medical device approved, you cannot be guilty of conscious, flagrant indifference to public safety.

It is possible that there still may be negligence, but not negligence deserving of punishment, punitive damages; and that is what section 203 will protect—not only the manufacturers of medical devices and of drugs, which we depend on, as the Senator from Washington has made clear, for improving health, but it will protect the rest of us who pay—let us not kid ourselves—the costs of these product liability settlements and verdicts in increased costs of the products we buy.

I know there is a lot of concern about the impact of 203, this FDA provision, and I understand the sincerity of the concern. But I do think two things: One is that most of it, respectfully, does not relate to the literal wording of section 203 of the underlying bill. And, two, in the amendment that I have the privilege to cosponsor with the Senator from California, there is clarification. There is, in some cases, modification to make it clear to people who are concerned about cases such as the Dalkon Shield and the breast implants that this provision 203, the superabsorbency of tampons—this provision in 203 will not prohibit and would not have prohibited lawsuits, claims, and recovery, because those products would not fall within the rather strict requirements of this provision.

Mr. President, in evaluating section 203(b) and whether it is proconsumer or not, I think it is important to remember or to point out what I suppose is obvious, but what we sometimes take for granted, which is that drugs and medical devices are intended to heal us or improve the standard of living and the quality of life of a person with a disease or medical condition. New drugs and medical devices present tremendous benefits for us. In fact, some of the most remarkable, miraculous discoveries of our age have to do with drugs that have limited or cured illness, and medical devices that have allowed people to continue to live who would have either been severely constricted in their life or died at an earlier time.

The fact is, though, that new drugs and devices also do carry some degree of risk. Many are dangerous if taken in the wrong quantities, for instance, or at the wrong time. Drugs and devices that are thoroughly tested in clinical trials may have problems that do not serve us in truly detectable numbers until they have been put on the market. So to weigh those risks from the benefits availability from a new treatment, Congress established the Food and Drug Administration and gave it the responsibility of attempting to strike that balance, based on available scientific evidence.

The FDA approval process involves very difficult scientific judgments. In fact, the length of the process—an average of 9 years—for new drugs, reflects the seriousness of these decisions.

Mr. President, I want to give you an example of the life-saving, life-enhancing benefits of these products. In doing so, I want to point out that lives and livelihoods are at stake when a manufacturer, or the FDA, denies patients access to potentially beneficial life-saving or life-enhancing treatments—in the case of a manufacturer, by refusing to produce something that will be good for people. At a recent hearing of the Governmental Affairs Subcommittee that I am privileged to chair, Mark Reily of Houston, father of a 9-year-old boy with hydrocephalus—water on the brain, as we know it—testified. Mark Reily's son Thomas was with him, an adorable 9-year-old, and he is alive today, his father testified, because of a small rubber shunt that has been placed in his head, allowing the fluid to drain out of his brain into his stomach. Without that shunt, Thomas Reily would slip into a coma and probably die. His father, Mark, came before the subcommittee because he learned that fear of product liability claims has led the supplier of the rubber that goes into that shunt to decide to stop selling the rubber for use in medical implants.

Some of the opponents of S. 687, having heard of this case, have said that some people may have a reaction to the rubber used in the shunts. Of course, that is not surprising because there are lots of people around the country who have allergies or other sensitivities to any specific products. But the point here is, in striking a balance, that simply because some people may have a reaction to these shunts, does not mean the product is unsafe or defective when compared with its benefits. I am sure that the vast majority of parents of hydrocephalic children would be willing to take the risk that there might be some reaction to the rubber in the shunt in return for the ability of their child to live a normal life. That is the type of cost and benefit analysis that we have established the FDA to perform.

Unfortunately, the costs imposed on manufacturers are not evenhanded. A manufacturer cannot get sued, for example, if it fails to invest in the development of a new AIDS vaccine. But the people who might have been saved if that manufacturer had worked to develop that vaccine have lost as surely as if they had been given a vaccine that did not work.

So what I am saying is that our liability system overemphasizes costs of injury, as constructed, but underemphasizes the benefits of new treatments, and it is to strike a balance to lessen the bias against developing new cures and treatments. And section 203(b) tells manufacturers that if you go through this regulatory process in good faith and comply with all of the FDA's rules, you are not going to be deemed to have engaged in a conscious, flagrant indifference to safety, and therefore you are not going to be subject to punitive damages. If there is negligence, you are still going to be subject to paying any out-of-pocket costs, health care, lost wages, et cetera, et cetera, and you will be subject to paying the relatively unlimited element of noneconomic damages. That is what a jury, for instance, would determine is the pain and suffering caused by your negligence. So you are not going to get away scot-free. But at least for going through this 9-year process, you should be saved from punitive damage.

Mr. President, last October the Rand Institute for Civil Justice released a study of product liability and the economic impact of pharmaceuticals and medical devices in our current law. They similarly recommended in that study that FDA compliance be a complete defense to product liability actions.

I think the Rand study, which is an independent study, is particularly relevant to the debate today because its findings directly respond to some of the concerns of the opponents of section 203(b).

Some of the opponents argue that 203(b) should be stricken because punitive damages are essential to ensuring that drugs and medical devices are safely designed and adequately tested.

But Rand concluded that "liability induced changes in the chemical compositions of drugs are likely to be the exception, not the rule" and "It is doubtful that product liability often leads firms to test drugs or extensively regulated devices more than already required by the FDA * * *."

Second, those who are concerned about section 203, the FDA provision, deny that product liability has any effect on the development of beneficial new drugs and treatments.

However, Rand concluded, "liability is likely to deter development efforts for socially valuable products whose profit potential is viewed as more limited." That is in some of the cases, and two examples they give are contraceptives and vaccines. That is where the profit potential may be less. When comparing that to the risk of liability lawsuits, they decide not to go ahead.

Then, third, some of the opponents, those who are concerned about this section 203 argue that the reason defective drugs or devices are sometimes put on the market is that FDA is too lax in its approval process. But here again Rand concluded that "for drugs and extensively regulated devices, it seems that safety shortfalls are most often attributable to failure to comply with FDA regulations rather than inefficiently low FDA safety standards."

(Mrs. BOXER assumed the chair.)

Mr. LIEBERMAN. Madam President, the requirement of actual approval under a premarket approval system excludes many products, and I do want to stress here, for example, that DES and all other drugs that went on the market prior to 1962 did not receive actual approval by the FDA. Therefore, as the amendment which the Senator from California and I have introduced makes clear, lawsuits related to DES will not be affected at all by this legislation.

Likewise, Dalkon shield and silicone gel breast inplants first went on the market prior to enactment of medical device regulation in 1976. Because they were already on the market, they were exempt from that new law unless and until FDA took action to require demonstration of safety and efficacy.

Similarly, premarket approval under the medical device laws is only required for class 3 medical devices that are not exempted. Class 1 and 2 medical devices do not receive premarket approval prior to marketing.

Put plainly, DES, Dalkon shield, silicone gel breast implants, and super absorbency tampons are not covered and, therefore, not affected by section 203(b). I repeat, the rights of parties injured by any of these devices and treatments are not limited one iota by this bill.

Madam President, the underlying amendment that the Senator from California and I put in is meant to clarify all of this. We have added, for instance, a provision that makes it clear by narrowing the scope of section 302(b) to exclude actions based on manufacturing defects rather than defects in design or warnings. That conforms to the scope of section 203(b) to the types of issues considered by FDA in approving a new drug or a device.

The amendment in the second degree offered by the senior Senator from California I think similarly acts to reassure people about what will happen, hereby adopting in substantial part on a national level a law that is in effect in California. It says that those who are responsible for concealing a known product defect are subject to criminal penalties. Someone who has actual knowledge of a serious concealed danger that is subject to the regulatory authority of the FDA or FAA, which are the two agencies covered by section 203 and associated with that product or a component of that product or business practice, is subject to substantial criminal penalties, as they ought to be.

So, Madam President, I state, in conclusion, that 203(b) to me seems fair. In fact, it seems self-evident. It will not deny rights to sue to anyone, most assuredly not those concerned about some of the most controversial and discussed claims that I have mentioned, such as the DES and Dalkon shield.

But even for everything else, even for drugs that do get approved by FDA, there is no limitation on the right to sue for economic damages. There is no limitation on the right to sue for pain and suffering. The only limitation is to ask for damages that are essentially punishment, and those are damages that too often escalate the cost of litigation, that force manufacturers to settle rather than going to trial, and that often force manufacturers not to begin to develop drugs or medical devices in the first place that we and our families want and need for our well-being.

As Mark Reily wants with his 9-year-old son, Tom, from Houston, the suppliers of raw materials for the shunt in Tom Reily's heart, for defibrilators that keep people alive, pacemakers, for jaw implants, for hip replacements, for the whole range of miraculous developments of our age, the raw material suppliers have told the manufacturers after 2 more years, we cannot afford to give you this stuff; we do not make enough money on it to justify what it costs us.

Du Pont has supplied a nickel's worth of Teflon for a jaw implant, supplied it according to the specifications of the manufacturer. A lot of suits were filed by people who felt that that jaw implant was negligently put together. A lot of people sued du Pont because it is the so-called deep pocket. They spent by their statement to our subcommittee $8 million a year for the last 3 years, won every one but 1 case out of 250. But it is because of that relating $24 million to a nickel that they made for every piece of Teflon in that jaw implant that they simply said in the exercise of reasonable judgment we cannot afford to do this anymore.

I could tell more and more stories. One woman who heads a medical device company losing the supply of material. I believe in that case it was a heart valve, which has a polyester fabric around it that is used that keeps so many people alive these days, again notified that the supplier no longer will supply the polyester fabric. She went to look abroad and found 15 manufacturers of polyester fabric willing to sell her until they found out that this was going to be on the market of America and, therefore, subject to American product liability law, and every one of them said they will do it.

So, we all have visions in our mind when we think of the change involved here, and I say this respectfully, but the vision in my mind is of a 9-year-old Thomas Reily who, as his dad says, wants to make sure when this rubberized shunt wears out and it is time to replace it that there is a material supplier who will have supplied that small piece of rubber to the manufacturer of the shunt to keep 9-year-old Thomas alive.

I hope that our colleagues will look clearly at all sides of what is involved here, and I hope that they will accept the underlying amendment in the second degree as matters of reassurance of the intention and the effect of this bill. I think it is really good for consumers and most assuredly good for public health.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Thank you, Madam President.

I know my colleague from North Dakota is standing here and I am going to be relatively brief.

Madam President, it has been kind of an interesting experience for me because I do not like to vote against cloture.

I do not think I have voted against cloture—probably very few times have I voted against cloture since I have been here in the Senate.

I made it clear to all groups, organizations, and people that have been involved in this issue that I simply, on substance, respectfully disagree with some of my colleagues, my colleagues from West Virginia and Connecticut. But the issue for me was more on the cloture vote. So what I ended up having to do, so many phone calls were coming in, was just simply to say to people, "Just don't call. I mean, just please step back from me and let me make this decision within myself," which I think is the way we ultimately should make that decision.

On the one hand, you listen to all sorts of people. You are not arrogant, especially to people from your own State, but ultimately you have to decide what is the right vote, the right thing to do.

Madam President, I guess that what I have done and will continue to do in the Senate is set a very stringent test on these cloture votes. I will not vote against cloture unless I believe that the particular proposal will have a truly egregious effect on people, on people's lives.

I have reached a conclusion that this product liability reform will do so. I feel, in all due respect to my colleagues, that one of the only access points we have for corporate accountability in this country, given, in part, the history of the 1980's, is that citizens, ordinary people, consumers, can seek redress of grievances in the court. I really think it is one of the very few access points we have.

Second, I really feel like this "reform"—and put that in quotes; and it is just a profound and honest disagreement with colleagues—ends up sticking it to victims. I really think it is very bad for consumers. I think this bill is profoundly mistaken and that the small percentage of people who are able to go to the courts really in many ways have less representation.

Finally, on the preemption of States, I just think this legislation puts a national cap on safety.

And so, I reach very different conclusions from my colleagues. What I have really been focusing on more is this cloture vote. I just do not like to see people over and over and over again voting against cloture. I do not like the filibuster. I think, therefore, all of us have to have a very stringent test that has to be met when we vote on this. Then I think we have to be accountable for our votes.

Very few times have I voted against cloture. I doubt whether there will be very many times I will in the future. But on this particular reform initiative, I have decided today—I said to Judge HEFLIN earlier today that I finally decided that I was going to vote against cloture. I did on this piece of legislation before. We did not even have any debate at all. I think it is important we have this debate.

I was seriously considering not voting against cloture, but I have heard the debate. I have heard what my colleagues have had to say. And to my own mind, this particular reform would have really serious negative effects on people that I feel it is my responsibility to represent. That is my honest view.

We need more corporate accountability, not less. We need more support for victims, not less. And we certainly do not need to have some kind of a national cap on States which preempts States from moving forward with even stronger measures.

So I am going to vote against cloture.

I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, this is an interesting debate. And, as is often the case with very significant issues, it seems to me the facts would lead to a conclusion somewhere in the middle of the various positions taken in this Chamber.

I would like to briefly describe my thoughts about some of these matters. In the Commerce Committee, on which I serve, we reported out this piece of legislation last fall. I voted to report it out of the Commerce Committee and said at the time to my friend, Senator ROCKEFELLER, that I wanted to advance this general issue, although I had some difficulty with the bill. I said that I had great difficulty with section 203 of the bill, which sets up a test with respect to punitive damage awards and FDA and FAA approval. I said I would vote to advance this bill out of the Commerce Committee but, unless we are able to resolve section 203, I will not vote to advance it further. I said that I would vote against cloture, and would offer an amendment, to strike section 203. Well, that is where we are.

The fact is, Madam President, we have too many lawyers and too many lawsuits in this country. We have folks around here who say, "Well, now, this is just people exercising their rights."

Yes, people ought to be able to exercise their rights. But the fact is, we are training too many lawyers and we are choking this country full of lawsuits.

But while we, I think, should find ways to create alternative dispute resolutions and back away from some of these suits if we can, I do not think we ought to do anything, as the Senator from Minnesota said, that would injure the rights of those in this country who are aggrieved and who want to seek redress in the courts. They have a constitutional right to do that, and we ought to do nothing in this Chamber to injure that right.

I would like to speak just for a moment about the section of the bill that gives me great difficulty, section 203. Section 203 of this bill sets up a new test. It says that those who are marketing pharmaceutical drugs or medical devices, if they get approval for their drug or their device from the FDA, then they are shielded from punitive damage awards.

What this still does is it sets up a shield and it says, if you are a manufacturer and you got yourself FDA approval, you are set; you are not going to get hit with a punitive damage suit, because we have created another step that someone is going to have to jump up on top of in order to seek punitive damages. They have done the same with the FAA approval.

Let me stay with the FDA issue just for a few minutes.

Examples are legion of products and medical devices approved by the FDA that have come to the market with approval and are later found to be very, very troublesome and ultimately recalled from the market.

Some of those examples have been mentioned on the floor of the Senate. I could mention others. The silicone breast implants, the Copper-7 IUD's, Albuteral, the Bjork-Shiley heart valve, Zomax, Versed, Accutane. We will have a debate about a number of these things in greater detail.

But my point is simply that for someone to say that the FDA is capable of, by approving a drug, creating a test that says this drug will cause no harm, they do not understand, apparently, what is going on at the FDA.

In fact, the FDA has indicated in published reports that they do not have the capability of determining whether someone is submitting information to them that is complete, that is accurate, that contains all of the information. They do not have that capability.

I just think it makes no sense at all in this piece of legislation to create a new test, a new barrier that says to someone out there who has been injured, "We are going to build a little higher fence for you to get over at some point in order to seek to redress your rights."

For that reason, I am going to offer, with my colleague, Senator MOSELEY-BRAUN, an amendment that is very simple. It strikes the FDA and FAA defense provisions in section 203. If that amendment is successful, I intend to vote for this bill. Why? Because I think there is merit in this legislation. There is not merit in this legislation if it advances with this section in it, and I will not support it.

Now, I want to say in a gentle way that the amendment we are now debating should not be construed by anyone to improve this section, section 203, sufficient that they think that they have corrected all the mistakes. It does not and it will not.

And if this amendment is agreed to, and if we are not able to strip section 203, I do not intend to vote for this legislation. And until we resolve this section, I do not intend to vote to invoke cloture.

We will, I expect, have a lengthy debate in the remaining hours today and perhaps in the morning, about this specific section, why it is there, what exactly does it do. Some will assert that it does nowhere near the harm that I and others would allege. We would assert that this is a terrible, terrible way to legislate, by establishing, just ad hominem today, that the FDA is now capable of deciding that this drug is fine and is going to cause no ill effects, and they have seen all the information and they can assert—sufficient to abrogate the potential future rights of some consumer out there—that they have done all the investigative work necessary.

Do you know the FDA does not even have subpoena power? I can describe who does. It is a long list but the FDA does not. This is an organization that is not capable—nowhere near capable of doing the investigative research to be capable of saying to us, yes, we have done all there is to do and we can assert this medical device, this drug meets all the tests. And we are not going to find out later it does not.

When those who are opposed to the position Senator MOSELEY-BRAUN and I are taking on this amendment—when those who are opposed cite all of these examples—and they do repeatedly—silicone breast implants, or DES, the list goes on and on—they make our case. All of them at one time or another were approved by the FDA—all of them. It simply demonstrates again that this is not the agency we should establish as being capable of setting up this standard. Or, in effect an agency in which we will create a shield beyond which it is going to make it more difficult for a consumer who was injured to move.

So we will, I think in the next hour or so, or tomorrow morning—when appropriate—offer our amendment to strike section 203. But I did want to alert my colleagues that no one should believe if we vote for the underlying amendment, we have done anything to improve or anything to polish, in a significant way, the problems that exist in this section of the bill. We have not. We can pass it right now by voice vote, I guess—if that was the course on the Senate floor—but it would not mean anything as far as I am concerned. It does nothing to resolve the abiding problems that exist as long as this section is in the law.

I think it is very important that we have a full and complete debate on what does this section mean. What does it mean to people out there who in the future may find injury to themselves or to those they love as a result of using a medical device or a drug? And then they try to seek redress from the courts—what does it mean to them? What kind of impediment? What kind of shield? What kind of additional barrier does this impose to those in the American public who find themselves in that circumstance?

Madam President, I will yield the floor but I again want to reemphasize, this amendment is not about stripping section 203. This amendment is about tinkering with 203 and making a few adjustments. I have no quarrel with those who want to tinker with it. But we can tinker from now until the end of 1998 and it is not going to change section 203. This is a bad proposal and ought to be stripped from this bill. When it is stripped from the bill I will support the bill because I think there is merit to the bill beyond this. If it is not stripped from the bill I intend to vote against cloture and I intend to vote against the bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I am pleased to follow on the words of the Senator from North Dakota because I rise to express some serious criticism toward this second-degree amendment as well, and really the entire piece of legislation, which I do not think will have its essential character changed by this attempted second-degree amendment. I am opposed to S. 687. I think it is a bill which is neither fair nor necessary.

The proponents of the bill have declared that it will actually benefit consumers and the victims of product liability accidents. I just do not think this is credible at all that this is a bill that benefits consumers. Every major consumer group in the United States opposes it. So do groups which represent the working people of our Nation, groups like the AFL–CIO, and organizations that represent our country's elderly such as the AARP.

For me there are several reasons why I oppose the bill. One reason is that I do not think we should overturn the work of our State legislatures and courts by enacting a quick fix Federal legislative response to an area of law that I still think is best kept in the hands of State policymakers and courts. These are the same hands that have handled these issues for over two centuries.

I do not think the importance of States' rights in this area can be overstated. This area of tort law is best left in the domain of the courts and the State legislatures which can best react to the changing circumstances which dominate tort law in a more fluid manner.

Here we cannot help but go back to the famous words of Justice Brandeis, in his oft-quoted dissenting opinion in the *State of New State Ice Cream Co.* v. *Lieberman*. The Justice said:

> To stay experimentation in things social and economic is a grave responsibility. Denial of the right to experiment may be fraught with serious consequences to the Nation. It is one of the happy incidents of the Federal system that a single courageous State may, if its citizens choose, serve as a laboratory, and, try novel social and economic experiments without risk to the rest of the country.

In my view, Madam President, this is one the National Conference of State Legislatures, the American Bar Association, the Conference of Chief Justices of the States, and at least 100 law professors throughout our Nation's law schools, also oppose this measure.

Why should we preempt the States in this area of the law? The proponents of the bill say the number of product liability lawsuits and the ensuing damage awards handed out by juries have dramatically risen. They have gotten out of hand, wreaking havoc on America's ability to compete globally and develop innovative products. The proponents of this bill also claim the cost for insurance for American businesses has actually skyrocketed as a result of the so-called litigation explosion involving product liability lawsuits.

As we have heard mentioned on the floor earlier today these arguments have sort of changed over time. I think they have served merely as the justifications du jour in order to rationalize the need for and promote the passage of this bill.

I may not have been a Member of this distinguished body during the last few debates on this subject but I did serve in one of the State legislatures that this bill is designed to circumvent. I was serving there during several of these debates. One opportunity I had in that capacity was to defeat one of the chief proponents of this legislation in order to serve here in the U.S. Senate. So I am not exactly completely new to this debate or the arguments that are made in favor of this kind of law.

Supporters of Federal tort reform have stated that America's competitive edge is at stake. Yet the recently completed OTA study on the competitiveness of U.S. manufacturers did not even include the creation of Federal product liability law in its recommendations for Government activities to address the competitiveness problem. Instead, the OTA listed a number of recommendations. They said we should lower the cost of capital; improve the quality of human resources through education and the quality of the work force. They said we should improve the diffusion of manufacturing technology out to small- and medium-sized businesses. And they also suggested providing Government funding for risky but promising long-term research and development. But they did not recommend—despite all of this attention to the issue of competitiveness—none of them recommended the need for Federal product liability legislation of this kind.

Madam President, also a Rand Corp. study found that only a small percentage of U.S. manufacturers are even named as defendants in product liability litigation. In 1986, for example, only 0.9, less than 1 percent of all manufacturing concerns in the United States were even named as defendants in product liability lawsuits.

The proponents of Federal tort reform have also claimed that product liability litigation has made the cost of business insurance completely unaffordable. Yet the evidence has shown the lack of affordable and adequate business insurance for business is not due to these lawsuits. It is the result of the insurance companies' own underwriting practices.

As for the litigation explosion that we always hear about and the claims that jurors and juries are running amok, recent data suggest that the current system is actually balancing the competing interests of victims and consumers with those of manufacturers.

Let me read a headline from a very recent article printed in the New York Times. It reads, "U.S. Juries Grow Tougher on Plaintiffs in Lawsuits." According to this article, juries nationwide have become markedly tougher. This conclusion was based on research conducted by the legal publishing firm Jury Verdict Research, which found that during the 3-year period from 1989 to 1992, plaintiffs have prevailed 11 percent less frequently in all forms of personal injury cases. The data compiled for product liability cases showed that a plaintiff's chance of winning a trial has dropped 18 percent, over that 3-year period.

Madam President, these findings support other studies which have questioned the assertion of a product liability litigation crisis. The most recent review of statistics from the Federal courts, which was conducted at our own University of Wisconsin Law School in Madison by Prof. Mark Galanter, found that if you remove the asbestos cases from the analysis the number of product liability cases in the Federal courts has declined in the last 5 years. And it has declined dramatically. It has declined from 8,268 cases in 1985 to only 4,992 cases in 1991. That is a huge, 40 percent decrease in these kinds of cases.

At the State court level, the National Center for State Courts recently published updated statistics from State courts that reviewed civil court filings in 13 different general jurisdiction State court systems from 1984 to 1989, and they concluded that the most dramatic increases in the civil caseload tended to be for real property rights cases or contract cases—not tort cases, the subject of this bill, but real property rights cases or contract cases. These same studies showed that tort filings make up less than 1 percent of all cases filed in State courts and less than 10 percent of most States' civil caseloads, and since product liability actions are only a subset of all tort cases, these cases that this bill tries to address make up an even smaller fraction of the total.

What all of this says, Madam President, is that the advocates of this legislation have failed to make the case for the need for this bill on any grounds. After listening to the debate so far, I think it is safe to say that the proponents of the bill have not met the clear and convincing evidentiary standard that they would impose on all 50 States in order to prove punitive damages. They could not meet their own standard. In fact, I do not think they even come close.

I find it especially troubling that the proponents of this bill would override our Nation's tort law system, a system which has taken our Nation's State courts and legislatures over two centuries to develop. The present system in which victims of accidents resulting from defective products are able to seek redress may not be perfect, no system can be or ever will be, but some of this bill's quick fix, draconian measures remind me of someone trying to fix a wristwatch with a sledgehammer and a pickax.

The best illustration of this, Madam President, is the most egregious section of the bill, section 203(B), which would potentially harm all consumers and women in particular by shielding manufacturers of drugs and medical devices from liability for punitive damages as long as the products have been approved by the FDA and there was not fraud involved. I think this is a horrible provision. I recognize that this second-degree amendment at least purports to address it. I have not had a chance to thoroughly review the pending amendment, which the proponents contend would clarify 203(B), but it would not, in my view, shield manufacturers of dangerous products such as DES, Dalkon shields, and silicone gel breast implants, from punitive damage liability.

That is the claim. However, after reading through it for the first time, I would have to say that the only thing it really clarifies, in fact makes clearer, is that section 203(B) is still very flawed even with this change and is unacceptable.

The underlying amendment still relies on the FDA as a safety shield. The underlying amendment—the second-degree amendment would still place the evidentiary burden on the victim or the claimant to prove that the manufacturer has not engaged in "conduct manifesting conscious, flagrant indifference to the safety of those persons who might be harmed by the product."

That is still an extremely difficult standard, and I do not think it changes the essential dangerous character of 203(B).

The flaws and dangers contained in this provision have been discussed and demonstrated throughout this debate. I think it is clear by now, Madam President, that the FDA simply is not equipped to adequately protect the public. It is underfunded. It is understaffed. We all know that many Government requirements are outdated and do not adequately protect the public health and often do not reflect the most up-to-date, scientific knowledge. For me, Government regulations only function as a minimum standard of conduct. They should not give a manufacturer a license to market a product that it knows to be unsafe or defective.

No example better illustrates the inadequacies of Government regulations than the FDA's failure for over 20 years to protect women from the dangers of silicone gel breast implants. And no example better exemplifies the critical role that punitive damages play in protecting the public. The FDA allowed Dow Corning to sell these silicone gel breast implants in spite of mounting evidence that the devices could cause serious illnesses and even death. The availability of the implants was only curtailed after one victim was awarded over $6 million in punitive damages because of what one court described as Dow Corning's "despicable conduct."

Yet this bill, S. 687, would immunize manufacturers of such products as long as the product met premarket approval. One only has to be reminded of the FDA's history and the countless horror stories resulting from the harm that was inflicted on women by such products as the Dalkon shield intrauterine device, DES, and the Copper-7 intrauterine contraceptive device, to realize the dangers involved in this provision.

The bill would also eliminate joint and several liability for noneconomic damages.

Section 206 of the bill states in general that in any civil action subject to this act the liability of each defendant for noneconomic loss shall be several only and shall not be joint.

The rest of the provision elaborates on that. What does this mean? What can be some of the consequences for consumers and victims of defective products if this provision is made the law of the entire country?

Madam President, the elimination of joint and several liability for noneconomic damages such as pain and suffering would simply result in many individuals receiving less than their full damages whenever wrongdoers are immune from suit whether it be for insolvency, being uninsured, underinsured or for whatever reason not subject to a court's jurisdiction.

The joint and several liability doctrine applies to situations where there are multiple wrongdoers who act in concert to cause an injury to a victim, and they cause an injury that cannot be easily divided among them in a logical fashion. If multiple parties are jointly and severally liable, the victim still has the possibility of recovering in full from many of the wrongdoers.

This doctrine was developed to help ensure that victims injured by more than one wrongdoer would still receive the full and fair compensation they deserve. S. 687 would restrict the rights of individuals to obtain perfectly legitimate damages by shifting to the victim the risk of undercompensation.

Now, what exactly are noneconomic losses? S. 687 currently defines them as a subjective nonmonetary loss resulting from harm including but not limited to pain, suffering, inconvenience, mental suffering, emotional distress, loss of societal companionship, loss of consortium, injury to reputation, and humiliation. The term does not include economic loss.

Madam President, whose rights will be restricted by eliminating joint and several liability for these types of losses? Unfortunately, it would the rights of the most seriously injured victim who often relies on pain and suffering damages, people like quadriplegics, persons suffering from brain damage, burn victims. These are the people whose rights would be most restricted.

Studies indicate that the seriously injured victims often recover less than their out-of-pocket expenses in product liability cases, and eliminating joint and several liability for these victims would further reduce their recovery. Moreover, poor individuals who are injured by defective products generally pay for their cost of litigation out of the awards they receive. By reducing the amount the poor can recover, the elimination of joint and several liability for pain and suffering damages would decrease their potential access to the court.

Also, Madam President, excluding noneconomic damages from the joint and several liability protections is also disturbing in that reproductive harm such as loss of fertility is considered a noneconomic loss and therefore those kinds of injuries would not be protected, would not be compensable under the joint and several liability doctrine if this bill, this bill before us, is enacted into law.

It is not as if joint and several liability has broad and unwarranted impact. A recent study of verdicts handed down by juries in my home State of Wisconsin found that of 834 verdicts rendered in the 2-year period study, only 1.5 percent, or 13 verdicts, were affected by the Wisconsin rule of joint and several liability. Again, if we really examine the facts, if we really see what the statistics show about the litigation in this area, we see there is really no need for this form of reform that is being proposed today.

Madam President, I would like to share in my concluding remarks one real-life example which can better sum up the problems with doing away with joint and several liability than anything I could concoct. This tragedy involved a young woman, age 15, from Beloit, WI, a city just a few miles south of where I grew up in Rock County, WI.

This young woman was, unfortunately, riding in the back seat of a Gremlin, a car which was made at the time by American Motors Corp. And she was in the car at the time when a drunken driver struck the Gremlin from behind and the Gremlin burst into flames burning and maiming this young woman and killing another passenger.

The young woman suffered severe scars on her face, chest, arms, and legs, and has stubs for all but one finger. She has had several operations to attempt to repair the hands, eyelids and nose.

The problem with the design of the Gremlin, the jury was told and shown, was that its fuel system was dangerously defective. The young woman's attorney successfully demonstrated that the Gremlin's fuel system filler neck included a rubber hose that American Motors ran through the car's interior and was separated from the gasoline hose only by a plastic plate. This particular crash cut the hose and sprayed gasoline inside the car, which subsequently ignited.

Despite this dangerous design flaw, the jury apportioned liability by finding the drunken driver 67 percent negligent, American Motors 30 percent negligent, and the victim 3 percent negligent. I have been told that this type of apportionment is typical when an accident involves a drunken driver, even though the primary injuries—the burns—were the result of the flawed design of the fuel system. In other words, just like the horror stories involving the Pinto gasoline tank design which we know all too well, the Gremlin's fuel system design were the but for cause of the primary injuries. Without that, this woman would not have been injured. Now what does this mean to a victim of such a tragic accident?

First of all, this particular jury awarded $787,170 of damages to the victim, a large proportion of it in the form of pain and suffering noneconomic damages. Unfortunately, the drunken driver was forced to file bankruptcy and became insolvent. Factoring in the above liability apportionment, that means that the young woman would have received a total award of $236,151 and she would have received roughly $158,222, that is if she could have retained an attorney, which would be unlikely since the attorney's one-third contingency fee would be $77,930, roughly half of what it cost her attorney to try the case.

You see, we have to discuss the cost of preparing the case. The attorney handling the case has stated that it cost roughly $150,000 to prepare and try the case, with expenses including hiring expert witnesses and buying three cars, one of which was cut apart to show the jury the defective fuel system.

Now some of those damages were for medical expenses and economic losses, but you get the picture. This young woman who suffered irreparable physical harm, would not be able to recover her entire damages from a defendant which designed such a fuel system which was a primary cause of her injuries under the provisions contained if this bill passes.

I would like to conclude my remarks by urging my colleagues to oppose S. 687 and to vote against involving cloture this evening. Make no mistake about it, this bill is inherently flawed and will have a detrimental impact on the health of and the ability of victims of accidents involving defective products. If we are so inclined as a body to rush into enacting such sweeping changes to our current tort law system, cannot we at least wait until we fix and shape up our Nation's ailing health care system, so at the very least, we can be assured that the victims of accidents will have a better opportunity to have their medical needs met? Voting against cloture would allow us to first take up health care before we override our State legislatures and jury system and embark on such a drastic remedy. I yield the floor.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Madam President, I will only speak briefly here about the provisions in this amendment, the Lieberman-Feinstein amendment.

In my judgment, this is a worse amendment than the one that was in the original bill. It is designed to make some exceptions in punitive damages. Punitive damages are not recoverable if there is premarket approval by the Food and Drug Administration. Then it has in the original bill a section that says the provisions of that "shall not apply in any case in which the claimant proves by preponderance of the evidence," and then it lists (a) and (b). There is nothing in the existing bill as it was and as it is, and subject before this amendment might be adopted, that says that the FDA can withdraw the premarket approval for failure to comply or for other reasons.

Now we see (c) is added. What does (c) require in order to say that you will not be subject to this provision on premarket approval? It says that the FDA must go through what? That the FDA, where it could have withdrawn its premarket approval and said that it does no longer fit, now the Food and Drug Administration has to go through a formal administrative procedure by a final order not subject to further review, or on the other hand, that a court has determined in an action brought by who? Brought by the U.S. Government by a final judgment not subject to further review that the drug or device fails to conform to conditions of the Food and Drug Administration for approval.

That makes it more difficult to get around this matter pertaining to exclusion from punitive damage on premarket approval.

Then we look at section (d). There are three provisions therein. The provisions of paragraph 1 shall not apply with respect to a claim for punitive damages based on a defect in manufacturing which causes the drug or device to depart from its intended design.

You look over in definition, and they use "as opposed to manufacturing formulation." Then they speak of the words "formula and design."

This appears to me to mean that you get a drug—this would not apply to a device, but this would apply to a drug that is manufactured—there are not many drugs that are manufactured, but rather they are formulated—and departs from their intended design or formula. The way that word is written and the way this language is written, it would have a very plausible interpretation; that it does not apply to a drug unless the drug is manufactured and unless the drug departs from its intended design. If it departs from its formula, it does not mean anything.

The other change that is involved in this deals with required information. It changed a little bit here, but they put obstacles in the language.

It is required information, if it "fails to submit"—I think the original language was "to withhold." I do not know whether there is a difference between "failure to submit" and "to withhold," but there may be. For some reason, they wanted to put that in there—"required information." We must rely on FDA regulations to require all the necessary data and information. And then they put two other hurdles in it—that the information that the defendant failed to submit or misrepresented is material and relevant. And then there is the additional hurdle that they must be causally related to the harm.

(Mrs. FEINSTEIN assumed the chair.)

Mr. HEFLIN. This amendment does nothing, really, to cure the fundamental problems of the provision. This amendment unquestionably reduces the incentive of manufacturers to make safe products when all the evidence shows that there are too few incentives.

Second, this amendment returns a greater number of difficult hurdles that a plaintiff must overcome. The effect is to ensure that a plaintiff will never get punitive damages. Here are the hurdles: First, they must show that there is a "conscious, flagrant indifference to safety," which is an extremely high hurdle, a lot more than wantonness or willfulness or recklessness. Second, it shows that the defendant will not turn over the required information, or will fail to submit the required information, and only required information. It further shows that that information was relevant and shows that the information was material and shows that failure to turn over that information caused the harm.

I do not think this is a fix. This, in my judgment, ends up with the fact that now, under this, there are hurdles that must be complied with relative to FDA withdrawing its premarket approval. They have to go through administrative procedure, or else the United States—the United States will not beat anybody except the FDA. They have to file a lawsuit before they can withdraw their premarket clearance. In my judgment, this is making it tougher than it was.

The people who are drafting this—and there is nobody in the Senate here, and I do not believe the staff members of the Senate are doing it, but there are outside people—who have motives involved in the way they select the language, in trying to put loopholes or have a facade that has an appearance of fixing a problem when, in reality, they are making it much more difficult to get around that premarket clearance exception to punitive damage.

Madam President, I ask unanimous consent that Bruce Leahy, of Senator WELLSTONE's staff, be allowed the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts [Mr. KERRY] is recognized.

Mr. KERRY. Madam President, the Senator from Alabama, who we fondly refer to as "the Judge" around here, is referred to as the Judge because he has made these decisions and has sat in a court of high consequence and understands the implications of the words in these kinds of amendments and this kind of legislation, perhaps better than most, and certainly as well as any in the U.S. Senate. The fears that he has expressed, the real dangers that are contained in the current definitions, should not be dismissed cavalierly by any Member of the Senate.

I might say that I was greatly attracted to the notion that I wanted to vote for some kind of reform, and all of us, I think, are affected by the notion that if we can make companies more competitive, we obviously want to do so if we can reduce overhead, reduce costs. And if we can impact the effect of other forces on business expenditures, we want to try to do so. But I think we also want to try to do so reasonably and fairly, and we also have a responsibility to try to measure what the impact is on the vast array of citizens who are not necessarily represented in the same way that some of those in the amendment described by the Senator from Alabama are.

I promised the Senator from West Virginia, who has been absolutely tenacious and open and extraordinarily decent in his efforts to try to work a compromise and come up with good legislation, that I would look hard at the changes he had made this year in an effort to try to see if we were indeed embracing a fair approach to the notion of compromise with respect to our uniform desires to reduce that nut on business and to try to impact competitiveness.

So I looked at this bill hard and met with folks on both sides of the fence. I have concluded that despite an inherent notion which agrees with the premise that insurance is too expensive and that there is a certain restraint on startup companies because of the cost of insurance for some particular product—there is, and I accept that. But I do not accept the leap that automatically suggests that because that is true, this legislation is the remedy or a fair remedy. There is a distinction between those two parting points. While we may be able to agree on the definition that there may be some problem out there, the question is: Is this legislation the way to address that problem?

Some of my colleagues have talked about McCarran-Ferguson and problems of insurance regulation, and I think we really have to measure what the industry itself said about this legislation and its impact. I personally, after looking at this issue again, remain unconvinced that this legislation, which focuses solely on national standards concerning certain aspects of product liability laws, is an adequate answer to the problem. I ask my colleagues to question whether we ought to be considering legislation that tries to solve the problem by focusing only on the cost of litigation, without in any way requiring insurers to step up to bat and measure up with any reform or with any requirements to lower the cost of insurance to small business.

In testimony before the Commerce Committee, which the distinguished Senator from South Carolina chairs—and I think he shares this view—the insurance industry stated to the members of that committee, in no uncertain terms, that this legislation will not provide businesses with cheaper rates.

Madam President, if that is true, what are we doing here? If the insurance industry itself has the audacity to come in and say, "Even if you pass this, it is not going to result in a broad-based rate cut," then we have a problem.

Let me quote the American Insurance Association:

> The bill is likely to have little or no beneficial impact on the frequency or severity of product liability claims. * * * And it is not likely to reduce insurance claims or improve the insurance market.

There goes your competitiveness argument right out the window, because if the bill does not reduce liability claims or costs, it becomes very hard to argue that it is going to improve the competitiveness of startups and for small and high-tech businesses.

As J. Robert Hunter, the president of the National Insurance Consumer Organization testified before the Commerce Committee "Make no mistake about it, if insurance costs and availability are not improved, competitiveness is not affected."

So, Madam President, competitiveness is not affected. Insurance rates will not go down. What are we doing here?

The GAO testified that this legislation will not even reduce transaction costs—that is for the cost of litigation—for businesses. In fact, and I quote the GAO:

> For cases that are litigated, the procedural features of the tort system would not be changed by the bill. * * * If the alternative dispute resolution mechanisms are not binding, then they add to rather than substitute for litigation. If that happened—

I quote them.

> costs would actually increase.

So what you are looking at here is the prospect you do not do anything for competitiveness, you do not, in fact, reduce the costs, but you may, in fact, add to the costs because you are adding a dispute resolution component which will add to the costs of liability litigation.

Now, in addition to that, Madam President, this legislation has serious flaws because it does not accomplish what it, in fact, sets out to do.

First, it only creates selective Federal preemption, without creating what is called Federal jurisdiction. That means that the State courts will have to interpret the new law in the State court system, and for years the result is going to be appeal after appeal after appeal, uncertainty, and different applications of the law in different States—which are the very consequences that this law tries to avoid. This law says we are going to have this great federalization and it somehow is going to create uniformity.

I read a newspaper article the other day—I think it was by Robert Samuelson, who talked about the uniformity, but the fact is it is going to be interpreted State court by State court not a Federal cause of action created.

Second, this has been much talked about. It creates a defense that is almost an absolute defense, as to the FDA and FAA approval. Senator HOLLINGS has spoken to this eloquently and accurately, and he said:

> In effect, this section makes the FDA and the FAA the first and last line of defense against manufacturer misconduct that is harmful to consumers. These agencies were never created to function in this manner, and there are numerous examples of their inability to afford this kind of protection to consumers.

It is hard for me to believe, given the problems we have had with the FDA and the questions that have arisen about the FAA approvals, that we are willingly going to turn over to them an exemption at a defense that would prohibit consumers on their potential for mistake. With all of the business that they have coming in front of them, we are somehow going to trust them to look at every nook and cranny and make a decision that could forever bar someone with the one exception that they created, and I will look at the one exception in a minute.

Third, rather than creating the uniformity among the States that I just talked about, this legislation is believed by the Conference of Chief Justices of the States to be actually likely to actually disrupt settled tort law, because the bill creates a Federal rule to be interpreted by the State courts, without creating a Federal cause of action to go with it. That means that every State's supreme court will wind up having to interpret a new and untested set of rules in 50 different ways, with unpredictable, chaotic, and unstable results.

As the chief judge of the Supreme Court of Arizona testified last year on behalf of the Conference of Chief Justices concerning this very legislation:

> If the primary goal of this legislation is to provide consistency and uniformity in tort litigation, we are concerned that its effect will be the opposite. Preempting each State's existing tort law in favor of broad Federal product liability law will create additional complexities and unpredictability for tort litigation in both State and Federal courts, while depriving victims of defective products of carefully reasoned principles and procedures already developed at the State level.

I might add I continually hear companies say: Wait a minute. We do not know which State law to really follow.

That is a lot of bunk, because any company that is prepared to sell nationally follows the strictest law. It is very simple. And that law has been defined. So if you are a company expecting to sell abroad or expecting to sell to the Nation's 50 States you take the strictest law and you go with that knowing that you are then immune to the possibility of suit in the rest of the courts of this country.

So this is just a lot of folderol to suggest that they do not know what to do. They have known what to do, and they have sold products for years.

We read this argument recently by Robert Samuelson that the bill would create uniformity, or one rule nationally. But I would say to you instead each court is going to be required to interpret the law at the trial level; each appellate court would have to interpret those rulings, and ultimately a series of cases would have to go up to the U.S. Supreme Court to achieve the national standard that is falsely being promised in this bill itself.

While creating new procedural uncertainties at the State level, the bill will also downgrade the rights of injured consumers by reducing the financial incentives for manufacturers to produce safe products. Madam President, you just cannot avoid that reality.

The Ford Pinto, the Dalkon Shield, flammable baby pajamas, and most recently, the silicone breast implant, are each cases in which businesses marketed products that lead to products liability litigation, precisely because the products were not safe. In the case of several of these products, the manufacturers had developed information which was withheld from the public demonstrating those products to be unsafe.

Under this bill, manufacturers of dangerous drugs and medical devices are shielded from punitive damages if they are subject to premarket approval by the FDA with respect to the safety of the formulation or performance of the drug or device. Obviously, in cases where the FDA makes a mistake, what have we done? A victim who has actually been injured is not able to sue for punitive damages against the manufacturer unless that victim can show that the manufacturer withheld information from the FDA.

I mean, we are about to take poor old average citizens of this country who is subject to these goods being thrust at them through advertising and tell them they will have no recourse unless they can prove some elusive standard similar to the standard we public officials have to prove about libel and defamation, the malice, and that is about how tough the standard is about to be made. You have to show that they withheld the information and otherwise nothing punitive.

I believe, Madam President, that before we adopt that kind of a broad, Federal preemption of State law in an area that is not regulated by the Federal Government, which is a very important point, we are about to preempt but we are preempting in an area where there is no Federal regulation of insurance, we ought to ask ourselves, is there really a crisis that mandates we take this enormous preemption step?

Again, I went and looked at this. People kept coming at me and saying product liability, product liability, product liability, product liability; you have to do something about it. So I went and looked, because I believed the hype.

I found that out of 10 million civil litigation cases filed a year in the United States, obviously an overly litigious society, less than 60,000 of those cases or less than six-tenths of 1 percent are products liability cases. And the number of such cases is already declining by 36 percent overall from 1985 through 1991, excluding the asbestos claims which I know nobody wants to deprive someone from compensation for.

So, already cases in which punitive damages are awarded, Madam President, are rare. Professor Michael Rustad, Associate Professor of Law at Suffolk University Law School, in a 1991 study found only 353 cases nationwide in which punitive damages were awarded in products liability cases from 1965 through 1990—a 25-year period, or an average of 14 cases in the entire United States of America per year.

And while punitive damages were awarded at this 14 cases a year rate—14 cases a year—an average of 29,000 Americans were killed in connection with the use of consumer products, and an additional 33 million Americans were injured by those products. Fourteen cases per year adjudicated against the companies, 29,000 people killed.

So it is clear that punitive damages hardly reflect the crisis in America. They are a rare occurrence as is, without the changes that this bill would put into place.

What troubles me, Madam President, in the case of this bill is that hype has really replaced reality. The proponents of this bill have exaggerated the cost to business of the current system and they minimize the risk of changing this system in terms of the consumer.

Last week, in the Washington Post, Robert Kuttner wrote an article in which he pointed out that the promoters of this bill frequently cite a figure of $100 billion a year cost to businesses when in fact the actual figure, according to the National Association of Insurance Commissioners—who finally, now for years this debate has raged on and only last year did we finally get a figure that honestly reflected what the payout is. Is it $100 billion? Nope. Is it $50 billion? Nope. Is it $25 billion? Nope. The cost is $4 billion.

So, I want to respectfully suggest, Madam President, that the arguments on the floor and the hype that has surrounded the bill does not do justice to the fairness that we ought to seek in a remedy.

I agreed earlier that costs are high. I think we ought to try to find a way to mitigate some of those costs for start-up businesses.

The Presiding Officer, the Senator from Massachusetts, and the Senator from South Carolina all have high tech companies and we all understand how difficult it is for biotech to be able to start some new products. We ought to try to find pool-risk ways of dealing with the costs of insurance. We ought to deal with this overhead. But we do not have to take a one-sided effort to deny people the redress within the court system, established and working over years and now proven not to be extraordinarily expensive, and somehow lopsided against those folks without a fair balance of what might be better said of reforms also involving the insurance companies themselves.

It has in fact been astonishing to me to hear from the junior Senator from Texas and others who want to suggest that victims of unsafe or defective products are actually going to be helped by this legislation. I do not know of one consumer organization supporting the bill.

Among those who are openly working against it are the Consumer Federation of America, the Consumers Union, the American Council of the Blind, Environmental Action, the National Consumers League, and the National Women's Health Network.

And you can look at some of the folks who are pushing hard for this change, on the other hand: The Union Carbide Co., which wound up paying $400 million for the Bhopal disaster in India; the fact that they wiped out the inhabitants of the neighborhood of the plant that they had in India. They would love to have this. The Exxon Corp., which was negligent to the tune of billions in the *Exxon Valdez* disaster, they are pushing for it. The Ford Motor Co., which designed the defective gas tanks that caused the car to explode when hit from behind at speeds as low as 21 miles per hour, they like this bill. Procter & Gamble, which manufactured tampons found to have lead to the death of women who died of toxic shock syndrome, they are pushing for it. RJR Nabisco, Brown & Williamson, Philip Morris, and every other major cigarette manufacturer, and many others companies with a direct interest, they are supporting this bill. And, obviously, I suppose you cannot blame them for doing that.

But we ought to be responsible.

When it comes to legislation that is being supported by people who still advocate that smoking does not cause cancer, I worry about their arguments and I worry about their credibility.

So I hope that, if anything, the debate of the last hour has shown that we are really not ready to proceed forward on this legislation. We ought to sort through the hype and we ought to try to find a balance in this legislation so that we can reduce the cost to those who deserve to have it reduced but so that we do not expose a whole new generation to the eradication of the tort system that has proven itself both effective and important.

I think for that reason that we are well served not to close out the debate after a few hours on as an important subject such as this.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Madam President, on the only rollcall vote that was taken on this issue, the distinguished Senator from Wisconsin lost by the narrowest margin, 51 to 49. He has expressed a desire to revisit that issue in a milder fashion and has, as I understand, prepared and is seeking wide approval for a sense-of-the-Senate resolution on the subject of court records to seek to do this.

I just wanted to announce, from what I have seen of it, I think it would be acceptable, and it comes to us within a relatively short period of time before the 6 o'clock vote on cloture, I am going to ask unanimous consent to temporarily lay aside the current two amendments and give the Senator from Wisconsin a couple of minutes to present his ideas.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Washington?

Mr. HOLLINGS. Reserving the right to object.

Mr. GORTON. I am not making a request.

The PRESIDING OFFICER. There is no request being made.

The Senator from New Jersey.

Mr. LAUTENBERG. I thank you, Madam President.

I just wanted to take a few minutes to discuss the procedure by which we are considering this legislation.

Madam President, I have been anxious, as I think some others have been, to offer a couple of amendments. Unfortunately, I have not had the opportunity to do so. Instead, the debate has been filled up with pending amendments and with further discussion about the bill. It has been frustrating.

However, I do want to at least discuss one of the amendments that I intend to offer, if given the opportunity—and of course much of that depends on what finally happens with the cloture vote. It is a proposal that I think belongs in any discussion of product liability.

What I plan to do, given the opportunity, is to offer an amendment under which any person who provides a firearm to a disqualified individual would be liable for all damages caused by the discharge of the firearm by the recipient if bodily injury or death results. By "disqualified individuals" I mean individuals to whom it is unlawful to provide a firearm either under current law, or under the Senate-passed crime bill that includes felons, juveniles, drug addicts, and people with mental problems, among others.

Liability would extend only to those who know, or have reasonable cause to believe that the person to whom they are transferring the gun is on this prohibited list of gun possessors.

Madam President, the proposal is similar to shop laws which were discussed earlier today. Those are State laws that hold a tavern owner or cafe owner responsible if he or she serves someone liquor beyond their capacity to drive safely and they have an accident. That liability passes back onto the seller or the purveyor of the alcohol. What I am proposing is not much different.

The goal is to minimize the number of transfers of guns to those who should not have them. We have seen too often where people with a wink of an eye or turning of a head permit someone to have a gun who they know is not allowed to receive the gun. And, of course, the other goal is to compensate victims.

So, Madam President, depending on how the 6 o'clock vote turns out, if the bill is still open to amendment after that, whether it is this evening or tomorrow, I hope to offer my gun transfer amendment. I just wanted to alert my colleagues that I would like to be able to offer this amendment. I talked to the proponents of the bill as well as the opponents of the bill. This has little to do with a calculation as to whether the bill is going to be successful in passing the body or not. But it is something I believe should be there.

At a later time, perhaps, if there is amendment opportunity still available, there is something in the area of tobacco I would like to discuss as well. But we will leave that for a later moment.

I thank my good friend and colleague from South Carolina, who deferred after waiting a long time for the floor, to give me these few minutes.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Madam President, we have been waiting. I was delighted to yield, always, to my distinguished colleague from New Jersey.

There is so much to be said to clarify the record and put things in proper perspective. Once again this afternoon, Madam President, we veritably heard the cry of Dick, the butcher, in Henry VI. "The first thing we do, let's kill all the lawyers."

That has been the sentiment of Vice President Danny Quayle and his Competitiveness Council. There are some who still believe, yes, "The first thing we do, let's kill all the lawyers."

The truth of the matter is that this cry was by Dick the butcher as a follower of Jack Cade, the demagog who was trying to overthrow the government in Henry VI. The demagog realized that the best way to take over the government and destroy individual freedoms was to first get rid of the lawyers. So that is a high compliment, Madam President.

The United States of America, from its very beginning, most of its first 16 Presidents were lawyers:

> Is life so dear, or peace so sweet, as to be purchased at the price of chains and slavery? Forbid it, Almighty God. I know not what course others may take, but for me, give me liberty or give me death.

That was, of course, the cry from a Virginia lawyer, Patrick Henry.

Again, Thomas Jefferson, the lawyer, sat there as he drew up and fathered our Declaration of Independence:

> We find these truths to be self-evident, that all men are created equal.

James Madison, the best of all those lawyers, wrote in the Federalist Papers—and I will never forget it because it is so pertinent today:

> But what is government itself but the greatest of all reflections on human nature? If men were angels, no Government would be necessary. If angels were to govern men, neither external nor internal controls on Government would be necessary.
>
> In framing a government which is to be administered by men over men * * * first you must enable the Government to control the governed; and in the next place, oblige it to control itself.

Now, expenditurewise, today we are totally out of control. We spend $1 billion a day that we do not take in, which I have called not just interest costs but interest taxes. We are in a juxtaposition whereby everybody is against taxes but everybody is willingly raising taxes $1 billion a day. That is exactly where we are because we failed to heed the admonition of one of the lawyer greats and fathers of our country, James Madison.

You can see Abraham Lincoln, the lawyer, putting his pen on the Emancipation Proclamation, and lawyer Franklin Delano Roosevelt, in the darkest days of the depression saying, "The only thing we have to fear is fear itself."

Thurgood Marshall in the fifties. I can see him in December 1952, before the U.S. Supreme Court, putting meaning to "All men are created equal," demanding that there be no discrimination or denial of due process because of race, religion, sex or previous condition of servitude.

You can come right on down through history. So why now the disparaging comments about lawyers? Madam President, I think you can go right to the most recent issue of the Harvard Business Review. In that Harvard Business Review is an article about alternative dispute resolution—exactly what we are discussing right now—why it does not work and why it does.

The article notes how lawyers on both sides in a particular alternative dispute resolution began taking depositions, though they were careful not to use that word.

> One observer characterized the two sides as driven by false litigiousness, arrogance and greed, and charges of attorney misconduct flew back and forth almost daily. Eventually the judge ruled against company A, which, then did what? Promptly asked an appeals court to overturn the decision.

After that, both companies began to litigate in earnest. They are still fighting today and the list of suits and countersuits grows longer every day. Company B is estimated to have laid out as much as $25 million a year to pursue its claims.

Imagine setting $25 million aside. That is the trouble in this town. I have not met anybody who tried a law case in their life. They are all jury fixers and we in Congress are the jury. Permit me to read further from the article:

> Few senior corporate managers are willing to forego a chance to win a courtroom trial. CEO's want to be able to take the other guy to the cleaners, if they believe they are in the right, and they are going to bet the ranch if they have to. Often the case itself becomes less important than the principle involved. In the struggle between the electronics giants, for instance, the chief legal counsel for company A declared, "if the other side continues its strategy of copying, I am going to continue the strategy of suing."

Yesterday I went down the long list of the corporate judgments—one corporation suing another. Not product liability, not product liability punitive damages, but showing the corporate case, for example, of Pennzoil against Texaco for some $10.2 billion. Other cases that we cited: $350 million punitive damages; $400 million punitive damages; $70 million punitive damages. Yes, there is a problem with lawyers, and we are seeing it in this particular piece of legislation.

This particular piece of legislation is now being submitted as if they are really concerned about the plaintiff and the money not getting to the injured party. Now come on, come on; let us get off that nonsense. No one believes that.

You know who opposes their bill? Those hired for the plaintiffs, the trial lawyers of America. They are absolutely in opposition to it. Do you not think they know about the welfare, the injury, the damage, and the needed assistance and relief for their clients? The Trial Lawyers Association has seen through this sham. I heard the distinguished Senator from Illinois earlier today talk about the masquerade. I began thinking of "Phantom of the Opera." Well, their masquerade is being exposed.

Here, Madam President, is a list of those who oppose this bill: The AFL–CIO; the Alliance for Justice; Consumers Union; Environmental Action; the National Consumers League; the National Insurance Consumers Organization.

I ask unanimous consent that the list of organizations and individuals, and also a list of consumers for civil justice—both of these lists—be printed in the RECORD.

There being no objection, the lists were ordered to be printed in the RECORD, as follows:

List of Organizations and Individuals Opposed to Federal Product Liability Legislation

AFL–CIO, Alliance for Justice, American Association of Retired Persons, American Bar Association, American Council of the Blind, American Lung Association, American Public Health Association, Americans for Democratic Action, Asbestos Victims' Education and Information, Asbestos Victims of America, Brown Lung Association, California PIRG, Citizen Action, Colorado PIRG, Conference of Chief Justices, Connecticut PIRG, Consumer Federation of America, Consumers Union, Dalkon Shield Claimants' Committee, DES Action USA.

Disability Rights and Education Fund, Environmental Action, Florida PIRG, Friends of the Earth, Illinois PIRG, Maryland PIRG, Massachusetts PIRG, Michigan Citizens Lobby, Minnesota PIRG, National Association for Public Health Policy, National Campaign Against Toxic Hazards, National Coalition Against the Misuse of Pesticides, National Conference of State Legislatures, National Consumers League, National Insurance Consumers Organization, National Spinal Cord Injury Association, National Women's Health Network, New Jersey Citizen Action, New Jersey PIRG, New Mexico PIRG.

Oregon State PIRG, Pennsylvania PIRG, PIRG in Michigan, Public Citizen, Public Voice for Food and Health Policy, Ralph Nader, Service Employees International Union, Local 82, Sierra Club, Trauma Foundation, United Auto Workers, United States Public Interest Research Group, United Steel Workers, Vermont PIRG, Washington PIRG, White Lung Association, Wisconsin PIRG.

Consumers for Civil Justice

NJ Environmental Federation, NAACP, NOW—National Organization of Women, Industrial Union Council, Black Issues Convention, NJ Citizen Action, New Jersey Environmental Lobby (NJEL), IUE, AFL-CIO, United Auto Workers (UAW—Region 9), NJ Hemophilia Foundation, Central Jersey Spinal Cord Injury Assn., NJ White Lung, Central Labor Union—AFL–CIO, Communications Workers of America (CWA—AFL–CIO), CHILD—Cape May, Amalgamated Transit Union, American Littoral Society, Arthur Kill Watershed Association, Aspira, Inc. of New Jersey, Association to Improve Benefits.

Bayonne Citizens for Clean Air, Bergen Labor Council, AFL–CIO, Bergen Save the Watershed Action Network (SWAN), Boilermaker's Local 28, Center for Visual Arts, Chemical Workers Association, Clean Ocean Action (COA), Coalition Against Toxics—Camden County, Columbian Federation, Committee of Internists and Residents, Concerned Citizens of Union County, Concerned Citizens of Wayne, Copeland Surveying, Inc., Cornucopia Network of New Jersey, Council of N.J. State College Locals—AFT, Creative Risk Services, Inc., CWA Local 1032, CWA Local 1081, DES Action—New Jersey, Edison Wetlands Association.

Environmental Response Network—Atlantic County, Grassroots Environmental Coalition (GREO), Hospital Professionals & Allied Employees, Hudson Labor Council, IBEW Local 1032, Implant Victim Action Committee, International Association of Machinists, International Federation of Professional Technical Employees, Ironbound Committee Against Toxic Waste, Local 8-149—OCAW, Local 262, Retail, Wholesale Dept. Store Union—United Food & Commercial Workers, Local 617 Service Employees International Union, Machinist Union Local 914, Mercer Environmental Coalition, Middlesex County Environmental Coalition, Monmouth County Citizens for Clean Air, Monmouth County Friends of Clearwater, N.J. Coalition of Labor Union Women, Network for Environmental & Economic Responsibility at United Church of Christ, New Jersey Right to Know and Act Coalition.

Newark Teachers Union, NJ Coalition of Occupational Safety & Health, NJ PIRG, Ocean County Citizens for Clean Water, People United for a Klean Environment—Burlington, Peoples Medical Society, PHILOPOSH, Pompton Lakes Against Pollution, Princeton Area Committee of NJEF, Public Citizen, Rain Forest Relief, Rutgers AAUP, Sheetmetal Workers Local Union 27, Sierra Club, NJ Chapter, Skylands Clean, Teamsters Local 945, The Command Trust, East Coast Connection Silicone Breast Implant Support Group, TMJ Association, United Labor Agency, United Passaic Organization (UPO), United Transportation Union Local 60, Utility Co-Workers' Association, VOCCAL—Oakland, WATER—Vineland.

Mr. HOLLINGS. Madam President, why is it, if this bill supposedly is going to help consumers, that every major consumer organization in this country is opposed to it? Yet they have the unmitigated gall to stand here and say they are worried about plaintiffs, that not enough money is coming to the injured parties. Masquerade, masquerade.

There are over 100 law professors that have testified in hearings as a body in opposition to this. The Conference of Chief Justices opposes it.

Now, they talk and beat down the amendment of the Senator from Wisconsin against secrecy, saying, "Oh, the Conference of Chief Justices oppose this amendment." But the same Conference of Chief Justices, as well as the National Conference of State Legislatures oppose the bill itself. Every women's group is opposed to this particular bill. Every health group is opposed to this bill. The National Association of States Attorneys General is opposed to it. The American Bar Association testified against the bill.

The first thing we do is kill all of the lawyers—the corporate lawyers working for manufacturers. It is they who manufactured this particular product liability bill. That is what this bill is. This bill is a case of product liability, if any ever was.

Why do I say that? Madam President, you can go right to the bill itself, because we have been in it a long time and we have always said: If you want uniformity, just put in there, and state: "There is hereby created a Federal cause of action."

Do you know what they say? Specifically, on page 11, they say: There is not hereby produced a Federal cause of action. They absolutely, in the 17 years, in the 20 bills and in some 50 hearings on the Senate and House side, admonished if you want uniformity, if you do not want to come to these 50 States to try your cases, and so forth, then put in there just one line, "a Federal cause of action is hereby created," and preempt the State courts. Put down your rules, we have the Federal Rules of Civil Procedure and we will just move forward from there.

That is not what they want. They do not want the federalization of insurance, and they do not want this bill to apply to manufacturers. They claim to be so concerned about injured parties, about the fact that plaintiffs and injured people are waiting 5 years to get their money, but do not let this bill pertain to manufacturers.

They absolutely have a clause in here that there shall not be a Federal cause of action, and they have a clause in here that it shall not refer to the manufacturer who gets a faulty piece of equipment. Those manufacturers can get punitive damages, strict liability, none of this settlement disposition and hurdles that the injured victims have to go through in this discombobulation, none of that; it does not apply to them, Madam President.

This is not just to get rid of the FDA provision. You can see by the tenor of my presentation this afternoon at this late hour that they are trying to make deals, that all you have to do is get rid of the FDA provision and you have a good bill. I have not referred to the FDA. I am referring to the general thrust of this travesty that we have here. You might call it the insurance obstacle course bill, if there ever was a legal obstacle course built, because they knew what they were doing. They have been at it now 17 years, and they very cleverly got this thing together.

They complain about going to the 50 States, but they go to the 50 States with respect to insurance. These big companies will have 100 different kinds of policies. They do not mind going to California and going to the California Insurance Commission and filing those policies and having lawyers to file those documents. It is the same when they come to the State of South Carolina. They do not mind going with their lawyers and filing all their policies. They just do not want the lawyers to defend the injured parties. That is what they want to do. They say they want uniformity, but they do not.

Now, what happens with that particular approach is they set down various words of art and restrictions to be interpreted in the 50 States, all the way up to their State supreme courts and then over to the U.S. Supreme Court, all in the context of eliminating legal costs, litigation, motions, and delays.

They start off on a big bog-down. As a trial lawyer, I can tell you right now, if the injured party comes into my office and says, "I want you to represent me," I say, "Wait a minute. That Rockefeller bill passed and you are already injured, and I will tell you why."

I will elicit this understanding from the client and say, "Look, I don't know how they are going to rule, but I can tell you if you have a serious case under this procedure and it is going up on appeal, I have to take care of all these costs; I have to go through discovery, interrogatories. I don't get any fee from you. It is a contingent basis. Yes, they will stretch me out 2, 3 years, that kind of thing." And what will happen?

Well, if you are a young lady with a medical injury, for one thing, joint and several liability. Yes, yes; joint and several liability for economic losses, but not for noneconomic. The Dalkon-Shield-injured woman, the breast-implant-injured woman comes in and I say, "Well, you know, you don't have any economic loss here. The noneconomic loss, I have an additional burden here. I have to severally prove everything. Not joint and several for the economic, but for the noneconomic, there is a different degree of culpability and a more difficult trial."

Then with respect to punitive damages, because we want them to stop making these things and not injure other women, I say, "I have to prove not regular carelessness and recklessness, but I have to prove a conscious, flagrant indifference to safety." A conscious, flagrant indifference to safety. And I have to prove that by clear and convincing evidence. You have to veritably prove that the fellow just set a boobytrap and caught them, if it was a conscious, clear and flagrant indifference to safety.

Now, that again produces the long trial and limits the prospect of being compensated properly. It also reduces the prospect of a verdict that would deter injury to others.

But then I get to the real purpose, and that is settlement. I do not see how they can say it in good conscience that this is going to expedite settlements. Here is how they expedite.

First the lawyer on the other side, in a serious case, is going to make a motion to dismiss, and when he is ruled against he is going to appeal that. That will give him quite a bit, a few months. Then after that he is going to make an offer, within 60 days after the final ruling on that because, you see, they are sitting up in their mahogany office with the big oriental rug and everybody running around doing the things for them, and they get paid willy-nilly. It does not make any difference. They go down to the club to eat lunch, and they come back and there is no sweat there. Their family is taken care of. But the trial lawyer, he is taking on all of this burden here.

And after that, they make that offer now and let us say the client says yes, but I hear under the law that what you do is, if you get more than what you offered, you really can get attorney's fees added on. I say, yes, you can get attorney's fees, but they have a limit on that of $50,000.

And to those who have never been in law cases lasting 2 or 3 years, the fees, taking care of the costs, the deposition costs and everything else of that kind, in that contingency contract, many, many times will exceed the $50,000 in a serious injury case, I can tell you that right now. You would have $50,000 in the case before you even got it on appeal. But that is the limit there, and then if you think you are going to get it, it says provided, however, that should be set off by the contingency contract that you have with your client.

Now, that really chills this lawyer because what it says to me, under the ethics of the bar, I have to inform my client that here is the offer but if you get $1 more, you better get more than $1 more because I can tell you right now, I have lost my fee and we have a substantially less verdict than any settlement offer ever made. And it begins to put me and my client—he says, wait a minute, we have our contingency contract. But then I have to explain it to him three times to make it clear, and finally you have the lawyer sort of adversely against his own client.

But if he gets less than that settlement offer, if he gets less than the settlement offer, there is no limit and it goes against all of those particular collateral benefits or costs that he would be entitled to. And as explained by the distinguished Senator from Alabama, an injured party as we describe here with a breast implant or whatever it was, that had health insurance, they would have $100,000 already in cost on that particular injury, I can tell you that now, and you have been paying for it out of your health insurance. And then if it is real serious and the individual dies and you had a $200,000 life insurance, you paid all your life not to be injured and have to win a case to find out that your life insurance is gone.

They are for the injured party, they say. Come on. I am reading the law, and they cannot contest it. I will give them chapter and verse and the page number and the line number. But it takes away that $200,000 pot. It takes away that $100,000 health insurance.

Then, even if you get that agreed, they have moved the employer into all settlements. Now, you would think that was just a helpful thing, but the employers have workman's comp, and they pay workman's comp premiums. And if an offer is made, the other side tells the employer: Here is the offer, and we have enough in the offer to take care of your particular costs that you have paid under workman's comp. And they do not get anything. You are not going to get anything on workman's comp, whatever. And you better bring pressure on your employee to settle this case. And then all of a sudden in addition with this particular bill, 687—I am not just talking about the FDA provision. I am talking about these things that they bragged about and have yet to be exposed. But this hurdle here says you have not only the lawyer in a juxtaposition with his client, you have employer against employee. And they know how to work it. They know how to work it.

Now, that is exactly why they talk about this is a good bill and a fairness bill. This has been really fashioned in the most tricky fashion that you have ever seen. It says, "Provided, however, it is not going to apply to the manufacturer." It says, further, we shall not federalize this. And it says if you do engage in these settlement offer shenanigans and you get a verdict more than the settlement offer, you do not get a verdict more because you have to take away your contingency contract with the lawyer that you have and all of a sudden unhire him, fire him. It is like these insurance policies that we had down in South Carolina when I was Governor. For example, there was Capital Life, and they wanted a new slogan for the new Life, and we came up with: "Capital Life will surely pay if the small print on the back doesn't take it away."

Now, Madam President, we have learned how to read these bills and do not come forward here and start telling us that they are not lawyers and they cannot read these things. Here is what Chief Justice Stanley G. Feldman said on the claim of uniformity——

Mr. ROCKEFELLER. Will the Senator yield? I just point to the Senator that——

Mr. HOLLINGS. I know, and I have been here all day long trying to say these things, exactly right.

Mr. ROCKEFELLER. Will the Senator yield for 2 minutes?

Mr. HOLLINGS. Yes.

Mr. ROCKEFELLER. We have only 2 minutes remaining.

Mr. HOLLINGS. All right. I will just read what Chief Justice Stanley Feldman said:

> If the primary goal of this legislation is to provide consistency and uniformity in tort litigation, we are concerned that its effect will be the opposite.

Preempting each State's existing tort law in favor of a broad Federal tort liability law will create additional complexity and unpredictability for tort litigation in both products of carefully reasoned principles and procedures already developed at the State level. The critical experience of State courts with the long process of interpretation and consistency on major points of product liability law tells us that Federal legislation is not the answer. A legal thicket is inevitable and the burden of untangling it, if it can be untangled at all, will lie only with the Supreme Court of the United States, a court which many experts feel is not only overburdened but also incapable of maintaining adequate uniformity in existing Federal law as it is variously interpreted by the 13 U.S. court of appeals. Enactment of 687 would alter in one stroke the fundamental federalism inherent in this country's tort law. It is a radical departure from our current legal regime and is neither justified by experience nor wise as a matter of policy.

I ask unanimous consent that the distinguished author of the bill be recognized for 2 minutes.

Mr. ROCKEFELLER. I am profoundly grateful to the Senator from South Carolina.

The PRESIDING OFFICER. Is there objection? There being no objection, the Senator from West Virginia is recognized for 2 minutes.

Mr. ROCKEFELLER. In the time remaining before the cloture vote, Madam President, I would like to remind my colleagues that we have heard a great deal of talk today and that what we come back to is the basic fact that the average person in this country who is injured, who has a mangled hand or has some other kind of injury which prevents him or her from going to work or feeding their family or taking care of their affairs, has to wait 3, or 4, 5 years before they get a single nickel of compensation.

The Product Liability Fairness Act is an attempt through alternative dispute resolution and expedited settlement procedures to speed compensation to the victim. We must change the present system where the lawyers both on the plaintiff's and the defendant's side make much more money as they drag out legal procedures than the victims finally receive 4 or 5 years later.

Our bill expedites the process so that victims for once are taken into consideration in product liability tort reform. We think this is a fair bill and a balanced bill. We understand very well the tactics that are being used. We would have preferred much more time to discuss this, but we would hope that our colleagues would vote for cloture.

I would yield to the Senator from the State of Washington.

Mr. GORTON. Madam President, I hope that the Senators in the Chamber will listen to this, although it is 6 o'clock.

I ask unanimous consent that I be allowed to set aside the pending amendments and send up and have passed without debate a sense-of-the-Senate resolution on behalf of the Senator from Wisconsin [Mr. KOHL], which I have discussed earlier. It is simply a sense-of-the-Senate resolution on the subject of his amendment this morning.

Mr. HEFLIN. I object. I would like to have an opportunity to read it and see it. We maybe will have something else to come along later in regard to that same issue.

The PRESIDING OFFICER. Objection is heard.

Ms. MIKULSKI. Madam President, I rise today because I am tired of gridlock; that's why I am voting for cloture. I believe it is time for a national debate on product liability. Now is the time to improve or not improve the bill. The bill should stand or fall on its own.

I am for cloture, majority rule, and ending gridlock.

That is my position on health reform, that is my position on banning assault weapons, and that is my position on product liability.

Despite my vote for cloture, though, I am reserving judgment on the final passage of the Product Liability Reform Act. I hope that the current bill can be improved. There will be many amendments to this bill that I want to review. When we have a final bill, then I will make a decision on final passage.

For example, I have deep concerns about the so-called FDA defense, and the short statute of limitations. In addition, I would like a clarification of the statute of repose.

Mr. President, FDA-approved products are not always safe, and the makers of those products are not always free from blame. There are women who cannot have children because the Copper-7 IUD made them sterile. There are families who lost loved ones because of a faulty heart valve that the FDA approved.

It was never intended that FDA approval would mean a full investigation. The FDA does not have the resources to be the FBI on medical devices and drugs. That is why it doesn't make any sense to let FDA approval be a shield used by companies against injured consumers.

I am committed to improving the health care system in this country, and especially dedicated to making sure that women and other often overlooked groups get the health care and protection they deserve.

Our goal should be to protect unsuspecting users of drug and medical devices. Regulatory agencies have a responsibility to accomplish this goal, but if they fail to do so the courts have a responsibility as well. And responsibility is at the heart of this debate.

On the other hand, as this issue moves forward, I believe there are arguments in favor of technology, competition, and jobs. Responsible businesses should be able to cut unnecessary liability costs so they can use those dollars not to fight lawsuits, but to create jobs.

In addition, I acknowledge the validity of the argument in favor of uniformity across the 50 States. Case law based on State law was fine in the 1950's when the United States was the world's dominant manufacturer. But, Madam President, the world has changed. Now we are competing with other powers globally. And about 70 percent of manufactured products are sold outside the State where they are made.

I am looking for a balance. I do not want to stymie innovation and new technologies; I also do not want to have untried, unreliable products. This is exactly the robust debate I believe we should engage in. So I will vote for cloture, and I look forward to a thoughtful, reasoned debate on these important issues.

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 6 p.m. having arrived, under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Calendar No. 409, S. 687, a bill to regulate interstate commerce by providing for a uniform product liability law:

Jay Rockefeller, J. Lieberman, John Glenn, Claiborne Pell, Bob Kerrey, J.J. Exon, Harlan Mathews, Slade Gorton, Orrin G. Hatch, Strom Thurmond, Daniel Coats, Judd Gregg, Dirk Kempthorne, Pete V. Domenici, Larry Pressler, Kay Bailey Hutchison, Frank H. Murkowski.

VOTE

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

The question is, Is it the sense of the Senate that the debate on S. 687, the product liability fairness bill, shall be brought to a close?

The yeas and nays are automatic under the rule, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. METZENBAUM. Mr. President, on this vote I have a pair with the distinguished Senator from Arizona [Mr. DeConcini]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. FORD. I announce that on this vote, the Senator from Arizona [Mr. DeConcini] is paired with the Senator from Ohio [Mr. Metzenbaum].

If present and voting, the Senator from Arizona would vote "aye" and the Senator from Ohio would vote "nay."

The PRESIDING OFFICER (Mr. Mathews). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 54, nays 44, as follows:

[Rollcall Vote No. 169 Leg.]

YEAS—54

Bennett
Bond
Boren
Brown
Burns
Byrd
Chafee
Coats
Coverdell
Craig
Danforth
Daschle
Dodd
Dole
Domenici
Durenberger
Exon
Faircloth
Glenn
Gorton
Gramm
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Jeffords
Kassebaum
Kempthorne
Kohl
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Mikulski
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Riegle
Robb
Rockefeller
Sasser
Smith
Stevens
Wallop
Warner

NAYS—44

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Campbell
Cochran
Cohen
Conrad
D'Amato
Dorgan
Feingold
Feinstein
Ford
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Levin
Mitchell
Moseley-Braun
Moynihan
Murray
Reid
Roth
Sarbanes
Shelby
Simon
Simpson
Specter
Thurmond
Wellstone
Wofford

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Metzenbaum

NOT VOTING—1

DeConcini

The PRESIDING OFFICER. On this vote, the yeas are 54, the nays are 44. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative the motion is rejected.

The majority leader.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WOFFORD addressed the Chair.

Mr. FORD. Mr. President, I will have to object to taking off the quorum call.

The PRESIDING OFFICER. Objection is noted. The clerk will call the roll.

Mr. FORD. I apologize.

The legislative clerk continued with the call of the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1930

Mr. CHAFEE. Mr. President, I am intrigued by the amendment offered by the Senator from Wisconsin, but I will not be supporting his amendment today.

I am hesitant for Congress to move forward with this amendment for two reasons. As my colleagues know, there already is in place a process by which the rules may be changed; and this process involves a recommendation by the U.S. Judicial Conference, and approval by the U.S. Supreme Court. This process is in place because we have decided that we should give due deference to the Conference to determine how best the courts may serve the American public.

Now, Congress may certainly go ahead and propose changes absent a recommendation from the Conference. But I would note also that in this matter, even the administration has asked us to hold off until they have determined what they view as the best course of action.

Thus, in the absence of a clear recommendation from either the Judicial Conference or the administration, both of which could and should provide some guidance on this matter, I am not comfortable moving forward with this amendment.

I do feel, however, that this is an issue that needs to be pursued, and I hope the Judicial Conference and the administration will move expeditiously to come up with appropriate recommendations. This is not a matter that should be delayed.

DISASTROUS EFFECTS OF PRODUCT LIABILITY REFORM

Mr. GRAHAM. Mr. President, today, I met Ms. Marlo Mahne, a Floridian whose story speaks volumes about the reasons the product liability bill we are considering today should be defeated.

Ms. Mahne was horribly burned in a 1985 automobile accident in Fort Pierce, FL. She was able to reach a settlement with the manufacturer of the car in which she was a passenger. If S. 687 had been law in 1985, the settlement she reached would never have been possible, Ms. Mahne says. Further, if it is enacted now, it will prevent people who suffer similar tragedies in the future from recovering the damages to which they are entitled.

Mr. President, I have a statement here by Marlo Mahne which describes her experience in her own words. I ask that it be included in the Record and offer it as another of the many reasons this unwise legislation should be rejected by the Senate.

There being no objection, the letter was ordered to be printed in the Record, as follows:

STATEMENT OF MARLO MAHNE, JUNE 27, 1994

My name is Marlo Mahne. In 1985, when I was fifteen years old, the 1967 Ford Mustang in which I was a passenger was struck from behind. This is the same car that President Clinton owns and drives. Because the fuel tank in the Mustang was defective, it ruptured and the car burst into flames.

I had 3rd and 4th degree burns over 70 percent of my body. Nearly all of my scalp was burned off. My ears and fingers were burned off. My lips and nose have been reconstructed. I am blind in one eye.

My initial stay in the hospital lasted 4 months, and I was in and out over the next 18 months. Altogether I have had 118 major plastic surgeries and procedures, and I could have 20 or 30 more.

I sued the Ford Motor Company, and in 1991 my case was settled out of court. Before then Ford did everything to avoid the blame for what happened to me. Fortunately at the time, Ford didn't have S. 687 to hide behind.

Ford said the underinsured driver of the Mustang and the uninsured driver of the bullet car were at fault and should bear equal responsibility. But those people didn't design a defective fuel tank, ignore the defect, and put it on the road.

You have in your packet an excerpt from the deposition of Harold MacDonald, who was the vice president of Ford's engineering research. Mr. MacDonald acknowledged that the Mustang's fuel tank repeatedly ruptured in Ford's own tests, but Ford did not act to correct the defect.

If it weren't for Ford, I might have walked away from the crash. Instead, I will be a dependent person probably for the rest of my life. The only thing that prevents me from being a burden to taxpayers is the settlement I finally secured from Ford. Now, because of S. 687, that is at risk for future victims of defective products.

Although I am prohibited by a secrecy order from discussing the settlement of my case and some of the details, I can tell you that if Senate Bill 687 had been the law, it would have shielded Ford from full responsibility for what the company did to me.

Economic damages for me were modest at the time of the crash because I was too young to work and my medical bills were paid by the Shriners. The non-economic damages I sought would have been greatly reduced if S. 687 had been the law because there were three possible defendants: two drivers and Ford.

Under S. 687, even though I would not have been burned if the gas tank wasn't defective, Ford could claim it was responsible for only one-third of my non-economic damages, such as pain and suffering, which for me has been everything. I don't think this is fair.

I am not an attorney, but as you might imagine, I've learned a lot about the law since I was burned by Ford. I thank God that I was able to have my case heard and that the law today isn't designed to save money for manufacturers but rather to pay for the harm caused the consumer. S. 687 would take all that away from someone like me.

Mr. DURENBERGER. Mr. President, I rise today in strong support of the Product Liability Fairness Act. I would like to thank my colleagues Senators Rockefeller, Lieberman, Dodd, Gorton, and Danforth for their leadership in bringing this legislation to the floor.

I am proud to join them in cosponsoring this important legislation.

I believe strongly that S. 687 will bring both cost-savings and consumer safety to our current product liability system—fairly and effectively.

S. 687 will reduce costs to consumers, stimulate product innovation, promote U.S. competitiveness and, at the same time, ensure that consumers have access to more safe and effective products.

A NATIONAL PROBLEM IN NEED OF A NATIONAL SOLUTION

Our Nation's product liability system is broken. It is badly broken, and it is a problem which calls for us to respond with a national solution. The current system does not fairly protect the injured, stifles the development of innovative products, and harms U.S. competitiveness.

About 70 percent of manufactured products are sold outside the State in which they are made. The current patchwork system of State-by-State product liability legislation poses a burden to interstate commerce and encourages forum shopping.

In fact, the National Governors' Association [NGA] has continually urged Congress to enact uniform product liability law. In a letter last year to President Clinton, the NGA wrote: "Clearly, a national product liability code would greatly enhance the effectiveness of interstate commerce."

S. 687 WILL MAKE PRODUCT LIABILITY LAWS MORE FAIR TO INJURED CONSUMERS

Several recent studies have found that people who are severely injured by products are compensated for only a small fraction of their economic losses. Those studies found that claimants' recoveries for losses exceeding $1 million are less than 39 percent. In contrast, those with minor injuries recover a windfall of nearly five times their losses.

A 1989 GAO study found that product cases take about 3 years to resolve, and even longer if there is an appeal. Because larger claims generally take longer to resolve than small claims, severely injured victims must wait years to receive compensation. These delays force those who are most severely injured to settle for inadequate amounts.

Moreover, the cost of bringing a product liability lawsuit is outrageously high. A 1986 study by the Rand Institute for Civil Justice found that the annual transaction costs of the tort system exceed the compensation awarded to injured persons. A 1993 survey by the Association of Manufacturing Technology found that the lion's share of the costs associated with defending a product liability lawsuit go to attorneys' fees, subrogation, and court costs. Less than one-quarter of the total transaction costs associated with a product liability defense actually go to the injured party. This is clearly unacceptable.

THE PRODUCT LIABILITY SYSTEM IMPOSES EXCESSIVE COSTS WHICH ARE HARMFUL TO U.S. COMPETITIVENESS

Excessive product liability costs have resulted in significant market share loss for some U.S. companies. The U.S. machine tool industry, for example, has lost more than 20 percent of its domestic market share to foreign competitors whose liability costs are lower and far more predictable.

Jobs have been lost in the United States as companies shift production abroad to take advantage of less stringent product liability laws. Innovative products made and marketed abroad are lost to U.S. consumers.

The fear of product liability has also diminished investment in basic scientific research. Malcolm Skolnick, a lawyer and professor of biophysics at the University of Texas testified before the Commerce Committee that:

> Scientific inquiry is stifled. Ideas in areas where litigation has occurred will not receive support for exploration and development. Producers fearful of possible suits will discourage additional investigation which can be used against them in future claims.

THE PRODUCT LIABILITY SYSTEM DISCOURAGES INNOVATION AND ADVANCEMENTS IN MEDICAL PRODUCTS

Perhaps the most critical reason I became involved in this issue is that the excessive costs of the current product liability system harm consumers and patients by discouraging innovation and development of lifesaving and costsaving medical products.

Jim Vincent, chairman and CEO of Biogen, told the Senate Commerce Committee that he has decided not to pursue research into the development of an AIDS vaccine because of the current product liability system. One company that is attempting to develop an AIDS vaccine told the Commerce Committee that it was forced to delay important clinical trials because of liability concerns.

The research supports this anecdotal evidence. The Office of Technology Assessment found that the fear of potential liability is a serious barrier to research, testing, and marketing of vaccines. OTA recommends action by the Federal Government.

Excessive product liability costs have also forced manufacturers to withdraw even successful products from the market. For example, in 1983, Merrell Dow withdrew Benediction, an anti-nausea drug for pregnant women, because the cost of litigation arising out of use of the drug far exceeded revenue. The FDA and the health care professionals believe the product is safe; yet there is no comparable drug on the market. This, too, is unacceptable. Americans want new and better products that will improve their lives. They do not want to travel to other countries to illegally obtain drugs not approved in the United States, yet that happens on a regular basis. Part of this problem relates to the slow FDA approval process, but product liability weighs heavily here as well.

BIOMATERIALS SHORTAGE THREATENS ACCESS TO MEDICAL PRODUCTS

Mr. President, I also want to speak briefly on behalf of the amendment that will be offered by my colleague from Connecticut and is based on a bill we introduced last week: the Biomaterials Access Assurance Act of 1994.

This amendment, in my opinion, represents a significant step forward in reducing the costs of medical devices. It would reform our product liability laws to assure raw material suppliers that they will not be held liable unless there is real evidence that they were responsible for the product defect.

Our current product liability system makes it much too easy to bring lawsuits against raw materials suppliers, and too costly for those suppliers to defend themselves even when they ultimately win. Unless we include protections for raw material suppliers in this legislation, those who make many of the lifesaving medical devices that we take for granted today may no longer be able to purchase the raw materials and components necessary to produce their products.

Notwithstanding the fact that raw materials and component parts suppliers do not design, produce or test medical implants and devices, they have been sued in cases alleging inadequate design and testing of permanently implanted medical devices, testing of those devices, and warnings related to those devices. And even though these suppliers have almost never been held liable in these lawsuits, the cost of litigation far exceeds the total potential sales of raw materials and component parts to the medical device industry. As a result, many suppliers have simply stopped supplying raw materials and component parts to medical device manufacturers.

We in Congress must not allow the 7.4 million people who literally owe their lives and the quality of their lives to medical devices—and the countless others who will depend on medical devices in the years to come—to become casualties of our outmoded product liability system.

I urge the support of my colleagues for the Lieberman-Durenberger amendment.

FDA PROVISION

Mr. President, concerns have been raised by some of my colleagues in recent days about section 203(b) of this bill, which provides that manufacturers of drugs or medical devices that have been approved by the Food and Drug Administration [FDA] shall not generally be subject to punitive damages in product liability litigation.

In my view, Mr. President, it is unfortunate that this provision has drawn such negative responses. I believe that section 203(b) is the most important provision of the Product Liability Fairness Act. And I strongly urge my colleagues: If we are ever going to be able to get a handle on runaway health care costs, we must reject attempts to strike this provision from the bill before us today.

I believe that a good deal of my colleagues' skepticism is due to a fundamental misunderstanding of the FDA's approval process and of the provisions of this bill.

First of all, it is important to point out that this provision applies only to punitive damages. Plaintiffs harmed by an FDA-approved drug or medical device will still be able to get the full range of compensatory damages, including all past and future out-of-pocket expenses such as medical bills, rehabilitation costs, lost wages, diminished earning capacity, costs of providing household or child care services. S. 687 also places no limits on noneconomic damages such as pain and suffering or loss of companionship.

Second, the FDA approval process is extremely rigorous, and involves very difficult scientific judgments. The FDA does not take its role in approving drugs and devices lightly. In fact, the average length of approval for new drugs is 9 years, which, in my judgment, is far too long and in itself stifles innovation.

Moreover, section 203(b) applies only to those manufacturers who have complied fully with the FDA requirements after a product is approved. And, it does not apply if FDA approval was achieved as a result of bribery or if any relevant information required to be submitted was withheld from the FDA.

Finally, Mr. President, I would like to address several misstatements of fact that have been made over the last few weeks.

Some have said that products such as Dalkon shield, DES, and silicone gel breast implants, demonstrate that this provision will shield manufacturers of dangerous products from legal liability. The fact, however, is that none of these products has ever been approved by the FDA as safe and effective. Under S. 687, only those products that have been approved by FDA qualify for protection.

Opponents of this measure also argue that it will allow manufacturers to get away with putting unsafe products on the market. However, manufacturers will continue to have strong incentives to put safe products on the market because they will be fully liable for all harm—and compensatory damages alone can bankrupt a company.

CONCLUSION

Mr. President, it is not often that I find myself in total agreement with my colleagues Senator ROCKEFELLER, Senator DODD, and Senator PELL, as well as Senator GRAMM, Senator HELMS, and Senator FAIRCLOTH on any one issue. I am grateful particularly to the persistence of Senator ROCKEFELLER to pursue this legislation as aggressively as he has. This legislation should not be controversial, yet it is perceived to be a threat by those lawyers who greatly benefit from successful law suits including large punitive damages. Our goal here today should be to protect Americans who suffer from use of defective products as well as to provide new and better choices for our citizens. This bill meets those goals.

There is broad bipartisan support which exists across the entire political perspective on this issue. The legislation is carefully balanced and deserves our support.

At this point, I would like to submit for the RECORD a description of the FDA's reporting requirements for drugs and medical devices.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FOOD AND DRUG ADMINISTRATION [FDA]—FEDERAL REPORT REQUIREMENTS ON DRUGS AND MEDICAL DEVICES

DRUGS (21 CFR 314.80)

Manufacturers are required to keep records relating to production methods for a drug and its safety and effectiveness once a new drug is approved. In general, companies must report to FDA every 3 months during the first year, every 6 months during the second year, and once a year after the first two years.

All serious and unexpected adverse drug experiences must be reported to FDA within 15 working days under the title of a 15-day Alert Report. Adverse drug experiences that are not both serious and unexpected need only be reported at quarterly intervals for the first three years, and then annually.

The company shall maintain, for a period of ten years, records of all adverse drug experiences including raw data and any correspondence relating to adverse experiences.

All adverse reaction reports are available under Freedom of Information Act (FOIA) requests.

MEDICAL DEVICES (21 CFR 803)

FDA requires device manufacturers or importers to report to FDA whenever the manufacturer or importer receives or otherwise becomes aware of any information that reasonably suggests that one of its marketed devices:

(1) may have caused or contributed to a death or serious injury; or

(2) have malfunctioned and that the device or any other device marketed by the manufacturer or importer would be likely to cause or contribute to a death or serious injury if the malfunction were to occur.

Report requirements by manufacturers (21 CFR 803.24)

Manufacturers and importers must submit such reports to the FDA whenever they receive or otherwise become aware of any information: oral or written; in a medical or scientific literature, published or unpublished; or through a manufacturer's own research, testing evaluation, serving or maintenance of one of its devices.

Such reports must be made by telephone as soon as possible, but no later than within 5 calendar days of the initial receipt of information, and followed by a written report to FDA within 15 working days of the initial receipt of information.

Public availability of reports (21 CFR 803.9)

Any report, including any FDA record of a telephone report, submitted under the provisions is available for public disclosure.

Recordkeeping requirements (21 CFR 803.31)

Manufacturers are required to keep records for the life of the device or two years, whichever is greater.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, following the vote on cloture, I convened a meeting in my office of several Senators who are involved directly in this matter, both proponents and opponents of the legislation, and we discussed the best way in which to proceed. Following that discussion I made a decision which I will now announce and which I believe all of the Senators involved concur in.

Following my remarks, Senator GORTON will be recognized to withdraw his amendment.

Following that, Senator DORGAN will be recognized to offer an amendment. That will be the pending amendment. And there will be no vote on that amendment prior to the cloture vote, which will occur at 10 a.m. tomorrow. So, therefore, I can now announce there will be no further rollcall votes this evening. Both staffs may notify Senators of that fact. The next vote will be the cloture vote at 10 o'clock tomorrow morning and then, depending upon the outcome of that vote—how we proceed thereafter will be dependent upon the outcome of that vote.

There will be debate this evening on the Dorgan amendment, after it is offered, for so long as Senators wish to address that subject. But there will be no recorded votes.

I would like to know, before we proceed—I am going to ask Senators GORTON and ROCKEFELLER, and Senator HEFLIN, if I may have the attention of the Senator from Alabama—I will ask Senators if I have correctly stated the understanding which we have just reached with respect to our present proceeding?

Mr. GORTON. You have.

Mr. HEFLIN. I understand there will be no votes, even on the Dorgan-Moseley-Braun amendment, before the cloture vote. The next vote will be cloture?

Mr. MITCHELL. That is correct.

Mr. ROCKEFELLER. Will the majority leader yield? Will this arrangement contemplate an hour of discussion prior to the 10 o'clock cloture vote?

Mr. MITCHELL. Under the rules there would ordinarily be a cloture vote 1 hour after the Senate convenes. We have now set the cloture vote, by unanimous consent, and I inquire of the parties—I will inquire of Senator ROCKEFELLER and Senator HEFLIN, and Senator HOLLINGS, whether they wish to have that further debate tomorrow morning or whatever time is convenient for my colleagues?

Mr. ROCKEFELLER. The Senator would prefer it.

Mr. HEFLIN. We would have no objection, after morning business.

Mr. MITCHELL. I ask the staff, in preparing for the close of business this evening, that the order be prepared in such a way that the Senate will come into session—at least return to this matter at 9 a.m., and have a vote at 10 a.m., and that hour will be equally divided in the usual form between the two sides, under the control of Senator ROCKEFELLER in favor, the proponents, and Senator HEFLIN will control the time in behalf of the opponents. Senator ROCKEFELLER or his designee or Senator HEFLIN or his designee will control the time.

Mr. LAUTENBERG. Will the majority leader yield?

Mr. MITCHELL. Yes.

Mr. LAUTENBERG. I am sorry I missed some part of the discussion. Is it the intention to stay in session now and deal with the bill?

Mr. MITCHELL. For debate only. Senator GORTON is going to withdraw his amendment. Senator DORGAN is going to offer an amendment and that will be the subject of debate only. The next vote will be on cloture at 10 a.m. tomorrow.

Mr. LAUTENBERG. Is it the intent of the managers to permit amendments beyond that which have been discussed to be offered this evening?

Mr. MITCHELL. The opponents have indicated they will not permit a vote on the Dorgan amendment. No discussion occurred with other possible amendments. That would, of course, require Senator DORGAN's amendment be set aside. And that would require unanimous consent, including his. There was no discussion of that in our meeting. I expect the Senator from New Jersey, if he wants to do that, would have to inquire of the Senators involved.

Mr. LAUTENBERG. I thank the majority leader.

Mr. MITCHELL. Mr. President, if it is agreeable then—and I take the remarks of the Senators to indicate that it is agreeable—I repeat, there will be no further rollcall votes this evening. The next rollcall vote will be at 10 a.m. tomorrow on cloture on the bill.

I thank my colleagues for that cooperation and I yield the floor.

AMENDMENT NO. 1941

Mrs. KASSEBAUM. Mr. President, I was wondering if the distinguished Senator from Connecticut might be willing to answer a few questions with respect to the impact of S. 687 on suits against manufacturers of drugs and medical devices. While many of these points have been mentioned in this debate, I would appreciate further clarification.

First, as I understand it, the statute of limitations provisions of S. 687 will ensure that individuals who may be exposed to a harmful product will not lose their right to sue before they reasonably could have known both that they were injured and that the product may have caused their harm. This in essence means that in a number of States, S. 687 will make it easier, not harder to sue drug and medical device companies.

Mr. LIEBERMAN. The Senator from Kansas is correct. Section 204 provides a uniform statute of limitations of 2 years from the date a claimant knew or should have known both of the injury and its cause. It will have exactly the effect you outlined.

Mrs. KASSEBAUM. There have been many accusations that the so-called FDA provisions of this bill would prevent persons who are injured by FDA approved drugs and medical devices from seeking compensation from manufacturers. As I read section 203(b), however, it applies only to claims for punitive damages, not to claims for compensatory damages, so that claimants will still be able to sue under State law for any compensatory damages, just as they do now.

Mr. ROCKEFELLER. Again the Senator from Kansas is correct. Section 203(b) has no impact on claims for compensatory damages such as lost wages, medical costs, costs of replacement services or pain and suffering.

Mrs. KASSEBAUM. I know the Senator has said this before, but it is my understanding from reviewing this legislation that the so-called FDA provision does not cover DES, Dalkon Shields, silicone gel breast implants, or super-absorbency tampons. Am I correct?

Mr. LIEBERMAN. The Senator is correct. Section 203(b) only provides "good actor" protection against punitive damages if the product is subject to pre-market approval by the FDA and is actually approved. Pre-market approval is a very specific concept under our food and drug laws. As the Senator, the ranking member of the Committee on Labor and Human Resources, knows, when DES was first marketed and prior to 1962, new drugs could be placed on the market without any formal action by FDA. At that time, all a company had to do was file information with FDA indicating that a product was safe, and if FDA did not respond within 60 days, the manufacturer could go ahead and market it. This type of system is pre-market notification, not pre-market approval. A drug could also be placed on the market at that time if it was "generally recognized as safe."

In 1962, Congress changed the drug laws completely. After 1962, new drugs could not be placed on the market until FDA actually approved the new drug application, unless the drug was found to be "generally recognized as safe and effective." These are the two tests we use in section 203(b) with respect to drugs: was the drug actually approved under a new drug application, or was it generally recognized as safe and effective. DES was never generally recognized as safe and effective, and it was never actually approved under a post-1962 drug application. Thus, DES is not covered under section 203(b).

A similar analysis applies with respect to Dalkon Shields and breast implants. Both of those products were placed on the market prior to enactment of the Medical Devices Amendments of 1976. Dalkon Shields were marketed entirely prior to 1976, so they could never have received FDA approval. Silicone gel breast implants were grandfathered because they were already on the market in 1976. Grandfathered devices did not need to receive pre-market approval. Thus, neither Dalkon Shields nor silicone gel breast implants are covered by the FDA/punitive damages provisions.

Super-absorbency tampons are class II medical devices, and hence are not subject to pre-market approval by FDA. Thus, they are not covered by section 203(b) either.

Mrs. KASSEBAUM. I notice that a number of the horror stories cited by opponents of S. 687 are cases in which claimants regularly assert that the manufacturer failed to submit required information to the FDA. One such case involved a copper-7 IUD. In another recently publicized case, a manufacturer of cardiac catheters, C.R. Bard, was found to have engaged in criminal withholding of information from the FDA. As I read S. 687, it provides no punitive damages protection for manufacturers who have failed to abide by their FDA duties and who have been sued because of a resulting injury.

Mr. LIEBERMAN. The Senator is again correct. In every horror story of which I am aware, claimants have alleged that the manufacturer did not supply required information to the FDA.

Mrs. KASSEBAUM. I have one other question. Opponents of this legislation have been claiming that the provision making liability for noneconomic losses several rather than joint hurts women because they cannot recover fully for reproductive injuries in drug and medical device cases. From what I am told, however, joint liability is rarely an issue in drug and medical device cases. Before joint liability can be an issue, there must be two people who helped cause the harm. In drug and device cases, however, the only party that caused the harm is the manufacturer. Thus, joint liability cannot be an issue in those cases.

Mr. LIEBERMAN. Again the Senator is correct. Joint liability is simply not an issue in most drug and medical device cases. Interestingly enough, in DES and other market share liability cases, in which there are often several defendants, courts have refused to make liability joint. Courts have viewed joint liability as inconsistent with market share liability.

Mrs. KASSEBAUM. Based on what I know about the provisions of S. 687 governing punitive damages for FDA approved products and several liability for noneconomic harm, I simply do not believe that S. 687 is antiwoman. In fact, passage of S. 687 could substantially help women. The Institute of Medicine has recommended enactment of an FDA compliance defense as a means of lowering one of the significant barriers to the development of new contraceptives. By encouraging research, development and innovation in the health field, S. 687 could help to spur the development of products to diagnose and treat osteoporosis, breast cancer, and cervical cancer.

I believe the provisions of S. 687 granting "good actor" protection against punitive damages to manufacturers who comply fully with FDA requirements will have an extremely positive effect on the public health. I urge my colleagues not to strike section 203(b), and to vote to support cloture on this bill.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, I withdraw the first-degree amendment.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

So the amendment (No. 1941) was withdrawn.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

AMENDMENT NO. 1895

(Purpose: To eliminate provisions limiting punitive damages concerning certain drugs and medical devices and certain aircraft and components)

Mr. DORGAN. Mr. President, I send an amendment to the desk. It is amendment No. 1895. The amendment is offered on behalf of myself, Senator MOSELEY-BRAUN, Senator MIKULSKI, Senator RIEGLE, and Senator FEINSTEIN.

The PRESIDING OFFICER. The clerk will report amendment No. 1895.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, Ms. MOSELEY-BRAUN, Ms. MIKULSKI, Mr. RIEGLE, and Mrs. FEINSTEIN, proposes an amendment numbered 1895.

The amendment is as follows:

On page 19, beginning with line 7, strike out all through line 6 on page 22.

Mr. DORGAN. Mr. President, I will be brief, and then I would like to call on my colleague, Senator MOSELEY-BRAUN, who has worked with me in recent weeks in preparing this amendment. This is a very short amendment and a very simple amendment. It is substantial in its consequences but, nonetheless, simple.

It simply strips from this bill that the Senate is now considering the provision, section 203, that establishes a test for manufacturers with respect to punitive damage awards and FDA and FAA approval. And that test is that if the FDA or FAA has approved their products, then there is developed a shield behind which it is much more difficult to seek punitive damages from the manufacturer. In other words, it establishes a protection for manufacturers if the Federal agency, in this case the FDA or FAA, has approved the product.

I have said before—I will be very brief now because I spoke earlier—I said it is legion to review the products that have been approved in good faith by the FDA that later proved to be very troublesome products: The Dalkon shield, DES, silicon breast implants, and a range of areas. I have gone through a list of drugs and medical devices. I will not repeat them.

But it is clear that the FDA has not been capable, nor should we expect it to be capable, of approving a range of drugs and a range of medical devices, to say that we have the staff, we have the capability, we have the investigative power—of saying when we approve this, we understand it does no harm and we represent that to be the case and we will construct from that a shield to protect manufacturers against punitive damages.

The Senator from Illinois, Senator MOSELEY-BRAUN, and I feel strongly that this is a terrible provision in this bill and it must be eliminated.

If we eliminate this provision in this bill, I said on the floor previously and I will say again that I will support this piece of legislation. But this provision in this bill is very troublesome and, in my judgment, should not advance.

Mr. GORTON. Will the Senator from North Dakota yield for just a moment?

Mr. DORGAN. I will be happy to yield to the Senator from Washington.

Mr. GORTON. Mr. President, as the Senator from North Dakota well knows, this Senator, as one of the primary sponsors of the bill, disagrees with his friend's characterization of the FDA defense against punitive damages under certain circumstances and has spoken vehemently over an extended period of time in favor of just that provision.

As this Senator has assured his friend from North Dakota privately, in order to get a bill through with which the Senator from North Dakota and the Senator from Washington agree, leaving this portion of it aside, this Senator is, in fact, going to vote in favor of the amendment proposed by the Senators from North Dakota and Illinois and will undertake to persuade as many of his colleagues on this side of the aisle to follow his lead as is possible; that he feels a very large number of them, or a very substantial number of them will do so.

The Senator from Washington makes that assurance because it is quite evident now that opponents to the bill will prevent the amendment proposed by the Senator from North Dakota from coming for a vote before tomorrow's cloture vote. But I simply want the two Senators who are sponsoring this amendment to know that whatever my view on the merits, I will vote with them and I will undertake to secure a sufficient number of votes from this side to assure, as much as can ever be assured, that they will, in fact, be victorious.

Mr. DORGAN. Mr. President, I appreciate the Senator's comments. It has been some months since we marked this bill up in the Commerce Committee and moved it forward. During those months, Senator MOSELEY-BRAUN and I have worked on this issue because we have felt very concerned about this.

This is a sea change of sorts, when he says he will support this amendment. Our dilemma at the moment, of course, is we are told we may not get a vote on this amendment prior to the next cloture vote, and we will have to talk some about that. I hope that is not the case, but some suggest they do not want to vote on this and will continue talking about it.

Having gone through this a few minutes ago, let me at this point suspend; and my colleague from Illinois, Senator MOSELEY-BRAUN, I think, can state this better than can I. Let me yield the floor, Mr. President, so that my colleague, who has worked very hard on this over the last months, may speak to it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Mr. President, there is an old expression that says that those who love the law or sausages should not watch either of them being made. I daresay that is the situation with which we are confronted with regard to the pending amendment and with regard to produce liability reform in general.

Let me say at the outset, Mr. President, that I have voted against cloture primarily because I was concerned about problems with this legislation and convinced that the problems in this legislation, particularly the problems related to the FDA and FAA excuse, did not overcome the merits of the legislation.

The merits of the legislation include the fact that I believe we really do need to have some national standards in the area of product liability. Without rational standards, people are sent pillar to post to defend actions with different standards and different rules. I do believe that there has been abuse with the operation of our tort law in this country.

That argument has been raised by manufacturers who say that shipping their products is made more expensive by operation of the tort laws in our country. And there has been a great deal of discussion about the larger impact that product liability laws have on the competitiveness and stability of businesses in this country.

What Senator DORGAN and I have specifically tried to address is one narrow portion of this bill, in an effort to make the legislation a better bill, in an effort to address the specific issues that concern the rights of victims, of little people, who may not be heard otherwise. While the battle over product liability law is largely a battle of the network giants, a battle of big-picture issues and huge interests, Senator DORGAN and I have tried to take steps to protect the forgotten consumer.

The pending amendment relates specifically to the health and safety of those who may be injured by defective drugs and medical devices that are approved by the FDA or by aircraft components approved by the FAA.

S. 687 provides what we call the FDA excuse. I know the Senator from Washington disagrees with my characterization. But essentially what it says is that a person cannot get punitive damages for a defective medical device, such as an IUD or silicon breast implant; or a defective medical drug, so long as that device or drug had received premarket approval from the FDA, so long as the FDA said the device was OK. That turns tort law, as we have always known it, on its head, and establishes an administrative agency as a gatekeeper to decide what damages might otherwise be allowed in the law.

We know from experience that FDA is understaffed, overworked, and does not have the capacity to do the kind of analysis, to do the kind of research, to actually guarantee that the public will not be subjected to unreasonably dangerous drugs or medical devices.

So this FDA excuse will have the effect of shifting responsibility from the manufacturers of the defective products to the Government. That struck Senator DORGAN and me as being inappropriate; that this shifting of responsibility was not what S. 687 intended to do and that it was not what the proponents of this legislation wanted to do; and that it was entirely inappropriate, in fact, to place with an administrative agency in this level of control over the rights of victims of defective medical devices and products.

Happily, I think, the managers of this legislation have agreed with Senator DORGAN and me with regard to the FDA excuse. They have agreed that our amendment, which simply strikes those portions of the bill relating to the FDA and FAA excuse, should be adopted.

So the whole section of the bill relating to what we call the FDA excuse would be stricken, taken out of the bill, by virtue of this amendment.

I would like to add, having worked on the amendment for a number of months now, Senator DORGAN and I have now been joined by three additional cosponsors—Senators REIGLE, MIKULSKI, and FEINSTEIN—because it really is a good idea. It is a good idea for protecting people, and by that I mean the ordinary people, not the big money interests, not the big giants, but the folks who actually might suffer an injury from an FDA or FAA approved product.

Well, that may sound straightforward, Madam President, but the problem is that our amendment addresses the merits and not the procedure. And so here we are in a situation in which we have achieved consensus on both sides of the aisle that striking the FDA and FAA excuse provisions of the bill is the right thing to do. The managers of the bill say it is the right thing to do; Senator DORGAN and I, our three cosponsors say it is the right thing to do; everybody believes this is a meritorious proposal, one that really will take a positive step to make this bill a better bill. We have consensus on that. But we are now stymied by the procedure relating to this legislation.

Now, there are those who say that this legislation has been around for 14 years now, a long time before I got here or Senator DORGAN got here or I daresay any number of Senators arrived in this body. This legislation has very long teeth, indeed, not to mention legs.

But the fact is this is the first time we have been able to raise this issue of the FDA and FAA excuse, and I think Senator DORGAN and I have raised it responsibly. I think we have raised it in a way that was not calculated to make controversy but, rather, to reach consensus. And were, in fact, able to reach consensus. However, unfortunately, it does not now appear that we will be able to have a vote on this amendment before there is a vote on cloture on the underlying bill as a whole. So this meritorious proposal is being held hostage to the larger questions relating to this legislation. That is unfortunate, but that is the legislative process. That is the way things go in the legislative process. I hope to have the support of my colleagues to vote in support of the amendment that has been offered by Senator DORGAN and I if we do, in fact, get a chance to vote on it. If we do get a chance to vote for it, I hope we are able to make this bill a better bill and a bill of which this Senate can approve.

I yield.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER (Mrs. MURRAY). The Senator from North Dakota.

Mr. DORGAN. Madam President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. DORGAN. I yield the floor.

Mr. ROCKEFELLER. Will the Senator yield?

Mr. DORGAN. I would be pleased to yield.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Madam President, first of all, I wish to say I know that the Senator from North Dakota wants to get home, because he has family obligations, and I do not think we are going to do much more tonight unless the Senator himself wishes further discussion. I will be available for so long as people want.

But I would like to repeat what Senator GORTON said, that the FDA/FAA amendment had a lot of merit. On the other hand, we have not been able to discuss this bill for 13 years because it has been filibustered by the same people who are apparently going to filibuster it through tomorrow and cloture.

Now, if we get cloture, then we will have a vote, and I think if we have a vote, we will prevail. And we will prevail with a bill, as the Senator from Illinois has said, that is a much improved bill.

I very strongly, proudly and happily join with the Senator from North Dakota and the Senator from Illinois in deleting this provision because I think for the overall public purposes of what we are doing, it does make it a stronger bill. I would therefore encourage my colleagues, as they think tonight and tomorrow, that although in the legislative process filibustering is a useful technique, particularly as used in the civil rights era, and it has been used from time to time since then. But this is really a full-fledged filibuster that we are talking about now. And I think that those who oppose this will simply not stop talking unless we can get cloture tomorrow. If we can get cloture tomorrow, I think we can pass a bill which will not have the FDA/FAA part. And then I will myself say to the Senator from North Dakota and the Senator from Illinois that it is true the FDA is not perfect, and it is true that they may not have enough people, and these are things that now we do not have to worry about because that is no longer a part of the bill.

So I would urge my colleagues to prayerfully consider their cloture vote tomorrow, that I hope they would vote for cloture because we now have a substantially different bill and I think a substantially better bill. I hope they would consider that, and that when they come to vote tomorrow they will understand this is a major adjustment in the bill and that cloture will prevail.

I thank particularly my colleague from North Dakota and also from Illinois because they have been professional, calm, reasonable, and just good in the way they have handled this whole situation. I wish to thank them.

With that, I would yield the floor.

Mr. DORGAN. Madam President, as I understand it, there is an hour of debate tomorrow morning before the cloture vote, and I think it would be useful to come back to the subject and continue in some additional detail on section 203. I know the Senator from Illinois would like to do that, and I would as well.

I appreciate the comments of the Senator from West Virginia. As he knows, this is not a new discussion. This discussion occurred the same day this amendment passed the Senate Commerce Committee, and we are now some months later at the very point of contention: what about this section?

I appreciate the likelihood at this point that we may get beyond this and strip this away. We do have a situation where a cloture vote is scheduled for 10, and it appears we will not be able to deal with this amendment before the cloture vote, so we are going to have to discuss that. But in any event I think we have made some progress for those of us who believe that this amendment must leave this piece of legislation, and if it does that we would support advancing the legislation.

Madam President, I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Let us make the record clear. The distinguished Senator from Illinois used the proper word this morning, "masquerade." The masquerade continues.

I intend to vote for the amendment to strike because any time I can get any section of this bill out; it is that bad, it is that much a travesty, I am going to support getting it out. But the masquerade does continue when you come in and say you want uniformity but then put a sentence that this shall not constitute a Federal cause of action, sending you to the 50 several jurisdictions—all these words of art when you talk about in the proof of punitive damage the conscious, flagrant disregard of safety, and it has to be proved by clear and convincing. When you say to a seriously injured female under these drug cases you do not have any economic loss—yes, you can get a small verdict for the economic loss, but for the pain and suffering and the noneconomic, we have to get to the proof of several liability on each one of the several parties—you have given me quite a task of interrogatories, various discoveries and so on.

Then when you come to settlement, the so-called settlement is a misnomer if there ever was one because there is an offer made and under rule 68 a continuing offer made. So the corporate counsel sits up there and he measures just where he is continually bringing pressure with the employer of the injured person.

You see, there can be no settlement unless the employer is notified and joins in. Of course, the insurance company for the manufacturer gets in touch with that employer, and, says, "Here is what we will offer. There is enough money here to take care of your workmen's compensation, and what you paid for salaries while the injured party was home sick," and otherwise, and, says, "We can take care of that, and you had better tell the injured party the sentence so we can get your money."

So you bring not only the corporate counsel against you. You bring, by gosh, the employer against you. Then if you happen to get a little bit, $1 more, you are in trouble because the $1 more cancels out the contingency contract. There is a cap on so-called attorney's fees. That has already been eaten up in the contract itself. The contract itself was discontinued. But on the other hand, if you get less, I can tell you here and now what happens. All your collateral benefits are assessed against your particular verdict, and if you had a health insurance policy that is taking care of your hospitalization and medical costs, that is fine business. But that is not what you paid for to be injured. You are the winner. You have won in the one case and you proved to all 12 jurors the burden has been on you, and it has been a clear and convincing burden.

You come around, and even a several burden, and you have done all of these things after 2 years. Then they take away, let us say $100,000, and the insurance costs that you put out there. Otherwise, if you had life insurance, and there is a loss of life involved in the case, I can tell you exactly what happens. All of that has gone. Of course you have been paying premiums for 30 or 40 years, like all of us have, to protect yourself with life insurance, not to become a winner in a lawsuit and a damage suit. But the winner then becomes the loser. Because you won, they cancel out all of your insurance benefits. You have to assess that against your verdict.

So it is nice to be so condescending and tell everybody how wise you are—and each Senator has his or her own needs.

But I can tell you here and now that will get rid of this abomination. This bill is calculatedly bad. If they have you down the side road of the FDA, and still getting this bad bill passed, then we have not done our job for the injured parties in America here tonight, or tomorrow morning.

So I want everybody to get to look at the bill in its entirety. It has been very difficult to discuss the entire measure. I refute the idea of filibustering. You cannot come in and say we filibuster and discussed the case but we never discussed the case. I mean, come on. Which way do you want it? The fact of the matter is we have discussed, discussed, and discussed again this particular bill in different forms. It still is what the Chief Justices' Association, every consumer organization, the attorneys general, legislatures, American Bar Association, every woman's health group has come out against this measure.

That is why it has not passed in these years. It has not been the trial lawyers, and it has not been filibustered. It has been a very, very bad bill. The States are not coming to Washington and saying federalize this thing and give us half a haircut with a part federalized and a part not federalized. They have said leave us alone.

Here is a great moment for those who always wanted to, by gosh, defer to the States' responsibilities. There is no crisis in litigation costs, availability of insurance, and otherwise. They come now with this gimmick. It has been a gimmick. It continues to be one. It is a bad gimmick. It is a travesty on the injured parties in America.

I hope we can still vote cloture and continue to work against this bill.

I yield the floor.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

MORNING BUSINESS

Mr. ROCKEFELLER. Madam President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein for up to 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MARSHALL COUNTY, AL RETIRED SENIOR VOLUNTEER PROGRAM: PREPARING FOR THE FUTURE

Mr. HEFLIN. Mr. President, today I rise to commend the Marshall County, Alabama Retired Senior Volunteer Program, known as RSVP, for an outstanding achievement. The Corporation for National and Community Service recently selected RSVP for a summer of safety project grant. The Marshall County volunteer project is 1 of only 17 to receive the grant and the only rural recipient in the entire Nation.

The members of RSVP care about their community and want to improve their children's futures. Crime prevention will be the focus of the group's work this summer. The Marshall County Program has created a plan to fight crime by promoting literacy and self-esteem in its local young people. Their project pairs low-income children with senior citizens for one-on-one interaction and reading time. Although the children are the main beneficiaries of this project, it is sure to bring pleasure to many seniors as well.

My praise for the Marshall County RSVP also extends to its work in vital areas such as rape prevention, substance abuse prevention, and fire preparedness, to name only a few. The group reaches the community through seminars, games for children, and public safety initiatives.

I am pleased to congratulate the fine people who have worked diligently to make the Marshall County Retired Senior Volunteer Program such a success. Their contributions are truly worthy and deserving of this national service grant.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE OF THAT

Mr. HELMS. Mr. President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

So, when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that it was, and is, the constitutional duty and responsibility of Congress to control Federal spending. Congress has failed miserably in that task for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,601,447,421,459.43 as of the close of business yesterday, Monday, June 27. Averaged out, every man, woman, and child in America owes a share of this massive debt, and that per capita share is $17,649.61.

ADM. STANLEY ARTHUR, U.S. NAVY

Mr. INOUYE. Mr. President, I rise today to discuss the loss of a great leader. On Friday of last week, it was announced by the Navy that Adm. Stanley Arthur was withdrawing his name from nomination to the position of commander in chief Pacific, commonly referred to as CINCPAC.

Mr. President, I was distressed to learn of the admiral's decision because, in my dealings with him over the years, I have found him to be a man of great wisdom, fairness and integrity.

Admiral Arthur received his commission from Naval ROTC at Miami of Ohio University in 1957, after earning his bachelor of science degree in aeronautics. During his career he served aboard the U.S.S. *Bennington*, and commanded the U.S.S. *San Jose* and the carrier the *Coral Sea*. During the Vietnam war he flew more than 500 combat missions as an A-4 pilot, earning the Legion of Merit with combat "V", 11 Distinguished Flying Crosses, 4 Air Medals for Individuals Action, 47 Strike/Flight Air Medals and a Navy Commendation Medal with combat "V". During the Persian Gulf war, he commanded the U.S. 7th Fleet, directing the combat operations of more than 96,000 Marine and Navy personnel.

Admiral Arthur rose through the ranks pinning on his fourth star in 1992 and beginning his tenure as the Vice Chief of Naval Operations. It is here that the admiral made the tough decisions for which he is being criticized.

The admiral, because of his vast aviation experience, was asked to personally review the case of an individual who accused a superior of sexual harassment and who now argues that her complaint caused her to be flunked out of flight school. The admiral examined all the facts in the case, was fully supportive of the individual's harassment complaint, but concluded that she failed in flight school because of her skills, not because of her charges. Because of his involvement, some in the press and in public life decided to make a political issue of this case.

Reading the headlines, one gets the impression that Admiral Arthur was guilty of sexual harassment. That is not the case. Nor was the admiral responsible for the initial discipline that ultimately saw the resignation of the individual charged with sexual harassment. What Admiral Arthur did, and what he takes responsibility for, is that, upon reviewing all the facts, he determined that the woman who failed flight school did so because of her failure to meet well founded requirements for qualification—based on her training record. The Navy and the DOD Inspectors General reviewed the case and, independently, came to the same conclusion. Both agreed with Admiral Arthur's judgment. However, the facts of the incident do not seem to matter.

Have we come to this—where the facts no longer matter, where appearances and imagery rule, where symbolism and symbolic value drive out realism and truth? Mr. President, we all decry sexual harassment. We were all appalled by the Navy's Tailhook scandal. But, we have to stop this cycle of character assassination by insinuation. Enough is enough.

Admiral Arthur has served this country loyally and in good standing for 37 years. He was nominated by the President to serve as commander in chief of all Pacific forces because he demonstrated leadership, dedication to duty, fairness and good judgment. He has withdrawn his name because he saw himself as an impediment to progress. Admiral Arthur realized that the Navy which he has served tirelessly was continuing to be tainted as the service of sexual discrimination and harassment because of his nomination. This is not fair, this is not right.

I believe it is the country's loss that Admiral Arthur will not be serving as CINCPAC. Based on his long career, I have every confidence that he would have served impeccably in that role.

TRIBUTE TO JOHN R. O'CONNOR

Mr. LIEBERMAN. Mr. President, I rise today to pay tribute to the newest U.S. Marshal for the District of Connecticut, John R. O'Connor.

On Monday, John O'Connor fulfilled a uniquely American Dream when he was sworn in as U.S. Marshal by U.S. District Court Judge Jose Cabranes. That dream was born in the hearts of people like Susanne Reynolds O'Connor, John's mother, who came to America from Ireland in search of a better life for her children. Susanne and John P. O'Connor, John's father, instilled in him a great respect for this country and its laws and people. As a result, John O'Connor's life has been devoted to public service.

For 27 years, John O'Connor served with distinction in the New Haven Police Department holding the ranks of sergeant, lieutenant, captain and commanding officer of the patrol, detective and internal affairs divisions. During this time, he received over 20 commendations from the board of police commissioners for outstanding police work. John O'Connor's exemplary service has also been recognized by the Federal Bureau of Investigation and the Connecticut State Police.

Prior to his work as a police officer, John O'Connor served our country as a member of the U.S. Army and in the Connecticut National Guard Active Reserve. And throughout his life, John has served his community in ways above and beyond the call of duty, spending countless hours of his spare time working with organizations devoted to the betterment of young people. He helped organize the Dixwell Community Basketball Tournament, served on the boards of the New Haven Boys and Girls Club and St. Mary's Girls High School, and chaired the New Haven Register Basketball Classic, which brought together urban and suburban teams for sport as well as conferences on college preparation and the dangers of drug and alcohol abuse.

John O'Connor, a resident of West Haven, CN, has also been an active participant in events celebrating his Irish heritage. He served as grand marshal of the Greater New Haven St. Patrick's Day Parade, and was recognized by the West Haven Irish-American Club as man of the year.

His years of experience, leadership and public service will serve John O'Connor and our State well as he exercises his duties as U.S. Marshal. As someone who has known John and his good works for many years, I was honored to join with my distinguished colleague, Senator CHRISTOPHER J. DODD, in recommending his name to President Bill Clinton last year, and I was especially grateful that the President agreed with our recommendation and formally nominate John O'Connor for U.S. Marshal.

Mr. President, I rise to salute John O'Connor and wish him well in the performance of his new duties. I also wish to recognize John's family, including his wife, Barbara Abate O'Connor; his daughters, Debbie and Lisa; his sisters, Susanne Bowery and her husband Joseph, and Joan Weber and her husband Paul; his brother, Frank O'Connor and his wife Lynn; and his many nieces and nephews. All of us are proud of John O'Connor and what he has accomplished.

TIME IS RIPE FOR A MIDDLE EASTERN SECURITY FRAMEWORK

Mr. DECONCINI. Mr. President, since 1990, the cochairman of the Helsinki Commission, STENY HOYER, and I have advocated creation of a CSCE-like process in the Middle East. The historic agreement between Israel and the PLO last September has made the possibility of such a scheme more real than ever before. And while there are no guarantees a CSCME process could resolve all complex and explosive issues in the region, we now stand at an historic juncture where long-absent political will may suddenly exist, and for the first time, nations in the region appear at least willing to engage in dialog. In this climate, a regional negotiating framework could foster additional confidence-building measures. And it is these little initial steps, Mr. President, which I surely believe are necessary to inspire the trust and contacts between people needed to progress on tougher issues in the future.

Mr. President, I want to emphasize the need to aggressively pursue all avenues which will promote peace and stability in the Middle East. The opportunity we are confronted with is rare and should not be squandered. And we are all too well aware of the extremist forces working to sabotage the peace process at every turn.

Mr. President, I would like to share a recent op-ed by Cochairman HOYER on the CSCME process published in the Washington Times. The piece offers some persuasive arguments for our Government's involvement in promoting CSCME, and I hope that this body will support such efforts. For surely, as a CSCME is in the best interests of all regional participants, it will also safeguard our own best interests.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, June 21, 1994]

A NEW FRAMEWORK FOR PROGRESS IN THE MIDDLE EAST

(By Steny H. Hoyer)

The mutual recognition agreement last September between Israel and the Palestine Liberation Organization marked a historic step forward toward peace in the Middle East.

Since then, Palestinians and Israelis working together to meet the critical initial needs of coexistence have fundamentally altered the politics of the Middle East. The possibility of a broader security framework has finally become a reality. An opportunity exists for the states of the Middle East to engage in a process in which old hatreds and passions can be rechanneled into constructive dialogues between states and peoples; by which barriers to trade, travel and communication can be discussed and removed; and within which regional stability can be established.

Since the end of the Persian Gulf war in 1991, I, along with Senator Dennis DeConcini, have suggested that a Conference on Security and Cooperation in the Middle East (CSCME), modeled on the Conference on Security and Cooperation in Europe (CSCE), could make a significant and constructive contribution to that end. Today, the leaders of Israel, Turkey, and other Middle Eastern nations and our own administration have also determined that the time is right for a CSCME.

The CSCE—also known as the Helsinki process—was born with the signing of the Helsinki Final Act on Aug. 1, 1975, which set forth principles by which states would deal with each other and with their citizens. Despite its name, the Final Act marked the beginning of a remarkable political dialogue in a bitterly divided, postwar Europe. By providing for periodic follow-up meetings, the CSCE brought hostile states to the table over and over again to address the issues which separated them in the areas of military security, human rights and trade. The issues were divisive, the discussions contentious at times, but each state felt it had a stake in the process. Though some viewed the Final Act as a legitimation of the territorial and political arrangement of postwar Europe, others saw it as a means to overcome those very divisions.

For decades now the Middle East has been a region dominated by violence, its politics largely determined by the Israeli-Palestinian question. Few channels exist through which Middle Eastern states and their peoples can address region-wide issues. A Middle East security framework could encourage regional security through arms control, verification, confidence-building, and respect for human rights. The presence of a multilateral forum for discussion would provide an outlet for grievances and a framework for conflict resolution. States would need only be assured that participation would not prejudice their individual interests and that each state's security would be enhanced through participation in region-wide talks. For the United States and its allies, including Russia, CSCME could serve an important role in promoting democratic institutions, containing radical Islamic fundamentalism, stemming terrorism, curbing arms proliferation and securing peace and security in the region.

Of course, there are no guarantees that a CSCME could solve the complex and explosive problems confronting the Middle East. Meetings and documents can change nothing by themselves if the political will of the participating states is in question. But we are now at a historic juncture where long-absent political will may suddenly exist. We now have an agreement that has made the conditions for a long-term peace better than they have ever been before.

The Israeli-PLO accord sets the stage for launching a security framework, much like the agreement with respect to the two Germanies and their boundaries did for CSCE in the early 1970s. In such a climate, a CSCE-type process can bring strength in its persistence, in its determination to foster continued political will among its participating states and, just as important, among their citizens. These aspects of the CSCE—political dialogue and public participation—are critical in the Middle East.

Once implacable enemies, the PLO and Israel are attempting to live side by side in peace. At the White House signing last year, Prime Minister Yitzhak Rabin sadly noted that for many the "ceremony has come too late." But weary of the hate and revenge that have claimed so many lives, Israel and the PLO have, despite horrific violent acts by extremists, taken brave steps toward creating a new order in the Middle East.

The United States must remain engaged in the process and work with its allies to sustain these new efforts toward stability. The establishment of a Conference on Security and Cooperation in the Middle East would provide an opportunity to bring healing and reconciliation to a region badly in need of both.

TRIBUTE TO CAPT. STEPHEN HOWARD, U.S. NAVY

Mr. LUGAR. Mr. President, I rise today to pay tribute to an individual whose entire adult life has been devoted to service to his country.

Capt. Stephen Howard enlisted in the Navy in January 1958, and graduated from the Recruit Training Command, San Diego in March of that year. After a series of schools, he spent 4 years aboard ships as an enlisted man with the rank of electronic technician. In 1962, he was selected to attend Purdue University under the Navy Enlisted Scientific Education Program. Graduating in 1966, with bachelor's and master's degrees in electronic engineering, Captain Howard, now with an officer's rank, served aboard the USS *Wright* and later at the Naval Academy as an electronic engineering instructor.

Captain Howard's career took him to various assignments: Mare Island Naval Shipyard, the USS *Oriskany* [CV34], Japan, Moffett Field, Washington, DC, and San Diego. His present and last assignment began when he reported as commanding officer at the Naval Weapons Support Center in Crane, IN, in September 1991, from Mare Island, CA, where he served as commanding officer.

In January 1992, he became the first commander of the Crane Division of the Naval Warfare Center. The division resulted from the consolidation of the Naval Weapons Support Center and the Naval Ordinance Station in Louisville, KY.

His military decorations include the Meritorious Service Medal—three awards—the Meritorious Unit Commendation—two awards, the Good Conduct Medal—two awards, the National Defensive Medal—two awards, and Sea Service and Overseas Service Ribbons—two awards. He is a designated material professional and joint specialty officer. His professional associations include the Armed Forces Communications Electronics Association, the Institute of Electrical and Electronics Association, the Institute of Electrical and Electronic Engineers, the American Society of Naval Engineers, and the U.S. Naval Institute. He is also a graduate of the Duke University Advanced Management Program.

During his 36 years of service in the U.S. Navy, Stephen Howard has risen from the rank of seaman apprentice to the rank of captain. He and his family have given dedicated service to their country, and for this we give thanks and say, "Well done."

UNITED NATIONS, DIVIDED WORLD: THE CHALLENGE OF SELECTIVE SECURITY

Mr. PELL. Mr. President, Adam Roberts, professor of international relations at Oxford University in England, recently provided a remarkably cogent analysis of the future of U.N. peacekeeping, with particular reference to the issues raised in Presidential Directive 25.

The Clinton administration unveiled its new policy on May 5, 1994, in a White House document entitled "Policy on Reforming Multilateral Peace Operations," which is basically the text of PD 25, but without some annexes. Professor Robert's analysis was presented at a Face-to-Face meeting at the Carnegie Endowment for International Peace in Washington on May 9.

While noting that there can be many criticisms of this U.S. policy, Professor Roberts states:

> I strongly agree with the overall approach, which is to view peacekeeping and other U.N. operations as a scarce resource. Such operations do indeed need to be used discriminately and supported judiciously, by states.

Professor Roberts expresses agreement with National Security Advisor Anthony Lake's "expression of caution" when the policy was announced, namely that "the reality is that we cannot often solve other people's problems; we can never build their nations for them."

Professor Roberts introduces the useful concept of selective security as a new version of the collective security goal that was the general objective of much of international security policy during the generation of the cold war. He makes clear that as the world changes, so our policies and goals must change to adapt to new realities.

Professor Roberts brings the perspective of a scholar and, as he put it, "a puzzled foreigner" to these subjects. He raises questions and adds historical and international considerations to what for us are issues of current responsibility and concern.

In San Francisco in 1945, I served with the staff of the commission responsible for drafting the U.N. Charter provisions on military cooperation for U.N. peacekeeping. I believe Professor Roberts' comments provide a timely and useful analysis of the issues facing those responsible for peacekeeping policies today.

To bring his comments to the attention of a wider audience, I ask unanimous consent that they be printed in the CONGRESSIONAL RECORD at this point.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

UNITED NATIONS, DIVIDED WORLD: THE CHALLENGE OF "SELECTIVE SECURITY"

(By Adam Roberts)

My purpose here is to ask some basic questions about the United Nations, and to suggest that its security role is necessarily selective more than collective.

The questions are: What is the role of the United Nations in international relations in general, and in security matters in particular? And what are the special problems of US policy toward the UN, particularly in the aftermath of Presidential Directive 25?

Serious thinking about the UN's role, and about the US role within the UN, involves coming to terms with a tragic reality. With some reluctance, we must recognize that what the UN can offer is not a general system of "collective security", but something more limited, which might be termed "selective security".

The broad issue of "collective" versus "selective" security is reflected today in the sharp dilemmas posed by events in former Yugoslavia, in Rwanda and elsewhere. The international responses to these and other conflicts expose limitations in what the UN and its members can do. I do not have any simple solutions to offer in respect of these conflicts. The emphasis here on selectivity is intended to help understand why there are inevitably limitations in the UN's response to crises, not to argue that there should be no response, or to prescribe what form any response should take.

DIVIDED WORLD

Despite many elements of transnationalism, to most of which the United States has traditionally been deeply attached, the world we inhabit remains deeply and obstinately divided: not just into 184-plus sovereign states, but also into peoples with very different social norms and world-views; and also into different communities whose bloody struggles, within as much as between states, have so often in history been a serious threat to international order.

In the USA, thanks to its revolutionary origins and commitment to universal values, there is a perennial belief that certain noble American ideals are, or ought to be, universal. There is also a tendency toward self-righteous distrust of evil and outdated power politics. This distrust leads the US into alternative periods of messianic zeal and isolationism. Foreigners can perhaps be forgiven if they are sometimes baffled by the American capacity to move in less than three years from the new world order to the clash of civilizations.

The special characteristics of the American world-view can lead to wildly inconsistent policies, not least towards the U.N. Sometimes Americans have seen the U.N. in a teleological light as a place where the values of democracy, human rights and world order can be advanced, and a huge range of problems tackled on a cooperative basis. At other times, other Americans, or perhaps even the same ones, have seen it as a place which is far too full of quarreling foreigners representing dubious regimes and causes.

THE ROLES OF THE UNITED NATIONS

We are at now a stage of retrenchment in American public attitudes to, and of administration policies, towards the U.N. This retrenchment could serve a useful purpose: there is indeed a need to focus attention not on lofty schemes to completely transform international relations (schemes which can easily be harmful in their effects), but on a more mundane and practical evaluation of what the U.N. can actually achieve.

On 5 May, the Clinton Administration's "Policy on Reforming Multilateral Peace Operations," which is virtually the text of Presidential Directive 25 less the various annexes, was at long last unveiled by the National Security Advisor, Anthony Lake. It is a document of which there can be many criticisms. However, I strongly agree with the overall approach, which is to view peacekeeping and other U.N. operations as a scarce resource. Such operations do indeed need to be used discriminately, and supported judiciously, by states. I also agree with Tony Lake's expression of caution in introducing this peacekeeping review: "The reality is that we cannot often solve other people's problems; we can never build their nations for them."

The common criticism of the document is the one that has been highlighted in articles in both the New York Times and the Washington Post: namely that it establishes criteria for participation in U.N. operations that are so stringent that no peacekeeping operations could be expected to get off the ground at all. This criticism does not stand up to a careful reading of the document itself. It is full of exception clauses such as: "These factors are an aid in decision-making; they do not by themselves constitute a prescriptive device."

A second and perhaps more justified criticism of the peacekeeping review might be that the attempt to develop very general criteria for involvement or non-involvement in particular crises only takes one a small way in the direction of effective policymaking. A reading of the document does not give much guidance on what U.S. policy should be towards Bosnia, or Haiti, or Rwanda. A checklist of criteria can never be a substitute for the qualities of wisdom and decisiveness which remain as much in demand as ever they were in the conduct of international politics.

A third criticism is that the traditional American concern over how operations can be ended, strongly reiterated in the review, actually makes serious strategic thinking about such crises more difficult: sometimes there has to be a willingness to stay the course if adversaries are to be faced down effectively, and if an operation is to have any chance of success. Some of the problems of both the U.S. and U.N. operations in Somalia since 1992 have flowed directly from the stated concern of the U.S. about getting out, and from the lack of clear long-term purpose in such key matters as cooperation with the factions, disarming the factions, and the degree of involvement in administration both centrally and locally.

Finally, there is relatively little guidance in the peacekeeping review about the way in which the U.N.'s role in international relations generally, or in security affairs in particular, is conceptualized. Here are fundamental tangles.

COLLECTIVE VERSUS SELECTIVE SECURITY

The United Nations is episodically forging a historically unique pattern of involvement—and sometimes non-involvement—in international security matters. The debates about U.N. actions in Rwanda, Haiti and Bosnia are just part of a long-term but uneasy development of a U.N. system which in my view can only be called, depressingly, "selective security".

Since the peace negotiations in 1648 after the carnage of the Thirty Years War, there has been a succession of proposals for modifying the anarchic international system through the institution of "collective security". Such proposals, despite many differences, all envisage a system (whether regional or global) in which each state accepts that the security of one is the concern of all, and agrees to join in a collective response to aggression.

Paradoxically, the collapse of Soviet versions of economic collectivism contributed to a revival of international collectivism in the security field. From the late 1980s onward, there was much enthusiastic advocacy of alluring but imprecise concepts: global security, a new world order, an enlarged U.N. role in peace-keeping and peace-making. All of these contained elements of collective security doctrine. Whether because of a comforting belief that history was at last moving this way, or because of a pragmatic preoccupation with inching forwards as far as difficult circumstances allowed, advocates of such visions seldom specified exactly how collective security would work.

Past experience is that efforts at organizing collective security have floundered on the difficulty of dealing with some basic questions. These questions, in every single case, have a contemporary resonance:

Are all states protected by the system, whatever their type of government, political importance or natural wealth?

Are all boundaries to be defended, regardless of their historic legitimacy?

Does the system give a guarantee against all types of threat, including even civil war?

Are all states obliged to participate in every security action?

Does the burden of underwriting collective security fall disproportionately on a few major powers and alliances?

What is a fair balance between self-defence by victims and external support?

What decision-making procedures can reliably determine that an attack or threat requiring a response has occurred, and can decide what action is necessary?

The present inability to provide generally satisfactory global answers to these questions is what render a universal collective security system implausible. The experience of the post-Cold War era, as of earlier periods, suggests that efforts to develop such a system can only result in selective security.

Elements of selectivity are inherent in the U.N. Charter itself: the veto system prevent action against permanent members; the Security Council's mandatory powers depend on a threat to the peace, breech of the peace, or act of aggression; the Security Council is given considerable discretion; and much space is left for regional arrangements, as well as for individual and collective self-defense. In short, the genius of the Charter system is that it goes with, rather than against, the grain of the existing system of states.

The U.N. Security Council has been compelled by events to think more electively about involvement in crises. A Security Council Presidential Statement on Peacekeeping issued a few days ago lists a series of factors which must be taken into consideration when the establishment of a new peace-keeping operation is under consideration: they are not very different from the factors listed in Presidential Directive 25. The new U.S. mood of caution about U.N. operations is in fact quite widely shared. What we do not yet have—and what is inherently hard to produce—is a clear rationale for, or doctrine of, selective security.

THE UNITED STATES AND THE UNITED NATIONS

It may be very positive that the U.S. administration is retreating from a degree of rhetorical support for the U.N. to a more measured and in some respects businesslike approach. Most countries have in fact long pursued policies of limited and cautious support for the U.N. similar to what is now emerging as the new U.S. policy. In forty-nine years of existence of the U.N. not one single state has concluded an Article 43 agreement making troops available to the U.N. on a permanent basis.

Yet U.S. policy towards the U.N. faces fundamental dilemmas, of which I will outline only three:

1. Burden on Major Powers. To the extent that the U.N. is seen as attempting to manage a universal security system, a vast burden may be (or at least may be perceived as being) placed on leading states with a known capacity for military force projection.

2. "Damned if you do, damned if you don't." If the U.S. plays a leading role, as it did in Desert Storm, it risks being accused of leading the U.N. by the nose. Yet if it does not play such a role, it is accused of abandonment and irresponsibility.

3. The Constraints of Peacekeeping. There are genuine difficulties for the USA as a superpower if its forces are expected to participate in peacekeeping operations, whether under U.N. or other auspices. Such operations generally require compromises, and patience even in the face of violent assaults. They risk exposing U.S. forces to situations of frustration and even humiliation; and they seldom offer possibilities for the decisive military action associated with the U.S. way of war.

Against this background, three over-simple views, which might even be called serious vices, have emerged in discussions about the relation between the U.N. and member states, including the USA.

1. In many countries, including the USA, there is a tendency to blame the U.N. for failures which may in fact be failures of particular states. The U.S. tendency to blame the U.N. for all that went wrong in Somalia in 1993, when much that went wrong was initiated or agreed by the USA, is a notorious case in point. Sometimes the U.S. government seems to speak and act as if it had not voted for U.N. Security Council decisions, and did not have a veto over them.

2. States, especially the USA, too easily take a view of the U.N. as having imposed potentially infinite demands on them to take action. In fact, the demands for action come from states as much as from the U.N. and can be refused by them. (Meanwhile, in the U.N. Secretariat, an opposite view can be found: that the member states, especially the USA, have dumped an impossible series of problems on the U.N. which is only too conscious that its resources are very scarce and need to be husbanded.)

3. In much public discussion of the U.N. especially by U.N. supporters, there is a tendency to blame U.N. failures on lack of political will among member states. This is understandable, but it contributes little to the resolution of U.N. problems, and it masks many other issues bearing on decisions about U.N. involvements. It is inevitable that states will be highly selective about which countries they wish to get involved in, and that they will exhibit only limited willingness to supply and pay for forces. In this as in other respects, the U.N. has to work with, not against, the states system.

The strongest line of criticism of U.S. policy toward the U.N. and its crises is not that it puts U.S. interests first, but that it has been inconsistent on both broad issues of the U.N.'s place in international security, and on particular policy problems; that it has been unwilling to pay its assessed dues; that the U.N. has to some extent served its eternal function as a dumping ground, and a scapegoat for the failure of others to act.

FORMER YUGOSLAVIA

It has been my misfortune to study, at different periods of my life, the security problems of Yugoslavia, and the United Nations. If there are two matters which should in an ideal world have been kept firmly apart from each other, it is these two. Yet there is an old and fateful link.

In 1918–19 there was much heated discussion of the question of whether or not League membership would require heavy commitment in the Balkans. This discussion was especially intense in the United States, whose geographical isolation and strong anti-colonial traditions militated against accepting distant and debatable responsibilities. President Woodrow Wilson, in his passionate but doomed advocacy of the League, naturally denied that membership would involve the USA in endless policing of troubled regions. As he said in a speech in September 1919: "If you want to put out a fire in Utah you do not send to Oklahoma for the fire engine. If you want to put out a fire in the Balkans . . . you do not send to the United States for troops." The fear of involvement in the Balkans was among the factors that made the U.S. Senate oppose joining the League of Nations.

Thus already in this century the question of how to tackle conflict and threats of conflict, including in the Balkans, dealt a crippling blow to one attempt at global political organization—the League of Nations. Now, three-quarters of a century later, conflict in the same region as well as elsewhere has exposed critical weaknesses in the international community's efforts to maintain international order. The problems of communal and ethnic conflict pose a challenge to the United Nations, and also to regional institutions, every bit as serious as that which they posed to the League of Nations seventy-five years ago.

There are more similarities. The United States, then as now, had a particular tendency to reject foreign involvements if they threatened to entangle the U.S. in cynical and morally dubious old-fashioned power politics. U.S. policies over the Italian grab for Fiume after the First World War, and over Bosnia in 1993, were very similar—especially in the rejection of what are seen as unjustified land grabs. A comment in the Washington Post in early 1920 might have appeared last week: "Paris is puzzled about the stand of the United States in world affairs, and so is the United States."

As a puzzled foreigner, I will give you a frank series of views of former Yugoslavia. First, I disagree with anyone who asserts that the problem itself is essentially simple: it is not a straightforward case of aggression, but nor is it simply a civil war. It is a war of state formation in the wake of a collapsed mini-empire, and there is no simple solution. Second, I had doubts about the U.N. getting involved in a conflict which demands qualities the U.N. does not always display: ability to pursue a clear long-term goal, to think strategically, to respond quickly to changing circumstances, and to coordinate the actions of forces engaged in many different types of activity. Third, the U.N. involvement, for all its terrible faults, has achieved some significant results, in reducing the risks of competitive national interventions, and in reducing the hideous consequences of siege warfare. Fourth, with the U.N. having made some progress, including in recent months under General Rose, the challenge now is built on that progress—a process in which the U.S. has a major part to play. Fifth, it remains entirely possible that, if NATO enforcement operations become more widespread in former Yugoslavia, UNPROFOR might have to be withdrawn from many or even all its exposed positions in Bosnia.

If some of these points seem contradictory, I could answer with Walt Whitman's "Song of Myself": "Do I contradict myself? Very well then I contradict myself." But what is much more important is the absolute inevitability of there being different views in the international community on this issue. Any policy, whether at the U.N. or elsewhere, has to be framed with that fundamental limitation in mind.

CONCLUSION

Peacekeeping and related activities under U.N. auspices are clearly in crisis. Against this background, there is considerable danger in present perceptions that selectiveness in the matter of peacekeeping consists in the drawing up of lists of criteria. There is even more danger in perceptions that selectiveness is being imposed on the U.N. by a semi-isolationist USA. A new demonology could grow from these perceptions, with U.N. failures to act being blamed exclusively on the USA.

The truth is that any international security system, including that over which the U.N. currently presides, is bound to be partial and selective in nature. The U.N. itself may be in process of recognizing this.

The term "selective security" can easily sound pejorative, especially if the principles of selection are in dispute and the procedures flawed. It is a description of a sobering reality, and is not in itself a doctrine or a slogan. There is unavoidable tension between the facts of selectivity and the U.N.'s (and indeed, in some ways, the USA's) commitment to universalism. Yet the debate about the U.N., about the policies of the U.S. toward it, and about the policies that might be needed on particularly urgent issues of the day, does not in reality revolve around a choice between U.N.-based collective security on the one hand, and a regression to an unmodified international anarchy on the other. The challenge is to strengthen the discrimination, discernment and judgment which are essential if the U.N. is to make the best of its inevitably selective security contribution.

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 12:06 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 1758. An Act to revise, codify, and enact without substantive change certain general and permanent laws, related to transportation, as subtitles II, III, and V-X of title 49, United States Code, "Transportation," and to make other technical improvements in the Code.

H.R. 3724. An Act to designate the United States courthouse located in Bridgeport, Connecticut, as the "Brien McMahon Federal Building."

H.R. 4568. An Act making supplemental appropriations for the Department of Housing and Urban Development for the fiscal year ending September 30, 1994, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore [Mr. BYRD].

At 2:15 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4576. An Act to designate the Federal building located at the northeast corner of the intersection of 14th Street and Independence Avenue, Southwest, in Washington, District of Columbia, as the "Jamie L. Whitten Federal Building".

H.R. 4596. An Act to designate the building located at 2200 North Highway 67 in Florissant, Missouri, for the period of time during which it houses operations of the United States Postal Service, as the "John L. Lawler, Jr. Post Office".

H.R. 4603. An Act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes.

H.R. 4635. An Act to extend the Export Administration Act of 1979.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 2559) to designate the Federal building located at 601 East 12th Street in Kansas City, MO, as the "Richard Bolling Federal Building."

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 4576. An Act to designate the Federal building located at the northeast corner of the intersection of 14th Street and Independence Avenue, Southwest, in Washington, District of Columbia, as the "Jamie L. Whitten Federal Building"; to the Committee on Environment and Public Works.

H.R. 4596. An Act to designate the building located at 2200 North Highway 67 in Florissant, Missouri, for the period of time during which it houses operations of the United States Postal Service, as the "John L. Lawler, Jr. Post Office"; to the Committee on Governmental Affairs.

H.R. 4603. An Act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes; to the Committee on Appropriations.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-554. A concurrent resolution adopted by the Legislature of the State of Delaware; to the Committee on the Judiciary.

"HOUSE CONCURRENT RESOLUTION 56

"*Be it resolved* by the House of Representatives of the 137th General Assembly of the State of Delaware, (the Senate concurring therein), that this body respectfully petitions the Congress of the United States to call a convention for the specific and exclusive purpose of proposing an Amendment to the Constitution of the United States to provide that no federal tax shall be imposed for the period before the date of enactment of the tax.

"*Be it further resolved*, That this application by the General Assembly of the State of Delaware constitutes a continuing application in accordance with Article V of the Constitution of the United States until at least two-thirds of the legislatures of the several states have made similar applications pursuant to Article V, but if Congress proposes an Amendment to the Constitution identical in subject matter to that contained in this Resolution before January 1, 1998, this petition for a constitutional convention shall no longer be of any force or effect.

"*Be it further resolved*, That the Clerk of the House of Representatives is authorized and instructed to transmit a duly attested copy of this Resolution to the President and Secretary of the Senate of the United States Congress, the Speaker and Clerk of the House of Representatives of the United States Congress and to each member of the Delaware congressional delegation."

POM-555. A resolution adopted by the Senate of the Legislature of the State of Illinois; to the Committee on Foreign Relations.

"SENATE RESOLUTION 999

"Whereas, Secretary of State Warren Christopher in his June 14, 1993, address to the World Conference on Human Rights stated, "Violence and discrimination against women don't just victimize the individuals; they hold back whole societies by confining the human potential of half the population."; and

"Whereas, The U.N. Convention on the Elimination of all Forms of Discrimination Against Women is an important international human rights treaty; and

"Whereas, Over 122 countries have ratified this significant treaty; and

"Whereas, The United States is the only country in the Western Hemisphere that has not ratified this treaty: Therefore, be it

"*Resolved, by the Senate of the eighty-eighth General Assembly of the State of Illinois*, That we urge the Senate of the United States to ratify the U.N. Convention on the Elimination of all Forms of Discrimination Against Women; and be it further

"*Resolved*, That suitable copies of this preamble and resolution be sent to the President pro tempore of the United States Senate, U.S. Senator Carol Moseley-Braun, and U.S. Senator Paul Simon."

POM-556. A resolution adopted by the Legislature of the State of New Hampshire; to the Committee on Foreign Relations.

"HOUSE JOINT RESOLUTIONS

"Whereas, certain Native American remains were exhumed in the summer of 1821, by Dr. Peter P. Woodbury and Dr. Freeman Riddle, both of Bedford, New Hampshire, during an early exploration of Native American encampments on or near Cartagena Island in the Merrimack River; and

"Whereas, these remains of 2 males, one female, and possibly a child were in a remarkable state of preservation, in a seated position, facing downstream, accompanied by the equipment thought necessary for their journey to the next world including clothing, utensils, weapons, and tools; and

"Whereas, since there was no museum in this country interested in such archeological remains and material, Dr. Woodbury of Bedford sent them to the venerable Museum of Natural History in Paris, France for preservation and study; and

"Whereas, an inquiry in 1928 showed that the remains that Dr. Woodbury had given the museum were Indian remains, perhaps those of the great Chief Passaconaway, Sagamore of Penacook; and

"Whereas, the great Chief Passaconaway, Sagamore of Penacook, changed the traditional system of tribal government by forming a powerful confederation of 17 tribes which, along with the Iroquois Nation federation, provided a model for tribes and a national federation for mutual defense, which was admired and perhaps emulated by the founding fathers of these United States of America in establishing a federation of states and a federal government for the mutual preservation of life, liberty, and the pursuit of happiness; and

"Whereas, Chief Passaconaway, nearing his death in 1666 and having "communed with the Great Spirit both dreaming and awake," gave America's first recorded farewell address, in a stirring proclamation to his people, where he encouraged them to make peace with the English, which ensuing lasting peace benefited significantly both the Native Americans and the settlers of New England for many generations; and

"Whereas, Chief Passaconaway's family, including his daughter Weetamoo, son Wonalancet, and grandson Kancamagus, followed him, forming a legacy of family heritage rivaling that of these United States' founding fathers; and

"Whereas, the New Hampshire general court passed a law, RSA 227-C:8-g, requiring the remains of Native Americans to be removed from display and reinterred; and

"Whereas, the state of New Hampshire department of cultural affairs, division of historical resources, has established procedures and a council of interested parties to determine the appropriate means and place for such reinterments; and

"Whereas, these remains have been carefully preserved, studied and safe-guarded by the people of France for over a hundred years: Now, therefore, be it

"*Resolved by the Senate and House of Representatives in General Court convened*, That the general court of the state of New Hampshire urges the President and Congress to petition the nation of France to assist Native Americans, the United States of America, the people of New England, the people of the great state of New Hampshire, and the division of historical resources in implementing the return of certain Native American remains, which were delivered to the Museum of Natural History, Paris, France, during the 1820's, which would allow an honorable celebration and the return to Mother Earth of the remains of those conveyed, including those perhaps of the great Chief Passaconaway, Sagamore of Penacook; and

"That copies of this resolution, signed by the speaker of the house and the president of the senate, be forwarded by the house clerk to the President of the United States, to the Vice-President of the United States, the Speaker of the United States House of Representatives, and to each member of the New Hampshire Congressional delegation."

POM-557. A resolution adopted by the House of the Legislature of the State of Oklahoma; to the Committee on Foreign Relations.

"HOUSE RESOLUTION 1047

"Whereas, President Clinton has affirmed that his foreign policy regarding the deployment of United States military forces under the authority of the United Nations will bear little change from that of his predecessor; and

"Whereas, the constitutional role of the United States military is to protect the life, liberty and property of United States citizens and to defend our nation against insurrection or foreign invasion; and

"Whereas, the United States is an independent sovereign nation and not a tributary of the United Nations; and

"Whereas, there is no popular support for the establishment of a "new world order" or world sovereignty of any kind either under the United Nations or under any world body in any form of global government; and

"Whereas, global government would mean the destruction of our Constitution and corruption of the spirit of the Declaration of Independence, our freedom, and our way of life: Now, therefore, be it

"*Resolved by the House of Representatives of the 2nd Session of the 44th Oklahoma Legislature*, That the United States Congress is hereby memorialized to:

"1. Cease the appropriation of United States funds for any military activity not authorized by Congress;

"2. Cease engagement in any military activity under the authority of the United Nations or any world body;

"3. Cease the rendering of aid to any activity or engagement under the jurisdiction of the United Nations or any world body; and

"4. Cease any support for the establishment of a "new world order" or to any form of global government.

"That the United States Congress is hereby memorialized to refrain from taking any further steps toward the economic or political merger of the United States into a world body or any form of world government.

"That copies of this resolution be distributed to the Clerk of the United States House of Representatives, the Secretary of the United States Senate, and to each member of the Oklahoma Congressional Delegation."

POM-558. A resolution adopted by the General Assembly of the State of New Jersey; to the Committee on Foreign Relations.

"Whereas, Poland, Hungary, the Czech Republic and Slovakia have renounced Communism and created democratic systems of government based on a free-market economy; and

"Whereas, The economic and political instability in the former Soviet Union threatens the peace of these newly created democracies; and

"Whereas, The strong showing of the militant nationalist movement in the Russian parliamentary elections held in December has raised fears of an aggressive Russian expansion which victimized Eastern European countries in the past; and

"Whereas, The war which rages in the former Yugoslavia has caused untold suffering, and Europeans look to NATO as the best hope of deterring similar conflicts elsewhere; and

"Whereas, President Clinton has rejected isolationism, reaffirmed his commitment to the Atlantic partnership and stated that the best hope for world peace lies in a rebuilt NATO; and

"Whereas, Poland, Hungary, the Czech Republic and Slovakia have all expressed strong interest in joining NATO on an equal basis with the other 16 member nations; and

"Whereas, The emerging democracies among the former Warsaw Pact nations are still in danger of facist and Communist elements; and

"Whereas, President Clinton has proposed the Partnership for Peace—an association where non-members can participate with NATO members in joint military efforts—as an interim stage of membership for all former Warsaw Pact nations, including Russia; and

"Whereas, The former Warsaw Pact nations have earned the right of full NATO membership because of their struggle against Communism and their efforts to build free and democratic nations: Now, therefore, be it

"*Resolved by the General Assembly of the State of New Jersey*:

"1. This House respectfully memorializes the President and Congress of the United States to support the admission of former Warsaw Pact nations into NATO.

"2. A duly authenticated copy of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk thereof, shall be transmitted to the President of the United States, the President of the Senate, the Speaker of the House of Representatives, and every member of Congress elected from this State."

POM-559. A resolution adopted by the General Assembly of the State of New Jersey; to the Committee on Foreign Relations.

"ASSEMBLY RESOLUTION 16

"Whereas, it is clear that the regime of Fidel Castro is coming to an end and it is crucial that the United States maintain relations with the people of Cuba once his oppressive and dictatorial government has fallen; and

"Whereas, the people of Cuba will endure a difficult transition period from Castro's regime to a democratic state and will require humanitarian, developmental and economic assistance; and

"Whereas, in solidarity with the Cuban people, this nation should provide emergency relief assistance to a transition government and long-term assistance to a new democratic government; and

"Whereas, while the United States economic embargo on Cuba is being maintained and strengthened to protest Fidel Castro's consistent disregard for internationally accepted standards of human rights and democratic principles, the embargo should be lifted when the President determines that there exists a democratic government on that island; and

"Whereas, once a democratic government is in power, the United States should enter into negotiations for the return of the naval base at Guantanamo to Cuba or renegotiate the present agreement under mutually agreeable terms; and

"Whereas, the citizens of New Jersey and the United States endorse the right of self-determination of the Cuban people and will aid them in making the transition from dictatorship to democracy: Now, therefore, be it

"*Resolved, by the General Assembly of the State of New Jersey:*

"1. This House memorializes the United States Congress to pass H.R. 2758, the "Free and Independent Cuba Assistance Act of 1993.""

"2. Duly authenticated copies of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk thereof, shall be transmitted to the President of the United States Senate, the Speaker of the Home of Representatives and every member of Congress elected from this State."

POM-560. A resolution adopted by the Board of Supervisors of Culpeper County, VA relative to language; to the Committee on Governmental Affairs.

POM-561. A resolution adopted by the Legislature of Rockland County, NY, relative to Federal mandates; to the Committee on Governmental Affairs.

POM-562. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on Governmental Affairs:

"HOUSE JOINT RESOLUTION 94-1035

"Whereas, the 10th Amendment to the Constitution of the United States reads as follows:

"'The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.'"; and

"Whereas, the 10th Amendment defines the total scope of federal power as being that specifically granted by the United States Constitution and no more; and

"Whereas, the scope of power defined by the 10th Amendment means that the federal government was created by the states specifically to be an agent of the states; and

"Whereas, today, in 1994, the states are demonstrably treated as agents of the federal government; and

"Whereas, numerous resolutions have been forwarded to the federal government by the Colorado General Assembly without any response or result from Congress or the federal government; and

"Whereas, many federal mandates are directly in violation of the 10th Amendment to the Constitution of the United States; and

"Whereas, the United States Supreme Court has ruled in *New York* v. *United States*, 112 S. Ct. 2408 (1992), that Congress may not simply commandeer the legislative and regulatory processes of the states; and

"Whereas, a number of proposals from previous administrations and some now pending from the present administration and from Congress may further violate the United States Constitution: Now, therefore, be it

"*Resolved by the House of Representatives of the Fifty-ninth General Assembly of the State of Colorado, the Senate concurring herein:*

"(1) That the State of Colorado hereby claims sovereignty under the 10th Amendment to the Constitution of the United States over all powers not otherwise enumerated and granted to the federal government by the United States Constitution.

"(2) That this serve as Notice and Demand to the federal government, as our agent, to cease and desist, effective immediately, mandates that are beyond the scope of its constitutionally delegated powers; and be it further

"*Resolved*, That copies of this Resolution be sent to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, the Speaker of the House and the President of the Senate of each state's legislature of the United States of America, and Colorado's Congressional delegation."

POM-563. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on Governmental Affairs.

"HOUSE JOINT RESOLUTION 94-1027

"Whereas, the Constitution of the United States envisions sovereign states and guarantees the states a republican form of government in which decisions are made by the elected representatives of the people; and

"Whereas, the state and local governments in Colorado are losing their power to act on behalf of their citizens, as the power of government is moving farther away from the people into the hands of federal agencies and officials who are not elected and who are unaware of the needs and concerns of Colorado and other states; and

"Whereas, with increasing and alarming frequency important decisions affecting the lives of Colorado citizens are being made by the federal government in the form of both funded and unfunded federal mandates imposed on the states; and

"Whereas, Congress fails to provide adequate means to implement many of the federal mandates directed to the states which places state governments in a vice that threatens to squeeze state resources beyond their limits; and

"Whereas, imposition of unfunded federal mandates requires states to fund the federal requirements with diminishing state revenues or jeopardize their eligibility for certain federal funds; and

"Whereas, the states and Congress should engage in earnest discussions to resolve the difficult position that states are forced into by their efforts to comply with the growing number of unfunded federal mandates, because this trend could eliminate state flexibility to effectively deal with local problems as limited state resources are diverted to funding federally mandated programs; and

"Whereas, federal mandates threaten the fiscal integrity of the states and their right of self-determination; and

"Whereas, the United States Advisory Commission on Intergovernmental Relations recommended in a July 1993 report that "the federal government institute a moratorium on mandates for at least two years and conduct a review of mandating to restore balance, partnership, and state and local self-government in the federal system" and that the "Supreme Court reexamine the constitutionality of mandating as a principle"; and

"Whereas, numerous federal laws impose mandates on the state of Colorado, including, but not limited to the following: Asbestos School Hazard Abatement Act; Family and Medical Leave Act; Safe Drinking Water Act; Clean Air Act; Americans with Disabilities Act; National Voter Registration Act; Title XIX of the federal "Social Security Act"; and Water Pollution Control Act; and

"Whereas, the members of the Colorado General Assembly want the members of the Colorado congressional delegation to fully understand the impact the actions of the federal government have on the state of Colorado, especially the difficulties imposed on the General Assembly in its effort to allocate resources to a large number of pressing state needs; and

"Whereas, the federal court system affords a means to liberate the states from the grip of federal mandates and to give the power to govern back to the people: Now, therefore, be it

"*Resolved by the House of Representatives of the Fifty-ninth General Assembly of the State of Colorado, the Senate concurring herein:* That legal action challenging the constitutionality of both funded and unfunded federal mandates, the court rulings that hinder state management of state issues, and the authority of the federal government to mandate state action is necessary to restore, maintain, and advance the state of Colorado's sovereignty and authority over issues that affect Colorado and the well-being of its citizens' and be it further

"*Resolved*, That the Colorado Attorney General examine and challenge by legal action, in the name of and on behalf of the state of Colorado, federal mandates, court rulings, the authority granted to or assumed by the federal government, and laws, regulations and practices of the federal government to the extent they infringe on the state of Colorado's sovereignty or authority over issues affecting its citizens; and be it further

"*Resolved*, That all of the states are urged to participate in any legal action brought pursuant to this joint resolution and that the Colorado Attorney General shall request and encourage such participation and shall cooperate with other states in any legal action that includes issues of joint concern; and be it further

"*Resolved*, That copies of this joint resolution be sent to the Attorney General and presiding officers of both houses of the legislatures of each of the states in the United States, the President of the United States, the Clerk of the United States House of Representative, the Secretary of the United States Senate, and to each member of the Colorado Congressional Delegation."

POM-564. A concurrent resolution adopted by the Senate of the Legislature of the State of Hawaii; to the Committee on Governmental Affairs.

"SENATE CONCURRENT RESOLUTION

"Whereas, federal mandates imposed on state and local governments have increased greatly over the past several decades; and

"Whereas, federal statutes and administrative regulations for federal mandates impose substantial costs to the states and counties; and

"Whereas, at the same time that federal mandates have increased, federal funding for joint federal-state programs has sharply decreased; and

"Whereas, federal budgetary difficulties may promote more federal mandates on the states and counties for what are actually federal programs; and

"Whereas, state and local governments are already strained in their budgets, particularly in the costs of meeting the federal mandates; and

"Whereas, the 1990 federal budget agreement imposed almost $14 billion in mandated costs over the next five years to state and local governments; and

"Whereas, any further federal mandates would seriously jeopardize the financial well-being of the states and counties: Now, therefore, be it

"*Resolved by the Senate of the Seventeenth Legislature of the State of Hawaii, Regular Session of 1994, the House of Representatives concurring, that the:*

"(1) Congressional Budget Office is requested to continue its efforts to provide Congress with appropriate state fiscal impact statements on federal mandate legislation that affects the states and counties;

"(2) Congress is urged to enact legislation to require federal reimbursement to state and local governments for costs imposed upon them by federal mandates;

"(3) Office of Management and Budget is requested to formulate a comprehensive catalogue of federal mandates currently imposed on state and local governments; and be it further

"*Resolved*, That the Attorney General of the State of Hawaii determine if a basis exists for a cause of action against the federal government where federal mandates imposed without funding threaten to adversely impact the state and budget and economy; and be it further

"*Resolved*, That the Attorney General submit a report on findings and recommendations to the Legislature by September 1, 1994; and be it further

"*Resolved*, That certified copies of this Concurrent Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives of the United States, the Office of Management and Budget, the Congressional Budget Office, members of Hawaii's Congressional Delegation, the Governor of Hawaii, the Attorney General of Hawaii, and the Mayor and Council Chair of each county."

POM-565. A concurrent resolution adopted by the Senate of the Legislature of the State of Hawaii; to the Committee on Governmental Affairs.

"SENATE CONCURRENT RESOLUTION

"Whereas, the federal government is charged with protecting the health and safety, as well as promoting other national interests of the American people; and

"Whereas, although the federal government is charged with such responsibilities, in recent years it has saddled states with the responsibility to comply with a myriad of federal mandates, many of which lack federal funding to effectively carry them out; and

"Whereas, the cumulative effect of unfunded federal mandates has increasingly strained the budgets of state, local, and tribal governments; and

"Whereas, additionally, the cost, complexity, and delay in applying for and receiving waivers from federal requirements in appropriate cases have hindered state, local, and tribal governments from tailoring federal programs to meet the specific needs of their communities; and

"Whereas, these governments should have more flexibility to design solutions to the problems faced by citizens in this country without excessive micromanagement and unnecessary regulation from the federal government; and

"Whereas, in an Executive Order issued on October 26, 1993, President William Clinton called for the reduction of unfunded federal mandates, the streamlining of the application process to obtain waivers from federal requirements, and the proliferation of meaningful collaboration and consultation with state, local, and tribal governments on federal matters that have significant effect upon their communities; and

"Whereas, in a letter to the Honolulu Advertiser, Governor John Waihee stated that the cost factor associated with complying with federal mandates will cost the State of Hawaii $377 million or approximately twelve percent of the 1994 state budget; and

"Whereas, fiscal responsibility by the federal government is necessary to restore the economy; and

"Whereas, the Tenth Amendment to the United States Constitution states that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people;" and

"Whereas, increasingly, the federal government has pre-empted powers constitutionally reserved to state and local governments by the Tenth Amendment; and

"Whereas, clearly, there is an immediate need and potential authority for the states to curtail the imposition of unfunded federal mandates; and

"Whereas, the Phoenix Project/Committee of 50 States is a nationwide organization dedicated to the preservation of the fundamental precepts of the United States Constitution: Now, therefore, be it

"*Resolved by the Senate of the Seventeenth Legislature of the State of Hawaii, Regular Session of 1994, the House of Representatives concurring*, That the United States government honor the language, spirit, and intent of the Tenth Amendment of the United States Constitution by ceasing the usurpation of state powers; and be it further

"*Resolved*, That the United States government is urged to cease further pre-emption of state and local powers derived from the Tenth Amendment of the United States Constitution; and be it further

"*Resolved*, That all compulsory federal legislation which directs states to comply under threat of civil or criminal penalties or sanctions or requires states to pass legislation or lose federal funding be prohibited; and be it further

"*Resolved*, That the National Conference of State Legislatures and the Council of State Governments are requested to investigate methods by which the imposition of unfunded federal mandates could be prevented as well as developing proposals to ensure the further protection of the rights of states; and be it further

"*Resolved*, That in developing these solutions, the National Conference of State Legislatures and the Council of State Governments shall study the possibility of including proposals made by the Phoenix Project/Committee of 50 States if appropriate; and be it further

"*Resolved*, That certified copies of this Concurrent Resolution be transmitted to the Governor of each state, the Director of the National Conference of State Legislatures, the Director of the Council of State Governments, the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, and to Hawaii's Congressional Delegation."

POM-566. A resolution adopted by the Legislature of the State of New Hampshire; to the Committee on Governmental Affairs.

"HOUSE JOINT RESOLUTION 22

"Whereas, the Congress continues to mandate and assign additional programs and responsibilities to the States and political subdivisions within such States; and

"Whereas, the Congress does not provide the funding for such programs and responsibilities; and

"Whereas, the States and political subdivisions of such States do not have the funds, or in poor economic times, the ability to raise such funds; and

"Whereas, in 1984 the voters in the State of New Hampshire amended their State constitution to provide that the State shall not mandate or assign any new, expanded or modified programs or responsibilities to any political subdivision in such a way as to necessitate additional local expenditures by the political subdivision unless such programs or responsibilities are fully funded by the State or unless such programs or responsibilities are approved for funding by a vote of the local legislative body of the political subdivision; and

"Whereas, we believe fiscal responsibility by the Federal government is necessary to restore the United States economy: Now, therefore, be it

"*Resolved by the Senate and House of Representatives in General Court convened*, That the State of New Hampshire urges the Congress of the United States to pass the Federal Mandates Relief Act of 1993 to provide for Federal payments for Federal mandates imposed upon state and local governments; and

"That copies of this resolution be sent by the House clerk to the President of the United States, to the Vice-President of the United States, to the Speaker of the United States House of Representatives, and to the New Hampshire members of both Houses of Congress."

POM-567. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Governmental Affairs.

"JOINT RESOLUTION

"Whereas, the Federal Government has mandated new programs and transferred the responsibility of funding these programs to the several states and their political subdivisions; and

"Whereas, the Federal Government has also reduced or eliminated funding for certain programs administered at the state or local government level; and

"Whereas, the several states and their political subdivisions, as a result of economic recession and the substantial costs of these programs, are experiencing severe revenue shortfalls and budget imbalances, which are further exacerbated by the need to fund these unfunded federal mandates; and

"Whereas, the several states, unlike the Federal Government, are required by their constitutions to balance their budgets, which further reduces their ability to absorb unfunded federal mandates; and

"Whereas, the State of Maine, recognizing the inequity of passing unfunded mandates on to its political subdivisions, amended its Constitution in November of 1992 to prohibit state legislation or state administrative rules that require additional local government expenditures unless the Maine State Legislature funds those mandates; and

"Whereas, the federal practice of deferring program costs to the states is inherently unfair because many states, such as Maine, lack the resources to fund these programs; and

"Whereas, the Brady Handgun Violence Prevention Act, enacted recently by the United States Congress and effective on February 28, 1994, although laudable in its goals, represents yet another unfunded federal mandate that is leading the State of Maine and its municipalities to incur new expenses related to conducting criminal background checks: Now, therefore, be it

"*Resolved*, That We, your Memorialists, respectfully recommend that the Attorney General of the State of Maine initiate a lawsuit as soon as possible that specifically challenges the continuing practice of enacting unfunded federal mandates as evidenced by the Brady Handgun Violence Prevention Act; and be it further

"*Resolved*, That the Attorney General of the State of Maine, to the extent possible, work in concert with any other state that is filing or is contemplating the filing of a similar lawsuit; and be it further

"*Resolved*, That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable William J. Clinton, President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to the Attorney General of the State of Maine and to each Member of the Maine Congressional Delegation."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BYRD, from the Committee on Appropriations, with amendments:

H.R. 4602. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1995, and for other purposes (Rept. No. 103–294).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LAUTENBERG (for himself and Mr. HARKIN):

S. 2245. A bill to provide additional methods of recovering costs to the Federal Government health care programs attributable to tobacco related illnesses and diseases, and for other purposes; to the Committee on Finance.

By Mr. DORGAN:

S. 2246. A bill to require the Secretary of the Treasury to include organ donation information with individual income tax refund payments; to the Committee on Finance.

By Mr. SARBANES (for himself, Mr. BYRD, Mr. ROCKEFELLER, and Ms. MIKULSKI):

S.J. Res. 205. A joint resolution granting the consent of Congress to the compact to provide for joint natural resource management and enforcement of laws and regulations pertaining to natural resources and boating at the Jennings Randolph Lake Project lying in Garrett County, MD, and Mineral County, WV, entered into between the States of West Virginia and Maryland; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MOYNIHAN (for himself, Mr. PELL, Mr. SIMON, Mr. D'AMATO, Mr. KENNEDY, Mr. HELMS, and Mr. PRESSLER):

S. Res. 234. A resolution expressing the sense of the Senate concerning the fifth year of imprisonment of Daw Aung San Suu Kyi by Burma's military dictatorship, and for other purposes; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LAUTENBERG (for himself and Mr. HARKIN):

S. 2245. A bill to provide additional methods of recovering costs to the Federal Government health care programs attributable to tobacco-related illnesses and diseases, and for other purposes; to the Committee on Finance.

MEDICARE AND MEDICAID THIRD PARTY LIABILITY ACT OF 1994

• Mr. LAUTENBERG. Mr. President, the American taxpayers are sitting on a fiscal time bomb right now—it is ticking loudly and will soon explode.

The time bomb is tobacco-related illnesses. The Columbia University Center on Addiction and Substance Abuse—also known as CASA—has estimated that tobacco-related illnesses will cost the Medicare Program $800 billion over the next 20 years. Do you know who is going to pick up the tab for this? The American taxpayers.

CASA estimates that tobacco-related illnesses cost Medicare $16 billion and Medicaid $3 billion per year. But these are conservative estimates because they only cover inpatient hospital costs. CASA believes that these costs will only grow in the next 20 years, when more and more lifetime smokers become eligible for Medicare as they retire.

This is an enormous bill that the American taxpayers will have to pay for. At the same time, the tobacco companies will continue to make large profits.

This presents the Federal Government with a stark choice.

Should American taxpayers pay the bill?

Or should the tobacco companies pay their fair share?

Currently, Medicare and Medicaid are funded by a portion of the Social Security payroll tax and by general tax revenues. The taxpayers are paying their share. There is also a tobacco tax—which hopefully will be increased substantially to pay for health care reform—that means smokers pay their share. Everyone pays for costs of tobacco use except the tobacco companies. This is unfair.

That is why I am introducing the Medicare and Medicaid Third Party Liability Act along with Senator HARKIN. This legislation is modeled after a similar Florida law that was recently enacted.

This bill will do the following:

Allow the Federal Government to sue the tobacco companies to recoup Medicare, Medicaid, VA, and other health expenditures for tobacco-related illnesses;

Let the Federal Government sue the tobacco companies using statistics on the health care costs of tobacco use; and

Allow the Federal Government to obtain awards from the tobacco companies based on each company's share of the U.S. market.

If the Federal Government is successful in collecting Medicaid expenses, it will return the appropriate portion of these funds to each State.

This legislation, by itself, does not compel the tobacco companies to pay any specified amount. It simply lets the Federal Government file a sort of class action suit—on behalf of the taxpayers—to help pay the health care costs of tobacco use. In order for the Government to receive payment, it must win its case in Federal Court under the normal rules of civil procedure.

The tobacco companies say we are picking on them. They complain we should look at other products like alcohol, caffeine, or foods that contain saturated fats. But tobacco is different. It is the only product that when used as intended causes illness and death.

Every day we read more stories about how the tobacco companies have known for many years that their product was dangerous—but they chose to hide their findings from the public. In addition, as the FDA Commissioner stated 3 days ago at a House hearing, the tobacco companies manipulate the nicotine in cigarettes to addict smokers.

Given this track record of deception and misinformation, why should we let the tobacco companies off the hook for all the health care costs that their products create? Why should the taxpayers be solely liable for these costs?

Today, we are scheduled to take up a product liability bill that would seek to limit liability for manufactured products. It is our intention to offer this legislation as an amendment to that bill—to limit the taxpayers' liability—so that we are not asked to pay for all of the billions of dollars in Medicare and Medicaid bills that are coming our way.

It's time for the U.S. taxpayers to get their money back—And make the tobacco companies pay their fair share.

Mr. President, I ask unanimous consent that this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2245

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare and Medicaid Third Party Liability Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) illnesses and diseases that result from the use of tobacco products cost Federal Government health care programs billions of dollars, including at least $16,000,000,000 in the medicare program and $3,000,000,000 in the medicaid program for inpatient hospital services in fiscal year 1994;

(2) over the next 20 years, such illnesses and diseases will cost the medicare trust funds at least $800,000,000,000;

(3) in April 1994, the trustees of the medicare trust funds concluded that such funds may be insolvent in 7 years, with $128,000,000,000 of expenditures due to such illnesses and diseases;

(4) recent discoveries, including documents, patents and patent applications, and testimony, have shown that—

(A) the tobacco industry has known for years that the nicotine in cigarettes is addictive,

(B) the industry has attempted both to conceal this information from the public and the Government and to manipulate the amount of nicotine in cigarettes, and

(C) it is possible to manufacture cigarettes which are far less dangerous to consumers;

(5) more than 36 percent of medicare recipients are former smokers and 20 percent are current smokers;

(6) approximately 43 percent of medicaid recipients smoke, compared to 26 percent of the general public; and

(7) the medicare population is much more at risk of contacting illnesses and diseases that result from the use of tobacco products than younger smokers, because such population has smoked longer;

(8) legal scholars and courts are increasingly agreeing that it is appropriate to use statistical evidence to prove causation; and

(9) in view of the large number of Americans killed, disabled, or otherwise injured each year as a result of smoking cigarettes, the addictiveness of the nicotine in cigarettes, and the absence of any significant benefits to society from smoking, cigarettes are an unreasonably dangerous product and cigarette manufacturers are engaged in abnormally dangerous activities.

(b) PURPOSE.—The purpose of this Act is to allow the American taxpayers to recoup billions of dollars in Federal Government health care funds spent on tobacco related illnesses and diseases.

SEC. 3. CLASS ACTION TO RECOVER COSTS TO FEDERAL GOVERNMENT HEALTH CARE PROGRAMS OF TOBACCO RELATED ILLNESSES AND DISEASES.

(a) IN GENERAL.—(1) With respect to payments made under any applicable Federal Government health care program to or on behalf of more than one recipient with a disease, illness, condition, or complication caused, in whole or in part, by the use of tobacco products, the Attorney General of the United States may seek recovery for such payments from third parties (or any successors to such third parties) that manufacture tobacco products. The Attorney General (after consultation with the appropriate Secretaries who administer such programs) may bring an action in the name of the United States in United States district court to recover such payments made to or on behalf of all such recipients in one proceeding.

(2) Any action to enforce the rights of the Attorney General under this section with respect to any payment described in paragraph (1) shall be commenced within 5 years of such payment.

(3) For purposes of paragraph (1), the term "applicable Federal Government health care program" includes—

(A) the Medicare Program under title XVIII of the Social Security Act;

(B) the Medicaid Program under title XIX of such Act;

(C) the veterans health care program under title 38, United States Code; and

(D) any other similar Federal health care program.

(b) NOTICE UNDER THE CLASS ACTION.—(1) In any action brought under this section, no notice to recipients described in subsection (a)(1) is required, and such recipients shall have no right to become a party to such action. Such action is independent of any rights or causes of action of such recipients.

(2) In any such action in which the number of recipients described in subsection (a)(1) is so large to cause it to be impracticable to join or identify each claim, the Attorney General shall not be required to so identify the individual recipients for which payment has been made, but rather can proceed to seek recovery based upon payments made to or on behalf of an entire class of recipients.

(c) RULES OF EVIDENCE.—In any action brought under this section, the Federal Rules of Evidence shall be construed, regarding the introduction and probative value of evidence on the issues of causation and damages, in order to effectuate the purpose of this Act to the greatest extend possible. The issues of causation and damages in any such action may be proven by use of statistical analysis or epidemiological evidence, or both.

(d) SHARE OF LIABILITY.—In any action brought under this section in which a third party is liable due to its manufacture, sale, or distribution of a tobacco product, the Attorney General shall be allowed to proceed under a market share theory, if the products involved are substantially interchangeable and substantially similar factual or legal issues would be involved in seeking recovery against each liable third party individually. In the alternative, the Attorney General shall be allowed to proceed under a theory of concerted action or enterprise liability, or both, if warranted by the facts presented to the court.

(e) DISTRIBUTION OF RECOVERY.—Amounts recovered under any action brought under this section shall be paid to the United States and disposed of as follows:

(1) In the case of amounts recovered arising out of a claim under tile XIX of the Social Security Act, there shall be paid to each State agency an amount bearing the same proportion to the total amount recovered as the State's share of the amount paid by the State agency for such claim bears to the total amount paid for such claim.

(2) Such portion of the amounts recovered as is determined to have been paid out of the trust funds under sections 1817 and 1841 of the Social Security Act shall be repaid to such trust funds.

(3) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States.●

● Mr. HARKIN. Mr. President, I support the Medicare and Medicaid Third Party Liability Act that has been introduced by the Senator from New Jersey [Mr. LAUTENBERG]. This legislation will allow taxpayers to recover Medicare, Medicaid, and other Federal health program costs associated with tobacco related illnesses. For too long the tobacco companies have been raking in profits while the American taxpayers have been coughing up billions in health care costs attributable to tobacco related illness.

A 1993 report by the Office of Technology Assessment indicates that tobacco related illnesses cost taxpayers approximately $68 billion in 1990—this includes $20.8 billion in direct costs, $6.9 billion in indirect morbidity costs, and $40.3 billion in indirect mortality costs.

The Medicare share of these costs total $16 billion per year for inpatient care alone. The Medicaid share of these costs total $3 billion per year—again this is $3 billion in inpatient costs alone.

The Columbia University Center on Addiction and Substance Abuse has estimated that tobacco related illnesses will cost the Medicare Program $800 billion over the next 20 years. At that rate, Medicare will go bankrupt.

The American people are footing the health care bill for a product—that when used as intended—causes disease, disability, and death. It is unconscionable that the tobacco industry has profited while the taxpayer has been left with the devastating and widespread costs associated with tobacco use.

Almost all of the health care reform bills before Congress call for an increase in the tobacco tax. I applaud this and am hopeful that Congress will hold the line and keep the tax high enough to discourage smoking—particularly among our young people.

At a time when Congress is about to ask smokers to pay more for tobacco products it also seems appropriate to ask tobacco companies to pay for the costs their products impose on Medicare and Medicaid as well as other Federal programs.

We are asking smokers to pay. Is it so much to ask the tobacco industry to turn some of their enormous profits over to treating and curing the disease and disability their products bring on?

The Medicare and Medicaid Third Party Liability Act would allow the Federal Government to sue for Medicare and Medicaid costs, as well as other Federal health program costs, associated with tobacco-related illnesses in one proceeding—much like a class action suit—instead of suing for the costs associated with the tobacco-related illness of each individual recipient or beneficiary.

Under this legislation the Attorney General could use statistical analysis and epidemiological evidence to determine the costs that smoking-related illness impose on Federal health programs.

This legislation by itself would not compel tobacco companies to pay any specific amount. The Federal Government would file suit on behalf of the taxpayers and would have to argue and win its case in Federal court.

Certainly this legislation will be criticized by the tobacco industry. I expect them to argue that the legal principles established by the legislation could easily be extended to other industries like beef, sugar, pharmaceuticals, and automobiles. The legislation that we are introducing today is clearly limited to tobacco—a product unlike any other product on the market. Tobacco is the only product on the market today that when used as intended causes death, disease, and disability. It is a product that deserves to be singled out and treated differently.

In addition, the tobacco industry is an industry that deserves to be singled out. It is an industry that has known about the dangers of its product for years and has consistently acted to hide this fact from the public. The House has held hearings over the last few days that indicate that the tobacco companies have been manipulating the nicotine levels in cigarettes in order to get people permanently hooked on their product—an action that drives up Federal health care costs and robs taxpayers. We need to act now to protect the American taxpayer.●

By Mr. DORGAN:

S. 2246. A bill to require the Secretary of the Treasury to include organ donation information with individual income tax refund payments; to the Committee on Finance.

ORGAN DONATION INSERT CARD ACT

Mr. DORGAN. Mr. President, I rise today to introduce legislation that proposes a cost-effective public education campaign to encourage organ donation. The Organ Donation Insert Card Act, introduced in the House by my good friend Representative RICHARD DURBIN, would direct the Treasury Department to enclose organ donation information when it mails next year's Federal income tax refund checks.

THE SHORTAGE OF ORGAN DONORS

The most common tragedy in organ transplantation is not the patient who receives a transplant but dies, but the patient who has to wait too long for an organ and dies before a suitable organ can be found. The number of people who need an organ transplant greatly exceeds the number of available organs, and waiting lists are growing.

In 1990, 20,000 people were on organ donor waiting lists. In less than 3 years, that has jumped to more than 31,000, and a new name is added every 20 minutes. Meanwhile, 2,500 people on waiting lists die each year because their bodies simply cannot wait any longer for the needed transplant. The list also includes more than 23,000 people who must survive on kidney dialysis while they wait.

Organ transplants only happen because a grieving family authorizes the transplanting of their loved one's organs. It can be difficult to cope with death, particularly when someone dies unexpectedly. But something good can come from this tragedy. Organ donation can give another person a new chance at life. In fact, an organ donor often can give several other human beings a new chance at life, because doctors now can transplant about 25 different types of organs and tissues.

It is particularly frustrating that we lose so many opportunities to use healthy organs—and many on the waiting list die—because no one authorizes donation of the organs.

While 4,500 donors supply more than 16,000 transplants each year, this represents only about one-third of the potential donors. Other potentially lifesaving transplants never occur because people hesitate to authorize organ donation for themselves or for a family member.

THE ORGAN DONATION INSERT CARD PROPOSAL

Mr. President, my legislation would direct the Secretary of the Treasury to enclose with each income tax refund check mailed next year information that encourages organ donation. The information would include a detachable organ-donor card. It would also include a message urging recipients to sign the card; tell their family they are willing to be an organ donor, and encourage their family members to request or authorize organ donation when appropriate.

The weak link in our Nation's organ donation efforts is the link to the family. A Gallup Poll found that more than 90 percent of the public would authorize organ donation for a loved one who had expressed that wish before death, but less than half would consent to the donation if the discussion had not occurred. According to the poll, less than half of the public have told their families of their wishes regarding organ donation.

As the poll indicates, organ donation won't happen unless the family authorizes it, regardless of whether a potential donor signed a donor card or checked a box on a driver's license. This means it's essential for people who wish to donate organs to tell their family about their wishes. If their family members can recall that a loved one talked to them about the matter, they are more likely to authorize the donation.

The Treasury Department has said that enclosing information with every income tax refund would reach about 70 million households. They indicated that the enclosure would cost approximately $210,000.

The population that would receive these cards is very appropriate for the organ donation appeal. For most transplants, the optimum age range for organ donors is 15 to 65. Individuals receiving income tax refunds tend to fit this demographic. They often are next-of-kin of others in the prime age range for organ donation. Therefore, this appeal will reach a very appropriate group in a highly cost-effective way.

Furthermore, enclosing this appeal with IRS refund checks will not pose a logistical problem or burden the Treasury Department. Tax refund checks frequently are accompanied by an insert with a public service message, such as the 1994 offer for World Cup commemorative coins. In past years, enclosures have advertised similar appeals, such as a "Bill of Rights" coin, a Mount Rushmore anniversary coin, and an Eisenhower centennial coin.

POSITIVE REACTIONS

The medical and transplant recipient communities strongly support this proposal. More than a dozen organizations have endorsed the measure, including the United Network for Organ Sharing, the American Nurses Association, the American Society of Transplant Physicians, the American Society of Transplant Surgeons, the Association of Organ Procurement Organizations, the American Heart Association, the National Kidney Foundation, and the Transplant Recipients International Organization.

By increasing public awareness and encouraging family discussion about organ donation, this legislation would increase the number of donors and reduce the number of people who die while waiting for transplants. I urge my colleagues to support this important measure. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2246

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Organ Donation Insert Card Act".

SEC. 2. ORGAN DONATION INFORMATION INCLUDED WITH INCOME TAX REFUND PAYMENTS.

(a) IN GENERAL.—The Secretary of the Treasury shall include with any payment of a refund of individual income tax made during the period beginning on February 1st of the first calendar year beginning more than 4 months after the date of the enactment of this Act and ending on June 30th of such year a copy of the document described in subsection (b).

(b) TEXT OF DOCUMENT.—The Secretary of the Treasury shall, after consultation with the Secretary of Health and Human Services and organizations promoting organ donation, prepare a document suitable for inclusion with individual income tax refund payments which—

(1) encourages organ donation;

(2) includes a detachable organ donor card; and

(3) urges recipients to—

(A) sign and carry the organ donor card;

(B) discuss organ donation with family members and tell family members about the recipient's desire to be an organ donor if the occasion arises; and

(C) encourage family members to request or authorize organ donation if the occasion arises.

By Mr. SARBANES (for himself, Mr. BYRD, Mr. ROCKEFELLER, and Ms. MIKULSKI):

S.J. Res. 205. A joint resolution granting the consent of Congress to the compact to provide for joint natural resource management and enforcement of laws and regulations pertaining to natural resources and boating at the Jennings Randolph Lake project lying in Garrett County, MD, and Mineral County, WV, entered into between the States of West Virginia and Maryland; to the Committee on the Judiciary.

JENNINGS RANDOLPH LAKE PROJECT COMPACT

● Mr. SARBANES. Mr. President, today I am introducing legislation together with my colleagues Senators BYRD, ROCKEFELLER, and MIKULSKI to grant congressional consent to a compact entered into between the States of

West Virginia and Maryland, with concurrence of the U.S. Army Corps of Engineers, to provide for joint management and enforcement of laws and regulations pertaining to natural resources and boating at Jennings Randolph Lake.

Jennings Randolph Lake is located on the North Branch of the Potomac River in Garrett County, MD, and Mineral County, WV. Construction of the dam, which created the lake, was authorized by the Flood Control Act of 1962 and the project was specifically designed to improve the water quality of the Potomac River, reduce flood damage, provide water supply, and opportunities for recreation. Completed in 1982, the dame is one of the largest dams east of the Mississippi—approximately 6.6 miles long, with a surface area of 952 acres and a drainage area of 263 square miles. Originally named Bloomington Lake, the project was rededicated in May 1987 in honor of former West Virginia Senator Jennings Randolph.

The lake and surrounding area are extraordinarily beautiful and include some of the most picturesque countryside in the Nation. The lake and the North Branch of the Potomac River below the dam support a recreational trout fishery that is regarded as one of the best in America. Other recreational opportunities including boating, downstream whitewater rafting, hiking, and picnicking are drawing increasing number of visitors to the lake. The Army Corps of Engineers currently operates and maintains five recreation sites at the project and the State of Maryland, in cooperation with the corps, is in the process of developing a boat launch and support facilities on the Maryland side of the project.

Unfortunately, the creation of the lake removed the natural boundary between West Virginia and Maryland and the meandering nature of the former river and the depth of the lake have made it virtually impossible to reestablish the precise location of the boundary. As a consequence, enforcement of natural resources and boating laws regulations on the lake has been tentative at best and at worst, nonexistent. As recreational uses of the lake continue to increase, it is anticipated that enforcement problems will become increasingly difficult.

The compact legislation I am introducing today provides the States of West Virginia and Maryland with concurrent jurisdiction over the project area to enable them to jointly enforce natural resource and boating laws and regulations. This approach eliminates the need to redefine the boundary between the two States for law enforcement purposes. As required before congressional action can be taken, the compact was approved by the respective legislatures of Maryland and West Virginia in their 1993 legislative sessions.

Mr. President, this legislation will address the ongoing problems associated with the management and enforcement of laws and regulations relating to natural resources and boating at the Jennings Randolph Lake project. It has been long awaited by both States and I urge its swift enactment.

I ask unanimous consent that the legislation be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 205

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL CONSENT.

The Congress hereby consents to the Jennings Randolph Lake Project Compact entered into between the States of West Virginia and Maryland which compact is substantially as follows:

"COMPACT

"Whereas the State of Maryland and the State of West Virginia, with the concurrence of the United States Department of the Army, Corps of Engineers, have approved and desire to enter into a compact to provide for joint natural resource management and enforcement of laws and regulations pertaining to natural resources and boating at the Jennings Randolph Lake Project lying in Garrett County, Maryland and Mineral County, West Virginia, for which they seek the approval of Congress, and which compact is as follows:

"Whereas the signatory parties hereto desire to provide for joint natural resource management and enforcement of laws and regulations pertaining to natural resources and boating at the Jennings Randolph Lake Project lying in Garrett County, Maryland and Mineral County, West Virginia, for which they have a joint responsibility; and they declare as follows:

"1. The Congress, under Public Law 87–874, authorized the development of the Jennings Randolph Lake Project for the North Branch of the Potomac River substantially in accordance with House Document Number 469, 87th Congress, 2nd Session for flood control, water supply, water quality, and recreation; and

"2. Section 4 of the Flood Control Act of 1944 (Ch 665, 58 Stat. 534) provides that the Chief of Engineers, under the supervision of the Secretary of War (now Secretary of the Army), is authorized to construct, maintain and operate public park and recreational facilities in reservoir areas under control of such Secretary for the purpose of boating, swimming, bathing, fishing, and other recreational purposes, so long as the same is not inconsistent with the laws for the protection of fish and wildlife of the State(s) in which such area is situated; and

"3. Pursuant to the authorities cited above, the U.S. Army Engineer District (Baltimore), hereinafter 'District', did construct and now maintains and operates the Jennings Randolph Lake Project; and

"4. The National Environmental Policy Act of 1969 (P.L. 91–190) encourages productive and enjoyable harmony between man and his environment, promotes efforts which will stimulate the health and welfare of man, and encourages cooperation with State and local governments to achieve these ends; and

"5. The Fish and Wildlife Coordination Act (16 U.S.C. 661–666c) provides for the consideration and coordination with other features of water-resource development programs through the effectual and harmonious planning, development, maintenance, and coordination of wildlife conservation and rehabilitation; and

"6. The District has Fisheries and Wildlife Plans as part of the District's project Operational Management Plan; and

"7. In the respective States, the Maryland Department of Natural Resources (hereinafter referred to as 'Maryland DNR') and the West Virginia Division of Natural Resources (hereinafter referred to as 'West Virginia DNR') are responsible for providing a system of control, propagation, management, protection, and regulation of natural resources and boating in Maryland and West Virginia and the enforcement of laws and regulations pertaining to those resources as provided in Annotated Code of Maryland Natural Resources Article and West Virginia Chapter 20, respectively, and the successors thereof; and

"8. The District, the Maryland DNR, and the West Virginia DNR are desirous of conserving, perpetuating and improving fish and wildlife resources and recreational benefits of the Jennings Randolph Lake Project; and

"9. The District and the States of Maryland and West Virginia wish to implement the aforesaid acts and responsibilities through this Compact and they each recognize that consistent enforcement of the natural resources and boating laws and regulations can best be achieved by entering this Compact:

"Now, therefore, be it *Resolved*, That the States of Maryland and West Virginia, with the concurrence of the United States Department of the Army, Corps of Engineers, hereby solemnly covenant and agree with each other, upon enactment of concurrent legislation by The Congress of the United States and by the respective state legislatures, to the Jennings Randolph Lake Project Compact, which consists of this preamble and the articles that follow:

"Article I—Name, Findings, and Purpose

"1.1 This compact shall be known and may be cited as the Jennings Randolph Lake Project Compact.

"1.2 The legislative bodies of the respective signatory parties, with the concurrence of the U.S. Army Corps of Engineers, hereby find and declare:

"1. The water resources and project lands of the Jennings Randolph Lake Project are affected with local, state, regional, and national interest, and the planning, conservation, utilization, protection and management of these resources, under appropriate arrangements for inter-governmental cooperation, are public purposes of the respective signatory parties.

"2. The lands and waters of the Jennings Randolph Lake Project are subject to the sovereign rights and responsibilities of the signatory parties, and it is the purpose of this compact that, notwithstanding any boundary between Maryland and West Virginia that preexisted the creation of Jennings Randolph Lake, the parties will have and exercise concurrent jurisdiction over any lands and waters of the Jennings Randolph Lake Project concerning natural resources and boating laws and regulations in the common interest of the people of the region.

"Article II—District Responsibilities

"The District, within the Jennings Randolph Lake Project,

"2.1 Acknowledges that the Maryland DNR and West Virginia DNR have authorities and responsibilities in the establishment, administration and enforcement of the natural resources and boating laws and regulations applicable to this project, provided that the laws and regulations promulgated by the States support and implement, where applicable, the intent of the Rules and Regulations Governing Public Use of Water Resources Development Projects administered by the Chief of Engineers in Title 36, Chapter RI, Part 327, Code of Federal Regulations,

"2.2 Agrees to practice those forms of resource management as determined jointly by the District, Maryland DNR and West Virginia DNR to be beneficial to natural resources and which will enhance public recreational opportunities compatible with other authorized purposes of the project,

"2.3 Agrees to consult with the Maryland DNR and West Virginia DNR prior to the issuance of any permits for activities or special events which would include, but not necessarily be limited to: fishing tournaments, training exercises, regattas, marine parades, placement of ski ramps, slalom water ski courses and the establishment of private markers and/or lighting. All such permits issued by the District will require the permittee to comply with all State laws and regulations,

"2.4 Agrees to consult with the Maryland DNR and West Virginia DNR regarding any recommendations for regulations affecting natural resources, including, but not limited to, hunting, trapping, fishing or boating at the Jennings Randolph Lake Project which the District believes might be desirable for reasons of public safety, administration of public use and enjoyment,

"2.5 Agrees to consult with the Maryland DNR and West Virginia DNR relative to the marking of the lake with buoys, aids to navigation, regulatory markers and establishing and posting of speed limits, no wake zones, restricted or other control areas and to provide, install and maintain such buoys, aids to navigation and regulatory markers as are necessary for the implementation of the District's Operational Management Plan. All buoys, aids to navigation and regulatory markers to be used shall be marked in conformance with the Uniform State Waterway Marking System,

"2.6 Agrees to allow hunting, trapping, boating and fishing by the public in accordance with the laws and regulations relating to the Jennings Randolph Lake Project,

"2.7 Agrees to provide, install and maintain public ramps, parking areas, courtesy docks, etc., as provided for by the approved Corps of Engineers Master Plan, and

"2.8 Agrees to notify the Maryland DNR and the West Virginia DNR of each reservoir drawdown prior thereto excepting drawdown for the reestablishment of normal lake levels following flood control operations and drawdown resulting from routine water control management operations described in the reservoir regulation manual including releases requested by water supply owners and normal water quality releases. In case of emergency releases or emergency flow curtailments, telephone or oral notification will be provided. The District reserves the right, following issuance of the above notice, to make operational and other tests which may be necessary to insure the safe and efficient operation of the dam, for inspection and maintenance purposes, and for the gathering of water quality data both within the impoundment and in the Potomac River downstream from the dam.

"Article III—State Responsibilities

"The State of Maryland and the State of West Virginia agree:

"3.1 That each State will have and exercise concurrent jurisdiction with the District and the other State for the purpose of enforcing the civil and criminal laws of the respective States pertaining to natural resources and boating laws and regulations over any lands and waters of the Jennings Randolph Lake Project;

"3.2 That existing natural resources and boating laws and regulations already in effect in each State shall remain in force on the Jennings Randolph Lake Project until either State amends, modifies or rescinds its laws and regulations;

"3.3 That the Agreement for Fishing Privileges dated June 24, 1985 between the State of Maryland and the State of West Virginia, as amended, remains in full force and effect;

"3.4 To enforce the natural resources and boating laws and regulations applicable to the Jennings Randolph Lake Project;

"3.5 To supply the District with the name, address and telephone number of the person(s) to be contacted when any drawdown except those resulting from normal regulation procedures occurs;

"3.6 To inform the Reservoir Manager of all emergencies or unusual activities occurring on the Jennings Randolph Lake Project;

"3.7 To provide training to District employees in order to familiarize them with natural resources and boating laws and regulations as they apply to the Jennings Randolph Lake Project; and

"3.8 To recognize that the District and other Federal Agencies have the right and responsibility to enforce, within the boundaries of the Jennings Randolph Lake Project, all applicable Federal laws, rules and regulations so as to provide the public with safe and healthful recreational opportunities and to provide protection to all federal property within the project.

"Article IV—Mutual Cooperation

"4.1 Pursuant to the aims and purposes of this Compact, the State of Maryland, the State of West Virginia and the District mutually agree that representatives of their natural resource management and enforcement agencies will cooperate to further the purposes of this Compact. This cooperation includes, but is not limited to, the following:

"4.2 Meeting jointly at least once annually, and providing for other meetings as deemed necessary for discussion of matters relating to the management of natural resources and visitor use on lands and waters within the Jennings Randolph Lake Project;

"4.3 Evaluating natural resources and boating, to develop natural resources and boating management plans and to initiate and carry out management programs;

"4.4 Encouraging the dissemination of joint publications, press releases or other public information and the interchange between parties of all pertinent agency policies and objectives for the use and perpetuation of natural resources of the Jennings Randolph Lake Project; and

"4.5 Entering into working arrangements as occasion demands for the use of lands, waters, construction and use of buildings and other facilities at the project.

"Article V—General Provisions

"5.1 Each and every provision of this Compact is subject to the laws of the States of Maryland and West Virginia and the laws of the United States, and the delegated authority in each instance.

"5.2 The enforcement and applicability of natural resources and boating laws and regulations referenced in this Compact shall be limited to the lands and waters of the Jennings Randolph Lake Project, including but not limited to the prevailing reciprocal fishing laws and regulations between the States of Maryland and West Virginia.

"5.3 Nothing in this Compact shall be construed as obligating any party hereto to the expenditure of funds or the future payment of money in excess of appropriations authorized by law.

"5.4 The provisions of this Compact shall be severable, and if any phrase, clause, sentence or provision of the Jennings Randolph Lake Project Compact is declared to be unconstitutional or inapplicable to any signatory party or agency of any party, the constitutionality and applicability of the Compact shall not be otherwise affected as to any provision, party, or agency. It is the legislative intent that the provisions of the Compact be reasonably and liberally construed to effectuate the stated purposes of the Compact.

"5.5 No member of or delegate to Congress, or signatory shall be admitted to any share or part of this Compact, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

"5.6 When this Compact has been ratified by the legislature of each respective State, when the Governor of West Virginia and the Governor of Maryland have executed this Compact on behalf of their respective States and have caused a verified copy thereof to be filed with the Secretary of State of each respective State, when the Baltimore District of the U.S. Army Corps of Engineers has executed its concurrence with this Compact, and when this Compact has been consented to by the Congress of the United States, then this Compact shall become operative and effective.

"5.7 Either State may, by legislative act, after one year's written notice to the other, withdraw from this Compact. The U.S. Army Corps of Engineers may withdraw its concurrence with this Compact upon one year's written notice from the Baltimore District Engineer to the Governor of each State.

"5.8 This Compact may be amended from time to time. Each proposed amendment shall be presented in resolution form to the Governor of each State and the Baltimore District Engineer of the U.S. Army Corps of Engineers. An amendment to this Compact shall become effective only after it has been ratified by the legislatures of both signatory States and concurred in by the U.S. Army Corps of Engineers, Baltimore District. Amendments shall become effective thirty days after the date of the last concurrence or ratification.".

SEC. 2. The right to alter, amend or repeal this joint resolution is hereby expressly reserved. The consent granted by this joint resolution shall not be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the region which forms the subject of the compact.●

ADDITIONAL COSPONSORS

S. 266

At the request of Mr. SIMON, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 266, a bill to provide for elementary and secondary school library media resources, technology enhancement, training and improvement.

S. 277

At the request of Mr. SIMON, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 277, a bill to authorize the establishment of the National African American Museum within the Smithsonian Institution.

S. 359

At the request of Mr. DECONCINI, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 359, a bill to require the Secretary of Treasury to mint coins in commemoration of the National Law Enforcement Officers Memorial, and for other purposes.

S. 426

At the request of Mr. SHELBY, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 426, a bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States.

S. 1063

At the request of Mr. HATCH, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 1063, a bill to amend the Employee Retirement Income Security Act of 1974 to clarify the treatment of a qualified football coaches plan.

S. 1680

At the request of Mr. LAUTENBERG, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1680, a bill to amend the Toxic Substances Control Act to protect the public from health hazards caused by exposure to environmental tobacco smoke, and for other purposes.

S. 2009

At the request of Mr. HARKIN, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 2009, a bill to amend title IV of the Social Security Act by reforming the Aid to Families with Dependent Children Program, and for other purposes.

S. 2090

At the request of Mr. WOFFORD, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 2090, a bill to provide negotiating authority for a trade agreement with Chile, but to apply fast track procedures only to such an agreement that contains certain provisions relating to worker rights and the environment.

S. 2111

At the request of Mr. BREAUX, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 2111, a bill to foster further developmemt of the Nation's telecommunications infrastructure and protection of the public interest, and for other purposes.

S. 2127

At the request of Mr. DANFORTH, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 2127, a bill to improve railroad safety at grade crossings, and for other purposes.

S. 2183

At the request of Mr. ROBB, the names of the Senator from Hawaii [Mr. INOUYE], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 2183, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the signing of the World War II peace accords on September 2, 1945.

S. 2227

At the request of Mr. LAUTENBERG, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 2227, a bill to amend the Solid Waste Disposal Act to provide congressional authorization of State control over transportation of municipal solid waste, and for other purposes.

SENATE JOINT RESOLUTION 165

At the request of Mr. COCHRAN, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Joint Resolution 165, a joint resolution to designate the month of September 1994 as "National Sewing Month."

SENATE JOINT RESOLUTION 185

At the request of Mr. PELL, the names of the Senator from Montana [Mr. BAUCUS], the Senator from Ohio [Mr. GLENN], the Senator from New Mexico [Mr. BINGAMAN], the Senator from South Dakota [Mr. PRESSLER], the Senator from Delaware [Mr. ROTH], the Senator from Ohio [Mr. METZENBAUM], the Senator from South Dakota [Mr. DASCHLE], the Senator from Georgia [Mr. COVERDELL], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Joint Resolution 185, a joint resolution to designate October 1994 as "National Breast Cancer Awareness Month."

SENATE JOINT RESOLUTION 193

At the request of Mr. LAUTENBERG, the names of the Senator from Colorado [Mr. BROWN], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of Senate Joint Resolution 193, a joint resolution to designate May 1995 "Multiple Sclerosis Association of America Month."

SENATE JOINT RESOLUTION 198

At the request of Mr. PRYOR, the names of the Senator from Arizona [Mr. MCCAIN], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of Senate Joint Resolution 198, a joint resolution designating 1995 as the "Year of the Grandparent."

SENATE CONCURRENT RESOLUTION 69

At the request of Mr. METZENBAUM, the names of the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of Senate Concurrent Resolution 69, a concurrent resolution expressing the sense of the Congress that any legislation that is enacted to provide for national health care reform should provide for compensation for poison control center services, and that a commission should be established to study the delivery and funding for poison control services.

AMENDMENT NO. 1895

At the request of Mr. DORGAN the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Michigan [Mr. RIEGLE], the Senator from California [Mrs. FEINSTEIN], and the Senator from Virginia [Mr. ROBB] were added as cosponsors of Amendment No. 1895 proposed to S. 687, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

AMENDMENT NO. 1931

At the request of Mr. WARNER the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of Amendment No. 1931 intended to be proposed to S. 2182, an original bill to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

SENATE RESOLUTION 234—EXPRESSING THE SENSE OF THE SENATE CONCERNING THE FIFTH YEAR OF IMPRISONMENT OF DAW AUNG SAN SUU KYI BY BURMA'S MILITARY DICTATORSHIP

Mr. MOYNIHAN (for himself, Mr. PELL, Mr. SIMON, Mr. D'AMATO, Mr. KENNEDY, Mr. HELMS, and Mr. PRESSLER) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 234

Whereas on July 19, 1994, Nobel Peace Prize winner Daw Aung San Suu Kyi will have endured five years of unlawful house arrest by the State Law and Order Restoration Council (in this preamble referred to as the "SLORC"), the military junta in Burma;

Whereas on May 27, 1990 the people of Burma voted overwhelmingly in a free election for Daw Aung San Suu Kyi and the National League for Democracy;

Whereas despite numerous pledges, the SLORC has failed to honor the results of the May 1990 elections;

Whereas the United States recognizes the individuals who won the 1990 elections as the legitimate representatives of the Burmese people;

Whereas the United States has not sent an ambassador to Rangoon to protest the failure of the SLORC to honor the 1990 elections and the continued human rights abuses suffered by the Burmese people;

Whereas the United Nations General Assembly stated in resolution 48/150 that no evident progress has been made to restore democracy in accordance with the will of the people of Burma as expressed in the 1990 election;

Whereas the Special Rapporteur for Burma appointed by the United Nations Commission on Human Rights has been denied access to Daw Aung San Suu Kyi and other political prisoners in Burma;

Whereas the Government of Thailand has in the past generously provided safe haven to the many Burmese forced to flee the brutal repression of the SLORC regime;

Whereas despite pressure from the SLORC, the Government of Thailand has allowed Burmese democracy leaders to operate within its borders, and has granted visas for international travel;

Whereas recent reports indicate that the Government of Thailand has adopted more restrictive policies toward Burmese refugees in Thailand;

Whereas reports have indicated that some Rohingya refugees located in Bangladesh have been returned to Burma against their will; and

Whereas the members of the Association of Southeast Asian Nations (ASEAN) will meet in Bangkok, Thailand in July 1994, and the SLORC has been invited to attend the opening meeting: Now, therefore, be it hereby

Resolved, That it is the sense of the Senate that the United States Government should—

(1) enunciate a clear and strong policy to promote democracy in Burma;

(2) strongly encourage ASEAN members at the meetings in Bangkok in July to join United States efforts to:

(a) seek the immediate release of Daw Aung San Suu Kyi and all other political prisoners in Burma and allow them to participate fully in the Burmese political process:

(b) achieve the transfer of power to the winners of the 1990 democratic election;

(c) join the arms embargo which the United States continues to maintain against Burma;

(d) end the gross human rights abuses perpetrated by the SLORC, including torture, arbitrary arrests, executions, forced labor, forced relocation and the rape and trafficking of women;

(3) clearly and publicly indicate the continued opposition of the United States to SLORC participation in ASEAN;

(4) work to implement United Nations General Assembly resolution 48/150, unanimously adopted on December 20, 1993, and pledge to seek international sanctions through the United Nations, including a multilateral arms embargo, and the appointment of a special envoy to facilitate the transfer to democracy in Burma;

(5) oppose commercial arrangements that only provide financial support for the SLORC;

(6) oppose foreign aid and financial assistance from international financial institutions such as the World Bank and the International Monetary Fund which only provide financial support for the SLORC;

(7) encourage the Government of Thailand to allow Burmese political leaders and refugees, including the Karen, Mon and Karenni, and other ethnic groups, to continue their efforts to bring democratic change to Burma without fear of harassment or other pressure;

(8) continue the current United States policy of not sending an ambassador to Rangoon until such time as the SLORC has taken concrete steps to end human rights abuses and transfer power to the democratically elected leaders of Burma;

(9) investigate claims of forced repatriation of Rohingya refugees and encourage adequate monitoring to prevent Burmese refugees from being repatriated against their will.

AMENDMENTS SUBMITTED

PRODUCT LIABILITY FAIRNESS ACT

LAUTENBERG (AND OTHERS) AMENDMENT NO. 1932

(Ordered to lie on the table.)

Mr. LAUTENBERG (for himself, Mr. HARKIN, and Mr. GRAHAM) submitted an amendment intended to be proposed by them to the bill (S. 687) to regulate interstate commerce by providing for a uniform product liability law, and for other purposes; as follows:

At the appropriate place, insert the following new title:

TITLE III—MEDICARE AND MEDICAID THIRD PARTY LIABILITY

SEC. 301. SHORT TITLE.

This title may be cited as the "Medicare and Medicaid Third Party Liability Act".

SEC. 302. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) illnesses and diseases that result from the use of tobacco products cost Federal Government health care programs billions of dollars, including at least $16,000,000,000 in the medicare program and $3,000,000,000 in the medicaid program for inpatient hospital services in fiscal year 1994;

(2) over the next 20 years, such illnesses and diseases will cost the medicare trust funds at least $800,000,000,000;

(3) in April 1994, the trustees of the medicare trust funds concluded that such funds may be insolvent in 7 years, with $128,000,000,000 of expenditures due to such illnesses and diseases;

(4) recent discoveries, including documents, patents and patent applications, and testimony, have shown that—

(A) the tobacco industry has known for years that the nicotine in cigarettes is addictive,

(B) the industry has attempted both to conceal this information from the public and the Government and to manipulate the amount of nicotine in cigarettes, and

(C) it is possible to manufacture cigarettes which are far less dangerous to consumers;

(5) more than 36 percent of medicare recipients are former smokers and 20 percent are current smokers;

(6) approximately 43 percent of medicaid recipients smoke, compared to 26 percent of the general public; and

(7) the medicare population is much more at risk of contracting illnesses and diseases that result from the use of tobacco products than younger smokers, because such population has smoked longer;

(8) legal scholars and courts are increasingly agreeing that it is appropriate to use statistical evidence to prove causation; and

(9) in view of the large number of Americans killed, disabled, or otherwise injured each year as a result of smoking cigarettes, the addictiveness of the nicotine in cigarettes, and the absence of any significant benefits to society from smoking, cigarettes are an unreasonably dangerous product and cigarette manufacturers are engaged in abnormally dangerous activities.

(b) PURPOSE.—The purpose of this title is to allow the American taxpayers to recoup billions of dollars in Federal Government health care funds spent on tobacco related illnesses and diseases.

SEC. 303. CLASS ACTION TO RECOVER COSTS TO FEDERAL GOVERNMENT HEALTH CARE PROGRAMS OF TOBACCO RELATED ILLNESSES AND DISEASES.

(a) IN GENERAL.—(1) With respect to payments made under any applicable Federal Government health care program to or on behalf of more than one recipient with a disease, illness, condition, or complication caused, in whole or in part, by the use of tobacco products, the Attorney General of the United States may seek recovery for such payments from third parties (or any successors to such third parties) that manufacture tobacco products. The Attorney General (after consultation with the appropriate Secretaries who administer such programs) may bring an action in the name of the United States in United States district court to recover such payments made to or on behalf of all such recipients in one proceeding.

(2) Any action to enforce the rights of the Attorney General under this section with respect to any payment described in paragraph (1) shall be commenced within 5 years of such payment.

(3) For purposes of paragraph (1), the term "applicable Federal Government health care program" includes—

(A) the medicare program under title XVIII of the Social Security Act;

(B) the medicaid program under title XIX of such Act;

(C) the veterans health care program under title 38, United States Code; and

(D) any other similar Federal health care program.

(b) NOTICE UNDER THE CLASS ACTION.—(1) In any action brought under this section, no notice to recipients described in subsection (a)(1) is required, and such recipients shall have no right to become a party to such action. Such action is independent of any rights or causes of action of such recipients.

(2) In any such action in which the number of recipients described in subsection (a)(1) is so large as to cause it to be impracticable to join or identify each claim, the Attorney General shall not be required to so identify the individual recipients for which payment has been made, but rather can proceed to seek recovery based upon payments made to or on behalf of an entire class of recipients.

(c) RULES OF EVIDENCE.—In any action brought under this section, the Federal Rules of Evidence shall be construed, regarding the introduction and probative value of evidence on the issues of causation and damages, in order to effectuate the purposes of this Act to the greatest extent possible. The issues of causation and damages in any such action may be proven by use of statistical analysis or epidemiological evidence, or both.

(d) SHARE OF LIABILITY.—In any action brought under this section in which a third party is liable due to its manufacture, sale, or distribution of a tobacco product, the Attorney General shall be allowed to proceed under a market share theory, if the products involved are substantially interchangeable and substantially similar factual or legal issues would be involved in seeking recovery against each liable third party individually. In the alternative, the Attorney General shall be allowed to proceed under a theory of concerted action or enterprise liability, or both, if warranted by the facts presented to the court.

(e) DISTRIBUTION OF RECOVERY.—Amounts recovered under any action brought under this section shall be paid to the United States and disposed of as follows:

(1) In the case of amounts recovered arising out of a claim under title XIX of the Social Security Act, there shall be paid to each State agency an amount bearing the same proportion to the total amount recovered as the State's share of the amount paid by the State agency for such claim bears to the total amount paid for such claim.

(2) Such portion of the amounts recovered as is determined to have been paid out of the trust funds under sections 1817 and 1841 of the Social Security Act shall be repaid to such trust funds.

(3) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States.

LAUTENBERG (AND SIMON) AMENDMENT NO. 1933

(Ordered to lie on the table.)

Mr. LAUTENBERG (for himself and Mr. SIMON) submitted an amendment intended to be proposed by them to the bill S. 687, supra; as follows:

At the end of the bill, add the following:

TITLE III—FIREARMS

SEC. 301. VICTIM COMPENSATION FROM PERSONS WHO UNLAWFULLY PROVIDE FIREARMS TO JUVENILES, FELONS, AND OTHER DISQUALIFIED INDIVIDUALS.

(a) VICTIM COMPENSATION.—Section 924 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(j) VICTIM COMPENSATION.—

"(1) IN GENERAL.—Any person who sells, delivers, or otherwise transfers—

"(A) a firearm in violation of section 922(d) or section 922(b)(1); or

"(B) a handgun to a person who the transferor knows or has reasonable cause to believe is a juvenile, except as provided in paragraph (6),

shall be liable for damages caused by a discharge of the transferred firearm by the transferee.

"(2) CIVIL ACTION.—An action to recover damages under paragraph (1) may be brought in a United States district court by, or on behalf of, any person, or the estate of any person, who suffers damages resulting from bodily injury to or the death of any person caused by a discharge of the transferred firearm by the transferee.

"(3) DISENTITLEMENT TO RECOVERY.—There shall be no liability under this subsection if it is established by a preponderance of the evidence that—

"(A) the damages were suffered by a person who was engaged in a criminal act against the person or property of another at the time of the injury; or

"(B) the injury was self-inflicted, unless the plaintiff establishes that, at the time of the transfer, the transferor knew or had reasonable cause to believe that the transferee had not attained the age of 18 years or had been adjudicated as a mental defective or committed to a mental institution.

"(4) PERIOD OF LIABILITY.—No action under this subsection may be brought for damages that are caused more than 5 years after the date of the transfer of a firearm upon which an action could otherwise be based.

"(5) ATTORNEY'S FEES AND PUNITIVE DAMAGES.—A prevailing plaintiff in an action under this subsection—

"(A) shall be awarded reasonable attorney's fees and costs, and

"(B) may be awarded punitive damages.

"(6) JUVENILES.—Paragraph (1)(B) does not apply to—

"(A) a temporary transfer of a handgun to a juvenile if the handgun is used by the juvenile—

"(i) in the course of employment, in the course of ranching or farming related to activities at the residence of the juvenile (or on property used for ranching or farming at which the juvenile, with the permission of the property owner or lessee, is performing activities related to the operation of the farm or ranch), target practice, hunting, or a course of instruction in the safe and lawful use of a handgun;

"(ii) with the prior written consent of the juvenile's parent or guardian who is not prohibited by Federal, State, or local law from possessing a firearm, except—

"(I) during transportation by the juvenile of an unloaded handgun in a locked container directly from the place of transfer to a place at which an activity described in clause (i) is to take place and transportation by the juvenile of that handgun, unloaded and in a locked container, directly from the place at which such an activity took place to the transferor; or

"(II) with respect to ranching or farming activities as described in clause (i), with the prior written approval of the juvenile's parent or legal guardian and at the direction of an adult who is not prohibited by Federal, State, or local law from possessing a firearm;

"(iii) if the juvenile keeps the prior written consent in the juvenile's possession at all times when a handgun is in the possession of the juvenile; and

"(iv) in accordance with State and local law;

"(B) issuance of a handgun to a juvenile who is a member of the Armed Forces of the United States or the National Guard who possesses or is armed with the handgun in the line of duty;

"(C) a transfer by inheritance of title (but not possession) of a handgun to a juvenile;

"(D) a delivery of a handgun by a juvenile to be used in defense of the juvenile or other persons against an intruder into the residence of the juvenile or a residence in which the juvenile is an invited guest; or

"(E) a transfer of a handgun for consideration if the transfer is made in accordance with State and local law and with the prior consent of the juvenile's parent or legal guardian who is not prohibited by Federal, State, or local law from possessing a firearm.

"(7) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit or have any other effect on any other cause of action available to any person.".

(b) DEFINITION.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(30) The term 'juvenile' means a person who is less than 18 years of age.".

(c) APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall apply to damages resulting from a firearm that was transferred as described in section 924(j)(1) of title 18, on or after the date of enactment of this Act.

LAUTENBERG AMENDMENT NO. 1934

(Ordered to lie on the table.)

Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 687, supra; as follows:

At the end of section 202, add the following:

(d) NONAPPLICABILITY.—This section shall not apply to a civil action for harm caused by a firearm that was transferred unlawfully or negligently by a product seller.

LIEBERMAN AMENDMENT NO. 1935

(Ordered to lie on the table.)

Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 687, supra; as follows:

On page 16, beginning with line 20, strike out through line 8 on page 18 and insert the following:

"(b) LIMITATION CONCERNING CERTAIN DRUGS AND MEDICAL DEVICES.—

(1) A manufacturer or product seller of a drug (as defined in section 201 (g) (1) of the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. 321 (g) (1)) or medical device (as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. 321(h)) which caused the claimant's harm has not engaged in conduct manifesting conscious, flagrant indifference to the safety of those persons who might be harmed by the product, and shall not be subject to an award of punitive damages pursuant to this section, where—

(A) such drug or device was subject to premarket approval by the Food and Drug Administration pursuant to section 505 (as amended by the New Drug Amendments of 1962, P.L. 87-781), 506, 507, 512, or 515 of the Federal Food, Drug, and Costmetic Act (21 U.S.C. 355, 356, 357, 360b, or 360e) or section 351 of the Public Health Service Act (42 U.S.C. 262) with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm or the adequacy of the packaging of labeling of such drug or device, and such drug or device was actually approved by the Food and Drug Administration; or

(B) the drug or device is generally recognized as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations.

(2) The provisions of paragraph (1) shall not apply in any case in which the claimant proves by a preponderance of evidence that—

(A) (i) the defendant, before or after premarket approval of a drug or device, failed to submit or misrepresented to the Food and Drug Administration or any other agency or official of the Federal government required information, including required information regarding any death or other adverse experience associated with use of the drug or device, and (ii) the information that defendant failed to submit or misrepresented is material and relevant to the performance of such drug or device and is causally related to the harm which the claimant allegedly suffered; or

(B) the defendant made an illegal payment to an official of the Food and Drug Administration for the purpose of either securing or maintaining approval of such drug or device; or

(C) the Food and Drug Administration has determined in a formal administrative proceeding (by a final order not subject to further review) or a court has determined in an action brought by the United States (by a final judgement not subject to further review) that the drug or device failed to conform to conditions of the Food and Drug Administration for approval (except for changes permitted without prior approval under applicable law, including Food and Drug Administration regulations), and such failure is causally related to the harm which the claimant allegedly suffered.

(3) The provisions of paragraph (1) shall not apply with respect to a claim for punitive damages based on a defect in manufacturing which causes the drug or device to depart from its intended design."

GRAHAM AMENDMENT NO. 1936

(Ordered to lie on the table.)

Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill S. 687, supra; as follows:

On page 7, line 13, beginning with the comma strike out all through "blood products" on line 14.

FEINSTEIN AMENDMENT NO. 1937

(Ordered to lie on the table.)

Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 687, supra; as follows:

(a) Any corporation, or person who is a manager with respect to a product, facility, equipment or process, is guilty of a criminal offense punishable by imprisonment for a term not exceeding three years or by a fine not exceeding twenty-five thousand dollars both that fine and imprisonment; but if the defendant is a corporation the fine shall not exceed one million dollars ($1,000,000), if that corporation or person does all of the following:

(1) Has actual knowledge of a serious concealed danger that is subject to the regulatory authority of a state or federal agency and is associated with that product or a component of that product or business practice.

(2) Knowingly fails during the period ending 15 days after the actual knowledge is acquired, or if there is imminent risk of great bodily harm or death, immediately, to do both of the following.

(A) Inform the appropriate government agency in writing, unless the corporation or manager has actual knowledge that the division has been so informed.

Where the concerned danger reported pursuant to this paragraph is subject to the regulatory authority of an agency other than the agency to which it was reported, it shall be the responsibility of the agency which has received the information, within 24 hours of receipt of the information, to telephonically notify the appropriate government agency of the hazard, and promptly forward any written notification received.

(B) Warn its affected employees in writing, unless the corporation or manager has actual knowledge that the employees have been so warned.

The requirement for disclosure is not applicable if the hazard is abated within the time prescribed for reporting, unless the appropriate regulatory agency nonetheless requires disclosure by regulation.

Where the appropriate government agency was not notified, but the corporation or manager reasonably and in good faith believed that they were complying with the notification requirements of this section by notifying another government agency, as listed in paragraph (8), no penalties shall apply.

(b) As used in this section:

(1) "Manager" means person having both the following:

(A) Management authority in or as a business entity.

(B) Significant responsibility for any aspect of a business which includes actual authority for the safety of a product or business practice or for the conduct of research or testing in connection with a product or business practice.

(2) "Product" means an article of trade or commerce or other item of merchandise which is a tangible or an intangible good, and includes services.

(3) "Actual knowledge," used with respect to a seriously concealed danger, means has information that would convince a reasonable person in the circumstances in which the manager is situated that the serious concealed danger exists.

(4) "Serious concealed danger," used with respect to a product or business practice, means that the normal or reasonably foreseeable use of, or the exposure of an individual to, the product or business practice creates a substantial probability of death, great bodily harm; or serious exposure to an individual, and the danger is not readily apparent to an individual who is likely to be exposed.

(5) "Great bodily harm" means a significant or substantial physical in).

(6) "Serious exposure" means any exposure to a hazardous substance, when the exposure occurs as a result of an incident or exposure over time and to a degree or in an amount sufficient to create a substantial probability that death or great bodily harm in the future would result from the exposure.

(7) "Warn its affected employees" means given sufficient description of the serious concealed danger to all individuals working for or in the business entity who are likely to be subject to the serious concealed danger in the course of that work to make those individuals aware of that danger.

(8) "Appropriate government agency" means any state of federal agency, including but not limited to those on the following list, that has regulatory authority with respect to the product or business practice and serious concealed dangers of the sort discovered:

(A) The U.S. Department of Health and Human Services.

(B) The U.S. Department of Agriculture.

(C) The U.S. Consumer Product Safety Commission.

(D) The United States Food and Drug Administration.

(E) The United States Environmental Protection Agency.

(F) The National Highway Traffic Safety Administration.

(G) The Federal Trade Commission.

(H) The Nuclear Regulatory Commission.

(I) The Federal Aviation Administration.

(J) The Federal Mine Safety and Health Review Commission.

(c) Notification received pursuant to and in compliance with this section shall not be used against any manager in any criminal case, except in a prosecution for perjury or for giving a false statement.

LIEBERMAN (AND OTHERS) AMENDMENT NO. 1938

Mr. LIEBERMAN (for himself, Mr. ROCKEFELLER, and Mr. GORTON) proposed an amendment to the bill S. 687, supra; as follows:

On page 8, line 20, after the period insert the following: "A civil action for negligent entrustment is not subject to this Act and shall be governed by applicable State law. For purposes of the preceding sentence, the term "negligent entrustment" means causes of action under applicable State law that subject product sellers to liability for their failure to meet the applicable standard of care under State law in selling a product to a person who, because of his youth, inexperience, or otherwise, is likely to handle the product in a manner to cause harm to himself or others.

SPECTER AMENDMENT NO. 1939

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 687, supra; as follows:

Strike the text of the amendment and insert the following: Strike page 25, line 22 through page 27, line 16 of the bill and insert in lieu thereof the following:

"(a) IN GENERAL.—(1) An employer or workers' compensation insurer of an employer shall have a right of subrogation against the net recovery obtained by an employee for harm caused to an employee by a product if the harm is one for which a civil action has been brought pursuant to this Act. The amount subject to subrogation shall be the amount paid as workers' compensation benefits to which the employee is or would be entitled to receive and the present value of such workers' compensation benefits as determined by the appropriate workers' compensation authority.

"(2) If the net amount recovered by the employee is insufficient to satisfy the subrogation lien of the employer or the employer's workers' compensation insurer in full and to compensate the employee adequately, the lien shall be fully satisfied by payment equal to one-half of the employee's net recovery.

"(3) In any proceeding against or settlement with the manufacturer or product seller, the employer or the workers' compensation insurer of the employer shall have an opportunity to participate and to assert a right of subrogation upon any recovery and to assert a right of subrogation upon any recovery obtained from the manufacturer or product seller by reason of such harm, whether paid in settlement, in satisfaction of judgment, as consideration for covenant not to sue, or otherwise. The employee shall not make any settlement with or accept any recovery from the manufacturer or product seller without the written consent of the employer and no release to or agreement with the manufacturer or product seller shall be valid or enforceable for any purpose without such consent. However, the preceding sentence shall not apply if the employer or its workers' compensation insurer is made whole for all benefits paid in workers' compensation benefits or if the provisions of subsection (a)(2) of this section apply.

"(4) If the manufacturer or product seller attempts to persuade the trier of fact that the claimant's harm was caused by the fault of the claimant's employer or coemployees, then the issue of whether the claimant's harm was caused by the claimant's employer or coemployees shall be submitted to the trier of fact. If the manufacturer or product seller so attempts to persuade the trier of fact, it shall provide written notice to the employer. The employer shall have the right to appear, to be represented, to conduct discovery, to introduce evidence, to cross-examine adverse witnesses,".

HOLLINGS AMENDMENT NO. 1940

Mr. HOLLINGS proposed an amendment to amendment No. 1938 proposed by Mr. LIEBERMAN to the bill S. 687, supra; as follows:

At the end of the amendment add the following new section:

SEC. . PRODUCT LIABILITY INSURANCE REPORTING.

(a) REPORT TO CONGRESS. The Secretary of Commerce (hereafter in this section referred to as the "Secretary") shall provide to the Congress before June 30 of each year after the date of enactment of this Act a report analyzing the impact of this Act on insurers which issue product liability insurance either separately or in conjunction with other insurance; and on self-insurers, captive insurers, and risk retention groups.

(b) Collection of Data.—To carry out the purpose of this section, the Secretary shall collect from each insurer all data considered necessary by the Secretary to present and analyze fully the impact of this Act on such insurers.

(c) Regulations.—Within 120 days after the date of enactment of this Act, the Secretary shall issue such regulations as may be necessary to implement the purposes, and carry out the provisions, of this section. Such regulations shall be promulgated in accordance with section 553 of title 5, United States Code. Such regulations shall—

(1) require the reporting of information sufficiently comprehensive to make possible a full evaluation of the impact of this Act on such insurers;

(2) specify the information to be provided by such insurers and the format of such information, taking into account methods to minimize the paperwork and cost burdens on such insurers and the Federal Government; and

(3) provide, to the maximum extent practicable, that such information is obtained from existing sources, including, but not limited to, State insurance commissioners, recognized insurance statistical agencies, the Administrative Office of the United States Courts, and the National Center for State Courts.

(d) Subpoena.—The Secretary may subpoena witnesses and records related to the report required under this section from any place in the United States. If a witness disobeys such a subpoena, the Secretary may petition any district court of the United States to enforce such subpoena. The court may punish a refusal to obey an order of the court to comply with such a subpoena as a contempt of court.

GORTON (AND OTHERS) AMENDMENT NO. 1941

Mr. GORTON (for himself, Mr. Lieberman, and Mrs. Feinstein) proposed an amendment to the bill S. 687, supra; as follows:

On page 19, beginning with line 7, strike out through line 6 on page 20 and insert the following:

(b) Limitation Concerning Certain Drugs and Medical Devices.—

(1) A manufacturer or product seller of a drug (as defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. 321(g)(1)) or medical device (as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. 321(h)) which caused the claimant's harm has not engaged in conduct manifesting conscious, flagrant indifference to the safety of those persons who might be harmed by the product, and shall not be subject to an award of punitive damages pursuant to this section, where—

(A) such drug or device was subject to premarket approval by the Food and Drug Administration pursuant to section 505 (as amended by the New Drug Amendments of 1962, P.L. 87-781), 506, 507, 512, or 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355, 356, 357, 360b, or 360e) or section 351 of the Public Health Service Act (42 U.S.C. 262) with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm or the adequacy of the packaging of labeling of such drug or device, and such drug or device was actually approved by the Food and Drug Administration; or

(B) the drug or device is generally recognized as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations.

(2) The provisions of paragraph (1) shall not apply in any case in which the claimant proves by a preponderance of evidence that—

(A)(i) the defendant, before or after premarket approval of a drug or device, failed to submit or misrepresented to the Food and Drug Administration or any other agency or official of the Federal government required information, including required information regarding any death or other adverse experience associated with use of the drug or device, and (ii) the information that defendant failed to submit or misrepresented is material and relevant to the performance of such drug or device and is causally related to the harm which the claimant allegedly suffered; or

(B) the defendant made an illegal payment to an official of the Food and Drug Administration for the purpose of either securing or maintaining approval of such drug or device; or

(C) the Food and Drug Administration has determined in a formal administrative proceeding (by a final order not subject to further review) or a court has determined in an action brought by the United States (by a final judgment not subject to further review) that the drug or device failed to conform to conditions of the Food and Drug Administration for approval (except for changes permitted without prior approval under applicable law, including Food and Drug Administration regulations), and such failure is causally related to the harm which the claimant allegedly suffered.

(3) The provisions of paragraph (1) shall not apply with respect to a claim for punitive damages based on a defect in manufacturing which causes the drug or device to depart from its intended design.

FEINSTEIN AMENDMENT NO. 1942

Mr. ROCKEFELLER (for Mrs. Feinstein) proposed an amendment to amendment No. 1941 proposed by Mr. Gorton to the bill S. 687, supra; as follows:

Insert in the appropriate place:

(a) Any corporation, or person who is a manager with respect to a product, facility, equipment, process, is guilty of a criminal offense punishable by imprisonment for a term not exceeding three years, or by a fine not exceeding twenty-five thousand dollars ($25,000), or by both that fine and imprisonment; but if the defendant is a corporation the fine shall not exceed one million dollars ($1,000,000), if that corporation or person does all of the following:

(1) Has actual knowledge of a serious concealed danger that is subject to the regulatory authority of a state or federal agency and is associated with that product or a component of that product or business practice.

(2) Knowingly fails during the period ending 15 days after the actual knowledge is acquired, or if there is imminent risk of great bodily harm or death, immediately, to do both of the following:

(A) Inform the appropriate government agency in writing, unless the corporation or manager has actual knowledge that the division has been so informed.

Where the concealed danger reported pursuant to this paragraph is subject to the regulatory authority of an agency other than the agency to which it was reported, it shall be the responsibility of the agency which has received the information, within 24 hours of receipt of the information, to telephonically notify the appropriate government agency of the hazard, and promptly forward any written notification received.

(B) Warn its affected employees in writing, unless the corporation or manager has actual knowledge that the employees have been so warned.

The requirement for disclosure is not applicable if the hazard is abated within the time prescribed for reporting, unless the appropriate regulatory agency nonetheless requires disclosure by regulation.

Where the appropriate government agency was not notified, but the corporation or manager reasonably and in good faith believed that they were complying with the notification requirements of this section by notifying another government agency, as listed in paragraph (8), no penalties shall apply.

(b) As used in this section:

(1) "Manager" means a person having both of the following:

(A) Management authority in or as a business entity.

(B) Significant responsibility for any aspect of a business which includes actual authority for the safety of a product or business practice or for the conduct of research or testing in connection with a product or business practice.

(2) "Product" means an article of trade or commerce or other item of merchandise which is a tangible or an intangible good, and includes services.

(3) "Actual knowledge," used with respect to a seriously concealed danger, means has information that would convince a reasonable person in the circumstances in which the manager is situated that the serious concealed danger exists.

(4) "Serious concealed danger," used with respect to a product or business practice, means that the normal or reasonably foreseeable use of, or the exposure of an individual to, the product or business practice creates a substantial probability of death, great bodily harm, or serious exposure to an individual, and the danger is not readily apparent to an individual who is likely to be exposed.

(5) "Great bodily harm" means a significant or substantial physical injury.

(6) "Serious exposure" means any exposure to a hazardous substance, when the exposure occurs as a result of an incident or exposure over time and to a degree or in an amount sufficient to create a substantial probability that death or great bodily harm in the future would result from the exposure.

(7) "Warn its affected employees" means give sufficient description of the serious concealed danger to all individuals working for or in the business entity who are likely to be subject to the serious concealed danger in the course of that work to make those individuals aware of that danger.

(8) "Appropriate government agency" means any state or federal agency, including but not limited to those on the following list, that has regulatory authority with respect to the product or business practice and serious concealed dangers of the sort discovered:

(A) The U.S. Department of Health and Human Services.

(B) The U.S. Department of Agriculture.

(C) The U.S. Consumer Product Safety Commission.

(D) The United States Food and Drug Administration.

(E) The United States Environmental Protection Agency.

(F) The National Highway Traffic Safety Administration.

(G) The Federal Trade Commission.

(H) The Nuclear Regulatory Commission.

(I) The Federal Aviation Administration.

(J) The Federal Mine Safety and Health Review Commission.

(c) Notification received pursuant to and in compliance with this section shall not be used against any manager in any criminal case, except in a prosecution for perjury or for giving a false statement.

FORD AMENDMENT NO. 1943

(Ordered to lie on the table.)

Mr. FORD submitted an amendment intended to be proposed by him to an amendment by Mr. METZENBAUM to the bill S. 687, supra; as follows:

On page 1, beginning on line 2, strike "REGULATION OF TOBACCO PRODUCTS" and all that follows through page 3, line 5, and insert the following: "MEDICAL DEVICES

"SEC. . TIME LINES ON APPROVAL OF MEDICAL DEVICES.

"(a) Definitions.—For purposes of this section:

"(1) Device.—The term 'device' has the meaning given the term in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

"(2) Secretary.—The term 'Secretary' means the Secretary of Health and Human Services.

"(b) In General.—The Secretary shall, under the authority of the Secretary to approve a device under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 201 et seq.) and not later than 180 days from the date of the receipt of an application for approval of such device, approve or deny such application. The action of the Secretary with respect to the approval or denial of an application under this section is subject to administrative review.

"(c) Remedies.—

"(1) In general.—If the Secretary fails to approve or deny an application for approval of a device within the 180-day period under subsection (b), the Secretary shall, in accordance with a determination made by an administrative law judge under paragraph (2), pay damages to the applicant in an amount described under paragraph (3).

"(2) Determination of damages.—The amount of damages awarded to an applicant under this section shall be determined by an administrative law judge based on evidence submitted by the applicant.

"(3) Computation of damages.—

"(A) In general.—The amount of damages awarded to an applicant under this section shall be computed and awarded in accordance with the formula under subparagraph (B).

"(B) Formula.—The amount of damages awarded under this section shall be equal to the total of the loss profits of the applicant during the period beginning on the date that is 181 days from receipt of an application for approval under subsection (b) and ending on the date on which such application is approved or denied.

"(4) Special rule.—

"(A) In general.—If a finding is made under a proceeding in an administrative review (described in subsection (b)) that the Secretary denied an application under subsection (b) only for the purpose of meeting the 180-day period described in such subsection, the applicant shall be awarded an amount of damages that is three times the amount computed under paragraph (3).

"(B) Computation of damages.—Subject to subparagraph (A), the damages awarded under this paragraph shall be awarded and computed in accordance with paragraph (3).

"(C) Effective date of denial.—For the purposes of the awarding of damages under this paragraph, an application described in subsection (b) shall be considered to have been denied on the date the finding is made under subparagraph (A).

"(d) Additional Uses of Approved Devices.—A device approved under this section may be used for a use that is not approved by the Secretary without additional approval from the Secretary. The Secretary may require notification with respect to the nonapproved use of an approved device.

"(e) New Uses of Approved Devices.—The Secretary may not prohibit the manufacturer or user of a device from informing each other about new uses for approved devices.

"(f) Agency Liability.—The Department of Health and Human Services shall be liable for damages in civil actions filed by or on behalf of an individual or estate of a deceased individual for injury or death that is attributable to the failure of the Secretary to approve a device under subsection (b).".

FORD AMENDMENT NO. 1944

(Ordered to lie on the table.)

Mr. FORD submitted an amendment intended to be proposed by him to an amendment to the bill S. 687, supra; as follows:

On page 3, strike lines 3 through 5 , and insert the following: "Federal Food, Drug, and Cosmetic Act over products containing tobacco which the Secretary has without the enactment of this section.

"SEC. . TIME LINES ON APPROVAL OF MEDICAL DEVICES.

"(a) Definitions.—For purposes of this section:

"(1) Device.—The term 'device' has the meaning given the term in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

"(2) Secretary.—The term 'Secretary' means the Secretary of Health and Human Services.

"(b) In General.—The Secretary shall, under the authority of the Secretary to approve a device under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 201 et seq.) and not later than 180 days from the date of the receipt of an application for approval of such device, approve or deny such application. The action of the Secretary with respect to the approval or denial of an application under this section is subject to administrative review.

"(c) Remedies.—

"(1) In general.—If the Secretary fails to approve or deny an application for approval of a device within the 180-day period under subsection (b), the Secretary shall, in accordance with a determination made by an administrative law judge under paragraph (2), pay damages to the applicant in an amount described under paragraph (3).

"(2) Determination of damages.—The amount of damages awarded to an applicant under this section shall be determined by an administrative law judge based on evidence submitted by the applicant.

"(3) Computation of damages.—

"(A) In general.—The amount of damages awarded to an applicant under this section shall be computed and awarded in accordance with the formula under subparagraph (B).

"(B) Formula.—The amount of damages awarded under this section shall be equal to the total of the loss profits of the applicant during the period beginning on the date that is 181 days from receipt of an application for approval under subsection (b) and ending on the date on which such application is approved or denied.

"(4) Special rule.—

"(A) In general.—If a finding is made under a proceeding in an administrative review (described in subsection (b)) that the Secretary denied an application under subsection (b) only for the purpose of meeting the 180-day period described in such subsection, the applicant shall be awarded an amount of damages that is three times the amount computed under paragraph (3).

"(B) Computation of damages.—Subject to subparagraph (A), the damages awarded under this paragraph shall be awarded and computed in accordance with paragraph (3).

"(C) Effective date of denial.—For the purposes of the awarding of damages under this paragraph, an application described in subsection (b) shall be considered to have been denied on the date the finding is made under subparagraph (A).

"(d) Additional Uses of Approved Devices.—A device approved under this section may be used for a use that is not approved by the Secretary without additional approval from the Secretary. The Secretary may require notification with respect to the nonapproved use of an approved device.

"(e) New Uses of Approved Devices.—The Secretary may not prohibit the manufacturer or user of a device from informing each other about new uses for approved devices.

"(f) Agency Liability.—The Department of Health and Human Services shall be liable for damages in civil actions filed by or on behalf of an individual or estate of a deceased individual for injury or death that is attributable to the failure of the Secretary to approve a device under subsection (b).".

FORD (AND McCONNELL) AMENDMENT NO. 1945

(Ordered to lie on the table.)

Mr. FORD (for himself and Mr. McCONNELL) submitted an amendment intended to be proposed by them to an amendment by Mr. METZENBAUM to the bill S. 687, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE.

(a) In General.—Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end the following new section:

"INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE

"Sec. 4011. (a) Authority to Restrict Out-of-State Municipal Waste.—If requested in writing by an affected local government, and by an affected local solid waste planning unit if the local solid waste planning unit exists under State law, a Governor may prohibit the disposal of out-of-State municipal waste in any landfill or incinerator that is subject to the jurisdiction of the Governor or the affected local government.

"(b) Definitions.—As used in this section:

"(1)(A) The term 'affected local government', used with respect to a landfill or incinerator, means the elected officials of the city, town, borough, county, or parish in which the facility is located.

"(B) Within 90 days after the date of enactment of this section, the Governor shall designate which entity listed in subparagraph (A) shall serve as the affected local government for actions taken under this section. If the Governor fails to make a designation, the affected local government shall be the city, town, borough, county, parish, or other public body created pursuant to State law, with primary jurisdiction over the land or the use of land on which the facility is located.

"(2) The term 'affected local solid waste planning unit' means a political subdivision of a State with authority relating to solid waste management planning in accordance with State law.

"(3) The term 'municipal waste' means refuse (and refuse-derived fuel) generated by the general public or from a residential, commercial, institutional, or industrial source (or any combination thereof), consisting of paper, wood, yard wastes, plastics, leather, rubber, or other combustible or noncombustible materials such as metal or glass (or any combination thereof). The term 'municipal waste' does not include—

"(A) any solid waste identified or listed as a hazardous waste under section 3001;

"(B) any solid waste, including contaminated soil and debris, resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604 or 9606) or a corrective action taken under this Act;

"(C) any metal, pipe, glass, plastic, paper, textile, or other material that has been separated or diverted from municipal waste (as otherwise defined in this paragraph) and has been transported into a State for the purpose of recycling or reclamation;

"(D) any solid waste that is—

"(i) generated by an industrial facility; and

"(ii) transported for the purpose of treatment, storage, or disposal to a facility that is owned or operated by the generator of the waste, or is located on property owned by the generator or a company with which the generator is affiliated;

"(E) any solid waste generated incident to the provision of service in interstate, intrastate, foreign, or overseas air transportation;

"(F) any industrial waste that is not identical to municipal waste (as otherwise defined in this paragraph) with respect to the physical and chemical state of the industrial waste, and composition, including construction and demolition debris;

"(G) any medical waste that is segregated from or not mixed with municipal waste (as otherwise defined in this paragraph); or

"(H) any material or product returned from a dispenser or distributor to the manufacturer for credit, evaluation, or possible reuse.

"(4) The term 'out-of-State municipal waste', used with respect to a State, means municipal waste generated outside of the State. To the extent that it is consistent with the United States-Canada Free-Trade Agreement and the General Agreement on Tariffs and Trade to so define the term, the term shall include municipal waste generated outside of the United States.".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding at the end of the items relating to subtitle D the following new item:

"Sec. 4011. Interstate transportation of municipal waste.".

FORD (AND MCCONNELL) AMENDMENTS NOS. 1946 and 1947

(Ordered to lie on the table.)

Mr. FORD (for himself and Mr. MCCONNELL) submitted two amendments intended to be proposed by them to an amendment by Mr. HARKIN to the bill S. 687, supra; as follows:

AMENDMENT No. 1946

In lieu of the matter proposed to be inserted, insert the following:

SEC. . INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE.

(a) IN GENERAL.—Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end the following new section:

"INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE

"SEC. 4011. (a) AUTHORITY TO RESTRICT OUT-OF-STATE MUNICIPAL WASTE.—If requested in writing by an affected local government, and by an affected local solid waste planning unit if the local solid waste planning unit exists under State law, a Governor may prohibit the disposal of out-of-State municipal waste in any landfill or incinerator that is subject to the jurisdiction of the Governor or the affected local government.

"(b) DEFINITIONS.—As used in this section:

"(1)(A) The term 'affected local government', used with respect to a landfill or incinerator, means the elected officials of the city, town, borough, county, or parish in which the facility is located.

"(B) Within 90 days after the date of enactment of this section, the Governor shall designate which entity listed in subparagraph (A) shall serve as the affected local government for actions taken under this section. If the Governor fails to make a designation, the affected local government shall be the city, town, borough, county, parish, or other public body created pursuant to State law, with primary jurisdiction over the land or the use of land on which the facility is located.

"(2) The term 'affected local solid waste planning unit' means a political subdivision of a State with authority relating to solid waste management planning in accordance with State law.

"(3) The term 'municipal waste' means refuse (and refuse-derived fuel) generated by the general public or from a residential, commercial, institutional, or industrial source (or any combination thereof), consisting of paper, wood, yard wastes, plastics, leather, rubber, or other combustible or noncombustible materials such as metal or glass (or any combination thereof). The term 'municipal waste' does not include—

"(A) any solid waste identified or listed as a hazardous waste under section 3001;

"(B) any solid waste, including contaminated soil and debris, resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604 or 9606) or a corrective action taken under this Act;

"(C) any metal, pipe, glass, plastic, paper, textile, or other material that has been separated or diverted from municipal waste (as otherwise defined in this paragraph) and has been transported into a State for the purpose of recycling or reclamation;

"(D) any solid waste that is—

"(i) generated by an industrial facility; and

"(ii) transported for the purpose of treatment, storage, or disposal to a facility that is owned or operated by the generator of the waste, or is located on property owned by the generator or a company with which the generator is affiliated;

"(E) any solid waste generated incident to the provision of service in interstate, intrastate, foreign, or overseas air transportation;

"(F) any industrial waste that is not identical to municipal waste (as otherwise defined in this paragraph) with respect to the physical and chemical state of the industrial waste, and composition, including construction and demolition debris;

"(G) any medical waste that is segregated from or not mixed with municipal waste (as otherwise defined in this paragraph); or

"(H) any material or product returned from a dispenser or distributor to the manufacturer for credit, evaluation, or possible reuse.

"(4) The term 'out-of-State municipal waste', used with respect to a State, means municipal waste generated outside of the State. To the extent that it is consistent with the United States-Canada Free-Trade Agreement and the General Agreement on Tariffs and Trade to so define the term, the term shall include municipal waste generated outside of the United States.".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding at the end of the items relating to subtitle D the following new item:

"Sec. 4011. Interstate transportation of municipal waste.".

AMENDMENT No. 1947

In lieu of the matter proposed to be inserted, insert the following:

SEC. . INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE.

(a) IN GENERAL.—Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end the following new section:

"INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE

"SEC. 4011. (a) AUTHORITY TO RESTRICT OUT-OF-STATE MUNICIPAL WASTE.—If requested in writing by an affected local government, and by an affected local solid waste planning unit if the local solid waste planning unit exists under State law, a Governor may prohibit the disposal of out-of-State municipal waste in any landfill or incinerator that is subject to the jurisdiction of the Governor or the affected local government.

"(b) DEFINITIONS.—As used in this section:

"(1)(A) The term 'affected local government', used with respect to a landfill or incinerator, means the elected officials of the city, town, borough, county, or parish in which the facility is located.

"(B) Within 90 days after the date of enactment of this section, the Governor shall designate which entity listed in subparagraph (a) shall serve as the affected local government for actions taken under this section. If the Governor fails to make a designation, the affected local government shall be the city, town, borough, county, parish, or other public body created pursuant to State law, with primary jurisdiction over the land or the use of land on which the facility is located.

"(2) The term 'affected local solid waste planning unit' means a political subdivision of a State with authority relating to solid waste management planning in accordance with State law.

"(3) The term 'municipal waste' means refuse (and refuse-derived fuel) generated by the general public or from a residential, commercial, institutional, or industrial source (or any combination thereof), consisting of paper, wood, yard wastes, plastics, leather, rubber, or other combustible or noncombustible materials such as metal or glass (or any combination thereof). The term 'municipal waste' does not include—

"(A) any solid waste identified or listed as a hazardous waste under section 3001;

"(B) any solid waste, including contaminated soil and debris, resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604 or 9606) or a corrective action taken under this Act;

"(C) any metal, pipe, glass, plastic, paper, textile, or other material that has been separated or diverted from municipal waste (as otherwise defined in this paragraph) and has been transported into a State for the purpose of recycling or reclamation;

"(D) any solid waste that is—

"(i) generated by an industrial facility; and

"(ii) transported for the purpose of treatment, storage, or disposal to a facility that is owned or operated by the generator of the waste, or is located on property owned by the generator or a company with which the generator is affiliated;

"(E) any solid waste generated incident to the provision of service in interstate, intrastate, foreign, or overseas air transportation;

"(F) any industrial waste that is not identical to municipal waste (as otherwise defined in this paragraph) with respect to the physical and chemical state of the industrial waste, and composition, including construction and demolition debris;

"(G) any medical waste that is segregated from or not mixed with municipal waste (as otherwise defined in this paragraph); or

"(H) any material or product returned from a dispenser or distributor to the manufacturer for credit, evaluation, or possible reuse.

"(4) The term 'out-of-State municipal waste', used with respect to a State, means municipal waste generated outside of the State. To the extent that it is consistent with the United States-Canada Free-Trade Agreement and the General Agreement on Tariffs and Trade to so define the term, the term shall include municipal waste generated outside of the United States.".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding at the end of the items relating to subtitle D the following new item:

"Sec. 4011. Interstate transportation of municipal waste.".

FORD (AND McCONNELL) AMENDMENT NO. 1948

(Ordered to lie on the table.)

Mr. FORD (for himself and Mr. McCONNELL) submitted two amendments intended to be proposed by them to amendment No. 1922 proposed by Mr. METZENBAUM to the bill S. 687, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE.

(a) IN GENERAL.—Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end the following new section:

"INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE

"SEC. 4011. (a) AUTHORITY TO RESTRICT OUT-OF-STATE MUNICIPAL WASTE.—If requested in writing by an affected local government, and by an affected local solid waste planning unit if the local solid waste planning unit exists under State law, a Governor may prohibit the disposal of out-of-State municipal waste in any landfill or incinerator that is subject to the jurisdiction of the Governor or the affected local government.

"(b) DEFINITIONS.—As used in this section:

"(1)(A) The term 'affected local government', used with respect to a landfill or incinerator, means the elected officials of the city, town, borough, county, or parish in which the facility is located.

"(B) Within 90 days after the date of enactment of this section, the Governor shall designate which entity listed in subparagraph (A) shall serve as the affected local government for actions taken under this section. If the Governor fails to make a designation, the affected local government shall be the city, town, borough, county, parish, or other public body created pursuant to State law, with primary jurisdiction over the land or the use of land on which the facility is located.

"(2) The term 'affected local solid waste planning unit' means a political subdivision of a State with authority relating to solid waste management planning in accordance with State law.

"(3) The term 'municipal waste' means refuse (and refuse-derived fuel) generated by the general public or from a residential, commercial, institutional, or industrial source (or any combination thereof), consisting of paper, wood, yard wastes, plastics, leather, rubber, or other combustible or noncombustible materials such as metal or glass (or any combination thereof). The term 'municipal waste' does not include—

"(A) any solid waste identified or listed as a hazardous waste under section 3001;

"(B) any solid waste, including contaminated soil and debris, resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604 or 9606) or a corrective action taken under this Act;

"(C) any metal, pipe, glass, plastic, paper, textile, or other material that has been separated or diverted from municipal waste (as otherwise defined in this paragraph) and has been transported into a State for the purpose of recycling or reclamation;

"(D) any solid waste that is—

"(i) generated by an industrial facility; and

"(ii) transported for the purpose of treatment, storage, or disposal to a facility that is owned or operated by the generator of the waste, or is located on property owned by the generator or a company with which the generator is affiliated;

"(E) any solid waste generated incident to the provision of service in interstate, intrastate, foreign, or overseas air transportation;

"(F) any industrial waste that is not identical to municipal waste (as otherwise defined in this paragraph) with respect to the physical and chemical state of the industrial waste, and composition, including construction and demolition debris;

"(G) any medical waste that is segregated from or not mixed with municipal waste (as otherwise defined in this paragraph); or

"(H) any material or product returned from a dispenser or distributor to the manufacturer for credit, evaluation, or possible reuse.

"(4) The term 'out-of-State municipal waste', used with respect to a State, means municipal waste generated outside of the State. To the extent that it is consistent with the United States-Canada Free-Trade Agreement and the General Agreement on Tariffs and Trade to so define the term, the term shall include municipal waste generated outside of the United States.".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding at the end of the items relating to subtitle D the following new item:

"Sec. 4011. Interstate transportation of municipal waste.".

FORD AMENDMENT NO. 1949

(Ordered to lie on the table.)

Mr. FORD submitted an amendment intended to be proposed by him to an amendment proposed by Mr. LAUTENBERG to the bill S. 687, supra; as follows:

On page 7, strike out lines 5 through 7 and insert in lieu thereof the following:

(3) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States.

SEC. . LIMITATION ON LIABILITY.

Notwithstanding any other provision of this title, in any civil action subject to this title, the plaintiff shall be required to prove by a preponderance of the evidence that the tobacco product in question was defective in design or manufacture or breached an express or implied warranty. In no event may liability be imposed on any other theory, including a failure of a tobacco product manufacturer to provide adequate warnings, so long as the product in question was sold, for any period during which the patient used the product, with the health warnings mandated by section 4 of the Federal Cigarette Labelling and Advertising Act (15 U.S.C. 1333) or section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402).

FORD AMENDMENTS NOS. 1950 THROUGH 1951

(Ordered to lie on the table.)

Mr. FORD submitted two amendments intended to be proposed by him to an amendment proposed by Mr. METZENBAUM to the bill, S. 687, supra; as follows:

AMENDMENT NO. 1950

On page 3, strike out lines 15 through 18 and insert in lieu thereof the following:

(c) DISTRIBUTION OF RECOVERY.—Any recovery in an action under subsection (a) shall be distributed to the Federal and State governments in accordance with the Federal and State shares of the expenditures.

(d) OFFSET OF DAMAGES.—Notwithstanding any other provision of this title, in any civil action subject to this title, after liability has been established and damages determined, such damages shall be offset in an amount equal to any Federal excise tax collected on tobacco products for the period for which liability is imposed.

AMENDMENT NO. 1951

On page 3, strike out lines 15 through 18 and insert in lieu thereof the following:

(c) DISTRIBUTION OF RECOVERY.—Any recovery in an action under subsection (a) shall be distributed to the Federal and State governments in accordance with the Federal and State shares of the expenditures.

(d) LIMITATION ON LIABILITY.—Notwithstanding any other provision of this title, in any civil action subject to this title, the plaintiff shall be required to prove by a preponderance of the evidence that the tobacco product in question was defective in design or manufacture or breached an express or implied warranty. In no event may liability be imposed on any other theory, including a failure of a tobacco product manufacturer to provide adequate warnings, so long as the product in question was sold, for any period during which the patient used the product, with the health warnings mandated by section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) or section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402).

FORD (AND OTHERS) AMENDMENTS NOS. 1952 THROUGH 1972

(Ordered to lie on the table.)

Mr. FORD (for himself, Mr. MCCONNELL, Mr. HELMS, and Mr. FAIRCLOTH) submitted 21 amendments intended to be proposed by them to an amendment proposed by Mr. LAUTENBERG to the bill S. 687, supra; as follows:

AMENDMENT NO. 1952

On page 1, beginning with line 9, strike out all through the end of the amendment and insert in lieu thereof the following:

SEC. 302. DEFINITIONS.

(1) For purposes of this title the term—"manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who designs or formulates the product (or component part of the product) or has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which was created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another; or

(C) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the use of a product;

(2) "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(3) "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state—

(A) which is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(B) which is produced for introduction into trade or commerce;

(C) which has intrinsic economic value; and

(D) which is intended for sale or lease to persons for commercial or personal use;

the term does not include human tissue, blood and blood products, or organs unless specifically recognized as a product pursuant to State law;

(4) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce, or who installs, repairs, or maintains the harm-causing aspect of a product; the term does not include—

(A) a seller or lessor of real property;

(b) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing or judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor; and

(5) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Marina Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 303. CLASS ACTION TO RECOVER COSTS TO FEDERAL GOVERNMENT HEALTH CARE PROGRAMS OF TOBACCO RELATED ILLNESSES AND DISEASES.

(a) IN GENERAL.—(1) With respect to payments made under any applicable Federal Government health care program to or on behalf of more than one recipient with a disease, illness, condition, or complication caused, in whole or in part, by the use of any product, the Attorney General of the United States may seek recovery for such payments from third parties (or any successors to such third parties). The Attorney General (after consultation with the appropriate Secretaries who administer such programs) may bring an action in the name of the United States in United States district court to recover such payments made to or on behalf of all such recipients in one proceedings.

(2) Any action to enforce the rights of the Attorney General under this section with respect to any payment described in paragraph (1) shall be commenced within 5 years of such payment.

(3) For purposes of paragraph (1), the term "applicable Federal Government health care program" includes—

(A) the medicare program under title XVIII of the Social Security Act;

(B) the medicare program under title XIX of such Act;

(C) the veterans health care program under title 38, United States Code; and

(D) any other similar Federal health care program.

(b) NOTICE UNDER THE CLASS ACTION.—(1) In any action brought under this section, no notice to recipients described in subsection (a)(1) is required, and such recipients shall have no right to become a party to such action. Such action is independent of any rights or causes of action of such recipients.

(2) In any such action in which the number of recipients described in subsection (a)(1) is so large as to cause it to be impracticable to join or identify each claim, the Attorney General shall not be required to so identify the individual recipients for which payment has been made, but rather can proceed to seek recovery based upon payments made to or on behalf of an entire class of recipients.

(c) RULES OF EVIDENCE.—In any action brought under this section, the Federal Rules of Evidence shall be construed, regarding the introduction and probative value of evidence on the issues of causation and damages, in order to effectuate the purposes of this Act to the greatest extent possible. The issues of causation and damages in any such action may be proven by use of statistical analysis or epidemiological evidence, or both.

(d) SHARE OF LIABILITY.—In any action brought under this section in which a third party is liable due to its manufacture, sale, or distribution of any product, the Attorney General shall be allowed to proceed under a market share theory, if the products involved are substantially interchangeable and substantially similar factual or legal issues would be involved in seeking recovery against each liable third party individually. In the alternative, the Attorney General shall be allowed to proceed under a theory of concerted action or enterprise liability, or both, if warranted by the facts presented to the court.

(e) DISTRIBUTION OF RECOVERY.—Amounts recovered under any action brought under this section shall be paid to the United States and disposed of as follows:

(1) In the case of amounts recovered arising out of a claim under title XIX of the Social Security Act, there shall be paid to each State agency an amount bearing the same proportion to the total amount recovered as the State's share of the amount paid by the State agency for such claim bears to the total amount paid for such claim.

(2) Such portion of the amounts recovered as is determined to have been paid out of the trust funds under section 1817 and 1841 of the Social Security Act shall be repaid to such trust funds.

(3) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States.

AMENDMENT NO. 1953

On page 1, beginning with line 9, strike out all through the end of the amendment and insert in lieu thereof the following:

SEC. 302. DEFINITIONS.

(1) For purposes of this title the term—"manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who designs or formulates the product (or component part of the product) or has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another; or

(C) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the use of a product;

(2) "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(3) "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state—

(A) which is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(B) which is produced for introduction into trade or commerce;

(C) which has intrinsic economic value; and

(D) which is intended for sale or lease to persons for commercial or personal use;

the term does not include human tissue, blood or blood products, or organs unless specifically recognized as a product pursuant to State law;

(4) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce, or who installs, repairs, or maintains the harm-causing aspect of a product; the term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor; and

(5) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 303. CLASS ACTION TO RECOVER COSTS TO FEDERAL GOVERNMENT HEALTH CARE PROGRAMS OF TOBACCO RELATED ILLNESSES AND DISEASES.

(a) IN GENERAL.—(1) With respect to payments made under any applicable Federal Government health care program to or on behalf of more than one recipient with a disease, illness, condition, or complication caused, in whole or in part, by the use of tobacco or high-fat food products, the Attorney General of the United States may seek recovery for such payments from third parties (or any successors to such third parties). The Attorney General (after consultation with the appropriate Secretaries who administer such programs) may bring an action in the name of the United States in United States district court to recover such payments made to or on behalf of all such recipients in one proceeding.

(2) Any action to enforce the rights of the Attorney General under this section with respect to any payment described in paragraph (1) shall be commenced within 5 years of such payment.

(3) For purposes of paragraph (1), the term "applicable Federal Government health care program" includes—

(A) the medicare program under title XVIII of the Social Security Act;

(B) the medicaid program under title XIX of such Act;

(C) the veterans health care program under title 38, United States Code; and

(D) any other similar Federal health care program.

(b) NOTICE UNDER THE CLASS ACTION.—(1) In any action brought under this section, no notice to recipients described in subsection (a)(1) is required, and such recipients shall have no right to become a party to such action. Such action is independent of any rights or causes of action of such recipients.

(2) In any such action in which the number of recipients described in subsection (a)(1) is so large as to cause it to be impracticable to join or identify each claim, the Attorney General shall not be required to so identify the individual recipients for which payment has been made, but rather can proceed to seek recovery based upon payments made to or on behalf of an entire class of recipients.

(c) RULES OF EVIDENCE.—In any action brought under this section, the Federal Rules of Evidence shall be construed, regarding the introduction and probative value of evidence on the issues of causation and damages, in order to effectuate the purposes of this Act to the greatest extent possible. The issues of causation and damages in any such action may be proven by use of statistical analysis or epidemiological evidence, or both.

(d) SHARE OF LIABILITY.—In any action brought under this section in which a third party is liable due to its manufacture, sale, or distribution of tobacco or high-fat food products, the Attorney General shall be allowed to proceed under a market share theory, if the products involved are substantially interchangeable and substantially similar factual or legal issues would be involved in seeking recovery against each liable third party individually. In the alternative, the Attorney General shall be allowed to proceed under a theory of concerted action or enterprise liability, or both, if warranted by the facts presented to the court.

(e) DISTRIBUTION OF RECOVERY.—Amounts recovered under any action brought under this section shall be paid to the United States and disposed of as follows:

(1) In the case of amounts recovered arising out of a claim under title XIX of the Social Security Act, there shall be paid to each State agency an amount bearing the same proportion to the total amount recovered as the State's share of the amount paid by the State agency for such claim bears to the total amount paid for such claim.

(2) Such portion of the amounts recovered as is determined to have been paid out of the trust funds under section 1817 and 1841 of the Social Security Act shall be repaid to such trust funds.

(3) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States.

AMENDMENT NO. 1954

On page 1, beginning with line 9, strike out all through the end of the amendment and insert in lieu thereof the following:

SEC. 302. DEFINITIONS.

(1) For purposes of this title the term—"manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who designs or formulates the product (or component part of the product) or has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another; or

(C) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the use of a product;

(2) "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(3) "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state—

(A) which is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(B) which is produced for introduction into trade or commerce;

(C) which has intrinsic economic value; and

(D) which is intended for sale or lease to persons for commercial or personal use; the term does not include human tissue, blood and blood products, or organs unless specifically recognized as a product pursuant to State law;

(4) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce, or who installs, repairs, or maintains the harm-causing aspect of a product; the term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor; and

(5) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 303. CLASS ACTION TO RECOVER COSTS TO FEDERAL GOVERNMENT HEALTH CARE PROGRAMS OF TOBACCO RELATED ILLNESSES AND DISEASES.

(a) IN GENERAL.—(1) With respect to payments made under any applicable Federal Government health care program to or on behalf of more than one recipient with a disease, illness, condition, or complication caused, in whole or in part, by the use of tobacco or rental housing products, the Attorney General of the United States may seek recovery for such payments from third parties (or any successors to such third parties). The Attorney General (after consultation with the appropriate Secretaries who administer such programs) may bring an action in the name of the United States in United States district court to recover such payments made to or on behalf of all such recipients in one proceeding.

(2) Any action to enforce the rights of the Attorney General under this section with respect to any payment described in paragraph (1) shall be commenced within 5 years of such payment.

(3) For purposes of paragraph (1), the term "applicable Federal Government health care program" includes—

(A) the medicare program under title XVIII of the Social Security Act;

(B) the medicaid program under title XIX of such Act;

(C) the veterans health care program under title 38, United States Code; and

(D) any other similar Federal health care program.

(b) NOTICE UNDER THE CLASS ACTION.—(1) In any action brought under this section, no notice to recipients described in subsection (a)(1) is required, and such recipients shall have no right to become a party to such action. Such action is independent of any rights or causes of action of such recipients.

(2) In any such action in which the number of recipients described in subsection (a)(1) is so large as to cause it to be impracticable to join or identify each claim, the Attorney General shall not be required to so identify the individual recipients for which payment has been made, but rather can proceed to seek recovery based upon payments made to or on behalf of an entire class of recipients.

(c) RULES OF EVIDENCE.—In any action brought under this section, the Federal Rules of Evidence shall be construed, regarding the introduction and probative value of evidence on the issues of causation and damages, in order to effectuate the purposes of this Act to the greatest extent possible. The issues of causation and damages in any such action may be proven by use of statistical analysis or epidemiological evidence, or both.

(d) SHARE OF LIABILITY.—In any action brought under this section in which a third party is liable due to its manufacture, sale, or distribution of tobacco or rental housing products, the Attorney General shall be allowed to proceed under a market share theory, if the products involved are substantially interchangeable and substantially similar factual or legal issues would be involved in seeking recovery against each liable third party individually. In the alternative, the Attorney General shall be allowed to proceed under a theory of concerted action or enterprise liability, or both, if warranted by the facts presented to the court.

(e) DISTRIBUTION OF RECOVERY.—Amounts recovered under any action brought under this section shall be paid to the United States and disposed of as follows:

(1) In the case of amounts recovered arising out of a claim under title XIX of the Social Security Act, there shall be paid to each State agency an amount bearing the same proportion to the total amount recovered as the State's share of the amount paid by the State agency for such claim bears to the total amount paid for such claim.

(2) Such portion of the amounts recovered as is determined to have been paid out of the trust funds under section 1817 and 1841 of the Social Security Act shall be repaid to such trust funds.

(3) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States.

AMENDMENT NO. 1955

On page 1, beginning with line 9, strike out all through the end of the amendment and insert in lieu thereof the following:

SEC. 302. DEFINITIONS.

(1) For purposes of this title the term "manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who designs or formulates the product (or component part of the product) or has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the streams of commerce, the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another; or

(C) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the use of a product;

(2) "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(3) "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state—

(A) which is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(B) which is produced for introduction into trade or commerce;

(C) which has intrinsic economic value; and

(D) which is intended for sale or lease to persons for commercial or personal use;

the term does not include human tissue, blood and blood products, or organs unless specifically recognized as a product pursuant to State law;

(4) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce, or who installs, repairs, or maintains the harm-causing aspect of a product; the term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor; and

(5) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 303. CLASS ACTION TO RECOVER COSTS TO FEDERAL GOVERNMENT HEALTH CARE PROGRAMS OF TOBACCO RELATED ILLNESSES AND DISEASES.

(a) IN GENERAL.—(1) With respect to payments made under any applicable Federal Government health care program to or on behalf of more than one recipient with a disease, illness, condition, or complication caused, in whole or in part, by the use of tobacco or high-cholesterol food products, the Attorney General of the United States may seek recovery for such payments from third parties (or any successors to such third parties). The Attorney General (after consultation with the appropriate Secretaries who administer such programs) may bring an action in the name of the United States in United States district court to recover such payments made to or on behalf of all such recipients in one proceeding.

(2) Any action to enforce the rights of the Attorney General under this section with respect to any payment described in paragraph (1) shall be commenced within 5 years of such payment.

(3) For purposes of paragraph (1), the term "applicable Federal Government health care program" includes—

(A) the medicare program under title XVIII of the Social Security Act;

(B) the medicaid program under title XIX of such Act;

(C) the veterans health care program under title 38, United States Code; and

(D) any other similar Federal health care program.

(b) NOTICE UNDER THE CLASS ACTION.—(1) In any action brought under this section, no notice to recipients described in subsection (a)(1) is required, and such recipients shall have no right to become a party to such action. Such action is independent of any rights or causes of action of such recipients.

(2) In any such action in which the number of recipients described in subsection (a)(1) is so large as to cause it to be impracticable to join or identify each claim, the Attorney General shall not be required to so identify the individual recipients for which payment has been made, but rather can proceed to seek recovery based upon payments made to or on behalf of an entire class of recipients.

(c) RULES OF EVIDENCE.—In any action brought under this section, the Federal Rules of Evidence shall be construed, regarding the introduction and probative value of evidence on the issues of causation and damages, in order to effectuate the purposes of this Act to the greatest extent possible. The issues of causation and damages in any such action may be proven by use of statistical analysis or epidemiological evidence, or both.

(d) SHARE OF LIABILITY.—In any action brought under this section in which a third party is liable due to its manufacture, sale, or distribution of tobacco or high-cholesterol food products, the Attorney General shall be allowed to proceed under a market share theory, if the products involved are substantially interchangeable and substantially similar factual or legal issues would be involved in seeking recovery against each liable third party individually. In the alternative, the Attorney General shall be allowed to proceed under a theory of concerted action or enterprise liability, or both, if warranted by the facts presented to the court.

(e) DISTRIBUTION OF RECOVERY.—Amounts recovered under any action brought under this section shall be paid to the United States and disposed of as follows:

(1) In the case of amounts recovered arising out of a claim under title XIX of the Social Security Act, there shall be paid to each State agency an amount bearing the same proportion to the total amount recovered as the State's share of the amount paid by the State agency for such claim bears to the total amount paid for such claim.

(2) Such portion of the amounts recovered as is determined to have been paid out of the trust funds under section 1817 and 1841 of the Social Security Act shall be repaid to such trust funds.

(3) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States.

AMENDMENT NO. 1956

On page 1, beginning with line 9, strike out all through the end of the amendment and insert in lieu thereof the following:

SEC. 302. DEFINITIONS.

(1) For purposes of this title the term "manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who designs or formulates the product (or component part of the product) or has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another; or

(C) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the use of a product;

(2) "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(3) "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state—

(A) which is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(B) which is produced for introduction into trade or commerce;

(C) which has intrinsic economic value; and

(D) which is intended for sale or lease to persons for commercial or personal use;

the term does not include human tissue, blood and blood products, or organs unless specifically recognized as a product pursuant to State law;

(4) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce, or who installs, repairs, or maintains the harm-causing aspect of a product; the term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor; and

(5) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 303. CLASS ACTION TO RECOVER COSTS TO FEDERAL GOVERNMENT HEALTH CARE PROGRAMS OF TOBACCO RELATED ILLNESSES AND DISEASES.

(a) IN GENERAL.—(1) With respect to payments made under any applicable Federal Government health care program to or on behalf of more than one recipient with a disease, illness, condition, or complication caused, in whole or in part, by the use of tobacco or radar products, the Attorney General of the United States may seek recovery for such payments from third parties (or any successors to such third parties). The Attorney General (after consultation with the appropriate Secretaries who administer such programs) may bring an action in the name of the United States in United States district court to recover such payments made to or on behalf of all such recipients in one proceeding.

(2) Any action to enforce the rights of the Attorney General under this section with respect to any payment described in paragraph (1) shall be commenced within 5 years of such payment.

(3) For purposes of paragraph (1), the term "applicable Federal Government health care program" includes—

(A) the medicare program under title XVIII of the Social Security Act;

(B) the medicaid program under title XIX of such Act;

(C) the veterans health care program under title 38, United States Code, and

(D) any other similar Federal health care program.

(b) NOTICE UNDER THE CLASS ACTION.—(1) In any action brought under this section, no notice to recipients described in subsection (a)(1) is required, and such recipients shall have no right to become a party to such action. Such action is independent of any rights or causes of action of such recipients.

(2) In any such action in which the number of recipients described in subsection (a)(1) is so large as to cause it to be impracticable to join or identify each claim, the Attorney General shall not be required to so identify the individual recipients for which payment has been made, but rather can proceed to seek recovery based upon payments made to or on behalf of an entire class of recipients.

(c) RULES OF EVIDENCE.—In any action brought under this section, the Federal Rules of Evidence shall be construed, regarding the introduction and probative value of evidence on the issues of causation and damages, in order to effectuate the purposes of this Act to the greatest extent possible. The issues of causation and damages in any such action may be proven by use of statistical analysis or epidemiological evidence, or both.

(d) SHARE OF LIABILITY.—In any action brought under this section in which a third party is liable due to its manufacture, sale, or distribution of tobacco or radar products, the Attorney General shall be allowed to proceed under a market share theory, if the products involved are substantially interchangeable and substantially similar factual or legal issues would be involved in seeking recovery against each liable third party individually. In the alternative, the Attorney General shall be allowed to proceed under a theory of concerted action or enterprise liability, or both, if warranted by the facts presented to the court.

(e) DISTRIBUTION OF RECOVERY.—Amounts recovered under any action brought under this section shall be paid to the United States and disposed of as follows:

(1) In the case of amounts recovered arising out of a claim under title XIX of the Social Security Act, there shall be paid to each State agency an amount bearing the same proportion to the total amount recovered as the State's share of the amount paid by the State agency for such claim bears to the total amount paid for such claim.

(2) Such portion of the amounts recovered as is determined to have been paid out of the trust funds under sections 1817 and 1841 of the Social Security Act shall be repaid to such trust funds.

(3) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States.

AMENDMENT NO. 1957

On page 1, beginning with line 9, strike out all through the end of the amendment and insert in lieu thereof the following:

SEC. 302. DEFINITIONS.

(1) For purposes of this title the term "manufacturer" means—

(A) any person who is engaged in a business to produce, create make, or construct any product (or component part of a product) and who designs or formulates the product (or component part of the product) or has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another; or

(C) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the use of a product;

(2) "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(3) "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state—

(A) which is capable of a delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(B) which is produced for introduction into trade or commerce;

(C) which has intrinsic economic value; and

(D) which is intended for sale or lease to persons for commercial or personal use;

the term does not include human tissue, blood and blood products, or organs unless specifically recognized as a product pursuant to State law;

(4) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce, or who installs, repairs, or maintains the harm-causing aspect of a product; the term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor; and

(5) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 303. CLASS ACTION TO RECOVER COSTS TO FEDERAL GOVERNMENT HEALTH CARE PROGRAMS OF TOBACCO RELATED ILLNESSES AND DISEASES.

(a) IN GENERAL.—(1) With respect to payments made under any applicable Federal Government health care program to or on behalf of more than one recipient with a disease, illness, condition, or complication caused, in whole or in part, by the use of tobacco or medical device products, the Attorney General of the United States may seek recovery for such payments from third parties (or any successors to such third parties). The Attorney General (after consultation with the appropriate Secretaries who administer such programs) may bring an action in the name of the United States in United States district court to recover such payments made to or on behalf of all such recipients in one proceeding.

(2) Any action to enforce the rights of the Attorney General under this section with respect to any payment described in paragraph (1) shall be commenced within 5 years of such payment.

(3) For purposes of paragraph (1), the term "applicable Federal Government health care program" includes—

(A) the medicare program under title XVIII of the Social Security Act;

(B) the medicaid program under title XIX of such Act;

(C) the veterans health care program under title 38, United States Code; and

(D) any other similar Federal health care program.

(b) NOTICE UNDER THE CLASS ACTION.—(1) In any action brought under this section, no notice to recipients described in subsection (a)(1) is required, and such recipients shall have no right to become a party to such action. Such action is independent of any rights or causes of action of such recipients.

(2) In any such action in which the number of recipients described in subsection (a)(1) is so large as to cause it to be impracticable to join or identify each claim, the Attorney General shall not be required to so identify the individual recipients for which payment has been made, but rather can proceed to seek recovery based upon payments made to or on behalf of an entire class of recipients.

(c) RULES OF EVIDENCE.—In any action brought under this section, the Federal Rules of Evidence shall be construed, regarding the introduction and probative value of evidence on the issues of causation and damages, in order to effectuate the purposes of this Act to the greatest extent possible. The issues of causation and damages in any such action may be proven by use of statistical analysis or epidemiological evidence, or both.

(d) SHARE OF LIABILITY.—In any action brought under this section in which a third party is liable due to its manufacture, sale, or distribution of tobacco or medical device products, the Attorney General shall be allowed to proceed under a market share theory, if the products involved are substantially interchangeable and substantially similar factual or legal issues would be involved in seeking recovery against each liable third party individually. In the alternative, the Attorney General shall be allowed to proceed under a theory of concerted action or enterprise liability, or both, if warranted by the facts presented to the court.

(e) DISTRIBUTION OF RECOVERY.—Amounts recovered under any action brought under this section shall be paid to the United States and disposed of as follows:

(1) In the case of amounts recovered arising out of a claim under title XIX of the Social Security Act, there shall be paid to each State agency an amount bearing the same proportion to the total amount recovered as the State's share of the amount paid by the State agency for such claim bears to the total amount paid for such claim.

(2) Such portion of the amounts recovered as is determined to have been paid out of the trust funds under section 1817 and 1841 of the Social Security Act shall be repaid to such trust funds.

(3) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States.

AMENDMENT NO. 1958

On page 1, beginning with line 9, strike out all through the end of the amendment and insert in lieu thereof the following:

SEC. 302. DEFINITIONS.

(1) For purposes of this title the term—"manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who designs or formulates the product (or component part of the product) or has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another; or

(C) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the use of a product;

(2) "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(3) "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state—

(A) which is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(B) which is produced for introduction into trade or commerce;

(C) which has intrinsic economic value; and

(D) which is intended for sale or lease to persons for commercial or personal use;

the term does not include human tissue, blood and blood products, or organs unless specifically recognized as a product pursuant to State law;

(4) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce, or who installs, repairs, or maintains the harm-causing aspect of a product; the term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor; and

(5) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 303. CLASS ACTION TO RECOVER COSTS TO FEDERAL GOVERNMENT HEALTH CARE PROGRAMS OF TOBACCO RELATED ILLNESSES AND DISEASES.

(a) IN GENERAL.—(1) With respect to payments made under any applicable Federal Government health care program to or on behalf of more than one recipient with a disease, illness, condition, or complication caused, in whole or in part, by the use of tobacco or pharmaceutical products, the Attorney General of the United States may seek recovery for such payments from third parties (or any successors to such third parties). The Attorney General (after consultation with the appropriate Secretaries who administer such programs) may bring an action in the name of the United States in United States district court to recover such payments made to or on behalf of all such recipients in one proceeding.

(2) Any action to enforce the rights of the Attorney General under this section with respect to any payment described in paragraph (1) shall be commenced within 5 years of such payment.

(3) For purposes of paragraph (1), the term "applicable Federal Government health care program" includes—

(A) the medicare program under title XVIII of the Social Security Act;

(B) the medicaid program under title XIX of such Act;

(C) the veterans health care program under title 38, United States Code; and

(D) any other similar Federal health care program.

(b) NOTICE UNDER THE CLASS ACTION.—(1) In any action brought under this section, no notice to recipients described in subsection (a)(1) is required, and such recipients shall have no right to become a party to such action. Such action is independent of any rights or causes of action of such recipients.

(2) In any such action in which the number of recipients described in subsection (a)(1) is so large as to cause it to be impracticable to join or identify each claim, the Attorney General shall not be required to so identify the individual recipients for which payment has been made, but rather can proceed to seek recovery based upon payments made to or on behalf of an entire class of recipients.

(c) RULES OF EVIDENCE.—In any action brought under this section, the Federal Rules of Evidence shall be construed, regarding the introduction and probative value of evidence on the issues of causation and damages, in order to effectuate the purposes of this Act to the greatest extent possible. The issues of causation and damages in any such action may be proven by use of statistical analysis or epidemiological evidence, or both.

(d) SHARE OF LIABILITY.—In any action brought under this section in which a third party is liable due to its manufacture, sale, or distribution of tobacco or pharmaceutical products, the Attorney General shall be allowed to proceed under a market share theory, if the products involved are substantially interchangeable and substantially similar factual or legal issues would be involved in seeking recovery against each liable third party individually. In the alternative, the Attorney General shall be allowed to proceed under a theory of concerted action or enterprise liability, or both, if warranted by the facts presented to the court.

(e) DISTRIBUTION OF RECOVERY.—Amounts recovered under any action brought under this section shall be paid to the United States and disposed of as follows:

(1) In the case of amounts recovered arising out of a claim under title XIX of the Social Security Act, there shall be paid to each

State agency an amount bearing the same proportion to the total amount recovered as the State's share of the amount paid by the State agency for such claim bears to the total amount paid for such claim.

(2) Such portion of the amounts recovered as is determined to have been paid out of the trust funds under section 1817 and 1841 of the Social Security Act shall be repaid to such trust funds.

(3) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States.

AMENDMENT NO. 1959

On page 1, beginning with line 9, strike out all through the end of the amendment and insert in lieu thereof the following:

SEC. 302. DEFINITIONS.

(1) For purposes of this title the term—"manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who designs or formulates the product (or component part of the product) or has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another; or

(C) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the use of a product;

(2) "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(3) "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state—

(A) which is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(B) which is produced for introduction into trade or commerce;

(C) which has intrinsic economic value; and

(D) which is intended for sale or lease to persons for commercial or personal use;

the term does not include human tissue, blood and blood products, or organs unless specifically recognized as a product pursuant to State law;

(4) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce, or who installs, repairs, or maintains the harm-causing aspect of a product; the term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor; and

(5) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 303. CLASS ACTION TO RECOVER COSTS TO FEDERAL GOVERNMENT HEALTH CARE PROGRAMS OF TOBACCO RELATED ILLNESSES AND DISEASES.

(a) IN GENERAL.—(1) With respect to payments made under any applicable Federal Government health care program to or on behalf of more than one recipient with a disease, illness, condition, or complication caused, in whole or in part, by the use of tobacco or chemical manufacturing products, the Attorney General of the United States may seek recovery for such payments from third parties (or any successors to such third parties). The Attorney General (after consultation with the appropriate Secretaries who administer such programs) may bring an action in the name of the United States in United States district court to recover such payments made to or on behalf of all such recipients in one proceeding.

(2) Any action to enforce the rights of the Attorney General under this section with respect to any payment described in paragraph (1) shall be commenced within 5 years of such payment.

(3) For purposes of paragraph (1), the term "applicable Federal Government health care program" includes—

(A) the medicare program under title XVIII of the Social Security Act;

(B) the medicaid program under title XIX of such Act;

(C) the veterans health care program under title 38, United States Code; and

(D) any other similar Federal health care program.

(b) NOTICE UNDER THE CLASS ACTION.—(1) In any action brought under this section, notice to recipients described in subsection (a)(1) is required, and such recipients shall have no right to become a party to such action. Such action is independent of any rights or causes of action of such recipients.

(2) In any such action in which the number of recipients described in subsection (a)(1) is so large as to cause it to be impracticable to join or identify each claim, the Attorney General shall not be required to so identify the individual recipients for which payment has been made, but rather can proceed to seek recovery based upon payments made to or on behalf of an entire class of recipients.

(c) RULES OF EVIDENCE.—In any action brought under this section, the Federal Rules of Evidence shall be construed, regarding the introduction and probative value of evidence on the issues of causation and damages, in order to effectuate the purposes of this Act to the greatest extent possible. The issues of causation and damages in any such action may be proven by use of statistical analysis or epidemiological evidence, or both.

(d) SHARE OF LIABILITY.—In any action brought under this section in which a third party is liable due to its manufacture, sale, or distribution of tobacco or chemical manufacturing products, the Attorney General shall be allowed to proceed under a market share theory, if the products involved are substantially interchangeable and substantially similar factual or legal issues would be involved in seeking recovery against each liable third party individually. In the alternative, the Attorney General shall be allowed to proceed under a theory of concerted action or enterprise liability, or both, if warranted by the facts presented to the court.

(e) DISTRIBUTION OF RECOVERY.—Amounts recovered under any action brought under this section shall be paid to the United States and disposed of as follows:

(1) In the case of amounts recovered arising out of a claim under title XIX of the Social Security Act, there shall be paid to each State agency an amount bearing the same proportion of the total amount recovered as the State's share of the amount paid by the State agency for such claim bears to the total amount paid for such claim.

(2) Such portion of the amounts recovered as is determined to have been paid out of the trust funds under section 1817 and 1841 of the Social Security Act shall be repaid to such trust funds.

(3) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States.

AMENDMENT NO. 1960

On page 1, beginning with line 9, strike out all through the end of the amendment and insert in lieu thereof the following:

SEC. 302. DEFINITIONS.

(1) For purposes of this title the term—"manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who designs or formulates the product (or component part of the product) or has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another; or

(C) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the use of a product;

(2) "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(3) "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state—

(A) which is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(B) which is produced for introduction into trade or commerce;

(C) which has intrinsic economic value; and

(D) which is intended for sale or lease to persons for commercial or personal use;

the term does not include human tissue, blood and blood products, or organs unless specifically recognized as a product pursuant to State law;

(4) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce, or who installs, repairs, or maintains the harm-causing aspect of a product; the term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor; and

"State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 303. CLASS ACTION TO RECOVER COSTS TO FEDERAL GOVERNMENT HEALTH CARE PROGRAMS OF TOBACCO RELATED ILLNESSES AND DISEASES.

(a) IN GENERAL.—(1) With respect to payments made under any applicable Federal Government health care program to or on behalf of more than one recipient with a disease, illness, condition, or complication caused, in whole or in part, by the use of tobacco or wood pulp products, the Attorney General of the United States may seek recovery for such payments from third parties (or any successors to such third parties). The Attorney General (after consultation with the appropriate Secretaries who administer such programs) may bring an action in the name of the United States in United States district court to recover such payments made to or on behalf of all such recipients in one proceeding.

(2) Any action to enforce the rights of the Attorney General under this section with respect to any payment described in paragraph (1) shall be commenced within 5 years of such payment.

(3) For purposes of paragraph (1), the term "applicable Federal Government health care program" includes—

(A) the medicare program under title XVIII of the Social Security Act;

(B) the medicaid program under title XIX of such Act;

(C) the veterans health care program under title 38, United States Code; and

(D) any other similar Federal health care program.

(b) NOTICE UNDER THE CLASS ACTION.—(1) In any action brought under this section, no notice to recipients described in subsection (a)(1) is required, and such recipients shall have no right to become a party to such action. Such action is independent of any rights or causes of action of such recipients.

(2) In any such action in which the number of recipients described in subsection (a)(1) is so large as to cause it to be impracticable to join or identify each claim, the Attorney General shall not be required to so identify the individual recipients for which payment has been made, but rather can proceed to seek recovery based upon payments made to or on behalf of an entire class of recipients.

(c) RULES OF EVIDENCE.—In any action brought under this section, the Federal Rules of Evidence shall be construed, regarding the introduction and probative value of evidence on the issues of causation and damages, in order to effectuate the purposes of this Act to the greatest extent possible. The issues of causation and damages in any such action may be proven by use of statistical analysis or epidemiological evidence, or both.

(d) SHARE OF LIABILITY.—In any action brought under this section in which a third party is liable due to its manufacture, sale, or distribution of tobacco or wood pulp products, the Attorney General shall be allowed to proceed under a market share theory, if the products involved are substantially interchangeable and substantially similar factual or legal issues would be involved in seeking recovery against each liable third party individually. In the alternative, the Attorney General shall be allowed to proceed under a theory of concerted action or enterprise liability, or both, if warranted by the facts presented to the court.

(e) DISTRIBUTION OF RECOVERY.—Amounts recovered under any action brought under this section shall be paid to the United States and disposed of as follows:

(1) In the case of amounts recovered arising out of a claim under title XI of the Social Security Act, there shall be paid to each State agency an amount bearing the same proportion to the total amount recovered as the State's share of the amount paid by the State agency for such claim bears to the total amount paid for such claim.

(2) Such portion of the amounts recovered as is determined to have been paid out of the trust funds under section 1817 and 1841 of the Social Security Act shall be repaid to such trust funds.

(3) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States.

AMENDMENT NO. 1961

On page 1, beginning with line 9, strike out all through the end of the amendment and insert in lieu thereof the following:

SEC. 302. DEFINITIONS.

(1) For purposes of this title the term—"manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who designs or formulates the product (or component part of the product) or has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another; or

(C) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the use of a product;

(2) "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(3) "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state—

(A) which is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(B) which is produced for introduction into trade or commerce;

(C) which has intrinsic economic value; and

(D) which is intended for sale or lease to persons for commercial or personal use;

the term does not include human tissue, blood and blood products, or organs unless specifically recognized as a product pursuant to State law;

(4) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce, or who installs, repairs, or maintains the harm-causing aspect of a product; the term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor; and

(5) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 303. CLASS ACTION TO RECOVER COSTS TO FEDERAL GOVERNMENT HEALTH CARE PROGRAMS OF TOBACCO RELATED ILLNESSES AND DISEASES.

(a) IN GENERAL.—(1) With respect to payments made under any applicable Federal Government health care program to or on behalf of more than one recipient with a disease, illness, condition, or complication caused, in whole or in part, by the use of tobacco or plastic products, the Attorney General of the United States may seek recovery for such payments from third parties (or any successors to such third parties). The Attorney General (after consultation with the appropriate Secretaries who administer such programs) may bring an action in the name of the United States in United States district court to recover such payments made to or on behalf of all such recipients in one proceeding.

(2) Any action to enforce the rights of the Attorney General under this section with respect to any payment described in paragraph (1) shall be commenced within 5 years of such payment.

(3) For purposes of paragraph (1), the term "applicable Federal Government health care program" includes—

(A) the medicare program under title XVIII of the Social Security Act;

(B) the medicaid program under title XIX of such Act;

(C) the veterans health care program under title 38, United States Code; and

(D) any other similar Federal health care program.

(b) NOTICE UNDER THE CLASS ACTION.—(1) In any action brought under this section, no notice to recipients described in subsection (a)(1) is required, and such recipients shall have no right to become a party to such action. Such action is independent of any rights or causes of action of such recipients.

(2) In any such action in which the number of recipients described in subsection (a)(1) is so large as to cause it to be impracticable to join or identify each claim, the Attorney General shall not be required to so identify the individual recipients for which payment has been made, but rather can proceed to seek recovery based upon payments made to or on behalf of an entire class of recipients.

(c) RULES OF EVIDENCE.—In any action brought under this section, the Federal Rules of Evidence shall be construed, regarding the introduction and probative value of evidence on the issues of causation and damages, in order to effectuate the purposes of this Act to the greatest extent possible. The issues of causation and damages in any such action may be proven by use of statistical analysis or epidemiological evidence, or both.

(d) SHARE OF LIABILITY.—In any action brought under this section in which a third party is liable due to its manufacture, sale, or distribution of tobacco or plastic products, the Attorney General shall be allowed to proceed under a market share theory, if the products involved are substantially interchangeable and substantially similar factual or legal issues would be involved in seeking recovery against each liable third party individually. In the alternative, the Attorney General shall be allowed to proceed under a theory of concerted action or enterprise liability, or both, if warranted by the facts presented to the court.

(e) DISTRIBUTION OF RECOVERY.—Amounts recovered under any action brought under this section shall be paid to the United States and disposed of as follows:

(1) In the case the amounts recovered arising out of a claim under title XIX of the Social Security Act, there shall be paid to each State agency an amount bearing the same proportion to the total amount recovered as the State's share of the amount paid by the State agency for such claim bears to the total amount paid for such claim.

(2) Such portion of the amounts recovered as is determined to have been paid out of the trust funds under sections 1817 and 1841 of the Social Security Act shall be repaid to such trust funds.

(3) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States.

AMENDMENT NO. 1962

On page 1, beginning with line 9, strike out all through the end of the amendment and insert in lieu thereof the following:

SEC. 302. DEFINITIONS.

(1) For purposes of this title the term "manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who designs or formulates the product (or component part of the product) or has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of the product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of the product) made by another; or

(C) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the use of a product;

(2) "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(3) "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state—

(A) which is capable of delivery itself or as an assembled whole, in a mixed or combined state, or has a component part or ingredient;

(B) which is produced for introduction into trade or commerce;

(C) which has intrinsic economic value; and

(D) which is intended for sale or lease to persons for commercial or personal use;

the term does not include human tissue, blood and blood products, or organs unless specifically recognized as a product pursuant to State law;

(4) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce, or who installs, repairs, or maintains the harm-causing aspect of a product; the term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor; and

(5) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 303. CLASS ACTION TO RECOVER COSTS TO FEDERAL GOVERNMENT HEALTH CARE PROGRAMS OF TOBACCO RELATED ILLNESSES AND DISEASES.

(a) IN GENERAL.—(1) With respect to payments made under any applicable Federal Government health care program to or on behalf of more than one recipient with a disease, illness, condition, or complication caused, in whole or in part, by the use of tobacco or glass products, the Attorney General of the United States may seek recovery for such payments from third parties (or any successors to such third parties). The Attorney General (after consultation with the appropriate Secretaries who administer such programs) may bring an action in the name of the United States in United States district court to recover such payments made to or on behalf of all such recipients in one proceeding.

(2) Any action to enforce the rights of the Attorney General under this section with respect to any payment described in paragraph (1) shall be commenced within 5 years of such payment.

(3) For purposes of paragraph (1), the term "applicable Federal Government health care program" includes—

(A) the medicare program under title XVIII of the Social Security Act;

(B) the medical program under title XIX of such Act;

(C) the veterans health care program under title 38, United States Code; and

(D) any other similar Federal health care program.

(b) NOTICE UNDER THE CLASS ACTION.—(1) In any action brought under this section, no notice to recipients described in subsection (a)(1) is required, and such recipients shall have no right to become a party to such action. Such action is independent of any rights or causes of action of such recipients.

(2) In any such action in which the number of recipients described in subsection (a)(1) is so large as to cause it to be impracticable to join or identify each claim, the Attorney General shall not be required to so identify the individual recipients for which payment has been made, but rather can proceed to seek recovery based upon payments made to or on behalf of an entire class of recipients.

(c) RULES OF EVIDENCE.—In any action brought under this section, the Federal Rules of Evidence shall be construed, regarding the introduction and probative value of evidence on the issues of causation and damages, in order to effectuate the purposes of this Act to the greatest extent possible. The issues of causation and damages in any such action may be proven by one of statistical analysis or epidemiological evidence, or both.

(d) SHARE OF LIABILITY.—In an action brought under this section in which a third party is liable due to its manufacture, sale, or distribution of tobacco or glass products, the Attorney General shall be allowed to proceed under a market share theory, if the products involved are substantially interchangeable and substantially similar factual or legal issues would be involved in seeking recovery against each liable third party individually. In the alternative, the Attorney General shall be allowed to proceed under a theory of concerted action or enterprise liability, or both, if warranted by the facts presented to the court.

(e) DISTRIBUTION OF RECOVERY.—Amounts recovered under any action brought under this section shall be paid to the United States and disposed of as follows:

(1) In the case of amounts recovered arising out of a claim under title XIX of the Social Security Act, there shall be paid to each State agency an amount bearing the same proportion to the total amount recovered as the State's share of the amount paid by the State agency for such claim bears to the total amount paid for such claim.

(2) Such portion of the amounts recovered as is determined to have been paid out of the trust funds under section 1817 and 1841 of the Social Security Act shall be repaid to such trust funds.

(3) The reminder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States.

AMENDMENT NO. 1963

On page 1, beginning with line 9, strike out all through the end of the amendment and insert in lieu thereof the following:

SEC. 302. DEFINITIONS.

(1) For purposes of this title the term—"manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who designs or formulates the product (or component part of the product) or has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another; or

(C) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the use of a product;

(2) "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(3) "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state—

(A) which is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(B) which is produced for introduction into trade or commerce;

(C) which has intrinsic economic value; and

(D) which is intended for sale or lease to persons for commercial or personal use;

the term does not include human tissue, blood and blood products, or organs unless specifically recognized as a product pursuant to State law;

(4) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce, or who installs, repairs, or maintains the harm-causing aspect of a product; the term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor; and

(5) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 303. CLASS ACTION TO RECOVER COSTS TO FEDERAL GOVERNMENT HEALTH CARE PROGRAMS OF TOBACCO RELATED ILLNESSES AND DISEASES.

(a) IN GENERAL.—(1) With respect to payments made under any applicable Federal Government health care program to or on behalf of more than one recipient with a disease, illness, condition, or complication caused, in whole or in part, by the use of tobacco or automobile products, the Attorney General of the United States may seek recovery for such payments from third parties (or any successors to such third parties). The Attorney General (after consultation with the appropriate Secretaries who administer such programs) may bring an action in the name of the United States in United States district court to recover such payments made to or on behalf of all such recipients in one proceeding.

(2) Any action to enforce the rights of the Attorney General under this section with respect to any payment described in paragraph (1) shall be commenced within 5 years of such payment.

(3) For purposes of paragraph (1), the term "applicable Federal Government health care program" includes—

(A) the medicare program under title XVIII of the Social Security Act;

(B) the medicaid program under title XIX of such Act;

(C) the veterans health care program under title 38, United States Code; and

(D) any other similar Federal health care program.

(b) NOTICE UNDER THE CLASS ACTION.—(1) In any action brought under this section, no notice to recipients described in subsection (a)(1) is required, and such recipients shall have no right to become a party to such action. Such action is independent of any rights or causes of action of such recipients.

(2) In any such action in which the number of recipients described in subsection (a)(1) is so large as to cause it to be impracticable to join or identify each claim, the Attorney General shall not be required to so identify the individual recipients for which payment has been made, but rather can proceed to seek recovery based upon payments made to or on behalf of an entire class of recipients.

(c) RULES OF EVIDENCE.—In any action brought under this section, the Federal Rules of Evidence shall be construed, regarding the introduction and probative value of evidence on the issues of causation and damages, in order to effectuate the purposes of this Act to the greatest extent possible. The issues of causation and damages in any such action may be proven by use of statistical analysis or epidemiological evidence, or both.

(d) SHARE OF LIABILITY.—In any action brought under this section in which a third party is liable due to its manufacture, sale, or distribution of tobacco or automobile products, the Attorney General shall be allowed to proceed under a market share theory, if the products involved are substantially interchangeable and substantially similar factual or legal issues would be involved in seeking recovery against each liable third party individually. In the alternative, the Attorney General shall be allowed to proceed under a theory of concerted action or enterprise liability, or both, if warranted by the facts presented to the court.

(e) DISTRIBUTION OF RECOVERY.—Amounts recovered under any action brought under this section shall be paid to the United States and disposed of as follows:

(1) In the case of amounts recovered arising out of a claim under title XIX of the Social Security Act, there shall be paid to each State agency an amount bearing the same proportion to the total amount recovered as the State's share of the amount paid by the State agency for such claim bears to the total amount paid for such claim.

(2) Such portion of the amounts recovered as is determined to have been paid out of the trust funds under section 1817 and 1841 of the Social Security Act shall be repaid to such trust funds.

(3) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States.

AMENDMENT NO. 1964

On page 1, beginning with line 9, strike out all through the end of the amendment and insert in lieu thereof the following:

SEC. 302. DEFINITIONS.

(1) For purposes of this title the term—"manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who designs or formulates the product (or component part of the product) or has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another; or

(C) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the use of a product;

(2) "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(3) "product" means any object, substances, mixture, or raw material in a gaseous, liquid, or solid state—

(A) which is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(B) which is produced for introduction into trade or commerce;

(C) which has intrinsic economic value; and

(D) which is intended for sale or lease to persons for commercial or personal use;

the term does not include human tissue, blood and blood products, or organs unless specifically recognized as a product pursuant to State law;

(4) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce, or who installs, repairs, or maintains the harm-causing aspect of a product; the term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor; and

(5) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 303. CLASS ACTION TO RECOVER COSTS TO FEDERAL GOVERNMENT HEALTH CARE PROGRAMS OF TOBACCO RELATED ILLNESSES AND DISEASES.

(a) IN GENERAL.—(1) With respect to payments made under any applicable Federal Government health care program to or on behalf of more than one recipient with a disease, illness, condition, or complication caused, in whole or in part, by the use of tobacco or orange juice products, the Attorney General of the United States may seek recovery for such payments from third parties (or any successors to such third parties). The Attorney General (after consultation with the appropriate Secretaries who administer such programs) may bring an action in the name of the United States in United States district court to recover such payments made to or on behalf of all such recipients in one proceeding.

(2) Any action to enforce the rights of the Attorney General under this section with respect to any payment described in paragraph (1) shall be commended within 5 years of such payment.

(3) For purposes of paragraph (1), the term "applicable Federal Government health care program" includes—

(A) the medicare program under title XVIII of the Social Security Act;

(B) the medicaid program under title XIX of such Act;

(C) the veterans health care program under title 38, United States Code; and

(D) any other similar Federal health care program.

(b) NOTICE UNDER THE CLASS ACTION.—(1) In any action brought under this section, no notice to recipients described in subsection (a)(1) is required, and such recipients shall have no right to become a party to such action. Such action is independent of any rights or causes of action of such recipients.

(2) In any such action in which the number of recipients described in subsection (a)(1) is so large as to cause it to be impracticable to join or identify each claim, the Attorney General shall not be required to so identify the individual recipients for which payment has been made, but rather can proceed to seek recovery based upon payments made to or on behalf of an entire class of recipients.

(c) RULES OF EVIDENCE.—In any action brought under this section, the Federal Rules of Evidence shall be construed, regarding the introduction and probative value of evidence on the issues of causation and damages, in order to effectuate the purposes of this Act to the greatest extent possible. The issues of causation and damages in any such action may be proven by use of statistical analysis or epidemiological evidence, or both.

(d) SHARE OF LIABILITY.—In any action brought under this section in which a third party is liable due to its manufacture, sale, or distribution of tobacco or orange juice products, the Attorney General shall be allowed to proceed under a market share theory, if the products involved are substantially interchangeable and substantially similar factual or legal issues would be involved in seeking recovery against each liable third party individually. In the alternative, the Attorney General shall be allowed to proceed under a theory of concerted action or enterprise liability, or both, if warranted by the facts presented to the court.

(e) DISTRIBUTION OF RECOVERY.—Amounts recovered under any action brought under this section shall be paid to the United States and disposed of as follows:

(1) In the case of amounts recovered arising out of a claim under title XIX of the Social Security Act, there shall be paid to each State agency an amount bearing the same proportion to the total amount recovered as the State's share of the amount paid by the State agency for such claim bears to the total amount paid for such claim.

(2) Such portion of the amounts recovered as is determined to have been paid out of the trust funds under section 1817 and 1841 of the Social Security Act shall be repaid to such trust funds.

(3) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States.

AMENDMENT NO. 1965

On page 1, beginning with line 9, strike out all through the end of the amendment and insert in lieu thereof the following:

SEC. 302. DEFINITIONS.

(1) For purposes of this title the term—"manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who designs or formulates the product (or component part of the product) or has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another; or

(C) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the use of a product;

(2) "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(3) "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state—

(A) which is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(B) which is produced for introduction into trade or commerce;

(C) which has intrinsic economic value; and

(D) which is intended for sale or lease to persons for commercial or personal use;

the term does not include human tissue, blood and blood products, or organs unless specifically recognized as a product pursuant to State law;

(4) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce, or who installs, repairs, or maintains the harm-causing aspect of a product; the term does not include—

(A) seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor; and

(5) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 303. CLASS ACTION TO RECOVER COSTS TO FEDERAL GOVERNMENT HEALTH CARE PROGRAMS OF TOBACCO RELATED ILLNESSES AND DISEASES.

(a) IN GENERAL.—(1) With respect to payments made under any applicable Federal Government health care program to or on behalf of more than one recipient with a disease, illness, condition, or complication caused, in whole or in part, by the use of tobacco or beef products, the Attorney General of the United States may seek recovery for such payments from third parties (or any successors to such third parties). The Attorney General (after consultation with the appropriate Secretaries who administer such programs) may bring an action in the name of the United States in United States district court to recover such payments made to or on behalf of all such recipients in one proceeding.

(2) Any action to enforce the rights of the Attorney General under this section with respect to any payment described in paragraph (1) shall be commenced within 5 years of such payment.

(3) For purposes of paragraph (1), the term "applicable Federal Government health care program" includes—

(A) the medicare program under title XVIII of the Social Security Act;

(B) the medicaid program under title XIX of such Act;

(C) the veterans health care program under title 38, United States Code; and

(D) any other similar Federal health care program.

(b) NOTICE UNDER THE CLASS ACTION.—(1) In any action brought under this section, no notice to recipients described in subsection (a)(1) is required, and such recipients shall have no right to become a party to such action. Such action is independent of any rights or causes of action of such recipients.

(2) In any such action in which the number of recipients described in subsection (a)(1) is so large as to cause it to be impracticable to join or identify each claim, the Attorney General shall not be required to so identify the individual recipients for which payment has been made, but rather can proceed to seek recovery based upon payments made to or on behalf of an entire class of recipients.

(c) RULES OF EVIDENCE.—In any action brought under this section, the Federal Rules of Evidence shall be construed, regarding the introduction and probative value of evidence on the issues of causation and damages, in order to effectuate the purposes of this Act to the greatest extent possible. The issues of causation and damages in any such action may be proven by use of statistical analysis or epidemiological evidence, or both.

(d) SHARE OF LIABILITY.—In any action brought under this section in which a third party is liable due to its manufacture, sale, or distribution of tobacco or beef products, the Attorney General shall be allowed to proceed under a market share theory, if the products involved are substantially interchangeable and substantially similar factual or legal issues would be involved in seeking recovery against each liable third party individually. In the alternative, the Attorney General shall be allowed to proceed under a theory of concerted action or enterprise liability, or both, if warranted by the facts presented to the court.

(e) DISTRIBUTION OF RECOVERY.—Amounts recovered under any action brought under this section shall be paid to the United States and disposed of as follows:

(1) In the case of amounts recovered arising out of a claim under title XIX of the Social Security Act, there shall be paid to each State agency an amount bearing the same proportion to the total amount recovered as the State's share of the amount paid by the State agency for such claim bears to the total amount paid for such claim.

(2) Such portion of the amounts recovered as is determined to have been paid out of the trust funds under section 1817 and 1841 of the Social Security Act shall be repaid to such trust funds.

(3) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States.

AMENDMENT NO. 1966

On page 1, beginning with line 9, strike out all through the end of the amendment and insert in lieu thereof the following:

SEC. 302. DEFINITIONS.

(1) For purposes of this title the term—"manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who designs or formulates the product (or component part of the product) or has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another; or

(C) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the use of a product;

(2) "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(3) "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state—

(A) which is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(B) which is produced for introduction into trade or commerce;

(C) which has intrinsic economic value; and

(D) which is intended for sale or lease to persons for commercial or personal use;

the term does not include human tissue, blood and blood products, or organs unless specifically recognized as a product pursuant to State law;

(4) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce, or who installs, repairs, or maintains the harm-causing aspect of a product; the term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor; and

(5) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 303. CLASS ACTION TO RECOVER COSTS TO FEDERAL GOVERNMENT HEALTH CARE PROGRAMS OF TOBACCO RELATED ILLNESSES AND DISEASES.

(a) IN GENERAL.—(1) With respect to payments made under any applicable Federal Government health care program to or on behalf of more than one recipient with a disease, illness, condition, or complication caused, in whole or in part, by the use of tobacco or dairy products, the Attorney General of the United States may seek recovery for such payments from third parties (or any successors to such third parties). The Attorney General (after consultation with the appropriate Secretaries who administer such programs) may bring an action in the name of the United States in United States district court to recover such payments made to or on behalf of all such recipients in one proceeding.

(2) Any action to enforce the rights of the Attorney General under this section with respect to any payment described in paragraph (1) shall be commenced within 5 years of such payment.

(3) For purposes of paragraph (1), the term "applicable Federal Government health care program" includes—

(A) the medicare program under title XVIII of the Social Security Act;

(B) the medicaid program under title XIX of such Act;

(C) the veterans health care program under title 38, United States Code; and

(D) any other similar Federal health care program.

(b) NOTICE UNDER THE CLASS ACTION.—(1) In any action brought under this section, no notice to recipients described in subsection (a)(1) is required, and such recipients shall have no right to become a party to such action. Such action is independent of any rights or causes of action of such recipients.

(2) In any such action in which the number of recipients described in subsection (a)(1) is so large as to cause it to be impracticable to join or identify each claim, the Attorney General shall not be required to so identify the individual recipients for which payment has been made, but rather can proceed to seek recovery based upon payments made to or on behalf of an entire class of recipients.

(c) RULES OF EVIDENCE.—In any action brought under this section, the Federal Rules of Evidence shall be construed, regarding the introduction and probative value of evidence on the issues of causation and damages, in order to effectuate the purposes of this Act to the greatest extent possible. The issues of causation and damages in any such action may be proven by use of statistical analysis or epidemiological evidence, or both.

(d) SHARE OF LIABILITY.—In any action brought under this section in which a third party is liable due to its manufacture, sale, or distribution of tobacco or dairy products, the Attorney General shall be allowed to proceed under a market share theory, if the products involved are substantially interchangeable and substantially similar factual or legal issues would be involved in seeking recovery against each liable third party individually. In the alternative, the Attorney General shall be allowed to proceed under a theory of concerted action or enterprise liability, to both, if warranted by the facts presented to the court.

(e) DISTRIBUTION OF RECOVERY.—Amounts recovered under any action brought under this section shall be paid to the United States and disposed of as follows:

(1) In the case of amounts recovered arising out of a claim under title XIX of the Social Security Act, there shall be paid to each State agency an amount bearing the same proportion to the total amount recovered as the State's share of the amount paid by the State agency for such claim bears to the total amount paid for such claim.

(2) Such portion of the amounts recovered as is determined to have been paid out of the trust funds under section 1817 and 1841 of the Social Security Act shall be repaid to such trust funds.

(3) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States.

AMENDMENT NO. 1967

On page 1, beginning with line 9, strike out all through the end of the amendment and insert in lieu thereof the following:

SEC. 302. DEFINITIONS.

(1) For purposes of this title the term—"manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who designs or formulates the product (or component part of the product) or has engaged another person to design or formulates the product (or component part of the product) or has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another; or

(C) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the use of a product;

(2) "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(3) "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state—

(A) which is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(B) which is produced for introduction into trade or commerce;

(C) which has intrinsic economic value; and

(D) which is intended for sale or lease to persons for commercial or personal use;

the term does not include human tissue, blood and blood products, or organs unless specifically recognized as a product pursuant to State law;

(4) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce, or who installs, repairs, or maintains the harm-causing aspect of a product; the term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor; and

(5) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 303. CLASS ACTION TO RECOVER COSTS TO FEDERAL GOVERNMENT HEALTH CARE PROGRAMS OF TOBACCO RELATED ILLNESSES AND DISEASES.

(a) IN GENERAL.—(1) With respect to payments made under any applicable Federal Government health care program to or on behalf of more than one recipient with a disease, illness, condition, or complication caused, in whole or in part, by the use of tobacco or oil products, the Attorney General of the United States may seek recovery for such payments from third parties (or any successors to such third parties). The Attorney General (after consultation with the appropriate Secretaries who administer such programs) may bring an action in the name of the United States in United States district court to recover such payments made to or on behalf of all such recipients in one proceeding.

(2) Any action to enforce the rights of the Attorney General under this section with respect to any payment described in paragraph (1) shall be commenced within 5 years of such payment.

(3) For purposes of paragraph (1), the term "applicable Federal Government health care program" includes—

(A) the medicare program under title XVIII of the Social Security Act;

(B) the medicaid program under title XIX of such Act;

(C) the veterans health care program under title 38, United States Code; and

(D) any other similar Federal health care program.

(b) NOTICE UNDER THE CLASS ACTION.—(1) In any action brought under this section, no notice to recipients described in subsection (a)(1) is required, and such recipients shall have no right to become a party to such action. Such action is independent of any rights or causes of action of such recipients.

(2) In any such action in which the number of recipients described in subsection (a)(1) is so large as to cause it to be impracticable to join or identify each claim, the Attorney General shall not be required to so identify the individual recipients for which payment has been made, but rather can proceed to seek recovery based upon payments made to or on behalf of an entire class of recipients.

(c) RULES OF EVIDENCE.—In any action brought under this section, the Federal Rules of Evidence shall be construed, regarding the introduction and probative value of evidence on the issues of causation and damages, in order to effectuate the purposes of this Act to the greatest extent possible. The issues of causation and damages in any such action may be proven by use of statistical analysis or epidemiological evidence, or both.

(d) SHARE OF LIABILITY.—In any action brought under this section in which a third party is liable due to its manufacture, sale, or distribution of tobacco or oil products, the Attorney General shall be allowed to proceed under a market share theory, if the products involved are substantially interchangeable and substantially similar factual or legal issues would be involved in seeking recovery against each liable third party individually. In the alternative, the Attorney General shall be allowed to proceed under a theory of concerted action or enterprise liability, or both, if warranted by the facts presented to the court.

(e) DISTRIBUTION OF RECOVERY.—Amounts recovered under any action brought under this section shall be paid to the United States and disposed of as follows:

(1) In the case of amounts recovered arising out of a claim under title XIX of the Social Security Act, there shall be paid to each State agency an amount bearing the same proportion to the total amount recovered as the State's share of the amount paid by the State agency for such claim bears to the total amount paid for such claim.

(2) Such portion of the amounts recovered as is determined to have been paid out of the trust funds under section 1817 and 1841 of the Social Security Act shall be repaid to such trust funds.

(3) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States.

AMENDMENT NO. 1968

On page 1, beginning with line 9, strike out all through the end of the amendment and insert in lieu thereof the following:

SEC. 302. DEFINITIONS.

(1) For purposes of this title the term—"manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who designs or formulates the product (or component part of the product) or has engaged another person to design or formulate the product (or component part of a product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design or formulate, and aspect of a product (or component part of a product) made by another; or

(C) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the use of a product;

(2) "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(3) "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state—

(A) which is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(B) which is produced for introduction into trade or commerce;

(C) which has intrinsic economic value; and

(D) which is intended for sale or lease to persons for commercial or personal use; the term does not include human tissue, blood and blood products, or organs unless specifically recognized as a product pursuant to State law;

(4) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce, or who installs, repairs, or maintains the harm-causing aspect of a product; the term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor; and

(5) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 303. CLASS ACTION TO RECOVER COSTS TO FEDERAL GOVERNMENT HEALTH CARE PROGRAMS OF TOBACCO RELATED ILLNESSES AND DISEASES.

(a) IN GENERAL.—(1) With respect to payments made under any applicable Federal Government health care program to or on behalf of more than one recipient with a disease, illness, condition, or complication caused, in whole or in part, by the use of tobacco or power products, the Attorney General of the United States may seek recovery for such payments from third parties (or any successors to such third parties). The Attorney General (after consultation with the appropriate Secretaries who administer such programs) may bring an action in the name of the United States in United States district court to recover such payments made to or on behalf of all such recipients in one proceeding.

(2) Any action to enforce the rights of the Attorney General under this section with respect to any payment described in paragraph (1) shall be commenced within 5 years of such payment.

(3) For purposes of paragraph (1), the term "applicable Federal Government health care program" includes—

(A) the medicare program under title XVIII of the Social Security Act;

(B) the medicaid program under title XIX of such Act;

(C) the veterans health care program under title 38, United States Code; and

(D) any other similar Federal health care program.

(b) NOTICE UNDER THE CLASS ACTION.—(1) In any action brought under this section, no notice to recipient described in subsection (a)(1) is required, and such recipients shall have no right to become a party to such action. Such action is independent of any rights or causes of action of such recipients.

(2) In any such action in which the number of recipients described in subsection (a)(1) is so large as to cause it to be impracticable to join or identify each claim, the Attorney General shall not be required to so identify the individual recipients for which payment has been made, but rather can proceed to seek recovery based upon payments made to or on behalf of an entire class of recipients.

(c) RULES OF EVIDENCE.—In any action brought under this section, the Federal Rules of Evidence shall be construed, regarding the introduction and probative value of evidence on the issues of causation and damages, in order to effectuate the purposes of this Act to the greatest extent possible. The issue of causation and damages in any such action may be proven by use of statistical analysis or epidemiological evidence, or both.

(d) SHARE OF LIABILITY.—In any action brought under this section in which a third party is liable due to its manufacture, sale, or distribution of tobacco or power products, the Attorney General shall be allowed to proceed under a market share theory, if the products involved are substantially interchangeable and substantially similar factual or legal issues would be involved in seeking recovery against each liable third party individually. In the alternative, the Attorney General shall be allowed to proceed under a theory of concerted action or enterprise liability, or both, if warranted by the facts presented to the court.

(e) DISTRIBUTION OF RECOVERY.—Amounts recovered under any action brought under this section shall be paid to the United States and disposed of as follows:

(1) In the case of amounts recovered arising out of a claim under title XIX of the Social Security Act, there shall be paid to each

State agency an amount bearing the same proportion to the total amount recovered as the State's share of the amount paid by the State agency for such claim bears to the total amount paid for such claim.

(2) Such portion of the amounts recovered as is determined to have been paid out of the trust funds under section 1817 and 1841 of the Social Security Act shall be repaid to such trust funds.

(3) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States.

AMENDMENT NO. 1969

On page 1, beginning with line 9, strike out all through the end of the amendment and insert in lieu thereof the following:

SEC. 302. DEFINITIONS.

(1) For purposes of this title the term—"manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who designs or 4 formulates the product (or component part of the product) or has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of the product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another; or

(C) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the use of a product;

(2) "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(3) "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state—

(A) which is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(B) which is produced for introduction into trade or commerce;

(C) which has intrinsic value; and

(D) which is intended for sale or lease to persons for commercial or personal use;

the term does not include human tissue, blood and blood products, or organs unless specifically recognized as a product pursuant to State law;

(4) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce, or who installs, repairs, or maintains the harm-causing aspect of a product; the term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor; and

(5) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Marina Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 303 CLASS ACTION TO RECOVER COSTS TO FEDERAL GOVERNMENT HEALTH CARE PROGRAMS OF TOBACCO RELATED ILLNESSES AND DISEASES.

(a) IN GENERAL.—(1) With respect to payments made under any applicable Federal Government health care program to or on behalf of more than one recipient with a disease, illness, condition, or complication caused, in whole or in part, by the use of tobacco or phosphate products, the Attorney General of the United States may seek recovery for such payments from third parties (or any successors to such third parties). The Attorney General (after consultation with the appropriate Secretaries who administer such programs) may bring an action in the name of the United States in United States district court to recover such payments made to or on behalf of all such recipients in one proceeding.

(2) Any action to enforce the rights of the Attorney General under this section with respect to any payment described in paragraph (1) shall be commenced within 5 years of such payment.

(3) For purposes of paragraph (1), the term "applicable Federal Government health care program" includes—

(A) the medicare program under title XVIII of the Social Security Act;

(B) the medicaid program under title XIX of such Act;

(C) the veterans health care program under title 38, United States Code; and

(D) any other similar Federal health care program.

(b) NOTICE UNDER THE CLASS ACTION.—(1) In any action brought under this section, no notice to recipients described in subsection (a)(1) is required, and such recipients shall have no right to become a party to such action. Such action is independent of any rights or causes of action of such recipients.

(2) In any such action in which the number of recipients described in subsection (a)(1) is so large as to cause it to be impracticable to join or identify each claim, the Attorney General shall not be required to so identify the individual recipients of which payment has been made, but rather can proceed to seek recovery based upon payments made to or on behalf of an entire class of recipients.

(c) RULES OF EVIDENCE.—In any action brought under this section, the Federal Rules of Evidence shall be construed, regarding the introduction and probative value of evidence on the issues of causation and damages, in order to effectuate the purposes of this Act to the greatest extent possible. The issues of causation and damages in any such action may be proven by use of statistical analysis of epidemiological evidence, or both.

(d) SHARE OF LIABILITY.—In any action brought under this section in which a third party is liable due to its manufacture, sale, or distribution of tobacco or phosphate products, the Attorney General shall be allowed to proceed under a market share theory, if the products involved are substantially interchangeable and substantially similar factual or legal issues would be involved in seeking recovery against such liable third party individually. In the alternative, the Attorney General shall be allowed to proceed under a theory of concerted action or enterprise liability, or both, if warranted by the facts presented to the court.

(e) DISTRIBUTION OF RECOVERY.—Amounts recovered under any action brought under this section shall be paid to the United States and disposed of as follows:

(1) In the case of amounts recovered arising out of a claim under title XIX of the Social Security Act, there shall be paid to each State agency an amount bearing the same proportion to the total amount recovered as the State's share of the amount paid by the State agency for such claim bears to the total amount paid for such claim.

(2) Such portion of the amounts recovered as is determined to have been paid out of the trust funds under sections 1817 and 1841 of the Social Security Act shall be repaid to such trust funds.

(3) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States.

AMENDMENT NO. 1970

On page 1, beginning with line 9, strike out all through the end of the amendment and insert in lieu thereof the following:

SEC. 302. DEFINITIONS.

(1) For purposes of this title the term—"manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who designs or formulates the product (or component part of the product) or has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another; or

(C) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the use of a product;

(2) "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(3) "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state—

(A) which is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(B) which is produced for introduction into trade or commerce;

(C) which has intrinsic economic value; and

(D) which is intended for sale or lease to persons for commercial or personal use;

the term does not include human tissue, blood and blood products, or organs unless specifically recognized as a product pursuant to State law;

(4)"product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce, or who installs, repairs, or maintains the harm-causing aspect of a product; the term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor; and

(5) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 303. CLASS ACTION TO RECOVER COSTS TO FEDERAL GOVERNMENT HEALTH CARE PROGRAMS OF TOBACCO RELATED ILLNESSES AND DISEASES.

(a) IN GENERAL.—(1) With respect to payments made under any applicable Federal Government health care program to or on behalf of more than one recipient with a disease, illness, condition, or complication caused, in whole or in part, by the use of tobacco or waste disposal products, the Attorney General of the United States may seek recovery for such payments from third parties (or any successors to such third parties). The Attorney General (after consultation with the appropriate Secretaries who administer such programs) may bring an action in the name of the United States in United States district court to recover such payments made to or on behalf of all such recipients in one proceeding.

(2) Any action to enforce the rights of the Attorney General under this section with respect to any payment described in paragraph (1) shall be commenced within 5 years of such payment.

(3) For purposes of paragraph (1), the term "applicable Federal Government health care program" includes—

(A) the medicare program under title XVIII of the Social Security Act;

(B) the medicaid program under title XIX of such Act;

(C) the veterans health care program under title 38, United States Code; and

(D) any other similar Federal health care program.

(b) NOTICE UNDER THE CLASS ACTION.—(1) In any action brought under this section, no notice to recipients described in subsection (a)(1) is required, and such recipients shall have no right to become a party to such action. Such action is independent of any rights or causes of action of such recipients.

(2) In any such action in which the number of recipients described in subsection (a)(1) is so large as to cause it to be impracticable to join or identify each claim, the Attorney General shall not be required to so identify the individual recipients for which payment has been made, but rather can proceed to seek recovery based upon payments made to or on behalf of an entire class of recipients.

(c) RULES OF EVIDENCE.—In any action brought under this section, the Federal Rules of Evidence shall be construed, regarding the introduction and probative value of evidence on the issues of causation and damages, in order to effectuate the purposes of this Act to the greatest extent possible. The issues of causation and damages in any such action may be proven by use of statistical analysis or epidemiological evidence, or both.

(d) SHARE OF LIABILITY.—In any action brought under this section in which a third party is liable due to its manufacture, sale, or distribution of tobacco or waste disposal products, the Attorney General shall be allowed to proceed under a market share theory, if the products involved are substantially interchangeable and substantially similar factual or legal issues would be involved in seeking recovery against each liable third party individually. In the alternative, the Attorney General shall be allowed to proceed under a theory of concerted action or enterprise liability, or both, if warranted by the facts presented to the court.

(e) DISTRIBUTION OF RECOVERY.—Amounts recovered under any action brought under this section shall be paid to the United States and disposed of as follows:

(1) In the case of amounts recovered arising out of a claim under title XIX of the Social Security Act, there shall be paid to each State agency an amount bearing the same proportion to the total amount recovered as the State's share of the amount paid by the State agency for such claim bears to the total amount paid for such claim.

(2) Such portion of the amounts recovered as is determined to have been paid out of the trust funds under section 1817 and 1841 of the Social Security Act shall be repaid to such trust funds.

(3) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States.

AMENDMENT NO. 1971

On page 1, beginning with line 9, strike out all through the end of the amendment and insert in lieu thereof the following:

SEC. 302. DEFINITIONS.

(1) For purposes of this title the term—"manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who designs or formulates the product (or component part of the product) or has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another; or

(C) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the use of a product;

(2) "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(3) "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state—

(A) which is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(B) which is produced for introduction into trade or commerce;

(C) which has intrinsic economic value; and

(D) which is intended for sale or lease to persons for commercial or personal use;

the term does not include human tissue, blood and blood products, or organs unless specifically recognized as a product pursuant to State law;

(4) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce, or who installs, repairs, or maintains the harm-causing aspect of a product; the term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor; and

(5) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 303. CLASS ACTION TO RECOVER COSTS TO FEDERAL GOVERNMENT HEALTH CARE PROGRAMS OF TOBACCO RELATED ILLNESSES AND DISEASES.

(a) IN GENERAL.—(1) With respect to payments made under any applicable Federal Government health care program to or on behalf of more than one recipient with a disease, illness, condition, or complication caused, in whole or in part, by the use of tobacco or sugar products, the Attorney General of the United States may seek recovery for such payments from third parties (or any successors to such third parties). The Attorney General (after consultation with the appropriate Secretaries who administer such programs) may bring an action in the name of the United States in United States district court to recover such payments made to or on behalf of all such recipients in one proceeding.

(2) Any action to enforce the rights of the Attorney General under this section with respect to any payment described in paragraph (1) shall be commenced within 5 years of such payment.

(3) For purposes of paragraph (1), the term "applicable Federal Government health care program" includes—

(A) the medicare program under title XIX of the Social Security Act;

(B) the medicaid program under title XIX of such Act;

(C) the veterans health care program under title 38, United States Code; and

(D) any other similar Federal health care program.

(b) NOTICE UNDER THE CLASS ACTION.—(1) In any action brought under this section, no notice to recipients described in subsection (a)(1) is required, and such recipients shall have no right to become a party to such action. Such action is independent of any rights or causes of action of such recipients.

(2) In any such action in which the number of recipients described in subsection (a)(1) is so large as to cause it to be impracticable to join or identify each claim, the Attorney General shall not be required to so identify the individual recipients for which payment has been made, but rather can proceed to seek recovery based upon payments made to or on behalf of an entire class of recipients.

(c) RULES OF EVIDENCE.—In any action brought under this section, the Federal Rules of Evidence shall be construed, regarding the introduction and probative value of evidence on the issues of causation and damages, in order to effectuate the purposes of this Act to the greatest extent possible. The issues of causation and damages in any such action may be proven by use of statistical analysis or epidemiological evidence, or both.

(d) SHARE OF LIABILITY.—In any action brought under this section in which a third party is liable due to its manufacture, sale, or distribution of tobacco or sugar products, the Attorney General shall be allowed to proceed under a market share theory, if the products involved are substantially interchangeable and substantially similar factual or legal issues would be involved in seeking recovery against each liable third party individually. In the alternative, the Attorney General shall be allowed to proceed under a theory of concerted action or enterprise liability, or both, if warranted by the facts presented to the court.

(e) DISTRIBUTION OF RECOVERY.—Amounts recovered under any action brought under this section shall be paid to the United States and disposed of as follows:

(1) In the case of amounts recovered arising out of a claim under title XIX of the Social Security Act, there shall be paid to each State agency an amount bearing the same proportion to the total amount recovered as the State's share of the amount paid by the State agency for such claim bears to the total amount paid for such claim.

(2) Such portion of the amounts recovered as is determined to have been paid out of the trust funds under section 1817 and 1841 of the Social Security Act shall be repaid to such trust funds.

(3) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States.

AMENDMENT NO. 1972

On page 1, beginning with line 9, strike out all through the end of the amendment and insert in lieu thereof the following:

SEC. 302. DEFINITIONS.

(1) For purposes of this title the term—"manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who designs or formulates the product (or component part of the product) or has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another; or

(C) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the use of a product;

(2) "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(3) "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state—

(A) which is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(B) which is produced for introduction into trade or commerce;

(C) which has intrinsic economic value; and

(D) which is intended for sale or lease to persons for commercial or personal use;

the term does not include human tissue, blood and blood products, or organs unless specifically recognized as a product pursuant to State law;

(4) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce, or who installs, repairs, or maintains the harm-causing aspect of a product; the term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor; and

(5) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 303. CLASS ACTION TO RECOVER COSTS TO FEDERAL GOVERNMENT HEALTH CARE PROGRAMS OF TOBACCO RELATED ILLNESSES AND DISEASES.

(a) IN GENERAL.—(1) With respect to payments made under any applicable Federal Government health care program to or on behalf of more than one recipient with a disease, illness, condition, or complication caused, in whole or in part, by the use of tobacco or movies and entertainment products, the Attorney General of the United States may seek recovery for such payments from third parties (or any successors to such third parties). The Attorney General (after consultation with the appropriate Secretaries who administer such programs) may bring an action in the name of the United States in United States district court to recover such payments made to or on behalf of all such recipients in one proceeding.

(2) Any action to enforce the rights of the Attorney General under this section with respect to any payment described in paragraph (1) shall be commenced within 5 years of such payment.

(3) For purposes of paragraph (1), the term "applicable Federal Government health care program" includes—

(A) the Medicare program under title XVIII of the Social Security Act;

(B) the medicaid program under title XIX of such Act;

(C) the veterans health care program under title 38, United States Code; and

(D) any other similar Federal health care program.

(b) NOTICE UNDER THE CLASS ACTION.—(1) In any action brought under this section, no notice to recipients described in subsection (a)(1) is required, and such recipients shall have no right to become a party to such action. Such action is independent of any rights or causes of action of such recipients.

(2) In any such action in which the number of recipients described in subsection (a)(1) is so large as to cause it to be impracticable to join or identify each claim, the Attorney General shall not be required to so identify the individual recipients for which payment has been made, but rather can proceed to seek recovery based upon payments made to or on behalf of an entire class of recipients.

(c) RULES OF EVIDENCE.—In any action brought under this section, the Federal Rules of Evidence shall be construed, regarding the introduction and probative value of evidence on the issues of causation and damages, in order to effectuate the purposes of this Act to the greatest extent possible. The issues of causation and damages in any such action may be proven by use of statistical analysis or epidemiological evidence, or both.

(d) SHARE OF LIABILITY.—In any action brought under this section in which a third party is liable due to its manufacture, sale, or distribution of tobacco or movies and entertainment products, the Attorney General shall be allowed to proceed under a market share theory, if the products involved are substantially interchangeable and substantially similar factual or legal issues would be involved in seeking recovery against each liable third party individually. In the alternative, the Attorney General shall be allowed to proceed under a theory of concerted action or enterprise liability, or both, if warranted by the facts presented to the court.

(e) DISTRIBUTION OF RECOVERY.—Amounts recovered under any action brought under this section shall be paid to the United States and disposed of as follows:

(1) In the case of amounts recovered arising out of a claim under title XIX of the Social Security Act, there shall be paid to each State agency an amount bearing the same proportion to the total amount recovered as the State's share of the amount paid by the State agency for such claim bears to the total amount paid for such claim.

(2) Such portion of the amounts recovered as is determined to have been paid out of the trust funds under sections 1817 and 1841 of the Social Security Act shall be repaid to such trust funds.

(3) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States.

FORD AMENDMENTS NOS. 1973–1992

(Ordered to lie on the table.)

Mr. FORD submitted 20 amendments intended to be proposed by him to amendment No. 1922 proposed by Mr. METZENBAUM to the bill S. 687, supra; as follows:

AMENDMENT NO. 1973

At the appropriate place add the following new title:

TITLE —REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY OR DEATH

SEC. . REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY, OR DEATH.

(a) JURISDICTION.—

(1) The Federal Government or any department or agency thereof or any State or political subdivision, department, or agency thereof, may bring an action in any United States District Court against a manufacturer of cigarettes to recover reimbursement for the full amount of medical assistance provided by medicare or medicaid under titles XVIII or XIX of the Social Security Act on behalf of a recipient for illness, injury, or death that may have been caused by using any product.

(2) In the event that medical assistance has been provided to more than one recipient, and the government elects to seek recovery

from cigarette manufacturers due to actions by the manufacturers or circumstances which involve common issues of fact or law, an action may be brought under paragraph (1) to recover sums paid to all such recipients in one proceeding.

(b) CAUSE OF ACTION FOR REIMBURSEMENT.—

(1) In an action under subsection (a), a manufacturer shall be held strictly liable in tort for medicare and medicaid expenditures arising from illness, injury, or death caused by its product, to the limit of legal liability up to the amount of medical assistance paid by medicare or medicaid.

(2) The Federal Rules of Evidence and principles of common law and equity shall be broadly construed to ensure full reimbursement. Issues of causation and aggregate damages may be proven by use of statistical analysis and epidemiological estimates. Recovery against cigarette manufacturers may be sought under a market share theory. Where joinder or identification of each claim is impracticable, recovery may be sought based upon payments made on behalf of an entire class of recipients.

(3) An action under subsection (a) is independent of any rights or causes of action of a recipient and no action of a recipient shall prejudice or impair an action for reimbursement under subsection (a).

(c) DISTRIBUTION OF RECOVERY.—Any recovery in an action under subsection (a) shall be distributed to the Federal and State governments in accordance with the Federal and State shares of the expenditures.

AMENDMENT NO. 1974

At the appropriate place add the following new title:

TITLE —REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY OR DEATH

SEC. . REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY, OR DEATH.

(a) JURISDICTION.—

(1) The Federal Government or any department or agency thereof or any State or political subdivision, department, or agency thereof, may bring an action in any United States District Court against a manufacturer of cigarettes to recover reimbursement for the full amount of medical assistance provided by medicare or medicaid under titles XVIII or XIX of the Social Security Act on behalf of a recipient for illness, injury, or death that may have been caused by cigarette smoking or use of rental housing.

(2) In the event that medical assistance has been provided to more than one recipient, and the government elects to seek recovery from cigarette manufacturers due to actions by the manufacturers or circumstances which involve common issues of fact or law, an action may be brought under paragraph (1) to recover sums paid to all such recipients in one proceeding.

(b) CAUSE OF ACTION FOR REIMBURSEMENT.—

(1) In an action under subsection (a), a manufacturer shall be held strictly liable in tort for medicare and medicaid expenditures arising from illness, injury, or death caused by its products, to the limit of legal liability up to the amount of medical assistance paid by medicare or medicaid.

(2) The Federal Rules of Evidence and principles of common law and equity shall be broadly construed to ensure full reimbursement. Issues of causation and aggregate damages may be proven by use of statistical analysis and epidemiological estimates. Recovery against cigarette manufacturers may be sought under a market share theory. Where joinder or identification of each claim is impracticable, recovery may be sought based upon payments made on behalf of an entire class of recipients.

(3) An action under subsection (a) is independent of any rights or causes of action of a recipient and no action of a recipient shall prejudice or impair an action for reimbursement under subsection (a).

(c) DISTRIBUTION OF RECOVERY.—Any recovery in an action under subsection (a) shall be distributed to the Federal and State governments in accordance with the Federal and State shares of the expenditures.

AMENDMENT NO. 1975

At the appropriate place add the following new title:

TITLE —REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY OR DEATH

SEC. . REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY, OR DEATH.

(a) JURISDICTION.—

(1) The Federal Government or any department or agency thereof or any State or political subdivision, department, or agency thereof, may bring an action in any United States District Court against a manufacturer of cigarettes to recover reimbursement for the full amount of medical assistance provided by medicare or medicaid under titles XVIII or XIX of the Social Security Act on behalf of a recipient for illness, injury, or death that may have been caused by cigarette smoking or use of high fat food products.

(2) In the event that medical assistance has been provided to more than one recipient, and the government elects to seek recovery from cigarette manufacturers due to actions by the manufacturers or circumstances which involve common issues of fact or law, an action may be brought under paragraph (1) to recover sums paid to all such recipients in one proceeding.

(b) CAUSE OF ACTION FOR REIMBURSEMENT.—

(1) In an action under subsection (a), a manufacturer shall be held strictly liable in tort for medicare and medicaid expenditures arising from illness, injury, or death caused by its products, to the limit of legal liability up to the amount of medical assistance paid by medicare or medicaid.

(2) The Federal Rules of Evidence and principles of common law and equity shall be broadly construed to ensure full reimbursement. Issues of causation and aggregate damages may be proven by use of statistical analysis and epidemiological estimates. Recovery against cigarette manufacturers may be sought under a market share theory. Where joinder or identification of each claim is impracticable, recovery may be sought based upon payments made on behalf of an entire class of recipients.

(3) An action under subsection (a) is independent of any rights or causes of action of a recipient and no action of a recipient shall prejudice or impair an action for reimbursement under subsection (a).

(c) DISTRIBUTION OF RECOVERY.—Any recovery in an action under subsection (a) shall be distributed to the Federal and State governments in accordance with the Federal and State shares of the expenditures.

AMENDMENT NO. 1976

At the appropriate place add the following new title:

TITLE —REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY OR DEATH

SEC. . REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY, OR DEATH.

(a) JURISDICTION.—

(1) The Federal Government or any department or agency thereof or any State or political subdivision, department, or agency thereof, may bring an action in any United States District Court against a manufacturer of cigarettes to recover reimbursement for the full amount of medical assistance provided by medicare or medicaid under titles XVIII or XIX of the Social Security Act on behalf of a recipient for illness, injury, or death that may have been caused by cigarette smoking or use of radar products.

(2) In the event that medical assistance has been provided to more than one recipient, and the government elects to seek recovery from cigarette manufacturers due to actions by the manufacturers or circumstances which involve common issues of fact or law, an action may be brought under paragraph (1) to recover sums paid to all such recipients in one proceeding.

(b) CAUSE OF ACTION FOR REIMBURSEMENT.—

(1) In an action under subsection (a), a manufacturer shall be held strictly liable in tort for medicare and medicaid expenditures arising from illness, injury, or death caused by its products, to the limit of legal liability up to the amount of medical assistance paid by medicare or medicaid.

(2) The Federal Rules of Evidence and principles of common law and equity shall be broadly construed to ensure full reimbursement. Issues of causation and aggregate damages may be proven by use of statistical analysis and epidemiological estimates. Recovery against cigarette manufacturers may be sought under a market share theory. Where joinder or identification of each claim is impracticable, recovery may be sought based upon payments made on behalf of an entire class of recipients.

(3) An action under subsection (a) is independent of any rights or causes of action of a recipient and no action of a recipient shall prejudice or impair an action for reimbursement under subsection (a).

(c) DISTRIBUTION OF RECOVERY.—Any recovery in an action under subsection (a) shall be distributed to the Federal and State governments in accordance with the Federal and State shares of the expenditures.

AMENDMENT NO. 1977

At the appropriate place add the following new title:

TITLE —REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY, OR DEATH

SEC. . REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY, OR DEATH.

(a) JURISDICTION.—

(1) The Federal Government or any department or agency thereof or any State or political subdivision, department, or agency thereof, may bring an action in any United States District Court against a manufacturer of cigarettes to recover reimbursement for the full amount of medical assistance provided by medicare or medicaid under titles XVIII or XIX of the Social Security Act on behalf of a recipient for illness, injury, or death that may have been caused by cigarette smoking or use of medical devices.

(2) In the event that medical assistance has been provided to more than one recipient,

and the government elects to seek recovery from cigarette manufacturers due to actions by the manufacturers or circumstances which involve common issues of fact or law, an action may be brought under paragraph (1) to recover sums paid to all such recipients in one proceeding.

(b) CAUSE OF ACTION FOR REIMBURSEMENT.—

(1) In an action under subsection (a), a manufacturer shall be held strictly liable in tort for medicare and medicaid expenditures arising from illness, injury, or death caused by its products, to the limit of legal liability up to the amount of medical assistance paid by medicare or medicaid.

(2) The Federal Rules of Evidence and principles of common law and equity shall be broadly construed to ensure full reimbursement. Issues of causation and aggregate damages may be proven by use of statistical analysis and epidemiological estimates. Recovery against cigarette manufacturers may be sought under a market share theory. Where joinder or identification of each claim is impracticable, recovery may be sought based upon payments made on behalf of an entire class of recipients.

(3) An action under subsection (a) is independent of any rights or causes of action of a recipient and no action of a recipient shall prejudice or impair an action for reimbursement under subsection (a).

(c) DISTRIBUTION OF RECOVERY.—Any recovery in an action under subsection (a) shall be distributed to the Federal and State governments in accordance with the Federal and State shares of the expenditures.

AMENDMENT NO. 1978

At the appropriate place add the following new title:

TITLE —REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY OR DEATH

SEC. . REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY, OR DEATH.

(a) JURISDICTION.—

(1) The Federal Government or any department or agency thereof or any State or political subdivision, department, or agency thereof, may bring an action in any United States District Court against a manufacturer of cigarettes to recover reimbursement for the full amount of medical assistance provided by medicare or medicaid under title XVIII or XIX of the Social Security Act on behalf of a recipient for illness, injury, or death that may have been caused by cigarette smoking or use of pharmaceutical products.

(2) In the event that medical assistance has been provided to more than one recipient, and the government elects to seek recovery from cigarette manufacturers due to actions by the manufacturers or circumstances which involve common issues of fact or law, an action may be brought under paragraph (1) to recover sums paid to all such recipients in one proceeding.

(b) CAUSE OF ACTION FOR REIMBURSEMENT.—

(1) In an action under subsection (a), a manufacturer shall be held strictly liable in tort for medicare and medicaid expenditures arising from illness, injury, or death caused by its products, to the limit of legal liability up to the amount of medical assistance paid by medicare or medicaid.

(2) The Federal Rules of Evidence and principles of common law and equity shall be broadly construed to ensure full reimbursement. Issues of causation and aggregate damages may be proven by use of statistical analysis and epidemiological estimates. Recovery against cigarette manufacturers may be sought under a market share theory. Where joinder or identification of each claim is impracticable, recovery may be sought based upon payments made on behalf of an entire class of recipients.

(3) An action under subsection (a) is independent of any rights or causes of action of a recipient and no action of a recipient shall prejudice or impair an action for reimbursement under subsection (a).

(c) DISTRIBUTION OF RECOVERY.—Any recovery in an action under subsection (a) shall be distributed to the Federal and State governments in accordance with the Federal and State shares of the expenditures.

AMENDMENT NO. 1979

At the appropriate place add the following new title:

TITLE —REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY OR DEATH

SEC. . REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY, OR DEATH.

(a) JURISDICTION.—

(1) The Federal Government or any department or agency thereof or any State or political subdivision, department, or agency thereof, may bring an action in any United States District Court against a manufacturer of cigarettes to recover reimbursement for the full amount of medical assistance provided by medicare or medicaid under titles XVIII or XIX of the Social Security Act on behalf of a recipient for illness, injury, or death that may have been caused by cigarette smoking or use of chemical manufacturing products.

(2) In the event that medical assistance has been provided to more than one recipient, and the government elects to seek recovery from cigarette manufacturers due to actions by the manufacturers or circumstances which involve common issues of fact or law, an action may be brought under paragraph (1) to recover sums paid to all such recipients in one proceeding.

(b) CAUSE OF ACTION FOR REIMBURSEMENT.—

(1) In an action under subsection (a), a manufacturer shall be held strictly liable in tort for medicare and medicaid expenditures arising from illness, injury, or death caused by its products, to the limit of legal liability up to the amount of medical assistance paid by medicare or medicaid.

(2) The Federal Rules of Evidence and principles of common law and equity shall be broadly construed to ensure full reimbursement. Issues of causation and aggregate damages may be proven by use of statistical analysis and epidemiological estimates. Recovery against cigarette manufacturers may be sought under a market share theory. Where joinder or identification of each claim is impracticable, recovery may be sought based upon payments made on behalf of an entire class of recipients.

(3) An action under subsection (a) is independent of any rights or causes of action of a recipient and no action of a recipient shall prejudice or impair an action for reimbursement under subsection (a).

(c) DISTRIBUTION OF RECOVERY.—Any recovery in an action under subsection (a) shall be distributed to the Federal and State governments in accordance with the Federal and State shares of the expenditures.

AMENDMENT NO. 1980

At the appropriate place add the following new title:

TITLE—REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY OR DEATH

SEC. . REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY, OR DEATH.

(a) JURISDICTION.—

(1) The Federal Government or any department or agency thereof or any State or political subdivision, department, or agency thereof, may bring an action in any United States District Court against a manufacturer of cigarettes to recover reimbursement for the full amount of medical assistance provided by medicare or medicaid under titles XVIII or XIX of the Social Security Act on behalf of a recipient for illness, injury, or death that may have been caused by cigarette smoking or use of wood pulp.

(2) In the event that medical assistance has been provided to more than one recipient, and the government elects to seek recovery from cigarette manufacturers due to actions by the manufacturers or circumstances which involve common issues of fact or law, an action may be brought under paragraph (1) to recover sums paid to all such recipients in one proceeding.

(b) CAUSE OF ACTION FOR REIMBURSEMENT.—

(1) In an action under subsection (a), a manufacturer shall be held strictly liable in tort for medicare and medicaid expenditure arising from illness, injury, or death caused by its products, to the limit of legal liability up to the amount of medical assistance paid by medicare or medicaid.

(2) The Federal Rules of Evidence and principles of common law and equity shall be broadly construed to ensure full reimbursement. Issues of causation and aggregate damages may be proven by use of statistical analysis and epidemiological estimates. Recovery against cigarette manufacturers may be sought under a market share theory. Where joinder or identification of each claim is impracticable, recovery may be sought based upon payments made on behalf of an entire class of recipients.

(3) An action under subsection (a) is independent of any rights or cases of action of a recipient and no action of a recipient shall prejudice or impair an action for reimbursement under subsection (a).

(c) DISTRIBUTION OF RECOVERY.—Any recovery in an action under subsection (a) shall be distributed to the Federal and State governments in accordance with the Federal and State shares of the expenditures.

AMENDMENT NO. 1981

At the appropriate place add the following new title:

TITLE—REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY OR DEATH

SEC. . REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY, OR DEATH.

(a) JURISDICTION.—

(1) The Federal Government or any department or agency thereof or any State or political subdivision, department, or agency thereof, may bring an action in any United States District Court against a manufacturer of cigarettes to recover reimbursement for the full amount of medical assistance provided by medicare or medicaid under titles XVIII or XIX of the Social Security Act on behalf of a recipient for illness, injury, or death that may have been caused by cigarette smoking or use of plastic.

(2) In the event that medical assistance has been provided to more than one recipient,

and the government elects to seek recovery from cigarette manufacturers due to actions by the manufacturers or circumstances which involve common issues of fact or law, an action may be brought under paragraph (1) to recover sums paid to all such recipients in one proceeding.

(b) CAUSE OF ACTION FOR REIMBURSEMENT.—

(1) in an action under subsection (a), a manufacturer shall be held strictly liable in tort for medicare and medicaid expenditures arising from illness, injury, or death caused by its products, to the limit of legal liability up to the amount of medical assistance paid by medicare or medicaid.

(2) The Federal Rules of Evidence and principles of common law and equity shall be broadly construed to ensure full reimbursement. Issues of causation and aggregate damages may be proven by use of statistical analysis and epidemiological estimates. Recovery against cigarette manufacturers may be sought under a market share theory. Where joinder or identification of each claim is impracticable, recovery may be sought based upon payments made on behalf of an entire class of recipients.

(3) An action under subsection (a) is independent of any rights or causes of action of a recipient and no action of a recipient shall prejudice or impair an action for reimbursement under subsection (a).

(c) DISTRIBUTION OF RECOVERY.—Any recovery in an action under subsection (a) shall be distributed to the Federal and State governments in accordance with the Federal and State shares of the expenditures.

AMENDMENT NO. 1982

At the appropriate place add the following new title:

TITLE—REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY OR DEATH

SEC. . REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY, OR DEATH.

(a) JURISDICTION.—

(1) The Federal Government or any department or agency thereof or any State or political subdivision, department, or agency thereof, may bring an action in any United States District Court against a manufacturer of cigarettes to recover reimbursement for the full amount of medical assistance provided by medicare or medicaid under titles XVIII or XIX of the Social Security Act on behalf of a recipient for illness, injury, or death that may have been caused by cigarette smoking or use of glass products.

(2) In the event that medical assistance has been provided to more than one recipient, and the government elects to seek recovery from cigarette manufacturers due to actions by the manufacturers or circumstances which involve common issues of fact or law, an action may be brought under paragraph (1) to recover sums paid to all such recipients in one proceeding.

(b) CAUSE OF ACTION FOR REIMBURSEMENT.—

(1) In an action under subsection (a), a manufacturer shall be held strictly liable in tort for medicare and medicaid expenditures arising from illness, injury, or death caused by its products, to the limit of legal liability up to the amount of medical assistance paid by medicare or medicaid.

(2) The Federal Rules of Evidence and principles of common law and equity shall be broadly construed to ensure full reimbursement. Issues of causation and aggregate damages may be proven by use of statistical analysis and epidemiological estimates. Recovery against cigarette manufacturers may be sought under a market share theory. Where joinder or identification of each claim is impracticable, recovery may be sought based upon payments made on behalf of an entire class of recipients.

(3) An action under subsection (a) is independent of any rights or causes of action of a recipient and no action of a recipient shall prejudice or impair an action for reimbursement under subsection (a).

(c) DISTRIBUTION OF RECOVERY.—Any recovery in an action under subsection (a) shall be distributed to the Federal and State governments in accordance with the Federal and State shares of the expenditures.

AMENDMENT NO. 1983

At the appropriate place add the following new title:

TITLE—REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY OR DEATH

SEC. . REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY, OR DEATH.

(a) JURISDICTION.—

(1) The Federal Government or any department or agency thereof or any State or political subdivision, department, or agency thereof, may bring an action in any United States District Court against a manufacturer of cigarettes to recover reimbursement for the full amount of medical assistance provided by medicare or medicaid under title XVIII or XIX of the Social Security Act on behalf of a recipient for illness, injury, or death that may have been caused by cigarette smoking or use of automobiles.

(2) In the event that medical assistance has been provided to more than one recipient, and the government elects to seek recovery from cigarette manufacturers due to actions by the manufacturers or circumstances which involve common issues of fact or law, an action may be brought under paragraph (1) to recover sums paid to all such recipients in one proceeding.

(b) CAUSE OF ACTION FOR REIMBURSEMENTS—

(1) In an action under subsection (a), a manufacturer shall be held strictly liable in tort for medicare and medicaid expenditures arising from illness, injury, or death caused by its products, to the limit of legal liability up to the amount of medical assistance paid by medicare or medicaid.

(2) The Federal Rules of Evidence and principles of common law and equity shall be broadly construed to ensure full reimbursement. Issues of causation and aggregate damages may be proven by use of statistical analysis and epidemiological estimates. Recovery against cigarette manufacturers may be sought under a market share theory. Where joinder or identification of each claim is impracticable, recovery may be sought based upon payments made on behalf of an entire class of recipients.

(3) An action under subsection (a) is independent of any rights or causes of action of a recipient and no action of a recipient shall prejudice or impair an action for reimbursement under subsection (a).

(c) DISTRIBUTION OR RECOVERY.—Any recovery in an action under subsection (a) shall be distributed to the Federal and State governments in accordance with the Federal and State shares of the expenditures.

AMENDMENT NO. 1984

At the appropriate place add the following new title:

TITLE—REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY OR DEATH

SEC. . REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY, OR DEATH.

(a) JURISDICTION.—

(1) The Federal Government or any department or agency thereof or any State or political subdivision, department, or agency thereof, may bring an action in any United States District Court against a manufacturer of cigarettes to recover reimbursement for the full amount of medical assistance provided by medicare or medicaid under titles XVIII or XIX of the Social Security Act on behalf of a recipient for illness, injury, or death that may have been caused by cigarette smoking or use of orange juice.

(2) In the event that medical assistance has been provided to more than one recipient, and the government elects to seek recovery from cigarette manufacturers due to actions by the manufacturers or circumstances which involve common issues of fact or law, an action may be brought under paragraph (1) to recover sums paid to all such recipients in one proceeding.

(b) CAUSE OF ACTION FOR REIMBURSEMENT.—

(1) In an action under subsection (a), a manufacturer shall be held strictly liable in tort for medicare and medicaid expenditures arising from illness, injury, or death caused by its products, to the limit of legal liability up to the amount of medical assistance paid by medicare or medicaid.

(2) The Federal Rules of Evidence and principles of common law and equity shall be broadly construed to ensure full reimbursement. Issues of causation and aggregate damages may be proven by use of statistical analysis and epidemiological estimates. Recovery against cigarette manufacturers may be sought under a market share theory. Where joinder or identification of each claim is impracticable, recovery may be sought based upon payments made on behalf of an entire class of recipients.

(3) An action under subsection (a) is independent of any rights or causes of action of a recipient and no action of a recipient shall prejudice or impair an action for reimbursement under subsection (a).

(c) DISTRIBUTION OF RECOVERY.—Any recovery in an action under subsection (a) shall be distributed to the Federal and State governments in accordance with the Federal and State shares of the expenditures.

AMENDMENT NO. 1985

At the appropriate place add the following new title:

TITLE —REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY OR DEATH

SEC. . REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY OR DEATH.

(A) JURISDICTION.—

(1) The Federal Government or any department or agency thereof or any State or political subdivision, department, or agency thereof, may bring an action in any United States District Court against a manufacturer of cigarettes to recover reimbursement for the full amount of medical assistance provided by medicare or medicaid under titles XVIII or XIX of the Social Security Act on behalf of a recipient for illness, injury, or death that may have been caused by cigarette smoking or use of beef.

(2) In the event that medical assistance has been provided to more than one recipient,

and the government elects to seek recovery from cigarette manufacturers due to actions by the manufacturers or circumstances which involve common issues of fact or law, an action may be brought under paragraph (1) to recover sums paid to all such recipients in one proceeding.

(b) CAUSE OF ACTION FOR REIMBURSEMENT.—

(1) In an action under subsection (a), a manufacturer shall be held strictly liable in tort for medicare and medicaid expenditures arising from illness, injury, or death caused by its products, to the limit of legal liability up to the amount of medical assistance paid by medicare or medicaid.

(2) the Federal Rules of Evidence and principles of common law and equity shall be broadly construed to ensure full reimbursement. Issues of causation and aggregate damages may be proven by use of statistical analysis and epidemiological estimates. Recovery against cigarette manufacturers may be sought under a market share theory. Where joinder or identification of each claim is impracticable, recovery may be sought based upon payments made on behalf of an entire class of recipients.

(3) An action under subsection (a) is independent of any rights or causes of action of a recipient and no action of a recipient shall prejudice or impair an action for reimbursement under subsection (a).

(c) DISTRIBUTION OF RECOVERY.—Any recovery in an action under subsection (a) shall be distributed to the Federal and State governments in accordance with the Federal and State shares of the expenditures.

AMENDMENT NO. 1986

TITLE —REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY OR DEATH

SEC. . REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY, OR DEATH.

(a) JURISDICTION.—

(1) The Federal Government or any department or agency thereof or any State or political subdivision, department, or agency thereof, may bring an action in any United States District Court against a manufacturer of cigarettes to recover reimbursement for the full amount of medical assistance provided by medicare or medicaid under titles XVIII or XIX of the Social Security Act on behalf of a recipient for illness, injury, or death that may have been caused by cigarette smoking or use of dairy products.

(2) In the event that medical assistance has been provided to more than one recipient, and the government elects to seek recovery from cigarette manufacturers due to actions by the manufacturers or circumstances which involve common issues of fact or law, an action may be brought under paragraph (1) to recover sums paid to all such recipients in one proceeding.

(b) CAUSE OF ACTION FOR REIMBURSEMENT.—

(1) In an action under subsection (a), a manufacturer shall be held strictly liable in tort for medicare and medicaid expenditures arising from illness, injury, or death caused by its products, to the limit of legal liability up to the amount of medical assistance paid by medicare or medicaid.

(2) The Federal Rules of Evidence and principles of common law and equity shall be broadly construed to ensure full reimbursement. Issues of causation and aggregate damages may be proven by use of statistical analysis and epidemiological estimates. Recovery against cigarette manufacturers may be sought under a market share theory. Where joinder or identification of each claim is impracticable, recovery may be sought based upon payments made on behalf of an entire class of recipients.

(3) An action under subsection (a) is independent of any rights or causes of action of a recipient and no action of a recipient shall prejudice or impair an action for reimbursement subsection (a).

(c) DISTRIBUTION OF RECOVERY.—Any recovery in an action under subsection (a) shall be distributed to the Federal and State governments in accordance with the Federal and State shares of the expenditures.

AMENDMENT NO. 1987

At the appropriate place add the following new title:

TITLE —REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY OR DEATH

SEC. . REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY, OR DEATH.

(a) JURISDICTION.—

(1) The Federal Government or any department or agency thereof or any State or political subdivision, department, or agency thereof, may bring an action in any United States District Court against a manufacturer of cigarettes to recover reimbursement for the full amount of medical assistance provided by medicare or medicaid under titles XVIII or XIX of the Social Security Act on behalf of a recipient for illness, injury, or death that may have been caused by cigarette smoking or use of oil.

(2) In the event that medical assitance has been provided to more than one recipient, and the government elects to seek recovery from cigarette manufacturers due to actions by the manufacturers or circumstances which involve common issues of fact or law, an action may be brought under paragraph (1) to recover sums paid to all such recipients in one proceeding.

(b) CAUSE OF ACTION FOR REIMBURSEMENT.—

(1) In an action under subsection (a), a manufacturer shall be held strictly liable in tort for medicare and medicaid expenditures arising from illness, injury, or death caused by its products, to the limit of legal liability up to the amount of medical assistance paid by medicare or medicaid.

(2) The Federal Rules of Evidence and principles of common law and equity shall be broadly construed to ensure full reimbursement. Issues of causation and aggregate damages may be proven by use of statistical analysis and epidemiological estimates. Recovery against cigarette manufacturers may be sought under a market share theory. Where joinder or identification of each claim is impracticable, recovery may be sought based upon payments made on behalf of an entire class of recipients.

(3) An action under subsection (a) is independent of any rights or causes of action of a recipient and no action of a recipient shall prejudice or impair an action for reimbursement under subection (a).

(c) DISTRIBUTION OF RECOVERY.—Any recovery in an action under subsection (a) shall be distributed to the Federal and State governments in accordance with the Federal and State governments in accordance with the Federal and State shares of the expenditures.

AMENDMENT NO. 1988

At the appropriate place add the following new title:

TITLE —REIMBURSEMENT OF PAYMENTS FOR CAUSED ILLNESS, INJURY OR DEATH

SEC. . REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY, OR DEATH.

(a) JURISDICTION.—

(1) The Federal Government or any department or agency thereof or any State or political subdivision, department, or agency thereof, may bring an action in any United States District Court against a manufacturer of cigarettes to recover reimbursement for the full amount of medical assistance provided by medicare or medicaid under titles XVIII or XIX of the Social Security Act on behalf of a recipient for illness, injury, or death that may have been caused by cigarette smoking or use of power.

(2) In the event that medical assistance has been provided to more than one recipient, and the government elects to seek recovery from cigarette manufacturers due to actions by the manufacturers or circumstances which involve common issues of fact or law, an action may be brought under paragraph (1) to recover sums paid to all such recipients in one proceeding.

(b) CAUSE OF ACTION FOR REIMBURSEMENT.—

(1) In an action under subsection (a), a manufacturer shall be held strictly liable in tort for medicare and medicaid expenditures arising from illness, injury, or death caused by its products, to the limit of legal liability up to the amount of medical assistance paid by medicare or medicaid.

(2) The Federal Rules of Evidence and principles of common law and equity shall be broadly construed to ensure full reimbursement. Issues of causation and aggregate damages may be proven by use of statistical analysis and epidemiological estimates. Recovery against cigarette manufacturers may be sought under a market share theory. Where joinder or identification of each claim is impracticable, recovery may be sought based upon payments made on behalf of an entire class of recipients.

(3) An action under subsection (a) is independent of any rights or causes of action of a recipient and no action of a recipient shall prejudice or impair an action for reimbursement under subsection (a).

(c) DISTRIBUTION OF RECOVERY.—Any recovery in an action under subsection (a) shall be distributed to the Federal and State governments in accordance with the Federal and State shares of the expenditures.

AMENDMENT NO. 1989

At the appropriate place add the following new title:

TITLE—REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY OR DEATH

SEC. . REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY, OR DEATH.

(a) JURISDICTION.—

(1) The Federal Government or any department or agency thereof or any State or political subdivision, department, or agency thereof, may bring an action in any United States District Court against a manufacturer of cigarettes to recover reimbursement for the full amount of medical assistance provided by medicare or medicaid under titles XVIII or XIX of the Social Security Act on behalf of a recipient for illness, injury, or death that may have been caused by cigarette smoking or use of phosphate products.

(2) In the event that medical assistance has been provided to more than one recipient,

and the government elects to seek recovery from cigarette manufacturers due to actions by the manufacturers or circumstances which involve common issues of fact or law, an action may be brought under paragraph (1) to recover sums paid to all such recipients in one proceeding.

(b) CAUSE OF ACTION FOR REIMBURSEMENT.—

(1) In an action under subsection (a), a manufacturer shall be held strictly liable in tort for medicare and medicaid expenditures arising from illness, injury, or death caused by its products, to the limit of legal liability up to the amount of medical assistance paid by medicare or medicaid.

(2) The Federal Rules of Evidence and principles of common law and equity shall be broadly construed to ensure full reimbursement. Issues of causation and aggregate damages may be proven by use of statistical analysis and epidemiological estimates. Recovery against cigarette manufacturers may be sought under a market share theory. Where joinder or identification of each claim is impracticable, recovery may be sought based upon payments made on behalf of an entire class of recipients.

(3) An action under subsection (a) is independent of any rights or causes of action of a recipient and no action of a recipient shall prejudice or impair an action for reimbursement under subsection (a).

(c) DISTRIBUTION OF RECOVERY.—Any recovery in an action under subsection (a) shall be distributed to the Federal and State governments in accordance with the Federal and State shares of the expenditures.

AMENDMENT NO. 1990

At the appropriate place add the following new title:

TITLE —REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY OR DEATH

SEC. . REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY, OR DEATH.

(a) JURISDICTION.—

(1) The Federal Government or any department or agency thereof or any State or political subdivision, department, or agency thereof, may bring an action in any United States District Court against a manufacturer of cigarettes to recover reimbursement for the full amount of medical assistance provided by medicare or medicaid under titles XVIII or XIX of the Social Security Act on behalf of a recipient for illness, injury, or death that may have been caused by cigarette smoking or use of waste disposal.

(2) In the event that medical assistance has been provided to more than one recipient, and the government elects to seek recovery from cigarette manufacturers due to actions by the manufacturers or circumstances which involve common issues of fact or law, an action may be brought under paragraph (1) to recover sums paid to all such recipients in one proceeding.

(b) CAUSE OF ACTION FOR REIMBURSEMENT.—

(1) In an action under subsection (a), a manufacturer shall be held strictly liable in tort for medicare and medicaid expenditures arising from illness, injury, or death caused by its products, to the limit of legal liability up to the amount of medical assistance paid by medicare or medicaid.

(2) The Federal Rules of Evidence and principles of common law and equity shall be broadly construed to ensure full reimbursement. Issues of causation and aggregate damages may be proven by use of statistical analysis and epidemiological estimates. Recovery against cigarette manufacturers may be sought under a market share theory. Where joinder or identification of each claim is impracticable, recovery may be sought based upon payments made on behalf of an entire class of recipients.

(3) An action under subsection (a) is independent of any rights or causes of action of a recipient and no action of a recipient shall prejudice or impair an action for reimbursement under subsection (a).

(c) DISTRIBUTION OF RECOVERY.—Any recovery in an action under subsection (a) shall be distributed to the Federal and State governments in accordance with the Federal and State shares of the expenditures.

AMENDMENT NO. 1991

At the appropriate place add the following new title:

TITLE —REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY OR DEATH

SEC. . REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY, OR DEATH.

(a) JURISDICTION.—

(1) The Federal Government or any department or agency thereof or any State or political subdivision, department, or agency thereof, may bring an action in any United States District Court against a manufacturer of cigarettes to recover reimbursement for the full amount of medical assistance provided by medicare or medicaid under titles XVIII or XIX of the Social Security Act on behalf of a recipient for illness, injury, or death that may have been caused by cigarette smoking or use of sugar products.

(2) In the event that medical assistance has been provided to more than one recipient, and the government elects to seek recovery from cigarette manufacturers due to actions by the manufacturers or circumstances which involve common issues of fact or law, an action may be brought under paragraph (1) to recover sums paid to all such recipients in one proceeding.

(b) CAUSE OF ACTION FOR REIMBURSEMENT.—

(1) In an action under subsection (a), a manufacturer shall be held strictly liable in tort for medicare and medicaid expenditures arising from illness, injury, or death caused by its products, to the limit of legal liability up to the amount of medical assistance paid by medicare or medicaid.

(2) The Federal Rules of Evidence and principles of common law and equity shall be broadly construed to ensure full reimbursement. Issues of causation and aggregate damages may be proven by use of statistical analysis and epidemiological estimates. Recovery against cigarette manufacturers may be sought under a market share theory. Where joinder or identification of each claim is impracticable, recovery may be sought based upon payments made on behalf of an entire class of recipients.

(3) An action under subsection (a) is independent of any rights or causes of action of a recipient and no action of a recipient shall prejudice or impair an action for reimbursement under subsection (a).

(c) DISTRIBUTION OF RECOVERY.—Any recovery in an action under subsection (a) shall be distributed to the Federal and State governments in accordance with the Federal and State shares of the expenditures.

AMENDMENT NO. 1992

At the appropriate place add the following new title:

TITLE —REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY, OR DEATH

SEC. . REIMBURSEMENT OF PAYMENTS MADE FOR CAUSED ILLNESS, INJURY, OR DEATH.

(a) JURISDICTION.—

(1) The Federal Government or any department or agency thereof or any State or political subdivision, department, or agency thereof, may bring an action in any United States District Court against a manufacturer of cigarettes to recover reimbursement for the full amount of medical assistance provided by medicare or medicaid under titles XVIII or XIX of the Social Security Act on behalf of a recipient for illness, injury, or death that may have been caused by cigarette smoking or use of movies and entertainment.

(2) In the event that medical assistance has been provided to more than one recipient, and the government elects to seek recovery from cigarette manufacturers due to actions by the manufacturers or circumstances which involve common issues of fact or law, an action may be brought under paragraph (1) to recover sums paid to all such recipients in one proceeding.

(b) CAUSE OF ACTION FOR REIMBURSEMENT.—

(1) In an action under subsection (a), a manufacturer shall be held strictly liable in tort for medicare and medicaid expenditures arising from illness, injury, or death caused by its products, to the limit of legal liability up to the amount of medical assistance paid by medicare or medicaid.

(2) The Federal Rules of Evidence and principles of common law and equity shall be broadly construed to ensure full reimbursement. Issues of causation and aggregate damages may be proven by use of statistical analysis and epidemiological estimates. Recovery against cigarette manufacturers may be sought under a market share theory. Where joinder or identification of each claim is impracticable, recovery may be sought based upon payments made on behalf of an entire class of recipients.

(3) An action under subsection (a) is independent of any rights or causes of action of a recipient and no action of a recipient shall prejudice or impair an action for reimbursement under subsection (a).

(c) DISTRIBUTION OF RECOVERY.—Any recovery in an action under subsection (a) shall be distributed to the Federal and State governments in accordance with the Federal and State shares of the expenditures.

FORD AMENDMENTS NOS. 1993–1999

(Ordered to lie on the table.)

Mr. FORD submitted seven amendments intended to be proposed by him to amendment No. 1894 proposed by Mr. HARKIN to the bill S. 687, supra; as follows:

AMENDMENT NO. 1993

On page 1, line 2, after tobacco insert the following: "or any product."

AMENDMENT NO. 1994

On page 1, line 2, after tobacco insert the following: "or rental housing."

AMENDMENT NO. 1995

On page 1, line 2, after tobacco insert the following: "or high cholesterol food products."

AMENDMENT NO. 1996

On page 1, line 2, after tobacco insert the following: "or high fat food products."

AMENDMENT NO. 1997

On page 1, line 2, after tobacco insert the following: "or radar products."

AMENDMENT NO. 1998

On page 1, line 2, after tobacco insert the following: "or medical devices."

AMENDMENT NO. 1999

On page 1, line 2, after tobacco insert the following: "or pharmaceutical products."

FORD AMENDMENT NO. 2000

(Ordered to lie on the table.)

Mr. FORD submitted an amendment intended to be proposed by him to an amendment proposed by Mr. LAUTENBERG to the bill S. 687, supra; as follows:

On page 7, strike out lines 5 through 7 and insert in lieu thereof the following:

(3) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States.

SEC. . OFFSET OF DAMAGES.

Notwithstanding any other provision of this title, in any civil action subject to this title, after liability has been established and damages determined, such damages shall be offset in an amount equal to any Federal excise tax collected on tobacco products for the period for which liability is imposed.

FORD AMENDMENTS NOS. 2001–2014

(Ordered to lie on the table.)

Mr. FORD submitted 14 amendments intended to be proposed by him to amendment No. 1894 proposed by Mr. HARKIN to the bill S. 687, supra; as follows:

AMENDMENT NO. 2001

On page 1, line 2, after tobacco insert the following: "or chemical manufacturing products."

AMENDMENT NO. 2002

On page 1, line 2, after tobacco insert the following: "or wood pulp."

AMENDMENT NO. 2003

On page 1, line 2, after tobacco insert the following: "or plastic."

AMENDMENT NO. 2004

On page 1, line 2, after tobacco insert the following: "or glass products."

AMENDMENT NO. 2005

On page 1, line 2, after tobacco insert the following: "or automobiles."

AMENDMENT NO. 2006

On page 1, line 2, after tobacco insert the following: "or orange juice."

AMENDMENT NO. 2007

On page 1, line 2, after tobacco insert the following: "or beef."

AMENDMENT NO. 2008

On page 1, line 2, after tobacco insert the following: "or dairy products."

AMENDMENT NO. 2009

On page 1, line 2, after tobacco insert the following: "or oil."

AMENDMENT NO. 2010

On page 1, line 2, after tobacco insert the following: "or power."

AMENDMENT NO. 2011

On page 1, line 2, after tobacco insert the following: "or phosphate products."

AMENDMENT NO. 2012

On page 1, line 2, after tobacco insert the following: "or waste disposal."

AMENDMENT NO. 2013

On page 1, line 2, after tobacco insert the following: "or sugar products."

AMENDMENT NO. 2014

On page 1, line 2, after tobacco insert the following: "or movies and entertainment."

FORD AMENDMENTS NOS. 2015–2035

(Ordered to lie on the table.)

Mr. FORD submitted 21 amendments intended to be proposed by him to amendment No. 1893 proposed by Mr. HARKIN to the bill S. 687, supra; as follows:

AMENDMENT NO. 2015

On page 1, line 2, after tobacco insert the following: "or any product."

AMENDMENT NO. 2016

On page 1, line 2, after tobacco insert the following: "or rental housing."

AMENDMENT NO. 2017

On page 1, line 2, after tobacco insert the following: "or high cholesterol food products."

AMENDMENT NO. 2018

On page 1, line 2, after tobacco insert the following: "or high fat food products."

AMENDMENT NO. 2019

On page 1, line 2, after tobacco insert the following: "or radar products."

AMENDMENT NO. 2020

On page 1, line 2, after tobacco insert the following: "or medical devices."

AMENDMENT NO. 2021

On page 1, line 2, after tobacco insert the following: "or pharmaceutical products."

AMENDMENT NO. 2022

On page 1, line 2, after tobacco insert the following: "or chemical manufacturing products."

AMENDMENT NO. 2023

On page 1, line 2, after tobacco insert the following: "or wood pulp."

AMENDMENT NO. 2024

On page 1, line 2, after tobacco insert the following: "or plastic."

AMENDMENT NO. 2025

On page 1, line 2, after tobacco insert the following: "or glass products."

AMENDMENT NO. 2026

On page 1, line 2, after tobacco insert the following: "or automobiles."

AMENDMENT NO. 2027

On page 1, line 2, after tobacco insert the following: "or orange juice."

AMENDMENT NO. 2028

On page 1, line 2, after tobacco insert the following: "or beef."

AMENDMENT NO. 2029

On page 1, line 2, after tobacco insert the following: "or dairy products."

AMENDMENT NO. 2030

On page 1, line 2, after tobacco insert the following: "or oil."

AMENDMENT NO. 2031

On page 1, line 2, after tobacco insert the following: "or power."

AMENDMENT NO. 2032

On page 1, line 2, after tobacco insert the following: "or phosphate products."

AMENDMENT NO. 2033

On page 1, line 2, after tobacco insert the following: "or waste disposal."

AMENDMENT NO. 2034

On page 1, line 2, after tobacco insert the following: "or sugar products."

AMENDMENT NO. 2035

On page 1, line 2, after tobacco insert the following: "or movies and entertainment."

FORD AMENDMENTS NOS. 2036–2038

(Ordered to lie on the table.)

Mr. FORD submitted three amendments intended to be proposed by him to an amendment proposed by Mr. LAUTENBERG to the bill S. 687, supra; as follows:

AMENDMENT NO. 2036

On page 5, beginning with line 22, strike out all through line 4 on page 6.

AMENDMENT NO. 2037

On page 1, beginning with line 9, strike out all through line 2 on page 4.

AMENDMENT NO. 2038

On page 5, beginning with line 9, strike out all through line 21.

BUMPERS AMENDMENTS NOS. 2039–2040

(Ordered to lie on the table.)

Mr. BUMPERS submitted two amendments intended to be proposed by him to the bill S. 687, supra; as follows:

AMENDMENT NO. 2039

On line 2 of the amendment, strike "20 employees" and insert in lieu thereof: "100 employees".

AMENDMENT NO. 2040

On line 2 of the amendment, strike "20 employees" and insert in lieu thereof: "100 employees".

LIEBERMAN AMENDMENTS NOS. 2041–2042

(Ordered to lie on the table.)

Mr. LIEBERMAN submitted two amendments to the bill S. 687, supra; as follows:

AMENDMENT NO. 2041

In lieu of the matter proposed to be stricken, insert the following:

(b) LIMITATION CONCERNING CERTAIN DRUGS AND MEDICAL DEVICES.—

(1) A manufacturer or product seller of a drug (as defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. 321(g)(1)) or medical device (as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. 321(h)) which caused the claimant's harm has not engaged in conduct manifesting conscious, flagrant indifference to the safety of those persons who might be harmed by the product, and shall not be subject to an award of punitive damages pursuant to this section, where—

(A) such drug or device was subject to premarket approval by the Food and Drug Administration pursuant to section 505 (as amended by the New Drug Amendments of 1962, P.L. 87-781), 506, 507, 512, or 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355, 356, 357, 360b, or 360e) or section 351 of the Public Health Service Act (42 U.S.C. 262) with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm or the adequacy of the packaging of labeling of such drug or device, and such drug or device was actually approved by the Food and Drug Administration; or

(B) the drug or device is generally recognized as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations.

(2) The provisions of paragraph (1) shall not apply in any case in which the claimant proves by a preponderance of evidence that—

(A)(i) the defendant, before or after premarket approval of a drug or device, failed to submit or misrepresented to the Food and Drug Administration or any other agency or official of the Federal government required information, including required information regarding any death or other adverse experience associated with use of the drug or device, and (ii) the information that defendant failed to submit or misrepresented is material and relevant to the performance of such drug or device and is causally related to the harm which the claimant allegedly suffered; or

(B) the defendant made an illegal payment to an official of the Food and Drug Administration for the purpose of either securing or maintaining approval of such drug or device; or

(C) the Food and Drug Administration has determined in a formal administrative proceeding (by a final order not subject to further review) or a court has determined in an action brought by the United States (by a final judgment not subject to further review) that the drug or device failed to conform to conditions of the Food and Drug Administration for approval (except for changes permitted without prior approval under applicable law, including Food and Drug Administration regulations), and such failure is causally related to the harm which the claimant allegedly suffered.

(3) The provisions of paragraph (1) shall not apply with respect to a claim for punitive damages based on a defect in manufacturing which causes the drug or device to depart from its intended design.

AMENDMENT No. 2042

In lieu of the matter proposed to be stricken, insert the following:

(b) LIMITATION CONCERNING CERTAIN DRUGS AND MEDICAL DEVICES.—

(1) A manufacturer or product seller of a drug (as defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. 321(g)(1)) or medical device (as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. 321(h)) which caused the claimant's harm has not engaged in conduct manifesting conscious, flagrant indifference to the safety of those persons who might be harmed by the product, and shall not be subject to an award of punitive damages pursuant to this section, where—

(A) such drug or device was subject to premarket approval by the Food and Drug Administration pursuant to section 505 (as amended by the New Drug Amendments of 1962, P.L. 87-781), 506, 507, 512, or 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355, 356, 357, 360b, or 360e) or section 351 of the Public Health Service Act (42 U.S.C. 262) with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm or the adequacy of the packaging of labeling of such drug or device, and such drug or device was actually approved by the Food and Drug Administration; or

(B) the drug or device is generally recognized as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations.

(2) The provisions of paragraph (1) shall not apply in any case in which the claimant proves by a preponderance of evidence that—

(A)(i) the defendant, before or after premarket approval of a drug or device, failed to submit or misrepresented to the Food and Drug Administration or any other agency or official of the Federal Government required information, including required information regarding any death or other adverse experience associated with use of the drug or device, and (ii) the information that defendant failed to submit or misrepresented is material and relevant to the performance of such drug or device and is causally related to the harm which the claimant allegedly suffered; or

(B) the defendant made an illegal payment to an official of the Food and Drug Administration for the purpose of either securing or maintaining approval of such drug or device; or

(C) the Food and Drug Administration has determined in a formal administrative proceeding (by a final order not subject to further review) or a court has determined in an action brought by the United States (by a final judgment not subject to further review) that the drug or device failed to conform to conditions of the Food and Drug Administration for approval (except for changes permitted without prior approval under applicable law, including Food and Drug Administration regulations), and such failure is causally related to the harm which the claimant allegedly suffered.

(3) The provisions of paragraph (1) shall not apply with respect to a claim for punitive damages based on a defect in manufacturing which causes the drug or device to depart from its intended design.

(c) LIMITATION CONCERNING CERTAIN AIRCRAFT AND COMPONENTS.—(1) Punitive damages shall not be awarded pursuant to this section against a manufacturer of an aircraft or aircraft component which caused the claimant's harm where—

(A) such aircraft or component was subject to pre-market certification by the Federal Aviation Administration with respect to the safety of the design or performance of the aspect of such aircraft or component which caused the claimant's harm or the adequacy of the warnings regarding the operation or maintenance of such aircraft or component;

(B) the aircraft or component was certified by the Federal Aviation Administration under the Federal Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.); and

(C) the manufacturer of the aircraft or component complied, after delivery of the aircraft or component to a user, with Federal Aviation Administration requirements and obligations with respect to continuing airworthiness, including the requirement to provide maintenance and service information related to airworthiness whether or not such information is used by the Federal Aviation Administration in the preparation of mandatory maintenance, inspection, or repair directives.

(2) The provisions of paragraph (1) shall not apply in any case in which—

(A) the defendant, before or after pre-market certification of an aircraft or aircraft component, withheld from or misrepresented to the Federal Aviation Administration required information that is material and relevant to the performance or the maintenance or operation of such aircraft or component or is causally related to the harm which the claimant allegedly suffered; or

(B) the defendant made an illegal payment to an official of the Federal Aviation Administration for the purpose of either securing or maintaining certification of such aircraft or component.

(d) SEPARATE PROCEEDING.—At the request of the manufacturer or product seller, the trier of fact shall consider in a separate proceeding (1) whether punitive damages are to be awarded and the amount of such award, or (2) the amount of punitive damages following a determination of punitive liability. If a separate proceeding is requested, evidence relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether compensatory damages are to be awarded.

(e) DETERMINING AMOUNT OF PUNITIVE DAMAGES.—In determining the amount of punitive damages, the trier of fact shall consider all relevant evidence, including—

(1) the financial condition of the manufacturer or product seller;

(2) the severity of the harm caused by the conduct of the manufacturer or product seller;

(3) the duration of the conduct or any concealment of it by the manufacturer or product seller;

(4) the profitability of the conduct to the manufacturer or product seller;

(5) the number of products sold by the manufacturer or product seller of the kind causing the harm complained of by the claimant;

(6) awards of punitive or exemplary damages to persons similarly situated to the claimant;

(7) prospective awards of compensatory damages to persons similarly situated to the claimant;

(8) any criminal penalties imposed on the manufacturer or product seller as a result of the conduct complained of by the claimant; and

(9) the amount of any civil fines assessed against the defendant as a result of the conduct complained of by the claimant.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

COHEN AMENDMENT NO. 2043

(Ordered to lie on the table)

Mr. COHEN submitted an amendment intended to be proposed by him to the bill (S. 2182) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 371, between lines 6 and 7, insert the following:

SEC. 3159. SAFETY OVERSIGHT AND ENFORCEMENT AT DEFENSE NUCLEAR FACILITIES.

(a) FINDINGS.—Congress finds the following:

(1) Effective oversight of matters relating to nuclear safety at defense nuclear facilities and enforcement of nuclear safety standards at such facilities are critical to ensuring the safety of the public and the workers at such facilities.

(2) The Department of Energy has not devoted adequate attention to matters relating to nuclear safety at defense nuclear facilities.

(b) SAFETY AT DEFENSE NUCLEAR FACILITIES.—The Secretary of Energy shall take appropriate actions to ensure that—

(1) officials of the Department of Energy who are responsible for independent oversight of matters relating to nuclear safety at defense nuclear facilities and enforcement of nuclear safety standards at such facilities maintain independence from officials who are engaged in management of such facilities;

(2) the independent, internal oversight functions carried out by the Department include, at the minimum, activities relating to—

(A) the assessment of the safety of defense nuclear facilities;

(B) the assessment of the effectiveness of Department program offices in carrying out programs relating to the environment, safety, health, and security at defense nuclear facilities;

(C) the provision to the Secretary of oversight reports that—

(i) contain validated technical information; and

(ii) provide a clear analysis of the extent to which line programs governing defense nuclear facilities meet applicable goals for the environment, safety, health, and security at such facilities; and

(D) the development of clear performance standards to be used in assessing the adequacy of the programs referred to in subparagraph (C)(ii);

(3) the Department has a system for bringing issues relating to nuclear safety at defense nuclear facilities to the attention of the officials of the Department (including the Secretary of Energy) having authority to resolve such issues in an adequate and timely manner; and

(4) an adequate number of qualified personnel of the Department are assigned to oversee matters relating to nuclear safety at defense nuclear facilities and enforce nuclear safety standards at such facilities.

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Energy shall submit to the congressional defense committees a report describing—

(1) the actions that the Secretary has taken or will take to fulfill the requirements set forth in paragraphs (1), (2), and (3) of subsection (b);

(2) the actions in addition to the actions described under paragraph (1) that the Secretary could take in order to fulfill such requirements; and

(3) the respective roles with regard to nuclear safety at defense nuclear facilities of the following officials:

(A) The Associate Deputy Secretary of Energy for Field Management.

(B) The Assistant Secretary of Energy for Defense Programs.

(C) The Assistant Secretary of Energy for Environmental Restoration and Waste Management.

PRODUCT LIABILITY FAIRNESS ACT

HELMS AMENDMENT NO. 2044

(Ordered to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to amendment No. 1888 proposed by Mrs. BOXER to the bill S. 687, supra; as follows:

In the amendment add before the end the following:

"or any psychological, emotional or physical harm, injury, illness or disease caused by the drug RU-486.".

HELMS AMENDMENT NO. 2045

(Ordered to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to amendment No. 1887 proposed by Mrs. BOXER to the bill S. 687, supra; as follows:

In the amendment add before the end the following:

"or any psychological, emotional or physical harm, injury, illness or disease caused by the drug RU-486.".

HELMS AMENDMENTS NOS. 2046–2052

(Ordered to lie on the table.)

Mr. HELMS submitted seven amendments intended to be proposed by him to amendment No. 1900 proposed by Mr. FORD to the bill S. 687, supra; as follows:

AMENDMENT NO. 2046

At the end of the amendment, add the following:

SEC. . PREVENTION OF SPOUSAL ABUSE AND OTHER FORMS OF VIOLENCE.

No later than 180 days after the date of the enactment of this Act, the Attorney General shall provide the Speaker of the House of Representatives and the President of the Senate with a comprehensive report on the sociological relationship and statistical correlation between compulsive gambling and spousal abuse and other forms of violence, to include recommendations of the Attorney General for reducing the number of incidents of spousal abuse and other forms of violence which are related to compulsive gambling.

AMENDMENT NO. 2047

At the end of the amendment, add the following:

SEC. . GAMBLING LOSSES.

Notwithstanding any other provision of law, no deduction from personal income tax under the Internal Revenue Code of 1986 shall be available for gambling losses incurred after January 1, 1995, in a privately owned gambling establishment. For the purposes of this section, gambling on Indian reservations shall not be considered as gambling on a privately owned establishment.

AMENDMENT NO. 2048

At the end of the amendment, add the following:

SEC. . GAMBLING ADDICTION STUDY.

No later than 180 days after the date of the enactment of this Act, the Commissioner of the Food and Drug Administration shall provide a report to the Speaker of the House of Representatives and the President of the Senate, on the extent to which gambling casinos including the serving of alcohol therein, and the games of chance and skill therein, are designed or manipulated to foster, maintain, or encourage a psychological addiction to gambling among casino patrons.

AMENDMENT NO. 2049

At the end of the amendment, add the following:

SEC. . GAMBLING CONSUMER PROTECTION ACT OF 1994.

It shall be unlawful, after January 1, 1995, for any private gambling establishment to have any game of skill or chance which does not prominently display a sign informing patrons—

(1) of the odds against winning the particular game; and

(2) that gambling can become a compulsive, lifelong psychological addiction.

AMENDMENT NO. 2050

At the end of the amendment, add the following:

SEC. . WARNINGS ON CONDOMS.

No later than January 1, 1995—

(1) all brands and types of condoms sold in the United States shall be tested by the Commissioner of the Food and Drug Administration for their effectiveness, when used as instructed, in the prevention of pregnancy and the transmission of the HIV virus that causes AIDS; and

(2) the individual packaging of all condoms determined by the Commissioner to be less than 100 percent effective in one or both respects must incorporate a written warning stating that the condoms have been found by the Commissioner of the Food and Drug Administration to be less than 100 percent effective in preventing pregnancy or in preventing the transmission of the HIV virus that causes AIDS, and shall include both warnings if applicable.

AMENDMENT NO. 2051

At the end of the amendment, add the following:

SEC. . PREVENTION OF SPOUSAL ABUSE AND OTHER FORMS OF VIOLENCE.

No later than 180 days after the date of the enactment of this Act, the Attorney General shall provide the Speaker of the House of Representatives and the President of the Senate with a comprehensive report on the sociological relationship and statistical correlation between violence in domestically produced feature films, television programs, and music recordings, and the occurrence and acceptance of spousal abuse and other forms of violence in American homes and in American society. Such report shall include recommendations of the Attorney General for reducing the number of incidents of spousal abuse and other forms of violence which are related to depictions or descriptions of violence in such organs of mass entertainment.

AMENDMENT NO. 2052

At the end of the amendment, add the following:

SEC. . PREVENTION OF SPOUSAL ABUSE AND OTHER FORMS OF VIOLENCE.

No later than 180 days after the date of the enactment of this Act, the Attorney General shall provide the Speaker of the House of Representatives and the President of the Senate with a comprehensive report on the sociological relationship and statistical correlation between alcohol abuse and spousal abuse and other forms of violence. Such report shall include recommendations of the Attorney General for reducing the number of incidents of spousal abuse and other forms of violence which are related to alcohol abuse.

HELMS AMENDMENT NO. 2053

(Ordered to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to amendment No. 1904 proposed by Mr. MCCONNELL to the bill S. 687, supra; as follows:

At the end of the amendment, add the following:

SEC. . PREVENTION OF SPOUSAL ABUSE AND OTHER FORMS OF VIOLENCE.

No later than 180 days after the date of the enactment of this Act, the Attorney General shall provide the Speaker of the House of Representatives and the President of the Senate with a comprehensive report on the sociological relationship and statistical correlation between compulsive gambling and spousal abuse and other forms of violence, to include recommendations of the Attorney General for reducing the number of incidents of spousal abuse and other forms of violence which are related to compulsive gambling.

HELMS AMENDMENTS NOS. 2054–2059

(Ordered to lie on the table.)

Mr. HELMS submitted six amendments intended to be proposed by him to amendment No. 1904 proposed by Mr. MCCONNELL to the bill S. 687, supra; as follows:

AMENDMENT NO. 2054

At the end of the amendment, add the following:

SEC.—.GAMBLING LOSSES.

Notwithstanding any other provision of law, no deduction from personal income tax under the Internal Revenue Code of 1986 shall be available for gambling losses incurred after January 1, 1995, in a privately owned gambling establishment. For the purposes of this section, gambling on Indian reservations shall not be considered as gambling on a privately owned establishment.

AMENDMENT NO. 2055

At the end of the amendment, add the following:

SEC.—.GAMBLING ADDICTION STUDY.

No later than 180 days after the date of the enactment of this Act, the Commissioner of the Food and Drug Administration shall provide a report to the Speaker of the House of Representatives and the President of the Senate, on the extent to which gambling casinos including the serving of alcohol therein, and the games of chance and skill therein, are designed or manipulated to foster, maintain, or encourage a psychological addiction to gambling among casino patrons.

AMENDMENT NO. 2056

At the end of the amendment, add the following:

SEC.—.GAMBLING CONSUMER PROTECTION ACT OF 1994.

It shall be unlawful, after January 1, 1995, for any private gambling establishment to have any game of skill or chance which does not prominently display a sign informing patrons—

(1) of the odds against winning the particular game; and

(2) that gambling can become a compulsive, lifelong psychological addition.

AMENDMENT NO. 2057

At the end of the amendment, add the following:

SEC.—.WARNINGS ON CONDOMS.

No later than January 1, 1995—

(1) all brands and types of condoms sold in the United States shall be tested by the Commissioner of the Food and Drug Administration for their effectiveness, when used as instructed, in the prevention of pregnancy and the transmission of the HIV virus that causes AIDS; and

(2) the individual packaging of all condoms determined by the Commissioner to be less than 100 percent effective in one or both respects must incorporate a written warning stating that the condoms have been found by the Commissioner of the Food and Drug Administration to be less than 100 percent effective in preventing pregnancy or in preventing the transmission of the HIV virus that causes AIDS, and shall include both warnings if applicable.

AMENDMENT NO. 2058

At the end of the amendment, add the following:

SEC.—.PREVENTION OF SPOUSAL ABUSE AND OTHER FORMS OF VIOLENCE.

No later than 180 days after the date of the enactment of this Act, the Attorney General shall provide the Speaker of the House of Representatives and the President of the Senate with a comprehensive report on the sociological relationship and statistical correlation between violence in domestically produced feature films, television programs, and music recordings, and the occurrence and acceptance of spousal abuse and other forms of violence in American homes and in American society. Such report shall include recommendations of the Attorney General for reducing the number of incidents of spousal abuse and other forms of violence which are related to depictions or descriptions of violence in such organs of mass entertainment.

AMENDMENT NO. 2059

At the end of the amendment, add the following:

SEC.—.PREVENTION OF SPOUSAL ABUSE AND OTHER FORMS OF VIOLENCE.

No later than 180 days after the date of the enactment of this Act, the Attorney General shall provide the Speaker of the House of Representatives and the President of the Senate with a comprehensive report on the sociological relationship and statistical correlation between alcohol abuse and spousal abuse and other forms of violence. Such report shall include recommendations of the Attorney General for reducing the number of incidents of spousal abuse and other forms of violence which are related to alcohol abuse.

HELMS AMENDMENTS NOS. 2060–2068

(Ordered to lie on the table.)

Mr. HELMS submitted nine amendments intended to be proposed by him to amendment No. 1894 proposed by Mr. HARKIN to the bill S. 687, supra; as follows:

AMENDMENT NO. 2060

In the amendment add after "products" the following: "or alcoholic beverages or products".

AMENDMENT NO. 2061

In the amendment add after "products" the following: "or the drug RU 486".

AMENDMENT NO. 2062

At the end of the amendment, add the following:

SEC. . PREVENTION OF SPOUSAL ABUSE AND OTHER FORMS OF VIOLENCE.

No later than 180 days after the date of the enactment of this Act, the Attorney General shall provide the Speaker of the House of Representatives and the President of the Senate with a comprehensive report on the sociological relationship and statical correlation between alcohol abuse and spousal abuse and other forms of violence. Such report shall include recommendations of the Attorney General for reducing the number of incidents of spousal abuse and other forms of violence which are related to alcohol abuse.

AMENDMENT NO. 2063

At the end of the amendment, add the following:

SEC. ___. PREVENTION OF SPOUSAL ABUSE AND OTHER FORMS OF VIOLENCE.

No later than 180 days after the date of the enactment of this Act, the Attorney General shall provide the Speaker of the House of Representatives and the President of the Senate with a comprehensive report on the sociological relationship and statistical correlation between violence in domestically produced feature films, television programs, and music recordings, and the occurrence and acceptance of spousal abuse and other forms of violence in American homes and in American society. Such report shall include recommendations of the Attorney General for reducing the number of incidents of spousal abuse and other forms of violence which are related to depictions or descriptions of violence in such organs of mass entertainment.

AMENDMENT NO. 2064

At the end of the amendment, add the following:

SEC. _. WARNINGS ON CONDOMS.

No later than January 1, 1995—

(1) all brands and types of condoms sold in the United States shall be tested by the Commissioner of the Food and Drug Administration for their effectiveness, when used as instructed, in the prevention of pregnancy and the transmission of the HIV virus that causes AIDS; and

(2) the individual packaging of all condoms determined by the Commissioner to be less than 100 percent effective in one or both respects must incorporate a written warning stating that the condoms have been found by the Commissioner of the Food and Drug Administration to be less than 100 percent effective in preventing pregnancy or in preventing the transmission of the HIV virus

that causes AIDS, and shall include both warnings if applicable.

AMENDMENT NO. 2065

At the end of the amendment, add the following:

SEC. _. GAMBLING CONSUMER PROTECTION ACT OF 1994.

It shall be unlawful, after January 1, 1995, for any private gambling establishment to have any game of skill or chance which does not prominently display a sign informing patrons—

(1) of the odds against winning the particular game; and

(2) that gambling can become a compulsive, lifelong psychological addition.

AMENDMENT NO. 2066

At the end of the amendment, add the following:

SEC. _. GAMBLING ADDICTION STUDY.

No later than 180 days after the date of the enactment of this Act, the Commissioner of the Food and Drug Administration shall provide a report to the Speaker of the House of Representatives and the President of the Senate, on the extent to which gambling casinos including the serving of alcohol therein, and the games of chance and skill therein, are designed or manipulated to foster, maintain, or encourage a psychological addiction to gambling among casino patrons.

AMENDMENT NO. 2067

At the end of the amendment, add the following:

SEC. _. GAMBLING LOSSES.

Notwithstanding any other provision of law, no deduction from personal income tax under the Internal Revenue Code of 1986 shall be available for gambling losses incurred after January 1, 1995, in a privately owned gambling establishment. For the purposes of this section, gambling on Indian reservations shall not be considered as gambling on a privately owned establishment.

AMENDMENT NO. 2068

At the end of the amendment, add the following:

SEC. _. PREVENTION OF SPOUSAL ABUSE AND OTHER FORMS OF VIOLENCE.

No later than 180 days after the date of the enactment of this Act, the Attorney General shall provide the Speaker of the House of Representatives and the President of the Senate with a comprehensive report on the sociological relationship and statistical correlation between compulsive gambling and spousal abuse and other forms of violence, to include recommendations of the Attorney General for reducing the number of incidents of spousal abuse and other forms of violence which are related to compulsive gambling.

HELMS AMENDMENTS NOS. 2069 and 2070

(Ordered to lie on the table.)

Mr. HELMS submitted two amendments intended to be proposed by him to amendment No. 1893 proposed by Mr. HARKIN to the bill S. 687, supra; as follows:

AMENDMENT NO. 2069

In the amendment add after "product" the following: "or the drug RU 486".

AMENDMENT NO. 2070

In the amendment add before the end the following: "or alcoholic beverages or products".

HELMS AMENDMENTS NOS. 2071 THROUGH 2077

(Ordered to lie on the table.)

Mr. HELMS submitted seven amendments intended to be proposed by him to amendment No. 1893 proposed by Mr. HARKIN to the bill S. 687, supra; as follows:

AMENDMENT NO. 2071

At the end of the amendment, add the following:

SEC. ___. WARNINGS ON CONDOMS.

No later than January 1, 1995—

(1) all brands and types of condoms sold in the United States shall be tested by the Commissioner of the Food and Drug Administration for their effectiveness, when used as instructed, in the prevention of pregnancy and the transmission of the HIV virus that causes AIDS; and

(2) the individual packaging of all condoms determined by the Commissioner to be less than 100 percent effective in one or both respects must incorporate a written warning stating that the condoms have been found by the Commissioner of the Food and Drug Administration to be less than 100 percent effective in preventing pregnancy or in preventing the transmission of the HIV virus that causes AIDS, and shall include both warnings if applicable.

AMENDMENT NO. 2072

At the end of the amendment, add the following:

SEC. ___. PREVENTION OF SPOUSAL ABUSE AND OTHER FORMS OF VIOLENCE.

No later than 180 days after the date of the enactment of this Act, the Attorney General shall provide the Speaker of the House of Representatives and the President of the Senate with a comprehensive report on the sociological relationship and statistical correlation between violence in domestically produced feature films, television programs, and music recordings, and the occurrence and acceptance of spousal abuse and other forms of violence in American homes and in American society. Such report shall include recommendations of the Attorney General for reducing the number of incidents of spousal abuse and other forms of violence which are related to depictions or descriptions of violence in such organs of mass entertainment.

AMENDMENT NO. 2073

At the end of the amendment, add the following:

SEC. ___. GAMBLING CONSUMER PROTECTION ACT OF 1994.

It shall be unlawful, after January 1, 1995, for any private gambling establishment to have any game of skill or chance which does not prominently display a sign informing patrons—

(1) of the odds against winning the particular game; and

(2) that gambling can become a compulsive, lifelong psychological addiction.

AMENDMENT NO. 2074

At the end of the amendment, add the following:

SEC. ___. GAMBLING ADDICTION STUDY.

No later than 180 days after the date of the enactment of this Act, the Commissioner of the Food and Drug Administration shall provide a report to the Speaker of the House of Representatives and the President of the Senate, on the extent to which gambling casinos including the serving of alcohol therein, and the games of chance and skill therein, are designed or manipulated to foster, maintain, or encourage a psychological addiction to gambling among casino patrons.

AMENDMENT NO. 2075

At the end of the amendment, add the following:

SEC. ___. GAMBLING LOSSES.

Notwithstanding any other provision of law, no deduction from personal income tax under the Internal Revenue Code of 1986 shall be available for gambling losses incurred after January 1, 1995, in a privately owned gambling establishment. For the purposes of this section, gambling on Indian reservations shall not be considered as gambling in a privately owned establishment.

AMENDMENT NO. 2076

At the end of the amendment, add the following:

SEC. ___. PREVENTION OF SPOUSAL ABUSE AND OTHER FORMS OF VIOLENCE.

No later than 180 days after the date of the enactment of this Act, the Attorney General shall provide the Speaker of the House of Representatives and the President of the Senate with a comprehensive report on the sociological relationship and statistical correlation between compulsive gambling and spousal abuse and other forms of violence, to include recommendations of the Attorney General for reducing the number of incidents of spousal abuse and other forms of violence which are related to compulsive gambling.

AMENDMENT NO. 2077

At the end of the amendment, add the following:

SEC. ___. PREVENTION OF SPOUSAL ABUSE AND OTHER FORMS OF VIOLENCE.

No later than 180 days after the date of the enactment of this Act, the Attorney General shall provide the Speaker of the House of Representatives and the President of the Senate with a comprehensive report on the sociological relationship and statistical correlation between alcohol abuse and spousal abuse and other forms of violence. Such report shall include recommendations of the Attorney General for reducing the number of incidents of spousal abuse and other forms of violence which are related to alcohol abuse.

HELMS AMENDMENTS NOS. 2078 THROUGH 2083

(Ordered to lie on the table)

Mr. HELMS submitted six amendments intended to be proposed by him to amendment no. 1922 proposed by Mr. METZENBAUM to the bill, S. 687, supra; as follows:

AMENDMENT NO. 2078

At the end of the amendment, add the following:

SEC. —. PREVENTION OF SPOUSAL ABUSE AND OTHER FORMS OF VIOLENCE.

No later than 180 days after the date of the enactment of this Act, the Attorney General shall provide the Speaker of the House of Representatives and the President of the Senate with a comprehensive report on the sociological relationship and statistical correlation between alcohol abuse and spousal abuse and other forms of violence. Such report shall include recommendations of the Attorney General for reducing the number of incidents of spousal abuse and other forms of violence which are related to alcohol abuse.

AMENDMENT NO. 2079

At the end of the amendment, add the following:

SEC. ___. PREVENTION OF SPOUSAL ABUSE AND OTHER FORMS OF VIOLENCE.

No later than 180 days after the date of the enactment of this Act, the Attorney General shall provide the Speaker of the House of Representatives and the President of the Senate with a comprehensive report on the sociological relationship and statistical correlation between violence in domestically produced feature films, television programs, and music recordings, and the occurrence and acceptance of spousal abuse and other forms of violence in American homes and in American society. Such report shall include recommendations of the Attorney General for reducing the number of incidents of spousal abuse and other forms of violence which are related to depictions or descriptions of violence in such organs of mass entertainment.

AMENDMENT NO. 2080

At the end of the amendment, add the following:

SEC. —. WARNINGS ON CONDOMS.

No later than January 1, 1995—

(1) all brands and types of condoms sold in the United States shall be tested by the Commissioner of the Food and Drug Administration for their effectiveness, when used as instructed, in the prevention of pregnancy and the transmission of the HIV virus that causes AIDS; and

(2) the individual packaging of all condoms determined by the Commissioner to be less than 100 percent effective in one or both respects must incorporate a written warning stating that the condoms have been found by the Commissioner of the Food and Drug Administration to be less than 100 percent effective in preventing pregnancy or in preventing the transmission of the HIV virus that causes AIDS, and shall include both warnings if applicable.

AMENDMENT NO. 2081

At the end of the amendment, add the following:

SEC. ___. GAMBLING CONSUMER PROTECTION ACT OF 1994.

It shall be unlawful, after January 1, 1995, for any private gambling establishment to have any game of skill or chance which does not prominently display a sign informing patrons—

(1) of the odds against winning the particular game; and

(2) that gambling can become a compulsive, lifelong psychological addiction.

AMENDMENT NO. 2082

At the end of the amendment, add the following:

SEC. ___. GAMBLING ADDICTION STUDY.

No later than 180 days after the date of the enactment of this Act, the Commissioner of the Food and Drug Administration shall provide a report to the Speaker of the House of Representatives and the President of the Senate, on the extent to which gambling casinos including the serving of alcohol therein, and the games of chance and skill therein, are designed or manipulated to foster, maintain, or encourage a psychological addiction to gambling among casino patrons.

AMENDMENT NO. 2083

At the end of the amendment, add the following:

SEC. ___. GAMBLING LOSSES.

Notwithstanding any other provision of law, no deduction from personal income tax under the Internal Revenue Code of 1986 shall be available for gambling losses incurred after January 1, 1995, in a privately owned gambling establishment. For the purposes of this section, gambling on Indian reservations shall not be considered as gambling on a privately owned establishment.

HELMS AMENDMENT NO. 2084

(Ordered to lie on the table.)

Mr. HELMS submitted seven amendments intended to be proposed by him to amendment No. 1922 proposed by Mr. METZENBAUM to the bill S. 687, supra; as follows:

At the end of the amendment, add the following:

SEC. ___. PREVENTION OF SPOUSAL ABUSE AND OTHER FORMS OF VIOLENCE.

No later than 180 days after the date of the enactment of this Act, the Attorney General shall provide the Speaker of the House of Representatives and the President of the Senate with a comprehensive report on the sociological relationship and statistical correlation between compulsive gambling and spousal abuse and other forms of violence, to include recommendations of the Attorney General for reducing the number of incidents of spousal abuse and other forms of violence which are related to compulsive gambling.

HELMS AMENDMENTS NOS. 2085–2091

(Ordered to lie on the table.)

Mr. HELMS submitted seven amendments intended to be proposed by him to amendment No. 1890 proposed by Mr. LAUTENBERG to the bill S. 687, supra; as follows:

AMENDMENT NO. 2085

On page 7, strike out lines 5 through 7 and insert in lieu thereof:

(3) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States.

SEC. ___. PREVENTION OF SPOUSAL ABUSE AND OTHER FORMS OF VIOLENCE.

No later than 180 days after the date of the enactment of this Act, the Attorney General shall provide the Speaker of the House of Representatives and the President of the Senate with a comprehensive report on the sociological relationship and statistical correlation between alcohol abuse and spousal abuse and other forms of violence. Such report shall include recommendations of the Attorney General for reducing the number of incidents of spousal abuse and other forms of violence which are related to alcohol abuse.

AMENDMENT NO. 2086

On page 7, strike out lines 5 through 7 and insert in lieu thereof:

(3) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States.

SEC. ___. PREVENTION OF SPOUSAL ABUSE AND OTHER FORMS OF VIOLENCE.

No later than 180 days after the date of the enactment of this Act, the Attorney General shall provide the Speaker of the House of Representatives and the President of the Senate with a comprehensive report on the sociological relationship and statistical correlation between violence in domestically produced feature films, television programs, and music recordings, and the occurrence and acceptance of spousal abuse and other forms of violence in American homes and in American society. Such report shall include recommendations of the Attorney General for reducing the number of incidents of spousal abuse and other forms of violence which are related to depictions or descriptions of violence in such organs of mass entertainment.

AMENDMENT NO. 2087

On page 7, strike out lines 5 through 7 and insert in lieu thereof:

(3) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States.

SEC. __. WARNINGS ON CONDOMS.

No later than January 1, 1995—

(1) all brands and types of condoms sold in the United States shall be tested by the Commissioner of the Food and Drug Administration for their effectiveness, when used as instructed, in the prevention of pregnancy and the transmission of the HIV virus that causes AIDS; and

(2) the individual packaging of all condoms determined by the Commissioner to be less than 100 percent effective in one or both respects must incorporate a written warning stating that the condoms have been found by the Commissioner of the Food and Drug Administration to be less than 100 percent effective in preventing pregnancy or in preventing the transmission of the HIV virus that causes AIDS, and shall include both warnings if applicable.

AMENDMENT NO. 2088

On page 7, strike out lines 5 through 7 and insert in lieu thereof:

(3) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States.

SEC. __. GAMBLING CONSUMER PROTECTION ACT OF 1994.

It shall be unlawful, after January 1, 1995, for any private gambling establishment to have any game of skill or chance which does not prominently display a sign informing patrons—

(1) of the odds against winning the particular game; and

(2) that gambling can become a compulsive, lifelong psychological addiction.

AMENDMENT NO. 2089

On page 7, strike out lines 5 through 7 and insert in lieu thereof:

(3) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States.

SEC. __. GAMBLING ADDICTION STUDY.

No later than 180 days after the date of the enactment of this Act, the Commissioner of the Food and Drug Administration shall provide a report to the Speaker of the House of Representatives and the President of the Senate, on the extent to which gambling casinos including the serving of alcohol therein, and the games of chance and skill therein, are designed or manipulated to foster, maintain, or encourage a psychological addiction to gambling among casino patrons.

AMENDMENT NO. 2090

On page 7, strike out lines 5 through 7 and insert in lieu thereof:

(3) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States.

SEC. GAMBLING LOSSES.

Notwithstanding any other provision of law, no deduction from personal income tax under the Internal Revenue Code of 1986 shall be available for gambling losses incurred after January 1, 1995, in a privately owned gambling establishment. For the purposes of this section, gambling on Indian reservations shall not be considered as gambling on a privately owned establishment.

AMENDMENT NO. 2091

On page 7, strike out lines 5 through 7 and insert in lieu thereof:

(3) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States.

SEC. PREVENTION OF SPOUSAL ABUSE AND OTHER FORMS OF VIOLENCE.

No later than 180 days after the date of the enactment of this Act, the Attorney General shall provide the Speaker of the House of Representatives and the President of the Senate with a comprehensive report on the sociological relationship and statistical correlation between compulsive gambling and spousal abuse and other forms of violence, to include recommendations of the Attorney General for reducing the number of incidents of spousal abuse and other forms of violence which are related to compulsive gambling.

HELMS AMENDMENTS NOS. 2092 THROUGH 2093

(Ordered to lie on the table.)

Mr. HELMS submitted two amendments intended to be proposed by him to amendment No. 1910 proposed by Mr. METZENBAUM to the bill, S. 687, supra; as follows:

AMENDMENT NO. 2092

At the end of the amendment, add the following:

SEC. PREVENTION OF SPOUSAL ABUSE AND OTHER FORMS OF VIOLENCE.

No later than 180 days after the date of the enactment of this Act, the Attorney General shall provide the Speaker of the House of Representatives and the President of the Senate with a comprehensive report on the sociological relationship and statistical correlation between alcohol abuse and spousal abuse and other forms of violence. Such report shall include recommendations of the Attorney General for reducing the number of incidents of spousal abuse and other forms of violence which are related to alcohol abuse.

AMENDMENT NO. 2093

At the end of the amendment, add the following:

SEC. PREVENTION OF SPOUSAL ABUSE AND OTHER FORMS OF VIOLENCE.

No later than 180 days after the date of the enactment of this Act, the Attorney General shall provide the Speaker of the House of Representatives and the President of the Senate with a comprehensive report on the sociological relationship and statistical correlation between violence in domestically produced feature films, television programs, and music recordings, and the occurrence and acceptance of spousal abuse and other forms of violence in American homes and in American society. Such report shall include recommendations of the Attorney General for reducing the number of incidents of spousal abuse and other forms of violence which are related to depictions or descriptions of violence in such organs of mass entertainment.

HELMS AMENDMENTS NOS. 2094–2098

(Ordered to lie on the table.)

Mr. HELMS submitted five amendments intended to be proposed by him to amendment No. 1910 proposed by Mr. METZENBAUM to the bill S. 687, supra; as follows:

AMENDMENT NO. 2094

At the end of the amendment, add the following:

SEC. . WARNINGS ON CONDOMS.

No later than January 1, 1995—

(1) all brands and types of condoms sold in the United States shall be tested by the Commissioner of the Food and Drug Administration for their effectiveness, when used as instructed, in the prevention of pregnancy and the transmission of the HIV virus that causes AIDS; and

(2) the individual packaging of all condoms determined by the Commissioner to be less than 100 percent effective in one or both respects must incorporate a written warning stating that the condoms have been found by the Commissioner of the Food and Drug Administration to be less than 100 percent effective in preventing pregnancy or in preventing the transmission of the HIV virus that causes AIDS, and shall include both warnings if applicable.

AMENDMENT NO. 2095

At the end of the amendment, add the following:

SEC. . GAMBLING CONSUMER PROTECTION ACT OF 1994.

It shall be unlawful, after January 1, 1995, for any private gambling establishment to have any game of skill or chance which does not prominently display a sign informing patrons—

(1) of the odds against winning the particular game; and

(2) that gambling can become a compulsive, lifelong psychological addiction.

AMENDMENT NO. 2096

At the end of the amendment, add the following:

SEC. . GAMBLING ADDICTION STUDY.

No later than 180 days after the date of the enactment of this Act, the Commissioner of the Food and Drug Administration shall provide a report to the Speaker of the House of Representatives and the President of the Senate, on the extent to which gambling casinos including the serving of alcohol therein, and the games of chance and skill therein, are designed or manipulated to foster, maintain, or encourage a psychological addiction to gambling among casino patrons.

AMENDMENT NO. 2097

At the end of the amendment, add the following:

SEC. . GAMBLING LOSSES.

Notwithstanding any other provision of law, no deduction from personal income tax under the Internal Revenue Code of 1986 shall be available for gambling losses incurred after January 1, 1995, in a privately owned gambling establishment. For the purposes of this section, gambling on Indian reservations shall not be considered as gambling on a privately owned establishment.

AMENDMENT NO. 2098

At the end of the amendment, add the following:

SEC. . PREVENTION OF SPOUSAL ABUSE AND OTHER FORMS OF VIOLENCE.

No later than 180 days after the date of the enactment of this Act, the Attorney General shall provide the Speaker of the House of Representatives and the President of the Senate with a comprehensive report on the sociological relationship and statistical correlation between compulsive gambling and spousal abuse and other forms of violence, to include recommendations of the Attorney General for reducing the number of incidents of spousal abuse and other forms of violence which are related to compulsive gambling.

McCONNELL AMENDMENTS NOS. 2099–2100

(Ordered to lie on the table.)

Mr. McCONNELL submitted two amendments intended to be proposed by him to amendment No. 1893 proposed by Mr. HARKIN to the bill S. 687, supra; as follows:

AMENDMENT NO. 2099

In the amendment insert "or pornography" after "tobacco".

AMENDMENT NO. 2100

In the amendment insert "or pornography" after "tobacco".

HEFLIN AMENDMENTS NOS. 2101–2102

(Ordered to lie on the table.)

Mr. HEFLIN submitted two amendments intended to be proposed by him to amendment No. 1941 proposed by Mr. GORTON to the bill S. 687, supra; as follows:

AMENDMENT NO. 2101

At the end of the matter proposed to be inserted, add the following:

"(4) Notwithstanding the preceding paragraphs of this subsection, this subsection shall have no force or effect as law."

AMENDMENT NO. 2102

At the end of the matter proposed to be inserted, add the following:

"(4) Notwithstanding any other provision of this Act, the provisions of subsections (b) and (c) of this section, shall not have any force or effect.

NOTICE OF HEARING

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration will meet at 9:30 a.m., in SR-301, Russell Senate Office Building, on Thursday, July 14, 1994. The Committee will hold an oversight hearing on the operations of the Library of Congress.

For further information regarding this hearing, please contact Carole Blessington of the Rules Committee staff on x40278.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the full

Committee on Environment and Public Works be authorized to meet during the session of the Senate on Tuesday, June 28, beginning at 10 a.m., to conduct a hearing on the Superfund Reform Act of 1994.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Tuesday, June 28, at 10 a.m. to hold a hearing on Treaty Doc. 103–24, the Convention on Regulating Fishing Vessels on the High Seas.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee for authority to meet on Tuesday, June 28, at 10 a.m., for a hearing on: Delinquent Criminal Debt: What's Owed? What's Paid.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday June 28, 1994 at 4 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONSTITUTION

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Subcommittee on Constitution, of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Tuesday, June 28, 1994, at 10 a.m., to hold an oversight hearing on the Hate Crimes Statistics Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON RESEARCH AND DEVELOPMENT

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Subcommittee on Research and Development of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., June 28, 1994, to receive testimony on S. 2104, a bill to establish within the national laboratories of the Department of Energy a National Albert Einstein Distinguished Educator Fellowship Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER AND POWER

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2:30 p.m., June 28, 1994, to receive testimony on the following bills: S. 1786, to increase the authorization of the appropriations for the Belle Fourche Irrigation Project, and for other purposes; S. 1988, to authorize the transfer of a certain loan contract to the Upper Yampa Water Conservancy District, and for other purposes; S. 2066, to expand the MNI Wiconi Rural Water Supply Project, and for other purposes; S. 2068, to authorize the construction of the Lewis and Clark Rural Water System and to authorize assistance to the Lewis and Clark Rural Water System, Inc., a nonprofit corporation, for the planning and the construction of the water supply system, and for other purposes; S. 2124, to provide for private development of power at the Mancos Project, and for other purposes; and S. 2213, to make applicable the provisions of the act commonly known as the "Warren Act" to the Central Utah Project, UT, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WESTERN HEMISPHERE AND PEACE CORPS AFFAIRS

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Subcommittee on Western Hemisphere and Peace Corps Affairs of the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Tuesday, June 28, at 2:00 p.m. to hold a hearing on U.S. Policy Toward Haiti.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE INAUGURATION OF BOBBY WHITEFEATHER

• Mr. DURENBERGER. Mr. President, I rise today to congratulate a leader and pay tribute to a great nation. On Thursday, Bobby Whitefeather will be inaugurated as the new chairman of the Red Lake Nation.

Over the past 16 years, it has been my privilege to serve the people of Red Lake in the U.S. Senate. But, it has been an even greater privilege to have learned what lessons I have learned from the people of Red Lake, a people profound in purpose and resolute in faith.

Of course, there are a lot of people with purpose and many people with faith. But, so often it is purpose and faith unchallenged. And, that is no purpose or faith at all. None of what the Red Lake people have accomplished over the years has come without challenge—or without cost. The cost has been great: centuries of adversity.

But, again and again, the Red Lake people have confronted and conquered, confronted and conquered. And, today, the Red Lake people stand tall as a nation, a shining example of a people—weathered by the past—with a confident and unwavering hope for the future.

The lesson we learn from the Red Lake people is great to anyone who has ever struggled in his or her life: never shrink from purpose and never lose your faith. To me, there is no greater lesson than this. There is no better teacher than the people of Red Lake. And, perhaps, no better student than me.

So, when I arrived in Washington 16 years ago, I was ready to lead, ready to teach. Now, as I prepare to leave this city, I am ready to lead and ready to learn.

Mr. President, I am grateful to the people of Red Lake for the great lessons I have learned from them and the friendship we share. And, I congratulate Chairman Whitefeather, Secretary Roy, Councilman Dudley, and all of the council as they prepare to lead—and to learn.•

HOMICIDES BY GUNSHOT IN NEW YORK CITY

• Mr. MOYNIHAN. Mr. President, I rise, as has been my practice each week in this session of the 103d Congress, to announce to the Senate that during the last week, 19 people were killed in New York City by gunshot, bringing this year's total to 481.

As the surge of tragic deaths by gunshot continues to grow in city streets throughout the country, it is time to revisit methods to curb this violence. While the Brady law, which was passed last year, has kept guns out of the hands of thousands of potential felons, it has not ended the plague of violence we face. That is why I have long advocated attacking the very agents of the killings themselves: the bullets.

As I have said before, guns do not kill people, bullets do. I have introduced legislation that would ban or tax certain rounds of ammunition. This effort began in 1986, when President Reagan signed into law a bill I introduced that bans sale of armor-piercing—cop-killer—bullets.

Mr. President, we are dealing with a national emergency; an epidemic. So our efforts to address this crisis must match the severity of the problem. By controlling the supply of ammunition, we can quickly an measurably reduce the senseless homicides that have reached such grim proportions today.

I would like to draw the Senate's attention to a letter by Dr. Ward Casscells of the University of Texas published in the June 23 New England Journal of Medicine. Dr. Casscells proposes restricting the sale of handgun ammunition to shooting clubs, police, and the Secret Service. He rightly focuses on the need to keep deadly bullets out of the hands of potential criminals. Dr. Casscells' insight deserves our attention. I ask that his letter be made part of the RECORD.

The letter follows:

[From the New England Journal of Medicine, June 23, 1994]

SHOULD AMMUNITION BE RESTRICTED?

TO THE EDITOR: Like many Americans, I am afraid that waiting periods and background checks would delay but not prevent the purchase of handguns by criminals. It would be difficult to confiscate all the guns: 67 million handguns are owned by private citizens in the United States, and there are guns in 48 percent of U.S. households.[1] The cost of repurchasing all these guns would be high. Confiscation would raise constitutional issues, and in any case, guns can be hidden.

My proposal is to restrict the sale of handgun ammunition to shooting clubs, police, and the Secret Service. A legal case might even be made for confiscating existing handgun ammunition from retail stores to prevent those inventories from creating an instant black market. The costs of compensating retailers would probably be offset by savings in the health care of victims of shootings: the annual cost of hospital services for treating firearm injuries is estimated at $1 billion, with an estimated total cost to the U.S. economy of $14 billion a year.[1]

This proposal would not result in a hardship to the millions of law-abiding citizens who keep handguns for protection in their home (whether or not such a practice is a good idea) and never use them. Let these citizens keep whatever shells and bullets they have. Meanwhile, criminals will deplete their stocks of ammunition.

I have had a shotgun since I hunted birds as a boy with my father. When I was in junior high school, my best friend was murdered, and his father, the late Pete Shields, quit his job and founded Handgun Control, sponsor of the recently passed Brady Bill. As a homeowner and a father, I still have that shotgun (hidden, with the shells hidden separately). It does not give me much reassurance, and even that I would gladly give up if most of the people with handguns could not obtain ammunition. I am sure some ammunition would be smuggled into the country before long or manufactured in basements, but my hope is that there would be less of it, and in the meantime we would all be a little safer.

WARD CASSCELLS, M.D.,
University of Texas—Houston Medical School.•

HONORING THE VILLAGE OF SOLVAY

• Mr. D'AMATO. Mr. President, I rise today to speak in celebration of the village of Solvay on the occasion of their 100th anniversary of incorporation. On May 31 the village of Solvay enacted a centennial festival which began with a ceremony whereby honored guests presented proclamations to the village. This celebration will continue through the 21st of October with appropriate fanfare. I ask my colleagues to join me in celebrating the longevity, success, and patriotism of the people of Solvay, NY.

The village of Solvay was originally referred to as the town of Geddes after James Geddes. Beginning in the late 1800's, 20 business and industrial leaders met to discuss the incorporation of the village of Solvay. The meetings were led by Frederick R. Hazard, president of Solvay Works. The village was located in the town of Geddes and county of Onondaga and contained one and one-quarter square miles of property. The population at the time was approximately 1,761.

On May 31, 1894, the town of Geddes became officially called the village of Solvay. Solvay's first governing body included many of the 20 business leaders that had originally met in efforts to incorporate Solvay. In 1898, the village's first budget was adopted and taxes were to be collected.

Solvay's governing body posed an annexation in 1909 to become a part of Syracuse, but the voters defeated the proposal. Later in 1957, Solvay's population was great enough to be considered a city, however, the village declined preferring to keep its former title. Finally in 1986, a committee drafted a proposal and submitted it to Albany as a study bill. This bill was never taken out of the committee, therefore, shattering any hopes of Solvay becoming a city.

Over the past century, Solvay has shown great economical growth in many instances, beginning in 1884 when the Solvay Process Plant provided hundreds of jobs as it ran 24 hours a day—7 days a week. By 1890, the New York State Fair had opened in Solvay and, once again, brought economic wealth to the small village. However, the major boom in Solvay's history occurred when the village bought and installed its own lighting system. Today, they still rank as one of the few and the oldest municipalities in the country.

I am proud to represent Solvay and villages like it. It is people like the good people of Solvay who make up the fabric of American life. I ask my colleagues to recognize the values of Solvay and celebrate the ability of this incorporated village to continue to prosper and develop over a century of change. I salute the residents of Solvay, and congratulate each of you on your 100th anniversary. Congratulations and best wishes for continued prosperity.•

PLANT VARIETY PROTECTION ACT AMENDMENTS OF 1994

• Mr. KERREY. Mr. President, on May 25, the Senate discharged the Committee on Agriculture, Nutrition, and Forestry from further consideration of S. 1409, the Plant Variety Protection Act Amendments of 1994, and subsequently adopted an amendment in the nature of a substitute and approved the bill, as amended, by unanimous consent.

Because the bill was discharged from committee, no committee report was filed on the legislation. However, given the complex and technical nature of the bill, a section-by-section analysis, including related legislative history, was prepared to provide additional background and insight regarding the various amendments to the Plant Variety Protection Act that are incorporated in S. 1409.

Unfortuately, Mr. President, the section-by-section analysis was inadvertently not printed in the RECORD of May 25 following approval of S. 1409.

Therefore, as the primary sponsor of S. 1409, I ask the section-by-section analysis of S. 1409 be included in today's RECORD, so that the legislative history of this important legislation is properly established.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF THE PLANT VARIETY PROTECTION ACT AMENDMENTS OF 1993

Section 1. Provides that the Act may be cited as the "Plant Variety Protection Act Amendments of 1993".

Section 2. Replaces section 41 of the Plant Variety Protection Act (hereafter referred to as the "PVPA") by reordering, revising, adding and deleting definitions [(subsection (a)] and rules of construction [subsection (b)], as follows:

Section 41(a)(1) is current section 41(g).

Section 41(a)(2) revises the definition of the term "breeder" in order to conform to Article 1(iv) of the International Convention for the Protection of New Varieties of Plants (UPOV), March 19, 1991, by removing the statement that the terms "breed", "develop", "originate", and "discover" each include the other and instead specifying that the breeder is the person who directs the final breeding or who both discovers and develops the variety. Also, it clarifies that a person who rediscovers a publicly known variety is not the breeder of that variety.

Section 41(a)(3) defines a new term, "essentially derived variety", to comply with article 14(5) of the 1991 UPOV Convention. A variety that is essentially derived from another variety may be protected (if otherwise eligible), but if it is derived from a protected variety, the infringement provisions of section 111 of the PVPA may apply [see section 9(3) of these amendments]. Under current law, an existing variety may be used in development of a new variety which may differ only in minor and unimportant ways from the original variety. The new variety may be freely exploited by its developer without obligation to the original breeder. An illustrative list of the types of breeding procedures is included in the definition. The essentially-derived provisions do not modify the requirements for granting of a PVPA certificate, but they do provide an opportunity for the original breeder to seek compensation through agreement or litigation. Guidelines on Essentially Derived Varieties have been published by the Office of the Union [IOM/6/2, 30 Oct 1992, UPOV].

Section 41(a)(4) is current section 41(c).

Section 41(a)(5) defines tubers or parts of tubers as seed for the purposes of this act.

Section 41(a)(6) is current section 41(f).

Section 41(a)(7) defines tuber-propagated to include any production by a tuber or a part of a tuber.

Section 41(a)(8) is current section 41(b) with minor revisions to adapt the definition of "United States" and "this country" to current U.S. standards.

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[1] Time, December 20, 1993:21-3.

Section 41(a)(9) adds a definition of "variety" and removes the definition of "novel variety." The PVPA did not define the term "variety," although the meaning was implicit in the definition of "novel variety." The elements of a novel variety (distinctness, uniformity, and stability) are modified and placed in section 42. Part of the provision relating to distinctness is placed in a rule of construction, discussed below. This places the substantive requirements for protection in one section and avoids confusion which may result from the use of the term "novel variety." The PVPA used "novel variety" to refer primarily to a variety which is distinct, while the 1991 UPOV Convention uses "novelty" to refer to a variety which is new.

The definition of the term "date of determination" [current section 41(d)] is removed, because the term would no longer be used elsewhere in the PVPA (section 3 of this Act amends section 42 of the PVPA to base eligibility for protection on the date of filing for protection rather than the date of determination of a variety). The 1991 UPOV Convention requires that protection be based on the date of filing and not the date of determination.

Tubers and tissue culture plantlets are added to the list of forms that may represent a variety. These forms are most commonly associated with tuber-propagated varieties.

The inclusion of "tuber propagation" in the definitions makes asexually-reproduced, tuber-propagated varieties equivalent to sexually-reproduced, seed-propagated varieties. Plant breeders' rights for asexually-reproduced varieties are usually obtained under the Plant Patent Act; however, tuber-propagated varieties, such as potatoes and Jerusalem artichokes, are excluded. This section is intended to give plant breeders' rights to the developers of those tuber-propagated varieties which are excluded from the Plant Patent Act.

Section 41(b) contains the Rules of Construction. Current subsection (h) defines the term "testing." The definition is replaced by a rule of construction, discussed below. Current subsections (i) and (j) define the term "public variety" and provide a rule of construction concerning that term. The term "public variety" will no longer be used in the PVPA but, as discussed below, the vast majority of the varieties which, without these amendments, are excluded from protection because they have been public varieties for more than one year, will continue to be excluded from protection.

New sections 41(b)(1) and (2) add rules of construction which replace the definition of the term "testing." New section 41(b)(1) provides that the disposition for purposes other than propagation of harvested material produced as a result of experimentation or testing to ascertain the characteristics of a variety will not be considered a disposition for the purposes of exploitation of the variety, which would otherwise begin a time period bar to protection under section 42 of the PVPA as amended. New section 41(b)(2) provides that the sale or other disposition of a variety for reproductive purposes shall not be considered to be for the purposes of exploitation of the variety if done as an integral part of a testing program or to increase the variety on behalf of the breeder. These clarifying provisions reflect the longstanding interpretation of the PVPA.

New section 41(b)(3) adds a rule of construction which provides that the sale of hybird seed shall be considered a sale of harvested material of the varieties from which it was produced. Whether the sale was for the purposes of exploitation of those varieties depends upon the circumstances of the sale. Prior to these amendments, a similar result was obtained under section 42 of the PVPA, which made the use of a variety an event which began a one-year period after which protection for the variety is to be barred.

New section 41(b)(4) provides that the filing of an application for protection or for the entering of another variety in an official register of varieties, in any country, shall be considered to render that other variety a matter of common knowledge from the date of the application, provided that the application leads to the granting of protection or to the entering of the said other variety in the official register of varieties, as the case may be. This rule of construction is necessary to conform to Article 7 of the 1991 UPOV Convention.

New section 41(b)(5) is derived from the distinctness portion of the deleted definition of "novel variety' and clarifies the broad range of characteristics which may be the basis of distinctiveness.

New section 41(b)(6) provides a rule of construction clarifying that a variety which is adequately described by a publication, which includes a disclosure of the principal characteristics by which the variety is distinguished, will be considered to be publicly known and a matter of common knowledge, and that a variety may become publicly known or a matter of common knowledge by other means. This provision is derived from current subsections 41 (i) and (j) and related portions of section 42(a)(1).

Section 3. Amends section 42 of the PVPA, "Right to Plant Variety Protection; Plant Varieties Protectable". The amended section sets forth the substantive requirements for plant variety protection, which are changed in several significant ways.

The exclusion of protection for first generation hybrids is removed. This is necessary to conform to Articles 1(vi), 5 and 9 of the 1991 UPOV Convention.

Also, the amendment places together the substantive requirements for protection: that the variety be new, distinct, uniform and stable. Currently, section 42 of the PVPA incorporates the elements of distinctness, uniformity and stability from the definition of "novel variety", and separately states the bars to protection. Because all of the requirements are set forth together, the bars to protection are integrated and, therefore, no longer need to be separately stated.

The first requirement that a variety has to meet in order to be protected is that it be "new" [section 42(a)(1)]. This concept incorporates most of the first part of the current "public variety" bar which precludes protection when a variety has been sold or used in this country for more than one year. It modifies the bar in that sale or use without the consent of the breeder (or successor in interest) is no longer a bar. Also, the secret commercial use of a variety will not present a bar to protection of a variety which cannot be clearly distinguished from the secret variety. This is because the requirement that a variety be "new" applies only to the variety for which protection is sought, and not to any other variety, including those which cannot be clearly distinguished from it.

The second requirement, that a variety be "distinct" [Section 42(a)(2)], makes two significant changes in the PVPA. First, the date at which the variety must be distinct is changed to the date of filing, rather than the date of determination. Second, it eliminates a portion of the second part of the "public variety" bar which denies protection if the variety has been both publicly known and existing in this country for more than one year prior to the application. Thus, the breeder is able to publish the characteristics of the variety or to place it in varietal trials without beginning a time bar to protection.

The requirements for uniformity and stability are not changed substantively, but are moved from the definition of "novel variety" to sections 42(a) (3) and (4), respectively.

The amendment removes the bar in current section 42(a)(2) for filing an application in another country more than one year before the effective filing date here. This provision is necessary to conform to Article 5(2) of the 1991 UPOV Convention. It should be noted that the Secretary has issued regulations under current section 42(b) of the PVPA which have the effect of extending the one-year periods in section 42(a) to four years (six years for trees and vines) from the time the variety was marketed in another country [7 CFR 180.7(a)(7) (1992)]. The regulation was necessary to conform to the 1978 UPOV Convention.

The amendment also removes the bar in current section 42(a)(3), that another person is entitled to an earlier date of determination. As discussed above, eligibility for protection will based on the date of filing rather than the date of determination.

The amendment also adds a provision [new section 42(b)] to determine eligibility for protection when applicants have the same effective filing date for varieties which cannot be clearly distinguished from one another.

Current section 42(b), which allows the Secretary to extend certain time limits and to commensurately reduce the term of protection, is deleted. This ensures conformity to Articles 5, 6, 7 and 19 of the 1991 UPOV Convention.

Section 4. Amends section 52 of the PVPA, "Content of Application".

Section 4(1) adds a sentence at the end of section 52(1) of the PVPA specifying that the variety must be named in accordance with regulations issued by the Secretary. This provision is intended to ensure conformity with Article 20 of the 1991 UPOV convention. Regulations issued by the Secretary will permit only variety names that comply with the provisions of the 1991 UPOV Convention or any other treaty or statute which may apply. In particular, the regulations will only permit denominations that are not liable to mislead or cause confusion concerning the characteristics, value or identity of the variety or the identity of the breeder. In addition, the regulations will only permit a variety name that is different from that of another variety of the same species or of a closely related species, either in this country or in any member of UPOV. (Other aspects of Article 20 are addressed elsewhere; provisions for requiring a change in the variety name are in section 6 and provisions for requiring the use of the variety name are in section 11.)

Section 4(2) amends section 52(2) of the PVPA by replacing the word "novelty" with the phrase "distinctiveness, uniformity and stability". This change is not substantive since distinctiveness, uniformity and stability are the elements of a novel variety in the PVPA. The change avoids confusion since the amendments will discontinue the use of the term "novel variety" throughout the PVPA.

Section 4(3) renumbers paragraphs (3) and (4).

Section 4(4) adds a new section 52(3) requiring that the application contain a statement of the basis of the applicant's claim that the variety is new.

Section 4(5) adds "propagating material" as a form of deposit for the viable sample required in newly-designated paragraph (4).

Section 5. Amends section 55 of the PVPA. "Benefit of Earlier filing Date".

Section 5(1) divides subsection (a) into paragraphs (1) and (2). This change is not substantive but is clarifying in view of an addition discussed below.

Section 5(2) adds the phrase "not including the date on which the application is filed in the foreign country" to ensure that the provision for a twelve-month period in which an applicant may claim the priority of an earlier filing date in another country will conform to the period contained in Article 11(1) of the 1991 UPOV Convention.

Section 5(3) adds a paragraph providing that an applicant entitled to a right of priority shall be allowed a period of two years after the expiration of the period of priority to furnish any necessary information, document, or material required for the purpose of the examination of the application, or if the first application is rejected or withdrawn, an appropriate period after such rejection or withdrawal, to be determined by the Secretary, to provide the information, document, or material. An event occurring within the period of priority (such as the filing of another application or use of the variety that is the subject of the first application) shall not constitute a ground for rejecting the application or give rise to any third party right.

This provision ensures conformity with Article 11(3) of the 1991 UPOV Convention, which is intended to ensure that applicants are not unfairly denied the benefit of the earlier date of application because of unreasonable time constraints. For example, a breeder who files for protection in several countries may not have enough seed of the variety to submit the required sample to each country.

Section 6. Revises the time limit on response to notices from the PVPA office to the person submitting an application for protection.

Section 7. Amends section 83 of the PVPA, "Contents and Term of Plant Variety Protection".

Section 7(1) revises section 83(a) so that it continues to allow an owner to elect that the variety shall be sold only as a class of certified seed, but no longer allows an election that the variety be sold *by variety name only* as a class of certified seed. This change is necessary to conform to Article 20(7) of the 1991 UPOV Convention, which requires that protected varieties must be sold by variety name. Owners may elect to waive their right to the number of generations specified under the certified seed provisions to compensate for unforeseen commercial seed production problems or loss of a generation due to a natural disaster.

Section 7(2) revises section 83(b) to provide that the term of plant variety protection shall expire 20 years after the date of issue, except that the term shall expire 25 years after the date of issue in the case of a tree or vine. This extends the term of protection from the current 18 years, in conformity with Article 19 of the 1991 UPOV Convention.

Section 7(3) amends section 83(c) by adding the failure to comply with regulations requiring the submission of a different name for the variety as a condition which shall cause a certificate of protection to expire. This provision is necessary to ensure that varieties are named in conformity with Article 20 of the 1991 UPOV Convention and to secure the cooperation of owners in making any necessary changes in variety names. It is in conformity with Article 22 of the 1991 UPOV Convention, pertaining to cancellation of the breeder's right.

Section 8. Amends the PVPA by removing the provisions which relate exclusively to priority contests and by making conforming changes in other sections. A priority contest is an adversarial proceeding between competing applicants to determine which has the earliest date of determination (i.e., the date that it was determined that a variety had been developed or discovered and sexually reproduced). Section 42 of the PVPA has been changed so that the date of filing for protection, rather than the date of the determination of the variety, determines priority when applications are received for the same variety, or for varieties which cannot be clearly distinguished from one another. Because the date of filing is a matter of record, it is no longer necessary or appropriate to provide for an adversarial proceeding.

To conform to this section, section 102 is amended to include tuber propagable material among the types of plant material allowed to be released by the owner during testing.

Section 9. Adds a section requiring prompt payment for certain types of seed grown under contract. It is the intent of the committee that the prompt payment provisions of the Act serve to ensure payment under a contract for the production of lawn, turf, forage grass seed, alfalfa, and clover seed within 30 days of the date agreed upon by the parties and expressed in the production contract or by May 1 of the year following the contracted year of production.

Section 10. Revises section 111 of the PVPA, "Infringement of Plant Variety Protection".

Section 10(1)(A) changes the first reference to "novel variety" to "protected variety".

Section 10(1)(B) also adds marketing as an act which requires the authority of the breeder. This clarifying change assures conformity with Article 14(1)(iv) of the 1991 UPOV Convention.

Section 10(1)(C) deletes the word "novel" elsewhere in section 111.

Section 10(1)(D) includes tuber propagation as a step in marketing.

Section 10(1)(E) deletes "or" in paragraphs (3) through (6).

Section 10(1)(F) redesignates paragraphs to allow for the insertion of new provisions.

Section 10(1)(G) inserts two new provisions explaining actions which constitute infringement: conditioning a variety for the purposes of propagation (planting), and stocking a variety for any of the purposes which constitute infringement. These provisions are necessary to conform to Article 14(1)(a) of the 1991 UPOV Convention. They will allow the owner of a variety to take action at earlier stages and thus minimize injury. The provision against conditioning a variety for planting does not apply to the conditioning of seed saved by farmers for replanting on their own holdings. However, knowingly conditioning saved seed intended for sale will be a violation of the act.

Section 10(2) redesignates subsection (b) as subsection (f) and adds new subsections (b) through (e).

New subsection 111(b) provides that the owner of a protected variety may make authorization to use the variety subject to conditions and limitations. This is a clarifying change which assures conformity with Article 14(1)(b) of the 1991 UPOV Convention.

New subsection 111(c) provides that the infringement provisions apply equally to any variety that is essentially derived from a protected variety, unless the protected variety is itself an essentially derived variety, to any variety that is not clearly distinguishable from a protected variety, to any variety whose production requires the repeated use of the protected variety, and to harvested material (including entire plants and parts of plants) obtained through the unauthorized use of propagating material of a protected variety, unless the owner of the variety has had a reasonable opportunity to exercise the rights provided by this Act with respect to the propagating material. These provisions are necessary to conform to Article 14(5) and (2) of the 1991 UPOV Convention.

New subsection 111(d) provides that it shall not be an infringement to perform any act concerning harvested material, including entire plants and parts of plants, of a protected variety which has been sold or otherwise marketed with the consent of the owner in the United States, unless such act involves further propagation of the variety or involves an export of material of the variety, which enables the propagation of the variety, into a country which does not protect varieties of the plant genus or species to which the variety belongs, except where the exported material is for final consumption. This provision ensures conformity to Article 15 of the 1991 UPOV Convention and sets forth the various rights provided by the PVPA.

New subsection 111(e) provides that it shall not be an infringement to perform any act done privately and for non-commercial purposes. This provision ensures conformity to Article 15(1)(i) of the 1991 UPOV Convention.

Section 11. Amends section 113 of the PVPA by deleting the provision which allows a person, whose primary farming occupation is the growing of crops for sale for other than reproductive purposes, to sell "saved seed" to other such persons, for reproductive purposes. The amendment does not diminish the right of a farmer to save seed for replanting and to use the resulting crop or to sell the seed for other than reproductive purposes. Deletion of the provision allowing certain sales of saved seed is necessary to conform to Articles 14(1) and 15(2) of the 1991 UPOV Convention.

It is not the intent of the committee that deletion of the provision allowing the sale of saved seed be viewed as a step toward the eventual end to the traditional right of farmers to save seed for use on their own holdings. During the UPOV negotiations, many representatives to the UPOV conference asserted that farmers in their countries had a traditional right to save seed for their own use and that removal of this right would likely preclude some non-member countries, currently considering joining, from doing so. The Federation of Agricultural Producers, an international organization of farmers, considered the revised UPOV, including the saved seed provision (as reflected in the PVPA amendments), "a reasonable compromise balancing the interests of farmers, consumers, and breeders so that society as a whole would benefit from the exploitation of plant genetic resources." [Paragraph 244.7, In: Records of the Diplomatic Conference for the Revision of the UPOV, Geneva, 1991, pub. no. 346(E)]. Retention of the farmers' exemption is an attempt to balance the varying interests of U.S. companies and producers, as well as to strengthen acceptance of plant breeders' rights internationally.

The PVPA exemption concerning a farmer's use of saved seed should be interpreted in a practical manner. The exemption should not be limited, for example, to the replanting of saved seed on the same acre from which it was harvested. Instead, the exemption should be interpreted broadly to allow a farmer, for example, to plant the saved seed on any acreage involved in the farmer's partnership, or corporate farming operation, whether the land is rented or owned by the farming operation. In another example, in the normal course of the ginning of cotton, seed can become commingled, one farm's with another's. This is a result of the manner in which seed is removed from cotton and stored at the gin. The saved seed exemption should not be interpreted so restrictively as to place cotton farmers (or other farmers in similar situations) in jeopardy of violating the PVPA because seed may become commingled due to established agricultural practices.

Modifications to Section 113 prevent farmers from selling seed of protected varieties, for the purpose of propagation, without permission of the certificate owner. The Committee realizes that in some cases farmers may have incidental amounts of treated seed or saved seed in order to use it pursuant to section 113 and, due to prevented planting or other unforeseen causes (such as a change in government farm programs), may have excess seed. Under these circumstances, the Committee encourages farmers to seek, and certificate owners or their agents to grant, on a case-by-case basis, permission for the sale of such incidental amounts of seed. Certificate owners are encouraged to establish and have in place clear policies that allow such requests to be handled at the farmer/dealer level.

In addition, although, for purposes of Sections 111 and 113, it shall remain within the sole prerogative of the owner of a protected variety to give consent for the sale of such variety, consent to sell saved seed should ordinarily not be withheld from a farmer in circumstances irreparably affecting the farmer's economic viability. For example, where the farmer is unable to plant seed saved with the intent of planting a particular crop because of serious illness or disability, financial distress, or other unanticipated events that unavoidably disrupt farming operations, or upon disposition of all farm assets and inventory, consent to sell such seed should generally be granted. Even under such dire circumstances, however, consent may still be limited to the sale of seed only to another farmer whose primary occupation is the growing of crops for other than reproductive purposes, and in an amount not to exceed that which was saved by the first farmer for planting that year's crop on the first farmer's holdings. Certificate owners are encouraged to establish and have in place clear policies that allow requests under such circumstances to be handled at the farmer/dealer level.

Section 12. Amends section 127 of the PVPA by deleting the word "novel". It is unnecessary to refer to a variety as a "novel" variety in this context and it could cause confusion in view of the deletion of "novel variety" as a defined term in section 41 of the PVPA. Section 128 of the PVPA prohibits the use of the notices referred to in section 127 for varieties for which an application for protection has not been filed or for which a certificate of protection has not been granted, as the case may be.

Section 13. Amends section 128 of the PVPA by including "tuber-propagating" as a type of plant material covered and adding a requirement that a protected variety be sold by variety name, even after the expiration of protection. An exemption for lawn, turf, forage grass, alfalfa and clover seed from the requirement that protected seeds be sold by variety name is provided. The committee intends this provision to allow the current practice of marketing and selling seeds as "variety not stated", with its existing limitations, to continue within the specified seed groups. The committee does not intend for this provision to preempt state law or to confer new rights to those in existence prior to the enactment of this statute.

Because of continuing interest in developments affecting the grass and alfalfa seed industries in the Northwest, the Secretary is strongly encouraged to direct the Cooperative State Research Service, in cooperation with Oregon State University, to conduct a study of the general trends in and characteristics of those industries, including a survey and review of the effects and extent of different marketing techniques, such as "variety not stated" marketing.

The general requirement to use variety name is necessary to conform to Article 20(7) of the 1991 UPOV Convention. The requirement is placed in section 128 for efficiency in enforcement.

Section 14. Eliminates gender-specific language in the PVPA.

Section 15. Provides for the transition from the current PVPA. Applications received before the effective date of these amendments will be examined under current law, but an applicant could reapply under the new provisions. The original date of filing is retained for the purposes of section 42(a)(1), as amended by this act. The scope of protection provided by certificates issued under current law will not be changed by these amendments.

The labelling requirements in this section refer to the existing sections 127 and 128 of the PVPA. To obtain protection under the amended PVPA, the notice given by the owner must specify that the variety is protected under the Act as amended. Section 13(c)(2) extends the provisions of section 128 of the PVPA to any person using false or misleading statements or labels concerning protection under the PVPA as amended. This includes claiming provisions of the amended Act apply to a variety, when they do not.

Section 16. Establishes that these amendments will be effective 180 days after the date of enactment in order to provide for the issuance of new regulations and for the efficient transition from current law.•

SOUTHWESTERN COMMUNITY COLLEGE COMMENCEMENT ADDRESS

• Mr. HARKIN. Mr. President, I would like to share with my colleagues the commencement address delivered last month at Southwestern Community College in Creston, IA, by Frank Mensel, national policy advisor of the American Student Association of Community Colleges.

His observations about the vital contribution that education programs make to the development of a globally competitive work force are a valuable contribution to the national interest. I ask that his address follow the conclusion of the statement.

The address follows:

COMMENCEMENT ADDRESS BY FRANK MENSEL, NATIONAL POLICY ADVISOR OF THE AMERICAN STUDENT ASSOCIATION OF COMMUNITY COLLEGES, SOUTHWESTERN COMMUNITY COLLEGE, CRESTON, IA, MAY 13, 1994

I want to spend a few minutes with you tonight on a history lesson—one I doubt you picked up in any class.

Let me ask, please, how many of you have been helped by Federal Pell Grants? Now, please keep your hand up if you think you would be here tonight if Pell Grants didn't exist.

Among those of you who have been steadily employed off campus during your college years, do any of you have employers who have helped pay for any of your courses? Did you know that you do not pay federal income taxes on this employee educational assistance, derived from Section 127 of the federal tax code?

Finally, are any of you veterans, National Guard or Air Guard members, or Reservists? Have you been using any of your Montgomery GI Bill benefits to obtain this degree?

My purpose is to show that this graduating class, like every other community college graduating class of this era, has benefitted greatly from what I regard as four pillars of the American Dream.

First and foremost of these pillars is the community college itself. Call us the people's colleges, or the colleges of late bloomers, or the colleges of second chances, America's network of two-year colleges, public and private, all closely attuned to their immediate community, has no real equal in any other land.

Our universities brag that they are collectively a matchless "graduate school to the world". And proudly and rightly so. Yet it is our community colleges that are the envy to the less privileged people of other lands.

Fundamentally, we are the colleges of self-renewal. In some States, the community colleges can boast that they form the largest graduate school—because their enrollment of students with bachelor, master and doctor's degrees exceeds the aggregate enrollment of the graduate schools of their State.

Do you know the popular origin of the phrase community college? Shortly after World War II ended, President Truman appointed a blue-ribbon commission to look at the future of higher education. His concern was two-fold: He wanted college opportunity to be more economically and conveniently available to larger populations, to build a more learned society; he also wanted the legions of returning veterans to have more options for using their newly enacted GI Bill educational benefits. When the Truman Commission made its report in 1947, urging the establishment of more two-year colleges to serve these needs, it called them community colleges.

In the academic year now ending, some 8.2 million Americans, most of them working adults like you, have been earning credits at community colleges. According to the American Council on Education, this is more than 45 percent of all students in higher education. For more than a decade, the majority of Americans entering higher education have started in the community colleges.

Still, it is the complementary federal pillars that make the community colleges work so well for so many of you. Obviously, many of the would not be here tonight were it not for federal grants and loans.

The latest count I've seen indicates that Pell Grants, in the 22 years since their enactment, have provided college access for some 58 million Americans. That's about twice the number that have gained college access from four different GI Bills spanning 50 years.

Yet the Montgomery GI Bill stands out as enormously important to both national security and U.S. competitiveness. Community colleges were higher education's strongest voice in the enactment of this permanent GI Bill, and for good reason.

It has been the first of the four GI Bills to qualify as an "up front" GI Bill—i.e., it enables the enlistees to take advantage of their educational benefits while in the service. Any service member who has successfully completed basic training can begin using his or her educational benefits for off-duty courses. Under prior GI Bills, only veterans could use the educational benefits. Today's veterans leave the service with highly advanced skills to enhance the civilian workforce.

Sadly, many of you who already have jobs are not yet taking advantage of the employee educational assistance, where your employer offers it. Though enacted as recently as 1979, EEA now seems to be available on varying terms from a majority of private and public employers, including many small businesses.

Surveys by the American Society for Training and Development have shown that as many as 1.5 million Americans now use this incentive each year to advance their job skills and careers. More than 90 percent of the employers who offer EEA report that they have employees who are using it at community colleges.

The bulwark formed by these pillars does more than put serious college training within reach of millions of less affluent Americans who otherwise might never achieve the marketable skills that make their American Dream possible; together, they also are helping more and more workers build skills that keep them in the forefront of global competition.

In a land as awash as ours in diversity and demographic change, the challenge of building and maintaining a globally competitive workforce is enormous. With Goals 2000 and the emerging voluntary National Skill Standards, among other Clinton initiatives, community colleges will play a larger and larger role in meeting this challenge. And Federal Pell Grants, employee educational assistance, and the MGIB are proven programs that should also make increasingly vital contributions.

I hope each of you is grateful for the opportunities that have put you here, and I hope your education has given you an historic appreciation of those opportunities. Many of you will return to this campus again and again to recast your job skills, or to revitalize your personal lives.

You should be grateful, too, for something else. Though a comparatively small state, Iowa holds a rare distinction in Congress. Both the House and Senate subcommittees that fund education programs, from Head Start to Pell Grants, are chaired by distinguished Iowans. Congressman Neal Smith, the most senior member of the House Appropriations committee, chairs its subcommittee on Labor, Health and Human Services, and Education. Senator Tom Harkin chairs the same subcommittee in the Senate. Both have gone to bat many times for projects and services that enhance this community and serve your needs. In fact, Congressman Smith helped to educate your president, Dr. Byerly, whose six-week Congressional internship some 25 years ago was served in the Smith office.

Those Washington internships were the root of the dynamic and influential network of community college professionals known as the National Council on Resource Development, which represents the development and grants specialists. Incidentally, the original draft of the NCRD charter was framed in Congressman Smith's office by the first class of AACC interns. They even invited the Congressman's ideas, and the charter reflects his critique.

If you leave here with one thought or impulse, let it prompt you to write a brief letter or card to your own Congressman, and to Neal Smith and Tom Harkin, thanking them for your Pell Grants or loans. If you didn't have a Pell Grant, surely you have friends who did. You should know that roughly one-third of the FTE in the community colleges nationwide is identified with students on Pell Grants. Without those grants, some of you and some of your friends would not be here tonight. It's even conceivable that this college wouldn't be here.

As graduates, you must realize that you rank well up among the most fortunate five percent of the world's population. This fact, sobering as it may seem, should tell you how badly the world needs the skills you have acquired.

You hardly need me to remind you that your generation is facing global challenges on a scale that earlier generations have never faced. It is also clear that you face the most competitive job market younger Americans have faced in some 60 years. In skill terms, the most competitive ever.

If you are not aimed now at university admission, your immediate concern, I know, is a good job, or advancement in the job you already enjoy, and a fuller family life. Perhaps the most reassuring thing I can say is to remind you that as global economic competition intensifies, more and more of the good jobs will be filled by the community college grads with advanced technical skills.

And, with the marketplace increasingly globalized, your skills could land you at almost any corner of the globe in the years to come, at the cutting edges of cultural change and job adventures that you may only have dreamed of. That's exciting.

My parting advice is that as you work your way through life, you always view your glass as half full. Optimism and humor will get you over the rough patches. If you can see the adventure behind every adversity, you will go far.●

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Mitch McConnell:									
United States	Dollar				237.00				237.00
Jordan	Dollar						22.18		22.18
Egypt	Pound	1,230.32	364.00				54.08	1,230.32	418.08
Robin Cleveland:									
United States	Dollar				2,913.95				2,913.95
Israel	Dollar		1,268.00						1,268.00
Jordan	Dollar						22.18		22.18
Egypt	Pound	1,230.32	364.00				54.08	1,230.32	418.08
James M. Cubie:									
United States	Dollar				4,775.85				4,775.85
India	Rupee	18,983.70	711.00					18,983.70	711.00
Nepal	Rupee	11,232	312.00					11,232	312.00
Thailand	Baht	3,644.68	163.00					3,644.68	163.00
Total			3,182.00		7,926.80		152.52		11,261.32

Patrick LEAHY,
Chairman, Committee on Agriculture, Nutrition, and Forestry, Apr. 29, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Daniel K. Inouye:									
Korea	Won	330,480	408.00					330,480	408.00
Malaysia	Ringit	715.12	276.00					715.12	276.00
Thailand	Baht	8,303	326.00					8,303	326.00
Vietnam	Dollar		207.00						207.00
Senator Ted Stevens:									
Korea	Won	330,480	408.00					330,480	408.00
Malaysia	Ringit	715.12	276.00					715.12	276.00
Thailand	Baht	8,303	326.00					8,303	326.00
Vietnam	Dollar		207.00						207.00
Richard L. Collins:									
Korea	Won	330,480	408.00					330,480	408.00
Malaysia	Ringit	715.12	276.00					715.12	276.00
Thailand	Baht	8,303	326.00					8,303	326.00
Vietnam	Dollar		207.00						207.00
Steve Cortese:									
Korea	Won	330,480	408.00					330,480	408.00
Malaysia	Ringit	715.12	276.00					715.12	276.00
Thailand	Baht	8,303	326.00					8,303	326.00
Vietnam	Dollar		207.00						207.00
Senator Thad Cochran:									
Germany	Deutsche Mark	115.24	66.46					115.24,	66.46
Senator Christopher S. Bond:									
Germany	Deutsche Mark	299.10	172.49					299.10	172.49
Senator Barbara A. Mikulski:									
Germany	Deutsche Mark	404.35	233.19					404.35	233.19
Total			5,340.14						5,340.14

Robert C. BYRD,
Chairman, Committee on Appropriations, May 5, 1994.

ADDENDUM—CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Tom Harkin:									
Japan	Yen	29,390	272.00					29,390	272.00
Total			272.00						272.00

Robert C. BYRD,
Chairman, Committee on Appropriations, May 5, 1994.

ADDENDUM—CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
C. Richard D'Amato									
Italy	Dollar		178.00						178.00
Russia	Dollar		596.00						596.00
Total			774.00						774.00

Robert C. BYRD,
Chairman, Committee on Appropriations, Apr. 11, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Sam Nunn:									
Russia	Dollar		499.13						499.13
Japan	Yen	63,464	562.38					63,464	562.38
South Korea	Won	8,505	10.50					8,505	10.50
Richard E. Combs, Jr.:									
Russia	Dollar		523.63						523.63
Japan	Yen	56,897	504.18					56,897	504.18
South Korea	Won	526,609	600.90					526,609	600.90
United States	Dollar				3,265.45				3,265.45
South Korea	Dollar						55.00		55.00
Jeffrey Record:									
Russia	Dollar		537.00						537.00
Japan	Yen	69,947	619.00					69,947	619.00
South Korea	Won	554,040	684.00					554,040	684.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
United States	Dollar				3,236.00				3,236.00
South Korea	Dollar						85.00		85.00
Richard D. Finn, Jr.:									
Russia	Dollar		518.71						518.71
Japan	Yen	53,040	470.00					53,040	470.00
South Korea	Won	108,540	134.00					108,540	134.00
Senator Dirk Kempthorne:									
Israel	Dollar		492.00						492.00
Saudi Arabia	Dollar		30.00				19.00		49.00
Italy	Lire	432,788	257.00					432,788	257.00
Glen E. Tait:									
Israel	Dollar		492.00						492.00
Saudi Arabia	Dollar		60.00				30.00		90.00
Italy	Lire	432,788	257.00					432,788	257.00
Frank Norton:									
Saudi Arabia	Riyal	3,390	904.00					3,390	904.00
Syria	Dollar		512.00						512.00
Egypt	Pound	1,230.32	364.00					1,230.32	364.00
Israel	Shekel	484	375.00					484	375.00
Morocco	Dirham	4,097.31	426.00					4,097.31	426.00
Michael J. McCord:									
United States	Dollar				3,302.75				3,302.75
Germany	Dollar		85.00						85.00
Belgium	Franc	5,881	161.00					5,881	161.00
Czech Republic	Crown	5,747	192.00					5,747	192.00
Hungary	Forint	26,912	263.00					26,912	263.00
Charles S. Abell:									
Saudi Arabia	Riyal	3,390	904.00					3,390	904.00
Syria	Dollar		512.00						512.00
Egypt	Pound	1,230.32	364.00					1,230.32	364.00
Israel	Shekel	484	375.00					484	375.00
Morocco	Dirham	4,097.31	426.00					4,097.31	426.00
Senator Richard C. Shelby:									
United States	Dollar				4,313.85				4,313.85
Saudi Arabia	Riyal	3,390	904.00					3,390	904.00
Egypt	Pound	1,230.32	364.00					1,230.32	364.00
Syria	Dollar		512.00						512.00
Israel	Dollar		210.00						210.00
Israel	Shekel	483.89	165.00					483.89	165.00
Morocco	Dirham	4,097.31	426.00					4,097.31	426.00
Terence M. Lynch:									
Saudi Arabia	Riyal	2,543	678.00					2,543	678.00
Egypt	Pound	1,230.32	364.00					1,230.32	364.00
Syria	Dollar		512.00						512.00
Israel	Dollar		210.00						210.00
Israel	Shekel	483.89	165.00					483.89	165.00
Morocco	Dirham	4,097.31	426.00					4,097.31	426.00
United States	Dollar				4,313.85				4,313.85
Thomas J. Young:									
Saudi Arabia	Riyal	3,015	804.00					3,015	804.00
Syria	Dollar		512.00						512.00
Egypt	Dollar	1,230.32	364.00					1,230.32	364.00
Israel	Shekel	483.89	210.00					483.89	210.00
Morocco	Dirham	2,048.55	213.00					2,048.55	213.00
Patrick T. Henry:									
United States	Dollar				4,313.85				4,313.85
Saudi Arabia	Riyal	3,390	904.00					3,390	904.00
Egypt	Pound	1,230.32	364.00					1,230.32	364.00
Syria	Dollar		512.00						512.00
Israel	Dollar		210.00						210.00
Israel	Shekel	483.89	165.00					483.89	165.00
Morocco	Dirham	4,097.31	426.00					4,097.31	426.00
Lucia M. Chavez:									
United States	Dollar				4,313.85				4,313.85
Saudi Arabia	Riyal	3,390	904.00					3,390	904.00
Syria	Dollar		512.00						512.00
Egypt	Pound	1,230.32	364.00					1,230.32	364.00
Israel	Shekel	486	210.00					486	210.00
Israel	Dollar		165.00						165.00
Morocco	Dirham	4,097.31	426.00					4,097.31	426.00
Senator John Glenn:									
Germany	Deutsche Mark	3.20	1.85					3.20	1.85
Senator Bob Smith:									
Germany	Deutsche Mark	397.09	229.00					397.09	229.00
Thomas L. Lankford:									
Germany	Deutsche Mark	1,007.15	580.82					1,007.15	580.82
William S. Cohen:									
Germany	Deutsche Mark	268.77	155.00					268.77	155.00
Richard E. Combs, Jr.									
Russia	Dollar		1,221.33		2,218.95		108.00		3,548.28
James M. Bodner:									
Germany	Deutsche Mark			11	6.34			11	6.34
Total			27,503.43		29,284.89		297.00		57,085.32

Sam NUNN,
Chairman, Committee on Armed Services, Apr. 1, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Harold J. Creel Jr.:									
France	Franc	9,078.44	1,536.11					9,078.44	1,536.11

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
United States	Dollar				659.85				659.85
Elizabeth A. Inadomi:									
Japan	Yen	154,213	1,372.00	26,790	238.35			181,003	1,610.35
United States	Dollar				3,864.45				3,864.45
Harold J. Creel, Jr.:									
France	Franc	7,636.20	1,335.00					7,636.20	1,335.00
United States	Dollar				659.95				659.95
Total			4,243.11		5,422.60				9,665.71

ERNEST F. HOLLINGS,
Chairman, Committee on Commerce, Science, and Transportation, Apr. 12, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENERGY AND NATURAL RESOURCES, FOR TRAVEL JAN. 2–17, 1994—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator J. Bennett Johnston:									
China	Yuan	6,944	800.00					6,944	800.00
Vietnam	Dollar		514.00						514.00
Thailand	Baht	10,850	426.00					10,850	426.00
Indonesia	Rupiah	1,360,285	649.00					1,360,285	649.00
Senator Mark O. Hatfield:									
China	Yuan	6,944	800.00					6,944	800.00
Vietnam	Dollar		514.00						514.00
Thailand	Baht	10,850	426.00		1,254.43			10,850	1,680.43
Senator Arlen Specter:									
China	Yuan	3,853.92	444.00					3,853.92	444.00
Vietnam	Dollar		438.00						438.00
Thailand	Baht	8,659.8	340.00					8,659.8	340.00
Indonesia	Rupiah	1,360,285	649.00					1,360,285	649.00
Senator Don Nickles:									
China	Yuan	6,944	800.00					6,944	800.00
Vietnam	Dollar		514.00						514.00
Thailand	Baht	10,850	426.00					10,850	426.00
Korea	Won	124,740	154.00					124,740	154.00
United States	Dollar				2,278.45				2,278.45
Senator Harlan Mathews:									
China	Yuan	6,944	800.00					6,944	800.00
Vietnam	Dollar		514.00						514.00
Thailand	Baht	10,850	426.00					10,850	426.00
Indonesia	Rupiah	1,360,285	649.00					1,360,285	649.00
Senator Robert F. Bennett:									
China	Yuan	6,944	800.00					6,944	800.00
Vietnam	Dollar		514.00						514.00
Thailand	Baht	10,850	426.00					10,850	426.00
Indonesia	Rupiah	1,360.285	649.00					1,360,285	649.00
United States	Dollar				756.00				756.00
Benjamin S. Cooper:									
China	Yuan	6,944	800.00					6,944	800.00
Vietnam	Dollar		514.00						514.00
Thailand	Baht	10,850	426.00					10,850	426.00
Indonesia	Rupiah	1,360,285	649.00					1,360,285	649.00
Gary Ellsworth:									
China	Yuan	6,944	800.00					6,944	800.00
Vietnam	Dollar		514.00						514.00
Thailand	Baht	10,850	426.00					10,850	426.00
Indonesia	Rupiah	1,360,285	649.00					1,360,285	649.00
Laura Hudson:									
China	Yuan	6,944	800.00					6,944	800.00
Vietnam	Dollar		514.00						514.00
Thailand	Baht	10,850	426.00					10,850	426.00
Indonesia	Rupiah	1,360,285	649.00					1,360,285	649.00
Eric Silagy:									
China	Yuan	6,944	800.00					6,944	800.00
Vietnam	Dollar		514.00						514.00
Thailand	Baht	10,850	426.00					10,850	426.00
Indonesia	Rupiah	1,360,285	649.00					1,360,285	649.00
G. Robert Wallace:									
China	Yuan	6,944	800.00					6,944	800.00
Vietnam	Dollar		514.00						514.00
Thailand	Baht	10,850	426.00					10,850	426.00
Indonesia	Rupiah	1,360,285	649.00					1,360,285	649.00
Delegation expenses:									
China							2,276.34		2,276.34
Vietnam							1,794.91		1,794.91
Thailand							4,165.53		4,165.53
Indonesia							10,162.15		10,162.15
United States and U.S. Territories							4,039.17		4,039.17
Total			24,617.00		4,288.88		22,438.10		51,343.98

Note.—The following individuals traveled under the authorization of the Republican Leader: Senator Alan K. Simpson and Ms. Jan Paulk. Their reports appear under the authorizing source. Delegation expenses include direct payments and reimbursements to the Department of State and to the Department of Defense under authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384, and S.Res. 179, agreed to May 25, 1977.

J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, June 14, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON GOVERNMENTAL AFFAIRS, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Ian Butterfield:									
Belgium	Franc	45,536	1,260.00					45,536	1,260.00
England	Pound	573.44	848.00					573.44	848.00
United States	Dollar				844.25				844.25
Total			2,108.00		844.25				2,952.25

John GLENN,
Chairman, Committee on Governmental Affairs, June 10, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator John Rockefeller:									
Japan	Yen	222,000	2,114.29	40,590	386.57			262,590	2,500.86
United States	Dollar				6,380.45				6,380.45
Total			2,114.29		6,767.02				8,881.31

Daniel PATRICK MOYNIHAN,
Chairman, Committee on Finance, Mar. 30, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Christopher J. Dodd:									
Haiti	Gourde	195	13.66					195	13.66
	Dollar		203.00						203.00
Senator John F. Kerry:									
Hong Kong	Dollar		1,316.00		1,478.57		382.88		3,177.45
China	Dollar		653.00				174.36		827.36
Vietnam	Dollar		514.00						514.00
Indonesia	Dollar		231.00		630.71		971.26		1,832.97
Thailand	Dollar		212.97				1,249.67		1,462.64
United Kingdom	Dollar		262.00						262.00
France	Dollar		89.00						89.00
United States	Dollar				7,771.95				7,771.95
Senator Richard G. Lugar:									
Russia	Dollar		645.00						645.00
Japan	Yen	88,700	786.00					88,700	786.00
Korea	Won	292,410	361.00					292,410	361.00
Senator Daniel P. Moynihan:									
India	Rupee	23,750	760.00					23,750	760.00
United States	Dollar				8,124.35				8,124.35
Senator Claiborne Pell:									
Tajikistan	Dollar		200.00						200.00
Uzbekistan	Dollar		150.00						150.00
Kyrgyzstan	Dollar		200.00						200.00
Kazakhstan	Dollar		250.00						250.00
United Kingdom	Pound	372	557.00					372	557.00
Senator Larry Pressler:									
United Kingdom	Pound	532.41	786.00					532.41	786.00
United States	Dollar				6,620.95				6,620.95
Lisa Alfred:									
Angola	Dollar		496.00						496.00
Mozambique	Dollar		230.00						230.00
South Africa	Dollar		179.00						179.00
Zambia	Dollar		412.00						412.00
United States	Dollar				6,492.95				6,492.95
Kristin Brady:									
Russia	Dollar		766.67						766.67
Kazakhstan	Dollar		766.67						766.67
Kyrgyzstan	Dollar		766.66						766.66
United States	Dollar				3,736.00				3,736.00
Thomas J. Callahan:									
Ethiopia	Dollar		1,400.00						1,400.00
Kenya	Dollar		900.00						900.00
United Kingdom	Pound	176.57	262.00					176.57	262.00
Belgium	Dollar		315.00						315.00
Nadereh Chahmirzadi:									
Angola	Dollar		496.00						496.00
Mozambique	Dollar		230.00						230.00
South Africa	Dollar		179.00						179.00
Zambia	Dollar		412.00						412.00
United States	Dollar				6,492.95				6,492.95
Geryld B. Christianson:									
Tajikistan	Dollar		96.00						96.00
Kyrgyzstan	Dollar		143.00						143.00
Uzbekistan	Dollar		71.00						71.00
Kazakhstan	Dollar		220.00						220.00
United Kingdom	Pound	439.32	657.00					439.32	657.00
Robert Dockery:									
Haiti	Dollar		149.00						149.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
United States	Dollar				381.00				381.00
Jay Ghazal:									
United Kingdom	Pound	304.32	455.00					304.32	455.00
Tajikistan	Dollar		225.00						225.00
Uzbekistan	Dollar		225.00						225.00
Kyrgyzstan	Dollar		225.00						225.00
Kazakhstan	Dollar		225.00						225.00
G. Garrett Grigsby:									
Costa Rica	Colone	71,615	480.64					71,615	480.64
Honduras	Lempira	2,660	363.89	1,566.5	214.30			4,226.5	578.19
United States	Dollar				946.00				946,00
Thomas G. Hughes:									
Netherlands	Dollar		312.75		15.00		39.45		367.20
Belgium	dollar		655.00				52.80		707.80
United States	Dollar				2,358.55				2,358.55
Karen Kornbluh:									
Hong Kong	Dollar	8,332	1,079.00					8,332	1,079.00
China	Renminbi	5,442	627.00					5,442	627.00
United States	Dollar				3,050.00				3,050.00
Elizabeth Lambird:									
China	Renminbi	8,306.80	957.00					8,306.80	957.00
Hong Kong	Dollar	2,541.50	329.00					2,541.50	329.00
United States	Dollar				2,975.95				2,975.95
Robyn Lieberman:									
Hong Kong	Dollar	10,166.10	1,324.60					10,166.10	1,324.60
China	Renminbi		1,745.00						1,745.00
United States	Dollar				3,249.45				3,249.45
Michelle Maynard:									
Russia	Dollar		666.67						666.67
Kyrgyzstan	Dollar		666.67						666.67
Kazakhstan	Dollar		666.66						666.66
United States	Dollar				3,736.00				3,736.00
Michelle Maynard:									
United Kingdom	Pound	284.32	445.91					284.32	445.91
Tajikistan	Dollar		200.00						200.00
Uzbekistan	Dollar		200.00						200.00
Kazakhstan	Dollar		200.00						200.00
Kyrgyzstan	Dollar		200.00						200.00
Kenneth A. Myers, Jr.:									
Russia	Dollar		678.00		45.00				723.00
Japan	Yen	88,700	786.00					88,700	786.00
Korea	Won	308,610	381.00					308,610	381.00
Russia	Dollar		1,484.00		120.00				1,604.00
Janice O'Connell:									
Haiti	Gourde	434	30.41					434	30.41
United States	Dollar		203.00						203.00
Dominican Republic	Peso	2,015	154.52					2,015	154.52
George Pickart:									
India	Rupee	41,563	1,330.00					41,563	1,330.00
Pakistan	Rupee	16,228.26	534.00					16,228.26	534.00
United States	Dollar				3,806.35				3,806.35
F. Carter Pilcher:									
Morocco	Dollar		500.00						500.00
Tunisia	Dollar		180.00						180.00
Spain	Peseta	24,840	180.00					24,840	180.00
United States	Dollar				4,041.15				4,041.15
Danielle Pletka:									
India	Rupee	41,563	1,330.00					41,563	1,330.00
Pakistan	Rupee	16,228.26	534.00					16,228.26	534.00
United States	Dollar				3,806.35				3,806.35
Stephen A. Rickard									
India	Rupee	41,563	1,330.02					41,563	1,330.02
Pakistan	Rupee	16,228.26	534.00					16,228.26	534.00
United States	Dollar				3,806.35				3,806.35
Nancy H. Stetson:									
Hong Kong	Dollar		1,316.00						1,316.00
China	Dollar		578.00						578.00
Vietnam	Dollar		314.00						314.00
Thailand	Dollar		213.00						213.00
Indonesia	Dollar		156.00						156.00
United States	Dollar				5,074.95				5,074.95
Christopher Walker:									
Costa Rica	Colone	71,615	480.64					71,615	480.64
Honduras	Lempira	2,660	363.89	1,566.5	214.30			4,226.5	578.19
United States	Dollar				946.00				946.00
Total			43,401.90		80,135.13		2,870.42		126,407.45

Claiborne PELL,
Chairman, Committee on Foreign Relations, May 20, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON THE JUDICIARY, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1994—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Kathleen Sullivan:									
Mexico	Peso	1,904.40	592.00					1,904.40	592.00
United States	Dollar				602.50				602.50
Guyle Cavin:									
Mexico	Peso	1,904.40	592.00					1,904.40	592.00
United States	Dollar				602.50				602.50
Jerry Tinker:									
United States	Dollar				517.20				517.20

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON THE JUDICIARY, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1994—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Mexico	Peso	990	300.00					900	300.00
Mexico	Dollar		117.00						117.00
Carlos Angulo:									
Mexico	Peso	990	300.00					990	300.00
United States	Dollar				463.00				463.00
Richard W. Day:									
Mexico	Peso	990	300.00					990	300.00
Mexico	Dollar		117.00						117.00
United States	Dollar				539.20				593.20
Total			2,318.00		2,724.40				5,042.40

Joseph R. BIDEN, JR.,
Chairman, Committee on the Judiciary, May 5, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON LABOR AND HUMAN RESOURCES, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Paul Wellstone:									
United States	Dollar				3,378.00				3,378.00
Croatia	Dinar	125,033	19.40		481.00		194.50		694.90
Serbia	Dollar		299.60		89.75		45.00		434.35
Kosovo					89.75		45.00		134.75
Macedonia					89.75		45.00		134.75
Greece					89.75		45.00		134.75
Colin McGuinnis:									
United States	Dollar				3,378.00				3,378.00
Croatia	Dinar	1,948,581	302.34		713.00		194.50		1,209.94
Serbia	Dollar		243.66		89.75		45.00		378.41
Kosovo					89.75		45.00		134.75
Macedonia					89.75		45.00		134.75
Greece					89.75		45.00		134.75
Total			865.00		8,668.00		749.00		10,282.00

Edward M. KENNEDY,
Chairman, Committee on Labor and Human Resources, May 12, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Christopher Straub			475.76		5,803.50				6,279.26
William Griffies			1,658.00		6,089.05				7,747.05
Howard Walgren			1,658.00		6,089.05				7,747.05
Gary Sojka			2,385.00		3,362.95				5,747.95
Eric Thoemmes			2,685.00		3,362.95				6,047.95
Author Grant			1,187.00		5,264.92				6,451.92
Patricia Handback			590.00		6,235.95				6,825.95
Scott Bunton			1,551.04		2,618.95				4,169.99
Senator Dennis DeConcini			344.67						344.67
Senator Bob Graham			271.46						271.46
Norman Bradley			509.40						509.40
Christopher Straub			553.80						553.80
Alfred Cumming			506.46						506.46
Total			14,375.59		38,827.32				53,202.91

Dennis DeCONCINI,
Chairman, Select Committee on Intelligence, Apr. 14, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMISSION ON SECURITY AND COOPERATION IN EUROPE, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Michael Amitay:									
United States	Dollar				1,078.55				1,078.55
Poland	Dollar		1,110.00				86.00		1,196.00
Orest Deychaiksky:									
United States	Dollar				2,539.85				2,539.85
Ukraine	Dollar		1,378.00				45.00		1,423.00
David Evans:									
United States	Dollar				4,174.45				4,174.45
Kazakhstan	Dollar		1,530.00				4.19		1,354.19

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMISSION ON SECURITY AND COOPERATION IN EUROPE, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1994—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
United States	Dollar				1,476.75				1,476.75
Czech Republic	Crown	41,431.60	1,400.00			7,623.11	257.59	49,054.71	1,657.59
Heather Hurlburt:									
United States	Dollar				984.05				984.05
Austria	Schilling	83,791.23	6,837.31	24,687.82	2,014.51	3,731.77	304.51	112,210.82	9,156.33
Kyrgyzstan	Schilling	6,127.50	500.00					6,127.50	500.00
Czech Republic	Dollar		690.00						690.00
United States	Dollar				2,378.25				2,378.25
Austria	Schilling	20,343.30	1,660.00					20,343.30	1,660.00
Ronald McNamara:									
United States	Dollar				1,486.65				1,486.65
Czech Republic	Crown	24,625.40	840.00					24,625.40	840.00
Michael Ochs:									
United States	Dollar				5,008.95				5,008.95
Russian Federation	Dollar		960.00				82.60		1,042.60
Kazakhstan	Dollar		1,603.00						1,603.00
James Ridge, Jr.:									
United States	Dollar				1,078.55				1,078.55
Poland	Dollar		1,110.00				97.42		1,207.42
Erika Schlager:									
United States	Dollar				3,046.35				3,046.35
Poland	Zloty	19,928,000	940.00					19,928,000	940.00
The Netherlands	Dollar		434.00						434.00
Victoria Showalter:									
United States	Dollar				1,940.65				1,940.65
Germany	Mark			920.50	545.00			920.50	545.00
Moldova	Dollar		660.00						660.00
Romania	Dollar		217.00						217.00
Samuel Wise:									
Poland	Zloty	19,928,000	940.00					19,928,000	940.00
United States	Dollar				1,025.55				1,025.55
Czech Republic	Dollar		850.00						850.00
John Finerty:									
United States	Dollar				1,940.65				1,940.65
Germany	Mark			920.50	545.00			920.50	545.00
Moldova	Dollar		660.00						660.00
Romania	Dollar		217.00						217.00
United States	Dollar				2,523.15				2,523.15
Ukraine	Dollar		685.00						685.00
Austria	Dollar		150.00						150.00
Total			25,191.31		33,786.91		877.31		59,855.53

Dennis DeCONCINI,
Chairman, Commission on Security and Cooperation in Europe, Apr. 29, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY LEADER FROM JAN. 1 TO MAR. 31, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Jan Paulk:									
China	Yuan	6,944	800.00					6,944	800.00
Thailand	Baht	5,432	213.00	43,045	1,688.00			48,477	1,901,000
Total			1,013.00		1,688.00				2,701.00

George J. MITCHELL,
Majority Leader, Apr. 26, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE REPUBLICAN LEADER FROM DEC. 5–19, 1993.

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Thad Cochran:									
South Korea	Won	205,230	254.00					205,230	254.00
Burma	Dollar		156.00						156.00
India	Rupee	27,985	895.00					27,985	895.00
Pakistan	Rupee	15,380.48	512.00					15,380.48	512.00
Kuwait	Dinar	94.925	318.00					94.925	318.00
Austria	Schilling	5,428.52	452.00					5,428.52	452.00
Senator Hank Brown:									
South Korea	Won	163,216	202.00					163,216	202.00
Burma	Dollar		156.00						156.00
India	Rupee	26,594	851.00					26,594	851.00
Pakistan	Rupee	13,938.56	464.00					13,938.56	464.00
Kuwait	Dinar	76.856	265.00					76.856	265.00
Austria	Schilling	5,428.52	452.00					5,428.52	452.00
Senator Larry Pressler:									
South Korea	Won	205,230	254.00					205,230	254.00
Burma	Dollar		156.00						156.00
India	Rupee	27,985	895.00					27,985	895.00
Pakistan	Rupee	15,380.48	512.00					15,380.48	512.00
Kuwait	Dinar	94.925	318.00					94.925	318.00
Austria	Schilling	5,428.52	452.00					5,428.52	452.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE REPUBLICAN LEADER FROM DEC. 5–19, 1993.—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Dr. Robert McArthur:									
South Korea	Won	205,230	254.00					205,230	254.00
Burma	Dollar		156.00						156.00
India	Rupee	27,985	895.00					27,985	895.00
Pakistan	Rupee	15,380.48	512.00					15,380.48	512.00
Kuwait	Dinar	94.925	318.00					94.925	318.00
Austria	Schilling	5,428.52	452.00					5,428.52	452.00
William Triplett:									
South Korea	Won	205,230	254.00					205,230	254.00
Burma	Dollar		156.00						156.00
India	Rupee	27,985	895.00					27,985	895.00
Pakistan	Rupee	15,380.48	512.00					15,380.48	512.00
Kawait	Dinar	94.925	318.00					94.925	318.00
Austria	Schilling	5,428.52	452.00					5,428.52	452.00
Sally Walsh:									
South Korea	Won	205,230	254.00					205,230	254.00
Burma	Dollar		156.00						156.00
India	Rupee	27,985	895.00					27,985	895.00
Pakistan	Rupee	15,380.48	512.00					15,380.48	512.00
Kuwait	Dinar	94.925	318.00					94.925	318.00
Austria	Schilling	5,428.52	452.00					5,428.52	452.00
Delegation expenses:[1]									
South Korea	Dollar						997.69		997.69
Burma	Dollar						1,589.65		1,589.65
India	Dollar						2,687.19		2,687.19
Pakistan	Dollar						3,885.58		3,885.58
Kuwait	Dollar						3,680.88		3,680.88
Austria	Dollar						3,969.68		3,969.68
Total		15,325.00					16,810.67		32,135.67

[1] Delegation expenses include direct payments and reimbursements to the State Department and to the Defense Department under authority of Sec 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of PL 95–384, and S. Res. 179, agreed to May 25, 1977.

ROBERT J. DOLE,
Republican Leader, Apr. 21, 1994.

AMENDED—CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE REPUBLICAN LEADER FROM OCT. 1 TO DEC. 31, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Rolf Lundberg:									
Switzerland	Franc	661.46	1,918.25					661.46	1,918.25
United States	Dollar				797.45				797.45
Mira Baratta:									
Croatia	Dollar		1,540.00		128.00				1,668.00
United States	Dollar				1,493.25				1,493.25
Total			3,458.25		2,418.70				5,876.95

ROBERT J. DOLE,
Republican Leader, May 25, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE REPUBLICAN LEADER FROM JAN. 1 TO MAR. 31, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Alan K. Simpson:									
China	Yuan	6,944	800.00					6,944	800.00
Vietnam	Dollar		514.00						514.00
Thailand	Baht	10,850	426.00					10,850	426.00
Indonesia	Rupiah	1,360,285	649.00					1,360,285	649.00
Senator William V. Roth, Jr.:									
Philippines	Peso	18,214.68	660.00					18,214.68	660.00
Japan	Dollar		343.00				164.12		507.12
United States	Dollar				1,472.45				1,472.45
Daniel Bob:									
Taiwan	Dollar		209.00						209.00
Philippines	Peso	18,214.68	660.00					18,214.68	660.00
Japan	Dollar		343.00				164.12		507.12
United States	Dollar				988.55				988.55
Senator William V. Roth, Jr.:									
Belgium	Franc	27,466	760.00					27,466	760.00
United States	Dollar				497.00				497.00
Total			5,364.00		2,958.00		328.24		8,650.24

Robert J. DOLE,
Republican Leader, May 25, 1994.

IMPOSITION OF TEMPORARY FEES TO PAY FOR VIOLATIONS OF THE PERISHABLE AGRICULTURAL COMMODITIES ACT

Mr. ROCKEFELLER. Madam President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of H.R. 4581 regarding the imposition of temporary fees to pay for violations of the Perishable Agricultural Commodities Act; that the Senate proceed to its immediate consideration; that the bill be read a third time and passed; the motion to reconsider be laid on the table, and any statements thereon appear in the RECORD at the appropriate place as though written.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 4581) was deemed read a third time, and passed as follows:

H.R. 4581

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FILING AND HANDLING FEES FOR COMPLAINTS OF VIOLATIONS OF PERISHABLE AGRICULTURAL COMMODITIES ACT, 1930.

(a) TEMPORARY FILING FEE REQUIRED.—During fiscal years 1995 and 1996, the Secretary of Agriculture shall require persons who submit petitions to the Secretary under section 6(a) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499f(a)), alleging a violation of section 2 of such Act (7 U.S.C. 499b), to include a filing fee of $60 per petition.

(b) TEMPORARY HANDLING FEE REQUIRED.—During fiscal years 1995 and 1996, if the Secretary determines under section 6(a) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499f(a)), that the facts contained in a petition described in such section warrant further action, the person or persons submitting the petition shall submit to the Secretary a handling fee of $300. The Secretary may not forward a copy of the complaint to the commission merchant, dealer, or broker involved until after the Secretary receives the required handling fee. In determining the amount of damages incurred by an injured person or persons preparatory to issuing a reparation order under section 7 of such Act (7 U.S.C. 499g), the Secretary shall include the amount of any handling fee paid by the injured person or persons under this subsection.

(c) DEPOSIT OF FEES.—The Secretary shall deposit fees submitted under this section into the Perishable Agricultural Commodities Act Fund.

ORDERS FOR TOMORROW

Mr. ROCKEFELLER. Madam President, in behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., Wednesday, June 29; that, following the prayer, the Journal of proceedings be deemed approved to date, and the time for the two leaders reserved for their use later in the day; that immediately thereafter, the Senate resume consideration of S. 687, the Product Liability Act, with the time until 10 a.m. for debate on the motion to invoke cloture for S. 687, with the time equally divided and controlled between Senator HOLLINGS and Senator ROCKEFELLER or their designees; further, that Senators may file second-degree amendments until 9:30 a.m., Wednesday.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. ROCKEFELLER. Madam President, if there is no further business to come before the Senate today, and I see no other Senator seeking recognition, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate at 7:16 p.m., recessed until tomorrow, Wednesday, June 29, 1994, at 9 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, June 28, 1994*

The House met at 10:30 a.m. and was called to order by the Speaker pro tempore [Mr. MONTGOMERY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 28, 1994.

I hereby designate the Honorable G.V. (SONNY) MONTGOMERY to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of February 11, 1994, and June 10, 1994, the Chair will now recognize Members from the list submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to 30 minutes, and each Member, other than the majority and minority leaders, limited to 5 minutes.

The Chair recognizes the gentleman from Florida [Mr. GOSS] for 4 minutes.

ANOTHER WEEK IN HAITI

Mr. GOSS. Mr. Speaker, another week has passed and the President's Haiti policy is still producing all of the wrong results—including a large and growing price tag. Although we have never had a formal response to our requests for cost estimates on the Haiti operation, this week we finally learned some revealing details from the news media. We now know that it costs $15,300 a day to fuel the U.S.S. *Comfort*—the hospital ship in Kingston, Jamaica—and the Coast Guard spends at least $120,000 a day to run that ship as a processing center. We can add in $12 million paid to Turks and Caicos for use of a beach, $1.5 million to rent a cruise ship we never used, $63,000 a day to rent two other cruise ships—and we still have not counted the costs of eight Navy ships; a dozen or so other Coast Guard cutters or the sanction enforcement teams in the Dominican Republic. When we add it all up, I suspect the price tag will seem staggering, even to the big spenders in the Clinton administration.

All this big money should be producing big results, right? Wrong. Other than big misery to innocent Haitian victims and United States businesses seeking to boost productivity in Haiti, our sanctions are having little impact on the targets of Cedras and company. In fact, to the contrary, the military junta in Haiti is profiting from the embargo—enriching itself through the sale of contraband, often stolen from United States aid shipments. Aid workers are frustrated at every turn by the unintended consequences of the embargo, particularly the rapid deterioration of infrastructure. Much needed food and medicine spoils on the docks for lack of machinery and trucks to move them. We have seen the toll of such deterioration before—the distended stomachs, the reddish hair, the stick-like limbs—these are the signs of malnutrition we now see in two out of three Haitian children.

Desperate Haitians, drawn by the hope of the President's new offshore refugee processing, are taking to the seas in ever-increasing numbers. In this morning's paper we read that the idealists in the administration are belatedly awaking to the reality of the problem they have caused: "This is the surge that we had to worry about, the influx that swamps the system" said on administration official. With word getting out that the United States has upped its rate of positive asylum rulings from 5 percent to more than 30 percent of those applying, it is no wonder Haitians by the thousands are trying to make it to those processing ships. This month, the Coast Guard has intercepted more than 4,500, twice as many as we saw in May. In the end, if they cannot starve the Haitians into democracy the President and his "B team" of foreign policy advisors seem committed to forcing a democracy at the barrel of a gun.

If the embargo should be declared a failure, military intervention is clearly the President's contingency plan. Even the U.N. Special Representative on Haiti, Dave Caputo, concluded that United States policy toward Haiti is being driven by domestic political concerns. Last month Caputo said:

> The Americans will not be able to stand for much longer, until August at the latest, the criticism of their foreign policy on the domestic front. They want to do something; they are going to try to intervene militarily.

We and others have tried to provide the President with a better way out of this stalemate. But all other views are being ignored. And that is a tragedy, for Haitians, and for Americans who may risk their lives in an ill-conceived military mission.

Mr. Speaker, we can do better; we must do better.

THE 50TH ANNIVERSARY OF LIBERATION OF GUAM

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Guam [Mr. UNDERWOOD] is recognized during morning business for 5 minutes.

Mr. UNDERWOOD. Mr. Speaker, last Saturday, June 25, 1994, at Arlington National Cemetery, I sponsored a commemoration ceremony for the 50th anniversary of the liberation of Guam and the Battle of Saipan and other islands at the ceremony. This commemoration which took place at the Tomb of the Unknown Soldier is the only national commemoration held this year to recognize battles in the Pacific theatre during World War II.

Mr. Speaker, I am extremely grateful for the participation of Interior Secretary Babbitt, Navy Secretary Dalton, Chairman of the Joint Chiefs of Staff, General Shalishkavili. Their support, stirring words, and encouragement reflects the administration's growing awareness of these historical events.

But I must take note of the fact that the event was largely ignored by the media and by the Nation's leadership other than those mentioned. There is no effort to equate the magnitude of Normandy with the battles which took place 50 years ago in Guam and Saipan but while Normandy pulled the Nation's leadership across the Atlantic, the Pacific battles could not get many to cross the Potomac.

D-day has come to mean only Normandy in the minds of many. But I want the Members of this body to understand that there was more. Last week, I received a call from a veteran of the Pacific theatre. This veteran from Atlanta called me to thank me for the commemoration which we held last Saturday. And he reminded me that for the men who fought in the Marianas and all across the Pacific; every island was a D-day; Guadalcanal, Peleilu, Tarawa, Saipan, Guam, Iwo Jima. All of these were D-days which required the courage and commitment which the American soldier, marine, airman, and sailor always gave.

And there was something more here, especially in the case of Guam—my island. Guam was the only U.S. territory occupied during World War II which had people on it. In fact, it was the first time since the War of 1812 that

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

U.S. soil was invaded by a foreign power. And when the 3d Marines, the 77th Infantry, the 1st Marine Provisional Brigade stormed ashore, they were reoccupying, they were returning.

And this was not lost upon the marines and soldiers who cried at the sight of the people of Guam coming down from the hills and who were heartened by little children who held handmade American flags, imperfect in their design yet perfect in their meaning.

My people suffered terribly during the war; my own parents lost three children; there were random acts of cruelty; forced marches, forced labor, and acts of loyalty to America were met with fists, rifle butts, the bullet, and even the sword.

And in Saipan, the invasion was the first contact between the American Nation and the people of that island. This experience eventually led to the creation of the Commonwealth of the Northern Marianas, the only acquisition of territory engaged in by this country since the purchase of the Virgin Islands.

While the Guam and Marianas commemoration did not inspire the attention that other World War II commemorations did, it will remain amongst the most meaningful not only because of the bravery of the American military, but because of the bringing together of the spirit of freedom and liberty in the middle of the Pacific.

Freedom is a system based on courage, and there was ample support of this system by the exploits of the men in uniform and my island elders who were in rags. In their sacrifice, in their commitment, in their finest hour, we find the courage which has made our freedom possible.

And we must teach the lessons of this experience to all; it is entirely fitting that we layed a wreath at the Tomb of the Unknown Soldier to honor the experience and the story of Guam, a story largely unknown.

The commemoration of the Battle of Saipan took place on June 15 on that island and the commemoration of the Battle of Guam will take place on July 21. Let us all take the time to reflect upon the meaning of these battles for the Nation, and take the time to honor and recognize the veterans of the Pacific. They deserve more than they have received to date.

□ 1040

DRIFT AND DISORDER IN THE CLINTON FOREIGN POLICY—PART 2, TO INVADE OR NOT TO INVADE

The SPEAKER pro tempore (Mr. MONTGOMERY). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Nebraska [Mr. BEREUTER] is recognized during morning business for 5 minutes.

Mr. BEREUTER. Mr. Speaker, on May 24, 1994, this Member felt it necessary to come before this body, quite reluctantly, to express his deep concerns and misgivings about the lack of direction in American foreign policy. It is an erratic, flip-flop foreign policy which encourages international thugs and rogue regimes to conclude that America neither says what it means nor means what it says. They are thereby encouraged to have the view that there is precious little penalty for flaunting international norms of behavior.

Today this Member believes it necessary to elaborate on this concern, looking specifically at the Clinton administration's deep misunderstanding of the proper role and value of the military as an instrument of foreign policy. Indeed, it is when one looks at the Clinton administration's military policy that the disarray becomes most pronounced and more immediately dangerous.

Mr. Speaker, like most Americans, this Member was pleased when President Clinton, in his 1994 State of the Union Address, announced that "as long as I am President [our forces] will remain the best-equipped, the best-trained, and the best prepared fighting force on the face of the earth." Yet this was quickly shown to be a hollow promise, as each and every month our Armed Forces continue to cut 15,000 personnel, retire 1 ship, slash 37 primary aircraft from our inventory, and eliminate 1 combat battalion.

It also is clear that this administration intends to address its budgetary shortfalls by raiding much-needed defense programs. In addition to defense cuts that will total $156 billion through fiscal year 1999, the defense budget also is being raided to pay for billions in nondefense initiatives such as environmental clean-up, our U.N. responsibilities, and cancer research. As a result, this Nation is headed down the perilous course to a hollow Army and a decommissioned Navy, the type of military establishment which would not allow us to adequately honor our treaty commitments and defend our people and national interests.

This gradual crippling of our military capability is particularly unfortunate, Mr. Speaker, because President Clinton and his advisers appear willing, and indeed, eager, to deploy U.S. Forces in a host of contingencies. This administration has already committed at least 25,000 ground troops to enforce a peace settlement in Bosnia—without any sign of congressional support. This administration has committed U.S. ground forces as part of a Middle East peace settlement. And, this administration was perfectly willing to retain United States Forces in Somalia far beyond the time when the original mission was fulfilled.

This Member is particularly concerned about the apparent willingness of the Clinton administration to invade Haiti, by whatever guise and whatever name, as part of an effort to restore Jean Bertrand Aristide to power. Mr. Speaker, such an action would be the height of folly and, ultimately, an expensive disaster with long-term damage to our hemispheric relations. While the deployment of United States Forces in Haiti may address the near-term problem that President Clinton is experiencing with certain more restive elements of his coalition, this is precisely the sort of intervention that would haunt American policymakers for years, and perhaps decades, in the future. Our Haitian policy must not be set by the fasting of Randall Robinson.

Mr. Speaker, the question of whether or not the United States should become militarily engaged in Haiti is not even a close call. While this Member has no doubt our forces would face little military resistance to an invasion, we would then be forced to assume broad humanitarian and administrative responsibilities in an attempt to provide law and order, support the regime we will have reinstated, and protect President Aristide from his many enemies. This would be far more difficult than the Haiti hawks would have us believe. This Member would remind this body that the last time the United States became involved in Haiti, it took 19 years before we were about to extricate ourselves.

It is clear that there are powerful elements within the Clinton political coalition and the administration who see the U.S. Armed Forces are merely a tool to be used in this grand game called nationbuilding. And these master strategists are not in the slightest deterred by the fact that our military capability is being slashed well below the level dictated by elementary prudence.

The logical disconnect is mind-boggling, but it does not seem to have penetrated key elements in this coalition or the administration. We are reducing our Army by a battalion a month, we are reducing our Air Force by 37 aircraft a month, we are reducing our Navy by 1 combat vessel a month. Yet this administration is preparing to commit tens of thousands of troops to a very lengthy occupation, on a mission that is clearly misguided and which is not a vital interest to the United States.

Mr. Speaker, this Member is not an isolationist. This Member has supported and will continue to support the deployment of our Armed Forces when it is proper and necessary to do so.

For example, this Member strongly supports the deployment of troops in Macedonia to serve a deterrent against the spillover of the conflict in Bosnia. Indeed, this Member has urged the deployment of a full brigade rather than the reinforced company presently in Macedonia, and this Member has expressed his support for much more forceful and responsive rules of engagement for those troops. This is clearly a situation where the vital interests of the United States are at stake.

But this Member will not support, and will not remain silent, as the Clinton administration plans to embark on a counterproductive and politically motivated military incursion in Haiti. President Aristide may have been democratically elected by the Haitian people, but he is not a democrat. Were we to bring about his return to power, we would also be responsible for his subsequent actions—and Mr. Aristide has a proven track record of extreme political violence. When Mr. Aristide resumes supporting arbitrary arrests and advocating necklacing of political opponents, as it clearly did, that too would be America's responsibility.

Mr. Speaker, military action in Haiti is not the national interest, and therefore will not be supported by the American people. By embarking on this course, President Clinton only reinforces the deep-seated belief that this administration's foreign policy is in a state of deep disarray.

THE VIOLENCE AGAINST WOMEN ACT

The SPEAKER pro tempore (Ms. CANTWELL). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from California [Ms. ROYBAL-ALLARD] is recognized during morning business for 2 minutes.

Ms. ROYBAL-ALLARD. Madam Speaker, the recent killing of Nicole Brown Simpson has focused attention like never before on the national epidemic of domestic violence. Now that public awareness is at an all-time high, the crime bill conferees have an unprecedented opportunity to report the Violence Against Women Act out of committee in its strongest possible form and help curtail an epidemic that is destroying the very centerpiece of our Nation; our families.

Although many of the facts of the Simpson case are not known at this time, we do know the system designed to protect families against violence failed the entire Simpson family as it has failed countless families throughout this country.

The story, unfortunately, is a familiar one:

Police who were called on numerous occasions did not pursue arrest.

Medical professionals who provided treatment did not intervene.

The judge who presided over the one court proceeding found the pattern of violence only serious enough to warrant a sentence of community service.

Now a young woman and an innocent bystander are dead, and two children will grow up without their mother, and possibly without their father.

In Los Angeles where Nicole Simpson was killed, there is one domestic violence homicide every 2½ days. Yet in the entire county of Los Angeles with a population of more than 9 million people, there are only 18 shelters for battered women, with only 250 available beds. Currently, two-thirds of the women who apply for shelter are turned away because there is no room.

We can and must do better for the women and children of America. It is imperative that the Violence Against Women Act be reported out of committee with its full funding.

The full $1.8 billion in the Senate-passed bill will provide much-needed assistance to States and localities for police, prosecutors, women's shelters and community prevention programs, where it is most needed.

Madam Speaker, I am proud to be joined today by many of my colleagues who share my deep concern about domestic violence in America. The crime bill conferees must pass the Violence Against Women Act in its strongest form as a first step in providing the systematic support needed to break the cycle of family violence.

We cannot afford to fail the families of America.

We have waged wars and campaigns to make the world safe for democracy—we must now wage a campaign to make women and children safe in their own homes.

SUPPORT CONTINUED FUNDING FOR SPACE STATION PROGRAM

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Texas, Mr. SAM JOHNSON, is recognized during morning business for 3 minutes.

Mr. SAM JOHNSON of Texas. Madam Speaker, this week Congress will be voting on space station funding. Are we going to abandon America's future, or will we continue a legacy of leading the world into space? Does this Congress have the same courage and foresight that our predecessors had to bring us the growth, prosperity, prestige, and quality of life that Americans now enjoy, unprecedented and unmatched anywhere in the world.

We have a great investment in our space program. We can't just trash one of our society's greatest achievements. Achievements in space have inspired our children to excellence.

But now, we are in danger of having an entire generation grow into adulthood without turning the dream of stepping out of the bounds of Earth's gravity into reality. An entire generation or more; think of it.

We all know the space program's contributions have touched all aspects of our modern life. New technologies, new products, new jobs, and economic growth have been a direct result of our space program.

It has contributed to timely and accurate breast cancer detection, highly advanced air and water filters, improved engine lubricants, lightweight composites, high-technology lasers robotics, and even improved shock absorption in athletic shoes.

Our achievements in space have also contributed to America's stature in the world.

No other nation on earth can even come close to matching our accomplishments. And now with strong partners in Russia, Europe, and Japan, we have the knowledge, the resources, and the ability to reach our next goal in space—completion on the space station.

Budget cutting is the only argument that space station opponents have. I want my colleagues to reach back in time to a previous Congress' courage and look to the future in the same manner. And it is with that awareness that I urge everyone to make the tough choice, a visionary choice like the one made 25 years ago that put American astronauts on the Moon.

It is for our kids; it is for our America.

It is the right time. It is the right choice, to fully support continued funding for the space station program. It is an investment in America's future. It is the future of planet Earth.

□ 1050

DOMESTIC VIOLENCE PREVENTION

The SPEAKER pro tempore (Ms. CANTWELL). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from Oregon [Ms. FURSE] is recognized during morning business for 2 minutes.

Ms. FURSE. Madam Speaker, when people in America think of violent crime, they often think of gang members killing each other over turf wars. Unfortunately, violent crime is prevalent in American homes.

Domestic violence is a problem that potentially strikes all women, whether they are rich or poor. It makes the place that should be safe—their own home—unsafe. The House and Senate must complete work on the conference of the Violence Against Women Act to begin to address the problem of family violence in our communities.

Last year, in the city of Portland, OR, domestic violence claimed the lives of 22 people. Three babies were killed by their parents, three men were killed for intervening in a domestic dispute, three men killed themselves after killing a partner or family member, a woman who feared for her own life killed her boyfriend, and 12 women were murdered by their husbands, their boyfriends, former partners or family members.

The House and Senate have passed the Violence Against Women Act as part of the crime bill to address the problems our communities face in dealing with violence in the home. One of the provisions of the Violence Against Women Act is my own Domestic Violence Community Initiatives Act which will assist communities in bringing together the shelters, law enforcement, religious organizations, health care providers, teachers and principals to develop a coordinated community response to the problem. Because the problem of domestic violence involves so many different aspects of our society, only a coordinated approach can produce truly effective solutions.

It's time we make domestic violence prevention a priority. We can prevent these horror stories and help make homes a safe place, a haven once again.

A CALL FOR SOLUTIONS TO DOMESTIC VIOLENCE

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from Maryland [Mrs. MORELLA] is recognized during morning business for 2 minutes.

Mrs. MORELLA. Madam Speaker, I am pleased to join my colleagues this morning for this special order or morning hours.

Whether walking alone down city streets late at night, driving to work in quiet suburban neighborhoods, or even home alone with their loved ones, for women and girls in America, violence is an everyday fact of life.

In this country, every 5 minutes a woman is raped, every 15 seconds a woman is beaten by her husband or companion, and every year 4,000 women are killed by their abusers. Street and domestic violence costs our Nation 5.3 billion health care dollars annually. More than 30 percent of women in emergency rooms are there because of domestic violence, and more than 60 percent of the women in mental health wards are there because of ongoing abuse.

The Violence Against Women Act, now before a House-Senate conference committee, must be passed promptly and funded fully.

For almost 2 weeks, the country has been riveted by the story of one woman victimized by a police force, a court system, and a society that looked the other way. Her terrible story is typical however, of many American women who would rather walk down dark city streets at night than stay at home with their loved ones.

Congress has an opportunity to begin to change all that—to help prevent the battering of 4 million American women and to protect the 3.5 million children who witness these attacks every year.

VAWA will help fund a national domestic hotline, more emergency shelters, and community education programs; provide training for police and for judges; provide for the interstate enforcement of orders of protection; and provide help for battered immigrant women. It will declare crimes of violence committed because of gender to be civil rights violations.

VAWA unequivocally sends the message that domestic violence, rape, and sexual assaults are crimes that we will not tolerate in our society.

DOMESTIC VIOLENCE

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized during morning business for 2 minutes.

Mrs. CLAYTON. Madam Speaker, domestic violence is the most common form of violence, yet it is the least reported crime. Domestic violence results in more injuries which require medical treatment than rape, auto accidents, and muggings combined. This is a problem that knows no boundaries. The majority of domestic violence victims are women—women of all ages, all races, all income, and all education levels.

Domestic violence has reached epidemic proportions in the United States, women not only have to fear for their safety on city streets, but also in their own homes. In the very place they should feel safe. Yet daily there are women killed in their homes by a spouse or partner they love and trust. I ask you why then it takes the death of the wife of a national celebrity to bring this issue to the forefront. Is one life more precious than another?

This is not a new problem in our society, but one which is finally obtaining the national attention it deserves. We have come a long way from the days a woman was told by friends and family, law enforcement agencies, and even clergy that she must be doing something wrong to provoke such irrational behavior. But we have an even longer road to go.

We as lawmakers must show women that they do not stand alone, that we are making strides to give back their safety and their lives. H.R. 1133, the Violence Against Women Act is just that kind of legislation. I cosponsored this legislation and I want to see it passed into law. I want to see more rigid enforcement and sentencing of abusers. I want to see additional funding for programs for victims of sexual assault and domestic violence. I want to see the courts treat these women like victims, not like criminals. I want to see a national toll-free hotline funded which will provide assistance to these victims. I believe in H.R. 1133 and I know that it will make a difference.

We must give these women hope; we must show them they are not alone and that we care. This bill will empower women by letting them know that finally the law is on their side.

☐ 1100

HEALTH CARE REFORM WITHOUT EMPLOYER MANDATES

The SPEAKER pro tempore (Ms. CANTWELL). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Michigan [Mr. KNOLLENBERG] is recognized during morning business for 5 minutes.

Mr. KNOLLENBERG. Madam Speaker, I rise today to discuss one of the most disturbing aspects of the Clinton health care plan: employer mandates.

There is almost universal agreement that a mandate will cost thousands of American jobs. Even Laura Diandria Tyson who is President Clinton's Chief Economic Adviser admits that some 600,000 jobs will be lost under the Clinton plan as presently drafted. In fact, some studies show that as many as 3.8 million jobs could be lost.

The fact of the matter is that in this time of increasing regulatory burden for small businesses, mandates could very well be the "straw that broke the camel's back" and sends the U.S. economy into recession.

In a publication from the Heritage Foundation, Robert Moffit, I think, captures the essence of an employer mandate,

> Any mandate on employers to provide health insurance necessarily adds to the labor costs of firms that do not now offer health insurance or that offer a package less generous than the mandatory plan. Increased labor costs necessarily translate into higher prices for consumers for goods and services in the general economy or reduced compensation for employees in the form of wages or other benefits.
>
> Depending on the size and the resources of the firm, the increased labor costs will translate directly into lower wages or job loss.

What is interesting about universal coverage is that in areas where it has already been implemented it still only covers 91 or 92 percent of the population. In my State of Michigan, we have already covered 91 percent of the population. Therefore, the employer mandate would do nothing for my constituency but cost jobs.

There is also a question of subsidies to small businesses. Where is this money going to come from? How much will these subsidies cost 10 years from now? And, how much time and effort will entrepreneurs have to devote to obtain these subsidies?

Above all that, there is something inherently unsettling about the thought of employers having to go to the Government to beg for money.

I think that everyone in Congress who favors a mandate needs to visit the businessowners in their districts—and see how many of them struggle daily with the burden that the Government places on them. Then they should ask themselves, "do we really need to put the Government into another facet of the American business sector?"

Maybe we can just enact reform to our system of insurance on which there is wide bipartisan agreement and give it a couple of years and reevaluate them.

Let us do it—but let us do it right.

I believe that this is a prudent course and I urge my colleagues to consider it. The American people want health care reform, but they want it done right.

VIOLENCE AGAINST WOMEN

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from California [Ms. WOOLSEY] is recognized during morning business for 5 minutes.

Ms. WOOLSEY. Madam Speaker, it is time for this Nation to take violence against women seriously, not just when it hits the evening news, but every day that this American tragedy continues.

Madam Speaker, acts of domestic violence occur every 18 seconds. Battering is the single major cause of injury to women; more frequent than car accidents, muggings, and rapes combined. Six million women are beaten each year by their husbands or boyfriends, Four thousand of them are killed.

Most of the time, these cases do not make headlines, but they are just as tragic and intolerable as those that do.

Madam Speaker, we know what to do. We must enact the violence against women act. To help stop the horror of crime aimed at women.

The Violence Against Women Act provides funding to aid policy, prosecutors, women's shelters, and community prevention programs. It is a comprehensive approach that is both tough on criminals and smart about crime prevention.

The Violence Against Women Act is now in conference committee as part of the crime bill. In the wake of the Nicole Simpson murder case, women across America are raising their voices about domestic violence and violence against women. Here in Congress, we must join this effort and raise our voices about the importance of final passage of the Violence Against Women Act—without weakening changes or reductions in funding.

We owe it to the millions of domestic violence victims across this Nation. Let us resolve never to be silent, never to let this issue out of the limelight, until women and girls—and all Americans—are safe once again.

INFORMING MEMBERS OF UPCOMING SOCIAL SECURITY TASK FORCE HEARING

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Wisconsin [Mr. ROTH] is recognized during morning business for 5 minutes.

Mr. ROTH. Madam Speaker, I rise to inform my colleagues about a Social Security task force hearing tomorrow morning at 11 a.m. I invite every Member who wants to strengthen our Social Security system to attend. The hearing's topic is the long-term security of the Social Security trust fund, a topic of vital interest to every American who is counting on a secure income during retirement. Without a stable Social Security system, today's workers and retirees face an uncertain future.

A future in which their retirement income is in jeopardy; 42 million senior citizens rely on their Social Security benefits to buy groceries, medication, and pay the bills.

Each year, millions of additional Americans retire and begin collecting the benefits they earned and planned for.

Congress needs to take bold steps to guarantee that their Social Security checks do not bounce some day in the future.

According to the Social Security trustees, that doomsday—the year the Social Security system goes bankrupt—moves closer and closer every year.

The latest trustees report predicts our Social Security system will become insolvent in the year 2029.

Only last year, the trustees report predicted the Social Security trust fund would be solvent until 2036.

That means in the past 12 months, the Social Security insolvency date advanced 7 years. And some independent analysts say the insolvency date could come even sooner. If Congress does not put Social Security's fiscal books in order, we will be mortgaging our childrens' future.

That is why Congress needs to stop spending the surplus funds that Social Security collects every year.

This year, for instance, Social Security will take in $59 billion more than it pays out. Every penny of that surplus will be spent by the Government on non-Social Security programs.

In other words, every week the big spenders in Congress spend more than a billion dollars of the people's Social Security money on other government programs, from food stamps to foreign aid. It is time for Congress to stop misusing the trust fund.

Social Security is not a piggy bank to be raided by the big spenders in Congress. Social Security funds must be used for Social Security purposes only.

Tomorrow's hearing will help this task force learn more about these issues. Additionally, we will explore ways to ensure the long term solvency of the Social Security trust fund, both for today's seniors and today's workers.

Eight expert witnesses will share their ideas and answer our questions.

Our witnesses include seniors advocates, a former Social Security Commissioner, an actuary, a taxpayers' advocate, and a representative for the Social Security Administration.

Madam Speaker, I urge Members to attend this hearing and help me work toward a fiscally sound Social Security system. We owe it to today's seniors, and to their grand children.

URGING THE STRONGEST POSSIBLE VERSION OF THE VIOLENCE AGAINST WOMEN ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from New York [Mrs. MALONEY] is recognized during morning business for 2 minutes.

Mrs. MALONEY. Madam Speaker, this morning, I rise in support of the strongest possible version of the Violence Against Women Act.

Violence against women is one of the most horrendous and neglected problems facing our country. The men who batter 4 million women each year are often treated with a wink and a nod. This is intolerable and we must not stand for it.

Of 178,000 radio calls relating to domestic disputes in New York City, less than 7 percent result in arrests.

There is no difference between assaulting one's spouse and assaulting a stranger. The bruises are the same. The black eyes are the same. And the penalties ought to be the same.

Beating up a stranger gets you jailed. Beating up a wife gets you therapeutic treatment. We are no longer willing to coddle the batterers.

They must know that if they abuse their partners, they will be behind bars. It is unfortunate that it took a celebrity murder to bring this issue back to the Nation's attention.

If we can pass this bill, maybe we can protect the next Nicole Simpson from the actions of an abusive spouse. Domestic abuse is no longer a family matter.

A FAILED DRUG STRATEGY

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from New York [Mr. GILMAN] is recognized during morning business for 5 minutes.

Mr. GILMAN. Madam Speaker, across the country, students have been taking their exams and receiving their grades for the school year. Here in Washington, mid-term exams for the Clinton administration will be held in November.

As a cofounder and vice chairman of the former Select Committee on Narcotics, I regrettably would have to give the Clinton administration a failing grade on narcotics if it were in my classroom. Let's look at the administration's record.

ON LEADERSHIP

The President and his Cabinet have been virtually absent from the war on drugs. An on-again off-again approach has permitted Congress to cut many of the vital anti-drug budgets without any significant executive protest.

Moreover, Madam Speaker, the administration abruptly ended intelligence sharing with Peru and Colombia—undercutting our interdiction of cocaine and leaving our allies in those countries furious—only to reverse course after an uproar in the Congress.

In Burma, heroin production is soaring but the administration has no comprehensive strategy to deal with it. Leadership gets a grade of "F."

WITH REGARD TO INTERDICTION

There are five major components in our war against drugs—eradication; interdiction; enforcement; education; and treatment and rehabilitation. All must be pursued simultaneously; none can be cut in favor of any other.

In addition to cutting off narcotics intelligence to Peru and Colombia—where the administration has belatedly admitted that drug flights have increased—they have sought to cut millions from overseas interdiction programs.

Reducing our interdiction efforts overseas inevitably leads to more and cheaper drugs on the streets of our cities. The administration gets an "F" for interdiction.

WITH REGARD TO COMMUNICATION

The President has communicated the wrong message on drugs. No opposition was voiced when the Department of Education's budget for safe and drug-free schools was suddenly cut.

The President has been silent while Dr. Joycelyn Elders—Surgeon General of the United States and the Nation's top public health official—has spoken openly and repeatedly in favor of studying the legalization of drugs.

In a recent interview in USA Weekend Magazine, she said the President told her, quote: "I keep up with you by everywhere you go and what you've been doing. I love it." Close quote. An "F" for communication.

IMPACT ON CRIME

The Administrator of the Drug Enforcement Agency estimates that illegal drugs account for one-third of the Nation's violent crime and half of the murders.

Putting more police on the streets of our cities under the proposed crime bill will have little effect as long as interdiction efforts overseas are neglected. More and cheaper drugs available means more abuse. The connection between abuse and crime and violence is well established.

The administration's impact on crime gets an incomplete grade because drug policy failures in other areas cannot yet be fully evaluated.

Illicit drugs add billions to our health care costs, such as caring for crack babies, drug treatment programs, the spread of HIV by needles, and the loss of productivity.

By neglecting the battle against illegal drugs, the President is undercutting the very cost savings he seeks through health care reform. Another incomplete grade on health care costs because they cannot yet be fully evaluated.

Madam Speaker, so far the Clinton administration has failed in its narcotics efforts. In so doing, it has left the American people more exposed than ever to the ravages of illicit drugs.

The administration has a lot to do to earn a passing grade in the November midterms.

□ 1110

FEEL THEIR FEAR

The SPEAKER pro tempore (Ms. CANTWELL). Under the Speaker's announced policy of February 11, 1994 and June 10, 1994, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized during morning business for 2 minutes.

Mrs. SCHROEDER. Madam Speaker, first I want to thank the gentlewoman from California [Ms. ROYBAL-ALLARD] for putting this together. She has had great leadership in dealing with domestic violence issues in the State of California, and she is bringing that here to the Congress, and I am honored to join my other colleagues in coming to the floor to talk about how important it is to have the strongest possible version of the Violence Against Women Act in the crime bill when the conferees meet.

Madam Speaker, domestic violence is the leading public health and safety problem facing American women. For the 3 to 4 million women who are battered in their homes every year, an ever intensifying cycle of violence is their day-to-day reality. A reality, which until recently has been largely ignored.

Domestic violence generates tremendous costs to society. More than 1.5 million battered women seek medical treatment for their injuries each year, costing $45 million in annual medical costs, and at least 175,000 days of absenteeism a year. In at least 50 percent of these homes the children are battered too.

For the victims, domestic violence is a life or death matter. One third of female homicide victims are killed by their husbands or boyfriends. The Violence Against Women Act is now in conference. To illustrate the dimensions of the problem, the members of the Congressional Caucus for Women's Issues will be reading the names of individuals who have lost their lives in domestic violence related incidents until the conference is finished. This list is by no means complete. Many States do not keep statistics on domestic violence-related homicides. We do know, however, that these lists will continue to grow unless we act.

COLORADO 1993

February 4, 1993: Pamela, 27, shot by ex-boyfriend in her living room. Children found mother dead.

February 16, 1993: Wade, 28, and Roy 60. Estranged husband shot wife's boyfriend. Threatened to kill his wife as well. Then shot himself.

March 1, 1993: Patricia 35, Dale 42. Dale shot Patricia then shot self. They had a history of domestic violence and two kids.

THE RUSSIAN MAFIA

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994 and June 10, 1994, the gentleman from California [Mr. ROYCE] is recognized during morning business for 3 minutes.

Mr. ROYCE. Madam Speaker, I rise today to address an issue of critical importance to our national security, to our foreign policy, and indeed, to our domestic tranquility. That issue is the growing threat of international organized crime, specifically, that emanating from within the former Soviet Union.

In recent weeks, we have heard from a large number of administration witnesses—the FBI Director, the CIA Director, and other experts on this growing problem.

We have also heard from Russian parliamentarians who have seen colleagues in Parliament, and other elected offices, gunned down by the new Mafia. President Yeltsin himself has warned that, in his words, "Russia has become a superpower of crime;" and that the corruption in ministries and law enforcement agencies "is extraordinarily dangerous for the nation."

Our newspapers have focused on this issue, and so have our constituents who have tried to do business there.

I believe it is important to take a few moments this morning to bring some of the highlights to the attention of our colleagues who might have missed some of these recent hearings. The statistics are awesome.

Director Woolsey testifying yesterday quoted the Russian Ministry of Internal Affairs to the effect that a majority of Russia's 2,000 banks are controlled by organized crime; he also stated that Russian criminal gangs operate in 29 countries, including the United States; murders have increased 47 percent in the past year, largely attributable to the Russian Mafia; and, Yeltsin says that 60 percent of all Russian companies are Mafia-infiltrated.

In Los Angeles alone, Russian organized crime has netted an estimated $1 billion in health-benefits fraud cases. Similar stories emanate from New York, and other large cities.

According to the International Security Subcommittee's report, criminal groups in the former Soviet Union transferred $7 billion to Germany in 1992 alone; this exceeds the total of all United States aid to the region since 1990.

The main areas of threat are the illicit export of drugs and weapons—both conventional and unconventional—the smuggling of nuclear materials and technologies, and the support of international terrorism and rogue regimes.

Linking all of these is the increasing Mafia control of the Russian banking and financial transactions business. Put it all together and you have an over arching threat of instability created by the combination of these threats.

Internationally, alliances are developing, on a scale never seen before, between drug syndicates, financial swindlers, commodities thieves, arms dealers and shadowy political movements—all devoid of ideological or national loyalties.

In a vicious circle that threatens to outstrip the abilities of our police and intelligence agencies to monitor and counter, international gangs contract to kidnap industrialists for ransom or to pilfer nuclear weapons, to earn money for terrorist groups who in turn strive to overthrow democratically elected governments, so that drug kingpins can be sprung to freedom.

No longer scenarios from a Tom Clancy novel, these things are happening around the world today.

These concerns are very real, the danger is very present. I would urge this administration to redouble its efforts to identify and isolate these criminal elements, and to assist the democrats within the Russian Government in bringing these elements to justice.

As Director Woolsey implied, the model for comparative analysis of this criminal aspect is the KGB and its sister organs in the old Soviet Union. He noted yesterday that as we look now at some of these new organizations, in and out of the State, we see the old familiar elements.

My view is that rather than cutting back on the capacity of our intelligence community to deal with this challenge, we should realize its unique capacity and benefit from it.

We should also recognize that the complexity of the problem threatens each of our crosscutting aims of democracy, nonproliferation, and regional stability.

Democracy cannot prevail, markets cannot grow, and human and civil rights cannot be upheld in the face of such overwhelming and corrupting criminal activity.

Our aid should be conditioned on assurances from both Russia's Government, and our own, that all is being done that can be done in respect to monitoring and countering the growing threat of these crime syndicates before they can choke off the infant democratic experiment in the former Soviet Union. Many Russians are struggling against this menace daily and deserve our support.

In closing I want to stress that this is not just about crime in Russia, or marginal changes in our aid package—this is about countering a real threat to the chances for a successful transition in the former Soviet Union, and it is about stopping an international crime wave before it crests on our own shores, and, before it goes nuclear.

I would suggest that these thugs are of a different magnitude than those in Haiti with whom the President and his administration seem so obsessed, and I hope the President will find the wherewithal to deal with them more effectively.

De Toqueville reminded us that no time is as dangerous as the time of regime transition. We must be sober and vigilant about the challenges facing Russia, and the United States, during the transition; indifference and indecision will only encourage the antidemocratic forces at a time when they need our attention and support.

American University expert Louise Shelley has warned of a dim alternative to democracy in Russia if we fail:

> * * * the pervasiveness of organized crime may lead to an alternative form of development—political clientism and controlled markets. The control will come from the alliance of former Communist Party officials with the emergent organized crime groups . . . groups that currently enjoy the preponderance of capital of the post-Soviet states.

Finally, I commend to my colleagues an excellent article on these matters in the European edition of the Wall Street Journal entitled: "Russia's Biggest Mafia is the KGB" by Dr. Michael Waller, which is attached to my statement, as follows:

RUSSIA'S BIGGEST "MAFIA" IS THE KGB

(By J. Michael Walles)

In partnership with the Russian government, the West is launching another Great Crusade: A mutual flight against organized crime. While stopping the spread of criminal syndicates from the former Soviet Union into Western Europe, Asia, and the Americas may well require cooperation with Russian authorities, such cooperation is fraught with dangers. Russia's organized criminals are not only rogue elements battling the authorities. In many, many instances, they are the authorities themselves.

The core of Russia's own battle against organized crime is the Federal Counterintelligence Service, the re-named internal security organs of the former KGB. Paradoxically, ex-KGB operatives also happen to be at the core of Russia's organized criminal underworld, with a grip on a great deal of business activity.

This should not be surprising. Since the Soviet secret police were founded in 1917 as the Cheka, they have acted as agents of corruption for the country's nomenkiatra ruling class. As the Bolsheviks consolidated power, the "Chekists" made house-to-house searches, stealing everything of value and stockpiling it in warehouses where the items were catalogued and ultimately distributed for use by the nomenkiatra, or sold abroad for hard currency. They then set up and operated big trading houses in the West.

In more recent years, the KGB procured contraband for the ruling elites, laundered Communist Party funds through investments in the West, smuggled narcotics from Central Asia to Europe, trafficked in weapons large and small, rubbed out opponents around the world, and engaged in bribery, blackmail, and extortion at home and abroad. It had sole authority to penetrate law enforcement and the armed services, a power that could either end the careers of police and military officers, or enhance them in exchange for cooperation.

THE ULTIMATE MAFIA

The KGB had vast banks of information at its disposal: files on millions of individuals, political and financial data, a global information-gathering and analysis operation staffed by some of the world's brightest minds, and a network of enforcers to match. Backed by the Soviet superstate, with branch offices in every town of the U.S.S.R. and nearly every country in the world, the KGB was the ultimate mafia.

As the Soviet Union collapsed, that mafia unshackled itself from the few civilian controls over it and began taking advantage of the opportunities opened up by privatization and the emergence of a market economy. It buttressed its political independence with the unmatched power to move money into and out of the country.

When Mikhail Gorbachev abolished the Communist Party's monopoly of power, the KGB rushed in to fill the political void as well. Prior to the 1991 elections for the Congresses of People's Deputies in Russia and the other Soviet republics, the KGB set up a special task force to organize and manipulate the electoral processes. It held political organization training courses for favored candidates, arming them with privileged information about their constituencies' problems, needs and desires. Admitted KGB officers, some 2,756 in all, ran in races for local, regional and federal legislatures across the U.S.S.R.; 56% won in the first round, according to a KGB internal newsletter.

The trends are similar in Russia's booming business community. Radio Liberty's Victor Yasanna reports that during perestroika, it was the KGB and the Komsomol that established the first stock and commodities exchanges, "private" banks, and trading houses through which the Soviets' strategic stockpiles of minerals, metals, fuel and either wealths were sold. The West would not allow the Soviets to damp these reserves on the open market for fear of depressing world prices, so the KGB took the alternative route of selling through organized criminal channels to get the hard currency Moscow desperately needed.

These networks were facilitated by the strategic placement of support personnel abroad. KGB Chairman Vladimir Kryuchkov's son, as station chief in Switzerland, was implicated by a parliamentary commission in a scam to bank fortunes in hard currency for the KGB and Communist Party leaders and their families. The son of former Soviet Prime Minister Valentin Pavlov, who worked in a Luxembourg bank, was implicated in the same scandal. Even as the Russian government went through the motions of tracking down such monies, foreign intelligence chief Yevgenly Primakov blocked the parliamentary investigations from looking further, and the matter was forgotten.

Meanwhile, Western businessmen who flocked to Russia actively pursued current and former KGB officers as business partners. The law at the time required all foreigners to have a Russian joint partner. A 1992 report in the Russian newspaper Gelos concluded that 89% of all joint ventures involved KGB officers. They occupy top positions in nearly 100% of all state and semistate enterprises, where a deputy director's position traditionally has been reserved for a ranking KGB officer.

For Western businessmen, employing or otherwise retaining KGB men had distinct economic advantages. KGB officers and veterans are a tightly knit fraternity with unmatched access to inside information, personal contacts, and other mechanisms to get things done, including paying off bureaucrats and high-level officials. Few contracts in Russia have any legal basis, and the smothering bureaucracy makes special favors from the KGB a necessary component of successful business ventures. Some Western businessmen even justified their new partnerships by reasoning that helping turn secret policemen and spies into entrepreneurs would promote Russian reform.

These businessmen were wrong. Honest security officers suffered professionally for bringing cases of high-level corruption to President Yeltsin's attention. According to a former KGB general, Mr. Yeltsin's internal security chief, Viktor Ivanenko, "tried to tell the truth about certain colleagues to President Yeltsin, but he was ousted."

President Yeltsin authorized a new status called "active reserve" so that secret police and spies could go into business while in government service with all due privileges. No conflict of interest laws exist to stop massive organized corruption from taking place legally. The distinction between private enterprise, racketeering and the security services is now officially erased.

The largest and most visible symptom of the Chekists' new influence is the gigantic "Most" financial and construction group. Most's business strategy has been to hire between 800 and 1,000 former KGB and interior ministry officials to serve as analysts, dealmakers and enforcers, according to ex-KGB officials interviewed in Moscow. The firm's analytical department, which acts as the principal advisory body to CEO Vladimir Gassinsky, is headed by former KGB First Deputy Chairman Filipp Bobkov, once the right-hand man of KGB Chairman Kryuckev and a vocal supporter of the August 1991 coup attempt. Mr. Bobkov's department includes 80 KGB veterans, including former KGB Chairman Viktor Chebrikov, who advocated sending democratic activists to psychiatric hospitals; B.S. Shulatenko, who was in charge of the political police in Ukraine; and former head of the KGB's dissident-hunting unit for the entire Soviet Union, Gen. Ivanov, whose first name is a subject of some mystery.

The Most conglomerate is widely reported to be attempting to buy the loyalty of members of parliament who have opposed the Chekists. The company is also creating a media empire to influence public opinion, reaching out to young professionals who strongly support Western-style reform. In partnership with the Stolichny and National Credit banks, Most is a major backer of a new daily newspaper, Segodnya, and the popular Independent Television Network (NTV). Just a year old, Segodnya has a daily circulation of 100,000, while NTV reaches 40 million viewers. Both media cartels are politically quite liberal, but not to the extent of criticizing the activities of Most itself.

INFORMATION HIGHWAY ROBBERY

A new threat to legitimate businesses in Russia and the West is the Federal Agency by Government Communications and Information, known by its Russian initials as Fapsi, which comprises the high-tech units of the former KGB. Responsible for most forms of electronic spying, Fapsi is on the verge of taking control of Russia's telecommunications lines. A recent decree by deputy counterintelligence director Andrei Bykov, a 26-year veteran of the KGB technical operations department, placed all telephone switchboards and their electronic equivalents at the disposal of the security services. The decree ordered that each telecommunications transit point be equipped with eavesdropping devices.

Traditional-style gangsters also have gained power in Russia. Otari Kvantrishvill, a notorious Moscow mafioso who was assassinated in April, had positioned himself so well that, in the words of Moscow News, he "could successfully settle conflicts between Moscow officials, financiers, and representatives of the underworld."

According to the State Duena's committee on security, 80% of all enterprises are engaged in corruption, and up to 50% are controlled by organized crime syndicates. What has emerged from Russia's great economic reform is a huge parastaial system dominated by the former KGB, the bureaucracy and nomenkiatra and organized crime. Before the West commits to help Russia fight mafia activity with tradecraft and intelligence, it must first find institutional partners there that are clean.

☐ 1120

DOMESTIC VIOLENCE

The SPEAKER pro tempore (Ms. CANTWELL). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from Connecticut [Ms. DELAURO] is recognized during morning business for 2 minutes.

Ms. DELAURO. Madam Speaker, as tragic as any one high-profile, domestic violence case may be, the truth is 2 million women in the United States are beaten by their partners every year—that's one woman beaten every 16 seconds. In my home State of Connecticut and nationwide, violence by male partners surpasses automobile accidents, muggings, and cancer deaths combined as the leading cause of injuries for women between the ages of 15 and 44. Clearly an epidemic of domestic violence is plaguing our Nation.

Domestic violence is not a family matter, it is a crime. And we have a responsibility to address it, as we would any other crime. We need to invest in smart prevention and tough punishment programs. We have a responsibility to create and fund effective prevention programs, to provide services to victims of domestic violence and to stiffen penalties so that domestic abusers are punished and serve time behind bars. That is what the Violence Against Women Act is all about.

The Violence Against Women Act contains the most ambitious and comprehensive proposals this body has ever passed regarding domestic violence. It will provide millions of dollars to State and local governments; it will help implement mandatory arrest programs and training programs for police and prosecutors; it will create a national toll free hotline to assist victims of domestic violence; and it will make interstate stalking and domestic violence a Federal crime.

These programs and penalties are ones that experts and victim advocates have been recommending for years. Their inclusion in the crime bill sends an strong message that Congress recognizes domestic violence as criminal and as the worst kind of violence because it is perpetuated against those who are the most vulnerable—women and children.

Madam Speaker, I urge the conference committee to send us a final bill that includes the Violence Against Women Act, so we can send it onto the President for his signature. If ever there was a time to make a difference in the lives of those victimized by domestic violence and to do something about preventing it, the time is now—while the Nation is watching. Let us not miss this crucial opportunity.

TIME FOR AN HONESTY CHECK

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Texas [Mr. SMITH] is recognized during morning business for 3 minutes.

Mr. SMITH of Texas. Madam Speaker, late last week President Clinton attacked radio talk show hosts for being too critical of his administration. This is strange behavior for someone who can generate news at will, who consistently receives favorable treatment by the big three network news programs, and who is supported by the largest daily newspapers in the country.

Maybe President Clinton wants a monopoly on media coverage just like he wants Government to have a monopoly on health care.

In his effort to stifle criticism, what Mr. Clinton may be overlooking is that the trust of the American people and the respect of political opponents must be earned.

Most Americans would agree that to earn their trust a President should possess a sense of honesty, a basic ability to tell the truth. Most Americans and even the media would forgive occasional lapses. To many citizens, though, the lapses of this President have become part of a pattern of behavior that began years ago and continues today.

A few recent examples might explain why the media have not been unanimous in extolling President Clinton:

He pledged a tax cut during the Presidential campaign. Instead, he delivered the largest tax hike in history.

He vowed to "shut down" the special interest money machine. Instead, he has helped raise $40 million to keep the old machine running smoothly.

He promised to "end welfare as we know it" in 40 percent of his campaign speeches. What he has proposed will cost $10 billion more over 5 years than the current welfare system.

Now he says to let the Government take over the health care system, and costs will go down.

Perhaps we should insist on an honesty check. And that's the point. Given Mr. Clinton's record, far from being concerned about radio talk show criticism, he should be grateful that the criticism is not louder and more widespread. It could still become so.

The President should realize that the problem results not from having the light turned on, but from the conduct that is exposed.

Americans want a President who is honest and a Government that is trustworthy. If this administration makes a sincere effort to live up to the high ideals held by the American people, then it will not have to worry about talk show commentary.

SUPPORT THE PRIVATE PROPERTY OWNER'S BILL OF RIGHTS

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Louisiana [Mr. TAUZIN] is recognized during morning business for 1 minute.

Mr. TAUZIN. Madam Speaker, how many of your constituents can afford a one-half million dollar trip to the Supreme Court to find out if the Government may take their property away without compensation? Not many.

Last Friday, in a landmark Supreme Court case, one citizen of Oregon completed that trip to the Supreme Court here in Washington, and was finally awarded a victory—a victory that now belongs to every property owner in America. On Friday, the Supreme Court ruled in Dolan versus the City of Tigard, that Government cannot force a property owner to give up part of their property in order to get a discretionary permit such as a building permit.

More importantly, the Court held that the 5th amendment protection against taking private property without compensation deserves the same protection as the 1st and 4th amendments of the Bill of Rights—that private property rights are as important as free speech.

But, will every small property owner have to go all the way to the Supreme Court to get the same justice Mrs. Dolan finally won last Friday.

One hundred and fifty Members of Congress have already signed on as protectors of private property rights. One hundred and fifty of you have cosponsored H.R. 3875—the private property owners bill of rights.

What are the rest of you waiting for?

RECESS

The SPEAKER pro tempore. Pursuant to clause 12, rule I, the Chair declares the House in recess until 12 noon.

Accordingly (at 11 o'clock and 27 minutes a.m.) the House stood in recess until 12 noon.

□ 1200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 12 noon.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As the farmer plants the seed in the fertile ground, the Sun gives light, the rains come, and there is the miracle of growth, so may there be, O gracious God, a spiritual flowering that will lift our hearts and souls and minds in a way that allows our faith to stand with the difficulties of any day. May our spirits be open to Your spirit and our minds to Your mind, and our wills to Your will so we remember that we were created in Your image and likeness, and that image and likeness will be reflected in our thoughts, words, and deeds. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will ask the gentleman from North Carolina [Mr. BALLENGER] if he would kindly come forward and lead the House in the Pledge of Allegiance.

Mr. BALLENGER led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will recognize 15 Members on each side for 1-minute requests.

HEALTH REFORM CONSENSUS ACT OF 1994

(Mr. ROWLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROWLAND. Mr. Speaker, there is much disagreement about what needs to be done about the reform of our health care delivery system. However, there is much about which there is agreement.

Doesn't it seem logical to use as a starting point for our discussion the areas where there is agreement, and then make decisions about what we can achieve beyond that starting point.

That is exactly what H.R. 3955 does, it brings together from those plans out there, Republican and Democrat, the areas of agreement, in a bipartisan manner.

An issue that is so important, that involves about one-seventh of our gross domestic product, should be dealt with in a bipartisan manner.

We also try to reach more people, who now do not have access to care, through an expanded network of community health centers, that provide care in an efficient, cost effective basis.

MIKE BILIRAKIS and I invite Members from both sides of the aisle to look at our proposal.

REARRANGING THE DECK CHAIRS

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, yesterday, the President rearranged the deck chairs on his sinking ship of state. And today, Democrats will come to the floor denying that the ship is sinking at all. But, Mr. Speaker, the panic in the voices of our Democrat colleagues shows they are none too comfortable with Bill Clinton as their captain.

That explains why VIC FAZIO launched his bizarre broadside against Christian Republicans. His sad attempt to paint Republicans as being un-American showed how bad things are in the Democratic Party.

Rearranging personnel in the White House will not cure the problems of this administration. Rearranging policies will.

Instead of taxing more, the President should tax less. Instead of spending more, the White House should cut spending first. And instead of reinventing more health care bureaucrats, Mr. Clinton should support a commonsense health care reform bill.

Mr. Speaker, the Democrat policies of President Clinton have proved unpopular with the American people. He should rearrange those policies, and not merely the people implementing them.

THE ROWLAND-BILIRAKIS HEALTH CARE BILL

(Mr. PENNY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENNY. Mr. Speaker, there is truly a need for bipartisanship in the health care debate. The Rowland-Bilirakis bill offers us a way out. The bill currently has 68 cosponsors, 34 Democrats and 34 Republicans, and it borrows ideas from other proposals on the table already.

It borrows from the Clinton plan, the Cooper plan, the Chafee plan, the Michel plan, and the Nickles plan. It takes areas which are in consensus in all of these various proposals.

For example, the Rowland-Bilirakis bill covers preexisting conditions, guarantees insurance portability, and restricts rate increases. It standardizes forms and reduces administrative redtape, reforms our antitrust laws by allowing small businesses to form purchasing groups. It has malpractice and liability reform.

In addition, it increases the self-employed tax deduction for health insurance costs from 25 percent to 100 percent, and uses existing Medicaid funds to make health care for the poor more accessible at community health clinics.

These are real reforms that enjoy bipartisan support. We should pass this package and give the American public the reform it seeks.

H.R. 3955, THE HEALTH REFORM CONSENSUS ACT

(Mr. BILIRAKIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILIRAKIS. Mr. Speaker, the question on everyone's mind these days is will health legislation be enacted into law this year?

The answer is quite simple. Sensible and practical health reform legislation can become law this year, legislation that includes concepts that everyone agrees should be included in any health reform package.

The Rowland-Bilirakis Health Reform Consensus Act will provide health care to individuals now. Under our bill, people can receive coverage regardless of income level or health history—immediately.

For those who work, employers are required to offer, but not pay for, health insurance coverage. Community health networks are also created to provide preventative, primary and acute care to everyone, regardless of income level.

Our bill provides practical solutions to everyday problems people have encountered in our current health care system. Mr. Speaker, no one can argue that preexisting condition restrictions must be eliminated. Our bill would prohibit these restrictions.

And everyone agrees that insurance portability is necessary—people should not be afraid to switch jobs due to fear of losing their health insurance.

The consensus health bill is the most sensible and reasonable approach to reforming our Nation's health care system. It provides real-life solutions to real Americans now. I urge my colleagues to support this commonsense approach to health care reform.

THE BEAR THAT HAS EVERYTHING

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, sometimes you got the bear and sometimes the bear has got you. A zoo in New York is spending $25,000 to cure a neurotic bear. That is right, zoo officials said the neuroses of this carnivore is unbearable. A $1 million environment with sloped walls, a special pool, a cave, inflatable toys, new teddies, everything, including medication. This bear is on Prozac.

Unbelievable, Mr. Speaker, when a bear has a $1 million environment, free health care, free home, free drugs, and Congress cuts Head Start and education. That says it all. Beam me up.

REJECT EMPLOYER MANDATES AND TRIGGER OPTIONS

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, the story about the bear was tough. It was grizzly.

I want to talk about health care actually. I want to talk about the debate in health care reform. As it continues, national attention has turned to employer mandates.

Republicans oppose employer mandates because of their adverse effect on small businesses, because they will cost millions of jobs, and because they translate into a payroll tax.

The President supports employer mandates because he believes they will lead to universal coverage. Democrats in Congress are divided, but many are intrigued by the concept of triggers.

Triggers are a form of mandates that go into effect when certain standards are not met in future years. But a trigger is an employer mandate by a different name. An employer mandate by any name hurts small business just as hard.

Mr. Speaker, I urge my colleagues to reject the employer mandates of the President's plan and the trigger options of other plans. We can reform our health care system without killing our small business sector.

DOMESTIC VIOLENCE IN AMERICA

(Mr. SANDERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANDERS. Mr. Speaker, it is disturbing that the death of Nicole Simpson, a tragedy affecting the rich and the famous, should be necessary to force us to take notice of the horror of domestic violence.

Mr. Speaker, 80 percent of homicides in Vermont involved domestic partners or family members. All of the six women slain in Vermont during 1993, died at the hands of an intimate partner or family member.

□ 1210

Nationally, 3 out of every 10 women who are victims of homicide were murdered by a spouse or an intimate partner, and every 15 seconds a woman is battered by her husband or a boyfriend.

Mr. Speaker, we have 17 programs in Vermont that work with victims of domestic violence and sexual assault, and 92 percent of the people who provide those services are volunteers. These volunteers, most of whom are women, are doing an extraordinary job in counseling and supporting the victims of domestic violence. But they need help.

Mr. Speaker, I have a number of serious problems with the crime bill, but one part of it that I vigorously support is the Violence Against Women Act. We urgently need the $1.8 billion in this bill to combat the epidemic of violence against women on the streets and in the homes of America.

BIPARTISANSHIP: THE POPULAR WAY TO REFORM

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, a recent Newsweek poll shows that Americans overwhelmingly reject the Clinton-style health reforms now being pushed through Congress. They think the Clinton plan would raise costs, reduce choices, and lead to rationing. Even so some top Democrats have vowed to push through health care regardless of the views of the American people. This is ridiculous, we need to stop and listen to the people's legitimate fears. Americans know that health reform is a complex task. They want us to go slow and get it right. And they want us to work together. The Rowland-Bilirakis bill is a bipartisan approach toward reform. It targets the obvious problems with widely supported, commonsense solutions. Simply put, it is the popular and smart place to begin this debate.

So let us focus our efforts on Rowland-Bilirakis and let Clinton health care rest in peace.

IN SUPPORT OF ROWLAND-BILIRAKIS

(Mr. PARKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PARKER. Mr. Speaker, in the final analysis, the consensus health care bill, which passes the Congress, must include rural America. The Rowland-Bilirakis bill addresses the urban versus rural question by establishing and expanding community health centers in rural and innercity areas.

Community health centers like private medical practices are staffed by physicians and other health care professionals. However, social services and public health education are provided.

Establishing new centers will allow more residents, regardless of their financial or insurance status, to be served. Patients who can pay, will pay on a sliding scale.

The centers will not offer episodic or second-class care. They will provide quality preventive and ongoing primary care, with referrals to local hospitals and specialty providers being allowed.

Further, the bill will provide education and training with internships on site in realistic training environments.

The community health care concept, with 1,200 centers already established, is a proven commodity which reduces the need for higher cost inpatient and emergency room treatments.

I support the Rowland-Bilirakis community health care bill and believe that it provides the framework for implementing health care reform within a realistic timeframe and must be a part of the final health care reform product the Congress passes.

FIRST, DO NO HARM

(Mr. HERGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERGER. Mr. Speaker, the Hippocratic oath, which all doctors take, says, "first, do no harm."

As Congress considers health care reform, many Americans fear losing benefits, rationing, or being unable to choose their own doctor once reform is actually enacted.

They also oppose burdensome new taxes, or turning one-seventh of our entire U.S. economy over to the Government.

The public is telling Congress their top priority under reform is that we make the same commitment doctors make: first, do no harm.

Mr. Speaker, there is one plan that preserves what is right with our health care system, while fixing what is wrong with it.

The Rowland-Bilirakis plan allows insurance portability and ends discrimination against preexisting medical conditions. It provides real malpractice reform, combats fraud, and provides incentives to make private insurance more affordable. Let us take this chance to adopt consensus reforms we all agree on. Support Rowland-Bilirakis.

IN SUPPORT OF ROWLAND-BILIRAKIS

(Mr. LAUGHLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAUGHLIN. Mr. Speaker, there is no reason why Congress cannot achieve very substantial reform of the country's health care delivery system this year.

The Rowland-Bilirakis bill is proof of this.

ROY ROWLAND and MIKE BILIRAKIS, with the advice and help of many of our colleagues in this body, have crafted legislation around reform proposals that just about everybody on both sides of the aisle can support.

It helps farmers and independent business people by providing 100 percent deductibility of health insurance for the self-employed.

It benefits small business by making private health insurance marketed to small employers more affordable and available regardless of an employee's health status and previous claims experience.

It reduces health care costs with malpractice liability reform, administrative streamlining, and antifraud reforms.

It expands care through insurance reforms and by paving the way for an expansion of community health care centers.

Nevertheless, the one criticism we hear about this plan is that it does not do enough.

This misses the point. Those who support this consensus approach have never said it is the be all and end all of health care reform. It is, instead, a starting point.

If you believe more can be achieved by getting people to begin working together in an environment of bipartisan cooperation, rather than one of political divisiveness, then the Rowland-Bilirakis bill provides a sound basis on which to focus the debate.

Mr. Speaker, I urge our colleagues to fully consider the consensus approach and make certain we achieve as much progress as possible in health care reform this year. Support the Rowland-Bilirakis bill.

IN SUPPORT OF ROWLAND-BILIRAKIS

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, as a proud cosponsor of the Rowland-Bilirakis health care bill, I would like to note the unique approach taken. They looked at the problems that people have in health care and addressed the problems without trying to turn one-seventh of the economy over to the Federal Government. It addresses insurance reform, such as portability and permanence and pooling and preexisting conditions.

It has real legal reform, and one of the salient points of it is this, it expands from 1,200 to 3,600 the number of community health care centers in America. I have a community health care center in my district. They have about 25,000 patients on the payload. They see about 12,500 people every year. They are subsidized by the taxpayer, to the tune of $750,000 a year, about half their entire budget. That comes to $30 a year per patient. That is a burden that I believe Americans are willing to pay to help those who cannot afford insurance.

They treat the working poor, not Medicaid or Medicare, and anyone in this room can go into a community health center tomorrow and be treated and they will charge you something or nothing, depending on your ability to pay. It has the additional advantage of being able to place these communities' health centers in the rural areas and the inner cities where they are needed the most.

DOMESTIC VIOLENCE ISN'T JUST A PRIVATE MATTER

(Mr. KREIDLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KREIDLER. Mr. Speaker, the murder of Nicole Brown Simpson has raised important issues about violence against women.

Domestic violence is not just a family matter any more. It has become a public health emergency. Battering is the No. 1 cause of injury to women in this country.

Every year, more than 1 million women seek medical treatment for wounds inflicted by the men who supposedly love them.

I am pleased that Congress passed legislation I sponsored last year to develop a program at the Centers for Disease Control to address violence against women.

Funding for this program is included in the Labor-HHS appropriations bill we will be voting on this week.

In addition, we must pass the crime bill, which includes the Violence Against Women Act. But ending this violence requires a commitment from all of us—to speak out against abuse and to hold abusers accountable.

I urge my colleagues to support these efforts to help stop violence against women.

HEALTH CARE REFORM THAT THE AMERICAN PEOPLE WANT AND DESERVE

(Mr. GREENWOOD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREENWOOD. Mr. Speaker, the nationwide opinion polls tell us that the American people want health care reform. These same polls also demonstrate, however, that Americans do not want a bureaucratic, Government-driven, job-killing health care system that takes away their choices, jeopardizes the quality of their care, and piles on more deficit spending.

After months of public hearings and a full-scale national debate, it is now plainly evident that the President's proposal, even with modifications, is not supported by the public and cannot even attract enough support from congressional Democrats.

It is time for us to do what the American people want us to do: Pass sensible, reasonable health care reform that expands access, holds down costs, and yet preserves what is good about our health care system. That's why I am a cosponsor and strong supporter of H.R. 3955, the Health Reform Consensus Act of 1994, commonly referred to as the Rowland-Bilirakis proposal.

I believe this bipartisan initiative represents the best approach to reforming our health care system. It seeks to fix those elements of the system that actually need to be fixed, rather than creating an entirely new and costly Government bureaucracy.

We are running out of time. It is time to set aside our differences and accomplish the reforms upon which we agree. I urge the President and leaders of the House to pass Rowland-Bilirakis and give the country the kind of health care reform it really wants.

□ 1220

STAFF CHANGES STRENGTHEN THE WHITE HOUSE AND HEALTH CARE REFORM MEANS GUARANTEED COVERAGE

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, one Member of the minority referred to the White House staff changes as rearranging the deck chairs of the *Titanic*. Nothing could be farther from the truth. An already strong White House staff has been strengthened by yesterday's moves.

Mack McLarty has been extremely successful in his dealings with Congress. Specifically, on NAFTA, and with a number of positive initiatives on the President's economic plan, McLarty has proven his skill and worth. Now in his new position, he will have more time to comment to issues like these. Freed from the administrative aspects of his job, I believe McLarty will be even more invaluable to President Clinton.

In Leon Panetta, a former Member of Congress, we have someone who, like us, has represented ordinary people. He know the executive branch, the House of Representatives, and the Senate. He also knows budget issues, is politically able, and is a good administrator.

Mr. Speaker, the White House staff has been strengthened, but it is unfortunate that even administrative changes, staff changes, are politicized.

Additionally, Mr. Speaker, last week, President Clinton made it clear that guaranteed private insurance for every American was his bottom line on health care reform. It is his bottom line because without guaranteed coverage, there can be no real reform.

Guaranteed coverage is key because while we don't have guaranteed insurance today, we do have guaranteed coverage. What that means is that whenever somebody shows up at an emergency room for treatment, they get treated. Then, the middle class, those who are paying for health insurance, get saddled with the bill.

One insurance company executive said recently that uncompensated care accounted for almost one-half of last year's cost increases.

The losers in this game of cost-shifting are the hard-working families and employers who are currently paying for health insurance—both for themselves and for those without health insurance.

Mr. Speaker, only by creating a system where everybody is covered and pays their fair share can costs be spread fairly and evenly. Only by eliminating the free subsidies can we eliminate this invisible tax on the American middle class.

WHOSE FAULT IS IT THIS TIME?

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, today's Washington Post writes about its own latest poll results that "increasing numbers of Americans said Clinton was a mistake-prone leader lacking in decisiveness and losing his sense of the real problems facing families."

The poll reveals only half the public approves of the President's job performance; and when it comes to specifics, the message is even worse.

On the economy, 42 percent say it is getting worse and only 39 percent think it is getting better. And on health care, over half the population—53 percent—reject the President's plan.

The question all this bad news raises is: Whose fault is it this time? Last week, when confronted with bad news, the President and his defenders lashed out at the so-called Religious Right and the news media as being responsible for their failures.

Today, we find that the President is again reshuffling his staff.

With this White House, like a losing card player staring from behind his dwindling stack of chips, it always seems to be the cards that are the problem, rather than the problem being who holds the cards.

GUARANTEED UNIVERSAL COVERAGE IS AN ESSENTIAL PART OF HEALTH CARE REFORM

(Mr. FAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO. Mr. Speaker, Democrats have made it clear that we will not accept health care reform without guaranteed coverage for every American. But some would have you believe that the only people who benefit from this approach are the poor and the uninsured.

However, if you look at the facts, it is clear that guaranteeing coverage for every American is not an act of charity—it is an act of necessity, for every working family.

However, the other side of the aisle just does not get it, again. Just recently, a distinguished Member of the other body threatened to filibuster and effectively block health care reform saying that, "The Clinton Plan and its clone the Kennedy plan, are in my view poison. They must be defeated, even at the cost of gridlock. Yes, filibuster, if that is what it takes * * *."

Hard-working, middle class families who have health insurance today would benefit from health care reform. Because they will not have to worry about their insurance being canceled, or their rates being raised through the roof.

Covering everybody is about leveling the playing field. It is about saving families money. And, it is about businesses not having to pay the hidden costs of the uninsured, saving billions of dollars that can be passed on to employees as wage increases or better job training.

The vast majority of Americans believe in the principle of universal private health insurance that can never be taken away. It is our duty as their representatives to make sure that they get it.

OPINION POLL SHOWS AMERICANS OPPOSED TO THE CLINTON HEALTH PLAN

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, I listened with interest to the remarks of the distinguished gentleman from California [Mr. FAZIO], and all I can say is that I frankly do not understand the Democratic leadership's current position on health care.

The poll in the Washington Post this morning says 53 percent of the country is opposed to the Clinton health plan, 53 percent are opposed. The latest report we have from the Committee on Ways and Means is that the new House Democratic leadership bill has a brandnew tax on our health insurance; that is, if we already have health insurance, we are going to have a brandnew tax imposed on us so we can pay a tax to go to the Government for the right of having our own health insurance, and this is supposedly going to somehow lower to cost to working Americans.

We have an example today coming to the floor of two big telecommunications bills we are going to pass on a bipartisan basis because we worked together with good faith in an honest, open way. Mr. Speaker, I beg the Democratic leadership to pull back from these big tax, big Government, big bureaucracy health bills, approach it in the same open, bipartisan way, work with the people who are sponsoring the Rowland-Bilirakis bill, which is a bipartisan bill; work with those of us on the Republican side who want to pass a bipartisan health bill, but please do not try to ram through and force on the American people a tax increase, big Government health bill.

THE AMERICAN PEOPLE SUPPORT MAJOR FEATURES OF HEALTH CARE REFORM

(Mr. KLECZKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLECZKA. Mr. Speaker, I yield to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, I appreciate my colleague, the gentleman from Wisconsin [Mr. KLECZKA] yielding time to me.

I think it is important to understand what was really included in the poll that was reported in the Washington Post today. Mr. Speaker, it said that 58 to 38, people in this country think the health care system needs a major overhaul, not just a tuneup. An overwhelming majority are for the core principles of the President's plan, which are universal coverage and a mandate that makes all responsible for health care.

Seventy-eight to twenty, people agree with the President's bottom line, universal coverage. Seventy-two to twenty-seven percent say that employers should be required to provide health insurance for their full-time workers. Sixty-one percent to thirty-seven percent support charging people more for plans that provide a choice of doctors than those with assigned doctors. Seventy-five percent support some kind of controls on costs.

It seems to me that the people who have interpreted the news this morning have done so from their own perspective and have ignored the facts that are on the record. That is that the American people know there is something fundamentally wrong with our system, know they have a lot to gain to fix it, and are very willing, when we look at the components of the President's plan, to embrace the initiative that he has brought to Congress.

NO MORE SECRET HEALTH CARE REFORM PLANS

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, what is clear about the health care plan is that the longer it sticks around and people get to understand it, the more they get unhappy about what the Clinton plan is all about. What we know about the Clinton plan, Mr. Speaker, is it was written in secret by Mrs. Clinton's operation that went behind closed doors and drafted this health care plan, and after middle-class America became familiar with it, they decided that it was not exactly what they wanted in order to get reform.

Now what we find, Mr. Speaker, is that the Democratic leadership of the House of Representatives is about to pull the same thing, that once they get a bill out of the Committee on Education and Labor and one out of the Committee on Ways and Means, they are likely to go behind closed doors of the Committee on Rules and try to write a plan that also includes the Committee on Energy and Commerce, that cannot get one out of its own committee.

What we are going to have, Mr. Speaker, is another plan drafted in secret, and then there is going to be a hope that nobody will really know what is in it by the time we pass it. Mr. Speaker, that is what we cannot have happen. Middle-class America wants whatever health care plan emerges written in public, with the press present and with everybody understanding what the details of the plan are. Secret plans to reform 14 percent of the GNP and also to do something that will affect the lives of every American are not right. No health care plan should be written in secret.

□ 1230

SIMPLIFY FEDERAL TAX CODE

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, the Washington Post has now reported that one of the agencies the worst at recordkeeping is the Internal Revenue Service itself.

The Post story was based on a report issued last week by the General Accounting Office.

The story says:

> The Internal Revenue Service, which demands that taxpayer be able to produce records to back up all claims of income and deductions, could not live up to that standard itself * * *

According to the GAO, the IRS has "ineffective internal controls and unreliable information."

There were so many missing records at the IRS that the GAO investigators said they "were unable to express an opinion of the reliability" of the IRS information.

Once again, we see the arrogance and ineptitude of big Government.

Senator JOHN GLENN said:

> It troubles me that G.A.O. could not issue an audit opinion on the I.R.S. financial statements because the I.R.S. can't get its own books in order. I, and American taxpayers, find this extremely unfair.

We need to greatly simplify our Federal Tax Code.

And we need to realize that if we really want effective government, instead of one filled with waste, fraud, and abuse, our best hope will be at the local level where the government is closer to the people.

The Federal Government seems to screw up almost everything it gets into.

SETTING THE RECORD STRAIGHT ON HEALTH CARE

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute.)

Mr. GLICKMAN. Mr. Speaker, I yield to my colleague, the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, there are two statements I think have to be responded to by two previous speakers:

No. 1 was the fact the health care bill being put together now by the Committee on Ways and Means contains a tax for health care benefits. That is totally false and the gentleman from Georgia [Mr. GINGRICH] knows that.

The second contention was that this bill is being written in private. However, every day for the last 2½ weeks, the committee has met in room 1100 with three or four cameras present, with a roomful of not only press people but, they know full well, tons of lobbyists opposing the legislation.

Mr. Speaker, the contention that this is being written in private is total nonsense. The gentleman from California [Mr. FAZIO] indicated 72 percent of the people of this country believe that the employer has some responsibility in this thing called health care.

I challenge my Republican colleagues who oppose employer mandates to give up their employer mandate and pay the full price instead of having the taxpayers pay 73 percent of their health care bill.

COOPERATION URGED IN HEALTH CARE REFORM

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, as we go into the home stretch before the August recess. I think it is time not for Members of the House to get into this, "Well, the Republicans are saying this, the Democrats are saying this." That is not what the people want to hear. What they want to hear is that we are going to do what is best and what is right. We may disagree, but that does not mean we are wrong, that does not mean we are bad. Let us find out what we agree on and put the best of the Republican ideas and the best of the Democrat ideas together.

Mr. Speaker, the Rowland-Bilirakis health care bill is a significant first step. It is something we can all go home with. No, it is not going to have universal coverage for every American. I think that is a great idea of the President, but the fact is we still have a $4.4 trillion debt we have to contend with and before we go and obligate a huge, massive new social program, we have got to say, this is what we are going to do about the debt.

Mr. Speaker, let us start out with the Roland-Bilirakis bill. It is a bipartisan bill that has antitrust reform, malpractice reform, and doing away with the preexisting illness conditions of a policy. It is a good start.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules.

JOHN F. KENNEDY CENTER ACT AMENDMENTS OF 1994

Mr. TRAFICANT. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 3567), to amend the John F. Kennedy Center Act to transfer operating responsibilities to the Board of Trustees of the John F. Kennedy Center for the Performing Arts, and for other purposes.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "John F. Kennedy Center Act Amendments of 1994".

SEC. 2. FINDINGS, BUREAU, BOARD OF TRUSTEES, AND ADVISORY COMMITTEE.

(a) FINDINGS.—Section 1 of the John F. Kennedy Center Act (20 U.S.C. 76h note) is amended—

(1) by striking "SECTION 1." and inserting the following:

"SECTION 1. SHORT TITLE AND FINDINGS.

"(a) SHORT TITLE.—"; and

(2) by adding at the end the following new subsection:

"(b) FINDINGS.—Congress finds that—

"(1) the late John Fitzgerald Kennedy served with distinction as President of the United States and as a Member of the Senate and the House of Representatives;

"(2) by the untimely death of John Fitzgerald Kennedy the United States and the world have suffered a great loss;

"(3) the late John Fitzgerald Kennedy was particularly devoted to education and cultural understanding and the advancement of the performing arts;

"(4) it is fitting and proper that a living institution of the performing arts, designated as the National Center for the Performing Arts, named in the memory and honor of this great leader, shall serve as the sole national monument to his memory within the District of Columbia and its environs;

"(5) such a living memorial serves all of the people of the United States by preserving, fostering, and transmitting the performing arts traditions of the people of the United States and other countries by producing and presenting music, opera, theater, dance, and other performing arts; and

"(6) such a living memorial should be housed in the John F. Kennedy Center for the Performing Arts, located in the District of Columbia.".

(b) EX OFFICIO TRUSTEES.—

(1) IN GENERAL.—Section 2 of such Act (20 U.S.C. 76h) is amended—

(A) by striking the section heading and all that follows before "There is hereby" and inserting the following:

"SEC. 2. BOARD OF TRUSTEES.

"(a) ESTABLISHMENT.—";

(B) in the first sentence, by inserting "as the National Center for the Performing Arts, a living memorial to John Fitzgerald Kennedy," after "thereof"; and

(C) in the second sentence—

(i) by striking "Chairman of the District of Columbia Recreation Board" and inserting "Superintendent of Schools of the District of Columbia"; and

(ii) by striking "three Members of the Senate" and all that follows before "ex officio" and inserting "the chairman and ranking minority member of the Committee on Public Works and Transportation of the House of Representatives and 3 additional Members of the House of Representatives appointed by the Speaker of the House of Representatives, and the chairman and ranking minority member of the Committee on Environment and Public Works of the Senate and 3 additional Members of the Senate appointed by the President of the Senate".

(2) EFFECTIVE DATES.—

(A) SUPERINTENDENT OF SCHOOLS OF THE DISTRICT OF COLUMBIA.—The amendment made by paragraph (1)(C)(i) shall take effect on the date of expiration of the term of the Chairman of the District of Columbia Recreation Board serving as a trustee of the John F. Kennedy Center for the Performing Arts on the date of enactment of this Act.

(B) MEMBERS OF CONGRESS.—The amendment made by paragraph (1)(C)(ii) shall take effect on the date of enactment of this Act.

(c) GENERAL TRUSTEES.—Subsection (b) of section 2 of such Act is amended to read as follows:

"(b) GENERAL TRUSTEES.—The general trustees shall be appointed by the President of the United States. Each trustee shall hold office as a member of the Board for a term of 6 years, except that—

"(1) any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of the member was appointed shall be appointed for the remainder of the term;

"(2) a member shall continue to serve until the successor of the member has been appointed; and

"(3) the term of office of a member appointed before the date of enactment of the John F. Kennedy Center Act Amendments of 1994 shall expire as designated at the time of appointment.".

(d) ADVISORY COMMITTEE ON THE ARTS.—Section 2(c) of such Act is amended—

(1) by inserting "ADVISORY COMMITTEE ON THE ARTS.—" before "There shall be";

(2) in the first sentence, by inserting "of the United States" after "President" the first place it appears;

(3) in the fifth sentence, by striking "cultural activities to be carried on in" and inserting "cultural activities to be carried out by"; and

(4) in the last sentence, by striking all that follows "compensation" and inserting a period.

SEC. 3. DUTIES OF THE BOARD.

Section 4 of the John F. Kennedy Center Act (20 U.S.C. 76j) is amended by striking the section heading and all that follows through the period at the end of subsection (a) and inserting the following:

"SEC. 4. DUTIES OF THE BOARD.

"(a) PROGRAMS, ACTIVITIES, AND GOALS.—

"(1) IN GENERAL.—The Board shall—

"(A) present classical and contemporary music, opera, drama, dance, and other performing arts from the United States and other countries;

"(B) promote and maintain the John F. Kennedy Center for the Performing Arts as the National Center for the Performing Arts—

"(i) by developing and maintaining a leadership role in national performing arts education policy and programs, including developing and presenting original and innovative performing arts and educational programs for children, youth, families, adults, and educators designed specifically to foster an appreciation and understanding of the performing arts;

"(ii) by developing and maintaining a comprehensive and broad program for national and community outreach, including establishing model programs for adaptation by other presenting and educational institutions; and

"(iii) by conducting joint initiatives with the national education and outreach programs of the Very Special Arts, an entity affiliated with the John F. Kennedy Center for the Performing Arts which has an established program for the identification, development, and implementation of model programs and projects in the arts for disabled individuals;

"(C) strive to ensure that the education and outreach programs and policies of the John F. Kennedy Center for the Performing Arts meet the highest level of excellence and reflect the cultural diversity of the United States;

"(D) provide facilities for other civic activities at the John F. Kennedy Center for the Performing Arts;

"(E) provide within the John F. Kennedy Center for the Performing Arts a suitable memorial in honor of the late President;

"(F) develop, and update annually, a comprehensive building needs plan for the features of the John F. Kennedy Center for the Performing Arts in existence on the date of enactment of the John F. Kennedy Center Act Amendments of 1994;

"(G) with respect to each feature of the building and site of the John F. Kennedy Center for the Performing Arts that is in existence on the date of enactment of the John F. Kennedy Center Act Amendments of 1994 (including a theater, the garage, the plaza, or a building walkway), plan, design, and construct each capital repair, replacement, improvement, rehabilitation, alteration, or modification necessary for the feature; and

"(H) provide—

"(i) information and interpretation; and

"(ii) with respect to each feature of the building and site of the John F. Kennedy Center for the Performing Arts that is in existence on the date of enactment of the John F. Kennedy Center Act Amendments of 1994 (including a theater, the garage, the plaza, or a building walkway), all necessary maintenance, repair, and alteration of, and all janitorial, security, and other services and equipment necessary for the operation of, the feature, in a manner consistent with requirements for high quality operations.

"(2) ADMINISTRATIVE POWERS AND DUTIES.—

"(A) AUTHORITY TO ENTER INTO CONTRACTS.—The Board, in accordance with applicable law, may enter into contracts or other arrangements with, and make payments to, public agencies or private organizations or other private persons in order to carry out the functions of the Board under this Act. The authority described in the preceding sentence includes utilizing the services and facilities of other agencies, including the Department of the Interior, the General Services Administration, and the Smithsonian Institution.

"(B) PREPARATION OF BUDGET.—The Board shall prepare a budget pursuant to sections 1104, 1105(a), and 1513(b) of title 31, United States Code.

"(C) USE OF AGENCY PERSONNEL.—The Board may utilize or employ the services of the personnel of any agency or instrumentality of the Federal Government or the District of Columbia, with the consent of the agency or the instrumentality concerned, on a reimbursable basis, and utilize voluntary and uncompensated personnel.

"(D) SELECTION OF CONTRACTORS.—In carrying out the duties of the Board under this Act, the Board may negotiate any contract for an environmental system for, a protection system for, or a repair to, maintenance of, or restoration of the John F. Kennedy Center for the Performing Arts with selected contractors and award the contract on the basis of contractor qualifications as well as price.

"(E) MAINTENANCE OF HALLS.—The Board shall maintain the Hall of Nations, the Hall of States, and the Grand Foyer of the John F. Kennedy Center for the Performing Arts in a manner that is suitable to a national performing arts center that is operated as a Presidential memorial and in a manner consistent with other national Presidential memorials.

"(F) MAINTENANCE OF GROUNDS.—The Board shall manage and operate the grounds of the John F. Kennedy Center for the Performing Arts in a manner consistent with National Park Service regulations and agreements in effect on the date of enactment of the John F. Kennedy Center Act Amendments of 1994. No change in the management and operation of the grounds may be made without the express approval of Congress and of the Secretary of the Interior.".

SEC. 4. OFFICERS AND EMPLOYEES; REVIEW OF BOARD ACTIONS.

(a) SOLICITATION AND ACCEPTANCE OF GIFTS.—Section 5 of the John F. Kennedy Center Act (20 U.S.C. 76k) is amended—

(1) by striking the section heading and all that follows through "(a)" and inserting the following:

"SEC. 5. POWERS OF THE BOARD.

"(a) SOLICITATION AND ACCEPTANCE OF GIFTS.—"; and

(2) in subsection (a), by striking "Smithsonian Institution" and inserting "John F. Kennedy Center for the Performing Arts, as a bureau of the Smithsonian Institution,".

(b) APPOINTMENT OF OFFICERS AND EMPLOYEES.—Subsection (b) of section 5 of such Act is amended to read as follows:

"(b) APPOINTMENT OF OFFICERS AND EMPLOYEES.—

"(1) CHAIRPERSON AND SECRETARY.—The Board shall appoint and fix the compensation and duties of a Chairperson of the John F. Kennedy Center for the Performing Arts, who shall serve as the chief executive officer of the Center, and a Secretary of the John F. Kennedy Center for the Performing Arts. The Chairperson and Secretary shall be well qualified by experience and training to perform the duties of their respective offices.

"(2) SENIOR LEVEL EXECUTIVE AND OTHER EMPLOYEES.—The Chairperson of the John F. Kennedy Center for the Performing Arts may appoint—

"(A) a senior level executive who, by virtue of the background of the individual, shall be well suited to be responsible for facilities management and services and who may, without regard to the provisions of title 5, United States Code, be appointed and compensated with appropriated funds, except that the compensation may not exceed the maximum rate of pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and

"(B) such other officers and employees of the John F. Kennedy Center for the Performing Arts as may be necessary for the efficient administration of the functions of the Board.".

(c) TRANSFERS; REVIEW OF BOARD ACTIONS.—Section 5 of such Act is amended by striking subsection (c) and inserting the following new subsections:

"(c) TRANSFER OF PROPERTY.—Not later than October 1, 1995, the property, liabilities, contracts, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions transferred from the Secretary of the Interior pursuant to the amendments made by the John F. Kennedy Center Act Amendments of 1994 shall be transferred, subject to section 1531 of title 31, United States Code, to the Board as the Board and the Secretary of the Interior may determine appropriate. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which, and subject to the terms under which, the funds were originally authorized and appropriated.

"(d) TRANSFER OF PERSONNEL.—

"(1) IN GENERAL.—Employees of the National Park Service assigned to duties related to the functions being undertaken by the Board shall be transferred with their functions to the Board not later than October 1, 1995.

"(2) RIGHTS AND BENEFITS.—Transferred employees shall remain in the Federal competitive service and retain all rights and benefits provided under title 5, United States Code. For a period of not less than 3 years after the date of transfer of an employee under paragraph (1), the transferred employee shall retain the right of priority consideration under merit promotion procedures or lateral reassignment for all vacancies within the Department of the Interior.

"(3) PARK POLICE.—All United States Park Police and Park Police guard force employees assigned to the John F. Kennedy Center for the Performing Arts shall remain employees of the National Park Service.

"(4) COSTS.—All usual and customary costs associated with any adverse action or grievance proceeding resulting from the transfer of functions under this section that are incurred before October 1, 1995, shall be paid from funds appropriated to the John F. Kennedy Center for the Performing Arts.

"(5) REORGANIZATION AUTHORITY.—Nothing contained in this section shall prohibit the Board from reorganizing functions at the John F. Kennedy Center for the Performing Arts in accordance with laws governing reorganizations.

"(e) REVIEW OF BOARD ACTIONS.—The actions of the Board relating to performing arts and to payments made or directed to be made by the Board from any trust funds shall not be subject to review by any officer or agency other than a court of law.

"(f) COLLECTIVE BARGAINING.—

"(1) DEFINITION.—As used in this subsection, the term 'theatrical employee' means a nonappropriated fund employee of the Board, who is engaged in a box office, performing, or theatrical trade that is the subject of a collective bargaining agreement as of January 1, 1994, including any change in the trade as a result of a technological advance.

"(2) COLLECTIVE BARGAINING.—

"(A) IN GENERAL.—For the purposes of the National Labor Relations Act (29 U.S.C. 151 et seq.) and the Labor-Management Relations Act, 1947 (29 U.S.C. 141 et seq.)—

"(i) each theatrical employee shall be considered to be an 'employee' within the meaning of section 2(3) of the National Labor Relations Act (29 U.S.C. 152(3)); and

"(ii) with respect to a theatrical employee, the Board shall be considered to be an 'employer' within the meaning of section 2(2) of the National Labor Relations Act (29 U.S.C. 152(2)).

"(B) RIGHTS AND OBLIGATIONS.—With respect to each theatrical employee, the theatrical employee and the Board shall have all of the rights and obligations specified in such Acts.".

SEC. 5. REVIEWS, AUDITS, AND CLAIMS.

Section 6 of the John F. Kennedy Center Act (20 U.S.C. 76l) is amended—

(1) in subsection (c), by striking "its operations" and inserting "the operations of the Board"; and

(2) by striking subsections (e) and (f) and inserting the following new subsections:

"(d) AUDIT OF ACCOUNTS.—Not less than once every 3 years, the Comptroller General shall review and audit the accounts of the John F. Kennedy Center for the Performing Arts for the purpose of examining expenditures of funds appropriated under the authority provided by this Act.

"(e) INSPECTOR GENERAL.—The functions of the Board funded by funds appropriated pursuant to section 12 shall be subject to the requirements for a Federal entity under the Inspector General Act of 1978 (5 U.S.C. App. 3). The Inspector General of the Smithsonian Institution is authorized to carry out the requirements of such Act on behalf of the Board, on a reimbursable basis when requested by the Board.

"(f) PROPERTY AND PERSONNEL COMPENSATION.—

"(1) IN GENERAL.—The Board may procure insurance against any loss in connection with the property of the Board and other assets administered by the Board. Each employee and volunteer of the Board shall be considered to be a

civil employee of the United States (within the meaning of the term 'employee' as defined in section 8101(1) of title 5, United States Code), except that the Board shall continue to provide benefits with respect to any disability or death resulting from a personal injury to a nonappropriated fund employee of the Board sustained while in the performance of the duties of the employee for the Board pursuant to the workers compensation statute of the jurisdiction in which the John F. Kennedy Center for the Performing Arts is located. The disability or death benefits referred to in the preceding sentence, whether under the workers compensation statute referred to in the preceding sentence or under chapter 81 of title 5, United States Code, shall continue to be the exclusive liability of the Board and the United States with respect to all employees and volunteers of the Board.

"(2) FEDERAL TORT CLAIMS.—For the purposes of chapter 171 of title 28, United States Code, an employee of the Board shall be considered to be an 'employee of the government' and the Board shall be considered to be a 'Federal agency'. No employee of the Board may bring suit against the United States or the Board under the Federal tort claims procedure of chapter 171 of title 28, United States Code, for disability or death resulting from personal injury sustained while in the performance of the duties of the employee for the Board.".

SEC. 6. TECHNICAL AMENDMENTS.

Section 10 of the John F. Kennedy Center Act (20 U.S.C. 76p) is amended—

(1) by striking "he" and inserting "the Secretary"; and

(2) by striking "his judgment" and inserting "the judgment of the Secretary".

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

The John F. Kennedy Center Act (20 U.S.C. 76h et seq.) is amended by adding at the end the following new section:

"SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

"(a) MAINTENANCE, REPAIR, AND SECURITY.—There are authorized to be appropriated to the Board to carry out section 4(a)(1)(H) $12,000,000 for each of fiscal years 1995 through 1999.

"(b) CAPITAL PROJECTS.—There are authorized to be appropriated to the Board to carry out subparagraphs (F) and (G) of section 4(a)(1) $9,000,000 for each of fiscal years 1995 through 1999.

"(c) LIMITATION ON USE OF FUNDS.—No funds appropriated pursuant to this section may be used for any direct expense incurred in the production of a performing arts attraction, for personnel who are involved in performing arts administration (including any supply or equipment used by the personnel), or for production, staging, public relations, marketing, fundraising, ticket sales, or education. Funds appropriated directly to the Board shall not affect nor diminish other Federal funds sought for any performing arts function and may be used to reimburse the Board for that portion of costs that are Federal costs reasonably allocated to building services and theater maintenance and repair.".

SEC. 8. DEFINITIONS.

The John F. Kennedy Center Act (20 U.S.C. 76h et seq.) (as amended by section 7) is further amended by adding at the end the following new section:

"SEC. 13. DEFINITIONS.

"As used in this Act, the terms 'building and site of the John F. Kennedy Center for the Performing Arts' and 'grounds of the John F. Kennedy Center for the Performing Arts' refer to the site in the District of Columbia on which the John F. Kennedy Center building is constructed and that extends to the line of the west face of the west retaining walls and curbs of the Inner Loop Freeway on the east, the north face of the north retaining walls and curbs of the Theodore Roosevelt Bridge approaches on the south, the east face of the east retaining walls and curbs of Rock Creek Parkway on the west, and the south curbs of New Hampshire Avenue and F Street on the north, as generally depicted on the map entitled 'Transfer of John F. Kennedy Center for the Performing Arts', numbered 844/82563, and dated April 20, 1994, which shall be on file and available for public inspection in the office of the National Capital Region, National Park Service, Department of the Interior.".

SEC. 9. RULES AND REGULATIONS.

(a) AUTHORITY TO PRESCRIBE.—Section 5(a) of the Act of October 24, 1951 (65 Stat. 634; chapter 559; 40 U.S.C. 193r(a)), is amended—

(1) by striking "Institution and" and inserting "Institution,"; and

(2) by inserting ", and the Trustees of the John F. Kennedy Center for the Performing Arts," after "National Gallery of Art".

(b) AUTHORITY TO SUSPEND.—Section 8 of such Act (40 U.S.C. 193u) is amended by striking "the Secretary of the Smithsonian Institution or the Trustees of the National Gallery of Art or" each place it appears and inserting "the Secretary of the Smithsonian Institution, the Trustees of the National Gallery of Art, the Trustees of the John F. Kennedy Center for the Performing Arts, or".

(c) BUILDINGS AND GROUNDS DEFINED.—Section 9 of such Act (40 U.S.C. 193v) is amended by adding at the end the following new paragraph:

"(3) The site of the John F. Kennedy Center for the Performing Arts, which shall be held to extend to the line of the west face of the west retaining walls and curbs of the Inner Loop Freeway on the east, the north face of the north retaining walls and curbs of the Theodore Roosevelt Bridge approaches on the south, the east face of the east retaining walls and curbs of Rock Creek Parkway on the west, and the south curbs of New Hampshire Avenue and F Street on the north, as generally depicted on the map entitled 'Transfer of John F. Kennedy Center for the Performing Arts', numbered 844/82563, and dated April 20, 1994, which shall be on file and available for public inspection in the office of the National Capital Region, National Park Service, Department of the Interior.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes, and the gentleman from Tennessee [Mr. DUNCAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3567 is a bill which is long overdue. This bill would amend the John F. Kennedy Center Act to transfer operating responsibilities to the Board of Trustees of the John F. Kennedy Center for the Performing Arts. For the first time, the Center will control not only its day to day operations but also will develop, manage, and implement a capital improvement program.

By authorizing the Center to carry out these responsibilities, this bill corrects long-standing deficiencies in the management and operation of the Center. The bifurcated management structure, which divided these responsibilities between the National Park Service and the Kennedy Center, proved to be cumbersome, expensive, and unworkable. Working closely with the Subcommittee on National Parks, chaired by Chairman BRUCE VENTO, we have been successful in coordinating and consolidating overall management responsibility with the Kennedy Center Board of Trustees.

The Senate amendment, to which the committee does not object, makes every minor technical changes, and preserves the rights of non-appropriated fund employees to engage in collective bargaining.

Mr. Speaker, this bill reinvents and reinvigorates the management of the John F. Kennedy Center, one of our Nation's most cherished and beloved public buildings. I wish to thank Chairman VENTO and acknowledge the cooperation of his committee. I also wish to thank our very capable chairman, NORMAN MINETA, for his support and guidance. Finally, in the spirit of bipartisanship, I thank Congressman JOHN DUNCAN for his support on this bill.

Mr. Speaker, I urge my colleagues to concur in the Senate amendment to H.R. 3567, as amended.

Mr. Speaker, I reserve the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3567, an act to amend the John F. Kennedy Center for the Performing Arts Act. On May 10, 1994, the House passed H.R. 3567 by voice vote and sent this legislation to the other body for its consideration. On June 27, 1994, H.R. 3567 passed the Senate, with minor clarifying, technical, and grammatical changes to the House passed bill. The action today will accept those changes, thus clearing the measure for the President's signature.

These amendments are long overdue for the successful and efficient program of operation and maintenance, as well as making capital improvements to the Kennedy Center. This legislation provides for long term planning by the Board of the Kennedy Center, and provides for autonomy, consistent with applicable Federal procurement and acquisition law, for the Board to contract for work to be performed. A total of $105 million over the next 5 fiscal years is authorized: $12 million per fiscal year over the next 5 years for operations and maintenance, and $9 million per fiscal year over the next 5 years of capital improvements. These figures are less than the Center has been receiving in recent years, but testimony before the Subcommittee on Public Buildings and Grounds by Mr. James Wolfensohn, Chairman of the Kennedy Center, assured the Members that these figures are sufficient to meet the requirements of the Center. Additionally, Mr. Wolfensohn has expressed a willingness to be accountable for the successful completion of the 5-year program for capital improvements.

I am also supporting this legislation because of the willingness of Mr. Wolfensohn and the Kennedy Center to seek private funding for the Center, and not simply rely on tax dollars for the performing arts functions of the Center. Since becoming chairman in March 1990, Mr. Wolfensohn has been responsible for raising $71,265,000 in private and corporate donations. This successful effort is particularly noteworthy given the difficult economic times in which these funds were secured.

This legislation also calls for the transfer of some 55 National Park Service employees, who will retain all rights of Federal employment, and will have the right to return to the Department of Interior without a loss of seniority. I congratulate Mr. TRAFICANT and Mr. MINETA for their work on this bill.

Mr. Speaker, I urge enactment of these needed changes to law and I urge my colleagues to accept this legislation.

Mr. Speaker, I yield back the balance of my time.

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Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge my colleagues to concur in the Senate amendment to H.R. 3567, as amended.

Mr. VENTO. Mr. Speaker, I rise in support of the bill. As members will recall, H.R. 3567 was approved by the House on May 10, 1994, after having been considered by both the Committee on Public Works and Transportation and the Committee on Natural Resources. The bill, as amended, will provide for a 5-year authorization for maintenance, repair, and capital projects at the John F. Kennedy Center for the Performing Arts in the District of Columbia. The bill also transfers all current National Park Service responsibilities and personnel to the Kennedy Center board of trustees. The center will function in the future as a bureau of the Smithsonian Institution, and funding for nonperforming arts purposes will be provided through an appropriation directly to the board of trustees.

I had some concerns about certain provisions of the bill as introduced, and the version approved by the Committee on National Resources made what I believe are significant improvements. First, the board of trustees will be required to provide for the center's management in a manner consistent with other National Presidential memorials. By law, and under this legislation, the center will remain a memorial to the late President. I believe we must have a clearly enunciated policy to ensure that the center meets the high standard fitting a National memorial.

Second, the bill requires the grounds to be managed consistent with current National Park Service regulations and agreements. While I agree that separation of powers is necessary and a positive step in accomplishing the required renovations, I remain concerned about the impact on surrounding National Park Service property. Because of the Kennedy Center's location amid heavily used and fragile National Park resources, I believe there should be continuity and consistency in the management of the grounds. The bill, as amended, requires the Kennedy Center to continue to manage the grounds according to current National Park Service regulations and agreements; any changes in such management must be approved by the secretary and enacted by Congress. This ensures the appropriate maintenance of both the building and the grounds while protecting the National Park Service interest in the surrounding property and open space.

Finally, the Committee on National Resources had included a provision referencing a map delineating the boundaries of the John F. Kennedy Center for the Performing Arts, which upon enactment would be under the jurisdiction of the board of trustees.

I understand that the Senate made some changes in the legislation, but I have reviewed their version, and am satisfied that the bill we are considering today retains those provisions advocated by the Committee on Natural Resources. I believe the version before us enables much needed improvements to be made to the Kennedy Center while protecting the interests of the National Park Service, and I urge my colleagues' support.

Mr. MINETA. Mr. Speaker, I rise in strong support of H.R. 3567, the John F. Kennedy Center Act Amendments of 1994, as amended. H.R. 3567 already passed the House on May 10, 1994. The Senate made some technical changes to the bill which we are concurring in at this time.

Mr. Speaker, today is indeed a historic occasion as this bill, by making significant changes to the John F. Kennedy Center Act, gives the Kennedy Center, for the first time, full responsibility for its own activities.

First of all, Mr. Speaker, I want to commend the gentleman from Ohio, the subcommittee chairman on Public Buildings and Grounds, Mr. TRAFICANT, and the subcommittee's ranking republican member, Mr. DUNCAN, for their fine leadership on this important measure. I would also like to recognize and thank the Committee on Natural Resources' Chairman GEORGE MILLER, ranking Republican DON YOUNG, Chairman BRUCE VENTO, and ranking Republican member JAMES HANSEN of their Subcommittee on Natural Parks, Forest, and Public Lands and their staffs for their cooperation and hard work on this measure. I am pleased that this bill enjoys such broad bipartisan support. It is truly a visionary piece of legislation.

H.R. 3567, the John F. Kennedy Center Act Amendments of 1994, as amended, represents months of sustained effort, coordination and hard work by both the Kennedy Center, primarily Mr. James Wolfensohn, chairman of the board at the John F. Kennedy Center for the Performing Arts, and his staff, and the Department of Interior, specifically Secretary Babbitt and the representatives from the National Park Service. They all deserve our praise and thanks.

The Kennedy Center, like the Smithsonian Institution and its other bureaus, is a unique trust instrumentality of the United States. The original Act establishes the Kennedy Center not only as a cultural arts center, but also charges it with the responsibility of administering a living memorial to President John F. Kennedy. Finally, it has a mandated mission to serve both the local and national community.

Currently, the management of operations and maintenance of the Kennedy Center is shared between the center's board of trustees and the National Park Service of the Department of Interior. Over the past 23 years since the building was constructed, there have been several building defects and maintenance problems. The Kennedy Center Board and the Park Service have tried to share responsibility for the nonperforming arts aspects of the Kennedy Center's operations. Unfortunately, this shared approach has not been as successful as both would have hoped.

This bill, as amended, addresses this fundamental issue by giving the Kennedy Center sole responsibility for its building and site. As such, the Center will receive directly the general fund appropriations necessary to fulfill its new responsibilities. Currently, the nonperforming arts functions of the Center are funded by appropriations to the Park Service.

With the passage of this historic bill, the Kennedy Center management will for the first time enjoy both the responsibility and accountability for its buildings, theaters, and its performing arts and education activities. But with the responsibility also comes the opportunity to set a vision for the future. The current Kennedy Center management welcomes its new challenge and we are proud to have helped frame its mandate.

Mr. Speaker, this legislation affirms once again the fundamental mission of the Nation's living memorial to President Kennedy and I strongly urge its adoption.

Mr. TRAFICANT. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Ohio [Mr. TRAFICANT] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 3567.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3567, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

ANTITRUST AND COMMUNICATIONS REFORM ACT OF 1994

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3626) to supersede the Modification of Final Judgment entered August

24, 1982, in the antitrust action styled *United States* v. *Western Electric*, Civil Action No. 82-0192, U.S. District Court for the District of Columbia; to amend the Communications Act of 1934 to regulate the manufacturing of Bell operating companies, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3626

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLES; TABLE OF CONTENTS.

(a) SHORT TITLE OF THIS ACT.—This Act may be cited as the "Antitrust and Communications Reform Act of 1994".

(b) SHORT TITLE OF TITLE I OF THIS ACT.—Title I of this Act may be cited as the "Antitrust Reform Act of 1994".

(c) TABLE OF CONTENTS.—

Sec. 1. Short titles; table of contents.

TITLE I—SUPERSESSION OF THE MODIFICATION OF FINAL JUDGMENT

Sec. 101. Authorization for Bell operating company to enter competitive lines of business.
Sec. 102. Authorization as prerequisite.
Sec. 103. Limitations on manufacturing and providing equipment.
Sec. 104. Anticompetitive tying arrangements.
Sec. 105. Enforcement.
Sec. 106. Definitions.
Sec. 107. Relationship to other laws.
Sec. 108. Required regulatory actions.

TITLE II—REGULATION OF MANUFACTURING, ALARM SERVICES, AND ELECTRONIC PUBLISHING BY BELL OPERATING COMPANIES

Sec. 201. Regulation of manufacturing by Bell operating companies.
Sec. 202. Regulation of entry into alarm monitoring services.
Sec. 203. Regulation of electronic publishing.
Sec. 204. Privacy of customer information.
Sec. 205. Telemessaging services.
Sec. 206. Enhanced services safeguards.

TITLE III—FEDERAL COMMUNICATIONS COMMISSION RESOURCES

Sec. 301. Authorization of appropriations.

TITLE I—SUPERSESSION OF THE MODIFICATION OF FINAL JUDGMENT

SEC. 101. AUTHORIZATION FOR BELL OPERATING COMPANY TO ENTER COMPETITIVE LINES OF BUSINESS.

(a) APPLICATION.—

(1) IN GENERAL.—After the applicable date specified in paragraph (2), a Bell operating company may apply to the Attorney General and the Federal Communications Commission for authorization, notwithstanding the Modification of Final Judgment—

(A) to provide alarm monitoring services, or

(B) to provide interexchange telecommunications services.

The application shall describe with particularity the nature and scope of the activity, and of each product market or service market, and each geographic market, for which authorization is sought.

(2) APPLICABLE DATES.—For purposes of paragraph (1), the applicable date after which a Bell operating company may apply for authorization shall be—

(A) the date of the enactment of this Act, with respect to providing interexchange telecommunications services, and

(B) the date that occurs 66 months after the date of the enactment of this Act, with respect to providing alarm monitoring services.

(3) INTERAGENCY NOTIFICATION.—Whenever the Attorney General or the Federal Communications Commission receives an application made under paragraph (1), the recipient of the application shall notify the other of such receipt.

(4) PUBLICATION.—Not later than 10 days after receiving an application made under paragraph (1), the Attorney General and the Federal Communications Commission jointly shall publish the application in the Federal Register.

(b) SEPARATE DETERMINATIONS BY THE ATTORNEY GENERAL AND THE FEDERAL COMMUNICATIONS COMMISSION.—

(1) COMMENT PERIOD.—Not later than 45 days after an application is published under subsection (a)(4), interested persons may submit written comments to the Attorney General, to the Federal Communications Commission, or to both regarding the application. Submitted comments shall be available to the public.

(2) INTERAGENCY CONSULTATION.—Before making their respective determinations under paragraph (3), the Attorney General and the Federal Communications Commission shall consult with each other regarding the application involved.

(3) DETERMINATIONS.—(A) After the time for comment under paragraph (1) has expired, but not later than 180 days after receiving an application made under subsection (a)(1), the Attorney General and the Federal Communications Commission each shall issue separately a written determination, on the record after an opportunity for a hearing, with respect to granting the authorization for which the Bell operating company has applied.

(B) Such determination shall be based on a preponderence of the evidence.

(C) Any person who would be threatened with loss or damage as a result of the approval of the authorization requested shall be permitted to participate as a party in the proceeding on which the determination is based.

(D)(i) The Attorney General shall approve the granting of the authorization requested in the application only to the extent that the Attorney General finds that there is no substantial possibility that such company or its affiliates could use monopoly power to impede competition in the market such company seeks to enter. The Attorney General shall deny the remainder of the requested authorization.

(ii) The Federal Communications Commission shall approve the granting of the requested authorization only to the extent that the Commission finds that granting the requested authorization is consistent with the public interest, convenience, and necessity. The Commission shall deny the remainder of the requested authorization.

(iii) Notwithstanding clauses (i) and (ii), not later than 180 days after the date of the enactment of this Act, the Attorney General and the Federal Communications Commission shall each prescribe regulations to establish procedures and criteria for the expedited determination and approval of applications for authorization to provide interexchange telecommunications services (other than services described in section 102(c)) that are incidental to the provision of another service which the Bell operating company may lawfully provide. Before prescribing such regulations, the Attorney General and the Commission shall consult with respect to such regulations, including consultation for the purpose of avoiding unnecessary inconsistencies in such regulations.

(E) In making its determination under subparagraph (D)(ii) regarding the public interest, convenience, and necessity, the Commission shall take into account—

(i) the probability that granting the requested authorization will secure reduced rates for consumers of the services that are the subject of the application, especially residential subscribers,

(ii) whether granting the requested authorization will result in increases in rates for consumers of exchange service,

(iii) the extent to which granting the requested authorization will expedite the delivery of new services and products to consumers,

(iv) the extent to which the Commission's regulations, or other laws or regulations, will preclude the applicant from engaging in predatory pricing or other anticompetitive economic practices with respect to the services that are the subject of the application,

(v) the extent to which granting the requested authorization will permit collusive acts or practices between or among Bell operating companies that are not affiliates of each other,

(vi) whether granting the requested authorization will result, directly or indirectly, in increasing concentration among providers of the service that is the subject of the application to such an extent that consumers will not be protected from rates that are unjust or unreasonable or that are unjustly or unreasonably discriminatory, and

(vii) in the case of an application to provide alarm monitoring services, whether the Commission has the capability to enforce effectively the regulations established pursuant to section 230 of the Communications Act of 1934 as added by this Act.

(F) A determination that approves the granting of any part of a requested authorization shall describe with particularity the nature and scope of the activity, and of each product market or service market, and each geographic market, to which approval applies.

(4) PUBLICATION.—Not later than 10 days after issuing a determination under paragraph (3), the Attorney General or the Federal Communications Commission, as the case may be, shall publish in the Federal Register a brief description of the determination.

(5) FINALITY.—A determination made under paragraph (3) shall be final unless a civil action with respect to such determination is timely commenced under subsection (c)(1).

(6) AUTHORIZATION GRANTED.—A requested authorization is granted to the extent that—

(A)(i) both the Attorney General and the Federal Communications Commission approve under paragraph (3) the granting of the authorization, and

(ii) neither of their approvals is vacated or reversed as a result of judicial review authorized by subsection (c), or

(B) as a result of such judicial review of either or both determinations, both the Attorney General and the Federal Communications Commission approve the granting of the requested authorization.

(c) JUDICIAL REVIEW.—

(1) COMMENCEMENT OF ACTION.—Not later than 45 days after a determination by the Attorney General or the Federal Communications Commission is published under subsection (b)(4), the Bell operating company that applied to the Attorney General and the

Federal Communications Commission under subsection (a), or any person who would be threatened with loss or damage as a result of the determination regarding such company's engaging in the activity described in such company's application, may commence an action in the United States Court of Appeals for the District of Columbia Circuit against the Attorney General or the Federal Communications Commission, as the case may be, for judicial review of the determination regarding the application.

(2) CERTIFICATION OF RECORD.—As part of the answer to the complaint, the Attorney General or the Federal Communications Commission, as the case may be, shall file in such court a certified copy of the record upon which the determination is based.

(3) CONSOLIDATION OF ACTIONS.—The court shall consolidate for judicial review all actions commenced under this subsection with respect to the application.

(4) JUDGMENT.—(A) The court shall enter a judgment after reviewing the determination in accordance with section 706 of title 5 of the United States Code.

(B) A judgment—

(i) affirming any part of the determination that approves granting all or part of the requested authorization, or

(ii) reversing any part of the determination that denies all or part of the requested authorization,

shall describe with particularity the nature and scope of the activity, and of each product market or service market, and each geographic market, to which the affirmance or reversal applies.

SEC. 102. AUTHORIZATION AS PREREQUISITE.

(a) PREREQUISITE.—Until a Bell operating company is so authorized in accordance with section 101, it shall be unlawful for such company, directly or through an affiliated enterprise, to engage in an activity described in section 101(a)(1).

(b) GENERAL EXCEPTIONS.—Except with respect to providing alarm monitoring services, subsection (a) shall not prohibit a Bell operating company from engaging, at any time after the date of the enactment of this Act—

(1) in any activity as authorized by an order entered by the United States District Court for the District of Columbia pursuant to section VII or VIII(C) of the Modification of Final Judgment, if—

(A) such order was entered on or before the date of the enactment of this Act, or

(B) a request for such authorization was pending before such court on the date of the enactment of this Act,

(2) in providing intrastate interexchange telecommunications services if—

(A) after the date of the enactment of this Act, the State involved approves or authorizes such company to provide such services, after taking into account the potential effects of such approval or authorization on competition and the public interest,

(B) not less than 90 days before such company offers to provide such services, such company gives notice to the public and the Attorney General that such approval or authorization has been granted by such State, and appoints an agent for the purpose of receiving service of process,

(C) the Attorney General—

(i) fails to commence a civil action in accordance with subsection (d), not later than 90 days after the Attorney General receives the notice described in subparagraph (B), to enjoin such company from providing such services, or

(ii) so commences such civil action but—

(I) fails to obtain an injunction from the district court involved enjoining such company from providing such services, or

(II) such injunction issued by such court is vacated on appeal, and

(D) the Bell operating company is required by regulations prescribed by the Federal Communications Commission and such State, for the services subject to their respective jurisdictions, to pay a nondiscriminatory access charge to the local exchange carrier (including itself) that provides the Bell operating company with telephone exchange access, and

(3) in providing interexchange telecommunications services through resale of telecommunications services purchased from a person who is not an affiliated enterprise of such company if—

(A) such interexchange telecommunications services involve only telecommunications that originate in a State in which, on the date of the enactment of this Act, such company provided wireline telephone exchange services,

(B) such State has approved or authorized persons that are not affiliated enterprises of such company to provide intraexchange toll telecommunications services in such a manner that customers in such State have the ability to route automatically, without the use of any access code, their intraexchange toll telecommunications to the telecommunications services provider of the customer's designation from among 2 or more telecommunications services providers (including such company),

(C) after the date of the enactment of this Act and not less than 90 days before such company offers to provide such interexchange telecommunications services, such company gives notice to the public and the Attorney General that such approval or authorization has been granted by such State, and

(D) the Attorney General—

(i) fails to commence a civil action in accordance with subsection (d), not later than 90 days after the Attorney General receives the notice described in subparagraph (C), to enjoin such company from providing such services, or

(ii) so commences such civil action but—

(I) fails to obtain an injunction from the district court involved enjoining such company from providing such services, or

(II) such injunction issued by such court is vacated on appeal.

(c) EXCEPTIONS FOR INCIDENTAL SERVICES.—Subsection (a) shall not prohibit a Bell operating company, at any time after the date of the enactment of this Act, from providing interexchange telecommunications services for the purpose of—

(1)(A) providing audio programming, video programming, or other programming services to subscribers to such services of such company,

(B) providing the capability for interaction by such subscribers to select or respond to such audio programming, video programming, or other programming services, or

(C) providing to distributors audio programming or video programming that such company owns, controls, or is licensed by the copyright owner of such programming, or by an assignee of such owner, to distribute,

(2) providing a telecommunications service, using the transmission facilities of a cable system that is an affiliate of such company, between exchange areas within a cable system franchise area in which such company is not, on the date of the enactment of this Act, a provider of wireline telephone exchange service,

(3) providing commercial mobile services in accordance with section 332(c) of the Communications Act of 1934 (47 U.S.C. 332(c)) and with the regulations prescribed by the Commission pursuant to paragraph (7) of such section,

(4) providing a service that permits a customer that is located in one exchange area to retrieve stored information from, or file information for storage in, information storage facilities of such company that are located in another exchange area,

(5) providing signaling information used in connection with the provision of exchange services to a local exchange carrier that, together with any affiliated local exchange carriers, has aggregate annual revenues of less than $100,000,000, or

(6) providing network control signaling information to, and receiving such signaling information from, interexchange carriers at any location within the area in which such company provides exchange services or exchange access.

(d) CIVIL ACTION.—(1) For the purpose of paragraph (2) or (3) of subsection (b), the Attorney General shall commence a civil action, not later than 90 days after receiving the notice required by paragraph (2)(B) or (3)(C) of such subsection, respectively, to enjoin such company from providing interexchange telecommunications services pursuant to such paragraph if the Attorney General determines that the standard specified in the first sentence of section 101(b)(3)(D)(i) is not satisfied with respect to providing such interexchange telecommunications services.

(2) With respect to a civil action commenced for the purpose of paragraph (2) or (3) of subsection (b), venue shall lie in any district court of the United States in the State that granted the approval or authorization referred to in such paragraph.

(3) If the Attorney General does not commence a civil action in accordance with paragraph (1) before the expiration of the 90-day period beginning on the date the Attorney General receives such notice, the Attorney General shall publish in the Federal Register a brief statement that the Attorney General has determined not to commence such civil action.

SEC. 103. LIMITATIONS ON MANUFACTURING AND PROVIDING EQUIPMENT.

(a) ABSOLUTE LIMITATION.—Until the expiration of the 1-year period beginning on the date of the enactment of this Act, it shall be unlawful for a Bell operating company, directly or through an affiliated enterprise, to manufacture or provide telecommunications equipment, or to manufacture customer premises equipment.

(b) QUALIFIED LIMITATION.—

(1) REQUIRED CONDITIONS.—After the expiration of the 1-year period beginning on the date of the enactment of this Act, it shall be lawful for a Bell operating company, directly or through an affiliated enterprise, to manufacture or provide telecommunications equipment, or to manufacture customer premises equipment, to the extent described in a notification to the Attorney General that meets the requirements of paragraph (2) and only if—

(A) such company submits to the Attorney General, at any time after the date of the enactment of this Act, the notification described in paragraph (2) and such additional material and information described in such paragraph as the Attorney General may request, and complies with the waiting period specified in paragraph (3), and

(B)(i) the waiting period specified in paragraph (3) expires without the commencement of a civil action by the Attorney General in accordance with paragraph (4) to enjoin such company from engaging in the activity described in such notification, or

(ii) before the expiration of such waiting period, the Attorney General notifies such company in writing that the Attorney General does not intend to commence such a civil action with respect to such activity.

(2) NOTIFICATION.—The notification required by paragraph (1) shall be in such form and shall contain such documentary material and information relevant to the proposed activity as is necessary and appropriate for the Attorney General to determine whether there is no substantial possibility that such company or its affiliates could use monopoly power to impede competition in the market such company seeks to enter for such activity.

(3) WAITING PERIOD.—The waiting period referred to in paragraph (1) is the 1-year period beginning on the date the notification required by such paragraph is received by the Attorney General.

(4) CIVIL ACTION.—Not later than 1 year after receiving a notification required by paragraph (1), the Attorney General may commence a civil action in an appropriate district court of the United States to enjoin the Bell operating company from engaging in the activity described in such notification, if the Attorney General determines that there is a substantial possibility that such company or its affiliates could use monopoly power to impede competition in the market it seeks to enter with respect to such activity.

(c) EXCEPTION FOR PREVIOUSLY AUTHORIZED ACTIVITIES.—Subsections (a) and (b) shall not prohibit a Bell operating company from engaging, at any time after the date of the enactment of this Act, in any activity as authorized by an order entered by the United States District Court for the District of Columbia pursuant to section VII or VIII(C) of the Modification of Final Judgment, if—

(1) such order was entered on or before the date of the enactment of this Act, or

(2) a request for such authorization was pending before such court on the date of the enactment of this Act.

SEC. 104. ANTICOMPETITIVE TYING ARRANGEMENTS.

A Bell operating company with monopoly power in any exchange service market shall not tie (directly or indirectly) in any relevant market the sale of any product or service to the provision of any telecommunications service, if the effect of such tying may be to substantially lessen competition, or to tend to create a monopoly, in any line of commerce.

SEC. 105. ENFORCEMENT.

(a) EQUITABLE POWERS OF UNITED STATES ATTORNEYS.—It shall be the duty of the several United States attorneys, under the direction of the Attorney General, to institute proceedings in equity in their respective districts to prevent and restrain violations of this title.

(b) CRIMINAL LIABILITY.—Whoever knowingly engages or knowingly attempts to engage in an activity that is prohibited by section 102, 103, or 104 shall be guilty of a felony, and on conviction thereof, shall be punished to the same extent as a person is punished upon conviction of a violation of section 1 of the Sherman Act (15 U.S.C. 1).

(c) PRIVATE RIGHT OF ACTION.—Any person who is injured in its business or property by reason of a violation of this title—

(1) may bring a civil action in any district court of the United States in the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and

(2) shall recover threefold the damages sustained, and the cost of suit (including a reasonable attorney's fee).

The court may award under this section, pursuant to a motion by such person promptly made, simple interest on actual damages for the period beginning on the date of service of such person's pleading setting forth a claim under this title and ending on the date of judgment, or for any shorter period therein, if the court finds that the award of such interest for such period is just in the circumstances.

(d) PRIVATE INJUNCTIVE RELIEF.—Any person shall be entitled to sue for and have injunctive relief, in any court of the United States having jurisdiction over the parties, against threatened loss or damage by a violation of this title, when and under the same conditions and principles as injunctive relief is available under section 16 of the Clayton Act (15 U.S.C. 26). In any action under this subsection in which the plaintiff substantially prevails, the court shall award the cost of suit, including a reasonable attorney's fee, to such plaintiff.

(e) JURISDICTION.—(1) Subject to paragraph (2), the courts of the United States shall have exclusive jurisdiction to make determinations with respect to a duty, claim, or right arising under this title, other than determinations authorized to be made by the Attorney General and the Federal Communications Commission under section 101(b)(3).

(2) The United States Court of Appeals for the District of Columbia shall have exclusive jurisdiction to review determinations made under section 101(b)(3).

(3) No action commenced to assert or enforce a duty, claim, or right arising under this title shall be stayed pending any such determination by the Attorney General or the Federal Communications Commission.

(f) SUBPOENAS.—In an action commenced under this title, a subpoena requiring the attendance of a witness at a hearing or a trial may be served at any place within the United States.

(g) APPLICABILITY OF OTHER LAWS TO ENFORCEMENT OF THIS TITLE.—

(1) SECTION 5 OF THE CLAYTON ACT.—Section 5 of the Clayton Act (15 U.S.C. 16) shall apply with respect to actions under this section brought by or on behalf of the United States.

(2) ANTITRUST CIVIL PROCESS ACT.—Section 2(a) of the Antitrust Civil Process Act (15 U.S.C. 1311(a)) is amended—

(A) in paragraph (1) by striking "and" at the end,

(B) in paragraph (2) by striking the period at the end and inserting "and", and

(C) by adding at the end the following:

"(3) title I of the Antitrust and Communications Reform Act of 1994.".

SEC. 106. DEFINITIONS.

For purposes of this title:

(1) AFFILIATE.—The term "affiliate" means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this paragraph, to own refers to owning an equity interest (or the equivalent thereof) of more than 50 percent.

(2) ALARM MONITORING SERVICE.—The term "alarm monitoring service" means a service that uses a device located at a residence, place of business, or other fixed premises—

(A) to receive signals from other devices located at or about such premises regarding a possible threat at such premises to life, safety, or property, from burglary, fire, vandalism, bodily injury, or other emergency, and

(B) to transmit a signal regarding such threat by means of transmission facilities of a Bell operating company or one of its affiliates to a remote monitoring center to alert a person at such center of the need to inform the customer or another person or police, fire, rescue, security, or public safety personnel of such threat,

but does not include a service that uses a medical monitoring device attached to an individual for the automatic surveillance of an ongoing medical condition.

(3) ANTITRUST LAWS.—The term "antitrust laws" has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes the Act of June 19, 1936 (49 Stat. 1526; 15 U.S.C. 13 et seq.), commonly known as the Robinson Patman Act, and section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

(4) AUDIO PROGRAMMING.—The term "audio programming" means programming provided by, or generally considered comparable to programming provided by, a radio broadcast station.

(5) BELL OPERATING COMPANY.—The term "Bell operating company" means—

(A) Bell Telephone Company of Nevada, Illinois Bell Telephone Company, Indiana Bell Telephone Company, Incorporated, Michigan Bell Telephone Company, New England Telephone and Telegraph Company, New Jersey Bell Telephone Company, New York Telephone Company, U S West Communications Company, South Central Bell Telephone Company, Southern Bell Telephone and Telegraph Company, Southwestern Bell Telephone Company, The Bell Telephone Company of Pennsylvania, The Chesapeake and Potomac Telephone Company, The Chesapeake and Potomac Telephone Company of Maryland, The Chesapeake and Potomac Telephone Company of Virginia, The Chesapeake and Potomac Telephone Company of West Virginia, The Diamond State Telephone Company, The Ohio Bell Telephone Company, The Pacific Telephone and Telegraph Company, or Wisconsin Telephone Company,

(B) any successor or assign of any such company, or

(C) any affiliate of any person described in subparagraph (A) or (B).

(6) CABLE SYSTEM.—The term "cable system" has the meaning given such term in section 602(7) of the Communications Act of 1934 (47 U.S.C. 522(7)).

(7) CARRIER.—The term "carrier" has the meaning given such term in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

(8) COMMERCIAL MOBILE SERVICES.—The term "commercial mobile services" has the meaning given such term in section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d)).

(9) CUSTOMER PREMISES EQUIPMENT.—The term "customer premises equipment" means equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications, and includes software integral to such equipment.

(10) EXCHANGE ACCESS.—The term "exchange access" means exchange services provided for the purpose of originating or terminating interexchange telecommunications.

(11) EXCHANGE AREA.—The term "exchange area" means a contiguous geographic area

established by a Bell operating company such that no exchange area includes points within more than 1 metropolitan statistical area, consolidated metropolitan statistical area, or State, except as expressly permitted under the Modification of Final Judgment before the date of the enactment of this Act.

(12) EXCHANGE SERVICE.—The term "exchange service" means a telecommunications service provided within an exchange area.

(13) INFORMATION.—Except as provided in paragraph (17), the term "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or other symbols.

(14) INTEREXCHANGE TELECOMMUNICATIONS.—The term "interexchange telecommunications" means telecommunications between a point located in an exchange area and a point located outside such exchange area.

(15) MANUFACTURE.—The term "manufacture" has the meaning given such term under the Modification of Final Judgment.

(16) MODIFICATION OF FINAL JUDGMENT.—The term "Modification of Final Judgment" means the order entered August 24, 1982, in the antitrust action styled United States v. Western Electric, Civil Action No. 82-0192, in the United States District Court for the District of Columbia, and includes any judgment or order with respect to such action entered on or after August 24, 1982.

(17) OTHER PROGRAMMING SERVICES.—The term "other programming services" means information (other than audio programming or video programming) that the person who offers a video programming service makes available to all subscribers generally. For purposes of the preceding sentence, the terms "information" and "makes available to all subscribers generally" have the same meaning such terms have under section 602(13) of the Communications Act of 1934 (47 U.S.C. 522(13)).

(18) PERSON.—The term "person" has the meaning given such term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)).

(19) STATE.—The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, Palau, or any territory or possession of the United States.

(20) TELECOMMUNICATIONS.—The term "telecommunications" means the transmission of information between points by electromagnetic means.

(21) TELECOMMUNICATIONS EQUIPMENT.—The term "telecommunications equipment" means equipment, other than customer premises equipment, used by a carrier to provide a telecommunications service, and includes software integral to such equipment.

(22) TELECOMMUNICATIONS SERVICE.—The term "telecommunications service" means the offering for hire of transmission facilities or of telecommunications by means of such facilities.

(23) TRANSMISSION FACILITIES.—The term "transmission facilities" means equipment (including wire, cable, microwave, satellite, and fiber-optics) that transmits information by electromagnetic means or that directly supports such transmission, but does not include customer premises equipment.

(24) VIDEO PROGRAMMING.—The term "video programming" has the meaning given such term in section 602(19) of the Communications Act of 1934 (47 U.S.C. 522(19)).

SEC. 107. RELATIONSHIP TO OTHER LAWS.

(a) MODIFICATION OF FINAL JUDGMENT.—This title shall supersede the Modification of Final Judgment, except that this title shall not affect—

(1) section I of the Modification of Final Judgment, relating to AT&T reorganization,

(2) section II(A) (including appendix B) and II(B) of the Modification of Final Judgment, relating to equal access and nondiscrimination,

(3) section IV(F) and IV(I) of the Modification of Final Judgment, with respect to the requirements included in the definitions of "exchange access" and "information access",

(4) section VIII(B) of the Modification of Final Judgment, relating to printed advertising directories,

(5) section VIII(E) of the Modification of Final Judgment, relating to notice to customers of AT&T,

(6) section VIII(F) of the Modification of Final Judgment, relating to less than equal exchange access,

(7) section VIII(G) of the Modification of Final Judgment, relating to transfer of AT&T assets, including all exceptions granted thereunder before the date of the enactment of this Act, and

(8) with respect to the parts of the Modification of Final Judgment described in paragraphs (1) through (7)—

(A) section III of the Modification of Final Judgment, relating to applicability and effect,

(B) section IV of the Modification of Final Judgment, relating to definitions,

(C) section V of the Modification of Final Judgment, relating to compliance,

(D) section VI of the Modification of Final Judgment, relating to visitorial provisions,

(E) section VII of the Modification of Final Judgment, relating to retention of jurisdiction, and

(F) section VIII(I) of the Modification of Final Judgment, relating to the court's sua sponte authority.

(b) ANTITRUST LAWS.—Except as provided in section 105(g), nothing in this Act shall be construed to modify, impair, or supersede the applicability of any of the antitrust laws.

(c) FEDERAL, STATE, AND LOCAL LAW.—(1) Except as provided in paragraph (2), this title shall not be construed to modify, impair, or supersede Federal, State, or local law unless expressly so provided in this title.

(2) This title shall supersede State and local law to the extent that such law would impair or prevent the operation of this title.

(d) CUMULATIVE PENALTY.—Any penalty imposed, or relief granted, under this title shall be in addition to, and not in lieu of, any penalty or relief authorized by any other law to be imposed with respect to conduct described in this title.

SEC. 108. REQUIRED REGULATORY ACTIONS.

(a) REGULATIONS TO PROHIBIT CROSS-SUBSIDIES.—Not later than 180 days after the date of enactment of this Act, the Federal Communications Commission shall review its regulations and revise such regulations to the extent necessary to prevent a Bell operating company from engaging in any improper cross-subsidization in connection with any of the services described in paragraphs (1) through (6) of section 102(c).

(b) MOBILE SERVICE ACCESS.—

(1) AMENDMENT.—Section 332(c) of the Communications Act of 1934 (47 U.S.C. 332(c)) is amended by adding at the end the following new paragraph:

"(7) MOBILE SERVICES ACCESS.—Within 180 days after the date of enactment of this paragraph, the Commission shall review its regulations with respect to the access to interexchange services provided to subscribers to commercial mobile services and revise such regulations to the extent necessary to protect the public interest, convenience, and necessity. In revising such regulations, the Commission—

"(A) shall, until January 1, 1998, and may thereafter (i) require that each provider of two-way commercial mobile services afford its subscribers nondiscriminatory access to a provider of interexchange services of the subscriber's choice, and (ii) establish geographic service areas within which providers of two-way commercial mobile services shall be exempt from the access obligation under clause (i);

"(B) may establish or revise technical interconnection requirements on providers of two-way commercial mobile services;

"(C) subject to section 104 of the Antitrust and Communications Reform Act of 1994, and the provisions of paragraph (1) of this subsection and subparagraph (A) of this paragraph and the regulations prescribed thereunder, may permit (with or without conditions) or prohibit the bundling of two-way commercial mobile services with interexchange services; and

"(D) shall not, in establishing any requirement under subparagraph (A), (B), or (C) establish different requirements—

"(i) for providers of two-way commercial mobile services that also are, or are affiliated with, providers of wireline telephone exchange service; and

"(ii) for providers of two-way commercial mobile services that are not, and are not affiliated with, providers of wireline telephone exchange service.

The regulations prescribed pursuant to this paragraph shall supersede any inconsistent requirements imposed by the Modification of Final Judgment (as such term is defined in section 106 of the Antitrust and Communications Reform Act of 1994). Nothing in this paragraph shall affect the Commission's authority to establish the terms and conditions under which providers of telephone exchange services provide access to the local exchange networks for commercial mobile services or interexchange services.".

(2) EFFECTIVE DATE CONFORMING AMENDMENT.—Section 6002(c)(2)(B) of the Omnibus Budget Reconciliation Act of 1993 is amended by striking "section 332(c)(6)" and inserting "paragraphs (6) and (7) of section 332(c)".

TITLE II—REGULATION OF MANUFACTURING, ALARM SERVICES, AND ELECTRONIC PUBLISHING BY BELL OPERATING COMPANIES

SEC. 201. REGULATION OF MANUFACTURING BY BELL OPERATING COMPANIES.

Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end the following new section:

"SEC. 229. REGULATION OF MANUFACTURING BY BELL OPERATING COMPANIES.

"(a) GENERAL AUTHORITY.—Subject to the requirements of this section and the regulations prescribed thereunder, but notwithstanding any restriction or obligation imposed before the date of enactment of this section pursuant to the Modification of Final Judgment on the lines of business in which a Bell operating company may engage, a Bell operating company, through an affiliate of that company, may manufacture and provide telecommunications equipment and manufacture customer premises equipment.

"(b) Separate Manufacturing Affiliate.—Any manufacturing or provision authorized under subsection (a) shall be conducted only through an affiliate that is separate from any Bell operating company.

"(c) Commission Regulation of Manufacturing Affiliate.—

"(1) Regulations required.—The Commission shall prescribe regulations to ensure that Bell operating companies and their affiliates comply with the requirements of this section.

"(2) Books, records, accounts.—A manufacturing affiliate required by subsection (b) shall—

"(A) maintain books, records, and accounts that are separate from the books, records, and accounts of its affiliated Bell operating company and that identify all financial transactions between the manufacturing affiliate and its affiliated Bell operating company, and

"(B) even if such manufacturing affiliate is not a publicly held corporation, prepare financial statements which are in compliance with financial reporting requirements under the Federal securities laws for publicly held corporations, file such statements with the Commission, and make such statements available for public inspection.

"(3) In-kind benefits to affiliate.—Consistent with the provisions of this section, neither a Bell operating company nor any of its nonmanufacturing affiliates shall perform sales, advertising, installation, production, or maintenance operations for a manufacturing affiliate, except that—

"(A) a Bell operating company and its nonmanufacturing affiliates may sell, advertise, install, and maintain telecommunications equipment and customer premises equipment after acquiring such equipment from their manufacturing affiliate; and

"(B) institutional advertising, of a type not related to specific telecommunications equipment, carried out by the Bell operating company or its affiliates, shall be permitted.

"(4) Domestic manufacturing required.—

"(A) General rule.—Except as otherwise provided in this paragraph, a manufacturing affiliate required by subsection (b) shall conduct all of its manufacturing within the United States and all component parts of customer premises equipment manufactured by such affiliate, and all component parts of telecommunications equipment manufactured by such affiliate, shall have been manufactured within the United States.

"(B) Exception.—(i) Such affiliate may use component parts manufactured outside the United States if—

"(I) such affiliate first makes a good faith effort to obtain equivalent component parts manufactured within the United States at reasonable prices, terms, and conditions; and

"(II) for the aggregate of telecommunications equipment and customer premises equipment manufactured and sold in the United States by such affiliate, the cost of the components manufactured outside the United States contained in all such equipment does not exceed 40 percent of the sales revenue derived in any calendar year from such equipment.

"(ii) Subparagraph (A) shall apply except to the extent that any of its provisions are determined to be inconsistent with any multilateral or bilateral agreement to which the United States is a party.

"(C) Certification required.—Any such affiliate that uses component parts manufactured outside the United States in the manufacture of telecommunications equipment and customer premises equipment within the United States shall—

"(i) certify to the Commission that a good faith effort was made to obtain equivalent parts manufactured within the United States at reasonable prices, terms, and conditions, which certification shall be filed on a quarterly basis with the Commission and list component parts, by type, manufactured outside the United States; and

"(ii) certify to the Commission on an annual basis that such affiliate complied with the requirements of subparagraph (B)(ii), as adjusted in accordance with subparagraph (G).

"(D) Remedies for failures.—(i) If the Commission determines, after reviewing the certification required in subparagraph (C)(i), that such affiliate failed to make the good faith effort required in subparagraph (B)(i) or, after reviewing the certification required in subparagraph (C)(ii), that such affiliate has exceeded the percentage specified in subparagraph (B)(ii), the Commission may impose penalties or forfeitures as provided for in title V of this Act.

"(ii) Any supplier claiming to be damaged because a manufacturing affiliate failed to make the good faith effort required in subparagraph (B)(i) may make complaint to the Commission as provided for in section 208 of this Act, or may bring suit for the recovery of actual damages for which such supplier claims such affiliate may be liable under the provisions of this Act in any district court of the United States of competent jurisdiction.

"(E) Annual report.—The Commission, in consultation with the Secretary of Commerce, shall, on an annual basis, determine the cost of component parts manufactured outside the United States contained in all telecommunications equipment and customer premises equipment sold in the United States as a percentage of the revenues from sales of such equipment in the previous calendar year.

"(F) Use of intellectual property in manufacture.—Notwithstanding subparagraph (A), a manufacturing affiliate may use intellectual property created outside the United States in the manufacture of telecommunications equipment and customer premises equipment in the United States. A component manufactured using such intellectual property shall not be treated for purposes of subparagraph (B)(ii) as a component manufactured outside the United States solely on the basis of the use of such intellectual property.

"(G) Restrictions on commission authority.—The Commission may not waive or alter the requirements of this paragraph, except that the Commission, on an annual basis, shall adjust the percentage specified in subparagraph (B)(ii) to the percentage determined by the Commission, in consultation with the Secretary of Commerce, pursuant to subparagraph (E).

"(5) Insulation of rate payers from manufacturing affiliate debt.—Any debt incurred by any such manufacturing affiliate may not be issued by its affiliated Bell operating company and such manufacturing affiliate shall be prohibited from incurring debt in a manner that would permit a creditor, on default, to have recourse to the assets of its affiliated Bell operating company.

"(6) Relation to other affiliates.—A manufacturing affiliate required by subsection (b) shall not be required to operate separately from the other affiliates of its affiliated Bell operating company, but if an affiliate of a Bell operating company becomes affiliated with a manufacturing entity, such affiliate shall be treated as a manufacturing affiliate of that Bell operating company (except for purposes of paragraph (3)) and shall comply with the requirements of this section.

"(7) Availability of equipment to other carriers.—A manufacturing affiliate required by subsection (b) shall make available, without discrimination or preference as to price, delivery, terms, or conditions, to any common carrier any telecommunications equipment that is used in the provision of telephone exchange service and that is manufactured by such affiliate only if such purchasing carrier—

"(A) does not manufacture telecommunications equipment, and does not have an affiliated telecommunications equipment manufacturing entity; or

"(B) agrees to make available, to the Bell operating company affiliated with such manufacturing affiliate or any common carrier affiliate of such Bell operating company, any telecommunications equipment that is used in the provision of telephone exchange service and that is manufactured by such purchasing carrier or by any entity or organization with which such purchasing carrier is affiliated.

"(8) Sales practices of manufacturing affiliates.—

"(A) Prohibition of discontinuation of equipment for which there is reasonable demand.—A manufacturing affiliate required by subsection (b) shall not discontinue or restrict sales to a common carrier of any telecommunications equipment that is used in the provision of telephone exchange service and that such affiliate manufactures for sale as long as there is reasonable demand for the equipment by such carriers; except that such sales may be discontinued or restricted if such manufacturing affiliate demonstrates to the Commission that it is not making a profit, under a marginal cost standard implemented by the Commission by regulation, on the sale of such equipment.

"(B) Determinations of reasonable demand.—Within 60 days after receipt of an application under subparagraph (A), the Commission shall reach a determination as to the existence of reasonable demand for purposes of such subparagraph. In making such determination the Commission shall consider—

"(i) whether the continued manufacture of the equipment will be profitable;

"(ii) whether the equipment is functionally or technologically obsolete;

"(iii) whether the components necessary to manufacture the equipment continue to be available;

"(iv) whether alternatives to the equipment are available in the market; and

"(v) such other factors as the Commission deems necessary and proper.

"(9) Joint planning obligations.—Each Bell operating company shall, consistent with the antitrust laws, (including title I of the Antitrust and Communications Reform Act of 1994), engage in joint network planning and design with other contiguous common carriers providing telephone exchange service, but agreement with such other carriers shall not be required as a prerequisite for the introduction or deployment of services pursuant to such joint network planning and design.

"(d) Information Requirements.—

"(1) Filing of information on protocols and technical requirements.—Each Bell operating company shall, in accordance with regulations prescribed by the Commission, maintain and file with the Commission full and complete information with respect to the protocols and technical requirements for connection with and use of its telephone exchange service facilities. Each such company shall report promptly to the Commission any material changes or planned changes to such protocols and requirements, and the schedule for implementation of such changes or planned changes.

"(2) FILING AS PREREQUISITE TO DISCLOSURE TO AFFILIATE.—A Bell operating company shall not disclose to any of its affiliates any information required to be filed under paragraph (1) unless that information is filed promptly, as required by regulation by the Commission.

"(3) ACCESS BY COMPETITORS TO INFORMATION.—The Commission may prescribe such additional regulations under this subsection as may be necessary to ensure that manufacturers in competition with a Bell operating company's manufacturing affiliate have access to the information with respect to the protocols and technical requirements for connection with and use of its telephone exchange service facilities required for such competition that such company makes available to its manufacturing affiliate.

"(4) PLANNING INFORMATION.—Each Bell operating company shall provide, to contiguous common carriers providing telephone exchange service, timely information on the planned deployment of telecommunications equipment.

"(e) ADDITIONAL COMPETITION REQUIREMENTS.—The Commission shall prescribe regulations requiring that any Bell operating company which has an affiliate that engages in any manufacturing authorized by subsection (a) shall—

"(1) provide, to other manufacturers of telecommunications equipment and customer premises equipment that is functionally equivalent to equipment manufactured by the Bell operating company manufacturing affiliate, opportunities to sell such equipment to such Bell operating company which are comparable to the opportunities which such Company provides to its affiliates; and

"(2) not subsidize its manufacturing affiliate with revenues from telephone exchange service or telephone toll service.

"(f) COLLABORATION PERMITTED.—Nothing in this section (other than subsection (l)) shall be construed to limit or restrict the ability of a Bell operating company and its affiliates to engage in close collaboration with any manufacturer of customer premises equipment or telecommunications equipment during the design and development of hardware, software, or combinations thereof related to such equipment.

"(g) ACCESSIBILITY REQUIREMENTS.—

"(1) MANUFACTURING.—The Commission shall, within 1 year after the date of enactment of this section, prescribe such regulations as are necessary to ensure that telecommunications equipment and customer premises equipment designed, developed, and fabricated pursuant to the authority granted in this section shall be accessible and usable by individuals with disabilities, including individuals with functional limitations of hearing, vision, movement, manipulation, speech, and interpretation of information, unless the costs of making the equipment accessible and usable would result in an undue burden or an adverse competitive impact.

"(2) NETWORK SERVICES.—The Commission shall, within 1 year after the date of enactment of this section, prescribe such regulations as are necessary to ensure that advances in network services deployed by a Bell operating company shall be accessible and usable by individuals whose access might otherwise be impeded by a disability or functional limitation, unless the costs of making the services accessible and usable would result in an undue burden or adverse competitive impact. Such regulations shall seek to permit the use of both standard and special equipment and seek to minimize the need of individuals to acquire additional devices beyond those used by the general public to obtain such access.

"(3) COMPATIBILITY.—The regulations prescribed under paragraphs (1) and (2) shall require that whenever an undue burden or adverse competitive impact would result from the manufacturing or network services requirements in such paragraphs, the manufacturing affiliate that designs, develops, or fabricates the equipment or the Bell operating company that deploys the network service shall ensure that the equipment or network service in question is compatible with existing peripheral devices or specialized customer premises equipment commonly used by persons with disabilities to achieve access, unless doing so would result in an undue burden or adverse competitive impact.

"(4) DEFINITIONS.—As used in this subsection:

"(A) UNDUE BURDEN.—The term 'undue burden' means significant difficulty or expense. In determining whether an activity would result in an undue burden, the following factors shall be considered:

"(i) the nature and cost of the activity;

"(ii) the impact on the operation of the facility involved in the manufacturing of the equipment or deployment of the network service;

"(iii) the financial resources of the manufacturing affiliate in the case of manufacturing of equipment, for as long as applicable regulatory rules prohibit cross-subsidization of equipment manufacturing with revenues from regulated telecommunications service or when the manufacturing activities are conducted in a separate subsidiary;

"(iv) the financial resources of the Bell operating company in the case of network services, or in the case of manufacturing of equipment if applicable regulatory rules permit cross-subsidization of equipment manufacturing with revenues from regulated telecommunications services and the manufacturing activities are not conducted in a separate subsidiary; and

"(v) the type of operation or operations of the manufacturing affiliate or Bell operating company as applicable.

"(B) ADVERSE COMPETITIVE IMPACT.—In determining whether the activity would result in an adverse competitive impact, the following factors shall be considered:

"(i) whether such activity would raise the cost of the equipment or network service in question beyond the level at which there would be sufficient consumer demand by the general population to make the equipment or network service profitable; and

"(ii) whether such activity would, with respect to the equipment or network service in question, put the manufacturing affiliate or Bell operating company, as applicable, at a competitive disadvantage in comparison with one or more providers of one or more competing products and services. This factor may only be considered so long as competing manufacturers and network service providers are not held to the same obligation with respect to access by persons with disabilities.

"(C) ACTIVITY.—For the purposes of this paragraph, the term 'activity' includes—

"(i) the research, design, development, deployment, and fabrication activities necessary to comply with the requirements of this section; and

"(ii) the acquisition of the related materials and equipment components.

"(5) EFFECTIVE DATE.—The regulations required by this subsection shall become effective 18 months after the date of enactment of this section.

"(h) PUBLIC NETWORK ENHANCEMENT.—A Bell operating company manufacturing affiliate shall, as a part of its overall research and development effort, establish a permanent program for manufacturing research and development of products and applications for the enhancement of the public switched telephone network and to promote public access to advanced telecommunications services. Such program shall focus its work substantially on developing technological advancements in public telephone network applications, telecommunication equipment and products, and access solutions to new services and technology, including access by (1) public institutions, including educational and health care institutions; and (2) people with disabilities and functional limitations. Notwithstanding the limitations in subsection (a), a Bell operating company and its affiliates may engage in such a program in conjunction with a Bell operating company not so affiliated or any of its affiliates. The existence or establishment of such a program that is jointly provided by manufacturing affiliates of Bell operating companies shall satisfy the requirements of this section as it pertains to all such affiliates of a Bell operating company.

"(i) RULEMAKING REQUIRED.—The Commission shall prescribe regulations to implement this section within 180 days after the date of enactment of this section.

"(j) ADMINISTRATION AND ENFORCEMENT AUTHORITY.—

"(1) COMMISSION REGULATORY AUTHORITY.—For the purposes of administering and enforcing the provisions of this section and the regulations prescribed thereunder, the Commission shall have the same authority, power, and functions with respect to any Bell operating company or any affiliate thereof as the Commission has in administering and enforcing the provisions of this title with respect to any common carrier subject to this Act.

"(2) PRIVATE ACTIONS.—Any common carrier that provides telephone exchange service and that is injured by an act or omission of a Bell operating company or its manufacturing affiliate which violates the requirements of paragraph (7) or (8) of subsection (c), or the Commission's regulations implementing such paragraphs, may initiate an action in a district court of the United States to recover the full amount of damages sustained in consequence of any such violation and obtain such orders from the court as are necessary to terminate existing violations and to prevent future violations; or such regulated local telephone exchange carrier may seek relief from the Commission pursuant to sections 206 through 209.

"(k) EXISTING MANUFACTURING AUTHORITY.—Nothing in this section shall prohibit any Bell operating company from engaging, directly or through any affiliate, in any manufacturing activity in which any Bell operating company or affiliate was authorized to engage on the date of enactment of this section.

"(l) ANTITRUST LAWS.—Nothing in this section shall be construed to modify, impair, or supersede the applicability of any of the antitrust laws (including title I of the Antitrust and Communications Reform Act of 1994).

"(m) DEFINITIONS.—As used in this section:

"(1) The term 'affiliate' means any organization or entity that, directly or indirectly, owns or controls, is owned or controlled by, or is under common ownership with a Bell operating company. The terms 'owns', 'owned', and 'ownership' mean an equity interest of more than 10 percent.

"(2) The term 'Bell operating company' means those companies listed in appendix A of the Modification of Final Judgment, and includes any successor or assign of any such company, but does not include any affiliate of any such company.

"(3) The term 'customer premises equipment' means equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications.

"(4) The term 'manufacturing' has the same meaning as such term has under the Modification of Final Judgment.

"(5) The term 'manufacturing affiliate' means an affiliate of a Bell operating company established in accordance with subsection (b) of this section.

"(6) The term 'Modification of Final Judgment' means the decree entered August 24, 1982, in United States v. Western Electric Civil Action No. 82-0192 (United States District Court, District of Columbia), and includes any judgment or order with respect to such action entered on or after August 24, 1982, and before the date of enactment of this section.

"(7) The term 'telecommunications' means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received, by means of an electromagnetic transmission medium, including all instrumentalities, facilities, apparatus, and services (including the collection, storage, forwarding, switching, and delivery of such information) essential to such transmission.

"(8) The term 'telecommunications equipment' means equipment, other than customer premises equipment, used by a carrier to provide telecommunications services, and includes software integral to such equipment (including upgrades).

"(9) The term 'telecommunications service' means the offering for hire of telecommunications facilities, or of telecommunications by means of such facilities.".

SEC. 202. REGULATION OF ENTRY INTO ALARM MONITORING SERVICES.

(a) AMENDMENT.—Title II of the Communications Act is amended by adding at the end the following new section:

"SEC. 230. REGULATION OF ENTRY INTO ALARM MONITORING SERVICES.

"(a) REGULATIONS REQUIRED.—The Commission shall prescribe regulations—

"(1) to establish such requirements, limitations, or conditions as are (A) necessary and appropriate in the public interest with respect to the provision of alarm monitoring services by Bell operating companies and their affiliates, and (B) effective at such time as a Bell operating company or any of its affiliates is authorized to provide alarm monitoring services;

"(2) to prohibit Bell operating companies and their affiliates, at that or any earlier time after the date of enactment of this section, from recording or using in any fashion the occurrence or the contents of calls received by providers of alarm monitoring services for the purposes of marketing such services on behalf of the Bell operating company, any of its affiliates, or any other entity; and

"(3) to establish procedures for the receipt and review of complaints concerning violations by such companies of such regulations, or of any other provision of this Act or the regulations thereunder, that result in material financial harm to a provider of alarm monitoring services.

"(b) EXPEDITED CONSIDERATION OF COMPLAINTS.—The procedures established under subsection (a)(3) shall ensure that the Commission will make a final determination with respect to any complaint described in such subsection within 120 days after receipt of the complaint. If the complaint contains an appropriate showing that the alleged violation occurred, as determined by the Commission in accordance with such regulations, the Commission shall, within 60 days after receipt of the complaint, issue a cease and desist order to prevent the Bell operating company and its affiliates from continuing to engage in such violation pending such final determination.

"(c) REMEDIES.—The Commission may use any remedy available under title V of this Act to terminate and punish violations described in subsection (a)(2). Such remedies may include, if the Commission determines that such violation was willful or repeated, ordering the Bell operating company to cease offering alarm monitoring services.

"(d) RULEMAKING SCHEDULE.—The Commission shall prescribe the regulations required by subsection (a)(2) within 180 days after the date of enactment of this section and shall prescribe the regulations required by subsection (a)(1) and (a)(3) prior to the date on which any Bell operating company may commence providing alarm monitoring services pursuant to title I of the Antitrust and Communication Reform Act of 1994.

"(e) DEFINITIONS.—As used in this section:

"(1) BELL OPERATING COMPANY.—The term 'Bell operating company' has the meaning provided in subparagraphs (A) or (B) of section 106(5) of the Antitrust and Communication Reform Act of 1994.

"(2) ALARM MONITORING SERVICES.—The term 'alarm monitoring services' has the meaning provided in section 106(2) of such Act.

"(3) AFFILIATE.—The term 'affiliate' means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this paragraph, to own refers to owning an equity interest (or the equivalent thereof) of more than 10 percent.".

SEC. 203. REGULATION OF ELECTRONIC PUBLISHING.

Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 231. REGULATION OF ELECTRONIC PUBLISHING.

"(a) IN GENERAL.—

"(1) PROHIBITION.—A Bell operating company and any affiliate shall not engage in the provision of electronic publishing that is disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service.

"(2) PERMITTED ACTIVITIES OF SEPARATED AFFILIATE.—Nothing in this section shall prohibit a separated affiliate or electronic publishing joint venture from engaging in the provision of electronic publishing or any other lawful service in any area.

"(3) RULE OF CONSTRUCTION.—Nothing in this section shall prohibit a Bell operating company or affiliate from engaging in the provision of any lawful service other than electronic publishing in any area or from engaging in the provision of electronic publishing that is not disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service.

"(b) SEPARATED AFFILIATE OR ELECTRONIC PUBLISHING JOINT VENTURE REQUIREMENTS.—A separated affiliate or electronic publishing joint venture shall—

"(1) maintain books, records, and accounts that are separate from those of the Bell operating company and from any affiliate and that record in accordance with generally accepted accounting principles all transactions, whether direct or indirect, with the Bell operating company;

"(2) not incur debt in a manner that would permit a creditor upon default to have recourse to the assets of the Bell operating company;

"(3) prepare financial statements that are not consolidated with those of the Bell operating company or an affiliate, provided that consolidated statements may also be prepared;

"(4) file with the Commission annual reports in a form substantially equivalent to the Form 10-K required by regulations of the Securities and Exchange;

"(5) after 1 year from the effective date of this section, not hire—

"(A) as corporate officers, sales and marketing management personnel whose responsibilities at the separated affiliate or electronic publishing joint venture will include the geographic area where the Bell operating company provides basic telephone service;

"(B) network operations personnel whose responsibilities at the separated affiliate or electronic publishing joint venture would require dealing directly with the Bell operating company; or

"(C) any person who was employed by the Bell operating company during the year preceding their date of hire,

except that the requirements of this paragraph shall not apply to persons subject to a collective bargaining agreement that gives such persons rights to be employed by a separated affiliate or electronic publishing joint venture of the Bell operating company;

"(6) not provide any wireline telephone exchange service in any telephone exchange area where a Bell operating company with which it is under common ownership or control provides basic telephone exchange service except on a resale basis;

"(7) not use the name, trademarks, or service marks of an existing Bell operating company except for names, trademarks, or service marks that are or were used in common with the entity that owns or controls the Bell operating company;

"(8) have performed annually by March 31, or any other date prescribed by the Commission, a compliance review—

"(A) that is conducted by an independent entity that is subject to professional, legal, and ethical obligations for the purpose of determining compliance during the preceding calendar year with any provision of this section that imposes a requirement on such separated affiliate or electronic publishing joint venture; and

"(B) the results of which are maintained by the separated affiliate for a period of 5 years subject to review by any lawful authority;

"(9) within 90 days of receiving a review described in paragraph (8), file a report of any exceptions and corrective action with the Commission and allow any person to inspect and copy such report subject to reasonable safeguards to protect any proprietary information contained in such report from being used for purposes other than to enforce or pursue remedies under this section.

"(c) Bell Operating Company Requirements.—A Bell operating company under common ownership or control with a separated affiliate or electronic publishing joint venture shall—

"(1) not provide a separated affiliate any facilities, services, or basic telephone service information unless it makes such facilities, services, or information available to unaffiliated entities upon request and on the same terms and conditions;

"(2) carry out transactions with a separated affiliate in a manner equivalent to the manner that unrelated parties would carry out independent transactions and not based upon the affiliation;

"(3) carry out transactions with a separated affiliate, which involve the transfer of personnel, assets, or anything of value, pursuant to written contracts or tariffs that are filed with the Commission and made publicly available;

"(4) carry out transactions with a separated affiliate in a manner that is auditable in accordance with generally accepted auditing standards;

"(5) value any assets that are transferred to a separated affiliate at the greater of net book cost or fair market value;

"(6) value any assets that are transferred to the Bell operating company by its separated affiliate at the lesser of net book cost or fair market value;

"(7) except for—

"(A) instances where Commission or State regulations permit in-arrears payment for tariffed telecommunications services; or

"(B) the investment by an affiliate of dividends or profits derived from a Bell operating company,

not provide debt or equity financing directly or indirectly to a separated affiliate;

"(8) comply fully with all applicable Commission and State cost allocation and other accounting rules;

"(9) have performed annually by March 31, or any other date prescribed by the Commission, a compliance review—

"(A) that is conducted by an independent entity that is subject to professional, legal, and ethical obligations for the purpose of determining compliance during the preceding calendar year with any provision of this section that imposes a requirement on such Bell operating company; and

"(B) the results of which are maintained by the Bell operating company for a period of 5 years subject to review by any lawful authority;

"(10) within 90 days of receiving a review described in paragraph (9), file a report of any exceptions and corrective action with the Commission and allow any person to inspect and copy such report subject to reasonable safeguards to protect any proprietary information contained in such report from being used for purposes other than to enforce or pursue remedies under this section;

"(11) if it provides facilities or services for telecommunication, transmission, billing and collection, or physical collocation to any electronic publisher, including a separated affiliate, for use with or in connection with the provision of electronic publishing that is disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service, provide to all other electronic publishers the same type of facilities and services on request, on the same terms and conditions or as required by the Commission or a State, and unbundled and individually tariffed to the smallest extent that is technically feasible and economically reasonable to provide;

"(12) provide network access and interconnections for basic telephone service to electronic publishers at any technically feasible and economically reasonable point within the Bell operating company's network and at just and reasonable rates that are tariffed (so long as rates for such services are subject to regulation) and that are not higher on a per-unit basis than those charged for such services to any other electronic publisher or any separated affiliate engaged in electronic publishing;

"(13) if prices for network access and interconnection for basic telephone service are no longer subject to regulation, provide electronic publishers such services on the same terms and conditions as a separated affiliate receives such services;

"(14) if any basic telephone service used by electronic publishers ceases to require a tariff, provide electronic publishers with such service on the same terms and conditions as a separated affiliate receives such service;

"(15) provide reasonable advance notification at the same time and on the same terms to all affected electronic publishers of information if such information is within any one or more of the following categories:

"(A) such information is necessary for the transmission or routing of information by an interconnected electronic publisher;

"(B) such information is necessary to ensure the interoperability of an electronic publisher's and the Bell operating company's networks; or

"(C) such information concerns changes in basic telephone service network design and technical standards which may affect the provision of electronic publishing;

"(16) not directly or indirectly provide anything of monetary value to a separated affiliate unless in exchange for consideration at least equal to the greater of its net book cost or fair market value, except the investment by an affiliate of dividends or profits derived from a Bell operating company;

"(17) not discriminate in the presentation or provision of any gateway for electronic publishing services or any electronic directory of information services, which is provided over such Bell operating company's basic telephone service;

"(18) have no directors, officers, or employees in common with a separated affiliate;

"(19) not own any property in common with a separated affiliate;

"(20) not perform hiring or training of personnel performed on behalf of a separated affiliate;

"(21) not perform the purchasing, installation, or maintenance of equipment on behalf of a separated affiliate, except for telephone service that it provides under tariff or contract subject to the provisions of this section; and

"(22) not perform research and development on behalf of a separated affiliate.

"(d) Customer Proprietary Network Information.—Consistent with section 232 of this Act, a Bell operating company or any affiliate shall not provide to any electronic publisher, including a separated affiliate or electronic publishing joint venture, customer proprietary network information for use with or in connection with the provision of electronic publishing that is disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service that is not made available by the Bell operating company or affiliate to all electronic publishers on the same terms and conditions.

"(e) Compliance With Safeguards.—No Bell operating company or affiliate thereof (including a separated affiliate) shall act in concert with another Bell operating company or any other entity in order to knowingly and willfully violate or evade the requirements of this section.

"(f) Telephone Operating Company Dividends.—Nothing in this section shall prohibit an affiliate from investing dividends derived from a Bell operating company in its separated affiliate, and subsections (i) and (j) of this section shall not apply to any such investment.

"(g) Joint Marketing.—Except as provided in subsection (h)—

"(1) a Bell operating company shall not carry out any promotion, marketing, sales, or advertising for or in conjunction with a separated affiliate; and

"(2) a Bell operating company shall not carry out any promotion, marketing, sales, or advertising for or in conjunction with an affiliate that is related to the provision of electronic publishing.

"(h) Permissible Joint Activities.—

"(1) Joint telemarketing.—A Bell operating company may provide inbound telemarketing or referral services related to the provision of electronic publishing for a separated affiliate, electronic publishing joint venture, affiliate, or unaffiliated electronic publisher, provided that if such services are provided to a separated affiliate, electronic publishing joint venture, or affiliate, such services shall be made available to all electronic publishers on request, on nondiscriminatory terms, at compensatory prices, and subject to regulations of the Commission to ensure that the Bell operating company's method of providing telemarketing or referral and its price structure do not competitively disadvantage any electronic publishers regardless of size, including those which do not use the Bell operating company's telemarketing services.

"(2) Teaming arrangements.—A Bell operating company may engage in nondiscriminatory teaming or business arrangements to engage in electronic publishing with any separated affiliate or with any other electronic publisher provided that the Bell operating company only provides facilities, services, and basic telephone service information as authorized by this section and provided that the Bell operating company does not own such teaming or business arrangement.

"(3) Electronic publishing joint ventures.—A Bell operating company or affiliate may participate on a nonexclusive basis in electronic publishing joint ventures with entities that are not any Bell operating company, affiliate, or separated affiliate to provide electronic publishing services, provided that the Bell operating company or affiliate has not more than a 50 percent direct or indirect equity interest (or the equivalent thereof) or the right to more than 50 percent of the gross revenues under a revenue sharing or royalty agreement in any electronic publishing joint venture. Officers and employees of a Bell operating company or affiliate participating in an electronic publishing joint venture may not have more than 50 percent of the voting control over the electronic publishing joint venture. In the case of joint ventures with small, local electronic publishers, the Commission for good cause shown may authorize the Bell operating company or affiliate to have a larger equity interest, revenue share, or voting control but not to exceed 80 percent. A Bell operating company participating in an electronic publishing joint venture may provide promotion, marketing, sales, or advertising personnel and services to such joint venture.

"(i) TRANSACTIONS RELATED TO THE PROVISION OF ELECTRONIC PUBLISHING BETWEEN A TELEPHONE OPERATING COMPANY AND ANY AFFILIATE.—

"(1) RECORDS OF TRANSACTIONS.—Any provision of facilities, services, or basic telephone service information, or any transfer of assets, personnel, or anything of commercial or competitive value, from a Bell operating company to any affiliate related to the provision of electronic publishing shall be—

"(A) recorded in the books and records of each entity;

"(B) auditable in accordance with generally accepted auditing standards; and

"(C) pursuant to written contracts or tariffs filed with the Commission or a State and made publicly available.

"(2) VALUATION OF TRANSFERS.—Any transfer of assets directly related to the provision of electronic publishing from a Bell operating company to an affiliate shall be valued at the greater of net book cost or fair market value. Any transfer of assets related to the provision of electronic publishing from an affiliate to the Bell operating company shall be valued at the lesser of net book cost or fair market value.

"(3) PROHIBITION OF EVASIONS.—A Bell operating company shall not provide directly or indirectly to a separated affiliate any facilities, services, or basic telephone service information related to the provision of electronic publishing that are not made available to unaffiliated companies on the same terms and conditions.

"(j) TRANSACTIONS RELATED TO THE PROVISION OF ELECTRONIC PUBLISHING BETWEEN AN AFFILIATE AND A SEPARATED AFFILIATE.—

"(1) RECORDS OF TRANSACTIONS.—Any facilities, services, or basic telephone service information provided or any assets, personnel, or anything of commercial or competitive value transferred, from a Bell operating company to any affiliate as described in subsection (i) and then provided or transferred to a separated affiliate shall be—

"(A) recorded in the books and records of each entity;

"(B) auditable in accordance with generally accepted auditing standards; and

"(C) pursuant to written contracts or tariffs filed with the Commission or a State and made publicly available.

"(2) VALUATION OF TRANSFERS.—Any transfer of assets directly related to the provision of electronic publishing from a Bell operating company to any affiliate as described in subsection (i) and then transferred to a separated affiliate shall be valued at the greater of net book cost or fair market value. Any transfer of assets related to the provision of electronic publishing from a separated affiliate to any affiliate and then transferred to the Bell operating company as described in subsection (i) shall be valued at the lesser of net book cost or fair market value.

"(3) PROHIBITION OF EVASIONS.—An affiliate shall not provide directly or indirectly to a separated affiliate any facilities, services, or basic telephone service information related to the provision of electronic publishing that are not made available to unaffiliated companies on the same terms and conditions.

"(k) OTHER ELECTRONIC PUBLISHERS.—Except as provided in subsection (h)(3)—

"(1) A Bell operating company shall not have any officers, employees, property, or facilities in common with any entity whose principal business is publishing of which a part is electronic publishing.

"(2) No officer or employee of a Bell operating company shall serve as a director of any entity whose principal business is publishing of which a part is electronic publishing.

"(3) For the purposes of paragraphs (1) and (2), a Bell operating company or an affiliate that owns an electronic publishing joint venture shall not be deemed to be engaged in the electronic publishing business solely because of such ownership.

"(4) A Bell operating company shall not carry out—

"(A) any marketing or sales for any entity that engages in electronic publishing; or

"(B) any hiring of personnel, purchasing, or production,

for any entity that engages in electronic publishing.

"(5) The Bell operating company shall not provide any facilities, services, or basic telephone service information to any entity that engages in electronic publishing, for use with or in connection with the provision of electronic publishing that is disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service, unless equivalent facilities, services, or information are made available on equivalent terms and conditions to all.

"(l) TRANSITION.—Any electronic publishing service being offered to the public by a Bell operating company or affiliate on the date of enactment of this section shall have one year from such date of enactment to comply with the requirements of this section.

"(m) SUNSET.—The provisions of this section shall not apply to conduct occurring after June 30, 2000.

"(n) PRIVATE RIGHT OF ACTION.—

"(1) DAMAGES.—Any person claiming that any act or practice of any Bell operating company, affiliate, or separated affiliate constitutes a violation of this section may file a complaint with the Commission or bring suit as provided in section 207 of this Act, and such Bell operating company, affiliate, or separate±d affiliate shall be liable as provided in section 206 of this Act; except that damages may not be awarded for a violation that is discovered by a compliance review as required by subsection (b)(8) or (c)(9) of this section and corrected within 90 days.

"(2) CEASE AND DESIST ORDERS.—In addition to the provisions of paragraph (1), any person claiming that any act or practice of any Bell operating company, affiliate, or separated affiliate constitutes a violation of this section may make application to the Commission for an order to cease and desist such violation or may make application in any district court of the United States of competent jurisdiction for an order enjoining such acts or practices or for an order compelling compliance with such requirement.

"(o) ANTITRUST LAWS.—Nothing in this section shall be construed to modify, impair, or supersede the applicability of any of the antitrust laws (including title I of the Antitrust and Communications Reform Act of 1994).

"(p) EQUAL EMPLOYMENT OPPORTUNITIES.—Any Bell operating company, and any affiliate or joint venture or other business partner of a Bell operating company, that is engaged in the provision of electronic publishing shall be subject to the provisions of section 634 of this Act, except that the Commission shall prescribe by regulation appropriate job classifications in lieu of the job classifications in subsection (d)(3)(A) of such section.

"(q) DEFINITIONS.—As used in this section—

"(1) The term 'affiliate' means any entity that, directly or indirectly, owns or controls, is owned or controlled by, or is under common ownership or control with, a Bell operating company. Such term shall not include a separated affiliate.

"(2) The term 'basic telephone service' means any wireline telephone exchange service, or wireline telephone exchange facility, provided by a Bell operating company in a telephone exchange area, except—

"(A) a competitive wireline telephone exchange service provided in a telephone exchange area where another entity provides a wireline telephone exchange service that was provided on January 1, 1984, and

"(B) a commercial mobile service provided by an affiliate that is required by the Commission to be a corporate entity separate from the Bell operating company.

"(3) The term 'basic telephone service information' means network and customer information of a Bell operating company and other information acquired by a Bell operating company as a result of its engaging in the provision of basic telephone service.

"(4) The term 'control' has the meaning that it has in 17 C.F.R. 240.12b-2, the regulations promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or any successor provision to such section.

"(5)(A) The term 'electronic publishing' means the dissemination, provision, publication, or sale to an unaffiliated entity or person, using a Bell operating company's basic telephone service, of—

"(i) news,

"(ii) entertainment (other than interactive games),

"(iii) business, financial, legal, consumer, or credit material;

"(iv) editorials;

"(v) columns;

"(vi) sports reporting;

"(vii) features;

"(viii) advertising;

"(ix) photos or images;

"(x) archival or research material;

"(xi) legal notices or public records;

"(xii) scientific, educational, instructional, technical, professional, trade, or other literary materials; or

"(xiii) other like or similar information.

"(B) The term 'electronic publishing' shall not include the following network services:

"(i) Information access, as that term is defined by the Modification of Final Judgment.

"(ii) The transmission of information as a common carrier.

"(iii) The transmission of information as part of a gateway to an information service that does not involve the generation or alteration of the content of information, including data transmission, address translation, protocol conversion, billing management, introductory information content, and navigational systems that enable users to access electronic publishing services, which do not affect the presentation of such electronic publishing services to users.

"(iv) Voice storage and retrieval services, including voice messaging and electronic mail services.

"(v) Level 2 gateway services as those services are defined by the Commission's Second Report and Order, Recommendation to Congress and Second Further Notice of Proposed Rulemaking in CC Docket No. 87-266 dated August 14, 1992.

"(vi) Data processing services that do not involve the generation or alteration of the content of information.

"(vii) Transaction processing systems that do not involve the generation or alteration of the content of information.

"(viii) Electronic billing or advertising of a Bell operating company's regulated telecommunications services.

"(ix) Language translation.

"(x) Conversion of data from one format to another.

"(xi) The provision of information necessary for the management, control, or operation of a telephone company telecommunications system.

"(xii) The provision of directory assistance that provides names, addresses, and telephone numbers and does not include advertising.

"(xiii) Caller identification services.

"(xiv) Repair and provisioning databases for telephone company operations.

"(xv) Credit card and billing validation for telephone company operations.

"(xvi) 911-E and other emergency assistance databases.

"(xvii) Any other network service of a type that is like or similar to these network services and that does not involve the generation or alteration of the content of information.

"(xviii) Any upgrades to these network services that do not involve the generation or alteration of the content of information.

"(C) The term 'electronic publishing' also shall not include—

"(i) full motion video entertainment on demand; and

"(ii) video programming as defined in section 602 of the Communications Act of 1934.

"(6) The term 'electronic publishing joint venture' means a joint venture owned by a Bell operating company or affiliate that engages in the provision of electronic publishing which is disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service.

"(7) The term 'entity' means any organization, and includes corporations, partnerships, sole proprietorships, associations, and joint ventures.

"(8) The term 'inbound telemarketing' means the marketing of property, goods, or services by telephone to a customer or potential customer who initiated the call.

"(9) The term 'own' with respect to an entity means to have a direct or indirect equity interest (or the equivalent thereof) of more than 10 percent of an entity, or the right to more than 10 percent of the gross revenues of an entity under a revenue sharing or royalty agreement.

"(10) The term 'separated affiliate' means a corporation under common ownership or control with a Bell operating company that does not own or control a Bell operating company and is not owned or controlled by a Bell operating company and that engages in the provision of electronic publishing which is disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service.

"(11) The term 'Bell operating company' means the corporations subject to the Modification of Final Judgment and listed in Appendix A thereof, or any entity owned or controlled by such corporation, or any successor or assign of such corporation, but does not include an electronic publishing joint venture owned by such corporation or entity.".

SEC. 204. PRIVACY OF CUSTOMER INFORMATION.

(a) PRIVACY OF CUSTOMER PROPRIETARY NETWORK INFORMATION.—

(1) AMENDMENT.—Title II of the Communications Act of 1934 is amended by adding at the end the following new section:

"SEC. 232. PRIVACY OF CUSTOMER PROPRIETARY NETWORK INFORMATION.

"(a) DUTY TO PROVIDE SUBSCRIBER LIST INFORMATION.—Notwithstanding subsections (b), (c), and (d), a carrier that provides subscriber list information to any affiliated or unaffiliated service provider or person shall provide subscriber list information on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions, to any person upon request.

"(b) PRIVACY REQUIREMENTS FOR COMMON CARRIERS.—A carrier—

"(1) shall not, except as required by law or with the approval of the customer to which the information relates—

"(A) use customer proprietary network information in the provision of any service except to the extent necessary (i) in the provision of common carrier communications services, (ii) in the provision of a service necessary to or used in the provision of common carrier communications services, including the publishing of directories, or (iii) to continue to provide a particular information service that the carrier provided as of March 15, 1994, to persons who were customers of such service on that date;

"(B) use customer proprietary network information in the identification or solicitation of potential customers for any service other than the service from which such information is derived;

"(C) use customer proprietary network information in the provision of customer premises equipment; or

"(D) disclose customer proprietary network information to any person except to the extent necessary to permit such person to provide services or products that are used in and necessary to the provision by such carrier of the services described in subparagraph (A);

"(2) shall disclose customer proprietary network information, upon affirmative written request by the customer, to any person designated by the customer;

"(3) shall, whenever such carrier provides any aggregate information, notify the Commission of the availability of such aggregate information and shall provide such aggregate information on reasonable terms and conditions to any other service or equipment provider upon reasonable request therefor; and

"(4) except for disclosures permitted by paragraph (1)(D), shall not unreasonably discriminate between affiliated and unaffiliated service or equipment providers in providing access to, or in the use and disclosure of, individual and aggregate information made available consistent with this subsection.

"(c) RULE OF CONSTRUCTION.—This section shall not be construed to prohibit the use or disclosure of customer proprietary network information as necessary—

"(1) to render, bill, and collect for the services identified in subparagraph (A);

"(2) to render, bill, and collect for any other service that the customer has requested;

"(3) to protect the rights or property of the carrier;

"(4) to protect users of any of those services and other carriers from fraudulent, abusive, or unlawful use of or subscription to such service; or

"(5) to provide any inbound telemarketing, referral, or administrative services to the customer for the duration of the call if such call was initiated by the customer and the customer approves of the use of such information to provide such service.

"(d) EXEMPTION PERMITTED.—The Commission may, by rule, exempt from the requirements of subsection (b) carriers that have, together with any affiliated carriers, in the aggregate nationwide, fewer than 500,000 access lines installed if the Commission determines that such exemption is in the public interest or if compliance with the requirements would impose an undue economic burden on the carrier.

"(e) REGULATIONS.—The Commission shall prescribe regulations to carry out this section within 1 year after the date of its enactment.

"(f) DEFINITION OF AGGREGATE INFORMATION.—For purposes of this section, the term 'aggregate information' means collective data that relates to a group or category of services or customers, from which individual customer identities and characteristics have been removed.".

(2) CONFORMING AMENDMENT.—Section 3 of the Communications Act of 1934 (47 U.S.C. 153) is amended by adding at the end the following:

"(gg) 'Customer proprietary network information' means—

"(1) information which relates to the quantity, technical configuration, type, destination, and amount of use of telephone exchange service or telephone toll service subscribed to by any customer of a carrier, and is made available to the carrier by the customer solely by virtue of the carrier-customer relationship;

"(2) information contained in the bills pertaining to telephone exchange service or telephone toll service received by a customer of a carrier; and

"(3) such other information concerning the customer as is available to the local exchange carrier by virtue of the customer's use of the carrier's telephone exchange service or interexchange telephone services, and specified as within the definition of such term by such rules as the Commission shall prescribe consistent with the public interest; except that such term does not include subscriber list information.

"(hh) 'Subscriber list information' means any information—

"(1) identifying the listed names of subscribers of a carrier and such subscribers' telephone numbers, addresses, or primary advertising classifications, or any combination of such listed names, numbers, addresses, or classifications; and

"(2) that the carrier or an affiliate has published or accepted for future publication.".

(b) IMPACT OF CONVERGING COMMUNICATIONS TECHNOLOGIES ON CONSUMER PRIVACY.—

(1) PROCEEDING REQUIRED.—Within one year after the date of enactment of this Act, the Commission shall commence a proceeding—

(A) to examine the impact of the integration into interconnected communications networks of wireless telephone, cable, satellite, and other technologies on the privacy rights and remedies of the consumers of those technologies;

(B) to examine the impact that the globalization of such integrated communications networks has on the international dissemination of consumer information and the privacy rights and remedies to protect consumers;

(C) to propose changes in the Commission's regulations to ensure that the effect on consumer privacy rights is considered in the introduction of new telecommunications services and that the protection of such privacy rights is incorporated as necessary in the design of such services or the rules regulating such services;

(D) to propose changes in the Commission's regulations as necessary to correct any defects identified pursuant to subparagraph (A) in such rights and remedies; and

(E) to prepare recommendations to the Congress for any legislative changes required to correct such defects.

(2) SUBJECTS FOR EXAMINATION.—In conducting the examination required by paragraph (1), the Commission shall determine whether consumers are able, and, if not, the methods by which consumers may be enabled—

(A) to have knowledge that consumer information is being collected about them through their utilization of various communications technologies;

(B) to have notice that such information could be used, or is intended to be used, by the entity collecting the data for reasons unrelated to the original communications, or that such information could be sold (or is intended to be sold) to other companies or entities; and

(C) to stop the reuse or sale of that information.

(3) SCHEDULE FOR COMMISSION RESPONSES.—The Commission shall, within 18 months after the date of enactment of this Act—

(A) complete any rulemaking required to revise Commission regulations to correct defects in such regulations identified pursuant to paragraph (1); and

(B) submit to the Congress a report containing the recommendations required by paragraph (1)(C).

SEC. 205. TELEMESSAGING SERVICES.

Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 233. TELEMESSAGING SERVICES.

"(a) NONDISCRIMINATION.—A common carrier engaged in the provision of telemessaging services shall—

"(1) provide nonaffiliated entities, upon reasonable request, with the network services it provides to its own telemessaging operations, on nondiscriminatory terms and conditions; and

"(2) not subsidize its telemessaging services with revenues from telephone exchange service.

"(b) EXPEDITED CONSIDERATION OF COMPLAINTS.—The Commission shall establish procedures for the receipt and review of complaints concerning violations of subsection (a) or the regulations thereunder that result in material financial harm to a provider of telemessaging service. Such procedures shall ensure that the Commission will make a final determination with respect to any such complaint within 120 days after receipt of the complaint. If the complaint contains an appropriate showing that the alleged violation occurred, as determined by the Commission in accordance with such regulations, the Commission shall, within 60 days after receipt of the complaint, order the common carrier and its affiliates to cease engaging in such violation pending such final determination.

"(c) DEFINITIONS.—As used in this section, the term 'telemessaging services' means voice mail and voice storage and retrieval services provided over telephone lines for telemessaging customers and any live operator services used to answer, record, transcribe, and relay messages (other than telecommunications relay services) from incoming telephone calls on behalf of the telemessaging customers (other than any service incidental to directory assistance).".

SEC. 206. ENHANCED SERVICES SAFEGUARDS.

Within 60 days after the date of the enactment of this Act, the Commission shall initiate a proceeding to reconsider its decision in the Report and Order In the Matter of Computer III Remand Proceedings, CC Docket No. 90-623, released December 20, 1993, relieving the Bell operating companies of the obligation to provide enhanced services through fully separate affiliates. Within 180 days after the date of the enactment of this Act, the Commission shall, to the extent it determines necessary or appropriate in the public interest, adopt regulations prescribing the structural or nonstructural safeguards, or both, with which local exchange carriers shall comply when providing enhanced services.

TITLE III—FEDERAL COMMUNICATIONS COMMISSION RESOURCES

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—In addition to any other sums authorized by law, there are authorized to be appropriated to the Federal Communications Commission such sums as may be necessary to carry out this Act and the amendments made by this Act.

(b) EFFECT ON FEES.—For purposes of section 9(b)(2) of the Communications Act of 1934 (47 U.S.C 159(b)(2)), additional amounts appropriated pursuant to subsection (a) shall be construed to be changes in the amounts appropriated for the performance of activities described in section 9(a) of such Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from New York [Mr. FISH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, I yield 10 minutes to the gentleman from Michigan [Mr. DINGELL], and, Mr. Speaker, I ask unanimous consent that the gentleman from Michigan may control that time and yield blocks of that time to other Members.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. FISH. Mr. Speaker, I yield 10 minutes of my time to the gentleman from California [Mr. MOORHEAD], and I ask unanimous consent that the gentleman from California be permitted to yield blocks of such time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am delighted to call up H.R. 3626, landmark telecommunications legislation, standing side-by-side with my good friend Chairman JOHN DINGELL. It is beyond understatement to say that bringing up a unified version of this type of legislation under suspension of the rules was not an easy achievement. As everyone in this Chamber well knows, both of us had originally approached the process from almost diametrically opposed philosophical points of view about the proper role of antitrust and regulatory oversight.

But during the past year and a half, we were able—working together—to fashion a bill that blended the strength and flexibility of fundamental antitrust principles with the need for public interest regulatory oversight. The result, I believe, is a delicate yet durable balance to ensure well into the next century a vibrant telecommunications industry, which must remain a strategic asset in this Nation's world economic position.

This is a far cry from last Congress when there was a fragmented policy orientation in the courts, throughout the enforcement agencies and, yes, even in the Halls of Congress. As we stand here today, the naysayers all across this fine city are in profound disbelief. Where once there was immovable jurisdictional gridlock, we are now moving with the momentum of a bipartisan consensus regarding this vital sector of the economy, perhaps for the first time in 60 years.

However, let us not forget for a moment where we were even as recently as the beginning of the 102d Congress. At that time, piecemeal, fragmented—and frankly, one-sided—solutions were being offered up as legislation for various interests in the telecommunications industry. If ever there was a prescription for disaster for this highly strategic U.S. industry, it was to follow the path of such narrow-sided proposals. I came to the decision that a comprehensive approach to maintaining a competitive and diverse industry was needed and that Congress must take responsibility for doing so.

In doing so, I cautioned that my decision to move a comprehensive piece of legislation was in no way to be construed as a referendum on the handling of the AT&T consent decree case by Judge Harold Greene. It was my view that Judge Greene had performed splendidly in this function, but that events—both in the private sector as well as in the Congress—might well short circuit his attempt to keep a unified view of competition as the central determinant in decisionmaking.

Moreover, as private business decisions continue to push the waiver process to the point of an overflowing court docket, there appeared a real possibility that delay in adjudicating these requests might become exacerbated to the detriment of all parties in their business planning. For all these reasons, I decided that it was essential that we move the forum from courtroom into the enforcement and regulatory agencies, while not abandoning the organizing principles behind the decree.

Thus, as I approached the legislation both in the last Congress and in this Congress, the two principles I held as irreducible were that, at the end of the day, the Department of Justice must have an independent role in reviewing Bell entry into now-prohibited sectors of the market; and that in reviewing such entry, the MFJ's antitrust entry test, the so-called 8(c) standard, must be applied. Finally, I insisted on an unambiguous antitrust savings clause so that even after entry by the Bells into long distance, manufacturing or information services, the Department would have the full authority to pursue antitrust actions just as it would against any other industry where anticompetitiveness abuses might occur. I am grateful that these bedrock principles appear in the version of H.R. 3626 now before the House, and I give great credit to my good friend, Chairman JOHN DINGELL, for recognizing the value of antitrust in this historic effort even as he successfully made his own case to me that public interest determinations should also have an important and complementary role in the process.

There are many others who made achievement possible today. I want to especially commend the ranking member of my committee, Congressman HAMILTON FISH, for his excellent work throughout the entire process. In addition, the unflagging efforts of Congressman MIKE SYNAR, RICK BOUCHER, and JOHN BRYANT, to name just a few, helped build support for a reasonable and politically viable legislative product that could be supported in our respective committees and on the floor.

Chairman DINGELL and I were both determined to have this legislation come before the full House before the July 4th recess so that the other body would have the time and the inclination to act. We are hopeful that they will, and that the conference report can be sent to the President's desk for signature before Congress adjourns in October.

Mr. Speaker, I reserve the balance of my time.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the Antitrust and Communications Reform Act of 1994, H.R. 3626. This legislation represents the most sweeping communications reform legislation to be considered in this House in 60 years. It will establish the ground rules for telecommunications policy in our Nation as we proceed into the 21st century. If enacted, this measure will have much to say about the future health of the American economy, America's international competitiveness and expanded job opportunities for American workers.

This legislation establishes a statutory framework under which the seven regional Bell telephone companies and their affiliates would be permitted to provide certain long distance services and engage in the manufacture of telecommunications equipment. The Bell operating companies are currently prohibited from entering these lines of business under the terms of the antitrust consent decree—the modification of final judgment or MFJ—which governed the breakup of the then-unified AT&T Bell system. That consent decree was entered into by AT&T and the Department of Justice in 1982 and became effective on January 1, 1984.

Thus, H.R. 3626 would supersede the MFJ and establish a new policy framework under which the Federal Communications Commission and the Justice Department would administer local telephone company business activities. Under its terms, the Bell operating companies could apply immediately upon enactment for permission to enter into manufacturing and would be permitted to engage in manufacturing within a year after the date of enactment. Similarly, the Bell companies can apply immediately after enactment to both the FCC and the Justice Department to be allowed to provide long distance services. The Bells may submit as many applications—broad or narrow in scope—as they choose.

The bill does not include general provisions concerning Bell company involvement in information services, since those MFJ-based restrictions were lifted by the courts in 1991. *U.S.* v. *Western Electric Co., et. al.*, 900 F.2d 283 (D.C. Cir., 1990), cert. den. 111 S. Ct. 283 (1990); *U.S.* v. *Western Electric Co.*, 767 F. Supp. (D.D.C., 1991). However, this legislation does include provisions governing Bell entry into alarm monitoring services, permitting Bell entry into that business 5½ years after the date of enactment. Similarly, electronic publishing—which is also a subset of information services—is treated in title II of this legislation. Those provisions would incorporate into law the terms of agreements made between the regional Bell operating companies and the representatives of the newspaper publishers.

As of the date of enactment, the Bells may apply to enter into the long distance business. (§101(a)(1)(B); §101(a)(2)(A).) Within 10 days after receipt, the applications must be published in the FEDERAL REGISTER. (§101(a)(4).) Not later than 45 days after publication, interested persons may submit comments to either or both agencies. (§101(b)(1).) Consultation between the two agencies regarding an application is required. (§101(b)(2).) The agencies must issue written determinations on the applications within 180 days after receipt. (§101(b)(3)(A).) In deciding on the merits of the application, the Justice Department will apply the same competitive standard that is contained in section VIII(C) of the MFJ, that is "no substantial possibility that such company or its affiliates could use monopoly power to impede competition in the market such company seeks to enter." (§101(b)(3)(D)(i).) The FCC will apply the "public interest, convenience and necessity" test contained in the Communications Act. (§101(b)(3)(D)(ii).) Their determinations are to be based on the "preponderance of the evidence". (§101(b)(3)(B).) Both agencies must approve an application for it to be finally approved. (§101(b)(6).)

Not later than 45 days after the final determination (that is final agency action) is published, "any person who would be threatened with loss or damage as a result of the determination" may bring an action for judicial review in the U.S. Court of Appeals for the District of Columbia to challenge the agencies' approval. (§101(c)(1).) This standing provision is patterned directly after section 16 of the Clayton Act. Under the Federal antitrust laws, actual injury or threatened loss or damage must be shown before persons can successfully gain access to a Federal court to challenge a particular action as anticompetitive. Thus, this is intended to be an exacting standing provision and not all interested persons would have standing to challenge the agencies' determination. under this provision, court challenges are reserved for those that can show a genuine likelihood of injury—threatened loss or damage. This provision is not intended to encourage what could be obstructionist or strategic litigation.

Unlike the bill (H.R. 5096) sponsored by Congressman BROOKS in the 102d Congress, there is no de novo trial on the merits of an agency determination. Instead, there will be an appellate review based on the standard contained in the Administrative Procedure Act. 5 U.S.C. (§706.) It should be further emphasized that determinations made by Justice and the FCC under section 101(b)(3) are to be considered finally agency decisions in the administrative law meaning of that term. (The use of the term "final" in section 101(b)(5) should not be taken to mean "final agency action" for administrative law purposes. Rather, it means that if no civil action is filed under subsection (c), these determinations are no longer subject to appeal or review.) Bell entry into the authorized service would be lawful while the determination is the subject of an appeal under section 101(c). A Bell operating company can continue to provide this service until such time as one or both of the approvals is vacated or reversed as a result of judicial review. (§101(b)(6)(ii).) Of course, a party could seek a preliminary injunction under the normal Federal civil rules, seeking to enjoin the provision of the authorized services pending the outcome of the judicial review action.

Generally speaking, before the Bell operating companies can enter into the long distance business, they must follow the application procedure set down in section 101 of the bill. There are, however, some significant exceptions to this general requirement. For example, section 101(b)(3)(D)(iii) directs Justice and the FCC to jointly prescribe regulations establishing procedures for the expedited determination and approval of applications for proposed long-distance services that are incidental to the provisions of another, already lawful service. These incidental telecommunications services are in addition to those specified and authorized under section 102(c) of this bill.

Also exempt from the applicant requirement is any activity authorized by an order entered by the U.S. District Court for the District of Columbia under section VII or section VIII(C) of the Modification of Final Judgment prior to the date of enactment, or any waiver request pending on the date of enactment and subsequently approved by the District Court. §102(b)(1).

Further, the Bell companies are not required to apply seeking prior Federal authorization to offer intrastate long distance services—services provided within the boundaries of a single state. (§102(b)(2)(A).) So, the Bell companies would seek to receive State public utility—or public service—commission approval for providing intrastate interexchange telecommunications services. In doing so, they would be made subject to FCC and State regulations which require it to charge itself an access fee in the same manner it charges long-distance companies seeking access to the local exchanges. (§102(b)(2)(D).) However, under the terms of subsection 102(b)(2)(B), the Department of Justice would be given 90 days notice by a Bell company of its intent to provide such intrastate long-distance telecommunications services. The Justice Department would then have the option to request a preliminary injunction in a U.S. district court within those 90 days, with respect to such services if it believes a Bell entry would be anticompetitive. (§102(b)(2)(C).) If the Department brings no such civil action, or fails to obtain a preliminary injunction from the district court, it is fully lawful for the Bell company to begin providing those State-authorized services.

From the enactment of the Communications Act in 1934—until the AT&T consent decree took effect on January 1, 1984—all long-distance services within the States were regulated under the jurisdiction of the various state public utilities commissions [PUC's]. So, section 102(b)(2) of H.R. 3626 merely would return to the States their authority over all long-distance services delivered within their States. It should be understood that the States currently regulate long-distance services provided by the Bell companies within each LATA (that is, Local Access Transport Area). Every State has an agency that regulates public telephone companies. In my own State of New York it is known as the New York State Public Service Commission. They issue the "certificates of convenience and necessity" that authorize the local exchange companies and long-distance carriers to do business. They regulate the rates charged for local and interexchange telephone service. They make the decisions on the tariffs filed regarding new services to be offered or the abandonment of any service or facility.

It should be emphasized that this legislation directs the States to take "into account the potential effects of such approval or authorization on competition and the public interest". (§102(b)(2)(A).) Of course, as noted earlier, the Justice Department would give 90 days to review the State's decision and seek an injunction if necessary. Again, if no injunction is sought, or if the request for an injunction is denied by the district court, then the Bell company may offer these services.

Also, the Bell companies would not be required to seek Federal pre-approval for long distance services that are provided through so-called resale services. (§102(b)(3).) That is, long-distance services which are purchased from another entity. This exception would apply only to services purchased from a nonaffiliate of the Bell company and only in those States where "1+ dialing" has been ordered. (§102(b)(3)(B).) As with intrastate long distance, the Department of Justice would have 90 days to review the competitive impact of Bell company resale services and the opportunity to seek an injunction when it determines that such entry would, in fact, be anticompetitive. (§102(b)(3)(D).)

Another major exception to the overall general rule requiring the Bell companies to apply to DOJ and FCC for permission, has to do with incidental services. Section 102(c) of the bill allows the Bell operating companies at any time after the date of enactment to provide interexchange telecommunications services which are deemed to be incidental to an otherwise lawful activity. So, for example, the bill identifies a number of activities to be exempt incidental services including, cable services and the distribution of cable programming, telephone service provided through cable companies outside of a Bell service area, interactive services, cellular telephone services, the transmission and retrieval of certain computer information, and the transmission of certain telephone network signaling information. (§102(c)(1)–(6).) As mentioned earlier, the bill requires the Justice Department and the FCC within 6 months of the date of enactment to establish procedures for the expedited consideration of applications by the Bell companies to provide other incidental long distance services. (§101(b)(3)(D)(iii).)

The bill generally permits the regional Bell companies and their operating affiliates to manufacture equipment, beginning a year after enactment, unless the Justice Department acts to stop them. (§103.) This bill creates a 1-year waiting period, during which the Department would review the company's plans and determine whether there is "no substantial possibility" that the company or its affiliates could use monopoly power to impede competition in the market the company intends to enter. (§103(b)(2).) If the Department takes no action within that time, the company would be free to engage in the activity at the end of the 1 year. The Department would be permitted to shorten this waiting period by providing early notice to the Bell company that it does not intend to initiate any legal action. (§103(b)(1)(B)(ii).)

The bill includes numerous safeguards to prevent manufacturing affiliates from unfairly benefiting from their affiliation with Bell companies and vice versa. Under the measure, Bell operating companies must conduct their manufacturing activities through separate affiliates having their own financial books, records, and accounts, and it generally prohibits the Bell companies from providing any in-kind benefits such as advertising, sales, or maintenance. (§201.) Bell companies would be specifically prohibited from subsidizing their manufacturing affiliates with telephone revenues. The measure also requires manufacturing affiliates to sell their products to all telephone companies at prices and terms equal to the prices and terms it sells its equipment to its parent Bell company.

Section 201 of the bill contains a "domestic content" provision which sets down the general rule that a manufacturing affiliate must conduct all of its operations within the United States and that all component parts must also be of domestic manufacture. There is, however, an exception to this. Foreign manufactured component parts may be utilized if a good faith effort fails to secure equivalent parts manufactured within the United States, provided their cost does not exceed 40 percent of the sales revenue derived in any calendar year from the manufactured product. Furthermore, and most significantly, the general rule does not apply to the extent any of its provisions are determined to be inconsistent with any multilateral or bilateral agreement to which the United States is a party, such as a Bilateral Investment Treaty, the North American Free Trade Agreement, or GATT. This is an enlightened and fair resolution of a difficult problem—balancing competing interests.

Beginning 5½ years after enactment, the regional Bell companies and their operating affiliates are permitted to file applications to the Federal Government to provide alarm monitoring services. (§101(a)(1)(A).) As with Bell applications to provide long-distance services, the Justice Department and FCC would have to make separate determinations within 6 months whether the provisions of alarm services by a Bell company would impede competition or serve the public interest. The measure requires the FCC to issue rules regulating Bell company provision of alarm monitoring services, and it permits the FCC to penalize Bell companies that violate FCC regulations—including ordering a company to cease providing such services. (§202.)

The measure establishes certain rules under which the Bell companies may provide electronic publishing services, including the dissemination, publication, or sale over telephone lines of news, business and financial reports, editorials, columns, sports reporting, features, advertising, photos or images, research material, legal notices and public records, and other such information. (§203.) These rules would expire June 30, 2000.

Section 203 would add a new section 231 to the Communications Act of 1934. It establishes a number of safeguards to ensure equal access to interconnections for all electronic publishers. Under its terms, the Bell companies would be permitted to provide electronic publishing services over their own telephone lines only if such services are provided through a separate affiliate or a joint venture with an electronic publisher. Furthermore, joint ventures between the Bell companies and newspaper publishers would be encouraged, and joint ventures between the Bells and small, local electronic publishers are encouraged in particular. The separate affiliates or joint ventures would be required to maintain their own books, records, and accounts, and could not engage in any joint sales, advertising, or marketing activities with affiliated Bell companies.

When the House Judiciary Committee considered this matter in March, I offered an amendment dealing with the definition of "electronic publishing." My concern focused on the fact that the definition in the bill as introduced appeared to be almost exclusively newspaper oriented. The problem, of course, is that a number of non-newspaper entities are engaged in the electronic publishing business. For example, the Economic and Commercial Law Subcommittee received testimony from the President of the West Publishing Co., who expressed the view that all content-based information should be included within this definition.

So, I felt that the protections contained in section 203 should extend to a novel, textbook, or scientific journal, as well as a newspaper. Similarly, magazines should be covered as well as electric legal research tools such as Westlaw and Lexis. Consequently, the legislation that comes to the floor of the House contains an expanded definition of the term "electronic publishing." For example, my amendment added "legal, consumer or credit material", "research material" and "public records." In addition, it clarified that electronic publishing includes "scientific, educational, instructional, technical, professional, trade or other literary materials." It is important to note that the term "electronic publishing" does not include any of the out-of-region activities of a Bell company, nor does it include wireless or cellular services, or cable television.

Obviously, Mr. Speaker, this is very important legislation. If this bill is enacted, seven strong competitors will enter into new telecommunications markets, providing a broad range of additional products and services to their customers. This is justified because the boundaries between local service and long distance have blurred and, in some places, the local telephone exchange is no longer a monopoly. We need to provide the Bell companies with incentives to invest in their local networks. This bill replaces judicial oversight of national telecommunications policy with a sensible regulatory structure. At the same time, the legislation protects basic antitrust principles.

Given the lateness of the session and the importance of having this legislation enacted this year, the committees decided to go forward under the expedited procedure of suspension of the rules. It is my hope that the other body will give this important measure serious and prompt consideration. I strongly urge an "aye" vote on the part of my colleagues.

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Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank my good friend, JACK BROOKS, for yielding.

Mr. Speaker, I rise in strong support of H.R. 3626. I urge my colleagues to join me in voting for this important piece of legislation. This legislation ends years of bitter and divisive wrangling between industry, between committees in the Congress and between individuals.

The compromise is not the one which I would necessarily sponsor nor that which my dear friend from Texas, Mr. BROOKS, would have sponsored. I want to commend him for the fine way in which he worked with me, express my gratitude and appreciation to him and tell the House that this is an extraordinary example of the cooperation that can exist between industries, communities, and between committees and Members of this body.

The bill we bring to the House today memorializes the compromises, is a fair and balanced bill and deserves the support of the House.

But I would also like to commend the distinguished and able chairman of the Subcommittee on Telecommunications of the Committee on Energy and Commerce, Mr. MARKEY, for his extraordinary leadership in the joint handling of this and the other legislation that will be before this body today. He has held 7 hearings, moved the bill out of the committee expeditiously, and saw to it that it passed our committee with an overwhelming vote. I commend him for his efforts.

Equal gratitude goes to my dear friends, the ranking minority member of the committee, Mr. MOORHEAD, Mr. FIELDS, and Mr. OXLEY, two of the more valuable members of this committee for whom I have great respect.

At this time I would like to again express my thanks to my dear friend, Mr. BROOKS, and engage in a brief colloquy with him.

I want to clarify with my coauthor of the legislation the intent behind those provisions in section 102 concerning the responsibility of the Department of Justice if it seeks to enjoin a Bell company from entering into the business of intra-state interexchange telecommunications services after a State has granted permission to such company under that section.

Does my dear friend the gentleman from Texas agree that the intent behind this provision is to require the Department to seek in its complaint when commencing a civil action not only a permanent injunction but also a temporary or preliminary injunctive relief if it desires to prevent a Bell company from offering the services authorized by the State?

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to my friend, the gentleman from Texas.

Mr. BROOKS. I thank the gentleman for yielding.

Mr. Speaker, yes, the intent behind those provisions is to require the Attorney General to seek all customary and available forms of injunctive relief as provided under the Antitrust laws and under the Federal Rules of Civil Procedure. Such relief would include temporary restraining orders, preliminary injunctions, as well as permanent injunctions.

Indeed, it is the usual and customary practice of the Department of Justice in antitrust cases seeking to enjoin anticompetitive activity to request preliminary as well as permanent injunctions. In implementing this provision, the Department will proceed in the same fashion under the applicable provisions of section 102 as it customarily does in other areas, such as merger enforcement, and will therefore request preliminary as well as permanent injunctions.

Mr. DINGELL. I thank the gentleman.

Thus, Mr. Speaker, as Chairman BROOKS and I have agreed, section 102 provides that a Bell operating company may provide intrastate interexchange telecommunications service that has been authorized by a State if the Attorney General fails to commence a civil action to enjoin the company from so doing or brings such a civil action but fails to obtain an injunction. If the Attorney General fails to seek or obtain temporary or preliminary injunctive relief, the Bell operating company can proceed to offer the service pending a trial on the merits in which the court would decide whether or not to issue a permanent injunction.

Mr. Speaker, H.R. 3626 is one of the most important pieces of telecommunications legislation that I can recall coming to the House floor.

Together with its companion bill offered by our dear friends, Mr. MARKEY and Mr. FIELDS and Mr. OXLEY, it will provide a whole new and updated framework for the development and implementation of telecommunications policy. I urge my colleagues to support both of these important bills.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3626, the Antitrust and Communications Reform Act of 1994. This bill is critical because it returns important telecommunications policy authority from the courts to Congress where it belongs and it transfers the powers of overseeing the activities of the Bell operating companies from the Federal courts to the Federal Communications Commission and the Department of Justice.

Since 1984, when the Bell operating companies were restricted from entering various lines of businesses as a result of the consent decree entered into in an antitrust case, the industry has undergone significant changes. As a result of these changes, the restrictions imposed by the consent decree are no longer necessary and now serve as barriers to real competition.

H.R. 3626 sets out the policy standards, limitations, and procedures for the entry by Bell operating companies into previously restricted businesses, including manufacturing, alarm monitoring and long distance as well as the guidelines for providing information services.

These are complicated issues which were carefully considered by the energy and Commerce Committee and the committee reported the bill on a voice vote.

Mr. Speaker, we have all heard and spoken of the benefits the information superhighway will bring. H.R. 3626, together with H.R. 3636, will lay the foundation for the construction of this highway by removing unnecessary regulatory barriers and allowing for competition to flourish.

I am pleased to be a cosponsor of this legislation and urge my colleagues to support H.R. 3626.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield myself such time as required in order to have a couple of colloquies with the distinguished chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL].

Mr. Speaker, I would like to engage the gentleman from Michigan in a brief colloquy on the savings clause inserted into the so-called domestic content provisions of the manufacturing section of the bill as found in section 201. As the gentleman knows, the savings clause was inserted to mitigate any concerns of the Office of the U.S. Trade Representative that these provisions might undermine the international obligations of the United States with respect to bilateral and multilateral agreements entered into with other countries.

Specifically, who will make the determination called for by the savings clause?

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. BROOKS. I yield to the distinguished chairman.

Mr. DINGELL. I thank the gentleman for yielding.

Mr. Speaker, in general, the President and the U.S. Trade Representative have responsibility for carrying out the trade laws and ensuring that our actions are consistent with our international obligations. This language envisions that any determination is subject to review by Federal court.

Mr. BROOKS. I thank the gentleman for this clarification. Mr. Speaker, I would like to engage the distinguished chairman of the Committee on Energy and Commerce in a colloquy regarding the exceptions for incidental services set forth in H.R. 3626.

The bill permits a Bell operating company or an affiliate thereof to provide interexchange telecommunications that are incidental to its offering of other services, such as cable television or cellular radio. The exceptions for incidental interexchange services are intended to be narrowly construed and are not a back door for the Bell operating companies or their affiliates to provide interexchange telecommunications services or their functional equivalents without going through the approval procedures specified in the bill.

Mr. DINGELL. Mr. Speaker, the gentleman from Texas is correct.

Mr. BROOKS. In this regard, the storage-and-retrieval exception would not cover any service that established a direct connection between end users, any real time voice and data transmission, or any service that is the functional equivalent of or substitute for an interexchange telecommunications service.

Only storage-and-retrieval services in which the customer initiates the storage or retrieval of information would be included under this exception. Thus, voice, data, or facsimile distribution services in which the Bell operating company or affiliate forwards customer-supplied information to customer- or carrier-selected recipients would not fall within the exception. Likewise, the exception would not include any service in which the Bell operating company or affiliate searches for and connects with the intended recipient of information, e.g. roving or automatic forward-and-connect services, or any service in which the Bell operating company or affiliate automatically forwards stored voicemail or other information to the intended recipient. For a storage-and-retrieval service to qualify under this exception, the recipient must act affirmatively to initiate the retrieval of the information from the storage facility.

Mr. DINGELL. The gentleman is correct. Storage-and-retrieval services that include the kinds of end-to-end capabilities you have described are, or could become, substitutable for interexchange telecommunications services. A Bell operating company or affiliate wishing to offer such storage-and-retrieval services could seek authorization to do so from the Department of Justice, the FCC, and the appropriate State, as the case may be.

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Mr. BROOKS. Mr. Speaker, that is correct, and I want to thank the gentleman from Michigan [Mr. DINGELL] for this colloquy.

Mr. Speaker, I reserve the balance of my time.

Mr. FISH. Mr. Speaker, I yield 4 minutes to the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Speaker, it is hard to imagine a subject more consequential to the future of the American economy than that of regulation—or deregulation of telecommunications. The ability of companies in this field to compete and collaborate freely, with a minimum of Government second-guessing and direction, is vital to American leadership in high technology.

It is also hard to imagine, therefore, any subject less fit for the suspension calendar than this one. The law we pass here, if we do not fully explore its provisions and consider its potential costs, will be a law operating in subordinance to that other and eternal law of this place—the law of unintended consequences. Have the Members so exhausted themselves with study and debate on the issues raised by H.R. 3626 and H.R. 3636 that they are already prepared to put their names down in support of it? I do not think so.

I know the sponsors worked hard on these bills. I know they mean well and feel they have done the best they can. But these bills were produced in their present written form only this past weekend; they are complicated and lengthy—almost 200 pages.

Of much greater concern, their sweeping economic provisions appear to constitute what Bruce Chapman of Discovery Institute, in a Washington Post article yesterday, called a Rube Goldberg industrial policy—that is—sure to make the public as well as the business community unhappy before long.

How many Members could stand up here and discuss these many provisions, let alone debate them?

How many of us are prepared to be grilled about these bills by our constituents this fall if awkward questions are raised?

People involved in technology often are not people involved in politics—until, that is, they figure out what their elected officials have done to them. That is beginning to happen on these bills. For example, the Internet is busy with conjecture about the haste with which this weighty subject is being addressed by the House.

For example, on a telecom electronic roundtable called the Federal Information News Syndicate, Vigdor Schreibman, editor, reported the following yesterday:

> A number of citizens have expressed outrage that such an important legislative initiative that will change the global civilization would go to a vote without adequate consideration of the language of the measures.* * *

I could have told Mr. Schreibman that I personally have heard similar reactions—amounting to incredulity—around this building, too.

One of the Nation's top experts on telecommunications policy, George Gilder, told several of us the other evening that he was appalled that so serious and sobering a set of measures might be adopted with so little understanding and discussion by this body. The results could be disastrous.

Privately, many of the lobbyists on various sides of these measures also acknowledge that this is very seriously flawed legislation with the potential to backfire upon its supporters, however well-intentioned. Remember the Cable Act of 1992, which among other unintended consequences is giving us higher rather than lower rates in many areas and knocking C-SPAN off of the sets of millions of Americans?

Remember catastrophic health insurance—a different sort of topic, except for the common feature of an inordinate rush to passage?

What shall we tell the mayors, county commissioners, and other local officials who are protesting these bills? The National League of Cities, the U.S. Conference of Mayors, and the National Association of Counties have all urged a "no" vote because they say that—

> The bill, as drafted, virtually gives away local authority over local infrastructure, and does so without real or monetary compensation to local communities.

Maybe they are wrong, but how will we be able to explain our position to them if we have not even debated this bill?

Most importantly, what about the theme of reregulation that runs through these bills, even while they pretend to deregulate? In a dynamic field like high technology, which is doubling its costs effectiveness every year and is seeing the entry of scores of new and often unexpected competitors, why is this body about to endorse a return to railroad era monopoly control models? I would think that any friend of the market economy would be very cautious about heading down such a path.

Why instead do we not follow the more contemporary models of computers and software? In these models, it is the relative absence of Government controls and regulation that has allowed the United States to soar ahead of the whole world and has reinvigorated an otherwise somewhat anemic economy. Renewed monopoly is the wrong model for an economy where wireless communication, satellite, all optical fiber networks and other technologies are all coming on line to compete with the cable and telephone companies.

Do we really want to kid ourselves and our constituencies into believing that this body—with so little discussion before and no debate at all—is ready to second-guess not only the market but the technology itself and to design a whole new, heavily regulated, and indirectly taxed telecommunications regime for America?

I do not pretend to any expertise of the subject of high technology, but I do know something about the House of Representatives. And I think I know something about what the voters expect from us. They expect us to deliberate upon the great and weighty and historic issues of the time. At times like this they do not expect us to surrender our judgment.

Let us have these bills properly discussed and properly debated. They are too important to the future of our country and its economy to be dispatched without such care and attention.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. MARKEY], the distinguished chairman of the subcommittee, with thanks for having handled this bill so well.

Mr. MARKEY. Mr. Speaker, I rise in support of H.R. 3626, the Antitrust and Communications Reform Act of 1994.

This bill, which was approved unanimously by both the Subcommittee on Telecommunications and Finance and the full Committee on Energy and Commerce, coupled with H.R. 3636, the National Communications Competition and Information Infrastructure Act of 1994, represents the most comprehensive communications legislation brought to the House since the original Communications Act of 1934. This bill represents a carefully crafted compromise by the Energy and Commerce and the Judiciary Committees to balance the important regulatory and antitrust issues facing the telecommunications industry today. This compromise encompasses a myriad of different interests and perspectives both public and private—both in and out of Congress. Furthermore, this bill embodies countless hours of work on proper telecommunications reform by Congress over the last several years. The dawn of the Information Age has come and this bill will ensure that it is an age marked by fair competition and consumer protection.

It was Samuel Morse in 1844 who raised the curtain on the Information Age with a telegraphic message sent from Baltimore to Washington. Morse was an inventor, but he had the instinct of a talk show host. With a series of electric blips he asked Washington this question, "What hath God wrought?"

One hundred and fifty years later, we meet on the House floor to ask a less cosmic, but still compelling, question. "Whither the Information Age?"

God hath wrought the most innovative, competitive, remarkable industry in the world today, and we in Congress have the responsibility for accelerating this unrivaled capacity for reinvention and growth. The jobs of the future, the hopes of our children for expanding opportunities and a better life, ride on the passage of these bills today.

If we pass this bill, Congress will send its own message to the world, not in Morse Code, but in plain English over miles and miles of tiny strands of glass and digitally-compressed spectrum. We will send the message that America is placing its hopes and dreams in the ingenuity of its information entrepreneurs, and it is confident of its future.

H.R. 3626 lifts many of the restrictions placed on the Bell companies in the so-called modified final judgment [MFJ], a consent decree struck between AT&T and the Justice Department in 1982. The bill frees the Bell operating companies to compete in businesses from which they were previously barred under the consent decree, after winning State and Federal approval. For the past 12 years a single district court has carried the burden of shaping the development of communications law and the communications industry, simply by adjudicating the AT&T consent decree. This bill culminates a long effort over that time to set forth a comprehensive national policy on how telephone companies should participate in the future of the communications world. Now, rather than place the onus of deciding the evolution of the communications industry in the hands of the court, the Federal Communications Commission and the Department of Justice will serve as the guiding legal and regulatory arms in determining the Bell companies' role in the Information Age.

Specifically, the Antitrust and Communications Reform Act of 1994 allows the Bell companies to enter the long distance and manufacturing businesses at certain junctures and sets new safeguards for their participation in the provision of information services.

In the long distance market the act would allow the seven regional Bell operating companies to enter various long distance markets over time as long as permission has been granted by the Justice Department and the Federal Communications Commission. In particular, the Bells would be permitted to enter four submarkets:

In the intrastate long distance market the bill grants authority to the State to regulate the provision of long distance service. Thus, a State would have the authority to decide whether a Bell company may enter the long distance business for the purpose of providing long distance service for calls that originate and terminate in the same State. The Department of Justice is granted 90 days to review any decision made by the State to grant service in this market.

In the interstate long distance market, H.R. 3626 permits the Bell companies to petition the Department of Justice and the Federal Communications Commission to utilize their own networks to provide interstate long distance service throughout their service region. The Department of Justice and the Federal Communications Commission would have to find that there is no substantial possibility that a Bell company could hinder competition by offering the service in order to block them from doing so.

Third, the bill allows the Bell companies to petition the Justice Department and the FCC to provide interstate resale services 18 months after the date of enactment. This provision permits a Bell company to purchase, in bulk, and resell to subscribers on a retail basis, capacity on networks owned by other carriers.

Finally, H.R. 3626 allows the Bell companies, 5 years after enactment of the bill, to petition the FCC and the Department of Justice to build and operate networks outside of their regions.

H.R. 3626 also sets important new guidelines for the regional Bell operating companies' participation in the provision of information services. Specifically, the act contains significant safeguards in the industries of electronic publishing, alarm monitoring, and burglar alarm services.

In providing electronic publishing services, a Bell company would only be permitted to engage in electronic publishing through a separate affiliate or joint venture. Such separate affiliates or joint ventures would maintain books, records, and accounts separate from its affiliated Bell company. Bell companies must provide to any separate affiliate all facilities, services, or information available to unaffiliated entities on the same terms and conditions. All of these rules would expire in 6 years.

Most significantly, the legislation puts in place much-needed privacy protections for American consumers in this area by: First, prohibiting any common carrier from providing customer proprietary network information [CPNI] to any other person unless it is expressly permitted. And by second, developing a "privacy bill of rights" for all communications media to protect consumers whenever they use electronic networks. The three core principles of the privacy bill of rights, which the FCC will regulate with the flexibility to promulgate additional protections in a technology-specific manner as warranted, are as follows: First, consumers get knowledge that information is being collected about them; second consumers get notice that the recipient intends to reuse or sell that information; and third consumers have the right to say "NO" and curtail or prohibit such reuse or sale of personal information.

While the consent decree served a necessary purpose over the last 10 years, and the diligence of Judge Greene deserves note, it no longer serves the public interest at this dynamic time in the evolution of the communications industry. With expert agencies such as the Department of Justice and the Federal Communications Commission allowed to administer a new Federal policy, a policy which will promote competition and innovation while protecting consumers, America will ensure its preeminence in this quickly evolving telecommunications marketplace. The Antitrust and Communications Reform Act of 1994 will open up markets to help establish a competitive, fair, and ever-growing information infrastructure while providing necessary safeguards to protect competition and consumer interests. I urge all Members to join me in supporting this critical legislation.

Mr. MOORHEAD. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. FIELDS], the distinguished ranking member of the subcommittee.

Mr. FIELDS of Texas. Mr. Speaker, I rise in strong support of H.R. 3626, the Antitrust and Communications Reform Act of 1994. This legislation removes barriers to entry imposed on the Bell Telephone companies as part of the 1982 court decision to divest local telephone service from AT&T. While those prohibitions might have made sense 10 years ago, they increasingly have little relevance in the rapidly changing and evolving telecommunications landscape we see today.

H.R. 3626, which has been sponsored by the chairman and ranking members of both committees that have jurisdiction over it, as well as the Telecommunications Subcommittee chairman and myself, sets out the ground rules for Bell company entry into long distance, information services, and telecommunications equipment manufacturing. The bill recognizes that the Bell companies enter these markets from a historic, if somewhat crumbling, position of monopoly in the local telephone market.

For that reason safeguards, both structural and nonstructural, are necessary to ensure that the threat of discrimination and cross-subsidies remain just that—a threat, not a reality.

Mr. Speaker, I want to commend the primary sponsors, the gentleman from Michigan [Mr. DINGELL], the gentleman from Texas [Mr. BROOKS], the gentleman from New York [Mr. FISH], and the gentleman from California [Mr. MOORHEAD] for their perseverance and hard work in ensuring that the delicate and the careful balance needed in this legislation has been struck and that after our conference with the Senate that every segment of the industry affected by this legislation will be in a more competitive, a more strengthened, position, and once again I want to commend the sponsors of this initiative for their hard work.

I urge all of my colleagues to support the passage of this legislation, and I say, particularly to my Republican colleagues, this is a deregulatory, procompetitive piece of legislation, a piece of legislation that should be supported by both sides of the aisle of this particular House.

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. EDWARDS], the ranking member of the Committee on the Judiciary.

Mr. EDWARDS of California. Mr. Speaker, I rise today in support of the compromise version of H.R. 3626, the Antitrust and Communications Reform Act. I commend my chairman, JACK BROOKS, and Chairman DINGELL for their work in drafting a bill that will foster continued growth in the U.S. telecommunications market.

I especially want to express my support for the provisions of H.R. 3626 which maintain the Justice Department's authority to review all potential entries by the regional bell companies into the long distance and manufacturing markets. Since we are allowing the regional phone companies, which operate currently as virtual monopolies in their service areas, into new markets, we must have in place safeguards against any abuse of such market power. The Justice Department's antitrust expertise will be put to good use in making certain that consumers will always have the benefit of true competition.

Again, I commend my fellow members of the Judiciary Committee as well as the members of the Energy and Commerce Committee for their work on this bill, and I urge my colleagues to vote for H.R. 3626.

Mr. Speaker, the gentleman from Michigan [Mr. BONIOR], referred to a 1993 WEFA study funded by the regional Bell operating companies. This study purports to show dramatic job growth and other economic benefits if current antimonopoly rules restraining the RBOC's are lifted. Among the claims are 3.6 million new jobs nationally, an increase in the GDP of $247 billion, a reduction in the Federal budget deficit of $150 billion, a $33 billion improvement in the U.S. balance of trade and a full 1 percent reduction in both the inflation rate and long-term interest rates over 10 years. This "economic miracle" includes an assumption of $490 billion savings for American consumers in long distance alone. Forecasts like these are especially incredible given the fact that the long distance market which the RBOC's desire to enter produced only $59 billion in annual revenue in 1992, the most recent year for which full data are available.

My concern is that these unbelievable forecasts were developed by using unbelievable assumptions, which have little or no basis in fact. For example, BellSouth forecasts a potential BellSouth price of $.37 for a 5 minute long distance call from Kingsport, TN, to Washington, DC. Comparing this hypothetical price to a price of $.99 for AT&T, they claim a dramatic 63 percent savings. Since the Bell companies currently charge AT&T approximately $.45 for local access costs, it's hard to understand how BellSouth could assume a charge of only $.37 for this call, less than their own charges.

A general assumption in the analysis is that long distance rates would be reduced by 50 percent immediately upon RBOC entry. The report fails to explain how this would be accomplished. The long distance market is already competitive, with studies showing a 66 percent decline in real rates since 1984. Further, with local access costs amounting to $.45 of every long distance dollar, it is hard to imagine what miracles the RBOC's could perform to reduce the remaining $.55 to $.05. Only two possible explanations come to mind. The RBOC's could discriminate against long distance companies by failing to include long distance access costs in their own rates, or the RBOC long distance could be priced absurdly low with the lost revenue made up by higher local telephone rates.

The RBOC's also assume that average real telecommunications service prices will fall by 42 percent over the 10-year period. Again, no basis for this assumption is established. It is also in sharp contrast to actual RBOC increases in local telephone rates during the past 10 years.

Finally, the RBOC's portray this questionable report as a finding of WEFA [Wharton Econometric Forecasting Associates], a leading international forecasting firm. In fact, WEFA, under contract, simply provided the RBOC's with access to its econometric computer model of the U.S. economy. This computer model forecasts results based exclusively on whatever set of assumptions is supplied. In this case, assumptions were supplied by the RBOC's and their consultants. The results, of course, are equally questionable. WEFA performed no independent analysis of the RBOC's assumptions.

Mr. Speaker, a better analysis of the long distance industry was prepared by Stanford Prof. Robert E. Hall and his group, Applied Economics Partners of Menlo Park in my California district. A summary of that study, Long Distance: Public Benefits From Increased Competition, follows:

EXECUTIVE SUMMARY

Important structural changes have taken place in the long-distance industry in the last two decades. The industry has moved from a tightly regulated monopoly to active competition among a number of rival firms. Key steps in the transition were:

The establishment of the legal right to compete with AT&T,

The structural separation of local and long distance accomplished by divestiture of the Bell System in 1984, and

The requirement of equal access by local telephone subscribers to alternative long-distance providers.

Economic analysis predicts that enhanced competition will drive prices down to a new, lower level. Lower prices are a primary way that the public benefits from pro-competitive policies. After the transition to lower prices, competition delivers continuing low prices. These predictions aptly describe actual events in long distance:

Between 1985 and 1988, according to government price indices, the price of long distance relative to the general price level fell by 30 percent.

Between 1988 and 1992, the price fell by about another 17 percent.

The average revenue per minute earned by the three largest carriers fell 63 percent relative to the general price level from 1985 to 1992.

Net of access charges paid to local telephone companies, the revenue per minute of the three largest long-distance carriers fell by 66 percent between 1985 and 1992 after adjustment for inflation.

Since 1989, AT&T's price for regular long-distance calls has fallen by three percent per year net of access charges, after adjustment for inflation.

The transition to competition has also seen a remarkable growth in the quality, variety, and technical capabilities of long-distance services:

Reductions of noise, cross-talk, echoes, and dropped calls have made the usefulness of one minute of telephone conversation rise at the same time that the price of that minute has fallen.

Fiber optics now carry the bulk of long-distance traffic, at lower cost and higher quality than the earlier microwave technology. The transmission speed of state-of-the-art fiber has doubled every three or four years since fiber was introduced.

Long-distance carriers have led the way in digital switching and common channel signaling.

The long-distance industry has developed software methods for providing efficient private network services for large businesses, using common physical facilities.

The industry has created innovative new types of long-distance service to improve the efficiency of communication for consumers and businesses, large and small.

Competition has worked in long distance because the nature of the product and the technology for producing it are suited to competition and because regulation has fostered conditions conducive to competition:

The success of equal access has shown that it is practical and effective to give every telephone user free choice among long-distance carriers.

No customer is a captive of a long-distance carrier. If one carrier provides poor service or overprices its products, the customer can easily switch to another carrier.

There are no artificial barriers to entry in long distance. Although it would be expensive to reproduce an entire national network of the type operated by AT&T, MCI, and Sprint, that investment would pay off if there were much overpricing of service by those national carriers. Moreover, effective entry could occur without construction of any new networks, by leasing capacity from owners of subnational fiber networks and by reselling services from other carriers.

An important part of the evidence that competition has worked in the long-distance market is the lack of monopoly profits among the carriers. The return on assets by the three largest carriers recently has been below the rate of return allowed by regulators for local telephone service.

Proposals have been made to lift the line-of-business restriction and thus permit the Regional Bell Operating Companies [RBOCs] to control long distance carriers. That move would be harmful to long-distance customers because:

The principle of separate ownership of local and long-distance service is sound as a matter of economics; it is the most effective way to ensure reliable, efficient long-distance service and to give customers a free choice among long-distance carriers.

RBOC entry would not increase the number of long-distance carriers in the long run.

Experience has shown that regulators cannot prevent all the methods that a local carrier can use to reduce the efficiency of its rivals and to divert business to its own competitive service, when that service is dependent on the local telephone network. This danger is particularly important for long distance.

Regulation also cannot guarantee that costs for a competitive business, such as long distance, are not reported as costs of a related regulated monopoly business, such as local service.

Overall conclusions from this review of the structure and performance of the contemporary long-distance industry are:

The active competition made possible by divestiture in 1984 rapidly drove prices downward.

Price declines have continued because of rapid productivity growth and declining costs.

Prices have declined by much more than just the decrease in access charges.

Competition has proven a highly effective policy approach for the long-distance industry.

Permitting the RBOCs to control long-distance carriers would clearly be harmful. The line-of-business restriction on long distance is sound policy.

In addition, Mr. Speaker, I would note that, section 102(c)(3) provides for an exception to the general rule that the Bell operating companies may not provide interexchange telecommunications without DOJ and FCC approvals. This provision grants authority to provide incidental long distance for the purpose of providing commercial mobile services. Such an exception should not be viewed as a "blank check" to provide long distance telecommunications services without proper review and oversight. Rather, the bill is intended to authorize a subset of long distance telecommunications services that are in incidental to the provision cellular radio or other wireless services. Nothing in this "incidental services" exception should be understood to limit the authority under existing law of the Federal Communications Commission, the Department of Justice, or other appropriate body to regulate or condition Bell operating company provision of these services to protect the public interest or to prevent anticompetitive conduct. In particular, section 108(a) of the bill should be understood explicitly to authorize the Federal Communications Commission to adopt such appropriate conditions and safeguards. In this regard, I note that the Department of Justice has recently proposed some safeguards that should accompany Bell operating company provision of wireless long distance services in connection with a pending MFJ waiver request.

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Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. WASHINGTON].

Mr. WASHINGTON. Mr. Speaker, I thank the chairman of the committee for yielding time to me.

I thank the gentleman and also the chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL], for their hard work in putting this legislation together. I am pleased to give the legislation my strong support.

Mr. Speaker, I rise in support of the motion to suspend the rules and adopt H.R. 3626. This bill is the result of an enormous effort by Chairmen JACK BROOKS and JOHN DINGELL. As leaders of two great committees of this House, on which I am privileged to serve, the chairmen have shown extraordinary skill and wisdom in moving this measure to the House floor. I urge its adoption.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Oklahoma [Mr. SYNAR], chairman of the subcommittee.

Mr. SYNAR. Mr. Speaker, I rise today in support of H.R. 3626, the Antitrust Communications Reform Act of 1994.

Since the Industrial Revolution, our country has benefited from the marriage of technology and the free market to achieve two key goals: First, ensuring the economic prosperity of our citizens; second, maximizing the quality of our citizens lives.

I maintain that telecommunications reform, if it is to truly serve the public interest, must rely on three classic regulatory concepts: First, an across-the-board competitive entry test; second, adequate post-entry competitive safeguards; and third, vigorous, well-financed enforcement of the competitive marketplace.

Let me state what we all know: competition works. The bill we ultimately adopt must give competition a proper chance to work for the benefit of all consumers.

One final important note. This bill will further propel growth in the telecommunications industry and that means both jobs and consumer benefits for our Nation. That is good news for my constituents in Oklahoma and all Americans.

Mr. Speaker, I rise today in support of H.R. 3626, the Antitrust Communications Reform Act of 1994. Since the Industrial Revolution, our country has benefited from the marriage of technology and the free market to achieve two key goals: ensuring the economic prosperity of our citizens while maximizing the quality of their lives. Over the last decade, we have witnessed the growing power of the telecommunications industry in our economy, to the tune of nearly $300 billion in revenue this year, and seen the innovative, and sometimes mind-bending application of this technology in our schools, libraries, hospitals, and homes.

This bill will further propel our Nation's telecommunications progress, and it is good news for my State of Oklahoma. We estimate this legislation will create 3.6 million new jobs for metal, factory, and construction workers. Oklahoma is well-positioned, both geographically and with its workforce, to lead the way as a high-technology, high-wage State in a dynamic global economy that now depends on information technology. I know that by the year 2000, these jobs will anchor communities in northeastern Oklahoma, transforming the job base and helping our young people to get a solid start on their future.

As Congress wrestles with the challenge of overhauling our telecommunications policy, we must not forget the policies and principles that made us a world leader in this industry. For more than 80 years, the antitrust laws have interacted with telecommunications regulatory policy to ensure product and service diversity and price competition to the benefit of consumers. The dual roles for antitrust law and communications law must be preserved and strengthened if we are to advance our Nation's telecommunications industry into the next century.

I have maintained that any reform legislation, if it is to truly serve the public interest over time, must rest on three classic regulatory concepts: an across-the-board entry test, adequate safeguards, and vigorous enforcement. Let me address each of these in the context of H.R. 3626. First, I am pleased that this legislation acknowledges that the Department of Justice has a critical role to play in ensuring that the playing field is level and that competitors compete fairly. By applying the competitive entry test across-the-board to all lines of business, we have codified a tough antitrust standard that must be met before new markets can be opened to players that could use their monopoly power to their competitive advantage.

However, I am concerned that the sequencing of the review process in this legislation is less than desirable if we are to guarantee that consumers benefit immediately competition in the local loop. Currently, the regional Bell operating companies' lock on the local exchange prohibits effective competition. We have seen instances when RBOC's delay competition by denying access to the switch, overcharging for the use of their facilities, and cross-subsidizing local service from monopoly revenues. This bill, while it applies the right standard to judge the potential impact of the regional Bell operating companies' entry into a market, uses that standard as a backstop instead of a threshold test to forestall competitive harm. I look forward to working on this aspect of the bill as we move through conference toward final passage.

Second, I recognize that the bill contains post-entry safeguards to protect certain segments of the telecommunications industry from unfair and rapid encroachment by monopoly firms that could rapidly dominate the market. These safeguards, including extended waiting periods for certain lines of business, both separate subsidiary and separate affiliate requirements, restrictions on the use of Consumer Proprietary Network Information, certain joint activities, and teaming and business arrangements. However, as I expressed during hearings on this subject with representatives of the electronic publishing and alarm industry, safeguards that are deemed right and fair for specific segments of the industry should be applied to all. I believe Senator HOLLINGS' bill, currently under review in the Senate, addresses this issue in an equitable manner.

Third, I am heartened that this legislation actually includes a mechanism through which we can guarantee that its enforcement will be carried out over time. This is no small task. The FCC currently has only approximately 18 auditors to cover 256 audit areas. An amendment I successfully offered during committee consideration of H.R. 3626, allows the Federal Communications Commission to use its authority under the 1993 Omnibus Budget Reconciliation Act to collect fees for the express purpose of beefing up its auditing functions and cost allocation tracking efforts. We need to provide the Commission the right tools and resources to get the job done, and this amendment is the first step in this process.

I would also like to say a word about the term "affiliated enterprise," a term used in the MFJ to describe the full range of business relationships—including contractual relationships—that can create vested interests and thereby give rise to monopolistic temptations. I am pleased that the bill before us today follows the bill reported by the Judiciary Committee by incorporating this crucial term throughout the legislation's entry test provisions. Although the bill does not include a technical amendment passed unanimously by the full committee that would have alerted readers to the full meaning of the term in the statute itself, the Judiciary Committee report fully explains the term.

Just as this term is not explicitly defined in the bill before us today, it is not explicitly defined in the MFJ. Instead, the meaning of this term is explained in the case law—specifically, in *United States* v. *Western Electric Co.*, Civil Action No. 82–0192 (D.D.C. Jan. 21, 1992), *aff'd*, 12 F.3d 225 (D.C. Cir. 1993).

I am also pleased that the Attorney General's authority to enjoin entry into intrastate interexchange telecommunications services and the resale of interexchange telecommunications services as provided in section 102(b)(2), section 102(b)(3) and section 102(d)(1) contemplates the full range of injunctive authority. In order for H.R. 3626's entry test to properly protect telecommunications consumers, the Department of Justice must have available the full complement of injunctive remedies to ensure that there is no substantial possibility that those who seek to enter the long distance telephone business could use their monopoly power to impede competition in the markets they seek to enter. Any other reading of the Attorney General's injunctive authority would be inconsistent with the plain language of the bill, the clear intent of the Congress, and the traditional law enforcement role of the Attorney General.

Lastly, I would like to express my disappointment about the nature of the debate we have had over the last 6 months on this legislation. While I commend the two chairmen and the ranking members for the depth and quality of the hearings held, I am disturbed by the lack of participation by Members from both sides of the aisle in the actual formulation of the legislation we have today. Congress can accede to its duty to make decisions only if we have an open, deliberative process that informs the final debate over the letter of the law.

Finally, let me state what we all know: competition works. The bill we ultimately adopt must give competition a proper chance to work for the benefit of all consumers. I look forward to participating further in these issues as we move toward final passage of the legislation.

Mr. FISH. Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. BONIOR], our distinguished majority whip.

Mr. BONIOR. Mr. Speaker, I rise in strong support of H.R. 3626, the Antitrust and Communications Reform Act of 1994. I would like to commend the chairmen of the Judiciary and Energy and Commerce Committees, Mr. BROOKS and Mr. DINGELL, and also Mr. FISH and Mr. MOORHEAD, for delicately crafting the legislation before us today.

Nearly 1 year ago, I submitted to the House a study by the Wharton Econometric Forecasting Associates Group predicting that 3.6 million new jobs would be created over the next 10 years if the manufacturing and long distance restrictions were lifted on the regional Bell companies.

Over that period, the study found that $247 billion would be added to our gross domestic product. In addition, consumers would save more than $30 billion from reduced local and long-distance telephone rates.

The study still makes sense today and H.R. 3626 makes complete sense now. Through this legislation, we can rebuild the framework to support America's communications needs well into the 21st century, stimulate the economy, create millions of high quality jobs, reassert our international competitiveness, and provide a strong future for our children.

Mr. Speaker, H.R. 3626 is an excellent bill whose time has come. I urge my colleagues to vote "yes" on its passage.

Mr. MOORHEAD. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Ohio [Mr. OXLEY], who has been very active on this legislation.

Mr. OXLEY. Mr. Speaker, I rise in strong support of the Antitrust and Communications Reform Act of 1994. I wish to commend Chairman DINGELL and our ranking Republican, Mr. MOORHEAD, for their indispensable leadership, and I want to thank our colleagues on the other committee of jurisdiction for their efforts as well.

As Members know, the Brooks-Dingell-Fish-Moorhead bill sets the terms for the Bell companies' entry into long-distance service, manufacturing, and information services. I have sponsored legislation to allow the Bells to enter manufacturing in years past, and I support allowing Bell provision of long-distance service today. What I want to stress to my fellow Republicans is that this is essentially deregulatory legislation, and as such can only serve to expedite the development of the information superhighway. The concept of a more competitive telecommunications marketplace is one that all Republicans can heartily endorse.

What I want to stress to the House and to the public at large is the bipartisan nature of support for this measure, as evidenced by the decision to place the bill on the suspension calendar. While there may be a few issues that I would have resolved differently—chief among these being the domestic manufacturing and content provisions—I am pleased to say that the majority has been quite open to Republican ideas overall.

One example of this was the acceptance in full committee of an amendment I offered regarding the imputation of access charges. Today, long-distance carriers pay access charges to local telephone companies or their competitors in order to reach customers. The Oxley-Barton amendment will require the regional Bell companies to pay a nondiscriminatory access charge when providing long-distance service.

Regarding domestic content, while I feel that these provisions are protectionist and I would have preferred that they be removed from the bill altogether, I do believe that they have been improved significantly following input from the U.S. Trade Representative, and I am hopeful that they will be further improved in the Senate and in conference.

Mr. Speaker, I include with my remarks a letter on this subject from the U.S. Trade Representative, Ambassador Kantor, as follows:

U.S. TRADE REPRESENTATIVE,
Washington, DC, June 13, 1994.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce.

Hon. JACK BROOKS,
Chairman, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR CHAIRMAN DINGELL AND CHAIRMAN BROOKS: I am pleased that, with the capable help of your staff, we were able to address the concerns that I expressed about H.R. 3626 in my letter to Chairman Dingell and Chairman Markey in February. I believe that the language agreed upon will resolve the difficulties presented by the domestic manufacturing and content provisions in the bill and enable us to carry on with our trade agenda.

As I have repeatedly stated, that agenda includes expanding job opportunities for U.S. workers by bringing down barriers to U.S. exports. In the telecommunications sector, United States worldwide exports increased by 24% in 1993, to a record total of $9.7 billion. These exports are mainly high-end, sophisticated equipment in which United States companies and workers are world leaders. We are making this progress because of the competitiveness of U.S. companies and workers, as well as through bilateral and multilateral agreements and by enforcing our existing agreements.

In this context, the acknowledgment of our international obligations now included in H.R. 3626 is important for our continued progress in opening foreign markets.

Please thank your staff for their hard work in resolving this issue.

Sincerely,

MICHAEL KANTOR.

In any case, Mr. Speaker, I do not feel that the domestic content conflict should be a barrier to passage of this landmark legislation, the most important rewrite of telecommunications law in 60 years. I urge all Members to support the bill.

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair wishes to inform the Members that the gentleman from Texas [Mr. BROOKS] has 2½ minutes remaining, the gentleman from New York [Mr. FISH] has 2 minutes remaining, the gentleman from Michigan [Mr. DINGELL] has 3 minutes remaining, and the gentleman from California [Mr. MOORHEAD] has 4 minutes remaining.

Mr. MOORHEAD. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Speaker, I rise in support of the substitutes to both H.R. 3626 and H.R. 3636. The 1934 Communications Act has served us well, but it is clearly time to make some changes. Technology has advanced dramatically over the past 60 years. Our predecessors in the 73d Congress could not have imagined the present state of telecommunications—pocket phones, wireless fax machines, electronic mail. Both substitutes to H.R. 3626 and H.R. 3636 address the future telecommunication needs of our Nation. Passage of these bills will help us build the information highway of the 21st century.

I commend the authors of this legislation for writing law which delicately balances the various interests and concerns of the telecommunications industry. Nevertheless, I must express concern with provisions in H.R. 3626 requiring regional Bell operating companies [RBOC's] to conduct all of their manufacturing in the United States and use at least 60 percent domestically produced components in their manufacturing.

For legislation which is generally forward looking, such domestic manufacturing and content restrictions are uncharacteristically protectionist. Concerns that the restrictions violates the terms of the North American Free-Trade Agreement [NAFTA] and the General Agreement on Tariffs and Trade [GATT] have been only slightly allayed by a waiver in cases where it's determined to be inconsistent with any multilateral or bilateral agreement to which the United States is a party. But the bill does not specify who or what government entity is responsible for determining whether or not this situation exists.

If this provision becomes law, it is likely to be challenged in court, a process which could drag on for years. Our international competitors would use the opportunity to establish similar standards, thus closing the door to U.S. exports of telecommunications equipment. The real effect of this provision is to isolate U.S. telecommunications manufacturers, a dull-knife approach to international competition. I would hope that we can resolve this issue if not in the other body, then certainly in conference.

The substitute to H.R. 3626 also takes a necessary first step toward addressing serious concerns about RBOC maketing practices for enhanced services, such as telemessaging. In addition to requiring the nondiscriminatory offering of telecommunications services and facilities associated with a carrier's telemessaging operations, these provisions would also prohibit cross-subsidization between telephone exchange service and telemessaging. It is my understanding that this cross-subsidization restriction would serve to prohibit the exchange of funds as well as valuable information between affiliated telephone and telemessaging operations. While I believe these provisions are a good start, stronger safeguards are needed to ensure a level playing field in the telemessaging market.

Telemessaging bureaus provide telephone answering services to the American public which ensure that important and even critical information is relayed to medical personnel and other customers 24 hours a day. This industry has been providing the public with, and has helped to develop, the latest telecommunications technology for over 50 years. There are approximately 3,000 telemessaging service bureaus operating nationwide serving some 1 million customers. The majority of these small businesses are female-owned and employ less than 20 people.

Stronger provisions that provide specific safeguards on the RBOCs' ability to joint market telemessaging and other services, to use customer proprietary network information, and to cross-subsidize among services will help ensure long-term competition in the telemessaging market. Such provisions are essential to permit independent providers of enhanced services to continue to pursue a livelihood and to allow small businesses to play a viable role in the creation of the Nation's information super highway. I appreciate the willingness of Chairman DINGELL to work with ranking Member MOORHEAD and me on this issue. But it is my hope that as this legislation moves toward enactment there will be an opportunity for such stronger measures to be added.

I wish to thank Mike Regan, of the minority staff, and David Leach of the Chairman's staff, for their help in reaching a level of agreement on the telemessaging amendment to H.R. 3626. I support H.R. 3626 and urge my colleagues to support it as well.

As an original cosponsor of H.R. 3636, I strongly support its passage. I would simply add my thoughts regarding an amendment which was adopted during the full Energy and Commerce Committee markup. My amendment, which I offered at the request of the gentleman from California [Mr. HUNTER] addressed the problem of signal leakage associated with pay-per-view cable programming, specifically adult pay-per-view programming. Earlier this year, we were made aware of cases where cable subscribers who had not purchased adult pay-per-view programming were still receiving partially scrambled video signals and full audio signals over the designated channel setting. Mr. HUNTER and I wish to ensure that both the audio and video signals for obscene or indecent programming are effectively and entirely blocked. H.R. 3636 provides for such safeguards by requiring the FCC to issue new rules on this matter. Furthermore, the bill reinforces the 1984 Cable Act provision regarding blocking devices which parents can use to control viewing of cable service by requiring cable companies to regularly inform subscribers of their right to request and obtain this equipment.

Adult programming is in many cases a profitable line of business for cable operators. It is, however, also programming which is offensive to many cable subscribers. The amendment that I have drafted and which has been included in this legislation allows cable operators to provide adult programming to those cable subscribers who desire it, but protects those cable subscribers who do not wish to receive adult programming from receiving any type of audio or video signal.

I would like to thank Chairman MARKEY and his staff and ranking Member FIELDS and his staff for their assistance on the signal leakage language. In particular, I would like to thank Cathy Reid, of the minority staff, for her invaluable help in reaching a final solution to this issue.

In conclusion, though I have expressed concerns regarding domestic content and telemessaging services in H.R. 3626, I urge its passage. I am pleased with the changes that have been made in H.R. 3636 with respect to the issue of signal leakage, particularly of adult programming or pornography on cable television. I urge passage of H.R. 3636.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to my distinguished friend, the gentleman from Louisiana [Mr. TAUZIN], who has been extremely helpful in getting this legislation to the point where it is today.

Mr. TAUZIN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, let me remind our friends that the chairman of our subcommittee, the gentleman from Massachusetts [Mr. MARKEY], quoted Mr. Morse, who at the beginning of the telecommunications age in America, asked: "What hath God wrought?"

For the last 10 years the question has been: What have the Federal courts and Judge Green wrote? Because telecommunications policy has not been in the hands of the people of the United States through this legislative body; it has been in the hands of the Federal courts.

This enormous effort today, remarkably coming up under suspension, by broad bipartisan agreement, with the remarkable work of many of our committees, particularly the Committee on the Judiciary and the Committee on Energy and Commerce, for which the two chairmen deserve enormous credit, is remarkable by the fact that we have come together and for the first time in so many years decided to return telecommunications policy back to the House where the people govern, and we are doing it in a way that opens up competition, not just across lines drawn on a map artificially by judges years ago. We are opening it up also in the local loop so that cross competition will benefit no one else in America no more importantly than the consumer.

The consumer is the big winner today. The process by which we govern here is a big winner today. The American people are the big winner today when telecommunications policy is returned to this body and when for the first time we open up the great possibilities for the information super highway.

Mr. FISH. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Speaker, I thank the gentleman for yielding time to me.

Today we are considering important legislation. For too long the entire debate surrounding the information highway has gone on without congressional action. With Congress on the sidelines, we have watched the courts and the regulatory bodies make national policy in piecemeal fashion. Due in great part to the diligence of Chairmen DINGELL and BROOKS and the efforts of Messrs FIELDS, MARKEY, MOORHEAD, and FISH, Congress will no longer be on the sidelines. And that is the way it should be—this legislation is not just some esoteric exercise, the bill before us will help create jobs, determine the competitiveness of our economy, and to some extent is vital to our national security.

During full committee consideration I offered an amendment that addressed a serious deficiency in the bill that would have allowed regional Bell companies to use their monopoly status in the local loop to disadvantage their competitors. Unfortunately, this amendment was defeated but I am pleased that the negotiators noted my concerns. The competition-based test of the MFJ for Bell company entry into all aspects of long distance and manufacturing incorporated into this bill is a giant step in the right direction. This test requires that an RBOC show no substantial possibility of using monopoly power to impede competition prior to entry. The certainty of this requirement has led to the emergence of over 500 long distance providers and thousands of small manufacturers in the United States, companies which are highly competitive and which, through their aggressive attempts to sell products and services, have generated enormous benefits for the American consumer.

While these changes dramatically improve the bill I do not think that this bill is perfect. I think work needs to be done to close what may be a loophole that gives instate long distance calling to the RBOC's while they still have their monopoly. Also, in my view, the incidental services exception is overly broad and could permit an RBOC to construct nationwide interexchange landline and radio-based telecommunications networks without obtaining prior authorization. It is my hope that I will have the cooperation of Chairman DINGELL to continue to address these issues as the legislation moves through the process.

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Mr. BROOKS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Mr. Speaker, I rise in support of and to discuss the particularly important Department of Justice role in this compromise bill we are considering—H.R. 3626.

This legislation provides that a Bell operating company may offer intrastate interexchange services and interexchange services through resale if, among other restrictions, the Attorney General either "fails to commence a civil action * * * to enjoin" the Bell company from offering such services, or if, having brought such an action, the Attorney General (I) "fails to obtain an injunction from the district court" or (II) obtains an injunction but the injunction is "vacated on appeal".

The obvious point of these parallel provisions is to ensure that if the Attorney General determines that a Bell company proposal to offer intrastate or resale interexchange services violates the strict antitrust standard prescribed by the bill, the Bell company cannot offer such services until and unless the Attorney General's injunction action is dismissed after a full evaluation of all pertinent evidence at trial or after the injunction is vacated on appeal.

In other words, the bill requires that no Bell company can override the Attorney General's determination of illegality until the Attorney General has had her day in court, on a motion for a permanent injunction—after a full and thorough hearing in accordance with standard antitrust procedure, not a rush to judgment.

Because courts may—and frequently do—enter permanent injunctions in cases where they have earlier denied motions for a preliminary injunction, it makes no sense to interpret the word "injunction" in this bill as referring to a preliminary injunction.

Moreover, it is difficult to conceive of circumstances under this particular legislation in which the Attorney General will find it useful or necessary to seek preliminary or temporary relief pending the outcome of a trial. A Bell company's attempt to offer intrastate or resale interexchange services will be lawful only if (among other things) the Attorney General has failed to file for an injunction.

Once the Attorney General has filed a lawsuit seeking such an injunction, this essential precondition will be absent, and so offering the prohibited service will be unlawful, until and unless the suit fails—after trial or on appeal. The Attorney General will not need to seek temporary pretrial relief from the court, because the statute itself makes such relief unnecessary.

Unlike a stay, the restriction imposed by this legislation is an absolute bar that would render any contrary conduct by the Bell company unlawful—until all of the mandatory conditions spelled out for lawful entry into the specified service areas are met. There is no authority under the bill for a district court or court of appeals to relax, pending a final decision on the merits, the prohibition against the Bell company's offering of the service or services determined to be unlawfully anticompetitive by the Attorney General.

Finally, there is nothing in these provisions that could be a basis for, and we have no intention of, divesting courts hearing cases brought under this measure of their traditional equitable powers. For example, if after trial, the Attorney General's request for a permanent injunction is denied, district courts, appeals courts, and even the Supreme Court, retain full authority to stay the order denying the injunction if they conclude that such a stay is warranted under the circumstances.

Mr. Speaker, I rise to discuss the particularly important Department of Justice role in this extremely well-balanced bill we are considering—H.R. 3626. I also ask unanimous consent to revise and extend my remarks.

Subsections 102(b)(2) and (3) of this legislation provide that a Bell operating company may offer intrastate interexchange services and interexchange services through resale if, among other restrictions, the Attorney General either [Subsection (i) of § 102(b)(2)(C) and also of § 102(3)(D)] "fails to commence a civil action * * * to enjoin" the Bell company from offering such services, or [Subsection (ii) of the above two provisions] if, having brought such an action, the Attorney General (I) "fails to obtain an injunction from the district court" or (II) obtains an injunction but the injunction is "vacated on appeal".

The obvious point of these parallel provisions is to ensure that if the Attorney General determines that a Bell company proposal to offer intrastate or resale interexchange services violates the strict antitrust standard prescribed by the bill [Section 101(b)(3)(D)], the Bell Co. cannot offer such services until and unless the Attorney General's injunction action is dismissed after a full evaluation of all pertinent evidence at trial or after the injunction is vacated on appeal.

In other words, the bill requires that no Bell company can override the Attorney General's determination of illegality until the Attorney General has had her—or his—day in court, on a motion for a permanent injunction—after a full and thorough hearing in accordance with standard antitrust procedure, not a rush to judgment.

It is perfectly clear in the context of the overall provision that the injunction referred to in subsection (ii)(I) is precisely the same permanent injunction which is the objective of the suit the Attorney General is authorized to undertake in subsection (i)—not a mere temporary or preliminary order or injunction that she or he, or another party or court—might find appropriate as an interim measure.

Because courts may—and frequently do—enter permanent injunctions in cases where they have earlier denied motions for a preliminary injunction, it makes no sense to interpret the word "injunction" in subsection (ii)(I) as referring to a preliminary injunction.

Moreover, it is difficult to conceive of circumstances under this particular legislation in which the Attorney General will find it useful or necessary to seek preliminary or temporary relief pending the outcome of a trial. Under Sections 102(b)(2) and (3), a Bell companies' attempt to offer intrastate or resale interexchange services will be lawful only if (among other things) the Attorney General has failed to file for an injunction.

Once the Attorney General has filed a lawsuit seeking such an injunction, this essential precondition will be absent, and so offering the prohibited service will be unlawful, until and unless the suite fails after trial or on appeal. The Attorney General will not need to seek temporary pretrial relief from the court, because the statute itself makes such relief unnecessary.

Unlike a stay, the restriction imposed by sections 102(b) and (3) is an absolute bar that would render any contrary conduct by the Bell company unlawful—until all of the mandatory conditions spelled out by sections 101 and 102 for lawful entry into the specified service areas are met. There is no authority under the bill for a district court or court of appeals to relax, pending a final decision on the merits, the prohibition against the Bell companies' offering of the service or services determined to be unlawfully anticompetitive by the Attorney General.

Finally, I note one additional point. There is nothing in these provisions that could be a basis for, and we have no intention of, divesting courts hearing cases brought under section 102 of their traditional equitable powers. For example, if after trial the Attorney General's request for a permanent injunction is denied, district courts, the court of appeals, and for that matter the Supreme Court, retain full authority to stay the order denying the injunction if they conclude that such a stay is warranted under the circumstances.

I would call to your attention the attached letter to Energy and Commerce Chairman DINGELL from the National Association of Attorneys General urging us to pass this legislation incorporating "basic antitrust principles to ensure existing competition is preserved and that no player is permitted to use market power to tilt the playing field to the detriment of competition and consumers."

NATIONAL ASSOCIATION OF
ATTORNEYS GENERAL,
Washington, DC, June 6, 1994.

Hon. JOHN DINGELL,
Chairman, Energy and Commerce Committee, U.S. House of Representatives, Washington, DC.
RE: Telecommunications Legislation.

DEAR CHAIRMAN DINGELL: The undersigned Attorneys General are writing to urge you to adopt a telecommunications reform package that incorporates basic antitrust principles to ensure that existing competition is preserved and that no player is permitted to use market power to tilt the playing field to the detriment of competition and consumers. By protecting competition, the anitrust laws promote efficiency, innovation, low prices, better management, and greater consumer choice. Additionally, we urge you to recognize the strong role of the States in ensuring that their citizens have universal and affordable access to the telecommunications network, which is so important in this information society. When antitrust principles and the state role are jointly recognized in legislation, all of our citizens can look forward to an advanced, efficient and innovative information network.

Telecommunications reform is a vital national and state interest. Last year, the National Association of Attorneys General Antitrust Committee established a Telecommunications Working Group to analyze and develop policy positions, where appropriate, on significant issues involving competition in the telecommunications industry.

The rapid evolution of telecommunications technology has given rise to complex issues relating to competition policy requiring sophisticated analysis. In general, however a competitive telecommunications market at all levels—e.g., long-distance service, local exchange service, equipment manufacturing—would best serve the interests of our citizens. It is important to clarify that this consumer interest is promoted only by "effective" competition, i.e., that there be a sufficient amount of competition to ensure that prices are driven to competitive levels. Although we hope that this type of competition will emerge eventually in every part of the information superhighway, the reality today is that local exchange markets are not yet competitive nor are they likely to be in the near term.

The emerging competition in telecommunications markets must be evaluated against the backdrop of the Modification of Final Judgment ["MFJ"], the court-approved agreement that ended the United States Department of Justice's antitrust case against American Telephone & Telegraph Company ["AT&T"]. The MFJ, which went into effect in 1982, allowed AT&T to compete in new markets while mandating that it divest its local telephone service business. The MFJ created the seven regional Bell operating companies ["RBOCs"] and placed certain limits on their activities in the telecommunications arena. Among other things, the RBOCs are prohibited from providing long-distance and equipment manufacturing services. At the same time, however, the MFJ provides a process for RBOCs to obtain waivers to the lines-of-business restrictions contained in the decree. Under the MFJ, waivers can be granted by the decree-supervising federal district court when such factors as new technology and emerging market forces demonstrate "no substantial possibility" of anticompetitive conduct by the applying RBOC in the market it seeks to enter.

While the information services "lines-of-business" restriction has been lifted under this waiver process during the last seven years, considerable debate and attention continues to focus on whether the other lines-of-business restrictions should be lifted. Some argue that the remaining lines-of-business restrictions should not be removed because they fear that the RCOCs will use their regulated, monopoly power in the local telephone service markets to obtain an unfair advantage in the more competitive long-distance market. One of the major concerns in this regard is that the RBOC local monopolies may "cross-subsidize," that is, extract unwarranted profits by overpricing long-distance services. Similarly, the RBOCs could also discriminate against their utility customers who are also their competitors by setting unfair prices and terms for, and designing technical incompatibility into, their utility services. Others argue, on the other hand, the RBOC entry into the long-distance market would facilitate more effective competition in the long-distance market, because that market is currently composed predominantly of only three facilities-based carriers.

Because of these conflicting competitive concerns, we believe that the existing competitive safeguards contained in the MFJ should be incorporated in H.R. 3626. Under the MFJ, the RBOCs are permitted to enter presently prohibited markets only after showing that their monopoly control of local exchange services will not permit them an unfair competitive advantage in the market into which they seek to enter. As William F. Baxter, President Reagan's Assistant Attorney General and Stanford Law Professor, recently stated:

"The monopoly on local service held today by the Regional Bell Operating Companies, or RBOCs, is every bit as tight as the monopoly held by AT&T before the Bell breakup. Legislating away the antitrust protections of the Modified Final Judgment (which I negotiated on behalf of the Reagan administration) while the RBOCs hold this monopoly would be a setback to competition in long distance and, indeed, in a large number of other "information services" dependent upon access to the local switch. Restoration of the two-level monopoly would jeopardize the introduction of advance information services just when they are needed most.

"As I see it, Congress has but one course that will avoid such abuses [e.g., cross-subsidization, discrimination] and expedite the benefits of advanced information technology. It should pass legislation that incorporates the competitive safeguards of the Modified Final Judgment. . . . We should not fall into the trap of thinking that just because local competition is imaginable, it's already here. It's not."

In addition, the states' role in developing and implementing telecommunications policy should be continued. Among the strongest of state telecommunications polices is that of encouraging universal service. The States must retain the ability to ensure that all of its citizens, urban and rural, rich and poor, continue to have access to reasonably priced telephone services.

In considering H.R. 3626 and H.R. 3636 we urge you to address a number of key issues to ensure that consumers benefit in the long term from the creation of this information superhighway.

Because competition in the local exchange will not be introduced in every portion of the country simultaneously, the legislation should empower both state and federal regulators to deregulate their telephone utilities where justified by the amount of competition in a particular local market. We note that the current Communications Act of 1934 provides for shared regulatory authority. Because of the central role of the states in local service regulation, therefore, any preemption of state authority should be approached very cautiously.

Any legislation must preserve and promote universal telephone service at fair, reasonable and affordable rates and also provide a clear, broad definition of universal service.

Consistent with the MFJ, any legislation must not permit RBOC entry into other markets (e.g., long distance) unless the RBOCs can demonstrate that the RBOCs dominant position in relevant local markets would not permit it to monopolize those markets or to leverage its market power to the detriment of competition in the markets to be opened. State regulators should be empowered to investigate allegations of RBOC cross-subsidy by RBOC competitors.

Cross ownership of telephone companies and cable companies operating within the same service area should be generally prohibited, and exceptions, if allowed, should be drafted narrowly to prevent the telephone companies from extending their monopoly.

No new antitrust exemptions should be created in the telecommunications industry.

There should be adequate consumer representation on the proposed Federal-State Joint Board or any similar board. In addition, a consumer advocate office should be created in the Federal Communications Commission.

Number portability should be mandated as soon as technically feasible.

In conclusion, while supporting your efforts to make a competitive information superhighway a reality, we urge you to abide by the basic competitive concepts which underlie our antitrust laws and which have been instrumental in this country's economic success. These competitive principles, as embodied in the breakup of AT&T ten years ago, have been instrumental in fostering innovation and efficiency, and reducing prices in the United States telecommunications field. Further, the state's role in telecommunications regulation and policy should be maintained in order to ensure that all citizens retain effective and affordable access to telecommunications products and services. Any telecommunications legislation should incorporate these antitrust and state regulation principles.

Thank you for considering our views.

Very truly yours,
Jimmy Evans, Attorney General of Alabama;
Grant Woods, Attorney General of Arizona;
Winston Bryant, Attorney General of Arkansas;
Charles M. Oberly, III, Attorney General of Delaware:
Vanessa Ruiz, D.C. Corporation Counsel;
Robert A. Butterworth, Attorney General of Florida;
Robert A. Marks, Attorney General of Hawaii;
Ronald W. Burris, Attorney General of Illinois;
Robert T. Stephan, Attorney General of Kansas;
Chris Gorman, Attorney General of Kentucky;
Richard P. Ieyoub, Attorney General of Louisiana;
Michael E. Carpenter, Attorney General of Maine;
J. Joseph Curran, Jr., Attorney General of Maryland;
Scott Harshbarger, Attorney General of Massachusetts;
Frank J. Kelley, Attorney General of Michigan;
Hubert H. Humphrey, III, Attorney General of Minnesota;
Jeremiah W. Nixon, Attorney General of Missouri;
Joseph P. Mazurek, Attorney General of Montana;
Tom Udall, Attorney General of New Mexico;
Frankie Sue Del Papa, Attorney General of Nevada;
G. Oliver Koppell, Attorney General of New York;
Michael F. Easley, Attorney General of North Carolina;
Lee Fisher, Attorney General of Ohio;
Susan Loving, Attorney General of Oklahoma;
Theodore R. Kulongoski, Attorney General of Oregon;
Ernest D. Preate, Jr., Attorney General of Pennsylvania;
Jeffrey B. Pine, Attorney General of Rhode Island;
Dan Morales, Attorney General of Texas;
Jan Graham, Attorney General of Utah;
Rosalie Simmonds Ballentine, Attorney General of the Virgin Islands;
James S. Gilmore III, Attorney General of Virginia;
James E. Doyle, Attorney General of Wisconsin; and,
Christine O. Gregoire, Attorney General of Washington.

Also, Mr. Chairman, I would like to comment on the separate subsidiary provisions for electronic publishing.

The separate subsidiary requirement for electronic publishing is extremely significant. It will go a long way to ensuring that the regional Bell operating companies do not exploit their monopolies to unfairly disadvantage competitors in the electronic publishing field. That requirement sunsets in June of 2000. The committee believed that that date—June 2000—would be a reasonable estimate of when competition in the local loop would be sufficient so that a separate subsidiary requirement wouldn't be necessary. If for any reason local competition does not sufficiently exist at that stage, and a threat to competition from the monopoly power of the local exchange continues to exist, the FCC is free to—and should—promulgate regulations to continue the separate subsidiary requirement as appropriate.

Mr. MOORHEAD. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Speaker, this legislation represents a truly historic moment for the 103d Congress. H.R. 3626, the Antitrust and Communications Reform Act of 1994, is a sweeping rewrite of 60 years of telecommunications policy in the United States that will responsibly lead the telecommunications industry into the 21st century.

Of particular significance, this legislation has been crafted in such a way—with the acquiescence and support of all major industries—both friends and foes—to be placed on the suspension calendar. Indeed, who would have believed, even as recently as 3 months ago when everyone seemed to be poles apart, that AT&T, MCI, Sprint, and the seven Bell companies would stand united in support of the provisions regarding Bell entry into long distance that are provided for today in H.R. 3626?

And, who would have believed that the Bell companies and the newspaper publishers, as well as the burglar alarm industry, would come together as they have under this bill to enact good public policy?

Indeed, this is truly historic. But, beyond that, today we have achieved in the House the vision that I have strived for throughout my tenure in elected office—first in the Illinois General Assembly and now as a member of the Telecommunications Subcommittee—competition among all entrants in the marketplace—fair and open competition without the burdensome regulatory restraints now in existence. When there is real competition, the people win.

Mr. Speaker, H.R. 3626 represents responsible and progressive telecommunications policy. I rise in strong support of H.R. 3626 and urge my colleagues to pass it overwhelmingly.

Mr. MOORHEAD. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina [Mr. RAVENEL].

Mr. RAVENEL. Mr. Speaker, American consumers today want more competition and more choice in cable TV and video services, and they want that choice in competition now. Legislation was passed in 1992, and the Federal Communications Commission, the FCC, has tried to regulate the cable business since then. But many think the rates are still too high and the choices too skimpy.

Under these bills, cable companies can come in and rent video transmission facilities from the phone companies, but phone companies do not have reciprocal rights, namely to rent channels from the cable companies. It is unclear so far whether competing video services can be started up right now, or whether there should be some lengthy delay while all the various safeguards are put into place. It seems to me like these two bills address these problems, and I am certainly happy today to take a minute to endorse both the bill we are on and the subsequent one that will be up in just a minute.

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I rise in strong support of this historically important legislation.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Washington [Mr. KREIDLER].

Mr. KREIDLER. Mr. Speaker, we have before us the most comprehensive communications legislation considered by this body since the Communications Act of 1934. Obviously, much has changed in the world of communications since then.

Thanks to Chairman DINGELL, Chairman MARKEY, Chairman BROOKS, and ranking minority member Mr. FIELDS, the Congress is now finally able to catch up with those changes.

The framework we are developing today will bring enormous benefits tomorrow and in the future, including: new high-skilled jobs for U.S. workers, exciting new services for the American public; globally competitive telecommunications technologies; and much needed competition in the telecommunications marketplace.

I am particularly pleased by the compromise achieved in H.R. 3626 regarding entry by the RBOC's into the long distance market. The revised bill does a better job of putting appropriate lines of authority and standards in place to enhance regulatory oversight and protect consumers.

I would also like to thank Chairman MARKEY for accepting my amendment in committee to make sure that higher education institutions will have a voice when the FCC sets rules for public access to the information highway.

In closing, Mr. Speaker, let me just say that America's future as a leader in telecommunications technologies and services depends on these bills. I urge my colleagues to support H.R. 3626 and H.R. 3636.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to my distinguished friend, the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Speaker, there was a silly column in the Washington Post yesterday which criticized this bill for being rushed through the Congress. Mr. Speaker, my hair has turned gray while we have been rushing this bill through the Congress.

The 1934 Communications Act was really an extraordinary piece of legislation that has served this country well for a very long time. But technology and new realities of competition have stretched it farther than it can go. And this legislation today I think will be seen in years ahead as historic as the 1934 act, as it adds to that act and gives it the flexibility and the elasticity it needs to serve this country in the new realities.

I cannot think of two committees who could have done a better job, because tied up in this legislation are legitimate concerns about antitrust, and about anticompetitive behavior, and about predatory behavior, and so forth. The Committee on the Judiciary has stood tall on those. The Committee on Energy and Commerce has looked at the telecommunications policy that is so important to the economic future of our country, and together they have turned out a remarkable piece of legislation.

□ 1330

Mr. BROOKS. Mr. Speaker, to conclude the debate, I yield the balance of my time to the gentleman from Virginia [Mr. BOUCHER], a leader in formulating this resolution.

Mr. BOUCHER. Mr. Speaker, the Antitrust Reform Act will bring much-needed competition to the markets for long distance and for telecommunications equipment. As we remove the barriers to competition of the local telephone exchange, it is only fair that we also free the seven Bell operating companies to compete in the market for long distance and the manufacture of equipment. But more than fairness to these companies underlies this reform. The public deserves the benefits that new competition will bring to the long distance and equipment markets.

As we forecast lower prices and new services arising from new competition, we also have confidence that anticompetitive conduct will not occur, as Bell companies offer their own long-distance service while continuing to connect other long-distance providers to their local exchange customers.

That confidence arises from the carefully constructed provisions of the legislation that require that before Bell companies offer long distance, they satisfy the U.S. Department of Justice that there is no substantial possibility of anticompetitive harm from their entry into the market.

For service within a given State, they must gain the approval of the State's public service commission before offering long distance statewide. And the U.S. Department of Justice is accorded an opportunity to review the State decision to ensure that other long-distance providers receive fair access to the Bell companies' customers.

These protections, Mr. Speaker, strike exactly the right balance. They offer to the public the benefits of increased competition in both the long-distance market and the manufacture of equipment, a lucrative market in long distance which today is dominated by three large carriers.

At the same time they contain stringent safeguards to ensure that Bell companies not use their local networks in such a manner as to restrict access to their subscribers for other long-distance companies.

Some would argue that the U.S. Department of Justice is not up to the job of protecting consumers in this circumstance. They would prevent the public from getting the benefit of added competition in long distance until the local exchange is fully competitive, a circumstance which will not arise in many parts of the Nation until well into the next century. The Justice Department is up to the job. We can have the early benefits of added long-distance competition while assuring that anticompetitive harm will not occur.

Mr. Speaker, I commend the gentleman from Texas [Mr. BROOKS] and the gentleman from Michigan [Mr. DINGELL] for their thoughtful work and for the balance their measure contains. I am pleased to support their reform and urge its passage.

Mr. BROOKS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Arkansas [Ms. LAMBERT].

Ms. LAMBERT. Mr. Speaker, I rise in support of H.R. 3626. Mr. Speaker, I am extremely pleased to join the supporters of this legislation and its companion bill (H.R. 3636) to advance the information superhighway. I congratulate Mr. DINGELL, Mr. BROOKS, Mr. MARKEY, and Mr. FIELDS for their vision in realizing the vast technological opportunities that lie ahead.

These bills are especially important for rural areas like the First District of Arkansas. Rural consumers will benefit from highly progressive technology while being protected from unreasonably high rates. Together, we have ensured that folks in Possum Grape, AR, will have access to the same telecommunications advances that are made in New York City.

I would like to thank Chairman MARKEY for working with me to draft amendments to ensure that small- and medium-sized phone companies will receive equal footing when competing against the big guys. These smaller companies could have been vulnerable to "cherry picking" by large telephone carriers that have the resources and revenues which dwarf those of independent phone companies. "Cherry picking" would have threatened the viability of independent phone companies by taking away their largest customers like universities and major corporations, leaving high cost small business and residential customers that rely upon subsidies provided by larger customers to ensure universal access.

In addition, I would like to thank Mr. MARKEY for working with me to ensure that phone rates charged in rural areas match rates charged in urban areas. We have helped maintain our current system under which long-distance providers average the costs associated with providing service to both rural and urban areas and charge all residents that same rate. For example, the rate charged from Washington, DC, to rural Arkansas is about the same as the rate from Washington, DC, to Minneapolis or West Palm Beach. Together, we have made sure that as new competitors enter the long-distance markets they will not be able to de-average their rates. We have protected customers who live in less populated areas.

One additional component of these bills that will help rural areas is a National Newspaper Association-sponsored ARC provision. This section of H.R. 3626 will assure that community newspapers, including the 36 weeklies and 11 dailies in the First Congressional District, have a place on the information highway. It assures them fair access, fair rates, and fair competition.

Mr. Speaker, in hometowns like mine, people still look forward to sending their dogs out to pick up the weekly paper with pictures of Little League teams and church socials. Whatever form that news may take in the future—whether it is digital bits or bytes—it is essential that we make sure our community newspapers will have a place in the 21st century.

With sincere respect for the bipartisan effort and years of negotiation that have gone into these two bills, I am proud to stand in support of them today.

Mr. KING. Mr. Speaker, I rise today in support of H.R. 3626, legislation that would help pave the road to the information superhighway for all Americans, including people with disabilities.

Mr. Speaker, people with disabilities have a particularly strong interest in seeing the rapid and healthy development of an information superhighway, since many of the benefits will directly improve their lives.

H.R. 3626 will allow all players to fully compete in the telecommunications marketplace, which will make services available to all Americans to enrich their lives. This legislation contains provisions of particular importance to people with disabilities because it will enhance their participation in professional, social and entertainment activities, and increase their job opportunities.

Mr. Speaker, people with disabilities have been underserved in the areas of telecommunications equipment and services. This legislation will ensure that they are no longer left out in the cold. The bill requires the Federal Communications Commission to prescribe regulations that will ensure telecommunications equipment manufactured by a Bell company and network services provided by Bell companies are accessible and usable by people with disabilities. This will be a vast improvement for this segment of the population.

H.R. 3626 supports people with disabilities so I urge my colleagues to support this bill. Vote "yes" on H.R. 3626.

Mr. RICHARDSON. Mr. Speaker, today, I rise to support H.R. 3626, even though I have lingering concerns about the consequences that this legislation will have on competition in the telecommunications industry and on the rates that consumers pay for phone service. H.R. 3626 signals a fundamental shift in the way that the bulk of the telecommunications industry is regulated. H.R. 3626 frees the regional Bell companies to offer services prohibited under the terms of the 1982 modified final judgment consent decree. I am hopeful that a flexible and competitive telecommunications policy will result from our work on H.R. 3626.

I was pleased the committee incorporated language to hold electronic publishers, that enter into a joint venture with a Bell company, to the same EEO standards as other telecommunications entities. This is a case of industry parity and it is essential that we harmonize our policies, so that there is no mistaking congressional intent in ensuring equal opportunity for all Americans.

On domestic content, I am pleased that the committee has moved to resolve an issue which concerned me, the administration, and our trading partners. I believe that we are on the right track on domestic content and I look forward to seeing the final version of this when it emerges from conference.

I am pleased that the committee has begun to seriously address the problems regarding consumers and competition. I am concerned that consumers will end up paying the price of deregulation. I believe that the bill before us today goes a long way toward protecting consumers and ensuring a healthy competitive atmosphere. However, I remain concerned over the power that the regional Bell companies now wield in local markets and the effect deregulation will have on other market entrants and ultimately consumers. I look forward to working with the committee to thoroughly resolve these critical issues.

Mr. Speaker, this bill reverses years of Government regulation of an industry that should now be freed to compete. We may wrangle over the details but it is critical that we pass this legislation resoundingly. I urge my colleagues to vote in favor of H.R. 3626.

Mr. DELAY. Mr. Speaker, I rise today to address the social and economic benefits of H.R. 3626, the Antitrust and Communications Reform Act. This legislation will lift restrictions on telecommunications services that can be offered across artificial boundaries and expedite investment in our telecommunications infrastructure while encouraging lower rates. The result is that Americans will pay less for more.

Increased competition through deregulation accomplishes several important things. it spurs the creation of new technology, making the United States more competitive internationally. It also allows the marketplace to work freely, resulting in lower prices. Therefore, perhaps the best news about H.R. 3626 is that not only will it result in more choices for consumers, but it will do so at affordable prices. Competition will keep phone rates low and quality high, which will provide consumers a greater opportunity to realize the benefits of the information age.

H.R. 3626's promotion of greater competition and technological advances will aid in the development of the information superhighway. Examples of such advances include an enhancement of medical services and procedures through telecommunications applications, as well as greater access to education and training materials, regardless of the location of the user. Telecommuting could reduce air pollution and traffic congestion.

With H.R. 3626, these benefits will become more accessible to anyone with a telephone, bringing them fully into the information age marketplace. Without this bill, only a privileged few will enjoy the benefits of the rapidly changing telecommunications arena.

I urge my colleagues to pass H.R. 3626 so that all consumers, not a select few, will be able to afford the new services available through enhanced technology.

Mr. BLILEY. Mr. Speaker, I understand that there were suggestions earlier that the long-distance carriers supported entry by the Bell companies into long-distance under the conditions specified in H.R. 3626. That is not my understanding. They did support moving the bill through the House. The long-distance companies have been quite clear and consistent, however, in saying that they support a "no substantial possibility" of anticompetitive effects test across the board in long-distance, one that specifically incorporates an effective competition test in the local telephone market.

There remain loopholes in the bill that weaken the entry test in the area of intrastate and resale, and potentially overboard authority to offer incidental long-distance services. As I said earlier, it is my hope that we can have Chairman DINGELL'S cooperation in addressing these problems as the bill moves through the process. Attached for the RECORD is a study by former Secretary of Labor Ray Marshall that outlines the potential problems.

BUILDING THE INFORMATION SUPERHIGHWAY: GETTING THE COMPETITION RIGHT—SUMMARY

(By Ray Marshall)

INTRODUCTION

The National Information Infrastructure (NII), or the "information highway," is at the heart of America's future; it will provide the path to improved education, health care, productivity, economic growth, and participation in community and public affairs. Indeed, it is hard to imagine an undertaking with greater significance for the quality of our lives. The Clinton administration stresses the need for public-private cooperation in constructing the NII. Legislative proposals before Congress are driven by the goal of establishing competition in communications markets. Private investors governed by competitive market forces will be primarily responsible for completing the construction of this infrastructure, but the government would provide the framework for universal access, remove antiquated regulatory barriers to competitive markets, establish policies to achieve and maintain competitive market conditions, and provide incentives for private investment and innovation.

While there is good reason to rely heavily on competitive markets, the proposals to allow the Regional Bell Operating Companies (RBOCs) to enter competitive industries before local telecommunications markets are fully competitive would harm competition, reduce the growth of output, employment, and technological innovation; potentially cripple the NII; and raise prices to consumers. The sequence of authorizing competitive entry into local market, subjecting that entry to a market test to determine whether effective competition can develop, and then allowing RBOCs into long distance when effective local competition has in fact developed, is the key to consumer benefits, economic growth, and technological innovation.

This paper explores these propositions in greater depth, discusses the conditions needed to ensure the proper evolution to competitive markets, and suggests some of the tests needed to determine whether or not competition has been achieved.

THE IMPORTANCE OF THE NII

There is little doubt about the importance of the NII. Information technology has become an infrastructure at least as important to national and personal welfare in the "Information Age" as highways and railroads were in the past. It would, moreover, be hard to think of an activity with greater economic importance. As Peter Drucker observed recently, "few things stimulate economic growth as the rapid development of information, whether telecommunication, computer data, computer networks or entertainment media." The development of leading-edge technology is the key to economic success and national well-being in more competitive knowledge-intensive national and global economies. Technological progress, in turn, involves using information to improve quality, productivity and flexibility—the essential determinants of economic success under competitive conditions. Information, in addition, improves individual, business and public decision making, as well as the delivery of public and private services. Telecommunications is a technology driver, as well as the heart of the national information infrastructure, and probably has larger multiplier effects for the whole economy than any other industry. Information networks consequently have become major determinants of economic performance, as well as of personal and national welfare.

REGULATORY BACKGROUND

As noted, however, the health of the telecommunications industry depends heavily on establishing effective competition. Because they had increasing returns to scale and therefore declining costs, telecommunications companies were assumed to be "natural monopolies" throughout most of this century. This changed in the early 1980s, when long distance, manufacturing, and information services were separated from the local telephone monopolies as part of the Modification of Final Judgment (MFJ). That consent decree broke up the Bell System, based on the realization that structural separation was the only effective way to prevent abuse of power by the telephone monopolies.

Before the MFJ, economists and policy makers attempted, without much success, to prevent the abuse of monopoly power and approximate competitive outcomes for consumers through regulations. Regulating "natural" monopolies was always problematic at best, but became increasingly more difficult in dynamic telecommunications markets where technological change intensified the complexity and competitiveness of markets, improved the information and choices available to people, widened the geographic scope of markets, and accelerated the pace of change.

A particularly serious problem for regulators was that these changes created a greater potential for competition in some markets than others. After the MFJ, for example, the RBOCs retained "natural" monopoly power for most local exchange services because it still was inefficient for several companies to duplicate ubiquitous telephone lines and facilities in the same local area. Regulators therefore subjected the RBOCs to rate-of-return regulation. This meant, however, that these companies had both the incentive and the ability to increase their profits by using their monopoly control of local facilities to gain economic advantages in more competitive markets (e.g., long distance, information services, and equipment manufacturing). For example, the RBOCs could cross-subsidize, or charge prices lower than actual costs in competitive markets and make up for these losses by inflating the costs they passed on to rate payers in regulated markets. These practices place more efficient competitors at a disadvantage, raise competitors' costs, or even make it impossible for them to survive. As one regulatory expert put it, what happened in connection with the processes that led to the MFJ "was the result of a poisonous synergy created by. . .regulation and monopoly power combined with the provision of competitive services. The outcome was discrimination and cross-subsidization extremely damaging to the competitive process and ultimately to consumers. And, because these same conditions exist today, notwithstanding divestiture, similar anticompetitive activities will happen again if we let them."[1]

Because of the strong incentives for monopolies to abuse their power, and the subtle, invisible nature of business decisions, regulators and courts concluded that the only solution to this problem was the structural separation of monopolies, which would continue to be regulated, from businesses that had greater potential for competition. This was precisely the reasoning behind the MFJ.

The problem for the courts and regulators, of course, was not only to physically separate the RBOCs, whose control of local telephone facilities gave them monopoly power, from long distance, information services, and manufacturing, but also to monitor the transition in order to prevent these companies from using their residual monopoly power to stifle the transition to competition.

OBSTACLES TO THE DEVELOPMENT OF THE INFORMATION HIGHWAY

Despite the attention created by futuristic descriptions of the "superhighway" and interactive information technologies, the future is not as clear or certain as some of these descriptions imply. The natural history of technology suggests a tendency to exaggerate short-term effects and to underestimate the long-term impacts. Since the outcomes of the use of technology are determined by public and private policies and actions, they are not predetermined, and progress is more likely to be measured in decades than years. There are many bottlenecks in these systems which must be overcome. In addition, there are many important technical obstacles to the construction of this infrastructure, which will require the development of interconnected, easily accessible networks to move unprecedented amounts of information. We should note, however, that the challenges in constructing the information infrastructure are probably more political, financial and organizational than technical.

IMPORTANCE OF PROPER SEQUENCES IN THE TRANSITION TO COMPETITION

There is little doubt that the consequences of the MFJ confirmed the validity of competitive theory. There is overwhelming analytical and factual evidence that competition in long distance markets has been a remarkable success. In many states, obsolete regulations have vanished, competition has exploded as hundreds of new firms have entered the market, inflation-adjusted long distance rates have dropped by more than half, technological and product innovations have accelerated, productivity has improved, employment has expanded, and American companies have strengthened their competitive position in global markets.

There also is general agreement that constructing the NII requires the transformation of local and regional telecommunications markets, where competition could do for these markets what it did for long distance. Today, while all customers have at least three choices for long distance service (and most have many more), nobody has more than one choice for basic local telephone service. Clearly, moreover, while technological and market changes have created the potential for competition in these local markets, this potential is largely prospective and these markets remain over 99 percent closed to outside competition.

The MFJ experience demonstrates, however, that the transition to competition must be carefully managed in order to deny the RBOCs the incentive and ability to use their monopoly power to impair competition in long distance, manufacturing, or other markets. Removing the MFJ restraints on the RBOCs in the proper sequence is absolutely essential to this transformation. It can be demonstrated that lifting these restrictions prematurely would create the same problems that led to the MFJ in the first place. On the other hand, the sequence which insists first on authorizing competitive entry along with proper standards and monitoring, followed by a market test to ensure that the ensuing competition is effective before allowing the RBOCs into long distance, could bring the benefits of competition to local and regional telecommunications markets. We would, with this sequence, realize results in higher employment, output, innovation, and economic efficiency. We should note, moreover, that both the negative and positive changes would have economy-wide multiplier effects.

This policy prescription has been confirmed by econometric evidence which shows that the proper sequence—ensuring completion in local networks before removing the constraints—would cause output to grow by $37 billion and employment by 478,000 over ten years. By contrast, prematurely lifting the MFJ restraints on the RBOCs would reduce productivity by making it possible for less efficient RBOC monopolies to use their monopoly power to displace more efficient competitive firms, thereby increasing prices for consumers and restricting output by $24.4 billion and employment by 322,000 over ten years.

Studies that purport to show that removing the MFJ restraints immediately would raise output and employment are based on the unrealistic assumption that monopolists would increase efficiency by entering long distance markets that these analysts assume are not already highly competitive. This is contrary to all credible evidence and logic. Other than their monopoly control over access to end users, it is hard to see what advantage the RBOCs would have in competitive markets. It is, therefore, much more realistic, as well as more compatible with economic principles, to assume that premature elimination of the MFJ restraints would produce inefficiencies in local, regional, and long distance markets. Ignoring the necessity for proper sequencing has short and long term negative economic implications.

In advocating premature relief for the RBOCs, some analysts argue that the long distance market is not competitive because AT&T still accounts for 60 percent of the market and only has two major competitors, MCI and Sprint, which account for an additional 27 percent. However, this argument confuses market share with market power. It is possible that firms with large and declining market shares might have very little market power. The keys are whether there are barriers to entry and whether customers have and exercise a choice to change carriers. By these standards there is little doubt that long distance markets are competitive today. Sixteen million subscribers, an average of 44,000 people a day, switched carriers during 1992.

Unfortunately, some of the proposals before the Congress, while recognizing most of what is required to achieve competitive conditions, would unwisely permit immediate entry by the RBOCs into state and regional long distance markets without any accompanying provision for first allowing competition to develop in bottleneck local markets that today are virtually closed. As noted, opening competitive markets to the RBOCs now would not bring competition to local and regional telecommunications markets. The wrong sequencing of events would allow monopolies to restrict competition instead of enhancing it, thus diminishing productivity, jobs, and national output. Among existing proposals, only the Hollings bill pays enough attention to the proper sequence for lifting the MFJ restrictions. And one of the leading proposals—the Brooks-Dingell bill—while making constructive contributions to the extension and preservation of competition, has some perverse sequences because the RBOCs would be allowed to enter long distance markets before establishing and testing competition and would be allowed into markets where they have the greatest market power, without adequate safeguards. It is hoped that proper sequencing will be included before the various bills to establish telecommunications policy become law.

IMPORTANCE OF MARKET TESTS FOR COMPETITION

Proper sequencing, including markets tests for competition, is required for two major reasons: (1) the local and regional telecommunications monopolies have both the incentive and the ability to block the transformation to competitive markets and (2) it is difficult, if not practically impossible, for regulators to prevent abuses by hybrid entities operating simultaneously in monopolistic and competitive markets. The kind of abuses that could restrict competition include raising rivals' costs by delaying access to monopolized lines, requiring costly forms of interconnections, discriminatory pricing, and degrading technology; requiring the purchase of unneeded services; and arrangements (like the lack of portability of telephone numbers, and the prevention of the sharing and resale of long distance services within the calling area) that make it difficult for competitors to enter and compete in monopolistic markets. A careful examination of deregulation proposals from the RBOCs suggests that these companies have come to accept such practices as the only way to do business.

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[1] Testimony of Philip L. Verveer before the Subcommittee on Economic and Commercial Law, Committee on the Judiciary, U.S. House of Representatives, January 26, 1994, p. 6.

A test to determine if a market is competitive would prevent the continuation of these anti-competitive practices and therefore would facilitate the transition to competitive markets. And with regulatory constraints on the monopolistic local exchange carriers, private investments needed to maintain an efficient, open, flexible, responsive and innovative information infrastructure would be encouraged. The minimum essential preconditions of a market test for competition include: removing restrictive state laws; making it possible for consumers to have effective options for long distance and local telephone service; implementing number portability; unbundling network services in order to allow consumers to select only those components they need, as well as to permit providers to compete for these services; establishing real cost-based pricing arrangements, including the imputation of all charges to the local monopoly telephone exchanges that are already being paid by competitive carriers; preventing restrictions on resale and sharing; establishing uniform technical and interconnect standards; providing equal access to conduits and rights of way; permitting separate interconnections for each unbundled network service; granting alternative providers co-carrier status; and explicitly identifying and fairly implementing a system to allocate universal service costs.

Conditions like these are necessary to ensure the transition to adequate competition, but additional tests must be applied to determine when markets have become adequately competitive. In general, adequate competition exists when consumers have numerous choices, when no firm has enough market power to effectively raise prices without eliciting supply or price responses from actual and potential rivals, and when there are no artificial barriers to entry. However, precise measures would clarify and give greater precision to this definition, creating clear goals for RBOCs and regulators, as well as clear signals for potential investors. Examples of the kinds of measures that might be used to determine when local markets are adequately competitive for the purpose of removing the line-of-business restrictions are the following, proposed by AT&T in response to Senators John Danforth and Daniel Inouye:

1. All legal, regulatory and technical barriers must have been eliminated.

2. Seventy-five percent of the customers served by RBOCs can get telephone service from two or more alternative additional providers.

3. At least 30 percent of customers obtain exchange access service exclusively from an alternate provider.

While there is room for debate on the precise measures used to determine when local markets have become competitive, there is little doubt about the desirability of having such measures.

CONCLUSION

Proper sequencing—authorizing competitive entry, followed by a market test to determine whether effective local competition has developed—would require a willingness to change and compromise by all parties concerned, but the transformation to competition would have enormous benefits for the RBOCs, long distance companies, business and residential consumers, regulators, and, most important, the American public. With these safeguards the NII would establish an advanced, unified information infrastructure, unified by competitive market forces rather than "natural monopoly." This competitive information infrastructure within the framework of fair, transparent, simplified and flexible rules to prevent abuses and encourage innovations and efficiency would have enormous economic, social and political benefits. It is hard to think of anything more important for our nation's future.

Ms. MOLINARI. Mr. Speaker, today's question facing the House is: How can we improve our economic, social, and international footing, without spending taxpayers money, and without hurting any particular industry? I believe the answer is H.R. 3626.

H.R. 3626 is a bill that makes sense, common sense and dollar cents. The common sense in H.R. 3626 points to advances in technology that will improve education, health care, transportation, business, and the environment. The dollar cents reveals 3.6 million new jobs with private industries, not taxpayers, taking the cost while also fostering a competitive edge in markets abroad.

For once, in a long time, industries can agree that H.R. 3626 has benefits for everyone. The multimedia market will have the ability to expand to its fullest potential. This cannot happen until multiple users across the country can interact with each other. Information providers need and welcome the partnerships, new capital, technology, and mass market capabilities that would result from competition. In fact, one hundred of the "Fortune 500" companies have endorsed the bill because they recognize that lower telecommunication costs will increase their own competitiveness. I support the simple answer that America has been waiting for, H.R. 3626.

Mr. FRANKS of Connecticut. Mr. Speaker, I rise today in support for H.R. 3636 and H.R. 3626, legislation reported out of the Energy and Commerce Committee, on which I serve, and which will lead our Nation's telecommunications industry into the 21st century.

These bills will promote competition and bring new goods and services to consumers by removing the court-imposed restrictions on the Bell operating companies, by opening up the local telephone system to competition and by permitting our telephone companies to offer cable television services.

H.R. 3636 and H.R. 3626 will help our country's economy and will greatly assist in creating jobs for Americans. A study by the independent econometric forecasting firm, the WEFA Group, demonstrated that full competition in the telecommunications industry, including Bell Company relief from restrictions that currently bar them from certain markets and including full competition at the local level, would create 3.6 million new jobs in the United States over the next 10 years in a wide variety of industries and in every State in the Union. In my home State of Connecticut, over 45,000 new jobs over the next 10 years would be created in a fully competitive marketplace.

These measures have a wide range of support from a variety of organizations including senior citizens groups, education associations, labor unions, minority interests, and small business coalitions. These bills reflect years of work by the House Telecommunications Subcommittee and contain compromises to ensure that all competitors are treated fairly and equally.

I urge my colleagues to support both H.R. 3636 and H.R. 3626.

Mr. HUGHES. Mr. Speaker, I rise in support of H.R. 3626, the Antitrust and Communications Reform Act of 1994. I would like to commend my colleagues, Chairman BROOKS, Chairman DINGELL, and Chairman MARKEY for the excellent work they have done to facilitate this measure being brought to the floor today for a vote.

As our country faces the challenges of maintaining its place as a predominant player in the development of the information superhighway, it is imperative that we establish a fair and competitive environment in which American companies may thrive. The passage of H.R. 3626 is a fundamental step which we must take in order to establish such an environment.

H.R. 3626 sets forth a clear process for lifting the current restrictions placed on the Bell operating companies so they may play a greater role in creating and competing in our developing information-rich society. Notwithstanding the increased entry into new areas of the telecommunications industry provided for in H.R. 3626, it is important to note that this measure ensures that the safeguards established in our current antitrust law remain strong. This careful balance of increased access to the telecommunications market coupled with strong safeguards against anti-competitive behavior will facilitate a fair and open competitive market and, in turn, foster growth in the job market as well as in the telecommunications market as a whole.

One of the most significant aspects of H.R. 3626 is the administrative structure which it establishes. This structure, which replaces the 1982 modified final judgment [MFJ] consent decree agreement between the Department of Justice and AT&T, establishes an appropriate framework under which the seven regional Bell operating companies and their affiliates will be permitted to provide services which they are currently barred from providing pursuant to the MFJ.

Essentially, this structure sets forth a well-balanced process by which the appropriate Federal agencies and State regulatory bodies may review a Bell company's request to enter into other lines of business. Specifically, the measure establishes a specific time frame within which a Bell company may provide long-distance services, information services, and manufacture telecommunications equipment.

Pursuant to H.R. 3626, both the Department of Justice [DOJ] and the Federal Communications Commission [FCC] will be involved in the review process for determining how and when the Bell companies may enter new areas of the telecommunication industry. The DOJ and the FCC will also carefully review when the Bell companies are authorized to enter into the intrastate long distance market.

Another important provision in this measure is the recognition of those consumers who are disabled. That is, this measure establishes requirements that new equipment and services must be fully accessible and usable by those persons who may have special needs. Moreover, the bill incorporates consumer privacy protections which will prohibit Bell operating companies from using unsolicited information about their own telephone subscribers to market potential customers for other services provided by the company or its affiliates.

Moreover, I am very pleased that this measure specifically addresses the concerns of both the alarm monitoring and electronic publishing markets. H.R. 3626 provides that the regional Bell companies and their operating affiliates may file—beginning 5½ years after enactment of this measure—applications to the Federal Government to enter into the alarm monitoring market.

Likewise, this measure allows the Bell companies to enter into the electronic publishing business, while adhering to important safeguards protecting against the development of any unfair competitive advantage in providing these services. That is, Bell companies would be permitted to provide electronic publishing services over its own telephone lines only if such services are provided through a separate affiliate or a joint venture with an electronic publisher.

I urge my colleagues to support H.R. 3626. It is a comprehensive, well-balanced bill which will encourage the growth of fair competition in the telecommunications marketplace, while ensuring that America maintains her rightful position as a leader in the rapidly developing information superhighway.

Mr. KYL. Mr. Speaker, I rise in support of H.R. 3626, the Antitrust Reform Act, and the next bill on the agenda, H.R. 3636, the National Communications Competition and Information Infrastructure Act.

I am voting for these bills today to keep them moving through the legislative process. However, while both represent steps in the right direction—toward greater competition in the telecommunications industry—I believe both are still fraught with far too much Government regulation and oversight.

Our goal here should not be to carve out new turf for Government bureaucrats, or to carve up pieces of the telecommunications market for various competing interests. The communications policy we adopt should be focused on competition—consumer choice—and not on allocating markets or furthering Government intrusion, via regulation, into the communications industry.

While everyone should have an opportunity to compete, no one is entitled to prevail in the marketplace. The Federal Government's responsibility is only to ensure that the conduct of competitors, once they have entered new lines of business, does not impede competition and is not in violation of antitrust laws. The goal is fair competition, recognizing that the essence of competition is that some will succeed—others will fail—based on how well—or how poorly—they serve their customers.

A very simple way to measure the effectiveness of any communications policy is to determine how long it will take before this proposal achieves the stated goal of communications competition. If the answer is 5 years, 7 years, 10 years or more, then we ought to try again. The marketplace ought to be opened up as promptly as possible so that the American people can benefit from the wealth of new technologies that are becoming available, as well as improvements in price and quality of services that competition is sure to provide. And those benefits will be substantial.

According to a recent Wharton Economic Forecasting Associates [WEFA] Group study, consumers stand to save as much as $63 billion a year. As many as 3.6 million new jobs will be created in the United States in the next decade.

As I see it, the communications policy debate is about consumer choice and opportunity. If we permit long distance companies, local telephone companies, cable companies and others to compete on a level playing field, we'll give consumers that choice and business the opportunity to grow and prosper and create new jobs.

I urge yes votes on these bills today to keep them moving to the Senate and conference. I am hopeful, however, that before the legislation is put to a final vote, the Senate and the conference committee will work to minimize Government regulation of the industry.

Mr. SLATTERY. Mr. Speaker, I rise today in strong support of H.R. 3626 and H.R. 3636. These landmark bills are essential in aiding our Nation as we travel down the information superhighway. I congratulate Chairman DINGELL and Chairman BROOKS, along with Subcommittee Chairman MARKEY and their staffs, for their diligence in bringing this legislation to the floor.

H.R. 3626 would allow the regional Bell Telephone Companies gradually to enter the long-distance business. The companies could also enter into telecommunications equipment manufacturing, based on legislation I authored, and could provide information services. This legislation includes important provisions requiring future Bell manufacturing affiliates to operate in the United States and to make every possible effort to buy component parts from U.S. companies.

I am pleased that H.R. 3626 also includes an amendment I offered to help thousands of community newspapers across the country have a better chance to get on board the information superhighway.

The National Newspaper Association, the oldest and largest newspaper trade association in the United States, believes this could be the most important legislation to affect community newspapers throughout the Nation. By guaranteeing them fair access, fair rates, and fair competition, this legislation gives them nothing less than a license to the future. Without it, they could be ignored or actually driven off the information superhighway.

These newspapers often provide the social, political, and economic ties that bind communities together. Many are going through tough times. They face competition and disappearing ad revenue everywhere they look. Now at least they can face the electronic future with confidence that if this bill becomes law, they're bound to get a fair shake. The law requires no less.

I also want to call attention to the provisions of this legislation which address access by the disabled. In the past, most technological innovations in the area of information and telecommunication services have been developed without considering the needs of individuals with disabilities.

In keeping with the spirit of the Americans With Disabilities Act mandate to bring about the complete integration of individuals with disabilities into the mainstream of our society, H.R. 3636 and H.R. 3626 would ensure that advances in network services deployed by local exchange carriers, and advances in telecommunications equipment and customer premises equipment developed by Bell manufacturing affiliates, will be accessible and usable by individuals with disabilities, unless the costs of providing such access would result in an undue burden or an adverse competitive impact.

H.R. 3636 directs the Federal Communications Commission to undertake inquiries regarding the provision of both closed captioning and video description services of video services, and further directs the Commission to establish regulations to require an appropriate schedule of deadlines for the provision of closed captioning.

We have finally set the stage for full access—access which is long overdue—to video programming for these populations.

Additionally, I worked with my colleagues on the House Energy and Commerce Committee to include provisions which will help to provide a fair and equitable marketplace for small cable operators.

For example, the legislation would promote competition by removing State and local barriers for new telecommunications services. It would also allow joint ventures, mergers, and acquisitions to occur in areas with population of 10,000 or less, or when the cable system or systems in the aggregate serve less than 10 percent of the households in a Telco's service area. Representatives of small cable operators have advised me of additional issues that need to be addressed as this legislation moves forward. For example, there is a need to require all providers of cable services to comply with the same franchise requirements as local cable operators. Furthermore, certification of compliance with the interconnection and access requirements should be demonstrated through a public process.

I look forward to working with my colleagues in the Senate to resolve these outstanding issues so we can ensure that rural America has full access to the information superhighway.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 3626, as amended.

The question was taken.

Mr. PETRI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The Chair announces that this vote will be taken after the next suspension.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan.

There was no objection.

NATIONAL COMMUNICATIONS COMPETITION AND INFORMATION INFRASTRUCTURE ACT OF 1994

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3636) to promote a national communications infrastructure to encourage deployment of advanced communications services through competition, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3636

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "National Communications Competition and Information Infrastructure Act of 1994".

(b) Table of Contents.—

Sec. 1. Short title; table of contents.

TITLE I—TELECOMMUNICATIONS INFRASTRUCTURE AND COMPETITION

Sec. 101. Policy; definitions.
Sec. 102. Equal access and network functionality and quality.
Sec. 103. Telecommunications services for educational institutions, health care institutions, and libraries.
Sec. 104. Discriminatory interconnection.
Sec. 105. Expedited licensing of new technologies and services.
Sec. 106. New or extended lines.
Sec. 107. Pole attachments.
Sec. 108. Civic participation.
Sec. 109. Competition by small business and minority-owned business concerns.

TITLE II—COMMUNICATIONS COMPETITIVENESS

Sec. 201. Cable service provided by telephone companies.
Sec. 202. Review of broadcasters' ownership restrictions.
Sec. 203. Review of statutory ownership restriction.
Sec. 204. Broadcaster spectrum flexibility.
Sec. 205. Interactive services and critical interfaces.
Sec. 206. Video programming accessibility.
Sec. 207. Public access.
Sec. 208. Automated ship distress and safety systems.
Sec. 209. Exclusive Federal jurisdiction over direct broadcast satellite service.
Sec. 210. Technical amendments.
Sec. 211. Availability of screening devices to preclude display of encrypted programming.

TITLE III—PROCUREMENT PRACTICES OF TELECOMMUNICATIONS PROVIDERS.

Sec. 301. Findings.
Sec. 302. Purpose.
Sec. 303. Annual plan submission.
Sec. 304. Sanctions and remedies.
Sec. 305. Definitions.

TITLE IV—FEDERAL COMMUNICATIONS COMMISSION RESOURCES

Sec. 401. Authorization of appropriations.

TITLE I—TELECOMMUNICATIONS INFRASTRUCTURE AND COMPETITION

SEC. 101. POLICY; DEFINITIONS.

(a) Policy.—Section 1 of the Communications Act of 1934 (47 U.S.C. 151) is amended—

(1) by inserting "(a)" after "Section 1."; and

(2) by adding at the end thereof the following new subsection:

"(b) The purposes described in subsection (a), as they relate to common carrier services, include—

"(1) to preserve and enhance universal telecommunications service at just and reasonable rates;

"(2) to encourage the continued development and deployment of advanced and reliable capabilities and services in telecommunications networks;

"(3) to make available, so far as possible, to all the people of the United States, regardless of location or disability, a switched, broadband telecommunications network capable of enabling users to originate and receive affordable high quality voice, data, graphics, and video telecommunications services;

"(4) to ensure that the costs of such networks and services are allocated equitably among users and are constrained by competition whenever possible;

"(5) to ensure a seamless and open nationwide telecommunications network through joint planning, coordination, and service arrangements between and among carriers; and

"(6) to ensure that common carriers' networks function at a high standard of quality in delivering advances in network capabilities and services.".

(b) Definitions.—Section 3 of such Act (47 U.S.C. 153) is amended—

(1) in subsection (r)—

(A) by inserting "(A)" after "means"; and

(B) by inserting before the period at the end the following: ", or (B) service provided through a system of switches, transmission equipment, or other facilities (or combination thereof) by which a subscriber can originate and terminate a telecommunications service within a State but which does not result in the subscriber incurring a telephone toll charge"; and

(2) by adding at the end thereof the following:

"(gg) 'Information service' means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

"(hh) 'Equal access' means to afford, to any person seeking to provide an information service or a telecommunications service, reasonable and nondiscriminatory access on an unbundled basis—

"(1) to databases, signaling systems, poles, ducts, conduits, and rights-of-way owned or controlled by a local exchange carrier, or other facilities, functions, or information (including subscriber numbers) integral to the efficient transmission, routing, or other provision of telephone exchange services or telephone exchange access services;

"(2) that is at least equal in type, quality, and price to the access which the carrier affords to itself or to any other person; and

"(3) that is sufficient to ensure the full interoperability of the equipment and facilities of the carrier and of the person seeking such access.

"(ii) 'Open platform service' means a switched, end-to-end digital telecommunications service that is subject to title II of this Act, and that (1) provides subscribers with sufficient network capability to access multimedia information services, (2) is widely available throughout a State, (3) is provided based on industry standards, and (4) is available to all subscribers on a single line basis upon reasonable request.

"(jj) 'Local exchange carrier' means any person that is engaged in the provision of telephone exchange service or telephone exchange access service. Such term does not include a person insofar as such person is engaged in the provision of a commercial mobile service under section 332(c), except to the extent that the Commission finds that such service as provided by such person in a State is a replacement for a substantial portion of the wireline telephone exchange service within such State.

"(kk) 'Telephone exchange access service' means the offering of telephone exchange services or facilities for the purpose of the origination or termination of interexchange telecommunications services to or from an exchange area.

"(ll) 'Telecommunications' means the transmission, between or among points specified by the subscriber, of information of the subscriber's choosing, without change in the form or content of the information as sent and received, by means of an electromagnetic transmission medium, including all instrumentalities, facilities, apparatus, and services (including the collection, storage, forwarding, switching, and delivery of such information) essential to such transmission.

"(mm) 'Telecommunications service' means the offering, on a common carrier basis, of telecommunications facilities, or of telecommunications by means of such facilities. Such term does not include an information service.".

SEC. 102. EQUAL ACCESS AND NETWORK FUNCTIONALITY AND QUALITY.

(a) Amendment.—Section 201 of the Communications Act of 1934 (47 U.S.C. 201) is amended by adding at the end thereof the following new subsections:

"(c) Equal Access.—

"(1) Openness and accessibility obligations.—

"(A) Common carrier obligations.—The duty of a common carrier under subsection (a) to furnish communications service includes the duty to interconnect with the facilities and equipment of other providers of telecommunications services and information services in accordance with such regulations as the Commission may prescribe as necessary or desirable in the public interest with respect to the openness and accessibility of common carrier networks.

"(B) Additional obligations of local exchange carriers.—The duty under subsection (a) of a local exchange carrier includes the duty—

"(i) to provide, in accordance with the regulations prescribed under paragraph (2), equal access to and interconnection with the facilities of the carrier's networks to any other carrier or person providing telecommunications services or information services reasonably requesting such equal access and interconnection, so that such networks are fully interoperable with such telecommunications services and information services; and "(ii) to offer unbundled features, functions, and capabilities whenever technically feasible and economically reasonable, in accordance with requirements prescribed by the Commission pursuant to this subsection and other laws.

"(2) EQUAL ACCESS AND INTERCONNECTION REGULATIONS.—

"(A) REGULATIONS REQUIRED.—Within 1 year after the date of enactment of this subsection, the Commission shall establish regulations that require reasonable and nondiscriminatory equal access to and interconnection with the facilities of a local exchange carrier's network at any technically feasible and economically reasonable point within the carrier's network on reasonable terms and conditions, to any other carrier or person offering telecommunications services requesting such access. The Commission shall establish such regulations after consultation with the Joint Board established pursuant to subparagraph (D). Such regulations shall provide for actual collocation of equipment necessary for interconnection for telecommunications services at the premises of a local exchange carrier, except that the regulations shall provide for virtual collocation where the local exchange carrier demonstrates that actual collocation is not practical for technical reasons or because of space limitations.

"(B) COMPENSATION.—Within 1 year after the date of enactment of this subsection, the Commission shall establish regulations requiring just and reasonable compensation to the exchange carrier providing such equal access and interconnection pursuant to subparagraph (A). Such regulations shall include regulations to require the carrier, to the extent it provides a telecommunications service or an information service, to impute such access and interconnection charges to itself as the Commission determines are reasonable and nondiscriminatory.

"(C) EXEMPTIONS AND MODIFICATIONS.—Notwithstanding paragraph (1) or subparagraph (A) of this paragraph, a rural telephone company shall not be required to provide equal access and interconnection to another local exchange carrier. The Commission shall not apply the requirements of this paragraph or impose requirements pursuant to paragraph (1)(B)(ii) to any rural telephone company, except to the extent that the Commission determines that compliance with such requirements would not be unduly economically burdensome, unfairly competitive, technologically infeasible, or otherwise not in the public interest. The Commission may modify the requirements of this paragraph for any other local exchange carrier that has, in the aggregate nationwide, fewer than 500,000 access lines installed, to the extent that the Commission determines that compliance with such requirements (without such modification) would be unduly economically burdensome, technologically infeasible, or otherwise not in the public interest. The Commission may include, in the regulations prescribed pursuant to paragraph (1)(B), modified requirements for any feature, function, or capability that the Commission determines is generally available to competing providers of telecommunications services or information services at the same or better price, terms, and conditions.

"(D) JOINT BOARD ON EQUAL ACCESS AND INTERCONNECTION STANDARDS.—Within 30 days after the date of enactment of this subsection, the Commission shall convene a Federal-State Joint Board under section 410(c) for the purpose of preparing a recommended decision for the Commission with respect to the equal access and interconnection regulations required by this paragraph.

"(E) ENFORCEMENT OF EXISTING REGULATIONS.—Nothing in this section shall be construed to prohibit the Commission from enforcing regulations prescribed prior to the date of enactment of this subsection in fulfilling the requirements of this subsection, to the extent that such regulations are consistent with the provisions of this subsection.

"(F) DEFINITION OF RURAL TELEPHONE COMPANY.—For the purpose of subparagraph (C) of this paragraph, the term 'rural telephone company' means a local exchange carrier operating entity to the extent that such entity—

"(i) provides common carrier service to any local exchange carrier study area that does not include either—

"(I) any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recent available population statistics of the Bureau of the Census; or

"(II) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of August 10, 1993;

"(ii) provides telephone exchange service, including telephone exchange access service, to fewer than 50,000 access lines; or

"(iii) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines.

"(3) PREEMPTION.—

"(A) LIMITATION.—Notwithstanding section 2(b), no State or local government may, after one year after the date of enactment of this subsection—

"(i) effectively prohibit any person or carrier from providing any interstate or intrastate telecommunications service or information service, or impose any restriction or condition on entry into the business of providing any such service;

"(ii) prohibit any carrier or other person providing interstate or intrastate telecommunications services or information services from exercising the access and interconnection rights provided under this subsection; or

"(iii) impose any limitation on the exercise of such rights.

"(B) PERMITTED TERMS AND CONDITIONS.—Subparagraph (A) shall not be construed to prohibit a State from imposing a term or condition on providers of telecommunications services or information services if such term or condition does not effectively prohibit any person or carrier from providing any interstate or intrastate telecommunications service or information service and is necessary and appropriate to—

"(i) protect public safety and welfare;

"(ii) ensure the continued quality of intrastate telecommunications;

"(iii) ensure that rates for intrastate telecommunications services are just and reasonable; or

"(iv) ensure that the provider's business practices are consistent with consumer protection laws and regulations.

"(C) NORMAL CONSTRUCTION PERMITS PERMITTED.—Subparagraph (A) shall not be construed to prohibit a local government from requiring a person or carrier to obtain ordinary and usual construction or similar permits for its operations if (i) such permit is required without regard to the nature of the business, and (ii) requiring such permit does not effectively prohibit any person or carrier from providing any interstate or intrastate telecommunications service or information service.

"(D) EXCEPTION.—In the case of commercial mobile services, the provisions of section 332(c)(3) shall apply in lieu of the provisions of this paragraph.

"(E) PARITY OF FRANCHISE AND OTHER CHARGES.—Notwithstanding section 2(b), no local government may, after 1 year after the date of enactment of this subsection, impose or collect any franchise, license, permit, or right-of-way fee or any assessment, rental, or any other charge or equivalent thereof as a condition for operating in the locality or for obtaining access to, occupying, or crossing public rights-of-way from any provider of telecommunications services that distinguishes between or among providers of telecommunications services, including the local exchange carrier. For purposes of this subsection, a franchise, license, permit, or right-of-way fee or an assessment, rental, or any other charge or equivalent thereof does not include any imposition of general applicability which does not distinguish between or among providers of telecommunications services, or any tax.

"(4) TARIFFS.—

"(A) GENERALLY.—Within 18 months after the date of enactment of this subsection, a local exchange carrier shall prepare and file tariffs in accordance with this Act with respect to the services or elements offered to comply with the equal access and interconnection regulations required under this subsection. The costs that a carrier incurs in providing such services or elements shall be borne solely by the users of the features and functions comprising such services or elements or of the feature or function that uses or includes such services or elements. The Commission shall review such tariffs to ensure that—

"(i) the charges for such services or elements are cost-based; and

"(ii) the terms and conditions contained in such tariffs unbundle any separable services, elements, features, or functions in accordance with paragraph (1)(B)(ii) and any regulations thereunder.

"(B) SUPPORTING INFORMATION.—A local exchange carrier shall submit supporting information with its tariffs for equal access and interconnection that is sufficient to enable the Commission and the public to determine the relationship between the proposed charges and the costs of providing such services or elements. The submission of such information shall be pursuant to regulations adopted by the Commission to ensure that similarly situated carriers provide such information in a uniform fashion.

"(5) PRICING FLEXIBILITY.—

"(A) ESTABLISHMENT OF CRITERIA.—Within 270 days after the date of enactment of this subsection, the Commission, by regulation, shall establish criteria for determining—

"(i) whether a telecommunications service or provider of such service has become, or is substantially certain to become, subject to competition, either within a geographic area or within a class or category of service;

"(ii) whether such competition will effectively prevent rates for such service that are unjust or unreasonable or that are unjustly or unreasonably discriminatory; and

"(iii) appropriate flexible pricing procedures that can be used in lieu of the filing of tariff schedules, or in lieu of other pricing procedures established by the Commission, and that are consistent with the protection of subscribers and the public interest, convenience, and necessity.

"(B) DETERMINATIONS.—The Commission, with respect to rates for interstate or foreign communications, and State commissions, with respect to rates for intrastate communications, shall, upon application—

"(i) render determinations in accordance with the criteria established under clauses (i) and (ii) of subparagraph (A) concerning the services or providers that are the subject of such application; and

"(ii) upon a proper showing, establish appropriate flexible pricing procedures consistent with the criteria established under clause (iii) of such subparagraph.

The Commission shall approve or reject any such application within 180 days after the date of its submission.

"(C) EXCEPTION.—In the case of commercial mobile services, the provisions of section 332(c)(1) shall apply in lieu of the provisions of this paragraph.

"(6) JOINT BOARD TO PRESERVE UNIVERSAL SERVICE.—

"(A) ESTABLISHMENT; FUNCTIONS.—Within 30 days after the date of enactment of this subsection, the Commission shall convene a Federal-State Joint Board under section 410(c) for the purpose of recommending actions to the Commission and State commissions for the preservation of universal service. As a part of preparing such recommendations, the Joint Board shall survey providers and users of telephone exchange service and consult with State commissions in order to determine the pecuniary difference between the cost of providing universal service and the prices determined to be appropriate for such service.

"(B) PRINCIPLES.—The Joint Board shall base policies for the preservation of universal service on the following principles:

"(i) A plan adopted by the Commission and the States should ensure the continued viability of universal service by maintaining quality services at just and reasonable rates.

"(ii) Such plan should define the nature and extent of the services encompassed within carriers' universal service obligations. Such plan should seek to promote access to advanced telecommunications services and capabilities, including open platform service, for all Americans by including access to advanced telecommunications services and capabilities in the definition of universal service while maintaining just and reasonable rates. Such plan should seek to promote reasonably comparable services for the general public in urban and rural areas.

"(iii) Such plan should establish specific and predictable mechanisms to provide adequate and sustainable support for universal service.

"(iv) All providers of telecommunications services should make an equitable and nondiscriminatory contribution to preservation of universal service.

"(v) Such plan should permit residential subscribers to continue to receive only basic voice-grade local telephone service, for a period of not more than 5 years, equivalent to the service generally available to residential subscribers on the date of enactment of this subsection, at just, reasonable, and affordable rates. Determinations concerning the affordability of rates for such services shall take into account the rates generally available to residential subscribers on such date of enactment and the pricing rules established by the States. If the plan would result in any increases in the rates for such services for residential subscribers that are not attributable to changes in consumer prices generally, such plan should include a requirement that a rate increase shall be permitted in any proceeding commenced after March 16, 1994, only upon a showing that such increase is necessary to prevent competitive disadvantages for one or more service providers and is in the public interest. Such plan should provide that any such increase in rates shall be minimized to the greatest extent practical and shall be implemented over a time period of not less than 5 years after the date of enactment of this subsection.

"(vi) To the extent that a common carrier establishes advanced telecommunications services, such plan should include provisions to promote public access to advanced telecommunications services, other than a video platform, at a preferential rate that will recover only the added costs of providing such service, for public service institutions, both as producers and users of services, as soon as technically feasible and economically reasonable. Such plan shall provide that such preferential rates should only be made available to such institutions for the purpose of providing noncommercial information services or telecommunications services to the general public and not for the internal telecommunications needs or commercial use of such institutions.

"(vii) Such plan should determine and establish mechanisms to ensure that rates charged by a provider of interexchange telecommunications services for services in rural areas are maintained at levels no higher than those charged by the same carrier to subscribers in urban areas.

"(viii) Such plan should, notwithstanding any other provision of law, require common carriers serving more than 1,800,000 access lines in the aggregate nationwide, to be subject to alternative or price regulation, and not cost-based rate-of-return regulation, for services that are subject to the jurisdiction of the Commission or the States, as applicable, when such carrier's network has been made open to competition as a result of its implementation of the equal access, interconnection, and accessibility provisions of this subsection.

"(ix) Such other principles as the Board determines are necessary and appropriate for the protection of the public interest, convenience, and necessity and consistent with the purposes of this Act.

"(C) DEFINITION OF UNIVERSAL SERVICE; ACCESS TO ADVANCED SERVICES.—In defining the nature and extent of the services encompassed within carriers' universal service obligations under subparagraph (B)(ii), the Joint Board shall consider the extent to which—

"(i) a telecommunications service has, through the operation of market choices by customers, been subscribed to by a substantial majority of residential customers;

"(ii) denial of access to such service to any individual would unfairly deny that individual educational and economic opportunities;

"(iii) such service has been deployed in the public switched telecommunications network; and

"(iv) inclusion of such service within carriers' universal service obligations is otherwise consistent with the public interest, convenience, and necessity.

The Joint Board may, from time to time, recommend to the Commission modifications in the definition proposed under subparagraph (B).

"(D) REPORT; COMMISSION RESPONSE.—The Joint Board convened pursuant to subparagraph (A) shall report its recommendations within 270 days after the date of enactment of this subsection. The Commission shall complete any proceeding to act upon such recommendations within one year after such date of enactment. A State may adopt regulations to implement the Joint Board's recommendations, except that such regulations shall not, after 18 months after such date of enactment, be inconsistent with regulations prescribed by the Commission to implement such recommendations.

"(E) DEFINITION OF PUBLIC SERVICE INSTITUTION.—For the purposes of this paragraph, the term 'public service institution' means—

"(i) an agency or instrumentality of Federal, State, or local government;

"(ii) a nonprofit educational institution, health care institution, public library, public museum, or public broadcasting station or entity;

"(iii) a charitable organizations that (I) is exempt from Federal income taxes under section 501(c)(3) of the Internal Revenue Code of 1986; (II) provides public services in conjunction with an agency, instrumentality, institution, or entity described in clause (i) or (ii); and (III) provides information that is useful to the public and that is related to the work of such an agency, instrumentality, institution, or entity.

"(7) CROSS SUBSIDIES PROHIBITION.—The Commission shall—

"(A) prescribe regulations to prohibit a common carrier from engaging in any practice that results in the inclusion in rates for telephone exchange service or telephone exchange access service of any operating expenses, costs, depreciation charges, capital investments, or other expenses directly associated with the provision of competing telecommunications services, information services, or video programming services by the common carrier or affiliate; and

"(B) ensure such competing telecommunications services, information services or video programming services bear a reasonable share of the joint and common costs of facilities used to provide telephone exchange service or telephone exchange access service and competing telecommunications services, information services, or video programming services.

"(8) RESALE.—The resale or sharing of telephone exchange service (or unbundled services, elements, features, or functions of telephone exchange service) in conjunction with the furnishing of a telecommunications service or an information service shall not be prohibited nor subject to unreasonable conditions by the carrier, the Commission, or any State.

"(9) TELECOMMUNICATIONS NUMBER PORTABILITY.—The Commission shall prescribe regulations to ensure that—

"(A) telecommunications number portability shall be available, upon request, as soon as technically feasible and economically reasonable; and

"(B) an impartial entity shall administer telecommunications numbering and make such numbers available on an equitable basis.

The Commission shall have exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States. For the purpose of this paragraph, the term 'telecommunications number portability' means the ability of users of telecommunications services to retain existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one provider of telecommunications services to another.

"(10) REVIEW OF STANDARDS AND REQUIREMENTS.—At least once every three years, the Commission shall—

"(A) conduct a proceeding in which interested parties shall have an opportunity to comment on whether the standards and requirements established by or under this subsection have opened the networks of carriers to reasonable and nondiscriminatory access by providers of telecommunications services and information services;

"(B) review the definition of, and the adequacy of support for, universal service, and evaluate the extent to which universal service has been protected and access to advanced services has been facilitated pursuant to this subsection and the plans and regulations thereunder; and

"(C) submit to the Congress a report containing a statement of the Commission's findings pursuant to such proceeding, and including an identification of any defects or delays observed in attaining the objectives of this subsection and a plan for correcting such defects and delays.

"(11) STUDY OF RURAL PHONE SERVICE.—Within 1 year after the date of enactment of this subsection, the Commission shall initiate an inquiry to examine the effects of competition in the provision of telephone exchange access service and telephone exchange service on the availability and rates for telephone exchange access service and telephone exchange service furnished by rural exchange carriers.

"(d) NETWORK FUNCTIONALITY AND QUALITY.—

"(1) FUNCTIONALITY AND RELIABILITY OBLIGATIONS.—The duty of a common carrier under subsection (a) to furnish communications service includes the duty to furnish that service in accordance with such regulations of functionality and reliability as the Commission may prescribe as necessary or desirable in the public interest pursuant to this subsection.

"(2) COORDINATED PLANNING FOR INTEROPERABILITY AND OTHER PURPOSES.—The Commission shall establish—

"(A) procedures for the conduct of coordinated network planning by common carriers and other providers of telecommunications services or information services, subject to Commission supervision, for the effective and efficient interconnection and interoperability of public and private networks; and

"(B) procedures for Commission oversight of the development by appropriate standards-setting organizations of—

"(i) standards for the interconnection and interoperability of such networks;

"(ii) standards that promote access to network capabilities and services by individuals with disabilities; and

"(iii) standards that promote access to information services by subscribers to telephone exchange service furnished by a rural telephone company (as such term is defined in subsection (c)(2)(F)).

"(3) OPEN PLATFORM SERVICE.—

"(A) STUDY.—Within 90 days after the date of enactment of this subsection, the Commission shall initiate an inquiry to consider the regulations and policies necessary to make open platform service available to subscribers at reasonable rates based on the reasonably identifiable costs of providing such service, utilizing existing facilities or new facilities with improved capability or efficiency. The inquiry required under this paragraph shall be completed within 180 days after the date of its initiation.

"(B) REGULATIONS.—On the basis of the results of the inquiry required under subparagraph (A), the Commission shall prescribe and make effective such regulations as are necessary to implement the inquiry's conclusions. Such regulations may require a local exchange carrier to file, in the appropriate jurisdiction, tariffs for the origination and termination of open platform service as soon as such service is economically and technically feasible. In establishing any such regulations, the Commission shall take into account the proximate and long-term deployment plans of local exchange carriers.

"(C) TEMPORARY WAIVER.—The Commission shall also establish a procedure to waive temporarily specific provisions of the regulations prescribed under this paragraph if a local exchange carrier demonstrates that compliance with such requirement—

"(i) would be economically or technically infeasible, or

"(ii) would materially delay the deployment of new facilities with improved capabilities or efficiencies that will be used to meet the requirements of open platform services.

Such petitions shall be decided by the Commission within 180 days after the date of its submission.

"(D) COST ALLOCATION.—Any such regulations shall provide for the allocation of all costs of facilities jointly used to provide open platform service and telephone exchange service or telephone exchange access services.

"(E) STATE AUTHORITY.—Nothing in this paragraph shall be construed to limit a State's authority to continue to regulate any services subject to State jurisdiction under this Act.

"(F) COMMISSION INQUIRY.—Within 2 years after the date of enactment of this paragraph, the Commission shall conduct an inquiry concerning the deployment of open platform service and other advanced telecommunications network capabilities, including switched, broadband telecommunications facilities. In conducting such inquiry, the Commission shall seek to develop information concerning—

"(i) the availability of such network capabilities to all Americans;

"(ii) the availability of such network capabilities to different regions, States, and classes of subscribers;

"(iii) the availability of advanced network technology needed to deploy such network capabilities; and

"(iv) likely deployment schedules for such network capabilities by region, State, and classes of subscribers.

The Commission shall submit a report to the Congress on the results of such inquiry within 270 days after the commencement of such inquiry, and annually thereafter for the succeeding 5 years.

"(4) ACCESSIBILITY REGULATIONS.—

"(A) REGULATIONS.—Within 1 year after the date of enactment of this section, the Commission shall prescribe such regulations as are necessary to ensure that advances in network services deployed by local exchange carriers shall be accessible and usable by individuals with disabilities, including individuals with functional limitations of hearing, vision, movement, manipulation, speech, and interpretation of information, unless the cost of making the services accessible and usable would result in an undue burden or adverse competitive impact. Such regulations shall seek to permit the use of both standard and special equipment, and seek to minimize the need of individuals to acquire additional devices beyond those used by the general public to obtain such access. Throughout the process of developing such regulations, the Commission shall coordinate and consult with representatives of individuals with disabilities and interested equipment and service providers to ensure their concerns and interests are given full consideration in such process.

"(B) COMPATIBILITY.—Such regulations shall require that whenever an undue burden or adverse competitive impact would result from the requirements in subparagraph (A), the local exchange carrier that deploys the network service shall ensure that the network service in question is compatible with existing peripheral devices or specialized customer premises equipment commonly used by persons with disabilities to achieve access, unless doing so would result in an undue burden or adverse competitive impact.

"(C) UNDUE BURDEN.—The term 'undue burden' means significant difficulty or expense. In determining whether the activity necessary to comply with the requirements of this paragraph would result in an undue burden, the factors to be considered include the following:

"(i) The nature and cost of the activity.

"(ii) The impact on the operation of the facility involved in the deployment of the network service.

"(iii) The financial resources of the local exchange carrier.

"(iv) The type of operations of the local exchange carrier.

"(D) ADVERSE COMPETITIVE IMPACT.—In determining whether the activity necessary to comply with the requirements of this paragraph would result in adverse competitive impact, the following factors shall be considered:

"(i) Whether such activity would raise the cost of the network service in question beyond the level at which there would be sufficient consumer demand by the general population to make the network service profitable.

"(ii) Whether such activity would, with respect to the network service in question, put the local exchange carrier at a competitive disadvantage. This factor may be considered so long as competing network service providers are not held to the same obligation with respect to access by persons with disabilities.

"(E) REVIEW OF STANDARDS AND REQUIREMENTS.—At least once every 3 years, the Commission shall conduct a proceeding in which interested parties shall have an opportunity to comment on whether the regulations established under this paragraph have ensured that advances in network services by providers of telecommunications services and information services are accessible and usable by individuals with disabilities.

"(F) EFFECTIVE DATE.—The regulations required by this paragraph shall become effective 18 months after the date of enactment of this subsection.

"(5) QUALITY RULES.—

"(A) MEASURES OR BENCHMARKS REQUIRED.—The Commission shall designate or otherwise establish network reliability and quality performance measures or benchmarks for common carriers for the purpose of ensuring the continued maintenance and evolution of common carrier facilities and service. Not later than 180 days after the date of enactment of this subsection, the Commission shall initiate a rulemaking proceeding to establish such performance measures or benchmarks.

"(B) CONTENTS OF REGULATIONS.—Such regulations shall include—

"(i) quantitative network reliability and service quality performance measures or benchmarks;

"(ii) procedures to monitor and evaluate common carrier efforts to increase network reliability and service quality; and "(iii) procedures to resolve network reliability and service quality complaints.

"(C) COORDINATION AND CONSULTATION.—Throughout the process of developing network reliability and service quality performance measures or benchmarks, as required by subparagraphs (A) and (B), the Commission shall coordinate and consult with service and equipment providers and users and State regulatory bodies to ensure their concerns and interests are given full consideration in such process.

"(6) RURAL EXEMPTION.—The Commission may modify, or grant exemptions from, the requirements of this subsection in the case of a common carrier providing telecommunications services in a rural area.

"(e) INFRASTRUCTURE SHARING.—

"(1) REGULATIONS REQUIRED.—Within one year after the date of enactment of this subsection, the Commission shall prescribe regulations that require local exchange carriers to make available to qualifying carriers such public switched telecommunications network technology and information and telecommunications facilities and functions as may be requested by such a qualifying carrier for the purpose of enabling that carrier to provide telecommunications services, or to provide access to information services, in the geographic area in which that carrier has requested and obtained designation as the qualifying carrier.

"(2) QUALIFYING CARRIERS.—For purposes of paragraph (1), the term 'qualifying carrier' means a local exchange carrier that—

"(A) lacks economies of scale or scope, as determined in accordance with regulations prescribed by the Commission pursuant to this subsection; and

"(B) is a common carrier which offers telephone exchange service, telephone exchange access service, and any other service that is within the definition of universal service, to all customers without preference throughout one or more exchange areas in existence on the date of enactment of this subsection.

"(3) TERMS AND CONDITIONS OF REGULATIONS.—The regulations prescribed by the Commission pursuant to this subsection—

"(A) shall not require any local exchange carrier to take any action that is economically unreasonable or that is contrary to the public interest or to provide telecommunications facilities and functions to any qualifying carrier that is not reasonably proximate to such local exchange carrier;

"(B) shall permit, but shall not require, the joint ownership or operation of public switched telecommunications network facilities, functions, and services by or among the local exchange carrier and the qualifying carrier;

"(C) shall ensure that a local exchange carrier shall not be treated by the Commission or any State commission as a common carrier for hire, or as offering common carrier services, with respect to any technology, information, facilities, or functions made available to a qualifying carrier pursuant to this subsection;

"(D) shall ensure that local exchange carriers make such technology, information, facilities, or functions available to qualifying carriers on fair and reasonable terms and conditions that permit such qualifying carriers to fully benefit from the economies of scale and scope of the providing local exchange carrier, as determined in accordance with guidelines prescribed by the Commission in such regulations;

"(E) shall establish conditions that promote cooperation between local exchange carriers and qualifying carriers; and

"(F) shall not require any local exchange carrier to engage in any infrastructure sharing agreement for any geographic area where such carrier is required to provide services subject to State regulation.

"(4) INFORMATION CONCERNING DEPLOYMENT OF NEW SERVICES AND EQUIPMENT.—Any local exchange carrier that has entered into an agreement with a qualifying carrier under this subsection shall provide to each party to such agreement timely information on the planned deployment of telecommunications services and equipment, including software integral to such telecommunications services and equipment, including upgrades.".

(b) PREEMPTION OF FRANCHISING AUTHORITY REGULATION OF TELECOMMUNICATIONS SERVICES.—

(1) TELECOMMUNICATIONS SERVICES.—Section 621(b) of the Communications Act of 1934 (47 U.S.C. 541(c)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) To the extent that a cable operator or affiliate thereof is engaged in the provision of telecommunications services—

"(i) such cable operator or affiliate shall not be required to obtain a franchise under this title; and

"(ii) the provisions of this title shall not apply to such cable operator or affiliate.

"(B) A franchising authority may not impose any requirement that has the purpose or effect of prohibiting, limiting, restricting, or conditioning the provision of a telecommunications service by a cable operator or an affiliate thereof.

"(C) A franchising authority may not order a cable operator or affiliate thereof—

"(i) to discontinue the provision of a telecommunications service, or

"(ii) to discontinue the operation of a cable system, to the extent such cable system is used for the provision of a telecommunications service, by reason of the failure of such cable operator or affiliate thereof to obtain a franchise or franchise renewal under this title with respect to the provision of such telecommunications service.

"(D) A franchising authority may not require a cable operator to provide any telecommunications service or facilities as a condition of the initial grant of a franchise or a franchise renewal.".

(2) FRANCHISE FEES.—Section 622(b) of the Communications Act of 1934 (47 U.S.C. 542(b)) is amended by inserting "to provide cable services" immediately before the period at the end of the first sentence thereof.

(c) CONFORMING AMENDMENT.—Section 2(b) of the Communications Act of 1934 (47 U.S.C.152(b)) is amended by inserting "201(c) and (d)," after "Except as provided in sections".

SEC. 103. TELECOMMUNICATIONS SERVICES FOR EDUCATIONAL INSTITUTIONS, HEALTH CARE INSTITUTIONS, AND LIBRARIES.

Title II of the Communications Act of 1934 is amended by adding at the end the following new section:

"SEC. 229. TELECOMMUNICATIONS SERVICES FOR EDUCATIONAL INSTITUTIONS, HEALTH CARE INSTITUTIONS, AND LIBRARIES.

"(a) PROMOTION OF DELIVERY OF ADVANCED SERVICES.—In fulfillment of its obligation under section 1 to make available to all the people of the United States a rapid, efficient, nationwide, and worldwide communications service, the Commission shall promote the provision of advanced telecommunications services by wire, wireless, cable, and satellite technologies to—

"(1) educational institutions;

"(2) health care institutions; and

"(3) public libraries.

"(b) ANNUAL SURVEY REQUIRED.—The National Telecommunications and Information Administration shall conduct a nationwide survey of the availability of advanced telecommunications services to educational institutions, health care institutions, and public libraries. The Administration shall complete the survey and release publicly the results of such survey not later than one year after the date of enactment of this section. The results of such survey shall include—

"(1) the number of educational institutions and classrooms, health care institutions, and public libraries;

"(2) the number of educational institutions and classrooms, health care institutions, and public libraries that have access to advanced telecommunications services; and

"(3) the nature of the telecommunications facilities through which such educational institutions, health care institutions, and public libraries obtain access to advanced telecommunications services.

The National Telecommunications and Information Administration shall update annually the survey required by this section. The survey required under this subsection shall be prepared in consultation with the Department of Education, Department of Health and Human Services, and such other Federal, State, and local departments, agencies, and authorities that may maintain or have access to information concerning the availability of advanced telecommunications services to educational institutions, health care institutions, and libraries.

"(c) RULEMAKING REQUIRED.—Within one year after the date of enactment of this section, the Commission shall issue a notice of proposed rulemaking for the purpose of adopting regulations that—

"(1) enhance, to the extent technically feasible and economically reasonable, the availability of advanced telecommunications services to all educational institutions and classrooms, health care institutions, and public libraries by the year 2000;

"(2) ensure that appropriate functional requirements or performance standards, or both, including interoperability standards, are established for telecommunications systems or facilities that interconnect educational institutions, health care institutions, and public libraries with the public switched telecommunications network;

"(3) define the circumstances under which a carrier may be required to interconnect its telecommunications network with educational institutions, health care institutions, and public libraries;

"(4) provide for either the establishment of preferential rates for telecommunications services, including advanced services, that are provided to educational institutions, health care institutions, and public libraries, or the use of alternative mechanisms to enhance the availability of advanced services to these institutions; and

"(5) address such other related matters as the Commission may determine.

"(d) FEASIBILITY STUDY.—The Commission shall assess the feasibility of including postsecondary educational institutions in any regulations promulgated under this section.

"(e) DEFINITIONS.—For purposes of this section—

"(1) the term 'educational institutions' means elementary and secondary educational institutions; and

"(2) the term 'health care institutions' means not-for-profit health care institutions, including hospitals and clinics.".

SEC. 104. DISCRIMINATORY INTERCONNECTION.

Section 208 of the Communications Act of 1934 is amended by adding at the end thereof the following new subsection:

"(c) EXPEDITED REVIEW OF CERTAIN COMPLAINTS.—The Commission shall issue a final order with respect to any complaint arising from alleged violations of the regulations and orders prescribed pursuant to section 201(c) within 180 days after the date such complaint is filed.".

SEC. 105. EXPEDITED LICENSING OF NEW TECHNOLOGIES AND SERVICES.

Section 7 of the Communications Act of 1934 (47 U.S.C. 157) is amended by adding at the end thereof the following new subsection:

"(c) LICENSING OF NEW TECHNOLOGIES.—

"(1) EXPEDITED RULEMAKING.—Within 24 months after making a determination under subsection (b) that a technology or service related to the furnishing of telecommunications services is in the public interest, the Commission shall, with respect to any such service requiring a license or other authorization from the Commission, adopt and make effective regulations for—

"(A) the provision of such technology or service; and

"(B) the filing of applications for the licenses or authorizations necessary to offer such technology or service to the public, and shall act on any such application within 24 months after it is filed.

"(2) REVIEW OF APPLICATIONS.—Any application filed by a carrier under this subsection for the construction or extension of a line shall also be subject to section 214 and to any necessary approval by the appropriate State commissions.".

SEC. 106. NEW OR EXTENDED LINES.

Section 214 of the Communications Act of 1934 is amended by adding at the end the following new subsection:

"(e) Any application filed under this section for authority to construct or extend a line shall address the means by which such construction or extension will meet the network access needs of individuals with disabilities.".

SEC. 107. POLE ATTACHMENTS.

Section 224 of the Communications Act of 1934 (47 U.S.C. 244) is amended—

(1) in subsection (a)(4), by inserting after "system" the following: "or a provider of telecommunications service";

(2) in subsection (c)(2)(B), by striking "cable television services" and inserting "the services offered via such attachments";

(3) by redesignating subsection (d)(2) as subsection (d)(4); and

(4) by striking subsection (d)(1) and inserting the following:

"(d)(1) For purposes of subsection (b) of this section, the Commission shall, no later than 1 year after the date of enactment of the National Communications Competition and Information Infrastructure Act of 1994, prescribe regulations for ensuring that utilities charge just and reasonable and nondiscriminatory rates for pole attachments provided to all providers of telecommunications services, including such attachments used by cable television systems to provide telecommunications services (as defined in section 3(mm) of this Act). Such regulations shall—

"(A) recognize that the entire pole, duct, conduit, or right-of-way other than the usable space is of equal benefit to all attachments to the pole, duct, conduit, or right-of-way and therefore apportion the cost of the space other than the usable space equally among all such attachments,

"(B) recognize that the usable space is of proportional benefit to all entities attached to the pole, duct, conduit, or right-of-way and therefore apportion the cost of the usable space according to the percentage of usable space required for each entity, and

"(C) allow for reasonable terms and conditions relating to health, safety, and the provision of reliable utility service.

"(2) The final regulations prescribed by the Commission pursuant to subparagraphs (A), (B), and (C) of paragraph (1) shall not apply to a pole attachment used by a cable television system solely to provide cable service as defined in section 602(6) of this Act. The rates for pole attachments used for such purposes shall assure a utility the recovery of not less than the additional costs of providing pole attachments, nor more than an amount determined by multiplying the percentage of the total usable space, or the percentage of the total duct, conduit, or right-of-way capacity, which is occupied by the pole attachment by the sum of the operating expenses and actual capital costs of the utility attributable to the entire pole, duct, conduit, or right-of-way.

"(3) For all providers of telecommunications services except members of the exchange carrier association established in 47 C.F.R. 69.601 as of December 31, 1993, upon enactment of this paragraph and until the Commission promulgates its final regulations pursuant to subparagraphs (A), (B), and (C) of paragraph (1), the rate formula contained in any joint use pole attachment agreement between the electric utility and the largest local exchange carrier having such a joint use agreement in the utility's service area, in effect on January 1, 1994, shall also apply to the pole attachments in the utility's service area, but if no such joint use agreement containing a rate formula exists, then the pole attachment rate shall be the rate applicable under paragraph (2) to cable television systems which solely provide cable service as defined in section 602(6) of this Act. Disputes concerning the applicability of a joint use agreement shall be resolved by the Commission or the States, as appropriate.".

SEC. 108. CIVIC PARTICIPATION.

(a) POLICIES TO ENHANCE CIVIC DIALOGUE.—The Commission, in consultation with the National Telecommunications and Information Administration, shall study policies that will enhance civic participation through the national information infrastructure. The study shall request and record public comments on Federal policies that would enhance and expand democratic dialogue through national computer and data networks. The study shall examine, but not be limited to, the social benefits of flat rate pricing for access to computer and data networks, the policies which will determine how access to computer networks will be priced, including the access needs of individuals with disabilities, and the appropriate role of common carriers in the development of national computer and data networks. The Commission shall receive comments in both paper and electronic formats and shall establish an online discussion group accessed through the national information infrastructure to encourage citizen participation in the study.

(b) PARTICIPATION IN REGULATORY AFFAIRS.—The Commission, in consultation with the Office of Consumer Affairs, shall conduct a study of how to encourage citizen participation in regulatory issues and, within 120 days from the date of enactment of this Act, report to Congress on the results of the study.

SEC. 109. COMPETITION BY SMALL BUSINESS AND MINORITY-OWNED BUSINESS CONCERNS.

Title II of the Communications Act of 1934 is amended by adding at the end the following new section:

"SEC. 230. POLICY AND RULEMAKING TO PROMOTE DIVERSITY OF OWNERSHIP.

"(a) FINDINGS.—The Congress finds that—

"(1) in furtherance of the purposes of this Act to make available to all people of the United States a rapid and efficient communications service, and for the purposes of promoting a diversity of opinion in the broadcasting service, the Commission has established regulations and policies to promote ownership of broadcasting services by members of minority groups;

"(2) these regulations have served to promote more vigorous communications on public issues, to broaden the number and variety of stakeholders in the American economy, and to promote innovation by and creativity by Americans of different cultures and national origins, and thereby have served to build a more cohesive and productive society;

"(3) while the Commission has adopted regulations to promote participation by businesses owned by members of minority groups and women, and small businesses, in auctions for certain spectrum-based services which promote diversity of ownership in those services, no other regulations have been established to promote such diversity of participation in the provision of common carrier services or in the provision of other telecommunications and information services;

"(4) the goals of competitively priced services, service innovation, employment, and diversity of viewpoint can be advanced by promoting marketplace penetration by small business concerns, business concerns owned by women and members of minority groups, and nonprofit entities; and

"(5) it should be the policy of the Commission to promote whenever possible diversity of ownership in the provision of information services and telecommunication services by such concerns and entities.

"(b) RULEMAKING REQUIRED.—Within 1 year after the date of enactment of this section, the Commission, in consultation with the National Telecommunications and Information Administration, shall initiate a rulemaking proceeding for the purpose of lowering market entry barriers for small business, business concerns owned by women and members of minority groups, and nonprofit entities that are seeking to provide telecommunication services and information services. The proceeding shall seek to provide remedies for, among other things, lack of access to capital and technical and marketing expertise on the part of such concerns and entities. Consistent with the broad policy and finding set forth in subsection (a), the Commission shall adopt such regulations and make such recommendations to Congress as the Commission deems appropriate. Not later than 2 years after the date of enactment of this section, the Commission shall complete the proceeding required by this subsection.".

TITLE II—COMMUNICATIONS COMPETITIVENESS

SEC. 201. CABLE SERVICE PROVIDED BY TELEPHONE COMPANIES.

(a) GENERAL REQUIREMENT.—

(1) AMENDMENT.—Section 613(b) of the Communications Act of 1934 (47 U.S.C. 533(b)) is amended to read as follows:

"(b)(1) Subject to the requirements of part V and the other provisions of this title, any common carrier subject in whole or in part to title II of this Act may, either through its own facilities or through an affiliate owned, operated, or controlled by, or under common control with, the common carrier, provide video programming directly to subscribers in its telephone service area.

"(2) Subject to the requirements of part V and the other provisions of this title, any common carrier subject in whole or in part to title II of this Act may provide channels of communications or pole, line, or conduit space, or other rental arrangements, to any entity which is directly or indirectly owned, operated, or controlled by, or under common control with, such common carrier, if such facilities or arrangements are to be used for, or in connection with, the provision of video programming directly to subscribers in its telephone service area.

"(3) Notwithstanding paragraphs (1) and (2), an affiliate that—

"(A) is, consistent with section 656, owned, operated, or controlled by, or under common control with, a common carrier subject in whole or in part to title II of this Act, and

"(B) provides video programming to subscribers in the telephone service area of such carrier, but

"(C) does not utilize the local exchange facilities or services of any affiliated common carrier in distributing such programming,

shall not be subject to the requirements of part V, but shall be subject to the requirements of this part and parts III and IV.".

(2) CONFORMING AMENDMENT.—Section 602 of the Communications Act of 1934 (47 U.S.C. 531) is amended—

(A) in paragraph (6)(B), by inserting "or use" after "the selection";

(B) by redesignating paragraphs (18) and (19) as paragraphs (19) and (20) respectively; and

(C) by inserting after paragraph (17) the following new paragraph:

"(18) the term 'telephone service area' when used in connection with a common carrier subject in whole or in part to title II of this Act means the area within which such carrier provides telephone exchange service as of November 20, 1993, but if any common carrier after such date transfers its exchange service facilities to another common carrier, the area to which such facilities provide telephone exchange service shall be treated as part of the telephone service area of the acquiring common carrier and not of the selling common carrier;".

(b) PROVISIONS FOR REGULATION OF CABLE SERVICE PROVIDED BY TELEPHONE COMPANIES.—Title VI of the Communications Act of 1934 (47 U.S.C. 521 et seq.) is amended by adding at the end the following new part:

"PART V—VIDEO PROGRAMMING SERVICES PROVIDED BY TELEPHONE COMPANIES

"SEC. 651. DEFINITIONS.

"For purposes of this part—

"(1) the term 'control' means—

"(A) an ownership interest in which an entity has the right to vote more than 50 percent of the outstanding common stock or other ownership interest; or

"(B) if no single entity directly or indirectly has the right to vote more than 50 percent of the outstanding common stock or other ownership interest, actual working control, in whatever manner exercised, as defined by the Commission by regulation on the basis of relevant factors and circumstances, which shall include partnership and direct ownership interests, voting stock interests, the interests of officers and directors, and the aggregation of voting interests; and

"(2) the term 'rural area' means a geographic area that does not include either—

"(A) any incorporated or unincorporated place of 10,000 inhabitants or more, or any part thereof; or

"(B) any territory, incorporated or unincorporated, included in an urbanized area.

"SEC. 652. SEPARATE VIDEO PROGRAMMING AFFILIATE.

"(a) IN GENERAL.—Except as provided in subsection (d) of this section, a common carrier subject to title II of this Act shall not provide video programming directly to subscribers in its telephone service area unless such video programming is provided through a video programming affiliate that is separate from such carrier.

"(b) BOOKS AND MARKETING.—

"(1) IN GENERAL.—A video programming affiliate of a common carrier shall—

"(A) maintain books, records, and accounts separate from such carrier which identify all transactions with such carrier;

"(B) carry out directly (or through any nonaffiliated person) its own promotion, except that institutional advertising carried out by such carrier shall be permitted so long as each party bears its pro rata share of the costs; and

"(C) not own real or personal property in common with such carrier.

"(2) INBOUND TELEMARKETING AND REFERRAL.—Notwithstanding paragraph (1)(B), a common carrier may provide telemarketing or referral services in response to the call of a customer or potential customer related to the provision of video programming by a video programming affiliate of such carrier. If such services are provided to a video programming affiliate, such services shall be made available to any video programmer or cable operator on request, on nondiscriminatory terms, at just and reasonable prices, and subject to regulations of the Commission to ensure that the carrier's method of providing telemarketing or referral and its price structure do not competitively disadvantage any video programmer or cable operator, regardless of size, including those which do not use the carrier's telemarketing services.

"(3) JOINT TELEMARKETING.—Notwithstanding paragraph (1)(B), a common carrier may petition the Commission for permission to market video programming directly, upon a showing that a cable operator or other entity directly or indirectly provides telecommunications services within the telephone service area of the common carrier, and markets such telecommunications services jointly with video programming services. The common carrier shall specify the geographic region covered by the petition. Any such petition shall be granted or denied within 180 days after the date of its submission.

"(c) BUSINESS TRANSACTIONS WITH CARRIER SUBJECT TO REGULATION.—Any contract, agreement, arrangement, or other manner of conducting business, between a common carrier and its video programming affiliate, providing for—

"(1) the sale, exchange, or leasing of property between such affiliate and such carrier,

"(2) the furnishing of goods or services between such affiliate and such carrier, or

"(3) the transfer to or use by such affiliate for its benefit of any asset or resource of such carrier,

shall be pursuant to regulation prescribed by the Commission, shall be on a fully compensatory and auditable basis, shall be without cost to the telephone service ratepayers of the carrier, shall be filed with the Commission, and shall be in compliance with regulations established by the Commission that will enable the Commission to assess the compliance of any transaction.

"(d) WAIVER.—

"(1) CRITERIA FOR WAIVER.—The Commission may waive any of the requirements of this section for small telephone companies or telephone companies serving rural areas, if the Commission determines, after notice and comment, that—

"(A) such waiver will not affect the ability of the Commission to ensure that all video programming activity is carried out without any support from telephone ratepayers;

"(B) the interests of telephone ratepayers and cable subscribers will not be harmed if such waiver is granted;

"(C) such waiver will not adversely affect the ability of persons to obtain access to the video platform of such carrier; and

"(D) such waiver otherwise is in the public interest.

"(2) DEADLINE FOR ACTION.—The Commission shall act to approve or disapprove a waiver application within 180 days after the date it is filed.

"(3) CONTINUED APPLICABILITY OF SECTION 659.—In the case of a common carrier that obtains a waiver under this subsection, any requirement that section 659 applies to a video programming affiliate shall instead apply to such carrier.

"SEC. 653. ESTABLISHMENT OF VIDEO PLATFORM.

"(a) COMMON CARRIER OBLIGATIONS.—

"(1) IN GENERAL.—Any common carrier subject to title II of this Act, and that provides video programming directly or indirectly to subscribers in its telephone service area, shall establish a video platform.

"(2) IDENTIFICATION OF DEMAND FOR CARRIAGE.—Any common carrier subject to the requirements of paragraph (1) shall, prior to establishing a video platform, submit a notice to the Commission of its intention to establish channel capacity for the provision of video programming to meet the bona fide demand for such capacity. Such notice shall—

"(A) be in such form and contain such information as the Commission may require by regulations pursuant to subsection (b);

"(B) specify the methods by which any entity seeking to use such channel capacity should submit to such carrier a specification of its channel capacity requirements; and

"(C) specify the procedures by which such carrier will determine (in accordance with the Commission's regulations under subsection (b)(1)(B)) whether such request for capacity are bona fide.

The Commission shall submit any such notice for publication in the Federal Register within 5 working days.

"(3) RESPONSE TO REQUEST FOR CARRIAGE.—After receiving and reviewing the requests for capacity submitted pursuant to such notice, such common carrier shall, subject to approval of a certificate under section 214, establish channel capacity that is sufficient to provide carriage for—

"(A) all bona fide requests submitted pursuant to such notice,

"(B) any additional channels required pursuant to section 659, and

"(C) any additional channels required by the Commission's regulations under subsection (b)(1)(C).

"(4) RESPONSES TO CHANGES IN DEMAND FOR CAPACITY.—Any common carrier that establishes a video platform under this section shall—

"(A) immediately notify the Commission and each video programming provider of any delay in or denial of channel capacity or service, and the reasons therefor;

"(B) continue to receive and grant, to the extent of available capacity, carriage in response to bona fide requests for carriage from existing or additional video programming providers;

"(C) if at any time the number of channels required for bona fide requests for carriage may reasonably be expected soon to exceed the existing capacity of such video platform, immediately notify the Commission of such expectation and of the manner and date by which such carrier will provide sufficient capacity to meet such excess demand; and

"(D) construct, subject to approval of a certificate under section 214, such additional capacity as may be necessary to meet such excess demand.

"(5) DISPUTE RESOLUTION.—The Commission shall have the authority to resolve disputes under this section and the regulations prescribed thereunder. Any such dispute shall be resolved within 180 days after notice of such dispute is submitted to the Commission. At that time or subsequently in a separate damages proceeding, the Commission may award damages sustained in consequence of any violation of this section to any person denied carriage, or require carriage, or both. Any aggrieved party may seek any other remedy available under this Act.

"(b) COMMISSION REGULATIONS.—

"(1) IN GENERAL.—Within one year after the date of the enactment of this section, the Commission shall prescribe regulations that—

"(A) consistent with the requirements of section 659, prohibit a common carrier from discriminating among video programming providers with regard to carriage on its video platform, and ensure that the rates, terms, and conditions for such carriage are just, reasonable, and nondiscriminatory;

"(B) prescribe definitions and criteria for the purposes of determining whether a request shall be considered a bona fide request for purposes of this section;

"(C) establish a requirement that video platforms contain a suitable margin of unused channel capacity to meet reasonable growth in bona fide demand for such capacity;

"(D) extend to video platforms the Commission's regulations concerning network nonduplication (47 C.F.R. 76.92 et seq.) and syndicated exclusivity (47 C.F.R. 76.151 et seq.);

"(E) require the video platform to provide service, transmission, interconnection, and interoperability for unaffiliated or independent video programming providers that is equivalent to that provided to the common carrier's video programming affiliate;

"(F)(i) prohibit a common carrier from discriminating among video programming providers with regard to material or information provided by the common carrier to subscribers for the purposes of selecting programming on the video platform, or in the way such material or information is presented to subscribers;

"(ii) require a common carrier to ensure that video programming providers or copyright holders (or both) are able suitably and uniquely to identify their programming services to subscribers; and

"(iii) if such identification is transmitted as part of the programming signal, require the carrier to transmit such identification without change or alteration; and

"(G) prohibit a common carrier from excluding areas from its video platform service area on the basis of the ethnicity, race, or income of the residents of that area, and provide for public comments on the adequacy of the proposed service area on the basis of the standards set forth under this subparagraph.

"(2) EXTENSION OF REGULATIONS TO OTHER HIGH CAPACITY SYSTEMS.—The Commission shall extend the requirements of the regulations prescribed pursuant to this section, in lieu of the requirements of section 612, to any cable operator of a cable system that has installed a switched, broadband video programming delivery system, except that the Commission shall not extend the requirements of the regulations prescribed pursuant to subsection (b)(1)(D) or any other requirement that the Commission determines is clearly inappropriate.

"(c) COMMISSION INQUIRY.—The Commission shall conduct a study of whether it is in the public interest to extend the requirements of subsection (a) to any other cable operators in lieu of the requirements of section 612. The Commission shall submit to the Congress a report on the results of such study not later than 2 years after the date of enactment of this section.

"SEC. 654. EQUAL ACCESS COMPLIANCE.

"(a) CERTIFICATION REQUIRED.—

"(1) IN GENERAL.—A common carrier subject to title II of this Act shall not provide video programming directly to subscribers in its telephone service area unless such carrier has certified to the Commission that such carrier is in compliance with the requirements of paragraphs (1) and (2) of section 201(c) of this Act, and regulations prescribed pursuant to such paragraphs.

"(2) EXCEPTION.—Notwithstanding paragraph (1), a common carrier subject to title II of this Act may provide video programming directly to subscribers in its telephone service area during any period prior to the date the Commission first prescribes final regulations pursuant to paragraphs (1) and (2) of section 201(c) of this Act if such carrier has certified to the Commission that such carrier is in compliance with State laws and regulations concerning equal access, interconnection, and unbundling that are substantially similar to and fully consistent with the requirements of such paragraphs or if there is no statutory prohibition against such carrier providing video programming directly to subscribers in its telephone service area on the date of enactment of this section. A common carrier that is permitted to provide video programming under this paragraph prior to the effective date of such regulations shall not be exempt from the requirements of paragraph (1) after the effective date of such final regulations.

"(b) CERTIFICATION AND APPLICATION APPROVAL.—A common carrier that submits a certification under paragraph (1) or (2) of subsection (a) shall be eligible to provide video programming to subscribers in accordance with the requirements of this part, subject to the approval of any necessary application under section 214 for authority to establish a video platform. An application under section 214 may be filed simultaneously with the filing of such certification or at any time after the date of enactment of this section, and the Commission shall act to approve (with or without modification) or reject such application within 180 days after the date of its submission. If the Commission acts to approve such an application prior to the filing of such certification, such approval shall not be effective until such certification is filed.

"SEC. 655. PROHIBITION OF CROSS-SUBSIDIZATION.

"(a) CROSS SUBSIDIES PROHIBITION.—The Commission shall—

"(1) prescribe regulations to prohibit a common carrier from engaging in any practice that results in the inclusion in rates for telephone exchange service or telephone exchange access service of any operating expenses, costs, depreciation charges, capital investments, or other expenses directly associated with the provision of competing video programming services by the common carrier or affiliate; and

"(2) ensure such competing video programming services bear a reasonable share of the joint and common costs of facilities used to provide telephone exchange service or telephone exchange access service and competing video programming services.

"(b) CABLE OPERATOR PROHIBITIONS.—The Commission shall prescribe regulations to prohibit a cable operator from engaging in any practice that results in improper cross-subsidization between its regulated cable operations and its provision of telecommunications service, either directly or through an affiliate.

"SEC. 656. PROHIBITION ON BUYOUTS.

"(a) GENERAL PROHIBITION.—No common carrier that provides telephone exchange service, and no entity owned by or under common ownership or control with such carrier, may purchase or otherwise obtain control over any cable system that is located within its telephone service area and is owned by an unaffiliated person.

"(b) EXCEPTIONS.—Notwithstanding subsection (a), a common carrier may—

"(1) obtain a controlling interest in, or form a joint venture or other partnership with, a cable system that serves a rural area;

"(2) obtain, in addition to any interest, joint venture, or partnership obtained or formed pursuant to paragraph (1), a controlling interest in, or form a joint venture or other partnership with, any cable system or systems if—

"(A) such systems in the aggregate serve less than 10 percent of the households in the telephone service area of such carrier; and

"(B) no such system serves a franchise area with more than 35,000 inhabitants, except that a common carrier may obtain such interest or form such joint venture or other partnership with a cable system that serves a franchise area with more than 35,000 but not more than 50,000 inhabitants if such system is not affiliated (as such term is defined in section 602) with any other system whose franchise area is contiguous to the franchise area of the acquired system;

"(3) obtain, with the concurrence of the cable operator on the rates, terms, and conditions, the use of that part of the transmission facilities of such a cable system extending from the last multi-user terminal to the premises of the end user, if such use is reasonably limited in scope and duration, as determined by the Commission; or

"(4) obtain a controlling interest in, or form a joint venture or other partnership with, or provide financing to, a cable system (hereinafter in this paragraph referred to as 'the subject cable system'), if—

"(A) the subject cable system operates in a television market that is not in the top 25 markets, and that has more than 1 cable system operator, and the subject cable system is not the largest cable system in such television market;

"(B) the subject cable system and the largest cable system in such television market held on March 1, 1994, cable television franchises from the largest municipality in the television market and the boundaries of such franchises were identical on such date;

"(C) the subject cable system is not owned by or under common ownership or control of any one of the 50 largest cable system operators as existed on March 1, 1994; and

"(D) the largest system in the television market is owned by or under common ownership or control of any one of the 10 largest cable system operators as existed on March 1, 1994.

"(c) WAIVER.—

"(1) CRITERIA FOR WAIVER.—The Commission may waive the restrictions in subsection (a) of this section only upon a showing by the applicant that—

"(A) because of the nature of the market served by the cable system concerned—

"(i) the incumbent cable operator would be subjected to undue economic distress by the enforcement of such subsection; or

"(ii) the cable system would not be economically viable if such subsection were enforced; and

"(B) the local franchising authority approves of such waiver.

"(2) DEADLINE FOR ACTION.—The Commission shall act to approve or disapprove a waiver application within 180 days after the date it is filed.

"SEC. 657. PENALTIES.

"If the Commission finds that any common carrier has knowingly violated any provision of this part, the Commission shall assess such fines and penalties as it deems appropriate pursuant to this Act.

"SEC. 658. CONSUMER PROTECTION.

"(a) JOINT BOARD REQUIRED.—Within 30 days after the date of enactment of this part, the Commission shall convene a Federal-State Joint Board under the provisions of section 410(c) for the purpose of recommending a decision concerning the practices, classifications, and regulations as may be necessary to ensure proper jurisdictional separation and allocation of the costs of establishing and providing a video platform. The Board shall issue its recommendations to the Commission within 270 days after the date of enactment of this part.

"(b) COMMISSION REGULATIONS REQUIRED.—The Commission, with respect to interstate switched access service, and the States, with respect to telephone exchange service and intrastate interexchange service, shall establish such regulations as may be necessary to implement section 655 within one year after the date of the enactment of this part.

"(c) NO EFFECT ON CARRIER REGULATION AUTHORITY.—Nothing in this section shall be construed to limit or supersede the authority of any State or the Commission with respect to the allocation of costs associated with intrastate or interstate communication services.

"SEC. 659. APPLICABILITY OF FRANCHISE AND OTHER REQUIREMENTS.

"(a) IN GENERAL.—Any provision that applies to a cable operator under—

"(1) sections 613, 616, 617, 628, 631, 632, and 634 of this title, shall apply,

"(2) sections 611, 612, 614, and 615 of this title, and section 325 of title III, shall apply in accordance with the regulations prescribed under subsection (b), and

"(3) parts III and IV (other than sections 628, 631, 632, and 634) of this title shall not apply,

to any video programming affiliate established by a common carrier in accordance with the requirements of this part.

"(b) IMPLEMENTATION OF REQUIREMENTS.—

"(1) REGULATIONS.—The Commission shall prescribe regulations to ensure that a video programming affiliate of a common carrier shall provide (A) capacity, services, facilities, and equipment for public, educational, and governmental use, (B) capacity for commercial use, (C) carriage of commercial and non-commercial broadcast television stations, and (D) an opportunity for commercial broadcast stations to choose between mandatory carriage and reimbursement for retransmission of the signal of such station. In prescribing such regulations, the Commission shall, to the extent possible, impose obligations that are no greater or lesser than the obligations contained in the provisions described in subsection (a)(2) of this section. Such regulations shall also require that, if a common carrier establishes a video platform but does not provide or ceases to provide video programming through a video programming affiliate, such carrier shall comply with the regulations prescribed under this paragraph and with the provisions described in subsection (a)(1) in the operation of its video platform.

"(2) FEES.—A video programming affiliate of any common carrier that establishes a video platform under this part, and any multichannel video programming distributor offering a competing service using such video platform (as determined in accordance with regulations of the Commission), shall be subject to the payment of fees imposed by a local franchising authority, in lieu of the fees required under section 622. The rate at which such fees are imposed shall not exceed the rate at which franchise fees are imposed on any cable operator transmitting video programming in the same service area.

"SEC. 660. RURAL AREA EXEMPTION.

"The provisions of sections 652, 653, 654, and 656 shall not apply to video programming provided in a rural area by a common carrier that provides telephone exchange service in the same area.".

SEC. 202. REVIEW OF BROADCASTERS' OWNERSHIP RESTRICTIONS.

Within one year after the date of enactment of this Act, the Commission shall, after a notice and comment proceeding, prescribe regulations to modify, maintain, or remove the ownership regulations on radio and television broadcasters as necessary to ensure that broadcasters are able to compete fairly with other information providers while protecting the goals of diversity and localism.

SEC. 203. REVIEW OF STATUTORY OWNERSHIP RESTRICTION.

Within one year after the date of enactment of this Act, the Commission shall review the ownership restriction in section 613(a)(1) of the Communications Act of 1934 (47 U.S.C. 553(a)(1)) and report to Congress whether or not such restriction continues to serve the public interest.

SEC. 204. BROADCASTER SPECTRUM FLEXIBILITY.

(a) REGULATIONS REQUIRED.—If the Commission determines to issue additional licenses for advanced television services, and initially limits the eligibility for such licenses to persons that, as of the date of such issuance, are licensed to operate a television broadcast station or hold a permit to construct such a station (or both), the Commission shall adopt regulations that allow such licensees or permittees to offer such ancillary or supplementary services on designated frequencies as may be consistent with the public interest, convenience, and necessity.

(b) CONTENTS OF REGULATIONS.—In prescribing the regulations required by subsection (a), the Commission shall—

(1) only permit such licensee or permittee to offer ancillary or supplementary services if the use of a designated frequency for such services is indivisible from the use of such designated frequency for the provision of advanced television services;

(2) limit the broadcasting of ancillary or supplementary services on designated frequencies so as to avoid derogation of any advanced television services, including high definition television broadcasts, that the Commission may require using such frequencies;

(3) treat any such ancillary or supplementary services for which the licensee or permittee solicits and receives compensation in return for transmitting commercial advertising as broadcast services for the purposes of the Communications Act of 1934 and the Children's Television Act of 1990 (47 U.S.C. 303a), and the Commission's regulations thereunder, including regulations promulgated pursuant to section 315 of the Communications Act of 1934 (47 U.S.C. 315);

(4) apply to any other ancillary or supplementary service such of the Commission's regulations as are applicable to the offering of analogous services by any other person;

(5) adopt such technical and other requirements as may be necessary or appropriate to assure the quality of the signal used to provide advanced television services, including regulations that stipulate the minimum number of hours per day that such signal must be transmitted; and

(6) prescribe such other regulations as may be necessary for the protection of the public interest, convenience, and necessity.

(c) RECOVERY OF LICENSE.—

(1) CONDITIONS REQUIRED.—If the Commission limits the eligibility for licenses to provide advanced television services in the manner described in subsection (a), the Commission shall, as a condition of such license, require that, upon a determination by the Commission pursuant to the regulations prescribed under paragraph (2), either the additional license or the original license held by the licensee be surrendered to the Commission in accordance with such regulations for reallocation or reassignment (or both) pursuant to Commission regulation.

(2) REGULATIONS.—The Commission shall prescribe regulations establishing criteria for rendering determinations concerning license surrender pursuant to license conditions required by paragraph (1). Such regulations shall—

(A) require such determinations to be based on whether the substantial majority of the public have obtained television receivers that are capable of receiving advanced television services; and

(B) not require the cessation of the broadcasting if such cessation would render the television receivers of a substantial portion of the public useless, or otherwise cause undue burdens on the owners of such television receivers.

(d) FEES REQUIRED.—

(1) SERVICES TO WHICH FEES APPLY.—If the regulations prescribed pursuant to subsection (a) permit a licensee to offer ancillary or supplementary services on a designated frequency—

(A) for which the payment of a subscription fee is required in order to receive such services, or

(B) for which the licensee directly or indirectly receives compensation from a third party in return for transmitting material furnished by such third party (other than commercial advertisements used to support broadcasting for which a subscription fee is not required),

the Commission shall establish by regulation a program to assess and collect an annual fee or royalty payment.

(2) CRITERIA FOR REGULATIONS.—The regulations required by paragraph (1) shall—

(A) be designed (i) to recover for the public a portion of the value of the public spectrum resource made available for such commercial use, and (ii) to avoid unjust enrichment through the method employed to permit such uses of that resource;

(B) recover for the public an amount that is, to maximum extent feasible, equal (over the term of the license) to the amount that would have been recovered had such services been licensed pursuant to the provisions of section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) and the Commission's regulations thereunder; and

(C) be adjusted by the Commission from time to time in order to continue to comply with the requirements of this paragraph.

(3) TREATMENT OF REVENUES.—

(A) GENERAL RULE.—Except as provided in subparagraph (B), all proceeds obtained pursuant to the regulations required by this subsection shall be deposited in the Treasury in accordance with chapter 33 of title 31, United States Code.

(B) RETENTION OF REVENUES.—Notwithstanding subparagraph (A), the salaries and expenses account of the Commission shall retain as an offsetting collection such sums as may be necessary from such proceeds for the costs of developing and implementing the program required by this section and regulating and supervising advanced television services. Such offsetting collections shall be available for obligation subject to the terms and conditions of the receiving appropriations account, and shall be deposited in such accounts on a quarterly basis.

(4) REPORT.—Within 5 years after the date of the enactment of this section, the Commission shall report to the Congress on the implementation of the program required by this subsection, and shall annually thereafter advise the Congress on the amounts collected pursuant to such program.

(e) EVALUATION REQUIRED.—Within 10 years after the date the Commission first issues additional licenses for advanced television services, the Commission shall conduct an evaluation of the advanced television services program. Such evaluation shall include—

(1) an assessment of the willingness of consumers to purchase the television receivers necessary to receive broadcasts of advanced television services;

(2) an assessment of alternative uses, including public safety use, of the frequencies used for such broadcasts; and

(3) the extent to which the Commission has been or will be able to reduce the amount of spectrum assigned to licensees in order to issue additional licenses for the provision of advanced television services.

(f) DEFINITIONS.—As used in this section:

(1) ADVANCED TELEVISION SERVICES.—The term "advanced television services" means television services provided using digital or other advanced technology to enhance audio quality and video resolution, as further defined in the opinion, report, and order of the Commission entitled "Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service", MM Docket 87-268, adopted September 17, 1992, and successor proceedings.

(2) DESIGNATED FREQUENCIES.—The term "designated frequency" means each of the frequencies designated by the Commission for licenses for advanced television services.

(3) HIGH DEFINITION TELEVISION.—The term "high definition television" refers to systems that offer approximately twice the vertical and horizontal resolution of receivers generally available on the date of enactment of this section, as further defined in the proceedings described in paragraph (1) of this subsection.

SEC. 205. INTERACTIVE SERVICES AND CRITICAL INTERFACES.

(a) FINDINGS.—The Congress finds that—

(1) the convergence of communications, computing, and video technologies will permit improvements in interoperability between and among those technologies;

(2) in the public switched telecommunications network, open protocols and technical requirements for connection between the network and the consumer, and the availability of unbundled customer equipment through retailers and other third party vendors, have served to broaden consumer choice, lower prices, and spur competition and innovation in the customer equipment industry;

(3) set-top boxes and other interactive communications devices could similarly serve as a critical gateway between American homes and businesses and advanced telecommunications and video programming networks;

(4) American consumers have benefited from the ability to own or rent customer premises equipment obtained from retailers and other vendors and the ability to access the network with portable, compatible equipment;

(5) in order to promote diversity, competition, and technological innovation among suppliers of equipment and services, it may be necessary to make certain critical interfaces with such networks open and accessible to a broad range of equipment manufacturers and information providers;

(6) the identification of critical interfaces with such networks and the assessment of their openness must be accomplished with due recognition that open and accessible systems may include standards that involve both nonproprietary and proprietary technologies;

(7) such identification and assessment must also be accomplished with due recognition of the need for owners and distributors of video programming and information services to ensure system and signal security and to prevent theft of service;

(8) whenever possible, standards in dynamic industries such as interactive systems are best set by the marketplace or by private sector standard-setting bodies; and

(9) the role of the Commission in this regard is—

(A) to identify, in consultation with industry groups, consumer interests, and independent experts, critical interfaces with such networks (i) to ensure that end users can connect information devices to such networks, and (ii) to ensure that information service providers are able to transmit information to end users, and

(B) as necessary, to take steps to ensure these networks and services are accessible to a broad range of equipment manufactures, information providers, and program suppliers.

(b) INQUIRY REQUIRED.—Within 6 months after the date of the enactment of this Act, the Commission shall commence an inquiry—

(1) to examine the impact of the convergence of technologies on cable, telephone, satellite, and wireless and other communications technologies likely to offer interactive communications services;

(2) to ascertain the importance of maintaining open and accessible systems in interactive communications services;

(3) to examine the costs and benefits of maintaining varying levels of interoperability between and among interactive communications services;

(4) to examine the costs and benefits of establishing open interfaces (A) between the network provider and the set-top box or other interactive communications devices used in the home or office, and (B) between network providers and information service providers, and to determine how best to establish such interfaces;

(5) to determine methods by which converter boxes or other interactive communications devices may be sold through retailers and other third party vendors and to determine the vendors' responsibilities for ensuring that their devices are interoperable with interactive networks;

(6) to assess how the security of cable, satellite, and other interactive systems or their services can continue to be ensured with the establishment of an interface between the network and a converter box or other interactive communications device, including those manufactured and distributed at retail by entities independent of network providers and information service providers, and to determine the responsibilities of such independent entities for assuring network security and for conforming to signal interference standards;

(7) to ascertain the conditions necessary to ensure that any critical interface is available to information and content providers and others who seek to design, build, and distribute interoperable devices for these networks so as to ensure network access and fair competition for independent information providers and consumers;

(8) to assess the impact of the deployment of digital technologies on individuals with disabilities, with particular emphasis on any regulatory, policy, or design barriers which would limit functionally equivalent access by such individuals;

(9) to assess current regulation of telephone, cable, satellite, and other communications delivery systems to ascertain how best to ensure interoperability between those systems;

(10) to assess the adequacy of current regulation of telephone, cable, satellite, and other communications delivery systems with respect to bundling of equipment and services and to identify any changes in unbundling regulations necessary to assure effective competition and encourage technological innovation, consistent with the finding in subsection (a)(6) and the objectives of paragraph (6) of this subsection, in the market for converter boxes or interactive communications devices and for other customer premises equipment;

(11) to solicit comment on any changes in the Commission's regulations that are necessary to ensure that diversity, competition, and technological innovation are promoted in communications services and equipment; and

(12) to prepare recommendations to the Congress for any legislative changes required.

(c) REPORT TO CONGRESS.—Within 12 months after the date of the enactment of this Act, the Commission shall submit to the Congress a report on the results of the inquiry required by subsection (b). Within 6 months after the date of submission of such report, the Commission shall prescribe such changes in its regulations as the Commission determines are necessary pursuant to subsection (b)(10).

(d) PRESERVATION OF EXISTING AUTHORITY.—Nothing in this section shall be construed as limiting, superseding, or otherwise modifying the existing authority and responsibilities of the Commission or National Institute of Standards and Technology.

SEC. 206. VIDEO PROGRAMMING ACCESSIBILITY.

(a) INQUIRY REQUIRED.—Within 180 days after the date of enactment of this section, the Federal Communications Commission shall complete an inquiry to ascertain the level at which video programming is closed captioned. Such inquiry shall examine the extent to which existing or previously published programming is closed captioned, the size of the video programming provider or programming owner providing closed captioning, the size of the market served, the relative audience shares achieved, or any other related factors. The Commission shall submit to the Congress a report on the results of such inquiry.

(b) CONTENTS OF REGULATIONS.—Within 18 months after the date of enactment, the Commission shall prescribe such regulations as are necessary to implement this section. Such regulations shall ensure that—

(1) video programming first published or exhibited after the effective date of such regulations is fully accessible through the provision of closed captions, except as provided in subsection (d); and

(2) video programming providers or owners maximize the accessibility of video programming first published or exhibited prior to the effective date of such regulations through the provision of closed captions, except as provided in subsection (d).

(c) CONTENTS OF REGULATIONS.—Such regulations shall include an appropriate schedule of deadlines for the provision of closed captioning of video programming.

(d) EXEMPTIONS.—Notwithstanding subsection (b)—

(1) the Commission may exempt by regulation programs, classes of programs, or services for which the Commission has determined that the provision of close captioning would be economically burdensome to the provider or owner of such programming;

(2) a provider of video programming or the owner of any program carried by the provider shall not be obligated to supply closed captions if such action would be inconsistent with contracts in effect on the date of enactment of this Act, except that nothing in this section shall be construed to relieve a video programming provider of its obligations to provide services required by Federal law; and

(3) a provider of video programming or program owner may petition the Commission for an exemption from the requirements of this section, and the Commission may grant such petition upon a showing that the requirements contained in this section would result in an undue burden.

(e) UNDUE BURDEN.—The term 'undue burden' means significant difficulty or expense. In determining whether the closed captions necessary to comply with the requirements of this paragraph would result in an undue economic burden, the factors to be considered include—

(1) the nature and cost of the closed captions for the programming;

(2) the impact on the operation of the provider or program owner;

(3) the financial resources of the provider or program owner; and

(4) the type of operations of the provider or program owner.

(f) ADDITIONAL PROCEEDING ON VIDEO DESCRIPTIONS REQUIRED.—Within 6 months after the date of enactment of this Act, the Commission shall commence an inquiry to examine the use of video descriptions on video programming in order to ensure the accessibility of video programming to persons with visual impairments, and report to Congress on its findings. The Commission's report shall assess appropriate methods and schedules for phasing video descriptions into the marketplace, technical and quality standards for video descriptions, a definition of programming for which video descriptions would apply, and other technical and legal issues that the Commission deems appropriate. Following the completion of such inquiry, the Commission may adopt regulation it deems necessary to promote the accessibility of video programming to persons with visual impairments.

(g) MODEL PROGRAM.—The National Telecommunications and Information Administration shall establish and oversee, and (to the extent of available funds) provide financial support for, marketplace tests of video descriptions on commercial and noncommercial video programming services.

(h) VIDEO DESCRIPTION.—For purposes of this section, "video description" means the insertion of audio narrated descriptions of a television program's key visual elements into natural pauses between the program's dialogue.

SEC. 207. PUBLIC ACCESS.

Within one year after the date of enactment of this Act, the Federal Communications Commission shall prescribe regulations to reserve appropriate capacity for the public at preferential rates on cable systems and video platforms.

SEC. 208. AUTOMATED SHIP DISTRESS AND SAFETY SYSTEMS.

Notwithstanding any provision of the Communications Act of 1934, a ship documented under the laws of the United States operating in accordance with the Global Maritime Distress and Safety System provisions of the Safety of Life at Sea Convention shall not be required to be equipped with a radio station operated by one or more radio officers or operators.

SEC. 209. EXCLUSIVE FEDERAL JURISDICTION OVER DIRECT BROADCAST SATELLITE SERVICE.

Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end thereof the following new subsection:

"(v) Have exclusive jurisdiction over the regulation of the direct broadcast satellite service.".

SEC. 210. TECHNICAL AMENDMENTS.

(a) RETRANSMISSION.—Section 325(b)(2)(D) of the Communications Act of 1934 (47 U.S.C. 325(b)(2)(D)) is amended to read as follows:

"(D) retransmission by a cable operator or other multichannel video programming distributor of the signal of a superstation if (i) the customers served by the cable operator or other multichannel video programming distributor reside outside the originating station's television market, as defined by the Commission for purposes of section 614(h)(1)(C); (ii) such signal was obtained from a satellite carrier or terrestrial microwave common carrier; and (iii) and the origination station was a superstation on May 1, 1991.

(b) MARKET DETERMINATIONS.—Section 614(h)(1)(C)(i) of the Communications Act of 1934 (47 U.S.C. 534(h)(1)(C)(i)) is amended by striking out "in the manner provided in section 73.3555(d)(3)(i) of title 47, Code of Federal Regulations, as in effect on May 1, 1991," and inserting "by the Commission by regulation or order using, where available, commercial publications which delineate television markets based on viewing patterns,".

SEC. 211. AVAILABILITY OF SCREENING DEVICES TO PRECLUDE DISPLAY OF ENCRYPTED PROGRAMMING.

(a) CUSTOMER NOTICE.—Section 624(d)(2)(A) of the Communications Act of 1934 (47 U.S.C. 544(d)(2)(A)) is amended by adding at the end the following new sentence: "Upon beginning service to any new subscriber and not less frequently than once each calendar year for current subscribers, the cable operator shall inform subscribers of the right to request and obtain such device.".

(b) SIGNAL LEAKAGE.—Section 624(d)(2) of such Act is further amended by adding at the end the following new subparagraph:

"(C) The Commission shall prescribe regulations to require, to the extent technically feasible, the transmission of programming described in subparagraph (A) by means of encrypted signals that permit subscribers to effectively and entirely prevent the display of both the audio and video portions of such programming with or without the use of a device described in subparagraph (A).".

TITLE III—PROCUREMENT PRACTICES OF TELECOMMUNICATIONS PROVIDERS

SEC. 301. FINDINGS.

The Congress finds the following:

(1) It is in the public interest for business enterprises owned by minorities and women to participate in procurement contracts of all providers of telecommunications services.

(2) The opportunity for full participation in our free enterprise system by business enterprises that are owned by minorities and women is essential if this Nation is to attain social and economic equality for those businesses and improve the functioning of the national economy.

(3) It is in this Nation's interest to expeditiously improve the economically disadvantaged position of business enterprises that are owned by minorities and women.

(4) The position of these businesses can be improved through the development by the providers of telecommunications services of substantial long-range and annual goals, which are supported by training and technical assistance, for the purchase, to the maximum practicable extent, of technology, equipment, supplies, services, material and construction from minority business enterprises.

(5) Procurement policies which include participation of business enterprises that are owned by minorities and women also benefit the communication industry and its consumers by encouraging the expansion of the numbers of suppliers for procurement, thereby encouraging competition among suppliers and promoting economic efficiency in the process.

SEC. 302. PURPOSE.

The purposes of this title are—

(1) to encourage and foster greater economic opportunity for business enterprises that are owned by minorities and women;

(2) to promote competition among suppliers to providers of telecommunications services and their affiliates to enhance economic efficiency in the procurement of telephone corporation contracts and contracts of their State commission-regulated subsidiaries and affiliates;

(3) to clarify and expand a program for the procurement by State and federally-regulated telephone companies of technology, equipment, supplies, services, materials and construction work from business enterprises that are owned by minorities and women; and

(4) to ensure that a fair proportion of the total purchases, contracts, and subcontracts for supplies, commodities, technology, property, and services offered by the providers of

telecommunications services and their affiliates are awarded to minority and women business enterprises.

SEC. 303. ANNUAL PLAN SUBMISSION.

(a) Annual Plans Required.—

(1) In general.—The Commission shall require each provider of telecommunications services to submit annually a detailed and verifiable plan for increasing its procurement from business enterprises that are owned by minorities or women in all categories of procurement in which minorities are under represented.

(2) Contents of plans.—The annual plans required by paragraph (1) shall include (but not be limited to) short- and long-term progressive goals and timetables, technical assistance, and training and shall, in addition to goals for direct contracting opportunities, include methods for encouraging both prime contractors and grantees to engage business enterprises that are owned by minorities and women in subcontracts in all categories in which minorities are under represented.

(3) Implementation report.—Each provider of telecommunications services shall furnish an annual report to the Commission regarding the implementation of programs established pursuant to this title in such form as the Commission shall require, and at such time as the Commission shall annually designate.

(4) Report to congress.—The Commission shall provide an annual report to Congress, beginning in January 1995, on the progress of activities undertaken by each provider of telecommunications services regarding the implementation of activities pursuant to this title to develop business enterprises that are owned by minorities or women. The report shall evaluate the accomplishments under this title and shall recommend a program for enhancing the policy declared in this title, together with such recommendations for legislation as it deems necessary or desirable to further that policy.

(b) Regulations and Criteria for Determining Eligibility of Minority Business Enterprises for Procurement Contracts.—

(1) In general.—The Commission shall establish regulations for implementing programs pursuant to this title that will govern providers of telecommunications services and their affiliates.

(2) Verifying criteria.—The Commission shall develop and publish regulations setting forth criteria for verifying and determining the eligibility of business enterprises that are owned by minorities or women for procurement contracts.

(3) Outreach.—The Commission's regulations shall require each provider of telecommunications services and its affiliates to develop and to implement an outreach program to inform and recruit business enterprises that are owned by minorities or women to apply for procurement contracts under this title.

(4) Enforcement.—The Commission shall establish and promulgate such regulations necessary to enforce the provisions of this title.

(c) Waiver Authority.—The requirements of this section may be waived, in whole or in part, by the Commission with respect to a particular contract or subcontract in accordance with guidelines set forth in regulations which the Commission shall prescribe when it determines that the application of such regulations prove to result in undue hardship or unreasonable expense to a provider of telecommunications services.

SEC. 304. SANCTIONS AND REMEDIES.

(a) False Representation of Businesses; Sanctions.—

(1) In general.—Any person or corporation, through its directors, officers, or agent, which falsely represents the business as a business enterprise that are owned by minorities or women in the procurement or attempt to procure contracts from telephone operating companies and their affiliates pursuant to this article, shall be punished by a fine of not more than $5,000, or by imprisonment for a period not to exceed 5 years of its directors, officers, or agents responsible for the false statements, or by both fine and imprisonment.

(2) Holding companies.—Any provider of telecommunications services which falsely represents its annual report to the Commission or its implementation of its programs pursuant to this section shall be subject to a fine of $100,000 and be subject to a penalty of up to 5 years restriction from participation in lines of business activities provided for in this title.

(b) Independent Cause of Action, Remedies, and Attorney Fees.—

(1) Discrimination prohibited.—No otherwise qualified business enterprise that are owned by minorities or women shall solely, by reason of its racial, ethnic, or gender composition be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in procuring contracts from telephone utilities.

(2) Civil actions authorized.—Whenever a qualified business enterprise that is owned by minorities or women has reasonable cause to believe that a provider of telecommunications services or its affiliate is engaged in a pattern or practice of resistance to the full compliance of any provision of this title, the business enterprise may bring a civil action in the appropriate district court of the United States against the provider of telecommunications services or its affiliate requesting such monetary or injunctive relief, or both, as deemed necessary to ensure the full benefits of this title.

(3) Attorneys' fees and costs.—In any action or proceeding to enforce or charge of a violation of a provision of this title, the court, in its discretion, may allow the prevailing party reasonable attorneys' fees and costs.

SEC. 305. DEFINITIONS.

For the purpose of this title, the following definitions apply:

(1) The term "business enterprise owned by minorities or women" means—

(A) a business enterprise that is at least 51 percent owned by a person or persons who are minority persons or women; or

(B) in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more persons who are minority persons or women, and whose management and daily business operations are controlled by one or more of those persons.

(2) The term "minority person" means persons who are Black Americans, Hispanic Americans, Native Americans, Asian Americans, and Pacific Americans.

(3) The term "control" means exercising the power to make financial and policy decisions.

(4) The term "operate" means the active involvement in the day-to-day management of the business and not merely being officers or directors.

(5) The term "Commission" means the Federal Communications Commission.

(6) The term "telecommunications service" has the meaning provided in section 3(mm) of the Communications Act of 1934 (as added by this Act).

TITLE IV—FEDERAL COMMUNICATIONS COMMISSION RESOURCES

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—In addition to any other sums authorized by law, there are authorized to be appropriated to the Federal Communications Commission such sums as may be necessary to carry out this Act and the amendments made by this Act.

(b) Effect on Fees.—For purposes of section 9(b)(2) of the Communications Act of 1934 (47 U.S.C. 159(b)(2)), additional amounts appropriated pursuant to subsection (a) shall be construed to be changes in the amounts appropriated for the performance of activities described in section 9(a) of such Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. Markey] will be recognized for 20 minutes, and the gentleman from Texas [Mr. Fields] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. Markey].

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today, I rise to bring before the House a bill that represents what I believe to be the Nation's roadmap for the information superhighway.

The purpose of this bill is to help consumers by promoting a national communications and information infrastructure. This legislation seeks to accomplish that goal by encouraging the deployment of advanced communications services and technologies through competition, by safeguarding ratepayers and competitors from potential anticompetitive abuses, and by preserving and enhancing universal service.

This bill has three key components. First, the bill will preserve and enhance the goal of providing to all Americans high-quality phone service at just and reasonable rates. This goal of universal service is one of the proudest achievements of our Nation during the 20th century, and this legislation will ensure it endures beyond the year 2000.

Second, the legislation will promote and accelerate competition to the cable television industry by permitting telephone companies to compete in offering video programming. Specifically, the bill would rescind the statutory ban on telephone company ownership and delivery of video programming. Telephone companies would be permitted, through a separate subsidiary, to provide video programming to their subscribers so long as they establish an open system to permit others to use their video platforms. But they must enter the business the old fashion way: by building a new system and not just buying up an existing system.

Third, the legislation will promote competition in the local telephone market. This market is one of the last monopoly markets in the entire telecommunications universe. We all have witnessed how the long-distance market and the telecommunications equipment market has benefited tremendously from competition. Just 10 years ago, you had one choice in long distance—AT&T—and one choice for a phone—black rotary dial. Through Federal policies, hundreds of equipment makers and long distance companies now exist, proving rigorous competition. We can see those same benefits in the local telephone market, and they benefit consumers by giving them more choice at lower prices.

The bill before the House reflects a handful of changes that have been made to the bill to reflect a number of minor issues that have been raised. At this time I ask unanimous consent that a joint statement explaining these changes appear in the RECORD after my remarks.

In conclusion, this legislation has benefited tremendously from the close working relationship among all the members of the Committee on Energy and Commerce. We have succeeded, I believe, in crafting a bill that addresses many of the tough issues and strikes a fair balance on a number of difficult issues.

I strongly urge all Members to support this bill.

JOINT EXPLANATION OF H.R. 3636

The bill considered by the House today contains several changes that address issues brought to the attention of the Members since the bill was reported out of committee. We want to take this opportunity to explain those changes.

Section 201(c)(3)(B) also has been altered to make certain that States can adopt provisions relating to the public safety and welfare and for other reasons enumerated in clauses (i)–(iv), if such term or conditions does not effectively prohibit any person or carrier from providing a telecommunications service. This language clarifies that States can establish terms and conditions, consistent with subparagraph (A), so long as such terms and conditions do not amount to an effective prohibition. This standard was borrowed from subparagraph (A), and is consistent with the overarching goal of enabling States to impose necessary and appropriate terms and conditions so long as they do not amount to an effective prohibition on entry into the telecommunications business.

Section 201(c)(3)(C) has been added to make clear that the language preempting State and local entry barriers shall not be construed to prohibit a local government from requiring a carrier or other person to obtain ordinary and usual construction or similar permits for its operations. This provision is intended to make certain that local governments have authority to oversee street closings and excavations and related activity as may be necessary in the ordinary course of constructing telecommunications facilities.

Subparagraph (C) also makes clear that this language does not give local governments the power to use construction and other permits to impose conditions that effectively prohibit any person or carrier from providing any interstate or intrastate telecommunications service or information service. This should be treated as the same standard as set forth in subparagraph (A) and (B).

Section 201(d)(3)(F) contains a broader directive to the Commission to study how open platform service and other advanced network capabilities, including broadband telecommunications facilities, have been deployed. Thus, the Commission will seek information concerning how open platform service and other similar advanced network capabilities have been deployed throughout the country, consistent with the information enumerated in clauses (i)–(iv).

Section 201(e)(3) was amended to direct the Commission to establish regulations on infrastructure sharing between large local exchange carriers [LEC] and "qualifying carriers" so that a large LEC would not be required to share its facilities with a qualifying carrier that is not reasonably proximate to the large telephone company. This limiting principle was added so that a large LEC would not face requests, or demands, for infrastructure sharing from qualifying carriers across the country, but only from carriers that were "reasonably proximate" to the large LEC. Without this limiting principle, there was a legitimate concern that this open-ended requirement could have acted as a disincentive to large LEC's to deploy advanced capabilities.

Section 108 has been amended to direct the Commission to receive comments in electronic formats and to establish an online method of conducting some of its business. This requirement helps the Commission stay current with the burgeoning telecommunications industry. In addition, this section now contains references to the "national information infrastructure," which is a broader term than "Internet," which was in the committee bill.

Section 109 contains additional congressional findings recognizing rules the Commission has adopted to promote participation by minority groups and women, and small businesses. This language should not be construed to confer any approval or disapproval on regulations the Commission has adopted with respect to promoting minority participation in communications services.

In title II, section 210(a) clarifies that the obligation not to retransmit the signal of a broadcasting station without consent of the originating station does not extend to retransmission of superstation signals by microwave common carrier. Section 210(a) also restricts the exemption in section 325(b)(2)(D) to retransmission of superstation signals to customers outside of the originating station's television market.

Section 210(b) eliminates the existing statutory basis for determining television markets, as used in this title, and instead grants the Commission authority to choose an appropriate definition based on commercial publications. The Commission is directed to determine television markets by regulation or order to give interested parties appropriate notice and opportunity to comment.

Section 653 has been amended to make clear that any common carrier subject to title II of the Communications Act of 1934, and that provides video programming directly or indirectly to its subscribers, shall establish a video platform and otherwise comply with the requirements contained in section 653. This change clarifies that all common carriers that seek to provide video programming to their subscribers, directly or indirectly, must adhere to the important safeguards that have been built into this section.

Section 656(b)(4) has been narrowly expanded to permit joint ventures, or purchases, of cable systems in unique circumstances. The intent behind this amendment is to promote implementation of facilities-based competition in the delivery of video programming in a narrow class of circumstances where such a goal may be impeded by the general provisions of section 656. The test set forth in paragraph (4) requires that the "subject cable system" operates in a television market that is not in the top 25 markets, and that the market is characterized by at least 2 systems, where the largest cable system in the market is owned or controlled or under common ownership of any of the top 10 largest multiple system operators [MSO's]. In addition, paragraph (4) requires that the "subject cable system" is not owned or controlled by any of the 50 largest MSOs. Finally, the language in subparagraph (B) describes the situation where the largest cable system and the subject cable system both held franchises, as of March 1, 1994, from the largest municipality in the television market, and that each franchisee could offer cable service in the entirety of the franchise area of the other cable system. In that sense, each had a nonexclusive franchise from the largest municipality.

In light of these narrow and exceptional circumstances, it is my view that the two-wire goal actually would be advanced by permitting a telephone company to invest in the subject cable company.

Section 654(a)(2) has been clarified to make certain that all local exchange carriers must comply with the certification requirement contained in section 654(a)(1), regardless of whether they were permitted provide video programming by virtue of State laws and regulations on interconnection and equal access that were substantially similar to the requirements of section 201(c), or by virtue of a court holding that the cable/telco prohibition was not applicable to a particular carrier. Thus, all carriers must certify compliance with section 201(c) after the effective date of the regulations promulgated pursuant to such section.

THE NATIONAL COMMUNICATIONS COMPETITION AND INFORMATION INFRASTRUCTURE ACT OF 1994

Mr. Speaker, it is with great pleasure that I rise today to offer to my colleagues in the full U.S. House of Representatives H.R. 3636, the National Communications Competition and Information Infrastructure Act of 1994. This legislation represents a comprehensive reform package that will facilitate the most extensive legislative overhaul in the telecommunications industry since passage of the Communications Act of 1934. This bill, in combination with H.R. 3626, the Antitrust Reform Act of 1993, will serve as the blueprint for the development of the information superhighway, and will encourage the deployment of advanced digital communications to homes and businesses throughout the Nation.

In presenting this legislation today, I am joined by a bipartisan majority of the Subcommittee on Telecommunications and Finance, the subcommittee of origin for H.R. 3636. I am also pleased to acknowledge the endorsement of Vice President Gore and representatives of the Clinton administration.

I offer this legislation to my colleagues on the floor today with one goal in mind: to benefit consumers by facilitating competition between and among the cable and telephone industries in the delivery of video services. H.R. 3636 will fulfill this goal by establishing the guidelines that will allow telephone companies to offer multichannel video programming in competition with traditional cable companies. It will create competition in the local telephone exchange by requiring telephone companies to offer interconnection and equal access to their networks. And, most important, H.R. 3636 embraces the fundamental philosophy of universal service embodied in our communications policy which is to ensure that all Americans have access to basic telephone service at affordable rates. Together, these principles will promote and accelerate advances in, and access to, new and improved telecommunications capabilities.

In the short term, the advent of competition between these billion-dollar industries will translate into fast-paced job growth within the communications, electronics, and programming fields. Traditional cable companies, recognizing the potential competitive threat, will speed up their efforts to increase bandwidth by converting their systems to a digital-based fiber network, thereby increasing their channel capacity and facilitating their emergence into the realm of interactive communications. Expanded channel capacity will stimulate demand for the creation of new programming, initially in the form of traditional cable programming and new cable channels, and, eventually, in the form of interactive video services.

The anticipation surrounding the enormous lucrative potential for the development of these new, interactive services—ranging from interactive videogame channels to at-home banking availability—has fueled the drive toward passage of this bill. Already, the demand for channel capacity has outpaced the availability of channel program offerings. This demand, in fact, has led to a proliferation of announcements of cable channels and new video services planned for future deployment: an interactive TV-game-show channel; pay-per-view movie channels where the consumer may choose from an on-screen display of options; or the SegaChannel, providing interactive videogames for at-home play. In the long term, we can expect that the convergence of these behemoth communications industries will spawn the development of entire new industries.

As we vote today on H.R. 3636, we are endowed with an abundance of information on the consequences and implications of a decision to support the convergence of the cable and telephone industries in today's marketplace. This extensive record of knowledge has been gathered by my subcommittee through a total of 11 hearings throughout the 103d Congress. In February of this year, the subcommittee held seven hearings on the issue of H.R. 3636 and H.R. 3626, the Antitrust and Communications Reform Act of 1994. We heard testimony from more than 50 witnesses, representing such diverse fields as set-top box manufacturers, Federal- and State-level government agencies, the small cable industry, regional and rural telephone companies, the Communications Workers of America, academics, and members from the public interest arena.

I strongly believe that this legislation crafted out of these hearings represents a balanced and pragmatic response to these competing voices. While H.R. 3636 may not resolve each conflicting concern of all affected industries, there is no debating the fact that every American and every industry engaged in the business of communications stands to benefit from this bill. Let me explain how competition between these industries will evolve.

In passing legislation to promote competition between the cable and telephone industries, we are establishing a blueprint which will facilitate the development of a vast communications infrastructure, often referred to as the information superhighway. As part of this effort to promote competition to communications monopolies, information providers will be granted the right to compete with the local telephone company and to use its facilities. Such competitors, be they in the form of cable companies, independent phone companies, or others, will be allowed equal access to, and interconnection with, the facilities of the local phone company so that consumers are assured of the seamless transmission of telephone calls between carriers and between jurisdictions. Title I of the bill requires local telephone companies to provide nondiscriminatory access to their facilities and interconnection to their networks. It also directs the FCC to prescribe rules that will compensate local exchange carriers for interconnection and equal access, exempting rural telephone companies from these interconnection requirements. We include language which targets those telephone companies which serve low density areas and ensures that toll rates for rural customers remains comparable for urban customers.

This section gives the Commission the necessary powers to implement this legislation, which the Commission apparently lacks under current law.

On June 10, 1994, in *Bell Atlantic* v. *FCC*, the DC Circuit Court of Appeals severely curtailed the FCC's attempts to pave a procompetition and proconsumer information superhighway. The Court of Appeals struck down an FCC order compelling local telephone companies to open up their facilities to—or physically collocate with—other providers of telecommunications and information services.

The court suggested that an FCC order mandating physical collocation may amount to a taking. The fifth amendment dictates that no property shall be taken by the Government without the payment of reasonable and just compensation. Since compensation for takings are generally drawn from the Treasury coffers, which is the sole province of the legislature, any congressionally unauthorized draw upon that resource is deemed invalid. The *Bell Atlantic* court pointed out that the Communications Act of 1934 does not grant the FCC explicit power to order taking of property, which, of course, requires compensation. Therefore, the physical collocation regulatory scheme required to spur competition and limit costs is not available to the FCC under its current Congressional grant of authority.

This lack of FCC authority has been anticipated by the committee in HR 3636. In language which predates the *Bell Atlantic* holding, the bill explicitly empowers the FCC to direct these carriers to allow other information providers to physically interconnect with their facilities. Such interconnection will provide consumers with a far more diverse range of telecommunications services and will spur competition to ensure that the costs of these services are reasonable. The bill also directs the FCC to establish regulations requiring just and reasonable compensation to the local telephone company providing these interconnection services.

The *Bell Atlantic* case highlights the necessity of this legislation and the immediacy of the problem. Without the congressional grants of authority which H.R. 3636 endows, the FCC lacks the tools needed to pave a high quality and affordable information superhighway.

H.R. 3636 creates a national communications policy whereby all States face the same regulatory regime in the provision of local telecommunications service. This is facilitated by prohibiting States or local governments from imposing regulations that would be contrary to the creation of competition in the local telephone loop. H.R. 3636 does, however, respect the States' important role in the oversight of intrastate telecommunications policy by allowing them to impose terms or conditions necessary to protect consumer protection laws, public safety concerns, and equitable rates.

H.R. 3636 also directs the FCC to develop rules to establish a Federal-State Joint Board to preserve and enhance universal service at just and reasonable rates. The goal of universal service has been at the core of communications policy since the passage of the Communications Act of 1934, and refers to the availability and accessibility of basic telephone service at reasonable rates, for all Americans. H.R. 3636 recognizes the concern that some consumers may want to simply subscribe to the same plain old telephone service or a comparable service to which they subscribe now. It is our intent to avoid advocating a particular or extravagant service; therefore, the bill directs the Board to examine varying services, the extent to which various telecommunications services are subscribed by customers, and to locate areas where denial of such services unfairly affects educational and economic opportunities of those customers.

The bill also directs the Joint Board to examine a number of issues as they formulate a plan to preserve and enhance universal service. Of course, the considerations outlined in paragraph (6) are not binding on the Commission or the States, since they have the ultimate decisionmaking authority. Instead, as part of the normal Federal-State Joint Board process, there will be recommendations that the Federal and State regulators can either accept or reject in whole or in part.

One of the issues the Joint Board will address is the issue of alternative or price regulations. It is worth noting that a majority of

States choose some form of rate of return regulation for its citizens. In addition, by distinguishing alternative and price regulation from cost-based rate of return regulation, the committee recognizes that alternative regulation encompasses a variety of regulatory schemes, including pricing flexibility, incentive regulation and sharing of excess profits, all of which allow regulated telephone companies to price services and not return on costs.

The bill also directs the Commission to establish pricing flexibility regulations, which can serve as a transition from a regulated market to a competitive market, and can be used in proportion with the level of competition that exists in a particular market. The bill requires that these pricing flexibility regulations only can be used when a telephone company faces competition, and, most importantly, other forms of regulations are not needed to protect consumers. Thus, if the local exchange carrier faces sufficient competition so as to enable the Commission to conclude that competition will protect consumers from unjust or unreasonable rates, then the Commission may adopt a flexible pricing procedure.

H.R. 3636 directs the FCC to conduct a study on open platform service, taking into account existing facilities as well as new facilities with improved capacity. It is important to note that it is our intent to remain technologically neutral in our efforts to promote the deployment of advanced technologies and services.

Section 103 of H.R. 3636 contains provisions to survey the Nation's elementary and secondary schools and classrooms, public libraries, and health care institutions and report on the availability of advanced telecommunications services to these institutions.

The bill also empowers the FCC to define the circumstances under which a carrier may be required to interconnect its telecommunications network with educational institutions, health care institutions, and public libraries. Moreover, it directs the Commission to provide for the establishment of preferential rates for telecommunications services, including advanced services, provided to such institutions or the use of alternative mechanisms to enhance the availability of advanced services to these institutions.

I believe that there is perhaps no more important societal benefit to upgrading our Nation's information infrastructure than uplifting the hopes, dreams, and aspirations of millions of schoolchildren through increased access to information in America's elementary and secondary schools.

Getting phone jacks and/or cable links into every classroom won't be a quick fix for educational restructuring, but it is the sine qua non for allowing children to move beyond the physical barriers of the classroom to a host of potentially rich resources, mentors, and friends that can be accessed remotely. In my view, technology in the classroom is not meant to be a substitute for good teachers, but rather, it allows a teacher to shift from presenting talk to chalk to facilitating learning and encouraging a child's exploration of ideas by utilizing modern, information age tools.

I feel strongly that it is important to get these needed learning links established to schools because it can help mitigate against what I see is a widening gap between information-halves and have-nots. I believe that telecommunications technology can become a great equalizer in American education. Though a child may not have access to information age appliances in the home, may not have parents who subscribe to cable or own a computer, the school can help give them the tools they will need to compete for jobs in a knowledge-based economy. For this reason, I believe it is vitally important that we maximize the benefits that this legislation can bring to young children at school. I also want to include in the record at the end of my statement a letter from the Committee on Education and Labor reporting this section.

In addition, title I of H.R. 3636 addresses local authority over the rights-of-way, including language which asserts the right of city and local governments to maintain their rights-of-way. The municipalities stand to benefit greatly from the promotion of a communications infrastructure, and I believe that it is our responsibility to ensure that city and local governments are positioned to take advantage of the benefits. We include express language within this to ensure that a municipalities inherent authority to regulate their public rights-of-way is fully preserved within this legislation.

The bill also contains section 107 which amends the Pole Attachment Act. Under that amendment, a cable operator that did not offer telecommunications services would still be entitled to a pole attachment rate under the "just and reasonable" standard set forth under existing law. A cable operator that offered telecommunications services as well as cable service would be required to pay a pole attachment rate as established under the standard added to the Pole Attachment Act by the amendment.

Thus, this section does not require a cable operator to pay twice for a single pole attachment, if the operator is providing cable and telecommunications services. Moreover, a cable operator would only be required to pay for a single attachment—albeit under the new standard rather than the one set forth under current law—if the operator offers cable and telecommunications services through a single wire, or if the operator incorporates two wires at a single attachment, or if the operator overlashes a second wire for telecommunications services on the operator's existing cable plant. All of these are examples of a single pole attachment. If the operator can provide cable and telecommunications services using a single pole attachment, the operator would only be required to pay for a single attachment.

In fostering the goal of universal service, H.R. 3636 includes specific language designed to encourage the deployment of communications capabilities to underserved areas and populations. Title I of the legislation includes provisions which direct the FCC to examine the accessibility of telecommunications services in rural areas, and grants the Commission the ability to modify any of the open platform obligations if they prove economically or technically infeasible. Furthermore, the Commission is directed to promulgate regulations expressly designed to promote access to the network for disabled persons, small business and minority business interests, as well.

Title II of H.R. 3636 is designed to promote competition to the cable television industry by permitting telephone companies to compete in the provision of video programming and services. Under current law, telephone companies are prohibited from offering cable service within their telephone service area. This restriction, established in 1970 Commission regulations and codified under the 1984 Cable Act, stems from the tradition of favoring policies which encourage a wide variety of ownership of media sources. We credit these ownership restrictions, in part, for facilitating the deployment of two wires to each home, an outcome which will help to promote more effective competition between and among telephone and cable companies.

When these initial restrictions were adopted in the 1970's, cable television was a nascent industry. The establishment and implementation of ownership rules was a necessary step to protect against encroaching telephone companies who, at the time, controlled the only wire to the home. Since that time, the cable industry has flourished, able to now claim 65 percent national penetration.

In a recent court challenge to the FCC's video dial-tone proceeding, a Federal district court in Virginia overturned the statutory cross-ownership provision in the 1984 Cable Act, a decision currently under appeal. A district court in Seattle, WA reached a similar result. Without legislation, therefore, the entrenched regional and local telephone networks may be allowed to deliver cable service before proper protections are put in place to ensure that the information superhighway develops in an open, competitive environment for the benefit of consumers as well as for a diversity of producers of programming and services. This is an important point, and must be considered as we debate passage of this legislation.

Title II establishes the guidelines through which telephone companies may engage in the business of video delivery. To advance the goal of unrestricted competition, H.R. 3636 allows telephone companies to offer multichannel video programming through a separate affiliate, and on a common carrier basis. The separate affiliate must construct a video platform capable of meeting all bona fide channel capacity and carriage demands of video programmers, and must include a suitable margin of unused channel capacity to accommodate a reasonable growth in demand. We include language which requires the affiliate to petition for approval with the FCC, thereby granting them the authority to require carriage and award damages in the event of a violation of these requirements.

In order to protect against media concentration, and to promote a more fully competitive marketplace, H.R. 3636 prohibits telephone companies from buying cable systems within their telephone service territory. We include limited exceptions to foster the expansion of competition within rural and underpopulated areas, and with small markets.

Any affiliate interested in offering programming on its video platform must also adhere to the same public interest and general franchise obligations mandated under the Cable Act of 1992. These rules oblige all competitors interested in providing video services to comply with all consumer protection provisions, program access requirements, rules governing the carriage of public, educational and governmental channels, and equal employment opportunity requirements.

This section also clarifies the right of a local government to collect fees from the video programming affiliate of a common carrier, or any other competitor wishing to offer multichannel video programming. Currently, franchise authorities only receive franchise fees from cable operators, a right granted to them in the Cable Act of 1984. If a telephone company or any other provider of video delivery chooses to compete with a cable operator in the delivery of video service, H.R. 3636 ensures that the telephone company and others will pay the exact same level of fees as cable operators.

This also applies to a telephone company's obligations to provide public, educational and governmental [PEG] access channels. H.R. 3636 requires telephone companies to meet the exact same level of PEG access as the local cable operator and as a cable operator's PEG obligations may increase in the course of franchise or other negotiations, a local telephone company's obligations should increase correspondingly.

This section also maps out the process through which a common carrier may obtain approval by the FCC to deliver video services. We include language which requires the FCC to ensure that video platforms comply with equal access and interconnection standards. The FCC is also instructed to ensure that restricts a common carrier from including, within the basic telephone rate, any expenses associated with the provision of video programming; and which prohibit cable operators from including in the cost of cable service any expenses associated with the provision of telephone service. We do not intend, in any way, for telephone ratepayers or cable subscribers to subsidize the independent business endeavors of their telephone or cable company.

H.R. 3636 also contains several provisions affecting television broadcasters that are designed to help broadcasters to compete more fully in developing the information superhighway. This includes a review of the ownership restrictions promulgated by the Commission over the years. While such a review is warranted, H.R. 3636 does not direct the Commission to undertake wholesale elimination of these rules which have done so much to ensure diversity and localism in our broadcast media. And while broadcasters should be able to compete fairly with other information providers H.R. 3636 does not adopt the relatively high concentrations of ownership in the cable television or the telephone industries as a standard for the Commission's review of these rules.

One of the areas of the bill that represents a significant new addition to communications policy is the section dealing with broadcaster spectrum flexibility. Above all, H.R. 3636 is careful to leave the Commission a great deal of room in which to determine many as yet unresolved issues. It does not preclude the Commission's previous efforts at developing standards for high definition television services that will represent a major improvement in the quality of television service, nor do we even mandate the current proposed allocation of spectrum. If the Commission chooses to proceed, however, we have set a series of important conditions on the allocation of new spectrum. For example, the terms ancillary and supplementary necessarily imply that such services are connected with and dependent on the main channel signal and should not predominate over this primary use of the spectrum. The bill also requires that ancillary and supplementary uses of broadcasters' spectrum be indivisible from its use for advanced television services. Thus, ancillary and supplementary uses must be transmitted in direct conjunction with the licensee's main channel signal and not offered on spectrum that is distinct or separated from the spectrum used for the main signal.

An essential component of the competitive endeavor of H.R. 3636 is to provide consumers with more choice. I believe that it is important to ensure that in the same way consumers will be provided with a variety of options between telecommunications providers and cable operators, they deserve to be offered a variety of standardized communications equipment, as well. I want to be sure that, similar to the equipment compatibility requirements of the Cable Act of 1992 which mandated standardized cable equipment, all consumers can benefit from a wide array of choices and suppliers at reasonable, market-driven cost. H.R. 3636 requires the FCC to commence an inquiry to examine the importance of open and accessible systems in interactive communications. This section, often referred to as the set-top box provision, instructs the commission to prescribe changes in its unbundling regulations to ensure that interactive communications devices are available from third party vendors and retail outlets. As my colleagues are aware, the set-top box could soon become the gateway through most, if not all, information enters the American home.

Most technological innovations in the area of information and telecommunications services have been developed without considering the needs of individuals with disabilities. The consequence has been that many of these innovations have been useless for individuals with disabilities. Indeed, the general failure to consider access for the disabled during the initial stages of telecommunications product and service development has actually led to a reduction in access for persons with disabilities.

The national information infrastructure promises to bring information, health care, banking, shopping, and other services within easy reach at home or in the office through information services and products. In keeping with the spirit of the Americans with Disabilities Act's goal of fully integrating people with disabilities into the mainstream of society, the current legislation is designed to ensure access for the disabled as new telecommunications technologies and services are developed. Our legislation will ensure that advances in network services deployed by local exchange carriers and advances in telecommunications equipment will be accessible to people with disabilities where it would not result in an undue economic burden or an adverse competitive impact.

In addition, H.R. 3636 directs the FCC to undertake inquiries for the provision of both closed captioning and video description services, and further directs the Commission to establish a schedule for the provision of closed captioning. The legislation aims to provide disabled Americans with access to advanced communications networks and the opportunities for independence, productivity, and integration that will result from these new services and products.

Section 206 directs the Commission to establish a schedule or timetable for the implementation of closed captioning. It requires that new programming be made accessible through captioning and previously produced programming be made accessible to the maximum extent possible. The legislation also provides for exemptions from captioning requirements based on several factors. While much of prime time broadcast programming is now captioned, reports to the committee from the National Center for Law and Deafness indicate that less than 10 percent of basic cable programming is captioned. This section would require that all video programming be captioned where economically feasible.

During subcommittee consideration, questions were raised regarding the constitutionality of this section. I have attached a review of this issue from the Georgetown University Law Center which clearly finds that the section is constitutionally sound. I concur with the analysis which finds that the requirement is an incidental restriction subject to review under the standard set forth in United States versus O'Brien.

In directing the Commission to establish a schedule for the provision of closed captioning, the committee intends that programming be made accessible to the 24 million Americans who are hearing impaired where it would not be unduly burdensome to the provider of the programming. The committee does not intend that programming not be aired due to the requirement for captioning. However, the committee has stated its clear goal that access for the disabled be considered and pursued at the outset of the development of new products and services.

This provision is consistent with the first amendment because it is content neutral, and it is narrowly tailored to serve a compelling governmental interest. That interest is to make communications available, as far as possible, to all the people of the United States.

As more information essential to functioning in society moves onto advanced communications networks, it is critical that all citizens have access to this information. Many new services and products will be available over communications networks in video form, including health care services, library resources, educational information, financial and governmental data. Access to vital governmental information carried on these networks is critical to an informed electorate. Much of this information is necessary to full participation in work, school, and all aspects of life. As this information begins to be provided in video form, it is the goal of the committee that the 24 million Americans who are hearing impaired have full access to these products and services.

H.R. 3636 strives to ensure that public broadcasters are also guaranteed a strong position in the development of the information superhighway. Public broadcasters, in my opinion, should be heralded as a preeminent example of innovative and responsible news media, fulfilling a critical role by providing quality programming and important community service to all facets of American society. They have been in the forefront of numerous technological innovations and have spearheaded a variety of educational projects that have benefited all Americans. In this tradition, I strongly believe that public broadcasters will continue to play a crucial role in the development of the national communications infrastructure. The language we have included in the legislation recognizes the limited resources available to this community, and requires the FCC to prescribe regulations to reserve appropriate capacity for the public at preferential rates on the video platform.

Title III of this bill is designed to encourage economic opportunities for business enterprises owned by minorities and women. It requires each telecommunications provider interested in offering video services to submit to the FCC a plan which outlines procurement proposals from businesses owned by women and minorities.

Title IV authorizes appropriations for the FCC to fulfill its obligations under the National Communications Competition and Information Infrastructure Act of 1994.

In closing, I would like to extend my deepest gratitude to my fellow colleagues, JACK FIELDS, and Representatives BOUCHER, OXLEY, RALPH HALL, RICK LEHMAN, JOE BARTON, and other colleagues who helped craft a solid piece of legislation. This bill has become a model of consensus politics, and I thank each one of you for your contributions. I would also like to thank the staff on the subcommittee, Gerry Waldron, David Moulton, David Zesiger, Colin Crowell, Mark Horan, Kristan Van Hook, Karen Colannino, Steven Popeo, and Winnie Loeffler of my staff, Mike Regan and Cathy Reid, Gail Giblin, and Christy Strawman of JACK FIELDS' office who, together, worked many hard hours to develop the legislation we will vote on today.

I urge you to support this H.R. 3636 and I yield back the balance of my time.

GEORGETOWN UNIVERSITY LAW CENTER,
Washington, DC, June 8, 1994.

Hon. EDWARD J. MARKEY,
Chairman, Subcommittee on Telecommunications and Finance, House of Representatives, Washington, DC.

DEAR REPRESENTATIVE MARKEY: As you know, Section 206 of H.R. 3636, The National Communications Competition and Information Infrastructure Act of 1994, requires the Federal Communications Commission to conduct an inquiry to determine the extent to which video programming is closed captioned and to ascertain other information relevant to closed captioning. §206(a). It then directs the FCC to adopt regulations to ensure that video programming produced after the effective date is fully accessible through closed captioning and to maximize access to video programming produced prior to the effective date. §206(b). The statute also provides for exemptions to the captioning requirement where the provision of captioning would be unduly burdensome to the provider or owner of the programming. §206(d).

The constitutionality of these provisions has been questioned by the Media Institute. See Letter of The Media Institute to Rep. Moorhead, March 11, 1994 ("Media Institute Letter"); The ACLU has also raised some concerns about these provisions. See Letter of ACLU to Rep. Richardson, March 15, 1994 ("ACLU Letter"). The ACLU acknowledges that the closed captioning requirement is merely an "incidental restriction" subject to intermediate review under *United States* v. *O'Brien*, 391 U.S. 367 (1968). It believes that the outcome of such review is unclear. ACLU Letter at 4–5. The Media Institute, however, asserts that Section 206 is content-based, and thus would be subject to strict scrutiny. Media Institute Letter at 3. Both the ACLU and Media Institute letters express concern that the statute invests unconstitutionally broad discretion with the FCC. *Id.* at 5; ACLU Letter at 5.

We have carefully studied these contentions and concluded that the closed captioning requirement itself is constitutional and that the statute gives constitutionally adequate guidance to the FCC for its implementation.

Let us observe at the outset, that if Section 206 were to be challenged on First Amendment grounds, the challengers would face two threshold obstacles. First, the canons of statutory construction direct that a statute must be construed, if fairly possible, to avoid the conclusion that it is unconstitutional. See *Rust* v. *Sullivan*, 111 S.Ct. 1759, 1771 (1991) and cases cited therein. Second, a facial challenge is "the most difficult challenge to mount successfully since the challenger must establish that no set of circumstances exists under which the Act would be valid." *Id.* at 1767, quoting *United States* v. *Salerno*, 481 U.S. 739, 745 (1987). We do not believe that such a showing could be made here.

Were someone to challenge Section 206 as violating the First Amendment, the courts would undoubtedly find that Section 206 is a content-neutral regulation subject to intermediate scrutiny under the *O'Brien* test. Section 206 makes no distinctions on the basis of content. Indeed, the only distinction made is between programming produced before and after the effective date of the statute. Moreover, the criteria for exemptions involve economic factors, not content. Additionally, closed captioning does not require the creation of new and different content; it merely requires that the already produced verbal content be put in a form accessible to persons with impaired hearing.

Nor, should Section 206 be subject to strict scrutiny because it "forces" speech. Relying on cases such as *Wooley* v. *Maynard*, 430 U.S. 705, 714 (1977), *Miami Herald Pub. Co.* v. *Tornillo*, 418 U.S. 241 (1974), and *Pacific Gas & Electric Co.* v. *Public Utilities Comm'n*, 475 U.S. 1, 9 (1986) (*PG&E*), the Media Institute and ACLU argue that Section 206 requires unconstitutional forced speech. Media Institute Letter at 1–3; ACLU Letter at 2–3. However, these cases involved situations which imposed burdens on speech, in contrast to Section 206.

In *Wooley* v. *Maynard*, the Court found that a state may not constitutionally compel an individual to display the slogan "Live Free or Die" on his license plate if he found it morally objectionable. 430 U.S. at 714–15. In *Miami Herald*, the Court struck down a right of reply statute that required newspapers that criticized a political candidate to publish a reply. 418 U.S. at 256–58. In *PG&E*, the Court found it unconstitutional to force a utility company to include in its billing envelopes the speech of a group with whom the company disagrees. 475 U.S. at 9–16.

What each of these cases have in common is that they involved a regulation that compelled a speaker to make utterances with which he or she disagreed. Section 206, however, does not require anyone to say something that he or she disagrees with. It merely requires video programmers to make the speech they freely chose to make available for public distribution accessible to persons with impaired hearing.

Nor, does *Riley* v. *Nat'l Federation of the Blind*, 487 U.S. 781, 797 (1988) provide any support for ACLU's position. In *Riley*, the Court found it unconstitutional to require professional fundraisers to disclose the percentage of charitable contributions actually turned over to charity because such "compelled disclosure will almost certainly hamper the legitimate efforts of professional fundraisers to raise money for the charities they represent" and discriminates against small charities which must usually rely on professional fundraisers. *Id.* at 799. Here, unlike in *Riley*, however, where the provision of captioning would be unduly burdensome, an exemption is available.

Thus, Section 206 is clearly content neutral and should be evaluated under the *O'Brien* test. Under this test, content neutral regulations will be upheld if they are "narrowly tailored" to serve an "important or substantial governmental interest." 391 U.S. at 377.

Here, closed captioning furthers the government's long standing interest as expressed in the FCC's universal service obligation: to make communications "available, so far as possible, to all the people of the United States." Communications Act of 1934, §1, 47 U.S.C. §151. Congress has furthered this interest by passing numerous pieces of legislation designed to increase the access of persons with impaired hearing to communications. See, e.g., Telecommunications for the Disabled Act of 1982, P.L. 97–410, codified at 47 U.S.C. §610, as amended (1988) (insuring reasonable access to telephone service by persons with impaired hearing); Hearing Aid Compatibility Act of 1988, P.L 100–394, codified at 47 U.S.C. §610 (1988) (finding that hearing impaired persons should have equal access to the national telecommunications network to the fullest extent possible and requiring the FCC to enact rules to require that telephones manufactured or imported after August 1989 be hearing aid compatible); Americans with Disabilities Act of 1990, 47 U.S.C. §2215, *et seq.* (requiring telephone companies to provide relay services to enable individuals who use TDDs to communicate with anyone, at any time, over the telephone); Television Decoder Circuitry Act of 1990, 47 U.S.C. §§303(u), 330(b) (1991) (requiring all television sets with screens 13 inches or larger which are manufactured or imported after July 1, 1993 to be capable of displaying closed captioned television programs).

In the Television Decoder Circuitry Act of 1990, Congress specifically found that "closed captioned television transmissions have made it possible for thousands of deaf and hearing-impaired people to gain access to the television medium, thus significantly improving the quality of their lives" and that "closed-captioned television will provide access to information, entertainment and a greater understanding of our Nation and the world to over 24,000,000 people in the United States who are deaf or hearing impaired. P.L. Law 101–431, §§2(2) & 2(3). Now that more television sets are able to display closed-captioned programming, requiring video programming to be closed-captioned will likewise further these important government interests.

Closed captioning benefits not just people who are deaf or hard of hearing, but also children learning to read, persons for whom English is a second language, and adults who are illiterate or remedial readers. See H.R.

Rep. No. 767, 101st Cong., 2d Sess. 5–6; S. Rep. 398, 101st Sess., 2d Sess. 1–2. It is estimated that nearly 100 million Americans can benefit from television captioning. Thus, there can be no question that Section 206 furthers a substantial governmental purpose.

Furthermore, Section 206 is narrowly tailored to achieve those government purposes. To be narrowly tailored, the regulation need not be the least restrictive; the government need only show that its interest would be achieved less effectively absent the regulation. *Ward* v. *Rock Against Racism*, 491 U.S. at 799–800 (1989). Here, it is clear that the governmental purpose of making programming accessible would not be achieved without the requirements of Section 206. While some types of video programming are already captioned (approximately 75 percent of television network programming is closed captioned), the vast majority of video programming (especially programming available on basic cable channels) is not and is unlikely to be captioned in the foreseeable future absent the proposed legislation. Moreover, exemptions are available to provide relief where closed captioning will be unnecessarily burdensome.

Nor is Section 206 constitutionally suspect because it gives the FCC overly broad discretion to grant exemptions. Media Institute Letter at 5; ACLU Letter at 5. Citing *Lakewood* v. *Plain Dealer Publishing Co.*, 486 U.S. 750, 757 (1988), the Media Institute claims that the Section 206 would vest unbridled discretion with the FCC, permitting it to exempt from Section 206's captioning requirement "the programming it favors and to deny exemptions to programming it disfavors." Media Institute Letter at 5.

This reasoning is surely backwards. First, it erroneously assumes the FCC is entitled to exercise its discretion in an unconstitutional way. Second, it makes the unfounded assumption that the FCC actually favors certain programming. Third, even if we were to accept this peculiar notion, would not the FCC want that favored programming to receive wider distribution, i.e., to require captioning, rather than the other way around?

But fortunately, Section 206 does not give unbridled discretion to the FCC. Indeed, unlike the statute in *Lakewood*, which contained no explicit limits on the mayor's discretion to grant or deny permits for news racks, Section 206 provides explicit criteria for the FCC to use in considering exemptions. First, the FCC may by regulation exempt "programs, classes of programs or services" if it finds that closed captioning would be "*economically burdensome* to the provider or owner of such programming." §206(d)(1) (emphasis added). Second, a video programming provider or owner may petition the Commission for an exemption, and the Commission may grant it upon a showing that adhering to closed captioning requirements would result in an "undue burden." §206(d)(3). "Undue burden" is defined as "significant difficulty or expense." §206(d). In determining whether compliance would entail undue burden, the FCC is directed to consider specific factors: the nature and cost of the closed captions for the programming; the impact on the operation of the provider or program owner; the financial resources of the provider or program owner; and the type of operations of the provider or program owner.

Section 206's definition of "undue burden" is patterned after use of this term in the Americans With Disabilities Act ("ADA"). See, e.g., ADA §301(b)(2)(A)(iii). "Undue burden" in the ADA, in turn, was patterned after the term "undue hardship," as that term has been used in the implementation of the Rehabilitation Act since 1973. S. Rep. No. 116, 101st Cong, 1st Sess. at 63 & 35–36. Agency interpretations of both of these terms—"undue burden" and "undue hardship"—have consistently relied on economic criteria, allowing waivers only after consideration of the cost to an applicant of a particular accommodation and the relative resources of the applicant. Id. at 36. Moreover, Department of Justice regulations implementing the ADA also define "undue burden" to mean "significant difficulty or expense." 28 C.F.R. §36.104. The regulations list five factors to be considered in determining whether an action would result in "undue burden." These factors closely track the factors listed in Section 206(d). Thus, the term "undue burden" in Section 206 brings with it a long history of being a well-defined, content-neutral standard for granting exemptions from captioning and other requirements.

By no stretch of the imagination can one conclude that Section 206 leaves the FCC free to grant waivers on the basis of whether or not it favors particular programming. Rather it limits the relevant factors for FCC consideration to the costs of providing access and the ability of the affected entity to afford those costs. It clearly meets the requirement established in *Grayned* v. *City of Rockford*, 408 U.S. 104, 108 (1972), that laws affecting free speech provide explicit standards for those who apply them.

The ACLU understands that undue burden is "defined largely on the basis of its financial or other impact on the service provider." ACLU Letter at 5. Specifically, it expresses the concern that "a smaller provider might be exempted for programming that is intended to reach a wider audience than a larger, more well-heeled provider who has made a conscious effort to reach a specific, more narrow audience." *Id.* It suggests that discrimination between speakers merely on the basis of financial ability is constitutionally suspect because it "favors certain classes of speakers over others." *Id.* citing *Home Box Office v. FCC*, 657 F.2d 9, 48 (D.C. Cir.) (per curiam), *cert. denied*, 434 U.S. 829 (1977) ("*HBO*").

ACLU's reasoning, however, is both legally and factually flawed. Whether the intended audience is broad or narrow is irrelevant—in either case, it will contain viewers who would benefit from closed captioning. While the size of the provider may be relevant to its ability to pay for the cost of captioning, there is no reason to assume that content provided by smaller providers is somehow distinct from content provider by wealthier providers. In *HBO*, the D.C. Circuit suggested that regulations favoring certain classes of speakers were constitutionally suspect only where the Government's intent was to curtail expression. 567 F.2d at 47–48. Here, there is no constitutional problem because there is no basis to believe that financial resources is somehow being utilized as a proxy for certain types of expression that the government wishes to curtail. Rather, the government's purpose is merely to make as much programming as possible available to as large an audience as possible. And as the Supreme Court has observed "a regulation that serves purposes unrelated to the content of expression is deemed neutral, even if it has an incidental effect on some speakers or messages but not others." *Ward* v. *Rock Against Racism*, 491 U.S. at 791.

ACLU next expresses concern that the FCC might exempt news programming from the captioning requirement because there would be no time to incorporate closed captioning into breaking news stories. In fact, this assumption is wrong. The ACLU is apparently unfamiliar with "real time captioning" in which captions are simultaneously created and transmitted, using stenotypists and specialized computer software. Real time captioning is already being used by all national news programs and almost 200 local news programs.

Finally, the fact that Section 206 vests some discretion in the FCC does not make the provision unconstitutional. In responding to a similar challenge in *Ward*, the Supreme Court observed: "While these standards are undoubtedly flexible, and the officials implementing them will exercise considerable discretion, perfect clarity and precise guidance have never been required even of regulations that restrict expressive activity." 491 U.S. at 794. It is appropriate for Congress to assume that the FCC will implement Section 206 in a constitutional manner. It is a long-standing and well-accepted practice of Congress to leave the applications of such standards to administrative agencies. Indeed, Congress has routinely delegated to the FCC the responsibility to adopt implementing regulations and to grant exemptions with much more potential to influence content than Section 206. See, e.g., Communications Act of 1934, a amended, §315(a), 47 U.S.C. §315(a) (FCC to determine which programs are bona fide news programs exempt from equal opportunities for political candidates); *Id.* §223(b)(3) (directing FCC to prescribe procedures by regulation for restricting access to indecent communications that will constitute a defense to prosecution for violation of law prohibiting indecent communications by telephone); *Id.* §532(c)(4)(B) (directing the FCC to establish rules for determining the maximum rates, terms and conditions under which unaffiliated programmers can lease channels on cable systems).

In the unlikely event that the FCC were to interpret or apply Section 206 in an unconstitutional manner, judicial review would be available at that time. However, even if the agency's interpretation or application of a provision were found to be unconstitutional, this would not necessarily mean that the statute itself was unconstitutional. See *Rust* v. *Sullivan*, 111 S. Ct. at 1771.

In sum, the concerns that Section 206 violates the First Amendment are unfounded. The requirement that the FCC adopt regulations to require closed captioning is a content-neutral regulation narrowly tailored to serve a substantial government interest. It would easily pass scrutiny under the *O'Brien* test, and given the substantial nature of the governmental interest and lack of alternative means, would even likely survive strict scrutiny. Moreover, Section 206 is not vague, and provides adequate standards to believe that the FCC will implement it in a constitutional manner.

We appreciate the opportunity of providing this analysis to you and hope that it will be helpful.

Sincerely,

ANGELA J. CAMPBELL,
Associate Professor of Law, Georgetown University Law Center.

STEVEN H. SHIFFRIN,
Professor of Law, Cornell University.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON EDUCATION AND LABOR,
Washington, DC, March 15, 1994.
Representative JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce.

DEAR MR. CHAIRMAN: We understand the Committee on Energy and Commerce expects to mark up H.R. 3636, the National Communications and Information Infrastructure Act of 1993, this week. We are pleased that section 103 of the bill proposes to provide preferential telephone rates to elementary and secondary schools as well as to public libraries as a part of the overhauling of our national telecommunications policy. If enacted, these provisions could make access to the national superhighway affordable for all students and users of public libraries, regardless of a community's wealth or geographic location. All too often schools and libraries, the fundamental underpinnings of our communities, are left on the sidelines of the technological revolution. The bill helps to correct this problem. The preferential rate provisions of H.R. 3636 could complement several technology-related programs incorporated into H.R. 6, a bill to reauthorize the Elementary and Secondary Education Act, which is presently pending before the House.

We laud your efforts, and that of Chairman Markey, on behalf of schools and libraries. We would urge, however, that you also consider extending the preferential rates to "libraries which the public may access", rather than the more narrowly framed wording of the bill, "public libraries", and to educational institutions at all levels. We are concerned, for example, that there are many postsecondary education institutions, including two-year community colleges and many others which will simply not be able to afford full participation in the network, unless basic telephone rates are sufficiently low. At the very least, we would urge that there be a feasibility study by the Federal Communications Commission to expand preferential rates for these other categories.

We would appreciate inclusion of this letter in your Committee's report on H.R. 3636, to recognize the Education and Labor's jurisdictional interest in H.R. 3636.

Sincerely,
WILLIAM D. FORD,
Chairman.
WILLIAM F. GOODLING,
Ranking Republican.

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Mr. Speaker, I reserve the balance of my time.

Mr. FIELDS of Texas. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in strong support of H.R. 3636, the National Communications Competition and Information Infrastructure Act of 1993. This legislation, like its companion measure H.R. 3626, which we have just considered, is more than just a telecommunications reform bill, it is legislation that will impact the future of this country—it will foster economic growth, create new jobs in a high tech industry, and spur greater U.S. competitiveness in the global telecommunications market.

Unquestionably the rapid changes in the telecommunications world will revolutionize the way all Americans live their lives. What we are doing today is simply saying that there should be a road map—some national principles—that guide the manner in which that revolution occurs.

Presently we have no single guiding light on telecommunications policy. We have a patchwork of court decisions, consent decrees, a 60-year-old Federal statute based on railroad laws, and similar State utility laws that, taken in toto, dampens incentives and opportunities for U.S. telecommunications companies to build the information superhighway. Today we begin the process of setting policy on course toward building that highway to the future.

What we recognize today is that all telecommunications are converging, the traditional bright lines that separated telephone companies from cable companies from broadcast companies no longer exist or make any sense. Recognizing this fact, Congress passed legislation last year to reform the world of wireless communications, to treat mobile, paging and other wireless services in the same manner when they are providing similar services. Today we are engaged in a similar process for the wired world: telephone companies providing cable and cable and others providing local telephone service.

H.R. 3636 recognizes that the traditional monopolies of cable and local telephone service make no sense any longer. This infrastructure bill will tear down the legal and regulatory barriers that have perpetuated those monopolies and allow competition to flourish. Healthy competition in these markets is the best guarantor we can have that the telecommunications products and services of the future will be brought as swiftly and fairly priced to all Americans as possible.

There has been a significant amount of discussion throughout this process about creating the proverbial level playing field for all industry participants, and we have endeavored to ensure that the field is level. But as Members of Congress, our first duty is to create a level playing field for our constituents, the American public. As we enter the information age, our first responsibility is to ensure that all Americans—regardless of their demographics, regardless of their economic status, and regardless of their racial or ethnic make-up, have equal access to the information age. The overarching, and most important, objective of this bill is to ensure that this level playing field exists.

Therefore, I strongly urge my colleagues to join me in supporting H.R. 3636. I want to comment my good friend the subcommittee chairman, Mr. MARKEY, for his leadership and vision in bringing us to this historic day. I might add, we have had 40 meetings in negotiating this legislation. I want to thank Messers. BOUCHER and OXLEY for their invaluable contributions to this effort as well as the many other committee members who contributed to producing this critically important legislation. Finally, I want to thank the full committee chairman and ranking member, Messrs. DINGELL and MOORHEAD, for their hard work and persistence in bringing this measure before the House.

Mr. Speaker, I want to commend my good friend, the gentleman from Massachusetts [Mr. MARKEY], chairman of the subcommittee. As he has mentioned, we have had 2 years of meetings. He told me just a moment ago that we have had 40 personal meetings. I appreciate the fact that this piece of legislation has been handled in a bipartisan way and that we have had this level of discussion.

Mr. Speaker, I want to commend the chairman for his leadership and his vision in this important matter. It brings us to this historic day. I also want to thank the gentleman from Virginia [Mr. BOUCHER] and the gentleman from Ohio [Mr. OXLEY] for their invaluable contributions to this effort, as well as many of our other subcommittee members, in producing what I think is a critical and a bipartisan piece of legislation.

Finally, Mr. Speaker, I want to thank the gentleman from Michigan [Mr. DINGELL], the chairman, for the atmosphere he has provided on working on this, again in a bipartisan manner. When people criticize Congress, they cannot criticize the efforts of the Committee on Energy and Commerce, particularly on this piece of legislation.

Mr. Speaker, I also want to thank the ranking minority member, the gentleman from California [Mr. MOORHEAD] for his leadership in again providing us with the atmosphere in which to negotiate a very delicate balance with a number of competing interests, and I hold this out to my colleagues as one of the best pieces of legislation that will come before this House this year, and thus far in my career, a piece of legislation that all of us should be proud of and support.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. DINGELL], chairman of the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Chairman, I thank my dear friend, the gentleman from Massachusetts, for yielding me this time.

Mr. Speaker, I rise to commend the gentleman from Massachusetts [Mr. MARKEY], chairman of the subcommittee, the distinguished gentleman from Texas [Mr. FIELDS], the ranking minority member of the subcommittee, the ranking minority member of the full committee, the gentleman from California [Mr. MOORHEAD], the gentleman from Ohio [Mr. OXLEY], and a large number of other Members who have worked very hard.

Mr. Speaker, complaint was made that this legislation and the prior legislation, H.R. 3626, are going through too fast. The hard fact is that we are getting this legislation through in something like 80 minutes after about 30 years of hard work in getting it in order. The effort to present this legislation to the floor has been bipartisan in its entirety.

The members of the full committee, the subcommittee, and of the leadership of both of those institutions deserve great credit for the hard work, for the effective, capable, dedicated, and decent way in which this legislation has been assembled.

Mr. Speaker, the country deserves to know of the work of these wonderful men and women, and also deserves to have the opportunity to express the thanks that they properly should feel for milestone legislation which is going to restructure the entirety of American telecommunications for the benefit of all the people. This is a day which we should celebrate, and I commend my colleagues. I thank them for the hard work which they have done.

Mr. FIELDS of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. MOORHEAD], our ranking minority member.

Mr. MOORHEAD. Mr. Speaker, I rise in strong support of H.R. 3636, the National Communications Competition and Information Infrastructure Act of 1994. This legislation is an important step in bringing a 60-year-old communications statute—the Communications Act of 1934—into the 21st century.

H.R. 3636 provides the statutory framework for the provision of new and advanced telecommunications services to the American people. In short, it lays the groundwork for the much talked-about information superhighway.

The bill accomplishes this goal by promoting competition and deregulating where appropriate. First, H.R. 3636 opens up local exchange telephone service to competition.

By opening up the local loop, H.R. 3636 brings an end to monopolies in the local telephone market. Consistent with this action, the bill also declares an end to monopoly regulation by mandating the abolition of rate-of-return regulation for local telephone service.

H.R. 3636 also achieves competition in the video marketplace by permitting telephone companies to provide video programming within their service areas. The bill also encourages the development of a vibrant video programming market in other ways. For example, the bill gives broadcasters the flexibility to use their assigned spectrum in a variety of ways.

Finally, the bill encourages access to the information superhighway to all program providers on reasonable terms and conditions. The bill also seeks to promote the provision of advanced telecommunications services to all Americans seeking such services.

Mr. Speaker, this bill is an example of the kind of legislation the American people expect us to pass. From the very start, the complicated issues underlying this bill were addressed in a bipartisan and orderly manner. The Subcommittee on Telecommunications and Finance, under the leadership of Chairman MARKEY and Congressman FIELDS held seven hearings, receiving testimony from over 50 witnesses. The subcommittee and full committee examined over 200 amendments.

Through bipartisan cooperation, this bill was reported unanimously out of the Energy and Commerce Committee on a 44-to-0 vote. This vote reflects the hard work put in by Chairman DINGELL, Chairman MARKEY, Congressmen FIELDS, OXLEY, BOUCHER, and others in drafting the bill and perfecting it during the committee process.

Mr. Speaker, for all these reasons, I urge my colleagues to join me in supporting H.R. 3636.

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Mr. MARKEY. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. BOUCHER].

Mr. BOUCHER. Mr. Speaker, with the passage of these bills we will enact the largest reform in telecommunications law and policy in the 60-year history of the 1934 Communications Act.

One of our goals is to bring competition to industries that are now monopolies.

Telephone companies will be free to offer cable TV inside their telephone service territories.

Cable companies and others will be granted the right to offer local telephone service, bringing to consumers the same choices in local telephone services that they have today with long distance.

The Brooks-Dingell measure will make noncompetitive the markets for more long distance and the manufacture of equipment.

This new competition will produce tangible benefits:

Consumers of Cable TV and telephone services will receive the benefit of better prices set by a competitive market.

The ration will receive the benefit of a vastly improved network, as telephone and cable companies deploy fiber optic lines, other broadband technology and more capable switches to facilities the simultaneous offering of voice, television and data over the same lines.

And this is the means by which we will obtain deployment in the Nation of the world's most modern network. The rational information infrastucture will be deployed not through the expenditure of government funds but by giving private companies the business reasons to put new networks in place.

The legislation we will pass today provides those business reasons. It brings down the barriers that have preserved monolopies and inhibited competition.

The result will be an avalanche of new business investment, as communications companies install new networking technology to bring entertainment, information, and new business opportunities to homes and offices throughout the Nation.

Another of our goals is to preserve the concept of universal service, the structure of which is threatened as competition comes to local telephone service. By imposing a proportionate universal since funding responsibility on all local telephone competitors, we sustain for the future a proud American tradition in which 96 percent of our citizens have local telephone service.

A third important goal is to create a fair and level arena for all communications companies. We are freeing television stations to offer voice and data as well as TV services. We encourage wireless technology as a full participant in the provision of multimedia services, and we create a fair pale attachment rate equally applicable to all competitors.

I have been honored to work with the members of the Telecommunications Subcommittee in creating these reforms. I particularly want to commend the gentleman from Massachusetts, [Mr. MARKEY] for his leadership, guidance, and persistence. It is not easy to create a broad consensus involving issues of this complexity, but he has presided over a highly constructive process that has achieved that goal.

I also want to commend my friends JACK FIELDS and MIKE OXLEY for their excellent work. The superb bi-partisan cooperation which they have provided is yet another reason that the Energy and Commerce Committee is so successful in crafting for reaching reforms that come to the floor without controversy.

For 3 years, Mr. OXLEY and I have worked to remove the barriers to competition in the cable TV industry, and as we pass the bill which accomplishes that result, I thank him for his splendid cooperation.

Mr. Speaker, I am pleased to cosponsor these constructive reforms and to urge their passage by the House.

They will create millions of jobs, stimulate billions of dollars of investment, and bring to the United States the world's finest communications network.

Mr. MARKEY. Mr. Speaker, will the gentleman yield?

Mr. BOUCHER. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Speaker, section 107 of H.R. 3636 amends the Pole Amendment Act (47 U.S.C. 224). This amendment is intended to ensure that all attachments bear an equitable share of the costs of a pole or conduit. In its current form, however, the formula mandated by section 107 requires more than a proportionate share of the costs from those who are not owners or co-owners of the poles and conduits. I would like the agreement of the ranking minority member of the Telecommunications Subcommittee and the gentleman from Virginia to work with me to fashion an amendment that reflects this distinction.

Mr. FIELDS of Texas. Mr. Speaker, will the gentleman yield?

Mr. BOUCHER. I yield to the gentleman from Texas.

Mr. FIELDS of Texas. Mr. Speaker, I would be pleased to work with the chairman. As currently written, the pole attachment language of H.R. 3636 could triple or quintuple the pole attachment fees paid by cable operators when they begin to offer telecommunications services. Such a result is not only inequitable, it will discourage operators from constructing and operating telecommunications facilities. I am confident we can devise a means of preventing this outcome while ensuring that the owners of poles and conduits are adequately compensated for use of their facilities.

Mr. BOUCHER. Mr. Speaker, I would say to the gentleman from Massachusetts and the gentleman from Texas that I am pleased to join with them in revisiting the pole attachment provisions. While I am reserving judgment as to the substance of the matter, I will be pleased to work with them in crafting some modification of the current provisions.

Mr. FIELDS of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. OXLEY], a Member who has worked very hard on this particular piece of legislation.

Mr. OXLEY. Mr. Speaker, I rise today in strong support of the National Communications Competition and Infrastructure Act of 1994. As Members know, this legislation will accelerate the construction of the information superhighway. It will promote competition in local telephone by allowing cable companies to provide telephone service, and will promote competition in the cable industry by enabling telephone companies to offer video services. I want to praise Chairman MARKEY, Congressman FIELDS, and every member of our Energy and Commerce Subcommittee on Telecommunications and Finance for the long hours of work they put into crafting this legislation.

What makes this significant legislation possible is the clear consensus which has emerged in favor of competition, deregulation, and entrepreneurialism. The approach that this measure takes toward the development of the telecommunications supersystem is one that I have endorsed for years. By lifting market-entry prohibitions and reducing government regulation we will ensure that American consumers are served with the most advanced telecommunications system in the world. Equally important, I am confident that by providing competition in the video service industry, this measure will give consumers the cable rate relief that the 1992 cable act did not.

I would like to add that while advancing private competition and deregulation are traditionally Republican themes, I was joined in my early efforts to promote this approach by a clear-thinking Democrat, the gentleman from Virginia, [Mr. BOUCHER].

Mr. Speaker, what this measure seeks to do is end the virtual monopolies that exist in the video programming and the local telephone markets. It is revolutionary legislation, and I urge all my colleagues to support it.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, I rise today in support of H.R. 3636, the National Communications Competition and Information Infrastructure Act of 1994.

This bill, and its companion, H.R. 3626, represents the critical push we need to bring jobs, innovative technology, and services to Oklahoma and the Nation well into the next century. The growth and implementation of the national superhighway bodes well for the citizens of my State, where we expect to gain a healthy share of the 3.6 million newly created high-skill, high-wage jobs, a broad selection of consumer, telemedicine, and educational services for rural areas, and the ability to export Oklahoma-made goods to world markets in the future.

The National Communications Competition and Information Infrastructure Act builds upon principles that I have promoted since we began hearings on the bill. These essential elements include a commitment to universal service for all Americans, whether rural or urban, development of networks that are open and reliable, proper cost allocation between consumers and competitors, and effective FCC enforcement.

The importance of giving all Americans access to the information highway, and the host of educational, health, economic, and quality of life benefits it will provide, cannot be understated. As a nation, and a government, we must not bestow the benefits of the information highways on some, and deny others, just because they live in out of the way places or in poor urban neighborhoods. Our work on this issue must be done with great care and compassion, for real social disruption could result if we do our job poorly.

In listening to the debate over how to provide and upgrade universal service in a rapidly changing telecommunications environment, I developed three core principles for evaluating the proposals before us. First, to echo title I of the 1934 communications act, all the people of the United States must get service at a reasonable charge. Second, the quality of the service must be available to all on equal basis, regardless of geographic location or economic station. And third, the service must be provided in a prompt fashion to all citizens—no area of the country should be left off the information highway for any length of time.

The bill before us today is a good starting point for addressing the principles I have raised. On several key issues, however, such as the definition and the funding of universal service, the bill gives basic authority for these decisions to a Federal-State Joint Board. I have some concerns about delegating such broad authority for such essential issues to this Board, and I will be looking forward to overseeing the progress in these areas.

Along these lines, I am pleased to note that the bill contains specific provisions to ensure rural areas are not left behind as the private sector moves forward to deploy new technology to consumers. As drafted, the exemptions allow the Commission to apply initially equal access and interconnection requirements specifically to rural providers only when they would not be unduly burdensome and economically unfeasible. We recognize in this legislation something that rural telephone and cable consumers in Oklahoma have known for a long time: that new entrants to a market often face tremendous obstacles if they must compete against an entrenched service provider. The goal of this rural package is to encourage competition in these markets so that residents get new services quickly and at lower prices.

It is important to remember that the future cost of our national infrastructure should not be borne by rate payers who remain captive to regulated industries. People who want only a Chevy should not have to pay the cost of a Cadillac. Certainly, consumers with new demands for upscale, integrated services expect to bear the proper and equitable cost of such services if they select them. Moreover, providers that use the telecommunications network to reach their consumers should pay for all the direct costs such services incur, as well as a reasonable share of the joint and common costs of the network. The bottom line is this: as technology advances, we are clearly going to encounter a declining cost industry, and the appropriate savings from these efficiencies should be reflected in a consumer's phone bill.

We ensure this goal by providing specific language in the legislation prohibiting cross subsidization between a common carrier's telephone exchange service and a common carrier's other nonregulated activities and investments. Cross subsidization occurs when a telephone company uses revenues derived from captive ratepayers to subsidize the company's nonregulated business ventures. The effect of this practice is twofold: the cost of service to ratepayers increases and the telephone company's nonregulated business ventures receive a comparative competitive advantage over their rivals in those businesses.

However, it is difficult for regulators to properly enforce these cross-subsidy prohibitions without making sure a rigorous cost allocation scheme is in place. Unless, and until, the costs incurred by the telephone company are properly allocated between the regulated entity and the nonregulated entity any cross subsidization regulation cannot be effectively enforced. My amendment, offered and adopted in full committee, puts real teeth into the original cross-subsidy prohibition by including cost allocation language that empowers the FCC to audit telephone exchange providers to make sure that consumers are fairly charged for the services they receive.

Enforcement of any regulatory structure rests on the ability of the agency in charge to get the job done. That is why I also offered, and the full committee adopted, an amendment to ensure that the FCC can use its authority given under the 1993 budget act to collect fees from the industry it regulates and target them to augment the FCC's sorely understaffed auditing, rulemaking, and legislative review functions. The estimated cost for the FCC's implementation of H.R. 3636 is $44 million in 1995, and up to $30 million each year thereafter. This amendment will enable the Commission to get a head start on defraying its administrative costs upon enactment, so that taxpayers aren't solely responsible for bearing these expenses.

Finally, Mr. Speaker, we must remember that a locked door without a key cannot be opened and the opportunities inside cannot be enjoyed. Universal service, proper cost allocation, and effective enforcement are the keys to the information highway for all Americans. I look forward to reaching these goals as we move forward on final passage of the legislation in this Congress.

Mr. FIELDS of Texas. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, I rise in support of the bill and especially want to thank the committee for their protections for the deaf and the hard of hearing section that is included in the bill.

Mr. Speaker, I rise in support of H.R. 3636 and H.R. 3626, legislation which will establish new telecommunications policy for our Nation and help move our Nation forward into the 21st century. Congressmen DINGELL, BROOKS, FISH, MOORHEAD, and FIELDS are to be commended for their efforts to forge compromise legislation which will increase competition within the telecommunications industry and which will bring new goods and services to consumers across our country.

These bills contain necessary policy reforms that are required to bring our Nation's telecommunications policy up to date with both the changing technologies and the changing marketplace. Both the technologies and the marketplace have completely bypassed existing telecommunications policy to the detriment of our Nation's economy and to our constituents.

In addition, I note with particular interest the support of the disabled community for these measures. I commend the authors of this legislation for requiring that Bell Company manufactured equipment and advances in network services be accessible to people with disabilities as outlined in section 229 of H.R. 3626. Title IV of the Americans with Disabilities Act has made the voice telephone accessible to people who are deaf or hard of hearing through the establishment of telephone relay services. And H.R. 3636 assures that individuals who are deaf will enjoy more complete access to cable programming, as much more of it would be captioned. Gallaudet University's Mark Goldfarb and Dr. Margaret Pfanstiehl of Metropolitan Washington Bar testified that these access provisions are long overdue.

I agree and urge my colleague to support provisions that, like those in H.R. 3626 and H.R. 3636, provide deaf and blind Americans the equal access they deserve.

Mr. FIELDS of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Speaker, as an original cosponsor of H.R. 3636, the National Communications Competition and Information Infrastructure Act of 1994, I rise in support of this legislation. In a nutshell, this legislation has two major objectives: First, to open up the local telephone loop within 1 year to enable new entrants to compete for local exchange service with the incumbent telephone companies and, second, to permit cable and telephone companies to compete in each other's business.

This bill reflects not only good public policy, but also the commendable efforts of our colleagues Chairman MARKEY and ranking Republican member, Mr. FIELDS, to achieve what has been appropriately described by some as the "impossible dream."

As the legislative process proceeds, we need to remain vigilant to ensure that all industries will be able to fully compete with each other as quickly as possible and with the fewest regulatory constraints. Where regulation occurs, it should be equivalent regulation so that every player is required to be regulated in a similar manner as they strive to gain market share from the other. We should guarantee that asymmetrical treatment of new entrants in the marketplace is eliminated.

Finally, Mr. Speaker, I believe that America is standing on the brink of a new information age. At stake today is whether our constituents—individual consumers—are allowed to enjoy the fundamental benefits of enhanced choice and access. Accordingly, I urge my colleagues to vote "yes" on H.R. 3636.

□ 1400

Mr. MARKEY. Mr. Speaker, I yield 1½ minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, today I rise in support of H.R. 3636, the National Communications Competition and Information Infrastructure Act of 1994. This comprehensive piece of legislation has been a long time in the making and it is rewarding to see it come to floor with such bipartisan support. I congratulate our colleagues on both sides of the isle for keeping their focus on the merits of this legislation. We are on the verge of entirely new industries and ways of communicating. H.R. 3636 points us in the right direction.

I am proud to have played a part in the evolution on this monumental legislation. The process that has brought this bill to the floor has been receptive to many important concerns. From universal service to public access, H.R. 3636 addresses the abundance of concerns relative to delivering telecommunications services. I am particularly pleased that H.R. 3636 addresses specific concerns with regard to rural areas, minorities, information redlining, programming access, and public, educational, and governmental access.

Rural issues are of great concern to me and I was pleased to support provisions to ensure universal service and infrastructure sharing for rural telephone companies. A progressive universal service plan is necessary to ensure that all Americans have access to the information superhighway and I am hopeful that all New Mexicans and Americans will soon be the beneficiaries of competition in the local telephone market. The costs associated with upgrading telecommunications systems to offer enhanced services is prohibitive for many smaller telephone companies and cooperatives. I am pleased to have supported an infrastructure sharing provision which will allow smaller entities to access the services of larger telephone exchanges.

I was pleased to include provisions regarding equal employment opportunities and information redlining. Minorities are seriously lacking as participants in the telecommunications industry. Today H.R. 3636 has language that would hold telephone companies that provide cable services to the same EEO standard as cable operators must now abide by. I think this is a small but important step toward equalizing the telecommunications playing field. As new telecommunications systems are built, an issue which will of continuing concern will be access, for all Americans, to new services. H.R. 3636 addresses my concerns regarding information redlining. The ability of providers of new services to discriminate against specific geographic areas on the basis of race or economic status is too great. I am pleased that the committee took a progressive step and made explicit that the FCC must take into account the demographic makeup of the proposed area to receive new services.

Cable television plays an important and growing part of the information superhighway. It is imperative that the legislation provide for a competitive marketplace for small cable operators. Small cable operators provide services to small populations in remote areas which larger operators have no commercial interest in serving. I am pleased that this legislation contains several, important provisions to provide for a competitive marketplace for small cable operators. For example, the legislation would preempt State and local barriers for new telecommunications services, prohibiting local government entities from overregulating cable's provision of telecommunications services. H.R. 3636 also allows for joint ventures, mergers, and acquisitions to occur in areas with populations of less than 10,000, or when a cable system serves less than 10 percent of the households in a telephone company's service area. While such provisions are a step in the right direction, I hope that additional issues will be addressed in the legislative process. For instance, franchise requirements for providers of cable services must be balanced so that everyone plays by the same rules. Additionally, interconnection and access requirements must be ensured so that small cable operators have fair and equal access to the information highway.

Lastly, I am pleased that H.R. 3636 addresses public, educational, and governmental concerns. If the information superhighway is going to serve our democracy then it is critical that these institutions have access to reach all Americans.

Again, I support this legislation and I urge my colleagues to do likewise.

Mr. FIELDS of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado [Mr. SCHAEFER].

Mr. SCHAEFER. Mr. Speaker, I rise today in support of H.R. 3636, the National Communications Competition and Information Infrastructure Act.

When my constituents in Colorado need a telephone line, there is only one company they can call to provide that service. When my constituents want cable service, again, there is only one company to provide it.

The consumer choice of all Americans is limited in the telecommunications market today. But that choice is not limited by technology. It is limited by outdated laws and regulations that were designed over the last 60 years.

For instance, in most States, it is illegal for anyone to provide an alternative to the phone company.

H.R. 3636 clears the way for competition—and thus more choice, lower prices, and better service—in all segments of the telecommunications marketplace.

By sweeping away the laws that prevent competition in both the local telephone and cable market, H.R. 3636 paves the way for the next generation of advanced telecommunications networks. This is truly a revolutionary bill and I urge all my colleagues to support it.

Before I finish, Mr. Speaker, let me also briefly address one aspect of H.R. 3636, the Dingell-Brooks legislation to lift the MFJ restrictions, which was just debated.

While I supported this legislation in committee and here on the floor, I strongly believe that the so-called domestic content provision of this legislation needs to be stricken from the bill at some point in the legislative process. I know keeping jobs in America is an emotional issue, but violating our free-trade agreements is not only bad policy and bad economics, it is also bad for American workers in the long run.

These bills show the great work that we on the Energy and Commerce Committee can and will do.

Again, please support H.R. 3636, the Markey-Fields bill.

Mr. MARKEY. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I would first like to commend, as other speakers have here today, the tremendous work that the chairman, the gentleman from Massachusetts [Mr. MARKEY], has done on this legislation, and the chairman, the gentleman from Michigan [Mr. DINGELL], and the ranking minority member, the gentleman from Texas [Mr. FIELDS]; all of you have done tremendous work on this, and you deserve all the kudos you are receiving here today.

Mr. Speaker, I rise in strong support of both of the bills that we are debating here today. These bills are truly essential to the construction of the Nation's information superhighway, this is landmark legislation.

Mr. Speaker, I am particularly pleased that H.R. 3626 would allow the regional Bell operating companies to get involved in manufacturing telephone equipment in this country. I introduced legislation 4 years ago, and it has taken us a long time to get to this day. I am pleased we are here. I think this legislation will create good paying jobs in this country.

I am also pleased that H.R. 3626 includes an amendment I offered to help thousands of community newspapers across the country have a better chance to get on board the information superhighway. The National Newspaper Association believes this legislation is critically important to the future of many small-town community newspapers. It is important because it guarantees them fair access and fair rates when accessing the information highway.

This legislation gives them nothing less than a license to their future. Without it, they could be ignored or actually driven off the information superhighway. These newspapers often provide the social, political, and economic ties that bind communities together. Many are going through tough times. They face competition and disappearing ad revenue. Now, at least, they can face the electronic future with confidence that if this bill becomes law they can compete for their fair share.

Mr. Speaker, in addition, in keeping with the spirit of the Americans with Disabilities Act mandate to bring about the complete integration of individuals with disabilities into the mainstream of our society, H.R. 3636 and H.R. 3626 would ensure that advances in network services deployed by local exchange carriers are available to all our citizens.

Mr. FIELDS of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. MCMILLAN].

Mr. MCMILLAN. Mr. Speaker, I rise in support of H.R. 3636. Along with H.R. 3626. This legislation lifts the restrictions that have long blocked a diverse competitive telecommunications industry. Not only will the competition reduce prices, enhance quality, and offer broader choices for the American consumer, it will create the incentives for industry to finance and build the information highway of the future.

That is the purpose of H.R. 3636: "to make available a switched, broadband communications network." And I commend Chairman MARKEY for including an amendment that directs the FCC to collect information on the rate at which this network is deployed. This will allow policymakers to make sure that the intent of Congress is being achieved.

Toward this goal, I do have a concern with the antibuyout provision in H.R. 3636 which will slow down the creation or a competitive marketplace and the construction of broadband network. By prohibiting telephone company acquisitions of cable companies in their respective territories, this bill will deter the natural convergence of voice and video technology and thereby slow the creation of a multimedia, interactive system that could potentially bring a host of combined services to the public. If H.R. 3636 adequately ensures that all program providers will have access to a telephone company's video platform, do we really need an antibuyout provision to guaranty competition—a provision that may, in fact, impede progress. I hope this can be worked out in conference.

Overall, however, I strongly support H.R. 3636 as a full step toward the completion of the information superhighway and the creation of its competive marketplace.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentleman from Washington [Mr. SWIFT].

□ 1410

Mr. SWIFT. Mr. Speaker, I am proud today to say that ED MARKEY and JACK FIELDS are my friends, because today anyone who is a friend of these two gentleman is going to bask in the reflected glory of this magnificent accomplishment, bringing this very progressive piece of legislation to the floor.

The time has come to update the 1934 Communications Act to recognize new realities and technology and competition, and this bill does that.

I am pleased that the bill has incorporated an amendment to the public access provision that tightens the definition of eligible nonprofit institutions.

I want to thank the gentleman from Louisiana [Mr. TAUZIN] and his staff for their help in crafting this amendment.

As author of this provision, I did not intend to place unreasonable economic or technical burdens on carriers providing advanced telecommunications services, but I do expect that such carriers will make all necessary good-faith efforts needed to implement the goals of this provision.

Again, I commend this legislation to all of my colleagues. It is an outstanding piece of work.

Mr. FIELDS of Texas. Mr. Speaker, I yield 30 seconds to the gentleman from New York [Mr. PAXON].

Mr. PAXON. Mr. Speaker, I rise in support of H.R. 3636. Two years ago Congress took what I consider a step backwards by enacting the Cable Act, which through overregulation led to consumer confusion, increased paperwork burdens, and higher rates in some instances.

Fortunately, Congress has learned from its mistake and is now pursuing a policy of competition rather than regulation. Only by increasing competition in the local telephone lop and the cable industry will Americans see the private creation of an information superhighway. Competition will also provide consumers and business with new and innovative services and technology at a reasonable cost.

In conclusion, Mr. Speaker, I am pleased to support H.R. 3636, which will move the telecommunications industry from its regulated past into the competitive 21st century.

Mr. FIELDS of Texas. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. HORN].

Mr. HORN. Mr. Speaker, I commend the chair and ranking Republican on both the full committee and the subcommittee for this outstanding legislation, H.R. 3636, and urge its strong support. I think it is a splendid accomplishment. It is seldom we have that much bipartisanship, and this committee has set a good example.

A number of us sent a letter to the chairman of the full committee expressing the concerns of local government. Mr. MARKEY'S very fine reply where he reaffirmed the "local governments' rights to impose fees identical to the cable operator's fees on a telephone company's provision of video programming," was reassuring, my views on this legislation reflect a number of local governments such as the city of Los Angeles, Downey, Long Beach, and Signal Hill which are part of my congressional district.

Mr. Speaker, H.R. 3626, the Antitrust Reform Act, and H.R. 3636, the National Communications Competition and Information Infrastructure Act, represent the most sweeping telecommunications reform since the breakup of AT&T. What the House does today is to construct the structural framework for the revolutionary changes which have already begun changing the telecommunications field. The framework we erect today will provide for a level playing field so that competition can occur in a manner that benefits the everyday consumer while bringing new technologies into that same person's home. But passage of these bills does not mean that all pertinent issues have been resolved. Today's votes represent a means to move the process forward, so that we may send these bills to the President before the legislative session comes to a conclusion.

The issue in question, which is contained in H.R. 3636, primarily revolves around the treatment of municipal franchising authority and the new, possibly restrictive definition of cable services in the bill. In particular, I am concerned that the language of the amendments of Messrs. FIELDS and SCHAEFER that were accepted by the committee may have the unintended, and unfortunate, result of depriving our Nation's municipalities of badly needed revenue that they need to carry out the vital governmental duties they perform.

For instance, section 102(b)(2) of H.R. 3636 amends the franchise fee provision of the Cable Act to limit the revenue base on which franchise fees may be based to only those revenues an operator derives from providing cable services. According to current law, a franchising authority is entitled to 5 percent of all revenues derived from operations of a cable system. Because the term "cable service" is already defined in the Cable Act for purposes completely unrelated to its use in H.R. 3636, my concern is that section 102(b)(2) could be construed as restricting cable franchise fees only to the revenues a cable operator receives from subscribers. That is a far narrower revenue base than the Cable Act currently allows, and would deprive municipalities of the many nonsubscriber revenues a cable operator earns, such as advertising and home shopping revenues. Many municipalities across the Nation are currently receiving, and relying on, franchise fees paid by operators that include such nonsubscriber revenues. I certainly hope that it is not the intent of this legislation to deprive our municipalities of funds they are currently receiving. This issue is particularly important, since nonsubscriber revenues are the fastest growing form of cable operator revenues.

I am also concerned that the language in section 102(b)(1) may be construed as preventing municipalities from securing the full benefits for the public of any new services that cable operators may provide. Many communities have negotiated franchises with cable operators under which the cable operator furnishes institutional networks for use by schools and local governments. These are valuable resources for our schools, our children, and our local governments. I certainly hope that it is not the intent of this legislation to forbid or preempt these arrangements.

The parity of franchise and other changes provision in section 102(a) also raises similar concerns. The drafters of this provision seem not to be aware that pursuant to applicable State law, many municipalities have issued franchises to telecommunications providers to use their local rights-of-way, and municipalities rely on revenue from those providers in their budgets. Once again, I hope it is not the purpose of this provision to deprive our already financially strapped municipalities of further revenues. There is an important question as to whether or not it is proper for the Federal Government to require local municipalities to allow private companies to use their valuable public rights-of-way for free.

In conclusion, these issues need adequate debate and consideration. I look to the product of the House-Senate conference for improvements and clarity on these issues. Finally, I am providing for the RECORD two documents. The first is a letter to Chairman DINGELL signed by myself and a number of my California colleagues. It raises a number of these issues. The second is the response to that letter by Chairman MARKEY.

HOUSE OF REPRESENTATIVES,
Washington, DC, June 23, 1994.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, House of Representatives, 2125 Rayburn House Office Building.

DEAR MR. CHAIRMAN: City and county governments in California have successfully franchised cable television according to the provisions of the Cable Act for many years. We are concerned that H.R. 3636 does not contain a similar franchise requirement for telephone companies wishing to offer cable services and urge that you include such a provision as an amendment to H.R. 3636 when it comes before the full House for consideration.

The public rights-of-way, owned by local governments on behalf of local taxpayers, are worth billions of dollars and should be controlled by the city and county governments which build, own and maintain them. As the Cable Act requires, the best way to do this is to subject a provider of cable service to the franchise requirement. The telephone companies (telcos) which want to offer cable need to be covered by a franchising process at the local government level. Local governments want nothing more and nothing less than what they currently have in their relationship with the cable companies.

We also urge that H.R. 3636 be amended to remove provisions that restrict the right of local government to control local rights-of-ways and to collect appropriate compensation for the use of such rights-of-way. In particular, we are concerned with the provisions that: (a) strip local governments of the right to ensure telecommunication providers use public rights-of-way in a safe and reasonable manner and pay appropriate compensation for that use; and (b) limit the right of local governments to impose cable franchise fees on the provision of telecommunication services over a cable system, and to ensure that provision of such services are consistent with the public interest.

Local governments in California are eager for competition to traditional cable operators and the development of new telecommunication services, but want to be able to control the rights-of-way and ensure that competition is done on a level playing field. City and county officials and the members of the California delegation want to see the information superhighway built. Local governments should receive reasonable compensation for the use of public assets, should be able to ensure that transportation is not disrupted, and guarantee that the needs of the entire community are served by the new information superhighway. It is important that the new information superhighway fits the needs of the local community which it serves rather than simply the desires of the telephone, cable and telecommunications industries.

Thank you for your consideration in this matter.

Sincerely,

Pete Stark, M.G. Martinez, Ronald V. Dellums, Stephen Horn, Lynn Woolsey, Nancy Pelosi, Don Edwards, George Miller, Tom Lantos, Dan Hamburg, Julian C. Dixon.

COMMITTEE ON ENERGY AND COMMERCE, SUBCOMMITTEE ON TELECOMMUNICATIONS AND FINANCE,
Washington, DC, June 27, 1994.

Hon. STEPHEN HORN,
1023 Longworth House Office Building,
Washington, DC.

DEAR STEVE: As sponsor of H.R. 3636, and as Chairman of the Telecommunications and Finance Subcommittee, I would like to take this opportunity to address the concerns you and several colleagues raised in a letter to Chairman John Dingell dated June 23, 1994. The letter addressed the role H.R. 3636 accords the cities in regulating telecommunications services.

The letter raised three major concerns with the provisions of H.R. 3636 that affect local governments' jurisdiction. The first was a concern that H.R. 3636 would "strip local governments of the right to ensure telecommunication providers use public rights-of-way in a safe and reasonable manner * * *." While this may well have been a concern with earlier drafts of H.R. 3636, the version of H.R. 3636 that will be voted on by the full House this week includes express language that reaffirms cities' jurisdiction over all activity that affects their rights-of-way. Authority over public rights-of-way is crucial to local governments and is effectively preserved in the bill.

The second concern raised in your letter was with the bill's "limit[ation of] the right of local governments to impose cable franchise fees on the provision of telecommunication services over a cable system * * *." This is a question that has caused some confusion in recent months. First, H.R. 3636 actually affirms local governments' rights to impose fees identical to the cable operator's fees on a telephone company's provision of video programming. Local governments do not currently have this authority and some have complained that telephone companies have refused to pay such a fee. Requiring that telephone companies pay equivalent fees puts them on precisely the same footing as cable companies in their future competition for cable subscribers.

H.R. 3636 does not, however, require cable companies to pay franchise fees on telephone services. Cities have never had the power to impose such fees on telephone companies. For the past 60 years, states and the federal government have traditionally been the primary regulators of telephone service. H.R. 3636 ensures this will continue to be the case, both for telephone companies and cable companies. If this were not so, as you seem to recommend, telephone companies would have an inherent, governmentally-mandated advantage over cable companies that wish to compete for their telephone customers.

Finally, you state your concern that H.R. 3636 does not give local governments a franchise over telephone companies' provision of cable service. The reason H.R. 3636 does not do this is because of the fundamental difference between the architecture of telephone networks and cable networks. Cable systems grew up as a local service within discreet communities. They typically do not extend beyond municipal boundaries nor do they typically interconnect with other systems within a state or region. In contrast, telephone systems have developed into statewide or regional networks. To require telephone companies to restructure their networks in order to respond to each community's requirements would effectively Balkanize today's regional networks, raising costs to consumers and delaying the arrival of new, advanced services.

Instead of imposing a franchise, H.R. 3636 imposes a wide range of requirements on telephone companies that closely track requirements that are currently imposed on cable companies. For example, H.R. 3636 assures local governments of: (1) the functional equivalent of a franchise fee (up to 5% of video revenues); (2) public, educational and governmental access channels similar to those available on cable systems; (3) authority to enact consumer protection and customer service requirements; (4) oversight authority over the ownership of local video programming networks in certain situations; and, (5) authority to enact local privacy laws consistent with federal law. In this way, local governments will continue to have significant influence over telephone companies, provision of video without forcing them to restructure their networks.

It is important to point out that H.R. 3636 contains important safeguards and authorities for local governments that they do not currently enjoy. The Subcommittee office has been contacted by cities who have requested exactly these kinds of powers to help them in their dealings with powerful telephone and cable companies. If H.R. 3636 is not passed this year, cities will have little protection for the foreseeable future from telecommunications providers who have no statutory obligations vis-à-vis local governments.

Even though the provisions of the legislation do not coincide perfectly with some of the recommendations of local governments, H.R. 3636 represents a balanced, comprehensive telecommunications policy framework that should meet local governments' needs for the foreseeable future. As the 44–0 vote in the Energy and Commerce Committee indicates, there is a broad consensus in the approach this legislation takes. Passage of H.R. 3636 will be a vital and important step toward accelerating the development of the national information infrastructure and considerably increasing franchise fees available to local governments, while ensuring a competitive telecommunications marketplace that will benefit all Americans. Please feel free to contact me with any further concerns or questions about this important legislation.

Sincerely

EDWARD J. MARKEY,
Chairman.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina [Mr. DERRICK].

Mr. DERRICK. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of H.R. 3626. One thing which directly affects new investment and jobs creation is the perception of fairness. Companies don't invest, they don't create new jobs with a future when they are not sure the Government will treat them fairly. So, one thing we in Congress always need to do is stress the fact that we are all committed to fairness, and we also expect regulatory agencies such as the Federal Communications Commission to be fair, too.

That is important because there are some unanswered questions presented by this bill. For instance, it is not clear that telephone companies competing with cable TV will have the same flexibility the cable companies now enjoy. It is also not clear that if the cable companies chose to go into the telephone business, they will bear the same universal service obligations which we have placed on the phone companies.

Key provisions of H.R. 3636 could be construed as justification for tilting the playing field. And, the problem with that isn't just fairness—rather, it is also the potential negative effect that could have on future jobs creation and investment.

I want to review each and every such provision of H.R. 3636, but, I do think it is important for Congress to make clear to the regulators as well as the investment community that it wants regulation to be fair and evenhanded here.

We do not want to have the sort of situation develop where cable companies have a great deal of pricing flexibility, but phone companies trying to compete with them do not. We want both to face basically the same regulatory options.

In short, we want both the perception and the reality of fairness, because that's key to new investment and jobs creation, and delivering the competition American consumers want and expect.

Mr. FIELDS of Texas. Mr. Speaker, I yield 30 seconds to the gentleman from Tennessee [Mr. QUILLEN].

Mr. QUILLEN. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of H.R. 3636, and I encourage my colleagues to vote for it. The bill that was just discussed prior to H.R. 3636, that is, H.R. 3626, I support that and urge my colleagues to vote for it. I congratulate the chairmen and the ranking members of both committees for bringing this much-needed legislation to the floor of the House. Our information highway system will be greatly improved as a result of the passage of these measures.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Speaker, I thank the gentleman for yielding this time to me.

Chairman MARKEY, I first would like to commend you, along with the distinguished gentleman from Texas, [Mr. FIELDS] and the Telecommunications and Finance staff for the hard work and long hours you have all spent crafting this legislation and moving it expeditiously to the floor today. Your earnest efforts have resulted in a bill that, while not flawless, certainly will help pave the roads of the information superhighway with increased competition and assist in promoting greater economic opportunities for more Americans as we head into the 21st century.

I am particularly pleased that the bill before us contains interoperability language that I supported and Mr. MARKEY agreed to include in his en bloc at the full committee markup of this legislation. This language will provide many new manufacturers, who do not provide subscription services, with the ability to offer telecommunications equipment or hardware to consumers, expanding consumer choice, and enhancing competition.

In reflecting on the momentous changes occurring virtually every day in the telecommunications arena, I find it absolutely astounding that a little over 100 years ago, in my city of Chicago, the first multiple telephone switchboard in the Nation was being installed. Just as we in Congress look forward to the day in the near future when all homes, businesses, schools, and hospitals are linked by networks that will provide groundbreaking services such as telemedicine as a matter of course, so too were the community leaders of Chicago in 1879 anticipating the tremendous benefits that eventually came from the expanded deployment of telephone service throughout their region of the country.

Yet in looking forward to the opportunities presented by emerging technologies, we cannot disregard the lessons of the past and the hurdles we still face in ensuring that everyone in America plays a part in the communications revolution now underway. I refer to the well-documented fact that minority and women-owned small businesses continue to be extremely underrepresented in the telecommunications industry.

The statistics speak for themselves. The cellular telephone industry, which generates in excess of $10 billion a year, has a mere 11 minority firms offering services in its market. Overall, barely 1 percent of all telecommunications companies are minority-owned. Of women-owned firms in the United States, only 1.9 percent are involved in the communications field.

The two amendments which I offered and were adopted by the full committee will go a long way toward leading to the diversity of ownership in the telecommunications marketplace. The first amendment will require a rulemaking on the part of the Federal Communications Commission, after consultation with the National Telecommunications and Information Administration, on ways to surmount barriers to market access, such as undercapitalization, that continue to constrain small businesses, minority, women-owned, and nonprofit organizations in their attempts to take part in all telecommunications industries. Again, underlying this amendment is the obvious fact that diversity of ownership remains a key to the competitiveness of the U.S. telecommunications marketplace.

My second adopted amendment which is intended to increase the availability of venture capital and research and development funding for both new and existing small, women, and minority-owned companies will require all telecommunications providers to annually submit to the FCC their clear and detailed company policies for increasing procurement from business enterprises that are owned by minorities and women in all categories of procurement in which these entities are underrepresented. The FCC would then report to the Congress on the progress of these activities and recommend legislative solutions as needed.

As an aside, I am hopeful that when the FCC adopts its final licensing rules tomorrow for small business, minority, and women-owned firms to participate in auctions of broadband radio spectrum for a new generation of wireless technologies, known as personal communications services or PCS, it understands that this Member of Congress is watching closely to see that the goal of diversity of ownership in PCS is sufficiently advanced.

Hopefully, however, with several of the targeted provisions included in this bill, we can begin to eradicate the inequities present in the telecommunications arena and ensure that minorities and women are drivers, not simply passengers, in the superhighway fast lane. Too often in the past, these groups have been left standing on the shoulder, only to watch the big guys and gals motor down the road past them.

While my measures do not completely solve the long-standing problems that confront so many forgotten entities and enterprises in our communities, their inclusion in H.R. 3636 ensures that minorities and women will have a strong role in the fantastic industries of the future as both users and providers of services. Because of this, we all stand to benefit.

I strongly urge my colleagues to support H.R. 3636.

Mr. FIELDS of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. I thank the gentleman for yielding this time to me.

Mr. Speaker, as mayors across this country have indicated, the U.S. Conference of Mayors, the National League of Cities, they are concerned about this legislation and what it is going to open up, whether the local cable franchises can survive. They also have a stream of income from franchise fees and they have certain controls over programming that is required of the cable franchises.

My concern is that the newcomer, the telephone companies, would have those same controls. I would like to ask the gentleman from Texas these statements and inquire how he would address the concerns of the mayors across this country.

Mr. FIELDS of Texas. Mr. Speaker, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from Texas.

Mr. FIELDS of Texas. I thank the gentleman for yielding to me.

Mr. Speaker, I would agree this legislation does not prejudice the cities to assess franchise-like fees on telephone companies when they offer cable service. Additionally, cities clearly retain control over the streets, should they adequately let cable, telephone and other providers lay their networks in the ground. Further, telephone companies would, under this bill, comply with the peg requirements, broadcast of public education and local Government programming.

Mr. SHAW. In other words, there is clearly a level playing field and that there is no undue advantage given to telephone companies under this legislation.

Mr. FIELDS of Texas. Yes.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentlewoman from Arkansas [Ms. LAMBERT].

Ms. LAMBERT. I thank the gentleman for yielding to me. I rise today in strong support of H.R. 3636, the National Communications Competition and Information Infrastructure Act of 1994.

As a freshman and recognizing the many years of work that have gone into a piece of legislation like this on an issue like this, I am certainly pleased and I appreciate the willingness of the chairman to allow me to take a role and to play a small part on behalf of rural communities and rural America.

I join my colleagues in thanking the gentleman from Massachusetts, Chairman MARKEY, of the subcommittee as well as Chairman DINGELL of the full committee, for all of their efforts on behalf of everyone in this Nation, making sure that rural communities are recognized in equal opportunity, as well as in fairness. A special thanks for their support in adding amendments to keep telephone rates in rural areas low and protect small and medium-size phone companies from unfair competition.

It was important to note, especially from the chairman of the subcommittee, that it was equally as important to him that service in Turkey Scratch, AR, was just as important as in Boston, MA.

So, my thanks to the chairman for his willingness to allow us to help in forming this bill and for rural America and a special thanks from those in Arkansas and all of rural America. This bill represents an amazing opportunity for advancements in education and in telemedicine, among other things.

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from Massachusetts [Mr. MARKEY] has the right to close the debate.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. NEAL].

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Mr. NEAL of Massachusetts. Mr. Speaker, I take this opportunity to express my support for H.R. 3636, the National Communications Competition and Infrastructure Act of 1994 and for H.R. 3626, the Antitrust and Communications Reform Act of 1994. I have been closely involved with cable television issues for almost 20 years as a city council or, mayor, and now Congressman. It is clear at this point that major decisions need to be made to ensure that America continues to be the world leader in communications technology and service. These two bills will move Federal policy forward as we seek to create the best possible climate for our emerging communications future. I have long felt that we must always consider the consumer as we set cable television policy. H.R. 3636 is a solid consumer bills. If signed into law as currently written, this bill would: create positive competition for each cable household. While many cable subscribers are satisfied with their service, there are a great many areas, including my home city of Springfield, MA, where consumers have been greatly upset and confused by high rates and ever-shifting channels. The Cable Act of 1984 was designed to allow the cable television industry to grow and establish itself across the country. That has happened, but at a cost. The cable market monopolies have, unfortunately, led to high prices and poor service in some areas. The Markey-Fields bill encourages true competition by allowing telephone companies and others into the market. I believe the end result will be greater service selection and lower prices for the consumer, and hasten the arrival of the much-heralded "information superhighway." The information technology sector of the economy is posed to take off. H.R. 3636 will put into effect policies that will encourage the logical development of these new technologies and systems, and protect the role of local authorities as they seek to provide their citizens with the best possible cable television and telephone service.

Clearly these provisions are designed to foster the kind of competition that will benefit the consumer and America's position in the worldwide communications market. We have been a leader in this market; H.R. 3636 will help us remain a leader.

As for H.R. 3626, I believe this bill will also be a boost for the American consumer. The 1982 court case that created our current telephone system is out of date. This bill eases restrictions on true competition in the long-distance service sector. This bill is strongly supported by many disabled activists, educators, rural Americans, small business leaders and minority groups because of the opportunities that will open up if this measure is approved. It also will promote the development of new equipment and technologies as we build the information superhighway.

Both of these bills are the result of long and careful consideration. It is important that these steps be taken now, before we have a crisis in this flagship industry. I salute Chairmen MARKEY, BROOKS, and DINGELL, as well as Congressman FIELDS on crafting language that is logical, fair, and realistic. They are seeking to craft the future of communications as we head into a new century. I urge my colleagues to support both of these important measures.

Mr. FIELDS of Texas. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I just want to say to my colleagues that this is the most sweeping change since 1934, and I do not want my colleagues to lose sight of that because we are coming up on suspension today. There will be more telecommunication development and deployment in the next 5 years than there has been this century, and I would like to think much of that is enhanced and speeded because of this legislation.

Again, Mr. Speaker, I want to compliment our chairman. I do not believe we would be here today in this fashion without the leadership of the gentleman from Massachusetts [Mr. MARKEY]. I also want to compliment the staff on both sides of the aisle who labored diligently to bring us to this point today.

Mr. Speaker, I yield the balance of my time to the gentleman from Georgia [Mr. GINGRICH], our future leader and our current minority whip.

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair recognizes the gentleman from Georgia for 2½ minutes.

Mr. GINGRICH. Mr. Speaker, I thank the gentleman from Texas [Mr. FIELDS] for yielding this time to me.

Let me say first of all that I think in this Congress this is one of the best days for the legislative process, and I think that people should realize that the gentleman from Michigan [Mr. DINGELL] and his colleague, the gentleman from California [Mr. MOORHEAD], the gentleman from Texas [Mr. BROOKS] and his ranking member, the gentleman from New York [Mr. FISH], and the gentleman from Massachusetts [Mr. MARKEY] and his ranking member, the gentleman from Texas [Mr. FIELDS], as a team developed two bills which are right here, H.R. 3626 and H.R. 3636, which are both landmarks in terms of the future of American jobs and the future of American technology, and they are also, I think, a tremendous case study in a good legislative process that is genuinely bipartisan. Here are very sophisticated, very complex and very technical issues in which Members of both parties subordinated their partisanship to the effort to understand what the marketplace and the technology made possible and to try to truly craft historic legislation. I think it is fair to say that this is, in the case of H.R. 3636, a dramatic break from 60 years. This is the new benchmark, and it was done the right way. It was done by constant consultation, by staffs working together and by dealing with some very difficult issues by very persistent negotiations.

Mr. Speaker, I think the result of these two bills taken together, and they will be joined together and go to, hopefully, the other body, and we will produce by the end of this session, I hope, a landmark legislation that will truly create an opportunity for more jobs in America. The result is going to open up the marketplace so that more entrepreneurs can try out more new ideas to create more products, to build more jobs in America by delivering better services at lower costs to more people.

Now that is a remarkable accomplishment, and in the time that I have been in this Congress I do not know of many occasions where we have had as much bipartisanship, as much sophistication and as serious an effort to deal with very complex issues, and I simply want to commend both committees and the Members who worked on them, and I ask all of my colleagues to join in voting "yes" this afternoon on this historic opportunity.

Mr. MARKEY. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Massachusetts for 1½ minutes.

Mr. MARKEY. Mr. Speaker, a year and a half ago I sat up in the second last row, May 1993, and began a conversation with the gentleman from Texas about how we could fashion a piece of legislation that would be good telecommunications policy, good social policy, and good economic policy, and, beginning with that first conversation up in that back row of the Chamber, we proceeded not only speaking to ourselves, Mr. Speaker, but to other Members here in the Chamber and to hundreds of other interested parties across this country.

The legislation which we bring out here today is one which is going to open up enormous economic and technological opportunity for our country, not only to the well-known giants, the telephone companies and the cable companies, but in many ways, more importantly, to the software industry and computer industry of this country using the open architecture, set top box protections, which we build into this legislation so the fiberoptic networks which are going to be designed to the interactivity which is going to be constructed, to all of these technologies across this country, from the innermost neighborhoods of our country to the most distant, rural parts of this country, each and every American will be given access to these exciting technologies. It will be the most important part of the economy of this country in the world over the next generation.

With this legislation accompanying the Brooks-Dingell legislation, Mr. Speaker, we are going to lead this world and have an opportunity to capture a disproportionate share of the economic benefits. But at the same time we ensure that all Americans, poor, rich, rural and urban, all benefit from it, and we do it ensuring that the economic and social policies of our country continue to capture these technological advances.

I want to congratulate again my good friend, the gentleman from Texas [Mr. FIELDS]. I want to congratulate my counsel, Gerard Waldron, with Colin Crowell, with David Moulton, Mark Horan who worked with Winnie Loeffler, with Kristan Van Hook, with Steve Popeo, with all the rest of our staff, Mike Balmoris, with David Zesiger, with Mike Regan and with Cathy Reid on the minority side, and I want to, as well, thank Sara Morris who is back and watching this right now. It would not have been possible without her. David Leach and Johnnie Roski did the same work on the other piece of legislation. They are to be congratulated.

Mr. CRAPO. Mr. Speaker, I rise today to speak about the many tough and complex issues being addressed in the area of telecommunications policy through H.R. 3636, the National Communications Competition and Information Infrastructure Act. There are several competing interests at play in this formula for emerging telecommunications policy. And I admire the efforts of Telecommunications Subcommittee Chairman ED MARKEY and Congressman JACK FIELDS for their work in weaving together a consensus that serves the public interest.

Six years ago in Idaho the legislature, of which I was Senator pro tem at the time, took a bold approach communications laws. There were doomsday predictions about how rates would skyrocket and competition would be choked off. But by adopting a more relaxed regulatory framework, Idaho created an environment conducive to the Information Age. And consumers have reaped benefits from it.

Basic telephone remain unchanged. Long-distance prices have been reduced several times. Numerous new products and services have been introduced. Competition is flourishing. And the State's communications infrastructure is leading edge. That was not accomplished by increased regulation but by relaxed regulation. In Idaho, we opened markets, provided pricing flexibility for competitive and optional services, and rate stability for essential services where competition has yet to take hold. Again, the results have exceeded expectations.

Today, I rise in support of H.R. 3636. We have taken a different path in this bill, however. With this legislation we have directed the Federal Communications Commission to make decisions on telecommunications competition issues. And what standard have we directed the Commission to use in making those competitive decisions? Not the public interest standard embodied in the 1934 Communications Act. Not a market standard—which would seem to properly focus on consumers.

Rather, at least in the area of interconnection, we stand ready to direct the FCC to abandon the public interest standard they have used for 60 years and replace it with a standard of technical feasibility. H.R. 3636 requires local telephone companies to connect competitors to their networks at any point technically feasible and economically reasonable. If our objective is competition, interconnection ought to be restricted to essential facilities. We should not legislate a standard that allows new communications entrants to piecepart the public network at their whim.

This legislation requires a telephone company to interconnect and unbundle its facilities and prices virtually anytime and anywhere another company requests it. There is no mechanism in the legislation to insure the telephone company is kept whole, nothing that requires the company requesting the unbundling to withstand the economically reasonable cost. In fact, there's a strong likelihood that local telephone companies will attempt to recover some of their costs by raising local telephone rates. That is not in the consumers' interest.

Mr. Speaker, by abandoning the public interest standard, we are likely inviting protracted litigation and sharp price increases. I supported H.R. 3636 in committee and do so on the floor. But I hope that if the legislation goes to conference, we take another look at these overly regulatory issues, refocus on the public interest, and show faith in the marketplace.

Mr. STUDDS. Mr. Speaker, hardly a day passes that we are not exposed to a multitude of new reports about the information superhighway. While we are all aware of the critical necessity of ensuring the development of an advanced communications infrastructure in the United States, it is not always clear how we will achieve that goal.

Our colleagues, Mr. MARKEY and Mr. FIELDS, have provided us a blueprint for advancing the Nation's communications highway. Their bill, the National Communications Competition and Infrastructure Act of 1993, will spur the development of the information infrastructure by letting cable companies provide basic telephone service, and by permitting local telephone companies to offer video programming within their service regions—both of which are prohibited under current law. This competition will be essential to the widespread deployment of advanced communications services throughout the Nation.

What will that mean to our citizens? Nothing short of a dramatic improvement in the quality of their lives. Full cooperation in the communications industry will mean that a wider variety of services will be available in the marketplace. Senior citizens will be able to take advantage of a broad array of shopping services from their own homes. Students throughout the country will have access to educational resources from libraries and schools throughout the world. Health care providers will be able to examine patients at remote locations. And that's just the start.

Furthermore, intense competition within the communications industry will drive down the cost of new services, ensuring their affordability to all citizens. As we have witnessed, limited competition has resulted in sustained high costs for all but the very basic telecommunications services. U.S. consumers deserve better than that.

Mr. Chairman, I strongly support the goals of H.R. 3636 and applaud Mr. MARKEY, Mr. FIELDS and others who have worked so hard to develop this well-balanced legislation. I urge my colleagues to vote for H.R. 3636.

Mr. TAYLOR of North Carolina. Mr. Speaker, I want to commend Congressman MARKEY, chairman of the Telecommunications Subcommittee, and the ranking member, Mr. FIELDS.

This is a good bill. It is not perfect, but if it were perfect, it would not pass.

Mr. MARKEY, Mr. FIELDS, and their staffs are to be praised for their efforts.

They worked diligently with all interested parties to craft a bill that attempts to promote competition in the marketplace.

They know that competition will lead to establishment of an information infrastructure much more quickly than the Federal Government throwing dollars towards this effort.

The information highway will be a great accomplishment, allowing constituents in rural areas like mine to electronically communicate with libraries, hospitals, and museums—and even Members of Congress.

It will allow for video competition, where we get movies over the phone line. One day, we may be dialing up for all services we generally go out for—groceries, clothes, and more.

I don't know anybody who is against the basic objective of this bill—more competition, more choices, and more new services.

But I am concerned that some of the provisions in this bill could be construed to frustrate that goal.

Take all the new regulatory safeguards the bill contemplates.

Everyone agrees we need safeguards. We want to make sure there's fair competition.

But what if the Federal Communications Commission decides that all these safeguards have to be firmly in place before we can have any competition?

This could literally take years. And, all that time, the American public would be sitting there—waiting for the competition that Congress has promised.

I intend to vote for H.R. 3636 because it looks like the best package we can pass at the present time.

However, I also want to emphasize that I am doing so only because I have been assured that the FCC won't regulate to stymie competition.

The new chairman of the FCC, Reed Hundt, says that he's firmly committed to full competition.

Two years ago, we all voted to re-regulate cable TV.

We were told that re-regulation would result in lower cable TV rates and more choices.

Two years after the event, we are still waiting.

I don't want to be waiting for another 2 or so years before we get video competition.

We need that now.

Mr. MACHTLEY. Mr. Speaker, I rise in support of H.R. 3636, the National Communications Competition and Information Infrastructure Act of 1993. Today, it is time that competition in the cable industry is opened so that private as well as public industries can take part in the technological revolution that is changing the way the world does business. Passage of H.R. 3636 will trigger growth in the economy, which will allow the United States to remain in the forefront of technology and economic development.

H.R. 3636 will bring about a quicker and more efficient means of implementing universal service, which will provide resources and information to all Americans. By eliminating the restrictions in cable and local telephone industries, both private and public businesses will have the opportunity to provide services, resulting in more jobs for Americans and better quality of phone and video services, all at lower prices.

In addition, this legislation can provide unsurpassed benefits to the elderly and disabled by giving them easy access to resources and information. H.R. 3636 is good for the economy, good for society, and good for America's future. I urge all of my colleagues to vote for this important legislation.

Mr. KLUG. Mr. Speaker, as we are all aware, America faces new challenges in education. Growth in technology, competing world markets, and the changing perspective of the youth have created a need for an innovative way to thinking and acting in the educational arena.

This is why I give my support for H.R. 3626 and H.R. 3636. By eliminating the restrictions in the local telephone market, we can increase competition, increase technology, and provide students with the educational edge needed for success.

Inner-city, as well as rural students, increasingly find themselves isolated from a wide range of educational opportunities. H.R. 3626 and H.R. 3636 will change outdated policies to allow expanded access to global information, allowing everyone from the elementary student who lives in a disadvantaged neighborhood, to the university professor working on a cure for cancer, to have access to learning tools such as expanded databases, and electronic distance learning. This will in turn improve the quality of life, not only for them, but for all Americans. Yes, I support improving education in America. I support H.R. 3626 and H.R. 3636.

Mr. MCCOLLUM. Mr. Speaker, I rise today to express my support for H.R. 3636, but do so with a caveat that I hope that we in this Chamber will keep in mind for the future. Much of what we do in this bill is done in uncharted waters. The information age is new, and we in the Congress are just beginning to legislate in this area, so I offer a basic point.

H.R. 3636 is, to say no more about it, a complicated piece of legislation. To some degree, this is to be expected, but I must say that much in H.R. 3636 concerns me. The bill, in essence, allows the phone companies into the cable television business provided they build a super cable system and then throws in an array of regulations for good measure.

For my part, I would have favored a far less regulatory approach, but this bill is a first step—a fair compromise—and for that reason I will support it.

That said, I hope that we in this body, in the future, are careful not to overburden the phone companies with restrictions. The cable industry is an extremely tough business, and we must see to it that all who wish to participate in it do so on an even playing field.

Fortunately, H.R. 3636 does give the Federal Communications Commission some flexibility in this regard. It is my hope that it will be this discretion with an understanding of the peculiarities of the cable industry, and that they, and all those involved in the regulation of cable, will see to it that competition and choice are emphasized.

H.R. 3636 is a first step and on the whole a reasonable one. Now, Mr. Speaker, let us be certain that what issues forth from this step is not heavy handed regulation, but the beginnings of a new and dynamic marketplace.

Mr. BLUTE. Mr. Speaker, I rise to commend Mr. MARKEY and Mr. FIELDS for sponsoring H.R. 3636, one of the most proconsumer and proeconomy bills to come before the 103d Congress.

The Markey-Fields bill, which provides for full competition among telecommunications and cable service providers, would serve as a catalyst in the development of the U.S. communications industry, a cornerstone to long-term economic growth and development. Although competition has become a reality in many areas of the communications industry, the time has come to lift restrictions that prevent local telephone companies and cable companies from contributing fully to the advancement of the Nation's information infrastructure.

But, more importantly, we have the responsibility of adopting laws that will enable all consumers to obtain a full range of communications services from the providers of their choice, at competitive prices. We in Congress have learned hard lessons that strict industry regulation has not brought about the deployment of new communications services, nor driven down the costs of those services. Clearly, the most viable means of achieving those goals is to adopt policies that will enable competition to flourish within the communications industry. H.R. 3636 strikes the right balance in achieving competition and in preserving the major tenet of U.S. communications policy—universal service.

Mr. MARKEY and Mr. FIELDS have crafted a bill that will serve our Nation well. I applaud their efforts and urge my colleagues to adopt H.R. 3636.

Mr. LAZIO. Mr. Speaker, today the House is taking a positive step toward opening the information superhighway by passing H.R. 3626 and H.R. 3636. These bills will increase competition in the U.S. telecommunications industry, making us more competitive in the world market, and will stimulate economic growth, creating new jobs for Americans.

The WEFA Group, a respected econometric forecasting agency, and the Economic Policy Institute, a well-known think tank, examined the impact of increased competition on the U.S. telecommunications industry. Both concluded such a change in policy would result in millions of new jobs.

WEFA found that a fully competitive telecommunications environment will create 3.6 million new jobs by the year 2003. These jobs will be spread throughout the U.S. economy and in every State in the Union. EPI found these jobs will be filled by blue-collar, noncollege-educated workers, a segment of our economy that has been particularly hard hit by layoffs and the loss of more traditional employment.

A number of Members on both sides of the aisle have worked hard to make this legislation a reality, and I commend them for their efforts. After lagging behind our international competitors, H.R. 3626 and H.R. 3636 will help the United States recapture and maintain its lead in high technology development and marketing.

Mr. Speaker, I urge my colleagues to join me in supporting this legislation.

Ms. SNOWE. Mr. Speaker, I rise in strong support of H.R. 3636 and H.R. 3626, telecommunications legislation which will dramatically improve our Nation's telecommunications policy, setting the stage for our Nation's entry into the information age.

These measures are a compromise, and I congratulate the members of the Energy and Commerce and Judiciary Committees for their excellent work. They have ended years of deadlock between industries seeking to protect their own interests. These bills represent an opportunity to unleash the creative, competitive spirits of telecommunications industries, while providing important protections for consumers and rural areas such as universal access and rural exemptions for rural companies.

Most importantly, these bills will serve as a catalyst in the development of the U.S. communications industry, a cornerstone to long-term economic growth and development. I share the view of many in Maine, including the Maine Chamber of Commerce and Industry, that Maine's quality of life when combined with a state-of-the-art telecommunications infrastructure will be an excellent job-creating, job-attracting tool. A study by the independent econometric forecasting firm, the WEFA Group, indicated that full competition in the telecommunications industry would create 3.6 million new jobs in the United States over the next 10 years in a variety of industries in every State in the Union. In my home State of Maine, the WEFA study estimates that over 16,000 new jobs would be created in the next 10 years.

Congress has the responsibility of adopting laws that will enable all consumers to obtain a full range of communications services from the providers of their choice, at competitive prices. The most viable means of achieving these goals is to adopt policies, such as those embodied by these two bills, that will enable competition to flourish within the communications industry, while preserving universal service.

I urge my colleagues to join me in supporting H.R. 3636 and H.R. 3626.

Mr. GEPHARDT. Mr. Speaker, I rise in support of H.R. 3636 and H.R. 3626, and I commend particularly Mr. DINGELL, Mr. BROOKS, and Mr. MARKEY for their leadership in fashioning a new vision for America's vital telecommunications industry.

These bills—the most significant communications legislation in 60 years—will inject new competition into the Nation's long-distance and local telephone industries. As such, they promise to unleash new technologies that will revolutionize the American lifestyle.

For the past decade, the Nation's telecommunications policies have been determined largely in Federal courts. The 1982 Consent Decree, known as the modified final judgment [MFJ], divested AT&T of its local Bell operating companies and allowed some competition in long-distance telephone service. The resulting competition lowered prices and accelerated private investment in new long-distance technology

Under the MFJ, however, significant impediments to competition remain. The MFJ bars the Bell operating companies from providing long-distance service. Local telephone service remains heavily regulated. And the MFJ has prevented Bells from manufacturing equipment, forfeiting jobs to foreign manufacturers.

While some of these restrictions made sense in the early 1980's, subsequent developments have brought massive change to the telecommunications industry, creating new possibilities for healthy and beneficial competition. Companies that barely existed in early 1980's are now billion-dollar enterprises. Local Bell companies face focused—albeit not widespread—competition in many services.

The House legislation is intended to invigorate competition, fostering private investment in the development of a new telecommunications infrastructure.

H.R. 3636 allows the Bell operating companies to provide interstate long-distance service immediately and to begin the manufacture of equipment within 1 year, provided that their entry poses no significant possibility of lessened competition in the markets they seek to enter. Bell entry into intrastate long-distance markets remains subject to State public service commission approval, with the Justice Department given 90 days to review State decisions.

H.R. 3626 likewise opens up the market for local telephone services. It requires the Bell companies to offer use of their local networks to any competitors—such as cable companies. It also allows the Bells to offer cable services. Both bills contain mechanisms to assure continuation of universal service and retain sensible regulation where competition is unlikely to develop.

These changes portend the creation of new American jobs, perhaps more than 40,000 in Missouri alone. Moreover, the exploitation of digital technology and the creation of the information superhighway is expected to revolutionize opportunities for learning, delivering health care, conducting business, and providing government service. Under this legislation, consumers should expect to see a multitude of changes within several years: a choice of cable TV services from multiple operators, with more programming and improved prices; new choices in both local and long-distance telephone service; the ability to monitor the sick at home so they do not have to spend so much time in hospitals; expanded research and educational opportunities at schools and colleges across the State; greater opportunities for people to work at home, thereby reducing traffic congestion and increasing leisure time; expanded access to shopping and entertainment.

We know from experience that new technologies promise profound and positive change to those who embrace them. While preserving safeguards needed to maintain universal coverage and fair pricing, this legislation makes tremendous strides to realize the possibilities inherent in new technologies. We are on the verge of another technological revolution.

Mr. SERRANO. Mr. Speaker, as we are all aware, America faces new challenges in education. Growth in technology, competing world markets, and the changing perspective of the youth have created a need for an innovative way of thinking and acting in the educational arena.

This is why I give my support for H.R. 3626 and H.R. 3636. By eliminating the restrictions in the local telephone market, we can increase competition, increase technology, and provide students with the educational edge needed for success.

Inner-city, as well as rural students, increasingly find themselves isolated from a wide range of educational opportunities. H.R. 3626 and H.R. 3636 will change outdated policies to allow expanded access to global information, allowing everyone from the elementary student who lives in a disadvantaged neighborhood, to the university professor working on a cure for cancer, to all have access to learning tools such as expanded databases, and electronic distance learning. This will in turn improve the quality of life, not only for them, but for all Americans. Yes, I support improving education in America. I support H.R. 3626 and H.R. 3636.

Mr. COOPER. Mr. Speaker, I think we all owe a great deal of thanks to Chairman DINGELL, Chairman BROOKS, and Chairman MARKEY for their tireless efforts to bring telecommunications reform legislation to fruition this year. Many thought that this day would never come, and it is a tribute to your skill and dedication that it has.

Both of the bills that we will vote on today represent a step forward toward achieving what we all want—an information superhighway that benefits both consumer and business alike. I support H.R. 3636, and commend the changes made at the subcommittee and committee level. I have some reservations about H.R. 3626. As I said during the hearing process, forging this deal was a herculean achievement. That achievement should not, however, overshadow the real and important concerns of those who were not even invited to the negotiating table.

The Regional Bell Operating Companies [RBOC's] were restricted from entering long-distance, manufacturing, and information services because they had the local monopoly strength to squelch competition from smaller businesses. The decision to keep the RBOC's out of long distance, as long as they are monopolies, has been a success to this point. Little more than a decade ago, only the smallest handful of long-distance callers had a choice of carriers. Today, virtually every consumer in the Nation has a choice of at least three full-service long-distance companies. Since the breakup of the Bell system monopoly, average long-distance rates have dropped dramatically.

Prices have dropped, both residential and business users can take advantage of significant discounts offered by long-distance companies. The competitive marketplace has spurred an increase in the value of service, and technological improvements worth billions.

Competition is the force that drives our economy, and I could not be a stronger supporter of that concept across the board. In order for true, healthy, constructive competition to operate, however, we must assure the so-called level playing field. I am all for allowing the RBOC's and cable companies to compete in a fair arena. If what we do here today is to the detriment of consumers, then we have defeated the ultimate purpose.

With regard to H.R. 3626, I support the general thrust of this bill. Assertion of congressional authority in this area is long overdue. I had hoped, however, that we could have agreed on an amendment that would have applied the same entry test to the RBOC's in intrastate long distance that we apply to the interstate market.

Again, let me commend Chairmen DINGELL, BROOKS, and MARKEY for their tremendous hard work to get this legislation to the floor. There is wide support for telecommunications reform this year, both in Government and the private sector. I hope that these bills will receive the support of the full House.

Mr. OLVER. Mr. Speaker, I support H.R. 3636 for the economic advantages it will bring to the new information age and the competition it will help to usher in in telecommunications. I also support this legislation for the social advantages the bill will provide by ensuring that people with disabilities have access to new technologies.

By allowing telephone companies to provide video programming, services such as narrator-spoken descriptions of on-screen action can assist the blind, while complete captioned programming can serve the deaf. For bedridden and elderly individuals the development of new services and the opening of the telecommunications network has the potential of greatly enhancing their lives, by both removing isolation and maintaining their independence.

H.R. 3636 will also expand the quality and lower the cost of education. An open telecommunications market will result in the development of new services, better products, and greater efficiency by connecting students to teachers and both to worldwide information.

The creation of new jobs in these services and industries is another advantage of H.R. 3636. Not only will these benefits be seen here at home, but they should enable us to increase our competitiveness in international markets as well. For these reasons I support and will cast my vote for H.R. 3636.

Ms. SCHENK. Mr. Speaker, I rise in strong support of both H.R. 3626 and H.R. 3636. Chairman DINGELL, Chairman MARKEY, and Chairman BROOKS deserve our thanks and praise for their hard work, their vision, and their leadership in this debate.

Mr. Speaker, others will describe the many benefits of this legislative package. I'd like to focus on just one—its potential to stimulate economic growth and job creation.

Mr. Speaker, the telecommunications and information industries will be the engines of economic growth into the next century. In San Diego County, for example, telecommunications employment grew by 22 percent last year.

This growth has occurred despite a patchwork system of inflexible regulations that reflect the realities of yesterday, not the vibrant industries of today.

These bills break down the artifical barriers that stifle competition between phone companies and cable operators. They will stimulate private investment by enacting a uniform system of federal regulation. And, according to a recently released report by the President's Council of Economic Advisers, these bipartisan bills will help the private sector create more than 500,000 new jobs over the next 2½ years.

Mr. Speaker, I urge my colleagues to pass these bills and help create the next generation of high-wage jobs.

Mr. TOWNS. Mr. Speaker, I rise in support of H.R. 3636, a forward-looking bill that will advance the development of the information highway. I wish to congratulate Chairman MARKEY and the ranking member. Mr. FIELDS and their staffs for their patience in developing a bill that has bipartisan and inter-industry support on a most difficult and complicated issue.

H.R. 3636 will open the telephone network at the local level to full competition, and will permit the local exchange companies to provide video services. In this environment, competition will flourish for both telephone and cable services, where we have seen only limited competition in the past. As more people are connected to the information highway, more entrepreneurial endeavors will develop steadily increasing service options.

These entrepreneurial companies will create jobs in a robust new industry fueled by the passage of H.R. 3636. I urge all my colleagues to support this bill.

Mr. PASTOR. Mr. Speaker, a little discussed or debated and not well-understood provision in H.R. 3636, the National Communications Competition and Infrastructure Investment Act, could have a mega-billion-dollar impact on the price of telephone service. Language in the bill states that the resale of local telephone service shall "not be prohibited or subject to unreasonable conditions."

Although it sounds rather innocent, that provision is a direct broadside at the affordability of telephone service. By conservative estimates, the historic system of telephone pricing has resulted in a $20 billion subsidy of carrier services. Permitting unlimited resale could virtually wipe out that subsidy. I am concerned that the $20 billion could not be recovered without a hefty increase in residential rates.

Resale is a practice whereby a third-party buys bulk services from the local telephone company and resells them to customers. By buying in bulk, the third-party achieves certain savings, enabling that company to undercut the local telephone company in selling primarily to business customers.

Within limits, some States permit the practice today. Third-parties can resell within the same class of service, but can't buy residence lines and sell them to business customers, or purchase business lines and sell them to interexchange carriers. The FCC permits resale in the interstate jurisdiction, but bars long distance carriers from using business service to connect the local and long distance network. Instead, the FCC requires the carriers to buy access service.

Depending on how unreasonable conditions is defined, H.R. 3636 could remove those limits and place billions of dollars of subsidies at risk. I can think of no reason why a business customer would pay $35 per month for a telephone line if a third-party will sell that customer a line for $30. Without limits on resale, that is not only possible, but likely.

Because of this concern, I urge conferees to clarify this matter to help ensure that subsidies are protected and the price of telephone service remains affordable.

Mr. QUINN. Mr. Speaker, I rise in support today of H.R. 3636—the National Communications Competition and Information Infrastructure Act. This is a procompetitive bill which will help advance the development of telecommunications technology and the information superhighway.

I wish to congratulate Chairman MARKEY and ranking member JACK FIELDS and their staffs for their work in developing a bill on this difficult and complicated issue that has bipartisan support.

I am a cosponsor of H.R. 3636 and strongly believe that we should permit the local exchange telephone companies to provide video services. Competition will bring new services to consumers and will serve to hold down prices.

This legislation will also give telecommunications companies the financial incentives necessary to install fiber optic lines, high-capacity switches and other broadband technology throughout the local networks. This last mile of the information superhighway will be put in place much more quickly with the passage of H.R. 3636.

Competition clearly works. And I want my constituents to have choices—both in cable television services and in telephone services. H.R. 3636 will ensure fair and open competition for both services. I urge my colleagues to support this bill.

Mr. HUGHES. Mr. Speaker, I rise in support of H.R. 3636, the Telephone/Cable Communications Competition and Infrastructure Act of 1994. I would like to commend my colleagues, Chairman DINGELL, Chairman MARKEY, and Chairman BROOKS for the excellent work they have done with respect to facilitating this measure being brought to the floor for a vote. As a result of their diligence, we have the opportunity—by passing H.R. 3636—to ensure that America remains on the path toward excellence in the international telecommunications marketplace.

Undoubtedly, the technology that American telecommunications companies have developed to date—and have the potential to develop in the future—is tremendous. At this juncture our challenge is to create an environment in which these companies may flourish and achieve even more sophisticated technological advances leading to the establishment of the national information superhighway.

H.R. 3636 will assist us in facing this challenge by promoting the creation of a national communications and information infrastructure. This measure will enable the American telecommunications industry to remain on the cutting edge of the technological advancements fueling this communications revolution by encouraging the development of state-of-the-art communication services and technologies through competition. Of equal importance, this bill establishes provisions to safeguard ratepayers and competitors from potential anticompetitive abuses and preserves as well as enhances universal service.

Essentially, H.R. 3636 will eliminate the line of business prohibitions that currently ban or limit the ability of telephone companies, cable companies as well as other telecommunication service providers from competing in each other's business.

That is, H.R. 3636 will promote competition in the local telephone market by requiring that local telephone companies allow competitors equal access to their networks. Local telephone companies generally could be required to provide space at their facilities for competitors to place equipment with which to connect the telephone companies' networks.

Moreover, the local telephone companies must ensure that such connections provide full interoperability between their phone system and their competitors' systems. The bill also requires long-distance networks and cellular companies to allow other parties to use their switches and transmission equipment for their competing businesses.

It is important to note that this bill preserves State and local governments' rights to regulate telephone companies to the extent necessary for public safety, consumer protection and to ensure that intrastate rates are reasonable. However, these governing bodies would be prevented from imposing any franchise, license or other fee that discriminates against potential competitors.

One of the most significant aspects of H.R. 3636 is the Federal-State Joint Review Board it establishes to recommend to the Federal Communications Commission [FCC] and the State utility commissions specific action necessary to preserve and enhance universal access for consumers. This joint-board will define the nature and extent of services encompassed within a telephone company's universal service obligation. Moreover, the board's review will ensure that as technological innovation and competition are introduced into the local telephone market, the policy of universal access to basic telephone service at affordable rates is preserved.

As in the local telephone industry, H.R. 3636 will promote and accelerate competition to the cable television industry by permitting telephone companies to compete in the offering of video programming. Essentially, the bill eliminates the cross-ownership restrictions established in the 1984 Cable Act. Therefore, pursuant to H.R. 3636, local telephone companies—through separate affiliates—will be permitted to provide cable services in their own service areas. This increase in competition will, in turn, provide a strong incentive for the local telephone companies to invest in and upgrade their information networks.

Another safeguard against the potential for anticompetitive behavior is the establishment of the video-platform. Pursuant to H.R. 3636, those telephone companies that offer cable services in their own service areas would be required to establish a video platform upon which to offer their video programming. Telephone companies, on a nondiscriminatory basis, must allow other providers to offer video programming to subscribers utilizing the same video platform.

I urge my colleagues to support H.R. 3636. This measure is a procompetitive, proconsumer bill which will enable America to remain at the forefront of the rapidly developing information superhighway while ensuring quality and affordable services for American consumers.

Mr. PAXON. Mr. Speaker, I am in support of H.R. 3636 because I believe it establishes good public policy for the United States. However, I would like to take this opportunity to raise a concern about one of the bill's provisions that would require local phone companies to further unbundle their various services.

I understand some of the reasoning behind this provision, but I think we also need to be fully aware of the potential risk here. Many people in this country do not want Congress to force them to buy their telecommunications services a la carte. They would prefer to purchase a package of services tailored to fit their needs.

Selling everything individually does not mean that they will be cheaper. In fact, the more things sold or bought, the larger the transaction costs. That is why more and more businesses are offering packages of goods or services. This is not an attempt to be anticompetitive, rather businesses are trying to offer consumers greater convenience at a better price.

H.R. 3636 might be read as prohibiting this. I hope H.R. 3636 does not because I think customers should have the option of purchasing telecommunications services individually or as part of a package.

Mr. MARKEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and pass the bill, H.R. 3636, as amended.

The question was taken.

Mr. FIELDS of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has concluded on all motions to suspend the rules.

Pursuant to clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today in the order in which those motions were entertained. Votes will be taken in the following order:

H.R. 3626, by the yeas and nays; and H.R. 3636, by the yeas and nays.

The Chair will reduce to 5 minutes the time for the second electronic vote after the first vote in this series.

ANTITRUST AND COMMUNICATIONS REFORM ACT OF 1994

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3626, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill H.R. 3626, as amended, on which the yeas and nays are ordered.

The Chair reminds Members that the next vote will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 423, nays 5, not voting 6, as follows:

[Roll No. 292]

YEAS—423

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha

Myers
Nadler
Neal (MA)
Neal (NC)
Nussle
Oberstar
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velázquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—5

Gonzalez
Holden
Obey
Petri
Yates

NOT VOTING—6

Dornan
Flake
Hilliard
Hoke
Pombo
Ridge

□ 1449

Mr. YATES changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

NATIONAL COMMUNICATIONS COMPETITION AND INFORMATION INFRASTRUCTURE ACT OF 1994

The SPEAKER pro tempore (Mr. MONTGOMERY). The pending business is the question of suspending the rules and passing the bill, H.R. 3636, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and pass the bill, H.R. 3636, as amended, on which the yeas and nays are ordered.

The Chair will tell the Members that this is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 423, nays 4, not voting 7, as follows:

[Roll No. 293]

YEAS—423

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Nussle
Oberstar
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—4

Gonzalez
Obey
Petri
Yates

NOT VOTING—7

Carr
Dornan
Flake
Hilliard
Lambert
Pombo
Ridge

□ 1501

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. LAMBERT. Mr. Speaker, on rollcall vote No. 293 H.R. 3636 providing for the consideration of the National Communications Competition and Information Infrastructure Act of 1994, my vote was not recorded. My intent was to vote "yea" on this bill as I am in favor of it.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on H.R. 3636, the bill just passed.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 3626, ANTITRUST AND COMMUNICATIONS REFORM ACT OF 1994

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Clerk of the House, in the engrossment of the bill, H.R. 3626, be authorized to delete title III of H.R. 3626, to add at the end of title II of H.R. 3626 the text of titles I through IV of H.R. 3636, to redesignate titles I through IV of H.R. 3636 as titles III through VI of H.R. 3626, to redesignate section numbers and references thereto accordingly, and to conform the table of contents and to make such other technical and conforming changes as may be necessary.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. FISH. Mr. Speaker, reserving the right to object, I, of course, will not object. I simply want the views of the gentleman from Texas, chairman of the Committee on the Judiciary. The purpose of this unanimous consent request is simply to marry up the two bills just passed by the House this afternoon?

Mr. BROOKS. Mr. Speaker, if the gentleman will yield, the gentleman is absolutely correct. We can send them to the Senate and have a joint conference. The bill that is now being considered in the other body includes both components.

Mr. FISH. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Without objection, H.R. 3636 is laid on the table.

There was no objection.

ANNOUNCEMENT REGARDING PREPRINTING OF AMENDMENTS ON H.R. 4299, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1995

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute.)

Mr. MOAKLEY. Mr. Speaker, the Rules Committee has granted a rule for H.R. 4299, the Intelligence Authorization Act for fiscal year 1995, that would require any amendments to H.R. 4299 be printed in the CONGRESSIONAL RECORD prior to the consideration of the bill. It is anticipated that H.R. 4299 will be considered in the House upon our return from the July 4 district work period.

Members should be aware, that the rule the Committee reported, provides for consideration of only those amendments that have been filed in the CONGRESSIONAL RECORD prior to consideration of H.R. 4299.

Again, H.R. 4299 is not expected to be considered by the House until the week of July 11, however, it is important that Members who desire to amend this bill, file their amendments in the CONGRESSIONAL RECORD as soon as possible.

I thank the Members of the House for their consideration in this matter.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 4649, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1995

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103-564) on the resolution (H. Res. 466) waiving certain points of order against the bill (H.R. 4649) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1995, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4600, EXPEDITED RESCISSIONS ACT OF 1994

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103-565) on the resolution (H. Res. 467) providing for consideration of the bill (H.R. 4600) to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4299, INTELLIGENCE AUTHORIZATION ACT, FISCAL YEAR 1995

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103-566) on the resolution (H. Res. 468) providing for consideration of the bill (H.R. 4299) to authorize appropriations for fiscal year 1995 for intelligence, and intelligence-related activities of the U.S. Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, which was referred to the House Calendar and ordered to be printed.

GENERAL LEAVE

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill (H.R. 4606) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes, and that I may be permitted to include tables, charts, and other extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995

Mr. SMITH of Iowa. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4606) making appropriations for the Department of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Illinois [Mr. PORTER] and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

Mr. PORTER. Mr. Speaker, reserving the right to object, I do so simply to say that at this point in time, we have requests for general debate speakers that exceed our 30 minutes. I would simply ask the gentleman, when we reach the end of our 1 hour, if we still have speakers left, whether he might accede to a few other speakers.

Mr. SMITH of Iowa. Mr. Speaker, if the gentleman will yield, we might go under the 5-minute rule.

Mr. PORTER. We can do that, yes.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

□ 1509

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4606, with Mr. SHARP in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN. Under the unanimous consent agreement, the gentleman from Iowa [Mr. SMITH] will be recognized for 30 minutes, and the gentleman from Illinois [Mr. PORTER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Iowa [Mr. SMITH].

□ 1510

Mr. SMITH of Iowa. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first, I want to thank the members of the subcommittee and the full committee, the Members of the House, the members of the authorizing committees, and all the others who helped on this bill. It takes everybody to put together this bill, because it is a big bill. It involves over 500 programs.

The programs in this bill total $258 billion in budget authority for 1995. Of that $258 billion in budget authority, $252 billion it is estimated will be obligated within the fiscal year 1995. That happens to be $7.2 billion less than was obligated in the prior fiscal year, that is, this fiscal year. However, that is, mostly accounted for by a reduction in unemployment compensation and Medicare subsidies over which, of course, we have little control.

Now, the President's request included a good many increases for programs, all of them good increases, good things that people would like to vote for. But to pay for those, he also provided recommendations for a lot of reductions that were far in excess of what this House would stand for.

And so we had to take a look overall at those reductions. At the same time we looked at the administration's request for increases. Among the reductions that they requested were $745 million in the energy assistance program for low-income people; $745 million is over 50 percent of the amount they got this year. Of course, that would not be sustained in the House. We restored $495 million of that amount.

They also requested a reduction of $140 million in impact aid. We restored $70 million of that. On the other hand, there is going to be a revision in the formula, and H.R. 6 is in the Senate. It has already passed the House, and we provided for the distribution of that amount of money under the House-passed bill.

In addition to that, the administration recommended the elimination of 33 programs. Actually the subcommittee went along, and the committee went along, with eliminating 21 of those programs. All of them had some importance. All of them were good in some ways. But in setting the priorities, we went along with the eliminations.

After we had done all of this, we found out that the amount of money allocated was actually only about 96½ percent of what current services were in this fiscal year that we are in right now. So we had to go with a sort of a temporary formula, because I do not like across-the-board, and I do not think many people do. We did not want to cut everything 3½ percent. So what we did, anyplace we increased something, including the requests of the administration, we found an offset for it. When you increase something, you find an offset for it in the reductions.

By the time we had done that, we were down in some accounts to where we were into RIF's. A RIF in the first year does not save money. There are payouts of various kinds and transfers, and so we tried to avoid RIF's.

I do not believe at this point, although we are right on the edge, I do not believe at this point that we will require RIF's within this year. That does not mean that they will not have another reduction next year in some of these programs.

I consulted the members of the subcommittee of the House, of the authorizing committees, and I got plenty of advice from Members of the House, a whole stack of advice in the way of letters, people wanting everything increased. I do not remember anything that they wanted to reduce.

The bill, as it comes out here, does not include any provision, I do not believe, that is objected to by an authorizing committee.

It does include some limitations that were either requested or agreed to by authorizing committees, and virtually all of the general provisions were carried before. There were a couple of exceptions to that which I think will come up during the process of the amendments. But virtually all of the general provisions are provisions that have been carried, many, for many years, and apparently desired and wanted. The authorizing committee did not object, and so they were carried again.

The bill does not make anyone completely happy. I would be the first to agree to that. But I really believe that this is the best that we could do under the circumstances today, and I heartily recommend the passage of the bill as it is today.

Mr. Chairman, I reserve the balance of my time.

Mr. PORTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to begin by paying tribute to our long-time colleague Bill Natcher who passed away earlier this year. He was truly one of the legends of the House, and it was one of the great privileges of my career to have served with him on this subcommittee. I have served on this subcommittee over 12 years and until this year, he was the only chairman I had served under. I think we have all greatly missed Bill's warmth and dignity, and his passing has been a great loss to me personally, to the Congress, and to the country.

Mr. SMITH is our new chairman, and he has done a tremendous job of leading this subcommittee under extremely difficult circumstances in which he was required to assume command of the bill midway through our annual hearings. I have very much appreciated his consensus building, cooperative spirit, and fairness in bringing this bill out of the committee.

Mr. Chairman, as Bill Natcher would always say, "This is a good bill."

We have put it together with an allocation that was well below what the President requested in programs under our jurisdiction.

I will have two amendments later that reflect perhaps some differences in our priorities.

As it stands, this bill very heavily reflects the President's investment initiatives. Funding is reduced across the bill to 96.5 percent of current services to accommodate increases in each of the President's investment priorities including: Chapter 1, Head Start, Goals 2000, NIH, Worker Retraining, and School-to-Work, among others.

Many of the cuts and program terminations requested by the President have been adopted. Most, however, have not. This is to me the greatest concern with the bill.

As we look at the next 5 years, this subcommittee's budget will be extremely constrained. We will not have the resources to meet all the needs in the programs we oversee. We will therefore necessarily be forced to make difficult choices and we will have to choose among competing priorities. This is as it should be and what I have been urging since I came to Congress.

I reject the idea that these cuts should be distributed equally. So does the chairman. We must choose our highest priorities, fund them at the level they should be funded at, and then make the difficult offsetting cuts to pay for them.

The President began the process by proposing—courageously and responsibly in my judgment—to reduce the Low Income Home Energy Assistance Program [LIHEAP] and to eliminate 33 low priority programs in the Department of Education.

While I congratulate Chairman SMITH for including about one-third of the proposed reductions in his mark, I believe we should have approved the entire proposal to free up more funding for priority programs.

Mr. Chairman, I want to discuss some of the provisions in the bill.

First, I am greatly concerned about the impact aid funding included in the bill. It represents a $70 million reduction from the 1994 level and will impose a further hardship on many schools which must subsidize federally connected students.

I want to thank the chairman for his willingness to include $40 million in the newly authorized section of which serves the most heavily impacted districts. This funding will help provide much needed funding for schools like the North Chicago School District in Illinois which nearly closed its doors last year due in part to the lag in impact aid appropriations.

Mr. Chairman, I am also very concerned about the level of funding for the National Institutes of Health which I believe are a national treasure.

Again, I want to thank the chairman for working together to provide a $384 million increase for the NIH in this bill. But, I want to raise a real warning about the future of biomedical research in this country. The increase we are providing in this bill is less than inflation so we are actually going backward in research funding—the area that holds the greatest promise for controlling health care costs.

Many in Congress still believes that research is driving up the cost of health care. In reality, research is saving us billions of dollars through vaccines, prevention, and early treatment and diagnosis of disease. Just one medical advance, the development of the polio vaccine, has saved Americans more money in prevented health care costs than Congress has invested in NIH in its entire history. NIH has a booklet detailing 26 discoveries—a tiny fraction of the thousands made—that have saved hundreds of billions of dollars in health care costs.

Mr. Chairman, if we are not willing to make the long term sacrifices to maintain this vital enterprise, we will lose our world leadership in health care, our economic vigor in this large sector of the economy, and a generation of scientific minds. Later, I will offer an amendment for discussion on this matter to highlight what I consider an impending crisis for our country.

The bill includes important increases for education programs which help disadvantaged children.

In particular, the bill funds the Even Start program which Mr. GOODLING has championed and early transitional learning programs that may continue programs currently funded under the follow through program.

On the medical research side, the bill provides modest increases for breast and prostate cancer research, AIDS, diabetes, rehabilitation research, chronic fatigue syndrome, and dystonia among others.

The report which accompanies the bill contains some language I authored regarding the establishment of a Federal warehouse to distribute vaccines to children under the new vaccine entitlement. Throughout this appropriations cycle, I have expressed my concern about the wisdom of creating a Federal distribution system as opposed to contracting out the service. My report language directs the CDC and GSA to comply with all applicable FDA safety guidelines and reserves a final judgment on whether to establish the Federal warehouse pending the outcome of a GAO study on the matter due in July.

Finally, Mr. Chairman, we have a chance today to begin the process of enacting meaningful health care reform.

I intend to offer an amendment at the appropriate time to increase funding for the community health centers to expand access to health care for nearly 1 million Americans. The amendment will offset funding in other accounts so that neither the outlay or authority caps will be breached.

Mr. Chairman, I want to thank Chairman SMITH's very fine staff: Mike Stephens, Bob Knisely, Sue Quantius, Mark Miodusky, Joanne Orndorff, Meg Holland, and my excellent and able staffer, Mike Myers. Also Mr. McDADE'S staff, John Blazey.

Mr. Chairman, I commend this bill to the House and reserve the balance of my time.

□ 1520

Mr. SMITH of Iowa. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. STOKES], chairman of the Subcommittee on VA, HUD and Independent Agencies.

Mr. STOKES. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of H.R. 4606, the bill establishing fiscal year 1995 appropriations for the Departments of Labor, Health and Human Services, and Education. Mr. Speaker, for many years I have been one of the members of this subcommittee who have put this particular bill together. This is the bill that our beloved but now deceased former chairman, Bill Natcher or Kentucky used to call the "People's Bill."

This is the first time that we have come to the floor with this bill under the leadership of the gentleman from Iowa, Mr. NEAL SMITH. I want to congratulate him for bringing out a bill which I think would have pleased Bill Natcher. I also commend the gentleman from Illinois, Mr. JOHN PORTER, for his work in producing this bill.

Although we faced tight budget constraints, H.R. 4606 will greatly benefit American families. The bill provides the resources necessary for an improved quality of life in areas ranging from employment, to health, to education.

For the Department of Labor, the bill includes a total appropriation of $13.3 billion. This amount includes $1.3 billion for dislocated workers assistance. These resources will enable the program to respond not only more quickly to the need for assistance, but to also provide more effective early intervention activities. For summer youth employment, the bill includes $1.1 billion. This program will provide work experience and support services to an estimated 623,000 participants.

For Job Corps, the bill includes $1.1 billion. These resources will support 42,220 slots at 111 existing centers, and initial funding for an additional 6 new Job Corps Centers. To help ensure a more successful and effective transition from school to work, the bill includes $140 million for the school-to-work initiative.

The Department of Health and Human Services is provided an appropriation totalling $216.4 billion. Mr. Speaker, I am especially proud of the quality of life investments we also achieved in this portion of the bill. To provide comprehensive primary health care services to the medically underserved and indigent population the bill includes a $616.6 million appropriation for the Nation's community health centers. As a strong supporter of providing quality health care services to all Americans, I am pleased that we were able to provide $9.7 million to enhance primary care services, health screening, and health counseling services to residents of public housing.

To help ensure a continuous pipeline of minority health care providers, the bill includes $27.2 million for the Health Careers Opportunity Program, $11.3 million for the Exceptional Financial Need Scholarships Program, $8.7 million for the health professions student loans, and $18.6 million in funding for the Scholarships for Disadvantaged Students Program.

To enable the NIH to continue to exploit opportunities in biomedical research that will continue to improve the quality of life, the committee provided an appropriation of $11.3 billion. This amount includes the resources needed to strengthen research efforts in cancer, heart disease, stroke, AIDS, diabetes, and sickle cell disease. These resources will allow NIH to expand research in many areas including vaccine development, gene therapy, immunology, molecular biology, biotechnology, and high performance computing.

To strengthen the participation of minorities in biomedical research, the funding for the NIH includes $17 million for the Minority Access to Research Careers Program, $26.2 million for the Research Centers in Minority Institutions Program, and $5 million for biomedical facilities construction at emerging institutions. In addition, the Minority Biomedical Research Support Program is provided $37.3 million. Combined, these investments will help to improve and enhance minority institutions' participation in biomedical research, as well as to increase opportunities for minority students to pursue research careers.

Mr. Chairman, we were also very supportive of the need to fund important initiatives undertaken by the Centers for Disease Control. The Center is in the forefront in addressing the health crisis gripping the Nation. In fiscal year 1995, the Centers for Disease Control will benefit from an appropriation totaling $2.1 billion. These funds will allow the Center to continue its important research in areas including AIDS, diabetes, breast and cervical cancer screening, tuberculosis, lead poisoning prevention, and violence prevention.

To help prevent the crisis that recipients needing energy assistance would have been forced to endure, we provided $1.2 billion for the Low Income Home Energy Assistance Program [LIHEAP]. President Clinton's budget request had slated the program for a 50 percent funding cut. This important program provides assistance to low income households in meeting the high costs associated with home energy, heating, and cooling.

To strengthen and expand the Head Start Program, a $3.5 billion appropriation is provided.

Mr. Chairman, in response to the need to strengthen our Nation's education system. The committee provided investments at all levels of the education continuum. To begin to improve the Nation's education system, the bill includes $388.4 million for Education Goals: 2000, and $140 million for the Education Department's the school-to-work initiative. To expand the benefits of magnet schools, the fiscal year 1995 appropriation for the program is slated at $113 million.

For the TRIO Program which serves disadvantaged students, the committee provided an appropriation totaling $463 million for fiscal year 1995. The additional funds provided will allow an increased number of needy students to reap the benefits of this successful program.

Historically black colleges and universities will also benefit from investments. A combined appropriation of $131.5 million is provided for these institutions to strengthen academic and physical infrastructure. Funds provided include enhancements for academic instruction, libraries, scientific instrumentation, and student support services.

Mr. Chairman, as you and my colleagues can see, H.R. 4606 is truly a human investment bill. This is reflected by investments in programs that meet the needs of our Nation's youth and families through greater investments in the Head Start, childhood immunization, Job Corps, school-to-work, summer youth employment and training, student aid, and dislocated workers programs. As the allocations reflect, the committee took a firm stance in providing for the health, education, and human resource needs of American families.

Mr. Chairman, I urge my colleagues to support passage of H.R. 4606 which will improve the quality of life for all Americans.

Mr. PORTER. Mr. Chairman, I am very pleased to yield 6 minutes to the gentleman from Texas [Mr. BONILLA], a member of the subcommittee.

Mr. BONILLA. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise to join the distinguished gentleman from Iowa to, as Chairman Natcher used to say, walk down the center of the aisle today in support of the people's bill.

This bill helps Americans become more educated, develop the training tools to advance in the job sector, and prevent illness or treat an illness if you become sick.

This bill affects and protects almost every American in a fiscally responsible manner. I want to commend my chairman, Mr. SMITH, and my ranking member, Mr. PORTER, and their hard-working staffers for their dedication in crafting this bill.

Mr. SMITH had to lead the subcommittee after the death of our beloved chairman, Mr. Natcher.

Mr. SMITH assumed the reins and has worked in a fair, equitable, and bipartisan manner to produce a good bill.

I want to highlight a few very important programs to my rural colleagues, who often share my view that Congress turns its back on the heartland.

This is the second year that I have had the opportunity to advocate and secure funding to improve access to rural Americans.

This bill takes another step to provide equity and quality of health care in our rural communities.

Funding for community and migrant health care centers reflects the increased need to provide comprehensive primary health care in our rural communities. Last year, these clinics served over 6.5 million people.

The area health education centers and border health centers funding has been given increases.

The AHEC Program links university health service centers with community health service delivery systems to provide training sites for students, faculty, and practitioners.

The border health education centers help schools support education and training centers to improve the supply, distribution, and quality of health personnel along the border between the United States and Mexico.

Other rural programs include transition grants, the allied health grants that address the growing shortage of allied health personnel in both rural and urban areas, the Physicians Assistants Program which delivers health care and emergency services in rural areas.

This program is especially important to the health of rural Americans.

The Family Medicine Residencies Program has been funded to provide grants to medical schools to teach family medicine programs which are greatly needed to fill the demand for doctors in rural America.

The rural health research and rural outreach grants are funded to coordinate public and private sector efforts nationwide to strengthen and improve the delivery of health services to populations in rural areas.

They provide health services to rural populations not currently receiving them and enhance access to and utilization of existing services.

Finally, we have tried to fund the nursing programs at last year's levels. In my rural district of Texas, 23 of my 29 counties are classified as professional health care shortage areas. All of these programs collectively try to improve access to health care. These are all very small programs compared to other line items in this bill but they help a large portion of population living in our rural communities.

I am pleased that the committee included funding to initiate the Hispanic serving institutions. This is the first year that HSI's have been given their own line in the budget and also received an increase of $2.6 million for a total of $12 million for HSI's.

I am extremely pleased that we have funded this program to help either low-income or first generation college students.

Growing up on the southside of San Antonio I saw many of my friends unable to afford to go to school.

Funding for the HSI's program will be a small step to help Hispanics increase their numbers in our Nation's higher education systems. I look forward to hearing of the successes by Hispanic students who will be able to take advantage of this program.

Finally, this bill also recognizes the need to prevent, treat, and educate Americans about diabetes. Persons with diabetes face not only a shortened life span, but also the strong likelihood of severe disabilities.

Diabetes is particularly prevalent among Hispanics. The committee has wisely provided additional funding to continue a national diabetes program.

Regarding diabetes research, the bill recognizes the need to continue research efforts to combat diabetes. Diabetes is the leading cause of new adult blindness, kidney failure, and nontraumatic amputation, and it is a major risk factor for stroke, heart attack, and premature death to the estimated 13 to 14 million people who currently have diabetes. Further research will be carried out to isolate the diabetes gene and will increase efforts to educate the public about preventing blindness.

I wish we could have done more for some worthy programs but unfortunately the President sent us a request for 14 new Presidential initiatives. The chairman was generous enough to fund those requests at 46 cents on the dollar.

The President should have made the tough decisions, but I will tell you that in conference I will support the lower figure for each of his initiatives.

Again, Mr. Chairman this appropriations bill is a good one. There are no easy choices in this subcommittee yet we must step up to the plate and do the best we can.

For every dollar shift from one program, another program that serves an equally important constituency must be cut. I believe this bill can be improved and Mr. PORTER will be offering two amendments to do that.

Overall, this bill is fiscally responsible and provides for this country's needs.

☐ 1530

Mr. SMITH of Iowa. Mr. Chairman, I yield 4 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I rise in strong support of the legislation before us today, the fiscal year 1995 labor, health and human services, and education appropriations bill.

As a member of the subcommittee, I know how difficult it was to put this bill together. As we all know, the budget pressure was immense. We were able to give important programs like Ryan White, title I, Goals 2000 and Head Start only a fraction of the increases the President requested—and that they should have received.

But this was also a difficult year for other reasons: the loss of Chairman Natcher this spring was a great loss to this institution. Programs that Mr. Natcher funded, based on his steadfast belief in investing in human capital, will serve this country for decades to come.

So with this bill, our subcommittee enters a new era: I want to salute our new chairman, my colleague and friend, Mr. SMITH of Iowa, for an excellent job done under far less than optimal circumstances.

I would particularly like to thank Chairman SMITH for his invaluable help with one of the most important issues addressed in this bill: The coordination and integration of services for children and families.

Mr. Chairman, back in February, Secretary Riley gave an inspired speech at Georgetown University in which he discussed service integration, one of the most urgent needs faced by young children and their families today.

In the complicated world we live in today, families and children need easy access to centralized services: education, social service, and health care programs should be brought together in one easily accessible location.

In his speech, Secretary Riley referred to just such a model, which he called "early childhood family centers." I believe we should be encouraging every community in this country to work toward this goal. And, thanks to Chairman SMITH, this bill sets up a working group at the Department of Education, along with HHS and Labor, to make this vision a reality. I am very excited about this effort, and am hopeful that its work will enable us to better Marshall our precious Federal resources for children and their families.

I would also like to point out a provision in the committee report that should help us accomplish that end. The committee report encourages the Secretary of HHS to promote colocation of Head Start programs with public schools, health care and social services in approving facilities construction permitted by the reauthorization.

Mr. Chairman, I would prefer that our language here be even stronger than it is. When we are giving Head Start a mere 30 percent of the increase the President requested, I think it is entirely appropriate to urge that construction funds be used only to promote service integration through colocation. It gets our children and families the most for our money, recognizing that the money is far less than it should be given the need.

It is going to be a long process to weave service integration into the fabric of our Federal programs. Efforts like Congresswoman NITA LOWEY's link up for learning have already begun the process, as has Congresswoman LYNN WOOLSEY's coordinated services section of H.R. 6. The new title I program and the Head Start reauthorization also move in this direction, and so does the bill before you today.

I am looking forward to working with Chairman SMITH and my subcommittee colleagues on this important undertaking, as well as with the authorizing committees on both sides of the Capitol and on both sides of the aisle.

In closing, I would like to thank the subcommittee staff for their fine work in putting this bill together. Mike Stephens, Bob Knisely, Sue Quanius, Mark Mioduski, Joanne Orndorff, and Meg Holland have all been a pleasure to work with. As Mr. Natcher always said, this is the people's bill, and I commend it to my colleagues.

Mr. PORTER. Mr. Chairman, I yield 4½ minutes to the gentleman from Pennsylvania [Mr. GOODLING], the very distinguished ranking member of the Committee on Education and Labor.

Mr. GOODLING. Mr. Chairman, I rise in support of H.R. 4606, the fiscal year 1995 appropriations bill for the Departments of Labor, HHS, Education and Related Agencies. I note with sadness that this is the first Labor, HHS appropriations bill in many years to come to the floor that is not being managed by our late colleague, Mr. Natcher. I do want to commend chairmen OBEY and SMITH, and ranking Republicans McDADE and PORTER for carrying on and keeping the process moving. However, Mr. Natcher will never truly be replaced.

While I do plan on voting for this bill, it does not mean that I am completely satisfied with everything in this massive appropriations bill. For example, I would have preferred that the Appropriations Committee eliminate the funding for more of the programs that the administration had recommended cutting. Nevertheless, I think the Appropriations Committee deserves credit for bringing this bill before us under the tight constraints of the budget caps. In addition, I would like to comment on some specific areas of this bill that touch upon programs authorized by the Education and Labor Committee, of which I am the Ranking Republican.

EDUCATION

Mr. Chairman, I am extremely pleased by the generous increase provided to the Even Start family literacy program. Illiteracy is one of the biggest problems facing our country, and these programs will play a key role in welfare reform and crime reduction efforts. Even Start addresses these concerns from a family perspective, providing for the literacy and education needs of parents as well as their children. It provides parents with education and parent training. In addition, it provides their children with an early childhood education program. The family literacy approach embodied in Even Start will help us ensure participating children never experience the problems faced by their parents—it helps break the cycle of poverty. Through this investment in Even Start, we are helping to insure a literate, well-trained work force as well as preventing welfare dependency and involvement in criminal activities. I thank my colleagues on the Appropriations Committee for their support for this important, effective program.

I was also pleased to note that the Appropriations Committee has not agreed with the administration's proposal to eliminate the chapter 2 program. Chapter 2 provides local school districts with the only flexible Federal dollars they can use for innovative, locally developed programs to improve the educational achievement of their students. Both the House and Senate authorizing committees have continued this important program in the elementary, secondary education reauthorization bills, and I am hopeful that the final Labor, HHS appropriations bill will include a similar amount or more for the chapter 2 program.

I want to commend the Appropriations Committee, particularly my colleague Mr. BONILLA, for addressing what has become known as the "85/15 rule." This rule states that Institutions of Higher Education must have at least 15 percent of their revenues generated from sources that are not derived from funds provided under title

IV of the Higher Education Act. Many Members on both sides of the aisle have expressed serious reservations about the Department of Education's intent to apply the regulation implementing this section of the 1992 amendments to a period of time prior to the effective date of the regulation. The Appropriations Committee's delay in the effective date of this regulation will allow institutions sufficient time to comply with its intent. As a result, quality training institutions will not be forced out of the program for failing to comply with confusing and unforeseen accounting rules. I will oppose any efforts to strike this provision from the appropriations bill and hope that my colleagues do likewise.

I am pleased to see that the committee has included in its report, language regarding the Department of Education's plans to expand current regulations to provide supplementary services to special populations under the Carl D. Perkins Vocational and Applied Technology Education Act. The report states the committee's concerns about the policy implications of any expansion of current regulations and encourages the Department to consider submitting any new regulatory changes to the negotiated rulemaking process. While I have hoped the committee would prohibit the Department from issuing any new regulations on this issue, I support the committee's approach. I strongly believe that the Department's proposed regulations will impose an unfunded mandate on States and local school districts and cause confusion and disruption in the States and local school districts. This issue should be addressed during the reauthorization of the Carl Perkins Vocational Education Act next year and I urge the Department to reconsider their position.

There are several funding recommendations in this bill for Education programs that cause me concern, but there is one in particular that I have complained about for years; and that is the funding for children with disabilities. Under the Individual With Disabilities Education Act, schools are legally obligated to provide all the special education services children need, regardless of the Federal appropriation. Congress currently provides only 7 percent of the costs of special education required by the law. This is a distant cry from the 40 percent funding level Congress said it would provide by 1983. In today's dollars, $315 million additional funding would be needed to increase the Federal commitment to special education costs by just 1 percent.

In my testimony before the Labor, HHS Appropriations Subcommittee, I recommended an increase in funding for the part B State grant program, and I am disappointed that the committee only maintained level funding between fiscal year 1994 and fiscal year 1995. It is unfair to the States and school districts and families of children with disabilities for Congress to continue ignoring the commitment it made to this program. This is a classic example of an unfunded mandate.

HUMAN RESOURCES

Everyone will deny it, but it is hard to avoid the "coincidence" that has linked the budgets for Head Start and the Low-Income Home Energy Assistance Program [LIHEAP] during this appropriations cycle. It began when the administration requested a $700 million increase for Head Start, and at the same time requested a $700 million decrease for LIHEAP. I have previously stated my opinion that Congress should resist the temptation to continually throw more money at a politically popular Head Start Program that is suffering from severe growing pains. Instead, I think we should wait until the new quality assurance mechanisms included in the recently enacted reauthorization are implemented before providing increased funding for Head Start. On the other hand, LIHEAP is a program that consistently achieves its purpose, and this past unusually harsh winter proved the importance of a program that helps low-income households heat their homes.

While I would have done it differently, I do respect the Appropriations Committee's more reasonable trade-off between Head Start and LIHEAP. Head Start received, in this bill, an increase of $210 million, one of its smallest increases in several years. On the other hand, LIHEAP funding was decreased by $250 million, which is much more rational than the administration's recommended 50 percent slashing of the program.

JOB TRAINING

In the area of job training, I commend the Appropriations Committee for recognizing programs for dislocated workers, school-to-work transition, and funding for the one-stop delivery of job training services as priorities in the Labor, HHS, education appropriations bill. In saying this however, I do want to express my growing concern over the vast number of Federal programs we have developed over the years that provide education, training, and employment assistance to adults and out-of-school youth. I urge members of the Appropriations Committee, as well as all Members of the House to join with us in making sense out of this fragmented system prior to consideration of the next funding cycle.

To address this concern, I recently introduced the Consolidated and Reformed Education, Employment, and Retraining Systems Act—the CAREERS Act—that would consolidate over 80 separate programs—as identified by the GAO—into seven block grant systems. Under this legislation, States and localities would be provided with streamlined and more flexible funding for further reform of work force preparation systems. Such consolidation is expected to result in administrative savings over time, and in much more efficient and high quality systems. Again, I encourage the Appropriations Committee to work with those of us on the authorizing committee in the coming year to develop a true system of work force preparation in this Nation that is both efficient and effective, similar to that envisioned in the CAREERS Act.

LABOR

On the Labor front, I am opposed to a provision in the bill which prohibits the Department of Labor from implementing or administering the Davis-Bacon Act "helper" regulations. The helper regulations authorize the use of semiskilled workers, working under the direct supervision of higher-skilled journey-level workers, to be employed on Federal construction projects. After nearly a decade of court challenges, the helper regulations have been found to be fully consistent with the language and purpose of the Davis-Bacon Act. I would like to point out that identical language was contained in the fiscal year 1994 Labor-HHS-Education appropriations bill. This was accompanied by committee report language which stated that the conferees were taking the action on a one-time basis and that further action should be taken by the authorizing committee of jurisdiction. As this provision constitutes a significant, questionable change under the Davis-Bacon Act, this issue should be considered in the Committee on Education and Labor, and not addressed through a rider attached to an appropriations bill.

Regarding another Labor issue, the Appropriations Committee has recommended a total appropriation of $312.5 million for the Occupational Safety and Health Administration, an increase of $16 million over 1994. While I will not argue with the total amount of the appropriation, I note that OSHA's budget for enforcement activities would be increased by about $10 million, or more than 5 percent, while "compliance" activities are increased only by about 2 percent. Unfortunately, that seems to reflect that prevailing priorities over at the Department of Labor these days as well—although they talk about wanting to promote "cooperation" with employers, all we see coming out of the agency these days is a heavy emphasis on enforcement. You can fool people only so long before they see that what you are really doing is discouraging business with heavy fines, and then business will understandably go elsewhere.

In addition, the Appropriations Committee would begin to fund, at about $3 million in the first year, an expensive new data collection program by OSHA. The problem is that we do not yet know what that data program is going to look like—OSHA has not proposed regulations and the report that they were supposed to issue in March, to answer questions about their intentions, is still not here. From what has been released, I would say that there are going to be some very controversial parts to what is proposed, and so it may never get off the ground. So I would hope that this $3 million in new money that is allocated for data collection by OSHA would not be spent until we have a much better idea of what kind of data collection program OSHA is proposing.

CLOSING

In closing, Mr. Chairman, I want to once again commend the Appropriations Committee for their hard work in bringing this bill to the floor today. As I said, I do not agree with everything in it, but taken as a whole it is definitely a bill I can support.

□ 1540

Mr. SMITH of Iowa. Mr. Chairman, I yield 2½ minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of the Labor, Health and Human Services, and Education appropriations bill for fiscal year 1995. This legislation includes funding for the highest priority domestic programs. It deserves your support.

As our colleagues know, this has been a difficult year for our subcommittee, the Appropriations Committee, and the Congress. We were all saddened by the illness and eventual passing of our distinguished chairman, Mr. Natcher of Kentucky. It is difficult to express how much we miss him. He was one of a kind and a joy to his colleagues. If he were here, Chairman Natcher would surely tell you that "this is a good bill." And it is.

Let me begin by expressing my thanks and my admiration for our acting chairman, Mr. SMITH of Iowa. He has taken up where Mr. Natcher left off and has worked with the members of the subcommittee to shape a bill that responds to the many challenges that face our country.

I believe that the strength of our country is defined by the health, education, and well-being of our people. President Clinton honored his commitment of putting people first by his investments funded in this subcommittee—for jobs, health and human services, and education.

Mr. Chairman, this bill has been developed within the budget discipline required by the Revised Budget Enforcement Act. Discretionary spending for fiscal year 1995 will actually be less than spending for this year—the first reduction in discretionary spending since 1969.

While budget discipline is necessary, it is particularly painful when it comes to this bill. Virtually every program in this subcommittee's jurisdiction is deserving of higher levels of funding. As I frequently tell our chairman, there are no bad programs in our bill. That makes deliberations over relative priorities very difficult work.

I particularly commend Chairman SMITH for his leadership in shaping the public health prevention initiative in this legislation. Through our extensive hearings, it became clear that before doing anything else, the committee had to rebuild basic public health prevention programs. Thus, the bill contains $160 million in new funding for a package of 14 programs at the Centers for Disease Control and Prevention [CDC] and the Health Resources and Services Administration [HRSA].

The bill contains increased funding for the CDC to fund unmet needs identified by the nearly 300 community-level planning groups across the country implementing HIV prevention reform. These HIV prevention reforms, along with the new strategic planning authority and other reforms at the Office of AIDS Research at the National Institutes of Health, bring new hope to our Federal AIDS response.

This bill also contains funding which responds to many challenges regarding women's health. Funding for breast cancer research is increased by 17 percent at the National Cancer Institute. Funding for breast and cervical cancer screening at the CDC is increased by 22 percent triggering important provisions in the authorizing legislation allowing more comprehensive preventive health evaluations for low-income women. Funding for the Office on Women's Health at the Public Health Service is tripled to $3 million. Funding for control of sexually transmitted diseases is increased to allow for chlamydia and other diseases of concern to women.

The bill also provides for significant increases for the investments outlined in the President's budget request—including the National Institutes of Health, Head Start, drug treatment, and an initiative to respond to the backlog in disability claims at the Social Security Administration.

The Department of Labor has received well-deserved new resources to respond to the needs of dislocated workers and disadvantaged youth. The bill contains funds to continue our commitment to expand on Jobs Corps programs and funding to maintain the Summer Youth Employment and Training Program. Both the Department of Labor and the Department of Education have received significant new funding to implement the School-to-Work Program for individuals not intending to seek higher education.

The bill also provides significantly increased funding for implementing Goals 2000 and compensatory education as authorized in the Elementary and Secondary Education Act. The bill continues a major commitment to higher education.

Mr. Chairman, this bill is an investment in the health and well-being of the American people. Again, I commend our chairman and I thank the subcommittee staff for their hard work and skill in assisting the subcommittee in developing this important legislation. I urge my colleagues to support this bill.

Mr. PORTER. Mr. Chairman, I am pleased to yield 3 minutes to the distinguished gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, I thank my good friend, the gentleman from Illinois, for yielding time to me.

Mr. Chairman, the White House's fiscal year 1995 budget would have abolished all funding for the Adolescent Family Life Program, the sole program in the entire Federal Government with the responsibility of promoting abstinence among teenagers. While the AFL only costs about $7 million a year, it was still deemed too much.

The advantages of teenage abstinence are obvious. It is the only guarantee against unwanted pregnancy. It is the only guarantee against sexually transmitted diseases. And while it is not a guarantee against social problems, like welfare dependency, it is the best first step we have.

Fortunately, the AFL's pluses were apparent to my friends Chairman NEAL SMITH and ranking Republican JOHN PORTER of the Subcommittee on Labor-HHS-Education. With their help, the AFL's funding has been restored in this bill.

Abstinence as a Federal program should not disappear. Among the $700 billion the Department of Health and Human Services will spend and the $50 million the Federal Government will spend to provide contraceptive services to America's young people, there is still room for the ray of hope that the AFL offers.

It is a message of hope and values that young people are seeking.

When Emory University asked 2,000 young, sexually active girls what they would like most to be taught in a pregnancy-prevention class, more than four out of five answered: "How to say no without hurting the other person's feelings."

Students of both sexes in Emory's Postponing Sexual Involvement program were five times less likely to become sexually active than students on average.

In a recent story on Norplant, the long-term contraceptive provided in Baltimore public schools, ABC News reported that of the students they talked to, every single one of these sexually active girls confided to us they wish they'd said no (to sex)."

Asked how long they wish they had waited, all the girls responded: until marriage.

Patricia Funderburk-Ware, former head of the AFL program, has written:

> The sad part is that abstinence until marriage probably was not seriously presented as a viable option for these girls. Someone made a judgment that it was unrealistic—an unacceptable concept for them—perhaps because most were black, poor and in the inner city.

I would say to my colleagues, if we're not going to spend as much on abstinence as we spend on contraceptives, at least we should be spending something. Teenagers may not read the Federal budget, but they're smart enough to figure out what message Uncle Sam is sending. The AFL program makes that a message of hope.

The Adolescent Family Life Program tells our children that we have enough faith in them to offer more than just contraception. Promoting abstinence tells our young people that we care about them enough to do more than just abandon them to the pressures of adolescence and then try to minimize the physiological damage.

My colleagues, I ask for your support to continue Federal funding of teen abstinence programs. Respect for the dignity of our children demands no less.

Mr. SMITH of Iowa. I yield 4 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Chairman, I rise in strong support of H.R. 4606, a bill to make appropriations for the Departments of Labor, Health, and Human Services and Education, and related agencies for fiscal year 1995.

I want to begin by joining my colleagues in commemorating the service of the late subcommittee chairman, Bill Natcher, who led this panel so capably and with such devotion for 14 years. It is impossible to replace a legendary figure like Chairman Natcher. But I am pleased to say that this most vital bill now rests in the very dedicated and sure hands of Congressman NEIL SMITH, the new subcommittee chairman.

I congratulate Chairman SMITH and his outstanding staff headed by Mike Stephens for meeting, head-on, the difficult challenges we faced in developing the fiscal year 1995 bill. As much as any other subcommittee, the Labor-HHS panel is the testing ground for how Congress will respond to the fiscal and social realities facing our Nation.

Stated simply, we must cut and invest. We must continue the difficult job we started in 1993 by steadily reducing the Federal deficit. At the same time, we must seize this opportunity to reorient our budget priorities toward investments in the building blocks of our economy and society: our people. The bill Chairman SMITH and the subcommittee members bring to the floor today meets that test.

The $252.3 billion provided by this bill represents a cut of $7.1 billion below the fiscal year 1994 bill. In addition, H.R. 4606 provides nearly $2 billion less than the amount requested by the President and eliminates 21 Federal programs. This is a tough bill, containing cuts which many will find difficult to accept. But the fiscal and social problems confronting this country demand tough choices, so we can focus our limited resources where they are needed most—in programs that address crime, economic competitiveness, public health, and the breakdown of our families and communities.

The investments contained in H.R. 4606 will expand economic opportunities for dislocated workers, jump-start nationwide school reform, provide increased support for preventive health and biomedical research, respond to pressing public health threats, such as AIDS and TB, and continue the expansion of successful programs, including Head Start and Job Corps.

DEPARTMENT OF LABOR

I want to take this opportunity to focus on a number of investments which address some of our Nation's most pressing needs. In the Department of Labor, the subcommittee included significant investments in worker retraining, the implementation of the new School-to-Work Opportunities Act, the development of a nationwide system of one-stop career centers, and a special initiative designed to improve compliance with Federal requirements related to worker safety and fair labor practices.

These are investments in our Nation's most valuable resource: the potential of our people. These are investments which will pay back dividends many times over in enhanced economic opportunity and competitiveness. If we are to rebuild our communities, fight crime, and promote families, we must offer our people the chance to obtain marketable skills. The investments in this bill will bring us significantly closer to those goals.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

In the Department of Health and Human Services, the bill provides an additional investment of $384 million in the National Institutes of Health [NIH], raising total expenditures for NIH to $11.3 billion. Included in that increase is a $50 million expansion for breast cancer research, which is critical to maintaining our commitment to finding a cure for this devastating illness which kills 46,000 American women each year. Under the bill, total NIH expenditures for breast cancer research will exceed $350 million in fiscal year 1995. This represents a 58-percent increase during the past 2 years.

Like many of my colleagues, I would have preferred to allocate even more to the NIH. Few, if any, Federal expenditures support such high quality of work and return so much in terms of improving our Nation's quality of life. It should be noted, however, that with the exception of one program, NIH received the highest percentage of any of the administration's investment requests.

I also want to mention the preventive health initiative, which my colleagues, Representative PELOSI and Representative DELAURO, and I crafted in close cooperation with the chairman and other members of the panel. The initiative consists of increases totaling $146 million for a number of important programs, including the Breast and Cervical Cancer Screening program, Community Health Centers, AIDS prevention and education, sexually transmitted disease prevention, infectious diseases, and family planning. These investments are both a response to pressing public health concerns and an important downpayment on health care reform.

The prevention initiative will provide critical new resources to help New York address ongoing public health crisis, including AIDS and TB as well as growing problems that demand greater attention, including sexually transmitted diseases, Lyme disease, foodborne diseases, hantavirus, hepatitis, and infectious diseases in child care settings. Expanded funding for family planning services will be critical to any strategy to address the teen pregnancy crisis in this country.

With regard to the Low-Income Home Energy Assistance Program [LIHEAP], the subcommittee restored $495 million to the program out of a total cut of $745 million requested by the administration. Despite claims that relatively stable oil prices have eliminated the need for this program, the simple truth is that millions of Americans continue to struggle to meet their heating expenses. For over 1 million New Yorkers, LIHEAP is a lifeline that protects them from freezing temperatures and, in some cases, homelessness. The drastic cut proposed by the administration would have had devastating consequences for New York and the Nation.

While there are a number of accounts in the bill that—resources permitting—would have merited higher levels of funding, I want to express strong support for providing additional funds for the Child Care and Development Block Grant. H.R. 4606 provides an increase of $42 million over fiscal year 1994. This amounts to only 21 percent of the administration's requested increase for the program.

Child care is essential to any strategy for improving the life chances of low-income working families. Child care is a prerequisite for ending welfare dependency and enabling parents to obtain marketable skills. I will continue to work to see that we enhance the funding level for the child care and development block grant before this measure reaches the President's desk.

DEPARTMENT OF EDUCATION

In the Department of Education, in addition to investments in education reform and school-to-work transition, the bill increases funding for the reauthorized title I program by $334 million. The bill also includes $30 million for the State Postsecondary Review Program [SPRE] which is establishing a crucial Federal-State partnership for improving the integrity and effectiveness of Federal student aid programs. Student aid programs are estimated to lose approximately $4 billion per year to waste and fraud. It is essential that the Education Department give the highest priority to implementing the SPRE program as soon as possible.

I am also pleased that the subcommittee included $3.1 million for the newly established Early Intervention Scholarship and Partnership Program. This is approximately $1 million over last year's funding level. I want to reiterate the subcommittee's recommendation that the Department include the Early Intervention Program as a central component of a comprehensive strategy aimed at helping at-risk teens prepare for higher education.

THE HYDE AMENDMENT

I am clearly disappointed that we are unable to lift the Hyde amendment from this appropriations bill. The Hyde amendment is a punitive policy that discriminates against poor women by denying them access to basic health care, which includes the full range of reproductive health care services, including abortion. We must continue working to erase the two-tiered system of health care which jeopardizes poor women's health, and renders the right to choose meaningless for far too many women.

Health care reform, however, presents us with a historic opportunity to address inequities in women's health care, and I am hopeful now that we can focus our attention on winning the battle to ensure that all women, regardless of income, have comprehensive reproductive health care, including abortion.

Mr. Chairman, this is a challenging time to be a member of the Labor-HHS Subcommittee, because so much is at stake and our resources are so scarce. The American people are demanding performance and accountability from Government. The only way that Congress can fulfill that mandate is to embrace the tough choices and invest aggressively in what works. H.R. 4606 does that. I urge my colleagues to give this bill strong support.

□ 1550

Mr. Chairman, I would like to engage the gentleman from Iowa in a colloquy concerning the Higher Education Act, title IX-E, Minority Faculty Development Fellowship Program. I wish to clarify the committee's intent regarding the eligibility of institutions which participate in the program.

Mr. SMITH of Iowa. Mr. Chairman, will the gentlewoman yield?

Mrs. LOWEY. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, I would be delighted to have a colloquy with the Congresswoman on this important program.

Mrs. LOWEY. The committee report language which accompanies H.R. 4606 indicates that fellowships are to be made available through institutions of higher education. I would appreciate it if the chairman would help me to clarify that the authorization legislation for title IX-E also sought to ensure that programmatic and fellowship support could be made available through consortia and other interinstitutional collaborations. It is my understanding, Mr. Chairman, that the committee intends that individual institutions, as well as consortia and other interinstitutional collaborations, be eligible to participate in the Minority Faculty Development Fellowship program.

Mr. SMITH of Iowa. Mr. Chairman, the gentlewoman from New York has correctly stated the committee's intent with regard to the institutions that are eligible to participate in the Title IX-E Program.

Mrs. LOWEY. Mr. Chairman, I thank the subcommittee chairman.

Mr. SMITH of Iowa. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SERRANO], a very valuable member of the committee.

Mr. SERRANO. Mr. Chairman, I rise in strong support of H.R. 4606, the Labor-HHS-Education appropriations bill for fiscal year 1995.

I must first pay tribute to Chairman Bill Natcher, whose illness and death this year marked the loss of a legendary Member and the end of an era for this House.

The torch has passed to new leaders, particularly to our subcommittee chairman, NEAL SMITH. Chairman SMITH has done an extraordinary job on this bill, the largest and most complicated appropriations bill, and in many ways the most important to every person and family in the Nation.

Chairman SMITH worked closely with subcommittee members and consulted widely with full committee members and other Members of the House, the administration, and the public. He made the hard choices required to set priorities among the many vital programs in the bill, and, despite very difficult circumstances, crafted a very fair bill.

I don't imagine anyone, including Chairman SMITH, thinks this bill is perfect; it isn't. But with the resources the subcommittee was given to work with, it is as fair an allocation as could be hoped for.

One problem took some extra effort. The budget request actually cut funding for most disease prevention activities of the Center for Disease Control, but the subcommittee, working together, was able to identify savings that made it possible to provide some increases for these vital public health functions.

I would certainly like to see more spending than the bill contains for Ryan White, for biomedical research and public health generally, for jobs and job training, for Head Start and programs for our children and families, for Goals 2000, but we simply weren't allocated enough money to do more.

My colleagues must recognize that H.R. 4606 is a very good bill and I urge all Members to support its passage.

Mr. PORTER. Mr. Chairman, I yield 2 minutes to my friend, the distinguished gentlewoman from Maryland [Mrs. MORELLA].

Mr. SMITH of Iowa. Mr. Chairman, I yield 1 minute and 30 seconds to the gentlewoman from Maryland [Mrs. MORELLA].

The CHAIRMAN. The gentlewoman from Maryland [Mrs. MORELLA] is recognized for 3 minutes and 30 seconds.

Mrs. MORELLA. Mr. Chairman, I rise in support of H.R. 4606, the Labor-Health and Human Services-Education Appropriations bill for fiscal year 1995. I commend Chairman SMITH, the ranking minority member, Mr. PORTER, and the members of the subcommittee and committee for their efforts on this very difficult bill. With limited funding, the committee has managed to continue to fund critical health and human services, education, and labor programs. While I will be working to increase funding for several programs in the bill during conference, I respect and commend the members for their efforts.

Despite the extreme restrictions in funding, the committee provided $384 million in increased funding for the National Institutes of Health. Even in this time of budgetary restrictions, we must continue to provide strong support for biomedical research.

I commend the committee for the increased funding provided for AIDS research, prevention, and services, substance abuse treatment, breast and cervical cancer screening, the Office of Research on Women's Health, and the injury control program, which helps fund domestic violence prevention efforts. I concur with the committee's report language urging that the highest priority be given to research on breast, cervical, ovarian, and prostate cancer within the increased appropriation for the National Cancer Institute.

I am also pleased that the committee included report language that I submitted urging the National Institutes of Health to give high priority to the Women's Interagency HIV Study, and to the development of a microbicide to prevent the spread of sexually transmitted diseases, including HIV infection, in both women and men. It is critical that women have a method of protection that they can use, with or without their partner's cooperation or knowledge.

I also commend the committee for increasing funding for the Women's Education Equity Act [WEEA]. This act promotes gender equity through the funding of educational programs, such as the Eisenhower Math and Science Educational Program, which was created to improve the skills of teachers and the quality of math and science instruction. Legislation which I introduced and which is included in WEEA will improve the effectiveness of the Eisenhower Programs by allowing training in gender-fair teaching practices in math and science, and by clarifying that informal educational opportunities will be eligible for funding.

The bill also includes increased funding for a number of other critical investments in education, job training, health, and human service programs. The committee has done the best possible job given the limited amount of funding, and I urge my colleagues to support the bill.

I wish to clarify the Appropriations Committee's intentions regarding funding for displaced homemakers. The committee urged the Department of Labor to improve access to longer-term intensive services. I want to clarify with the gentleman from Iowa that the committee's recommendation means that the Department should allocate funding for appropriate long-term services for displaced homemakers based on successful models currently being provided by displaced homemaker programs throughout the country.

Mr. SMITH of Iowa. Mr. Chairman, will the gentlewoman yield?

Mrs. MORELLA. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, the gentlewoman is correct.

Mrs. MORELLA. Mr. Chairman, displaced homemaker programs in my district and throughout the country need the resources to help women become economically self-sufficient.

I also wish to clarify the Appropriation Committee's intentions regarding funding for technical assistance and training for local displaced homemaker programs. There is a long history of committee support for Women Work!—formerly the National Displaced Homemakers Network—for the technical assistance and training services it provides to the more than 1,300 programs across the country. These services have a proven track record resulting in improved programs for displaced homemakers at the local level. The committee favors funding levels to maintain Women's Bureau support for customized technical assistance and training services for displaced homemaker programs at the same level as provided in fiscal year 1994.

Mr. SMITH of Iowa. Mr. Chairman, the gentlewoman is correct. The committee intends that the Women's Bureau maintain support for technical assistance and training for displaced homemaker programs at the fiscal year 1994 level if possible. Women Work! has a long track record of being an effective provider of technical assistance and training to local programs. I have heard from many of my colleagues and from service providers around the country about the high quality and importance of the services that the network provides. We intend for the Women's Bureau to continue to provide technical assistance and training for displaced homemaker programs through effective programs such as Women Work!

□ 1600

Mr. SMITH of Iowa. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Chairman, today, I strongly urge my colleagues to support the 1995 Labor-HHS-Education appropriations bill we have before us. By passing this legislation, we will help Americans and their families to address some of the toughest problems they face. If we adopt this bill, we can provide real help to: those who have lost their job or are looking for their first job; children who need special assistance so they can learn; people who are suffering from devastating diseases, such as cancer and AIDS; and students who need assistance in order to go to college.

As a member of the subcommittee that drafted this legislation, I cannot fully express to the House how difficult the choices were that had to be made in order to live within our discretionary budget allocation. It is fair to say, I believe, that none of us are 100 percent happy with the funding levels provided for every program in the bill—there is no doubt that several programs could use significantly greater resources.

So I commend our chairman, Mr. SMITH, for his leadership under these extremely difficult circumstances and for the wonderful job he did in assuming the chairmanship he inherited from Mr. Natcher. Chairman SMITH has brought to the House a finely crafted bill which brings much needed help to our working families and which responds to Americans' health and education needs. This is a good bill that reflects to the greatest extent possible the administration's priorities within very tight fiscal constraints.

I also want to commend our ranking member, Mr. PORTER, and all of my subcommittee colleagues for their consideration throughout our deliberations on the bill. Every member of the subcommittee worked very hard and made the difficult choices that had to be made in completing our work on the bill. I would also like to thank the subcommittee staff and other Members' staff for all of their hard work, as well.

Mr. Chairman, one of the subcommittee's most pressing priorities was to do as much as possible to assure that all working people benefit from the economic recovery underway in some regions of our country. And there is good news about jobs. New jobs are being created, many of them good jobs.

At the same time, these continue to be the most difficult of times for many working men and women. The pace of mass layoffs is, if anything, increasing. Throughout our country, hard working people are loosing their jobs, or living in fear of seeing their name show up on the next list of terminated employees.

Right now, as some in our economy prosper, working people are experiencing one of the highest rates of permanent job loss in history. Over 2 million of the 8 million currently unemployed have permanently lost their jobs, and often their careers. These workers are living through the highest rate of long-term unemployment ever recorded.

The administration made clear to the subcommittee that one of its highest priorities was to target additional assistance to help our Nation's unemployed workers find new, and hopefully better jobs. This bill does that. It includes a significant increase in funding for job retraining, and for the one-Stop-Shop initiative. These programs—guided by an administration committed to improving the services provided to unemployed workers—are bringing a new level of assistance to workers struggling to find new jobs, struggling to once again be able to contribute to a prosperous future for themselves, their families, and their communities.

The administration also made clear to the subcommittee that another key priority was to assure that all young people are given the opportunity to get the education and training they need to compete for good first jobs. Two key components of this effort are the School to Work Program and the summer jobs program. I'm pleased to say that the bill before you today includes significant increases for these two programs, and it also includes vital funding for college aid programs that make all the difference in allowing so many young people to reach their goal of earning a college degree.

And in order to make sure our children have the proper foundation to enable them to do well in school, we increased the Head Start Program by $210 million. I was also pleased that, with our chairman's leadership, the subcommittee turned back efforts to cut impact aid targeted to the neediest of our students and school districts.

As a very strong supporter of biomedical research, I am not totally satisfied with what the committee was able to include for the National Institutes of Health. I believe it is critical that we maintain our commitment to biomedical research so we can continue to make advances in the prevention and treatment of disease.

However, even in the face of our tough budget constraints, we were able to provide more than 70 percent of the administration's requested increase for the NIH—a total of $11.32 billion—which is the largest percentage increase in the bill for any of the President's health investment initiatives. Within the NIH total provided, I am pleased that funding for breast cancer research will be increased by approximately 17 percent, and that the budget for AIDS research is also increased and consolidated in the Office of AIDS Research. I am also pleased to report that the committee rejected the administration's proposal for a pause in indirect research costs.

The committee was also able to provide increases above fiscal year 1994 levels for several important disease prevention and care programs including: $22 million for the breast and cervical cancer screening program; $63 million for AIDS prevention; $13 million for community health centers; $47 million for the Ryan White AIDS Care Programs; $6 million for family planning; $2 million of lead poisoning prevention; $60 million for substance abuse treatment, and $10 million to fight the spread of tuberculosis and sexually transmitted diseases. I want to again especially thank our chairman for his leadership in advancing the critical public health initiatives included in this bill.

Finally, I want to make sure the House knows that the subcommittee was able to restore almost all of the cuts the administration had proposed for the Low Income Home Energy Assistance Program. Thousands of senior citizens and low-income families depend on this program to help them keep their homes warm in the cold months. This past winter demonstrated how important LIHEAP is, and while we couldn't bring the program fully back to the fiscal year 1994 level, I want to thank my colleagues for their support in providing the highest level of funding possible given all the competing priorities in this bill.

Mr. Chairman, again, I urge my colleagues to support this important legislation. While I believe we could wisely spend additional resources on several programs funded in this bill, the committee has done the best job it could possibly do given the tough limit on discretionary spending we faced.

Mr. PORTER. Mr. Chairman, I am pleased to yield 2 minutes to the gentlewoman from Maryland [Mrs. BENTLEY], a very hard-working and able member of our subcommittee.

Mrs. BENTLEY. Mr. Chairman, as we begin consideration of the fiscal year 1995 Labor-HHS-Education appropriations bill, I want to take a brief moment to thank Chairman SMITH and his very capable staff for assembling a bill that I think is good for the country. I also want to thank my ranking member, Mr. PORTER, and his staff for their fine work during the course of a very lengthy hearing schedule.

Despite the fact that we all would have liked to have seen higher levels for the National Institutes of Health, headquartered in Bethesda, MD, this is a bill with which we can all live. I am pleased that the committee sought to increase programs such as Healthy Start which has done so much to help bring down the appallingly high levels of infant mortality which continue to plague many regions of the country. And I am pleased that the committee rose to meet the challenge of providing comprehensive, community-based services that will help alleviate this problem.

Community-based services are vital to accomplish what we are endeavoring to accomplish in improving the health of American citizens. We also need to set up community-based programs with our police departments to help the community in every way.

I am particularly pleased that the bill adequately addresses the issue of prevention of offering much needed assistance to many of our struggling young families through innovative programs such as Family Support Centers. In addition, this bill provides a much needed funding increase for in-home services for the frail elderly in order to provide seniors with the opportunity to live at home. There also are generous increases for programs that provide key services to the severely disabled, thus giving them the opportunity to remain independent. In remembering Chairman Bill Natcher for his years of diligent service at the helm of the Committee, I want to salute Chairman SMITH and the entire committee staff for moving diligently forward during the difficult transition following the death of Mr. Natcher.

Mr. SMITH of Iowa. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I very much appreciate the gentleman from Iowa [Mr. SMITH] yielding time to me.

Mr. Chairman, I rise to enter into a colloquy with the chairman, the gentleman from Iowa [Mr. SMITH] and my colleague, the gentleman from California [Mr. BROWN].

Mr. Chairman, the gentleman from California [Mr. BROWN] and I share districts in southern California, in San Bernardino County. We essentially cut up most of the territory of the county and the population as well.

Mr. Chairman, I would say to the gentleman from Iowa [Mr. SMITH] that I would like to enter into a colloquy with him and the gentleman from California [Mr. BROWN], who has also received a series of complaints, a growing volume of complaints, as I have, from constituents regarding the extended length of time it takes to have their cases resolved by our Social Security office in San Bernardino, which we both share in our districts.

I have received a letter from the chief administrative law judge that begins to outline the problem. There are over 6,000 cases pending in the one county office. That is about four times the number of cases pending just last year. This is not a reflection of the fine work of the Social Security staff, but outlines the enormous challenge that our staff and constituents are facing.

I appreciate your subcommittee recognizing this ongoing problem and appreciate your willingness to add $194 million to this bill in order to address the situation. However, I am sure these problems are developing all around the Nation, not just in California. I hope there is more we can do.

Mr. Chairman, I am very interested in any comments the gentleman might have. These problems, while they do not just affect our districts, are very important to the gentleman from California [Mr. BROWN] and myself.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, the gentleman from California [Mr. LEWIS] has correctly stated our joint situation involving our county, the largest county, I might say, in the United States. Our office has received the same type of complaints as the gentleman's have. We think this is an extremely serious problem. We do appreciate the fact that this bill addresses it.

I want to thank the chairman of the subcommittee for the additional resources through the Social Security Administration, and of course, we hope that the subcommittee will be able to do even more in the future.

Mr. PORTER. Mr. Chairman, I would ask how much time remains on each side.

The CHAIRMAN. The gentleman from Illinois [Mr. PORTER] has 5½ minutes remaining, and the gentleman from Iowa [Mr. SMITH] has 4 minutes remaining.

Mr. PORTER. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Illinois [Mr. EWING], my colleague both in Congress and in the general assembly.

Mr. EWING. Mr. Chairman, I have addressed an issue on this floor on several occasions before dealing with the counterproductive Labor Department regulations which discourage supermarkets from hiring young people.

Mr. Chairman, report language included in this legislation directs the Department of Labor to review the regulation which have been causing the problem, H.O. 12. On two separate occasions I have risen on this floor and talked about H.O. 12, and how its enforcement by the Department is having a detrimental effect on job opportunities for teenagers.

H.O. 12 prohibits teenagers from using paper baler machines. When the regulation was written in 1954, it made good sense. However, modern paper baler machines are very different, and they are much safer. I know, because I recently inspected one in my own district.

It has been the policy, however, of the Department of Labor to levy large fines against grocery stores under this regulation, even though there was no clear evidence of safety risks to teenagers. This policy has discouraged grocery stores from hiring young people.

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After I contacted the Department of Labor, their response to me seemed to show they had little recognition or information about this regulation or the current standards they were enforcing. I have asked them to look into this and the response has been very marginal. We know today that modern baler machines must meet the standards of the American National Standards Institute, which are very rigorous.

I want to thank the gentleman from Iowa [Mr. SMITH] for raising this issue in the report language. He has included language which directs the agency to take a hard look at their enforcement of this outdated regulation. This language can do a lot to put our young people back to work.

Mr. SMITH of Iowa. Mr. Chairman, I yield 1 minute to the gentleman from Guam [Mr. UNDERWOOD].

Mr. UNDERWOOD. Mr. Chairman, I rise today in strong support of H.R. 4606. On behalf of the people of Guam, I certainly appreciate some of the items in there that are unique to the territories. I stand in support of this legislation. It not only meets the educational needs of our youth but speaks to the inclusion of all U.S. citizens no matter where they live and recognizes some very unique historical circumstances.

If I could just be allowed to mention a couple of items. One is the attention given to the preservation of indigenous languages and cultures. One which is also near to us is the native Hawaiians which we will be discussing a little bit later.

Mr. Chairman, I rise today in support of H.R. 4606. On behalf of my district, I see this appropriations bill as a positive step in addressing Guam's needs. And from a national perspective, I think this bill strikes an appropriate balance between innovative public spending and sound frugal budget practices.

H.R. 4606 includes a provision to help U.S. territories improve their education systems. The bill includes $2,937,000 for territorial education improvement, a modest program but one that strikes at an inherent inequality among our Nation's schoolchildren. Test scores show that children in the territories do not have the same opportunities as their stateside counterparts. By efficiently directing these funds to those who need it most, the authorizing and appropriating committees succeeded in putting Federal dollars to work in a productive way.

This bill recognizes the importance of assisting in the preservation of the culture and history of indigenous peoples. This is evident in the inclusion of the Native Hawaiian Education Program which we will be debating later today.

Other national efforts are also acknowledged in H.R. 4606 such as school-to-work and Goals 2000. The bill directs substantial funds to this initiative which assists those students who might otherwise fall between the cracks in our educational system after high school and before employment or further education. This legislation's support for bilingual education programs authorized in the Elementary and Secondary Education Act is also a powerful investment in our youth, both in my district and the nation at large. We must equip our youth with the tools to surpass our expectations. Language skills are an essential tool in that effort.

H.R. 4606 recognizes the educational needs of our youth and attempts to meet these needs with prudence in a time of fiscal restraint and it speaks to the inclusion of all U.S. citizens no matter where they live, while it recognizes some very unique historical circumstances. I urge my colleagues to support this bill and address the needs of America's students.

Mr. Chairman, I would like to engage in a brief colloquy with the gentleman from Iowa regarding some provisions under the Higher Education Special Grants section of the Labor-HHS-Education appropriations, $397,000 in funding for assistance to Guam institutions of higher education has not been included as it was in last year's appropriation. These funds compensate Guam for the tremendous impact Micronesians place on our higher institutions of education.

Would the gentleman consider supporting the funding for this assistance if it is included in the Senate appropriations?

Mr. SMITH of Iowa. Mr. Chairman, if the gentleman will yield, I would assure the gentleman that if this matter is included, I would definitely consider it. However, we have been told that it is not authorized at this time and we have to work with the committee on that.

Mr. PORTER. Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Iowa. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise to congratulate the gentleman from Iowa [Mr. SMITH] and the gentleman from Illinois [Mr. PORTER] the ranking Republican, for their work in developing the legislation. Theirs has not been an easy job, with many tough choices forced by the existing budget caps. For example, they made reductions in impact aid, they accepted a third of the President's proposed reduction for LIHEAP, they canceled programs such as substance abuse grants, dropout demonstration grants, follow through, foreign language assistance, bilingual training, and some construction programs. They did that in order to make room for many of the President's priorities. These cuts helped to accommodate modest increases in chapter I, Head Start, health research, and training for the unemployed.

Mr. Chairman, we call this pay as you go budgeting around here. The Clinton administration has come up with a new term. They like to refer to it as cut and invest. Any way we describe it, the committee is to be complimented for setting important priorities within a very tight budget.

Mr. SMITH of Iowa. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Chairman, I rise in support of H.R. 4606, because this bill recognizes that investing in education is critical to solving many of the urgent problems facing our Nation.

I know how difficult it was to produce this bill. Chairman SMITH, and the members of the subcommittee, are to be complimented on the openness of their process, and for giving many Members, including me, the opportunity to testify.

In the end, however, there simply is not enough money to meet all of our Nation's needs—particularly for education, which is our most important investment for tomorrow.

In coming years, we must be able to maintain important programs, such as chapter I, and we must get new initiatives, such as coordinated services, off the ground.

As a member of the House Budget Committee, I will be fighting to make sure that sufficient funds are available for education in future years.

Mr. Chairman, Congress can do this by sticking to its resolution to increase Federal spending on education by 1 percent every year until it accounts for 10 percent of the Federal budget.

If we make good on that resolution, future education spending bills will be true investments in our children—an investment that will reap long-term results for our Nation.

Mr. Chairman, let us pass this important bill and get on with the urgent task of providing more where more is urgently needed.

Mr. SMITH of Iowa. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, I alluded to this, but I want to say it more specifically because with all of the accolades, I feel very humble, I could not have been here as chairman with a bill that seems to meet with such approval had it not been for the very conscientious and hard work of the gentleman from Illinois [Mr. PORTER] and of each of the members of the subcommittee. This is not any one Member's bill, this is everyone's bill.

Mr. Chairman, reference was made to our late chairman who, of course, cannot be replaced completely. We just do the best that we can. The gentleman has set a model.

At this point in time, we hope that this bill is a bill that would have met with his approval. I think that we have done the best that we can, but we did have a great advantage in that we had the same staff available to us that we had for the last several years and that the former chairman had. That helped us a great deal, even though we started more or less in the middle of the year putting this bill together.

Mr. Chairman, I heartily recommend this bill to the House.

Mr. PORTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just like to say that it is a great and distinct pleasure to work with the gentleman from Iowa, the chairman of the committee. I thank him for his very kind words. I look forward to working closely with him for a long time to come. I echo that this is a bill I think Bill Natcher would say was a good one.

Mr. SKELTON. Mr. Chairman, recently, I joined 100 of my colleagues in a letter to Chairman SMITH, urging the Appropriations Subcommittee on Labor, Health and Human Services, and Education to support the Impact Aid Program in the fiscal year 1995 appropriations bill, by accepting the authorizing committee's numbers.

Beyond question the Impact Aid Program is vital to school districts serving military children and students who live in communities impacted by Federal property. Impact aid provides basic resources for essential school services. It is already critically underfunded.

Moreover, under this bill, impact aid will be one of the hardest hit of the Federal education programs. These disproportionate cuts will deny federally impacted schools funds which may be necessary for their survival.

We continue to ask our educators and our school districts to produce the finest students in the world. It is time we gave them the resources to do so.

Mr. OWENS. Mr. Chairman, I rise in reluctant support of H.R. 4606, the Labor-HHS-Education appropriations bill for fiscal year 1995. This bill fails to put money where Congress' mouth is. Members of the House continually espouse their support for education reform, but when put to the test, would rather spend their dollars on wasteful defense projects than educating the Nation's children. That is proven by the fact that while the Labor-HHS-Education appropriations bill's total is $7.1 billion less than the current level, the Defense appropriations bill's total is $3.5 billion more than the current amount.

H.R. 4606 shortchanges students at an early age. The bill clearly demonstrates Congress' lack of commitment to investing in our children's education. Chapter I of the Elementary and Secondary Education Act, which provides assistance to the poorest school districts, is given $302 million less than the administration's request and only $302 million more than the current year's allocation. With such meager funding, students residing in poor districts will never be able to receive an education which is on par with that of their counterparts living in wealthier districts.

H.R. 4606 also allocates a paltry amount for the Safe and Drug-Free Schools Programs at a time when our schools have become a more hospitable environment for crime and substance abuse than reading and writing. These national programs have been cut by more than one-half of the current year's funding level.

Additionally, this bill makes it more difficult for disadvantaged students to receive a high-quality college education. By imposing a cap on the number of students eligible to receive Pell grants, the bill makes it no longer possible to boast that in this country, no one who is qualified for admission to college will be turned away because of inadequate resources. If that is not slamming the door on the American dream, then I am not sure what is.

Moreover, the cap represents a misguided attempt to cut education costs. For example, while the overall number of students eligible for the maximum Pell grant award is declining, the number of these students who enroll at United Negro College Fund institutions and historically black colleges and universities is increasing. The cap therefore ignores the educational needs of poor African-Americans and other people of color as well.

Not only is education given short shrift in the bill, but libraries also are underfunded. Federal support for libraries is cut by $30 million, and zero funding is recommended for public library construction.

Finally, H.R. 4606 is a raw deal for individuals with disabilities. The National Institute on Disability and Rehabilitation Research [NIDRR] within the Department of Education is being funded at a level slightly below last year but $1.5 million higher than the administration's request. The low request and funding level run counter to the administration's policy to "end welfare as we know it," since NIDRR primarily supports research and training activities designed to maximize the employment of individuals with disabilities. The National Council on Disability [NCD] also is recommended for a cut in funding. This cut is a tremendous blow to the civil rights of individuals with disabilities, as NCD takes an active part in monitoring compliance with the Americans with Disabilities Act.

Overall, the bill is an embarrassment to the administration and the Congress. If we cannot commit ourselves to fully fund education, libraries, and programs for individuals with disabilities, then to what can we commit ourselves? The democratic ideal of self-empowerment is meaningless to underprivileged Americans unless they have access to world-class education and training.

The strategy of no cuts for defense is a blunder immense. Education is the innocent victim of this misguided policy. With great reluctance I vote "yes" for this bill. We must all pray that the administration will find its way in the next session. In 1995 education must become the No. 1 priority.

Ms. SCHENK. Mr. Chairman, recently the House passed H.R. 6, which reauthorizes many elementary and secondary education programs, including the Impact Aid Program. This program provides funds to school districts which, because of the presence of Federal land or a Federal activity, have a reduced tax base.

Early last month, I joined 101 of my colleagues in sending a letter to NEAL SMITH, the distinguished chairman of the Appropriations Subcommittee on Labor, Health and Human Services and Education, seeking full funding of the Impact Aid Program, in the amount of $889 million for fiscal year 1995. Current funding is $798 million. Unfortunately, the subcommittee's bill allows for only $728 million, a cut of $70 million, approximately 10 percent from the current level of funding.

Each year, federally impacted school districts receive less and less of the impact aid funds which the Congress has promised. And yet each year they are supposed to take on more and more initiatives, update their facilities so that their students can compete in the global economy, and protect themselves against increasing school violence. Their budgets are squeezed so tightly that many schools are hard pressed to maintain existing programs.

There are approximately 2,500 federally impacted school districts and over 2 million federally connected children. These children must remain our priority.

While I intend to support the fiscal year 1995 Labor-HHS-Education appropriations bill, I urge the House and Senate conferees to restore the funding for this important program.

Ms. SNOWE. Mr. Chairman, I rise today to express my serious concerns about the language in H.R. 4606 concerning the Low-Income Home Energy Assistance Program [LIHEAP]. The bill cuts $250 million from the $1.475 billion in fiscal year 1995 funding that we appropriated last year in accordance with LIHEAP's forward funding schedule. It also provides a reduced funding level of $1.225 billion for the program in fiscal year 1996.

In its report, the committee states that the rescission in LIHEAP funding was prompted by overall funding constraints and by the need to shift funding to the President's investment priorities of education, job training, health care, and biomedical research.

Reading the report the question immediately entered my mind: what could be a higher priority than heat during the bitter cold winters that many northern States experience? Food, clothing, and shelter are the immediate responses. But heat in the winter actually ranks equally with them as a fundamental human necessity. People do not survive without any of these things, including heat in the winter. Having them all is a matter of subsistence not comfort.

I support education, job training, and biomedical research. These programs give our less fortunate citizens the tools they need to achieve their goals, advance themselves economically, and improve the quality of their lives. But it is hard to understand how effective a job training or education program will be when the participant in that program must return after class to a freezing home, or when the participant is afflicted with anxiety because he knows that he cannot pay the heating bills piling up on the table at home.

LIHEAP is a survival program, not a self-improvement program. It is directly linked to the health of our citizens. A 1992 study by Boston City Hospital found that the number of clinically underweight children visiting the emergency room increased dramatically in the period immediately following the coldest month of winter. After considering and ruling out chronic illness as a primary cause of this phenomenon, researchers estimated that the children's low weights resulted from increased caloric demand due to cold stress, and from a lack of food due to the economic stress caused by high heating costs. Mr. Speaker, these findings are a disgrace. None of our citizens should ever have to choose between food and heat.

The $1.5 billion originally appropriated for fiscal year 1995 is far from excessive. In fiscal year 1985, the program received $2.1 billion, but funding steadily declined to $1.35 billion in fiscal year 1993 in unadjusted dollars. If LIHEAP funding had remained constant since fiscal year 1985 in dollars adjusted for inflation, today's appropriation would have to be about $2.7 billion—much higher than the $1.5 billion that we appropriated last year, and higher still than the reduced level of $1.225 billion contained in H.R. 4606. And even at recent funding levels, LIHEAP covered less than 25 percent of the average recipient's energy bill, and literally millions of people got no assistance despite meeting the eligibility requirements for the program. We should be increasing LIHEAP funding, not cutting it.

Mr. Chairman, I understand as well as anyone in this body that we need to cut spending to reduce the deficit and begin to pay down our enormous debt. But before we begin the process of cutting, we need to set priorities, and LIHEAP ranks at the top of the priority list. I hope that, should the Senate provide more funds for LIHEAP in its bill, the members of the committee will reconsider their current position and accept a higher Senate funding level in conference.

Mr. HYDE. Mr. Chairman, as the chief sponsor of the Hyde amendment, I want to address a serious problem faced by the States in implementing this funding limitation which was first passed by Congress last year.

Mr. Chairman, there is nothing in the language of the modified abortion funding limitation amendment which required the Medicaid Bureau to take upon itself the functions that it did when, on December 28, 1993, an official issued the misguided and burdensome directive to the States on abortion funding. The language on its face merely recites a passive situation as a condition precedent for receipt of funds. It does not preclude, however, the investigation and proper disposition of suspected cases of fraud on the part of hospitals, physicians, Medicaid recipients, etc.

Mr. Chairman, it was never our intention to require States to pay for abortions in cases of rape and incest. The thrust of the Hyde amendment, as our colleagues well know, was to place restrictions on Federal abortion funding, with certain exceptions. We did not intend to override State laws and policies to require States to pay for abortions; but we recognized that if States so chose to pay for abortions in cases of rape, incest, or life endangerment, Federal reimbursement would now be available.

In fact, Mr. Chairman, this was the administration's own interpretation of the impact on States of repeal of the Hyde amendment. Prior to enactment of the modified Hyde language in 1994, the administration stressed in several statements the rights of States to determine whether or not to pay for abortions—even those abortions for which Federal reimbursement was available.

On March 30, 1993, senior Presidential adviser George Stephanopoulos participated in a White House briefing that dealt fairly extensively with the administration's budget proposal to repeal the Hyde amendment and open the door to full Federal funding of abortion. "As you know," Mr. Stephanopoulos stated, "there are several states now which do have some restrictions on abortion funding, several others that don't. They will continue to maintain that flexibility."

On the same day, White House Press Secretary Dee Dee Myers said this about the President's decision to seek repeal of the Hyde amendment: "No, this would not mandate that States spend their money that way. * * * If the Hyde amendment is repealed, States will then have the flexibility to determine how that money is spent. Some States would then choose to spend it on abortions. Other States will still have restrictions against it."

Two days later, Dee Dee Myers reiterated the President's support for State flexibility. "What the President has done in terms of overturning the Hyde amendment or moving to make that change is that the Federal Government ought not to dictate policies to the States," Ms. Myers said. "Medicaid, for example, is funded by a combination of State and Federal funds," Ms. Myers continued. "The President believes that the States ought to have more discretion over how that money is spent and that the Federal Government ought not to dictate it," she added.

Lorraine Voles, deputy press secretary at the White House, had this to say: "The States will have flexibility about their funding for abortions. Some states will and some States won't."

Finally, respect for State flexibility upon repeal of the Hyde amendment was strongly implied in a letter which Secretary Shalala wrote to the late chairman of the Appropriations Committee, Mr. Natcher, on June 8, 1993. "As indicated in the President's budget, the administration prefers to work out an approach on this sensitive issue [i.e., abortion funding] which is consistent with both State and Federal law."

Thus, several administration officials made similar statements on the implications of repealing the Hyde amendment, a policy change which had been discussed for weeks—if not months—before it was formally announced. All statements affirmed the right of States to determine whether or not to fund abortions when partial Federal reimbursement is available. No statements made during this time indicated that the availability of Federal funds for abortions would require States to pay for these same abortions.

The fiscal year 1994 Hyde amendment was enacted with the knowledge that 37 States had laws or policies restricting abortion funding, and that at least two of these States restricted funding under their State constitution. Based on our own understanding that the Medicaid Program is essentially a State-run program which receives Federal assistance, and taking into account the administration's prior and repeated statements that States would maintain the flexibility of deciding whether or not to fund abortions, we did not believe that the Department of Health and Human Services would proceed to order the States to pay for abortions whenever Federal funding is available.

Nevertheless, after the Hyde amendment was signed into law, without any notice or opportunity for comment, the Medicaid Bureau issued a directive which completely belied the administration's previous statements. Moreover, it went even further afield by reading into the modified Hyde amendment a mandate on the States to allow abortionists to waive reporting requirements in cases of rape or incest. This requirement—manufactured out of thin air—would effectively gut all State antifraud provisions. The administration's hostility to reporting requirements is clearly demonstrated by its attack on the Pennsylvania law which pays for abortions in cases of rape and incest but which has reporting requirements.

Since this administration announced in March 1993 that the President wanted to repeal the Hyde amendment in its entirety, a policy statement that was repeated in 1994 in the fiscal year 1995 budget request and which showed its preference for no restrictions on Federal funding of abortion, it is arguable that this position has strongly influenced its interpretation and use of the modified Hyde amendment.

Mr. Chairman, I do not believe that the law requires the States to pay for abortions when Federal reimbursement is available. Therefore, it should not be necessary, when the law is sufficient, for Congress to enact new legislation to correct every faulty administration decision. Moreover, the Rules of the House of Representatives preclude this Member, or any other Member, from offering an amendment to the Labor/Health and Human Services Appropriations bill to make this clarification. Such an amendment would be subject to a point of order under clause 2 of rule XXI, which prohibits legislating on an appropriations bill.

Therefore, Mr. Chairman, as much as I would like this issue to be resolved quickly and definitely, the House is not able to clarify its intent at this time.

Miss COLLINS of Michigan. Mr. Chairman, as we consider H.R. 4606 today, the bill appropriating funds for fiscal 1995, I am pleased that the House Appropriations Committee restored most of the proposed cuts in the low-income energy program known as LIHEAP. I commend the committee for recognizing the needs of millions of our citizens whose homes have been warmed and weatherized with LIHEAP's help.

Earlier this year, I presented to the committee a letter signed by all members of the Congressional Black Caucus in support of restoring funds for the Low-Income Energy Assistance Program. Since many of us in the caucus have a disproportionate number of low-income people in our districts, this program is particularly important to minority Members of Congress.

As you know, for fiscal year 1995, the President proposed only $750 million, compared to the $1.4 billion we appropriate for fiscal year 1994. Coming after a particularly harsh winter in many parts of the country and several scorching summers, these cuts are difficult to understand. Commendably, the bill before us today restores most of those cuts and provides $1.2 billion.

Most studies show that the programs is a great help to poor households, many of which contain elderly and handicapped persons. Recipients receive help with their heating and cooling costs, with weatherization and in some cases, as crisis intervention.

In Michigan last winter, more than 372,000 households received some heating help under LIHEAP. Approximately two-thirds of these households were headed by single parents and senior citizens, living on incomes of less than $8,000. For these families, an annual heating bill in Michigan can be as high as $1,000. One study shows that 20 percent of families who experience unmet heating assistance needs will become homeless.

Having a warm house is not just a luxury. It is a necessity. Not only does it help us adults function better, it provides a good home environment for our children to study and to learn.

I hope some day we can eradicate poverty and eliminate the need for this program, but until then, I will continue to work so that a warm home is a reality for every American.

Mr. WILLIAMS. Mr. Chairman, as our late colleague Bill Natcher used to remind us, this bill is really the heart and soul of what we do as a Congress. It supports the health and education of our people, and as such it contributes mightily to the strength of our Nation. It's a bill that always deserves our support.

However, I would not be totally forthcoming if I did not share with my colleagues some reservations I have with the way this bill treats student aid funding. No matter how one looks at it, this is not a good student aid budget. The bill before us today cuts student aid funding by $75 million below last year's funding level. State student incentive grant funding is the lowest it has been since 1976. Work study and supplemental grants are frozen for the second year at their 1993 levels. In nominal dollars the Pell grant maximum is equivalent to its 1990 level. No, this is not a good student aid budget.

I understand and appreciate the dilemma the Appropriations Committee has been faced with in dealing with the impact of last year's budget resolution and very tight 602(b) allocations. Yet in my opinion student aid has been asked to disproportionately share the burden of those decisions. And I think this will have long-term damaging consequences. Because when we short-shrift our future leaders, we're short-shrifting the future of our Nation. I'm afraid we may be doing that with this student aid budget.

This bill includes, for the first time in its history, a cap on the number of students who can receive Pell grants. I know this is being proposed as a one-time-only cap, hopefully a cap that will never go into effect. But we've had experiences with past one-time-only solutions to budget problems. An example of that is the origination fee charged on student loans. That was supposed to be, if not a one-time-only proposition, at least a short-term charge to students. It was implemented in 1981. It's still with us today. So, I'm suspicious of one-time-only propositions.

But even if I did not have this suspicion, the Pell cap is a bad idea, for it fundamentally alters the Pell Grant Program. Under a cap, Pell becomes a race to the application gate. What was once the foundation of our student aid system—a grant that would be available to every eligible student no matter at what point in time they apply to college or for assistance—becomes a rationing system that rewards the best advised and those who can fill out and have processed their student aid forms fastest. Those who can master the mysteries of the student aid application process and who, with good guidance, apply to college early, will survive a cap. However, those students who decide late to apply to college and those who aren't always encouraged that postsecondary education is a viable option for them—in many cases the poor, the working class, single parents, women with dependent children, minority students—these students will be left at the gate. If the word spreads that the guarantee of a Pell grant is no longer there, these students may decide not to pursue college or advanced training. Or conversely, we may have a stampede to get in first in the Pell grant lottery, which could frustrate the hopes of the committee that the cap will never be implemented. Whatever the outcome, capping the number of students who can receive a Pell award is a terrible idea.

Mr. Chairman, in the last Congress we enacted the Higher Education Amendments of 1992. One of the highlights of that legislation was the fact that it brought some certainty, reliability, and stability to our system of Federal student aid. Those 1992 amendments gave students and parents some confidence that they could plan early for college. Today we're taking that ability to plan away from the most disadvantaged of those students and their parents. It's a big mistake. I hope it is not a harbinger of things to come. I urge the committee and the House to correct these policy directions in the next appropriation bill.

Mr. GENE GREEN of Texas. Mr. Chairman, I rise today to express my concern that the funds designated under H.R. 4606 fall far short of the funds needed to achieve our national education strategy. Over the past 18 months, we have undergone the process of reauthorizing the Elementary and Secondary Education Act. During this debate, we have discovered that the Federal Government plays an inadequate role in our Nation's education system, and accordingly, this administration had pledged a substantial increase in funding for education programs.

Sadly, the appropriations process has not yielded the results we had been promised. Our current budget constraints could not allow the full increase of $700 million in the Chapter 1 Program which will mean that hundreds of thousands of children will continue to be unserved or underserved through this program. Comparing the administration's request for funding in fiscal year 1995 to what was actually appropriated, one will notice a net decrease in funding of 0.6 percent compared to 1994. And, compared with the other agencies in this appropriations bill, education only received 32 percent of the recommended increase requested by the administration while Health and Human Services received 85 percent and Labor received 49 percent of their recommended increases.

On the positive side however, there are increases in a number of important programs. Bilingual education received an additional $23 million and Goals 2000, our Nation's new education reform plan, received an additional $283 million.

These numbers represent our Nation's commitment to the education and training of our future work force. Unless we reevaluate our efforts in this area, we will not be able to produce the kind of workers that are able to compete in an increasingly competitive global market. I urge my colleagues to place more emphasis on these vital programs in the future and to consider the Federal Government's role in education as the ultimate investment we can make for the future of our children.

Mr. YOUNG of Florida. Mr. Chairman, I rise in support of H.R. 4606, the 1995 appropriations bill for the Departments of Health and Human Services and Education. At the outset, I want to compliment our chairman, Mr. SMITH, and our ranking Republican member, Mr. PORTER, for the outstanding work they have done under very difficult circumstances.

This legislation, which in one way or another affects the lives of virtually every American family, provides funding for quality program after quality program. Unfortunately, our allocation this year did not allow us to provide the level of support we would have liked for each and every program. We have had to make some very difficult choices in a year in which the President's budget request for the programs within our jurisdiction was $3.1 billion greater than our allocation.

One area which I am most concerned about is funding for biomedical research. In the National Institutes of Health, our Nation has one of the world's richest resources of medical and scientific talent. The investment our committee and Congress has made in NIH has been repaid many times over in important medical breakthroughs that have saved lives, eased pain and suffering, and offered people throughout the world renewed hope.

Many mysteries remain, however, and we must continue the search for the clues that will one day lead to a cure for cancer, diabetes, AIDS, and so many other diseases. This bill provides a 3-percent increase in NIH funding for 1995. This, unfortunately, fails to keep pace with the inflation index for biomedical research which is estimated to be 4.1 percent.

My colleague from Illinois, Mr. PORTER, has made efforts I supported at the subcommittee, full committee, and will again try today to increase funding for NIH. We believe that at a time when we are considering health care reform and the need to reduce the cost of health care, NIH should be one of our Nation's priorities for finding ways to treat some of the most debilitating and costly diseases.

Regardless of the final appropriation we agree on for NIH in conference, my experience is that the Director and his Directors of each of the Institutes will continue to provide quality research. It has been my pleasure to develop a special relationship over the years with Dr. Claude Lenfant, Director of the Heart, Lung, and Blood Institute, which has oversight responsibility for the National Marrow Donor Program.

This is a program that the committee continues to give high priority to and which continues to save lives every day throughout our Nation and the world. The chairman, Mr. SMITH, Mr. PORTER, and each of the members of the subcommittee are heroes of the program for their continuing support and interest.

Every time I report to the House on our ongoing work with the National Marrow Donor Program, the news gets better and better. Under the direction of the program's chairman of the board, Admiral Elmo Zumwalt, Jr., one of the program's greatest heroes, the national registry had grown to 1,256,692. During the past year, an average of 21,000 potential donors joined the national registry each month.

An area of particular concern to our committee, and especially to my colleague from Ohio, Mr. STOKES, who has also been one of the program's heroes, is the need for greater growth in the number of minority donors. It is a pleasure to report that principally through the allocation of specially designated funding the past three by this committee and the Appropriations Subcommittee on National Defense, on which I also serve, more than one-third of all the new donors recruited in the past year were from minority groups. Each month, 200 minority focused drives are held throughout our Nation.

The key to the success of the National Marrow Donor Program continues to be people. It is so heartening to see the miraculous growth of the program continue as more and more people learn of the possibility that they could save the life of a person somewhere in the world suffering from leukemia and any 1 of 60 other blood disorders.

The odds of finding a matched bone marrow donor in the general population is 1 in 20,000. With the tremendous growth in the national registry, the growing racial diversity of the donors, and the number of fully typed donors, supported in large part with funding provided by our two subcommittees, more than 56 percent of all new patients searching the registry find at least one completely matched donor. A significant number of other patients find one or more near perfect matches, which with the experience our transplant centers have acquired through the large number of transplant procedures, leads to almost the same rate of success for patients.

In the 6½ years since the national registry became operational, more than 2,500 patients have been given a second chance at life. Every month, 62 transplants are facilitated through the national registry, and not a month goes by where bone marrow doesn't cross international boundaries to save a life here or abroad.

The success of the National Marrow Donor Program is something every Member of Congress can be proud of and I appreciate the continuing support of each of my colleagues for my efforts to see that we pursue our goal to one day find a matched donor for every patient in need of a bone marrow transplant.

The National Marrow Donor Program is one of the many valuable programs funded in this bill. Time does not allow me or any member of our subcommittee to list every single program. There are two others, however, that I want to highlight and thank my colleagues for their continuing support.

The first is the National Youth Sports Program, for which the committee has included $14 million in fiscal year 1995. This program provides an opportunity for more than 60,000 low-income children, primarily from minority communities, to spend 6 weeks during the summer on a college campus. For most participants, this is the first time they have ever been on a college campus let alone have the opportunity to use the facilities and tap into the talent of their faculty and staffs. We have found that over the past 26 years of the program, this experience has encouraged many, many students to pursue a new found dream of a college education.

The name does not fully tell the story of all the benefits participants derive from the program. In addition to sports skills and training, students also receive physical examinations, hot lunches, math and science instruction, and tough antidrug and antigang messages.

These programs are underway as we speak today on 170 college campuses throughout our Nation and I would encourage my colleagues who are fortunate enough to have programs in their district to take some time during the Fourth of July district work period to go out and visit with the students and faculty and staff to see firsthand how excited they are about this tremendous way they spend their summer.

Finally, Mr. Chairman, I want to call attention to a small but very important program our subcommittee continues to support at my request. This is the Emergency Medical Services Program for Children which provides instruction and training for emergency room personnel into the special needs of children who require treatment in emergency rooms.

The Institute of Medicine reported last year on the unmet need for pediatric emergency medical services throughout our Nation and indicated strong support for the roll this program has played in developing these services and training programs.

Accidents and injuries continue to be the leading cause of death and disability for America's children. They result not only from unsafe environments in which accidents occur, but also from the lack of access in many communities to emergency medical services capable of meeting the unique needs of children. Since 1985, the Emergency Medical Services Program for Children has recognized this great unmet national need and has taken some very important steps to reach out on a State-by-State basis to make the public, hospital administrators, and emergency response personnel more aware of the special needs of children and to provide training and equipment to better treat them and save lives.

In closing, Mr. Chairman, I have only had time to talk about several of the many programs included in this legislation. It is a good bill, although there are areas which demand greater support. However, given our tight fiscal constraints, the Committee has made the difficult choices that are necessary to ensure that our limited resources are allocated to provide the greatest return to the American people.

Mr. COMBEST. Mr. Chairman, I would like to congratulate Chairman SMITH on adding report language to this appropriations bill, regarding Hazardous Occupation Order Number 12, as it relates to cardboard balers.

I have been interested in making common-sense reforms to this 40-year-old regulation to reflect the numerous technological advances that have occurred in the manufacturing of cardboard balers. My suggested changes would not affect safety in any way. It simply would allow workers under the age of 18 to deposit cardboard into a dormant baler, not to operate the machine.

I was first alerted to this situation earlier this year when I was contacted by grocery store owners from my district who told me that they had been cited and fined by the Labor Department for violations involving the placement of cardboard materials into a nonoperating baler by employees under 18 years of age.

My grocers told me that because of these fines, which can be as much as $10,000 for each violation, they are no longer hiring young people, or they have decided to cut back considerably on the number of teenagers that they employ in their stores.

With 1.3 million teenagers unemployed, it seems counterproductive to have a regulatory policy that discourages certain businesses—such as supermarkets—from hiring young people. Unbelievably, the Department of Labor has no data that shows young people are at risk or have been injured when tossing cardboard into a dormant baler. Just the other week, the administration urged the business community to hire some 300,000 teenagers for the summer, but here is an example of regulations that prompt businesses not to hire young people.

Mr. Chairman many of my colleagues share these same concerns and frustrations with this issue of Hazardous Occupation Order Number 12, and how it is being enforced by the Department of Labor. As a matter of fact, 71 Members of the House joined with me in sending a letter to Secretary of Labor Robert Reich, requesting information in this area. I am inserting our letter to the Labor Department to be made a part of the RECORD.

To conclude, I should mention that it has been 10 weeks since we sent this letter, and that we have not received a response yet.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, April 25, 1994.

Hon. ROBERT REICH,
Secretary of Labor, Washington, DC.

DEAR MR. SECRETARY: We are writing to you in an effort to seek common sense improvements in the Hazardous Occupation Order Number 12 (HO 12) as it relates to scrap paper balers.

As you know, HO 12 was adopted in 1954 under authority of the Fair Labor Standards Act. It prohibits 16 and 17 year olds from operating or assisting to operate balers, wire stitchers, guillotine paper cutters or staplers, as well as other pieces of equipment used in the paper industry. Major advances in baler safety technology have taken place in the last 40 years since HO 12 was adopted, and we are perplexed as to why the regulatory framework does not reflect these changes. We believe HO 12, as it applies to balers, is very outdated.

Specifically, we strongly oppose the current enforcement of HO 12 that prohibits a 16 and 17 year old from even placing materials into a baler. It seems unbelievable to fine small businesses thousands of dollars for this simple act, when modern balers cannot be operated during the loading process. At a time when the nation has more than 1.3 million unemployed teenagers, it seems counterproductive to have regulatory policies that discourage their hiring or significantly hamper usage of their skills.

We request answers and supporting information to the following questions within 14 days.

How many minors have been injured or killed by throwing cardboard boxes into a baler, not operating it?

Where there have been injuries, how old was the baler, did it meet current safety standards? Exactly what injuries were sustained and how did they occur—that is what part of the baling process was the individual doing?

In what industries did these injuries occur?

What is the total assessed fines for the last three years for placing material in a baler? Information provided previously was for the entire standard not singly for balers.

We believe that improving this standard would be a positive step towards relieving the cumbersome maze of regulations that currently stifle the nation's small businesses.

Sincerely,

Larry Combest, John Boehner, Ron Klink, Joe Knollenberg, Peter DeFazio, Thomas Ewing, Henry Bonilla, Bill Baker, Robert Michel, James Talent, Sam Johnson, Bill Barrett, Peter Hoekstra, John Doolittle, Mike Kreidler, James Walsh.

Mac Collins, Michael Huffington, Harry Johnston, Dick Armey, Ron Machtley, Richard Baker, Tom DeLay, Donald Manzullo, Dan Miller, Jay Dickey, Ron Wyden, Glenn Poshard, Peter Torkildsen, Spencer Bachus, Don Sundquist, Jim Ramstad, Jim Kolbe, Tillie Fowler, David Mann, Craig Thomas, John Linder, G.V. (Sonny) Montgomery.

William Goodling, Ike Skelton, Ralph Hall, Thomas Bliley, Marge Roukema, Joe Skeen, Harris Fawell, W.J. (Billy) Tauzin, Earl Hutto, Bill Emerson, Lamar Smith, Tom Petri, Steve Gunderson, Cass Ballenger, Alan Mollohan, Norman Sisisky, Joseph McDade, Jan Meyers, James Bilbray, Jon Kyl, Joel Hefley, James Hansen.

Charles Stenholm, James Moran, Bill Zeliff, Jimmy Hayes, Hamilton Fish, Jr., Mike Parker, Charles Canady, Bob Stump, Rob Portman, Bill Brewster, Ed Pastor.

Mr. PORTER. Mr. Chairman, I yield back the balance of my time.

Mr. SMITH of Iowa. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1995, and for other purposes, namely:

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

Mr. HUGHES. Mr. Chairman, I move to strike the last word.

Mr. Chairman, first of all, let me congratulate the distinguished gentleman from Iowa, the chairman of the subcommittee, for doing an excellent job in his maiden voyage with this particular subcommittee. He and the ranking minority member, the gentleman from Illinois, I think under very difficult circumstances have done an excellent job. It just does not seem right not to have Bill Natcher, our late beloved chairman of this subcommittee, on the floor. Mr. Chairman, I speak for a lot of the Members in this body when I say that Bill Natcher could not have a more worthy successor than the gentleman from Iowa who has done such great work over the years in the Subcommittee on Commerce, Justice, State, and Judiciary, and who I know will labor hard in probably one of the most important subcommittees, the most difficult of the subcommittees, I would say, all the subcommittees are important, but this one spends by far the largest amount of money and has great responsibility.

My colleague, the gentleman from Iowa, is fortunate to have the continuity of the staff, the professional staff, of this subcommittee to work with him. I know that it was difficult for him to stay within the 602(b) allocation and he has brought this particular bill in $7.1 billion less than last year's fiscal appropriations bill and some $1.9 billion under the administration request. I congratulate the gentleman on his work.

□ 1620

I would like to engage the chairman of the subcommittee in a colloquy in a matter that does give me some concern, however. It seems to me that in the bill there is an $8 million cut in the Supportive Services and Centers Program and the Congregate Nutrition Program within the Older Americans Act, and I am also informed that because of this cut, over 1.5 million meals will not be served next year to the older Americans of this country and around 80,000 fewer seniors will receive less services than they presently receive in their homes and in the community.

I think you will agree that if such cuts were to take place that would be unfortunate, because it would hurt thousands and thousands of needy Americans around the country.

I hope that the gentleman from Iowa will take another look at that in conference and attempt to support the Supportive Services and Centers Program, but particularly the Congregate Meals Program closer to the 1994 level. Now, I know we could probably debate whether the cuts will translate into that many fewer meals being served to seniors around the country. That is something that is, I think, somewhat conjectural.

But the Office on the Aging suggests that we are talking about 1.6 million less meals being served to seniors, many of them who do not receive any other nutritious meal during the day than that particular meal.

I wonder if the gentleman will respond?

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I am happy to yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I would hope they are not cut. I would point out that at these meal sites they do get voluntary contributions; that means that where they have been getting a dollar they will have to try to get a dollar and one cent in voluntary contributions. I think they can. I do not think the meals will be cut.

They may have to get a little higher contributions from some of the people who attend.

However, I do want to say that I like working with the gentleman and his committee. There are 14 of these senior citizens aging programs. We tried to allocate that money within that as best we could. There was only a two-thirds of 1 percent cut rather than the 3½ percent from current services that the whole bill had to take. So we did favor these programs, undoubtedly.

We also, within the 14 programs, tried to favor those that helped those people who were shut in, who cannot even go to a meals site. We tried to favor those kinds of programs, too.

On the other hand, within that, even though they are only cut two-thirds of 1 percent rather than 3½ percent from current services, if we can find more money in conference, we would be glad to increase it. Or if there is some shifting within the 14 programs that could be done and the gentleman's committee would recommend that, we would certainly very seriously consider that.

Mr. HUGHES. I thank the gentleman.

You know, one of the things that I am very interested in is older American issues. The Older Americans Act has been probably one of the greatest blessings, something we can be very proud of, and while the gentleman is correct, we can expect more voluntary contributions, the gentleman knows that that is somewhat problematic. Those voluntary contributions do not always take place.

As a result, we could end up with the kind of numbers that the Office on Aging suggests, a million and a half less nutritious meals for senior citizens.

Mr. SMITH of Iowa. To put it in perspective though, that is out of 245 million meals. They do serve a lot of meals. They serve a great purpose all over this country.

Mr. HUGHES. But, you know, to a hungry senior citizen who does not get a nutritious meal, that statistic does not mean anything. And, frankly, I would like to work with the gentleman before he goes to conference and hopefully during conference and try to look at areas even within the Older Americans Act, if we could find some funding to shift to make sure that nutrition programs, that Congregate Meals Program, is protected.

And I thank the gentleman.

Mr. SMITH of Iowa. I will be glad to do so.

The CHAIRMAN. The clerk will read.

The Clerk read as follows:

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs and for carrying out section 908 of the Social Security Act, $90,276,000, together with not to exceed $45,073,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

Mr. SMITH of Iowa. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mrs. MINK of Hawaii) having assumed the chair, Mr. SHARP, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4606) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes, had come to no resolution thereon.

APPOINTMENT OF CONFEREES ON H.R. 4454, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1995

Mr. FAZIO. Madam Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4454) making appropriations for the legislative branch for the fiscal year ending September 30, 1995, and for other purposes with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

MOTION TO INSTRUCT CONFEREES OFFERED BY MR. YOUNG OF FLORIDA

Mr. YOUNG of Florida. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YOUNG of Florida moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill H.R. 4454 be instructed to insist on the House position on the amendment of the Senate numbered 24.

The SPEAKER pro tempore. The gentleman from Florida [Mr. YOUNG] is recognized for 30 minutes.

Mr. YOUNG of Florida. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, this is a bipartisan motion I offer today agreed to by the chairman of the subcommittee.

Last year, the House approved the GPO Electronic Information Access Enhancement Act, which creates a system to increase computer access to public information of the Federal Government.

The House report on this bill stated that the legislation did not authorize any increase in appropriations for these activities, and that the program was to be implemented within the current GPO budget.

During consideration of this appropriations bill in May, the House approved bill language requiring the GPO to implement the Access Act with savings from other GPO programs.

The amendment approved by the House stated, the Access Act "shall be carried out through cost savings."

This motion instructs the House conferees to support the House language thereby ensuring that the GPO comply with the intent of Congress to implement this new program with cost savings, and not more American tax dollars.

Mr. FAZIO. Madam Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I am happy to yield to the gentleman from California.

Mr. FAZIO. Madam Speaker, I thank the gentleman for yielding.

Madam Speaker, we support the motion and urge its adoption.

Mr. YOUNG of Florida. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Florida [Mr. YOUNG].

The motion to instruct was agreed to.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. FAZIO, MORAN, OBEY, MURTHA, CARR of Michigan, CHAPMAN, SABO, YOUNG of Florida, PACKARD, TAYLOR of North Carolina, and MCDADE.

There was no objection.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995

Mr. SMITH of Iowa. Madam Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4606) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

□ 1628

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4606, with Mr. SHARP in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the bill had been read through page 2, line 11.

The Clerk will read.

The Clerk read as follows:

TRAINING AND EMPLOYMENT SERVICES

For expenses necessary to carry into effect the Job Training Partnership Act, as amended, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Job Training Partnership Act; title II of the Civil Rights Act of 1991; title XV, part A of Public Law 102–325; title VII, subtitle C of the Stewart B. McKinney Homeless Assistance Act; the Women in Apprenticeship and Nontraditional Occupations Act; Goals 2000: Educate America Act; and the School-to-Work Opportunities Act; $5,524,991,000 plus reimbursements, of which $5,035,179,000 is available for obligation for the period July 1, 1995 through June 30, 1996; of which $150,000,000 is available for the period July 1, 1995 through June 30, 1998 for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers, including $51,254,000 for new centers; of which $184,788,000 shall be available for the period October 1, 1994 through June 30, 1995; and of which $140,000,000 shall be available for obligation from July 1, 1995 through September 30, 1996, for carrying out activities of the School-to-Work Opportunities Act: *Provided*, That $63,666,000 shall be for carrying out section 401 of the Job Training Partnership Act, $84,841,000 shall be for carrying out section 402 of such Act, $8,880,000 shall be for carrying out section 441 of such Act, $1,500,000 shall be for the National Commission for Employment Policy, $5,579,000 shall be for all activities conducted by and through the National Occupational Information Coordinating Committee under such Act, $3,861,000 shall be for service delivery areas under section 101(a)(4)(A)(iii) of such Act in addition to amounts otherwise provided under sections 202, 252 and 262 of the Act, $1,044,813,000 shall be for carrying out title II, part A of such Act, and $598,682,000 shall be for carrying out title II, part C of such Act: *Provided further*, That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $320,190,000.

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $90,310,000.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of benefits and payments as authorized by title II of Public Law 95–250, as amended, and of trade adjustment benefit payments and allowances under part I, and for training, for allowances for job search and relocation, and for related State administrative expenses under part II, subchapters B and D, chapter 2, title II of the Trade Act of 1974, as amended, $274,400,000 together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49–491–1; 39 U.S.C. 3202(a)(1)(E)); title III of the Social Security Act, as amended (42 U.S.C. 502–504); necessary administrative expenses for carrying out 5 U.S.C. 8501–8523, and sections 225, 231–235, 243–244, and 250(d)(1), 250(d)(3), title II of the Trade Act of 1974, as amended; as authorized by section 7c of the Act of June 6, 1933, as amended, necessary administrative expenses under sections 101(a)(15)(H), 212(a)(5)(A), (m) (2) and (3), (n)(1), and 218(g) (1), (2), and (3), and 258(c) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.); necessary administrative expenses to carry out the Targeted Jobs Tax Credit Program under section 51 of the Internal Revenue Code of 1986, and section 221(a) of the Immigration Act of 1990, $146,697,000, together with not to exceed $3,269,013,000 (including not to exceed $1,653,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980, and including not to exceed $1,000,000 which may be obligated in contracts with non-State entities for activities such as occupational and test research activities which benefit the Federal-State Employment Service System), which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which the sums available in the allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502–504), and the sums available in the allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501–8523, shall be available for obligation by the States through December 31, 1995, except that funds used for automation acquisitions shall be available for obligation by States through September 30, 1997; and of which $144,763,000 together with not to exceed $817,224,000 of the amount which may be expended from said trust fund shall be available for obligation for the period July 1, 1995, through June 30, 1996, to fund activities under the Act of June 6, 1933, as amended, including the cost of penalty mail made available to States in lieu of allotments for such purpose, and of which $232,437,000 shall be available only to the extent necessary for additional State allocations to administer unemployment compensation laws to finance increases in the number of unemployment insurance claims filed and claims paid or changes in a State law: *Provided*, That to the extent that the Average Weekly Insured Unemployment (AWIU) for fiscal year 1995 is projected by the Department of Labor to exceed 2.772 million, an additional $27,800,000 shall be available for obligation for every 100,000 increase in the AWIU level (including a pro rata amount for any increment less than 100,000) from the Employment Security Administration Account of the Unemployment Trust Fund: *Provided further*, That funds appropriated in this Act and in Public Law 103–112 which are used to establish a national one-stop career center network may be obligated in contracts, grants or agreements with non-State entities.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and section 104(d) of Public Law 102–164, and section 5 of Public Law 103–6, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 1996, $686,000,000.

In addition, for making repayable advances to the Black Lung Disability Trust Fund in the current fiscal year after September 15, 1995, for costs incurred by the Black Lung Disability Trust Fund in the current fiscal year, such sums as may be necessary.

OFFICE OF THE AMERICAN WORKPLACE

SALARIES AND EXPENSES

For necessary expenses for the Office of the American Workplace, $30,411,000.

PENSION AND WELFARE BENEFITS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for Pension and Welfare Benefits Administration, $66,388,000.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96–364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 1995, for such Corporation: *Provided*, That not to exceed $11,493,000 shall be available for administrative expenses of the Corporation: *Provided further*, That expenses of such Corporation in connection with the termination of pension plans, for the acquisition, protection or management, and investment of trust assets, and for benefits administration services shall be considered as non-administrative expenses for the purposes hereof, and excluded from the above limitation.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $242,860,000, together with $1,059,000 which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshore and Harbor Workers' Compensation Act: *Provided*, That the Secretary of Labor is authorized to accept, retain, and spend, until expended, in the name of the Department of Labor, all sums of money ordered to be paid to the Secretary of Labor, in accordance with the terms of the Consent Judgment in Civil Action No. 91–0027 of the United States District Court for the District of the Northern Mariana Islands (May 21, 1992): *Provided further*, That the Secretary of Labor is authorized to establish and, in accordance with 31 U.S.C. 3302, collect and deposit in the Treasury fees for processing applications and issuing certificates under sections 11(d) and 14 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 211(d) and 214) and for processing applications and issuing registrations under Title I of the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. 1801 et seq.

SPECIAL BENEFITS
(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title 5, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 per centum of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, $258,000,000 together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to August 15 of the current year: *Provided*, That such sums as are necessary may be used for a demonstration project under section 8104 of title 5, United States Code, in which the Secretary may reimburse an employer, who is not the employer at the time of injury, for portions of the salary of a reemployed, disabled beneficiary: *Provided further*, That balances of reimbursements unobligated on September 30, 1994, shall remain available until expended for the payment of compensation, benefits, and expenses: *Provided further*, That in addition there shall be transferred to this appropriation from the Postal Service and from any other corporation or instrumentality required under section 8147(c) of title 5, United States Code, to pay an amount for its fair share of the cost of administration, such sums as the Secretary of Labor determines to be the cost of administration for employees of such fair share entities through September 30, 1995: *Provided further*, That of those funds transferred to this account from the fair share entities to pay the cost of administration, $5,299,000 shall be made available to the Secretary of Labor for expenditures relating to capital improvements in support of Federal Employees' Compensation Act administration, and the balance of such funds shall be paid into the Treasury as miscellaneous receipts: *Provided further*, That the Secretary may require that any person filing a notice of injury or a claim for benefits under Subchapter 5, U.S.C., Chapter 81, or under Subchapter 33, U.S.C. 901, et seq. (the Longshore and Harbor Workers' Compensation Act, as amended), provide as part of such notice and claim, such identifying information (including Social Security account number) as such regulations may prescribe.

BLACK LUNG DISABILITY TRUST FUND
(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, $994,864,000, of which $943,005,000 shall be available until September 30, 1996, for payment of all benefits as authorized by section 9501(d) (1), (2), (4), and (7), of the Internal Revenue Code of 1954, as amended, and interest on advances as authorized by section 9501(c)(2) of that Act, and of which $28,216,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, and $23,333,000 for transfer to Departmental Management, Salaries and Expenses, and $310,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: *Provided*, That in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation, interest, or other benefits for any period subsequent to June 15 of the current year: *Provided further*, That in addition such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $312,500,000, including not to exceed $70,615,000 which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970; and, in addition, notwithstanding 31 U.S.C. 3302, the Occupational Safety and Health Administration may retain up to $500,000 per fiscal year of training institute course tuition fees, otherwise authorized by law to be collected, and may utilize such sums for occupational safety and health training and education grants: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further*, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost workday case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of two or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $197,519,000, of which $5,851,000 shall be for the State Grants Program, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the hire of passenger motor vehicles; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of a major disaster: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $296,761,000, of which $5,134,000 shall be for expenses of revising the Consumer Price Index and shall remain available until September 30, 1996, together with not to exceed $54,102,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of five sedans, and including up to $4,392,000 for the President's Committee on Employment of People With Disabilities, $156,002,000, which includes $6,500,000 which shall remain available until expended for use by appropriate Departmental agencies for ADP equipment acquisition, systems development and associated support related to Departmental enforcement programs; together with not to exceed $328,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

Not to exceed $185,281,000 may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 2001–10 and 2021–26.

OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $47,676,000, together with not to exceed $3,860,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

GENERAL PROVISIONS

SEC. 101. None of the funds in the Employees' Compensation Fund under 5 U.S.C. 8147 shall hereafter be expended for payment of compensation, benefits, and expenses to any individual convicted of a violation of 18 U.S.C. 1920, or of any felony fraud related to the application for or receipt of benefits under subchapters I or III of chapter 81 of title 5, United States Code.

SEC. 102. None of the funds appropriated under this Act shall be expended by the Secretary of Labor to implement or administer either the final or proposed regulations referred to in section 303 of Public Law 102–27.

(TRANSFER OF FUNDS)

SEC. 103. Not to exceed 1 percent of any appropriation made available for the current fiscal year for the Department of Labor in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfers: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 104 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 104. (a) None of the funds provided under this Act to the Department of Labor shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act to the Department of Labor shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $500,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

This title may be cited as the "Department of Labor Appropriations Act, 1995".

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Mr. SMITH of Iowa (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of title I of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The CHAIRMAN. Are there points of order on title I?

If not, are there amendments to title I?

AMENDMENTS OFFERED BY MR. PORTER

Mr. PORTER. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. PORTER: On page 17, line 9, strike "$156,002,000" and insert in lieu thereof "$145,422,000";

On page 29, line 20, strike "$2,166,148,000" and insert in lieu thereof "$2,106,148,000";

On page 40, line 3, strike "$4,408,775,000" and insert in lieu thereof "$4,402,690,000";

On page 52, line 26, strike "$359,358,000" and insert in lieu thereof "$348,134,000";

On page 24, line 15, strike "$1,919,419,000" and insert in lieu thereof "$1,938,159,000";

On page 24, line 20, strike "$1,259,590,000" and insert in lieu thereof "$1,271,922,000";

On page 24, line 24, strike "$162,832,000" and insert in lieu thereof "$164,513,000";

On page 25, line 5, strike "$726,784,000" and insert in lieu thereof "$733,942,000";

On page 25, line 10, strike "$626,801,000" and insert in lieu thereof "$632,988,000";

On page 25, line 15, strike "$536,416,000" and insert in lieu thereof "$541,725,000";

On page 25, line 19, strike "$877,113,000" and insert in lieu thereof "$885,731,000";

On page 25, line 24, strike "$513,409,000" and insert in lieu thereof "$518,495,000";

On page 26, line 4, strike "$290,335,000" and insert in lieu thereof "$293,255,000";

On page 26, line 9, strike "$266,400,000" and insert in lieu thereof "$269,087,000";

On page 26, line 13, strike "$431,198,000" and insert in lieu thereof "$435,486,000";

On page 26, line 18, strike "$227,021,000" and insert in lieu thereof "$229,326,000";

On page 26, line 23, strike "$166,155,000" and insert in lieu thereof "$167,867,000";

On page 27, line 4, strike "$47,971,000" and insert in lieu thereof "$48,540,000";

On page 27, line 9, strike "$181,445,000" and insert in lieu thereof "$183,307,000";

On page 27, line 13, strike "$290,280,000" and insert in lieu thereof "$293,200,000";

On page 27, line 17, strike "$542,050,000" and insert in lieu thereof "$547,414,000";

On page 29, line 4, strike "$1,337,606,000" and insert in lieu thereof "$1,350,696,000";

On page 29, line 12, strike "$114,370,000" and insert in lieu thereof "$115,581,000";

And amend the report accordingly.

Mr. PORTER (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. PORTER. Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc and that the debate be limited to 30 minutes, to be divided equally between the gentleman from Iowa [Mr. SMITH] and myself.

The CHAIRMAN. Does the request relate to this amendment and all amendments thereto?

Mr. PORTER. Yes, Mr. Chairman.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The gentleman from Illinois [Mr. PORTER] will be recognized for 15 minutes and the gentleman from Iowa [Mr. SMITH] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Chairman, at the beginning I would like to commend a young lady who is a Presidential Management Intern from NIH working on my staff, Susan Hill, who has been with us for 5 months now and has been doing a tremendous job in my office helping with this bill and other legislation.

Mr. Chairman, she reflects the caliber of the people at NIH, and we very much appreciate having her as a member of our staff during this time.

Mr. Chairman, this amendment would add $105 million to the National Institutes of Health and offset funding in administrative and unauthorized accounts.

Mr. Chairman, I said in my opening remarks on this bill that NIH is a treasure, and it is.

It represents half of all biomedical research conducted in our country, the so-called basic research that undergirds every medical improvement.

This is not research that would otherwise be done by industry. It is a service that can only be supported at the Federal level.

While companies are engaged in applied research and development to bring new drugs and devices into the health care system, NIH provides the basic research that makes these advances possible.

Mr. Chairman, the United States is the world leader in biomedical research and development in large measure due to the foresight of Congress in showing support for a strong NIH.

Let me reiterate that the United States is the world leader in biomedical research and development.

We not only have the most advanced diagnostic devices and procedures, we have the best prevention, early diagnosis and treatment of diseases.

The NIH is vital to all of this. Its contributions have helped extend life expectancy dramatically over the last 40 years.

Beside the obvious health benefits, the NIH supports high-quality, high-skilled jobs. Virtually every researcher in this country, public or private, has been trained or supported in part by NIH.

The NIH supports a positive balance of trade in medical research and advances.

It spawned the biotechnology industry, one of the fastest growing industries in the country and one that also produces a positive balance of trade.

The FDA is poised to approve a new biotech product that can detect cervical cancer through blood tests. Until today there has been no good diagnostic test for this cancer, causing thousands of deaths every year.

With a new, cheap diagnostic test, thousands of lives will be saved as the disease is diagnosed early in its treatable stage.

It is inconceivable that this test could have been developed without the basic research on structural biology that came out of NIH.

Mr. Chairman, I want to list just a few examples of how NIH saves lives and money.

In 1970 lithium treatment for manic depression was developed by NIH and approved for widespread use. In the 24 years since then the use of this drug has saved over $145 billion in prevented hospitalizations that were previously required for manic depression.

The NIH supported the development of many vaccines including the polio vaccine, which has saved more in prevention than Congress has invested in NIH in its entire history. One discovery has saved the entire cost of NIH throughout its history.

Finally, the economic costs of hypertension are estimated at $18.2 billion per year. The Heart, Lung and Blood Institute helped develop blood pressure drugs and public education campaigns which ensure that over 70 percent of Americans with high blood pressure are controlling it today through the use of regular medication.

As these examples demonstrate, Mr. Chairman, biomedical research is key to health care reform and saving money in the long term.

Research ought to be at the top of the health care agenda.

Recent advances in genetic science have created greater opportunity to prevent, cure, and treat disease than ever before.

Yet, despite the past commitment of this subcommittee to NIH, we are not taking advantage of these opportunities.

Less than one in four meritorious NIH grants is funded, and it has become very difficult to recruit and train new researchers.

We are in real danger of losing an entire generation of biomedical researchers.

At a time when we lead the world and opportunities are manifest, we should redouble our commitment to this enterprise.

Unfortunately, the subcommittee mark provides only a 3-percent increase for the Institutes, less than biomedical inflation.

My amendment, while it would still fall short of the President's requested increase, would get each Institute nearly to the inflation level.

While this is far less than we need to do to maintain our leadership position in the world, it would at least ensure that NIH is not losing ground to inflation.

The NIH is an area in which we should be going forward, not backward.

Mr. Chairman, my amendment offsets the funding in four places.

First, it would offset $60 million dollars in the Substance Abuse Block Grant.

This increase resulted from the President's request for over $300 million for a Hard Core Drug Treatment initiative.

Neither the hard core initiative nor the underlying block grant are authorized for 1995.

The amendment offsets program administration in the Departments of Labor and Education and the Administration on Children and Families.

The offsets for Labor and Education do not include any built-in increases such as rent or pay increases identified in the budget.

In addition the offsets exclude certain program increases such as employee training and printing for the Student Guide.

The offset for Administration on Children and Families would level fund program direction at the 1994 amount.

Mr. Chairman, these are difficult choices. I understand that the Departments are trying to do more with less, and I understand the need for additional drug treatment funding.

But as I said in my opening remarks, I believe our job on the Committee on Appropriations is to provide funding for our highest priorities, and that means offsetting funding in areas of relatively lower priority.

Nor should the proposal to offset administrative funding in any way reflect on the quality of employees at the Departments, who I feel are very high-caliber people.

Mr. Chairman, I understand that many Members will rise to oppose this amendment on the grounds that it is insensitive to the needs of the programs which would be offset.

I want everyone to understand that I am bringing this amendment to the floor because I believe we are facing a true crisis at NIH.

If we do not act over the next 5 years to create real and stable growth in our biomedical research enterprise, we will: Lose world leadership in this critical industry; lose high paying, high skill jobs; compromise our balance of trade; lose a generation of scientific talent that will take 10 or 20 or 30 years to rebuild, and lose the greatest opportunities in medical science ever available to mankind: opportunities to improve our health and the quality of life, and the opportunities to control health care costs.

Mr. Chairman, I offer this amendment to raise alarms for everyone in this House and to ask for the support of all Members in the years ahead and beyond to ensure that NIH continues to grow and continues to provide the kinds of opportunities for all Americans.

Mr. Chairman, I yield 5 minutes to the fighter for NIH, the gentleman from Michigan [Mr. UPTON].

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Mr. UPTON. Mr. Chairman, I thank the gentleman from Illinois [Mr. PORTER], my dear colleague, for yielding this time to me.

Mr. Chairman, I would be very remiss today if I did not join in this debate providing for more research for the National Institutes of Health, the NIH. One of the very highest priorities that I have in the Congress, in fact, is health research, and this appropriation bill provides for health research, and this amendment is a very important step in the right direction.

Why?

Well, Mr. Chairman, unfortunately money for the NIH does not really keep up with inflation, particularly medical inflation, and I think that that is a shame.

This amendment is, in fact, budget neutral. It does not impact the deficit, and yet it will add $100 million for NIH.

Now why is this important?

Well, a couple of weeks ago I had the opportunity to visit the University of Michigan cancer center in Ann Arbor, and I visited with a physician there by the name of Dr. Michael Clark, and I had the chance to again talk to Mike this afternoon on the phone, and I can tell my colleagues that they are on the brink of some very exciting, very exciting, changes in the way that our life may be led with regard to cancer research in the future.

The day that I was there, Mr. Chairman, they had a marvelous night where, in fact, a virus that they had developed was identified as killing cancer cells. causing cell death in breast cancer cells. This week, probably, they will be in trials with mice, and within a year the virus that they developed, which I saw on the slides killing breast cancer cells, will be in humans before the year is out.

They are looking at the most common childhood cancers, Mr. Chairman. They know that it will likely be very effective in controlling and eliminating colon cancer, as well as gastric cancers. The ultimate goal, of course, will be to cause the cells to kill themselves, not even requiring surgery in the future.

Now why is this amendment important?

Well, as the gentleman from Illinois [Mr. PORTER], my friend, indicated, one out of four research applicants to the NIH are not funded because of lack of money, and, as I sat with Dr. Clark, and looked through his slides and saw those cells that had virtually exploded, he told me an alarming fact. Seventy-five percent of the time that he spends in the lab is for filling out forms seeking funds from the NIH. In other words, Mr. Chairman, only 25 percent of the time that he is able to spend is doing the actual research, and I think that is a shame. His research, which could prove to be the promise and the hope for all Americans, has so far only cost less than a million dollars, and yet all of his time, almost, is composed of filling out those forms.

Mr. Chairman, this research is very important, and this amendment is very important, because it will bring the NIH to the level of funding that it ought to be to look for real good medical research.

There is another thing that we can do, too. Because of the cuts in the NIH not keeping up with inflation, the number of us in both the House and the Senate, Republicans and Democrats alike, have introduced a bill that will improve and protect the health of all Americans through an increase in the funding available for health research that holds the promise for the prevention, cure and treatment of disease and disability. This bill, H.R. 4260, introduced by the gentleman from Pennsylvania [Mr. COYNE], my good friend, myself, and the gentleman from New Mexico [Mr. RICHARDSON], has a parallel bill in the Senate. It is called Harkin-Hatfield. Already here in the House we have 54 cosponsors of this bill, and it is important because it provides a private means of supporting the NIH in addition to the amounts that are funded through this appropriation bill. Virtually every medical group, whether it be cancer, or diabetes, leukemia, Parkinson's AIDS, Lou Gehrig's ALS, heart association, virtually every disease group in this country supports our bill to provide more money for NIH.

The NIH provides for the hope and promise of all Americans, and I would urge the adoption of this amendment and further work on H.R. 4260.

I do appreciate the work of the chairman of this committee for giving the increase that we did have. I wish that it could be more. I know the gentleman wishes that it really could be more, too. And I think the thoughtful way this amendment was structured, so that it is budget neutral, certainly helps us fiscal conservatives in a priority we all want.

Mr. SMITH of Iowa. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Illinois [Mr. PORTER], but very reluctantly. This bill is put together very delicately that I do not think we should add other money to the NIH accounts at this time.

I would like to point out that on an average in this bill programs are held to 96.5 percent of current services, but in the National Institutes of Health we did allocate a minimum of 3 percent increase to each one over the dollars that they got last time. The average is $384 million.

Now in addition to that, Mr. Chairman, some of the institutes were increased more. For example, the Genome Center got a 20-percent increase, and I think everybody agrees it is one of the very important programs right now. There are great opportunities that probably cut clear across the line in helping in all these diseases.

I also want to point out, as my colleagues know, drug abuse is very important, too, and this would cut drug abuse funding by $60 million. It would cut some other things, and we are reluctant. We just did not have enough money to do all the things we wanted to do.

In addition to that, Mr. Chairman, for the first time, I think the head of the National Institutes of Health was requested to do a little study on how many of the upper half of the applicants were not funded and to try to find out what happened to them. Well, this study showed that of the upper half, only 10 percent were not funded within a couple of years. That is much lower than it has been. We do not know yet how many of those actually continued in research under some other team or went into research under a private company, a pharmaceutical company maybe, or some foundation. There is a high suspicion that the upper half were being funded, if not through NIH, then through some other funding mechanisms, and we need to know that. They have not been asked to research that before, and we are going to find that out, and I think the new head of the institute, Dr. Varmas, wants to find that out.

In addition to that, Mr. Chairman, the reimbursements to university has been from 40 to 83 percent, an enormous reimbursement to university that does not go to the researchers. I know they furnish the facilities, but the difference between 40 percent and 83 percent means that in some universities a much larger share of Federal funding is going to researchers than at other universities. NIH and the administration are working to renegotiate those reimbursement rates. If they can get that down within the year to a range of 37 to 70 percent, that will also free up more money for more of these grants, and that is something that we expect them to work on. I personally think anybody that is over the median ought to be looked at very carefully—see for sure whether or not they are justified because any additional money that is not justified comes out of research. We need to be putting all we can into research.

So all I have to say to the gentlemen who support this amendment, is that I do not disagree with the need. We all support NIH. But we do have a very delicate balance in this bill, and I would hope at this time that in view of that and in view of all of us as wanting to do all that we can, and we will, and if we can find more money, we would like to put more money into NIH, and I would hope that perhaps at this point we could withdraw the amendment.

☐ 1650

Mr. PORTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is obviously not a Republican or Democratic matter. The NIH is supported broadly and in a bipartisan way by, I think, every single Member of this Congress. NIH was one of the President's initiatives this year. I commend the President for that.

Unfortunately, in last year's budget, the President had originally suggested only a 1 percent increase for NIH. We ended up with a 6 percent increase overall. This year the President suggested 4.7 percent, but, unfortunately, we were forced to work with far lower 602(b) allocations, and, believe me, on a bipartisan basis, within those allocations we did the best we can to fund NIH.

Obviously there is no program, no institution, no agency, no department, that can escape the fact that we have a very tightly constrained budget. NIH is not escaping it either, with an increase that is below inflation.

I know the chairman's commitment to NIH. It is a very, very strong commitment. He feels he has done the very best he can by it. I respect that. I raise the issue to point the way to the future. I believe that unless we can get a larger allocation or raise NIH to a higher priority, we are going to develop very severe problems in keeping the lead in biomedical research through NIH.

I hope, Mr. Chairman, that the Senate can bring in a higher number for NIH and that in conference we can recede to that higher number and do a bit better.

I very much appreciate my colleague from Michigan [Mr. UPTON], coming to the floor and expressing his strong feelings about this subject in support of this amendment.

Mr. Chairman, in light of the fact that the chairman and I both are strong supporters of NIH, feel we are doing the best we can, and are concerned about the future of funding for biomedical research, I would ask unanimous consent that I be allowed to withdraw the amendments, at this time.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. Are there other amendments to title I?

AMENDMENTS EN BLOC OFFERED BY MR. PORTER

Mr. PORTER. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. PORTER:

On page 8, line 4, strike "$30,411,000" and insert in lieu thereof "$29,784,000";

On page 8, line 8, strike "$66,388,000" and insert in lieu thereof "$63,959,000";

On page 9, line 9, strike "$242,860,000" and insert in lieu thereof "$237,791,00";

On page 13, line 6, strike "$312,500,000" and insert in lieu thereof "$296,428,000";

On page 15, line 19, strike "$197,519,000" and insert in lieu thereof "$194,607,000";

On page 16, line 23, strike "$296,761,000" and insert in lieu thereof "$291,101,000";

On page 17, line 1, strike "$54,102,000" and insert in lieu thereof "$51,927,000";

On page 17, line 9, strike "$156,002,000" and insert in lieu thereof "$143,459,000";

On page 20, line 17, strike "$3,008,225,000" and insert in lieu thereof "$3,121,225,000";

On page 40, line 3, strike "$4,408,775,000" and insert in lieu thereof "$4,402,690,000";

On page 52, line 26, strike "$359,358,000" and insert in lieu thereof "$346,008,000"; and

On page 53, line 4, strike "$58,325,000" and insert in lieu thereof "$56,570,000".

Mr. PORTER (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. PORTER. Mr. Chairman, I ask unanimous consent that time for debate on these amendments and all amendments thereto be limited to 60 minutes, to be divided equally between the gentleman from Iowa [Mr. SMITH] and myself.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The gentleman from Illinois [Mr. PORTER] will be recognized for 30 minutes, and the gentleman from Iowa [Mr. SMITH] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Chairman, this amendment would provide a total increase of $100 million for community health centers, and it would be offset by reductions in administrative and enforcement accounts.

Mr. Chairman, the amendment is my attempt to begin to enact real health care reform right now. We have waited 2 years for action on this national imperative. Still, congressional committees are struggling with reform strategies. Only two of five congressional committees have cleared health reform bills as of today.

But, Mr. Chairman, through my amendment, we can make progress on this issue now. All of the major health care reform bills seek to broaden access to health care for the uninsured. The minority leader's bill contains a substantial expansion of community health centers as one mechanism to increase access to care. These centers provide health care in underserved areas for those people unable to afford it. These are people primarily in heavily urban or rural areas that traditionally lack a strong health care infrastructure or sometimes any health care infrastructure at all.

Mr. Chairman, the funding provided by my amendment would support an additional 125 community health centers and serve an additional 848,000 Americans. In other words, it would provide access to health care for the first time to nearly 1 million additional people.

This amendment will not solve the health care problem by itself, but it will make a significant contribution to the solution.

Mr. Chairman, the amendment offsets funding only in administrative accounts and enforcement accounts. It includes reductions in program administration at the Departments of Education, Health and Human Services, and Labor, and it includes a freeze at the 1994 level for enforcement programs at OSHA, the Mine Safety and Health Administration, and the Pension and Welfare Benefits Administration.

In short, the amendment would provide access to health care for almost 1 million Americans by reducing Federal bureaucracy and enforcement.

When I offered this amendment in the committee, some Members complained that it was designed to block real health care reform. Rather, Mr. Chairman, this is one component of real health care reform. Nevertheless, we will clearly need to do more. We need to have insurance reforms to prohibit exclusions based on preexisting conditions. We need to improve portability and guarantee renewability. We need antitrust reforms. We need medical liability reform. We need to abolish Medicaid and empower the poor with real purchasing power in the health care marketplace.

But, Mr. Chairman, this is a good first step. We do not have to wait for the Committees on Ways and Means, Energy and Commerce, and Education and Labor. We can act today to grant access to health care for nearly 1 million more Americans.

I commend this amendment to the House and ask for its support.

Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Iowa. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just briefly say at this point I do not have another speaker and will reserve most of my remarks for later. At this moment I want to say I am opposed to this amendment, very strongly opposed to the amendment. At a later time, I will conclude the debate.

Mr. PORTER. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, I would hope this does not become a Democrat-Republican amendment. It is not an urban-rural amendment, and it is not a reform-antihealth care reform amendment. There are some things we can do for this calendar year 1995 to reform health care, and this is one of those important changes in dealing with the whole issue of access to health care, in particular in those underserved areas, the inner cities and in the rural areas.

This amendment does two things: It expands the community health centers, which are traditional areas in the urban areas in the East and West Coasts of this country, and it recognizes, unfortunately, the community health centers are not that common a facilitator for health care access in the Midwest, and so it doubles the rural outreach grants which has become our particular vehicle.

This is important because 25 percent of our population lives in rural America, and yet a 1991 study by the Center for Budget and Policy Priorities found that there are 97 physicians for every 100,000 people in a rural area, compared to 225 physicians for every 100,000 people who live in the cities.

Recognizing throughout the health care reform debate that the integration and cooperation and coordination of health care delivery is the key, we have recognized that these two vehicles, within budget allocation, can become a major tool to increase access to health care in 1995.

Let me tell you what the rural outreach grant program is. It was created in 1990. It is funded at $26 million at the present time. These are grants awarded by Health and Human Services. They require that there be a consortium arrangement of three or more health care providers to bring access to health care to people that otherwise would not have it.

Let me give you a couple of examples in my own congressional district. One of those programs, frankly, the first outreach grant that we had in western Wisconsin, was known as Kids Care. It was through a grant to the Wisconsin Center for Public Representation. What they did in working with a county health agency is they set up a whole service of preventive health care to children not on medical assistance, but from low income families who were uninsured, exactly the targeted population which is the whole basis for health care reform.

□ 1700

Likewise, St. Mary's Hospital in Sparta has a mobile office van, medical office van that travels throughout the rural service delivery area bringing the same kind of preventive health care and diagnostic health care aimed primarily at young children, young mothers in pregnancies to bring access to these people in these very small, unincorporated rural areas who have neither the money, the transportation, nor the access to health care in their particular communities.

This is not new spending, my colleagues. This is not health care reform beginning in 1998. This is health care reform now. This is access to people regardless of condition and regardless of income, if they are uninsured. I would encourage and plead with my colleagues, rural, urban, conservative, liberal, Republican, Democrat, please vote for this amendment and send the signal that we can do health care reform at least a small step in 1995.

Mr. PORTER. Mr. Chairman, I yield 4 minutes to my distinguished colleague, the gentleman from Florida [Mr. BILIRAKIS].

Mr. BILIRAKIS. Mr. Chairman, I rise in support of the Porter amendment. Community health centers are a crucial component of any health reform legislation; they provide valuable medical services to individuals across the country.

One of the biggest issues in the health reform debate is how to improve access. Individuals who do not have access to routine care many times use the local hospital emergency room for their medical services. While some may go to the emergency room for minor illnesses, the sad truth is that most wait until they are seriously ill.

In my Florida congressional district, this trend is beginning to change because community health centers in the Tampa Bay area are providing health access to all residents. And it is making a difference—more and more people are receiving routine preventive, primary, and acute care services on a regular basis.

In addition, valuable health care dollars are being saved because people are going to the community health centers instead of the hospital emergency rooms.

The Tampa Community Health Center has four locations serving Hillsborough County. These facilities provide comprehensive pediatric and adult health services to residents regardless of their ability to pay. The number of clinic users has steadily increased since 1990. As a result of the Tampa Community Health Center, more people are seeking care on a regular basis at these clinics, in many cases seeking preventive care and less people use the emergency rooms for these purposes.

Another success in our area is the Mothers' and Child Care Clinic of Clearwater. Since this clinic opened in 1991, the local hospital emergency room visits have steadily declined. In 1990, there were 71 emergency room births by mothers with no prenatal care; by 1993, these births were reduced to 24.

Pediatric emergency room visits have also drastically declined. In 1990, there were 7,400 pediatric emergency room visits at Morton Plant Hospital; in 1993, there were only 6,400.

Community health centers give many a choice—if more community health centers are built, more people will be given access to routine health care. The Porter amendment would provide more individuals with this opportunity.

Passage of the Porter amendment would be a welcome response to our country's problems regarding health care access. Community health centers are successful because individual health care needs are taken into account. Quality care is available to all residents, regardless of whether or not they have health coverage.

I urge my colleagues to support the Porter amendment so more people will have access to valuable health care services.

Mr. Chairman, I include for the RECORD the following statistics:

MOTHERS' AND CHILDREN'S CARE OF CLEARWATER, CLEARWATER, FL

Mothers' and Children's Care of Clearwater (MCCC) began in January 1991 with only obstetric services. In October 1991, Johnny Ruth Clark Center joined with Morton Plant Hospital to include pediatric services.

More people in our area are becoming medicaid eligible. MCCC fills in these gaps.

Morton Plant emergency room births by mothers with no prenatal care has decreased dramatically.

1990.—71 births.

1991.—51 births (the year MCCC clinic opened).

1992.—35 births.

1993.—24 births.

Morton Plant Hospital pediatric emergency room visits:

1990—7,400 (MCCC was not open).

1991—7,400 (MCCC only provided OB services).

1992—6,500.

1993—6,400.

MCCC sees almost 13,000 pediatric cases annually.

At MCCC, 10,000 pediatric visits cost around $500,000. Therefore, even if money is not being saved, many more children are being provided with good health care in the clinic for approximately the same amount of money.

GOOD SAMARITAN CLINIC (DR. DORMOIS) HOLIDAY, FL

Clinic open 3 years—there has been over 11,000 patient visits. It is crisis oriented.—9,300 medical; 1,800 dental.

Number of medical providers participating (all volunteers): 60 doctors; 12 dentists; 70 nurses; 70 social workers, and 50 clerical volunteers.

Only accepts patients who do not qualify for Federal entitlement programs and do not have insurance. Clients are the working poor—people who fall through the cracks.

Approximately 100–130 patients are seen each week. Includes children and adults up to age 65.

Five to 10 patients with dental problems are seen each week.

Agreements exist with medical specialists to provide additional care.

Clinic is advertised by word of mouth, social agencies, etc.

Clinic relies on donations and medical provider volunteers.

TAMPA COMMUNITY HEALTH CENTER, INC.

Established January 22, 1987.

Funding provided under Section 330 and 340 of Public Service Act.

Currently operating 4 locations serving Tampa and Hillsborough County.

Provide comprehensive pediatric and adult ambulatory health care services to residents of the catchment area regardless of their ability to pay.

26,837 individuals served generating 93,608 patient visits.

Center specific inpatient referral reduction: below shows the number of users of patient visits by year by type (outpatient and inpatient), and the reduction in the ratio of outpatient to inpatient.

	Users	Encounters	Outpatient	Inpatient
1990	3,705	14,629	13,912	717
1991	4,393	16,957	16,382	575
1992	5,513	16,701	16,617	84
1993	5,669	18,435	18,425	10

This graphic shows that the Tampa Community Health Centers, Inc. has shown a steady increase in the number of users and patient visits, but the number of inpatient visits compared to the outpatient has steadily declined.

Mr. PORTER. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from Connecticut [Mrs. JOHNSON], the chair of our Health Reform Task Force and ranking member on the Subcommittee on Health of the Committee on Ways and Means.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in strong support of this amendment. The community health centers have bipartisan support in this Congress and have enjoyed that broad support for many years. This funding to expand that system throughout America is not only directly related to the solution to our health care problems but is long overdue.

There are few things this Congress could do that would more affect people's lives. Of the 125 new clinics that this would provide, all have demonstrated need. All have met all of the funding criteria. All cannot operate for lack of funds.

In fact, there are 150 centers prepared to open that have demonstrated need and that have met all of our criteria. In addition, there are 75 additional applicants who have been able to demonstrate that they would exist in a medically underserved area.

It is high time we put our dollars on the line behind all those words that we have been saying for so many years about the 37 million uninsured. These clinics tend to be located in the very areas where the majority of Americans without health insurance live. They are in the areas where there is a shortage. They are in the areas where often the poorest live. They are in the city neighborhoods. They are in the most isolated rural areas. They are where the people who have the least access to health care live. And furthermore, even if we mandate that all employers provide health insurance, even if we mandate that everyone in America has health insurance, there will still be problems in accessing the system until we expand our community health center system.

There is a lack of transportation in cities and in rural areas. There is a lack of providers in many areas of the Nation. It is only by expanding this infrastructure of care that we can make access to community health care a reality for the majority of those 37 million who are uninsured.

In my State of Connecticut, these community health centers helped those that went through serious periods of unemployment, because it made access available and affordable, whether one was covered or not covered.

I hope that we will lay aside our differences today and vote for this amendment, because it is the heart and soul of one of the critical pieces of the solution to access for health care. It supports those kinds of institutions that provide holistic care, that create the relationships that mean that prenatal care is accomplished, that create the relationship that assures that well-child care is carried out in a timely fashion.

□ 1710

Community health centers create the relationships through which substance abuse, family abuse and violence can be addressed. They are comprehensive, they are holistic, they are family oriented, and they are located where the people who need them can reach the health services that are so critical to the lives of our children and the strength of our families.

Mr. Chairman, I urge support of this amendment.

Mr. PORTER. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. MICHEL], the Republican leader.

Mr. MICHEL. Mr. Chairman, I thank the gentleman from Illinois for yielding time to me.

The Porter amendment reflects our Republican view that the best health care reform is that which makes health care available to those who need it most at the earliest possible date.

There is sometimes a tendency to believe that those without insurance are not getting health care, but that is not accurate.

Most people receive health care when they really need it and one of the key programs that provides such care, regardless of insurance status, is the Community Health Center Program.

Such centers provide ready access to health care in one's own neighborhood or community.

So, regardless of what kind of insurance reforms we eventually undertake, there is a need for an expanded Community Health Center Program.

It will provide care through the transitional period of expanded insurance coverage and provide access to care that is essential regardless of insurance status.

Our health care reform bill, the Affordable Health Care Now Act, provides for nearly doubling the Community Health Center Program over a 5-year period, at the rate of $100 million a year.

The $100-million increase over last year called for in the Porter amendment thus represents the initial down payment on this 5-year effort to extend health care to those in underserved areas.

Underserved areas, of course, exist in both urban and rural regions of our country. Since community health centers are primarily located in urban areas, the need for increased access to health care in rural areas is provided for by the doubling of funding in the Porter amendment for the Rural Outreach Grants Program.

I believe there is widespread support for the Community Health Center and Rural Outreach Grant Programs, but there seems to be a view on the part of some in this body that nothing should be done until the grandiose health reform plan is approved.

In fact, the President has even proposed reductions in these programs.

That is the wrong way to look at it.

The only effective way to achieve workable health care reform in all its aspects is through a step-by-step approach, doing as much as we can at each stage to bring improvements to the American people at the earliest possible time.

This is the time, and stage, to begin expanding the Community Health Center Program and the Rural Outreach Grant Program.

Expansion of these programs must be done through the appropriations process. So why not now? Let us adopt the Porter amendment.

Mr. SMITH of Iowa. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we all support community health centers very, very strongly. If we did not support community health centers, we would not have put an additional $19 million into this bill, which is enough so they will open some more community health centers.

However, Mr. Chairman, this is a part of health reform, and when we have a health reform bill, it will find financing for this kind of an increase that is proposed here without taking it out of education and other programs.

When we have a health bill, for example, a lot of people will be insured who are not insured today, who can go to these health centers and pay for this kind of a service, so they will have a lot more revenue. These health centers do get more money than they do out of the Federal Government from insurance and from the contributions that they are able to get from the people that go there. What this amendment will do, it will take $15 million, a little over $15 million, from the Department of Education that they need to reduce fraud and abuse in student aid.

We are going to have amendments here later, Mr. Chairman, an amendment to strike that concentrates on some of the fraud and abuse that is in student aid. We hardly know how to get at it. They need this money. We do not want to take money they need.

We did not give extra money to any of these departments for salaries and expenses unless they had a good reason. In fact, the general trend was to cut them. We do not want to take money away from the money that the Department of Education needs for their effort to reduce fraud and abuse in student aid.

Also, Mr. Chairman, they need the money to implement Goals 2000. That is a new program. We have the school-to-work program, and we have the direct loans. Those need to be implemented. This would take money from that.

Mr. Chairman, in the Department of Health and Human Services they would lose over $6 million that they need for quality improvements and monitoring in Head Start. Virtually everybody is for Head Start now. I remember when it was not that way, but it is now.

They need the money for these improvements in Head Start. We are all talking about how we can improve Head Start, give deprived children 3 and 4 years old an equal opportunity to get started in the first grade.

Mr. Chairman, the Department of Labor programs would be cut by $47 million, and that includes money for improvements in the consumer price index in BLS. I point out that this is very important to industry. This is important to our economy. It is done every 10 years. They need this money. We are at that point in the cycle when they need to do it.

Mr. Chairman, the Porter amendment will increase the deficit by $44 million. That is the budget authority amount. It will not do that in outlays, but it does in budget authority. The bill already, as I said before, has $19 million over what it had before in community health centers.

What I am saying, Mr. Chairman, in summary, is that it is not the gentleman from Illinois, but there is, it seems to me here, whether we like to admit it or not, there is a tendency to want to say, "We do not need a health reform bill because we can take care of these community health centers without a health reform bill." However, to take care of the community health centers without a health reform bill, we would be taking money from programs that need it very badly.

What we need to do, I think, Mr. Chairman, is wait for the health reform bill. It will finance at least this number of health care centers.

Mrs. SCHROEDER. Will the gentleman yield?

Mr. SMITH of Iowa. I am happy to yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I am so pleased the gentleman is explaining this, because when I walked on the floor I was terribly confused. As the gentleman knows, I grew up in Iowa, and he was the first person I ever voted for for Congress. I know the gentleman has already been out there supporting this, so it sounded like a role reversal, with the compassion coming from the other side, and I could not quite figure it out.

What the gentleman is saying is, they are taking money out of education, Goals 2000, Head Start, all these other things that we have done, and some of it they were just adding to the deficit. Is that how we are getting there?

Mr. SMITH of Iowa. Not only that, Mr. Chairman, but getting at fraud and abuse in student aid, that is a big item. We do not want to take money out of that.

Mr. Chairman, the Members should just wait here a few weeks. We are going to have a health care bill, and in the health care bill we will take care of these community centers. It will certainly be a very high priority. Taking money out of other programs today in this bill is not an answer for having a health care bill.

Mr. Chairman, I urge Members to vote "no" on this amendment.

Mrs. SCHROEDER. I thank the gentleman for clearing that up.

Mr. SMITH of Iowa. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I reluctantly rise in opposition to the Porter amendment, reluctant in that of course we all respect and regard the excellent work the community health centers do, and the rural health outreach. However, as with everything in our bill, we would like to increase all of them, all of the programs. They are all excellent.

□ 1720

As someone is the press described it in dealing with the competing demands in this legislation, it is lamb eat lamb, because everything in here is so good.

As I said, we would love to give more money to community health centers. It is not the price, it is the money. There just is not any more. Unfortunately in order to give more money to community health centers, we would have to make cuts as our chairman mentioned earlier in some very important initiatives that also help people. I believe that cutting the budget for administration for children and families, their program administration, would be a serious cut. The Education Department, their administration, we should not cut it. The list goes on and on. I will not repeat it because our chairman has already laid out what the offsets would be.

Mr. Chairman, while the Porter amendment is very attractive and while the community health centers are excellent and do a very good job, I look forward to continuing work with the gentleman from Illinois, [Mr. PORTER] on health care reform where we can appropriately address the access and coverage of affordable health care to all Americans, community health centers being one way that we can do that.

As far as this legislation is concerned, we have had a very difficult time meeting the challenge that the initiatives propose, making the difficult choices, subjecting all of the proposals to very harsh scrutiny so that we know we are wringing it out and getting our money's worth for the American taxpayer.

Mr. Chairman, as I say, I reluctantly oppose the amendment of the gentleman from Illinois, not because the health centers are not worthy recipients of more funds, but because so many initiatives in this legislation deserve more funds.

As I said earlier to the gentleman from Illinois, it is not the price, it is money, and the offsets are too expensive for us to approve this. I urge my colleagues to vote no on the Porter amendment.

Mr. PORTER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Chairman, I thank the gentleman from Illinois for yielding me the time.

Mr. Chairman, it is amazing to see people talk against the development and increasing community health centers. I have been around this country, had the privilege of doing that for the last couple of years now, especially this last year, talking about problems in health care.

When we get into big urban areas and when we get out into the far rural reaches, the place that best serves underserved communities, underserved groups of people, are community health care centers. I visited a community health care center in southern California—I believe it was in the district of the gentleman from California [Mr. BEILENSON]—did a wonderful job of outreaching to people, taking care of people's needs. In that health care center, there were little old ladies and men that were getting eye care, eye glasses where they would not go before; expectant mothers were getting prenatal care, on and on, the whole realm of health care needs that people were getting at community health care centers.

I visited a rural health care center where nurse practitioners, because they could not afford doctors at that point, were taking medical histories from incoming patients, then directing them on to further health care where people did not have the opportunity to get health care before.

Mr. Chairman, we hear the argument that, oh, this is too expensive, we are going to take money out of some type of enforcement program for scholarships or we are going to take money out of here. We are talking about spending hundreds of billions of dollars in health care reform, and we need to do health care reform, but if we ignore, if we blind ourselves to simple solutions to big problems, then we are doing wrong.

I commend the gentleman from Illinois for bringing forth the idea that we ought to expand our community health care centers, our rural intake centers where people are getting real health care and a real solution to a very, very real problem.

We talk about lambs eating lambs. If we do not take care of America's health care, the poor's health care, underserved health care, rural health care—and that is what the gentleman from Illinois [Mr. PORTER], is trying to do in this amendment—we are blinding ourselves to a very, very real problem in this country. I do not understand the logic of people that are trying to do that.

Mr. Chairman, I commend the gentleman from Illinois in putting this program in. I ask this body to support it.

Mr. SMITH of Iowa. Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, how times have changed. I can remember when Republican members of our subcommittee used to oppose amendments that I offered trying to expand funding for community health centers. Now, however, the worm seems to have turned. I think we ought to be frank in admitting what this amendment is all about.

What we have here is a political figleaf. It is being offered by people who do not have any intention whatsoever of voting for comprehensive health care reform, and yet they want to be on record somewhere, somehow, on the cheap, supporting an initiative which appears to provide greater access for people to basic health care. Of course it is okay if the taxpayers pay for it, they just do not want employers to pay for it. That is, I think, an interesting aspect of the amendment before us today.

Mr. Chairman, I think it is a sop to the principle of health care access which will then be used to justify a vote against real health reform when it comes down the pike in a few weeks.

I would also point out that it is ironic to discover where the funding would supposedly come from to pay for this. It would come by taking $16 million out of the Occupational Safety and Health Administration. I used to work with asbestos before I came to Congress. I did not know as a worker that asbestos was a carcinogen, that 40 percent of British shipyard workers who had worked with it in World War II died from exposure to it. I think workers who are exposed to dangerous chemicals or dangerous health practices in the workplace have a right to know it and have a right to know that their Government will protect them.

The Mine Safety and Health Administration would be cut by $3 million. Would anybody in this room like to leave their job and go work in a mine? Do Members know any profession that is more dangerous?

I would suggest this amendment says that we ought to pull the plug on funding for some of the most vulnerable people in this country in order to support a political figleaf that is aimed at providing some help for other people in this country who are equally vulnerable. I do not think that is the way to do business. I think the way that we provide health care for people who desperately need services of these community health service organizations is to provide expanded health care for all, to provide guaranteed private health insurance coverage for all, and then add the support structure and support services to go with it.

Mr. Chairman, there is a very good reason why the association that normally lobbies for community health centers has not come out in support of this amendment. My office talked to them. They said they do not have any intention of supporting this amendment because they recognize what it is, a political figleaf, and they have no intention of being used as a pawn in the health care debate. That is what community health centers are being used as today through this amendment.

I urge Members to see through this sham. I urge Members to vote against it.

Mr. PORTER. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER], the chief deputy whip.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I am disappointed by the mean-spirited nature of the remarks that we just heard. It seems to me that the motivations of the gentleman from Illinois ought not be called into question on this, that he has indeed been an advocate for community health care centers as have many of the people that spoke on our side.

It seems to me that what we are hearing is a redefinition of the priorities by the Democrats at the moment. What they have told us in just the last few minutes is that community health care centers and health care in general is not as high a priority as bureaucracy in a number of programs that are included in this program.

What the gentleman from Illinois is doing is cutting money out of bureaucracies, not out of programs, out of bureaucracies, out of administrative expenses in order to find some money to do community health care centers. Why is it important to do that? Because whether or not we get to a health care bill, and the Democrats have so screwed up the health care debate at this point that they are not even sure they can get to a bill, but here is something that we can do right now, and here is something where we can actually in a global sense save costs in the system, because it is hospital emergency rooms that are carrying far too much of the primary care coverage in this country at the present time and that is the single most expensive place to access health care. Yet with the expansion of community health care centers, we can in fact reduce some of those overall costs in health care and do it in a responsible way.

□ 1730

The Democrats today are coming to the floor and telling people they ought to reject that as an argument. Beyond that, there are a number of specialized people, specialized kinds of constituencies that community health care centers serve.

I happen to have a large migrant farm population in one part of my district. They are served by community health care centers. It provides access they would not otherwise have to health care and thereby lowers the overall cost to the system.

What the gentleman from Illinois is doing is extremely responsible. He is doing it not at the expense of other people. He is doing it at the expense of bureaucracy.

To suggest, for example, that somehow Goals 2000 has risen to a level that it is more important than the health care of this country, it seems to me, is a ludicrous argument. Here is a chance to decide what your real priorities are. If your real priorities are to do something significant about helping to access primary health for people in this country, you will vote for the Porter amendment. If what you are doing is just playing politics with the subject, suggesting the only way to deal with the health care issue is in the big global bill that is coming down the pike, maybe, I would suggest that that is exactly the wrong approach.

Mr. PORTER. Mr. Chairman, I yield 2 minutes to the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I would just like to sort of step away from the politics of this for a minute that have been discussed here and discuss what I have seen on a firsthand basis with respect to the delivery of health care. That is what this is all about.

We can talk about all the health care plans we want across the United States of America, but the bottom line is we need to have medical personnel who will be able to deliver health care to the individuals who need it. It has shifted a tremendous amount in the United States of America even in the last 5 years, but particularly perhaps in the last 3 or 4 years. As HMO's have sprung up, as alternate forms of health care delivery other than going to a doctor's office have sprung up, we are seeing more and more people who are very comfortable with the concept of going to a community health clinic or to a rural health clinic or whatever it may be in order to receive their health care.

In my State of Delaware where I was Governor for a few years, I saw this opportunity grow, and I saw individuals who were not able to otherwise get health care be able to get it because of the expansion of these units and because the doctors and other individuals took a great deal of interest in these delivery systems. It took people out of the emergency rooms. It gave them health care they did not have before. It made a fundamental difference.

Today we are in a situation in which we are debating health care in the Congress of the United States of America. Hopefully it will come to this floor, and when it comes to this floor, I think you are going to find in practically any piece of legislation which we are going to have before us the concept of having community health clinics and rural health clinics for the delivery of the health care in addition to whatever else is in there.

It is for that reason I think we should be supportive today of this. I do not think it is a matter of politics. I think it is a matter of health care for the people of the United States of America.

I would encourage all of us to support this. I believe that the offsets that we have are basically increases in administration in very good programs, but the bottom line is health care is important.

We do not know if we are going to pass a health care bill or not. If there is one single thing we could do other than pass a universal health care program, whatever it would have in it, it would be to have the delivery system for those who do not have the opportunity to get health care expanded. I believe this would do it.

I support this amendment.

Mr. SMITH of Iowa. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Chairman, I would like to reluctantly speak against this amendment.

Mr. Chairman, it would be very nice if we could vote for additional money for community health centers, vote for additional money for child care, vote for additional money for DARE programs, all kinds of substance abuse programs. I would like to see a lot more money in prevention.

But as my colleague on our committee and the rest of my colleagues know too well that we had to make some really tough choices, and under the leadership of our distinguished Chair, the gentleman from Iowa [Mr. SMITH], we made those choices.

Now, no one has been a greater advocate of community health centers. They are working tremendously well in our communities. There are people who are reaching out, reaching out to those who really need those services, and in fact, in this bill we did increase the funds for community health centers, and in fact, we also put a down payment on health care reform by increasing the whole preventive package by $146 million. The community health center increase of $13 million was just part of it. So it is not as if we are waiting for health care reform. We have done some very important things in this bill with our prevention package, and an increased investment in community health centers was part of it.

So I am proud to have worked with my colleagues from Illinois on an increase for the community health centers. I wish we could work together and do more. Let us hope we can continue to do more next year.

But as we know too well, we had a tough job, and in order to invest, we had to cut, and we were still able to expand the vital services that we can be proud to take back to our individual districts.

So I urge my colleagues to vote against the amendment, not because it is not a good idea, but we have had to make some tough choices, and we have done very well under the leadership of our Chair.

Mr. PORTER. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, I just want to make sure everyone understands fully and clearly that this has been a carefully and correctly thought out amendment, and contrary to what was said earlier, we do not in any way cut those basic education funds. Head Start, which has doubled over 5 years, has a $210 million increase program, not touched by this amendment; Goals 200, a $283 million increase, not touched by this amendment; chapter I, $334 million increase, not touched by this amendment; apprenticeships, $179 million increase, not touched by this amendment; OSHA, the State grants, not cut at all; AMSHA, the State grants, not cut at all.

Give us credit when we put together a carefully crafted, well thought out amendment that establishes a better set of priorities.

This ought not be a partisan issue. Republicans and Democrats, urban and rural people alike, ought to have the courage to stand up and say there is a better idea on the floor, and I am going to have the courage to vote for it.

Mr. SMITH of Iowa. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I would simply repeat, for OSHA Safety and Health Administration, $16 million cut; for Pension and Welfare Benefit Administration, the organization that is supposed to protect the integrity of America's private pension systems, $2.4 million cut; Mine Safety and Health Administration, $2.9 million cut.

Now, those programs cannot be run without administrators. Those programs cannot be administered without administration. You cannot have people in the field unless there is somebody to direct them.

The fact is the amendment makes those cuts. It is very clear. The Education Department has already been cut in terms of personnel by 20 percent in terms of people since 1980. This will cut $13 million additional.

Mr. GUNDERSON. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I am happy to yield to the gentleman from Wisconsin.

Mr. GUNDERSON. Mr. Chairman, were not the administrative numbers you talked about in OSHA, Pension reform, AMSHA, et cetera, were not those increases over 1994?

Mr. OBEY. Reclaiming my time, whether they were or not, you are cutting the committee recommendations. As you well know, under previous administrations, those agencies have been squeezed for years.

Mr. PORTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would say to the chairman of my committee that I am, in fact, for health care reform, as I said in my opening remarks.

This is only one component of health care reform. I might not be for the same health care reform my chairman is, but I certainly am for it.

We consider community health centers to be a very important component of that, and we are not cutting, as the gentlewoman from Colorado seemed to suggest; we are not cutting Goals 2000 or Head Start or any other program.

This is a simple judgment that Members have to make, and the judgment is this: Do you want to spend $87 million more on creating 125 new community health centers that will serve 848,000 Americans who are not served today?

□ 1740

Or do you want to spend that money on increases—we are not cutting—on increases in administrative costs in the three departments and in the enforcement of OSHA, MSHA, and PWBA? I believe that people on our side of the aisle want to spend that money on community health centers and providing direct services to people who do not have them today. I think that is an honest choice. I think it is a real choice. It is not a fig leaf. The community health centers are very much a part of the plan that we have for health care reform. We consider it a higher priority. We would like to spend more money on that. We think the choice is a real and honest one and ought to be made in favor of doing so.

Mr. Chairman, I yield back the balance of my time.

Mr. SMITH of Iowa. Mr. Chairman, I yield myself the balance of my time. I ask my colleagues, please vote against this amendment. We are all for community health centers. I think we will end up this year with about the same number that they are talking about without cutting these important programs that are being cut.

The way we are going to do it is, whenever we increase the number of people who have health insurance, the health insurance benefits will pay for health centers. When they go to the health center, they will pay under their health insurance. At this point we do not know for sure what is going to be in that health bill, but we have got to depend on it increasing the amount of benefits available to help pay for the health centers. We do not want at this point to cut the important things like reducing the fraud and abuse, student aid, improvements in Head Start program, improvements in the consumer price index, so very important to business in this country. We do not want to do that at this time.

We probably will not be out of conference until sometime in September on this bill, and by that time we should have the health care reform matter settled. At this point we have the bill balanced, we have increases only in those instances where they are needed, and I think they are needed. We should not take the money they are going to take out today in order to finance these community health centers.

Mr. Chairman, I urge, please vote "no" on this amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Illinois [Mr. PORTER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. PORTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 224, noes 205, not voting 10, as follows:

[Roll No. 294]

AYES—224

Allard
Andrews (ME)
Andrews (TX)
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Bunning
Burton
Buyer
Calvert
Camp
Canady
Castle
Chapman
Clinger
Coble
Collins (GA)
Combest
Condit
Cooper
Cox
Crane
Crapo
Cunningham
de la Garza
Deal
DeLay
Derrick
Dickey
Dicks
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Ehlers
Emerson
Everett
Ewing
Fawell
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hoagland
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson (GA)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kreidler
Kyl
Lambert
Lancaster
Laughlin
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lloyd
Lucas
Machtley
Manzullo
McCandless
McCollum
McCrery
McCurdy
McDade
McHugh
McInnis
McKeon
McMillan
Meehan
Meyers
Mica
Michel
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Neal (NC)
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Penny
Peterson (MN)
Petri
Pickett
Pickle
Pomeroy
Porter
Portman
Quillen
Quinn
Ramstad
Ravenel
Regula
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Stump
Stupak
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Weldon
Williams
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—205

Abercrombie
Ackerman
Andrews (NJ)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de Lugo (VI)
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dingell
Dixon
Durbin
Edwards (CA)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut

Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Green
Gutierrez
Hall (OH)
Hamburg
Harman
Hastings
Hefner
Hinchey
Hochbrueckner
Holden
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
LaFalce
Lantos
LaRocco
Lehman
Levin
Lewis (GA)
Lipinski
Long
Lowey

Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McHale
McKinney
McNulty
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Moran
Murphy
Murtha
Nadler
Neal (MA)
Norton (DC)
Oberstar
Obey
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Romero-Barcelo (PR)
Rose

Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Skaggs
Slattery
Slaughter
Smith (IA)
Stark
Stokes
Strickland
Studds
Swift
Synar
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Velazquez
Vento
Visclosky
Waters
Watt
Waxman
Wheat
Whitten
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—10

Callahan
Faleomavaega (AS)
Fields (TX)

Flake
Hilliard
Olver
Pombo

Pryce (OH)
Ridge
Washington

□ 1804

The Clerk announced the following pair:

On this vote:

Ms. Pryce of Ohio for, with Mr. Hilliard against.

Ms. WOOLSEY, and Messrs. GILMAN, PALLONE, and BROOKS changed their vote from "aye" to "no."

Messrs. DORNAN, GORDON, and PICKLE changed their vote from "no" to "aye."

So the amendments were agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to title I?

AMENDMENT OFFERED BY MR. DELAY

Mr. DELAY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DELAY: Page 18, strike lines 13 through 16.

Mr. SMITH of Iowa. Mr. Chairman, I ask unanimous consent that debate on the current amendment and all amendments thereto be limited to 40 minutes, to be equally controlled by the gentleman from Texas [Mr. DELAY] and myself.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The CHAIRMAN. The time will be limited to 40 minutes, to be equally divided between the gentleman from Iowa [Mr. SMITH] and the gentleman from Texas [Mr. DELAY].

The Chair recognizes the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today in opposition to language contained in the Labor, HHS appropriations bill and offer an amendment to strike this onerous provision. The language in the bill would prohibit the Secretary of Labor from using any funds to implement or administer the final Davis-Bacon helper regulations. These regulations are court-tested, final regulations which the Department of Labor had already begun implementing before the current prohibition. The language contained in the bill arbitrarily prohibits these regulations without ever giving them the opportunity to work or realize any of their projected benefits.

Helpers are semiskilled workers who work under direct supervision of higher skilled journey-level workers. Helpers are widely used in the private sector, where approximately 75 percent of all construction work is performed by contractors who use semiskilled helpers. The helper regulations serve the original purpose of the Davis-Bacon Act—bringing practices on Federal construction projects in line with locally prevailing practices on private work. In fact, Vice President GORE's National Performance Review recently recommended changes to bring the antiquated Davis-Bacon Act into the realities of today's construction marketplace, which these regulations clearly do.

Under the regulations, helpers are paid the locally prevailing wage rate for the type of work they perform. Without the helper regulations, all workers on Federal projects, regardless of task, must be paid the high-wage rate paid to a skilled craftsman. In this way, the helper classification serves as an entrance into construction for groups not traditionally prevalent in the industry—for example, minorities and women. The helper classification serves as a strong first step up the job ladder for workers who are interested in furthering their education and pursuing a career in construction. Forcing contractors to pay all workers the high journey-level wage rate effectively precludes groups who have not previously trained in construction from having the opportunity to work on Federal construction projects.

I would also like to mention that one of the chief opponents to the helper regulations, organized labor, has seen fit to allow their own classification of helpers or subapprentices over the last decade in order to meet the private marketplace's changing needs. However, they are refusing to allow the taxpayer to enjoy the same advantage for fear of losing their crown jewel, their cash cow, and their control over young people's entrance into the construction industry together with their stronghold in the Federal construction market.

It has been estimated that when the helper classification becomes widely used on Davis-Bacon projects, an estimated 250,000 jobs will be created and $600 million a year will be saved. By prohibiting helpers on Davis-Bacon projects, we are further aggrevating the very problems which top the American agenda today—our Nation's huge Federal deficit, lack of job creation, and near-stagnant economy.

More than a decade of litigation and debate regarding the helpers issue has culminated in favorable rulings by both the U.S. District Court (1990) and the U.S. Court of Appeals (1992), affirming that helper regulations are fully inline with the purpose of the Davis-Bacon Act. The Supreme Court denied an appeal of those rulings.

With all the benefits associated with the helper regulation—benefits to contractors, disadvantaged workers, and the Federal Government—one may wonder why we are arbitrarily prohibiting their implementation. Supporters of this ban will tell you it is to protect against shoddy construction and unsafe working conditions for construction employees. Come on. This argument simply does not hold water. Let us face it, this arcane system only exists on Government construction projects. Nonunion and union shops both have helpers on private construction projects.

As I previously mentioned, in the private sector more than 75 percent of all construction is performed by contractors who use semiskilled helpers. There is simply no rationale for assuming that Federal construction is any different than private construction in this regard. A recent OSHA study found that open shop employers, the majority of whom employ semiskilled helpers on their jobsites, are safer than their union counterparts. The OSHA report, "Analysis of Construction Fatalities"—The OSHA database 1985–89 showed that over the 5-year period of the report, the unions experienced a fatality ratio of 20.9 per 100,000 workers—more than 25 percent higher than the open shop's 15.1 per 100,000 workers. While construction unions account for approximately one-fifth of the total work force, they also account for more than one-fourth of the fatalities in the industry. The safety of construction employees would not be affected by the use of helpers on Davis-Bacon construction projects.

Further, construction must be performed to specifications and contractors are not paid for faulty work. Plain and simple, if a contractor were to perform shoddy construction, he would jeopardize his payment and his reputation. Quality of Federal construction would not be jeopardized by employing helpers on those projects.

Although the committee has seen fit to continue to allow this 1 year ban of the Davis-Bacon helper regulations, I would like to reiterate my strong objection to this prohibition. The helper regulations have been one small positive step toward alleviating the burdens imposed by the outdated, unnecessary Davis-Bacon Act. They at least help bring the law back to its original intent, which it certainly does not meet in practice today. The Davis-Bacon Act and this prohibition discriminates against minorities and women and the very group it intended to help—small, local contractors. It continues business as usual by lining the pockets of the unions with taxpayer dollars.

I suggest that all Members take a close look at the prohibition provision contained in this legislation and consider it when voting on this appropriations bill.

□ 1810

Mr. SMITH of Iowa. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Chairman, I rise in opposition to the DeLay amendment to strike the "helpers" provision from the Labor-HHS-Education appropriations bill.

The provision at issue prohibits the Department of Labor from implementing revised "helpers" regulations which control the wages paid to certain workers on Federal construction projects subject to the Davis-Bacon Act.

The Davis-Bacon Act requires that contractors who undertake Federal construction projects pay the local prevailing wage to mechanics and laborers on those projects. The act protects workers employed building Federal projects. The fundamental policy of the act is that the existence of Federal construction should not undermine the prevailing wages and benefits in local communities.

A secondary benefit of the act is that it ensures quality construction of Federal buildings. Quality construction saves money in the long run; a valuable objective when public money is at stake. Payment of prevailing wages insures that firms that use highly skilled, highly paid workers are not underbid by unscrupulous contractors using unskillled low-wage labor.

In the early 1980's, the Reagan administration Department of Labor promulgated rules which would have allowed payment of lower wages to helpers who performed tasks in conjunction with journeymen and laborers. These regulations changed prior rules regarding the use of helpers in that they allowed creation of a separate classification and wage scale for helpers even when their duties overlapped with those of journeymen and laborers and even when the contractor had no formal certified training programs for the helpers.

These regulations, if implemented, would have harmful effects. First, they would allow contractors to shift work from highly productive journeymen to lower skilled and lower paid helpers. Second, they would undermine apprenticeship training programs because contractors would substitute helpers for apprentices. Both of these practices run contrary to the goal of creating high skilled, high paying jobs in the Nation instead of low skilled dead end work.

The implementation of these regulations was stalled for several years by litigation during the Reagan and Bush administrations. In the meantime, the House and the Senate have voted several times to bar the implementation of these regulations in the past 3 years. The moratorium in the current bill extends the one adopted last year in the House-Senate conference report for Labor-HHS-Education appropriations for the 1994 fiscal year.

The Department of Labor has informed us that it intends to issue revised helpers regulations within the upcoming fiscal year. These regulations should resolve this issue. The provision in the appropriations bill will allow the conclusion of the administrative process without decreasing the standard of living enjoyed by construction workers. Accordingly, we ask for your support in defeating the DeLay amendment.

Mr. SMITH of Iowa. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. STUPAK].

Mr. STUPAK. Mr. Chairman, I rise in opposition to the DeLay amendment. When we talk about helper, what are we talking about? We are talking about a new subclass of worker, a worker where we are not required to pay any benefits. We are not required to put in any training. All we have to do is give them the lowest possible rate, not the highest, but the lowest.

The gentleman from Texas says Davis-Bacon has the highest possible rate. That is not true. Davis-Bacon is the prevailing rate based upon the marketplace in that locality. It is not the highest possible rate.

The Associated Building and Contractors Organization, not known to be a union organization, claims that if this amendment goes through, 40 percent of the current work force under Davis-Bacon will be replaced by a lower class, lower-paid worker, low-paid workers, low-skilled workers, these so-called helpers.

Let us protect the working men and women of this country. Let us protect those who paid their dues, who worked through this system from apprenticeship.

Mr. Chairman, defeat the DeLay amendment.

□ 1820

Mr. SMITH of Iowa. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. FILNER].

Mr. FILNER. Mr. Chairman, I rise today in strong opposition to this amendment by the gentleman from Texas.

Skilled American workers are under attack—right here in the Halls of Congress—the very institution that should be protecting them.

What America needs and deserves today is a better trained, more highly skilled work force. If we were to pass this amendment we would be guaranteeing the exact opposite—a labor force that is dangerously undertrained and ill-informed. We cannot allow this.

Federal construction jobs today require the best workmanship available—work that is the product of intensive training and on-the-job experience. Funding these proposed changes to the Davis-Bacon Act would ultimately serve to deny our workers safe and thorough training. They deserve quality training—and nothing less.

The previous two administrations undermined the strength and quality of America's work force, and this amendment continues that misguided tradition. I believe this new administration and this new Congress are friends and supporters of American workers—let's not betray our country's most valuable resource.

Vote "no" on this amendment.

Mr. DELAY. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, we ought not be discussing Davis-Bacon on an appropriations bill today. Unfortunately, the Appropriations Committee has once again decided to include a legislative rider regarding the Davis-Bacon Act in an appropriations bill. I hope that we can end this annual process of debating the Davis-Bacon Act as part of the appropriations process by striking this legislative rider from the bill.

This rider would overturn regulations issued by the Department of Labor allowing the use of semi-skilled helpers on contracts subject to the Davis-Bacon Act. These regulations have been developed over the last 10 years through a painstaking and thorough process. They have passed every conceivable court test. The courts have repeatedly held that the regulations are consistent with the intent of the Davis-Bacon Act.

This amendment is an issue of fiscal responsibility, efficiency and increased competition in Federal construction and creating jobs. According to CBO the helper regulations will reduce the cost of Federal construction by approximately $600 million a year once they are fully implemented. Over the next 5 years, they will result in savings of nearly $2.3 billion.

By allowing contractors on Federal construction projects to utilize the more flexible work rules that are used in the private sector, the regulations will open up Federal construction to many small and minority contractors who are unable to compete for Federal contracts. today. Without the regulations, contractors who want to compete for Federal contracts have outdated workrules imposed on them. For example, the same unskilled worker must be classified as a journeyman carpenter to carry lumber one day and reclassified—with all the attendant paperwork—as a journeyman plumber to carry or hold pipe the next day. Thus, labor is allocated inefficiently, costs rise, and semi-skilled workers are denied entry-level jobs. The regulations reflect changes in the construction industry since the passage of the act in 1931. The utilization of helpers was virtually non-existent in 1931, but has become a widespread practice in private construction. Today, about 75 percent of the construction industry uses helpers for semi-skilled and unskilled tasks to assist a variety of skilled craftsmen on private contracts. The regulations are consistent with the intent of the Davis-Bacon Act—that Federal contracts should reflect the local market and that the Federal Government should not use its power to impose a wage structure on local markets.

Mr. Chairman, we should not make a legislative change of this magnitude in a rider on an appropriations bill. The House should deal with the issue of Davis-Bacon in the proper way—in authorizing legislation. There are several proposals to make changes in the Davis-Bacon Act. HARRIS FAWELL and I have introduced comprehensive reform legislation. The National Performance Review proposed modest reforms of the Davis-Bacon Act. AUSTIN MURPHY has proposed Davis-Bacon legislation as well. If we are to consider changes in the Davis-Bacon Act, we should resolve all of the issues regarding the Davis-Bacon Act by debating all of these proposals and any other suggestions on how the Davis-Bacon Act can be improved, instead of going through the annual process of legislating on an appropriations bill.

When a similar rider was included in the Labor—HHS appropriations bill last year, the committee report stated that the Appropriations Committee would not continue the prohibition but would allow this issue to be resolved through the authorization process. It has been over a year since then, and we are still waiting for an authorization bill to come out of subcommittee. We should return this issue to the place it belongs—the authorizing committee. There are ongoing discussions to see if there is a resolution to the issue of Davis-Bacon that is acceptable to all sides of this body. These discussions may not succeed, but we should not undercut these good-faith discussions through legislative riders on an appropriations bill.

I urge my colleagues to strike this legislative rider from the bill.

Mr. SMITH of Iowa. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. HASTINGS].

Mr. HASTINGS. Mr. Chairman, I rise in vigorous opposition to the DeLay amendment.

Mr. SMITH of Iowa. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Chairman, I rise in strong opposition to the DeLay amendment. I do so as someone who has supported the Davis-Bacon law through the years.

I believe very strongly that what we are talking about, Mr. Chairman, is reducing the cost of building government projects to the taxpayers. That has appeal to me as a fiscal conservative. However, the problem is this. What we are really talking about doing, Mr. Chairman, is reducing the cost of wages to workers in this country.

I happen to believe very strongly that when the government, whether it is the city, the county, the State or the Federal Government, builds a building, we as a matter of public policy should be prepared to pay the workers that are building that building a living wage. That is what we are talking about.

Mr. Chairman, that includes benefits, so that these workers do not show up in our emergency rooms without health care, or that they do not show up on welfare later on in life because they do not have some kind of a retirement program to take care of their family, or themselves.

Mr. Chairman, I think this is a penny-wise, dollar-foolish concept. I urge my colleagues to vote against this amendment.

Mr. Chairman, this is a fundamental question of whether we are going to pay working men and women who have hammers in their hand every day across this country a living wage, yes or no. I believe as a matter of public policy, when it comes to building government projects, we should be committed to paying our working men and women a living wage.

Mr. Chairman, I urge opposition to this amendment.

Mr. DELAY. Mr. Chairman, may I ask how much time I have remaining?

The CHAIRMAN. The gentleman from Texas [Mr. DELAY] has 9 minutes remaining, and the gentleman from Iowa [Mr. SMITH] has 14 minutes remaining.

Mr. DELAY. Mr. Chairman, I yield myself such time as I may consume. Before I yield to the gentleman from Hawaii, I would just respond to my good friend from Kansas.

As many as 75 percent of all construction jobs, Mr. Chairman, are not union wages or under the auspices of the Davis-Bacon Act, and they are making livable wages. Mr. Chairman, the whole point of this is letting people get into the construction industry that have been prohibited from doing so because of arbitrarily set wage rates.

Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. BOEHNER].

Mr. BOEHNER. Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Texas.

It is now 10 years. That is how long this issue has been debated and litigated in the courts. In 1990, the U.S. district court held that the helper regulations were fully consistent with the Davis-Bacon Act. In 1992, the U.S. court of appeals followed suit in reaching the same decision. The U.S. Supreme Court denied an appeal of these rulings. Now, we are faced again with congressional action which would fly in the face of these judicial decision by prohibiting the implementation of the Department of Labor's helper regulations.

As Mr. DELAY explained earlier, helpers are semi-skilled workers working under the supervision of higher skilled workers on construction projects. The private sector uses these helpers in 75 percent of all construction work. Now, we simply want Federal contractors to have the same right to use them in projects falling under Davis-Bacon.

There are many benefits to the helper regulations—foremost of which is giving the semi-skilled a foot in the door. These workers want to start their way up the ladder of success, but the lack of these regulations hold them down and prevent them from getting ahead. Unfortunately, these actions tend to hurt the minorities and women most.

It has also been estimated that these regulations would help create 250,000 jobs and save the Federal Government $600 million a year. In a time of economic uncertainty and budgetary constraints, it is time we use some fiscal sanity. People need to work and the Federal Government needs to save money.

Mr. Chairman, I will be the first to admit that I do not much care for Davis-Bacon. In fact, I want to outright abolish it. I believe it is an anachronism of the New Deal and is costing the American taxpayer hundreds of millions of dollars a year. However, if we are not going to repeal it, we might as well lessen its impact. This amendment would do this by opening the Federal construction market to those who are currently prevented from entering it. I urge its adoption.

Mr. SMITH of Iowa. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Chairman, I rise in strong opposition to the amendment offered by Mr. DELAY. Mr. Chairman, there is a good reason these regulations have never been fully implemented. The regulations in question were crafted in 1982 to accomplish a simple goal—rob American construction workers of the opportunity to move into and to hold on to good, high-skill, high-wage jobs.

First, these regulations were designed to undermine our States' right to build strong apprenticeship programs—programs that give young working men and women entering the work force the training and skills vital to a future that holds more than just the promise of dead-end, low-wage jobs.

Second, these regulations were designed to encourage replacing skilled construction workers—many of whom are graduates of the very apprenticeship programs under attack from these same regulations—with the use of unskilled, low-wage workers.

So let us be clear what this debate is about:

It is about whether we allow implementation of a regulation that would cause massive job losses among good, skilled construction workers as some contractors move to substitute these workers with lower-paid helpers.

It is about whether we jeopardize construction quality and safety by enabling the employment of semi-skilled and unskilled helpers to perform work previously done by skilled workers.

It is about whether you support or oppose giving young people just entering the construction trades the right to receive good training that leads to good jobs.

Secretary Reich is now in the middle of working with all interested parties to find a solution to the helper issue. It is the administration that asked the committee to continue the prohibition for 1 additional year to have enough time to resolve the issue in a sensible and responsible manner. A solution that moves us further along the road to a skilled work force vital to our Nation's global competitiveness.

Mr. Chairman, I urge that the amendment be defeated. We must give the administration the time needed to resolve this issue in a way that protects the livelihoods and the lives of American construction workers.

□ 1830

Mr. DELAY. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. VALENTINE], a gentleman who is retiring from this House and will duly be missed because he is a stalwart on this issue and we appreciate all the work that he has done on this issue.

Mr. VALENTINE. Mr. Chairman, I rise today in support of the DeLay amendment to the Labor, HHS, Education appropriations bill.

Mr. Chairman, this body, the other body, administrations, and the courts of this country have been dealing with the Davis-Bacon Act and its meanings since long before I came to Congress. It seems we have toiled with this issue every year. In an effort to put an end to this battle, the Clinton administration's Department of Labor issued regulations to govern the use of helpers on Federal construction contracts. Yet, still we continue to have our battles today.

The DeLay amendment would strike from this bill language that effectively prohibits the U.S. Department of Labor from implementing helper regulations and thereby allowing the Labor Department to implement their plan to bring Federal construction in line with private construction—allowing the use of helpers in many instances.

Allowing the use of helpers on Federal contracts means the Government can save money, while allowing untold numbers of young Americans to gain experience in the construction industry. CBO and GAO studies have shown that full implementation of helper regulations could save this country around $600 million in Federal construction labor costs and could create as many as 250,000 new jobs in the industry. Given the extremely high unemployment rate in the construction industry, these jobs are desperately needed.

The Labor Department regulations do not seek to eliminate the protections under Davis-Bacon, but simply to augment them by allowing the use of helpers where that is practical.

Mr. Chairman, it is time to eliminate the ban on construction helpers. I urge my colleagues to join me in support of the DeLay amendment.

Mr. SMITH of Iowa. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I would urge my colleagues to oppose this amendment. Let me tell my colleagues why. I have a father who for 30 years was a laborer in construction and on many occasions he worked on Federal projects, mostly on freeway projects. Contrary to one of the earlier speakers, the gentleman from Ohio who said that Davis-Bacon hurts minority workers, let me tell my colleagues, Davis-Bacon helps minority workers. My father would not be able to say he is a pension member of the Laborers Union with benefits, with the opportunity to have some health care were it not for the fact that there are provisions in our laws like Davis-Bacon that made sure that my father, a minority worker, a laborer, was able to not only provide his skills in this construction project but at the same time understand that he would be protected as well because he has been providing some good work at a decent wage.

I would urge the Members to look at these helper provisions that were passed back in the 1980's and see that, in fact, we are not talking about helper provisions, we are talking about provisions that tell an employer that he can hire someone and call the individual a helper and never provide any further training to get that person to become a journeyman, someone who can become very skilled in that particular area and at the same time never provide the benefits or protections that most workers would want and deserve given the work that they do.

Let us provide the dignity to every worker, the dignity that we all deserve and would like to have not only for ourselves but for our children. Let us make sure that anyone who works on any project is able to say that they have provided us what we deserve as taxpayers and American people, and that means a good construction project that provides dignity to the workers that help build America.

I urge my colleagues to vote against this particular amendment.

Mr. DELAY. Mr. Chairman, I feel honored to yield 3½ minutes to the gentleman from Illinois [Mr. FAWELL], who serves on the Committee on Education and Labor and does tireless work on that committee.

Mr. FAWELL. Mr. Chairman, i rise in support of the amendment. Obviously, as has been indicated, an appropriations bill should not be loaded with important major labor legislation as this bill is. This bill will knowingly waste billions of dollars of taxpayer money on Federal construction and will deny thousands of semiskilled entry workers the opportunity to gain the experience they need to break into the construction field, including nontraditional workers such as minorities, women, and native Americans. How is this done? By simply refusing to let the Department of Labor, not contractors, by the way, but the Department of Labor, to implement new rules which would allow for a job classification which they would create, not contractors, for the use of journeymen helpers in Federal construction when it is the prevailing custom in the area of the construction project.

Mr. Chairman, we have already talked about what these journeymen helpers are. In the spring of 1993 after nearly a decade of litigation with consturction labor unions, the Department of Labor was finally authorized to begin implementation of a new helper regulation in regard to federally financed construction projects. But shortly thereafter, the Department was forced to suspend the implementation because we had an appropriation bill like this which simply said:

> We are going to pull out all funds and you will not be able to implement what the court has said you have every right to implement and what the Department of Labor wants to implement.

Both the district court and the court of appeals has found that the DOL helpers' regulations are totally consistent with the language of Davis-Bacon and as has been brought out, over 75 percent of all construction work in this Nation is done by private construction where journeymen helpers are used extensively.

Do Members think construction standards in the private sector somehow are inferior in quality when compared to Federal buildings? Of course not. Are they lower in cost? You bet they are.

Why? Because without helpers, there are more journeymen obviously being paid at journeyman wage rates of, say, $30 or $35 or $40 an hour as opposed to helper wage rates at $10 or $12 per hour. That does not mean we are taking away journeyman jobs, it simply means that journeymen have semiskilled helpers and, yes, these helpers will also learn how to be journeymen and they can actually use a hammer on a job or a saw or something like that. Of course, construction unions don't like those kinds of prevailing job classifications.

Mr. Chairman, this can save taxpayers something like $600 million per year according to CBO and GAO. The whole concept of Davis-Bacon, after all, is that the prevailing wages and the prevailing job classifications defined and authorized by the Department of Labor, not by contractors, will be what controls in federally funded construction projects. But the construction trade unions will not allow it. They have fought the new job classifications in the courts since 1982. They lost, they always lost. So each year they come back to the court they control. What court do they control? They control Congress, and they come back to their friends to make sure that the taxpayers have to continue to pay unnecessary higher union rates for Federal construction projects. I say unnecessary higher rates.

Is there any Member who would insist that in building his or her home the contractor, for instance, must use plumbers, carpenters, and other journeymen at journeyman wage rates to do semiskilled work which is normally performed by journeymen helpers? We would never do something like that. Then why in the world do we insist that when we build Federal buildings that helpers for journeymen cannot be used? Do Members know why?

Because it is the people's money, it is not our money. We sill not do what is done in common sense, in construction in the private sector. We ought to do it in the public sector, too, and save $600 million per year to boot.

Mr. Chairman, it is a good amendment. We ought to pass it.

□ 1840

Mr. DELAY. Mr. Chairman, I yield myself 1 minute, the remainder of my time.

Let me just say that I greatly appreciate the gentleman from Illinois and his remarks.

The members of the Black Caucus and the members of the Hispanic Caucus ought to really take note, the chairman of Ed and Labor gave us a little history of Davis-Bacon, but he always leaves out the history. The reason Davis-Bacon was passed, and I will show you in the CONGRESSIONAL RECORD the speech that was made, was to keep blacks from competing for construction jobs in the Northeast.

And I use the term "blacks." They used another term in the CONGRESSIONAL RECORD. That is the reason for Davis-Bacon, is to keep competition out, particularly minorities and women.

If you do not believe me, what was all of that protest about in Chicago just a couple of weeks ago, because the blacks were complaining about the white-faced construction unions taking all the jobs and not allowing minorities to participate in these construction jobs? What we are saying is if you have helper provisions then that allows the semi-skilled worker an entry into the construction industry. That is what we are talking about. We are not keeping people out or lowering wages.

In fact, the prevailing wages are always the union wages.

I ask you to support the DeLay amendment and allow everyone to participate.

Mr. SMITH of Iowa. Mr. Chairman, I yield myself the balance of my time.

I would point out to the gentleman from Texas another reason it passed is because President Hoover was for it.

Things have changed since those days, have they not?

These regulations have been around in one form or another since 1982. They were blocked by the Federal courts for many years, and then were given approval in 1990 finally, this regulation and rule, and Congress blocked them again in a supplemental bill in 1991. They were allowed to go into effect in 1992 and 1993, and in the fall of 1993, that is a year ago, again, there was this provision put into the bill, and there was a separate motion on it. It is the same Congress we have now, so I assume everybody knows how the majority would vote, and I assume they would vote the same way.

This provision was requested again this year, because the administration is negotiating, I hope, a final settlement to this. They are going to change the regulation.

The chairman of the Committee on Education and Labor spoke here today. He says, "Give them another year. Give them 1 more year with this limitation." The administration has sent a letter up here; the Secretary of Labor says, "Give us another year." This is the kind of thing that you cannot settle just by having the existing regulation or not having any regulation at all. He says they are trying their best through negotiation and rulemaking to settle this.

So I say just leave this in the bill this year. Give them 1 more year, and the gentleman from Texas will not have to do this every year after this.

Let us vote "no" on it today.

Mr. RAHALL. Mr. Chairman, there is a 1-year moratorium in the Labor-HHS-Education bill to prohibit the Department of Labor from implementing 13-year-old Reagan-era regulations designed to create a subclass work force called helpers under the Davis-Bacon Act. I rise in opposition to the amendment to strike the moratorium.

Supporters of these regulations say: But they will assure jobs for women and minorities in the construction field. They sure would.

As I just stated, to allow the hiring of helpers would deliberately create a subclass of workers, who would be given no skills training, no health and safety standard training, and who would be paid very low wages on a very permanent basis.

Creating this new subclass of workers will cause massive job losses, with current workers being replaced by the newly created helper who works cheap.

If you think contractors won't jump at the chance to fire skilled workers to hire cheap labor, think again.

This new subclass of helpers will have no training for their jobs, and absolutely no knowledge of life-and-death health and safety standards that must be met at dangerous worksites.

What loss of life and limb might result from a work force with no health and safety training? Are women and minorities expendable human beings? Is that any way to treat women and minorities?

The rising costs of workers' compensation from workplace accidents is already of grave concern to this body and to industry. Are we deliberately setting out to make it worse? Have we set a price on the value of life and limb?

I am deeply concerned over the growing trend of creating jobs in this country that are low-skilled and that provide wages so low as to sentence workers to a lifetime of poverty.

We started this trend by enacting NAFTA which has caused a mass exodus of jobs from the United States.

To date, 126 companies from 29 States, including West Virginia, have moved to Mexico. Those jobs are gone.

I am trying to create jobs in the construction industry that will rebuild the transportation infrastructure of America. I not only want those jobs to be well-paying jobs, I want the jobs performed by skilled laborers in a safe work environment.

Let us treat women and minorities as first-class citizens entitled to local prevailing wages, to skills training, to health insurance and to pension plans, as allowed under the Davis-Bacon Act.

Let us say no to making women and minorities into a permanent subclass or underclass of citizens in America's work force.

Defeat the amendment to strike the moratorium.

Mr. BALLENGER. Mr. Chairman, I rise in support of the DeLay amendment.

The Labor, Health and Human Services appropriation bill for fiscal year 1995 prohibits the Secretary of Labor from using any funds to implement or administer the final Davis-Bacon helper regulations. The DeLay amendment strikes this burdensome provision from the bill.

Under current policy, union workers on federally funded projects are divided into various classifications. Helpers are unskilled workers who work under the direct supervision of higher skilled journey-level workers. If a contractor wants to hire an unskilled worker then the contractor must pay the helper the same wages as the skilled worker. Approximately 75 percent of all construction work is performed by contractors who use seimskiled helpers.

Over a decade ago, the Department of Labor initiated regulations to allow the use of semiskilled helpers on Davis-Bacon projects. After years of administrative review and litigation the courts affirmed that the Department of Labor's helper regulations were fully consistent with the language and purpose of the Davis-Bacon Act—that Federal contracts should reflect the local market, and that the Federal Government should not use its power to impose a wage structure on the local markets. Unfortunately, congressional intervention prevented the regulations from taking effect.

Estimates show that if the helper classification were to become widely used on Davis-Bacon projects, 250,000 jobs would be created and the Federal Government would save $600 million a year. Furthermore, construction industry advocates indicate that the helper classification would open up the job market to many individuals who are not currently employed in this area including minorities, women, the disadvantaged, and many entry-level workers.

Vote for the DeLay amendment. Vote for the opportunity to benefit workers, contractors, and taxpayers by allowing the use of helpers on Davis-Bacon projects.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. DELAY].

The amendment was rejected.

The CHAIRMAN. Are there further amendments to title I?

If not, the Clerk will read.

The Clerk read as follows:

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For carrying out titles II, III, VII, VIII, X, XII, XVI, XIX, and XXVI of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V of the Social Security Act, the Health Care Quality Improvement Act of 1986, as amended, Public Law 101-527, and the Native Hawaiian Health Care Act of 1988, as amended, $3,008,225,000, of which $411,000 shall remain available until expended for interest subsidies on loan guarantees made prior to fiscal year 1981 under part B of title VII of the Public Health Service Act: *Provided*, That when the Department of Health and Human Services administers or operates an employee health program for any Federal department or agency, payment for the full estimated cost shall be made by way of reimbursement or in advance to this appropriation: *Provided further*, That of the funds made available under this heading, $933,000 shall be available until expended for facilities renovations at the Gillis W. Long Hansen's Disease Center: *Provided further*, That in addition to fees authorized by section 427(b) of the Health Care Quality Improvement Act of 1986, fees shall be collected for the full disclosure of information under the Act sufficient to recover the full costs of operating the National Practitioner Data Bank, and shall remain available until expended to carry out that Act.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, $9,000,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title VI of the Public Health Service Act, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year, no commitments for direct loans or loan guarantees shall be made.

HEALTH EDUCATION ASSISTANCE LOANS PROGRAM

For the cost of guaranteed loans, such sums as may be necessary to carry out the purpose of the program, as authorized by title VII of the Public Health Service Act, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the total loan principal any part of which is to be guaranteed at not to exceed $375,000,000. In addition, for administrative expenses to carry out the guaranteed loan program, $2,946,000.

VACCINE INJURY COMPENSATION PROGRAM TRUST FUND

For payments from the Vaccine Injury Compensation Program Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act, to remain available until expended: *Provided*, That for necessary administrative expenses, not to exceed $3,000,000 shall be available from the Trust Fund to the Secretary of Health and Human Services.

VACCINE INJURY COMPENSATION

For payment of claims resolved by the United States Court of Federal Claims related to the administration of vaccines before October 1, 1988, $110,000,000, to remain available until expended.

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles II, III, VII, XI, XV, XVII, and XIX of the Public Health Service Act, sections 101, 102, 103, 201, 202, and 203 of the Federal Mine Safety and Health Act of 1977, and sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970; including insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, $2,086,850,000, of which $3,575,000 shall remain available until expended for equipment and construction and renovation of facilities, and in addition, such sums as may be derived from authorized user fees, which shall be credited to this account: *Provided*, That for fiscal year 1995 and subsequent fiscal years training of private persons shall be made subject to reimbursement or advances to this appropriation for not in excess of the full cost of such training: *Provided further*, That funds appropriated under this heading for fiscal year 1995 and subsequent fiscal years shall be available for payment of the costs of medical care, related expenses, and burial expenses hereafter incurred by or on behalf of any person who had participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health and Human Services and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: *Provided further*, That for fiscal year 1995 and subsequent fiscal years amounts received by the National Center for Health Statistics from reimbursements and interagency agreements and the sale of data tapes may be credited to this appropriation and shall remain available until expended: *Provided further*, That in addition to amounts provided herein, up to $27,862,000 shall be available from amounts available under section 241 of the Public Health Service Act, to carry out the National Center for Health Statistics surveys.

AMENDMENT OFFERED BY MR. KLUG

Mr. KLUG. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KLUG: Page 23, line 5, strike "$2,086,850,000" and insert "$2,073,600,000".

Mr. SMITH of Iowa. Mr. Chairman, I ask unanimous consent that debate on this amendment and all amendments thereto close in 30 minutes.

The CHAIRMAN. With the time to be equally divided between the gentleman from Wisconsin and the gentleman from Iowa? Is that correct?

Mr. SMITH of Iowa. Yes, Mr. Chairman.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. KLUG. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment would strike $13 million from the Centers for Disease Control funding, and this amount represents the cost of operating a new national vaccine warehouse in Burlington, NJ, run by the General Services Administration. This is an outgrowth of the administration's plan last year to set up a new national vaccination program.

Incredibly we now find ourselves in the situation where the Federal Government is going to run and operate a warehouse to handle nearly 30 percent of the vaccines to take care of this country's children. There was nothing whatsoever in extensive testimony last year in the Committee on Ways and Means and the Committee on Energy and Commerce, on which I serve, or here on the floor of the House to indicate there has ever been a problem anywhere with the distribution system in this country.

The General Services Administration quite frankly lacks the infrastructure and experience to move hundreds of millions of fragile and highly sensitive biological products safely under a tight schedule and under strict Food and Drug Administration requirements.

One-third of the Nation's vaccines will be stored in a room that previously stored paint thinners and solvents, and according to the General Services Administration's own diagram, right next to a room that is referred to on their drawing plans as "the flammable room." So we are now going to figure out and put into place a new Federal bureaucracy where a manufacturer in California will ship drugs to a GSA warehouse in New Jersey which, at this point, handles chairs, tables, paper clips, and paper. We are going to ship from a pharmaceutical company in California to a Government warehouse in New Jersey where a doctor now in California will have to call the State of California, who will then call the Centers for Disease Control, who will then call New Jersey so we can finally then ship the vaccination back to California. What kind of sense does this make at all, Mr. Chairman?

Now, incredibly the Centers for Disease Control says it cannot even verify the GSA distribution will be cheaper than private-sector distribution. In fact, we find ourselves in a situation where we have already bypassed and surpassed the 2000 goal of 90 percent immunization against diphtheria, tetanus, whooping cough, and polio, and my colleague, the gentleman from Pennsylvania [Mr. SANTORUM], will talk more about those goals in a minute.

The bottom line is we are going to spend $18 million to do what the private sector does and trust the General Services Administration doing it.

Incredibly we are about to do this when there are two General Accounting Office reports, one on the Department of Defense, one on the Department of Veterans Affairs, which urge both of these Government agencies to disband Government warehouses we already will run. So it does not work in the Department of Defense, and it does not work in the VA.

Why are we going to spend $19 million that could be spent on outreach programs and more nurses and more clinics to reach children, instead, so we can run a GSA warehouse full of vaccines and immunizations? I would make the point that I think that is absolutely nuts.

So this amendment simply strikes the funding for that part of the bill.

Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Iowa. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I will just say this: I understand the frustration the gentleman has. He has a hard time reaching the purpose of his amendment. He cannot really reach it, and so he strikes $13 million out of an account which has things in it that I do not think he really wants to reduce, such as breast and cervical cancer screening, tuberculosis control, AIDS prevention, diabetes control, and injury control among others.

By reducing the money in the account, I mean, you can say what you do not want to do is to have this warehouse storage, but that is not what the amendment actually does.

□ 1750

You are expressing your frustration, but I do not think that we should do that.

So I oppose the amendment.

Mr. KLUG. Mr. Chairman, I yield 3 minutes to my colleague on the Committee on Energy and Commerce, the gentleman from Pennsylvania [Mr. GREENWOOD], a cosponsor of this amendment.

Mr. GREENWOOD. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of the Klug-Greenwood-Hastert amendment which would strike the estimated $13.25 million that would be needed by the Centers for Disease Control [CDC] to pay the General Services Administration [GSA] to operate a national vaccine warehouse.

The GSA's warehouse plan is the inevitable bureaucratic outgrowth of a poorly conceived, big government approach to childhood immunization. We are all committed to ensuring that all children are vaccinated and that vaccinations are available to children whose parents cannot afford them. But this is not the way to do it.

The most effective way to insure that children receive the immunizations recommended by pediatricians is to require their parents to have their children immunized as a precondition to receive Government subsidized day care, Aid to Families with Dependent Children, WIC, food stamps, pre-school and school services. The record is clear on this. But the administration has insisted on pursuing its command and control, Big Brother approach to immunizing children and now finds itself in the warehouse business once again.

The CDC has stated that it will purchase 80 percent of the Nation's vaccine supplies for children. Furthermore, it intends to use the GSA to store and distribute at least one out of three doses of this vaccine from a warehouse in Burlington, N.J. that currently is used to store paint solvent and thinner.

GSA has no experience with storing, handling, or tracking vaccines nor the strict licensure and inspection requirements of the Food and Drug Administration. I believe it would be irresponsible for the Congress to condone such a program which could easily put our children's vaccine supply in jeopardy.

The Federal Government will have to repackage and deliver these vaccines to over 70,000 sites when the Vaccine for Children Program is implemented in October. In order to ensure that deliveries are made, the CDC and GSA will need to develop and operate, by October 21, a data delivery system that includes name, street address, days, and hours of operation, required doses and replacement schedules for all 70,000 health providers. I am greatly concerned that the proposed distribution system could both disrupt the country's supply of vaccines and put the integrity of the vaccine supply at risk.

Both the Department of Defense and the Veterans' Administration have learned the hard way that the Federal warehousing of medicine is a bad idea. They have turned to private, commercial wholesale distributors.

Mr. Chairman, the Vaccine for Children Program can best be operated by allowing the manufacturers of these vaccines to deliver them directly to the health care providers without a massive Federal warehousing operation.

Mr. KLUG. Mr. Chairman, I yield such time as he may consume to the other cosponsor of this amendment, another colleague of mine from the Committee on Energy and Commerce, the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. I thank the gentleman for yielding this time to me.

Mr. Chairman, I hope everyone will listen carefully to what my distinguished colleague, Mr. KLUG, is trying to do. What we are talking about is striking less than 1 percent of funding for Centers for Disease Control so that we can avoid another costly, big-government blunder.

Mr. Chairman, like my colleagues, I want all American children to grow up healthy. They should be immunized against the horrible diseases which claimed so many lives before vaccines. But for some reason, the Department of Health and Human Services thinks that it can do a better job of distributing vaccines than private companies can. Despite studies to the contrary, HHS thinks that not enough children are being immunized. However, the most recent data show that we have reached the goal of immunizing 90 percent of our children against some of the worst diseases.

So why should the Federal Government be involved in the distribution of vaccines? Earlier, HHS asked the Veterans Administration and the Defense Department to operate a depot for vaccine distribution. Those two agencies said no. Two government studies showed that health care products were distributed more cheaply and efficiently by private companies than by the government.

The simple fact of the matter is that this program is not needed, and this warehouse is simply another place to store government money.

Mr. Chairman, I urge my colleagues to support the Klug-Greenwood-Hastert amendment and strike the funding for this unnecessary warehouse.

Mr. KLUG. Mr. Chairman, I yield 1 minute to another one of my colleagues on the Committee on Energy and Commerce, the gentleman from North Carolina [Mr. MCMILLAN].

Mr. MCMILLAN. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of the amendment. I really do not understand why we need to debate this issue. Why is the Department of Health and Human Services refusing to follow the law as it was written by Congress? And why at a time of scarce financial resources is the Federal Government attempting to duplicate what the private sector and the States do very well?

The $3.25 million that the amendment would strike from the Labor-HHS appropriations bill is money that the Federal Government does not have to spend because the private sector and the States already do the job of supplying and distributing vaccines very well. And it is estimated at a cost that would be far lower than the proposed cost of this HHS project.

We appropriately hear the litany of Members who say they want to cut the deficit. If you want to do that, why spend money to fund a request that does nothing more than federalize existing programs that are already extremely efficient and are providing vaccine at a lower cost and with better availability than the proposed program?

The problem is not the availability of vaccines at an affordable cost, the problem is educating people to take advantage of a program that is already available.

If you want to spend more money, spend it on education, not on duplicating an efficient system.

So, I urge my colleagues to support this amendment and perhaps HHS will get the message and get the focus in the right place.

Mr. KLUG. Mr. Chairman, I yield 2 minutes to my classmate, the gentleman from Ohio [Mr. HOBSON].

Mr. HOBSON. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of the amendment offered by Representative KLUG to prohibit the operation of a Federal warehouse for the administration's Vaccines for Children Program.

I have been concerned for some time about this new vaccine program and the reduced funding requested for the traditional 317 allocation for vaccines. As a result, a number of children in 66 of 88 counties in Ohio—particularly rural Ohio—may not have access to vaccinations.

While the administration seeks to cut by half the section 317 money—which has successfully provided vaccine to local public health clinics, it also seeks to spend over $13 million to fund a monument to bureaucracy in a New Jersey warehouse.

I have a better idea for the $13 million in taxpayer funds: let us use it to restore funding to the existing vaccine program.

Nothing in the law establishing the new vaccine program says anything about creating a warehouse. The Government has turned down offers of private companies to distribute the vaccines as they currently do, and instead is intent on stockpiling them in a warehouse previously used for toxic substances, and distributing it without the private industry's state-of-the-art system.

A bureaucratic Government warehouse distribution is all wrong. Funding this program is throwing Federal dollars at a problem that doesn't exist. Altering the traditional vaccine program is fixing a program that isn't broken.

As you have heard today, the problems with this idea are numerous. But the biggest problem is that the Department of Health and Human Services fails to recognize the potential failures of a Federal vaccine warehouse. What will it take to make them understand?

Will it be the loss of millions of vaccines due to a faulty refrigeration system? Or will it be the contamination of serum resulting in illness or loss of a child's life?

I believe that the administration and HHS are doggedly pursuing their agenda in an effort to save face. In the meantime, who will save these children?

Why take the risk? Let us eliminate the funding for this ill-funded effort now. Restore the funds to 317, and support the Klug amendment.

Mr. KLUG. Mr. Chairman, I yield 3 minutes to another one of my classmates, the gentleman from Pennsylvania [Mr. SANTORUM] who helped lead the same fight in the Committee on Ways and Means.

Mr. SANTORUM. I thank the gentleman for yielding this time to me.

Mr. Chairman, this is an amazing story of how a good intention of the Congress has run amok. Just a year ago here on this floor we passed the vaccination for children program. The reason we did it was based on data that only 40 to 50 percent of the children by age 2 were receiving the necessary vaccination. The fact of the matter is the data we used then was 7 years old. We now have new data from July of 1993. The goal set out last year by the vaccine for kids program was to get 90 percent of 2-year-olds vaccinated by the year 2000.

□ 1900

I am here to announce that we have accomplished that as of last year. We have 90 percent, and this is the CDC's own numbers; 90 percent get their diphtheria, tetanus and pertussis as of last year. Ninety percent receive their polio, and 86 percent receive their measles, mumps and rubella. We have already accomplished with the existing system, the 317 money and the private sector, we have already accomplished what this vaccine for kids program was put into place to accomplish 6 years from now, and we are going to spend billions of dollars, billions of dollars, setting up warehouses in New Jersey, wasting vaccines all over the country. The State of Illinois ordered 120 percent of their required vaccines. Why? Because they recognized that because of the distribution system set up by the Federal Government under this plan it will be 25 percent will be wasted in delivery. This is a boondoggle.

Mr. Chairman, I commend the gentleman from Wisconsin [Mr. KLUG] for his $13 million, but he has not gone far enough. This program needs to be scrapped and started all over again, and what are we doing? Not only are we not scrapping this program; oh, no. The program that we are taking money from to help fund this program, 317 program, which actually works to get money out into the minority community, into the poorer communities to try to outreach, has new delivery money to try to get people who cannot get immunizations. It is not because they are too expensive. It is because we do not have the proper delivery methodology to reach into the poorer communities to get these children of poor moms, to get them vaccinated. No, we are cutting that fund $64 million. We are going to cut that fund, and we are going to fund vaccines for kids.

So, we set up warehouses in New Jersey where they store paint solvent. This is absurd. This is absurd. This Congress needs to act right now, right now to send a message to this administration to put the brakes on this train that is going down the track, ready to go over a cliff, cost billions of dollars and do more harm than good.

Mr. SMITH of Iowa. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Wisconsin [Mr. KLUG].

Mr. Chairman, this amendment proposes to prohibit the Centers for Disease Control and the General Services Administration from developing a system for storing, handling and shipping federally purchased vaccines. The gentleman from Wisconsin has expressed concerns that GSA does not have the expertise to carry out this responsibility, and I wouldn't disagree. That is why the CDC and the Food and Drug Administration are also going to be a part of the development, implementation and oversight of the program.

In a further effort to allay concerns about the best permanent method of storing and distributing these vaccines, the GAO has been assigned to study and report on this question. If they report that a better way needs to be found, the Secretary will make the necessary changes at that time. In the meantime, however, only the GSA/CDC option gives us the ability to implement this badly needed program on time.

A number of allegations have been circulated recently, about the ability of the GSA and CDC to manage this program. Such allegations are simply not true. For example:

The CDC will only purchase the amount of vaccine necessary to implement the Vaccines for Children program. No additional vaccine, beyond existing needs, will be acquired;

The GSA/CDC vaccine purchase and delivery system will not supplant or disrupt existing State vaccine distribution systems. Fifty percent of all childhood vaccines will continue to be distributed by the States. Only those states that do not wish to be responsible for delivery will be a part of the federal system;

The CDC, contrary to some allegations, is perfectly capable of designing and implementing a safe, effective vaccine distribution system, executed by GSA. And the FDA will be called on to inspect the storage facility to ensure full compliance with all vaccine storage, handling, packaging and distribution requirements;

Nor will placing the vaccine supply in a central distribution facility put us at risk of losing our entire vaccine supply. If fact, less than 8 percent of the country's annual vaccine supply will be stored in the distribution facility at any one time. I urge my colleagues to leave off arguing about non-issues such as these, and refocus attention on the reason why we passed this legislation in the first place. Just 2 years ago, 45 percent of all American pre-schoolers had not been fully immunized. That is the real problem and that is why we must defeat this amendment, and get on with the task of implementing this vital program as quickly as possible.

Mr. KLUG. Mr. Chairman, I still have several requests for speakers on my side, and I would ask the distinguished gentleman from Iowa if he would yield us part of his time so we can end this within our time constraints.

Mr. SMITH of Iowa. Mr. Chairman, how much time does the gentleman need?

Mr. KLUG. We would like to have 4 minutes.

Mr. SMITH of Iowa. Mr. Chairman, I ask unanimous consent that 4 minutes be transferred to the other side.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The CHAIRMAN. The gentleman from Wisconsin [Mr. KLUG] now has 5½ minutes remaining.

Mr. KLUG. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. PORTER] who has raised this same issue within the Committee on Appropriations debate itself.

Mr. PORTER. Mr. Chairman, I want to concur with the gentleman's concern about the vaccine warehouse. He is very much on point. This is an issue that we discussed very extensively both at the subcommittee and the full committee, and the report that accompanies this bill now contains language which highlights the warehouse as a concern of the subcommittee. It requires the CDC and the GSA to comply with all applicable FDA guidelines and reserves judgment on the whole question of the warehouse pending the outcome of a GAO study that is due in July.

Mr. Chairman, this is a matter of great concern to me personally, as well as to other members of the subcommittee and, I understand, to Senator BUMPERS as well, over in the other body, and I very much thank the gentleman from Wisconsin for raising this issue.

For my part, Mr. Chairman, I will continue to watch the matter very closely in the conference.

Mr. KLUG. Mr. Chairman, I yield myself such time as I may consume to close debate on our side.

Let me emphasize this one more time:

The Federal Government has for several years already attempted to run health distribution centers in both the Department of Defense and the Veterans' Administration. In 1991 a General Accounting Office report entitled DOD Medical Inventory said reductions can be made through the use of commercial practice, and the GAO concluded that the private sector is more efficient at distributing health care products than the Government. In September of 1992, Mr. Chairman, a study by the Logistics Management Institute reached similar conclusions for the Department of Veterans' Affairs. It verified that the expense levels of government run depot systems were 12 times higher than subsequent commercial bids.

My colleagues, there is absolutely no reason in the world to have the Federal Government spend $13 million on a warehouse to store paint thinners and flammable products just a few steps down from fragile immunization programs. This is a Government that cannot run the Post Office and where mail gets lost in Chicago for weeks at a time, and now, if the vaccinations get lost, it is not simply a fact of a letter being a day late, or 3 days late, or a week late. It is a fact that American kids can die precisely as a result of Government mistakes and Government foul-ups.

I urge my colleagues to vote yes for this amendment so we can spend $13 million on immunizing kids and not spend another $13 million on a Government warehouse we do not need for a program that already has worked well in the private health sector.

Mr. SMITH of Iowa. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, on the merits of whether or not there should be a warehouse I would point out that the States are going to be permitted to keep their own distribution system, if they want to, and a good many States will do that. They will not change things from the way they are now. As to those States that do not keep their own distribution system, the question is whether or not GSA will do the distributing or it will be done by a contract with the various pharmaceutical companies. The department says it will be a lot more efficient to do it through the GSA because then it will be delivered. No matter how many pharmaceutical companies it comes from, it will all be delivered together by Federal Express. Whether it is done by GSA through a warehouse or whether it is done by the pharmaceutical companies, Federal Express will deliver it anyway. But in the event the GSA does it, then they will package that from various pharmaceutical companies, send it to the same destination. They say it will cost a lot less money.

However, Mr. Chairman, we are not talking about the merits of that question here because the gentleman could not reach it without having language on the appropriations bill that would be against the rules. All he could do was to reduce the amount of money in a certain account, and that account happens to also include a lot of things bedsides this, including breast and cervical cancer screening, tuberculosis control, AIDS prevention, diabetes control, injury control, and a number of other things.

□ 1910

So actually, the amendment that the gentleman presents, through no fault of his own, does not really reach the question of whether or not there will be a warehouse anyway.

Mr. Chairman, I ask for a no vote on the amendment

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. KLUG].

The amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, $1,919,419,000.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out sections 301 and 1105 and title IV of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, $1,259,590,000.

NATIONAL INSTITUTE OF DENTAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental disease, $162,832,000.

NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney diseases, $726,784,000.

NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological disorders and stroke, $626,801,000.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, $536,416,000.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, $877,113,000.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, $513,409,000.

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, $290,335,000.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311 and title IV of the Public Health Service Act with respect to environmental health sciences, $266,400,000.

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, $431,198,000.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis, and musculoskeletal and skin diseases, $227,021,000.

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS

For carrying out section 301 and title IV of the Public Health Service Act with respect to deafness and other communication disorders, $166,155,000.

NATIONAL INSTITUTE OF NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, $47,971,000.

NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM

For carrying out section 301 and title IV of the Public Health Service Act with respect to alcohol abuse and alcoholism, $181,445,000.

NATIONAL INSTITUTE ON DRUG ABUSE

For carrying out section 301 and title IV of the Public Health Service Act with respect to drug abuse, $290,280,000.

NATIONAL INSTITUTE OF MENTAL HEALTH

For carrying out section 301 and title IV of the Public Health Service Act with respect to mental health, $542,050,000.

NATIONAL CENTER FOR RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, $294,877,000: *Provided*, That none of these funds shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants: *Provided further*, That $20,000,000 shall be for extramural facilities construction grants.

NATIONAL CENTER FOR HUMAN GENOME RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to human genome research, $152,010,000.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, $15,193,000.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, $123,274,000.

OFFICE OF THE DIRECTOR

(INCLUDING TRANSFER OF FUNDS)

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, $219,474,000: *Provided*, That funding shall be available for the purchase of not to exceed five passenger motor vehicles for replacement only: *Provided further*, That the Director may direct up to 1 percent of the total amount made available in this Act to all National Institutes of Health appropriations to activities the Director may so designate: *Provided further*, That no such appropriation shall be increased or decreased by more than 1 percent by any such transfers and that the Congress is promptly notified of the transfer.

OFFICE OF AIDS RESEARCH

(INCLUDING TRANSFER OF FUNDS)

For carrying out part D of title XXIII of the Public Health Service Act, $1,337,606,000: *Provided*, That the Director of the Office of AIDS Research shall transfer from this appropriation the amounts necessary to carry out section 2353(d) of the Act.

BUILDINGS AND FACILITIES

For the study of, construction of, and acquisition of equipment for, facilities of or used by the National Institutes of Health, including the acquisition of real property, $114,370,000, to remain available until expended.

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

For carrying out the Public Health Service Act with respect to substance abuse and mental health services, section 612 of Public Law 100–77, as amended, and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, $2,166,148,000: *Provided*, That no portion of amounts appropriated for the programs of the Department of Health and Human Services shall be available for obligation pursuant to section 571 of the Public Health Service Act, other than an amount of $3,750,000 from amounts appropriated to carry out section 510 of that Act.

ASSISTANT SECRETARY FOR HEALTH

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

(INCLUDING TRANSFER OF FUNDS)

For the expenses necessary for the Office of Assistant Secretary for Health and for carrying out titles III, XVII, XX and XXI of the Public Health Service Act, $70,261,000, and, in addition, amounts received from Freedom of Information Act fees and reimbursable and interagency agreements shall be credited to this appropriation and shall remain available until expended: *Provided*, That $2,000,000 of the amount appropriated in this paragraph shall be transferred to the Food and Drug Administration, Salaries and Expenses appropriation account.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55), and for payments pursuant to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), such amounts as may be required during the current fiscal year.

AGENCY FOR HEALTH CARE POLICY AND RESEARCH

HEALTH CARE POLICY AND RESEARCH

For carrying out titles III and IX of the Public Health Service Act, and part A of title XI of the Social Security Act, $134,624,000, together with not to exceed $5,806,000 to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by sections 1142 and 201(g) of the Social Security Act; in addition, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements, and the sale of data tapes shall be credited to this appropriation and shall remain available until expended: *Provided*, That the amount made available pursuant to section 926(b) of the Public Health Service Act shall not exceed $13,202,000.

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act $62,637,775,000, to remain available until expended.

For making, after May 31, 1995, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 1995 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1996, $27,047,717,000, to remain available until expended.

Payment under title XIX may be made for any quarter with respect to a State plan or plan amendment in effect during such quarter, if submitted in or prior to such quarter and approved in that or any subsequent quarter.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, section 278(d) of Public Law 97-248, and for administrative expenses incurred pursuant to section 201(g) of the Social Security Act, $37,546,758,000.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social Security Act, and title XIII of the Public Health Service Act, the Clinical Laboratory Improvement Amendments of 1988, section 4360 of Public Law 101-508, and section 4005(e) of Public Law 100-203, not to exceed $2,183,985,000, together with all funds collected in accordance with section 353 of the Public Health Service Act, the latter funds to remain available until expended; the $2,183,985,000 to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds: *Provided*, That all funds derived in accordance with 31 U.S.C. 9701 from organizations established under title XIII of the Public Health Service Act are to be credited to this appropriation.

HEALTH MAINTENANCE ORGANIZATION LOAN AND LOAN GUARANTEE FUND

For carrying out subsections (d) and (e) of section 1308 of the Public Health Service Act, $15,000,000 together with any amounts received by the Secretary in connection with loans and loan guarantees under title XIII of the Public Health Service Act, to be available without fiscal year limitation for the payment of outstanding obligations. During fiscal year 1995, no commitments for direct loans or loan guarantees shall be made.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, $25,094,000.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, $527,874,000, to remain available until expended.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 1996, $180,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out titles XI and XVI of the Social Security Act, section 401 of Public Law 92-603, section 212 of Public Law 93-66, as amended, and section 405 of Public Law 95-216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $21,237,101,000, to remain available until expended: *Provided*, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

For making, after June 15 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For carrying out title XVI of the Social Security Act for the first quarter of fiscal year 1996, $7,060,000,000, to remain available until expended.

Mr. PORTER (during the reading). Mr. Chairman, I do not believe there are any amendments prior to page 35 through line 5. If there are, I would like for Members to stand and tell me at this point.

Mr. Chairman, in view of the fact no Member has stood, I ask unanimous consent that the remainder of the bill through page 35, line 5, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The CHAIRMAN. Are there any points of order in that portion of the bill?

The Chair hears none.

Are there any amendments to that portion of the bill?

The Clerk will read the next paragraph.

The Clerk read as follows:

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, not more than $5,159,785,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act or as necessary to carry out sections 9704 and 9706 of the Internal Revenue Code of 1986 as such sections were in effect on January 1, 1993, from any one or all of the trust funds referred to therein: *Provided*, That reimbursement to the Trust Funds under this heading for administrative expenses to carry out sections 9704 and 9706 of the Internal Revenue Code of 1986 shall be made, with interest, not later than September 30, 1996.

AMENDMENTS OFFERED BY MR. SANTORUM

Mr. SANTORUM. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. SANTORUM:

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

LIMITATION ON ADMINISTRATIVE EXPENSES

a. On page 35, Line 8: Strike "$5,159,785,000" and insert "5,127,785,000".

b. On page 35, Line 20: Strike "$320,000,000" and insert "$352,000,000".

Mr. SANTORUM. Mr. Chairman, I would like to thank the chairman of the subcommittee for agreeing to the unanimous consent request.

Mr. Chairman, last year this committee appropriated $200 million to the Social Security Administration to address one of the most pressing problems that I hear about from my constituents back in my district, and that is the backlog of Social Security disability cases. It is a very serious issue, where you have literally a backlog of a year or more to deal with a disability claim.

Unfortunately, as we found out at a hearing before the Committee on Ways and means when the secretary of the Social Security Administration was there, we found out that the Social Security Administration spent $32 million just this year on bonuses for Social Security Administration employees, when they were coming here asking for additional money to solve a backlog.

We thought, and I think the press and Members in the other body, found that to be an outrage, that they would be spending that amount of money on bonuses, when they were coming here, hat in hand, asking for more money to clear up backlogs in their own department.

The payment, these bonuses, were paid to a large number of Social Security employees, but the largest amount was paid to the new second-in-command at the Social Security Administration, some $10,000 bonus for an employee who worked there for 2½ months. The employee has subsequently, under the pressure created by that move, given back the bonus. The average bonus to high senior executives in the Social Security Administration was over $100,000.

What this amendment does is restore the $32 million to the account which this Congress appropriated the $200 million to, to clear up the disability backlog. So what this amendment simply does is take $32 million out of the administration account of Social Security and put it in the disability account, so we can dramatically address this tremendous problem of backlog of Social Security disability claims, and send a message to the Social Security Administration that that kind of excess in compensation is not what the Congress is here to tolerate, and we want to see action done on disability claims, and action done quickly.

Mr. SMITH of Iowa. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the gentleman is taking $32 million out of a $5 billion account. Obviously that is not going to hurt a lot. But he is also transferring it to a very good purpose. I understand his reasoning and what he said.

All I want to say is that if there is an aye vote, I do not intend to ask for a rollcall. Hopefully we can have a vote right away.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, back in the districts we had a lot of town hall meetings, and the No. 1 issue was this issue. I thank the chairman for his consideration. What I had to tell them was I did not have to worry about them telling me, because my mother, the second she read it, got on the telephone and said what are you allowing them to do in Congress, son? And I think that this is a very good amendment, and I think it will be widely supported on both sides of the aisle.

I thank the gentleman for offering it.

Mr. MFUME. Mr. Chairman, I rise today in strong opposition to the amendment offered by the gentleman from Pennsylvania.

As a Member of Congress who represents both people who work in the Social Security Administration as well as many who rely on the agency for their income, I can personally attest to the damage a decrease in funding of this magnitude would inflict. Like many Members, I am aware of the frustration and at times the pain that many of our older or disabled citizens feel when they have a claim or a problem with the Social Security Administration.

Furthermore, like many of my colleagues, I have tried to work with the Social Security Administration at all levels to reform the Administration to make it more responsive to needs of its clients, our constituents.

I must say, however, it is my experience that the last thing this agency needs to improve its service is a reduction in its administrative funding.

I understand that the purpose of this amendment is to strike the money that the agency would spend on employee bonuses. I must question the wisdom of this amendment, however, in light of the fact that since 1983 the number of Social Security employees has dropped approximately 20 percent, while workloads in recent years have grown 70 percent. Furthermore, according to the Bureau of Labor Statistics overall productivity at the Social Security Agency has increased by 18 percent over the last 5 years.

There are also a number of pending legislative initiatives that will only increase the demand on the Social Security Administration if enacted. Rather than taking resources away from the Administration, and further frustrating the attempts of its employees to provide quality service to our constituents and to prevent, deter, and terminate fraudulent claims, we should be rewarding and encouraging exemplary service.

Like other Americans, most Social Security employees are dedicated workers who are striving to do a good job.

We should not take actions here to impeded or discourage the employees of the Social Security Agency in their quest to help implement the programs that we, the Congress, mandate. Furthermore, we should not take the concerns of some Members about employee bonuses out on the disabled children, widows, and the elderly who depend on Social Security to survive. We should do all we can to help and encourage the Social Security Administration employees be as responsive and as helpful to our constituents as possible.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Pennsylvania [Mr. SANTORUM].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

In addition to funding already available under this heading, and subject to the same terms and conditions, $320,000,000, for disability caseload processing.

In addition to funding already available under this heading, and subject to the same terms and conditions, $130,000,000, which shall remain available until expended, to invest in a state-of-the-art computing network, including related equipment and administrative expenses associated solely with this network, for the Social Security Administration and the State Disability Determination Services, may be expended from any or all of the trust funds as authorized by section 201(g)(1) of the Social Security Act.

ADMINISTRATION FOR CHILDREN AND FAMILIES

FAMILY SUPPORT PAYMENTS TO STATES

For making payments to States or other non-Federal entities, except as otherwise provided, under titles I, IV-A (other than section 402(g)(6)) and D, X, XI, XIV, and XVI of the Social Security Act, and the Act of July 5, 1960 (24 U.S.C. ch. 9), $12,761,788,000, to remain available until expended.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV-A and D, X, XI, XIV, and XVI of the Social Security Act, for the last three months of the current year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or other non-Federal entities under titles I, IV-A (other than section 402(g)(6)) and D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9) for the first quarter of fiscal year 1996, $4,400,000,000, to remain available until expended.

JOB OPPORTUNITIES AND BASIC SKILLS

For carrying out aid to families with dependent children work programs, as authorized by part F of title IV of the Social Security Act, $1,300,000,000.

LOW INCOME HOME ENERGY ASSISTANCE

(INCLUDING RESCISSION)

Of the funds made available beginning on October 1, 1994 under this heading in Public Law 103-112, $250,000,000 are hereby rescinded.

The funds remaining after said rescission shall be available for obligation through September 30, 1995.

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, $1,225,000,000, to be available for obligation in the period October 1, 1995 through September 30, 1996.

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, an additional $600,000,000: *Provided*, That all of the funds available under this paragraph are hereby designated by Congress to be emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That these funds shall be made available only after submission to Congress of a formal budget request by the President that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985.

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-422), $399,779,000: *Provided*, That funds appropriated pursuant to section 414(a) of the Immigration and Nationality Act under Public Law 102-394 for fiscal year 1993 shall be available for the costs of assistance provided and other activities conducted in such year and in fiscal years 1994 and 1995.

COMMUNITY SERVICES BLOCK GRANT

For making payments under the Community Services Block Grant Act, section 408 of Public Law 99-425, and the Stewart B. McKinney Homeless Assistance Act, $465,714,000.

CHILD CARE AND DEVELOPMENT BLOCK GRANT

For carrying out sections 658A through 658R of the Omnibus Budget Reconciliation Act of 1981 (The Child Care and Development Block Grant Act of 1990), $934,656,000, which shall be available for obligation under the same statutory terms and conditions applicable in the prior fiscal year.

SOCIAL SERVICES BLOCK GRANT

For making grants to States pursuant to section 2002 of the Social Security Act, $2,800,000,000.

CHILDREN AND FAMILIES SERVICES PROGRAMS

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Developmental Disabilities Assistance and Bill of Rights Act, the State Dependent Care Development Grants Act, the Head Start Act, the Child Development Associate Scholarship Assistance Act of 1985, the Child Abuse Prevention and Treatment Act, chapters 1 and 2 of subtitle B of title III of the Anti-Drug Abuse Act of 1988, the Family Violence Prevention and Services Act, the Native American Programs Act of 1974, title II of Public Law 95-266 (adoption opportunities), the Temporary Child Care for Children with Disabilities and Crisis Nurseries Act of 1986, the Abandoned Infants Assistance Act of 1988, subtitle F of title VII of the Stewart B. McKinney Homeless Assistance Act, and part B of title IV and section 1110 of the Social Security Act, and for necessary administrative expenses to carry out said Acts and titles I, IV, X, XI, XIV, XVI, and XX of the Social Security Act, the Act of July 5, 1960 (24 U.S.C. ch. 9), the Omnibus Budget Reconciliation Act of 1981, section 204 of the Immigration Reform and Control Act of 1986, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, Public Law 100-77, and section 126 and titles IV and V of Public Law 100-485, $4,408,775,000.

FAMILY PRESERVATION AND SUPPORT

For carrying out section 430 of the Social Security Act, $150,000,000.

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For making payments to States or other non-Federal entities, under title IV-E of the Social Security Act, $3,440,871,000.

ADMINISTRATION ON AGING

AGING SERVICES PROGRAMS

For carrying out, to the extent not otherwise provided, the Older Americans Act of 1965, as amended, and section 10404 of Public Law 101-239 (volunteer senior aides demonstration), $869,823,000.

OFFICE OF THE SECRETARY

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six medium sedans, $89,500,000, together with $31,008,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $63,585,000, together with not to exceed $37,060,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $18,409,000 together with not to exceed $3,874,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, $14,632,000.

GENERAL PROVISIONS

SEC. 201. Funds appropriated in this title shall be available for not to exceed $37,000 for official reception and representation expenses when specifically approved by the Secretary.

SEC. 202. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization.

SEC. 203. None of the funds appropriated under this Act may be used to implement section 399L(b) of the Public Health Service Act or section 1911(d) and section 1503 of the National Institutes of Health Revitalization Act of 1993, Public Law 103–43.

SEC. 204. None of the funds made available by this Act may be used to require States as a condition of receiving funding under the Child Abuse Prevention and Treatment Act to restrict, condition, or otherwise qualify a State's authority to determine (i) whether and under what circumstances a parent's decision to provide non-medical health care for a child may constitute negligent treatment or maltreatment, and (ii) the circumstances under which it is appropriate to order medical treatment for a child who is receiving non-medical health care.

SEC. 205. (a) Of the budgetary resources available to the Department of Health and Human Services (excluding the Food and Drug Administration and the Indian Health Service) during fiscal year 1995, $37,125,000 are permanently canceled.

(b) The Secretary of Health and Human Services shall allocate the amount of budgetary resources canceled among the Department's accounts (excluding the Food and Drug Administration and the Indian Health Service) available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account.

(c) For the purposes of this section, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

This title may be cited as the "Department of Health and Human Services Appropriations Act, 1995".

TITLE III—DEPARTMENT OF EDUCATION

EDUCATION REFORM

For carrying out activities authorized by titles II and III of the Goals 2000: Educate America Act and titles II, III, and IV of the School-to-Work Opportunities Act, $528,400,000 of which $503,670,000 shall become available on July 1, 1995, and remain available through September 30, 1996.

EDUCATION FOR THE DISADVANTAGED

For carrying out the activities authorized by title I of the Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act as passed the House of Representatives on March 24, 1994, and by section 418A of the Higher Education Act, $7,245,655,000, of which $7,212,093,000 shall become available on July 1, 1995 and shall remain available through September 30, 1996: *Provided*, That $6,698,356,000 shall be available for grants to local education agencies, $41,434,000 shall be available for capital expenses, $102,024,000 shall be available for the Even Start program, $305,475,000 shall be available for title I migrant education activities, $37,244,000 shall be available for title I delinquent and high-risk youth education activities, $27,560,000 shall be for program improvement activities, $15,000,000 shall be for demonstration grants, and $8,270,000 shall be for evaluation.

IMPACT AID

For carrying out programs of financial assistance to federally affected schools authorized by the Improving America's Schools Act as passed the House of Representatives on March 24, 1994, $728,000,000 of which $40,000,000, to remain available until expended, shall be for payments for heavily impacted districts under section 8004(f).

Mr. SMITH of Iowa (during the reading). Mr. Chairman, I ask unanimous consent that the portion of the bill through page 44, line 26, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the question of the gentleman from Iowa?

There was no objection.

The CHAIRMAN. The Clerk will continue to read.

The Clerk read as follows:

SCHOOL IMPROVEMENT PROGRAMS

For carrying out school improvement activities authorized by titles II, III, IV, and V of the Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act as passed the House of Representatives on March 24, 1994; the Stewart B. McKinney Homeless Assistance Act; the Civil Rights Act of 1964; and title V of the Higher Education Act; $1,424,513,000, of which $1,158,695,000 shall become available on July 1, 1995, and remain available through September 30, 1996: *Provided*, That $5,899,000 shall be for law related education under section 3702.

Mr. PORTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we are awaiting the arrival of the gentleman from Ohio [Mr. BOEHNER], who will be here momentarily. He has an amendment on native Hawaiians and the education program. The gentleman's amendment would terminate the program by cutting $8.15 million, and the funding would not be redistributed.

Mr. Chairman, I support this amendment, and I supported a similar amendment that the gentleman from Ohio [Mr. BOEHNER] offered on the reauthorization bill. The President requested termination of this program in his budget, Mr. Chairman, and it is a recommendation that we should listen to and we should adopt.

Mr. Chairman, the Department of Education is overburdened with small programs that require a great deal of administrative support. The President in his budget request strongly suggested that we eliminate 33 of those programs. If you sit down with the people at the Department of Education and talk with them, you know that they are very, very much overburdened with so many small programs that take a great deal of time and a large number of personnel to separately administer.

Mr. Chairman, that is why I believe the Boehner amendment should be adopted. We are asking all of the department's to do more with less, particularly FTE's. We ought to help them by consolidating or eliminating many of these small programs, and I think the Boehner amendment is one that deserves to be adopted.

Mr. Chairman, Hawaii already receives funding from other Federal education programs. For example, $70 million in formula grants alone, which go to all States, go in part to Hawaii, and Hawaii also gets other funding set-asides and discretionary grants.

Mr. ABERCROMBIE. Mr. Chairman, will the gentleman yield?

Mr. PORTER. I yield to the gentleman from Hawaii.

Mr. ABERCROMBIE. Mr. Chairman, will the gentleman cite specifically what he is objecting to?

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Mr. PORTER. Mr. Chairman, I am supporting the amendment that the gentleman from Ohio [Mr. BOEHNER] intends to offer.

Mr. ABERCROMBIE. Mr. Chairman, if the gentleman will continue to yield, would be cite specifically what the gentleman from Ohio [Mr. BOEHNER] is objecting to?

Mr. PORTER. Mr. Chairman, I will have to let the gentleman from Ohio do that. His amendment would terminate the Native Hawaiian Education Program by cutting $8.15 million from it.

AMENDMENT OFFERED BY MR. BOEHNER

Mr. BOEHNER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BOEHNER: Page 45, line 9, strike "$1,424,513,000" and insert "$1,416,363,000".

Mr. SMITH of Iowa. Mr. Chairman, I ask unanimous consent that debate on this amendment and all amendments thereto be limited to 40 minutes, 20 minutes on each side.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa:

There was no objection.

Mr. BOEHNER. Mr. Chairman, I yield myself such time as I may consume.

This amendment seeks to strike $8 million from this bill for the Native Hawaiian Education Program. This amount of money is in addition to what Hawaii gets under the bill.

Under the regular formula, they get $70 million in funds which, under that formula, is like any other State. In addition, they get $4.4 million in setasides from the Drug Free Schools Act, the Vocational Educational Act and Individuals With Disabilities Act. They are also eligible for discretionary and competitive grants and receive such sums as they may win in that process.

However, I guess my biggest concern about this is the fact that of the $8 million, $5 million goes to the Kamehameha school.

Now, this school was established through an estate left in the will of the Hawaiian Princess in the 19th century with a mandate to educate native Hawaiians. The estate owns property and investments all over Hawaii and, for that matter, in Las Vegas, Wisconsin and Michigan and elsewhere. It owns 8 percent of all Hawaiian real estate. We believe that the estate is worth some $8 billion, and the endowment for this school is an amount of $6 billion, more than the endowment for Yale University and Harvard University combined.

The endowment is run by five trustees. These five trustees, all former politicians, former speaker of the Hawaiian House, former president of the Hawaiian Senate, these trustees are paid $860,000 each.

Let me explain this again. Five trustees over this estate; six billion of which is left to fund native Hawaiian programs. These five trustees are paid $860,000 each.

The estate's income last year is estimated to be approximately $177 million. Half of the money goes directly to fund the school. The other half is used to fund activities that are sponsored by the school.

I say to my colleagues that with the amount of money available to the school, certainly the Federal Government does not need to be putting up $8 billion, more than half of which goes to fund this school.

It is kind of interesting that there is about $4 million salaries paid each and every year just to the five trustees. The money we are paying them basically goes to pay their board of trustees. At a time when we are having the fiscal problems that we have, we should not be spending money in this matter.

Second, I would point out that there is no need for the Federal Government to fund this native Hawaiian program out of this bill. There is no need for the other setasides that are in other bills. The fact that the gentlewoman from Hawaii, who sits on the Committee on Education and Labor, has $8 million in this bill should not come as any great surprise to Members. She does a very good job on the committee. She works hard. She has worked hard enough to get the chairman and others to have this setaside included.

I say to my colleagues, we should not be doing this.

The last point I would make is this. President Clinton, when he sent his budget up to Congress, asked that this not be funded. I would also suggest that when the President submitted the re-authorization of the Elementary, Secondary Vocational Act, the President asked that this program not be funded.

I say to my colleagues, to send $5 million to this school is a waste of our taxpayers' money. The $8 million in this bill should not be spent, and I urge my colleagues to support the adoption of the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Iowa. Mr. Chairman, I yield 5 minutes to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK of Hawaii. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Ohio. It saddens me that there is such a lack of understanding of the history and the reasons behind the efforts that have been made over the last 10 or 15 years to recognize the native Hawaiians in the State of Hawaii.

Congress has always been sympathetic to native Americans. Most of us have native Americans in our constituency. And over the years, the programs have been devised and developed and implemented to help Native Americans throughout this country.

Notwithstanding that the native Americans, perhaps some of them live on reservations and others live in the cities, over a billion dollars have been set aside to help educate and provide for the needs of native Americans throughout this country.

What has not been understood by Members on the other side in particular is that native Hawaiians are as much native Americans as any of the other individuals that have been heretofore included in the definition of a Native American.

The difficulty is that Members do not understand the history of my State and how it was overtaken 100 years ago by a group of 100 or so Marines, captured the Queen, imprisoned her in her own palace and took over the lands of the kingdom there and exploited it to the use and purposes of the American Government and of the American citizens who were there trying to build up their businesses.

After 100 years, we have come to the realization that the Federal Government has a basic responsibility to right this wrong that occurred 100 years ago. So the Congress has been drawn in to try to recognize this legal and moral obligation.

As a consequence, my predecessors have, bit by bit, tried to get special programs enacted to help these native Hawaiians who are those in our community who are at the lowest end of the economic scale, who have the most difficulty in obtaining jobs, who have the most difficulty in acquiring homes and having a sense of prosperity in this great State of ours.

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One of the basic reasons is that when our delegate came here in 1920 and got the Congress to enact the Hawaiian Homestead Act, the Congress agreed and set aside 200,000 acres in an effort to try to bring some sort of justice to this tragedy that occurred to these people.

What happened was that the 200,000 acres that had been set aside for the native Hawaiians were in the remotest areas: no streets, no kind of communication, no job opportunities, no link with the economy. As a consequence, the native Hawaiian population has had a very difficult time.

It seems to us in Hawaii, Mr. Chairman, that the least we can do is to pay special recognition to this need, just as we have done to the native Americans in a whole variety of different pieces of legislation. That is precisely all that this is about.

As far as the charges that this fund has been allocated to the Kamehameha Schools, the Kamehameha Schools is the expert in terms of education for the native Hawaiians. There is no reason to look for other grantors to administer this program.

The $5 million that have been set aside to Kamehameha Schools is split, $3 million to Kamehameha Schools, and what they do is they go out to the community, they do not use it within their institution, they go out to the remotest areas, Waianae, Nanakuli, and they establish parent centers and preschools, and they move about trying to get these families together, the very essence of the things we talk about on the Committee on Education and Labor of having the families become involved in their children's progress. This is the essence of what the Kamehameha Schools program, known as KEEP, is all about.

Mr. Chairman, I support it wholeheartedly. I hope this Congress will agree that this is the least that we can do. It is a very modest amount, but it will go a long way to answering the charges that are now being made in my State that the Federal Government has completely left its obligations behind and refused to provide the assistance that is required.

Mr. Chairman, I ask my colleagues to defeat this amendment and to support the efforts of the Committee on Education and Labor that has authorized this program. Mr. Chairman, I commend the Committee on Appropriations for allowing this to proceed, and I hope the amendment will be defeated.

Mr. BOEHNER. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. MILLER], a member of the Committee on Education and Labor.

Mr. MILLER of Florida. Mr. Chairman, at the beginning of the reauthorization process last year for elementary and secondary education, there was a bipartisan effort to target scarce Federal dollars on broad national education concerns, rather than on specific constituencies. The committee's expressed purpose was to eliminate or consolidate numerous categorical programs and use the savings to create better education opportunities for all students. Unfortunately, we did not achieve that goal during reauthorization. This, sadly, is also the case with this spending bill. The appropriations committee has reinstated funding for most of the programs recommended for termination by President Clinton, including moneys for the native Hawaiian program.

The President called this and a number of other programs in this bill unneeded, and duplicative. The Gore Commission on Reinventing Government specifically addressed the native Hawaiian program, stating, "This program duplicates other programs. The State of Hawaii already receives formula grants under such programs as chapter I that may be used for the education of eligible Hawaiians."

I agree with the President, the Vice President, and my colleague, the gentleman from Ohio [Mr. BOEHNER]. The House should eliminate the $8.2 million in funding for the native Hawaiian program. The time has come to set priorities on Federal spending, and to eliminate special programs that benefit parochial interests at the expense of common educational goals. Native Hawaiians can receive money from the same pool of chapter I moneys that the rest of the States have access to.

My colleagues continue to make a lot of noise on the House floor about cutting spending, consolidating programs, and reducing the size of Government. But our actions run contrary to the tough rhetoric. We are passing legislation that is loaded with unnecessary, unauthorized and unwanted spending.

We've got to start eliminating and consolidating somewhere.

The President drew the line when he proposed zeroing out the Native Hawaiian Education Program. Support the President, and Vice President GORE, and vote in favor of the Boehner amendment.

Mr. ABERCROMBIE. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Florida. I yield to the gentleman from Hawaii.

Mr. ABERCROMBIE. Mr. Chairman, would the gentleman cite specifically what he is opposed to?

Mr. MILLER of Florida. Mr. Chairman, I am opposed to the additional spending of a special categorical program just for Hawaii. It should be treated as general funding across all the States, all the country.

Mr. ABERCROMBIE. Mr. Chairman, does the gentleman recognize that a trust relationship exists between the United States and the native Hawaiians?

Mr. MILLER of Florida. Yes, Mr. Chairman, but we have a trust relationship to our senior citizens, in my opinion.

Mr. ABERCROMBIE. If the gentleman will continue to yield, so the gentleman from Florida [Mr. MILLER] would say that the trust relationship should be violated with the senior citizens as well as with the native Hawaiians?

Mr. MILLER of Florida. No, Mr. Chairman, it should not be.

Mr. ABERCROMBIE. Only with the native Hawaiians?

Mr. MILLER of Florida. Mr. Chairman, we all have senior citizens, in Hawaii and in Florida and in New York. Why should native Hawaiians get any more than native Floridians? In fact, Mr. Chairman, we probably have more native Floridians than there are native Hawaiians.

Mr. ABERCROMBIE. If the gentleman will yield further, is it the position of the gentleman from Florida [Mr. MILLER] that the trust relationship exists only for the convenience of the gentleman?

The CHAIRMAN. The time of the gentleman has expired.

Mr. SMITH of Iowa. Mr. Chairman, I yield 5 minutes to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Chairman, on June 23, the gentleman from Ohio [Mr. BOEHNER] rose. He had a little bit different orientation. Then he also cited the President, except this time the President, when asked to have a cut of $27 million, the gentleman from Ohio [Mr. BOEHNER] was up here begging for $27 million.

The gentleman from Ohio comes here and asks us to cut out a program for little kids in Hawaii, but when it is for the coal companies in Ohio, he cannot wait to get down here and say, "Please give us the money. Do not listen to him."

Mr. BOEHNER. Mr. Chairman, will the gentleman yield?

Mr. ABERCROMBIE. When I get through making my point, Mr. Chairman, I will yield. The gentleman has had plenty of time to beat up on Hawaiians. I think the coal companies of Ohio can take their share. You can dish it out. Let's see how you can take it. I am just getting started.

Mr. BOEHNER. I am sure.

Mr. ABERCROMBIE. The Subcommittee on Interior of the Committee on Appropriations was asked to cut $27 million. It was stated by the gentleman offering the amendment that a wide array of potential markets, from coal, from electric power, industrial processes, has already been researched, some as early as the 1940's; an ongoing coal liquefaction research and development project. He asked that that money be stopped.

Another gentleman in support of that got up and said:

> Let me point out that the Executive Office of the President has sent down a letter telling us they support the cut and moving money out for other programs.

A second gentleman got up and stated, in support of the amendment, "Today we simply ask the House to cut this appropriation by $28 million and bring the appropriations in line with the President's request," but the gentleman from Ohio [Mr. BOEHNER] got up and said, "We are trying to cut funding in this Congress. We are trying to save money, but we also realize we have a responsibility in this Congress to make sure there is a proper investment in our country in areas where the private sector cannot do it alone."

Now all of a sudden, I discover that the gentleman has now taken up the Bishop Estate. The Bishop Estate manages to stay in existence because, while people from the mainland were robbing the Hawaiians of all their lands, some of it happened to be able to be saved by the Bishop Estate.

Now the Bishop Estate is not required to educate all of the children in Hawaii, but it does so. It does so.

Mr. BOEHNER. Mr. Chairman, will the gentleman yield?

Mr. ABERCROMBIE. Mr. Chairman, I will yield when I am finished. The gentleman has plenty of time. I will give him all the time he wants.

Then the gentleman says, "We are going to do this for our children, and their children, and the next generation." It is too bad the phrase "our children" does not include the children in Hawaii. It apparently includes the children of the gentleman in the area, in his jurisdiction.

The gentleman says, "In Ohio," and I am quoting, "we have a separate fund that has been developed that adds money" to the processes the gentleman is referring to. We have a separate fund, too, Mr. Chairman, at the Bishop Estate, and Kamehameha Schools, and the income from that estate is devoted to the education of Hawaiian children, and they have developed the expertise.

They have developed the programs that reach out into the rural and isolated areas of Hawaii so that these children can have the advantage of an education that can only be provided in a context that the Kamehameha Schools has developed and understood, and has offered to us.

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They merely administer these programs. The Bishop Estate does not get this money. Kamehameha Schools does not get this money. As the gentleman well knows, in the legislation they are required to take no more than 7 percent total administrative expenses. I wonder how much administrative expenses is taken in the coal research that was in the amendment he asked us to pass?

Mr. Chairman, the fact is that I voted for that. The fact is that the gentlewoman from Hawaii [Mrs. MINK] voted for that, because we were convinced that this is a good thing to do, that while it is a specific industry, that people benefit in general throughout the Nation if the coal research is done. We agreed with the gentleman. But he comes back today and I ask him to accept the same logic that he presented to us, that it is to the benefit of all of the people of this country, that all of our children receive the best education that they can have in the context in which they find themselves.

Our problem today, Mr. Chairman, is there is the odor of mendacity in the room. The oder or mendacity is pervasive on this floor. It is characterized and given to deception and falsehood and that is what is taking place here today. If there was a consistency in this, I could see it, but there is not. Why should our children be picked on in Hawaii while the coal industry up in Ohio gets the benefit? How can the gentleman stand here today and try to take the money away from our kids when he was asking for an exception to be made for him last week on June 23?

Mr. BOEHNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from Hawaii came to this floor accusing me of duplicity because of the fact that I came to this floor last week and argued the difference between investment and spending. The coal research was an investment in this country, not only for our generation but our kids and our grandkids. The fact is there is a big difference between that investment in coal research and the extra money that is being spent for native Hawaiian children, extra money.

Let us not forget we are already talking about $74 million that Hawaii gets in the regular formula program and the competitive grants that they get. We are talking about $8 million extra, $5 million of which is going to one school. We have already described the difference in how that school spends this money. The gentleman from Hawaii said that the Bishop Estate does not have to fund this program. I would remind the gentleman from Hawaii that the Bishop Estate is left clearly in the language of the estate to educate Native Hawaiian children. That is why $177 million dollars that was earned on that estate, that $6 billion endowment, went to fund this school last year.

The Federal Government should not be involved in this program anymore.

Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, let us bring a little bit of sanity to the debate. I heard that this amendment was going to affect little children. Even Robin Leach of the Rich and Famous would laugh. He would highlight this school that is going to receive $8 million. He would highlight it on the Rich and Famous. The richest school in America and we are going to give them an additional $8 million. What are we talking about? We are going to pay the board of trustees who they already receive, and these are all ex-politicians, we are going to pay them $860,000 a year.

I would love to retire as an ex-politician in Hawaii with $860,000 a year. The assets that they hold in Las Vegas or in Hawaii, over $9 billion, more than any school in the entire United States. As a matter of fact, probably combined.

Mr. Chairman, we have an endowment of $6 billion, more than Yale and Harvard or probably any 20 schools put together. Yet they want $8 million because it is tradition, because we have violated their rights? We are going to hurt little children?

We cannot afford to give $8 million. This is almost laughable.

Mrs. MINK of Hawaii. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I am happy to yield to the gentlewoman from Hawaii.

Mrs. MINK of Hawaii. Mr. Chairman, the gentleman is misstating the situation. The $8 million does not go to Kamehameha Schools. The gentleman is correct. They are operated under a Bishop Estate that funds a couple of thousand students on their campus. These funds that we are appropriating are going to other children in deprived neighborhoods.

Mr. CUNNINGHAM. Reclaiming my time, Mr. Chairman, it is. But it is $8 million going to special interests in Hawaii, $8 million when they are already the richest, probably more than 20 schools put together, of all the United States. And they want an additional $8 million. Plus they get money from the original formula.

This is ridiculous, Mr. Chairman. Let us support the gentleman's amendment.

Mr. BOEHNER. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. FAWELL], a member of the Committee on Education and Labor.

Mr. FAWELL. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I am flabbergasted. I cannot believe my ears, what I hear. There is an old saying in the law that if the facts are with you, you pound the facts, and if the law is with you, you pound the law, and if neither facts nor law are with you, you pound the table, or you just yell.

Mr. Chairman, this is absurd. The purpose for this special appropriation is to educate children, native Hawaiians. Lo and behold it goes to an entity that has five trustees, and they are paid $860,000 a year apiece? We multiply that by 5, that is $4.3 million, and $5 million of the $8.2 million is going to that entity. It is barely enough to pay for the annual compensation of the trustees.

What defense do I hear? America owes something to the children of the native Hawaiians. Of course we do, I gather. I do not know the full history.

Mr. ABERCROMBIE. Mr. Chairman, will the gentleman yield?

Mr. FAWELL. No; I will not. I do not want to be yelled at anymore. I just want to say my say and sit down.

Mr. ABERCROMBIE. Will the gentleman yield on a factual matter?

Mr. FAWELL. I would like to continue on. My ears are still ringing.

Mr. Chairman, this is an educational matter. I do not think that anywhere in this country of ours, if we were serving one of the most degrading areas where children need help and so forth, and they set up an entity that is going to handle these funds and the entity is as rich and as endowed as this entity is, $6 billion endowment, greater than Harvard University and Yale? I don't think they should be subsidized by the U.S. taxpayers.

I have in my notes here that these schools actually serve only 6.4 percent of the State's native Hawaiian population.

Mr. Chairman, the taxpayers are being asked to give $5 million to one of the richest entities on the face of this Earth. The members of the board of this entity, the grantee of this Federal largesse, receive $860,000 per person per year. Common Cause states that these trustee positions at the Kamehameha School are political plums for the State's Democrat Party. I've seen some awfully sick pork-spending passed by Congress. This has to be among the worst. It is absolutely absurd. We ought to just quietly say, "We, of course, cannot do this, it just is absurd."

Mr. SMITH of Iowa. Mr. Chairman, I yield 3 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, let us just get to the facts. The $8.1 million in this program goes to the following programs:

First, native Hawaiian language immersion project; second, native Hawaiian family-based education centers; third, native Hawaiian higher education demonstration programs; fourth, native Hawaiian gifted and talented programs; and fifth, native Hawaiian special education programs.

Mr. Chairman, my Subcommittee on Native American Affairs also has jurisdiction over native Hawaiian affairs and we have a trust responsibility toward Native American children and native Hawaiian children. What we need to do is look at facts.

In 1983, a Department of Education report documented that native Hawaiians scored below all other groups in education testing and that this low achievement was directly related to their cultural situation. Native Hawaiian children score much higher when they are placed in education programs which incorporate their native cultures in their studies.

Mr. Chairman, again, statistics, the per capita income of native Hawaiians, $5,341 a year, is 28 percent less than the State average in Hawaii. Another statistic, 15 percent of the native Hawaiian population in Hawaii is below the poverty level. We are not talking about elite children getting special privileges. We are talking about children in need, and we have a responsibility to fund these programs.

The rate of unemployment among native Hawaiians, 7 percent, exceeds unemployment rates of all other groups within the State except blacks which is 13 percent. The rate of unemployment among the 16- to 19-year-olds in the native Hawaiian population, 19 percent, is worse than any other age group, I repeat, worse than any other age group.

Native Hawaiians are overrepresented in the below-average range of test scores. This is a Department of Education study. The rate of college completion for native Hawaiians is 8 percent, significantly lower than the State average. Fifty-seven percent of all youth in correctional facilities in Hawaii are native Hawaiians.

There is no doubt these services, as well as others, are needed by the native Hawaiian community.

So I ask every Member that has native Americans in their congressional districts, in their States, to band together against this amendment and rise in strong support of these programs, of the gentlewoman from Hawaii [Mrs. MINK], the gentleman from Hawaii [Mr. ABERCROMBIE], of many native Hawaiians that are serving in the House of Representatives and the Senate.

This is not a good initiative. Let us look for cuts elsewhere, and I think the gentleman from Ohio [Mr. BOEHNER] has a good record of looking for cuts elsewhere, but not in this program.

We have a responsibility to fund these programs.

CHAPTER 6: SUMMARY

STATISTICAL COMPARISONS

In Chapter 2 of this report, comparisons were made between native Hawaiians and national averages, national averages for other minority groups and other groups within the state of Hawaii. It was noted in that chapter that:

Although Native Hawaiians compare favorably to other minority groups nationally with regard to income, their mean and median per capita incomes are still just over 75 percent of the national average. Furthermore, the cost of living for a family of four with a low budget in Honolulu, where many Native Hawaiians reside, is 32 percent more than it would be for the average urban area, nationally.

Native Hawaiians compare favorably to other minority groups nationally with regard to poverty level status. However, 15 percent of Native Hawaiians are below the poverty level, a statistic that is substantially higher than the national average of 9.6 percent.

Native Hawaiians compare favorably to other minority groups nationally with regard to employment status, and their unemployment rate of 6.9 percent is just slightly above the national average of 6.5 percent. However, within the 16 to 19-year-old age group, 19.3 percent of the Native Hawaiian population is unemployed, compared with 14.4 percent nationally. Although this percentage is much better than the 27.7 percent of blacks and 23.9 percent of the American Indians, Eskimos and Aleutians who are unemployed within this age group, it is worse than the 16.9 percent unemployment rate of Hispanics in this age group.

Academically, based oh the results of the Stanford Achievement Test scores of sixth-, eighth-, and tenth-grade Native Hawaiians students, the proportion of Native Hawaiians whose scores are above average (i.e. at Stanines 7, 8, and 9) is smaller than the national average, and in the higher grades, a greater proportion of Native Hawaiians score below average than the national average.

The proportion of Native Hawaiians who are 25 years or older who are high school graduates is much higher than the proportion of high school graduates within other minority groups, and in fact slightly exceeds the national average, while the other minority groups, except for Hispanics, do as well or better than Native Hawaiians with regard to college attendance/completion.

Although Native Hawaiians are not, in most respects, as disadvantaged nationally as are blacks, Hispanics, or American Indians, Eskimos, or Aleutians, national comparisons provide only part of the picture. Most Native Hawaiians never leave Hawaii, and in fact many never even leave the island where they were born within the state of Hawaii, because of the geographic nature of the state. Therefore their relative advantage or disadvantage must also be viewed within the state context. From a state perspective, Native Hawaiians are among the most disadvantaged groups on the island:

The mean per capita income of the Japanese ($9,410), Chinese ($9,123) and whites ($8,109) exceeds the state average of $7,417 by 27 percent, 23 percent, and 9 percent respectively, while the per capita income of the Native Hawaiian ($5,341) is 28 percent less than the state average. Furthermore, the per capita incomes of the Japanese, Chinese, and whites are 76 percent, 71 percent, and 39 percent more, respectively, than that of the Native Hawaiians. With respect to income, the Native Hawaiians per capita income is 5 percent higher than the mean per capita income for Filipinos ($5,094) and 11 percent higher than the per capita income for blacks ($4,805), who constitute a very small portion of the state population.

Fifteen percent of the Native Hawaiian population in Hawaii is below the poverty level. This compares with a 12 percent rate for blacks, a 9 percent rate for Filipinos, a 7 percent rate for whites, a 5 percent rate of Chinese, and a 3 percent rate for Japanese.

The rate of unemployment among Native Hawaiians (7 percent) exceeds unemployment rates of all other groups within the state except blacks (13 percent). The state average for unemployment is 5 percent. Unemployment rates for other groups include 6 percent for whites, 5 percent for Filipinos, and 3 percent each for Japanese and Chinese.

The rate of unemployment among the 16 to 19-year-olds in the Native Hawaiian population (19 percent) is worse than for any other age group within the Native Hawaiian population except for blacks, who have a 30 percent unemployment rate for this age group within Hawaii. For Native Hawaiians this is particularly significant because over 10 percent of the Native Hawaiian population is in this age group. The state average for unemployment for 16 to 19-year-olds is 12 percent. Unemployment rates for other groups include 14 percent for whites, 11 percent for Filipinos, and 7 percent for Chinese, and 6 percent for Japanese.

The enrollment rate of 3 to 4-year-old Native Hawaiians (37 percent) is near the enrollment rates for whites (42 percent), blacks (35 percent), and the state average (39 percent), but they are greatly surpassed by the enrollment rates for the Japanese (56 percent) and the Chinese (47 percent). In this regard the Filipinos have the lowest rate of enrollment for this age group (23 percent).

Native Hawaiians, Filipinos, and blacks are disproportionately overrepresented in the below-average range of test scores and underrepresented in the above-average range of test scores on the Stanford Achievement Test in sixth, eighth, and tenth grade compared to whites, Japanese, and Chinese within the state of Hawaii. After sixth grade, the proportion of blacks and Filipinos in both the below- and above-average ranges improves somewhat, compared to the proportion of Native Hawaiians.

The enrollment rates for 16- and 17-year-old Native Hawaiians (93 percent) is at the state average and is exceeded only by the Chinese (98 percent) and the Japanese (97 percent). White enrollment for this age group is 90 percent and black enrollment is 84 percent. However, all groups except Filipinos have a higher percent of high school graduates than the Native Hawaiians have. (It must be remembered, however, that even the Native Hawaiians have a graduation rate [68 percent] that exceeds the national average of 66 percent).

Despite the high enrollment rates of 16- and 17-year-old Native Hawaiians, enrollment rates among older Native Hawaiian age groups decline dramatically, compared to the Chinese and Japanese enrollments. Further, the median years of completion for native Hawaiians, which is 12.4 years, is lower than for any group except Filipinos, who have completed a median of 12.1 years of school. These facts may be indicative of difficulties in making the transition from the secondary to the postsecondary arena. This in turn has implications regarding the extent to which Native Hawaiians have received vocational education, which, in Hawaii, is given greater focus at the postsecondary level.

The rate of college completion for Native Hawaiians (8 percent) is significantly lower than the state average of 21 percent and of all other groups, including whites (28 percent), Chinese (28 percent), Japanese (20 percent), blacks (14 percent), and Filipinos (11 percent).

Fifty-seven percent of all youth in correctional facilities in Hawaii are Native Hawaiians.

Other indicators of need

During the site visits to the Vocational Education and Library set-aside programs, various people, including those who were part of state agencies, were asked whether the services that were being provided by these set-aside programs had ever been provided elsewhere to Native Hawaiians. The answers were unanimous. All people who were interviewed indicated that the state had never earmarked any funds especially to meet the needs of Native Hawaiians for several reasons. First, little information had been available in the past and was only now being examined in any depth regarding the specific needs of Native Hawaiians as they pertained to library programs and vocational education. Second, because Hawaii consists of many minorities, it was considered inappropriate to focus on the needs of one group, to the exclusion of the rest. Third, the state had insufficient funds to address the needs of each group separately.

These people were also asked whether these services were actually needed. There was some difference of opinion as to the approach taken for providing services and as to the priority given to various needed services. Furthermore, there was some concern voiced about whether the state's secondary and postsecondary organizations would actually meet the commitments necessary to make the new vocational education program for Native Hawaiians successful. Nevertheless, there seemed to be no doubt that these services, as well as some others, were sorely needed by the Native Hawaiian community.

Alu Like and its programs

All groups, including those who could be competitors against Alu Like, indicated that Alu Like was the only organization that was ready to receive the governor's designation as the grantee for the library and vocational education set-aside programs. Alu Like had the confidence of the Native Hawaiian community and the experience in running large Federal grants. Some people did feel that other organizations could now compete for grants in certain areas, but that there still is no other organization capable of handling large grants.

The vocational education program has had substantial redirection. Nonetheless, many of the projects initiated under the first grant have been continued by other organizations or have been subsumed in modified form as part of the postsecondary initiative of the second grant. A few projects have been continued unmodified under the second grant.

Both set-aside programs have had some difficulties in starting up projects quickly, after the grant award, particularly with subcontractors. This problem, however, is an understandable and not uncommon problem in situations where the exact grant amount is unknown prior to the award. It is very difficult and in many instances unsound or unworkable practice to make commitments for staff, equipment, and space when the exact size of the grant is unknown. This is particularly true when the size of the grant could vary sufficiently to increase or decrease the number of projects that could be conducted or have a significant impact on the scope of work that could be done.

It should be recognized that meeting the needs of Native Hawaiians in the very rural areas, where needs may be greatest, may be more difficult and more costly to achieve. Furthermore, as several people pointed out, until the entire economic situation in some of these areas changes, no amount of vocational education will provide the needed jobs. Furthermore, everyone concurred that the first problem to be addressed in these rural areas is the provision of basic skills. Several people pointed out that although many jobs are becoming available on Kauai, a very rural island in the state which is undergoing economic development, employees are being sought from outside the island and may even be imported from foreign sources, because the people on Kauai lack the basic skills needed for employment. Currently, the Native Hawaiian Vocational Education Program at Alu Like believes that providing only basic skills in such situations is beyond the permissible bounds of the program, although the Federal Program Officer indicated, in a telephone interview for this study, that such activities would be acceptable. This would seem to be an important point of clarification for future activities.

Mr. BOEHNER. Mr. Chairman, I yield myself such time as I may consume.

Let me say there is a great big difference here between native Americans and native Hawaiians with respect to the amount of money that is available.

Native Americans do not have an $8 billion trust that is dedicated to preserve their culture, dedicated to the education of their young, as do the native Hawaiians with regard to the program that we are talking about.

I should also point out that the school that gets this $5 million of the $8 million only enrolls 6.4 percent of the eligible population in their schools; only one out of seven applicants who are eligible to attend the schools actually get in, where the school pays 90 percent of the tuition for the room and board and fees, the student only pays 10.

So let us make sure that we are comparing apples and apples here and not something different.

Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. GRAMS].

Mr. GRAMS. Mr. Chairman, I rise in support of the Boehner amendment.

I am continually shocked and amazed by the pork barrelling that goes on in this body during appropriations season—but perhaps I should not be. Congress has always abused the appropriations process to get a million here and a million there for local parochial projects.

And it is no different this year. It may be June in the rest of America, but it is Christmas time in Washington.

A perfect example of this practice is the $8 million being allocated by this bill to the Native Hawaiian Education Program. Before we use taxpayers' dollars for this program, we should carefully examine who benefits from these funds.

Of the $8 million appropriated for this program, $5 million goes to the Kamehameha School, which has an endowment larger than Harvard or Yale, yet serves only 6 percent of the native Hawaiian student population.

The five members who serve on the board of trustees enjoy salaries in excess of $800,000 each year—a substantially higher salary than any other educator in the United States. That includes the president of Columbia University, the highest paid university president, who makes in comparison only $363,000 a year.

Perhaps these were some of the criteria used by President Clinton when he recommended eliminating this program in his budget proposal. It is certainly something that this body should consider in making its decision today.

For these reasons, I urge my colleagues to join me in supporting the Boehner amendment. This year, let us put Christmas off until after election day for a change.

Mr. SMITH of Iowa. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Chairman, I rise today in strong opposition to the amendment offered by my colleague, the gentleman from Ohio [Mr. BOEHNER].

Several weeks ago, I joined with my colleagues to form an Asian Pacific American Caucus.

That decision was driven, in no small part, by the increasing level of attacks being directed at legal immigrants in our community.

Although they have immigrated to this country lawfully, pay their taxes, and have played by the rules, some people are questioning whether or not they are really deserving of things like childhood vaccinations or education assistance.

So I find it somewhat ironic that, the first time we take to the floor as a caucus, it is to try to defeat an amendment aimed at cutting education services for the native Americans in our community.

I have to wonder just how long an American family must have lived in this country in order to be considered worthy of Federal benefits these days.

From other measures introduced in this House, it appears that 20 years is too little. From this amendment, one might conclude that anything over 300 years is too much.

Ultimately, Mr. Chairman, this is an issue of basic fairness. This Nation has long recognized that we have an obligation to native Americans, whose lands we have taken and whose societies we have undermined.

That commitment is no less important for the native peoples of the Pacific Islands than it is for native American communities on the mainland.

The gentleman's amendment would undermine a key component of our efforts to live up to a solemn commitment this Nation has made to the native Hawaiian people.

Over 100 years ago, the U.S. Government, in violation of the precepts of our Constitution, overthrew the established monarchy of the Hawaiian people.

The damage that was done to native Hawaiian society as a result of those events continues to this day.

The Native Hawaiian Education Act is a small attempt to help undo that damage, and the appropriation would continue the commitment to the native Hawaiian people that we first made in 1921, with the passage of the Hawaiian Homes Commission Act.

The Nation has a duty, and an obligation, to provide some level of social and economic assistance to the native Hawaiian people.

We recognized that commitment long ago. We must not abandon it today. I urge my colleagues to join me in voting to defeat the Boehner amendment.

Mr. BOEHNER. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GOODLING], the ranking member of the Committee on Education and Labor.

Mr. GOODLING. Mr. Chairman, certainly I would not rise to cross the gentlewoman from Hawaii, so I will merely read or merely play the role of the administration this evening; I am speaking for the administration.

The administration zero-funded the program for 1995, citing the fact the five programs authorized under this program are provided exclusively to Hawaiian natives despite the availability of similar assistance for eligible Hawaiian natives under such formula grant programs as Title I, Even Start, and Special Education.

Second, the administration cited the fact these programs are funded largely through noncompetitive awards to organizations and agencies named in the authorizing statute. The same organizations can apply for competitive grants.

The 1990 Census said there were 37,134 native Hawaiian children ages 5 to 17; of the $8 million that are sent out, $5 million go to the Kamehameha Schools who also receive the big money from the trust fund, and you have heard all about that.

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But of the $8 million appropriated for the program for the current fiscal year, $5 million goes to Kamehameha Schools. Let me then give some statistics about the rest of the people.

There are a total of 540,000 other native American students. They are served through the BIA schools and public schools. Approximately 85 to 90 percent are educated in public schools and another 50,000 attend BIA schools.

Approximately 65 percent of native American students complete high school. Of native Hawaiians, 79.5 percent are high school graduates, which is higher than the national average of 75.2 percent. Twelve percent of native Hawaiians have incomes below the poverty line, while 27 percent of Indians, Eskimos, and Aleutians have incomes below the poverty level. Nationally, 10 percent of the population have incomes below the poverty level.

The median family income of native Hawaiians is $37,269, and for native Americans it is $21,750. The national average is $35,335. These are the statistics provided by the administration.

Mr. SMITH of Iowa. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Chairman, I rise in strong opposition to the Boehner amendment. It seems to me that we can spend a tremendous amount of time on an issue that really should not even be discussed here. We have an obligation: In 1921 the Hawaiian Home Commission Act created a land trust, and we started at that time to try to right some of the wrongs that we have seen in this country. The native Hawaiians are in fact native Americans, and the U.S. Government has a trust responsibility for native Hawaiians similar to that held for native American tribes and Alaskan Natives.

The elimination of the Native Hawaiian Act would be an egregious violation of historic, traditional legislative precedent in the manner in which this trust relationship began between the United States Government and the native Hawaiian people.

When we sit here and discuss $8 million, we can sit around and talk about a B-2 bomber sometimes, and we do not really spend so much time. As a matter of fact, during this entire debate I have not heard a B-2 bomber discussed for the past 2 or 3 months; the B-2 bomber currently runs about $850 million, $900 million. If we cut the number, it will be about a billion dollars apiece. Here we are talking about an $8 million program where people are going out into the rural parts of Hawaii, where people are going out and starting preschool programs, where people are going out and dealing with family values and getting people to be motivated. We have not heard one word about the Sea Wolf submarine, $2.8 billion, in order to go under the polar cap to surprise the Soviet Union, who are broke. But we are still building the Sea Wolf, $2.8 billion. What about our antiaircraft carriers? They are $5 billion each. You know what? It costs a billion dollars to operate it during the year.

So, even if we decide we do not need it anymore, we have got a billion dollars, not a million dollars, a billion dollars that it costs to run it. But here we are discussing an $8 million project. You know, some of the people on the other side make midgets into giants and make giants into midgets. They are really magicians.

I think that we need to stop beating, for political purposes, an item that makes sense, but never talk out about the waste and the fraud that we see in other programs.

So, I urge my colleagues to put aside this business of beating up on people and let us defeat this amendment.

Mr. BOEHNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman and my colleagues, this is not being mean-spirited, it is not about picking on native Hawaiians. It is about what is right. It is about spending $8 million of taxpayer money, giving it to a program where $5 million goes to a school for those programs which has a $6 billion endowment, that has a board of trustees consisting of 5 former politicians who get paid $860,000 a year. That is an embarrassment.

If the estate used the money that was left to fund native Hawaiian programs the way it was intended, certainly this money would not be needed. But I would argue that $8 million of our money going into this program is not a necessary expense for the Federal taxpayers today.

So, I say to my colleagues, as the gentleman from Pennsylvania [Mr. GOODLING] pointed out, the averages, these native Hawaiians have above-average scores, above-average dropout rates.

Mr. Chairman, this is a good amendment, and I urge adoption.

Mr. SMITH of Iowa. I yield myself the balance of the time.

Mr. Chairman, this program has been carried in this bill for at least a dozen years. It is very strongly supported on the Senate side. I think it would be optimistic to think we could take this money out here, use it somewhere else, and not have to put it back in by the time we get back from the Senate. That is just too optimistic. It will not work.

Mr. ABERCROMBIE. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Hawaii.

Mr. ABERCROMBIE. I thank the gentleman for yielding to me.

Very quickly, Mr. Chairman, and briefly for my colleagues so we get it straight before we go to a vote: This money is not going to the Bishop estate, it is going to learning-disabled kids, it is going to gifted and talented children, this is going to specific programs that are not otherwise funded. The reason we have to come back here year after year is because we have not been recognized in great measure because of actions taken in the previous administrations and on the other side in the native American legislation.

We would not have to do it and have to defend our people if we received the basic justice that all of you expect for your constituents. I ask for justice for us, justice for every American, and justice for native Hawaiians, and I ask for a "no" vote.

Mr. ENGEL. Mr. Chairman, I rise in strong opposition to Representative BOEHNER's amendment to strike fiscal year 1995 funding for the Native Hawaiian Education Act.

As a member of the House Education and Labor Subcommittee on Elementary, Secondary, and Vocational Education, I can attest to the importance of continuing the educational projects which are supported through this Federal program. The U.S. Government has a historical and legal obligation to the native Hawaiian people since its participation in the overthrow of the Hawaiian monarchy over 100 years ago. Cutting this program now would be both unprincipled and short sighted.

In addition, as a Representative from the New York metropolitan area, I understand that the great diversity of our Nation's people requires special consideration when formulating Federal policy. Regional concerns and differences including geography, cultural and economic factors, as well as other special considerations deserve the Federal Government acknowledgment and support.

The Native Hawaiian Education Act, established in 1988, attempts to achieve just that. The act contains a variety of programs, specifically designed to meet the unique needs of native Hawaiian students that other Federal programs fail to address. Family-based education programs, higher education provisions, programs for gifted and talented students, special education programs, and native language programs contained in the act are highly successful and deserve our support.

I urge my colleagues to support the continued funding of the Native Hawaiian Education Act and oppose the Boehner amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. BOEHNER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BOEHNER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 188, noes 233, not voting 18, as follows:

[Roll No. 295]

AYES—188

Allard
Andrews (NJ)
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Cooper
Coppersmith
Costello
Cox
Crane
Crapo
Cunningham
Deal
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fingerhut
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grams
Gunderson
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hoagland
Hobson
Hoekstra
Hoke
Holden
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Kasich
Kim
Kingston
Klug
Knollenberg
Kolbe
Kyl
LaFalce
Lambert
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Machtley
Mann
Manzullo
Margolies-Mezvinsky
McCandless
McCollum
McCrery
McCurdy
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Miller (FL)
Minge
Molinari
Moorhead
Morella
Myers
Nussle
Orton
Oxley
Packard
Paxon
Penny
Petri
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Strickland
Stump
Sundquist
Swett
Talent
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Thurman
Torkildsen
Torricelli
Upton
Vucanovich
Walker
Walsh
Wolf
Zeliff
Zimmer

NOES—233

Abercrombie
Ackerman
Andrews (ME)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Grandy
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hastings
Hefner
Hinchey
Hochbrueckner
Horn
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
King
Kleczka
Klein
Klink
Kopetski
Kreidler
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Manton
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Romero-Barcelo (PR)
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Swift
Synar
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Torres
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)

NOT VOTING—18

Bateman
Carr
Chapman
DeFazio
Faleomavaega (AS)
Fields (TX)
Fish
Greenwood
Harman
Hilliard
Hoyer
Michel
Owens
Pombo
Ridge
Washington
Weldon
Whitten

□ 2026

Mr. HALL of Texas changed his vote from "aye" to "no."

Mr. ALLARD changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. SMITH of Iowa. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker having assumed the chair, Mr. SHARP, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4606), making appropriations for the Department of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. FLAKE. Mr. Speaker, due to personal business I was unavoidably detained in returning to the Capitol today. As a result, Mr. Speaker, I missed two votes for consideration under suspension of the rules on H.R. 3626 and H.R. 3636 to provide full competition in the telecommunications industry. Had I been present, I would have voted "yes" for both bills respectively. I believe that these measures provide opportunities for all Americans to benefit from a level playing field in the telecommunications industry. New communications and information technologies have brought America to a crossroads. Hence, as legislators, we must seize this enormous potential to bring the benefits of the "Information Age" to all Americans by enlarging the telecommunications markets.

Mr. Speaker, had I been present, I would have voted against the Porter amendment to H.R. 4606.

DETERMINATION OF PROCEDURE FOR FURTHER CONSIDERATION OF H.R. 4606, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that when the

Committee of the Whole resumes consideration of the bill, H.R. 4606, it may proceed according to the following order:

First, the bill shall be considered as read through page 56, line 11, and open for amendment from page 45, line 13, through page 56, line 11.

Second, after disposition of any points of order against the pending portion of the bill, and before the consideration of any other amendment, the following amendments to that portion of the bill that shall be in order only in the following sequence: by Mr. MICA of Florida; by Mr. BAKER of California; by Mr. CRANE of Illinois; and by Mr. GRAMS of Minnesota.

Third, debate on each of the foregoing amendments (and any amendments thereto) shall be limited to 20 minutes equally divided and controlled by the proponent and an opponent.

Fourth, the Chairman of the Committee of the Whole may postpone until after disposition of the Grams amendment a request for a recorded vote on any of the foregoing amendments.

Fifth, the Chairman of the Committee of the Whole may reduce to not less than 5 minutes the time for voting by electronic device on any postponed question that immediately follows another vote by electronic device without intervening business, provided that the time for voting by electronic device on the first in any series of questions shall be not less than 15 minutes.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

Mr. PORTER. Mr. Speaker, reserving the right to object, I do not intend to do so. I just want to ask the gentleman one question, if I may.

Is the gentleman aware of any amendments to any of these four amendments?

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. PORTER. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, I am not aware of any amendments to any of the four amendments.

Mr. PORTER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995

Mr. SMITH of Iowa. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4606) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

□ 2031

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4606, with Mr. SHARP in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the amendment offered by the gentleman from Ohio [Mr. BOEHNER] had been disposed of.

Pursuant to the order of the House of today, the bill is considered read through page 56, line 11 and open for amendment from page 45, line 13, through page 56, line 11.

The text of the bill, through page 56, line 11, is as follows:

BILINGUAL AND IMMIGRANT EDUCATION

For carrying out, to the extent not otherwise provided, bilingual and immigrant education activities authorized by title VII of the Elementary and Secondary Education Act as amended by the Improving America's Schools Act, as passed the House of Representatives on March 24, 1994 and by title IV of the Carl D. Perkins Vocational and Applied Technology Education Act, $247,572,000, of which $25,180,000 shall be for training activities under part C, and $50,000,000 shall be for the immigrant education program.

SPECIAL EDUCATION

For carrying out the Individuals with Disabilities Education Act, $3,106,634,000, of which $2,858,973,000 shall become available for obligation on July 1, 1995, and shall remain available through September 30, 1996.

REHABILITATION SERVICES AND DISABILITY RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, the Technology-Related Assistance for Individuals with Disabilities Act, and the Helen Keller National Center Act, as amended, $2,355,600,000.

SPECIAL INSTITUTIONS FOR PERSONS WITH DISABILITIES

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101 et seq.), $6,406,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $41,462,000, of which $333,000 for the endowment program as authorized under section 207 and not to exceed $192,000 for construction shall remain available until expended.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf, and the partial support of Gallaudet University under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $76,742,000, of which $991,000 shall be for the endowment program as authorized under section 207 and shall be available until expended.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational and Applied Technology Education Act, the Adult Education Act, and the Stewart B. McKinney Homeless Assistance Act, $1,456,383,000, of which $1,453,464,000 shall become available on July 1, 1995 and shall remain available through September 30, 1996: *Provided*, That of the amounts made available under the Carl D. Perkins Vocational and Applied Technology Education Act, $400,000 of the amount available for Tech-Prep shall be for evaluation of the program and $25,767,000 shall be for national programs under title IV, including $7,851,000 for research, of which $6,000,000 shall be for the National Center for Research on Vocational Education; $13,000,000 for demonstrations, notwithstanding section 411(b); and $4,916,000 for data systems: *Provided further*, That of the amounts made available under the Adult Education Act, $5,400,000 shall be for national programs under sections 382 and 383, and $4,869,000 shall be for the National Institute for Literacy under section 384.

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 3, and 4 of part A, and parts C, E, and H of title IV of the Higher Education Act of 1965, as amended, including, notwithstanding section 401(a)(1), not to exceed 3,930,000 Pell Grant recipients in award year 1994–1995, $7,825,417,000, which shall remain available through September 30, 1996, and of which $54,322,000 shall be for State Student Incentive Grants under subpart 4 of part A.

The maximum Pell Grant for which a student shall be eligible during award year 1995–1996 shall be $2,340: *Provided*, That notwithstanding section 401(g) of the Act, as amended, if the Secretary determines, prior to publication of the payment schedule for award year 1995–1996, that the $6,247,180,000 included within this appropriation for Pell Grant awards for award year 1995–1996, and any funds available from the FY 1994 appropriation for Pell Grant awards, are insufficient to satisfy fully all such awards for which students are eligible, as calculated under section 401(b) of the Act, the amount paid for each such award shall be reduced by either a fixed or variable percentage, or by a fixed dollar amount, as determined in accordance with a schedule of reductions established by the Secretary for this purpose.

FEDERAL FAMILY EDUCATION LOAN PROGRAM ACCOUNT

For Federal administrative expenses to carry out guaranteed student loans authorized by title IV, part B, of the Higher Education Act, as amended, $62,191,000.

HIGHER EDUCATION

For carrying out, to the extent not otherwise provided, titles I, II, without regard to section 241(d), III, IV, including chapter 2 of subpart 2 of part A, V, VI, VII, IX, part A, and subpart 1 of part B of title X, XI, without regard to section 1151, and XV of the Higher Education Act of 1965, as amended; the Mutual Educational and Cultural Exchange Act of 1961; title VI of the Excellence in Mathematics, Science and Engineering Education Act of 1990; and Public Law 102–423; $954,686,000, of which $8,248,000 for endowment activities under section 331 of part C of title III and $17,512,000 for interest subsidies under title VII of the Higher Education Act, as amended, and $4,000,000 for Public Law 102–423 shall remain available until expended, and $1,500,000 of the amount provided herein for title III shall be available for an evaluation of the title III programs.

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), $206,463,000, of which $7,910,000, to remain available until expended, shall be for a matching endowment grant to be administered in accordance with the Howard University Endowment Act (Public Law 98–480) and $6,000,000, to remain available until expended, shall be for construction.

HIGHER EDUCATION FACILITIES LOANS

The Secretary is hereby authorized to make such expenditures, within the limits of funds available under this heading and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation, as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 9104), as may be necessary in carrying out the program for the current fiscal year.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

For the costs of direct loans, as authorized by title VII, part C, of the Higher Education Act, as amended, $134,000: *Provided*, That such costs, including costs of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974 and that these funds are available to subsidize gross obligations for the principal amount of direct loans of not to exceed $8,000,000: *Provided further*, That obligated balances of these appropriations will remain available until expended, notwithstanding the provisions of 31 U.S.C. 1552(a), as amended by Public Law 101–510. In addition, for administrative expenses to carry out the existing direct loan program of college housing and academic facilities loans entered into pursuant to title VII, part C, of the Higher Education Act, as amended, $1,022,000.

COLLEGE HOUSING LOANS

Pursuant to title VII, part C of the Higher Education Act, as amended, for necessary expenses of the college housing loans program, previously carried out under title IV of the Housing Act of 1950, the Secretary shall make expenditures and enter into contracts without regard to fiscal year limitation using loan repayments and other resources available to this account. Any unobligated balances becoming available from fixed fees paid into this account pursuant to 12 U.S.C. 1749d, relating to payment of costs for inspections and site visits, shall be available for the operating expenses of this account.

HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING, PROGRAM ACCOUNT

The total amount of bonds insured pursuant to section 724 of title VII, part B of the Higher Education Act shall not exceed $357,000,000, and the cost, as defined in section 502 of the Congressional Budget Act of 1974, of such bonds shall not exceed zero.

For administrative expenses to carry out the Historically Black College and University Capital Financing Program entered into pursuant to title VII, part B of the Higher Education Act, as amended, $347,000.

EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

For carrying out activities authorized by the Educational Research, Development, Dissemination, and Improvement Act; the Elementary and Secondary Education Act of 1965 and the Education Council Act, as amended by the Improving America's Schools Act as passed the House of Representatives on March 24, 1994; the National Education Statistics Act of 1994 as passed the House of Representatives on March 24, 1994; and the General Education Provisions Act, $318,775,000: *Provided*, That $39,320,000 shall be for regional laboratories, including rural initiatives; $4,463,000 shall be for civics education activities; $14,480,000 shall be for the National Diffusion Network; $34,424,000 shall be for Eisenhower professional development Federal activities; and $20,000,000 shall be for Federal leadership activities in education technology.

LIBRARIES

For carrying out, to the extent not otherwise provided, titles I, III, IV, and VI of the Library Services and Construction Act (20 U.S.C. ch. 16), and section 222 of the Higher Education Act, $114,996,000.

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of two passenger motor vehicles, $359,358,000.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $58,325,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $29,199,000.

GENERAL PROVISIONS

SEC. 301. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students; to force on account of race, creed or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

SEC. 302. (a) No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 303. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 304. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

This title may be cited as the "Department of Education Appropriations Act, 1995".

TITLE IV—RELATED AGENCIES

ARMED FORCES RETIREMENT HOME

For expenses necessary for the Armed Forces Retirement Home to operate and maintain the United States Soldiers' and Airmen's Home and the United States Naval Home, to be paid from funds available in the Armed Forces Retirement Home Trust Fund, $59,816,000, of which $2,906,000 shall remain available until expended for construction and renovation of the physical plants at the United States Soldiers' and Airmen's Home and the United States Naval Home: *Provided*, That this appropriation shall not be available for the payment of hospitalization of members of the Soldiers' and Airmen's Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners and the Surgeon General of the Army.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

DOMESTIC VOLUNTEER SERVICE PROGRAMS, OPERATING EXPENSES

For expenses necessary for the Corporation for National and Community Service to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, $205,771,000.

CORPORATION FOR PUBLIC BROADCASTING

(RESCISSION)

Of the funds made available under this heading in Public Law 102–394, $20,100,000 are hereby rescinded.

The CHAIRMAN. Are there any points of order to this section of the bill?

Pursuant to the order of the House of today, the following amendments shall be considered to that portion of the bill in the following order: by Mr. MICA of Florida; by Mr. BAKER of California; by Mr. CRANE of Illinois; and by Mr. GRAMS of Minnesota.

Debate on each of the amendments and any amendments thereto shall be 20 minutes, equally divided and controlled by the proponent and an opponent of the amendment.

The Chairman of the Committee of the Whole may postpone until after disposition of the Grams amendment a request for a recorded vote on any of the foregoing amendments.

The Chairman of the Committee of the Whole may reduce to not less than 5 minutes the time for voting by electronic device on any postponed question that immediately follows another vote by electronic device without intervening business, provided that the time for voting by electronic device on the first in any series of question shall be not less than 15 minutes.

AMENDMENT OFFERED BY MR. MICA

Mr. MICA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MICA:

BILINGUAL AND IMMIGRANT EDUCATION

Page 45, line 21, strike "$247,572,000" and insert "$272,572,000" and line 22, strike "$50,000,000" and insert "$75,000,000".

The CHAIRMAN. The gentleman from Florida [Mr. MICA] will be recognized for 10 minutes in support of his amendment, and a Member opposed will be recognized for 10 minutes in opposition.

The Chair recognizes the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Chairman, I yield myself such time as I may consume.

I rise tonight to ask this body to recognize a crisis that faces our country today. That crisis is the crisis of unfunded Federal immigration policy.

I am asking this body to do something about the burden forced upon our States and local governments. Let me make very clear at the outset that this amendment does not cut the low energy assistance program. While I had originally intended to propose a cut in that program, I reserved the right to offer that amendment at a future time. Instead, tonight at this time I am offering an amendment which will simply reimburse the States for funds they have spent educating children of illegal immigrants.

I am not advocating a corresponding cut. This amendment makes no cuts, let me make that perfectly clear, because I believe the immigration situation at the State level has achieved the status of an emergency.

My request and amendment are within the existing budget authority. I know that the unfunded mandate of educating illegal immigrants is a concern of many of my colleagues. But we sat late into the evening last night and we discussed this issue. Here we have an opportunity to do something about this issue. And we are not going to cut any other program, I am not proposing at this time to eliminate any program. What I am going to do tonight is to say that we, as a Congress, must address a problem.

I know that this question of illegal immigrants and their education, the education of their children and reimbursing the States for expenses is of interest to all of my colleagues here in the House, because I have with me a letter signed by almost 100 of my colleagues which was sent to the honorable chairman from Iowa stating their desire to see the Emergency Immigration Education Act fully funded.

My amendment would do exactly that. My amendment simply increases the appropriation for the immigration account by $25 million. Although I have not cut other funds in the bill, I offer this amendment on the grounds that the immigration situation which we find ourselves in today in this country is an emergency. We cannot continue to expect the States to fund a failed national immigration policy.

The Federal Government has responded to natural disasters, including hurricanes, floods, and earthquakes. Today our schools are being jolted by a disastrous Federal immigration policy, and they are drowning financially.

Three States have sued the Federal Government for refunds and others will follow. Is this the way we conduct the business of our Nation and our States, by States suing the Federal Government to be responsive? I say "no." Is this the manner in which we assist our local governments, as they cope with the disaster created here in Washington? Let us look at the cost of educating illegal immigrants.

The total cost to the United States for educating illegal immigrants, the children of illegal aliens in this country, is $4.25 billion per year. In my State of Florida, it costs an average of $4,000 to educate one immigrant child. And do my colleagues know that the State is only reimbursed somewhere between $35 and $40 per student?

I urge the adoption of this amendment. Give our States the opportunity to get a little bit back for the money that they have spent on taking care of a national disaster created at the national level by national policy.

Again, this does not cut any program. This does not eliminate any program. What it does is, it says we have a problem. We must address the problem, and this Congress is willing to step forward and see that we reimburse our States for a small fraction of the expense that they have incurred in the education of these illegal aliens.

Mr. Chairman, I reserve the balance of my time.

□ 2040

The CHAIRMAN. Who rises in opposition to the amendment of the gentleman from Florida [Mr. MICA]?

Mr. SMITH of Iowa. Mr. Chairman, I have no speakers. I would ask if the gentleman from Florida [Mr. MICA] has other speakers.

Mr. MICA. Mr. Chairman, I do not.

Mr. SMITH of Iowa. Mr. Chairman, I reserve the right to close.

The CHAIRMAN. The Chair would indicate that we are under the time limit, and neither the gentleman from Iowa [Mr. SMITH] nor the gentleman from Florida [Mr. MICA] needs to make a speech. We may proceed to a vote.

Mr. MICA. Mr. Chairman, if the gentleman has no comment at this time, but would like to close, then I would like to reclaim my time.

May I inquire, Mr. Chairman, as to how much time I have remaining?

The CHAIRMAN. The gentleman from Florida [Mr. MICA] has 5½ minutes remaining.

Mr. MICA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, again I make this appeal, because I come from a State that has been badly impacted by our national immigration policy. We have borne the brunt of immigration, Mr. Chairman, not in relation to, say, a State like California. California is foremost. The cost of illegal immigration to California is absolutely staggering, the amount of money that that State spends on education. Florida only spends a fraction of it in educating illegal aliens. That State is tremendously impacted by this.

Mr. Chairman, I would expect every member of the California delegation to come down here and vote for this amendment, to say that this is a Federal obligation, that we must assume a Federal obligation here, even though it means expanding slightly the outlay of money for this particular program.

However, Mr. Chairman, it does not exceed, and I might add, Mr. Chairman, this does not exceed the budget authority given to this committee. What it does is, it says we have a problem. California has been ravaged by the problem.

We are ending up in the State of Florida, and I know in California, New York, other States, where we are increasing our local property taxes. Many of these local governments have caps, such as in Florida, where they cannot raise them any more. The cost of education, the cost to local government of handling this illegal immigration problem, has reached its cap in many of these jurisdictions.

Mr. Chairman, this is one of the greatest increases in costs to local government that costs this country, whether it is California, whether it is New York, whether it is Pennsylvania, New Jersey. Again, Mr. Chairman, if we do not address the problem at the Federal level, we end up passing this on to the States, which we have done, requiring the States, in fact, to pick up the tab, the local taxpayer to pick up the tab.

Mr. Chairman, here we have an opportunity to stand up and be counted tonight. We are not going to do away with anything, Mr. Chairman, again, with any program that may be of any particular interest to anyone in this body or the House of Representatives in any way.

What we are doing, Mr. Chairman, is we are making a commitment that we in fact recognize there is a problem, we are willing to fund that problem, we are willing to address that here, we are willing to assist our States in meeting the obligation that started here at the Federal level, whether it was at the White House or whether it was in this body. We have an obligation to the local governments, to our school districts, again, to meet this need.

Mr. Chairman, I ask everyone of the Members to look at their States, look at the impact of illegal immigration. We have more illegal immigrants in the State of California than there are in 16 States in the Union. Is this fair, that we allow our States to absorb this burden and not address this problem?

We did not address this problem last night when it came to cutting funds for international peacekeeping forces. We did not address this in any other sections of legislation that came before us. This is the opportunity that we have, again, without cutting anything, without upsetting anyone's apple cart, to say that we do in fact admit that we have an obligation and the obligation is above the funding level provided in this piece of legislation.

Mr. Chairman, this is a small amount, but it is a meaningful amount. At the proper time I am going to call for a recorded vote on this. I do want the Members to come down here. They should go back to their local districts, back to their school boards, back to their States, and look those people in the eye and say, "We had an opportunity to fund this. It was well within the budget constraints provided by the Committee on the Budget in Congress, but I did not meet my obligation. I did not take care of the obligation and the tragedy that was set forth here by our national policy." That is the policy of illegal immigration.

Mr. Chairman, I know that there are many other issues of importance, but I come from one State that has been severely impacted by this. I ask the Members' assistance in this matter, and also to assist the other States, California, New York, New Jersey, Pennsylvania, Illinois, Ohio, and the list goes on and on, States that have been severely impacted by failed Federal policy.

Mr. Chairman, with that, I submit this amendment for the Members' consideration, and intend to call a vote for it and ask for Members' support.

The CHAIRMAN. The gentleman from Iowa [Mr. SMITH] is recognized for 10 minutes in opposition to the amendment.

Mr. SMITH of Iowa. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am compelled to oppose the amendment because there is no offset. I know the House rules say the limitation is on BA, rather than outlays. In the Senate the rule is that the bill cannot exceed the outlay ceiling. When we go through the House with these bills, we have to be within the outlays or else we are going to be in trouble in conference.

What the gentleman does is add $25 million but there is no offset.

Mr. Chairman, we have in this bill many, many places where we could add money for budget authority, and there are many places we would like to. For example, in the fund for handling disability claims, Mr. Chairman, I would like to add some money there, but there are no outlays to go with it, so we have not done that.

Mr. Chairman, I just think Members ought to vote against this on the basis that we are supposed to present a bill here, and we have presented a bill that is within the outlays in our 602(b), and to vote for this amendment means that we exceed the 602(b).

Mr. MICA. Mr. Chairman, I yield back the balance of my time.

Mr. SMITH of Iowa. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. MICA].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. MICA. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the order of the House of today, further proceedings on the amendment offered by the gentleman from Florida [Mr. MICA] will be postponed.

It is now in order to consider the amendment to be offered by the gentleman from California [Mr. BAKER].

AMENDMENT OFFERED BY MR. BAKER OF CALIFORNIA

Mr. BAKER of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BAKER of California: On page 52, line 9, strike "$114,996,000" and insert in lieu thereof "$115,996,000".

The CHAIRMAN. The gentleman from California [Mr. BAKER] is recognized for 10 minutes, and a Member opposed to the amendment will be recognized for 10 minutes.

The Chair recognizes the gentleman from California [Mr. BAKER].

Mr. BAKER of California. Mr. Chairman, it was my intention to stand up here and point out the growth of the administration's budget in the Department of Education. Last year they had to suffer over at the Department of Education with a growth in their administrative budget of only 14 percent. That is when 1 million Californians were out of work and most corporations were cutting their overhead drastically.

Mr. Chairman, I wanted to take $2 million out of this growth in administrative overhead and give it to the library budget, which Members will see next to the administrative overhead budget. The library budget has been cut some $37 million. In other words, we are reinventing government this year. Bureaucracy is in, libraries are out.

As a symbolic gesture, and also as a much-needed addition to the libraries, I wanted to take $2 million from administration and put it into libraries. Unfortunately, the gentleman from Illinois [Mr. PORTER] got here first, and he took, with a successful vote earlier this evening, $7 million from administration, which is this year's growth rate, and took it for the community health facilities and others, so the amendment as it is now drafted would take $1 million of that $7 million in savings and apply it under the cap, there is $1 million left under the cap, and give it to the public libraries.

Mr. Chairman, I am waiting for a signal from the chairman to see if that is within the budget cap of CBO. We will find out later.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. BAKER of California. I am happy to yield to the gentleman from Iowa [Mr. SMITH], the chairman of the committee, for his opinion on the amendment as drafted.

Mr. SMITH of Iowa. Mr. Chairman, we do not have any scoring from CBO, and we have found out the hard way that we do not dare move without a scoring from CBO. We came up at one point, while we were trying to put this bill together, with a $247 million difference between what we thought the scores would be and what they thought it should be, but we have to go by their scoring. We do not have any way to know what the scoring is.

Mr. BAKER of California. Mr. Chairman, would the gentleman allow me to go to the back of the line? There are two other amendments affecting this title of the Education Act, and I could wait until the end, when we hear from CBO.

Mr. SMITH of Iowa. If the gentleman will yield further, we will not hear from CBO for 2 or 3 or 4 days. We are not going to hear from CBO tonight. That is not going to do any good.

Mr. BAKER of California. Mr. Chairman, even if we roll these over, we are not going to roll them over for 3 or 4 days. We will have to vote.

Mr. Chairman, let me just continue, then. It is very important we stop the downward slide of library funding. Libraries are important.

□ 2050

Libraries are important to every community. They are important to our children. To take $1 million and increase that $37 million slide does not seem to be unrealistic.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does the gentleman from Iowa [Mr. SMITH] rise in opposition to the amendment?

Mr. SMITH of Iowa. Yes, Mr. Chairman, I oppose the amendment.

The CHAIRMAN. The gentleman from Iowa [Mr. SMITH] is recognized for 10 minutes.

Mr. SMITH of Iowa. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, to start with, we do not have an offset. In the second place, public library services are being treated like the average in the bill. It is 96.5 percent of current services.

There are numerous programs, I will bet there are 200 programs in the bill that would like to be better than average in the bill. There are more than 500 programs in the bill. If you reach in and just pick out any one program, we can make a good argument for why it ought to be treated better than others in the bill. But we had to put together a bill that on an average is 96.5 percent of current services. We cannot just reach in and pick out one of 200 and not give consideration to the others. It is not a good program, but we cannot increase this without an offset, and even if we had an offset, I do not think that libraries ought to be treated differently than a couple of hundred other programs that are in the bill.

Mr. BAKER of California. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from California.

Mr. BAKER of California. On this chart, I am showing what we are doing to libraries this year. It is not that I want to treat this program any better. I think it has been treated in this process very shabbily.

Mr. SMITH of Iowa. I do not know about the graph. We are giving it 96.5 percent of current services and that is as good as most programs in this bill. I do not know about the gentleman's graph, but that is the fact. It is getting 96.5 percent of current services in the bill.

Mr. BAKER of California. If the gentleman will continue to yield, if we adopted my amendment, then, to give the administrative overhead 96 percent of their current services, we would have my $2 million.

Mr. SMITH of Iowa. Without anything in the bill, the gentleman is getting 96.5 percent of current services.

Mr. BAKER of California. The gentleman is correct.

Mr. SMITH of Iowa. Yes.

Mr. BAKER of California. If I applied that same standard to the administrative overhead of the Department of Education, I would have more than $2 million to give to libraries.

Would the gentleman find that acceptable, because we are holding the administration at an equal.

Mr. SMITH of Iowa. We are putting out a very delicate bill. Every time we increase something, we had to decrease something below 96.5 percent. This was one of 200 or 300 programs that we thought were average programs, that ought not be treated different than others. It is a matter of fiscal responsibility. Either we abide by the caps and on an average have 96.5 percent of current services or we do not. We cannot just pick out all the programs and say they are over average. This was one of them we did not put more money than the average in for. It is a delicate balance and anybody can make a good argument for 200 or 300 programs in here.

Mr. BAKER of California. If the gentleman will continue to yield, I am making an argument that we cut the libraries $37 million. I do not think that is 96 percent. I am also arguing that the budget of the administrative overhead of the Department of Education is increasing.

Mr. Chairman, I yield 1 minute to the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Chairman, I rise in strong support of the amendment offered by my colleague, the gentleman from California. The Federal Government spends about $146 million on library programs. This is .01 percent of the Federal budget and going down. So while the Department of Education budget skyrockets, Federal support for local libraries continues to fall. Federal support for local libraries works out to about 57 cents per person in the United States, or about the cost of a small ballpoint pen or a cup of coffee. For that very small investment, we generate enormous returns in providing for our constituents a wealth of information resources.

Mr. Chairman, this amendment is very simple. It would shift a very, very small amount of money, of dollars, from the Department of Education bureaucracy to public library service. It seems to me to be a very simple amendment, a very simple choice. It is books or bureaucrats, it is a simple choice, and for me that choice means books.

Mr. SMITH of Iowa. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I had pointed out to me why the chart is in gross error. The chart refers to the total amount for libraries including construction and college libraries. The chart refers to the total amount for libraries including construction. The amount for services is only $745,000 below 1994, out of $82 million, so it is 3.5 percent below current services.

Mr. Chairman, I would also point out that the money the libraries get from this account is probably less than 3 percent of the amount local libraries operate on. If they cannot squeeze a little out of that 3 percent, they are in pretty bad shape. It just should not be treated different than several hundred other programs in the bill.

Mr. BAKER of California. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. LINDER].

Mr. LINDER. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I would like to point out that this is a very, very small amendment to do a very, very important thing. For 15 or 20 years, we have been bleeding our libraries and enhancing our bureaucracy. In the last 20 years, we have increased our spending per pupil in real terms by double. We have increased our spending in terms of the bureaucracy by triple. One third of every dollar we spend on education now goes to the classroom. There have been hundreds of stories or thousands of stories of people who have learned what they have learned in the libraries. I, in fact, have six or seven books by Eric Hoffer, a longshoreman from California, who quit school in the fifth grade and went to the libraries and became a famous author and a writer because of what he learned.

Mr. Chairman, we are bleeding our libraries. We are taking away from the children and giving to the bureaucrats and the owners of the National Education Association, the lobby, the money we should be putting back into education.

Until 1952, our schools were run at the local level by parents and teachers. Then when the teachers lobby took over, we started declining. We had increasing SAT scores in every single year until 1964, which just happens to coincide with the year that the Federal Government got involved in elementary and secondary education, and we have declined in every year since except for a small blip in 1985 or 1986, and it has been going down since.

Mr. Chairman, this is not a major overhaul of education. This is a small effort to say the kids are more important than the bureaucrats. The effort we put into their opportunity to learn is more important than we put into offices and the chandeliers of the bureaucrats.

Let us vote just this one time for the kids.

Mr. BAKER of California. Mr. Chairman, I yield myself the balance of my time to close debate.

Mr. Chairman, we have just voted to give $8 million to a program that has a $9 billion trust fund. We say it is OK to cut the libraries because we are getting rid of the construction program. Apparently no one needs a new library this year. Yet we allowed last year the bureaucracy in the Department of Education to grow by 14 percent and this year by another $7 billion, although that has been recently cut back.

It is not too much to ask for $1 million for the libraries. Libraries in California run the best literacy programs available, their one-on-one personal introduction to reading and writing to people of all ages who somehow got through school and are still illiterate. Libraries are where we introduce young children to the adventure of history and of mathematics and of science through reading. I ask for an aye vote for $1 million for the library. I ask that Members reduce the bureaucracy an equal amount. There is room under the cap and some day CBO will come out of the cave and tell us that it is all right to restore some of the money to public libraries.

Mr. SMITH of Iowa. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, the gentleman talks about taking money out of salaries and expenses for the Education Department. But we did that on the amendment that passed earlier. We did that on the big amendment that passed for community health centers. The money is already gone. How many times can we spend it? We cannot take the $1 million that we already voted to spend and spend it again on libraries. There is no offset for this. That is the fact of the matter.

Mr. Chairman, I have to oppose the amendment, although it is not a big amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. BAKER].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BAKER of California. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the order of the House of today, further proceedings on the amendment offered by the gentleman from California [Mr. BAKER] will be postponed.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair would announce for the benefit of Members that we are proceeding more rapidly than the time allowed. Therefore, if rollcall votes are ordered, they could come earlier than many Members are expecting.

It is now in order to consider the amendment to be offered by the gentleman from Illinois [Mr. CRANE].

□ 2100

AMENDMENTS OFFERED BY MR. CRANE

Mr. CRANE. Mr. Chairman, I have an en bloc amendment and I would like to make a unanimous consent request that it might be made in order in lieu of the original amendment I submitted. If I may, I would like to indicate briefly to the Chairman what it involves, and then I would be happy to yield.

The CHAIRMAN. The Clerk will report the amendments, and then the gentleman may propound his unanimous consent request.

The Clerk read as follows:

Amendments offered by Mr. CRANE:

Page 56, Line 11, strike "$20,100,000" and insert "$292,640,000".

Page 35, Line 20, strike "$320,000,000" and insert "$520,000,000".

Mr. CRANE. Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to consideration of the amendments en bloc?

Mr. SMITH of Iowa. Mr. Chairman, I have to object. I am sorry. But I cannot permit reaching back into the bill, or others will want to do the same thing.

I have to object.

The CHAIRMAN. Objection is heard.

Mr. CRANE. Mr. Chairman, I will submit my original amendment.

AMENDMENT OFFERED BY MR. CRANE

Mr. CRANE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CRANE:

Page 56, line 11, strike "$20,100,000" and insert "$292,640,000".

The CHAIRMAN. Pursuant to the rule, the gentleman from Illinois will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

Mr. CRANE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am deeply regretful that my unanimous-consent request was rejected, because I think it is something everyone in this Chamber can relate to, and that was to divert $200 million of the projected $274 million savings under my amendment to processing Social Security disability claims.

The average processing time has grown by more than a month between 1990 and 1993, on average from 87 days to currently roughly 128 days. And disability claims will have grown by 75 percent from 1990 to 1995. That means over 1 million backlog cases, and we have constituents communicating with each and every one of us on the importance of trying to deal with this aggravated problem which is spiraling out of control.

But so be it. What my amendment, Mr. Chairman, will do is have the effect of saving the taxpayers an enormous amount of money.

In 1967, it had only been 22 years since the Chicago Cubs won a pennant. In 1967 Woodstock was still just a farm. In 1967 man had not yet set foot on the Moon, and in 1967 Congress created the Corporation for Public Broadcasting.

Back in 1967, there were only three television networks, and Congress perceived the need for more diversity in broadcasting. The CPB was designed to meet that need, giving consumers access to quality programming that was not commercially viable. Without a doubt, many fine programs have been broadcast because of public television.

But it is no longer 1967. The choices of consumers are no longer limited to the three networks, and we no longer need the CPB.

Television has added a fourth network, and hundreds of independent stations have sprouted up throughout the country. More importantly, the popularity of cable television has given consumers literally, in some cases, hundreds of choices. From CNN to ESPN to the Home Shopping Club, consumers have adequate choices today without a Federal subsidy.

In fact, most Americans can even choose among public television stations, as 58 percent receive more than one public station.

Despite the wide spectrum of programming now available, Congress continues to give more and more money to the CPB. We now appropriate more than 5 times the amount dedicated to public broadcasting 20 years ago. Even with such exponential growth, Federal funding for the CPB still accounts for only about 15 percent of the total funding for public broadcasting, and the fact of the matter is that even without any Federal funding, the Corporation would still have a budget of more than $1.5 billion.

In the years since 1967, the CPB has become increasingly less dependent upon Government funds. Through grants from foundations, corporate sponsors, and individual donations, the CPB has built a financial base strong enough to survive and, indeed, thrive without Federal funding. For example, the Children's Television Workshop which produces the most visible PBS program, Sesame Street, has $58 million invested in stocks and bonds, enough to keep even Big Bird's feeder full for many years.

In short, eliminating Federal funding will not force the cancellation of any programming and will not dissolve the Corporation for Public Broadcasting. What it will do is save the American taxpayers more than a quarter of a billion dollars. With so much diversity, we no longer need the CPB, and with our growing budget deficit, we can no longer afford it.

I hope my colleagues will vote for fiscal responsibility and will vote for my amendment to rescind Federal funding for the Corporation for Public Broadcasting.

Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Iowa. Mr. Chairman, I yield 7 minutes to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Illinois [Mr. CRANE] and urge Members to support the bill as reported by the Committee on Appropriations.

I do want to say, however, that unless there are some substantial changes in Public Broadcasting and its relationship to the working people of America, my vote and my position might be very different next year.

Mr. Chairman, one of the great dangers in America today, and something that frightens me and many other Americans very much is the growing concentration of ownership in the mass media. Fewer and fewer and larger and larger corporations increasingly control what we see on television, what we hear on the radio, and what we read in the newspapers and magazines.

The noted journalist and author Ben Bagdikian has written in his book "The Media Monopoly" that by the turn of the century a handful of huge multinational corporations will not only control what we see and hear in America but in fact will be controlling what much of the world sees, hears, and reads. That is a very dangerous trend.

Mr. Chairman, it is not an accident that the Rush Limbaughs, the Pat Buchanans, and the G. Gordon Liddys dominate commercial radio talk shows. Their views reflect the interests of the corporations which own those radio networks. It is also not an accident that on commercial radio and television there is very little serious discussion about the enormous problems facing the working people and the poor of this Nation.

The average working family in America is in trouble. They are under stress. They are hurting. But that reality is not reflected in the corporately controlled media.

Yes, we do have round-the-clock analysis of the O.J. Simpson case and the Menendez brothers saga and the Bobbitt family adventures and the Tonya Harding and Nancy Kerrigan adventure. Yes, we have in-depth analyses of why the Houston Rockets were able to defeat the New York Knickerbockers and why the Washington Redskins did not do so well this last session. Yes, the airwaves are filled with violence and blood and 30-second commercials which are having an extremely negative impact on the cognitive abilities of the young kids of America.

But somehow, just somehow there is virtually no programming which explains to the American people why the standard of living of American workers has gone from 1st place in the world 20 years ago to 13th place today. Somehow we do not have programming which deals with that. Somehow there is very little discussion or portrayal on television about the growing gap between the rich and the poor in America.

I guess we do not have time on TV for that or about the fact that the wealthiest 1 percent of our population owns more wealth than the bottom 90 percent, or about how multinational corporations are moving to the Third World and are hiring workers at 15 to 20 cents an hour while they are throwing American workers out on the street. I guess that is just not interesting enough to put on our TV airways.

Should we be surprised that General Electric's NBC or the corporations that own the other networks do not focus very much on these issues? Well, I am not surprised, and I think the average American is not surprised.

Mr. Chairman, the reason that Public Broadcasting was established and why taxpayers are contributing to Public Television and Radio is that it is supposed to offer an alternative point of view to that offered by the corporately owned networks. It is supposed to give a voice to those who have no voice. It is supposed to be able to deal with controversy without being afraid of offending corporate sponsors. That is the reason that it exists.

□ 2110

It is supposed to take on the entrenched special interests because it is funded by the ordinary people of this country, the people who are not wealthy, the people who are not powerful, the people who do not own ABC, CBS, or NBC. In other words, radical thought that it may be, public television is supposed to represent the interests of the public.

I know that is a radical thought, but that is the way it is supposed to be.

Sadly, despite what its original mandate was, despite the fact that there is some excellent programming on public television, some very fine children's programming on public television, despite all of that, very few people can argue that public television has fulfilled its original mandate. In fact, year after year it appears that public television is more and more coming to resemble commercial television. Mr. Chairman, I do not object that there are three regularly scheduled business shows on PBS. I do not object that there are three regularly scheduled shows—Wall Street Week, the Nightly Business Report, and Adam Smith's Money World. I have no problem with those programs. I do have a problem, however, that there is not one regularly scheduled program on the PBS which focuses on the needs and the problems of the working people of America. If there are three regularly scheduled business shows, why is there not at least one, just one, regularly scheduled show reflecting the interests of working people and organized labor?

I do not object that three weekly public affairs shows on the PBS stations are hosted by individuals who have been associated with the National Review, a leading right-wing magazine: William Buckley's Firing Line, John McLaughlin's McLaughlin Group, and McLaughlin's One on One. I do not object to these shows. But I do object that there is not one weekly PBS show which is hosted by a journalist from a labor or a progressive point of view.

Our side also has articulate, well-informed journalists and commentators who are capable of presenting interesting and informative television, and that point of view has a right to be heard.

Mr. Speaker, it seems to me that the Corporation for Public Broadcasting is at a crossroads. If it wants to resemble commercial television, Mr. CRANE has a point. If it wants to resemble commercial television, if it wants to go out and hunt for more and more corporate money, then maybe we should say once and for all that it should become a private entity which competes in the marketplace with the corporate media. Mr. CRANE does have a point. But I do not think that is what it should be. It seems to me that in a time when more and more of the media is controlled by big money, it is imperative that we really do have a public broadcasting system which deals with the real problems facing the working people of America.

Tonight I will oppose Mr. CRANE's amendment. I hope PBS changes, or next year I will not.

Mr. CRANE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as an unblushing socialist, I understand my colleague's commitment to the concept of Government ownership and/or control of the means of production and distribution. And for that reason I have respect for his argument from his perspective.

However, I would argue that we are not in that kind of an economic situation. I would deny further that labor has not had an opportunity to be heard through the media. We have had radio stations in Chicago that were initially founded by the labor unions, controlled by the labor unions. That opportunity always exists, and it exists today and it is not something that requires Government intervention to resolve that kind of problem.

Censorship, I would say "no" to the gentleman about. In effect, what he is calling for is Government censorship of program content.

Free enterprise is our answer to these problems and free enterprise provides a free field with no favors. And anyone who wants to join in the game is able to join in the game.

In addition to that, I would remind the gentleman that 22 cents of every dollar right now to the Corporation for Public Broadcasting comes from individual donations, not from the corporate giants. And the number of private subscribers and the total amount of donations has risen very rapidly in the last few years.

Sesame Street, I might remind the gentleman also, grosses more from merchandising than does the National Hockey League. And that is one of those children's programs very widely watched and very popular.

So I think the gentleman has made an impassioned plea, but I think the gentleman is off base in terms of the approach to dealing with the problem before us today. That is not, as I think is implied in his remarks, calling for a major increase in the Government component of this Corporation for Public Broadcasting, because only 15 percent of that is now Government. The rest is all outside of Government, in the hands of a variety of people. And to be sure, some of them may be corporations.

But the fact is we do not need this in a climate when we have literally hundreds and hundreds of channel outlets. At the time this was founded, with only three networks, there was a case that could be made for an alternative voice. But I think that has long since passed. For that reason, I would ask Members to support our amendment.

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. CRANE. Yes, I yield to the gentleman.

Mr. ROHRABACHER. I thank the gentleman for yielding to me.

Mr. Chairman, I was listening to this debate, and I do not know what planet some of my colleagues are living on, sometimes, when I hear them talking about the bias of the media in different areas.

The news media, from a conservative point of view, is way over on the left. We are always complaining about this. I will acknowledge that my friends on the other side of the aisle may indeed think that the media does not reflect their point of view either. But that is the whole point: In a free enterprise system people can listen to what they want to listen to, and they can turn off the dial. But if you have a socialist approach, which I know that my colleague really appreciates, the socialist approach believes it will be inherently fairer, but the fact is people are forced to pay for programming that they do not support. Whether they listen to it or not, they are going to pay for it.

The fact is the free enterprise system today provides us with more alternatives. We have video disks, we have videotapes, we have satellites, we have radio, we have FM, we have AM, we have tapes to listen to when we go in our car. We have got newspapers, we have got magazines, we have information and entertainment coming out of our ears. There is absolutely no reason why, when we have other needs, for us to be taxing money away from our people to subsidize entertainment and information.

I agree totally with my colleague from Illinois [Mr. CRANE] that the time is past, if there ever was a need, that this need now can be handled totally by the private sector. And neither one of us should then complain, because we can say if we do not support what is on the air, we just turn the channel, as compared to the Corporation for Public Broadcasting and other socialist approaches when you have to pay for what you disagree with.

Mr. CRANE. Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Iowa. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. I thank the gentleman from Iowa for yielding this time to me.

Mr. Chairman, let me make some very simple points. Notwithstanding the fact that we have had a cable revolution in this country over the last 20 years, we should all be cognizant of the fact that 40 percent of all Americans do not subscribe to cable. Most of them, because they cannot afford cable.

Sixty percent of all Americans who come from families of $15,000 income or less do not subscribe to cable.

As the 1980's introduced an era where the chairman of the Federal Communications Commission said that a television set was nothing more than a toaster with pictures, we saw more and more of the commercial broadcasters do away with their children's television programming. From a peak of 11 hours a day in 1980 to a low of 2 hours per week in 1993, we saw the commercial broadcasters walk away from children's television.

On children's television, on an average, on public broadcasting, an average day, there are 6 to 10 hours of children's television programming. For the 60 percent of the children of the families with incomes under $15,000 a year, that is their only access to quality broadcasting. They do not have cable. It is unrealistic to expect that their families can afford all of these wonderful discretionary video opportunities that are out there in the marketplace, as wonderful as they may be for middle-class Americans, they are not affordable for working-class and poor America.

□ 2120

Public broadcasting is the only alternative for those children. It is the only way that working class, and blue collar, and poor families can have access to quality programming on a daily basis. Let us not confuse this issue at all. The reason public broadcasting is there is to ensure that all Americans have access to quality programming, not just those who can afford to pay for it, which is what the cable revolution is all about.

Mr. CRANE. Mr. Chairman, I yield myself the balance of my time.

Let me say in response to what we have heard that the Lyons Group, which produces Barney and Friends, makes an estimated $50 million just from licensing Barney products, yet has received some $2.5 million from public broadcasting to produce episodes of the show.

PBS continues to subsidize Sesame Street to the tune of $6 million annually. The Children's Television Workshop, which produces the program, nets about $100 million a year in related product sales, with $40 million alone coming from Sesame Street Magazine's 4.5 million readers.

"This money-machine feature of public television is a far cry from the original assumption that a public system was needed to give access to programming with no commercial appeal," said Laurence Jarvik, director of the Center for the Study of Popular Culture.

I think it is important to recognize that we are not talking about eliminating public broadcasting networks. It is not going to be eliminated; a far cry from that. It is so commercially viable, is my point, that we no longer need its existence, and the public contribution is down to only 15 percent of the total. They are not going to fold up and go home. They are making out like gangbusters, and they will continue to produce, and they will continue to direct their programming toward that audience which has guaranteed them such an enormous success.

So, Mr. Chairman, I think we are not talking on the same wave length, and the point I would reiterate before closing out is the one my colleague from California made, and that is:

> Why, when you have a viable entity in a competitive market must you involuntarily force American overburdened taxpayers to pay for it?

Mr. Chairman, I urge the adoption of my amendment.

Mr. SMITH of Iowa. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Illinois [Mr. CRANE].

Mr. Chairman, I am not sure there was any other program that I heard more from in the mail, from colleagues, than public broadcasting. They want more money. They did not want even to go back to 96.5 percent of current services because it was advanced funded. It is just not realistic, I do not think, for us to take out of the bill the remaining amount of money we have got in here, which is 96.5 percent of what was funded last year. I just think that this is a program that is very much supported all over the country, and I have to oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. CRANE].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. CRANE. Mr. Chairman, on that I demand the yeas and nays, and I understand that the vote will be put off until the next amendment is completed.

The CHAIRMAN. Pursuant to the order of the House of today, further proceedings on the amendment offered by the gentleman from Illinois [Mr. CRANE] will be postponed.

It is now in order to consider the amendment to be offered by the gentleman from Minnesota [Mr. GRAMS].

AMENDMENT OFFERED BY MR. GRAMS

Mr. GRAMS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GRAMS: Page 49, line 11, strike "$954,686,000" and insert "$939,766,000".

The CHAIRMAN. Pursuant to the rule, the gentleman from Minnesota [Mr. GRAMS] will be recognized for 10 minutes, and the gentleman from Iowa [Mr. SMITH] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. GRAMS].

Mr. GRAMS. Mr. Chairman, all of us have heard a lot of jokes about lawyers and Congress, but there is one joke being played on the American taxpayer that is not so funny.

Buried deep within this Labor/HHS appropriations bill is $15 million in grants for law schools to establish or expand legal clinic programs.

That is right taxpayers: the Federal Government is now in the business of subsidizing the education and training of future lawyers. And with your tax dollars.

The amendment I am offering today would put an end to this practice by striking the $15 million set aside for this program.

According to the committee report, the purpose of the clinical experience program is to provide law students with hands-on experience in delivering legal services for low-income Americans. But while this goal has some merit, there is no reason why we need this program or additional tax dollars to accomplish it.

First, we already have programs in place to address the legal needs of the poor. In fact, just yesterday, this body approved the Commerce-Justice-State appropriations bill which included $415 million for the Legal Services Corporation—ironically, an increase of $15 million from last year. Eliminating the funding for the law school clinical experience program will not leave low-income Americans without legal representation.

Second, law schools should be able to fund clinical programs on their own. With many private law schools charging annual tuitions of $20,000 or more, does it make sense to bill the American taxpayer another $15 million for this program?

I do not think so—and neither did the Clinton administration which eliminated funding for this program in its budget proposal.

Finally, the American taxpayer simply cannot afford this program. We are currently facing a huge budget deficit and a $4.7 trillion national debt.

A majority of this body argued in March that our Nation's fiscal crisis is so bad we cannot afford to provide a $500 per child tax credit to working middle-class American families. How then can we turn around and give to law schools enough Federal dollars to provide tax relief for up to 30,000 families with children? My colleagues, if the choice is between lawyers or families, I will choose families first.

For these reasons, I urge my colleagues to support my amendment to cut the $15 million for the law school clinical experience program. This is one legal bill the American taxpayer can no longer afford.

Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Iowa. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from Minnesota [Mr. GRAMS] without knowing it made an argument for this program. He said that yesterday we voted $415 million for Legal Services. This is $15 million to supplement what was done yesterday.

Law schools will pay for much more than this $15 million to help supplement Legal Services. They serve the same people that the $415 million serves. It is to help poor people get some legal services.

I have been to these law schools, including the one at Hamlin in the gentleman's area. It is a poverty law center just like the Gillis Long Poverty Center at Loyola in Louisiana. I have been down there, too. They do great work. Poor people come in. They may have a contract. They do not know what it means. Somebody is trying to sell them some health insurance. They do not know what it means. They need some place to go. They cannot go to a law firm and pay $200 before they will even let them sit down in a chair. They need some help. A lot of this has to do with contracts for apartments or for their living conditions, or they may get a bill that is not even their bill. They need legal help. This is for legal help to poor people.

Mr. Chairman, law schools furnish this, and they pay a lot more money than what the Federal Government puts into it. This is a cheap way to get an additional supplement to Legal Services. If we were to fund Legal Services at the amount that they were funded at back in 1981, they would be $800 million now instead of $415 million. We have been running behind every year on the amount of legal services for the amount of people that can be served with the amount of money that we have in the Legal Services Corporation fund.

In addition to that, Mr. Chairman, these students are the greatest recruiting source we have for Legal Services. In Legal Services we only pay about $25,000 a year, and they will take 2 years out of their life to serve in the Legal Services Corporation and at a fraction of what they can make if they go to a Minneapolis law firm or one of those New York law firms. But they will take 2 years out of their life because they have some experience in this program.

That is the greatest recruiter that we have. In fact, it is about the only recruiter we have. This would be a very bad mistake, and I know that some other programs were recommended for deletion by the administration, too, because they wanted more money for some of their programs, including impact aid and Perkins capital contributions. State student incentives grades.

□ 2130

We did not accept all the cuts that they put in there, and that is no excuse for this one. We just should not accept this amendment.

Mr. GRAMS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to take a little time to answer some of the questions that my colleagues raised. As the gentleman mentioned, this money is to be used to help fund legal services for the poor. But as we mentioned earlier, yesterday this body approved a Commerce, Justice and State appropriations bill, $415 million, to provide this type of legal services. As we noted, this is a $15 million increase over last year's budget.

This money mainly goes to law schools. It does not go to law students. it helps to fund clinical services programs to help give them extra training. He called it a recruitment tool. Most of this is done by third-year law students, who have probably already made up their mind as to whether they are going to go into legal services or not. Whether this is a recruitment tool or not, I think would be very subjective.

Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. BARCA].

Mr. BARCA of Wisconsin. Mr. Chairman, overall I would like to congratulate you on a very difficult bill and I think a very sensible bill that I intend to vote for. We need some key cutbacks at a time when we also add more investments for employment and training and vocational education. But this is an area that President Clinton had suggested cutting.

Now, why can he suggest cutting this? Because the Congressional Budget Office in their review of this program stated this was meant to be a temporary program, not a permanent program.

Now, the problem that I have is that in this same budget we are cutting special education by $188 million, which is a mandate, which is a key human need. While the author of this amendment does not agree to transfer part of this money to that, which I certainly would prefer, I just believe that as a matter of priority, we should follow the CBO, follow President Clinton's lead, and I do not believe this is nearly the priority that many of the other areas we have cutback are.

Mr. SMITH of Iowa. Mr. Chairman, I yield myself 15 seconds to point out it is not correct to say this is an increase. This is the same amount of money that was in last year's bill. The gentleman talks about $20,000. That may be so at Harvard, but it is not the private law school in Des Moines, IA, which is $12,000, and most State universities are $8,000. The gentleman is talking about Harvard, not this program.

Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. STOKES].

Mr. STOKES. Mr. Chairman, I thank the chairman for yielding.

Mr. Chairman, I rise in opposition to the gentleman's amendment. I think it is important for us to understand that this program has been put into existence by our subcommittee and really provides the secretary an opportunity to provide grants to accredited law schools for clinical programs in which qualified attorneys provide legal services to poor people.

The gentleman who is the proponent of the amendment has admitted that this program is for low income or poor people, but indicates in his statement that he feels that they are already being served by the legal services programs.

The fact is that there are still an awful lot of poor people, a lot of low income people, who are unable to get services even through the legal services programs. So at the same time that law students are provided the type of training they ought to be given in a law school, and that is to be able to learn how to interview people, how to interview clients, how to produce and provide services, while they are doing this, they are also providing services to very low income people.

These clinics also have become a prime source for recruiting attorneys who are willing to work for below average salaries for legal services field offices. I think this is another point that ought not to be lost in terms of this legislation.

This 1994 funding will provide an estimated 23 grants, serving approximately 2,910 students. That is 2,910 students who will be given a little better education at the law school by virtue of being provided this type of clinical training. I think it makes sense. I hope that we will vote down the gentleman's amendment.

Mr. GRAMS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just like to say this is all based on priorities. I think if this is such an important program to the students or to the poor who need these services, that the law school would build these priorities into their curriculum and fund it through their own curriculum, rather than through the Federal Government.

We, as a Congress, have to set our priorities. We are $4.7 trillion in debt. If a law school is carrying any kind of a debt like this, they would end up going bankrupt. We cannot afford to fund these types of low priorities when we are facing, as the gentleman from Wisconsin, [Mr. BARCA], said earlier, larger priorities in education that we should be addressing.

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. GRAMS. I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Chairman, what the gentleman is suggesting is we do not need to fund a program that will produce more lawyers for our society. Is that right?

Mr. GRAMS. They are already going to be there.

Mr. ROHRABACHER. I seem to remember when I was young that the legal profession actually encouraged their people to volunteer to help the less fortunate. Do you think that this $25 million could be perhaps made up by having bar associations, which are, after all, one of the richest elements in the communities throughout the United States of America, focus a little bit more on community service, rather than putting money in their pockets for doing what they should be doing voluntarily?

Mr. GRAMS. I should mention this money goes directly to the schools and not to the students providing the services. It is like a class exercise, a clinical service. If this is such an important priority of the classes that these students need, the college should work this into their curriculum and not look to the Federal Government to spend money on this type of priority.

Mr. Chairman, I yield back balance of my time.

Mr. SMITH of Iowa. Mr. Chairman, I yield myself such time as I may consume.

I would encourage the gentleman from Minneapolis, if I may have his attention, the gentleman obviously has not been to one of the three law schools in Minneapolis that have this program or he would not say some of the things he said. Those three law schools, all of them, I have been to Hamline, I have not been to the other two, they put in more money than the Federal Government is putting in. This is just an encouragement to them. It pays part of the salary of the person to run the law school clinic. They have to also have attorneys to help, they have to supervise those students, they have to have a place for them to do it. So this is furnishing legal services for the poor.

Now, I have heard all of the same arguments about Legal Services Corporation. I heard them for 10 years. Some people are just against legal services for the poor, period. That is it. If you are against legal services, you should have moved to cut $15 million yesterday out of the Legal Services Corporation. If you cut $15 million out of that, it would not have affected as many people as this will.

A lot of these people being served by the law schools that I am talking about are seeking to establish their right to Social Security. Lots of them are. They get ready to retire, they have been minimum income people, they find our two or three employers did not turn in the reports that they should have. They have got to have help.

Social Security does not do that for them. Members of Congress do not either. They refer them to Legal Services Corporation to help them. This is to help poor people.

Mr. BUYER. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Indiana.

Mr. BUYER. Mr. Chairman, just for the moment, sir, when you referred to the poor, I as a third year law student was part of the clinical program that received these kinds of funds. That program, though, sir, was not going out to service the poor, it was going to serve criminals who are in Westville Institution of Corrections.

Mr. SMITH of Iowa. You are absolutely wrong. This is not permitted under this program. You cannot do criminal legal work because the Constitution already provides for that. So we do not permit this money to be used for that purpose. If they did that, it is because the law school had a separate fund. You are surely wrong about that. This is only for those people who could be served or are eligible to be served by the Legal Services Corporation.

□ 2140

That is the only people that can be served out of this money.

Mr. BUYER. Mr. Chairman, I appreciate the clarification.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. GRAMS].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. GRAMS. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 296]

ANSWERED "PRESENT"—413

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bilirakis

Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Franks (CT)
Franks (NJ)
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murphy
Myers
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Petri
Pickett
Pickle
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Roberts
Roemer
Rogers
Rohrabacher
Romero-Barcelo (PR)
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

□ 2157

The CHAIRMAN. Four hundred thirteen Members have answered to their name, a quorum is present, and the Committee will resume its business.

The Chair would indicate that on the proceedings to follow, each vote shall be restricted to 5 minutes, and the Chair will try to hold Members to that 5 minutes.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Minnesota [Mr. GRAMS] for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 194, noes 232, not voting 13, as follows:

[Roll No. 297]

AYES—194

Allard
Andrews (NJ)
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barca
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehner
Bonilla
Brewster
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Coble
Collins (GA)
Combest
Condit
Cooper
Costello
Cox
Crane
Crapo
Cunningham
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fingerhut
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Gillmor
Gingrich
Glickman
Goodlatte
Goodling
Goss
Grams
Greenwood
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hoagland
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Johnson, Sam
Kanjorski
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Laughlin
Leach
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lucas
Machtley
Manzullo
Margolies-Mezvinsky
McCandless
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McMillan
McNulty
Meehan
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Myers
Nussle
Orton
Oxley
Packard
Paxon
Penny
Peterson (MN)
Petri
Pickett
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Sangmeister
Santorum
Sarpalius
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Weldon
Wolf
Zeliff
Zimmer

NOES—232

Abercrombie
Ackerman
Andrews (ME)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Boehlert
Bonior
Borski
Boucher
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Gonzalez
Gordon
Grandy
Green
Gutierrez
Hall (OH)
Hamburg
Harman
Hastings
Hefner
Hinchey
Hochbrueckner
Hoyer
Hughes
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lazio
Lehman
Levin
Lewis (GA)
Lloyd
Long
Lowey
Maloney
Mann
Manton
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McKinney
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickle
Pomeroy
Porter
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rogers
Romero-Barcelo (PR)
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Saxton

Schenk
Schroeder
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swift
Synar
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Walsh
Waters
Watt
Waxman
Wheat
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)

NOT VOTING—13

Carr
Chapman
Faleomavaega (AS)
Fields (TX)
Fish
Hilliard
Michel
Moran
Pombo
Ridge
Schumer
Washington
Whitten

□ 2204

Mr. BALLENGER changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Pursuant to the order of the House of today, proceedings will now resume on those amendments on which further proceedings were postponed in the following order:

An amendment offered by the gentleman from Florida [Mr. MICA]; an amendment offered by the gentleman from California [Mr. BAKER]; and an amendment offered by the gentleman from Illinois [Mr. CRANE].

The Chair will reduce to 5 minutes the time for any electronic vote.

AMENDMENT OFFERED BY MR. MICA

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Florida [Mr. MICA] on which further proceedings were postponed and on which the "noes" prevailed by voice vote.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. MICA:

BILINGUAL AND IMMIGRANT EDUCATION

Page 45, line 21, strike "$247,572,000" and insert "272,572,000," and, line 22, strike "$50,000,000' and insert "$75,000,000."

RECORDED VOTE

The CHAIRMAN. The pending business is the demand for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 35, noes 393, not voting 11, as follows:

[Roll No. 298]

AYES—35

Baker (CA)
Becerra
Bilirakis
Bonilla
Calvert
Canady
de la Garza
Deutsch
Diaz-Balart
Eshoo
Farr
Filner
Fowler
Franks (NJ)
Goodling
Goss
Gutierrez
Harman
Hutto
Johnson (CT)
Kim
Knollenberg
Lewis (CA)
Lewis (FL)
McCollum
Mica
Miller (FL)
Molinari
Oxley
Pastor
Ros-Lehtinen
Schenk
Shaw
Stearns
Thurman

NOES—393

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Camp
Cantwell
Cardin
Carr
Castle
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de Lugo (VI)
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
English
Evans
Everett
Ewing
Fawell
Fazio
Fields (LA)
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Gordon
Grams
Grandy
Green
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
King
Kingston
Kleczka
Klein
Klink
Klug
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Packard
Pallone
Parker
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Roberts
Roemer
Rogers
Rohrabacher
Romero-Barcelo (PR)
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Scott
Sensenbrenner
Serrano
Sharp
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—11

Chapman
Faleomavaega (AS)
Fields (TX)
Fish
Hilliard
Michel
Pombo
Ridge
Schumer
Washington
Whitten

□ 2213

Ms. DUNN, and Messrs, GREENWOOD, DICKEY, and LINDER changed their vote from "aye" to "no."

Messrs. PASTOR, GUTIERREZ, AND BECERRA changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BAKER OF CALIFORNIA

The CHAIRMAN. The pending business is the demand of the gentleman from California [Mr. BAKER] for a recorded vote on which further proceedings were postponed and on which the "noes" prevailed by voice vote.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. BAKER of California:

On page 52, line 19, strike "$114,996,000" and insert in lieu thereof "$115,996,000".

RECORDED VOTE

The CHAIRMAN. The gentleman from California [Mr. BAKER] has demanded a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 319, noes 109, not voting 11, as follows:

[Roll No. 299]

AYES—319

Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca

Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Bateman
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Borski
Brewster
Brooks
Browder
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Castle
Clinger
Coble
Collins (GA)
Collins (IL)
Combest
Condit
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
de la Garza
de Lugo (VI)
DeFazio
DeLay
Derrick
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (TX)
Ehlers
Emerson
Engel
English
Everett
Ewing
Farr
Fawell
Fields (LA)
Filner
Fingerhut
Foglietta
Fowler
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Herger
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Kasich
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lucas
Machtley
Maloney
Manzullo
Margolies-Mezvinsky
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McMillan
Meehan
Menendez
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Minge
Moakley
Molinari
Montgomery
Moorhead
Moran
Morella
Murphy
Myers
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Nussle
Oberstar
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickle
Pomeroy
Porter
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sanders
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schenk
Schiff
Schroeder
Sensenbrenner
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Studds
Stump
Stupak
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thornton
Thurman
Torkildsen
Torricelli
Tucker
Underwood (GU)
Upton
Valentine
Velazquez
Vucanovich
Walker
Walsh
Weldon
Williams
Wilson
Wolf
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—109

Abercrombie
Ackerman
Armey
Bacchus (FL)
Barton
Becerra
Beilenson
Bentley
Berman
Bevill
Blackwell
Bonior
Boucher
Brown (CA)
Cardin
Carr
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Conyers
Danner
Darden
Deal
DeLauro
Dellums
Deutsch
Dingell
Dixon
Edwards (CA)
Eshoo
Evans
Fazio
Flake
Ford (MI)
Ford (TN)
Frank (MA)
Gejdenson
Gephardt
Gibbons
Hamburg
Hastings
Hefner
Hoyer
Hughes
Hutto
Inslee
Johnston
Kennedy
Klein
Kopetski
Kreidler
Levin
Lewis (GA)
Lowey
Mann
Manton
Markey
Martinez
Matsui
McCloskey
McDermott
McKinney
McNulty
Meek
Mineta
Mink
Mollohan
Murtha
Obey
Olver
Pelosi
Penny
Pickett
Price (NC)
Reynolds
Richardson
Romero-Barcelo (PR)
Sabo
Sawyer
Scott
Serrano
Skaggs
Slattery
Smith (IA)
Spratt
Stark
Stokes
Strickland
Swift
Synar
Taylor (MS)
Thompson
Torres
Towns
Traficant
Unsoeld
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Wise
Woolsey
Wyden

NOT VOTING—11

Chapman
Faleomavaega (AS)
Fields (TX)
Fish
Hilliard
Michel
Pombo
Ridge
Schumer
Washington
Whitten

□ 2220

Messrs. BAESLER, NADLER, and UNDERWOOD, Mrs. SCHROEDER, Mr. HOCHBRUECKNER, Mr. STUDDS, Ms. BROWN of Florida, Ms. CANTWELL, Ms. ROYBAL-ALLARD, and Mr. GORDON changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 2220

AMENDMENT OFFERED BY MR. CRANE

The CHAIRMAN. The pending business is the demand of the gentleman from Illinois [Mr. CRANE] for a recorded vote on which further proceedings were postponed and on which the "noes" prevailed by voice vote.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. CRANE:

Page 56, line 11, strike "$20,100,000" and insert "$292,640,000".

RECORDED VOTE

The CHAIRMAN. The gentleman from Illinois [Mr. CRANE], has demanded a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 42, noes 384, not voting 13, as follows:

[Roll No. 300]

AYES—42

Archer
Armey
Bartlett
Barton
Boehner
Bunning
Burton
Canady
Collins (GA)
Combest
Cox
Crane
DeLay
Doolittle
Dornan
Dreier
Emerson
Grams
Hancock
Hastert
Hunter
Hyde
Istook
Johnson, Sam
Kim
Kingston
Laughlin
Linder
Manzullo
McCandless
Paxon
Rohrabacher
Roth
Royce
Santorum
Sensenbrenner
Shuster
Smith (TX)
Solomon
Stump
Walker
Zimmer

NOES—384

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Buyer
Byrne
Callahan
Calvert
Camp
Cantwell
Cardin
Carr
Castle
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Crapo
Cunningham
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hansen
Harman
Hastings
Hayes
Hefley
Hefner
Herger
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hutchinson
Hutto
Inglis
Inhofe
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
King
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lewis (KY)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKeon

McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Roberts
Roemer
Rogers
Romero-Barcelo (PR)
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Scott
Serrano
Sharp
Shaw
Shays
Shepherd
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Snowe
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Waters
Watt
Waxman
Weldon
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff

NOT VOTING—13

Chapman
Faleomavaega (AS)
Fields (TX)
Fish
Hilliard
Michel
Owens
Pombo
Ridge
Schumer
Washington
Wheat
Whitten

☐ 2227

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to the section that has just been read?

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT:

Page 49, line 8 after "title VI", insert; including Part C,".

Mr. TRAFICANT. Mr. Chairman, I yield to the chairman of the subcommittee, the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. I thank the gentleman for yielding.

Mr. Chairman, I have seen the amendment, and I have no objection to it.

Mr. TRAFICANT. Mr. Chairman, I yield to the distinguished ranking member, the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. I thank the gentleman for yielding.

Mr. Chairman, we have no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to this section?

AMENDMENT OFFERED BY MR. HEFLEY

Mr. HEFLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HEFLEY:

Page 56, line 11, strike $20,100,000 and insert "$21,100,000".

Mr. HEFLEY. Mr. Chairman, I yield to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. I thank the gentleman for yielding.

Mr. Chairman, in the interest of time I am willing to accept the amendment and take it to conference.

Mr. HEFLEY. Mr. Chairman, I yield to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. I thank the gentleman for yielding.

Mr. Chairman, we have no objection.

Mr. HEFLEY. Mr. Chairman, my amendment would increase the recission for the Corporation for Public Broadcasting by $1 million.

This is roughly what the Pacifica Radio Network receives yearly.

Taxpayer-subsidized Pacifica has shown a consistent pattern of hate-programming that I don't believe any member can justify paying for with our tax dollars.

Some will say I only cite quotes from a single program as evidence of Pacifica's hate-programming.

I wish the hate-programming that this network spews was confined to a single broadcast which occurred 2 years ago. It's not.

New programs that are just as divisive and racist have taken the place of past programs. Here are some quotes from a January 5, 1994 broadcast of "Family Tree":

* * * organized Jewry has targeted the Black population. Black progress seems to be one of its major sort of targets. (Jewry) seems bent on trying to thwart Black progress.

Here's another:

The Jew was an integral part of the whole apparatus of slavery. (Jews) had a higher per capita slave ownership than other white people in this country.

* * * All two or three hundred million Africans who died in slave trade died because Jewish * * * scholars invented the Hamidic myth.

From a May 25, 1994 broadcast of "Freedom Now":

Christianity was used as a justification to enslave Africans . . . , giving birth to racist regimes all over the world.

How can anyone who hears this say that hate-programming is no longer a part of Pacifica's broadcasts?

Next, opponents of this amendment will assert that the Pacifica station apologized for hateful comments made by Dr. Leonard Jeffries to a caller during a broadcast.

What about an apology for comments about how real Jews are black and that white Jews are "hypocrites" for claiming to be Jewish?

How about an apology for the statement: "The white man is Satan himself."

How about an apology for calls on Pacifica where the caller said, "The Jews haven't seen anything yet. What is going to happen to them is going to make what Hitler did seem like a party."

How about an apology for the statement that a recent measles epidemic was a "genocidal plot" by whites against the black community?

My question remains: Why are we subsidizing Pacifica to broadcast this stuff?

A member of CPB's own board, Victor Gold, regularly monitors Pacifica nationwide and calls Pacifica's hate-programming consistent and persistent. These ongoing broadcasts prove it.

Regarding the commentaries by convicted cop-killer Abu-Jamal, National Public Radio itself pulled the commentaries at the last minute from their broadcast.

According to NPR managing editor Bruce Drake, NPR had serious misgivings about the appropriateness of the commentaries, citing that because National Public Radio had not provided for "contrasting points of view" as required by the 1992 authorization, the commentaries were pulled.

If the commentaries are unfit for NPR, why are they appropriate for taxpayer-subsidized Pacifica radio network?

CONCLUSION

It is a fact that the Pacifica network, which receives Federal funds from the Corporation for Public Broadcasting, has broadcast hate-programming in the past.

It is a fact that Pacifica is still broadcasting hate-programming.

Pacifica will continue this programming whether taxpayers help pay for it or not.

CPB Board Member Mr. Gold wonders why the Federal Government is subsidizing Pacifica's sustained campaign of hate-programming. I wonder too.

Mr. MARKEY. Mr. Chairman, the Hefley amendment represents the most dangerous form of direct government censorship. It targets a particular station for the broadcast of a particular program that someone in the government did not like.

There will always be programs on public broadcasting stations that any one of us might object to for some reason. But we cannot allow the government to censor programming or editorial decisionmaking of public broadcasting stations.

A commentator on a Pacifica radio station made statements during a program that were objectionable. They set ground rules, and the commentator chose not to appear again on the air under those rules. The station offered reply time to those who objected to the comments. The station responded to this event in a reasonable manner.

While I also object to the statements allegedly made on this program, I must strongly object to any effort to place the government directly in the role of a censor of programming. This violates our national commitment to freedom of expression and freedom of the press from direct government censorship.

While we must demand accountability. While we must, and do, demand objectivity and balance from public broadcasters. We must say no to efforts to target any particular program, station or newscast from direct political retribution. This is government censorship in its most virulent and destructive form and I strongly object to the acceptance of this amendment by the committee without debate and without a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado [Mr. HEFLEY].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor-Management Relations Act, 1947 (29 U.S.C. 171–180, 182–183), including hire of passenger motor vehicles; and for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95-454 (5 U.S.C. chapter 71), $31,078,000.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), $6,200,000.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91-345, as amended by Public Law 102-95), $901,000.

NATIONAL COUNCIL ON DISABILITY

SALARIES AND EXPENSES

For expenses necessary for the National Council on Disability as authorized by title IV of the Rehabilitation Act of 1973, as amended, $1,643,000.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141–167), and other laws, $173,388,000: *Provided*, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151–188), including emergency boards appointed by the President, $8,119,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), $7,595,000.

PHYSICIAN PAYMENT REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1845(a) of the Social Security Act, $4,176,000 to be transferred to this appropriation from the Federal Supplementary Medical Insurance Trust Fund.

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1886(e) of the Social Security Act, $4,667,000 to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $261,000,000, which shall include amounts becoming available in fiscal year 1995 pursuant to section 224(c)(1)(B) of Public Law 98-76; and in addition, an amount, not to exceed 2 percent of the amount provided herein, shall be available proportional to the amount by which the product of recipients and the average benefit received exceeds $261,000,000: *Provided*, That the total amount provided herein shall be credited in 12 approximately equal amounts on the first day of each month in the fiscal year.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for interest earned on unnegotiated checks, $300,000, to remain available through September 30, 1996, which shall be the maximum amount available for payment pursuant to section 417 of Public Law 98-76.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board, $73,881,000, to be derived from the railroad retirement accounts: *Provided*, That $200,000 of the foregoing amount shall be available only to the extent necessary to process workloads not anticipated in the budget estimates and after maximum absorption of the costs of such workloads within the remainder of the existing limitation has been achieved.

LIMITATION ON RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

For further expenses necessary for the Railroad Retirement Board, for administration of the Railroad Unemployment Insurance Act, not less than $17,031,000 shall be apportioned for fiscal year 1995 from moneys credited to the railroad unemployment insurance administration fund.

SPECIAL MANAGEMENT IMPROVEMENT FUND

To effect management improvements, including the reduction of backlogs, accuracy of taxation accounting, and debt collection, $1,640,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account: *Provided*, That these funds shall supplement, not supplant, existing resources devoted to such operations and improvements.

LIMITATION ON THE OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General for audit, investigatory and review activities, as authorized by the Inspector General Act of 1978, as amended, not more than $6,682,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account.

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, $10,912,000.

TITLE V—GENERAL PROVISIONS

SEC. 501. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curricula, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

SEC. 502. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided*, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 503. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 504. (a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress.

SEC. 505. The Secretaries of Labor and Education are each authorized to make available not to exceed $15,000 from funds available for salaries and expenses under titles I and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 506. Notwithstanding any other provision of this Act, no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles for the hypodermic injection of any illegal drug unless the Surgeon General of the United States determines that such programs are effective in preventing the spread of HIV and do not encourage the use of illegal drugs, except that such funds may be used for such purposes in furtherance of demonstrations or studies authorized in the ADAMHA Reorganization Act (Public Law 102-321).

SEC. 507. No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a-10c, popularly known as the "Buy American Act").

SEC. 508. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

SEC. 509. None of the funds appropriated under this Act shall be expended for any abortion except when it is made known to the Federal entity or official to which funds are appropriated under this Act that such procedure is necessary to save the life of the mother or that the pregnancy is the result of an act of rape or incest.

SEC. 510. No funds appropriated herein shall be used to implement any regulation promulgated under section 481(b)(6) of the Higher Education Act of 1965, as amended, prior to July 1, 1995.

SEC. 511. None of the funds appropriated or otherwise made available under this Act may be obligated in violation of existing Federal law or regulation already prohibiting such benefit or assistance.

Mr. SMITH of Iowa (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 65, line 16, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The CHAIRMAN. Are there any points of order to this section of the bill?

The Chair hears none.

Mr. SMITH of Iowa. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

□ 2230

Accordingly, the Committee rose and the Speaker pro tempore [Mrs. UNSOELD] having assumed the chair, Mr. SHARP, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4606) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes, had come to no resolution thereon.

PROVIDING FOR COMPLETION OF DEBATE AFTER ONE HOUR WHEN COMMITTEE OF THE WHOLE HOUSE RESUMES CONSIDERATION OF H.R. 4606, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995

Mr. GEPHARDT. Madam Speaker, I ask unanimous consent that when the Committee of the Whole resumes consideration of the bill, H.R. 4606, all debate on the bill and amendments thereto be closed after 1 further hour.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 3355, VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1993

Ms. MOLINARI. Pursuant to clause 1(c) of rule XXVIII, Madam Speaker, I am announcing to the House that I intend to offer a motion to instruct conferees on the bill, H.R. 3355, the Violent Crime Control and Law Enforcement Act of 1993.

The form of the motion is as follows:

Ms. MOLINARI moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to the Senate amendment to the bill H.R. 3355 be instructed not to make any agreement that does not include Subtitle E of Title VIII of the Senate amendment, providing for the admissibility of evidence of similar crimes in sex offense cases.

CONFERENCE REPORT ON H.R. 4454, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1995

Mr. FAZIO submitted the following conference report and statement on the bill (H.R. 4454) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1995, and for other purposes:

CONFERENCE REPORT (H. REPT. 103-567)

The committee of conference on the disagreeing votes of the two Houses on the amendments for the Senate to the bill (H.R. 4454) "making appropriations for the Legislative Branch for the fiscal year ending September 30, 1995, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 24 and 31.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 23, 27, 28, and 29, and agree to the same.

Amendment numbered 11:

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$60,084,000*; and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$12,483,000*; and the Senate agree to the same.

Amendment numbered 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$3,441,000*; and the Senate agree to the same.

Amendment numbered 25:

That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows:

In lieu of the amount proposed by said amendment insert: *$4,293*; and the Senate agree to the same.

Amendment numbered 26:

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 207. Section 207(a) of the Legislative Appropriations Act, 1993 (Public Law 102-392) is amended—

(1) in paragraph (2)(A) by inserting after "as certified by the Public Printer," the following: "if the work is included in a class of work which"; and

(2) by amending paragraph (3) to read as follows:

"(3) As used in this section, the term 'printing' includes the processes of composition, platemaking, presswork, duplicating, silk screen processes, binding, microform, and the end items of such processes.".

And the Senate agree to the same.

Amendment numbered 30:

That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 310. Upon enactment of this Act, $2,015,000 is made available under the headings "Architect of the Capitol, Capitol Buildings and Grounds, Capitol Buildings" to remain available until expended for all necessary expenses relating to he purchase and installation of x-ray machines and magnetometers: Provided, That the cost limitation for security installations, which are approved by the Capitol Police Board, authorized by House Concurrent Resolution 550, Ninety-Second Congress, agreed to September 19, 1972, is hereby further increased by $2,015,000: Provided further, That the amount made available shall be derived by transfer from the funds appropriated to the Clerk of the House in the Fiscal year 1986 Urgent Supplemental Appropriations Act, Public Law 99-349, and subsequently transferred to the Architect of the Capitol pursuant to the Legislative Branch Appropriations Act, 1989, Public Law 100-458, for Capitol Complex Security Enhancements.

And the Senate agree to the same.

Amendment numbered 32:

That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended as follows:

In lieu of the section number proposed by said amendment insert: *311*; and the Senate agree to the same.

Amendment numbered 33:

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 312. ARCHITECT OF THE CAPITOL HUMAN RESOURCES PROGRAM.—(a) SHORT TITLE.—This section may be cited as the "Architect of the Capitol Human Resources Act".

(b) FINDING AND PURPOSE.—

(1) FINDING.—The Congress finds that the Office of the Architect of the Capitol should develop human resources management programs that are consistent with the practices common among other Federal and private sector organizations.

(2) PURPOSE.—It is the purpose of this section to require the Architect of the Capitol to establish and maintain a personnel management system that incorporates fundamental principles that exist in other modern personnel systems.

(c) PERSONNEL MANAGEMENT SYSTEM.—

(1) ESTABLISHMENT.—The Architect of the Capitol shall establish and maintain a personnel management system.

(2) REQUIREMENTS.—The personnel management system shall at a minimum include the following:

(A) A system which ensures that applicants for employment and employees of the Architect of the Capitol are appointed, promoted, and assigned on the basis of merit and fitness after fair and equitable consideration of all applicants and employees through open competition.

(B) An equal employment opportunity program which includes an affirmative employment program for employees and applicants for employment, and procedures for monitoring progress by the Architect of the Capitol in ensuring a workforce reflective of the diverse labor force.

(C) A system for the classification of positions which takes into account the difficulty, responsibility, and qualification requirements of the work performed, and which conforms to the principle of equal pay for substantially equal work.

(D) A program for the training of Architect of the Capitol employees which has among its goals improved employee performance and opportunities for employee advancement.

(E) A formal performance appraisal system which will permit the accurate evaluation of job performance on the basis of objective criteria for all Architect of the Capitol employees.

(F) A fair and equitable system to address unacceptable conduct and performance by Architect of the Capitol employees, including a general statement of violations, sanctions, and procedures which shall be made known to all employees, and a formal grievance procedure.

(G) A program to provide services to deal with mental health, alcohol abuse, drug abuse, and other employee problems, and which ensures employee confidentiality.

(H) A formal policy statement regarding the use and accrual of sick and annual leave which shall be made known to all employees, and which is consistent with the other requirements of this section.

(d) IMPLEMENTATION OF PERSONNEL MANAGEMENT SYSTEM.—

(1) DEVELOPMENT OF PLAN.—The Architect of the Capitol shall—

(A) develop a plan for the establishment and maintenance of a personnel management system designed to achieve the requirements of subsection (c);

(B) submit the plan to the Speaker of the House of Representatives, the House Office Building Commission, the Committee on Rules and Administration of the Senate, the Joint Committee on the Library, and the Committee on Appropriations of the Senate and the House of Representatives not later than 12 months after the date of enactment of this Act; and

(C) implement the plan not later than 90 days after the plan is submitted to the Speaker of the House of Representatives, the House Office Building Commission, the Committee on Rules and Administration of the Senate, the Joint Committee on the Library, and the Committees on Appropriations of the Senate and the House of Representatives, as specified in subparagraph (B).

(2) EVALUATION AND REPORTING.—The Architect of the Capitol shall develop a system of oversight and evaluation to ensure that the personnel management system of the Architect of the Capitol achieves the requirements of subsection (c) and complies with all other relevant laws, rules and regulations. The Architect of the Capitol shall report to the Speaker of the House of Representatives, the House Office Building Commission, the Committee on Rules and Administration of the Senate, and the Joint Committee on the Library on an annual basis the results of its evaluation under this subsection.

(3) APPLICATION OF LAWS.—Nothing in this section shall be construed to alter or supersede any other provision of law otherwise applicable to the Architect of the Capitol or its employees, unless expressly provided in this section.

(e) DISCRIMINATION COMPLAINT PROCESSING.—

(1) DEFINITIONS.—For purposes of this subsection:

(A) The term "employee of the Architect of the Capitol" or "employee" means—

(i) any employee of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants;

(ii) any applicant for a position that is to be occupied by an individual described in clause (i); or

(iii) within 180 days after the termination of employment with the Architect of the Capitol, any individual who was formerly an employee described in clause (i) and whose claim of a violation arises out of the individual's employment with the Architect of the Capitol.

(B) The term "violation" means a practice that violates paragraph (2) of this subsection.

(C) Notwithstanding subparagraph (A), the terms "employee of the Architect of the Capitol" and "employee" do not include any individual referred to in clause (i), (ii), or (iii) of such subparagraph who is a House of Representatives garage or parking lot attendant (including the Superintendent), with respect to whom supervision and all other employee-related matters are transferred to the Sergeant at Arms of the House of Representatives pursuant to direction of the Committee on Appropriations of the House of Representatives in House Report 103–517 of the One Hundred Third Congress.

(2) DISCRIMINATORY PRACTICES PROHIBITED.—

(A) IN GENERAL.—All personnel actions affecting employees of the Architect of the Capitol shall be made free from any discrimination based on—

(i) race, color, religion, sex, or national origin, within the meaning of section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16);

(ii) age, within the meaning of section 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a); or

(iii) handicap or disability, within the meaning of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) and sections 102 through 104 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112–14).

(B) INTIMIDATION PROHIBITED.—Any intimidation of, or reprisal against, any employee by the Architect of the Capitol, or by any employee of the Architect of the Capitol, because of the exercise of a right under this section constitutes an unlawful employment practice, which may be remedied in the same manner as are other violations described in subparagraph (A).

(3) PROCEDURE FOR CONSIDERATION OF ALLEGED VIOLATIONS.—

(A) Any employee of the Architect of the Capitol alleging a violation of paragraph (2) may file a charge with the General Accounting Office Personnel Appeals Board in accordance with the General Accounting Office Personnel Act of 1980 (31 U.S.C. 751–55). Such a charge may be filed only after the employee has filed a complaint with the Architect of the Capitol in accordance with requirements prescribed by the Architect of the Capitol and has exhausted all remedies pursuant to such requirements.

(B) The Architect of the Capitol shall carry out any action within its authority that the Board orders under section 4 of the General Accounting Office Personnel Act of 1980 (31 U.S.C. 753).

(C) The Architect of the Capitol shall reimburse the General Accounting Office for costs incurred by the Board in considering charges filed under this subsection.

(4) AMENDMENTS TO THE GENERAL ACCOUNTING OFFICE PERSONNEL ACT OF 1980.—

(A) Section 751(a)(1) of title 31, United States Code, is amended by inserting "or of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants," after "Office".

(B) Section 753(a) of title 31, United States Code, is amended—

(i) in paragraph (7) by striking "and" at the end of the paragraph;

(ii) in paragraph (8) by striking the period and inserting"; and"; and

(iii) by inserting at the end thereof the following:

"(9) an action involving discrimination prohibited under section 312(e)(2) of the Architect of the Capitol Human Resources Act."

(C) Section 755 of title 31, United States Code, is amended—

(i) in subsection (a), by striking "or (7)" and inserting ", (7) or (9)"; and

(ii) in subsection (b)—

(I) by striking "or applicant for employment" and inserting "applicant for employment, or employee of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants"; and

(II) by inserting "or under section 312(e)(2) of the Architect of the Capitol Human Resources Act" after "of this title".

(f) CONFORMING AMENDMENTS.—

(1) Section 301(c) of Public Law 102–166 is amended—

(A) by striking subparagraph (B);

(B) by striking "or (B)" in subparagraphs (C) and (D); and

(C) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(2) Section 305(c) of Public Law 102–166 is amended to read as follows:

"(c) EMPLOYEES OF THE CAPITOL POLICE.—In the case of an employee who is a member of the Capitol Police, the Director may refer the employee to the Capitol Police Board for resolution of the employee's complaint through the internal grievance procedures of the Capitol Police Board for a specific period of time, which shall not count against the time available for counseling or mediation under this title.".

(3) Section 312 of Public Law 102–166 is amended by striking "or by the Architect of the

Capitol, or anyone employed by the Architect of the Capitol,".

(4) Section 501(h)(2) of the Family and Medical Leave Act of 1993 is amended by striking "or (B)".

And the Senate agree to the same.

Vic Fazio,
James P. Moran,
David R. Obey,
John P. Murtha,
Bob Carr,
Martin O. Sabo,
Bill Young,
Ron Packard,
Charles H. Taylor,
Joseph M. McDade,
Managers on the Part of the House.

Harry Reid,
Barbara A. Mikulski,
Patty Murray,
Robert C. Byrd,
Connie Mack,
Conrad Burns,
Mark O. Hatfield,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE ON CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4454) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1995, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

TITLE I—CONGRESSIONAL OPERATIONS

SENATE

Amendment No. 1: Appropriates $437,580,500 for the operations of the Senate, and contains several administrative provisions, as proposed by the Senate. Inasmuch as the amendment relates solely to the Senate and in accord with long practice under which each body concurs without intervention, the managers on the part of the House, at the request of the mangers on the part of the Senate, have receded to the Senate amendment.

HOUSE OF REPRESENTATIVES

It is the sense of the conferees that the Committee on House Administration should have authority to utilize the Congressional Management Foundation in any training seminars the Committee on House Administration deems its services might be appropriate.

Capitol Police Board

CAPITOL POLICE

SALARIES

Amendment No. 2: Appropriates $69,382,000, including authority for hazardous duty pay differential and a clothing allowance, for the salaries and related personnel expenses of the Capitol Police as proposed by the Senate instead of $65,991,000 as proposed by the House. The conferees have agreed to the Senate amendment which deleted the matter contained in the House bill, and which provides $33,463,000 to the Sergeant at Arms of the House, to be disbursed by the Clerk of the House, for the salaries and related personnel expenses of the Capitol Police assigned to the House rolls as proposed by the Senate instead of $31,833,000 as proposed by the House, and $35,919,000 to the Sergeant at Arms and Doorkeeper of the Senate, to be disbursed by the Secretary of the Senate as proposed by the Senate instead of $34,158,000 as proposed by the House. The additional funds are provided for comparability pay purposes in the event the appropriate authorities in House and Senate make such an adjustment in police salary schedules. It has long been the sense of Congress that products of American manufacture be purchased where feasible. The conferees direct the Capitol Police Board to conduct a study to determine the feasibility of utilizing only American-made motorcycles and bicycles and report its findings back to the Committees on Appropriations of the House and Senate.

Office of Technology Assessment

SALARIES AND EXPENSES

Amendment No. 3: Appropriates $21,970,000 for salaries and expenses, Office of Technology Assessment as proposed by the Senate instead of $21,931,000 as proposed by the House.

Congressional Budget Office

SALARIES AND EXPENSES

Amendment No. 4: Appropriates $23,188,000 for salaries and expenses, Congressional Budget Office as proposed by the Senate instead of $23,133,000 as proposed by the House.

Architect of the Capitol

OFFICE OF THE ARCHITECT OF THE CAPITOL

SALARIES

Amendment No. 5: Appropriates $9,103,000 for salaries, Office of the Architect of the Capitol as proposed by the Senate instead of $8,927,000 as proposed by the House.

CONTINGENT EXPENSES

Amendment No. 6: Deletes authority contained in House bill for funds to remain available until expended for contingent expenses, Office of the Architect of the Capitol as proposed by the Senate.

CAPITOL BUILDINGS AND GROUNDS

CAPITOL BUILDINGS

Amendment No. 7: Appropriates $22,797,000 for Capitol buildings as proposed by the Senate instead of $22,340,000 as proposed by the House.

CAPITOL GROUNDS

Amendment No. 8: Appropriates $5,270,000 for Capitol grounds as proposed by the Senate instead of $5,201,000 as proposed by the House.

SENATE OFFICE BUILDINGS

Amendment No. 9: Appropriates $47,619,000 for Senate office buildings, of which $7,709,000 shall remain available until expended, as proposed by the Senate, including authority to complete improvements to property acquired pursuant to section 1202 of Public Law 103–50. Inasmuch as the amendment relates solely to the Senate and in accord with long practice under which each body concurs without intervention, the managers on the part of the House, at the request of the managers on the part of the Senate, have receded to the Senate amendment.

CAPITOL POWER PLANT

Amendment No. 10: Appropriates $33,437,000 for the Capitol power plant as proposed by Senate instead of $33,342,000 as proposed by the House.

Library of Congress

CONGRESSIONAL RESEARCH SERVICES

SALARIES AND EXPENSES

Amendment No. 11: Appropriates $60,084,000 for salaries and expenses of the Congressional Research Service instead of $58,938,000 as proposed by the House and $60,459,000 as proposed by the Senate. The conferees have allowed $216,000 for the COLA differential, $455,000 for locality pay, $200,0000 for data base services, and $275,000 for subscriptions.

Government Printing Office

CONGRESSIONAL PRINTING AND BINDING

Amendment No. 12: Appropriates $89,724,000 for Congressional printing and binding, Government Printing Office as proposed by the Senate instead of $87,717,000 as proposed by the House. The conferees direct that the Office of Law Revision Counsel and GPO should seek to improve the utility of the CD-ROM version of the cumulative edition of the United States Code, such as inclusion of the parallel reference tables. This is particularly important because the funding request of $1.1 million to provide the traditional paper bound sets to depository libraries has not been provided. The conferees acknowledge that depository library priorities and needs may warrant some flexibility in managing the transition of cost-effective CD-ROM and other electric formats for certain publications. This may require the distribution of paper copies of the Code provided that the cost can be offset by other reductions to ensure that program resources are used most effectively.

TITLE II—OTHER AGENCIES

Botanic Garden

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

Amendment No. 13: Adds a heading as proposed by the Senate.

Amendment No. 14: Appropriates $3,230,000 and, in addition, $7,000,000 by transfer to remain available until expended as proposed by the Senate instead of $3,182,000 as proposed by the House. The $7,000,000 is provided to begin an extensive renovation of the conservatory and the funds are transferred from funds previously made available without fiscal year limitation under the heading "Architect of the Capitol".

Library of Congress

SALARIES AND EXPENSES

Amendment No. 15: Provides $210,164,000 for salaries and expenses, Library of Congress as proposed by the Senate instead of $207,857,000 as proposed by the House. Funds are provided in the event the Library of Congress police receive a salary adjustment under the terms of the first section of the Act entitled "An Act relating to the policing of the buildings and grounds of the Library of Congress", approved August 4, 1950 (2 U.S.C. 167), as amended by P.L. 100–135 (101 Stat. 811).

COPYRIGHT OFFICE

SALARIES AND EXPENSES

Amendment No. 16: Provides $27,456,000 for salaries and expenses, Copyright Office as proposed by the Senate instead of $27,186,000 as proposed by the House.

Amendment No. 17: Provides that $2,911,000 of the funds made available to the Copyright office shall be derived by collections under 17 U.S.C. 111(d)(2), 119(b)(2), 802(h), and 1005 as proposed by the Senate instead of $2,891,000 as proposed by the House.

Amendment No. 18: Provides that the total amount available to the Copyright Office shall be reduced by the amount collections are less than $17,411,000 as proposed by the Senate instead of $17,391,000 as proposed by the House.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

Amendment No. 19: Appropriates $44,951,000 for salaries and expenses, books for the blind and physically handicapped as proposed by the Senate instead of $44,622,000 as proposed by the House.

Amendment No. 20: Provides that $11,694,000 shall remain available until expended as proposed by the Senate instead of $10,896,000 as proposed by the House.

ARCHITECT OF THE CAPITOL

LIBRARY BUILDINGS AND GROUNDS

STRUCTURAL AND MECHANICAL CARE

Amendment No. 21: Appropriates $12,483,000 for structural and mechanical care, library buildings and grounds, Architect of the Capitol instead of $9,860,000 as proposed by the House and $13,483,000 as proposed by the Senate. The conferees have provided the funds for the COLA differential, locality pay, and $2,500,000 for the renovation of the Coolidge Auditorium and the Whittall Pavilion.

Amendment No. 22: Provides that $3,441,000 shall remain available until expended for structural and mechanical care instead of $941,000 as proposed by the House and $4,441,000 as proposed by the Senate.

GOVERNMENT PRINTING OFFICE

SUPERINTENDENT OF DOCUMENTS

Amendment No. 23: Appropriates $32,207,000 for Superintendent of Documents, Government Printing Office as proposed by the Senate instead of $30,600,000 as proposed by the House.

Amendment No. 24: Restores House bill language stricken by the Senate which provides that the objectives of the Government Printing Office Electronic Information Access Enhancement Act of 1993 shall be carried out through cost savings. The GPO is directed to submit in its fiscal year 1996 budget a description of program cost savings attributed to the funding of activities authorized under chapter 41 of title 44, United States Code.

GOVERNMENT PRINTING OFFICE

REVOLVING FUND

Amendment No. 25: Limits the full-time equivalent employment at the Government Printing Office to 4,293 instead of 4,193 as proposed by the House and 4,493 as proposed by the Senate.

Amendment No. 26: Amends language inserted by the Senate regarding the Federal printing procurement program. The conferees have agreed to amend the $1,000 threshold exemption to include a "class of work" exemption, which should facilitate the process and reduce paperwork, and have added "duplicating" to the current definition of printing for procurement purposes. The conferees did not agree to expand the scope to include funds "made available from any source" to the procurement requirements set out in Sec. 207. Several agencies have expressed concerns with expanding the scope in this manner, including the Federal Prison Industries and the Department of Defense. The conferees direct that the Government Printing Office work out memorandums of understanding with these agencies, and others who have similar circumstances, that will enable those agencies to conduct their printing procurement programs in a cost-effective manner, and to achieve the specific objectives of agency missions. If such memorandums of understanding are not agreed upon, the conferees intend to review the matter again and legislation may be necessary. On the issue of distribution of copies of documents to the depository libraries, the Senate amendment was designed to reduce the "fugitive document" problem. But it does that by more or less restating current law. The conferees believe that the problem isn't the law—the problem is *enforcement*. The Government Printing Office and the Joint Committee on Printing are in an ideal situation to help enforcement. GPO has a nationwide structure of procurement offices and printing plants. JCP has extensive connections with private printers, Federal printing executives, and the depositories. Instead of restating current law, JCP and GPO should be using their resources to ferret out the agencies and documents which are escaping the requirements of the depository law. Also, this amendment would create an unfair and unworkable situation by exposing low level Federal employees to violations of law where none are intended.

Finally, the conferees have agreed to incorporate "duplicating" within the definition of printing for procurement purposes. It should be noted this only applies in the case of procured printing. The conferees have not included the additional matter regarding "production of an image on paper or other substrate." That conceivably would encompass ADP output, CD-ROMs, video discs, and other material that fall within the Brooks Act or other statutes.

The conferees do not intend for this language to affect the internal printing or duplicating operations of the Federal Bureau of Investigation or any other law enforcement agencies in any way. Rather, this provision makes clear that procurement of printing and duplicating orders from sources external to the agency originating the procurement must be by or through the Government Printing Office. The current exceptions provided in section 207(a)(2) of Public Law 102–392 are retained.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

Amendment No. 27: Appropriates $443,360,000 as proposed by the Senate instead of $439,525,000 as proposed by the House.

Amendment No. 28: Provides that, notwithstanding 31 U.S.C. 9105, hereafter amounts reimbursed to the Comptroller General pursuant to that section shall be deposited to the appropriation of the General Accounting Office then available and shall remain available until expended, and not more than $6,000,000 of such funds shall be available for use in fiscal year 1995 for the sole purpose of asbestos removal and related renovation of the General Accounting Office Building, as proposed by the Senate.

TITLE III—GENERAL PROVISIONS

Amendment No. 29: Provides a date change in Public Law 101–302 regarding Senate artwork as proposed by the Senate.

Amendment No. 30: Provides that $2,015,000 shall be available to the Capitol Police Board under H. Con. Res. 550, from funds appropriated for Capitol Complex Security Enhancements, for the purchase and installation of magnetometers and x-ray machines. The Senate bill proposed that these funds be made available for the same purpose but did not cite the obligating authority. The conference agreement assigns that authority to the Capitol Police Board under the conditions of H. Con. Res. 550, agreed to in 1972, which established a funding mechanism for security equipment in the Capitol complex.

Amendment No. 31: Deletes language proposed by the Senate which provides that no funds appropriated in the 1995 Legislative Branch Appropriations Act may be used to carry out the provisions of sections 8335(d) or 8425(b), title 5, United States Code relating to the mandatory separation of a member of the Capitol Police. The Capitol Police Board is directed to review the statutory requirements, regulations, and practices of other Federal law enforcement agencies to ensure that the mandatory retirement regulations and practices of the Capitol Police are consistent with those of comparable organizations.

Amendment No. 32: Changes section number and provides that funds provided within certain appropriating paragraphs shall be withheld from obligation and shall only become available to the extent necessary to cover the costs of increases in pay and allowances authorized pursuant to the enactment of H.R. 4539, or pursuant to the pay order of the President or other administrative action pursuant to law as proposed by the Senate.

Amendment No. 33: Enacts the "Architect of the Capitol Human Resources Act" as proposed by the Senate, amended to exempt House of Representatives garage and parking lot attendants (including the Superintendent) with respect to whom supervision and all other employee-related matters are transferred to the House Sergeant at Arms, and also amended to include the Committees on Appropriations as recipients of the plan to be submitted, to simplify the procedure for consideration of alleged violations, and to enact conforming amendments. The House garage and lot attendants will be covered under the employment practice procedures that apply to House employees and exercise their rights pursuant to the provisions of Rule LI of the Rules of the House as if they were employees in employment positions in the House of Representatives.

The managers agree that the Architect of the Capitol (AOC) must take immediate action to correct pervasive and systemic management problems which led to numerous employee complaints of discrimination, harassment and unfair hiring and promotion practices. To address serious shortcomings in AOC personnel management systems, the managers have adopted the "Architect of the Capitol Human Resources Act" which is intended to codify those improvements which must be made within AOC. The legislation provides the Architect with one year to implement necessary reforms. The Architect has indicated that he already has in place, or intends to develop promptly: a position classification system, an office of Equal Employment Opportunity and an affirmative employment program, a training program, a career staffing plan including procedures for competitive hiring and promotion and a formal performance evaluation system. The managers understand that adoption of a formal performance evaluation system will require several months, both for the development of objective and accurate criteria for the many positions within AOC, and for the training of managers in carrying out evaluations. For this reason, the managers have agreed to the timeframe contained in the Act. However, the managers expect the Architect to adopt without delay those requirements under the Act that can be adopted now. The Architect has also established an Employee Assistance Program under the direction of a professional counselor. The managers suggest that the Architect work to restore employees' confidence that this program will be operated independently of the AOC personnel office and kept strictly confidential. The conferees agree that any cases relating to employees of the Architect now pending or on appeal pursuant to Public Law 102–166 should be disposed of through the procedures for resolving such matters specified in that Act.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1995 recommended by the Committee of Conference, with comparisons to the fiscal year 1994 amount, the 1995 budget estimates, and the House and Senate bills for 1995 follows:

New budget (obligational) authority, fiscal year 1994	$2,270,713,300
Budget estimates of new (obligational) authority, fiscal year 1995	2,509,703,500
House bill, fiscal year 1995	1,857,787,600
Senate bill, fiscal year 1995	2,368,796,100
Conference agreement, fiscal year 1995	2,367,421,100
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1994	+96,707,800
Budget estimates of new (obligational) authority, fiscal year 1995	−142,282,400
House bill, fiscal year 1995	+509,633,500
Senate bill, fiscal year 1995	−1,375,000

VIC FAZIO,
JAMES P. MORAN,
DAVID R. OBEY,
JOHN P. MURTHA,
BOB CARR,
MARTIN O. SABO,
BILL YOUNG,
RON PACKARD,
CHARLES H. TAYLOR,
JOSEPH M. MCDADE,
Managers on the Part of the House.

HARRY REID,
BARBARA A. MIKULSKI,
PATTY MURRAY,
ROBERT C. BYRD,
CONNIE MACK,
CONRAD BURNS,
MARK O. HATFIELD,
Managers on the Part of the Senate.

WAIVING CERTAIN POINTS OF ORDER AGAINST AND DURING CONSIDERATION OF H.R. 4624, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1995

Ms. SLAUGHTER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 465 and ask for its immediate consideration.

The Clerk read as follows:

H. RES. 465

Resolved, That during consideration of the bill (H.R. 4624) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995, and for other purposes, all points of order against provisions in the bill for failure to comply with clause 2 or 6 of rule XXI are waived. The amendment numbered 1 in the report of the Committee on Rules accompanying this resolution may be offered only by a Member designated in the report, may amend portions of the bill not yet read for amendment, shall be considered as read, shall be debatable for two hours equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. Points of order against the amendments printed in the report of the Committee on Rules for failure to comply with clause 2 of rule XXI are waived.

The SPEAKER pro tempore. The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER. Mr. Speaker, during consideration of this resolution, all time yielded is for the purpose of debate only. I yield the customary 30 minutes, for the purpose of debate only, to the gentleman from Florida [Mr. GOSS], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 465 is an open rule providing for the consideration of H.R. 4624, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development and for sundry independent agencies, boards, commissions, corporations and officers for fiscal year 1995.

Since general appropriations bills are privileged, the legislation will be considered under the normal legislative process for consideration of appropriations bills. The time devoted to general debate will be determined by an unanimous consent request. The bill will be open to amendment under the 5 minute rule. Any amendment which does not violate the rules of the House or is printed in the Rules Committee report will be in order.

The rule waives points of order under clause 2 and clause 6 of Rule XXI against all provisions of the bill. Clause 2 of Rule XXI prohibits unauthorized appropriations or legislative provisions in general appropriations bills. The Appropriations Subcommittee has requested this waiver because many housing, environmental, space, science, and emergency management programs covered by the bill lack authorizations. Clause 6 of Rule XXI prohibits reappropriating unexpended balances of appropriations in general appropriations bills.

The rule provides for Representative ROEMER to offer en bloc amendments on the space stations. The en block amendments, printed in the report to accompany the rule, shall be considered as read when offered, shall be debatable for 2 hours equally divided and controlled by the proponent and an opponent, are not subject to a demand for a division of the question, and may amend portions of the bill not yet read for amendment.

Finally, the rule waives clause 2 of Rule XXI, prohibiting unauthorized appropriations or legislative provisions in a general appropriations bill, against the amendments printed in the report.

Mr. Speaker, H.R. 4624 provides $70.4 billion in discretionary spending and $20.1 billion in mandatory spending in fiscal year 1995 for the activities of the Departments of Veterans Affairs and Housing and Urban Development and nineteen independent agencies and offices including the National Aeronautics and Space Administration, the Environmental Protection Agency, the Federal Deposit Insurance Corporation, and the National Science Foundation. This open rule will allow full and fair debate on the provisions of this important bill.

I ask my colleagues to support the rule so that we may proceed with consideration of the merits of this legislation.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am told that back in the good old days, it was a rare occasion when the House had to adopt a rule to provide for the consideration of an appropriations bill. The authorizing committees did their job, the appropriators did their job, and the full House did its job—all within the structure established by the rules of the House.

Now it is a rare occasion for an appropriation bill to be considered by the House without first adopting a rule. Why? Because almost every appropriation bill contains legislative provisions and/or provides unauthorized appropriations. And as my colleague from New York, Ms. SLAUGHTER, has explained, this bill is no exception.

When we asked for a list of those provisions which were not authorized in this VA–HUD appropriations bill, we, instead, received a list of those programs which were authorized because the list of unauthorized appropriations was too long. In fact, somewhere in the neighborhood of 95 percent of this bill is unauthorized. Part of that, of course, is the hearings on Whitewater RTC issues.

I certainly don't want to point the finger of blame, but I do want to make the point that this trend reinforces the urgent need for congressional reform legislation—which is hanging out there in limbo. We need to get the House back on the right track so that we can perform our legislative functions in a responsible, deliberative manner.

Still, I am pleased that we are considering this and most of this year's appropriations bills under an open amendment process. And I understand the rationale for allowing waivers for the amendment to be offered by Chairman STOKES and for the amendment to be offered by Mr. ROEMER and Mr. ZIMMER dealing with funding for the space station. Of course, I should note that I am opposed to the Roemer/ZIMMER amendment, which proposes to cut the space station for fiscal reasons but actually saves no money, because it allows the funds to be reallocated to other programs. I do, however, see the need to have this debate on the House floor and let Members work their will. In granting the necessary waivers for these amendments, the Rules Committee merely afforded the same privilege to members seeking to offer amendments that was granted to the committee in developing its bill. That's certainly fair. Mr. Speaker, I do understand the difficulties the appropriators faced in crafting this bill, and clearly there are not enough resources to go around. But I remain greatly concerned about the prioritization of veterans funds—with projects of great need apparently losing out to those of lesser immediate need but perhaps of more political merit. I am especially troubled by the sometimes not-so-subtle pressure that's being brought on Members with serious veterans needs—as Members are told that all veterans projects are tied up in passage of the President's health care bill. In my opinion, the needs of people who risked their lives for our country should not be held hostage to a political struggle. Mr. Speaker, I will not oppose this rule.

□ 2240

Mr. Speaker, I have no further requests for time and yield back the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MORAN). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid upon the table.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, June 10, 1994, and under a previous order of the House, the following Members are recognized for 5 minutes each.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. GOSS) to revise and extend his remarks and include extraneous material:)

Mr. MICHEL, for 5 minutes each day, on today, June 29, and June 30.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GOSS) and to include extraneous matter:)

Mr. GILMAN in three instances.
Mr. GUNDERSON.
Mr. YOUNG of Alaska.
Mr. EWING.
Mr. LAZIO.
Mr. MCCOLLUM.
Mr. KLUG.
Mr. COMBEST.
Mr. HYDE.
Mr. CRAPO.
Mr. BOEHLERT.
Mr. SOLOMON.
Mr. HUNTER.
Mr. SMITH of New Jersey.
Mr. DUNCAN.
Mrs. MORELLA in three instances.
Ms. PRYCE of Ohio.
Mr. GINGRICH.

(The following Members (at the request of Mr. OLVER) and to include extraneous matter:)

Mr. LANTOS.
Mr. TOWNS in six instances.
Mr. SAWYER.
Mr. OBEY.
Mr. KENNEDY.
Mr. FRANK of Massachusetts.
Mr. UNDERWOOD.
Mrs. KENNELLY.
Mr. STARK in three instances.
Mr. FROST.
Mr. SCHUMER.
Mr. DOOLEY.
Mr. NEAL of Massachusetts.
Mr. MONTGOMERY.
Mr. ANDREWS of New Jersey.
Ms. SLAUGHTER.
Mr. VISCLOSKY.
Ms. SHEPHERD.
Mr. HINCHEY.
Mr. BARCIA.
Ms. PELOSI.
Mr. FAZIO.
Mr. GEJDENSON.
Mr. GEPHARDT.
Mr. LANCASTER.

ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2559. An act to designate the Federal building located at 601 East 12th Street in Kansas City, Missouri, as the "Richard Bolling Federal Building" and the United States Courthouse located at Ninth and Locust Streets, in Kansas City, Missouri, as the "Charles Evans Whittaker United States Courthouse."

ADJOURNMENT

Mr. BARLOW. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 46 minutes p.m.), the House adjourned until Wednesday, June 29, 1994, at 10 a.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GORDON: Committee on Rules. House Resolution 466. Resolution waiving certain points of order against the bill (H.R. 4649) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1995, and for other purposes (Rept. 103–564). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 467. Resolution providing for consideration of the bill (H.R. 4600) to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority (Rept. 103–565). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 468. Resolution providing for consideration of the bill (H.R. 4299) to authorize appropriations for fiscal year 1995 for intelligence, and intelligence-related activities of the U.S. Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. 103–566). Referred to the House Calendar.

Mr. FAZIO: Committee of Conference. Conference report on H.R. 4454. A bill making appropriations for the legislative branch for the fiscal year ending September 30, 1995, and for other purposes (Rept. 103–567). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 or rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SMITH of New Jersey (for himself, Mr. ZIMMER, and Mr. SAXTON):

H.R. 4661. A bill to establish congressional findings and amend the Solid Waste Disposal Act to provide congressional authorization of State control over transportation and disposal of municipal solid waste, and for other purposes; to the Committee on Energy and Commerce.

H.R. 4662. A bill to amend the Solid Waste Disposal Act to provide congressional authorization of State control over transportation and disposal of municipal solid waste, and for other purposes; to the Committee on Energy and Commerce.

By Mr. HAMILTON:

H.R. 4663. A bill to provide authority to control exports, and for other purposes; to the Committee on Foreign Affairs.

By Mr. HUTTO (for himself and Mr. PETERSON of Florida):

H.R. 4664. A bill to amend the Tariff Act of 1930 to provide relief from antidumping and countervailing duty orders in cases of short supply; to the Committee on Ways and Means.

By Mr. YOUNG of Alaska:

H.R. 4665. A bill to amend the Alaska Native Claims Settlement Act, and for other purposes; to the Committee on Natural Resources.

By Mr. ANDREWS of Maine:

H.R. 4666. A bill to amend title 46, United States Code, to prohibit overhaul, repair, and maintenance of Coast Guard vessels in foreign shipyards; to the Committee on Merchant Marine and Fisheries.

By Mr. ANDREWS of New Jersey (for himself, Mr. WELDON, and Mr. KOLBE):

H.R. 4667. A bill to allow State and local governments to design their own programs for moving welfare recipients from dependency to economic self-sufficiency, and to allow low-income individuals to use personal savings as a foundation for achieving independence; jointly, to the Committees on Ways and Means, Banking, Finance and Urban Affairs, Agriculture, Energy and Commerce, and Education and Labor.

By Mr. HUGHES (for himself and Mr. PALLONE):

H.R. 4668. A bill to make improvements in the protection of coastal waters, enhance implementation of the Marine Plastic Pollution Research and Control Act of 1987, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. SANDERS (for himself, Mr. ANDREWS of Maine, Ms. COLLINS of Michigan, Mr. DEFAZIO, Mr. DELLUMS, Mr. ENGEL, Mr. FOGLIETTA, Mr. GONZALEZ, Mr. GUTIERREZ, Mr. HINCHEY, Mr. JOHNSTON of Florida, Mrs. KENNELLY, Mr. KLECZKA, Mrs. MINK of Hawaii, Mr. MORAN, Mr. NADLER, Mr. OBERSTAR, Mr. OBEY, Mr. OLVER, Mr. OWENS, Mrs. UNSOELD, Mrs. SCHROEDER, Mr. SHAYS, Ms. VELAZQUEZ, Mr. VENTO, Mr. WASHINGTON, and Mr. YATES):

H.R. 4669. A bill to amend the Federal Food, Drug, and Cosmetic Act to require labeling for milk and milk products produced from cows which have been treated with synthetic bovine growth hormone, to direct the development of a synthetic bovine growth hormone residue test, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SANGMEISTER (by request):

H.R. 4670. A bill to amend title 38, United States Code, to provide an increase in the specially adapted housing grant; to the Committee on Veterans' Affairs.

H.R. 4671. A bill to amend title 38, United States Code, to provide direct loans and set asides for disabled veterans; to the Committee on Veterans' Affairs.

By Mr. GEJDENSON:

H. Con. Res. 262. Concurrent resolution to express the sense of the Congress that marinas should not be treated as offshore facilities for purposes of financial responsibility requirements of the Oil Pollution Act of 1990; jointly, to the Committees on Merchant Marine and Fisheries and Public Works and Transportation.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. CARR introduced a bill (H.R. 4672) to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade and on the Great Lakes and their tributary and connecting waters in trade with Canada for each of 3 barges; to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 123: Mr. MCDADE, Mr. LUCAS, Mr. KANJORSKI, and Mr. NUSSLE.

H.R. 349: Mr. BARRETT of Nebraska.

H.R. 404: Mr. GRANDY.

H.R. 431: Mr. MARKEY.

H.R. 642: Mr. OLVER.

H.R. 702: Ms. BROWN of Florida and Mr. MANN.

H.R. 1475: Mr. GRANDY.

H.R. 1673: Mr. SHAYS.

H.R. 1722: Mr. MINETA.

H.R. 1900: Mr. SKELTON.

H.R. 2873: Mr. KIM, Mr. ANDREWS of New Jersey, and Mr. COLLINS of Georgia.

H.R. 2967: Mr. BEILENSON and Mr. OBERSTAR.

H.R. 3121: Mr. MONTGOMERY, Mr. CLINGER, and Mr. RIDGE.

H.R. 3271: Mr. MOORHEAD.

H.R. 3288: Mr. SWETT.

H.R. 3293: Mr. MCCRERY.

H.R. 3434: Mr. GUTIERREZ and Mr. VENTO.

H.R. 3446: Mr. ARCHER.

H.R. 3526: Mr. DE LUGO, Mr. NEAL of Massachusetts, Ms. SHEPHERD, Mr. ENGEL, Mr. HAMBURG, Mr. GEJDENSON, Mr. VENTO, Mr. MARTINEZ, Mr. BURTON of Indiana, Mr. STUDDS, Mr. MOORHEAD, Mr. COYNE, and Mr. KLEIN.

H.R. 3580: Mr. BLUTE.

H.R. 3611: Mr. CONDIT.

H.R. 3630: Mr. THOMPSON, Ms. FURSE, and Mr. VENTO.

H.R. 3797: Mr. ROYCE, Mr. THOMAS of Wyoming, Mr. CRAPO, and Mr. EMERSON.

H.R. 3873: Mr. MARTINEZ, Ms. WATERS, and Mr. YATES.

H.R. 3880: Mr. DELAY.

H.R. 4040: Mr. FILNER and Mrs. UNSOELD.

H.R. 4162: Mr. INSLEE.

H.R. 4198: Mr. BALLENGER.

H.R. 4233: Mr. BONILLA and Mrs. THURMAN.

H.R. 4251: Mr. PAYNE of Virginia.

H.R. 4271: Mr. MANN.

H.R. 4281: Mr. MCHUGH and Mr. STRICKLAND.

H.R. 4314: Mr. SANDERS.

H.R. 4386: Mr. STUPAK, Mr. SHAYS, Mr. SPENCE, Ms. KAPTUR, Mrs. MALONEY, Mr. WASHINGTON, and Mr. MINETA.

H.R. 4388: Mr. BEREUTER.

H.R. 4412: Mr. BONILLA.

H.R. 4493: Mr. BARRETT of Wisconsin.

H.R. 4514: Mr. OLVER and Mr. GALLEGLY.

H.R. 4589: Mr. CASTLE.

H.R. 4592: Mr. DELAY and Mr. INGLIS of South Carolina.

H.R. 4605: Mr. LAFALCE.

H.J. Res. 38: Mr. SCHAEFER.

H.J. Res. 356: Mr. MCNULTY and Mr. BLACKWELL.

H.J. Res. 378: Mr. SISISKY, Mr. BEVILL, Mr. KING, Mr. LIVINGSTON, Mr. PETE GEREN of Texas, Mr. DICKS, Mr. SMITH of New Jersey, Mr. STUPAK, Mr. WILSON, Mrs. MORELLA, Mr. FLAKE, Mr. MINETA, and Mr. WASHINGTON.

H. Con. Res. 148: Mr. KLUG and Mr. FAWELL.

H. Con Res. 166: Mr. WELDON, Mrs. UNSOELD, and Mr. SUNDQUIST.

H. Con. Res. 233: Mr. MINETA, Mr. MORAN, Ms. MCKINNEY, Mr. HAMBURG, Mr. DICKS, Mr. CONYERS, Mr. PICKLE, Mr. SCHUMER, Mr. FOGLIETTA, Mr. LAUGHLIN, Mr. BLUTE, and Mr. SAWYER.

H. Con. Res. 243: Mr. STEARNS and Mr. MCCOLLUM.

H. Con. Res. 255: Mrs. MALONEY, Mr. NEAL of Massachusetts, and Mr. ROSE.

H. Res. 291: Mr. YOUNG of Alaska.

H. Res. 463: Ms. SHEPHERD.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4624

By Mr. ROEMER:

—Page 56, line 16, strike "$5,592,900,000" and insert "$4,653,200,000".

—Page 57, line 4, strike "$5,901,200,000" and insert "$6,727,587,000".

—Page 57, line 25, strike "$2,549,587,000" and insert "$2,662,900,000".

—Page 60, after line 12, insert the following:

None of the funds made available in this Act to the National Aeronautics and Space Administration may be used for the space station program.

H.R. 4650

By Mr. EHLERS:

—Page 107, after line 4, insert the following new section:

SEC. 8121. None of the funds made available in this Act may be used by the Department of Defense to sell any surplus mercury.

EXTENSIONS OF REMARKS

SENSE OF THE CONGRESS RESOLUTION

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. GEJDENSON. Mr. Speaker, today I am introducing a sense of the Congress resolution relating to the Oil Pollution Act of 1990. My resolution states that marinas should not be classified as offshore facilities for the purpose of guaranteeing financial responsibility under the act.

Section 1016 of the Oil Pollution Act requires offshore facilities which could pollute the navigable waters of the United States to demonstrate $150 million in financial responsibility to cover the costs of comprehensive environmental restoration in the event of an oil spill. As my colleagues know, the act was passed in large part as a response to the *Exxon Valdez* spill which released 11 million gallons of crude oil into Prince William Sound in Alaska. This was the Nation's worst oil spill ever and its ramifications continue to be felt today in abnormally low fish harvests and ongoing legal battles between fishermen, residents, native groups, and Exxon. It is entirely appropriate to require that major corporations which transport and handle large quantities of heavy oil products to have $150 million in financial backing to cover cleanups.

However, large multimillion dollar corporations are not the only ones which would have to comply with this section. The Minerals Management Service [MMS], which is writing the regulations to enforce section 1016, has so broadly defined offshore facilities that marinas coast to coast would be covered by this provision. Moreover, it would apply to marinas in any navigable waters of the United States. In an advanced notice of proposed rulemaking, the MMS would require marinas, which are overwhelmingly small businesses, to secure a letter of credit, self-insure, or obtain an insurance policy worth $150 million. I think it goes without saying that this would place an unfair and unwarranted burden on marinas, and ultimately, on the boating public.

Congress didn't intend for this section to apply to marinas. Marinas do not pose the threat the Oil Pollution Act was passed to address. Marinas handle gasoline and diesel fuel only and fuel spills are infrequent. According to the Coast Guard, there were 64 fuel spills with a volume of 9,642 gallons nationwide in fiscal year 1993. Moreover, while I would rather spills never occurred, small fuel spills do not have the long-term negative environmental impacts of heavy oil spills. The bottom line is that our Nation's marinas do not pose an environmental threat warranting this level of coverage.

As I mentioned above, the vast majority of marinas are small, family-run businesses. According to the National Association of Marine Manufacturers [NAMM], 68 percent of marinas have fewer than 100 slips and 87 percent have fewer than 200 slips. These businesses do not have the capital to self-insure or secure letters of credit for $150 million. Moreover, according to NAMM insurance policies for this amount are not available for this purpose. In fact, it appears that marinas would not be able to secure any of the forms of financial responsibility enumerated in the MMS proposal. If they are unable to comply with these regulations, they will be forced to discontinue fuel sales. This will adversely impact their businesses as well as millions of boaters who fuel their boats safely and conveniently where they dock their craft.

Mr. Speaker, my resolution would provide relief to marinas by expressing the sense of Congress that marinas should not be classified as offshore facilities. It is clear to most that they are onshore facilities and should be treated as such. By passing this resolution, Congress can send a clear signal to the MMS that marinas are not offshore facilities and they should not be covered by section 1016. This measure does not reopen the Oil Pollution Act and it will not undermine environmental protection. It will provide relief to many small businesses and ensure that millions of recreational boaters will have convenient and safe sites to fuel their boats. I urge my colleagues to support this resolution.

TRIBUTE TO PERCY ALLEN II

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. TOWNS. Mr. Speaker, I would like to bring to the attention of my colleagues, the outstanding work done by a leader in my congressional district, Percy Allen II.

Mr. Allen and I share a deep interest in health care. Mr. Allen has made a career as a health care provider. It is a special honor to recognize this man because of his contributions to the greater Brooklyn community.

Percy Allen II was born on April 7, 1941. In 1973 he received a B.A. from Oakland University and later received his M.P.A. from Cornell University Graduate School of Business and the Sloan Program of Hospital and Health Services in 1975.

Since 1975 he has worked on the administrative staff of several hospitals. In 1975 after graduating, he worked as a senior assistant administrator at Parkview Memorial Hospital in Fort Wayne, IN. In 1982 he served as vice president for administration at Sinai Hospital of Detroit, in Detroit, MI. In 1987 he came to New York and accepted the position of assistant vice president of hospital operations at Harlem Hospital. Between 1987 and 1989 Mr. Allen quickly moved up the administrative levels of the hospital. Currently he is employed as the vice president for hospital affairs and chief executive officer at the University Hospital of Brooklyn.

His résumé personifies service to the community and symbolizes he has worked hard to improve the health conditions of not only residents in my district, but residents throughout New York City. I rise today to honor Mr. Percy Allen's achievements as a health care administrator.

IN MEMORY OF THOSE WHO FOUGHT FOR FREEDOM

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. STARK. Mr. Speaker, I join my colleagues in honoring the memory of three courageous civil rights pioneers: Andrew Goodman, Mickey Schwerner, and James Chaney. These martyrs tried to register disenfranchised black Americans. By expanding our democracy, these three men brought to our Government the thoughts and ideas of people whose individual rights and liberties had been trampled for generations. The deaths of these crusaders serve as a vivid reminder of how poorly we treated a 10th of our people.

Andrew Goodman, James Chaney, and Mickey Schwerner worked to include in our Government people who had been ignored and set aside. By trying to unite our country they ran into those who wanted to discriminate and ended up paying the ultimate price. They should be remembered because their struggles and achievements are responsible for making our country more peaceful and democratic for everybody, not just black Americans.

TRIBUTE TO SUZANNA G. BRUGLER

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. GILLMOR. Mr. Speaker, I would like to take this opportunity to recognize an exceptional young woman from my district who has recently accepted her appointment as a member of the class of 1998 at the U.S. Naval Academy.

Suzanna Brugler graduated Defiance High School in 1993 after 4 years of outstanding academic achievement as well as extracurricular involvement. While in high school Suzanna distinguished herself as a leader among her peers. She was an honor roll student and captain of the swimming team. In addition, she was a member of the National

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Honor Society and the high school band. This past year, she has been attending the Perkiomen School in Pennsburg, PA.

Mr. Speaker, one of the most important responsibilities of Members of Congress is to identify outstanding young men and women and to nominate them for admission to the U.S. service academies. While at the Academy, they will be the beneficiaries of one of the finest educations available, so that in the future they might be entrusted with the very security of our Nation.

I am confident that Suzanna has both the ability and the desire to meet this challenge. I ask my colleagues to join me in congratulating her for her accomplishments to date and to wish her the very best as she begins her career in service to our country.

TRIBUTE TO ETHEL STEINBERG

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. SCHUMER. Mr. Speaker, one of the pleasures of serving in this legislative body is the opportunity we occasionally get to publicly acknowledge outstanding individuals of our Nation. I rise today to recognize one such individual, Ethel Steinberg, and to add my words to those of friends and colleagues who will be giving a testimonial in her honor on June 27, 1994.

In her years as a special education teacher and supervisor she was a leader in mainstreaming special education children so that they too could be prepared for the future. It is clear that she understands the value of investing in this country's most precious resource, our children.

We must never forget nor underestimate the contribution educators make to the lives of our children and to the health of our community. It is an honor to be given the opportunity to thank an individual who has dedicated her life to educating and fostering understanding and acceptance among our children. As she begins her retirement, I know that her time will be well spent with her husband, Sid, her children, Roy and Cindy, and her five grandchildren; but I also know that her presence in district 15 will be sorely missed.

I'm sure I speak on behalf of many members of the community who have either worked with Ethel, or have experienced the benefits of her hard work when I thank this remarkable individual.

SIGN DISCHARGE PETITION NO. 19

HON. THOMAS W. EWING

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. EWING. Mr. Speaker, I want to bring to the attention of my colleagues a letter which many of them have received asking them to sign Discharge Petition No. 19.

The letter is signed by 57 small business trade associations representing hundreds of thousands of small businesses in dozens of industries throughout the country. These associations, representing everything from roofers to florists to glassmakers, have come together because they all have one common interest. They are all affected by excessive Federal regulations written by Washington, DC, bureaucrats who do not have an adequate understanding of the small businesses they regulate.

Discharge Petition No. 19 would discharge an open rule for the consideration of H.R. 830, the Regulatory Flexibility Amendments Act of 1993. The Regulatory Flexibility Act [RFA] became law in 1980 and was designed to require Federal regulators to examine the potential impact of new regulations on small businesses and take steps to minimize that impact. However, because judicial review of the RFA was expressly prohibited, many Federal regulators view their compliance as voluntary and have virtually ignored the Act. H.R. 830 would put some "teeth" into the RFA by allowing judicial review and otherwise strengthening the Act.

Mr. Speaker, H.R. 830 has 252 bipartisan cosponsors, well over half the House. Both the ranking member and the chairman of the House Committee on Small Business have been steadfast supporters of H.R. 830.

Judicial review of the RFA is not only supported by a majority of the House and by small business groups, it is also strongly supported by Vice President GORE'S National Performance Review [NPR]. As part of their effort to make Government more responsive to it's customers," the NPR studies how the RFA might make Federal regulations more responsive to the special circumstances of small businesses. After a great deal of study, the NPR concluded that judicial review was essential, and made this its No. 1 recommendation for the U.S. Small Business Administration.

Despite strong support from a majority of the House of Representatives, from Vice President GORE, and from virtually all small business organizations, this important legislation has been held hostage in subcommittee. While one hearing was held on the bill last fall, the chairman of the subcommittee with jurisdiction over H.R. 830 has refused to take any further action on the bill.

I urge my colleagues who have cosponsored H.R. 830 to demonstrate their continued support for this important regulatory reform legislation by signing Discharge Petition No. 19. Your small business constituents will thank you.

REG FLEX COALITION,
JUNE 24, 1994.

DEAR REPRESENTATIVE: Because you are a cosponsor of H.R. 830, the Regulatory Flexibility Amendments Act of 1993, we are writing to ask that you sign Discharge Petition #19, which would discharge H. Res. 415, an open rule for the consideration of H.R. 830.

Small businesses and local governments have seen the level of federal regulation increase dramatically in recent years. While many federal regulations are meant to protect public health and safety, we believe that federal agencies have not taken adequate steps to find ways to minimize the impact of regulations on small businesses and governments. H.R. 830 can help solve this problem.

The Regulatory Flexibility Act (RFA) was designed to address the fact that regulations disproportionately affect small businesses and small governmental entities. The RFA requires federal agencies to study the impact that regulations may have on small entities and find ways to minimize those effects. However, because the Act does not allow judicial review of agency compliance, most federal agencies have ignored the Act for the past fourteen years. H.R. 830 would give the RFA the "teeth" it needs by allowing judicial review.

Legislation to provide judicial review of the RFA is strongly supported by the small business community and small local governments, and we are pleased that over 250 House members have cosponsored H.R. 830. Federal regulatory agencies have ignored this important common-sense act for too long, and we believe the time to take action to strengthen the RFA is now.

Vice President Gore's National Performance Review (NPR) examined agency compliance with the RFA. After a careful study, the NPR concluded that judicial review of the RFA was necessary, and made this its number one recommendation for the Small Business Administration.

Throughout the fourteen years since the RFA became law, the House and Senate Small Business Committees have held oversight hearings on RFA implementation. Each of these hearings has led us to the conclusion that the only way to force regulatory agencies to start complying with this important law is to provide for judicial review.

You have already indicated your support for strengthening the RFA by cosponsoring H.R. 830. We ask that you continue support by signing Discharge Petition #19, so that this legislation may be debated and voted on by the full House.

Your small business and local governmment constituents will thank you for your support. If you have any questions, please contact Eric Nicoll in Representative Tom Ewing's office at 225-2371.

Sincerely,

Air Conditioning Contractors of America.

American Association of Nurserymen.

American Boiler Manufacturers Association.

American Portland Cement Alliance.

American Road & Transportation Builders Association.

American Small Business Association.

American Subcontractors Association.

American Trucking Associations.

Associated Builders and Contractors.

Associated General Contractors of America.

Associated Landscape Contractors of America.

Associated Specialty Contractors.

Automotive Parts & Accessories Association.

Automotive Parts Rebuilders Association.

Automotive Warehouse Distributors Association.

Business Advertising Council, Inc.

Council of Fleet Specialists.

Florist's Transworld Delivery Association.

Independent Business Association of Illinois.

Independent Electrical Contractors, Inc.

International Council of Shopping Centers.

International Dairy Foods Association.

Mason Contractors Association of America.

Mechanical Contractors Association of America.

National Aggregates Association.

National Association for the Self-Employed.

National Association of Manufacturers.

National Association of Plumbing, Heating and Cooling Contractors.
National Association of the Remodeling Industry.
National Association of Towns and Townships.
National Association of Wholesaler-Distributors.
National Electrical Contractors Association.
National Electrical Manufacturers Association.
National Federation of Independent Business.
National Glass Association.
National Insulation and Abatement Contractors Association.
National Pest Control Association.
National Ready Mixed Concrete Association.
National Restaurant Association.
National Roofing Contractors Association.
National Small Business United.
National Society of Public Accountants.
National Stone Association.
National Tooling and Machining Association.
National Utility Contractors Association.
Northeast Texas Nursery Growers.
Painting and Decorating Contractors of America.
Professional Lawn Care Association of America.
Resilient Floor Covering Institute.
Sheet Metal & Air Conditioning Contractors' National Association.
Smmall Business Exporters Association.
Small Business Legislative Council.
Society of American Florists.
Texas Association of Nurserymen.
The Refractories Institute.
The Society of the Plastics Industry, Inc.
U.S. Chamber of Commmerce.

TRIBUTE TO JEFFERYSON ALEXANDER BARNES

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. TOWNS. Mr. Speaker, "Jeff" Barnes was born on November 11, 1945, in Kingston, Jamaica. He attended Kingston College and began his broadcasting career at the Jamaica Broadcasting Corp. [JBC] in 1964. He was recognized nationally in 1965 as a television and radio broadcaster. In 1964 and 1965 he was the national champion in the Jamaica festival speech competition. He later worked at Radio Jamaica until 1967 when he returned to the JBC and became a nationally recognized radio and television broadcaster.

In 1971 Jeff came to the United States and attended Pace University; however, he changed his major and matriculated at New York Institute of Technology. In 1976 he received a bachelor of fine arts.

Jeff quickly found his way back into broadcast communications and in 1972 he became an air personality on WWRL radio in Queens. In 1981 Jeff worked briefly at WHBI which is now WNWK. Later in 1981 he accepted his current position at WLIB. Mr. Barnes has a community-oriented program called "Positive Personality" and is known throughout New York City as a popular air-personality.

Mr. Barnes has been able to balance a career in law and in communications. He attended Brooklyn Law School and graduated in 1982 receiving a doctor of jurisprudence [J.D.]. In addition to working on the radio show he also has a law practice in the Bronx.

Mr. Barnes is married to Ethel McQueen and they have two sons. I rise to honor Mr. Jefferyson Alexander Barnes for his shining example as a pillar in the Brooklyn community.

WELCOMING PARTICIPANTS OF THE ULSTER PROJECT TO ARLINGTON, TX

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. FROST. Mr. Speaker, I would like to acknowledge the Ulster Project, a most admirable program established to foster peace and understanding in a land where peace and understanding are so desperately needed.

The Ulster Project brings teenagers from Northern Ireland to the United States for 1 month in order to promote harmony and mutual cooperation. The group is composed of teenagers of both the Catholic and Protestant faiths. Each Irish teenager is placed with a host American family in which a teenager with similar interests resides. The hope is that while here, the teenagers will observe the peaceful interaction of American teenagers of different faiths. They can then take those positive experiences back to Ireland when they return.

Living in Arlington, TX, this summer are the following teenagers, listed with their hometowns: Michael Brendan Bell, Bangor; Seana Boyle, Bangor; Colin Braniff, Newtonards, Elaine Caughey, Newtonards; Elizabeth Carwford, Newtonards; Alastair Lindsey Demick, Newtonabbey; Andrew Kerr, Glengormley; George Kidd, Newtonabbey; Darragh Lewis, Carryduff; Janine Lyttle, Templepatrick; Robert McElhinney, Newtonabbey; Siobban Claire McElory, Holywood; Paul Milne, Ballygowan; Naomi Reid, Glengormley; Linsey Anne Robinson, Belfast; and Hilary Roberta Smyal, Glengormley. Mary Gallagher and Martin McKenna, both of Belfast, are the counselors accompanying the teenagers on this trip.

Again, I commend this project as a sincere effort to bring about a peaceful solution to a violent problem that has lasted much too long. The progress that Ulster has made, and will continue to make, is an encouraging example of the positive changes people can make when they learn the importance of working with, rather than against, one another.

CONGRATULATING LAWRENCE PENDON, GUAM'S ART CONTEST WINNER

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. UNDERWOOD. Mr. Speaker, as you and many of our colleagues may have already noticed, the subway to the Capitol has been given new life due to the displays generated by this year's art competition. Already in its 13th year, the Congressional Arts Caucus, as always, yielded some of the best work produced by the youth of America. Through this collection of artworks, we gain insights regarding our youth's abilities, perceptions, and aspirations. We must also bear in mind that through these subtle hints given by our youth—our Nation's lifeblood—we could foresee the path that our country's destiny will take in the future. I am glad to say that, after examining this year's artworks, we see a bright and optimistic picture.

Guam's entry this year was submitted by Lawrence Pendon. Soon to be entering his senior year, Lawrence hopes to receive a scholarship and major in art at the Los Angeles University of Arts and Crafts. Encouraged by his teacher to join the competition, Guam's budding artist emphasized the theme of "Progress through Education" in his painting. His collection of figures shows the educational process from the very basics interwoven with island culture. The obvious results: beauty, harmony, success, and happiness.

I would like to congratulate Lawrence, his mother, Rose Pendon, his art teacher, Mrs. Zucker, and all of America's young artists for their commendable efforts, brilliant imagination, and admirable skills. I would also like to urge them to keep up the good work knowing that this Nation expects nothing less of them.

IN HONOR OF MEGAN M. MOORE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. STARK. Mr. Speaker, today I would like to take a few minutes to recognize Miss Megan Moore's outstanding academic accomplishments, culminating in her selection as 1 of the 120 presidential scholars for 1994.

Through the years, Megan has distinguished herself as an stellar student and committed community volunteer. Her academic activities have ranged from attending the 1993 Research Science Institute at MIT, where she wrote a treatise on the population dynamics of topologically distributed systems, to cultural exchanges in Japan and France. Megan has been recognized with scholarships among various departments of her high school in areas such as social studies and science. In 1993, she was accepted to UC Berkeley's Accelerated High School Student Program and was a finalist in the Telluride Association Summer Program.

Her talents also include the field of music, where she has established herself as a principal cellist in the Youth Orchestra of Southern Alameda County and as a student at the San Francisco Conservatory of Music.

She also has a gift for sports. She has set records within her swimming league for the 50-yard breaststroke, 50-yard backstroke, and 100-yard individual medley. She has excelled in cross-country running, competing in regional and State championships.

Megan has worked equally hard to give back to her community. In the summer of

1991, she served as a volunteer at a local public library; from 1991 to 1992 she served in a local animal shelter, and during 1992–93 she volunteered at Kaiser Hospital in Walnut Creek, CA in the maternity and emergency room departments.

On July 1, 1994, Megan will be honored at an afternoon ceremony for the presidential scholars and their teachers at the White House, during which President Clinton will present her and her colleagues with medallions signifying their accomplishments. I would like to join with those who have recognized Megan for her lifelong commitment academic study and community service and her outstanding abilities as artist and athlete.

Megan will be attending Williams College this fall and will be missed by all of her friends and advisers that she leaves behind. I wish her much happiness and success in all of her future endeavors.

A TRIBUTE TO JIM GANULIN

HON. CALVIN M. DOOLEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. DOOLEY. Mr. Speaker, I rise today to recognize and honor Jim Ganulin, a personal friend of mine and a man whose efforts have been crucial in making the San Joaquin Valley the most fertile agricultural land on Earth. Jim is retiring July 14 after 28 years of service to the Westlands Water District.

For the past 17 years, Jim has been general counsel to Westlands, and has also served as assistant general manager to the district, a district which about equals the State of Rhode Island in area.

Jim joined Westlands when it was still in its formative stages and helped build it into one of the largest water-delivery systems in the world.

He was a key participant in the negotiations that led to the Reclamation Reform Act of 1982 and the subsequent development of acreage limitation rules and regulations, and has since participated in a number of legislative activities, including most recently, negotiations for the Central Valley project Improvement Act of 1992.

Jim has ably represented Westlands in numerous contractural and legal negotiations with the United States. His most memorable case was, perhaps, the Barcellos case, which resulted in the reaffirmation of Westlands' contract with the United States.

He has also served the district by serving on the board of directors of the Association of California Water Agencies and on the resolution committee of the National Water Resources Association.

He served his country ably, retiring as a lieutenant colonel in the Air National Guard after 20 years of service.

He has also served his community as a member of the board of directors of St. Agnes Hospital in Fresno, CA, and as a member of the Fresno Rotary.

Jim Ganulin has spent the past 28 years earning our respect in his work. He is equally deserving of our respect in his retirement. Mr. Speaker, please join me and my colleagues in recognizing Jim Ganulin.

TRIBUTE TO CHAD L. LAUBENTHAL

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. GILLMOR. Mr. Speaker, I would like to take this opportunity to recognize an exceptional young man from my district who has recently accepted his appointment as a member of the Class of 1998 at the U.S. Air Force Academy.

Chad L. Laubenthal graduated Ottawa-Glandorf High School after 4 years of outstanding academic achievement as well as extracurricular involvement. While in high school Chad distinguished himself as a leader among his peers. This past year, he has been attending the New Mexico Military Institute in Roswell, NM.

Mr. Speaker, one of the most important responsibilities of Members of Congress is to identify outstanding young men and women and to nominate them for admission to the U.S. service academies. While at the Academy, they will be the beneficiaries of one of the finest educations available, so that in the future they might be entrusted with the very security of our Nation.

I am confident that Chad has both the ability and the desire to meet this challenge. I ask my colleagues to join me in congratulating him for his accomplishments to date and to wish him the very best as he begins his career in service to our country.

TRIBUTE TO RICHARD B. WAIT

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. TOWNS. Mr. Speaker, I would like to bring to the attention of my colleagues the outstanding work done by a leader in my congressional district, Dr. Richard B. Wait.

Dr. Wait was raised in Montclair, NJ. He went to St. Lawrence University in Canton, NY, and received his B.S. After receiving his undergraduate degree he went to the University of Vermont for 12 years and earned his M.D. and Ph.D. While in Vermont, Dr. Wait completed his surgical training at the Medical Center Hospital of Vermont.

In 1983, Dr. Wait came to Brooklyn as an attending surgeon at Kings County Hospital Center and assistant professor of surgery at the State University of New York Health Science Center at Brooklyn. Within a few years he moved up to active director of surgical research, chief of surgical oncology and associate residency program director. He was named professor of surgery at SUNY Health Science Center as well as chief of surgery at King's County Hospital.

Throughout the years Dr. Wait has been the recipient of several research grants from the National Institutes of Health. Dr. Wait has authored scientific articles in the leading medical journals, in addition, his work is included in various book chapters.

Currently, he is the president of the Brooklyn Surgical Society and the University Physicians of Brooklyn. In addition, Dr. Wait has received his certification from the Fellow of the Americans College of Surgeons.

Dr. Wait and his wife Mary have been married for 22 years and have three children. I would like to acknowledge the significant medical contributions of Dr. Richard B. Wait to the Brooklyn community.

TRIBUTE TO RICHARD GLOVSKY

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. FRANK of Massachusetts. Mr. Speaker, in the February/March issue of Frontline, the newsletter of the Anti-Defamation League, a profile appeared describing the extraordinary work that Richard Glovsky has done on behalf of the principles of an America in which all of us are judged on our merits, and which prejudice of various sorts does not poison our lives. Dick Glovsky, as the article demonstrates, has had a long career in a fairly short time on behalf of a variety of good causes. As the immediate past chairman of the New England Regional Board of the ADL, Dick Glovsky was an exemplar of a citizen who fights to protect the rights of his own group, not by diminishing the rights of others but by respecting and helping enlarge them as well. Richard Glovsky used his legal talents and other skills in the fight against antisemitism while he was simultaneously engaged in defending the rights and liberties of others, and in particular in helping preserve strong ties between the Jewish and African-American communities in New England. I have been privileged to enjoy the friendship, advice and counsel of Dick and his wife Nancy Korman for many years, and I want to share this article with my colleagues to emphasize the continued importance of dedicated volunteers like Richard Glovsky, and to show that those who argue that religious and ethnic groups can only protect themselves at the expense of others are completely wrong. We all complain that the news is dominated by the negative. I am delighted to counteract that trend by sharing with my colleagues a very important example of the positive in intergroup relations.

RICHARD GLOVSKY: A MAN WHO LEARNED TO APPRECIATE BEING DIFFERENT

Richard Glovsky, the immediate past chairman of the ADL New England Regional board, traces his lifelong commitment to civil rights to an early childhood illness that left him with a hearing deficit. "It was horrible," he said, recalling the unmerciful teasing of his classmates when a hearing test revealed that he was deaf in one ear. As a result, he bonded with other children with disabilities. His best friend in those years was a retarded child and he observed how cruelly his friend was treated by other children. "My disability paled in comparison with his," he said. As he grew older, Dick said, he formed friendships with African-Americans and saw connections between their experiences with discrimination and the unfair treatment people with disabilities encountered.

What else could he do but become a lawyer and specialize in civil rights? He is a graduate of Dartmouth College and Boston College Law School where he was an editor of the Law Review.

Dick Glovsky began his legal career with the U.S. Justice Department where he worked under now Supreme Court Justice Antonin Scalia. While in the Justice Department, he co-authored a comprehensive treatise on the impeachment of President Nixon and handled hundreds of cases on a wide variety of issues facing the U.S. government.

He was named chief of the Civil Division of the U.S. Attorney's office in Boston in 1978, a post he held for two years before entering private practice. He is very proud of the fact that he initiated the first affirmative civil rights litigation by the Federal government in Massachusetts, a case regarding housing discrimination. In 1983, he founded Glovsky & Associates, a law firm specializing in Federal and state civil rights matters, which has handled numerous precedent-setting civil rights cases.

His involvement with ADL began in the 1980's when he was chairman of the Newton, Massachusetts, Human Rights Commission. He worked on special projects with ADL professionals in Boston and in 1985 was asked to join the New England Regional Board, Prior to being named chairman in 1991, he served as vice chairman, treasurer and chair of the Public Affairs Committee. He is also a ADL National Commissioner and member of the National Executive Committee.

"It is not until you have the responsibility of being chairman," he said, "that you can appreciate how important the position is and how much it can be used to make the world better."

Deeply disturbed by the outbreaks of anti-Semitism and bigotry in this country and overseas, he says, "I'm not surprised easily but I have been startled by the number of incidents and the extent to which hatred and misunderstanding exist. You can go along thinking you've made progress with certain groups, and then there will be a serious incident that is devastating."

Being involved in Jewish communal activities is a Glovsky family tradition. Dick's grandfather—the first Jewish lawyer to practice on Boston's North Shore—was a B'nai B'rith officer and his father also was active.

Although his work with ADL has been his first priority, he is deeply involved with numerous other organizations. He is president of the Dartmouth College class of '69, which this year convenes its 25th anniversary reunion. He is finance chair for Attorney General L. Scott Harshbarger; a founder of The Wellness Community, a retreat for cancer patients established at the behest of the late comedienne Gilda Radner; an originator of For Love and Life, a wish organization for AIDS patients; and chairman of the Thomas J. Drinan Fellowship, an intern program for young attorneys.

His good works earned him the Hecht-Shaw Award from the Lena Park Community Development Center in 1992.

Dick and his wife, Nancy Korman, are the parents of four children.

HONORING "TOMB OF THE UNKNOWN SOLDIER" ESSAY CONTEST WINNERS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. GILMAN. Mr. Speaker, it is with great pleasure that I rise today to honor four outstanding students from Crispell Middle School in my district who were the winners of the "Tomb of an Unknown Soldier" essay contest. The contest asked the eighth graders why they would want to lay a wreath at the Tomb of the Unknown Soldier on behalf of the school. Although all of the essays received for the contest were excellent, the essays of Julie Nickerson, Harry Steinhilber, Robin Meade, and John Tobin were truly superb.

Mr. Speaker, I include the full text of the essays at this point in the CONGRESSIONAL RECORD as a tribute to these Crispell Middle School students:

Just going to Washington, DC, as an eighth grader is wonderful. Now the Crispell Middle School is allowed to lay a wreath on the Tomb of the Unknown Soldier. Now that is an honor!

Laying this wreath isn't just something anyone should do. It should be one who wants it for the right reasons. I wouldn't be laying this wreath for me it would be for all the families and friends that don't have any idea whether their grandparents, parents, siblings, spouses, or children are dead. It would be in dedication to the people that weren't getting the respect that they deserved until now. I know that if a member of my family or one of my friends went off to war and I never saw or heard from them again not one day would go by without thinking where and how they had died or if they are still living and being held prisoner.

Every day I make a decision about what I'm going to wear or how I'm going to do my hair, then when I sit and think about all the people who died to give me the freedom to make those choices myself and I can't give them the credit they deserve.

Then I stopped and asked myself why I feel it would be such an honor to place the wreath on the Tomb of the Unknown Soldier. So I thought about my father going off to war and I felt a hand around my heart. Then I imagined receiving news that he was missing in action and that hand around my heart started squeezing. Next my family and I received news his body was not recovered and possibly never will be. That hand was like a vise grip around my heart, squeezing so hard I could hardly breathe. I watched the sadness and despair encircling my family but there was always a glimmer of hope. Perhaps they were wrong. Maybe my father was not dead, perhaps he would walk through that kitchen door and pick me up and toss me in the air like he used to.

I imagine now that many years have passed and I have a family of my own. A son old enough to join the army. My father never walked through that door, never tossed me in the air, and his body was never returned to us. That hand is still around my heart not squeezing as hard or as tight, but still there.

So after my fantasy, I decided it's not only an honor for me to place the wreath, but an honor to all those soldiers, parents, grandparents, children, siblings, and spouses, who lived and suffered through the reality of my fantasy.

Fom this day on when I'm deciding what to wear and how to do my hair, I will also think about all the soldiers of the unknown tomb and their families and say a prayer.—By Julie Nickerson.

We live at a time when our men and women in the Armed Forces serve over seas and fight for freedoms that we hold dear to our heart.

Television brings the fighting into our living room and it becomes as common place as Nintendo. Unfortunately these are real men and women putting their lives on the line, not just for people at home to remain free but for the oppressed people of the world.

Many people die in war and are honored for their heroism.

In todays technology my generation tends to loose sight of history. Television shows it all, war becomes just another day.

I would like the honor of representing my school and place the wreath at the Tomb of the Unknown Soldiers. These Soldiers gave the great sacrifice, dying for their country. Unfortunately their names were lost. By placing a wreath on this tomb not only do we honor these great men, but all who died serving their country valiantly and those who continue to do so today.

In closing I would like to say, in placing this wreath, I feel it will help bring the reality of freedom and the importance of peace back into the foreground not only for myself but for my fellow students.—By Harry Steinhilber.

To place a wreath on the tomb of the unknown soldier in Arlington National Cemetery, in Arlington Virginia would be a great honor for anyone. The tomb, a simple structure made of white marble is engraved with the not so simple phrase, "Here rests in honored glory an American soldier known only to God."

The soldiers who were buried in the tomb are buried there for more of a reason than the fact that they were not able to be identified. They are buried there as representatives of all the people who lost their life fighting for our country. My first thought about the soldiers was they were just that, soldiers who gave their all for us, but when I thought about it longer the reality came to me. These people were more than soldiers, they were fathers, brothers, husbands, uncles, neighbors, and in some unusual cases mothers, and sisters. They were people who gave their own life to make better ones for others. I feel in giving a wreath in honor of them is like saying thank you for allowing me to be free, for allowing me to have friends of any color or race, and most all thank you for allowing me to be alive.

This is why it is so important to me to be chosen to have the great honor of placing the wreath on the tomb of the unknown soldier.—By Robin Meade.

One of the reasons I would like to bring the wreath up to the Tomb of the Unknown Soldiers is because it would be such an honor to represent my school in our nation's capitol.

I would feel like I was doing something for my country; I would have the honor to do something that our country's President does.

Another reason I would feel honored is because I have had grandfathers in WW II, uncles in Korea and my father was in Vietnam.

Ever since November 11, 1921, that monument has been there for all the soldiers in our country's wars who were never identified or found, somewhere their families can go to mourn in memory of their loved ones that were never brought back from fighting for their country.

Those are the reasons why I would like to bring the wreath from our school to the

Tomb of the Unknown Soldiers.—By John Tobin.

A BILL TO AMEND THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. YOUNG of Alaska. Mr. Speaker, I am pleased to introduce a bill to amend the Alaska Native Claims Settlement Act of 1971 at the request of Cook Inlet Region Incorporated [CIRI].

Congress enacted the Alaska Native Claims Settlement Act [ANCSA] in 1971 to address claims to lands in Alaska by its Eskimo, Indian, and Aleut Native people. Lands and other benefits transferred to Alaska Natives under the act were conveyed to corporations formed under the act. Alaska Natives enrolled to these corporations were issued shares in the corporation. Cook Inlet Region, Inc. [CIRI] is one of the corporations formed under ANCSA and has approximately 6,262 Alaska Natives enrolled, each of whom were issued 100 shares of stock in CIRI, as required under ANCSA.

ANCSA stock, unlike most corporate stock, can not be sold, transferred, or pledged by the owners of the shares. Rather, transfers can only happen through inheritance, or in limited cases by court decree. The ANCSA provisions restricting the sale of stock were put in place to protect Native shareholders from knowledgeable or unscrupulous transactions, and to allow the corporation to grow and mature in order to provide long lasting benefits to its shareholders.

The drafters of ANCSA initially believed that a period of 20 years would be sufficient amount of time for the restrictions on sale to remain in place. Therefore, the restrictions were to expire 20 years after passage of ANCSA on December 31, 1991.

As 1991 approached, bringing with it the impending change in the alienability of Native stock. The Alaska Native community grew concerned about the effect of the potential sale of Native stock. The Alaska Federation of Natives, a statewide organization representing the State's 90,000 Natives, spearheaded a legislative initiative to address the 1991 stock sale issue. Many of the Native corporations, including CIRI, actively solicited their shareholders' views on this critical matter, through meetings, questionnaires, polling, and formal votes. In 1987, 3 years prior to the 1991 restriction-lifting date, Congress enacted legislation which reformed the mechanism governing stock sale restrictions in a fundamental way. Under the 1987 amendments, instead of expiring automatically in 1991, the restrictions on alienability continue automatically unless and until the shareholders of a Native corporation vote to remove them. The 1987 amendments provided several procedural mechanisms to bring such a vote, including action by the board of directors and petitions by shareholders.

To date, no Native corporation has sought to lift the alienability restrictions. Fundamentally, this is because Native shareholders continue to value Native ownership of the corporations and Native control of the lands and other assets held by them.

CIRI has conducted a number of continuing surveys, focus groups, and special shareholder meetings to ascertain the views of its shareholders regarding the alienation restrictions on CIRI stock. Two results have consistently stood out in these assessments.

First, the majority of CIRI shareholders favor maintaining Native ownership and control of CIRI. These shareholders, whose numbers consistently register at the 70- to 80-percent level, see economic benefits in the continuation of Native ownership, and also value the important cultural goals, values, and activities of their ANCSA corporation.

Second, a significant percentage, albeit a minority of shareholders, favor accessing some, or all, of the value of their CIRI stock through sale of that stock. These shareholders include, but, are not limited to elderly shareholders who have real current needs, yet doubt that sale of stock will be available to them in their lifetime; holders of small, fractional shares received through one or more cycles of inheritance; non-Natives who have acquired stock through inheritance but without attendant voting privileges; and shareholders who have few ties to the corporation or to Alaska, 25 percent of CIRI shareholders live outside of Alaska.

Under current law, these two legitimate but conflicting concerns cannot be addressed, because lifting restriction on the sale of stock is an all or nothing proposition. In order to allow the minority of shareholders to exercise their desire to sell some or all of their stock, the majority of shareholders would have to sacrifice their important desire to maintain Native control and ownership to CIRI.

CIRI believes this conflict will eventually leave the interests of the majority of its shareholders vulnerable to political instability. In addition, CIRI recognizes that responding to the desire of those shareholders who wish to sell CIRI stock is a legitimate corporate responsibility. More importantly, CIRI believes that there is a way to address the needs and desires of both groups of shareholders, those who wish to sell stock and those who desire to maintain Native ownership of CIRI, so that the sale of stock will not compromise the "nativeness of the company, and will not jeopardize the economic future of the company for those who choose not to sell. The method embodied in the proposed legislation is one that other companies routinely use: the buying back its own stock. The newly acquired stock would then be canceled.

Mr. Speaker, I have discussed this bill at length with CIRI and am convinced this bill is the best and only option available for their shareholders to voluntarily sell their stock back to CIRI. I plan to distribute this legislation to the Department of the Interior, the State of Alaska, and all other Alaska regional corporations for official comments and to begin the process of reviewing the bill. I welcome all input with regard to this legislation.

THE GREAT CIRCUS FIRE

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mrs. KENNELLY. Mr. Speaker, 50 years ago, as the United States was immersed in war, the people of Hartford, CT, and surrounding towns looked forward to an opportunity to temporarily escape. The Ringling Brothers and Barnum & Bailey Circus was in town, with its clowns and animals and laughter and fun. And so, on July 6, 1944, almost 10,000 people crowded under the largest canvas tent in the world seeking a few hours of fun.

The show began flawlessly; first clowns and then trained lions and leopards thrilled the audience. But the day's joy was to be short-lived. As the highwire performers took their places, a spectator noticed a small flame burning a piece of the tent. A circus employee desperately tried to douse the fire with a bucket of water, but the effort failed. Before anyone could prevent it the flame shot up, fanned by the wind and buoyed by gasoline from a mixture that had been used to waterproof the tent. The circus band attempted to maintain calm by striking up "Stars and Stripes Forever." But many in the crowd panicked, as people rushed in all directions, frantically seeking a path to safety.

Witnesses later recounted stories of heat so great as to fuse coins, of people falling and being trampled, of terrible human tragedy. One mother emerged from the tent screaming for a child only to find that the child had reentered the inferno to search for her. She returned to the blaze and died.

Numerous heroes prevented the fire's toll from being even more brutal. A 13-year-old boy created a makeshift exit by slashing through the canvas. A man lifted his own child to safety and then remained in the tent to help others until he, himself, was overcome. Efforts by these and other brave souls saved many lives.

But the final count of the day's losses was nonetheless dreadful. The fire had taken only 10 minutes to reduce the entire tent to ashes, and after firefighters had doused the last embers, the bodies of 168 circus-goers were discovered, 1,200 others were injured.

Children comprised a disproportionate share of the casualties, including one young girl who, despite not being badly scarred by the fire, was not identified in the confusion of the following days. Her grave was marked only by her morgue number, and she became "Little Miss 1565." A picture of her quiet composure in death served as a haunting reminder of the terrible fire. So tragic was her fate that two policemen who were on duty in the morgue the night of July 6 kept her picture with them and several times a year placed flowers on her grave. So compelling was the case that even 40 years later a man not yet born when she died, fire investigator Rick Davey, was willing to spend years searching for her identity. In 1991, thanks to his efforts, she was identified as Miss Eleanor Cook.

Today, as we remember the fire of 1944, let us remember the strength of the community, the tireless efforts of firefighters, hospitals, and volunteers who helped pull the Hartford area through such a terrible tragedy. Let us remember young Eleanor Cook and all the victims of the fire.

But let us also recognize the progress which has been made in the past 50 years toward improving fire safety and community preparedness. The fire safety laws which have been enacted in Connecticut and throughout the country have been inspired in no small measure by the tragedy in Hartford.

And let us recognize the brave men and women who lay their lives on the line every day as they fight fires in Hartford and across the Nation. We owe them a debt of gratitude which can never be repaid.

The Great Circus Fire of 1944 was a tragedy. Let us work to ensure it is not repeated.

TRIBUTE TO MR. CHARLES A. "CHUCK" STERLING

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. TOWNS. Mr. Speaker, I would like to bring to the attention of my colleagues, the outstanding work done by a great leader in my congressional district, Charles A. "Chuck" Sterling.

His success in life started early. Graduating with honors from Lake Forest College, he went on to play with the Chicago Cardinals professional football organization. After his playing days ended, Mr. Sterling went back to his studies and pursued a post-graduate degree in business, marketing, and advertising at Northwestern University.

He held positions in these areas for several corporate firms including Helene Curtis Industries and Johnson Publications. His biggest achievement in his professional career came as the founder of Saratoga Geyser Mineral and New York State Seal Water, two of the top successful bottled waters in the world. At that time, Mr. Sterling was the only African-American owner of a bottled water company.

Even with all of this success, Mr. Sterling has never turned his back on his community, especially the needy. Presently, he uses his talents and expertise as an advocate for the development of the Oceanhill, Bushwick, Bedford-Stuyvesant areas as chairman of the local development corporation [OBUSTY]. He is responsible for the commercial revitalization effort on the East Broadway commercial corridor.

His efforts toward community improvement can be seen in such projects as the reopening of the Saratoga Branch Library, the Bushwick Shadow Internship Program for school district 32, and the Mt. Paran/OBUSTY Share Food Program.

He also serves as the pro-bono executive director for the East Broadway Merchants Association, a board member and former chairman of the Bushwick Resource Coalition, and an adviser of several community-based organizations.

Among his numerous awards and recognitions, Mr. Sterling has been listed in "Who's Who Among Black Americans" and in the "Two Thousand Men of Achievement."

I hope my fellow colleagues will join me in paying tribute to Mr. Charles A. Sterling for excellence in entrepreneurial spirit, and in service to his community.

WALL STREET JOURNAL ARTICLE "ADVANTAGES OF EMPLOYER HEALTH PLANS ARE DISAPPEARING"

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. STARK. Mr. Speaker, Members' offices are getting lots of mail urging that companies of any size continue to be allowed to self-insure the health of their workers.

There is another side to company managed self-insured health plans. The following article from the June 17, 1994 Wall Street Journal spells it out.

ADVANTAGES OF EMPLOYER HEALTH PLANS ARE DISAPPEARING

(By Ellen E. Schultz)

Employees who have health coverage in the workplace usually consider themselves more fortunate than people who have to buy individual coverage on their own.

After all, they believe, group coverage is always cheaper, and they are automatically covered, regardless of their health problems. Right?

Not necessarily.

What few employees realize is that the difference between individual coverage and employer-provided group coverage has eroded profoundly during the past few years. Not only have most of the advantages of group coverage largely disappeared, but many employees risk losing not only their coverage, but their jobs. In the past, all a person had to do to join an employer's health plan was to fill out a form. All employees were in the same "pool," and all paid the same costs, regardless of health.

But as medical costs have climbed, employers have begun abandoning their own version of universal coverage (for their employees) and started adopting the same practices used by insurance companies when people apply for individual policies.

IDENTIFYING HEALTH RISKS

Like health insurers, more and more employers are engaging in "underwriting," which is the process of identifying the current and potential health risks of their employees. This usually involves requiring employees to take blood, drug, and urine tests, and a physical exam. In many cases, individuals are required to provide information about a family history of such things as heart disease, cancer and genetic disorders.

Many employers also ask about off-duty behavior, such as whether the employee rides a motorcycle, wears a seatbelt, participates in sports, has a happy marriage or gets enough sleep.

The employers use this information the same way insurers do: to exclude pre-existing conditions, to deny coverage or to charge higher premiums.

"Insurance companies for years have identified risks and charged more for them. The practice is just now finding its way to employers' group-health plans," says Kenneth Sperling, heath-care consultant for Hewitt Associates, in Rowayton, Conn.

SAVING MONEY

And no wonder. Underwriting by private employers is saving the companies billions of dollars by reducing claims. Those that buy coverage from insurance carriers pay lower premiums if they have fewer claims. Meanwhile, if the employer is self-insured, as are about 75% of large employers, each dollar saved is a dollar earned. And self-insured or not, all but the smallest employers must pay workers compensation premiums, which are lower if injuries are fewer.

A survey of 461,208 employees at private companies shows that 31% of employees had no medical claims, and another 50% had claims of less than $1,000. Another 14% of employees had claims ranging from $1,000 to $5,000.

The survey was conducted at the request of The Wall Street Journal by Medstat Systems, a medical-information firm in Ann Arbor; Mich. The survey was of a random sample of claims filed in 1991 by employees and dependents at self-insured companies in Medstat's proprietary database of more than 100 of the largest U.S. employers. Of the 461,208 employees, only 32 had big-ticket claims greater than $300,000.

"It's no secret that private employers 'cherry pick' healthier individuals using underwriting practices," says Arthur Caplan, director of the Center for Bioethics at the Universify of Pennsylvania

REQUIRING MORE INFORMATION

One way that employers are able to keep claims so low is that they can be more aggressive than health insurers in their underwriting practices. "The private sector can weed out claimants in the underwriting process with more impunity than any other provider of health insurance," says Dr. Caplan.

For one thing, they can force employees to provide far more information about their health and personal lives—as a condition of employment.

ConAgra Poultry Co. in Longmont, Colo., requires employees of the ConAgra Inc. unit to tell it what prescription and over-the-counter medications they are taking and to sign releases giving the company complete access to their medical records.

When benefits clerk Carmella Mares refused, she was fired. A spokesman for ConAgra says the company needed the information to ensure the accuracy of its drug testing and has no further comment.

Mrs. Mares, who as a Navy reservist is often randomly tested for drugs, says she was willing to take a drug test. But she thought the company was going too far, and sued. Says the former nun: "It's the principle of the thing." However, in late 1992, a federal appeals court in Denver ruled that employers can require employees to provide medical information.

"What makes this case extremely troubling is it's the first time the courts have upheld the employer's demand that an employee reveal the nature of their private illnesses," says Gilbert Roman, a lawyer in Denver with the American Civil Liberties Union. "It sets a dangerous precedent—that any employee can be fired if they refuse to turn over their medical records."

POWER TO HIRE, FIRE

In addition to compelling employees to provide more health information, employers can be more aggressive than insurers when it comes to shaping their "risk pools" because they have the power to hire and fire.

For example, Lockheed Aeronautical Systems Co., a subsidiary of Lockheed Corp. in Marietta, Ga., recently announced it wouldn't hire smokers. Turner Broadcasting System Inc. in Atlanta hasn't hired smokers since 1986.

Thirty percent of occupational physicians who responded to a survey by the University of Chicago's hypertension clinic said their companies wouldn't hire someone with high blood pressure. "I was surprised by the ubiquity of the responses and the arbitrary nature of how it was used," says Dr. Michael B. Murphy, a professor of clinical pharmacology, now at University College in Cork, Ireland, who conducted the survey.

The findings are similar to a report by the U.S. Congress Office of Technology Assessment in 1991, in which 42% of the companies surveyed considered a job applicant's health-insurance risks as factors in determining their employability. Further, more than half of the personnel executives interviewed considered it acceptable to use pre-employment health exams to identify applicants who might be medically expensive.

It also is routine for employers to screen job applicants to see if they have had workplace injuries. Sixty-four percent of employers surveyed by benefits consulting firm Tillinghast Inc. said they use pre-employment screening of workers' compensation claims.

While the Americans with Disabilities Act makes it generally illegal for employers to consider an employee's health as a condition of employment, it is virtually impossible for a job applicant to know whether the prospective employer considered health information, which is widely available in databases and often in personnel files.

The consequences of this trend are that as private companies seek to hire younger, healthier employees with healthy dependents, those who are older, sicker, and have children with medical or emotional problems will find themselves clustered at nonprofit and government jobs, or at smaller businesses that have no coverage. "There's been a lot of traffic of higher risk employees from the private sector into public-sector jobs," says Dr. Caplan.

Even healthy employees are affected by the underwriting process. Virtually all employers hire benefits consulting firms and medical cost-containment companies to analyze the claims filed by employees, to tell employers what types of claims are costing the most money.

Armed with this knowledge, employers are shifting more costs to employees, by redesigning their benefits packages to increase co-payments and deductibles.

They also are restricting access to care, by excluding pre-existing conditions and other conditions, and by introducing caps on coverage. For example, employers with many professional married employees in their 30s and 40s are dropping fertilization treatment and capping what they pay for Caesarean deliveries.

Further, many employers are creating different risk pools among their employees. Those who smoke, are overweight, have high blood pressure or other health risks pay higher premiums.

A TRIBUTE TO FRIENDSHIP HEIGHTS ON ITS 80TH ANNIVERSARY

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mrs. MORELLA. Mr. Speaker, I would like to take this opportunity to congratulate the Village of Friendship Heights, MD, on its 80th anniversary. Friendship Heights is aptly named, a fine model of an American community epitomized by its sense of community, its special spirit, and its dedication to community service. The village is widely known for its beautiful village center: a focal point for the arts, for civic discourse, and for continuing education for all its citizens. It is also recognized for the pastoral Hubert H. Humphrey Park.

Friendship Heights was incorporated as a special taxing district in 1914 and, in 1973, residents received the right to vote in village elections. Friendship Heights has always been an informed community; its residents have remained knowledgeable about legislation and other issues affecting the community.

At this year's celebration on July 4, Jane Lawton will receive the Elizabeth Scull Outstanding Community Service Award. Ms. Lawton, currently serving as special assistant to County Executive Neal Potter, has devoted much time and energy to the people of Montgomery County. I would also like to extend my congratulations to Dr. Alfred Muller, Mayor of Friendship Heights, and to the members of the Village Council: Frank Valeo, Melanie Rose White, Saul Goldberg, Patricia Forkan, Martin Kuhn, and Eric J. Ellman, as well as to the Village Manager—Leslie Strathmann. They have provided outstanding leadership to the village.

If history is any guide, the people of Friendship Heights will continue to enrich Montgomery County and the State of Maryland through their commitment to community participation and service. I am proud to serve as their Representative in the Congress of the United States.

HEALTH CARE REALISM

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. OBEY. Mr. Speaker, Avrum Lank, business columnist for the Milwaukee Sentinel, recently wrote a column which makes clear that a requirement for universal health coverage is the key to reforming our flawed health care system.

His column is sensible, frank, and blunt. I commend it to any Member of Congress who believes we can achieve true reform without a requirement for universal coverage.

[From the Milwaukee Sentinel, June 27, 1994]

MANDATES KEY TO REFORMING FLAWED SYSTEM

(By Avrum D. Lank)

We don't always do what is good for us, or even what the law requires.

Those truisms should be remembered as Congress heads into the homestretch of the health care insurance reform debate this week.

One of the biggest bones of contention in the discussion is whether employers should be required to buy insurance for their workers, or whether the workers should be required or encouraged to do so themselves.

This is a silly argument.

Unless there is a universal employer mandate to provide insurance, the reform will be a sham.

If you find that hard to believe, consider automobile insurance.

In 41 states and the District of Columbia, not including Wisconsin, there is an individual mandate to buy auto insurance.

To register and drive a car you must have insurance. That's the law.

But in all of those states, coverage is far from universal, according to a February report by the Insurance Information Institute, New York City.

In Maine, for example, 15% of drivers go without insurance.

In Florida, 31% of drivers flout the law, in Washington State, 8% to 12%.

The report notes:

"Many people are uninsured not out of a desire to defy the law but because they lack the financial assets to comply."

It continues:

"The National Association of Insurance Commissioners, which studied the issue of compulsory auto insurance, suggests that strict enforcement of the law, with mandatory and 'signficant' fines for first-time offenders, may be the key to lowering the uninsured motorist population."

On the evidence of automobile insurance then, an individual mandate to buy health insurance will fall to provide anything near universal coverage unless Congress wants to go to the extreme of sending violators to jail or fining them severely.

Now you might say, "so what."

If a person does not want to buy health insurance, that is their choice. In this nation, no one should be forced to spend money for something he does not want.

But that viewpoint is wrong, because in the United States today if an uninsured person gets sick, he will get treatment and everyone else will get the bill.

Again a comparison to automobile insurance helps in understanding this.

Many people who buy automobile insurance pay an additional premium for so-called "uninsured motorist coverage." This protects them in case they are involved in an accident with someone who has chosen not to have automobile insurance.

This subsidizes uninsured drivers in the same way health insurance premiums are raised to pay for treatment of uninsured patients. It is just that the extra health insurance premium is not labeled "uninsured patients coverage."

In both cases, the responsible members of society are paying for the choices of those less responsible.

The only way to restore fairness is to require universal coverage.

But we have seen with automobile insurance that just requiring universal coverage is not sufficient to right this wrong.

Given the mandate to buy their own auto coverage, people still drive around uninsured.

So compulsion is required.

And in our nation, we compel compliance with many things through the work place.

Income tax withholding is the best example I can think of.

There are other advantages to having employers involved in providing health insurance for their workers.

Per capita, group policies are less costly to administer than are individual policies. And businesses are in a better position to negotiate prices than are individuals.

So let Congress argue over other parts of the plan—how much to subsidize premiums of less-profitable businesses, how much workers might be asked to contribute directly to premiums, exactly what a policy must cover.

But decide quickly that a universal employer mandate must be part of any real reform of the health insurance system.

Because we don't always do what is good for us, or even what the law requires.

Sometimes, we must be compelled.

HUMAN RADIATION EXPERIMENTS

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. KENNEDY. Mr. Speaker, the Clinton administration and the Department of Energy Secretary Hazel O'Leary, in particular, are to be commended for launching their investigation of the Government's role in the human radiation experiments which started in the late 1940's. The Advisory Committee on Human Radiation Experiments has been established to investigate these concerns and consider the need for compensation to the victims.

In my efforts to find an equitable settlement for those unjustly exposed to radiation during these experiments, I have been presented with a proposed compensation model, "Calculating Compensation for Radiation Victims Based on a Retrospective Probability Analysis," by Robert Gary, one of the most knowledgeable and experienced litigators in the field. Mr. Gary has represented approximately one-third of all radiation related cases tried in the United States, including the class-action suit of 200,000 service personnel exposed to atomic radiation at the Nevada Test Site in the 1950's, and 600,000 people from the four counties surrounding Three Mile Island during the nuclear accident there.

From his extensive study of the issue, Mr. Gary has devised the following model, which I recommend for consideration by my colleagues and members of the Advisory Committee on Human Radiation Experiments.

CALCULATING COMPENSATION FOR RADIATION VICTIMS BASED ON A RETROSPECTIVE PROBABILITY ANALYSIS

(By Robert Gary, Esq.)

Let us examine first the concept of a doubling dose, since that is the way the biological effects of ionizing radiation are currently measured and described. A doubling dose is that amount of radiation which will double the natural incidence of a certain kind of harm in a population. For example, if we have 100 test subjects and the natural incidence of cancer is 17%, then if we expose that population to one doubling dose of radiation, instead of getting 17 cancers in that population, over time, we will get 34 cancers in that population over time.

If the doubling dose is 150 rems of radiation, then one doubling dose will double the baseline figure for the occurrence of the harm to which that doubling dose applies. A second doubling dose would add another increment equal to the baseline figure. For example, 300 rems, two doubling doses, would produce an occurrence level of 34 + 17 = 51, and 450 rems, three doubling doses, would produce an occurrence level of 34 + 17 + 17 = 68. If there were no doubling doses, i.e. no special radiation exposure, there would be an occurrence level of 17 which is the natural or background incidence.

The biological effects of special radiation exposures have traditionally been expressed in terms of the probability of future harms occurring, or the number of future harms that can be expected to occur, as results of a specific known level of special radiation exposure. For example, if 100 mice are exposed to 150 rems of radiation each, in a special exposure, then 34 of them will develop harms consistent with radiogenic origin, instead of the 17 that would have done so without the special radiation exposure. We are looking forward from the point of the known special radiation exposure, and projecting anticipated effects in the future caused by the known special radiation exposure. This is known as a prospective probability analysis since it is looking forward from the point of exposure.

But the question that Congress has to address is: Is this patient's condition the result of a special radiation exposure he/she is known to have undergone in the past?" This requires a retrospective probability analysis projecting backward from the known present harm to the known past radiation exposure and asking, "What is the probability of causal connection?"

For purposes of the argument presented here, we must know that the patient received a special radiation exposure, and we must know the number of rems received. Given these variables, a retrospective probability analysis will help us to fairly compensate radiation victims.

We start with a thought experiment. The kind of harm that will be considered is major birth defects. The baseline incidence for these is approximately 10%. Scientific papers including The Biological Effects of Ionizing Radiation Report, (1972 Edition and all subsequent editions, suggests that the doubling dose for major birth defects is approximately 150 rems. If a human population is exposed to 150 rems, and each member becomes one of a pair of parents, (assuming the other parent is not part of the exposed population); and if each pair of parents has one child, we would expect 20 children with major birth defects instead of 10. In other words the occurrence of the specific harm, major birth defects, is doubled, by the administration of the doubling dose to one parent in each parent pair.

The child is the one that comes before the Judge or the Congressperson, and the question is, "What is the probability that the child's birth defect was caused by the special radiation exposure his/her father or mother received?"

The doubling dose was administered, in this thought experiment, so the incidence went up from 10 to 20. One of those 20 is in the office. The subcategories within the 20, those who would have had a major birth defect without the special exposure of their parent, and those that have the defect because of the special exposure of their parent are completely indistinguishable. They are indistinguishable in principle, unalterably, and because of the laws of quantum physics. But plainly the probability is P=.50 that our patient's major birth defect was caused by the special radiation exposure. This will always be true if exactly the doubling dose is received. Half of the 20 were caused by the special radiation insult, so, ceteris paribus, each of the 20 has a 50% chance of being a victim of that special radiation insult.

Prospectively, right after the exposure, each exposed parent only had a P=.20 probability of having a child with a major birth defect. How can the prospective probability be P=.20 while the retrospective probability is P=.50? The prospective probability is based on just doubling the baseline incidence (10 goes to 20 so P=.20) but the retrospective probability is based on the attributable proportion out of the known injured population (10 out of 20 so P=.50).

Let P_b represent the baseline probability.

Let P_r represent the part of the total risk as elevated by a special radiation exposure which is attributable to that special radiation exposure.

Let P_t represent the total risk as elevated by a special radiation exposure.

It follows that:

$P_t=P_b + P_r$

and

$P_r=P_t-P_b$

In general P_t may be calculated using the following formula: $P_t=P_b\ [(100/D)(x)+100]\div 100$.

Where x = the number of rems in the special radiation exposure, and

Where D = the doubling does for the kind of harm being considered

Say the client is a cancer case and was exposed to 75 rems.

P_b for cancer is about .17 (according to the literature), and doubling dose will be taken as 150 rems for purposes of this calculation. We want to find P_c which we'll call the probability of causal connection. $P_c=P_r/P_t$.

So we start out finding P_t: $P_t=.17[(100/150)(75)]+100=.2550$

Now we find P_r:

$P_r=P_t-P_b$

$P_r=.2550-.1700=.0850$

Now, P_c or the probability of causal connection, is the ratio between the risk attributable to the special radiation exposure and the total risk after elevation by that special radiation insult.

$P_c=P_r/P_t$

$P_c=.0850/.2550=.3333$

So the answer is that this patient has a probability of .3333 that his/her cancer was caused by the special radiation exposure specified for this case.

A quick table of P_c values might be helpful. All values not included on the table can be calculated using the formula and the method outlined.

x	P_c
10	.0625
50	.2500
100	.4000
150	.5000
300	.6667
400	.7273
450	.7500

Intuitively it checks out that the doubling does yield a P_c of .5000, and we can see that two doubling does (300 rems) would create an attributable proportion of 2 out of 3 parts or .6667, similarly 3 doubling doses would result in an attributable proportion of 3 out of 4 parts of .7500. We don't need the formula for these obvious cases, but the formula is useful for the less obvious cases like 10 rems or 400 rems.

The literature is not always consistent about what the doubling dose is for a particular kind of harm. If we assume 150 rems is the doubling dose the expression in the P_t equation is (100/150)x, but if we took 50 rems as our doubling does the P_t equation would have (100/50)x, and if 5 rems were the doubling dose it would be (100/5)x. Similarly if 500 rems were the doubling dose it would be (100/500)x.

Apart from radiation, there are other toxic agents that have a linear or doubling dose relationship to the harms they cause. These equations will work for all of them and provide compensation guidelines for clients injured by any toxic agent within this broad category which may include Agent Orange, Sarin, and Isomethylcyante.

In the end we want to convert our P_c value into dollars because that's what the compensation client is asking for. This is done by taking the Fair Jury Value (FJV) of the injury, assuming no question about causation, and simply multiplying it by the probability of causal connection P_c.

We put proximate cause on a sliding scale. The question is not, "Is causation more probable than not?" but rather, "How probable is causation?" The more probable causation is the more compensation the alleged victim gets. The darkness that surrounds the causation issue in radiation cases, and which must do so because of the rules of quantum physics, is left unobscured. We will never know, nor can we ever know, who is really a victim of a special radiation insult (unless its an immediately lethal dose). What we are looking for is fairness. We want to provide compensation, but not clean out the Federal Treasury. We want to pay victims, or possible victims, but not provide a windfall to everyone who has been exposed to any amount of any toxic agent. Most important, we want to avoid sending real victims away emptyhanded because they haven't been able to meet the "more probable than not" standard of the *Restatement of Torts, 2d.* The Agency or organization releasing radiation or other toxins should take responsibility for the uncertainties that are inevitably connected with those materials or physical processes. It's not fair to expose people to radiation and then say that the uncertainties which cannot in principle (because of quantum realities) be overcome are a bar to their recovery of damages. The "more probable than not" standard would send about half of the legitimate radiation victims away emptyhanded. The releaser of the radiation would get a windfall by not having to pay any of the claims for lesser radiation exposures when it is quite possible that among those claims are real victims that actually get cancer and die.

It is appropriate to note that Fair Jury Value (FJV) means just that. It's not just medical special damages, but it can include pain and suffering, loss of consortium, loss of earnings, and even an adjustment to compensate for the moral circumstances under which the exposure occurred. An innocent and hapless victim of medical experimentation that violates international law and all peremptory norms of human conduct (i.e. the Nuremburg and Helsinki Accords), might get more in a Fair Jury Value than a similarly injured worker in a nuclear power plant or radiation laboratory. FJV is what fair jury, or administrative panel, would or does award in the state where the claimant makes his/her claim. There legitimately might be federal guidelines for FJV's in cases against the government where the entire compensation scheme arises out of a single piece of Federal legislation.

TRIBUTE TO DR. STEPHAN L. KAMHOLZ

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. TOWNS. Mr. Speaker, I rise today to pay tribute to Dr. Stephan L. Kamholz a foremost expert in his field, pulmonary medicine. He is applying his skills for the good of his community.

Dr. Kamholz was appointed chairman of the department of medicine of the Health Science Center at Brooklyn in October 1993. He has served on the faculty since 1986 and was named a professor of medicine in 1988. His will deserved appointment as chairman is the culmination of 8 years of service.

Prior to assuming the chairmanship, Dr. Kamholz served as chief of the division of pulmonary medicine at University Hospital and Kings County Hospital Center, and was academic chief of pulmonary medicine at the Brooklyn VA Medical Center. He has also been director of the internal medicine training program since 1991.

Dr. Kamholz is also the author or coauthor of more than 60 scientific articles, as well as numerous abstracts and textbook chapters. He is a fellow of the American College of Physicians, the New York Academy of Medicine, and the New York Society for Thoracic Surgery. He is a member of the association for Academic Minority Physicians, as well as a member of the steering committee of the clinical pulmonary medicine section of the American College of Chest Physicians.

Dr. Kamholz has also been active in direct patient care at New York City Health and Hospitals Corp. institutions including Morrisania City Hospital, North Central Bronx Hospital, and Brooklyn's own Kings County Hospital Center where he has been practicing for the past 8 years.

After earning his bachelor of arts degree from New York University in 1968, he received his doctor of medicine degree from New York Medical College in 1972. He completed his training as an attending physician at the Montefiore Medical Center in internal medicine and pulmonary disease and was an associate professor of medicine at Albert Einstein College of Medicine.

Dr. Kamholz has shown incredible range and expertise in the attending administrative, and academic aspects of medicine. Countless numbers of patients have felt his healing touch. It is with great pleasure that I ask my fellow members to join me in commending Dr. Stephan L. Kamholz, a man dedicated to his work.

JOSEPH COTCHETT: ONE OF THE NATION'S 100 MOST INFLUENTIAL LAWYERS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. LANTOS. Mr. Speaker, I rise to bring recognition to Joseph Cotchett of Burlingame, CA, on the occasion of his being named one of the "Nation's 100 Most Influential Lawyers," according to the April issue of the National Law Journal. The following article from the Hillsborough Boutique & Villager outlines the career that has brought national attention to this champion of the little guy over the big guy. This national attention only confirms what I know personally, that Joseph Cotchett is an exceptional lawyer and a credit to his profession. I offer him my most heartfelt congratulations.

[From the Hillsborough Boutique & Villager, June 22, 1994]

LOCAL ATTORNEY MAKES JOURNAL'S LIST OF AMERICA'S 100 MOST INFLUENTIAL LAWYERS

(By Heather Hayes)

Joseph Cotchett is one of the "Nation's 100 Most Influential Lawyers", according to the April issue of the National Law Journal. He and 99 other attorneys were selected from a field of 900,000 in the United States.

Cotchett, of Cotchett, Illston & Petrie in Burlingame, has had a law career spanning 30 years, during which he has played a role in some of the most notorious cases in recent history.

He is the man who helped put Charles Keating behind bars in the Lincoln Savings & Loan Association scandal. He represented the animals killed in the Exxon Valdez oil spill.

Cotchett has been heralded as defender of the underdog, something he said he learned growing up in New York. He said he tends to favor the little guy over the big guy.

"I really enjoy that. While learning on the streets, you quickly learned who the bullies were," Cotchett said.

"It was a competitive society, A very, very competitive society," he said of life on Long Island.

Growing up, he always tried to rescue his friends from bullies, which he said had a hand in his preparation for a career in law.

"On the playgrounds of New York, it became quite a trick. You had to do a lot of fast-talking, and that eventually evolved into the law," he recalled.

Cotchett mourns the lack of ethics residing in government and big business, and revels in the fact that our society allows such scrutiny of public officials. He recently brought an action against Pacific Gas & Electric Co. on behalf of all the counties in California, charging the mammoth company with price-fixing.

Cotchett graduated from California Polytechnic, San Luis Obispo as an engineering major in 1959. In 1964, he graduated from University of California, Hastings College of Law.

In 1964, he moved to Millbrae and has lived on the Peninsula ever since.

He said deciding to be a lawyer never came to him in a blinding flash. He realized engineering was "excellent background for law," as it taught him to be a precise thinker. Eventually, he realized what he wanted to do.

"It became clear I was more people-oriented than slide-rule oriented," Cotchett said.

As for the future, Cotchett doesn't seem to have much interest in a judgeship, a move common for renowned lawyers.

"I'm not sure I would be a good judge. I'm too much of an advocate to be good. You have to be less aggressive than my personality," he said.

THE PASSING OF EDWARD "POP" STEWART

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. GILMAN. Mr. Speaker, it is with sadness that I rise to inform our colleagues of the passing of a dedicated Capitol Hill employee and a friend to all.

"Pop" Stewart spent his entire life serving others. He treated all as equals, whether they were heads of state or just an ordinary citizen. His career began in the 1920's at the White House as a waiter and finished in the House Office Building catering operation where he had worked since the late 1960's. It is from his work in the catering service that many of us came to know and appreciate this kind, gentle man.

He was always optimistic and cheerful about life. "Pop" constantly offered kind words and compliments to anyone who was fortunate enough to come into contact with him.

A former New Yorker, "Pop" Stewart was dedicated to his community where he was a lifetime member of the Pigskin Club of Washington, the Elks Club, AARP, and the NAACP. As a senior Mason, he was the oldest living member, with over 60 years of service, of Lodge 20, Jefferson Lodge in Charlottesville, VA.

I invite my colleagues to join in extending our heartfelt condolences to "Pop" Stewart's sister, Juanita Stewart Hargrove, his daughter, Annie Harris, and his 8 grandchildren, 21 great grandchildren and 2 great great grandchildren.

TRIBUTE TO WILLIAM C. MOHRMAN

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. HYDE. Mr. Speaker, today, I want to recognize the extraordinary achievements of Bill Mohrman of the Office of Legislative Council who will soon be retiring from his service to this Chamber. One of the finest legislative wordsmiths ever to ply his craft, it is only fitting that our tribute to Bill take the form of a House resolution.

Whereas, over a period of 20 years William C. Mohrman has developed a distinguished reputation for professionalism and excellence.

Whereas Bill's creative genuis and remarkable drafting skills have generated significant contributions to the body of law governing America's foreign relations.

Whereas, in the fact of often unreasonable and intemperate demands, Bill always maintained his equanimity, and unfailingly lived up to our elevated expectations of him.

Whereas, in the most important of all measures, Bill is unquestionably a gentleman of the highest ethical standards whose good nature and humor masked one of the brightest minds in this business.

Therefore, it is the Sense of Congress that—

We today recognize William C. Mohrman and extend to him our deep appreciation and sincere thanks for his fine work, his generous spirit, and his loyal friendship.

I am sure my colleagues on both sides of the aisle will agree that this is one resolution that can be agreed upon by unanimous consent. Thanks, Bill, and Godspeed.

MELINE KASPARIAN: MASSACHUSETTS EDUCATION LEADER

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. NEAL of Massachusetts. Mr. Speaker, I take this occasion to recognize Meline Kasparian of Springfield, MA., for her tireless and unfailing commitment to the field of education. The list of Ms. Kasparian's accomplishments and contributions to the educational system is long and impressive.

Ms. Kasparian's work in education, over the past 25 years, has had an immense impact, and she will continue to be a strong influence in education at both the local and State level for many years to come. Her work in the Springfield School System is well known. Not only is she an English teacher at both Kennedy and Kiley Schools, but she has also been president of the Springfield Education Association since 1987 and was recently elected vice president of the Massachusetts Teachers Association. Besides a career in education, she has also been politically involved in the community as a delegate to the Democratic National Convention in 1984 and 1988.

Her selfless contributions and dedication can be attributed to her parents' strength of character, both of whom survived the Armenian genocide. In addition, it was this strength that also influenced her sister and brother to become educators.

Ms. Kasparian is a courageous advocate for human rights and dignity for people of all races and creeds. She is known as a loyal friend, one who lives by her moral values and convictions. Her integrity has earned her respect and friendship from many renowned authors and artists as well as those less well known.

Ms. Kasparian embodies the spirit of the educator and has extraordinary ability as a storyteller, who comprehends the teaching and learning value of parables. It is this aspect that has given her the capability of molding the future, by being a proper role model for her students.

Finally, I would like to take this opportunity to thank her for all of her efforts. They are much appreciated by the entire community. I am sure she will prosper as the new vice president of the Massachusetts Teachers Association.

TRIBUTE TO ROBERT K. DAVIS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. TOWNS. Mr. Speaker, I would like to call attention to the special achievements and outstanding hard work of Mr. Robert K. Davis. Mr. Davis has devoted the past 25 years to serving the people of New York in several public service positions in the Lindsay, Beame, Koch, Dinkins, and Giuliani administrations. His retirement this year is a great loss for the community, and he will be sorely missed.

Mr. Davis, in all his posts, has always put the needs of New York families first, especially the children. His numerous achievements include the revamping of the outdated public children's institutions into more efficient local organizations which could better handle the sensitive needs of the community. This was accomplished while Mr. Davis handled the needs of approximately 15,000 dependent, neglected, and abused children in his capacity as the director of institutions and facilities in the department of Social Services, special services for children.

Mr. Davis also played a key role in reforming child development programs as the assistant commissioner for development in the city's agency for child development. He was responsible for establishing standards for the physical facilities of day-care centers and helped in increasing the number of day-care centers from 80 to over 400.

Housing was another area improved under Mr. Davis' authority. Advocating the needs of the elderly and minorities, he facilitated the allocation of rent subsidies for the elderly and promoted the rehabilitation of economically distressed minority neighborhoods.

Mr. Davis has been an advocate for promoting the overall security of residents. He is directly responsible for ensuring the safety of homes by leading the push to remove lead paint in housing units with high lead levels. He also enforced the mandatory installation of window guards where landlords were delinquent and in noncompliance of housing code requirements. He also led a crusade against corruption. In his current position as the housing preservation and development deputy commissioner, Office of Rent and Housing and Maintenance, he revamped inspection procedures to minimize the chance of corruption.

After graduating from Morehouse College, Mr. Davis received a masters in social work from Columbia University. He has put his skills to good use for the betterment of the New York community. Mr. Speaker, I urge my colleagues in the House of Representatives to join me in recognizing the many achievements of Mr. Robert K. Davis.

A TRIBUTE TO THE ST. CATHERINE LABOURE SCHOOL

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mrs. MORELLA. Mr. Speaker, I speak today to congratulate the St. Catherine Laboure School in Wheaton, MD upon its recognition as a Blue-Ribbon School of Excellence. This national award shows the school's abilities to nurture and guide its students successfully. The leadership, educators, and organization of this school are truly exemplary.

A Catholic parish supported school, St. Catherine Laboure seeks to enhance each child's life spiritually and academically. The student population unites students from 52 countries and who speak 24 different languages; the school stresses appreciation of this wonderful diversity. Children in pre-kindergarten through eighth grade are constantly challenged to develop strong work habits and a dedication to higher learning.

Under the leadership of Sister Mary Gilbart, D.C., Principal, and the Sisters of Charity, St. Catherine Laboure School prides itself on flexible, cooperative educational practices. Implementing hands-on learning, the computer technology has been continuously updated so that all students can benefit. New programs and adaptations to the curriculum are a constant concern; a Homework Assistance Program, a CD-ROM machine, and a gifted and talented program have been added this year to help students reach their potential.

The school's efforts to involve the community and parents reflect the important of unity in creating a successful environment. Parents volunteer their time and resources generously for the benefit of students and staff. An open door policy of site-based management gives everyone at the school access to the principal and policies of St. Catherine Laboure.

I commend the effort of the school to improve the lives of each student. Enrichment and guidance serve as the keys to the future; St. Catherine Laboure School winningly combines its resources to achieve great success. Mr. Speaker, I am proud of the achievements of the students, parents, teachers, and administrators at St. Catherine Laboure School and wish them continued success for the future.

A TRIBUTE TO IVYMOUNT SCHOOL

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mrs. MORELLA. Mr. Speaker, I rise in recognition of the Blue Ribbon Award given to the Ivymount School in Rockville, MD, my Congressional District. This national award focuses on schools of remarkable leadership, vision and vitality. It is my pleasure to congratulate the faculty, students, and parents at Ivymount on this prestigious award. Ivymount continues its high standards of excellence, receiving this award for the second time in 5 years.

Ivymount serves the greater Washington area, concentrating on those children with developmental, physical, and emotional disabilities. Director Shari Gelman, Assistant Director Lillian R. Davis, and a nurturing staff provide a quality education to students whose needs cannot be met in the public school system. Ivymount works as a nonprofit day school for children referred from public schools.

Catering to each child's individual needs, the school's administrators nurture the personal growth of each student. Counselors, therapists, doctors, and special education teachers combine resources to best serve each child. The ultimate goal of Ivymount is for students to build independence in preparation for life in the community.

Beyond caring for students, Ivymount serves parents and the community at large. Support for the families of Ivymount students through counseling, medical consultations, and other available resources helps them provide for each child's future. Ivymount offers numerous programs for the benefit of the community. Sharing the school's knowledge and experience helps all those in the area of special education.

I commend Ivymount School's dedication to serving those most in need with conscientious and dedicated service. Schools like Ivymount provide much needed leadership and support. It is a great pleasure to recognize Ivymount for their continuing success.

GERA: MORE THAN JUST A TOWN

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. BARCIA of Michigan. Mr. Speaker, I rise today in celebration of the Centennial of Gera, MI. This small community has a great sentimental value to the people who reside in it. Having a neighbor in Gera means more than just someone living next to you; it also means friendship. This grand event will take place on July 3, 1994.

This small town has quite a history. There is a possibility that Gera would not even exist today if the railroad would have been built through the town of Frankenmuth as originally planned. Frankenmuth refused to have the railroad run through town because they were concerned about the adverse influences that the railroads were thought to attract. Today Gera welcomes the railroad as the very reason for its existence. The railroad line was built in 1881 and was placed in operation on February 21, 1882. Originally the first sign placed at the depot read "Frankenmuth Station." In 1894 Frank Gilbert advised the railroad company that it should rename the station. The company officially did so on April 23, 1894. It was renamed Gera, after a town in Germany, and as they say "the rest is history."

Currently, there are 40 residents within official city limits. However, since Gera has a reputation for being more than just a town, 500 people consider themselves a part of the community. I am very excited to share in the celebration of the Centennial of Gera. I urge all my colleagues to wish the people of Gera the very best.

GANG THAT COULDN'T GIVE SHOTS STRAIGHT

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. DUNCAN. Mr. Speaker, the column below shows how big government can screw up almost anything, and how even programs that sound good on the surface can end up hurting the very people who were supposed to be helped.

I call this column by Robert Goldberg to the attention of my colleagues and other readers of the RECORD.

[From the Wall Street Journal, June 20, 1994]

GANG THAT COULDN'T GIVE SHOTS STRAIGHT

(By Robert Goldberg)

By its own account the Clinton administration regards carrying out the Vaccine for Children program as a "dress rehearsal" for health care reform. If so, the show will close before it ever opens.

There has not been a social program in recent history so badly flawed as Vaccine for Children. The administration's initiative is based on misleading information about immunization levels in the U.S. It is determined to create an entitlement even though immunization rates are at record levels. At a time when local health officials have more free vaccine than they can use, it is spending money to set up a government-run delivery service of unknown cost and questionable utility. Ignoring calls to delay the program, the administration has arrogantly dug in its heels to carry out a campaign pledge that borrows against our children's future and spends against their needs.

SIN OF OMISSION

Originally the administration proposed buying up all childhood vaccines. Health and Human Services Secretary Donna Shalala told Congress that immunizations should be a right, just as access to water and other public services is a right. There were only three problems with Ms. Shalala's statement: Water is not free; immunizations, with rare exceptions, are affordable; and vaccination rates are high. Of course, Ms. Shalala never mentioned that a $200 million federal program already allows any child to receive free vaccines at local health clinics.

The administration maintained Vaccine for Children was necessary to meet a goal of immunizing 90% of all preschoolers with DPT (diptheria, pertussis, tetanus), polio and measles vaccines by the year 2000. At a congressional hearing the secretary said: "The United States has one of the lowest immunization rates for preschool children compared to European countries." Yet Ms. Shalala used 1985 immunization measures for DPT, polio and measles even though 1992 information was available.

While the outdated survey showed that slightly over half of all preschoolers were immunized, the 1992 immunization survey in Ms. Shalala's possession showed rates of nearly 80%. And 1993 data showed that the nation had largely met the goal of a 90% immunization rate. In fact, Walter Orenstein, the director of the Centers for Disease Control and Prevention's National Immunization Program, noted at a recent Senate Appropriations Committee hearing: "Immunization levels among preschool children are the highest ever."

Congress killed the Clinton plan to buy up all childhood vaccines and provide them to rich and poor alike. Instead Vaccine for Children will cover the poor, Medicaid patients, the uninsured and the "underinsured"—an amorphous category that includes anyone whose health insurance does not cover shots. To get the free vaccines, all people need to do is show up at public health clinics and "assert" they have no coverage. Further, Vaccine for Children would go out of existence when health care reforms added immunization to a standard benefits package. Citing these assumptions, the Congressional Budget Office estimated that the program would cost $430 million over five years.

Congress assumed and the administration said that private vaccine companies would distribute the government-supplied vaccine. But the price controls the government imposed on vaccines to meet the CBO estimate left no margin for paying delivery costs. Therefore, the Department of Health and Human Services decided to set up its own distribution system. The rush to fulfill a campaign pledge now threatens to compromise the nation's vaccine supply.

First, HHS wanted the Veterans Administration and the Defense Department to operate a vaccine depot system for the program. The offer was rejected: Both agencies were getting out of the vaccine and medical distribution business; two government studies showed that private companies distributed health care products more cheaply and efficiently.

With only two months remaining before vaccines are supposed to be shipped, HHS has gotten the General Services Administration to create a new distribution system. However, GSA lacks both the infrastructure and experience to move hundreds of millions of fragile and highly sensitive biological products safely on a tight schedule and under strict Food and Drug Administration requirements. What GSA does have is space in a New Jersey warehouse now used for storing paint solvent, where the administration plans to store up to 40% of the nation's entire childhood vaccine supply.

The warehouse lacks the private vaccine industry's state-of-the-art distribution systems, computer equipment and managerial expertise for handling and accounting for every single dose of vaccine according to complicated FDA safety guidelines. For example, the Centers for Disease Control states that it will save time and money by packing different vaccines in the same container. The problem is, different vaccines can't be shipped and stored in the same way without jeopardizing their safety. Oral polio vaccine must be shipped frozen, while others must be kept at temperatures between 2 degrees and 8 degrees Celsius. Not even the Clinton administration can change the laws of physics.

Further, by creating another level of bureaucracy, HHS is adding to the already significant amount of waste and spoilage that already results from the handling of vaccines by state and local public health programs. HHS is in such a panic to distribute the vaccines that it is discouraging states from tracking and accounting for vaccine deliveries, despite the fact that the FDA would shut down a private company that neglected those duties. States are planning accordingly: Recently Illinois told the Centers for Disease Control that it was ordering 25% more vaccine in anticipation of waste under Vaccine for Children.

There is a real danger in storing so much vaccine in one place. A catastrophe is not out of the question. In May 1992, the Illinois public health service's supply of Hepatitis B vaccines was stored in a meat locker with carcasses. Blood and other matter was found dripping over the vials, contaminating the entire lot. In Washington, D.C., refrigeration in the District government's central vaccine warehouse broke down. The warehouse lacked a backup system, and 23,000 doses of measles vaccine—a year's supply for the entire District—was lost.

'WE HAVE ENOUGH'

Worst of all, the administration is diverting funds to the warehousing scheme at a time when public health officials insist they have plenty of free vaccine. State and local health officials such as F.E. Thompson of the Mississippi State Department of Health note: "We have enough vaccine. . . . What we do not have enough of is nurses to give it, clerical staff to track the children, and outreach workers to bring them."

In fact, a number of states, including Arkansas, have told the Centers for Disease Control that the Vaccine for Children program will actually hurt immunization efforts by taking time and staff away from their own vaccine initiatives. The Centers for Disease Control is understaffed and cannot keep up with the state and local health officials' demand for technical assistance.

Appeals to delay or scrap Vaccine for Children have been ignored. Instead, HHS is working overtime to get deliveries going by August. The Clinton administration will probably throw some operation together so it can claim victory. But in fulfilling a campaign pledge, it will fail to improve the lives of children.

MILITARY OFFICERS WAITING ON THE PRESIDENT

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. SOLOMON. Mr. Speaker, the White House is yet again scurrying to explain why uniformed military officers were used as waiters at last week's Democratic Party soiree for 650 donors. According to Saturday, June 25th's issue of the Washington Post, a White House official said the officers are overreacting at expressed embarrassment. "They shouldn't be so sensitive," the official said. Sensitive. Perhaps officers are sensitive to the fact that American soldiers will live and die upon the orders of a Commander in Chief who fails to display any understanding of the military.

This continuing poor treatment and disrespect of military officers is yet another prime example of how the Clinton Presidency views the military. Does President Clinton think that officers sworn to defend the Constitution of the United States are best used to hand out hors d'oeuvres and white wine. Perhaps we should explain to the President that military service doesn't mean the service of platters.

This administration continues to belittle the importance of our military's mission. If our Commander in Chief, who lacks any military experience, thinks that our uniformed military officers' time is best maximized waiting tables then we indeed have reason to be concerned.

[From the Washington Post, June 25, 1994]

FROM WHITE HOUSE OFFICERS TO AIDES-DE-CANAPES

(By Ann Devroy)

The White House on Tuesday night was Looking for a Few Good Waiters. And now White House officials say, somewhat red-faced, they meant no disrespect when they temporarily transformed uniformed military officers into canape passers.

With a commander in chief who lacks military service and has been accused—along with his aides—of insensitivity to the military, the Clinton White House worked overtime yesterday to explain what probably would and did go unnoticed in prior White Houses.

As best as can be determined, military aides assigned to a Democratic Party soiree for 650 big donors, scheduled to be held under a tent in the White House Rose Garden, were pressed briefly to join the domestic help serving hors d'oeuvres because a storm forced the party indoors.

One of the White House military social aides said yesterday that such duty was humiliating: "We are military officers, not waiters." The aide went on to say that it was "embarrassing to us and should be embarrassing to the president" to have uniformed officers who are in the White House to represent the uniformed services fill in for the waiters and waitresses.

But a White House official who was at the reception said the aides are overreacting. "Everyone was pitching in when the party was moved," he said. "They were just asked to pitch in too. They shouldn't be so sensitive just because they're in uniform."

Neel Lattimore, a deputy press secretary, said the sudden shift of the party indoors resulted in White House senior staff aides and others helping out. "We also asked the assistance of the military social aides. This was meant to be a team effort" in which no disrespect was intended, he said.

Chief White House Usher Gary Walters said he recalled "several other occasions" in previous administrations where the social military aides helped out in emergencies.

Two types of military aides work at the White House. There are the officers from each service who are the president's military aides, traveling with him and carrying the nuclear codes and performing other such duties. And there is a rotating group of about 40 young, single officers selected by the services to represent the best of their military branches to work for at least one year at the White House in a variety of protocol and social duties.

TRIBUTE TO HENRY LEGASPI

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. HUNTER. Mr. Speaker, I rise today to honor the retirement on June 30, 1994, of an outstanding citizen in my district, Mr. Henry Legaspi. Hank Legaspi is finally turning out the light as manager of the power department of the Imperial Irrigation District in the southern California desert.

A native of Calexico, CA, the transborder sister city of Mexicali, Mexico, Hank has continued the remarkable legacy of the Legaspi family's commitment to community service. Along with his brothers' many years of civic and public service, Hank has added his own 4 years, in several different capacities as an employee and a manager at the IID, one of the largest public utilities in the country.

Through his leadership at the IID, the district has gone through a period of rapid growth, moving from a small, local customer base to become a provider of electric service throughout the southern California desert reaching from the Arizona and Mexican borders to the lush club of Palm Springs.

I know I speak for the countless friends of Hank's and mine in the Imperial Valley in thanking him for his energy, drive, and sense of pride that he brought to the IID—a legacy to be honored for those who remain and those who will follow.

TRIBUTE TO CARL B. STANKOVIC

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. VISCLOSKY. Mr. Speaker, it is my distinct honor to recognize Carl B. Stankovic, and the men of the Eighth Armored Division Association. These brave men served in Company B of the 78th Medical Battalion during World War II.

The men of Company B will be celebrating their 45th annual convention reunion in King of Prussia, PA. Along with their families, they will be engaging in a week of festivities taking them through the Fourth of July weekend. The 78th Medical Battalion acquired the reputation for excellence in their assistance and treatment of wounded officers. The battalion is proud that not one officer's life was lost while tending to the injured and evacuating them from the front lines.

This unique group of veterans should take pride in their versatility at having been able to transfer their successes from country to country, as they traveled through England, France, Belgium, Holland, Germany, and Czechoslovakia. They coined themselves the Thundering Herd, which undoubtedly refers to their unfaltering strength while traversing vast countrysides.

The great sacrifices made by those who served in World War II have resulted in the freedom and prosperity of our country and in countries around the world. The responsibility rests within each of us to build upon the valiant efforts of these soldiers, so that the United States and the world will be a more free and prosperous place. To properly honor the heroism of our troops, we must make the most of our freedom secured by their efforts.

We will be forever indebted to our veterans and their families for the sacrifices they made so that we could be free. Mr. Speaker, I ask you and my colleagues to join me in saluting the men of the 78th Medical Battalion, Company B as they observe the 45th anniversary of their battles for freedom.

THE VIOLENCE AGAINST WOMEN ACT

HON. KAREN SHEPHERD

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Ms. SHEPHERD. Mr. Speaker, last Wednesday night in Salt Lake County, Deolyn Oliver was brutally shot and killed, leaving behind three young children. When police arrived, they found her husband standing in the doorway, speaking to his lawyer on the telephone. Salt Lake County officers had been called to her home five times over the past 7 months. When asked, the only thing her youngest child could say was that "his mom won't ever have to hurt again."

Last year, 19-year-old Tiffany Despain of Salt Lake was ruthlessly raped three times at knifepoint by her 22-year-old ex-boyfriend after he had repeatedly violated court restraining orders. Despite Despain's numerous complaints to the police, the attacker had only received warnings and before being arrested, he attempted to run Tiffany off the road. Tiffany Despain had to flee the State for her protection.

What happened to Deolyn Oliver and Tiffany Despain are not unique incidents. These women are only two of thousands of women every year who face fear and violence in the very place where they should feel safe—in their own homes.

Mr. Speaker, I urge my colleagues to join me in passing the strongest Violence Against Women Act possible. It may be too late for Deolyn Oliver, but there are many, many more women out there whose lives could be saved by the swift action of this body.

THE WELFARE INNOVATION AND EMPOWERMENT ACT OF 1994

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. ANDREWS of New Jersey. Mr. Speaker, on behalf of myself, Mr. WELDON, and Mr. KOLBE, I wish to introduce the "Welfare Innovation and Empowerment Act of 1994."

This bipartisan welfare reform bill is distinctly different. It would give the people closest to our welfare problems—those at the State and local level—the authority to develop solutions that make the system work better for those who rely on it and those who pay for it.

Our objectives under the bill are simple. We want to unleash our Nation's best problem solvers—our Governors, mayors, and county officials—to develop innovative programs for moving people from welfare to work. We want to empower low-income individuals to save money and invest it in their own futures. And, we want to strengthen families.

The Welfare Innovation and Empowerment Act of 1994 will do the following:

Grant States the authority to consolidate various streams of Federal welfare funding—AFDC, Food Stamps, Medicaid, housing assistance, child care assistance, et cetera—for the purpose of converting these funds into wages or other benefits provided to individuals and families participating in welfare-to-work programs.

Create a streamlined, one-step process for State waiver requests necessary to implement welfare-to-work demonstration programs.

Enable low-income individuals to save money for education, microenterprise development, first home purchase, and other select uses, without losing their welfare benefits.

Remove or modify current provisions of law that weaken families and perpetuate welfare dependency.

We believe that this bill will create an environment where State and local innovation will flourish and welfare recipients will be given their best shot at achieving self-sufficiency.

HONORING THE CATSKILL'S ENTERTAINMENT HALL OF FAME

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. HINCHEY. Mr. Speaker, I would like to bring to the attention of this Chamber the Catskill's Entertainment Hall of Fame's newly chartered museum building in Loch Sheldrake, NY. On June 30, 1994, the museum will open with its inaugural exhibit, "The Impact of the Catskills." This exhibit will feature the works of Al Hirshfeld and of several playwrights, comedians, actors, and musicians who helped define the Catskill's entertainment experience.

One of the goals of the Catskill Entertainment Hall of Fame is to collect, preserve, and interpret for the general public the unique history of entertainment and vacationing in the Catskills and its continuing impact on American culture.

The likelihood of this new museum having such an impact on the area's cultural outlets is both exciting and commendable. Mr. Speaker, I ask that this Congress assembled today join the people of the Hudson Valley in honoring the Catskill's Entertainment Hall of Fame's board of trustees who are giving both their time and experience to better the cultural scope of the Hudson Valley for tomorrow.

LONG TRUCKS: TAKING A TURN FOR THE WORSE

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. BOEHLERT. Mr. Speaker, I would like to share with my colleagues an article that appeared in the May 1994, issue of Progressive Railroading magazine. This article was written by a professional civil engineer and concerns the ability of long trucks to negotiate right turns. The article makes both a mathematical point and a public policy point, and I think it would be good for the Congress to review both.

The math point is that single tractor trailer trucks longer than 53 feet, today's standard, cannot physically negotiate the right turn at most intersections without either running up over the curb or pulling out well into the oncoming lane of traffic. In both cases the required maneuver is dangerous to pedestrians and motorists and, in the case of curb encroachment, causes expensive damage that is paid for by local taxpayers. Today, more and more States are allowing 57-foot trucks, and there is an active movement to increase that length to 60 feet.

The public policy point is that by ignoring this simple fact today, we in Congress are inevitably creating an expensive and dangerous situation from which it will be hard, if not impossible, to extract ourselves once all the longer trucks have been built.

Sometimes we in Congress overlook the obvious, and I think this is just one of those cases. The article follows:

LONG TRUCKS: MAKING A TURN FOR THE WORSE

(By Bryan Haight)

There is a huge disconnect in the government's transportation policy and no one is paying attention to it, least of all, the government. On the one hand, government at every level is attempting to control spending and improve highway safety. On the other hand, it is allowing a steady increase in truck lengths that causes expensive damage to local roads and poses an increasing danger to automobile drivers and pedestrians.

The main problem with longer vehicles is simply this: trucks with single trailers greater than 48 ft. in length cannot make a right turn at most local intersections without either running over the curb on the right or encroaching into the oncoming lane of traffic on the left. Trucks, themselves, advertise the problem with the rear-end sign we have all read while sitting behind them at a light: "Danger, this truck makes wide right turns."

Government policy makers are contributing to this problem in two ways. First, individual states are allowing a steady increase in permissible truck lengths, and the federal government is doing nothing to stop them. Congress required states to accept 48-ft. trailers in 1982 and trailer lengths have grown dramatically ever since. Today 48 states allow 53-ft. trailers, 11 states have moved onto 57 footers, and a coalition called NR 60, standing for "No Restriction, 60 Feet," is pushing for an additional increase.

Second, individual states are expanding the distance that such extra-long trucks are allowed to travel off the main interstate system. Today 19 states allow unlimited travel off the interstate, three states allow between 10 and 20 miles of travel off the interstate road and 16 states allow between one and five miles. If you allow those vehicles to travel within a five-mile radius of interstate exits, you are allowing them unrestricted access to the majority of the local intersections in most metropolitan areas.

As an engineer by trade, I have studied this problem in great detail. And while I'm sure some of the working engineers in government transportation departments have done the same, the message does not appear to be getting through to the policy makers that this relentless march to larger and longer vehicles needs to be stopped.

The major problem with these long trailers is a phenomenon known as "offtracking." Simply put, offtracking is the degree by which the rear wheels fail to follow the path of the front wheels when making a turn on a local road. Offtracking to the right destroys curbs, light fixtures and sign posts. More important, it poses a serious threat to pedestrians standing on the curb. Offtracking to the left poses a hazard to oncoming traffic.

The most serious and common result is the so-called "rolling guillotine" effect that occurs when the rear of a trailer hits the oncoming automobile during the turn, with the underside of the trailer shearing off the roof of the automobile.

Two respected groups the American Association of State Highway and Transportation Officials (AASHTO) and the Transportation Research Board (TRB), have made detailed mathematical studies of this problem. Today the typical local intersection has curb radius of between 15 and 40 ft. and traffic lanes of no more than 12 ft. wide. Aggregating the data used in both the AASHTO and TRB studies, I prepared a table summarizing which trucks can make turns without overrunning the curb or encroaching into an oncoming lane. As the table shows, the typical intersection cannot accommodate the lengths we have today, let alone the increases that are being sought. Indeed, in its 1989 report, Providing Access for Large Trucks, the TRB recommended that all states be encouraged to adopt a maximum trailer length of 48 ft. in order to minimize the serious consequences of offtracking.

In my own state of Wisconsin, the state Department of Transportation began a study of this problem in 1989. While confirming the above data, the study also addressed what compensatory measures could be taken by truck and automobile drivers at intersections that cannot accommodate these longer trucks. One of the study's conclusions is referenced in the TRB Access study and bears repeating: "The results of the research to date indicate that, subject to traffic volumes, right-turning trucks can negotiate turns by taking advantages of gaps in the oncoming traffic * * *" As a motorist, that gives me very little comfort.

INCREASING ROAD TAXES

Last year the federal government insisted on a gasoline tax increase of 31 percent because it claimed it did not have enough money to maintain the nation's roads. It is wrong for the government to be raising money from taxpayers to repair roads while at the same time allowing activities that dramatically increase those repair costs. If I ran my business that way, I would be fired.

To politicians, this may seem a highly technical issue with financial ramifications that cannot be easily quantified. In reality, it's really quite a simple mathematical issue—trucks over 53 ft. cannot make the turn without taking out the curb or encroaching into the oncoming traffic lane. Congress can change the law to allow longer trucks, but they can't repeal the laws of physics.

If Congress chooses to ignore the numbers, I hope they will at least consider the human factor. If it hasn't already happened somewhere, it is only a matter of time before school children standing on a curb are injured or killed by a truck that can't make a turn without encroaching on the curb. The time to limit that risk is now by putting a stop to this mad rush toward ever increasing truck lengths.

COMMENDATIONS TO MR. RICHMOND LAWSON SMITH

HON. H. MARTIN LANCASTER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. LANCASTER. Mr. Speaker, I would like to bring to your attention the remarkable efforts of an outstanding young American, Mr. Richmond Lawson Smith, who has reached the rank of Eagle Scout in the Boy Scouts of America.

In order to fulfill this tremendous accomplishment, a young man must earn a total of 21 merit badges including first aid; citizenship in the community, nation, and world; communications; emergency preparedness or lifesaving; environmental science; personal management; physical fitness, swimming, or sports; and camping. Richmond, a member of Troop 342 in Raleigh, NC, has earned not only the necessary number of merit badges, but also several more. He is also the recipient of such honors as the Arrow of Light. World Conservation Award, the God and Country Religious Award, and the Boy Scouts of America Philmont Scholarship Award presented by the American Legion of North Carolina.

One additional requirement for an Eagle Award is the completion of an approved service project benefiting the candidate's religious institution, school, or community. Richmond Smith chose to help out the Inter-Faith Food Shuttle, which receives, stores, and distributes food to organizations who feed the needy and homeless. Richmond designed, constructed, and installed shelves in a cold storage locker for the food shuttle.

Outside of his active life as a member of the Boy Scouts of America, Richmond served as cocaptain of the Millbrook High School tennis team in Raleigh, and was named to the Capital Five All-Conference Academic Team. He is also a member of the Saint Andrews Presbyterian Church Youth Group and holds a part-time job at the Raleigh Racquet Club.

Mr. Speaker, I invite you to join me in expressing my commendations to Richmond Lawson Smith, clearly an outstanding young man.

OPENING OF THE 13TH ANNUAL CONGRESSIONAL HIGH SCHOOL ART EXHIBITION

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Ms. SLAUGHTER. Mr. Speaker, as chair of the Congressional Arts Caucus, it was my great honor today—along with 279 of my House colleagues—to open the 13th annual Congressional High School Art Exhibition, "An Artistic Discovery." The result of high school competitions in Members' Districts, the exhibition showcases the enormous creativity and artistic talent of young people throughout the country.

Since the start of the competition, more than 600,000 students have participated in this outstanding undertaking. All of us on Capitol Hill are indebted to the student artists for brightening and beautifying the passageway from the Cannon corridor to the Capitol and sharing their vision with us. I encourage my colleagues to take the time to view each of the winning works this year, as they form a truly amazing and vibrant panorama of the hearts and minds of America's youth.

We were very pleased this year to welcome one of America's most popular young actors, Dean Cain, who spoke movingly to the students present. In addition, we paid special tribute to House Republican Leader ROBERT H. MICHEL—who played a crucial role in establishing the exhibition and in supporting the project throughout the years—as well as James D. Johnston, vice president, industry-government relations for General Motors, who has consistently ensured General Motors generous sponsorship of the exhibition opening.

I submit for the RECORD the statements of the participants in the ribbon-cutting ceremony of "An Artistic Discovery," as well as a list of the House Members who participated in this year's competition along with the names of the winning artists from their districts.

OPENING REMARKS: CONGRESSIONAL HIGH SCHOOL ART COMPETITION

(By Louise McIntosh Slaughter)

As Chair of the Congressional Arts Caucus, it is my great pleasure to welcome all of you to this spectacular event—the opening of the Thirteenth Annual Congressional High School Art Exhibition.

For what has now been thirteen years, Members of Congress have sponsored local high school art competitions, involving talented young people, arts educators, families and local business and community leaders. Each year, we in the Capitol are treated to a panorama of outstanding artworks and are overwhelmed not only by the talent contained in the works, but by the vision and humanity which they express.

Congress can truly be proud of this bipartisan effort to recognize and encourage the arts and education throughout the country. Every student benefits from involvement in the arts. And, as we have seen, schools across the country and we as a society are greatly in need of programs which teach our young people the self-expression, discipline and creativity gained through the arts. Through this project, we are also helping to discover the next generation of outstanding American artists.

There are a countless number of people who have worked hard to make "An Artistic Discovery" such a success. Speaker of the House Tom Foley and Republican Leader Bob Michel—who we will be paying special tribute to shortly—have been steadfast supporters and participants in this project throughout the years. In addition, the 279 Members of Congress who conducted contests—the largest number of participating Members to date—and their staffs deserve much praise. We are grateful to George White, Architect of the Capitol, and his staff in facilitating this professional exhibit. We would also like to recognize General Motors for providing both resources and guidance for more than a decade. In addition, this opening ceremony could not have happened without the generosity of American Airlines, The Coca-Cola Company, Eskimo Pie, Nabisco Association, and the Snack Food Association.

NBC Television has also contributed to the success of this project through the person of Willard Scott and the Today Show. We hope all of you will tune in to tomorrow morning's show when Willard showcases this competition and some of the student artists.

Special recognition must go to Dean Cain, truly a "Superman," who has flown across the country to be with us here today—in a plane I might add.

Most importantly, though, we wish to thank the student artists themselves for sharing their enormous talent with us. We celebrate you today—your creativity and vision.

It is a privilege now to introduce Speaker of the House Tom Foley, who has once again generously agreed to join us in opening this Exhibition.

REMARKS AT THE OPENING OF AN ARTISTIC DISCOVERY

(By Thomas S. Foley)

I am both pleased and honored to be speaking to you today as a part of this celebration. I cannot emphasize enough the importance of art in our society, particularly in the development of our youth, so it is with great pleasure that I welcome each of you here today.

Art is a vital part of our society, a part that cannot be undervalued, particularly in the education of our youth. Art is not merely a diversion; it is a timeless requisite for the continuance of creativity and vitality in a society.

We on Capitol Hill take great pride in the Congressional High School Art Competition. It successfully celebrates the talent and creativity of students around the country and at the same time emphasizes the importance of nurturing these talents. I urge each of you to continue to foster your artistic talents. As you go on to make your life decisions, never relinquish that spark, that creativity which brought you here today. As Oliver Wendell Holmes Jr. once said: "Life is painting a picture, not doing a sum."

It is a joy to see the talent that is represented here today. Everyone on Capitol Hill takes great pride as we view and show our guests and visitors these art-works throughout the year. They speak volumes about our culture; they represent the families which support their children throughout their endeavors; they represent the talent that is innate in everyone, whether it is expressed artistically or not; they represent the ingenuity of the young mind that so readily surfaces when given a proper outlet; they represent a nation that takes pride in its diversity.

Again, I welcome each of you here today for this celebration. We are here today to celebrate you, the students and the families, and your efforts. I extend a further welcome and thanks to Dean Cain for taking the time to speak today and show his support for this endeavor.

REMARKS FOR HON. ROBERT H. MICHEL'S AWARD

(By James J. Jeffords)

Today, on the opening day of the annual high school art exhibition, it is my honor to bestow the Congressional Arts Caucus Award on a man who has played a crucial role in this competition. Not only was Republican Leader Robert Michel's support and unyielding commitment vital in bringing this competition to fruition 13 years ago, his continuing dedication to this event, through the participation of his district in the competition every year since its inception, is a tribute to his unyielding commitement to the exhibition and, more importantly, to the involvement of young people in the arts.

Leader Michel has played a direct role in the development of an entire generation of young artists. Over 600,000 high school students from all over America have participated in this competition since it began in 1982. The success of this and previous exhibitions is due, in large part, to his leadership.

We are pleased today to pay tribute to Leader Michel and and to let him know that he will be sorely missed.

REMARKS BY ROBERT H. MICHEL

Thank you very much for this honor. I would like to extend my warmest welcome to each of you today and congratulate you all on making this year's art competition the largest in the history of the event.

I have always been proud to support this art competition in the high schools of my own congressional district in Illinois. I would like to especially congratulate the student winners. Once again, I am astounded and pleased by the wealth of your artistic talent, skill, and vision. Your works will provide inspiration throughout the coming year.

I would also like to extend my thanks to all the proud parents and teachers here today. Your commitment to nurturing the artistic talents of these young people is crucial. We may be standing amidst the next Andrew Wyeth or Georgia O'Keefe in part because of our devotion.

Events like this embody the success of partnerships between the private and public sectors—businesses like General Motors, our congressional offices, art teachers, parents, and students. I commend your continued commitment and leadership in making the arts a vital part of education, community life, and our national cultural legacy. Enjoy the festivities today, for I know we will reap the benefits of your efforts all year.

PRESENTATION OF CONGRESSIONAL ARTS CAUCUS AWARD TO JAMES D. JOHNSTON, VICE-PRESIDENT, INDUSTRY-GOVERNMENT RELATIONS

(By Hon. Louise M. Slaughter)

Just this morning, we learned that Jim Johnston will be retiring from General Motors. Jim has been a tireless friend of the Congressional High School Art Exhibition, and, for this, we would also like to present him with the Congressional Arts Caucus Award, which reads: "Jim Johnston, who, through his unwavering dedication to the Congressional High School Art Exhibition, represents the best in the private and public partnership of arts support for America's youth."

STATEMENT OF JAMES D. JOHNSTON, VICE PRESIDENT, INDUSTRY-GOVERNMENT RELATIONS, GENERAL MOTERS CORP.

For 13 years, General Motors has participated in the Annual Congressional Arts Competition and I've had the pleasure of attending all of them in one capacity or another.

Frankly, it is the best day of the year for us. It's the day when everyone seems to have a good word for GM.

But, more than that—it's a day that brings to this Capitol—thanks to the members of Congress who sponsor the artists—some of the brightest and most promising young people in America.

On behalf of the 380,000 General Motors people from all over America, I want to thank the 150 students here today. I want to thank you for what you have done that got you here to Washington. And, more importantly, I want to thank you for what that means you can do in the future.

Introduction of Dean Cain

(By Louise McIntosh Slaughter)

We are delighted today to welcome one of America's most talented and popular young actors and, to many, many viewers, a true superhero—Dean Cain. Dean has achieved critical praise and audience adulation in his role as Clark Kent and Superman on the hit ABC television series "Lois and Clark: The New Adventures of Superman."

Dean is actually a young man with many talents. As an All-American football player at Princeton University, Dean still holds the NCAA record for most interceptions in one season. After graduation, he became a professional football player with the Buffalo Bills. When a knee injury sidelined him, one might say that football's loss was the acting world's and our gain.

Dean has guest starred on many television series, including "Life Goes On," "A Different World," and "Beverly Hills 90210." On the big screen, he was seen in the critically acclaimed feature film, "The Stone Boy," directed by his father, Christopher Cain.

A true Renaissance man, Dean is also an accomplished writer with a burgeoning screenwriting career, including the development of television project entitle "Naked TV."

I might add that Arts Caucus Members met Dean briefly in Los Angeles and he is an articulate spokesman for giving young people the chance to develop their diverse interests.

We are pleased and grateful, Dean, that you can be here with us today.

Remarks by Dean Cain

It is truly an honor to be here with all of you today. I'd like to thank Congresswoman Slaughter, Senator Jeffords, Speaker Foley, Minority Leader Michel, and all the members of the Congressional Arts Caucus for asking me to take part in this day.

This creativity that each of you, the winning students, have put into your artworks is simply overwhelming. Each work is impressive on its own. Viewed in its entirety, the Exhibition is a powerful statement on the talent, thoughtfulness and ingenuity of high school students across the country.

But, I think this competition also shows the phenomenal results that can be gained when students are given the opportunity to pursue what interests them, to let their talents and their special abilities develop. It doesn't only have to be art. It can be science, music, writing, math, volunteering—truly anything. For me, the key was athletics. My involvement in sports helped me develop an individuality, to grow as a person, and, more importantly, learn the necessity of working with others to achieve goals.

Supporting programs like this Competition goes beyond just giving young people something to do, which, in many cities and many areas of the country is important in itself. It has to do with giving someone a sense of self, a pride in themselves that they will build on and carry with them the rest of their lives. Out of this self-awareness not only comes individuals who care about themselves and the community and world around them, but the artists, the athletes, the Nobel Prize Winners—even the Congresspeople of tomorrow.

Looking at the artwork displayed today is simply amazing. There is such talent and ingenuity displayed in each of these works, I can only wonder what the future holds for each of you. I can imagine that in a decade it will be I who tells the story of when I met you.

Again, thank you for letting me be here today to speak to you and to meet each of you. And, congratulations to all the artists, and their families, and the members of Congress who helped make this happen.

Ribbon Cutting Remarks

(By James M. Jeffords)

Please join me as we cut the ribbon to officially open the 13th annual high school art competition. This year's exhibition, the largest ever, profiles some of our country's most talented and promising young artists, Each year, it acts to remind us here in Washington of the importance of the arts to all Americans, especially our youth.

Whether inspired by the encouragement of an arts teacher, a family member, or from within yourselves, you have expressed your individualism through your paintings and even more, addressed important issues for us all. While some of this year's works portray strikingly realistic people and settings, others demonstrate the power of art to convey abstract images and ideas. It is this diversity of talent and creativity that speaks very strongly to the importance of encouraging our schools and communities to give young Americans the opportunity to pursue the arts.

Through this competition, we in Congress recognize your pursuit of excellence in the arts. On behalf of my colleagues, I congratulate you all and hope that you will continue to creatively express yourselves through your art.

13th Annual Congressional High School Art Competition—Participating Members and Winning Students

Alabama: Spencer Bachus, Michael Dailey, Tom Bevill, Tyler Landers, Glen Browder, Eun-Jin Suh, Sonny Callahan, Darius A. Bailey, Bud Cramer, Jr., Megan Gregory, Terry Everett, Jeremy Bagents, Earl Hilliard, Francesca Clark.

Alaska: Don Young, Josh Smart.

American Samoa: Eni Faleomavaega, Mary Hansen.

Arizona: Sam Coppersmith, Joshua White, Jim Kolbe, Ermalinda Gallardo, Ed Pastor, Santiago Perez Espinoza, Bob Stump, Ben Loehr.

Arkansas: Tim Hutchinson, Jennifer Birge, Blanche Lambert, Jeremy Rabuck.

California: William Baker, Victoria Livingston, Xavier Becerra, Rommel A.N. Cantal, George Brown, Jr., Heather Ryberg, Ken Calvert, Van Sengchanh, Randy Cunningham, Peter Kim, Ron Dellums, Carly Helgeson, Calvin Dooley, Joe Leia, David Dreier, Holly Lueras, Anna Eshoo, Alexander Vladimirskiy, Sam Farr, Buddy Perry, Vic Fazio, Eric Schmid, Bob Filner, Eric Tan, Jane Harman, George Amador, Michael Huffington, Kirsten Munson, Jay Kim, Ann Kim, Tom Lantos, Simon Jenner, Richard Lehman, Ryan Delp, Bob Matsui, Oanh Truong, Al McCandless, Hugo Gonzales, Howard McKeon, Ken Barnett, Nancy Pelosi, Peregrine Lannin-Honig, Richard Pombo, Dariene Stoecker, Lucille Roybal-Allard, Fabian Debora, Pete Stark, Christopher Gatmaitan, Bill Thomas, Clifford I. Picar, Esteban Torres, David Seymour, Walter Tucker, Patricia Walker, Lynn Woolsey, Nikki Tognetti.

Colorado: Joel Hefley, Landon Meier, Scott McInnis, Sunny Harrison, Dan Schaefer, Matt Schrott, David Skaggs, Frank Lee.

Connecticut: Rosa DeLauro, Lesley Holford, Cary Franks, Kelly J. Benoit, Chris Shays, Bethany Shorb.

Distruct of Columbia: Eleanor Holmes Norton, Craig E.R. Hall.

Delaware: Michael Castle, Jim Hoover.

Florida: Michael Bilirakis, Katarzyna Guzinska, Charles Canady, Anne Oldham, Tillie Fowler, Kerry Dunn, Porter Goss, Leslie Morrison, Alcee Hastings, Rebecca Frank, Earl Hutto, Stacey Mack, Bill McCollum, Jessica Tseng, Carrie Meek, Carlos Reyes, John Mica, Jina Kim, Dan Miller, Sam Dean, Peter Peterson, Reginald Harris, Ileana Ros-Lehtinen, Fernando Valero, Cliff Stearns, Troy Biggers, Karen Thurman, John Austin, C.W. Bill Young, Janine Duffy.

Georgia: Sanford Bishop, Brandi Myatt, Michael Collins, Malika Randall, Buddy Darden, Melissa Crawford, Don Johnson, Yolanda Bloodsaw, John Kingston, Heather Roach, John Lewis, Justin Winslow, John Linder, Trevor Green, Cynthia McKinney, Charles Atkinson, J. Roy Rowland, Elizabeth Shuman.

Guam: Robert Underwood, Lawrence Pendon.

Hawaii: Neil Abercrombie, Naomi Rombaoa, Patsy Mink, Janet Agapay.

Idaho: Mike Crapo, Alexa Filanowicz, Larry LaRocco, Star Suezzo.

Illinois: Cardiss Collins, Ted Burdett, Jerry Costello, Tina M. Seay, Phil Crane, Kristen Melby, Lane Evans, Courtney Blake, Harris Fawell, Devin O'Neal, Dan Manzullo, Eric Borchardt, Robert Michel, Janelle M. Allen, John Edward Porter, Matthew Beall, Glenn Poshard, Corey Evrard, Mell Reynolds, Paul Winkfield, Dan Rostenkowski, Katherine Bennett, Bobby Rush, James Dixon.

Indiana: Dan Burton, Emily Mayhill, Steve Buyer, Emily Gottschalk, Lee Hamilton, Shannon Grassman, Jill Long, Matt Knecht, Frank McCloskey, Jason, Davis, John Myers, Amy Norman, Tim Roemer, Jennifer Harney.

Iowa: Fred Grandy, Rachel Martin, Jim Lightfoot, Ashley Elizabeth Hagan.

Kansas: Dan Glickman, Jessica Evans, Jim Slattery, Erin Carlson.

Kentucky: Tom Barlow, Jerry Hobbs, Jim Bunning, Angie Palmer.

Louisiana: Richard Baker, Megan Hudson, Jimmy Hayes, Joshua Nero, William Jefferson, Betty Molette, Bob Livingston, Nicole Chauvin, Jim McCrery, Darin Coats.

Maine: Tom Andrews, Matthew Everett Herrick.

Maryland: Helen Bentley, LaShawna Nicole Wright, Ben Cardin, John Mancini, Wayne Gilchrest, Michael Cain, Steny Hoyer, Beth Monet Trott, Kweisi Mfume, Emmanuel Brown, Connie Morella, David Ward, Albert Wynn, Joseph Mbeh.

Massachusetts: Peter Blute, Sean O'Connell, Barney Frank, Katharine Tristaino, Joseph Kennedy, Emanuel Silva, Richard Neal, Ben Glushien, John Olver, Camille Maye, Gerry Studds, Jill Jordan, Peter Torkildsen, Jeffrey Ostergren.

Michigan: James Barcia, Jon R. Gajewski, David Bonior, Kate Kershiser, Dave Camp, Ji Yoon, Bob Carr, Julie Lucas, Barbara Rose Collins, Raquel Saez, John Dingell, Bess Beland, Peter Hoekstra, John Hartman, Joe Knollenberg, Janet Kemf, Sandy Levin, Matthew Stewart, Nick Smith, Steven R. Perry, Bart Stupak, Heather Dehlin, Fred Upton, Amy Mosier.

Minnesota: Tim Penny, Kevin Langmaack, Collin Peterson, Scott Surdez, James Ramstad, Doan Ly.

Mississippi: Mike Parker, Kelby Lamar Shows, Gene Taylor, Terri Garner, Bennie Thompson, Daniel Saffold.

Missouri: Pat Danner, Jennifer Giesler, Bill Emerson, Carrie Samples, Dick Gephardt, Jenny Wong, James Talent, Claire Bossert.

Montana: Pat Williams, Justin Clark.

Nebraska: Bill Barrett, Christina Lund, Doug Bereuter, Eric Wendt, Peter Hoagland, Christopher Ginn.

Nevada: Jim Bilbray, Orlando Illustrisimo Jr., Barbara Vucanovich, Billie Scott.

New Hampshire: Dick Swett, Patrick Rollins, Bill Zeliff, Sara O'Connor.

New Jersey: Bob Franks, Pallavi Sharma, Dean Gallo, Karen Nancy Menkens, Herbert Klein, Stephen Reinfurt, Robert Menendez, Martin Sanchez, Frank Pallone, Dena Mindick, Don Payne, Melissa James, Chris Smith, Mariya Gusev, Richard Zimmer, Ryan Capple.

New Mexico: Bill Richardson, Elisa Rivera, Steven Schiff, David Ondrik.

New York: Gary Ackerman, Anthony Ogg, Sherwood Beohlert, Beth Anne Ross, Hamilton Fish, Elizabeth Bettini, Floyd Flake, Richard Polanco Ben Gilman, Xenia Diente, George Hochbrueckner, Hae-Jin Jo, Amo Houghton, Tiffany Anne Dynda, Peter King, David Andrew Felice, Rick Lazio, Barry Gamble, David Levy, James Ashley, Nita Lowey, Bob-Sil Kim, Michael McNulty, Jessica Renaldi, Carolyn Maloney, Kathryn Van Pelt, Thomas Manton, Ji Eun Kim, Jerrold Nadler, Jeeyoung Sim, Major R. Owens, Stephen Mills, Jack Quinn, Allen Hardy, Charles Rangel, Sara Theophall, José Serrano, Carlos Cordero, Louise Slaughter, Michael S. Fickess, Ed Towns, Hong Gyu Lee.

North Carolina: Eva Clayton, Varick Taylor, Howard Coble, Dena Light, Martin Lancaster, Lori Weaver, Stephen Neal, Kim Speight, David Price, Greg Hoffman, Charlie Rose, Cory Barton, Charles Taylor, Eric Sams, Melvin Watt, Nichole Montgomery.

North Dakota: Earl Pomeroy, Paul Novak.

Ohio: Doug Applegate, Sara Giles, Tony Hall, Nicholas Fuhrer, Dave Hobson, John Hull, Martin Hoke, Jenniefer Homick, Marcy Kaptur, Demond Saunders, David Mann, Amy L. Viars, Deborah Pryce, Jan Warren, Ralph Regula, Robin Boswell, Louis Stokes, William Hernandez, Ted Strickland, David Jewell.

Oklahoma: Bill Brewster, Jerry McCraw, Jim Inhofe, Korena Bolding, Ernest Istook, Nathan Green, Dave McCurdy, Jamie Cruz.

Oregon: Elizabeth Furse, Becky Kading, Mike Kopetski, Maricela Zaragoza.

Pennsylvania: Lucien Blackwell, Preston Kennon, Tom Foglietta, Danny Lam, George Gekas, Melissa Clark, Bill Goodling, Matt Markovich, James Greenwood, Jeff Kronberger, Marjorie Margolies-Mezvinsky, Lori Leddy, Paul McHale, Maribeth Kradel, Austin Murphy, Tom Oziemblowsky, John Murtha, Susan Michelle Grela, Tom Ridge, Elizabeth Benson, Rick Santorum, Danielle Graham, Curt Weldon, Matt Metzger.

Puerto Rico: Carlos Romero-Barceló, Alex Irizarry Oquendo.

Rhode Island: Ron Machtley, Laura Vaillancourt, Jack Reed, Jason P. Audet.

South Carolina: James Clyburn, Richard W. Kirk III, Bob Inglis, Ronnie Jackson, Floyd Spence, Stephanie Lyford Watts, John Spratt, Misty Yates.

South Dakota: Tim Johnson, Emily French.

Tennessee: Bob Clement, William P. Brown, John Duncan, Jason Dickason, Harold Ford, Michael Pittman, Marilyn Lloyd, Devin Van Winkle, John Tanner, Bryan D. Moore.

Texas: Bill Archer, Brian Heiburg, Joe Barton, Chad Forsyth, Ronald Coleman, Diana Corral, Tom DeLay, Nora Torres, Martin Frost, DeNarcus T. Miles, Pete Geren, Christine Garver, Gene Green, Raul Martinez, Ralph Hall, Steven Novak, Eddie Bernice Johnson, Cesar Diaz, Greg Laughlin, Nathan Lee Post, Solomon Ortiz, Michael Elizalde, J.J. Pickle, Valerie Zelinski, Bill Sarpalius, Nicole Davis, Charles Stenholm, Jason Trussell, Frank Tejeda, Cody Cunningham, Craig Washington, Brian Jackson, Charles Wilson, Steven Kessinger.

Utah: Jim Hansen, Nathan Goodwin, Bill Orton, Randy Topham, Karen Shepherd, Julie Parr.

Vermont: Jim Jeffords, Stephen Dube, Bernie Sanders.

Virgin Islands: Ron de Lugo, Mark Milligan III.

Virginia: Tom Bliley, Terry A. Overholser, Rick Boucher, Eric Ball, Leslie Byrne, Ann Saliski, Bob Goodlatte, Monica Jones, James Moran, Cuong Phan, Owen Pickett, Carl Roughton, Robert Scott, Amy Ridgway.

Washington: Norman Dicks, Katherine Raby, Jennifer Dunn, James W. Mullin, Thomas Foley, Jamie Lynne Benedixen, Mike Kreidler, Shaun Peterson, Al Swift, Jason Wang, Jolene Unsoeld, Jason Grangroth.

West Virginia: Alan Mollohan, Bobby Cartwright, Nick Rahall, Tara Chavez, Bob Wise, Aaron Hill.

Wisconsin: Gerald Kleczka, Brad Weigel, David Obey, John Wolfe, Toby Roth, Kimberly M. Koch.

Wyoming: Craig Thomas, Jacob Bower.

INTRODUCTION OF THE WASTE FLOW CONTROL ACT OF 1994

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. SMITH of New Jersey. Mr. Speaker, today I am introducing legislation which authorizes State and qualified local government entities to regulate and manage the collection, transport, and disposal of their municipal solid waste. While local governments have exercised this authority for approximately two decades, and while Congress has presupposed this function for local governments, waste flow control authority has never been explicitly granted. My bill remedies that shortfall.

I would like to take this opportunity, Mr. Speaker, to offer my heartfelt thanks and deep appreciation to Mercer County, NJ county executive Bob Prunetti without whom this legislation would not have been possible. County Executive Prunetti assembled a team of top-notch environmental attorneys including Dave Brooman who provided crucial technical expertise in crafting this measure. I would also like to express my gratitude to the many waste management experts and local government officials, like Somerset County freeholder Mike Pappas who, as president of the New Jersey Association of Counties, successfully advocated the principles embodied in this bill and won statewide support for the same. The New Jersey Governor Whitman's office and the Department of Environmental Protection and Energy have offered insight as well.

The Waste Flow Control Act of 1994 is a response to the Supreme Court decision in C&A Carbone versus Clarkstown, New York in which the Court undermined the use of waste flow control measures by State and local government. Specifically, the bill provides a broad grandfather for all waste flow control laws, ordinances, provisions, related contracts, and solid waste management plans that had been in effect prior to the Court's decision. Furthermore, it explicitly grants States and localities the authority to flow control all residential municipal solid waste generated within the borders of the State or locality in the future. The Waste Flow Control Act of 1994 also strengthens the public comment and competitive bidding procedures for future waste management plans.

Mr. Speaker, approximately 28 States have adopted waste flow control ordinances over the past 20 years. These direct initiatives simply designate waste disposal and treatment facilities to which all municipal solid waste generated within the localities borders must flow. These facilities—which can include landfills, waste-to-energy systems, composting or sludge treatment plants, incinerators, and transfer stations—are generally part of an integrated waste management plan, necessary to meet public health, safety, and environment needs in a responsible manner.

Mr. Speaker, to fund the safe, sound, and environmentally progressive technologies as well as the successful recycling programs which the public rightfully demands, States and localities have relied upon resource recovery bonds. The key to securing these bonds has always been flow control in one form or the other. Only by ensuring that there will be a steady flow of waste to the facilities at a determined tipping fee can the local government assure Wall Street that the venture is worthy of investment.

Mercer County, for instance, has developed a solid waste disposal plan which hinges on the construction of a waste-to-energy facility in Hamilton Township. The county has gone to great lengths to secure general public approval and to ensure that all relevant environmental standards are met or exceeded. Financing, however, depends on the sale of up to $200 million worth of resource recovery bonds. In light of the recent Supreme Court decision, however, sale of these bonds has been put on hold and the preliminary construction deadline of July is unlikely to be satisfied. Not only is the county's highly successful curbside recycling program threatened; but also the waste management plan as a whole. Furthermore, county taxpayers face the prosect of additional taxes or reduced services to fulfill contract requirements for bonds already sold.

Burlington County faces a similar situation regarding its proposed sewage sludge composting plant. The plant is estimated to cost $70 million and the county has already borrowed $46 million from the State Wastewater Trust. However, financing is based on the assurance that sewage sludge from all 40 municipalities in Burlington County would be treated at the plant. Without this guaranteed revenue, the county may be forced to accept sludge from outside the county—thus breaking a longstanding promise to Burlington residents—or hike disposal fees which would inevitably mean higher local property taxes.

Without waste flow control, the management and disposal of municipal solid waste becomes a free-for-all with large hauling conglomerates searching for the cheapest but not necessarily the safest means of waste disposal. Only with our State or local governments at the helm can we be certain that the

Nation's goals of protecting our environment, health, and safety will be met effectively and cost-efficiently long-term. Furthermore, without waste flow control, the burden for waste management would fall directly on the already overburdened taxpayer.

Neither raising taxes nor resorting to lower environmental, health, and safety standards can be acceptable solutions to the problem raised by the Carbone decision.

Congress has, on several occasions, implied that States and localities have the authority to manage resource recovery through waste flow control ordinances. In the Resource Conservation and Recovery Act of 1976 [RCRA] the Congress authorized "State and regional solid waste plans" to "assist in developing and encouraging methods for the disposal of solid waste which are environmentally sound" [42 U.S.C. § 6941].

Furthermore, in 6943(a)(5) or RCRA, Congress expanded on the parameters of these plans, ensuring that State and local governments not be "prohibited under State or local law from negotiating and entering into long-term contracts for the operation of such facilities." The House report, in reference to this specific section, states that "this prohibition, on State or local laws invalidating long-term contracts, is not to be construed to affect State planning which may require all discarded materials to be transported to a particular location * * *." [H.R. Rept. No. 94–1491, p. 34 (1976)].

In the Solid Waste Disposal Act Amendments of 1980, Congress authorized the Environmental Protection Agency [EPA] to provide technical assistance to State and local governments for the "removal or modification of legal, institutional, and economic impediments which have the effect of impeding the development of systems and facilities, for resource recovery]." [42 U.S.C. § 6948(d)(3)] Included in the list of obstacles which Congress sought to overcome are "impediments to institutional arrangements necessary to undertake projects * * * including the creation of special districts, authorities, or corporations where necessary having the power to secure the supply of waste of a project."

Mr. Speaker, we have effectively written into law that waste flow control is an acceptable method for States and localities to carry out their responsibilities in resource recovery and solid waste management. However, as Justice Sandra Day O'Connor pointed out in her concurring opinion in the Carbone case, these references by Congress "neither individually nor cumulatively rise to the level of the 'explicit' authorization required by our dormant Commerce Clause decisions." My bill answers Justice O'Connor's call to arms and spells out congressional intent in the letter of the law in a concise, unambiguous, and unmistakably clear manner.

Since the Carbone decision, I have been working closely with many of my colleagues as well as representatives of States, county and local governments, small waste hauling companies, environmental agencies, securities corporations, and bond companies. All have been helpful in providing the input that has been necessary to produce this remedy which will protect the investments of State and local governments and will allow these governing bodies to continue to pursue their traditional responsibilities in ensuring their citizens' health and safety and the protection of the environment. Furthermore, The Waste Flow Control Act of 1994 is worded clearly, heeding the Court's recommendation and freeing States and localities from endless litigation.

Mr. Speaker, in closing, I would like to stress the absolute urgency with which Congress must address this issue in the remaining weeks of this session. The Carbone decision has left State and local governments high and dry—many with outstanding debt which they have acquired in their effort to meet their waste management responsibilities, some simply without recourse for meeting the needs of their constituents and ours. I appreciate the prompt action and sympathy with which Energy and Commerce Subcommittee on Transportation and Hazardous Materials Chairman AL SWIFT has met this matter and the work of our colleagues, particularly ALEX MCMILLAN and DAVID MINGE, who have been actively seeking legislative remedy even in anticipation of a Carbone decision much like that handed down.

The Waste Flow Control Act of 1994 is a sensible approach to a simple problem and I encourage my colleagues to join this effort on behalf of their local governing partners.

H.R. 4603: FISCAL YEAR 1995 COMMERCE-JUSTICE-STATE APPROPRIATIONS

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. FAZIO. Mr. Speaker, I wish to clarify my position on the Federal Government's responsibility to reimburse States for the costs of incarcerating undocumented felons.

Reimbursement to States for undocumented felon incarceration is an obligation which I strongly support. However, I opposed the amendments that my colleagues, Mr. CONDIT and Mr. ROGERS, offered as mechanisms for paying for these expenses because these proposals were neither reasonable nor realistic.

The first amendment, offered by Mr. CONDIT, would have financed these costs through an across-the-board cut to all programs in this appropriations bill. I did not support this amendment because it would have sacrificed drug enforcement agents, prison construction funds, the Border Patrol, community policing and the Byrne Program—a key element in California's fight against crime—to get up an entitlement program to pay for felons who are here, in this country, illegally, in jail.

Earlier this year, a delegation of law enforcement representatives from my congressional district was here in Washington attending the White House briefing on the crime bill. Immediately following the briefing, these representatives joined me in a private meeting with Attorney General Janet Reno and advised her of their concerns about the pending legislation. At the top of their list was their apprehension about losing their Byrne formula grant funding—funding which had been eliminated from the administration's anticrime proposal. Without Byrne formula grants, Glenn, Colusa and Yolo Counties would have to do away with their narcotics task forces, leaving these communities wide open to drugs and the violence that accompanies this persistent problem.

In response to this input I, along with my colleague from Michigan, Mr. STUPAK, introduced an amendment which was included in the House anticrime initiative as part of the chairman's en bloc amendment. This sense-of-Congress amendment stressed that Congress must maintain its support for the Byrne component of the anticrime effort. Due to this and similar efforts by other Members of the House, Chairman MOLLOHAN and the appropriations subcommittee provided a substantial increase in Byrne Program funding for the new fiscal year.

The subcommittee also, for the first time, provided funds to reimburse States for the costs of incarcerating undocumented felons by allowing States to use their sizable increases in Byrne funding at their discretion—for anti-drug-abuse strategies, to upgrade their criminal history records, and for the costs associated with incarcerating undocumented felons. Although the subcommittee was not able to provide full and separate funding for the undocumented felon program, pumping substantial increases into the expanded, flexible Byrne Program gives California—traditionally the largest recipient of Byrne funds—$85 million of the $804 million in Byrne dollars appropriated for next year.

The second amendment, offered by Mr. ROGERS, cut our U.N. peacekeeping dues in order to fund the undocumented felon program. I opposed this alternative because I realize how critical our investment in U.N. peacekeeping is. Peacekeeping is not charity. It is directly related to maintaining our national security and upholding our political and economic interests.

Our Nation cannot afford to act alone in the world's trouble spots, particularly with our defense budget shrinking. It is also not in our best financial interests to do so. The money that we invest in U.N. peacekeeping operations enables us to get our allies to send their troops into troubled areas, reducing the need for American forces and decreasing the pressure on our defense budget. To the extent that we fail to fund peacekeeping, we must fund peacemaking—our defense budget has to pick up the slack. Our peacekeeping dues therefore protect the billions of dollars that American taxpayers have already invested in our cold war victory.

Over 80 percent of the money requested in this bill for peacekeeping operations was obligated by President Clinton's predecessors. If we renege on these commitments, we will violate our treaty obligations and give other nations an excuse to do likewise. As Chairman OBEY pointed out last night, it is not in our financial interest for us to default on these debts. We can either pay now, or we can pay later. And if we pay later, as the peacekeeper of last resort, the price will be significantly higher. Once we have to resort to military action, the costs are overwhelming.

Having served in the California State Legislature prior to coming to Congress, I am extremely sensitive to our financial problems.

Reimbursement for the costs of incarcerating undocumented felons is critical to California, since we are affected by these costs to a greater extent than any other State. However, I am also aware that our Governor has balanced his budget based on unrealistic assumptions of Federal aid for undocumented felons.

As my colleague from California, Mr. DIXON, pointed out in his colloquy with Chairman MOLLOHAN, the subcommittee has taken an important first step toward full reimbursement of these authorized, but previously unfunded, expenses by providing some measure of assistance to those States that are burdened with the responsibility for our Nation's undocumented felons.

California's $85 million share of the expanded Byrne program represents an increase of $47 million—or 125 percent—over this year's funding. And, if the crime bill conferees are able to agree on some level of isolated funding that is specifically targeted toward the undocumented felon program, this figure would increase. Although I realize that full reimbursement for this program may not be likely during this funding cycle, I remain optimistic that, as we continue to work toward providing some significant measure of relief for affected States, we will ultimately achieve full reimbursement for these costs.

THE MARINE PLASTIC POLLUTION RESEARCH AND CONTROL ACT AMENDMENTS OF 1994

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. HUGHES. Mr. Speaker, I rise to introduce legislation that would improve implementation of the Marine Plastic Pollution Research and Control Act of 1987. This bill, the Marine Plastic Pollution Research & Control Act Amendments of 1994, is analogous to language introduced in the Senate by my distinguished colleague from New Jersey, Senator FRANK LAUTENBERG.

As many of my colleagues know, I have worked hard throughout my 20 years in Congress to improve the quality of our coastal waters and beaches. In the past, I have successfully sponsored legislation to end ocean dumping of sewerage sludge and to track medical waste to ensure that it doesn't wind up on our beaches as it did in 1988. I am also currently the sponsor of legislation to improve the monitoring of coastal recreational waters.

Marine Plastic Pollution Research and Control Act Amendments of 1994 is a natural counterpart to that legislation, because it seeks to improve the quality of our coastal waters through enhanced procedures for plastic pollution monitoring. The legislation provides the Coast Guard with additional authority and imposes stricter requirements on it, all aimed at improving compliance and enforcement of waste disposal practices abroad vessels and at ports.

An important way to attack the ocean dumping problem is to ensure the presence of adequate waste reception facilities at all ports and terminals. My bill does this by requiring on site inspection of reception facilities by the Coast Guard prior to issuance of a certificate of adequacy. It also seeks to assure those facilities are maintained by providing for automatic expiration of certificates after 5 years, or sooner if there is a change in operator or if the certificate is suspended or revoked. In addition, the bill prohibits a port from charging a separate fee for waste disposal—a practice that has contributed to problems with compliance because these separate fees are often unpredictable. The bill would require that these fees be included in the docking fee or another obligatory fee, thus making them more predictable.

Should a port fail to comply with the act, this bill authorizes the Coast Guard to assess a civil penalty against a noncomplying port for up to 30 days, after which time the agency must revoke the certificate and close the port.

The bill also addresses similar problems at marinas. My legislation requires the Coast Guard to establish a program to ensure that operators of marinas maintain adequate waste reception facilities. The program's efficacy will be tracked through mandatory biennial reports to Congress.

Unfortunately, the Coast Guard can't do the job alone. That's why the Marine Plastic Pollution Research and Control Act Amendments provides an avenue for citizen involvement. It does this by making available a current list of certificate status at ports and by requiring that ports post placards containing telephone numbers where citizens could call to report any inadequacy of reception facilities. In order to make it easy for individual citizens to report violations, the bill directs the Coast Guard to establish a toll-free telephone reporting system. Furthermore, the bill expands the crew and passenger education requirement to include a structured briefing about the Marpol Convention for everyone on board a ship before disembarkation—perhaps as part of the vessel's safety briefing. The bill would also extend the mandate to conduct public education and outreach on plastic pollution and authorizes USCG, EPA, and NOAA to award grants for carrying out such programs.

Other parts of the Marine Plastic Pollution Research and Control Act Amendments of 1994 would address compliance of foreign vessels with Marpol; states the sense of the Congress that domestic shipping insurance should not provide for the payment of penalties under this act; make whistleblower provisions applicable to employees of DOD, DOT, and DOA, so that Federal employees who report violations of this act are protected; and assure better coordination between DOT, DOD, and DOA to implement this act.

Mr. Speaker, this morning I listened to the new Commandant of the Coast Guard, Admiral Kramek, state that he wanted the Coast Guard to be world leaders in environmental protection. I applaud his vision, and I think the Coast Guard is well on the way to achieving that goal. This legislation fits in well with Admiral Kramek's vision because it will help the Coast Guard to ensure that our coastal waters are free of plastic debris and other garbage.

This bill is supported by the Coast Guard, as well as the Center For Marine Conservation. I hope my colleagues will join with me and those distinguished entities and lend their support to this legislation.

RUSSIA JOINS PARTNERSHIP FOR PEACE

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Mr. GINGRICH. Mr. Speaker, I want to take this opportunity to welcome Russia as the newest member of the Partnership for Peace. A free, democratic, and economically strong Russia is in America's vital interest, and this historic moment is a major step in bringing security and prosperity to the world.

The majority of people in Russia are committed to democracy, free enterprise, and change. The Russian people have told us they want to be "normal and civilized," basically America without the violent crime. They truly want the rule of law, the right to own property, contract rights, the right to work hard and keep what they have earned, the right to free speech, and free elections. We have an unparalleled opportunity to work with them to achieve these goals.

Depending on our actions, Russia faces several possible futures. How much we are willing to help is contingent upon what kind of future we want for our children and or grandchildren. It is possible that Russia could slide into an authoritarian dictatorship, and we could return to another cold war with a single identifiable enemy competing for influence around the globe. Or, Russia could collapse into a situation similar to the civil war now occurring in the Balkans, except that nuclear weapons will be involved. But, if we seize this opportunity, there is a chance that we can assist Russia in evolving into a relatively stable, open, and democratic society committed to similar ideals as ours. We gain the benefits of stable political systems, emerging open capitalist oriented markets, and political allies in a very important region of the world. We won the cold war; it is now time to win the peace. The Partnership for Peace is a tremendous step in United States relations with Russia, and I hope that we can continue to build on our successes and work together for a peaceful and more secure world.

IN SUPPORT OF STRONG VIOLENCE AGAINST WOMEN ACT PROVISIONS IN THE CRIME BILL

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 28, 1994

Ms. PELOSI. Mr. Speaker, I rise today in support of the Violence Against Women Act and join my colleagues in calling for the strongest possible domestic violence provisions to be included in the crime bill conference.

Today, along with other California women Members of Congress, I will be sending a letter to the conferees on the crime bill urging them to accept the toughest provisions of both the House and the Senate versions of the crime bill.

Domestic violence and spousal abuse are among the most common and heinous crimes in America. Imagine coming home every day to an abusive situation. Imagine living day-to-day with a violent person. Imagine waking up each morning not knowing if you will be able to make it to the next morning without suffering severe bodily harm. Imagine not feeling safe, not being safe, in your own home—not for fear of someone from the outside breaking in, but because you live with someone who threatens your life daily.

This is the tragic reality for many women and many children in our country today. Congress must act to change this situation by clamping down on the criminals who abuse and by protecting the victims of domestic violence. Congress must pass a crime bill which includes strong violence against women provisions.

The final crime bill must protect battered immigrant women. The House version of the crime bill includes provisions to prevent abusive spouses from using immigration law to control and continue abusing their undocumented spouses. Presently, abused immigrant spouses often cannot escape a violent household because leaving it would result in their deportation. Mr. Speaker, we must correct a system which allows a perpetrator of domestic violence the power to continue abusing because of immigration technicalities.

In addition, I join with my colleagues today in calling for the highest possible funding levels for domestic violence prevention and urge the conferees to recede to the Senate authorization of $1.8 billion for these purposes. Domestic violence programs must be supported with sufficient funds to combat these crimes.

We cannot afford to lose this opportunity to strengthen domestic violence prevention efforts and toughen the penalties for those who continue to break the law.

Mr. Speaker, I thank my colleague from California, Ms. ROYBAL-ALLARD, for organizing this morning hour on a very important part of the crime bill and I once again urge the crime bill conferees to accept the strongest possible violence against women provisions.